

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ARIZONA**

Mi Familia Vota, et al.,
Plaintiffs,

v.

Adrian Fontes, et al.,
Defendants.

Case No. 2:22-cv-00509-SRB (lead)

JOINT PRETRIAL ORDER

Pursuant to the Scheduling Order previously entered, the following is the Joint Proposed Pretrial Order to be considered at the Final Pretrial Conference set for October 24, 2023, before the Honorable Susan R. Bolton.

A. TRIAL COUNSEL FOR THE PARTIES¹

Provide the name, mailing address, office phone, and fax numbers for trial counsel.
Plaintiff(s):

PLAINTIFF(S)	TRIAL COUNSEL	CONTACT INFORMATION
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¹ Persons designated with an asterisk have been admitted *pro hac vice* in these proceedings. Persons without an asterisk are members of the Arizona bar.

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1 2 3 4 5 6 7 8 9	Tohono O'odham Nation ² Gila River Indian Community Keanu Stevens Alanna Siquieros LaDonna Jacket	Allison A. Neswood* Samantha B. Kelty (AZ No. 024100) Michael Carter (AZ No. 028704)	<u>Mailing Address:</u> NATIVE AMERICAN RIGHTS FUND 250 Arapahoe Ave. Boulder, CO 80302 <u>Office phone:</u> (303) 447-8760 <u>Fax:</u> (303) 443-7776
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Defendant(s):

DEFENDANT/S	TRIAL COUNSEL	CONTACT INFORMATION
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17 18 19 20 21 22 23 24	Republican National Committee Kory Langhofer (AZ No. 024722) Thomas Basile (AZ No. 031150) Tyler Green* Cameron T. Norris* Gilbert C. Dickey*	<u>Mailing Address:</u> 649 N. Fourth Ave., First Floor Phoenix, Arizona 85003 <u>Office phone:</u> (602) 382-4078 <u>Fax:</u> (602) 362-0036 <u>Mailing Address:</u> 1600 Wilson Blvd., Ste. 700 Arlington, VA 22209 <u>Office phone:</u> (703) 243-9423

² Trial counsel for Tohono O'odham Plaintiffs plan to attend trial for monitoring purposes only. As a result of the Court's partial summary judgement order, Tohono O'odham Plaintiffs have moved unopposed to withdraw their constitutional challenge to the DPOR requirement. If that motion is accepted, the Tohono O'odham Plaintiffs will have no unresolved claims at the time of trial.

1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25 26 27 28	Speaker Ben Toma and President Warren Petersen	Kevin E. O'Malley (AZ Bar No. 006420) Hannah H. Porter (AZ Bar No. 029842)	<u>Mailing Address:</u> 2575 E. Camelback Rd. Suite 1100 Phoenix, Arizona 85016-9225 <u>Office phone:</u> (602) 530-8000 <u>Fax:</u> (602) 530-8500
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B. STATEMENT OF JURISDICTION/VENUE

Jurisdiction in this case is based on the Court's subject matter jurisdiction under 28 U.S.C. § 1331, federal question jurisdiction, because Plaintiffs' claims arise under the Constitution or laws of the United States, as well as 28 U.S.C. §§ 1343, 1357, and 1362. Venue is proper under 28 U.S.C. § 1391(b) because a substantial part of the events or omissions giving rise to the claims occurred in this judicial district and in this division. Plaintiffs seek declaratory and injunctive relief pursuant to 28 U.S.C. §§ 2201 and 2202.

C. NATURE OF ACTION

These consolidated cases challenge certain provisions of Arizona House Bill 2492 ("H.B. 2492") and Arizona House Bill 2243 ("H.B. 2243") that make changes to voter registration requirements, voter list maintenance procedures, and other aspects of voter registration and voting in Arizona. Plaintiffs' claims, which are described in further detail below, arise under the First, Fourteenth, and Fifteenth Amendments to the U.S. Constitution, 42 U.S.C. § 1983, the National Voter Registration Act of 1993 ("NVRA"), Section 101 of the Civil Rights Act of 1964, and Section 2 of the Voting Rights Act.

³ The Secretary of State is a nominal party. He participated in lengthy, costly, extensive discovery and took steps to try and ensure this action is adjudicated before the next general election. But he has not litigated the merits of this action, he has not taken a position on the merits, and he does not anticipate doing so at trial. His legal counsel, however, will attend trial as appropriate unless the Court grants them leave to be absent.

Plaintiffs do not agree that the Secretary of State is a nominal party in this matter.

1 **1. The Challenged Provisions**

2 Specifically, Plaintiffs challenge the following provisions of Arizona law enacted
3 through H.B. 2492 and H.B. 2243 (collectively, the “Challenged Provisions”)⁴:

- 4 • H.B. 2492 § 1, which amends A.R.S. § 16-101(A)(1), to make providing
5 “satisfactory evidence of citizenship” a qualification to register to vote in Arizona.
- 6 • H.B. 2492 § 3, which amends A.R.S. § 16-121(A), to include in the definition of a
7 “qualified elector” the requirement that the individual “has provided satisfactory
8 evidence of citizenship.”
- 9 • H.B. 2492 § 4, which amends A.R.S. § 16-121.01(A) and adds A.R.S. § 16-
10 121.01(C)-(E), to require that:
 - 11 (a) State-Form voter registration applicants include their place of birth for
12 the applicant to be presumed to be properly registered (the “Birthplace
13 Requirement”);
 - 14 (b) State- and Federal-Form voter registration applicants mark the “yes” box
15 next to the question regarding citizenship for the applicant to be presumed
16 to be properly registered and as a condition of being properly registered
17 to vote in any election (the “Checkbox Requirement”);
 - 18 (c) County Recorders reject any State-Form voter registration application
19 that is not accompanied by satisfactory evidence of citizenship; and
 - 20 (d) County Recorders “use all available resources to verify the citizenship
21 status of [a] [Federal-Form] applicant” whose application is not
22 accompanied by satisfactory evidence of citizenship, including “at a
23 minimum” by comparing the applicant’s information to a variety of listed
24 databases, provided the County has access.
 - 25 i. In the event the County Recorder matches the applicant to
26 “information that the applicant is not a United States citizen,” the
27 County Recorder shall “reject the application, notify the applicant that
28 the application was rejected because the applicant is not a United
States citizen, and forward the application to the county attorney and
attorney general for investigation.”
 - ii. In the event the County Recorder is unable to match the applicant with
“appropriate citizenship information,” the County Recorder shall
“notify the applicant that the [County Recorder] could not verify that
the applicant is a United States citizen and that the applicant will not
be qualified to vote in a presidential election or by mail with an early
ballot in any election until satisfactory evidence of citizenship is
provided.”

⁴ References herein to A.R.S. sections are from the currently-codified versions of the A.R.S. It should be noted that the chaptered version of H.B. 2243 uses different lettering for 16-165 in particular.

- 1 • H.B. 2492 § 5, which:
- 2 (a) adds A.R.S. § 16-123 to require a person who registers to vote to provide
- 3 documentary proof of the location of their residence (the “DPOR
- 4 Requirement”); and
- 5 (b) adds A.R.S. § 16-127, to prohibit any voter who has not provided
- 6 satisfactory evidence of citizenship from voting in presidential elections,
- 7 and to prohibit any voter who has not provided satisfactory evidence of
- 8 citizenship and who is eligible to vote only for federal offices from voting
- 9 by mail with an early ballot
- 10 • H.B. 2492 § 7, which adds A.R.S. § 16-143, to:
- 11 (a) Require the Secretary of State and County Recorders to provide the
- 12 Attorney General with a list of all registered voters who have not provided
- 13 satisfactory evidence of citizenship, and
- 14 (b) Require the Attorney General to use all available resources to verify the
- 15 citizenship status of these registered voters, including “at a minimum” by
- 16 checking a variety of listed databases; prosecute individuals who are
- 17 found to be non-citizens pursuant to A.R.S. § 16-182; and report all
- 18 findings relating to citizenship status to the Secretary of State, President
- 19 of the Senate, and the Speaker of the House.
- 20 • H.B. 2492 § 8, which added A.R.S. § 16-165(A)(10) to require the cancellation of
- 21 a voter’s registration “when the county recorder receives and confirms information
- 22 that the person registered is not a United States citizen.”⁵
- 23 • H.B. 2243 § 2, which amends A.R.S. § 16-165(A)(9)-(10) and adds A.R.S. §§ 16-
- 24 165(G), 16-165(H), 16-165(I), 16-165(J) and 16-165(K) to require that:
- 25 (a) When the County Recorders obtain information pursuant to A.R.S. §§ 16-
- 26 165 and confirms that a person registered is not a United States citizen,
- 27 County Recorders send the person notice that their registration will be
- 28 canceled in 35 days unless they provide satisfactory evidence of
- citizenship, and if the person does not provide such evidence within 35
- days, cancel the registration and notify the county attorney and Attorney
- General for possible investigation;
- (b) Each month the Secretary of State shall compare the statewide voter
- registration database to the driver license database maintained by the
- Department of Transportation. The Secretary of State shall notify the
- appropriate county recorder if a person who is registered to vote in that
- county is not a United States citizen. A.R.S. § 16-165(G);

⁵ H.B. 2243 further modified A.R.S. § 16-165(A)(10). Even though H.B. 2492’s version of this statutory provision is not the currently operative version, both are challenged, lest enjoining solely H.B. 2243’s version of A.R.S. § 16-165(A)(10) simply cause a reversion to H.B. 2492’s prior version.

- 1 (c) Each month, to the extent practicable, the County Recorders shall
2 compare their county’s voter registration database to the Social Security
3 Administration Database. A.R.S. § 16-165(H);
- 4 (d) Each month, to the extent practicable, the County Recorders shall
5 compare persons who are registered to vote in their county and who the
6 County Recorders have “reason to believe” are not United States citizens
7 and persons who are registered to vote without satisfactory evidence of
8 citizenship, with the USCIS Systematic Alien Verification for
9 Entitlements (“SAVE”) program to verify their citizenship status. A.R.S.
10 § 16-165(I);
- 11 (e) For persons who are registered to vote without satisfactory evidence of
12 citizenship, the County Recorder shall compare the Electronic
13 Verification of Vital Events System maintained by a national association
14 for public health statistics and information systems, if accessible, with the
15 information on the person’s voter registration file. A.R.S. § 16-165(J);
16 and
- 17 (f) To the extent practicable, the County Recorders shall review relevant
18 city, town, county, state, and federal databases to which the County
19 Recorders have access to confirm information obtained that requires the
20 cancellation of a registrant pursuant to A.R.S. § 16-165.

2. The Court’s Order on Partial Summary Judgment

21 In accordance with the Court’s instructions, the parties moved for partial summary
22 judgment on claims each side believed could be decided as a matter of law. ECF No. 534
23 at 6. The Attorney General and the Republican National Committee Intervenor filed
24 motions for summary judgment, joined by Arizona Speaker of the House Ben Toma and
25 Arizona Senate President Warren Petersen (“the Legislative Intervenor”), principally
26 addressing claims brought by Plaintiffs under the NVRA and the Materiality Provision of
27 the Civil Rights Act. ECF Nos. 364, 367, 369. Plaintiffs filed responses in opposition and
28 a limited set of motions and cross-motions, similarly focused on the NVRA and Civil
Rights Act claims. ECF Nos. 390, 391, 393, 394, 395, 396, 397, 398, 399.

On September 14, 2023, the Court entered an Order resolving those motions and granting summary judgment on the following claims:

- For Plaintiffs on the claims that Section 6 of the NVRA preempts H.B. 2492, §§ 4 and 5’s requirement that Federal-Form applicants submit DPOC in order to be able to vote in Presidential elections or to vote early by mail. ECF No. 534 at 9-15.
- For Plaintiffs on the claims that Section 6 of the NVRA preempts HB 2492 § 5’s DPOR Requirement as applied to Federal-Form applicants. *Id.*

- 1
- 2 • For Plaintiffs on the claims that H.B. 2243, § 2 violates Section 8(c) of the NVRA
- 3 which prohibits systematic purge provisions in voting laws within 90 days before a
- 4 federal election. ECF No. 534 at 15-18.
- 5 • For Plaintiffs on the claims that H.B. 2492, § 4 violates the Materiality Provision of
- 6 the Civil Rights Act by requiring County Recorders to reject an application where a
- 7 registrant who has already provided DPOC fails to complete the citizenship
- 8 checkbox. ECF No. 534 at 24-27.
- 9 • For Plaintiffs on the claims that the reference in A.R.S. § 16-123 to 16-579(A)(1)
- 10 are examples, not an exhaustive list, of the documents that can be used to satisfy
- 11 A.R.S. § 16-123 and that A.R.S. § 16-123 does not require a standard street address.
- 12 ECF No. 534 at 33.
- 13 • For Plaintiffs on the claims that in addition to the documents listed in A.R.S. § 16-
- 14 579(A)(1), the following documents satisfy A.R.S. § 16-123: (1) A valid unexpired
- 15 Arizona driver license or nonoperating ID (“AZ-issued ID”), regardless of whether
- 16 the address on the AZ-issued ID matches the address on the voter registration form
- 17 and even if it lists only a P.O. Box, (2) Any Tribal identification document,
- 18 including but not limited to a census card, an identification card issued by a tribal
- 19 government, or a tribal enrollment card, regardless of whether the Tribal
- 20 identification document contains a photo, a physical address, a P.O. Box, or no
- 21 address; and (3) Written confirmation signed by the registrant that they qualify to
- 22 register pursuant to A.R.S. § 16-121(B). ECF No. 534 at 33-34.
- 23 • For the Attorney General on the claims that H.B. 2492, § 4 violates the Materiality
- 24 Provision of the Civil Rights Act by ruling that the Checkbox Requirement does
- 25 not violate the Materiality Provision as applied to individuals who do not provide
- 26 DPOC. ECF No. 534 at 27-29.⁶
- 27 • For the Attorney General on the claim that H.B. 2243, regarding A.R.S. § 16-
- 28 165(A)(10) and (I), is void for vagueness. ECF No. 534 at 30-32.

The Court also declared that Arizona must abide by the LULAC Consent Decree and, specifically, must treat State Form and Federal Form applicants equally for purposes of registering for federal elections, namely by registering otherwise eligible State-Form applicants who do not provide DPOC for federal elections. ECF No. 534 at 21-22; *see also*

⁶ The Court also concluded that it “need not address” Plaintiffs’ claim that requiring federal-only voters to provide DPOC to vote in presidential elections and by mail violates the Materiality Provision, given the Court’s ruling on Section 6 of the NVRA. ECF No. 534 at 23 n.14.

1 *id.* at 22 n.13 (noting that, even absent the LULAC Consent Decree, the same requirement
2 would flow from the Court's NVRA Section 6 analysis).⁷

3 The Court expressly denied summary judgment to both Plaintiffs and Defendants as
4 to whether County Recorders may reject State-Form applications that do not list the
5 applicant's birthplace under Section 4 of H.B. 2492, finding that there were material issues
6 of fact that precluded summary judgment on this issue. ECF No. 534 at 29.

7 The Court denied (as moot) the Poder Plaintiffs' motion for summary judgment on
8 their 1964 Civil Rights Act claim under 52 U.S.C. § 10101(a)(2)(A), which prohibits the
9 application of different standards, practices, or procedures to determine voters'
10 qualifications. ECF No. 534 at 20 n.10, 35.

11 The Court denied Defendants' motion for summary judgment that Section 8(a) of
12 the NVRA prohibits removing non-citizens from voter rolls, stating that it was a factual
13 question whether the purge procedures mandated by Section 2 of H.B. 2243 will likely
14 result in unlawful cancellation of legitimate voter registrants under Section 8(a) of the
15 NVRA. ECF No. 534 at 18–19.⁸

16 The Court granted in part and denied in part Defendants' motion for summary
17 judgment on Plaintiffs' claim under Section 8(b) of the NVRA. As to the challenged
18 provisions governing new voter registration applications, the motion was granted. The
19 motion was denied as to the balance of the claim alleging non-uniformity and
20 discriminatory impact of the challenged provisions governing list maintenance and voter
21 registration cancellation. ECF No. 534 at 19-21, 34.

22 **3. Claims to be Presented at Trial**

23 The claims remaining for trial are as follows:

- 24 • Undue Burden on the Right to Vote challenge to:

25 ⁷ The LULAC Consent Decree also obligates the Secretary of State to check all State Form
26 applications submitted without DPOC to determine whether the MVD has DPOC on file
27 for the applicants, in which case such applicants must be made Full Ballot voters.

28 *Note: Plaintiffs added this footnote on the evening of the deadline for this filing, so
Defendants have not had an opportunity to consider it.*

⁸ The Court also concluded that it “need not address” parties’ arguments regarding the
effect of Section 8(a) on certain provisions in H.B. 2492 regarding DPOC and DPOR, given
the Court’s ruling on Section 6 of the NVRA.

- 1 (a) H.B. 2492 §§ 1, 3’s DPOC Requirement;
- 2 (b) H.B. 2492 § 4’s rejection of State-Form applications lacking DPOC⁹ or place of
3 birth;
- 4 (c) H.B. 2492 § 4’s citizenship verification, database check, notice, and criminal
5 investigation procedures;
- 6 (d) H.B. 2492 § 5’s prohibition on voting in presidential elections or early by mail
7 for registrants who lack DPOC;¹⁰
- 8 (e) H.B. 2492 § 5’s¹¹ DPOR Requirement in so far as Defendant’s implementation
9 of this Court’s Section 6 preemption holding results in the acceptance of Federal
10 Form applications without DPOR for federal-only elections but the rejection of
11 State Form applications without DPOR.
- 12 (f) H.B. 2492 § 7’s citizenship verification, database check, reporting, investigation,
13 and prosecution procedures;
- 14 (g) H.B. 2492 § 8’s voter cancellation procedures based on information regarding
15 citizenship; and
- 16 (h) H.B. 2243 § 2’s database check requirements, notice, cancellation, and criminal
17 investigation procedures
- 18 • Procedural Due Process challenge to:
 - 19 ○ H.B. 2492 § 5’s prohibition on voting in presidential elections or early by
20 mail for registrants who lack DPOC,¹²

21 ⁹ Defendants’ position is that the Court previously granted relief on alternative grounds
22 with respect to State-Form applications lacking DPOC, thereby obviating the need for trial
23 on that facet of the claim. *See* ECF No. 534 at 9-15, 21-22, 33-34.

24 ¹⁰ Defendants’ position is that the Court previously granted relief on alternative grounds
25 with respect to these prohibitions in H.B. 2492 § 5, thereby obviating the need for trial on
26 this claim. *See* ECF No. 534 at 9-15, 21-22, 33-34. Non-U.S. Plaintiffs’ position on this
27 issue is reflected in Non-U.S. Plaintiffs’ Response to Defendants’ Motion for Clarification,
28 ECF No. 556.

¹¹ Given the District Court’s rulings on partial summary judgment as to the DPOR
requirement, and the lack of any objection to those rulings from any Defendant, Plaintiffs
will limit their presentation of evidence on DPOR to two issues: (1) Plaintiffs’ standing to
challenge the DPOR requirement, and (2) any differential application of the DPOR
requirement between State and Federal Form applicants. Plaintiffs have decided not to
pursue alternative claims for relief where they are duplicative of the Court’s partial
summary judgment order because of Defendants’ lack of opposition to the Court’s relief
on this issue, unlike the other issues remaining in the case.

¹² Defendants’ position is that the Court previously granted relief on alternative grounds
with respect to these prohibitions in H.B. 2492 § 5, thereby obviating the need for trial on

- 1 ○ H.B. 2492 § 4’s criminal investigation procedures, allegedly without a
- 2 chance to contest or cure,
- 3 ○ H.B. 2492 § 8’s cancellation of a voter’s registration, allegedly without an
- 4 adequate opportunity to contest or cure, and
- 5 ○ H.B. 2243 § 2’s cancellation of a voter’s registration, allegedly without an
- 6 adequate opportunity to contest or cure; A.R.S. § 16-165(A)(10).
- 7 • Equal Protection challenge to alleged arbitrary and disparate treatment of voter
- 8 registration applicants and voter registrants under H.B. 2492 and H.B. 2243,
- 9 specifically:
 - 10 ○ Subjecting State-Form applicants to alleged arbitrary and disparate treatment
 - 11 by rejecting State-Form applications lacking DPOC,¹³ or DPOR;
 - 12 ○ Prohibiting registrants who lack DPOC from voting in presidential elections
 - 13 or early by mail, and requiring additional information to register. A.R.S. §§
 - 14 16-121.01(A), 16-127;¹⁴
 - 15 ○ Subjecting voter registration applicants and voter registrants to alleged
 - 16 arbitrary and disparate treatment pursuant to H.B. 2492 and H.B. 2243,
 - 17 specifically:
 - 18 ▪ H.B. 2492 § 4 (enacting A.R.S. § 16-121.01(D)-(E));¹⁵
 - 19 ▪ H.B. 2492 § 7 (enacting A.R.S. § 16-143);
 - 20 ▪ H.B. 2492 § 8 (enacting A.R.S. § 16-165(A)(10)); and
 - 21 ▪ H.B. 2243 § 2 (amending A.R.S. § 16-165(A)(10) and enacting A.R.S.
 - 22 §§ 16-165(G), 16-165(H), 16-165(I), 16-165(J), 16-165(K)) subjecting
 - 23 voter registration applicants and voter registrants to allegedly
 - 24 discriminatory DPOC requirements, database comparisons, and allegedly
 - 25 wrongful and harassing criminal investigations and prosecutions.

26 this claim. *See* ECF No. 534 at 9-15, 21-22, 33-34. Non-U.S. Plaintiffs’ position on this
 27 issue is reflected in Non-U.S. Plaintiffs’ Response to Defendants’ Motion for Clarification,
 28 ECF No. 556.

¹³ Defendants’ position is that the Court previously granted relief on alternative grounds,
 thereby obviating the need for trial on this claim. *See* ECF No. 534 at 9-15, 21-22, 33-34.
 Non-U.S. Plaintiffs’ position on this issue is reflected in Non-U.S. Plaintiffs’ Response to
 Defendants’ Motion for Clarification, ECF No. 556.

¹⁴ Defendants’ position is that the Court previously granted relief on alternative grounds
 with respect to voting in presidential elections and voting by mail, thereby obviating the
 need for trial on those facets of the claim. *See* ECF No. 534 at 9-15, 21-22, 33-34. Non-
 U.S. Plaintiffs’ position on this issue is reflected in Non-U.S. Plaintiffs’ Response to
 Defendants’ Motion for Clarification, ECF No. 556.

¹⁵ Defendants’ position is that the Court previously granted relief on alternative grounds
 with respect to the DPOC requirement in these provisions of H.B. 2492 § 4, thereby
 obviating the need for trial on that facet of the claim. *See* ECF No. 534 at 9-15, 21-22, 33-
 34. Non-U.S. Plaintiffs’ position on this issue is reflected in Non-U.S. Plaintiffs’ Response
 to Defendants’ Motion for Clarification, ECF No. 556.

- 1 • Equal Protection challenge to:
 - 2 ○ H.B. 2492's Birthplace Requirement and
 - 3 ○ H.B. 2492 and H.B. 2243's provisions subjecting voter registration applicants
 - 4 and voter registrants to allegedly discriminatory DPOC requirements,¹⁶ database
 - 5 comparisons, and allegedly wrongful and harassing criminal investigations and
 - 6 prosecutions on the bases of race, national origin, and alienage discrimination.
- 7 • Fourteenth and Fifteenth Amendment racial and national origin discrimination
- 8 challenge to allegedly unfettered discretion in voter registration conferred by Ariz.
- 9 Rev. Stat. § 16-165(I) (the "reason to believe" provision), *as enacted by* H.B. 2243,
- 10 § 2.
- 11 • National Voter Registration Act Section 6 challenge to H.B. 2243 § 2's cancellation
- 12 procedures for voters that registered through the Federal Form but lacked DPOC, in
- 13 violation of Section 6's requirement that the State of Arizona accept and use the
- 14 Federal Form.
- 15 • National Voter Registration Act Section 7 challenge to H.B. 2492's disparate
- 16 treatment of State and Federal Forms given Section 7's requirement that public
- 17 assistance agencies provide voter registration services using the Federal Form or
- 18 "its equivalent."¹⁷
- 19 • National Voter Registration Act Sections 6 and 8(a) challenges to the DPOR
- 20 Requirement in so far as Defendant's implementation of this Court's Section 6
- 21 preemption holding results in the acceptance of Federal Form applications without
- 22 DPOR for federal-only elections but the rejection of State Form applications without
- 23 DPOR.¹⁸
- 24 • National Voter Registration Act 8(b) challenge to discriminatory and non-uniform
- 25 treatment of registered voters caused by H.B. 2492 and H.B. 2243, specifically:

21 ¹⁶ Defendants' position is that the Court previously granted relief on alternative grounds
 22 with respect to the DPOC requirement, thereby obviating the need for trial on this facet of
 23 the claim. *See* ECF No. 534 at 9-15, 21-22, 33-34. Non-U.S. Plaintiffs' position on this
 24 issue is reflected in Non-U.S. Plaintiffs' Response to Defendants' Motion for Clarification,
 25 ECF No. 556.

26 ¹⁷ Defendants' position is that the Court previously granted relief on alternative grounds
 27 with respect to the DPOC requirement, thereby obviating the need for trial on this facet of
 28 the claim. *See* ECF No. 534 at 9-15, 21-22, 33-34. Non-U.S. Plaintiffs' position on this
 issue is reflected in Non-U.S. Plaintiffs' Response to Defendants' Motion for Clarification,
 ECF No. 556.

¹⁸ *Note: Plaintiffs added this statement of their claim on the evening of the deadline for this
 filing, so Defendants have not had an opportunity to consider it.* Plaintiffs respond that
 these additions were made in response to an evolving understanding of the Parties'
 differing interpretation of this Court's partial summary judgment order and Plaintiffs made
 counsel for Defendants aware of likely revisions this morning.

- Ariz. Rev. Stat. § 16-143, *as enacted by* H.B. 2492 § 7;
 - Ariz. Rev. Stat. § 16-165(A)(10), *as enacted by* H.B. 2492 § 8; and
 - Ariz. Rev. Stat. §§ 16-165(F), 16-165(G), 16-165(H), 16-165(I), 16-165(J), 16-165(K), *as enacted by* 2022 Ariz. Sess. Laws, ch. 370 H.B. 2243 § 2.
- Materiality Provision (52 U.S.C. § 10101(a)(2)(B)) challenge to H.B. 2492, § 4’s Birthplace Requirement. A.R.S. § 16-121.01(A).
 - 52 U.S.C. § 10101(a)(2)(A) challenge to Ariz. Rev. Stat. § 16-165(I) (the “reason to believe” provision), *as enacted by* H.B. 2243, § 2.
 - Section 2 of the Voting Rights Act claim against all Challenged Provisions.¹⁹

D. JURY/NON-JURY

The parties agree to a non-jury bench trial. No party demands a jury trial.

E. CONTENTIONS OF THE PARTIES

For each of the claims brought by the Plaintiffs, the elements of each and corresponding burdens of proofs are as follows:²⁰

1. UNDUE BURDEN ON THE RIGHT TO VOTE (First and Fourteenth Amendments’ protection of fundamental right to vote)

a. Provisions challenged by Plaintiffs under this claim:

- H.B. 2492 §§ 1, 3, 4, 5, 7, 8
- H.B. 2243 § 2

b. Elements or standards that must be proved for Plaintiffs to prevail:

Plaintiffs’ Position: This claim is evaluated using the *Anderson-Burdick* test, which requires an initial showing by plaintiffs, after which the burden shifts to defendants:

- First, plaintiffs must show that the challenged provision imposes a burden on the right to vote. *Anderson v. Celebrezze*, 460 U.S. 780, 789 (1983).

¹⁹ Per footnote 11, *supra*, Plaintiffs do not intend to present evidence with respect to the DPOR requirement beyond the limited issues identified in footnote 11.

²⁰ Plaintiffs must also demonstrate standing and ripeness. *See Lujan v. Defenders of Wildlife*, 504 U.S. 555, 560–62 (1992); *Thomas v. Anchorage Equal Rights Com’n*, 220 F.3d 1134, 1138–40 (9th Cir. 2000) (en banc). In addition, Plaintiffs must demonstrate that they satisfy the conditions for equitable remedies of injunctive and declaratory relief, including a sufficient likelihood of future injury. *See City of Los Angeles v. Lyons*, 461 U.S. 95, 105–13 (1983); *Hodgers-Durgin v. de la Vina*, 199 F.3d 1037, 1040–44 (9th Cir. 1999) (en banc).

- 1 • Once plaintiffs have established that the challenged provision imposes
- 2 a burden on the right to vote, no matter how slight, the burden shifts
- 3 to defendants to prove that the state’s interests in the specific
- 4 challenged provisions justify those burdens. *See id.*; *Ariz. Democratic*
- 5 *Party v. Hobbs*, 18 F.4th 1179, 1187 (9th Cir. 2021).
- 6 • The scrutiny that the state must meet in making the showing described
- 7 in (ii) above is determined by the Court based on its evaluation of
- 8 plaintiffs’ evidence regarding the burden imposed: if the Court finds
- 9 that the challenged provision imposes a severe burden on the right to
- 10 vote, the state must meet strict scrutiny and show a compelling interest
- 11 narrowly tailored to serve that interest. Lesser burdens have to meet
- 12 less demanding levels of scrutiny. ECF No. 304 at 20. However, in all
- 13 cases *Anderson-Burdick* imposes a “means-end fit framework,” *Pub.*
- 14 *Integrity All. v. City of Tucson*, 836 F.3d 1019, 1024 (9th Cir. 2016),
- 15 such that even where a burden is slight, it must be justified by relevant
- 16 and legitimate state interests sufficiently weighty to justify the
- 17 limitation. *See, e.g., Ariz. Democratic Party*, 18 F.4th at 1187;
- 18 *Crawford v. Marion Cnty. Election Bd.*, 553 U.S. 181, 191 (2008)
- 19 (Stevens, J., controlling op.).

20 Defendants’ Position: Plaintiffs must show that the challenged provision

21 imposes a burden on the right to vote.” *Anderson v. Celebrezze*, 460 U.S.

22 780, 789 (1983). The challenged law is subject to strict scrutiny only if the

23 Court finds that the burden is “severe.” “Lesser burdens, however, trigger

24 less exacting review, and a State’s ‘important regulatory interests’ will

25 usually be enough to justify ‘reasonable, nondiscriminatory

26 restrictions.” *Ariz. Democratic Party v. Hobbs*, 18 F.4th 1179, 1187 (9th Cir.

27 2021). “When a challenged rule imposes only limited burdens on the right to

28 vote, there is no requirement that the rule is the only or the best way to further

the proffered interests.” *Dudum v. Arntz*, 640 F.3d 1098, 1114 (9th Cir. 2011).

- c. **Relief requested:** Declaratory and injunctive relief enjoining Defendants from enforcing the challenged provisions of H.B. 2492 and H.B. 2243; an award of costs, expenses, and reasonable attorneys’ fees, pursuant to 42 U.S.C. § 1988, and any other applicable law; and such other and further relief as the Court deems just and proper.

2. PROCEDURAL DUE PROCESS CLAIMS (Fourteenth Amendment’s guarantee of procedural due process)

a. Provisions challenged by Plaintiffs under this claim:

- H.B. 2492 §§ 4, 5, 8
- H.B. 2243 § 2

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b. Elements or standards that must be proved for Plaintiffs to prevail: This claim is also subject to the *Anderson-Burdick* standard, though Plaintiffs allege it specifically with respect to burdens imposed by procedural deficiencies in the challenged laws, which Plaintiffs allege are not supported by a sufficient state interest. ECF No. 304 at 27 (citing *Ariz. Democratic Party*, 18 F.4th at 1195; *Ariz. Democratic Party v. Hobbs*, 976 F.3d 1081, 1086 n.1 (9th Cir. 2020)). *See supra* Section E.1.b.

c. Relief requested: Declaratory and injunctive relief enjoining Defendants from enforcing the challenged provision of H.B. 2492 and H.B. 2243; an award of costs, expenses, and reasonable attorneys' fees, pursuant to 42 U.S.C. § 1988, and any other applicable law; and such other and further relief as the Court deems just and proper.

3. DISPARATE TREATMENT OF STATE FORM REGISTRANTS AND FEDERAL-ONLY VOTERS EQUAL PROTECTION CLAIM (Fourteenth Amendment's equal protection guarantee)

a. Provisions challenged by Plaintiffs under this claim:

- H.B. 2492 §§ 1, 3, 4, 5, 7
- H.B. 2243 § 2

b. Elements or standards that must be proved for Plaintiffs to prevail:

c. Plaintiffs' Position: This claim may also be analyzed under the *Anderson-Burdick* standard. *Obama for Am. v. Husted*, 697 F.3d 423, 430 (6th Cir. 2012) (“When a state regulation is found to treat voters differently in a way that burdens the fundamental right to vote, the *Anderson-Burdick* standard applies.”); *see also Dudum v. Arntz*, 640 F.3d 1098, 1106 n.15 (9th Cir. 2011). *See supra* Section E.1.b. In the Equal Protection context, however, courts also “rely . . . on the analysis in . . . prior election cases resting on the Equal Protection Clause of the Fourteenth Amendment.” *Dudum*, 640 F.3d at 1106 n.15 (quoting *Anderson*, 460 U.S. at 787 n.7). Further, the Supreme Court held in *Bush v. Gore* that “arbitrary and disparate treatment” in either the “allocation of the franchise” or “the manner of its exercise” is unlawful. 531 U.S. 98, 104-09 (2000).

Defendants' Position: Defendants believe that this claim should be analyzed under the *Anderson-Burdick* standard, *see supra* Section E.1.b, and that *Bush v. Gore*, 531 U.S. 98 (2000), does not supply an independent or freestanding claim or applicable doctrinal rubric.

d. Relief requested: Declaratory and injunctive relief enjoining Defendants from enforcing the challenged provisions of H.B. 2492 and H.B. 2243; an

1 award of costs, expenses, and reasonable attorneys' fees, pursuant to 42
 2 U.S.C. § 1988, and any other applicable law; and such other and further relief
 3 as the Court deems just and proper.

4 **4. ARBITRARY AND DISPARATE TREATMENT CAUSED BY**
 5 **CITIZENSHIP INVESTIGATION PROCEDURES:** (Fourteenth Amendment
 6 and *Bush v. Gore*)

7 **a. Provisions for which Plaintiffs have alleged these claims:**

- 8 • H.B. 2492 §§ 4, 7, 8
- 9 • H.B. 2243 § 2

10 **Elements or standards that must be proved for Plaintiffs to prevail:**
 11 Plaintiffs' Position: Plaintiffs must prove that the challenged provisions
 12 above, separately or in combination, are causing and, absent relief, will
 13 continue to cause arbitrary and disparate treatment of voter registration
 14 applicants and registered voters in Arizona. *See Bush v. Gore*, 531 U.S. 98,
 15 104 (2000) (prohibiting “arbitrary and disparate treatment” in either the
 16 “allocation of the franchise” or “the manner of its exercise”); *id.* at 104–09
 17 (concluding that “absence of specific standards” to implement vague “intent
 18 of the voter” standard caused “arbitrary and disparate treatment” in violation
 19 of Equal Protection Clause); *see also Hunter v. Hamilton Cnty. Bd. of*
 20 *Elections*, 635 F.3d 219, 235, 239–42 (6th Cir. 2011) (applying *Bush v. Gore*
 21 to conclude “lack of specific standards for reviewing provisional ballots” had
 22 resulted in unconstitutionally “arbitrary and uneven exercise of discretion”).
 23 This Court considered and rejected Defendants' position in its February 16,
 24 2023 order on the motion to dismiss. *See* ECF No. 304 at 22 n.11 (“[T]he
 25 authority Defendants cite for this assertion does not foreclose constitutional
 26 claims pled outside of the *Anderson-Burdick* framework.”).

27 Defendants' Position: Defendants believe that this claim should be analyzed
 28 under the *Anderson-Burdick* standard, *see supra* Section E.1.b, and that *Bush*
v. Gore, 531 U.S. 98 (2000), does not supply an independent or freestanding
 claim or applicable doctrinal rubric.

b. Relief requested: Declaratory and injunctive relief against the challenged
 provisions or, in the alternative, declaratory relief and an injunction against
 the Secretary of State's Office requiring it to adopt, issue, and communicate
 guidance to the County Recorders ensuring that the challenged provisions
 are administered in a non-arbitrary and uniform manner, failing which the
 Court should order its own. This claim also seeks an award of costs,
 expenses, and reasonable attorneys' fees, pursuant to 42 U.S.C. § 1988, and
 any other applicable law; and such other and further relief as the Court deems
 just and proper. This claim seeks relief as to all elections—federal, state, and
 local.

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5. PROHIBITION ON NATIONAL ORIGIN OR ALIENAGE EQUAL PROTECTION CLAIM: (Fourteenth Amendment’s Prohibition on National Origin or Alienage Discrimination)

a. Provisions for which Plaintiffs have alleged these claims:

- H.B. 2492 §§ 1, 3, 4, 5, and 7
- H.B. 2243 § 2

b. Elements or standards that must be proved for Plaintiffs to prevail:

Plaintiffs’ Position: Plaintiffs can demonstrate that the challenged laws violate the Fourteenth Amendment by establishing that they (1) “expressly classif[y],” *Mitchell v. Washington*, 818 F.3d 436, 446 (9th Cir. 2016), based on national origin, and (2) do not serve a narrowly tailored to promote a compelling state interest. *Nunez v. City of San Diego*, 114 F.3d 935, 946 (9th Cir. 1997). Even a benign use of a suspect classification is subject to strict scrutiny if it is a factor in a government decision. *Mitchell v. Washington*, 818 F.3d 436, 445-46 (9th Cir. 2016). Plaintiffs can demonstrate that H.B. 2243, § 2, by establishing that the challenged provisions classify voters who are naturalized U.S. citizens differently than native-born citizens based on their former alienage. *See Faruki v. Rogers*, 349 F. Supp. 723, 729 (D.D.C. 1972) (U.S. citizens classified based on alienage “where the statute differentiates between native-born citizens and those who were once aliens”). In the alternative, if the Court does not find a classification, Plaintiffs can meet their burden by proving the challenged provisions were motivated by discriminatory intent under the factors outlined in *Arlington Heights*. *See infra* number 6 below.

Defendants’ Position: Because neither H.B. 2492 nor H.B. 2243 “expressly classifies,” *Mitchell v. Washington*, 818 F.3d 436, 446 (9th Cir. 2016), persons based on national origin or alienage, Plaintiffs must prove that the challenged provisions were motivated by an intent to discriminate based on national origin or alienage.

c. Relief requested: Declaratory and injunctive relief enjoining Defendants from enforcing the challenged provisions of H.B. 2492 and H.B. 2243; an award of costs, expenses, and reasonable attorneys’ fees, pursuant to 42 U.S.C. § 1988, and any other applicable law; and such other and further relief as the Court deems just and proper.

1 **6. INTENTIONAL RACE AND NATIONAL ORIGIN DISCRIMINATION:**
 2 (Fourteenth & Fifteenth Amendments)

3 **a. Provisions for which Plaintiffs have alleged these claims:**

- 4 • H.B. 2492 §§ 1, 3, 4, 5, 7, and 8
- 5 • H.B. 2243 § 2

6 **b. Elements or standards that must be proved for Plaintiffs to prevail:**

7 Plaintiffs' Position: Plaintiffs can demonstrate that the challenged laws
 8 violate the Fourteenth and Fifteenth Amendments by establishing that their
 9 enactment was motivated by a discriminatory purpose under the totality of
 10 the relevant facts, including “(1) the impact of the official action and whether
 11 it bears more heavily on one race than another; (2) the historical background
 12 of the decision; (3) the specific sequence of events leading to the challenged
 13 action; (4) the defendant’s departures from normal procedures or substantive
 14 conclusions; and (5) the relevant legislative or administrative history.” *Arce*
 15 *v. Douglas*, 793 F.3d 968, 977-78 (9th Cir. 2015); *Washington v. Davis*, 426
 16 U.S. 229, 242 (1976). Plaintiffs need not prove that “the discriminatory
 17 purpose was the sole purpose of the challenged action, but only that it was a
 18 motivating factor.” *Arce*, 793 F.3d at 977.

19 Defendants' Position: Plaintiffs cannot prove discriminatory intent using a
 20 “cat’s paw” theory to impute an individual bill sponsor or proponent’s
 21 allegedly improper motive to the legislative body as a whole. *Brnovich v.*
 22 *Democratic Nat’l. Comm.*, 141 S. Ct. 2321, 2350 (2021).

23 **c. Relief requested:** Declaratory and injunctive relief enjoining Defendants
 24 from enforcing the challenged provisions of H.B. 2492 and H.B. 2243; an
 25 award of costs, expenses, and reasonable attorneys’ fees, pursuant to 42
 26 U.S.C. § 1988, and any other applicable law; and such other and further relief
 27 as the Court deems just and proper.

28 **7. RACIAL AND NATIONAL ORIGIN DISCRIMINATION CLAIM:**

(Fourteenth and Fifteenth Amendment Prohibition on Unfettered Discretion in
 Voter Registration).

a. Provisions for which Plaintiffs have alleged these claims:

- H.B. 2243 § 2 (enacting A.R.S. § 16-165(I))

b. Elements or standards that must be proved for Plaintiffs to prevail:

Plaintiffs' Position: The Fourteenth Amendment’s Equal Protection Clause
 prohibits racial and national origin discrimination. To guard against this in
 the voting rights context, one rule that courts have enforced as a preventative
 measure is prohibiting the vesting of unfettered discretion upon voting
 registrars. *See Davis v. Schnell*, 81 F. Supp. 872, 878 (S.D. Ala. 1949), *aff’d*

1 336 U.S. 933 (1949) (holding that local registrars’ “arbitrary power” and
2 “unlimited discretion” in administering constitutional understanding test
3 amounted to a denial of equal protection of the law under Fourteenth
4 Amendment); *Hernandez v. State of Tex.*, 347 U.S. 475, 479 (1954)
5 (discrimination on basis of national origin violates Fourteenth Amendment).
6 Additionally, the Fifteenth Amendment prohibits racial discrimination
7 concerning “the right of citizens of the United States to vote.” U.S. Const.
8 amend. XV. The same rule has been applied in Fifteenth Amendment cases.
9 *Louisiana v. United States*, 380 U.S. 145, 152-53 (1965) (striking down
10 arbitrary constitutional understanding test for voter registration because laws
11 that are “completely devoid of standards and restraints” and thereby confer
12 unfettered discretion upon registrars *enable* racial discrimination). Racial
13 discrimination “is the *inescapable* effect of a *subjective requirement* . . .
14 barren of standards and safeguards, the administration of which rests in the
15 *uncontrolled discretion* of a registrar.” *United States v. Louisiana*, 225 F.
16 Supp. 353, 381 (E.D. La. 1963) (emphases added), *aff’d Louisiana v. United*
17 *States*, 380 U.S. 145 (1965). Having made no argument on this claim in their
18 motion to dismiss, ECF No. 304 at 25 n.14, Defendants now belatedly seek
19 its de facto dismissal by arguing it must be construed and analyzed as an
20 *Anderson-Burdick* claim. This is incorrect. *Louisiana* was decided under the
21 Fifteenth Amendment, but *Anderson-Burdick* does not implicate the
22 Fifteenth Amendment. In its February 16, 2023 Order on the motion to
23 dismiss, this Court applied *Louisiana*’s standard, not the *Anderson-Burdick*
24 or *Arlington Heights* frameworks. ECF No. 304 at 26 n.14.

25 Defendants’ Position: Defendants do not believe that this theory is
26 cognizable as an independent and freestanding claim under the applicable
27 case law. To the extent it alleges an undue burden on the right to vote or a
28 denial of procedural due process, it should be analyzed under the *Anderson-*
Burdick framework. *See supra* Section E.1.b. To the extent it alleges
intentional discrimination based on a suspect classification, it should be
analyzed under the standards that govern such claims. *See supra* Section
E.5.b and Section E.6.b.

- 29 **c. Relief requested:** Declaratory and injunctive relief against A.R.S. § 16-
30 165(I), or, in the alternative, declaratory relief and an injunction against the
31 Secretary of State’s Office requiring it to adopt, issue, and communicate
32 guidance to the County Recorders ensuring that A.R.S. § 16-165(I) is
33 administered in a non-arbitrary and uniform manner, failing which the Court
34 should order its own. This claim seeks relief as to all elections—federal,
35 state, and local. This claim also seeks an award of costs, expenses, and
36 reasonable attorneys’ fees, pursuant to 42 U.S.C. § 1988, and any other
37 applicable law; and such other and further relief as the Court deems just and
38 proper.

1 **8. MATERIALITY PROVISION CLAIMS (52 U.S.C. § 10101(a)(2)(B))**

2 **a. Provisions challenged by Plaintiffs under this claim:**

- 3 • H.B. 2492 § 4

4 **b. Elements or standards that must be proved for Plaintiffs to prevail:**

5 Plaintiffs' Position: Plaintiffs must show that state action denies individuals
6 the right to vote, as defined in the Civil Rights Act, based on errors or
7 omissions on “any record or paper relating to any application [or]
8 registration” that are not material to determining the individual’s
9 qualifications to vote under state law. 52 U.S.C. § 10101(a)(2)(B); *see also*
10 *Migliori v. Cohen*, 36 F.4th 153, 163-64 (3d Cir. 2022); *Martin v. Crittenden*,
347 F. Supp. 3d 1302, 1308 (N.D. Ga. 2018). Thus, Plaintiffs must show that
11 a prospective registrant’s place of birth is not material to determining
12 whether that individual is qualified to vote under state law, and that a failure
13 to provide the birthplace information results in a denial of the right to vote.

14 Plaintiffs can satisfy this standard by showing that the required information
15 is “unnecessary and therefore not material to determining an individual’s
16 qualifications to vote” under Arizona law. ECF No. 304 at 26 (quoting *La*
17 *Union del Pueblo Entero v. Abbott*, 604 F. Supp. 3d 512, 542 (W.D. Tex.
2022)); *see also* ECF No. 534 at 25-26 (“Congress intended materiality to
18 require some probability of actually impacting an election official’s
19 eligibility determination.”); *Migliori*, 36 F.4th at 164 (finding challenged
20 requirement immaterial where parties seeking to defend it “offered no
21 compelling reasons for how these dates . . . help determine one’s age,
22 citizenship, residency, or felony status”).

23 Defendants' Position: Plaintiff can satisfy this standard only by proving that
24 the required information lacks some “probability of actually impacting an
25 election official’s . . . determination” of an individual’s eligibility to vote
26 under Arizona law. ECF No. 534 at 26; *see also League of Women Voters of*
27 *Ark. v. Thurston*, No. 5:20-cv-05174, 2023 WL 6446015, at *17 (W.D. Ark.
28 Sept. 29, 2023) (explaining that “the Materiality Provision ‘does not establish
a least-restrictive-alternative test’ for the material information required,” and
“[t]he fact that [state] officials can (and sometimes do) establish voters’
identities with less information does not mean that they should be legally
required to do so”).

25 **c. Relief requested:** Declaratory and injunctive relief enjoining Defendants
26 from enforcing the challenged provision of H.B. 2492; an award of costs,
27 expenses, and reasonable attorneys’ fees for the non-United States plaintiffs,
28 pursuant to 42 U.S.C. § 1988, and any other applicable law; the United States
as a prevailing party is entitled to costs pursuant to 28 U.S.C. § 2412(a), and
such other and further relief as the Court deems just and proper.

1 **9. CIVIL RIGHTS ACT SECTION 10101(a)(2)(A) CLAIM:** (Civil Rights Act
2 Prohibition on Different Standards, Practices, or Procedures in Determining Voter
3 Qualifications).

4 **a. Provisions for which Plaintiffs have alleged these claims:**

- 5 • H.B. 2243 § 2 (enacting A.R.S. § 6-165(I))

6 **b. Elements or standards that must be proved for Plaintiffs to prevail:** To
7 establish a violation of 52 U.S.C. § 10101(a)(2)(A), Plaintiffs must prove that
8 (a) a person “acting under color of law”; (b) “in determining whether any
9 individual is qualified under State law or laws to vote in any election”; (c)
10 has applied “standards, practices, or procedures”; that are (d) “different from
11 the standards, practices, or procedures applied under such law or laws to
12 other individuals within the same county, parish, or similar political
13 subdivision who have been found by State officials to be qualified to vote.”

14 **c. Relief requested:** Declaratory and injunctive relief against A.R.S. § 16-
15 165(I), or, in the alternative, declaratory relief and an injunction against the
16 Secretary of State’s Office requiring it to adopt, issue, and communicate
17 guidance to the County Recorders ensuring that A.R.S. § 16-165(I) is
18 administered in a non-arbitrary and uniform manner, failing which the Court
19 should order its own. This claim seeks relief as to all elections—federal,
20 state, and local. This claim also seeks an award of costs, expenses, and
21 reasonable attorneys’ fees, pursuant to 42 U.S.C. § 1988, and any other
22 applicable law; and such other and further relief as the Court deems just and
23 proper.

24 **10. NATIONAL VOTER REGISTRATION ACT SECTION 6 CLAIM:** (NVRA
25 Requirement that States “Accept and Use” the Federal Form).

26 **a. Provisions for which Plaintiffs have alleged these claims:**

- 27 • H.B. 2243 § 2

28 **b. Elements or standards that must be proved for Plaintiffs to prevail:**
Plaintiffs can establish a violation of Section 6 of the NVRA by
demonstrating that the challenged law violates the requirement that the State
of Arizona accept and use the Federal Form for the registration of voters in
elections for Federal office.

c. Relief requested: Declaratory and injunctive relief enjoining Defendants
from enforcing the challenged provision of H.B. 2243; an award of costs,
expenses, and reasonable attorneys’ fees, pursuant to 52 U.S.C. § 20510, and
any other applicable law; and such other and further relief as the Court deems
just and proper.

1 **11. NATIONAL VOTER REGISTRATION ACT SECTION 8(b) CLAIM:**
2 (NVRA Requirement of Uniform and Nondiscriminatory List Maintenance
3 Programs).

4 **a. Provisions for which Plaintiffs have alleged these claims:**

- 5 • H.B. 2492 §§ 7, 8
- 6 • H.B. 2243 § 2

7 **b. Elements or standards that must be proved for Plaintiffs to prevail:**

8 Plaintiffs' Position: A list maintenance program or activity violates Section
9 8(b) of the NVRA if it is either non-uniform or discriminatory. Plaintiffs
10 must prove that the challenged provisions above, separately or in
11 combination, result in the use of a non-uniform program or activity in the
12 maintenance of Arizona's voter list. *See Project Vote v. Blackwell*, 455 F.
13 Supp. 2d 694, 703 (N.D. Ohio 2006) (violation of Section 8(b) based on law
14 that treated different classes of registration drive participants differently).
15 One basis for Plaintiffs to prevail includes showing that the challenged
16 citizenship investigation provisions have a non-uniform impact on
17 naturalized citizens as compared with other citizens. *United States v. Florida*,
18 870 F. Supp. 2d 1346, 1350-51 (N.D. Fla. 2012) (state purge program
19 "probably ran afoul of [NVRA section 8(b)] because its methodology made
20 it likely that newly naturalized citizens were the primary individuals who
21 would have to respond and provide documentation"). A distinct basis for
22 finding a violation under Section 8(b) requires Plaintiffs to prove a
23 discriminatory effect from the challenged provisions above on a group of
24 registered voters, here naturalized registered voters.

25 Defendants' Position: Defendants do not agree that the cited district court
26 cases or the sentences that follow the citations are applicable here.

27 **c. Relief requested:** Declaratory and injunctive relief against the challenged
28 provisions, an award of costs, expenses, and reasonable attorneys' fees,
 pursuant to 52 U.S.C. § 20510, and any other applicable law; and such other
 and further relief as the Court deems just and proper. Or, in the alternative,
 Poder Latinx Plaintiffs seek declaratory relief and an injunction against the
 Secretary of State's Office requiring it to adopt, issue, and communicate
 guidance to the County Recorders ensuring that the challenged provisions
 are administered in a uniform and non-discriminatory manner, failing which
 the Court should order its own. This claim seeks relief only as to federal
 elections.

1 **12. NATIONAL VOTER REGISTRATION ACT SECTION 7 CLAIM:** (NVRA
2 Mandate that Public Assistance Agencies Use a Form “Equivalent” to the Federal
3 Form):

4 **a. Provisions for which Plaintiffs have alleged these claims:**

- 5 • H.B. 2492 § 4

6 **b. Elements or standards that must be proved for Plaintiffs to prevail:**
7 Plaintiffs can establish a violation of Section 7 of the NVRA by
8 demonstrating that a State’s practices result in public assistance agencies
9 mandated to provide voter registration services failing to distribute either the
10 Federal Form or a voter registration form that is the “equivalent” of the
11 Federal Form.

12 **c. Relief requested:** Declaratory and injunctive relief against the Challenged
13 Provision as applied to applications received from public assistance agencies,
14 an award of costs, expenses, and reasonable attorneys’ fees, pursuant to 52
15 U.S.C. § 20510, and any other applicable law; and such other and further
16 relief as the Court deems just and proper.

17 **13. NATIONAL VOTER REGISTRATION ACT SECTION 6 AND 8(A)**
18 **CLAIMS REGARDING DPOR:**

19 **a. Provisions for which Plaintiffs have alleged these claims:**

- 20 • H.B. 2492 § 5 (DPOR requirement)

21 **b. Elements or standards that must be proved for Plaintiffs to prevail:**
22 Plaintiffs can establish a violation of the NVRA’s Section 6 by demonstrating
23 that the State uses its own mail voter registration form to register voters for
24 federal elections and that form fails to meet the criteria for the Federal Form,
25 as identified in 52 U.S.C. 20508(b). *See* ECF 534 at 22 fn. 13. Plaintiffs can
26 establish a violation of the NVRA’s Section 8(a) by establishing that the
27 State fails to “ensure that any eligible applicant is registered to vote in an
28 election” when they submit a facially valid voter registration form under the
29 NVRA’s requirements for voter registration. **Relief requested:** Declaratory
30 and injunctive relief requiring election officials to register otherwise eligible
31 voters as “federal only” voters if they submit a State Form without DPOR,
32 an award of costs, expenses, and reasonable attorneys’ fees, pursuant to 52
33 U.S.C. § 20510, and any other applicable law; and such other and further
34 relief as the Court deems just and proper.²¹

²¹ *Note: Plaintiffs added this statement of their claim on the evening of the deadline for this filing, so Defendants have not had an opportunity to consider it. Plaintiffs respond that these additions were made in response to an evolving understanding of the Parties’ differing interpretation of this Court’s partial summary judgment order and Plaintiffs made counsel for Defendants aware of likely revisions this morning.*

1 **14. VOTING RIGHTS ACT SECTION 2 CLAIM (52 U.S.C. SECTION 10301)**
 2 (Prohibition on Vote Denial):

3 **a. Provisions for which Plaintiffs have alleged these claims:**

- 4 • H.B. 2492 §§ 1, 3, 4, 5, 7, 8
 5 • H.B. 2243 § 2

6 **b. Elements or standards that must be proved for Plaintiffs to prevail:** A
 7 voting rule violates Section 2 of the Voting Rights Act if it “results in a denial
 8 or abridgement of the right of any citizen of the United States to vote on
 9 account of race or color” or language-minority status. 52 U.S.C. § 10301(a).
 10 Courts reviewing a Section 2 claim consider “the totality of circumstances”
 11 in each case and whether “the political processes leading to nomination or
 12 election in the State or political subdivision are not equally open to
 13 participation by members” of a protected class “in that its members have less
 14 opportunity than other members of the electorate to participate in the political
 15 process and to elect representatives of their choice.” *Id.* § 10301(b).
 16 Important factors include but are not limited to: the size of the burden
 17 imposed by the rule; “the degree to which the rule departs from what was
 18 standard practice when § 2 was amended in 1982;” the disparate impact on
 19 members of different racial and ethnic groups; “opportunities provided by a
 20 State’s entire system of voting;” and the strength of the State’s interests in
 21 imposing the rule. *Brnovich v. Democratic Nat’l Comm.*, 141 S. Ct. 2321,
 22 2338-39 (2021).

23 **c. Relief requested:** Declaratory and injunctive relief enjoining Defendants
 24 from enforcing the challenged provisions of H.B. 2492 and H.B. 2243; an
 25 award of costs, expenses, and reasonable attorneys’ fees, pursuant to 42
 26 U.S.C. § 1988, and any other applicable law; and such other and further
 27 relief as the Court deems just and proper.

28 **F. STIPULATIONS AND UNDISPUTED FACTS**

 Stipulations of fact and law proposed by Plaintiffs and agreed to by the Secretary of
 State, Attorney General, RNC, and Speaker Toma and President Petersen are attached
 hereto as **Exhibit 1**. Plaintiffs proposed that each of these Defendants individually indicate
 which proposed facts they were willing to stipulate to in order to most clearly identify
 outstanding disputes between the numerous parties attending trial. The Attorney General,
 Secretary of State, RNC, and Speaker Toma and President Petersen agreed to provide
 individual responses to Plaintiffs’ proposed stipulations but only agreed to include
 stipulations agreed to by all four Defendants in the JPTO. Plaintiffs agreed to this request

1 but intend to move *in limine* to admit these individual stipulations in order to streamline
2 trial proceedings by making clear which Defendants dispute which factual issues. *See infra*
3 Section N (Motions in Limine). Similarly, Plaintiffs offered more limited sets of proposed
4 stipulations of fact to the County Recorder Defendants, focusing specifically on facts
5 pertaining to the duties of the County Recorders or facts specific to a given county.
6 Plaintiffs intend to move *in limine* to admit these stipulations as well, again to further
7 clarify the scope of outstanding disputes of fact for trial.

8 Stipulations of fact proposed by Defendants and agreed to by Plaintiffs are attached
9 hereto as **Exhibit 2**.

10 **G. PLAINTIFFS' CONTENTIONS OF DISPUTED FACT**

11 **1.** Each Non-U.S. Plaintiff satisfies the requirements for organizational,
12 associational, and/or individual standing for each one of that Plaintiff's claims.

13 **2.** The Challenged Laws will substantially burden qualified individuals'
14 fundamental right to vote. Arizonans will have their registrations rejected (including
15 because immaterial information is required), cancelled, suspended, limited, or delayed by
16 the Challenged Laws. As a result, eligible Arizona voters will be unable to register and
17 vote or face substantial burdens in doing so.

18 **3.** The discriminatory treatment of State Form voter registrations—requiring
19 the rejection of State Forms lacking place of birth or documentary proof of citizenship
20 (“DPOC”) or documentary proof of location of residency (“DPOR”)—substantially burdens
21 eligible Arizonans; the vast majority of Arizonans that register by paper form use the State
22 Form and the State Form is more accessible to Arizonans.

23 **4.** Excluding “federal-only” voters from voting in presidential elections would
24 reduce voters' likelihood of voting in other elections, both in the immediate future and in
25 the longer term.

26 **5.** Excluding “federal-only” voters from voting by mail burdens the right to vote
27 because mail voting is significantly more accessible than voting in person for many eligible
28 voters; the vast majority of Arizonans vote by mail, which state law has allowed, excuse-
free, for more than 20 years.

6. Canceling voters' registrations without an adequate opportunity for the

1 cancelled voter to contest or cure the basis for cancellation burdens the right to vote by
2 depriving those voters of their previous voting rights without adequate procedures.

3 7. Rejecting voter registration applications and forwarding the applications to
4 the County Attorney and Attorney General for investigation without allowing the applicant
5 an opportunity to contest or cure burdens the right to vote by subjecting registrants to
6 potential criminal investigation.

7 8. The Challenged Laws' reliance on faulty and stale citizenship data from an
8 undefined set of sources to reject and/or cancel voter registrations substantially burdens
9 eligible Arizona voters and disproportionately burdens naturalized citizen voters.

10 9. No sufficiently weighty state interest justifies the burdens imposed by the
11 Challenged Laws, particularly as registration or voting by non-citizens in elections held in
12 Arizona is essentially non-existent.

13 10. The Challenged Laws are not meaningfully tailored to serve any legitimate
14 state interest.

15 11. Canceling voters' registrations without an adequate opportunity for the
16 cancelled voter to contest or cure burdens the right to vote by depriving those voters of
17 their previous voting rights without adequate procedures.

18 12. Rejecting voter registration applications and forwarding the applications to
19 the County Attorney and Attorney General for investigation without allowing the applicant
20 an opportunity to contest or cure burdens the right to vote by subjecting registrants to
21 potential criminal investigation.

22 13. No sufficiently weighty state interest justifies the burdens imposed by the
23 Challenged Laws, particularly as voting by non-citizens in elections held in Arizona is
24 essentially non-existent.

25 14. If implemented, the Challenged Laws would disproportionately affect racial
26 minorities and naturalized citizens.

27 15. If implemented, the Challenged Laws facially classify based on national
28 origin and/or alienage.

16. If implemented, H.B. 2492 treats similarly situated State-Form applicants
differently from Federal-Form applicants, including in violation of the *LULAC* consent

1 decree.

2 **17.** If implemented, H.B. 2492 mandates that “Federal-Only” voters be subject
3 to arbitrary restrictions on mail voting and voting in presidential elections not imposed on
4 other voter registration applicants.

5 **18.** No legitimate state interest justifies such discriminatory or differential
6 treatment, particularly as voting by non-citizens in elections held in Arizona is essentially
7 non-existent.

8 **19.** The Challenged Laws were enacted with discriminatory intent against voters
9 of color and naturalized citizens, as measured by the factors set forth in *Village of Arlington*
10 *Heights v. Metropolitan Housing Development Corp.*, 429 U.S. 252 (1977) and *Arce v.*
11 *Douglas*, 793 F.3d 968, 977-78 (9th Cir. 2015).

12 **20.** The challenged citizenship investigation procedures in H.B. 2492 §§ 4, 7,
13 and 8 and H.B. 2243 § 2, separately or in combination, cause the arbitrary and disparate
14 treatment of voter registration applicants and registered voters in Arizona.

15 **21.** Arizona’s fifteen County Recorder offices have significantly different views
16 on how to interpret, implement, and enforce the challenged citizenship investigation
17 procedures in H.B. 2492 §§ 4, 7, and 8 and H.B. 2243 § 2.

18 **22.** The proposed 2023 Arizona Election Procedures Manual, that has been
19 submitted to the Governor and the Attorney General for their approval—which could be
20 adopted at any time and without further revisions—contains no interpretations, definitions,
21 rules, or guidance that will ensure county recorders implement and enforce the challenged
22 citizenship investigation procedures in H.B. 2492 §§ 4, 7, and 8 and H.B. 2243 § 2 in a
23 non-arbitrary and uniform manner statewide.

24 **23.** Arizona’s fifteen County Recorder offices use the SAVE system and
25 USCIS’s other naturalized citizenship verification procedures in a non-uniform,
26 inconsistent, and disparate manner.

27 **24.** Arizona has no law, rule, regulation, or guidance in any current or draft
28 version of the Arizona Election Procedures Manual regarding what county recorders must
do when a registered voter is removed from the rolls due to an erroneous voting eligibility
determination, but that error is not discovered until after the voter registration deadline has

1 passed. Accordingly, what to do in such circumstances is left—and will continue to be
2 left—to the subjective judgment calls of fifteen county recorders and their staff.

3 **25.** If implemented, Section 2 of H.B. 2243 would exclude certain voters that
4 make lawful use of the Federal Form to register to vote from voting in presidential elections
5 and by mail in violation of Section 6 of the NVRA.

6 **26.** If implemented, the Challenged Laws will likely result in unlawful
7 cancellation of legitimate voter registrants.

8 **27.** If implemented, Section 8 of H.B. 2492 would allow systematic cancellation
9 of voter registration within 90 days of a Federal Election in violation of Section 8 of the
10 NVRA.

11 **28.** Given this Court’s Section 6 preemption ruling regarding DPOR, the
12 implementation of H.B. 2492’s remaining DPOR requirement will lead to arbitrary
13 treatment of voters based on their usage of the State Form or Federal Form.

14 **29.** Given that election officials can and must accept Federal Forms without
15 DPOR, the State cannot establish that DPOR is “necessary to enable the appropriate State
16 election official to assess the eligibility of the applicant and to administer voter registration
17 and other parts of the election process.”

18 **30.** The public assistance agencies in Arizona mandated to provide voter
19 registration services under Section 7 of the NVRA use the State Form in providing their
20 customers with voter registration services.

21 **31.** Under H.B. 2492, State Forms are not processed in an equivalent fashion to
22 Federal Forms.

23 **32.** If implemented, the Challenged Laws would create discriminatory and non-
24 uniform voter-roll maintenance programs and removals that violate Section 8 of the
25 NVRA.

26 **33.** The challenged laws, separately or in combination, result in the use of a non-
27 uniform program or activity in the maintenance of Arizona’s voter list.

28 **34.** The challenged citizenship investigation procedures in H.B. 2492 §§ 7 and 8
and H.B. 2243 § 2, separately or in combination, cause the non-uniform treatment of
registered voters as a whole and the non-uniform and discriminatory treatment of

1 naturalized registered voters in particular.

2 **35.** The challenged citizenship investigation provisions, separately or in
3 combination, have a non-uniform impact on naturalized citizens as compared with other
4 citizens.

5 **36.** The challenged citizenship investigation provisions, separately or in
6 combination, have a discriminatory effect on naturalized registered voters.

7 **37.** DPOC is not material establishing whether someone is eligible to vote in
8 Arizona.

9 **38.** Birthplace is not material to determining whether someone is qualified to
10 vote under Arizona law. An individual's place of birth is not determinative of their
11 citizenship status.

12 **39.** Completion of the citizenship checkbox on the State or Federal Form is not
13 material to determining whether someone is qualified to vote under Arizona law when
14 election officials have access to documentary proof of citizenship for the applicant.

15 **40.** A.R.S. § 16-165(I) (the "reason to believe" provision) requires Arizona's
16 election officials to apply standards, practices, and procedures in determining the voter
17 qualifications of registered voters they suspect lack U.S. citizenship that are different from
18 the standards, practices, and procedures applied to other registered voters within the same
19 county.

20 **41.** A.R.S. § 16-165(I) (the "reason to believe" provision) authorizes county
21 recorders and their staff to apply an extra citizenship investigation using the SAVE system
22 to registered voters they suspect lack U.S. citizenship.

23 **42.** The Challenged Laws will result in denial and abridgment of numerous
24 Arizonans' right to vote on account of their race, color, or language minority status. Those
25 Arizonans will have their registrations rejected, cancelled, suspended, limited, or delayed
26 by the Challenged Laws, and may face criminal prosecution. The totality of the
27 circumstances show that the political processes leading to nomination or election will not
28 be equally open to members of various protected classes of Arizonans (including Native
Americans, Latinos, voters of color, and members of language minority communities) due
to the Challenged Laws, in that their members will have less opportunity than others to

1 participate in the political process and elect representatives of choice.

2 **43.** The Challenged Laws' additional DPOC procedures and requirements;
3 requirement that applicants list place of birth on their registration forms; discriminatory
4 rejection and removal procedures (including those that rely on outdated, faulty, and
5 discriminatory databases); and provisions threatening naturalized citizens with criminal
6 investigation all create unusual burdens for and disparately impact Native Americans,
7 Latinos, voters of color, and members of language minority communities in Arizona.

8 **44.** The burdens and disparate impact created by the Challenged Laws are not
9 ameliorated by the opportunities provided by Arizona's voting system as a whole.

10 **45.** The requirements in the Challenged laws were not standard practice or
11 commonly used in Arizona or the United States when Section Two of the Voting Rights
12 Act was amended in 1982.

13 **46.** The State of Arizona has no strong or even legitimate interest justifying the
14 discriminatory burdens created by the Challenged Laws.

15 **H. DEFENDANTS' CONTENTIONS OF DISPUTED FACT**

- 16 **1.** Plaintiffs have not demonstrated an injury in fact that is both (a) concrete and
17 particularized and (b) actual or imminent.

18 Alternatively, Plaintiffs have not demonstrated that their injury is caused by
19 the Challenged Provisions.

20 Alternatively, Plaintiffs have not demonstrated that it is likely, rather than
21 speculative, that a favorable decision by the Court will redress their injury.

- 22 **2.** Plaintiffs have not demonstrated a likelihood of future injury.
- 23 **3.** Plaintiffs have not demonstrated that the Challenged Provisions impose an undue
24 burden on the right to vote.
- 25 **4.** Plaintiffs have not demonstrated that the Challenged Provisions have resulted in
26 insufficient notice to voters to the extent required by due process.
- 27 **5.** Plaintiffs have not demonstrated that the Challenged Provisions discriminate on the
28 basis of a protected status.
- 6.** Plaintiffs have not demonstrated that the Challenged Provisions were motivated by
an intent to discriminate on the basis of a protected status.

- 1 7. Plaintiffs have not demonstrated that the Challenged Provisions have been or will
2 be implemented arbitrarily.
- 3 8. Plaintiffs have not demonstrated that the Challenged Provisions are not material to
4 determining an individual's qualifications to vote.
- 5 9. Plaintiffs have not demonstrated that the Challenged Provisions impose standards,
6 practices, or procedures in determining whether an individual is qualified to vote,
7 which are different from the standards, practices, or procedures applied to other
8 individuals in the same county, parish, or similar political subdivision who have
9 been found qualified to vote.
- 10 10. Plaintiffs have not demonstrated, beyond what the Court has already decided, that
11 the Challenged Provisions require elections officials *not* to accept and use the
12 Federal Form for the registration of voters for federal office.
- 13 11. Plaintiffs have not demonstrated that the Challenged Provisions impose non-
14 uniform or discriminatory list maintenance programs or activities.
- 15 12. Plaintiffs have not demonstrated that the Challenged Provisions require public
16 assistance agencies to distribute a form that is not the equivalent of the Federal
17 Form.
- 18 13. Plaintiffs have not demonstrated that the Challenged Provisions result in a denial or
19 abridgement of the right of any citizen to vote on account of race or color.

20 I. ISSUES OF LAW IN CONTROVERSY

21 1. First and Fourteenth Amendments: Undue Burden on the Right to Vote

- 22 • Whether H.B. 2492 and H.B. 2243's DPOC Requirement, Birthplace
23 Requirement, database checks, notice procedures, and criminal investigation
24 procedures impose an undue burden on the right to vote.

25 2. Fourteenth Amendment: Denial of Procedural Due Process

- 26 • Whether H.B. 2492's DPOC Requirement, criminal investigation procedures,
27 and cancellation of voter registrations violate the right to due process.
- 28 • Whether H.B. 2243's removal of registered voters from the rolls without an
adequate opportunity to contest or cure violates a voter's procedural due process
rights.

1 **3. Fourteenth Amendment: Arbitrary and Disparate Treatment in Violation of**
 2 **Right to Equal Protection**

- 3 • Whether H.B. 2492’s DPOC Requirement violates the right to equal protection.
- 4 ○ Whether H.B. 2492’s disparate treatment of State and Federal Forms
- 5 violates the right to equal protection.
- 6 ○ Whether H.B. 2492’s restrictions on mail voting and voting in
- 7 presidential elections for voters who have not submitted DPOC violate
- 8 the right to equal protection.
- 9 • Whether H.B. 2492 and H.B. 2243’s Citizenship Investigation Procedures
- 10 (found in Sections 4, 7, and 8 of H.B. 2492 and in Section 2 of H.B. 2243) violate
- 11 the right to equal protection by causing “arbitrary and disparate treatment” of
- 12 voter registration applicants and registered voters.

11 **4. Fourteenth and Fifteenth Amendment Discrimination Claims**

- 12 • Whether H.B. 2492’s DPOC Requirement, Birthplace Requirement, and H.B.
- 13 2492 and H.B. 2243’s provisions subjecting voter registration applicants and
- 14 voter registrants to DPOC requirements, database comparisons, and potential
- 15 criminal investigations and prosecutions violate the prohibition on racial,
- 16 national origin, and alienage discrimination in the Fourteenth Amendment.
- 17 • Whether H.B. 2492’s DPOC Requirement, Birthplace Requirement and H.B.
- 18 2492 and H.B. 2243’s provisions subjecting voter registration applicants and
- 19 voter registrants to DPOC requirements, database comparisons, and potential
- 20 criminal investigations and prosecutions violate the prohibition on intentional
- 21 racial and national origin discrimination under the Fourteenth and Fifteenth
- 22 Amendment.
- 23 • Whether H.B. 2243’s “reason to believe” provision, Ariz. Rev. Stat. § 16-165(I),
- 24 violates the Fourteenth and Fifteenth Amendments’ prohibition on discretion in
- 25 voter registration which enables racial or national origin discrimination.

21 **5. Civil Rights Act Section 10101(a)(2)(B) Materiality Provision Claim**

- 22 • Whether H.B. 2492’s Birthplace Requirement is not material to determining a
- 23 prospective registrant’s qualifications to vote under Arizona law and whether
- 24 rejecting a voter registration form because a prospective registrant omits
- 25 birthplace information denies the right to vote.

25 **6. Civil Rights Act Section 10101(a)(2)(A) Claim**

- 26 • Whether H.B. 2243’s “reason to believe provision,” Ariz. Rev. Stat. § 16-165(I),
- 27 violates the Civil Rights Act’s prohibition on using different standards,
- 28 practices, or procedures in voter qualification determinations.

1 **7. National Voter Registration Act Section 6 Claim**

- 2 • Whether H.B. 2243’s Citizenship Investigation Procedures and removal of
3 registered voters from the rolls (found in Section 2) violate the National Voter
4 Registration Act’s requirement that the State of Arizona accept and use the
5 Federal Form for registration of voters in elections for Federal Office.

6 **8. National Voter Registration Act Section 8(b) Claim**

- 7 • Whether H.B. 2492 and H.B. 2243’s provisions subjecting voter registration
8 applicants and voter registrants to DPOC requirements, database comparisons,
9 and potential criminal investigations and prosecutions regarding currently
10 registered voters (found in Sections 7 and 8 of H.B. 2492 and in Section 2 of
11 H.B. 2243) violate the National Voter Registration Act’s requirement for
12 uniform and nondiscriminatory programs and activities in the maintenance of
13 voter registration rolls.

14 **9. National Voter Registration Act Section 7 Claims**

- 15 • Whether H.B. 2492’s mandate that all State Form applications be rejected absent
16 DPOC violates the National Voter Registration Act’s requirement that public
17 assistance agencies provide their customers with voter registration services using
18 the Federal Form or its “equivalent, as applied to State Forms submitted from
19 public assistance agencies

20 **10. National Voter Registration Act: Sections 6 and 8(a) Challenges to the DPOR
21 Requirement**

- 22 • Whether, in so far as Defendants’ implementation of this Court’s Section 6
23 preemption holding results in acceptance of Federal Form applications without
24 DPOR for federal-only elections but rejection of the State Form applications
25 without DPOR, that practice violates Section 6 and 8(a) of the NVRA.²²

26 **11. Section 2 of the Voting Rights Act.**

- 27 • Whether, under the totality of the circumstances, the Challenged Provisions
28 violate Section 2’s prohibition on voting procedures that “result[] in a denial or
29 abridgment of the right of an citizen of the United States to vote on account of
30 race or color.” 52 U.S.C. 10301.

²² Note: Plaintiffs added this statement of their claim on the evening of the deadline for this filing, so Defendants have not had an opportunity to consider it. Plaintiffs respond that these additions were made in response to an evolving understanding of the Parties’ differing interpretation of this Court’s partial summary judgment order and Plaintiffs made counsel for Defendants aware of likely revisions this morning.

1 **12. Standing/Ripeness**

- 2 • Whether Plaintiffs have demonstrated standing for their claims, and relatedly,
3 whether their claims are ripe. *Lujan v. Defenders of Wildlife*, 504 U.S. 555, 560–
4 62 (1992); *Thomas v. Anchorage Equal Rights Com’n*, 220 F.3d 1134, 1138–40
5 (9th Cir. 2000) (en banc).

6 **13. Private Right of Action to Enforce 52 U.S.C. § 10101(a)(2)**

- 7 • To the extent any non-US Plaintiff presents a claim under 52 U.S.C. §
8 10101(a)(2), whether they have a private right of action to do so. *Cf.* Doc. 534
9 at 35 (ruling that this issue is “moot”). Plaintiffs’ position is that whether a
10 private right of action exists is not an issue for the trial.

11 **14. Injunctive and Declaratory Relief**

- 12 • Whether, even if Plaintiffs have standing, they have satisfied the conditions for
13 the equitable remedies of injunctive and declaratory relief. *City of Los Angeles*
14 *v. Lyons*, 461 U.S. 95, 105–13 (1983); *Hodgers-Durgin v. de la Vina*, 199 F.3d
15 1037, 1040–44 (9th Cir. 1999) (en banc).

16 **J. SEPARATE TRIAL OF ISSUES**

17 The parties agree that there should be no separate trial of issues.

18 **K. WITNESSES**

19 The Plaintiffs’ witness list is attached hereto as **Exhibit 3**.

20 The Defendants’ witness list is attached hereto as **Exhibit 4**.

21 **L. EXPERTS**

22 **1. Plaintiffs’ Experts:**

23 **Dr. Lorraine C. Minnite:**

24 Dr. Minnite is a political scientist and associate professor in the Department of
25 Public Policy and Administration at Rutgers University-Camden. She received her
26 Bachelor of Arts degree in history from Boston University, and two Masters degrees and a
27 Ph.D. in Political Science from the City University of New York. Dr. Minnite’s research
28 focuses on American Politics with a specialization in elections and the political process.
Dr. Minnite is the author of *The Myth of Voter Fraud* (Cornell University Press, 2010),
which is the first and only peer-reviewed book that has been published on the frequency of
voter fraud in American elections. The Election Law Journal described it as “excellent”

1 and one that “should be read by political scientists, those interested in election
2 administration, and policymakers at the state and federal levels.”

3 Dr. Minnite will testify regarding the incidence of voter fraud in recent U.S.
4 elections, both nationally and in Arizona, and her conclusions that voter fraud is
5 exceedingly rare. Dr. Minnite will also testify about why H.B. 2492 and H.B. 2243 will not
6 reduce the incidence of voter fraud and how the Challenged Provisions are not justified by
7 the scant evidence of non-citizen or non-resident voting in Arizona. Dr. Minnite will also
8 testify about how false allegations of voter and election fraud harm our democratic
9 institutions by undermining the public’s confidence in the election system.

10 **Dr. Michael P. McDonald:**

11 Dr. Michael P. McDonald is Professor of Political Science at the University of
12 Florida. Dr. McDonald has published peer-reviewed articles specifically on the reliability
13 of voter registration files and matching algorithms as applied to voter registration files, and
14 he is co-author on a book concerning how limitations of computers to accurately store
15 numeric data can lead to erroneous statistical analyses. He has participated as an expert
16 witness in cases involving voter registration and other election administration issues. Dr.
17 McDonald has also worked directly with federal, state, and local election officials in
18 varying capacities, including election administration, absentee ballot management, data
19 protection and management and voter registration. Dr. McDonald will testify regarding the
20 impact of the challenged provisions of HB 2492 and HB 2243 on new and current voter
21 registrants. He will testify about how the database matching procedures enacted by HB
22 2243 and HB 2492 have multiple potential failure points and are likely to impact
23 individuals who are, in fact, eligible to vote and are, disproportionately, people of color.
24 He will also testify regarding the inconsistent and varying interpretation county recorders
25 have of how these new requirements should be enforced, and the likelihood that these
26 varying interpretations will lead to nonuniform treatment of registrants across Arizona
27 counties. He will also provide analysis of Arizona’s registered voters including
28 demographics and information voters provide regarding place of birth.

Dr. Eitan Hersh:

Dr. Hersh is a professor in the Department of Political Science at Tufts University

1 and has published extensively on elections and voting mechanics. His publications include
2 articles that analyze voting data and voter records that have been published in journals such
3 as the *Quarterly Journal of Political Science*, the *American Political Science Review*, and
4 the *Election Law Journal*. He has a Ph.D. in political science from Harvard University, an
5 M.A. in Political Science from Harvard University, and a B.A. in Philosophy from Tufts
6 University. Dr. Hersh has participated as an expert witness in four other voting cases since
7 2019.

8 Dr. Hersh will opine that the lack of standardization and accuracy in Arizona's
9 collection of birthplace information renders these data, in their current form, highly
10 unreliable as a way to identify voters. He will also opine on the utility of birthplace data
11 to identify voters in Arizona based on an empirical analysis of Arizona's statewide voter
12 registration database.

13 **Dr. Traci Burch**

14 Dr. Burch is an Associate Professor in the Department of Political Science at
15 Northwestern University and a Research Professor at the American Bar Foundation. She
16 earned a Ph.D. in Government and Social Policy from Harvard University and an A.B. in
17 Politics from Princeton University. Dr. Burch's research and writing focuses on U.S.
18 politics, political behavior and inequality, race and ethnic politics, social policy, and
19 criminal justice. In addition to her award-winning 2013 book entitled *Trading Democracy
20 for Justice: Criminal Convictions and the Decline of Neighborhood Political Participation*,
21 Dr. Burch has authored recent publications appearing in several peer-reviewed journals,
22 including *Political Behavior*, *Law and Society Review*, and *Criminology and Public Policy*.

23 Dr. Burch will testify regarding the burdens imposed by H.B. 2492 and H.B. 2243.
24 This will include analysis of the time, effort, expense, and psychological toll imposed by
25 these laws, particularly for individuals of lower socioeconomic status.

26 **Derek Chang, Ph.D.:**

27 Derek Chang is an Associate Professor of History and Asian American Studies at
28 Cornell University, where he has taught courses on Asian American history, Asian
American Studies, comparative race relations and racial formations, and immigration. He
earned a B.A. in History from Trinity College in 1991, and a Ph.D. in History from Duke

1 University in 2002, where he trained in the history of the modern United States, with a
2 specialization in the late-nineteenth and early twentieth centuries. During his time at
3 Cornell University, he has served as a director of the Asian American Studies Program on
4 multiple occasions, most recently, as interim director in the Fall of 2021. He is currently
5 the Director Undergraduate Studies in the Department of History, and serves as the interim
6 Director of the Public History Initiative.

7 Dr. Chang's testimony will focus on contextualizing H.B. 2492 and H.B. 2243
8 within the history of anti-Asian American and Pacific Islander ("AAPI") discrimination in
9 Arizona and the United States from the mid-nineteenth century to the present, showing that
10 the challenged laws are part of a broader history of efforts to limit AAPI voting rights.

Orville Vernon Burton, Ph.D.:

11 Dr. Orville Vernon Burton is the Judge Matthew J. Perry Distinguished Professor
12 of History, and Professor of Global Black Studies, Sociology and Anthropology, and
13 Computer Science at Clemson University. Dr. Burton received his undergraduate degree
14 from Furman University in 1969 and his Ph.D. in American History from Princeton
15 University in 1976. He has been researching and teaching American History, among other
16 subjects, at universities since 1971. He is the author or editor of more than twenty books
17 and nearly three hundred articles, including in numerous renowned history and political
18 science journals.

19 Dr. Burton will testify regarding Arizona's history of official discrimination that
20 touches the rights of minority voters to participate in the democratic process; the historical
21 patterns of discriminatory results against minority voters and the reality that those voters
22 bear the effects of discrimination in various socio-economic areas that hinder their ability
23 to participate in the political process; the voting restrictions commonly in place in 1982;
24 and the presence of overt or subtle racial appeals in campaigning in Arizona.

2. Defendants' and Intervenor-Defendants' Experts:

Robert Stein, Ph.D.:

25 Dr. Robert Stein is the Lena Gohlman Fox Professor of Political Science at Rice
26 University. He received his Ph.D. in Political Science from the University of Wisconsin-
27 Milwaukee in 1977. His research focuses on voting behavior and election administration.
28

1 His work includes collaborations with several states and local governments in designing
2 and implementing voting systems. He has provided expert testimony in a number of voting
3 rights cases.

4 Dr. Stein will testify primarily in response to Plaintiffs' proffered expert, Dr. Burch,
5 regarding burdens imposed by H.B. 2492 and H.B. 2243. He will testify that Dr. Burch's
6 conclusions are premature and based on an incomplete review of the relevant literature.
7 He will provide similar testimony in partial response to Plaintiffs' proffered expert, Dr.
8 McDonald, regarding long-term effects of H.B. 2492 and H.B. 2243 on voters. He will
9 testify that Dr. McDonald's conclusion in this regard is speculative.

10 **Dr. Mark Hoekstra:**

11 Mark Hoekstra, Ph.D., is a professor of economics at Baylor University. Dr.
12 Hoekstra has published more than 20 papers in peer-reviewed journals, and his work has
13 been featured in a leading graduate-level book on empirical methods used in
14 economics. His research focuses on analyzing assumptions underlying various research
15 designs used to assess the causal impact of policies, including methods used to test for
16 racial and gender bias in different settings. Dr. Hoekstra has served as a testifying or
17 consulting expert in nine proceedings, including election integrity litigation in Texas.

18 Dr. Hoekstra will testify in rebuttal to Plaintiffs' proffered experts Dr. McDonald,
19 Dr. Minnite, and Dr. Burch. Specifically, he will testify that their evidence cannot prove a
20 causal relationship between the challenged laws and reduced voter registration or voter
21 turnout—and indeed, that a reduction in voter registration or voter turnout is itself
22 speculative, and there is credible research indicating that a margin increase in voter turnout
23 (both overall and among minorities) may result. Dr. Hoekstra will discuss the plaintiffs'
24 reliance on methodologically flawed studies, the plaintiffs' mischaracterization of
25 research, and the plaintiffs' failure to recognize or deal with credible research that
26 undermines or conflicts with their preferred narrative and conclusions. Finally, he will
27 testify that Dr. Minnite dismisses the possibility of non-citizen voting by manipulating
28 definitions and relying on flawed research methods, and ultimately makes unsubstantiated
allegations about the legislative motivations for H.B. 2492 and H.B. 2243.

1 **Dr. Jesse Richman:**

2 Jesse Richman, Ph.D., is an associate professor of political science and international
3 studies at Old Dominion University. Dr. Richman has published 25 peer-reviewed articles
4 and two books, including a widely cited study estimating the prevalence of non-citizen
5 registration and voting in the United States, and has served as a testifying or consulting
6 expert in several election-related cases.

7 Dr. Richman will testify in rebuttal to Dr. McDonald and Dr. Minnite. Dr. Richman
8 will testify that Dr. McDonald's report contains a series of objective calculation errors and
9 that, coincidentally or not, each buttresses Dr. McDonald's conclusions. Dr. Richman will
10 further explain that Dr. McDonald fails to acknowledge or discuss important data,
11 variables, and alternative explanations. In addition, Dr. Richman will testify that Dr.
12 Minnite understates the rate of registration and voting by non-citizens, that "slightly below
13 one percent" of adult non-citizens attempt to register to vote, and that such non-citizen
14 participation can affect the outcome of statewide elections.

14 **M. EXHIBITS AND DEPOSITIONS**

15 The Plaintiffs' exhibit list, including Defendants' anticipated objections, is attached
16 hereto as **Exhibit 5**. The Plaintiffs' deposition designations, in the form of highlighted
17 transcripts, are attached hereto as **Exhibit 6**. Defendants' objections and counter-
18 designations are attached hereto as **Exhibit 7**.

19 Defendants' exhibit list, including Plaintiffs' anticipated objections, is attached
20 hereto as **Exhibit 8**. Defendants' deposition designations, in the form of highlighted
21 transcripts, are attached hereto as **Exhibit 9**. Plaintiffs' objections and counter-designations
22 are attached hereto as **Exhibit 10**.

23 **N. MOTIONS IN LIMINE AND REQUESTED EVIDENTIARY RULINGS**

24 **Plaintiffs' position:**

25 Plaintiffs anticipate a motion in limine to bar intervenor-defendants Ben Toma and
26 Warren Petersen from adducing any evidence at trial regarding the Arizona Legislature's
27 intent in passing Arizona House Bill 2492 or 2243 or any evidence regarding the state
28 interests supposedly advanced by either or both of those laws.

Plaintiffs anticipate a motion in limine to (i) exclude testimony from a proposed

1 defense witness not previously identified by Defendants in disclosures or discovery, and
2 (ii) exclude certain proposed defense exhibits that were not produced in discovery.

3 Plaintiffs anticipate a motion in limine to bar Defendants from offering argument or
4 evidence at trial regarding any alleged state interests supporting the challenged law not
5 previously disclosed during discovery, or from offering argument or evidence of any
6 alleged state interest that is hypothetical, unfounded in the record, or based upon material
7 unknown to the Arizona legislature at the time of the challenged laws' enactment.

8 Plaintiffs anticipate a motion in limine to admit stipulations individually agreed to
9 by the Secretary of State, the Attorney General, the RNC, and/or Speaker Toma and
10 President Petersen, but not agreed to by all Defendants who intend to actively participate
11 at trial, in order identifying outstanding disputes of fact for trial, including with respect to
12 which parties dispute which facts. *See supra* Section F (“Stipulations and Undisputed
13 Facts”). This motion in limine would also include stipulations individually agreed to by the
14 County Recorders.

15 **Defendants’ position:** At least one Defendant anticipates a motion in limine to
16 exclude documents or testimony reflecting the opinions of individuals or groups
17 concerning the legality of the challenged provisions of H.B. 2492 and H.B. 2243.

18 At least one Defendant anticipates a motion in limine to exclude testimony from
19 individual legislators regarding his or her personal views or motives in connection with his
20 or her vote on the Voting Laws as irrelevant and inadmissible to prove collective legislative
21 intent.

22 **O. PROBABLE LENGTH OF TRIAL**

The parties anticipate a maximum of 10 days for the trial.

23 **P. TRIAL DATE**

Trial has been set in this matter to begin on November 6, 2023. ECF No. 485.

24 **Q. PROPOSED FINDINGS OF FACT AND CONCLUSIONS OF LAW** shall be
25 filed and served by the parties on or before the date set for trial. Subject to this
26 Court’s orders, the parties may submit amended or supplemental proposed
27 findings of fact and conclusions of law after trial at a time yet to be decided.

28 **R. MISCELLANEOUS**

1 Set forth any other appropriate matters which will aid in the effective presentation
2 or disposition of the action.

3 **S. MODIFICATION OF ORDER**

4 The Court may modify the **Final Pretrial Order** as it deems just and proper to
5 prevent manifest injustice or for good cause shown at the trial of the action or prior
6 thereto upon good faith application of counsel for either party or motion of the Court.

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8

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23 Plaintiffs' counsel received authorization from counsel for the Attorney General, Republican National Committee, and Legislative Intervenors to include their signatures in the Joint Pretrial Order. Plaintiffs' counsel did not receive final authorization to include a signature on behalf of counsel to the Secretary of State—and accordingly does not include that signature in the filing—but understands that Secretary's counsel was aware of and contributed to the last substantive version of the draft Joint Pretrial Order sent by Defendants to Plaintiffs.

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1 **THIS JOINT PRETRIAL ORDER IS HEREBY APPROVED ON THIS ____ DAY**
2 **OF _____, 20_.**
3
4

5 _____
6 Susan R. Bolton
7 United States District Judge

8 Copies to all counsel of record
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Exhibit i

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PLAINTIFFS' PROPOSED STIPULATIONS OF FACT AND LAW

Stipulations of Fact	
1.	The San Carlos Apache Tribe (“Tribe”) is a federally recognized Indian Tribe organized pursuant to Section 16 of the Indian Reorganization Act of June 18, 1934 (48 Stat. 984). 86 Fed. Reg. 7554.
2.	The San Carlos Apache Reservation (“Reservation”) in eastern Arizona is currently the tenth largest Indian reservation in the United States, covering an area of approximately 2,855 square miles, or 1.8 million acres.
3.	The Reservation was established (and subsequently diminished) by several Executive Orders and Acts of Congress, including Executive Orders of November 9, 1871 and December 14, 1872 (establishing the White Mountain and San Carlos Reservations). See Executive Orders of August 5, 1873; July 21, 1874; April 27, 1876; October 30, 1876; January 26, 1877; and March 31, 1877 (diminishing the White Mountain and San Carlos Reservations); and the Act of June 7, 1897, 30 Stat. 64 (creating the Fort Apache Reservation and establishing the Fort Apache Agency “to cover and have jurisdiction” over the Reservation).
4.	The Reservation spans across Gila, Graham, and Pinal Counties and is home to approximately 11,000 members, while the remainder of the Tribe’s members live off-Reservation.
5.	Tohono O’odham Nation is a federally recognized Tribe. 87 Fed. Reg. 4636, 4639 (January 28, 2022). The legislative and executive powers of the Tohono O’odham Nation are vested in the Tohono O’odham Council and the Office of the Chairman, respectively. <i>Constitution of the Tohono O’odham Nation</i> , art. V § 1 & art. VII § 1 (March 6, 1986). Among the enumerated powers of the Council and Chairman are the authority to promote, protect and provide for public health, peace, morals, education, and general welfare of the Tohono O’odham Nation and its members and to act as the official representative of the Tohono O’odham Nation. <i>Id.</i> , art. VI § (1)(c)(2) & art. VII § (2)(f).
6.	According to the 2020 Census, approximately 6,713 voting age individuals live on Tohono O’odham lands. U.S. Census, 2020 Census Redistricting Data (Public Law 94-171) Summary File, Race for the Population 18 Years and Older, Table P3 (Tohono O’odham Nation Reservation and Off-Reservation Trust Land, AZ).
7.	Gila River Indian Community is a federally recognized Tribe. 87 Fed. Reg. 4636, 4638 (January 28, 2022). The Community is governed by the Gila River Community Council, which has among its enumerated powers the authority to promote and protect the health, peace, morals, education, and general welfare of the Community and its members and to act for and on behalf of those members. <i>Constitution and Bylaws of the Gila River Indian Community of Arizona</i> , art. XV, § 1(a)(9) (codified by Gila River Indian Community Council on July 7, 2021).
8.	According to the 2020 Census, approximately 9,268 voting age individuals live on the Gila River Reservation. U.S. Census, 2020 Census Redistricting Data (Public Law 94-171) Summary File, Race for the Population 18 Years and Older, Table P3 (Gila River Indian Reservation, AZ).
9.	At the state level, Arizona’s voter registration information is maintained in the Access Voter Information Database (AVID).
10.	Both Maricopa and Pima counties maintain their own voter registration databases and then sync those databases with AVID. The other thirteen counties input voter registration data directly into AVID.

PLAINTIFFS' PROPOSED STIPULATIONS OF FACT AND LAW

Stipulations of Fact	
11.	Among other methods, voters may register to vote in Arizona using either the registration form prescribed by the Arizona Secretary of State, (the "State Form"), or the National Mail Voter Registration Form, provided by the U.S. Election Assistance Commission ("EAC") (the "Federal Form"). <i>See</i> Doc. 388, Ex. 9 (copy of the State Form); Doc. 388, Ex. 10 (copy of the Federal Form).
12.	Both the State Form and the Federal Form require a voter registration applicant to attest to their eligibility, including U.S. citizenship.
13.	In 2004, Proposition 200 amended the state's election code to require county recorders to "reject any application for registration that is not accompanied by satisfactory evidence of United States citizenship." A.R.S. § 16-166(F).
14.	States provide the EAC with state-specific instructions to voters who register to vote in their state using the federal form. <i>See</i> 52 U.S.C. § 20508(a); 11 C.F.R. § 9428.3.
15.	In 2005, Arizona requested that the United States Election Assistance Commission ("EAC") add its documentary proof of citizenship ("DPOC") requirement to Arizona's state-specific instructions on the Federal Form. The EAC divided 2-to-2 on the request, which meant that no action could be taken, and Arizona did not challenge that agency action (or rather inaction) by seeking APA review in federal court. <i>See Arizona v. Inter Tribal Council of Ariz., Inc.</i> , 570 U.S. 1, 6, 19 (2013)); SOS Ans. to LUCHA FAC ¶ 75, Doc.124.
16.	In 2013, Arizona requested that the EAC add its DPOC requirement to Arizona's state-specific instructions on the Federal Form. <i>See Kobach v. U.S. Election Assistance Comm'n</i> , 772 F.3d 1183, 1187-88 (10th Cir. 2014). In 2014, the EAC denied that request. Arizona, along with Kansas, sought judicial review of that denial. <i>Id.</i> at 1188-89. The Tenth Circuit upheld the EAC's agency action, <i>id.</i> at 1196, and the Supreme Court denied Arizona's petition for certiorari. <i>Kobach v. U.S. Election Assistance Comm'n</i> , 576 U.S. 1055 (2015).
17.	Since 2014, Arizona has required applicants to present DPOC in order to register to vote in state and local elections but not to register to vote in federal elections. Doc. 388, Ex. 6 (2019 EPM) at 3 (Ch. 1, Sec. II.A); <i>see also</i> A.R.S. §§ 16-121.01, 16-127; Ariz. Att'y Gen. Op. No. I13-011 (Oct. 7, 2013), available at https://www.azag.gov/sites/default/files/2018-06/I13-011.pdf (last visited Mar. 30, 2022); SOS Ans. to LUCHA FAC ¶ 77, Doc.124; AG Ans. to LUCHA FAC ¶ 77, Doc.328.
18.	The 2014 EPM provided that if a voter registration applicant submitted a State Form without DPOC, they would not be registered to vote at all. <i>See</i> Doc. 388, Ex. 11 (2014 Arizona Election Procedures Manual) at 17. If such an applicant submitted a Federal Form without DPOC, they were registered as a "federal only" voter. SOS Ans. to LUCHA FAC ¶¶ 79-81, Doc.124; AG Ans. to LUCHA FAC ¶¶ 79-80, Doc.328.
19.	In 2018, after litigation brought by Plaintiffs League of United Latin American Citizens of Arizona ("LULAC") and Arizona Students' Association, the Arizona Secretary of State agreed to, and this Court ordered, a consent decree (the "LULAC Consent Decree"). <i>See</i> Doc. 388, Ex. 12 (LULAC Consent Decree); SOS Ans. to LUCHA FAC ¶ 83, Doc.124.

PLAINTIFFS' PROPOSED STIPULATIONS OF FACT AND LAW

Stipulations of Fact	
20.	The LULAC Consent Decree was incorporated as an addendum to the then-operative EPM, which was distributed to the county recorders, and later incorporated into the currently operative 2019 EPM. <i>See</i> Doc. 388, Ex. 6 at 6; <i>see also</i> Doc. 388, Ex. 13 (copy of the 2019 Addendum to the 2014 Arizona Elections Procedures Manual); SOS Ans. to LUCHA FAC ¶ 85, Doc. 124; <i>see also League of United Latin American Citizens of Arizona, et al. v. Reagan, et al.</i> , Case No. 2:17-cv-4102-DGC, ECF No. 37.
21.	The current “State Form” advises applicants that they must provide DPOC to vote a “full ballot” and that, if they do not provide DPOC and their U.S. proof of citizenship cannot be acquired from the Arizona Motor Vehicle Division or statewide voter registration database, they will be registered to receive a “federal-only” ballot, which has only federal races. Doc. 388, Ex. 9; <i>see also League of United Latin American Citizens of Arizona, et al. v. Reagan, et al.</i> , Case No. 2:17-cv-4102-DGC, ECF No. 37.
22.	In Arizona, a “full-ballot” voter is entitled to vote for all federal, state, county, and local races as well as state and local ballot measures for which the voter qualifies. Petty Exhibit 6; MC 000017.
23.	The State Form provides instructions and information in English and Spanish only.
24.	The State Form requires applicants to attest that they are residents of Arizona. The Federal Form requires applicants to attest that they have reviewed their state’s instructions and meet all eligibility requirements. One eligibility requirement for Arizona is being a resident of Arizona. Doc. 388, Ex. 9 (State Form) § 22; Doc. 388, Ex. 10 (Federal Form) § 9.
25.	The County Recorders currently have access to certain databases for purposes of voter registration activities. They have access to the statewide voter registration database (AVID). Through AVID, they can also conduct checks against the Arizona Department of Transportation (“ADOT”) Motor Vehicle Division (“MVD”) database and the Social Security Administration (“SSA”) database, although they do not have direct access to either of those databases. They also receive data through Arizona’s membership in the Electronic Registration Information Center (“ERIC”). They also have access to the Systemic Alien Verification for Entitlements (“SAVE”) system through the Secretary of State’s agreement with USCIS.
26.	As of July 2023, there were 4,198,726 registered voters in Arizona. <i>See</i> https://azsos.gov/elections/results-data/voter-registration-statistics .
27.	Most Arizonans vote by mail. <i>See</i> Arizona Secretary of State, Voting By Mail: How to Get a Ballot-by-Mail, https://azsos.gov/votebymail .
28.	In 1991, Arizona began permitting any qualified elector to vote by absentee ballot. Before then, only some categories of qualified electors were permitted to vote by absentee ballot. <i>See</i> A.R.S. § 16-541.
29.	Approximately 88% of Arizona voters who voted in the 2020 General Election voted early (either by mail or early in-

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	person). Secretary of State Answer to MFV Plaintiffs' Second Am. Compl., Doc. 123 ¶ 4.
30.	Arizona maintains an Active Early Voting List ("AEVL") that allows voters to sign up for a mail ballot to be automatically mailed to them for every election in which they are eligible to vote. <i>See</i> Arizona Clean Elections Commission, Ballot By Mail, https://www.azcleelections.gov/how-to-vote/early-voting/vote-by-mail .
31.	In addition to the AEVL, voters can submit a ballot-by-mail request for any individual election. <i>See</i> Arizona Secretary of State, Voting By Mail: How to Get a Ballot-by-Mail, https://azsos.gov/votebymail .
32.	Voters who are temporarily out of town during an election can request to have a ballot mailed to them at a temporary address provided they maintain permanent residency in Arizona. <i>See</i> Arizona Secretary of State, Voting By Mail: How to Get a Ballot-by-Mail, https://azsos.gov/votebymail .
33.	Voters who are serving in the military or residing overseas can request to have a ballot mailed to them. <i>See</i> Arizona Secretary of State, Voting By Mail: How to Get a Ballot-by-Mail, https://azsos.gov/votebymail .
34.	Early voting for an election in Arizona begins 27 days before that election, and voters who are signed up to receive a ballot by mail can expect to receive one shortly after the early voting period begins. <i>See</i> Arizona Clean Elections Commission, Ballot By Mail, https://www.azcleelections.gov/how-to-vote/early-voting/vote-by-mail .
35.	Arizona voters who receive a ballot by mail can return their ballot by mail. Postage is prepaid and no stamp is required to mail a completed ballot. <i>See</i> Arizona Clean Elections Commission, Ballot By Mail, https://www.azcleelections.gov/how-to-vote/early-voting/vote-by-mail .
36.	Arizona voters who receive a ballot by mail can, in lieu of mailing it, drop off their ballot at a voting location in their county. <i>See</i> Arizona Clean Elections Commission, Ballot By Mail, https://www.azcleelections.gov/how-to-vote/early-voting/vote-by-mail .
37.	Voters who return their completed ballot at a voting location in their county can do so at any time up until 7:00 PM on Election Day, which is also the deadline for mail-in ballots to be received. <i>See</i> Arizona Secretary of State, Voting By Mail: How to Get a Ballot-by-Mail, https://azsos.gov/votebymail .
38.	Mail-in voting in Arizona allows voters to cast a ballot without necessarily having to travel to a voting location on Election Day.
39.	Mail-in voting in Arizona allows voters to cast a ballot without necessarily having to arrange for transportation to vote at a polling place on Election Day.
40.	Mail-in voting in Arizona allows a voter to cast a ballot when they temporarily will not be in their county of residence during the early-vote period or on Election Day, including due to military service.
41.	Mail-in voting in Arizona allows voters to cast a ballot without necessarily having to stand in line at a polling place on Election Day.
42.	H.B. 2492 was introduced to the Arizona House of Representatives on January 24, 2022 and read for the first time. <i>See</i>

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	Bill History for HB2492, https://apps.azleg.gov/BillStatus/BillOverview/76970 ,
43.	On March 30, 2022, then-Governor Doug Ducey signed Arizona House Bill 2492 (“H.B. 2492”) into law. <i>See</i> Doc. 388, Ex. 1 (March 30, 2022 Letter from Governor Ducey to Secretary Hobbs re: House Bill 2492 voter registration; verification; citizenship); Doc. 388, Ex. 2 (copy of H.B. 2492 (Chaptered Version)).
44.	On April 22, 2022, then-Governor Ducey signed Senate Bill 1638 (“S.B. 1638”), which made a technical amendment to H.B. 2492 and delayed the effective date for all of H.B. 2492’s provisions to December 31, 2022. Doc. 388, Ex. 3 (copy of S.B. 1638 (Chaptered Version)).
45.	H.B. 2492 went into effect on January 1, 2023. Doc. 388, Ex. 2; Doc. 388, Ex. 4.
46.	On April 6, 2022, the LUCHA Plaintiffs sent written notice to the Secretary of State, as required under the NVRA, providing notice of alleged NVRA violations arising from the enactment of H.B. 2492. LUCHA Plaintiffs provided a second notice of these alleged violations on July 18, 2022. SOS Ans. to LUCHA FAC ¶ 362, ECF No. 124; LUCHA NVRA Notice Letter, April 6, 2022; LUCHA NVRA Notice Letter, July 18, 2022.
47.	H.B. 2492 requires “the County Recorder or other officer in charge of elections” to compare voter registrations submitted via the Federal Form without satisfactory evidence of citizenship against databases, provided the county has access, including the Arizona Department of Transportation database of driver licenses or nonoperating identification licenses, the Social Security Administration database, the USCIS Systematic Alien Verification for Entitlements Program, and the National Association for Public Health Statistics and Information Systems Electronic Verification of Vital Events System. <i>See</i> A.R.S. § 16-121.01.
48.	The federal form does not have a field for an applicant to provide their place of birth.
49.	On May 25, 2022, the Arizona legislature passed House Bill 2617 (“H.B. 2617”). Case No. 2:22-cv-01602-SRB, ECF 46 (Secretary of State Answer to Promise Arizona Complaint) ¶ 33.; https://apps.azleg.gov/BillStatus/BillOverview/77330 .
50.	On May 27, 2022, Governor Doug Ducey vetoed H.B. 2617. Case No. 2:22-cv-01602-SRB, ECF 46 (Secretary of State Answer to Promise Arizona Complaint) ¶ 36; https://www.azleg.gov/govlettr/55leg/2r/hb2617.pdf .
51.	Arizona House Bill 2243 (“H.B. 2243”) was signed into law during the 2022 Fifty-fifth Legislature, Second Regular Session. https://apps.azleg.gov/BillStatus/BillOverview/76698 .
52.	H.B. 2243 was first introduced and had its first House reading on January 18, 2022, but did not contain the provisions challenged in this case. https://apps.azleg.gov/BillStatus/BillOverview/76698 .
53.	On June 22, 2022, the Senate met as a “Committee of the Whole” to discuss H.B. 2243 and Warren Petersen’s proposed Floor Amendment to H.B. 2243. On this day, the Petersen Floor Amendment was adopted. https://apps.azleg.gov/BillStatus/BillOverview/76698 ; https://apps.azleg.gov/BillStatus/GetCalendarBillAmendmentPdf/?calendarBillId=738326&itemId=0 ; https://www.azleg.gov/getCurrentPDF/?doctype=C&docid=20693 .

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54.	On June 23, 2022, H.B. 2243 had its third Senate reading and the amended version of H.B. 2243 passed the Arizona Senate on a 16-12-2-0-0 vote. https://www.azleg.gov/videoplayer/?eventID=2022061052&startStreamAt=2847 .
55.	On June 23, 2022, H.B. 2243 was later transferred back to Arizona House of Representatives. https://apps.azleg.gov/BillStatus/BillOverview/76698 .
56.	On June 23, 2022, H.B. 2243 had its final House reading and passed the Arizona House of Representatives with a 31-27-2-0-0 vote. https://apps.azleg.gov/BillStatus/BillOverview/76698 .
57.	On June 24, 2022, H.B. 2243 was transmitted to former Arizona Governor Doug Ducey. https://apps.azleg.gov/BillStatus/BillOverview/76698 .
58.	Former Arizona Governor Doug Ducey signed H.B. 2243 into law on July 6, 2022. https://apps.azleg.gov/BillStatus/BillOverview/76698 .
59.	On July 18, 2022, LUCHA Plaintiffs sent formal notice to the Secretary of State, as required under the NVRA, notifying then-Secretary Hobbs of alleged NVRA violations arising from enactment of HB 2243. That letter also included a second notice of alleged violations arising from the enactment of HB 2492. SOS Ans. to LUCHA FAC ¶ 362, ECF No. 124; LUCHA NVRA Notice Letter, April 6, 2022; LUCHA NVRA Notice Letter, July 18, 2022.
60.	On July 22, 2022, Plaintiff Equity Coalition sent formal notice to the Secretary of State, as required under the NVRA, notifying then-Secretary Hobbs of alleged NVRA violations arising from the enactment of H.B. 2243. Doc. 388, Ex. 22.
61.	On August 15, 2022, Plaintiffs Promise Arizona and Southwest Registration Education Project also provided written notice to then-Secretary Hobbs of alleged NVRA violations created by H.B. 2243. Doc. 388, Ex. 23.
62.	On August 10, 2022, Plaintiff Equity Coalition contacted each of the named county recorder-Defendants, asking whether and when, in connection with the passage of H.B. 2243, the county recorder is (1) currently implementing or planning to shortly implement any changes to their procedures or effectuate any new procedures or actions, and/or (2) planning any such changes/new procedures or actions upon the general effective date of bills passed during the 55th Legislature (September 24, 2022). Doc. 388, Ex. 24.
63.	On August 25, 2022, Plaintiff Equity Coalition filed a Motion for Preliminary Injunction in its pre-consolidation lawsuit. Doc. 388, Ex. 26.
64.	On September 8, 2022, the parties in the Equity Coalition's pre-consolidation lawsuit filed a proposed stipulated order regarding the Motion for Preliminary Injunction (the "Stipulated Order"). Case No. 2:22-cv-01381-SRB, Doc. 53.
THE ELECTIONS PROCEDURES MANUAL (EPM)	
65.	A draft 2021 Elections Procedures Manual was submitted to then-Governor Doug Ducey and then-Attorney General Mark Brnovich by then-Secretary of State Hobbs on October 1, 2021. Doc. 388 ¶ 13; <i>see also</i> Doc. 388, Ex. 7 (Oct. 1, 2021 Letter from Secretary Hobbs to Governor Ducey and Attorney General Brnovich).
66.	The 2021 draft EPM was not approved by Attorney General Brnovich and thus did not take effect. Doc. 388 ¶ 13; <i>see also</i>

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	Doc. 388, Ex. 8 (Dec. 22, 2021 Letter from Attorney General Brnovich to Secretary Hobbs).
67.	An annotated Election Procedures Manual was produced in 2021 between the biennial revisions to account for new statutes and new court decisions, but this annotated version does not have the force of law. Hiser Depo Tr. 51:18-52:4, 52:24-53:1.
68.	On September 30, 2023, Secretary Fontes submitted a proposed 2023 Election Procedures Manual to Governor Hobbs and Attorney General Mayes. <i>See</i> https://azsos.gov/elections/about-elections/elections-procedures-manual .
69.	In Arizona, the fee for obtaining a driver's license can range from \$10 to \$25, depending on age and type of license. <i>See</i> https://azdot.gov/mvd/services/driver-services/driver-license-information/fees-driver-license .
70.	In Arizona, the fee for an identification card is \$12 for anyone under the age of 65, but there is no charge for anyone aged 65 or older or any recipient of supplemental security income. <i>See</i> https://azdot.gov/mvd/services/driver-services/driver-license-information/fees-driver-license .
71.	Arizona County Recorders conduct HAVA Checks through the AVID system. Shreeve Tr. 68:18-69:10; Stevens Tr. 58:2-59:4; Hansen Tr. 113:14-20; Asrarynezami Tr. 36:13-37:9; Merriman Tr. 35:4-21; Milheiro Tr. 21:9-17; Garcia Tr. 46:22-25; Durst Tr. 25:17-24; Lerma Tr. 68:3-10; Hiser Tr. 147:19-21; Lewis Tr. 29:11-13.
72.	Jennifer Toth is the Director of the Arizona Department of Transportation (ADOT). Jorgensen Ex. 107.
73.	Eric Russell Jorgensen is the director of the Motor Vehicle Division of the ADOT. Jorgensen Tr. 21:1-7.
74.	The Motor Vehicle Division manages two types of credentials: driver licenses and state-issued identifications. Jorgensen Tr. 27:21-25.
75.	The Motor Vehicle Division uses the system, MAX to manage driver license data. Jorgensen Tr. 24:24-25:1.
76.	ADOT began using the MAX system on April 20, 2020. Jorgensen Tr. 27:5-7.
77.	For the Motor Vehicle Division, a "customer" could be someone who requests a driver license or state-issued identification. Jorgensen Tr. 28:10-29:4.
78.	If proper requirements are met, both U.S. citizens and non-U.S. citizens can receive a driver license or state-issued identification in Arizona. Jorgensen Tr. 30:18-31:8.
79.	Whether a non-U.S. citizen can get a driver license or state-issued identification in Arizona is dependent upon whether they can show "authorized presence." Jorgensen Tr. 31:1-4.
80.	For purposes of getting a driver's license, the Motor Vehicle Division determines whether an individual has authorized presence by reviewing supporting documents that said individual presents to the Motor Vehicle Division. Jorgensen Tr. 31:9-13.
81.	If proper requirements are met, Lawful Permanent Residents may receive a driver license or state-issued identification in Arizona. Jorgensen Tr. 31:14-18.
82.	If proper requirements are met, persons who have Deferred Action for Childhood Arrivals (DACA) may receive a driver license or state-issued identification in Arizona. Jorgensen Tr. 31:19-21.

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83.	If proper requirements are met, persons holding different types of visas may receive a driver license or state-issued identification in Arizona. Jorgensen Tr. 31:22-32:2.
84.	An “original credential” is the first issuance of a credential, not a subsequent renewal or reinstatement of the same credential. Jorgensen Tr. 35:20-23.
85.	For purposes of getting a driver’s license, a U.S. Certificate of Naturalization, a U.S. Certificate of Citizenship, an I-94 Form with an unexpired foreign passport and an unexpired U.S. Visa, and a Permanent Resident Card/Resident Alien Card are all acceptable primary documents that would establish authorized presence. Jorgensen Ex. 108; Jorgensen Tr. 38:9-39:19.
86.	The Motor Vehicle Division issues REAL IDs. Jorgensen Tr. 40:14-16.
87.	For purposes of getting a REAL ID, U.S. certificates of naturalization, permanent resident cards, I-94 forms with an unexpired foreign passport, and unexpired U.S. visas are acceptable primary documents. Jorgensen Tr. 41:5-16.
88.	Within ADOT’s MAX system, credential holders are categorized based on the authorized presence documentation provided. There are two types of authorized presence status— non-foreign and foreign. These statuses are further broken down into five subcategories. U.S. Citizen/Non-foreign and Naturalized Citizen are under the “non-foreign” category. Resident/Permanent Alien, Temporary INS, and Canada are under the “foreign” category. Jorgensen Ex. 105.
89.	Since April 20, 2020, ADOT, including the Motor Vehicle Division, no longer uses the classification of F-type licenses/credentials. Jorgensen Tr. 50:21-51:3; Jorgensen Ex. 106.
90.	Everyone who had an F-type license, before April 20, 2020, was re-categorized into the foreign category, and was either changed to either resident/permanent alien, temporary INS, or Canada. Jorgensen Tr. 51: 10-22.
91.	County recorders often continue to use the terminology of “F-type license” to refer to individuals with MVD credentials within the foreign category.
92.	If they wish to maintain their license, the following categories of people must renew their license every five years: After a customer’s 60 th birthday, a person who is an out-of-state student, a spouse of an out-of-state student, and immediate family members of active-duty military personnel temporarily stationed in Arizona. Jorgensen Ex. 110 at ADOT000103.
93.	To the MVD Director’s knowledge, MVD customers who are categorized under a foreign authorized presence subcategory are not legally required to do anything if they naturalize as a U.S. citizen. Jorgensen Tr. 68:19-69:2.
94.	For a naturalized citizen to update their citizenship status maintained in ADOT’s database, the person must visit an ADOT office in person and present documentary proof of citizenship. Jorgensen Tr. 178:8-179:5.
95.	The Motor Vehicle Division and ADOT do not track whether customers with valid credentials based on foreign authorized presence have naturalized as U.S. citizens since obtaining their credential. Jorgensen Tr. 69:16-24.
96.	The Motor Vehicle Division and ADOT does not send any notifications to those who have naturalized as U.S. citizens but still have an unexpired valid credential based on foreign authorized presence. Jorgensen Tr. 70:4-10.

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97.	A person with a foreign-type, authorized presence driver license or state-issued identification would continue to have a foreign-type license or identification card if that person did not renew their license or identification card and show evidence of naturalization as a U.S. citizen. Jorgensen Tr. 71: 25-72:5.
98.	ADOT is not aware of the number of customers in the MAX system who currently have an unexpired foreign authorized presence credential but who are now naturalized U.S. citizens. Jorgensen Tr. 73:11-14.
99.	ADOT provides Arizona County Recorders its data through the Secretary of State. Jorgensen Tr. 79:22-80:4, 80:8-15; Jorgensen Ex. 105.
100.	Driver license data is stored and shared with the Secretary of State via various files and API connections. Jorgensen Ex. 106.
101.	ADOT provides to the Secretary of State a “customer extract” file and a “credentials canceled out of state” file. Jorgensen Ex. 111; <i>see also</i> Jorgensen Ex. 105 at 3–4.
102.	An API interface is a way for the Secretary of State’s system to connect directly to ADOT’s MAX system, allowing the Secretary of State to request a specific set of data and have ADOT return the requested data, including records, to the Secretary of State. Jorgensen Tr. 86:4-19, 87:2-10.
103.	The Secretary of State has the ability to send a request to ADOT’s system via an API to query certain data for an individual customer. The API then returns specific customer information for matching records. This API is used for HAVA checks. Jorgensen Ex. 105; Jorgensen Tr. 105:1-20.
104.	When querying certain MVD data for an individual customer via an API, the Secretary of State will get information about that person’s authorized presence or citizenship status as it exists in MVD’s system. Jorgensen Tr. 101:18-102:4.
105.	ADOT currently provides two files the first Monday of each month to the Secretary of State. The files are Comma Separated Value (CSV) Text Files and are put on a Secure FTP server for the Secretary of State to retrieve. The first file is a customer extract, containing records of all ADOT credential holders along with their current documented authorized presence or citizenship status as documented to ADOT and their current and prior addresses. The second file contains a list of all credentials that ADOT has canceled due to having received notice that a credential was issued in another jurisdiction. ADOT began creating these files in Fall of 2022. Jorgensen Tr. 105; Jorgensen Tr. 132:11-13.
106.	ADOT’s customer extract includes a “Noncitizen” field that will be marked “Y” if ADOT records indicate that the customer has a foreign-type license; otherwise it will be blank. Jorgensen Tr. 111.
107.	ADOT’s customer extract was created to comply with H.B. 2243, which requires the Secretary of State to compare the voter registration database and the Arizona Department of Transportation driver license database on a monthly basis. Jorgensen Tr. 131:15-132:2.
108.	ADOT’s customer extract includes approximately 7.3 million customers. Jorgensen Tr. 134:8-11.
109.	ADOT’s customer extract includes any “customer” that has a driver’s license or identification with ADOT. Jorgensen Tr.

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	134:12-15.
110.	ADOT does not search records of any naturalization ceremonies before filling out the “NonCitizen” field with a “Y” value in the customer extract. Jorgensen Tr. 139:11-15.
111.	When sending their customer extract, ADOT does not send the Secretary of State any documents or data about the authorized presence or citizenship status documents that were presented by the customer. Jorgensen Tr. 139:16-20.
112.	ADOT has sent a customer extract with the same specifications every month since December 2022. Jorgensen Tr. 143:2-4.
113.	Beyond providing information, ADOT does not participate in any of the comparisons that the Secretary of State would be required to conduct under 16-165(F) of H.B. 2243. Jorgensen Tr. 149:6-11.
114.	ADOT has not provided any matching criteria to the Secretary of State for conducting database comparisons for the purposes of H.B. 2243 compliance. Jorgensen Tr. 150: 20-24.
115.	According to ADOT, internal weekly error checks of a sample of ADOT records are only correct “85 to 89 percent” of the time, and, according to MVD Director Jorgensen, “typically the types of errors that we find is that something wasn’t properly scanned in or something along those lines [...] [t]ypically, it’s not something[...]that would invalidate the data that is in the system.” Jorgensen Tr. 190:25-191:18.
116.	The Department of Homeland Security (“DHS”) U.S. Citizenship and Immigration Services (“USCIS”) administers the Systematic Alien Verification for Entitlements (“SAVE”) system.
117.	The SAVE system is a web-based, point-in-time data retrieval system that enables federal, state, and local benefit-granting agencies to access immigration and citizenship status information for a benefits applicant in order to determine that applicant’s eligibility for the benefit. USCIS Tr. 25:1-16, 38:12-13.
118.	The SAVE system is not a database or a system of record origin, but rather relies on source record systems that are maintained by different DHS agencies, including USCIS. USCIS Tr. 26:1-10.
119.	Arizona County Recorders have access to the SAVE system. Stevens Tr. 62:5-9; Hansen Tr. 113:23-25; Asrarynezami Tr. 43:18-44:1; Merriman Tr. 41:16-18; Milheiro Tr. 32:18-20; Garcia Tr. 58:14-16; Petty Tr. 102:25-103:4); Durst Tr. 154:8-15; Hiser Tr. 206:8-13; Lewis Tr. 66:13-19.
120.	The 2019 EPM provides that, for proof of citizenship purposes, if a registrant does not present originals or copies of documents but just provides a citizenship number, including a Citizenship Certificate Number, Naturalization Certificate Number, or Alien Registration Number, this number must be verified against the SAVE system by the county recorder before the number can be deemed satisfactory DPOC. Petty Ex. 6; MC 000019.
121.	The SAVE system can only be used to verify or provide confirmation of naturalized U.S. citizenship or derived/acquired U.S. citizenship. In order to utilize the SAVE system, users must at least have, <i>inter alia</i> , an individual’s Alien Number, Naturalization Number, or Citizenship Certificate Number.

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122.	The SAVE system cannot verify or provide confirmation of U.S.-born citizenship. USCIS Tr. 27:22, 28:8-11.
123.	The SAVE system does not use Social Security Administration systems for verification of citizenship status. USCIS Tr. 27:22-23.
124.	Six states have existing Memoranda of Agreement (“MOAs”) to use the SAVE system for election administration functions, including voter registration and/or voter list maintenance. USCIS Tr. 31:22-25, 208:21-24
125.	The Arizona Secretary of State accesses the SAVE system pursuant to a Memorandum of Agreement (“SAVE MOA”) between the USCIS and the Arizona Secretary of State for purpose of “verifying citizenship and immigration status information of non-citizen and naturalized or derived U.S. citizen registrants (registrants) when they register to vote (benefit).” USCIS Ex. 184 at USCIS SAVE 000002.
126.	The Arizona Secretary of State entered into SAVE MOA with USCIS on October 31, 2018. USCIS SAVE 000001-000010.
127.	The MOA of October 31, 2018 is currently in force.
128.	Arizona’s fifteen county recorders have access to the SAVE system through the SAVE MOA and the Arizona Secretary of State’s account. USCIS Tr. 48:6-9.
129.	The SAVE MOA requires user agencies to “[u]se any information provided by DHS-USCIS under this MOA solely for the purpose of determining the eligibility of persons applying for the benefit issued by the User Agency . . .” USCIS Ex. 184 at USCIS SAVE 000004.
130.	The SAVE Program Guide issued by USCIS states that: “Users may run SAVE verifications only on benefit applicants.” USCIS Ex. 189 at USCIS SAVE 000087.
131.	To verify a benefit applicant’s status in the SAVE system, the user agency must have the applicant’s biographic information (first name, last name and date of birth) and a numeric identifier (Alien Number; Form I-94, Arrival/Departure Record, number; Student and Exchange Visitor Information System (SEVIS) ID number; or unexpired foreign passport number). https://www.uscis.gov/save/about-save/save-verification-process .
132.	SAVE cannot verify an applicant’s status using only first and last name or birthplace. https://www.uscis.gov/save/about-save/save-verification-process .
133.	The SAVE MOA requires user agencies to “[e]nsure all Users perform any additional verification procedures the SAVE Program requires and/or the registrant requests after the User Agency initiates a request for verification. For voter registration verification, User agency must institute additional verification for any registrant that does not verify as a naturalized or derived citizen on initial verification, including in all cases where the User Agency receives any SAVE response other than that of naturalized or derived citizen.” USCIS Ex. 184 at USCIS SAVE 000004.
134.	The SAVE Program Guide states: “Users must perform any and all additional verification procedures SAVE requires and/or the applicant requests. When SAVE returns a response of “Institute Additional Verification,” “Resubmit Doc” or otherwise indicates that additional verification is required, or the benefit applicant requests additional verification, the user

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	must continue the verification process to ensure that SAVE can conduct the necessary research on behalf of the benefit applicant. This is necessary because user agencies may not rely on a SAVE response to deny an application for benefits unless the agency has followed all SAVE verification procedures. Following SAVE verification procedures, requires user agencies to respond to a request for additional review when prompted by SAVE or requested by the applicant by submitting any additional information or documents and receiving SAVE's final response regarding the applicant's immigration status or records. Otherwise, the user agency may deny eligible persons benefits that they are lawfully entitled to receive. Accordingly, SAVE requires the agency to have instituted additional verification and followed all verification steps before it can deny a benefit based on the SAVE response. If an agency has alternative processes upon which to base its decision to grant or deny a benefit, additional verification in SAVE is not required." USCIS Ex. 189 at USCIS SAVE 000087-88.
135.	The SAVE system itself cannot be used to correct, update, renew, or replace records. Records correction activity requires the benefit applicant to reach out to the specific DHS unit that issues and maintains such records. USCIS Tr. 160:1-161:7.
136.	Maiden name changes following marriage are one of the more common types of record changes that USCIS observes. USCIS Tr. 167:5-168:17.
137.	USCIS staff work through the backlog of additional verification cases on a "first in, first out" basis" with no priority given to voter registration cases. USCIS Tr. 135:22-136:6, 136:9-11.
138.	According to USCIS SAVE data, in 2020, the Maricopa County Recorder's office initiated additional verification for 3 of the 1,064 individuals who could not be verified as naturalized or derived U.S. citizens upon initial verification. USCIS SAVE 001744; USCIS Tr. 48:10-49:1, 175:7-2, 176:14-22.
139.	According to USCIS SAVE data, in 2021, the Maricopa County Recorder's office initiated additional verification for 5 of the 413 individuals who could not be verified as naturalized or derived U.S. citizens upon initial verification. USCIS SAVE 001744; USCIS Tr. 48:10-49:1, 175:7-2, 176:14-22.
140.	According to USCIS SAVE data, in 2022, the Maricopa County Recorder's office initiated additional verification for 4 of the 494 individuals who could not be verified as naturalized or derived U.S. citizens upon initial verification. USCIS SAVE 001744; USCIS Tr. 48:10-49:1, 175:7-2, 176:14-22.
141.	According to USCIS SAVE data, in 2020, the Pima County Recorder's office initiated additional verification for 107 of the 232 individuals who could not be verified as naturalized or derived U.S. citizens upon initial verification. USCIS SAVE 001744; USCIS Tr. 48:10-49:1, 175:7-2, 176:14-22.
142.	According to USCIS SAVE data, in 2021, the Pima County Recorder's office initiated additional verification for 4 of the 16 individuals who could not be verified as naturalized or derived U.S. citizens upon initial verification. USCIS SAVE 001744; USCIS Tr. 48:10-49:1, 175:7-2, 176:14-22.
143.	According to USCIS SAVE data, in 2022, the Pima County Recorder's office initiated additional verification for 2 of the 45 individuals who could not be verified as naturalized or derived U.S. citizens upon initial verification. USCIS SAVE

PLAINTIFFS' PROPOSED STIPULATIONS OF FACT AND LAW

Stipulations of Fact	
	001744; USCIS Tr. 48:10-49:1, 175:7-2, 176:14-22.
144.	According to USCIS SAVE data, in 2020, the other 13 county recorder offices besides Maricopa and Pima initiated additional verification for 18 of the 129 individuals who could not be verified as naturalized or derived U.S. citizens upon initial verification. USCIS SAVE 001744; USCIS Tr. 48:10-49:1, 175:7-2, 176:14-22.
145.	According to USCIS SAVE data, in 2021, the other 13 county recorder offices besides Maricopa and Pima initiated additional verification for 5 of the 50 individuals who could not be verified as naturalized or derived U.S. citizens upon initial verification. USCIS SAVE 001744; USCIS Tr. 48:10-49:1, 175:7-2, 176:14-22.
146.	According to USCIS SAVE data, in 2022, the other 13 county recorder offices besides Maricopa and Pima initiated additional verification for 6 of the 59 individuals who could not be verified as naturalized or derived U.S. citizens upon initial verification. USCIS SAVE 001744; USCIS Tr. 48:10-49:1, 175:7-2, 176:14-22.
147.	According to USCIS SAVE data, since 2016, USCIS requested Arizona election officials to provide more information following a failed initial SAVE search a total of 2,892 times, to which election officials replied 162 times. USCIS SAVE 001742-1743; USCIS Tr. 49:3-15, 175:7-2, 176:14-22.
148.	According to the Social Security Administration (“SSA”), its records “do not provide definitive information on citizenship,” and “SSA does not have citizenship information for all individuals who have been issued an SSN.” SSA0002.
149.	According to the SSA, it is not the agency responsible for making citizenship determinations. SSA0002.
150.	According to the SSA, there is no obligation for an individual to report to SSA a change in their immigration status unless the individual is receiving Social Security payments. SSA0002.
151.	According to the SSA, the citizenship information in the SSA database “represents a snapshot of the individual’s citizenship status at the time of their interaction with SSA.” SSA0002.
152.	The Attorney General’s Office does not have direct access to the SSA databases and has to make requests for SSA data via fax. Responses from the SSA indicate if the Social Security Number provided is a match or not a match but do not indicate the subject’s citizenship. Thomas Tr. 295:9-18, 297:2-10, 297:18-298:2.
153.	In the November 2020 election in Arizona , 3,387,326 votes were cast for president of the United States. <i>See</i> https://azsos.gov/sites/default/files/2020_General_State_Canvass.pdf .
154.	The November 2020 presidential election in Arizona was decided by a margin of 10,457 votes, with 1,672,143 votes cast for President Biden and 1,661,686 votes cast for former President Trump. https://azsos.gov/sites/default/files/2020_General_State_Canvass.pdf .
155.	Prior to H.B. 2492 and H.B. 2243, Arizona had policies, laws, or procedures in place designed to prevent noncitizens from voting or registering. Hansen Tr. 61:16-19; Milheiro Tr. 74:5-10; Garcia Tr. 86:13-87:9; Hiser Tr. 233:9-20; Webber Tr. 103:20-104:5.
156.	In response to plaintiffs’ discovery requests in this litigation, the Attorney General identified 38 instances of prosecutions

PLAINTIFFS' PROPOSED STIPULATIONS OF FACT AND LAW

Stipulations of Fact	
	brought by the Attorney General's office "Related to Illegal Voting by Individuals Since 2010" in Arizona resulting in convictions. <i>See</i> AG000349.
157.	To the Attorney General's knowledge, since 2010, the Arizona Attorney General's Office has not convicted a single person for registering to vote or casting a ballot as a non-U.S. citizen.

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PLAINTIFFS' PROPOSED STIPULATIONS OF LAW

Stipulations of Law	
1.	Katie Hobbs is the Governor of Arizona. ECF No. 388-5. As Governor, she “supervise[s] the official conduct of all executive and ministerial officers.” A.R.S. § 41-101(A)(1).
2.	Defendant Adrian Fontes is the Secretary of State of Arizona. <i>See</i> Doc. 388-5. As Secretary, he is Arizona’s chief election officer and is responsible for “coordination of” Arizona’s responsibilities under the National Voter Registration Act of 1993 (“NVRA”). A.R.S. § 16-142(A)(1).
3.	Defendant Kristin Mayes is the Attorney General of Arizona. <i>See</i> Doc. 388-5. As Attorney General, she is the chief legal officer of the state. A.R.S. § 41-192.
4.	The County Recorder Defendants are responsible, within their respective counties, for processing voter registration applications and verifying voter registration applicants’ eligibility to vote, including following certain procedures concerning U.S. citizenship and residency status. The County Recorders are also responsible for maintenance of voter registration records in their respective counties, including rejection of voter registration applications and removal of voters from the registration list pursuant to certain provisions of H.B. 2492 and 2243. A.R.S. §§ 16-112; 16-121.01; 16-123; 16-128; 16-131; 16-151; 16-161; 16-165; 16-166.
5.	The EPM must be approved by the Secretary of State, Governor, and Attorney General before going into effect. A.R.S. § 16-452(b).

Exhibit 2

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STIPULATIONS PROPOSED BY DEFENDANTS AND ACCEPTED BY PLAINTIFFS

Stipulation	
Arizona Voter Registration	
1.	Maricopa County has a county-specific voter registration system, known as VRAZ, that interfaces with AVID. Petty Tr. at 57:13-21.
2.	Pima County has a county-specific voter registration system, known as Voter, that interfaces with AVID. Hiser Tr. at 63:12-16, 64:18-21.
Birthplace and Citizenship Checkbox	
3.	Since 1979, the State Form contained a field for inputting place of birth, but until H.B. 2492's enactment, that field was optional. <i>See</i> Doc. 388, Ex. 9 (copy of the State Form); Doc. 365, ¶ 57 9.
4.	The 2019 EPM states that "failure to provide state or country of birth ... does not invalidate the State Form. ... When only optional information is missing, the registration form should be processed and the registrant should be entered into the voter registration database in an "active" status (assuming no other deficiencies)." Merriman Ex. 259; GRAHAM000783.
5.	The 2019 EPM provides: "The registrant must supply supporting legal documentation (such as a marriage certificate or court documented name change) if the name on the birth certificate or document is not the registrant's current legal name. If the registrant cannot provide supporting legal documentation to account for a different last name, a County Recorder must accept the birth certificate or document if at least the following information matches on both the birth certificate or document and the registration form: First name; Middle name; Place of birth; Date of birth; and Parents' name(s)." Merriman Ex. 259; GRAHAM000768-69.
6.	The 2019 EPM provides that a registrant may submit a legible copy of the pertinent pages of the registrant's U.S. passport as DPOC and provides that the pertinent pages of a U.S. passport are those that contain the photo, passport number, name, nationality, date of birth, gender, place of birth, and signature (if applicable). Merriman Ex. 259; GRAHAM000769.
7.	The 2019 EPM provides that "a County Recorder may <input type="checkbox"/> cancel a registrant's record if the County Recorder determines that the registrant is deceased based on other reliable sources, see A.R.S. § 16-165(A)(2), including, but not limited to, death notices received by the County Recorder's office and an affidavit of death from the registrant's next of kin. A County Recorder should match as much information as possible (including first name, last name, maiden name (if applicable), year of birth, place of birth, and city or town of residence) and be reasonably certain that a 'true match' exists before canceling a registrant." Merriman Ex. 259; GRAHAM000798.

STIPULATIONS PROPOSED BY DEFENDANTS AND ACCEPTED BY PLAINTIFFS

Stipulation	
8.	The 2019 EPM instructs that any ballot-by-mail request form created by County Recorders must contain an entry field for “State or country of birth, or another piece of information that, if compared to the voter’s record, would confirm the voter’s identity (such as the AZDL/ID# or SSN4, father’s name, or mother’s maiden name).” Merriman Ex. 259; GRAHAM000811.
9.	The EPM further instructs that to process a ballot-by-mail request, the request must contain “at least one of the following: The voter’s state or country of birth; or another piece of information that, if compared to the voter’s record would confirm the voter’s identity, such as the AZDL/ID# or SSN4, father’s name, or mother’s maiden name.” Merriman Ex. 259; GRAHAM000812.
10.	Since 2003, Arizona has placed a check box to affirm U.S. citizenship on the Arizona Voter Registration Form. See 2003 Ariz. Legis. Serv. Ch. 260 (S.B. 1075) (West) (revising A.R.S. § 16-152(A)(14)).
11.	The prior version of A.R.S. § 16-121.01(A) stated in part that “[a] person is presumed to be properly registered to vote on completion of a registration form as prescribed by section 16–152 that contains at least the name, the residence address or the location, the date of birth and the signature or other statement of the registrant ... and a checkmark or other appropriate indicator that the person answered ‘yes’ to the question regarding citizenship.” Defs.’ Ex. F, Doc. 365-1 at 73.
Information regarding citizenship for registrants and voters	
12.	Birth certificates of U.S.-born citizens can provide information regarding U.S. citizenship status.
Concerns of Voter Fraud	
13.	County attorney offices have not been deposed in this case.
14.	County attorney offices have not been served written discovery about voter fraud in this case.

Exhibit 3

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Mi Familia Vote, et al. v. Fontes et al.: Plaintiffs' Witness List

Witness	Title/Role	Will Call / May Call	Live or Deposition Designations	Anticipated Testimony
Carolina Rodriguez-Greer	Plaintiff - Mi Familia Vota, State Director	Will Call	Live	MFV's mission, history, and programming and how the Challenged Laws injure MFV and its constituents
Ameer Patel	Plaintiff – Voto Latino, Managing Director	Will Call	Live	VL's mission, history, and programming and how the Challenged Laws injure VL and its constituents
Nancy Herrera	Plaintiff – Poder Latinx, Arizona State Program Director	Will Call	Live	PL's mission, history, and programming and how the Challenged Laws injury PL and its constituents
Petra Falcon	Plaintiff-Promise Arizona, Executive Director	Will Call	Live	PAZ's mission, history, and programming and how HB 2243 injures PAZ mission and resources.
Lydia Camarillo	Plaintiff, President of Southwest Voter Registration Education Project	Will Call	Live	SVREP's mission, history, and programming and how HB 2243 injures SVREP mission and resources.
Morgan Dick	Plaintiff Arizona Democratic Party, Executive Director	Will Call	Live	ADP's mission, history, and programming, and how H.B. 2492 injures ADP, its mission, and resources
Ramsey Reid	Plaintiff Democratic National Committee, Director of States	Will Call	Live	DNC's mission, history, and programming, and how H.B. 2492 injures ADP, its mission, and resources
Matinie Tiwamangkala	Plaintiff Arizona Asian American Native Hawaiian And Pacific Island For Equity Coalition, Democracy Defender Director	Will Call	Live	Equity Coalition's mission, history, and programming, and how the Challenged Laws injure Equity Coalition, its mission, and resources
Alejandra Gomez	Executive Director, LUCHA	Will Call	Live	LUCHA's mission, history, and programming and how the Challenged Laws injure LUCHA and its constituents

* Plaintiffs anticipate presenting streamlined testimony of this witness live and otherwise relying on deposition designations for this witness. Plaintiffs may use this witness's deposition testimony "for any purpose" because they are a "party's officer, director, managing agent, or designee under Rule 30(b)(6)." Fed R. Civ. P. 32(a).

Witness	Title/Role	Will Call / May Call	Live or Deposition Designations	Anticipated Testimony
Lydia Guzman	State Director, LULAC	Will Call	Live	LULAC's mission, history, and programming and how the Challenged Laws injure LULAC, its members, and its constituents
Shayna Stevens	Co-Executive Director, Arizona Students' Association	Will Call	Live	ASA's mission, history, and programming and how the Challenged Laws injure ASA, its members, and its constituents
Teresa Mabry	Co-Executive Director, ADRC Action	Will Call	Live	ADRC's mission, history, and programming, and how the Challenged Laws injure ADRC Action
Reginald Bolding	Plaintiff – Arizona Coalition for Change, Co-Executive Director	Will Call	Live	Arizona Coalition for Change's mission, history, and programming and how the Challenged Laws injure Arizona Coalition for Change, and its constituents
Dr. Lorraine C. Minnite	Expert Witness	Will Call	Live	The incidence of voter fraud in recent U.S. elections, both nationally and in Arizona, as well as why the Challenged Provisions are not justified by the scant evidence of non-citizen and non-resident voting in Arizona.
Dr. Michael P. McDonald	Expert Witness	Will Call	Live	The impact of the Challenged Provisions on new and current voter registrants, including their disproportionate impact on voters of color; The inconsistent interpretation of the Challenged Provisions and non-uniform treatment of voters across Arizona.
Dr. Eitan Hersh	Expert Witness	Will Call	Live	The lack of standardization and accuracy in Arizona's collection of birthplace information; the utility, or lack thereof, of birthplace data for identifying voters in Arizona.
Dr. Traci Burch	Expert Witness	Will Call	Live	The burdens imposed by the Challenged Provisions, specifically the time, effort,

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Witness	Title/Role	Will Call / May Call	Live or Deposition Designations	Anticipated Testimony
				expense, and psychological toll imposed by the Challenged Provisions on individuals of lower socioeconomic status.
Dr. Derek Chang	Expert Witness	Will Call	Live	The Challenged Laws context in the history of anti-Asian American and Pacific Islander discrimination in Arizona and the United States, the effects of the Challenged Laws on AAPIs, and the intent behind the Challenged Laws.
Dr. Orville V. Burton	Expert Witness	Will Call	Live	Arizona's history of official discrimination against minority voters.
Colleen Connor	Secretary of State's Office – Elections Director	Will Call	Live or Deposition Designations	Voter registration and coordination with County Recorders; interpretation and implementation of the Challenged Laws
Patty Hansen	Coconino County Recorder	Will Call	Live or Deposition Designations	Voter registration and list maintenance procedures; interpretation and implementation of Challenged Laws
Janine Petty	Senior Director of Voter Registration – Maricopa County Recorder	Will Call	Live or Deposition Designations	Voter registration and list maintenance procedures; interpretation and implementation of Challenged Laws
Hilary Hiser	Chief Deputy Recorder – Pima County	Will Call	Live or Deposition Designations	Voter registration and list maintenance procedures; interpretation and implementation of Challenged Laws
Eric Jorgensen	Director of Motor Vehicle Division, ADOT	Will Call	Live or Deposition Designations	ADOT's MVD database and its use for voter registration
Sarah Johnston	Yuma County Legal Secretary	Will Call	Live or Deposition Designations	Voter registration and list maintenance procedures; interpretation and implementation of Challenged Laws

* Plaintiffs anticipate presenting streamlined testimony of this witness live and otherwise relying on deposition designations for this witness. Plaintiffs may use this witness's deposition testimony "for any purpose" because they are a "party's officer, director, managing agent, or designee under Rule 30(b)(6)." Fed R. Civ. P. 32(a).

Witness	Title/Role	Will Call / May Call	Live or Deposition Designations	Anticipated Testimony
Polly Merriman	Graham County Recorder	Will Call	Live or Deposition Designations	Voter registration and list maintenance procedures; interpretation and implementation of Challenged Laws
William Knuth	Attorney General's Office - Lead Specialist Agent	Will Call	Deposition Designations	Investigation and prosecution of voter fraud; Attorney General's Election Integrity Unit
Todd Lawson	Attorney General's Office – Senior Litigation Counsel	Will Call	Deposition Designations	Investigation and prosecution of voter fraud; Attorney General's Election Integrity Unit
Keith Thomas	Attorney General's Office - Supervising Specialist Agent	Will Call	Deposition Designations	Investigation and prosecution of voter fraud; Attorney General's Election Integrity Unit
Yolanda Morales	Secretary of State's Office – Senior Elections Policy Manager	Will Call	Deposition Designations	Voter registration and coordination with County Recorders; interpretation and implementation of the Challenged Laws
Russell Smith	Secretary of State's Office – Elections Technology Manager	Will Call	Deposition Designations	Voter registration; implementation of the Challenged Laws
Donna Casner	Coconino County Chief Deputy Recorder	Will Call	Deposition Designations	Voter registration and list maintenance procedures; interpretation and implementation of Challenged Laws
Lydia Durst	Mohave County Chief Deputy Recorder	Will Call	Deposition Designations	Voter registration and list maintenance procedures; interpretation and implementation of Challenged Laws
Matt Webber	Yavapai County Program Manager for Voter Registration and Early Voting	Will Call	Deposition Designations	Voter registration and list maintenance procedures; interpretation and implementation of Challenged Laws
Jennifer Marson	Executive Director of the Arizona Association of Counties (AACo)	May Call	Live	Interpretation and evaluation of Challenged Laws during the legislative process
Greg Blackie	Deputy Director of Policy of the Arizona Free Enterprise Club	May Call	Live	Information regarding the challenged laws, including their origin, funding, sponsorship, merit, legality, lobbying, support, and legislative history

* Plaintiffs anticipate presenting streamlined testimony of this witness live and otherwise relying on deposition designations for this witness. Plaintiffs may use this witness's deposition testimony "for any purpose" because they are a "party's officer, director, managing agent, or designee under Rule 30(b)(6)." Fed R. Civ. P. 32(a).

Witness	Title/Role	Will Call / May Call	Live or Deposition Designations	Anticipated Testimony
Governor Stephen Roe Lewis	Plaintiff – Gila River Indian Community, Governor	May Call	Live	The tribe, its members, its Reservation, its government (listed out of an abundance of caution in case there is a need, which we do not anticipate).
Chairman Ned Norris, Jr.	Plaintiff – Tohono O’odham Nation, Chairman	May Call	Live	The tribe, its members, its Reservation, its government (listed out of an abundance of caution in case there is a need, which we do not anticipate).
Alanna Siquieros	Plaintiff	May Call	Live	Her status as a resident of an Indian reservation in Arizona who is qualified to vote (listed out of an abundance of caution in case there is a need, which we do not anticipate).
Keanu Stevens	Plaintiff	May Call	Live	Her status as a resident of an Indian reservation in Arizona who is qualified to vote (listed out of an abundance of caution in case there is a need, which we do not anticipate).
LaDonna Jacket	Plaintiff	May Call	Live	Her status as a resident of an Indian reservation in Arizona who is qualified to vote (listed out of an abundance of caution in case there is a need, which we do not anticipate).
Sena Mohammed	Chief of Staff, Arizona Coalition for Change	May Call	Live	Arizona Coalition for Change’s mission, history, and programming and how the Challenged Laws injure Arizona Coalition for Change, and its constituents
Joseph Garcia	Plaintiff – Chicanos Por La Causa Action Fund, Executive Director	May Call	Live	CPLCAF’s mission, history, and programming and how the Challenged Laws injure CPLCAF and its constituents

* Plaintiffs anticipate presenting streamlined testimony of this witness live and otherwise relying on deposition designations for this witness. Plaintiffs may use this witness’s deposition testimony “for any purpose” because they are a “party’s officer, director, managing agent, or designee under Rule 30(b)(6).” Fed R. Civ. P. 32(a).

Witness	Title/Role	Will Call / May Call	Live or Deposition Designations	Anticipated Testimony
Lydia Guzman	Plaintiff – Chicanos Por La Causa, Inc., Director of Advocacy and Civic Engagement	May Call	Live	CPLC’s mission, history, and programming and how the Challenged Laws injury CPLC and its constituents
Maria Dadgar	Executive Director, Inter Tribal Council of Arizona	May Call	Live	Testimony to establish ITCA’s standing to challenge the DPOR requirement
Alexander Castillo-Nuñez	Civic Engagement Coordinator Inter Tribal Council of Arizona,	May Call	Live	Testimony to establish ITCA’s standing to challenge the DPOR requirement
Chairman Terry Rambler	Chairman, San Carlos Apache Tribe	May Call	Live	Testimony to establish San Carlos Apache Tribe’s standing to challenge the DPOR requirement
Raquel Teran	Former Arizona Senate Member	May Call	Live	Information regarding the challenged laws, including their origin, funding, sponsorship, merit, legality, lobbying, support, and legislative history
Martin Quezada	Former Arizona Senate Member	May Call	Live	Information regarding the challenged laws, including their origin, funding, sponsorship, merit, legality, lobbying, support, and legislative history
Ben Toma	Speaker of the Arizona House of Representatives	May Call	Live or Deposition Designations	Information regarding the challenged laws, including their origin, funding, sponsorship, merit, legality, lobbying, support, and legislative history
Warren Petersen	Arizona Senate President	May Call	Live or Deposition Designations	Information regarding the challenged laws, including their origin, funding, sponsorship, merit, legality, lobbying, support, and legislative history

* Plaintiffs anticipate presenting streamlined testimony of this witness live and otherwise relying on deposition designations for this witness. Plaintiffs may use this witness’s deposition testimony “for any purpose” because they are a “party’s officer, director, managing agent, or designee under Rule 30(b)(6).” Fed R. Civ. P. 32(a).

Witness	Title/Role	Will Call / May Call	Live or Deposition Designations	Anticipated Testimony
Russell Filighera	USCIS	May Call	Deposition Designations	USCIS's SAVE system and its use for voter registration
Mariah Doolittle	USCIS	May Call	Deposition Designations	USCIS's SAVE system and its use for voter registration
Shannon Slattery	USCIS	May Call	Deposition Designations	USCIS's SAVE system and its use for voter registration
Annalee Shreeve	Apache County Voter Registration Supervisor	May Call	Deposition Designations	Voter registration and list maintenance procedures; interpretation and implementation of Challenged Laws
David Stevens	Cochise County Recorder	May Call	Deposition Designations	Voter registration and list maintenance procedures; interpretation and implementation of Challenged Laws
Charlotte Asrarynezami	Gila County Chief Deputy Recorder	May Call	Deposition Designations	Voter registration and list maintenance procedures; interpretation and implementation of Challenged Laws
Sharie Milheiro	Greenlee County Recorder	May Call	Deposition Designations	Voter registration and list maintenance procedures; interpretation and implementation of Challenged Laws
Richard Garcia	La Paz County Recorder	May Call	Deposition Designations	Voter registration and list maintenance procedures; interpretation and implementation of Challenged Laws
Jose Lerma	Navajo County Voter Registration Coordinator	May Call	Deposition Designations	Voter registration and list maintenance procedures; interpretation and implementation of Challenged Laws
Dana Lewis	Pinal County Recorder	May Call	Deposition Designations	Voter registration and list maintenance procedures; interpretation and implementation of Challenged Laws
Ana Moreno	Santa Cruz County Recorder	May Call	Deposition Designations	Voter registration and list maintenance procedures; interpretation and implementation of Challenged Laws

* Plaintiffs anticipate presenting streamlined testimony of this witness live and otherwise relying on deposition designations for this witness. Plaintiffs may use this witness's deposition testimony "for any purpose" because they are a "party's officer, director, managing agent, or designee under Rule 30(b)(6)." Fed R. Civ. P. 32(a).

Witness	Title/Role	Will Call / May Call	Live or Deposition Designations	Anticipated Testimony
Joann Munoz	Yuma County Lead Voter Specialist	May Call	Deposition Designations	Voter registration and list maintenance procedures; interpretation and implementation of Challenged Laws

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Exhibit 4

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Defense Witness List

SHALL BE CALLED AT TRIAL			
Name	Address	Telephone Number	Intended Testimony
Matthew Martin, Maricopa County Jury Administrator	201 W. Jefferson Street Phoenix, AZ 85003	c/o Dennis Carpenter (602) 372-0190	Mr. Martin will testify regarding Maricopa County's jury administration system, juror questionnaires, and reports shared by Maricopa County with the Secretary of State and/or the Maricopa County Recorder.
Robert Stein, Ph.D.	Rice University Houston, TX 77251	c/o counsel for the State/AG	(Expert testimony described in Joint Pretrial Order)
Dr. Mark Hoekstra	Baylor University Waco, TX 76706	c/o counsel for the RNC	(Expert testimony described in Joint Pretrial Order)
Dr. Jesse Richman	Old Dominion University Norfolk, VA 23529	c/o counsel for the RNC	(Expert testimony described in Joint Pretrial Order)
MAY BE CALLED AT TRIAL			
Name	Address	Telephone Number	Intended Testimony
Colleen Connor, Arizona State Election Director	1700 W. Washington Street 7th Floor Phoenix, AZ 85007	(602) 542-4285	Ms. Connor may testify regarding the Secretary of State's role in the voter registration and list maintenance processes.
Janine Petty, Maricopa County Recorder's Office	111 S. Third Avenue Phoenix, AZ 85003	(602) 505-3535	Ms. Petty may testify regarding procedures for registering voters and determining voter eligibility.
Matt Webber, Yavapai County Recorder's Office	1015 Fair Street 2nd Floor Prescott, AZ 86305	(928) 771-3244	Mr. Webber may testify regarding procedures for registering voters and determining voter eligibility.
William Knuth, Arizona Attorney General's Office	2005 N. Central Avenue Phoenix, AZ 85004	(602) 542-3333	Mr. Knuth may testify regarding allegations and cases of voter registration and voting by non-citizens or non-residents, as well as some of the databases identified in A.R.S. § 16- 143(B).
Todd Lawson, Arizona Attorney General's Office	2005 N. Central Avenue Phoenix, AZ 85004	(602) 542-3333	Mr. Lawson may testify regarding allegations and cases of voter registration and voting by non-citizens or non-residents, as well as some of the databases identified in A.R.S. § 16- 143(B).
Keith Thomas, Arizona Attorney General's Office	2005 N. Central Avenue Phoenix, AZ 85004	(602) 542-3333	Mr. Thomas may testify regarding allegations and cases of voter registration and voting by non-citizens or non-residents, as well as some of the databases identified in A.R.S. § 16- 143(B).
Eric Jorgensen, Arizona Department of Transportation	c/o Arizona Attorney General's Office 2005 N. Central Avenue Phoenix, AZ 85004	(602) 542-3333	Mr. Jorgensen may testify regarding Motor Vehicle Division databases and interaction between those databases and state and county officials.

UNLIKELY TO BE CALLED AT TRIAL			
Name	Address	Telephone Number	Intended Testimony
David Stevens, Cochise County Recorder	1415 Melody Lane Building B Bisbee, AZ 85603	(520) 432-8350	Mr. Stevens may testify regarding procedures for registering voters and determining voter eligibility.
Anita Moreno, Santa Cruz County Recorder	2150 N. Congress Drive Suite 101 Nogales, AZ 85621	(520) 375-7990	Ms. Moreno may testify regarding procedures for registering voters and determining voter eligibility.
Jose Lerma, Navajo County Recorder's Office	100 E. Code Talkers Drive South Highway 77 P.O. Box 668 Holbrook, AZ 86025	(928) 524-4194	Mr. Lerma may testify regarding procedures for registering voters and determining voter eligibility.
Lydia Durst, Mohave County Recorder's Office	700 W. Beale Street Kingman, AZ 86401	(928) 753-0701	Ms. Durst may testify regarding procedures for registering voters and determining voter eligibility.
Hilary Hiser, Pima County Recorder's Office	240 N. Stone Avenue Tucson, AZ 85701	(520) 724-4350	Ms. Hiser may testify regarding procedures for registering voters and determining voter eligibility.
Dana Lewis, Pinal County Recorder	31 N. Pinal Street Building E Florence, AZ 85132	(520) 866-6830	Ms. Lewis may testify regarding procedures for registering voters and determining voter eligibility.
Charlotte Asrarynezami, Gila County Recorder's Office	1400 E. Ash Street Globe, AZ 85501	(928) 402-8740	Ms. Asrarynezami may testify regarding procedures for registering voters and determining voter eligibility.
Patty Hansen, Coconino County Recorder	110 E. Cherry Avenue Flagstaff, AZ 86001	(928) 679-7850	Ms. Hansen may testify regarding procedures for registering voters and determining voter eligibility.
Donna Casner, Coconino County Recorder's Office	110 E. Cherry Avenue Flagstaff, AZ 86001	(928) 679-7850	Ms. Casner may testify regarding procedures for registering voters and determining voter eligibility.
Shannon Slattery, U.S. Citizenship and Immigration Services ("USCIS")	5900 Capital Gateway Drive Camp Springs, MD 20588	(202) 803-3442	Ms. Slattery may testify regarding the USCIS Systematic Alien Verification for Entitlements ("SAVE") system.
Mariah Doolittle, USCIS	5900 Capital Gateway Drive Camp Springs, MD 20588	(202) 803-3442	Ms. Doolittle may testify regarding the USCIS SAVE system.
Russell Filighera, USCIS	5900 Capital Gateway Drive Camp Springs, MD 20588	(202) 803-3442	Mr. Filighera may testify regarding the USCIS SAVE system.
Joann Munoz, Yuma County Recorder's Office	102 S. Main Street Yuma, AZ 85364	(928) 373-6020	Ms. Munoz may testify regarding procedures for registering voters and determining voter eligibility.
Sarah Johnston, Yuma County Recorder's Office	102 S. Main Street Yuma, AZ 85364	(928) 373-6020	Ms. Johnston may testify regarding procedures for registering voters and determining voter eligibility.
Richard Garcia, La Paz County Recorder	1112 Joshua Avenue #201 Parker, AZ 85344	(928) 669-6136	Mr. Garcia may testify regarding procedures for registering voters and determining voter eligibility.

Sharie Milheiro, Greenlee County Recorder	253 Fifth Street Clifton, AZ 85533	(928) 865-2632	Ms. Milheiro may testify regarding procedures for registering voters and determining voter eligibility.
Annalee Shreeve, Apache County Recorder's Office	75 W. Cleveland Street Saint Johns, AZ 85936	(928) 337-7515	Ms. Shreeve may testify regarding procedures for registering voters and determining voter eligibility.
Polly Merriman, Graham County Recorder	921 Thatcher Boulevard 2nd Floor Safford, AZ 85546	(928) 428-3560	Ms. Merriman may testify regarding procedures for registering voters and determining voter eligibility.
Yolanda Morales, Arizona Secretary of State's Office	1700 W. Washington Street 7th Floor Phoenix, AZ 85007	(602) 542-4285	Ms. Morales may testify regarding the Secretary of State's role in the voter registration and list maintenance processes.
Russell Smith, Arizona Secretary of State's Office	1700 W. Washington Street 7th Floor Phoenix, AZ 85007	(602) 542-4285	Mr. Smith may testify regarding the Secretary of State's role in the voter registration and list maintenance processes.
The defense also reserves the right to call any witness listed by Plaintiffs.			

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Exhibit 5

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PLAINTIFFS' EXHIBIT LIST¹
AND DEFENSE OBJECTIONS

Defense objection key:

Code	Objection
106	Incomplete; the introduction of any remaining portions ought, in fairness, to be considered contemporaneously (Fed. R. Evid. 106).
402	402 Relevance (Fed. R. Evid. 402).
403	403 Misleading; undue prejudice; confusion of issues; waste of time; cumulative (Fed. R. Evid. 403).
602	602 Personal knowledge; lack of foundation (Fed. R. Evid. 602).
701	701 Lay opinion or legal conclusion; the exhibit contains an impermissible opinion by a lay witness that is not reasonably based on perception or helpful to a clear understanding of the witness' testimony or to the determination of a fact in dispute (Fed. R. Evid. 701).
702	702 Unreliable expert testimony; the exhibit contains an impermissible expert opinion because (a) the expert's scientific, technical, or other specialized knowledge is not helpful the trier of fact; (b) the opinion is based on insufficient facts or data; (c) the opinion is not the product of reliable principles and methods; and or (d) the expert has not reliably applied the principles and methods to the facts of the case (Fed. R. Evid. 702).
703	703 improper bases; the expert's opinion is based on facts or data that the expert has not been made aware of or personally observed and is not reasonably relied by experts in that particular field (Fed. R. Evid. 703).
801 and/or 802	801 and/or 802 Hearsay; the exhibit is a statement made by one other than the witness while testifying at trial, offered into evidence to prove the truth of the matter asserted, and not subject to any hearsay exception (Fed. R. Evid. 801 and 802).
901	901 Authentication; exhibit has not been properly authenticated (Fed. R. Evid. 901).
1001-1004	1001-1004 Best evidence; the exhibit is objectionable because it is vague and ambiguous as to whether the witness is summarizing his or her own independent understanding of the contents of the document (Fed. R. Evid. 1001-1004).
E	Exhibit is objectionable because it constitutes attempted expert testimony from a person who was not designated as an expert (Fed. R. Civ. P. 26)
F	Exhibit lacks foundation.
UT	Untimely; exhibit not provided during the discovery process.
C/D	Improper compound exhibit or duplicate exhibit
Cond.	Conditional objection; Defendants reserve the right to object to this exhibit at trial depending on the purpose for which plaintiffs seek to introduce it.

<u>PX No.</u>	<u>DESCRIPTION</u>	<u>EXHIBIT/BATES</u>	<u>OBJECTIONS</u>
1.	AZ House Bill 2492 (2022) (Chaptered Version)	DEPO. EX. 19	None
2.	AZ House Bill 2243 (2022) (Chaptered Version)	DEPO. EX. 21	None
3.	AZ Senate Bill 1638 (2022) (Chaptered Version)	Non-U.S. Pls.' MPSJ Ex. 3	None
4.	AZ House Bill 2617 (2022) (Senate Engrossed House Bill)	DEPO. EX. 148	None
5.	6/22/2022 Warren Petersen's Adopted Amendments to H.B. 2243	N/A	None
6.	2019 Arizona Elections Procedures Manual	Non-U.S. Pls.' MPSJ Ex. 6	None
7.	2019 Arizona Elections Procedures Manual - Chapter 1 [MC 000001-59][Depo. Ex. 6]	DEPO. EX. 6	106
8.	2019 Addendum to 2014 Arizona Elections Procedures Manual	Non-U.S. Pls.' MPSJ Ex. 13	None
9.	Arizona Secretary of State 2019 Elections Procedures Manual - Annotated (2022) [PIMA COUNTY 1704-2003][Depo Ex. 84]	DEPO. EX. 84	801 and/or 802; 602; 403; 901; 106; 402; F
10.	Arizona Secretary of State 2019 Elections Procedures Manual - Annotated (2022) [Confidential Information Not to Be Disclosed Confidential Voter Registration Information][AZSOS-288763 -289067][Depo Ex. 265]	DEPO. EX. 265	801 and/or 802; 402
11.	2023 Arizona Secretary of State Election Procedures Manual - 9/30/2023	AZSOS-563804	106; 402; 801-802; F

¹ Plaintiffs reserve the right to identify additional exhibits for materials that were not produced before the close of fact discovery or where the associated depositions are subject to ongoing discovery disputes. Plaintiffs further reserve the right to identify additional exhibits for impeachment purposes and to use any exhibits offered and admitted on Defendants' or Defendant-Intervenors' Exhibit Lists. Plaintiffs also reserve the right to create additional demonstrative exhibits.

PX No.	DESCRIPTION	EXHIBIT/BATES	OBJECTIONS
12.	Sept. 30, 2023 Letter from Secretary Fontes to Governor Hobbs and Attorney General Mayes re: 2023 Elections Procedures Manual	N/A	106; 402; 801-802; F
13.	Key Changes to the 2023 Election Procedures Manual (EPM) Submission	AZSOS-563805 - AZSOS563808	106; 402; 801-802; F
14.	Arizona Secretary of States 2023 Elections Procedures Manual - June 2023 DRAFT (with comments) [AZSOS-477021-088][Depo. Ex. 35]	DEPO. EX. 35	403; 801 and/or 802; 106; 402; F
15.	Arizona Secretary of State 2023 Elections Procedures Manual - June 2023 Draft [Depo Ex. 154]	DEPO. EX. 154	403; 801 and/or 802; 106; 402; F
16.	Arizona Secretary of State 2023 Elections Procedures Manual - July 2023 Draft [Depo. Ex. 67]	DEPO. EX. 67	403; 801 and/or 802; 106; 402; F
17.	Arizona Secretary of State 2023 Elections Procedures Manual - July 2023 Draft [Depo Exs. 274, 275]	DEPO. EXs. 274, 275	403; 801 and/or 802; D; 106; 402; F
18.	2014 Arizona Elections Procedures Manual	Non-U.S. Pls.' MPSJ Ex. 11	None
19.	10/1/2021 Letter from Secretary Hobbs to Governor Ducey and Attorney General Brnovich re: 2021 Elections Procedures Manual Draft	Non-U.S. Pls.' MPSJ Ex. 7	None
20.	12/22/2021 Letter from Attorney General Brnovich to Secretary Hobbs re: 2021 Elections Procedures Manual Draft	Non-U.S. Pls.' MPSJ Ex. 8	None
21.	08/14/2023 Letter from Petersen and Toma to A. Fontes, Re: Public Comments on Draft 2023 Elections Procedures Manual	N/A	402; 801 and/or 802; 701; F
22.	11/3/2020 State of Arizona Official Canvass, 2020 https://azsos.gov/sites/default/files/2020_General_State_Canvass.pdf	N/A	None

PX No.	DESCRIPTION	EXHIBIT/BATES	OBJECTIONS
23.	12/5/2022 State of Arizona Official Canvass, 2022 General Election	Non-U.S. Pls.' MPSJ Ex. 5	None
24.	6/18/2018 <i>LULAC v. Reagan</i> , Signed Order Entering Consent Decree	Non-U.S. Pls.' MPSJ Ex. 12	None
25.	Implementation of the LULAC Consent Decree	AZSOS-000676	Cond. 402; Cond. 801 and/or 802; 701; F
26.	4/18/2008 <i>Gonzalez v. Arizona</i> , Joint Stipulation to Dismiss Pending Approval of Changes to Procedures	Non-U.S. Pls.' MPSJ Ex. 14	None
27.	Arizona Voter Registration Form [Depo. Ex. 16]	DEPO. EX. 16	None
28.	U.S. Election Assistance Commission National Mail Voter Registration Form [Depo. Ex. 17]	DEPO. EX. 17	None
29.	12/27/2022 Letter from K. Hobbs - Arizona Secretary of State to T. Hicks - Chairman of U.S. Election Assistance Commission re: Compliance with mandate per S.B. 1013, request for inclusion of Arizona's state-specific instruction re proof of citizenship on Arizona's federal voter registration form [AZSOS-000533 - 34][Depo Ex. 272]	DEPO. EX. 272	None
30.	Citizenship Proof Needed - State Voter Registration Form - Apache County	N/A	None
31.	Citizenship Proof Needed - Graham County Recorder's Office	GRAHAM001304	None
32.	Voter Registration Status - Federal Only - Graham County Recorder's Office	GRAHAM001302	None
33.	Voter Registration Status - Federal Only - Greenlee County Recorder's Office	N/A	None
34.	Voter Registration Status - Not Eligible - Invalid Citizenship Proof - La Paz County Recorder's Office	N/A	None

PX No.	DESCRIPTION	EXHIBIT/BATES	OBJECTIONS
35.	Voter Registration Status - Federal Only - La Paz County Recorder's Office	N/A	None
36.	Return of Incomplete Registration Form - Envelope Provided - Yuma County	N/A	None
37.	12/30/2022 Email from K. Lorick cc to C. Conner, et al. Re: 2492/2243 Reminders, attaching "Updated December 2022 Legislative (sic) Policy Draft" [AZSOS-000001-23][Depo Ex. 255; Depo Ex. 270]	DEPO. EXs. 255, 270	402; 801 and/or 802; 701; 106; C/D
38.	12/30/2022 Email with attachment from K. Lorick to C. Conner, K. Vervel, and A. Chan, Re: 2492/2243 Reminders, attaching Updated December 2022 Legislative Policy Draft.docx (No Attachment) [Depo Ex. 38]	DEPO. EX. 38	402; 801 and/or 802; 701; 403; C/D
39.	12/30/2022 DRAFT - VRAC Legislative Policy Updates (attachment to Depo. Ex. 38) [Depo. Ex. 39]	DEPO. EX. 39	402; 801 and/or 802; 701; 403
40.	12/30/2022 Email from K. Lorick CC'ng A. Chan, C. Conner, and K. Vervel, Re: 2492/22443 Reminders, attachment Updated December 2022 Legislative Policy Draft.docx (not attached) [MOHAVE-0000336][Depo. Ex. 50]	DEPO. EX. 50	402; 801 and/or 802; 701; 403; C/D
41.	12/30/2022 Email chain from H. Hiser to Voter-Supervisors, J. Carter, and A. Venegas, Re: 2492/2243 Reminders, attachment Updated December 2022 Legislative Policy Draft.doc (not attached) [PIMA COUNTY 0007-008][Depo Ex 68]	DEPO. EX. 68	402; 801 and/or 802; 701; 403; C/D
42.	2022 VRAC Legislative Policy Updates [PIMA COUNTY 0017-29][Depo Ex. 74]	DEPO. EX. 74	402; 801 and/or 802; 701; 403; 106; F (extraneous markings)
43.	2022 VRAC Legislative Policy Updates [YUMA-000019-33][Depo Ex. 204]	DEPO. EX. 204	402; 801 and/or 802; 701; 403

PX No.	DESCRIPTION	EXHIBIT/BATES	OBJECTIONS
44.	VRAC Legislative Policy Updates [AZSOS-269052 - 66][Depo Ex. 280]	DEPO. EX. 280	402; 801 and/or 802; 701; 403
45.	3/24/2022 Letter from K. Hobbs - Arizona Secretary of State to Hon. Governor Doug Ducey - State of Arizona, Re: HB 2492, Request to veto this bill [Confidential Information Not to Be Disclosed Confidential Voter Registration Information][AZSOS-039088][Depo Ex. 267]	DEPO. EX. 267	402; 801 and/or 802; 701
46.	3/24/2022 Letter from Arizona Association of Counties to Governor Ducey re: HB2492 Voter Registration; Verification; Citizenship [SCCR000104-06]	Non-U.S. Pls.' MPSJ Ex. 17	402; 801 and/or 802; 701
47.	3/24/2022 Letter from J. Marson to County Recorders and Elections Offices re: IMPORTANT – Send Veto Request to Gov Ducey re: HB2492 [SCCR000111-12]	Non-U.S. Pls.' MPSJ Ex. 18	402; 801 and/or 802
48.	3/24/2022 Letter from L. Hoffman Yavapai Recorder to Hon. D. Ducey, AZ Gov. re HB2492 Voter Registration; Verification; Citizenship [YC000072][Depo Ex. 161]	DEPO. EX. 161	402; 801 and/or 802; 701
49.	3/24/2022 Letter from P. Hansen Coconino County Recorder to Hon. D. Ducey, AZ Gov. re HB2492 Voter Registration; Verification; Citizenship [Coconino-000012-13][Depo Ex. 171]	DEPO. EX. 171	402; 801 and/or 802; 701
50.	3/25/2022 Email from C. Garcia to D. Ruiz, J. Agron and A. Foster re Letter to Gov. Ducey (incorporated letter in email) [PIMA COUNTY 0600-01][Depo Ex. 73]	DEPO. EX. 73	402; 801 and/or 802; 701
51.	3/30/2022 Letter from Governor Ducey to Secretary of State Hobbs re: HB2492	Non-U.S. Pls.' MPSJ Ex. 1	None

PX No.	DESCRIPTION	EXHIBIT/BATES	OBJECTIONS
52.	K. Hobbs - Arizona Secretary of State's correspondence re: Recommended Veto of HB2243: 1. 6/30/2022 Letter to Hon. Governor Doug Ducey - State of Arizona, 2. 3/24/2022 letter to Jake Agron - Deputy General Counsel to Hon. Gov. Doug Ducey, and 3. 9/26/2022 email to Arizona Election Officials [Confidential Information Not to Be Disclosed Confidential Voter Registration Information][AZSOS-0371375 - 81][Depo Ex. 268]	DEPO. EX. 268	402; 801 and/or 802; 701
53.	5/27/2022 Governor Ducey HB 2617 Veto Letter	N/A	Cond. 402; 801 and/or 802
54.	Arizona House of Representatives, Government and Elections Committee Meeting, February 16, 2022, Transcript and Video	N/A	Cond. 106; 402; 602; 701; 801 and/or 802; UT
55.	Arizona House of Representatives Republican Caucus, February 22, 2022, Transcript and Video	N/A	Cond. 106; 402; 602; 701; 801 and/or 802; UT
56.	Arizona House of Representatives, Minority Caucus, February 22, 2022, Transcript and Video	N/A	Cond. 106; 402; 602; 701; 801 and/or 802; UT
57.	Arizona House of Representatives, House Rules, February 22, 2022, Transcript and Video	N/A	Cond. 106; 402; 602; 701; 801 and/or 802; UT
58.	Arizona House of Representatives Floor Session, February 24, 2022, Transcript and Video	N/A	Cond. 106; 402; 602; 701; 801 and/or 802; UT
59.	Arizona House of Representatives Floor Session, February 28, 2022 Transcript and Video	N/A	Cond. 106; 402; 602; 701; 801 and/or 802; UT
60.	Arizona House of Representatives, Additional COW, February 28, 2022 Transcript and Video	N/A	Cond. 402; 106; 602; 701; 801 and/or 802; UT as to the transcript
61.	Arizona Senate Judiciary Committee Hearing, March 10, 2022, Transcript and Video	N/A	Cond. 106; 402; 602; 701; 801 and/or 802; UT
62.	Arizona Senate Floor Session, March 23, 2023 Transcript and Video	N/A	Cond. 106; 402; 602; 701; 801 and/or 802; UT

PX No.	DESCRIPTION	EXHIBIT/BATES	OBJECTIONS
63.	1/18/2022 Introduced Version of HB 2243	N/A	None
64.	6/22/22 Senate Committee as a Whole Meeting and 6/22/22 Third Senate Reading of HB 2243 (https://www.azleg.gov/videoplayer/?eventID=2022061052&startStreamAt=2847)	N/A	Cond. 402; Cond. 106
65.	March 7, 2022 Senate Government Committee Meeting on HB 2243 (https://www.azleg.gov/videoplayer/?clientID=6361162879&eventID=2022031023)	N/A	Cond. 402; Cond. 106
66.	Arizona Free Enterprise Club, "How More Illegals Started Voting in AZ Elections and House Bill 2492 Is Going to Fix It," Blog, https://azfree.org/blog/2022/02/08/how-more-illegals-started-voting-in-az-elections-and-how-house-bill-2492-is-going-to-fix-it/	N/A	801 and/or 802; 701; 402; 403; 602
67.	HB 2617 Bill History Overview	N/A	None
68.	HB 2243 Bill History Overview	N/A	None
69.	Introduced Version of HB 2617	N/A	None
70.	House Engrossed Version of HB 2617	N/A	None

PX No.	DESCRIPTION	EXHIBIT/BATES	OBJECTIONS
71.	Arizona Voter Protection Act	N/A	402; it is unnecessary to stipulate to the existence or content of legal authorities
72.	Adopted Chaplik Amendment to HB 2617	N/A	None
73.	Adopted Petersen Amendment to HB 2617	N/A	None
74.	February 9, 2022 House Government & Elections Committee Meeting Re: HB 2617: https://www.azleg.gov/videoplayer/?eventID=2022021045&startStreamAt=10321	N/A	Cond. 402; Cond. 106
75.	February 15, 2022 House Democratic Caucus Calendar #4 Re: HB 2617: https://www.azleg.gov/videoplayer/?eventID=2022021095&startStreamAt=5257	N/A	Cond. 402; Cond. 106
76.	March 1, 2022 House Floor Session/House Committee of the Whole Re: HB 2617: https://www.azleg.gov/videoplayer/?eventID=2022031017&startStreamAt=1371	N/A	Cond. 402; Cond. 106

PX No.	DESCRIPTION	EXHIBIT/BATES	OBJECTIONS
77.	March 14, 2022 Senate Government Committee Meeting Re; HB 2617 : https://www.azleg.gov/videoplayer/?eventID=2022031059&startStreamAt=4502	N/A	Cond. 402; Cond. 106
78.	Sample Notice to voter [AZSOS-239348][Depo. Ex. 15]	DEPO. EX. 15	None
79.	Coconino County Recorder draft letter to voters re lack of proof of US Citizenship [COCONINO-000042][Depo Ex. 175]	DEPO. EX. 175	None
80.	Documentary Proof of Citizenship Form [COCONINO-000041][Depo Ex. 176]	DEPO. EX. 176	None
81.	Coconino County Recorder draft letter to voters re Reasons unable to process voter registration [COCONINO-000043][Depo Ex. 177]	DEPO. EX. 177	None
82.	7/12/2023 Maricopa County Recorder's Office Sample letter to voter re residence address [MC 002998-2999][Depo. Ex. 22]	DEPO. EX. 22	None
83.	7/12/2023 Maricopa County Recorder's Office Sample letter to voter re residence address by major cross streets [MC 003002-3003][Depo. Ex. 23]	DEPO. EX. 23	None
84.	Maricopa County Recorder's Office Sample letter to Voter registration cancelled lack of citizenship [MC 002981][Depo. Ex. 26]	DEPO. EX. 26	None
85.	7/12/2023 Maricopa County Recorder's Office Sample letter to voter re DMV Records [MC 002984-2985][Depo. Ex. 27]	DEPO. EX. 27	None
86.	7/12/2023 Maricopa County Recorder's Office Sample letter to voter re Harassment Residence Address Required [MC 002988-2989][Depo. Ex. 28]	DEPO. EX. 28	402; 403

PX No.	DESCRIPTION	EXHIBIT/BATES	OBJECTIONS
87.	7/12/2023 Maricopa County Recorder's Office Sample letter to voter re Proof of United States Citizenship [MC 002986-2987][Depo. Ex. 29]	DEPO. EX. 29	None
88.	8/2/2023 Mohave County Recorder Voter Registration Notice	MC Dep. 1	C
89.	Navajo County Recorder's Office DRAFT letter re Address not in Navajo County [Depo.. Ex. 44]	DEPO. EX. 44	None
90.	Navajo County Recorder's Office DRAFT letter re Eligible to Vote for Federal Offices only [Depo Ex. 46]	DEPO. EX. 46	None
91.	3/26/2019 Pima County Recorder form Voter Registration, requesting Proof of Citizenship after DL [PIMA COUNTY 0156][Depo Ex. 76]	DEPO. EX. 76	None
92.	May 2021 Pima County Recorder Voter form re Federal Election voting only [PIMA COUNTY 0062-63][Depo Ex. 83]	DEPO. EX. 83	None
93.	Pinal County Recorder Form for Proof of Citizenship [PINAL 000003][Depo Ex. 94]	DEPO. EX. 94	None
94.	7/3/2023 Residence Address on Voter Registration Form Cannot be Found (Mailing) [YC000258-69][Depo Ex. 151]	DEPO. EX. 151	C; also appears to contain confidential information
95.	5/30/2023 Consolidated Plaintiffs' First Set of Interrogatories to the Defendant County Recorders, in their Official Capacities [Depo Ex. 130]	DEPO. EX. 130	Cond. 403
96.	5/17/2023 Consolidated Plaintiffs' First Set of Interrogatories to Defendant Secretary of State Adrian Fontes	SOF ISO Opp'n to Defs.' MPSJ Ex. 32	Cond. 403
97.	5/17/2023 Consolidated Plaintiffs' First Set of Requests for Production to Defendant Secretary of State Adrian Fontes	SOF ISO Opp'n to Defs.' MPSJ Ex. 33	Cond. 403

PX No.	DESCRIPTION	EXHIBIT/BATES	OBJECTIONS
98.	5/30/2023 Consolidated Plaintiffs' First Set of Requests for Production to County Recorder Defendants	SOF ISO Opp'n to Defs.' MPSJ Ex. 35	Cond. 403
99.	1/18/2023 Apache County Recorder's Response to Plaintiff's First Request for Production of Documents	N/A	Cond. 801 and/or 802; 402; 701; 602; 403; 106
100.	2/6/2023 Apache County Recorder's Answers to Plaintiff's First Set of Interrogatories [Depo Ex. 245]	DEPO. EX. 245	Cond. 801 and/or 802; 402; 701; 602; 403; 106
101.	5/30/2023 Defendant Apache County Recorder Larry Noble's Second Supplemental Response to Plaintiff's First Set of Requests for Production of Documents	N/A	Cond. 801 and/or 802; 402; 701; 602; 403; 106
102.	8/22/2023 Apache County Recorder's Answers to Consolidated Plaintiff's First Set of Interrogatories [Depo Ex. 246]	DEPO. EX. 246	Cond. 801 and/or 802; 402; 701; 602; 403; 106
103.	8/22/2023 Apache County Recorder's Response to Consolidated Plaintiff's First Request for Production of Documents	N/A	Cond. 801 and/or 802; 402; 701; 602; 403; 106
104.	6/12/2023 Defendant Arizona Attorney General's Response to Consolidated Plaintiffs' First Set of Requests for Production	N/A	Cond. 801 and/or 802; 402; 701; 602; 403; 106
105.	6/19/2023 Defendant Attorney General Kristin K. Mayes' Response to Consolidated Plaintiffs' First Set of Interrogatories [Depo Ex. 212]	DEPO. EX. 212	Cond. 801 and/or 802; 402; 701; 602; 403; 106
106.	8/24/2023 Defendant Attorney General Kristin K. Mayes' First Supplemental Response to Consolidated Plaintiff's First Set of Interrogatories [Depo Ex. 225]	DEPO. EX. 225	Cond. 801 and/or 802; 402; 701; 602; 403; 106
107.	7/14/2023 Defendant ADOT Director Jennifer Toth's Response to Consolidated Plaintiffs' First Set of Interrogatories [Depo Ex. 105]	DEPO. EX. 105	Cond. 801 and/or 802; 402; 701; 602; 403; 106

PX No.	DESCRIPTION	EXHIBIT/BATES	OBJECTIONS
108.	7/14/2023 Defendant ADOT Director Jennifer Toth's Response to Consolidated Plaintiffs' First Set of Requests for Production [Depo Ex. 106]	DEPO. EX. 106	Cond. 801 and/or 802; 402; 701; 602; 403; 106
109.	1/18/2023 Defendant Cochise County Recorder David Stevens' Response to Plaintiff's First Requests for Production of Documents [Depo Ex. 121]	DEPO. EX. 121	Cond. 801 and/or 802; 402; 701; 602; 403; 106
110.	8/8/2023 Defendant Cochise County Recorder David Stevens' Response to Consolidated Plaintiff's First Requests for Production of Documents [Depo Ex. 122]	DEPO. EX. 122	Cond. 801 and/or 802; 402; 701; 602; 403; 106
111.	1/27/2023 Defendant Cochise County Recorder David Stevens' Response to Plaintiff's First Set of Interrogatories [Depo Ex. 123]	DEPO. EX. 123	Cond. 801 and/or 802; 402; 701; 602; 403; 106
112.	7/26/2023 Responses off Cochise County Recorder David Stevens, in His Office Capacity, to First Set of Interrogatories Propounded by Consolidated Plaintiffs [Depo Ex. 124]	DEPO. EX. 124	Cond. 801 and/or 802; 402; 701; 602; 403; 106
113.	2/10/2023 Defendant Coconino County Recorder's Responses to Plaintiff Arizona Asian American Native Hawaiian and Pacific Islander for Equity Coalition's First Set of Requests for Production of Documents [Depo Ex. 167]	DEPO. EX. 167	Cond. 801 and/or 802; 402; 701; 602; 403; 106
114.	2/10/2023 Defendant Coconino County Recorder's Answers to Plaintiff's First Set of Interrogatories [Depo Ex. 168]	DEPO. EX. 168	Cond. 801 and/or 802; 402; 701; 602; 403; 106
115.	6/29/2023 Defendant Coconino County Recorder's Responses to Consolidated Plaintiffs' First Set of Request for Production [Depo Ex. 169]	DEPO. EX. 169	Cond. 801 and/or 802; 402; 701; 602; 403; 106
116.	6/29/2023 Defendant Coconino County Recorder's Responses to Consolidated Plaintiffs' First Set of Interrogatories [Depo Ex. 170]	DEPO. EX. 170	Cond. 801 and/or 802; 402; 701; 602; 403; 106

PX No.	DESCRIPTION	EXHIBIT/BATES	OBJECTIONS
117.	1/18/2023 Defendant Gila County Recorder's Response to Plaintiff Arizona Asian American Native Hawaiian and Pacific Islander for Equity Coalition's First Request for Production	N/A	Cond. 801 and/or 802; 402; 701; 602; 403; 106
118.	2/2/2023 Defendant Gila County Recorder Sadie Jo Bingham's Response to Plaintiff Arizona Asian American Native Hawaiian and Pacific Islander for Equity Coalition's First Set of Interrogatories	N/A	Cond. 801 and/or 802; 402; 701; 602; 403; 106
119.	6/29/2023 The Responses of Gila County Recorder Sadie Jo Bingham, in Her Official Capacity, to the First Set of Interrogatories Propounded by Consolidated Plaintiffs [Depo Ex. 131]	DEPO. EX. 131	Cond. 801 and/or 802; 402; 701; 602; 403; 106
120.	6/30/2023 The Responses of Gila County Recorder Sadie Jo Bingham, in Her Official Capacity, to the First Requests for Production of Documents Propounded by Consolidated Plaintiffs [Depo Ex. 135]	DEPO. EX. 135	Cond. 801 and/or 802; 402; 701; 602; 403; 106
121.	2/13/2023 Defendant Graham County Recorder Wendy John's Responses to Plaintiff Arizona Asian American Native Hawaiian and Pacific Islander for Equity Coalition's First Set of Interrogatories [Depo Ex. 250]	DEPO. EX. 250	Cond. 801 and/or 802; 402; 701; 602; 403; 106
122.	7/10/2023 Defendant Graham County Recorder Polly Merriman's Responses to Consolidated Plaintiff's First Set of Interrogatories [Depo Ex. 251]	DEPO. EX. 251	Cond. 801 and/or 802; 402; 701; 602; 403; 106
123.	8/31/2023 Defendant Graham County Recorder Polly Merriman's Supplemental Responses to Plaintiff Arizona Asian American Native Hawaiian and Pacific Islander for Equity Coalition's First Set of Interrogatories [Depo Ex. 252]	DEPO. EX. 252	Cond. 801 and/or 802; 402; 701; 602; 403; 106

PX No.	DESCRIPTION	EXHIBIT/BATES	OBJECTIONS
124.	2/13/2023 Defendant Graham County Recorder Wendy John's Responses to Plaintiff Arizona Asian American Native Hawaiian and Pacific Islander for Equity Coalition's First Request for Production of Documents [Depo Ex. 253]	DEPO. EX. 253	Cond. 801 and/or 802; 402; 701; 602; 403; 106
125.	7/10/2023 Defendant Graham County Recorder Polly Merriman's Responses to Consolidated Plaintiff's First Set of Requests for Production [Depo Ex. 254]	DEPO. EX. 254	Cond. 801 and/or 802; 402; 701; 602; 403; 106
126.	2/13/2023 Defendant Greenlee County Recorder Response to Plaintiff Arizona Asian American Native Hawaiian and Pacific Islander for Equity Coalition's First Request for Production of Documents [Depo Ex. 239]	DEPO. EX. 239	Cond. 801 and/or 802; 402; 701; 602; 403; 106
127.	2/13/2023 Defendant Greenlee County Recorder's Answers to Plaintiff's First Set of Interrogatories	N/A	Cond. 801 and/or 802; 402; 701; 602; 403; 106
128.	6/30/2023 Defendant Greenlee County Recorder Sharie Mileiro Response to Consolidated Plaintiff's First Set of Requests for Production [GREENLEE-000948 - 57][Depo Ex. 240]	DEPO. EX. 240	Cond. 801 and/or 802; 402; 701; 602; 403; 106
129.	6/30/2023 Defendant Greenlee County Recorder Sharie Mileiro Response to Consolidated Plaintiff's First Set of Interrogatories [GREENLEE-000912 - 19][Depo Ex. 241]	DEPO. EX. 241	Cond. 801 and/or 802; 402; 701; 602; 403; 106
130.	2/13/2023 Defendant La Paz County Recorder's Response to Plaintiff's First Request for Production of Documents [Depo Ex. 229]	DEPO. EX. 229	Cond. 801 and/or 802; 402; 701; 602; 403; 106
131.	6/30/2023 Defendant La Paz County Recorder's Response to Consolidated Plaintiff's First Request for Production of Documents [Depo Ex. 230]	DEPO. EX. 230	Cond. 801 and/or 802; 402; 701; 602; 403; 106
132.	1/27/2023 Defendant La Paz County Recorder's Answers to Plaintiff's First Set of Interrogatories [Depo Ex. 231]	DEPO. EX. 231	Cond. 801 and/or 802; 402; 701; 602; 403; 106

PX No.	DESCRIPTION	EXHIBIT/BATES	OBJECTIONS
133.	6/30/2023 Defendant La Paz County Recorder's Answers to Consolidated Plaintiff's Interrogatories [Depo Ex. 232]	DEPO. EX. 232	Cond. 801 and/or 802; 402; 701; 602; 403; 106
134.	8/8/2023 Defendant La Paz County Recorder's First Supplemental Response to Consolidated Plaintiff's Interrogatories [Depo Ex. 233]	DEPO. EX. 233	Cond. 801 and/or 802; 402; 701; 602; 403; 106
135.	1/18/2023 Defendant Maricopa County Recorder Stephen Richer's Responses to Plaintiff Arizona Asian American Native Hawaiian and Pacific Islander for Equity Coalition's First Request for Production	N/A	Cond. 801 and/or 802; 402; 701; 602; 403; 106
136.	1/26/2023 Defendant Maricopa County S. Richer's Response to AAANH and Pacific Islander for Equity Coalitions' First Set of Interrogatories RFP [Depo. Ex. 4]	DEPO. EX. 4	Cond. 801 and/or 802; 402; 701; 602; 403; 106
137.	2/14/2023 Defendant Maricopa County S. Richer's First Supplemental Response to AAANH and Pacific Islander for Equity Coalitions' First RFP [Depo. Ex. 2]	DEPO. EX. 2	Cond. 801 and/or 802; 402; 701; 602; 403; 106
138.	6/29/2023 Defendant Maricopa County S. Richer's Response to Plaintiff's Consolidated First RFP [Depo. Ex. 3]	DEPO. EX. 3	Cond. 801 and/or 802; 402; 701; 602; 403; 106
139.	6/29/2023 Defendant Maricopa County S. Richer's Verified Response to Plaintiff's Consolidated First set of Interrogatories [Depo. Ex. 5]	DEPO. EX. 5	Cond. 801 and/or 802; 402; 701; 602; 403; 106
140.	6/30/2023 Defendant Maricopa County Recorder Stephen Richer's First Supplemental Response to Consolidated Plaintiffs' First Set of Requests for Production	N/A	Cond. 801 and/or 802; 402; 701; 602; 403; 106
141.	7/10/2023 Defendant Maricopa County Recorder Stephen Richer's Second Supplemental Response to Equity Coalition's First Request for Production	N/A	Cond. 801 and/or 802; 402; 701; 602; 403; 106

PX No.	DESCRIPTION	EXHIBIT/BATES	OBJECTIONS
142.	7/11/2023 Defendant Maricopa County Recorder Stephen Richer's Third Supplemental Response to Equity Coalition's First Request for Production	N/A	Cond. 801 and/or 802; 402; 701; 602; 403; 106
143.	7/18/2023 Defendant Maricopa County Recorder Stephen Richer's Second Supplemental Response to Consolidated Plaintiffs' First Set of Requests for Production	N/A	Cond. 801 and/or 802; 402; 701; 602; 403; 106
144.	8/9/2023 Defendant Maricopa County Recorder Stephen Richer's Fifth Supplemental Response to Equity Coalition's First Request for Production	N/A	Cond. 801 and/or 802; 402; 701; 602; 403; 106
145.	8/9/2023 Defendant Maricopa County Recorder Stephen Richer's Third Supplemental Response to Consolidated Plaintiffs' First Set of Requests for Production	N/A	Cond. 801 and/or 802; 402; 701; 602; 403; 106
146.	2/13/2023 Mohave County Recorder's Answers to Plaintiff's First Set of Interrogatories	N/A	Cond. 801 and/or 802; 402; 701; 602; 403; 106
147.	2/13/2023 Mohave County Recorder's Response to Plaintiff's First Request for Production of Documents [Depo. Ex. 51]	DEPO. EX. 51	Cond. 801 and/or 802; 402; 701; 602; 403; 106
148.	6/30/2023 Mohave County Recorder's Response to Plaintiff's First Set of Interrogatories [Depo. Ex. 52]	DEPO. EX. 52	Cond. 801 and/or 802; 402; 701; 602; 403; 106
149.	6/30/2023 Mohave County Recorder's Response the Consolidated Plaintiffs' First Request for Production of Documents [Depo Ex. 55]	DEPO. EX. 55	Cond. 801 and/or 802; 402; 701; 602; 403; 106
150.	6/29/2023 Navajo County Recorder's Response to Consolidated Plaintiffs First Request for Production to the Defendant County Recorder [Depo. Ex. 40]	DEPO. EX. 40	Cond. 801 and/or 802; 402; 701; 602; 403; 106
151.	1/17/2023 Navajo County Recorder's Response to Plaintiffs First Set of Interrogatories [Depo. Ex. 41]	DEPO. EX. 41	Cond. 801 and/or 802; 402; 701; 602; 403; 106

PX No.	DESCRIPTION	EXHIBIT/BATES	OBJECTIONS
152.	1/17/2023 Navajo County Recorder's Response to Plaintiff's Requests for Production of Documents	N/A	Cond. 801 and/or 802; 402; 701; 602; 403; 106
153.	6/23/2023 Navajo County Recorder's Response to Consolidated Plaintiffs' First Set of Interrogatories to the Defendant County Recorders in Their Official Capacity [Depo. Ex. 42]	DEPO. EX. 42	Cond. 801 and/or 802; 402; 701; 602; 403; 106
154.	2/13/2023 Defendant Pima County Recorder Gabriella Cázares-Kelly's Response to Plaintiffs' First set for Request for Production [Depo Ex. 63]	DEPO. EX. 63	Cond. 801 and/or 802; 402; 701; 602; 403; 106
155.	6/30/2023 Defendant Pima County Recorder Gabriella Cázares-Kelly's Response to Plaintiffs Consolidated First Set of Requests for Production [Depo Ex. 64]	DEPO. EX. 64	Cond. 801 and/or 802; 402; 701; 602; 403; 106
156.	2/13/2023 Defendant Pima County Recorder Gabriella Cázares-Kelly's Response to Plaintiffs First Set of Interrogatories [Depo Ex. 65]	DEPO. EX. 65	Cond. 801 and/or 802; 402; 701; 602; 403; 106
157.	6/30/2023 Defendant Pima County Recorder Gabriella Cázares-Kelly's Response to Plaintiffs Answers to Plaintiffs Consolidated First Set of Interrogatories [Depo Ex. 66]	DEPO. EX. 66	Cond. 801 and/or 802; 402; 701; 602; 403; 106
158.	2/13/2023 Defendant Pinal County Recorder Dana Lewis's Response to Plaintiff's First Request for Production [Depo Ex. 88]	DEPO. EX. 88	Cond. 801 and/or 802; 402; 701; 602; 403; 106
159.	3/9/2023 Defendant Pinal County Recorder Dana Lewis's Supplemental Response to Plaintiff's First Request for Production [Depo Ex. 89]	DEPO. EX. 89	Cond. 801 and/or 802; 402; 701; 602; 403; 106
160.	7/14/2023 Pinal County Recorder Dana Lewis's Response to Consolidated Plaintiff's First Set of Requests for Production of Documents, with Production [PINAL 000001-000065][Depo Ex. 90]	DEPO. EX. 90	Cond. 801 and/or 802; 402; 701; 602; 403; 106

PX No.	DESCRIPTION	EXHIBIT/BATES	OBJECTIONS
161.	2/13/2023 Defendant Pinal County Recorder Dana Lewis's Response to Plaintiff's First Set of Interrogatories [Depo Ex. 91]	DEPO. EX. 91	Cond. 801 and/or 802; 402; 701; 602; 403; 106
162.	7/14/2023 Pinal County Recorder Dana Lewis's Response to Consolidated Plaintiff's First Set of Requests for Production of Documents [Depo Ex. 92]	DEPO. EX. 92	Cond. 801 and/or 802; 402; 701; 602; 403; 106
163.	1/27/2023 Defendant Santa Cruz County Recorder's Answers to Plaintiff's First Set of Interrogatories to Defendant	N/A	Cond. 801 and/or 802; 402; 701; 602; 403; 106
164.	2/13/2023 Defendant Santa Cruz County Recorder's Response and Objections to Plaintiff's First Set of Request for Production [Depo Ex. 99]	DEPO. EX. 99	Cond. 801 and/or 802; 402; 701; 602; 403; 106
165.	6/29/2023 Defendant Santa Cruz County Recorder's Responses to Consolidated Plaintiffs' First Set of Interrogatories	N/A	Cond. 801 and/or 802; 402; 701; 602; 403; 106
166.	6/30/2023 Defendant Santa Cruz County Recorder's Responses to Consolidated Plaintiffs' First Set of Requests for Production	N/A	Cond. 801 and/or 802; 402; 701; 602; 403; 106
167.	7/31/2023 Defendant Santa Cruz County Recorder Supplemental Responses to Consolidated Plaintiffs' First Set of Requests for Production	N/A	Cond. 801 and/or 802; 402; 701; 602; 403; 106
168.	8/7/2023 Defendant Santa Cruz County Recorder's First Supplemental Responses to Plaintiffs' First Set of Requests for Production	N/A	Cond. 801 and/or 802; 402; 701; 602; 403; 106
169.	2/1/2023 Defendant Secretary of State Adrian Fontes' Responses to Plaintiff Arizona Asian American Native Hawaiian and Pacific for Equity Coalition's First Set of Requests for Production of Documents [Depo Ex. 261]	DEPO. EX. 261	Cond. 801 and/or 802; 402; 701; 602; 403; 106

PX No.	DESCRIPTION	EXHIBIT/BATES	OBJECTIONS
170.	6/15/2023 Defendant Adrian Fontes' Response to Consolidated Plaintiffs' First Set of Interrogatories [Depo Ex.262]	DEPO. EX. 262	Cond. 801 and/or 802; 402; 701; 602; 403; 106
171.	6/16/2023 Defendant Adrian Fontes' Response to Consolidated Plaintiffs' First Request for Production [Depo Ex. 263]	DEPO. EX. 263	Cond. 801 and/or 802; 402; 701; 602; 403; 106
172.	7/10/2023 Intervenor-Defendants Speaker of the House Ben Toma and Senate President Warren Petersen's First Supplemental Responses to Consolidated Plaintiffs' First Set of Requests for Production	N/A	Cond. 801 and/or 802; 402; 701; 602; 403; 106
173.	1/18/2023 Defendant Yavapai County Recorder's Response to Plaintiff's First Request for Production of Documents	N/A	Cond. 801 and/or 802; 402; 701; 602; 403; 106
174.	1/24/2023 Defendant Yavapai County Recorder's Answers to Plaintiff's First Set of Interrogatories [Depo Ex. 138]	DEPO. EX. 138	Cond. 801 and/or 802; 402; 701; 602; 403; 106
175.	2/3/2023 Defendant Yavapai County Recorder's First Amended Answers to Plaintiff's First Set of Interrogatories [Depo Ex. 139]	DEPO. EX. 139	Cond. 801 and/or 802; 402; 701; 602; 403; 106
176.	4/10/2023 Defendant Yavapai County Recorder's First Supplemental Response to Plaintiffs' First Set of Requests for Production of Documents [Depo Ex. 140]	DEPO. EX. 140	Cond. 801 and/or 802; 402; 701; 602; 403; 106
177.	6/8/2023 Defendant Yavapai County Recorder's Second Supplemental Response to Plaintiffs' First Set of Requests for Production of Documents [Depo Ex. 141]	DEPO. EX. 141	Cond. 801 and/or 802; 402; 701; 602; 403; 106
178.	7/6/2023 Defendant Yavapai County Recorder's Response to Consolidated Plaintiffs' First Set of Requests for Production of Documents [Depo Ex. 142]	DEPO. EX. 142	Cond. 801 and/or 802; 402; 701; 602; 403; 106

PX No.	DESCRIPTION	EXHIBIT/BATES	OBJECTIONS
179.	7/6/2023 Defendant Yavapai County Recorder's Response to Consolidated Plaintiffs' First Set of Interrogatories [Depo Ex. 143]	DEPO. EX. 143	Cond. 801 and/or 802; 402; 701; 602; 403; 106
180.	1/27/2023 Yuma County Recorder's Response to Plaintiff Arizona Asian American Native Hawaiian and Pacific Islander for Equity Coalition First Request for Production of Documents	N/A	Cond. 801 and/or 802; 402; 701; 602; 403; 106
181.	2/2/2023 Yuma County Recorder's Answers to Plaintiff's First Set of Interrogatories to Defendant	N/A	Cond. 801 and/or 802; 402; 701; 602; 403; 106
182.	7/5/2023 Yuma County Recorder's Answers to Plaintiff's First Set of Interrogatories [Depo Ex. 201]	DEPO. EX. 201	Cond. 801 and/or 802; 402; 701; 602; 403; 106
183.	7/13/23 Letter from SSA to J. Sherman re Application for Records and Testimony of a Social Security Administration (SSA) Employee in a Federal Civil Case, Mi Familia Vota, et al. v. Adrian Fontes, in his official capacity as Arizona Secretary of State, et al., 22-cv-509 et al. (consolidated) (D. AZ)	SSA0001 - SSA0004	801 and/or 802
184.	5/30/2023 Exhibit A for SSA-OIG AO88a Subpoena	N/A	801 and/or 802
185.	6/28/23 Letter from A. Ahye, SSA OIG to J. Sherman re decision addressed in the subpoenas served upon the Social Security Administration, Office of the Inspector General (SSA-OIG) concerning Mi Familia Vota v. Fontes, No. 22-cv-509 (D. Ariz.)	SSA-OIG0001 - SSA-OIG0002	801 and/or 802
186.	A.R.S. § 16-165 [Depo Ex 54]	DEPO. EX. 54	It is unnecessary to stipulate to the existence or content of legal authorities.
187.	A.R.S. § 16-166. Verification of registration [Depo Ex. 214]	DEPO. EX. 214	It is unnecessary to stipulate to the existence or content of legal authorities.

PX No.	DESCRIPTION	EXHIBIT/BATES	OBJECTIONS
188.	5/1/2023 Email chain with attachment from C. Connor to J. Petty, CC'ng L. Marra, Smith, and Y. Morales, Re: Guidance on new laws/Request for VRAC Meeting, attaching 2019 0523 Final VRAC Mission Process [MC 002195-2198][Depo. Ex. 7]	DEPO. EX. 7	402; 801 and/or 802; 701
189.			
190.	3/20/2023 Email chain with attachment from J. Petty to C. Dykstra and W. Crist, CC'ng D. Madsen, Re: MODS Procedure Review, attaching VRAC Issue 0002 - Source Codes - Updated v.3 - 3.25.2022.pdf [MC 002810-2813][Depo. Ex. 9]	DEPO. EX. 9	Cond. 402
191.	5/15/2023 Email from A. Cloutier (AZ SoS) to all county's Re: (Meeting Recap) - May 11, 2023 Bi-Monthly SOS/Recorders/Elections Meeting [MC 002093-2097][Depo. Ex. 11]	DEPO. EX. 11	402; 801 and/or 802; 701; 602
192.	Data Entry - NEWS on VM01 instruction sheet [MC 000879-887][Depo. Ex. 12]	DEPO. EX. 12	None
193.	1/11/2022 Email chain from Y. Morales to J. Petty and T. Wengrzyn, CC'ng R. Smith, Re: Record with Incorrect FED Flag [AZSOS-004107-4110][Depo. Ex. 13]	DEPO. EX. 13	402; 801 and/or 802; 602; 701
194.	10/20/2022 Email chain from K. Lorick, re MVD HAVA Checks Follow up [AZSOS-240080-81][Depo. Ex. 14]	DEPO. EX. 14	402; 403; 801 and/or 802; 602
195.	1/9/2023 Email chain with attachment from D. Madsen to J. Petty, CC'ng C. Dykstra, Re HB 2243 Requirements, attaching Updated December 2022 Legislative Policy Draft.docx; 2243.pdf [MC 002339-2354][Depo. Ex. 18]	DEPO. EX. 18	402; 403; 801 and/or 802; 701; 602; 106

PX No.	DESCRIPTION	EXHIBIT/BATES	OBJECTIONS
196.	6/15/2022 Email chain from S. Richer to J. Marson, G. Jackson, and others, re ASAP - Need feedback on revised 2617 [Depo. Ex. 20]	DEPO. EX. 20	402; 801 and/or 802; 701
197.	What Constitutes Documentary Proof of Residency? [Depo. Ex. 24]	DEPO. EX. 24	None
198.	3/17/2023 Email chain from Y. Morales to M. Carter, CC'ng H. Robinson and J. Petty, Re: Enhancement Meeting Notes for NCNR [MC 001927-1928][Depo. Ex. 25]	DEPO. EX. 25	Cond. 402; 801 and/or 802
199.	1/9/2023 Email chain from J. Petty to S. Richer, Re Election Reform blitz [MC 002742-2744][Depo. Ex. 30]	DEPO. EX. 30	402; 801 and/or 802; 701;
200.	1/1/2022 Correcting the Record: Maricopa County's In-Depth Analysis of the Senate Inquiry [Depo. Ex. 31]	DEPO. EX. 31	402; 403; 801 and/or 802; 701; 602
201.	1/1/2022 Correcting the Record: Exhibit - Court Cases (Maricopa County - 2020 Post-General Election Court Cases) [Depo. Ex. 32]	DEPO. EX. 32	402; 403; 801 and/or 802; 701; 602
202.	8/19/2021 S. Richer; "Dear Arizona Republicans: Let's do this Right. Let's Build Confidence. Let's Move Forward" Open letter [Depo. Ex. 33]	DEPO. EX. 33	402; 403; 801 and/or 802; 701; 702; 602
203.	6/1/2022 County Recorders' Response in Opposition to Plaintiffs' Application for Order to Show Cause [Depo. Ex. 34]	DEPO. EX. 34	402; 403; 801 and/or 802; 701; 602
204.	Navajo Election Administration: Navajo Nation Voter Registration Locations in Arizona [Depo. Ex. 43]	DEPO. EX. 43	None
205.	7/26/2022 Email with attachments from T. Smith to H. Lerma, Re Books, attaching Chilchinbeto.pdf (polling location) and Forestake.pdf (not attached) [Depo Ex. 45]	DEPO. EX. 45	402; Confidential voter data

PX No.	DESCRIPTION	EXHIBIT/BATES	OBJECTIONS
206.	9/16/2022 State's Consolidated Motion to Dismiss Plaintiffs' Complaints Under 12(B)(1) and (B)(6) [Depo Ex. 47]	DEPO. EX. 47	Cond. 402; 403; 801 and/or 802
207.	10/17/2022 Email from AVID Help to M. Sample, D. Hurstrom, J. Lerma, and K. Hobert, CC'ng K. Lock, C. Dyster, R. Smith and Y. Morales, Re MVD HAVA Checks Follow Up, (attachments not included) [AZSOS-239162-239163][Depo Ex. 48]	DEPO. EX. 48	None
208.	9/21/2022 Email from K. Blair to N. Collings, Re; Meeting Notes [MOHAVE-000119-120][Depo Ex. 53]	DEPO. EX. 53	402; 801 and/or 802; 701; 602; F
209.			
210.			
211.	1/18/2022 Email from AACo to K. Blair, Re: Your Comment on HB 2492 - Voter Registration; Verification [Depo Ex 59]	DEPO. EX. 59	402; 801 and/or 802; 701
212.	2/18/2022 Email from R. Boyd to T. Boyd, CC'ng J. Marson and M. Kitner, Re: Weekly Update (Recorders) 02/18/2022, attachment Recorders 22-02-18.pdf (not attached) [MOHAVE-000709-710][Depo Ex. 60]	DEPO. EX. 60	402; 801 and/or 802; 602
213.	1/14/2022 Email chain from K. Blair to N. Collings, Re: Analyze HB 2243 - Voter Registration; state residency; cancellation [MOHAVE-000132][Depo Ex. 61]	DEPO. EX. 61	402; 801 and/or 802; 701; 403

PX No.	DESCRIPTION	EXHIBIT/BATES	OBJECTIONS
214.	2/1/2023 Email chain from H. Hiser to A. Venegas, M. Manharrez-Bautista, D. Greenwood, and Voter-Supervisors, Re: in Arizona letter update [PIMA COUNTY 0011-12][Depo Ex. 69]	DEPO. EX. 69	402; 801 and/or 802; 701; 106
215.	1/10/2023 Email chain from M. Manjarrez-Bautista to A. Venegas and Voter emails, Re: New Registrations [PIMA COUNTY 0016][Depo Ex. 70]	DEPO. EX. 70	402; 403; 801 and/or 802
216.	1/9/2019 Pima County Recorder's Office - Instructions for Processing Incomplete Voter Registration Forms [PIMA COUNTY 0204-211][Depo Ex. 71]	DEPO. EX. 71	None
217.	3/29/2022 Email chain from G. Cázares-Kelly to M. Truelsen and Recorder-admin, Re: Veto letter [PIMA COUNTY 0543-546][Depo Ex. 72]	DEPO. EX. 72	402; 801 and/or 802; C; 701
218.	4/19/2022 Email from P. Franklin to K. Lorick, CC'ng G. Cazaes-Kelly, re HB2492 [AZSOS-021416][Depo Ex. 75]	DEPO. EX. 75	402; 602; 801 and/or 802; F
219.	6/15/2022 Email chain from K. McCracken to J. Marson, Re: ASAP - Need Feedback on revised 2617 (no attachment) [YC000136-137][Depo Ex. 77]	DEPO. EX. 77	106; 402; 602; 701; 801 and/or 802
220.	10/17/2022 Email from AVID Help to G. Cazaes-Kelly, D. Sainz, H. Hiser, M. Chubon, CC'ng K. Lorick, C. Dyster, R. Smith, and Y. Morales, Re: MVD HAVA Checks Follow UP (no attachment)[AZSOS-0338826-27][Depo Ex. 78]	DEPO. EX. 78	402; 403; 602; 801 and/or 802
221.	2/8/2022 Email from L. Hoffman to J. Marson, Re: HB2617 [YC000135][Depo Ex. 79]	DEPO. EX. 79	402; 602; 701; 801 and/or 802
222.	7/28/2021 Pima County Recorder Voter Registration Form - Data Entry Instructions [PIMA COUNTY 2826-2920][Depo Ex. 80]	DEPO. EX. 80	None

PX No.	DESCRIPTION	EXHIBIT/BATES	OBJECTIONS
223.	8/30/2022 Pima County Memo "Early Voting Accounts for 86% of Ballots Cast in 2022 Primary [Depo Ex. 81]	DEPO. EX. 81	None
224.	3/24/2022 Email chain from G. Cazares-Kelly to P. Franklin, A. Seach, H. Hiser, M. Truelsen, CC'ng R. Teuton and C. Garcia, Re: IMPORTANT - Send Veto Request to Gov. Ducey re: HB2492 [PUMA COUNTY 00610-12][Depo Ex. 82]	DEPO. EX. 82	402; 602; 701; 801 and/or 802
225.	3/15/2022 Email chain from V. Ross to J. Marson, CC'ng all County's, Re: HB2617 - Does the Amendment Change Your Position? [Depo Ex. 93]	DEPO. EX. 93	402; 602; 701; 801 and/or 802
226.	10/14/2022 Email from AVID-Help to D. Lewis, H. Robinson and N. Gillespie, CC'ng K. Lorick, C. Dyster, R. Smith, and Y. Morales, Re: MVD HAVA Checks Follow Up (no attachments) [AZSOS-239148-49][Depo Ex. 95]	DEPO. EX. 95	None
227.	2/8/2022 Email from L. Hoffman to J. Marson, Re: HB2617 [YC000135][Depo Ex. 96]	DEPO. EX. 96	Duplicate exhibit of Plaintiffs Ex. 221 (Depo Ex. 79). 106; 402; 602; 701; 801 and/or 802
228.	2/12/2019 Email chain form K. Fisher to J. Petty, Re: SAVE Case response corrections [USCIS SAVE 0000812-13][Depo Ex. 97]	DEPO. EX. 97	Cond. 402; 602; 801 and/or 802
229.	6/16/2021 Email chain from B. Christie to A. Schultz, CC'ng S. Sainz & J. Martinez Re: Records Request from The Associated Press [SCCR001141-44][Depo Ex. 100]	DEPO. EX. 100	402; 602; 801 and/or 802
230.	6/1/2023 ADOT Organizational Chart [Depo Ex. 107]	DEPO. EX. 107	None
231.	AZ MVD One Source: Acceptable Documentation for Non-Commercial Credentials [ADOT000004 - ADOT000013][Depo Ex. 108]	DEPO. EX. 108	None
232.	AZ MVD One Source: Process Application for Credential [ADOT001081-1130][Depo Ex. 109]	DEPO. EX. 109	None

PX No.	DESCRIPTION	EXHIBIT/BATES	OBJECTIONS
233.	AZ MVD One Source: Credential Renewal [ADOT000102-115][Depo Ex. 110]	DEPO. EX. 110	None
234.	ADOT - Customer Extract Data Layout information [ADOT001400-10][Depo Ex. 111]	DEPO. EX. 111	None
235.	11/15/2022 Email chain from A. Previte to B. Briggs, CC'ng J. Byrd, Re: New data exports for HB2243 Compliance (No attachment) [ADOT001464-67][Depo Ex. 112]	DEPO. EX. 112	402; 602; 801 and/or 802; F
236.	12/19/2022 Email chain from R. Smith, to B. Briggs, C. Hood, and K. Kumpg, CC'ng K. Lorick, Y. Morales, J. Fountain, M. Carbajal, J. Byrd, A. Previte, M. Kinder and A. Puri, Re: AZSOS New Files [AZSOS-267124-28][Depo Ex. 113]	DEPO. EX. 113	402; 602; 801 and/or 802
237.	8/11/2022 Email chain from A. Previte, to J. Byrd, CC'ng M. Carbajal, C. Padilla, M. Erece, & M. Monreal, Re: Release Notes for 109803 and 110441 (No attachment) [ADOT001493-94][Depo Ex. 114]	DEPO. EX. 114	402; 602; 801 and/or 802
238.	12/5/2022 Email from Microsoft Teams to R. Smith Re; Your daily briefing [AZSOS-255142-44][Depo Ex. 115]	DEPO. EX. 115	402; 602; 801 and/or 802
239.	7/7/2022 Email chain from J. Byrd to M. Carbajal, Re: HB2243 [ADOT001594-96][Depo Ex. 116]	DEPO. EX. 116	402; 602; 801 and/or 802
240.	6/22/2022 ADOT - Government Agency Electronic Data Access Agreement [PIMA COUNTY 0032-61][Depo Ex. 117]	DEPO. EX. 117	402
241.	7/25/2022 Email C. Hood to Y. Morales, et al. re: MVRRS Account Access Question [AZSOS-102956-AZSOS-102959][Depo. Ex. 118]	DEPO. EX. 118	402; 602; 801 and/or 802

PX No.	DESCRIPTION	EXHIBIT/BATES	OBJECTIONS
242.	3/30/2022 Email from Y. Morales to T. Robinson, et al. re: Yolanda/Russ/Tyler/Jasmine FW: Voter registration and changes [AZSOS-017979-AZSOS-017982][Depo. Ex. 119]	DEPO. EX. 119	402; 602; 801 and/or 802
243.	10/17/2022 Email from J. Fountain to D. Stevens, L. Beach, and H. Lopez, CC'ng K. Lorick, R. Smith, Y. Morales, & C. Dyster, Re: MVD HAVA Check Follow-up (No Attachments) [AZSOS-239070-71][Depo Ex. 125]	DEPO. EX. 125	402; 403; 602; 801 and/or 802
244.	8/23/2022 Email from K. Lorick, Re: 2022 Election Legislative Updates and Training Reminder (No Attachment) [GILA-000001][Depo Ex. 132]	DEPO. EX. 132	402; 602; 701; 801 and/or 802
245.	10/19/2022 Email chain from K. Lorick to "Undisclosed recipients:", Re: MVDHAVA check sample notice [SCCR001465-66][Depo Ex. 133]	DEPO. EX. 133	402; 403; 602; 801 and/or 802
246.			
247.	3/30/2022 HB 2492 - Voter Registration; Verification; Citizenship, with Staff Analysis Data [Depo Ex. 144]	DEPO. EX. 144	402; 403; 602; 701; 801 and/or 802
248.	Bill # Status Spreadsheet [YC000160-71][Depo Ex. 145]	DEPO. EX. 145	402; 602; 801 and/or 802; 701
249.	4/28/2022 Email chain from L. Hoffman to J. Marson, Re: HB2492 [Depo Ex. 146]	DEPO. EX. 146	402; 602; 701; 801 and/or 802
250.	4/28/2022 Email from L. Hoffman to A. Bones & K. Lorick, CC'ng K. McCracken, L. Custis and M. Webber, Re: HB2492 [YC000079-80][Depo Ex. 147]	DEPO. EX. 147	402; 403; 602; 701; 801 and/or 802
251.	5/27/2022 HB 2617 - Voter Registration; Verification; Citizenship, with Staff Analysis Data [Depo Ex. 149]	DEPO. EX. 149	402; 403; 602; 701; 801 and/or 802
252.	3/14/2022 Email chain from L. Hoffman to J. Marson, Re: HB2617 - Does the Amendment Change Your Position [Depo Ex. 150]	DEPO. EX. 150	402; 403; 602; 701; 801 and/or 802

PX No.	DESCRIPTION	EXHIBIT/BATES	OBJECTIONS
253.	5/22/2023 Email chain from D. Casner to P. Merriman, C. Azrarynezami, N. Colligs, J. Munoz, M. Webber, H. Robinson, M. Aguilar, L. Beach, D. Poaque, J. Ierma and S. Gastelum, Re: Naturalization Ceremonies [YS000284-85][Depo Ex. 152]	DEPO. EX. 152	Cond. 402; 602; 801 and/or 801
254.	10/17/2022 Email from AVID Help to L. Custis, M. Webber, M. Burchill, and K. McCracken, CC'ng K. Lorick, C. Dyster, R. Smith and Y. Morales, Re HAVA Checks Follow up (No attachment) [AZSOS_239124-25][Depo Ex. 153]	DEPO. EX. 153	None
255.	4/28/2022 Agreement between Yavapai County and the Office of the Secretary of State for Reimbursement for Systematic Alien Verification for Entitlements ("SAVE") Program Usage [YC000172-79][Depo Ex. 155]	DEPO. EX. 155	402; 801 and/or 802
256.	Arizona Registration Forms (New), instruction form [YC0000202-12][Depo Ex. 156]	DEPO. EX. 156	None
257.	National Registration Forms (New), instruction form [YC0000216-26][Depo Ex. 157]	DEPO. EX. 157	None
258.	Untitled Document [YC000074][Depo Ex. 158]	DEPO. EX. 158	402; 602; 701; 801 and/or 802
259.	5/15/2023 Email chain from A. Cloutier to various AZ Recorders re SoS/County Standing Meeting Agenda [YC000280-86][Depo Ex. 159]	DEPO. EX. 159	402; 602; 701; 801 and/or 802; 106; C
260.	4/11/2022 Email chain from C. Gentle to M. Burchill, K. Gregorio, K. McCracken, L. Constabile, T. Stoxen, D. McQuality, A. Spiess, T. Carter, J. Simmons, C. Davis, D. Rhodes, S. Polk, C. Trukillo, J Porter, K. Fraher and L. Hoffman, Re LPC Recap - April 8, 2022 [YC000098-100][Depo Ex. 160]	DEPO. EX. 160	402; 602; 701; 801 and/or 802

PX No.	DESCRIPTION	EXHIBIT/BATES	OBJECTIONS
261.	Voter Registration Form Box 22 (Citizenship & Age Verification) Voter Registration Processing Instructions [YC000213-15][Depo Ex. 162]	DEPO. EX. 162	402; 602; 801 and/or 802; 106
262.	'Add Registrant' (New) Voter Registration Processing Procedures [YC000235-257][Depo Ex. 163]	DEPO. EX. 163	402; 602; 801 and/or 802
263.	7/6/2022 HB 2243 - Voter Registration; state residency; cancellation - with Staff Analysis of the Legislation [Depo Ex. 172]	DEPO. EX. 172	402; 602; 801 and/or 802
264.	5/7/2022 HB 2617 - Voter Registration; cancellation; causes - with Staff Analysis of the Legislation [Depo Ex. 173]	DEPO. EX. 173	402; 602; 701; 801 and/or 802
265.	7/23/2023 Teams Chat Pt 7 18 Discussion with County and State election_CONFIDENTIAL VOTER REGISTRATION INFORMATION [AZSOS-477828][Depo Ex. 174]	DEPO. EX. 174	402; 602; 701; 801 and/or 802
266.	10/31/2018 Memorandum of Agreement Between the Dept. of Homeland Security and USCIS and Office of the Arizona Secretary of State [USCIS SAVE 00001-12][Depo Ex. 184]	DEPO. EX. 184	None
267.	5/17/2022 Email from H. Hiser to SAVE Registration, CC'ng G. Sauter Re: SAVE Registration; Duplicate Application Submitted [USCIS SAVE 000755-56][Depo Ex. 185]	DEPO. EX. 185	402; 602; 801 and/or 802
268.	1/1/2023 USCIS SAVE AZ Agency report [USCIS SAVE 001744][Depo Ex. 186]	DEPO. EX. 186	None
269.	1/1/2023 USCIS SAVE AZ Agency report [USCIS SAVE 001742-43][Depo Ex. 187]	DEPO. EX. 187	None

PX No.	DESCRIPTION	EXHIBIT/BATES	OBJECTIONS
270.	12/31/2018 Reimbursement Memorandum of Agreement Between the Dept. of Homeland Security and USCIS and Pima County Recorder [USCIS SAVE 000655-60][Depo Ex. 188]	DEPO. EX. 188	402; 602; 801 and/or 802
271.	3/1/2019 Systematic Alien Verification for Entitlements Program Guide [USCIS SAVE 000079-102][Depo Ex. 189]	DEPO. EX. 189	None
272.	6/28/2022 Email chain from K. Lorick to W. Russell, CC'ng G. Sauer, G. Harrop and A. Chan Re: Arizona - Office of the Secretary of State SAVE agreement [USCIS SAVE 001524-28][Depo Ex. 190]	DEPO. EX. 190	402; 602; 801 and/or 802
273.	7/13/2022 Email chain from J. Mills to K. Lorick and A. Chan, CC'ng B. Burkley, Re: Voter Registration Agreement with Arizona Secretary of State Office ((no attachment) [USCIS SAVE 000632-34][Depo Ex. 191]	DEPO. EX. 191	402; 602; 701; 801 and/or 802
274.	4/1/2019 Information for Voter Registration Agencies Conducting Verifications Through SAVE - FACT SHEET [USCIS SAVE 000014-16][Depo Ex. 192]	DEPO. EX. 192	None
275.	6/1/2019 SAVE: How to Initiate a Case instruction sheet [USCIS SAVE 000663-65][Depo Ex. 193]	DEPO. EX. 193	None
276.	7/1/2022 SAVE: Institute Additional Verification with Document Response - instruction sheet [USCIS SAVE 000381] [Depo Ex. 194]	DEPO. EX. 194	402; 602; 801 and/or 802
277.	6/13/2018 The 9th Annual SAVE User Forum "Meeting Your Needs" program details [USCIS SAVE 000504-584] [Depo Ex. 195]	DEPO. EX. 195	402; 602; 801 and/or 802
278.	2/1/2018 SAVE: Records: Fast Facts for Benefit Application - information [USCIS SAVE 000018][Depo Ex. 196]	DEPO. EX. 196	402; 602; 801 and/or 802

PX No.	DESCRIPTION	EXHIBIT/BATES	OBJECTIONS
279.	Citizenship Proof Needed - State Voter Registration Form [USCIS SAVE 001586-87][Depo Ex. 197]	DEPO. EX. 197	402; 602; 801 and/or 802
280.	2nd Notice That Citizenship Proof Needed - State Voter Registration Form [USCIS SAVE 001588][Depo Ex. 198]	DEPO. EX. 198	402; 602; 801 and/or 802
281.			
282.	2023 Election Procedures Manual Editing Schedule/Monthly Chapter Assignments [YUMA-000763][Depo Ex. 202]	DEPO. EX. 202	402; 801 and/or 802
283.	7/5/2023 Email from A. Cloutier to All County Recorder offices, Re: Draft EPM Part v (no attachment) [YUMA-000533-34][Depo Ex. 203]	DEPO. EX. 203	402; 801 and/or 802
284.			
285.	3/31/2023 Letter from Josh Whitaker, Senior Litigation Counsel of Arizona Office of the Attorney General to Arizona Secretary of State-Adrian Fontes, Arizona Senate President - Warren Peterson, Arizona Speaker of the House of Representatives-Benjamin Toma, RE: Report under A.R.S. 16-143(E)[AG000348][Depo Ex. 213]	DEPO. EX. 213	None
286.	Spreadsheet of Complaint submissions re violations of election law or related [Depo Ex. 215]	DEPO. EX. 215	None
287.	Spreadsheet of Complaint submissions re violations of election law or related [Depo Ex. 216]	DEPO. EX. 216	None
288.	12/3/2021 Complaint #2021-5694, Complaint/allegation submission by Armando Felix [AG067356][Depo Ex. 217]	DEPO. EX. 217	None

PX No.	DESCRIPTION	EXHIBIT/BATES	OBJECTIONS
289.	1/18/2022 Arizona Office of the Attorney General Special Investigations Case Opening Form: Complaint/allegation submission by Thomas Guitierrez; Email from T. Lawson to W. Knuth, with cc to B. Gadow, Subject: RE: [EIU=2021-54979-2881] FW: Election Complaint Submission [AG067438-41][Depo Ex. 218]	DEPO. EX. 218	None
290.	1/21/2023 Email from J. Kredit to J. Kanefield, J. Wright, with cc to R. Anderson, E. Lefevre, Subject: RE: Voter fraud, with 1 attachment: EIU Prosecutions January 2022.pdf.pdf (not attached) [AG134974 - 75][Depo Ex. 219]	DEPO. EX. 219	106; 801 and/or 802; 602
291.	1/21/2022 Arizona Attorney General's Office Criminal Division - Fraud & Special Prosecutions Section's list of Prosecutions Related to Voting or Elections Since 2010 [AG134976 - 79][Depo Ex. 220]	DEPO. EX. 220	None
292.	4/4/2023 Arizona Attorney General's Office Criminal Division - Fraud & Special Prosecutions Section list of cases prosecuted by the Attorney General's Office since 2010 [AG000349 - 56][Depo Ex. 224]	DEPO. EX. 224	None
293.	1/27/2022 Email from J. Kredit to J. Kanefield, Subject: Follow up on inquiry, re edits to draft email to Senate Democrat staff [AG134949 - 50][Depo Ex. 221]	DEPO. EX. 221	None
294.	3/9/2022 Email from E. Lefevre to J. Kredit, Subject: FW: OSPB questions regarding HB2492 [AG035091][Depo Ex. 222]	DEPO. EX. 222	602; 801 and/or 802. 402
295.	3/23/2023 Email chain from J. Wright to B. Roysden and M. Catlett, Subject: RE: OSPB questions regarding HB2492, with 1 attachment: image--1.png (not attached) [AG134983 - 85][Depo Ex. 223]	DEPO. EX. 223	602; 701; 801 and/or 802; 701

PX No.	DESCRIPTION	EXHIBIT/BATES	OBJECTIONS
296.	1/23/2023 New York Times article: Voter Fraud Unit in Arizona Will Shift Focus to Voter Rights [Depo Ex. 226]	DEPO. EX. 226	403; 602; 801 and/or 802; 701
297.	2/22/2023 Arizona Attorney General's Office press release: Arizona Attorney General's Office Releases Documents Related to 2020 Election Investigations [AG000381 - 83][Depo Ex. 227]	DEPO. EX. 227	701; 801 and/or 802; 403; F
298.	1/18/2023 Email chain from M. Aguilar to J. Mitchell, with cc to R. Garcia, Subject: FW: 2492/2243 Reminders, with 1 attachment: Updated December 2022 Legislative Policy Draft.docx, re Kori Lorick's views on[LPC0001 - 2][Depo Ex. 234]	DEPO. EX. 234	402; 801 and/or 802; 701; 403
299.	3/15/2022 Email chain from R. Garcia to J. Marson, G. Jackson, L. Noble, D. Stevens, P. Hansen, S. Bingham, W. John, S. Milheiro, A. Flannery, D. Moffatt, S. Richer, K. Blair, M. Sample, G. Cazares-Kelly, P. Franklin, REC General, V. Ross, S. Sainz, Assistant to Leslie, C. Connor, K. McCracken, L. Custis, L. Hoffman, R.S. Pouquette, Subject: RE HB 2617 - Does the Amendment Change Your Position [SCCR000119 - 20][Depo Ex. 235]	DEPO. EX. 235	402; 801 and/or 802. 701
300.	2/8/2023 Email from M. Aguilar to J. Mitchell, et al. re: Verifying Citizenship [LPC0023][Depo Ex. 236]	DEPO. EX. 236	402; 602; 801 and/or 802
301.	10/18/2022 Email from AVID Help/J. Fountain to R. Garcia, M. Aguilar, with cc to K. Lorick, C. Dyster, R. Smith, Y. Morales, J. Fountain, Subject: MVD HAVA Checks Follow Up, with 2 attachments: Sample Notice_HAVA Check.docx and La Paz Soft Active Matches Auth 4.csv [Confidential Information Not to Be Disclosed Confidential Voter Registration Information][AZSOS-239292-93][Depo Ex. 237]	DEPO. EX. 237	None

PX No.	DESCRIPTION	EXHIBIT/BATES	OBJECTIONS
302.	1/27/2022 Email from AACo to S. Milheiro, Subject: Your Comment on HB 2492 - Voter registration; verification, re analysis of HB 2492 displayed [Depo Ex. 242]	DEPO. EX. 242	402; 801 and/or 802
303.	10/17/2022 Email from AVID Help/J. Fountain to S. Milheiro, K. Valenzuela, with cc to K. Lorick, C. Dyster, R. Smith, Y. Morales, Subject: MVD HAVA Checks Follow Up, with 2 attachments: Greenlee Sent Ballots.csv and Greenlee Soft Matches Auth 4.csv [GREENLEE-000922][Depo Ex. 243]	DEPO. EX. 243	402; 403; 602; 801 and/or 802
304.	3/24/2022 Email chain from Ashish Puri to R. Smith, K. Lorick, C. Dyster, with cc to A. Bones, J. Varner, K. Kumpf, Subject: Important: FW: Voters with no link to Total Address, re redistricting pending update on unverified addresses [Confidential Information Not to Be Disclosed Confidential Voter Registration Information][AZSOS-017285-87][Depo Ex. 247]	DEPO. EX. 247	402; 602; 801 and/or 802
305.			
306.	10/17/2022 Email from AVID Help/J. Fountain to W. John, G. Villescascas, cc to K. Lorick, C. Dyster, Y. Morales, R. Smith Subject: MVD HAVA Checks Follow Up, Subject: HAVA checks to flag voter identification and voter status processes; with 2 attachments: Graham Sent Ballots .csv and Graham Soft Matches Auth 4.csv [Confidential Information Not to Be Disclosed Confidential Voter Registration Information][AZSOS-0511266- 67][Depo Ex. 256]	DEPO. EX. 256	402; 403; 602; 801 and/or 802

PX No.	DESCRIPTION	EXHIBIT/BATES	OBJECTIONS
307.	6/14/2023 Sent (Printed) Notices Report covering 1/1/2022 to 6/14/2023 for Graham county [Confidential Voter Registration Information][GRAHAM001295 - 97][Depo Ex. 257]	DEPO. EX. 257	None
308.	Arizona Department of State FY 2023 Secretary of State Officials positions/management flow-chart [Depo Ex. 264]	DEPO. EX. 264	None
309.	Voting by Mail: How to Get a Ballot-by-Mail page on Arizona Secretary of State website [Confidential Information Not to Be Disclosed Confidential Voter Registration Information][AZSOS-010355- 62][Depo Ex. 266]	DEPO. EX. 266	402; 602; 801 and/or 802; 701; D [webpage listed below]
310.	4/25/2022 Message [no sender/recipient information]; re: 2492 - Pima, notes regarding discrepancies and clarification of forms [Confidential Information Not to Be Disclosed Confidential Voter Registration Information][AZSOS-022176][Depo Ex. 269]	DEPO. EX. 269	106; 402; 602; 801 and/or 802; 701
311.	4/5/2023 Email from C. Connor to K. Varvel, A. Chan and, L. Marra, re: HB2243 VRAC Papers Juror Questions and Driver license (no attachments) [Confidential Information Not to Be Disclosed Confidential Voter Registration Information][AZSOS-0357613][Depo Ex. 271]	DEPO. EX. 271	602; 801 and/or 802
312.	1/28/2022 Email from C. Dyster to C. Murphy Hebert, S. Solis, Y. Morales and, K. Lorick; (no email subject line), contents: "my experience no proof of citizenship was two things...", (no attachments) [Confidential Information Not to Be Disclosed Confidential Voter Registration Information][AZSOS-008789][Depo Ex. 273]	DEPO. EX. 273	602; 801 and/or 802; 701; F

PX No.	DESCRIPTION	EXHIBIT/BATES	OBJECTIONS
313.	2492 Notes for VRAC call [Confidential Information Not to Be Disclosed Confidential Voter Registration Information][AZSOS-035421 - 25][Depo Ex. 276]	DEPO. EX. 276	402; 403; 602; 701; 801 and/or 802
314.	2022 AVID| Add Registrant website showing matching registrant [AZSOS-182040][Depo Ex. 277]	DEPO. EX. 277	None
315.	7/13/2022 Email chain from J. Mills to K. Lorick and A. Chan, CC'ng B. Burkley Re: SAVE Voter Registration Agreement with Arizona Secretary of State (no attachment) [AZSOS-0330610-11][Depo Ex. 278]	DEPO. EX. 278	402; 403; 602; 701; 801 and/or 802; D Duplicate of Plaintiffs Ex. 273 (DEPO. EX. 191)
316.	12/19/2022 Email chain from R. Smith to C. Hood, K. Kumpf; cc to K. Lorick, Y. Morales, J. Fountain, B. Briggs, M. Carbajal, J. Byrd, A. Previte, M. Kinder and, A. Puri; Re: AZSOS New Files, re access to files (no attachments)[Confidential Information Not to Be Disclosed Confidential Voter Registration Information][AZSOS-267015 - 19][Depo Ex. 279]	DEPO. EX. 279	402; 403; 602; 801 and/or 802
317.	7/22/2022, NVRA Notice Letter from AZ AANHPI Equity Coalition to Secretary of State Hobbs	Non-U.S. Pls.' MPSJ Ex. 22	Cond. 402; 701; 801 and/or 802
318.	8/15/2022, NVRA Notice Letter from Promise Arizona and Southwest Voter Registration Education Project to Secretary of State Hobbs	Non-U.S. Pls.' MPSJ Ex. 23	Cond. 402; 701; 801 and/or 802
319.	Arizona Citizens Clean Elections Commission, "Ballot by Mail" webpage	Non-U.S. Pls.' MPSJ Ex. 30	402; 801 and/or 802
320.	3/23/2023 Transcript of March 23, 2023, Scheduling Conference	SOF ISO Opp'n to Defs.' MPSJ Ex. 31	Cond. 402; the record in this case speaks for itself, and attorney's statements are not evidence in any event.
321.	Nebraska Secretary of State Online Voter Registration Portal	SOF ISO Opp'n to Defs.' MPSJ Ex. 36	402; 602; 801 and/or 802

PX No.	DESCRIPTION	EXHIBIT/BATES	OBJECTIONS
322.	Vermont Secretary of State Online Voter Registration System	SOF ISO Opp'n to Defs.' MPSJ Ex. 37	402; 602; 801 and/or 802
323.	Tennessee Secretary of State Frequently Asked Questions for Elections Division	SOF ISO Opp'n to Defs.' MPSJ Ex. 38	402; 602; 801 and/or 802
324.	9/16/2020 U.S. Citizenship and Immigration Services, "About SAVE"	SOF ISO Opp'n to Defs.' MPSJ Ex. 39	402; 602; 801 and/or 802
325.	Expert Report of L. Minnite	N/A	402; 403; 701; 702; 703; 801 and/or 802; 1001-1004
326.	Expert Report of D. Chang	N/A	402; 403; 701; 702; 703; 801 and/or 802; 1001-1004
327.	Expert Report of E. Hersh	N/A	402; 403; 701; 702; 703; 801 and/or 802; 1001-1004
328.	Expert Report of T. Burch	N/A	402; 403; 701; 702; 703; 801 and/or 802; 1001-1004
329.	Expert Report of V. Burton	N/A	402; 403; 701; 702; 703; 801 and/or 802; 1001-1004
330.	Expert Report of M. McDonald	N/A	402; 403; 701; 702; 703; 801 and/or 802; 1001-1004
331.	10/11/2023 Declaration of M. McDonald	N/A	402; 403; 701; 702; 703; 801 and/or 802; 1001-1004
332.	Exhibit A to 10/11/2023 Declaration of M. McDonald	N/A	402; 403; 701; 702; 703; 801 and/or 802; 1001-1004
333.	Dr. Michael P. McDonald, Curriculum Vitae	N/A	None
334.	Table 1. Active Registered Voters and Voters Canceled for Status Reason of "Invalid Citizenship Proof" by County	N/A	402; 403; 702; 801 and/or 802; 1001-1004
335.	Table 2. Arizona Secretary of State Voter Registration Statistics by County: Active Registered Voters and Voters Suspended for Status Reason of "Invalid Citizenship Proof"	N/A	402; 403; 702; 801 and/or 802; 1001-1004
336.	Table 3. County Voter Registration Statistics: Active Registered Voters and Federal-Only Registered Voters	N/A	402; 403; 702; 801 and/or 802; 1001-1004

337.	Table 4. Statewide Voting-Age Population Race and Ethnicity Statistics for Select Populations	N/A	402; 403; 702; 801 and/or 802; 1001-1004
338.	Table 5. Statewide Surname Matched Race and Ethnicity Statistics for Select Populations	N/A	402; 403; 702; 801 and/or 802; 1001-1004
339.	Table 6. Statewide Age Statistics for Select Populations	N/A	402; 403; 702; 801 and/or 802; 1001-1004

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PX No.	DESCRIPTION	EXHIBIT/BATES	OBJECTIONS
340.	Table 7. Statewide Party Registration Statistics for Select Populations	N/A	402; 403; 702; 801 and/or 802; 1001-1004
341.	DHS Profiles on Naturalized Citizens - Fiscal Year 2015, https://www.dhs.gov/profiles-naturalized-citizens	N/A	402; 403; 602; 801 and/or 802; UT
342.	DHS Profiles on Naturalized Citizens - Fiscal Year 2016, https://www.dhs.gov/profiles-naturalized-citizens	N/A	402; 403; 602; 801 and/or 802; UT
343.	DHS Profiles on Naturalized Citizens - Fiscal Year 2017, https://www.dhs.gov/profiles-naturalized-citizens	N/A	402; 403; 602; 801 and/or 802; UT
344.	DHS Profiles on Naturalized Citizens - Fiscal Year 2018, https://www.dhs.gov/profiles-naturalized-citizens	N/A	402; 403; 602; 801 and/or 802; UT
345.	DHS Profiles on Naturalized Citizens - Fiscal Year 2019, https://www.dhs.gov/profiles-naturalized-citizens	N/A	402; 403; 602; 801 and/or 802; UT
346.	DHS Profiles on Naturalized Citizens - Fiscal Year 2020, https://www.dhs.gov/profiles-naturalized-citizens	N/A	402; 403; 602; 801 and/or 802; UT
347.	DHS Profiles on Naturalized Citizens - Fiscal Year 2021, https://www.dhs.gov/profiles-naturalized-citizens	N/A	402; 403; 602; 801 and/or 802; UT
348.	DHS Profiles on Naturalized Citizens - Fiscal Year 2022, https://www.dhs.gov/profiles-naturalized-citizens	N/A	402; 403; 602; 801 and/or 802; UT
349.	2006 OIG - SSA - Congressional Response Report Accuracy of the Social Security Administration's Numident File (A-08-06-26100 - Alternate Format), December 2006	N/A	402; 403; 602; 801 and/or 802; UT; C/D Plaintiffs' Exs. 349 and 350 appear to be duplicates. Please clarify.
350.	2006 OIG - SSA - Congressional Response Report Accuracy of the Social Security Administration's Numident File(A-08-06-26100), December 2006	N/A	402; 403; 602; 801 and/or 802; UT; C/D Plaintiffs Exs. 349 and 350 appear to be duplicates. Please clarify.

PX No.	DESCRIPTION	EXHIBIT/BATES	OBJECTIONS
351.	2009 Memorandum, from Inspector General, Patrick P. O'Carroll, Jr. to The Commissioner, subject: Quick Evaluation Response: Accuracy of the Help America Vote Verification Program Responses (A-03-09-29115), June 22, 2009	N/A	602; 801 and/or 802; UT
352.	2010 OIG - SSA, Monitoring Controls For The Help America Vote Verification Program, A-03-09-29114, AUDIT REPORT, November 2010	N/A	402; 602; 801 and/or 802; UT
353.	2012 OIG SSA Congressional Response Report Accuracy of the Social Security Administration's Numident File, (A-08-12-11280), AUDIT REPORT, October 2012	N/A	402; 602; 801 and/or 802; UT
354.	2018 OIG -SSA - Employers Reporting Wages with Nonwork Social Security Numbers (A-03-18-50537), September 2018	N/A	402; 403; 602; 801 and/or 802; UT
355.	2019 OIG -SSA - Individuals with Earnings Before Receiving Work-authorized Social Security Numbers (A-03-16-50132), July 2019	N/A	402; 403; 602; 801 and/or 802; UT
356.	"Voting Rights in Arizona," An Advisory Memorandum of the Arizona Advisory Committee to the U.S. Commission on Civil Rights, July 2018, https://www.usccr.gov/files/pubs/2018/07-25-AZ-Voting-Rights.pdf	N/A	602; 801 and/or 802; E; UT
357.	"PCAO Investigation Finds No Evidence for 2020 Voter Fraud in Pima County," News Release, Pima County Attorney, January 14, 2022 https://www.pcao.pima.gov/pcao-investigation-finds-no-evidence-of-2020-voter-fraud-in-pima-county/#:%7E:text=TUCSON%2C%20ARIZONA%20	N/A	602; 801 and/or 802; UT

PX No.	DESCRIPTION	EXHIBIT/BATES	OBJECTIONS
	%E2%80%93%20January%2014%2C%20incidents%20resulting%20in%20criminal%20prosecution		
358.	10/1/21 Email from B. Dul to Ducey and Brnovich, cc: Ruiz; Foster; Colyer; Kanefield; Roysden; Wright; Hobbs; Bones; Lorick; Gaona; Garielsen re: 2021 Elections Procedures Manual Submission (attaching 2021 EPM - October 1, 2021 Submission.docx; 2021 EPM - REDLIN.docx; 2021.10.01 Sec. Hobbs Ltr to Gov. Ducey & A.G. Brnovich re EMP.pdf)	AG002846 - AG003169	402; 801 and/or 802
359.	12/17/21 Email from B. Dul to Brnovich, cc: La Sota; Ducey; Foster; Hobbs; Bones; Flanagan re: Elections Procedures Manual (attaching 2021.12.17 Response to AGO Review of EPM.pdf)	AG003482 - AG003490	402; 801 and/or 802
360.	9/20/19 Email string from P. Asher to J. Wright; T. Lawson; B. Gadow, cc: J. Kanefield re: FW:Election Integrity Initiative	AG011671 - AG011672	402; 801 and/or 802
361.	12/9/21 Email string from T. La Sota to J. Kanefield re: FW: Correspondence with regard to the Arizona Procedures Manual (attaching EPM-AG amendments.pdf; Hobbs.ltr.12.9.21.pdf)	AG033328 - AG033540	402
362.	4/3/22 Email string from B. Roysden to D. Stefanski; R. Medina; J. Kanefield re: Draft Letter to President Fann (attaching 2022-04-04 Ltr to President Fann DRAFT 4-3 330pm.doc; 2022-04-04 Ltr to President Fann DRAFT 4-3 330pm.pdf)	AG039580 - AG039606	402; 602; 801 and/or 802
363.	12/22/21 Letter from M. Brnovich to K. Hobbs re: correspondence of 12/17/21 and 12/9/21 re Election Procedures Manual	AG046758	402

PX No.	DESCRIPTION	EXHIBIT/BATES	OBJECTIONS
364.	12/9/21 Letter from T. La Sota to K. Hobbs enclosing a draft of AG's redline of AZ Elections Procedures Manual	AG051443 - AG051750	402
365.	11/15/21 Email string from B. Dul to A. Foster; J. Argon; B. Roysden; J. Wright cc: W. Gaona; K. Lorick re: FW: 2021 Elections Procedures Manual Submission	AZSOS-002229 - AZSOS-002230	402; 801 and/or 802
366.	10/24/22 Email string from D. Sainz to C. Dyster re: MVD HAVA Checks Follow Up	AZSOS-0414947 - AZSOS-0414951	402; 403; 602; 801 and/or 802
367.	7/25/22 Email from J. Varner to K. Lorick; Y. Morales cc: R. Smith; T. Wengrzyn; A. Puri; J. Faddoul; K. Kumpf re: Auto Merging	AZSOS-103006	402; 602; 801 and/or 802
368.	10/19/22 Email from J. Lerma to K. Lorick; AVID Help; M. Sample; D. Hurstrom; K. Hobert cc: C. Dyster; R. Smith; Y. Morales re: MVD HAVA Checks Follow Up	AZSOS-239705	106; 402; 403; 801 and/or 802
369.	10/20/22 Email string from J. Fifield to K. Lorick cc: C.M. Hebert; S. Solis re: Fact check by fed only by 9 am if possible?	AZSOS-239989	106; 402; 403; 602; 801 and/or 802; F
370.	10/20/22 Email string from H. Hiser to K. Lorick; AVID HELP cc: C. Dyster; R. Smith; Y. Morales; G. Cazares; D. Sainz; M. Almeida re: MVD HAVA Checks Follow Up (attaching MVD_HAVA Notice Letter 2022 General.docx)	AZSOS-0338871 - AZSOS-0338874	402; 403; 602; 801 and/or 802
371.	10/21/2022 Email string from D. Sainz to H. Hiser; K. Lorick; AVID HELP cc: C. Dyster; R. Smith; Y. Morales; G. Cazares-Kelley; M. Almeida re: MVD HAVA Checks Follow Up	AZSOS-0411791 - AZSOS-0411794	402; 403; 602; 801 and/or 802
372.	2/9/23 Email string from K. Varvel to S. Richer; A. Fontes re: AVID Concerns. On behalf of Arizona Association of County Recorders	MC 000987 - MC 000990	402; 403; 602; 801 and/or 802

PX No.	DESCRIPTION	EXHIBIT/BATES	OBJECTIONS
373.	3/11/2022 Email chain from P. Fischer to J. Marson, Re: HB2492 - Questions for Proponents	Arizona Association of Counties Production	402; 403; 701; 801 and/or 802; UT
374.	MVD/Online Voter Registration & Statewide Voter Registration System	AZSOS-007831 - AZSOS007875	Cond. 402
375.	4/26/2023 Data Entry - MODS/Corrections on VMO3	MC 000888 - MC 000889	None
376.	7/28/2021 Pima County Recorder's Office - Voters Registration Form Data Entry Instructions	PIMA COUNTY 0064 - PIMA COUNTY 0155	None
377.	3/30/2023 Email chain from A. Puri to C. Connor, Cc'ng R. Smith, Re Secretary of State Budget, attaching SOS New Leg Enhancements Estimate.XLSX	AZSOS-300168 - AZSOS-300171	402; 403; 602; 701; 801 and/or 802; F; C/D
378.	Matching Criteria sheet [AZSOS-564547-48]	AZSOS-554547 - AZSOS-564548	None
379.	1/23/2023 Email chain from P. Hansen to D. Casner re: FW: 2492 and 2243	COCONINO-000023 - COCONINO-000024	701; 801 and/or 802; F
380.	10/27/2022 Email chain from G. Settles to C. Murphy re: PolitiFact Article Inquiry	AZSOS 241506 - AZSOS 241508	402; 403; 602; 801 and/or 802; F
381.	U.S. COMMISSION ON CIVIL RIGHTS, "An Assessment of Minority Voting Rights Access in the United States," 127 (2018), https://www.usccr.gov/files/pubs/2018/Minority_Voting_Access_2018.pdf	N/A	402; 403; 701; 801 and/or 802; E; UT
382.	ARIZONA DEPARTMENT OF HEALTH SERVICES, "Vital Records," (2023), https://www.azdhs.gov/licensing/vital-records/index.php#online-ordering-options	N/A	UT
383.	U.S. DEPARTMENT OF STATE, "United States Passport Fees," https://travel.state.gov/content/dam/passports/forms-fees/Fee%20Chart%202023.pdf	N/A	UT

PX No.	DESCRIPTION	EXHIBIT/BATES	OBJECTIONS
384.	"About the Maiden Name Analysis," THE NEW YORK TIMES, (June 27, 2015), https://www.nytimes.com/2015/06/28/upshot/about-the-maiden-name-analysis.html	N/A	402; 403; 602; 801 and/or 802; UT
385.	2/8/2022 Email from L. Hoffman to J. Marson re: 2792	Arizona Association of Counties Production	402; 602; 701; 801 and/or 802; UT
386.	3/14/2023 Email from P. Hansen to J. Marson et al re: HB2617 - Does the Amendment Change Your Position?	PIMA_COUNTY_1393 - PIMA_COUNTY_1394	402; 701; 801 and/or 802
387.	4/18/2022 Email from M. Sanchez to Elections@azsos.gov re: DPOC Form/Documents (Confidential)	AZSOS-0535439 - AZSOS-0535441	402; 801 and/or 802
388.	8/30/2022 Email from AVID to S. Stone, et al. re: AVID AZPRODENV - Report Issue 4590	AZSOS-0557255 - AZSOS-0557256	402; 403; 801 and/or 802
389.	8/30/2022 Email from Elections@azsos.gov to C. Kline re: Not registered for local elections - ID:37321 - Contact Elections	AZSOS-0543555 - AZSOS-0543556	402; 403; 801 and/or 802
390.	10/13/2022 Email from C. Herbert to H. Gilles re: number of voters affected by citizenship bill	AZSOS-238264 - AZSOS-238267	402; 403; 801 and/or 802; F
391.	10/18/2022 Email from Elections@azsos.gov to S. Earhart, et al. re: Federal ballot only?	AZSOS-0544639 - AZSOS-0544641	402; 403; 801 and/or 802
392.	Maricopa County Recorder's Office Response to Request for Production #4 - Total Numbers of Full Ballot & Federal Voters	MC 000869	None
393.	4/7/2023 Email from AVID Help to Undisclosed Recipients re: Super User Call Bulletin for 4/5/23	MC 001607 - MC 001609	402; 602; 801 and/or 802
394.	10/11/2022 Email from AVID to S. Howard re: AVID AZPRODENV - Report Issue 4653	AZSOS-0557986 - AZSOS-0557987	402; 403; 602; 801 and/or 802; F
395.	10/11/2022 Email from R. Smith to S. Howard, et al. re: 27980101 & 28010429	AZSOS-0557982 - AZSOS-0557985	402; 403; 602; 801 and/or 802; F

PX No.	DESCRIPTION	EXHIBIT/BATES	OBJECTIONS
396.	6/30/2023 Email from Elections@azsos.gov to L. Marra, et al. re: Fw Message from maryann kenney (+15085433292)	AZSOS-0551510	402; 403; 602; 801 and/or 802; F
397.	3/8/2022 Arizona Attorney General's Office 2020 General Investigation - Investigative Summary	AG000357 - AG000380	402; 602; 801 and/or 802
398.	9/19/2022 Memorandum from R. Grigsby to J. Johnson re: Election Review Summary	AG000384 - AG000391	402; 602; 801 and/or 802
399.	8/29/2022 Email from A. Bones to S. Solis & K. Lorick re: EIU Expense	AZSOS-0507756	402; 403; 602; 801 and/or 802; F
400.	11/17/2020 Letter from Clint Hickman to Maricopa County Voters, Maricopa Cnty. Bd. of Supervisors, https://www.maricopa.gov/DocumentCenter/View/64676/PR69-11-17-20-Letter-to-Voters	N/A	402; 602; 801 and/or 802; 701; 702; F; UT
401.	10/14/2021 Letter from J. Wright to Rep. M. Finchem re: Statements Regarding Evidence Related to Pima County 2020 General Election	AG000570	402; 602; 801 and/or 802
402.	10/19/2021 Email from J. Wright to Rep. M. Finchem re: URGENT Fwd: Meeting held by Pima County Democrats (Voter Fraud Planning meeting)	AG000566 - AG000569	402; 602; 801 and/or 802
403.	10/4/2022 Memo from SA R. Jackson to Special Agent J. Cope re: Case Closing SIS 2022-0009	AG008179 - AG008189	402; 602; 801 and/or 802
404.	JB EOC Presentation (Yolanda's Version) - "MVD/Online Voter Registration & Statewide Voter Registration System"	AZSOS-564546	None
405.	10/27/2022 Email from Y. Morales to R. Smith, et al. re: DUN Not Returning Match	AZSOS-241436 - AZSOS-241442	402; 602; 701; 801 and/or 802
406.	7/27/2022 Poder Latinx NVRA Letter re HB 2243's Noncompliance	N/A	Cond. 402; 701; 801 and/or 802
407.	6/3/2022 Poder Latinx NVRA Letter re HB 2492's Noncompliance	N/A	Cond. 402; 701; 801 and/or 802

PX No.	DESCRIPTION	EXHIBIT/BATES	OBJECTIONS
408.	4/6/2022 LUCHA Notice Letter re HB 2492	N/A	Cond. 402; 701; 801 and/or 802
409.	7/18/2022 LUCHA Notice Letter re: HB 2492 and 2243	N/A	Cond. 402; 701; 801 and/or 802
410.	7/18/2022 Notice Letter re: HB 2492 and 2243 on behalf of ITCA, San Carlos Apache Tribe, and Arizona Coalition for Change	N/A	Cond. 402; 701; 801 and/or 802
411.	Information for SAVE Users US Citizenship.2020	USCIS SAVE 000427 - USCIS SAVE 000430	402; 602; 801 and/or 802
412.	A Brief Historical Background to Arizona Use of SAVE for Voter Registration	USCIS SAVE 000446	402; 602; 801 and/or 802; F
413.	1/26/2018 Email chain from R. Rayner to E. Spencer, cc: J. Petty re: Coconino County Arizona Voter Registration	USCIS SAVE 000937 - USCIS SAVE 000959	402; 403; 602; 801 and/or 802
414.	11/28/2018 Email chain from E. Spencer to R. Rayner, cc: T. Wolfsohn; J. Mills; G. Sauter; K. Fisher RE Coconino County Arizona Voter Registration 1	USCIS SAVE 001450 - USCIS SAVE 001498	402; 403; 602; 701 801 and/or 802
415.	6/28/2022 Email chain from K. Lorick to W. Russell, Jr.; cc: G. Sauter; G. Harrop III; A. Chan Re: Arizona - Office of the Secretary of State SAVE agreement	USCIS SAVE 001524 - USCIS SAVE 001528	Duplicate of Plaintiffs' Ex. 272 (DEPO. EX. 190) 402; 403; 602; 801 and/or 802
416.	2492 and 2243 Implementation Notes	AZSOS-177074	402; 602; 701; 801 and/or 802; F
417.	Authorized Presence Values	AZSOS-001354	Cond. 402
418.	Dept of Homeland Security, Yearbook of Immigration Statistics 2013, Naturalization Supplementary Data Table 1d, available at https://www.dhs.gov/immigration-statistics/yearbook/2013 (2013 natzsuptable1d.xls)	N/A	402; 403; 602; 801 and/or 802; UT

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419.	Dept of Homeland Security, Yearbook of Immigration Statistics 2014, Naturalization Supplementary Data Table 1d, available at https://www.dhs.gov/immigration-statistics/yearbook/2014 (2014_natzsuptable1d.xls)	N/A	402; 403; 602; 801 and/or 802; UT
420.	Dept of Homeland Security, Yearbook of Immigration Statistics 2015, Naturalization Supplementary Data Table 1d, available at https://www.dhs.gov/immigration-statistics/yearbook/2015 (fy2015_natzsuptable1d.xls)	N/A	402; 403; 602; 801 and/or 802; UT
421.	Dept of Homeland Security, Yearbook of Immigration Statistics 2016, Naturalization Supplementary Data Table 1d, available at https://www.dhs.gov/immigration-statistics/yearbook/2016 (fy2016_natzsuptable1d.xls)	N/A	402; 403; 602; 801 and/or 802; UT
422.	Dept of Homeland Security, Yearbook of Immigration Statistics 2017, Naturalization Supplementary Data Table 1d, available at https://www.dhs.gov/immigration-statistics/yearbook/2017 (fy2017_natzsuptable1d.xlsx)	N/A	402; 403; 602; 801 and/or 802; UT
423.	Dept of Homeland Security, Yearbook of Immigration Statistics 2018, Naturalization Supplementary Data Table 1d, available at https://www.dhs.gov/immigration-statistics/yearbook/2018 (fy2018_natzsuptable1d.xlsx)	N/A	402; 403; 602; 801 and/or 802; UT
424.	Dept of Homeland Security, Yearbook of Immigration Statistics 2019, Naturalization Supplementary Data Table 1d, available at https://www.dhs.gov/immigration-statistics/yearbook/2019 (fy2019_natzsuptable1d.xlsx)	N/A	402; 403; 602; 801 and/or 802; UT

PX No.	DESCRIPTION	EXHIBIT/BATES	OBJECTIONS
425.	Dept of Homeland Security, Yearbook of Immigration Statistics 2020, Naturalization Supplementary Data Table 1d, available at https://www.dhs.gov/immigration-statistics/yearbook/2020 (fy2020_natzsuptable1d.xlsx)	N/A	402; 403; 602; 801 and/or 802; UT
426.	Dept of Homeland Security, Yearbook of Immigration Statistics 2021, Naturalization Supplementary Data Table 1d, available at https://www.dhs.gov/immigration-statistics/yearbook/2021 (fy2021_natzsuptable1d.xlsx)	N/A	402; 403; 602; 801 and/or 802; UT
427.	Dept of Homeland Security, Yearbook of Immigration Statistics 2022, Naturalization Supplementary Data Table 1d, available at https://www.dhs.gov/immigration-statistics/yearbook/2022 (2023_0818_ply_yearbook_naturalizations_fy2022.xlsx .xlsx)	N/A	402; 403; 602; 801 and/or 802; UT
428.	ADOT - Establishing Authorized Presence, Effective date: January 04, 2022; Review Due :January 04, 2024	ADOT001217 - ADOT001219	None
429.	10/27/2022 Email chain from Y. Morales to R. Smith; K. Lorick; C. Dyster; J. Fountain re: DLN Returning Match	AZSOS-241399 - AZSOS-241404	402; 403; 602; 701; 801 and/or 802
430.	11/8/2022 Email chain from R. Smith to D. Madsen; K. Kumpf; A. Puri; K. Lorick, cc: C. Dykstra; J. Petty; M. Johnson: Authorized Presence	AZSOS-245058 - AZSOS-245059	402; 602; 701; 801 and/or 802
431.	Elections Technology Team	AZSOS-267007 - AZSOS-267010	Cond. 402; 801 and/or 802; F
432.	Senior Elections Policy Manager - Prepared by Yolanda Morales	AZSOS-269304 - AZSOS-269309	Cond. 402; 801 and/or 802; F
433.	3/14/2022 Email chain from W. John to County Recorders re: HB2617 - Does the Amendment Change Your Position?	Arizona Association of Counties Production	402; 801 and/or 802; UT

PX No.	DESCRIPTION	EXHIBIT/BATES	OBJECTIONS
434.	ADOT Foreign Authorized Presence	ADOT000184-241	None
435.	Arizona DL/ID Requirements	AG033599	602; F
436.	13 AVID Counties Source of Registration	AZSOS-000633, AZSOS-302610	Cond. 402; 801 and/or 802; F; C/D
437.	Maricopa Source of Registration	AZSOS-000634, 302734, 303023	Cond. 402; 801 and/or 802; F; C/D
438.	Pima Source of Registration	AZSOS-000635, 302991, 302992	Cond. 402; 801 and/or 802; F; C/D
439.	1/18/22 Email from S. Solis to C. Murphy Hebert	AZSOS-005770-5772	402; 403; 602; 801 and/or 802
440.	1/18/22 Email from Y. Morales to AVID Help	AZSOS-005845-5847	402; 403; 602; 801 and/or 802
441.	Source Codes.xlsx	AZSOS-009287	Cond. 402
442.	2/9/22 Email from D. Casner to County Recordors	AZSOS-010346-10347	402; 701; 801 and/or 802

PX No.	DESCRIPTION	EXHIBIT/BATES	OBJECTIONS
443.	3/31/22 Email from S. Solis to Y. Morales et al	AZSOS-018106	402; 602; 801 and/or 802; F
444.	Settlement Agreement re: NVRA agencies	AZSOS-019321	106; 402; 403; 801 and/or 802; F
445.	4/28/2022 Email from L. Hoffman to A. Bones et al	AZSOS-024226-024227	Duplicate of Plaintiffs Ex. 250 (Depo Ex. 147). 402; 403; 602; 701; 801 and/or 802
446.	10/13/2022 Email Chain re: number of voters affected by citizenship bill	AZSOS-238254-238257	402; 403; 801 and/or 802; F
447.	Summary of the Data the Pima County Recorder's Office is Providing (will provide a copy)	N/A	U/T
448.	6/7/23 Email from S. Stone to AVID Help et al	AZSOS-0560583-560584	402; 403; 801 and/or 802; F
449.	DES/AHCCS Information about Registering to Vote	AZSOS-0560701-0560704	Cond. 402
450.	Project Investment Justification	AZSOS-0534681-534697	Cond. 402
451.	Email from L. Reynolds re: NASS Elections Committee	AZSOS-032322-032324	402; 602; 801 and/or 802; F

PX No.	DESCRIPTION	EXHIBIT/BATES	OBJECTIONS
452.	Federal Only Registrants as of July 5th, 2022	AZSOS-178156-178157	402; 801 and/or 802; F
453.	Maricopa County Precincts Total	AZSOS-239528-239541	Cond. 402
454.	10.20.22 Hailey Gilles email to C.Dyster et al	AZSOS-240065	106; 402; 403; 801 and/or 802; F
455.	Tiffany Anderson Comment on HB 2492 (will provide a copy)	N/A	402; 801 and/or 802; 701; UT
456.	“Arizona: 2020 Census,” The United States Census Bureau, August 25, 2021, https://www.census.gov/library/stories/state-by-state/arizona-population-change-between-census-decade.html	N/A	402; 602; 801 and/or 802; UT
457.	The Nation’s Report Card, “Data Tools: State Profiles: Arizona,” nationsreportcard.gov, (accessed August 22, 2023) https://www.nationsreportcard.gov/profiles/stateprofile/overview/AZ?cti=PgTab_OT&chort=1&sub=MAT&sj=AZ&fs=Grade&st=MN&year=2022R3&sg=Gender%3A%20Male%20vs.%20Female&sgv=Difference&ts=Single%20Year&tss=2022R3&sfj=NP	N/A	402; 602; 801 and/or 802; E; F; UT
458.	“Accountability & Research Data,” Arizona Department of Education, August 9, 2023, (accessed August 22, 2023) https://www.azed.gov/accountability-research/data/	N/A	Please provide intended exhibit (not in link provided) 402; 602; 801 and/or 802; E; UT

PX No.	DESCRIPTION	EXHIBIT/BATES	OBJECTIONS
459.	<p>“State Health Facts,” Kaiser Family Foundation, (accessed August 22, 2023) https://www.kff.org/other/state-indicator/poverty-rate-by-raceethnicity/?dataView=0&currentTimeframe=0&selectedDistributions=white--black--hispanic--asiannative-hawaiian-and-pacific-islander--american-indianalaska-native--multiple-races--total&selectedRows=%7B%22states%22:%7B%22arizona%22:%7B%7D%7D%7D&sortModel=%7B%22colId%22:%22Location%22,%22sort%22:%22asc%22%7D</p>	N/A	402; 602; 801 and/or 802; E; UT; 702
460.	<p>“My Tribal Area,” US Census Bureau https://www.census.gov/tribal/?st=04&aianihh=4200</p>	N/A	402; 602; 801 and/or 802; E; UT; 106
461.	<p>U.S. Commission on Civil Rights, <i>An Assessment of Minority Voting Rights Access in the United States: 2018 Statutory Enforcement Report</i> (Washington, 2018).</p>	N/A	402; 602; 801 and/or 802; E; UT; 701; 702
462.	<p>United States Commission on Civil Rights, <i>The Voting Rights Act: Ten Years After</i> (Washington D.C.: Government Printing Office, January 1975)</p>	N/A	402; 602; 701; 801 and/or 802; E; UT; 701; 702
463.	<p>Excerpts of Public Comments Submitted to the SOS on the 2023 EPM</p>	N/A	Please provide proposed excerpt (not in link provided) 402; 602; 801 and/or 802; UT; 106
464.	<p>July 2023 Arizona Voter Registration Statistics</p>	N/A	UT; F
465.	<p>United States Census Bureau’s 2021 5-Year American Community Survey B05003 series of tables provide statistics on Arizona’s voting-age population (VAP) by</p>	N/A	Please provide intended exhibit (not in link provided). 402; 602; 801 and/or 802; UT

PX No.	DESCRIPTION	EXHIBIT/BATES	OBJECTIONS
	race and, separately, by Hispanic ethnicity, for all persons of voting age and those who are naturalized citizens		
466.	NATIVITY BY LANGUAGE SPOKEN AT HOME BY ABILITY TO SPEAK ENGLISH FOR THE POPULATION 5 YEARS AND OVER Tables from 2020 ACS 5-Year Estimates (Table B16005 series).	N/A	402; 602; 801 and/or 802; UT
467.	B16008 Citizenship Status by Age by Language Spoken at Home 2021 ACS 5-Year Estimate	N/A	402; 602; 801 and/or 802; UT
468.	B05005 Period of Entry by Nativity and Citizenship Status in the United States 2021 ACS 5-Year Estimate	N/A	402; 602; 801 and/or 802; UT
469.	Arizona Secretary of State, Voting By Mail: How to Get a Ballot-by-Mail, https://azsos.gov/votebymail	N/A	402; 602; 801 and/or 802; UT; 106
470.	8/23/2023 Plaintiffs' Amended Notice of Deposition of Apache County Recorder's Office Pursuant to Rule 30(b)(6) [Depo Ex. 244]	DEPO. EX. 244	None
471.	8/24/2023 Plaintiffs' Amended Notice of Deposition of the Arizona Attorney General Pursuant to Rule 30(b)(6) [Depo Ex. 211]	DEPO. EX. 211	None
472.	8/3/2023 Promise Arizona Plaintiffs' and Consolidate Plaintiffs' Amended Notice of Deposition of the Arizona Department of Transportation Pursuant to Rule 30(b)(6) [Depo Ex. 104]	DEPO. EX. 104	None

PX No.	DESCRIPTION	EXHIBIT/BATES	OBJECTIONS
473.	8/9/2023 Plaintiffs' Second Amended Notice of Deposition of Cochise County Recorder's Office Pursuant to Rule 30(b)(6) [Depo Ex. 120]	DEPO. EX. 120	None
474.	7/31/2023 Plaintiffs' Notice of Deposition of Coconino County Recorder's Office Pursuant to Rule 30(b)(6) [Depo Ex. 166]	DEPO. EX. 166	None
475.	7/14/2023 Plaintiffs' Notice of Deposition of Gila County Recorder's Office Pursuant to Rule 30(b)(6) [Depo Ex. 129]	DEPO. EX. 129	None
476.	8/21/2023 Plaintiffs' Amended Notice of Deposition of Graham County Recorder's Office Pursuant to Rule 30(b)(6)[Depo Ex. 249]	DEPO. EX. 249	None
477.	8/1/2023 Plaintiffs' Notice of Deposition of Greenlee County Recorder's Office Pursuant to Rule 30(b)(6)[Depo Ex. 238]	DEPO. EX. 238	None
478.	8/11/2023 Plaintiffs' Notice of Deposition of La Paz County Recorder's Office Pursuant to Rule 30(b)(6) [Depo Ex. 228]	DEPO. EX. 228	None
479.	7/14/2023 Plaintiffs' Deposition Notice to Maricopa County Recorder Pursuant to Rule 30(b)(6) [Depo. Ex. 2]	DEPO. EX. 1	None
480.	7/28/2023 Plaintiffs' Amended Notice of Deposition of Mohave County Recorder's Office Pursuant Rule 30(b)(6) [Depo. Ex. 49]	DEPO. EX. 49	None
481.	7/1/2023 Plaintiffs' Notice of Deposition of Navajo County Recorder Pursuant to Rule 30(b)(6) [Depo. Ex. 36]	DEPO. EX. 36	None
482.	7/18/2023 Plaintiffs' Amended Notice of Deposition of Pima County Recorder Pursuant to Rule 30(b)(6) [Depo Ex. 62]	DEPO. EX. 62	None

PX No.	DESCRIPTION	EXHIBIT/BATES	OBJECTIONS
483.	7/27/2023 Plaintiffs' Second Amended Notice of Deposition of Pinal County Recorder's Office Pursuant to Rule 30(b)(6) [Depo Ex. 87]	DEPO. EX. 87	None
484.	7/27/2023 Plaintiffs' Amended Deposition Notice to the Santa Cruz County Recorder's Office Pursuant to Rule 30(b)(6) [Depo Ex. 98]	DEPO. EX. 98	None
485.	8/1/2023 Plaintiffs' Notice of Deposition of the Arizona Secretary of State Pursuant to Rule 30(b)(6) [Depo Ex. 260]	DEPO. EX. 260	None
486.	8/1/2023 Plaintiffs' Second Amended Notice of Deposition of Yavapai County Recorder's Office Pursuant to Rule 30(b)(6) [Depo Ex. 137]	DEPO. EX. 137	None
487.	8/18/2023 Plaintiffs' Amended Notice of Deposition of Yuma County Recorder's Office Pursuant to Rule 30(b)(6) [Depo Ex. 200]	DEPO. EX. 200	None
488.	8/14/2023 Subpoena to Testify in a Civil Action to USCIS [Depo Ex.182]	DEPO. EX. 182	None
489.	8/14/2023 Poder Latinx Plaintiffs and Promise Arizona Plaintiffs' Exhibit A to USCIS Subpoena to Testify at a Deposition in a Civil Action Pursuant to Federal Rules of Civil Procedure 30(b)(6) and 45 [Depo Ex.183]	DEPO. EX. 183	None
490.	2/9/2022 House Government & Elections hearing on HB2617 - Certified Audio Transcript	N/A	Cond. 106; 402; 602; 701; 801 and/or 802; UT
491.	2/14/2022 House Rules Committee hearing on HB2617 - Certified Audio Transcript	N/A	Cond. 106; 402; 602; 701; 801 and/or 802; UT

PX No.	DESCRIPTION	EXHIBIT/BATES	OBJECTIONS
492.	2/15/2022 House Democratic Caucus hearing on HB2617 - Certified Audio Transcript	N/A	Cond. 106; 402; 602; 701; 801 and/or 802; UT
493.	2/15/2022 House Republican Caucus hearing on HB2617 - Certified Audio Transcript	N/A	Cond. 106; 402; 602; 701; 801 and/or 802; UT
494.	3/11/2022 House Floor Session hearing on HB2617 - Certified Audio Transcript	N/A	Cond. 106; 402; 602; 701; 801 and/or 802; UT
495.	3/14/2022 Senate Government Committee hearing on HB2617 - Certified Audio Transcript	N/A	Cond. 106; 402; 602; 701; 801 and/or 802; UT
496.	5/23/2022 House Democratic Caucus hearing on HB2617 - Certified Audio Transcript	N/A	Cond. 106; 402; 602; 701; 801 and/or 802; UT
497.	5/23/2022 Senate Floor Session (Third Reading) hearing on HB2617 - Certified Audio Transcript	N/A	Cond. 106; 402; 602; 701; 801 and/or 802; UT
498.	5/23/2022 Senate Floor Session hearing on HB2617 - Certified Audio Transcript	N/A	Cond. 106; 402; 602; 701; 801 and/or 802; UT

<u>PX No.</u>	<u>DESCRIPTION</u>	<u>EXHIBIT/BATES</u>	<u>OBJECTIONS</u>
499.	6/22/2022 Senate Committee of the Whole hearing on HB2617 - Certified Audio Transcript	N/A	Cond. 106; 402; 602; 701; 801 and/or 802; UT
500.	6/22/2022 Senate Floor Session (Third Reading) hearing on HB2617 - Certified Audio Transcript	N/A	Cond. 106; 402; 602; 701; 801 and/or 802; UT

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Exhibit 6

RETRIEVED FROM DEMOCRACYDOCKET.COM

Mi Familia Vota vs. Adrian Fontes
Janine Petty

July 24, 2023

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UNITED STATES DISTRICT COURT

DISTRICT OF ARIZONA

Mi Familia Vota, et al.,)	
)	Case No:
Plaintiffs,	)	2:22-cv-00509-SRB
	)	(Lead)
vs.)	
	)	CV-22-00519-PHX-SRB
Adrian Fontes, in his official	)	CV-22-01003-PHX-SRB
capacity as Arizona Secretary of	)	CV-22-01124-PHX-SRB
State, et al.,	)	CV-22-01369-PHX-SRB
	)	CV-22-01381-PHX-SRB
Defendants.	)	CV-22-01602-PHX-SRB
	)	CV-22-01901-PHX-SRB

AND CONSOLIDATED CASES.

DEPOSITION OF MARICOPA COUNTY RECORDER

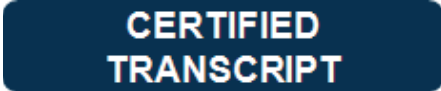
REPRESENTED BY JANINE PETTY

VIDEOTAPED

Phoenix, Arizona

July 24, 2023

Reported by:
Jody L. Lenschow, RMR, CRR
Certified Court Reporter
Certification No. 50192



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Mi Familia Vota vs. Adrian Fontes
Janine Petty

July 24, 2023

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VIDEOTAPED DEPOSITION OF MARICOPA COUNTY RECORDER

REPRESENTED BY JANINE PETTY

was taken on July 24, 2023, commencing at 9:33 a.m., at the Maricopa County Tabulation and Election Center, 510 S. Third Avenue, Phoenix, Arizona, before Jody L. Lenschow, RMR, CRR, Certified Reporter No. 50192 for the State of Arizona.

* * *

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ALSO PRESENT: Christopher Parkinson, Videographer

38

39

09:33:07 1 THE VIDEOGRAPHER: We are on the record.
09:33:08 2 The time on the video monitor is 9:33 a.m. Here begins
09:33:12 3 Volume 1, Media No. 1 in the Rule 30(b)(6) deposition of
09:33:17 4 Maricopa County Recorder's Office, represented by
09:33:20 5 Janine Petty, in the matter of Mi Familia Vota, et al.
09:33:25 6 versus Adrian Fontes, in his official capacity as
09:33:29 7 Arizona's Secretary of State, et al., in the United
09:33:32 8 States District Court, District of Arizona, Case
09:33:36 9 No. 2:22-cv-00509-SRB.

09:33:44 10 Today's date is July 24th, 2023. Our
09:33:46 11 court reporter is Jody Lenschow. My name is Christopher
09:33:49 12 Parkinson, certified legal videographer. We both
09:33:52 13 represent Coash Court Reporting & Video. This video
09:33:55 14 deposition is taking place at Maricopa County Tabulation
09:34:00 15 and Election Center.

09:34:00 16 Counsel, please identify yourselves and
09:34:02 17 state whom you represent.

09:34:04 18 MS. LANG: Danielle Lang. I represent the
09:34:07 19 LUCHA plaintiffs.

09:34:11 20 MR. JOHNSON: Hayden Johnson, LUCHA
09:34:12 21 plaintiffs.

09:34:16 22 MR. HUSENY: Sadik Huseny with Latham &
09:34:18 23 Watkins representing the Arizona Asian American Native
09:34:19 24 Hawaiian and Pacific Islander for Equity Coalition.

09:34:23 25 MR. FREEDMAN: John Freedman from Arnold &

09:34:25 1 Porter representing the Poder Latinx plaintiffs.

09:34:27 2 MS. CERVANTES: Erika Cervantes from

09:34:30 3 MALDEF representing Promise Arizona and Southwest Voter

09:34:34 4 Registration Education Project.

09:34:35 5 MR. HERRERA: Ernest Herrera from MALDEF

09:34:37 6 representing Promise Arizona Plaintiffs.

09:34:40 7 MS. FROST: Elisabeth Frost representing

09:34:41 8 the Mi Familia Vota plaintiffs.

09:34:44 9 MR. DODGE: Christopher Dodge, also

09:34:44 10 representing the Mi Familia Vota plaintiffs.

09:34:47 11 MR. VOLCHOK: Daniel Volchok from Wilmer

09:34:49 12 Hale representing the Democratic National Committee and

09:34:51 13 the Arizona Democratic Party.

09:34:52 14 MS. NESWOOD: Allison Neswood with the

09:34:54 15 Native American Rights Fund representing Tohono O'odham

09:34:58 16 Nation, the Gila River Indian Community, and three

09:35:01 17 Native American individuals.

09:35:02 18 MS. BRAILEY: Emily Brailey for the United

09:35:02 19 States.

09:35:05 20 MR. DELLHEIM: Richard Dellheim for the

09:35:06 21 United States.

09:35:07 22 MR. BASILE: Thomas Basile for the

09:35:10 23 Republican National Committee.

09:35:11 24 MR. HORLEY: Tim Horley for the Arizona

09:35:12 25 Attorney General and the State of Arizona.

09:35:14 1 MR. O'CONNOR: Jack O'Connor for the
09:35:15 2 Maricopa County Attorney's Office.

09:35:17 3 MS. CRITZ: Anna Critz for the Maricopa
09:35:19 4 County Attorney's Office.

09:35:19 5 MS. BOUGHTON: Kathryn Boughton for the
09:35:21 6 Arizona Attorney General and State of Arizona.

09:35:23 7 MS. STUART: Shayna Stuart for the Arizona
09:35:24 8 Secretary of State and Adrian Fontes.

09:35:31 9 THE VIDEOGRAPHER: Would the court
09:35:32 10 reporter please swear in the witness.

09:35:33 11

12 JANINE PETTY,
13 called as a witness herein, having been first duly sworn
14 by the Certified Court Reporter to speak the truth and
15 nothing but the truth, was examined and testified as
16 follows:

17

09:35:41 18

EXAMINATION

09:35:41 19 BY MS. LANG:

09:35:43 20 Q. All right. Good morning, Ms. Petty. Could you
09:35:46 21 state your full name for the record and spell your last
09:35:49 22 name?

09:35:49 23 A. Good morning. Janine Petty, P-E-T-T-Y.

09:35:53 24 Q. Great. Have you been deposed before,
09:35:58 25 Ms. Petty?

09:35:58 1 A. I have.

09:35:59 2 Q. Okay. So I'm going to go over some ground
09:36:01 3 rules, but they should be pretty familiar for you, but
09:36:03 4 let me know if you have any questions.

09:36:05 5 In order to make sure that the record is clear,
09:36:08 6 I want to ask that when we talk, we'll try not to talk
09:36:14 7 over each other like we might do in kind of normal
09:36:16 8 parlance. You'll wait for me to finish my question.
09:36:20 9 I'll always try to wait until you finish your answer.
09:36:22 10 Try to avoid saying things like huh-huh or uh-uh or
09:36:26 11 nodding your head or shaking your head no, but use yes
09:36:29 12 or no answers as well.

09:36:32 13 Do you understand that you're testifying under
09:36:33 14 oath today?

09:36:34 15 A. I do.

09:36:36 16 Q. And that a court reporter is transcribing this
09:36:39 17 deposition?

09:36:40 18 A. Yes.

09:36:42 19 Q. Okay. Is there any reason you can't testify
09:36:45 20 truthfully today?

09:36:46 21 A. No.

09:36:47 22 Q. Is there any reason that you can't give full,
09:36:49 23 complete and accurate testimony, any medications or
09:36:52 24 conditions that might prevent you from your full memory?

09:36:55 25 A. No.

09:36:58 1 Q. If at any time you'd like to take a break,
09:37:00 2 please let me know. The only thing I ask is that if
09:37:02 3 I've already asked a question, that you answer that
09:37:04 4 question, and then we'll go ahead and take a break.
09:37:06 5 Does that work?

09:37:07 6 A. Yes.

09:37:07 7 Q. Okay. So you mentioned that you have been
09:37:11 8 deposed before. Do you know how many times?

09:37:15 9 A. Two; twice, I believe.

09:37:16 10 Q. Okay. And in what capacity were you deposed in
09:37:20 11 those two instances?

09:37:22 12 A. At the Secretary of State's Office.

09:37:25 13 Q. And what was your role at the Secretary of
09:37:29 14 State's Office?

09:37:29 15 A. I was the Deputy State Elections Director.

09:37:32 16 Q. Okay. And in what cases were you deposed?

09:37:37 17 A. I don't remember the exact case, but it had to
09:37:39 18 do with publicity pamphlets.

09:37:42 19 Q. And both times that you were deposed, were they
09:37:44 20 about that same matter?

09:37:46 21 A. I believe so.

09:37:48 22 Q. Okay. And you've never been deposed in your
09:37:54 23 current role as a Maricopa County Recorder employee; is
09:37:58 24 that correct?

09:37:58 25 A. Correct.

09:38:00 1 Q. Okay. Did you bring any materials with you
09:38:02 2 today to the deposition, documents, things related to --

09:38:05 3 A. No.

09:38:08 4 Q. Okay. And you don't have any documents in
09:38:09 5 front of you today?

09:38:10 6 A. No.

09:38:12 7 Q. Okay. Can you briefly provide me a little bit
09:38:17 8 of information about your educational background?

09:38:19 9 A. Sure. I have, obviously, a high school
09:38:24 10 graduate. I have some college. I have my national
09:38:28 11 election administrative certification through Auburn
09:38:31 12 University and the Election Center.

09:38:34 13 I have most job on-the-job experience. I
09:38:37 14 worked for Yavapai County for over 18 years, mostly in
09:38:40 15 elections and voter registration. I worked for the
09:38:45 16 Secretary of State's Office for almost 6 years, and now
09:38:47 17 I have been here with Maricopa County almost 2 years.

09:38:48 18 Q. You mentioned some college. Where did you
09:38:50 19 attend --

09:38:51 20 MS. STUART: I'm sorry to interrupt. I
09:38:52 21 don't know if it's because of the fan or it's just
09:38:54 22 there's a lot of people on this side. Can you speak up
09:38:56 23 louder when you're answering?

09:38:57 24 THE WITNESS: Sure. Yes.

09:38:57 25 MS. STUART: And the same with you,

09:38:58 1 Danielle, just a little. Thank you.

09:39:00 2 MS. LANG: Okay.

09:39:00 3 THE WITNESS: Yavapai College.

09:39:03 4 BY MS. LANG:

09:39:03 5 Q. And you mentioned a certification from Auburn;

09:39:06 6 is that correct?

09:39:06 7 A. Yes.

09:39:07 8 Q. When did you receive that certification?

09:39:11 9 A. I want to say it was in two thousand and --

09:39:20 10 Q. An approximate is okay.

09:39:22 11 A. Somewhere in 2013.

09:39:25 12 Q. Okay. And what goes into kind of the education

09:39:28 13 for that certification?

09:39:30 14 A. There are a series of educational courses that

09:39:33 15 need to be taken that can take a few years to get

09:39:35 16 through those certifications. You have to fly back East

09:39:39 17 to attend the classes.

09:39:43 18 Q. And you reviewed some of your on-the-job

09:39:47 19 experience. I'm just going to delve into that a little

09:39:48 20 bit deeper. Starting with Yavapai, you mentioned that

09:39:53 21 you worked for Yavapai County for 18 years. Do you know

09:39:58 22 approximately how many of those were in elections?

09:40:02 23 A. From 2006 I did some temporary work, but then

09:40:09 24 in 2009 is when I completely started working for voter

09:40:13 25 registration and elections.

09:40:14 1 Q. And what was your role or roles over time at
09:40:19 2 the Yavapai County office?

09:40:20 3 A. I was a voter registration clerk. Then I
09:40:24 4 became the elections warehouse manager. From there I
09:40:28 5 was promoted to be the ballot programmer, and then from
09:40:31 6 there I was promoted to be the registrar of voters.

09:40:37 7 Q. And did you go from the Yavapai County office
09:40:43 8 to the Secretary of State's Office?

09:40:45 9 A. Yes.

09:40:45 10 Q. Okay. And when did you join the Secretary of
09:40:49 11 State's Office?

09:40:49 12 A. In 2015.

09:40:51 13 Q. Okay. And when you joined the Secretary of
09:40:54 14 State's Office, what was your role?

09:40:54 15 A. I was the Deputy State Elections Director for
09:40:57 16 Arizona.

09:40:58 17 Q. Okay. And did you maintain that role during
09:41:01 18 your entire tenure at the Secretary of State's Office?

09:41:05 19 A. Yes.

09:41:06 20 Q. Okay. And can you describe to me what your job
09:41:08 21 responsibilities were as Deputy Elections Director?

09:41:12 22 A. I oversaw the statewide voter registration
09:41:16 23 database. I also was part of the election equipment
09:41:19 24 advisory committee. I did all of the logic and accuracy
09:41:22 25 tests for every county prior to any large federal/state

09:41:26 1 election.

09:41:29 2 Q. Okay. And when did you join the Maricopa

09:41:34 3 County Recorder's Office?

09:41:36 4 A. 2021.

09:41:39 5 Q. When in 2021?

09:41:40 6 A. May, I believe.

09:41:44 7 Q. And did you join directly from the Secretary of

09:41:47 8 State's Office?

09:41:47 9 A. Yes.

09:41:54 10 Q. Okay. And what is your current role?

09:41:56 11 A. I'm the senior director of voter registration.

09:41:59 12 I oversee the Maricopa County voter registration

09:42:02 13 database for voter rolls

09:42:05 14 Q. Okay. And can you describe to me in a little

09:42:07 15 bit more detail what that means as far as your job

09:42:09 16 responsibilities within the office?

09:42:12 17 A. So I manage a team of about 20 people that do

09:42:16 18 the actual data entry. I make sure that our policies

09:42:20 19 and procedures are up-to-date, any new litigation or

09:42:24 20 legislation that impacts voter registration, you know,

09:42:27 21 I'm aware of, and then obviously the system that feeds

09:42:34 22 into AVID, which is a statewide voter registration

09:42:36 23 system, I am involved with all of that functionality.

09:42:40 24 Q. Great.

09:42:42 25 MS. LANG: I'm going to mark as Exhibit 1

09:42:45 1 plaintiff's notice of deposition.

09:42:55 2 (Deposition Exhibit 1 was marked for

09:42:57 3 identification.)

09:42:57 4 BY MS. LANG:

09:42:58 5 Q. Have you seen this document before?

09:43:00 6 A. Yes.

09:43:02 7 Q. And who provided it to you?

09:43:05 8 A. Maricopa County Attorney's Office.

09:43:08 9 Q. Okay. And turning to the second page that says

09:43:12 10 Exhibit A and the lengthy list thereafter, starting

09:43:19 11 where I've marked on a blue tab, there's a list of

09:43:22 12 topics. Have you reviewed the topics for this

09:43:24 13 deposition?

09:43:25 14 A. Yes.

09:43:27 15 Q. Okay. And you're prepared, to the best of your

09:43:29 16 ability, to address these topics today?

09:43:31 17 A. Yes.

09:43:34 18 Q. Okay. Did you meet with anyone from your

09:43:36 19 office to prepare for today's deposition?

09:43:39 20 A. From my office?

09:43:40 21 Q. Yes.

09:43:41 22 A. No.

09:43:46 23 Q. Okay. Did you meet -- without going into the

09:43:49 24 substance of your conversations, did you meet with your

09:43:52 25 attorney about this deposition?

09:43:55 1 A. Yes.

09:43:56 2 Q. How many times?

09:43:58 3 A. Once.

09:43:59 4 Q. Okay. And who did you meet with?

09:44:02 5 A. Jack and Anna.

09:44:07 6 Q. Okay. And about how long was that meeting?

09:44:11 7 A. 40 minutes.

09:44:12 8 Q. And when was that?

09:44:14 9 A. Last Friday.

09:44:19 10 Q. Okay. Was anyone else present other than

09:44:24 11 yourself, Jack and Anna?

09:44:25 12 A. No.

09:44:27 13 Q. Okay. Did you meet with anybody else other

09:44:30 14 than your attorneys in preparation for this deposition?

09:44:33 15 A. No.

09:44:39 16 Q. Okay. Did you review any documents to prepare

09:44:42 17 for this deposition?

09:44:46 18 A. No.

09:44:48 19 Q. Anything else that you did to prepare for

09:44:51 20 today's deposition?

09:44:53 21 A. I'm here with coffee.

09:44:56 22 Q. Fair enough.

09:44:59 23 And without getting into too many of the

09:45:01 24 details, what is your broad understanding of what the

09:45:04 25 lawsuit is about that brings us here today?

09:45:09 1 A. Broad understanding, there's two new bills that
09:45:11 2 have been signed into law that are being litigated in
09:45:16 3 reference to voter registration processing.

09:45:25 4 Q. Okay. And, second, I'll mark as Exhibit 2
09:45:37 5 the -- one of your first -- the first supplemental
09:45:41 6 response to the Equity Coalition request for
09:45:43 7 production.

09:45:47 8 (Deposition Exhibit 2 was marked for
09:45:53 9 identification.)

09:45:56 10 BY MS. LANG:

09:45:56 11 Q. Are you aware that your office has been asked
09:45:57 12 for various documents in this case?

09:46:00 13 A. Yes.

09:46:02 14 Q. And I don't know. Have you seen this document
09:46:04 15 before in particular?

09:46:06 16 A. I don't believe so.

09:46:07 17 Q. Okay. And I'll represent to you that this was
09:46:11 18 served on the plaintiffs as one of your responses to
09:46:14 19 those requests for production by your attorneys, and
09:46:19 20 this set of requests was issued in December and you
09:46:24 21 provided documents on a rolling basis.

09:46:28 22 Do you -- can you describe to me the steps that
09:46:34 23 your office has taken to respond to the requests for
09:46:38 24 documents that you've received?

09:46:42 25 MS. STUART: Form.

09:46:47 1 BY MS. LANG:

09:46:47 2 Q. I'll rephrase.

09:46:53 3 What steps has your office taken to search for
09:46:56 4 documents in your possession, custody or control
09:46:59 5 relevant to this lawsuit?

09:47:01 6 A. So our IT department did a search of documents
09:47:07 7 with keywords that were requested and pulled, any
09:47:14 8 documents that were -- that met the criteria for the
09:47:17 9 keyword searches that were done. I know that there was
09:47:20 10 some additional data requests that were made that we
09:47:23 11 were also requested of our IT department to pull the
09:47:27 12 data.

09:47:29 13 Q. Were you involved in the creation or -- of the
09:47:34 14 keywords for the searches?

09:47:35 15 A. Yes.

09:47:37 16 Q. Okay. And what did that process look like?

09:47:43 17 A. So I actually do remember. Some of this
09:47:46 18 document looks slightly different than what I initially
09:47:49 19 saw, but in reviewing the document, we would hit on the
09:47:52 20 key terms that like H.B. 2492, H.B. 2243.

09:48:00 21 Q. Okay. And I'll mark as Exhibit 3 another
09:48:04 22 response to requests for production. These requests
09:48:12 23 were issued by all the consolidated plaintiffs.

09:48:14 24 (Deposition Exhibit 3 was marked for
09:48:14 25 identification.)

09:48:14 1 BY MS. LANG:

09:48:22 2 Q. And does this document look familiar to you?

09:48:24 3 A. Yes.

09:48:28 4 Q. Okay. And was a similar process conducted to

09:48:32 5 find documents responsive to these requests as for the

09:48:36 6 other one that we just discussed?

09:48:38 7 A. Yes.

09:48:39 8 Q. Okay. And do you remember, were you also

09:48:44 9 involved in the keyword search development for this

09:48:48 10 request for production?

09:48:50 11 A. Yes.

09:48:51 12 Q. Okay. And do you recall -- do you recall when

09:49:06 13 your office did an additional search of records for this

09:49:10 14 request for production?

09:49:13 15 A. Can you say that again?

09:49:14 16 Q. Yeah. Do you recall when your office did the

09:49:17 17 keyword search to pull records for -- in response to

09:49:21 18 this request for production?

09:49:23 19 A. I don't remember the actual dates. I know that

09:49:25 20 there have been a couple productions that we've been

09:49:28 21 doing on a rolling basis.

09:49:29 22 Q. Okay. And do you have plans to kind of

09:49:32 23 continue doing rolling productions?

09:49:37 24 A. I believe that we produced everything that was

09:49:40 25 asked.

09:49:42 1 Q. Okay. So as far as you're aware, you're
09:49:44 2 finished with your productions at this point?

09:49:46 3 A. Yes.

09:49:50 4 Q. Okay. I'll mark as Exhibit 4 your office's
09:50:01 5 response to a first set of interrogatories issued by the
09:50:05 6 Equity Coalition.

09:50:10 7 (Deposition Exhibit 4 was marked for
09:50:10 8 identification.)

09:50:10 9 BY MS. LANG:

09:50:17 10 Q. Okay. And after you take a moment to look at
09:50:18 11 it, can you tell me if this is a document you recognize?

09:50:24 12 A. It is.

09:50:26 13 Q. Okay. And were you involved in helping prepare
09:50:29 14 the answers for these interrogatories?

09:50:32 15 A. Yes.

09:50:36 16 Q. Okay. And I believe you verified this document
09:50:38 17 with your signature; is that correct?

09:50:43 18 I'm not sure I have the verification page in
09:50:45 19 this, in this exhibit, but as I recall, you have
09:50:50 20 verified the interrogatories in this case; is that
09:50:53 21 correct?

09:50:53 22 A. Yes.

09:50:57 23 Q. Okay. And what steps did you take to prepare
09:51:00 24 your interrogatory responses here?

09:51:04 25 A. So I read what the interrogatory was asking and

09:51:09 1 I, through my position, did the research necessary. I
09:51:16 2 was already well-aware of H.B. 2492, and so just from my
09:51:26 3 on-the-job experience I was able to answer these
09:51:28 4 questions.

09:51:29 5 Q. Okay. Did you confer with anyone else in your
09:51:32 6 office in preparing the interrogatory responses?

09:51:35 7 A. No.

09:51:41 8 Q. And I'll mark as Exhibit 5 another set of
09:51:45 9 interrogatory responses, these ones from the
09:51:48 10 consolidated plaintiffs.

09:51:56 11 (Deposition Exhibit 5 was marked for
09:52:00 12 identification.)

09:52:00 13 BY MS. LANG:

09:52:00 14 Q. And after you have a moment to review, can you
09:52:02 15 let me know if you recognize this document?

09:52:10 16 A. I do.

09:52:11 17 Q. And my recollection is that you verified these
09:52:15 18 interrogatories as well, and I believe the last page is
09:52:17 19 your verification; is that correct?

09:52:27 20 A. Yes.

09:52:30 21 Q. Okay. And can you review with me the steps you
09:52:33 22 took to prepare these responses, understanding it may be
09:52:37 23 the same answer?

09:52:39 24 A. Yes. Again, I had knowledge of the two new
09:52:43 25 laws and I, through my position, know how we process

09:52:49 1 voter registration.

09:52:51 2 Q. And did you confer with anyone else in
09:52:53 3 preparing these responses other than your attorney?

09:52:56 4 A. No.

09:52:57 5 Q. Okay. Before we delve into some of the
09:53:07 6 specifics about this case I wanted to outline and get a
09:53:09 7 broad understanding of the Recorder's responsibilities
09:53:14 8 with respect to elections. So can you describe to me

09:53:17 9 what responsibilities fall within the County Recorder's
09:53:21 10 Office for helping to run elections for Maricopa County?

09:53:26 11 A. Sure. First and foremost, voter registration
09:53:29 12 falls under the Recorder's responsibilities, as well as
09:53:32 13 early voting.

09:53:37 14 Q. And does early voting include both in person
09:53:41 15 and by mail early voting?

09:53:43 16 A. It does.

09:53:43 17 Q. Okay. Does it include drop boxes?

09:53:48 18 A. Yes.

09:53:51 19 Q. Okay. And for in person early voting, is it
09:53:58 20 staff from the County Recorder's Office that manages
09:54:01 21 those sites?

09:54:03 22 A. So I don't oversee early voting, but it could
09:54:09 23 be County staff or it could be a City Clerk's Office,
09:54:12 24 depending on what the election is.

09:54:14 25 Q. Okay. And does the County Recorder's Office

09:54:18 1 process the early votes as well?

09:54:21 2 A. So we do signature verification on early

09:54:25 3 ballots.

09:54:32 4 Q. So can you help me understand the distinction

09:54:35 5 there? So a mail ballot comes into the office. Your

09:54:41 6 office is responsible for verifying the signature,

09:54:45 7 correct?

09:54:45 8 MS. STUART: Form.

09:54:48 9 THE WITNESS: Yeah, there's an early

09:54:50 10 voting team. The voter registration staff, which I

09:54:54 11 oversee, assists with doing signature verification, but

09:54:57 12 that's really on the early voting side.

09:55:06 13 BY MS. LANG:

09:55:06 14 Q. Okay. Can you describe to the best of your

09:55:09 15 understanding, and I recognize that this is not your

09:55:13 16 direct purview, the division of responsibilities with

09:55:18 17 the elections director and the County Recorder?

09:55:21 18 A. So there's two co-directors. One director does

09:55:27 19 the polling place election day. The other one does the

09:55:31 20 early voting and 90-day notices that get provided to

09:55:37 21 voters ahead of the federal election cycle. And that,

09:55:42 22 again, that falls under the purview of the Recorder,

09:55:45 23 that process. And so then voter registration is under

09:55:50 24 my directive.

09:55:55 25 Q. But just to be clear, the -- there is a

09:56:00 1 separate elections director that runs in person voting,
09:56:03 2 correct?

09:56:03 3 A. Election day voting, yes.

09:56:05 4 Q. Yes.

09:56:07 5 And what is the nature of the coordination
09:56:13 6 between the County Recorder's office and the election
09:56:16 7 director?

09:56:18 8 A. So there's an agreement that the elections
09:56:23 9 director follows with the Board of Supervisors and the
09:56:26 10 Recorder, and they outline in that agreement what the
09:56:29 11 distinctions are and responsibilities of each division.

09:56:35 12 Q. Great. And you mentioned that you manage a
09:56:41 13 staff of about 20. So I want to go into the staff and
09:56:46 14 organizational chart for the County Recorder's Office,
09:56:51 15 specifically for matters related to elections. I
09:56:54 16 understand the County Recorder handles other things, but
09:56:57 17 I'm just going to talk about elections.

09:57:00 18 My understanding is, you know, the person on
09:57:03 19 top of the organizational chart is the County Recorder
09:57:08 20 himself, Stephen Richer, correct?

09:57:09 21 A. Yes.

09:57:09 22 Q. Okay. Who is kind of the next person in the
09:57:14 23 organizational chart under County Recorder Richer?

09:57:18 24 A. So we have a Chief Deputy Recorder, which is
09:57:22 25 Darron Moffatt, and then we have a chief of staff, which

09:57:26 1 is Abby, and then there's me under voter registration.

09:57:34 2 Q. Do you have a counterpart on the early voting

09:57:38 3 side?

09:57:40 4 A. No.

09:57:41 5 Q. Okay. Who is in charge of the early voting

09:57:45 6 side of the responsibilities of the County Recorder?

09:57:49 7 A. The co-elections director, Rey Valenzuela.

09:57:57 8 Q. And does he work for the County Recorder's

09:58:01 9 Office?

09:58:01 10 A. Yes.

09:58:07 11 Q. Okay. And then within your division, can you

09:58:13 12 describe to me that 20 staff, who they are and what they

09:58:17 13 do?

09:58:18 14 A. Sure. I have a VR manager and then I have an

09:58:22 15 IT manager and then I have a compliance officer. Then

09:58:28 16 underneath that are our voter registration clerks and I

09:58:33 17 have two IT specialists.

09:58:39 18 Q. And who is the VR manager?

09:58:43 19 A. Carrie Dykstra.

09:58:44 20 Q. And who is the IT manager?

09:58:47 21 A. David Madsen.

09:58:49 22 Q. And who is the compliance officer?

09:58:50 23 A. William Crist.

09:58:55 24 Q. Next I'd like to discuss a little bit about the

09:58:58 25 relationship between the Secretary of State's Office and

09:59:01 1 the County Recorder's. Who or what entity is
09:59:10 2 responsible for interpreting Arizona's election laws in
09:59:14 3 the first instance?

09:59:17 4 A. Can you say that again?

09:59:19 5 MR. O'CONNOR: Objection, form.

09:59:22 6 MS. STUART: Form.

09:59:22 7 MR. BASILE: I just want to object. I
09:59:26 8 want to just make sure it's reflected on the record that
09:59:29 9 the RNC has agreed to automatically join objections by
09:59:34 10 any of the defense counsel to cut down on the number of
09:59:36 11 objections. I just want to make sure that's on the
09:59:38 12 record.

09:59:39 13 MR. O'CONNOR: Do we want to put that on
09:59:40 14 the record right now?

09:59:41 15 MS. LANG: Yes.

09:59:41 16 MR. O'CONNOR: Okay. Sorry.

09:59:41 17 So there's an agreement between the
09:59:43 18 Defendants Secretary of State, Attorney General's Office
09:59:46 19 State, Maricopa County Attorney, and the intervenors,
09:59:48 20 the Republican National Committee, that any objections
09:59:53 21 made are agreed to or are joined, and then if the State
10:00:02 22 Attorney General's Office and the Republican National
10:00:05 23 Committee can make their own independent objections as
10:00:08 24 well.

10:00:09 25 MS. STUART: For the Secretary of State as

10:00:11 1 well.

10:00:11 2 MR. O'CONNOR: Say that --

10:00:12 3 MS. STUART: You left Secretary of State

10:00:13 4 off. If we have --

10:00:13 5 MR. O'CONNOR: Oh, sorry.

10:00:14 6 MS. STUART: If we have an additional

10:00:14 7 objection, we'll make our own.

10:00:17 8 MS. LANG: Yes. Okay. Sounds good.

10:00:17 9 BY MS. LANG:

10:00:21 10 Q. Who or what entity is responsible for

10:00:24 11 interpreting Arizona's election laws?

10:00:29 12 A. My personal feeling is that it's the job of

10:00:32 13 everybody that's doing elections to understand the law,

10:00:35 14 and if they don't, they should seek legal counsel

10:00:38 15 advice.

10:00:41 16 Q. Okay. What role does the Arizona Secretary of

10:00:44 17 State's Office play in interpreting Arizona's election

10:00:48 18 laws?

10:00:49 19 A. The Secretary of State's Office would provide

10:00:52 20 guidance to the counties in order to maintain uniformity

10:00:57 21 throughout the state.

10:00:59 22 Q. And by what mechanisms or mechanism or

10:01:03 23 mechanisms does the Secretary of State's Office give

10:01:07 24 County Recorders guidance about application of Arizona's

10:01:11 25 election laws?

10:01:13 1 A. So they have regular meetings with the counties
10:01:17 2 and there's the elections procedures manual, which is
10:01:21 3 created in collaboration with the counties, and we also
10:01:24 4 have a VRAC committee, which is a voter registration
10:01:28 5 advisory committee, in which the Secretary of State's
10:01:32 6 Office historically has written papers for guidance to
10:01:38 7 the counties.

10:01:43 8 Q. With the exception of the election procedures
10:01:45 9 manual, which we'll discuss in a moment, are the County
10:01:53 10 Recorders bound by any other guidance or papers given by
10:01:57 11 the Secretary of State's Office about how to apply
10:02:01 12 election law?

10:02:02 13 MS. STUART: Form.

10:02:06 14 THE WITNESS: So the Secretary of State's
10:02:08 15 Office provides guidance. It is not legal binding.
10:02:12 16 It's guidance. I think that if a county had concerns
10:02:16 17 with the guidance, that they would seek their County
10:02:24 18 Attorney.

10:02:24 19 BY MS. LANG:

10:02:24 20 Q. Thank you.

10:02:24 21 So I think what I heard you say is that outside
10:02:27 22 of the elections procedures manual, the Secretary of
10:02:34 23 State's guidance is guidance only and is not legally
10:02:37 24 binding on the County Recorders, correct?

10:02:39 25 A. Correct.

10:02:45 1 Q. So now I do want to talk about the election
10:02:48 2 procedures manual, and so I will mark that as Exhibit 6.
10:02:55 3 The exhibit is only the front page, the
10:02:58 4 table of contents, and the chapter on voter
10:03:10 5 registration?
10:03:10 6 (Deposition Exhibit 6 was marked for
10:03:13 7 identification.)
10:03:13 8 BY MS. LANG:
10:03:13 9 Q. And I'll just note you'll want to keep this one
10:03:16 10 kind of handy throughout the deposition because we'll
10:03:19 11 probably refer back to it a number of times.
10:03:22 12 But, first, can you describe to me what
10:03:29 13 function the election procedures manual plays in
10:03:35 14 governing application of election law procedures?
10:03:39 15 A. The elections procedures manual is created in
10:03:43 16 collaboration with the counties. It offers guidance
10:03:46 17 that it has the force of law for making some statutes
10:03:51 18 that might not be clear. So it fully delineates
10:03:55 19 processes that the counties must follow in the
10:03:58 20 procedures manual.
10:04:00 21 Q. So I think you already said this, but just to
10:04:03 22 make the record crystal clear, unlike other guidance
10:04:06 23 from the Secretary of State's Office, the elections
10:04:09 24 procedure manual is binding on County Recorders; is that
10:04:13 25 correct?

10:04:13 1 A. That is --

10:04:13 2 MS. STUART: Form.

10:04:14 3 THE WITNESS: That's correct.

10:04:17 4 BY MS. LANG:

10:04:17 5 Q. And this is labeled the 2019 elections

10:04:20 6 procedures manual, correct?

10:04:23 7 A. Yes.

10:04:24 8 Q. And is this the operative version of the

10:04:27 9 election procedures manual at this time?

10:04:29 10 A. Yes.

10:04:32 11 Q. How often is the elections procedure manual

10:04:35 12 supposed to be updated?

10:04:37 13 A. Before every general election.

10:04:40 14 Q. Was it updated before the 2022 election?

10:04:44 15 A. No.

10:04:46 16 Q. And do you know why or why not?

10:04:48 17 MS. STUART: Form.

10:04:51 18 MS. BOUGHTON: Form.

10:04:51 19 BY MS. LANG:

10:04:52 20 Q. Do you know why not?

10:04:56 21 A. No.

10:05:06 22 Q. As I mentioned earlier, Chapter 1 of the manual

10:05:09 23 covers voter registration procedures. Is it your

10:05:15 24 understanding that Chapter 1 of the election procedures

10:05:18 25 manual is binding on you and all County Recorders?

10:05:24 1 A. Yes. I will say that there are new laws that
10:05:27 2 have since been implemented that are not in the 2019
10:05:31 3 manual.

10:05:32 4 Q. Okay. Understood.

10:05:39 5 Are you aware of any counties that do not
10:05:42 6 believe that this part of the elections procedures
10:05:46 7 manual, the voter registration chapter, is binding on
10:05:49 8 them?

10:05:51 9 MS. BOUGHTON: Form.

10:05:52 10 MR. O'CONNOR: Form.

10:05:52 11 BY MS. LANG:

10:05:52 12 Q. Are you aware of any counties that believe that
10:05:54 13 Chapter 1 of the elections procedures manual is not
10:05:56 14 legally binding on the County Recorders?

10:06:00 15 MS. STUART: Form.

10:06:01 16 BY MS. LANG:

10:06:01 17 Q. Go ahead.

10:06:02 18 A. I do not know of any counties that feel that
10:06:05 19 way.

10:06:10 20 Q. Are you aware of any counties that do not
10:06:13 21 follow the elections procedures manual Chapter 1
10:06:15 22 procedures on voter registration?

10:06:18 23 MS. BOUGHTON: Form.

10:06:19 24 MR. O'CONNOR: Form.

10:06:21 25 THE WITNESS: I can't speak for other

10:06:22 1 counties.

10:06:27 2 BY MS. LANG:

10:06:28 3 Q. You mentioned that there are new laws that are

10:06:31 4 not reflected in the 2019 manual. How does your office

10:06:37 5 reconcile the elections procedures manual and laws that

10:06:42 6 have been passed since the last elections procedures

10:06:47 7 manual was issued?

10:06:49 8 A. So we are aware of new laws that have been

10:06:54 9 implemented and we follow them. If we have questions,

10:06:56 10 we would seek our County Attorney's guidance. I think

10:07:00 11 most of the new laws that have happened since 2019 there

10:07:04 12 hasn't, until recently, hasn't had too many issues. I

10:07:07 13 mean they're pretty cut and dry.

10:07:09 14 Q. And does the Secretary of State provide

10:07:12 15 guidance on how to apply those new laws outside of the

10:07:19 16 elections procedures manual?

10:07:22 17 A. Yes.

10:07:22 18 MS. STUART: Form.

10:07:27 19 THE COURT REPORTER: You've got to be

10:07:28 20 louder. There's no mike.

10:07:34 21 MS. STUART: I will. Thank you.

10:07:34 22 BY MS. LANG:

10:07:35 23 Q. You mentioned the voter registration advisory

10:07:37 24 committee. Can you describe to me a little bit further

10:07:39 25 what that committee is and what it does?

10:07:43 1 A. Sure. It is made up of every County Recorder
10:07:48 2 or their designee and the Secretary of State or their
10:07:51 3 designee, and they meet and talk about laws that maybe
10:07:58 4 aren't as clear, that we need some guidance on how to
10:08:02 5 implement them uniformly so every county is doing it in
10:08:06 6 the same way.

10:08:10 7 Q. And what is your role on that committee?

10:08:16 8 A. So I would be just a subject matter expert. If
10:08:19 9 the Recorder has me be his proxy, then I would
10:08:23 10 potentially have a voting role in the meeting.

10:08:26 11 Q. Does the County Recorder sometimes send you as
10:08:32 12 his designee to those meetings?

10:08:33 13 A. Yes.

10:08:35 14 Q. Okay. What -- as a subject matter expert, how
10:08:43 15 do you contribute to the work of the voter registration
10:08:47 16 advisory committee?

10:08:50 17 A. So I am very well-versed in voter registration
10:08:53 18 processes and I also understand the functionality of the
10:08:57 19 statewide system, as well as Maricopa's voter
10:09:00 20 registration system, so I offer my input based on that
10:09:02 21 knowledge.

10:09:08 22 Q. I'm going to mark as Exhibit 7 a document
10:09:16 23 Bates-stamped MC 002195.

10:09:26 24 (Deposition Exhibit 7 was marked for
10:09:28 25 identification.)

10:09:28 1 BY MS. LANG:

10:09:28 2 Q. And I'll ask you to flip to the last page,

10:09:30 3 which is MC 002198. Do you see that?

10:09:35 4 A. I do.

10:09:36 5 Q. Are you familiar with this document?

10:09:38 6 A. Yes.

10:09:39 7 Q. And can you describe it to me?

10:09:41 8 A. So this is the mission and process for the

10:09:47 9 voter registration advisory committee.

10:09:50 10 Q. Okay. And under frequency of meetings it says

10:09:55 11 as needed, correct?

10:09:58 12 A. Yes.

10:09:59 13 Q. And in your experience, how frequent are those

10:10:03 14 meetings?

10:10:04 15 A. They're not very frequent.

10:10:07 16 Q. Okay. In a given year, how many times might

10:10:09 17 the committee meet?

10:10:13 18 A. Maybe a handful of times. It just really

10:10:17 19 depends on if there's an issue that needs to be

10:10:18 20 discussed. There may be months where there's no issue.

10:10:28 21 Q. And under the kind of issue papers process

10:10:32 22 here, I see in the fifth bullet point down that it says

10:10:38 23 VRAC must come to a consensus on the final issue paper

10:10:42 24 for it to be adopted; is that correct?

10:10:43 25 A. Yes.

10:10:44 1 Q. And so is it the case that if one county
10:10:48 2 objects to an issue paper, it will not be adopted by the
10:10:51 3 committee?

10:10:55 4 A. Yes.

10:11:04 5 Q. Okay. You mentioned that historically the
10:11:10 6 Secretary of State's office has taken a lead role in
10:11:13 7 drafting these issue papers; did I understand that
10:11:15 8 correctly?

10:11:16 9 A. Yes.

10:11:16 10 Q. Okay. Is that the case now?

10:11:19 11 MS. STUART: Form.

10:11:20 12 BY MS. LANG:

10:11:21 13 Q. Is it the case that currently the Secretary of
10:11:24 14 State is taking the lead role in drafting VRAC issue
10:11:29 15 papers?

10:11:29 16 MS. STUART: Form.

10:11:31 17 MS. LANG: Can you describe?

10:11:32 18 MS. STUART: Foundation. She's not at the
10:11:35 19 State's office anymore, Secretary of State's office, so
10:11:37 20 how would she be able to provide that information?

10:11:41 21 BY MS. LANG:

10:11:41 22 Q. To the best of your understanding --

10:11:46 23 MS. LANG: Well, to respond to your
10:11:47 24 question, she's part of -- she participates in the
10:11:50 25 committee and so would understand who is drafting the

10:11:55 1 issue papers.

10:11:56 2 MS. STUART: I think if -- sorry.

10:11:56 3 MS. LANG: Go ahead.

10:11:58 4 MS. STUART: Oh, I was going to say if you
10:12:00 5 cushion the question that way, I think it would be more
10:12:02 6 appropriate foundation-wise.

10:12:06 7 BY MS. LANG:

10:12:06 8 Q. Okay. Based on your work on the committee, who
10:12:10 9 is currently taking the lead on drafting VRAC issue
10:12:14 10 papers?

10:12:17 11 A. I feel right now that there has been a change
10:12:21 12 to the historical way that they have been drafted, and
10:12:25 13 there's been a push for the members to start drafting
10:12:28 14 papers and facilitating them to the Secretary of State's
10:12:33 15 for review.

10:12:35 16 Q. Okay. And so, for example, my understanding
10:12:37 17 from the review of the documents is that there is
10:12:40 18 currently an issue paper that has been drafted. I'm not
10:12:44 19 sure if it's been adopted yet, and we'll get to that,
10:12:47 20 about the new juror questionnaire process; is that
10:12:52 21 correct?

10:12:52 22 MS. STUART: Form.

10:12:54 23 BY MS. LANG:

10:12:54 24 Q. Is there currently an issue paper in
10:12:58 25 development on the new juror questionnaire process?

10:13:03 1 A. There was a draft that has since been revoked.

10:13:08 2 So there is not a draft any longer available to the

10:13:13 3 counties.

10:13:14 4 Q. Okay. Who produced that draft before it was

10:13:22 5 revoked?

10:13:23 6 MS. STUART: Form.

10:13:26 7 BY MS. LANG:

10:13:27 8 Q. Your understanding.

10:13:27 9 And to be clear, if I don't rephrase after

10:13:30 10 there's a form objection, you can go ahead and answer.

10:13:32 11 A. Okay. Colleen Connor is the state elections

10:13:37 12 director.

10:13:39 13 Q. Do you know, was it communicated to you why

10:13:44 14 that draft paper was being revoked?

10:13:48 15 A. Yes.

10:13:49 16 Q. And what was the reason given for the

10:13:51 17 revocation of the draft?

10:13:53 18 A. That the cases were being litigated and the

10:13:57 19 Secretary of State's Office did not want to provide

10:13:59 20 guidance at that point.

10:14:01 21 Q. Okay. What is the role -- well, what is your

10:14:18 22 understanding of what the Arizona Association of

10:14:21 23 Counties is?

10:14:23 24 A. So the Arizona Association of Counties

10:14:28 25 basically works with the county election directors, as

10:14:34 1 well as the County Recorders. They're an advocate, help
10:14:38 2 especially with new litigation and legislation.

10:14:45 3 Q. And what is Maricopa County -- what is the
10:14:49 4 Maricopa County Recorder's involvement with the Arizona
10:14:55 5 Association of Counties?

10:14:55 6 A. So they have affiliate meetings at conferences,
10:15:00 7 and when the Recorders are thinking about proposing new
10:15:04 8 laws, they work with the Association of Counties to
10:15:09 9 propose those.

10:15:11 10 Q. Would it be fair to say that the Arizona
10:15:14 11 Association of Counties often works as a lobbyist in
10:15:19 12 favor or against various election laws based on the
10:15:24 13 views of the counties?

10:15:24 14 MR. O'CONNOR: Form.

10:15:25 15 MS. STUART: Form.

10:15:25 16 BY MS. LANG:

10:15:26 17 Q. Go ahead.

10:15:26 18 A. Yes.

10:15:30 19 Q. Okay. And my understanding is that Recorder
10:15:33 20 Richer is on the legislative committee for the Arizona
10:15:36 21 Association of Counties; is that correct?

10:15:38 22 A. I don't know.

10:15:42 23 Q. Okay. Do you know what the Arizona Association
10:15:45 24 of Counties' position was on the challenged laws in this
10:15:48 25 case?

10:15:49 1
10:15:54 2
10:16:03 3
10:16:10 4
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10:16:20 6
10:16:24 7
10:16:26 8
10:16:28 9
10:16:29 10
10:16:31 11
10:16:35 12
10:16:40 13
10:16:41 14
10:16:44 15
10:16:45 16
10:16:48 17
10:16:48 18
10:16:51 19
10:16:55 20
10:16:59 21
10:17:00 22
10:17:12 23
10:17:15 24
10:17:18 25

A. I don't recall.

Q. Okay. When the legislature is in session and considering election laws, who within the Arizona Association of Counties works on that legislation in collaboration with the counties?

MR. O'CONNOR: Form.

THE WITNESS: I can't remember her name off the top of my head right now.

BY MS. LANG:

Q. Okay. Is there a dedicated person at the Arizona Association of Counties that serves a primary role in communicating about current legislation?

A. Yes.

Q. Okay. And you just can't recall her name at the moment?

A. It just -- it's gone, yeah.

Q. Fair enough.

And what type of communications do you receive from the Arizona Association of Counties about pending legislation during the legislative session?

A. So I don't.

Q. Okay. Would that be communication that would go to the County Recorder himself?

A. Yes.

Q. Okay. Are you ever asked to provide input on

10:17:22 1 pending legislation to help form the Arizona Association
10:17:30 2 of Counties' position?
10:17:31 3 A. Yes.
10:17:34 4 Q. Okay. And what does that process look like?
10:17:38 5 A. So the proposed new legislation would be
10:17:42 6 provided to me for review and input, and I would review
10:17:46 7 it based upon my current knowledge; and, also, if it
10:17:50 8 would change the functionality of the system, how that
10:17:55 9 could potentially impact us.
10:17:58 10 Q. Okay.
10:18:02 11 A. Oh, I remember her name, Jen Marson. There it
10:18:05 12 is.
10:18:05 13 Q. Thank you very much.
10:18:10 14 And what is the AVID enhancement committee?
10:18:14 15 A. It's the access voter information database.
10:18:20 16 It's a committee that is set up by the AVID steering
10:18:23 17 committee, and they discuss any new enhancements to the
10:18:27 18 statewide system.
10:18:28 19 Q. And when you say enhancements, is enhancements
10:18:33 20 a term for any kind of modification or change to the
10:18:36 21 system?
10:18:38 22 A. Yes.
10:18:41 23 Q. Okay. And what is your role on that committee?
10:18:44 24 A. I am the co-chair.
10:18:46 25 Q. Okay. And who is your co-chair?

10:18:49 1 A. Holly Robinson.

10:18:50 2 Q. Okay. And she's with what office?

10:18:53 3 A. Pinal County Recorder.

10:18:57 4 Q. Got it.

10:19:02 5 And who or what is I-N-E-X-L, INEXL?

10:19:08 6 A. INEXL is the vendor for the statewide voter

10:19:14 7 registration system.

10:19:14 8 Q. Okay. So we've gone over a number of different

10:19:21 9 committees and ways in which the County Recorders and

10:19:25 10 the Secretary of State work together. Are there any

10:19:27 11 other means of collaborating and communicating with the

10:19:32 12 Secretary of State and fellow County Recorders about

10:19:36 13 voter registration that we have not discussed?

10:19:39 14 A. There is a superusers meeting every week with

10:19:44 15 the counties, most specifically voter registration

10:19:49 16 geared, just us, issues with the system or any updates

10:19:53 17 that we need to be aware of.

10:19:56 18 Q. Is there a listserv for communication between

10:19:59 19 the County Recorders and their voter registration staff?

10:20:03 20 A. Is there a list?

10:20:04 21 Q. A listserv or e-mail list or -- I'm just trying

10:20:08 22 to get at what other means of communication you all have

10:20:12 23 for sharing information and collaborating.

10:20:16 24 A. Yes, there's an e-mail list that goes out to

10:20:19 25 all the superusers of the system.

10:20:21 1 Q. And who would fall within the category of
10:20:25 2 superusers?

10:20:25 3 A. So these would be Chief Deputy Recorders,
10:20:31 4 people like registrar of voters, voter registration
10:20:35 5 directors.

10:20:43 6 Q. Okay. Next I'd like to walk through kind of
10:20:46 7 the voter registration process generally, how voters can
10:20:48 8 register to vote.

10:20:50 9 So what are the various methods that a
10:20:52 10 potential voter can use to register to vote?

10:20:54 11 A. There's the paper forms, the state form, the
10:20:58 12 national form. We have online registration through MVD.
10:21:02 13 We have the FPCAs for UOCAVA registration.

10:21:10 14 Q. And also federal write-in absentee ballots; is
10:21:15 15 that correct?

10:21:15 16 A. Yes, FWAB, yes.

10:21:19 17 Q. And getting into the online system, my
10:21:26 18 understanding is that there's kind of two different ways
10:21:28 19 that someone can register to vote online; is that
10:21:32 20 correct?

10:21:32 21 A. There's currently two different systems.

10:21:35 22 Q. Okay. Can you describe those two systems to
10:21:36 23 me?

10:21:37 24 A. So the first one would be Service Arizona. The
10:21:41 25 person can just go online specifically for voter

10:21:44 1 registration. And then there's also a program called
10:21:47 2 MVD Now, which would be somebody that's going to have an
10:21:51 3 MVD transaction and then also updates or registers to
10:21:54 4 vote during that process.

10:21:55 5 Q. Okay. And just for the record, MVD refers to
10:22:01 6 the Motor Vehicles Division, correct?

10:22:03 7 A. Yes.

10:22:07 8 Q. Okay. In addition to the methods we've just
10:22:09 9 discussed, can voters register to vote when they have an
10:22:13 10 in person interaction at the Motor Vehicles Division?

10:22:16 11 A. Yes.

10:22:20 12 Q. Okay. And is it the case that other agencies
10:22:24 13 within the state of Arizona also administer voter
10:22:29 14 registration?

10:22:29 15 A. Yes.

10:22:30 16 Q. And what are those agencies?

10:22:32 17 A. It would be our public assistance agencies;
10:22:37 18 DES, also AHCCCS.

10:22:44 19 Q. Okay. And what is the deadline for voter
10:22:48 20 registration in Arizona?

10:22:50 21 A. 29 days before an election.

10:22:55 22 Q. And can you walk me through the overall process
10:23:00 23 when the Recorder's Office receives a voter registration
10:23:04 24 application? And for the purposes of this discussion we
10:23:07 25 can assume that application is a paper form.

10:23:11 1 A. Okay. So the form would be received in our
10:23:13 2 office. It would go through a process to make sure that
10:23:18 3 it's complete. It gets scanned in, and then those scans
10:23:24 4 are processed in the system. The data entry is done.
10:23:29 5 Then it would go through a process of making
10:23:33 6 sure there's not a duplicate match in the current
10:23:37 7 system. If there was, then that voter registration
10:23:40 8 would be used to update. If there was not, then a new
10:23:43 9 record would be created.

10:23:44 10 From there a variety of different checks are
10:23:47 11 done. We check the deceased tables to see if the person
10:23:53 12 has already been listed as deceased. It would then go
10:23:56 13 through MVD for validation, if there was an Arizona
10:23:59 14 driver's license or identification number that was
10:24:01 15 provided or SSN.

10:24:06 16 And then from there, whatever the determination
10:24:07 17 would be. As long as there was no other deficiencies in
10:24:13 18 the form, the voter would be added to the rolls as
10:24:17 19 either a full ballot voter or federal only voter.

10:24:19 20 Q. Okay. Thank you.

10:24:19 21 For the data entry piece, is that done
10:24:22 22 manually?

10:24:23 23 A. Yes.

10:24:23 24 Q. Okay. So somebody looks at the application and
10:24:28 25 types in the name and the date of birth and all that?

10:24:30 1 A. Yes.

10:24:30 2 Q. Okay. And you mentioned the MVD check. What
10:24:43 3 is your understanding of how that MVD check occurs, and
10:24:45 4 what do you kind of see in your interface after that MVD
10:24:51 5 check occurs?

10:24:52 6 MR. O'CONNOR: Form.

10:24:55 7 BY MS. LANG:

10:24:55 8 Q. Go ahead.

10:24:56 9 A. So there's an interface that Maricopa County's
10:25:00 10 voter registration system ties into AVID, which then has
10:25:03 11 the interface with MVD. So when we send a transaction
10:25:06 12 up, we'll get a notification back, either there was a
10:25:08 13 match or there wasn't a match or there could be soft
10:25:13 14 matches.

10:25:13 15 And so from the signature, the date of birth,
10:25:16 16 other information, we would need to determine is this
10:25:19 17 the same person if it did not hard match with somebody
10:25:22 18 or do we not have enough information to make that
10:25:25 19 determination in a match with what MVD has provided.

10:25:29 20 If it is a match, then we would acquire and
10:25:31 21 validate that voter as a full ballot voter. In the case
10:25:34 22 where MVD comes back and says that there isn't a match,
10:25:37 23 then we would -- as long as it's not like a foreign-type
10:25:41 24 license where MVD is telling us that this person is
10:25:43 25 listed as a noncitizen in their database, that person

10:25:48 1 would be added to the rolls as a federal only, but we
10:25:50 2 would send them a notification asking them, like we
10:25:52 3 added you to the rolls, but if you want to be a full
10:25:54 4 ballot voter, you need to provide documentary proof of
10:25:59 5 citizenship.

10:25:59 6 But if we had a hit that said that's not a
10:26:01 7 validation, it's a noncitizen, then we would not add
10:26:04 8 them to the rolls and we would send a letter out
10:26:06 9 asking -- letting them know what we found.

10:26:08 10 Q. Thank you. And we'll get into some of those
10:26:12 11 details in a little bit.

10:26:15 12 If somebody provides a social security number
10:26:18 13 or, rather, the last four digits of their social
10:26:22 14 security number instead of a driver's license or
10:26:25 15 identification number, how is that check done?

10:26:31 16 A. So first it would go to MVD. MVD would try to
10:26:35 17 see if they had any information that they could help
10:26:37 18 provide for that voter. If not, they would send it
10:26:39 19 through to SSN. If the SSN was able to validate the
10:26:43 20 last four, then they will send it back to us and let us
10:26:46 21 know. Now, that only proves your identity. That does
10:26:49 22 not prove your citizenship.

10:26:50 23 Q. Got it.

10:26:52 24 But it is MVD that does that check with the
10:26:56 25 social security database, correct?

10:26:59 1 A. They facilitate it.

10:27:00 2 Q. Okay. And your office is not involved directly

10:27:03 3 with the Social Security Administration or its database?

10:27:07 4 A. No.

10:27:10 5 Q. Okay. Thank you.

10:27:23 6 I apologize. I have most of these in order,

10:27:25 7 but then I added some at the last minute, so...

10:27:54 8 I noticed in some of the records that sometimes

10:28:02 9 a communication will be made to a voter registration

10:28:05 10 application that there was an issue with their

10:28:08 11 signature, that it did not match; is that correct?

10:28:11 12 A. Yes.

10:28:12 13 Q. Okay. Can you explain to me what

10:28:14 14 signature matching is done at the voter registration

10:28:20 15 stage?

10:28:22 16 A. So it's one of the things that we do to help

10:28:26 17 maintain the integrity of a voter's record. So if we

10:28:30 18 have an existing voter in the system and we have

10:28:33 19 multiple registrations where they have a signature that

10:28:37 20 we have seen, we're familiar with, it's in their

10:28:39 21 database, and then all of a sudden we get a new form and

10:28:42 22 potentially the date of birth is transposed and the

10:28:45 23 signature looks nothing like it did in the prior years,

10:28:48 24 it kind of just raises a red flag with us. Then we

10:28:52 25 would contact the voter and make sure that they actually

10:28:55 1 submitted that registration form. We would not reject
10:28:58 2 the form based on that. It's just one of those things
10:29:00 3 that we do as part of best practices.

10:29:06 4 Q. Okay. I think I understand. So, for example,
10:29:12 5 if a voter is registering for the very first time, there
10:29:18 6 is not a signature match process for processing that
10:29:22 7 voter registration application; is that correct?

10:29:23 8 A. That would be correct.

10:29:25 9 Q. Okay. But if you receive an application that
10:29:30 10 has a match to the preexisting database, but there's a
10:29:35 11 signature mismatch, that's when you might elevate that
10:29:37 12 and communicate with the voter; is that correct?

10:29:39 13 A. That would be correct.

10:29:42 14 Q. In that circumstance where you identify a
10:29:44 15 signature mismatch, what are the steps that your office
10:29:48 16 takes?

10:29:49 17 A. It could be a variety. It depends, a
10:29:52 18 case-by-case basis. If we have a phone number, we would
10:29:54 19 call the voter. If we have an e-mail, we may e-mail
10:29:57 20 them. If there's no way to get ahold of them, we would
10:29:59 21 send a letter out requesting information.

10:30:02 22 Q. Okay. I'll mark as Exhibit 8 a document
10:30:12 23 labeled MC 000870.

10:30:20 24 (Deposition Exhibit 8 was marked for
10:30:22 25 identification.)

10:30:22 1 BY MS. LANG:

10:30:22 2 Q. And do you recognize this document?

10:30:24 3 A. Yes.

10:30:26 4 Q. And can you describe to me what this document
10:30:28 5 is?

10:30:29 6 A. So this is a document that was prepared by my
10:30:32 7 office that outlines suspended registrations, the
10:30:38 8 registration method, and then the reasons for suspense.

10:30:42 9 Q. And did your office create this document in
10:30:45 10 order to respond to requests from this litigation?

10:30:49 11 A. Yes.

10:30:52 12 Q. Okay. And referring to the suspended reasons
10:30:57 13 at the bottom here, where it says signature does not
10:31:00 14 match/missing signature, when there is a signature does
10:31:08 15 not match, rather than missing signature, does that
10:31:11 16 voter get put into a suspense category?

10:31:15 17 A. Yes.

10:31:16 18 Q. Okay. And what does that suspense category
10:31:19 19 mean for that voter's ability to participate in an
10:31:23 20 upcoming election?

10:31:25 21 A. It just means that we're waiting for
10:31:27 22 validation. In most cases it's a missing signature.
10:31:31 23 Now, if they provide the information, they will be
10:31:37 24 registered as of the date that they signed the form.

10:31:41 25 Q. Putting aside missing signature, which I

10:31:43 1 understand to be different, for signature does not match
10:31:47 2 suspense, what happens if a voter never responds to your
10:31:53 3 correspondence? What happens to their status?

10:31:57 4 A. They're -- if they're an existing voter, they
10:32:01 5 stay active with their record, and it's just the form
10:32:04 6 itself that is in suspense. So if they changed their
10:32:08 7 party or if they changed their address, that potentially
10:32:11 8 wouldn't be updated until we get validation from them,
10:32:14 9 but they're still an active registered voter.

10:32:18 10 Q. But, for example, if that new form had provided
10:32:20 11 a new address, they will not be -- they will not be
10:32:26 12 registered at that new address; is that correct?

10:32:28 13 A. Yes.

10:32:28 14 Q. Okay. And you mentioned that this category of
10:32:35 15 signature does not match/missing signature, I think you
10:32:41 16 mentioned that a large quantity of the individuals noted
10:32:44 17 here are missing signature; is that right?

10:32:47 18 A. I would say so.

10:32:48 19 Q. Okay. In the database, is there a way of
10:32:52 20 differentiating between signature does not match and
10:32:55 21 missing signature?

10:32:57 22 A. No.

10:33:00 23 Q. Okay.

10:33:00 24 A. It's just signature issue.

10:33:12 25 Q. Okay. While we're looking at this document, I

10:33:15 1 have a few other questions that are a little out of
10:33:17 2 order, but so as to not have to return to it. The top
10:33:21 3 of the document says that statistics in this section
10:33:24 4 include registration forms received between January 1,
10:33:31 5 2004 and January 24, 2023.

10:33:40 6 I guess one thing I'm trying to understand from
10:33:43 7 those numbers is, are these numbers -- hmm. How do I
10:33:51 8 phrase this question?

10:33:53 9 Perhaps I'll start with an example. For total
10:33:59 10 federal forms suspended, is it the case that there are
10:34:04 11 8,509 federal forms that were currently suspended as of
10:34:09 12 January 1-24-2023? Is that what this number indicates?

10:34:15 13 A. Yes.

10:34:17 14 Q. So there may have been other federal forms that
10:34:20 15 were suspended previously, but have been released from
10:34:24 16 suspense, correct?

10:34:25 17 A. Yes.

10:34:25 18 Q. All right. So these are the numbers of kind of
10:34:28 19 how many voters were in these categories as of the date
10:34:32 20 of this data pull; is that correct?

10:34:34 21 A. Yes.

10:34:35 22 Q. All right. Great.

10:34:53 23 You discussed what happens if a voter
10:34:56 24 registration application is approved. Can you describe
10:34:59 25 some of the reasons why a voter registration application

10:35:04 1 would not be approved?

10:35:07 2 A. So we wouldn't use approved. It would just be
10:35:10 3 processed. So we process all registrations. A reason
10:35:15 4 why the form may not be able to be fully processed is
10:35:19 5 there's an invalid address, there's missing information,
10:35:22 6 there's no date of birth, the name is not -- it's not
10:35:25 7 legible, the address maybe isn't legible, there's no
10:35:29 8 signature.

10:35:31 9 Q. Okay. And I saw in some of your responses some
10:35:35 10 language that said that the Maricopa County Recorder's
10:35:38 11 Office does not reject voter registration applications.
10:35:42 12 Can you explain what you mean by that?

10:35:45 13 A. What I mean is that we would not reject a form.
10:35:48 14 We always try to cure the forms. So if there's a
10:35:53 15 deficiency in the form, again, we would let the voter
10:35:56 16 know how they can cure it, but we would not say that we
10:35:59 17 rejected their application.

10:36:01 18 Q. Okay. Is there -- if at some point -- assuming
10:36:09 19 that a registration form could not be fully processed
10:36:12 20 because of one of the issues you identified and you
10:36:15 21 reach out to the voter to cure, is there a time at which
10:36:20 22 your office will not hold open that application any
10:36:29 23 longer?

10:36:31 24 A. There's actually a reference in the existing
10:36:34 25 procedures manual that says that we hold those until

10:36:37 1 after the next general election. If a voter has not
10:36:40 2 cured their registration before the general election,
10:36:45 3 then those would get -- they could not be cured and
10:36:48 4 revived. A voter would need to provide a brand-new
10:36:51 5 registration form.

10:36:52 6 Q. Okay. Okay. And what status -- what status
10:37:06 7 are those voters put into -- or scratch that.

10:37:10 8 What status are those applicants put into in
10:37:14 9 the database at that time when they can no longer cure
10:37:19 10 an error in the voter registration form?

10:37:21 11 A. So we would move them to like a dead end table,
10:37:24 12 and the status would just be dead ended or not eligible.

10:37:36 13 Q. Okay. So my understanding is that unlike some
10:37:47 14 of the other counties, both Maricopa County and Pima
10:37:51 15 County have their own voter registration databases, but
10:37:54 16 then interface with the state voter registration
10:37:57 17 database. Is that correct?

10:37:58 18 A. Yes.

10:38:01 19 Q. Okay. And what do you refer to your internal
10:38:05 20 system as?

10:38:08 21 A. VRAZ.

10:38:09 22 Q. VRAZ?

10:38:16 23 And in reviewing your interrogatory responses,
10:38:19 24 the system that Maricopa County uses was described as,
10:38:24 25 quote, developed and maintained by the county. Who

10:38:31 1 develops and maintains this database?

10:38:34 2 A. So I'm not quite sure who initially developed
10:38:37 3 it. It's very old. But it's overseen and managed by
10:38:41 4 the IT division.

10:38:45 5 Q. Okay. And do you know how old it is?

10:38:51 6 A. Decades.

10:38:59 7 Q. Are there any vendors that you work with in
10:39:03 8 maintaining the system, or is it all done internally?

10:39:06 9 A. Internal.

10:39:43 10 Q. If you can return to the election procedures
10:39:45 11 manual and turn to Page 16 of the manual, which is
10:39:50 12 labeled MC 000030.

10:40:02 13 There's a section labeled statewide voter
10:40:06 14 registration database, and I wanted to look at two
10:40:10 15 sentences here at about halfway down the paragraph that
10:40:14 16 says, "To the extent it is necessary for Maricopa and
10:40:18 17 Pima to use different terms, codes, and classifications,
10:40:21 18 they must correspond to the terms, codes, and
10:40:23 19 classifications in the state system."

10:40:26 20 Do you see that?

10:40:26 21 A. Yes.

10:40:28 22 Q. Are there places where the terms, codes and
10:40:33 23 classifications for VRAZ differ from AVID?

10:40:37 24 A. Yes.

10:40:38 25 Q. Okay. Can you provide some examples?

10:40:42 1 A. Sure. In the Maricopa system, when a voter
10:40:46 2 goes inactive, it's referred to as deactive. So it
10:40:51 3 would be coded through the interface to show inactive at
10:40:55 4 the state level.

10:40:58 5 Q. Okay. Any others?

10:41:02 6 A. Some of our status reasons might be slightly
10:41:08 7 different, but they are coded to match with the state's.

10:41:13 8 Q. Okay. And the next sentence here says that
10:41:16 9 Maricopa and Pima County must file a detailed and
10:41:19 10 complete explanation of their voter registration system
10:41:21 11 or program and any subsequent revisions with the
10:41:25 12 Secretary of State.

10:41:26 13 Do you see that?

10:41:26 14 A. Yes.

10:41:27 15 Q. Okay. And have you done that; has your office
10:41:30 16 done that?

10:41:31 17 A. No. It might have been done prior to me, when
10:41:35 18 the systems were initially done, but I have not provided
10:41:41 19 that. We haven't had huge revisions for the system.

10:41:45 20 Q. Okay. Are you aware of the existence of any
10:41:50 21 document that outlines the kind of ways in which codes
10:41:55 22 from VRAZ are matched to codes for AVID; for example,
10:42:05 23 deactive to inactive?

10:42:06 24 A. I do not know of any documentation.

10:42:12 25 Q. And if there were any change or revision to

10:42:18 1 VRAZ and its coding, how would you communicate that to
10:42:23 2 the Secretary of State's Office?

10:42:25 3 A. So we meet with the Secretary of State's
10:42:28 4 representatives, as well as INEXL, the vendor for AVID,
10:42:33 5 on a regular basis to talk about the interfaces and any
10:42:35 6 changes that need to be made to functionality.

10:42:38 7 Q. Okay. So your office provided us a few
10:42:52 8 different spreadsheets for different categories of
10:43:01 9 potential voters that are not active. In particular,
10:43:06 10 there were three spreadsheets provided, one labeled
10:43:10 11 canceled, another labeled dead end, and another labeled
10:43:13 12 suspense.

10:43:14 13 Can you walk me through what each of those
10:43:18 14 categories means, canceled, dead end, and suspense?

10:43:23 15 A. Yes. So canceled would be a voter that was
10:43:28 16 active at some point and now their registration has been
10:43:31 17 canceled, whether that's because of felony conviction,
10:43:34 18 death, through the NVRA process for reg ver process, or
10:43:41 19 they were adjudicated incapacitated and lost their right
10:43:44 20 to vote, they moved, they requested their voter record
10:43:48 21 to be canceled.

10:43:51 22 Suspense, again, that means that there was
10:43:53 23 something lacking in the voter registration form that
10:43:56 24 didn't allow us to fully process it and so they have
10:44:00 25 been put in a suspense status. Could be a variety of

10:44:04 1 different reasons; ineligible form, missing information,
10:44:09 2 we weren't able to pinpoint their address location.

10:44:11 3 And then dead end would be those registrations
10:44:13 4 that could not be revived.

10:44:25 5 Q. And one of the status reasons that I saw in
10:44:27 6 that spreadsheet for canceled, which is MC 979, one of
10:44:35 7 the status reasons said reg verification.

10:44:39 8 Can you tell me when that status reason would
10:44:45 9 be used for a canceled voter?

10:44:47 10 A. So that means that one piece of election mail
10:44:51 11 came back. Then a final notice was sent to either the
10:44:55 12 forwarding address provided by USPS or to the same
10:44:58 13 address that we have on file if a forwarding address was
10:45:01 14 not provided. The person was given 35 days to contact
10:45:04 15 us or re-register, and they didn't, so then they would
10:45:07 16 move to inactive status. They would stay in inactive
10:45:10 17 status for two federal cycles. And if we did not hear
10:45:12 18 from them and they did not vote, then their record would
10:45:16 19 be canceled for reg ver.

10:45:18 20 Q. Okay. And in that spreadsheet I saw 19
10:45:22 21 canceled entries for noncitizenship. Can you describe
10:45:31 22 to me the reasons why someone might be canceled for
10:45:36 23 noncitizenship?

10:45:37 24 A. So we would have received information that the
10:45:40 25 voter was a noncitizen, either by them telling us I'm

10:45:44 1 not a citizen or through notification from a jury duty
10:45:50 2 office questionnaire, where they have self-reported that
10:45:52 3 they are a noncitizen.

10:45:55 4 Q. Are those the only -- putting aside the new
10:45:59 5 laws, are those the only reasons you're aware of that
10:46:04 6 someone might be canceled due to noncitizenship?

10:46:07 7 A. Yes.

10:46:14 8 Q. Okay. So in the dead end spreadsheet there
10:46:38 9 were 266 records where the status reason for dead end
10:46:43 10 was voter must be a citizen, and what would be the
10:46:46 11 reasons why someone would end up in the dead end
10:46:49 12 category with a status reason of voter must be a
10:46:52 13 citizen?

10:46:53 14 A. So this would be the case in which we received
10:46:56 15 information that told us that the voter was a
10:46:58 16 noncitizen. Either a validation from SAVE, Homeland
10:47:03 17 Security, to validate alien registration numbers came
10:47:06 18 back and said that the person was a noncitizen or we got
10:47:08 19 a hit from MVD that indicated that the driver's license
10:47:11 20 was a foreign. And then we've sent them a letter and we
10:47:15 21 waited for a response or some kind of documentary proof
10:47:18 22 of citizenship, and it was never received.

10:47:20 23 Q. Okay. And after the next general election
10:47:23 24 those are moved from suspense to dead end; is that
10:47:25 25 correct?

10:47:25 1

A. Yes.

10:47:26 2

Q. Okay. Putting aside the new laws, are there

10:47:34 3

any other ways in which you would receive information

10:47:39 4

through the voter registration process that someone was

10:47:42 5

not a citizen other than from SAVE or MVD?

10:47:46 6

A. Or through a jury duty questionnaire form from

10:47:48 7

the courts.

10:47:53 8

Q. Okay. And I think that you've kind of answered

10:48:08 9

this at this point in time, but where there is a status

10:48:14 10

reason under suspense for voter must be a citizen, would

10:48:16 11

that be for the same reasons as it ends up in dead end,

10:48:20 12

but at a different point in the voter registration

10:48:22 13

process?

10:48:22 14

A. Yes.

10:48:23 15

Q. Okay. Returning to the document MC 870, which

10:48:43 16

was marked as Exhibit --

10:48:45 17

A. 8?

10:48:47 18

MR. O'CONNOR: 8.

10:48:48 19

BY MS. LANG:

10:48:50 20

Q. -- 8, I see under suspended reasons noncitizen

10:48:55 21

confirmed and a number of 11,730. Can you describe to

10:49:01 22

me kind of what that category of noncitizen confirmed

10:49:07 23

means?

10:49:08 24

A. So just means that we have received

10:49:11 25

information, either from the voter directly or from like

10:49:16 1 SAVE or MVD, that the person's listed as a noncitizen.

10:49:22 2 Q. So these are not people who just simply have

10:49:25 3 not provided documentary proof of citizenship, but,

10:49:29 4 rather, people for whom you've received some information

10:49:31 5 that suggests they are not a citizen; is that correct?

10:49:34 6 A. That is correct.

10:49:36 7 Q. And that information would come from MVD, SAVE,

10:49:39 8 or a jury questionnaire?

10:49:40 9 A. Yes, or from the voter directly themselves.

10:49:49 10 Q. Okay. And so we'll get into this a little bit

10:49:52 11 later, but where you say confirmed, that term is just

10:49:59 12 meant to indicate that you've received some information

10:50:03 13 from one of those sources saying that a person may not

10:50:06 14 be a citizen; is that right?

10:50:09 15 A. Saying that from the information that they're

10:50:12 16 saying -- that we are receiving, they are a noncitizen.

10:50:15 17 Q. Right. But is it the case that sometimes those

10:50:20 18 people are, in fact, citizens and that information is

10:50:28 19 either in error or outdated?

10:50:32 20 MR. O'CONNOR: Form.

10:50:35 21 THE WITNESS: That's a potential, yes.

10:50:35 22 BY MS. LANG:

10:50:38 23 Q. In your experience, are there some people who

10:50:40 24 come back from one of these sources of information

10:50:44 25 reported as a noncitizen that later provide documentary

10:50:47 1 proof of citizenship?

10:50:48 2 A. Yes.

10:50:51 3 Q. How frequently does that occur?

10:50:52 4 A. Not very frequently.

10:51:28 5 Q. So on Page 7 of the elections procedures
10:51:37 6 manual, under procedures for registrants with an F-type
10:51:43 7 license.

10:51:44 8 MR. O'CONNOR: Danielle, can you give us a
10:51:46 9 page number?

10:51:46 10 MS. LANG: Yes. It's Page 7 of the EPM
10:51:49 11 and it's MC 000021.

10:52:01 12 BY MS. LANG:

10:52:01 13 Q. Do you see the section labeled procedures for
10:52:05 14 registrants with F-type licenses?

10:52:05 15 A. Yes.

10:52:06 16 Q. And what does F-type license refer to?

10:52:08 17 A. That means MVD has that particular person
10:52:11 18 registered with a foreign-type driver's license for
10:52:14 19 noncitizen.

10:52:14 20 Q. Indicating -- and does that indicate that at
10:52:18 21 the time the person received their license, they were
10:52:23 22 not a citizen at that time?

10:52:26 23 A. Yes.

10:52:30 24 Q. Okay. And for those individuals the EPM says
10:52:34 25 that you should enter the registrant's information into

10:52:37 1 the voter registration database with a status of not
10:52:40 2 eligible or functional equivalent and a reason code of
10:52:43 3 invalid citizenship proof or functional equivalent.
10:52:46 4 What is your functional equivalent for invalid
10:52:51 5 citizenship proof?
10:52:52 6 A. So we have not eligible and invalid citizenship
10:52:59 7 proof.
10:53:03 8 Q. Okay. And so where I saw voter must be a
10:53:06 9 citizen, is that -- is that the same or is that a
10:53:09 10 different code than invalid citizenship?
10:53:12 11 A. That's the header row for when we pull the
10:53:16 12 data, but it means the same thing. So that's like the
10:53:20 13 back-system code for when the data pulls are made, but
10:53:23 14 if you looked up the voter, it would say not eligible,
10:53:28 15 invalid proof of citizenship.
10:53:29 16 Q. Thank you. That's very helpful.
10:53:56 17 Does your office also track where any voter
10:54:02 18 registration application comes from, its source?
10:54:04 19 A. Yes.
10:54:05 20 Q. Okay. And I'll introduce as Exhibit 9 a
10:54:16 21 document labeled MC 0002810.
10:54:27 22 (Deposition Exhibit 9 was marked for
10:54:33 23 identification.)
10:54:33 24 BY MS. LANG:
10:54:33 25 Q. And the first page of this is an e-mail from

10:54:37 1 yourself that indicates that attached is the latest VRAC
10:54:44 2 paper, and if you'll see, the page labeled MC 002812 is
10:54:51 3 a VRAC issue paper on adopting uniform voter
10:54:56 4 registration form, how registered and source codes; do
10:55:00 5 you see that?

10:55:00 6 A. I do.

10:55:00 7 Q. Okay. And under number 2 there is a list of
10:55:08 8 codes and what they mean. Are these the codes that your
10:55:12 9 office uses for tracking the source of any voter
10:55:17 10 registration application?

10:55:17 11 A. Yes.

10:55:18 12 Q. Okay. So is it fair to say that your office
10:55:22 13 follows this issue paper as to how to track the source
10:55:26 14 and how registered of individuals that register?

10:55:30 15 A. Yes.

10:55:48 16 Q. You mentioned that your homegrown voter
10:55:51 17 registration database links directly with the statewide
10:55:55 18 voter registration database. Does that happen in real
10:55:57 19 time, daily, or by -- does that happen in real time?

10:56:04 20 A. Yes.

10:56:09 21 Q. Okay. And do you have any contract or
10:56:11 22 memorandum of understanding with the Secretary of
10:56:15 23 State's Office about governing how that interaction
10:56:18 24 takes place?

10:56:22 25 A. In the past there was an agreement with the

10:56:27 1 counties. I don't know if there is an existing
10:56:31 2 agreement today.

10:56:32 3 Q. Okay. Are you -- does Maricopa County provide
10:56:39 4 any financial support for the statewide voter
10:56:43 5 registration database?

10:56:44 6 A. Yes.

10:56:48 7 Q. Do you know what agreement governs the kind of
10:56:51 8 financial contribution that the Maricopa County makes to
10:56:53 9 the AVID database?

10:56:56 10 A. I can speak to my time at the Secretary of
10:56:59 11 State's Office, in that there was an AVID steering
10:57:01 12 committee and they would vote what the distribution of
10:57:07 13 cost should be for the statewide system.

10:57:09 14 Q. Okay. And based on your knowledge from your
10:57:13 15 time at the Secretary of State's Office, how are those
10:57:20 16 costs kind of divvied up across the counties?

10:57:22 17 A. By the number of registered voters by a
10:57:25 18 particular deadline.

10:57:28 19 Q. Okay. Are you aware if that's still currently
10:57:30 20 the system for cost distribution?

10:57:33 21 A. It's my belief that it is.

10:57:43 22 Q. Okay. I'm going to keep trucking on here, but
10:57:45 23 if at any point you want to take a break or if anybody
10:57:49 24 else wants to take a break --

10:57:49 25 A. I'm okay.

10:57:51 1 Q. -- please do raise your hand and let me know.
10:57:54 2 I'm cognizant that we've been going for about an hour
10:57:57 3 and a half.

10:57:57 4 A. I'm okay.

10:57:59 5 Q. All right. So getting into some more of the
10:58:01 6 specifics about documentary proof of citizenship,
10:58:07 7 Arizona has a documentary proof of citizenship
10:58:10 8 requirement for new voter registration applications in
10:58:14 9 order to be a full ballot voter, correct?

10:58:17 10 MS. STUART: Form.

10:58:18 11 THE WITNESS: Yes.

10:58:18 12 BY MS. LANG:

10:58:20 13 Q. All right. And I'm going to refer to that as
10:58:21 14 the DPOC requirement. If I say that, will you
10:58:25 15 understand what I mean?

10:58:26 16 A. Yes.

10:58:26 17 Q. Okay. Do you know when the DPOC requirement
10:58:35 18 first went into effect?

10:58:38 19 A. There -- 20 -- 2000.

10:58:43 20 Q. In or around the 2000s?

10:58:45 21 A. 2000s, yeah.

10:58:47 22 Q. Okay. Were you working in voter registration
10:58:50 23 at the time that it went into effect?

10:58:54 24 A. No.

10:59:06 25 Q. Okay. We'll get into the kind of federal only

10:59:08 1 process in a moment, but first I want to just review one
10:59:12 2 of the ways in which folks can satisfy the DPOC
10:59:16 3 requirement in order to become a full ballot voter.

10:59:21 4 My understanding is that the first way is by
10:59:25 5 providing a driver's license or a nondriver
10:59:29 6 identification number from Arizona MVD; is that correct?

10:59:34 7 MS. STUART: Form.

10:59:35 8 THE WITNESS: Yes.

10:59:36 9 BY MS. LANG:

10:59:36 10 Q. Okay. Is that the most common way in which
10:59:39 11 voters satisfy the DPOC requirement?

10:59:42 12 A. Yes.

10:59:44 13 Q. Okay. And how -- you've talked about this a
10:59:47 14 little bit already, but how does that process for DPOC
10:59:53 15 verification work when a voter just provides a driver's
10:59:58 16 license or nondriver's license ID number?

11:00:03 17 A. That driver's license or ID number is entered
11:00:06 18 into the voter registration system, and it is then
11:00:10 19 pushed up the interface to AVID and then to MVD for
11:00:14 20 validation.

11:00:15 21 Q. Okay.

11:00:17 22 MS. LANG: In the future I'm just going to
11:00:18 23 say driver's license number, but can we all understand
11:00:21 24 that that would include any MVD number that is provided?

11:00:21 25 MR. O'CONNOR: That's fine.

11:00:26 1 MS. LANG: Everyone okay with that?

11:00:29 2 MR. O'CONNOR: Yeah.

11:00:30 3 MS. LANG: Okay. Just trying to cut down

11:00:31 4 on the number of words.

11:00:31 5 BY MS. LANG:

11:00:34 6 Q. So if the driver's license number goes up to

11:00:40 7 AVID and then it goes up to MVD, and then you get a

11:00:43 8 return on that verification; is that correct?

11:00:47 9 A. Yes.

11:00:48 10 Q. And what are kind of the options for the

11:00:54 11 responses you might get from MVD as to that

11:00:58 12 verification?

11:00:59 13 A. It's either a valid match or it's not.

11:01:04 14 Q. Okay. And so if it's a valid match, that

11:01:07 15 satisfies the DPOC requirement and the voter is

11:01:10 16 registered, is that -- as a full ballot voter, assuming

11:01:14 17 all other parts of the voter registration application

11:01:17 18 are complete and accurate?

11:01:18 19 MS. STUART: Form.

11:01:19 20 THE WITNESS: And assuming that it doesn't

11:01:20 21 come back as a match with a foreign-issued license.

11:01:25 22 BY MS. LANG:

11:01:25 23 Q. Okay. Thank you.

11:01:26 24 So it comes back as either a match or not a

11:01:28 25 match?

11:01:29 1 A. Yes.

11:01:30 2 Q. Okay. And then within the category of match,

11:01:33 3 what are the different pieces of information you might

11:01:37 4 get for those who do match with the MVD database?

11:01:41 5 A. It will either say it's verified or it will say

11:01:44 6 like Type F, you know, noncitizen.

11:01:49 7 Q. Okay. And my understanding is that after 2020

11:01:52 8 it's changed from F-Type to some other indicator; is

11:01:58 9 that correct?

11:01:58 10 A. I think -- yes. We still refer to it as the

11:02:01 11 Type F, but there is another, I think -- I forget what

11:02:05 12 the new code is, but it's a Type 4 from MVD is all

11:02:12 13 valid. Anything other than a Type 4 would be nonvalid

11:02:15 14 for citizenship.

11:02:18 15 Q. Okay. And as shorthand, do you still tend to

11:02:20 16 use the phrase F-Type?

11:02:22 17 A. Yes.

11:02:22 18 Q. Okay. I will adopt that as well, and if

11:02:27 19 there's anywhere where we require to dig in any deeper,

11:02:31 20 we can do that.

11:02:32 21 So if it comes back as a match and it's Type 4,

11:02:38 22 it's not F-Type, the voter becomes a full valid voter;

11:02:42 23 is that correct?

11:02:42 24 A. Assuming there's no other deficiencies, yes.

11:02:44 25 Q. Okay. If the match comes back --

11:02:52 1 MR. O'CONNOR: Hold on one second. The
11:02:54 2 Zoom went down.

11:03:01 3 THE VIDEOGRAPHER: Counsel, would you like
11:03:02 4 to go off the record?

11:03:03 5 MS. LANG: Yes.

11:03:04 6 THE VIDEOGRAPHER: We are off the record.
11:03:05 7 The time on the video monitor is 11:03 a.m. This ends
11:03:08 8 Media 1.

11:12:54 9 (A recess was taken.)

11:14:04 10 THE VIDEOGRAPHER: We are on the record.
11:14:05 11 The time on the video monitor is 11:14 a.m. This begins
11:14:08 12 Media 2.

11:14:10 13 BY MS. LANG:

11:14:10 14 Q. Okay. So when we went off the record, we had
11:14:14 15 kind of discussed what happens if the MVD match comes up
11:14:17 16 back as both a match and one that is verified for
11:14:21 17 citizenship. And so now I want to go on to the other
11:14:24 18 options that might happen from that MVD check.

11:14:29 19 What are the circumstances under which you
11:14:31 20 would get no match?

11:14:34 21 A. So maybe they transposed their driver's
11:14:36 22 license. It wasn't the correct number. It's an expired
11:14:40 23 license. So there wouldn't be a match and we would have
11:14:44 24 no DPOC. So we would add that voter to the rolls as
11:14:49 25 federal only and send them out a letter letting them

11:14:52 1 know they have been added to the rolls as federal only
11:14:55 2 and how they can cure the registration to become a full
11:15:00 3 ballot voter.
11:15:00 4 Q. Okay. Another option is that it comes back as
11:15:10 5 a true match and it comes back as either an F-Type
11:15:16 6 license or some sort of indicator that the person was
11:15:22 7 not a citizen when they received their driver's license,
11:15:26 8 correct?
11:15:26 9 A. Yes.
11:15:30 10 Q. And what happens to those folks?
11:15:36 11 A. So they would be put on a not eligible status
11:15:40 12 and they would get a letter sent out to them saying that
11:15:42 13 we were unable to add them to the rolls, that we need
11:15:46 14 DPOC in order to process the registration.
11:15:50 15 Q. Okay. And is that status of not eligible used
11:15:55 16 for any reason other than invalid citizenship?
11:16:03 17 A. I don't believe so.
11:16:05 18 Q. Okay. Now, as far as the information that
11:16:09 19 you're getting from MVD, the only information that MVD
11:16:13 20 has is the information about the citizenship status of
11:16:18 21 that person at the time that they interacted with MVD;
11:16:22 22 is that correct?
11:16:22 23 MS. STUART: Form.
11:16:24 24 MS. BOUGHTON: Form.
11:16:25 25 THE WITNESS: It's my understanding that's

11:16:28 1 correct, but I don't work for MVD.

11:16:31 2 BY MS. LANG:

11:16:32 3 Q. Okay. Do you know how long Arizona IDs are

11:16:36 4 valid for?

11:16:39 5 A. I want to say over ten years.

11:16:41 6 Q. Okay. And is it possible, based on your

11:16:48 7 experience, that someone will come back as indicating an

11:16:52 8 F-Type license, but they have naturalized and become a

11:17:00 9 citizen after getting their driver's license?

11:17:04 10 A. That's possible.

11:17:06 11 Q. And have you encountered that in cases where

11:17:09 12 you send out a notice to the voter and they come back

11:17:13 13 with documentary proof of citizenship that shows they

11:17:17 14 naturalized after they received their driver's license?

11:17:20 15 A. Yes.

11:17:22 16 Q. And if you know, which you may not, are people

11:17:28 17 required to update their citizenship status with MVD if

11:17:33 18 they change from, say, legal permanent resident to

11:17:37 19 naturalized citizen?

11:17:39 20 A. I do not know if that's a requirement.

11:17:47 21 Q. Okay. I'm going to mark as Exhibit 10 a

11:17:54 22 document that is interrogatory responses from the

11:18:00 23 Arizona Department of Transportation.

11:18:09 24 (Deposition Exhibit 10 was marked for

11:18:22 25 identification.)

11:18:22 1 BY MS. LANG:

11:18:23 2 Q. I've been asked to give a little bit more time
11:18:26 3 after introductions of exhibits for everyone to locate
11:18:29 4 them, so if that explains my pause.

11:18:36 5 Oh, and I'll add, I was also asked if you could
11:18:38 6 raise your voice even a little bit more.

11:18:40 7 A. Okay.

11:18:40 8 Q. Because these fans are loud.

11:18:49 9 Okay, I think it's resolved.

11:18:54 10 Okay. So I wanted -- I don't imagine that you
11:18:57 11 have seen this document before. Have you?

11:18:58 12 A. I have not.

11:18:59 13 Q. Okay. But I will represent to you that these
11:19:01 14 were responses to interrogatories received from the
11:19:04 15 Department of Transportation, and I just wanted to go
11:19:07 16 over with you their response to interrogatory number 4
11:19:11 17 to see if it kind of matches your understanding of the
11:19:15 18 MVD process.

11:19:18 19 So interrogatory number 4 asks them to describe
11:19:24 20 in detail the data fields and underlying documentation
11:19:27 21 that the department retains related to U.S. citizenship
11:19:29 22 or immigration status of individuals in the driver's
11:19:33 23 license database.

11:19:33 24 And they indicate that as of April 20th, 2020,
11:19:37 25 the department's system categorizes credential holders

11:19:40 1 based on the authorized presence documentation provided
11:19:44 2 and that there are two types of authorized presence,
11:19:48 3 non-foreign and foreign, and then broken into five
11:19:51 4 subcategories on the next page.
11:19:53 5 So this looks different to me than the kind of
11:19:58 6 F-Type license language I had seen before. Are these
11:20:03 7 kind of categories, non-foreign and foreign and then the
11:20:07 8 subcategories, familiar to you from how the information
11:20:12 9 comes to you from MVD?
11:20:15 10 A. Yes.
11:20:17 11 Q. Okay. So these first two categories are
11:20:20 12 categories that would be MVD-verified, correct?
11:20:24 13 A. Yes.
11:20:25 14 Q. And these latter three categories would be ones
11:20:28 15 where you would require additional DPOC for the person
11:20:35 16 to be registered to vote at all, correct?
11:20:37 17 A. Yes.
11:20:38 18 Q. All right. You mentioned briefly -- strike
11:20:49 19 that. I want to go back.
11:20:57 20 Do you know when MVD began collecting
11:21:00 21 citizenship documentation or authorized presence
11:21:05 22 documentation in their database?
11:21:08 23 A. October 1, 1996.
11:21:12 24 Q. Okay. So if someone has a driver's license
11:21:17 25 that was issued before 1996, what will happen when you

11:21:24 1 put that through to an MVD match?

11:21:27 2 MS. STUART: Form.

11:21:28 3 THE WITNESS: We would not be able to get

11:21:30 4 validation for DPOC unless they have subsequently come

11:21:34 5 in and revised something with MVD since 1996.

11:21:38 6 BY MS. LANG:

11:21:38 7 Q. Okay. And so how does that appear to you; kind

11:21:41 8 of like what status is given to you back from MVD in

11:21:43 9 those circumstances?

11:21:48 10 A. I actually don't remember what the specific

11:21:50 11 code is, but it would just say no match.

11:21:53 12 Q. Okay. In those circumstances that person, if

11:22:02 13 they have not provided other forms of DPOC, would become

11:22:06 14 federal only voters; is that correct?

11:22:07 15 A. Yes.

11:22:09 16 Q. All right. And how does your office treat

11:22:16 17 expired MVD records?

11:22:21 18 A. We don't get them from MVD.

11:22:25 19 Q. So if an individual put the driver's license

11:22:31 20 number on their voter registration form and that

11:22:36 21 driver's license is expired, when that goes up to MVD

11:22:40 22 for a match, it comes back as no match; is that correct?

11:22:44 23 A. It would say that there's no DPOC on file.

11:22:48 24 They wouldn't be able to validate that driver's license.

11:22:51 25 There would be no hits on it.

11:22:56 1 Q. Is that a different -- let me back up.

11:23:02 2 My understanding of the MVD match is that it

11:23:06 3 serves two purposes. One is to validate identity, and

11:23:11 4 the second is to validate citizenship. Is that correct?

11:23:14 5 A. In some cases, yes.

11:23:20 6 Q. So when someone has a pre-1996 driver's

11:23:26 7 license, for example, when you receive a response from

11:23:32 8 MVD, would that still validate identity, but not DPOC?

11:23:39 9 A. It's my understanding that we wouldn't have a

11:23:41 10 match with MVD because expired licenses aren't included

11:23:44 11 in the search.

11:23:46 12 Q. And are all pre-1996 driver's licenses expired?

11:23:51 13 MR. O'CONNOR: Form.

11:23:52 14 THE WITNESS: I don't know.

11:23:53 15 BY MS. LANG:

11:23:55 16 Q. Okay. Are you aware of circumstances where a

11:23:57 17 pre-1996 driver's license might come back as verified,

11:24:03 18 that there is a driver's license, a non-expired driver's

11:24:07 19 license for this individual, but no DPOC is on file?

11:24:11 20 A. That's a possibility.

11:24:12 21 Q. Okay. And what would that look like on your

11:24:17 22 end?

11:24:17 23 A. It would just tell us that there's not a way to

11:24:20 24 validate their proof of citizenship. So we would add

11:24:23 25 them as a federal only and send a letter out to the

11:24:26 1 voter asking for DPOC.

11:24:40 2 Q. Okay. Other than -- so we've been talking
11:24:42 3 about driver's license numbers as DPOC, but there are
11:24:46 4 other ways in which voters can provide DPOC, correct?

11:24:49 5 A. Yes.

11:24:50 6 Q. And one of those ways is through certain
11:24:55 7 out-of-state driver's licenses; is that correct?

11:24:57 8 A. Yes.

11:24:58 9 Q. And so how do you determine whether or not a
11:25:00 10 copy of an out-of-state -- let me back up.

11:25:04 11 For out-of-state driver's licenses, you don't
11:25:06 12 have any means to kind of check those numbers or those
11:25:11 13 driver's licenses against those other state databases,
11:25:16 14 correct?

11:25:16 15 A. Correct.

11:25:18 16 Q. So how do you determine whether or not a copy
11:25:21 17 of an out-of-state driver's license or ID card is
11:25:26 18 sufficient DPOC?

11:25:29 19 A. So we would follow the guidance in the
11:25:32 20 elections procedures manual related to out-of-state
11:25:35 21 driver's licenses.

11:25:37 22 Q. Okay. And if you could refer to Page 4 of the
11:25:40 23 elections procedures manual.

11:25:45 24 A. Is that the MC 4 or just Page 4?

11:25:47 25 Q. No, just Page 4 of the EPM. It's MC 18.

11:25:54 1 Is this the guidance that you're referring to?

11:25:56 2 A. Yes.

11:25:58 3 Q. Okay. And it indicates that out-of-state

11:26:01 4 driver's licenses can only be accepted if they have some

11:26:03 5 sort of specific citizenship indicator, which is often

11:26:08 6 this kind of United States flag; is that correct?

11:26:11 7 A. Yes.

11:26:14 8 Q. All right.

11:26:14 9 THE VIDEOGRAPHER: Counsel, sorry to

11:26:15 10 interrupt. The video feed on the Zoom -- the Zoom is

11:26:19 11 still live, but the video feed has gone off. Would you

11:26:25 12 mind if Jody --

11:26:26 13 And, Jody, would you mind clicking on the

11:26:34 14 video?

11:26:34 15 Sorry, Jody. There we go, I think.

11:26:35 16 Sorry.

11:26:35 17 MS. LANG: Thank you.

11:26:41 18 BY MS. LANG:

11:26:41 19 Q. Do you know if California driver's licenses

11:26:43 20 sometimes have this indicator of citizenship on them?

11:26:47 21 A. I don't know.

11:26:48 22 Q. Okay. Are you aware of which -- any states

11:26:51 23 that do and any states that do not, specifically?

11:26:56 24 A. I know some do and some don't. I don't have a

11:26:59 25 list.

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11:26:59 1 Q. Okay. You don't know any specifics?

11:27:00 2 A. Well, I'm looking at Michigan and New York here

11:27:03 3 as examples, so...

11:27:04 4 Q. Okay. Other than Michigan and New York.

11:27:06 5 A. I don't know.

11:27:16 6 Q. Okay. All right, I'll mark as Exhibit 11 a

11:27:31 7 document labeled MC 002093.

11:27:43 8 (Deposition Exhibit 11 was marked for

11:28:18 9 identification.)

11:28:18 10 BY MS. LANG:

11:28:20 11 Q. Oh.

11:28:20 12 So this is an e-mail with meeting recap notes

11:28:29 13 from the Secretary of State's Office; is that correct?

11:28:34 14 A. Yes.

11:28:34 15 Q. And I see in the subject line that it says

11:28:37 16 "May 11, 2023 Bi-Monthly SOS/Recorders/Elections

11:28:43 17 Meeting." Is that correct?

11:28:43 18 A. Yes.

11:28:43 19 Q. So is this one of the kind of regular meetings

11:28:46 20 you were referring to earlier today between the various

11:28:50 21 actors in the voter registration process?

11:28:52 22 A. Yes.

11:28:54 23 Q. Okay. And on the very -- so there is all these

11:29:00 24 meeting recap notes, and on the last page I just wanted

11:29:03 25 to ask you about this note that says "DPOC: Proof of

11:29:07 1 citizenship and ID's."

11:29:10 2 And there's a question here, I believe, about

11:29:13 3 what you may call enhanced IDs, and community

11:29:20 4 organization -- it says, quote, Community organizations

11:29:23 5 that register voters want to know if the gold star on

11:29:26 6 driver's licenses is enough to prove citizenship."

11:29:29 7 Do you see that?

11:29:30 8 A. Yes.

11:29:30 9 Q. Are you aware -- were you at this meeting, to
11:29:34 10 your recollection?

11:29:34 11 A. I believe I was.

11:29:36 12 Q. Okay. And do you remember this discussion?

11:29:38 13 A. Yes.

11:29:41 14 Q. Okay. And do you know who raised this
11:29:43 15 question?

11:29:45 16 A. I believe it was Pima County.

11:29:50 17 Q. Okay. And is this a question that you have
11:29:51 18 received from community organizations as well or your
11:29:54 19 office?

11:29:54 20 A. I have not.

11:29:59 21 Q. Okay. And the first line of this bullet point
11:30:01 22 says, "The Secretary will compare LULAC litigation to
11:30:04 23 new statute and report back to the group."

11:30:06 24 Do you see that?

11:30:07 25 A. Yes.

11:30:07 1 Q. Have you heard back from the Secretary of
11:30:11 2 State's Office on this question?

11:30:12 3 A. Not that I'm aware of.

11:30:14 4 Q. And so, to your knowledge, do you know if the
11:30:18 5 gold star on driver's licenses is enough to prove
11:30:21 6 citizenship?

11:30:22 7 A. I would say from my position, as what I know
11:30:26 8 now, I would say I would refer again to the procedures
11:30:30 9 manual looking for the American flag as the notation.

11:30:33 10 Q. Okay. So based on your current knowledge, your
11:30:37 11 guidance would be that a gold star, rather than an
11:30:41 12 American flag, would not be sufficient for DPOC; is that
11:30:43 13 correct?

11:30:43 14 A. Yes.

11:30:52 15 Q. Okay. And I don't have any questions about
11:30:54 16 some of these next ones, but birth certificate is an
11:30:57 17 acceptable form of DPOC if it shows that the person was
11:30:59 18 born in the United States; is that correct?

11:31:00 19 A. Yes.

11:31:02 20 Q. Or if there's a consular report of a birth
11:31:07 21 abroad; is that correct?

11:31:08 22 A. Yes.

11:31:10 23 Q. Okay. And a U.S. passport is an acceptable
11:31:13 24 form of DPOC, correct?

11:31:15 25 A. Yes.

11:31:16 1 Q. All right. If someone puts a tribal ID number,
11:31:21 2 is that acceptable form -- an acceptable form of DPOC?

11:31:24 3 A. Yes.

11:31:26 4 Q. And my understanding is that there's no
11:31:29 5 database search; the tribal ID number is accepted on its
11:31:33 6 face. Is that correct?

11:31:34 7 A. Yes.

11:31:42 8 Q. And then the last category of forms of DPOC I
11:31:48 9 wanted to talk about is citizenship and immigration
11:31:52 10 documents.

11:31:53 11 One option that voters have for satisfying DPOC
11:31:57 12 is to just provide what we would call -- what's called
11:32:01 13 an A-Number; is that correct?

11:32:03 14 A. Yes.

11:32:04 15 Q. All right. We'll get -- I'm going to move on
11:32:11 16 in a moment to talk about what you do with those
11:32:13 17 A-Numbers.

11:32:14 18 Putting aside A-Numbers, if somebody provides a
11:32:18 19 naturalization certificate, is that sufficient DPOC?

11:32:22 20 A. Yes.

11:32:23 21 Q. And do you use the SAVE database for those
11:32:26 22 documents?

11:32:28 23 A. No.

11:32:29 24 Q. Okay. So if you have an actual copy of an
11:32:34 25 immigration document showing citizenship, do you accept

11:32:37 1 that on face value without any additional database
11:32:40 2 searches?

11:32:40 3 A. Yes.

11:32:41 4 Q. Okay. And if an A-Number is provided, that's
11:32:50 5 when you would use the SAVE system to verify
11:32:53 6 citizenship; is that correct?

11:32:54 7 A. Yes.

11:32:54 8 Q. Okay. And we'll talk more about that
11:32:57 9 momentarily.

11:33:08 10 One question I just want to clarify is we've
11:33:11 11 been talking about how you verify DPOC. Do you use the
11:33:18 12 same procedures for verifying DPOC regardless of whether
11:33:21 13 the person uses the federal or the state form?

11:33:25 14 A. Yes.

11:33:36 15 Q. Okay. If a voter did not provide a driver's
11:33:39 16 license number or a number or any other form of DPOC,
11:33:51 17 how does your office go about trying to acquire DPOC for
11:33:55 18 those individuals?

11:33:57 19 A. So the record would go to MVD for validation
11:34:00 20 and we would try to see if there's a match in the MVD
11:34:04 21 database with an existing driver's license; and if we
11:34:08 22 found a match with date of birth, address, name, we
11:34:12 23 could acquire the driver's license and have DPOC on file
11:34:17 24 on behalf of the voter.

11:34:18 25 Q. So even if an individual didn't provide their

11:34:21 1 driver's license number, if their other demographic data
11:34:26 2 matches enough to create a true match with the MVD
11:34:31 3 database, that could acquire DPOC for that individual;
11:34:35 4 is that correct?

11:34:35 5 A. Yes.

11:34:36 6 Q. All right. And you do that for all applicants
11:34:40 7 who don't otherwise have DPOC on file; is that correct?

11:34:42 8 A. Yes.

11:34:43 9 Q. All right. Okay. So if none of those options
11:35:22 10 satisfy DPOC, what -- scratch that.

11:35:30 11 If an applicant has no DPOC after all of these
11:35:34 12 efforts and there was no match that suggested
11:35:42 13 noncitizenship, what happens to that voter?

11:35:43 14 A. They are added to the rolls as a federal only
11:35:47 15 voter and are sent a letter letting them know they are
11:35:52 16 federal only voter and what they can do to provide DPOC
11:35:56 17 to become a full ballot voter.

11:35:58 18 Q. Okay. What languages are your notices sent in?

11:36:02 19 A. English and Spanish.

11:36:07 20 Q. And those are the only languages, correct?

11:36:09 21 A. Yes.

11:36:11 22 Q. All right. Is there any information on the
11:36:14 23 notice about kind of language assistance for folks who
11:36:18 24 don't speak English or Spanish?

11:36:20 25 A. We have information on how to contact our

11:36:22 1 office.

11:36:23 2 Q. And does your office use interpretation
11:36:27 3 services for folks who don't speak English or Spanish?

11:36:31 4 A. I have not had that happen, but I believe that
11:36:35 5 there's somebody that could translate, if necessary.

11:36:38 6 Q. And who would that somebody be?

11:36:40 7 A. I don't know.

11:36:42 8 Q. Okay. The notice that you send, is it by
11:36:49 9 forwardable mail or non-forwardable mail?

11:36:52 10 A. Non-forwarding.

11:37:16 11 Q. What circumstances does your office send
11:37:20 12 forwardable mail rather than non-forwardable mail?

11:37:24 13 A. If we have a cancellation letter that needs to
11:37:27 14 be sent, we would send that by forwarding.

11:37:33 15 Q. Are there any other notices that you send by
11:37:36 16 forwarding mail?

11:37:37 17 A. Not that I can think of.

11:37:40 18 Q. Okay. We'll mark as Exhibit 12 a document
11:37:57 19 labeled MC 000879.

11:38:13 20 (Deposition Exhibit 12 was marked for
11:38:20 21 identification.)

11:38:20 22 BY MS. LANG:

11:38:20 23 Q. Do you recognize this document?

11:38:21 24 A. Yes.

11:38:22 25 Q. Okay. What is this document?

11:38:24 1 A. This is Maricopa County's procedures for data
11:38:28 2 entry for new registrations.

11:38:31 3 Q. Okay. And I see on the bottom here that it
11:38:32 4 says "Revised: December 21, 2022." Is this the most
11:38:38 5 recent version of these instructions?

11:38:45 6 A. I think -- I believe so.

11:38:53 7 Q. Okay. And I just wanted to turn to Page 885,
11:39:08 8 and the very end of this has some instructions about
11:39:17 9 federal forms; do you see that?

11:39:21 10 A. Yes.

11:39:23 11 Q. Okay. I'm just going to read it aloud. It
11:39:25 12 says, "Note. When you have entered data for a federal
11:39:28 13 form, there will be a dialogue box that is displayed
11:39:32 14 after clicking save file that says you must suspend a
11:39:36 15 federal registrant. Click okay and then suspend record.
11:39:40 16 Voter will be successfully suspended, and you will hit
11:39:43 17 the enter key to get to the next record."

11:39:44 18 Do you see that?

11:39:45 19 A. Yes.

11:39:46 20 Q. Okay. Can you explain to me what this means
11:39:49 21 and how this affects federal -- voters who register
11:39:54 22 using the federal form?

11:40:05 23 A. I'm actually trying to recall this one. I'm
11:40:21 24 feeling like this is for the cases where we have
11:40:24 25 somebody coming back as a federal only voter and we are

11:40:29 1 putting them -- in the way the system works, like
11:40:36 2 putting them into suspense to try to get the
11:40:38 3 reactivation back to MVD; but there's also the federal
11:40:44 4 form that sometimes reference to the UOCAVA
11:40:48 5 registrations, and my office does not process UOCAVA
11:40:52 6 registration forms. That's done by the early voting
11:40:55 7 team. So I feel like that may have something to do with
11:40:59 8 it as well.

11:41:02 9 Q. Okay. And -- but sitting here today, it seems
11:41:08 10 like you're not quite sure what this refers --

11:41:10 11 A. I'm not quite sure what this is referring to at
11:41:13 12 this moment.

11:41:13 13 Q. Okay. But it should not be the case that
11:41:15 14 anyone who registers using a federal form would be --
11:41:18 15 would have their voter registration suspended, correct?

11:41:22 16 A. No. We --

11:41:22 17 MS. STUART: Form.

11:41:22 18 THE WITNESS: We would treat a federal
11:41:26 19 national registration form and a state registration form
11:41:29 20 exactly the same.

11:41:31 21 BY MS. LANG:

11:41:33 22 Q. Okay. Thank you.

11:41:41 23 And I think we've discussed this, but if you
11:41:43 24 get something back from MVD that indicates that at the
11:41:46 25 time that they received their driver's license that

11:41:48 1 person was not a citizen, those people are not
11:41:52 2 registered and sent a notice, correct?
11:41:53 3 A. Yes.
11:41:54 4 Q. And that notice is only in English and Spanish,
11:41:57 5 correct?
11:41:57 6 A. Yes.
11:41:57 7 Q. And it's sent by non-forwardable mail?
11:42:01 8 A. Yes.
11:42:02 9 Q. Okay. And what do you do if you get a
11:42:06 10 bounce-back for those notices?
11:42:09 11 A. If we receive a forwarding address, we would
11:42:13 12 potentially send to the forwarding address, but
11:42:15 13 otherwise we send one notice out.
11:42:20 14 Q. Okay. You said we would potentially send to
11:42:22 15 the forwarding address. When would you send it to the
11:42:25 16 forwarding address versus not send it to the forwarding
11:42:28 17 address?
11:42:29 18 A. I think it's on a case-by-case basis almost. I
11:42:32 19 would say that if we have time and we're not, you know,
11:42:35 20 at the end of a registration deadline, or if we were at
11:42:39 21 the end of a registration deadline, we would try to send
11:42:41 22 another letter, but in most cases our requirement is to
11:42:45 23 send one notice.
11:42:46 24 Q. Okay. So it's discretionary whether or not
11:42:49 25 another notice is sent to the forwarding address?

11:42:51 1 A. Yes.

11:42:51 2 Q. Okay. I'm going to mark as Exhibit 13

11:43:21 3 AZSOS-004107.

11:43:30 4 (Deposition Exhibit 13 was marked for

11:43:45 5 identification.)

11:43:45 6 BY MS. LANG:

11:43:46 7 Q. And so this is an e-mail chain between yourself

11:43:48 8 and members of the Arizona Secretary of State's Office;

11:43:52 9 is that correct?

11:43:52 10 A. Yes.

11:43:53 11 Q. And if we kind of start from the beginning of

11:43:58 12 this e-mail chain, which is on the last page, and I see

11:44:03 13 this is a Secretary of State employee reaching out to

11:44:07 14 you to say that they had identified someone who was

11:44:12 15 federal only in your system as a Maricopa County voter,

11:44:15 16 but that MVD was now providing a, you know, citizenship

11:44:24 17 status for; is that correct?

11:44:27 18 A. I believe that's what they're telling me.

11:44:31 19 Q. Okay. And there's a reference to a term called

11:44:34 20 Swagger. Do you know what Swagger is?

11:44:37 21 A. I had never heard that term before, so --

11:44:40 22 Q. Okay.

11:44:40 23 A. -- I really don't understand what they meant by

11:44:43 24 Swagger.

11:44:43 25 Q. Got it.

11:44:44 1 So do you under -- do you know why there might
11:44:56 2 be a circumstance where when you initially process
11:44:59 3 someone, they became a federal only voter, but later
11:45:03 4 AVID would indicate that they were a citizen?

11:45:08 5 A. I would not -- I am not familiar with that
11:45:11 6 process.

11:45:11 7 Q. Okay. Do you recall this particular instance?

11:45:18 8 A. Vaguely. I questioned why we would be using
11:45:22 9 Swagger to validate proof of citizenship outside of a
11:45:29 10 voter registration form request.

11:45:30 11 Q. Okay. And did you and -- did this voter become
11:45:38 12 a full ballot voter, to your knowledge?

11:45:40 13 A. I don't know.

11:45:42 14 Q. Okay. But as a general matter -- so as a
11:45:58 15 general matter, there is one time when your office does
11:46:02 16 the MVD check, and it is at the time of registration; is
11:46:06 17 that correct?

11:46:06 18 A. Yes.

11:46:08 19 Q. And your office and the Secretary of State's
11:46:12 20 Office don't do any regular kind of checking of the
11:46:15 21 federal only list against MVD to determine whether or
11:46:18 22 not the citizenship status has changed in the MVD
11:46:22 23 database; is that correct?

11:46:24 24 MS. STUART: Form.

11:46:24 25 MR. O'CONNOR: Form.

11:46:25 1 THE WITNESS: I'm not aware of a system
11:46:26 2 that does that.
11:46:28 3 BY MS. LANG:
11:46:28 4 Q. And you're not aware of any kind of systematic
11:46:30 5 way in which those checks would be done after the point
11:46:33 6 of registration; is that correct?
11:46:36 7 A. That's correct. However, this e-mail indicates
11:46:39 8 Swagger, which I am not familiar with.
11:46:41 9 Q. Okay. Okay. Now I'll mark as Exhibit 14
11:46:59 10 ARIZONASOS-240080.
11:47:08 11 (Deposition Exhibit 14 was marked for
11:47:17 12 identification.)
11:47:17 13 BY MS. LANG:
11:47:18 14 Q. So towards the bottom of this e-mail chain
11:47:23 15 on -- but still on the first page, there's an e-mail
11:47:27 16 from AVID Help to yourself and Stephen Richer discussing
11:47:32 17 an MVD issue that they had been investigating; is that
11:47:38 18 correct?
11:47:38 19 A. Yes.
11:47:40 20 Q. And we'll get into the specifics of this e-mail
11:47:43 21 in a moment, but as a general matter, what is your
11:47:48 22 understanding of the MVD issue that arose in October
11:47:53 23 2022?
11:47:58 24 A. I believe the issue was MVD was incorrectly
11:48:05 25 invalidating driver's licenses and giving us a null

11:48:10 1 value instead of a value of citizen or noncitizen.

11:48:16 2 Q. And do you know how long this issue was going

11:48:22 3 on?

11:48:24 4 A. I don't remember the specific time frame.

11:48:36 5 Q. Okay. And on the second page of this document,

11:48:40 6 2481, the Secretary of State's Office informed you in

11:48:46 7 the second -- the first full paragraph there that your

11:48:50 8 county had 155 records that returned a hard match with

11:48:54 9 an authorized presence, indicating citizenship, and

11:48:59 10 3,550 records that might be a soft match.

11:49:03 11 Do you see that?

11:49:04 12 A. Yes.

11:49:06 13 Q. What was done for those voters prior to the

11:49:11 14 2022 election?

11:49:13 15 A. So we would have rerun those through MVD to get

11:49:19 16 the authorization presence code to upgrade them to a

11:49:25 17 full ballot voter. We would have had to review the

11:49:29 18 3,550 records that were potential soft matches to see if

11:49:33 19 we could validate the voter. And then the 651 records

11:49:40 20 have an active early ballot potentially would have been

11:49:44 21 issued a full ballot if they were previously issued a

11:49:47 22 federal only ballot.

11:49:49 23 Q. Okay. Is it your understanding that your

11:49:53 24 office did complete the review of the 3,550 soft matches

11:49:58 25 prior to the 2022 election?

11:49:59 1 A. Yes.

11:50:00 2 Q. Okay. And do you know how many voters in your

11:50:08 3 county were affected by this error after reviewing those

11:50:12 4 soft matches?

11:50:13 5 A. I don't know the number.

11:50:16 6 Q. Okay. And you're not sure how long this MVD

11:50:31 7 error was ongoing prior to the Secretary of State

11:50:40 8 addressing it in October of 2022; is that correct?

11:50:42 9 A. I don't know.

11:50:43 10 Q. Okay. Is it possible that it could have

11:50:45 11 affected prior elections as well?

11:50:49 12 MS. BOUGHTON: Form.

11:50:50 13 THE WITNESS: I don't -- I don't know. I

11:50:51 14 feel like MVD and the Secretary of State's Office

11:50:55 15 monitors that, so issues are found and addressed early.

11:51:04 16 BY MS. LANG:

11:51:04 17 Q. Do you know how many voters statewide were

11:51:08 18 affected by this issue?

11:51:09 19 A. I do not know.

11:51:16 20 Q. Okay. And I'll mark as Exhibit 15

11:52:20 21 AZSOS-239348.

11:52:27 22 (Deposition Exhibit 15 was marked for

11:52:35 23 identification.)

11:52:35 24 BY MS. LANG:

11:52:35 25 Q. Do you recognize this document?

11:52:38 1 A. Yes.

11:52:39 2 Q. Okay. Can you tell me what this document is?

11:52:42 3 A. So this was a sample notice that was provided

11:52:48 4 to the counties from the Secretary of State's Office as

11:52:52 5 a letter to explain what happened with the MVD issue of

11:52:58 6 not validating valid driver's license for DPOC.

11:53:01 7 Q. And is this the template your office used for

11:53:05 8 sending out such notices in October 2022?

11:53:08 9 A. Yes.

11:53:10 10 Q. Okay. Did you hear back from any of these

11:53:13 11 voters?

11:53:13 12 A. I'm sure that we did. I don't remember how

11:53:21 13 many.

11:53:21 14 Q. Do you know or did you track anywhere the

11:53:24 15 number of people who returned their federal only ballot

11:53:28 16 first that were, in fact, eligible to be full ballot

11:53:33 17 voters?

11:53:33 18 A. That would have been handled on the early

11:53:36 19 voting side because they do early ballots.

11:53:39 20 Q. Okay. And more generally, in your database,

11:53:46 21 how do you track kind of correspondence with a voter

11:53:52 22 about any number of issues in their voter registration?

11:53:57 23 A. So there is a notice module where we can track

11:54:02 24 a notice was sent. So that there is that record, and

11:54:08 25 then additionally, that information is sent through the

11:54:12 1 interface to the statewide system.

11:54:14 2 Q. So that information about notices is

11:54:17 3 transferred to the AVID database as well?

11:54:19 4 A. Yes.

11:54:20 5 Q. Okay.

11:54:31 6 A. To clarify, though, those are notices that are

11:54:33 7 generated within the voter registration system itself.

11:54:36 8 This wouldn't have been generated from the voter

11:54:39 9 registration system, so it wouldn't have been logged in

11:54:41 10 the module.

11:54:42 11 Q. Thank you for that clarification.

11:54:45 12 Do you know if this was logged anywhere in the

11:54:47 13 system for these voters?

11:54:50 14 A. I don't believe so.

11:55:06 15 Q. You have mentioned a couple of times that there

11:55:08 16 are kind of cure procedures for people who have not

11:55:12 17 provided DPOC, correct?

11:55:13 18 A. Yes.

11:55:14 19 Q. They receive a notice, and then they're able to

11:55:16 20 cure that by providing some form of DPOC, correct?

11:55:18 21 A. Yes.

11:55:21 22 Q. Okay. And so I want to talk about those cure

11:55:24 23 procedures; first, talking only about federal only

11:55:26 24 voters, as opposed to those voters that have F-Type

11:55:29 25 licenses or some similar noncitizenship indicator,

11:55:33 1 okay?

11:55:33 2 A. Okay.

11:55:35 3 Q. So speaking about federal only voters, up until

11:55:40 4 when can voters provide DPOC in order to become a full

11:55:46 5 ballot voter and for any given election?

11:55:50 6 A. The Thursday before the election.

11:55:53 7 Q. Okay. And how can they submit that DPOC to

11:55:58 8 you?

11:55:58 9 A. They can mail it. They can scan it and e-mail

11:56:01 10 it. They can come and show us in person.

11:56:14 11 Q. If you look at the election procedures manual

11:56:17 12 on Page 7 of the manual, which is MC 21, there's

11:56:28 13 reference to a DPOC submission form. What is that form?

11:56:33 14 A. It's a letter that lets the voter know that

11:56:37 15 they have been registered as federal only and gives them

11:56:41 16 instructions how they can provide DPOC to become a full

11:56:46 17 ballot voter.

11:56:48 18 Q. Okay. And do you ever have any trouble kind of

11:56:51 19 linking the DPOC that is sent in from an individual

11:56:54 20 applicant to an applicant's record in the database?

11:56:58 21 A. Not usually.

11:57:25 22 Q. How often do federal only voters respond to

11:57:29 23 that notice by providing DPOC and becoming full ballot

11:57:34 24 voters?

11:57:35 25 A. I don't have statistics in front of me, but I

11:57:38 1 would say a lot of them come back and provide DPOC.

11:57:44 2 Q. Okay. Is that something your, like, database
11:57:53 3 would be able to provide statistics on?

11:58:01 4 A. I think if we did a data pull today and then
11:58:06 5 months from now we did another data pull, we could see
11:58:08 6 how many went from federal status to full, but that
11:58:11 7 would be the only way. There's not a tracking
11:58:13 8 mechanism.

11:58:14 9 Q. Thank you.

11:58:21 10 While we're looking at the election procedures
11:58:23 11 manual, on Page 8, MC 22, numeral 5 says "DPOC When
11:58:32 12 Moving Between Counties." I wanted to ask about the
11:58:40 13 second paragraph there, which says that registered
11:58:44 14 voters who submit valid DPOC to the County Recorder in
11:58:48 15 their county of residence need not resubmit evidence of
11:58:51 16 citizenship upon moving and registering to vote in a new
11:58:54 17 county in Arizona so long as the record of their
11:58:56 18 previously-submitted DPOC is accessible by the new
11:59:00 19 County Recorder.

11:59:04 20 How does your office access previously
11:59:07 21 submitted DPOC when a voter moves from another county to
11:59:13 22 Maricopa County?

11:59:14 23 A. So if we can see on the prior other county
11:59:19 24 record that they have a note that says birth certificate
11:59:21 25 was provided, it usually will pop up to us that the DPOC

11:59:26 1 has been validated by the other county. If the other
11:59:29 2 county did not do that, then there would be no way for
11:59:32 3 us to validate the notes.

11:59:35 4 Q. Are you aware of instances where counties do
11:59:39 5 not record DPOC in the voter registration system?

11:59:45 6 A. I don't know of specific instances, but I know
11:59:49 7 it's possible.

11:59:49 8 Q. Okay. Do you know if it happens, without
11:59:52 9 identifying specific instances; like have you heard of
11:59:54 10 it happening?

11:59:55 11 A. Yes.

11:59:56 12 Q. Okay. Have you heard of it being kind of a
12:00:00 13 systemic issue with any counties?

12:00:02 14 A. No.

12:00:14 15 Q. Okay. Do you know how many federal only voters
12:00:17 16 Maricopa currently has?

12:00:19 17 A. Not off the top of my head.

12:00:22 18 Q. Okay. Do you know if it's more or less than
12:00:28 19 10,000?

12:00:30 20 A. I want to say maybe 17,000-ish.

12:00:33 21 Q. Okay.

12:00:33 22 A. I'm not entirely sure.

12:00:47 23 Q. Can federal only voters be on the early voting
12:00:50 24 list?

12:00:51 25 A. Yes.

12:00:53 1 Q. Are many federal only voters on the early
12:00:55 2 voting list?
12:00:57 3 A. Yes.
12:01:02 4 Q. Okay. My understanding is that early voting is
12:01:06 5 very popular in Arizona. Is that correct?
12:01:08 6 A. That's correct.
12:01:10 7 Q. Okay. About what percentage of your voters
12:01:12 8 vote by mail?
12:01:14 9 A. I don't know.
12:01:15 10 MR. O'CONNOR: Form. Yeah.
12:01:17 11 BY MS. LANG:
12:01:27 12 Q. Okay. All right. Now I'm going to talk a
12:01:28 13 little bit about how your office uses the -- I think
12:01:34 14 it's systematic alien verification --
12:01:40 15 A. Say, entitlement?
12:01:44 16 Q. Oh, gosh. The SAVE system. Do you know what
12:01:46 17 I'm talking about when I --
12:01:47 18 A. I do.
12:01:48 19 Q. -- talk about the SAVE system?
12:01:49 20 A. Yes.
12:01:50 21 Q. And it's a system run by USCIS to assist
12:01:54 22 agencies in verifying citizenship information; is that
12:01:56 23 correct.
12:01:56 24 A. Yes.
12:01:58 25 Q. Okay. I apologize for my forgetting the

12:02:01 1 acronym precisely.

12:02:05 2 Do you know how long Maricopa County has been

12:02:08 3 using the SAVE system?

12:02:11 4 A. As long as I can remember.

12:02:13 5 Q. Okay. And my understanding is that originally

12:02:19 6 Maricopa County had an agreement directly with USCIS to

12:02:25 7 use SAVE. Is that correct?

12:02:30 8 A. That's my understanding.

12:02:31 9 Q. Okay. It's also my understanding now that your

12:02:37 10 current usage of the SAVE system is based on the Arizona

12:02:42 11 Secretary of State's agreement with USCIS; is that

12:02:50 12 correct?

12:02:50 13 A. Yes, with the exception that we still have our

12:02:53 14 own umbrella for how we pay for our searches.

12:02:59 15 Q. Okay. Do you have access to the memorandum of

12:03:06 16 understanding or memorandum of agreement between the

12:03:10 17 Secretary of State's Office and USCIS?

12:03:13 18 A. I don't.

12:03:13 19 Q. Have you ever seen that document?

12:03:15 20 A. I have.

12:03:16 21 Q. Okay. And did you see that document in your

12:03:20 22 capacity at the Secretary of State's Office?

12:03:23 23 A. Yes.

12:03:24 24 Q. Okay. Have you ever looked at that document in

12:03:28 25 your capacity as at the Maricopa County Recorder's

12:03:34 1 Office?

12:03:34 2 A. No.

12:03:37 3 Q. Okay. What guidance or training has the

12:03:41 4 Secretary of State provided regarding the SAVE system

12:03:43 5 and the processes the County Recorders need to follow

12:03:48 6 while using it?

12:03:48 7 A. What's in the elections procedures manual.

12:03:54 8 Q. Anything else?

12:03:54 9 A. No, not that I'm aware of.

12:04:09 10 Q. Okay. In order to use the SAVE system, do you

12:04:12 11 need to have a specific identification number for an

12:04:19 12 individual?

12:04:20 13 A. For a user of the system?

12:04:23 14 Q. No. I apologize. I was unclear.

12:04:26 15 If you wanted to try to verify citizenship for

12:04:28 16 an individual and your office was trying to do that, in

12:04:33 17 order to use the SAVE system and kind of identify

12:04:38 18 someone as either a citizen or noncitizen, do you need a

12:04:41 19 unique identification number for that individual?

12:04:44 20 A. Yes.

12:04:45 21 Q. Okay. What kind of number do you need for

12:04:47 22 those individuals in order to use the SAVE system?

12:04:50 23 A. There's a user name and password.

12:04:54 24 Q. I'm sorry, I'm being very unclear. But I

12:04:57 25 appreciate the answer.

12:04:58 1 Assuming you're kind of in the system and using
12:05:02 2 it and, you know, you want to find out if I, Danielle
12:05:07 3 Lang, am a citizen, can you just put in my name and date
12:05:14 4 of birth and get any information from the SAVE system?
12:05:16 5 A. It's my understanding you need to have an
12:05:19 6 A-Number to do the search.
12:05:20 7 Q. So you need to have a specific immigration
12:05:23 8 number --
12:05:23 9 A. Yes.
12:05:24 10 Q. -- in order to use the SAVE system at all?
12:05:26 11 A. That's my understanding.
12:05:27 12 Q. Okay. So for folks for whom you don't have an
12:05:34 13 A-Number, the SAVE system is not a useful system,
12:05:40 14 correct?
12:05:40 15 A. We wouldn't go down the SAVE route if we didn't
12:05:44 16 have an A-Number to validate.
12:05:46 17 Q. Okay.
12:05:46 18 A. We wouldn't know to do that.
12:05:48 19 Q. And one way you could receive an A-Number is
12:05:51 20 when an individual provides it, correct?
12:05:54 21 A. Yes.
12:05:55 22 Q. Are there any other ways in which you receive
12:05:58 23 A-Numbers?
12:06:01 24 A. Only from the voter.
12:06:02 25 Q. Okay. So the only time you use the SAVE system

12:06:06 1 is when a voter provides their A-Number on their voter
12:06:10 2 registration form; is that correct?

12:06:11 3 A. Yes.

12:06:16 4 Q. Okay. And you have no other way to obtain
12:06:18 5 A-Numbers except for from the voter, correct?

12:06:22 6 A. Yes.

12:06:23 7 Q. All right. Does your system track who has
12:06:38 8 provided DPOC through an A-Number in the SAVE system?

12:06:44 9 A. We can record in the voter's record that they
12:06:48 10 have provided DPOC, but there's not a report that
12:06:52 11 delineates that specific category.

12:06:56 12 Q. Okay. So you couldn't find out, for example,
12:07:00 13 how many people in the Maricopa County registration
12:07:05 14 database have provided DPOC in the form of an A-Number
12:07:09 15 that was validated by the SAVE system, correct?

12:07:15 16 A. That would be a special request that IT would
12:07:19 17 have to see if they could do. They would have to look
12:07:21 18 to see how many records have an A-Number in them, and
12:07:24 19 then from there try to break it down how many are, you
12:07:27 20 know, registered or fed or not.

12:07:30 21 Q. Okay. Do you have any sense of the kind of
12:07:40 22 volume of people that provide A-Numbers on their voter
12:07:45 23 registration form as their means of providing DPOC?

12:07:49 24 A. It's not a lot.

12:07:59 25 Q. Are there any records that would show kind of

12:08:02 1 everyone that you have searched for using the SAVE
12:08:09 2 system?

12:08:09 3 A. I am not that familiar with the search
12:08:11 4 functionality for reporting on what we've looked up in
12:08:14 5 SAVE. So if that exists, that's -- I don't know.

12:08:19 6 Q. Okay. And when you indicate in the voter
12:08:22 7 registration database that DPOC has been provided, does
12:08:30 8 that data entry include specifics about what kind of
12:08:34 9 DPOC has been provided or just that DPOC has been
12:08:36 10 provided?

12:08:40 11 A. If it's MVD, it -- there -- you can see that it
12:08:45 12 was validated to their MVD. If it's an A-Number and
12:08:49 13 it's been validated, we know it's SAVE. If the voter
12:08:52 14 provided something as a copy, they'll typically write on
12:08:55 15 the corner of the voter registration form itself like BC
12:08:57 16 for birth certificate or PSS for passport.

12:09:00 17 Q. Okay. But in those cases that would not
12:09:02 18 necessarily be in the database; is that correct?

12:09:04 19 A. Correct.

12:09:14 20 Q. And I think you mentioned this earlier, but
12:09:16 21 your office pays USCIS for use of the SAVE system; is
12:09:23 22 that correct?

12:09:23 23 A. Yes.

12:09:25 24 Q. Do you know what that cost looks like for the
12:09:29 25 Maricopa County Recorder's Office?

12:09:33 1 A. I don't. I think it's \$25 a month as a base,
12:09:36 2 and then depending on how many searches you've done, it
12:09:40 3 could be more.

12:09:43 4 Q. Okay. And how long does the search take?

12:09:46 5 A. Seconds.

12:09:49 6 Q. Okay. And what are the kind of options that
12:09:51 7 could come back after you put in a search, an A-Number
12:09:55 8 and the other demographic information for the voter?
12:09:57 9 You input it into the system, and what kind of responses
12:10:01 10 do you get?

12:10:02 11 A. So I haven't done SAVE search myself in a long
12:10:05 12 time.

12:10:06 13 Q. Okay.

12:10:06 14 A. But I will say that it would either come back
12:10:08 15 as validated citizen or noncitizen, still like an
12:10:14 16 immigration status.

12:10:21 17 Q. Okay. And is another option that there is no
12:10:25 18 match?

12:10:26 19 A. That's a potential, that the A-Number doesn't
12:10:29 20 exist or has been transposed and we can't match it.

12:10:35 21 Q. Okay. And so with respect to DPOC, if it comes
12:10:39 22 back from SAVE as validated as citizen, that's
12:10:43 23 sufficient DPOC, correct?

12:10:44 24 A. Yes.

12:10:45 25 Q. And if the SAVE system comes back and indicates

12:10:49 1 noncitizen, my understanding is that that voter would
12:10:53 2 receive notification that they cannot be registered at
12:10:57 3 all until they provide DPOC; is that correct?
12:10:59 4 A. Yes.
12:11:01 5 Q. Okay. And then in the case where the SAVE
12:11:05 6 system didn't provide -- didn't identify any match
12:11:07 7 because of potentially an error with the A-Number, what
12:11:11 8 would happen to that voter?
12:11:12 9 A. They would become a federal only voter.
12:11:15 10 Q. Okay. And they would receive the same notice
12:11:18 11 that federal only voters receive?
12:11:19 12 A. Yes.
12:11:21 13 Q. Okay. In your experience or to your knowledge,
12:11:38 14 is there ever a lag between when this SAVE system is
12:11:42 15 updated with a voter registration -- or with a
12:11:46 16 citizenship status and when the voter naturalized?
12:11:51 17 A. I have heard there could be lags.
12:11:54 18 Q. Okay. Do you know about how long those lags
12:11:57 19 can be?
12:11:57 20 A. I don't.
12:12:06 21 Q. And on Page 10 of the EPM or it's MC 24, if you
12:12:12 22 could look at the bottom here, there is a section called
12:12:16 23 verifying citizenship near voter registration deadlines,
12:12:20 24 and the first sentence says, "Often there is a delay
12:12:22 25 between when a registrant becomes a U.S. citizen and

12:12:25 1 when that registrant's citizenship status has been
12:12:29 2 updated in SAVE."
12:12:30 3 Do you see that?
12:12:30 4 A. I do.
12:12:30 5 Q. And so the rest of this section kind of puts
12:12:33 6 forward some procedures where you would have to kind of
12:12:36 7 check SAVE a few times prior to a voter registration --
12:12:44 8 prior to an election, rather, to see if SAVE has been
12:12:50 9 updated; is that correct?
12:12:50 10 A. Yes.
12:12:51 11 Q. Okay. And does your office follow those
12:12:54 12 procedures?
12:12:54 13 A. Yes.
12:12:55 14 Q. Okay. And -- okay.
12:13:16 15 And I see above that there's a section about
12:13:19 16 naturalization ceremonies; do you see that?
12:13:22 17 A. Yes.
12:13:23 18 Q. Does Maricopa County send representatives from
12:13:29 19 the Recorder's Office to naturalization ceremonies?
12:13:32 20 A. Yes.
12:13:34 21 Q. How regularly does the county do that?
12:13:38 22 A. I think we go four times a month.
12:13:42 23 Q. Okay. And does your office follow the
12:13:47 24 procedures outlined here for naturalization ceremonies?
12:13:50 25 A. Yes.

12:13:53 1 Q. Okay. And my understanding of this section is
12:13:56 2 that the County Recorders are kind of responsible for
12:14:00 3 making sure that all of those applications are kind of
12:14:03 4 affirming that DPOC is met for all of the individuals
12:14:07 5 who are registering at those naturalization ceremonies;
12:14:11 6 is that correct?

12:14:11 7 A. Yes.

12:14:11 8 Q. Okay. And this kind of cover letter from the
12:14:15 9 County Recorder representative is sufficient DPOC for
12:14:17 10 those individuals, correct?

12:14:18 11 A. Yes.

12:14:29 12 Q. Okay. On Page 11, MC 25, which is number 7,
12:14:35 13 I'd like to look at number 7, which is preservation and
12:14:38 14 protection of citizenship documentation. How and where
12:14:44 15 does your office store, you know, copies of DPOC that
12:14:50 16 you have in your possession?

12:14:52 17 A. We store it outside of the voter registration
12:14:55 18 system, and so then it's maintained. Then after two
12:15:01 19 years we destroy them.

12:15:05 20 Q. Okay. That was my next question, so thank you.
12:15:08 21 I know that it says here that you may destroy
12:15:10 22 citizenship documents after two years, and it is your
12:15:13 23 office's practice to do that; is that correct?

12:15:16 24 A. Yes.

12:15:16 25 Q. All right. Do you know if your office has

12:15:35 1 encountered instances where a voter registration
12:15:38 2 applicant is a U.S. citizen, but was flagged erroneously
12:15:43 3 by the SAVE system as a noncitizen?

12:15:45 4 A. I would not know that.

12:15:51 5 Q. Okay. So I went to a very useful webinar on
12:16:03 6 SAVE recently, and they kind of indicated that if there
12:16:10 7 is not a citizenship verification as that kind of first
12:16:15 8 step of the SAVE system, they can do kind of additional
12:16:18 9 verification steps that are more manual, where an
12:16:21 10 individual from USCIS kind of works to try to ascertain
12:16:27 11 the citizenship status of that individual. Are you
12:16:31 12 aware of those procedures?

12:16:33 13 A. I am not.

12:16:35 14 MS. BOUGHTON: Form.

12:16:36 15 BY MS. LANG:

12:16:37 16 Q. And has your office, to your knowledge, ever
12:16:40 17 used the SAVE system beyond that initial kind of
12:16:45 18 couple-seconds response from the SAVE system as to that
12:16:48 19 individual's status?

12:16:50 20 A. Well, as outlined in the procedures manual, if
12:16:53 21 it is close to an election, we will continually try to
12:16:56 22 run the number again to see if we can get a validation.

12:17:01 23 Q. Thank you.

12:17:04 24 But to your knowledge, the only use of the SAVE
12:17:06 25 system is kind of an input and then an immediate

12:17:10 1 response, and you're not aware of any additional
12:17:13 2 verification procedures that can be done through SAVE?
12:17:15 3 A. I'm not.
12:18:00 4 Q. I'm going to mark as Exhibit 16 a copy of the
12:18:03 5 state voter registration form that I want to refer to.
12:18:22 6 (Deposition Exhibit 16 was marked for
12:18:26 7 identification.)
12:18:26 8 BY MS. LANG:
12:18:29 9 Q. Okay. So does this document look familiar to
12:18:31 10 you?
12:18:31 11 A. Yes.
12:18:33 12 Q. It's a copy of the Arizona voter registration
12:18:37 13 form, what we would call the state form; is that
12:18:38 14 correct?
12:18:38 15 A. Yes.
12:18:39 16 Q. All right. And I see in box 22 there is a
12:18:43 17 separate question that says, "Are you a citizen of the
12:18:46 18 United States," and somebody has to check yes or no; is
12:18:49 19 that correct?
12:18:49 20 A. Yes.
12:18:53 21 Q. If someone fails to check any box on this form,
12:19:00 22 yes or no, but has otherwise completed the form, signed,
12:19:06 23 what does your office -- what impact does the lack of a
12:19:12 24 checkmark on that question have on the application?
12:19:16 25 A. So we would follow the elections procedures

12:19:19 1 manual, and that would not invalidate the form, just a
12:19:26 2 missed checkbox in itself.

12:19:29 3 Q. Okay. And so if a person didn't check that
12:19:34 4 box, but DPOC was provided or acquired, that person
12:19:39 5 would become a full ballot voter, assuming no other
12:19:42 6 issues with the registration?

12:19:43 7 A. Yes.

12:19:44 8 Q. Okay. If someone didn't check that box and
12:19:46 9 DPOC was not acquired or provided, what happens to that
12:19:51 10 voter?

12:19:53 11 A. Well, we would reach out to the voter and ask
12:19:55 12 them for DPOC. In most cases they would still be added
12:20:00 13 as a federal only voter.

12:20:02 14 Q. Thank you.
12:20:03 15 Why do you say in most cases there?

12:20:06 16 A. It depends on what else is in the form. If
12:20:09 17 there's any -- usually when we see things like that,
12:20:12 18 they're from third-party registration drives, and
12:20:15 19 there's more issues than just missing a checkbox. So
12:20:18 20 it's hard to categorize all of them into one box.

12:20:21 21 Q. But if the only issue is a missing checkbox and
12:20:24 22 there's no DPOC, the person would become a federal only
12:20:27 23 voter; is that correct?

12:20:28 24 A. Yes.

12:20:37 25 Q. Okay. I'll mark as Exhibit 17 the federal

12:20:39 1 form.

12:20:45 2 (Deposition Exhibit 17 was marked for

12:20:49 3 identification.)

12:20:49 4 BY MS. LANG:

12:20:50 5 Q. Is this document familiar to you?

12:20:51 6 A. Yes.

12:20:51 7 Q. And this is what we might call the national or

12:20:54 8 federal form, correct?

12:20:55 9 A. Yes.

12:20:55 10 Q. Okay. And I just quickly wanted to look at the

12:21:05 11 actual application itself, which is, I believe, the

12:21:11 12 third page, and at the top here there's a "Are you a

12:21:21 13 citizen of the United States," yes or no checkbox,

12:21:27 14 correct?

12:21:27 15 A. I don't think there's a checkbox.

12:21:30 16 Q. At the very top.

12:21:32 17 A. Oh, up here. Yes. Sorry.

12:21:34 18 Q. Yeah.

12:21:35 19 And then in box 9, once again it says, "I have

12:21:38 20 reviewed my state's instructions and I swear or affirm

12:21:42 21 that I am a United States citizen," and then other

12:21:45 22 criteria, correct?

12:21:45 23 A. Yes.

12:21:45 24 Q. And then the voter signs there, correct?

12:21:48 25 A. Yes.

12:21:48 1 Q. So if a voter has signed, but not marked the
12:21:55 2 checkbox, do you treat that the same as you would for
12:21:57 3 the state form?

12:21:57 4 A. Yes. Again, we follow the procedures manual,
12:22:00 5 and I would not invalidate the form just because of the
12:22:04 6 checkboxes.

12:22:06 7 Q. Okay. And in all of the cases where this
12:22:14 8 person would -- where an applicant would become a full
12:22:17 9 ballot voter, that means that regardless of the
12:22:19 10 checkbox, you have some sort of documentary proof of
12:22:22 11 citizenship or validation from MVD or SAVE; is that
12:22:27 12 correct?

12:22:27 13 A. Yes.

12:22:28 14 Q. Okay. In those circumstances where you have
12:22:31 15 either a verification from SAVE or from MVD or
12:22:37 16 documentary proof of citizenship, what value would that
12:22:42 17 checkbox add to that person's application?

12:22:45 18 MS. BOUGHTON: Form.

12:22:46 19 MR. O'CONNOR: Form.

12:22:48 20 BY MS. LANG:

12:22:48 21 Q. Go ahead.

12:22:49 22 A. It would be considered a fully complete form;
12:22:52 23 but as long as we have DPOC, it's not going to change
12:22:54 24 the voter's eligibility status.

12:22:57 25 Q. Okay. And in your view, would that kind of

12:23:00 1 checkbox really provide any additional information about
12:23:02 2 that person's citizenship status if you already have
12:23:05 3 DPOC for that person?

12:23:07 4 A. No.

12:23:17 5 Q. We'll mark as Exhibit 18 MC 2339.

12:23:36 6 (Deposition Exhibit 18 was marked for
12:23:37 7 identification.)

12:23:37 8 BY MS. LANG:

12:23:37 9 Q. And the first page of this exhibit is an
12:23:40 10 e-mail, and it attaches some VRAC legislative policy
12:23:47 11 updates from 2022; do you see that?

12:23:48 12 A. Yes.

12:23:50 13 Q. And have you seen this legislative policy
12:23:54 14 updates document before?

12:23:54 15 A. Yes.

12:23:56 16 Q. And if you could turn to Page 2349. Here
12:24:08 17 there's a header that talks about H.B. 2492, which is
12:24:11 18 one of the laws that's challenged here, and there's a
12:24:17 19 citizenship checkbox paragraph at the end of the page;
12:24:23 20 do you see that?

12:24:23 21 A. Yes.

12:24:25 22 Q. And here it says, "The checkbox is immaterial
12:24:27 23 and violates the CRA," which stands for the Civil Rights
12:24:31 24 Act, "by denying the right to register to vote to
12:24:34 25 eligible Arizonans who accidentally omit the checkmark

12:24:38 1 from their voter registration application."

12:24:40 2 Do you see that?

12:24:40 3 A. I do.

12:24:41 4 Q. And is that the position of the Maricopa County
12:24:41 5 Recorder's Office?

12:24:46 6 MS. CRITZ: Form.

12:24:46 7 MR. O'CONNOR: Form.

12:24:49 8 THE WITNESS: I would say we're, again,
12:24:51 9 following the elections procedures manual, and we would
12:24:53 10 not reject a registration based solely on missing a
12:24:58 11 checkbox.

12:24:58 12 BY MS. LANG:

12:24:58 13 Q. And who drafted this legislative policy updates
12:25:05 14 document?

12:25:05 15 A. I believe this was Kori Lorick, the prior state
12:25:09 16 elections director.

12:25:10 17 Q. Okay. And does the Maricopa County Recorder's
12:25:20 18 Office have a position on whether or not the checkbox is
12:25:23 19 immaterial?

12:25:27 20 MS. BOUGHTON: Form.

12:25:29 21 THE WITNESS: Again, we are following the
12:25:31 22 procedures manual on how to process registrations that
12:25:34 23 miss a checkbox.

12:25:47 24 BY MS. LANG:

12:25:47 25 Q. I appreciate your answer, and I understand that

12:25:49 1 that's the practice of the Maricopa County Recorder's
12:25:52 2 Office. I do want to ask a slightly different question,
12:25:55 3 which is do you -- you know, what the policy position is
12:25:58 4 of the Maricopa County Recorder's Office as to whether
12:26:02 5 or not the citizenship checkbox is material or
12:26:06 6 immaterial?

12:26:09 7 MS. BOUGHTON: Form.

12:26:10 8 MR. O'CONNOR: Asked and answered.

12:26:12 9 BY MS. LANG:

12:26:12 10 Q. Go ahead.

12:26:14 11 A. So we don't make the law, but we follow the
12:26:17 12 law, and so we are going to follow what's in the
12:26:20 13 procedures manual, and that is incorporated into our
12:26:25 14 policies and procedures.

12:26:31 15 Q. Is it fair to say then that your understanding
12:26:33 16 is that the Maricopa County Recorder's Office doesn't
12:26:36 17 have a -- its own position on the materiality of the
12:26:40 18 checkbox, but, rather, is just going to follow the
12:26:42 19 guidance given to it?

12:26:46 20 MS. CRITZ: Form.

12:26:47 21 THE WITNESS: I would say that we do our
12:26:50 22 job according to the law, federal/state, and policies.
12:26:54 23 So I -- again, I'm just going to stick with the fact
12:26:58 24 that we follow the law and the rules laid out in the
12:27:01 25 procedures manual.

12:27:04 1 BY MS. LANG:

12:27:04 2 Q. Okay. Is it recorded anywhere in the voter

12:27:14 3 registration database if the individual failed to check

12:27:17 4 the box for citizenship?

12:27:20 5 A. No.

12:27:20 6 Q. Okay. So there would be no way to track how

12:27:23 7 often --

12:27:23 8 A. No.

12:27:23 9 Q. -- folks miss that? Okay.

12:27:36 10 MS. LANG: I'm going to move on to a

12:27:38 11 different set of topics. Would folks prefer to take a

12:27:42 12 break now?

12:27:43 13 MR. O'CONNOR: Yes.

12:27:44 14 MS. LANG: Yes. I see yes. So we will

12:27:45 15 take a break. Thank you. We'll break for lunch.

12:27:47 16 THE VIDEOGRAPHER: We are off the record.

12:27:48 17 The time on the video monitor is 12:27 p.m. This ends

12:27:51 18 Media 2.

12:27:54 19 (A recess was taken.)

01:23:53 20 THE VIDEOGRAPHER: We are on the record.

01:23:55 21 The time on the video monitor is 1:23 p.m. This begins

01:23:58 22 Media 3.

01:24:00 23 BY MS. LANG:

01:24:01 24 Q. Good afternoon, Ms. Petty.

01:24:02 25 A. Good afternoon.

01:24:03 1 Q. Okay. I'm going to shift gears to talk more
01:24:09 2 now about the application of these new challenged laws.
01:24:15 3 I do understand, and we'll get into it more in detail,
01:24:18 4 that many of these -- many provisions in here have not
01:24:22 5 yet been implemented because of the pending litigation.
01:24:25 6 So I'll try to be clear about what I'm asking for, kind
01:24:28 7 of what would be the effect or what would be the
01:24:31 8 requirement versus current process. But with that, I'll
01:24:35 9 mark Exhibit 19 is House Bill 2492.

01:24:45 10 (Deposition Exhibit 19 was marked for
01:24:51 11 identification.)

01:24:51 12 BY MS. LANG:

01:24:51 13 Q. And so H.B. 2492, as you know, is one of the
01:24:55 14 laws that is being challenged in this litigation, and if
01:24:59 15 we look at Page 1, the first kind of full page of the
01:25:08 16 document, one of the first changes that the law makes to
01:25:13 17 the Arizona statutes is changing the code section about
01:25:17 18 the qualifications for registrants and adding that a
01:25:23 19 qualification of registration has provided -- is that
01:25:27 20 somebody has provided satisfactory evidence of
01:25:30 21 citizenship.

01:25:31 22 Do you see that there?

01:25:31 23 A. Yes.

01:25:33 24 Q. Have you received any guidance about if and
01:25:37 25 when H.B. 2492 is implemented, whether or not -- what

01:25:42 1 that would mean for individuals who register to vote
01:25:46 2 prior to the DPOC requirements?
01:25:49 3 A. I have not.
01:25:50 4 Q. Okay. And do you have any understanding of how
01:25:55 5 this -- how this provision might affect people who were
01:26:01 6 registered prior to the DPOC requirement?
01:26:04 7 A. No.
01:26:05 8 Q. Okay. Another part of this law is a
01:26:19 9 requirement that the citizen checkbox be marked; is that
01:26:24 10 your understanding?
01:26:25 11 A. Yes.
01:26:27 12 Q. Okay. So is it your understanding that if
01:26:29 13 H.B. 2492 is implemented, that would require changing
01:26:33 14 your current practices?
01:26:35 15 A. Yes.
01:26:36 16 Q. Okay. And what would the nature of that change
01:26:38 17 be?
01:26:40 18 A. That we would now follow this new law that says
01:26:42 19 that it has to be checked.
01:26:44 20 Q. And so that would mean rejecting voter
01:26:48 21 registration applications because of a missing checkmark
01:26:51 22 even if you had documentary proof of their citizenship
01:26:55 23 in your hands?
01:26:57 24 MS. BOUGHTON: Form.
01:26:58 25 THE WITNESS: That's my understanding.

01:27:01 1 BY MS. LANG:

01:27:01 2 Q. And is it your understanding that that
01:27:03 3 requirement would apply to both state and federal law --
01:27:07 4 or state and federal forms?

01:27:08 5 A. Yes.

01:27:10 6 Q. Earlier you testified that the current practice
01:27:24 7 of the state is -- strike that.

01:27:30 8 Earlier you testified that the current practice
01:27:32 9 of the Maricopa County Recorder's Office is that all
01:27:36 10 state and federal forms are processed the same way as it
01:27:39 11 applies to DPOC, correct?

01:27:40 12 A. Yes.

01:27:42 13 Q. What is your understanding of how H.B. 2492
01:27:46 14 would change that if it was implemented?

01:27:51 15 A. I have not received guidance on how we would
01:27:54 16 implement that.

01:27:56 17 Q. And looking at Page 4, the new blue Section C
01:28:05 18 says, "Except for a form produced by the United States
01:28:08 19 Election Assistance Commission, any application for
01:28:10 20 registration shall be accompanied by satisfactory
01:28:14 21 evidence of citizenship as prescribed in Section 16-166,
01:28:21 22 Subsection F, and the County Recorder or other officer
01:28:25 23 in charge of elections shall reject any application for
01:28:29 24 registration that is not accompanied by satisfactory
01:28:31 25 evidence of citizenship."

01:28:34 1 Do you see that?

01:28:34 2 A. I do.

01:28:35 3 Q. Okay. Is it your understanding that that means

01:28:37 4 that except for the federal form, anyone who does not

01:28:46 5 provide DPOC with their registration has to be denied

01:28:49 6 registration?

01:28:51 7 A. That's what it appears to say.

01:28:53 8 Q. Okay. And so would that preclude you from

01:28:56 9 doing the kind of acquiring of DPOC from MVD that you

01:29:01 10 have done in the -- up un -- you know, that you

01:29:04 11 currently do?

01:29:04 12 MS. BOUGHTON: Form.

01:29:06 13 THE WITNESS: I see that it would.

01:29:09 14 BY MS. LANG:

01:29:09 15 Q. Okay. And if someone used a state form to

01:29:15 16 register to vote under this provision and they did not

01:29:21 17 provide DPOC, they would no longer become a federal only

01:29:24 18 voter; is that correct?

01:29:26 19 MS. BOUGHTON: Form.

01:29:32 20 MR. O'CONNOR: Form.

01:29:32 21 THE WITNESS: I'm trying to read this

01:29:33 22 here, yeah.

01:29:39 23 That's what it appears to say.

01:29:40 24 BY MS. LANG:

01:29:41 25 Q. And so my understanding is that the application

01:29:43 1 of this provision would mean that federal and state
01:29:47 2 forms would be treated differently for DPOC; is that
01:29:50 3 fair to say?

01:29:50 4 MS. BOUGHTON: Form.

01:29:51 5 MR. O'CONNOR: Form.

01:29:53 6 BY MS. LANG:

01:29:53 7 Q. Go ahead.

01:29:53 8 A. Yes.

01:29:58 9 Q. And are you aware of any prior practice by the
01:30:03 10 Maricopa County Recorder's Office in which state forms
01:30:07 11 and federal forms were treated differently with respect
01:30:10 12 to DPOC?

01:30:13 13 A. There was a time that state forms and federal
01:30:15 14 forms were treated differently, yes.

01:30:21 15 Q. Okay. And when was that; do you know?

01:30:30 16 A. I don't remember exact time frame.

01:30:34 17 Q. Okay. And what led to the change in which
01:30:41 18 federal and state forms are now treated the same?

01:30:45 19 A. The case was litigated and we had a LULAC
01:30:49 20 agreement, which said that we had to treat the forms the
01:30:51 21 same.

01:30:51 22 Q. Okay. And that was the LULAC consent decree;
01:30:51 23 is that right?

01:30:54 24 A. Yes.

01:30:56 25 Q. Okay. And the LULAC consent decree provisions

01:30:58 1 have been incorporated in the 2019 EPM; is that correct?

01:31:02 2 A. Yes.

01:31:02 3 MR. O'CONNOR: Form.

01:31:02 4 THE WITNESS: Yes.

01:31:16 5 BY MS. LANG:

01:31:17 6 Q. Okay. Are you familiar with how many state

01:31:19 7 form applicants had been denied access to the federal

01:31:23 8 only list prior to the LULAC litigation and consent

01:31:26 9 decree?

01:31:27 10 A. I do not know.

01:31:32 11 MS. STUART: Just as a general reminder,

01:31:34 12 it's hard to hear you because of the fan.

01:31:37 13 THE WITNESS: Oh.

01:31:37 14 MS. STUART: Thank you.

01:31:42 15 BY MS. LANG:

01:31:42 16 Q. Sitting here today, can you think of any reason

01:31:44 17 why a voter submitting a state form versus a federal

01:31:49 18 form would be any less entitled to vote in federal

01:31:54 19 elections?

01:31:54 20 MR. O'CONNOR: Form.

01:31:55 21 MS. BOUGHTON: Form.

01:31:55 22 MS. STUART: Form.

01:31:56 23 THE WITNESS: Again, we follow the law, so

01:31:59 24 if the law says we treat them differently, we would. If

01:32:01 25 the law says we treat them the same, we would.

01:32:05 1 BY MS. LANG:

01:32:05 2 Q. Is the information that you receive about the

01:32:09 3 voter different from -- depending on whether or not you

01:32:14 4 receive a state or federal form?

01:32:17 5 A. There's certain optional information included

01:32:21 6 on the state form that would not be included on the

01:32:24 7 national form.

01:32:24 8 Q. Is there any information you receive on the

01:32:27 9 state form that would have a bearing on your

01:32:30 10 determination of whether or not someone is a citizen or

01:32:33 11 not that's not on the federal form?

01:32:35 12 MS. BOUGHTON: Form.

01:32:37 13 THE WITNESS: I don't believe so.

01:32:48 14 BY MS. LANG:

01:32:48 15 Q. Based on current practice, what's the breakdown

01:32:58 16 between the average number of kind of state forms you

01:33:02 17 receive versus federal forms?

01:33:05 18 A. I don't have those statistics in front of me.

01:33:09 19 Q. Do you receive more state forms than you do

01:33:11 20 federal forms?

01:33:12 21 A. Yes.

01:33:12 22 Q. Substantially more?

01:33:14 23 A. Yes.

01:33:21 24 Q. Does your office provide voter registration

01:33:27 25 applications to third-party groups that conduct voter

01:33:30 1 registration drives?

01:33:30 2 A. Yes.

01:33:31 3 Q. And when you provide those voter registration

01:33:34 4 applications to third-party groups, is that the state

01:33:36 5 form or the federal form?

01:33:37 6 A. The state form.

01:33:40 7 Q. And, to your knowledge, with respect to the

01:33:42 8 groups that conduct voter registration drives in

01:33:45 9 Maricopa County, do those groups typically use the state

01:33:50 10 form or the federal form?

01:33:52 11 MR. O'CONNOR: Form.

01:33:52 12 THE WITNESS: The state form.

01:34:01 13 BY MS. LANG:

01:34:10 14 Q. So when it comes to H.B. 2492, as we've

01:34:16 15 discussed, if it's a state form, but lacks DPOC, the law

01:34:20 16 requires you to reject that application. Subsection D

01:34:25 17 deals with how to process federal forms that are not

01:34:28 18 accompanied by DPOC; do you see that on Page 4?

01:34:34 19 A. Yes.

01:34:38 20 Q. And for those individuals it instructs that

01:34:41 21 within ten days after receiving the application, quote,

01:34:46 22 the County Recorder or other officer in charge of

01:34:48 23 elections shall use all available resources to verify

01:34:51 24 the citizenship status of the applicant; do you see

01:34:55 25 that?

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01:34:55 1 A. Yes.

01:34:56 2 Q. And then says, "At a minimum shall compare the
01:35:00 3 following information available on the application for
01:35:01 4 registration with the following, provided that the
01:35:03 5 county has access." Do you see that?

01:35:04 6 A. Yes.

01:35:13 7 Q. The first item is the Department of
01:35:18 8 Transportation. Is it your understanding that that
01:35:20 9 would be the kind of MVD check that your office already
01:35:24 10 does?

01:35:25 11 A. Yes.

01:35:34 12 Q. Okay. With respect -- so number 2 says, "The
01:35:36 13 Social Security Administration database." I think you
01:35:40 14 already testified about this, but do you have any direct
01:35:42 15 access to the Social Security Administration databases?

01:35:46 16 A. No.

01:35:50 17 Q. And I believe your testimony earlier was that
01:35:52 18 the only kind of social security check that's done is
01:35:55 19 done through MVD; is that correct?

01:35:57 20 A. Yes.

01:35:58 21 Q. Is it your understanding that that social
01:36:00 22 security check through MVD is ever used for purposes of
01:36:08 23 verifying citizenship information?

01:36:10 24 MS. BOUGHTON: Form.

01:36:12 25 THE WITNESS: My understanding is not used

01:36:15 1 for DPOC.

01:36:18 2 BY MS. LANG:

01:36:18 3 Q. So it's your understanding that the SSA check

01:36:20 4 the MVD does is not used for DPOC, correct?

01:36:22 5 A. Correct.

01:36:23 6 Q. Is it your understanding it's only used for

01:36:25 7 kind of verification of identity under the Help America

01:36:30 8 Vote Act?

01:36:30 9 A. Yes.

01:36:32 10 Q. Okay. To your knowledge, would any election

01:36:37 11 official in the state of Arizona have the ability to use

01:36:40 12 an SSA database to verify the citizenship of applicants?

01:36:45 13 MS. BOUGHTON: Form.

01:36:47 14 THE WITNESS: I'm not aware of any access.

01:36:57 15 BY MS. LANG:

01:36:57 16 Q. Other than the MVD check that we've already

01:36:59 17 discussed in great detail, do you have any other access

01:37:04 18 to kind of records from the Department of Transportation

01:37:08 19 for which you could verify citizenship?

01:37:10 20 A. No.

01:37:15 21 Q. For number 3 on the next page it refers to the

01:37:20 22 Systematic Alien Verification for Entitlements program,

01:37:24 23 the SAVE system. Yes?

01:37:26 24 A. Yes.

01:37:27 25 Q. We've already discussed your access to the SAVE

01:37:32 1 system, and I believe your testimony was that the SAVE
01:37:35 2 system is only useful if you have an A-Number for an
01:37:40 3 individual; is that correct?

01:37:41 4 A. Yes.

01:37:43 5 Q. Okay. And if you could look back at
01:37:47 6 Exhibit 17, which is the federal voter registration
01:37:53 7 form, and if you look at the application page itself, is
01:37:57 8 there any space by which an individual could provide an
01:38:00 9 A-Number?

01:38:04 10 A. Under box 6, ID number.

01:38:13 11 Q. Okay. And it says -- under box 6 it says, "See
01:38:16 12 item 6 in the instructions for your state." Is that
01:38:16 13 right?

01:38:20 14 A. Yes.

01:38:22 15 Q. Okay. And so if we could turn to the
01:38:24 16 instructions for Arizona, which I believe are on Page 3,
01:38:35 17 if you could review the instructions for number 6, is
01:38:38 18 there any mention of providing an A-Number?

01:38:45 19 A. No.

01:38:46 20 Q. Okay. The only numbers that are referenced in
01:38:48 21 these instructions are either a driver's license number,
01:38:52 22 a nondriving ID, or a social security number; is that
01:38:56 23 correct?

01:38:56 24 A. Yes.

01:38:59 25 Q. Okay. So there's no reason -- is it correct

01:39:04 1 that there's no reason to believe that federal -- that
01:39:08 2 you would have an A-Number for any individual that
01:39:11 3 provides a federal form to register to vote?

01:39:16 4 MS. STUART: Form.

01:39:17 5 THE WITNESS: I would say in my experience
01:39:20 6 I've seen people put all kinds of numbers in there, but
01:39:23 7 the instructions do say driver's license number.

01:39:26 8 BY MS. LANG:

01:39:59 9 Q. Okay. For number 4, "A National Association
01:40:02 10 for Public Health Statistics and Information Systems
01:40:05 11 Electronic Verification of Vital Events System," is that
01:40:10 12 a system that you have access to?

01:40:12 13 A. No.

01:40:14 14 Q. Are you aware of any Arizona election official
01:40:17 15 that has access to that data?

01:40:19 16 A. I'm not aware of any access to that.

01:40:21 17 Q. Okay. And number 5 says, "Any other state,
01:40:25 18 city, town, county or federal database," and kind of
01:40:33 19 instructs County Recorders to consult any such database
01:40:37 20 as to citizenship information.

01:40:42 21 Outside of SAVE and the MVD checks, are you
01:40:45 22 aware of any data that you would have access to that
01:40:50 23 could assist you in ascertaining the citizenship of
01:40:55 24 federal form applicants?

01:40:55 25 A. No.

01:41:18 1 Q. Backing up for just a moment, if we look back
01:41:21 2 at Page 4 and Section C that instructs you to deny voter
01:41:27 3 registration applications not accompanied by DPOC,
01:41:33 4 except for federal forms, do you see that there is a
01:41:37 5 sentence in here that says, "A County Recorder or other
01:41:40 6 officer in charge of elections who knowingly fails to
01:41:43 7 reject an application for registration as prescribed by
01:41:47 8 this Subsection is guilty of a Class 6 felony"?

01:41:51 9 A. Yes.

01:41:56 10 Q. Has this provision or any of the other felony
01:41:59 11 provisions in these new bills raised concerns among
01:42:03 12 election officials about potential prosecution?

01:42:09 13 MR. O'CONNOR: Form.

01:42:10 14 MS. BOUGHTON: Form.

01:42:12 15 BY MS. LANG:

01:42:12 16 Q. Go ahead.

01:42:13 17 A. I have heard some concerns about that.

01:42:17 18 Q. Who have you heard concerns from?

01:42:20 19 MR. O'CONNOR: Form.

01:42:22 20 THE WITNESS: Just folks that process
01:42:25 21 voter registration forms.

01:42:27 22 BY MS. LANG:

01:42:27 23 Q. Your staff?

01:42:28 24 A. Not necessarily my staff, no.

01:42:31 25 Q. Have any of your staff expressed concerns about

01:42:34 1 the felony provisions in these laws?

01:42:36 2 A. Yes.

01:42:39 3 Q. How many staff members have expressed concerns

01:42:42 4 about these felony provisions?

01:42:46 5 A. One or two.

01:42:48 6 Q. And what has the guidance been from your office

01:42:51 7 to the County Recorders -- or to your staff about these

01:42:58 8 felony provisions?

01:42:59 9 MR. O'CONNOR: Form.

01:43:01 10 THE WITNESS: Well, currently these

01:43:02 11 provisions have not been implemented, but general

01:43:07 12 guidance is that as long as you are doing your job to

01:43:10 13 the best of your ability and you're not knowingly

01:43:13 14 violating any laws, that we are doing a good job.

01:43:20 15 BY MS. LANG:

01:43:20 16 Q. Are you personally worried about the felony

01:43:24 17 provisions in these laws?

01:43:26 18 A. Personally, no.

01:44:01 19 Q. On Page 5, number 5, we talked about kind of

01:44:05 20 any other database language, and then at the end it says

01:44:09 21 "Including an electronic registration information

01:44:13 22 center database." Do you see that?

01:44:14 23 A. I do.

01:44:15 24 Q. Are you familiar with ERIC?

01:44:16 25 A. Yes.

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01:44:17 1 Q. Is Arizona a member of ERIC?

01:44:19 2 A. Yes.

01:44:20 3 Q. To your knowledge, does ERIC provide any

01:44:24 4 citizenship information about voter registration

01:44:29 5 applicants?

01:44:29 6 A. No.

01:44:48 7 Q. In number 5 there is language that says the

01:44:52 8 County Recorder should follow -- should apply, quote,

01:44:56 9 any other database relating to voter registration to

01:45:01 10 which the County Recorder Office in charge of elections

01:45:04 11 has access.

01:45:10 12 Do you think that this could broadly be applied

01:45:13 13 to materials that are provided to your office by private

01:45:18 14 citizens?

01:45:18 15 MR. O'CONNOR: Form.

01:45:19 16 MS. BOUGHTON: Form.

01:45:22 17 THE WITNESS: Because it says database, I

01:45:24 18 would say that a form is not a database.

01:45:52 19 BY MS. LANG:

01:45:53 20 Q. I'll mark as Exhibit 20 a document that is

01:45:58 21 labeled NAVAJO 004820.

01:46:10 22 (Deposition Exhibit 20 was marked for

01:46:23 23 identification.)

01:46:23 24 BY MS. LANG:

01:46:23 25 Q. And this is an e-mail from June 15th, 2022 from

01:46:27 1 Stephen Richer of the County Recorder of Maricopa
01:46:31 2 County; is that correct?
01:46:31 3 A. Yes.
01:46:36 4 Q. And the e-mail chain is about kind of revisions
01:46:39 5 to, you know, potential bills along these lines, and
01:46:47 6 Recorder Richer writes, "Does this get rid of the
01:46:49 7 situation whereby any person can submit us lists that we
01:46:54 8 then have to check? E.g. Hi. I used my super secret
01:46:59 9 research program to figure out that these 300,000 people
01:47:02 10 are not citizens. Please check the citizenship of every
01:47:06 11 single one of them right now."
01:47:08 12 Do you see that?
01:47:09 13 A. I do.
01:47:12 14 Q. Is it your understanding that this concern was
01:47:14 15 about the language that is now in H.B. 2492 that would
01:47:19 16 require County Recorders to consult any database or any
01:47:25 17 information they have about citizenship?
01:47:27 18 MR. O'CONNOR: Form.
01:47:28 19 MS. STUART: Form, foundation.
01:47:32 20 THE WITNESS: That was my understanding.
01:47:34 21 BY MS. LANG:
01:47:34 22 Q. Has the County Recorder, Stephen Richer, spoken
01:47:38 23 to you about kind of a concern that this language could
01:47:41 24 be read so broadly as to encompass something like what
01:47:44 25 he wrote in this e-mail?

01:47:47 1 A. We have not had specific conversations about
01:47:50 2 that.

01:47:53 3 Q. Okay. If a private group provided you a
01:48:08 4 database of what they asserted was information about
01:48:11 5 people's citizenship, would you be required to consult
01:48:15 6 that database under number 5 of this law?

01:48:20 7 MS. BOUGHTON: Form.

01:48:20 8 MR. O'CONNOR: Form.

01:48:20 9 THE WITNESS: I don't know.

01:48:22 10 BY MS. LANG:

01:49:22 11 Q. Okay. In Subsection E, the second full
01:49:27 12 sentence on Page 5 of Subsection E says, "If the County
01:49:33 13 Recorder or other officer in charge of elections matches
01:49:36 14 the applicant with information that the applicant is not
01:49:38 15 a United States citizen, the County Recorder or other
01:49:43 16 officer in charge shall reject the application."

01:49:45 17 Do you see that?

01:49:46 18 A. Sorry. Which line?

01:49:50 19 Q. Oh, that's a good point.

01:49:53 20 Line 14.

01:49:57 21 A. Yes.

01:49:59 22 Q. Okay. When it says that the County Recorder,
01:50:03 23 you know, matches the applicant with information that
01:50:06 24 the applicant is not a United States citizen, is it your
01:50:09 25 understanding that that just means that whatever

01:50:11 1 database was consulted provided some indication of
01:50:14 2 noncitizenship?

01:50:15 3 MS. BOUGHTON: Form.

01:50:15 4 MR. O'CONNOR: Form.

01:50:16 5 THE WITNESS: Yes.

01:50:17 6 BY MS. LANG:

01:50:22 7 Q. Okay. Do you know what a County Recorder
01:50:25 8 should do under H.B. 2492 if the information these
01:50:31 9 databases pull up conflicts?

01:50:34 10 MR. O'CONNOR: Form.

01:50:36 11 THE WITNESS: I don't know because we have
01:50:37 12 not been given guidance.

01:51:09 13 BY MS. LANG:

01:51:09 14 Q. Okay. I think you've already testified to
01:51:11 15 this, but as to the implementation of the provisions
01:51:14 16 we've just been discussing, you haven't received any
01:51:17 17 guidance whatsoever on how to implement these; is that
01:51:19 18 correct?

01:51:19 19 A. That's correct.

01:51:25 20 Q. Okay. And your office is not currently
01:51:27 21 implementing these provisions; is that correct?

01:51:29 22 A. That is correct.

01:52:19 23 Q. Another provision in this law indicates that
01:52:22 24 anyone who does become a federal only voter cannot vote
01:52:25 25 by mail; is that correct?

01:52:27 1 A. Yes.

01:52:29 2 Q. Okay. And so I want to refer you to -- I'm

01:52:35 3 going to pull up as an exhibit MC 2195. It's Exhibit 7.

01:52:40 4 I apologize. If your counsel might be able to provide

01:52:45 5 you Exhibit 7 or if you have it.

01:52:47 6 Thank you.

01:52:51 7 MS. STUART: What is the Bates number,

01:52:52 8 again?

01:52:53 9 MS. LANG: MC 2195.

01:53:01 10 BY MS. LANG:

01:53:01 11 Q. And I see at the bottom of this first page and

01:53:07 12 then the second page there's an e-mail from you to

01:53:09 13 Colleen Connor; is that correct, from April 27th, 2023?

01:53:14 14 A. Yes.

01:53:16 15 Q. Okay. And you were raising some questions

01:53:20 16 about the application of H.B. 2492 if it's implemented;

01:53:27 17 is that correct?

01:53:27 18 A. Yes.

01:53:28 19 Q. All right. And I just wanted to ask you, one,

01:53:33 20 generally, has there been any guidance in response to

01:53:37 21 the various issues you raised here?

01:53:41 22 A. There's been no guidance yet.

01:53:43 23 Q. Okay. On the number 1, issue number 2 that you

01:53:49 24 raised, it says, "If a federal only voters -- if a

01:53:56 25 federal only voter initially requests to be on the AEVL

01:54:01 1 but is restricted because of lack of DPOC, if the voter
01:54:06 2 later provides DPOC, do they need to re-request to be on
01:54:09 3 the AEVL, or do we add them based on their initial
01:54:15 4 request?"
01:54:15 5 Do you see that?
01:54:16 6 A. Yes.
01:54:16 7 Q. You haven't gotten any response on that?
01:54:18 8 A. No.
01:54:18 9 Q. And what is your thought on, you know, how that
01:54:20 10 would apply?
01:54:21 11 MR. O'CONNOR: Form.
01:54:23 12 MR. BASILE: Form.
01:54:24 13 BY MS. LANG:
01:54:24 14 Q. If you have one.
01:54:25 15 A. Well, I don't know what the thought would be.
01:54:28 16 That -- system functionality would need to change to
01:54:31 17 accommodate that.
01:55:04 18 Q. Referring back to H.B. 2492 again, on Page 5,
01:55:12 19 Section F instructs that the County Recorder or other
01:55:16 20 officer in charge of elections shall record the efforts
01:55:19 21 made to verify an applicant's citizenship status as
01:55:23 22 described in Subsections D and E of this section.
01:55:27 23 Do you see that?
01:55:27 24 A. Yes.
01:55:28 25 Q. Is there currently functionality in your

01:55:30 1 database or in AVID that would allow the County Recorder
01:55:35 2 to kind of record all of those efforts?

01:55:42 3 A. I think this is an area where we are also
01:55:46 4 requesting guidance, what do they mean by tracking all
01:55:50 5 the efforts.

01:55:52 6 Q. And so as you're sitting here today, you're not
01:55:54 7 sure what that will mean in practice for you or your
01:55:57 8 office?

01:55:58 9 A. Correct.

01:56:18 10 Q. If you look at Page 6, there's the section that
01:56:33 11 addresses the limitations on federal only voters,
01:56:37 12 indicating that federal only voters would not be
01:56:40 13 eligible for presidential elections and not eligible to
01:56:43 14 receive an early ballot by mail.

01:56:45 15 Do you see that?

01:56:45 16 A. Yes.

01:56:46 17 Q. And there's an exclusion in Subsection B that
01:56:50 18 says it does not apply to folks under UOCAVA; is that
01:56:55 19 correct?

01:56:55 20 A. Yes.

01:57:00 21 Q. What is your understanding, if any, of the
01:57:05 22 application of the rest of the parts of this law to
01:57:08 23 UOCAVA voters?

01:57:10 24 MR. O'CONNOR: Form.

01:57:15 25 THE WITNESS: I'm not sure what you mean.

01:57:17 1 BY MS. LANG:

01:57:18 2 Q. So, for example, there are all of these

01:57:21 3 requirements about checking databases that we just went

01:57:24 4 over.

01:57:24 5 A. Yes.

01:57:24 6 Q. Is it your understanding that those

01:57:26 7 requirements would apply to UOCAVA voters as well?

01:57:31 8 MS. BOUGHTON: Form.

01:57:32 9 THE WITNESS: That would be my

01:57:34 10 understanding.

01:57:34 11 BY MS. LANG:

01:57:59 12 Q. Okay. If under H.B. 2492 an application is

01:58:02 13 denied because of lack of DPOC, by when would a voter

01:58:13 14 have to provide DPOC in order to be able to vote in an

01:58:18 15 upcoming election?

01:58:19 16 MR. O'CONNOR: Form.

01:58:22 17 THE WITNESS: I don't know.

01:58:27 18 BY MS. LANG:

01:58:27 19 Q. And you haven't received any guidance on that?

01:58:29 20 A. No.

01:58:31 21 Q. I do apologize. There will probably be a lot

01:58:34 22 of questions about --

01:58:34 23 A. I know.

01:58:35 24 Q. -- what you have not received guidance on, and

01:58:38 25 it is just a matter of getting it clearly on the record.

01:58:38 1 A. That's okay.

01:58:42 2 Q. I understand it's a little repetitive.

01:59:02 3 I'm going to introduce as Exhibit 21 House

01:59:06 4 Bill 2243, which is the other law at issue in this case.

01:59:16 5 (Deposition Exhibit 21 was marked for

01:59:41 6 identification.)

01:59:41 7 BY MS. LANG:

01:59:41 8 Q. So on Page 3 and 4 there are changes to the

01:59:45 9 part of the statute that is Code Section 16-165, causes

01:59:51 10 for cancellation; do you see that?

01:59:53 11 A. Yes.

01:59:53 12 Q. And so this is the part of the election code

01:59:57 13 that delineates the reasons why a County Recorder would

02:00:01 14 cancel a voter registration; is that correct?

02:00:03 15 A. Yes.

02:00:04 16 Q. All right. And I want to look at

02:00:08 17 Subsection 10, which instructs that when the County

02:00:11 18 Recorder obtains information pursuant to this section

02:00:13 19 and confirms that the person registered is not a United

02:00:18 20 States citizen, including when the County Recorder

02:00:21 21 receives a summary report from the jury commissioner or

02:00:24 22 jury manager pursuant to Section 21-314 indicating that

02:00:29 23 a person who is registered to vote has stated that the

02:00:32 24 person is not a United States citizen.

02:00:34 25 So this is stating that one reason would be if

02:00:38 1 the County Recorder obtains information and confirms
02:00:41 2 that the person who's registered is not a United States
02:00:45 3 citizen; is that right?
02:00:45 4 A. Yes.
02:00:48 5 Q. Would County Recorders or would your office
02:01:03 6 have any way of confirming that a person is not a United
02:01:10 7 States citizen beyond the information that's received
02:01:13 8 from one of these sources?
02:01:16 9 A. Not to my knowledge.
02:01:18 10 Q. So when it says "confirms that the person
02:01:21 11 registered is not a United States citizen," to your
02:01:25 12 knowledge, based on the information currently available
02:01:27 13 to County Recorders, that would just be simply that a
02:01:32 14 database indicated that person was a noncitizen?
02:01:38 15 MS. BOUGHTON: Form.
02:01:39 16 THE WITNESS: Yes, or that the voter
02:01:41 17 self-reported themselves as a noncitizen.
02:02:03 18 BY MS. LANG:
02:02:04 19 Q. Have you received any guidance on how -- you
02:02:07 20 know, what level of match you would require between the
02:02:13 21 voter registration information and any of these
02:02:15 22 databases in order to confirm noncitizenship under this
02:02:21 23 section?
02:02:23 24 A. We have not received any guidance related to
02:02:26 25 matching regarding this section.

02:03:14 1 Q. On Page 6 of H.B. 2243, Section H, the law
02:03:21 2 indicates, "To the extent practicable, each month the
02:03:25 3 County Recorder shall compare persons who are registered
02:03:28 4 to vote in that county and who the County Recorder has
02:03:31 5 reason to believe are not United States citizens and
02:03:36 6 persons who are registered to vote without satisfactory
02:03:39 7 evidence of citizenship."

02:03:46 8 Has there been any guidance on what might
02:03:49 9 constitute a reason to believe someone is not a United
02:03:54 10 States citizen?

02:03:54 11 A. No.

02:04:12 12 Q. Are you aware of any restrictions on what a
02:04:16 13 County Recorder might decide is a reason to believe
02:04:22 14 someone is not a United States citizen?

02:04:24 15 MR. O'CONNOR: Form.

02:04:28 16 THE WITNESS: I -- I don't know.

02:04:30 17 BY MS. LANG:

02:04:30 18 Q. There hasn't been any -- well, strike that.

02:04:38 19 Would a County Recorder be permitted to
02:04:43 20 consider a place of birth outside the United States as a
02:04:47 21 reason to believe someone is not a United States
02:04:50 22 citizen?

02:04:50 23 MR. O'CONNOR: Form.

02:04:51 24 MS. STUART: Form.

02:04:53 25 THE WITNESS: And I don't know.

02:05:11 1 BY MS. LANG:

02:05:12 2 Q. Going back to Page 3, Subsection 9 deals with

02:05:25 3 jury information about noncitizenship; is that correct?

02:05:33 4 A. Section -- I'm sorry, what section?

02:05:34 5 Q. Sorry. Page 3 of H.B. 2243, Section 9(b), and

02:05:41 6 it starts at Line 36.

02:05:42 7 A. Okay. Yes.

02:05:44 8 Q. And this addresses kind of reports you might

02:05:47 9 get from jury commissioners or managers about people who

02:05:51 10 have self-reported as either not residents or not

02:05:55 11 citizens; is that correct?

02:05:56 12 A. Yes.

02:05:58 13 Q. Can you walk me through, and you may have

02:06:00 14 already done this a little bit, the current practice as

02:06:04 15 to reports from jury managers?

02:06:09 16 A. So if we receive a list from the jury office

02:06:13 17 indicating somebody has moved out of the county, we

02:06:17 18 would send a notice to the voter's address of record and

02:06:23 19 see if it gets returned undeliverable or if they -- if

02:06:26 20 they get returned undeliverable, then we would send a

02:06:29 21 final notice and we would start the NVRA process. If we

02:06:33 22 didn't get anything back, again, we would start then

02:06:41 23 with the 35 days would still be -- the clock would

02:06:43 24 still be starting to see if we get a response from the

02:06:47 25 voter.

02:06:47 1 Q. And if you don't get a response, does it go
02:06:49 2 into the NVRA process?

02:06:51 3 A. Yes.

02:06:52 4 Q. Okay. And what about if you get information
02:06:54 5 from a jury manager that someone has self-reported as
02:06:58 6 not a citizen?

02:06:59 7 A. So we would review the voter's record, and if
02:07:01 8 we had DPOC on file for the voter, we would do nothing.
02:07:04 9 If they were a federal only voter, then we would send
02:07:07 10 them a letter asking them to provide DPOC.

02:07:11 11 Q. And then what happens kind of after that
02:07:13 12 notice?

02:07:16 13 A. If we don't hear anything, nothing really
02:07:18 14 further happens.

02:07:20 15 Q. Okay. And is it your understanding that this
02:07:25 16 section, if implemented, would make changes to that
02:07:28 17 current practice?

02:07:28 18 A. Yes.

02:07:29 19 Q. Okay. And based on the review of some
02:07:37 20 documents and some of your testimony earlier today, at
02:07:42 21 some point this year election officials were working on
02:07:47 22 guidance to implement this part of the law; is that
02:07:52 23 correct?

02:07:52 24 MS. STUART: Form.

02:07:53 25 THE WITNESS: Yes.

02:07:57 1 BY MS. LANG:

02:07:57 2 Q. Okay. Can you describe for me the efforts and

02:08:02 3 work that went into starting to develop the processes

02:08:08 4 and AVID functionality for the new jury report process?

02:08:13 5 MR. O'CONNOR: Form.

02:08:16 6 THE WITNESS: There was a meeting with

02:08:18 7 VRAC, the voter and registration advisory committee, and

02:08:22 8 some of this was discussed, and then VRAC papers were

02:08:27 9 drafted by the Secretary of State's Office, and I don't

02:08:33 10 recall if they were sent to all counties. I know

02:08:37 11 Colleen sent them specifically to me to review.

02:08:44 12 BY MS. LANG:

02:08:44 13 Q. Under current practice, do you regularly

02:08:47 14 receive information from jury managers?

02:08:50 15 A. Yes.

02:08:53 16 Q. Okay. And is that received on a monthly basis,

02:08:55 17 or how is that information delivered to you?

02:08:58 18 A. Monthly.

02:09:37 19 Q. Okay. You testified earlier that the VRAC

02:09:40 20 draft on the jury report process has been revoked; is

02:09:46 21 that correct?

02:09:46 22 A. Yes.

02:09:47 23 Q. How was that revocation communicated to you?

02:09:53 24 A. I believe it was during a call with the

02:09:57 25 Secretary of State's Office and County Recordors.

02:10:00 1 Q. And when was that?

02:10:01 2 A. A few months ago.

02:10:08 3 Q. Okay. And given that, is it correct that this

02:10:14 4 part of H.B. 2243 is not currently being implemented by

02:10:17 5 your office?

02:10:19 6 A. That's correct.

02:10:33 7 Q. Okay. In addition to kind of drafting a VRAC

02:10:37 8 paper, did you and other county election officials work

02:10:45 9 with INEXL to start to develop the AVID functionality

02:10:50 10 for this new system?

02:10:53 11 A. I believe there was some discussions with INEXL

02:10:56 12 about system functionality, yes.

02:11:00 13 Q. To your knowledge, have those functions been

02:11:02 14 implemented in AVID, or are they on hold because of the

02:11:08 15 revocation of that paper?

02:11:11 16 A. I believe some development work had been done,

02:11:16 17 but has been put on hold.

02:11:18 18 Q. Okay. Have you received any guidance from the

02:11:25 19 Secretary of State's Office on kind of the timeline for

02:11:27 20 how long implementation will be on hold?

02:11:32 21 A. No.

02:12:27 22 Q. Okay. H.B. 2243, on Page 5, Section F, which

02:12:35 23 is at the bottom, Line 41, discusses a kind of monthly

02:12:40 24 comparison of the statewide voter registration database

02:12:44 25 against the MVD database and then reports to your

02:12:49 1 office. Has that been implemented so far?

02:12:53 2 A. Which section?

02:12:55 3 Q. It's Subsection F, Line 41 on Page 5.

02:13:00 4 A. Okay.

02:13:07 5 MS. STUART: Can you restate your

02:13:08 6 question?

02:13:08 7 MS. LANG: Yes.

02:13:08 8 MS. STUART: I'm sorry. Yeah, just repeat

02:13:10 9 it.

02:13:10 10 MS. LANG: Yes.

02:13:12 11 BY MS. LANG:

02:13:12 12 Q. This section discusses a monthly comparison

02:13:17 13 between the statewide voter registration database and

02:13:21 14 the driver's license database and then a report to

02:13:24 15 County Recorders based on -- based on that comparison as

02:13:29 16 to residents and citizenship; is that correct?

02:13:32 17 A. Yes.

02:13:34 18 Q. To the best of your knowledge, has that been

02:13:38 19 implemented thus far?

02:13:39 20 A. No.

02:13:41 21 Q. Have you received any reports based on any

02:13:44 22 monthly comparisons with the MVD database?

02:13:48 23 A. No.

02:14:05 24 Q. On Page 6, Subsection H, which is on Line 6,

02:14:11 25 and we reviewed this already, but envisions that monthly

02:14:16 1 the County Recorder would have to take the population of
02:14:19 2 federal only voters and anyone else they have a reason
02:14:22 3 to believe is not a United States citizen and check
02:14:26 4 those individuals against the SAVE system; is that
02:14:31 5 correct?

02:14:31 6 A. Yes.

02:14:35 7 Q. I think we've already -- we've already covered
02:14:38 8 this, but for many of these individuals you would not be
02:14:40 9 able to use the SAVE system because you don't have an
02:14:42 10 A-Number; is that correct?

02:14:43 11 A. That's my understanding, yes.

02:14:44 12 Q. Okay. What kind of resources would it require
02:14:49 13 for your office to every single month rerun all of these
02:14:53 14 individuals against the SAVE system?

02:14:56 15 MR. O'CONNOR: Form.

02:14:59 16 THE WITNESS: That's hard to answer. I
02:15:11 17 don't know.

02:15:11 18 BY MS. LANG:

02:15:12 19 Q. Is it fair to say that the requirements of
02:15:15 20 these sections that would require these monthly
02:15:17 21 comparisons against various databases would require the
02:15:22 22 County Recorder to expend substantial additional
02:15:24 23 resources?

02:15:25 24 MR. O'CONNOR: Form.

02:15:25 25 MS. BOUGHTON: Form.

02:15:27 1 THE WITNESS: It would definitely require
02:15:30 2 additional work.

02:15:31 3 BY MS. LANG:

02:15:32 4 Q. Do you have a lot of excess man or womanpower
02:15:35 5 in your office at the moment?

02:15:39 6 A. We're fully staffed. I don't -- it -- again, I
02:15:45 7 don't know how to answer that without guidance on what
02:15:48 8 all this fully means.

02:15:50 9 Q. Okay. Are you aware of any funding that came
02:15:53 10 along with H.B. 2243 to help assist County Recorders in
02:15:59 11 all these new requirements?

02:16:02 12 A. I'm not aware of any.

02:16:31 13 Q. I'd like to refer back to Exhibit 18, which was
02:16:34 14 MC 002339, and we've previously reviewed this document,
02:16:47 15 which has an e-mail that then attaches the VRAC
02:16:52 16 legislative policy updates from 2022, and I believe you
02:16:56 17 testified that someone from the Secretary of State's
02:17:02 18 Office authored this document; is that correct?

02:17:03 19 A. Yes.

02:17:07 20 Q. All right. And on Page 2347 I want to refer
02:17:13 21 you to number 4, which is about database comparisons,
02:17:21 22 and the second bullet point says, "SAVE does not permit
02:17:25 23 us to query the database for purposes other than initial
02:17:28 24 registration."

02:17:31 25 Do you see that?

02:17:31 1 A. Yes.

02:17:34 2 Q. Based on your knowledge, is that correct?

02:17:37 3 A. Yes.

02:17:39 4 Q. Okay. So is it your understanding that right

02:17:41 5 now you do not have permission from USCIS to use the

02:17:47 6 SAVE system for the purposes outlined in 2243?

02:17:51 7 MS. BOUGHTON: Form.

02:17:52 8 THE WITNESS: That's my understanding.

02:17:55 9 BY MS. LANG:

02:17:55 10 Q. Okay. And it says that if a county uses it for

02:17:58 11 more than this, meaning initial registration, Arizona's

02:18:02 12 membership may be revoked; is that correct?

02:18:04 13 MR. O'CONNOR: Form.

02:18:05 14 BY MS. LANG:

02:18:05 15 Q. Is that what it says?

02:18:06 16 A. That's what it says.

02:18:07 17 Q. Okay. And is that your understanding as well?

02:18:10 18 A. That is my understanding.

02:18:12 19 Q. Okay. And the next two sentences say, "Please

02:18:19 20 keep in mind that SAVE only contains data for

02:18:22 21 individuals who have become U.S. citizens. It will not

02:18:25 22 contain information on every U.S. citizen, so its

02:18:28 23 utility is extremely limited."

02:18:29 24 Is that what that says?

02:18:30 25 A. Yes.

02:18:31 1 Q. And is that your understanding as well?

02:18:32 2 A. Yes.

02:18:37 3 Q. Okay. You've already testified that the

02:19:21 4 Secretary of State has not given your office any

02:19:23 5 guidance as to what information would constitute a,

02:19:27 6 quote, reason to believe, end quote, someone is not a

02:19:31 7 United States citizen; is that correct?

02:19:33 8 A. Yes.

02:19:35 9 Q. On the flip side of that, has the Secretary of

02:19:39 10 State's Office provided election officials with any

02:19:41 11 information about what would not give you or your staff

02:19:45 12 a reason to believe someone's not a United States

02:19:48 13 citizen?

02:19:49 14 A. No.

02:19:52 15 Q. Okay. Can you describe to me your

02:20:08 16 understanding of the kind of 90-day rule in which your

02:20:12 17 office cannot, under the NVRA, conduct systematic list

02:20:18 18 maintenance prior to a federal election?

02:20:21 19 A. So we cannot do systematic cancellations under

02:20:25 20 the NVRA within 90 days of an election.

02:20:31 21 Q. Okay. Would you consider the various

02:20:33 22 provisions of H.B. 2243 that require you to cancel

02:20:38 23 voters to be systematic list maintenance?

02:20:44 24 MR. O'CONNOR: Form.

02:20:44 25 MS. BOUGHTON: Form.

02:20:46 1 THE WITNESS: I don't know.

02:20:47 2 BY MS. LANG:

02:20:47 3 Q. Does the County Recorder's Office have a

02:20:50 4 position on whether or not H.B. 2243 would require these

02:20:58 5 procedures to be followed in the 90 days before a

02:21:01 6 federal election?

02:21:02 7 MR. O'CONNOR: Form.

02:21:03 8 MS. BOUGHTON: Form.

02:21:04 9 THE WITNESS: I think that we have an

02:21:07 10 understanding that the state law conflicts with federal

02:21:10 11 law, potentially.

02:21:19 12 BY MS. LANG:

02:21:41 13 Q. Okay. In your application of the 90-day rule

02:21:46 14 for systematic list maintenance prior to a federal

02:21:50 15 election, does that mean that you can't begin sending

02:22:01 16 notices within those 90 days, or does it mean that you

02:22:08 17 cannot cancel voters within that 90 days?

02:22:16 18 MR. BASILE: Form.

02:22:17 19 THE WITNESS: It means you cannot cancel a

02:22:19 20 registrant's record.

02:22:21 21 BY MS. LANG:

02:22:21 22 Q. Okay. And so my understanding is that for most

02:22:24 23 forms of kind of cancellation that you might do there's

02:22:27 24 a notice period that comes before the cancellation; is

02:22:30 25 that correct?

02:22:30 1 A. Yes.

02:22:30 2 Q. A 35-day notice period?

02:22:33 3 A. 35 days for inactive status.

02:22:36 4 Q. Okay. And so if there's a notice period that

02:22:42 5 predates a cancellation, any notices would actually have

02:22:45 6 to be sent out approximately 125 days before a federal

02:22:52 7 election; is that correct?

02:22:55 8 A. That sounds correct.

02:23:04 9 Q. Looking at H.B. 2492, which is marked as

02:23:12 10 Exhibit 19, I'll refer you to Page 7. And this

02:23:38 11 Section 16-143, Section A on Line 17 says, "The

02:23:44 12 Secretary of State and each County Recorder shall make

02:23:47 13 available to the Attorney General a list of all

02:23:50 14 individuals who are registered to vote and who have not

02:23:53 15 provided satisfactory evidence of citizenship, dot, dot,

02:24:00 16 dot, the applications of individuals who are registered

02:24:07 17 to vote and who have not provided satisfactory evidence

02:24:10 18 of citizenship pursuant to Section 16-166."

02:24:14 19 Do you see that?

02:24:15 20 A. Yes.

02:24:15 21 Q. Okay. Did you provide that list to the

02:24:18 22 Attorney General?

02:24:19 23 A. No.

02:24:21 24 Q. Okay. Since the deadline for providing that

02:24:39 25 list has kind of come and gone, do you think that this

02:24:44 1 section will kind of require you to provide this list at
02:24:47 2 any future date --

02:24:48 3 MR. O'CONNOR: Form.

02:24:49 4 BY MS. LANG:

02:24:49 5 Q. -- or do you not know?

02:24:50 6 MS. BOUGHTON: Form.

02:24:50 7 MR. O'CONNOR: Form.

02:24:51 8 THE WITNESS: I don't know.

02:24:54 9 BY MS. LANG:

02:24:54 10 Q. Are you aware of any County Recorders that
02:24:57 11 provided this list to the Attorney General by
02:25:00 12 October 31, 2022?

02:25:01 13 MR. O'CONNOR: Form.

02:25:03 14 THE WITNESS: I'm not aware.

02:25:05 15 BY MS. LANG:

02:25:05 16 Q. Okay. Or after October 31, 2022?

02:25:07 17 A. I don't know.

02:25:08 18 Q. Okay. Do you know if the Secretary of State
02:25:10 19 provided this list to the Attorney General?

02:25:12 20 MS. STUART: Form.

02:25:13 21 THE WITNESS: I don't know.

02:25:44 22 BY MS. LANG:

02:25:44 23 Q. I'm going to move on to talk about residential

02:25:50 24 addresses and how your office manages kind of

02:26:00 25 residential addresses in your system, okay.

02:26:04 1 In order to register to vote, applicants are
02:26:08 2 required to provide their residential address, or if
02:26:11 3 they don't have a residential address, a description or
02:26:14 4 drawing of the location of their residence; is that
02:26:14 5 right?

02:26:17 6 A. Yes.

02:26:19 7 Q. Okay. And a P.O. Box cannot be used as your
02:26:23 8 residential address; is that also right?

02:26:24 9 A. Yes.

02:26:26 10 Q. Okay. And, briefly, can you describe why it's
02:26:29 11 important to have either a residential address or a
02:26:32 12 location for purposes of voter registration?

02:26:36 13 A. It's important because we need to properly
02:26:39 14 precinct a voter so they can receive the right ballot
02:26:43 15 style, so they're voting for districts and races that
02:26:46 16 they're eligible to participate in.

02:26:49 17 Q. Great. So first I'm going to ask some
02:26:51 18 questions about kind of how you process voter
02:26:54 19 registration forms when there's an address, and then
02:26:55 20 I'll talk a little bit about kind of the map or location
02:26:58 21 drawing option next.

02:27:02 22 If someone provides a residential address, how
02:27:05 23 does the county kind of use that residential address
02:27:10 24 information to do that precincting that you just
02:27:12 25 described?

02:27:14 1 A. So we have a very robust GIS system that has
02:27:21 2 all of the district boundaries, addressing. So when we
02:27:26 3 enter an address in, it's tied to that GIS system and it
02:27:30 4 can auto-code the address to confirm that it's a valid
02:27:33 5 address.

02:27:35 6 Q. Okay. That's very helpful. I'm going to
02:27:37 7 repeat back what I think is my understanding of your
02:27:41 8 testimony. You tell me if it's correct, which is that
02:27:45 9 your voter registration database is on the back end
02:27:49 10 linked with your GIS system, so that in most cases you
02:27:53 11 put in a voter's residential address and that kind of
02:27:58 12 precinct -- that like location work and precincting all
02:28:05 13 happens automatically?

02:28:06 14 A. Yes.

02:28:07 15 Q. Okay. And who manages the GIS system?

02:28:11 16 A. Gary Bilotta.

02:28:13 17 Q. Okay. And is that somebody within the County
02:28:18 18 Recorder's Office or someone else within the county?

02:28:20 19 A. He's not part of the County Recorder's Office.

02:28:24 20 Q. Okay. And so that's the ordinary case; you put
02:28:26 21 in the residential address and it kind of automatically
02:28:29 22 precincts.

02:28:30 23 Is it ever the case that a residential address
02:28:32 24 that's keyed in doesn't lead to kind of an automatic
02:28:37 25 precincting?

02:28:38 1 A. Yes.

02:28:39 2 Q. Okay. And so what would happen if there's --

02:28:43 3 if the GIS system is not able to kind of match with a

02:28:47 4 residential address in the voter registration database?

02:28:49 5 A. So then our staff would send an e-mail to our

02:28:56 6 GIS division, basically a ticket, saying we weren't able

02:28:59 7 to code, please help us look this address up; or in the

02:29:03 8 case of having a description, they would put the

02:29:05 9 description in, and the GIS team would look to see if

02:29:09 10 they could pinpoint based upon the information that was

02:29:12 11 provided.

02:29:15 12 Q. And what is the typical turnaround for a ticket

02:29:20 13 sent to the GIS system?

02:29:25 14 A. It kind of varies. Usually it's pretty quick;

02:29:28 15 I'd say within that day or the next day.

02:29:33 16 Q. Okay. And is it often the case that when

02:29:35 17 there's an address that doesn't kind of automatically

02:29:40 18 load, that the GIS system is able -- that the GIS folks

02:29:45 19 are able to identify that address?

02:29:47 20 A. In most cases.

02:29:48 21 Q. Okay. Is it the case that sometimes even after

02:29:54 22 the GIS folks look at it, based on the address provided,

02:29:58 23 they cannot locate the residence?

02:30:01 24 A. Yes.

02:30:02 25 Q. Okay. Is that more common in some areas of the

02:30:06 1 state as opposed to others?

02:30:10 2 MR. O'CONNOR: Form.

02:30:12 3 THE WITNESS: I don't have statistics on

02:30:13 4 that. I would -- so I don't know.

02:30:16 5 BY MS. LANG:

02:30:16 6 Q. Based on your understanding and experience, are

02:30:18 7 issues with residential addresses more common in rural

02:30:23 8 versus urban areas?

02:30:25 9 A. In my experience, yes.

02:30:27 10 Q. And in your experience, are residential address

02:30:33 11 issues more common on Native American reservations than

02:30:36 12 elsewhere?

02:30:40 13 A. In my experience there are -- there seem to be

02:30:45 14 more issues with addressing in Native American

02:30:48 15 populations.

02:30:49 16 Q. And are you aware that there are many

02:30:53 17 residences on Native American reservations that don't

02:30:56 18 have kind of traditional street addresses?

02:30:58 19 A. Yes.

02:31:17 20 Q. I'll refer you back to Exhibit 12.

02:31:25 21 MS. STUART: What is that?

02:31:26 22 MS. LANG: MC 879. Apologies.

02:31:41 23 THE WITNESS: It's got to be in here

02:31:44 24 somewhere.

02:31:49 25 MR. O'CONNOR: Here it is. It was just

02:31:51 1 stuck.

02:31:59 2 BY MS. LANG:

02:31:59 3 Q. So on Pages MC 880 and 881 there are some
02:32:06 4 instructions for how folks doing the data entry for
02:32:10 5 voter registration applications should deal with
02:32:12 6 residential addresses; is that correct?

02:32:14 7 A. Yes.

02:32:15 8 Q. Okay. And so on the second page there of those
02:32:20 9 instructions, on Page 881, it says, "when you are
02:32:24 10 alerted that the residential address is not valid, check
02:32:28 11 for errors in keying first."

02:32:30 12 So does that mean kind of check to see if there
02:32:32 13 was a transposed digit or there was like human error in
02:32:36 14 the kind of data entry?

02:32:38 15 A. Yes.

02:32:38 16 Q. Okay. And then it says, "Then check VMO7."
02:32:42 17 What is VMO7?

02:32:44 18 A. It's just one of our screens that has a search
02:32:48 19 functionality for searching for various parts of a
02:32:54 20 voter's record.

02:32:55 21 Q. Okay. And so where it says, "Check VMO7,
02:33:00 22 Assessor's website, USPS ZIP code lookup, Google,
02:33:03 23 et cetera, to see if the address exists and/or can be
02:33:05 24 keyed differently," what do you mean by keyed
02:33:11 25 differently?

02:33:12 1 A. So sometimes it may just be an issue with the
02:33:18 2 name, the street name got misspelled, you know, or the
02:33:21 3 ZIP codes are slightly different; just looking for other
02:33:26 4 avenues to help, you know, auto-code this address.

02:33:31 5 Q. Okay. So my understanding is this is kind of
02:33:35 6 finding obvious errors that wouldn't kind of change the
02:33:39 7 actual address for the voter; is that right?

02:33:41 8 A. Right.

02:33:41 9 Q. And so where you indicate that like if the ZIP
02:33:44 10 code is changed, the city must remain unchanged,
02:33:47 11 unchanged, is that a way to make sure that you're not
02:33:49 12 actually changing the voter's residential address?

02:33:52 13 A. Yes.

02:33:53 14 Q. Okay. And so there's a list of things that
02:33:58 15 cannot be changed. Is that for the same purpose?

02:34:02 16 A. Yes.

02:34:04 17 Q. Okay. And then it goes on to say that if that
02:34:09 18 doesn't work, then you contact GIS for a ticket; is that
02:34:09 19 right?

02:34:14 20 A. Yes.

02:34:14 21 Q. Okay. And so if GIS is unable to assist with a
02:34:22 22 residential address, what's the next step?

02:34:24 23 A. So at that point that voter registration form
02:34:28 24 would be moved to suspense and we would look for a way
02:34:33 25 to contact the voter. In some cases we'd have to send

02:34:37 1 to the address that they gave us if that's the only
02:34:39 2 thing. Sometimes they give us a mailing address and we
02:34:42 3 can send to the mailing address. If there's an e-mail
02:34:45 4 or phone number provided, that's also another way to try
02:34:48 5 to contact the voter.

02:34:49 6 Q. If an e-mail or phone number is provided, is it
02:34:53 7 your office's practice to send an e-mail or make a phone
02:34:58 8 call in these circumstances?

02:34:59 9 A. I would say traditionally we would send a
02:35:02 10 letter, if we could, first. E-mail and phone are
02:35:06 11 backups.

02:35:08 12 Q. Okay. So would e-mail and phone come after the
02:35:13 13 35-day window? When would you kind of turn to phone
02:35:18 14 calls or e-mails?

02:35:19 15 A. If we didn't have a good mailing address.

02:35:27 16 Q. Okay. I'll mark as Exhibit 22 MC 2998.
02:35:40 17 (Deposition Exhibit 22 was marked for
02:35:42 18 identification.)

02:35:42 19 BY MS. LANG:

02:35:42 20 Q. Are you familiar with this document?

02:35:43 21 A. Yes.

02:35:45 22 Q. And can you describe to me what this document
02:35:47 23 is?

02:35:48 24 A. This is a document that is generated out of the
02:35:52 25 voter registration system when we have a residential

02:35:55 1 address that was either incomplete or invalid in some
02:35:58 2 way or was a commercial address.

02:36:05 3 Q. Okay. And I see here that, you know, this
02:36:08 4 template has Mary Test Voter as the recipient and then a
02:36:12 5 date of 7-12-2023; is that right?

02:36:16 6 A. Yes.

02:36:16 7 Q. Is the date on there just the date in which you
02:36:19 8 generated this exemplar?

02:36:21 9 A. Yes.

02:36:22 10 Q. It's not, for example, the date on which you
02:36:25 11 kind of created this template?

02:36:26 12 A. No. It's a date that it was produced.

02:36:28 13 Q. Okay. Great. Thank you.

02:36:45 14 If you don't receive a response to this notice,
02:36:49 15 what happens next?

02:36:51 16 A. The voter registration form will remain in
02:36:53 17 suspense until we do hear from the voter.

02:36:58 18 Q. If it -- is there a point at which you switch
02:37:02 19 that voter from suspense to dead end or not registered?

02:37:06 20 A. That would be in compliance with the elections
02:37:10 21 procedures manual, which says if they don't cure it by
02:37:12 22 the next general election, that they have to basically
02:37:15 23 start all over again.

02:37:16 24 Q. Okay. And I just want to make sure I
02:37:21 25 understand next general election correctly. So if I

02:37:26 1 registered to vote in September 2022 and I did not cure
02:37:32 2 my voter registration application by election day
02:37:37 3 November 2022, is that when my status would be changed
02:37:40 4 from suspense to dead end or not registered?
02:37:51 5 A. I think so.
02:37:53 6 Q. Okay. You understand what I'm saying?
02:37:54 7 A. Yes.
02:37:54 8 Q. I'm wondering, is it the 2022 election that's
02:37:58 9 relevant there or the 2024 election that's relevant
02:38:01 10 there?
02:38:01 11 A. I believe it's the next federal election, but
02:38:05 12 we'd have to verify through the procedures manual on
02:38:08 13 this.
02:38:09 14 Q. Okay. I think the procedures manual just says
02:38:11 15 next general election.
02:38:12 16 A. Okay.
02:38:13 17 Q. Which is why I wanted to clarify.
02:38:17 18 To the best of your knowledge, it's just the
02:38:19 19 following general election --
02:38:19 20 A. Yes.
02:38:20 21 Q. -- even if that's only a couple months out?
02:38:22 22 A. Yes.
02:38:23 23 Q. Okay. And is this notice sent by forwardable
02:38:30 24 or non-forwardable mail?
02:38:32 25 A. Non-forwarding.

02:38:33 1 Q. And it would be sent in English and Spanish; is
02:38:36 2 that correct?

02:38:36 3 A. Yes.

02:38:50 4 Q. Refer you back to Exhibit 8 briefly, and that's
02:38:56 5 MC 870.

02:39:18 6 And so here it indicates that invalid
02:39:25 7 residential address has a total of 82,673 suspense
02:39:32 8 records; is that correct?

02:39:35 9 A. Yes.

02:39:36 10 Q. Okay. So based on at least this data, it seems
02:39:43 11 as though invalid residential address is one of the
02:39:50 12 biggest problems you see with voter registration
02:39:53 13 applications; is that correct?

02:39:55 14 A. That would be my assumption.

02:39:58 15 Q. Okay. And based on your experience as someone
02:40:01 16 who's worked in voter registration for a long time in
02:40:03 17 the state of Arizona, is that also the case based on
02:40:08 18 your experience?

02:40:08 19 A. Yes.

02:40:09 20 Q. Okay. Is it fair to say that it's not
02:40:16 21 infrequent that residential addresses don't match up
02:40:19 22 with the GIS system?

02:40:24 23 MS. STUART: Form, foundation.

02:40:28 24 BY MS. LANG:

02:40:28 25 Q. Based on your experience.

02:40:30 1 A. Can you repeat the question?

02:40:31 2 Q. Yes.

02:40:32 3 Based on your experience, is it not infrequent

02:40:36 4 that a residential address provided by a voter does not

02:40:41 5 neatly match onto the GIS systems available to County

02:40:45 6 Recorders?

02:40:45 7 A. It's not infrequent.

02:40:47 8 Q. Okay. Moving to the other option that voters

02:41:01 9 have available, which is to provide some sort of drawing

02:41:04 10 of the location of their residence, when a voter

02:41:09 11 provides a drawing rather than a residential address,

02:41:13 12 how does your office process those applications?

02:41:16 13 A. We would, again, need the assistance of the GIS

02:41:19 14 team to aid us in trying to pinpoint that location.

02:41:26 15 Q. So unlike the kind of automated system for

02:41:29 16 residential addresses, anytime there's a drawing, does

02:41:32 17 that mean you have to send a ticket to GIS?

02:41:34 18 A. Yes.

02:41:36 19 Q. Okay. And is the turnaround for those tickets

02:41:39 20 similar to the ones with residential addresses?

02:41:44 21 A. Most cases, yes. It just depends on how good

02:41:47 22 the drawing is.

02:41:49 23 Q. That's fair enough.

02:41:56 24 And if GIS comes back and says, yes, we've

02:41:59 25 found this location and provides you the precinct

02:42:02 1 information, then you can register that individual to
02:42:04 2 vote, correct?

02:42:04 3 A. Yes.

02:42:05 4 Q. All right. If GIS comes back and says we can't
02:42:07 5 figure this out, what's the next step?

02:42:11 6 A. So, again, we would go back to the voter
02:42:14 7 registration form, see if there's a mailing address that
02:42:16 8 we can send a letter to. If there's no mailing address,
02:42:20 9 then the next step would be looking for a phone number
02:42:22 10 or an e-mail.

02:42:24 11 Q. Okay. Is it sometimes the case that there's no
02:42:33 12 mailing address, no phone number, and no e-mail?

02:42:36 13 A. Yes.

02:42:38 14 Q. And what happens in that case?

02:42:41 15 A. Unfortunately, there's nothing that we can
02:42:44 16 really do to try to cure that form. It would just sit
02:42:49 17 in suspense.

02:42:50 18 Q. It would sit in suspense, and then after the
02:42:52 19 next general election it would go to dead end --

02:42:54 20 A. Yes.

02:42:55 21 Q. -- or not registered, correct?

02:42:56 22 A. Yes.

02:42:56 23 Q. Okay. Mark as Exhibit 23 MC 3002.
02:43:11 24 (Deposition Exhibit 23 was marked for
02:43:12 25 identification.)

02:43:12 1 BY MS. LANG:

02:43:12 2 Q. And are you familiar with this document?

02:43:21 3 A. I haven't seen this in a very long time.

02:43:24 4 Q. Fair enough.

02:43:27 5 What is this document, to the best of your

02:43:30 6 knowledge?

02:43:30 7 A. So this is in the case where we weren't able to

02:43:33 8 pinpoint. They're asking the voter to try again to help

02:43:39 9 aid us in providing additional information to precinct

02:43:43 10 them.

02:43:45 11 Q. Okay. And so this notice would be sent and

02:43:49 12 then the voter would remain in suspense until they

02:43:53 13 provide additional information; is that correct?

02:43:54 14 A. Yes.

02:43:56 15 Q. Okay. And then if a next general election

02:43:59 16 passes and they have not provided additional

02:44:02 17 information they become not eligible or a dead end,

02:44:08 18 correct?

02:44:08 19 A. Yes.

02:44:08 20 Q. Okay. One question I did have in looking at

02:44:10 21 these two notification -- these two notices side by

02:44:15 22 side, is it the case that if an individual had provided

02:44:20 23 a residential address in the first instance, that

02:44:23 24 they'll get the one that asked them for their

02:44:26 25 residential address, and if the voter had provided a

02:44:28 1 drawing in the first instance, look at the one that asks
02:44:32 2 for a drawing?

02:44:33 3 A. That's my understanding how the system works.

02:44:43 4 Q. Okay. In the years that you have been working
02:44:57 5 in voter registration in Arizona, has it always been an
02:45:00 6 option to draw a location of residence if you don't have
02:45:03 7 a residential address?

02:45:05 8 A. Yes.

02:45:13 9 Q. Okay. Do you believe that option kind of
02:45:22 10 undermines the security of your elections in any way?

02:45:26 11 MS. STUART: Form.

02:45:28 12 MR. O'CONNOR: Form.

02:45:28 13 THE WITNESS: I don't have an opinion.

02:45:36 14 BY MS. LANG:

02:45:36 15 Q. Based on your experience in voter registration
02:45:39 16 over these many years, is it your experience that Native
02:45:46 17 Americans or people living on Native American
02:45:48 18 reservations are more likely to kind of provide a
02:45:51 19 drawing than -- as compared to the rest of the
02:45:54 20 population?

02:45:55 21 A. In my experience, yes.

02:46:04 22 Q. Okay. In your experience looking at voter
02:46:08 23 registration documents and the various driver's license
02:46:11 24 copies and documents that voters provide, have you ever
02:46:16 25 seen a form of identification that includes kind of a

02:46:21 1 drawing of a residence?

02:46:24 2 A. In my experience, yes.

02:46:27 3 Q. And in what circumstances have you seen that?

02:46:30 4 A. On a voter registration form where they drew in

02:46:35 5 the box 23 their location.

02:46:37 6 Q. Other than voter registration applications,

02:46:39 7 have you ever seen kind of a driver's license that has a

02:46:43 8 picture instead of a residential address on it?

02:46:45 9 A. No.

02:46:46 10 Q. Or a utility bill that has a kind of picture of

02:46:49 11 a location of residence rather than a residential street

02:46:56 12 address?

02:46:56 13 A. In my experience, no.

02:46:57 14 Q. Okay. Are you familiar with any kind of

02:46:59 15 traditional identification documents that would have

02:47:02 16 kind of a location of residence drawing in lieu of a

02:47:08 17 residential street address?

02:47:09 18 A. I'm not familiar with that.

02:47:13 19 Q. In your experience, do those documents

02:47:16 20 sometimes have a P.O. Box on them?

02:47:19 21 A. Which documents?

02:47:20 22 Q. Identification documents, such as a driver's

02:47:23 23 license or a utility bill.

02:47:25 24 A. Yes, it can have P.O. Box.

02:47:35 25 Q. For individuals who don't have kind of

02:47:38 1 traditional street addresses and would like to get a
02:47:42 2 traditional street address, do you know if the county
02:47:44 3 provides any services to assist those individuals?

02:47:48 4 A. Yes. We try to work with communities and USPS
02:47:53 5 to help identify and give good addressing options to
02:47:58 6 assist them.

02:47:59 7 Q. Is that something you assist with, or is that
02:48:01 8 something you're just aware that the county works on?

02:48:06 9 A. Representatives from the Recorder's Office, as
02:48:10 10 well as I have been on the phone with USPS a couple of
02:48:12 11 times myself, but -- so yes.

02:48:19 12 Q. Okay. And it sounds like USPS is involved.
02:48:22 13 Kind of who at the county level would be kind of in
02:48:25 14 charge of providing someone with a traditional street
02:48:29 15 address?

02:48:31 16 A. I think it's a partnership. So GIS would be
02:48:35 17 involved. The Recorder's Office would be involved. In
02:48:39 18 some cases the elections division as well.

02:48:45 19 Q. Okay. And what are the circumstances under
02:48:47 20 which your office would kind of take that additional
02:48:50 21 step to kind of try to help provide a residential street
02:48:55 22 address for someone who does not have one?

02:48:59 23 A. I think that's just one of the things that our
02:49:03 24 office does to help facilitate voting opportunities,
02:49:07 25 especially if we see an ongoing issue with people in

02:49:10 1 those rural communities constantly going inactive
02:49:14 2 because of a bad address or location.

02:49:31 3 Q. This is taking us way back to the beginning,
02:49:33 4 but when you put together keyword searches for the
02:49:36 5 requests for documents, do you recall if any of those
02:49:39 6 keyword searches were about kind of these residential
02:49:43 7 address issues?

02:49:44 8 A. I don't recall.

02:49:54 9 Q. You referenced kind of work that you do with
02:49:55 10 the GIS folks and USPS and the Recorder's Office to help
02:50:01 11 with addressing issues; is that right?

02:50:03 12 A. Yes.

02:50:03 13 Q. Does some of that happen over e-mail?

02:50:06 14 A. Yes.

02:50:15 15 Q. Okay. More generally, can you describe some of
02:50:18 16 the efforts that the Maricopa County Recorder's Office
02:50:20 17 makes to conduct outreach to Native American communities
02:50:25 18 and increase their voter registration?

02:50:29 19 A. So voter outreach is under the umbrella of the
02:50:34 20 elections division, so I can't really speak to all the
02:50:38 21 things that they do. I know on the Recorder's side we
02:50:43 22 also have a deputy registrar program where we train
02:50:46 23 people on how to register people to vote.

02:50:53 24 Q. Based on your experience, you know, long
02:50:56 25 experience in voter registration, what are some of the

02:50:58 1 kind of greatest challenges that you see Native voters

02:51:02 2 have when they're trying to register to vote?

02:51:08 3 A. In my experience, again, I would say probably

02:51:10 4 the biggest obstacle are the addressing issues,

02:51:13 5 especially in those very rural areas.

02:51:19 6 Q. Based on your knowledge, is voter registration

02:51:22 7 lower in Native communities than the county average?

02:51:27 8 A. I don't have those figures in front of me.

02:51:30 9 Q. Does your office have those figures available

02:51:34 10 to it?

02:51:37 11 A. If we knew which precincts were part of that

02:51:42 12 community, we could.

02:51:43 13 Q. You could do that search based on kind of

02:51:43 14 the --

02:51:43 15 A. Location.

02:51:46 16 Q. -- location?

02:51:46 17 A. Yes.

02:51:48 18 Q. Okay. So under H.B. 2492 there is a, you know,

02:52:04 19 new requirement for voter registration that would

02:52:07 20 require documentary proof of residence. Is that your

02:52:11 21 understanding generally?

02:52:12 22 A. Yes.

02:52:12 23 Q. Okay. And I'm going to refer to that sometimes

02:52:14 24 as the DPOR requirement. Will you understand what I'm

02:52:17 25 saying if I say that?

02:52:18 1
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02:53:30 16
02:53:31 17
02:53:32 18
02:53:36 19
02:53:36 20
02:53:38 21
02:53:40 22
02:53:42 23
02:53:45 24
02:53:46 25

A. Yes.

Q. Okay. And it's a good idea to be looking at the language.

MR. JOHNSON: It's 19.

MS. LANG: Thank you.

BY MS. LANG:

Q. And it's on Page 3, the DPOR requirement, that says that in addition to other requirements for voter registration, proof of location of residence has to be provided; is that right?

A. Yes.

Q. Have you received any guidance on the implementation of the DPOR requirement?

A. No.

Q. Is the DPOR requirement, to the best of your knowledge, in effect right now and being implemented?

MR. O'CONNOR: Form.

THE WITNESS: No. Sorry.

BY MS. LANG:

Q. That's okay. The form question -- the form was well-taken.

Is the DPOR requirement currently being implemented by the Maricopa County Recorder's Office?

A. No.

Q. Okay. To the best of your knowledge,

02:53:54 1 acknowledging that you have not received guidance, would
02:53:58 2 this DPOR requirement apply to all registrants,
02:54:03 3 regardless of whether or not they use the state or
02:54:05 4 federal form?

02:54:06 5 MR. O'CONNOR: Form.

02:54:07 6 MS. BOUGHTON: Form.

02:54:08 7 MS. STUART: Form.

02:54:08 8 THE WITNESS: That's my understanding.

02:54:16 9 BY MS. LANG:

02:54:17 10 Q. Okay. Based on your knowledge of the work of
02:54:20 11 the VRAC committee and your work with the Secretary of
02:54:26 12 State's Office, do you know if any request has been made
02:54:28 13 to the Election Assistance Commission to add information
02:54:31 14 about the DPOR requirement to the federal form
02:54:34 15 instructions?

02:54:35 16 MS. STUART: Form.

02:54:36 17 MS. BOUGHTON: Form.

02:54:37 18 THE WITNESS: I don't know.

02:54:42 19 BY MS. LANG:

02:54:47 20 Q. Okay. Has the state form been updated to
02:54:49 21 include the DPOR requirement?

02:54:53 22 A. No.

02:54:58 23 Q. Based on your understanding of this statute and
02:55:02 24 understanding that you have not received any guidance,
02:55:08 25 would failure to provide DPOR be treated the same as

02:55:12 1 kind of failure to provide DPOC, in that someone could
02:55:16 2 still become a federal only voter, or would lack of DPOR
02:55:20 3 mean somebody could not be registered at all?

02:55:25 4 MR. BASILE: Form.

02:55:26 5 THE WITNESS: I don't know.

02:56:06 6 MS. BOUGHTON: Counsel, I don't want to
02:56:07 7 interrupt your flow, but I think we've been going for
02:56:10 8 about 90 minutes, so if this is a good spot.

02:56:14 9 MS. LANG: This would be a fine spot to
02:56:15 10 take a break. Thank you.

02:56:16 11 THE VIDEOGRAPHER: We are off the record.
02:56:17 12 The time on the video monitor is 2:56 p.m. This ends
02:56:21 13 Media 3.

02:56:25 14 (A recess was taken.)

03:11:02 15 THE VIDEOGRAPHER: We are on the record.
03:11:03 16 The time on the video monitor is 3:11 p.m. This begins
03:11:08 17 Media 4.

03:11:09 18 BY MS. LANG:

03:11:12 19 Q. So I want to refer you to a document that I
03:11:14 20 have in front of you that we'll mark Exhibit 24, and
03:11:21 21 it's document labeled electronically 2C DPOR Chart.
03:11:25 22 I'll represent to you that this is a document that was
03:11:27 23 submitted by the State in this case, and they indicate
03:11:32 24 it's a chart created by the Secretary of State about
03:11:36 25 documentary proof of residency.

03:11:39 1 Have you ever seen this chart before?

03:11:42 2 A. No.

03:11:44 3 Q. Okay. So the guidance that's in this chart

03:11:46 4 about what would constitute documentary proof of

03:11:49 5 residency is not something that's gone out to the County

03:11:53 6 Recorders?

03:11:53 7 A. Not that I'm aware of.

03:12:07 8 Q. Much of this is self-explanatory, and I won't

03:12:10 9 make you kind of review it.

03:12:16 10 As to tribal identification card, this chart

03:12:19 11 says that pursuant to Gonzalez, a tribal ID does not

03:12:23 12 require an address be listed.

03:12:26 13 Do you know what Gonzalez is referring to

03:12:28 14 there?

03:12:28 15 A. There was a court case with Gonzalez.

03:12:31 16 Q. And in that case, was there a kind of -- a

03:12:34 17 stipulation about how tribal IDs would be used at the

03:12:39 18 voter ID stage?

03:12:41 19 A. Yes.

03:12:46 20 Q. Okay. And if you know, is it the case that the

03:12:48 21 Gonzalez stipulation indicated that while most voter ID

03:12:54 22 does require a residential address, tribal ID does not

03:13:00 23 require a residential address; is that correct?

03:13:03 24 A. I believe that's correct.

03:13:06 25 Q. All right. And so -- well, strike that.

03:13:27 1 The second to last box on this chart says, "Any
03:13:31 2 other document or piece of mail that is issued by a
03:13:34 3 government, educational institution, or place of
03:13:36 4 business that provides the person's name and address."

03:14:01 5 What limitations, if any, would you see in kind
03:14:04 6 of what you could accept as DPOR?

03:14:09 7 MS. STUART: Form.

03:14:09 8 MS. BOUGHTON: Form.

03:14:10 9 MR. O'CONNOR: Form.

03:14:10 10 BY MS. LANG:

03:14:10 11 Q. Based on your experience in voter registration
03:14:12 12 and these instructions.

03:14:14 13 MS. STUART: Form and foundation.

03:14:15 14 THE WITNESS: This is the first time I've
03:14:17 15 seen this guidance. I have not had time to fully digest
03:14:23 16 it all.

03:14:23 17 BY MS. LANG:

03:14:24 18 Q. Fair enough.

03:14:29 19 I understand that no written guidance has been
03:14:32 20 given to County Recorders. Have there been any
03:14:35 21 discussions during your various committee meetings and
03:14:39 22 meetings with the Secretary of State's Office about how
03:14:44 23 the DPOR requirement might be implemented?

03:14:46 24 A. No.

03:14:50 25 Q. Okay. So, to your knowledge, there's been

03:14:51 1 absolutely no discussion amongst the County Recorders or
03:14:54 2 with the Secretary of State about how to implement the
03:14:57 3 DPOR requirement?

03:15:00 4 A. There has been discussions about how -- what
03:15:03 5 the timeline is and how we're going to move forward, but
03:15:07 6 not specifically the implementation of this particular.

03:15:12 7 Q. So there have been discussions about the
03:15:14 8 process for implementation, but not the substance --

03:15:14 9 A. Yes.

03:15:17 10 Q. -- of the implementation?

03:15:18 11 A. Yes.

03:15:19 12 Q. Okay. And this last part of the chart says,
03:15:24 13 "Written confirmation signed by the registrant that they
03:15:27 14 qualify to register pursuant to" a statute code, and,
03:15:33 15 you know, it refers to a statute code that provide an
03:15:36 16 address at a homeless shelter.

03:15:40 17 Are you aware, and I think I know the answer,
03:15:43 18 of any kind of draft or template of what this
03:15:47 19 confirmation would look like?

03:15:48 20 A. No.

03:15:50 21 Q. Okay. Are you familiar with the kind of
03:15:56 22 statutory provision that allows individuals who are
03:15:59 23 experiencing homelessness to use a homeless shelter or a
03:16:04 24 courthouse as their residential address?

03:16:06 25 A. Yes.

03:16:07 1 Q. Okay. And when that's the case, do you use
03:16:12 2 that courthouse or that homeless shelter as the
03:16:16 3 residence for the purposes of precincting?

03:16:19 4 A. Yes.

03:16:19 5 Q. Okay. And a person experiencing homelessness
03:16:21 6 would also have the option of providing a location of
03:16:24 7 residence if, say, they were staying somewhere?

03:16:26 8 A. Yes.

03:16:34 9 Q. Okay. Based on your extensive experience in
03:16:37 10 voter registration, are there certain populations that
03:16:39 11 you believe will have more difficulty than others in
03:16:42 12 kind of providing documentation that has a residential
03:16:46 13 address on it?

03:16:51 14 A. In my experience I think that there would be
03:16:54 15 certain individuals that would have a harder time
03:16:57 16 providing that

03:16:59 17 Q. And would that include Native Americans for the
03:17:02 18 reasons we've discussed before?

03:17:04 19 A. Potentially, yes.

03:17:06 20 Q. What about students?

03:17:07 21 A. Yes.

03:17:10 22 Q. People experiencing homelessness?

03:17:12 23 A. Yes.

03:17:14 24 Q. Other low income people who perhaps move
03:17:19 25 frequently or are transient?

03:17:21 1

A. Yes.

03:17:26 2

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Q. Okay. Based on your experience working with groups that conduct voter registration drives, what kind of effect would a documentary proof of residence requirement have on those voter registration drives?

MS. BOUGHTON: Form.

THE WITNESS: Because this is a potential brand-new law, I don't know what that impact would be for a third-party registration drive.

BY MS. LANG:

Q. I think I know the answer to this, but do you know how these documents would be submitted; you know, would they be accepted by e-mail, fax, in person, et cetera?

MR. O'CONNOR: Form.

THE WITNESS: I do not know.

MS. LANG: Let's pause. I think we may have --

THE VIDEOGRAPHER: Would you like to go off the record?

MS. LANG: Yes.

THE VIDEOGRAPHER: We are off the record. The time on the video monitor is 3:18 p.m.

(A recess was taken.)

THE VIDEOGRAPHER: We are on the record.

03:20:27 1 The time on the video monitor is 3:20 p.m.

03:20:29 2 BY MS. LANG:

03:20:30 3 Q. Okay. I want to move on briefly to another

03:20:39 4 part of H.B. 2492. I don't think you have to look at

03:20:44 5 it, but we'll see. Which is the requirement that a

03:20:49 6 place of birth be provided on the voter registration

03:20:52 7 form.

03:20:53 8 Are you familiar generally with that new

03:20:55 9 requirement in H.B. 2492?

03:20:57 10 A. Yes.

03:20:58 11 Q. Okay. Prior to H.B. 2492 the place of birth

03:21:07 12 line on the state form has always been optional; is that

03:21:10 13 correct?

03:21:10 14 A. Yes.

03:21:12 15 Q. Okay. What use, if any, do you make of place

03:21:22 16 of birth?

03:21:22 17 MR. O'CONNOR: Form.

03:21:24 18 THE WITNESS: So we would use that

03:21:25 19 information, if provided, to help validate the identity

03:21:29 20 of a voter should they call our office asking

03:21:32 21 information about their own voter record.

03:21:35 22 BY MS. LANG:

03:21:35 23 Q. Okay. Outside of when an individual calls your

03:21:39 24 office, is there any other use of place of birth?

03:21:44 25 A. Not that I'm aware of.

03:21:47 1 Q. Okay. You don't require that information to
03:21:50 2 validate the identity of the individual through an MVD
03:21:53 3 check, do you?
03:21:53 4 A. No.
03:21:55 5 Q. Do you require that information to validate the
03:21:57 6 identity of an individual through the SSA check that
03:22:02 7 happens through MVD?
03:22:03 8 A. No.
03:22:06 9 Q. Okay. And is there any way in which, outside
03:22:10 10 of a phone call where you're just trying to quickly
03:22:13 11 match a person to the voter registration database, that
03:22:16 12 you use place of birth to kind of verify the legitimacy
03:22:23 13 of a voter registration application?
03:22:25 14 MR. O'CONNOR: Form.
03:22:25 15 THE WITNESS: No.
03:22:33 16 BY MS. LANG:
03:22:33 17 Q. If, under 2492, birthplace becomes a
03:22:37 18 requirement of voter registration, would that change
03:22:40 19 anything about how you actually process voter
03:22:44 20 registration applications?
03:22:44 21 MR. O'CONNOR: Form.
03:22:45 22 MS. BOUGHTON: Form.
03:22:46 23 THE WITNESS: Yes.
03:22:49 24 BY MS. LANG:
03:22:50 25 Q. How so?

03:22:52 1 A. Well, it would now be a required box.

03:22:56 2 Q. Yes. And so I poorly phrased my question,

03:22:59 3 which is, you would have to -- so let me back up.

03:23:02 4 Under H.B. 2492, if it were to be implemented,

03:23:06 5 you would have to reject the voter registration

03:23:08 6 application of any person who doesn't provide a place of

03:23:11 7 birth; is that correct?

03:23:12 8 A. That's my understanding.

03:23:13 9 Q. Okay. But for those who do provide place of

03:23:21 10 birth and you're registering them, under H.B. 2492,

03:23:24 11 would the fact that a place of birth has now become a

03:23:28 12 mandatory field change how you use place of birth in the

03:23:32 13 voter registration process?

03:23:34 14 MS. BOUGHTON: Form.

03:23:35 15 MR. O'CONNOR: Form.

03:23:35 16 THE WITNESS: I don't believe so.

03:23:38 17 BY MS. LANG:

03:23:38 18 Q. Okay. Are you aware of any way, additional

03:23:40 19 way, in which you would be able to use place of birth in

03:23:44 20 the voter registration process?

03:23:46 21 MS. BOUGHTON: Form.

03:23:50 22 THE WITNESS: If we had -- at that time

03:23:56 23 show soft match with a deceased individual and we're

03:23:59 24 trying to determine if that's the same person, if they

03:24:02 25 provided their place of birth and it was also included

03:24:04 1 in whatever obituary notice we found, that would be a
03:24:09 2 helpful tool to help us identify that that was the same
03:24:12 3 person.

03:24:18 4 BY MS. LANG:

03:24:18 5 Q. But the place of someone's birth -- scratch
03:24:24 6 that.

03:24:29 7 That's a useful example; but as a general
03:24:32 8 matter, in your kind of systematic processing of voter
03:24:38 9 registration information and verification of identity
03:24:41 10 through MVD and SSA, would your use of place of birth
03:24:44 11 change in any way?

03:24:46 12 MR. O'CONNOR: Form.

03:24:48 13 THE WITNESS: Not to my knowledge.

03:24:52 14 BY MS. LANG:

03:24:52 15 Q. Okay. To your knowledge, are you aware of any
03:24:54 16 other state that requires place of birth to register to
03:24:57 17 vote?

03:24:57 18 MR. O'CONNOR: Form.

03:24:58 19 MS. BOUGHTON: Form.

03:24:58 20 THE WITNESS: I don't know.

03:25:06 21 BY MS. LANG:

03:25:13 22 Q. Okay. Okay.

03:25:27 23 I'm going to move on to another topic, which is
03:25:29 24 how your office screens for, searches for, and addresses
03:25:36 25 any potential causes of voter fraud.

03:25:45 1 In your request for production responses, which
03:25:48 2 we can look at if we need to, but I don't think we will
03:25:51 3 need to, you were asked for kind of documents about all
03:25:57 4 voter fraud cases in your county since 2010, including,
03:26:01 5 but not limited to, identification of those cases
03:26:04 6 involving allegations of fraud based on a noncitizen
03:26:08 7 voting; and you indicated that you had no responsive
03:26:10 8 documents.

03:26:13 9 To your knowledge, is it correct that you just
03:26:15 10 don't have -- that you don't have any documents about
03:26:18 11 voter fraud cases?

03:26:20 12 A. We do not have any documents about voter fraud
03:26:23 13 cases.

03:26:25 14 Q. And do you have documents about allegations of
03:26:30 15 specific individual voter fraud matters?

03:26:37 16 A. We have information that has been given to us
03:26:44 17 about potential cases of voter fraud.

03:26:53 18 Q. To your knowledge, do you have any kind of
03:26:55 19 documents about potential cases of voter fraud that your
03:26:59 20 office finds credible or warranting additional
03:27:04 21 investigation?

03:27:05 22 MR. O'CONNOR: Form.

03:27:08 23 THE WITNESS: We have some cases that we
03:27:11 24 have referred to the Attorney General's Office for
03:27:14 25 investigation.

03:27:16 1 BY MS. LANG:

03:27:17 2 Q. Do you know about how many?

03:27:20 3 A. Under a hundred.

03:27:24 4 Q. Going back how far in that kind of under a
03:27:28 5 hundred number?

03:27:29 6 A. Since I started with the Recorder's Office.

03:27:33 7 Q. Okay. And, similarly, there was a request for
03:27:41 8 production about documents and communications concerning
03:27:46 9 actual or alleged misconduct, fraud, lack of voter
03:27:49 10 confidence, election security, or other problems related
03:27:53 11 to citizenship, residence location, or proof of
03:27:55 12 citizenship or residential address in voter
03:27:59 13 registration; and you indicated that you have no
03:28:01 14 responsive documents.

03:28:03 15 Can you tell me what, if you know, what kind of
03:28:06 16 searches were done to find documents that were
03:28:09 17 responsive to this request?

03:28:13 18 A. So we -- the voter registration division is not
03:28:16 19 a policing agency. We register voters and we conduct
03:28:20 20 list maintenance. So the cases where things have been
03:28:23 21 brought to our attention as possible voter fraud usually
03:28:27 22 relates to cases of double voting. We don't have
03:28:31 23 noncitizen voter fraud issues brought to our attention
03:28:37 24 in that way, so I don't believe we have responsive
03:28:41 25 documents related to those particular subjects.

03:28:47 1 Q. You're not aware of any documents where there
03:28:53 2 was discussion of alleged noncitizen voting?

03:28:57 3 A. I'm not aware of any.

03:28:59 4 Q. Okay. And understanding that some of this
03:29:08 5 might fall under the elections division, I'm going to
03:29:11 6 ask some more questions about kind of how your office
03:29:14 7 deals with allegations of voter fraud, and answer to the
03:29:17 8 best of your ability, I suppose. Is that okay?

03:29:19 9 A. Yes.

03:29:20 10 Q. All right. So what steps, if any, does your
03:29:25 11 office take to identify any instances of potential voter
03:29:30 12 fraud?

03:29:34 13 A. Our office does not take steps to identify
03:29:38 14 potential voter fraud.

03:29:43 15 Q. Are there a variety of kind of checks and
03:29:46 16 balances within the voter registration system to
03:29:50 17 preclude individuals from engaging in voter fraud?

03:29:56 18 A. I believe there are functionality within the
03:30:01 19 voter registration systems that would prohibit people
03:30:04 20 from registering multiple times or voting multiple
03:30:07 21 times.

03:30:10 22 Q. And is it also the case that things like the
03:30:14 23 MVD check or SSA check help to verify that an applicant
03:30:19 24 is a real person and verify the identity of that
03:30:24 25 applicant?

03:30:24 1

A. Yes.

03:30:33 2

Q. Okay. So I apologize if some of this is going

03:30:35 3

to be repetitive, but for my due diligence, does your

03:30:39 4

office conduct any investigations into potential voter

03:30:42 5

fraud?

03:30:43 6

MR. O'CONNOR: Asked and answered.

03:30:46 7

BY MS. LANG:

03:30:46 8

Q. There. But go ahead.

03:30:48 9

A. No.

03:30:57 10

Q. If your office were to suspect a case of

03:31:00 11

potential voter fraud, what steps would you take?

03:31:04 12

MR. O'CONNOR: Form.

03:31:07 13

THE WITNESS: Can I ask what type of voter

03:31:09 14

fraud, as an example?

03:31:14 15

BY MS. LANG:

03:31:14 16

Q. That's fair.

03:31:17 17

If there was an allegation that appeared

03:31:20 18

credible that a noncitizen had registered and voted,

03:31:25 19

what steps would your office take?

03:31:33 20

A. I can't think of a situation that had happened,

03:31:35 21

and I don't think that there's clear guidance on what

03:31:39 22

credible information is. Again, if we got something

03:31:42 23

from the jury's office that said the person

03:31:45 24

self-reported they're a noncitizen, we would look into

03:31:48 25

that from the information we have from the voter and

03:31:51 1 their database. If the documentation's there that they
03:31:54 2 are a citizen, then we do nothing.

03:31:58 3 Q. And earlier you testified that there have been
03:32:02 4 not many, but some instances of voter fraud or alleged
03:32:05 5 voter fraud, I should say, that you've referred to the
03:32:08 6 Attorney General's Office; is that correct?

03:32:10 7 A. Yes.

03:32:10 8 Q. So would it be fair to say that if your office
03:32:14 9 had some concern about an alleged case of voter fraud,
03:32:17 10 the step you would take is to refer it to the Attorney
03:32:22 11 General's Office?

03:32:22 12 A. I think I would consult with our County
03:32:25 13 Attorney, and then from there the Attorney General's
03:32:30 14 Office.

03:32:30 15 Q. Okay. But beyond referring the matter to
03:32:34 16 either your attorney or the Attorney General or a
03:32:36 17 prosecuting authority, does your office have any kind of
03:32:41 18 investigatory role on the issue of voter fraud?

03:32:45 19 A. We do not.

03:32:45 20 MR. O'CONNOR: Asked and answered.

03:32:45 21 THE WITNESS: We do not.

03:32:48 22 BY MS. LANG:

03:32:49 23 Q. I think you said we do not?

03:32:50 24 A. We do not.

03:32:52 25 Q. Okay. Is it the case that private citizens

03:32:58 1 could submit allegations to your office about what they
03:33:04 2 allege is potential voter fraud?

03:33:08 3 A. Yes.

03:33:08 4 Q. Does your office sometimes receive such
03:33:11 5 communications from private citizens?

03:33:15 6 MR. O'CONNOR: Form.

03:33:17 7 THE WITNESS: I have not seen

03:33:20 8 communications about another person saying a registered
03:33:24 9 voter is a noncitizen. I see other things.

03:33:26 10 BY MS. LANG:

03:33:27 11 Q. What are some other things that you see?

03:33:28 12 A. Like they're not -- they don't live where they
03:33:30 13 actually say they live.

03:33:35 14 Q. Okay. But you are not aware of any time that
03:33:37 15 you've been contacted where someone alleges that another
03:33:40 16 registered voter is a noncitizen?

03:33:42 17 A. Not to my knowledge, no.

03:33:44 18 Q. Okay. When you receive complaints that suggest
03:33:54 19 somebody doesn't live where they say they live, what
03:33:56 20 steps, if any, does your office take to respond to those
03:34:01 21 complaints?

03:34:03 22 MR. O'CONNOR: Form.

03:34:06 23 THE WITNESS: We do not have -- it's my
03:34:08 24 understanding we do not have an obligation to track any
03:34:12 25 of that down. However, depending on the resources

03:34:17 1 available in our office at the time, if we felt that it
03:34:22 2 was from somebody that we do regular, you know, business
03:34:26 3 with, voter registration people, we might take a little
03:34:30 4 bit of a deeper dive into it; but we have -- I guess we
03:34:34 5 all go back to the credible, what's credible.

03:34:38 6 BY MS. LANG:

03:34:39 7 Q. And as of now, you don't have any kind of
03:34:42 8 official guidance within your office about what counts
03:34:45 9 as credible; is that correct?

03:34:46 10 A. That's correct.

03:34:46 11 Q. It would be a judgment call; is that right?

03:34:48 12 A. Yes.

03:34:49 13 Q. Okay. I want to refer you to your responses to
03:35:20 14 the consolidated plaintiffs' rogs, which is Exhibit 5,
03:35:41 15 and on Page 13 I'll refer you to interrogatory number
03:35:51 16 10.

03:35:51 17 Interrogatory 10 asks you to identify all state
03:35:55 18 and county interests that you believe are furthered by
03:35:58 19 the challenged laws and all evidence that either
03:36:01 20 supports or undermines the contention that the
03:36:04 21 challenged laws further those interests.

03:36:05 22 Do you see that?

03:36:06 23 A. Yes.

03:36:07 24 Q. And the substance of your response at the
03:36:11 25 bottom, starting on Line 27, says, "Notwithstanding and

03:36:15 1 without waiving these objections, Maricopa County
03:36:18 2 Recorder's Office is unsure what county interests are
03:36:21 3 furthered by these challenged laws. In fact, Maricopa
03:36:24 4 County Recorder's Office believes that many of the
03:36:27 5 challenged laws' provisions conflict with federal law
03:36:29 6 which puts the county in a position of liability.
03:36:33 7 Additionally, the challenged laws may make access to
03:36:36 8 registration more difficult."
03:36:38 9 Do you see that?
03:36:39 10 A. Yes.
03:36:40 11 Q. Okay. Did you assist with the drafting of this
03:36:43 12 response?
03:36:43 13 A. Yes.
03:36:44 14 Q. And do you agree, sitting here today, you know,
03:36:49 15 this response continues to be an accurate reflection of
03:36:52 16 the Recorder's position?
03:36:53 17 MR. O'CONNOR: Form.
03:36:53 18 MS. BOUGHTON: Form.
03:36:56 19 THE WITNESS: My personal feelings is yes.
03:37:00 20 BY MS. LANG:
03:37:04 21 Q. Okay. And when you say that it puts the county
03:37:07 22 in a position of liability, can you explain what you
03:37:09 23 mean by that?
03:37:10 24 MS. BOUGHTON: Form.
03:37:13 25 THE WITNESS: I believe that some of this

03:37:16 1 challenged laws conflicts with federal law, so in
03:37:19 2 putting the county in a position of liability is which
03:37:21 3 law do you violate.
03:37:28 4 BY MS. LANG:
03:37:28 5 Q. And what are the potential consequences to the
03:37:32 6 County Recorder's Office of being put in that position
03:37:34 7 of liability?
03:37:36 8 A. We will be sued.
03:37:39 9 Q. Are there also concerns within your office
03:37:41 10 about potential prosecutions?
03:37:43 11 MR. O'CONNOR: Form.
03:37:46 12 THE WITNESS: Prosecutions of whom?
03:37:48 13 BY MS. LANG:
03:37:48 14 Q. Election officials, under the new statutes.
03:37:52 15 MR. O'CONNOR: Asked and answered.
03:37:55 16 THE WITNESS: I feel as if my team is
03:37:58 17 well-trained and they would do the job to the best of
03:38:01 18 their ability and not un -- not knowingly violate laws.
03:38:08 19 BY MS. LANG:
03:38:08 20 Q. Okay. And you say that the challenged laws may
03:38:10 21 make access to registration much more difficult; is that
03:38:19 22 correct?
03:38:19 23 A. Yes.
03:38:23 24 Q. In what ways will the challenged laws make
03:38:26 25 access to registration much more difficult?

03:38:28 1 MS. BOUGHTON: Form.

03:38:29 2 MS. LANG: Can you elaborate?

03:38:30 3 MS. BOUGHTON: Calls for speculation.

03:38:38 4 MS. LANG: I mean this is her answer. I'm

03:38:40 5 just asking her to expound on what she means by that.

03:38:43 6 MS. BOUGHTON: Understood.

03:38:44 7 BY MS. LANG:

03:38:45 8 Q. Okay. Go ahead.

03:38:45 9 A. It's my opinion that requiring the checkboxes

03:38:51 10 be checked, that requiring they put a place of birth,

03:38:53 11 and requiring proof of residency is an additional effort

03:38:58 12 that needs to be done by a registrant in order to have

03:39:01 13 them added to the rolls, which is something that's not

03:39:03 14 currently required.

03:39:12 15 Q. Okay. My next set of questions are all about

03:39:18 16 kind of prospective implementation plans, much of which

03:39:22 17 I think we have actually already covered, so I will do

03:39:25 18 my best to be pithy here.

03:39:31 19 My understanding from your testimony thus far

03:39:36 20 is that there have been discussions among County

03:39:41 21 Recorders and the Secretary of State about the potential

03:39:46 22 process for implementation, including timelines for

03:39:51 23 implementation. Is that correct?

03:39:57 24 A. Not timelines.

03:40:03 25 Q. Have people asked for timelines from the

03:40:07 1 Secretary of State's Office?

03:40:08 2 A. Yes.

03:40:09 3 Q. And have those timelines been provided?

03:40:10 4 A. No.

03:40:11 5 MS. STUART: Form.

03:40:18 6 BY MS. LANG:

03:40:18 7 Q. Okay. With respect to the DPOR requirement you

03:40:21 8 already testified that there's been no real discussion

03:40:24 9 about the substance of how that law would be

03:40:27 10 implemented; is that right?

03:40:28 11 A. Yes.

03:40:29 12 Q. Have there been discussions about kind of the

03:40:32 13 substance of how other parts of these laws would be

03:40:36 14 interpreted and implemented?

03:40:39 15 A. Some of them.

03:40:41 16 Q. Which ones?

03:40:43 17 A. The jury duty and the ADOT database.

03:40:47 18 Q. Okay. Outside of the jury duty and ADOT

03:40:51 19 database monthly checks, have there been any substantive

03:40:56 20 discussions about the other parts of the law and how

03:41:00 21 they would be implemented?

03:41:02 22 A. No.

03:41:05 23 Q. Okay. And you've already testified that the

03:41:28 24 voter registration form has not been updated to include

03:41:30 25 the DPOR requirement. Is it also true that it has not

03:41:34 1 been updated to change place of birth from optional to
03:41:37 2 mandatory?

03:41:38 3 A. Correct.

03:41:40 4 Q. Okay. And the voter registration form has also
03:41:43 5 not been updated to kind of change how DPOC will be
03:41:48 6 addressed with respect to state forms; is that correct?

03:41:51 7 A. Correct.

03:41:53 8 Q. All right. Another way of saying that is that
03:41:55 9 the state form just hasn't been changed as to the
03:41:59 10 challenged parts of these laws?

03:42:00 11 A. That's correct.

03:42:01 12 Q. Okay. Do you have any reason to believe, based
03:42:05 13 on your discussions with the Secretary of State, that
03:42:08 14 there are any imminent plans to update the state voter
03:42:13 15 registration form?

03:42:18 16 A. No.

03:42:43 17 Q. Okay. With respect to the jury summary report
03:42:47 18 and questionnaire portions of the law, when you receive
03:42:57 19 a report from the jury manager or commissioner, do you
03:43:03 20 receive each individual questionnaire from an individual
03:43:07 21 who self-reported as a noncitizen or nonresident, or do
03:43:11 22 you just receive a summary report?

03:43:15 23 A. We get a data file.

03:43:18 24 Q. Okay. And what does that data file look like?

03:43:21 25 A. It just lists the voter's name, information,

03:43:25 1 date of birth, address, and whether or not it was
03:43:30 2 self-reporting noncitizen or out of county.

03:43:32 3 Q. Okay. And I think you said that they come
03:43:35 4 monthly; is that right?

03:43:36 5 A. Yes.

03:43:37 6 Q. And is your understanding that that kind of
03:43:41 7 monthly system and that data reporting would stay the
03:43:44 8 same under the new laws?

03:43:47 9 A. That's my --

03:43:47 10 MR. O'CONNOR: Form.

03:43:47 11 THE WITNESS: That's my understanding.

03:43:50 12 BY MS. LANG:

03:43:53 13 Q. Okay. Do you know if the jury questionnaire is
03:43:56 14 answered under kind of penalty of perjury or anything
03:43:59 15 along those lines?

03:44:00 16 A. I don't know.

03:44:03 17 Q. Okay. And so I think you've answered this, but
03:44:08 18 in the jury summary report it sounds like you get name,
03:44:12 19 date of birth, address and, you know, whether or not
03:44:16 20 they self-reported as noncitizen or nonresident.

03:44:19 21 Is there any additional kind of data fields
03:44:22 22 that you get for those individuals?

03:44:27 23 A. I haven't looked at one of those files in a
03:44:29 24 long time, but I think that's the beef of it. I can't
03:44:33 25 remember any other additional fields.

03:44:34 1 Q. Okay. Thank you.

03:45:08 2 I'm going to mark as Exhibit 25 MC 1927.

03:45:21 3 (Deposition Exhibit 25 was marked for
03:45:29 4 identification.)

03:45:29 5 MR. O'CONNOR: Exhibit 25?

03:45:32 6 MS. LANG: 25, yes.

03:45:38 7 BY MS. LANG:

03:45:38 8 Q. And this is an e-mail from somebody at the
03:45:40 9 Arizona Secretary of State's Office to Monique Carter.
03:45:44 10 Who is Monique Carter?

03:45:46 11 A. She is somebody at one of the counties, Pinal
03:45:51 12 County.

03:45:51 13 Q. Okay. But you're copied here as well; is that
03:45:51 14 right?

03:45:53 15 A. Yes.

03:45:53 16 Q. Okay. And somebody -- Yolanda Morales from the
03:46:01 17 Secretary of State's Office says that the courts began
03:46:03 18 transmitting the juror questionnaire report to the
03:46:06 19 counties in February.

03:46:08 20 And I just wanted to ask about that. My
03:46:10 21 understanding is that you were already receiving reports
03:46:14 22 from the courts; is that right?

03:46:17 23 A. Yes.

03:46:17 24 Q. Okay. So was there any change in February of
03:46:20 25 this year as to the reports you were receiving?

03:46:24 1 A. My understanding, the issue here was the
03:46:28 2 NC/RN [sic], which is just a different naming convention
03:46:32 3 to clarify noncitizen/nonresident that the file's
03:46:36 4 supposed to have, but we've always had that information.
03:46:38 5 So I think it was just a terminology.

03:46:41 6 Q. Okay. So there was maybe some coding that was
03:46:43 7 changed, but the substance of the reports has remained
03:46:46 8 the same?

03:46:46 9 A. Yes.

03:46:46 10 Q. Okay. And I think we've already gone over
03:46:50 11 this, but the way in which you are processing those
03:46:53 12 reports has not changed?

03:46:54 13 A. Correct.

03:47:29 14 Q. Okay. I'll mark as Exhibit 26 MC 2981.
03:47:40 15 (Deposition Exhibit 26 was marked for
03:47:45 16 identification.)

03:47:45 17 BY MS. LANG:

03:47:45 18 Q. And are you familiar with this document?

03:47:47 19 A. Yes.

03:47:47 20 Q. And what is this document?

03:47:50 21 A. So this is a letter that we received -- we send
03:47:54 22 out to a voter if they are a federal only voter and they
03:47:59 23 have self-reported they're a noncitizen.

03:48:03 24 Q. And by self-reported, you mean in the jury
03:48:05 25 context; is that correct?

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03:48:06 1 A. On the jury duty questionnaire.

03:48:09 2 Q. Okay. So this is the notice you use when

03:48:12 3 you're canceling someone because of noncitizen reporting

03:48:17 4 on the jury questionnaire, correct?

03:48:19 5 A. And they do not have DPOC on their file, yes.

03:48:25 6 Q. Okay. And I think you've already testified

03:48:29 7 about this, but I don't remember the answer. When that

03:48:32 8 happens, is there first a kind of 35-day notice sent and

03:48:35 9 then this notice, or does it go straight to this notice?

03:48:39 10 A. It's this notice.

03:48:43 11 Q. Okay. Are there any circumstances where you

03:48:44 12 would use this notice other than where there's no DPOC

03:48:48 13 on file and there's a jury questionnaire self-reporting

03:48:52 14 noncitizenship?

03:48:53 15 A. Not that I can think of.

03:49:10 16 Q. Okay. You mentioned that there has been some

03:49:12 17 discussion about the substance of how the MVD monthly

03:49:18 18 reports will be implemented; is that right?

03:49:20 19 A. Yes.

03:49:21 20 Q. And what is your understanding of the kind of

03:49:24 21 status of those discussions and any efforts towards

03:49:29 22 implementation on that piece of the challenged laws?

03:49:32 23 A. There have been --

03:49:32 24 MS. STUART: Form.

03:49:32 25 THE WITNESS: There have been no updates,

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03:49:35 1 I don't believe. I believe everything's been put on
03:49:38 2 hold.
03:49:38 3 BY MS. LANG:
03:49:38 4 Q. Okay. Do you know if the Secretary of State is
03:49:41 5 receiving monthly reports from MVD?
03:49:42 6 MS. STUART: Form, foundation.
03:49:46 7 BY MS. LANG:
03:49:46 8 Q. If you know.
03:49:46 9 A. I don't know.
03:50:15 10 Q. I'm going to mark as Exhibit 27 MC 2984.
03:50:28 11 (Deposition Exhibit 27 was marked for
03:50:28 12 identification.)
03:50:28 13 BY MS. LANG:
03:50:49 14 Q. Are you familiar with this document?
03:50:50 15 A. Yes.
03:50:51 16 Q. And when would you use this notice, to send
03:50:54 17 this type of notice out to a voter?
03:50:57 18 A. If the driver's license was issued prior to
03:51:02 19 October 1 of 1996, then it did not prove DPOC.
03:51:06 20 Q. Okay. So one question I had about this is I
03:51:12 21 didn't see any mention here of kind of federal only
03:51:16 22 status. So if somebody had an ID that was issued prior
03:51:22 23 to October 1, 1996, are they processed as a federal only
03:51:28 24 voter?
03:51:32 25 A. Yes. But this one is saying that the number

03:51:35 1 that they gave us on the form was not what MVD had as
03:51:39 2 their driver's license number.

03:51:48 3 Q. Okay. I had read this sentence to mean either
03:51:52 4 there was a kind of non-matching number or the driver's
03:51:56 5 license had been issued prior to October 1, 1996. Is
03:52:00 6 that not correct?

03:52:01 7 A. I don't believe so. I think that we're trying
03:52:03 8 to actually figure out what their real driver's license
03:52:06 9 number is, and we are unclear.

03:52:08 10 Q. Okay. So this form is really only meant to be
03:52:11 11 for people who there's some sort of driver's license
03:52:14 12 number mismatch?

03:52:15 13 A. Mixup, yes.

03:52:16 14 Q. Okay. And for people who just have a pre-1996
03:52:21 15 driver's license, that would not count as DPOC, but they
03:52:24 16 could be a federal only voter; is that right?

03:52:27 17 A. As long as it didn't come back as a Type F,
03:52:27 18 yes.

03:52:30 19 Q. Yes. Thank you for that clarification.

03:52:40 20 I'll mark as Exhibit 28 2988.

03:52:51 21 (Deposition Exhibit 28 was marked for
03:53:00 22 identification.)

03:53:00 23 BY MS. LANG:

03:53:00 24 Q. Are you familiar with this document?

03:53:04 25 A. Yes.

03:53:06 1 Q. Okay. And can you describe to me what this
03:53:08 2 notice is for?

03:53:09 3 A. This is actually an older notice, doesn't -- we
03:53:14 4 are looking to update it because harassment residence
03:53:17 5 doesn't make sense.

03:53:18 6 Q. That is why I wanted to ask you about it.

03:53:21 7 A. Right. So we don't -- we don't really use this
03:53:23 8 form at all anymore, but it was still part of the forms
03:53:26 9 that are included in the voter registration database.
03:53:29 10 But, basically, this was to say we need you to provide
03:53:32 11 us a good address.

03:53:34 12 Q. Okay. And we went over the notice that you do
03:53:36 13 actually --

03:53:36 14 A. Yes.

03:53:37 15 Q. -- use in that circumstance?

03:53:38 16 A. Yes.

03:53:38 17 Q. Okay. Thank you. I'm glad I wasn't the only
03:53:46 18 one confused.

03:54:14 19 We've talked extensively about the fact that
03:54:16 20 implementation of these challenged laws are on hold and
03:54:19 21 that your office is not implementing them. To your
03:54:24 22 knowledge, are any counties implementing the challenged
03:54:30 23 portions of the law?

03:54:32 24 MS. BOUGHTON: Form.

03:54:33 25 MR. O'CONNOR: Form.

03:54:33 1 THE WITNESS: I can't speak for the other
03:54:35 2 counties.
03:54:35 3 BY MS. LANG:
03:54:35 4 Q. Okay. Have you received any communications in
03:54:38 5 your role on various committees and communications with
03:54:41 6 other County Recorders that would suggest that other
03:54:44 7 counties have taken a different approach in implementing
03:54:48 8 these laws?
03:54:49 9 A. No.
03:55:19 10 Q. We'll mark as Exhibit 29 MC 2986.
03:55:34 11 (Deposition Exhibit 29 was marked for
03:55:40 12 identification.)
03:55:40 13 BY MS. LANG:
03:55:41 14 Q. Are you familiar with this document?
03:55:42 15 A. Yes.
03:55:43 16 Q. And can you explain to me what this notice is
03:55:45 17 for?
03:55:48 18 A. So this is the letter that a person would get
03:55:52 19 if we -- if they provided an Arizona driver's license
03:55:55 20 and it matched with MVD as being a foreign, noncitizen.
03:56:02 21 Q. Okay. So this is only used when MVD comes back
03:56:06 22 with something that says noncitizen, rather than just no
03:56:12 23 match?
03:56:12 24 A. Right.
03:56:13 25 Q. Okay. Do you know if the Secretary of State's

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03:56:41 1 Office is currently working on a revision for the
03:56:45 2 election procedures manual?
03:56:47 3 MS. STUART: Form.
03:56:47 4 THE WITNESS: Yes.
03:56:50 5 BY MS. LANG:
03:56:51 6 Q. Okay. What communications have you received
03:56:52 7 from the Secretary of State's Office about their work on
03:56:58 8 a revised election procedures manual?
03:57:00 9 A. They have sent us drafts of the various
03:57:04 10 chapters, and we have reviewed and then met with their
03:57:07 11 office to go over comments and questions about those
03:57:12 12 drafts.
03:57:13 13 Q. Have they provided a draft of Chapter 1?
03:57:15 14 A. Yes.
03:57:16 15 Q. Okay. And have you met with the Secretary of
03:57:20 16 State's Office to discuss your comments and questions?
03:57:21 17 A. Yes.
03:57:23 18 Q. Okay. Have you provided any written feedback
03:57:26 19 on Chapter 1 to the Secretary of State's Office?
03:57:30 20 A. Yes.
03:57:41 21 Q. Okay. Does the revised Chapter 1 draft
03:57:46 22 currently implement any portions of the challenged laws
03:57:52 23 we have been discussing today?
03:57:54 24 A. Yes.
03:57:56 25 Q. Does it address and implement all of the

03:58:01 1 challenged revisions?

03:58:05 2 A. Yes.

03:58:07 3 Q. Okay. So does the new draft of the EPM, for

03:58:11 4 example, indicate the place of birth will be mandatory?

03:58:14 5 A. Yes.

03:58:16 6 Q. Okay. And does it indicate that federal only

03:58:23 7 voters will not be able to vote in presidential

03:58:26 8 elections?

03:58:26 9 A. Yes.

03:58:26 10 Q. And that federal only voters will not be able

03:58:29 11 to vote by mail?

03:58:31 12 A. I believe so.

03:58:32 13 Q. Okay. So to your understanding, the current

03:58:35 14 revised draft fully implements the challenged laws?

03:58:46 15 A. Yes, but there are some areas that have been

03:58:50 16 potentially modified to mirror the NVRA.

03:58:57 17 Q. And which areas are that?

03:59:00 18 MS. STUART: Form, foundation. To the

03:59:00 19 extent you know.

03:59:03 20 BY MS. LANG:

03:59:03 21 Q. You have seen the elections procedures manual

03:59:05 22 draft; is that correct?

03:59:05 23 A. Yes.

03:59:06 24 Q. Okay. And you say that based on your review of

03:59:10 25 the elections procedures manual, there are areas where

03:59:12 1 the challenged laws have been modified in a way to
03:59:16 2 accord with NVRA; is that right?

03:59:18 3 A. That's my understanding.

03:59:19 4 Q. Okay. And what are those areas?

03:59:21 5 A. In regards to notices and cancellations.

03:59:38 6 Q. So is it fair to say that your testimony has
03:59:43 7 certainly today been that you haven't received any
03:59:45 8 official guidance or substantive guidance on the
03:59:48 9 implementation of these laws right now, but that you
03:59:51 10 have seen a draft of how the Secretary of State might
03:59:58 11 prepare to implement these laws in the form of the
04:00:01 12 election procedures manual?

04:00:02 13 A. Yes.

04:00:04 14 Q. Okay. And what was -- can you outline for me
04:00:07 15 some of the questions or concerns you had when you met
04:00:12 16 with the Secretary of State's Office about Chapter 1 of
04:00:17 17 the EPM?

04:00:19 18 A. We questioned all of the implementation of the
04:00:24 19 new laws, and specifically DPOC, proof of residency, the
04:00:34 20 jury duty questionnaire timing. That's what part of the
04:00:37 21 discussion was about.

04:00:38 22 Q. And what did the Secretary of State's Office
04:00:40 23 tell you about what their plans are with respect to
04:00:44 24 Chapter 1 and the implementation of those provisions?

04:00:48 25 MS. STUART: Form.

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04:00:48 1 MR. O'CONNOR: Form.

04:00:51 2 MS. LANG: Can you clarify?

04:00:53 3 MS. STUART: You're asking what the

04:00:54 4 Secretary told them?

04:00:55 5 MS. LANG: Yes.

04:00:56 6 MS. STUART: Well, that's hearsay. You're

04:00:57 7 going to depose a 30(b)(6) witness for the Secretary.

04:01:00 8 You can just ask that person. You don't need to get

04:01:03 9 that information secondhand from her.

04:01:05 10 MS. LANG: No.

04:01:06 11 BY MS. LANG:

04:01:07 12 Q. Okay. What information did you receive from

04:01:08 13 the Secretary of State's Office in response to your

04:01:11 14 concerns?

04:01:11 15 MS. STUART: Form.

04:01:16 16 THE WITNESS: During the call that we had

04:01:17 17 to discuss draft Chapter 1 it was noted that these have

04:01:22 18 been included in the draft as a placeholder, and when

04:01:27 19 the litigation is determined, that they will either stay

04:01:30 20 in or be pulled out.

04:01:46 21 BY MS. LANG:

04:01:46 22 Q. Have you had more than one meeting with the

04:01:48 23 Secretary of State's Office about the draft Chapter 1?

04:01:52 24 A. No.

04:01:53 25 Q. Just the one?

04:01:53 1 A. Just the one.

04:01:54 2 Q. And when was that?

04:01:57 3 A. A couple weeks ago.

04:01:58 4 Q. Okay. And who was in that meeting?

04:02:02 5 A. It would have been members of the Secretary of

04:02:05 6 State's Office and the County Recorders' Office and

04:02:07 7 probably a few election directors as well from across

04:02:10 8 the state.

04:02:11 9 Q. And you were in attendance of that meeting?

04:02:13 10 A. Yes.

04:02:14 11 Q. Okay. And it was not -- I understand from your

04:02:18 12 answer it wasn't a meeting with just your office and the

04:02:21 13 Secretary of State's Office, but the Secretary of

04:02:23 14 State's Office and all of the County Recorders; is that

04:02:26 15 right?

04:02:26 16 A. Yes.

04:02:27 17 Q. Okay. Do you recall who from the Secretary of

04:02:30 18 State's Office was present?

04:02:32 19 A. Colleen Connor, I believe Lisa Marra, Yolanda

04:02:37 20 Morales, probably Russ Smith.

04:02:42 21 Q. Was this an in person meeting, Zoom, by phone?

04:02:45 22 A. It was Teams.

04:02:48 23 Q. About how long was the meeting?

04:02:54 24 A. It was probably a couple hours, but we just

04:02:57 25 didn't discuss Chapter 1. There were other chapters as

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04:03:03 1 well.

04:03:03 2 Q. Okay. And what is your understanding of what

04:03:06 3 the next steps will be in kind of the election

04:03:09 4 procedures manual process?

04:03:11 5 MS. STUART: Form.

04:03:13 6 THE WITNESS: It's my belief that they

04:03:15 7 will take our comments and questions under advisement

04:03:18 8 and that a new draft would be circulated.

04:03:23 9 BY MS. LANG:

04:03:23 10 Q. Based on your experience with prior iterations

04:03:26 11 of this process, including while you were at the

04:03:29 12 Secretary of State's Office, after that new draft is

04:03:35 13 created, would there be another set of sessions with the

04:03:39 14 County Recorder's Office, or is it just a kind of one

04:03:42 15 feedback session system?

04:03:44 16 MS. STUART: Form.

04:03:45 17 THE WITNESS: In my experience there would

04:03:48 18 be another -- at least another session, if not a couple

04:03:50 19 more, especially if the chapters are particularly long.

04:04:12 20 BY MS. LANG:

04:04:12 21 Q. So I think we've already discussed, but, you

04:04:16 22 know, the 2019 EPM is currently in effect because there

04:04:19 23 was not a 2021 revision; is that right?

04:04:23 24 A. Yes.

04:04:24 25 Q. Okay. If there is no approved 2023 revision,

04:04:32 1 would your office continue to rely on the 2019 EPM?

04:04:35 2 MR. O'CONNOR: Form.

04:04:39 3 THE WITNESS: I believe we would.

04:05:07 4 MS. LANG: Okay. All right. I think now

04:05:08 5 would be a good time for a break.

04:05:10 6 Can we take a break?

04:05:12 7 MS. STUART: Oh, break?

04:05:12 8 MS. LANG: Break.

04:05:13 9 MS. STUART: Yes.

04:05:14 10 MS. LANG: Thank you.

04:05:14 11 THE VIDEOGRAPHER: We are off the record.

04:05:15 12 Time on the video monitor is 4:05 p.m.

04:05:21 13 (A recess was taken.)

04:29:13 14 THE VIDEOGRAPHER: We are on the record.

04:29:15 15 Time on the video monitor is 4:29 p.m.

04:29:18 16 BY MS. LANG:

04:29:18 17 Q. Okay. I have a kind of mishmash of final

04:29:20 18 questions for you at this stage and before we pass it

04:29:24 19 off to the United States for any questions.

04:29:27 20 And earlier today, when we were talking about

04:29:29 21 your use of the SAVE system, if I recall correctly, you

04:29:35 22 referenced that, you know, you were not typically the

04:29:37 23 person who kind of uses the SAVE system; is that right?

04:29:40 24 A. Yes.

04:29:42 25 Q. Okay. Who is kind of the point person within

04:29:45 1 your office that would be most expert on kind of the use
04:29:50 2 of the SAVE system?

04:29:50 3 A. Rodney Yazzie.

04:29:52 4 Q. Okay. And who is that?

04:29:54 5 A. He is one of our IT specialists.

04:30:01 6 Q. Okay. When we -- way at the beginning of
04:30:05 7 today's testimony we talked about the different kind of
04:30:07 8 ways that voter registration forms might come to you,
04:30:10 9 and one of those ways is through public assistance
04:30:15 10 agencies and disability agencies that are required to
04:30:19 11 provide voter registration services under the NVRA; is
04:30:19 12 that right?

04:30:25 13 A. Yes.

04:30:29 14 Q. Okay. When you receive voter registration
04:30:32 15 forms from those agencies, are they state forms or
04:30:39 16 federal forms?

04:30:41 17 A. In most cases they're state forms.

04:30:46 18 Q. Okay. So, to your knowledge, the NVRA agencies
04:30:50 19 that are providing voter registration services use the
04:30:52 20 state form to provide those services; is that right?

04:30:55 21 A. Yes.

04:30:55 22 Q. Okay. Are you aware of any agencies that are
04:30:57 23 using the federal form instead of the state form?

04:31:05 24 A. It's an option. We may occasionally receive a
04:31:09 25 federal form.

04:31:14 1 Q. Fair enough. But your testimony is that
04:31:17 2 generally the NVRA agencies are using the state form --
04:31:20 3 A. Yes.
04:31:20 4 Q. -- for voter registration?
04:31:21 5 A. Yes.
04:31:22 6 Q. Okay. Earlier today we kind of talked about
04:31:28 7 the ways in which we might try to figure out, you know,
04:31:33 8 how many people who are federal only go ahead and cure
04:31:38 9 and become full ballot voters. Do you recall that
04:31:41 10 discussion?
04:31:42 11 A. Yes.
04:31:43 12 Q. And you had referenced that, you know, you
04:31:46 13 could take a snapshot from today and compare it to maybe
04:31:49 14 a snapshot a few months down the line and kind of
04:31:52 15 compare them to see who had, you know, quote/unquote,
04:31:56 16 cured their federal only status and become a full ballot
04:32:01 17 voter, right?
04:32:01 18 A. Yes.
04:32:03 19 Q. Okay. Do you have access to like -- outside of
04:32:09 20 if you were to take a snapshot today and then take a
04:32:11 21 snapshot a few months down the line, does your office
04:32:15 22 have kind of snapshots of what the database has looked
04:32:18 23 like at different points of time?
04:32:26 24 A. Yes; only in reference to public records
04:32:29 25 requests that have been previously provided at a certain

04:32:31 1 time frame in the system.

04:32:33 2 Q. Okay. And do those happen at relatively

04:32:39 3 regular intervals?

04:32:42 4 A. Public records requests? They come in daily.

04:32:46 5 Q. Okay. So how often, in general, is your office

04:32:49 6 kind of creating those snapshots and saving them?

04:32:55 7 A. Multiple times a week.

04:33:01 8 Q. Okay. I'm going to mark as Exhibit 30 MC 2742.

04:33:19 9 (Deposition Exhibit 30 was marked for

04:33:33 10 identification.)

04:33:33 11 BY MS. LANG:

04:33:33 12 Q. And do you recognize this document?

04:33:35 13 A. Yes.

04:33:36 14 Q. And what is it?

04:33:39 15 A. These are discussions about election law reform

04:33:43 16 ideas.

04:33:45 17 Q. Okay. And if I can understand this e-mail

04:33:53 18 chain correctly, this first page is an e-mail from you

04:33:58 19 to Stephen Richer from January 9, 2023, the first page

04:34:03 20 of the document; is that right?

04:34:05 21 A. Yes.

04:34:07 22 Q. Okay. And what's below, you know, there are

04:34:09 23 some questions and then bullet points, and if you look

04:34:13 24 at the last page of this document, it looks like the

04:34:19 25 questions originally came from County Recorder Richer,

04:34:23 1 and then the bullet points were drafted by you; is that
04:34:23 2 right?

04:34:26 3 A. Yes.

04:34:26 4 Q. Okay. I want to talk briefly about the third
04:34:39 5 bullet point under what else on the legislative front
04:34:42 6 for voter registration. And here you write that,
04:34:45 7 lastly, we currently have several new state laws that
04:34:48 8 violate federal law. Do you see that sentence?

04:34:50 9 A. Yes.

04:34:53 10 Q. What new state laws were you referencing here?

04:34:57 11 A. The ones that are -- we've been talking about
04:35:00 12 today.

04:35:01 13 Q. Okay. Any others, or were you specifically
04:35:03 14 talking about the laws at issue in this litigation?

04:35:06 15 A. Specifically the laws at issue here today.

04:35:12 16 Q. Okay. And you say, "I don't know if we need an
04:35:14 17 AG opinion, but I feel like many counties are confused
04:35:18 18 and seeking county legal guidance which makes sense,"
04:35:21 19 period.

04:35:21 20 Is that right?

04:35:22 21 A. Yes.

04:35:23 22 Q. And as you sit here today, does that continue
04:35:26 23 to be kind of your understanding and feeling about how
04:35:28 24 County Recorders are feeling?

04:35:30 25 MR. O'CONNOR: Form.

04:35:32 1 BY MS. LANG:

04:35:33 2 Q. Do you agree that many counties are confused
04:35:36 3 and seeking county legal guidance?

04:35:38 4 A. This was written in January. I feel now that
04:35:41 5 it's been made very clear that we are to be in a holding
04:35:44 6 pattern until guidance is received from the Secretary of
04:35:52 7 State's Office.

04:35:52 8 Q. Okay. That's very helpful. Thank you.

04:35:55 9 And so your next sentence kind of referred to a
04:35:59 10 concern that, you know, different counties would do
04:36:04 11 different things and that would lead to voters being
04:36:06 12 treated differently.

04:36:08 13 Has that concern -- do you continue to have
04:36:10 14 that concern, or has it been resolved by the more clear
04:36:16 15 guidance that you're in a holding pattern?

04:36:21 16 A. I feel that the guidance to hold is --
04:36:26 17 alleviated some of the concern. I think once guidance
04:36:29 18 is provided, then we will reevaluate.

04:36:34 19 Q. And then the next thing you say is, "We should
04:36:37 20 be able to use expired MVD credentials to confirm a
04:36:41 21 voter's citizenship, and we currently do not."

04:36:46 22 Can you explain why it is that you thought we
04:36:49 23 should be able to use expired MVD credentials to confirm
04:36:53 24 a voter's citizenship?

04:36:54 25 A. It's my personal opinion that we are looking to

04:36:57 1 validate DPOC, and regardless if somebody's driver's
04:37:02 2 license is expired, it should still be able to validate
04:37:05 3 the proof of citizenship.
04:37:07 4 Q. And that makes some sense to me, right, like
04:37:10 5 the citizenship status of that individual has not
04:37:13 6 changed just because their driver's license has expired,
04:37:17 7 correct?
04:37:17 8 MS. STUART: Form.
04:37:18 9 THE WITNESS: That's my opinion.
04:37:19 10 BY MS. LANG:
04:37:31 11 Q. Okay. This last section that says, "New law
04:37:34 12 that protects VR/Elections employee's personal
04:37:37 13 information, and party within the voter
04:37:40 14 registration database," why is it that you listed that
04:37:42 15 as a potential legislative item?
04:37:46 16 A. I think the nature of elections has changed
04:37:50 17 significantly, especially in the last couple years, and
04:37:53 18 we have had staff that have been concerned for their
04:37:56 19 safety; and so having something that would protect their
04:38:00 20 information from being released to the public would make
04:38:05 21 them feel better.
04:38:06 22 Q. Yeah. I don't think it will be a surprise to
04:38:09 23 anyone in this room that Maricopa County has been the
04:38:12 24 center of many kind of inflammatory rhetoric when it
04:38:30 25 comes to elections; is that fair to say?

04:38:32 1 A. That's a fair assessment.

04:38:35 2 Q. Okay. And your office -- I should not assume.

04:38:41 3 Let me ask.

04:38:42 4 Has your office kind of felt the impact of that

04:38:47 5 kind of inflammatory rhetoric around the elections

04:38:50 6 process in Maricopa County?

04:38:52 7 A. I feel it has.

04:38:54 8 Q. Okay. And can you expound on that a little

04:38:57 9 bit, like what -- what has the impact on you and your

04:39:00 10 staff been of being at the center of many of these

04:39:04 11 debates?

04:39:05 12 A. I don't want to speak necessarily for my staff,

04:39:08 13 although they have relayed that they feel putting their

04:39:13 14 residential address information out would -- could be

04:39:16 15 potentially harmful. You know, they're scared that

04:39:23 16 somebody's going to show up at their house. But there

04:39:26 17 is a new law now that has allowed, you know, certain

04:39:29 18 election officials that are certified to request their

04:39:33 19 record to be sealed.

04:39:36 20 Q. And do you think that has helped with some of

04:39:39 21 the concerns?

04:39:40 22 A. I think it's still very new, but I think it has

04:39:44 23 helped.

04:39:47 24 Q. Okay. And it's entirely fair that you don't

04:39:50 25 want to speak for your staff; but, you know, as the kind

04:39:52 1 of representative today for the Recorder's Office, I do
04:39:55 2 think you can speak more generally about kind of what
04:39:58 3 the impact has been.

04:40:01 4 And to that effect, you know, earlier today we
04:40:04 5 talked about kind of allegations of voter fraud that
04:40:08 6 your office may have received. And putting aside kind
04:40:13 7 of credibility or whether or not these are real or
04:40:18 8 serious allegations, has your office received a lot of
04:40:23 9 public comment about the elections process in the wake
04:40:28 10 of the 2020 election?

04:40:30 11 A. The Recorder's Office has, yes.

04:40:32 12 Q. Okay. And, you know, earlier today we looked
04:40:35 13 at a document that was an e-mail from County Recorder
04:40:42 14 Richer where he was concerned that an individual might
04:40:46 15 send, you know, a list of many thousands of individuals
04:40:48 16 that they wanted to question their citizenship status.

04:41:01 17 Based on your experience working in the office,
04:41:04 18 is that concern kind of borne out from the public
04:41:09 19 comments the Recorder's Office has received in recent
04:41:12 20 years?

04:41:13 21 MR. O'CONNOR: Form.

04:41:15 22 THE WITNESS: In my experience and my
04:41:17 23 opinion, yes.

04:41:24 24 MS. LANG: I don't have any further
04:41:25 25 questions right now. So we're going to go ahead and

04:41:28 1 take a break, and then the United States will ask some
04:41:32 2 questions.

04:41:33 3 THE WITNESS: Okay.

04:41:33 4 THE VIDEOGRAPHER: We are off the record.
04:41:35 5 The time on the video monitor is 4:41 p.m. This ends
04:41:47 6 Media 4.

04:41:54 7 (A recess was taken.)

04:47:10 8 THE VIDEOGRAPHER: We are on the record.
04:47:11 9 The time on the video monitor is 4:47 p.m. This begins
04:47:14 10 Media 5.

04:47:14 11

04:47:16 12 EXAMINATION

04:47:16 13 BY MS. BRAILEY:

04:47:18 14 Q. Hi, Ms. Petty. I'm Emily Brailey with the
04:47:22 15 United States, and I only have a few questions. It will
04:47:25 16 sort of bounce around some of the subject matter we've
04:47:28 17 covered today, just some follow-up questions to get a
04:47:30 18 few more details. So if you ever feel that you don't
04:47:33 19 understand where the question is going or you need to
04:47:36 20 refresh your memory on what we had spoken about, please
04:47:39 21 stop me and let me know, okay?

04:47:40 22 A. Okay.

04:47:46 23 Q. Does the Maricopa Recorder -- does your office
04:47:49 24 ever need to check voters for any reason against AVID,
04:47:57 25 specifically, before you check them against your own

04:48:00 1 voter system?

04:48:01 2 A. Yes, we do check voter records against AVID.

04:48:04 3 Q. And what fields do you use when you look up

04:48:07 4 those voters in AVID?

04:48:09 5 A. It's actual an automated process to look up

04:48:13 6 duplicates nightly to see if there's a voter registered

04:48:16 7 in Maricopa that is also potentially registered in

04:48:19 8 another county and somehow like their last name changed

04:48:22 9 or something was transposed on their date of birth. So

04:48:25 10 it's an overnight automated process that looks at all

04:48:28 11 the data fields from the form.

04:48:29 12 Q. And which fields must be a match for you to

04:48:32 13 confirm that it's a duplicate?

04:48:34 14 A. So we like to have at least four pieces of data

04:48:38 15 to confirm a hard match and three for a soft, and it

04:48:43 16 would include first name, last name, date of birth,

04:48:46 17 driver's license, SSN4.

04:48:55 18 Q. And in the AVID database there are several

04:48:58 19 columns. There are several columns, and I'm going to

04:49:15 20 ask you about four of those column names based on your

04:49:20 21 experience with AVID.

04:49:23 22 Are you familiar with the columns ID and VRAZ

04:49:28 23 Voter ID, the first two columns in the AVID system?

04:49:33 24 A. ID?

04:49:34 25 Q. Yeah.

04:49:35 1 A. So that's their voter registration identity
04:49:38 2 number.

04:49:38 3 Q. Right. And when or why, I guess, is that
04:49:46 4 number different from the VRAZ ID?

04:49:50 5 A. Because it -- Maricopa has its own voter
04:49:55 6 registration system and so we issue a Maricopa voter ID,
04:50:00 7 but it's also tied to their AVID ID, so you can search
04:50:03 8 the voter by either number in either system.

04:50:06 9 Q. Got it.

04:50:08 10 And then there are two other columns titled
04:50:11 11 Federal-ID Only and Federal-No ID. Can you tell me the
04:50:16 12 difference between those two field names?

04:50:18 13 A. The difference is a federal only voter has not
04:50:22 14 proven that they are at least a person. There's no
04:50:25 15 identity. Fed I means that they have at least provided
04:50:29 16 enough information to prove they are a person.

04:50:33 17 Q. And in the AVID database it doesn't say Fed I.
04:50:37 18 It says Federal-ID Only and Federal-No ID. So if it
04:50:41 19 says Federal-ID Only, those -- that column -- am I
04:50:47 20 correct that that column indicates that the person
04:50:50 21 provided identification; and then No ID means that the
04:50:54 22 person did not provide identification?

04:50:56 23 A. Yes.

04:50:58 24 Q. Okay. Thank you. That's helpful.

04:51:05 25 Has your office encountered duplicate driver

04:51:10 1 license numbers?

04:51:14 2 A. What do you mean?

04:51:16 3 Q. As in have you encountered non-unique driver's
04:51:23 4 license numbers that you -- strike that.

04:51:36 5 Let me ask a different question. I have two
04:51:43 6 sort of hypothetical questions for you about information
04:51:46 7 you might get about a voter and what status you would
04:51:52 8 give that voter.

04:51:53 9 So, for example, if you have two files, both
04:51:56 10 have the same name, both have the same birthday, both
04:52:01 11 have the same social security number, and they both have
04:52:04 12 the same driver's license number, but they have a
04:52:07 13 different birthplace, how would you interpret those two
04:52:09 14 records?

04:52:10 15 A. We would say that there was enough of the valid
04:52:13 16 matching data to say it is a match.

04:52:16 17 Q. So would that mean that the different
04:52:19 18 birthplace might be a mistake?

04:52:22 19 A. It would just become irrelevant.

04:52:38 20 Q. Okay. And then our second scenario, we have
04:52:43 21 two files. We have, again, the same name on each file.
04:52:47 22 We have the same birthday on each file. However, one
04:52:49 23 file provided social security number and a driver's
04:52:52 24 license number. The other did not. And they have the
04:52:55 25 same birthplace. How do you interpret those two files?

04:53:02 1 A. We would -- if we had three points of data, we
04:53:05 2 would say that it's a match.

04:53:20 3 Q. And so is there any reason that you would have
04:53:25 4 two files where it's the same -- sorry.

04:53:33 5 Would you ever have two files with different
04:53:36 6 voters who have the same driver's license number, or is
04:53:41 7 that merely an impossible scenario?

04:53:43 8 A. The only way that would happen is if there was
04:53:46 9 an error at the MVD office and they accidentally
04:53:49 10 assigned somebody the same driver's license or overrode
04:53:52 11 somebody else's driver's license number.

04:53:55 12 Q. That makes sense
04:54:10 13 So we reviewed some of the birthplace
04:54:13 14 information in the AVID database that we received from
04:54:16 15 the Secretary of State, and we noticed that there's not
04:54:19 16 a uniform way that people -- or, rather, there's not a
04:54:23 17 uniform way in which birthplace was displayed. Some
04:54:26 18 people wrote Nogales, and it could have been Arizona or
04:54:30 19 Mexico. Some people wrote AZ versus ARIZ. You know,
04:54:37 20 there were lots of different ways to record this. And
04:54:42 21 so I have some questions about how the birthplace is
04:54:48 22 entered into the voter file.

04:54:49 23 So, first, is there any guidance to voters on
04:54:53 24 how they should complete that field in the state form;
04:54:57 25 that field being the birthplace field?

04:54:59 1 A. I believe it says enter your place or state or
04:55:02 2 country of birth.

04:55:03 3 Q. Right. And so is there any guidance anywhere
04:55:06 4 that tells a voter whether they should indicate that as
04:55:09 5 two letters, for example, versus a full word versus an
04:55:15 6 abbreviation of some kind?

04:55:17 7 A. I don't believe so.

04:55:22 8 Q. And what answers do you accept in that field?

04:55:25 9 A. Whatever the voter puts.

04:55:31 10 Q. And how do you transcribe that, that being what
04:55:34 11 the voter puts, into the Maricopa database and then into
04:55:39 12 AVID?

04:55:40 13 A. So we would take exactly what they put in that
04:55:45 14 form in the voter registration database, Maricopa's
04:55:49 15 voter registration database, just exactly like they
04:55:52 16 provided it, and that automatically replicates up to the
04:55:55 17 state AVID system.

04:55:56 18 Q. And does your office confirm the birthplace of
04:56:00 19 anybody who's entered it into the state form?

04:56:02 20 A. No.

04:56:04 21 Q. Would there be a way to confirm it?

04:56:06 22 A. No.

04:56:07 23 Q. Is there a database that exists that you could
04:56:13 24 check somebody's birthplace against?

04:56:15 25 A. Not that I'm aware of.

04:56:20 1 Q. Are you aware of any guidelines to -- are you
04:56:27 2 aware of any guidelines that might be forthcoming about
04:56:31 3 how they should fill in that field should the counties
04:56:37 4 implement H.B. 2492?

04:56:39 5 A. We haven't received guidance on how to
04:56:41 6 implement that yet.

04:56:41 7 Q. Is that part of the drafting process for the
04:56:44 8 new EPM?

04:56:48 9 A. I don't recall that being called out in the
04:56:52 10 draft.

04:56:53 11 Q. And so I understand you haven't received
04:56:55 12 guidance. Have there been any conversations about this,
04:56:59 13 about how to instruct voters how they should fill out
04:57:03 14 the field of birthplace?

04:57:05 15 A. Not that I'm aware of.

04:57:23 16 Q. So currently my understanding is if a person
04:57:26 17 registers to vote using the state form and they do not
04:57:30 18 provide DPOC, but they have checked the box that they're
04:57:36 19 a citizen, they are registered as a federal only voter.
04:57:41 20 I have that correct?

04:57:42 21 A. That's correct.

04:57:42 22 Q. Okay. And so if they provide DPOC at a later
04:57:45 23 time, you know, up until the Thursday before the
04:57:47 24 election, they can vote a full ballot?

04:57:50 25 A. Yes.

04:57:52 1 Q. And how is that indicated in the system for
04:57:55 2 that voter once they provide a DPOC?

04:57:57 3 A. We process their DPOC and update their status
04:58:01 4 from federal only to active full ballot.

04:58:03 5 Q. And when you say status, that's their
04:58:06 6 registration status?

04:58:07 7 A. Yes.

04:58:08 8 Q. And is that done with the voter registration
04:58:10 9 update or with the admin update?

04:58:12 10 A. It would be a voter registration update.

04:58:14 11 Q. And that's because it's changing the status of
04:58:18 12 the person as registered to vote as a full ballot voter
04:58:22 13 versus a federal only voter?

04:58:24 14 A. It's a voter-initiated change so it would be
04:58:27 15 provided by the voter, so it would be a voter
04:58:30 16 registration update.

04:58:31 17 Q. Got it.

04:58:33 18 Does your office view DPOC then as a voter
04:58:37 19 registration requirement, no matter when it's provided?

04:58:42 20 A. Can you ask that again?

04:58:44 21 Q. Yes, absolutely.

04:58:46 22 So it seems that no matter when a voter
04:58:52 23 provides DPOC -- so it's not provided at the time of
04:58:55 24 registration. It's provided much later in the process.
04:58:57 25 But no matter when it's provided, it seems to be

04:59:00 1 considered part of their voter registration packet
04:59:04 2 application. So does that mean it's -- DPOC is a voter
04:59:09 3 registration requirement?

04:59:12 4 A. I would not say that DPOC is a voter
04:59:15 5 registration requirement. The attestation to the form
04:59:19 6 saying they are a United States citizen is the
04:59:21 7 requirement to get them added to the rolls as a federal
04:59:24 8 only voter. If they want to be a full ballot voter,
04:59:27 9 then, yes, DPOC would be required.

04:59:28 10 Q. So it's a voter registration requirement for
04:59:31 11 somebody to register as a full ballot voter?

04:59:33 12 A. Yes.

04:59:42 13 Q. Is there any other way that you would
04:59:44 14 categorize DPOC other than as a voter registration
04:59:48 15 requirement for full ballot voters?

04:59:52 16 A. I don't think I understand what you're asking
04:59:54 17 me.

05:00:04 18 Q. So in the context that we've been discussing,
05:00:08 19 DPOC is a voter registration requirement, right, for the
05:00:14 20 people who want to be registered as full ballot voters?

05:00:18 21 A. Yes.

05:00:19 22 Q. Is there -- one minute.

05:00:36 23 I think we can move on from that question.

05:00:42 24 Okay. So same question, but slightly
05:00:48 25 different. So somebody registers to vote using a

05:00:51 1 federal form and then they later provide DPOC. They are
05:00:55 2 then treated as a full ballot voter; is that correct?

05:00:58 3 A. Yes.

05:00:58 4 Q. And going forward, they continue to be treated
05:01:01 5 as a full ballot voter?

05:01:02 6 A. Yes.

05:01:05 7 Q. And that's true whether -- that's true even if
05:01:08 8 DPOC is provided the Thursday before the election, even
05:01:11 9 if they registered to vote months and months before
05:01:14 10 this?

05:01:14 11 A. Yes.

05:01:37 12 Q. Okay. And I think you may have answered this
05:01:39 13 in the very beginning. I apologize if you -- I
05:01:41 14 apologize if you have.

05:01:43 15 Have you encountered conflicting information in
05:01:49 16 one of the databases, let's say MVD, SSA, AVID, as
05:01:54 17 compared to a registration application that you receive?

05:01:59 18 A. In what context?

05:02:02 19 Q. So maybe there's conflicting information about
05:02:06 20 the person's -- as simple as everything matches except
05:02:15 21 for a part of a person's name or everything matches
05:02:18 22 except for one of the ID numbers. I guess I'm wondering
05:02:31 23 if it's possible for you to see conflicting information
05:02:34 24 on a voter registration application as compared to
05:02:39 25 something in the database that goes to the person's

05:02:41 1 identity?

05:02:45 2 A. Occasionally. Say somebody, as an example,
05:02:48 3 somebody has registered to vote with a new name, and the
05:02:56 4 prior information that we had, now we don't know that
05:03:01 5 they had actually provided a legal name change to the
05:03:04 6 MVD. So in that case we would go back out to MVD as
05:03:07 7 part of this new registration and confirm with MVD that
05:03:11 8 there was a legal name change for this voter on record
05:03:14 9 with them.

05:03:18 10 Q. And so then you're able to cure the conflicting
05:03:23 11 information by going to MVD, and that information then,
05:03:27 12 however you resolve it with MVD, is then edited into
05:03:32 13 that person's record --

05:03:33 14 A. Yes.

05:03:33 15 Q. -- in the system?

05:03:36 16 But your office cannot do those modifications
05:03:41 17 yourself; there's nobody who can go into the program and
05:03:45 18 edit those -- edit that conflicting information; it has
05:03:50 19 to be done through MVD?

05:03:52 20 A. No, our users -- once we get validation about
05:03:55 21 the conflicting information, our users would change the
05:03:59 22 record to mirror what the voter registration form was,
05:04:03 23 the newly submitted form.

05:04:04 24 Q. And who does that? Would that be the IT group
05:04:07 25 that you spoke about?

05:04:08 1 A. No, our voter registration clerks.

05:04:10 2 Q. The clerks can do it. Okay.

05:04:18 3 MS. BRAILEY: I believe that's all I have
05:04:20 4 for you. Thank you so much.

05:04:23 5 If we can go off the record for a second.

05:04:24 6 THE VIDEOGRAPHER: We are off the record.

05:04:25 7 Time on the video monitor is 5:04 p.m.

05:04:29 8 (A recess was taken.)

05:16:13 9 THE VIDEOGRAPHER: We are on the record.

05:16:14 10 The time on the video monitor is 5:16 p.m.

05:16:17 11

05:16:17 12 EXAMINATION

05:16:17 13 BY MR. HERRERA:

05:16:19 14 Q. Hi. Good afternoon, Ms. Petty. My name is
05:16:22 15 Ernest Herrera and I'm from MALDEF, and I represent
05:16:25 16 Promise Arizona and Southwest Voter Registration
05:16:29 17 Education Project, two of the plaintiffs in this case.
05:16:31 18 I just have a few questions for you.

05:16:34 19 Earlier you looked at Exhibit 21, which was a
05:16:38 20 copy of House Bill 2243, and first I'd like to direct
05:16:45 21 your attention to Page 6 of that.

05:16:55 22 And under Page -- on Page 6 of Exhibit 21 there
05:17:06 23 is the language there under Section H referring to
05:17:11 24 reason to believe, right? Do you recall that?

05:17:14 25 A. Section H?

05:17:15 1 Q. Section H.

05:17:16 2 A. Yes.

05:17:19 3 Q. Now, earlier you said that you don't have

05:17:22 4 guidance on how to decide if there is reason to believe

05:17:26 5 that someone is not a United States citizen for purposes

05:17:30 6 of implementing the new law that calls on County

05:17:35 7 Recorders to use SAVE under this Section H; do you

05:17:37 8 remember that?

05:17:37 9 A. Yes.

05:17:40 10 Q. Why is it that you await guidance on how to

05:17:43 11 implement that Section H about a reason to believe

05:17:47 12 someone is not a United States citizen before

05:17:50 13 implementing it?

05:17:51 14 A. Because I don't feel that it's clear about what

05:17:54 15 reason to believe means.

05:17:57 16 Q. And what about it do you not think is clear?

05:18:02 17 A. I'll give you an example. If somebody walks

05:18:05 18 into my office and says that they believe their

05:18:08 19 next-door neighbor is not a United States citizen, is

05:18:11 20 that credible? I don't know.

05:18:13 21 If there's a list that somebody from anywhere

05:18:18 22 provided that said these list of people are not United

05:18:22 23 States citizens, do I know if that's credible or not?

05:18:26 24 Does that make me believe what they said just because

05:18:28 25 they provided it? I don't know. I need guidance on

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what makes it credible to make me believe it.

Q. Now, earlier you talked about -- I think you said you supervise about 20 staff?

A. Yes.

Q. How many of those staff work on voter registration database maintenance?

A. Everybody's trained on how to do this maintenance.

Q. What would you hope that guidance includes regarding how to implement that Section H about reason to believe someone is not a United States citizen before implementing it?

MR. O'CONNOR: Form.

THE WITNESS: I would just hope that whatever guidance is provided, that it's clear.

BY MR. HERRERA:

Q. Do you think that a County Recorder employee would need that guidance on how to implement that section about reason to believe someone is not a United States citizen?

A. Yes.

Q. And why is that?

A. Because we would add it to our policies and procedures for them to understand how to implement it.

Q. Are you aware of any other state voter

05:19:42 1 registration law or voter registration guidance that
05:19:45 2 requires a County Recorder employee to decide if he or
05:19:49 3 she has reason to believe whether a registered voter
05:19:52 4 meets one of the eligibility requirements for voting?

05:19:55 5 MS. BOUGHTON: Form.

05:19:56 6 THE WITNESS: Are you saying our state or
05:19:58 7 another state?

05:20:00 8 BY MR. HERRERA:

05:20:01 9 Q. Your state.

05:20:03 10 A. If I -- I think I understand what you're
05:20:06 11 asking. We would believe a voter's signed affidavit
05:20:10 12 under penalty of perjury that they meet the eligibility
05:20:13 13 requirements until we get information that says
05:20:15 14 otherwise.

05:20:20 15 Q. Are you aware of any other state law provisions
05:20:22 16 or guidance from the Secretary that has language similar
05:20:27 17 to reason to believe?

05:20:30 18 A. Not off the top of my head.

05:20:33 19 Q. Earlier you testified that the County
05:20:36 20 Recorder's Office is not a policing agency. Would you
05:20:39 21 consider the determination of whether there is reason to
05:20:42 22 believe someone is not a United States citizen more akin
05:20:45 23 to a determination to be made by a policing agency?

05:20:48 24 MS. BOUGHTON: Form.

05:20:53 25 THE WITNESS: I would defer to my County

05:20:56 1 Attorney on that determination.

05:20:57 2 BY MR. HERRERA:

05:20:58 3 Q. Okay. From your understanding, would it be

05:21:00 4 something that you thought that a policing agency should

05:21:02 5 determine?

05:21:05 6 A. I would think that that would be outside the

05:21:08 7 purview of what my division would do.

05:21:12 8 Q. And, now, you testified earlier today that for

05:21:16 9 H.B. 2492 provisions you would not send out any notices

05:21:21 10 yet, right?

05:21:23 11 A. That has not been implemented, correct.

05:21:26 12 Q. With regard to the provisions related to

05:21:29 13 H.B. 2243 as reflected in Exhibit 21, is there anything

05:21:35 14 to prevent you or anyone at the County Recorder's Office

05:21:40 15 from sending out a notice for Section F regarding the

05:21:44 16 comparisons between the voter registration database and

05:21:48 17 the Department of Transportation database?

05:21:55 18 A. To my knowledge, there has not been a

05:21:58 19 comparison, so I would not be able to do that even if

05:22:02 20 the data -- if I -- if I was allowed to do it.

05:22:07 21 Q. Right. Is there a -- are there any rules right

05:22:11 22 now in place from the Secretary or anyone else saying

05:22:14 23 not to send out notices for that with regard to that

05:22:18 24 provision?

05:22:20 25 A. This provision has been put on hold with the

05:22:23 1 rest of the newly -- this new law.

05:22:28 2 Q. Okay. And for that reason you would not send
05:22:30 3 out a notice to someone based on a comparison because
05:22:35 4 it's not been implemented yet?

05:22:37 5 A. Correct.

05:22:38 6 Q. Okay. And to go to the SAVE checks using the
05:22:44 7 SAVE system under Section H of 2243, is there anything
05:22:50 8 to prevent you or anyone else at the County Recorder's
05:22:54 9 Office from sending out a notice after using SAVE in
05:23:01 10 accordance with that provision?

05:23:07 11 A. We haven't implemented this provision, so we
05:23:11 12 are not sending letters in regards to Section H.

05:23:16 13 Q. Are you aware of -- and I'm sorry to go back
05:23:19 14 here, but going back to the questions about reason to
05:23:22 15 believe, you mentioned -- you discussed earlier a
05:23:27 16 meeting that happened recently, a Teams meeting,
05:23:31 17 discussing revisions to the elections procedures manual.
05:23:37 18 Did any of -- did any of that meeting discuss or --
05:23:43 19 during that meeting, did you discuss anything about
05:23:45 20 reason to believe someone is not a United States citizen
05:23:49 21 for purposes of implementing Section H in 2243?

05:23:54 22 A. I do not believe that was specifically
05:23:57 23 discussed.

05:24:00 24 MS. LANG: Can we go off the record for a
05:24:01 25 moment? I'm told that we've lost the streaming.

05:24:04 1 MR. HERRERA: That's fine. I'm done with
05:24:06 2 mine.

05:24:06 3 MS. LANG: Oh, I'm sorry. I didn't mean
05:24:08 4 to cut you off.

05:24:10 5 THE VIDEOGRAPHER: We are off the record.
05:24:11 6 Time on the video monitor is 5:24 p.m.

05:26:29 7 (A recess was taken.)

05:26:41 8 THE VIDEOGRAPHER: We are on the record.
05:26:43 9 Time on the video monitor is 5:26 p.m.

05:26:46 10

05:26:46 11 EXAMINATION

05:26:46 12 BY MR. DODGE:

05:26:47 13 Q. Good afternoon, Ms. Petty, or perhaps good
05:26:50 14 evening at this point. My name is Chris Dodge. I
05:26:52 15 represent the Mi Familia Vota plaintiffs in this matter.

05:26:55 16 I just have a few questions for you about
05:26:58 17 Maricopa County's experiences with allegations of fraud
05:27:02 18 in its recent elections, which I know we've discussed a
05:27:05 19 little bit already tonight.

05:27:06 20 Before that I just have a couple questions for
05:27:08 21 you about provisional ballots. What are the most common
05:27:11 22 reasons why a provisional ballot might be rejected in
05:27:14 23 Maricopa County?

05:27:16 24 A. The person wasn't registered to vote by the
05:27:20 25 29-day deadline; they hadn't updated their address on

05:27:25 1 the roster in time; they -- well, we have vote centers,
05:27:33 2 so it couldn't be wrong precinct. I think those are the
05:27:37 3 big ones.

05:27:37 4 Q. If a person who had their provisional ballot
05:27:39 5 rejected, received a message saying you are not eligible
05:27:42 6 to vote in this election, what would that mean?

05:27:45 7 A. That would most likely mean they were not
05:27:47 8 registered by the deadline, so they're not eligible for
05:27:50 9 that election.

05:27:50 10 Q. And any other reasons why they might receive
05:27:52 11 that message?

05:27:56 12 A. If it was a partisan election and they were an
05:28:01 13 independent.

05:28:02 14 Q. Okay.

05:28:02 15 A. And it was a PPE. So independents are not
05:28:07 16 allowed -- they're not eligible.

05:28:09 17 Q. That makes sense. Any other possible reasons
05:28:11 18 why they would receive that message?

05:28:13 19 A. I can't think of any right now.

05:28:14 20 Q. Okay. In that case I'm going to hand you what
05:28:19 21 I will call Exhibit 31.

05:28:29 22 (Deposition Exhibit 31 was marked for
05:28:34 23 identification.)

05:28:34 24 BY MR. DODGE:

05:28:34 25 Q. Are you familiar with this document?

05:28:35 1 MS. STUART: I'm sorry to interrupt. Are
05:28:37 2 these on the Dropbox?

05:28:38 3 MR. DODGE: Can we go off the record for
05:28:40 4 half a second?

05:28:43 5 THE VIDEOGRAPHER: We are off the record.
05:28:45 6 Time on the video monitor is 5:28 p.m.

05:29:06 7 (An off-the-record discussion ensued.)

05:29:06 8 THE VIDEOGRAPHER: We are on the record.
05:29:07 9 Time on the video monitor is 5:29 p.m.

05:29:11 10 BY MR. DODGE:

05:29:12 11 Q. Returning to Exhibit 31, can you tell me what
05:29:14 12 this document is?

05:29:16 13 A. This is a document that was put together by the
05:29:22 14 elections department for Maricopa County.

05:29:25 15 Q. And can you tell me what the purpose of the
05:29:27 16 document was?

05:29:28 17 A. The purpose, I believe, was to go into an
05:29:33 18 analysis about what happened on election day, as it
05:29:37 19 states here, Correcting the Record.

05:29:39 20 Q. That makes sense.

05:29:40 21 And did you have a role in preparing this
05:29:42 22 document?

05:29:44 23 A. I had -- yes, I was part of creating some of
05:29:48 24 this.

05:29:50 25 Q. Is it fair to say the purpose of this document

05:29:52 1 was to combat misinformation about Maricopa County's
05:29:57 2 2020 general election, right?

05:29:59 3 A. Yes.

05:30:01 4 Q. Okay. If you could turn to Page 2 of this
05:30:05 5 document, about halfway down this page there's a
05:30:17 6 paragraph that reads "Many allegations about the
05:30:20 7 November 2020 general election made their way to court
05:30:24 8 and Maricopa County clearly presented the facts to
05:30:26 9 judges at both the state and federal level. Fourteen
05:30:29 10 different times complaints alleged election fraud,
05:30:31 11 manipulation, or tampering in Maricopa County's 2020
05:30:34 12 general election. No claim succeeded. For a complete
05:30:38 13 listing of all court cases, see Exhibit - Court Cases."
05:30:42 14 Did I read that correctly?

05:30:42 15 A. Yes.

05:30:43 16 Q. Is it accurate to say that every legal
05:30:47 17 challenge concerning election fraud and manipulation or
05:30:50 18 tampering in Maricopa County's 2020 general election
05:30:53 19 failed?

05:30:54 20 A. Yes.

05:30:55 21 Q. Do you see at the end of that paragraph where
05:30:57 22 it says "Exhibit - Court Cases"?

05:30:59 23 A. Yes.

05:31:00 24 Q. Do you know what that's referring to?

05:31:04 25 A. An exhibit. I have not seen it.

05:31:14 1 Q. Producing what I'll call Exhibit 32.

05:31:29 2 (Deposition Exhibit 32 was marked for

05:31:32 3 identification.)

05:31:32 4 BY MR. DODGE:

05:31:32 5 Q. Are you familiar with this document?

05:31:33 6 A. This is the first time I've seen it.

05:31:35 7 Q. Does it appear to be the Exhibit - Court Cases

05:31:39 8 that we previously discussed?

05:31:40 9 A. Yes.

05:31:42 10 Q. And on this document there are some bullets

05:31:45 11 describing various lawsuits against Maricopa County; do

05:31:49 12 you see that?

05:31:49 13 A. Yes.

05:31:51 14 Q. And are you familiar with any of these

05:31:53 15 lawsuits?

05:31:54 16 A. A few of them.

05:31:58 17 Q. And it's fair to say that each of these

05:31:59 18 lawsuits ultimately did not prevail in their challenges

05:32:03 19 to Maricopa County's 2020 election?

05:32:04 20 A. Yes.

05:32:06 21 Q. Just starting at the top, are you familiar with

05:32:10 22 what the subject matter was in the Aguilera v. Fontes

05:32:15 23 litigation?

05:32:15 24 A. No.

05:32:16 25 Q. What about -- well, which ones are you familiar

05:32:19 1

with?

05:32:19 2

A. I'd actually have to see. There's a lot of

05:32:22 3

duplicates here, so I don't -- I don't know. I'd have

05:32:24 4

to see a breakdown. I am not involved in much of these

05:32:28 5

court cases unless it's specifically related to voter

05:32:33 6

registration.

05:32:33 7

Q. Are you aware if any of these lawsuits

05:32:35 8

concerned the use of Sharpies to mark ballots in the

05:32:38 9

2020 general election?

05:32:39 10

A. I understand there was a case regarding

05:32:42 11

Sharpies.

05:32:42 12

Q. And are you aware if any of these cases

05:32:45 13

involved the hand-counting of ballots?

05:32:49 14

A. There's a couple cases with hand-counting of

05:32:52 15

ballots.

05:32:52 16

Q. And several of these were also election

05:32:54 17

challenges, correct?

05:32:55 18

A. Correct.

05:32:57 19

Q. And at least one had to do with private funding

05:33:00 20

of elections, is that also correct?

05:33:03 21

A. I believe so.

05:33:05 22

Q. And at least one also concerns an audit of

05:33:09 23

Dominion voting equipment for the election, correct?

05:33:11 24

A. Yes.

05:33:12 25

Q. And in addition to the Correcting the Record

05:33:20 1 document we were just looking at, is it correct that
05:33:22 2 Maricopa County has also published information about
05:33:24 3 these lawsuits on the County Recorder's website?

05:33:29 4 A. I don't know.

05:33:31 5 Q. Do you know whether or not the Maricopa County
05:33:33 6 Recorder has published anything on its website
05:33:38 7 concerning alleged election myths in either the 2020 or
05:33:42 8 2022 general elections?

05:33:44 9 A. I know that on the election site there are
05:33:49 10 Just the Facts information. When I think of the
05:33:54 11 Recorder's website, I think of more like the voter
05:33:57 12 registration section. So like that's more of on the
05:33:58 13 election side.

05:33:59 14 Q. Fair enough.

05:33:59 15 But you're aware on the public-facing
05:34:02 16 Recorder's website that there's a portion called Just
05:34:04 17 the Facts --

05:34:04 18 A. Yes.

05:34:05 19 Q. -- which discusses election myths?

05:34:06 20 A. Yes.

05:34:07 21 Q. And do you have any familiarity with those
05:34:09 22 election myths and what they are at a high level?

05:34:11 23 A. I will be brought in if there's something that
05:34:13 24 needs to be discussed regarding voter registration and
05:34:17 25 our processes.

05:34:17 1 Q. And suffice to say, the Recorder's website goes
05:34:20 2 through how and why each of those myths is, at the end
05:34:23 3 of the day, false, correct?

05:34:24 4 A. Yes.

05:34:26 5 Q. Okay. If we could go back to Exhibit 31 and
05:34:29 6 turn to Page 5. At the top of that page it says, "Our
05:34:40 7 analysis found 37 instances where a voter may have
05:34:44 8 unlawfully cast multiple ballots. We have forwarded the
05:34:46 9 these instances to the Arizona Attorney General's Office
05:34:49 10 for further investigation. We also found 50 instances
05:34:52 11 in which a ballot was potentially double counted. In
05:34:55 12 total, we found fewer an 100 potentially questionable
05:34:58 13 ballots cast out of 2.1 million. This is the very
05:35:02 14 definition of exceptionally rare."

05:35:04 15 Did I read that correctly?

05:35:05 16 A. Yes.

05:35:09 17 Q. So correct to say that your office, after an
05:35:11 18 extensive review, found fewer than 100 potentially
05:35:14 19 questionable ballots out of 2.1 million in the 2020
05:35:17 20 general election in Maricopa County?

05:35:18 21 A. Yes.

05:35:19 22 Q. And what were those potentially questionable
05:35:22 23 ballots attributable to?

05:35:24 24 A. I don't remember.

05:35:25 25 MR. O'CONNOR: Form. Sorry.

05:35:26 1 BY MR. DODGE:

05:35:26 2 Q. According to Exhibit 31 and the portion we just
05:35:29 3 read, can you say what those fewer than 100 potentially
05:35:34 4 questionable ballots were attributable to?

05:35:39 5 A. I -- I don't know where that -- where the
05:35:43 6 breakdown is. I don't -- I didn't -- I didn't prepare
05:35:46 7 this section.

05:35:47 8 Q. Do you know if any of these allegedly
05:35:49 9 improperly cast ballots led to a criminal conviction?

05:35:51 10 A. I do not know.

05:35:53 11 Q. To your knowledge, how many of those
05:35:55 12 questionable ballots were cast by noncitizens?

05:35:57 13 A. I do not know.

05:36:01 14 Q. So you don't know if a single one of those
05:36:04 15 questionable ballots was allegedly cast by a noncitizen?

05:36:07 16 A. I don't know.

05:36:10 17 Q. Based on your knowledge of the Correcting the
05:36:13 18 Record report, does the report discuss allegations of
05:36:15 19 voting by noncitizens at all?

05:36:19 20 A. It's been a long time since I read this. I
05:36:22 21 don't remember if it does or not.

05:36:33 22 Q. All right. I'm going to hand you what I'll
05:36:35 23 call Exhibit 33.

05:36:45 24 (Deposition Exhibit 33 was marked for
05:36:54 25 identification.)

05:36:54 1 BY MR. DODGE:

05:36:54 2 Q. Are you familiar with this document?

05:36:59 3 A. I have seen it, yes.

05:37:01 4 Q. Can you tell me what the document is?

05:37:05 5 A. It's a write-up by the Recorder regarding

05:37:10 6 elections.

05:37:12 7 Q. Can you tell me what's located in the lower and

05:37:15 8 right-hand corner of the cover page of this document?

05:37:21 9 A. You mean the Recorder's seal and the County

05:37:25 10 seal.

05:37:25 11 Q. That's right.

05:37:26 12 So those are the Recorder's seal and the County

05:37:28 13 seal?

05:37:28 14 A. Yes.

05:37:28 15 Q. So does that suggest that this document is a

05:37:32 16 publication of the Recorder's Office rather than

05:37:34 17 Mr. Richer in his personal capacity?

05:37:37 18 MR. O'CONNOR: Form.

05:37:40 19 THE WITNESS: It would appear that way.

05:37:43 20 BY MR. DODGE:

05:37:44 21 Q. Can you turn to Page 2 of this document? And

05:37:49 22 do you see where it says Section 1 about halfway down

05:37:54 23 the page?

05:37:55 24 A. Yes.

05:37:56 25 Q. And it reads under that, "Nobody stole Maricopa

05:38:00 1 County's election. Elections in Maricopa County aren't
05:38:02 2 rigged. Governor Doug Ducey agrees. Former Republican
05:38:07 3 Governor Jan Brewer agrees. Republican Arizona Attorney
05:38:09 4 General Mark Brnovich agrees, and his office has an
05:38:12 5 election integrity unit that presumably receives all
05:38:14 6 evidence of widespread fraud. Former Republican
05:38:18 7 Recorder Helen Purcell agrees. Election directors in
05:38:21 8 every other Arizona county agree."

05:38:23 9 Did I read that correctly.

05:38:23 10 A. Yes.

05:38:24 11 Q. Do you agree with Recorder Richer's statement
05:38:30 12 here that nobody stole Maricopa County's 2020 election?

05:38:34 13 MR. O'CONNOR: Form.

05:38:36 14 THE WITNESS: I agree that all federal and
05:38:41 15 state laws were adhered to in the conducting of that
05:38:44 16 general election in 2020.

05:38:58 17 BY MR. DODGE:

05:38:58 18 Q. Can you turn to the next page of this? And at
05:39:04 19 the top of the second paragraph it says, "So too did the
05:39:08 20 14 courts who heard eight complaints against Maricopa
05:39:11 21 County's election. All of those complaints failed, even
05:39:14 22 after some appeal to the Arizona Supreme Court. Six
05:39:17 23 complaints lost on their merits, only two lost on
05:39:19 24 standing."

05:39:20 25 Did I read that correctly?

05:39:20 1 A. Yes.

05:39:21 2 Q. And those are the same lawsuits we've

05:39:23 3 previously discussed?

05:39:24 4 A. Yes.

05:39:34 5 Q. Okay. I'm going to hand you what I'll call

05:39:37 6 Exhibit 34.

05:39:56 7 MS. STUART: This has already been marked.

05:40:00 8 MR. DODGE: Oh. Does anyone know what

05:40:02 9 exhibit it is?

05:40:03 10 MS. STUART: Yeah.

05:40:04 11 MR. O'CONNOR: Do you know which one the

05:40:07 12 consolidated -- oh, do you have it, Shayna?

05:40:11 13 MS. FROST: I'm pretty sure it's

05:40:13 14 Exhibit 5.

05:40:13 15 MS. STUART: Yeah.

05:40:16 16 MR. DODGE: You can set that aside,

05:40:18 17 actually. It was the wrong exhibit. I apologize for

05:40:21 18 that. We can mark this Exhibit 34.

05:40:40 19 (Deposition Exhibit 34 was marked for

05:40:42 20 identification.)

05:40:42 21 BY MR. DODGE:

05:40:44 22 Q. Are you familiar with this document?

05:40:53 23 A. I don't think so.

05:40:54 24 Q. Can you turn to the top of Page 1 of this

05:40:59 25 document? In the first paragraph it says, "Pursuant to

05:41:02 1 Arizona Rule of Civil Procedure 7.3 and this Court's
05:41:08 2 May 26th and 27th, 2022 orders, Defendants," it then
05:41:12 3 lists a number of County Recorders, one of whom is
05:41:15 4 Maricopa County Recorder Stephen Richer; do you see
05:41:18 5 that?

05:41:18 6 A. Yes.

05:41:21 7 Q. Is it fair to say that this a legal filing on
05:41:23 8 behalf of Recorder Richer in the case identified on the
05:41:27 9 cover page of the document?

05:41:29 10 A. Yes.

05:41:34 11 Q. Could you turn to the bottom of Page 2 of this
05:41:37 12 document?

05:41:37 13 A. Yes.

05:41:38 14 Q. At Line 15 it says, "This system of no-excuse
05:41:43 15 early voting is incredibly popular. Beginning in 2007,
05:41:46 16 the state implemented the permanent early voting list,
05:41:49 17 through which voters may sign up to receive an early
05:41:52 18 ballot in the mail for every election in which the voter
05:41:54 19 is entitled to vote. Use of early voting has grown
05:41:59 20 steadily, especially since implementation of the
05:42:00 21 permanent early voting option. For the 2020 general
05:42:01 22 election, more than three million Arizona voters,
05:42:05 23 88 percent of those who voted, voted by early ballot.
05:42:07 24 No county had fewer than 60 percent of its voters vote
05:42:12 25 early, and more than half of the counties had 80 percent

05:42:15 1 or more of their voters use early ballots."

05:42:18 2 Did I read that correctly?

05:42:18 3 A. Yes.

05:42:19 4 Q. Do those numbers look accurate to you?

05:42:22 5 A. Yes.

05:42:23 6 MR. O'CONNOR: Form.

05:42:24 7 BY MR. DODGE:

05:42:25 8 Q. Do you agree that no excuse early voting is

05:42:28 9 incredibly popular in Maricopa County?

05:42:30 10 A. Yes.

05:42:31 11 Q. Is it the case that no excuse early voting

05:42:33 12 generally accounts for a substantial majority of ballots

05:42:38 13 cast in most Maricopa County elections --

05:42:41 14 MR. O'CONNOR: Form.

05:42:42 15 BY MR. DODGE:

05:42:42 16 Q. -- in the past few years?

05:42:44 17 A. Yes.

05:42:47 18 Q. The next paragraph on Page 3 reads, "These

05:42:49 19 numbers are important not simply because they show the

05:42:52 20 overwhelming popularity of early voting, but because

05:42:54 21 they form the basis of county election officials'

05:42:57 22 election planning," and then cites to a section of

05:43:01 23 Arizona law and the elections procedures manual.

05:43:06 24 Can you tell me why these numbers are important

05:43:10 25 for forming the basis of county election officials'

05:43:13 1 election planning?

05:43:17 2 A. I am not the elections director, so I can't

05:43:20 3 speak to what they do. However, from my experience, it

05:43:25 4 would be important because you want to predict how many

05:43:28 5 early ballots are going to need to be sent, how many

05:43:33 6 people might show up to vote early in person, how many

05:43:36 7 locations you need, how many poll workers you're going

05:43:39 8 to need. It's an essential part of the planning.

05:43:41 9 Q. So it's essential because it informs election

05:43:44 10 officials what sort of logistical needs they'll have to

05:43:47 11 meet both before and on election day?

05:43:49 12 A. Yes.

05:43:53 13 Q. You can set that aside. Last exhibit. Can we

05:43:56 14 go back to Exhibit 5, which I reintroduced need be,

05:44:08 15 but...

05:44:09 16 And if it helps, this is the Maricopa County

05:44:12 17 Recorder's response to plaintiff's consolidated

05:44:14 18 interrogatories.

05:44:16 19 A. Got it.

05:44:19 20 Q. If you could turn to Page 12 of this document,

05:44:23 21 specifically to interrogatory number 9.

05:44:30 22 Interrogatory number 9 reads "Identify and

05:44:32 23 describe each instance" -- strike that.

05:44:35 24 "Identify and describe each instance in which

05:44:37 25 you have established that a non-U.S. citizen or

05:44:39 1 non-county resident has registered to vote or has voted
05:44:43 2 in your county from January 1st, 2013, to present,
05:44:46 3 including but not limited to any supporting evidence
05:44:48 4 thereof."

05:44:49 5 Did I read that portion of the interrogatory
05:44:52 6 correctly?

05:44:52 7 A. Yes.

05:44:52 8 Q. Can you just take a minute to review the County
05:44:56 9 Recorder's response to that interrogatory?

05:45:09 10 A. Yes.

05:45:11 11 Q. Is it accurate to say that your office's
05:45:13 12 response did not identify a single instance of
05:45:16 13 noncitizen voting between 2013 and the present?

05:45:19 14 A. Yes.

05:45:23 15 MR. DODGE: Thank you very much for your
05:45:24 16 service to Maricopa County. I have no more questions.

05:45:28 17 THE WITNESS: Thank you.

05:45:31 18 THE VIDEOGRAPHER: Would you like to
05:45:32 19 conclude the deposition?

05:45:33 20 MS. LANG: No. We'd like to go off the
05:45:35 21 record, though.

05:45:35 22 THE VIDEOGRAPHER: We are going off the
05:45:37 23 record. The time is 5:45 p.m.

05:45:41 24 (A recess was taken.)

05:51:37 25 THE VIDEOGRAPHER: We are on the record.

05:51:38 1 The time on the video monitor is 5:51 p.m.

05:51:43 2

05:51:44 3 RE-EXAMINATION

05:51:44 4 BY MS. LANG:

05:51:44 5 Q. Thank you so much, Ms. Petty, for your patience
05:51:46 6 today, and I'm just going to go back over some
05:51:52 7 additional questions I have about the draft 2023
05:51:57 8 elections procedures manual.

05:51:59 9 So during one of the breaks a copy of the draft
05:52:05 10 2023 elections procedures manual was produced, and it is
05:52:12 11 the version that is marked Arizona Secretary of State
05:52:17 12 2023 Elections Procedures Manual - June 2023 Draft.

05:52:21 13 Do you have that document in front of you?

05:52:28 14 A. AZS0S-477022, what's in front of me?

05:52:33 15 Q. Yes.

05:52:34 16 A. Okay. Yes.

05:52:37 17 Q. And this is the version of the manual, as I
05:52:42 18 understand it, that includes your comments that you
05:52:46 19 provided to the Secretary of State's Office; is that
05:52:51 20 correct? You can see, for example, it's on --

05:52:53 21 A. Yes.

05:52:53 22 Q. Yea. Okay.

05:52:55 23 And so did you -- you mentioned earlier that
05:53:00 24 you had a meeting with the Secretary of State's Office
05:53:03 25 and other County Recorders about this draft; is that

05:53:08 1 right?

05:53:08 2 A. Yes.

05:53:08 3 Q. And that meeting happened sometime recently,
05:53:11 4 although you couldn't recall the date; is that right?

05:53:13 5 A. Yes. It was July 11th, 12th, somewhere in
05:53:18 6 there.

05:53:18 7 Q. Okay. Did you send these comments to the
05:53:21 8 Secretary of State's Office prior to that meeting or
05:53:25 9 after that meeting?

05:53:26 10 A. Prior.

05:53:27 11 Q. Okay. Have you seen any other comments,
05:53:33 12 written comments, that were provided to the Secretary of
05:53:35 13 State from other County Recordors?

05:53:37 14 A. No.

05:53:39 15 Q. Do you know if other County Recordors have sent
05:53:42 16 written comments to the Secretary of State's Office?

05:53:46 17 A. I know other County Recordors have submitted
05:53:50 18 feedback. I don't know in what capacity it was.

05:53:51 19 Q. And which County Recordors in particular do you
05:53:54 20 know have provided feedback?

05:53:58 21 A. I don't actually know which specific ones.
05:54:01 22 Just from the call it was said, oh, this was submitted
05:54:05 23 by another county.

05:54:06 24 Q. Got it.
05:54:08 25 And I think we covered this before I added my

05:54:13 1 earlier questioning, but I know you testified that you
05:54:17 2 expect there to be a kind of new draft that will
05:54:20 3 incorporate some feedback and then you'll receive
05:54:22 4 another draft; is that right?

05:54:23 5 A. That's my understanding.

05:54:25 6 Q. And were you given any kind of timeline for
05:54:28 7 when that might occur?

05:54:30 8 A. I believe there is a timeline about when
05:54:35 9 certain things are going to happen as far as public
05:54:38 10 comment period, but I don't know about if it was
05:54:41 11 specific to when the revised draft would come back out.

05:54:45 12 Q. Okay. Do you know when the Secretary of
05:54:49 13 State's current timeline is for seeking public comment?

05:54:53 14 A. I felt like it was sometime in August.

05:54:58 15 Q. Was that timeline communicated to you in
05:55:01 16 writing or --

05:55:01 17 A. Yes.

05:55:02 18 Q. Okay. Do you know who would have communicated
05:55:12 19 that timeline to you?

05:55:14 20 A. I believe it was included in a Secretary of
05:55:19 21 State's Office bulletin.

05:55:23 22 Q. And what is a Secretary of State's bulletin?

05:55:27 23 A. So it's an e-mail that gets sent out that
05:55:31 24 highlights current events, issues that happen. It could
05:55:35 25 be anything from elections to voter registration to

05:55:37 1 educational opportunities, jobs opening up. It's just a
05:55:41 2 big bulletin.

05:55:41 3 Q. Got it.

05:55:47 4 Okay. So what I'm going to try to do here is
05:55:49 5 largely just run through some of the comments that you
05:55:51 6 provided on the draft EPM and hear your kind of feedback
05:55:57 7 in your own words and also any responses you received
05:55:59 8 from the Secretary.

05:56:01 9 So the first comment that I see is on
05:56:10 10 AZSOS-477026, which is Page 6 of the manual.

05:56:15 11 A. Yes.

05:56:16 12 Q. So this is the section that discussed voter
05:56:19 13 registration requirements, and language has been added
05:56:23 14 that says, "Is a United States citizen," and this is the
05:56:27 15 added language, "and has provided satisfactory evidence
05:56:31 16 of citizenship as prescribed by ARS Section 16-166."

05:56:37 17 Do you see that?

05:56:37 18 A. Yes.

05:56:37 19 Q. Okay. And you provided a comment that said the
05:56:43 20 individuals can register without DPOC; is that right?

05:56:47 21 A. Yes.

05:56:49 22 Q. Okay. Was this one of the comments that was
05:56:53 23 discussed during your meeting with the Secretary of
05:56:56 24 State's Office?

05:56:56 25 A. Yes.

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05:56:56 1 Q. And what was the kind of response to your
05:56:59 2 comment?

05:57:01 3 MS. STUART: Form.

05:57:01 4 THE WITNESS: The discussion was that the
05:57:03 5 new laws that we're discussing today have been
05:57:07 6 incorporated into this draft, and they will be there as
05:57:11 7 a hold until these court cases are decided, and at that
05:57:15 8 point the procedures manual will be updated according to
05:57:19 9 whatever the outcome is.

05:57:21 10 BY MS. LANG:

05:57:22 11 Q. Okay. Was there any discussion about how this
05:57:25 12 addition would affect individuals who had registered
05:57:30 13 prior to the DPOC requirement?

05:57:32 14 A. No.

05:57:33 15 Q. Is there anything in the manual that addresses
05:57:35 16 kind of the impact of this addition to the EPM?

05:57:40 17 A. I don't think so.

05:57:47 18 Q. Okay. Under the citizenship requirement
05:57:52 19 section on the same page you have another comment that
05:57:55 20 asks the reason for -- what is the reason to eliminate
05:57:59 21 the reference to court cases. And I assume that that
05:58:04 22 means that there used to be kind of more court case
05:58:08 23 references in this section that had been removed; is
05:58:10 24 that correct?

05:58:10 25 A. Yes.

05:58:11 1 Q. And did you discuss that comment with the
05:58:15 2 Secretary of State's Office?

05:58:16 3 A. We touched on it.

05:58:17 4 Q. And what was the response?

05:58:20 5 MS. STUART: Form.

05:58:20 6 MS. LANG: Is it the same hearsay
05:58:23 7 objection? Hearsay is not a proper objection for a
05:58:26 8 deposition.

05:58:28 9 MS. STUART: I'm just preserving the
05:58:29 10 objection. You can -- she's answering your question.

05:58:29 11 MS. LANG: No, I understand.

05:58:32 12 MS. STUART: I'm just going to continue to
05:58:33 13 have a running objection to this line of questioning.
05:58:36 14 You have a 30(b)(6) witness from the Secretary of
05:58:38 15 State's Office coming here. So she's answering the
05:58:40 16 question.

05:58:41 17 MS. LANG: Okay.

05:58:45 18 THE WITNESS: I believe that it was stated
05:58:46 19 to give the specific court references that were
05:58:48 20 eliminated later and they would look at putting them
05:58:55 21 back in, potentially.

05:59:03 22 BY MS. LANG:

05:59:03 23 Q. Okay. On Page 7, your comment number 4 is
05:59:08 24 referring to the use of a driver's license or non-driver
05:59:13 25 ID number for DPOC, and you have this question that

05:59:16 1 we've touched on earlier about whether or not that can
05:59:20 2 be an expired license.

05:59:24 3 Did you discuss that comment with the Secretary
05:59:25 4 of State's Office?

05:59:28 5 A. Yes.

05:59:28 6 Q. And what was the response?

05:59:30 7 MS. STUART: Form.

05:59:30 8 THE WITNESS: They would look into that.

05:59:33 9 BY MS. LANG:

05:59:34 10 Q. Okay. Have you heard anything further on that
05:59:35 11 question?

05:59:35 12 A. No.

05:59:59 13 Q. Okay. On Page 9 of the EPM, towards the bottom
06:00:07 14 of that page there's a section labeled DPOC requirement
06:00:11 15 for full ballot voter designation; do you see that?

06:00:13 16 A. Yes.

06:00:16 17 Q. And it says, "Regardless of the type of voter
06:00:21 18 registration form submitted, a County Recorder must make
06:00:24 19 a registrant a full ballot voter for the next election
06:00:27 20 if:"

06:00:28 21 The first bullet point is the registrant
06:00:31 22 provides DPOC, and the second bullet point is if the
06:00:34 23 County Recorder acquires DPOC on the registrant's
06:00:37 24 behalf.

06:00:38 25 Do you see that?

06:00:39 1 A. Yes.

06:00:40 2 Q. Okay. Are there other places in the EPM where
06:00:45 3 it suggests that this would -- this second option of
06:00:49 4 acquiring DPOC would not be an option for state form
06:00:53 5 applicants?

06:00:53 6 A. I don't remember seeing that.

06:00:55 7 Q. Okay. So is it your understanding that at
06:00:58 8 least this draft of the EPM would indicate that your
06:01:02 9 office can continue to, quote, acquire DPOC for all
06:01:07 10 applicants?

06:01:08 11 A. That would be my understanding.

06:01:19 12 Q. Okay. On Page 11, I want to go to your comment
06:01:23 13 JP(5), and it's under the section labeled procedures for
06:01:31 14 registrants with a noncitizen AZDL/ID number. And under
06:01:37 15 number 3 there's an instruction that says, you know,
06:01:42 16 that this information -- that these types of individuals
06:01:47 17 will remain in the database with a status of not
06:01:50 18 eligible until the voter provides valid DPOC.

06:01:54 19 And then the next sentence says, "The statewide
06:01:58 20 voter registration system automatically archives these
06:02:00 21 records after five years."

06:02:02 22 Do you see that?

06:02:02 23 A. Yes.

06:02:04 24 Q. And I see that you have a question now about
06:02:06 25 whether or not this might change the kind of time period

06:02:10 1 during which DPOC issues can be cured; is that right?

06:02:13 2 A. Yes.

06:02:15 3 Q. Okay. And so previously we've talked about the

06:02:18 4 guidance being after the next general election; is that

06:02:21 5 right?

06:02:21 6 A. Yes.

06:02:22 7 Q. And now there's this guidance about archiving

06:02:25 8 after five years that raised a question for you; is that

06:02:25 9 right?

06:02:27 10 A. Yes.

06:02:28 11 Q. And did you discuss that question with the

06:02:31 12 Secretary of State's Office?

06:02:32 13 A. Yes.

06:02:32 14 Q. And what was the response from the Secretary of

06:02:35 15 State?

06:02:35 16 MS. STUART: Form.

06:02:37 17 THE WITNESS: She, Colleen Connor, would

06:02:42 18 take a look at that and see if there was a way to

06:02:44 19 clarify that to be more consistent to the current

06:02:47 20 practice.

06:02:48 21 BY MS. LANG:

06:02:48 22 Q. Okay. And what does it mean for records to be

06:02:53 23 archived in the voter registration system?

06:02:56 24 A. So it's in statute that after a record is

06:03:00 25 canceled after five years it should be archived and

06:03:03 1 moved out of the table.

06:03:05 2 Q. Okay. And then your next comment, JP(6), is to
06:03:22 3 the same paragraph, and it says, "Making them registered
06:03:25 4 as of the date of the original registration."

06:03:30 5 What is that comment in reference to?

06:03:32 6 A. So I am looking for clarification on if that
06:03:37 7 voter is in a not eligible status for up to five years,
06:03:42 8 if at year four they come in and cure it, are they
06:03:45 9 registered to vote as of the date of that original
06:03:48 10 registration form.

06:03:48 11 Q. And the current status of that question is that
06:03:52 12 Colleen Connor is going to look into these questions and
06:03:55 13 get back to you, right?

06:03:56 14 A. Yes. Yes.

06:03:56 15 Q. And you haven't heard anything back further
06:03:58 16 since then?

06:03:59 17 A. No.

06:04:08 18 Q. On the bottom of Page 11, that same page, I
06:04:10 19 want to look at comment JP(8), and that is in reference
06:04:16 20 to the last sentence on that page that says, "A
06:04:21 21 registrant may become a federal only voter regardless of
06:04:25 22 the type of voter registration form."

06:04:26 23 Do you see that?

06:04:26 24 A. Yes.

06:04:27 25 Q. And your comment is that this is conflicting

06:04:29 1 with other parts of the section, this section; is that
06:04:29 2 right?

06:04:32 3 A. Yeah, I felt like there was an area that it was
06:04:35 4 conflicting with when they were breaking it down between
06:04:39 5 state and the federal form.

06:04:43 6 Q. And if you want to go all the way down to
06:04:51 7 Page 24. Let me know when you get there.

06:05:02 8 A. Okay.

06:05:04 9 Q. Here there is a section that's about minimum
06:05:09 10 information required on voter registration forms, and
06:05:14 11 the very last paragraph of that section says that except
06:05:17 12 for a form produced by the United States Election
06:05:20 13 Commission -- or Assistance Commission, any application
06:05:24 14 for registration shall be accompanied by satisfactory
06:05:27 15 evidence of DPOC, and the County Recorder shall reject
06:05:31 16 any application for registration that is not accompanied
06:05:34 17 by DPOC.

06:05:37 18 Do you see that?

06:05:37 19 A. Yes.

06:05:37 20 Q. And is this one of the areas that you thought
06:05:40 21 conflicted with the language we just discussed above?

06:05:42 22 A. Yes.

06:05:43 23 Q. Okay. Did you discuss that kind of conflict
06:05:47 24 with the Secretary of State's Office during that
06:05:48 25 meeting?

06:05:49 1 A. Yes.

06:05:50 2 Q. And what was their response?

06:05:51 3 MS. STUART: Form.

06:05:52 4 THE WITNESS: She was going to look into

06:05:54 5 that.

06:05:56 6 BY MS. LANG:

06:05:57 7 Q. Okay. And you have -- have you heard anything

06:05:58 8 since then?

06:05:59 9 A. No, but this was like last week.

06:06:01 10 Q. Right. In no way is it suggesting any delay.

06:06:04 11 I just want to make sure we have all the information.

06:06:06 12 And you also noted that this requirement that

06:06:15 13 any application for registration other than a federal

06:06:18 14 form shall be accompanied by satisfactory evidence of

06:06:21 15 DPOC appears to be in conflict with the LULAC agreement;

06:06:21 16 is that right?

06:06:26 17 A. Yes.

06:06:26 18 Q. Okay. And did you discuss that comment as

06:06:28 19 well?

06:06:28 20 A. Yes.

06:06:29 21 Q. And what was the response from the Secretary's

06:06:32 22 Office?

06:06:32 23 MS. STUART: Form.

06:06:32 24 THE WITNESS: Again, taking it under

06:06:34 25 advisement.

06:06:37 1 BY MS. LANG:

06:06:38 2 Q. Okay. Is it -- well, yeah.

06:06:39 3 And then later on -- well, let me go back.

06:06:53 4 Let's go all the way back to Page 11.

06:06:56 5 A. 11?

06:06:56 6 Q. Yes. That's where we left off.

06:07:14 7 A. Okay.

06:07:44 8 Q. Actually, I'll have you go ahead down to

06:07:47 9 Page 16, in the Section labeled residency requirements

06:07:52 10 for registration.

06:07:57 11 A. Yes.

06:07:59 12 Q. And your comment there is to note that the

06:08:02 13 residency requirements are currently being litigated; is

06:08:05 14 that correct?

06:08:05 15 A. Yes.

06:08:06 16 Q. Okay. And so I did want to kind of review what

06:08:11 17 guidance was provided here. And I think the new

06:08:19 18 additional guidance about documentary proof of residence

06:08:25 19 is that second paragraph that starts with "Except for

06:08:28 20 UOCAVA registrants." Do you see that?

06:08:30 21 A. Yes.

06:08:31 22 Q. Okay. So it says, "Except for UOCAVA

06:08:34 23 registrants, a person who registers to vote shall

06:08:36 24 provide an identifying document that establishes proof

06:08:39 25 of location of residence," and has the citation to the

06:08:41 1 relevant law. And then it says, "Any of the identifying
06:08:44 2 documents prescribed in ARS Section 16-579(A)(1)
06:08:51 3 constitute satisfactory proof of location of residence."

06:08:54 4 Is that right?

06:08:54 5 A. Yes.

06:08:57 6 Q. Okay. Earlier today we looked at a chart that
06:09:00 7 provided potential additional guidance about what would
06:09:05 8 count as documentary proof of residence, and none of
06:09:10 9 that guidance is included in this manual; is that right?

06:09:13 10 A. Correct.

06:09:15 11 Q. Okay. And no guidance is given about what
06:09:19 12 documents establish proof of location of residence
06:09:21 13 except for the reference to ARS 16-579(A)(1)?

06:09:27 14 A. Yes.

06:09:31 15 Q. Do you think that -- what kind of guidance
06:09:37 16 would you hope to receive from the Secretary of State's
06:09:40 17 Office about what documents establish proof of location
06:09:44 18 of residence?

06:09:45 19 MR. O'CONNOR: I believe asked and answer.

06:09:49 20 BY MS. LANG:

06:09:49 21 Q. Okay.

06:09:49 22 A. Clear and concise guidance about what is
06:09:52 23 acceptable.

06:09:53 24 Q. Okay. And would you consider this current
06:09:56 25 guidance to be sufficient?

06:09:59 1 A. No.

06:10:01 2 Q. Okay. And why not?

06:10:04 3 A. I think there's a lot of questions still.

06:10:07 4 Q. What are some of your outstanding questions?

06:10:11 5 A. I think while the statute makes a blanket

06:10:16 6 statement of what's allowed, I think we would need to go

06:10:18 7 into greater detail, because right now it's just

06:10:20 8 referencing what you would need to provide as proof of

06:10:23 9 identification when you go to the polls.

06:10:25 10 Q. Okay. And it kind of says that those IDs are

06:10:29 11 sufficient, but it doesn't include the entire universe

06:10:32 12 of documents that would be sufficient; is that correct?

06:10:34 13 A. Yes.

06:10:35 14 Q. Okay. And nothing in the manual kind of

06:10:37 15 elaborates on that; is that right?

06:10:39 16 A. Not in its current state.

06:10:42 17 Q. Okay. The draft manual, I should say.

06:10:52 18 And nothing in this section indicates any kind

06:10:56 19 of delineation between state and federal forms or state

06:10:59 20 and federal elections when it comes to application of

06:11:02 21 the residency -- or of the DPOR requirement; is that

06:11:02 22 right?

06:11:07 23 A. I feel like there was some sections that were

06:11:09 24 specific to state form and some that were specific to

06:11:14 25 the national form, but I don't know if it was specific

06:11:18 1 to the DPOC requirement.

06:11:22 2 Q. DPOR, right, we're talking about?

06:11:25 3 A. Or -- yes. Yes. Sorry.

06:11:27 4 Q. I just want to clarify for the record.

06:11:34 5 This is mostly for my own edification, but on

06:11:52 6 Page 21 there's a reference to the Arizona voter

06:11:58 7 information database, AVID, and you indicate a comment

06:12:00 8 that asks about formally changing the name.

06:12:04 9 Is there a discussion of changing the AVID

06:12:06 10 name?

06:12:07 11 A. No. I think they inadvertently just called it

06:12:10 12 Arizona, but on the contract it is Access.

06:12:13 13 Q. Got it. Thank you.

06:12:20 14 And on the next page, Page 22, your comment

06:12:25 15 JP(14) talks about -- is in reference to the six

06:12:28 16 recognized status codes in the statewide database, and

06:12:34 17 those six statuses are listed as active, inactive,

06:12:38 18 suspense, canceled, not eligible, and not registered; is

06:12:38 19 that right?

06:12:43 20 A. Yes.

06:12:43 21 Q. And you asked if we should add merged or

06:12:45 22 archived; is that right?

06:12:47 23 A. Yes.

06:12:47 24 Q. I think we've talked about what archived means,

06:12:49 25 and can you say something about what the merged status

06:12:53 1 means?

06:12:53 2 A. It's basically the two voter records that have
06:12:57 3 been merged, so a surviving record is now active and the
06:13:01 4 old record is listed as merged.

06:13:03 5 Q. Got it.

06:13:16 6 And then -- and this may be the section
06:13:18 7 you're referring to. If you go to Page 23, there is a
06:13:21 8 section that says specifically the minimum required
06:13:23 9 information on state voter registration forms; do you
06:13:27 10 see that?

06:13:27 11 A. Yes.

06:13:28 12 Q. Okay. And so does this refresh your
06:13:30 13 recollection that this was the section that kind of was
06:13:32 14 state form specific?

06:13:33 15 A. Yes.

06:13:36 16 Q. Okay. And one of the requirements that's
06:13:38 17 listed here is proof of location of residence; is that
06:13:38 18 right?

06:13:41 19 A. Yes.

06:13:42 20 Q. And you indicate that this is not something
06:13:44 21 that's currently being implemented, correct?

06:13:46 22 A. Yes.

06:13:47 23 Q. I assume that the discussion during the
06:13:51 24 Secretary of State meeting was similar as to this issue,
06:13:54 25 in that the Secretary of State's Office said that this

06:13:57 1 was kind of a placeholder guidance that will kind of be
06:14:02 2 updated depending on the outcome of this litigation; is
06:14:04 3 that correct?

06:14:04 4 A. Yes.

06:14:07 5 Q. Was anything else kind of discussed about the
06:14:10 6 addition of the proof of location of residence
06:14:14 7 requirement?

06:14:14 8 A. No.

06:14:18 9 Q. Okay. And is your testimony the same as to
06:14:21 10 kind of the addition of the place of birth requirement
06:14:23 11 here?

06:14:24 12 A. Yes.

06:14:29 13 Q. And the next comment is that there's an
06:14:32 14 addition that a signature or other statement of the
06:14:35 15 registrant is required, and you note that this is a
06:14:39 16 confusing statement?

06:14:40 17 A. Yes.

06:14:41 18 Q. I would agree.

06:14:43 19 Was that comment discussed during your meeting
06:14:45 20 with the Secretary of State's Office?

06:14:47 21 A. Yes.

06:14:48 22 Q. And what was the response?

06:14:49 23 MS. STUART: Form.

06:14:50 24 THE WITNESS: That she would take another
06:14:52 25 look at it to try to make it less confusing.

06:14:56 1 BY MS. LANG:

06:14:56 2 Q. Okay. Do you know what they might be trying to
06:14:59 3 get at with that or other statement of the registrant?

06:15:03 4 MR. O'CONNOR: Form.

06:15:04 5 MS. STUART: Form.

06:15:04 6 THE WITNESS: I don't know.

06:15:08 7 BY MS. LANG:

06:15:08 8 Q. Okay. There's also an addition of the
06:15:11 9 checkmark requirement here under signature; is that
06:15:11 10 right?

06:15:15 11 A. Yes.

06:15:17 12 Q. I noticed, just because you did such a diligent
06:15:20 13 job of noting, that you don't have a comment there; but
06:15:23 14 this is another place where that is not currently being
06:15:26 15 implemented, correct?

06:15:27 16 A. Correct.

06:15:28 17 Q. All right.

06:15:34 18 A. I highlighted it in the next one, though.

06:15:36 19 Q. Fair enough. You got it. You're right.

06:15:45 20 And just to follow up on that, so, yes, the
06:15:51 21 following paragraph says that any application for a
06:15:54 22 registration must contain a checkmark or other
06:15:57 23 appropriate mark in the yes box next to the question
06:16:00 24 regarding citizenship, correct?

06:16:00 25 A. Yes.

06:16:01 1 Q. And you note that this an area that's being
06:16:04 2 litigated and is not being implemented, correct?

06:16:06 3 A. Correct.

06:16:06 4 Q. And then you added an additional comment that
06:16:12 5 asked "Confirming that even if we have DPOC verified but
06:16:15 6 the box is not checked we are to reject."

06:16:18 7 I think we talked about this a little bit
06:16:20 8 earlier, but is it fair to say that this comment
06:16:24 9 reflects your concern that where you have documentary
06:16:28 10 proof of citizenship, the checkmark cannot add any
06:16:33 11 additional value to knowing whether or not that person
06:16:35 12 is a citizen?

06:16:36 13 MR. O'CONNOR: Form.

06:16:38 14 THE WITNESS: Yes.

06:16:39 15 BY MS. LANG:

06:16:39 16 Q. Okay. And did you discuss that comment during
06:16:43 17 the conversation with the Secretary of State's Office?

06:16:48 18 A. I think it was still just under the whole we
06:16:50 19 kind of skipped through that because we know that this
06:16:53 20 is being litigated still.

06:16:54 21 Q. Got it.

06:17:04 22 And on Page 24, you know, there's a note that
06:17:09 23 any registration that does not include the required
06:17:12 24 information, including the information we just
06:17:16 25 discussed, you know, that the County Recorder shall not

06:17:20 1 register the voter until all the information is
06:17:22 2 provided. And you have a comment that asks "Does this
06:17:24 3 mean they move to nonregistered status or just
06:17:27 4 suspense."
06:17:27 5 Was this a comment you discussed during the
06:17:30 6 meeting?
06:17:31 7 A. Yes.
06:17:31 8 Q. And what was the response there?
06:17:33 9 MS. STUART: Form.
06:17:34 10 THE WITNESS: That it would be reviewed to
06:17:37 11 see if there needed to be a new status updated in the
06:17:41 12 system or if we would use an existing status.
06:17:44 13 BY MS. LANG:
06:17:48 14 Q. Okay. And there's been no follow-up on that
06:17:50 15 yet, right?
06:17:50 16 A. Not yet.
06:17:57 17 Q. Okay. And we've already gone over this
06:18:01 18 section, but on Page 24 is that language that says that
06:18:04 19 anything but a federal form has to be rejected with
06:18:09 20 respect to DPOC. Your testimony as to that is the same
06:18:13 21 as the other litigated portions; is that right?
06:18:15 22 A. Yes.
06:18:20 23 Q. Under Subsection D you have a question about
06:18:24 24 whether or not like the documentary proof of residence
06:18:28 25 requirement, if upheld, would apply to federal voter

06:18:36 1 registrations --

06:18:36 2 A. Yes.

06:18:37 3 Q. -- is that correct?

06:18:37 4 And was that a comment that you all discussed?

06:18:45 5 A. I think it was another one of just holding off

06:18:47 6 until we see.

06:19:04 7 MR. O'CONNOR: Don't take that as a sign,

06:19:06 8 Danielle, that you have to wrap it up.

06:19:10 9 MS. LANG: It's a sign we're all being too

06:19:12 10 still.

06:19:14 11 MR. O'CONNOR: If you say so.

06:19:27 12 BY MS. LANG:

06:19:27 13 Q. On Page 26, your comment JP(28) is in reference

06:19:35 14 to a section that discusses what a County Recorder

06:19:39 15 should do if they have information that an applicant is

06:19:41 16 not a citizen. It says it should reject the

06:19:45 17 application, and then further says that there should be

06:19:47 18 a notification sent. And you ask if this would mean

06:19:53 19 putting them in a kind of not registered status or

06:19:56 20 suspense status; is that right?

06:19:57 21 A. Yes.

06:19:57 22 Q. And was that comment discussed during your

06:20:00 23 meeting?

06:20:00 24 A. Yes. They would review and get back.

06:20:04 25 Q. And that review is still ongoing, as far as you

06:20:07 1 know?

06:20:07 2 A. Yes.

06:20:11 3 Q. And then there is -- so there's language here

06:20:18 4 that says that if the County Recorder is unable to match

06:20:21 5 the applicant with DPOC -- let me back up.

06:20:28 6 This is under a subsection titled (a),

06:20:31 7 information that applicant is not a U.S. citizen. So

06:20:33 8 this section is about not just people where you don't

06:20:36 9 have a DPOC, but that you actually have some reason to

06:20:40 10 believe the person's not a citizen; is that right?

06:20:43 11 A. Yes.

06:20:43 12 Q. And then there's this last paragraph that says

06:20:45 13 that if the County Recorder is unable to match the

06:20:48 14 applicant with DPOC, the County Recorder shall notify

06:20:51 15 the applicant that the County Recorder could not verify

06:20:54 16 that the applicant is a United States citizen and that

06:20:57 17 the applicant will not be qualified to vote in a

06:21:00 18 presidential election or by mail with an early ballot in

06:21:02 19 any election until satisfactory evidence of citizenship

06:21:05 20 is provided.

06:21:07 21 Do you see that?

06:21:08 22 A. Yes.

06:21:09 23 Q. So I'll confess I was a little confused in

06:21:12 24 reading this, because my understanding is that for

06:21:16 25 people for whom you have, you know, affirmative

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06:21:19 1 information that someone is not a citizen, those are not
06:21:22 2 people who go on the federal only list; is that correct?

06:21:24 3 MS. STUART: Form.

06:21:26 4 THE WITNESS: Yes.

06:21:30 5 BY MS. LANG:

06:21:33 6 Q. Okay. And my understanding of 2492 and our
06:21:37 7 discussion of 2492 earlier is that this restriction on
06:21:40 8 mail voting and presidential elections is meant to apply
06:21:44 9 to federal only voters, not to the category of voters
06:21:49 10 where the applicant is not a -- where there's
06:21:52 11 affirmative information that the applicant is not a U.S.
06:21:56 12 citizen; is that right?

06:21:57 13 A. Yes. So that section was confusing to me as
06:21:59 14 well, so that's why I was saying that it's not
06:22:02 15 registered or is this suspense, like it wasn't clear to
06:22:05 16 me.

06:22:06 17 Q. Okay. And do you recall if there was any
06:22:07 18 discussion about this particular section during the
06:22:10 19 meeting?

06:22:12 20 A. I don't remember.

06:22:17 21 Q. Okay. Would it make more sense to you if this
06:22:20 22 section was under, you know, a discussion about federal
06:22:24 23 only voters, the restriction on presidential and mail
06:22:29 24 voting?

06:22:29 25 A. Yes.

06:22:36 1 Q. Okay. And I think we touched on this a little
06:22:38 2 bit earlier in your testimony, but on Page 26 you have a
06:22:41 3 comment at the end about the instruction of the Recorder
06:22:46 4 shall record the efforts made to verify an applicant's
06:22:49 5 citizenship status as prescribed. And you ask "What
06:22:52 6 does this mean exactly? Does the VR system attempting
06:22:57 7 to confirm with MVD meet the requirement? What about
06:23:00 8 SAVE - does this require a note?"
06:23:04 9 Is that right?
06:23:05 10 A. Yes.
06:23:05 11 Q. Okay. And do you recall having any discussions
06:23:07 12 about that during your meeting?
06:23:10 13 A. I think that she was going to go back and
06:23:14 14 review.
06:23:15 15 Q. But there was nothing in this draft that kind
06:23:19 16 of provided any explanation of what this recording
06:23:23 17 requirement would be besides saying that you shall
06:23:26 18 record the efforts; is that right?
06:23:28 19 A. Right.
06:23:28 20 MS. STUART: Form.
06:23:29 21 BY MS. LANG:
06:23:29 22 Q. And it was your hope that there would be
06:23:31 23 additional information provided about how that recording
06:23:35 24 should take place; is that right?
06:23:39 25 A. Yes.

06:23:57 1 Q. Okay.

06:23:57 2 MS. STUART: What's the time?

06:24:00 3 THE VIDEOGRAPHER: 6 hours and 37 minutes.

06:24:02 4 MS. STUART: Thank you.

06:24:43 5 BY MS. LANG:

06:24:43 6 Q. On Page 43 I want to look at comment JP(40).

06:25:03 7 A. Yes.

06:25:03 8 Q. And the instructions here are that if the

06:25:09 9 registrant has no DPOC on file, then there will be a

06:25:12 10 letter sent if there is information from the juror

06:25:18 11 report that someone self-reported as a noncitizen; is

06:25:21 12 that right?

06:25:21 13 A. Yes.

06:25:22 14 Q. And a notice will go out, and then if they do

06:25:29 15 not submit DPOC within 35 days, the registrant's record

06:25:33 16 will be canceled; is that right?

06:25:34 17 A. Yes.

06:25:35 18 Q. And how does that differ from the current

06:25:38 19 practice?

06:25:42 20 A. If -- if -- the current practice is if we -- if

06:25:48 21 they're -- again, if they say they're a noncitizen, but

06:25:51 22 we have DPOC on file, we do nothing. If they are a

06:25:58 23 federal only voter, we would send a notice. I don't --

06:26:03 24 I'm getting tired. I don't remember.

06:26:05 25 Q. I understand.

06:26:07 1 A. The 35-day requirement is usually tied to the
06:26:11 2 NVRA process, so I think that's why I flagged it.

06:26:15 3 Q. Okay. Very well. I don't have any more
06:26:48 4 specific questions about this document.

06:26:50 5 I guess one kind of overarching question I had
06:26:53 6 for you is that over the course of today's testimony we
06:26:57 7 identified a lot of gray areas about how these laws
06:27:00 8 would be applied; is that right?

06:27:01 9 A. Yes.

06:27:02 10 Q. And a lot of open questions that you were still
06:27:05 11 looking for guidance on; is that right?

06:27:06 12 A. Yes.

06:27:07 13 Q. What would the reason to believe standard be is
06:27:11 14 one example?

06:27:13 15 A. Say that again?

06:27:15 16 Q. Is how the reason to believe standard would
06:27:18 17 apply one of those gray areas?

06:27:20 18 A. Yes.

06:27:20 19 Q. What documents might satisfy the DPOR
06:27:24 20 requirement is another one of those gray areas?

06:27:26 21 A. Yes.

06:27:27 22 Q. Okay. In reviewing this draft EPM, was there
06:27:34 23 much guidance in the draft that would help you fill in
06:27:39 24 those gray areas?

06:27:41 25 A. Not in this draft, no.

06:27:44 1 Q. Okay. And is that something that you're hoping
06:27:45 2 to get out of future drafts of the EPM if these laws
06:27:50 3 need to be implemented?

06:27:50 4 A. Yes.

06:27:52 5 Q. Okay. Would this EPM on its own provide you
06:27:55 6 enough guidance to go forward and implement these parts
06:27:58 7 of the law?

06:27:59 8 MR. O'CONNOR: Form.

06:28:01 9 THE WITNESS: I don't believe so.

06:28:04 10 MS. LANG: Let's take a quick break and
06:28:05 11 make sure nobody has any further questions and then I
06:28:09 12 can wrap, but let's just take a very brief break.

06:28:12 13 THE VIDEOGRAPHER: We are off the record.
06:28:13 14 The time on the video monitor is 6:28 p.m.

06:28:16 15 (A recess was taken.)

06:31:45 16 THE VIDEOGRAPHER: We are on the record.
06:31:46 17 The time on the video monitor is 6:31 p.m.

06:31:50 18 MS. LANG: One last cleanup item, doesn't
06:31:52 19 involve a question for you at all, is that we've been
06:31:55 20 discussing at length the Arizona Secretary of State 2023
06:32:00 21 Elections Procedures Manual - June 2023 draft, that I
06:32:04 22 will note is marked confidential for the record, and we
06:32:09 23 will mark that exhibit as Exhibit 35.

06:32:12 24 And with that, I have no further
06:32:15 25 questions, and thank you so much, Ms. Petty, for all

06:32:17 1 your patience and testimony.

06:32:21 2 THE VIDEOGRAPHER: We are off the record.

06:32:22 3 The time on the --

06:32:26 4 MS. LANG: Defendants will have a few
06:32:29 5 follow-ups, I believe.

06:32:29 6 MS. BOUGHTON: Can you hear me?

06:32:29 7 THE WITNESS: No.

06:32:29 8

06:32:43 9 EXAMINATION

06:32:43 10 BY MS. BOUGHTON:

06:32:54 11 Q. Hello. A little hard to get on. Apologies.

06:32:56 12 Good afternoon, Ms. Petty. My name is Kathryn
06:32:58 13 Boughton. I'm an attorney representing the Arizona
06:33:00 14 Attorney General, State of Arizona in this matter.

06:33:03 15 Thank you again for all your time and patience today. I
06:33:06 16 will be very brief, just a few issues that I wanted to
06:33:10 17 circle back to regarding plaintiffs' questions.

06:33:13 18 One of them, you talked at length with
06:33:16 19 plaintiff about the databases that the Recorder's Office
06:33:21 20 uses to verify citizenship, and the plaintiffs' counsel
06:33:24 21 asked you about instances where that information may not
06:33:26 22 be accurate.

06:33:27 23 I did want to ask, based on your experience,
06:33:30 24 does the Recorder's Office consider the MVD database to
06:33:34 25 be generally reliable as to citizenship information?

06:33:37 1 A. Yes.

06:33:37 2 Q. And does the Recorder's Office consider SAVE

06:33:42 3 data when an A-Number is available to be generally

06:33:44 4 reliable as to citizenship information?

06:33:46 5 A. Yes.

06:33:48 6 Q. Okay. Thank you.

06:33:53 7 Regarding -- we talked about what reason to

06:33:55 8 believe might be and some of your concerns about that

06:33:59 9 language in the law. I wanted to ask you, if the county

06:34:04 10 had conducted its normal citizenship verification checks

06:34:08 11 and it received no match on MVI data and no response

06:34:13 12 from a voter after outreach, would you consider that

06:34:17 13 that voter -- that you had a reason to believe that

06:34:20 14 voter was not a U.S. citizen?

06:34:22 15 A. No.

06:34:24 16 Q. Okay. And why not?

06:34:25 17 A. Because we did not get an affirmation back that

06:34:31 18 they were a noncitizen, and we are taking the voter's

06:34:35 19 signed affidavit that they are eligible and that they

06:34:38 20 are a U.S. citizen.

06:34:39 21 Q. Okay. Would you consider a -- if the county

06:34:42 22 received an affirmative no match from AVID or SAVE,

06:34:46 23 would you consider that a reason to believe that the

06:34:48 24 individual was not a citizen?

06:34:50 25 A. Well, AVID wouldn't give us information about

06:34:54 1 citizenship.

06:34:55 2 Q. Pardon me. I misspoke. MVD or SAVE.

06:34:58 3 A. If they gave us information that it was a

06:35:01 4 foreign license, yes, we would have reason to believe

06:35:03 5 that person was a noncitizen.

06:35:06 6 Q. Okay. Thank you.

06:35:09 7 Turning briefly to Exhibit 27, which is

06:35:20 8 MC 002984. We looked at this earlier. This is the form

06:35:24 9 that's sent out to individuals who had a different

06:35:28 10 driver's license from the one listed on the voter

06:35:31 11 registration that was issued prior to 1996.

06:35:34 12 I'd like to draw your attention to the bottom

06:35:37 13 half of the form, and it reads, quote, Help us uniquely

06:35:43 14 identify your registration. Please complete the

06:35:45 15 following information, end quote. And one of the

06:35:47 16 requested fields is place of birth; is that right?

06:35:51 17 A. Yes.

06:35:52 18 Q. So is this an example of the county proactively

06:35:54 19 seeking out birthplace information to, quote, uniquely

06:35:58 20 identify a voter registration?

06:36:01 21 A. I think this is the county's way of trying to

06:36:05 22 identify the voter, and that is just one piece of

06:36:08 23 optional information that could be provided by the voter

06:36:11 24 to help in doing so.

06:36:14 25 Q. Okay. Thank you.

06:36:19 1 If a court or the Secretary of State issued
06:36:22 2 guidance that the county should change how it uses
06:36:25 3 birthplace information, would the Recorder follow that
06:36:28 4 instruction?

06:36:28 5 A. Yes.

06:36:30 6 Q. Thank you.

06:36:42 7 MS. BOUGHTON: That's all I have for you
06:36:43 8 today. Thank you very much.

06:36:45 9 MS. LANG: I do have just a couple
06:36:47 10 follow-ups. I apologize.

06:36:48 11

06:36:49 12 FURTHER EXAMINATION

06:36:49 13 BY MS. LANG:

06:36:50 14 Q. Following up on that very last question that
06:36:51 15 you had, which was if there was new instructions from
06:36:56 16 the Secretary of State's Office on how to use place of
06:36:59 17 birth in the voter registration process, you would
06:37:01 18 follow it; is that correct?

06:37:03 19 A. I would imagine our County Attorneys would be
06:37:06 20 involved in that, but as long as they were in approval,
06:37:10 21 yes, we would follow guidance from the Secretary of
06:37:13 22 State's Office.

06:37:13 23 Q. Was there any guidance in this draft EPM that
06:37:16 24 would suggest that the Secretary of State is suggesting
06:37:18 25 a change in how place of birth is used in the voter

06:37:22 1 registration process?

06:37:24 2 MR. O'CONNOR: Form.

06:37:27 3 THE WITNESS: I go back to my previous
06:37:28 4 answer, that they have incorporated the new laws into
06:37:31 5 the draft in the event that they will be added in after
06:37:36 6 the litigation is concluded.

06:37:38 7 BY MS. LANG:

06:37:38 8 Q. Yes. So my question is just the EPM draft says
06:37:44 9 that place of birth will be required, but does anything
06:37:47 10 in the draft suggest that other than requiring it, that
06:37:52 11 your usage of that information would change?

06:37:56 12 A. I don't think that was clear.

06:37:59 13 Q. Okay. And Ms. Boughton referred you to a
06:38:04 14 document that kind of asked for place of birth as a
06:38:08 15 piece of data could help you identify who the person was
06:38:12 16 in the voter registration database; is that right?

06:38:14 17 A. Yes.

06:38:16 18 Q. And I just want to clarify what you mean by
06:38:18 19 identify there. So you mean there that that information
06:38:21 20 would help you find which record is the relevant record
06:38:26 21 in the voter registration database; is that right?

06:38:28 22 A. Yes.

06:38:29 23 Q. And it's one piece of optional information that
06:38:34 24 could be of assistance; is that right?

06:38:36 25 A. Yes.

06:38:37 1 Q. Is it often the case that you can identify
06:38:40 2 individuals based on other uniquely identifying
06:38:43 3 information, such as date of birth and --

06:38:47 4 A. Yes.

06:38:48 5 Q. Okay. And that does not mean that you use
06:38:55 6 place of birth in any way to validate the identity of a
06:39:00 7 voter registration application; is that right?

06:39:05 8 MS. BOUGHTON: Form.

06:39:08 9 THE WITNESS: We -- no, not for identity.

06:39:13 10 BY MS. LANG:

06:39:14 11 Q. Okay. And, finally, you testified that you
06:39:16 12 consider SAVE information generally reliable, but
06:39:22 13 earlier today we discussed a portion of the EPM that
06:39:25 14 specifically states that there is a lag in time between
06:39:29 15 when someone naturalizes and when that information is
06:39:34 16 entered into the SAVE system; is that correct?

06:39:36 17 A. Yes.

06:39:38 18 Q. So your understanding is that there is a
06:39:41 19 well-known lag time between naturalization and the SAVE
06:39:46 20 system's information?

06:39:48 21 A. There's a potential for a lag time.

06:39:50 22 Q. Okay. So you are aware of the possibility that
06:39:55 23 that information is not up-to-date?

06:39:59 24 A. Yes.

06:39:59 25 Q. Okay. And you also testified that the driver's

06:40:05 1 license information only reflects the information
06:40:08 2 provided by the individual at the time that they
06:40:11 3 interacted with the driver's license agency, correct?
06:40:15 4 A. Correct.
06:40:17 5 Q. And that driver's licenses in Arizona can be
06:40:22 6 valid for a very long time; is that right?
06:40:24 7 A. Yes.
06:40:26 8 Q. And is it your understanding that people
06:40:29 9 naturalize in the state of Arizona very regularly?
06:40:32 10 MR. O'CONNOR: Form.
06:40:33 11 BY MS. LANG:
06:40:34 12 Q. There are new naturalized citizens that are
06:40:37 13 residents and citizens of the state of Arizona being
06:40:39 14 created very regularly?
06:40:42 15 A. Yes.
06:40:42 16 MS. BOUGHTON: Form.
06:40:44 17 BY MS. LANG:
06:40:44 18 Q. In fact, your office regularly visits
06:40:46 19 naturalization ceremonies to register voters; is that
06:40:49 20 correct?
06:40:49 21 A. Yes.
06:40:50 22 Q. Okay. And your experience is that sometimes
06:40:56 23 when you get an F-Type license match, you'll send that
06:41:01 24 notice out and you will get DPOC in return; is that
06:41:05 25 correct?

06:41:05 1 A. Yes.

06:41:06 2 Q. Does that happen frequently?

06:41:07 3 A. Yes.

06:41:09 4 Q. So does that suggest to you that that
06:41:11 5 information is not always reliable?

06:41:14 6 A. I'd say --

06:41:14 7 MR. O'CONNOR: Form.

06:41:15 8 THE WITNESS: The majority of the time it
06:41:19 9 is reliable.

06:41:20 10 BY MS. LANG:

06:41:20 11 Q. But very frequently you send out notices and
06:41:23 12 you receive DPOC back; is that correct?

06:41:24 13 A. Yes.

06:41:26 14 MS. LANG: All right. I have no further
06:41:27 15 questions.

06:41:28 16 MS. STUART: I just have a couple. I'll
06:41:30 17 be quick.

06:41:30 18

06:41:31 19 EXAMINATION

06:41:31 20 BY MS. STUART:

06:41:32 21 Q. So they're all going to deal with this
06:41:39 22 Exhibit 35.

06:41:40 23 Exhibit 35 that we've just been looking at,
06:41:43 24 that's a draft of the EPM, correct?

06:41:45 25 A. Correct.

06:41:46 1 Q. And the Secretary of State is taking feedback
06:41:49 2 from the counties with regards to this draft?

06:41:52 3 A. Correct.

06:41:54 4 Q. And you also testified today, I think, that the
06:41:59 5 Secretary of State is also planing on taking -- or
06:42:02 6 getting feedback from the public with regards to this
06:42:04 7 draft of the EPM; is that correct?

06:42:05 8 A. Correct.

06:42:07 9 Q. Okay. So Exhibit 35, fair to say -- oops. I'm
06:42:12 10 not going to hand it to you.

06:42:13 11 Exhibit 35, fair to say, is not the final form
06:42:15 12 of the EPM?

06:42:16 13 A. That's correct.

06:42:17 14 Q. Okay. So the language in this draft could
06:42:19 15 change?

06:42:20 16 A. Yes.

06:42:20 17 Q. And ultimately the final EPM could look
06:42:23 18 different than Exhibit 35 that we reviewed today, right?

06:42:25 19 A. Yes.

06:42:26 20 Q. Okay. And it can change by either adding
06:42:29 21 information, moving information, or taking information
06:42:32 22 out, right?

06:42:32 23 A. Yes.

06:42:35 24 Q. Could the EPM also have exhibits attached to
06:42:38 25 it?

06:42:39 1 A. Yes.

06:42:40 2 Q. Could it also reference other materials?

06:42:42 3 A. Yes.

06:42:42 4 Q. Could it also reference other laws or guidance?

06:42:46 5 A. Yes.

06:42:52 6 Q. And, lastly, just to clarify something that

06:42:57 7 maybe I was confused on, but none of the provisions at

06:43:00 8 issue in this litigation have been implemented by

06:43:03 9 Maricopa County?

06:43:03 10 A. That's correct.

06:43:05 11 Q. Okay. And Maricopa County has not received any

06:43:09 12 communications from the Secretary of State's Office to

06:43:13 13 start implementing the laws at issue in this case,

06:43:16 14 right?

06:43:16 15 A. Correct.

06:43:16 16 Q. And to the best of your knowledge, has the

06:43:20 17 Secretary told any of the other counties to start

06:43:22 18 implementing the laws at issue in this case?

06:43:24 19 A. Not to my knowledge.

06:43:26 20 MS. STUART: Thank you. I have no further

06:43:28 21 questions.

06:43:30 22 THE VIDEOGRAPHER: Counsel, do you have

06:43:31 23 any further questions?

06:43:33 24 MS. LANG: No further questions. Thank

06:43:35 25 you so much, Ms. Petty.

06:43:37 1
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THE VIDEOGRAPHER: We are off the record.
The time on the video monitor is 6:43 p.m. This ends
Volume 1, Media No. 5 in the Rule 30(b)(6) deposition of
the Maricopa County Recorder's Office, represented by
Janine Petty.

(The videotaped deposition concluded at
6:43 p.m.)

(Deposition Exhibit 24 and Deposition
Exhibit 35 were digitally marked for identification.)

(Signature not requested.)

JANINE PETTY

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1 STATE OF ARIZONA)
) ss.
2 COUNTY OF MARICOPA)
3

4 BE IT KNOWN that the foregoing videotaped
5 deposition was taken before me, JODY L. LENSCHOW, RMR,
6 CRR, Certified Reporter No. 50192 for the State of
7 Arizona, and by virtue thereof authorized to administer
8 an oath; that the witness before testifying was duly
9 sworn by me; that the questions propounded by counsel
10 and the answers of the witness thereto were taken down
11 by me in shorthand and thereafter transcribed under my
12 direction; that a review of the transcript by the
13 witness was not requested; that the foregoing pages
14 contain a full, true, and accurate transcript of all
15 proceedings and testimony had, all to the best of my
16 skill and ability.

17 I FURTHER CERTIFY that I am not related to nor
18 employed by any of the parties hereto and have no
19 interest in the outcome thereof.

20 DATED at Phoenix, Arizona, this 5th day of
21 August, 2023.

22
23 

24 _____
JODY L. LENSCHOW, RMR, CRR
25 Certified Reporter
Certificate No. 50192

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IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ARIZONA

Mi Familia Vota, et al.,)	
)	
Plaintiffs,)	
)	
vs.	)	No. 2:22-cv-00509-PHX-SRB
	)	(Lead)
Adrian Fontes, in his)	
official capacity as Arizona)	
Secretary of State, et al.,)	
)	
Defendants.)	
)	
<hr/> AND CONSOLIDATED CASES	)	No. CV-22-00519-PHX-SRB
	)	No. CV-22-01003-PHX-SRB
	)	No. CV-22-01124-PHX-SRB
	)	No. CV-22-01369-PHX-SRB
	)	No. CV-22-01381-PHX-SRB
	)	No. CV-22-01602-PHX-SRB
	)	No. CV-22-01901-PHX-SRB
)	

VIDEOTAPED 30(b)(6) DEPOSITION OF NAVAJO COUNTY RECORDER
BY AND THROUGH JOSE LERMA

CONTAINS CONFIDENTIAL INFORMATION

Holbrook, Arizona

July 27, 2023

Prepared By:
Karen L. Locker, RPR
Certified Reporter #50821



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1 VIDEOTAPED DEPOSITION OF JOSE LERMA
2 was taken on July 27, 2023, commencing at 9:13 a.m., at
3 Holbrook, Arizona, before Karen L. Locker, a Certified
4 Reporter in the State of Arizona, reported via Zoom
5 Videoconference.

6
7

8 * * *

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10 Also Present:

11 Dennis Woods, Videographer
12 Aidan Calvelli
13 Daxon Ernyei
14 Victoria Maras
15 Scott Johnson
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09:13:01 1 THE VIDEOGRAPHER: We are on the record. The
09:13:02 2 time on the video monitor is 9:13 a.m.

09:13:06 3 Here begins Volume 1, Media No. 1 in the
09:13:09 4 30(b)(6) deposition of Navajo County Recorder by Jose
09:13:18 5 Lerma, in the matter of Mi Familia Vota, et al. v. Adrian
09:13:22 6 Fontes, et al., in the United States District Court for
09:13:22 7 the District of Arizona, Case No. 2:22-cv-00509 --
09:13:22 8 Phoenix -- PHX-SRB.

09:13:40 9 Today's date is July 27th, 2023.

09:13:42 10 Our court reporter is Karen Locker. I am Dennis
09:13:46 11 Woods, certified legal videographer specialist, and we
09:13:50 12 both represent Coash Court Reporting and Video.

09:13:50 13 Would our counsel please identify themselves and
09:13:55 14 state whom they represent.

09:13:55 15 MR. ROSENBAUM: This is David Rosenbaum. I
09:13:59 16 represent the Tohono O'odham Nation, Gila River Indian
09:14:04 17 Community, and three individual plaintiffs.

09:14:12 18 MR. ATKINS: Good morning. Alex Atkins for
09:14:16 19 Elias Law Group. I represent Plaintiffs Mi Familia Vota
09:14:20 20 and Voto Latino.

09:14:22 21 MR. MOORE: This is Jason Moore, counsel for the
09:14:25 22 Navajo County Recorder. I'm here today representing Jose
09:14:31 23 Lerma who is the Navajo County Recorder, Mike Samples',
09:14:33 24 designated representative for purposes of this deposition.

09:14:38 25 MS. BOUGHTON: Kathryn Boughton for the State of

09:14:40 1 Arizona and Arizona Attorney General's Office.

09:14:45 2 MR. HINDLEY: John Hindley for Poder Latinx,
09:14:50 3 Chicanos Por La Causa, and Chicanos Por La Causa Action
09:14:51 4 Fund.

09:14:52 5 MR. MORGAN: Craig Morgan for the Secretary of
09:14:55 6 State's Office.

09:14:58 7 MR. HERRERA: Ernest Herrera representing
09:15:02 8 Promise Arizona and Southwest Voter plaintiffs, and my
09:15:04 9 colleague here is Erika Cervantes.

09:15:09 10 MR. LANGHOFER: Kory Langhofer for the
09:15:11 11 Republican Intervenors.

09:15:11 12 MS. RIZZONI: Cat Rizzoni on behalf of Plaintiff
09:15:11 13 Equity Coalition.

09:15:20 14 MR. KEREKES: Bill Kerekes on behalf of Yuma
09:15:20 15 County Recorder, Richard Colwell.

09:15:29 16 MR. HORLEY: Tim Horley on behalf of the State
09:15:32 17 of Arizona and the Arizona Attorney General.

09:15:40 18 THE VIDEOGRAPHER: If that is all, if everyone
09:15:42 19 has identified themselves, then we will move to our court
09:15:46 20 reporter where she can swear in the witness.

09:15:46 21 (Jose Lerma was duly sworn by the Certified
09:16:01 22 Reporter.)

09:16:01 23 THE VIDEOGRAPHER: Please proceed.

24 ///

25 ///

1 JOSE LERMA,
2 a witness herein, having been first duly sworn by the
3 Certified Reporter to speak the truth and nothing but the
4 truth, was examined and testified as follows:

5

6

EXAMINATION

7

BY MR. ROSENBAUM:

09:16:04

8

Q. Good morning, Mr. Lerma.

09:16:05

9

A. Good morning.

09:16:06

10

Q. I'm David Rosenbaum, as I mentioned off the

09:16:10

11

record. I represent the Tohono O'odham Nation, Gila River

09:16:15

12

Indian Community, and three individual plaintiffs,

09:16:18

13

including LaDonna Jacket, who happens to be a member of

09:16:23

14

the Hopi Tribe, which, obviously, the Reservation includes

09:16:29

15

some parts of Navajo County.

09:16:33

16

I'm going to begin with the questioning today.

09:16:36

17

I don't anticipate going more than a couple of hours.

09:16:38

18

That's not a promise, it's just a guess. And then, when

09:16:41

19

I'm finished, counsel for some of the other parties will,

09:16:45

20

I believe, likely have additional questions for you as

09:16:49

21

well.

09:16:49

22

Let me put on the record the discussion that

09:16:52

23

counsel had a few minutes earlier, and that is an

09:16:57

24

objection stated by one defendant need not be repeated by

09:17:03

25

the others. They will all be deemed to have made that

09:17:09 1 objection.

09:17:11 2 Would you please state your full name for the

09:17:13 3 record, Mr. Lerma?

09:17:14 4 A. My name is Jose Lerma.

09:17:17 5 Q. And you are the designee for this 30(b)(6)

09:17:24 6 deposition that was noticed for the Navajo County

09:17:33 7 Recorder, correct?

09:17:34 8 A. Correct.

09:17:34 9 Q. I did a little Googling.

09:17:35 10 Are you, are you also an assistant county

09:17:37 11 attorney for Navajo County?

09:17:38 12 A. No. I, I -- prior to this I worked for the

09:17:41 13 Navajo County child support, which is under the county

09:17:46 14 attorney's office.

09:17:46 15 Q. Okay.

09:17:46 16 A. But, no --

09:17:47 17 Q. So are you, are you an attorney, I guess is --

09:17:50 18 A. No. No, no.

09:17:52 19 Q. All right. Well, that would have made the

09:17:55 20 introduction a little bit simpler. That's why I was

09:17:58 21 asking.

09:17:59 22 So let me just go over some basic ground rules.

09:18:06 23 And, first, as you know, we're all separated. We're all

09:18:09 24 conducting this deposition by Zoom. And I understand that

09:18:14 25 your attorney is not in the room with you. Is that right?

09:18:17 1 A. Correct.

09:18:18 2 Q. All right. So a standard instruction that
09:18:26 3 witnesses always receive in a deposition is to pause
09:18:29 4 before they answer to make sure people aren't talking over
09:18:32 5 one another so we can have a clear record. That's
09:18:36 6 especially important when we're conducting a deposition
09:18:39 7 over the internet by Zoom because often there's a delay.
09:18:44 8 So if you would try and wait till you perceive I have
09:18:49 9 finished my question, and I'll try and do the same for
09:18:52 10 you. I'll wait until it's clear that you provide an
09:18:55 11 answer. Okay?

09:18:56 12 A. Okay.

09:18:57 13 Q. If you don't understand one of my questions,
09:19:07 14 please let me know. I want to make sure you're not
09:19:07 15 confused. And if you don't tell me, I'll assume you
09:19:10 16 understood the question. Is that fair?

09:19:12 17 A. Sounds good.

09:19:14 18 Q. Good. If at any time you need a break, let me
09:19:22 19 know. It's not an endurance contest. I probably won't
09:19:26 20 allow a break if we're in the middle of a line of
09:19:29 21 questioning or question, but, in general, if you need a
09:19:34 22 break, just ask and, and I'll try and accommodate.

09:19:39 23 The oath that you just took is the same oath
09:19:43 24 that you would give in a courtroom, should be treated as
09:19:47 25 seriously as you would an oath given in open court.

09:19:54 1 Do you understand that?

09:19:55 2 A. Yes, I do.

09:19:57 3 Q. Another introductory point. Because this is a
09:20:02 4 Zoom deposition, we need to make sure that the answers are
09:20:05 5 your own. And so I just want to make sure -- I'm not
09:20:09 6 suspicious of anything, but just for the record -- that
09:20:12 7 you're not receiving texts or emails from anybody
09:20:16 8 suggesting, you know, what the right answer ought to be.
09:20:20 9 Is that, is that correct?

09:20:21 10 A. That's correct.

09:20:22 11 Q. Great.

09:20:26 12 If, if when I'm asking you a question you need
09:20:30 13 to review some document, let me know, and I may say yes,
09:20:37 14 please do, but, since we don't know what's on your screen,
09:20:42 15 please don't rely on some document without at least
09:20:46 16 letting us know that we're no longer getting your memory
09:20:51 17 but we're getting testimony based on something you're
09:20:54 18 looking at. Okay?

09:20:56 19 A. Okay.

09:20:57 20 Q. Great. Thanks.

09:21:00 21 So we mentioned that you're here as a 30(b)(6)
09:21:09 22 designee. Let me ask you to take a look at what we
09:21:18 23 designated in advance as Document E.

09:21:27 24 Can you pull that up?

09:21:30 25 A. Document E.

09:21:33 1 Q. Yes. It's the notice of deposition.

09:21:36 2 A. Yes.

09:21:36 3 Q. All right. And I think we're at deposition
09:21:46 4 Exhibit 36.

09:21:47 5 One thing we didn't discuss amongst counsel
09:21:50 6 ahead of time is how we are going to mark deposition
09:21:53 7 exhibits, but my proposal is, to the extent possible, I
09:21:56 8 know we may have some double tracking, but let's try and
09:21:59 9 do it sequentially.

09:22:01 10 So, unless anyone objects, I suggest we, we mark
09:22:05 11 this document as Exhibit 36.

09:22:12 12 All right. So hearing no objection, what you're
09:22:17 13 looking at we've, we've marked as Exhibit 36 to your
09:22:21 14 deposition.

09:22:21 15 Do you recognize that document as the 30(b)(6)
09:22:29 16 deposition notice for your deposition?

09:22:31 17 A. Yes, I do.

09:22:36 18 Q. And you understand that you've been designated
09:22:39 19 to testify on all of the 28 topics that are listed there?

09:22:45 20 A. Yes.

09:22:46 21 Q. All right. Topic No. 27 is the first thing that
09:22:55 22 I want to touch on, which has to do with discovery
09:23:00 23 responses produced by the Navajo County Recorder's Office
09:23:09 24 in this case. So let me ask you to open up Document A.

09:23:23 25 A. Okay.

09:23:25 1 Q. Do you recognize that -- and, actually, you're
09:23:29 2 faster than I am; I'm opening up Document A now -- as the
09:23:42 3 Navajo County Recorder's response to discovery requests
09:23:45 4 that were served by the Equity Coalition plaintiffs in
09:23:52 5 this case?

09:23:53 6 A. Yes.

09:23:53 7 Q. All right. Let me ask you to turn to request
09:23:59 8 No. 7, and that request asks for documents and
09:24:11 9 communications regarding the actual, or potential
09:24:15 10 implementation of House Bill 2492 and/or House Bill 2243.

09:24:25 11 Do you see that?

09:24:26 12 A. Yes, I do.

09:24:27 13 Q. All right. And there's a two paragraph response
09:24:34 14 provided below that by the Navajo County Recorder's
09:24:45 15 Office, and I want to ask you specifically about the last
09:24:51 16 two sentences in the second paragraph. It reads as
09:24:56 17 follows, quote:

09:24:58 18 The most substantive guidance the Secretary's
09:25:01 19 Office has provided to date regarding implementation was
09:25:05 20 in an email from Kori Lorick dated December 30, 2022. It
09:25:13 21 and the attachment thereto are hereby disclosed to
09:25:19 22 plaintiff with these responses. Navajo County intends to
09:25:24 23 follow this guidance until more substantive and final
09:25:28 24 procedures are memorialized in a new procedures manual.

09:25:35 25 Is that response still accurate, still the

09:25:42 1 position of the Navajo County Recorder's Office?

09:25:46 2 A. That's correct.

09:25:47 3 Q. And so there has been no more substantive

09:25:56 4 guidance received since the Kori Lorick communication of

09:26:02 5 December 30, 2022?

09:26:03 6 A. Not as of yet.

09:26:05 7 Q. Okay. I hope I found that communication. So I

09:26:14 8 have got to ask you whether I succeeded.

09:26:17 9 If you would open up documents S and T. T is an

09:26:31 10 email, and, and I, I believe S may be the attachment, but

09:26:40 11 that's the question I have for you.

09:26:42 12 A. S and T. I don't -- okay. Okay.

09:26:56 13 Okay. Yes, I see it.

09:26:58 14 Q. Is T the email referenced in Response No. 7 to

09:27:07 15 the Equity Coalition request for production?

09:27:12 16 A. Yes. It is.

09:27:14 17 Q. Okay. I'll mark that as Exhibit 38. Is that

09:27:22 18 what we are up to? I think so.

09:27:30 19 And then is T the attachment to the email?

09:27:33 20 A. No.

09:27:36 21 Q. It is not?

09:27:37 22 A. Give me one --

09:27:40 23 Q. Sure.

09:27:54 24 A. Yes. T is the -- or T is the email, I believe.

09:27:58 25 Correct? And S is the attachment.

09:27:59 1 Q. S is the attachment. Thank you.

09:28:02 2 A. Yes.

09:28:04 3 Q. Yes. And so let's mark S as Exhibit 39.

09:28:11 4 All right. I and others who examine you may ask

09:28:15 5 you about those exhibits in more detail later. I just

09:28:19 6 wanted to make sure we knew the documents that were

09:28:22 7 referenced in that request for production response.

8 MR. MORGAN: Hey, David.

9 MR. ROSENBAUM: Yes.

10 MR. MORGAN: So we're on the same page, S is the

11 VRAC that was attached to --

12 (The Reporter requested clarification.)

13 MR. MORGAN. This is Craig Morgan.

14 MR. ROSENBAUM: State your name, Craig.

15 MR. MORGAN: Yeah, sorry. Craig Morgan.

09:28:36 16 David, S is the VRAC paper that was attached to

09:28:41 17 the email?

09:28:42 18 MR. ROSENBAUM: Yes. Correct. Yes, the first

09:28:45 19 line is entitled VRAC Legislative Policy Updates.

09:28:51 20 BY MR. ROSENBAUM:

09:28:53 21 Q. All right. If you could now open what was

09:29:02 22 labeled as Document C. Do you --

09:29:15 23 Let me know when you're there.

09:29:17 24 A. I have to download it.

09:29:23 25 Q. Sure.

09:29:24 1 A. Okay. I'm there.

09:29:26 2 Q. Do you recognize that as the Navajo County

09:29:35 3 Recorder response to another set of requests for

09:29:37 4 production? This was served by the consolidated

09:29:40 5 plaintiffs.

09:29:41 6 A. Yes.

09:29:41 7 Q. All right. And I want to ask you about the

09:29:46 8 request No. 1, the response to request No. 1.

09:29:55 9 And that -- you can read the question to

09:29:59 10 yourself. I'm not going to read the whole thing. But it

09:30:03 11 relates to communications and documents concerning to use

09:30:09 12 of birthplace and the citizenship, citizenship checkbox on

09:30:17 13 the state form.

09:30:22 14 If you look at the response, Subpart 1 reads,

09:30:30 15 quote:

09:30:31 16 If an applicant was using a state form to

09:30:35 17 register, he or she would have been required to provide a

09:30:41 18 birthplace or complete the citizenship checkbox in order

09:30:44 19 to be registered to vote in state and federal

09:30:50 20 reelections -- elections.

09:30:52 21 Is that response still accurate to this date?

09:30:54 22 A. It is.

09:30:55 23 Q. All right. In other words, one, one could be

09:31:01 24 registered by either checking the, the citizen checkbox

09:31:07 25 without providing a, a document, or could provide

09:31:16 1 documentation and not complete the citizenship checkbox.

09:31:29 2 Let me back up. Completion of the citizenship

09:31:34 3 checkbox was not, and is not to this date, a requirement

09:31:39 4 so long as there's documentation provided.

09:31:43 5 A. So you're asking if I would accept a proof of

09:31:50 6 citizenship with a registration form not checked?

09:31:55 7 Q. Yes.

09:31:56 8 A. Correct.

09:31:56 9 Q. Okay. And then Subpart II to the question

09:32:01 10 reads, quote:

09:32:03 11 The majority of voter registration applicants

09:32:07 12 would have provided a birthplace or check the citizenship

09:32:12 13 box, but the voter registration database is unable to

09:32:19 14 provide any kind of report on how many applicants provided

09:32:22 15 such information.

09:32:24 16 Is that still true to this date?

09:32:26 17 A. That's correct.

09:32:27 18 Q. You don't have information in a database that

09:32:33 19 would be able to break out who --

09:32:37 20 A. No. Voter regis -- oh, sorry.

09:32:39 21 Q. Yeah, go ahead.

09:32:40 22 A. The voter registration system doesn't track who

09:32:46 23 checked what box.

09:32:47 24 Q. And Subpart III stated, quote:

09:32:52 25 The County Recorder is unable to state how many

09:32:57 1 applicants provided a correct or incorrect birth --

09:33:00 2 provided a correct or incorrect birthplaces because the

09:33:05 3 County Recorder and his staff do not have personal

09:33:07 4 knowledge of where any particular applicant was born and

09:33:12 5 the voter registration database has no information about

09:33:16 6 either.

09:33:16 7 Is that still the case today?

09:33:18 8 A. That is.

09:33:20 9 Q. All right. Let me ask you to go down to the

09:33:23 10 response to request for production No. 6. And, again, you

09:33:35 11 can read the request to yourself, but it deals with the

09:33:42 12 use of a map in Box 3 of the registration form in order to

09:33:52 13 describe where an individual resided.

09:33:55 14 Do you see that?

09:33:56 15 A. I do.

09:33:58 16 Q. And the response to that request reads, quote:

09:34:09 17 The Recorder has received 20,664 new voter

09:34:14 18 registration forms since January 1, 2020 to the present

09:34:18 19 day. There's no automated system in place to identify

09:34:22 20 voter registration forms where a voter drew a map in

09:34:27 21 Box 23 as opposed to providing a standard address.

09:34:32 22 Is that still the case today?

09:34:34 23 A. That still is the case.

09:34:36 24 Q. All right. And if you look at the last sentence

09:34:41 25 of the response, it reads, quote:

09:34:45 1 We can state that Navajo County probably
09:34:48 2 receives a higher portion of voter registration forms
09:34:53 3 utilizing Box 23 than other counties in Arizona due to the
09:34:58 4 prevalence of a greater amount of tribal lands and
09:35:04 5 peoples.

09:35:05 6 Do you agree with that?

09:35:05 7 A. Yes.

09:35:06 8 Q. And can you extrapolate? Can you explain in a
09:35:10 9 little more detail why, in your experience, the prevalence
09:35:17 10 of tribal lands and tribal peoples, as that states, would
09:35:22 11 lead to a higher portion of voter registration forms that
09:35:28 12 use Box 23?

09:35:29 13 A. Well, on the Navajo reservation there's no
09:35:35 14 addressing system, so a lot of them would need to give us
09:35:39 15 directions. And by filling out Box 23 with a map, that
09:35:44 16 helps us perceive them correctly.

09:35:49 17 Q. And are there not existing documents, drivers
09:35:58 18 licenses, utility bills, anything that would provide that
09:36:04 19 information? Or does one need to draw a map?

09:36:08 20 A. There's not. They would need to draw a map or
09:36:14 21 give a description.

09:36:15 22 Q. And you mentioned the Navajo Reservation, the
09:36:22 23 Navajo Nation. Are there other federally recognized
09:36:27 24 Indian tribes who also are located within the borders of
09:36:36 25 Navajo County?

09:36:37 1 A. There are two others. There is the Hopi
09:36:44 2 Reservation and the White Mountain Apache Tribe.
09:36:44 3 Q. And you described the lack of street addresses
09:36:48 4 for many members of the Navajo Nation. How about for the
09:36:54 5 other two tribes that are located within Navajo County?
09:36:58 6 A. It's pretty much the same. The Hopi land is in
09:37:04 7 the Navajo Nation, and the White Mountain Apache Tribe is
09:37:16 8 the same.
09:37:17 9 Q. Let me ask you to open --
09:37:22 10 Oh, by the way, did I, did I mark -- I don't
09:37:26 11 think I did -- what would have been premarked as document
09:37:32 12 C, let's mark that as deposition Exhibit 40.
09:37:43 13 So the document marked in advance as B we will
09:37:55 14 mark as deposition Exhibit 41.
09:38:05 15 And do you recognize this document as the Navajo
09:38:14 16 County Recorder's response to the interrogatories served
09:38:18 17 by the Equity Coalition?
09:38:27 18 A. Yes, it is.
09:38:28 19 Q. All right. And, by the way, the interrogatories
09:38:36 20 were verified by your boss, by Michael Sample.
09:38:44 21 Did you have any, any role in preparing the
09:38:51 22 responses?
09:38:52 23 A. I did help.
09:38:53 24 Q. Okay. Interrogatory 1 asks about plans for the
09:39:07 25 actual or prospective implementation of H.B. 2492. And I

09:39:16 1 think we touched on this when we looked at the Lorick
09:39:21 2 email document, but if you would read the response to that
09:39:24 3 interrogatory -- I'm not going to take the time to read it
09:39:28 4 out loud -- and let me know if that's still true.

09:39:47 5 A. Yes.

09:39:47 6 Q. All right. And the reference there to the
09:39:50 7 response to plaintiffs' request for production No. 7,
09:39:54 8 that's what we looked at earlier, right? That was the
09:39:57 9 Lorick letter, or email? Yeah.

09:40:00 10 A. Yes.

09:40:09 11 Q. And let's, now if you could, if you could look
09:40:16 12 at what was marked as Document D in advance, and we'll
09:40:22 13 mark that as deposition Exhibit 42.

09:40:29 14 Let me know when you have that open.

09:40:31 15 A. Okay. Okay.

09:40:37 16 Q. All right. Do you recognize that Navajo
09:40:44 17 County's response to the consolidated plaintiffs' first
09:40:47 18 set of interrogatories?

09:40:48 19 A. Yes.

09:40:48 20 Q. And let me ask you to scroll down to
09:40:57 21 interrogatory No. 7.

09:41:04 22 And this relates to the types of documents that
09:41:21 23 A.R.S. 16-123 -- which is part of the new law that you
09:41:29 24 have yet to implement, right -- types of documents that
09:41:35 25 are permitted to prove the location of residents.

09:41:46 1 Do you see that?

09:41:47 2 A. I do.

09:41:48 3 Q. All right. Why don't you read through your
09:41:58 4 answer and then I'll ask you some questions about it.

09:43:16 5 A. Okay.

09:43:16 6 Q. About four, five paragraphs from the end of the
09:43:26 7 answer, at lines, between lines 9 and 10, it states,
09:43:35 8 quote:

09:43:35 9 The Navajo County Recorder has never expressed a
09:43:39 10 belief that all individuals with nonstandard addresses who
09:43:44 11 submit applications for registration for vote will
09:43:47 12 necessarily have documents that sufficiently establish
09:43:53 13 DPOR, documentary proof of residence, as required by
09:43:57 14 16-123 and the upcoming EPM --

09:44:00 15 That's elections procedures manual, correct?

09:44:04 16 A. Correct.

09:44:04 17 Q. It is possible some will not.

09:44:11 18 Is that your current personal belief -- well, is
09:44:20 19 that, forget about personal for the moment, is that still
09:44:22 20 the belief of the County Recorder's Office that some
09:44:29 21 individuals with nonstandard addresses may lack
09:44:35 22 documentary proof of residence as required under 16-123
09:44:43 23 should that law be implemented?

09:44:45 24 A. That's correct.

09:44:47 25 Q. And we touched on this a little earlier, but can

09:44:51 1 you elaborate, explain why that is the County Recorder's
09:44:59 2 belief?

09:44:59 3 MR. LANGHOFER: This is Kori Langhofer for
09:45:01 4 the -- object to form.

09:45:06 5 BY MR. ROSENBAUM:

09:45:07 6 Q. Go ahead. You can answer. If a lawyer objects,
09:45:10 7 that's for the record, but unless your lawyer tells you
09:45:13 8 not to answer, you should still answer the question.

09:45:17 9 A. Sounds good.

09:45:19 10 Yes that is still the belief, yeah.

09:45:21 11 Q. And, and then I asked you to elaborate. What --

09:45:26 12 A. Oh, okay.

09:45:26 13 Q. -- what forms the basis of, of that belief?

09:45:31 14 A. Because they do not have an addressing system.

09:45:44 15 Q. And I think the next paragraph explains historic
09:45:49 16 and current practices. Does it not? Where it talks about
09:45:54 17 prior to the adoption of H.B. 2492?

09:45:58 18 A. Correct.

09:45:58 19 Q. And it reads, quote:

09:46:00 20 Prior to the adoption of H.B. 2492, the County
09:46:06 21 Recorder could simply rely upon the description provided
09:46:08 22 by the voter of where he or she lives and the map provided
09:46:12 23 in Box 23 of the Arizona Voter Registration Form.

09:46:19 24 Right?

09:46:19 25 A. Yes.

09:46:20 1 Q. And in, in your personal experience -- and we'll
09:46:31 2 need to back up and talk about exactly what you do; we
09:46:36 3 haven't done that yet -- but has there ever been an
09:46:40 4 instance where the residence of a registrant to vote, as
09:46:49 5 drawn on the map in Box 23, proved to be fraudulent?

09:46:56 6 A. No. Not for the --

09:47:01 7 Q. And any instance where it proved to be
09:47:04 8 inaccurate, even if not intentionally so, but that it
09:47:09 9 depicted a residence that was inaccurate such that the
09:47:18 10 person was registered in the wrong precinct and would have
09:47:25 11 received the wrong ballot at an upcoming election?

09:47:31 12 DEFENSE COUNSEL: Form.

09:47:33 13 THE WITNESS: No. I don't see any, no.

09:47:36 14 BY MR. ROSENBAUM:

09:47:37 15 Q. Who were the individuals who, in your office,
09:47:42 16 who review the Box 23s? Who is responsible in the County
09:47:52 17 Recorder's office for that?

09:47:53 18 A. On a daily?

09:47:55 19 Q. Yes.

09:47:55 20 A. Myself, and I have an assistant. Her name is
09:48:01 21 Karen Hobert.

09:48:02 22 Q. And how long have you been involved in that
09:48:07 23 review process?

09:48:08 24 A. Myself, over five years.

09:48:11 25 Q. And how about Ms. Hobert?

09:48:14 1 A. Almost four years.

09:48:16 2 Q. I may be showing my Maricopa County bias here,
09:48:26 3 but Navajo County is relatively small compared to
09:48:32 4 Maricopa, right?

09:48:33 5 A. Correct.

09:48:34 6 Q. Do you and Ms. Hobert often know, personally,
09:48:39 7 these individuals who are drawing maps in Box 23?

09:48:42 8 A. No.

09:48:43 9 Q. Okay. Is there anyone else in the office who is
09:48:50 10 involved in this process that is reviewing the Box 23s?

09:48:56 11 A. Not on a daily, no.

09:48:57 12 Q. And what does your office, then, do? Somebody
09:49:02 13 draws a map that, you know, has certain descriptions,
09:49:08 14 where geographically the person is resided. How do you
09:49:13 15 then go about assigning a, a place of residence so that
09:49:19 16 ultimately the correct ballot is issued to that
09:49:23 17 individual?

09:49:25 18 A. We use maps, and our voter registration system
09:49:29 19 has a mapping program, and then we dot them, and that's
09:49:33 20 how we get the precinct part.

09:49:43 21 Q. How many precincts, if you know off the top of
09:49:47 22 your head, are in Navajo County?

09:49:49 23 A. 14 precincts.

09:49:51 24 Q. And what's the name of the mapping system?

09:49:53 25 A. It's called Total Address.

09:50:00 1 Q. Do you know if that's used by other counties?

09:50:03 2 A. It's through the Secretary of State's Office's

09:50:13 3 system. So, yes, other counties do use it.

09:50:21 4 Q. All right. Let me back up and go a little more

09:50:24 5 detail into your personal roles and responsibilities at

09:50:24 6 the County Recorder's Office.

09:50:31 7 What is your job title?

09:50:32 8 A. Voter registration coordinator.

09:50:35 9 Q. And to whom do you reporter?

09:50:37 10 A. The County Recorder.

09:50:39 11 Q. Nobody has the title elections director in

09:50:45 12 Navajo County?

09:50:45 13 A. There is an elections director. She is under

09:50:49 14 the board of supervisors, though.

09:50:51 15 Q. I see. So she doesn't -- what are, what are --

09:50:53 16 what's her name and what are her responsibilities?

09:50:58 17 A. I can give you her name, it's Rayleen Richards,

09:51:01 18 but I can't give you, I wouldn't know her

09:51:03 19 responsibilities.

09:51:03 20 Q. Does she and her, and the persons who report to

09:51:12 21 her have any role in the registration of new voters?

09:51:18 22 A. No.

09:51:19 23 Q. If you still have it in front of you, the

09:51:28 24 interrogatory response No. 7, there's some names listed

09:51:32 25 there.

09:51:34 1 A. Hmm hmm.

09:51:34 2 Q. If you could run through those names and
09:51:37 3 identify their titles and/or responsibilities. We've
09:51:41 4 covered Michael Sample. He is the County Recorder.

09:51:45 5 What about Donna Hurstrom?

09:51:47 6 A. Donna Hurstrom? Yeah, she is the chief deputy.
09:51:51 7 And then you have myself. You have Isaura Nez, and she is
09:51:55 8 our voter outreach.

09:51:56 9 Q. And then, for the court reporter, Isaura is
09:52:00 10 I-S-A-U-R-A?

09:52:01 11 A. Yes.

09:52:02 12 Q. Right? Okay.

09:52:04 13 A. And then you have Karen Hobert, which she is my
09:52:09 14 assistant. And then you have Sabrina James who works
09:52:20 15 under the Recorders; Nanette Donahue, who also works under
09:52:22 16 the Recorders; and Hanna Yazzie who works under the
09:52:26 17 Recorders.

09:52:27 18 Q. And, in general, how do you receive voter
09:52:37 19 registration applications? How do they come into your
09:52:39 20 office?

09:52:39 21 A. We get them two different ways. We get them
09:52:42 22 through EZ Voter, which is through MVD, through our voter
09:52:47 23 registration system, and those are done daily. And then
09:52:50 24 we also get them in the mail and over the counter, here in
09:52:54 25 the office.

09:52:55 1 Q. And, and when, when voter registrations are
09:53:01 2 processed and approved, how do you then -- I assume you
09:53:08 3 add them to a database so you have those records. Tell me
09:53:12 4 about that process.

09:53:13 5 A. The Secretary of State's Office has a program
09:53:17 6 called AVID, and that is where we register new
09:53:24 7 registrants. And then we scan in the voter registration
09:53:27 8 form to that system as well.

09:53:29 9 Q. And then when it comes to actual voting, either
09:53:33 10 in person or early voting and by mail, do you personally
09:53:38 11 have any responsibility for that activity?

09:53:41 12 A. Voting by mail, yes. Not on election day,
09:53:47 13 though.

09:53:47 14 Q. Okay. So tell me, first of all, the process.
09:53:50 15 What types of early voting are available in
09:53:58 16 Navajo County?

09:54:02 17 A. So we have early ballots that go out, and those
09:54:05 18 are sent out through the post. We also have in-person
09:54:09 19 early voting here at the Recorder's Office where they can
09:54:13 20 come in and actually vote a ballot, a paper ballot or on
09:54:17 21 the machine. And then our voter outreach, Isaura Nez, she
09:54:21 22 is in charge of early voting out on the Reservation, out
09:54:25 23 in different cities and towns.

09:54:28 24 Q. Okay. So in terms of in-person early voting
09:54:31 25 location, besides the County Recorder's Office, there are

09:54:36 1 also locations out, further out on the reservations?

09:54:41 2 A. Yes. And they differ every election.

09:54:44 3 Q. Are there drop boxes, as well, in Navajo County?

09:54:49 4 A. We do have drop boxes.

09:54:52 5 Q. And where are those located?

09:54:55 6 A. They are everywhere. I believe we have 16 drop
09:54:59 7 boxes and they're throughout the county.

09:55:01 8 Q. And the people within your office, who is
09:55:10 9 responsible for administering the early voting?

09:55:14 10 A. Our office.

09:55:16 11 Q. Okay. And you have a role in that?

09:55:18 12 A. Correct.

09:55:19 13 Q. And election day, you say you don't have any
09:55:24 14 role.

09:55:24 15 Who, who is responsible for staffing and
09:55:27 16 organizing that?

09:55:28 17 A. The elections director.

09:55:31 18 Q. And the County Recorder's Office is not involved
09:55:38 19 in that?

09:55:38 20 A. Not on election day. We work here in the office
09:55:41 21 answering questions, but we don't have any dealing with
09:55:44 22 the election.

09:55:45 23 Q. Okay. Let me ask you to open what was

09:55:59 24 identified to you as Petty 6, and that's the previously

09:56:04 25 marked deposition Exhibit 6 from the Petty deposition.

09:56:08 1 A. Okay. I'm sorry. Give me one second. I'm
09:56:39 2 trying to -- it looks like my -- okay. I have a lot of
09:56:50 3 Pettys.

09:56:50 4 Q. Right. You should have 1 through 34.

09:56:53 5 A. Okay.

09:56:54 6 Q. And this is No. 6.

09:56:56 7 A. Okay. Okay. All right.

09:57:04 8 Q. Do you recognize this as the first chapter of
09:57:09 9 the 2019 elections procedures manual?

09:57:11 10 A. Yes.

09:57:12 11 Q. We saw reference to the EPM in prior discovery
09:57:18 12 responses that we looked at.

09:57:19 13 Is this the EPM, or at least Chapter 1 of it?

09:57:24 14 A. This is the one, yes.

09:57:25 15 Q. Okay. It's dated 2019. Is this the operative
09:57:31 16 version?

09:57:32 17 A. This is the current one, yes.

09:57:33 18 Q. And I take it from your prior testimony this is
09:57:38 19 the version that you were following.

09:57:40 20 A. This is the version.

09:57:44 21 Q. Okay. And do you know, or is your office
09:57:46 22 legally required to follow at least Chapter 1 of the EPM?

09:57:52 23 A. Are we legal -- yes.

09:57:58 24 Q. Yes.

09:57:58 25 A. I do believe so.

09:58:01 1 Q. All right. Are you, are you aware of any other,
09:58:05 2 any counties that aren't following EPM Chapter 1?

09:58:10 3 A. I do not know.

09:58:11 4 Q. Okay. Do you know what is the Voter
09:58:19 5 Registration Advisory Committee?

09:58:24 6 A. Yes. VRAC.

09:58:29 7 Q. Yeah. And we looked at the attachment to the
09:58:32 8 Lorick, December 30 email. That, that's the same entity,
09:58:36 9 right? VRAC?

09:58:36 10 A. Right. Correct.

09:58:40 11 Q. Do you personally have any role in VRAC?

09:58:43 12 A. I attend the meetings, yes.

09:58:46 13 Q. All right. And are you, are you the designee
09:58:49 14 from Navajo County, or do other of your colleagues also
09:58:54 15 attend?

09:58:54 16 A. That would be the County Recorder.

09:58:58 17 Q. Okay. So sometimes Mr. Sample also attends?

09:59:01 18 A. Yes. He has to be present for a vote.

09:59:05 19 Q. I see. And how often does VRAC meet?

09:59:09 20 A. It's not set. It changes. It's been a few
09:59:17 21 weeks since the last VRAC meeting.

09:59:20 22 Q. Can you give an estimate, in general, what's the
09:59:26 23 frequency? Every week? Every couple weeks? Every month?

09:59:31 24 A. Maybe, maybe every month, but it could change.

09:59:37 25 Q. Are you familiar with the AVID Enhancement

09:59:46 1 Committee? Maybe --

09:59:46 2 A. I am.

09:59:47 3 Q. -- you pronounce it AVID. Yes?

09:59:49 4 Is it AVID or AVID?

09:59:50 5 A. I say AVID.

09:59:52 6 Q. Okay. And what is that committee?

09:59:54 7 A. We create enhancements for the AVID voter
10:00:01 8 registration system.

10:00:01 9 Q. And that's the database that you were referring
10:00:04 10 to earlier.

10:00:05 11 A. Correct.

10:00:05 12 Q. And so are, are you the Navajo County designee
10:00:14 13 to that committee?

10:00:15 14 A. I am.

10:00:16 15 Q. And do you have any roles at the committee,
10:00:21 16 other than as a member, subcommittees or that sort of
10:00:27 17 thing?

10:00:27 18 A. Yeah, I don't have any roles.

10:00:29 19 Q. So I want to now turn to a subject we have
10:00:42 20 already touched on which is implementation of the, the new
10:00:50 21 laws. And I want to focus on H.B. 2492 at first.

10:00:59 22 Have you been involved at all, has your office,
10:01:06 23 I should ask, in efforts to interpret the provisions of
10:01:16 24 2492?

10:01:16 25 A. No. We have not.

10:01:18 1 Q. And how about 2243? Has your office been
10:01:22 2 involved in efforts to interpret that --

10:01:27 3 A. No.

10:01:28 4 Q. -- legislation?

10:01:32 5 A. No. We have not.

10:01:33 6 Q. I think we've covered this already, but are

10:01:39 7 there any portions of H.B. 2492 or H.B. 2243 that Navajo

10:01:48 8 County is currently enforcing?

10:01:51 9 A. Not at the moment.

10:01:53 10 Q. We discussed before the, you know, potential for
10:02:22 11 a new election procedures manual that might create new
10:02:27 12 requirements that you would need to start to follow.

10:02:29 13 Do you know the status of potential revisions to
10:02:35 14 the election procedures manual?

10:02:37 15 A. I do not.

10:02:38 16 Q. Has your office received any drafts of proposed,
10:02:48 17 a proposed new election procedures manual?

10:02:51 18 A. New drafts, no.

10:02:54 19 Q. At least you personally have not seen any
10:03:01 20 communications, for example, from the Secretary of State's
10:03:04 21 Office circulating a, you know, potential new election
10:03:11 22 procedures manual or new portions of an election
10:03:15 23 procedures manual?

10:03:15 24 A. New portions, no.

10:03:19 25 Q. And do you know, unless and until there's a new

10:03:30 1 election procedures manual, what you are supposed to
10:03:34 2 follow?

10:03:34 3 A. Not as of yet, no.

10:03:37 4 Q. Okay. Well, bad question. I think I was
10:03:41 5 repeating a prior question. I want to make sure now that
10:03:46 6 it's, that what you said before still holds.

10:03:49 7 Unless and until there's a new election

10:03:54 8 procedures manual, what election procedures manual do you
10:03:58 9 follow?

10:03:58 10 A. The 2019 elections procedure manual.

10:04:03 11 Q. So we talked earlier about the voter
10:04:22 12 registration process, that you receive voter registrations
10:04:29 13 from the MVD. And, in fact, there are two ways to
10:04:33 14 register through MVD, right?

10:04:36 15 A. Correct.

10:04:36 16 Q. What are those?

10:04:37 17 A. You can go in in person in MVD, or you can go on
10:04:43 18 to Servicearizona.com, and that is also through MVD.

10:04:45 19 Q. And how about MVD now, are you familiar with
10:04:49 20 that?

10:04:49 21 A. I am. It's not up and running yet, but it's
10:04:53 22 going to take place of ServiceArizona.

10:04:56 23 Q. Good. I'm not talking about voter registration.
10:05:03 24 I'm talking about my own experience trying to get new
10:05:06 25 licenses and pay bills through ServiceArizona.

10:05:11 1 And then, in terms of paper methods, we talked
10:05:18 2 about the Box 23. That's on the state form, right?
10:05:25 3 A. That is.
10:05:26 4 Q. Are there other paper forms that individuals can
10:05:31 5 use?
10:05:31 6 A. There is, there's a federal registration form,
10:05:36 7 and there is also a federal postcard application.
10:05:48 8 Q. Does your office provide forms, either state
10:05:54 9 form, federal form, to any third party groups to assist in
10:06:00 10 registration efforts?
10:06:01 11 A. We do.
10:06:02 12 Q. Describe that effort, if you would.
10:06:05 13 A. We have a certain form that's coded differently
10:06:09 14 than normal, and we give those out to voter registration
10:06:09 15 drives.
10:06:13 16 Q. What do you mean it's coded differently?
10:06:18 17 A. The form has a code that, when I receive it, I
10:06:22 18 know it's received by a third party voter registration
10:06:26 19 drive.
10:06:26 20 Q. I see. So if you would, if you would open Petty
10:06:30 21 Exhibit 16.
10:06:43 22 A. Okay.
10:06:44 23 Q. Do you recognize that document?
10:06:46 24 A. I see these, yes.
10:06:47 25 Q. Okay. Is that the state form?

10:06:48 1 A. That one is the state form, correct.

10:06:50 2 Q. All right. So what -- I apologize. I'm not

10:06:54 3 sure I have seen the, the coded form that you're talking

10:06:57 4 about.

10:06:58 5 Would it be the, the form that contains the

10:07:03 6 same, you know, 24 boxes but had some additional

10:07:08 7 information added somewhere to it?

10:07:10 8 A. It is the same.

10:07:11 9 Q. Okay. So where is the code added that let's you

10:07:15 10 know that this came through a third party drive?

10:07:18 11 A. Yeah. So if you see question No. 1, to the

10:07:21 12 right, there is a box that says, box for office use only.

10:07:21 13 Q. Yes.

10:07:25 14 A. That is where the code would go.

10:07:27 15 Q. I see. Okay. And is it coded by particular

10:07:31 16 third party organization?

10:07:35 17 A. No.

10:07:36 18 Q. Or -- so whoever the organization is they're

10:07:42 19 going to get the same code?

10:07:43 20 A. Everybody gets -- for Navajo County, everybody

10:07:46 21 gets the same code.

10:07:47 22 Q. Okay. If you would open Document K.

10:08:04 23 A. Okay.

10:08:04 24 Q. And let's mark that as the next deposition

10:08:04 25 exhibit --

10:08:12 1 Is that 43? Karen, is 43 the right number?

10:08:33 2 THE REPORTER: Yes.

10:08:33 3 MR. ROSENBAUM: Great.

10:08:33 4 BY MR. ROSENBAUM:

10:08:35 5 Q. All right. This is, this is not a document
10:08:36 6 produced by Navajo County. I found it online, so it
10:08:42 7 doesn't have a production number.

10:08:43 8 But are you familiar with this document?

10:08:45 9 A. I am not.

10:08:47 10 Q. It appears to be a Navajo Nation voter
10:08:57 11 registration document, and it seems to list various places
10:09:08 12 where folks could go to try and register to vote. And
10:09:13 13 among the locations listed is the Navajo County Recorder's
10:09:24 14 Office, and your name is listed there.

10:09:26 15 Do you see that?

10:09:27 16 A. I do.

10:09:28 17 Q. All right. Who is Karen Lerma? Is she related
10:09:30 18 to you?

10:09:30 19 A. No.

10:09:31 20 Q. Anyway, the reason I flagged this document is it
10:09:37 21 suggested to me that there is some cooperation,
10:09:41 22 coordination, at least with the Navajo Nation in terms of
10:09:46 23 voter registration efforts, but maybe I'm wrong.

10:09:49 24 Is there any such efforts that your office is
10:09:55 25 engaged in with the Navajo Nation?

10:09:57 1 A. We do register Navajo Nation voters, but that's
10:10:05 2 all we do.

10:10:05 3 Q. Okay. And in terms of internal Navajo Nation
10:10:10 4 elections for their counsel, for their leaders, your
10:10:14 5 office has no role. Is that right?

10:10:15 6 A. Yes. Correct.

10:10:17 7 Q. Correct. Okay.

10:10:20 8 Are their election days coordinated with yours,
10:10:24 9 or do they schedule separately?

10:10:28 10 A. They have the same dates.

10:10:30 11 Q. If somebody was voting in person in your office
10:10:38 12 in Holbrook, would they, would they be able to also vote a
10:10:43 13 Navajo Nation ballot?

10:10:47 14 A. No.

10:10:48 15 Q. How about with the White Mountain Apache? Any,
10:10:52 16 do you have any outreach and coordination in terms of
10:10:56 17 voter registration with that tribe?

10:11:00 18 A. No, we don't.

10:11:02 19 Q. And how about the Hopi Tribe? Any coordination
10:11:04 20 with the Hopi Tribe?

10:11:06 21 A. No.

10:11:07 22 Q. Does your office distribute the federal form if
10:11:17 23 voters ask for it?

10:11:18 24 A. No. We do not.

10:11:20 25 Q. Are there any NVR agencies from whom you receive

10:11:32 1 forms?

10:11:32 2 A. We do. We receive them from DES. That's all

10:11:44 3 the ones, the only ones I have seen come through.

10:11:47 4 Q. So when a new application comes in -- let's

10:11:57 5 assume it's a state form for purposes of these

10:11:59 6 questions -- you mentioned you make an entry into the AVID

10:12:04 7 database. Is there any other processing, checking

10:12:11 8 verification, that your office would undertake before

10:12:19 9 confirming that this registrant, in fact, is a valid

10:12:24 10 Arizona voter?

10:12:24 11 A. Arizona voter?

10:12:28 12 Q. Well, for example, checking signatures, checking

10:12:35 13 with the Motor Vehicle Department. Tell us what processes

10:12:42 14 you go through in order to --

10:12:44 15 A. Okay. Yeah.

10:12:44 16 Q. -- verify the new voter.

10:12:46 17 A. Right. The system has a thing called HAVA

10:12:50 18 checks, and it runs them through the MVD to verify

10:12:56 19 citizenship. We also, you have to check signatures, make

10:13:00 20 sure they match. We check date of birth, social, make

10:13:06 21 sure they match.

10:13:08 22 Q. And what if your office finds that there's

10:13:13 23 something that didn't match? What is the next step?

10:13:18 24 A. I mean, it depends on what didn't match, but we

10:13:21 25 would contact the voter. And then give them ways to

10:13:31 1 correct it.

10:13:32 2 Q. And if you would look at, in Document C, which
10:14:02 3 we have marked as a deposition exhibit. These were
10:14:07 4 responses to the consolidated plaintiffs' request for
10:14:11 5 production, response No. 5. It says:

10:14:17 6 If we cannot verify an address on a voter
10:14:22 7 registration form we send out the attached letter -- which
10:14:25 8 is described as RFP.A.

10:14:34 9 I thought I had that premarked. Let's see. Ah,
10:14:46 10 yes. So Exhibit R, Document R, could you open that?

10:14:58 11 A. Yep. That's it.

10:14:59 12 Q. Is that the letter that is referenced in the RFP
10:15:06 13 response that we just looked at?

10:15:08 14 A. Yes.

10:15:08 15 Q. Okay. And then so when, when the recipient of
10:15:25 16 that letter responds, what do you next?

10:15:30 17 A. For this one, specifically, we correct their
10:15:34 18 residential address, get them precincted correctly, and
10:15:38 19 then update their registration to active. And then they
10:15:46 20 also get a voter ID card sent to them.

10:15:50 21 Q. And we talked earlier about what happens if a
10:15:53 22 voter lacks a standard residential address. I want to, I
10:16:00 23 want to ask you to open up Document I.

10:16:17 24 And, while you're doing that, let's mark the
10:16:22 25 prior document as Exhibit --

10:16:25 1 Karen, now, I'm sorry, I lost track. Help me.

10:16:36 2 THE REPORTER: The next one would be 44.

10:16:36 3 BY MR. ROSENBAUM:

10:16:37 4 Q. Okay. So that will be 44, the letter that we

10:16:38 5 marked, and then this document will be 45.

10:16:49 6 And do you recognize this document, Exhibit 45,

10:16:53 7 which is, is I --

10:16:53 8 A. I do.

10:16:57 9 Q. -- to you.

10:16:59 10 What is it?

10:17:00 11 A. These are the -- gosh, I'm wearing a blank --

10:17:09 12 the rosters for election day.

10:17:11 13 Q. And, by the way, I don't see a confidentiality

10:17:23 14 stamp on this, but I assume that you and everybody else

10:17:29 15 believe this should be marked as confidential, because you

10:17:35 16 see it gives individual voter names and other information

10:17:39 17 about them.

10:17:42 18 MR. MORGAN: Yeah, Craig Morgan for the

10:17:44 19 Secretary of State. I agree, David.

10:17:49 20 MR. MOORE: And, counsel, I think that this is

10:17:50 21 covered by the terms and conditions of the protective

10:17:53 22 order that's been entered for the protection of voter

10:17:54 23 registration data, so, yes.

10:17:57 24 MR. ROSENBAUM: Yeah. I'm just, I'm noting for

10:17:59 25 the record, and I appreciate that. I think we all agree.

10:18:04 1 So, Karen, this document is confidential, and I
10:18:09 2 think our discussion about it is confidential, at least to
10:18:14 3 the extent we talk, discuss some of the details.

10:18:20 4 BY MR. ROSENBAUM:

10:18:22 5 Q. So is this a complete roster of all voters?

10:18:29 6 It's about 814 pages and -- let me just ask you.

10:18:35 7 What voters are depicted in, in this exhibit --

10:18:35 8 A. All voters --

10:18:42 9 Q. -- Exhibit 45?

10:18:44 10 A. Yeah. All voters in Precinct 1 in the area of

10:18:44 11 Chilchinbeto.

10:18:53 12 You see the polling place at the top.

10:18:56 13 Q. Yes. And where is Chilchinbeto located?

10:19:07 14 A. It is up near towards the top of the Navajo

10:19:13 15 County, closer to Utah. It's on the Navajo Reservation.

10:19:18 16 Q. The entirety of it is on the Reservation?

10:19:22 17 A. Yes. Yes. The whole, hundred percent.

10:19:27 18 Q. So under residential address, slash, mailing

10:19:35 19 address, do you see that column?

10:19:37 20 A. Yes.

10:19:37 21 Q. I want to ask you just some examples and see how

10:19:52 22 this relates to our discussion of drawing a map on Box 23.

10:19:57 23 So if you look at the voter No. 2.

10:19:59 24 A. Okay.

10:20:00 25 Q. For purposes of this examination I won't mention

10:20:03 1 the name, but the address says, 7 M SW Pinon Chapter,
10:20:14 2 Pinon 86510.
10:20:17 3 What does 7 M SW mean?
10:20:20 4 A. So that would be seven miles southwest of the
10:20:23 5 Pinon Chapter house.
10:20:26 6 Q. The Pinon Chapter house?
10:20:28 7 A. Yes. Yes. Right.
10:20:28 8 Q. So I take it there's no street address?
10:20:37 9 A. There is no street --
10:20:39 10 Q. This is a location that would have been
10:20:43 11 geolocated in order to determine what precinct that voter
10:20:48 12 should vote at?
10:20:49 13 A. Right.
10:20:51 14 Q. There is a PO box noted, PO Box 1171.
10:20:59 15 A. Hmm hmm.
10:21:00 16 Q. Who, who owns that PO box, or who, what, what
10:21:06 17 person or entity is affiliated with that PO box?
10:21:10 18 A. The United States Postal Service, I believe.
10:21:14 19 Q. Well, I guess, here's what I meant.
10:21:17 20 Is this the Pinon Chapter's --
10:21:17 21 A. No.
10:21:19 22 Q. -- Chapter House PO box? Or is this the
10:21:22 23 individual's PO box?
10:21:23 24 A. This is the individual's PO box.
10:21:25 25 Q. And is that at their residence address, or at

10:21:31 1 some post office location elsewhere?

10:21:33 2 A. That's a post office.

10:21:35 3 Q. And if -- skip down to voter 4, because voter 3

10:21:44 4 appears to be related to voter 2, same location, right?

10:21:49 5 A. Yeah.

10:21:49 6 Q. This is Coral Court Kayenta.

10:21:59 7 What is Coral Court? Is that an actual street

10:22:02 8 address?

10:22:02 9 A. It's just the street. They don't have -- a lot

10:22:06 10 of the houses out there aren't numbered.

10:22:09 11 Q. And the PO box there, would that be at their

10:22:13 12 residence or at a post office somewhere?

10:22:15 13 A. That would be at a post office.

10:22:17 14 Q. Okay. And let's jump down to voter 10.

10:22:24 15 Is that voter's location 18 miles north of

10:22:29 16 Highways 160/163?

10:22:32 17 A. Correct.

10:22:32 18 Q. And that, again that's, that's a location you

10:22:40 19 would have geolocated in order to determine the precinct?

10:22:44 20 A. Correct.

10:22:45 21 Q. And the PO box there, is that at the resident's

10:22:49 22 address, or is that a separate post office location?

10:22:52 23 A. It's at a post office.

10:22:54 24 Q. Using voter No. 10 as an example, are you aware

10:23:05 25 of any documentary proof of residence that would identify

10:23:13 1 a location for that voter at 18 miles north of

10:23:18 2 Highway 160/163?

10:23:21 3 DEFENSE COUNSEL: Foundation.

10:23:24 4 THE WITNESS: I wouldn't know of any.

10:23:26 5 BY MR. ROSENBAUM:

10:23:34 6 Q. No voter, when registering to vote, where you

10:23:42 7 were personally involved, has ever presented documentary

10:23:46 8 proof of that kind of location. Is that right?

10:23:51 9 A. Correct.

10:23:52 10 DEFENSE COUNSEL: Form.

10:23:52 11 MR. ROSENBAUM: Karen, did you get the answer?

10:23:52 12 THE REPORTER: I did.

10:23:53 13 Correct.

10:23:53 14 BY MR. ROSENBAUM:

10:23:58 15 Q. And the answer was -- yes, so you were agreeing
10:24:02 16 with me that no voter had ever presented documentary proof
10:24:08 17 at that kind of residence, correct?

10:24:09 18 A. Right.

10:24:10 19 Q. And I take it the county does not assign an
10:24:27 20 address for voters such as the ones we've looked at. Is
10:24:34 21 that right?

10:24:34 22 A. Correct. Yes.

10:24:38 23 Q. Is there any outreach effort that Navajo County
10:24:55 24 is involved in to attempt to increase registration of
10:25:04 25 Native American voters?

10:25:07 1 A. We have a voter outreach person in our office,
10:25:11 2 Isaura Nez, and she goes out and does voter registration
10:25:14 3 drives weekly.

10:25:15 4 Q. And -- go ahead.

10:25:18 5 A. On the Reservation and off.

10:25:21 6 Q. And can you describe what that entails?

10:25:27 7 A. We have a trailer and a truck that we take out,
10:25:32 8 and it's, it says voter registration on it. And we go out
10:25:38 9 to the flea markets. We go out -- or pick a spot
10:25:43 10 somewhere out on res -- the community it tends to a lot,
10:25:46 11 and then we try to get some registrations.

10:25:50 12 Q. And why do that outreach, outreach, targeted to
10:26:02 13 Native Americans?

10:26:02 14 A. Why?

10:26:03 15 Q. Yes.

10:26:04 16 A. We just know it's a long drive from all the way
10:26:08 17 at the top of the Reservation to come into Holbrook to
10:26:12 18 fill out a form. We know a lot of the people out there
10:26:15 19 don't have vehicles, so we try to help.

10:26:19 20 Q. And just so it's clear on the record, Holbrook
10:26:23 21 is the county seat, that's where your office is?

10:26:25 22 A. It is.

10:26:26 23 Q. In your knowledge and experience, is the voter
10:26:37 24 registration rate lower for the Native communities in your
10:26:40 25 county than non-Native voters?

10:26:45 1 A. Yeah, I would say so.

10:26:49 2 Q. And you mentioned Holbrook. What are the other
10:26:56 3 towns and communities within Navajo County where one might
10:27:01 4 find the congregation of non-Native voters?

10:27:10 5 A. Off the Reservation, you mean?

10:27:12 6 Q. Yeah. Off reservation, you know, towns.

10:27:18 7 A. I don't understand the question.

10:27:20 8 DEFENSE COUNSEL: Foundation.

10:27:22 9 BY MR. ROSENBAUM:

10:27:23 10 Q. Yeah, so what are the, what are the towns within
10:27:25 11 Navajo County that, you know, Arizonans might recognize,
10:27:30 12 those who like to vacation, for example, in the mountains?

10:27:33 13 A. Oh, I see. So we have Show Low, Arizona;
10:27:37 14 Pinetop, Arizona; here; Winslow, Arizona. And then we
10:27:45 15 also have Heber and Overgaard.

10:27:52 16 Q. Do you run registration drives or efforts in,
10:27:57 17 for example, Show Low as well?

10:27:58 18 A. We do. We do.

10:28:00 19 Q. Okay. Do you know if H.B. 2492, the documentary
10:28:17 20 proof of residence requirement, becomes effective whether
10:28:24 21 it will also apply to voters who use the federal form?

10:28:30 22 DEFENSE COUNSEL: Form.

10:28:30 23 THE WITNESS: I don't know off the top of my
10:28:33 24 head.

10:28:33 25 BY MR. ROSENBAUM:

10:28:33 1 Q. Okay. Let me ask you to open Petty Exhibit 24.

10:28:55 2 A. Okay.

10:28:56 3 Q. This is a document -- it's not a Navajo County
10:29:02 4 document, but the question at the top is, what constitutes
10:29:07 5 documentary proof of residency.

10:29:13 6 Have you seen this before?

10:29:17 7 A. I have not seen this, no.

10:29:20 8 Q. And do any of the documents listed here include
10:29:39 9 geolocation information on them, the sort we were talking
10:29:43 10 about, that somebody lives, you know, X number of miles
10:29:47 11 southwest of some feature?

10:29:50 12 A. You said Petty --
10:29:57 13 (Simultaneous speakers.)

10:29:57 14 BY MR. ROSENBAUM:

10:29:57 15 Q. Petty 24.

10:29:57 16 A. Oh, I'm sorry.

10:29:57 17 Q. Okay.

10:30:01 18 (The Reporter requested clarification.)

10:30:01 19 MS. BOUGHTON: There was a form and foundation
10:30:03 20 objection.

10:30:04 21 BY MR. ROSENBAUM:

10:30:05 22 Q. And I'm withdrawing the question because the
10:30:07 23 witness didn't have the right document open, so...

10:30:13 24 A. All right. Now I have it open.

10:30:15 25 Q. All right. So let me start where I was before.

10:30:19 1 Is this a document that you've seen before?

10:30:22 2 A. I have.

10:30:24 3 Q. And do you recall in what context you saw this?

10:30:30 4 A. I -- no. I can't tell you how I saw it. I

10:30:40 5 don't...

10:30:41 6 Q. So, and I can tell you, based on, you know,

10:30:44 7 other information, it appears to be an effort to delineate

10:30:48 8 the types of documents that are described under the

10:30:58 9 statutes, if and when the documentary proof of residency

10:31:04 10 requirement becomes effective.

10:31:06 11 A. Okay.

10:31:07 12 Q. And so let me just go through these -- but the

10:31:10 13 question is, to your knowledge and experience, do these

10:31:14 14 documents include the kind of nonstandard address

10:31:20 15 geolocation information that we've been talking about?

10:31:25 16 Okay?

10:31:25 17 A. No. No, I don't think it would.

10:31:28 18 Q. All right. And that's true for every one of the

10:31:31 19 categories of documents on this, on this chart, right?

10:31:35 20 A. Yes. I was going through them all.

10:31:45 21 MR. ROSENBAUM: All right. We've gone an hour

10:31:49 22 and a half. I think I am about done. So why don't we

10:31:54 23 take a break. I will confirm whether I am done, and then

10:31:58 24 we'll hand the questioning off to, I think, Alex, you

10:32:04 25 wanted to go next.

10:32:10 1 THE VIDEOGRAPHER: Standby please.

10:32:12 2 We are off the record. Time on the video

10:32:15 3 monitor is 10:32. This ends Media 1.

10:32:20 4 (Recess taken from 10:32 a.m. 10:47 a.m.)

10:47:07 5 THE VIDEOGRAPHER: We are on the record. The

10:47:21 6 time on the video monitor is 10:47. This begins Media

10:47:25 7 No. 2.

10:47:25 8 BY MR. ROSENBAUM:

10:47:29 9 Q. Mr. Lerma, there's one more document I wanted

10:47:31 10 you to identify if you would. If you could open what was

10:47:36 11 previously identified as Document Q, which we will then

10:47:40 12 mark as deposition Exhibit 45.

10:47:52 13 A. Okay.

10:47:53 14 Q. Can you identify this document for us?

10:48:00 15 A. That is the notice we send out to voters when

10:48:08 16 they need to provide more citizenship.

10:48:11 17 Q. And the letter starts out saying:

10:48:16 18 Based on a recent court decision, we have

10:48:20 19 reviewed your latest voter registration application and

10:48:24 20 determined that you are eligible to vote for federal

10:48:28 21 offices only.

10:48:31 22 Do you see that?

10:48:31 23 A. Yes.

10:48:32 24 Q. All right. And is it -- would, would this

10:48:40 25 letter go to somebody who applied on, using the state

10:48:48 1 form, but failed to prove documentary, to submit

10:48:56 2 documentary proof of citizenship? Or would this only go

10:48:59 3 to people who applied on the federal form? Or would it go

10:49:02 4 to both?

10:49:02 5 A. We used it for both.

10:49:04 6 Q. Okay. And this is the form letter that's still

10:49:08 7 in use?

10:49:09 8 A. Correct.

10:49:09 9 Q. And if you, if you open up, again, what was

10:49:19 10 Document C, responses to the consolidated plaintiffs'

10:49:23 11 request for production, and look at request for production

10:49:30 12 No. 4, the answer that's provided there.

10:49:36 13 Do you see that?

10:49:37 14 A. I do.

10:49:37 15 Q. Is Document Q, Exhibit 46, the form letter that

10:49:48 16 is referenced in response to that request for production?

10:49:52 17 A. It is.

10:49:54 18 MR. ROSENBAUM: All right. Well, thank you very

10:49:57 19 much. I appreciate your time and attention. Those are

10:50:00 20 all of my questions. And I'll turn it over to Mr. Atkins.

10:50:06 21 MR. ATKINS: Thanks, David.

10:50:06 22

10:50:09 23 EXAMINATION

10:50:09 24 BY MR. ATKINS:

10:50:11 25 Q. Hello, Mr. Lerma. Again, my name is Alex

10:50:14 1 Atkins, and I represent Plaintiffs Mi Familia Vota and
10:50:19 2 Voto Latino.

10:50:20 3 I mostly have questions about various parts of
10:50:24 4 the voter registration applications and requirements of
10:50:28 5 those forms.

10:50:30 6 A. Okay.

10:50:31 7 Q. So I understand that your office hasn't really
10:50:38 8 begun interpreting or enforcing any aspects of H.B. 2492,
10:50:44 9 but could you just tell me, to the best of your knowledge,
10:50:49 10 any additional requirements that that new law includes
10:50:55 11 when it comes to voter registration forms.

10:50:58 12 DEFENSE COUNSEL: Form.

10:50:59 13 THE WITNESS: I can't think of any at the
10:51:07 14 moment.

10:51:17 15 BY MR. ATKINS:

10:51:18 16 Q. That's fine.

10:51:19 17 So one piece of information that's requested on
10:51:22 18 the state form that David spoke with you about is
10:51:26 19 birthplace, and I just wanted to confirm.

10:51:31 20 When it comes to the state form, state form

10:51:36 21 applicants are required to provide documentary proof of

10:51:40 22 citizenship, right?

10:51:41 23 A. Yes.

10:51:42 24 Q. And so if a state form applicant provides DPOC,

10:51:52 25 but they do not provide their birthplace, your office will

10:51:59 1 still register them to vote, correct?

10:52:01 2 A. Correct.

10:52:01 3 Q. And does your office have any way of

10:52:05 4 independently confirming whether birthplace information is

10:52:10 5 correct or incorrect?

10:52:11 6 A. No, we do not.

10:52:13 7 Q. What use, if any, does your office make of an

10:52:22 8 applicant's birthplace information?

10:52:25 9 A. What use?

10:52:27 10 Q. Correct.

10:52:28 11 A. Is that what you said?

10:52:30 12 It's just another way to help us verify that

10:52:33 13 that's the correct voter when registering.

10:52:41 14 Q. But, to confirm, you don't have a means of

10:52:44 15 determining whether the birthplace provided is correct or

10:52:48 16 incorrect, right?

10:52:49 17 A. No, we don't.

10:52:51 18 Q. So if, under the new laws, birthplace became a

10:52:59 19 mandatory piece of information provided on the state form,

10:53:06 20 do you have any insights into how your office's use of

10:53:11 21 that information would change?

10:53:17 22 DEFENSE COUNSEL: Form.

10:53:17 23 THE WITNESS: At the moment, no.

10:53:19 24 BY MR. ATKINS:

10:53:19 25 Q. Are you aware of any state, other than Arizona,

10:53:22 1 that requires voter registration applicants to provide

10:53:29 2 their birthplace?

10:53:30 3 DEFENSE COUNSEL: Foundation.

10:53:33 4 THE WITNESS: I do not.

10:53:34 5 BY MR. ATKINS:

10:53:38 6 Q. If we could please pull up what's already been
10:53:42 7 marked as Exhibit 40, Mr. Lerma. I think for you this
10:53:49 8 might be labeled as Document C. This is the county's
10:53:57 9 responses to consolidated plaintiffs' requests for
10:54:01 10 production.

10:54:01 11 A. Okay.

10:54:02 12 Q. And if I can direct you to the first request for
10:54:12 13 production.

10:54:12 14 Do you see that?

10:54:16 15 A. Yes, I do.

10:54:19 16 Q. All right. So just to make sure we are on the
10:54:23 17 same page, request for production No. 1 asks for:

10:54:26 18 All documents and communications from January 1,
10:54:30 19 2017 to the present relating to the use of birthplace and
10:54:36 20 citizenship checkbox on the state form, including but not
10:54:39 21 limited to whether voter registration applicants were
10:54:42 22 required to provide birthplace or complete the citizenship
10:54:47 23 checkbox to be registered to vote, whether voter
10:54:51 24 registration applicants actually did provide such
10:54:53 25 information, how frequently voter registration applicants

10:54:57 1 provided correct birthplace, failed to provide birthplace,
10:55:01 2 complete or failed to complete the citizenship checkbox,
10:55:04 3 or make errors in completing the citizenship checkbox, and
10:55:09 4 whether voter registration applicants were rejected for
10:55:12 5 failing to provide this information and/or the number of
10:55:14 6 voter registration applicants who cured their applications
10:55:17 7 for these errors or omissions pertaining to birthplace
10:55:21 8 and/or the citizenship checkbox?

10:55:25 9 If I can just direct you to Subpart I of the
10:55:30 10 county's response. That says, Subpart I, quote:

10:55:36 11 If an applicant was using a state form to
10:55:40 12 register, he or she would have been required to provide a
10:55:43 13 birthplace or complete the citizen checkbox in order to be
10:55:48 14 registered to vote in state and local elections.

10:55:52 15 And I believe you confirmed earlier that that
10:55:55 16 statement is still accurate?

10:55:58 17 A. Yes.

10:55:59 18 Q. And am I correct that this statement is speaking
10:56:04 19 to what the new law, H.B. 2492, would require, as opposed
10:56:12 20 to what is currently required?

10:56:16 21 DEFENSE COUNSEL: Form.

10:56:17 22 THE WITNESS: No. This is what we currently do.

10:56:21 23 BY MR. ATKINS:

10:56:25 24 Q. So it's currently the case that any state form
10:56:30 25 registrant is required to provide either their birthplace

10:56:34 1 or complete the citizenship checkbox?

10:56:38 2 A. That is what we do, yes, currently.

10:56:41 3 Q. Are you aware of a provision of the election
10:56:50 4 procedures manual that imposes that requirement?

10:56:54 5 A. Not, no, not off the top of my head.

10:57:06 6 Q. So switching gears to the checkbox specifically.

10:57:11 7 A. Okay.

10:57:12 8 Q. Similarly, if an applicant submits a state

10:57:18 9 registration form and provides documentary proof of

10:57:23 10 citizenship, you wouldn't reject the application if the

10:57:30 11 applicant failed to check the citizenship checkbox. Is

10:57:34 12 that correct?

10:57:34 13 A. That's correct.

10:57:35 14 Q. And is it fair to say that that's because you're

10:57:41 15 able to confirm that the applicant is a citizen due to

10:57:45 16 their having provided DPOC?

10:57:48 17 A. Correct.

10:57:49 18 DEFENSE COUNSEL: Form.

10:57:51 19 BY MR. ATKINS:

10:57:51 20 Q. If an applicant, if an applicant submits a

10:57:55 21 federal registration form, and completes the federal

10:58:00 22 form's affirmation of citizenship at the bottom of the

10:58:04 23 form, is it correct that you don't reject the application

10:58:09 24 if the applicant fails to complete the checkbox on the

10:58:13 25 federal form?

10:58:14 1 A. Correct.

10:58:14 2 Q. On either the state or federal form, what use,

10:58:24 3 if any, does your office make of an applicant having

10:58:28 4 checked the box indicating that they are a citizen?

10:58:34 5 A. What use?

10:58:35 6 Q. Correct.

10:58:36 7 A. Is that what you said?

10:58:38 8 I, I, I don't know -- in our office, what use it

10:58:57 9 is for, seeing as though we use the HAVA checks to verify

10:59:02 10 citizenship.

10:59:14 11 Q. I'm sorry. Was that your complete answer?

10:59:16 12 A. Yeah. Hmm hmm.

10:59:17 13 Q. Okay. If I can change gears a bit.

10:59:29 14 In general, are there laws or policies or

10:59:33 15 guidelines, that you're aware of, that currently prohibit

10:59:39 16 individuals who are not eligible to vote from registering?

10:59:44 17 A. No.

10:59:45 18 Q. If I can direct you to what's been marked as

10:59:54 19 Exhibit 42. This may be labeled as Document D. These are

11:00:03 20 the county's responses to consolidated plaintiffs'

11:00:09 21 interrogatories that we looked at previously.

11:00:11 22 A. Okay.

11:00:12 23 Q. Do you have that document in front of you?

11:00:15 24 A. I do.

11:00:16 25 Q. If I can please ask you to scroll down to

11:00:22 1 interrogatory No. 9.

11:00:28 2 A. Okay.

11:00:29 3 Q. So interrogatory No. 9 asks the county to:

11:00:35 4 Identify and describe each instance in which you

11:00:40 5 have established that a non-U.S. citizen or non-county

11:00:43 6 resident has registered to vote or has voted in your

11:00:47 7 county from January 1st, 2013 to the present, including

11:00:52 8 but not limited to any supporting evidence thereof and any

11:00:55 9 documents and communications related to such instance,

11:00:59 10 whether such instance involved misconduct, fraud, or

11:01:04 11 mistake, and in any instances in which your office

11:01:07 12 informed such non-U.S. citizen they were eligible to vote

11:01:11 13 in the county and later determined they were actually

11:01:14 14 ineligible. Your answer should identify by name any

11:01:20 15 witness -- any witnesses who have or are likely to have

11:01:24 16 knowledge or information related to any such instances of

11:01:27 17 a non-U.S. citizen or non-county resident registering or

11:01:31 18 voting in your county.

11:01:33 19 If I can just ask you to read over your

11:01:41 20 response.

11:01:46 21 A. Correct. I did.

11:01:48 22 Q. So is it correct that in Navajo County there

11:01:53 23 have been no reported instances of misconduct, fraud, lack

11:01:57 24 of voter confidence, election security, or any other

11:02:01 25 problem related to citizenship, resident's location, proof

11:02:06 1 of citizenship, or residential address?

11:02:09 2 DEFENSE COUNSEL: Form.

11:02:10 3 THE WITNESS: That's correct for Navajo County.

11:02:15 4 BY MR. ATKINS:

11:02:24 5 Q. What does your -- sorry. Strike that.

11:02:28 6 And did Navajo County identify any

11:02:37 7 non-U.S. citizens or non-county residents that registered

11:02:41 8 or voted during the period of time asked about in the

11:02:45 9 interrogatory?

11:02:55 10 DEFENSE COUNSEL: Object to form. Form.

11:02:59 11 THE WITNESS: I don't understand that question.

11:03:02 12 BY MR. ATKINS:

11:03:02 13 Q. So interrogatory No. 9 asked you to identify and

11:03:05 14 describe instances where the county established that a

11:03:08 15 non-citizen or a non-resident had registered or voted.

11:03:14 16 So my question is, is it correct that Navajo

11:03:19 17 County did not identify any non-citizens or non-residents

11:03:24 18 who registered or voted during this period of time?

11:03:27 19 A. That's correct.

11:03:28 20 DEFENSE COUNSEL: Form.

11:03:29 21 BY MR. ATKINS:

11:03:43 22 Q. What does your office do, if anything, to

11:03:47 23 identify instances of voter fraud?

11:03:52 24 DEFENSE COUNSEL: Form, foundation.

11:03:54 25 THE WITNESS: What do we -- to verify instances?

11:03:58 1 BY MR. ATKINS:

11:03:58 2 Q. To identify instances of voter fraud.

11:04:02 3 A. Nothing, nothing as of yet. We have not seen it

11:04:11 4 come across us.

11:04:12 5 Q. Are citizens able to submit allegations of

11:04:17 6 potential voter fraud to your office?

11:04:20 7 A. They are.

11:04:21 8 Q. And has this happened, in your experience?

11:04:25 9 A. It has not.

11:04:26 10 Q. Do you agree that these new laws will make voter

11:04:46 11 registration more difficult for voters?

11:04:49 12 DEFENSE COUNSEL: Form.

11:04:53 13 THE WITNESS: I don't have any position.

11:04:56 14 BY MR. ATKINS:

11:04:56 15 Q. Do you have a position on whether the new laws

11:04:59 16 will make facilitating voter registration more difficult

11:05:04 17 for election officials?

11:05:06 18 A. I don't have any --

11:05:07 19 DEFENSES COUNSEL: Form.

11:05:08 20 THE WITNESS: -- any position.

11:05:15 21 MR. ATKINS: All right. That's, that's all the

11:05:16 22 questions I have, so happy to hand it over to Mr. Hindley.

11:05:23 23 MR. HINDLEY: Thank you, Alex.

11:05:23 24 ///

11:05:23 25 ///

EXAMINATION

BY MR. HINDLEY:

Q. Mr. Lerma, my name is John Hindley. I'm one of the attorneys for Plaintiffs Poder Latinx, Chicanos Por La Causa, and Chicanos Por La Causa Action Fund. I'm just going to ask you a couple of questions about election procedure manual --

A. Okay.

Q. -- some of the databases you might be utilizing, and then some of your views on H.B. 2243 and H.B. 2492.

So, with that, I believe, so earlier Mr. Rosenbaum showed you the 2019 elections procedure manual.

Do you remember that?

A. I do.

Q. And do you mind pulling that up. That was Petty 6?

MR. HINDLEY: Madam Court Reporter, do you remember what Exhibit that was?

THE REPORTER: I do not know which one.

BY MR. HINDLEY:

Q. Okay. So if you go to Petty 6, do you mind scrolling down to page i on the document, page six of the PDF, the first page of the table of contents.

A. Okay.

11:06:41 1 Q. Let me know.

11:06:42 2 And what is the subject of Chapter 1?

11:06:46 3 A. Voter registration.

11:06:49 4 Q. Thank you.

11:06:50 5 And so you might have addressed this with

11:06:54 6 Mr. Rosenbaum, but is the election procedures manual

11:06:57 7 legally binding on the Navajo County Recorder's Office?

11:07:06 8 A. It is.

11:07:08 9 Q. So, in other words, you're legally bound to

11:07:10 10 follow what is in the election procedures manual?

11:07:12 11 A. We do.

11:07:13 12 Q. And that includes all chapters and parts of the

11:07:16 13 EPM?

11:07:16 14 A. Yes.

11:07:17 15 Q. So now I'm going to -- could you turn your

11:07:23 16 attention to Document U? And I will represent to you this

11:07:34 17 is a filing in this case from former attorney general,

11:07:43 18 Mark Brnovich.

11:07:46 19 Have you seen this before?

11:07:47 20 A. I do not believe so.

11:07:49 21 Q. I'd like to introduce this as Exhibit 47, I

11:07:57 22 believe.

11:08:01 23 And could you please turn to page 24, per the

11:08:06 24 top of the page. It's page 11 on the bottom of the page.

11:08:12 25 A. Okay.

11:08:19 1 MR. MOORE: Counselor, what document are we
11:08:21 2 looking at?

11:08:23 3 MR. HINDLEY: Document U.

11:08:25 4 MR. MOORE: Got it. Thank you.

11:08:25 5 MR. HINDLEY: You're welcome.

11:08:26 6 BY MR. HINDLEY:

11:08:26 7 Q. And do you mind taking a look at the last
11:08:31 8 paragraph of that page, starting with Mecinas v. Hobbs.

11:08:37 9 A. Okay.

11:08:37 10 Q. And I'll read two of the sentences into the
11:08:54 11 record. It states that:

11:08:58 12 The Secretary promulgates the election procedure
11:09:02 13 manual, which County Recorders are bound to follow. But
11:09:07 14 unlike ballot order, registration procedures are not a
11:09:11 15 proper subject for the EPM, and their inclusion in such
11:09:15 16 would be improper and not bind the County Recorders.

11:09:20 17 Mr. Lerma, did I read that correctly?

11:09:23 18 A. Yes.

11:09:24 19 Q. And, specifically the second sentence, starting
11:09:29 20 with, unlike ballot order.

11:09:33 21 Do you agree with the attorney general's
11:09:36 22 position?

11:09:36 23 DEFENSE COUNSEL: Form objection.

11:09:39 24 MR. MOORE: Form.

11:09:42 25 And, Mr. Lerma, this involves a legal

11:09:44 1 conclusion, and I'm going to instruct you not to answer
11:09:47 2 the question. You're not an attorney, and you're not
11:09:49 3 qualified to answer the question.

11:09:53 4 MR. HINDLEY: I'm not asking legal conclusion.
11:09:56 5 I'm asking his views on whether he agrees with that
11:09:56 6 statement.

11:09:57 7 MR. MOORE: Which requires a legal conclusion.

11:10:00 8 MR. HINDLEY: I would disagree with that. It's
11:10:02 9 not a legal conclusion. It's whether he believes that is
11:10:05 10 true.

11:10:13 11 MR. MOORE: You're looking at a legal brief,
11:10:16 12 counsel, and a position previously taken by the attorney
11:10:19 13 general, by the previous attorney general, and asking his
11:10:22 14 personal opinion, whether or not he agrees with the legal
11:10:24 15 position of the prior attorney general. I mean, what is
11:10:28 16 it?

11:10:29 17 MR. HINDLEY: It's a question on his view on the
11:10:32 18 position, and I'm not asking for anything privileged, so I
11:10:36 19 believe it's --

11:10:37 20 MR. MOORE: All right.

11:10:38 21 MR. HINDLEY: -- appropriate for Mr. Lerma to
11:10:40 22 answer that.

11:10:42 23 MR. MOORE: Mr. Lerma, we have noted the
11:10:43 24 objection for the record. Go ahead and provide any answer
11:10:45 25 if you happen to have one.

11:10:48 1 THE WITNESS: I don't have any.

11:10:49 2 BY MR. HINDLEY:

11:10:50 3 Q. And has the Secretary of State's office ever
11:10:53 4 communicated to you whether it believes that the voter
11:10:57 5 registration rules and procedures in the EPM are legally
11:11:02 6 binding?

11:11:03 7 DEFENSE COUNSEL: Form. Form.

11:11:05 8 THE WITNESS: Not that I know.

11:11:06 9 BY MR. HINDLEY:

11:11:07 10 Q. Okay. So, Mr. Lerma, I'm going to discuss with
11:11:13 11 you some questions about the, from the databases that you
11:11:18 12 might be interacting with in your role.

11:11:23 13 So do you have access to the Arizona Department
11:11:26 14 of Transportation databases?

11:11:30 15 A. No.

11:11:30 16 Q. Does your office have access to those databases?

11:11:35 17 A. No.

11:11:35 18 Q. Does it have access to the, now -- scratch that.

11:11:43 19 When I say ADOT, is that the proper acronym for
11:11:48 20 the Arizona Department of Transportation?

11:11:50 21 A. Yes.

11:11:51 22 Q. Okay. So do you have access, or does your
11:11:55 23 office have access to ADOT's Motor Vehicle Division driver
11:12:01 24 license or non-operating license databases?

11:12:04 25 A. No.

11:12:04 1 Q. And do you -- I think you mentioned this
11:12:13 2 before -- but can you describe what AVID is?
11:12:17 3 A. AVID is the Arizona Voter Registration System.
11:12:22 4 Q. And, now, do you use AVID to perform citizenship
11:12:28 5 checks?
11:12:29 6 A. We do.
11:12:30 7 Q. And can you describe how your office uses AVID
11:12:33 8 to perform those citizenship checks?
11:12:35 9 A. We run, it's called HAVA checks, and the system
11:12:42 10 runs that through the Motor Vehicle Department.
11:12:47 11 Q. And does the Navajo County have an agreement
11:12:51 12 with -- scratch that.
11:13:01 13 And who runs AVID?
11:13:13 14 A. Secretary of State.
11:13:14 15 Q. And do you have an agreement with the Secretary
11:13:19 16 of State's office to use AVID?
11:13:21 17 A. That I would not know.
11:13:25 18 Q. In other words, do you know whether there's like
11:13:29 19 a memorandum of understanding or memorandum of agreement
11:13:33 20 concerning the use of AVID?
11:13:35 21 A. That I do not know.
11:13:39 22 Q. And do you -- is it your understanding that the
11:13:50 23 use of AVID is covered for the uses to implement
11:13:58 24 A.B. 2492?
11:14:00 25 DEFENSE COUNSEL: Form.

11:14:01 1 THE WITNESS: I don't understand your question.

11:14:03 2 BY MR. HINDLEY:

11:14:05 3 Q. I will retract that.

11:14:07 4 Do you find that AVID is an accurate tool to
11:14:17 5 check citizenship?

11:14:19 6 A. I believe so.

11:14:20 7 Q. And why is that the case?

11:14:24 8 A. Because it runs it through, like I said, again,
11:14:30 9 the HAVA checks through MVD.

11:14:32 10 Q. And do you recall any issue, incident with the
11:14:39 11 database matching -- scratch that.

11:14:44 12 Do you recall any incident of database matching
11:14:47 13 for citizenship verification that produced erroneous
11:14:53 14 results?

11:14:54 15 A. No.

11:14:55 16 Q. So I'm going to show you another document.

11:15:02 17 First I want to show you Document Y. It's an
11:15:12 18 email from AVID Help, then to multiple people to, that
11:15:20 19 work for the Navajo County Recorder's Office. It looks
11:15:27 20 like you're part of this email.

11:15:30 21 Can you state for the record what date this
11:15:32 22 email was sent?

11:15:34 23 A. Looks like October 17th, 2022.

11:15:37 24 Q. And do you recognize this email?

11:15:41 25 A. I don't remember it, no.

11:15:48 1 Q. Do you recall anyone -- so I want to give you an
11:15:58 2 opportunity to first review the document. Let me know
11:17:10 3 when you've reviewed the document.

11:17:22 4 A. Okay.

11:17:23 5 Q. I'd like to introduce this as Exhibit 48.

11:17:32 6 Now, do you recall an incident from October 2022
11:17:36 7 concerning the Motor Vehicle Division database matching
11:17:40 8 problem?

11:17:40 9 A. I don't.

11:17:41 10 Q. And has your office encountered instances where
11:17:47 11 a voter registration applicant who was a U.S. citizen was
11:17:52 12 flagged erroneously as a non-citizen by way of search of
11:17:58 13 the Motor Vehicle database?

11:17:59 14 A. No.

11:18:00 15 Q. And has your office encountered instances where
11:18:06 16 a currently registered naturalized citizen was flagged
11:18:13 17 erroneously as a non-citizen by way of a search of a Motor
11:18:16 18 Vehicle Division database?

11:18:21 19 A. No.

11:18:21 20 Q. And what would your office do in the event you
11:18:31 21 cannot match the voter registration applicant to any
11:18:35 22 record in the Motor Vehicle Division database?

11:18:38 23 A. They would be sent a notice of citizenship, to
11:18:42 24 provide citizenship.

11:18:43 25 Q. And what would you do in the instance where your

11:18:50 1 office cannot match a registered voter to any record in
11:18:57 2 the Motor Vehicle database?
11:18:59 3 A. The same thing. They would be sent a notice to
11:19:02 4 provide citizenship.
11:19:03 5 Q. And has your office communicated with the
11:19:08 6 Arizona Department of Transportation concerning H.B. 2492?
11:19:14 7 A. No, we have not.
11:19:15 8 DEFENSE COUNSEL: Form.
11:19:16 9 BY MR. HINDLEY:
11:19:16 10 Q. And, similarly, has your office ever
11:19:20 11 communicated with the Arizona Department of Transportation
11:19:23 12 concerning H.B. 2243?
11:19:24 13 A. No, we have --
11:19:24 14 DEFENSE COUNSEL: Form.
11:19:25 15 THE WITNESS: -- not.
11:19:26 16 BY MR. HINDLEY:
11:19:33 17 Q. And is it feasible to use the ADOT, or the Motor
11:19:39 18 Vehicle Division's databases to determine a voter
11:19:43 19 registration applicant's current U.S. citizenship status?
11:19:51 20 MR. LANGHOFER: I'm sorry. Could you repeat the
11:19:53 21 question?
11:19:54 22 MR. HINDLEY: Sure.
11:19:55 23 BY MR. HINDLEY:
11:19:56 24 Q. Now, is it feasible to use the ADOT or the Motor
11:19:59 25 Vehicle Division's databases to determine a voter

11:20:02 1 registration applicant's current U.S. citizenship status?

11:20:05 2 A. I don't understand.

11:20:10 3 Q. So if you were to use the Motor Vehicle

11:20:14 4 Division's databases, could you use that to determine

11:20:17 5 whether an individual is a U.S. citizenship -- citizen or

11:20:21 6 not?

11:20:21 7 A. That I would not know.

11:20:25 8 Q. And, similarly, could you use the Motor Vehicle

11:20:31 9 Division's database to determine whether a registered

11:20:36 10 voter is a U.S. citizen?

11:20:38 11 A. That I would not know.

11:20:40 12 Q. And to kind of take into consideration like your

11:20:51 13 office's resources and access and training, do you believe

11:20:54 14 it's practical to use either the ADOT or the Motor Vehicle

11:20:59 15 Division's databases for citizenship verification?

11:21:06 16 DEFENSE COUNSEL: Form.

11:21:06 17 THE WITNESS: I couldn't speak on that. I don't

11:21:09 18 know.

11:21:09 19 BY MR. HINDLEY:

11:21:10 20 Q. And, just very quickly, I'd like to turn to

11:21:14 21 Document Z.

11:21:20 22 A. Okay.

11:21:20 23 Q. And if you could see, these are, is the email

11:21:24 24 chain following the email that you saw in Document Y,

11:21:30 25 which is Exhibit 48.

11:21:34 1 If you could, could you go to the bottom of page
11:21:38 2 one. I believe this is an email from you.

11:21:41 3 A. Okay.

11:21:42 4 Q. It's sent October 19th. If you could review
11:21:51 5 that email you sent at 11:07 a.m.

11:21:56 6 A. Okay.

11:21:57 7 Q. So when you say, so you say:

11:21:59 8 For years here it was a practice that no FED
11:22:03 9 voter received a ballot in the mail and were told to go
11:22:07 10 vote in person. I now know that's incorrect, but for this
11:22:11 11 matter no FED voter was sent a ballot.

11:22:15 12 Did I read that correctly?

11:22:17 13 A. That's correct.

11:22:18 14 Q. Just the clarification, when you say, you now
11:22:22 15 know now, did you realize that independent and before the
11:22:28 16 email that was sent by AVID Help, or did you find that out
11:22:36 17 as a result of the email from AVID Help?

11:22:44 18 A. I don't even know what this pertains to. I
11:22:48 19 would need to know more.

11:22:50 20 Q. So when you -- about the practice concerning
11:22:55 21 requiring a FED voter to go in person to vote, and you
11:23:02 22 figured that out that they could be, that they could be
11:23:07 23 sent a ballot.

11:23:08 24 A. Okay.

11:23:09 25 Q. Do you find -- knowing that, your error in the

11:23:14 1 Navajo County's policy, did you find out that was an error
11:23:18 2 as a result of the initial email that was sent from AVID
11:23:23 3 Help, or did you find that out before that email?

11:23:27 4 A. I do not know.

11:23:28 5 Q. Okay. Now I want to kind of turn to the, one of
11:23:43 6 the statutes, particularly 2492. I believe that is
11:23:54 7 Petty 19.

11:23:59 8 A. Okay.

11:24:00 9 Q. And now under subsection D on page four, it
11:24:13 10 says: The County Recorder shall use all available
11:24:16 11 resources to verify the citizenship of an applicant.

11:24:22 12 And so my question is if a law tells your office
11:24:25 13 to use all available resources to perform MVD database
11:24:32 14 searches, what do you think that means?

11:24:33 15 DEFENSE COUNSEL: Form.

11:24:34 16 THE WITNESS: It's on Petty, Petty 19, section
11:24:37 17 D?

11:24:37 18 BY MR. HINDLEY:

11:24:38 19 Q. Yes. On page four of the document.

11:24:40 20 A. I'm getting about homeless, page four. The
11:24:56 21 actual page four?

11:24:57 22 Q. The actual page four.

11:24:59 23 A. Oh, okay.

11:25:00 24 Q. At the bottom.

11:25:01 25 A. Section D.

11:25:12 1 And what was your question again? I'm sorry.

11:25:14 2 Q. No, not a problem.

11:25:15 3 So when the, when H.B. 2492 says that your

11:25:21 4 office has to use all available resources to perform MVD

11:25:31 5 database searches, what do you think, use all available

11:25:34 6 resources, means?

11:25:34 7 DEFENSE COUNSEL: Form.

11:25:35 8 THE WITNESS: Run through the HAVA checks.

11:25:37 9 BY MR. HINDLEY:

11:25:38 10 Q. And when you see all available resources, do you

11:25:41 11 think that encompasses human financial and technological

11:25:46 12 resources?

11:25:47 13 A. I would not know.

11:25:49 14 Q. And so when you do a HAVA check, can you just

11:26:08 15 explain how that works?

11:26:09 16 A. It's done through the AVID system when we

11:26:13 17 register somebody. It's a button that we press, and it

11:26:17 18 searches through Motor Vehicle to verify citizenship.

11:26:22 19 Q. And looking at -- I'll probably be going back

11:26:44 20 and forth a little bit, but Petty 21.

11:26:50 21 A. Okay.

11:26:51 22 Q. And if you go to page four at the bottom.

11:27:02 23 A. Okay.

11:27:05 24 Q. And Section 10, if you want to review that.

11:27:15 25 A. Okay. You said D?

11:27:21 1 Q. No. Section 10.

11:27:23 2 A. Okay.

11:27:42 3 Q. So in the Section 10, the first sentence says:
11:27:45 4 When the County Recorder obtains information
11:27:48 5 pursuant to this section and confirms that the person
11:27:50 6 registered is not a United States citizen.

11:27:54 7 My question is can you use the Motor Vehicle
11:28:00 8 Division database to confirm that a registered voter is
11:28:05 9 not a U.S. citizen?

11:28:07 10 A. Hmm hmm.

11:28:08 11 Q. And how do you do that?

11:28:10 12 A. We run the HAVA checks.

11:28:17 13 Q. So now I want to turn to the SAVE system run by
11:28:28 14 the United States Citizenship and Immigration Services, or
11:28:32 15 USCIS.

11:28:33 16 Are you familiar with the SAVE system?

11:28:36 17 A. Yes. I have heard of it.

11:28:38 18 Q. And have you used it before?

11:28:40 19 A. I don't believe so.

11:28:42 20 Q. Does your office have access to the SAVE system?

11:28:48 21 A. I don't believe so.

11:28:49 22 Q. So at no, at no point anyone in the Navajo
11:29:03 23 County Recorder's office has used the SAVE system to, to
11:29:07 24 verify citizenship?

11:29:11 25 DEFENSE COUNSEL: Foundation, form.

11:29:17 1 THE WITNESS: I don't believe so.

11:29:19 2 BY MR. HINDLEY:

11:29:19 3 Q. Have you discussed the use of the SAVE system in
11:29:29 4 your office?

11:29:30 5 A. Off the top of my head, no.

11:29:38 6 Q. And is there a particular reason why the Navajo
11:29:42 7 County Recorder is not using the SAVE system?

11:29:46 8 DEFENSE COUNSEL: Form.

11:29:47 9 THE WITNESS: There is no reason, that I'm aware
11:29:54 10 of.

11:29:54 11 BY MR. HINDLEY:

11:30:10 12 Q. But do you know whether the use of the SAVE
11:30:15 13 system can be used to verify U.S. citizenship of a voter
11:30:20 14 applicant?

11:30:21 15 A. I do not.

11:30:22 16 DEFENSE COUNSEL: Foundation.

11:30:23 17 BY MR. HINDLEY:

11:30:25 18 Q. And do you know if you can use, your office can
11:30:28 19 use the SAVE system to verify citizenship of a registered
11:30:34 20 voter?

11:30:34 21 A. I do not.

11:30:35 22 DEFENSE COUNSEL: Foundation.

11:30:37 23 BY MR. HINDLEY:

11:30:38 24 Q. Are you familiar with the Social Security
11:30:44 25 Administration database?

11:30:46 1 A. I am not.

11:30:47 2 Q. Do you know whether your office has access to

11:30:50 3 the Social Security Administration database?

11:30:53 4 A. We do not.

11:30:54 5 Q. I say -- just to clarify.

11:30:59 6 Your office does not have access to the SSA

11:31:02 7 database?

11:31:03 8 A. Not the database, no.

11:31:05 9 Q. Okay. Now, have you ever heard of NAPHSIS?

11:31:14 10 It's an acronym for the National Association For Public

11:31:18 11 Health Statistics and Information Systems? Have you heard

11:31:21 12 of that before?

11:31:22 13 A. I have never heard of it.

11:31:23 14 Q. So you don't have any familiarity with NAPHSIS's

11:31:30 15 databases?

11:31:31 16 A. No. Not, not off the top of my head, no.

11:31:36 17 Q. Do you know if anyone at the, at your, at the

11:31:42 18 Navajo County Recorder's Office has used the NAPHSIS

11:31:46 19 database?

11:31:47 20 A. No, we have not.

11:31:48 21 Q. Have you ever heard of ERIC, the Electronic

11:32:00 22 Registration Information Center?

11:32:01 23 A. I have.

11:32:02 24 Q. Have you, has you or anyone in your office

11:32:08 25 communicated with ERIC about H.B. 2492?

11:32:11 1 A. No, we have not.

11:32:13 2 Q. How about 24 -- H.B. 2243?

11:32:20 3 A. No, we have not.

11:32:20 4 Q. Have you, has the Secretary of State's Office

11:32:31 5 communicated with the County Recorder's office about ERIC?

11:32:35 6 A. Yes.

11:32:36 7 Q. And when was that?

11:32:37 8 A. It's done monthly.

11:32:40 9 Q. Okay.

11:32:41 10 A. I believe.

11:32:42 11 Q. And could you describe those discussions?

11:32:45 12 A. We receive emails in regards to ERIC.

11:32:53 13 Q. And could you -- oh, sorry.

11:32:55 14 A. And they usually just include a list of, of

11:33:00 15 voters.

11:33:02 16 Q. Was there any like substantive discussions about

11:33:09 17 ERIC?

11:33:09 18 A. What do you mean?

11:33:12 19 Q. About like the actual, like the actual

11:33:21 20 organization. Or is it just they send you a list of

11:33:25 21 voters from ERIC?

11:33:26 22 A. No, we have spoken about the actual ERIC.

11:33:31 23 Q. And what was the nature of those discussions?

11:33:36 24 A. Just explaining what ERIC was and how they

11:33:40 25 function.

11:33:41 1 Q. And what did they, what did the Secretary of
11:33:45 2 State's Office, how did they describe that?

11:33:47 3 A. They just let us know what states are --

11:33:53 4 DEFENSE COUNSEL: Form.

11:33:54 5 THE WITNESS: -- included in there and how we
11:33:55 6 send information to ERIC and how we get the information
11:33:58 7 back.

11:33:59 8 BY MR. HINDLEY:

11:33:59 9 Q. Okay. And have you discussed ERIC among other
11:34:08 10 County Recorder's offices?

11:34:08 11 A. Yes.

11:34:08 12 Q. And what are the nature of those discussions?

11:34:15 13 A. Pretty much the same, same stuff I explained
11:34:18 14 earlier.

11:34:18 15 Q. Thank you. Just to be clear, what was --

11:34:21 16 A. Just how it works, how it works and who is
11:34:25 17 included in ERIC, what states.

11:34:27 18 Q. Hmm hmm. And do you remember who, specifically,
11:34:31 19 like which County Recorder's Office you spoke with about
11:34:35 20 ERIC?

11:34:35 21 A. No. I don't know specifically.

11:34:37 22 Q. Okay. And is it feasible to use ERIC to conduct
11:34:43 23 citizenship verification?

11:34:46 24 A. That I would not know.

11:34:52 25 Q. Do you know if there's anyone in your office

11:34:56 1 that would know?

11:34:57 2 A. Not in our office.

11:34:58 3 Q. Okay. So have, have you used ERIC to conduct

11:35:06 4 citizenship verification?

11:35:09 5 A. No.

11:35:10 6 Q. And do you know whether ERIC can be used to

11:35:17 7 confirm that a registered voter is a U.S. -- is not a U.S.

11:35:23 8 citizen?

11:35:23 9 DEFENSE COUNSEL: Foundation.

11:35:24 10 THE WITNESS: Not that I know of.

11:35:29 11 BY MR. HINDLEY:

11:35:30 12 Q. So do you have access to any other government

11:35:33 13 databases with U.S. citizenship data?

11:35:35 14 A. No, we don't.

11:35:36 15 Q. And, just to be clear, do you exclusively use

11:35:44 16 HAVA to conduct citizenship checks?

11:35:46 17 A. That's correct.

11:35:47 18 Q. And has your office communicated with any other

11:36:03 19 persons or entities regarding the use of other databases

11:36:06 20 to verify citizenship?

11:36:08 21 A. Not that I'm aware of.

11:36:19 22 Q. And can you describe the process of verifying

11:36:34 23 citizenship?

11:36:35 24 A. Through, verify through --

11:36:39 25 Q. Through HAVA.

11:36:41 1 A. Yeah. So we use the AVID system when
11:36:49 2 registering a person. It's a check, it's box that we
11:36:53 3 check, and it runs through the MVD records.

11:37:02 4 Q. And --

11:37:04 5 A. And --

11:37:04 6 Q. Oh, sorry. You continue.

11:37:06 7 A. No, and it will find citizenship or not.

11:37:08 8 Q. And who makes the, the preliminary judgment of
11:37:14 9 whether an individual is a citizen or not?

11:37:17 10 A. The system.

11:37:18 11 Q. Does the County Recorder make any sort of
11:37:26 12 judgment on whether an individual is a citizen?

11:37:29 13 A. Did you say third judgment, or first judgment?

11:37:30 14 Q. Any sort of judgment.

11:37:32 15 A. No, we don't.

11:37:38 16 Q. And how, in determining whether an individual is
11:37:41 17 how do you ensure accuracy?

11:37:47 18 A. We depend on the AVID system --

11:37:47 19 Q. Okay.

11:37:50 20 A. -- and the HAVA checks.

11:37:53 21 Q. Is there any sort of like criteria to determine
11:37:56 22 whether the determination by HAVA is accurate?

11:38:02 23 A. That is something I would not know.

11:38:04 24 Q. Okay. So I want to turn back to Petty 19. If
11:38:33 25 you go to page five.

11:38:38 1 A. Okay.

11:38:38 2 Q. And can you just review the first sentence of

11:39:10 3 section E?

11:39:12 4 A. Okay. First sentence.

11:39:27 5 Q. Yep. And so can you explain how you could

11:39:31 6 ascertain from the database you can use that an applicant

11:39:35 7 is not currently a U.S. citizen?

11:39:39 8 DEFENSE COUNSEL: Form.

11:39:40 9 THE WITNESS: Can you rephrase that?

11:39:48 10 BY MR. HINDLEY:

11:39:48 11 Q. Sure. So based on your review of the databases,

11:39:52 12 how is it determined whether an individual is not a

11:39:56 13 U.S. citizen?

11:39:57 14 A. How do we determine?

11:40:00 15 Q. Yeah.

11:40:01 16 A. They don't provide proof of citizenship.

11:40:04 17 Q. So when you like use like the AVID system --

11:40:12 18 A. Hmm hmm.

11:40:12 19 Q. -- subsequent to that, how do you determine

11:40:15 20 whether someone is not a U.S. citizen?

11:40:18 21 A. The system will tell us.

11:40:23 22 Q. And what does it specifically tell you on the

11:40:29 23 system?

11:40:29 24 A. That they did not find citizenship and it will

11:40:35 25 not, it will not allow us to register them.

11:40:38 1 Q. Okay. And has your office ever been given a
11:40:51 2 specific list of means by which a voter registration
11:40:55 3 applicant can be deemed or proven a noncitizen?

11:41:00 4 A. The election procedures manual.

11:41:04 5 Q. And do you recall what that says?

11:41:06 6 A. I don't off the top of my head.

11:41:09 7 Q. Okay. And looking back at 224 -- 2492, if you
11:41:22 8 can review section F.

11:41:49 9 A. Okay.

11:41:51 10 Q. And so, as you can see, the statute said that
11:41:58 11 the County Recorder will have to record their efforts to
11:42:03 12 verify citizenship.

11:42:03 13 A. Hmm hmm.

11:42:05 14 Q. How would you describe, how would you record the
11:42:08 15 efforts?

11:42:09 16 DEFENSE COUNSEL: Form.

11:42:10 17 THE WITNESS: How would we?

11:42:14 18 BY MR. HINDLEY:

11:42:14 19 Q. Yes.

11:42:14 20 A. I wouldn't know.

11:42:16 21 Q. Has your office determined like a process for
11:42:23 22 recording efforts?

11:42:24 23 A. No. We would follow the procedures manual.

11:42:30 24 Q. And do you recall what the procedures manual
11:42:32 25 says about recording efforts?

11:42:33 1 A. I do not.

11:42:37 2 Q. What steps do you take to record your efforts to

11:42:42 3 verify citizenship?

11:42:43 4 A. Well, we do not record them.

11:42:46 5 Q. So you don't record your efforts at all?

11:42:52 6 A. No, we do not.

11:42:53 7 Q. Okay. And what are the impact of the criminal

11:43:03 8 provisions of this section?

11:43:05 9 DEFENSE COUNSEL: Form.

11:43:06 10 BY MR. HINDLEY:

11:43:06 11 Q. You see the last letter, the letter that says,

11:43:07 12 the County Recorder or other officer in charge of

11:43:11 13 elections could be guilty of, you know, a class 6 felony

11:43:14 14 if they don't follow it.

11:43:16 15 Has that had any effect on your office?

11:43:20 16 DEFENSE COUNSEL: Form.

11:43:20 17 THE WITNESS: I would not know.

11:43:21 18 BY MR. HINDLEY:

11:43:21 19 Q. Okay. And going back to some of my previous

11:43:25 20 questions.

11:43:26 21 Now, you said the HAVA system will let you know

11:43:30 22 if someone is not a citizen.

11:43:32 23 Is there any other steps following that initial

11:43:37 24 data point from the HAVA system?

11:43:45 25 A. No.

11:43:45 1 Q. There is no other steps to verify whether or not

11:43:47 2 the individual is a citizen?

11:43:49 3 A. No.

11:43:53 4 Q. Okay. And on the same document, if you could
11:44:01 5 turn to page seven.

11:44:08 6 A. Okay.

11:44:08 7 Q. If you can review section A.

11:44:24 8 A. Okay.

11:44:25 9 Q. So the statute basically says that on or before
11:44:30 10 October 31st, 2022 you have to provide a list of
11:44:34 11 individuals who did not provide satisfactory evidence of
11:44:39 12 citizenship.

11:44:40 13 A. Hmm hmm.

11:44:40 14 Q. Did you provide that report?

11:44:42 15 A. No. We provide a number to the Secretary of
11:44:44 16 State, but we don't provide a list of individuals.

11:44:48 17 Q. And so when you reviewed that section, what do
11:45:00 18 you think it means to provide the applications of these
11:45:04 19 individuals?

11:45:05 20 DEFENSE COUNSEL: Form, foundation.

11:45:06 21 THE WITNESS: I do not know.

11:45:16 22 BY MR. HINDLEY:

11:45:20 23 Q. And because the, the deadline has passed, the
11:45:27 24 October 31, '22 deadline, is your office no longer
11:45:30 25 required to submit to the attorney general a list of

11:45:34 1 registered voters who have not shown satisfactory DPOC?

11:45:39 2 DEFENSE COUNSEL: Form.

11:45:40 3 THE WITNESS: I would not know.

11:45:41 4 BY MR. HINDLEY:

11:45:41 5 Q. Okay. So I have a couple of other questions
11:45:53 6 concerning the statute.

11:45:57 7 Looking at both 2492 and 2243. If you look at,
11:46:07 8 oh, section D, which you previously looked at.

11:46:13 9 MS. BOUGHTON: Sorry, counsel, which bill?

11:46:16 10 MR. HINDLEY: First 2492, section D, on page,
11:46:24 11 between pages four and five. And then if you look at
11:46:29 12 2243, page four, it's section A, A(10).

11:46:38 13 THE WITNESS: Pages four and five, you said?

11:46:41 14 BY MR. HINDLEY:

11:46:41 15 Q. Hmm hmm.

11:46:42 16 A. And then I need -- oh, man. I would need to
11:46:54 17 know what --

11:46:57 18 Q. Petty 21.

11:47:01 19 A. Okay. 21.

11:47:05 20 Q. So the, so on section D on page four to five for
11:47:13 21 2492. And then section A(10) on page 4 of 2243, it refers
11:47:20 22 to information.

11:47:22 23 What do you think information constitutes?

11:47:26 24 DEFENSE COUNSEL: Form.

11:47:26 25 THE WITNESS: I, I don't -- I'm still not

11:47:44 1 finding what you're talking about. You said section D,
11:47:48 2 right, for 2492?

11:47:51 3 BY MR. HINDLEY:

11:47:52 4 Q. Yes. On page, between pages four and five.

11:47:54 5 A. Hmm hmm. And where are you reading the
11:48:01 6 information?

11:48:08 7 I guess I'm not understanding what you're
11:48:10 8 asking.

11:48:11 9 Q. So let's look at 2243 on page four --

11:48:11 10 A. Okay.

11:48:19 11 Q. -- section 10. It says, when the County
11:48:20 12 Recorder obtains information pursuant to this section,
11:48:26 13 information --

11:48:26 14 A. Okay.

11:48:26 15 Q. -- concerning whether an individual is a U.S.
11:48:30 16 citizen.

11:48:30 17 A. Okay.

11:48:30 18 Q. I just -- my question is what do you believe
11:48:33 19 constitutes information?

11:48:35 20 DEFENSE COUNSEL: Form.

11:48:36 21 THE WITNESS: Proof of citizenship, which --

11:48:42 22 BY MR. HINDLEY:

11:48:43 23 Q. Continue. Sorry.

11:48:44 24 A. Which there's a list of proof of citizenships.

11:48:47 25 Q. Is -- would that constitute any other

11:48:56 1 information?

11:48:57 2 A. As far as our office goes, no.

11:49:00 3 Q. Okay. So my question is, is data in a

11:49:08 4 government database showing non-citizenship 30 years ago

11:49:12 5 information that someone is not a U.S. citizen in the year

11:49:18 6 2023? So in other words --

11:49:20 7 DEFENSE COUNSEL: Form.

11:49:21 8 BY MR. HINDLEY:

11:49:21 9 Q. -- information that an individual is not a

11:49:26 10 citizen 30 years ago, could that, would that be used to

11:49:31 11 determine whether someone is a U.S. citizen in 2023?

11:49:35 12 A. That I would not know.

11:49:36 13 DEFENSE COUNSEL: Form.

11:49:37 14 BY MR. HINDLEY:

11:49:41 15 Q. And do you know who would know in your office?

11:49:44 16 A. No. I would not know.

11:49:53 17 Q. What about data from 20 years ago? Could that

11:49:57 18 be used to determine whether someone is a U.S. citizen in

11:50:01 19 2023?

11:50:01 20 DEFENSE COUNSEL: Form. Form and foundation.

11:50:07 21 THE WITNESS: A database from 20 years ago, I

11:50:10 22 would not know.

11:50:11 23 BY MR. HINDLEY:

11:50:11 24 Q. No. Data from 20 years ago.

11:50:13 25 A. Data from 20 years ago?

11:50:15 1 Q. Hmm hmm.

11:50:16 2 A. I would not know.

11:50:20 3 DEFENSE COUNSEL: Form.

11:50:25 4 MR. HINDLEY: If you don't mind, could we go off
11:50:28 5 the record and take about a 10-minute break?

11:50:28 6 MR. ROSENBAUM: Fine with me.

11:50:36 7 MR. HINDLEY: Great.

11:50:36 8 THE VIDEOGRAPHER: We are off the record. Time
11:50:38 9 on the video monitor is 10:50. This ends Media 2.

11:50:46 10 (Recess taken from 11:50 a.m. to 12:03 p.m.)

12:03:51 11 THE VIDEOGRAPHER: We are on the record. Time
12:03:58 12 on the video monitor is 12:03. This begins Media No. 3.

12:04:05 13 Correction on the read-off of the last media
12:04:08 14 clip. It was actually 11:50.

12:04:11 15 Please continue.

12:04:13 16 MR. HINDLEY: Great. Thank you very much.

12:04:15 17 BY MR. HINDLEY:

12:04:16 18 Q. So, Mr. Lerma, before we went off the record, we
12:04:21 19 were talking about information as described in the
12:04:25 20 statute. Before I get to that -- I don't think this has
12:04:29 21 been done yet, but I would like to offer Petty 19 as
12:04:35 22 Exhibit 49 and Petty 21 as Exhibit 50.

12:04:44 23 Also, if you can, Mr. Lerma, if you can go to
12:04:47 24 Petty 19, page five.

12:04:48 25 MR. ROSENBAUM: Hey, John, may I interrupt for a

12:04:51 1 second, because I thought that this is what we agreed at
12:04:55 2 the outset, that we are just going to use the same exhibit
12:04:58 3 numbers. There's no need to reintroduce -- those Petty
12:05:04 4 exhibits are the exhibits that were used and introduced in
12:05:10 5 the Maricopa County --

12:05:10 6 MR. HINDLEY: Okay.

12:05:11 7 MR. ROSENBAUM: -- deposition.

12:05:13 8 I don't mean to interfere, but I thought those
12:05:15 9 were the suggestions, at least I articulated and nobody
12:05:20 10 disagreed with it at the outset.

12:05:23 11 MR. HINDLEY: That all makes sense.

12:05:32 12 BY MR. HINDLEY:

12:05:33 13 Q. So going to Petty 19, page five, section E. If
12:05:35 14 you can read lines 14 through 16.

12:05:57 15 A. Okay.

12:05:58 16 Q. So, so before -- just to reiterate. What do you
12:06:04 17 believe, when you read that, what do you believe
12:06:06 18 information means, match up an applicant with information
12:06:12 19 that they're not a U.S. citizen?

12:06:15 20 DEFENSE COUNSEL: Form.

12:06:22 21 THE WITNESS: All the information we get back
12:06:23 22 from the HAVA checks.

12:06:25 23 BY MR. HINDLEY:

12:06:25 24 Q. Is it only the HAVA check, or is there any other
12:06:29 25 information that could be used to determine whether

12:06:32 1 someone is a U.S. citizen?

12:06:34 2 DEFENSE COUNSEL: Form. Form.

12:06:36 3 THE WITNESS: Not at the moment, no.

12:06:35 4 BY MR. HINDLEY:

12:06:40 5 Q. So if you found out that someone had an F type

12:06:45 6 license 20 years ago, would that be evidence that that

12:06:50 7 individual is not a citizen in 2023?

12:06:53 8 DEFENSE COUNSEL: Form.

12:06:55 9 THE WITNESS: That I don't, I do not know.

12:06:57 10 BY MR. HINDLEY:

12:07:04 11 Q. Do you know who would know?

12:07:05 12 A. I do not.

12:07:07 13 Q. Do you know -- so you don't know anyone in your

12:07:11 14 office who would be able to answer that question?

12:07:14 15 A. Nobody in our office would be able.

12:07:17 16 Q. Okay. So I want to know -- can I ask you a

12:07:24 17 question about kind of sources of information.

12:07:27 18 What if you get a phone call and someone says

12:07:30 19 that an individual is not a U.S. citizen, would that be

12:07:33 20 considered information?

12:07:34 21 A. No.

12:07:35 22 Q. What if you received an email that someone was

12:07:40 23 not a U.S. citizen, would that be information?

12:07:44 24 A. When you say someone, it's just a third party?

12:07:44 25 Q. Yeah. A third, a third -- yeah, exactly. Yeah,

12:07:50 1 if a third party emails your office and says someone is
12:07:53 2 not a U.S. citizen, would that be information?
12:07:56 3 A. No.
12:07:57 4 Q. What if your office received a signed letter
12:08:02 5 from a third party saying someone is not a U.S. citizen,
12:08:05 6 would that be information?
12:08:06 7 A. No.
12:08:09 8 DEFENSE COUNSEL: Form, foundation.
12:08:13 9 BY MR. HINDLEY:
12:08:13 10 Q. What if your office received a phone call from a
12:08:17 11 third party saying someone was not a U.S. citizen, would
12:08:21 12 that be information?
12:08:23 13 A. No.
12:08:26 14 DEFENSE COUNSEL: Form and foundation.
12:08:29 15 BY MR. HINDLEY:
12:08:29 16 Q. If your office received a phone call from law
12:08:32 17 enforcement in Arizona that someone is not a U.S. citizen,
12:08:34 18 would that be considered information?
12:08:37 19 A. No.
12:08:37 20 DEFENSE COUNSEL: Form and foundation.
12:08:40 21 BY MR. HINDLEY:
12:08:41 22 Q. And what if you received a phone call from law
12:08:46 23 enforcement, from outside, from law enforcement in a state
12:08:50 24 outside of Arizona, would that be considered information?
12:08:55 25 A. No.

12:08:57 1 DEFENSE COUNSEL: Form and foundation.

12:08:58 2 BY MR. HINDLEY:

12:08:59 3 Q. Say that again, Mr. Lerma. I didn't hear you.

12:09:01 4 A. No.

12:09:06 5 DEFENSE COUNSEL: Form and foundation.

12:09:08 6 BY MR. HINDLEY:

12:09:08 7 Q. What if a third party organization provided you

12:09:11 8 information that someone is not a U.S. citizen, would that

12:09:14 9 be information?

12:09:23 10 DEFENSE COUNSEL: Form and foundation.

12:09:24 11 THE WITNESS: No.

12:09:24 12 BY MR. HINDLEY:

12:09:24 13 Q. Has the Secretary of State's office ever given

12:09:27 14 you, given your office a list of information that would

12:09:30 15 constitute evidence of a lack of citizenship?

12:09:35 16 DEFENSE COUNSEL: Form, foundation.

12:09:38 17 THE WITNESS: Possibly. In the procedures

12:09:42 18 manual.

12:09:44 19 BY MR. HINDLEY:

12:09:45 20 Q. Do you recall what the information might be?

12:09:47 21 A. Not off the top of my head, no.

12:09:50 22 Q. And do you know how your office would confirm

12:09:57 23 the authenticity of information?

12:10:02 24 DEFENSE COUNSEL: Form.

12:10:03 25 THE WITNESS: How would we confirm it?

12:10:07 1 BY MR. HINDLEY:

12:10:09 2 Q. Yes.

12:10:09 3 A. Through the HAVA checks.

12:10:12 4 Q. So, Mr. Lerma, if you can go to Petty 21.

12:10:44 5 A. Okay.

12:10:45 6 Q. Page six. You can look at section J, lines 20

12:10:51 7 to 23.

12:10:52 8 A. Okay. Okay.

12:11:05 9 Q. So how would, so is the only way to confirm

12:11:12 10 information concerning cancelation, does it have to be

12:11:16 11 from a database?

12:11:18 12 DEFENSE COUNSEL: Form. Form, foundation.

12:11:20 13 THE WITNESS: I don't know.

12:11:22 14 BY MR. HINDLEY:

12:11:26 15 Q. How else would you confirm citizenship prior to

12:11:32 16 cancelation?

12:11:33 17 DEFENSE COUNSEL: Form and foundation.

12:11:38 18 THE WITNESS: Through HAVA checks.

12:11:40 19 BY MR. HINDLEY:

12:11:42 20 Q. Okay. So if you could turn to Petty 19 again.

12:12:39 21 I apologize. Turn back to Petty 21, page six --

12:12:44 22 A. Okay.

12:12:44 23 Q. -- section H. If you can review that.

12:13:13 24 A. Okay.

12:13:14 25 Q. So my question is what would give your office a

12:13:21 1 reason to believe a person is not a U.S. citizen?

12:13:27 2 DEFENSE COUNSEL: Form.

12:13:28 3 THE WITNESS: They aren't cleared to the HAVA

12:13:37 4 checks.

12:13:38 5 BY MR. HINDLEY:

12:13:38 6 Q. Would anything else, besides a HAVA check, would

12:13:42 7 anything else give your office a reason to believe a

12:13:45 8 person is not a U.S. citizen?

12:13:48 9 A. Not that I know of.

12:13:49 10 DEFENSE COUNSEL: Form and foundation.

12:13:56 11 BY MR. HINDLEY:

12:13:57 12 Q. Has the Secretary of State's office provided

12:13:59 13 your office with a list of what would give you a valid

12:14:03 14 reason to believe someone is not a U.S. citizen?

12:14:08 15 DEFENSE COUNSEL: Form.

12:14:09 16 THE WITNESS: If they have, it would be in the

12:14:11 17 procedures manual.

12:14:12 18 BY MR. HINDLEY:

12:14:12 19 Q. Do you recall what that is, what the procedure

12:14:17 20 manual says?

12:14:17 21 A. Not off the top of my head.

12:14:19 22 Q. So is your testimony that the only way you can

12:14:25 23 figure out -- the only way your office would have a reason

12:14:28 24 to believe someone is not a U.S. citizen is through a HAVA

12:14:32 25 check?

12:14:34 1 DEFENSE COUNSEL: Form. Form.

12:14:35 2 THE WITNESS: At the moment, yes.

12:14:37 3 BY MR. HINDLEY:

12:14:40 4 Q. So what if someone's birthplace was outside of

12:14:45 5 the United States, would that give you reason to believe

12:14:49 6 someone is not a U.S. citizen?

12:14:53 7 DEFENSE COUNSEL: Form and foundation.

12:14:55 8 THE WITNESS: No.

12:14:57 9 BY MR. HINDLEY:

12:15:01 10 Q. If someone had, at one point, had an F type

12:15:08 11 license at some point, would that give you a reason to

12:15:14 12 believe someone is not a U.S. citizen?

12:15:18 13 A. No.

12:15:18 14 Q. Has the Secretary of State's Office given you a

12:15:28 15 list of things that would not give you a reason to believe

12:15:31 16 someone is not a U.S. citizen?

12:15:34 17 DEFENSE COUNSEL: Form.

12:15:36 18 THE WITNESS: I, I don't believe so.

12:15:37 19 BY MR. HINDLEY:

12:15:42 20 Q. Are there, so -- scratch that.

12:15:46 21 What would you say should never give a person a

12:15:50 22 reason to believe someone is not a U.S. citizen?

12:15:54 23 DEFENSE COUNSEL: Form, foundation.

12:15:56 24 THE WITNESS: I, I don't understand the question

12:16:02 25 you're asking.

12:16:02 1 BY MR. HINDLEY:

12:16:03 2 Q. So is there certain forms of information that
12:16:05 3 would never give you a reason to believe someone is not a
12:16:10 4 U.S. citizen?

12:16:11 5 A. No. I don't know.

12:16:16 6 Q. So if a registered voter is removed from the
12:16:33 7 rolls under -- actually, scratch that.

12:16:39 8 Mr. Lerma, if you can go back to Petty 21.

12:17:31 9 A. Okay.

12:17:32 10 Q. Page four, section A(10).

12:17:43 11 A. You said page four, section A(10)?

12:17:46 12 Q. Yeah, 10. So lines 5 through 19.

12:17:53 13 A. Page four. Okay.

12:18:17 14 Q. So a couple more questions and I think we'll be
12:18:22 15 wrapped up.

12:18:22 16 But if a registered voter is removed under this
12:18:26 17 section, 165(A)(10), based on an erroneous determination
12:18:33 18 that they're not a U.S. citizen, can that voter be added
12:18:38 19 back to the rolls if the registration deadline has already
12:18:42 20 passed?

12:18:44 21 DEFENSE COUNSEL: Form, foundation.

12:18:45 22 THE WITNESS: I'm sorry. I thought I had the
12:18:57 23 right spot on Petty 19, but apparently not.

12:19:01 24 You said page, section --

12:19:03 25 BY MR. HINDLEY:

12:19:03 1 Q. Oh, sorry. Petty 21.

12:19:06 2 A. Oh. That makes more sense.

12:19:09 3 Q. Page four, Petty 21.

12:19:26 4 A. And now you're asking can they reregister?

12:19:30 5 Q. So if they were erroneously taken off the roll

12:19:34 6 by erroneous determination that they were not a

12:19:40 7 U.S. citizen, could they be added back to the rolls if the

12:19:44 8 registration, if the registration deadline has passed?

12:19:48 9 A. I believe so.

12:19:50 10 DEFENSE COUNSEL: Form and foundation.

12:19:51 11 BY MR. HINDLEY:

12:19:51 12 Q. Can you repeat that?

12:19:53 13 A. I believe so.

12:19:54 14 Q. And how would the county do this?

12:19:59 15 A. They would need a --

12:20:01 16 DEFENSE COUNSEL: Form and foundation.

12:20:04 17 THE WITNESS: They would need to provide proof

12:20:07 18 of citizenship.

12:20:08 19 BY MR. HINDLEY:

12:20:12 20 Q. And what would the -- so they provide the proof

12:20:15 21 of citizenship.

12:20:16 22 What would be the next steps after that?

12:20:18 23 A. Then we would reactivate them.

12:20:28 24 MR. HINDLEY: Okay. Mr. Lerma, that's all the

12:20:31 25 questions I have, and I really appreciate it and thank you

12:20:34 1 for your time.

12:20:36 2 THE WITNESS: Thank you.

12:20:40 3 MR. HERRERA: I do have -- I don't know if any
12:20:42 4 other plaintiffs do, but I do have a couple of follow-up
12:20:46 5 questions there. I don't know if you can hear me.

12:20:49 6 THE WITNESS: Yeah.

12:20:49 7

12:20:49 8 EXAMINATION

12:20:49 9 BY MR. HERRERA:

12:20:53 10 Q. So my name is Ernest Herrera, and I represent
12:20:54 11 two of the plaintiffs in this organiz -- in this lawsuit.
12:20:57 12 So I just have a couple of questions for you. One
12:21:01 13 question is along the lines of what Mr. Hindley was asking
12:21:05 14 you.

12:21:06 15 Has it ever been the case that when you do a
12:21:09 16 HAVA check and then find information that makes you think
12:21:16 17 that someone is not a U.S. citizen, that that person later
12:21:20 18 provides documentary proof of citizenship?

12:21:24 19 DEFENSE COUNSEL: Form.

12:21:25 20 THE WITNESS: Was that a question?

12:21:27 21 BY MR. HERRERA:

12:21:27 22 Q. Yeah. So have you ever had a -- so you've had
12:21:33 23 instances where you do a HAVA check and it shows that that
12:21:35 24 person is not a citizen, right?

12:21:37 25 A. Okay.

12:21:37 1 Q. Okay. Have you ever had an instance in one of
12:21:40 2 those cases where someone later provides documentary proof
12:21:44 3 of citizenship?
12:21:44 4 A. Yes.
12:21:45 5 DEFENSE COUNSEL: Form.
12:21:47 6 BY MR. HERRERA:
12:21:47 7 Q. That's a yes?
12:21:48 8 A. That's a yes. I'm sorry.
12:21:49 9 Q. Okay. And do you know, approximately, in how
12:21:54 10 many instances that's happened in the last five years?
12:21:57 11 A. I would not know.
12:22:06 12 Q. And what happens once you get that documentary
12:22:10 13 proof of citizenship from someone who initially showed up
12:22:14 14 in a HAVA check as not being a U.S. citizen?
12:22:18 15 A. We would activate them, make them active, and a
12:22:23 16 regular voter, a full voter.
12:22:25 17 Q. Okay. And have, in those instances where that's
12:22:32 18 happened, did the person show up in the HAVA check as
12:22:36 19 having an F type license or a foreign type license?
12:22:41 20 A. I couldn't tell you --
12:22:42 21 DEFENSE COUNSEL: Form.
12:22:42 22 THE WITNESS: -- off the top of my head.
12:22:44 23 BY MR. HERRERA:
12:22:50 24 Q. Do you recall, in those instances, typically,
12:22:53 25 what was the information that made you think that that

12:22:56 1 person was not a U.S. citizen?

12:22:59 2 A. The HAVA check.

12:23:00 3 Q. Right. But what piece of evidence? What does

12:23:03 4 it say when you look in the HAVA check?

12:23:06 5 DEFENSE COUNSEL: Form.

12:23:07 6 THE WITNESS: That they could not find any, it

12:23:10 7 didn't come back with any information.

12:23:13 8 MR. HERRERA: Okay. Those are all my questions.

12:23:26 9 Thank you.

12:23:26 10 MS. BOUGHTON: Do any other plaintiffs have

12:23:28 11 questions? Okay.

12:23:33 12 I have a few, if you're all right, Mr. Lerma.

12:23:38 13 Do you need a break or -

12:23:39 14 THE WITNESS: No, I'm good.

12:23:41 15 MS. BOUGHTON: Okay. Great.

12:23:41 16

12:23:44 17 EXAMINATION

12:23:44 18 BY MS. BOUGHTON:

12:23:46 19 Q. So my name is Kathryn Boughton. I know there's

12:23:47 20 a lot of people on the call. I represent the state and

12:23:49 21 attorney general in this matter. And I just have a couple

12:23:51 22 of clarification questions.

12:23:53 23 A. Okay.

12:23:54 24 Q. So first, I'd like to go back to Exhibit 42,

12:23:57 25 which is marked D in your packet. And I just want to

12:24:03 1 clarify something.

12:24:04 2 So plaintiffs' counsel asked you some questions

12:24:06 3 about interrogatory No. 9, which is on page eight and nine

12:24:10 4 of the PDF.

12:24:12 5 A. Okay.

12:24:14 6 Q. And this is the interrogatory that asks about

12:24:16 7 instances of establishing non-U.S. citizen or non-county

12:24:21 8 residents registering to vote or voting. And I note that

12:24:26 9 the request asks from January 1st, 2013 to present, but I

12:24:29 10 read the response, quote, the Navajo County Recorder's

12:24:34 11 Office has not had any situation arise since January 1st,

12:24:38 12 2023 in which it established that a non-U.S. citizen or

12:24:44 13 non-county resident has registered to vote, end quote.

12:24:47 14 Do you know if the information was pulled from

12:24:49 15 January 23, 2023 or January 2013?

12:24:54 16 A. Let me reread it really quick.

12:25:00 17 Q. Yeah. Sorry. That was a mouth of a question,

12:25:03 18 so...

12:25:05 19 A. It's not tracked in our system, so it would just

12:25:13 20 have to be in memory. And it's never happened since we

12:25:18 21 have been here.

12:25:20 22 Q. Okay. So you think that the answer could have

12:25:25 23 been for, it could have been a typo, and this maybe should

12:25:29 24 say since January 1st, 2013?

12:25:31 25 A. Yes. Yes.

12:25:50 1 Q. Okay. And can you remind me, when did you start
12:25:55 2 at the Recorder's Office?

12:25:57 3 A. It's been -- in 2017.

12:26:02 4 Q. Okay. Thank you.

12:26:08 5 A. Hmm hmm.

12:26:08 6 Q. I'd like to talk briefly about some of the
12:26:19 7 documentary proof of residency questions that you were
12:26:22 8 asked, some of the kind of nonstandard address questions
12:26:24 9 that we talked about way back at the beginning of the
12:26:28 10 depo.

12:26:29 11 And I was just wondering, generally, you know,
12:26:32 12 based on your experience and, at the Recorder's Office,
12:26:36 13 what kind of documents, generally, do people have that
12:26:40 14 show where they live in your county.

12:26:42 15 A. The only one I have seen is an, maybe an ID. I
12:26:50 16 have seen some IDs come across that are, they have a
12:26:55 17 direction for their address, had the directional address
12:27:07 18 on it.

12:27:08 19 Q. Would that be a tribal ID?

12:27:13 20 A. An Arizona ID.

12:27:15 21 Q. An Arizona ID. Okay.

12:27:46 22 Switching gears slightly to documentary proof of
12:27:50 23 citizenship, just to clarify your process for me.

12:27:54 24 So if a voter submits a form, a state form with
12:28:00 25 DPOC, do you scan that DPOC into the AVID system?

12:28:06 1 A. We do, yes.

12:28:07 2 Q. Do you at the Recorder's Office do anything

12:28:11 3 independently to verify the document?

12:28:13 4 A. No.

12:28:15 5 Q. No. Okay.

12:28:17 6 Still on citizenship, but on the federal form.

12:28:32 7 Do you think the citizenship checkbox provides you

12:28:35 8 information about whether a voter is a citizen?

12:28:39 9 A. Does it provide me information?

12:28:43 10 Q. Hmm hmm.

12:28:44 11 A. No, it doesn't provide. They just check it.

12:28:48 12 Q. And same answer -- same question for the state

12:28:53 13 form.

12:28:53 14 Do you think the checkbox provides you

12:28:55 15 information about whether the voter is a citizen?

12:28:58 16 A. No. They just check the box.

12:29:00 17 Q. Okay. So if they check no, does that raise a

12:29:04 18 red flag for you at all?

12:29:07 19 A. If they check no, yes.

12:29:09 20 Q. So if they check no that they're not a

12:29:15 21 U.S. citizen, but they come back in the AVID system with

12:29:20 22 no hits, would that -- how would your office handle that

12:29:22 23 kind of a situation?

12:29:23 24 A. We would send them a letter.

12:29:28 25 Q. Send them a letter.

12:29:28 1 I think you said send them a letter. Is that
12:29:31 2 right?

12:29:31 3 A. Yeah. Yes.

12:29:32 4 Q. Okay. If they checked no on a citizenship box
12:29:43 5 on the state form but they did attach, say, a birth
12:29:46 6 certificate, would you still send them a letter?

12:29:49 7 A. No.

12:29:50 8 Q. No. Okay.

12:29:56 9 Has your office ever had situations in which
12:29:59 10 someone submitted a proof of citizenship, so a birth
12:30:04 11 certificate or a copy of a passport, and the document was
12:30:10 12 defective in some way or blurry? Have you ever had
12:30:15 13 situations like that?

12:30:16 14 A. Off the top of my head, no.

12:30:18 15 Q. Okay. So normally you don't have issues with
12:30:23 16 the photocopies that are provided?

12:30:24 17 A. No. Yeah, they're usually clear.

12:30:27 18 Q. Okay. If, theoretically, if you were presented
12:30:33 19 with an application that had a bad photocopy, say of a
12:30:37 20 birth certificate, would you find it helpful to look and
12:30:41 21 see if they have checked the citizenship box yes?

12:30:46 22 A. Yes.

12:30:46 23 Q. A few more questions.

12:31:03 24 So this is on what's been marked as Exhibit 40,
12:31:10 25 it's Document C, and you were asked about this a little

12:31:13 1 bit earlier. It's your responses to the request for
12:31:18 2 document production.

12:31:20 3 And so I'm looking at request No. 1, and your
12:31:25 4 response, Subpart I. Let me know when you're there.

12:31:29 5 A. I'm there.

12:31:29 6 Q. Okay. So I just wanted to clarify your meaning,
12:31:35 7 my understanding of this response.

12:31:37 8 So I see that you respond that:

12:31:41 9 If an applicant was using a state form to
12:31:43 10 register, he or she would have been required to provide a
12:31:46 11 birthplace or complete the citizenship checkbox in order
12:31:50 12 to be registered to vote in state or local elections.

12:31:55 13 So do I understand this, that if an applicant
12:32:00 14 provides a birthplace in the United States that that's
12:32:03 15 accepted as proof of citizenship by itself?

12:32:06 16 A. No.

12:32:06 17 Q. No. Okay.

12:32:08 18 And I understand that there's no easy way to
12:32:15 19 determine if someone did provide birthplace on the state
12:32:18 20 form, but generally, in your experience, is it common for
12:32:23 21 an applicant to list birthplace on a state form?

12:32:27 22 A. Yes, it's common.

12:32:29 23 Q. Okay. So I have a hypothetical for you, a quick
12:33:05 24 one, and then I'll let you go.

12:33:07 25 So if a registrant were to write on their form

12:33:11 1 that they were born in New York, for example, but they
12:33:15 2 provided a birth certificate from Florida, what would your
12:33:19 3 office do in that situation?

12:33:21 4 A. Ooh. We would verify that stuff matches, their
12:33:34 5 name and date of birth. It hasn't happened yet, that I
12:33:42 6 know of, so I would get the guidance from the County
12:33:50 7 Recorder.

12:33:50 8 Q. Okay. But, generally, it would give you guys
12:33:54 9 pause and you would do some additional investigation?

12:33:58 10 A. Correct.

12:34:11 11 MS. BOUGHTON: All right. Just one moment. I'm
12:34:13 12 just checking all my notes.

12:34:36 13 All right. That is all I have for you today.
12:34:38 14 Thank you so much for your time. I really appreciate it.

12:34:41 15 I don't know if any of the other representatives
12:34:43 16 have questions.

12:34:46 17 MR. LANGHOFER: I do, but I'll defer to Craig if
12:34:49 18 he would like to go first.

12:34:52 19 MR. MORGAN: I have no questions. Thanks. At
12:34:54 20 least not right now.

12:34:54 21

12:34:54 22 EXAMINATION

12:34:57 23 BY MR. LANGHOFER:

12:35:01 24 Q. Mr. Lerma, thank you for your time. I'll be
12:35:01 25 relatively quick here.

12:35:02 1 I represent the Republican Intervenors, so we're
12:35:06 2 generally defending the laws. I just had a few follow-up
12:35:11 3 questions, mostly in the way of clarification.

12:35:14 4 Why don't we start with location of birth, which
12:35:16 5 is what Ms. Boughton was just asking you about.

12:35:23 6 If you have, if someone tries to register with a
12:35:25 7 very common name, let's say, you know, Joe Smith, or
12:35:27 8 something like that -- maybe there's a more common name in
12:35:29 9 your county -- and there is already someone registered
12:35:35 10 with that name, and, let's even say, with that date of
12:35:38 11 birth, what do you do in that circumstance to determine
12:35:42 12 whether they're already registered?

12:35:52 13 A. What do we do?

12:35:56 14 There is a verification system in AVID that
12:36:01 15 looks for duplicates. And if the date of birth matches,
12:36:03 16 social matches, and the name matches, then we link it.

12:36:13 17 Q. And, if you don't have a social, could you use
12:36:15 18 the location of birth or birthplace in order to confirm
12:36:20 19 or, confirm or disprove that it's a duplicate?

12:36:25 20 A. We do use it sometimes.

12:36:27 21 Q. Okay. In order to avoid duplicate
12:36:32 22 registrations, you mean?

12:36:33 23 A. Correct.

12:36:34 24 Q. And is that information in the AVID system?

12:36:38 25 A. It is.

12:36:39 1 Q. The -- in your experience, when you send out a
12:36:48 2 notification telling a voter that they're not qualified to
12:36:52 3 register to vote, for whatever reason, how often do they
12:36:57 4 respond and, you know, sort of correct the record and
12:36:59 5 provide the information you need to conclude that they
12:37:02 6 are, in fact, qualified to register?

12:37:04 7 A. In my experience, not often.

12:37:08 8 Q. Can you give us a rough percentage?

12:37:11 9 A. I'd say maybe one out of 20.

12:37:23 10 Q. And, in those cases, I take it that you do, in
12:37:30 11 fact, update the registration or give them a proper
12:37:34 12 registration?

12:37:34 13 A. Correct.

12:37:35 14 Q. Final question.

12:37:41 15 Mr. Rosenbaum had asked you whether you had seen
12:37:44 16 any fraudulent or incorrect applications come through your
12:37:49 17 office. And, if your office hasn't concluded that any
12:37:54 18 registrations were fraudulent or had inaccurate
12:37:57 19 information, am I correct in assuming that you guys
12:38:01 20 haven't gone out and sort of personally checked each of
12:38:03 21 the addresses that come through because it would just be
12:38:07 22 too much work for your office?

12:38:08 23 A. Yeah. It's also not required.

12:38:10 24 Q. Right. Yeah. I didn't mean to suggest that it
12:38:13 25 would be required.

12:38:14 1 So when you say that you haven't seen a
12:38:17 2 fraudulent or inaccurate registration come through, do you
12:38:21 3 mean that you haven't been able to conclude it's
12:38:24 4 fraudulent or inaccurate based on the face of the
12:38:27 5 documents, or based on any, you know, sort of
12:38:28 6 extracurricular research you guys have done?

12:38:31 7 A. Yeah. Just based off the document.

12:38:37 8 MR. LANGHOFER: Okay. I don't have any other
12:38:40 9 questions. Thank you.

12:38:56 10 MR. ATKINS: If no one else for defendants has
12:38:58 11 questions, I have just one follow-up question, I think.

12:38:58 12

12:39:01 13 FURTHER EXAMINATION

12:39:01 14 BY MR. ATKINS:

12:39:02 15 Q. Just to clarify something. I had thought that
12:39:05 16 earlier in today's deposition you had told us that
12:39:11 17 birthplace information isn't a piece of data that's
12:39:16 18 reported in AVID, and I'm just wondering is birthplace
12:39:23 19 reported in AVID?

12:39:23 20 A. Birthplace? Is that what you said? Is
12:39:29 21 birthplace recorded?

12:39:32 22 Q. Yeah. Place of birth or birthplace information.

12:39:40 23 A. Place of birth is recorded.

12:39:49 24 MR. ATKINS: Okay. That's my remaining
12:39:51 25 question.

12:39:51 1 The only other, I guess, point of clarification
12:40:00 2 is Ms. Boughton had brought up the lack of clarity as to
12:40:05 3 the interrogatory response regarding instances of
12:40:13 4 non-citizen or non-resident voter fraud.

12:40:22 5 Mr. Moore, I assume you're the one to ask about
12:40:24 6 this, but I think it would be helpful if you or your
12:40:28 7 client could provide us all with a clear statement of
12:40:32 8 whether those response was referring to the time in
12:40:36 9 question starting in January of 2013.

12:40:41 10

DEFENSE COUNSEL: Form.

12:40:52 11

MR. ATKINS: You're on mute.

12:41:01 12

MR. ROSENBAUM: Jason, we can't hear you.

12:41:02 13

You're muted.

12:41:02 14

MR. MOORE: I apologize.

12:41:03 15

Mr. Atkins, I'm sorry. Yeah, that was a

12:41:07 16

typographical in that document. It should have said 2013

12:41:09 17

rather than 2023.

12:41:12 18

MR. ATKINS: Okay. Great. Appreciate that.

12:41:16 19

That's all I have. Thanks again, Mr. Lerma.

12:41:19 20

THE WITNESS: Thank you.

12:41:27 21

MR. ROSENBAUM: Well, I have nothing further.

12:41:32 22

John, I don't know if you do, but, if not, I

12:41:37 23

think this concludes.

12:41:38 24

MR. HINDLEY: I don't have any further

12:41:40 25

questions.

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MR. ROSENBAUM: Thank you, again, Mr. Lerma,
really appreciate your time.

THE VIDEOGRAPHER: We are off the record. The
time on the video monitor is 12:41 p.m. This ends
Volume 1, Media No. 3 in the 30(b)(6) Navajo County
Recorder by Jose Lerma.

We are off the record.

(The deposition concluded at 12:42 p.m.)

(Exhibit 36, Exhibit 38, Exhibit 39, Exhibit 40,
Exhibit 41, Exhibit 42, Exhibit 43, Exhibit 44,
Exhibit 45, Exhibit 46, Exhibit 47, and Exhibit 48 were
marked for identification.)

(Signature not requested.)

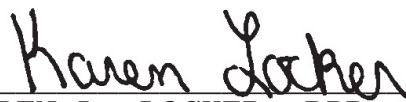
JOSE LERMA

1 STATE OF ARIZONA)
2) ss.
3 COUNTY OF MARICOPA)

4 BE IT KNOWN that the foregoing deposition was
5 taken before me, KAREN L. LOCKER, RPR, Certified Reporter
6 No. 50821 for the State of Arizona, and by virtue thereof
7 authorized to administer an oath; that the witness before
8 testifying was duly sworn by me to testify to the whole
9 truth; deposition review and signature was not requested;
10 that the questions propounded by counsel and the answers
11 of the witness thereto were taken down by me in shorthand
12 and thereafter transcribed into typewriting under my
13 direction; that the foregoing pages contain a full, true,
14 and accurate transcript of all proceedings and testimony
15 had, all to the best of my skill and ability.

16 I FURTHER CERTIFY that I am not related to nor
17 employed by any of the parties hereto and have no interest
18 in the outcome thereof.

19 DATED at Phoenix, Arizona, this 8th day of
20 August, 2023.

21
22
23 

24 _____
KAREN L. LOCKER, RPR
25 Certified Court Reporter No. 50821

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IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ARIZONA

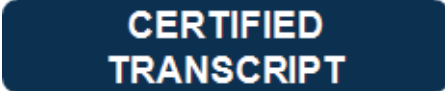
Mi Familia Vota, et al.,)	
)	
Plaintiffs,)	
)	
vs.	)	No. 2:22-cv-00509-PHX-SRB
	)	(Lead)
Adrian Fontes, in his)	
official capacity as Arizona)	
Secretary of State, et al.,)	
)	
Defendants.)	
)	
<hr/> AND CONSOLIDATED CASES	)	No. CV-22-00519-PHX-SRB
	)	No. CV-22-01003-PHX-SRB
	)	No. CV-22-01124-PHX-SRB
	)	No. CV-22-01369-PHX-SRB
	)	No. CV-22-01381-PHX-SRB
	)	No. CV-22-01602-PHX-SRB
	)	No. CV-22-01901-PHX-SRB
)	

VIDEOTAPED 30(b)(6) DEPOSITION OF MOHAVE COUNTY RECORDER
BY AND THROUGH LYDIA DURST

Kingman, Arizona

August 2, 2023

Prepared By:
Karen L. Locker, RPR
Certified Reporter #50821



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VIDEOTAPED DEPOSITION OF LYDIA DURST

was taken on August 2nd, 2023, commencing at 10:09 a.m.,
at 700 Beale Street, Kingman, Arizona, before Karen L.
Locker, a Certified Reporter in the State of Arizona,
reported via Zoom Videoconference.

* * *

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5 Leslie Mansfield
6 Matt Webber
7 Daxon Ernyei
8 Sarah Johnston
9 Emma Schlenker

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10:09:31 1 THE VIDEOGRAPHER: We are on the record. Time
10:09:32 2 on the video monitor is 10:09 a.m.

10:09:35 3 Here begins Volume 1, Media No. 1 in the
10:09:39 4 30(b)(6) deposition of Chief Deputy Mohave County Recorder
10:09:46 5 by Lydia Durst, in the matter of Mi Familia Vota, et al.
10:09:53 6 v. Adrian Fontes, in the United States District Court,
10:09:57 7 District of Arizona, case No. 2:22-cv-00509-SRB.

10:10:07 8 Today's date is August 2nd, 2023.

10:10:10 9 Our court reporter is Karen Locker. My name is
10:10:15 10 Dennis Woods, certified legal videographer, and we both
10:10:19 11 represent Coash Court Reporting & Video.

10:10:22 12 This video deposition is taking place at 700
10:10:25 13 Beale Street, Kingman, Arizona.

10:10:26 14 Would all attendees please identify themselves
10:10:29 15 and state whom you represent.

10:10:36 16 MR. DAVIS: William Davis representing Mohave
10:10:36 17 County Recorder Kristi Blair.

10:10:36 18 MS. DIBRELL: Mollie DiBrell from Elias Law
10:10:49 19 Group representing Mi Familia Vota and Voto Latino.

10:10:49 20 MS. BOUGHTON: Kathryn Boughton representing the
10:10:49 21 State of Arizona and Arizona Attorney General.

10:10:49 22 MR. LANGHOFER: Kory Langhofer --

10:10:57 23 MR. HORLEY: Tim Horley representing -- oh,
24 sorry.

25 MR. LANGHOFER: Kory Langhofer representing --

1 MR. HORLEY: I was just going to add, Tim -- I'm
2 sorry.

3 MR. LANGHOFER: Go ahead, Tim.

4 MR. HORLEY: Just get this stated real quick.

10:11:06 5 Tim Horley representing the State of Arizona and
10:11:08 6 the Arizona Attorney General.

10:11:13 7 MR. LANGHOFER: Kory Langhofer for the RNC
10:11:13 8 intervenors.

10:11:13 9 MS. STUART: Shayna Stuart for Secretary,
10:11:18 10 Arizona Secretary of State Adrian Fontes.

10:11:22 11 MR. KEREKES: Bill Kerekes for the Yuma County
10:11:24 12 Recorder Richard Colwell.

10:11:27 13 MR. GORDON: Mike Gordon for the Yavapai County
10:11:27 14 Recorder.

10:11:27 15 MS. ESTES-WERTHER: Christina Estes-Werther for
10:11:37 16 Santa Cruz County Recorder.

10:11:41 17 THE VIDEOGRAPHER: Have all parties identified
10:11:43 18 themselves?

10:11:45 19 MR. MAKKER: Amit Makker from Latham & Watkins
10:11:45 20 for the Arizona Asian American Native Hawaiian and Pacific
10:11:51 21 Islander for Equity Coalition plaintiff.

10:11:51 22 MR. HERRERA: Ernest Herrera for Promise Arizona
10:11:51 23 plaintiffs.

10:11:58 24 MR. VOLCHOK: Daniel Volchok from Wilmer Cutler
10:12:00 25 Pickering Hale & Dorr for the Democratic National

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LYDIA DURST,
a witness herein, having been first duly sworn by the
Certified Reporter to speak the truth and nothing but the
truth, was examined and testified as follows:

EXAMINATION

BY MS. DIBRELL:

Q. Good morning, Ms. Durst. As you just heard, I'm
Mollie DiBrell. I'm from Elias Law Group, and I represent
the Plaintiffs Mi Familia Vota and Voto Latino in this
lawsuit.

As I'm sure you know, there are various
plaintiff groups who have brought legal challenges against
a series of new laws who were enacted by the legislature
under H.B. 2492 and 2243. Those cases have been
consolidated into one lawsuit.

I am going to begin the questioning today, but
when I'm done, some of the counsel for the other
plaintiffs may have questions for you as well.

Does that make sense?

A. Yes.

Q. Could you please state your full name for the
record and spell your last name?

A. Lydia Durst, D-U-R-S-T.

Q. And have you been deposed before?

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A. No.

Q. Okay. So I just want to go over some ground rules so that we are on the same page.

So you understand that Ms. Locker is the court reporter and that she is typing down everything that we say today so that we have a complete and accurate record of what is being said, right?

A. Correct.

Q. And so she can get a complete and accurate record, if you could please just answer questions audibly and clearly.

A. Okay.

Q. Does that -- perfect.

And then, as we agreed off the record, but I'll just state it for the record, the defendants are going to have one objection, so you may hear your counsel object. Let your counsel object so it can be on the record, and then, once they're done, you may answer my question unless they have instructed you otherwise.

Does that make sense?

A. Yes.

Q. And then if you could also agree to wait and let me finish my question before answering so we don't talk over each other. I know it's a bit difficult with Zoom.

So does that sound good?

10:14:59 1 A. Yes.

10:14:59 2 Q. If any of my questions are unclear, will you
10:15:05 3 please let me know that you don't understand the question
10:15:07 4 or that you need me to repeat any part of it?

10:15:10 5 A. Yes.

10:15:10 6 Q. And if you do answer my question I will assume
10:15:15 7 that you understood the question.

10:15:15 8 Does that make sense?

10:15:22 9 A. Yes.

10:15:22 10 Q. If at any time you need a break, please let me
10:15:25 11 know. The only thing I ask is if there is a question
10:15:28 12 pending that you finish answering and then we can take a
10:15:31 13 break.

10:15:32 14 Do you understand?

10:15:32 15 A. Yes.

10:15:33 16 Q. And you just took an oath, correct?

10:15:38 17 A. Correct.

10:15:38 18 Q. And do you agreed to provide truthful and
10:15:42 19 complete testimony to the best of your ability today?

10:15:44 20 A. I do.

10:15:45 21 Q. And is there any reason you can't fully and
10:15:48 22 truthfully testify today?

10:15:49 23 A. No.

10:15:50 24 Q. And did you bring any materials into the
10:15:59 25 deposition with you?

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A. Yes.

Q. And what are they?

A. Just the notice of the deposition, our responses, and our discovery, as well as, when we submitted to our board of supervisors, our agreement for our SAVE program.

MR. DAVIS: Counsel, that's the discovery from February.

MS. DIBRELL: I see. And when you say discovery, do you mean the discovery responses or the actual production?

MR. DAVIS: These were the requests for productions from the February discovery.

BY MS. DIBRELL:

Q. And you have the answers to the requests and the actual productions in front of you?

MR. DAVIS: We have the answers to the ones that are narrative in nature. Some of them were sent over as Excel sheets, so we don't have those. But this one is narrative, so I have it for her to reference if necessary.

MS. DIBRELL: Thank you for clarifying.

BY MS. DIBRELL:

Q. And do you have any other notes in front of you or any notes on the documents?

A. No.

10:17:18 1 Q. Okay. So I just want to talk a little bit about
10:17:23 2 your background.

10:17:25 3 So that you are currently employed by the Mohave
10:17:31 4 County Recorder's Office, correct?

10:17:31 5 A. Correct.

10:17:31 6 Q. And you are the Chief Deputy County Recorder?

10:17:35 7 I'm sorry. I can't hear your audio. Would you say that
10:17:38 8 again?

10:17:41 9 A. I am the Chief Deputy Recorder for Mohave
10:17:41 10 County.

10:17:51 11 Q. How long have you been the Chief Deputy County
10:17:54 12 Recorder for Mohave County?

10:17:55 13 A. Three years.

10:17:56 14 Q. And what are your responsibilities as the Chief
10:18:00 15 Deputy County Recorder?

10:18:01 16 A. I act on behalf of our County Recorder. I
10:18:04 17 complete tasks in the voter registration department, as
10:18:08 18 well as the Recorder's office.

10:18:09 19 Q. And what are those tasks you complete in the
10:18:13 20 voter, with respect to voter registration?

10:18:15 21 A. It could be hiring, permanent employee,
10:18:20 22 employer -- employees, early voting temps, setting up
10:18:24 23 early voting sites, registering people to vote, any duty
10:18:29 24 as assigned.

10:18:30 25 Q. And have you held any other positions in the

10:18:37 1 Mohave County Recorder's Office?

10:18:37 2 A. I have.

10:18:38 3 Q. What were those positions?

10:18:40 4 A. I was the administrative assistant to the County

10:18:46 5 Recorder.

10:18:46 6 Q. And when were you the administrative assistant

10:18:49 7 to the County Recorder?

10:18:51 8 A. From October of 2017 to February of 2020. I'm

10:18:57 9 sorry. I misspoke that.

10:19:02 10 Q. So what years were you the administrative

10:19:07 11 assistant?

10:19:07 12 A. October of 2018 to February of 2020.

10:19:09 13 Q. Perfect. And can you please briefly describe

10:19:14 14 what your responsibilities were in that role?

10:19:16 15 A. I completed all deposits; I recorded documents

10:19:25 16 to be made of public record; I did memos for the County

10:19:30 17 Recorder; and did mild assistance with the voter

10:19:30 18 registration.

10:19:36 19 Q. Based on your time with the Mohave County

10:19:39 20 Recorder's Office, is it fair to say you're familiar with

10:19:42 21 Arizona's election administration?

10:19:44 22 A. Yes.

10:19:45 23 Q. And is it fair to say that, based on your

10:19:46 24 experience, you're familiar with Arizona's voter

10:19:50 25 registration processes?

10:19:51 1 A. Yes.

10:19:52 2 Q. And do you understand that you are here today as

10:19:56 3 a representative to testify on behalf of the Mohave County

10:19:59 4 Recorder?

10:19:59 5 A. Yes.

10:19:59 6 Q. Do you understand that your answers may be

10:20:04 7 based, not only on your personal knowledge, but also

10:20:06 8 information known or available to the Mohave County

10:20:10 9 Recorder?

10:20:10 10 A. Yes.

10:20:10 11 Q. And so, I want to clarify, this is not a memory

10:20:14 12 test. So if I ask a question and you don't know the

10:20:17 13 answer, can you agree to tell me if you think someone else

10:20:20 14 in the office may know the answer?

10:20:22 15 A. Yes.

10:20:23 16 Q. So I would like to show you a document that will

10:20:30 17 be marked as Exhibit 49, and it's actually the deposition

10:20:33 18 notice that you already have in front of you, but I can

10:20:36 19 pull it up to share it with all of the groups.

10:21:30 20 Can you see my screen?

10:21:31 21 A. Yes.

10:21:33 22 Q. And do you recognize this document?

10:21:34 23 A. I do.

10:21:35 24 Q. And this is the 30(b)(6) deposition notice for

10:21:40 25 your deposition, correct?

10:21:41 1 A. Yes.

10:21:42 2 Q. I'm going to scroll to Schedule A, and I'm going

10:21:48 3 to represent to you that this is a list of the topics that

10:21:52 4 we may discuss today, in today's deposition.

10:21:55 5 Have you reviewed Schedule A previously?

10:21:58 6 A. Just briefly, prior to.

10:22:02 7 Q. Have you reviewed all 20 topics that are listed

10:22:06 8 in Schedule A?

10:22:21 9 I'm sorry. Could you state that again? I can't

10:22:23 10 hear you.

10:22:23 11 A. I didn't go through all the topics, no.

10:22:25 12 Q. Are there any topics in Exhibit A of your

10:22:33 13 deposition notice that you are not prepared to answer

10:22:35 14 questions about today?

10:22:37 15 A. Not that I'm aware of.

10:22:54 16 Q. Would it be helpful to go through each topic?

10:23:05 17 Or are you prepared to speak to all 28 topics today in

10:23:09 18 your deposition notice?

10:23:13 19 A. I believe I can speak to them.

10:23:17 20 Q. And what did you do to prepare for today's

10:23:23 21 deposition?

10:23:23 22 A. I didn't prepare anything from this necessarily.

10:23:36 23 Q. Did you meet with anyone in your office to

10:23:39 24 prepare for today's deposition?

10:23:41 25 A. I spoke with County Recorder Kristi Blair

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briefly.

Q. And what did you speak about?

A. She's the one that received this, and we just discussed the data that was provided in response.

Q. What do you mean by the data that was provided in response?

A. Where, like from the discovery that we provided, that she provided.

Q. And how many times did you speak with County Recorder Kristi Blair?

A. Just once.

Q. And when was this?

A. Yesterday.

Q. And how long did you meet with County Recorder Kristi Blair?

A. Less than 15 minutes.

Q. Was anyone else present at that meeting with Kristi Blair?

A. No.

Q. Without going into the substance of any of the conversations, did you meet with your counsel to prepare for today's deposition?

A. Yes.

Q. How many times?

A. Twice.

10:25:19 1 Q. And did you meet with Mr. Davis?

10:25:23 2 A. Yes.

10:25:25 3 Q. When?

10:25:30 4 A. This morning and yesterday.

10:25:32 5 Q. And about how long were those meetings with

10:25:36 6 Mr. Davis?

10:25:36 7 A. Yesterday was very brief, and this morning,

10:25:45 8 30 minutes.

10:25:46 9 Q. And for yesterday's meeting with Mr. Davis, if

10:25:54 10 you had to ballpark it, how long was that meeting?

10:25:58 11 A. Less than 15 minutes.

10:26:02 12 Q. And did you review any documents to prepare for

10:26:07 13 today's deposition?

10:26:08 14 A. Just the documents I have this morning.

10:26:10 15 Q. And, to be clear, the documents that you have

10:26:17 16 this morning are the Mohave County's responses to Equity's

10:26:28 17 RFPs?

10:26:29 18 A. Yes.

10:26:30 19 Q. What other documents did you look at in

10:26:32 20 preparation for this deposition?

10:26:34 21 A. Briefly reviewed the Rule 30(b)(6).

10:26:42 22 Q. By the Rule 30(b)(6), you mean the Rule 30(b)(6)

10:26:48 23 deposition notice that I'm sharing on my screen?

10:26:52 24 A. Yes.

10:26:52 25 Q. Did you review anything else in preparation for

10:26:55 1 today's deposition?

10:26:56 2 A. No.

10:26:58 3 Q. So, to clarify, you reviewed the Mohave's RFP
10:27:08 4 responses to Equity's requests for production that were
10:27:12 5 served in February of 2023, correct?

10:27:16 6 A. Yes. And the most recent.

10:27:22 7 Q. And, can you clarify the most recent, were in
10:27:26 8 response to the consolidated plaintiff's request for
10:27:30 9 production?

10:27:30 10 A. Yes.

10:27:35 11 MS. DIBRELL: And, just to make it clear for the
10:27:38 12 record, I'm marking the Mohave amended 30(b)(6) deposition
10:27:44 13 notice as Exhibit 49.

10:27:56 14 BY MS. DIBRELL:

10:28:10 15 Q. So I would like to discuss the Mohave County
10:28:18 16 Recorder's responsibilities with respect to elections with
10:28:18 17 you.

10:28:18 18 A. Okay.

10:28:19 19 Q. So what are the Mohave County Recorder's
10:28:22 20 Office's responsibilities when it comes to elections?

10:28:24 21 A. We receive voter registration forms to register
10:28:29 22 people to vote. We complete, complete those. We set up
10:28:36 23 early voting sites, hire temporary employees, work early
10:28:40 24 voting sites 27 days before an election. We mail ballots
10:28:45 25 to registered voters that request them. We signature

10:28:49 1 verify returned early ballots, and we provide them to the
10:28:54 2 elections department.

10:28:56 3 Q. You said that you receive voter registration
10:29:01 4 forms?

10:29:01 5 A. Yes.

10:29:01 6 Q. And you said that you complete those.

10:29:03 7 Could you explain what you mean by you complete
10:29:06 8 those?

10:29:07 9 A. So if a voter registration form is paper, we
10:29:10 10 would do the data entry on that, complete a HAVA check,
10:29:14 11 run them through the HAVA program, and they would then
10:29:18 12 either be, come up with their status for voter
10:29:23 13 registration. We also receive them from the Motor Vehicle
10:29:27 14 Division as an EZ Voter, and we process those as well.

10:29:34 15 Q. So let's take each one of those in turn.

10:29:37 16 So you said for paper registrations you enter
10:29:41 17 the data from the voter registration forms, correct?

10:29:45 18 A. Yes.

10:29:45 19 Q. What do you enter that data from paper voter
10:29:50 20 registration forms into?

10:29:51 21 A. The Arizona voter information database, known as
10:29:57 22 AVID.

10:29:57 23 Q. And what does that entail?

10:29:59 24 A. That is the entire voter database, or what
10:30:05 25 does -- I'm sorry. I may not understand your question.

10:30:09 1 Q. Thanks for telling me. That's perfect.

10:30:12 2 What does it entail when you say you enter that

10:30:15 3 data into AVID? What do you do?

10:30:18 4 A. So we scan the image. From the image we would

10:30:21 5 type in their last name, their first name, and then any

10:30:24 6 identifying information, their Arizona driver's license,

10:30:27 7 their date of birth, and their social, last four of their

10:30:30 8 social security number. That would then pop up if they

10:30:34 9 already have a record in Arizona, most likely Mohave

10:30:37 10 County. And if it's a hard match, depending on what

10:30:41 11 information is already on our record, we would match them,

10:30:45 12 and then we would update the record from the paper into

10:30:47 13 that database. So if they change their party, if they

10:30:52 14 change their address, their mailing information, or be

10:30:55 15 removed or added from the active early voting list.

10:30:59 16 Q. What do you mean when you say if it's a hard

10:31:02 17 match? What is that?

10:31:03 18 A. So if the voter's name and their date of birth

10:31:09 19 or social security or Arizona driver's license match them

10:31:12 20 to an already registered voter.

10:31:15 21 Q. And if it matches an already registered voter,

10:31:19 22 you update their registration?

10:31:21 23 A. Yes.

10:31:22 24 Q. What if it doesn't match an already registered

10:31:28 25 voter? Then what do you do?

10:31:30 1 A. They would become a new registered voter.

10:31:34 2 Q. And who in the office is responsible for this

10:31:37 3 process?

10:31:37 4 A. All voter registration specialists.

10:31:40 5 Q. Who are the voter registration specialists?

10:31:43 6 A. We have currently three, Monique, Jamie, and

10:31:48 7 Erma.

10:31:49 8 Q. Do you know those three voter registration

10:31:54 9 specialists' full names, first and last?

10:31:57 10 A. I do. It's -- I'm sorry -- Monique Martinez,

10:32:03 11 Jamie Risher, and Erma Allen.

10:32:07 12 Q. Thank you.

10:32:13 13 You also said that for the paper voter

10:32:16 14 registration forms, after you enter the data there's a

10:32:20 15 HAVA check, correct?

10:32:22 16 A. Correct.

10:32:22 17 Q. Can you explain what that entails? What is the

10:32:26 18 HAVA check?

10:32:26 19 A. The HAVA check is on top of the voter -- it's a

10:32:31 20 large button on the top of the screen in the Arizona voter

10:32:35 21 information database, and that runs them through the HAVA

10:32:39 22 program for their, with their Arizona driver's license

10:32:43 23 information, to come back for a status of valid or if they

10:32:51 24 need to be a federal and provide further information.

10:32:55 25 Q. What is the HAVA check checking against?

10:32:58 1 A. My belief it would be the Motor Vehicle Division

10:33:05 2 information.

10:33:07 3 Q. And under what circumstances would a HAVA check

10:33:27 4 come back not a match?

10:33:29 5 A. If the voter didn't provide any information to

10:33:38 6 the MVD showing that they are a U.S. citizen.

10:33:42 7 Q. So before we get into the specifics of what the

10:34:01 8 voter can show for their citizenship, I also wanted to

10:34:06 9 briefly talk, or touch on, the other ways that voters can

10:34:10 10 register to vote. So you also mentioned they can register

10:34:13 11 to vote using the Motor Vehicle's database, an EZ form?

10:34:17 12 A. It's called EZ Voter. It's electronic.

10:34:23 13 Q. And how does that work?

10:34:24 14 A. So it's through, either in person at the MVD

10:34:27 15 and, or you can do it online through the Motor Vehicle

10:34:33 16 Division, ServiceArizona. It would take the information

10:34:37 17 from your driver's license, your signature. You can

10:34:41 18 update your registration, pick your political party, and

10:34:45 19 it would take all of that data, it puts it on to an

10:34:49 20 electronic form that then comes to us.

10:34:51 21 Q. What do you do once that electronic data comes

10:34:56 22 to you?

10:34:57 23 A. It's on the dashboard in AVID, our voter

10:35:01 24 registration database, and then we select the first

10:35:06 25 person, work in order that they're received. We verify

10:35:09 1 that what is on the form is inputted, so it's like two
10:35:15 2 screens. What's on the form is what's showing in the
10:35:19 3 voter information record and then you would need to click
10:35:24 4 on their address for it to verify the address, do a HAVA
10:35:28 5 check, and it would then marry that, if they are already
10:35:33 6 registered, to their file or make them a new registered
10:35:43 7 voter.

10:35:44 8 Q. Do the three voter registration specialists that
10:35:46 9 you mentioned previously, are they also responsible for
10:35:49 10 processing these EZ Voter application forms?

10:35:54 11 A. Yes. But not all of them complete it on a daily
10:35:58 12 basis.

10:35:58 13 Q. Does anyone else process any voter registration
10:36:02 14 applications?

10:36:02 15 A. I do typically when it's a deadline to register
10:36:07 16 to vote and there's a lot of them.

10:36:09 17 Q. Does anyone else help process voter registration
10:36:15 18 forms?

10:36:15 19 A. No.

10:36:16 20 Q. Is it also part of your responsibilities to
10:36:26 21 conduct list maintenance processes?

10:36:29 22 A. It is.

10:36:30 23 Q. Do you -- are you responsible for this in the
10:36:34 24 office, or is someone else responsible for maintaining
10:36:38 25 voter registration lists?

10:36:42 1 A. Could I ask for clarification on that?

10:36:48 2 Q. Of course.

10:36:49 3 So when it comes to maintaining the voter

10:36:52 4 registration rolls, who in your office is responsible for

10:36:55 5 doing that?

10:36:56 6 A. So if we received mail back and we need to mark

10:37:00 7 that as a returned, it's the three gals in the office that

10:37:04 8 do that. Or if we receive notice that someone has moved,

10:37:11 9 it would just be the office staff. All of them can

10:37:16 10 complete any mail returned or provide a correspondence to

10:37:21 11 the voter to clean up the rolls.

10:37:23 12 Q. And when you refer to the three gals, you're

10:37:27 13 referring to the three voter registration specialists,

10:37:30 14 right?

10:37:31 15 A. Yes. Sorry.

10:37:32 16 Q. That's fine.

10:37:33 17 And then who else, who are the other staff, the

10:37:36 18 office staff?

10:37:37 19 A. The three main voter registration specialists

10:37:42 20 are just Monique, Jamie, and Erma. I do assist in voter

10:37:48 21 registration as well, but not on a daily basis.

10:37:51 22 Q. You also mentioned administering early voting.

10:37:58 23 So who in the office is responsible for that?

10:38:01 24 A. All staff members will take ballot requests from

10:38:10 25 voters, by mail or over the phone, for a one-time mailing,

10:38:15 1 but it would be the chief deputy, myself, or the County
10:38:22 2 Recorder to run the report to send to the vendor for
10:38:26 3 mailings.

10:38:27 4 Q. You've refer to all the staff. Could you just
10:38:33 5 clarify for me, who are the staff in the Mohave County
10:38:39 6 Recorder's Office?

10:38:39 7 A. So for voter registration, it would be Jamie,
10:38:42 8 Monique, and Erma.

10:38:44 9 Q. And so when you say all the staff, that's, those
10:38:46 10 are the only people you're referring to?

10:38:49 11 A. Yes.

10:38:49 12 Q. For Mohave voters who vote early, how can they
10:38:58 13 submit their ballots?

10:38:59 14 A. They can place it back in the mail by USPS, or
10:39:04 15 they can bring it to our office at 700 West Beale Street,
10:39:08 16 or take it to an early voting site that is open Monday
10:39:12 17 through Friday, 10:00 a.m. to 4:00 p.m., for 27 days.

10:39:15 18 Q. Are those early voting sites the same as the
10:39:19 19 drop boxes?

10:39:20 20 A. Inside the early voting site there is a ballot
10:39:24 21 box, but we do not necessarily have drop box locations.

10:39:28 22 Q. How do you process submitted early votes?

10:39:36 23 A. Like when it is received to our office?

10:39:41 24 Q. Yes. So once a Mohave voter submits an early
10:39:45 25 ballot, how do you process that?

10:39:47 1 A. If they're coming from the post office they come
10:39:51 2 in mail trains. We then go through and count them into
10:39:55 3 batches of 50, removing any affidavit envelope that is not
10:40:01 4 signed. Then once they're placed into batches of 50, the
10:40:05 5 signature verified personnel in the office would then beep
10:40:10 6 those ballots, essentially accepting them, but if they
10:40:13 7 don't, are not able to verify the signature, they would
10:40:16 8 place it into, what we call, a second-look bin, which then
10:40:21 9 goes to another person for them to review the signature.

10:40:25 10 After that, you complete a ballot of 50, or I'm
10:40:29 11 sorry, a batch of 50, and then it would go into a tote for
10:40:33 12 the elections department.

10:40:35 13 Q. Who manages that process?

10:40:40 14 A. The County Recorder.

10:40:43 15 Q. The County Recorder also is not the same person
10:40:49 16 as the county elections director, correct?

10:40:52 17 A. Correct.

10:40:52 18 Q. So -- and who is the current County Recorder?

10:40:56 19 A. Kristi Blair.

10:40:58 20 Q. Did Ms. Blair recently submit her resignation?

10:41:07 21 A. She did.

10:41:08 22 Q. Do you know why Ms. Blair has resigned?

10:41:11 23 A. Due to medical issues.

10:41:13 24 Q. Do you know who will replace Ms. Blair as the
10:41:18 25 Mohave County Recorder?

10:41:18 1 A. Not at this time.

10:41:19 2 Q. And who is the current county elections
10:41:24 3 director?

10:41:24 4 A. Allen Tempert.

10:41:31 5 Q. How are the election-related responsibilities
10:41:35 6 divided between the Mohave County Recorder and the
10:41:38 7 elections director?

10:41:39 8 A. So the Mohave County Recorder does early voting,
10:41:46 9 by mail and in person, and then the elections director
10:41:50 10 does election day in-person voting and tabulation.

10:41:56 11 Q. Do the Mohave County Recorder and elections
10:42:01 12 director work together at all?

10:42:03 13 A. Yes.

10:42:03 14 Q. So how do they work together?

10:42:06 15 A. By ballot design -- the elections department
10:42:13 16 does our ballot design. We then use those ballots for our
10:42:17 17 early voting, in person and by mail, and we work together
10:42:22 18 in the chain of command -- or chain of custody for the
10:42:29 19 voted ballots to them.

10:42:31 20 Q. When you say, the chain of custody of the voted
10:42:36 21 ballots to them, who is the them in that answer?

10:42:39 22 A. So from the voter registration department, when
10:42:42 23 we package the voted accepted ballots from signature
10:42:48 24 verification, we then provide them to the elections
10:42:50 25 department for their duties.

10:42:53 1 Q. And, just to clarify, you provide the ballots to
10:42:58 2 the elections director to tabulate the votes?

10:43:01 3 A. So we provide them to the elections department.
10:43:04 4 They would then have to have an early board that takes the
10:43:09 5 ballot and affidavit to separate ends of the tables, and
10:43:14 6 then they would tabulate.

10:43:16 7 Q. As the chief deputy County Recorder, who do you
10:43:29 8 report to?

10:43:29 9 A. The County Recorder herself, Kristi Blair.

10:43:33 10 Q. Do you supervise anyone as the chief deputy
10:43:37 11 County Recorder?

10:43:37 12 A. I do.

10:43:38 13 Q. Who reports to you?

10:43:39 14 A. All Recorder and voter registration staff.

10:43:43 15 Q. And all Recorder and voter registration staff,
10:43:48 16 who is that?

10:43:49 17 A. Do you want everyone's first and last name?

10:43:53 18 Q. If we could just run through a list of --

10:43:57 19 How many people are there?

10:43:59 20 A. I believe 17.

10:44:04 21 Q. Of those 17 people, could you just give a brief
10:44:16 22 description of what their job titles are?

10:44:19 23 A. Yes. So we have the administrative assistant.
10:44:24 24 She is the executive assistant to the Recorder but also
10:44:28 25 assists me in duties.

10:44:30 1 Then on the Recorder side, we have Liz. She's a
10:44:35 2 senior office assistant. She records documents, makes
10:44:41 3 them of public record. We have Linda, senior. She does
10:44:45 4 the same duties as Liz. Then we have two Kimberlys.
10:44:49 5 Everyone on the Recorder side records documents to make
10:44:53 6 them of public record on a separate floor than ours. And
10:44:58 7 then we also have, with that, Ryan, Meg, and Sidney.

10:45:06 8 And then we have two satellite offices of staff
10:45:10 9 members. They work for the assessor and the Recorder.
10:45:15 10 They, for the Recorder's office, record documents as well.
10:45:19 11 We also have a records manager and a micrographics
10:45:23 12 technician.

10:45:24 13 And then we have the voter registration division
10:45:27 14 of the three staff members, Monique, Erma, and Jamie.

10:45:35 15 Q. Do all 17 staff members that you just mentioned,
10:45:39 16 do they, in the Mohave County Recorder's Office, work in
10:45:43 17 elections?

10:45:43 18 A. No, they do not.

10:45:46 19 Q. Beyond the duties we already discussed, and
10:45:50 20 you've already mentioned this a bit, but, broadly, what
10:45:53 21 are their duties that you have not yet mentioned?

10:45:57 22 A. For the Recorder's office staff that don't work
10:46:01 23 in voter registration?

10:46:02 24 Q. Correct.

10:46:02 25 A. So we record documents by mail or over the

10:46:05 1 counter. We scan them, make them of record, index them,
10:46:10 2 microfilm them, return them to the person that recorded
10:46:14 3 the document, and then make it of public record to be
10:46:18 4 searched in office or online by anyone in the United
10:46:22 5 States.

10:46:22 6 Q. Are you responsible for interpreting Arizona
10:46:35 7 election law?

10:46:36 8 A. Yes.

10:46:37 9 Q. Could you please explain?

10:46:39 10 A. We follow Arizona Revised State Statutes for
10:46:45 11 recording documents and for voter registration needs.

10:46:48 12 Q. The Mohave County Recorder's Office interprets
10:47:01 13 those state statutes to perform its election
10:47:08 14 administration duties?

10:47:09 15 A. Yes.

10:47:10 16 DEFENSE COUNSEL: Form.

10:47:10 17 BY MS. DIBRELL:

10:47:11 18 Q. Does the Arizona Secretary of State's Office
10:47:13 19 give the County Recorders guidance on the election laws?

10:47:19 20 A. Yes.

10:47:19 21 Q. How?

10:47:21 22 A. They provide the EPM, election procedures
10:47:26 23 manual.

10:47:28 24 Q. Do they provide guidance in any other form
10:47:32 25 related to the interpretation of Arizona's election laws?

10:47:38 1 A. No.

10:47:40 2 Q. Do they provide -- does the Arizona Secretary of
10:47:45 3 State's Office provide guidance in emails to the County
10:47:51 4 Recorders?

10:47:51 5 A. Not that I'm aware of.

10:47:59 6 Q. Does the Secretary of State's Office provide
10:48:10 7 guidance on the implementation of election laws?

10:48:16 8 A. Well, like following the EPM.

10:48:28 9 Q. So the guidance that you rely on from the
10:48:30 10 Arizona Secretary of State's Office is solely the EPM?

10:48:34 11 A. Yes.

10:48:38 12 Q. So I would actually like to introduce my next
10:48:46 13 exhibit, which is the 2019 EPM, an excerpt of it.

10:49:17 14 MR. LANGHOFER: This is Kory Langhofer for the
10:49:17 15 RNC.

10:49:19 16 We object to using partial exhibits at trial. I
10:49:22 17 think it's fine for purposes of the deposition, though.

10:49:30 18 BY MS. DIBRELL:

10:49:32 19 Q. Ms. Durst, do you recognize this document?

10:49:33 20 A. I do.

10:49:34 21 Q. What is it?

10:49:35 22 A. It's the front page of the 2019 elections
10:49:39 23 procedure manual.

10:49:40 24 Q. And, as you'll see, there's a sticker on the
10:49:43 25 bottom left corner. Can you see that?

10:49:45 1 A. I do.

10:49:46 2 Q. And it says, Petty Exhibit No. 6. So this was,

10:49:51 3 I'll represent to you, it was introduced as an exhibit

10:49:54 4 during the Maricopa 30(b)(6) deposition.

10:50:05 5 Could you explain to me what the EPM is?

10:50:08 6 A. The EPM is a manual that's put together from the

10:50:14 7 elected Secretary of State to provide procedures to each

10:50:18 8 state statute or function of the voter registration

10:50:24 9 department.

10:50:25 10 Q. How does your office rely on the EPMs?

10:50:29 11 A. To be sure that we complete all tasks aligned

10:50:33 12 with the secretary -- or I'm sorry -- with state statute

10:50:40 13 for the State of Arizona.

10:50:42 14 Q. How do you rely on it? Do you read the EPM?

10:50:45 15 A. We do.

10:50:45 16 Q. And you follow what's in the EPM?

10:50:48 17 A. For procedures of things, yes.

10:50:51 18 Q. What do you mean by for procedures of things?

10:50:56 19 A. So if we needed guidance on a procedure for

10:51:04 20 voter registration, we could go to the EPM and see what is

10:51:10 21 outlined of what we should follow.

10:51:14 22 Q. Is the 2009 EPM the operative version?

10:51:22 23 A. The 2019 is the operative version.

10:51:26 24 Q. And Exhibit 6 that we're looking at right now,

10:51:30 25 is this the operative version of the EPM?

10:51:33 1 A. Yes, that is.

10:51:34 2 Q. Does this mean there was no revised or updated

10:51:39 3 EPM -- there was not an updated EPM in 2021?

10:51:43 4 A. That's correct.

10:51:43 5 Q. Do you recall why there was no revised EPM in

10:51:48 6 2021?

10:51:50 7 A. I believe it wasn't accepted from the governor

10:51:55 8 or attorney general's office.

10:51:57 9 Q. Do you know why?

10:51:58 10 A. Not exactly.

10:52:00 11 Q. Do you have, do you have any idea or -- sorry.

10:52:10 12 Strike that.

10:52:10 13 When you say, not exactly, do you have any idea

10:52:13 14 why it might not have you been --

10:52:13 15 DEFENSE COUNSEL: Form.

10:52:13 16 BY MS. DIBRELL:

10:52:15 17 Q. -- approved?

10:52:19 18 DEFENSE COUNSEL: Form and foundation.

10:52:22 19 THE WITNESS: No.

10:52:31 20 MR. DAVIS: Mohave County moves to object for

10:52:33 21 speculation.

10:52:33 22 BY MS. DIBRELL:

10:52:34 23 Q. Is your office legally required to follow the

10:52:39 24 elections procedure manual?

10:52:41 25 A. Yes.

10:52:42 1 Q. Is your office legally required to follow all

10:52:46 2 parts of the Elections Procedures Manual?

10:52:50 3 DEFENSE COUNSEL: Form and foundation.

10:52:53 4 THE WITNESS: Yes.

10:52:53 5 BY MS. DIBRELL:

10:53:04 6 Q. Turning to the table of contents.

10:53:07 7 Chapter 1 is on voter registration, correct?

10:53:11 8 A. Correct.

10:53:12 9 Q. Is your office legally required to follow

10:53:16 10 Chapter 1 on voter registration?

10:53:19 11 A. Yes.

10:53:19 12 DEFENSE COUNSEL: Form and foundation.

10:53:21 13 BY MS. DIBRELL:

10:53:30 14 Q. Has the Secretary of State's Office ever
10:53:34 15 communicated to you whether it believes the voter
10:53:37 16 registration rules, the procedures in the EPM are legally
10:53:41 17 binding?

10:53:43 18 DEFENSE COUNSEL: Form.

10:53:51 19 THE WITNESS: Can I have clarification, please?

10:53:53 20 BY MS. DIBRELL:

10:53:53 21 Q. Has the Secretary of State's Office ever told
10:53:56 22 the Mohave County Recorder's Office that the EPM is
10:54:01 23 legally binding?

10:54:03 24 A. I don't know.

10:54:16 25 Q. Are you aware of any Arizona counties that do

10:54:19 1 not follow the EPM, Chapter 1, on voter registration?

10:54:25 2 A. No.

10:54:25 3 Q. What is the Voter Registration Advisory
10:54:46 4 Committee?

10:54:46 5 A. I am not sure.

10:54:47 6 Q. Have you ever heard of the Voter Registration
10:54:56 7 Advisory Committee?

10:54:56 8 A. No.

10:54:57 9 Q. Do you know anything about the Voter
10:55:04 10 Registration Advisory Committee?

10:55:07 11 A. No.

10:55:09 12 Q. Is there someone else in the Mohave County
10:55:15 13 Recorder's Office who may know the answer to this?

10:55:18 14 A. County Recorder Kristi Blair.

10:55:26 15 Q. Why do you think that Ms. Blair would know the
10:55:30 16 answer to what the Voter Registration Advisory Committee
10:55:33 17 is?

10:55:33 18 A. As the elected official, she attends meetings
10:55:36 19 that I do not attend.

10:55:44 20 Q. Are there documents that you could review to
10:55:51 21 learn about the Voter Registration Advisory Committee?

10:55:58 22 A. Not in front of me.

10:55:59 23 Q. Are there documents that you don't have today
10:56:06 24 that you could review to learn about the Voter
10:56:12 25 Registration Advisory Committee?

10:56:12 1 A. Not that I'm aware of. There are documents I
10:56:29 2 could review.

10:56:29 3 Q. Do you know who has those documents?

10:56:32 4 A. No, I don't know.

10:56:43 5 Q. Do you know what the AVID Enhancement Committee
10:56:57 6 is?

10:56:57 7 A. Yes, I do.

10:56:58 8 Q. What is that?

10:56:59 9 A. That is a cog that goes over any tickets in,
10:57:05 10 placed for the AVID database that could be enhanced for
10:57:10 11 county use.

10:57:11 12 Q. What's your role on the AVID Enhancement
10:57:18 13 Committee?

10:57:19 14 A. I recently just started attending them.

10:57:22 15 Q. When did you start attending the AVID
10:57:27 16 Enhancement Committee meetings?

10:57:28 17 A. In the past two months.

10:57:30 18 Q. Who attended the AVID Enhancement Committee
10:57:35 19 meetings before you?

10:57:37 20 A. A prior staff member.

10:57:39 21 Q. Who is that prior staff member?

10:57:43 22 A. The voter registration supervisor, Natalie.

10:57:46 23 Q. Do you know Natalie's last name?

10:57:50 24 A. Natalie Collings.

10:57:53 25 Q. What's your role on the AVID Enhancement

10:57:59 1 Committee?

10:57:59 2 A. I listen, take note of what could potentially
10:58:07 3 change in the AVID system.

10:58:08 4 Q. How often does it meet?

10:58:11 5 A. At minimum, once a month.

10:58:16 6 Q. At most, how much does -- how many times a month
10:58:24 7 does the AVID Enhancement Committee meet?

10:58:27 8 A. Could be twice, biweekly.

10:58:31 9 Q. Are there any key projects that the AVID
10:58:42 10 Enhancement Committee works on?

10:58:44 11 A. Not currently, to my knowledge.

10:58:51 12 Q. To your knowledge, were there any previous
10:58:55 13 projects that the AVID Enhancement Committee worked on?

10:58:58 14 A. Do you have any clarification on an enhancement?

10:59:06 15 Q. I guess, I'm just trying to get a better sense
10:59:10 16 of what the AVID Enhancement Committee does.

10:59:14 17 So do you know any working groups or projects
10:59:17 18 that it has had in the past?

10:59:19 19 A. I believe it was through the Enhancement
10:59:32 20 Committee when we changed just verbiage from like
10:59:37 21 permanent early voting list to the active early voting
10:59:41 22 list, anything that would need to be changed in AVID.

10:59:44 23 Q. So any time there are changes in AVID, does the
10:59:47 24 AVID Enhancement Committee work on those changes?

10:59:50 25 A. I believe so.

10:59:51 1 Q. And what do they work on? Do they create
10:59:56 2 guidance for those changes?
11:00:00 3 A. Guidance and, eventually, implementation.
11:00:04 4 Q. And who do they give that guidance to for
11:00:07 5 changes to the AVID system?
11:00:10 6 A. Are you asking who would be on the call?
11:00:21 7 Q. I guess, let's take a step back.
11:00:24 8 So who maintains the AVID system?
11:00:28 9 A. The Secretary of State with -- I don't know who
11:00:35 10 he works for, but his name is "Ashish".
11:00:40 11 Q. And when there, when there need to be changes to
11:00:45 12 the AVID system, the AVID Enhancement Committee meets.
11:00:50 13 A. Correct.
11:00:51 14 Q. And during those meetings, the AVID Enhancement
11:00:55 15 Committee comes up with ideas for how to push through
11:00:58 16 those changes in the AVID system?
11:01:00 17 A. Per implementation, yeah.
11:01:03 18 Q. And per implementation, does the AVID
11:01:09 19 Enhancement Committee draft papers? How does it record
11:01:10 20 what needs to be changed?
11:01:15 21 A. I'm not sure.
11:01:17 22 Q. Does the AVID Enhancement Committee put together
11:01:24 23 emails about what needs to change in AVID?
11:01:27 24 A. I believe there's an Excel sheet for what is,
11:01:34 25 like topics of things that would need to be changed or

11:01:37 1 requested.

11:01:38 2 Q. Once the AVID Enhancement Committee identifies
11:01:41 3 what needs to be changed in AVID, do they send what they
11:01:47 4 have identified to the Secretary of State?

11:01:50 5 A. I don't know.

11:01:56 6 Q. Does the AVID Enhancement Committee send any
11:02:03 7 changes in AVID it identifies need to be implemented to
11:02:03 8 "Ashish"?

11:02:13 9 DEFENSE COUNSEL: Form, foundation.

11:02:19 10 THE WITNESS: I don't know.

11:02:19 11 BY MS. DIBRELL:

11:02:21 12 Q. Is there someone else at the Mohave County
11:02:24 13 Recorder's Office who may know the answer?

11:02:26 14 A. If anyone, the County Recorder.

11:02:33 15 Q. Why do you think that the County Recorder,
11:02:39 16 Ms. Blair, would know the answer to what the AVID
11:02:44 17 Enhancement Committee does?

11:02:44 18 A. As she's the elected official and may attend
11:02:55 19 other meetings.

11:02:56 20 Q. Do you know what the weekly super users meeting
11:03:05 21 is?

11:03:05 22 A. I have heard of it.

11:03:06 23 Q. What is it, based on what you've heard?

11:03:09 24 A. My understanding is it's for someone that is a
11:03:15 25 super user, uses AVID excessively, and they meet on that,

11:03:22 1 on those topics.

11:03:23 2 Q. So we have discussed voter registration a bit
11:03:38 3 already, and I just want to walk through the process and
11:03:41 4 make sure that I understand how it works.

11:03:44 5 So you mentioned that voters can register to
11:03:48 6 vote online?

11:03:50 7 A. Hmm hmm.

11:03:50 8 Q. They can also register to vote through the Motor
11:03:54 9 Vehicle Department?

11:03:56 10 A. Well, that would be online. Well, it's through
11:03:59 11 in person at the Motor Vehicle or online through Motor
11:04:06 12 Vehicle.

11:04:06 13 Q. And voters can register to vote filling out the
11:04:14 14 state form that is prescribed by the Arizona Secretary of
11:04:17 15 State?

11:04:17 16 A. Correct.

11:04:18 17 Q. Does your office provide those state forms to
11:04:23 18 third party groups through registered voters?

11:04:26 19 A. Yes, we do.

11:04:27 20 Q. Are there any special markings on those state
11:04:30 21 forms?

11:04:31 22 A. There's like a coding, letter and numbers.

11:04:40 23 Q. What are those coding letters and numbers for?

11:04:44 24 A. Where those forms could be found, political,
11:04:49 25 like political parties, or it could be in our office, the

11:04:57 1 post office, DES.

11:04:59 2 Q. Voters can also register to vote using the

11:05:03 3 federal forms, correct?

11:05:07 4 A. Hmm hmm.

11:05:09 5 Q. And do you understand the federal form to mean

11:05:10 6 the voter registration form that's issued by the U.S.

11:05:10 7 Elections Assistance Commission pursuant to the National

11:05:17 8 Voter Registration Act of 1993?

11:05:18 9 A. Correct.

11:05:25 10 Q. Can voters also register through NVRA agencies?

11:05:38 11 A. An NVRA agency?

11:05:41 12 Q. At agencies -- can voters also register to vote

11:05:44 13 through agencies that Arizona has designated?

11:05:50 14 A. Would that be like DES? Yes.

11:05:56 15 Q. And then voters can also register to vote using

11:06:00 16 the UOCAVA Federal Post Card and Federal Write-in Absentee

11:06:07 17 Ballot?

11:06:08 18 A. Correct.

11:06:09 19 Q. When is the deadline for registration?

11:06:11 20 A. 29 days before an election.

11:06:13 21 Q. So we walked through some of the processes

11:06:22 22 already. And, just to clarify, so after -- first you said

11:06:27 23 you enter an application into the AVID database, correct?

11:06:31 24 A. Correct.

11:06:32 25 Q. And then you run the HAVA check, right?

11:06:36 1 A. Correct.

11:06:37 2 Q. And that's a check against the Arizona

11:06:41 3 Department of Motor Vehicle database?

11:06:43 4 A. Correct.

11:06:44 5 Q. Do you also conduct signature matching when you

11:06:49 6 receive voter applications?

11:06:51 7 A. Not typically.

11:06:53 8 Q. Once -- what are the reasons for denying a voter

11:07:05 9 registration application?

11:07:06 10 A. If it is like not legible or incomplete, they

11:07:18 11 would receive a notice.

11:07:21 12 Q. What is the notice that the voter registrant

11:07:26 13 would receive if their application is denied?

11:07:30 14 A. The reason for. Like if we put it as an invalid

11:07:37 15 address if what is listed isn't verified or they don't

11:07:41 16 have a date of birth, saying it's incomplete with a new

11:07:45 17 form.

11:07:46 18 Q. For the notice letters, what language is in the

11:07:51 19 notice letters? Is that based on the examples in the 2019

11:07:56 20 EPM?

11:08:03 21 A. Most likely, but I can't currently picture the

11:08:07 22 exact notice.

11:08:08 23 Q. Do you know if Mohave County produced the notice

11:08:11 24 letters for denials of voter registration applications?

11:08:17 25 A. We have created correspondence in the AVID

11:08:28 1 system to be sent.

11:08:28 2 Q. So, to clarify, in this litigation, do you know,
11:08:31 3 in the documents that you sent to the plaintiffs in
11:08:33 4 response to our requests for productions, if you produced
11:08:36 5 any of these notice letters that you sent to registrants
11:08:41 6 whose applications are denied?

11:08:48 7 A. I, I don't know.

11:08:56 8 MS. DIBRELL: Mr. Davis, perhaps we could just
11:08:59 9 check during a break if we've received those notice
11:09:02 10 letters, as they would be responsive to the RFPs.

11:09:06 11 MR. DAVIS: That sounds good. And, if not, we
11:09:09 12 can send a supplemental.

11:09:11 13 MS. DIBRELL: Perfect. Thank you.

11:09:12 14 BY MS. DIBRELL:

11:09:13 15 Q. There's a voter registration -- excuse me -- if
11:09:16 16 a voter registrant's application is denied, how do they
11:09:22 17 cure their denied application?

11:09:24 18 A. Typically by resubmitting a completed
11:09:29 19 application.

11:09:30 20 Q. And how do they know to resubmit a completed
11:09:37 21 application?

11:09:38 22 A. So if a paper form is submitted to our office
11:09:44 23 and it doesn't have the required information on it, we
11:09:48 24 would send it back to them saying what is missing. They
11:09:52 25 would receive notice of that.

11:09:54 1 Q. And who sends out those notice letters?

11:09:59 2 A. Voter registration staff.

11:10:03 3 MS. DIBRELL: So before we move to our next
11:10:05 4 topic, I think this would be a good time for a 10 to 15
11:10:10 5 minute break, if that works for you, Ms. Durst.

11:10:13 6 THE WITNESS: Yes.

11:10:13 7 MS. DIBRELL: Perfect. So if we could go off
11:10:15 8 the record, please.

11:10:17 9 THE VIDEOGRAPHER: We are off the record. Time
11:10:19 10 on the video monitor is 11:10 a.m.

11:15:57 11 (Recess taken from 11:10 a.m. to 11:33 a.m.)

11:33:02 12 THE VIDEOGRAPHER: We are on the record. Time
11:33:09 13 on the video monitor is 11:33 a.m.

11:33:13 14 Please continue.

11:33:14 15 BY MS. DIBRELL:

11:33:17 16 Q. Ms. Durst, I want to turn to H.B. 2492 and H.B.

11:33:24 17 2243. But, first, I was just going to establish a few

11:33:26 18 terms to make sure that we are on the same page.

11:33:29 19 Let's see, are you aware that H.B. 2492 requires

11:33:34 20 that to be a qualified elector and to vote in all

11:33:37 21 elections and by mail a person must provide satisfactory

11:33:41 22 evidence of citizenship as prescribed by A.R.S. 16-166?

11:33:47 23 DEFENSE COUNSEL: Form and foundation.

11:33:51 24 THE WITNESS: Yes.

11:33:52 25 BY MS. DIBRELL:

11:33:52 1 Q. If I refer to that as the documentary proof of
11:33:56 2 citizenship, or documentary proof of citizenship
11:34:00 3 requirement, can we agree to, or can you agree to
11:34:03 4 understand me to be asking about this new requirement
11:34:08 5 under H.B. 2492?

11:34:11 6 A. Yes.

11:34:11 7 Q. H.B. 2492 also requires that voter registrants
11:34:19 8 provide proof of location of residence as prescribed by
11:34:23 9 A.R.S. 16-123 to be properly registered.

11:34:28 10 Are you familiar with that requirement?

11:34:29 11 A. Yes.

11:34:30 12 Q. If I refer to that as the documentary proof of
11:34:35 13 residency requirement, or DPOR requirement, can we agree
11:34:39 14 to understand me to be asking about this new requirement
11:34:39 15 from H.B. 2492?

11:34:41 16 A. Yes.

11:34:42 17 Q. H.B. 2492 requires that voter registrants
11:34:50 18 provide their place of birth when they register to vote
11:34:56 19 using the state form.

11:34:57 20 Are you familiar with that requirement?

11:34:57 21 A. Yes.

11:34:57 22 Q. If I refer to that as the birthplace
11:35:00 23 requirement, can we agree to understand me to be asking
11:35:03 24 about this new requirement from H.B. 2492?

11:35:05 25 A. Yes.

11:35:05 1 Q. H.B. 2492 also requires that voter registrants
11:35:12 2 submitting either the federal form or the state form mark
11:35:14 3 yes in the box indicating that they are a citizen.
11:35:17 4 Are you familiar with that requirement?
11:35:18 5 A. Yes.
11:35:21 6 Q. If I refer to it as the citizenship, citizenship
11:35:27 7 checkbox requirement, or the checkbox requirement, can we
11:35:30 8 agree to understand me to be asking about this new
11:35:32 9 requirement from H.B. 2492?
11:35:34 10 A. Yes.
11:35:34 11 Q. Has your office discussed how to interpret any
11:35:40 12 of the provisions of H.B. 2492 with anyone?
11:35:44 13 A. Yes.
11:35:47 14 Q. Who did you discuss this with?
11:35:50 15 A. I believe the County Recorder has discussed it
11:35:59 16 with our counsel.
11:36:06 17 Q. Has the County Recorder discussed how to
11:36:10 18 interpret any of the provisions of H.B. 2492 with anyone
11:36:13 19 else?
11:36:14 20 A. Our, our internal staff.
11:36:21 21 Q. Has the County Recorder, or anyone else in
11:36:29 22 Mohave County Recorder's Office, discussed how to
11:36:31 23 interpret any of the provisions of H.B. 2492 with the
11:36:35 24 Secretary of State?
11:36:35 25 A. I believe so.

11:36:38 1 Q. What was discussed in those meetings with the

11:36:45 2 Secretary of State?

11:36:47 3 DEFENSE COUNSEL: Form, foundation.

11:36:53 4 THE WITNESS: Well, at this time we are not

11:36:59 5 requiring those things for the litigation.

11:37:02 6 BY MS. DIBRELL:

11:37:04 7 Q. What do you mean by you're not requiring those

11:37:06 8 things for the litigation?

11:37:07 9 A. The DPOR, the residency, and the additional

11:37:15 10 proof of citizenship, and it's not currently on the voter

11:37:21 11 registration form for the citizenship box.

11:37:27 12 Q. Taking a step back.

11:37:31 13 When did your office discuss how to interpret

11:37:37 14 any of these provisions of H.B. 2492 with the Secretary of

11:37:40 15 State?

11:37:40 16 A. I'm sorry. Did you ask when?

11:37:43 17 Q. Yes.

11:37:44 18 A. I'm not sure of a certain date. I would say

11:37:54 19 early in the year.

11:37:55 20 Q. And by early in the year, you mean early in

11:38:02 21 2023?

11:38:03 22 A. Correct.

11:38:03 23 Q. Has your office had ongoing discussions with the

11:38:07 24 Secretary of State's Office regarding how to interpret the

11:38:11 25 provisions of H.B. 2492?

11:38:15 1 A. Not to my current knowledge.

11:38:19 2 Q. Has your office only had one discussion with the
11:38:20 3 Secretary of State's Office regarding how to interpret
11:38:26 4 H.B. 2492?

11:38:29 5 A. I'm not sure how many.

11:38:32 6 Q. I am going to show you a document produced by
11:38:40 7 Mohave.
11:38:52 8 Can you see my screen?

11:38:54 9 A. Yes.

11:38:55 10 Q. And do you see here in the bottom right-hand
11:39:01 11 corner, it says, MOHAVE-000336?

11:39:05 12 A. Correct.

11:39:06 13 Q. And I'll represent to you that this was produced
11:39:10 14 by Mohave County in this litigation.
11:39:14 15 And is this an email from former Secretary of
11:39:20 16 State Kori Lorick?

11:39:23 17 A. Yes.

11:39:24 18 Q. And it's dated December 30th, 2022, correct?

11:39:28 19 A. Correct.

11:39:29 20 Q. And the subject is 2492/2243 Reminders, correct?

11:39:39 21 A. Correct.

11:39:40 22 Q. Did the County Recorder's Office -- excuse me.
11:39:44 23 Strike that.
11:39:45 24 Did the Mohave County Recorder's Office receive
11:39:48 25 this email from Kori Lorick?

11:39:53 1 A. I, I, I can't confirm that.

11:40:02 2 Q. Do you know if the documents that Mohave County
11:40:11 3 produced in this litigation were emails that, that are in
11:40:17 4 Mohave County, Mohave County Recorder's email system?

11:40:27 5 A. I, I don't know.

11:40:32 6 Q. Do you know, does the Mohave County Recorder's
11:40:39 7 Office receive emails like this from the Secretary of
11:40:44 8 State's Office?

11:40:44 9 A. Yes.

11:40:45 10 Q. So is it fair to say since Mohave County
11:40:49 11 produced this document, that it was a recipient of this
11:40:52 12 email from the Secretary of State?

11:40:54 13 DEFENSE COUNSEL: Form; asked and answered.

11:40:59 14 THE WITNESS: Yes.

11:41:01 15 BY MS. DIBRELL:

11:41:03 16 Q. So I'm going to zoom in a bit so you can read
11:41:07 17 this. If you could please just review this section. You
11:41:13 18 can just read it to yourself.

11:41:26 19 A. Okay.

11:41:30 20 Q. In this email from Ms. Lorick, she wrote:

11:41:34 21 I have noted which provisions we interpret as
11:41:37 22 conflicting with federal law.

11:41:39 23 Correct?

11:41:39 24 A. Correct.

11:41:40 25 Q. And she is referring to the provisions of

11:41:44 1 H.B. 2492 and H.B. 2243, correct?

11:41:48 2 A. Yes.

11:41:49 3 DEFENSE COUNSEL: Form.

11:41:50 4 BY MS. DIBRELL:

11:41:52 5 Q. And this email from Ms. Lorick states:

11:41:55 6 I have noted which provisions we interpret as

11:41:58 7 conflicting with federal law, including documentary proof

11:42:01 8 of residency for the federal form, place of birth

11:42:05 9 requirement, citizenship checkbox requirement, if an

11:42:08 10 applicant otherwise provides DPOC, or DPOC can be acquired

11:42:13 11 based on the provided information, documentary proof of

11:42:17 12 citizenship for federal elections.

11:42:20 13 Correct?

11:42:20 14 A. Yes.

11:42:21 15 Q. Does your office agree with Ms. Lorick's

11:42:21 16 interpretation that these provisions --

11:42:24 17 DEFENSE COUNSEL: Form.

11:42:25 18 BY MS. DIBRELL:

11:42:25 19 Q. -- of H.B. 2492 and H.B. 2243 violate federal

11:42:29 20 law?

11:42:30 21 DEFENSE COUNSEL: Form and foundation.

11:42:32 22 THE WITNESS: Yes.

11:42:33 23 BY MS. DIBRELL:

11:42:35 24 Q. Has your office consulted with an attorney, and

11:42:38 25 without disclosing the substance of those communications,

11:42:41 1 about whether these provisions listed here violate federal

11:42:45 2 law?

11:42:46 3 A. Yes.

11:42:47 4 Q. I am going to show you Mohave County responses,
11:43:11 5 RFP responses, to Equity's RFPs that we've discussed
11:43:18 6 previously.

11:43:44 7 Oh, and I'm sorry. For the record, I would like

11:43:46 8 to mark the previous document, MOHAVE-000336, as

11:43:52 9 Exhibit 50.

11:43:57 10 DEFENSE COUNSEL: Object on hearsay grounds.

11:44:03 11 BY MS. DIBRELL:

11:44:04 12 Q. Ms. Durst, can you see my screen?

11:44:06 13 A. Yes.

11:44:07 14 Q. And do you see where it says, Mohave County
11:44:12 15 Recorder's Response to Plaintiff's First Request For
11:44:14 16 Production of Documents?

11:44:15 17 A. Yes.

11:44:16 18 Q. Do you recognize this as the request that the
11:44:20 19 Mohave County Recorder's Office sent to plaintiffs in this
11:44:22 20 litigation?

11:44:23 21 A. Yes.

11:44:32 22 MS. DIBRELL: I would like to mark this as
11:44:35 23 Exhibit 51.

11:44:35 24 BY MS. DIBRELL:

11:44:42 25 Q. I'm going to scroll to Mohave County's response

11:44:46 1 to request for production No. 10.

11:45:03 2 Can you see request for production No. 10?

11:45:06 3 A. Yes.

11:45:06 4 Q. And request for production No. 10 requests all

11:45:14 5 documents and communications regarding A.R.S.

11:45:18 6 Section 16-165 as amended by H.B. 2243, correct?

11:45:24 7 A. Yes.

11:45:27 8 Q. And Mohave County responded:

11:45:28 9 The Mohave County Recorder has no documents

11:45:31 10 responsive to this request.

11:45:32 11 Correct?

11:45:32 12 A. Correct.

11:45:33 13 Q. Is it still true that you have no documents

11:45:37 14 responsive to this request?

11:45:41 15 A. Yes.

11:45:42 16 Q. Is it still true that you have no documents

11:46:00 17 related to how you will determine persons who are

11:46:03 18 registered to vote in your county for whom you have reason

11:46:07 19 to believe are not United States citizens, or the

11:46:10 20 information that you consider sufficient to confirm that

11:46:14 21 the person registered is not a United States citizen? Do

11:46:18 22 you have any documents related to that request?

11:46:23 23 A. We send a notice if they didn't provide like an

11:46:28 24 Arizona driver's license, and we would send them a notice

11:46:33 25 for how their status came back in the AVID system.

11:46:36 1 Q. And those are the documents that your counsel
11:46:41 2 just sent to plaintiffs, correct?

11:46:43 3 A. Yes.

11:46:44 4 Q. So is it still true you have no other documents,
11:46:49 5 other than those notice letters, that are responsive to
11:46:53 6 request for production No. 10?

11:46:56 7 A. Other than those, correct, to my knowledge.

11:47:02 8 Q. I'm going to turn to request for production No.
11:47:06 9 12 that was sent to Mohave County by Equity Coalition.
11:47:13 10 Can you see request for production No. 12?

11:47:15 11 A. Yes.

11:47:16 12 Q. And request for production No. 12 requests:
11:47:22 13 All documents and communications regarding how
11:47:24 14 you determine or will determine whether the information
11:47:28 15 acquired through A.R.S. Section 16-121.01 is sufficient to
11:47:35 16 match the applicant with information that verifies the
11:47:37 17 applicant is a United States citizen, pursuant to A.R.S.
11:47:42 18 Section 16-121.01, as amended by H.B. 2492.

11:47:49 19 Correct?

11:47:50 20 A. Correct.

11:47:50 21 Q. And the Mohave County Recorder's response was:
11:47:55 22 The Mohave County Recorder has no documents
11:47:58 23 responsive to this request.

11:47:59 24 Right?

11:48:01 25 A. Yes.

11:48:01 1 Q. Is it still true that you have no responsive
11:48:05 2 documents in response to this request for production
11:48:07 3 No. 12?

11:48:08 4 A. Could I have clarification, please?

11:48:27 5 Q. Sure. Request for production No. 12 requests:
11:48:33 6 All documents and communication regarding how
11:48:36 7 you determine or will determine whether the information
11:48:39 8 acquired through A.R.S. Section 16-121.01 is sufficient to
11:48:46 9 match the application -- the applicant -- excuse me --
11:48:48 10 with information that verifies the applicant is a United
11:48:56 11 States citizen, pursuant to A.R.S. 16-121.01, as amended
11:48:57 12 by H.B. 2492.

11:49:01 13 Right?

11:49:02 14 A. Correct.

11:49:03 15 Q. And previously you responded:

11:49:04 16 The Mohave County Recorder has no documents
11:49:06 17 responsive to this request.

11:49:08 18 Right?

11:49:08 19 A. Yes.

11:49:09 20 Q. Sitting here today, is it still true that Mohave
11:49:16 21 County has no documents or communications that are
11:49:19 22 responsive to this request?

11:49:21 23 A. I believe it could be the same notice that we
11:49:34 24 uploaded.

11:49:36 25 Q. Other than the notice that you uploaded, does

11:49:40 1 Mohave County have any other documents today that are
11:49:43 2 responsive to this request?

11:49:44 3 A. Not to my knowledge.

11:49:52 4 Q. Previously you mentioned that the state form has
11:50:07 5 not been updated to include DPOC, DPOR, or birthplace,
11:50:13 6 correct?

11:50:13 7 A. Correct.

11:50:13 8 Q. Do you have any reason to believe that the state
11:50:16 9 form will be updated to include these elements any time
11:50:23 10 soon?

11:50:24 11 DEFENSE COUNSEL: Objection; calls for
11:50:26 12 speculation.

11:50:27 13 THE WITNESS: I don't know if we have had a
11:50:37 14 discussion when we will have new forms.

11:50:42 15 BY MS. DIBRELL:

11:50:43 16 Q. The instructions for the federal form have also
11:50:46 17 not been updated to include the new requirements regarding
11:50:50 18 documentary proof of citizenship, correct?

11:50:52 19 A. Correct.

11:50:56 20 Q. Do you have any reason to believe that those
11:50:58 21 federal form instructions will be updated anytime soon?

11:51:02 22 A. I don't know.

11:51:03 23 Q. Is the Mohave County Recorder's Office currently
11:51:11 24 enforcing H.B. 2492's documentary proof of citizenship
11:51:16 25 requirement?

11:51:16 1 A. No.

11:51:17 2 Q. Is the Mohave County Recorder's Office currently

11:51:23 3 enforcing H.B. 2492's documentary proof of residency

11:51:28 4 requirement?

11:51:29 5 A. No.

11:51:29 6 Q. Is the Mohave County Recorder's Office currently

11:51:33 7 enforcing H.B. 2492's birthplace requirement?

11:51:40 8 A. Could I have clarification on that, please?

11:51:48 9 Q. Which part do you need clarification for?

11:51:53 10 A. The text of the bill for the birthplace.

11:52:05 11 Q. So when I refer to the birthplace requirement,

11:52:12 12 I'm referring to the requirement that voter registrants

11:52:20 13 provide their place of birth when they register to vote

11:52:22 14 using the state form, and that's codified as A.R.S.

11:52:24 15 Section 16-121.01, as amended by H.B. 2492.

11:52:32 16 A. I don't believe at this time we are requiring

11:52:37 17 that.

11:52:40 18 Q. So at this time you are not enforcing the

11:52:44 19 birthplace requirement?

11:52:46 20 A. Not to my knowledge.

11:52:49 21 Q. Are you currently enforcing H.B. 2492's

11:52:55 22 citizenship checkbox requirements?

11:52:56 23 A. No. It's not on the form.

11:52:58 24 Q. The citizenship -- is there a checkbox on the

11:53:07 25 form to mark that you are a citizen?

11:53:09 1 A. Yes.

11:53:15 2 Q. Is your office requiring voter registrants to
11:53:33 3 mark yes in that form in order to process their voter
11:53:37 4 registration application?

11:53:38 5 A. Yes. It's a required field.

11:53:41 6 Q. The checkbox indicating that you are a citizen
11:53:46 7 is a required field to be registered as a voter?

11:53:50 8 A. On the form, yes.

11:53:51 9 Q. Ms. Durst, I am going to show you Mohave
11:54:45 10 County's responses to consolidated plaintiff's
11:54:46 11 interrogatories.

11:55:02 12 Can you see my screen?

11:55:03 13 A. Yes.

11:55:04 14 Q. And do you see this caption titled, Mohave
11:55:14 15 County Recorder's Answers to Consolidated Plaintiff's
11:55:16 16 First Set of Interrogatories?

11:55:17 17 A. Yes.

11:55:17 18 Q. Are these -- and you are familiar with these
11:55:23 19 interrogatory responses?

11:55:25 20 A. Yes.

11:55:28 21 MS. DIBRELL: I would like to mark this as
11:55:31 22 Exhibit 52.

11:55:31 23 BY MS. DIBRELL:

11:55:45 24 Q. Interrogatory No. 3 asks Mohave County to:
11:55:49 25 Identify and describe each way in which a voter

11:55:54 1 registration applicant's failure to check the citizenship
11:55:59 2 box on the state form affects or would affect your ability
11:56:02 3 to determine whether that person is eligible to register
11:56:05 4 and vote in Arizona, including but not limited to cases
11:56:08 5 where you have DPOC for the voter registration applicant.
11:56:11 6 Correct?
11:56:12 7 A. Correct.
11:56:13 8 Q. And Mohave County responded:
11:56:15 9 Failure to check the citizenship box is not
11:56:19 10 grounds for our office to reject a voter registration
11:56:23 11 application unless we are unable to prove citizenship
11:56:26 12 through the methods mentioned above.
11:56:29 13 Correct?
11:56:29 14 A. Yes.
11:56:30 15 Q. Is it still true that your office does not
11:56:34 16 reject voter registration application forms if the
11:56:41 17 citizenship checkbox is not marked if you are able to
11:56:44 18 prove citizenship through other methods?
11:56:48 19 A. Could you ask that again, please?
11:56:53 20 Q. Does your office reject state voter registration
11:57:04 21 forms if the citizenship box is not checked if you are
11:57:07 22 able to prove the citizenship of the voter registrant
11:57:12 23 through other methods?
11:57:20 24 Sorry. I couldn't hear your response.
11:57:23 25 A. I -- can I have a moment?

11:57:31 1 Q. Sure.

11:57:36 2 MR. DAVIS: Can I have a minute to confer with
11:57:40 3 my client, counsel?

11:57:42 4 MS. DIBRELL: Well, there's a question pending.

11:57:52 5 THE WITNESS: So if a form is completed in
11:57:54 6 office, if someone comes to the voter registration
11:57:59 7 department and asks to register to vote, we would provide
11:58:03 8 them the Arizona voter registration form. It's listed on
11:58:07 9 the form that it is required to be completed. So when
11:58:12 10 they're in front of us, we ask them to check yes or no on
11:58:17 11 that box, whichever applies to them, above their
11:58:23 12 signature.

11:58:23 13 If we received that form by mail, and they were
11:58:28 14 still able to clear the HAVA check, I don't believe that
11:58:31 15 form would be rejected.

11:58:37 16 BY MS. DIBRELL:

11:58:37 17 Q. If they clear the HAVA check is that because
11:58:49 18 they have confirmed, you have confirmed that they are a
11:58:51 19 citizen?

11:58:52 20 A. Yes. On the form they would also have,
11:58:59 21 typically, their Arizona driver's license, their date of
11:59:03 22 birth, and the last four of their social for the HAVA
11:59:06 23 check.

11:59:07 24 Q. So if a registrant forgets to check that box,
11:59:12 25 but they pass the HAVA check, which confirms their

11:59:16 1 citizenship, currently you do not reject their voter
11:59:20 2 registration application form?
11:59:21 3 A. Correct. To my knowledge.
11:59:24 4 Q. If an applicant submits a federal form,
11:59:44 5 registration form, and they forget to mark the citizenship
11:59:52 6 checkbox, you don't reject the application, right?
11:59:57 7 A. I don't have much knowledge with the federal
12:00:04 8 voter registration form.
12:00:05 9 Q. Do you know who in your office would know the
12:00:10 10 answer to that?
12:00:11 11 A. I believe any voter registration specialist, but
12:00:22 12 I don't believe they're very common.
12:00:28 13 Q. For voter applicants who submit a state voter
12:00:57 14 registration form, are you rejecting applications that
12:01:00 15 fail to list their place of birth?
12:01:04 16 A. No.
12:01:05 17 Q. Your office is still waiting for guidance from
12:01:18 18 the Secretary of State on how to implement H.B. 2492?
12:01:22 19 A. Yes.
12:01:23 20 Q. Are you still processing voter registration
12:01:28 21 applications and adding registered voters to the rolls
12:01:32 22 while you wait for that guidance?
12:01:34 23 A. Yes.
12:01:35 24 Q. Are you currently enforcing any part of
12:01:41 25 H.B. 2243?

12:01:43 1 A. No.

12:01:45 2 Q. Are you checking citizenship status against any

12:01:57 3 databases for purposes of removing voters from the rolls?

12:02:01 4 A. Could you please explain?

12:02:09 5 Q. H.B. 2243 outlines various database checks to

12:02:15 6 remove voters from the rolls.

12:02:17 7 Are you familiar with that?

12:02:18 8 A. Yes.

12:02:19 9 Q. Are you enforcing any of these database checks

12:02:24 10 as outlined in H.B. 2243?

12:02:28 11 A. Would that be like the HAVA check and the SAVE

12:02:35 12 program?

12:02:43 13 Q. Are those checks that are mandated by H.B. 2243?

12:02:51 14 A. I'm not sure. I don't have that in front of me.

12:02:58 15 Q. Are you currently receiving information from the

12:03:04 16 Secretary of State about purported noncitizens for

12:03:09 17 purposes of removing those voters from the rolls?

12:03:16 18 A. Not to my knowledge.

12:03:18 19 Q. Are you currently checking the citizenship

12:03:23 20 status against summary reports from jury commissioners or

12:03:27 21 the jury manager for purposes of removing voters from the

12:03:31 22 rolls as required by H.B. 2243?

12:03:33 23 A. No.

12:03:34 24 Q. Are you still waiting for guidance from the

12:03:40 25 Secretary of State regarding how to interpret H.B. 2243?

12:03:45 1 A. Yes.

12:03:46 2 Q. If you don't receive guidance from the Secretary

12:03:54 3 of State regarding how to interpret H.B. 2492 or

12:04:01 4 H.B. 2243, who at the county, at the Mohave County

12:04:07 5 Recorder's Office would be responsible for interpreting

12:04:10 6 how to enforce those laws?

12:04:13 7 A. The County Recorder with counsel.

12:04:21 8 Q. Would the County Recorder, Mohave County

12:04:31 9 Recorder -- excuse me. Strike that.

12:04:32 10 Would the County Recorder draft guidance on how

12:04:36 11 to implement H.B. 2243 and H.B. 2492 for your office?

12:04:43 12 DEFENSE COUNSEL: Form.

12:04:44 13 THE WITNESS: Yes.

12:04:46 14 BY MS. DIBRELL:

12:04:48 15 Q. Has the Mohave County Recorder drafted guidance

12:04:53 16 regarding how to interpret other laws and issued them to

12:04:58 17 your office in the past?

12:05:00 18 A. Do you have an example?

12:05:12 19 Q. Has the Mohave County Recorder ever sent an

12:05:15 20 email to your office explaining how to interpret an

12:05:19 21 Arizona law that pertains to elections?

12:05:23 22 A. I believe so.

12:05:24 23 Q. Would the County Recorder provide email guidance

12:05:32 24 to your office regarding how to interpret H.B. 2492 or

12:05:40 25 H.B. 2243 if you don't have guidance from the Secretary of

12:05:45 1 State?

12:05:45 2 A. I don't know that it would be written guidance,

12:05:49 3 but I believe she would give us guidance.

12:05:52 4 Q. How would she give you that guidance?

12:05:55 5 A. Could be verbal.

12:06:00 6 Q. Would you have a meeting with all of the staff

12:06:07 7 in the County Recorder's Office to receive this guidance?

12:06:13 8 A. Most likely an informal voter registration

12:06:17 9 meeting.

12:06:18 10 Q. You mentioned that the County Recorder would
12:06:23 11 work with the county attorney regarding how to interpret
12:06:29 12 these laws, right?

12:06:30 13 A. Yes.

12:06:30 14 Q. So without disclosing the substance of those
12:06:34 15 conversations, do you know whether the County Recorder has
12:06:38 16 worked with the county attorney regarding how to interpret
12:06:43 17 H.B. 2492 to date?

12:06:45 18 A. Not that I'm fully aware of.

12:06:48 19 Q. Again, without disclosing the substance of those
12:06:53 20 conversations, do you know if the county, the Mohave
12:06:56 21 County Recorder has worked with the county attorney
12:06:59 22 regarding how to interpret and enforce H.B. 2243?

12:07:09 23 A. I'm sorry. Are you asking if she's worked with
12:07:14 24 them already to interpret it?

12:07:18 25 Q. Yes.

12:07:19 1 A. I'm not sure.

12:07:19 2 Q. Who would know the answer to that question?

12:07:29 3 A. Kristi Blair, if she has had that conversation.

12:07:47 4 Q. I would like to show you another document

12:07:50 5 produced by the Mohave County Recorder in this litigation.

12:08:13 6 This document, as you'll see, in the bottom right-hand

12:08:17 7 corner is Bates stamped MOHAVE-000119 on the first page.

12:08:23 8 Do you see that?

12:08:24 9 A. Yes.

12:08:24 10 Q. And this is an email from Kristi Blair to

12:08:32 11 Natalie Collings, correct?

12:08:34 12 A. Yes.

12:08:35 13 Q. And this email is dated September 21st, 2022,

12:08:40 14 right?

12:08:41 15 A. Yes.

12:08:41 16 MS. DIBRELL: So I would like to mark this email

12:08:43 17 as Exhibit 53.

12:08:43 18 BY MS. DIBRELL:

12:08:52 19 Q. On the first page of this email there is a

12:08:54 20 bullet for H.B. 2243, correct?

12:08:58 21 A. Yes.

12:08:59 22 Q. The third bullet, related to H.B. 2243, states:

12:09:15 23 The SOS recommends we get our county attorney's

12:09:20 24 opinion on phrasing in the new law regarding citizenship

12:09:23 25 we must have "on file" since the retention period for DPOC

12:09:27 1 is only two years.

12:09:33 2 Do you see that?

12:09:44 3 MR. LANGHOFER: I'm sorry. Did you say the

12:09:47 4 third bullet point?

12:09:49 5 MS. DIBRELL: Yes. I can zoom in.

12:09:49 6 BY MS. DIBRELL:

12:09:50 7 Q. Can you see that, Ms. Durst?

12:09:52 8 A. Yes.

12:09:54 9 Q. I can highlight the third bullet for you.

12:09:58 10 This third bullet and email from the County

12:10:00 11 Recorder for Mohave County, refers to H.B. 2243, right?

12:10:04 12 A. I believe it's from Natalie -- is it from

12:10:09 13 Natalie to Kristi?

12:10:16 14 Q. Oh, you're correct. It's from Natalie to

12:10:19 15 Kristi. Thank you.

12:10:21 16 And you're copied on this email, correct,

12:10:24 17 Ms. Durst?

12:10:24 18 A. Yes.

12:10:24 19 Q. And who is Natalie Collings again?

12:10:31 20 A. She no longer works for our office. She was the

12:10:35 21 voter registration supervisor.

12:10:40 22 Q. And Ms. Collings wrote to the County Recorder,

12:10:43 23 referring to H.B. 2243:

12:10:45 24 The SOS recommends we get our county attorney's

12:10:50 25 opinion on phrasing in the new law regarding citizenship

12:10:53 1 we must have "on file" since the retention period for DPOC
12:10:57 2 is only two years.
12:10:59 3 Do you see that?
12:11:01 4 A. Yes.
12:11:01 5 Q. Do you know what the "on file" language is
12:11:13 6 referring to?
12:11:14 7 A. Not fully.
12:11:22 8 Q. Are you aware that you must retain documentary
12:11:39 9 proof of citizenship information for two years, per the
12:11:47 10 EPM?
12:11:48 11 A. Yes.
12:11:48 12 Q. Is the "on file" language that this is referring
12:11:52 13 to, that citizenship, documentary proof of citizenship
12:11:54 14 that you must retain for two years?
12:12:00 15 DEFENSE COUNSEL: Form.
12:12:02 16 THE WITNESS: I believe so.
12:12:03 17 BY MS. DIBRELL:
12:12:05 18 Q. Did anyone in your office ever seek the county
12:12:09 19 attorney's opinion on this issue on what citizenship you
12:12:13 20 must have on file when the documentary proof of
12:12:16 21 citizenship retention period is only two years?
12:12:21 22 A. I'm not sure.
12:12:22 23 Q. Do you know who would know if those
12:12:28 24 conversations occurred?
12:12:30 25 A. County Recorder Kristi Blair.

12:12:34 1 Q. All right. Do you know if the county attorney
12:12:42 2 ever provided an opinion on this issue regarding retaining
12:12:46 3 citizenship, documentary proof of citizenship for two
12:12:49 4 years as it pertains to H.B. 2243?

12:12:53 5 A. I'm not aware.

12:12:59 6 Q. I understand that you have not yet implemented
12:13:36 7 H.B. 2492, but I just want to discuss what your
12:13:40 8 understanding of what, of what implementing H.B. 2492
12:13:45 9 would require you to do.

12:13:47 10 A. Okay.

12:13:47 11 Q. H.B. 2492 revised A.R.S. 16-101 to include
12:14:03 12 documentary proof of citizenship as a voter qualification
12:14:06 13 for voting, right?

12:14:09 14 DEFENSE COUNSEL: Form.

12:14:09 15 (The Reporter indicated an inability to hear the
12:14:11 16 answer.)

12:14:11 17 THE WITNESS: I said yes. Sorry.

12:14:24 18 BY MS. DIBRELL:

12:14:27 19 Q. Under H.B. 2492, documentary proof of
12:14:31 20 citizenship is required as a qualification for voting,
12:14:37 21 correct?

12:14:38 22 A. Yes.

12:14:40 23 DEFENSE COUNSEL: Form.

12:14:41 24 BY MS. DIBRELL:

12:14:43 25 Q. Under H.B. 2492, to be a qualified elector, does

12:14:48 1 the voter have to provide documentary proof of
12:14:51 2 citizenship?
12:14:52 3 DEFENSE COUNSEL: Form.
12:14:53 4 THE WITNESS: Regarding that, yes, but we
12:15:03 5 haven't implemented that.
12:15:04 6 BY MS. DIBRELL:
12:15:06 7 Q. When you do implement the documentary proof of
12:15:10 8 citizenship requirement, will it apply retroactively for
12:15:18 9 voters who registered without providing documentary proof
12:15:22 10 of citizenship?
12:15:24 11 DEFENSE COUNSEL: Calls for speculation.
12:15:30 12 THE WITNESS: I don't know.
12:15:30 13 BY MS. DIBRELL:
12:15:36 14 Q. Do you know who would, do you know who would
12:15:40 15 provide guidance regarding whether the documentary proof
12:15:43 16 of citizenship requirement applies retroactively?
12:15:50 17 A. The county attorney.
12:15:52 18 Q. And the county attorney would work with Mohave
12:16:00 19 County's County Recorder to provide that guidance?
12:16:03 20 A. Correct.
12:16:04 21 Q. Currently, when you register voters who do not
12:16:22 22 provide documentary proof of citizenship, you acquire
12:16:26 23 documentary proof of citizenship from the Motor Vehicle
12:16:31 24 Department, right?
12:16:32 25 A. Through HAVA check, yes.

12:16:35 1 Q. Would that process be impacted by implementation
12:16:42 2 of H.B. 2492?

12:16:45 3 DEFENSE COUNSEL: Calls for speculation.

12:16:53 4 THE WITNESS: I'm not sure. I'm sorry. Could
12:16:58 5 you repeat the question?

12:16:59 6 BY MS. DIBRELL:

12:17:01 7 Q. Would you still acquire documentary proof of
12:17:05 8 citizenship for the Motor Vehicle Department for
12:17:09 9 applicants who do not submit it with their voter
12:17:12 10 registration forms under H.B. 2492?

12:17:19 11 DEFENSE COUNSEL: Speculation.

12:17:22 12 THE WITNESS: Would that -- for clarification --
12:17:23 13 would that be if they registered like through the Motor
12:17:27 14 Vehicle, if we would then still ask for citizenship proof?

12:17:31 15 BY MS. DIBRELL:

12:17:32 16 Q. If they submit a registration form and they
12:17:35 17 don't provide documentary proof of citizenship, under
12:17:38 18 H.B. 2492 would you still try to acquire the documentary
12:17:44 19 proof of citizenship through the Motor Vehicle database?

12:17:48 20 DEFENSE COUNSEL: Form.

12:17:48 21 THE WITNESS: I believe so.

12:17:49 22 BY MS. DIBRELL:

12:18:22 23 Q. For state form applicants who do not submit
12:18:28 24 documentary proof of citizenship with their registration,
12:18:32 25 for who you do acquire, or you can acquire documentary

12:18:37 1 proof of citizenship through the Motor Vehicle database,
12:18:40 2 under H.B. 2492, would you register that as federal only
12:18:45 3 voters, as that's defined by H.B. 2492?

12:18:49 4 DEFENSE COUNSEL: Form; speculation.

12:18:55 5 THE WITNESS: I don't know.

12:19:04 6 BY MS. DIBRELL:

12:19:48 7 Q. So I'm going to show you, again, Mohave County
12:19:52 8 Recorder's response to the consolidated plaintiff's
12:19:57 9 interrogatories, which I previously marked as Exhibit 52.

12:20:12 10 Can you see my screen, Ms. Durst?

12:20:16 11 A. Yes.

12:20:16 12 Q. And, again, this is Mohave County Recorder's
12:20:21 13 answers to consolidated plaintiff's first set of
12:20:24 14 interrogatories, correct?

12:20:25 15 A. Correct.

12:20:25 16 Q. Currently, if a voter applicant submits a state
12:20:48 17 registration form and provides documentary proof of
12:20:48 18 citizenship but does not provide their birthplace
12:20:51 19 information, do you still register them to vote?

12:20:54 20 A. Yes.

12:20:55 21 Q. Do you have any way of independently confirming
12:21:07 22 birthplace information provided on the state form?

12:21:11 23 A. No.

12:21:12 24 Q. Turning to interrogatory 1, plaintiffs requested
12:21:30 25 that you:

12:21:31 1 Identify and describe each way that your office
12:21:35 2 uses or would use information related to the birthplace of
12:21:39 3 a voter registration applicant -- including applicants for
12:21:42 4 whom you already have DPOC -- to verify such person's
12:21:47 5 eligibility to vote, including but not limited to each way
12:21:50 6 in which a voter registration applicant's failure to
12:21:53 7 provide their birthplace affects or would affect your
12:21:56 8 ability to confirm the voter registration applicant's
12:22:00 9 identity or determine whether that person is eligible to
12:22:03 10 register and vote in Arizona.

12:22:04 11 Correct?

12:22:05 12 A. Correct.

12:22:07 13 Q. You responded that:

12:22:13 14 The Mohave County Recorder understands that this
12:22:17 15 is part of the current lawsuit and following guidance from
12:22:21 16 the Secretary of State, we currently are using a voter's
12:22:23 17 place of birth as a method to identify the voter over the
12:22:28 18 phone if we lack other information. We current --

12:22:32 19 Correct?

12:22:33 20 A. Yes.

12:22:35 21 Q. And then you go on to say:

12:22:37 22 We currently do not use it to verify citizenship
12:22:40 23 or identity for a person registering to vote.

12:22:43 24 Right?

12:22:43 25 A. Yes.

12:22:44 1 Q. So you use a voter's place of birth to identify
12:22:59 2 them over the phone if you lack other information, but you
12:23:03 3 do not use birthplace to verify citizenship or identity
12:23:08 4 for a person registering to vote.

12:23:10 5 A. Correct.

12:23:11 6 Q. That's just to confirm that the person on the
12:23:16 7 phone is the person who completed the registration form,
12:23:19 8 right?

12:23:19 9 A. Yes.

12:23:20 10 Q. So do you use birthplace similar to a security
12:23:26 11 code question?

12:23:27 12 A. Yes.

12:23:27 13 Q. Do you actually confirm that the birthplace that
12:23:33 14 the voter on the phone tells you is where that person was
12:23:37 15 actually born?

12:23:38 16 A. No.

12:23:40 17 Q. And you don't use the birthplace listed on the
12:23:48 18 firm -- on the form, excuse me, to determine if the person
12:23:50 19 is qualified to vote?

12:23:52 20 A. Correct.

12:23:53 21 Q. So, really, you're just concerned that you want
12:24:02 22 to make sure the person you're talking to is the person
12:24:05 23 who filled out the form?

12:24:06 24 A. Yes.

12:24:07 25 Q. Could you use other personal identifying

12:24:12 1 information to confirm that the person you're talking to
12:24:15 2 is the person who filled out the form?
12:24:17 3 A. Yes.
12:24:18 4 Q. What other information could you use?
12:24:21 5 A. Their registered residence address, their date
12:24:30 6 of birth, the last four of their social, mother's maiden
12:24:35 7 name.
12:24:41 8 Q. If the person who submitted the application form
12:24:45 9 did not provide their birthplace on the form, do you use
12:24:48 10 that other information to identify who they are on the
12:24:51 11 phone?
12:24:51 12 A. Yes.
12:24:52 13 Q. If birthplace becomes mandatory for state form
12:25:28 14 registrants under H.B. 2492, if that goes into effect, do
12:25:32 15 you have any planned changes for how you would use the
12:25:36 16 birthplace?
12:25:37 17 A. Not to my knowledge.
12:26:13 18 MS. DIBRELL: Ms. Durst, if it's okay with you,
12:26:15 19 we can take another 15-minute break.
12:26:19 20 THE WITNESS: Sure.
12:26:22 21 THE VIDEOGRAPHER: We are off the record. Time
12:26:26 22 on the video monitor is 12:26 p.m.
12:26:31 23 (Recess taken from 12:26 p.m. to 12:48 p.m.)
12:48:01 24 THE VIDEOGRAPHER: We are on the record. Time
12:48:03 25 on the video monitor is 12:48 p.m. This begins Media 2.

12:48:10 1 Please continue.

12:48:11 2 BY MS. DIBRELL:

12:48:20 3 Q. Ms. Durst, during this deposition your counsel

12:48:24 4 sent us some notice letters, right?

12:48:27 5 A. Yes.

12:48:27 6 Q. I just wanted to confirm, there are no other

12:48:33 7 notice letters.

12:48:40 8 A. For anything?

12:48:42 9 Q. Are there any other notice letters on these

12:48:49 10 topics?

12:48:50 11 A. These topics, I don't believe so.

12:48:55 12 Q. Do you have these notice letters in other

12:49:01 13 languages?

12:49:01 14 A. No.

12:49:03 15 Q. In implementing the challenge provisions, would

12:49:22 16 you keep the same practice of sending similar notice

12:49:26 17 letters to voter applicants?

12:49:32 18 DEFENSE COUNSEL: Speculation.

12:49:35 19 THE WITNESS: I'm not sure.

12:49:38 20 BY MS. DIBRELL:

12:49:52 21 Q. So are you aware that under H.B. 2492 and 2243,

12:50:01 22 you have to confirm information, excuse me, that the

12:50:06 23 applicant is not a United States citizen?

12:50:13 24 A. I need to confirm?

12:50:16 25 Q. Oh, information indicating that the applicant is

12:50:19 1 not a United States citizen.

12:50:21 2 A. Yes.

12:50:25 3 Q. If, in confirming this information, if the data
12:50:54 4 in the government database shows that the applicant was a
12:50:58 5 non-citizen 25 years ago, is that information that that
12:51:02 6 person is not a citizen today?

12:51:05 7 DEFENSE COUNSEL: Form.

12:51:14 8 THE WITNESS: Could you ask that again? I'm
12:51:18 9 sorry.

12:51:18 10 BY MS. DIBRELL:

12:51:19 11 Q. When you're confirming information that the
12:51:22 12 voter applicant is not a U.S. citizen, if a government
12:51:26 13 database has information that they weren't a citizen
12:51:30 14 25 years ago would that be information that they are not a
12:51:33 15 U.S. citizen today?

12:51:36 16 DEFENSE COUNSEL: Form.

12:51:37 17 THE WITNESS: I don't know.

12:51:37 18 BY MS. DIBRELL:

12:51:41 19 Q. When you run your HAVA checks, if that reflects
12:51:46 20 that the voter applicant was issued an F-type license
12:51:50 21 20 years ago, is that information showing that they are
12:51:53 22 not a U.S. citizen today?

12:51:55 23 DEFENSE COUNSEL: Form.

12:51:56 24 THE WITNESS: The HAVA check is current
12:52:04 25 information. Well, as current as it could be.

12:52:17 1 BY MS. DIBRELL:

12:52:17 2 Q. What do you mean by as current as it could be?

12:52:20 3 A. You're asking if it was 25 years ago. So if a

12:52:27 4 voter is registering now and they got that license 25

12:52:30 5 years ago and that's all that's in the database, that's

12:52:33 6 all we would have to go off of.

12:52:36 7 Q. What is an F-type license?

12:52:38 8 A. I can't currently think of the exact definition

12:52:50 9 of an F-type license.

12:52:52 10 Q. Generally, do you know what an F-type license

12:52:55 11 is?

12:52:55 12 A. Usually they need to show proof of citizenship a

12:53:00 13 federal license.

12:53:03 14 Q. Would it refresh your recollection of what an

12:53:23 15 F-type license is to look at the 2019 EPM?

12:53:28 16 A. Yes.

12:53:28 17 Q. So, Ms. Durst, I'm showing you, again, what was

12:53:43 18 previously marked as Petty Exhibit 9, and this is page

12:53:48 19 four of the 2019 EPM.

12:53:51 20 A. Hmm hmm.

12:53:54 21 Q. And I have zoomed in here so you can see, if you

12:53:59 22 just want to review this document.

12:54:13 23 Tell me when you're done.

12:54:15 24 A. I'm done.

12:54:16 25 Q. So what is an F-type license?

12:54:18 1 A. When a registrant needs to prove their
12:54:23 2 citizenship, when they are non-citizen.

12:54:31 3 Q. And, to be clear, they were a non-citizen at the
12:54:36 4 time they received their F-type license?

12:54:39 5 A. Correct.

12:54:41 6 DEFENSE COUNSEL: Form.

12:54:43 7 BY MS. DIBRELL:

12:54:49 8 Q. So if an applicant received an F-type license
12:54:53 9 20 years ago, that means 20 years ago they weren't a
12:54:57 10 citizen.

12:54:57 11 A. Correct.

12:54:59 12 Q. When you run the HAVA checks, if it comes back
12:55:07 13 and says that the applicant received an F-type license
12:55:11 14 20 years ago, do you use that as information that present
12:55:16 15 day they are not citizens?

12:55:18 16 A. Yes.

12:55:20 17 Q. What procedures do you follow after seeing that?

12:55:26 18 A. I believe it's in the EPM, and they would
12:55:37 19 receive a notice that they would need to provide
12:55:40 20 documentation.

12:55:42 21 Q. And documentation of what?

12:55:45 22 A. Of citizenship to vote a full ballot.

12:55:50 23 Q. When confirming information that a voter
12:56:07 24 registrant is not an applicant, if you use another
12:56:10 25 database, if that information was from 20 years ago, would

12:56:15 1 you use that to show that they presently are not a
12:56:20 2 U.S. citizen?

12:56:21 3 DEFENSE COUNSEL: Form.

12:56:22 4 THE WITNESS: I'm sorry. Can you repeat that?

12:56:26 5 BY MS. DIBRELL:

12:56:28 6 Q. So under the challenge provisions, if you're
12:56:31 7 using another database to confirm the citizenship of the
12:56:37 8 voter registrant, and it shows that they weren't a citizen
12:56:40 9 20 years ago, is that information showing that presently,
12:56:46 10 present day, they are not a U.S. citizen for voter
12:56:50 11 registration purposes?

12:56:53 12 DEFENSE COUNSEL: Form?

12:56:56 13 THE WITNESS: Correct.

12:56:57 14 BY MS. DIBRELL:

12:57:02 15 Q. What are valid sources of information that
12:57:04 16 someone is not a U.S. citizen under the challenge
12:57:08 17 provisions?

12:57:12 18 DEFENSE COUNSEL: Form.

12:57:13 19 THE WITNESS: Could you clarify which challenge?

12:57:23 20 BY MS. DIBRELL:

12:57:21 21 Q. Under H.B. 2243, what information would you,
12:57:28 22 would be valid to show that the person is not a citizen?

12:57:37 23 DEFENSE COUNSEL: Form.

12:57:38 24 THE WITNESS: I'm sorry. Which information
12:57:39 25 would be value if --

12:57:40 1 Could you repeat that?

12:57:41 2 BY MS. DIBRELL:

12:57:41 3 Q. Sure. Under H.B. 2243, what are valid sources

12:57:47 4 of information that you can use to determine that the

12:57:51 5 voter applicant, or that the person is not a U.S. citizen?

12:57:56 6 DEFENSE COUNSEL: Form.

12:57:57 7 THE WITNESS: I'm sorry. I don't know that I

12:58:04 8 fully understand. If it would come back that they're not

12:58:08 9 a citizen, what form do they provide to be?

12:58:12 10 BY MS. DIBRELL:

12:58:12 11 Q. I can provide, I can provide some examples.

12:58:14 12 Maybe that will clarify.

12:58:15 13 A. Thank you.

12:58:16 14 Q. So if your office received, for example, an

12:58:20 15 email about a voter, an anonymous email, and the email

12:58:25 16 said that that voter was not a U.S. citizen, would that be

12:58:29 17 information that you would use to confirm that they are

12:58:34 18 not a U.S. citizen?

12:58:36 19 A. Not at this time.

12:58:39 20 Q. Under H.B. 2243?

12:58:45 21 A. Well, with the current litigation, we're not

12:59:05 22 following that H.B. 2243.

12:59:10 23 Q. If H.B. 2243 goes into effect, do you know what

12:59:17 24 you would do if you received an email stating that someone

12:59:21 25 was not a citizen?

12:59:23 1 DEFENSE COUNSEL: Speculation.

12:59:25 2 THE WITNESS: I have an idea of what we could

12:59:29 3 do, but I'm not sure if that's what we would do.

12:59:32 4 BY MS. DIBRELL:

12:59:32 5 Q. What is your idea of what you could do?

12:59:35 6 A. If it came like from the voter themselves, if

12:59:46 7 they were reregistering, you would be a HAVA check again,

12:59:51 8 going through the same procedure as registering someone to

12:59:56 9 vote.

12:59:57 10 Q. Would you use any other databases to confirm the

01:00:02 11 voter's citizenship?

01:00:08 12 DEFENSE COUNSEL: Speculation, form.

01:00:11 13 THE WITNESS: I'm not sure.

01:00:14 14 BY MS. DIBRELL:

01:00:52 15 Q. Under H.B. 2243, what would give your office a

01:00:57 16 reason to believe that a person is not a United States

01:01:05 17 citizen?

01:01:05 18 DEFENSE COUNSEL: Form, foundation.

01:01:10 19 THE WITNESS: If they were not passing a HAVA

01:01:15 20 check.

01:01:15 21 BY MS. DIBRELL:

01:01:16 22 Q. Would it be helpful to review the statute?

01:01:38 23 A. Sure.

01:01:39 24 Q. Can you see my screen, Ms. Durst?

01:02:25 25 A. Yes.

01:02:25 1 Q. Let me scroll to the top so you can see the
01:02:29 2 document.
01:02:30 3 So this says that it's A.R.S. Section 16-165,
01:02:37 4 correct?
01:02:37 5 A. Yes.
01:02:38 6 Q. And that's titled, Causes For Cancellation?
01:02:42 7 A. Yes.
01:02:48 8 MS. DIBRELL: And I'd like to mark this copy of
01:02:51 9 the statute as Exhibit 54.
01:02:51 10 BY MS. DIBRELL:
01:02:59 11 Q. So turn to provision subsection I of 16-165.
01:03:14 12 16-165(I) says:
01:03:16 13 To the extent practical, each month the County
01:03:20 14 Recorder shall compare persons who are registered to vote
01:03:23 15 in that county and who the County Recorder has reason to
01:03:25 16 believe are not United States citizens and persons who are
01:03:30 17 registered to vote without satisfactory evidence of
01:03:33 18 citizenship as prescribed by section 16-166 with the
01:03:38 19 systematic alien verification for entitlements program
01:03:38 20 maintained by the United States Citizenship and
01:03:44 21 Immigration Services to verify the citizenship status of
01:03:46 22 the persons registered.
01:03:48 23 Is that correct?
01:03:48 24 A. Yes.
01:03:49 25 Q. So this language here:

01:03:55 1 Voters who the County Recorder has reason to
01:03:57 2 believe are not United States citizens and who are
01:04:02 3 registered to vote.
01:04:05 4 What would give you a reason to believe that
01:04:07 5 that voter is not a United States citizen?
01:04:11 6 DEFENSE COUNSEL: Form and foundation.
01:04:19 7 THE WITNESS: Their status of the registration.
01:04:22 8 BY MS. DIBRELL:
01:04:30 9 Q. Is there anything else that would give you a
01:04:32 10 reason to believe that they are not a United States
01:04:35 11 citizen? \
01:04:38 12 DEFENSE COUNSEL: Form and foundation. Calls
01:04:41 13 for legal conclusion.
01:04:46 14 THE WITNESS: Not that I'm currently aware of.
01:04:48 15 BY MS. DIBRELL:
01:04:51 16 Q. And so I'm not asking for a legal interpretation
01:04:54 17 of H.B. 2243. I'm just wondering what would give your
01:04:59 18 office a reason to believe that someone wasn't a citizen.
01:05:02 19 A. Well, the status of their voter registration.
01:05:12 20 If they needed to provide something for full ballot, we
01:05:18 21 could review that, but nothing -- I'm not sure.
01:05:44 22 Q. Has the Secretary of State's Office provided you
01:05:47 23 with any guidance of what would give your staff a valid
01:05:52 24 reason to believe that someone was not a United States
01:05:55 25 citizen?

01:05:56 1 A. That could be in the EPM, but I'm not sure.

01:06:05 2 Q. If the Secretary of State's Office does not give

01:06:11 3 you guidance on what is a valid reason to believe that

01:06:16 4 someone is not a United States citizen, how would you know

01:06:19 5 how to implement this?

01:06:23 6 DEFENSE COUNSEL: Form.

01:06:33 7 THE WITNESS: I would seek assistance from our

01:06:35 8 county attorney.

01:06:45 9 BY MS. DIBRELL:

01:06:45 10 Q. Do you have -- or how would you implement this

01:06:51 11 reason to believe requirement if you are required to do

01:06:56 12 so?

01:06:56 13 DEFENSE COUNSEL: Speculation; form.

01:07:05 14 THE WITNESS: I don't know.

01:07:07 15 BY MS. DIBRELL:

01:07:35 16 Q. What if the registered voter made a mistake on

01:07:41 17 their application form and they mixed up their first and

01:07:44 18 last name, would that give you a reason to believe that

01:07:46 19 they're not a U.S. citizen?

01:07:48 20 DEFENSE COUNSEL: Form.

01:07:50 21 THE WITNESS: I don't believe so.

01:07:55 22 BY MS. DIBRELL:

01:08:09 23 Q. If you identify a registered voter who has

01:08:13 24 already satisfied the documentary proof of citizenship

01:08:17 25 requirement, but they still hold an F-type license, as

01:08:22 1 reflected in the ADOT Motor Vehicle Division's records,
01:08:30 2 would -- do you consider that information that the
01:08:34 3 registered voter is not a U.S. citizen?

01:08:36 4 DEFENSE COUNSEL: Form.

01:08:37 5 THE WITNESS: Could you repeat the beginning of
01:08:39 6 that, please?

01:08:40 7 BY MS. DIBRELL:

01:08:40 8 Q. If you have a registered voter, who gave you
01:08:43 9 documentary proof of citizenship, but they have an F-type
01:08:47 10 license, as reflect in the DMV's database, do you consider
01:08:54 11 that information that that voter is not a U.S. citizen?

01:08:57 12 A. No.

01:08:58 13 Q. Why not?

01:09:03 14 A. If they provided their own citizenship
01:09:08 15 paperwork.

01:09:08 16 Q. What about for voters who registered without
01:09:37 17 documentary proof of citizenship, but were covered by
01:09:42 18 section 16-166(G), safe harbor?

01:09:49 19 A. I'm sorry?

01:09:50 20 Q. Sure. So you're aware that there are voters who
01:09:55 21 registered to vote before documentary proof of citizenship
01:09:58 22 was a requirement, right?

01:10:00 23 A. Correct.

01:10:01 24 Q. And that there is a safe harbor provision,
01:10:08 25 16-166(G), for those voters.

01:10:14 1 Are you aware of that?

01:10:16 2 A. Could we review that?

01:10:19 3 Q. Sure. It's so that they can -- they're still
01:10:24 4 registered to vote without providing their documentary
01:10:28 5 proof of citizenship. I'm happy to pull it up.

01:10:32 6 Really, my question is if they initially
01:10:35 7 registered without documentary proof of citizenship and
01:10:38 8 they have been registered this whole time, is that
01:10:41 9 information that you would consider reason to believe that
01:10:44 10 they are not a U.S. citizen?

01:10:49 11 DEFENSE COUNSEL: Form.

01:10:50 12 THE WITNESS: So someone has, for clarification,
01:10:56 13 they've been registered to vote but they haven't proven, I
01:11:01 14 would still -- you're asking if I would still accept them
01:11:05 15 as a full valid voter.

01:11:08 16 BY MS. DIBRELL:

01:11:09 17 Q. They are already a registered voter. So we
01:11:11 18 could take a step back.

01:11:13 19 So if you have a registered voter, who
01:11:15 20 registered without documentary proof of citizenship,
01:11:18 21 because at the time it was not required, right?

01:11:22 22 A. Hmm hmm.

01:11:23 23 Q. Okay. So if you have that registered voter who
01:11:26 24 registered without documentary proof of citizenship, they
01:11:30 25 never had to do that, they were currently a registered

01:11:33 1 voter, but they never provided that documentary proof of
01:11:39 2 citizenship, is that reason to believe that they are not a
01:11:43 3 U.S. citizen?
01:11:45 4 A. I don't know.
01:11:48 5 DEFENSE COUNSEL: Form.
01:11:52 6 BY MS. DIBRELL:
01:11:52 7 Q. How would you know? I guess -- strike that.
01:11:56 8 Who, who would you seek guidance from on how to
01:12:01 9 implement that?
01:12:02 10 A. My county attorney.
01:12:04 11 Q. And your county attorney would work with you on
01:12:11 12 the guidance?
01:12:13 13 A. The County Recorder and the county attorney
01:12:17 14 would work together.
01:12:19 15 Q. Has the Secretary of State's Office provided
01:12:28 16 your office with a list of what will not give your staff a
01:12:33 17 valid reason to believe that someone is not a United
01:12:37 18 States citizen?
01:12:38 19 DEFENSE COUNSEL: Form. Calls for privileged
01:12:45 20 communications.
01:12:46 21 MS. DIBRELL: From the Secretary of State's
01:12:52 22 Office?
01:12:52 23 MR. LANGHOFER: I'm sorry. I misunderstood the
01:12:52 24 question. I'll withdraw that latter half of the objection
01:12:52 25 then.

01:12:56 1 THE WITNESS: Could you ask that again, please?

01:12:58 2 BY MS. DIBRELL:

01:12:58 3 Q. Has the Secretary of State's Office provided
01:13:01 4 your office with a list of what will not give you or your
01:13:01 5 staff a valid reason to believe someone is not a United
01:13:05 6 States citizen?

01:13:07 7 A. Not that I'm aware of.

01:13:09 8 Q. Are you aware of any guidance from the Secretary
01:13:13 9 of State's Office on this reason to believe language?

01:13:17 10 A. Not that I recall, no.

01:13:19 11 Q. Do you know if anyone else in your office would
01:13:23 12 know if they received guidance from the Secretary of State
01:13:26 13 on this language?

01:13:28 14 A. The County Recorder, Kristi Blair.

01:13:31 15 Q. So we have talked about citizenship for a while,
01:13:43 16 and I'd like to switch gears to residency, if that sounds
01:13:48 17 good to you.

01:13:50 18 A. Awesome.

01:13:52 19 Q. So under your current practices, in order to
01:13:57 20 register to vote, applicants also are required to provide
01:14:00 21 their residential address, or, if they don't have an
01:14:03 22 address, a description or drawing of the location of their
01:14:07 23 residence, right?

01:14:08 24 A. Correct.

01:14:09 25 Q. Okay. And a PO box can be used to meet that

01:14:12 1 requirement?

01:14:13 2 A. That is correct.

01:14:16 3 Q. How do you use a residence address, or location

01:14:21 4 information for voter registration?

01:14:24 5 A. We use our Mohave County Assessor's website, and

01:14:31 6 we have a GIS mapping within the AVID system.

01:14:39 7 Q. And who checks that information, or who uses

01:14:48 8 that information?

01:14:51 9 A. The voter registration specialists.

01:14:54 10 Q. So, just to better understand the process, when

01:15:02 11 someone provides a residential address, how does your

01:15:06 12 county use that information to locate the residence?

01:15:09 13 A. When someone registers to vote and they write

01:15:18 14 their residence address on the form, we type it into the

01:15:22 15 database. If it doesn't autopopulate with that specific

01:15:27 16 address, we would go to the county assessor's website. If

01:15:31 17 it's a new build you might have to then pin that address

01:15:35 18 from their location into our database.

01:15:39 19 Q. And when you say, when you type it into the

01:15:42 20 database, you're referring to AVID?

01:15:45 21 A. Yes.

01:15:45 22 Q. And what do you mean when you say that you would

01:15:49 23 pin the location to your database?

01:15:52 24 A. So with current growth in our community, if

01:15:59 25 there is a new subdivision, they may not have each house

01:16:03 1 in our total address in AVID. You may need to place a
01:16:09 2 pin, dropping a pin at that location for that residential
01:16:13 3 address.

01:16:16 4 Q. Based on the process you just described, is it
01:16:19 5 ever the case that a residential address, that you're not
01:16:23 6 able to locate it using the database?

01:16:26 7 A. There can be times, yes.

01:16:34 8 Q. Can you please explain?

01:16:38 9 A. If it's a brand new address to that house and
01:16:48 10 it's not online, we wouldn't know exactly where that
01:16:54 11 residence is.

01:16:56 12 Q. Are there any other cases where you would not be
01:17:00 13 able to locate someone's residential address through this
01:17:04 14 process that you've discussed?

01:17:06 15 A. Do you have like an example?

01:17:17 16 Q. No. I'm just wondering if there are other cases
01:17:22 17 where this has come up.

01:17:28 18 A. I think that could go as -- if we can locate it
01:17:32 19 but it's not a named place, like they give us their
01:17:37 20 longitude and latitude location, we can pin it with a plus
01:17:42 21 code. So it's not a -- it doesn't appear to be an actual
01:17:47 22 residential address, but it can be verified. It is
01:17:53 23 residential for them to live there, reside there, but it
01:17:57 24 would be a plus code.

01:17:59 25 Q. And this plus code, you would be adding them to

01:18:03 1 the database?

01:18:03 2 A. Yes.

01:18:04 3 Q. So, to clarify, so one reason, an example, is if

01:18:14 4 someone lives in new residential area, that's one example

01:18:19 5 of where their address might not show up in AVID?

01:18:24 6 A. Correct.

01:18:25 7 Q. Are there other examples, are there -- where

01:18:29 8 their address would not show up in AVID?

01:18:31 9 A. Addresses do change through planning and zoning.

01:18:37 10 If they're registering at a new address and the number had

01:18:42 11 changed, it may need to be researched to then be modified

01:18:46 12 in the AVID system.

01:18:47 13 Q. Are there any other instances where this occurs?

01:18:53 14 A. Not that I can think of.

01:18:56 15 Q. How common is it for someone to provide a

01:19:03 16 residential address that isn't in AVID?

01:19:06 17 A. Are you looking for a percentage, or --

01:19:11 18 Q. Just based on your general experience. Does

01:19:15 19 this happen a lot, not at all?

01:19:17 20 A. Not too often, but Mohave County is rural. So I

01:19:33 21 don't know how to necessarily give an exact percentage,

01:19:36 22 but maybe two a day, maybe.

01:19:41 23 Q. Two a day out of how many applications?

01:19:51 24 A. I could say an average of 80 applications a day.

01:19:55 25 Q. And you mentioned that Mohave County is rural.

01:20:00 1 How does that affect the ability to identify applicants'
01:20:07 2 address in the, in AVID?

01:20:10 3 A. We would most likely do the same process as
01:20:27 4 looking on the Mohave County Assessor website to find it
01:20:32 5 by owner name, the parcel number, or address that they're
01:20:37 6 giving, giving us, to then put that in longitude,
01:20:43 7 latitude, or find it in the AVID Total Address system.

01:20:48 8 Q. Because Mohave County is rural, do you run into
01:20:53 9 this issue more often?

01:20:57 10 I'm just trying understand the relevance when
01:21:00 11 you said Mohave County is a rural county. So how does
01:21:04 12 that play into identifying residential addresses in AVID?

01:21:08 13 A. We have tribal land which is not, their land is
01:21:14 14 not on the Mohave County Assessor's website by address
01:21:20 15 because of the way the tax bill is paid. And we also
01:21:23 16 have, our northern part of the county, it's known as
01:21:27 17 Colorado City, most of them don't own their property.
01:21:32 18 It's owned by the UEP. So to find their exact address
01:21:38 19 without street signs that they're provided can be
01:21:41 20 difficult.

01:21:45 21 Q. Is it more common for residential addresses used
01:21:50 22 on tribal land to not be located in AVID?

01:21:53 23 A. I'm sorry. Can you say that again?

01:21:59 24 Q. Sure. So you mentioned that there's a
01:22:04 25 significant amount of tribal land in Mohave County.

01:22:07 1 Is it common for residential addresses on Native
01:22:16 2 American Reservations to not be located in AVID?
01:22:20 3 A. Yes.
01:22:20 4 Q. And you also mentioned an area called Colorado
01:22:27 5 City?
01:22:28 6 A. Yes.
01:22:28 7 Q. And is it more common for residential addresses
01:22:30 8 in Colorado City to not be located in AVID?
01:22:43 9 A. I would say the address they're giving may not
01:22:52 10 match that address we have. Addresses in Colorado City
01:22:55 11 are just typically a standard four or five digit number
01:23:01 12 with a street name. It would be, for an example, like
01:23:06 13 2800 North, 3200 South Arizona. So it's not a typical
01:23:13 14 address.
01:23:15 15 Q. So you describe the process you used to locate
01:23:19 16 these addresses.
01:23:20 17 What does the county do when the residential
01:23:24 18 address can't be located?
01:23:27 19 A. Would send a notice to the voter that we need
01:23:30 20 additional information from them.
01:23:32 21 Q. If you can't locate the voter applicant's
01:23:40 22 address, do you register the voter?
01:23:42 23 A. They go into a suspend status awaiting
01:23:49 24 information.
01:23:49 25 Q. So it's my understanding there's also a process

01:23:52 1 where the voter registration applicant can provide a
01:23:57 2 residence location description or drawing. Is that right?
01:24:02 3 A. Yes.
01:24:02 4 Q. This is what applicants are asked to do if they
01:24:06 5 live in a residence that doesn't have a residential
01:24:10 6 address, or if their residential address can't be located?
01:24:13 7 A. Yes. It's a very small portion on the Arizona
01:24:18 8 voter registration form that they could draw their home
01:24:24 9 on.
01:24:26 10 Q. How does your office use residence location
01:24:32 11 descriptions or drawings to locate a residence?
01:24:38 12 A. We don't receive a lot of them that way. We
01:24:49 13 would typically try to contact the voter to get a better
01:24:56 14 understanding of their surroundings from using the
01:25:01 15 assessor's website as a map.
01:25:06 16 Q. Other than using the assessor's website or
01:25:10 17 calling the voter, do you try to look up the information
01:25:13 18 in any database?
01:25:15 19 A. From where they drew on the map for their
01:25:26 20 location?
01:25:27 21 Q. Hmm hmm.
01:25:31 22 A. Not that I'm aware of.
01:25:33 23 Q. Are applicants who live on a Native American
01:25:42 24 Reservation in Mohave County more likely to provide a
01:25:48 25 residence location description or drawing as opposed to

01:25:49 1 residential address?

01:25:52 2 A. I don't believe so.

01:25:54 3 Q. Which voters submit applications with a

01:26:02 4 residence location description or drawing, in your

01:26:04 5 experience?

01:26:05 6 A. I would think an off-grid voter or someone that

01:26:30 7 doesn't have a residential address.

01:26:36 8 Q. What do you mean by an off-grid voter?

01:26:38 9 A. They, that they wouldn't own the residence

01:26:49 10 address. They may live on state land. They may live in a

01:26:54 11 motorhome type of location.

01:26:59 12 Q. Can you provide a few examples of what a

01:27:07 13 residence location description sounds like?

01:27:11 14 A. Like if they live -- I'm sorry.

01:27:43 15 You're asking what they would write on their

01:27:46 16 voter registration form of describing their home?

01:27:48 17 Q. Yes. I'm just trying to get a better

01:27:51 18 understanding of what a residence location description

01:27:55 19 would be.

01:27:55 20 A. Well, if someone was homeless they could write

01:27:59 21 that they live under the I-40 underpass.

01:28:11 22 Q. What is an example of -- you mentioned people

01:28:14 23 who live on state land -- what would they, what's an

01:28:17 24 example of what their location description might be?

01:28:20 25 A. They could give you a milepost. They live

01:28:24 1 20 miles from milepost 68 on, off of 68.

01:28:31 2 Q. How often do these kinds of location

01:28:42 3 descriptions appear on identification documents?

01:28:46 4 A. I don't think very often.

01:28:48 5 Q. In your experience do any Mohave County voters

01:28:55 6 have a map to their residence on their identification

01:28:59 7 documents?

01:28:59 8 A. No.

01:29:01 9 Q. Does your county provide addresses for homes in

01:29:07 10 the county?

01:29:07 11 A. Yes.

01:29:11 12 Q. What department provides those addresses?

01:29:16 13 A. Development services through planning and

01:29:29 14 zoning, then it would go to the assessor's office.

01:29:38 15 Q. So it goes to the assessor's office -- I guess,

01:29:43 16 could you describe in more detail what the process is for

01:29:46 17 providing addresses within your county?

01:29:48 18 A. I'm not a hundred percent sure of that process.

01:30:04 19 But if someone came to voter registration and they needed

01:30:08 20 the address, we would refer them to that process through

01:30:13 21 development services.

01:30:14 22 Q. Do you know who would know more about this

01:30:18 23 process for providing an address in your county?

01:30:22 24 A. The County Recorder might.

01:30:49 25 Q. Why do you think the County Recorder would know

01:30:51 1 more about this process?

01:30:53 2 A. She has worked for the county longer than I

01:31:22 3 have.

01:31:22 4 Q. Do you know if your county provides addresses

01:31:24 5 for homes in Mohave County that are located on a Native

01:31:30 6 American Reservation?

01:31:30 7 A. If they provide addresses to homes? Not to my

01:31:38 8 knowledge.

01:31:38 9 Q. So, to your knowledge, the county does not

01:31:42 10 provide addresses for homes on Native American

01:31:45 11 Reservations located within Mohave County?

01:31:49 12 A. Correct.

01:31:49 13 Q. What does your office do to increase

01:31:56 14 registration of Native voters?

01:32:05 15 A. Specific to Native voters?

01:32:08 16 Q. Yes.

01:32:13 17 A. I don't, I don't know anything specific to them,

01:32:16 18 but we do voter registration and register anyone eligible

01:32:20 19 to vote.

01:32:20 20 Q. When you say you do voter registration, do you

01:32:26 21 hold voter registration drives?

01:32:30 22 A. During some times of the year, yes.

01:32:33 23 Q. Do you hold any of those voter registration

01:32:40 24 drives on Native American Reservations?

01:32:43 25 A. Not to my knowledge.

01:32:46 1 Q. What challenges do Native voters face when
01:32:56 2 trying to register to vote?
01:32:58 3 DEFENSE COUNSEL: Foundation; speculation.
01:33:09 4 THE WITNESS: Typically, it would just be able
01:33:11 5 to know where their residential address is located for
01:33:21 6 precincting.
01:33:23 7 BY MS. DIBRELL:
01:33:23 8 Q. Based on your experience in the Mohave County
01:33:29 9 Recorder's Office, are there any other challenges Native
01:33:33 10 voters face when trying to register to vote?
01:33:36 11 DEFENSE COUNSEL: Form and foundation.
01:33:38 12 THE WITNESS: Not to my knowledge.
01:33:39 13 BY MS. DIBRELL:
01:33:39 14 Q. Is voter registration lower in Native
01:33:42 15 communities than the county average?
01:33:45 16 A. I'm not sure.
01:33:46 17 Q. Do you know who would know that?
01:33:48 18 A. The, it could be pulled from the database,
01:34:00 19 registered voters by precinct.
01:34:05 20 Q. And the database you're referring to is AVID?
01:34:13 21 A. Correct.
01:34:14 22 Q. Is that information that you would be able to
01:34:21 23 pull from AVID?
01:34:23 24 A. Yes.
01:34:26 25 Q. What does your office do to accommodate Native

01:34:33 1 voters who live at a residence without an address?

01:34:49 2 A. We provide all voters the notice to provide

01:34:52 3 additional information for residential address, and if we

01:34:55 4 needed to, if we couldn't pin it according to the address

01:35:03 5 they're giving, we would give them a plus code in the AVID

01:35:03 6 system.

01:35:07 7 Q. And, just so I'm clear, what happens when you

01:35:10 8 give them a plus code?

01:35:12 9 A. You're pinning the address, you're pinning an

01:35:18 10 address at a specific location that you've determined is

01:35:21 11 where they live but it doesn't have a given address, or

01:35:25 12 they may call it their own address. A plus code is

01:35:34 13 through the USPS.

01:35:36 14 Q. And why does your office accommodate Native

01:35:41 15 voters who live at a residence without an address in this

01:35:44 16 way?

01:35:44 17 A. It would be for any voter.

01:35:48 18 Q. Does this happen more often with Native voter

01:35:57 19 applicants, this process?

01:36:00 20 DEFENSE COUNSEL: Form and foundation.

01:36:09 21 THE WITNESS: Not, not to my knowledge.

01:36:10 22 BY MS. DIBRELL:

01:36:51 23 Q. So, turning to H.B. 2492's requirements that

01:36:57 24 applicants provide documentary proof of residency with the

01:37:04 25 registration, I'd like to discuss A.R.S. Section 16-123.

01:37:12 1 Are you familiar with this statutory provision?

01:37:17 2 A. 123?

01:37:21 3 Q. Yes. 16-123.

01:37:25 4 A. I can briefly review it to refresh.

01:37:30 5 Q. Sure. Would it be helpful -- I can pull it up

01:37:34 6 on my screen.

01:37:35 7 A. I have it here.

01:37:50 8 Q. Let me know when you're done.

01:37:51 9 A. Okay. I'm ready.

01:37:53 10 Q. 16-123 requires that a person who registers to

01:38:05 11 vote must provide an identifying document that establishes

01:38:10 12 proof of location of residence, right?

01:38:14 13 A. Yes.

01:38:14 14 Q. Will this apply to voters registering using the

01:38:20 15 federal form?

01:38:23 16 DEFENSE COUNSEL: Form. Calls for a legal

01:38:25 17 conclusion

01:38:29 18 THE WITNESS: I'm not sure.

01:38:30 19 BY MS. DIBRELL:

01:38:34 20 Q. Has your office received any guidance from the

01:38:36 21 Secretary of State on whether this provision would apply

01:38:40 22 to voters registering using the federal form?

01:38:50 23 A. For H.B. 2492, I'm not sure.

01:38:54 24 Q. Are you aware of any requests to update the

01:39:01 25 election systems commission's instructions for the federal

01:39:05 1 form?

01:39:09 2 A. I'm sorry?

01:39:09 3 Q. So the federal form comes with instructions for

01:39:13 4 the voter when they're filling it out, right? Are you

01:39:17 5 aware of any requests to update those instructions that

01:39:20 6 come with the federal form?

01:39:21 7 A. Not at this time.

01:39:22 8 Q. The current instructions for the federal form do

01:39:30 9 not ask for documentary proof of residency, correct?

01:39:35 10 A. Right. Correct.

01:39:36 11 Q. Would your office reject federal form voters who

01:39:54 12 do not provide documentary proof of residency?

01:39:59 13 DEFENSE COUNSEL: Speculation.

01:40:03 14 THE WITNESS: We currently don't follow

01:40:07 15 H.B. 2492 with the litigation.

01:40:08 16 BY MS. DIBRELL:

01:40:14 17 Q. If H.B. 2492, if you do enforce H.B. -- excuse

01:40:21 18 me. Strike that.

01:40:21 19 If you do enforce H.B. 2492's documentary proof

01:40:25 20 of residency requirement, who would provide guidance on

01:40:29 21 whether you would reject federal forms that do not include

01:40:33 22 proof of residency?

01:40:35 23 A. I believe our county attorney.

01:40:38 24 Q. And that would be your county attorney would

01:40:41 25 work with the County Recorder?

01:40:42 1 A. Yes.

01:40:43 2 Q. Have you begun drafting any guidance to that

01:40:50 3 effect about how to treat federal forms that do not

01:40:53 4 include proof of residency?

01:40:54 5 A. Not to my knowledge.

01:40:56 6 Q. Have you received any guidance from the

01:40:59 7 Secretary of State on how you would treat federal forms

01:41:03 8 that do not include proof of residency?

01:41:06 9 A. I don't believe so.

01:41:07 10 Q. Do you know if there would be a two track system

01:41:13 11 for this requirement, similar to the dual track system for

01:41:18 12 documentary proof of citizenship?

01:41:21 13 DEFENSE COUNSEL: Form.

01:41:22 14 THE WITNESS: I don't know.

01:41:22 15 BY MS. DIBRELL:

01:41:25 16 Q. Do you know if anyone else would know this in

01:41:28 17 your office?

01:41:30 18 A. The County Recorder.

01:41:33 19 Q. What types of documents qualify for proof of

01:41:40 20 residency?

01:41:43 21 DEFENSE COUNSEL: Form. Calls for legal

01:41:43 22 conclusion.

01:41:51 23 THE WITNESS: We currently don't require proof

01:41:54 24 of residency.

01:41:55 25 BY MS. DIBRELL:

01:41:55 1 Q. Ms. Durst, I'm going show you a document that
01:42:16 2 was previously marked as Exhibit 24 during the Maricopa
01:42:24 3 deposition.

01:42:32 4 Can you see my screen, Ms. Durst?

01:42:34 5 A. Yes.

01:42:34 6 Q. And you see the sticker here that says Exhibit
01:42:39 7 24, Petty July 24, 2023?

01:42:43 8 A. Yes.

01:42:43 9 Q. Have you ever seen this document? You can take
01:42:47 10 a moment to review it.

01:42:56 11 A. I don't believe so.

01:42:58 12 Q. Has the Secretary shared any guidance with you
01:43:08 13 about what documents would be acceptable under the
01:43:11 14 documentary proof of residency requirement?

01:43:15 15 A. Not to my knowledge.

01:43:17 16 Q. Has the Secretary shared any draft guidance with
01:43:26 17 your office regarding what documents would be acceptable
01:43:30 18 under the documentary proof of residency requirement?

01:43:33 19 A. Not to my knowledge.

01:43:34 20 Q. Are you familiar with the Gonzalez stipulation?

01:43:51 21 A. No.

01:43:55 22 Q. So walking through this document, it's titled,
01:45:01 23 What Constitutes Documentary Proof of Residency, correct?

01:45:06 24 A. Hmm hmm. Correct.

01:45:07 25 Q. So previously you discussed individuals who are

01:45:17 1 homeless proving residency. Is there any, is there --
01:45:33 2 strike that.

01:45:33 3 Can someone who is homeless provide a
01:45:41 4 declaration as proof of their residency?

01:45:50 5 A. Typically it's just written on the registration
01:45:55 6 form.

01:45:59 7 Q. Is that, is that how your office would treat
01:46:09 8 applications under H.B. 2492 for individuals who are
01:46:15 9 homeless?

01:46:18 10 DEFENSE COUNSEL: Speculation.

01:46:20 11 THE WITNESS: I don't, I don't know.

01:46:23 12 BY MS. DIBRELL:

01:46:31 13 Q. At the bottom of this chart, do you see it says:
01:46:34 14 Written confirmation signed by the registrant.
01:46:37 15 They qualify to register pursuant 16-166(B) providing an
01:46:44 16 address for the homeless center.

01:46:47 17 Correct? Do you see that?

01:46:50 18 A. Yes.

01:46:53 19 Q. Are you aware of any versions of this written
01:47:01 20 confirmation that have been drafted?

01:47:03 21 A. No.

01:47:04 22 Q. Will a template be provided?

01:47:09 23 A. I'm not sure.

01:47:11 24 Q. Do you know how this will be communicated?

01:47:19 25 A. Could you please clarify? Who would communicate

01:47:29 1 that?

01:47:29 2 Q. How would your office communicate to individuals

01:47:33 3 who are homeless how they can prove their residency?

01:47:43 4 A. We haven't developed a plan for the 2492.

01:47:52 5 Q. Who would develop that plan?

01:47:54 6 A. I believe the Secretary of State, county

01:48:01 7 attorney, and Recorders.

01:48:07 8 Q. You said you are not familiar with the Gonzalez

01:48:24 9 stipulation?

01:48:24 10 A. Correct.

01:48:25 11 Q. Do you know who would be familiar with this,

01:48:27 12 with the Gonzalez stipulation?

01:48:30 13 A. It could be the County Recorder, Kristi Blair.

01:48:35 14 Q. So walking through the types of proof of

01:49:09 15 residency in this chart, do you see the first, the first

01:49:17 16 box at the top?

01:49:20 17 A. Yes. Valid/unexpired Arizona driver's license.

01:49:25 18 That one?

01:49:26 19 Q. Yes.

01:49:27 20 A. Hmm hmm.

01:49:28 21 Q. And based on this chart, it says that:

01:49:32 22 A valid and unexpired Arizona driver license or

01:49:37 23 nonoperating identification number that is properly

01:49:40 24 verified by the County Recorder satisfies the requirements

01:49:43 25 of this section.

01:49:44 1 Right?

01:49:44 2 A. Yes.

01:49:45 3 Q. And then the next row down provides another
01:50:00 4 example. It says:
01:50:04 5 A copy of valid/unexpired Arizona driver license
01:50:08 6 or identification.
01:50:10 7 Correct?

01:50:10 8 A. Yes.

01:50:11 9 Q. And that driver's license may list a PO box as
01:50:17 10 the address?
01:50:22 11 A. Correct.

01:50:23 12 Q. And the residential address, according to this,
01:50:33 13 does not need to match the address listed on the voter
01:50:37 14 registration form, right?
01:50:42 15 A. Yes. It states that.

01:50:44 16 Q. Then the next type of proof of residency listed
01:50:52 17 is tribal identification card, which includes a census
01:50:58 18 card, tribal ID card, tribal enrollment card, right?
01:51:03 19 A. Hmm hmm. Yes.

01:51:04 20 Q. And based on this chart, pursuant to 16-123:
01:51:09 21 Any of the identifying documents prescribed in
01:51:12 22 section 16-579, subsection a, paragraph 1 constitutes
01:51:18 23 satisfactory proof of location and residence.
01:51:20 24 Right?
01:51:20 25 A. Yes.

01:51:21 1 Q. And that corresponds to the tribal
01:51:23 2 identification card.

01:51:24 3 A. Yes.

01:51:25 4 Q. And then the next row says:

01:51:28 5 Pursuant to Gonzalez, the tribal ID does not
01:51:32 6 require an address be listed.

01:51:36 7 A. Correct.

01:51:37 8 Q. So -- but you are unfamiliar with this Gonzalez
01:51:44 9 stipulation?

01:51:44 10 A. That's correct.

01:51:45 11 Q. The next row lists, a utility bill, bank
01:51:58 12 statement, Arizona insurance card, Arizona vehicle
01:52:03 13 registration, property tax statement, Recorder's
01:52:05 14 certification, voter ID card, federal or state issued ID
01:52:10 15 card as proof of residency, correct?

01:52:12 16 A. Yes.

01:52:13 17 Q. And that row sites to A.R.S. 16-123, correct?

01:52:22 18 A. Yes.

01:52:30 19 MR. LANGHOFER: Ms. DiBrell, if I might. I
01:52:32 20 don't want to step on toes here. It's your deposition.
01:52:34 21 You can, obviously, ask the questions you want. But, as I
01:52:35 22 understand it, the authenticity of this document is not
01:52:39 23 really at issue. It was attached to the motions for
01:52:42 24 summary judgment. I think there was actually a
01:52:45 25 stipulation or agreement that judgment should be entered

01:52:49 1 as concerns this document. Moreover, the document says
01:52:51 2 what it says.

01:52:54 3 So you can spend your deposition time anyway you
01:52:57 4 want, but I think there's really nothing in dispute here,
01:53:01 5 so...

01:53:04 6 MS. DIBRELL: That's fair.

01:53:04 7 BY MS. DIBRELL:

01:53:05 8 Q. I just want to, Ms. Durst, based on your
01:53:09 9 experience, the documents that are listed here, that are
01:53:12 10 not in dispute, are there certain populations that will
01:53:16 11 struggle to provide this document?

01:53:19 12 DEFENSE COUNSEL: Speculation.

01:53:26 13 THE WITNESS: I'm not sure.

01:53:27 14 BY MS. DIBRELL:

01:53:32 15 Q. Do you know how the documents can be submitted?

01:53:42 16 A. How a document of proof of residency can be
01:53:47 17 submitted to our office?

01:53:49 18 Q. Yes.

01:53:50 19 A. At this time it's not being required, but I
01:53:52 20 believe it could come from the voter in person, via USPS,
01:53:56 21 or email or faxed.

01:54:01 22 Q. Thank you, Ms. Durst.

01:54:22 23 Are you aware, excuse me, of laws, policies or
01:54:27 24 guidelines that currently prohibit a person, who is not
01:54:30 25 eligible, from registering to vote in Arizona?

01:54:33 1 A. That prohibit them?

01:54:38 2 Q. Hmm hmm.

01:54:39 3 A. If they have a felony charge, that would

01:54:47 4 prohibit someone from registering to vote.

01:54:51 5 Q. So there are laws in place already in Arizona

01:54:54 6 that prohibit a person, who is not eligible, from

01:54:58 7 registering to vote?

01:54:59 8 A. Correct.

01:54:59 9 Q. So, in addition to the law that you just

01:55:07 10 mentioned, related, those with a felony, are you aware of

01:55:13 11 any others?

01:55:15 12 A. Not that I can think of.

01:55:19 13 Q. Are you aware that A.R.S. 16-183 makes it a

01:55:34 14 class 6 felony to knowingly register more than once?

01:55:39 15 A. Yes. Yes, if you are registering in multiple

01:55:47 16 states, or voting.

01:55:48 17 Q. And so generally you are aware that it's a crime

01:55:57 18 to register as an elector if you are unqualified.

01:56:01 19 A. Yes.

01:56:01 20 Q. So I'm going to return to the interrogatory

01:56:12 21 responses that you provided to consolidated plaintiffs.

01:56:51 22 Can you see my screen, Ms. Durst?

01:56:54 23 A. I can.

01:56:55 24 Q. And, again, I will show you the front page. So

01:56:59 25 this first page says it's Mohave County Recorder's Answers

01:57:01 1 to Consolidated Plaintiff's First Set of Interrogatories,

01:57:05 2 correct?

01:57:05 3 A. Yes.

01:57:06 4 Q. So turning to interrogatory No. 9.

01:57:20 5 Interrogatory No. 9 requested that you: Identify and

01:57:25 6 describe each instance in which you have established that

01:57:30 7 a non-U.S. citizen or non-county resident has registered

01:57:30 8 to vote or has voted in your county from January 1st, 2013

01:57:34 9 to present.

01:57:37 10 Correct?

01:57:37 11 A. Yes.

01:57:38 12 Q. And Mohave County, your response was:

01:57:49 13 The Mohave County Recorder does not have an

01:57:51 14 applicable answer relating to the above interrogatory.

01:57:56 15 Right?

01:57:56 16 A. Correct.

01:57:57 17 Q. You did not identify any instances in which any

01:58:02 18 non-U.S. citizen or non-county resident registered to vote

01:58:09 19 or voted in Mohave County since January 1st, 2013?

01:58:12 20 A. Can you clarify your question? I'm sorry.

01:58:32 21 Q. I just want to confirm that, in responding to

01:58:35 22 this interrogatory, you did not identify any instances in

01:58:39 23 which a non-citizen or non-county residence registered to

01:58:44 24 vote or voted in Mohave County since January 1st, 2013.

01:58:49 25 A. Correct. I'm not sure how that would be

01:59:01 1 tracked.

01:59:01 2 Q. What do you mean by you're not sure how it would
01:59:07 3 be tracked?

01:59:07 4 A. I'm not sure which data would be pulled from the
01:59:12 5 system for that date range if they were a non-U.S. citizen
01:59:17 6 or non-county resident.

01:59:23 7 Q. In responding to the interrogatory, you're not
01:59:33 8 sure how the data would have been pulled?

01:59:36 9 A. We -- like the AVID system is a live system. So
01:59:56 10 if you search for someone from 2013 to current, would we
02:00:03 11 be looking for someone that wasn't eligible but they
02:00:23 12 voted? Is that correct?

02:00:27 13 Q. So let's take a step back. So can you con -- or
02:00:37 14 are you aware, or -- sorry. Strike that.

02:00:42 15 Your office, in responding to these
02:00:44 16 interrogatories, which were verified, did not identify
02:00:47 17 anyone who committed non-citizen, who registered to vote
02:00:53 18 as a non-citizen or voted in Mohave County since 2013,
02:01:00 19 right?

02:01:00 20 A. Correct.

02:01:00 21 Q. And you can confirm that, in responding to these
02:01:06 22 interrogatories, your county did not identify anyone, any
02:01:12 23 non-residents who registered to vote or voted in Mohave
02:01:17 24 County since 2013.

02:01:28 25 A. Correct. Kristi Blair did that.

02:01:30 1 Q. So turning to your, the Mohave County Recorder's
02:02:01 2 responses to consolidated plaintiff's RFPs. I will share
02:02:13 3 my screen with you.

02:02:16 4 Are you familiar with this document?

02:02:16 5 A. Yes.

02:02:25 6 Q. I'm sorry. I couldn't hear you.

02:02:26 7 A. Yes.

02:02:27 8 Q. And the title is, it's called the Mohave County
02:02:31 9 Recorder's Response to Consolidated Plaintiff's First
02:02:34 10 Request For Production of Documents, correct?

02:02:36 11 A. Yes.

02:02:36 12 Q. And I'd like to mark this as the next exhibit.

02:02:47 13 All right. So turning to your response to

02:02:51 14 RFP 7. Request for production No. 7 asks for:

02:03:08 15 All documents and communications concerning

02:03:10 16 actual or alleged misconduct, fraud, a lack of voter

02:03:13 17 confidence, election security, or other problems related

02:03:16 18 to citizenship, residence location, or proof of

02:03:20 19 citizenship or residential addresses in voter

02:03:23 20 registration, including but not limited to bulletins,

02:03:27 21 memoranda, training manuals, policies and procedures, and

02:03:31 22 complaints or reports received from citizens and the

02:03:32 23 county's response or other documents (including internal

02:03:35 24 and external communications) evidencing the investigation

02:03:38 25 and resolution of each communication or complaint?

02:03:40 1 Right?

02:03:41 2 A. Yes.

02:03:42 3 Q. And the Mohave County Recorder's response was:

02:03:46 4 The Mohave County Recorder does not have any

02:03:48 5 documents responsive to this request.

02:03:51 6 Correct?

02:03:51 7 A. Correct.

02:03:51 8 Q. Is it still true that you have no responsive

02:03:56 9 documents in response to this request for production

02:04:00 10 No. 7?

02:04:01 11 A. To my knowledge, yes.

02:04:03 12 Q. What does your office do to identify any

02:04:12 13 instances of voter fraud?

02:04:14 14 A. If -- could I have an example of that, please?

02:04:31 15 Q. What does your office do -- I guess, I don't

02:04:39 16 have an example. I'm wondering what do you do to identify

02:04:43 17 voter fraud.

02:04:44 18 A. We, Mohave County, well, Arizona uses the ERIC

02:04:56 19 database as well so for like cross-state voters, if that's

02:05:03 20 reported to us that we have a voter and they have the same

02:05:06 21 voter, we would meet with them, but then that would be

02:05:09 22 turned over to the attorney general's office.

02:05:13 23 Q. Do you do anything else to identify instances of

02:05:16 24 voter fraud?

02:05:17 25 A. Not to my knowledge.

02:05:22 1 Q. And when you identify instances of voter fraud,
02:05:27 2 do you report them to the attorney general?

02:05:29 3 A. Yes.

02:05:30 4 Q. Are you legally required to do anything to
02:05:37 5 identify voter fraud?

02:05:43 6 A. Not that I'm aware of.

02:05:45 7 Q. What does your office do if you suspect that
02:05:48 8 voter fraud has been committed?

02:05:51 9 A. Seek legal advice from our county attorney.

02:05:56 10 Q. Other than seeking legal advice, do you conduct
02:06:03 11 any investigations into the suspected fraud?

02:06:07 12 A. If it were to be during the verification process
02:06:18 13 of signatures for an election it could also be provided to
02:06:22 14 our local law enforcement.

02:06:27 15 Q. So if you identify any suspected voter fraud,
02:06:32 16 you report it to who?

02:06:36 17 A. Typically Mohave County Sheriff's Office, and
02:06:40 18 then we would seek assistance from our county attorney.

02:06:43 19 Q. And that's in addition to, excuse me, reporting
02:06:48 20 it to the attorney general?

02:06:49 21 A. I haven't been involved in the whole process of
02:07:00 22 that. I believe it would eventually go to the Attorney
02:07:03 23 General, but I'm not sure if the findings from the
02:07:07 24 sheriff's office, where that would go if they didn't find
02:07:13 25 anything.

02:07:13 1 Q. Regardless, you report the suspected voter fraud
02:07:20 2 to someone outside of the county, the Mohave County
02:07:24 3 Recorder's Office?

02:07:25 4 A. Correct.

02:07:25 5 Q. Can citizens submit allegations about potential
02:07:33 6 voter fraud to your office?

02:07:34 7 A. Yes.

02:07:35 8 Q. How do they do that?

02:07:37 9 A. Citizens will call or send an email or a letter
02:07:44 10 by USPS.

02:07:49 11 Q. Has this happened before?

02:07:51 12 A. A time I can think of is someone received a
02:08:08 13 piece of mail to their PO box by mistake on a voter's
02:08:16 14 registration form.

02:08:19 15 Q. In that instance that you can think of, they
02:08:23 16 received -- I'm sorry.

02:08:25 17 What did they receive by mistake?

02:08:27 18 A. So a voter registered to vote at their
02:08:32 19 residential address with a mailing address of a PO box,
02:08:35 20 and they put their PO box number wrong. It then went to
02:08:42 21 someone else's PO box, and that voter then thought the
02:08:45 22 person was registering in the same location as them with
02:08:50 23 their PO box. But it was an error on the voter by making
02:08:56 24 the wrong post office number.

02:09:01 25 Q. And that error was uncovered because the person

02:09:05 1 who mistakenly received the application sent, or reported

02:09:10 2 it to your office?

02:09:12 3 A. Correct.

02:09:13 4 Q. On average, how many complaints about potential

02:09:22 5 voter fraud does your office receive per election?

02:09:25 6 A. I don't think many. Do you need a number?

02:09:45 7 Maybe ten reports per election. But that could vary of

02:09:52 8 their reasoning.

02:09:56 9 Q. What do you do when you receive these reports?

02:09:59 10 A. Typically, it depends on what it is. If they

02:10:05 11 received mail to their house for someone else, they -- if

02:10:24 12 there's found to be any wrong activity it would be turned

02:10:31 13 over to the Attorney General. But we look into it in our

02:10:35 14 office as well.

02:10:36 15 Q. And who in your office reviews these complaints

02:10:41 16 of potential voter fraud?

02:10:42 17 A. The County Recorder.

02:10:44 18 Q. Does anyone else review the complaints?

02:10:47 19 A. Not typically.

02:10:48 20 Q. Are you legally required to do anything when you

02:10:53 21 receive these complaints about potential voter fraud from

02:10:58 22 citizens?

02:10:59 23 A. I'm not sure.

02:11:02 24 Q. In addition to reporting any credible

02:11:15 25 allegations of voter fraud to the sheriff, do you report

02:11:18 1 it to the county attorney?

02:11:20 2 A. Yes.

02:11:20 3 Q. Why?

02:11:22 4 A. So they are aware of the voter information we
02:11:34 5 could be providing to the sheriff's office.

02:11:40 6 Q. What steps do you do to prevent -- or excuse
02:11:50 7 me -- what steps do you take to prevent voter fraud?

02:11:58 8 DEFENSE COUNSEL: Asked and answered.

02:12:00 9 THE WITNESS: We, well we send 90 day notices
02:12:08 10 90 days before an election. So if that mail comes back to
02:12:12 11 us, the person could eventually go inactive and not
02:12:15 12 receive the ballot by mail for an election. We also do
02:12:23 13 additional mailings, and we'll see if that mail is
02:12:28 14 returned to us from USPS or residents at the address that
02:12:32 15 that voter doesn't live there.

02:12:34 16 BY MS. DIBRELL:

02:12:35 17 Q. Are you legally required to take these steps to
02:12:39 18 prevent voter fraud?

02:12:40 19 A. Per a 90-day notice, yes.

02:12:43 20 Q. Are there any other steps you take to prevent
02:12:46 21 voter fraud?

02:12:47 22 A. Not that I'm aware of.

02:12:49 23 Q. Who is responsible for implementing these steps
02:12:54 24 to prevent voter fraud?

02:12:56 25 A. The County Recorder.

02:12:59 1 Q. Is there anything else your office does to
02:13:02 2 prevent voter fraud?
02:13:04 3 A. We do a HAVA check to be sure they're eligible,
02:13:11 4 and then on early ballots, ballots by mail we do signature
02:13:18 5 verification.
02:13:21 6 Q. And does your office do anything else to prevent
02:13:25 7 voter fraud in addition to those steps?
02:13:27 8 A. We encourage any voters to return mail to our
02:13:33 9 office if it's not addressed to them.
02:13:45 10 Q. Is there anything else that your office does to
02:13:48 11 prevent voter fraud?
02:13:49 12 A. Not that I can think of.
02:13:51 13 Q. So I'm going to show you a document that the
02:13:57 14 county produced to plaintiffs.
02:14:31 15 Can you see my screen, Ms. Durst?
02:14:33 16 A. Yes.
02:14:34 17 Q. And do you see this criminal indictment?
02:14:42 18 A. I do.
02:14:43 19 Q. Are you familiar with this document?
02:14:50 20 A. Not recently, no.
02:14:53 21 Q. Well, I'll represent to you that it was produced
02:14:57 22 to us in the production, and the first page of the
02:14:59 23 document is MOHAVE-000751.
02:15:11 24 If you would like to take a few minutes to
02:15:14 25 review this first page.

02:15:19 1 A. I've reviewed that.

02:15:21 2 Q. Is this a criminal indictment concerning a
02:15:28 3 Mohave resident who voted more than once?

02:15:31 4 A. Yes.

02:15:32 5 Q. And it's dated December 9th, 2021, correct?

02:15:34 6 A. Correct.

02:15:35 7 MS. DIBRELL: I would like to mark this as
02:15:38 8 Exhibit 56.

02:15:38 9 BY MS. DIBRELL:

02:15:44 10 Q. And, Ms. Durst, I'm going to show you another
02:15:47 11 related document. This was also produced to plaintiffs by
02:15:52 12 Mohave County, and it is Bates stamped, the first page, as
02:15:56 13 MOHAVE-000754.

02:15:58 14 Do you see that?

02:15:59 15 A. I do.

02:16:00 16 Q. And I'll scroll down so you can see the
02:16:05 17 document. If you could just please take a moment to
02:16:08 18 review that.

02:16:09 19 A. I have reviewed that.

02:16:24 20 Q. And this is a court judgment for, for the
02:16:27 21 criminal indictment that you just reviewed, correct?

02:16:30 22 A. Yes.

02:16:31 23 Q. And it notes that the defendant entered a guilty
02:16:38 24 plea, right?

02:16:38 25 A. Yes.

02:16:39 1 Q. And it is -- they entered a guilty plea on
02:16:47 2 December 9th, 2021, correct?

02:16:48 3 A. That's correct.

02:16:50 4 MS. DIBRELL: I'd like to mark this exhibit as
02:16:53 5 Exhibit 57.

02:16:56 6 BY MS. DIBRELL:

02:16:56 7 Q. Do you know how this voter fraud was discovered?

02:16:58 8 A. I believe this is during signature verification.

02:17:03 9 Q. Do you know who discovered it?

02:17:05 10 A. I believe this was discovered by 90-day notices
02:17:16 11 for signature verification, and it was provided to me from
02:17:19 12 a staff member.

02:17:20 13 Q. Ms. Durst, I'm going show you another, an email
02:17:37 14 that's related to this indictment that was also produced
02:17:40 15 to plaintiffs.

02:17:46 16 Do you see this email?

02:17:48 17 A. I do.

02:17:49 18 Q. And it is Bates stamped at the bottom right,
02:17:54 19 MOHAVE-000759, correct?

02:17:56 20 A. Correct.

02:17:57 21 Q. And this is an email from Lydia Glentz to Kristi
02:18:04 22 Blair, right?

02:18:05 23 A. Yes. That's me.

02:18:13 24 Q. Oh, it's, your previous last name was Glentz?

02:18:18 25 A. Previous last name was Glentz, correct.

02:18:21 1 Q. Okay. Thank you for the clarification.

02:18:23 2 And this email from you to Ms. Blair is dated

02:18:28 3 June 8th, 2020, right?

02:18:29 4 A. Yes.

02:18:30 5 Q. And, based on this email, you received an email
02:18:47 6 from an FBI special agent with the Phoenix field office?

02:18:53 7 A. That's correct.

02:18:54 8 Q. And they had received an information regarding
02:18:56 9 an allegation of voting fraud.

02:18:59 10 A. Yes.

02:18:59 11 Q. And he was the one who requested the records at
02:19:05 12 issue in this criminal indictment and charges that we have
02:19:09 13 been discussing, correct?

02:19:10 14 A. That is correct.

02:19:11 15 Q. And, again, this was discovered based on a
02:19:18 16 90-day check?

02:19:20 17 A. I believe they were 90-day notices that we
02:19:25 18 mailed to the residence.

02:19:29 19 Q. I see.

02:19:29 20 And so do you know who submitted the complaint
02:19:31 21 to the FBI agent?

02:19:33 22 A. I don't recall.

02:19:37 23 Q. So I better understand what happened, can you
02:19:45 24 describe how the FBI, FBI agent would have received the
02:19:49 25 complaint?

02:19:50 1 A. I don't recall if I contacted the FBI agent for
02:20:02 2 this, or if they contacted us. I don't recall.

02:20:14 3 Q. But the current 90-day notice process that your
02:20:24 4 office use, uses caught this instance of voter fraud.

02:20:28 5 A. I believe so.

02:20:29 6 Q. Is there anything to suggest that this person
02:20:34 7 was a non-citizen?

02:20:36 8 A. I don't believe so.

02:20:38 9 Q. Is there any -- do you have any reason to
02:20:45 10 believe that anything in H.B. 2492 or H.B. 2243 would have
02:20:51 11 prohibited this conduct?

02:20:53 12 A. Not to my knowledge.

02:21:01 13 Q. And this individual, this instance of voter
02:21:11 14 fraud that your county identified, she had voted on behalf
02:21:14 15 of her deceased father?

02:21:16 16 A. Yes.

02:21:17 17 Q. Is there anything in H.B. 2492 or H.B. 2243
02:21:24 18 which would have made it easier to detect this type of
02:21:28 19 voter fraud?

02:21:29 20 A. Not that I'm aware of.

02:21:39 21 Q. Have you received any other requests from an FBI
02:21:47 22 special agent concerning other complaints about potential
02:21:51 23 voter fraud?

02:21:52 24 A. Not that I can recall at this moment.

02:22:00 25 Q. You can't recall any other instances in which

02:22:08 1 you received a request from the FBI special, FBI special
02:22:13 2 agent about potential voter fraud?

02:22:16 3 A. I spoke with the special agent numerous times.
02:22:20 4 I don't recall if it was always for the same voter or if
02:22:24 5 there were additional.

02:22:26 6 Q. Has this happened on other occasions?

02:22:29 7 A. Not that I recall.

02:22:33 8 Q. Is this something that happens often?

02:22:38 9 A. It wouldn't specify as often, but we will reach
02:23:00 10 out to local law enforcement or the FBI for signatures at
02:23:07 11 times. If the voter is not able to say that they did sign
02:23:11 12 that or, when you contact the phone number listed, if the
02:23:16 13 voter is never available to come to the phone, we have
02:23:20 14 contacted them for those kinds of situations.

02:23:23 15 Q. And in those situations you reach out about the
02:23:26 16 suspected voter fraud?

02:23:28 17 A. Yes.

02:23:29 18 Q. Is there anything in H.B. 2492 or H.B. 2243 that
02:23:35 19 would make those instances of suspected voter fraud easier
02:23:42 20 to detect?

02:23:46 21 A. I don't -- not to my knowledge.

02:23:47 22 Q. Has your office received any other inquiries
02:23:51 23 from other government officials concerning complaints
02:23:55 24 about voter fraud?

02:23:56 25 A. Not that I can currently recall.

02:23:58 1 Q. Has your office received any other requests on
02:24:02 2 behalf of the federal government about suspected voter
02:24:06 3 fraud?

02:24:09 4 A. Not that I can currently recall. They would
02:24:15 5 typically contact the County Recorder.

02:24:17 6 Q. Are there any documents that you could look at
02:24:19 7 to determine whether you received any inquiries from other
02:24:22 8 government officials or the federal government about
02:24:26 9 suspected voter fraud?

02:24:28 10 A. Not that I can think of.

02:24:33 11 Q. Has your office received any inquiries from the
02:24:42 12 State of Arizona about potential voter fraud in Mohave --
02:24:47 13 voter fraud in Mohave County?

02:24:47 14 A. Not that I can think of.

02:24:52 15 Q. So I'll represent to you that these documents
02:25:11 16 were produced in response to Equity RFP No. 15.

02:25:41 17 THE VIDEOGRAPHER: Excuse me, counsel. This is
02:25:44 18 Dennis Woods, the videographer. We are getting,
02:25:47 19 approaching the end of our media. Is this a good time to
02:25:50 20 swap media?

02:25:51 21 MS. DIBRELL: I just have a few more questions
02:25:53 22 on this topic and then it would be a good time for a
02:25:56 23 break.

02:25:56 24 THE VIDEOGRAPHER: Okay. Thank you.

02:25:58 25 BY MS. DIBRELL:

02:25:59 1 Q. So, Ms. Durst, I'm going show you request for
02:26:03 2 production 15. And request for production No. 15
02:26:03 3 requests:
02:26:18 4 Documents sufficient to identify all voter fraud
02:26:20 5 cases in your county since 2010, including but not limited
02:26:23 6 to identification of those cases involving allegations of
02:26:27 7 fraud based on a non-citizen voting.
02:26:31 8 Correct?
02:26:31 9 A. Yes.
02:26:32 10 Q. And the criminal indictment that we just
02:26:38 11 discussed and the guilty plea, that is the only criminal
02:26:46 12 charge of voter fraud, that is the only instance, rather,
02:26:49 13 of voter fraud that you were able to identify in your
02:26:51 14 county since 2010.
02:26:56 15 A. To my knowledge, yes.
02:26:57 16 Q. So, to your knowledge, from 2010 to present,
02:27:04 17 you've identified only one case involving voter fraud?
02:27:08 18 A. Yes.
02:27:14 19 Q. And that one case of voter fraud since 2010 did
02:27:21 20 not involve a non-citizen voting, or a non-resident
02:27:27 21 voting.
02:27:27 22 A. To my knowledge, correct.
02:27:29 23 Q. So I quickly -- and this will be my last
02:27:33 24 question on this topic -- want to turn to your response to
02:27:41 25 consolidated plaintiff's interrogatory No. 9. And

02:27:50 1 interrogatory No. 9 requested that you:

02:27:52 2 Identify and describe each instance in which you

02:27:53 3 have established that a non-U.S. citizen or non-county

02:27:56 4 resident has registered to vote or has voted in your

02:27:58 5 county from January 1, 2013 to present, including but not

02:28:01 6 limited to any supporting evidence thereof, any documents

02:28:04 7 and communications related to such instance, whether such

02:28:08 8 instance involved misconduct, fraud, or mistake, and any

02:28:11 9 instance in which your office informed such non-U.S.

02:28:11 10 citizen or non-county resident that they were eligible to

02:28:18 11 vote in the county and later determined they were actually

02:28:20 12 ineligible.

02:28:21 13 Correct?

02:28:22 14 A. Correct.

02:28:23 15 Q. And you answered that:

02:28:23 16 The Mohave County Recorder does not have an

02:28:27 17 applicable answer relating to the above interrogatory.

02:28:30 18 Right?

02:28:30 19 A. Yes.

02:28:31 20 Q. You are not aware of any other instances of

02:28:33 21 voter fraud that have occurred in Mohave County since

02:28:39 22 2013?

02:28:39 23 DEFENSE COUNSEL: Form.

02:28:40 24 THE WITNESS: Not that I can recall, besides

02:28:47 25 what we just discussed, that have been found.

02:28:47 1 BY MS. DIBRELL:

02:28:54 2 Q. Do you have any reason to believe there are

02:28:56 3 other instances of voter fraud that have not been found?

02:29:00 4 A. No.

02:29:08 5 MS. DIBRELL: All right. We can take a break.

02:29:10 6 I think this is a good time.

02:29:11 7 THE WITNESS: Okay.

02:29:12 8 THE VIDEOGRAPHER: We are off the record. Time

02:29:14 9 on the video monitor is 2:29 p.m. This ends Media No. 2.

02:29:20 10 (Recess taken from 2:29 p.m. to 2:45 p.m.)

02:45:05 11 THE VIDEOGRAPHER: We are on the record. Time

02:45:11 12 on the video monitor is 2:45 p.m. This begins Media

02:45:17 13 No. 3.

02:45:20 14 BY MS. DIBRELL:

02:45:22 15 Q. Ms. Durst, I just have a few more questions for

02:45:25 16 you.

02:45:26 17 What is your understanding for how H.B. 2492 and

02:45:31 18 2243, how it will make voter registration more difficult

02:45:36 19 for election officials.

02:45:39 20 DEFENSE OBJECTION: Form.

02:45:41 21 Speculation -- strike that. Withdraw objection.

02:45:49 22 THE WITNESS: I don't believe we currently have

02:45:50 23 a process, but it will make voters provide more

02:46:00 24 information.

02:46:01 25 BY MS. DIBRELL:

02:46:01 1 Q. Your office will have to process that additional
02:46:05 2 information?
02:46:06 3 A. Yes.
02:46:09 4 Q. Will that -- I'm sorry. Go on.
02:46:11 5 A. Or have to send notification to the voters to
02:46:16 6 get the additional information.
02:46:18 7 Q. So that will be more work for your office when
02:46:22 8 you enforce H.B. 2492 and H.B. 2243?
02:46:31 9 A. That would be correct.
02:46:32 10 Q. And voter registrants themselves will have to
02:46:35 11 submit more information with their forms?
02:46:37 12 A. Yes.
02:46:37 13 Q. Will that make it harder for them to register to
02:46:42 14 vote since they have to provide more information?
02:46:45 15 A. I believe it could be difficult.
02:46:46 16 Q. Do you know if Mohave County provided any
02:46:55 17 feedback on either one of the challenge provisions?
02:47:01 18 A. I'm not sure.
02:47:02 19 Q. Ms. Durst, I'm going show you another document
02:47:06 20 that was produced to us.
02:47:15 21 Can you see my screen?
02:47:17 22 A. Yes.
02:47:17 23 Q. This was produced as MOHAVE-000358.
02:47:24 24 Do you see that?
02:47:25 25 A. Yes.

02:47:26 1 Q. And please take a moment to review this
02:47:29 2 document. And let me know when you're ready.

02:47:41 3 A. I have reviewed it.

02:47:48 4 Q. And is this an email confirmation from the
02:47:54 5 Arizona Association of Counties regarding a comment from
02:47:59 6 Mohave County Recorder Kristi Blair on H.B. 2492?

02:48:03 7 A. It is.

02:48:04 8 Q. And what is the Arizona Association of Counties?

02:48:07 9 A. It's an association for all 15 counties to
02:48:15 10 assist them in the legislative process.

02:48:21 11 Q. What do they do?

02:48:23 12 A. They will be lobbyists for the County Recorders
02:48:26 13 and speak on their behalf to the legislation.

02:48:32 14 Q. So, as lobbyists for the County Recorders, do
02:48:35 15 they solicit feedback on legislative bills?

02:48:38 16 A. Typically, yes.

02:48:39 17 Q. Does Mohave County typically provide feedback on
02:48:43 18 legislative bills?

02:48:44 19 A. That's sent to the County Recorder, and it would
02:48:49 20 be to her discretion.

02:48:51 21 Q. And the County Recorder did provide feedback on
02:48:58 22 H.B. 2492, correct?

02:49:01 23 A. Yes.

02:49:02 24 Q. And, based on the date of the document, she
02:49:05 25 submitted this feedback on January 18, 2022, right?

02:49:09 1 A. Yes.

02:49:10 2 Q. And Ms. Blair's feedback on 2492, she suggested

02:49:23 3 opposing H.B. 2492. Is that correct?

02:49:27 4 A. Yes.

02:49:28 5 Q. And Ms. Blair submitted a comment regarding the

02:49:35 6 projected impact of H.B. 2492.

02:49:38 7 Do you see that?

02:49:39 8 A. I do.

02:49:39 9 Q. And Ms. Blair stated, regarding H.B. 2492:

02:49:45 10 It's difficult to get past the part where we are

02:49:49 11 charged with a felony if an error is made.

02:49:52 12 Correct?

02:49:53 13 A. Yes.

02:49:53 14 Q. Can you explain to me how H.B. 2492 puts

02:49:59 15 election officials for registering voters at risk of

02:50:03 16 facing criminal charges?

02:50:06 17 DEFENSE COUNSEL: Form.

02:50:07 18 THE WITNESS: Could we review the House Bill

02:50:11 19 2492?

02:50:12 20 BY MS. DIBRELL:

02:50:12 21 Q. Well, do you just have a general understanding

02:50:14 22 of the criminal charges that you face in implementing

02:50:14 23 2492?

02:50:42 24 Yes, refresh your recollection. Feel free to

02:50:46 25 take a moment to look at it.

02:50:47 1
02:50:48 2
02:51:44 3
02:51:46 4
02:51:57 5
02:51:59 6
02:52:06 7
02:52:09 8
02:52:10 9
02:52:11 10
02:52:12 11
02:52:17 12
02:52:22 13
02:52:22 14
02:52:28 15
02:52:35 16
02:52:36 17
02:52:37 18
02:52:46 19
02:52:49 20
02:52:51 21
02:52:58 22
02:53:03 23
02:53:06 24
02:53:09 25

A. Okay.

Q. And let me know when you're ready.

DEFENSE COUNSEL: I'll object because it calls for a legal conclusion.

THE WITNESS: I don't know that I'm able to locate it in the printout I have of H.B. 2492. And I don't recall a specific language that says we would be charged with a felony.

BY MS. DIBRELL:

Q. That's okay.

Do you know why Ms. Blair was concerned that she could face felony charges if an error was made under H.B. 2492?

A. I'm not sure why.

Q. Has this issue been discussed at all in the Mohave County Recorder's Office?

A. Not that I recall.

Q. Did the Mohave County Recorder's Office oppose H.B. 2492 for any other reasons?

A. Not that I'm aware of.

Q. Who would know if the County Recorder opposed H.B. 2492 for other reasons?

A. The County Recorder herself, Kristi Blair.

Q. Do you know if the Mohave County Recorder submitted any other comments or feedback to the Arizona

02:53:12 1 Association of Counties on H.B. 2492?

02:53:16 2 A. I don't know.

02:53:16 3 Q. And would Ms. Blair know if she submitted any
02:53:21 4 other comments to the Arizona Association of Counties on
02:53:24 5 H.B. 2492?

02:53:25 6 A. Yes.

02:53:26 7 Q. And do you know if the County Recorder provided
02:53:35 8 feedback on H.B. 2492 to anyone else?

02:53:38 9 A. Not that I'm aware of.

02:53:39 10 Q. Ms. Durst, I'm going show you another
02:53:48 11 document -- oh, I'm sorry.

02:53:49 12 And I would like to mark MOHAVE-000358 as
02:53:55 13 Exhibit 59.

02:54:01 14 And, then, Ms. Durst, I'm going to show you
02:54:04 15 another document that was produced to plaintiffs. It's
02:54:10 16 MOHAVE-000709. Do you see that? That's the first page of
02:54:14 17 the document.

02:54:15 18 A. I do.

02:54:22 19 Q. And please take a moment to review it.

02:54:48 20 A. Okay. I have reviewed that.

02:54:49 21 Q. Okay. And is this a weekly update from the
02:54:54 22 Arizona Association of Counties to the County Recorders?

02:54:58 23 A. Yes.

02:54:59 24 Q. And this weekly update is dated February 18th,
02:55:04 25 2022, correct?

02:55:04 1
02:55:09 2
02:55:11 3
02:55:11 4
02:55:15 5
02:55:18 6
02:55:20 7
02:55:25 8
02:55:25 9
02:55:28 10
02:55:29 11
02:55:30 12
02:55:41 13
02:55:42 14
02:55:47 15
02:55:50 16
02:55:53 17
02:55:53 18
02:55:54 19
02:55:56 20
02:56:00 21
02:56:02 22
02:56:10 23
02:56:14 24
02:56:15 25

A. Yes.

MS. DIBRELL: I would like to mark this as Exhibit 60.

BY MS. DIBRELL:

Q. And this weekly update from the Arizona Association of Counties to the County Recorders includes a bullet on H.B. 2492. Is that correct?

A. Yes.

Q. And here, I can zoom in for you. Can you see that bullet?

A. Yes.

Q. And it states, regarding H.B. 2492 Registration Verification Steps: (Jen): This bill has many of the same issues as 2617 and how we would access the database as the bill requires. This bill was heard late Wednesday night and the committee passed it along party lines. Is that correct?

A. Yes.

Q. What issues concerning how County Recorders would access databases is this email referring to?

A. I'm sorry?

Q. The issues -- the email says that there would be issues accessing the databases that the bill requires, correct?

A. Yes.

02:56:15 1 Q. What issues accessing databases is this
02:56:18 2 referring to?

02:56:19 3 A. I'm not sure.

02:56:21 4 Q. Do you know who would know that?

02:56:24 5 A. Kristi Blair.

02:56:26 6 Q. And, Ms. Durst, I have one last document to show
02:56:38 7 you that was produced to plaintiffs. That, it is Bates
02:56:43 8 stamped MOHAVE-000132.

02:56:48 9 Do you see that in the bottom right-hand corner?

02:56:50 10 A. Yes.

02:56:51 11 Q. Please take a moment to review the document.

02:57:03 12 A. Okay.

02:57:04 13 Q. And is this an email from Kristi Blair to
02:57:17 14 Natalie Collings?

02:57:17 15 A. With a forwarded email, yes.

02:57:19 16 Q. And the email thread pertains to H.B. 2243,
02:57:28 17 correct?

02:57:28 18 A. Yes.

02:57:28 19 Q. And it's dated January 14th, 2022.

02:57:32 20 A. Correct.

02:57:34 21 MS. DIBRELL: I'd like to mark this as
02:57:36 22 Exhibit 61.

02:57:36 23 BY MS. DIBRELL:

02:57:39 24 Q. Now, in this email Ms. Blair asked Natalie
02:57:43 25 Collings to give her feedback on the bill, correct?

02:57:46 1 A. Yes.

02:57:47 2 Q. And Ms. Blair states, quote, I'll share with you
02:57:50 3 that there are some real crazy ones. I've been keeping up
02:57:54 4 with them, end quote. Is that correct?

02:57:55 5 A. Yes.

02:57:56 6 Q. Do you know which real crazy bills she was
02:58:01 7 referring to?

02:58:02 8 A. I don't.

02:58:03 9 Q. Did you ever have any conversations with
02:58:07 10 Ms. Blair about the bills that she was keeping track of?

02:58:11 11 A. Not that I recall.

02:58:13 12 Q. And would -- who in your office would know what
02:58:19 13 Ms. Blair was referring to here?

02:58:22 14 A. I would think just her.

02:58:33 15 MS. DIBRELL: Ms. Durst, that is the end of my
02:58:35 16 questions. I think some of my colleagues would also have
02:58:41 17 a few follow-up questions as well. But thank you for your
02:58:45 18 time.

02:58:46 19 THE WITNESS: Thank you.

02:58:46 20

02:58:46 21 EXAMINATION

02:58:46 22 BY MS. McCABE:

02:58:51 23 Q. Hi, Ms. Durst. My name is Erica McCabe. I
02:58:51 24 represent Poder Latinx and Chicanos Por La Causa.

02:58:51 25 (Audio difficulty.)

02:58:51 1 (A brief off-the-record discussion with the
02:58:51 2 Reporter ensued.)
02:59:22 3 BY MS. McCABE:
02:59:22 4 Q. Let me know, Ms. Durst, if there's ever any
02:59:22 5 problem hearing me and I will repeat my question.
02:59:23 6 I'd like to briefly circle back to the DPOC
02:59:27 7 requirements for new voter registration applicants?
02:59:30 8 Has your office ever been given a specific list
02:59:33 9 of means by which a voter registration applicant can be
02:59:37 10 deemed or proven a non-citizen?
02:59:41 11 A. To clarify, if we have been given a list that
02:59:49 12 they have been deemed a non-citizen?
02:59:51 13 Q. A list of ways by which your office might deem
02:59:55 14 someone a non-citizen.
02:59:57 15 A. Not to my knowledge.
03:00:01 16 Q. Has your office ever been given a specific list
03:00:04 17 of means by which a currently registered Arizona voter
03:00:09 18 could be deemed or proven a non-citizen?
03:00:12 19 A. Not to my knowledge.
03:00:14 20 Q. If implemented, the A.R.S. 16-121.01(E) requires
03:00:27 21 the County Recorder to, sorry, the County Recorder to
03:00:35 22 reject a voter registration application if it matches that
03:00:37 23 applicant with information that the applicant is not a
03:00:41 24 United States citizen, correct?
03:00:42 25 A. Yes.

03:00:43 1 Q. If information from a government or voter
03:00:48 2 registration database suggested that a voter registration
03:00:51 3 applicant was not a U.S. citizen, would you consider that
03:00:56 4 information valid?

03:00:57 5 A. I'm sorry. Can you say that again?

03:00:59 6 Q. Sure.

03:01:00 7 If information from a government, or a voter
03:01:04 8 registration database suggested that a voter registration
03:01:07 9 applicant was not a U.S. citizen, would you consider that
03:01:11 10 information valid?

03:01:13 11 A. If that would be known as like a HAVA check,
03:01:19 12 yes.

03:01:20 13 Q. Are there any -- well, let me get to that in a
03:01:31 14 second.

03:01:31 15 Would you -- is data from a government database,
03:01:34 16 showing non-citizenship from two decades ago, information
03:01:40 17 that a person is not a citizen today?

03:01:43 18 DEFENSE COUNSEL: Objection; calls for a legal
03:01:48 19 conclusion. Form.

03:01:48 20 BY MS. McCABE:

03:01:48 21 Q. I'll restate that question.

03:01:54 22 A. Okay.

03:01:54 23 Q. Is data or information that you received from a
03:01:57 24 government database that shows a voter registration
03:02:00 25 applicant is a non-citizen, but that information is two

03:02:03 1 decades old, would your office, when determining whether
03:02:07 2 or not to accept or reject the application, deem that two
03:02:12 3 decades old information as proof or evidence that the
03:02:16 4 applicant is not a U.S. citizen today?

03:02:19 5 DEFENSE COUNSEL: Speculative. Speculation.

03:02:26 6 THE WITNESS: I believe we would notify the
03:02:29 7 voter asking for more information by a notice.

03:02:39 8 BY MS. McCABE:

03:02:40 9 Q. Would that notice reject the application or put
03:02:42 10 it in a pending status?

03:02:44 11 A. It would be in a suspense status, awaiting
03:02:49 12 verification.

03:02:49 13 Q. And what does that process entail, sending the
03:02:53 14 notice?

03:02:55 15 A. You would input all the data into the voter
03:02:59 16 registration database, and then when that would come back
03:03:02 17 you would put them into suspense reason for awaiting
03:03:10 18 verification. And then a notice to them would be mailed
03:03:14 19 within ten days stating the status of their voter
03:03:19 20 registration and what we need from them, in order to be
03:03:21 21 eligible to vote.

03:03:23 22 Q. Is there ever a period in which that application
03:03:26 23 would then be rejected?

03:03:29 24 A. For a voter to go from a suspense status to a
03:03:36 25 canceled status, we follow Arizona State statute, but it's

03:03:43 1 a very long time.

03:03:45 2 Q. Do you know how --

03:03:45 3 A. I want to say it's two federal election cycles.

03:03:51 4 Q. Okay. So, aside from those government
03:03:53 5 databases, what are other sources of information that you
03:03:58 6 would consider valid for the purposes of determining that
03:04:01 7 a voter registration applicant was not a U.S. citizen?

03:04:09 8 DEFENSE COUNSEL: Calls for a legal conclusion.

03:04:14 9 THE WITNESS: I don't -- I'm not sure.

03:04:14 10 BY MS. McCABE:

03:04:17 11 Q. Would you accept a phone call from a law
03:04:25 12 enforcement agency in a different state suggesting that an
03:04:28 13 applicant is not a U.S. citizen as information valid for
03:04:32 14 showing a lack of citizenship?

03:04:43 15 A. I don't know.

03:04:51 16 Q. Would you accept an anonymous letter to your
03:04:59 17 office suggesting that a voter registration applicant was
03:05:02 18 not a U.S. citizen as valid information for the purposes
03:05:05 19 of determining that registrant, or that applicant's
03:05:09 20 citizenship?

03:05:10 21 A. I don't know.

03:05:18 22 Q. What about a list provided by a third party
03:05:24 23 organization like True the Vote? If you received
03:05:33 24 information from a third party organization suggesting
03:05:36 25 that a voter registration applicant was not actually a

03:05:39 1 U.S. citizen, would your office consider that information
03:05:42 2 valid for determining if that applicant was or was not a
03:05:46 3 U.S. citizen?

03:05:47 4 A. I don't believe so at this time.

03:05:49 5 Q. By what means can you confirm the authenticity
03:05:57 6 of such information that a voter registration applicant is
03:06:01 7 not a U.S. citizen?

03:06:03 8 A. When someone registers to vote and it's inputted
03:06:17 9 into the database and the HAVA check is completed, it
03:06:21 10 typically doesn't revert back to them not being a citizen
03:06:25 11 after they're already a valid registrant.

03:06:29 12 Q. What about, what, what if a person called in
03:06:51 13 saying they're the voter in question, identifying
03:06:54 14 themselves and suggesting, and providing information about
03:06:56 15 their citizenship status one way or the other? Would you
03:07:01 16 consider that valid information under the statute?

03:07:05 17 DEFENSE COUNSEL: Speculation.

03:07:07 18 THE WITNESS: If a voter was calling to provide
03:07:10 19 their DPOC, we would have to have a form of that. We
03:07:13 20 could not take it over the phone.

03:07:24 21 BY MS. McCABE:

03:07:24 22 Q. What if they called to tell you they were not a
03:07:28 23 citizen? Is it the same? That you would need to --

03:07:31 24 DEFENSE COUNSEL: Speculation.

03:07:32 25 THE WITNESS: If a voter called saying they were

03:07:35 1 not eligible to be a voter any longer for any reason, we
03:07:38 2 would need their signature and identifying information to
03:07:42 3 cancel their voter registration.

03:07:42 4 BY MS. McCABE:

03:07:50 5 Q. Under House Bill 2243 by what means can you
03:07:54 6 confirm the accuracy of information that a registered
03:07:57 7 voter is not a U.S. citizen?

03:08:03 8 DEFENSE COUNSEL: Calls for a legal conclusion.

03:08:05 9 THE WITNESS: We don't currently follow the
03:08:07 10 House Bill.

03:08:09 11 BY MS. McCABE:

03:08:10 12 Q. Okay. If implemented, by what means would your
03:08:14 13 office use to confirm the accuracy of information that a
03:08:18 14 registered voter is not a U.S. citizen?

03:08:23 15 DEFENSE COUNSEL: Form.

03:08:24 16 THE WITNESS: If it's implemented, they would
03:08:35 17 need to provide the DPOC.

03:08:41 18 BY MS. McCABE:

03:08:42 19 Q. For already registered voters.

03:08:45 20 A. I'm sorry, then, could you ask the question
03:08:47 21 again?

03:08:49 22 Q. Sure. If implemented, House Bill 2243 requires
03:08:56 23 a County Recorder to confirm whether registered voters are
03:09:03 24 citizens.

03:09:04 25 By what means would you confirm the accuracy of

03:09:08 1 information that a registered voter is not a citizen?

03:09:15 2 A. I don't know.

03:09:15 3 Q. What is the database relating to voter
03:09:20 4 registration?

03:09:20 5 A. Could you clarify that?

03:09:26 6 Q. Sure. Under A.R.S. 16-121.01, section D(5), the
03:09:37 7 statute provides that, any other state, town, county, or
03:09:40 8 federal database and any other database relating to voter
03:09:45 9 registration which the County Recorder or officer in
03:09:49 10 charge of the election has access, including an electronic
03:09:52 11 registration information center or a database.

03:09:55 12 DEFENSE COUNSEL: Calls for legal conclusion.

03:10:00 13 BY MS. McCABE:

03:10:00 14 Q. How does your office define a database relating
03:10:04 15 to voter registration?

03:10:06 16 DEFENSE COUNSEL: Same objection.

03:10:08 17 THE WITNESS: Well, we use the Arizona voter
03:10:11 18 information database provided by the Secretary of State.

03:10:16 19 BY MS. McCABE:

03:10:18 20 Q. Are there any other databases that you would
03:10:21 21 consider in your capacity -- sorry -- that your office
03:10:24 22 would consider as a database relating to voter
03:10:31 23 registration?

03:10:31 24 A. I don't know that they would be considered a
03:10:45 25 database.

03:10:48 1 Q. What do you mean?

03:10:49 2 A. Like the Motor Vehicle Division, how people can
03:10:53 3 submit an online registration form, but then that comes,
03:11:00 4 essentially, to our database.

03:11:02 5 Q. Would you consider, or would your office
03:11:10 6 consider information received from another state's
03:11:13 7 government agency, say California county sheriff's office,
03:11:18 8 as valid information for determining U.S. citizenship of
03:11:24 9 Arizona voter registration applicants?

03:11:27 10 DEFENSE COUNSEL: Asked and answered and
03:11:29 11 speculative.

03:11:34 12 THE WITNESS: I don't believe so.

03:11:36 13 BY MS. McCABE:

03:11:36 14 Q. I'm going to ask some questions now about the
03:11:40 15 Motor Vehicle Division that we were just speaking of.

03:11:43 16 Is your office able to interface with the
03:11:45 17 Arizona Department of Transportation's Motor Vehicle
03:11:50 18 Division's driver license or nonoperating license
03:11:54 19 database?

03:11:56 20 A. Could you explain that, please?

03:11:58 21 Q. Do you have access to the, let's just call it
03:12:01 22 the MVD's driver license or nonoperating license database?

03:12:07 23 A. Their database, no.

03:12:10 24 Q. How do you use the MVD, then, for the purposes
03:12:14 25 of U.S. citizenship verification?

03:12:19 1 A. We would use it through a HAVA check, the Help
03:12:26 2 America Vote Act, and that would then pop-up the voter's
03:12:31 3 name, address, their driver's license number, date of
03:12:34 4 birth, last four of their social, in compared to what
03:12:38 5 we've entered from the form received.

03:12:44 6 Q. You don't have access to look within the MVD
03:12:49 7 driver license or non-operating license databases,
03:12:52 8 independent of a HAVA check?

03:12:55 9 A. Correct.

03:12:55 10 Q. Okay. Do you also use that process for
03:13:03 11 investigating the citizenship status of already registered
03:13:07 12 voters?

03:13:08 13 A. We don't currently check the citizen status of
03:13:16 14 this House Bill.

03:13:17 15 Q. If this law is implemented, how will you, or
03:13:28 16 will you, use these same protocols to investigate the
03:13:31 17 citizenship status of already registered voters?

03:13:42 18 DEFENSE COUNSEL: Speculative.

03:13:46 19 THE WITNESS: We don't currently have procedures
03:13:47 20 to follow for this.

03:13:57 21 BY MS. McCABE:

03:13:57 22 Q. You also testified that you use the Access Voter
03:14:01 23 Information Database to investigate citizenship, correct,
03:14:04 24 the AVID database?

03:14:07 25 A. We use -- yes. HAVA is within AVID.

03:14:13 1 Q. How do you perform citizen checks using AVID?

03:14:20 2 A. Well, AVID is the voter registration database

03:14:24 3 that has HAVA check within it. We input the data into

03:14:29 4 AVID and then it's ran against HAVA.

03:14:32 5 Q. Understood.

03:14:32 6 Do you use AVID for any reason other than the

03:14:35 7 HAVA check?

03:14:37 8 A. It's the voter registration database.

03:14:41 9 Q. I apologize. That question wasn't clear.

03:14:45 10 For the purposes of investigating citizenship,

03:14:48 11 are there any other tools within AVID, beyond the HAVA

03:14:53 12 check, that you use to investigate citizenship of voter

03:14:56 13 registration applicants or -- well, let's leave it there.

03:14:58 14 A. Not within AVID, but we, we can also use the

03:15:03 15 SAVE program.

03:15:04 16 Q. Okay. Before we jump into the SAVE program.

03:15:13 17 Does your county have a memoranda of

03:15:15 18 understanding, or a memorandum of agreement with the MVD

03:15:20 19 to govern the sharing of data?

03:15:25 20 A. I'm not sure.

03:15:26 21 Q. Is there someone who would know?

03:15:32 22 A. The County Recorder may know that or the

03:15:38 23 Secretary of State.

03:15:39 24 Q. Has your office encountered any instances where

03:15:44 25 a voter registration applicant who is a U.S. citizen was

03:15:48 1 flagged erroneously as a non-citizen by way of search
03:15:52 2 through the MVD databases or through a HAVA check?
03:15:56 3 A. There was a time that was an error.
03:16:05 4 Q. When was that?
03:16:06 5 A. I don't know a specific date. It was alerted to
03:16:20 6 us from the Secretary of State.
03:16:24 7 Q. What, what did your office do in that situation?
03:16:27 8 A. We did not provide, we didn't -- we stopped
03:16:33 9 doing voter registration forms until it was fixed.
03:16:40 10 Q. You stopped accepting voter registrations?
03:16:43 11 A. We held off until, yes, the HAVA was fixed
03:16:50 12 through the MVD for the citizenship verification.
03:16:54 13 Q. How long of a period was that?
03:16:56 14 A. Less than a week.
03:17:04 15 Q. Would this have been in October of 2022?
03:17:09 16 A. I believe it was prior to 2022.
03:17:13 17 Q. Okay. Do you recall an incident from October of
03:17:20 18 '22 of a database matching, or when database matching
03:17:25 19 produced erroneous results and caused a downgrading of
03:17:30 20 thousands of voters to a federal only voting status?
03:17:36 21 A. Not that comes to the forefront of my mind.
03:17:41 22 Q. So I want to go back to the time when the
03:17:54 23 Secretary of State alerted you to an erroneous citizenship
03:17:59 24 determination.
03:18:00 25 A. Hmm hmm.

03:18:01 1 Q. Can you give me any more detail on that
03:18:04 2 particular incident?

03:18:06 3 A. In the voter registration database you, you can
03:18:16 4 place a ticket to them for any errors that are happening,
03:18:22 5 and it was alerted to the Secretary of State by many
03:18:25 6 counties, and then they had sent out an email notifying
03:18:29 7 us, and it was that we would hold off on voter
03:18:33 8 registration forms until it was completed.

03:18:36 9 Q. What circumstances alerted the multiple counties
03:18:41 10 to this issue?

03:18:42 11 A. It's typically when someone is a valid
03:18:47 12 registered voter and you've already matched their new
03:18:50 13 registration form that they are submitting to their
03:18:53 14 current form, you're marrying those. You don't go from an
03:18:58 15 active valid registered voter to a not eligible, or you
03:19:03 16 need to provide citizenship.

03:19:04 17 Q. About how many voters were impacted during this
03:19:08 18 incident?

03:19:08 19 A. I'm not sure.

03:19:10 20 Q. Do you have any, an estimation?

03:19:17 21 A. I don't.

03:19:18 22 Q. Would it have been five voters?

03:19:22 23 A. I believe when we received the notice we hadn't
03:19:28 24 processed many, so we could say less than ten.

03:19:31 25 Q. Less than ten.

03:19:34 1 And I know you mentioned this was before 2022.

03:19:38 2 Do you recall how many years before 2022?

03:19:41 3 A. I would, I would say it happened in the past

03:19:59 4 three years, in that time frame, from 2020 to current.

03:20:06 5 Q. When you said less than ten, was that less than

03:20:09 6 ten in Mohave County, or less than ten statewide?

03:20:12 7 A. Mohave County.

03:20:13 8 Q. Do you know how many voters were impacted across

03:20:17 9 the state?

03:20:17 10 A. I don't.

03:20:18 11 Q. And -- well, I guess I should ask.

03:20:19 12 Was this is a statewide problem, or was it only

03:20:22 13 certain counties?

03:20:23 14 A. 13 out of the 15 counties use AVID directly, so

03:20:32 15 I believe it would be for us 13 counties directly it was

03:20:37 16 an error.

03:20:43 17 Q. So with this error, it's possible that if people

03:20:47 18 are erroneously identified as not having shown DPOC,

03:20:52 19 including up to shortly before an election, that they

03:20:56 20 could be erroneously identified as non-citizens under the

03:21:00 21 new House Bills 2492 and 2243, right?

03:21:05 22 DEFENSE COUNSEL: Form.

03:21:08 23 THE WITNESS: Could you say that one more time?

03:21:12 24 I'm sorry.

03:21:14 25 BY MS. McCABE:

03:21:15 1 Q. Well, I'll say that a different way.

03:21:17 2 Does this error, that you have identified, give
03:21:22 3 you any pause about the accuracy of these systems in use
03:21:29 4 for identifying the voter's citizenship status?

03:21:37 5 DEFENSE COUNSEL: Form.

03:21:39 6 THE WITNESS: No.

03:21:41 7 BY MS. McCABE:

03:21:42 8 Q. What does your office do in the event that you
03:21:45 9 can't match the voter registration applicant or the
03:21:49 10 registered voter to any record in the MVD database or the
03:21:53 11 HAVA database?

03:21:54 12 A. They would receive a notice. But it depends how
03:21:59 13 the form is received. If they register to vote through
03:22:03 14 the MVD they would already have an Arizona driver's
03:22:06 15 license. If they registered on the form and they didn't
03:22:09 16 list that, they would receive a notification that we need
03:22:12 17 additional information for their voter registration
03:22:16 18 record.

03:22:16 19 Q. Are there any alternative verification processes
03:22:21 20 beyond the HAVA check or the MVD database?

03:22:24 21 A. Not that I'm aware of.

03:22:26 22 Q. If you identify a registration applicant who
03:22:31 23 still holds an F-type license and that person is -- I'm
03:22:34 24 sorry. Let me restate that.

03:22:35 25 If you identify a registration applicant who

03:22:38 1 still holds an F-type license, that person is required to
03:22:41 2 present their naturalization certificate or naturalization
03:22:46 3 certificate number or other form of DPOC. Is that
03:22:48 4 correct?

03:22:48 5 A. Yes.

03:22:48 6 Q. And do you check that naturalization certificate
03:22:52 7 number against a database?

03:22:54 8 A. I'm not sure.

03:22:58 9 Q. Is there someone who would know?

03:23:01 10 A. The County Recorder, Kristi Blair.

03:23:05 11 Q. What do you do if you cannot match a
03:23:29 12 naturalization certificate number, or an alien
03:23:37 13 registration number?

03:23:40 14 A. We would provide their information to the County
03:23:44 15 Recorder, and, I believe, she would go to the SAVE
03:23:47 16 program.

03:23:54 17 Q. If you identify a registered voter who has
03:23:59 18 already satisfied the DPOC requirement but still holds an
03:24:02 19 F-type license, is that information that the registered
03:24:06 20 voter is not, in fact, a U.S. citizen?

03:24:08 21 A. I'm sorry. Could you say that one more time?

03:24:10 22 Q. Sure.

03:24:12 23 If you identify a registered voter who already
03:24:14 24 satisfied the DPOC requirement but still holds an F-type
03:24:18 25 license, so this is a registered voter, is that

03:24:21 1 information that the registered voter is not, in fact, a
03:24:23 2 U.S. citizen?

03:24:26 3 DEFENSE COUNSEL: Calls for legal conclusion.

03:24:29 4 BY MS. McCABE:

03:24:31 5 Q. For the purposes of their voter registration
03:24:35 6 status.

03:24:36 7 A. I don't believe so.

03:24:38 8 Q. Okay. Let's get into the SAVE system.

03:24:45 9 What is the SAVE database, or the SAVE system?

03:24:49 10 A. It's the Systematic Alien Verification for
03:25:05 11 Entitlements.

03:25:05 12 Q. Do you have access to the SAVE system?

03:25:08 13 A. I personally do not.

03:25:10 14 Q. Does your office have access?

03:25:12 15 A. The County Recorder does.

03:25:14 16 Q. And, just to confirm, as the 30(b)(6)
03:25:22 17 deposition, or deponent, you are speaking on behalf of
03:25:25 18 your whole office. So these questions will be directed to
03:25:28 19 the office of the County Recorder and not just you in your
03:25:31 20 personal capacity. Okay?

03:25:33 21 A. Okay.

03:25:33 22 Q. Do you currently, you as in the County
03:25:37 23 Recorder's Office, currently use the SAVE system for the
03:25:39 24 purposes of U.S. citizenship verification?

03:25:43 25 A. Yes.

03:25:43 1 Q. In what circumstances do you use the SAVE
03:25:47 2 system?

03:25:49 3 A. I'm not sure on all circumstances.

03:25:52 4 Q. Are you -- could you identify some circumstances
03:25:56 5 in which you use the SAVE system?

03:25:58 6 A. We just give the information we receive or find
03:26:05 7 to the Recorder and she makes that determination.

03:26:11 8 Q. Who is we?

03:26:12 9 A. Anyone processing the voter registration form,
03:26:14 10 the office specialist, voter registration specialists or
03:26:14 11 myself.

03:26:20 12 Q. What kind of information would you pass out to
03:26:23 13 the County Recorder?

03:26:30 14 A. The voters, if they're already registered, they
03:26:30 15 would have an AVID ID number, their name, typically
03:26:35 16 provide their form to her.

03:26:36 17 Q. And sitting here today, you do not know what
03:26:38 18 circumstances then she would use the SAVE system, under
03:26:42 19 which she would use the SAVE system?

03:26:44 20 A. Correct.

03:26:45 21 Q. Do you know how frequently your office uses the
03:26:51 22 SAVE system?

03:26:52 23 A. I don't know.

03:26:52 24 Q. Do you know how long Mohave County has been
03:26:57 25 using the SAVE system?

03:26:58 1 A. I believe since at least 2018.

03:27:27 2 Q. When you pass information on to the County

03:27:40 3 Recorder, do you include the A number, or the certificate

03:27:45 4 of naturalization number?

03:27:48 5 A. It would typically be on the voter registration

03:27:51 6 form completed by the citizen.

03:27:58 7 Q. Is it, is it feasible to use the SAVE system to

03:28:11 8 determine a voter registration applicant's current U.S.

03:28:17 9 citizenship status?

03:28:18 10 A. I'm not sure.

03:28:19 11 Q. Is it feasible to use a SAVE system to determine

03:28:27 12 a registered voter's current -- oh, no, I'm so sorry.

03:28:30 13 Is it feasible to use the SAVE system to

03:28:33 14 conclusively determine a lack of U.S. citizenship?

03:28:37 15 DEFENSE COUNSEL: Form and foundation.

03:28:40 16 THE WITNESS: I'm not sure.

03:28:41 17 BY MS. McCABE:

03:28:48 18 Q. Can the SAVE system be used to confirm that a

03:28:51 19 registered voter is not a U.S. citizen?

03:28:55 20 DEFENSE COUNSEL: Form and foundation.

03:28:56 21 THE WITNESS: Could you say that one more time?

03:28:58 22 I'm sorry.

03:28:58 23 BY MS. McCABE:

03:28:59 24 Q. Can the SAVE system be used to confirm that a

03:29:03 25 registered voter is not a U.S. citizen?

03:29:06 1 A. Yes.

03:29:07 2 Q. What's your basis for that? What is your basis

03:29:16 3 for saying that?

03:29:19 4 A. My understanding is you would be putting in

03:29:23 5 information and it would come back to you if that, if

03:29:28 6 they're a citizen or not.

03:29:32 7 Q. Your office would use SAVE as like the

03:29:36 8 conclusive evidence of citizenship then?

03:29:39 9 A. Yes.

03:29:39 10 Q. What -- does that UCIS have an alternate

03:29:56 11 verification process -- USCIS have an alternate

03:30:02 12 verification process?

03:30:03 13 DEFENSE COUNSEL: Form and foundation.

03:30:05 14 THE WITNESS: I'm sorry. Who?

03:30:09 15 BY MS. McCABE:

03:30:10 16 Q. The United States Citizenship and Immigration

03:30:13 17 Services.

03:30:14 18 A. Hmm hmm.

03:30:14 19 Q. Do they have any alternate verification

03:30:21 20 processes aside from the SAVE?

03:30:23 21 A. I don't know.

03:30:23 22 Q. Has your office ever communicated with the USCIS

03:30:32 23 about H.B. 29 -- oh, sorry -- 2492 or 2243?

03:30:35 24 A. Not that I'm aware of.

03:30:37 25 Q. In terms of resources and access and training,

03:30:40 1 is it practical for your office to use the SAVE system for
03:30:45 2 citizenship verification?

03:30:51 3 A. I'm not sure.

03:31:01 4 Q. House Bill 2492 instructs your office to use all
03:31:04 5 available resource to perform these MVD database searches.
03:31:08 6 Is that possible?

03:31:09 7 A. Is it possible?

03:31:14 8 Q. Hmm hmm. Yes.

03:31:17 9 A. Well, we don't currently have a process for
03:31:26 10 that.

03:31:33 11 Q. I will ask it another way.

03:31:39 12 What would be the cost of using all of your
03:31:43 13 office's available resources for citizenship verification?

03:31:48 14 A. I'm not sure.

03:31:56 15 Q. Does your office have capacity to dedicate all
03:32:01 16 of its resources to citizenship verification and still
03:32:05 17 complete the other tasks required of it?

03:32:08 18 DEFENSE COUNSEL: Form.

03:32:09 19 THE WITNESS: I'm not sure.

03:32:17 20 BY MS. McCABE:

03:32:29 21 Q. Jumping back up.

03:32:29 22 Does your office have A numbers or certificates
03:32:33 23 of naturalization for all registered voters in Mohave
03:32:33 24 County?

03:32:44 25 A. I'm sorry. Do they have --

03:32:46 1 Q. A numbers or naturalization certificate numbers
03:32:50 2 for all registered voters in Mohave County?

03:32:53 3 A. I'm not sure.

03:33:03 4 Q. Who would know?

03:33:05 5 A. The County Recorder or data from the database.

03:33:22 6 Q. House Bill 2243 requires you to compare the
03:33:41 7 county's voters to the SAVE system monthly.

03:33:44 8 Is that a practical requirement for your office?

03:33:47 9 A. I'm not sure.

03:34:00 10 Q. What would you need to know to be sure?

03:34:03 11 A. Well, for like personnel time, how long that
03:34:17 12 would take, the reports we would run to get the data to
03:34:22 13 then input into the SAVE program. We would need more
03:34:28 14 access to the SAVE program for our staff.

03:34:31 15 Q. You currently use the Social Security
03:34:36 16 Administration databases for U.S. citizenship
03:34:42 17 verification?

03:34:43 18 A. I'm not sure.

03:34:46 19 Q. Who in your office would know whether you use
03:34:56 20 the social security database as a tool to verify
03:35:04 21 citizenship for applicants?

03:35:11 22 A. The County Recorder herself.

03:35:13 23 Q. Do you know whether the Social Security
03:35:16 24 Administration database can be use for U.S. citizenship
03:35:21 25 verification?

03:35:21 1 A. I don't know.

03:35:21 2 Q. Do you know whether it's feasible to use a

03:35:29 3 Social Security Administration database for the

03:35:33 4 citizenship verification?

03:35:35 5 A. I'm not sure.

03:35:36 6 Q. Have you ever heard of the NAPHSIS, or the

03:35:40 7 National Association for Public Health Statistics and

03:35:43 8 Information Systems?

03:35:44 9 A. I have not.

03:35:45 10 Q. Do you have any familiarity with a database --

03:35:56 11 well, do you have any familiarity with the NAPHSIS

03:36:01 12 database?

03:36:02 13 A. I do not.

03:36:03 14 Q. Or a database call the Electronic Verification

03:36:07 15 of Vital Events, or the EVVE database?

03:36:17 16 A. I don't think so.

03:36:18 17 Q. Are you familiar with the Electronic

03:36:20 18 Registration Information Center, or ERIC?

03:36:24 19 A. Yes.

03:36:24 20 Q. What is that?

03:36:25 21 A. We receive information from the Secretary of

03:36:29 22 State from the ERIC program for deceased voters and

03:36:40 23 cross-state match voters.

03:36:41 24 Q. Do you currently use ERIC for U.S. citizenship

03:36:45 25 verification?

03:36:45 1 A. Not to my knowledge.

03:36:46 2 Q. Can ERIC be used for U.S. citizenship

03:36:46 3 verification?

03:36:53 4 DEFENSE COUNSEL: Form.

03:36:54 5 THE WITNESS: I don't know.

03:36:54 6 BY MS. McCABE:

03:36:54 7 Q. Has your office had any conversations about
03:37:07 8 which databases it could use for citizenship verification
03:37:13 9 beyond the MVD and SAVE databases?

03:37:17 10 A. Not to my knowledge.

03:37:20 11 Q. Would you be involved in those conversations
03:37:23 12 within the Mohave County Recorder's Office?

03:37:26 13 A. Potentially, yes.

03:37:30 14 Q. And have there been any conversations about
03:37:35 15 additional databases to use for citizenship verification?

03:37:39 16 A. No.

03:37:39 17 Q. Do you have the ability to search or interface
03:37:46 18 with any other government databases or U.S. citizenship
03:37:51 19 data? And by you, I mean the Mohave County Recorder's
03:37:58 20 Office.

03:37:58 21 A. Not that I'm aware of.

03:38:00 22 Q. Has your office been communicating with any
03:38:05 23 other person or entity regarding the use of any other
03:38:09 24 database for citizenship verification?

03:38:12 25 A. I don't think so.

03:38:13 1 Q. Can any of the databases we have discussed be
03:38:32 2 used to confirm that a registered voter is not a U.S.
03:38:37 3 citizen?

03:38:38 4 DEFENSE COUNSEL: Form.

03:38:39 5 THE WITNESS: I'm sorry?

03:38:40 6 BY MS. McCABE:

03:38:40 7 Q. Can any of the databases that we just discussed
03:38:44 8 be used to confirm that a registered voter is not a U.S.
03:38:49 9 citizen?

03:38:56 10 DEFENSE COUNSEL: Form.

03:38:57 11 THE WITNESS: I'm not sure.

03:38:58 12 BY MS. McCABE:

03:38:59 13 Q. What happens if you receive conflicting data
03:39:01 14 from, say, the Motor Vehicle Division and the SAVE
03:39:05 15 databases?

03:39:07 16 DEFENSE COUNSEL: Speculation.

03:39:10 17 THE WITNESS: I don't know what we would do.

03:39:12 18 BY MS. McCABE:

03:39:14 19 Q. Has that ever happened before?

03:39:17 20 A. Not to my knowledge.

03:39:18 21 Q. Does the County Recorder's Office have a system
03:39:23 22 in place by which it would resolve conflicts in
03:39:27 23 information received from different government databases?

03:39:31 24 A. Potentially the EPM, but I'm not sure.

03:39:42 25 Q. Is the verification process, or the steps that

03:39:47 1 have to be followed, described in detail anywhere for your
03:39:52 2 office, the citizenship verification -- I'll restate that.

03:39:56 3 Is Mohave County's, County Recorder's Office
03:40:00 4 citizenship verification process, or the steps that you
03:40:02 5 follow to verify citizenship, are those described in
03:40:05 6 detail anywhere?

03:40:06 7 A. Most likely in the EPM.

03:40:13 8 Q. Does the County Recorder's Office have its own
03:40:15 9 internal policies described anywhere?

03:40:17 10 A. Not that I can think of.

03:40:19 11 Q. If a voter registration application filed before
03:40:39 12 the registration deadline is denied under A.R.S.

03:40:45 13 16-121.01, subsections D and E, based on erroneous
03:40:51 14 determination that the applicant was not a U.S. citizen,
03:40:54 15 can that applicant still be added to the rolls if the
03:40:58 16 registration deadline has passed?

03:41:01 17 DEFENSE COUNSEL: Form. Calls for legal
03:41:02 18 conclusion and speculation.

03:41:06 19 THE WITNESS: Could you say that one more time?

03:41:09 20 BY MS. McCABE:

03:41:09 21 Q. Based on your office's policies, if a voter
03:41:16 22 registration applicant who filed before the registration
03:41:20 23 deadline is denied registration, based on an erroneous
03:41:24 24 determination that they were not a U.S. citizen, can that
03:41:28 25 applicant still be added to the voter rolls if the

03:41:33 1 registration deadline has passed?

03:41:37 2 DEFENSE COUNSEL: Same objection.

03:41:38 3 THE WITNESS: If the voter registered to vote
03:41:43 4 prior to the deadline, they would be in the database. If
03:41:48 5 they needed to provide DPOC, they would have time to do so
03:41:54 6 during the election time frame. We follow that by state
03:42:01 7 statute and the EPM.

03:42:06 8 BY MS. McCABE:

03:42:07 9 Q. How much time do they have? I'll strike the
03:42:07 10 question.

03:42:18 11 If a registered voter is removed from the rolls
03:42:20 12 under A.R.S. Section 16-165, subsection A(10), based upon
03:42:26 13 erroneous determination that they are not a U.S. citizen,
03:42:29 14 can that voter be added back to the rolls if the
03:42:34 15 registration deadline has already passed?

03:42:38 16 DEFENSE COUNSEL: Same objection.

03:42:41 17 THE WITNESS: Well, if someone was registered to
03:42:50 18 vote, they can't be canceled 90 days prior to an election.

03:43:12 19 Maybe I didn't understand your question.

03:43:15 20 BY MS. McCABE:

03:43:16 21 Q. Yeah. Let me, let me ask it another way.

03:43:22 22 In a federal election, specifically, if a
03:43:26 23 registered voter were moved from the rolls, based upon an
03:43:29 24 erroneous determination they are not a U.S. citizen, can
03:43:32 25 that voter be added a back to the rolls if the

03:43:36 1 registration deadline has already passed?

03:43:40 2 DEFENSE COUNSEL: Same objection.

03:43:45 3 THE WITNESS: I'm not sure.

03:43:48 4 BY MS. McCABE:

03:43:49 5 Q. If House Bill 2243 were to take effect, would

03:43:55 6 that impact whether or not an erroneously removed voter

03:44:00 7 could be put back onto the voter rolls after the

03:44:02 8 registration deadline?

03:44:05 9 DEFENSE COUNSEL: Same objection. Form.

03:44:08 10 THE WITNESS: We haven't begun any procedures

03:44:11 11 for that House Bill.

03:44:14 12 MS. McCABE: If we can take a quick five-minute

03:44:19 13 break, I think I can be done, but I just want to check

03:44:22 14 with some colleagues first.

03:44:24 15 THE VIDEOGRAPHER: We are off the record. Time

03:44:29 16 on the video monitor 3:44 p.m. This ends Media No. 3.

03:44:32 17 (Recess taken from 3:44 p.m. to 3:49 p.m.)

03:49:25 18 THE VIDEOGRAPHER: We are on the record. Time

03:49:36 19 on the video monitor is 3:49 p.m. This begins Media

03:49:42 20 No. 4.

03:49:46 21 MS. McCABE: Ms. Durst, I don't have any

03:49:49 22 additional questions. Thank you so much for your time

03:49:51 23 today.

03:49:51 24 THE WITNESS: Thank you.

03:49:59 25 MS. McCABE: I'll defer to any other plaintiff

03:50:01 1 groups who have questions.

03:50:07 2 Hearing none, I think we are, I think we are

03:50:11 3 done.

03:50:12 4 THE WITNESS: Okay.

03:50:12 5 THE VIDEOGRAPHER: We are off the record. Time

03:50:16 6 on the video monitor --

03:50:16 7 MS. McCABE: I'm sorry. We have -- Hop back on

03:50:21 8 the record. I just heard --

03:50:21 9 THE VIDEOGRAPHER: Go right ahead.

03:50:23 10 MS. BOUGHTON: If we can go back on the record.

03:50:25 11 THE VIDEOGRAPHER: We are on the record.

03:50:26 12 MS. BOUGHTON: Okay. Thank you.

03:50:26 13

03:50:27 14 EXAMINATION

03:50:27 15 BY MS. BOUGHTON:

03:50:29 16 Q. Hi, Ms. Durst. My name is Kathryn Boughton, and

03:50:31 17 I'm representing the State of Arizona and Attorney General

03:50:33 18 in this case. I just have a few questions for you, and

03:50:36 19 thank you so much for all your time today. I know it's

03:50:39 20 been a long day.

03:50:41 21 I just wanted to touch base on some of the areas

03:50:45 22 that plaintiffs' counsel had asked you about.

03:50:48 23 So awhile back we talked about, or you talked

03:50:50 24 about the citizen checkbox on the state form.

03:50:54 25 A. Yes.

03:50:55 1 Q. And I wanted to ask you, on the state form, do
03:50:59 2 you think that the citizen checkbox provides you
03:51:03 3 information about whether the voter is a citizen?

03:51:05 4 A. No.

03:51:11 5 Q. No.

03:51:14 6 So in your view the box doesn't provide any
03:51:17 7 information?

03:51:18 8 A. Well, most voters mark all boxes.

03:51:30 9 Q. Including the citizenship checkbox?

03:51:32 10 A. Well, we don't currently have the --- well, do
03:51:39 11 you mean the question like are you a citizen of the United
03:51:42 12 States that's on all current forms, all old forms?

03:51:45 13 Q. Yes. Yes.

03:51:46 14 A. Then I'm sorry. What is the question again?

03:51:49 15 Q. If that box provides your office information
03:51:56 16 about whether the voter is a citizen?

03:51:57 17 A. Yes.

03:51:57 18 Q. And did I understand your testimony correctly
03:52:01 19 that if somebody is in the office and filling it out in
03:52:05 20 person and they miss it, you would ask them to fill it
03:52:07 21 out, or point it out to them in person?

03:52:10 22 A. Correct. And the question below it as well,
03:52:14 23 will you be 18 by election day.

03:52:18 24 Q. Great. Thank you.

03:52:19 25 If somebody, if you received a form via mail,

03:52:23 1 the state form via mail, and someone had marked no in that
03:52:28 2 citizen checkbox but they also provided a copy of their
03:52:33 3 passport, for example, what would your office do in that
03:52:36 4 situation?

03:52:37 5 A. We would input all the data from the voter
03:52:41 6 registration form into AVID and run their HAVA check if
03:52:47 7 that then came back with an Arizona license, if that was
03:52:51 8 provided. If not, we would then review the DPOC of the
03:52:56 9 passport provided.

03:52:57 10 Q. So you would first rely on the HAVA check?

03:53:02 11 A. Yes.

03:53:02 12 Q. Okay. If that box was marked no -- withdraw
03:53:12 13 that.

03:53:12 14 If a voter provided a photocopy of their birth
03:53:22 15 certificate with their state form but the photocopy was
03:53:26 16 really blurry and hard to read, would it be helpful for
03:53:30 17 your office to know how they marked the citizenship
03:53:36 18 checkbox?

03:53:36 19 A. Can you say that one more time?

03:53:39 20 Q. Sure.

03:53:40 21 So if a voter submitted their state form and
03:53:45 22 they attached a photocopy of their birth certificate as
03:53:49 23 proof of citizenship but that photocopy was blurry and
03:53:52 24 hard to read and you couldn't tell what it said, in that
03:53:56 25 situation, would it help your office to know whether or

03:53:59 1 not the individual marked yes in the citizenship checkbox?

03:54:03 2 A. I don't believe so.

03:54:07 3 Q. Okay. And is that because you would look to the

03:54:11 4 HAVA check?

03:54:12 5 A. We always run HAVA check first when you regis --

03:54:16 6 placing the registrant's information in the database, but

03:54:19 7 if it's not legible, the DPOC provided, or if they didn't,

03:54:27 8 if they're married and they're registering under a married

03:54:31 9 name but they are supplying their birth certificate that

03:54:34 10 has a different name, but it's not legible, we would ask

03:54:38 11 for further information from the voter.

03:54:40 12 Q. Thank you.

03:54:45 13 You also talked earlier today with plaintiffs'

03:54:52 14 counsel about an instance in which the Secretary of State

03:54:54 15 flagged that there was an error in completing HAVA checks,

03:54:59 16 and you indicated that you suspended processing voter

03:55:02 17 registrations for a week.

03:55:04 18 Did I understand that right?

03:55:05 19 A. Less than a week, yes.

03:55:07 20 Q. Less than a week. Thank you.

03:55:10 21 And I just wanted to confirm, did I understand

03:55:12 22 your testimony correctly that, despite that instance, you

03:55:16 23 still believe that the HAVA citizenship checks generally

03:55:21 24 provide accurate information regarding citizenship to your

03:55:24 25 office?

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A. Yes.

Q. Thank you.

Generally -- switching topics to discuss birthplace now. I know the birthplace isn't currently required on the state form, but I wanted to ask, in your experience processing voter registrations, is that form normally completed by applicants?

A. It can be.

Q. Would you say more often than not it's completed?

A. Typically it's completed, yes.

Q. And is that information, if it is on the form, do you input it into AVID?

A. We do.

MS. BOUGHTON: One moment.

That's all I have for today, Ms. Durst. Thank you so much for your time.

THE WITNESS: Thank you.

MS. BOUGHTON: There may be one more counsel with questions for you.

EXAMINATION

BY MR. LANGHOFER:

Q. Good afternoon, Ms. Durst. My name is Kory Langhofer, and I represent the Republican National

03:56:56 1 Committee. I don't have a whole lot of questions for you.
03:56:58 2 Everything has been covered in excruciating detail.

03:57:02 3 I do have a few questions for you. Most of the,
03:57:06 4 many of the questions stayed focused on three databases,
03:57:08 5 the HAVA check database, AVID, and SAVE. And one of the
03:57:16 6 things I wanted to know from you is do you all have access
03:57:19 7 to better databases than those that you guys are not
03:57:23 8 using?

03:57:24 9 A. We receive data, as well, from ERIC, but there's
03:57:31 10 no others besides those, that I'm aware of.

03:57:33 11 Q. So it's not -- do you have, for example, more
03:57:36 12 accurate databases, or set of databases that you're
03:57:40 13 failing to use?

03:57:41 14 A. Not to my knowledge.

03:57:43 15 Q. Do you have access to a more current or up to
03:57:46 16 date databases or set of databases that you're failing to
03:57:52 17 use?

03:57:52 18 A. Not to my knowledge.

03:57:54 19 Q. If someone, if it appears they have an F-type
03:58:05 20 driver's license, and there's no DPOC in the system for
03:58:10 21 them, is that an instance where you guys would use the
03:58:13 22 SAVE database to determine whether the person is
03:58:17 23 naturalized?

03:58:18 24 A. Yes.

03:58:18 25 Q. You were asked a question awhile ago, this has

03:58:28 1 been a couple hours now so I may be missing something
03:58:32 2 here, but I think the question was whether you were
03:58:34 3 getting any information from the Secretary of State about
03:58:39 4 voter fraud or the qualifications of voters, and I think
03:58:44 5 you said no. But this has been, again, a couple of hours
03:58:47 6 and my memory may be failing.

03:58:48 7 So I guess my question is, are you still getting
03:58:51 8 ERIC reports from the Secretary of State?

03:58:53 9 A. We do receive ERIC reports.

03:58:56 10 Q. And you guys process those in a sort of a
03:58:59 11 customary manner?

03:59:01 12 A. Yes.

03:59:02 13 Q. Okay. And what about information on responses
03:59:10 14 to jury questionnaires or adjudications of, you know,
03:59:14 15 felony status or incompetency? I think those are subsumed
03:59:18 16 in the ERIC reports, but I'm not quite sure about that.
03:59:21 17 So do you all still get that information through ERIC or
03:59:25 18 otherwise?

03:59:25 19 A. We receive that information, yes.

03:59:26 20 Q. And you're still processing that as it comes in?

03:59:30 21 A. So we receive different reports now from the
03:59:39 22 jury questionnaires. We receive the report if they had
03:59:42 23 returned mail or forwardable mail, we receive that from
03:59:46 24 the courts, and we act on that behalf of mailing them a
03:59:50 25 notice if they're out of jurisdiction or have moved, to

03:59:53 1 update their registration.

03:59:56 2 The other report we get are for these House
04:00:00 3 Bills, and we currently don't activate, do anything with
04:00:06 4 those.

04:00:07 5 Q. Gotcha.

04:00:08 6 So the ERIC report you do receive directly from
04:00:10 7 the Secretary of State, though, right?

04:00:13 8 A. Correct.

04:00:13 9 Q. You were asked a question awhile ago about the
04:00:28 10 usefulness of birthplace information. And I think you had
04:00:32 11 said that you can use that on phone calls to confirm
04:00:35 12 identity.

04:00:37 13 Am I remembering that correctly?

04:00:39 14 A. Yes.

04:00:39 15 Q. And she had asked you what other information you
04:00:44 16 might use to confirm identity. I think you said, for
04:00:49 17 example, the voter's address.

04:00:50 18 The voter's address, though, is a publicly
04:00:53 19 available information, correct?

04:00:54 20 A. Yes. So typically that is a last resort, but if
04:00:59 21 they -- so usually it's your date of birth, the last four
04:01:03 22 of your social, mother's maiden name, it can be your place
04:01:09 23 of birth, as those questions. And then --

04:01:13 24 Q. Go ahead.

04:01:14 25 A. I was going to say, on the address, that would

04:01:17 1 be like a second to also know if they're still residing
04:01:23 2 where they're registered.

04:01:25 3 Q. And on these telephone calls we need to confirm
04:01:31 4 identity, you're trying to use information that's not
04:01:34 5 publicly available, right?

04:01:36 6 A. Correct.

04:01:36 7 Q. And the birthplace is one of the fields that is
04:01:42 8 not publicly available?

04:01:44 9 A. I'm not sure.

04:01:48 10 Q. Is it in the voter file?

04:01:50 11 A. Yes.

04:01:51 12 Q. The birthplace is?

04:01:55 13 A. It's -- if someone places that on their form it
04:01:59 14 is implemented into the database.

04:02:02 15 Q. Okay. You were asked a long series of questions
04:02:15 16 about all the evidence that your office had voter fraud or
04:02:19 17 voter registration fraud happening in Mohave County, and I
04:02:23 18 want to make sure that your testimony in that was clear.

04:02:27 19 As I understood it, you all had reported, or
04:02:30 20 produced documents, showing that there was an instance of
04:02:35 21 voter fraud in Mohave County that was eventually
04:02:38 22 prosecuted. But you were saying -- I don't want to, I
04:02:40 23 don't want to mischaracterize you here, but I think you
04:02:44 24 were saying there is not a database you can check to
04:02:46 25 answer this question about voter fraud.

04:02:49 1 What did you mean by that exactly?

04:02:51 2 A. With that FBI agent, we would like speak over
04:03:01 3 the phone on things.

04:03:08 4 Q. Do you guys maintain a list of all the
04:03:10 5 fraudulent voters in Mohave County?

04:03:13 6 A. It would, he would only receive anything from me
04:03:17 7 via email if he did believe it was, it could be
04:03:23 8 fraudulent.

04:03:25 9 Q. So the, I guess the -- maybe another way of
04:03:34 10 thinking about this problem would be, when you guys run
04:03:38 11 checks on voter registration applications -- so I think
04:03:44 12 you talked about running the GIS search on addresses to
04:03:57 13 make sure they are real residential addresses. Am I
04:04:01 14 getting that correct?

04:04:02 15 A. Yes.

04:04:03 16 Q. And you look for DPOC or HAVA checks. Is that
04:04:10 17 right?

04:04:10 18 A. We run the GIS if the address isn't pined in
04:04:16 19 AVID for them to be a registered voter at that address.

04:04:21 20 Q. Gotcha.

04:04:23 21 And you routinely check, you run the HAVA check
04:04:26 22 to make sure that there is some proof in Arizona databases
04:04:29 23 of citizenship, right?

04:04:31 24 A. In order to update a record you have to run HAVA
04:04:36 25 check.

04:04:36 1 Q. So, is it fair to say, then, that, that these
04:04:46 2 fraud checks are sort of baked into the county's voter
04:04:50 3 file? Like a person wouldn't be in the voter file if they
04:04:55 4 failed those checks.

04:04:57 5 A. Correct.

04:04:58 6 Q. The instance that you were asked about, the
04:05:08 7 woman, or the gentleman, I'm not sure which it was, was
04:05:12 8 prosecuted for voter fraud. What were the facts? Like
04:05:17 9 what actually happened?

04:05:18 10 A. If I recall correctly, it was 90-day notices
04:05:27 11 that were mailed from a third party to that address to be
04:05:32 12 added to the active early voting list, and that same
04:05:36 13 person signed numerous of them for her father. We
04:05:40 14 received them in office, noticing that they were in
04:05:45 15 different colored markers and they didn't appear to be the
04:05:48 16 same signature on signature verification, and then that
04:05:56 17 was given to the FBI.

04:05:58 18 Q. Okay. So was it multiple registrations or
04:06:05 19 multiple ballots that was the problem there?

04:06:07 20 A. So the, both voters were already registered to
04:06:11 21 vote. A third party had mailed a mailing for them to be
04:06:14 22 on the active -- at the time it was called a permanent
04:06:17 23 early voting list, receive ballots by mail.

04:06:21 24 Q. Okay. So the, the prob -- so there were two
04:06:28 25 people -- in fact there were two people, or there just

04:06:31 1 appeared to be two people on paper? Which one?

04:06:36 2 A. So it was, it ended up being the daughter

04:06:39 3 signing the father's, but they were all returned together

04:06:43 4 from that same residence address.

04:06:47 5 Q. I see. So she was trying to sign him up for the

04:06:49 6 permanent early voting list, but he didn't sign it

04:06:53 7 himself?

04:06:53 8 A. Correct.

04:06:54 9 Q. So this, this instance, this prosecution doesn't

04:07:03 10 really have anything to do with proof of residency or

04:07:06 11 citizenship. It's just a different issue entirely.

04:07:09 12 A. Yes.

04:07:09 13 Q. Bear with me one second. I just want to check

04:07:16 14 my notes to make sure I'm not missing anything. That

04:07:20 15 might be everything.

04:07:21 16 A. Okay.

04:07:25 17 Q. I have one more.

04:07:26 18 You were shown an email -- and this is my last

04:07:28 19 one -- you were shown an email from Kori Lorick where she

04:07:33 20 had commented that they thought certain of the challenge

04:07:37 21 provisions were inconsistent with federal law. And I

04:07:40 22 think the question you were asked was whether you agree

04:07:42 23 with Kori Lorick, that these challenge provisions are

04:07:47 24 inconsistent with federal law.

04:07:48 25 If I recall correctly, you said yes, but I'm not

04:07:52 1 sure that there wasn't some miscommunication there. I
04:07:54 2 just want to make sure that we're clear.

04:07:55 3 Does your office take the position that Kori
04:07:59 4 Lorick was right, that some of these challenge provisions
04:08:04 5 are inconsistent with federal law?

04:08:06 6 A. In regards to the current House Bills that are
04:08:11 7 in litigation, yes.

04:08:14 8 Q. Okay. And are you guys taking the position that
04:08:17 9 she's, you agree with her on -- I think she had three or
04:08:21 10 four points there where she thought it was inconsistent --
04:08:26 11 you're agreeing with her on each of those points?

04:08:28 12 A. I don't recall all three points.

04:08:32 13 MR. LANGHOFER: All right. Those are my
04:08:34 14 questions. Thanks again for your time, Ms. Durst.
04:08:47 15 Anything else from the plaintiffs' side?

04:08:52 16 MS. DIBRELL: Nothing from me, Ms. Durst, but I
04:08:55 17 just want to thank you again for your time today. I know
04:08:57 18 it was very long, and I do appreciate it.

04:08:59 19 THE VIDEOGRAPHER: One moment please.
04:09:00 20 We are off the record. Time on the video
04:09:00 21 monitor is 4:08 -- I'm sorry, 4:09 p.m.

04:09:06 22 This ends the deposition of the 30(b)(6) Chief
04:09:11 23 Deputy of Mohave County Recorder by Lydia Durst.
04:09:11 24 (The deposition concluded at 4:09 p.m.)
04:09:11 25 (Exhibit 49, Exhibit 50, Exhibit 51, Exhibit 52,

1 Exhibit 53, Exhibit 54, Exhibit 55, Exhibit 56, Exhibit
2 57, Exhibit 59, Exhibit 60, and Exhibit 61 were marked for
3 identification.)

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(Signature Not Requested.)

LYDIA DURST

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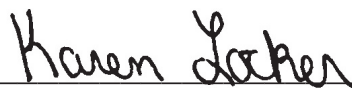
1 STATE OF ARIZONA)
) ss.
2 COUNTY OF MARICOPA)

3
4 BE IT KNOWN that the foregoing deposition was
5 taken before me, KAREN L. LOCKER, RPR, Certified Reporter
6 No. 50821 for the State of Arizona, and by virtue thereof
7 authorized to administer an oath; that the witness before
8 testifying was duly sworn by me to testify to the whole
9 truth; deposition review and signature was not requested;
10 that the questions propounded by counsel and the answers
11 of the witness thereto were taken down by me in shorthand
12 and thereafter transcribed into typewriting under my
13 direction; that the foregoing pages contain a full, true,
14 and accurate transcript of all proceedings and testimony
15 had, all to the best of my skill and ability.

16 I FURTHER CERTIFY that I am not related to nor
17 employed by any of the parties hereto and have no interest
18 in the outcome thereof.

19 DATED at Phoenix, Arizona, this 1th day of
20 August, 2023.

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22
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25



KAREN L. LOCKER, RPR
Certified Court Reporter No. 50821

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Mi Familia Vota vs. Adrian Fontes
Hilary Hiser

August 3, 2023

2:22-cv-00509-SRB

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UNITED STATES DISTRICT COURT

DISTRICT OF ARIZONA

Mi Familia Vota, et al.,)	
)	Case No:
Plaintiffs,	)	2:22-cv-00509-SRB
	)	(Lead)
vs.)	
	)	CV-22-00519-PHX-SRB
Adrian Fontes, in his official	)	CV-22-01003-PHX-SRB
capacity as Arizona Secretary of	)	CV-22-01124-PHX-SRB
State, et al.,	)	CV-22-01369-PHX-SRB
	)	CV-22-01381-PHX-SRB
Defendants.	)	CV-22-01602-PHX-SRB
	)	CV-22-01901-PHX-SRB

AND CONSOLIDATED CASES.

DEPOSITION OF PIMA COUNTY RECORDER

REPRESENTED BY HILARY HISER

VIDEOTAPED

Tucson, Arizona
August 3, 2023

Reported by:
Jody L. Lenschow, RMR, CRR
Certified Court Reporter
Certification No. 50192



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VIDEOTAPED DEPOSITION OF PIMA COUNTY RECORDER

REPRESENTED BY HILARY HISER

was taken on August 3, 2023, commencing at 9:08 a.m., at the Pima County Attorney's Office, 32 N. Stone Avenue, Suite 2100, Tucson, Arizona, before Jody L. Lenschow, RMR, CRR, Certified Reporter No. 50192 for the State of Arizona, reported via Zoom Videoconferencing.

* * *

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09:08:00 1 THE VIDEOGRAPHER: We are on the record.
09:08:01 2 The time on the video monitor is 9:08 a.m. Here begins
09:08:07 3 Volume 1, Media No. 1 in the 30(b)(6) deposition of Pima
09:08:11 4 County Recorder, represented by Hilary Hiser, in the
09:08:14 5 matter of Mi Familia Vota, et al. versus Adrian Fontes,
09:08:20 6 in his official capacity as Arizona Secretary of State,
09:08:23 7 et al., in the United States District Court for the
09:08:26 8 District of Arizona, Case No. 2:22-cv-00509-PHX-SRB.

09:08:39 9 Today's date is August 3rd, 2023. Our
09:08:42 10 court reporter is Jody Lenschow. My name is Christopher
09:08:44 11 Parkinson, certified legal videographer. We both
09:08:47 12 represent Coash Court Reporting & Video. This video
09:08:51 13 deposition is taking place at 32 North Stone Avenue,
09:08:55 14 Tucson, Arizona, 85701.

09:08:59 15 Counsel, please identify yourselves and
09:09:01 16 state whom you represent.

09:09:03 17 MR. SNOW: Good morning. My name is Ryan
09:09:04 18 Snow, counsel with the Voting Rights Project of the
09:09:08 19 Lawyers Committee for Civil Rights Under Law, and we
09:09:10 20 represent the Tohono O'odham plaintiffs.

09:09:15 21 MR. SHERMAN: Good morning. My name is
09:09:15 22 Jon Sherman with Fair Elections Center. I represent the
09:09:20 23 Poder Latinx plaintiffs. Thanks very much.

09:09:23 24 MR. DODGE: Good morning. I'm
09:09:24 25 Christopher D. Dodge, joined by Elizabeth Frost, on

09:09:27 1 behalf of the Mi Familia Vota plaintiffs.

09:09:31 2 MR. JOHNSON: Good morning. Hayden

09:09:36 3 Johnson on behalf of the LUCHA plaintiffs.

09:09:39 4 MR. HERRERA: Ernest Herrera on behalf of

09:09:42 5 the Promise Arizona Plaintiffs, joined by Erika

09:09:45 6 Cervantes today.

09:09:47 7 MS. BRAILEY: Emily Brailey on behalf of

09:09:49 8 the United States.

09:09:50 9 MR. MAKKER: Amit Makker from Latham &

09:09:55 10 Watkins on behalf of the Arizona Asian American Native

09:09:57 11 Hawaiian and Pacific Islander for Equity Coalition

09:10:00 12 plaintiff. I'm joined by Neethu Putta and Scott

09:10:04 13 Kanchuger of Latham & Watkins as well.

09:10:05 14 MR. VOLCHOK: Daniel Volchok from Wilmer

09:10:07 15 Hale for the Democratic National Committee and the

09:10:09 16 Arizona Democratic Party.

09:10:15 17 MR. HORLEY: Hi.

09:10:15 18 MR. JURKOWITZ: Dan --

09:10:15 19 MR. HORLEY: I'm Tim Horley. I --

09:10:18 20 Oh, I'm sorry. Go ahead.

09:10:18 21 MR. JURKOWITZ: Go ahead, Tim.

09:10:20 22 MR. HORLEY: Hi. Tim Horley. I'm for the

09:10:22 23 State of Arizona and the Arizona Attorney General, and

09:10:24 24 I'm joined by my colleague, Kathryn Boughton, as well.

09:10:28 25 MR. JURKOWITZ: Daniel Jurkowitz on behalf

09:10:30 1 of the Pima County Recorder, and with me today is the
09:10:32 2 Chief Deputy Recorder, Hilary Hiser.

09:10:38 3 MR. LANGHOFER: Kory Langhofer for the
09:10:39 4 Republican National Committee.

09:10:42 5 MS. STUART: Shayna Stuart from Sherman &
09:10:45 6 Howard for the Arizona Secretary of State, Adrian
09:10:49 7 Fontes, and I'm joined by Emma Schlenker, who is a
09:10:53 8 summer intern with the Secretary's Office.

09:11:03 9 THE VIDEOGRAPHER: Would the court
09:11:04 10 reporter please swear in the witness.

11

12

13 HILARY HISER,
14 called as a witness herein, having been first duly sworn
15 by the Certified Court Reporter to speak the truth and
16 nothing but the truth, was examined and testified as
17 follows:

17

09:11:15 18

EXAMINATION

09:11:15 19

BY MR. SNOW:

09:11:25 20

Q. Good morning, Ms. Hiser. So as I stated, my
09:11:30 21 name is Ryan Snow, counsel for the Voting Rights Project
09:11:36 22 of the Lawyers Committee for Civil Rights Under Law,
09:11:37 23 representing the Tohono O'odham plaintiffs. Appreciate
09:11:39 24 you speaking with us today.

09:11:40 25

Would you please state your full name for the

09:11:44 1 record, spelling your last name?

09:11:45 2 A. Hilary Hiser, H-I-L-A-R-Y, Hiser, H-I-S-E-R.

09:11:51 3 Q. Thank you.

09:11:52 4 And do you understand that you're testifying

09:11:53 5 under oath today?

09:11:54 6 A. I do.

09:11:57 7 Q. Do you understand that the court reporter is

09:11:58 8 transcribing this deposition?

09:11:59 9 A. I do.

09:12:01 10 Q. So with that in mind, please answer questions

09:12:04 11 audibly and clearly. Please let me know if you do not

09:12:06 12 understand a question or need me to repeat any part of

09:12:08 13 it. And if I ask a question and you answer the

09:12:11 14 question, I will assume that you understood the

09:12:13 15 question. Is that fair?

09:12:14 16 A. That's fair.

09:12:16 17 Q. Thank you.

09:12:17 18 Is there any reason that you can't testify

09:12:18 19 truthfully today?

09:12:20 20 A. No, there is no reason.

09:12:22 21 Q. Is there any reason why you can't give full,

09:12:25 22 complete, or accurate testimony today?

09:12:25 23 A. No, there is no reason.

09:12:27 24 Q. Are you on any medications or experiencing any

09:12:30 25 condition that would prevent you from giving full and

09:12:32 1 truthful testimony today?

09:12:32 2 A. I am not.

09:12:34 3 Q. And since this deposition is being taken

09:12:37 4 remotely, can you please confirm who all is in the room

09:12:41 5 with you?

09:12:41 6 A. Daniel Jurkowitz, chief --

09:12:45 7 MR. JURKOWITZ: Assistant chief.

09:12:45 8 THE WITNESS: -- Assistant chief civil

09:12:46 9 deputy for the Pima County Attorney's Office, and

09:12:49 10 represents the Pima County Recorder.

09:12:51 11 BY MR. SNOW:

09:12:51 12 Q. And so that's your counsel, correct?

09:12:53 13 A. Correct.

09:12:54 14 Q. And to your knowledge, is anyone else in your

09:12:58 15 office listening in to this deposition?

09:12:59 16 A. Not that I know of.

09:13:02 17 MR. JURKOWITZ: There are.

09:13:02 18 THE WITNESS: There are?

09:13:02 19 MR. JURKOWITZ: Yes.

09:13:03 20 THE WITNESS: Apparently there are.

09:13:03 21 MR. SNOW: And who are those?

09:13:09 22 MR. JURKOWITZ: Well, I can't see

09:13:11 23 everybody on the call right now.

09:13:13 24 MS. DICKINSON: My name is Pamela

09:13:14 25 Dickinson, and I'm paralegal to Dan Jurkowitz.

09:13:21 1 BY MR. SNOW:

09:13:21 2 Q. And anyone else?

09:13:28 3 A. I don't think so.

09:13:32 4 MR. SNOW: Mr. Jurkowitz, is that -- can
09:13:34 5 you confirm that?

09:13:35 6 MS. SORENSON: I'm sorry. Regina Sorenson
09:13:37 7 for Pima County Attorney's Office. I'm listening as
09:13:37 8 well.

09:13:43 9 MR. SNOW: Thank you.

09:13:43 10 BY MR. SNOW:

09:13:43 11 Q. And since this testimony must be yours and
09:13:45 12 yours alone and the record must be clear as to the
09:13:47 13 source of your testimony, do you agree not to refer to
09:13:50 14 any e-mails or communications or documents or other
09:13:52 15 sources of information except those that have been
09:13:54 16 entered into the record?

09:13:55 17 A. Yes, I agree to that.

09:13:58 18 Q. Thank you. And if you do at any time need to
09:14:01 19 refer to something and want to refer to something, just
09:14:04 20 let us know, and we can enter it in the record, okay?

09:14:08 21 A. Okay.

09:14:09 22 Q. And if at any time you would like to take a
09:14:10 23 break, please let us know. The only thing I ask is that
09:14:13 24 if I've already asked a question, that you finish
09:14:16 25 answering that pending question before taking a break.

09:14:18 1 Does that sound good?

09:14:19 2 A. That's fine.

09:14:20 3 Q. Great.

09:14:22 4 Have you ever been deposed before?

09:14:23 5 A. No.

09:14:27 6 I've testified in a court setting, but I've

09:14:29 7 never been deposed.

09:14:30 8 Q. And what was the -- what was the nature of that

09:14:32 9 matter?

09:14:34 10 A. I testified in two election-related cases.

09:14:34 11 Q. And what was it?

09:14:40 12 A. A candidate challenge case for candidate

09:14:47 13 petitions and then a criminal election case through the

09:14:51 14 Arizona Attorney General's Office.

09:14:53 15 Q. Thank you.

09:14:55 16 And when were those?

09:15:04 17 A. Fall of '22 and spring of '23. I don't quite

09:15:12 18 remember the exact dates.

09:15:16 19 Q. Thank you.

09:15:19 20 Did you bring any materials with you today?

09:15:22 21 A. To today's meeting?

09:15:24 22 Q. Today's deposition.

09:15:24 23 A. No.

09:15:27 24 Q. And do you have any documents in front of you?

09:15:30 25 A. I have the statutes up and the Dropbox with all

09:15:37 1 of the exhibits and copies of the House Bills and what
09:15:50 2 we provided to you guys through the interrogatories.

09:15:53 3 Q. Thank you.

09:15:54 4 And then just as a reminder, if you need to
09:15:56 5 refer to those, just make sure that you state clearly
09:15:59 6 for the record that you're referring to a document, and
09:16:02 7 we can enter it in the record.

09:16:03 8 A. Okay.

09:16:04 9 Q. Thank you.

09:16:08 10 So can you please briefly describe your
09:16:11 11 professional and educational background?

09:16:12 12 A. So I have a Bachelor's in political science and
09:16:16 13 sociology. I have a Master's in public administration.
09:16:21 14 I am a certified election -- Arizona election officer.
09:16:25 15 I am a certified Arizona municipal election official,
09:16:30 16 and I am a certified municipal court -- municipal clerk.
09:16:35 17 I have worked as a deputy town clerk and
09:16:41 18 filing -- election filing officer for the town of Marana
09:16:44 19 for a little over nine years. And I have been with the
09:16:49 20 Pima County Recorder's Office since September of 2021,
09:16:53 21 where I was originally hired as the assistant chief
09:16:57 22 deputy recorder and then was promoted to chief deputy
09:17:03 23 recorder in June of 2022. I have been in this position
09:17:07 24 for a year.

09:17:09 25 Q. Thank you.

09:17:10 1 And where, again, were you before Pima?

09:17:12 2 A. The town of Marana, Arizona.

09:17:15 3 Q. For nine years?

09:17:16 4 A. Yes.

09:17:17 5 Q. And that was also in an election administration

09:17:21 6 capacity?

09:17:21 7 A. Yes.

09:17:21 8 Q. Thank you.

09:17:23 9 And, briefly, why do you -- why do you like to

09:17:27 10 work in your profession?

09:17:32 11 A. Why do I like to work in my profession. Well,

09:17:34 12 it's always changing. It's interesting. Elections are

09:17:40 13 where democracy hits the ground running. So we provide

09:17:44 14 services to allow people to exercise their voice to

09:17:49 15 determine who they want to represent them, what, you

09:17:55 16 know, initiatives they want to see put forward.

09:18:01 17 At the local level it's really focused

09:18:03 18 specifically on what we're doing for our community, so

09:18:08 19 friends, neighbors. As a municipal clerk, you're

09:18:11 20 oftentimes looking at what are the things that the

09:18:17 21 jurisdiction is doing to provide services for the people

09:18:19 22 that it serves. And as an election, particularly for

09:18:23 23 like ballot measures or candidates, that's the

09:18:26 24 opportunity for the community to tell a jurisdiction

09:18:29 25 what it wants.

09:18:31 1 So I take that job very seriously to make sure
09:18:35 2 that what I'm doing is providing a clear, transparent
09:18:40 3 process so people have faith in the result that they
09:18:42 4 get.

09:18:45 5 Q. Thank you for --

09:18:46 6 A. Does that -- does that answer your question?

09:18:47 7 Q. That it does, and thank you very much for your
09:18:50 8 work.

09:18:52 9 A. Okay.

09:18:52 10 Q. And would you please give a brief description
09:18:55 11 of your core responsibilities in your current position?

09:18:59 12 A. As the chief deputy recorder, I am responsible
09:19:03 13 for the operations of the department. So the Pima
09:19:08 14 County Recorder is an elected position. The Recorder
09:19:12 15 creates and designates the overall scope, mission,
09:19:16 16 vision, and policies for the department, and I take
09:19:20 17 those and implement them at an operational level.

09:19:23 18 So I have -- the voter registration unit
09:19:31 19 ultimately reports up to me through our chain of
09:19:34 20 command. Our recording division ultimately reports up
09:19:37 21 to me, as does our IT unit and our community and
09:19:45 22 outreach and development unit.

09:19:47 23 So we have four main functions in the office.
09:19:51 24 The recording function is our consistent function. It's
09:19:57 25 the one that provides revenue to the department for

09:20:00 1 recording land transactions and other legal instruments
09:20:03 2 as it relates to real property here in Pima County.
09:20:08 3 And then we have the voter registration unit,
09:20:10 4 which is responsible for doing voter registration,
09:20:17 5 registering new voters, and maintaining the voter
09:20:21 6 registration roll, and then during an election cycle
09:20:23 7 that unit is also responsible for early voting services,
09:20:27 8 so identifying early voting locations that will be
09:20:31 9 operational before election day and providing the early
09:20:38 10 ballot packets that are sent to every voter that's
09:20:42 11 registered on the active early voting list, otherwise
09:20:47 12 known as AEVL. So that's the bulk of what that unit
09:20:50 13 does.
09:20:50 14 In addition to the voter registration and
09:20:52 15 maintaining the voter registration roll, that unit also
09:20:56 16 goes out into the community for outreach, trying to make
09:21:01 17 connections with community organizations. We provide
09:21:05 18 training to organizations that are looking to register
09:21:08 19 voters. So we provide voter registration training, how
09:21:11 20 to fill out the forms correctly, what's the information
09:21:14 21 that we need to be able to successfully process those
09:21:17 22 forms.
09:21:19 23 And then we're constantly reviewing the voter
09:21:22 24 registration roll, making sure that every voter is
09:21:25 25 active. We will receive updates on a daily basis from

09:21:29 1 various sources, from the Secretary of State's Office to
09:21:34 2 ERIC reports to EZ Voter, which comes from the
09:21:38 3 Department of Motor Vehicle. It can be new
09:21:41 4 registrations, changes of registrations, updates to
09:21:44 5 registrations. It's an ongoing daily process.

09:21:47 6 And then on our IT side of the house, they
09:21:50 7 provide support to our recording functions, so we have
09:21:55 8 specific applications as it relates to recording, and
09:21:58 9 then they provide the bulk of support to our voter
09:22:03 10 registration application.

09:22:04 11 Our voter registration application is built
09:22:06 12 uniquely for Pima County. It is built in-house, and we
09:22:10 13 maintain a developer and additional support to maintain
09:22:15 14 the voter registration roll for Pima County. So we're
09:22:18 15 constantly making sure that that application is
09:22:21 16 functional and it reflects the true and correct
09:22:24 17 information of the voters at that time.

09:22:30 18 Do you need more information or less
09:22:32 19 information?

09:22:34 20 I think you're on mute, sir.

09:22:37 21 Q. Yeah, that's very helpful.

09:22:40 22 A couple follow-up questions. So you
09:22:42 23 mentioned -- so, first, how often do you interact with
09:22:44 24 voters directly?

09:22:45 25 A. How does our office interact with voters

09:22:47 1 directly?

09:22:48 2 Q. You personally and then your office.

09:22:50 3 A. I do not interact with the voters very often
09:22:53 4 directly. Sometimes during an election I will be
09:22:56 5 stationed at our ballot processing facility, which is
09:23:01 6 where we do the signature verification of early ballots
09:23:05 7 returned by mail, and I will oftentimes be there to have
09:23:10 8 conversations and assist political observers who are
09:23:14 9 there.

09:23:15 10 I have occasionally taken phone calls from
09:23:17 11 voters who have been transferred up to me, who have
09:23:21 12 questions regarding a voter registration that a line
09:23:26 13 staff or supervisor doesn't feel comfortable asking --
09:23:30 14 or answering, so they will transfer them to me and we'll
09:23:32 15 discuss the issue.

09:23:35 16 And then I will also on election days,
09:23:38 17 depending on where I'm located, I am sometimes at a --
09:23:43 18 at our downtown location ushering people into our office
09:23:48 19 so they can drop off their ballots, and I have also been
09:23:52 20 stationed at our early voting locations, and I've also
09:23:55 21 issued ballots, and I've done signature verification of
09:24:01 22 ballots, so -- but I don't speak to voters on a daily
09:24:05 23 basis.

09:24:08 24 Q. You said your office goes out into the
09:24:12 25 community to speak to voters and -- a little bit more.

09:24:20 1 A. I'm sorry, could you repeat the question?

09:24:23 2 THE COURT REPORTER: Yeah, Ryan, you're

09:24:23 3 not coming through very clearly.

09:24:25 4 BY MR. SNOW:

09:24:25 5 Q. Sorry. Can you hear me?

09:24:25 6 A. Yes.

09:24:26 7 Q. Okay. You mentioned that your office -- excuse

09:24:26 8 me.

09:24:28 9 You mentioned that your office at times will go

09:24:29 10 out into the community to speak with voters. Can you

09:24:33 11 describe that a little bit more?

09:24:34 12 A. Sure.

09:24:35 13 We have two designated voter outreach

09:24:39 14 coordinators, one for the Tohono O'odham Nation and one

09:24:43 15 for the Pascua Yaqui Tribe. Each of those coordinators

09:24:48 16 do outreach efforts both on the Nation and at the Tribe,

09:24:52 17 but they also do outreach efforts at community events

09:24:56 18 throughout Pima County.

09:24:59 19 Outreach efforts entail we will set up -- they

09:25:02 20 also -- I'm sorry. Let me backtrack just a moment.

09:25:05 21 In addition to outreach efforts for each of

09:25:07 22 those communities, we also do outreach efforts at the

09:25:13 23 naturalization ceremonies. So our two voter outreach

09:25:17 24 coordinators will go to the District Court and provide

09:25:21 25 voter registration packets and information to newly

09:25:26 1 naturalized citizens, to be there to answer questions.

09:25:29 2 And then for the just general community
09:25:33 3 outreach, if there are particular community events
09:25:38 4 occurring around Pima County, they will go out and have
09:25:42 5 a table to set up with our voter registration
09:25:45 6 information, to teach people about voter registration
09:25:51 7 and provide information for the public to be able to
09:25:55 8 research voter registration and perhaps also turn in
09:26:01 9 voter registration applications.

09:26:03 10 Q. Thank you.

09:26:04 11 And you mentioned that you have someone who's
09:26:07 12 dedicated to coordinating with the Tohono O'odham
09:26:10 13 Nation?

09:26:10 14 A. Yes. We have a specific voter outreach clerk
09:26:14 15 for that.

09:26:16 16 Q. And is that their sole responsibility?

09:26:19 17 A. That is one of their primary responsibilities,
09:26:22 18 but one of their additional responsibilities is general
09:26:25 19 voter outreach. So they do focus on the Tohono O'odham
09:26:30 20 Nation, but they also provide outreach to the community
09:26:32 21 at large and to particular rural areas that surround the
09:26:37 22 Nation.

09:26:39 23 Q. And can you discuss a little bit more what that
09:26:42 24 entails?

09:26:43 25 A. For that particular voter outreach clerk one of

09:26:47 1 her consistent monthly tasks is, is that she does meet
09:26:50 2 on a monthly basis with all of the districts in the
09:26:53 3 Tohono O'odham Nation.

09:26:56 4 As you might understand, the Nation has
09:26:58 5 different districts within the Nation as a whole. She
09:27:02 6 does visit those districts and provide outreach services
09:27:07 7 at their monthly meetings, in addition to also working
09:27:10 8 with the Tribal Nation's government as well, providing
09:27:16 9 outreach services at any meetings that impact the Nation
09:27:20 10 as a whole.

09:27:23 11 Q. And what was the title, again, of this
09:27:25 12 position?

09:27:25 13 A. She's a voter outreach clerk, or I guess
09:27:29 14 that's -- we're going through some -- a class and
09:27:34 15 compensation change here at Pima County, so we're all
09:27:35 16 getting a bunch of new titles in September. So the
09:27:41 17 title that she will be getting will be voter outreach, I
09:27:45 18 think we're going to go with voter outreach clerk or
09:27:48 19 voter outreach specialist. I'm not entirely sure.

09:27:51 20 Q. What is her name?

09:27:53 21 A. Stephanie Homewytewa. She recently got married
09:27:58 22 and changed her last name, and it escapes me at the
09:28:01 23 moment as to what it is.

09:28:03 24 Q. Again, how long has she been working in that
09:28:05 25 position?

09:28:07 1 A. I think she's been with Pima County Recorder's
09:28:12 2 Office since -- I think she's been there since 2020.

09:28:17 3 Q. And has she always been in that position?

09:28:19 4 A. As far as I know, yes.

09:28:22 5 Q. And how long has that position --

09:28:25 6 A. How -- I'm sorry. One more time?

09:28:27 7 Q. How long has that position existed?

09:28:29 8 A. I'm sorry, I don't quite understand your
09:28:31 9 question.

09:28:31 10 Q. How long have you had somebody who's dedicated
09:28:34 11 to coordinating with the Tohono O'odham Nation?

09:28:37 12 A. Since 2020, so..
09:28:43 13 You cut out again.

09:28:46 14 MR. JURKOWITZ: Mr. Snow, if you could
09:28:47 15 move closer to your microphone. It's really difficult
09:28:50 16 for us to hear.

09:28:51 17 BY MR. SNOW:

09:28:51 18 Q. Thank you, and apologies. I am on a laptop.
09:28:54 19 And please let me know if you can't understand
09:28:57 20 something, and I'll repeat myself.

09:28:59 21 It sounded like you were going to add on to
09:29:01 22 your last answer, and I didn't want to interrupt. But
09:29:04 23 my question was who did -- was there somebody
09:29:11 24 responsible for coordinating with the Tohono O'odham
09:29:14 25 Nation prior to the position being created in 2020?

09:29:16 1 A. I don't know, sir.

09:29:19 2 Q. And then you also mentioned coordination with
09:29:21 3 the Pascua Yaqui Tribe; is that correct?

09:29:24 4 A. Yes.

09:29:25 5 Q. And can you describe the nature of that?

09:29:27 6 A. It's almost exactly the same as Stephanie's
09:29:30 7 position, only that's a different voter outreach clerk,
09:29:34 8 Reyes. And so he works specifically with the Pascua
09:29:39 9 Yaqui Tribe, and then he does the exact same thing as
09:29:42 10 she does, only on the Pascua Yaqui Tribal lands. And
09:29:47 11 then, again, they both go out into the community as a
09:29:50 12 whole and do voter registration education.

09:29:55 13 Q. And then what is his name?

09:29:57 14 A. Reyes. You're putting me on the spot to know
09:30:01 15 everyone's first and last names in my office. I'm
09:30:03 16 sorry. It is Reyes. I'd have to get you his full name
09:30:09 17 at a later date. I apologize. I don't know his last
09:30:11 18 name off the top of my head.

09:30:14 19 Q. Okay. And then are either of the voter
09:30:18 20 outreach clerks a Tribal member?

09:30:19 21 A. They are.

09:30:24 22 Q. Corresponding with the Tribe that they're
09:30:25 23 working with?

09:30:26 24 A. They are.

09:30:26 25 Q. Thank you.

09:30:27 1 And what are some of the challenges that you've
09:30:31 2 heard from either of them?

09:30:37 3 A. Challenges in what respect?

09:30:40 4 Q. Challenges facing voters.

09:30:47 5 A. Well, they're -- I don't think that they
09:30:51 6 discussed challenges facing the voters that they've
09:30:54 7 interacted with, as their position is providing voter
09:30:58 8 education opportunities to the communities that they
09:31:03 9 serve.

09:31:03 10 So they go out and they provide -- they
09:31:09 11 describe the services that our office provide. They,
09:31:13 12 you know, remind the districts or the Tribe as to when
09:31:16 13 elections are. They provide, you know, voter
09:31:20 14 registration forms for people to complete should they
09:31:24 15 choose to do so. I don't know what other challenges
09:31:30 16 that you might be intimating.

09:31:32 17 Q. Well, I guess I'm curious on what kinds of
09:31:36 18 issues, specifically with voter registration, what kinds
09:31:38 19 of issues that you're aware of with Tribal members --

09:31:38 20 A. I'm sorry, you cut out again.

09:31:50 21 THE COURT REPORTER: I'm sorry, we're
09:31:50 22 going to need to take a little break. Ryan, do you mind
09:31:53 23 if we go off the record?

09:31:54 24 MR. SNOW: Sure.

09:31:56 25 THE VIDEOGRAPHER: We are off the record.

09:31:57 1 The time on the video monitor is 9:31 a.m.

09:33:11 2 (A recess was taken.)

09:34:36 3 THE VIDEOGRAPHER: We are on the record.

09:34:38 4 The time on the video monitor is 9:34 a.m.

09:34:43 5 MR. SNOW: Thank you.

09:34:43 6 And, Jody, would you mind reading back the

09:34:45 7 last question?

09:34:58 8 (The record was read by the court

09:34:58 9 reporter as follows:

09:31:33 10 QUESTION: Well, I guess I'm curious on

09:31:35 11 what kinds of issues, specifically with voter

09:31:37 12 registration, what kinds of issues that you're

09:31:43 13 aware of with Tribal members --)

09:34:59 14 THE COURT REPORTER: And that's when you

09:35:00 15 cut out.

09:35:01 16 BY MR. SNOW:

09:35:01 17 Q. Now, so just to -- thank you.

09:35:03 18 Just to redirect that question, what kind of

09:35:05 19 issues are you aware of or is your office aware of or

09:35:10 20 that has been reported to you in terms of Tribal members

09:35:17 21 attempting --

09:35:18 22 THE COURT REPORTER: You cut out again.

09:35:20 23 BY MR. SNOW:

09:35:20 24 Q. What kinds of issues are you aware of that have

09:35:22 25 been expressed to you or your office in terms of Tribal

09:35:24 1 members attempting to register to vote?

09:35:27 2 A. I have not had anybody express any issues as it
09:35:30 3 relates to that to me.

09:35:34 4 Q. Thank you.

09:35:34 5 And other than those two Tribal Nations, the
09:35:42 6 Tohono O'odham Nation and Pascua Yaqui, what other
09:35:45 7 federally recognized Indian Tribes are located within
09:35:48 8 Pima County?

09:35:48 9 A. I believe those are the only two Tribes that
09:35:50 10 are federally recognized within Pima County, but we do
09:35:53 11 have Tribal members from other Tribes that do reside
09:35:57 12 within Pima County.

09:35:59 13 Q. And do you do any coordination with other
09:36:02 14 Tribal Nations?

09:36:02 15 A. No. Just the two aforementioned ones.

09:36:06 16 Q. Thank you.

09:36:08 17 So let's go ahead and introduce our first
09:36:11 18 exhibit, which I believe is going to be Exhibit 62.

09:36:18 19 It's labeled A. It's the deposition notice.

09:36:30 20 A. Okay, I have it on the screen.

09:36:32 21 Q. Thank you.

09:36:35 22 And are you familiar with this document?

09:36:38 23 A. Yes, I am.

09:36:41 24 Q. And what is it?

09:36:43 25 A. It's the deposition notice provided to our

09:36:46 1 office, and it's a fairly long document, a lot of
09:36:56 2 definitions, a lot of topics.

09:36:58 3 Q. And who provided that to you?

09:37:00 4 A. That was provided by our counsel, Dan
09:37:06 5 Jurkowitz.

09:37:06 6 Q. Do you understand that you have been designated
09:37:08 7 as the representative to testify on behalf of the County
09:37:12 8 Recorder?

09:37:12 9 A. I do.

09:37:14 10 Q. So turning to Page 5.

09:37:14 11 A. Okay.

09:37:20 12 Q. There's some topics, and continuing down to
09:37:25 13 Page 10, this lists 28 topics, correct?

09:37:29 14 A. Yes.

09:37:30 15 Q. And are you prepared to address each of these
09:37:33 16 today?

09:37:33 17 A. To the best of my ability.

09:37:37 18 Q. What did you do to prepare for today's
09:37:40 19 deposition?

09:37:43 20 A. I did not prepare as well as I probably should
09:37:46 21 have.

09:37:46 22 Q. How do you mean?

09:37:48 23 A. We're right in the middle of an election for
09:37:50 24 the City of Tucson. It's a primary. So my -- I have
09:37:57 25 been working on election items. And it's the end of the

09:38:02 1 fiscal year, so I've been working on the end of the
09:38:05 2 budget and wrapping up our fiscal year expenditures and
09:38:09 3 revenues.

09:38:10 4 So, no, I have not taken the time to review the
09:38:14 5 information that we've provided.

09:38:18 6 Q. So just briefly, what all did you do to prepare
09:38:21 7 for today's deposition?

09:38:25 8 A. I looked at the Dropbox that was sent out and
09:38:30 9 quickly looked through the items in the Dropbox.

09:38:37 10 Q. Did you meet with anyone from your office to
09:38:39 11 prepare for today's deposition?

09:38:40 12 A. No, I did not.

09:38:45 13 Q. Did you discuss today's deposition with anyone
09:38:47 14 else outside your office?

09:38:49 15 A. Not outside the office, no. I did remind the
09:38:53 16 Recorder that I would be doing a deposition today in
09:38:56 17 regards to this lawsuit, and I did remind my team that I
09:38:59 18 would be doing a deposition today in regards to this
09:39:02 19 lawsuit.

09:39:07 20 Q. From -- I'm sorry.

09:39:09 21 What were the nature of those discussions?

09:39:11 22 A. I would be out of the office today doing a
09:39:14 23 deposition. I will be back in the office on Friday.
09:39:17 24 Please let me know if you need me for anything in
09:39:20 25 particular.

09:39:21 1 Q. Thank you.

09:39:22 2 A. You're welcome.

09:39:23 3 Q. And apart from the Dropbox potential exhibits,
09:39:27 4 did you review any other documents to prepare for this
09:39:29 5 deposition?

09:39:30 6 A. I did not.

09:39:35 7 Q. What is your understanding, briefly, of this
09:39:36 8 lawsuit?

09:39:38 9 A. I'm sorry, you are breaking up again.

09:39:40 10 Q. What is your understanding, briefly, of this
09:39:42 11 lawsuit?

09:39:44 12 A. My understanding of this lawsuit is, is that it
09:39:48 13 is maintaining that two particular bills passed in a
09:39:51 14 previous legislative session create an issue as it
09:39:54 15 relates to the constitutionality of voter registration,
09:39:59 16 and there's a conflict of laws between the state of
09:40:03 17 Arizona's passage of these bills and federal law as
09:40:07 18 well.

09:40:11 19 Q. Thank you.

09:40:11 20 Turning now to what will be marked as
09:40:14 21 Exhibit 63. It's labeled Exhibit B in the folder.

09:40:25 22 A. Yes. I have that up on the screen.

09:40:27 23 Q. Thank you.

09:40:28 24 And do you recognize this document?

09:40:29 25 A. I do.

09:40:30 1 Q. And what is it?

09:40:32 2 A. It is the requests for documentation from our
09:40:36 3 office.

09:40:41 4 Q. So this is your office's response to
09:40:44 5 plaintiffs' first set of requests for document
09:40:46 6 production, correct?

09:40:47 7 A. Correct.

09:40:53 8 Q. And going down all the way to the bottom, this
09:40:55 9 is dated February 13th, 2023, correct?

09:40:58 10 A. Yes.

09:41:03 11 Q. Now, did you participate in the creation of
09:41:05 12 this document?

09:41:06 13 A. Yes, I did.

09:41:08 14 Q. And what was your role?

09:41:10 15 A. I managed the review and identified the team
09:41:17 16 members who would be able to assist me in getting the
09:41:19 17 documents that were responsive to it.

09:41:25 18 Q. And in conferring with colleagues in producing
09:41:30 19 this -- sorry. Scratch that.

09:41:34 20 Let's put that aside. Let's mark as Exhibit 64
09:41:42 21 the document labeled Exhibit C in the Dropbox.

09:41:52 22 A. I have that up on my screen.

09:41:55 23 Q. Thank you.

09:41:55 24 And are you familiar with this document?

09:41:57 25 A. I am.

09:41:58 1 Q. And what is this document?

09:42:00 2 A. Again, it is requests for additional
09:42:03 3 information from our office.

09:42:07 4 Q. So this is your office's response to
09:42:10 5 plaintiffs' consolidated first set of requests for
09:42:13 6 production?

09:42:17 7 A. Yes.

09:42:18 8 Q. And turning down to the bottom, it's dated
09:42:21 9 June 30th, 2023, correct?

09:42:27 10 A. Yes.

09:42:30 11 Q. Thank you.

09:42:33 12 Turning to Page 5, request for production
09:42:38 13 number 3, please briefly review the request for
09:42:46 14 production.

09:42:56 15 So this request for production concerns
09:43:00 16 registered voters whose registrations were canceled,
09:43:03 17 suspended, removed, or placed on congressional only or
09:43:06 18 federal only status, or restricted in any manner for any
09:43:09 19 reason and voter registration applicants whose
09:43:12 20 registration applications were denied, challenged,
09:43:15 21 placed on congressional only or federal only status, or
09:43:15 22 otherwise not granted in any manner for any reason; is
09:43:20 23 that correct?

09:43:20 24 A. Yes.

09:43:20 25 Q. From January 1st, 2022; is that correct?

09:43:23 1 A. Yes.

09:43:23 2 Q. And then turning down to Page 6, the second

09:43:29 3 paragraph of your office's response states that, in

09:43:33 4 part, the Pima County Recorder's Office does not

09:43:36 5 actively track this information; is that correct?

09:43:38 6 A. That is correct.

09:43:39 7 Q. And is that still -- is that still true?

09:43:41 8 A. Yes.

09:43:45 9 Q. Do you have -- do you have any sense of the

09:43:49 10 numbers of voters who would fall into either of the

09:43:53 11 categories described in the request for production?

09:43:57 12 A. I do not.

09:44:03 13 Q. Does your office have any plans to track that

09:44:06 14 information?

09:44:09 15 A. Our office will track whatever information is

09:44:13 16 deemed appropriate to track once the litigation

09:44:16 17 regarding these two bills have been settled.

09:44:27 18 Q. Are you aware of any other counties that track

09:44:31 19 this information?

09:44:31 20 A. I do not know.

09:44:41 21 Q. Okay. Let's move on to what I believe will be

09:44:47 22 Exhibit 65, and that will be -- it's labeled D in the

09:44:54 23 folder.

09:45:06 24 A. Okay. It's up on my screen.

09:45:08 25 Q. Thanks.

09:45:08 1 And are you familiar with this document?

09:45:09 2 A. I am.

09:45:11 3 Q. And what is this document?

09:45:13 4 A. It is our responses to your questions.

09:45:25 5 Q. Thank you.

09:45:26 6 So this is your office's response to

09:45:28 7 plaintiffs' first set of interrogatories dated

09:45:31 8 February 13th, 2023, correct?

09:45:32 9 A. It is.

09:45:33 10 Q. And were you involved in putting this document

09:45:36 11 together?

09:45:36 12 A. Yes, I was.

09:45:41 13 Q. Thank you.

09:45:45 14 Turning to Page 2, which asks you to describe

09:45:55 15 your plans for prospective implementation of H.B. 2492,

09:46:03 16 and the response states that -- Kelly is in the planning

09:46:03 17 stages of determining how to best implement --

09:46:03 18 THE COURT REPORTER: Sorry, you cut out.

09:46:03 19 BY MR. SNOW:

09:46:11 20 Q. Your response on Page 2, your office's response

09:46:13 21 on Page 2, states that the County Recorder is in the

09:46:19 22 planning stages of determining how to best implement

09:46:23 23 H.B. 2492; is that correct?

09:46:25 24 A. That is correct.

09:46:25 25 Q. And is that -- is that still the case?

09:46:27 1 A. It is.

09:46:32 2 Q. And what would you describe as the planning
09:46:35 3 stages?

09:46:36 4 A. We are waiting on information and direction
09:46:40 5 from the Secretary of State's Office, and we are also
09:46:43 6 waiting on a finalization of this litigation.

09:46:47 7 Q. Have you received -- previously, have you
09:46:50 8 received guidance from the Secretary of State's Office?

09:46:54 9 A. We have requested guidance from the Secretary
09:46:58 10 of State's Office. The guidance that has been provided
09:47:00 11 to us is the Secretary of State's Office is also waiting
09:47:03 12 for conclusion of litigation to this.

09:47:09 13 Q. Thank you.

09:47:10 14 And it also states, also on Page 2, that
09:47:13 15 Recorder Cázares-Kelly has begun drafting initial system
09:47:16 16 changes to modify the current voter record system to
09:47:20 17 meet H.B. 2492's requirements; is that correct?

09:47:24 18 A. That's correct.

09:47:24 19 Q. And is that still the case today?

09:47:26 20 A. It is.

09:47:28 21 Q. So, briefly, what would be -- what would be
09:47:30 22 those system changes?

09:47:32 23 A. At the resolution of this litigation we would
09:47:37 24 change our system to either create a -- there was draft
09:47:44 25 guidance provided by the Secretary of State's Office as

09:47:46 1 it relates to these two particular bills; and should
09:47:49 2 these bills be found constitutional by the court, we
09:47:54 3 would implement the changes through that draft guidance
09:47:57 4 from the Secretary of State's Office, which would create
09:48:00 5 programming changes on our end for the voter
09:48:02 6 registration system.

09:48:05 7 Q. Thank you.

09:48:06 8 And it also states on Page 2 that these draft
09:48:14 9 changes are in their infancy stages and have not been
09:48:19 10 approved. What would -- what would approval consist of?

09:48:22 11 A. An approval would consist of a final resolution
09:48:26 12 and adjudication of this case.

09:48:30 13 Q. What would be necessary -- thank you.

09:48:32 14 What would be necessary for system changes to
09:48:35 15 be approved? Does that refer to your office or the
09:48:39 16 Secretary of State granting approval?

09:48:43 17 A. Because the Pima County voter registration
09:48:45 18 database is built and maintained by Pima County, we
09:48:48 19 would have to make programming changes to the system to
09:48:51 20 comply with the requirements of these bills and the
09:48:58 21 changes that the Secretary of State's Office would
09:49:00 22 have to make with the AVID system, which is the
09:49:03 23 Arizona voter information database. I think that's the
09:49:07 24 acronym. That's the statewide voter registration
09:49:12 25 information.

09:49:12 1 We have to make changes to our system to be
09:49:16 2 able to interface with the AVID system, so it's
09:49:20 3 programming changes to be able to have information
09:49:24 4 upload and download between our two systems.

09:49:30 5 Q. And so who would be providing the approval of
09:49:32 6 the system changes?

09:49:33 7 A. Ultimately, I would.

09:49:38 8 Q. What would -- what would -- what would be the
09:49:41 9 basis of your decision to approve or not approve a
09:49:43 10 system change?

09:49:46 11 A. What the statute says I'm supposed to do, and
09:49:51 12 as this is currently under litigation, what a court
09:49:53 13 would tell me I'm supposed to do.

09:49:57 14 Q. So your role in approving would be determining
09:50:00 15 whether the system change comports with a directive from
09:50:03 16 a court or another authority?

09:50:06 17 A. Correct.

09:50:09 18 Q. Do you seek -- do you seek legal guidance in
09:50:13 19 terms of interpreting a directive or another source of
09:50:18 20 authority?

09:50:18 21 A. Absolutely.

09:50:19 22 Q. And who would that -- who would you seek
09:50:21 23 guidance from?

09:50:22 24 A. Daniel Jurkowitz.

09:50:23 25 Q. Thank you.

09:50:28 1 Turning to what I believe will be marked

09:50:29 2 Exhibit 66. It's labeled E in the folder.

09:50:36 3 A. Did you say E, as in echo?

09:50:38 4 Q. Edward, yeah, or echo.

09:50:47 5 A. Yes, I have that up on the screen.

09:50:47 6 Q. Are you -- this document?

09:51:10 7 A. I believe your question is are you familiar

09:51:12 8 with the document?

09:51:14 9 THE COURT REPORTER: Yeah, I didn't -- you

09:51:16 10 cut out.

09:51:16 11 BY MR. SNOW:

09:51:16 12 Q. I'm sorry. I don't know what's going on with

09:51:18 13 my equipment.

09:51:19 14 Are you familiar with this document?

09:51:19 15 A. I am.

09:51:21 16 Q. And what is this document?

09:51:22 17 A. These are, again, responses from our office

09:51:25 18 regarding the interrog -- I can't say that word

09:51:28 19 correctly. So our responses to your questions, okay.

09:51:30 20 Q. And this is -- this is dated June 30th, 2023,

09:51:37 21 correct?

09:51:37 22 A. It is.

09:51:39 23 Q. And that's your signature on Page 12?

09:51:49 24 That's your signature on Page 12?

09:51:51 25 A. I'm getting it.

09:51:54 1 Yes, it is.

09:51:58 2 Q. Thank you.

09:52:00 3 So you had a role in putting this together?

09:52:02 4 A. I did.

09:52:05 5 Q. And just briefly, what was your process in
09:52:10 6 responding to these interrogatories?

09:52:11 7 A. The same as our process previously. So we
09:52:14 8 reviewed the questions. I reached out to the
09:52:18 9 appropriate team members to be able to gather the
09:52:20 10 information for the responses, and then we provided them
09:52:26 11 to counsel.

09:52:28 12 Q. Thank you.

09:52:35 13 Let's see. Turning to Page 6, and you see
09:52:52 14 interrogatory number 7?

09:52:56 15 A. Yes.

09:53:03 16 Q. I'm sorry. Scratch that.
09:53:04 17 Turning to Page 3, interrogatory number 4.

09:53:15 18 A. Okay.

09:53:27 19 Q. And so this interrogatory refers to -- or asks
09:53:45 20 you to identify sources, documents, communications, or
09:53:50 21 agreements pertaining to the process to confirm DPOC,
09:53:55 22 documentary proof of citizenship, or DPOR, documentary
09:54:00 23 proof of residence.

09:54:01 24 And then in your response, the Recorder's
09:54:06 25 Office uses the United States Immigration SAVE database,

09:54:10 1 also relies on the Arizona Department of Motor Vehicle
09:54:14 2 Motor Vehicle Recorders Request System, and has access
09:54:16 3 to the AVID voter registration system.

09:54:21 4 Is that all correct?

09:54:22 5 A. That is.

09:54:23 6 Q. Are there any other sources of information that
09:54:25 7 you use to confirm DPOC or DPOR?

09:54:31 8 A. Should a voter choose to provide us
09:54:35 9 documentation, copies of birth certificates, passports,
09:54:39 10 we will accept those as well, but that's provided by
09:54:42 11 the -- if it's provided by the voter.

09:54:51 12 Q. Okay. Turning to Page 6, interrogatory
09:55:00 13 number 7 refers to types of documents a person who
09:55:06 14 resides in a location with only a nonstandard address
09:55:08 15 can use to prove the location of their residence.

09:55:12 16 And the response is to review to the Pima
09:55:19 17 County Recorder's Office internal voter registration
09:55:22 18 instructions; is that correct?

09:55:24 19 A. That is correct.

09:55:27 20 Q. Briefly, can you describe your familiarity with
09:55:30 21 those instructions?

09:55:33 22 A. Those instructions are an outline to our voter
09:55:38 23 registration clerks as they process through our voter
09:55:40 24 registration forms. We try to provide as much detail as
09:55:42 25 possible to answer their questions so they can

09:55:45 1 successfully process forms.

09:55:47 2 So it's fairly detailed, the voter
09:55:52 3 registration. It's basically standard operating
09:55:54 4 procedures is what we use both as a training tool and as
09:55:57 5 a reference tool for our experienced staff.

09:56:04 6 Q. Thanks. All right, we can put aside that
09:56:16 7 exhibit. Moving on.

09:56:23 8 Discussing the Recorder's Office operations and
09:56:27 9 specifically responsibilities with respect to elections,
09:56:31 10 the Recorder's Office processes voter registration
09:56:34 11 applications; is that correct?

09:56:35 12 A. That is correct.

09:56:38 13 Q. And conducts list maintenance processes; is
09:56:43 14 that correct?

09:56:43 15 A. Correct.

09:56:44 16 Q. Administers early voting in person, by mail,
09:56:49 17 via drop boxes, or processing early votes, correct?

09:56:52 18 A. We do early voting. We do not have drop boxes
09:56:56 19 here in Pima County. We have early voting locations
09:57:00 20 that are staffed by our Recorder's staff that also have
09:57:05 21 drop boxes there available to voters to drop off their
09:57:10 22 ballots should they choose not to mail it.

09:57:13 23 But they are not -- when you say drop box, I
09:57:16 24 instinctively think of the fixed drop boxes that do not
09:57:20 25 have staff associated with them that are used in other

09:57:23 1 counties, such as Maricopa. We do not have those types
09:57:26 2 of drop boxes in Pima County.

09:57:30 3 Q. Thank you.

09:57:31 4 And how do you divide responsibilities and
09:57:34 5 coordinate with the elections director?

09:57:36 6 A. So here in Pima County the Recorder is
09:57:41 7 responsible for all of the items that you indicated,
09:57:45 8 voter registration, list maintenance, early voting. And
09:57:48 9 the elections director is responsible for same, like,
09:57:52 10 election day voting and the tabulation of ballots.

09:57:59 11 And so I guess the best example would be we
09:58:01 12 will mail out the ballot packet to the voter. The
09:58:06 13 returned ballot packet will come back to us. We will
09:58:09 14 signature verify that and then determine whether or not
09:58:13 15 we believe that signature was written by the voter, and
09:58:16 16 then we will turn all of those verified early ballots
09:58:20 17 over to the elections department.

09:58:24 18 The elections department will then have their
09:58:25 19 early wards open up those ballots, remove those ballots,
09:58:28 20 and then take those ballots over to tabulation. And
09:58:32 21 then the elections department will man I think it's like
09:58:38 22 130 vote centers in Pima County on election day. And
09:58:43 23 during early voting we will operate 15 -- we operated 15
09:58:49 24 early voting centers in the '22 cycle. We will be
09:58:53 25 operating 18 early voting locations in the '24 cycle.

09:58:59 1 Q. Thank you.

09:59:00 2 And specific to voter registration and list

09:59:04 3 maintenance activities, can you describe the staff and

09:59:10 4 the organizational staff who are responsible for voter

09:59:17 5 registration and list maintenance?

09:59:19 6 A. So as I previously mentioned, we have a voter

09:59:22 7 registration unit. We have a voter registration manager

09:59:27 8 and we have -- we now have three voter registration

09:59:30 9 supervisors, who report to the manager; and we have

09:59:33 10 three voter registration specialists, who act as leads;

09:59:37 11 and then we have voter clerk positions.

09:59:42 12 We've had several internal promotions recently,

09:59:44 13 so our voter clerk positions, I believe we have five

09:59:51 14 vacancies right now for voter clerks. The voter clerks

09:59:55 15 would be the individuals who would be doing the daily

09:59:58 16 processing of voter registration forms and general list

10:00:03 17 maintenance.

10:00:05 18 The voter registration specialists would be

10:00:08 19 leads so they would be -- they could do the more complex

10:00:13 20 things. There's some, you know, unique -- sometimes we

10:00:16 21 come across unique voter registration issues. The

10:00:19 22 specialist would be the person that would be -- would

10:00:21 23 take the lead on resolving those issues. The voter

10:00:26 24 registration specialists would also take the lead during

10:00:28 25 an early voting period working at our -- working at our

10:00:39 1 ballot processing center.

10:00:41 2 So we have two sides of the house, the

10:00:44 3 signature verification side and then the ballot

10:00:47 4 processing side and then the early voting side. So each

10:00:51 5 supervisor would be assigned during an election. So we

10:00:54 6 would have a supervisor and a specialist assigned to the

10:00:58 7 signature verification side of the house. We would have

10:01:01 8 a supervisor and specialist assigned to the ballot

10:01:04 9 processing side of the house, and then we would have a

10:01:06 10 supervisor and specialist at our downtown location

10:01:12 11 managing daily operations and early voting site

10:01:16 12 operations.

10:01:17 13 And then the voter manager is the individual

10:01:19 14 who makes sure that all the pieces are in place and is

10:01:24 15 providing support and resources to the team.

10:01:28 16 Q. Thank you.

10:01:33 17 Let us turn to an exhibit that's already marked

10:01:37 18 as Exhibit 6. It's labeled F in the Dropbox.

10:01:48 19 A. Okay, it's up on the screen.

10:01:51 20 Q. Thanks.

10:01:55 21 Are you familiar with this document?

10:01:56 22 A. Yes, I am.

10:01:58 23 Q. And what is it?

10:01:59 24 A. It's the 2019 Arizona elections procedures

10:02:02 25 manual.

10:02:02 1 Q. -- important about this document?

10:02:12 2 THE COURT REPORTER: Your mouth was moving

10:02:13 3 an extensive amount of time and nothing was coming out.

10:02:15 4 BY MR. SNOW:

10:02:15 5 Q. What is important about this document?

10:02:19 6 A. The elections procedures manual or the EPM is

10:02:23 7 one of our foundational documents on how we do our job.

10:02:26 8 So we refer to this on a daily basis for any particular

10:02:32 9 task of our office.

10:02:34 10 In this particular version of the EPM the very

10:02:38 11 first chapter is related to voter registration, so we're

10:02:41 12 constantly referring back to that, in addition to the

10:02:45 13 statutes, as support for our daily operations. So the

10:02:52 14 information contained in this document is what creates

10:02:55 15 the foundational support to our internal operations.

10:03:02 16 Q. And who provides you with this document?

10:03:05 17 A. The Arizona Secretary of State.

10:03:10 18 Q. And so you say that you refer to this document

10:03:15 19 directly when making decisions about how to administer

10:03:19 20 elections?

10:03:21 21 A. This does have outlines on how to administer

10:03:24 22 elections in general, in broad terms. So the

10:03:27 23 information contained in this document ensures that all

10:03:30 24 15 counties are -- have the same end result, so we're

10:03:36 25 all following the same rules.

10:03:38 1 The particularities of how we do it in a county
10:03:41 2 may be a little different from county to county. A lot
10:03:45 3 of that has to do with our size and number of staff.
10:03:50 4 But this is the foundational document that ensures that
10:03:52 5 we all come out with the same results because we're all
10:03:55 6 following the same rules.

10:03:58 7 Q. And you said you also refer to -- directly to
10:04:01 8 statutes?

10:04:03 9 A. Correct.

10:04:03 10 Q. So when would you refer to the EPM versus the
10:04:06 11 statute?

10:04:07 12 A. We would refer to them both simultaneously.

10:04:17 13 Q. In referring to the election procedures manual,
10:04:20 14 does your office create, you know, versions of the
10:04:25 15 election procedures manual or some, you know, pared-down
10:04:28 16 version or guidance document based on the election
10:04:30 17 procedures manual, but not the election procedures
10:04:32 18 manual itself?

10:04:33 19 A. No.

10:04:37 20 We have a lot of people who have highlighted
10:04:39 21 and dog-eared it and put a lot of tabs on it, but we do
10:04:45 22 not pare it down.

10:04:46 23 Q. And do you provide training in your office on
10:04:51 24 the EPM?

10:04:53 25 A. Not on the EPM, no. We are all required to go

10:04:56 1 to the Arizona elections officers training. So if you
10:05:02 2 have not been certified, you go to the initial training.
10:05:05 3 All of our staff who has not done their initial training
10:05:08 4 will be doing that next week. If you are certified,
10:05:10 5 like I am, and your certification is coming up for
10:05:14 6 renewal, then you go to the renewal training, and --

10:05:18 7 Q. Who con --

10:05:18 8 Sorry. Go ahead.

10:05:19 9 A. I was going to say that everybody who works in
10:05:21 10 elections in our office and that is designated as one of
10:05:24 11 their primary responsibilities, they all undergo that
10:05:27 12 training.

10:05:29 13 Q. Who conducts that training?

10:05:30 14 A. The Secretary of State.

10:05:34 15 Q. How often does the training occur?

10:05:37 16 A. It is supposed to occur odd-numbered years. So
10:05:42 17 we don't do them during a federal elections cycle, but
10:05:46 18 we will do it on an odd-numbered year. So we will have
10:05:49 19 it -- the initial training has been going on piecemeal
10:05:53 20 across the state for the past month and a half. Pima
10:05:57 21 County is going to have our training, and I believe
10:06:02 22 Santa Cruz and Greenlee are going to be with Pima County
10:06:07 23 starting next week.

10:06:11 24 Q. Thank you.

10:06:12 25 And so this version of the election procedures

10:06:16 1 manual is dated 2019, correct?

10:06:18 2 A. Correct.

10:06:20 3 Q. And how often is the election procedures manual
10:06:23 4 updated?

10:06:25 5 A. It is supposed to be updated before every
10:06:28 6 federal election cycle.

10:06:31 7 Q. Was it updated in 2021?

10:06:34 8 A. It was not.

10:06:36 9 Q. So this is still the operative version, the
10:06:39 10 2029 version?

10:06:40 11 A. It is.

10:06:41 12 Q. And have there been changes in law since
10:06:44 13 2029 -- or, sorry, 2019?

10:06:46 14 A. Yes.

10:06:48 15 Q. And so what do you do when you are concerned or
10:06:54 16 confused about a change in law that might not be
10:06:56 17 reflected in the election procedures manual?

10:06:59 18 A. The Secretary of State provided us -- in 2021
10:07:06 19 the Secretary of State provided us an annotated version
10:07:09 20 of the EPM reflecting changes in law up to that point.
10:07:17 21 So we will reference the annotated and the full
10:07:21 22 version depending on, you know, which one supersedes the
10:07:28 23 other. So not all aspects of the 2019 EPM were changed
10:07:34 24 due to statutory changes, but some aspects were, and so
10:07:37 25 we do have that annotated version for reference

10:07:39 1 purposes. If there are changes in law, again, we always
10:07:45 2 defer to the Secretary of State's Office for guidance as
10:07:49 3 to what are the next steps that we need to do to be
10:07:53 4 compliant.

10:07:59 5 Q. And what would be -- what would be the source
10:08:02 6 of information or guidance on the next steps you need to
10:08:05 7 take to be compliant?

10:08:08 8 A. I don't quite understand your question.

10:08:10 9 Q. So in determining what you would need to do to
10:08:13 10 comply with the change in law, you would refer to the
10:08:17 11 annotated version of the election procedures manual; is
10:08:17 12 that right?

10:08:21 13 A. If it is referenced in there, yes.

10:08:24 14 Q. And if it's not referenced, how would you --
10:08:26 15 how would you deal with that?

10:08:28 16 A. Well, if it's not referenced and it's --
10:08:31 17 obviously we would speak with our attorney first, but we
10:08:33 18 also reach out to the Secretary of State's Office and
10:08:36 19 ask them for their guidance.

10:08:39 20 Q. So is the election procedures manual legally
10:08:42 21 binding?

10:08:45 22 A. It does have the -- it does have the force of
10:08:49 23 law, I believe.

10:08:54 24 Q. Would the annotated version of the election
10:08:58 25 procedures manual also have the force of law?

10:09:00 1 A. I don't believe it does.

10:09:04 2 Q. When receiving guidance directly from the

10:09:07 3 Secretary of State, would that have the force of law?

10:09:11 4 A. It is only guidance.

10:09:14 5 MR. LANGHOFER: Objection, calls for a
10:09:15 6 legal conclusion.

10:09:15 7 And I'm sorry for the interruption here.
10:09:17 8 Ryan, this is Kory Langhofer with the RNC. Maybe this
10:09:21 9 is a good time to put on the record our agreement that
10:09:23 10 objections by defendants will be good for all the
10:09:26 11 defendants, we don't all have to repeat each other's
10:09:29 12 objections, if that's all right.

10:09:32 13 I'm not sure I heard you.

10:09:37 14 Still no audio.

10:09:40 15 MR. SNOW: Thank you.

10:09:43 16 MR. LANGHOFER: Is that -- have I
10:09:45 17 correctly stated the stipulation about objections for
10:09:47 18 one defendant being objections for all?

10:09:50 19 MR. SNOW: Yes.

10:09:55 20 MR. LANGHOFER: Jody, did you get that?

10:09:56 21 All right, she's nodding yes. Thanks.

10:09:58 22 I'll stop now.

10:10:01 23 BY MR. SNOW:

10:10:01 24 Q. Would there ever be a circumstance under which
10:10:03 25 you would not follow a guidance that you received from

10:10:07 1 the Secretary of State's Office?

10:10:20 2 A. I don't -- I don't know. I'm sure there might

10:10:23 3 be, particularly if it puts Pima County in a position of

10:10:28 4 liability or would put the Recorder in a precarious

10:10:32 5 legal position. We would follow the guidance of our

10:10:35 6 attorney.

10:10:45 7 Q. So the Chapter 1 of the election procedures

10:10:55 8 manual follows that, that chapter?

10:10:58 9 A. Yes.

10:11:06 10 Q. -- follow that chapter?

10:11:08 11 A. I'm sorry, I didn't catch that.

10:11:09 12 Q. Are you aware of any counties that don't follow

10:11:11 13 that chapter?

10:11:13 14 A. Not that I'm aware of, no.

10:11:18 15 Q. Let's turn to the next exhibit, which is

10:11:20 16 labeled G.

10:11:25 17 MR. SNOW: And are we up to 68?

10:11:34 18 THE COURT REPORTER: 67.

10:11:36 19 MR. SNOW: 67. Okay. Thank you.

10:11:38 20 BY MR. SNOW:

10:11:38 21 Q. What is this document?

10:11:39 22 A. It's the draft EPM for this year.

10:11:39 23 Q. -- document?

10:12:07 24 MS. STUART: Ryan, if you said a question,

10:12:08 25 we couldn't hear you.

10:12:09 1 BY MR. SNOW:

10:12:09 2 Q. Oh, I'm sorry.

10:12:10 3 Are you familiar with this document?

10:12:11 4 A. Yes.

10:12:15 5 Q. Did your office provide comments on this
10:12:18 6 document?

10:12:20 7 A. We've provided mostly verbal comments on this
10:12:22 8 document during our meetings. I think we provided --
10:12:27 9 for the very first meeting we provided some comments as
10:12:30 10 it related to Chapter -- I think we provided comments
10:12:40 11 for Chapter 2, but it was the comments of why was this
10:12:47 12 removed? This was in the 2019 EPM. Is there a way to
10:12:52 13 put this back that makes sense to us? Those types of
10:12:55 14 comments.

10:12:58 15 Q. And so, briefly, what is your understanding of
10:13:00 16 how Chapter 1, voter registration, of the draft EPM
10:13:06 17 differs from Chapter 1, voter registration, from the
10:13:08 18 2019 EPM?

10:13:12 19 A. There weren't anything of substantive issues
10:13:17 20 that we had issues with. There were some issues that
10:13:22 21 were brought up during our meeting with the Secretary of
10:13:26 22 State's Office, but when we discussed that, Maricopa
10:13:31 23 County had some points that we agreed with, but we did
10:13:37 24 not have any particular -- we didn't provide a lot of
10:13:41 25 feedback verbally on that particular section.

10:13:47 1 The Recorder, Gabriella Cázares-Kelly,
10:13:52 2 participated in that meeting and she also noted some
10:13:55 3 things that she had some concerns with. The Secretary
10:13:59 4 of State's Office made note of those for clarification
10:14:04 5 on the report.

10:14:06 6 So we were all just kind of waiting for the
10:14:08 7 version, the full version, to be released so we could
10:14:13 8 all review it again.

10:14:22 9 Q. And, to your knowledge, does this -- does this
10:14:25 10 draft EPM reflect the challenged laws in this case?

10:14:34 11 MR. LANGHOFER: Calls for a legal
10:14:36 12 conclusion.

10:14:36 13 BY MR. SNOW:

10:14:36 14 Q. You may answer.

10:14:40 15 A. I believe that we have had the Secretary of
10:14:44 16 State indicate that there is language in there should
10:14:48 17 litigation -- should these particular bills be found
10:14:53 18 constitutional, there is language in there to
10:14:56 19 incorporate them into our processes.

10:15:07 20 Q. So you mentioned receiving guidance outside of
10:15:11 21 the EPM from the Secretary of State's Office, and how
10:15:15 22 was that communicated?

10:15:18 23 A. We will often e-mail the Secretary of State's
10:15:21 24 Office with particular questions, get their
10:15:25 25 interpretations on things. We usually reach out to the

10:15:27 1 state election director or the assistant state election
10:15:32 2 director on that, and it's e-mail or phone calls.
10:15:36 3 Q. Does it ever include some kind of official
10:15:40 4 document?
10:15:41 5 A. No.
10:15:42 6 Q. It's always the body of an e-mail?
10:15:46 7 A. Usually, yes, or a phone call.
10:15:49 8 Q. What is the voter registration advisory
10:15:52 9 committee?
10:15:55 10 A. Voter registration advisory committee, or VRAC,
10:15:59 11 that is the committee of all 15 counties get together
10:16:03 12 where we identify uniformed processes for inputting
10:16:13 13 voter registration forms. So VRAC papers are forms that
10:16:19 14 kind of take specific aspects of the voter registration
10:16:23 15 process, break them down on how to do them, so we can
10:16:26 16 kind of create uniformity, so if you were
10:16:32 17 notification -- like jury notifications, cancellations
10:16:37 18 due to death notices, things like that.
10:16:39 19 So they're usually short papers that are put
10:16:45 20 out by the Secretary of State's Office, but are written
10:16:50 21 in kind of a group setting with input from all of the
10:16:59 22 County Recorders, and then they reflect operations.
10:17:03 23 It's mostly dependent upon how the 13 other
10:17:08 24 counties use the AVID system; and then Maricopa and
10:17:13 25 Pima, because we have our own systems, we will use the

10:17:16 1 VRAC papers as guidance to make changes in our system to
10:17:20 2 conform so our information will be able to be processed
10:17:25 3 the same way and received by the AVID system. So it's
10:17:29 4 another way to try to create uniformity among all of us.

10:17:36 5 Q. What is your role in the VRAC?

10:17:40 6 A. So I provide participation for the VRAC papers,
10:17:46 7 input questions, but I am also -- when the Recorder
10:17:52 8 chooses to designate me as a proxy, I can provide voting
10:17:58 9 on behalf of the Recorder to approve or not approve a
10:18:02 10 VRAC paper.

10:18:06 11 Q. And what is needed for approval of a VRAC
10:18:10 12 paper?

10:18:12 13 A. Well, we would get together in a committee. We
10:18:16 14 would discuss the pros and cons. We would put together
10:18:20 15 the final recommendations, and then usually the County
10:18:27 16 Recorders would approve those recommendations, and then
10:18:29 17 the Secretary of State would finalize them and we would
10:18:33 18 send a VRAC paper. It's by consensus.

10:18:41 19 Q. And are those papers binding?

10:18:48 20 MR. LANGHOFER: Calls for a legal
10:18:49 21 conclusion.

10:18:51 22 THE WITNESS: They're --

10:18:54 23 BY MR. SNOW:

10:18:54 24 Q. You can answer.

10:18:54 25 A. They're advisory, so they're another way for us

10:18:58 1 to create uniformity, so we do use them as -- they do

10:19:03 2 inform our processes.

10:19:08 3 Q. Would there ever be a circumstance where you

10:19:11 4 wouldn't follow a VRAC paper?

10:19:13 5 A. I cannot think of one.

10:19:17 6 Q. And how often does VRAC convene?

10:19:24 7 A. During '21 and '22 it wasn't very often, but

10:19:28 8 the VRAC committee is convening a little bit more

10:19:35 9 frequently. I think we've had three VRAC meetings where

10:19:40 10 we've reviewed drafts of certain VRAC papers as a group,

10:19:45 11 but none of them have been finalized.

10:19:54 12 Q. And under what circumstances -- scratch that.

10:20:00 13 Who decides when VRAC issues -- who decides

10:20:11 14 when VRAC should issue a paper?

10:20:16 15 A. When we, as a committee, come together and find

10:20:19 16 that there's some sort of -- not a disagreement, but an

10:20:25 17 unknown, and we need clarification. So if one county

10:20:33 18 does something in a process and another county does

10:20:35 19 something different in a process, that usually means

10:20:38 20 that we need to come together to create a VRAC paper so

10:20:43 21 we can create sort of uniformity within the actual

10:20:47 22 processing of that particular issue.

10:20:49 23 The EPM -- excuse me. The EPM provides the

10:20:57 24 foundation and kind of like the structure that we

10:21:02 25 operate in. The VRAC paper provides us more detail and

10:21:08 1 gives us more uniformity within those operations. Like
10:21:16 2 the EPM is the house and the VRAC paper is the drywall.
10:21:27 3 Q. And does the Secretary of State approve VRAC
10:21:32 4 papers?
10:21:35 5 A. That's a little -- it's a little unclear about
10:21:40 6 that at the moment. The Secretary of State puts the
10:21:44 7 VRAC paper together, and then we, as the County
10:21:49 8 Recorders, come and review it and we make changes; and
10:21:52 9 then the County Recorders, once the VRAC paper is set
10:21:57 10 the way we think it's going to be most efficient
10:22:02 11 operational and we agree on it, then the Secretary of
10:22:05 12 State finalizes the VRAC paper.
10:22:14 13 Q. And then the VRAC paper is sent out to all the
10:22:16 14 counties?
10:22:16 15 A. It is.
10:22:20 16 Q. What is the Arizona Association of Counties?
10:22:24 17 A. The Arizona Association of Counties is the
10:22:28 18 lobbying organization that all the counties pay
10:22:33 19 membership to to be able to advocate for our needs at
10:22:43 20 the State Capitol.
10:22:48 21 Q. What is -- what is Pima County's involvement?
10:22:53 22 A. We're a member.
10:22:55 23 Q. Do you recall what the Arizona Association of
10:22:59 24 Counties' position was on the challenged laws in this
10:23:00 25 case?

10:23:03 1 A. I do not.

10:23:10 2 Q. Do you recall what your office's position was
10:23:14 3 on the challenged laws?

10:23:18 4 A. We're opposed to the bills as written when they
10:23:23 5 were first introduced because it would make our job
10:23:25 6 difficult.

10:23:33 7 Q. How would they make your job difficult?

10:23:36 8 A. The bills are very vague and they provide a lot
10:23:41 9 of conflicting requirements for us as it relates to
10:23:44 10 certain aspects of voter registration. Without clear
10:23:50 11 guidance, we're not entirely sure how to implement them.

10:23:58 12 Q. Thank you.

10:23:59 13 What is the AVID enhancement committee?

10:24:03 14 A. The AVID enhancement committee is the statewide
10:24:08 15 voter registration database committee. So AVID is used
10:24:15 16 by the 13 counties other than Maricopa and Pima, and
10:24:18 17 that is where they -- it is a statewide voter
10:24:24 18 registration program that is the responsibility of the
10:24:26 19 Secretary of State's Office.

10:24:28 20 The AVID enhancement committee is where the
10:24:31 21 13 counties that use AVID work with the Secretary of
10:24:36 22 State's Office and the Secretary of State's Office
10:24:38 23 vendor to make the program more functional for their
10:24:42 24 needs. So it's -- they put in tickets if something
10:24:47 25 doesn't quite work or if there is some sort of issue,

10:24:50 1 and then they talk about changes that they'll make to
10:24:52 2 the AVID to meet their functional needs; and then they
10:24:58 3 also discuss changes that AVID needs to make to conform
10:25:02 4 to any new changes in the laws that have occurred.

10:25:12 5 Q. And what is your role?

10:25:15 6 A. As a -- I participate in the enhancement
10:25:18 7 committees only from the perspective of hearing what the
10:25:23 8 other counties are putting forward as changes, because
10:25:27 9 those changes will have an impact on our system.

10:25:32 10 So both Maricopa and Pima County, we
10:25:35 11 participate in those meetings and discuss how those
10:25:40 12 changes can impact our systems or what our understanding
10:25:48 13 is of that. Maricopa really is a lot more active in
10:25:53 14 those meetings than Pima County is.

10:25:56 15 We have -- there are -- there are four AVID
10:26:00 16 committees. There is the AVID enhancement committee,
10:26:07 17 which you've just asked me about. There's the AVID
10:26:10 18 superuser committee, which is just a review of all the
10:26:12 19 things that the AVID enhancement committee has done and
10:26:15 20 is kind of like a this is what's coming up and here's
10:26:18 21 what we've accomplished.

10:26:20 22 There is the AVID -- it is the AVID -- it's
10:26:28 23 like the advisory committee, and that's made up of all
10:26:31 24 the County Recorders. So that committee will discuss
10:26:38 25 policy and policy implications.

10:26:41 1 And then there is the AVID Maricopa/Pima
10:26:46 2 interface committee. The AVID Maricopa/Pima interface
10:26:51 3 committee is the one that our office is active in, for
10:26:54 4 the most part, because it is a special meeting between
10:26:58 5 Pima, Maricopa, the Secretary of State's Office, and the
10:27:02 6 vendor for AVID, where we discuss each of our voter
10:27:07 7 registration systems, what changes we need to make to
10:27:10 8 them to be able to put information into AVID and to
10:27:17 9 have -- be able to extract information from AVID. So we
10:27:20 10 work directly with the SOS and the vendor, because it
10:27:25 11 involves a lot of programming.

10:27:30 12 Q. So Pima County has its own separate voter
10:27:33 13 registration system or database?

10:27:34 14 A. We do.

10:27:36 15 Q. And that interfaces with AVID, correct?

10:27:39 16 A. It does.

10:27:40 17 Q. So how would you describe how your system
10:27:44 18 interfaces with AVID?

10:27:46 19 A. Kind of like a link. We upload information and
10:27:50 20 we download information, so any changes that we make on
10:27:52 21 a daily basis, we will upload those changes through the
10:27:56 22 AVID system so it populates the statewide, because a
10:28:00 23 voter can review their voter registration information
10:28:04 24 specifically at the local level with us or they can also
10:28:07 25 go through the Secretary of State. Then if AVID has

10:28:11 1 received any updates and changes, we will download
10:28:15 2 information from AVID to update our voter registration
10:28:17 3 files.

10:28:19 4 Q. And does this happen in real-time; when an
10:28:23 5 update is made, it updates to both systems?

10:28:26 6 A. Not real real-time, but very close to it. So
10:28:30 7 once information is updated in our voter registration
10:28:33 8 system, we run a script, and that script is running in
10:28:38 9 the background pulling information through the interface
10:28:43 10 or -- we are either pushing information through the
10:28:46 11 interface or we are pulling information down from the
10:28:48 12 interface.

10:28:51 13 Q. And how often do you run that script?

10:28:53 14 A. It is running continuously.

10:28:56 15 Q. So what would you say is the lag time?

10:29:03 16 A. I don't know. That's a technical question
10:29:05 17 that's kind of outside the scope of my knowledge.

10:29:08 18 Q. And what do you call your county system?

10:29:11 19 A. Voter.

10:29:14 20 Q. Just Voter?

10:29:15 21 A. Yep.

10:29:17 22 Q. How do the database fields differ in Voter from
10:29:23 23 AVID, if at all?

10:29:24 24 A. They don't. We actually track a little bit
10:29:27 25 more information than AVID tracks, but because we're

10:29:32 1 pushing information up into AVID, we have to have the
10:29:36 2 same fields so they can be mapped to AVID, otherwise
10:29:41 3 AVID wouldn't be able to read the information and we
10:29:43 4 wouldn't be able to read AVID's information if it came
10:29:47 5 down.

10:29:47 6 Q. So what information does your system track that
10:29:50 7 AVID doesn't?

10:29:52 8 A. Well, we have a change history log, every time
10:29:55 9 we've changed something on the voter registration form.
10:30:02 10 We have images of all of the voter registration
10:30:05 11 documents we've ever received. We have the ability
10:30:12 12 to -- we have a breakdown of the voting history based
10:30:17 13 off of whether or not the voter got voting credit for
10:30:24 14 voting at a polling place or an early ballot.

10:30:27 15 If they have voted early ballots, we have the
10:30:31 16 log of who verified the ballot, what batch it was in,
10:30:37 17 when it was turned over to elections for tabulation. We
10:30:40 18 have images of the voter -- the early ballot affidavit.

10:30:49 19 We have just a -- we have the ability to look
10:30:54 20 at the -- so we have a voter that has multiple voters at
10:31:02 21 a house, right. So, you know, we can bring one voter up
10:31:06 22 on our screen, and then we have a household button where
10:31:08 23 we can click and see the other voters at that address.

10:31:15 24 So it just -- it has a lot of information in it
10:31:20 25 that we have designed and developed to meet the needs of

10:31:27 1 Pima County.

10:31:28 2 Q. Is there any difference in the status or the
10:31:31 3 reason codes between the two systems?

10:31:32 4 A. No.

10:31:35 5 Q. Do you have a specific reason code for
10:31:38 6 documentary proof of citizenship issues?

10:31:41 7 A. For DPOC? We --

10:31:42 8 Q. Yes.

10:31:43 9 A. It's just DPOC.

10:31:46 10 Q. And do you have a specific reason code for
10:31:49 11 documentary proof of residency?

10:31:51 12 A. That would be something that would require
10:31:55 13 change, and we are waiting on the conclusion of this
10:31:57 14 litigation to create those changes, if necessary.

10:32:02 15 Q. So for DPOC, under what circumstances would you
10:32:07 16 assign the DPOC reason code to a voter?

10:32:14 17 A. So we would assign it if we didn't have proof
10:32:18 18 of citizenship. So as our current operations are, we
10:32:22 19 would get a voter registration form. Everything that's
10:32:27 20 on it we would put it into the system. If there is a
10:32:32 21 Arizona driver's license, you know, we would, you know,
10:32:35 22 go through the MVD. MVD has -- can show us if
10:32:41 23 citizenship has been provided to them, so we would
10:32:43 24 accept it. If a naturalization number is on there, we
10:32:47 25 would use the SAVE database to determine citizenship.

10:32:50 1 If we don't have any of those particular pieces
10:32:54 2 of information on the form and we're not able to use
10:32:58 3 those particular databases, we would register the voter
10:33:01 4 as a federal only voter and we would send them a letter
10:33:06 5 indicating that they need to provide us documentary
10:33:09 6 proof of citizenship.

10:33:15 7 Q. Thank you.

10:33:19 8 And does your system track the method by which
10:33:24 9 a voter provides documentary proof of citizenship?

10:33:30 10 A. It's a dropdown screen that the Voter clerk
10:33:35 11 would pick what that dropdown screen is. Without having
10:33:42 12 Voter open right now, I can't tell you specifically what
10:33:45 13 that is, but it is a dropdown screen and it has a list
10:33:49 14 of things, like passport, birth certificate, things like
10:33:53 15 that.

10:33:55 16 Q. Thank you.

10:33:57 17 Are you aware of any issues that your office
10:34:03 18 has experienced in terms of reconciling AVID with Voter?

10:34:09 19 A. What kind of issues would --

10:34:12 20 Q. Any issues that would -- that would affect your
10:34:17 21 office's ability to use your system or that would --
10:34:21 22 that would cause the system to not be reflecting the
10:34:25 23 same information.

10:34:28 24 A. Not to my knowledge; but we do have a dedicated
10:34:31 25 developer, who's constantly working with the Secretary

10:34:38 1 of State's Office and the AVID development team. So
10:34:40 2 they're constantly monitoring those issues.

10:34:44 3 So we do make changes and tweaks to our system
10:34:47 4 to be able to ensure that the interface is functional.
10:34:54 5 We make changes to our system based off of what changes
10:34:58 6 AVID is going to have.

10:35:03 7 Q. Thank you.

10:35:07 8 So has your office discussed how to implement
10:35:10 9 the provisions of H.B. 2492?

10:35:14 10 A. No. We had a discussion back in January with
10:35:19 11 the guidance provided by the Secretary of State's
10:35:25 12 Office. It was kind of like their -- it was a flowchart
10:35:28 13 provided to them about each of the bills and what that
10:35:31 14 meant. We reviewed that. We had some internal
10:35:37 15 discussion that to be able to do -- comply with that
10:35:40 16 would require quite a lot of development changes to our
10:35:45 17 Voter system to be able to do the things that it was
10:35:47 18 requesting.

10:35:52 19 Q. And has your office received any guidance on
10:35:55 20 how to interpret the provisions of H.B. 2492?

10:36:06 21 A. We've just had discussions with our attorney on
10:36:08 22 that.

10:36:14 23 Q. All right. Let's pull up another exhibit.
10:36:17 24 This is marked H from the Dropbox.

10:36:22 25 MS. STUART: Ryan, I don't want to

10:36:24 1 interrupt your flow, but we've been going for like an
10:36:26 2 hour and a half, a little over.

10:36:28 3 MR. SNOW: Sure.

10:36:29 4 MS. STUART: You don't have to take a
10:36:30 5 break right now, but if we could just keep in mind maybe
10:36:34 6 a break sometime soon.

10:36:53 7 MR. SNOW: Sure. So I think maybe go for
10:36:54 8 another half an hour or so. Is that good for everyone,
10:36:59 9 and then take a break?

10:37:04 10 Another half an hour before break?

10:37:07 11 THE WITNESS: Sure.

10:37:10 12 MR. SNOW: Okay. So let's mark -- we're
10:37:12 13 marking this as 68, correct, Exhibit 68?

10:37:21 14 THE COURT REPORTER: Right.

10:37:22 15 BY MR. SNOW:

10:37:22 16 Q. So please take a moment to review Exhibit 68.

10:37:26 17 A. And you said it was H, hotel?

10:37:28 18 Q. H, yeah.

10:37:36 19 So turning down to the second e-mail, that's an
10:37:43 20 e-mail from Kori Lorick at AZSOS.gov. Who is Kori
10:37:50 21 Lorick?

10:37:50 22 A. Kori Lorick was the former elections director
10:37:53 23 under the previous Secretary of State.

10:38:01 24 Q. And this e-mail is dated December 30th, 2022,
10:38:08 25 and it lists a couple of people in the cc, but who

10:38:12 1 received this e-mail?

10:38:14 2 A. All the County Recordors.

10:38:19 3 Q. And just looking at the body of the e-mail,
10:38:22 4 which is subject 2492/2243 reminders, the e-mail is
10:38:31 5 discussing implementation of 2492 and 2243, both of
10:38:36 6 which go into effect January 1st, 2023.

10:38:40 7 It says, "If you'll recall, we met several
10:38:42 8 times throughout the year to review implementation and
10:38:44 9 the resulting impacts to the VR system as well as voter
10:38:48 10 registration procedures."

10:38:52 11 Correct?

10:38:52 12 A. Yes.

10:38:55 13 Q. And then the second paragraph states, "Having
10:38:57 14 thoroughly analyzed the changes that both bills require,
10:39:00 15 the Secretary of State's Office believes that there is
10:39:02 16 no way to implement certain requirements without
10:39:05 17 conflicting with federal law. So our office will not be
10:39:09 18 implementing those provisions."

10:39:12 19 Correct?

10:39:12 20 A. Correct.

10:39:15 21 Q. And then it says, you know, "For your
10:39:20 22 reference, I'm including the policy document that we
10:39:22 23 discussed at prior meetings."

10:39:23 24 And then it notes the provisions that they
10:39:25 25 interpret as conflicting with federal law, including the

10:39:27 1 documentary proof of residence for the federal form,
10:39:30 2 place of birth requirement, citizenship checkbox
10:39:34 3 requirement if an applicant otherwise provides DPOC or
10:39:38 4 if DPOC can be acquired, then DPOC for federal
10:39:43 5 elections.

10:39:43 6 Is that correct?

10:39:44 7 A. Correct.

10:39:46 8 Q. And then it says, "I'm including detailed notes
10:39:48 9 in the attached document that we have previously
10:39:50 10 reviewed together."

10:39:51 11 So do you recall receiving this e-mail?

10:39:53 12 A. Yes.

10:39:55 13 Q. And do you recall the meetings that are
10:39:57 14 referenced in the e-mail?

10:39:58 15 A. Yes.

10:40:00 16 Q. And do you recall reviewing the document that's
10:40:03 17 referred to in the e-mail?

10:40:04 18 A. Yes. It's that flowchart that I mentioned
10:40:07 19 earlier.

10:40:07 20 Q. Okay, great.

10:40:10 21 And then looking to the top of the e-mail, it
10:40:14 22 looks like you forwarded this e-mail to several
10:40:20 23 individuals or lists; Voter-Supervisors, Jane Carter,
10:40:25 24 and Alexa Venegas.

10:40:27 25 And so who are those people that you forwarded

10:40:29 1 this to?

10:40:30 2 A. The Voter-Supervisors are all of our Voter

10:40:35 3 supervisors who -- the chain of authority that I

10:40:39 4 described, the Voter supervisors, the specialists. At

10:40:46 5 this time the Voter supervisors included two

10:40:49 6 individuals. Jane Carter is the assistant chief deputy

10:40:54 7 recorder; and Alexa Venegas has been the acting Voter

10:40:58 8 manager, appointed into that position by Recorder

10:41:05 9 Cázares-Kelly.

10:41:10 10 Q. And why did you forward this e-mail?

10:41:12 11 A. I wanted them to be aware of all of the

10:41:16 12 conversations as it related to those two pieces of

10:41:18 13 legislation. We have been tracking them pretty

10:41:21 14 consistently throughout the legislative process.

10:41:24 15 We had a lot of questions about what their

10:41:27 16 implementation was, and we have constantly been looking

10:41:29 17 for guidance from the Secretary of State's Office. So

10:41:33 18 this was my attempt to keep my team in the loop about

10:41:37 19 all of the information that I was receiving.

10:41:42 20 Q. And do you recall discussing this e-mail or the

10:41:47 21 substance with anyone else in your office?

10:41:49 22 A. The Recorder.

10:41:52 23 Q. And what was the substance of that, those

10:41:58 24 discussions?

10:41:59 25 A. We had discussed that it didn't provide us the

10:42:02 1 guidance that we had hoped. And I believe that we also
10:42:06 2 had conversations with our attorney, Dan Jurkowitz.
10:42:13 3 Q. And in what way did this not provide the
10:42:16 4 guidance that you had hoped?
10:42:19 5 A. So as the County Recorder and as the Recorder's
10:42:24 6 Office, we're responsible for complying with the
10:42:28 7 statutes for voter registration.
10:42:32 8 So this was telling us not to comply with the
10:42:35 9 statutes based off the Secretary of State -- the
10:42:40 10 previous Secretary of State's understanding of it. So
10:42:46 11 it was -- it's been a difficult situation for us to try
10:42:55 12 to navigate. The best that we've been able to do is
10:43:00 13 just continue to do the job that we've been doing in the
10:43:05 14 same respect. So we haven't changed any of our
10:43:09 15 operations because we're just simply waiting for some
10:43:11 16 sort of resolution.

10:43:25 17 Q. And so you said you also discussed this with
10:43:29 18 your legal counsel?

10:43:31 19 A. Correct.

10:43:34 20 Q. And without divulging anything privileged, what
10:43:39 21 was the nature of those conversations?

10:43:46 22 A. Well, I think if I talked about the nature of
10:43:49 23 the conversations, it would be divulging privileged
10:43:53 24 information.

10:43:53 25 Q. Well, you can divulge the substance, general

10:43:59 1 substance. I'll ask the question a different way.

10:44:01 2 So you sought guidance from your counsel on the

10:44:07 3 e-mail that's in Exhibit 68?

10:44:10 4 A. Yes, as we do with anything as it relates to

10:44:13 5 these two bills.

10:44:16 6 Q. And did that include guidance as to whether to

10:44:19 7 follow the directive in this e-mail?

10:44:29 8 MR. LANGHOFER: Objection, calls for --

10:44:34 9 BY MR. SNOW:

10:44:34 10 Q. You can answer.

10:44:38 11 A. We are always eager to know the advice of our

10:44:42 12 counsel, so we are always -- our default blanket

10:44:49 13 question to him is always what do you think, what's your

10:44:52 14 advice?

10:44:56 15 Q. So did you view this, this e-mail, as legally

10:45:02 16 binding?

10:45:02 17 MS. STUART: Form.

10:45:06 18 MR. LANGHOFER: Objection.

10:45:08 19 BY MR. SNOW:

10:45:08 20 Q. You may answer.

10:45:12 21 A. I think we viewed it as guidance.

10:45:22 22 Q. And did you follow this guidance?

10:45:27 23 A. Because we didn't have any particular guidance

10:45:30 24 as to what to do, we just continued, like I said, to

10:45:33 25 maintain our operations as is.

10:45:36 1 Q. Thank you.

10:45:42 2 So the voter registration form has not been

10:45:44 3 updated to include the new requirements from H.B. 2492

10:45:49 4 or 2243, correct?

10:45:51 5 A. Correct.

10:45:54 6 Q. Do you have any reason to believe that the form

10:45:56 7 will be updated to include these elements anytime soon?

10:46:00 8 A. I do not.

10:46:03 9 Q. And so are you currently enforcing any aspect

10:46:06 10 of H.B. 2492 or H.B. 2243?

10:46:09 11 A. As I've previously stated, without exact

10:46:13 12 guidance as to what to do, we have just continued to

10:46:15 13 operate as normal.

10:46:19 14 Q. Okay. Let's turn to what will be marked

10:46:23 15 Exhibit 69, and it's labeled J.

10:46:37 16 So this is an e-mail thread dated February 1st,

10:46:42 17 2023, and it involves -- includes yourself, Alexa

10:46:52 18 Venegas, Mali Manjarrez-Bautista, David Greenwood, and

10:46:57 19 Voter-Supervisors, correct?

10:47:00 20 A. Correct.

10:47:03 21 Q. And scrolling down to the second page, where

10:47:14 22 it's an e-mail from you in response to another e-mail,

10:47:18 23 you state, "These are great questions. Unfortunately,

10:47:21 24 since the SOS has not provided us the updated voter reg

10:47:25 25 form that complies with the new laws (that are currently

10:47:27 1 under litigation but not enjoined) we still have a duty
10:47:30 2 to register voters. Please use the forms we have on
10:47:32 3 hand and explain to voters at the counter that they need
10:47:35 4 to provide DPOC and DPOR."

10:47:37 5 Is that correct?

10:47:39 6 A. Yes, that is what's written; but that's not
10:47:43 7 quite what the conversation I had, so -- but, yes,
10:47:48 8 that's what's in the e-mail.

10:47:49 9 Q. What was the conversation you had?

10:47:52 10 A. This conversation occurred specifically when an
10:47:56 11 individual came picking up forms from one of the voter
10:47:59 12 registration groups at the counter.

10:48:04 13 We have all been discussing these bills.
10:48:07 14 Everyone on our staff was aware of their implementation.
10:48:10 15 There has been a lot of questions as to what does that
10:48:13 16 mean for day-to-day operations. So the Voter
10:48:20 17 supervisors had been asking for clear guidance on what
10:48:23 18 to do. Because we have not been receiving clear --
10:48:27 19 we've not received clear guidance, we have just simply
10:48:31 20 said continue to operate as normal.

10:48:35 21 In this particular instance an individual had
10:48:38 22 come to the counter. They had requested voter
10:48:40 23 registration forms. The person assisting them had
10:48:44 24 discussed the implementation of this law and what that
10:48:50 25 meant. The conversation occurred with one of our line

10:48:55 1 staff, who then requested support from one of the Voter
10:48:59 2 supervisors, who ultimately requested support from me.

10:49:02 3 So I came out and spoke with that particular
10:49:07 4 representative from one of the groups, and I said that
10:49:10 5 there was legislation that was passed, that is correct;
10:49:13 6 that that legislation was under litigation. We were not
10:49:16 7 aware as to when the litigation would be resolved and
10:49:19 8 what impact that would be. And so I said if you're
10:49:24 9 doing voter registration and people ask and they are
10:49:27 10 aware of this legislation, you can say -- you can
10:49:31 11 recommend to them that they can also provide some sort
10:49:33 12 of proof of residency should they want to.

10:49:36 13 We provided that person the list that we would
10:49:39 14 have at our early voting locations, which is a list of
10:49:43 15 documentary proof of residency that we would use to
10:49:48 16 determine identity at a polling location to issue a
10:49:53 17 provisional ballot, which happens to be the same list of
10:49:57 18 information that is covered under this bill when it says
10:50:01 19 documentary proof of residency.

10:50:03 20 We did explain to the representative from the
10:50:08 21 voter group that the bill as is doesn't discuss what to
10:50:13 22 do with people who do not have a fixed residential
10:50:16 23 address or a houseless individual or -- and that was
10:50:20 24 very confusing. So that is the full context of that
10:50:26 25 particular e-mail.

10:50:28 1 Q. Thank you.

10:50:29 2 And so just to confirm, your office was not
10:50:33 3 instructing voters that they need to provide DPOC or
10:50:37 4 DPOR?

10:50:38 5 A. No. They can -- the D -- for DPOC, if it's
10:50:44 6 not -- as I previously stated, if we can't look you up
10:50:47 7 through the MVD and you've provided a driver's license,
10:50:50 8 where it shows that MVD has received DPOC on a voter,
10:50:56 9 and if you've not provided us a naturalization number
10:50:58 10 that we can use through the SAVE database, then we will
10:51:02 11 send out a notice saying we still need documentary proof
10:51:06 12 of citizenship and give them a list of documents that
10:51:09 13 they can provide to our office to do that.

10:51:11 14 We do not have any instructions to staff or to
10:51:14 15 voters on the need to provide us documentary proof of
10:51:17 16 residency. That is what we have been waiting for the
10:51:22 17 conclusion of this litigation and specifically what it
10:51:27 18 is that we're -- how do we change that going forward.

10:51:31 19 So people have asked do I need to provide
10:51:34 20 documentary proof of residency, and we've said if you
10:51:37 21 want to provide it to us, we'll be happy to take it, if
10:51:40 22 that is going to be helpful, if that's going to make you
10:51:44 23 feel better about the processing of your voter
10:51:47 24 registration. But we don't ask people for it. Some
10:51:51 25 people do provide it to us, just as another form of

10:51:54 1 ensuring that their registration is successfully
10:51:57 2 registered. But we do not ask.

10:52:00 3 Q. And what do you do with that information when
10:52:02 4 it's provided to you?

10:52:04 5 A. Usually we'll just make a note of it on the
10:52:07 6 voter registration file, you know, voter provided a copy
10:52:10 7 of a utility bill with an address on it or something.
10:52:13 8 We don't -- that's not a consistent. That's really kind
10:52:17 9 of a discretion of the person who's receiving that
10:52:19 10 information.

10:52:23 11 Q. Thank you.

10:52:24 12 And then turning back to --

10:52:26 13 A. And I would just want to clarify that, to my
10:52:30 14 knowledge, I don't believe anybody has actually provided
10:52:32 15 that to our voter registration clerks, but I do not see
10:52:36 16 our daily work, so I don't exactly know for sure that
10:52:40 17 they have or have not received that.

10:52:42 18 Q. Thank you.

10:52:48 19 But as far as the information provided by your
10:52:49 20 office to voters, you're not -- you're not asking for
10:52:59 21 or -- or stating that there's a need to provide DPOR?

10:53:03 22 A. No.

10:53:04 23 Q. Okay. And then turning up to Page 1 of this
10:53:09 24 same exhibit, Alexa Venegas refers to -- it says, "Did
10:53:16 25 Dan have a response to any of the questions we gave

10:53:18 1 you?" And you say, "Not a clear response. I will
10:53:21 2 forward you the last detail email."

10:53:21 3 So what were those questions?

10:53:24 4 A. They had asked questions on the implementation
10:53:26 5 of these bills.

10:53:28 6 Q. And for the record, who is Alexa referring to
10:53:32 7 when they say Dan?

10:53:33 8 A. Dan Jurkowitz, our attorney.

10:53:35 9 Q. Okay. And when you say "Not a clear response,"
10:53:50 10 what do you -- what do you mean by that?

10:53:53 11 A. I think that would cover attorney-client
10:53:55 12 privilege, the scope of that interaction.

10:54:03 13 Q. Well, so when you -- when you provided the
10:54:08 14 questions to Dan, you could say those are about
10:54:12 15 implementation of these two laws?

10:54:16 16 A. Implementation and interpretation, probably.

10:54:22 17 Q. Would that include, you know, whether to
10:54:25 18 implement the two laws?

10:54:27 19 A. Again, I think that would cover attorney-client
10:54:29 20 privilege.

10:54:36 21 Q. Okay. That's fine.

10:54:47 22 Let's look at what's going to be marked as
10:54:49 23 Exhibit 70, and it's labeled K.

10:54:59 24 So this is an e-mail dated January 10, 2023,
10:55:04 25 and it's between Mali Manjarrez-Bautista and Alexa

10:55:13 1 Venegas and Voter emails.

10:55:19 2 And looking at the lower e-mail, it states --

10:55:24 3 the subject is new registrations and states, "Staff, All

10:55:27 4 registration forms dated on or after January 1, 2023,

10:55:30 5 should not be processed. We have labeled a basket new

10:55:35 6 registrations and placed it on the very top, above the

10:55:38 7 entry basket. So, for all voters who will be processed

10:55:40 8 with a new registration date before or after January 1,

10:55:43 9 2023, please place these in this basket until instructed

10:55:47 10 otherwise. This includes voters new to our system and

10:55:51 11 voters currently in a cancellation status."

10:55:54 12 So what is Alexa referring to in that e-mail?

10:55:56 13 A. So January 1 was when the bills went into

10:55:58 14 effect. So we weren't quite sure what we were supposed

10:56:00 15 to do with them, so rather than register them, we held

10:56:03 16 off on them until we could determine our best course of

10:56:06 17 action.

10:56:08 18 That would have been discussions with our

10:56:12 19 attorney regarding how to go about it, and then we made

10:56:15 20 an internal decision to go ahead and process those voter

10:56:19 21 registrations as is, following our standard processes.

10:56:24 22 Q. And do you recall -- excuse me.

10:56:27 23 Do you recall when the internal decision was

10:56:29 24 made to process those forms?

10:56:33 25 A. Probably within a week or two of this e-mail

10:56:37 1 chain.

10:56:39 2 Q. And then moving forward, you didn't continue to

10:56:44 3 set aside those voter registration forms?

10:56:46 4 A. We did not. We just continued as is.

10:56:52 5 Q. Did you communicate anything publicly about

10:56:54 6 your decision to process the forms as is?

10:57:00 7 A. Publicly to the residents of Pima County?

10:57:03 8 Q. Yes.

10:57:04 9 A. No, we did not.

10:57:09 10 Q. Did you -- who all did you communicate with in

10:57:12 11 making your decision to process the forms as is?

10:57:17 12 A. Our attorney and our voter registration

10:57:19 13 leadership team and the County Recorder.

10:57:23 14 Q. And did you communicate with the Secretary of

10:57:27 15 State's Office?

10:57:27 16 A. We had reached out to the Secretary of State's

10:57:29 17 Office regarding their interpretations and guidance and

10:57:35 18 we -- that flowchart that we had previously discussed,

10:57:38 19 we used that and reviewed it as not particularly -- we

10:57:48 20 couldn't figure out how to operationalize it, and so the

10:57:53 21 decision was made internally among Pima County staff.

10:57:57 22 Q. Did you communicate about that decision with

10:58:00 23 other County Recorders' Offices?

10:58:04 24 A. Yes. Other counties, specifically, we reach

10:58:09 25 out and work with Maricopa County frequently, given that

10:58:13 1 we're both the two largest jurisdictions in the state.

10:58:16 2 We did ask Maricopa what they were doing. Maricopa was

10:58:21 3 also still moving forward with their same procedures, so

10:58:25 4 we followed suit.

10:58:29 5 Q. Are you aware of any other counties that did

10:58:33 6 not come to the same decision?

10:58:34 7 A. Not that I'm aware of, no.

10:58:53 8 Q. So to your knowledge, neither Pima County's

10:58:57 9 system nor Maricopa County's system nor AVID have been

10:59:06 10 updated to accommodate the new requirements in the new

10:59:09 11 laws?

10:59:12 12 A. That is my understanding, yes.

10:59:25 13 Q. And to your knowledge, did any of the other

10:59:29 14 counties similarly hold new voter registration forms

10:59:35 15 without processing for any period of time?

10:59:38 16 A. I do not know what the other counties did.

10:59:48 17 MR. SNOW: Okay. So I've got some more

10:59:51 18 questions, not that many, and I believe there was a

10:59:53 19 request for a break, so maybe now is a good time to take

10:59:55 20 a break.

11:00:03 21 MR. JURKOWITZ: How long do you want to

11:00:03 22 break for?

11:00:07 23 THE COURT REPORTER: Chris, can you take

11:00:08 24 us off?

11:00:09 25 THE VIDEOGRAPHER: We are off the record.

11:00:10 1 The time on the video monitor is 11:00 a.m. This ends
11:00:13 2 Media 1.

11:14:34 3 (A recess was taken.)

11:19:04 4 THE VIDEOGRAPHER: We are on the record.
11:19:05 5 The time on the video monitor is 11:19 a.m. This begins
11:19:09 6 Media 2.

11:19:12 7 BY MR. SNOW:

11:19:12 8 Q. Thank you.

11:19:13 9 So let's just walk through the voter
11:19:18 10 registration process generally. What are the methods
11:19:21 11 that a potential voter can use to register to vote?

11:19:25 12 A. Well, there's the traditional paper form that
11:19:28 13 the voter can use to come into our office, drop it off,
11:19:32 14 mail it to us. There's through Service Arizona. That's
11:19:38 15 the online voter registration portal operated by the
11:19:42 16 Department of Motor Vehicles.

11:19:44 17 And then we can register someone to vote from a
11:19:50 18 provisional ballot if the provisional -- here in Pima
11:19:56 19 County our provisionals have a voter registration form
11:20:00 20 as part of the provisional envelope, so we can use that
11:20:03 21 to update people's voter registration, and then we
11:20:09 22 can -- if they were not registered at the time of the
11:20:12 23 election, then we can use that provisional to register
11:20:15 24 them after the close of the election. And I would just
11:20:20 25 want to point out that those provisionals, if they were

11:20:23 1 not registered at the time of an election, those
11:20:25 2 provisionals do not count and are not tabulated, but we
11:20:29 3 do use that form to register voters after the election.

11:20:32 4 Q. And as far as the paper form, you're referring
11:20:36 5 to both the state form and the federal form?

11:20:38 6 A. Correct.

11:20:40 7 Q. Does your office provide forms to third-party
11:20:46 8 voter registration groups?

11:20:47 9 A. We do.

11:20:47 10 Q. And would that be the state form or the federal
11:20:49 11 form or both?

11:20:49 12 A. We provide the state form.

11:20:52 13 Q. Are there any special markings on the forms you
11:20:55 14 provide?

11:20:57 15 A. No. Each form has a code on it to identify
11:21:02 16 where the form came from. So there's a coded list for
11:21:07 17 forms and a letter that corresponds with the type of --
11:21:11 18 where the form came from, so like a public assistance
11:21:14 19 agency, a voter registration group. So we will look at
11:21:19 20 those, that code, and track the form that way when we're
11:21:24 21 doing the input into the system.

11:21:28 22 Q. And can you run through the various codes?

11:21:30 23 A. Not off the top of my head, no. They're -- I
11:21:41 24 think we have at least five to nine. They correspond
11:21:47 25 with the way that -- after the end of every federal

11:21:51 1 election we have to provide what's called an EAVS
11:21:54 2 report, which documents all of the voter registration,
11:21:57 3 all of the election information. And the EAVS report
11:22:01 4 identifies the voter registration, where voter
11:22:07 5 registration information comes from, and that's based
11:22:09 6 off of that, those forms.

11:22:11 7 I can tell you right off the top, though, that
11:22:14 8 G is the form that we give out to the voter registration
11:22:18 9 groups.

11:22:23 10 Q. And you mentioned that there are -- there's
11:22:26 11 another -- scratch that.

11:22:26 12 So your office can track -- when the voter
11:22:29 13 returns the form, your office can track where they
11:22:32 14 received it from or how they received the form?

11:22:34 15 A. Based off the code that's on the form.

11:22:39 16 Q. And you mentioned public assistance agencies.
11:22:45 17 What are the NVRA, National Voter Registration Act,
11:22:49 18 agencies in Arizona?

11:22:51 19 A. People like DES. We provide -- well, we --
11:22:59 20 locally DES has never requested forms of us, but they
11:23:02 21 would have forms; libraries, Department of Motor
11:23:10 22 Vehicles. Those are the ones that come to mind right
11:23:12 23 now.

11:23:16 24 Q. And what is DES?

11:23:18 25 A. Department of Economic Security.

11:23:24 1 Q. Do you know, do -- does your office work with
11:23:28 2 schools in providing voter registration opportunities?

11:23:33 3 A. Not in the past. I think we are tentatively
11:23:36 4 seeking a relationship with the Pima County
11:23:39 5 Superintendent's Office to try to pilot a voter
11:23:44 6 registration outreach to high school students.

11:23:47 7 In Arizona you can register to vote a little
11:23:51 8 before your 18th birthday, as long as the -- as long as
11:23:55 9 you will be 18 at the time of the election. But that is
11:24:00 10 a pilot program that's currently in -- we have -- I mean
11:24:06 11 we're talking like we're discussing it. We don't even
11:24:09 12 have a plan for it yet.

11:24:12 13 Q. And we touched on this earlier, but how do
11:24:15 14 you -- how does your office work with the Tribal Nations
11:24:19 15 in providing voter registration services?

11:24:20 16 A. Through our voter outreach clerks.

11:24:23 17 Q. And so they provide forms?

11:24:26 18 A. They can. They do drop off forms to various
11:24:31 19 district offices.

11:24:35 20 Q. And do they do public education on Tribal land?

11:24:38 21 A. They do.

11:24:40 22 Q. And that would be through the monthly meetings
11:24:42 23 that you mentioned earlier?

11:24:43 24 A. Uh-huh. Yes.

11:24:44 25 Q. Are there any other forms of public education

11:24:48 1 of voter registration on Tribal land?

11:24:51 2 A. If there -- you know, if there's community
11:24:54 3 events that they've signed up for to table at, they
11:24:57 4 would do that as well.

11:24:58 5 Q. And at those tabling events they would be
11:25:01 6 assisting voters with filling out and submitting their
11:25:04 7 voter registration forms?

11:25:06 8 A. They would be answering questions about the
11:25:08 9 voter registration forms, and then should a voter choose
11:25:13 10 to return the voter registration form to our outreach
11:25:18 11 folks, they would accept that; but normally, from my
11:25:22 12 understanding from the -- they usually provide the forms
11:25:27 13 and tell them how to return them. I don't think that
11:25:30 14 they're bringing forms back, completed forms back.

11:25:36 15 Q. Thanks.
11:25:37 16 And what is the deadline for voter
11:25:40 17 registration?

11:25:40 18 A. It is 29 days before an election.

11:25:45 19 Q. And if -- if a voter registration form is
11:25:50 20 returned by the deadline, but is somehow incomplete,
11:25:58 21 does the voter have an opportunity to complete the voter
11:26:00 22 registration form to comply with the deadline and vote
11:26:02 23 in that election?

11:26:04 24 A. When you say incomplete, what do you mean?

11:26:06 25 Q. Missing some information.

11:26:10 1 A. Well, if it's missing information and can't be
11:26:13 2 fully registered, we'll contact the voter, usually with
11:26:19 3 a mailing, to say we received a voter registration form
11:26:21 4 from you and we're missing X, Y or Z, please contact our
11:26:26 5 office.

11:26:27 6 If there's a phone number, we will usually make
11:26:30 7 contact with the voter and say, hey, we've received a
11:26:32 8 voter registration form from you and are missing
11:26:35 9 something or we can't -- so we do make contact with the
11:26:38 10 voter in those instances!

11:26:41 11 If there's no contact ways for us to make
11:26:43 12 contact with them, like phone or e-mail, then we will
11:26:47 13 send a letter; and then that form would be considered --
11:26:51 14 because we can't fully -- depending on what the issue
11:26:54 15 is, we can't necessarily fully process it. It can go in
11:26:57 16 a suspended status, which internally we call the trouble
11:27:01 17 file. Not that the form itself is a trouble. It's just
11:27:04 18 it requires additional follow-up.

11:27:07 19 Q. So if you have enough information to create an
11:27:10 20 entry for a voter and they go in the trouble file before
11:27:16 21 the deadline, and then they're later able to provide
11:27:20 22 information sufficient to resolve whatever issue there
11:27:23 23 was, will they be permitted to vote in that election?

11:27:26 24 A. Yes. And then we also -- when we're processing
11:27:32 25 the provisional ballots that are cast on election day,

11:27:35 1 one of the processes that we do when we're going through
11:27:37 2 is we review our trouble file.

11:27:42 3 That's what we call it internally. I have to
11:27:46 4 emphasize that the Recorder does not like the name of
11:27:49 5 that internal file, so we are workshopping some new ways
11:27:55 6 to discuss it; but for the purposes of this deposition,
11:27:58 7 it is the trouble file.

11:28:01 8 We review the trouble file if we have a
11:28:04 9 provisional and say, hey, we don't know if this person
11:28:08 10 registered or didn't register. So if we can match a
11:28:11 11 provisional up with a trouble file voter registration
11:28:15 12 form, then we can make the necessary resolutions there
11:28:19 13 to be able to ensure that the voter is up-to-date and
11:28:25 14 that they're able to cast their ballot.

11:28:29 15 However, it's really dependent upon us being
11:28:33 16 able to reach out to the voter. So, like I said, our
11:28:36 17 preferred is a phone call. Our second preferred is an
11:28:40 18 e-mail, and then we always send a letter. The letters
11:28:43 19 do not always result in contact to the voter.

11:28:49 20 Q. Thank you.

11:28:54 21 So when your office receives a voter
11:28:57 22 registration application, you would first enter that
11:29:00 23 into the database?

11:29:04 24 A. Yeah. So the process is we have a first
11:29:10 25 check/second check. So a voter registration clerk would

11:29:12 1 do the first check entry, put the information in there;
11:29:16 2 and then a second voter registration clerk would do the
11:29:20 3 second check entry, basically seeing if anything was
11:29:25 4 missed. And then once both our -- you know, both clerks
11:29:31 5 are good with the information provided, then the voter
11:29:34 6 registration is activated.

11:29:37 7 Q. And that would be unless there was an issue, in
11:29:40 8 which case it would go to the trouble file?

11:29:43 9 A. If there is an ultimate issue that couldn't be
11:29:46 10 resolved and needs further follow-up, yes, it would go
11:29:48 11 to the trouble file. But if there is an issue in that
11:29:51 12 process between first and second check, the voter clerk
11:29:55 13 would contact the voter registration specialist or the
11:29:58 14 voter supervisor to discuss how to address the issue.

11:30:03 15 Q. And the first check/second check process, that
11:30:08 16 just refers to internal to your office checking to make
11:30:11 17 sure the information was entered correctly?

11:30:13 18 A. Correct.

11:30:13 19 Q. What other kind of checks happen for a new
11:30:18 20 entry for a new voter that's not in the trouble file?

11:30:21 21 A. The first check/second check process.

11:30:25 22 Q. Do you interface with MVD database as part of
11:30:30 23 entering a new voter registration?

11:30:32 24 A. If they provide us a driver's license, yes, we
11:30:36 25 can. We will have an interface that will give us

11:30:40 1 information on that. If they provide us a
11:30:43 2 naturalization number, we'll use the SAVE database. The
11:30:46 3 SAVE database is only used upon an initial voter
11:30:53 4 registration application. So it's the very first time
11:30:54 5 someone is registering to vote, if they provide a
11:30:57 6 naturalization number, that's the only time we can use
11:30:59 7 the SAVE database for cross-checking on citizenship.
11:31:06 8 For voter registration forms that provide
11:31:09 9 driver's license numbers we can access the Motor Vehicle
11:31:14 10 database. It's part of the -- it's part of the program.

11:31:18 11 Q. Does your process involve any kind of signature
11:31:21 12 match?

11:31:22 13 A. For an initial?

11:31:24 14 Q. Yeah.

11:31:24 15 A. No. No, because it would be the very first
11:31:28 16 form that we would have from a voter. We wouldn't have
11:31:30 17 anything to match it with.

11:31:32 18 Q. And what about when a voter updates their
11:31:35 19 registration?

11:31:36 20 A. Yeah, the signature verification is just a
11:31:39 21 standard process for any time that we have mailings to
11:31:43 22 voters. So every voter registration form that comes
11:31:47 23 back to us or every piece of voter mail that has the
11:31:51 24 voter's signature on it that creates sort of a change,
11:31:54 25 whether it's a 90-day notice or something like that, we

11:31:57 1 capture those signatures as exemplar signatures for the
11:32:01 2 voter. Should they choose to do voter -- should they
11:32:04 3 choose to vote by mail and cast an early ballot, we will
11:32:07 4 use those exemplar signatures for verification purposes.

11:32:13 5 Q. And you mentioned if there's an issue with
11:32:16 6 someone's form or registration such that it's
11:32:21 7 incomplete, they're then contacted. What options then
11:32:24 8 do they have to complete their application?

11:32:27 9 A. It depends on why we're making the contact, but
11:32:29 10 usually it's to provide an updated form or provide
11:32:33 11 additional materials.

11:32:36 12 Q. And how would they be able to provide that
11:32:39 13 information and materials?

11:32:40 14 A. For anything changing the voter record we need
11:32:42 15 to have something in writing. So usually it's an
11:32:45 16 updated voter registration form. If it's for
11:32:49 17 documentary proof of citizenship, we'll take copies of,
11:32:54 18 you know, birth certificates. They can also come into
11:32:56 19 us in person at our office and do everything in person
11:33:00 20 and provide that information if they don't want to mail
11:33:04 21 copies, things like that.

11:33:05 22 Q. Can they e-mail you a scanned copy of a form?

11:33:10 23 A. I suppose they could. I don't see why we
11:33:14 24 wouldn't accept that, as long as we -- as long as there
11:33:17 25 was some sort of information on there that would

11:33:20 1 correspond.

11:33:27 2 Q. So in order to register to vote, applicants are

11:33:30 3 required to provide their residential address, or if

11:33:32 4 they don't have a residential address, a description or

11:33:35 5 drawing of the location of their residence, correct?

11:33:37 6 A. Correct.

11:33:38 7 Q. And a P.O. Box can't be used to meet that

11:33:41 8 requirement?

11:33:41 9 A. Not as a residential address. That can be used

11:33:44 10 as a mailing address.

11:33:47 11 Q. And why is residence address or location

11:33:51 12 information important for your office in voter

11:33:53 13 registration?

11:33:53 14 A. It determines the ballot style that a voter

11:33:57 15 gets. So if you, say, live -- say you live at the --

11:34:03 16 you're a houseless individual and your particular area

11:34:07 17 of Pima County is I-10 and Grant. You're still eligible

11:34:17 18 to vote. So let's say you want to find a -- you want to

11:34:22 19 vote. We need to know what is the area of town that

11:34:25 20 you're normally in so we can get the correct ballot

11:34:29 21 style, so you can vote for the correct representatives

11:34:31 22 for where you are.

11:34:34 23 Specifically, this oftentimes for the Tohono

11:34:41 24 O'odham Nation, as I stated earlier, they live in

11:34:43 25 districts, but all of the Nation just has a general

11:34:47 1 address of cells, but within each of the districts. So
11:34:52 2 when we are registering people in those areas, we tell
11:34:55 3 them to put the district that they live in and even, you
11:35:00 4 know, the village that they live in, so we can determine
11:35:03 5 which precinct they are, because we have it set up in
11:35:07 6 the voter registration database for what we would
11:35:10 7 consider non-standardized addresses. So we can map it
11:35:15 8 out as to where they -- would be the appropriate area.
11:35:19 9 So a lot of times you can have a mailing
11:35:21 10 address that's different from where you physically are
11:35:25 11 located, particularly if you do not have a fixed
11:35:28 12 residence. You might have a mailing address that is
11:35:30 13 just a general delivery address at your nearest Post
11:35:34 14 Office.
11:35:35 15 We have people who are RVers, and they have a
11:35:39 16 particular area of town that they park their RV in and
11:35:42 17 then they get their mail at a UPS store. So they can
11:35:48 18 say, you know, maybe they have -- they are parked at the
11:35:53 19 parking lot of Walmart at Grant and Alvernon. That
11:35:58 20 descriptive address would be a commercial address, but
11:36:02 21 because they're an RVer, that's where they park their
11:36:07 22 vehicle, so that's where we consider their voting area.
11:36:12 23 Q. And so how do that get represented in your
11:36:14 24 database?
11:36:16 25 A. For areas like that it would be -- if it's a

11:36:21 1 commercial area, like someone parking their RV in
11:36:25 2 something, they would normally give us the address of
11:36:27 3 where they're at and we would put that in there.
11:36:29 4 That requires an override by a supervisor
11:36:31 5 because the system recognizes commercial addresses, so
11:36:36 6 it will default not want to register because it's a
11:36:40 7 commercial address. So we would override it from a
11:36:42 8 supervisor and then indicate that it's a nonstandard
11:36:49 9 address.

11:36:57 10 Q. And so that but it's still represented in the
11:36:59 11 system as a street address?

11:37:00 12 A. For some areas it could also just be
11:37:04 13 represented as cross streets.

11:37:08 14 Q. How about a geolocation or a set of
11:37:12 15 coordinates?

11:37:12 16 A. For the system to be able to get the correct
11:37:16 17 ballot style we'd have to have those translated into
11:37:19 18 cross streets.

11:37:21 19 Q. And you mentioned for registrants who live on
11:37:28 20 Tohono O'odham Nation land, those are coordinated via
11:37:32 21 Tohono O'odham Nation districts?

11:37:35 22 A. Correct.

11:37:42 23 So most of the districts fall within Pima
11:37:46 24 County, but there is one district that straddles Pima
11:37:51 25 County, Maricopa County, and Pinal. So that particular

11:37:56 1 area, it really depends on which side of the county line
11:38:02 2 the person's house is in on the district to determine if
11:38:05 3 they're a Pima County voter or a Pinal voter or a
11:38:10 4 Maricopa voter.

11:38:14 5 Q. Do you ever have an issue where you can't
11:38:17 6 locate a residential address through that process?

11:38:25 7 A. We have a pretty robust investigative arm that
11:38:29 8 we, you know, we will use. The Pima County has the GIS
11:38:34 9 mapping so we can cross-reference with the GIS layers,
11:38:41 10 and then we also have the ability to use the county's
11:38:46 11 mapping system.

11:38:47 12 We've also been known to Google addresses and
11:38:51 13 take a look at street views to see if there's buildings
11:38:54 14 and things like that. So we do a substantial amount of
11:38:57 15 investigation for what we consider nonstandard addresses
11:39:02 16 to ensure that we're getting the most accurate
11:39:05 17 information.

11:39:11 18 Q. And so through that process and through that
11:39:16 19 investigative process, are you aware of instances where
11:39:21 20 a voter's address that they provided simply couldn't be
11:39:24 21 located?

11:39:28 22 A. Not to my knowledge, no.

11:39:33 23 Q. Do you ever -- as part of that location
11:39:37 24 process, do you ever follow up with the voter to get
11:39:39 25 more information?

11:39:41 1 A. That's one of our standards, should we ever
11:39:44 2 have any issues with the voter registration form, if
11:39:47 3 there is a way to follow up with the voter, make
11:39:50 4 contact. The voter registration form has many different
11:39:56 5 boxes on it. Not all of them are required to be filled
11:39:59 6 out by the voter.

11:40:00 7 One of the things that's not required to be
11:40:02 8 filled out is an e-mail and phone number. We would love
11:40:06 9 it if everyone filled those out, because it would make
11:40:09 10 it very easy for us to contact people. So we try to
11:40:13 11 provide as much contact to the voter as possible, but
11:40:18 12 always we will mail them a letter, given the address
11:40:22 13 that has been provided.

11:40:23 14 Now, we have had occasion where the address
11:40:28 15 that has been provided to us has been returned as
11:40:31 16 non-deliverable, address not known by the Post Office.
11:40:38 17 So that would start the NVRA process on that particular
11:40:43 18 voter registration record.

11:40:46 19 Q. And what was that process you just referred to?

11:40:50 20 A. I'm sorry. The NVRA process. It's the process
11:40:52 21 where when we get notification of a possible address
11:40:56 22 change, we will kind of put the voter in an inactive
11:41:01 23 status and reach out to them again saying we have
11:41:07 24 received notice that you may or may not be at this
11:41:09 25 address, please contact our office.

11:41:11 1 So we will start to do the mailing to say
11:41:13 2 please update your voter registration or please make
11:41:15 3 contact with us to let us know where you're at.

11:41:18 4 If we get multiples of those back, then that
11:41:21 5 creates -- we'll put the voter as a cancellation. But
11:41:27 6 for the most part, when someone is in a NVRA process,
11:41:30 7 they've gone from an active to an inactive status.

11:41:36 8 Q. And so for somebody who resides at an address
11:41:39 9 that can't receive mail, how does that process work for
11:41:44 10 them?

11:41:45 11 A. So for anybody who can't receive mail, they are
11:41:48 12 instructed to provide a mailing address, so whether that
11:41:50 13 is a general delivery address to the closest Post Office
11:41:53 14 of where they receive mail, whether it's a P.O. Box of
11:41:57 15 someone else who can receive mail on their behalf, or an
11:42:00 16 agency who receives mail on their behalf, but we need to
11:42:04 17 have a mailing address to be able to mail things.

11:42:14 18 Q. So for somebody who submits location of
11:42:17 19 residence via a description or a drawing, without an
11:42:20 20 address, how does that process differ for someone who
11:42:22 21 registers using that method?

11:42:25 22 A. It doesn't really differ in terms of the
11:42:28 23 registration process.

11:42:30 24 Q. So specifically with respect to determining --
11:42:35 25 your office determining the location of residence, how

11:42:38 1 do they go about doing that with a description or a
11:42:42 2 drawing?
11:42:42 3 A. Again, depending on the description and
11:42:44 4 drawing, we would try to locate the closest cross
11:42:48 5 streets to determine precinct.
11:42:51 6 Q. And then --
11:42:52 7 A. So --
11:42:53 8 Q. And then how is that represented in the system?
11:42:57 9 A. Via cross streets and a description.
11:43:01 10 Q. So it always has to be cross streets or an
11:43:04 11 address?
11:43:05 12 A. For the system to be able to assign a precinct,
11:43:05 13 yes.
11:43:10 14 Q. And then I think you stated earlier that copies
11:43:15 15 of the voter registration form are then attached to the
11:43:18 16 voter's file?
11:43:19 17 A. Yes. Every single voter registration form that
11:43:22 18 has been submitted to the office is attached to the
11:43:26 19 voter record as a digital image.
11:43:29 20 Q. And that's persistent with the voter's record?
11:43:33 21 A. Correct.
11:43:35 22 Q. And that would include a -- that would include
11:43:37 23 the drawing or description that's provided by the voter?
11:43:40 24 A. Uh-huh. The whole form is scanned if it's a
11:43:47 25 paper form, and so we have a digital image of the entire

11:43:50 1 form.

11:43:52 2 Q. Do you have a sense of how common it is for

11:43:54 3 your office to receive a voter registration form with

11:43:56 4 either a nonstandard address or a description or

11:44:00 5 depiction of an address?

11:44:01 6 A. It's not very common, but we have encountered

11:44:04 7 it. That's why we have specific guidance on how to

11:44:07 8 process those.

11:44:09 9 Q. To your knowledge, is it more common for

11:44:12 10 residential addresses used on Native American

11:44:15 11 reservations to be nonstandard?

11:44:20 12 A. It is for the Tohono O'odham Nation, for those

11:44:25 13 addresses to be nonstandard. It is not the same for the

11:44:28 14 Pascua Yaqui Tribe.

11:44:31 15 Q. And how would you describe the difference?

11:44:33 16 A. The Pascua Yaqui Tribe has a grid system on

11:44:37 17 Tribal land with actual addresses and street names. The

11:44:42 18 Tohono O'odham, as I stated earlier, they live in

11:44:45 19 districts and then they have just single routes, you

11:44:52 20 know, you take Ajo and take the left exit after -- so

11:44:56 21 they will describe that, and then we will then ask them

11:44:59 22 which district that is within, and then we will identify

11:45:02 23 the closest. That's how we determine precincting for

11:45:07 24 them.

11:45:07 25 Q. And so that would still go into the system as a

11:45:10 1 cross-street or a street address of some kind?

11:45:13 2 A. For the Tohono O'odham Nation it would be

11:45:17 3 districts. We have in the system the district names.

11:45:25 4 Q. And if the voter doesn't provide the district

11:45:28 5 name, but they provide some other description, then your

11:45:30 6 office would use that description to find which district

11:45:33 7 they're in?

11:45:33 8 A. We would do our best to investigate, and then

11:45:35 9 we would probably also follow up with the voter and ask

11:45:37 10 them some key questions as to which districts do you

11:45:40 11 live in and what are some of the key landmarks that

11:45:44 12 you're near, you know, how far away are you from this

11:45:48 13 area, so we can kind of pinpoint on which district

11:45:51 14 they're in.

11:45:53 15 Q. Would you ever follow up with the Tribal

11:45:55 16 government itself?

11:45:59 17 A. I mean I suppose we could, but because voter

11:46:02 18 registration is specific to an individual, we would

11:46:05 19 specifically speak with the voter.

11:46:13 20 Q. Let's pull up an exhibit briefly. It's labeled

11:46:16 21 M, as in Mary, and I believe this is Exhibit 71.

11:46:26 22 So looking at that first page, what is this

11:46:30 23 document?

11:46:30 24 A. This is our internal instructions regarding

11:46:33 25 incomplete voter registrations or what we internally

11:46:36 1 call the trouble file.

11:46:38 2 Q. So this is internal guidance provided by your

11:46:41 3 office to its staff?

11:46:42 4 A. Correct.

11:46:44 5 Q. And what is the source of this guidance?

11:46:50 6 A. Statute is always the foundational source, any
11:46:56 7 sort of information that we can glean from the EPM, and
11:47:00 8 then the rest of this is based off of how we internally
11:47:04 9 process forms and how our voter registration system
11:47:11 10 takes information in.

11:47:15 11 Q. So this is something -- this is guidance that
11:47:17 12 your office puts together from a number of sources. Is
11:47:23 13 it -- is it approved by anyone outside your office or
11:47:26 14 reviewed by anyone outside your office?

11:47:27 15 A. No, it's not.

11:47:32 16 Q. Turning to Page 4 of this document, where it
11:47:43 17 says "Send a trouble letter to the voter," this is the
11:47:49 18 section dealing with a letter that is sent to a voter
11:47:55 19 after your office has already investigated and attempted
11:47:58 20 to resolve whatever issue there is with the form; is
11:48:02 21 that correct?

11:48:02 22 A. That is correct.

11:48:05 23 Q. And then turning to the next page, 5, there's a
11:48:08 24 series of checkboxes, and this would be for a voter
11:48:15 25 registration form that is incomplete in some way?

11:48:17 1 A. Correct.

11:48:20 2 Q. And turning down to the last checkbox, which is
11:48:26 3 labeled include community or district as your
11:48:29 4 residential address to identify your precinct, for
11:48:31 5 residents of Tohono O'odham Nation only.

11:48:34 6 So this is what you're referring to when -- if
11:48:37 7 a Tohono O'odham Nation voter submits their voter
11:48:43 8 registration form and does not indicate their community
11:48:45 9 or district name, they would receive a form with this
11:48:50 10 box checked; is that correct?

11:48:51 11 A. Yes.

11:48:59 12 Q. How would a Tohono O'odham Nation resident know
11:49:04 13 to provide that information on their initial voter
11:49:08 14 registration form?

11:49:11 15 A. Well, I would -- if they had met one of our
11:49:16 16 voter outreach clerks at a tabling event, I would hope
11:49:20 17 that we would have provided them that information.

11:49:24 18 We do provide that information to the Nation,
11:49:30 19 their government, so we would hope that maybe that
11:49:32 20 information is also trickled down. But that is why we
11:49:35 21 go to these district meetings to talk about the
11:49:38 22 information that we need to be able to successfully
11:49:42 23 process voter registration forms. So we make an active
11:49:45 24 effort to try to get that information out there as much
11:49:47 25 as possible.

11:49:53 1 Q. And -- but, again, if somebody doesn't provide
11:50:02 2 that information, the district name, but they do provide
11:50:05 3 a description of their address, your office is typically
11:50:08 4 able to use that description to determine their district
11:50:11 5 name without having to contact the voter; is that
11:50:14 6 correct?

11:50:14 7 A. We would investigate it first. We would be --
11:50:17 8 if our investigation is unsuccessful, then we would send
11:50:19 9 this form out.

11:50:26 10 Q. Thank you.

11:50:35 11 So are you aware of any kind of nonstandard
11:50:39 12 address or description of a residence appearing on any
11:50:45 13 kind of documentation or identification documents?

11:50:50 14 A. Not that I'm aware of, no.

11:50:58 15 Q. But your office is able to determine the
11:51:01 16 location of residence for registrants who don't
11:51:06 17 provide -- or who have a nonstandard address and don't
11:51:09 18 provide any documentation of that; is that correct?

11:51:13 19 A. I don't know if I understand your question.

11:51:15 20 Q. Sorry. I'll rephrase it.

11:51:17 21 And, you know, is it -- is it correct that
11:51:22 22 you've stated that you -- scratch this.

11:51:27 23 Are you aware of any incidents where an
11:51:29 24 individual's location of residence was not -- is not
11:51:33 25 able to be determined by your office upon providing a

11:51:37 1 nonstandard address or a description of their residence?

11:51:42 2 A. Yes. That would be considered a trouble.

11:51:46 3 Q. But so somebody gets in the trouble file and

11:51:49 4 then that triggers an investigation or the investigation

11:51:53 5 happens prior to them going to the trouble file?

11:51:54 6 A. Well, it's all part of the same process. So if

11:51:58 7 we are -- excuse me for a moment.

11:52:08 8 So if we are processing a voter registration

11:52:13 9 form and we encounter an issue with the voter

11:52:16 10 registration form, the previously mentioned process,

11:52:20 11 first check/second check, you have a question, go to the

11:52:23 12 supervisor, and if the supervisor doesn't have the

11:52:26 13 answer, the form goes to the trouble file, an individual

11:52:29 14 is assigned to the trouble file for follow-up. So it's

11:52:33 15 during that first check/second check process that we

11:52:37 16 will try to investigate where that address is.

11:52:41 17 Q. And are you aware of any incidents where that

11:52:45 18 address was not able to be determined in the

11:52:47 19 investigation process?

11:52:50 20 A. Personally, I am not; but I do know that we

11:52:53 21 have -- the trouble file is an ongoing -- it's the

11:52:59 22 normal part of the process for voter registration clerks

11:53:01 23 and we do reference the trouble file for -- at an

11:53:07 24 election time for reviewing provisional ballots.

11:53:12 25 Q. Do you have any idea of the numbers of folks

11:53:15 1 who are in the trouble file for reason of an inability
11:53:20 2 to determine their location of residence?

11:53:22 3 A. I do not.

11:53:36 4 Q. Do you know -- are you aware of the process by
11:53:39 5 which your county assigns addresses?

11:53:46 6 A. I'm -- by which my county assigns addresses,
11:53:50 7 like how addressing works in Pima County, is that the
11:53:52 8 question?

11:53:52 9 Q. Yes.

11:53:54 10 A. I have a rudimentary understanding of the
11:53:57 11 addressing process.

11:54:00 12 Q. What is that understanding?

11:54:03 13 A. Addressing is based off of development. So
11:54:07 14 development is identified by parcels, and then parcels
11:54:12 15 then have a -- kind of like a working address until they
11:54:17 16 have a permanent address. Once a street has been named,
11:54:22 17 depending on the jurisdiction, there's -- you know, you
11:54:27 18 can have ordinances defining the names of streets.

11:54:32 19 All that information is then provided to Pima
11:54:36 20 County. We put that in the GIS system. That's how we
11:54:39 21 get the addressing. So you could have -- addressing can
11:54:45 22 certainly change, particularly if you have parcel
11:54:49 23 splits. So vacant land obviously doesn't have an
11:54:54 24 address. It just has a parcel number until it becomes
11:54:57 25 developed and then it has an address related to it. But

11:55:00 1 it's part of the development process.

11:55:01 2 Q. And does that process take place in the same
11:55:06 3 manner on Native American land, reservation?

11:55:08 4 A. To my knowledge, it does not take place like
11:55:10 5 that on the Tohono O'odham Nation. I do believe it has
11:55:15 6 a similar process to that on the Pascua Yaqui Tribe.

11:55:22 7 Q. Generally speaking, how would you describe your
11:55:24 8 office's efforts to increase voter registration for
11:55:28 9 Native voters?

11:55:31 10 A. I think we're actively trying to register all
11:55:37 11 voters and people -- all eligible individuals in Pima
11:55:40 12 County, and we provide additional support and outreach
11:55:44 13 to each of the -- each of the Tribal Nations here in
11:55:50 14 Pima County.

11:55:53 15 Q. Do you know whether voter registration rates
11:55:54 16 are lower in Native communities than throughout the rest
11:55:57 17 of the county?

11:56:04 18 A. Anecdotally, I believe that they are lower, but
11:56:07 19 we do track them and they have been increasing.

11:56:18 20 Q. To your knowledge, if the DPOR requirement were
11:56:21 21 to be implemented, what effect do you expect it will
11:56:25 22 have on Native voters attempting to register to vote?

11:56:29 23 A. I don't know.

11:56:33 24 Q. Let's look at what will be marked as

11:56:40 25 Exhibit 72. That's labeled N, as in Nancy.

11:56:50 1 A. I have it on the screen.

11:56:52 2 Q. Great.

11:56:54 3 So this is an e-mail chain of e-mails taking

11:56:58 4 place on March 29, 2022 within your office; is that

11:57:06 5 correct?

11:57:06 6 A. It is.

11:57:10 7 Q. And the subject of the e-mail is veto letter.

11:57:14 8 Do you recall the substance of these communications?

11:57:24 9 A. Yeah. I mean not in great detail, but I do

11:57:26 10 recall that time frame.

11:57:29 11 Q. So what was the veto letter that the e-mails

11:57:35 12 refer to?

11:57:36 13 A. The Recorders Association had discussed this

11:57:41 14 particular bill. The Recorders were not in favor of

11:57:46 15 this particular bill, so some of the Recorders were

11:57:54 16 sending letters to the Governor's Office as a -- to ask

11:57:59 17 for veto. The implications of the bill would make it

11:58:04 18 difficult for us to do our job because of the vague

11:58:07 19 nature of the bill.

11:58:10 20 I believe this particular one was spearheaded

11:58:17 21 by Pima County Recorder Cázares-Kelly and Maricopa

11:58:24 22 County Recorder Steve Richer. So the -- pretty well

11:58:31 23 everyone -- from my recollections of that time frame, we

11:58:33 24 were all -- found this particular piece of legislation

11:58:37 25 difficult to implement and were opposed to it for

11:58:41 1 varying reasons. Each Recorder had their own reason as
11:58:44 2 to why they were opposed to it, but for the most part,
11:58:48 3 most of the Recorders were opposed to it.

11:58:51 4 Q. And so these e-mails refer to a public
11:58:56 5 statement that's going to accompany the veto letter; is
11:58:59 6 that correct?

11:58:59 7 A. Yes.

11:59:00 8 Q. And so just looking at the top there, this is
11:59:03 9 an e-mail from County Recorder Cázares-Kelly. She
11:59:10 10 writes "How about this: Recorder Cázares-Kelly has
11:59:14 11 asked Arizona Governor Doug Ducey to veto H.B. 2492. In
11:59:19 12 addition to this bill being particularly harmful to
11:59:21 13 Native American voters and the possibility of
11:59:24 14 criminalizing our staff due to errors, this bill also
11:59:27 15 violates federal law."

11:59:28 16 Is that correct?

11:59:28 17 A. That is correct.

11:59:30 18 Q. And so why did County Recorder Cázares-Kelly
11:59:36 19 believe that H.B. 2492 would be particularly harmful to
11:59:41 20 Native American voters?

11:59:44 21 MR. LANGHOFER: Calls for speculation.

11:59:47 22 BY MR. SNOW:

11:59:48 23 Q. To your knowledge, you may answer.

11:59:53 24 A. As I previously stated, our office is
11:59:58 25 particularly -- our office is making great strides to

12:00:05 1 try to ensure that every eligible individual within Pima
12:00:10 2 County who wants to be able to register to vote can be
12:00:14 3 able to register to vote.

12:00:16 4 We have a particular internal goal to be more
12:00:23 5 open and accessible to communities that have
12:00:28 6 historically seen -- have been not represented or have
12:00:35 7 not had the same outreach efforts for them. That is
12:00:43 8 Recorder Cázares-Kelly's personal and political and
12:00:47 9 policy decision for the office. That is what her
12:00:51 10 commitment is to the residents of Pima County.

12:00:58 11 Q. So this is a public position of your office; is
12:01:03 12 that correct?

12:01:03 13 A. It is the public position of the County
12:01:12 14 Recorder.

12:01:12 15 Q. Is that statement about the bill being
12:01:14 16 particularly harmful to Native American voters, does
12:01:17 17 that refer to the documentary proof of residence
12:01:21 18 provision?

12:01:21 19 A. I do not recall specifically which provision
12:01:23 20 the Recorder was referring to. Our office, upon
12:01:28 21 reviewing that particular bill, deemed the entire bill
12:01:32 22 to be very difficult to enforce and difficult in terms
12:01:36 23 of to operationalize. The County Recorder is an elected
12:01:42 24 individual and has particular positions. This would be
12:01:45 25 one of those. From an operational standpoint we cannot

12:01:50 1 operationalize this bill without more clarification.

12:01:56 2 Q. So turning to the next exhibit, which will be

12:02:01 3 marked 73, and it's labeled O.

12:02:13 4 A. Can I take a brief moment to -- just a moment,

12:02:19 5 please, five minutes?

12:02:21 6 MR. SNOW: Sure.

12:02:22 7 THE WITNESS: Thanks.

12:02:22 8 THE VIDEOGRAPHER: Counsel, would you like

12:02:30 9 to go off the record?

12:02:33 10 MR. SNOW: May as well.

12:02:37 11 THE VIDEOGRAPHER: We are off the record.

12:02:38 12 The time on the video monitor is 12:02 p.m.

12:02:44 13 (A recess was taken.)

12:04:58 14 THE VIDEOGRAPHER: We are on the record.

12:04:59 15 The time on the video monitor is 12:04 p.m.

12:05:03 16 BY MR. SNOW:

12:05:04 17 Q. Thank you.

12:05:05 18 So turning back to Exhibit 73. Do you have

12:05:11 19 that in front of you?

12:05:11 20 A. Yes, I do.

12:05:13 21 Q. So this is an e-mail dated March 25, 2022 from

12:05:23 22 Cinthia Garcia to a number of individuals, and in the

12:05:31 23 body of the e-mail is a letter dated March 24, 2022,

12:05:35 24 addressed to the Governor, signed by County Recorder

12:05:45 25 Cázares-Kelly; is that correct?

12:05:46 1 A. That is correct.

12:05:46 2 Q. And so this is the veto letter that we were
12:05:50 3 discussing, correct?

12:05:51 4 A. It is.

12:05:53 5 Q. So just turning down to the bottom of the first
12:05:59 6 page, the fourth bullet, where it says, "Proof of
12:06:03 7 residence when registering is also now included in the
12:06:06 8 bill. This is unnecessary. Applicants have provided
12:06:08 9 their address and residence is determined when they
12:06:11 10 vote."
12:06:12 11 What is that referring to?

12:06:19 12 A. I can't speak for Recorder Cázares-Kelly
12:06:22 13 specifically, but I would -- as I previously stated, our
12:06:28 14 current operations are is that the information is
12:06:31 15 already provided on the voter registration form, and
12:06:34 16 based off of our processes of -- our robust ability to
12:06:40 17 connect with the county GIS system and our ability to
12:06:44 18 investigate nonstandard addresses, we do this already.

12:06:52 19 Q. So you would agree that it's unnecessary to
12:06:54 20 provide documentary proof of residence when registering?

12:06:59 21 MR. LANGHOFER: Objection to the extent it
12:07:01 22 calls for a legal conclusion.

12:07:04 23 BY MR. SNOW:

12:07:04 24 Q. Well, let me rephrase.
12:07:06 25 You would agree from an elections

12:07:08 1 administration standpoint that it's unnecessary for a
12:07:10 2 voter to provide documentary proof of residence for your
12:07:13 3 office to complete their registration; is that correct?

12:07:17 4 A. The way the form is currently written and our
12:07:20 5 current procedures, I am confident in our ability to be
12:07:24 6 able to identify the appropriate precinct for a newly
12:07:29 7 registered voter.

12:07:30 8 Q. Thank you.

12:07:45 9 So if you were required to implement the DPOR
12:07:51 10 provision, is it your understanding that this would
12:07:57 11 apply to both the federal and the state form?

12:08:03 12 A. That is what we've tentatively understood,
12:08:06 13 based off of the information we were provided by the
12:08:08 14 Secretary of State's Office.

12:08:11 15 Q. So would there be a two-track system for this
12:08:14 16 requirement, like there is for DPOC currently?

12:08:20 17 MR. LANGHOFER: Objection.

12:08:21 18 MS. STUART: Form.

12:08:24 19 BY MR. SNOW:

12:08:24 20 Q. I can ask a different question.

12:08:28 21 So what types of documents, to your knowledge,
12:08:30 22 would qualify to satisfy the DPOR requirement?

12:08:35 23 A. Well, the --

12:08:35 24 MR. LANGHOFER: Calls for a legal
12:08:36 25 conclusion.

12:08:39 1 BY MR. SNOW:

12:08:40 2 Q. You can go ahead.

12:08:45 3 A. The statute that the bill references has a list

12:08:49 4 of forms that would be -- that we use for proof of

12:08:55 5 residency for what we're doing when a voter comes to an

12:09:02 6 early ballot location or to a vote center to verify who

12:09:07 7 they are. So we would use that particular statute and

12:09:13 8 that list.

12:09:18 9 Without referring to the specific statute and

12:09:19 10 seeing what it says, I can't say whether or not that's

12:09:22 11 exhaustive or not.

12:09:26 12 Q. So let's take a look at what will be marked

12:09:29 13 Exhibit 74, and that's labeled P.

12:09:45 14 A. I have it on the screen.

12:09:48 15 Q. Great.

12:09:48 16 And so what is this document?

12:09:50 17 A. That is the Secretary of State's flowchart and

12:09:55 18 information that we discussed earlier.

12:09:58 19 Q. So when it says "VRAC Legislative Policy

12:10:02 20 Updates" at the top, that refers to the voter

12:10:09 21 registration advisory committee?

12:10:10 22 A. It refers to the voter registration advisory

12:10:14 23 committee that would update the VRAC papers that we

12:10:17 24 would use. So this was a policy update paper provided

12:10:20 25 to us by the SOS discussing the bills and their impacts

12:10:28 1 to certain aspects of voter registration.

12:10:33 2 Q. So turning down to Page 11.

12:10:49 3 MS. STUART: What's the Bates number,

12:10:51 4 Ryan?

12:10:52 5 MR. SNOW: Sorry. The Bates number is 27.

12:10:53 6 MS. STUART: Thank you.

12:10:57 7 BY MR. SNOW:

12:10:58 8 Q. The section titled Documentary Proof of

12:11:02 9 Residency, where it says, "DPOR must accompany the state

12:11:05 10 form but does not need to accompany the federal form.

12:11:09 11 Requiring DPOR conflicts with the National Voter

12:11:12 12 Registration Act and Arizona v. Inter Tribal Council of

12:11:15 13 Arizona."

12:11:18 14 So this is the Secretary's interpretation of

12:11:22 15 the law?

12:11:23 16 MS. STUART: Form, foundation.

12:11:27 17 BY MR. SNOW:

12:11:27 18 Q. So this was provided to you by the Secretary's

12:11:31 19 Office; is that correct?

12:11:31 20 A. It is correct.

12:11:32 21 Q. Okay. And you would treat this as guidance

12:11:37 22 from the Secretary's Office, correct?

12:11:39 23 A. We would.

12:11:41 24 Q. So you would follow this, this guidance?

12:11:46 25 A. I believe we also provided this to our counsel

12:11:50 1 for review as well.

12:12:02 2 Q. So but just, you know -- just confirming that

12:12:05 3 this is the only guidance you've received about

12:12:09 4 implementing this provision?

12:12:10 5 A. That is correct.

12:12:12 6 Q. From the Secretary and then from your legal

12:12:14 7 counsel?

12:12:14 8 A. Correct.

12:12:15 9 Q. Okay. So looking at the list of documents in

12:12:31 10 that table.

12:12:43 11 A. Okay.

12:12:44 12 Q. Are you familiar with -- are you familiar with

12:12:49 13 these forms of documentation?

12:12:52 14 A. Yes, I am.

12:12:54 15 Q. And do you know, to your knowledge, which, if

12:13:00 16 any, of these documents -- scratch that.

12:13:10 17 Looking at the third, the third row, Tribal

12:13:14 18 identification card, are you familiar with Tribal

12:13:17 19 identification cards from -- submitted with voter

12:13:21 20 registration forms currently?

12:13:23 21 A. I don't believe that they have submitted them

12:13:26 22 with the voter registration forms. We usually encounter

12:13:28 23 the Tribal identification cards at early voting sites

12:13:31 24 and vote centers as a form of secondary ID to have a

12:13:35 25 ballot issued.

12:13:36 1 Q. And so you're familiar with -- you've seen them
12:13:40 2 before?

12:13:40 3 A. Yes.

12:13:42 4 Q. Do they typically contain an address or other
12:13:45 5 description of location of residence?

12:13:47 6 A. Not normally, no.

12:14:01 7 Q. And looking at the last row, written
12:14:06 8 confirmation signed by the registrant, this would --
12:14:09 9 this would be -- this would refer to folks who don't
12:14:12 10 have a -- don't have a fixed home location; is that
12:14:18 11 correct?

12:14:18 12 A. That would be correct.

12:14:23 13 Q. Do those individuals currently need to sign
12:14:25 14 anything when they submit the form containing a
12:14:29 15 depiction or description of their -- of their location
12:14:33 16 of residence?

12:14:33 17 MR. LANGHOFER: Objection. Sorry.
12:14:36 18 form.

12:14:40 19 BY MR. SNOW:

12:14:41 20 Q. You can go ahead and answer.

12:14:42 21 A. The voter registration application itself is
12:14:47 22 when a voter is signing to it, they're -- it's a --
12:14:51 23 they're attesting to the information being correct. So
12:14:57 24 once they sign it, that's -- they're attesting to their
12:15:02 25 correct information.

12:15:05 1 Q. So for individuals registering and having to
12:15:12 2 comply with the documentary proof of residence
12:15:19 3 provision, how can those individuals submit their
12:15:22 4 documents?

12:15:31 5 A. I would -- I don't quite understand your
12:15:32 6 question.

12:15:33 7 Q. So do they need to submit an original document
12:15:35 8 or would they be able to submit a copy, would they be
12:15:38 9 able to submit it -- well, we'll just leave that
12:15:41 10 question first.

12:15:42 11 Would they be able to submit a copy or would
12:15:44 12 they need to submit an original?

12:15:46 13 A. Well, I mean if we were implementing this, we
12:15:50 14 would probably just have them, you know, provide us --
12:15:52 15 if they were in person, they could just show it to us,
12:15:55 16 and that would be enough. If they were doing this
12:15:57 17 responding to us via mailing, then they could send us a
12:16:01 18 copy.

12:16:04 19 Q. And would this information become part of the
12:16:08 20 voter's file, a scanned version of it, similar to the --

12:16:18 21 A. I don't know. That would be a programming
12:16:20 22 change.

12:16:32 23 Q. So what does it add to your knowledge about a
12:16:37 24 voter's location of residence for them to submit a
12:16:40 25 document proving that?

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12:16:48 1 A. I don't understand what you mean by --

12:16:50 2 Q. Does it assist you to have a document, a

12:16:52 3 physical document, containing their location of

12:16:55 4 residence in determining their location of residence for

12:16:58 5 the purposes of voter registration?

12:17:02 6 A. Again, as I previously stated, we have a very

12:17:05 7 robust system that relies on the county GIS system, and

12:17:12 8 we have a very established way to investigate addresses.

12:17:16 9 So I mean it would neither hurt nor help, I guess. It's

12:17:20 10 just a neutral thing.

12:17:29 11 Q. Thanks.

12:17:37 12 MR. SNOW: All right. I think I'm good,

12:17:42 13 and I think my colleagues have questions that they would

12:17:45 14 like to ask, so I think I'm going to turn it over to Jon

12:17:49 15 Sherman next.

12:17:50 16 And thanks so much, Ms. Hiser. I really

12:17:52 17 appreciate your work and your time.

12:17:54 18 THE WITNESS: You're welcome.

12:18:01 19 MR. SHERMAN: So do we want to consider

12:18:01 20 taking a -- I know it's noon, afternoon in Arizona.

12:18:05 21 Ms. Hiser, do you want to take a lunch break now? Do

12:18:07 22 you want to go for a bit more before we do a lunch

12:18:11 23 break?

12:18:14 24 THE WITNESS: Let's break for lunch, Jon.

12:18:16 25 It seems like that would be a nice thing.

12:18:19 1 MR. SHERMAN: Okay. How long? Does a
12:18:21 2 half hour, 30 minutes, 45 minutes? What seems --
12:18:25 3 THE WITNESS: Let's do 45, please.
12:18:27 4 MR. SHERMAN: Okay. Is that fine with all
12:18:30 5 parties, we break for 45 and come back? I'm just
12:18:33 6 mindful that we on the East Coast, it's 3:18, and folks
12:18:37 7 in Arizona are hitting lunchtime.
12:18:40 8 MR. LANGHOFER: How long are you planning
12:18:41 9 on going this afternoon, Jon?
12:18:44 10 MR. SHERMAN: We are just getting started
12:18:46 11 on many other sections involving the citizenship-related
12:18:49 12 questions, so this could, you know, take, you know, the
12:18:53 13 full seven hours, just to be frank.
12:18:53 14 MS. STUART: Do you want to get off the
12:18:53 15 record?
12:18:58 16 MR. SHERMAN: Not just with me, but --
12:18:59 17 excuse me?
12:18:59 18 MS. STUART: Do we want to get off the
12:19:01 19 record to continue this conversation?
12:19:02 20 MR. SHERMAN: Oh, for sure. Yeah.
12:19:04 21 THE VIDEOGRAPHER: We are off the record.
12:19:06 22 The time on the video monitor is 12:19 p.m.
01:02:07 23 (A recess was taken.)
01:04:42 24 THE VIDEOGRAPHER: We are on the record.
01:04:43 25 The time on the video monitor is 1:04 p.m.

01:04:49 1 EXAMINATION

01:04:49 2 BY MR. SHERMAN:

01:04:50 3 Q. Good afternoon, Ms. Hiser. My name is Jon

01:04:53 4 Sherman. I'm with Fair Elections Center, and I

01:04:56 5 represent the Poder Latinx plaintiffs in Mi Familia

01:05:02 6 Vota v. Fontes, this consolidated litigation.

01:05:04 7 I wanted to begin by just rehearsing a 30(b)(6)

01:05:09 8 deposition. Because this is a 30(b)(6) deposition under

01:05:12 9 the Federal Rules, you understand that you're testifying

01:05:16 10 on behalf of the whole County Recorder's Office,

01:05:21 11 including the County Recorder herself, correct?

01:05:22 12 A. I do.

01:05:23 13 Q. Okay, great.

01:05:27 14 And can we just reiterate the stipulation I

01:05:30 15 think that was agreed to earlier, where if I say you, I

01:05:33 16 mean your office; can we agree to that?

01:05:34 17 A. Yes.

01:05:35 18 Q. Okay, great.

01:05:38 19 Earlier this morning you were talking about the

01:05:42 20 election procedures manual, specifically the 2019

01:05:45 21 election procedures manual. I just wanted to clear up

01:05:48 22 the record on a few points.

01:05:52 23 Is your office legally required to follow the

01:05:55 24 election procedures manual?

01:05:55 25 MR. LANGHOFER: Calls for a legal

01:05:56 1 conclusion.

01:06:00 2 BY MR. SHERMAN:

01:06:00 3 Q. I'm sorry, I didn't hear the response.

01:06:03 4 A. I believe someone objected.

01:06:08 5 Q. You can -- you can answer after they object,

01:06:09 6 unless someone -- unless someone instructs you not to

01:06:12 7 answer.

01:06:14 8 A. Yes, we are required to follow the EPM.

01:06:19 9 Q. Great. And all parts of the EPM?

01:06:22 10 A. Yes.

01:06:26 11 Q. Has the Secretary of State's Office ever

01:06:28 12 communicated to you whether it believes the voter

01:06:31 13 registration rules and procedures in the EPM are legally

01:06:35 14 binding?

01:06:35 15 MS. STUART: Form.

01:06:36 16 THE WITNESS: I don't think they've ever

01:06:37 17 communicated that to us. That has been our

01:06:39 18 understanding of the EPM.

01:06:42 19 BY MR. SHERMAN:

01:06:42 20 Q. Has any County Recorder ever suggested to you,

01:06:45 21 any County Recorder's Office, ever suggested to you that

01:06:47 22 the voter registration guidance in the EPM is not

01:06:51 23 legally binding?

01:06:52 24 A. Not to my knowledge, no.

01:06:57 25 Q. Can legally binding guidance be conveyed by the

01:07:00 1 Secretary of State's Office to your office by any other
01:07:03 2 means outside of the EPM?
01:07:05 3 MR. LANGHOFER: Calls for a legal
01:07:08 4 conclusion.
01:07:08 5 MS. STUART: Form.
01:07:09 6 THE WITNESS: I don't really understand
01:07:10 7 your question.
01:07:13 8 BY MR. SHERMAN:
01:07:13 9 Q. Sure. I can give some other examples.
01:07:17 10 Can you be legally -- are you legally required
01:07:20 11 to follow a memorandum issued by the Secretary of
01:07:23 12 State's Office to your office?
01:07:25 13 MR. LANGHOFER: Same objection.
01:07:28 14 THE WITNESS: No. We would just -- the
01:07:31 15 EPM is a guide, as it's stated in statute, that the
01:07:37 16 Secretary of State's Office produces that we follow. It
01:07:40 17 defines election administration and voting task
01:07:47 18 responsibilities for County Recorders and election
01:07:49 19 directors.
01:07:49 20 BY MR. SHERMAN:
01:07:49 21 Q. So the EPM is binding, but not a separate
01:07:51 22 memorandum that the Secretary of State's Office issues?
01:07:55 23 MS. STUART: Form.
01:07:56 24 MR. LANGHOFER: Same objection.
01:07:57 25 THE WITNESS: I would say that we would

01:08:00 1 consider separate memorandums from the Secretary of
01:08:03 2 State's Office as guidance, not binding.

01:08:05 3 BY MR. SHERMAN:

01:08:06 4 Q. Okay. That's just what I wanted to clarify.
01:08:07 5 If the Secretary of State's Office's lawyers
01:08:10 6 write a legal brief and send it to your office, is that
01:08:14 7 legally binding guidance?

01:08:15 8 MS. STUART: Form.

01:08:17 9 MR. LANGHOFER: Calls for a legal
01:08:19 10 conclusion.

01:08:19 11 THE WITNESS: If the SOS's attorneys were
01:08:21 12 to send us a legal brief, I would give it to my attorney
01:08:24 13 and wait for direction from my attorney.

01:08:26 14 BY MR. SHERMAN:

01:08:27 15 Q. Okay. And if your attorney said this is
01:08:30 16 legally binding, then you would follow it, you would
01:08:33 17 believe it's legally binding?

01:08:34 18 MR. LANGHOFER: Same objection.

01:08:35 19 THE WITNESS: I always follow the advice
01:08:36 20 of my attorney.

01:08:38 21 BY MR. SHERMAN:

01:08:40 22 Q. All right. If someone, a staff member of the
01:08:42 23 Secretary of State's Office, sends your office an
01:08:43 24 e-mail, is that -- would you be legally required to
01:08:46 25 follow that?

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01:08:46 1 MS. STUART: Form.

01:08:48 2 THE WITNESS: Again, I would consider that

01:08:50 3 to be guidance, and if it were something of in question,

01:08:56 4 again, we would provide that information to our attorney

01:08:58 5 and seek input from counsel.

01:09:01 6 BY MR. SHERMAN:

01:09:01 7 Q. Okay. So anything that comes to your office

01:09:04 8 outside of the EPM, whether it's a letter, an e-mail, a

01:09:08 9 phone call, text message, any other means, that would be

01:09:14 10 subject to further review by your attorney, but not

01:09:16 11 per se legally binding on your office?

01:09:18 12 MR. LANGHOFFER: Form.

01:09:19 13 MS. STUART: Form.

01:09:22 14 THE WITNESS: Yes. I would consider that

01:09:23 15 to be guidance.

01:09:26 16 BY MR. SHERMAN:

01:09:26 17 Q. Okay. And just to clarify, earlier we were

01:09:28 18 talking about the VRAC papers. Are those legally

01:09:32 19 binding on your office?

01:09:32 20 MS. STUART: Form.

01:09:35 21 THE WITNESS: They are not legally

01:09:36 22 binding, but it is a way for us to create uniformity

01:09:40 23 among procedures across all 15 counties.

01:09:43 24 BY MR. SHERMAN:

01:09:43 25 Q. But a VRAC paper, right, can't contradict the

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01:09:48 1 EPM or statutes, right?

01:09:50 2 MS. STUART: Form.

01:09:50 3 MR. LANGHOFER: Same.

01:09:51 4 MS. STUART: And, also, I don't want to

01:09:52 5 interrupt you, so if you could just give me a bit more

01:09:55 6 of a pause before you answer his questions. Thank you.

01:10:03 7 BY MR. SHERMAN:

01:10:03 8 Q. I can re -- I can repeat.

01:10:05 9 A. So the VRAC paper would be considered

01:10:09 10 supplementary guidance to information from the EPM or

01:10:13 11 statute. The VRAC papers are -- the foundation for them

01:10:19 12 is the EPM and the statute. They are just further

01:10:25 13 discussing operations as it relates to certain tasks as

01:10:28 14 already outlined in the EPM.

01:10:31 15 Q. Okay. But just to clarify it, VRAC papers

01:10:34 16 can't contradict statutes?

01:10:37 17 MR. LANGHOFER: Form.

01:10:40 18 THE WITNESS: Correct. The VRAC papers

01:10:42 19 are based on statute and statutory interpretation from

01:10:50 20 the Secretary of State's Office.

01:10:51 21 BY MR. SHERMAN:

01:10:51 22 Q. And VRAC papers can't contradict the EPM,

01:10:55 23 correct?

01:10:55 24 MR. LANGHOFER: Form.

01:10:55 25 MS. STUART: Form.

01:10:58 1 THE WITNESS: They do not contradict the

01:11:02 2 EPM. They supplement the EPM and provide the EPM with

01:11:07 3 more clarity.

01:11:08 4 BY MR. SHERMAN:

01:11:08 5 Q. Okay. Thanks very much.

01:11:10 6 So earlier you testified that you consult the

01:11:12 7 EPM and statutes simultaneously; is that correct?

01:11:14 8 A. Correct.

01:11:16 9 Q. What if there's a conflict between the EPM and

01:11:18 10 the statutes; what do you do?

01:11:21 11 MS. STUART: Form.

01:11:21 12 THE WITNESS: I talk to my attorney.

01:11:25 13 BY MR. SHERMAN:

01:11:25 14 Q. Okay. So there might be circumstances where

01:11:28 15 you're not bound to follow the EPM and would follow the

01:11:31 16 statutes if there is a conflict between the two?

01:11:34 17 MR. LANGHOFER: Form.

01:11:39 18 THE WITNESS: If we've identified a

01:11:40 19 conflict, we would discuss with our legal counsel how

01:11:43 20 best to proceed.

01:11:45 21 BY MR. SHERMAN:

01:11:45 22 Q. And the statutes supersede the EPM, right?

01:11:48 23 MS. STUART: Form.

01:11:48 24 MR. LANGHOFER: Form.

01:11:50 25 THE WITNESS: Our understanding is, is

01:11:53 1 that the statute's in effect, so the statute is the
01:11:56 2 foundation. The EPM supports the operation of the
01:12:02 3 statute. The VRAC papers further detail specifics about
01:12:06 4 operations.

01:12:08 5 BY MR. SHERMAN:

01:12:08 6 Q. All right. Maybe I'll ask it a different way.
01:12:10 7 Can the EPM contradict what's in the statute?

01:12:13 8 MS. STUART: Form.

01:12:14 9 MR. LANGHOFER: Form.

01:12:16 10 THE WITNESS: As the current EPM that is
01:12:19 11 currently still in effect is the 2019 EPM, there are
01:12:22 12 several contradictions in its current form to what has
01:12:26 13 passed the Arizona state legislature in previous
01:12:30 14 legislative sessions.

01:12:32 15 BY MR. SHERMAN:

01:12:32 16 Q. So leaving aside updates between the two
01:12:36 17 revisions of the EPM between, say, 2019 and the next
01:12:40 18 revision, whenever that happens, the EPM has to be
01:12:45 19 consistent with statutes, right?

01:12:46 20 MS. STUART: Form.

01:12:46 21 MR. LANGHOFER: Form.

01:12:47 22 THE WITNESS: Correct.

01:12:53 23 MR. SHERMAN: Okay.

01:12:53 24 MR. LANGHOFER: Mr. Sherman, is there some
01:12:55 25 dispute about the hierarchy of legal authorities in

01:12:57 1 Arizona? I mean don't we all agree on what trumps what?

01:13:04 2 MR. SHERMAN: Is there -- I mean are you
01:13:06 3 disputing the relevance of the question? I'm just not
01:13:07 4 sure what the objection is.

01:13:09 5 MR. LANGHOFER: Yeah. I mean it's your
01:13:10 6 deposition. You can spend your time the way you want,
01:13:12 7 but I don't think there's any question about which legal
01:13:16 8 authorities are more authoritative in Arizona.

01:13:19 9 MR. SHERMAN: Okay. Is there an
01:13:20 10 objection?

01:13:21 11 MR. LANGHOFER: I'll object on the grounds
01:13:22 12 of relevance.

01:13:25 13 MR. SHERMAN: Okay. Thanks.

01:13:31 14 BY MR. SHERMAN:

01:13:31 15 Q. So just to revisit, you reviewed the statutes
01:13:34 16 and EPM simultaneously, and have there been instances in
01:13:38 17 the past where you've been -- in consultation with your
01:13:42 18 legal counsel, you've had to follow the statute over
01:13:47 19 what's in the EPM?

01:13:55 20 A. I don't believe so. But the statutes
01:13:59 21 themselves, depending on which particular statute would
01:14:03 22 be considered in conflict, some of the statutes are very
01:14:06 23 short and vague, and the procedures in the elections
01:14:09 24 procedures manual can be very detailed, taking a -- the
01:14:16 25 statute that lacks some detail and some clarity and

01:14:20 1 providing more detail to operations.

01:14:22 2 Q. Is it your testimony that you consult the

01:14:25 3 statute to fill in gaps in the EPM?

01:14:30 4 A. No. I consult the statute in conjunction with

01:14:33 5 the EPM because that's best practice.

01:14:37 6 Q. And why is that best practice, just to be

01:14:39 7 clear?

01:14:39 8 A. Because as an elections officer, I'm bound to

01:14:42 9 follow the statutes of the state of Arizona when

01:14:45 10 enforcing election administration.

01:14:46 11 Q. Okay. Thanks very much.

01:14:48 12 You mentioned, also, the annotated version of

01:14:52 13 the EPM. The annotation in that version of the EPM is

01:14:55 14 not legally binding on your office, correct?

01:14:58 15 MS. STUART: Form.

01:14:59 16 MR. LANGHOFER: Form.

01:15:00 17 THE WITNESS: Our understanding is, no, it

01:15:02 18 is not legally binding. It is an annotated version

01:15:05 19 referencing changes in statute for a particular

01:15:08 20 legislative session.

01:15:10 21 BY MR. SHERMAN:

01:15:14 22 Q. Okay. Is that all the annotation contains is
01:15:17 23 legal changes?

01:15:19 24 A. Yes.

01:15:21 25 Q. Okay. I just wanted to clarify. Thanks very

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01:15:24 1 much.

01:15:24 2 So just to confirm, earlier you had testified

01:15:38 3 that you're not enforcing any part of H.B. 2492; is that

01:15:44 4 correct?

01:15:44 5 A. That is correct. We are currently waiting on a

01:15:47 6 decision regarding this litigation to be able to move

01:15:50 7 forward. The guidance that we have been provided has

01:15:54 8 not been as clear as we would like, so we are continuing

01:15:58 9 operations as normal.

01:16:02 10 Q. And just to confirm, you're not enforcing any

01:16:04 11 part of H.B. 2243 at the moment, correct?

01:16:08 12 MR. LANGHOFFER: Asked and answered.

01:16:12 13 THE WITNESS: That is correct. We are

01:16:14 14 still waiting on the outcome of litigation in regards to

01:16:17 15 these bills.

01:16:18 16 BY MR. SHERMAN:

01:16:18 17 Q. Great. Thank you.

01:16:19 18 And to your knowledge, are all counties

01:16:25 19 following suit, following the same protocol that your

01:16:29 20 office is?

01:16:30 21 A. As far as I know, yes.

01:16:45 22 Q. And you have reviewed the draft 2023 EPM?

01:16:48 23 A. I have.

01:16:49 24 Q. Have you offered comments yet? I forget if you

01:16:52 25 testified as to that.

01:16:53 1 A. We offered some preliminary comments in the
01:16:55 2 very first meeting as it related to Chapter 2. We had
01:17:00 3 requested why some things had been removed that were
01:17:02 4 previously referenced in the 2019 EPM. We felt that
01:17:06 5 some of those guidances were -- provided some detail and
01:17:12 6 clarity, so we asked for them to be put back in.

01:17:16 7 And the majority of our input going forward has
01:17:19 8 been verbal through our meetings with the Recorder and
01:17:23 9 the Secretary's Office as we discussed each section of
01:17:27 10 the EPM.

01:17:27 11 Q. Great.

01:17:28 12 I just want to be clear on how many meetings
01:17:31 13 there have been with the Secretary of State's Office
01:17:33 14 about the challenged laws. Could you speak to that?
01:17:37 15 How many meetings have there been since they were
01:17:39 16 enacted, essentially?

01:17:41 17 A. About the challenged laws themselves?

01:17:43 18 Q. Yes, about H.B. 2492 and H.B. 2243.

01:17:50 19 A. Well, we've had many meetings with the
01:17:52 20 Secretary of State's Office, from discussion of VRAC
01:17:56 21 papers to AVID enhancement to the EPM draft, and these
01:18:05 22 challenged laws play a factor in those conversations
01:18:08 23 always. So too many -- too numerous to count.

01:18:14 24 Q. Understood.

01:18:14 25 So in each of these meetings you've shared

01:18:17 1 feedback on your office's concerns with the challenged
01:18:22 2 laws?

01:18:22 3 A. Not at each of these meetings. Some of them
01:18:25 4 has just -- some of the meetings are updates as to where
01:18:30 5 we stand on litigation. Some of them can be what are
01:18:36 6 the next steps in terms of updating systems. It's not a
01:18:41 7 discussion of the legality of the laws. It's a
01:18:44 8 discussion of these laws are under litigation and here
01:18:49 9 would be next steps and here's what we're waiting for.

01:18:52 10 Q. Understood.

01:18:54 11 Could I ask you to take a look at what's
01:18:56 12 Exhibit Q? It's Bates stamp number AZSOS-21416.

01:19:09 13 Just let me know when you have the document
01:19:11 14 open.

01:19:17 15 A. And which tab would that be? Is that the
01:19:22 16 Mi Familia Vota?

01:19:23 17 Q. It's Pima County Recorder 30(b)(6) deposition
01:19:29 18 potential exhibits.

01:19:31 19 MS. STUART: I don't think there's an
01:19:32 20 Exhibit Q. What was the Bates number, again?

01:19:36 21 MR. SHERMAN: AZSOS-21416.

01:19:43 22 MS. STUART: Thank you.

01:19:55 23 MR. SHERMAN: I modified it in the
01:19:57 24 Dropbox, but perhaps it doesn't update for everyone, I
01:20:00 25 guess, if it was separately sent to you.

01:20:09 1 THE WITNESS: I'll try refreshing and see
01:20:11 2 if it --
01:20:15 3 I refreshed so I'm able to --
01:20:20 4 Yes, I have it.
01:20:20 5 BY MR. SHERMAN:
01:20:20 6 Q. Do you see it now, Exhibit Q?
01:20:21 7 A. I do.
01:20:22 8 Q. Okay, great.
01:20:23 9 And you can see -- what is this document?
01:20:28 10 A. That's an e-mail from the previous chief
01:20:31 11 deputy, Pamela Franklin, to Kori Lorick, who was the
01:20:37 12 previous elections director for the Secretary of State
01:20:40 13 under Secretary Hobbs.
01:20:41 14 Q. And who is cc'd on this e-mail?
01:20:45 15 A. Just the County Recorder.
01:20:48 16 Q. And could you just read for the record -- it's
01:20:52 17 a short e-mail. Could you just read for the record what
01:20:54 18 it says?
01:20:55 19 A. "Hi, Kori. I'd like to chat with you about
01:20:57 20 some of the problems/issues we see in implementing and
01:21:01 21 interpreting H.B. 2492. Is there a time that would be
01:21:05 22 good for you to talk?"
01:21:08 23 Q. And was there a meeting that took place with
01:21:12 24 the Secretary of State's Office in response to this
01:21:14 25 e-mail?

01:21:15 1 A. I do not know.

01:21:16 2 Q. Okay. You were with the County Recorder's

01:21:21 3 Office at the time, correct?

01:21:22 4 A. I was. I was the assistant chief deputy at the

01:21:26 5 time.

01:21:26 6 Q. Right. And was there a meeting -- whether or

01:21:29 7 not this meeting ultimately occurred, was there a

01:21:32 8 meeting with the County Recorder and Pamela Franklin

01:21:34 9 where you discussed the problems and issues that the

01:21:39 10 County Recorder's Office saw in implementing and

01:21:41 11 interpreting H.B. 2492?

01:21:43 12 A. We would have had a standing meeting on a

01:21:48 13 weekly basis reviewing legislation and the impact of

01:21:52 14 legislation, so we would most likely have discussed it

01:21:55 15 during that meeting.

01:21:57 16 Q. Was there a lawyer present during that meeting?

01:21:59 17 A. No. That would have been an internal meeting

01:22:02 18 of County Recorder staff only.

01:22:08 19 Q. Okay. Could you recount -- in a minute I'm

01:22:10 20 going to ask you to take a look at H.B. 2492, but for

01:22:14 21 now, could I have you just recount the substance of what

01:22:16 22 was discussed at that meeting?

01:22:20 23 A. I'm sorry. That was over a year ago. I don't

01:22:23 24 remember the substance.

01:22:24 25 I do recall that we would discuss bills that we

01:22:27 1 had concerns about because we were internally tracking
01:22:30 2 them and discuss what the implications of that would be.
01:22:36 3 At the time of this particular legislative session we
01:22:41 4 had two legislative liaisons that we had hired in our
01:22:44 5 department, two second-year law students, who were
01:22:49 6 assisting us as we were reviewing the legislation kind
01:22:55 7 of impacting.

01:22:58 8 Those legislative liaisons were assigned to me.
01:23:00 9 They were my direct reports. I did have them follow
01:23:05 10 bills that would have an operational impact, including
01:23:09 11 this one, on our office, and to identify issues with the
01:23:15 12 bill and kind of discuss if there were any conflicts of
01:23:19 13 laws, that should the bill be passed, what that would
01:23:23 14 implicate, what that would -- what that would mean for
01:23:26 15 our office, just so we could get kind of a full
01:23:30 16 understanding of the bills.

01:23:35 17 Q. Okay. So to refresh your memory of the
01:23:37 18 conversation, I do understand it was more than a year
01:23:39 19 ago, could we take a look at H.B. 2492. This is Petty
01:23:46 20 Exhibit 19.

01:23:48 21 MR. LANGHOFER: And, Jon?

01:23:48 22 MR. SHERMAN: Yes.

01:23:50 23 MR. LANGHOFER: Just before you move on,
01:23:51 24 maybe I missed it, but it may make sense to make sure we
01:23:51 25 have a --

01:23:51 1 MR. SHERMAN: Oh, yeah.

01:23:54 2 MR. LANGHOFER: -- exhibit number

01:23:55 3 associated with the last one.

01:23:57 4 MR. SHERMAN: I apologize. We should mark

01:23:59 5 Exhibit Q, and I forget sequentially where we're at.

01:24:08 6 THE COURT REPORTER: 75.

01:24:10 7 MR. SHERMAN: 75? Thanks very much.

01:24:17 8 BY MR. SHERMAN:

01:24:18 9 Q. So if you have -- do you have H.B. 2492, Petty

01:24:22 10 Exhibit 19, up before you?

01:24:23 11 A. I do have a copy of the bill, yes, the

01:24:25 12 chaptered version.

01:24:26 13 Q. The chapter version, Chapter 99?

01:24:30 14 A. Yes.

01:24:30 15 Q. Great.

01:24:31 16 So the e-mail we were just looking at described

01:24:35 17 problems and issues with interpreting and implementing

01:24:41 18 H.B. 2492. I'd like to ask you to take a minute to -- a

01:24:45 19 couple minutes even, as long as you need, to walk

01:24:47 20 through H.B. 2492, and for the record, talk through what

01:24:55 21 your office sees as the problems and issues with

01:25:00 22 interpreting -- let's start with just interpreting

01:25:03 23 H.B. 2492. Well, we'll do it together, problems and

01:25:08 24 issues interpreting and implementing H.B. 2492.

01:25:11 25 A. Sure. Give me a moment. I have it on the

01:25:13 1 screen, and I'd like to take a moment just to refresh
01:25:16 2 my --

01:25:16 3 Q. Yes, for sure. Take as long as you need.

01:26:26 4 And you don't have to give them to us all at
01:26:28 5 once. We can go page by page here. That might be
01:26:31 6 easier to do.

01:26:32 7 A. Sure.

01:26:33 8 Q. And maybe to do this most efficiently, because
01:26:36 9 I want to be as efficient as possible, let me sort of
01:26:39 10 combine this with another question. You can answer them
01:26:42 11 simultaneously.

01:26:43 12 Earlier you testified that there are vague,
01:26:48 13 quote, vague provisions in both of the challenged laws
01:26:53 14 that would -- that your office cannot implement until
01:26:57 15 you have clear guidance from the Secretary of State's
01:27:00 16 Office; is that correct?

01:27:01 17 A. That is correct.

01:27:03 18 Q. While we're going through H.B. 2492, if you
01:27:07 19 could simultaneously point to the provisions or language
01:27:09 20 or phrases in the Act that your office sees as vague and
01:27:17 21 could not implement without clear guidance from the
01:27:20 22 Secretary of State's Office. So why don't we start just
01:27:24 23 with Page 1 of H.B. 2492.

01:27:30 24 A. Are you asking about Section 1 or --

01:27:34 25 Q. I'm asking just anything on Page 1, anything on

01:27:37 1 Page 1 of -- we could do it by section. That might be
01:27:43 2 easier. Let's start with Section 1.

01:27:45 3 A. So for Section 1, 16-101, we didn't have any
01:27:53 4 particular issues, other than with the additional
01:27:58 5 language, and has provided satisfactory evidence of
01:28:00 6 citizenship as prescribed. I believe we considered that
01:28:05 7 to be a redundancy.

01:28:10 8 But the information specifically, the included
01:28:16 9 language was and has provided satisfactory evidence of
01:28:20 10 citizenship as prescribed in Section 16-166. That
01:28:24 11 section, 16-166, was the section that underwent the
01:28:31 12 extensive amount of rewrite by the legislature at the
01:28:41 13 time.

01:28:41 14 So the references to proof of residency and
01:28:44 15 then the references to which statutes it's prescribing,
01:28:50 16 16-123, we felt that those were -- the inclusion of that
01:29:00 17 information was not as clear as it could have been for
01:29:02 18 us. And the reference to 16-123 we felt was a vague
01:29:09 19 statute as well.

01:29:11 20 Q. Okay.

01:29:15 21 A. We also identified that that could be some
01:29:17 22 issues with when receiving federal only ballots. The
01:29:28 23 notification requirements --

01:29:34 24 Q. Are you still just on Section 1, just to --

01:29:36 25 A. I'm sorry. I've moved to Section 16-166.

01:29:51 1 And then for Section 4 of 16-121.01, the
01:30:10 2 included language in Section A, I think we had some
01:30:15 3 issues with that.

01:30:17 4 Q. What were your issues with the language in
01:30:20 5 Subsection A under 16-121.01?

01:30:31 6 A. The language as it related to the federal
01:30:34 7 ballot and federal voters, eligibility to vote federal
01:30:39 8 voters and federal ballots.

01:30:41 9 Q. Are you referring to vagueness, a problem of
01:30:44 10 interpretation, or problem of implementation?

01:30:47 11 A. All three.

01:30:53 12 Q. Anything else in Subsection A?

01:31:14 13 A. Not at the moment, no.

01:31:18 14 Q. Okay. My colleagues may have additional
01:31:20 15 questions about that.

01:31:21 16 Moving to Page 4 and the other sections that
01:31:26 17 were added, other subsections that were added to
01:31:31 18 16-121.01, let's stick with just problems, problems of
01:31:36 19 interpretation and implementation that your office saw
01:31:40 20 in this section.

01:31:49 21 A. Well, I believe we had issues with C, "Except
01:32:13 22 for a form produced by the United States Elections
01:32:17 23 Assistance Commission, any application for registration
01:32:19 24 shall be accompanied by satisfactory evidence of
01:32:21 25 citizenship as prescribed in Section 16-166,

01:32:25 1 Subsection F, and the County Recorder or other officer
01:32:29 2 in charge of elections shall reject any application for
01:32:33 3 registration that is not accompanied by satisfactory
01:32:35 4 evidence of citizenship."

01:32:38 5 Our current practice is, when a registration
01:32:43 6 comes and lacks proof of citizenship, we register that
01:32:47 7 individual as a federal only voter, meaning they are
01:32:50 8 only eligible to vote a federal ballot. We reach out to
01:32:53 9 them and let them know that they need to provide us
01:32:56 10 proof of citizenship; and once we have that proof of
01:32:59 11 citizenship, we move their status to a full ballot
01:33:03 12 voter.

01:33:03 13 With this particular section our interpretation
01:33:06 14 was, is that we wouldn't even be able to do that. We
01:33:09 15 would just simply have to reject a voter. Then we
01:33:17 16 would -- by the -- by having to reject a voter, rather
01:33:20 17 than being able to say, like, put the voter -- continue
01:33:23 18 to register the voter as a federal only or to suspend
01:33:26 19 the voter registration until we received additional
01:33:30 20 forms, it was just -- operationally it makes -- it makes
01:33:33 21 it difficult for us. We would basically be duplicating
01:33:36 22 work over and over again.

01:33:44 23 Q. Any other problems with interpretation or --

01:33:48 24 A. Well, we had some --

01:33:48 25 Q. -- implementation you see?

01:33:48 1 A. It would be safe to say that we had some
01:33:56 2 heartburn with the language of "A County Recorder or
01:34:00 3 other officer in charge of elections who knowingly fails
01:34:04 4 to reject an application for registration as prescribed
01:34:06 5 by this subsection is guilty of a Class 6 felony."
01:34:11 6 That made our -- gave us pause, as our standard
01:34:20 7 is we are registering people to vote, and this is
01:34:27 8 telling us that if we did not reject people to vote, we
01:34:30 9 would be charged with a felony, was our interpretation
01:34:32 10 with it. We did not feel that -- we were concerned that
01:34:42 11 our staff might feel that their job was criminalized if
01:34:47 12 they made a mistake.

01:34:55 13 Q. If there's nothing else on Subsection C, I
01:34:58 14 wanted to direct your attention to Subsection D and
01:35:00 15 stick with that for a bit.

01:35:02 16 What were the problems with interpretation and
01:35:06 17 implementation that your office saw in Subsection D?
01:35:12 18 And we can include the vagueness issues under problems
01:35:15 19 of interpretation.

01:35:33 20 A. So under D there are five access database, you
01:35:46 21 know. Some of those -- so number 5 in particular, "Any
01:35:48 22 other state, city, town, county or federal database or
01:35:52 23 any other database relating to the voter registration to
01:35:55 24 which the County Recorder or officer in charge of
01:35:58 25 elections has access, including an electronic

01:36:01 1 registration information center database," we don't
01:36:04 2 really know what that means.
01:36:08 3 That's, you know -- you know, is that a permit
01:36:10 4 for a building permit, which doesn't provide
01:36:14 5 citizenship. We just -- I don't -- I don't know what
01:36:16 6 that means. I don't know how to access that should
01:36:21 7 we --
01:36:21 8 A National Association for Public Health
01:36:25 9 Statistics and Information Systems Electronic
01:36:29 10 Verification of Vital Events, here in the state of
01:36:32 11 Arizona health records and vital statistics are not
01:36:35 12 accessible to anybody other than the Health Department.
01:36:39 13 So even if I wanted to get confirmation of a death
01:36:44 14 notification of a Pima County resident, I could not go
01:36:47 15 to the Pima County Health Department and have them
01:36:49 16 confirm that for me. They have to provide that
01:36:51 17 information up through the Social Security
01:36:54 18 Administration, who then provides a master death file to
01:36:57 19 the Secretary of State's Office, who then provides it
01:36:59 20 back to me. So that's just not doable. There's no way
01:37:03 21 for us to be able -- it's not a possibility.
01:37:11 22 You know, the -- I've already discussed the
01:37:13 23 SAVE program, and we do use that to -- for first-time
01:37:17 24 registrants to verify a naturalization number.
01:37:21 25 Q. I'll get into the SAVE system later.

01:37:21 1 A. Okay.

01:37:24 2 Q. Maybe I can identify some specific language in
01:37:26 3 here and just ask you about it.

01:37:29 4 A. Sure.

01:37:29 5 Q. So the phrase shall use all available
01:37:33 6 resources, do you understand -- does your office understand
01:37:35 7 what that means?

01:37:36 8 A. We consider that to be vague.

01:37:40 9 Q. Okay. Do you understand the phrase provided
01:37:42 10 the county has access?

01:37:47 11 A. Yes, we understand that provided the county has
01:37:51 12 access; but, again, as I previously stated, the things
01:37:55 13 that they are having as examples are not things the
01:38:00 14 county would have access to.

01:38:02 15 Q. Understood.

01:38:06 16 Under Subsection C, where it references the
01:38:08 17 SAVE system, you see at the end there it says "if
01:38:11 18 practicable"? Do you understand the phrase if
01:38:15 19 practicable?

01:38:15 20 A. I do.

01:38:16 21 Q. And what does it mean in context here?

01:38:19 22 A. If we have access to the SAVE system, we have a
01:38:25 23 registration with them, and so we are able to run it;
01:38:27 24 and if we have a naturalization number, we can run it
01:38:33 25 through the SAVE system or an INS number.

01:38:36 1 Q. Does the term practicable here include your
01:38:42 2 office's resources, time, staff resources, et cetera?

01:38:48 3 A. I guess in one interpretation you could say
01:38:52 4 that. It's simply part of our daily process, so we
01:38:56 5 would be doing it anyway. So, yes, time, staff and
01:38:59 6 resources would cover that.

01:39:04 7 Q. Do you understand Subsection 5 here, "Any other
01:39:06 8 state, city, town, county or federal database and any
01:39:10 9 other database relating to voter registration to which
01:39:13 10 the County Recorder or officer in charge of elections
01:39:16 11 has access"?

01:39:17 12 A. Yeah, I -- yes, I understand it. It's very
01:39:21 13 vague and it's not --

01:39:24 14 Q. How can you -- how can you understand it if
01:39:26 15 it's vague?

01:39:27 16 A. I can understand the words specifically of what
01:39:30 17 they mean. I can read the sentence. But the
01:39:35 18 implication of any other databases that would be held,
01:39:39 19 what are those databases?

01:39:42 20 Q. Is the state legislature telling your office to
01:39:45 21 spend all of its hours consulting every government
01:39:48 22 database under the sun?

01:39:50 23 A. Certainly seems that way with that wording.

01:39:55 24 Q. I want to direct -- there's a lot in
01:39:57 25 Subsection E here, so I want to direct your attention

01:40:00 1 just to the second sentence, which reads, "If the County
01:40:06 2 Recorder or other officer in charge of elections matches
01:40:09 3 the applicant with information that the applicant is not
01:40:12 4 a United States citizen, the County Recorder or other
01:40:16 5 officer in charge of elections shall reject the
01:40:19 6 application, notify the applicant that the application
01:40:22 7 was rejected because the applicant is not a United
01:40:29 8 States citizen and forward the application to the County
01:40:32 9 Attorney and Attorney General for investigation."

01:40:34 10 Does your office understand what is meant by
01:40:36 11 information that the applicant is not a United States
01:40:38 12 citizen?

01:40:39 13 A. Yes.

01:40:40 14 Q. And what does it mean to your office?

01:40:42 15 A. It means that we have run them through our
01:40:44 16 systems and they have not returned -- we have had a
01:40:48 17 notice returned that they are not a citizen from either
01:40:51 18 the SAVE database or the MVD or...

01:40:56 19 Q. So when you do a HAVA check, right, that's
01:40:59 20 through the AVID system, correct?

01:41:00 21 A. Correct.

01:41:01 22 Q. And you'll -- the user will see on the screen
01:41:06 23 whether or not -- what does the user see on the screen?

01:41:09 24 A. I have not run a HAVA check through the AVID
01:41:12 25 system and I do not have access to AVID, so I don't

01:41:17 1 exactly know what it is that they see on the screen.

01:41:19 2 So --

01:41:19 3 Q. Is your understand -- sorry. Go ahead.

01:41:21 4 A. The system, the AVID system, has keys, and
01:41:26 5 those keys are assigned to staff members. So only a
01:41:29 6 certain number of staff members have a key to be able to
01:41:32 7 use that system.

01:41:35 8 Q. Understood.

01:41:42 9 If you -- when you run the AVID -- when you run
01:41:44 10 the HAVA check and if the HAVA check reflects that the
01:41:50 11 applicant was issued an F-Type license, what do you do?

01:41:53 12 A. If it's an F-Type license, well, we would -- if
01:42:05 13 they've already been registered, we would inactivate
01:42:09 14 them and send them a letter.

01:42:12 15 Some of the F-Type licenses, it just means that
01:42:18 16 an individual may have already gone through the
01:42:20 17 naturalization ceremony and that information has not
01:42:23 18 updated through MVD, and so their license would change
01:42:28 19 once they were -- showed proof of citizenship through
01:42:34 20 the MVD as well.

01:42:41 21 Q. These laws concern database matching separate
01:42:46 22 and apart from the DPOC process, correct?

01:42:50 23 A. Yes.

01:42:51 24 Q. So using information in the HAVA check, which
01:42:57 25 interfaces with the MVD database, does that tell you how

01:43:02 1 old that information is; do you see that on the screen?

01:43:05 2 A. Again, I don't do this and I have not
01:43:07 3 personally seen that screen. The information is -- I
01:43:14 4 don't think it does, but I don't know that for sure.

01:43:17 5 Q. Okay, well, leaving aside how the HAVA check
01:43:21 6 interface looks, if your office learned that someone was
01:43:25 7 issued an F-Type license 25 years ago, would that be
01:43:28 8 information that they are not a United States citizen?

01:43:32 9 MR. LANGHOFER: Calls for a legal
01:43:36 10 conclusion.

01:43:36 11 BY MR. SHERMAN:

01:43:36 12 Q. And I'm not calling for, you know, you to
01:43:39 13 interpret the statute. Just what would your office
01:43:41 14 think of that information? Would that be information
01:43:43 15 that they're not a United States citizen in the present
01:43:46 16 day?

01:43:46 17 A. I think in that instance they would probably
01:43:49 18 speak to a supervisor and we would do an investigation.
01:43:53 19 We would kind of ask for more information.

01:43:58 20 Q. What if they were issued an F-Type license one
01:44:02 21 week ago?

01:44:05 22 A. Again, we would send them notice.

01:44:13 23 Q. Okay. I'm just trying to assess out how old --

01:44:18 24 how old information would be treated by your office. So

01:44:20 25 if information is 10 years old, 15 years old, if someone

01:44:24 1 was issued an F-Type license back in the year 2000 or
01:44:31 2 2005, how would that be construed as information that
01:44:35 3 they're not a United States citizen in the present day?
01:44:40 4 A. I don't know. I think that would be one of
01:44:44 5 those issues that we would have concerns with on how to
01:44:49 6 operationalize this.
01:44:50 7 Q. And does that lead you to -- does that lead
01:44:52 8 your office to believe that this phrase information that
01:44:55 9 the applicant is not a United States citizen in
01:44:59 10 H.B. 2492 is vague?
01:45:01 11 A. Yes.
01:45:02 12 Q. Okay. Thank you
01:45:12 13 What are -- what are some valid sources of
01:45:15 14 information that someone is not a United States citizen?
01:45:18 15 Anything beyond the government or voter registration
01:45:21 16 database?
01:45:22 17 MR. LANGHOFER: Object to the extent it
01:45:25 18 calls for a legal conclusion.
01:45:29 19 THE WITNESS: Those are the primary
01:45:31 20 sources. We do receive jury notifications. It's
01:45:36 21 surprising, quite a number of people, to get out of jury
01:45:39 22 duty, say they're not U.S. citizens. And we get those
01:45:42 23 notifications and then we have to call them and say
01:45:45 24 we've been notified that you're not a U.S. citizen, and
01:45:49 25 then they tell us that they are.

01:45:51 1 So I don't know if that's the source that
01:45:53 2 you're referring to, but that is another source we get
01:45:56 3 regarding if someone is a citizen or not.
01:45:59 4 BY MR. SHERMAN:
01:45:59 5 Q. Okay. So that would be information that
01:46:01 6 someone's not a United States citizen?
01:46:03 7 A. It would. It would be coming from another
01:46:06 8 government agency, so we would con -- we would do
01:46:09 9 follow-up with the voter on that.
01:46:12 10 Q. What about a phone call or an e-mail from the
01:46:15 11 voter saying I was registered somehow, I'm not a United
01:46:21 12 States citizen?
01:46:21 13 A. If it was a phone call or e-mail, we would have
01:46:24 14 to do -- we cannot change a voter registration form or
01:46:29 15 cancel a voter registration form without some sort of
01:46:31 16 written consent from the voter or some other indication,
01:46:35 17 like a death notice.
01:46:37 18 So if someone were to call us and say, hey, I
01:46:40 19 was reg -- I got registered to vote, but I'm not
01:46:42 20 actually a U.S. citizen, we would verify that person's
01:46:46 21 identity and then we would cancel their voter
01:46:51 22 registration upon voter request.
01:46:54 23 Q. So on its own, that contact is not
01:46:56 24 information that a person is not a United States
01:46:59 25 citizen, correct?

01:47:02 1 A. In and of itself, no; but if you were to call
01:47:05 2 me right now and say I got registered to vote and I'm
01:47:08 3 not a United States citizen, it would work -- we would
01:47:13 4 do some -- I would determine you are who you say you are
01:47:16 5 by asking you some security questions, and then I would
01:47:19 6 do a cancellation of your voter registration at your
01:47:25 7 request. So the notation in the system would say voter
01:47:28 8 cancellation by request.

01:47:31 9 Q. And you can do this over the phone?

01:47:33 10 A. For certain ones, yes.

01:47:36 11 Q. What kind of security questions do you ask?

01:47:40 12 A. The information that is on the voter
01:47:42 13 registration record. We will ask the last four digits
01:47:45 14 of a social security number. We will ask about your
01:47:52 15 mother's maiden name. The voter registration form has
01:47:57 16 many fields on it. Some of those fields are what we use
01:48:02 17 for security purposes, particularly the last four of a
01:48:05 18 social security number, maiden name, any change of name,
01:48:13 19 confirmation of a mailing address if there's a mailing
01:48:15 20 address and a residential address.

01:48:18 21 Q. And if the person on the other end of the line
01:48:21 22 can answer those security questions correctly, then your
01:48:24 23 office can take that as information that they're not a
01:48:28 24 United States citizen and they should be removed from
01:48:30 25 the rolls?

01:48:32 1 A. We can use that. We will make a notation in
01:48:34 2 it, and then we will send them out an official form for
01:48:38 3 them to sign and return back to us.

01:48:39 4 Q. Got it.

01:48:40 5 A. It still has to be done -- we still have to
01:48:43 6 have written confirmation, but if we can verify, we'll
01:48:46 7 say, hey, thank you for the information, and we'll make
01:48:49 8 note in the system and send out what we consider to be a
01:48:52 9 note code.

01:48:54 10 Q. Okay. And so for purposes of -- I just want to
01:48:57 11 be clear. For purposes of like removal under H.B. 2243,
01:49:04 12 which also references the term information, right, you
01:49:06 13 need written confirmation from the registered voter
01:49:09 14 before you could remove that person from the rolls,
01:49:12 15 correct?

01:49:12 16 A. Correct.

01:49:13 17 MR. LANGHOFER: Object to form, calls for
01:49:13 18 a legal conclusion.

01:49:13 19 BY MR. SHERMAN:

01:49:26 20 Q. How about a phone call from a member of the
01:49:28 21 voter's family saying this member of my family is not a
01:49:32 22 United States citizen; is that information that the
01:49:33 23 person is not a U.S. citizen?

01:49:36 24 A. No.

01:49:37 25 MR. LANGHOFER: Same objection.

01:49:37 1 BY MR. SHERMAN:

01:49:38 2 Q. A letter from a neighbor?

01:49:39 3 A. No.

01:49:40 4 Q. A phone call from law --

01:49:42 5 MR. LANGHOFER: Same objection.

01:49:42 6 BY MR. SHERMAN:

01:49:42 7 Q. A phone call from law enforcement in Arizona?

01:49:45 8 MR. LANGHOFER: Same.

01:49:50 9 THE WITNESS: No, but we might -- we might

01:49:56 10 speak to counsel on that one.

01:49:59 11 BY MR. SHERMAN:

01:49:59 12 Q. And why is that different?

01:50:02 13 A. Law enforcement has access to certain records

01:50:05 14 that we do not, so we would discuss with our counsel if

01:50:13 15 we needed to do something additional with this

01:50:15 16 information.

01:50:17 17 Q. So that phone call from law enforcement might

01:50:21 18 on its own be information that the person is not a U.S.

01:50:25 19 citizen?

01:50:25 20 A. It certainly might be information that we would

01:50:28 21 follow up on with our legal counsel.

01:50:32 22 Q. Okay. What additional steps would you take to

01:50:36 23 confirm that information, beyond what you've just said?

01:50:44 24 A. I don't know. I would have to confer with my

01:50:47 25 legal counsel and take the advice of my attorney.

01:50:50 1 Q. Fair enough.

01:50:51 2 A phone call from law enforcement in another

01:50:54 3 state?

01:50:58 4 A. Again, I would have to speak with my attorney

01:51:00 5 on that one.

01:51:02 6 Q. Okay. So you're not sure?

01:51:06 7 A. I'm not, no.

01:51:07 8 Q. Okay. And the same would be true for any kind

01:51:13 9 of written correspondence, e-mail or letter, from law

01:51:16 10 enforcement in Arizona or law enforcement in another

01:51:17 11 state?

01:51:19 12 A. Again, I --

01:51:19 13 MR. LANGHOFER: Form.

01:51:20 14 THE WITNESS: Again, I would say I would

01:51:24 15 need to speak with my attorney.

01:51:25 16 BY MR. SHERMAN:

01:51:26 17 Q. Okay. But on your own you're not sure whether

01:51:28 18 that would constitute information that someone's not a

01:51:32 19 United States citizen, right?

01:51:35 20 A. I -- I don't know if that would constitute

01:51:37 21 information.

01:51:39 22 Q. What about an anonymous call or an anonymous

01:51:42 23 e-mail?

01:51:42 24 A. No.

01:51:44 25 MR. LANGHOFER: Same objection.

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01:51:48 1 BY MR. SHERMAN:

01:51:48 2 Q. And, lastly, what about lists provided by

01:51:50 3 third-party organizations? You get a list from True the

01:51:53 4 Vote or Arizona Border Recon saying this is a list of

01:51:57 5 people who are not United States citizens. Would that

01:52:00 6 be information that those folks are not U.S. citizens?

01:52:04 7 A. No.

01:52:04 8 MR. LANGHOFER: Same objection.

01:52:16 9 BY MR. SHERMAN:

01:52:16 10 Q. Okay. Is the -- are you limited to database

01:52:19 11 checks in confirming citizenship?

01:52:22 12 A. We are.

01:52:27 13 Q. There's no other means to confirm the

01:52:31 14 authenticity of such information beyond the database

01:52:34 15 check, correct?

01:52:34 16 MR. LANGHOFER: Same objection.

01:52:37 17 THE WITNESS: Unless the voter wants to

01:52:38 18 provide us copies of birth certificates or passports or

01:52:44 19 naturalization certificates.

01:52:50 20 BY MR. SHERMAN:

01:52:50 21 Q. And that's -- and your response there is true

01:52:53 22 for both voter registration on the front end and also

01:52:56 23 for evaluating the citizenship of anyone already on the

01:53:00 24 rolls under H.B. 2243, correct?

01:53:06 25 MR. LANGHOFER: Same objection.

01:53:07 1 THE WITNESS: I'm sorry. Are you
01:53:07 2 asking -- are we going retroactively back and looking at
01:53:12 3 everyone's citizenship status on our voter registration
01:53:14 4 roll?

01:53:15 5 BY MR. SHERMAN:

01:53:15 6 Q. Well, we'll get -- I guess we'll -- we'll get
01:53:16 7 to 2243.

01:53:17 8 I guess I'm just asking generally for both of
01:53:18 9 these challenged laws, the only way you can confirm the
01:53:22 10 authenticity of information that someone is not a U.S.
01:53:27 11 citizen is through database checks; is that correct?

01:53:29 12 MR. LANGHOFER: Same objection.

01:53:30 13 THE WITNESS: Correct, at the initial
01:53:31 14 registration.

01:53:39 15 BY MR. SHERMAN:

01:53:39 16 Q. We'll get -- okay.

01:53:40 17 Has the Secretary of State's Office ever given
01:53:41 18 your office a list of information that constitutes
01:53:44 19 evidence of a lack of U.S. citizenship?

01:53:47 20 A. Not to my knowledge, no.

01:53:54 21 Q. Have you ever discussed with the Secretary of
01:53:57 22 State's Office the means by which you would conclusively
01:54:01 23 establish that someone is not a U.S. citizen?

01:54:04 24 A. Not to my knowledge, no.

01:54:18 25 Q. Okay. Going back to H.B. 2492, while we have

01:54:25 1 it open. I'm trying to be efficient here, and I'm going
01:54:28 2 out of order. So thanks for bearing with me.
01:54:32 3 Down in Section 7, do you see Page -- it's on
01:54:39 4 Page 7 as well; do you see that?
01:54:41 5 A. Could you reference the section number or
01:54:45 6 statute number?
01:54:45 7 Q. Section 7 on Page 7. It's, I believe, newly
01:54:50 8 created Section 16-143. Do you see that?
01:54:52 9 A. Yes.
01:54:55 10 Q. Okay, great.
01:54:56 11 Maybe just take a second to refresh your memory
01:54:59 12 as to what this section is.
01:55:24 13 Now that the deadlines listed in Subsection A
01:55:28 14 have passed, does your office still believe it has to
01:55:34 15 comply with this section?
01:55:37 16 MS. STUART: Form.
01:55:38 17 MR. LANGHOFER: Calls for a legal
01:55:42 18 conclusion.
01:55:42 19 THE WITNESS: As this particular bill is
01:55:43 20 still under litigation, we are waiting on a court's
01:55:46 21 decision as to whether or not this bill will stand.
01:55:52 22 BY MR. SHERMAN:
01:55:55 23 Q. Okay. It's unclear, yes?
01:55:58 24 MS. STUART: Form.
01:55:58 25 MR. LANGHOFER: Same.

01:56:01 1 THE WITNESS: I would say that we're
01:56:03 2 unsure of what to do in this instance.
01:56:06 3 BY MR. SHERMAN:
01:56:07 4 Q. Okay. That's all I wanted to know.
01:56:08 5 I forgot one other phrase. Bear with me. Back
01:56:15 6 on Page -- we were talking about this provision before,
01:56:21 7 back on Page 5. This is Subsection D5. We read this
01:56:27 8 section before, but I forgot to ask you about it. This
01:56:32 9 is, again, any other state, city, town, county or
01:56:36 10 federal database --
01:56:37 11 MR. SHERMAN: Sorry. Was there an
01:56:40 12 objection?
01:56:40 13 BY MR. SHERMAN:
01:56:42 14 Q. Any other state, city, town, county or federal
01:56:45 15 database and any other database relating to voter
01:56:50 16 registration.
01:56:50 17 Does your office understand the phrase any
01:56:52 18 other database relating to voter registration?
01:56:55 19 MR. LANGHOFER: Calls for a legal
01:56:56 20 conclusion.
01:56:56 21 THE WITNESS: We do.
01:56:57 22 BY MR. SHERMAN:
01:56:57 23 Q. And what does it mean?
01:56:58 24 A. We believe that they're referring to the AVID
01:57:01 25 system.

01:57:07 1 Q. Isn't the AVID system referenced in Sub 1, the
01:57:10 2 Department of Transportation databases of Arizona driver
01:57:13 3 licenses or nonoperating identification licenses?

01:57:16 4 A. No, the AVID --

01:57:17 5 Q. I see.

01:57:18 6 A. -- system is the Arizona voter registration
01:57:21 7 database maintained by the Secretary of State's Office.

01:57:24 8 Q. Right. I'm sorry. I apologize. I thought you
01:57:26 9 were referring to the HAVA check. My bad.

01:57:29 10 Could this phrase refer to a list of voters you
01:57:36 11 receive from another Arizona agency?

01:57:38 12 MR. LANGHOFER: Calls for a legal
01:57:46 13 conclusion.

01:57:46 14 THE WITNESS: I mean what agency, what
01:57:49 15 would be the context of receiving them?

01:57:53 16 BY MR. SHERMAN:

01:57:53 17 Q. Let me ask it this way. Could a list of
01:57:55 18 registered voters provided to your office by anyone
01:58:01 19 constitute a database relating to voter registration?

01:58:04 20 MR. LANGHOFER: Same.

01:58:06 21 THE WITNESS: No.

01:58:10 22 BY MR. SHERMAN:

01:58:10 23 Q. And if it's from a private citizen or a group,
01:58:13 24 then would it constitute a database relating to voter
01:58:19 25 registration?

01:58:19 1 A. No.

01:58:19 2 MR. LANGHOFER: Calls for a legal

01:58:51 3 conclusion.

01:58:51 4 BY MR. SHERMAN:

01:58:51 5 Q. Let me back up a sec. I want to just clarify a

01:58:54 6 few points on citizenship verification before we

01:58:57 7 continue.

01:59:04 8 The DPOC requirement lists out specific means

01:59:07 9 by which a new voter registration applicant can prove

01:59:10 10 their U.S. citizenship, correct?

01:59:12 11 A. Yes.

01:59:12 12 Q. I just want to review the acceptable forms of

01:59:15 13 DPOC with you and just make sure we have the mechanics

01:59:20 14 down. I'm not going to go into a great detail here

01:59:23 15 because we've covered some of this. But a driver's

01:59:25 16 license number or non-driver state ID number, that can

01:59:28 17 be valid if it's from October 1st, 1996 or after,

01:59:32 18 correct?

01:59:32 19 A. Correct.

01:59:36 20 Q. If you can't verify that number, what happens?

01:59:44 21 A. If that's the only information provided to us

01:59:46 22 and we can't verify it, we would send out a letter

01:59:49 23 saying that we needed verification of citizenship.

01:59:54 24 Q. Maybe for purposes of this I'll ask you to look

01:59:57 25 at Exhibit I believe it's T, Pima County Bates number

02:00:05 1 156. Just let me know when you've got that open.

02:00:09 2 A. I have it open.

02:00:10 3 Q. Great.

02:00:12 4 And what is this document?

02:00:13 5 A. It's one of our note code letters.

02:00:17 6 Q. Could we mark this as Exhibit 76, I want to

02:00:25 7 say.

02:00:26 8 Great.

02:00:27 9 Could you describe this document in a bit more

02:00:30 10 detail?

02:00:33 11 A. The system is designed to auto-generate letters

02:00:37 12 based on particular codes we put into the system when

02:00:41 13 creating a -- inputting a voter registration. Those

02:00:46 14 codes are called note codes.

02:00:49 15 This would have been system-generated when we

02:00:54 16 were not able to verify proof of citizenship. So the

02:00:57 17 system generates these and then we send them out in

02:01:02 18 batches based off of the note code.

02:01:05 19 Q. Understood.

02:01:07 20 And this particular notice letter -- I know

02:01:10 21 there's a variety of these, but this particular one,

02:01:12 22 this would go out when?

02:01:14 23 A. It would most likely go out within a day or

02:01:19 24 possibly two of trying to put the information into the

02:01:23 25 system.

02:01:23 1 Q. Sorry. Let me rephrase.

02:01:24 2 Under what circumstances would this particular

02:01:27 3 notice letter be sent out?

02:01:28 4 A. It would be sent out if we didn't have

02:01:31 5 documentary proof of citizenship.

02:01:33 6 Q. Okay. And then at the bottom there's a list of

02:01:36 7 potential DPOC, acceptable DPOC, that the applicant can

02:01:40 8 provide, correct?

02:01:41 9 A. Correct.

02:01:42 10 Q. Okay. So just backing up a bit, if during the

02:01:50 11 HAVA check in the AVID system you see that it returns

02:01:56 12 information that the person was not a citizen at the

02:02:00 13 time they acquired their Arizona driver's license or ID,

02:02:03 14 that's an F-Type license, correct; that's what's meant

02:02:06 15 by an F-Type license?

02:02:07 16 A. Yes.

02:02:08 17 Q. Okay. And that only tells you the citizenship

02:02:13 18 of the individual at the time they obtained their

02:02:15 19 driver's license or ID, correct?

02:02:17 20 A. Yes, that's correct.

02:02:19 21 Q. How long are Arizona driver's licenses valid

02:02:22 22 for, if you know offhand?

02:02:26 23 A. I'm sorry. Our licenses are valid for a very

02:02:31 24 long time. I think it's 40 years. It's an insanely

02:02:38 25 long period of time our licenses are valid for.

02:02:42 1 Q. How often during this process does your office
02:02:45 2 encounter people who have an F-Type license, but who
02:02:50 3 subsequently naturalized as U.S. citizens?

02:02:53 4 A. That's not something that we track. I'm sure
02:02:55 5 that we have encountered voters like that, but that's
02:02:59 6 not something that we've tracked.

02:03:02 7 Q. But you're aware that it happens?

02:03:04 8 A. Yes.

02:03:05 9 Q. Could you say ballpark; frequently,
02:03:07 10 infrequently?

02:03:09 11 A. I wouldn't even know where to begin on that
02:03:11 12 one.

02:03:12 13 Q. Fair enough.
02:03:13 14 Who in your office would know?

02:03:15 15 A. As it's something we don't track, I don't know
02:03:17 16 if anyone would know that.

02:03:21 17 Q. Ballpark, though, front-line -- people who are
02:03:24 18 doing front-line voter registration processing would
02:03:27 19 probably have some sense?

02:03:28 20 A. I'm sure they could give you an anecdotal
02:03:31 21 number, yes.

02:03:36 22 Q. Okay. And those individuals can then provide
02:03:38 23 one of the acceptable forms of DPOC listed in
02:03:43 24 Exhibit 76, correct, and become registered?

02:03:45 25 A. Yes.

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02:03:46 1 Q. Okay. What if a driver's license or ID is
02:03:58 2 expired?
02:04:02 3 A. That's not valid for proof of citizenship.
02:04:07 4 Q. Has there been any discussion with the
02:04:09 5 Secretary of State's Office on how to deal with expired
02:04:13 6 driver's licenses or IDs?
02:04:16 7 A. Not to my knowledge, no.
02:04:18 8 Q. It's not valid proof of citizenship. How would
02:04:21 9 it be -- would it be -- strike that. I'll just ask a --
02:04:28 10 A. It would also not be valid proof of identity at
02:04:31 11 a poll.
02:04:35 12 Q. If H.B. 2492 and -- if H.B. 2492 and H.B. 2243
02:04:44 13 go into effect, if they're implemented, would an F-Type
02:04:50 14 license -- excuse me. Sorry. Let me back up.
02:04:52 15 A driver's license -- oh, strike that.
02:04:54 16 An Arizona driver's license or state ID that's
02:04:57 17 issued on or after October 1st, 1996, but has
02:05:01 18 subsequently expired and is associated with DPOC,
02:05:09 19 documentary proof of citizenship, in the MVD database,
02:05:13 20 would that constitute -- would that still be valid for
02:05:18 21 purposes of the new challenged laws?
02:05:21 22 MR. LANGHOFER: Form, calls for a legal
02:05:23 23 conclusion.
02:05:23 24 MS. STUART: Form.
02:05:33 25 THE WITNESS: I don't -- I don't know.

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02:05:37 1 BY MR. SHERMAN:

02:05:37 2 Q. It's unclear?

02:05:39 3 MR. LANGHOFER: Same.

02:05:41 4 THE WITNESS: I mean the voter

02:05:45 5 registration form, as it is right now, has a space for

02:05:49 6 the driver's license number. It does not have a space

02:05:52 7 for the expiration of the driver's license number. And

02:05:57 8 if we were processing a voter registration form and it

02:06:02 9 was a new voter registration form, they've never

02:06:03 10 registered to vote, we would input all of that

02:06:07 11 information into the system. Whether or not that

02:06:10 12 driver's license was expired on the form, that wouldn't

02:06:14 13 have an impact on us registering someone to vote.

02:06:17 14 They would not be able to use that expired

02:06:20 15 driver's license to prove identification at a polling

02:06:23 16 location on election day, but I don't know how --

02:06:34 17 whether or not the driver's license or state ID being

02:06:37 18 expired or not expired would impact the ability for us

02:06:39 19 to process a voter registration form.

02:06:43 20 BY MR. SHERMAN:

02:06:43 21 Q. All right. So that's on the front end with

02:06:47 22 H.B. 2492.

02:06:48 23 With respect to H.B. 2243, which requires --

02:06:51 24 would require your office to do these monthly

02:06:53 25 comparisons against databases like ADOT's MVD database,

02:06:59 1 would an expired license that nevertheless was
02:07:03 2 associated with DPOC, would that be an indication that
02:07:08 3 the person was not a citizen?
02:07:11 4 MR. LANGHOFER: Form.
02:07:13 5 THE WITNESS: I don't know. I'd need --
02:07:16 6 that's one of those questions up in the air.
02:07:21 7 BY MR. SHERMAN:
02:07:22 8 Q. Out-of-state driver's licenses can satisfy the
02:07:24 9 DPOC requirement, right?
02:07:26 10 A. No. Certain out-of-state driver's license can
02:07:29 11 if they have a certificate of endorsement for U.S.
02:07:34 12 citizenship. I only -- I believe only two states in the
02:07:37 13 United States have that. It's a little American flag on
02:07:42 14 the driver's license showing that they have provided
02:07:45 15 citizenship as verification.
02:07:48 16 Other U.S. driver's licenses may have the
02:07:50 17 little star on it. That means that they have been --
02:07:56 18 they've presented enough information to be able to get
02:07:58 19 through travel requirements through TSA and enter
02:08:03 20 federal buildings, but we would not consider a star
02:08:06 21 driver's license to be proof of citizenship.
02:08:08 22 We would only use a driver's license that has
02:08:11 23 the American flag on it as documentary proof of
02:08:16 24 citizenship from another state. Again, to the best of
02:08:19 25 my knowledge, there are only two states that currently

02:08:20 1 do that.

02:08:21 2 Q. Which states?

02:08:25 3 A. I think it's the state of Washington and I
02:08:29 4 think New York, or it might be Wisconsin. I believe
02:08:34 5 it's states that border the Canadian border to be able
02:08:39 6 to allow residents to go through the border at those
02:08:44 7 points of entry.

02:08:46 8 Q. Understood.

02:08:47 9 Does the county voter registration system,
02:08:49 10 which I think you testified is just called Voter, have a
02:08:52 11 log of what DPOC the applicant submitted and images of
02:08:56 12 it?

02:08:57 13 A. We do not have images. We have a dropdown menu
02:09:00 14 that we pick from to show what has been provided for
02:09:03 15 DPOC.

02:09:06 16 Q. If the citizenship proof is invalid, is the
02:09:11 17 status code called invalid citizenship proof?

02:09:18 18 A. Would you explain what you mean by an invalid
02:09:20 19 citizenship?

02:09:23 20 Q. If your -- yeah. I'll rephrase.

02:09:26 21 If the DPOC that the applicant provides is
02:09:29 22 deemed to be invalid DPOC, for whatever reason, what's
02:09:33 23 the status code that you assign to it?

02:09:44 24 A. I think we just simply say it's missing DPOC.

02:09:47 25 Q. Just missing DPOC?

02:09:48 1 A. Uh-huh.

02:09:48 2 Q. Are there any other related status or reason
02:09:51 3 codes?

02:09:52 4 A. Oh, there's many.

02:09:55 5 Q. Right. On that particular issue.

02:09:59 6 A. Like I said, it's a dropdown menu, and it would
02:10:03 7 have things like MVD-verified or SAVE, naturalization
02:10:08 8 certificate, birth certificate, passport presented.
02:10:15 9 Those are the status reasons; those are the internal
02:10:17 10 status reasons we use.

02:10:19 11 Q. Got it.

02:10:20 12 So you can also show a birth certificate to
02:10:25 13 show DPOC, right?

02:10:25 14 A. Correct.

02:10:26 15 Q. And a U.S. passport?

02:10:30 16 A. Correct.

02:10:30 17 Q. And Tribal ID, a Tribal ID number?

02:10:34 18 A. Yes.

02:10:35 19 Q. And so this form that we've marked as
02:10:37 20 Exhibit 76 also allows someone to supply a copy of their
02:10:42 21 naturalization certificate or provide certificate number
02:10:46 22 which begins with the letter A. I read that correctly,
02:10:49 23 yes?

02:10:49 24 A. Yes.

02:10:50 25 Q. Okay. And so in -- a person can supply a copy

02:10:55 1 of their naturalization certificate. They can also
02:10:58 2 supply a number from the certificate. Aren't there two
02:11:03 3 numbers on a naturalization certificate?

02:11:05 4 A. You know, I don't know the answer to that
02:11:07 5 question. I've never seen one.

02:11:09 6 Q. Okay. And the letter A, are you familiar with
02:11:14 7 an alien registration number?

02:11:17 8 A. I am.

02:11:19 9 Q. Okay. And that's what known as an A-Number?

02:11:24 10 A. I haven't heard it referred to as that, but it
02:11:26 11 may very well be.

02:11:27 12 Q. Fair enough. I'll refer to it as the alien
02:11:31 13 registration number.

02:11:31 14 Is that -- and, to your knowledge, do you know
02:11:34 15 if that's different from the naturalization certificate
02:11:36 16 number?

02:11:37 17 A. Again, I don't know.

02:11:38 18 Q. Okay. So when someone returns this form and
02:11:44 19 supplies the alien registration number on it, what do
02:11:47 20 you do with that A-Number; excuse me, alien registration
02:11:52 21 number?

02:11:52 22 A. For this instance we would run it through SAVE.

02:11:55 23 Q. And what does SAVE tell you when you do that?

02:11:58 24 A. I have not run a number through SAVE, but it
02:12:01 25 would bring back citizenship status from the federal

02:12:05 1 government.

02:12:05 2 Q. And is that conclusive?

02:12:09 3 A. We treat it as conclusive, as it's from the

02:12:13 4 Department of Homeland Security.

02:12:18 5 Q. I'll ask a few more questions about that later.

02:12:20 6 But just sticking with the mechanics here, is it common

02:12:23 7 for people to put down their alien registration number

02:12:26 8 on the state voter registration form?

02:12:30 9 A. I don't know.

02:12:31 10 Q. You don't know? Okay.

02:12:33 11 A. I don't process the voter registration forms

02:12:35 12 personally, so I don't know how common that would be.

02:12:38 13 Q. And you don't have data on that?

02:12:42 14 A. I'm sure we could query the system, but that

02:12:45 15 would take some programming.

02:12:54 16 Q. Just to ask -- back up one question and ask

02:12:56 17 about HAVA checks more broadly, the HAVA check is to

02:12:59 18 check identity, right, not citizenship, correct?

02:13:02 19 A. That's my understanding, yes.

02:13:06 20 Q. Okay. And in the course of running that HAVA

02:13:09 21 check for the MVD, right, if you have an Arizona

02:13:13 22 driver's license or ID number, then you can check -- you

02:13:18 23 can run a citizenship check, correct?

02:13:20 24 A. Yes, that's my understanding of our process.

02:13:23 25 Q. If the person doesn't put down an Arizona

02:13:26 1 driver's license or ID number, but instead puts the last
02:13:28 2 four of their social security number, what do you do
02:13:32 3 with the last four of that social security number?
02:13:34 4 A. That would be used as a security question only.
02:13:37 5 Q. You don't try to match that against the Social
02:13:42 6 Security Administration databases?
02:13:42 7 A. We have no access to the Social Security
02:13:45 8 Administration databases.
02:13:45 9 Q. Okay.
02:13:49 10 A. And people -- a social security number can be
02:13:52 11 issued to noncitizens as well as citizens, so it is not
02:13:56 12 a determination of citizenship.
02:13:58 13 Q. Right. But for purposes of just the HAVA
02:14:01 14 identity check, what do you do with someone who just
02:14:03 15 puts down the last four of their social?
02:14:05 16 A. Again, we would use that as a security code --
02:14:09 17 Q. Okay. Fair enough.
02:14:10 18 A. -- security check with the voter.
02:14:12 19 Q. Okay. So no -- you're not able to perform a
02:14:16 20 HAVA check with someone who puts down just the last four
02:14:18 21 of their social?
02:14:20 22 A. To my knowledge, no.
02:14:26 23 Q. And do you know when -- back on the SAVE
02:14:29 24 system, do you know if your office is checking both an
02:14:36 25 alien registration number and a naturalization

02:14:38 1 certificate number against the SAVE system?

02:14:42 2 A. I think it's one or the other, whichever one is
02:14:44 3 provided. The naturalization number we will not check
02:14:48 4 if we were at the naturalization ceremony and they've
02:14:53 5 completed their voter registration form and then
02:14:56 6 returned it to us. So we will just simply review their
02:15:00 7 form at that point in time and make a note on it that we
02:15:03 8 have verified.

02:15:05 9 Q. Right, and that's a particular case; but if
02:15:08 10 you're not at the naturalization ceremony and someone's
02:15:12 11 providing it through this form that we're looking at,
02:15:14 12 Exhibit 76, then you're comparing the A-Number and/or
02:15:19 13 the naturalization certificate number to the -- in a
02:15:24 14 SAVE query, correct?

02:15:25 15 A. That's correct.

02:15:25 16 Q. And if you use both numbers, does that have an
02:15:27 17 impact on the accuracy of the query?

02:15:29 18 A. I don't know.

02:15:31 19 Q. Okay. Do you know if it as an impact on the
02:15:33 20 likelihood of finding a match in the SAVE system?

02:15:36 21 A. I don't know.

02:15:42 22 Q. And if the voter truly provides no DPOC
02:15:45 23 whatsoever, what do you do; do you send a notice letter
02:15:50 24 like this?

02:15:50 25 A. We would register them as a federal only voter,

02:15:53 1 meaning that they would only be eligible for federal
02:15:55 2 offices. We would send them a notice saying that we
02:16:00 3 needed documentary proof of citizenship; and once we
02:16:04 4 receive the documentary proof of citizenship, we would
02:16:06 5 move them to a full ballot status voter.

02:16:16 6 Q. And all of these procedures apply regardless of
02:16:19 7 the type of registration submitted, state or federal
02:16:22 8 form?

02:16:22 9 A. Correct.

02:16:31 10 Q. And how frequently do -- do you have any data
02:16:35 11 showing how frequently people cure a registration form
02:16:39 12 that comes in without DPOC?

02:16:44 13 A. What do you -- what do you mean, cure the
02:16:46 14 registration form?

02:16:47 15 Q. By cure I just mean complete the registration
02:16:51 16 by supplying valid DPOC.

02:16:55 17 A. That's not something that we track.

02:16:58 18 Q. Okay.

02:16:58 19 A. So I mean we, again, would have to query the
02:17:02 20 system to see any changes of voter -- any change to a
02:17:06 21 voter registration. So if we previously registered you
02:17:08 22 as a federal only voter and then we received the
02:17:11 23 necessary DPOC and we moved you to a full ballot voter,
02:17:18 24 the system makes a note of that. It's part of the
02:17:21 25 change histories. But, again, we could query the

02:17:25 1 system. It would take some development to do that,
02:17:28 2 though. It's not a readily available report.

02:17:34 3 Q. And have you ever had trouble linking the DPOC
02:17:37 4 to the right voter?

02:17:39 5 A. Not to my knowledge, no.

02:17:50 6 Q. Are there any processes to cure after a federal
02:17:53 7 only ballot is sent to the voter?

02:17:57 8 A. Again, what do you mean by cure a federal
02:18:00 9 ballot?

02:18:01 10 Q. Not cure the federal ballot. Complete their
02:18:03 11 voter registration so they can become a full ballot
02:18:06 12 voter.

02:18:07 13 A. Oh, that's just the standard. Anybody who we
02:18:10 14 register as a federal only voter, we send them a
02:18:13 15 notification saying that you're a federal only voter.
02:18:15 16 Here's what we're missing. Please provide this
02:18:18 17 information so you can vote a full ballot.

02:18:22 18 Some people choose just to stay federal only
02:18:25 19 and they don't respond back to us, and some people do.
02:18:27 20 It's really dependent on the voter.

02:18:30 21 Q. Understood.

02:18:36 22 Is there something separate and apart from the
02:18:39 23 2023 election procedures manual draft that the County
02:18:44 24 Recorders have been sent as sort of draft guidance to
02:18:48 25 implement 2492 and 2243?

02:18:54 1 A. Well, your colleague previously discussed the
02:18:59 2 guidance given to us by the Secretary of State's Office
02:19:02 3 in that legislative review and flowchart. That's the
02:19:06 4 guidance that we refer back to.

02:19:07 5 Q. Anything since then?

02:19:09 6 A. No.

02:19:18 7 Q. It's possible that there will be no revised and
02:19:20 8 updated EPM this year, correct?

02:19:28 9 MS. STUART: Form and foundation.

02:19:29 10 THE WITNESS: Do you know something I
02:19:30 11 don't know? I thought we were doing a pretty good job.

02:19:33 12 BY MR. SHERMAN:

02:19:33 13 Q. Let me rephrase.

02:19:35 14 Back in 2021, right, there was a proposed draft
02:19:37 15 by the Secretary -- by then Secretary of State Hobbs,
02:19:41 16 and that wasn't adopted, correct?

02:19:43 17 A. That is correct.

02:19:43 18 Q. So it's at least possible that there won't be
02:19:47 19 agreement on a new revised EPM, correct?

02:19:49 20 A. Yes, that is always possible.

02:19:52 21 Q. If there's no approved revised EPM by this time
02:19:55 22 next year, will your office nevertheless be obligated to
02:19:59 23 enforce the portions of H.B. 2492 and H.B. 2243 that are
02:20:04 24 directed at County Recorders?

02:20:06 25 MS. STUART: Form.

02:20:08 1 MR. LANGHOFER: Form.

02:20:10 2 THE WITNESS: We will wait until

02:20:11 3 litigation has concluded and do what the court has

02:20:16 4 determined is necessary.

02:20:19 5 BY MR. SHERMAN:

02:20:19 6 Q. So as a matter of federal law, right, the

02:20:22 7 Federal Courts will say what in these two challenged

02:20:27 8 laws violates the U.S. Constitution or federal law; but

02:20:31 9 as far as interpretation of the state law, right, there

02:20:34 10 needs to be an EPM, right?

02:20:36 11 MS. STUART: Form.

02:20:37 12 MR. LANGHOFER: Form.

02:20:38 13 THE WITNESS: Correct.

02:20:40 14 BY MR. SHERMAN:

02:20:40 15 Q. Okay. So notwithstanding what the Federal

02:20:43 16 Courts decide, if there's no EPM that's adopted this

02:20:49 17 year and into next year, your office will be obligated

02:20:53 18 to enforce -- interpret and implement the statute

02:20:57 19 directly, correct?

02:20:58 20 MR. LANGHOFER: Form.

02:20:58 21 MS. STUART: Form.

02:21:01 22 THE WITNESS: Our office will follow the

02:21:03 23 2019 EPM and seek any additional guidance from the

02:21:10 24 Secretary of State's Office and legal counsel as it

02:21:12 25 relates to these bills and their implementation should

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02:21:16 1 litigation not have concluded by then.

02:21:20 2 BY MR. SHERMAN:

02:21:21 3 Q. Okay. Just to rehearse your testimony from

02:21:24 4 earlier, right, there's no way for the Secretary of

02:21:27 5 State's Office to issue legally binding guidance on your

02:21:30 6 office outside the EPM, correct?

02:21:32 7 MR. LANGHOFER: Asked and answered.

02:21:33 8 MS. STUART: Form, misstates testimony.

02:21:37 9 THE WITNESS: Yes, that is correct.

02:21:40 10 BY MR. SHERMAN:

02:21:40 11 Q. Thank you.

02:21:51 12 If you could pull up the -- if I could trouble

02:21:54 13 you to pull up I think it's Petty Exhibit 21. This is

02:21:58 14 H.B. 2243.

02:22:09 15 A. My left or your left? This left? Sorry.

02:22:20 16 2243 House Bill, Chapter Version 370, is that

02:22:23 17 what we're talking about?

02:22:25 18 Q. Yes.

02:22:25 19 A. Okay. Great then.

02:22:27 20 Q. Yeah, it's Petty Exhibit 21 if you have the

02:22:29 21 Petty exhibits in front of you.

02:22:34 22 So there's a lot here, but I wanted to ask

02:22:37 23 which pieces of -- and if we could -- I could direct

02:22:43 24 your attention to Page 4, starting at the top of Page 4.

02:22:52 25 A. Could you cite the section, please?

02:22:56 1 Q. Yeah. This is Section -- Bill Section 2,
02:23:02 2 Arizona Revised Statute Section 16-165, and I'd like to
02:23:08 3 direct your attention just to the statutory language for
02:23:14 4 A10 that starts at the top of Page 4.

02:23:20 5 If you could take a minute to just review this
02:23:24 6 language, and as we were doing before with H.B. 2492, I
02:23:32 7 understand the previous e-mail we were rehearsing was
02:23:35 8 only talking about 2492, but what problems or issues
02:23:40 9 with interpretation and implementation has your office
02:23:44 10 identified in H.B. 2243, starting with the section I've
02:23:50 11 pointed you to?

02:24:23 12 A. Sorry. What was your question?

02:24:24 13 Q. So let's -- let me ask it this way. What --
02:24:29 14 let's start with problems of interpretation. And you've
02:24:34 15 testified previously that there were vagueness issues in
02:24:38 16 this statute as well, correct?

02:24:40 17 A. Yes.

02:24:41 18 Q. Could you identify which parts of H.B. 2243,
02:24:48 19 starting at the top of Page 4, your office has seen as
02:24:52 20 so vague you can't implement them without clear guidance
02:24:56 21 from the Secretary of State?

02:25:29 22 A. I don't necessarily think that this particular
02:25:31 23 section of this bill was something that we considered to
02:25:33 24 be vague. I think that our original issues with this
02:25:39 25 particular bill were specifically the -- I think our

02:25:52 1 original issues with this bill were specifically that a
02:25:56 2 requirement that we notify the County Attorney and the
02:25:59 3 Attorney General for possible investigation after
02:26:01 4 cancellation of a voter registration as a noncitizen.

02:26:09 5 Q. Well, let's take this language at the top of
02:26:11 6 Page 4, "When the County Recorder obtains information
02:26:13 7 pursuant to this section and confirms that the person
02:26:17 8 registered is not a United States citizen."

02:26:23 9 Do you understand what's meant by confirms that
02:26:25 10 the person registered is not a United States citizen?

02:26:30 11 MR. LANGHOFER: Calls for a legal
02:26:31 12 conclusion.

02:26:31 13 BY MR. SHERMAN:

02:26:32 14 Q. I didn't hear the response. Sorry.

02:26:33 15 A. Yes, I understand what the wording says.

02:26:36 16 Q. What does confirms that the person registered
02:26:39 17 is not a United States citizen mean?

02:26:43 18 A. I think for us that we would be taking the
02:26:47 19 notice from the jury commissioner and then sending out
02:26:53 20 information to the voter and waiting for a response
02:26:56 21 back.

02:26:59 22 Q. Okay. Does this part of A10 refer to the
02:27:04 23 database matching requirements below, beginning with F
02:27:09 24 and ending with J at the bottom of Page 5 and onto
02:27:16 25 Page 6?

02:27:26 1 A. I guess it might.

02:27:29 2 Q. It's unclear, right?

02:27:31 3 A. Yeah, I wouldn't...

02:27:33 4 Q. Are you supposed to -- do you think you're

02:27:35 5 supposed to obtain the information or confirm the

02:27:37 6 information using these database matching requirements

02:27:41 7 in Subsections F through J?

02:27:44 8 MS. STUART: Form.

02:27:47 9 THE WITNESS: I don't -- I don't know what

02:27:48 10 the legislators' intent was. I think we -- our

02:27:53 11 understanding is that we would be trying to use those

02:27:56 12 resources to confirm what the jury commission report had

02:28:00 13 stated.

02:28:03 14 BY MR. SHERMAN:

02:28:03 15 Q. So your view of the statute is the only way you

02:28:05 16 obtain information that someone's not a United States

02:28:09 17 citizen is through the jury questionnaire, and then

02:28:11 18 these are the means in Subsection F through J by which

02:28:15 19 one confirms that information?

02:28:16 20 MR. LANGHOFER: Form.

02:28:18 21 THE WITNESS: I would say that that's

02:28:20 22 probably how we would initially interpret it, unless we

02:28:23 23 were directed otherwise.

02:28:25 24 BY MR. SHERMAN:

02:28:25 25 Q. But you'd agree that this is unclear and vague,

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02:28:25 1 correct?

02:28:29 2 A. Oh, yes.

02:28:29 3 MS. STUART: Form.

02:28:29 4 MR. LANGHOFER: Form.

02:28:30 5 THE WITNESS: I agree, it's vague.

02:28:44 6 BY MR. SHERMAN:

02:28:45 7 Q. A number of these provisions, like

02:28:48 8 Subsection G, Subsection H, and Subsection J, all have

02:28:51 9 the phrase to the extent practicable.

02:28:57 10 Do you understand those terms to be giving your

02:29:00 11 office clear direction as to when to apply them?

02:29:03 12 MR. LANGHOFER: Form.

02:29:05 13 THE WITNESS: I do not. I don't know what

02:29:07 14 they understand practicable to mean to us. As we do not

02:29:17 15 have access to most of the information that they are

02:29:19 16 telling us to check, I would say that that is the extent

02:29:21 17 practicable, but I don't think that's what they

02:29:23 18 intended.

02:29:25 19 BY MR. SHERMAN:

02:29:26 20 Q. And I'll say just for the record, so the record

02:29:28 21 is clear, that F through J are all codified one up as --

02:29:35 22 in this Arizona Revised Statute as G through K, for

02:29:39 23 whatever that's worth.

02:29:40 24 But in this H.B. 2243 I want to direct your

02:29:45 25 attention, Ms. Hiser, to Subsection H, which says, "To

02:29:49 1 the extent practicable, each month the County Recorder
02:29:52 2 shall compare persons who are registered to vote in that
02:29:55 3 county and who the County Recorder has reason to believe
02:29:58 4 are not United States citizens."

02:30:03 5 Do you understand this phrase reason to believe
02:30:05 6 are not United States citizens?

02:30:07 7 MR. LANGHOFER: Form.

02:30:10 8 THE WITNESS: I do not. This particular
02:30:14 9 section, we viewed it as are we supposed to run on a
02:30:18 10 monthly basis everyone on the voter roll back through to
02:30:22 11 determine that no one has skipped out on providing us
02:30:27 12 citizenship. I -- this particular portion of the bill
02:30:33 13 is operationally difficult to implement.

02:30:39 14 BY MR. SHERMAN:

02:30:39 15 Q. Do you even have alien registration numbers for
02:30:42 16 every voter in your county?

02:30:43 17 A. I do not.

02:30:46 18 Q. Sticking just specifically with the phrase
02:30:49 19 reason to believe are not United States citizens, do you
02:30:55 20 understand what that particular phrase means?

02:30:57 21 MR. LANGHOFER: Form.

02:30:57 22 THE WITNESS: I do not.

02:30:59 23 BY MR. SHERMAN:

02:30:59 24 Q. What would give your office -- leaving the
02:31:01 25 statute aside, what would give your office a reason to

02:31:03 1 believe a person is not a United States citizen?

02:31:06 2 MR. LANGHOFER: Form.

02:31:08 3 THE WITNESS: I would have no -- no idea

02:31:11 4 what would give us reason to believe. We're not in the

02:31:14 5 habit of investigating people further than the

02:31:17 6 information provided to us.

02:31:19 7 BY MR. SHERMAN:

02:31:19 8 Q. And when you say information provided to you,

02:31:21 9 you mean in -- what do you mean by that?

02:31:23 10 A. The voter registration form.

02:31:26 11 Q. So outside of the voter registration form, your

02:31:30 12 office's view is nothing should give your office a

02:31:33 13 reason to believe that someone's not a United States

02:31:37 14 citizen; is that correct?

02:31:38 15 A. Again --

02:31:39 16 MR. LANGHOFER: Form.

02:31:39 17 THE WITNESS: -- as the voter registration

02:31:41 18 form has an attestation on it and the voter is declaring

02:31:46 19 that they are presenting true and accurate information,

02:31:49 20 we believe that it is on the voter. If they are not

02:31:52 21 eligible to register to vote and they choose to register

02:31:56 22 to vote, that that's on them. We are not an enforcement

02:31:59 23 agency.

02:32:08 24 BY MR. SHERMAN:

02:32:08 25 Q. Has the Secretary of State's Office provided

02:32:10 1 your office with a list of what would give you and your
02:32:13 2 staff a valid reason to believe someone is not a United
02:32:16 3 States citizen?

02:32:17 4 A. They have not.

02:32:24 5 Q. You would agree, though, that this provision
02:32:26 6 seems to command your office to perform an extra
02:32:32 7 citizenship check against the SAVE system if you have a
02:32:35 8 reason to believe someone is not a United States
02:32:39 9 citizen, correct?

02:32:39 10 MR. LANGHOFER: Form.

02:32:39 11 MS. STUART: Form.

02:32:40 12 THE WITNESS: Yes, I can see that reading
02:32:42 13 of the statute.

02:32:58 14 BY MR. SHERMAN:

02:32:59 15 Q. In the -- just to rehearse some of these
02:33:00 16 again, would a phone call from a voter or an e-mail
02:33:02 17 from the voter in question, would that give you reason
02:33:06 18 to believe that the person's not a United States
02:33:08 19 citizen?

02:33:09 20 MR. LANGHOFER: Asked and answered and
02:33:09 21 form.

02:33:12 22 THE WITNESS: Again, if they -- if we
02:33:17 23 determined through our security questions that we were
02:33:19 24 speaking to the voter in question, we would send them
02:33:21 25 information.

02:33:22 1 BY MR. SHERMAN:

02:33:22 2 Q. Are all of your responses -- well, let me --
02:33:26 3 I'll strike that.

02:33:27 4 These are -- I asked these previously with
02:33:29 5 respect to the language information. I'm going to ask
02:33:31 6 the same questions now with respect to the reason to
02:33:33 7 believe provision.

02:33:34 8 Would a signed letter from the voter, written
02:33:41 9 confirmation, would that constitute reason to believe
02:33:45 10 they're not a United States citizen?

02:33:47 11 MR. LANGHOFER: Calls for a legal
02:33:48 12 conclusion.

02:33:48 13 THE WITNESS: Yes.

02:33:49 14 MR. LANGHOFER: Asked and answered.

02:33:51 15 BY MR. SHERMAN:

02:33:51 16 Q. A phone call from a member of the voter's
02:33:54 17 family?

02:33:54 18 A. No.

02:33:56 19 Q. Someone in your county tells your office that a
02:34:00 20 registered voter is not a citizen?

02:34:02 21 MR. LANGHOFER: Same objection.

02:34:03 22 THE WITNESS: No.

02:34:06 23 BY MR. SHERMAN:

02:34:06 24 Q. Can it be a letter from a neighbor of the voter
02:34:09 25 in question?

02:34:10 1 MR. LANGHOFER: Same objection.

02:34:11 2 THE WITNESS: No.

02:34:13 3 BY MR. SHERMAN:

02:34:13 4 Q. What about a phone call from law enforcement in

02:34:16 5 Arizona, would that give your office reason to believe

02:34:18 6 the person was not a U.S. citizen?

02:34:21 7 MR. LANGHOFER: Same objection.

02:34:21 8 THE WITNESS: It might.

02:34:22 9 BY MR. SHERMAN:

02:34:22 10 Q. Would a phone call from law enforcement in

02:34:24 11 another state?

02:34:27 12 MR. LANGHOFER: Same objection.

02:34:28 13 THE WITNESS: It might.

02:34:30 14 BY MR. SHERMAN:

02:34:30 15 Q. Unclear, though?

02:34:32 16 A. We would have to speak to our counsel.

02:34:35 17 Q. An e-mail or letter from law enforcement in

02:34:38 18 Arizona or any state?

02:34:40 19 MR. LANGHOFER: Same objection.

02:34:42 20 THE WITNESS: Again, we would have to

02:34:43 21 speak to our counsel, but we -- it might.

02:34:46 22 BY MR. SHERMAN:

02:34:46 23 Q. But it's unclear?

02:34:48 24 MR. LANGHOFER: Same objection.

02:34:50 25 THE WITNESS: Again, it might.

02:34:53 1 BY MR. SHERMAN:

02:34:53 2 Q. Unclear, okay.

02:34:54 3 How about an anonymous call?

02:34:56 4 MR. LANGHOFER: Mischaracterizes the

02:34:58 5 testimony.

02:34:59 6 THE WITNESS: No.

02:35:04 7 BY MR. SHERMAN:

02:35:04 8 Q. An anonymous e-mail?

02:35:06 9 MR. LANGHOFER: Same objection.

02:35:08 10 THE WITNESS: No.

02:35:10 11 BY MR. SHERMAN:

02:35:11 12 Q. Lists provided by third-party organizations,

02:35:12 13 like True the Vote?

02:35:14 14 MR. LANGHOFER: Same objection.

02:35:15 15 THE WITNESS: No.

02:35:17 16 BY MR. SHERMAN:

02:35:17 17 Q. If I could ask you to look at -- this is -- may

02:35:24 18 only be listed in yours as Bates stamp YC 136-137. I

02:35:32 19 have it as Exhibit V.

02:35:46 20 A. Okay.

02:35:46 21 Q. And what is this document?

02:35:55 22 A. It looks like an e-mail chain from one of the

02:35:57 23 other counties.

02:36:01 24 Q. And I know you've not seen this, you weren't

02:36:04 25 cc'd, but does this appear to be authentic to you?

02:36:08 1 MR. LANGHOFER: Foundation.

02:36:16 2 BY MR. SHERMAN:

02:36:16 3 Q. I'll strike that.

02:36:17 4 You can see -- you can see the Bates stamp

02:36:19 5 number in the bottom right?

02:36:22 6 A. Yes.

02:36:24 7 Q. Okay. Can we mark this as Exhibit 77, I

02:36:30 8 believe.

02:36:30 9 Thank you.

02:36:30 10 And if you could scroll down to Page 2, under

02:36:34 11 Item 10(H), do you see that, where the chief deputy

02:36:41 12 recorder, I believe your counterpart in Yavapai County,

02:36:45 13 wrote "What would give us reason to believe they were

02:36:47 14 not a U.S. --" excuse me, I misread.

02:36:50 15 "What would give us reason to believe they are

02:36:51 16 not a citizen? An anonymous tip? Also how are we to

02:36:56 17 compare all of our registered voters to a federal

02:36:59 18 database of millions upon millions?"

02:37:02 19 Do you see -- did I read that correctly?

02:37:03 20 A. You did.

02:37:04 21 Q. Do you share your counterpart's reaction to

02:37:08 22 this provision, the reason to believe provision?

02:37:14 23 A. I do.

02:37:14 24 Q. Thank you.

02:37:16 25 What if the registered voter transposed the

02:37:18 1 first and last names on the registration application

02:37:21 2 form, would that give your office reason to believe they

02:37:24 3 are not a U.S. citizen?

02:37:25 4 MR. LANGHOFER: Form, speculation.

02:37:28 5 THE WITNESS: Are you asking if they put

02:37:30 6 their last name first and first name last?

02:37:32 7 BY MR. SHERMAN:

02:37:33 8 Q. Yes, yes.

02:37:34 9 A. Oh. No, that wouldn't give us any cause.

02:37:38 10 Q. What if the registered voter recorded a foreign

02:37:42 11 place of birth on their form?

02:37:42 12 MR. LANGHOFER: Form.

02:37:47 13 THE WITNESS: No, because you can be a

02:37:48 14 U.S. citizen and born abroad.

02:37:50 15 BY MR. SHERMAN:

02:37:50 16 Q. What if the registered voter has an F-Type

02:37:55 17 license, driver's license, as reflected in the MVD's

02:37:58 18 databases?

02:37:58 19 MR. LANGHOFER: Form.

02:38:02 20 THE WITNESS: Again, in that instance we

02:38:03 21 probably would send a letter for follow-up.

02:38:09 22 BY MR. SHERMAN:

02:38:09 23 Q. Would it give you reason to believe, under this

02:38:11 24 provision of H.B. 2243, that would justify putting them

02:38:16 25 through an extra SAVE system verification?

02:38:19 1 MR. LANGHOFER: Form.

02:38:21 2 THE WITNESS: No.

02:38:24 3 BY MR. SHERMAN:

02:38:24 4 Q. Has the Secretary of State's Office provided

02:38:27 5 your office with a list of what will not give you or

02:38:31 6 your staff a valid reason to believe someone is not a

02:38:34 7 U.S. citizen?

02:38:34 8 A. No, they have not.

02:38:36 9 Q. And is there anything you think should be on

02:38:39 10 such a list?

02:38:42 11 A. No, I do not.

02:38:46 12 Q. If I could ask you to take a look at, this is

02:38:49 13 Petty Exhibit 20. It's between the two statutes.

02:39:07 14 Just let me know when you have that up.

02:39:23 15 A. It's up.

02:39:26 16 Are you referencing an e-mail for Petty

02:39:30 17 Exhibit 20?

02:39:31 18 Q. Yeah, this -- well, tell me what you're seeing,

02:39:34 19 if we're looking at the same thing.

02:39:35 20 A. I'm seeing an e-mail from Recorder Richer dated

02:39:39 21 Wednesday June 15th, 2022.

02:39:42 22 Q. Yes. And if you could just read -- so what

02:39:44 23 does this appear to be?

02:39:46 24 A. This looks like one of our e-mail chains for

02:39:49 25 the Recorders Association with our lobbyist, Jennifer

02:39:57 1 Marson with AACo.

02:40:01 2 Q. And could I trouble you to read -- this is a

02:40:04 3 pretty short e-mail. Could I trouble you to read it?

02:40:06 4 A. Sure.

02:40:08 5 Do you want the chain --

02:40:14 6 Q. You can leave off the "Caution: This e-mail

02:40:17 7 originated from outside of Navajo County."

02:40:20 8 A. Okay. So it appears that Steve -- it appears

02:40:23 9 that Recorder Richer says, "Does this get rid of the

02:40:26 10 situation whereby any person can submit us lists that we

02:40:29 11 then have to check? E.g., quote, Hi. I used my super

02:40:34 12 secret research program to figure out that these 300,000

02:40:38 13 people are not citizens. Please check the citizenship

02:40:41 14 of every single one of them right now, end quote."

02:40:48 15 Q. This was about H.B. 2617, correct?

02:40:52 16 A. Yes.

02:40:52 17 Q. Which was vetoed, correct?

02:40:54 18 A. Yes.

02:40:56 19 Q. Do you believe H.B. 2243's reason to believe

02:41:00 20 provision keeps the possibility that Stephen Richer is

02:41:05 21 worried about open --

02:41:06 22 MR. LANGHOFER: Form.

02:41:07 23 BY MR. SHERMAN:

02:41:08 24 Q. -- in 2243?

02:41:11 25 A. I think it certainly could be a possibility,

02:41:15 1 but the language in the bills themselves specifically
02:41:20 2 reference government agencies.

02:41:29 3 Q. Well, if we could just look back, perhaps, at
02:41:32 4 Exhibit 21, excuse me, Petty Exhibit 21, and the reason
02:41:38 5 to believe provision, which I believe is on Page 5.

02:41:47 6 A. Just so I'm following, we're back on House
02:41:50 7 Bill 2243?

02:41:51 8 Q. Correct. Yeah.

02:41:52 9 A. Okay.

02:41:53 10 Q. Petty Exhibit 21, H.B. 2243, what was enacted
02:41:58 11 as Subsection H, and I'll read it for the record.
02:42:01 12 "To the extent practicable, each month the
02:42:04 13 County Recorder shall compare persons who are registered
02:42:06 14 to vote in that county and who the County Recorder has
02:42:09 15 reason to believe are not United States citizens."
02:42:13 16 Could a third-party group supply a list of
02:42:16 17 hundreds of thousands of registered voters to your
02:42:19 18 office, and could that be construed by a County
02:42:25 19 Recorder's Office as a reason to believe that those
02:42:29 20 folks are not U.S. citizens?

02:42:31 21 MR. LANGHOFER: Form.

02:42:32 22 THE WITNESS: I suppose it could.

02:42:34 23 BY MR. SHERMAN:

02:42:34 24 Q. But it's un -- it's vague and it's unclear,
02:42:34 25 correct?

02:42:37 1 A. I --

02:42:37 2 MR. LANGHOFER: Form.

02:42:39 3 THE WITNESS: I would say that I would be

02:42:41 4 unclear. I would not know what to do with this.

02:42:46 5 BY MR. SHERMAN:

02:42:46 6 Q. So even in H.B. 22 -- H.B. 220 -- excuse me.

02:42:51 7 Strike that.

02:42:51 8 This language in H.B. 2243 creates the same

02:42:59 9 risk that Stephen Richer was worried about in that

02:43:02 10 e-mail we just discussed, correct?

02:43:03 11 MR. LANGHOFER: Form.

02:43:07 12 THE WITNESS: I think that's certainly a

02:43:10 13 possibility.

02:43:13 14 MR. SHERMAN: Thank you.

02:43:15 15 We've been going for some time. Should we

02:43:16 16 take a five or ten-minute break?

02:43:16 17 THE WITNESS: Yes, please.

02:43:19 18 MR. SHERMAN: I'll do my best to de-dup

02:43:22 19 this outline.

02:43:23 20 THE WITNESS: Thank you. Ten minutes

02:43:24 21 sounds great.

02:43:25 22 MR. SHERMAN: All right. Thanks very

02:43:27 23 much.

02:43:27 24 THE VIDEOGRAPHER: We are off the record.

02:43:28 25 The time on the video monitor is 2:43 p.m. This ends

02:43:31 1 Media 2.

02:43:33 2 (A recess was taken.)

02:56:45 3 THE VIDEOGRAPHER: We are on the record.

02:56:48 4 The time on the video monitor is 2:56 p.m. This begins

02:56:50 5 Media 3.

02:56:54 6 BY MR. SHERMAN:

02:56:54 7 Q. Ms. Hiser, I just have a handful of questions

02:56:56 8 to follow up on the MVD searches, the HAVA checks, and

02:57:01 9 then we can move to the SAVE system, and then I'll try

02:57:04 10 to wrap up as quickly as possible.

02:57:06 11 Does your existing agreement with MVD cover the

02:57:11 12 uses outlined in H.B. 2492 and H.B. 2243?

02:57:20 13 A. It's a template agreement that we have with

02:57:22 14 them to provide -- they give us certain categories of

02:57:29 15 access and we request certain categories of access, so

02:57:32 16 it's sort of limited.

02:57:35 17 Q. So you're not sure whether it covers the

02:57:38 18 requirements under the new -- the required operations

02:57:41 19 under the new laws?

02:57:44 20 A. I don't -- I don't know if it does.

02:57:46 21 Q. Okay. Do you know what's meant by an ADOT

02:57:50 22 customer number, quote/unquote? Is that different from

02:57:55 23 a driver's license number or a state ID number?

02:57:59 24 A. I have not heard that term before, so I don't

02:58:03 25 know.

02:58:03 1 Q. Has your office encountered instances where a
02:58:07 2 voter registration applicant who is a United States
02:58:10 3 citizen was flagged erroneously as a noncitizen by way
02:58:15 4 of a search of MVD databases?

02:58:20 5 A. I don't think so, but I'm sure that is a
02:58:23 6 possibility that can exist.

02:58:26 7 Q. If the applicant subsequently naturalizes, but
02:58:30 8 doesn't update MVD of that fact, then they will show as
02:58:34 9 still having an F-Type license, correct?

02:58:38 10 A. That would be correct.

02:58:41 11 MR. SHERMAN: Can I ask the court
02:58:42 12 reporter, because I just did not catch, what was the
02:58:45 13 responses to interrogatories propounded by plaintiffs,
02:58:50 14 plaintiffs' consolidated first set of interrogatories,
02:58:52 15 what did we mark that as?

02:59:00 16 THE COURT REPORTER: I haven't had time to
02:59:01 17 do any kind of descriptions of these exhibits. I'm
02:59:04 18 sorry.

02:59:04 19 BY MR. SHERMAN:

02:59:05 20 Q. I know we marked this, so if you could just
02:59:06 21 call up what's Exhibit E in the Pima County. I know
02:59:09 22 this has been marked, so I won't mark it again.

02:59:12 23 If you could scroll down to the response to
02:59:15 24 interrogatory number 5. And I'll just read the response
02:59:29 25 on -- this is Page 5 in response to interrogatory

02:59:32 1 number 5.

02:59:33 2 "The Pima County Recorder's Office does not

02:59:36 3 actively track this information; however, voter

02:59:39 4 registration staff occasionally encounter situations

02:59:41 5 when a naturalized citizen has not yet updated their

02:59:44 6 citizenship status with the Motor Vehicle Division

02:59:48 7 (MVD). Their record will be listed in the Pima County

02:59:52 8 Recorder's AVID system as a noncitizen with MVD."

02:59:56 9 Did I read that correctly?

02:59:56 10 A. You did.

02:59:59 11 Q. And what do you do in such situations?

03:00:08 12 A. Well, if the voter has provided us their

03:00:11 13 naturalization information, but the record isn't updated

03:00:16 14 in MVD, we'll take the naturalization information. That

03:00:20 15 trumps it. So we would process the voter and use that

03:00:25 16 for a DPOC.

03:00:27 17 Q. And if they did not give -- if they do not

03:00:30 18 provide their naturalization documentation to the Pima

03:00:35 19 County Recorder's Office, right, the last sentence here

03:00:37 20 reflects, quote, they are canceled and sent a notice

03:00:40 21 letting them know how to update and provide DPOC; is

03:00:45 22 that correct?

03:00:45 23 A. That is correct.

03:00:47 24 Q. Okay. How often does this happen?

03:00:52 25 A. Not very frequently, to the best of my

03:00:57 1 knowledge.

03:00:57 2 Q. H.B. 2243, though, would require more checks

03:01:00 3 like this and could potentially lead to more instances

03:01:04 4 where a citizen is required to provide DPOC a second

03:01:07 5 time?

03:01:07 6 MR. LANGHOFER: Form.

03:01:10 7 THE WITNESS: Yes, that's our

03:01:11 8 understanding of it.

03:01:12 9 BY MR. SHERMAN:

03:01:12 10 Q. And it could lead to instances where a citizen

03:01:15 11 is referred to the Attorney General's Office or County

03:01:19 12 Attorney for prosecution, correct?

03:01:20 13 MR. LANGHOFER: Form.

03:01:21 14 THE WITNESS: Yes, it could.

03:01:27 15 BY MR. SHERMAN:

03:01:28 16 Q. Do you recall an incident in October 2022

03:01:33 17 concerning the downgrading of several thousand voters to

03:01:38 18 federal only status?

03:01:42 19 A. In Pima County?

03:01:45 20 Q. Why don't we look at a document I'll refer to

03:01:49 21 to refresh. This hasn't been marked yet. It's

03:01:56 22 Exhibit R, Bates stamp AZSOS-338826. I believe we're

03:02:09 23 marking this as Exhibit -- well, let me -- I'll ask the

03:02:12 24 witness about it first.

03:02:12 25 What does this document appear to be?

03:02:16 1 A. This is an e-mail from the AVID support team at
03:02:22 2 the SOS's office to our office.

03:02:26 3 Q. And you were sent this e-mail, correct?

03:02:30 4 A. Yes, I am on the to line.

03:02:34 5 Q. And you can take a minute to refresh yourself
03:02:41 6 on this e-mail, and I'll ask you a few questions on it.

03:02:45 7 But could the court reporter please mark it as
03:02:50 8 Exhibit 78.

03:03:45 9 Do you recall the incident that's described in
03:03:48 10 this e-mail?

03:03:48 11 A. Yes, I do.

03:03:49 12 Q. And what happened?

03:03:53 13 A. We were notified that the MVD's records, there
03:03:56 14 was a technical issue, causing our checks so a number of
03:04:03 15 records were incorrectly -- were incorrectly identified
03:04:08 16 for federal when they were indeed citizens.

03:04:13 17 Q. And these were registered voters who had
03:04:16 18 already shown DPOC, correct?

03:04:17 19 A. That is correct.

03:04:19 20 Q. And they were downgraded to federal only status
03:04:21 21 and sent federal only ballots?

03:04:24 22 A. That is correct.

03:04:25 23 Q. Do you know on a technical level how this
03:04:28 24 happened?

03:04:29 25 A. I do not understand the technical aspects

03:04:32 1 behind the issue. It was something to do with the
03:04:35 2 database on MVD's side with the way the AVID system
03:04:44 3 and queries -- my IT staff would be better able to
03:04:52 4 explain the technical details of this. I would refer
03:04:57 5 to them.

03:04:58 6 Q. Understood.

03:04:59 7 Do you know how many registered voters in Pima
03:05:01 8 County were affected by this incident?

03:05:05 9 A. It looks like we had -- looks like we had at
03:05:12 10 least 558 hard matches and possibly up to 1,336 soft
03:05:22 11 matches.

03:05:23 12 Q. And those over 600 people were all sent federal
03:05:28 13 only ballots in the mail before this issue was
03:05:30 14 corrected?

03:05:30 15 A. They were.

03:05:32 16 Q. And what did you have -- what did your office
03:05:35 17 have to do after that point in time?

03:05:37 18 A. We contacted those voters, let them know that
03:05:40 19 there was an error in the information we had received.
03:05:47 20 And for those that we could, we sent them full ballots
03:05:50 21 so they could vote an early ballot; and for those that
03:05:53 22 we could not, we instructed them to go to a polling
03:05:56 23 location or an early voting location so they could vote
03:05:59 24 a full ballot. We did adjust their voter registration
03:06:02 25 records to reflect that so they would get the full

03:06:05 1 ballot at those voting centers.

03:06:07 2 Q. Do you know how many voters were affected

03:06:09 3 statewide by this incident?

03:06:12 4 A. I believe Maricopa and Pima were the largest

03:06:17 5 affected ones, but there were others in some of the

03:06:21 6 smaller counties as well.

03:06:23 7 Q. In light of this incident, what does this say

03:06:25 8 to you about the reliability of database matching to

03:06:27 9 assess a person's current U.S. citizenship status?

03:06:30 10 MR. LANGHOFER: Form.

03:06:31 11 MS. STUART: Form.

03:06:36 12 THE WITNESS: I trust the information in
03:06:38 13 the database that we maintain here in Pima County, and I

03:06:44 14 would hope that the other jurisdictions that maintain

03:06:46 15 databases did as much work as we did to make sure that

03:06:49 16 the information in there was accurate and correct.

03:06:52 17 BY MR. SHERMAN:

03:06:53 18 Q. Well, leaving aside AVID and what's in AVID and

03:06:56 19 leaving aside what's in Voter, the Pima County voter

03:07:00 20 registration system, what does this say to you about the

03:07:03 21 reliability of using MVD data to assess a person's

03:07:07 22 current U.S. citizenship status?

03:07:09 23 MR. LANGHOFER: Form, foundation.

03:07:15 24 THE WITNESS: It is not as reliable as we

03:07:16 25 had thought it was.

03:07:35 1 BY MR. SHERMAN:

03:07:35 2 Q. So for voters who are grandfathered in by the
03:07:39 3 safe harbor provision in the -- let me back up a step.

03:07:42 4 Do you recall the safe harbor provision from
03:07:47 5 the DPOC requirement?

03:07:51 6 A. I believe that's the provision for people who
03:07:55 7 registered previously, to just assume that their
03:08:01 8 information was correct and not go back and do rechecks
03:08:05 9 on them.

03:08:08 10 It also -- I think it has a relationship to one
03:08:12 11 of the previously passed propositions. Governor Ducey
03:08:18 12 signed a letter explaining why older registrations would
03:08:24 13 not be impacted by this law.

03:08:28 14 Q. So, essentially, registered voters who had
03:08:32 15 registered prior to the implementation of DPOC, they
03:08:35 16 didn't -- they were exempt from the DPOC requirement; is
03:08:38 17 that your testimony?

03:08:39 18 MR. LANGHOFER: Form.

03:08:44 19 THE WITNESS: Yes, that's my
03:08:45 20 understanding. Yes.

03:08:45 21 BY MR. SHERMAN:

03:08:47 22 Q. So such voters who were subject to that safe
03:08:51 23 harbor in the DPOC law, if they never subsequently
03:08:53 24 obtained an Arizona driver's license or state ID after
03:08:56 25 October 1st, 1996, is the fact that they've never shown

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03:09:00 1 DPOC information showing that they're not U.S. citizens?

03:09:05 2 MR. LANGHOFER: Form.

03:09:09 3 THE WITNESS: Sorry. Your question was a
03:09:10 4 little complex. Could you restate it?

03:09:12 5 BY MR. SHERMAN:

03:09:12 6 Q. Well, sure.

03:09:12 7 For those voters who have been grandfathered
03:09:15 8 into DPOC, right, they've -- for those voters who are
03:09:19 9 exempt from the DPOC requirement because they registered
03:09:21 10 to vote prior to 2005, when it took effect, is the fact
03:09:27 11 that they've never shown DPOC information or reason to
03:09:31 12 believe that they're not U.S. citizens?

03:09:35 13 MR. LANGHOFER: Form.

03:09:39 14 THE WITNESS: No.

03:09:52 15 BY MR. SHERMAN:

03:09:52 16 Q. In terms of resources, access, and training, is
03:09:55 17 it practicable for your office to use MVD driver's
03:09:57 18 license and nonoperating ID databases for citizenship
03:10:01 19 verification?

03:10:05 20 A. It's certainly another resource that if we
03:10:09 21 didn't have, it would -- we would be limited, again, to
03:10:15 22 the voter simply providing us proof themselves, at least
03:10:22 23 for the MVD, and it gives us some opportunities to kind
03:10:27 24 of make the process of registering people faster and
03:10:29 25 more efficient if those individuals have already proven

03:10:34 1 citizenship with DMV.

03:10:36 2 Q. You testified earlier this morning that there

03:10:38 3 would be quite a lot of developmental changes in

03:10:41 4 response to these laws if they took -- if they were

03:10:44 5 implemented, correct?

03:10:45 6 A. Correct.

03:10:46 7 Q. How long do you think that would take?

03:10:53 8 A. Programming development changes to the Voter

03:10:56 9 system can take months.

03:11:01 10 Q. Years?

03:11:04 11 A. I don't know about years, but it certainly

03:11:06 12 would take months. We have one full-time dedicated

03:11:10 13 developer and then we have a backup developer, and

03:11:15 14 because this is an -- because this is a proprietary

03:11:19 15 system specific to Pima County, it takes some time for

03:11:24 16 us to do development changes on it. You have to go

03:11:27 17 through our testing environment. We have to make sure

03:11:31 18 that it can speak to AVID. It's not a -- it's certainly

03:11:36 19 not an easy lift.

03:11:39 20 Q. Under 2243 you'd be required to compare the

03:11:42 21 county's voters to the MVD databases every month. Is

03:11:45 22 that practicable?

03:11:46 23 A. No.

03:11:48 24 Q. Is it practicable to use all available

03:11:51 25 resources to engage in monthly MVD database comparisons?

03:11:57 1 MR. LANGHOFER: Form.

03:11:59 2 THE WITNESS: No. Pima County has over

03:12:03 3 630 active registered voters, and we have just shy of

03:12:08 4 700,000 voters total on the voter registration roll.

03:12:14 5 BY MR. SHERMAN:

03:12:14 6 Q. Understood.

03:12:19 7 ADOT currently provides a database of customers

03:12:22 8 to the Secretary of State each month; is that correct?

03:12:28 9 MS. STUART: Form, foundation.

03:12:31 10 THE WITNESS: When you say a customer -- a

03:12:34 11 database of customers to the SOS, I don't know what

03:12:37 12 you're referring to.

03:12:40 13 BY MR. SHERMAN:

03:12:40 14 Q. I'll strike this question.

03:12:41 15 Is it possible for more than one ADOT record to

03:12:47 16 match a voter file record; do you know?

03:12:53 17 A. I guess it's possible if the information is in

03:12:57 18 the database twice.

03:13:01 19 Q. Do you have any idea how that would happen?

03:13:06 20 A. Human error, I would assume. I mean you can

03:13:11 21 maybe -- are you talking about on the voter -- on Pima

03:13:15 22 County's side or the State's side?

03:13:18 23 Q. On the ADOT side, more than one ADOT record

03:13:22 24 associated with a registered voter.

03:13:25 25 MS. STUART: Form, foundation.

03:13:28 1 THE WITNESS: Yeah, I -- I would -- I
03:13:30 2 guess it could happen.

03:13:31 3 BY MR. SHERMAN:

03:13:32 4 Q. But you don't know the circumstances in which
03:13:33 5 it would happen?

03:13:35 6 MS. STUART: Form, foundation.

03:13:41 7 BY MR. SHERMAN:

03:13:41 8 Q. Okay. I'll strike -- I'll strike this
03:13:43 9 question. We can move on.

03:13:44 10 So we were speaking earlier about USCIS's SAVE
03:13:55 11 system, and your office currently uses the SAVE system
03:13:58 12 for purposes of U.S. citizenship verification, correct?

03:14:01 13 A. Correct.

03:14:03 14 Q. And you use the SAVE system either when you get
03:14:08 15 an alien registration number on the voter registration
03:14:12 16 form or in response to that notice letter, correct?

03:14:15 17 A. Correct.

03:14:16 18 Q. And you could also use a naturalization
03:14:18 19 certificate number?

03:14:20 20 A. That is correct.

03:14:21 21 Q. How frequently do you use the SAVE system for
03:14:25 22 citizenship verification?

03:14:28 23 A. Maybe a handful of times a month.

03:14:33 24 Q. What's a handful, ballpark? Like less than 50
03:14:36 25 or less than a hundred or --

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03:14:38 1 A. So the SAVE database is a -- we pay them a
03:14:43 2 monthly flat fee. On the invoice it shows how many
03:14:47 3 times we've accessed the system. I think the last
03:14:49 4 invoice I saw said nine.

03:14:53 5 Q. And if you don't have an alien registration
03:14:57 6 number or a naturalization certificate number, you can't
03:14:59 7 use the SAVE system for citizenship verification
03:15:02 8 purposes, correct?

03:15:02 9 A. That's my understanding, yes.

03:15:04 10 Q. Is there any other number that your office
03:15:07 11 routinely obtains from applicants or registered voters
03:15:10 12 that you could use with the SAVE system?

03:15:12 13 A. Not that I know of.

03:15:17 14 Q. Does your office directly have an agreement
03:15:19 15 with USCIS?

03:15:21 16 A. We do.

03:15:23 17 Q. Is that through the SOS or is that directly for
03:15:26 18 Pima County and the Pima County Recorder's Office?

03:15:29 19 A. It's directly with Pima County.

03:15:31 20 Q. Okay. How long have you had that agreement?

03:15:35 21 A. We renew it on a yearly basis.

03:15:37 22 Q. Does it cover the uses of SAVE outlined in
03:15:40 23 H.B. 2492?

03:15:44 24 A. I don't -- I don't know.

03:15:46 25 Q. All right. Do you know if it covers the uses

03:15:48 1 of SAVE outlined in H.B. 2243?

03:15:52 2 A. I don't know.

03:15:54 3 Q. For voter registration applicants not born in
03:15:57 4 the U.S., is it feasible to use the SAVE system to
03:16:00 5 determine their current U.S. citizenship status?

03:16:05 6 A. Without any additional information, like a
03:16:09 7 naturalization number or --

03:16:12 8 Q. Sorry. I'll rephrase the question.

03:16:14 9 If you query the SAVE system using an alien
03:16:19 10 registration number or a naturalization certificate
03:16:21 11 number, is it feasible to use that SAVE query to
03:16:25 12 determine the person's current U.S. citizenship status?

03:16:29 13 A. Yes.

03:16:33 14 Q. What's your basis for saying that?

03:16:36 15 A. That's the purpose of the SAVE system, is you
03:16:39 16 put the information in there and they return back to us
03:16:42 17 as to whether or not they are a citizen.

03:16:46 18 Q. So it can confirm citizenship, you've
03:16:49 19 testified, correct?

03:16:49 20 A. Correct.

03:16:51 21 Q. If you get a nonmatch or if it returns
03:16:57 22 information saying that this person's not a U.S.
03:17:00 23 citizen, what's the next step?

03:17:05 24 A. Well, we would send out a letter to the
03:17:09 25 registrant saying --

03:17:10 1 Q. And what does the letter say?

03:17:12 2 A. It would be that note code letter requiring

03:17:15 3 them to provide DPOC.

03:17:22 4 Q. Does USCIS have an alternative verification

03:17:25 5 process?

03:17:28 6 A. Not that I'm aware of.

03:17:32 7 Q. Has your office ever used an alternative

03:17:35 8 verification process for voter registration applicants?

03:17:39 9 A. Not that I'm aware of.

03:17:42 10 Q. Who in your office would know whether the Pima

03:17:47 11 County Recorder's Office has ever used USCIS's

03:17:51 12 alternative verification process?

03:17:56 13 A. The prior Recorder, the prior -- the former

03:18:02 14 chief deputy under the prior Recorder.

03:18:07 15 Q. And sorry to make you repeat this, but how long

03:18:10 16 have you been with the office, again?

03:18:11 17 A. Since September of 2021.

03:18:18 18 Q. If the SAVE system search returns no match, is

03:18:21 19 that treated as evidence that the person is not a U.S.

03:18:24 20 citizen?

03:18:25 21 A. No, it's not. It's just, again, it would

03:18:29 22 require a note code, so we would send out a letter.

03:18:44 23 Q. So would you say that while the SAVE system can

03:18:47 24 be used to confirm that someone is a U.S. citizen, it

03:18:50 25 cannot be used to confirm a lack of U.S. citizenship?

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03:18:55 1 MR. LANGHOFER: Form.

03:19:03 2 THE WITNESS: Yeah, I would say that's

03:19:04 3 true. We would -- we only use the SAVE system for the

03:19:09 4 initial registration if a number is provided to us, so

03:19:15 5 like a naturalization number or an alien ID.

03:19:19 6 If we get -- if a hit does not come back

03:19:23 7 that's saying that they are a citizen, we wouldn't --

03:19:26 8 that registration we wouldn't continue with the

03:19:29 9 registration. We would send the letter saying you need

03:19:32 10 to provide us citizenship, documentary proof, DPOC.

03:19:38 11 BY MR. SHERMAN:

03:19:39 12 Q. So it's a basis, in your view, to deny someone

03:19:42 13 a complete voter registration and deny them -- to reject

03:19:45 14 them, to reject that application; but it's not a basis

03:19:48 15 to remove them from the rolls?

03:19:52 16 MR. LANGHOFER: Form.

03:19:53 17 THE WITNESS: That is correct.

03:20:08 18 BY MR. SHERMAN:

03:20:09 19 Q. Has your office been communicating with USCIS

03:20:11 20 about the challenged laws in this case?

03:20:15 21 A. No, we have not.

03:20:16 22 Q. Do you know whether the Secretary of State's

03:20:18 23 Office has?

03:20:19 24 MS. STUART: Form, foundation.

03:20:21 25 THE WITNESS: I do not.

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03:20:23 1 BY MR. SHERMAN:

03:20:23 2 Q. In terms of resources, access, training, is it

03:20:27 3 practicable for your office to use the SAVE system for

03:20:31 4 all Pima County registered voters?

03:20:35 5 A. No, it is not.

03:20:44 6 Q. H.B. 2492 instructs your office to use all

03:20:47 7 available resources to perform SAVE system checks. Is

03:20:51 8 that possible?

03:20:53 9 MR. LANGHOFER: Form.

03:20:56 10 THE WITNESS: No, we would only provide --

03:20:59 11 use the SAVE system on initial registration. We would

03:21:02 12 not retroactively go back and run registrations through

03:21:05 13 the SAVE system.

03:21:12 14 BY MR. SHERMAN:

03:21:13 15 Q. So in terms of the Social Security

03:21:16 16 Administration databases, you testified earlier today

03:21:19 17 that your office isn't comparing any voter registration

03:21:23 18 data against SSA databases; isn't that correct?

03:21:27 19 A. We have no access to those databases.

03:21:29 20 Q. Do you interface in any way with their

03:21:33 21 databases?

03:21:33 22 A. We do not.

03:21:34 23 Q. Okay. Do you have any knowledge of whether SSA

03:21:38 24 databases contain citizenship information?

03:21:41 25 A. I do not.

03:21:43 1 Q. And so, therefore, no knowledge of whether that
03:21:46 2 citizenship information is reliable for purposes of
03:21:49 3 citizenship verification?

03:21:51 4 A. That is correct.

03:21:54 5 Q. And I believe you testified earlier that your
03:21:58 6 office doesn't have any familiarity with the National
03:22:01 7 Association Public Health -- for Public Health
03:22:07 8 Statistics and Information Systems Electronic
03:22:10 9 Verification of Vital Events database, does it?

03:22:11 10 A. Again, that's not something that we have access
03:22:13 11 to.

03:22:14 12 Q. Okay. Do you have any familiarity with it?

03:22:17 13 A. I know that they exist, and I know that the
03:22:22 14 Pima County Health Department can provide information to
03:22:24 15 it.

03:22:26 16 Q. Do you know what their databases contain or
03:22:28 17 what people use it for?

03:22:32 18 A. Birth and death notices.

03:22:35 19 Q. Do you know what state agencies around the
03:22:39 20 country might use it for?

03:22:42 21 A. I think it just depends on the state agency.

03:22:45 22 Q. Have you ever heard of any voter registration
03:22:50 23 officials using it for any purpose?

03:22:52 24 A. Not in the state of Arizona.

03:22:56 25 Q. Are you familiar with the Electronic

03:22:59 1 Registration Information Center or ERIC?

03:23:00 2 A. Yes, I am.

03:23:01 3 Q. And what is it?

03:23:02 4 A. It is a group of participating states who

03:23:08 5 provide information to the ERIC system to keep their

03:23:15 6 rolls up-to-date within their states, to provide

03:23:20 7 cross-state mover reports and double voting reports.

03:23:25 8 It's a way for us to be able to get information

03:23:29 9 from other states in a centralized method. That

03:23:37 10 information is fed through the Secretary of State's

03:23:41 11 Office of those participating states and then is

03:23:43 12 received by the Secretary of State's Office and then

03:23:46 13 pushed down to the counties.

03:23:48 14 Q. Do you use ERIC for U.S. citizenship

03:23:52 15 verification purposes?

03:23:52 16 A. I do not.

03:23:52 17 Q. Does ERIC even contain U.S. citizenship data?

03:23:56 18 A. Not that I'm aware of.

03:23:58 19 Q. Has your office been communicating with ERIC at

03:24:01 20 all about the challenged laws in this lawsuit?

03:24:03 21 A. We do not communicate with ERIC. We

03:24:06 22 communicate with the Secretary of State's Office, and

03:24:07 23 the Secretary of State's Office communicates with ERIC.

03:24:13 24 Q. Lastly, in both -- in this -- I'm almost done.

03:24:17 25 Do you have the ability to search or interface

03:24:21 1 with any other government databases with U.S.

03:24:24 2 citizenship data?

03:24:25 3 A. I do not.

03:24:26 4 Q. And just to be clear, when you say you, you

03:24:29 5 mean your office, correct?

03:24:30 6 A. I mean our office, that is correct.

03:24:33 7 Q. Okay. And has your office been communicating

03:24:34 8 with any other person or entity regarding the use of any

03:24:36 9 other database for citizenship verification?

03:24:40 10 A. No, we have not.

03:24:42 11 Q. If I could trouble you to just look quickly at

03:24:45 12 what's marked as Exhibit U. This has not been

03:24:47 13 introduced yet. It's YC 135.

03:25:00 14 What is this document?

03:25:04 15 A. Looks like it is an e-mail from Former Recorder

03:25:09 16 Hoffman.

03:25:14 17 Q. Does it appear to be authentic?

03:25:18 18 MR. LANGHOFER: Foundation.

03:25:19 19 THE WITNESS: It does.

03:25:20 20 BY MR. SHERMAN:

03:25:20 21 Q. Could we mark this as Exhibit 79, I believe.

03:25:27 22 If I could just ask you to take a look at the

03:25:30 23 last bullet, and I'll just read it for the record.

03:25:32 24 "What city, town and federal databases are they talking

03:25:34 25 about that we are supposed to run our voter rolls

03:25:37 1 against? Do they know something about people keeping
03:25:40 2 track of us and citizenship status that we don't?"
03:25:44 3 Do you share the sentiment expressed in this
03:25:47 4 last bullet point?
03:25:48 5 MR. LANGHOFER: Form.
03:25:50 6 THE WITNESS: I do.
03:25:52 7 BY MR. SHERMAN:
03:25:52 8 Q. Thank you.
03:26:04 9 To the extent you're checking multiple
03:26:07 10 databases, how do you think you would deal with
03:26:10 11 conflicting data if one database showed a person was a
03:26:14 12 citizen and another showed they were not a citizen at
03:26:16 13 some point in the past?
03:26:19 14 A. We would reach out to the voter and confirm.
03:26:20 15 MR. LANGHOFER: Foundation.
03:26:26 16 BY MR. SHERMAN:
03:26:26 17 Q. Is that process currently laid down in the
03:26:30 18 draft EPM or anywhere else?
03:26:33 19 A. Not that I know of. That would just be an
03:26:36 20 internal best practice.
03:26:39 21 Q. Okay. But it might vary from county to
03:26:41 22 county?
03:26:41 23 A. It might.
03:26:46 24 Q. How do you ensure an accurate match is made?
03:26:52 25 I'll strike that. I'll just skip it.

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03:26:54 1 So last question I think I have is just about
03:26:59 2 curing. So if a registered voter is removed from the
03:27:02 3 rolls under H.B. 2243, which we've been discussing,
03:27:08 4 based upon an erroneous determination that they are not
03:27:10 5 a U.S. citizen, can that voter be added back to the
03:27:13 6 rolls after the registration deadline has already
03:27:17 7 passed?

03:27:17 8 MR. LANGHOFER: Form.

03:27:25 9 THE WITNESS: Yes, I mean if they provided
03:27:26 10 us the documentary proof of citizenship. If it's
03:27:32 11 something that we made a mistake on, we can certainly,
03:27:36 12 you know, fix our issues if it's brought to our
03:27:39 13 attention by the voter.

03:27:40 14 BY MR. SHERMAN:

03:27:40 15 Q. Even after vote closing?

03:27:46 16 MR. LANGHOFER: Form.

03:27:52 17 THE WITNESS: I think we would be able to
03:27:54 18 do that from a pragmatic perspective, yes.

03:27:59 19 BY MR. SHERMAN:

03:27:59 20 Q. Is that clearly set forth in the currently
03:28:02 21 operative EPM?

03:28:03 22 MR. LANGHOFER: Form.

03:28:06 23 THE WITNESS: No. I think that would be
03:28:07 24 something that we would determine internally after
03:28:09 25 speaking with our counsel.

03:28:10 1 BY MR. SHERMAN:

03:28:11 2 Q. Okay. And it might vary from county to county?

03:28:12 3 A. It might.

03:28:13 4 MR. LANGHOFER: Foundation.

03:28:16 5 MR. SHERMAN: Thank you very much for your
03:28:17 6 time, Ms. Hiser. Thank you for your service.

03:28:23 7 I believe one of my colleagues is going to
03:28:24 8 take over and ask questions.

03:28:27 9 MR. DODGE: Would it be nice for Ms. Hiser
03:28:28 10 to take maybe a five-minute break before we continue?

03:28:33 11 THE WITNESS: Sure. Thank you.

03:28:35 12 MR. LANGHOFER: Jon, when you say one of
03:28:36 13 your colleagues is taking over, do you mean --

03:28:38 14 MR. DODGE: This is Mr. Dodge. I'll be
03:28:39 15 asking questions after the break, and I think we can go
03:28:41 16 off the record now.

03:28:42 17 THE VIDEOGRAPHER: We are off the record.
03:28:44 18 The time on the video monitor is 3:28 p.m.

03:28:56 19 (A recess was taken.)

03:37:37 20 THE VIDEOGRAPHER: We are on the record.
03:37:38 21 The time on the video monitor is 3:37 p.m.

03:37:42 22

03:37:42 23 EXAMINATION

03:37:42 24 BY MR. DODGE:

03:37:43 25 Q. Good afternoon, Ms. Hiser. My name is Chris

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03:37:45 1 Dodge. I represent the Mi Familia Vota plaintiffs in
03:37:47 2 this case. Thank you for your time this afternoon. I
03:37:50 3 know it's a long day.
03:37:52 4 I'd like to start by asking you some additional
03:37:54 5 questions about requirements imposed by H.B. 2492. And
03:38:00 6 you understand that under H.B. 2492 a state registration
03:38:05 7 form applicant must include their place of birth on the
03:38:08 8 application form or it cannot be accepted by a Recorder,
03:38:14 9 right?
03:38:14 10 A. Yes, that's what the guidance was indicated
03:38:17 11 from the Secretary of State's Office.
03:38:18 12 Q. Okay. I'm going to ask some questions about
03:38:21 13 that; but before, I'd like to ask about your office's
03:38:24 14 current practices with respect to birthplace
03:38:29 15 information.
03:38:29 16 If an applicant submits a state registration
03:38:31 17 form and provides adequate documentary proof of
03:38:35 18 citizenship, but no birthplace information, at present
03:38:38 19 you would still register that voter, correct?
03:38:40 20 A. Correct.
03:38:42 21 Q. If we could please pull up Exhibit 73, which
03:38:47 22 was previously in the Dropbox folder as Exhibit 0.
03:38:53 23 Let me know when you have that in front of you,
03:39:02 24 Ms. Hiser.
03:39:02 25 A. The letter from the Recorder to Governor Ducey?

03:39:06 1 Q. That's correct.

03:39:07 2 A. Okay.

03:39:07 3 Q. And you looked at this a bit earlier today,

03:39:09 4 right?

03:39:09 5 A. Yes.

03:39:09 6 Q. Okay. I'm not going to ask questions about

03:39:11 7 what's already been discussed on this letter, but if I

03:39:15 8 could direct your attention to the final bullet on the

03:39:17 9 first page of this letter; do you see that?

03:39:21 10 A. "Requiring a birthplace when registering

03:39:27 11 (16-121.01) is irrelevant. There is no way to verify

03:39:32 12 the information and it has no bearing on the ability to

03:39:36 13 vote nor does it verify identity."

03:39:39 14 Q. Yeah, exactly that. And as you said, this is

03:39:41 15 an e-mail that was signed by the Pima County Recorder

03:39:44 16 and sent to the Governor, correct?

03:39:46 17 A. Correct.

03:39:47 18 Q. And the bullet that you just read out loud,

03:39:51 19 that lays out the position of the Pima County Recorder

03:39:54 20 with respect to H.B. 2492's birthplace requirement?

03:39:58 21 A. Yes, it does.

03:39:59 22 Q. And what use, if any, does your office

03:40:02 23 currently make of birthplace information supplied on a

03:40:05 24 state registration form?

03:40:06 25 A. We would use that as a security question.

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03:40:11 1 Q. And for no other purpose?

03:40:13 2 A. No, for no other purpose.

03:40:16 3 Q. So you don't actually use that information to

03:40:19 4 confirm where a person is born, right?

03:40:23 5 A. That is correct.

03:40:25 6 Q. And you also don't use birthplace information

03:40:28 7 on a state registration form to determine if the person

03:40:30 8 is qualified to vote under Arizona law, right?

03:40:33 9 A. That is also correct.

03:40:39 10 Q. And I think you said earlier as well that there

03:40:41 11 is all sorts of other information on the state

03:40:44 12 registration form that you could also use as a security

03:40:46 13 question on the phone with the voter, right?

03:40:48 14 A. Yes.

03:40:49 15 Q. And could you just list a few of those?

03:40:54 16 A. Mother's maiden name, father's name, the place

03:40:59 17 of birth, last four digits of a social security number.

03:41:05 18 We could use an e-mail address if they provided that,

03:41:08 19 although we also like to use the e-mail address as a way

03:41:11 20 to contact the voter.

03:41:15 21 Q. And I think you said earlier that you typically

03:41:17 22 start by asking for the last four digits of the social

03:41:21 23 security number; is that right?

03:41:21 24 A. If that has been provided, that's our first

03:41:24 25 preferred security check.

03:41:27 1 Q. Got it. Thank you.

03:41:33 2 And I know you've testified a couple times
03:41:36 3 today that the Pima County Recorder is not currently
03:41:39 4 implementing H.B. 2492, right?

03:41:41 5 A. Correct.

03:41:41 6 Q. And so specifically with regards to the bill's
03:41:45 7 birthplace requirement, your office is not
03:41:49 8 implementing -- sorry. Strike that.

03:41:50 9 So with respect to the birthplace requirement,
03:41:53 10 the fact that you are not implementing H.B. 2492 means
03:41:57 11 that the Pima County Recorder's Office is still
03:41:59 12 accepting voter registration forms that omit place of
03:42:04 13 birth information, correct?

03:42:05 14 A. We are.

03:42:05 15 Q. But if Pima County were to implement the law,
03:42:07 16 it would mean that it would have to reject voter
03:42:10 17 registration forms that omit birthplace, right?

03:42:12 18 A. As we understand the implementation of that
03:42:15 19 law, yes.

03:42:20 20 Q. And the Recorder explained in her veto request
03:42:24 21 to Governor Ducey that place of birth has no bearing on
03:42:28 22 qualification to vote, right?

03:42:29 23 A. She did.

03:42:30 24 Q. And the Recorder also said in her veto
03:42:33 25 request to Governor Ducey that your office has no

03:42:35 1 way of actually verifying place of birth information,
03:42:39 2 correct?

03:42:39 3 A. That is correct.

03:42:41 4 Q. So if H.B. 2492 were to go into effect, your
03:42:44 5 office would not actually use required birthplace
03:42:47 6 information to verify a person's identity or their
03:42:49 7 qualification to vote, right?

03:42:52 8 A. Correct. I think as I've stated previously, a
03:42:55 9 U.S. citizen can be born abroad, and the place of birth
03:43:01 10 doesn't say -- doesn't control as to whether or not they
03:43:05 11 are or are not a U.S. citizen.

03:43:08 12 Q. That's right. And it's also the case that you
03:43:11 13 have no reliable way to check that the birthplace
03:43:14 14 information is accurate to begin with, right?

03:43:15 15 A. Correct.

03:43:16 16 Q. So it can't be used by your office to verify
03:43:19 17 the identity of a person as they claim it on their
03:43:22 18 registration form, right?

03:43:23 19 A. Correct.

03:43:27 20 Q. So is it correct to say that you would not use
03:43:30 21 birthplace information in any new manner if H.B. 2492
03:43:34 22 went into effect?

03:43:36 23 MR. LANGHOFER: Objection, calls for
03:43:39 24 speculation.

03:43:39 25 THE WITNESS: Yeah, I'm sorry, I don't

03:43:40 1 quite understand what your question is.

03:43:44 2 BY MR. DODGE:

03:43:44 3 Q. Let me try it again.

03:43:51 4 Can you think of any new manner in which you
03:43:54 5 would use birthplace information if H.B. 2492 were to go
03:43:56 6 into effect?

03:43:58 7 A. No, I can think of no additional ways we would
03:44:01 8 use that information.

03:44:02 9 Q. Have you received any guidance from the
03:44:05 10 Secretary of State's Office about how to implement the
03:44:09 11 birthplace requirement if it were to go into effect?

03:44:12 12 A. Only the information from the legislative
03:44:14 13 updates and flowchart that they provided our office at
03:44:16 14 the start of the -- January.

03:44:20 15 Q. So if H.B. 2492 were to go into effect, the
03:44:23 16 only use for birthplace information on the state
03:44:26 17 registration form would be as a basis for rejecting an
03:44:29 18 application, right?

03:44:32 19 MR. LANGHOFER: Form. Objection, calls
03:44:36 20 for speculation.

03:44:36 21 THE WITNESS: I think it would. I would
03:44:39 22 have to go back and see what the -- I'd have to look at
03:44:42 23 the guidance of the legislative updates to see if that
03:44:47 24 was what the Secretary of State's Office interpreted it
03:44:49 25 to be.

03:44:54 1 BY MR. DODGE:

03:44:54 2 Q. Are you aware of any other state that requires
03:44:56 3 birthplace information to register to vote?

03:44:59 4 MR. LANGHOFER: Form.

03:45:02 5 THE WITNESS: I don't know. There's
03:45:04 6 50 states. There's 50 different sets of laws.

03:45:06 7 BY MR. DODGE:

03:45:07 8 Q. But to the best of your knowledge, you're not
03:45:08 9 aware of one?

03:45:09 10 MR. LANGHOFER: Form.

03:45:10 11 THE WITNESS: To the best of my knowledge,
03:45:11 12 I'm not aware.

03:45:14 13 BY MR. DODGE:

03:45:15 14 Q. Okay, I'd like to move on to some questions
03:45:16 15 about the citizen checkbox form that appears on both the
03:45:21 16 state registration form and the federal form.

03:45:24 17 The citizenship checkbox is not new on either
03:45:29 18 of those forms, right?

03:45:31 19 A. That is correct.

03:45:32 20 Q. It's been on both of them for at least about a
03:45:35 21 couple decades, right?

03:45:37 22 A. It's been on both of them for at least ten
03:45:39 23 years, if not longer.

03:45:42 24 Q. And the Pima County Recorder's Office has not
03:45:44 25 historically rejected a voter application form simply

03:45:49 1 because a person failed to check a citizen checkbox,
03:45:53 2 right?

03:45:53 3 A. To the best of my knowledge, that is
03:45:57 4 correct.

03:45:57 5 Q. But you understand that under H.B. 2492 an
03:46:02 6 applicant using either the state form or the federal
03:46:04 7 form must affirmatively check the box confirming that
03:46:06 8 they are a citizen or it cannot be accepted by a
03:46:09 9 Recorder's Office, right?

03:46:11 10 A. That is correct.

03:46:12 11 Q. And I think you testified previously that
03:46:14 12 that's another part of H.B. 2492 that Pima County is not
03:46:19 13 currently implementing, right?

03:46:21 14 A. That is correct.

03:46:21 15 Q. And so at present, if an applicant submits a
03:46:24 16 state registration form and provides documentary proof
03:46:27 17 of citizenship, Pima County does not reject the
03:46:29 18 application if the applicant fails to complete the
03:46:32 19 checkbox, right?

03:46:33 20 A. That is correct.

03:46:36 21 Q. And state form applicants are required to
03:46:38 22 provide documentary proof of citizenship under Arizona
03:46:41 23 law, right?

03:46:45 24 MR. LANGHOFER: Calls for a legal
03:46:46 25 conclusion.

03:46:46 1 BY MR. DODGE:

03:46:47 2 Q. To be fully registered.

03:46:49 3 A. So, yes, we need to have DPOC to have someone

03:46:54 4 be fully registered for a full ballot; but as I've

03:46:57 5 stated previously, we can determine that based off of

03:47:02 6 the MVD or the SAVE, and if an individual provides us

03:47:11 7 documentary proof of citizenship, we will take that as

03:47:14 8 well.

03:47:14 9 Q. Got it.

03:47:15 10 But it's fair to say that completing the

03:47:17 11 checkbox is not necessary to confirm that a state form

03:47:21 12 registrant is a citizen, right?

03:47:23 13 A. Correct. Yes, that is correct.

03:47:29 14 Q. And if we could pull up a document labeled

03:47:31 15 PIMA COUNTY 2826 in the Dropbox.

03:47:35 16 MR. DODGE: And, Madame Reporter, could

03:47:38 17 you tell me what exhibit we're up to now?

03:47:45 18 THE COURT REPORTER: 80.

03:47:45 19 BY MR. DODGE:

03:47:47 20 Q. Okay. I'll introduce PIMA COUNTY 2826 as

03:47:49 21 Exhibit 80.

03:47:55 22 Do you have that up in front of you, Ms. Hiser?

03:47:57 23 A. Yes, I do.

03:47:58 24 Q. Are you familiar with this document?

03:47:59 25 A. I am.

03:48:03 1 Q. And if you could turn to Page -- well, first,
03:48:06 2 could you tell me what this document is?

03:48:08 3 A. This is our internal instructions for voter
03:48:12 4 registration data entry.

03:48:14 5 Q. What's this document used for?

03:48:16 6 A. This is used to train our Voter technicians,
03:48:22 7 our Voter clerks, on how to enter information into our
03:48:25 8 database. So it's a fairly comprehensive training
03:48:29 9 manual and procedures, data entry instructions. So it's
03:48:36 10 a standard operating procedures. It's an SOP.

03:48:40 11 Q. Got it.

03:48:41 12 Could you turn to Page 15 of this document,
03:48:41 13 please?

03:48:47 14 And just let me know when you get there.

03:48:52 15 A. Sure.

03:49:02 16 Okay, I'm there.

03:49:03 17 Q. Do you see the bottom paragraph, which reads,
03:49:07 18 "However, if an applicant provides a date of birth that
03:49:09 19 confirms that they will be at least 18 years old on or
03:49:12 20 before election day, accept the form. Similarly, if an
03:49:15 21 applicant provides documentary proof of citizenship, or
03:49:18 22 DPOC can be acquired based on the provided information,
03:49:21 23 you should accept the form. We do not deny the right to
03:49:24 24 register to vote eligible Arizonans who accidentally
03:49:29 25 omit these checkmarks from their voter registration

03:49:33 1 application."

03:49:33 2 Did I read that correctly?

03:49:34 3 A. You did.

03:49:34 4 Q. Is that an accurate summary of your office's

03:49:37 5 current policy with respect to state form registrants

03:49:39 6 who provide DPOC, but did not complete a citizenship

03:49:43 7 checkbox?

03:49:43 8 A. It is.

03:49:46 9 Q. Okay. You can set that document aside. I'm

03:49:49 10 going to ask some questions about the federal form now.

03:49:52 11 Could you turn back to Exhibit 73, which we

03:50:00 12 just had up, which is the County Recorder's veto request

03:50:05 13 to Governor Ducey?

03:50:10 14 In the middle of that page --

03:50:11 15 A. Could you reference the exhibit one more time,

03:50:15 16 please?

03:50:15 17 Q. I believe it's 73.

03:50:24 18 A. Does it have a letter associated with it?

03:50:26 19 Q. Yes. O, as in Oscar.

03:50:31 20 A. All right. Thank you.

03:50:32 21 Q. And if you look in the middle of the first

03:50:34 22 page, there are a few paragraphs that begin "The bill's

03:50:38 23 unconstitutionality is clear in that it conflicts with

03:50:41 24 the 2013 Supreme Court ruling that determined that an

03:50:43 25 affirmation of citizenship meets the standards of

03:50:46 1 federal law. In Arizona v. Inter Tribal Council of
03:50:49 2 Arizona, the court ruled that an Arizona law requiring
03:50:52 3 voters to provide a document for proof of citizenship,"
03:50:55 4 and it lists some, "violated federal law. Because the
03:50:58 5 National Voter Registration Act only requires an
03:51:01 6 affirmation of citizenship under the penalty of perjury,
03:51:04 7 federal law prevails."

03:51:05 8 Did I read that correctly?

03:51:07 9 A. You did.

03:51:08 10 Q. So is it correct that in the Pima County
03:51:10 11 Recorder's Office an applicant completing the federal
03:51:14 12 registration form adequately establishes their
03:51:16 13 citizenship if they affirm their citizenship under
03:51:19 14 penalty of perjury on the form?

03:51:22 15 MR. LANGHOFER: Calls for a legal
03:51:24 16 conclusion.

03:51:24 17 THE WITNESS: In that instance we would
03:51:26 18 register them as a federal only voter, and we would
03:51:29 19 still send them a letter requesting documentary proof of
03:51:34 20 citizenship, with an explanation that they have been
03:51:36 21 registered as a federal only and are not eligible to
03:51:40 22 vote a full ballot at that time.

03:51:41 23 BY MR. DODGE:

03:51:42 24 Q. But for purposes of voting in federal elections
03:51:45 25 only, their affirmation suffices for establishing their

03:51:50 1 qualification to vote in those elections, right?

03:51:53 2 A. For federal elections, yes.

03:51:58 3 Q. So Pima County's practice has been that if an

03:52:01 4 applicant submits a federal registration form, to accept

03:52:04 5 that application if the applicant signs the citizenship

03:52:07 6 affirmation, even if they do not complete the checkbox,

03:52:12 7 right?

03:52:12 8 A. We do.

03:52:13 9 Q. And that's because they've sworn under penalty

03:52:15 10 of perjury and the threat of deportation that they're

03:52:19 11 citizens, correct?

03:52:20 12 A. Correct.

03:52:25 13 Q. So what use, if any, does your office make on

03:52:28 14 either the state or federal form of an applicant having

03:52:32 15 checked the box that they're a citizen?

03:52:38 16 A. It doesn't play an impact in the way that we

03:52:41 17 register voters.

03:52:46 18 Q. If Pima County were to implement H.B. 2492,

03:52:51 19 however, it would mean that it would have to reject both

03:52:54 20 state form and federal form registrations where a voter

03:52:57 21 forgot to check the citizenship box, correct?

03:52:59 22 A. That is our understanding, yes.

03:53:03 23 Q. And that's the case even though Pima County's

03:53:06 24 current policy is to not deny any eligible Arizona

03:53:09 25 voter's registration for failure to check the box where

03:53:12 1 the applicant provides DPOC or where DPOC can be
03:53:15 2 acquired, right?

03:53:16 3 A. Correct.

03:53:17 4 Q. And that's also the case even though Pima
03:53:21 5 County Recorder's current policy for federal form
03:53:24 6 registrants is that their affirmation of citizenship
03:53:26 7 satisfies showing they are a citizen for purposes of
03:53:29 8 federal elections, right?

03:53:30 9 A. That is correct.

03:53:34 10 Q. So if H.B. 2492 were to go into effect, the
03:53:38 11 only purpose served by the citizenship checkbox would be
03:53:40 12 as a basis for rejecting a registration form, right?

03:53:43 13 A. That is correct.

03:53:49 14 Q. And if the checkbox were to become mandatory,
03:53:53 15 you have no planned additional uses for how your office
03:53:56 16 would use the checkbox?

03:53:58 17 A. Not at this time, no.

03:54:05 18 Q. Okay. I'd like if you could pull up
03:54:08 19 Exhibit 72, which is labeled Exhibit N in the Dropbox.

03:54:17 20 And I know you discussed this document
03:54:19 21 previously with counsel as well, so I'm going to only
03:54:23 22 ask one or two more questions about it.

03:54:25 23 You testified earlier that in these e-mails the
03:54:31 24 Pima County Recorder made clear her view that H.B. 2492
03:54:35 25 violated federal law, right?

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03:54:37 1 A. That is correct. These do reflect the
03:54:41 2 Recorder's view on this bill.
03:54:42 3 Q. And that e-mail was sent on March 29th, 2022?
03:54:47 4 A. It was, yes.
03:54:48 5 Q. And to your knowledge, were any changes made to
03:54:52 6 H.B. 2492 between the time this e-mail was sent and the
03:54:56 7 law was signed into effect by Governor Ducey?
03:54:59 8 MR. LANGHOFER: Form.
03:55:02 9 THE WITNESS: I'm not aware of any
03:55:03 10 changes.
03:55:07 11 BY MR. DODGE:
03:55:08 12 Q. Could you scroll down to the top of the second
03:55:09 13 page of this document?
03:55:15 14 And do you see where the County Recorder in an
03:55:17 15 e-mail says, "A small group of Recorders, Elections
03:55:21 16 Directors, and an AACO representative just met with a
03:55:24 17 representative from the Governor's Office and he's
03:55:26 18 shared our letters with the Governor, but the clock is
03:55:29 19 ticking and there's no commitment that the Governor will
03:55:33 20 veto the bill"? Do you see that?
03:55:35 21 A. I do.
03:55:36 22 Q. Beyond the Pima County Recorder, do you know
03:55:38 23 who attended that meeting with the Governor's
03:55:40 24 representative?
03:55:44 25 A. I don't know. I could hazard a guess, but I

03:55:49 1 might be incorrect.

03:55:51 2 Q. What's your best recollection, understanding
03:55:54 3 that this occurred over a year ago?

03:56:01 4 A. I would -- I think Recorder Richer of Maricopa
03:56:06 5 was most likely there, Recorder Hoffman, Recorder
03:56:18 6 Hansen, probably the election directors from some of
03:56:20 7 those smaller counties. The AACo representative most
03:56:28 8 likely was Jennifer Marson, our lobbyist.

03:56:36 9 Q. Great. Thank you. I appreciate that. You can
03:56:37 10 set that aside now. I'm going to change gears a little
03:56:42 11 bit.

03:56:43 12 You would agree that prior to H.B. 2492 and
03:56:47 13 H.B. 2243 it was not legal for a person who was not a
03:56:49 14 U.S. citizen to register to vote in Arizona, correct?

03:56:54 15 A. Yes. Correct.

03:56:56 16 Q. And would you agree, also, that there were
03:56:58 17 policies, laws, and procedures in place in Arizona and
03:57:01 18 in Pima County to prevent noncitizens from registering
03:57:05 19 to vote?

03:57:05 20 A. Yes.

03:57:08 21 Q. And in Arizona it's a felony for a person to
03:57:11 22 register as an elector when they know they're not
03:57:14 23 entitled to register as one, correct?

03:57:15 24 A. That is correct.

03:57:19 25 Q. What does the Pima County Recorder's Office do

03:57:21 1 to identify any instances of voter fraud?

03:57:30 2 A. Instances of voter fraud or instances of false

03:57:34 3 registration? We consider those to be slightly

03:57:37 4 different.

03:57:38 5 Q. Why don't you give me your answer as to both.

03:57:44 6 A. For registration, if we deemed that the

03:57:46 7 registration is absolutely fraudulent, we would refer to

03:57:54 8 the County Attorney's Office for investigation or the

03:57:57 9 Attorney General's Office. We would not register that

03:58:02 10 voter. That would certainly be something that we would

03:58:06 11 not put into the system.

03:58:10 12 Voter fraud is something different. Voter

03:58:12 13 fraud is someone who, you know, might vote twice, you

03:58:19 14 know, vote across multiple jurisdictions. Those are

03:58:24 15 instances of what we would consider voter fraud.

03:58:28 16 Q. Got it.

03:58:28 17 So you see those as different acts happening at

03:58:31 18 different stages of the voting process, right?

03:58:33 19 A. Correct.

03:58:33 20 Q. And if you suspect someone's trying to register

03:58:40 21 fraudulently, you refer that to the County Attorney?

03:58:43 22 A. If we believe that to be the case, yes.

03:58:46 23 Q. Can citizens submit allegations of potential

03:58:50 24 registration fraud to your office?

03:58:58 25 A. I suppose they could. We wouldn't personally

03:59:01 1 do anything about it. We would direct them to the
03:59:03 2 Arizona Attorney General's Office or the County
03:59:06 3 Attorney's Office for those allegations. Fraud is a
03:59:09 4 criminal allegation, so we would refer them to
03:59:13 5 prosecuting agencies.

03:59:15 6 Q. In practice, do citizens ever refer those sorts
03:59:18 7 of allegations to your office?

03:59:32 8 A. Sometimes.

03:59:33 9 Q. Can you tell me what sometimes means there?

03:59:40 10 A. There is an individual who is known to several
03:59:42 11 of the Recorders here in the state of Arizona, who is an
03:59:46 12 out-of-state individual who investigates our rolls and
03:59:50 13 identifies people on our rolls who he suspects should be
03:59:56 14 removed, for whatever reason, and alerts us to those
04:00:04 15 individuals, requesting that we do follow-up.

04:00:09 16 Q. Could you tell me that individual's name?

04:00:11 17 A. His name is Ian Camacho.

04:00:15 18 Q. And in your experience, are his allegations
04:00:18 19 typically credible or based in fact?

04:00:24 20 A. Sometimes he peppers us with so many we -- we
04:00:29 21 don't -- well, we don't really investigate them. And a
04:00:32 22 lot of the times is he provides us Facebook posts
04:00:35 23 showing that people have moved or property sale
04:00:42 24 notices from the County Assessor's Office or a LinkedIn
04:00:48 25 thing, so I mean...

04:00:52 1 He also will list a number of voters and say
04:00:54 2 that the addresses do not -- are invalid and that we
04:01:00 3 should remove them. For those we can do a little bit
04:01:02 4 more investigation. For the ones where people are
04:01:04 5 sending us things like Facebook posts and LinkedIn
04:01:09 6 profiles, that's not anything that I can do, so we
04:01:12 7 let...
04:01:14 8 If he chooses to think that that's something
04:01:15 9 that we should investigate, we always refer them. We've
04:01:21 10 told Mr. Camacho and his associates that those should be
04:01:26 11 referred to the Attorney General's Office.
04:01:29 12 Q. And do you refer those sorts of allegations to
04:01:33 13 the Attorney General's Office when they're just based on
04:01:36 14 a Facebook post or a LinkedIn update?
04:01:39 15 A. No.
04:01:39 16 Q. And that's because they don't really give you a
04:01:41 17 sufficiently credible basis to follow up, right?
04:01:45 18 A. We would not consider that to be credible. If
04:01:49 19 we had a -- if another county in another state were to
04:01:54 20 contact us and say, you know, we have a voter that's
04:01:58 21 registered here, we would take that with more
04:02:01 22 credibility and work with that county because it's
04:02:04 23 another government agency, to be able to follow up and
04:02:07 24 do what we would need to do, whether it's removing them
04:02:12 25 from our roll or confirming that they should be on their

04:02:15 1 roll; but that would be between another election

04:02:20 2 official.

04:02:22 3 Q. So it wouldn't become a criminal matter?

04:02:24 4 A. No, not unless it was determined that the voter

04:02:29 5 in question had voted across two states.

04:02:33 6 Q. Understood.

04:02:34 7 Beyond Mr. Camacho, does your office sometimes

04:02:41 8 receive allegations of improper voter registration from

04:02:44 9 citizens?

04:02:48 10 A. Not consistently, no.

04:02:50 11 Q. Maybe just a handful of times a year or a

04:02:53 12 month?

04:02:55 13 A. Few and far between. It's probably more of a

04:03:01 14 call of I think this person shouldn't be registered to

04:03:05 15 vote, you know, what are you going to do about it type

04:03:09 16 of thing. We don't get direct referrals.

04:03:16 17 There are several people who like to go in

04:03:18 18 front of the Board of Supervisors and do calls to the

04:03:21 19 public regarding our maintenance of the voter

04:03:27 20 registration rolls, but I wouldn't consider that a -- I

04:03:31 21 wouldn't consider them contacting our office.

04:03:35 22 Q. Understood.

04:03:36 23 And beyond just your office's ordinary

04:03:40 24 registration processes, are there any steps that your

04:03:42 25 office takes to prevent voter registration fraud?

04:03:51 1 A. Other than what we've already outlined, no.

04:04:00 2 Q. And beyond those steps you take to prevent

04:04:04 3 voter registration fraud, are there any actions that we

04:04:07 4 haven't discussed today that your office takes to

04:04:09 5 prevent what you've described as voter fraud itself?

04:04:15 6 A. Other than referring things to the County

04:04:22 7 Attorney or to the Attorney General's for investigation,

04:04:22 8 no.

04:04:32 9 Q. What determines whether something's referred to

04:04:34 10 the County Attorney or the Attorney General's Office?

04:04:37 11 A. It would have to be, from our instance, a

04:04:41 12 fairly clear and compelling view. For the last election

04:04:49 13 cycle we had a handful of people who cast both a

04:04:53 14 provisional ballot and a ballot by mail. We would

04:04:57 15 consider that to be an instance of double voting, so we

04:05:01 16 would -- we had referred that to the County Attorney's

04:05:04 17 Office for additional investigation and follow-up for

04:05:07 18 the County Attorney to be able to make a determination

04:05:11 19 as to whether or not to prosecute.

04:05:15 20 Q. To your knowledge -- sorry. Finish.

04:05:18 21 A. And then we've had some instances of double

04:05:21 22 voting across state lines that where we've noticed from

04:05:26 23 the ERIC cross-state voter match reports, and in those

04:05:30 24 instances we would work with the other state, determine

04:05:32 25 who had jurisdiction, and then refer to either our

04:05:36 1 County Attorney or the state would refer to their -- I'm
04:05:39 2 sorry, our Attorney General's Office, and they would
04:05:41 3 refer to their Attorney General's Office.

04:05:43 4 Q. I see. So you tend to elevate it to the
04:05:46 5 Attorney General when there's an interstate component?

04:05:49 6 A. Correct.

04:05:50 7 Q. Got it.

04:05:51 8 You mentioned some instances of people
04:05:53 9 potentially double voting in the 2020 general election.
04:05:57 10 To your knowledge, were any of those individuals
04:05:59 11 noncitizens?

04:06:00 12 A. It was during the '22 election that I was
04:06:03 13 making that reference to. And, no, those were all
04:06:06 14 registered voters.

04:06:07 15 Q. And to your knowledge, they were all actual
04:06:12 16 residents of Pima County as well, right?

04:06:13 17 A. They were.

04:06:21 18 Q. Does your office believe that there's a problem
04:06:23 19 of voting by noncitizens in Pima County?

04:06:26 20 MR. LANGHOFER: Form.

04:06:31 21 THE WITNESS: I think that our office does
04:06:33 22 an exceptional job of maintaining the voter registration
04:06:37 23 rolls, and we have very talented and dedicated staff who
04:06:42 24 do that on a daily basis. I trust in their -- I trust
04:06:48 25 in their work.

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04:06:50 1 BY MR. DODGE:

04:06:50 2 Q. So, in other words, just by following your
04:06:54 3 Recorder's Office's current protocols for registering
04:06:58 4 voters, that mitigates any concern about a problem of
04:07:01 5 noncitizen voting in Pima County, right?

04:07:04 6 A. Correct.

04:07:08 7 Q. And is the same true for voting by nonresidents
04:07:13 8 in Pima County?

04:07:16 9 A. Again, I trust the work of our team. They have
04:07:24 10 a wonderful attention to detail. Our first check/second
04:07:29 11 check/supervisor review structure provides necessary
04:07:32 12 oversight. So, again, I trust their work.

04:07:37 13 Q. And to be clear, all those procedures you just
04:07:40 14 described existed prior to H.B. 2492 and H.B. 2243,
04:07:44 15 right?

04:07:44 16 A. They do.

04:07:48 17 Q. Is it plausible to you that tens of thousands
04:07:52 18 of noncitizens vote in Arizona's elections?

04:07:56 19 MR. LANGHOFER: Form, foundation.

04:08:02 20 THE WITNESS: No, I don't think that's
04:08:21 21 plausible.

04:08:21 22 BY MR. DODGE:

04:08:21 23 Q. Do you agree that H.B. 2492 and H.B. 2243 will
04:08:25 24 make voter registration more difficult for voters in
04:08:28 25 Pima County?

04:08:32 1 A. I don't know if it will make it more difficult
04:08:34 2 for voters to register. It will make it more difficult
04:08:37 3 for us to process voter registration forms.

04:08:45 4 Q. If you could pull up -- I promise I'm getting
04:08:48 5 near the end. If you could pull up what's been marked
04:08:51 6 Exhibit 63, which I believe was B, as in boy, in the
04:09:00 7 Dropbox. Then if you could turn to Page 16 of that
04:09:05 8 document.

04:09:09 9 A. Is it the requests for production that you're
04:09:13 10 referring to?

04:09:13 11 Q. That's right.

04:09:18 12 And let me know when you get to Page 16.

04:09:30 13 A. Okay.

04:09:31 14 Q. So looking at request for production number 15,
04:09:35 15 it asks for documents sufficient to identify all voter
04:09:39 16 fraud cases in your county since 2010, including but not
04:09:42 17 limited to identification of those cases involving
04:09:45 18 allegations of fraud based on noncitizen voting,
04:09:48 19 correct?

04:09:50 20 A. Yes.

04:09:52 21 Q. And if you go to the next page and sort of
04:09:56 22 skirt past the legalese and just go to the last
04:09:59 23 sentence, your office's response was, "Pima County
04:10:02 24 Recorder has nothing responsive as this data is not
04:10:07 25 currently tracked."

04:10:08 1 Did I get that right?

04:10:09 2 A. That is correct.

04:10:11 3 Q. And what does it mean that this data is not
04:10:13 4 currently tracked?

04:10:15 5 A. It's just we don't track that. I wouldn't even
04:10:19 6 begin to know how we would track that.

04:10:23 7 Q. Is it fair to say that if your office did have
04:10:25 8 documents regarding noncitizens voting during this time
04:10:28 9 period from 2010 to the present, it would have produced
04:10:31 10 them in response to this request, right?

04:10:33 11 A. If we had them, yes.

04:10:35 12 Q. And so sitting here today, it's still the case
04:10:37 13 that your office has no documents regarding any
04:10:40 14 noncitizen voting in Pima County since 2010, correct?

04:10:43 15 A. That is correct.

04:10:45 16 Q. If we could pull up Exhibit 66, which was
04:10:48 17 marked as E, as in excellent, in the Dropbox. And if we
04:10:59 18 could then look at interrogatory number 9, which begins
04:11:02 19 on Page 8.

04:11:06 20 Let me know when you have that.

04:11:14 21 A. Okay.

04:11:14 22 Q. So this interrogatory asks for you to identify
04:11:18 23 and describe each instance in which you have established
04:11:20 24 that a non-U.S. citizen or non-county resident has
04:11:24 25 registered to vote or has voted in your county from

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04:11:27 1 January 1, 2013 to the present, right?

04:11:29 2 A. Yes.

04:11:31 3 Q. And sitting here today, it's still correct that

04:11:33 4 your office has no information regarding any instance in

04:11:37 5 which a noncitizen has registered to vote or voted in

04:11:40 6 Pima County over the past decade?

04:11:41 7 A. That is correct. It's just not something we

04:11:43 8 track.

04:11:45 9 Q. Okay. You can set that aside.

04:11:54 10 And if you could pull up I believe it's

04:11:57 11 Exhibit 64, which is C, as in Charlie, in the Dropbox.

04:12:05 12 And then look at RFP number 7, which begins on Page 10.

04:12:19 13 Do you see that?

04:12:22 14 A. One second.

04:12:22 15 Q. Sure. Take your time.

04:12:29 16 A. Okay.

04:12:30 17 Q. And so that request for production asks for all

04:12:34 18 documents and communications concerning actual or

04:12:36 19 alleged misconduct, fraud, a lack of voter confidence,

04:12:40 20 election security, or other problems related to

04:12:42 21 citizenship, residence location, or proof of citizenship

04:12:46 22 or residential addresses in voter registration, right?

04:12:49 23 A. Yes.

04:12:51 24 Q. And your response was, "Pima County Recorder's

04:12:53 25 Office does not have any such records," correct?

04:12:57 1 A. Correct.

04:12:58 2 Q. And so sitting here today, you still have no
04:13:01 3 documents or information regarding any of the topics
04:13:04 4 called for in this request for production, correct?

04:13:06 5 A. Correct.

04:13:09 6 Q. Okay. You can set that aside.
04:13:10 7 I just have a few more questions on voting by
04:13:13 8 mail in Arizona.

04:13:14 9 In Arizona absentee ballots are called early
04:13:22 10 ballots, right?

04:13:22 11 A. That is correct.

04:13:23 12 Q. And Arizona presently allows all registered
04:13:26 13 voters to vote by early ballot, correct?

04:13:29 14 A. We do. You can request to vote an early ballot
04:13:31 15 or you can request to be on the active early voting
04:13:35 16 list, or AEVL, and that is -- it was previously called
04:13:37 17 the permanent early voting list, PEVL if you're down in
04:13:41 18 Pima County, PEVL if you're any other county.

04:13:44 19 Q. For not the first time today you've anticipated
04:13:47 20 some of our questions.

04:13:49 21 How long has it been the case, to your
04:13:52 22 recollection, that any registered voter in Arizona can
04:13:55 23 request an early ballot?

04:13:59 24 A. At least 20 years, if not more.

04:14:06 25 Q. And a person can request an early ballot

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04:14:08 1 regardless of the form they use to register, right?

04:14:11 2 A. Yes.

04:14:14 3 Q. And a person who's on the active early voting

04:14:16 4 list that you just mentioned, that means that they're

04:14:19 5 automatically sent a ballot for each election and don't

04:14:21 6 have to request it each time, right?

04:14:23 7 A. That is correct.

04:14:24 8 Q. And they stay on that list unless they don't

04:14:26 9 vote in two subsequent elections, right?

04:14:31 10 A. That's new legislation. Prior to that it

04:14:35 11 didn't matter whether or not you would -- as long as you

04:14:38 12 were on AEVL, we would send you a ballot. Whether or

04:14:42 13 not you returned it, that was on the voter.

04:14:46 14 If we sent a ballot and it came back to us,

04:14:49 15 that would start the NVRA process. But now there's

04:14:57 16 legislation that says after two federal election cycles,

04:15:02 17 if they have not used the early ballot that is sent to

04:15:07 18 them, then they are removed from AEVL.

04:15:09 19 Q. I appreciate that clarification. Thank you.

04:15:13 20 Is it fair to say that voting an early ballot

04:15:17 21 by mail is popular in Arizona?

04:15:19 22 A. Yes, it's extremely popular in Arizona.

04:15:24 23 Q. And so most Arizona voters vote an early ballot

04:15:29 24 by mail, right?

04:15:29 25 A. I would say that the predominant number do.

04:15:32 1 Here in Pima County we have -- the majority of our
04:15:37 2 voters are on AEVL and the majority of our voters return
04:15:40 3 an AEVL ballot, an early ballot.

04:15:42 4 Q. Do you have a rough guess as to what percentage
04:15:45 5 of Pima County voters voted by early ballot in the 2022
04:15:49 6 general election?

04:15:50 7 A. I believe it was about 80 percent.

04:15:54 8 Q. And is that typical for an election in Pima
04:16:01 9 County?

04:16:01 10 A. For people to return an early ballot?

04:16:01 11 Q. Yes.

04:16:04 12 A. Yes, that is typical. It has increased as the
04:16:07 13 years have gone up, but that is typical.

04:16:10 14 Q. And I'm going to introduce my final exhibit.
04:16:14 15 It's in the Dropbox. It begins with the word release.
04:16:17 16 I believe it's at the bottom of the Dropbox. And I'll
04:16:21 17 mark this as Exhibit 81.

04:16:30 18 Do you recognize this document?

04:16:31 19 A. I do.

04:16:33 20 Q. And can you tell me what it is?

04:16:35 21 A. It's one of our media releases as it related to
04:16:41 22 the '22 election.

04:16:42 23 Q. And it reflects that in the 2022 primary
04:16:46 24 election early voting accounted for 86 percent of
04:16:51 25 ballots cast, right?

04:16:51 1 A. Correct.

04:16:52 2 Q. And that's basically in line with sort of the
04:16:54 3 estimate you gave for the general election as well,
04:16:57 4 right?

04:16:57 5 A. Yes.

04:16:58 6 Q. What benefits are there for a voter in casting
04:17:01 7 an early ballot?

04:17:04 8 A. There's many. You don't have to stand in line
04:17:12 9 at a vote center. You don't have to take time off of
04:17:15 10 work to go vote on a single day. For a lot of people
04:17:19 11 they like to do research on their ballot and make an
04:17:25 12 informed decision, so they can do that in the comfort of
04:17:27 13 their home. They can take the time to do that. They
04:17:33 14 can return it to us and we can, you know, verify the
04:17:38 15 signature and get it over to tabulation, so we can
04:17:42 16 actually start tabulating ballots before election day.

04:17:53 17 There's a myriad of reasons as to why an early
04:17:56 18 ballot is a very easy, functional, and preferred method
04:18:02 19 of Arizona voters as to why they choose to do that.

04:18:06 20 Q. Got it. Thank you.

04:18:07 21 And the return envelopes for those ballots have
04:18:11 22 prepaid postage, correct?

04:18:13 23 A. They do.

04:18:14 24 Q. So a voter can just drop it in the mail and
04:18:16 25 it's taken care of?

04:18:17 1 A. Uh-huh, or they can drop it off at any of our
04:18:19 2 early voting locations that are open in the 27 days
04:18:24 3 before election or they can drop it off at any of our
04:18:27 4 emergency voting locations on the Saturday and Monday
04:18:30 5 before election day, and they can also drop it off at a
04:18:34 6 vote center on election day.

04:18:37 7 Q. You just gave me a very comprehensive answer,
04:18:40 8 but if I could just ask a couple more possible benefits.
04:18:43 9 It's also the case that somebody who casts an
04:18:45 10 early ballot does not have to arrange transportation to
04:18:47 11 a voting center, right?

04:18:48 12 A. Yes, absolutely.

04:18:53 13 Q. They also don't have to figure out where their
04:18:56 14 voting center is, right?

04:18:57 15 A. That is correct. But here in Pima County we
04:19:01 16 have a vote center model, which is different than a
04:19:03 17 precinct-based model. So voters can actually go to any
04:19:07 18 vote center within Pima County and cast a ballot. They
04:19:10 19 don't have to be within their precinct to do that.

04:19:13 20 Q. Got it.

04:19:16 21 But with an early ballot, they don't even have
04:19:17 22 to figure out where any vote centers are, right?

04:19:20 23 A. That is correct.

04:19:20 24 Q. And they also don't have to figure out what the
04:19:23 25 voting hours for a vote center are, right?

04:19:24 1 A. That is also correct.

04:19:26 2 Q. There are also probably some voters in Arizona,
04:19:29 3 in Pima County, who might have mobility issues that make
04:19:33 4 getting to a voting center inconvenient, right?

04:19:35 5 A. It does assist people with mobility issues to
04:19:38 6 be able to cast an early ballot. We also provide on
04:19:43 7 election day and during early voting time team voting,
04:19:49 8 where we send two staff members of opposite parties out
04:19:54 9 to locations to help voters who are housebound or in a
04:19:58 10 facility that they are not able to leave to be able to
04:20:02 11 cast a ballot.

04:20:03 12 Q. Just a couple more.

04:20:06 13 When your office prepares election
04:20:09 14 infrastructure for election day, does it account for the
04:20:11 15 fact that most voters will have likely voted an early
04:20:15 16 ballot by mail?

04:20:16 17 A. So we do not prepare for election day here in
04:20:19 18 Pima County. The Recorder's Office is responsible for
04:20:23 19 early voting services and mailing out the early ballots.
04:20:28 20 It is the elections department's responsibility to
04:20:30 21 prepare for election day voting specifically.

04:20:35 22 Q. Does the fact that most Arizona voters cast an
04:20:38 23 early ballot by mail impact any of the infrastructure
04:20:41 24 you prepare for early in person voting at vote centers?

04:20:46 25 A. Yes, it does.

04:20:47 1 Q. And how so?

04:20:48 2 A. To be able to accommodate the large volume, as
04:20:54 3 I think I previously stated, our voter registration --
04:20:57 4 our active voter registration roll is somewhere north
04:21:00 5 of 630,000 registered voters. Of those registered
04:21:06 6 voters I believe maybe 490,000 of them are on AEVL.
04:21:13 7 so we will send out just shy of half a million
04:21:17 8 ballots to voters, and then we will have to -- as
04:21:20 9 those ballots come back, we need to signature verify
04:21:23 10 them. So we will have an extensive staffing for
04:21:28 11 signature verification.

04:21:30 12 We have extensive staffing for the ballot
04:21:33 13 processing center, getting the ballot, when the ballots
04:21:36 14 are returned to our office, scanned into our system,
04:21:40 15 basically checked in, back into our custody.

04:21:46 16 Then we have -- in the '22 election cycle we
04:21:49 17 had 15 early voting locations. In the '24 election
04:21:52 18 cycle we will have 18 early voting locations. Those all
04:21:56 19 have to be staffed. We keep those open -- three
04:22:01 20 locations will be open for the entire 27 days of
04:22:05 21 early voting. One location will be open for two weeks.
04:22:09 22 The rest of them will be open for a week. So people
04:22:11 23 have to be there for a week to be able to accommodate
04:22:16 24 voters. It's a huge lift. I mean the amount of
04:22:20 25 staffing that we increase just to be able to do that is

04:22:25 1 extremely large.

04:22:27 2 Q. Is it fair to say that because of the
04:22:28 3 popularity of mail voting, you tend to allocate your
04:22:32 4 resources towards mail voting and away from, you know,
04:22:37 5 additional in person options?

04:22:39 6 A. Again, we at the -- Pima County is separate in
04:22:43 7 terms of election day operations. That is the
04:22:46 8 responsibility of the elections director, who reports to
04:22:48 9 the county administrator.

04:22:52 10 The Pima County Recorder is an independent
04:22:55 11 elected office, and we just do early voting.

04:22:59 12 Q. Okay. Got it. Thank you.

04:23:02 13 You understand that under H.B. 2492 voters who
04:23:04 14 do not supply documentary proof of citizenship will not
04:23:07 15 be permitted to vote by mail with an early ballot,
04:23:11 16 correct?

04:23:11 17 A. Correct.

04:23:12 18 Q. And so you'd agree that those voters would lose
04:23:15 19 the benefits that you've just described with respect to
04:23:18 20 voting an early ballot by mail?

04:23:21 21 A. They would.

04:23:26 22 MR. DODGE: Okay. I have no further
04:23:27 23 questions.

04:23:27 24 Thank you for your time and for all the
04:23:29 25 hard work you do for people in Pima County.

04:23:38 1

EXAMINATION

04:23:38 2

BY MR. JOHNSON:

04:23:38 3

Q. Hi, Ms. Hiser. Would you like to take a break or are you good to go? I don't have that many questions, probably like 15 minutes, if you'd like to power through.

04:23:42 4

04:23:44 5

04:23:47 6

04:23:48 7

A. Sure.

04:23:49 8

04:23:52 9

04:23:55 10

Q. Okay. Thanks. And I'll echo the thanks for giving us your time today, especially during the busy part of the year for you all.

04:23:57 11

04:23:59 12

I just wanted to go back. And to enter my appearance, Hayden Johnson for the LUCHA plaintiffs.

04:24:02 13

04:24:04 14

04:24:07 15

04:24:10 16

04:24:12 17

04:24:15 18

So I wanted to go back to some questions you were asked earlier about state forms versus federal forms. Can you give me a sense, like what is the relative breakdown between the number of state form applications and federal form applications that your office receives?

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04:24:20 20

04:24:31 21

04:24:34 22

04:24:41 23

04:24:44 24

04:24:48 25

A. I don't think that we actually track the differences between those forms. I think we would -- we receive state forms more frequently than we do federal forms, but we have seen federal forms. Federal forms will increase during voter registration peak periods before election cycles from the groups if they cannot get a state form.

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04:24:51 1 We will provide state forms. The Secretary of
04:24:52 2 State's Office can provide state forms. You can print
04:24:55 3 off a state form. It just depends. Like I said, we'll
04:25:01 4 see an influx of them during voter registration time
04:25:05 5 frames before a major election.
04:25:08 6 Q. Okay. And so I guess you said more state forms
04:25:12 7 than federal forms. Would you say like substantially
04:25:15 8 more --
04:25:15 9 A. Yes.
04:25:15 10 Q. -- state forms than federal forms?
04:25:16 11 A. Yes.
04:25:19 12 Q. Okay. And you spoke earlier with Mr. Snow
04:25:21 13 about some of the NVRA agencies, designated agencies in
04:25:27 14 Pima County. Are you aware of any of those NVRA
04:25:31 15 agencies that use a federal form to provide their voter
04:25:35 16 registration services?
04:25:36 17 A. I don't know what they provide. We will
04:25:38 18 provide forms to any agency that contacts us. So should
04:25:42 19 a local office of DES want forms, we would provide them
04:25:47 20 the appropriate state form that would have the -- it's
04:25:53 21 an identifying -- it's an A or a B or a C or a D. So it
04:25:57 22 would have that on there, so we would know what type --
04:26:00 23 where the form came from.
04:26:04 24 Q. Okay.
04:26:04 25 A. But I don't know if other agencies are just

04:26:07 1 printing out the federal forms.

04:26:09 2 Q. But in all cases when you provide the form,

04:26:12 3 it's a state form to the state agencies, right?

04:26:15 4 A. Correct.

04:26:17 5 Q. And you just mentioned, you know, third-party

04:26:19 6 groups. Is that the same case with third-party groups;

04:26:22 7 that any time you provide voter registration forms, it's

04:26:25 8 the state forms?

04:26:27 9 A. We do, yes.

04:26:30 10 Q. To your knowledge, do you know of any Pima

04:26:34 11 County voter registration organizations that use the

04:26:37 12 federal form over the state form?

04:26:39 13 A. I don't. I'm sorry.

04:26:44 14 Q. I'd like to talk a little bit about just once

04:26:46 15 the form's returned, any differences between state form

04:26:50 16 and federal form.

04:26:51 17 So under current practice, does your office

04:26:54 18 process state form applications any differently in any

04:26:58 19 way from federal form applications?

04:27:00 20 A. No.

04:27:03 21 Q. And so to clarify, under current procedures,

04:27:07 22 when you're verifying documentary proof of citizenship,

04:27:09 23 that's the same regardless of whether the applicant uses

04:27:12 24 a federal form or a state form, right?

04:27:14 25 A. That is correct.

04:27:16 1 Q. Is there any information that you receive on a
04:27:20 2 state form that would have a bearing on your
04:27:22 3 determination of someone's citizenship that is not on
04:27:25 4 the federal form?

04:27:29 5 A. No, I don't think so. I think both forms -- I
04:27:36 6 think the federal form has a spot on it for like a
04:27:40 7 driver's license number, just like the state form
04:27:43 8 does. So there's a lot of similarities between the two
04:27:48 9 forms.

04:27:49 10 The state form has more information that it
04:27:54 11 requests, like occupation, e-mail, phone number, last
04:28:01 12 four digits of a social security number, you know,
04:28:05 13 mother's maiden name, father's name, place of birth.
04:28:11 14 All of those particular pieces of information we would
04:28:16 15 use as security questions. Those are not all reflected
04:28:19 16 on the federal form.

04:28:20 17 Q. But those are for security questions, not for
04:28:24 18 determining citizenship, right?

04:28:26 19 A. That is correct.

04:28:29 20 Q. Can you think of any reason why a voter
04:28:31 21 submitting a state form instead of a federal form would
04:28:34 22 be any less qualified to vote in federal elections in
04:28:38 23 Pima County?

04:28:39 24 MR. LANGHOFER: Form.

04:28:44 25 THE WITNESS: No.

04:28:48 1 BY MR. JOHNSON:

04:28:50 2 Q. Okay. We've talked about this document several

04:28:52 3 times. It's marked as Exhibit 73. It's Doc 0 from

04:28:59 4 the -- it's the veto letter that we've talked about a

04:29:01 5 few times. Do you mind pulling that up again?

04:29:09 6 And just let me know once you have that up.

04:29:11 7 A. I have it up.

04:29:13 8 Q. Okay. Thanks.

04:29:14 9 If you scroll down to about halfway down the

04:29:17 10 first page, the second bullet, do you see that line?

04:29:23 11 And this is the part of the veto letter that

04:29:26 12 says, "The bill creates again the situation where the

04:29:31 13 form a person uses to register will determine whether

04:29:35 14 that person is actually registered. It allows the

04:29:37 15 Recorder to obtain proof of citizenship only for those

04:29:40 16 who use the federal form to register. Anyone submitting

04:29:42 17 a state form without proof of citizenship is

04:29:45 18 automatically not registered. This had been eliminated

04:29:47 19 by the consent decree in the LULAC case so that

04:29:51 20 currently all voters are treated the same."

04:29:53 21 Did I read that correctly?

04:29:55 22 A. You did.

04:29:55 23 Q. Can you elaborate a little bit from your

04:29:57 24 understanding what that bullet point means?

04:30:00 25 A. Our understanding of the bill was, is that we

04:30:04 1 could reach out for the federal form for DPOC, but if
04:30:12 2 the state form didn't have DPOC, we would just have to
04:30:15 3 reject it out of hand, just immediately. So there
04:30:19 4 wouldn't be the ability for us to do the follow-up that
04:30:23 5 we're currently doing.

04:30:26 6 Q. And what do you think the effect of that would
04:30:28 7 be?

04:30:34 8 A. Well, it would definitely make registering --
04:30:44 9 an individual who wants to register to vote, if we had
04:30:48 10 to reject them because of this and we couldn't register
04:30:51 11 them as a federal only voter and then have them provide
04:30:53 12 us additional information, they would just have to
04:30:56 13 re-register again, so they'd have to go through the
04:30:59 14 entire process again.

04:31:01 15 That seems onerous on the voter and an
04:31:06 16 unnecessary amount of red tape and bureaucracy, where we
04:31:10 17 can easily just register them and then do the necessary
04:31:15 18 follow-up, rather than have to have them register again
04:31:19 19 or have to have them provide a registration application
04:31:22 20 a second time, because there really wasn't anything
04:31:26 21 wrong with their first registration application, they
04:31:28 22 just simply needed to provide some additional
04:31:31 23 supplemental information.

04:31:35 24 Q. If you scroll up a little bit in the same
04:31:37 25 letter, the first full paragraph. And once you're

04:31:41 1 there, let me know.

04:31:42 2 Do you see that paragraph?

04:31:45 3 A. Are you referring to paragraph -- "The bill

04:31:49 4 creates unnecessary barriers" paragraph?

04:31:51 5 Q. Yes. So that says, "The bill creates

04:31:53 6 unnecessary barriers for voters."

04:31:55 7 Is what we just discussed about the different

04:31:58 8 treatment of federal and state form voters, would you

04:32:01 9 say that's one of the unnecessary barriers?

04:32:03 10 A. Yes.

04:32:08 11 Q. All right. And then you spoke a little bit

04:32:11 12 about the burden that might be imposed on voters. I'm

04:32:15 13 wondering what that differential treatment of state form

04:32:19 14 and federal form applicants, what would be the burdens

04:32:22 15 on your office?

04:32:27 16 A. Well, I mean it would require programming

04:32:30 17 changes to the voter application. We would have to

04:32:36 18 provide, you know, rewrites of our internal procedures.

04:32:42 19 Just the mere fact of organizing the -- operationally it

04:32:50 20 would take a big lift.

04:32:54 21 Q. Understood.

04:32:55 22 I'd like to pull up one other document. It's a

04:32:59 23 new document here. This is Exhibit Z on the Dropbox,

04:33:03 24 but we'll mark it as Exhibit 81 here. The Bates number

04:33:08 25 is PIMA 0610. If you don't mind letting me know when

04:33:16 1 you have that up.

04:33:16 2 THE COURT REPORTER: It's 82.

04:33:17 3 BY MR. JOHNSON:

04:33:17 4 Q. Oh, 82. My apologies. 82. Now I've got to

04:33:21 5 renumber everything.

04:33:34 6 Do you have that up?

04:33:38 7 A. Yes, I do.

04:33:39 8 Q. All right. What is this document?

04:33:44 9 A. This is internal communications between the

04:33:52 10 County Recorder, the former chief deputy, Pamela

04:33:55 11 Franklin, myself, my two legislative liaisons, the

04:34:05 12 County Recorder's executive assistant, and our

04:34:09 13 communications person.

04:34:14 14 Q. Okay. And the first e-mail originates from Jen

04:34:21 15 Marson, right, who we know is the lobbyist for the

04:34:24 16 Association of Counties; is that right?

04:34:26 17 A. That is correct.

04:34:26 18 Q. Okay. And there it's urging a veto letter like

04:34:30 19 the one we've been discussing; is that right?

04:34:33 20 A. Correct.

04:34:33 21 Q. And so if you look at Page 1 there, that

04:34:36 22 appears to be an e-mail from you; is that right? The

04:34:42 23 bottom of Page 1.

04:34:43 24 A. Yes, it is.

04:34:44 25 Q. And what does that e-mail say?

04:34:47 1 A. "Hello Mike, We need to craft a statement in
04:34:49 2 opposition to this bill to ensure it is vetoed. Please
04:34:53 3 see below."

04:34:54 4 Q. And then up above your e-mail there's a
04:34:57 5 response; do you see that, from someone in your office
04:35:00 6 named Andrea?

04:35:01 7 A. Yes. She was the -- my legislative liaison.

04:35:05 8 Q. And what does that e-mail say?

04:35:08 9 A. "Hi Team, Another not so great aspect of this
04:35:11 10 bill is that it makes it a class 6 felony against the
04:35:14 11 recorder or elections director if anyone registers a
04:35:17 12 voter who was not a citizen at the time of registration.
04:35:22 13 This is regardless of intent, so a mistake would also be
04:35:25 14 a felony. Thanks, Andrea."

04:35:28 15 Q. And so was your office concerned about this
04:35:32 16 differential treatment of state forms and federal forms
04:35:35 17 regarding this Class 6 felony that Andrea references?

04:35:38 18 A. Absolutely.

04:35:40 19 Q. And other provisions of the laws we've been
04:35:43 20 talking about today, also concerned about criminal
04:35:46 21 prosecution?

04:35:47 22 A. Yes.

04:35:54 23 Q. From your experience, will the instructions
04:35:58 24 that have different processing for state form

04:36:01 25 applications versus federal form applications increase

04:36:04 1 the likelihood that eligible applicants will be
04:36:08 2 rejected?
04:36:09 3 MR. LANGHOFER: Form.
04:36:11 4 THE WITNESS: I think that's certainly a
04:36:13 5 possibility.
04:36:18 6 BY MR. JOHNSON:
04:36:18 7 Q. So voters under the current system that you
04:36:22 8 could obtain DPOC if they don't provide it on the state
04:36:25 9 form, you won't be able to do that if the challenged
04:36:28 10 laws are implemented; is that right?
04:36:31 11 A. That is correct.
04:36:31 12 MR. LANGHOFER: Calls for a legal
04:36:32 13 conclusion.
04:36:32 14 THE WITNESS: That's correct. We would
04:36:35 15 just have to reject the voter registration.
04:36:40 16 BY MR. JOHNSON:
04:36:41 17 Q. Okay. Thank you.
04:36:45 18 I have another document that we'll mark as
04:36:48 19 exhibit eighty -- what did we just do? We did 82. Now
04:36:54 20 this is 83, and it's titled 2A on the Dropbox. The
04:37:00 21 Bates number are PIMA 0062.
04:37:02 22 Do you see that document?
04:37:10 23 A. Are you referring to one of our form letters?
04:37:13 24 Q. Yeah.
04:37:14 25 What is this letter?

04:37:16 1 A. This would be one of our note code letters
04:37:20 2 regarding DPOC.

04:37:22 3 Q. And the bottom of Page 62, or Bates 62, it says
04:37:28 4 "Revised 5-2021," right?

04:37:32 5 A. Yes, that is correct.

04:37:33 6 Q. That just means that it was -- it's active
04:37:35 7 since May 2021; is that right?

04:37:38 8 A. That is correct.

04:37:40 9 Q. And what is this form doing? What's the
04:37:43 10 purpose of this form?

04:37:44 11 A. We would send this out to a voter that we had
04:37:48 12 registered as a federal only, asking them to provide us
04:37:52 13 proof of citizenship so they would be eligible to vote a
04:37:55 14 full ballot.

04:37:56 15 Q. If you scroll down to the next page,
04:38:02 16 Bates 0063, is that the same letter, but in Spanish?

04:38:05 17 A. It is.

04:38:06 18 Q. Okay. Are there copies of this letter in any
04:38:07 19 other languages that you use?

04:38:10 20 A. No. We use Spanish because we have a high
04:38:16 21 Spanish-speaking population in Pima County. We do not
04:38:23 22 translate into other languages unless specifically
04:38:28 23 asked, but no one has asked us to translate into another
04:38:31 24 specific language. So we do always translate to
04:38:34 25 Spanish.

04:38:35 1 Q. Is that the case for all the form letters that
04:38:37 2 your office sends?

04:38:39 3 A. Yes. They will always go out in English and
04:38:42 4 Spanish.

04:38:43 5 Q. And no other language, right, unless requested?

04:38:45 6 A. Correct.

04:38:49 7 Q. Would your office have to change its practices
04:38:51 8 outlined in this notice letter if H.B. 2492 is
04:38:57 9 implemented?

04:39:01 10 A. Well, if it were implemented, this letter
04:39:04 11 wouldn't go out to people who had registered with a
04:39:08 12 state form.

04:39:10 13 Q. Okay. You just wouldn't send this notice
04:39:12 14 letter for a state form applicant without DPOC, right?

04:39:16 15 A. Yes. We would continue to send this letter to
04:39:19 16 people who register with the federal only form.

04:39:24 17 Q. Okay. But as you said, that's fewer applicants
04:39:26 18 in Pima County, right?

04:39:28 19 A. Correct. It's more likely that we would
04:39:34 20 have -- it's more likely that we would receive a state
04:39:36 21 form that didn't have information on it for us to be
04:39:40 22 able to check citizenship. And so the default right now
04:39:44 23 is, is we register them as federal only. We send them
04:39:48 24 this letter. We let them know that they've been
04:39:51 25 registered as federal only. Please provide us this

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04:39:54 1 additional documentation so you can vote a full ballot
04:39:58 2 at the next election.
04:40:03 3 Q. Okay. And then the last document and last
04:40:06 4 question here. It's -- we'll mark it as Exhibit 83.
04:40:14 5 It's titled 2C on the Dropbox, Bates number PIMA 1704.
04:40:20 6 Do you see that document?
04:40:20 7 THE COURT REPORTER: It's 84.
04:40:20 8 BY MR. JOHNSON:
04:40:31 9 Q. 84.
04:40:36 10 A. I'm sorry. One more time on what it's --
04:40:40 11 Q. Yeah. I had to recycle the numbers back. So
04:40:43 12 it's 2C. PIMA 1704 is the Bates number. You may have
04:40:49 13 to refresh.
04:40:57 14 A. Yes, I know this document.
04:40:59 15 Q. All right. What is this document?
04:41:00 16 A. This is the annotated version of the 2019
04:41:08 17 elections procedures manual reflecting the --
04:41:11 18 Q. Is this the -- oh, sorry to cut you off.
04:41:13 19 A. It's reflecting the legislative changes.
04:41:16 20 Q. Okay. And this is the same annotated manual
04:41:22 21 that you were speaking to Mr. Snow about earlier; is
04:41:24 22 that right?
04:41:24 23 A. That is correct.
04:41:30 24 MR. JOHNSON: Okay. No further questions.
04:41:31 25 Thank you.

04:41:38 1 MS. BRAILEY: Would you like a break or
04:41:39 2 would you like to power through? I probably have max
04:41:42 3 ten minutes.

04:41:46 4 THE WITNESS: Could we take just a
04:41:47 5 five-minute break?

04:41:52 6 MS. BRAILEY: Yes. Let's go off the
04:41:52 7 record.

04:41:55 8 THE WITNESS: Thank you.

04:41:55 9 THE VIDEOGRAPHER: We are off the record.
04:41:56 10 The time on the video monitor is 4:41 p.m.

04:42:00 11 (A recess was taken.)

04:50:29 12 THE VIDEOGRAPHER: We are on the record.
04:50:30 13 The time on the video monitor is 4:50 p.m.

04:50:36 14

04:50:37 15 EXAMINATION

04:50:37 16 BY MS. BRAILEY:

04:50:37 17 Q. Hi, Ms. Hiser. My name is Emily Brailey, and I
04:50:40 18 am here on behalf of the United States.

04:50:42 19 I'm going to bounce around just a few topics
04:50:44 20 that we've already discussed, just to get a little bit
04:50:46 21 more clarity.

04:50:51 22 So I have a couple questions about the trouble
04:50:53 23 file. If H.B. 2492 goes into effect, that would mean
04:51:00 24 that applicants would be required to provide their
04:51:04 25 birthplace and check the citizenship box; that's your

04:51:07 1 understanding, right?

04:51:08 2 A. That is my understanding, yes.

04:51:09 3 Q. And so if H.B. 2492 were implemented and you

04:51:13 4 received applications without that information, so

04:51:15 5 without the birthplace or missing the checkbox, would

04:51:19 6 those applications go into the trouble file or would

04:51:21 7 they be rejected outright?

04:51:24 8 A. From our understanding of the bill, they would

04:51:27 9 be rejected outright.

04:51:30 10 Q. Okay. And in the beginning of this deposition

04:51:32 11 I believe you described there were several different

04:51:35 12 units in your office. Will you remind me, which is the

04:51:39 13 unit that is responsible for handling the early ballots?

04:51:43 14 A. So our voter registration unit does voter

04:51:48 15 registration and early voting services. So we have a

04:51:55 16 voter manager. We have three voter registration

04:51:59 17 supervisors. One would be responsible for a signature

04:52:03 18 verification team, one would be responsible for the

04:52:06 19 ballot processing team, and one supervisor would be

04:52:09 20 responsible for the daily operations at our downtown

04:52:13 21 location and the operations of our early voting sites.

04:52:18 22 Q. And how did it come to be that the registration

04:52:21 23 unit handles the early ballots and not the elections

04:52:24 24 director or the unit that would handle, you know,

04:52:28 25 post-registration and election issues?

04:52:31 1 A. In the state of Arizona the Pima County
04:52:35 2 Recorder is responsible for the maintenance of the voter
04:52:38 3 registration roll, the voter registration database.
04:52:44 4 Because Pima County and the rest of the state of
04:52:48 5 Arizona, we have AVID, the ability to vote early by
04:52:50 6 mail, the Pima County Recorder's Office is the one that
04:52:54 7 sends out early ballots. So that's the differentiation
04:52:57 8 between our functions.

04:52:59 9 Because we are the entity responsible for
04:53:02 10 putting together the ballot packets and sending them out
04:53:05 11 to people on AEVL or sending them out to voters who are
04:53:08 12 requesting to vote early, that's why it's our
04:53:10 13 responsibility to take care of that. And we do not do
04:53:14 14 day of election voting and we do not do tabulation.

04:53:22 15 Q. And who is Mary Martinson?

04:53:24 16 A. Mary Martinson was an employee with the Pima
04:53:30 17 County elections department, but she has since retired.

04:53:32 18 Q. And was she at any of the -- any of the
04:53:37 19 meetings where -- you had discussed earlier in this
04:53:42 20 deposition that there had been several meetings where
04:53:44 21 people from your office would come together, also, with
04:53:48 22 the Secretary's Office and potentially others to discuss
04:53:52 23 concerns about the new laws, H.B. 2492 being one of
04:53:56 24 them. Was Mary ever at those meetings to express her
04:53:59 25 concerns, or was she ever at those meetings, I should

04:54:04 1 say?

04:54:06 2 A. She might have been part of the -- so Mary was

04:54:15 3 the interim elections director for Pima County. Our

04:54:24 4 previous elections director retired. Mary was interim

04:54:28 5 for a while, until we hired a permanent replacement.

04:54:32 6 Mary would have attended meetings with the

04:54:35 7 Secretary of State's Office. The Secretary of State's

04:54:38 8 Office has meetings with the Recorders and elections

04:54:42 9 directors with the state of Arizona, so she would have

04:54:44 10 attended in her capacity as the interim election

04:54:46 11 director.

04:54:47 12 Q. Okay. And do you remember -- so do you have

04:54:50 13 any memory of her at those meetings and what she would

04:54:55 14 have said about the new laws?

04:55:00 15 A. No. I'm sorry.

04:55:02 16 Q. No, that's okay.

04:55:05 17 Okay. We've also previously talked about the

04:55:12 18 2023 draft EPM, and for ease we could pull it up. It's

04:55:19 19 Petty Exhibit 6. It's F in the list here.

04:55:31 20 A. The draft or the 2019?

04:55:34 21 Q. Oh, I'm sorry, that's the wrong one. The

04:55:37 22 draft, which was G. I apologize. Not Petty Exhibit 6.

04:55:42 23 G, which I think was maybe Exhibit 67. I'm not sure.

04:55:47 24 A. Yes, I have that on the screen.

04:55:49 25 Q. Okay, great.

04:55:50 1 And I believe that you previously told us that
04:55:52 2 you were offering comments on Chapter 2; is that
04:55:59 3 correct?

04:55:59 4 A. Correct.

04:56:01 5 Q. And what's the subject matter of Chapter 2?

04:56:05 6 A. Subject matter for Chapter 2 is early voting.

04:56:09 7 Q. Okay. And did anyone else -- I guess,
04:56:13 8 specifically, did the elections director also comment on
04:56:17 9 Chapter 2 or just the registration, the election
04:56:24 10 director that was --

04:56:24 11 A. Because us being the Recorder's Office, we
04:56:27 12 would be responsible for early voting.

04:56:38 13 Q. Okay. And I understand your -- what you've
04:56:41 14 said about the use of birthplace in the office; but if a
04:56:46 15 voter does provide the information of place of birth, do
04:56:52 16 you input that into Voter?

04:56:55 17 A. Yes, that's a field that we could fill out in
04:56:59 18 Voter if the information is provided.

04:57:01 19 Q. And is there a uniform procedure in place in
04:57:04 20 the office on how that's -- how that information is put
04:57:08 21 into Voter?

04:57:11 22 A. If a -- if any box on the voter registration
04:57:15 23 form has information, that information is translated
04:57:18 24 into the voter registration data input. So whatever is
04:57:23 25 on the paper form that we receive, whether it's the

04:57:27 1 paper form through the mail or whether it is the form
04:57:30 2 through EZ Voter, whatever information is on those forms
04:57:35 3 in those boxes, they will correspond to the information
04:57:39 4 in Voter.

04:57:41 5 Q. And so it's translated exactly; it's not like
04:57:44 6 somebody puts ARIZ for Arizona as their place of birth
04:57:48 7 and then you translate it to AZ, or somebody puts
04:57:52 8 Nogales and you translate it to something else; it goes
04:57:57 9 exactly -- whatever they put in that box, it goes
04:57:59 10 exactly into Voter?

04:58:02 11 A. For boxes that don't have dropdown menus, yes.
04:58:07 12 So the Voter application, as I stated, you know, it's a
04:58:11 13 database, so we can create the fields and define the
04:58:14 14 fields. So some of them are dropdown menus.

04:58:19 15 So, you know, obviously a state, we would use
04:58:22 16 the abbreviation. That's easier to program in that
04:58:26 17 dropdown menu. But for fields where we have to input
04:58:29 18 information that is unique, that would be a field that
04:58:32 19 would have a parameter of how many characters could go
04:58:35 20 in there. So like you would set it to say you can have,
04:58:42 21 you know, 15 characters in this field if you were -- or
04:58:45 22 this field can only have numbers in it if it's related
04:58:48 23 to a date or a phone number or something like that.

04:58:51 24 Q. And how is it currently programmed, the field
04:58:54 25 in Voter for place of birth?

04:58:57 1 A. I believe it's a character field, so you can

04:59:00 2 type in there.

04:59:02 3 Q. Got it.

04:59:04 4 And does that mean that if applicants were
04:59:09 5 required to provide place of birth, would that field
04:59:12 6 have to be reprogrammed to make a more uniform way of
04:59:19 7 entering that information?

04:59:22 8 A. For consistency purposes we probably would do
04:59:25 9 some program changes to make it more uniform. We might
04:59:32 10 input -- you know, much like what we have for addresses
04:59:38 11 in Pima County, where we have the GIS layers and we
04:59:43 12 basically pull the addressing information into the
04:59:46 13 system so what's in our system will reflect what's on
04:59:50 14 the GIS, we would probably have to have a particular
04:59:53 15 standard of information that we would pull in, like a
04:59:57 16 world directory of the names of countries and proper
05:00:02 17 spellings and, you know, agreed-upon abbreviations,
05:00:05 18 things like that. We would have to program it for that
05:00:07 19 if we needed to provide that information.

05:00:13 20 Q. Thank you. That's very helpful to understand
05:00:15 21 that.

05:00:19 22 MS. BRAILEY: Okay, I think that is all I
05:00:20 23 needed to ask. So if anybody else has questions, I will
05:00:25 24 leave this on the record, since it's only been a few
05:00:27 25 minutes, but if nobody does -- oh, okay.

05:00:29 1 Thank you so much.

05:00:34 2 MR. LANGHOFER: All right. This is Kory
05:00:36 3 Langhofer. Tim, I'm happy to defer to you since you're
05:00:39 4 with the State and a little more higher on the totem
05:00:42 5 pole than me.

05:00:42 6

05:00:42 7 EXAMINATION

05:00:59 8 BY MR. HORLEY:

05:00:59 9 Q. I don't know about higher on the totem pole,
05:00:45 10 but, yes, I did have a few questions for you, Ms. Hiser.
05:00:48 11 So thank you again for your time. I really appreciate.
05:00:50 12 I know it's been a long day, so hopefully this part will
05:00:53 13 go quickly. Again, just a few things.

05:00:59 14 So to start out with, I wanted to touch on some
05:01:03 15 of what you talked about about guidance and, you know,
05:01:07 16 wishing to receive more guidance from the Secretary of
05:01:10 17 State and things like that before having to implement
05:01:15 18 these laws.

05:01:18 19 So the first thing I was curious about is, in
05:01:26 20 essence, you mentioned that like you generally, when
05:01:28 21 you're implementing voter laws, you have guidance from
05:01:31 22 the Secretary of State to do so, correct?

05:01:38 23 A. Yes, we would often -- we'll often refer to the
05:01:41 24 Secretary of State's Office for guidance; just as we
05:01:44 25 will have within the VRAC committees the intention of

05:01:52 1 Recorders across the state is to ensure that our
05:01:56 2 operations are as uniform as possible to make sure that
05:01:58 3 we're not doing things that are different from our peers
05:02:03 4 and to try to make it as uniform and seamless across
05:02:07 5 every state. It helps us to avoid voter confusion.

05:02:12 6 Q. Right. Okay. And that's true for voting laws
05:02:15 7 generally, not just the laws that are challenged here,
05:02:18 8 correct?

05:02:18 9 A. That is correct.

05:02:22 10 Q. And so, so far you mentioned a few times that,
05:02:26 11 you know, you lack good guidance on this; is that right,
05:02:30 12 on the laws that are being challenged here?

05:02:32 13 A. Correct.

05:02:36 14 Q. So, you know, if the laws are eventually
05:02:39 15 implemented, right, would further guidance that you
05:02:42 16 receive be helpful to implementing these laws?

05:02:46 17 A. Yes.

05:02:50 18 Q. Okay. Great. Thank you.

05:02:52 19 And then I wanted to turn to the topic of
05:02:57 20 confirming citizenship. So the first question is -- and
05:03:02 21 we may have covered this partially, but I think there's
05:03:05 22 still a few things I just wanted to clear up. So does
05:03:08 23 your office do anything to verify DPOC when it is
05:03:11 24 received?

05:03:14 25 A. What do you mean by verify the DPOC when it's

05:03:16 1 received?

05:03:18 2 Q. So, for example, if someone does provide you a

05:03:22 3 birth certificate or a passport, is there any step you

05:03:26 4 take to verify that document?

05:03:29 5 A. No. The presentation of the information is

05:03:33 6 sufficient for us to be able to confirm citizenship.

05:03:41 7 Q. Okay. All right. And then I was curious about

05:03:44 8 federal forms. So we talked about the checkbox a little

05:03:48 9 bit, and I wanted to circle back to that. So do you

05:03:50 10 think the citizenship checkbox provides you with

05:03:53 11 information about whether a voter is a citizen?

05:04:02 12 A. I guess it does. I've also seen people --

05:04:09 13 Q. Why is that?

05:04:11 14 A. Well, I mean it's a form, and so people are --

05:04:17 15 they, you know, have the possibility of creating an

05:04:20 16 error, and the absence of a checkbox not being completed

05:04:30 17 doesn't -- it provides us no more information than -- it

05:04:37 18 just -- it is what it is.

05:04:38 19 I'm sorry. That doesn't really answer your

05:04:40 20 question, I don't think, but that's my answer.

05:04:44 21 Q. Okay. Well, I'll ask you the same question for

05:04:47 22 state forms. So do you think the citizenship checkbox

05:04:50 23 provides any information about whether they're a citizen

05:04:53 24 when it's on a state form?

05:04:55 25 A. No, I don't. The state form has the

05:04:59 1 affirmation. They're attesting to the information that
05:05:01 2 they're providing. And because the state form is
05:05:05 3 specifically saying that the responsibility is on the
05:05:09 4 person signing that they have met the requirements for
05:05:12 5 voter registration, we take them at the face value.
05:05:17 6 So a checkbox being checked or not checked
05:05:21 7 wouldn't prevent us from being able to start the process
05:05:25 8 of starting the data entry for the voter registration
05:05:30 9 form.
05:05:33 10 The absence of something to do with
05:05:38 11 citizenship, so like a driver's license number that we
05:05:40 12 could run through DMV or a naturalization number or an
05:05:44 13 alien ID number, the absence of that type of information
05:05:48 14 would prevent us from registering them as a full ballot
05:05:52 15 voter, but we wouldn't reject them just because of a
05:05:56 16 lack of a check.
05:06:02 17 Q. Okay. Understood.
05:06:04 18 And then so continuing with state forms, so if
05:06:07 19 a registrant were to mark no in the citizenship
05:06:10 20 checkbox, but also provided a copy of a citizenship
05:06:14 21 document, like a birth certificate, how would your
05:06:17 22 office handle that?
05:06:22 23 A. So is your hypothetical that someone filled out
05:06:27 24 a form, they checked no on citizenship, but they also
05:06:29 25 provided us a copy of their U.S. birth certificate?

05:06:33 1 Q. Yes, or other DPOC.

05:06:39 2 A. Well, the copy of the DPOC would be the

05:06:42 3 controlling document, so we would take the DPOC and

05:06:46 4 register them as a full ballot voter.

05:06:51 5 Q. Could that raise like a red flag that maybe

05:06:54 6 that DPOC they've provided is inaccurate, given that

05:07:00 7 they checked no on the checkbox?

05:07:08 8 A. I mean -- I don't know.

05:07:18 9 Q. Okay. And one other question about how people

05:07:23 10 submit DPOC. So is it possible for a registered voter

05:07:27 11 to submit a purported copy of a citizenship document,

05:07:30 12 like, again, like a birth certificate, that is defective

05:07:33 13 in some way; like, for example, it's blurry, hard to

05:07:36 14 read, seems like it may have been photo-shopped?

05:07:44 15 A. I mean I suppose someone could do that.

05:07:52 16 Q. And in those situations, would it be helpful to

05:07:55 17 know how someone checked the checkbox, whether they said

05:07:58 18 yes or no on the checkbox?

05:08:00 19 A. I think if the copy of the DPOC was -- if we

05:08:04 20 had a -- if the copy provided to us on DPOC was not in a

05:08:10 21 form or format that we could easily identify, we would

05:08:15 22 just reach back out to the voter and inform them that

05:08:18 23 the supplementary information that they have provided to

05:08:22 24 us we really couldn't read, can they provide us a

05:08:25 25 cleaner copy of it.

05:08:28 1 Q. Okay. So you wouldn't consult the checkbox
05:08:31 2 before making that determination, or --
05:08:35 3 A. No, that wouldn't be the -- that would not be
05:08:38 4 the first thing that we would look at.
05:08:41 5 Q. Okay. And then, now I wanted to turn again
05:08:44 6 about confirming citizenship, but sort of more looking
05:08:47 7 at the databases that you all use. I know you've talked
05:08:51 8 about this quite a bit. So I just wanted to confirm
05:08:53 9 that, you know, when you're checking for citizenship
05:08:57 10 now, do you use the HAVA system to do that?
05:09:02 11 A. We do.
05:09:07 12 Q. Okay. And then the MVD system, do you use that
05:09:10 13 database?
05:09:11 14 A. We do.
05:09:14 15 Q. And you use the SAVE system as well?
05:09:17 16 A. We do.
05:09:21 17 Q. And do you consider the MVD data to be
05:09:25 18 generally reliable?
05:09:30 19 A. Generally, yes.
05:09:38 20 Q. Okay. And if a naturalized citizen's status
05:09:42 21 has not yet been updated with the MVD, they can easily
05:09:46 22 reconcile the matter by providing your office with
05:09:51 23 documentation of the naturalization, correct?
05:09:53 24 MR. HERRERA: Objection, form, for Promise
05:09:55 25 Arizona Plaintiffs.

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05:09:56 1 THE WITNESS: If it is not updated with
05:09:58 2 MVD or DMV, we would accept their documentary proof from
05:10:03 3 their naturalization forms, yes.

05:10:03 4 BY MR. HORLEY:

05:10:07 5 Q. Right. And that's -- as you mentioned, you
05:10:09 6 would send them a notice. Then they could send you
05:10:12 7 those materials; is that right?

05:10:12 8 A. Yes.

05:10:12 9 MR. HERRERA: Objection, form, Promise
05:10:12 10 Arizona.

05:10:18 11 THE WITNESS: Yes, we would send them a
05:10:20 12 notice.

05:10:22 13 BY MR. HORLEY:

05:10:22 14 Q. Okay. And then does the Recorder's Office
05:10:25 15 consider the SAVE data to be generally reliable?

05:10:28 16 A. We do.

05:10:34 17 Q. So just to clarify, if an individual fails to
05:10:37 18 provide DPOC, but does check the citizenship box, are
05:10:41 19 they registered as a full ballot voter?

05:10:44 20 A. If they've failed to provide DPOC, they are
05:10:48 21 registered as federal only.

05:10:49 22 Q. Okay. And then your office would send them a
05:10:54 23 notice?

05:10:55 24 A. Correct.

05:11:03 25 Q. Okay. Now I just wanted to ask you a few

05:11:05 1 questions about birthplace. So for the state form your
05:11:10 2 office does not actively track whether voters provide
05:11:13 3 correct or incorrect birthplaces, right?

05:11:15 4 A. That's correct.

05:11:19 5 Q. And I understand that there's no easy way to
05:11:21 6 determine how many individuals noted birthplace on the
05:11:25 7 state form; but generally, in your experience, do voters
05:11:28 8 commonly include birthplace on their state forms?

05:11:36 9 A. It's really -- it's really up to the discretion
05:11:40 10 of the voter. Some people prefer not to pro -- the
05:11:46 11 voter registration form has specific areas that do say
05:11:49 12 required. Those forms have to be filled out. There
05:11:55 13 needs to be information in those minimum fields for us
05:11:59 14 to be able to successfully input the voter registration
05:12:02 15 system into the -- input the voter registration
05:12:07 16 application into the system. Because the other boxes on
05:12:12 17 the form are voluntary, it just depends on the comfort
05:12:16 18 of the voter filling that information out.

05:12:24 19 Q. Okay. So it's -- you know, would you say most
05:12:27 20 voters do include the information or not?

05:12:33 21 A. I really -- I couldn't -- I couldn't tell you.
05:12:36 22 That's a very -- for 630,000-plus voters, I have no
05:12:43 23 idea.

05:12:45 24 Q. Okay. Understood.

05:12:46 25 And then so you did mention that you use

05:12:51 1 birthplace sometimes as like a security question to
05:12:54 2 confirm people's identity over the phone --

05:12:56 3 A. Correct.

05:12:57 4 Q. -- is that right?

05:12:58 5 And so suppose that there was a discrepancy

05:13:04 6 between two applicants, two applications, who have the

05:13:07 7 same name, same address, but they listed two different

05:13:10 8 places of birth. How would the county address that?

05:13:16 9 A. Well, I think we would probably -- if

05:13:23 10 there's -- the first thing to do would be we would

05:13:26 11 contact the voter, the person on the registration form,

05:13:30 12 and call them and ask them some questions and get some

05:13:34 13 information.

05:13:37 14 That would be considered a unique situation.

05:13:40 15 We would put that in the troubles for additional

05:13:44 16 follow-up and review by a supervisor to determine next

05:13:50 17 steps. That's an out of the ordinary process, so we

05:13:54 18 would treat it a little differently than just a normal

05:13:58 19 data entry.

05:14:02 20 Q. Okay. Understood.

05:14:04 21 And if the Secretary of State issued guidance

05:14:07 22 that the county should change how it uses its birthplace

05:14:11 23 information, would you follow that guidance?

05:14:16 24 A. We would probably take it under advisement and

05:14:20 25 review it with our attorney, and if we didn't have any

05:14:25 1 issues, we would probably follow that advisement and
05:14:27 2 guidance.

05:14:32 3 Q. Okay. And if a registrant were to write on his
05:14:35 4 or her form that he or she was born in state one, say,
05:14:40 5 for example, New York, but also provided a copy of a
05:14:42 6 birth certificate from state two, for example, Florida,
05:14:45 7 right, so DPOC says one thing, place of birth says
05:14:48 8 something else, what would your office do in that
05:14:50 9 situation?

05:14:54 10 A. I think that's an unusual hypothetical. Again,
05:14:57 11 that would be something that we would probably put to
05:15:00 12 our troubles and do follow-up with a supervisor. It's
05:15:05 13 something out of the ordinary as to what we do.

05:15:08 14 Obviously we would contact -- our default is
05:15:13 15 always to start with contact with the voter on the form.
05:15:21 16 So, you know, maybe the voter says that they're from New
05:15:27 17 York or maybe they interpret it as from, rather than,
05:15:30 18 you know, born. I don't know. We would first start off
05:15:34 19 with contacts with the voter, and then we would take it
05:15:36 20 from there. That would be a case-by-case basis.

05:15:41 21 Q. Okay. But it would raise a question of needing
05:15:44 22 to resolve that somehow and verify that information?

05:15:50 23 A. Yes. We would -- we would do some sort of
05:15:54 24 follow-up with it.

05:15:57 25 Q. Okay, great.

05:15:58 1 Last question on the birthplace issue. So
05:16:04 2 suppose a dispute arises about whether a registered
05:16:08 3 voter is a citizen; for example, suppose the voter
05:16:11 4 claims she was born in the United States, but the
05:16:14 5 voter's sister claims she was born in another country
05:16:17 6 and is not a citizen, right.

05:16:18 7 Could it be useful to know which state the
05:16:20 8 voter claims she was born in?

05:16:24 9 A. No, not really, not unless they have a birth
05:16:29 10 certificate from the state.

05:16:34 11 Q. Right. Okay. So if the voter claims that she
05:16:37 12 was born in New York, it might be useful if there was
05:16:42 13 like records that you could perhaps call New York and
05:16:44 14 ask them do you have records of this person?

05:16:47 15 A. We would not call another state and request
05:16:50 16 records on that.

05:16:53 17 Q. Okay. Understood.

05:16:55 18 All right, I had one question. I actually
05:16:58 19 wanted to introduce another exhibit here and a document
05:17:01 20 that we haven't looked at yet.

05:17:03 21 MR. HORLEY: I don't believe that I have
05:17:04 22 access to the Dropbox to upload things. So I'm not sure
05:17:10 23 what people feel is the easiest way. I think perhaps
05:17:13 24 just screen sharing, and then we can e-mail it to
05:17:15 25 everybody after this; but if anybody has a problem with

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05:17:18 1 that, let me know.

05:17:23 2 MR. LANGHOFER: I'm good.

05:17:29 3 BY MR. HORLEY:

05:17:29 4 Q. Okay. All right. I'm going to try and screen

05:17:31 5 share this here.

05:17:36 6 Okay, Ms. Hiser, do you see this document that

05:17:42 7 I've put up on the screen share?

05:17:45 8 A. I have, yes. Could you enlarge it just a

05:17:48 9 little bit, please?

05:17:50 10 Q. Yes. Let me see if I can zoom in a bit here.

05:17:55 11 Does that help?

05:17:56 12 A. Yes. Thank you.

05:17:59 13 Q. Okay, great. Thank you.

05:18:00 14 So this document, do you see this number here

05:18:06 15 down in the right-hand corner?

05:18:08 16 A. Uh-huh.

05:18:11 17 Q. Yeah. So Pima County produced this document in

05:18:16 18 response to requests for productions?

05:18:18 19 A. We did.

05:18:22 20 Q. Yes. Okay.

05:18:22 21 And can you tell me, based on what you see

05:18:25 22 here, what we're looking at?

05:18:29 23 A. This is a query of the voter registration

05:18:34 24 database for involuntary cancellation as a status

05:18:40 25 reason, and it's showing the MVD record check time and

05:18:46 1 date. That's the voter registration county number.

05:18:53 2 I'm sorry. If you go start from left, the

05:18:57 3 first column, MVD record check, there is a date and

05:19:01 4 time.

05:19:01 5 Q. Yes.

05:19:01 6 A. That would have been the date and time that we

05:19:04 7 used the system. Then there's the Pima County ID number

05:19:08 8 right there.

05:19:10 9 Yep.

05:19:11 10 And then there is the registration date.

05:19:19 11 Q. Okay.

05:19:19 12 A. And then the effective date of the

05:19:23 13 registration.

05:19:26 14 Q. Okay.

05:19:27 15 A. And the last name, first name, middle name, if

05:19:32 16 provided, and additional suffix of what the voter

05:19:38 17 provided on their voter registration form. And then the

05:19:45 18 status is canceled. That's the second to last column.

05:19:49 19 And then the final column is the status reason for the

05:19:54 20 cancellation, so involuntary cancellation.

05:20:00 21 Q. Okay. So are these people -- I'm sorry.

05:20:02 22 Is this a list of people who have had their

05:20:05 23 voter registration involuntarily canceled?

05:20:08 24 A. It is.

05:20:12 25 Q. And can -- is there a way to tell why their

05:20:16 1 registration was involuntarily canceled?

05:20:19 2 A. We would have to go back into every single
05:20:22 3 record and look at the change history. This is just
05:20:25 4 simply a query.

05:20:28 5 Q. Got it. Understood.

05:20:30 6 And so, you know, I understand there may be no
05:20:33 7 way to tell, certainly not from this document, why
05:20:36 8 someone was involuntarily canceled; but based on your
05:20:40 9 experience with the Recorder's Office, what is the most
05:20:43 10 common reason that someone would be involuntarily
05:20:46 11 canceled?

05:20:48 12 A. They could be involuntarily canceled based off
05:20:52 13 of information provided by the jury report. They can be
05:20:57 14 involuntarily canceled based off of a cross-state mover
05:21:04 15 report from ERIC. They could be notification from
05:21:10 16 another county that the cancellation is moved, that the
05:21:14 17 voter has moved, so to cancel the record.

05:21:18 18 It can be from the NVRA process. They went
05:21:25 19 inactive. We didn't hear back from them to update their
05:21:28 20 voter registration information. They received another
05:21:31 21 notification. They met the time frame for inactivity
05:21:35 22 and then, therefore, we canceled them.

05:21:38 23 It could be a variety of different reasons.
05:21:42 24 Without opening the voter record and looking at the
05:21:45 25 exact change history as to why the -- every activity

05:21:54 1 that's done in the voter registration database, any
05:21:57 2 change done to it is tracked by the operator who is
05:22:01 3 making any changes or modifications, and that is part of
05:22:05 4 the change history.

05:22:06 5 So a Voter clerk or a supervisor had to have
05:22:11 6 gone in to make the change to this to cancel the record,
05:22:18 7 and the change history would provide additional
05:22:21 8 information to that.

05:22:25 9 Q. Okay. So that information exists somewhere,
05:22:27 10 but it's just not on this document?

05:22:31 11 A. Correct.

05:22:33 12 Q. Okay. And so -- sorry. One moment.

05:22:41 13 So could it be the case that someone was
05:22:44 14 canceled after going through the process of having their
05:22:48 15 registration put into what you've been calling the
05:22:51 16 trouble file, and then, like you said, they don't
05:22:53 17 respond to notices, so after the time period they get
05:22:57 18 removed?

05:22:58 19 A. No. So these are voter registrations that were
05:23:01 20 active. So the trouble is to -- the way to think about
05:23:05 21 the trouble file is kind of like a suspended status. So
05:23:10 22 they have never been active voter registrations. These
05:23:13 23 were all active voter registrations that we've canceled
05:23:18 24 based off of this MVD check, based off of these time
05:23:25 25 frames.

05:23:27 1 So I'm moving a mouse that you cannot see on
05:23:31 2 the screen. So column one of the -- column one on your
05:23:39 3 left-hand side of the page, where it says "MVD Record
05:23:42 4 Check," that indicates --

05:23:46 5 Q. Yeah.

05:23:46 6 A. -- that that record went through the MVD
05:23:51 7 process for a check. The reason for that check I don't
05:23:54 8 know, but it went and went through that MVD check, and
05:23:59 9 then for whatever reason it came back as requiring a
05:24:02 10 cancellation.

05:24:06 11 Q. Okay. Understood.

05:24:07 12 Is it possible that that cancellation could
05:24:10 13 happen as a result of lack of DPOC?

05:24:27 14 A. I mean that's kind of a technical question
05:24:30 15 between the two databases. I don't know if it could
05:24:38 16 result in a DPOC because it -- we would register people
05:24:45 17 who do not provide DPOC as federal only. So without
05:24:53 18 pulling up one of these voter registration numbers to
05:24:55 19 see if they were a federal only voter, I don't know. I
05:24:58 20 can't answer that question.

05:25:03 21 Q. Okay. Understood. I think let's move on.

05:25:08 22 MR. HORLEY: And, oh, before I move on,
05:25:09 23 I'm not sure. Did I mark that as an exhibit? I believe
05:25:12 24 it should be number 85?

05:25:22 25 THE COURT REPORTER: Right.

05:25:23 1 MR. HORLEY: Okay, great. Thank you. All
05:25:28 2 right, so...

05:25:28 3 THE COURT REPORTER: Can you take the
05:25:29 4 screen down if you're done?

05:25:31 5 BY MR. HORLEY:

05:25:32 6 Q. Oh, yes. I have one more document that I would
05:25:33 7 like to discuss quickly, and then I will be done. So
05:25:38 8 one more screen share. I believe if I just click here,
05:25:42 9 we should be able to see it.

05:25:44 10 Ms. Hiser, can you see this document?

05:25:47 11 A. I can.

05:25:49 12 Q. Okay. Let's see. And do you see here this
05:25:56 13 number PIMA COUNTY 0584?

05:26:02 14 A. I do.

05:26:02 15 Q. So Pima County produced this document in
05:26:04 16 response to a request for production?

05:26:06 17 A. Yes.

05:26:09 18 Q. Yes. Okay.

05:26:10 19 And then I see here at the top it is addressed
05:26:15 20 from Stephanie, and I'm trying to recall. I know you
05:26:18 21 pronounced her name at the beginning. It was
05:26:21 22 Homewytewa, I believe?

05:26:22 23 A. Homewytewa, yes.

05:26:26 24 Q. Homewytewa, okay.

05:26:28 25 And so this e-mail is from Mrs. Homewytewa to

05:26:32 1 Recorder-admin; is that right?

05:26:34 2 A. It is.

05:26:39 3 Q. And do you know who would receive an e-mail
05:26:40 4 that was addressed to Recorder-admin?

05:26:43 5 A. Myself, the Pima County Recorder, the assistant
05:26:48 6 chief deputy, one of our program managers who is a --
05:27:00 7 does our outreach for the department, our communications
05:27:06 8 point of contact, our special staff assistant, who is
05:27:17 9 currently acting as the voter manager, and the
05:27:24 10 Recorder's personal assistant.

05:27:29 11 Q. Okay. So I would like to mark this as
05:27:33 12 Exhibit No. 85, or I'm sorry, 86. Should be Exhibit 86.

05:27:42 13 So have you -- do you recognize this document?

05:27:44 14 A. Would you give me a minute to read it to
05:27:47 15 refresh my memory?

05:27:50 16 Q. Yes, absolutely.

05:28:10 17 A. Thank you.

05:28:42 18 Q. Yes, and just let me know when you're ready,
05:28:47 19 Ms. Hiser.

05:29:31 20 A. Okay, I'm ready.

05:29:33 21 Q. All right. Thank you.

05:29:34 22 So I just wanted to confirm. So the first
05:29:37 23 sentence here -- well, actually, stepping back. So we
05:29:41 24 talked before about how Mrs. Homewytewa is an outreach
05:29:47 25 specialist for the Tohono O'odham Nation; is that

05:29:50 1 correct?

05:29:50 2 A. That is correct.

05:29:54 3 Q. Okay. And she works for your office, correct?

05:29:56 4 A. She does.

05:29:59 5 Q. Okay. And so she notes here -- I'll just read

05:30:04 6 directly from it. Quote, I have a VR training tomorrow

05:30:07 7 with Mi Familia Vota.

05:30:08 8 Have I read that correctly?

05:30:09 9 A. You have.

05:30:11 10 Q. Yes. So, and does VR stand for voter

05:30:15 11 registration?

05:30:15 12 A. It does.

05:30:17 13 Q. Okay. Great.

05:30:19 14 And is Mi Familia Vota, is that a voter

05:30:22 15 outreach group?

05:30:23 16 A. It is one of the voter outreach groups.

05:30:26 17 Q. And they do voter registration drives?

05:30:29 18 A. They do.

05:30:32 19 Q. Okay. Great.

05:30:33 20 And to your knowledge, are they a party to this

05:30:35 21 litigation?

05:30:37 22 A. They are.

05:30:40 23 Q. Yes. Okay.

05:30:41 24 So then turning to the next sentence, here

05:30:45 25 Mrs. Homewytewa says, "I am finding --" I'm sorry. So

05:30:51 1 she's saying that, quote, I was planning to also mention
05:30:54 2 some housekeeping items, and one of them is a reminder
05:30:57 3 to make sure that people are writing down their actual
05:31:00 4 driver's license numbers, as I am finding many that are
05:31:03 5 fake numbers or numbers that belong to someone else.

05:31:05 6 Did I read that correctly?

05:31:06 7 A. You did.

05:31:09 8 Q. Okay. So can you describe what this issue is
05:31:14 9 that she's encountering here?

05:31:18 10 A. This is in reference to the voter registration
05:31:21 11 forms that we received from many of the groups during
05:31:25 12 the last federal election cycle. We were receiving
05:31:31 13 large numbers of voter registration forms that as we
05:31:34 14 were processing them, we encountered a variety of
05:31:42 15 issues. We were not able to process the forms because
05:31:44 16 the information on there we determined to be invalid or
05:31:50 17 fake, as Stephanie's e-mail identifies.

05:32:00 18 So we encountered several forms that would
05:32:06 19 be -- some voters would have 14, 15 forms submitted on a
05:32:11 20 weekly basis for them, and there would be just single
05:32:14 21 changes to the forms, like a -- one number changed to
05:32:23 22 a -- a date of birth or a phone number, a driver's
05:32:26 23 license that had, you know, too many numbers or numbers
05:32:29 24 that belonged to somebody else, signatures that did not
05:32:35 25 match the signatures that we had on file for the voter.

05:32:41 1 So they would come in large -- they would
05:32:46 2 just -- there was just hundreds of these forms that were
05:32:54 3 very difficult to process, and most of them we would
05:33:00 4 enter them in the troubles as having received something
05:33:03 5 and they are not registered. They were not registered.
05:33:08 6 We would send letters out to addresses that we could.
05:33:12 7 Oftentimes we'd get letters back for addresses that
05:33:15 8 didn't exist.

05:33:16 9 Our voter registration system has the ability
05:33:19 10 to -- we have a very robust system that works with the
05:33:25 11 county's GIS, so we have -- we pretty much know every
05:33:28 12 single address within Pima County. So addresses would
05:33:33 13 come as not a valid address because it wouldn't -- it
05:33:39 14 literally would be an address this doesn't exist.

05:33:43 15 So she's referring to those issues that we were
05:33:46 16 having with the voter outreach groups.

05:33:53 17 Q. Okay. Great.

05:33:53 18 And then just scrolling back up to the top of
05:33:56 19 this, so this was sent on June 29th, 2022; is that
05:34:01 20 correct?

05:34:01 21 A. That is correct.

05:34:05 22 Q. And do you know when the effective date of
05:34:13 23 H.B. 2492 was?

05:34:15 24 A. It was January 1 of '23.

05:34:19 25 Q. Okay. And at this stage your office hadn't

05:34:25 1 been implementing H.B. 2492, correct?

05:34:27 2 A. No. It was not effective yet.

05:34:31 3 Q. Okay. Right.

05:34:32 4 And as you've said many times before, you're
05:34:34 5 not implementing it now, correct?

05:34:36 6 A. Correct.

05:34:38 7 Q. Yes.

05:34:38 8 So I just wanted to draw your attention to this
05:34:41 9 last sentence of this paragraph. She notes that, quote,
05:34:45 10 It occurred to me that maybe they are doing this in
05:34:47 11 response to H.B. 2492, where proof of citizenship needs
05:34:53 12 to be presented or the form cannot be accepted or
05:34:56 13 processed.

05:34:58 14 I'm sorry about that. My light just went off.
05:35:00 15 Okay, here we go.

05:35:02 16 So let me start over again. So let me just
05:35:06 17 read this out to you again. So she says, "It occurred
05:35:09 18 to me that maybe they're doing this in response to
05:35:12 19 H.B. 2492, where proof of citizenship needs to be
05:35:15 20 presented or the form cannot be accepted or processed."

05:35:18 21 Do you understand why she would think that they
05:35:22 22 might be doing this in response to H.B. 2492?

05:35:30 23 A. At -- so the -- at the time that the
05:35:33 24 legislation was signed into law there was a lot of
05:35:40 25 misunderstanding as to what it means and the

05:35:42 1 implications of it, more so out in the general public
05:35:49 2 than even with the Recorders and how we would
05:35:57 3 operationalize it.

05:35:57 4 So the information that the voter registration
05:36:04 5 groups rely on may sometimes present particular bills in
05:36:12 6 a particular way. So I think that Stephanie was -- I
05:36:18 7 think she was making an assumption. I don't know if her
05:36:22 8 assumption was correct. It simply appears to be that --
05:36:27 9 I think we were trying to understand the issues that we
05:36:29 10 were experiencing with the groups and seeing if maybe
05:36:33 11 there was a causal relationship. I don't know
05:36:36 12 specifically what she was referring -- what her thought
05:36:40 13 process was, but I could see that she was making --
05:36:43 14 trying to put two and two together.

05:36:50 15 Q. Okay. And you mentioned before kind of how
05:36:52 16 your office handled this issue. So I just want to be
05:36:56 17 clear. So if someone is providing something that is a
05:37:00 18 fake number, they wouldn't be registered to vote, right;
05:37:04 19 they would go into the trouble file?

05:37:06 20 A. Correct.

05:37:09 21 Q. And the same thing if they provided a driver's
05:37:11 22 license number that belonged to someone else?

05:37:14 23 A. Yes. We would -- particularly if there's --
05:37:20 24 particularly if the driver's license number is attached
05:37:23 25 to a voter that is already registered. You know, we

05:37:29 1 would not register that form that we received, and we
05:37:35 2 would contact the other voter and ask if they were
05:37:41 3 making changes to their voter registration form and
05:37:45 4 things like that. It just depends.

05:37:51 5 During this time frame that this was occurring,
05:37:54 6 this is June of '22, we started receiving -- the influx
05:38:03 7 of voter registration forms that our office started to
05:38:07 8 receive steadily picked up starting from April of '22 up
05:38:14 9 until the general election of '22.

05:38:22 10 There -- at this point in time I think we were
05:38:24 11 on a daily basis providing 500 preprinted forms or more
05:38:32 12 to the groups coming in asking for voter registration
05:38:35 13 forms, and they would, you know, drop off, you know,
05:38:39 14 three or 400 a day to us. It's just the volume was
05:38:46 15 absolutely intense.

05:38:54 16 Q. So in response to that heavy volume of
05:38:56 17 documents, some of which, as you pointed out, were
05:38:59 18 having this issue with fake numbers or other, you know,
05:39:02 19 incorrectly filled out forms, basically your response
05:39:06 20 was still the same that you would do for any other voter
05:39:11 21 registration form; you would go through the double-check
05:39:13 22 that you have, and if something is amiss, it goes into
05:39:16 23 the trouble file?

05:39:20 24 A. Yes.

05:39:20 25 Q. Yes. Okay.

05:39:21 1 And so apart from this sort of time period, is
05:39:24 2 this a common thing for people to put down someone
05:39:26 3 else's driver's license number or a fake number?

05:39:33 4 A. Fake numbers, yes. That happens more
05:39:37 5 frequently than we'd like to see.

05:39:40 6 Q. Why do you think people do that?

05:39:44 7 A. I don't know.

05:39:49 8 Q. And the fake number is something you can detect
05:39:51 9 through checks that you run, like a HAVA check, for
05:39:56 10 example?

05:39:56 11 A. Correct.

05:39:56 12 Q. Okay.

05:40:02 13 MR. HORLEY: Well, I don't think I will
05:40:03 14 have any more questions. If it's all right, Ms. Hiser,
05:40:05 15 I'd like to take just a maybe quick five-minute break
05:40:08 16 and just check my notes and --

05:40:13 17 MR. JURKOWITZ: Can we get a time
05:40:15 18 check?

05:40:16 19 How much time do we have left?

05:40:20 20 THE VIDEOGRAPHER: One moment.

05:40:34 21 We're at 6 hours and 53 minutes.

05:40:38 22 MR. JURKOWITZ: Okay.

05:40:38 23 MR. LANGHOFER: I'm going to have a couple
05:40:42 24 of questions, and so why don't I go through mine while
05:40:46 25 he's still looking, Tim's still looking at his.

05:40:46 1 EXAMINATION

05:40:46 2 BY MR. LANGHOFER:

05:40:50 3 Q. All right, let's just dive in here, in the

05:40:54 4 interest of time.

05:40:55 5 Your organization -- I'm with the Republican

05:40:58 6 National Committee. Kory Langhofer is my name.

05:41:00 7 Your office and the other County Recorders'

05:41:04 8 Offices lobbied against these bills, correct?

05:41:06 9 A. Correct.

05:41:06 10 Q. So it's fair to say that you didn't want to see

05:41:08 11 them passed or implemented?

05:41:10 12 A. They were certainly difficult for operational

05:41:13 13 purposes, yes.

05:41:14 14 Q. You, in fact, opposed their passage?

05:41:16 15 A. We did.

05:41:17 16 Q. And you opposed their implementation?

05:41:20 17 A. We did.

05:41:22 18 Q. You do; you haven't implemented them, correct?

05:41:24 19 A. That is correct.

05:41:25 20 Q. And you've done that without a court order

05:41:27 21 authorizing it?

05:41:30 22 A. We are either in violation of state law or we

05:41:33 23 are in violation of federal law.

05:41:36 24 Q. So that's yes?

05:41:39 25 A. We have continued to operate as is, so we have

05:41:42 1 not enforced these, no.

05:41:44 2 Q. So you have no court order authorizing a
05:41:49 3 nonenforcement or nonimplementation?

05:41:51 4 A. I do not have a court order, that is correct.

05:41:53 5 Q. One of your concerns with these laws was that
05:41:55 6 it would duplicate work at your office. Did you ever
05:41:58 7 raise that concern with the legislature?

05:41:59 8 A. We did.

05:42:00 9 Q. Did a majority of legislators agree with you?

05:42:03 10 A. They did not.

05:42:04 11 Q. Another one of your concerns was that there
05:42:06 12 might be liability for your office registering people to
05:42:10 13 vote who weren't qualified. Did you raise that concern
05:42:12 14 with the legislature?

05:42:13 15 A. We did.

05:42:14 16 Q. Did a majority of the legislators agree with
05:42:17 17 you?

05:42:17 18 A. They did not.

05:42:18 19 Q. You were concerned that some of these
05:42:20 20 provisions weren't clear. Are there any other state
05:42:25 21 statutes that are clarified by the EPM?

05:42:32 22 A. Some, yes. Off the top of my head, which ones
05:42:35 23 they are, I don't know, but --

05:42:38 24 Q. The process, though, of a statute that's
05:42:41 25 facially unclear, but clarified by the EPM, is something

05:42:43 1 that has worked for your office before?

05:42:45 2 A. That is correct.

05:42:51 3 Q. You had said earlier that it was possible that
05:42:53 4 the statute requiring you to put all of your resources
05:42:56 5 into confirming voter eligibility might require, I think
05:42:59 6 the quote was, you to put all hours under the sun
05:43:05 7 searching databases.

05:43:07 8 Do you believe that's actually the way this
05:43:09 9 statute would affect your office?

05:43:11 10 A. I think that is certainly an extreme
05:43:14 11 possibility, yes.

05:43:15 12 Q. Can you think of any other statute that has
05:43:18 13 been interpreted to require the truly all of the
05:43:21 14 resources of an office to go towards one purpose like
05:43:24 15 that?

05:43:26 16 A. Off the top of my head, I cannot.

05:43:28 17 Q. Do you think it's likely that it's going to be
05:43:30 18 interpreted that way?

05:43:32 19 A. I think it is possible, yes.

05:43:38 20 Q. The question was whether you thought it was
05:43:39 21 likely.

05:43:40 22 A. I think possibilities and likely are the same
05:43:43 23 thing. So I would say that, yes, I think the
05:43:46 24 possibility is yes.

05:43:48 25 Q. Do you think a 1 percent chance is likely to

05:43:50 1 happen?

05:43:52 2 A. I think that is within the realm of
05:43:55 3 possibility, yes.

05:43:55 4 Q. So you do appreciate the difference in
05:43:57 5 likelihood between a 1 percent and a 99 percent chance,
05:44:00 6 don't you?

05:44:00 7 A. I do.

05:44:01 8 Q. Okay. I was asking you whether you thought it
05:44:03 9 was likely to be interpreted that way, by that I meant
05:44:06 10 more than 50 percent. Does that help understand the
05:44:08 11 question?

05:44:08 12 A. Sure.

05:44:09 13 Q. Do you think it's likely to be interpreted that
05:44:11 14 way?

05:44:11 15 A. I do.

05:44:13 16 Q. Do you think it's more than --

05:44:15 17 MR. HERERRA: Objection to form and
05:44:15 18 foundation.

05:44:16 19 BY MR. LANGHOFER:

05:44:16 20 Q. Do you think it's more than 50 percent likely
05:44:18 21 that the statute be interpreted to require literally
05:44:26 22 every resource in your office?

05:44:27 23 MR. MAKKER: Objection, asked and
05:44:27 24 answered.

05:44:31 25 THE WITNESS: Yes, I do.

05:44:34 1 BY MR. LANGHOFER:

05:44:34 2 Q. Okay. If there are two -- if there's someone
05:44:40 3 registered with a common name, let's say John Smith, and
05:44:43 4 his birthday is, let's say, January 1st, 1950, and then
05:44:48 5 someone else named John Smith with the same birthday
05:44:51 6 registers to vote, could you use additional information,
05:44:56 7 like a birthplace, to determine whether it's the same
05:44:58 8 John Smith?

05:44:59 9 A. If we received the voter registration forms at
05:45:03 10 the same time, yes, that would be a way that we could
05:45:06 11 identify. That wouldn't be the only way, though.

05:45:10 12 Q. So what if you received them at different
05:45:13 13 times; let's say they were years apart, and the first
05:45:15 14 one had a birthplace of Chicago and the second one had a
05:45:20 15 birthplace of, say, Miami. Could you use that
05:45:22 16 information to determine whether those were duplicate
05:45:25 17 registrations?

05:45:26 18 A. I mean we could, sure. We could. But for
05:45:31 19 fully common names we would do additional investigation,
05:45:37 20 particularly because we have found that here even in
05:45:41 21 Pima County people who have the same name and very close
05:45:48 22 dates of birth and they're still two separate people, we
05:45:52 23 still reach out to both of them.

05:45:58 24 Q. Is that true even when both of them have a
05:46:00 25 place of birth in the database?

05:46:03 1

A. Yes.

05:46:04 2

05:46:08 3

Q. Okay. And what's the -- what function does the phone call serve if they have different places of birth in your records?

05:46:10 4

05:46:13 5

05:46:15 6

05:46:20 7

05:46:23 8

05:46:28 9

05:46:34 10

A. I guess it depends on why we were reaching out to them. Is your question would we -- if I receive a voter registration form from John Smith Chicago and then I receive a voter registration form John Smith Miami and then they have the exact same address, date of birth, and signature?

05:46:36 11

Q. No. Address is changed, naturally.

05:46:39 12

A. Okay.

05:46:39 13

05:46:41 14

Q. And the signatures can -- there can be some variability in there.

05:46:42 15

05:46:45 16

05:46:49 17

05:46:52 18

05:46:56 19

But your birthday and your name -- or your name changes very little. Your birthday doesn't change. And your birthplace doesn't change at all. You're kind of, like your birthday, relying on what people told you for that.

05:46:56 20

A. Sure.

05:46:56 21

05:46:58 22

Q. But my point is that some of these pieces of information are more static and reliable than others.

05:47:01 23

05:47:03 24

05:47:06 25

Let's say you've got a John Smith with a certain birthday from Chicago in your system. You get a voter registration form from John Smith with a birthday

05:47:10 1 from Miami. You're trying to determine are we updating
05:47:13 2 registration or are we creating a new registration.

05:47:16 3 Can't you use the date of birth information to
05:47:18 4 answer that question?

05:47:21 5 MR. MAKKER: Objection, incomplete
05:47:23 6 hypothetical. It's Amit Makker.

05:47:25 7 THE WITNESS: Yeah, I don't -- I don't
05:47:25 8 really understand what you're trying to get at, because
05:47:27 9 you're giving me the -- you're stating I'm looking at a
05:47:33 10 name and a date, and the name and the date are -- date
05:47:36 11 of birth are the same, and you're asking me for whether
05:47:40 12 or not I would treat the two of them as a duplicate.

05:47:44 13 BY MR. LANGHOFER:

05:47:44 14 Q. Right. If you know that they have different --

05:47:46 15 MR. HERRERA: Objection. Or not
05:47:48 16 objection. Sorry. This is Ernest Herrera for the
05:47:51 17 Promise Arizona Plaintiffs. I'll note for the record
05:47:53 18 that we're just at about seven hours, judging by the
05:47:55 19 last time count.

05:47:59 20 BY MR. LANGHOFER:

05:47:59 21 Q. So the question is whether they're duplicates,
05:48:01 22 right. The name and the date of birth are the same.

05:48:03 23 My question is, can't you use the location of
05:48:06 24 birth to determine whether they're, in fact, duplicates?

05:48:10 25 MR. MAKKER: Objection, calls for

05:48:13 1 speculation. Objection, incomplete hypothetical. It's
05:48:15 2 Amit Makker.

05:48:17 3 BY MR. LANGHOFER:

05:48:17 4 Q. You can answer the question.

05:48:17 5 A. Yeah, I suppose we could use it. We would
05:48:20 6 contact the voter first, though.

05:48:22 7 Q. Last question. This -- I guess, sorry, two
05:48:28 8 more questions.

05:48:28 9 You had mentioned earlier you testified in
05:48:30 10 connection with a criminal trial. What was that
05:48:32 11 criminal trial?

05:48:40 12 MR. JURKOWITZ: Yeah, Kory, that's beyond
05:48:43 13 the scope.

05:48:44 14 MR. LANGHOFER: It came up in her
05:48:48 15 questions from the plaintiffs, and I want to understand
05:48:52 16 the answer to the question she gave to the plaintiffs.

05:48:56 17 THE WITNESS: I testified in a criminal
05:48:57 18 trial for the Arizona Attorney General's Office for an
05:49:01 19 individual who was incarcerated and was a convicted
05:49:08 20 felon who voted after having a conviction. So he was on
05:49:12 21 trial for voting as a registered felon and then voting
05:49:16 22 in the election as a convicted felon.

05:49:18 23 BY MR. LANGHOFER:

05:49:18 24 Q. Was it for the act of voting or the act of
05:49:23 25 registering as a felon?

05:49:24 1 A. It was for both.

05:49:27 2 Q. So the last question is, these Mi Familia Vota
05:49:31 3 forms that you were having trouble with, am I to
05:49:34 4 understand that the information on those forms was
05:49:36 5 false?

05:49:38 6 A. Some of the forms, yes.

05:49:43 7 MR. LANGHOFER: That's all. Thanks very
05:49:50 8 much.

05:49:50 9 MR. JURKOWITZ: Thanks, folks.

05:49:53 10 THE VIDEOGRAPHER: Counsel, do you have
05:49:54 11 any further questions?

05:49:55 12 MS. BRAILEY: Can I just ask --

05:50:00 13 MR. HORLEY: No further questions.

05:50:01 14 MS. BRAILEY: Oh. Can I ask just a quick
05:50:03 15 follow-up on some of these?

05:50:04 16 MR. JURKOWITZ: I don't think so. I think
05:50:05 17 we're beyond our time and --

05:50:05 18 MS. BRAILEY: Okay.

05:50:07 19 MR. JURKOWITZ: -- my witness has to go
05:50:08 20 home. So I'm sorry.

05:50:09 21 MS. BRAILEY: Okay.

05:50:11 22 MR. JURKOWITZ: Have a good evening.

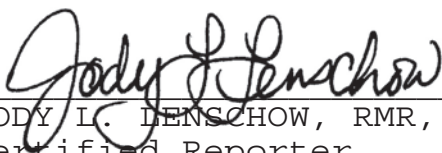
05:50:12 23 THE VIDEOGRAPHER: We are off the record.
05:50:13 24 The time on the video monitor is 5:50 p.m. This ends
05:50:17 25 Volume 1, Media No. 3 in the 30(b)(6) deposition of Pima

1 STATE OF ARIZONA)
2) ss.
3 COUNTY OF MARICOPA)

4 BE IT KNOWN that the foregoing videotaped
5 deposition was taken before me, JODY L. LENSCHOW, RMR,
6 CRR, Certified Reporter No. 50192 for the State of
7 Arizona, and by virtue thereof authorized to administer
8 an oath; that the witness before testifying was duly
9 sworn by me; that the questions propounded by counsel
10 and the answers of the witness thereto were taken down
11 by me in shorthand and thereafter transcribed under my
12 direction; that a review of the transcript by the
13 witness was not requested; that the foregoing pages
14 contain a full, true, and accurate transcript of all
15 proceedings and testimony had, all to the best of my
16 skill and ability.

17 I FURTHER CERTIFY that I am not related to nor
18 employed by any of the parties hereto and have no
19 interest in the outcome thereof.

20 DATED at Phoenix, Arizona, this 13th day of
21 August, 2023.

22
23 
24 _____
25 JODY L. LENSCHOW, RMR, CRR
Certified Reporter
Certificate No. 50192

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UNITED STATES DISTRICT COURT
DISTRICT OF ARIZONA

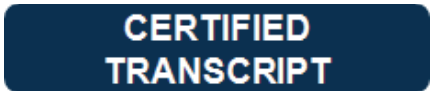
Mi Familia Vota, et al.,)	
)	
Plaintiffs,)	Case No.
	)	2:22-cv-00509-SRB
v.	)	(Lead)
)	
Adrian Fontes, in his	)	No. CV-22-00519-PHX-SRB
official capacity as	)	No. CV-22-01003-PHX-SRB
Arizona Secretary of State,	)	No. CV-22-01124-PHX-SRB
et al.,	)	No. CV-22-01369-PHX-SRB
	)	No. CV-22-01381-PHX-SRB
Defendants.	)	No. CV-22-01602-PHX-SRB
	)	No. CV-22-01901-PHX-SRB
_____)	
AND CONSOLIDATED CASES.)	
_____)	

VIDEO-RECORDED VIDEOCONFERENCE 30(b)(6) DEPOSITION OF PINAL
COUNTY RECORDER'S OFFICE, REPRESENTED BY DANA LEWIS

Florence, Arizona

August 4, 2023

Prepared by:
CINDY MAHONEY, RPR, RMR
Certified Court Reporter
Certificate No. 50680



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1 THE VIDEO-RECORDED VIDEOCONFERENCE 30(b)(6)
 2 DEPOSITION OF PINAL COUNTY RECORDER'S OFFICE, REPRESENTED
 3 BY DANA LEWIS, commenced at 9:37 a.m. on August 4, 2023, at
 4 Florence, Arizona, before Cindy Mahoney, RPR, RMR (via
 5 videoconference), Arizona Certified Court Reporter No.
 6 50680.

7

8

* * *

9

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1 ALSO PRESENT (all via videoconference):

2 Leslie Mansfield
3 Anna Critz
4 Daxon Ernyei
5 Laurie Stirling
6 Victoria Maras
7 Paul Correa
8 Colleen Connor
9 Jimmie Sullivan, Videographer

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1 TRANSCRIPT OF PROCEEDINGS

2
3
09:37:14 4 THE VIDEOGRAPHER: Good morning. We are on
09:37:15 5 the record. The time on the video monitor is 9:37 a.m.
09:37:22 6 And here begins Volume 1, Media Number 1 in the 30(b)(6)
09:37:32 7 deposition of Pinal County Recorder by Dana Lewis, in the
09:37:37 8 matter of Mi Familia Vota, et al., versus Adrian Fontes, in
09:37:43 9 his official capacity as Arizona Secretary of State, et
09:37:48 10 al., in the United States District Court, District of
09:37:52 11 Arizona, Case Number 2:22-cv-00509-SRB -- -SRB.

09:38:04 12 Today's date is August 4th, 2023. Our court
09:38:09 13 reporter is Cindy Mahoney. I am Jimmie Sullivan, a
09:38:17 14 certified legal videographer. We both represent Coash
09:38:21 15 Court Reporting & Video.

09:38:21 16 This video deposition is taking place at 25
09:38:27 17 North Florence Street, Florence, Arizona 85132.

09:38:32 18 Counsel, could you please identify yourselves
09:38:36 19 and state whom you represent.

09:38:42 20 MR. SHERMAN: Good morning. Jon Sherman from
09:38:44 21 Fair Elections Center. I represent the Poder Latinx
09:38:47 22 plaintiffs.

09:38:49 23 MR. CAMERON: Craig Cameron. I represent the
09:38:52 24 Pinal County Recorder and Pinal County.

09:39:01 25 MS. YUN: Jennifer Yun on behalf of the

09:39:02 1 United States.

09:39:06 2 MR. MORGAN: Craig Morgan for Sherman &
09:39:09 3 Howard, on behalf of the Secretary of State.

09:39:13 4 MR. HERRERA: Ernest Herrera -- that's
09:39:16 5 H-e-r-r-e-r-a -- for Promise Arizona plaintiffs. And with
09:39:19 6 me is my colleague Erika Cervantes.

09:39:19 7 MS. LORENZO: Daniela Lorenzo representing Mi
09:39:29 8 Familia Vota plaintiffs. With me today is my colleague Liz
09:39:31 9 Frost..

09:39:32 10 MS. RIZZONI: Cat Rizzoni on behalf of Equity
09:39:37 11 Coalition plaintiffs from Latham & Watkins.

09:39:40 12 MS. KELTY: Samantha Kelty with the Native
09:39:44 13 American Rights Fund, on behalf of the Tohono O'odham and
09:39:46 14 Gila River plaintiffs.

09:39:47 15 MS. BOUGHTON: Kathryn Boughton on behalf of
09:39:54 16 the State of Arizona and Arizona Attorney General Kris
09:39:57 17 Mayes.

09:39:57 18 MR. LANGHOFER: Kory Langhofer on behalf of
09:40:00 19 the Republican National Committee.

09:40:03 20 MR. FERGUSON: And I'm Brent Ferguson of
09:40:06 21 Campaign Legal Center, on behalf of the LUCHA plaintiffs.

09:40:08 22 MR. LANGHOFER: I'll just note that Daniel
09:40:13 23 Volchok appears to be having trouble with his microphone
09:40:16 24 but he's announced his presence in the comments.

09:40:18 25 THE VIDEOGRAPHER: Is that everyone? Okay.

09:40:29 1 Would the court reporter please swear in the
09:40:31 2 witness.

09:40:31 3
09:40:31 4 DANA LEWIS,
09:40:31 5 the witness herein, being first duly sworn,
09:40:31 6 was examined and testified as follows:

09:40:46 7
09:40:46 8 THE VIDEOGRAPHER: You may continue.

09:40:46 9
09:40:48 10 EXAMINATION

09:40:48 11 BY MR. SHERMAN:

09:40:49 12 Q. Good morning, Ms. Lewis. Thank you for taking
09:40:51 13 time out of your busy schedule to be with us today.

09:40:55 14 Could you please state your full name for the
09:40:58 15 record and your full title.

09:41:01 16 A. Dana Lee Lewis, Pinal County Recorder.

09:41:07 17 Q. Thank you. For today's deposition, I want to make
09:41:10 18 sure the record is clear on a couple of points.

09:41:12 19 Do you understand you are testifying under
09:41:14 20 oath today?

09:41:15 21 A. I do.

09:41:16 22 Q. Do you understand the court reporter is
09:41:19 23 transcribing this deposition?

09:41:21 24 A. I do.

09:41:22 25 Q. With that in mind, please answer questions audibly

09:41:26 1 and clearly. Please let me know if you do not understand a
09:41:30 2 question or need me to repeat any part of it. And if I ask
09:41:34 3 a question and you answer the question, I will assume that
09:41:38 4 you understood the question.

09:41:39 5 Do you understand all three of those points?

09:41:41 6 A. I do.

09:41:42 7 Q. Great. Thank you.

09:41:44 8 Any reason you can't testify truthfully
09:41:48 9 today?

09:41:49 10 A. No.

09:41:50 11 Q. Is there any reason that you can't give full,
09:41:53 12 complete, and accurate testimony today?

09:41:56 13 A. No.

09:41:57 14 Q. Are you on any medications or experiencing any
09:42:00 15 condition that would prevent you from giving full and
09:42:04 16 truthful testimony today?

09:42:06 17 A. No.

09:42:06 18 Q. If at any time you would like to take a break,
09:42:08 19 just please let me know. The only thing I ask is that if I
09:42:12 20 have already asked a question that's pending, that you
09:42:15 21 please answer the question before we -- we take a break.
09:42:18 22 Is that okay?

09:42:19 23 A. Absolutely.

09:42:21 24 Q. Great.

09:42:23 25 Have you ever been deposed before?

09:42:24 1 A. No, sir.

09:42:25 2 Q. Okay. For today's deposition, where are you
09:42:30 3 physically located?

09:42:32 4 A. 31 North Pinal Street, Building E, my office.

09:42:39 5 Q. Okay. Great.

09:42:40 6 And what city and state, just for the record?

09:42:43 7 A. Florence, Arizona 85130.

09:42:46 8 Q. Okay. Great. And who else -- I can see your
09:42:50 9 counsel, I think, is in the room with you.

09:42:51 10 Who else is in the room?

09:42:53 11 A. Co-counsel, Scott M. Johnson and James Mitchell.

09:43:01 12 Q. Great. Thank you.

09:43:01 13 Did you bring any materials with you to the
09:43:03 14 deposition?

09:43:05 15 A. Just the ones you provided for me to review.

09:43:09 16 Q. Okay. Do you have any documents in front of you?

09:43:13 17 A. The ones you provided for me to review.

09:43:17 18 Q. Okay. Just checking. All standard questions.

09:43:21 19 So could you take a look at the first
09:43:26 20 document, Exhibit A, in what we provided. And just let me
09:43:34 21 know when you've got that up.

09:43:39 22 A. It's up.

09:43:41 23 Q. Great.

09:43:43 24 What is this document?

09:43:45 25 A. Plaintiffs' Second Amended Notice of Deposition of

09:43:49 1 Pinal County Recorder's Office Pursuant to Rule 30(b)(6).

09:43:57 2 MR. SHERMAN: Great. And could we mark this

09:43:59 3 as -- Exhibit 87 I believe is what we're up to.

09:43:59 4 (The document was marked as Exhibit 87

09:43:59 5 for identification.)

09:44:09 6 BY MR. SHERMAN:

09:44:09 7 Q. Have you seen this before today, Ms. Lewis?

09:44:11 8 A. Yes, sir.

09:44:12 9 Q. Great.

09:44:13 10 And do you understand you have been

09:44:14 11 designated as a representative to testify on behalf of the

09:44:18 12 Pinal County Recorder's Office, not in your individual

09:44:22 13 capacity?

09:44:22 14 A. I do.

09:44:25 15 Q. Great. Thank you.

09:44:26 16 And can we stipulate that whenever I say

09:44:27 17 "you" or "your," that would be the equivalent of saying

09:44:31 18 "your office" or "your offices"?

09:44:33 19 A. Yes, sir.

09:44:33 20 Q. Great. Thank you.

09:44:36 21 If you could just scroll down to the list of

09:44:39 22 topics. I believe it starts on page -- page 4 is where it

09:44:51 23 starts.

09:44:52 24 Have you reviewed these topics in preparation

09:44:54 25 for today?

09:44:55 1 A. Yes, sir.

09:44:56 2 Q. Great.

09:44:57 3 And are you prepared to address each of these

09:44:59 4 28 topics today?

09:45:01 5 A. Yes, sir.

09:45:03 6 Q. Great. Thank you.

09:45:05 7 What did you do to prepare for today's
09:45:08 8 deposition?

09:45:09 9 A. Read these documents.

09:45:15 10 Q. Anything else?

09:45:18 11 A. Do you --

09:45:21 12 MR. CAMERON: For the purpose of the
09:45:22 13 deposition, the attorneys did sit down with her to discuss
09:45:26 14 it, but that would be privilege.

09:45:31 15 MR. SHERMAN: Definitely not -- yeah,
09:45:31 16 definitely not asking for the substance of those
09:45:34 17 communications.

09:45:34 18 BY MR. SHERMAN:

09:45:34 19 Q. Just wanted to know what else -- what else you did
09:45:36 20 to prepare. Did you -- and so you answered that one.

09:45:42 21 Did you discuss today's deposition with
09:45:44 22 anyone else outside your office besides your counsel in
09:45:44 23 this case?

09:45:44 24 A. No.

09:45:50 25 Q. Okay. Did you review any doc- -- did you review

09:45:55 1 any documents beyond the ones we provided?

09:45:58 2 A. No, sir.

09:46:00 3 Q. Okay. And -- all right.

09:46:04 4 Could we look at Exhibit -- Exhibit C. What

09:46:22 5 is this document?

09:46:24 6 A. Defendant's response to plaintiffs' first request

09:46:41 7 for production.

09:46:45 8 Q. And this was in the Equity Coalition's case;

09:46:49 9 right? Equity Coalition is the plaintiff that propounded

09:46:57 10 this discovery?

09:46:59 11 A. This right here? It's freezing. Oh, there?

09:47:06 12 That is correct, sir. Apologies.

09:47:08 13 Q. No worries. Thank you very much.

09:47:11 14 MR. SHERMAN: Can we mark this as Exhibit 90.

09:47:11 15 THE COURT REPORTER: You want 90? You don't

09:47:11 16 want the next in order?

09:47:11 17 MR. SHERMAN: Yes. Yeah. If we could mark

09:47:26 18 this as Exhibit 90, please. Thank you.

09:47:26 19 MR. CAMERON: Wait. Wait. Wait.

09:47:28 20 It's -- I'm sorry. Ms. Mahoney, is 90 -- is 90 the next

09:47:28 21 number?

09:47:31 22 THE COURT REPORTER: No.

09:47:31 23 MR. SHERMAN: I'm sorry. Exhibit -- Exhibit

09:47:34 24 88. I apologize.

09:47:39 25 MR. CAMERON: No problem.

09:47:39 1 (The document was marked as Exhibit 88
09:47:39 2 for identification.)
09:47:39 3 BY MR. SHERMAN:
09:47:42 4 Q. Do you recognize this document, Ms. Lewis?
09:47:46 5 A. Yes, sir.
09:47:47 6 Q. Did you review it before this deposition?
09:47:51 7 A. Yes, sir.
09:47:52 8 Q. Any update to your responses here?
09:47:56 9 A. No, sir.
09:47:58 10 Q. Okay. Can we take a look at Exhibit -- Exhibit D.
09:48:17 11 And what is this document?
09:48:22 12 A. Supplemental Response to Plaintiff's First Request
09:48:28 13 for Production.
09:48:29 14 Q. And this was propounded by the Equity Coalition
09:48:33 15 plaintiffs; correct?
09:48:33 16 A. That is correct.
09:48:35 17 MR. SHERMAN: Could we mark this as
09:48:37 18 Exhibit 89. Thank you.
09:48:37 19 (The document was marked as Exhibit 89
09:48:37 20 for identification.)
09:48:37 21 BY MR. SHERMAN:
09:48:44 22 Q. And you've seen this document before?
09:48:45 23 A. Yes, sir.
09:48:45 24 Q. And you reviewed it before this deposition?
09:48:48 25 A. Yes, sir.

09:48:49 1 Q. Any update to your responses?

09:48:52 2 A. No, sir.

09:48:54 3 Q. Okay. Could we look at Exhibit F.

09:49:17 4 And do you recognize this document?

09:49:19 5 A. Yes, sir.

09:49:23 6 Q. And what is it?

09:49:25 7 A. It is the consolidated request for RFP and

09:49:31 8 documents from Mi Familia Vota.

09:49:36 9 Q. Is it your county -- the County Recorder Office's

09:49:40 10 responses to those consolidated plaintiffs' RFPs?

09:49:43 11 A. That is correct, sir.

09:49:44 12 Q. And did you review it before this deposition?

09:49:46 13 A. I did.

09:49:49 14 MR. SHERMAN: Can we mark this as Exhibit 90.

09:49:49 15 (The document was marked as Exhibit 90

09:49:55 16 for identification.)

09:49:55 17 BY MR. SHERMAN:

09:49:55 18 Q. Any update to your responses?

09:49:58 19 A. No, sir.

09:50:00 20 Q. And other than what's privileged or listed on a

09:50:05 21 privilege log, are you withholding any responses or

09:50:09 22 responsive documents on the basis of your objections?

09:50:11 23 A. No, sir.

09:50:12 24 Q. Okay. Thank you.

09:50:21 25 Let's take a look at Exhibit B. Once you

09:50:33 1 have Exhibit B up, just let me know what -- what it is.

09:50:39 2 A. My response to the plaintiffs' first set of
09:50:44 3 interrogatories.

09:50:46 4 Q. Great. Thank you.

09:50:49 5 MR. SHERMAN: Can we mark this as Exhibit 91.

09:50:49 6 (The document was marked as Exhibit 91
09:50:55 7 for identification.)

09:50:55 8 BY MR. SHERMAN:

09:50:56 9 Q. And you verified this document when you served it;
09:51:03 10 correct?

09:51:03 11 A. Yes, sir.

09:51:04 12 Q. And what steps did you take to prepare these
09:51:09 13 responses?

09:51:12 14 A. Please elaborate.

09:51:16 15 Q. Did you confer with counsel?

09:51:21 16 Did you -- what -- what steps did you take in
09:51:23 17 drafting the responses?

09:51:24 18 A. I did meet with counsel.

09:51:26 19 Q. Okay. So your counsel and you drafted it
09:51:29 20 together?

09:51:30 21 A. That is correct.

09:51:31 22 Q. Okay. Did any -- did you review it before this
09:51:34 23 deposition?

09:51:35 24 A. Yes, sir.

09:51:36 25 Q. Any update to your responses?

09:51:40 1 A. No, sir.

09:51:42 2 MR. SHERMAN: Okay. And then lastly -- and
09:51:49 3 if I didn't say this before -- I think I did, but could we
09:51:53 4 mark that as Exhibit 91.

09:51:57 5 BY MR. SHERMAN:

09:51:58 6 Q. Lastly, Exhibit E. Do you recognize this
09:52:08 7 document?

09:52:09 8 A. This is a response -- my response -- Consolidated
09:52:16 9 Plaintiff's First Set of Requests For Production of
09:52:19 10 Documents to Mi Familia Vota.

09:52:30 11 MR. SHERMAN: Thank you. Can we mark this as
09:52:32 12 Exhibit 92.

09:52:32 13 (The document was marked as Exhibit 92
09:52:33 14 for identification.)

09:52:33 15 BY MR. SHERMAN:

09:52:34 16 Q. And you verified this document when it was served?

09:52:38 17 A. Yes, sir.

09:52:38 18 Q. And what steps did you take to prepare these
09:52:44 19 responses? Same answer as before?

09:52:46 20 A. That is correct, sir.

09:52:47 21 Q. Okay. And beyond your counsel, did you confer
09:52:49 22 with anyone else in drafting them?

09:52:53 23 A. No, sir.

09:52:59 24 Q. Okay. Did you review it before this deposition?

09:53:01 25 A. Yes, sir.

09:53:03 1 Q. Any update to your responses?

09:53:05 2 A. No, sir.

09:53:07 3 Q. Okay. All right. So I want to ask you a few
09:53:12 4 questions about the Election Procedures Manual. You're
09:53:17 5 familiar with the 2019 Election Procedures Manual. I don't
09:53:20 6 think I need to show it to you.

09:53:22 7 Is the 2019 Election Procedures Manual still
09:53:26 8 the -- kind of the operative version of the EPM?

09:53:30 9 A. Yes, sir.

09:53:31 10 Q. Is your office legally required to follow the EPM?

09:53:35 11 A. Yes, sir.

09:53:35 12 Q. Are all parts of the EPM legally binding on your
09:53:39 13 office?

09:53:41 14 MR. LANGHOFER: Form. This is Kory
09:53:44 15 Langhofer for the RNC.

09:53:50 16 THE WITNESS: Can you repeat the question?

09:53:53 17 BY MR. SHERMAN:

09:53:54 18 Q. Sure.

09:53:55 19 Are you legally required to follow all parts
09:53:59 20 of the EPM?

09:54:02 21 MR. LANGHOFER: Form.

09:54:03 22 THE WITNESS: Yes, sir.

09:54:05 23 BY MR. SHERMAN:

09:54:06 24 Q. Including -- including Chapter 1 on voter
09:54:10 25 registration procedures?

09:54:11 1 MR. LANGHOFER: Form.

09:54:12 2 THE WITNESS: Yes, sir.

09:54:14 3 BY MR. SHERMAN:

09:54:15 4 Q. Can legally binding guidance be conveyed to -- by

09:54:19 5 the Secretary of State's Office to your office by any other

09:54:21 6 means outside of the EPM?

09:54:24 7 MR. LANGHOFER: Form.

09:54:28 8 THE WITNESS: I don't think I understand that

09:54:32 9 question. Say it one more time.

09:54:34 10 BY MR. SHERMAN:

09:54:35 11 Q. Sure.

09:54:35 12 Can legally binding guidance be conveyed by

09:54:38 13 the Secretary of State's Office to your office by any other

09:54:41 14 means outside of the EPM?

09:54:43 15 A. No, sir.

09:54:45 16 Q. Okay. Are you aware of any counties that do not

09:54:49 17 believe Chapter 1 on voter registration procedures is

09:54:52 18 binding?

09:54:54 19 A. Sir, I will not speak on another person's opinions

09:54:58 20 about anything.

09:55:01 21 Q. I was just asking if you were aware, not --

09:55:04 22 A. I'm not aware of other people's opinions.

09:55:10 23 Q. Okay. Thank you.

09:55:10 24 Are you currently enforcing any part of

09:55:13 25 HB 2492?

09:55:15 1 A. No, sir.

09:55:16 2 Q. Are you currently enforcing any part of HB 2243?

09:55:21 3 A. No, sir.

09:55:22 4 Q. Is your office holding voter registration

09:55:27 5 applications in an indefinite pending status while you're

09:55:31 6 awaiting guidance from the Secretary of State's Office?

09:55:33 7 A. No, sir.

09:55:33 8 Q. To your knowledge, are all counties holding off

09:55:39 9 on -- are -- excuse me. Strike that.

09:55:41 10 To your knowledge, are all counties holding

09:55:43 11 off on implementing HB 2492 and HB 2243?

09:55:50 12 MR. LANGHOFER: Foundation.

09:55:50 13 MR. MORGAN: Foundation.

09:55:53 14 Go ahead.

09:55:54 15 BY MR. SHERMAN:

09:55:55 16 Q. I'll -- I'll strike that and -- I'll withdraw it

09:55:56 17 and ask it a different way.

09:55:58 18 To your knowledge, Ms. Lewis, are any

09:56:00 19 counties enforcing any part of HB 2492 or HB 2243?

09:56:06 20 A. Mr. Sherman, I will not speak to my knowledge of

09:56:10 21 what other counties are doing.

09:56:16 22 Q. Because you don't know or because --

09:56:19 23 A. How am I supposed to know what someone else is

09:56:22 24 going to do or intending?

09:56:24 25 Q. Fair enough.

09:56:24 1 It sounds -- so your testimony is that you
09:56:27 2 don't know; correct?

09:56:28 3 A. Yes, sir.

09:56:29 4 Q. Okay. Just wanted to clarify.

09:56:32 5 Has your office seen the draft 2023 EPM?

09:56:36 6 A. Yes, sir.

09:56:38 7 Q. Have you provided comments on it to the SOS's
09:56:42 8 office?

09:56:44 9 A. I've been part of the conversations.

09:56:49 10 Q. Have you provided any written feedback?

09:56:51 11 A. No, sir.

09:56:53 12 Q. Okay. How many times have you met with the
09:56:57 13 Arizona Secretary of State's Office about the challenged
09:57:01 14 laws in this lawsuit?

09:57:05 15 A. I don't know.

09:57:05 16 Q. Okay. A number of times, though?

09:57:16 17 MR. MORGAN: Foundation. Craig Morgan.
09:57:20 18 Sorry.

09:57:20 19 BY MR. SHERMAN:

09:57:20 20 Q. I'll withdraw the question for now.

09:57:20 21 A. Thank you.

09:57:25 22 Q. Has your office -- has your office been provided
09:57:27 23 any other draft guidance or document beyond the draft 2023
09:57:32 24 EPM that elaborates on interpretation or implementation of
09:57:36 25 HB 2492 and HB 2243?

09:57:39 1 A. No, sir.

09:57:41 2 Q. Has your office been a part of -- has your office
09:57:48 3 been a part of any communications with the Secretary of
09:57:51 4 State's Office regarding interpretation or implementation
09:57:54 5 of HB 2492?

09:57:59 6 MR. MORGAN: Form.

09:58:00 7 THE WITNESS: No, sir.

09:58:01 8 BY MR. SHERMAN:

09:58:01 9 Q. Has your office been a part of any communications
09:58:03 10 with the Arizona Secretary of State's Office regarding
09:58:06 11 interpretation or implementation of HB 2243?

09:58:11 12 MR. MORGAN: Form.

09:58:12 13 THE WITNESS: No, sir.

09:58:13 14 BY MR. SHERMAN:

09:58:14 15 Q. In 2021, was the draft Election Procedures Manual
09:58:18 16 adopted?

09:58:20 17 A. No, sir.

09:58:21 18 Q. So it's possible there will be no agreement on a
09:58:24 19 revised and updated EPM this year; correct?

09:58:29 20 MR. LANGHOFER: Calls for speculation.

09:58:34 21 MR. MORGAN: Foundation.

09:58:35 22 THE WITNESS: I don't know.

09:58:37 23 BY MR. SHERMAN:

09:58:38 24 Q. So it's at least possible; right?

09:58:39 25 It happened in 2021? Is it possible it will

09:58:41 1
09:58:41 2
09:58:41 3
09:58:47 4
09:58:47 5
09:58:47 6
09:58:50 7
09:58:53 8
09:58:58 9
09:59:01 10
09:59:02 11
09:59:05 12
09:59:06 13
09:59:06 14
09:59:07 15
09:59:10 16
09:59:13 17
09:59:18 18
09:59:21 19
09:59:23 20
09:59:27 21
09:59:29 22
09:59:33 23
09:59:39 24
09:59:47 25

happen again?

A. I don't have an opinion.

MR. MORGAN: Foundation.

BY MR. SHERMAN:

Q. Fair enough.

If there's no approved revised EPM by this time next year, will you nevertheless be obligated to enforce the portions of HB 2492 and HB 2243 that are directed at county recorders?

MR. LANGHOFER: Form. Calls for a legal conclusion.

THE WITNESS: Can I --

BY MR. SHERMAN:

Q. I see you nodding, but I didn't hear --

A. Can I concur with that statement, whoever just said that? We have not implemented nor do we intend to implement any part of HB 2492 or 2243.

Q. Let me -- let me ask it again just so the record -- the question is clear.

If there's no approved revised Election Procedures Manual by this time next year, will you nevertheless be obligated to enforce the portions of HB 2492 and HB 2243 that are directed at county recorders?

MR. LANGHOFER: Same objection.

MR. CAMERON: Form, foundation.

09:59:47 1 THE WITNESS: I'm -- I will be required to
09:59:50 2 follow the EPM of 2019.

09:59:53 3 BY MR. SHERMAN:

09:59:54 4 Q. So if that -- so is your testimony if the 2019 EPM
09:59:59 5 contains -- and it does -- so your testimony is that you
10:00:05 6 can't follow and can't enforce HB 2492 and HB 2243 until
10:00:11 7 there's a revised EPM, including implementation guidance on
10:00:15 8 those two challenged laws; correct?

10:00:19 9 MR. LANGHOFER: Calls for a legal conclusion.

10:00:24 10 MR. MORGAN: Objection.

10:00:25 11 THE WITNESS: I don't have an answer for that
10:00:27 12 question, sir.

10:00:28 13 BY MR. SHERMAN:

10:00:34 14 Q. Okay. So you don't know?

10:00:37 15 A. Yeah, we'll say I don't know.

10:00:39 16 Q. Okay. So I want to direct your attention to the
10:00:43 17 two statutes. I just want to focus on a few provisions in
10:00:47 18 the two statutes. These have been previously marked as
10:00:51 19 Exhibits 19 and 21 in the Petty exhibits, so Petty
10:00:57 20 Exhibit 19 and 21.

10:01:00 21 A. Do I have those?

10:01:04 22 Q. We circulated them.

10:01:08 23 MR. CAMERON: G and H for this deposition?

10:01:10 24 MR. SHERMAN: No. We circulated an
10:01:13 25 additional link for all of the marked -- previously marked

10:01:13 1 exhibits. If you don't have that up, why don't we go off
10:01:17 2 the record for a minute and you can pull them up.

10:01:20 3 Let's do that. Let's go off the record for a
10:01:23 4 minute, and we can make sure you have those in front of
10:01:25 5 you.

10:01:29 6 THE VIDEOGRAPHER: We are off the record at
10:01:39 7 10:01.

10:01:42 8 (A recess ensued.)

10:14:01 9 THE VIDEOGRAPHER: We are back on the record.
10:14:11 10 Time on the video monitor is 10:14.

10:14:16 11 BY MR. SHERMAN:

10:14:19 12 Q. Okay. Thank you, Ms. Lewis.

10:14:21 13 I want to ask you about HB 2492 and HB 2243.

10:14:26 14 The phrase -- the term "information" is used repeatedly in

10:14:31 15 both statutes, information that a person is not a U.S.

10:14:35 16 citizen.

10:14:36 17 What is information that a person is not a

10:14:38 18 United States citizen?

10:14:41 19 MR. CAMERON: Form.

10:14:41 20 MR. LANGHOFER: Object; form. Calls for a
10:14:43 21 legal conclusion.

10:14:48 22 MR. CAMERON: You can answer.

10:14:48 23 THE WITNESS: I don't know.

10:14:50 24 BY MR. SHERMAN:

10:14:51 25 Q. Okay. Just so we're clear, you can answer unless

10:14:55 1 your counsel instructs you not to answer. People are going
10:14:57 2 to object repeatedly, but you can answer after those
10:15:01 3 objections.

10:15:01 4 Is data in a current database showing
10:15:05 5 noncitizenship 20 years ago information that the person is
10:15:09 6 not a U.S. citizen today?

10:15:11 7 MR. LANGHOFER: Same objection.

10:15:12 8 THE WITNESS: I wouldn't make that
10:15:14 9 conclusion.

10:15:14 10 BY MR. SHERMAN:

10:15:15 11 Q. You run HAVA checks through the AVID system;
10:15:15 12 correct?

10:15:21 13 A. Yes, sir.

10:15:23 14 Q. And when you run that HAVA check, if it reflects
10:15:25 15 that the applicant was issued an F-type license 20 years
10:15:28 16 ago, that just means they weren't a citizen 20 years ago;
10:15:32 17 right?

10:15:32 18 A. Correct.

10:15:33 19 Q. What procedure does your office follow after
10:15:36 20 seeing that that person still holds an F-type license in
10:15:41 21 the MVD database?

10:15:44 22 A. I don't know. I legitimately don't know, because
10:15:53 23 we run the HAVA check.

10:15:56 24 Q. Is that just conclusive that they're not a U.S.
10:15:59 25 citizen?

10:16:00 1 A. I would not say that, sir.

10:16:03 2 Q. Do you follow up with the voter?

10:16:05 3 A. Absolutely.

10:16:06 4 Q. What do you do?

10:16:08 5 A. We send a letter.

10:16:09 6 Q. Okay.

10:16:11 7 A. It's in my attachment.

10:16:13 8 Q. Right. We'll -- we'll get back to that letter a
10:16:17 9 little bit later on.
10:16:18 10 If some other database -- not the MVD
10:16:22 11 database -- contains data showing that the person was not a
10:16:24 12 U.S. citizen 20 years ago, same answer as you gave before?
10:16:34 13 MS. BOUGHTON: Form.
10:16:35 14 THE WITNESS: Yes. "Some database" doesn't
10:16:37 15 tell me much, sir. Sorry.
10:16:39 16 BY MR. SHERMAN:
10:16:40 17 Q. Okay. Thanks.
10:16:41 18 When would you consider information too old
10:16:45 19 to be information that someone is not a United States
10:16:48 20 citizen in the present day? Is there a line?
10:16:51 21 A. I don't have an answer for that.
10:16:54 22 Q. If the information is somewhat more recent,
10:17:00 23 though, say a month ago, is that information that the
10:17:02 24 person is not a United States citizen?
10:17:06 25 MR. MORGAN: Form, foundation.

10:17:07 1 MR. LANGHOFER: Objection; legal conclusion.

10:17:08 2 THE WITNESS: Please repeat the question.

10:17:10 3 BY MR. SHERMAN:

10:17:11 4 Q. If your office encounters information that's
10:17:15 5 somewhat more recent, like a government transaction showing
10:17:18 6 the person was not a U.S. citizen two months ago, is that
10:17:23 7 information that the person is not a U.S. citizen
10:17:25 8 currently?

10:17:26 9 MR. LANGHOFER: Same objection.

10:17:28 10 MR. MORGAN: Form, foundation.

10:17:30 11 THE WITNESS: I can't answer that question.
10:17:32 12 I don't know.

10:17:33 13 BY MR. SHERMAN:

10:17:35 14 Q. Okay. You're not sure?

10:17:39 15 A. I don't know.

10:17:42 16 Q. Okay. I'm going to ask you what -- about valid
10:17:46 17 sources of information that someone is not a U.S. citizen.

10:17:50 18 Would your office consider anything beyond a
10:17:53 19 government or voter registration database information that
10:17:55 20 someone is not a U.S. citizen?

10:17:59 21 MR. MORGAN: Form.

10:18:00 22 MR. LANGHOFER: Form. Calls for legal
10:18:02 23 conclusion.

10:18:02 24 THE WITNESS: I'm not an attorney, and I
10:18:04 25 don't know how to answer that question.

10:18:07 1 BY MR. SHERMAN:

10:18:07 2 Q. Okay.

10:18:12 3 MR. SHERMAN: Craig and Kory, do you want to
10:18:13 4 enter -- I have 13 questions that are all scenarios here.

10:18:16 5 Do you want to enter a global form and calls
10:18:19 6 for a legal conclusion objection to each of them?

10:18:22 7 MR. LANGHOFER: That -- that sounds good. I
10:18:24 8 don't -- I don't like interrupting with objections, so as
10:18:26 9 long as you're good with that, let's do it.

10:18:28 10 MR. MORGAN: Yeah. I'm sorry. Are we doing
10:18:30 11 this for the rest of the deposition -- which is fine with
10:18:32 12 me -- or just for the next, like, 18 questions? I don't
10:18:36 13 know -- I need a little more precision.

10:18:38 14 MR. SHERMAN: Just -- just for this series of
10:18:39 15 questions where I'm asking different scenarios about what
10:18:42 16 constitutes a valid source of information.

10:18:45 17 MR. MORGAN: I'll tell you what -- I'm okay
10:18:45 18 with it. Do me a solid, Jon; when you get to the point
10:18:49 19 where you no longer want the global objection to be
10:18:54 20 automatically applied, let us know.

10:18:55 21 MR. SHERMAN: Yep.

10:18:57 22 MR. MORGAN: Thank you.

10:18:57 23 MR. SHERMAN: Okay.

10:18:57 24 MR. LANGHOFER: Thank you.

10:18:58 25 MR. SHERMAN: Just trying to make things more

10:18:58 1 efficient.

10:19:01 2 BY MR. SHERMAN:

10:19:01 3 Q. Can a phone call from the voter constitute a --

10:19:07 4 information that someone is not a U.S. citizen?

10:19:10 5 A. No.

10:19:11 6 Q. Can an email or call from the voter in question

10:19:16 7 constitute information that that person is not a U.S.

10:19:18 8 citizen?

10:19:19 9 A. No.

10:19:21 10 Q. How about a phone call from a member of the voter

10:19:25 11 or voter registration applicant's family?

10:19:28 12 A. No.

10:19:28 13 Q. Can it be a letter from a neighbor of the voter or

10:19:34 14 voter registration applicant?

10:19:35 15 A. No.

10:19:35 16 Q. What about a phone call from law enforcement in

10:19:39 17 Arizona?

10:19:40 18 A. No. No.

10:19:47 19 Q. Okay. An email or letter from law enforcement in

10:19:50 20 Arizona?

10:19:52 21 A. No.

10:19:53 22 Q. An email or letter from law enforcement in another

10:19:56 23 state?

10:19:57 24 A. No.

10:19:58 25 Q. How about an anonymous call?

10:20:04 1 A. No.

10:20:06 2 Q. An anonymous email address -- excuse me -- an
10:20:09 3 anonymous email?

10:20:10 4 A. No.

10:20:12 5 Q. What about lists provided by third-party
10:20:16 6 organizations like True the Vote, would that constitute a
10:20:19 7 valid source of information that someone is not a U.S.
10:20:21 8 citizen?

10:20:21 9 A. No.

10:20:22 10 Q. Okay.

10:20:25 11 MR. SHERMAN: So that's the end of the
10:20:28 12 stipulated global objection. So we're just returning to
10:20:32 13 normal.

10:20:33 14 BY MR. SHERMAN:

10:20:34 15 Q. By what means can you confirm the authenticity of
10:20:37 16 such information that a voter registration applicant or a
10:20:41 17 registered voter is not a U.S. citizen?

10:20:48 18 A. Say that one more time, please.

10:20:50 19 Q. Sure.

10:20:51 20 By what means can you confirm the
10:20:53 21 authenticity of information that a voter or voter
10:20:58 22 registration applicant is not a U.S. citizen?

10:21:01 23 A. We don't have the ability to confirm authenticity.
10:21:06 24 Like, are you talking about the authenticity of a document?
10:21:08 25 We don't have that ability in the registration department.

10:21:14 1 We run HAVA checks. That's done above us.

10:21:19 2 Q. So if you obtain information or data from any

10:21:23 3 source other than the HAVA check that suggests a person was

10:21:28 4 not a U.S. citizen at some point in the past, you have no

10:21:32 5 ability to confirm the authenticity of that information.

10:21:36 6 Is that your testimony?

10:21:38 7 A. Yes.

10:21:40 8 Q. Okay. Has the Secretary of State's Office ever

10:21:44 9 given you a list of information that constitutes evidence

10:21:46 10 of a lack of U.S. citizenship?

10:21:48 11 A. No, I don't believe so.

10:21:55 12 Q. What if you identify a registered voter who has

10:21:58 13 already satisfied the DPOC requirement -- and when I say

10:22:02 14 "DPOC requirement," I mean the documentary proof of

10:22:03 15 citizenship --

10:22:03 16 A. Proof of citizenship. I know what DPOC is.

10:22:05 17 Q. Right.

10:22:06 18 -- but still holds an F-type license, is that

10:22:09 19 information that the registered voter is not, in fact, a

10:22:13 20 U.S. citizen?

10:22:16 21 I'll strike this. I think you've already

10:22:17 22 answered this. You've already answered this.

10:22:19 23 A. Thank you, sir.

10:22:20 24 Q. What if you had -- of course. I'm not -- I'm not

10:22:24 25 here to ask it twice, to be duplicative.

10:22:27 1 What if you identify a registered voter who

10:22:29 2 is exempt from the DPOC requirement and has never shown

10:22:32 3 DPOC because they registered prior to when DPOC went into

10:22:37 4 effect, is the fact that they've never shown DPOC

10:22:41 5 information showing that they're not a U.S. citizen?

10:22:43 6 A. I don't know how to answer that question. I don't

10:22:45 7 know.

10:22:47 8 Q. But your office wouldn't draw a -- wouldn't draw

10:22:53 9 the conclusion that someone who was grandfathered into the

10:22:58 10 DPOC requirement -- they were exempt from the DPOC

10:23:01 11 requirement is per se suspect as a noncitizen?

10:23:08 12 A. We can go with that.

10:23:11 13 Q. I want to direct your attention to Exhibit 19,

10:23:19 14 which you pulled up, Petty Exhibit 19. If you scroll down

10:23:24 15 to -- this is top of page 5. This is in Subpart D, which

10:23:39 16 lists out a few of the databases your office would have to

10:23:43 17 consult.

10:23:52 18 You're at the top of page 5?

10:23:59 19 A. Starting with number 3, "The United States

10:24:01 20 Citizenship and Immigration" --

10:24:03 21 Q. Correct.

10:24:03 22 A. Okay.

10:24:04 23 Q. Correct. So under Number 5, it says -- and I'll

10:24:07 24 just read it -- "Any other state, city, town, county or

10:24:10 25 federal database and any other database relating to voter

10:24:14 1 registration to which the county recorder or officer in
10:24:16 2 charge of elections has access."
10:24:19 3 Do you have any idea what a database relating
10:24:21 4 to voter registration could be beyond the AVID system? Can
10:24:27 5 it be anything beyond the AVID system?
10:24:29 6 A. I don't know.
10:24:30 7 Q. Could it be a list of registered voters you
10:24:33 8 received from another Arizona agency?
10:24:36 9 A. I don't know.
10:24:38 10 MS. BOUGHTON: Form.
10:24:40 11 BY MR. SHERMAN:
10:24:40 12 Q. Could it be a list provided by a private group or
10:24:43 13 private citizen?
10:24:47 14 MR. LANGHOFER: Form. Calls for a legal
10:24:48 15 conclusion.
10:24:55 16 THE WITNESS: No.
10:24:56 17 BY MR. SHERMAN:
10:24:56 18 Q. You can -- you can answer.
10:24:56 19 A. No.
10:24:59 20 Q. Okay. Your response was "no"?
10:25:01 21 A. Correct.
10:25:02 22 Q. Okay. If we could just switch gears for one
10:25:08 23 moment to look at Exhibit G, also in the folder of
10:25:15 24 potential exhibits.
10:25:17 25 This is KEY -- Bates-stamped KEY 043. What

10:25:28 1 is this document?

10:25:30 2 A. This appears to be an email between a previous
10:25:34 3 recorder, Virginia Ross, and Jen Marson.

10:25:38 4 Q. And it appears to be authentic; yes?

10:25:42 5 MR. LANGHOFER: Form, foundation.

10:25:46 6 THE WITNESS: Sure. I don't know.

10:25:52 7 MR. SHERMAN: Can we mark this as Exhibit 93.

10:25:52 8 (The document was marked as Exhibit 93
10:25:52 9 for identification.)

10:25:59 10 BY MR. SHERMAN:

10:25:59 11 Q. And what's -- what's the substance of this email
10:26:02 12 exchange?

10:26:03 13 A. Question regards to an amendment change to HB 2617
10:26:13 14 if the amendment would change position.

10:26:16 15 Q. And do you recall HB 2617?

10:26:21 16 A. There's a lot of numbers in my world.

10:26:27 17 Q. Fair enough.

10:26:28 18 We could call this up, but do you recall that
10:26:36 19 Governor Ducey vetoed this bill prior to HB 2243 being
10:26:39 20 enacted?

10:26:40 21 A. I do not recall that.

10:26:42 22 Q. Okay. And I assume, then, you don't -- you don't
10:26:45 23 recall why Virginia Ross opposed HB 2617?

10:26:51 24 A. That would be BD, Before Dana. I do not know.

10:26:55 25 Q. Got it.

10:26:57 1 Were you -- you weren't in the office at that
10:27:00 2 time?

10:27:00 3 A. I was.

10:27:02 4 Q. But you weren't part of meetings about HB 2617?

10:27:06 5 A. I do not recall this.

10:27:08 6 Q. Okay. Fair enough.

10:27:10 7 If we could go back to -- actually, if we
10:27:14 8 could go to Exhibit -- Petty Exhibit 21, which we've
10:27:19 9 dropped in the Dropbox.

10:27:23 10 And you'll recognize this as HB -- the
10:27:25 11 chaptered version of the HB 2243?

10:27:28 12 A. You've just got to give me a second because now
10:27:31 13 I'm --

10:27:31 14 Q. Oh, yeah, yeah. I'll give you -- just let me know
10:27:35 15 when you're -- when you're there.

10:27:35 16 A. Okay.

10:27:46 17 Q. And if you could scroll up -- scroll down to the
10:27:48 18 top of page 4.

10:27:48 19 A. Page again, sir?

10:28:04 20 Q. Page 4 -- top of page 4. This is
10:28:09 21 Subsection 16-165(A)(10).

10:28:11 22 A. Proceed.

10:28:14 23 Q. So Subsection (A)(10) -- and I'll just read it for
10:28:14 24 the record.

10:28:17 25 It says, "When the county recorder obtains

10:28:20 1 information pursuant to this section and confirms that the
10:28:24 2 person registered is not a United States citizen."

10:28:28 3 Do you understand that phrase in HB 2243?

10:28:34 4 A. I'm not sure that we would be able to confirm. I
10:28:47 5 don't know.

10:28:50 6 Q. Down below in Subsections F through J -- I'll
10:28:58 7 stipulate for the record these were actually codified one
10:29:02 8 letter up, but here in the chaptered version it's F through
10:29:05 9 J. These are the database matching provisions in HB 2243;
10:29:16 10 correct?

10:29:16 11 MR. CAMERON: Objection; foundation. If you
10:29:20 12 know.

10:29:20 13 THE WITNESS: I don't know.

10:29:22 14 BY MR. SHERMAN:

10:29:23 15 Q. Do you want to take a second to review them?
10:29:24 16 It's --

10:29:24 17 A. Would you please? Because it's been a really long
10:29:28 18 time since we've been through any of these since we weren't
10:29:30 19 going to do anything with them. So to go back to this now
10:29:34 20 is -- you're going to have to give me a second to read
10:29:37 21 through this.

10:29:37 22 Q. Yeah. If you could just look through the bottom
10:29:40 23 of page 5, which is subsection -- Subpart F through J,
10:29:45 24 because I have a few questions on these. Thank you.

10:30:23 25 Just let me know when you're done with F

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through J.
A. Please proceed.
Q. Okay. Thank you.
Do you think the provision we read before on
obtaining information requires you to use these database
matching procedures to obtain information of
noncitizenship?
MR. LANGHOFER: Form. Calls for a legal
conclusion.
THE WITNESS: That's correct. I don't know
how to answer that, so I don't know.
BY MR. SHERMAN:
Q. Is it unclear?
A. It is unclear.
Q. Do you think that you're supposed to use these
database matching provisions in Subparts F through J in the
statute to confirm information that you obtained through
other means?
MR. LANGHOFER: Same objection.
THE WITNESS: That's leading, because I don't
have the ability to review other databases. I only have
the ability to review what is put into the AVID dashboard.
BY MR. SHERMAN:
Q. Assuming these laws were -- went into effect and
were implemented, would you understand the statute to be

10:31:46 1 requiring you to use Subparts F through J, those database
10:31:50 2 matching procedures, to confirm information of
10:31:54 3 noncitizenship that you would obtain through other sources,
10:31:58 4 other means?

10:32:00 5 MR. LANGHOFER: Same objection.

10:32:01 6 THE WITNESS: Well, I won't assume. But I
10:32:03 7 could say that, again, I don't have the ability to post
10:32:07 8 anything into the voter registration database. That is all
10:32:09 9 done by the Secretary of State's Office from their ability
10:32:12 10 from other databases, I believe.

10:32:18 11 BY MR. SHERMAN:

10:32:19 12 Q. Okay. Do -- do you understand that each of these
10:32:21 13 provisions in F through J would require your office to do a
10:32:25 14 monthly comparison of the voter registration database to
10:32:29 15 the enumerated databases in these provisions?

10:32:35 16 MR. LANGHOFER: Objection; foundation.

10:32:36 17 THE WITNESS: I -- I can't answer that
10:32:38 18 because you're asking me to say something that I wasn't
10:32:41 19 intending to do so . . .

10:32:44 20 BY MR. SHERMAN:

10:32:44 21 Q. Okay. Do you under -- in -- in Subparts G, H, and
10:32:49 22 J, they each begin with the phrase "To the extent
10:32:53 23 practicable." Do you understand what the Arizona
10:32:59 24 legislature meant by that phrase?

10:33:01 25 MR. CAMERON: Objection. Legal conclusion.

10:33:03 1 MR. LANGHOFER: Same objection.

10:33:04 2 THE WITNESS: How am I to assume what someone
10:33:07 3 else is trying to accomplish?

10:33:09 4 BY MR. SHERMAN:

10:33:09 5 Q. Would it be practicable to engage in a monthly
10:33:14 6 comparison of all of your county's voters against all of
10:33:18 7 the databases listed here?

10:33:20 8 MR. MORGAN: Form.

10:33:22 9 THE WITNESS: I can't answer that. I don't
10:33:24 10 know.

10:33:24 11 BY MR. SHERMAN:

10:33:30 12 Q. Would you struggle with that? Would your office
10:33:33 13 struggle with that?

10:33:34 14 MR. LANDHOFER: Relevance.

10:33:35 15 THE WITNESS: I don't know.

10:33:36 16 MR. MORGAN: Form.

10:33:37 17 BY MR. SHERMAN:

10:33:38 18 Q. Okay. So in Subpart H here, it says, "To the
10:33:42 19 extent practicable, each month the county recorder shall
10:33:46 20 compare persons who are registered to vote in that county
10:33:49 21 and who the county recorder has reason to believe are not
10:33:53 22 United States citizens . . . as prescribed" with -- "with
10:34:03 23 the Systematic Alien Verification For Entitlements program
10:34:06 24 maintained by the United States Citizenship and Immigration
10:34:09 25 Services to verify the citizenship status of the persons

10:34:14 1 registered."

10:34:15 2 What would give your office a reason to

10:34:16 3 believe a person is not a United States citizen?

10:34:22 4 A. The only ability we have right now is the HAVA

10:34:26 5 check.

10:34:27 6 Q. Right.

10:34:28 7 But going forward, if these laws were to be

10:34:32 8 implemented, what would give --

10:34:32 9 A. Again, I had no intention to implement 2492 or

10:34:36 10 2243. So to speak about what might happen in the future

10:34:41 11 seems neglectful on my part.

10:34:44 12 Q. Do you understand this phrase: "reason to believe

10:34:47 13 are not United States citizens"?

10:34:50 14 MR. LANGHOFER: Form. Calls for legal

10:34:51 15 conclusion.

10:34:51 16 THE WITNESS: I do not.

10:34:51 17 BY MR. SHERMAN:

10:34:51 18 Q. Okay. Is it unclear?

10:34:52 19 A. It is unclear.

10:34:54 20 Q. Has the Secretary of State's Office provided your

10:34:58 21 office with a list of what would give you and your staff a

10:35:01 22 valid reason to believe someone is not a United States

10:35:04 23 citizen?

10:35:04 24 A. No.

10:35:08 25 MR. SHERMAN: I'm going to ask the same

10:35:10 1 series of scenarios that I asked before.

10:35:12 2 Kory and Craig, do you want to enter the same
10:35:18 3 objection -- calls for a legal conclusion and form -- for
10:35:20 4 all of these 13 scenarios?

10:35:23 5 MR. LANGHOFER: Yes. Thanks, Jon.

10:35:24 6 MR. MORGAN: Yeah. Just let us know when
10:35:27 7 you're done so we know when to start objecting.

10:35:30 8 MR. SHERMAN: For sure.

10:35:31 9 BY MR. SHERMAN:

10:35:34 10 Q. Could anything beyond a government or voter
10:35:37 11 registration database give your office reason to believe
10:35:39 12 that someone is not a United States citizen?

10:35:45 13 A. I don't know.

10:35:48 14 Q. Could a phone call from the voter themselves
10:35:53 15 constitute reason to believe that that voter is not a
10:35:56 16 United States citizen?

10:35:57 17 A. No.

10:35:58 18 Q. Could an email from that voter in question
10:36:02 19 constitute a reason to believe that that voter is not a
10:36:06 20 United States citizen?

10:36:07 21 A. No.

10:36:07 22 Q. Could a signed letter from the voter give you
10:36:12 23 reason to believe that that voter is not a U.S. citizen?

10:36:15 24 A. Depends on the letter.

10:36:24 25 Q. How do you mean?

10:36:28 1 A. Well, anytime you're doing anything with voter
 10:36:31 2 registration, what -- signatures are required. So it
 10:36:33 3 depends on the format of the letter and if it meets current
 10:36:36 4 statutes in 6166. So as far as your question, I would say
 10:36:45 5 no.

10:36:47 6 Q. Okay. Is it possible that a signed formal letter
 10:36:54 7 from the voter in question could give you reason to believe
 10:36:57 8 that they're not a U.S. citizen if they're saying, "I'm not
 10:37:00 9 a U.S. citizen," in that letter?

10:37:04 10 A. I don't know.

10:37:06 11 Q. Okay.

10:37:06 12 A. I would defer --

10:37:06 13 Q. Okay. It's --

10:37:06 14 THE COURT REPORTER: I'm sorry. What was the
 10:37:06 15 end of that?

10:37:07 16 THE WITNESS: I would defer to my counsel on
 10:37:12 17 that.

10:37:13 18 BY MR. SHERMAN:

10:37:13 19 Q. Is it unclear?

10:37:16 20 A. It is unclear.

10:37:18 21 Q. How about a phone call from a member of the
 10:37:22 22 voter's family --

10:37:22 23 A. No.

10:37:22 24 Q. -- would that give you reason to believe --

10:37:25 25 Okay. How about a letter from a -- a

10:37:26 1 neighbor of the voter?

10:37:27 2 A. No.

10:37:28 3 Q. Would a phone call from law enforcement in Arizona

10:37:32 4 give your office reason to believe that someone's not a

10:37:35 5 U.S. citizen?

10:37:36 6 A. No.

10:37:37 7 Q. Would a phone call from law enforcement in another

10:37:40 8 state?

10:37:42 9 A. No.

10:37:43 10 Q. Would an email or letter from law enforcement in

10:37:46 11 Arizona give your office reason to believe that a

10:37:49 12 registered voter is not a U.S. citizen?

10:37:50 13 A. No.

10:37:51 14 Q. Would any email or letter from law enforcement in

10:37:55 15 another state?

10:37:57 16 A. No.

10:37:59 17 Q. How about an anonymous call?

10:38:01 18 A. No.

10:38:02 19 Q. An anonymous email?

10:38:04 20 A. No.

10:38:07 21 Q. What about lists provided by third-party

10:38:09 22 organizations like True the Vote, would that give your

10:38:12 23 office reason to believe that a registered voter was not a

10:38:15 24 U.S. citizen?

10:38:15 25 A. No.

10:38:16 1 Q. What if the registered voter transposed the first
10:38:20 2 and last name on the registration application so that their
10:38:23 3 first name was in the last-name field and the last name was
10:38:26 4 in the first-name field, would that give your office reason
10:38:29 5 to believe that they were not a U.S. citizen?

10:38:30 6 A. No.

10:38:32 7 Q. What if the registered voter recorded a foreign
10:38:35 8 place of birth on their form?

10:38:40 9 A. No.

10:38:42 10 Q. What if you identify a registered voter who has
10:38:48 11 already satisfied the DPOC requirement but still holds an
10:38:49 12 F-type license in the MVD database, is that reason to
10:38:53 13 believe they're not in fact a U.S. citizen?

10:38:56 14 A. No.

10:38:57 15 Q. And registered voters who are exempt from the DPOC
10:39:03 16 requirement because they registered before it took effect,
10:39:06 17 would that failure to show DPOC under this exemption give
10:39:10 18 your office a reason to believe they are not U.S. citizens?

10:39:20 19 A. I don't know the answer to that.

10:39:23 20 Q. It's unclear?

10:39:25 21 A. Yes.

10:39:26 22 Q. Okay.

10:39:29 23 MR. SHERMAN: Okay. That -- that should
10:39:30 24 conclude the end of our stipulated global objections, so
10:39:33 25 back to normal now.

10:39:36 1 BY MR. SHERMAN:

10:39:37 2 Q. Has the Secretary of State's Office provided your

10:39:40 3 office with a list of what will not give you or your staff

10:39:43 4 a valid reason to believe someone is not a U.S. citizen?

10:39:47 5 A. No.

10:39:49 6 Q. Thank you, Ms. Lewis.

10:39:51 7 If we could go back just to Exhibit 19 for

10:39:56 8 one minute. This is, again, HB 2492, for the record.

10:40:11 9 If you could scroll down to 16-143. This is

10:40:21 10 on page -- page 7.

10:40:27 11 A. Okay.

10:40:28 12 Q. Section -- you've got it already? Oh, great.

10:40:33 13 If you want to take a second just to refresh

10:40:36 14 your memory on what this section says, particularly in

10:40:38 15 Subpart A of 16-143.

10:40:58 16 And the list of registered voters that's

10:41:01 17 described in Subpart A, you didn't provide this list on or

10:41:05 18 before October 31st of 2022, did you?

10:41:09 19 A. You cut out as you were asking that question, sir.

10:41:09 20 Q. Oh.

10:41:13 21 A. Please repeat it.

10:41:13 22 Q. I apologize. I apologize.

10:41:14 23 Did you provide the list of registered voters

10:41:19 24 described in Subpart A on or before October 31st, 2022?

10:41:23 25 A. No.

10:41:24 1 Q. Okay. Because the deadlines of October 31st,
10:41:30 2 2022, and March 31st, 2023, noted in this provision have
10:41:34 3 come and gone, is your office no longer required by this
10:41:38 4 provision to submit to the attorney general a list of
10:41:40 5 registered voters who have not shown satisfactory DPOC?
10:41:45 6 MR. LANGHOFER: Objection.
10:41:47 7 MS. BOUGHTON: Calls for a legal conclusion.
10:41:51 8 MR. LANGHOFER: If you know.
10:41:51 9 THE WITNESS: I don't know.
10:41:52 10 BY MR. SHERMAN:
10:41:53 11 Q. Is it unclear?
10:41:54 12 A. It is unclear.
10:41:55 13 Q. Okay. Thank you, Ms. Lewis.
10:42:01 14 I'm -- go back now. I'm going to ask you
10:42:02 15 about each of the databases that these laws require --
10:42:05 16 would require your office to consult, starting with ADOT's
10:42:11 17 MVD driver license or nonoperating ID li- -- databases.
10:42:16 18 A. Where are we at now?
10:42:18 19 Q. Oh, we're not on any document. I was just --
10:42:20 20 A. Okay.
10:42:21 21 Q. And I don't have many documents left. I
10:42:26 22 appreciate it.
10:42:27 23 Currently, how do you use the MVD databases?
10:42:35 24 A. We don't use the MVD database.
10:42:41 25 Q. You perform HAVA checks, though; right?

10:42:44 1 A. We do, but that's built into our AVID system.

10:42:48 2 Q. Okay. And the HAVA check built into the AVID
10:42:50 3 system interfaces with the MVD driver license or ID
10:42:54 4 databases for purposes of identity and U.S. citizenship
10:42:58 5 verification; is that right?

10:43:01 6 A. I believe that's an accurate statement.

10:43:02 7 Q. Okay. Do you know what the user sees on screen
10:43:05 8 when they perform a HAVA check? Do you know what it --
10:43:08 9 what -- how it appears to them when they run the HAVA
10:43:11 10 check?

10:43:12 11 A. It's been a while since I've had to personally
10:43:16 12 accomplish this task, but yes.

10:43:18 13 Q. What does it show you if the person is a U.S.
10:43:22 14 citizen -- confirmed as a U.S. citizen?

10:43:28 15 A. It just gives us a checkmark, I believe. I want
10:43:32 16 to say I don't know because it has been that long since
10:43:35 17 I've --

10:43:35 18 Q. Fair enough.

10:43:35 19 A. -- actually administered that -- that part.

10:43:40 20 Q. Fair enough.

10:43:41 21 If you -- if you're not able to verify the
10:43:44 22 person as a U.S. citizen using the HAVA check, what do you
10:43:49 23 do at that point?

10:43:52 24 A. I don't know.

10:43:55 25 Q. I think we talked about this before; right?

10:43:58 1 Do you send them a notice letter?

10:44:00 2 A. We do.

10:44:02 3 Q. Okay. Can I direct you --

10:44:03 4 A. I had to think back to what the next proc- -- part

10:44:05 5 of that process is, and that is exactly what happens.

10:44:09 6 Q. Could I direct you to Exhibit I. This is PINAL 3.

10:44:15 7 It's just Bates-stamped 000003.

10:44:19 8 A. One moment as I toggle.

10:44:22 9 Q. Of course.

10:44:27 10 A. Did you say "I"?

10:44:29 11 Q. Exhibit I, yes.

10:44:36 12 A. Yes, sir, I recognize this form.

10:44:38 13 Q. What -- what is this form?

10:44:41 14 A. This would be the one that we were just previously

10:44:43 15 discussing.

10:44:45 16 Q. Could you -- could you just give a bit more

10:44:48 17 description as to what it -- what it is?

10:44:52 18 A. When there is -- when it comes up with a HAVA

10:44:54 19 check that it cannot be matched, this is the letter that is

10:44:57 20 then submitted to the registrant.

10:45:01 21 MR. SHERMAN: Could we mark this as, I

10:45:02 22 believe, Exhibit 93.

10:45:02 23 THE COURT REPORTER: 94.

10:45:04 24 MR. SHERMAN: Do I have that correct?

10:45:04 25 THE COURT REPORTER: 94.

10:45:07 1 MR. SHERMAN: 94. My apologies.

10:45:07 2 (The document was marked as Exhibit 94

10:45:20 3 for identification.)

10:45:20 4 BY MR. SHERMAN:

10:45:20 5 Q. How often do you encounter folks with F-type
10:45:24 6 licenses in the MVD database?

10:45:27 7 A. I don't know.

10:45:30 8 Q. Okay. Do you know how often your office receives
10:45:34 9 DPOC, confirming that that person has subsequently
10:45:38 10 naturalized?

10:45:40 11 A. Can you please repeat the question?

10:45:42 12 Q. Sure.

10:45:43 13 So for a person -- a voter registration
10:45:47 14 applicant who -- whose HAVA check shows that they had an
10:45:52 15 F-type license at some point and still has an F-type
10:45:54 16 license in the system, do you know how many of those folks
10:45:56 17 later submit DPOC, completing their registration and
10:46:02 18 becoming full-ballot voters?

10:46:04 19 A. I do not know and cannot give you numbers on that.

10:46:06 20 Q. Okay. Is there any effect if the driver's license
10:46:11 21 or ID is expired? Does that have any effect on the
10:46:15 22 process?

10:46:17 23 A. I don't know.

10:46:18 24 Q. What do you do if there's no match whatsoever in
10:46:22 25 the HAVA check? Do they also get a notice letter like

10:46:26 1 this?

10:46:27 2 A. Yes.

10:46:28 3 Q. So even if you can't identify the person

10:46:31 4 whatsoever, they get a notice letter like this?

10:46:33 5 A. That is correct.

10:46:35 6 Q. Okay. There's not a separate notice letter for

10:46:38 7 that scenario?

10:46:43 8 A. I don't believe so.

10:46:44 9 Q. Okay.

10:46:45 10 A. This covers everything.

10:46:47 11 Q. Got it.

10:46:51 12 Down below where -- under "Documentary Proof

10:46:55 13 of Citizenship Form," do you see where it lists as one of

10:46:59 14 the options "Legible Copy of Naturalization or Citizenship

10:47:03 15 Certificate or Certificate number"?

10:47:08 16 A. I don't know -- when you read in, I lose some of

10:47:11 17 your words.

10:47:12 18 Can you say that again?

10:47:12 19 Q. Sorry.

10:47:13 20 In Exhibit I -- excuse me -- Exhibit 94,

10:47:17 21 which we've been talking about, the notice letter that you

10:47:21 22 sent out after the unverified HAVA check, do you see down

10:47:25 23 below under "Acceptable Documentary Proof of Citizenship"

10:47:28 24 where it says, "Legible Copy of Naturalization or

10:47:32 25 Citizenship Certificate or Certificate number"?

10:47:35 1 A. Yes, sir.

10:47:36 2 Q. What do you do with the -- is this calling for an

10:47:42 3 alien registration number or a naturalization certificate

10:47:46 4 number or both?

10:47:50 5 A. I don't know. I know we can use natural- -- I

10:47:59 6 don't know.

10:48:00 7 Q. So for nat- -- what do you do with naturalization

10:48:03 8 certificate numbers?

10:48:05 9 A. It goes in -- is it Box 19 of the form?

10:48:10 10 Q. Leaving -- leaving aside the state -- leaving

10:48:12 11 aside the state voter registration form for a second, what

10:48:15 12 do you -- what do you do when someone puts down their

10:48:17 13 naturalization certificate number on this notice letter and

10:48:20 14 returns it to your office?

10:48:25 15 A. We update it.

10:48:28 16 Q. Update -- update what?

10:48:30 17 A. AVID.

10:48:32 18 Q. You put the naturalization certificate number into

10:48:35 19 AVID?

10:48:35 20 A. Yes.

10:48:36 21 Q. Do you do anything else with the naturalization

10:48:38 22 certificate number?

10:48:39 23 A. I don't know.

10:48:41 24 Q. So does a naturalization certificate number

10:48:48 25 constitute valid DPOC?

10:48:59 1 A. Yes.

10:48:59 2 Q. Did your counsel give you the answer to that one?

10:49:05 3 A. No. Actually, I don't even know what he's
10:49:07 4 writing.

10:49:07 5 Q. Okay. The -- so what -- do you -- do you accept
10:49:16 6 that -- does the naturalization certificate number just on
10:49:19 7 its own constitute DPOC, or do you have to verify it in
10:49:22 8 some way?

10:49:26 9 A. There's a process that occurs that I cannot speak
10:49:29 10 through effectively because I don't do that process on a
10:49:32 11 daily basis.

10:49:34 12 Q. Who -- who does that process for your office?

10:49:37 13 A. Staff.

10:49:42 14 Q. Who in particular? Could you give us a name?

10:49:46 15 Just because this is a 30(b)(6) deposition,
10:49:48 16 we were expecting that someone -- the designees would be
10:49:51 17 able to testify to this process.

10:49:59 18 A. My registrars.

10:50:04 19 Q. Okay. So all -- all of the registrars engaged in
10:50:05 20 this -- in this process?

10:50:06 21 A. Yes.

10:50:08 22 Q. Okay. And all of your registrars have access to
10:50:14 23 USCIS's SAVE system?

10:50:14 24 A. No.

10:50:15 25 Q. Who -- who in your office has access to USCIS's

10:50:21 1 SAVE system?

10:50:24 2 A. Nicole Gillespie, Holly Robinson, and I'm sure a
10:50:38 3 few other staff that I -- I don't know exactly who all has
10:50:41 4 access to that.

10:50:43 5 Q. Okay. But you -- but you don't have access to the
10:50:45 6 USCIS SAVE system?

10:50:48 7 A. No.

10:50:49 8 Q. Okay. And you've not actually engaged in the SAVE
10:50:56 9 system verification process?

10:50:56 10 A. I have not.

10:50:57 11 MR. SHERMAN: Okay. We'll just note that for
10:51:03 12 the record as something that was relevant to the 30(b)(6)
10:51:07 13 deposition topics but the designee can't speak to. But
10:51:11 14 we'll move on.

10:51:11 15 BY MR. SHERMAN:

10:51:13 16 Q. Does your existing agreement --

10:51:13 17 MR. MORGAN: Jon, which topic? Which topic?

10:51:17 18 MR. SHERMAN: At least Topic 1 on
10:51:20 19 interpretation and implementation of HB 2492 and 2243 but
10:51:28 20 likely others, but I don't have it in front of me at the
10:51:31 21 moment.

10:51:31 22 BY MR. SHERMAN:

10:51:31 23 Q. Does your existing agreement with ADOT's Motor
10:51:37 24 Vehicle Division cover the uses outlined in HB 2492 and HB
10:51:40 25 2243?

10:51:41 1 A. Say it one more time, please, sir.

10:51:43 2 Q. Does -- does your existing agreement with the MVD
10:51:47 3 cover the uses outlined in HB 2492 and HB 2243?

10:51:54 4 A. Can you rephrase?

10:51:56 5 Q. Sure.

10:51:58 6 Do you -- do you have an agreement with MVD
10:52:01 7 to use their data for purposes of HAVA checks?

10:52:05 8 A. I do not.

10:52:05 9 Q. I mean your office. When you're testifying,
10:52:08 10 you're testifying on behalf of your office?

10:52:10 11 A. Right. But our office doesn't. It goes through
10:52:12 12 the AVID system --

10:52:13 13 Q. Okay.

10:52:14 14 A. -- and the Secretary of State's Office.

10:52:17 15 Q. And do you know whether that agreement between the
10:52:19 16 Secretary of State's Office and MVD covers the uses
10:52:23 17 outlined in HB 2492 and HB 2243?

10:52:26 18 A. I do not.

10:52:29 19 MR. MORGAN: Form.

10:52:30 20 BY MR. SHERMAN:

10:52:30 21 Q. Has your office encountered instances where a
10:52:33 22 voter registration applicant who is a United States citizen
10:52:36 23 was flagged erroneously as a noncitizen by way of a
10:52:42 24 search -- by way of a HAVA check?

10:52:43 25 A. I do not know.

10:52:44 1 Q. Okay. Do you recall an incident from last year
10:52:48 2 where database matching produced erroneous results and
10:52:52 3 caused the downgrading of thousands of voters to
10:52:56 4 federal-only voting status?

10:52:59 5 A. Say that one more time.

10:53:01 6 Q. Do you recall an incident from last year where
10:53:05 7 database matching produced errors and caused the
10:53:09 8 downgrading of thousands of voters to federal-only voting
10:53:13 9 status?

10:53:13 10 A. I do recall that.

10:53:15 11 Q. What happened?

10:53:17 12 A. There was a systematic issue with the --

10:53:25 13 Q. Sorry. Could you just -- could you just repeat
10:53:27 14 your answer? Someone wasn't on mute.

10:53:30 15 A. Oh. The question was about -- repeat it.

10:53:36 16 Q. Sure.
10:53:38 17 What happened in that incident we were just
10:53:40 18 talking about?

10:53:43 19 A. Are we talking about the incident where this was a
10:53:45 20 systematic error with the AVID system that downgraded --
10:53:48 21 downgraded people to fed-only ballots?

10:53:51 22 Q. That's correct.

10:53:53 23 A. We were notified by the Secretary of State's
10:53:55 24 Office that this situation had occurred. We were given
10:53:59 25 direction as to how to proceed and contacted the voters,

10:54:06 1 canceled ballots that were erroneously issued, and then
10:54:11 2 reissued a correct ballot.
10:54:13 3 Q. And how many voters in your county did this
10:54:16 4 affect?
10:54:17 5 A. I do not remember.
10:54:19 6 Q. Do you know how many voters statewide it affected?
10:54:24 7 A. I do not remember.
10:54:26 8 Q. Can we take a look quickly at Exhibit K. This is
10:54:34 9 marked -- Bates-stamped AZSOS-239148.
10:54:44 10 A. Yes.
10:54:44 11 Q. Do you recognize this document?
10:54:47 12 A. I do.
10:54:49 13 Q. And this was sent to you; right? You're in
10:54:53 14 the "to" line?
10:54:54 15 A. That's me.
10:54:55 16 Q. Great. Thank you.
10:54:57 17 MR. SHERMAN: And could we mark this as
10:55:00 18 Exhibit 95.
10:55:00 19 (The document was marked as Exhibit 95
10:55:03 20 for identification.)
10:55:03 21 BY MR. SHERMAN:
10:55:04 22 Q. Do you want to take a minute just to refresh your
10:55:08 23 memory, and particularly paragraph 3, which has some data?
10:55:10 24 A. Which would say that our county had 27 records
10:55:13 25 that returned a hard match, and 230 separate records might

10:55:19 1 be a soft match, out of which 19 received an early ballot

10:55:24 2 associated with them.

10:55:27 3 Q. Could you just say in layman's terms what all of

10:55:31 4 that means?

10:55:33 5 A. That about 237 people were potentially put into a

10:55:39 6 fed status that should not have been, so we had to reach

10:55:41 7 out to those voters. We had to cancel the incorrect ballot

10:55:47 8 style and then reissue ballots.

10:55:49 9 Q. Do you -- do you understand on a technical level

10:55:52 10 how this happened?

10:55:54 11 A. I do not understand the intricacies of the

10:56:01 12 development of their database system, no, sir.

10:56:03 13 Q. In light of this incident, what does this say to

10:56:08 14 you about the reliability of using database matching to

10:56:10 15 assess a person's current U.S. citizenship status?

10:56:14 16 MR. MORGAN: Form.

10:56:15 17 MR. LANGHOFER: Join.

10:56:19 18 THE WITNESS: I don't have an opinion.

10:56:21 19 BY MR. SHERMAN:

10:56:29 20 Q. Almost 250 voters in your county were affected by

10:56:33 21 this incident and almost lost their ability to vote in

10:56:37 22 state and local elections.

10:56:40 23 Would you say that that gives you pause about

10:56:43 24 using the MVD database and the HAVA check system as a

10:56:48 25 reliable indicator of current U.S. citizenship status?

10:56:52 1
10:56:54 2
10:56:55 3
10:56:56 4
10:56:58 5
10:57:04 6
10:57:07 7
10:57:10 8
10:57:15 9
10:57:17 10
10:57:21 11
10:57:24 12
10:57:28 13
10:57:31 14
10:57:35 15
10:57:37 16
10:57:37 17
10:57:39 18
10:57:39 19
10:57:40 20
10:57:42 21
10:57:44 22
10:57:55 23
10:57:56 24
10:57:58 25

A. I would not concur with that statement.

MR. LANGHOFER: Form and foundation.

BY MR. SHERMAN:

Q. Would you say that it makes you question the reliability of using these databases to conclusively determine whether they -- these registered voters have previously shown DPOC?

MR. LANGHOFER: Asked and answered. Form.

THE WITNESS: I don't know.

BY MR. SHERMAN:

Q. Is it possible that if people could be erroneously identified as not having shown DPOC and shortly before an election, that they could be erroneously identified as noncitizens under the laws challenged in this lawsuit?

MR. LANGHOFER: Form.

MS. BOUGHTON: Form.

MR. MORGAN: Form and foundation.

THE WITNESS: I don't know.

BY MR. SHERMAN:

Q. Is it possible?

MR. LANGHOFER: Same objection.

MR. MORGAN: Foundation.

BY MR. SHERMAN:

Q. This incident occurred shortly before the November election last year; correct?

10:58:00 1 A. It occurred during early voting, that is correct.

10:58:02 2 Q. Okay. What does your office do -- strike that.

10:58:08 3 Can you use MVD databases to confirm that a
10:58:20 4 registered voter is not a U.S. citizen?

10:58:23 5 MR. LANGHOFER: Foundation.

10:58:25 6 THE WITNESS: I don't have the ability to use
10:58:26 7 the MVD database. We have the access to the AVID system.

10:58:31 8 BY MR. SHERMAN:

10:58:31 9 Q. Right. Can you -- can you use -- so I'll rephrase
10:58:34 10 it.

10:58:34 11 Can you use HAVA checks to confirm that
10:58:38 12 someone is not a United States citizen?

10:58:39 13 A. We do perform HAVA checks.

10:58:41 14 Q. Can you use HAVA checks to confirm they are not a
10:58:45 15 United States citizen?

10:58:46 16 A. I don't know.

10:58:47 17 Q. You have a process -- right? -- where you send out
10:58:50 18 a notice letter that we were discussing before; right?

10:58:53 19 So --

10:58:53 20 A. Yes, sir.

10:58:53 21 Q. -- you have to follow up with the voter if they
10:58:57 22 have some indication in the MVD system that they're not a
10:59:00 23 U.S. citizen and that they were not a U.S. citizen in the
10:59:03 24 past. Doesn't that mean that you can't use HAVA checks to
10:59:07 25 conclusively determine that someone is not a U.S. citizen

10:59:10 1 in the present day?

10:59:13 2 A. That is --

10:59:14 3 MS. BOUGHTON: Form.

10:59:15 4 BY MR. SHERMAN:

10:59:15 5 Q. What was -- what was the answer?

10:59:17 6 A. Would you please ask the question again?

10:59:20 7 Q. Sure.

10:59:22 8 Because you have a process to follow up with
10:59:24 9 the voter after the HAVA check indicates that they were not
10:59:29 10 a U.S. citizen at some point in the past, doesn't that mean
10:59:32 11 that you can't use HAVA checks to establish conclusively
10:59:37 12 that the person is not a U.S. United States citizen
10:59:40 13 currently?

10:59:40 14 MR. LANGHOFER: Form.

10:59:42 15 MR. MORGAN: Form, foundation.

10:59:44 16 MS. BOUGHTON: Form.

10:59:50 17 BY MR. SHERMAN:

10:59:50 18 Q. I'll withdraw the question. We can move on.

10:59:52 19 A. I was going to say I don't think I believe I
10:59:54 20 understand the question to be able to answer effectively.

10:59:57 21 Q. That's okay. I think we've covered it already.

11:00:00 22 In terms of resources, access, and training,
11:00:03 23 is it practicable for your office to use MVD driver license
11:00:08 24 or state ID databases for citizenship verification?

11:00:12 25 A. We use AVID.

11:00:14 1 MR. MORGAN: Form.

11:00:15 2 BY MR. SHERMAN:

11:00:16 3 Q. I'm sorry. I didn't hear the response.

11:00:17 4 A. We use AVID.

11:00:20 5 Q. Okay. In terms of resources, access, and
11:00:24 6 training, is it practicable for your office to run HAVA
11:00:28 7 checks every month on all of your county's voters?

11:00:31 8 MR. LANGHOFER: Form.

11:00:37 9 THE WITNESS: You're asking if we do it
11:00:38 10 monthly. We do it every time we do a voter registration.

11:00:42 11 BY MR. SHERMAN:

11:00:42 12 Q. Right.

11:00:42 13 So under -- under HB 2243, you'd be forced to
11:00:47 14 compare all of your county's registered voters to MVD
11:00:52 15 databases on a monthly basis. Is it practicable for your
11:00:55 16 office to do that?

11:00:56 17 A. I don't know.

11:00:58 18 Q. Okay. Have you had any discussions with your
11:01:04 19 staff about whether it would be practicable to do that?

11:01:06 20 A. No.

11:01:07 21 Q. HB 2492 instructs your office to use -- quote,
11:01:17 22 "Use all available resources to perform these MVD database
11:01:22 23 searches." Is that possible?

11:01:24 24 MR. LANGHOFER: Form.

11:01:26 25 THE WITNESS: I cannot speak to that because

11:01:29 1 we have not had the intention to implement any part of 2492
11:01:32 2 or 2243 so . . .

11:01:36 3 BY MR. SHERMAN:

11:01:36 4 Q. Fair enough.

11:01:37 5 Has your office ever been given a specific
11:01:40 6 list of means by which a voter registration applicant can
11:01:44 7 be deemed or proven a noncitizen?

11:01:47 8 A. I don't know.

11:01:49 9 Q. Has your office ever been given a specific list of
11:01:52 10 means by which a currently registered Arizona voter can be
11:01:56 11 deemed or proven a noncitizen?

11:01:58 12 A. No.

11:02:00 13 Q. Do you know what the SAVE system is?

11:02:05 14 I know we were talking about it before. Do
11:02:07 15 you know what it is?

11:02:10 16 A. I know it's something that exists.

11:02:16 17 Q. And you know it's something that your staff is
11:02:18 18 using?

11:02:19 19 A. That is correct.

11:02:20 20 Q. And do you know what they're using it for?

11:02:23 21 A. Yes.

11:02:33 22 Q. What are they using it for?

11:02:36 23 A. I thought a "yes" was going to be good enough.
11:02:42 24 They use it when they have to identify alien registration
11:02:46 25 numbers.

11:02:49 1 Q. And can they also use the naturalization
11:02:53 2 certificate number?
11:02:55 3 A. I don't know.
11:02:58 4 Q. The form we were looking at before called for a
11:03:04 5 naturalization certificate number, didn't it?
11:03:05 6 A. Yes it did, sir.
11:03:07 7 Q. Okay. Did -- did the form we were looking at
11:03:09 8 before, Exhibit 94 -- did it -- it's Exhibit I or
11:03:17 9 Exhibit 94 -- did it call for alien registration numbers?
11:03:21 10 A. Ask the question one more time.
11:03:43 11 Q. Does this form -- this notice letter, does it ask
11:03:46 12 the voter registration applicant for an alien registration
11:03:50 13 number?
11:03:54 14 A. No.
11:03:56 15 Q. Does your office know that a certificate of
11:04:01 16 naturalization number is different from an alien
11:04:04 17 registration number?
11:04:07 18 A. Yes.
11:04:09 19 Q. If you searched both an alien registration number
11:04:13 20 and a naturalization certificate number, do you know
11:04:16 21 anything about whether that increases the accuracy or
11:04:20 22 likelihood of a match in the SAVE system?
11:04:23 23 A. I don't know.
11:04:24 24 Q. Okay. Do you have -- how common is it for someone
11:04:33 25 to put down an alien registration number or a

11:04:36 1 naturalization certificate number on the Arizona voter
11:04:40 2 registration form?

11:04:40 3 A. I can't answer that.

11:04:42 4 MR. MORGAN: Foundation.

11:04:44 5 BY MR. SHERMAN:

11:04:46 6 Q. Okay. But there's a field on the Arizona voter
11:04:49 7 registration form for an alien registration number or
11:04:51 8 naturalization certificate number; correct?

11:04:53 9 A. Yes.

11:04:54 10 Q. Okay.

11:04:55 11 A. But you asked me --

11:04:57 12 Q. You just don't have --

11:04:58 13 A. Well, but you asked me to quantify that, and I
11:05:00 14 can't.

11:05:00 15 Q. Okay. Just wanted to clarify. I understand.

11:05:03 16 Could we look at what is marked as Exhibit L
11:05:12 17 in the folder.

11:05:22 18 Just let me know when you have it up.

11:05:26 19 A. Proceed.

11:05:27 20 Q. What is this document?

11:05:31 21 A. It appears to be an email from Leslie Hoffman to
11:05:38 22 Jen Marson.

11:05:39 23 Q. And those are both staff members in the Yavapai
11:05:45 24 County Recorder's Office?

11:05:45 25 A. That is not correct, sir.

11:05:48 1 Q. Who are they?

11:05:51 2 A. Leslie Hoffman was the previous recorder for
11:05:54 3 Yavapai, and Jen Marson works for HO. And I don't know who
11:05:54 4 Mike Gordon is.

11:05:54 5 MR. SHERMAN: Okay. Thank you.

11:06:03 6 Could we mark this email as Exhibit 96.

11:06:03 7 (The document was marked as Exhibit 96
11:06:10 8 for identification.)

11:06:10 9 BY MR. SHERMAN:

11:06:11 10 Q. Could you take a look at the fourth bullet down.

11:06:18 11 The fourth bullet down in this email reads,
11:06:20 12 "When we check alien registration numbers for
11:06:22 13 naturalization through DHS, we supply the number to check
11:06:26 14 against their database. They don't just provide their
11:06:29 15 whole database to us and I highly doubt that they would."
11:06:32 16 Do you have any way to speak to the veracity
11:06:36 17 or accuracy of this claim?

11:06:38 18 A. I'm not going to speak to somebody else's
11:06:40 19 statement, no.

11:06:41 20 Q. Okay. But you don't have access to the entire
11:06:44 21 contents of the SAVE system that USCIS administers; right?

11:06:49 22 A. I don't believe so.

11:06:50 23 Q. Okay. You -- all you can do is just -- if you
11:06:55 24 have an alien registration number, your office can query
11:06:58 25 that in the USCIS SAVE system; right?

11:07:02 1 A. That is correct.

11:07:02 2 Q. Do you have alien registration numbers for all
11:07:06 3 registered voters in Pima County?

11:07:10 4 A. I don't have anything in Pima County.

11:07:12 5 Q. Oh, I'm sorry. My bad. We're doing a lot of
11:07:17 6 these depositions. That is one edit that did not make it.
11:07:20 7 I will ask the question again.

11:07:21 8 Do you have alien registration numbers for
11:07:23 9 all registered voters in Pinal County?

11:07:26 10 A. That would be no.

11:07:28 11 Q. Do you have naturalization certificate numbers for
11:07:31 12 all registered voters in Pinal County?

11:07:34 13 A. No.

11:07:35 14 Q. Does the existing agreement with US -- do you
11:07:40 15 have an agreement directly with USCIS?

11:07:47 16 A. I don't believe so. I believe that we work with
11:07:50 17 the Secretary of State on that.

11:07:52 18 Q. Does the agreement between the USCIS and the
11:07:57 19 Arizona Secretary of State's Office cover the uses of the
11:08:01 20 SAVE system outlined in HB 2492 and HB 2243?

11:08:05 21 MR. MORGAN: Form, foundation.

11:08:07 22 THE WITNESS: I don't know.

11:08:09 23 BY MR. SHERMAN:

11:08:11 24 Q. Okay. Do you know if it's feasible to use the
11:08:13 25 SAVE system to determine a voter registration applicant's

11:08:17 1 current U.S. citizenship status?

11:08:19 2 A. I don't know.

11:08:20 3 Q. Same answer for registered voters' current U.S.

11:08:26 4 citizenship status?

11:08:26 5 A. Yes.

11:08:26 6 MR. MORGAN: Form.

11:08:29 7 BY MR. SHERMAN:

11:08:30 8 Q. Is it feasible to use the SAVE system to

11:08:33 9 conclusively determine a lack of U.S. citizenship?

11:08:38 10 A. I don't know.

11:08:42 11 Q. Can the SAVE system be used to confirm that a

11:08:44 12 registered voter is not a U.S. citizen?

11:08:48 13 A. I don't know.

11:08:48 14 Q. What does your office do if the SAVE system search

11:08:52 15 returns no match?

11:08:56 16 A. We would send them a letter.

11:09:02 17 Q. Okay. Do you engage in any follow-up process with

11:09:08 18 USCIS?

11:09:11 19 A. I don't know.

11:09:13 20 Q. Has your office ever engaged in an alternative

11:09:17 21 verification process with USCIS?

11:09:21 22 A. Repeat the question.

11:09:22 23 Q. Has -- surely.

11:09:24 24 Has your office ever engaged in an

11:09:27 25 alternative verification process with USCIS when you either

11:09:31 1 can't match someone or they are returned -- the information

11:09:37 2 shows that they're not a citizen?

11:09:40 3 A. No.

11:09:43 4 Q. Okay. Do you know if the memorandum of agreement

11:09:47 5 between the Arizona Secretary of State's Office and USCIS

11:09:52 6 requires county recorders to engage in an alternative

11:09:57 7 verification process?

11:09:59 8 MR. LANGHOFER: Form.

11:10:00 9 THE WITNESS: I don't know.

11:10:03 10 MR. LANGHOFER: Calls for a legal conclusion.

11:10:03 11 BY MR. SHERMAN:

11:10:04 12 Q. Could I have you look at --

11:10:10 13 THE COURT REPORTER: I'm sorry. If you could

11:10:10 14 just pause, Ms. Lewis, so I can hear the objections, that

11:10:11 15 would be great.

11:10:11 16 THE WITNESS: Apologies.

11:10:14 17 BY MR. SHERMAN:

11:10:15 18 Q. Could I have you look at Exhibit J in the folder.

11:10:27 19 The main thing I want to ask you about is the first email

11:10:30 20 in this series, which is, of course, sequential -- the

11:10:32 21 sequentially first email, which is at the bottom of page 2.

11:10:35 22 But if you could just take a look at the

11:10:37 23 chain and tell me what this document appears to be.

11:10:45 24 A. It appears to be an email between Kevin Fisher and

11:10:56 25 Janine Petty.

11:10:58 1 Q. And what is the subject matter of this?
11:11:04 2 Generally, what's the subject matter of this email chain?
11:11:08 3 A. "SAVE case response corrections."
11:11:13 4 MR. SHERMAN: Could we mark this as
11:11:15 5 Exhibit 97.
11:11:15 6 (The document was marked as Exhibit 97
11:11:19 7 for identification.)
11:11:19 8 BY MR. SHERMAN:
11:11:20 9 Q. If you could read through the chain -- scan
11:11:23 10 through the chain. But the main thing I'd ask you to read
11:11:26 11 is the bottom of this chain that was written by Kevin
11:11:29 12 Fisher at the SAVE program at USCIS to Janine Petty.
11:11:36 13 A. And Janine Petty is not an employee of mine.
11:11:41 14 Q. I understand. I just -- I'm going to ask you a
11:11:43 15 question about -- about this.
11:11:45 16 A. Okay.
11:11:47 17 Q. So the email at the bottom of this email chain
11:11:53 18 says, "Hi Janine, I left you a voicemail but wanted to
11:11:56 19 follow up by email. SAVE recently updated the way we
11:11:58 20 process cases. During that update we noticed that between
11:12:02 21 December 19, 2018 and January 10, 2019, we may have
11:12:07 22 inadvertently returned some inaccurate responses for some
11:12:10 23 of your cases. We can send you a list of those cases for
11:12:13 24 your review. If you would like to create a new case based
11:12:16 25 on this new information to ensure that your records are

11:12:18 1 accurate, I encourage you to do so. We are sorry for any
11:12:22 2 inconvenience."

11:12:23 3 Does this email indicate that the USCIS SAVE
11:12:29 4 system was returning inaccurate data for some queries for
11:12:34 5 the period of about a month?

11:12:36 6 MR. MORGAN: Form, foundation.

11:12:43 7 THE WITNESS: So you're asking me to respond
11:12:45 8 on an email that was sent to the Secretary of State's
11:12:49 9 Office from somebody from Department of Homeland Security
11:12:52 10 about what he wrote?

11:12:56 11 BY MR. SHERMAN:

11:12:56 12 Q. Just asking, yeah, for the subject matter of what
11:12:58 13 I just read.

11:13:00 14 Does it indicate -- does it indicate that
11:13:01 15 SAVE was returning erroneous data between December 19,
11:13:07 16 2018, and January 10, 2019?

11:13:09 17 MR. LANGHOFER: Same objection.

11:13:13 18 THE WITNESS: It says "may."

11:13:19 19 BY MR. SHERMAN:

11:13:19 20 Q. Okay. Do you recall -- were you -- were you with
11:13:23 21 the office back in February 12th, 2019?

11:13:26 22 A. That was BD, Before Dana.

11:13:28 23 Q. Okay. That's also B -- BD.

11:13:30 24 So you're not familiar with the user Sandra
11:13:37 25 Tapia in Pinal County?

11:13:37 1 A. May her memory be a blessing, and she is no longer
11:13:40 2 with us.

11:13:42 3 Q. Sorry to hear.

11:13:44 4 Okay. We can -- we can move on.

11:13:55 5 So just to confirm, you're not familiar with
11:13:58 6 USCIS's alternative verification process?

11:14:00 7 A. I am not.

11:14:02 8 Q. Okay. Would you agree that SAVE can be used to
11:14:10 9 confirm U.S. citizenship but cannot be used to confirm a
11:14:13 10 lack of U.S. citizenship?

11:14:14 11 MR. LANGHOFER: Form.

11:14:15 12 THE WITNESS: I don't know.

11:14:16 13 BY MR. SHERMAN:

11:14:17 14 Q. Has your office been communicating with USCIS
11:14:19 15 about HB 2492 or HB 2243?

11:14:24 16 A. No.

11:14:25 17 Q. Do you know whether the secretary -- Secretary of
11:14:28 18 State's Office has?

11:14:32 19 A. I don't know.

11:14:34 20 Q. Okay. HB 2243 requires you to compare the
11:14:40 21 county's voters. I think we've covered this already.

11:14:41 22 So on the Social Security Administration
11:14:47 23 databases, which are also referenced in both of the
11:14:49 24 challenged laws, do you have any knowledge of the Social
11:14:53 25 Security Administration's databases?

11:14:56 1 A. Are you asking me if I know that it exists?

11:15:00 2 Q. I'll ask a more specific question. I'll retract

11:15:03 3 that.

11:15:03 4 Do you have any knowledge of whether the

11:15:05 5 Social Security Administration's databases can be used for

11:15:09 6 U.S. citizenship verification?

11:15:11 7 A. I don't know.

11:15:12 8 Q. Can SSA databases be used to confirm a lack of

11:15:16 9 U.S. citizenship?

11:15:17 10 A. I don't know.

11:15:20 11 Q. You don't know any -- do you know anything about

11:15:22 12 the reliability of citizenship information in the SSA's

11:15:26 13 databases?

11:15:26 14 A. I do not know.

11:15:30 15 Q. Do you use SSA databases or interface with them

11:15:32 16 for any other purpose?

11:15:34 17 A. We interface with AVID.

11:15:37 18 Q. Does the HAVA check, through AVID, interface with

11:15:41 19 SSA databases in any way?

11:15:43 20 A. I do not know.

11:15:46 21 Q. Okay. Do you know who in your office would know?

11:15:51 22 A. Anything from outside databases would be pushed to

11:15:55 23 the AVID system through the Secretary of State's Office,

11:15:58 24 and we would have access to it through our dashboard in

11:16:01 25 AVID.

11:16:02 1 Q. Understood.

11:16:04 2 So I have only a little bit left on my
11:16:07 3 outline. I know we've been going for a bit. And I have
11:16:09 4 some other questions on documentary proof of residence,
11:16:14 5 which is relatively short, that I was going to ask.

11:16:17 6 Can I finish just these last -- this last
11:16:19 7 page and a half, take a break for 10, 15 minutes, and then
11:16:23 8 I'll do the DPOR questions and then turn it over to one my
11:16:27 9 colleagues? Does that sound like a plan?

11:16:31 10 A. Let's rock and roll.

11:16:32 11 Q. All right. Would it be practicable to compare all
11:16:35 12 of your county's voters to Social Security Administration
11:16:40 13 databases on a monthly basis if you had access?

11:16:47 14 A. I don't know.

11:16:49 15 Q. Have you ever heard of the National Association
11:16:52 16 for Public Health Statistics and Information Systems?

11:17:00 17 A. Department of Public Health and Human Services?

11:17:06 18 Q. No. This is a different entity.

11:17:10 19 The National Association for Public Health
11:17:15 20 Statistics and Information Systems, have you ever heard of
11:17:17 21 them?

11:17:17 22 A. Doesn't ring a bell.

11:17:19 23 Q. Do you have any familiarity with their database:
11:17:21 24 the Electronic Verification of Vital Events database?

11:17:28 25 A. Not by that name.

11:17:30 1 Q. Okay. And so no knowledge of whether it contains
11:17:36 2 U.S. citizenship data or not?

11:17:38 3 A. That would be an accurate statement.

11:17:41 4 Q. Okay. We can skip the rest of this then.

11:17:44 5 You're familiar with the Electronic
11:17:50 6 Registration Information Center, or ERIC?

11:17:52 7 A. Yes.

11:17:52 8 Q. And what is it?

11:17:55 9 A. It is a system that is subscribed to by the
11:18:00 10 Arizona Secretary of State's Office.

11:18:03 11 Q. And what's its purpose -- sorry. Go ahead.

11:18:08 12 A. To -- sorry. Apologies. To identify cross-state
11:18:13 13 voter matches.

11:18:17 14 Q. Do you use it for U.S. citizenship verification?

11:18:22 15 A. No.

11:18:23 16 Q. Can it be used for U.S. citizenship verification?

11:18:26 17 A. I don't know.

11:18:28 18 Q. Do you know if ERIC contains any U.S. citizenship
11:18:32 19 data whatsoever?

11:18:35 20 A. I don't know.

11:18:36 21 Q. Okay. Do you have the ability to search or
11:18:40 22 interface with any other government databases with U.S.
11:18:44 23 citizenship data?

11:18:46 24 A. Other than the ones we've previously addressed?

11:18:48 25 Q. Correct.

11:18:49 1 A. No, I don't.

11:18:51 2 Q. Other than the HAVA check, is there anything --

11:18:54 3 A. Other than the HAVA check or the SAVE system,
11:18:58 4 there are no other -- no others that we interface with.

11:18:58 5 Q. Understood.

11:19:00 6 Has your office been communicating with any
11:19:02 7 other person or entity regarding the use of any other
11:19:04 8 database for citizenship verification?

11:19:08 9 A. No.

11:19:08 10 Q. If you were compelled by one of these new laws --
11:19:27 11 if you were required to use multiple databases at once to
11:19:33 12 conduct citizenship verification, what would your office do
11:19:36 13 with conflicting information between those databases?

11:19:43 14 MR. LANGHOFER: Form. Calls for speculation.

11:19:44 15 MR. MORGAN: Form.

11:19:49 16 THE WITNESS: I can't answer that.

11:19:52 17 BY MR. SHERMAN:

11:19:52 18 Q. Okay. There's no guidance yet on that; right?

11:19:55 19 A. Correct.

11:20:02 20 Q. Just one last question on this out- -- on this
11:20:04 21 outline, then we can take a break.

11:20:07 22 If a registered voter is removed from the
11:20:10 23 rolls under HB 2243 based on an erroneous determination
11:20:15 24 that they are not a U.S. citizen, can that voter be added
11:20:19 25 back to the rolls if the registration deadline has already

11:20:22 1 passed?

11:20:25 2 MR. LANDHOFER: Form, foundation

11:20:26 3 MS. BOUGHTON: Form.

11:20:32 4 THE WITNESS: I'm trying, Cindy.

11:20:32 5 Well, since we have not had the intention to
11:20:38 6 implement anything with 2492 or 2243, I can't answer that.

11:20:41 7 BY MR. SHERMAN:

11:20:41 8 Q. All right. So I'll ask it separate and apart from
11:20:44 9 HB 2243.

11:20:46 10 Currently, if you determined after the book
11:20:51 11 closing -- after the registration deadline that someone was
11:20:54 12 erroneously removed from the rolls, can you add that person
11:20:57 13 back to the rolls?

11:21:00 14 MR. LANGHOFER: Form.

11:21:01 15 THE WITNESS: I guess I can't answer that.

11:21:02 16 Because how would we erroneously remove somebody from the
11:21:05 17 rolls?

11:21:07 18 BY MR. SHERMAN:

11:21:09 19 Q. Say you relied on incorrect information that they
11:21:13 20 had been convicted of a felony and removed them from the
11:21:18 21 rolls on that basis but then a government agency --
11:21:23 22 Department of Corrections, et cetera -- contacted you and
11:21:25 23 said, "Actually, that was a mistake. We had the wrong
11:21:28 24 person," and this all happened and that came to light after
11:21:32 25 the registration deadline, what would happen with that

11:21:35 1 registered voter?

11:21:36 2 MR. MORGAN: Form.

11:21:40 3 THE WITNESS: I can't answer that. I can't
11:21:47 4 imagine in a million years that -- I don't know.

11:21:50 5 BY MR. SHERMAN:

11:21:51 6 Q. Is it laid out clearly anywhere in the currently
11:21:54 7 operative Election Procedures Manual?

11:21:57 8 MR. LANGHOFER: Form.

11:22:02 9 THE WITNESS: You had several questions in
11:22:04 10 there that were conflicting to each other. So if you would
11:22:06 11 ask those again one at a time, I might be able to address
11:22:09 12 them.

11:22:10 13 BY MR. SHERMAN:

11:22:11 14 Q. Sure.

11:22:12 15 I just want to know what your current
11:22:14 16 practice is if your office learns that someone was removed
11:22:18 17 in error and you don't learn of that until after the book
11:22:22 18 closing, after the registration deadline. What do you do
11:22:25 19 with that erroneously removed registered voter?

11:22:40 20 A. I can't answer that because you're asking for a
11:22:44 21 process. That's dual-faceted. You're putting a word in
11:22:50 22 there that is a bit confusing, because when you're talking
11:22:52 23 about books closing and our ability to deal with live data,
11:22:56 24 that's conflicting.

11:22:58 25 Q. Okay. I -- I'll restate it just one more time

11:23:02 1 without "book closing" if that's --

11:23:05 2 A. That would be better.

11:23:05 3 Q. -- confusing.

11:23:06 4 A. Thank you.

11:23:06 5 Q. Okay. If you learned that a registered voter was

11:23:09 6 removed in error and you learn of that information after

11:23:14 7 the registration deadline, what do you do next? Can you

11:23:21 8 reinstate that registered voter?

11:23:24 9 MR. LANGHOFER: Form.

11:23:29 10 THE WITNESS: It all depends where we're at

11:23:34 11 with stuff. And they just changed AVID, so I -- I'm not

11:23:40 12 comfortable answering that question because there's --

11:23:40 13 BY MR. SHERMAN:

11:23:40 14 Q. Fair enough.

11:23:40 15 A. -- complications there.

11:23:40 16 THE COURT REPORTER: "Because there's" what?

11:23:47 17 THE WITNESS: There's complications to the

11:23:47 18 question in which -- the way it's being stated and the

11:23:49 19 processes that are currently in place.

11:23:52 20 BY MR. SHERMAN:

11:23:52 21 Q. It may depend on the circumstances or timing --

11:23:55 22 A. Absolutely. Absolutely.

11:23:57 23 Q. Okay. And so it might vary from circumstance to

11:24:00 24 circumstance?

11:24:01 25 A. That is correct.

11:24:02 1 Q. Is it laid out in the EPM anywhere?

11:24:06 2 MR. LANGHOFER: Form.

11:24:09 3 THE WITNESS: I can't answer that. I
11:24:12 4 don't -- I don't --

11:24:14 5 BY MR. SHERMAN:

11:24:14 6 Q. Fair enough.

11:24:15 7 MR. SHERMAN: Thank you, Ms. Lewis. I have
11:24:18 8 some additional questions, not too many, on documentary
11:24:20 9 proof of residence, but would now be a good time for a
11:24:25 10 break? Would 10 or 15 minutes work?

11:24:28 11 THE WITNESS: Sure.

11:24:30 12 MR. SHERMAN: Can we take 15 minutes and come
11:24:32 13 back at what should be 11:39 a.m. Arizona time?

11:24:40 14 THE WITNESS: Works for me.

11:24:42 15 MR. SHERMAN: Okay. All right. Thank you so
11:24:43 16 much.

11:24:47 17 THE VIDEOGRAPHER: This has ended and we're
11:24:53 18 off the record. Time on monitor is 11:24. This will end
11:24:59 19 Media 1.

11:25:16 20 (A recess ensued.)

11:40:37 21 THE VIDEOGRAPHER: Okay. We are on -- we are
11:40:44 22 back on record. Time on the monitor is 11:40. And we
11:40:52 23 are -- this begins Media 2.

11:40:57 24 MR. SHERMAN: So, Ms. Lewis, thank you for
11:40:59 25 your time today. I'm done. I'm going to turn it over to

11:41:03 1 my colleagues to ask you further questions.

11:41:05 2 Again, thank you for your time.

11:41:06 3 THE WITNESS: Thank you, sir.

11:41:09 4

11:41:09 5 EXAMINATION

11:41:09 6 BY MS. KELTY:

11:41:09 7 Q. Hi, Ms. Lewis.

11:41:13 8 A. Hello, Ms. Kelty.

11:41:14 9 Q. I'm Samantha Kelty. I'm an attorney with the
11:41:17 10 Native American Rights Fund in D.C., and I represent two
11:41:21 11 tribes -- the Tohono O'odham and Gila River -- as well as
11:41:24 12 three individual plaintiffs. So I'll have a few questions
11:41:27 13 for you about the DPOR requirement. So let's start by
11:41:32 14 talking about the current residential address provisions.

11:41:37 15 In order to register to vote, applicants are
11:41:39 16 required to provide their residential address, or if they
11:41:43 17 don't have a residential address, a description or a
11:41:47 18 drawing of the location of their address -- location of
11:41:50 19 their residence; is that right?

11:41:53 20 A. Yes, ma'am.

11:41:53 21 Q. And a post office box cannot be used to meet that
11:41:59 22 requirement; correct?

11:42:00 23 A. Correct.

11:42:03 24 Q. Okay. You sound like you're questioning your
11:42:09 25 answer.

11:42:09 1 Did you have a follow-up there?

11:42:10 2 A. With nonstandard addresses, there are other tasks

11:42:15 3 that are accomplished. So if they do not have a standard

11:42:20 4 address, we are able to use the P.O. box, understanding it

11:42:30 5 is not a residential address.

11:42:32 6 Q. And how would you do that?

11:42:34 7 A. Guidelines from the Gila River Indian Community.

11:42:42 8 Q. Okay. Yeah, I definitely want to talk about those

11:42:45 9 guidelines here in a second.

11:42:47 10 How do you use residence address or location

11:42:53 11 information for voter registration?

11:42:57 12 A. Can you explain the question, please?

11:42:59 13 Q. So when applicants provide their residential

11:43:06 14 address or a description or a drawing of the location of

11:43:09 15 their residence, how do you use that information to then

11:43:13 16 register them to vote?

11:43:18 17 A. We use it.

11:43:23 18 Q. What is the information used for?

11:43:31 19 A. I don't understand.

11:43:34 20 Q. Why is it important that you have a residence

11:43:38 21 address or location information for voter registration?

11:43:42 22 A. To send them documentation.

11:43:45 23 Q. What documentation?

11:43:47 24 A. Early ballots, if they're signed up for the active

11:43:52 25 early voting or request a ballot by mail, voter ID cards.

11:43:56 1 Q. Is that it?

11:44:02 2 A. That I can recall at this point.

11:44:05 3 Q. Okay. Well, let's talk about those two different
11:44:08 4 options -- a residential address or a description or a
11:44:12 5 drawing -- in turn. So first I'll ask you about the
11:44:15 6 process when someone provides a residential address, and
11:44:17 7 then I'll ask you about the process when some- -- about the
11:44:21 8 process when someone provides a residence location
11:44:24 9 description or a drawing.

11:44:26 10 So if someone provides an address, a
11:44:29 11 residential address, how does the county use the
11:44:32 12 information to locate the residence?

11:44:32 13 A. They're --

11:44:42 14 Q. Does the county --

11:44:43 15 A. Please proceed, Samantha.

11:44:44 16 Q. No, you go ahead. Sorry.

11:44:46 17 A. We enter it into the AVID system.

11:44:52 18 Q. And is it ever the case that a residential address
11:44:58 19 is not able to be located using AVID?

11:45:02 20 A. Yes.

11:45:02 21 Q. When does that happen?

11:45:06 22 A. Usually with new developments.

11:45:10 23 Q. And what would you do then?

11:45:15 24 A. We send them a letter stating that we have not
11:45:21 25 been able to verify the address. Typically, there's

11:45:28 1 difficulties with the assessor's office or community

11:45:32 2 development being behind, and we wait for that process to

11:45:35 3 catch up.

11:45:38 4 Q. How long does that typically take?

11:45:41 5 A. I don't know.

11:45:44 6 Q. If you have to guess a range, would it be more

11:45:48 7 than six months?

11:45:49 8 A. I'm not comfortable guessing.

11:45:52 9 Q. How common is that that someone would have a

11:45:57 10 residential address that you're not able to locate, for

11:46:01 11 example, because of a new development?

11:46:02 12 A. I don't know.

11:46:05 13 Q. Did you encounter that in the last election?

11:46:09 14 A. I don't know.

11:46:11 15 Q. Who would know in your office?

11:46:19 16 A. I don't believe that that's an answer that could

11:46:21 17 be provided. You're asking for a summation and I'm -- I

11:46:30 18 can't provide that.

11:46:33 19 Q. Okay. Fair enough.

11:46:34 20 Is it more common for residential addresses

11:46:38 21 used on Native American reservations to not be located in

11:46:42 22 the database?

11:46:47 23 A. I wouldn't say that.

11:47:03 24 Q. [Indiscernible] reservations intersect with Pinal

11:47:03 25 County?

11:47:03 1 THE COURT REPORTER: I think we missed the
11:47:03 2 beginning.

11:47:03 3 BY MS. KELTY:

11:47:06 4 Q. What reservations intersect with Pinal County?

11:47:06 5 A. We have Gila -- we have Gila River, Tohono

11:47:16 6 O'odham. What other reservations do we have? Those are

11:47:20 7 the two that come to mind right now.

11:47:22 8 Q. Does Ak-Chin also interact with Pinal County?

11:47:26 9 A. That is correct.

11:47:27 10 Q. What does the county do when a residential address
11:47:30 11 can't be located?

11:47:35 12 MR. MORGAN: Form.

11:47:38 13 THE WITNESS: You asked: What does the
11:47:39 14 county do when a residential address cannot be located?

11:47:45 15 BY MS. KELTY:

11:47:45 16 Q. Yes.

11:47:47 17 A. I don't know what the county does.

11:47:50 18 Q. Your office.

11:47:52 19 A. Okay. Our office -- when a residential address
11:47:55 20 does not pop with the checks in HA- -- in AVID, we are able

11:48:00 21 to run the situs check through our GIS system. Total

11:48:08 22 Address -- Total Address is a process used in AVID. And

11:48:11 23 when we can't confirm due to various reasons, we send a

11:48:15 24 letter.

11:48:20 25 Q. Okay. And you mentioned earlier that Gila River

11:48:24 1 has guidelines that your office uses as a reference as
11:48:36 2 well?

11:48:36 3 A. Correct.

11:48:37 4 Q. What are those guidelines?

11:48:38 5 A. I don't have access to those right now. It's --
11:48:43 6 it's for addressing. So if somebody has a nonstandard
11:48:48 7 address for their ability to be able to receive mail, such
11:48:51 8 as their voter registration card, they're given -- if they
11:48:56 9 live in this section, then they use this -- this district
11:49:00 10 service center address to be able to get their mail.

11:49:05 11 Q. So does your office keep a copy of those
11:49:09 12 guidelines?

11:49:11 13 A. I do believe so.

11:49:13 14 Q. Okay. Were they produced in the discovery?

11:49:17 15 A. I don't know.

11:49:23 16 Q. Okay.

11:49:27 17 MS. KELTY: That is something I believe may
11:49:29 18 be responsive. If I could ask your attorney just to follow
11:49:32 19 up on that.

11:49:32 20 BY MS. KELTY:

11:49:33 21 Q. And then, Ms. Lewis, you mentioned the situs
11:49:34 22 check. What is that?

11:49:35 23 A. Situs is a check that we use with our GIS
11:49:40 24 department.

11:49:44 25 Q. How does it work?

11:49:46 1 A. We type the address into the system. If the
11:49:50 2 address does not populate, my experience has been that it
11:49:56 3 hasn't been marked yet with community development, so it's
11:49:58 4 one of those addresses that we're waiting to play catch-up
11:50:02 5 with.

11:50:03 6 Q. Unless it's on Gila River, for example; correct?

11:50:07 7 A. Yes.

11:50:10 8 Q. Okay. So can situs check be used for addresses on
11:50:15 9 Gila River?

11:50:16 10 A. It's used for all addresses.

11:50:18 11 Q. And then what is Total Address?

11:50:22 12 A. It's a system in the AVID system.

11:50:26 13 Q. How does it work?

11:50:28 14 A. The same way.

11:50:30 15 Q. And could you type in a nonstandard address into
11:50:40 16 Total Address and situs check?

11:50:45 17 A. I believe that they -- I don't know.

11:50:56 18 Q. And the Gila River guidelines, is that something
11:51:08 19 that the tribe produces and then sends to your office to
11:51:14 20 assist with locating voters?

11:51:16 21 A. It's a document that they provided to us in the
11:51:19 22 past.

11:51:21 23 Q. And how long is the document?

11:51:24 24 A. It's in a binder about this thick [indicating].

11:51:30 25 Q. Okay. Maybe a couple hundred pages?

11:51:34 1 A. I don't know that it's quite that many. It's in
11:51:37 2 document protectors. But I would say it's, you know, more
11:51:40 3 than 25 pages.

11:51:45 4 Q. And is it updated periodically?

11:51:49 5 A. I don't believe that it has been updated in the
11:51:51 6 last eight years.

11:51:54 7 Q. Is it useful when your office refers to it?

11:51:58 8 A. My staff has told me that it is.

11:52:03 9 Q. Will your office register a voter whose address
11:52:08 10 can't be located?

11:52:08 11 A. Yes.

11:52:10 12 Q. How would it do that?

11:52:20 13 A. They would be in a suspense. And then we would
11:52:29 14 send them documentation explaining that we need the
11:52:31 15 validation for the address.

11:52:35 16 Q. And how would you deliver the documentation?

11:52:40 17 A. To whatever mailing address that they had
11:52:42 18 provided.

11:52:45 19 Q. Are those typically returned?

11:52:47 20 A. I don't know.

11:52:50 21 Q. Okay. So now let's talk about when a voter
11:52:54 22 registration applicant provides a residence location
11:52:57 23 description or a drawing.

11:52:59 24 And this is what applicants are asked to do
11:53:01 25 if they live at a residence that doesn't have a residential

11:53:04 1 address or if the residential address they provide can't be
11:53:08 2 located; is that right?

11:53:09 3 A. Correct.

11:53:10 4 Q. How does your office use residence location
11:53:15 5 descriptions or drawings to locate a residence?

11:53:22 6 A. We scan them into the system. They're there. And
11:53:30 7 then we use the GRIC book to compare to see if we can
11:53:36 8 identify which district that person resides in.

11:53:40 9 Q. And I'm sorry. The what book?

11:53:42 10 A. The GRIC, the Gila River -- Gila River Indian
11:53:45 11 Community book. We call it the GRIC book.

11:53:52 12 Q. Okay. So the GRIC book is your primary go-to in
11:53:59 13 that situation?

11:53:59 14 A. Yes.

11:54:02 15 Q. And do you -- have you used the GRIC book to
11:54:10 16 locate a residence?

11:54:11 17 A. I have not personally.

11:54:14 18 Q. Do you know -- can you give me an example of what
11:54:18 19 might happen when your staff members look in the GRIC book
11:54:21 20 to find a residence?

11:54:28 21 A. I don't know. I have not -- I've watched them
11:54:39 22 run -- so they do the voter registration in AVID. They run
11:54:42 23 the HAVA check. They will then try to map with -- or look
11:54:47 24 at the address using situs or Total Address. If they don't
11:54:51 25 find it that way and it appears to be a nonstandard

11:54:54 1 address, then they will refer, then, to the GRIC guideline
11:54:58 2 book. If they find somewhere to point the -- to drop the
11:55:03 3 point there, then they're able to get a supervisor to what
11:55:10 4 we call dropping a point, and then they can send mail to
11:55:16 5 the voter.

11:55:18 6 Did that answer the question?

11:55:20 7 Q. That's helpful. Thank you.

11:55:23 8 Is there a contact at Gila River that your
11:55:30 9 office could get a hold of if they don't understand how to
11:55:34 10 translate the -- where the residence may be located and how
11:55:39 11 to drop the point?

11:55:43 12 A. Yes.

11:55:44 13 Q. Who is that?

11:55:48 14 A. I don't know.

11:55:50 15 Q. Do you know what the --

11:55:52 16 A. My AVID department, voter registration department
11:55:55 17 have communications with all of the nations actively
11:56:00 18 because we also accomplish voter outreach and education.

11:56:15 19 Q. Are applicants on Gila River, Ak-Chin, Tohono
11:56:21 20 O'odham in Pinal County more likely to provide a
11:56:25 21 description or a drawing as opposed to a residential
11:56:28 22 address?

11:56:31 23 A. You're asking for an opinion, and I won't -- I
11:56:34 24 don't have an opinion about that.

11:56:38 25 Q. Could you provide us an example of a residence

11:56:46 1 location description that you have seen on a voter
11:56:51 2 registration form?

11:56:54 3 A. No.

11:56:57 4 Q. What do they typically look like?

11:57:02 5 A. They will have landmarks describing locations.

11:57:23 6 Q. So how often does this kind of location
11:57:32 7 description -- for example, a landmark describing a
11:57:35 8 location --

11:57:36 9 A. I don't know.

11:57:38 10 Q. Let me finish my question

11:57:40 11 A. Sorry.

11:57:41 12 Q. How often -- that's okay. Thank you for being
11:57:45 13 eager to answer.

11:57:46 14 How often do these kinds of location
11:57:49 15 descriptions, such as landmarks, appear on identification
11:57:52 16 documents in Arizona?

11:57:57 17 A. On identification documents?

11:58:02 18 Q. Correct.

11:58:04 19 A. I don't know.

11:58:07 20 Q. Are you aware of any identification documents --
11:58:13 21 driver's license, IDs, utility statements -- that contain
11:58:17 22 landmarks describing locations?

11:58:21 23 A. I don't know.

11:58:22 24 Q. Are you aware of any identification documents that
11:58:37 25 have a map, for example, to a residence located on the

11:58:42 1
11:58:43 2
11:58:46 3
11:58:49 4
11:58:51 5
11:58:53 6
11:58:56 7
11:59:01 8
11:59:03 9
11:59:08 10
11:59:11 11
11:59:16 12
11:59:19 13
11:59:23 14
11:59:25 15
11:59:25 16
11:59:28 17
11:59:35 18
11:59:44 19
11:59:46 20
11:59:49 21
11:59:52 22
11:59:55 23
11:59:58 24
12:00:02 25

document?
A. I have heard about it. I've never seen it.
Q. What types of identification documents contain maps to a residence?
A. I don't know.
Q. What have you heard of?
A. You hear all kinds of stories.
Q. What are you referring to there?
A. You know what? I take that back. When you are coming up in this world, you hear all kinds of things. Have I seen anything firsthand? Absolutely not.
Q. Does Pinal County provide addresses for homes in the county?
A. Can you please clarify the question?
Q. Sure.
Is there a department in the county that's responsible for addressing residences in the county?
A. I don't know. I'm assuming that there is.
Q. Like, earlier, you were talking about new developments and sometimes the assessor is behind. So I assumed there was assessor's department that --
A. I don't know who I -- I don't know who in the department -- I know there's a department. I know it's a multifaceted process. But I don't know whose responsibility it is to actually assign the address.

12:00:07 1 Q. What do you know about that process?

12:00:11 2 A. Little.

12:00:14 3 Q. When you say it's multifaceted, what do you mean?

12:00:17 4 A. There's the assessor's office; there's community

12:00:21 5 development; facility -- there's several departments that I

12:00:31 6 know have a part in that process.

12:00:35 7 Q. Do you know how long it takes approximately?

12:00:38 8 A. I do not.

12:00:40 9 Q. Do you know if those various offices are involved

12:00:46 10 in providing addresses for homes on Gila River?

12:00:51 11 A. I don't know.

12:00:53 12 Q. Does your office take any type of extra steps to

12:01:06 13 increase voter registration for native voters in the

12:01:09 14 county?

12:01:11 15 A. Can you please explain your question?

12:01:14 16 Q. You mentioned earlier that you were in constant

12:01:17 17 communication with -- with the tribal nations.

12:01:21 18 And is -- is one of those communication

12:01:25 19 pieces to increase voter registration for tribal members?

12:01:34 20 A. Absolutely.

12:01:34 21 Q. What do -- what does the county do? What does

12:01:37 22 your office do?

12:01:38 23 A. We have a voter outreach program coordinator and

12:01:42 24 communications team that works -- we have identified all of

12:01:45 25 their annual events and we do our best to make sure we have

12:01:50 1 a presence at those events for voter registration,

12:01:53 2 education, and outreach.

12:01:56 3 Q. And those are events on Gila River?

12:02:00 4 A. Yes, ma'am.

12:02:00 5 Q. And on Tohono O'odham?

12:02:03 6 A. Yes, ma'am.

12:02:03 7 Q. And on Ak-Chin?

12:02:06 8 A. Yes, ma'am.

12:02:08 9 Q. And in your experience, what challenges do native
12:02:14 10 voters in Pinal County face when trying to register to
12:02:17 11 vote?

12:02:20 12 MR. LANGHOFER: Form.

12:02:21 13 THE WITNESS: I -- I'm not comfortable
12:02:22 14 answering that question because you're asking me to express
12:02:27 15 somebody else's views.

12:02:29 16 BY MS. KELTY:

12:02:31 17 Q. When your office saw that there was a need to do
12:02:36 18 voter outreach on the three tribal nations intersecting
12:02:40 19 with the county, what -- what was -- what is your
12:02:46 20 understanding of that need?

12:02:48 21 A. I did not say that we --

12:02:50 22 MR. MORGAN: Form.

12:02:51 23 THE WITNESS: I apologize, Cindy.

12:02:54 24 I did not say that we identified that there
12:02:59 25 was a need. They have reached out to us for active

12:03:02 1 participation, and we have met them halfway.

12:03:05 2 BY MS. KELTY:

12:03:07 3 Q. Understood.

12:03:08 4 Do native voters in your county face extra
12:03:14 5 challenges when trying to register to vote?

12:03:17 6 A. I don't know.

12:03:19 7 Q. Is voter registration lower in native communities
12:03:24 8 in Pinal County than the county average?

12:03:27 9 A. I don't know.

12:03:34 10 Q. In addition to using the GRIC book and the AVID
12:03:44 11 situs check and Total Address, does your office do anything
12:03:48 12 else to accommodate native voters who live at a residence
12:03:51 13 without an address?

12:03:55 14 A. I don't know.

12:03:57 15 Q. Okay. Let's talk about HB 2492 and its
12:04:11 16 requirement that documentary proof of residence be provided
12:04:15 17 with voter registration.

12:04:16 18 It is your -- is it your understanding that
12:04:18 19 this requirement will apply to voters registering using the
12:04:22 20 federal form?

12:04:25 21 A. Can you repeat the question?

12:04:27 22 Q. Sure.

12:04:28 23 The requirement to provide DPOR, is it your
12:04:31 24 understanding that it will apply to registrants using the
12:04:37 25 federal form?

12:04:37 1 A. I don't know.

12:04:38 2 MR. LANGHOFER: Asks for a legal conclusion.

12:04:40 3 BY MS. KELTY:

12:04:42 4 Q. Are you aware of any request to update the EAC

12:04:46 5 instructions?

12:04:47 6 A. I don't know.

12:04:49 7 Q. The current instructions do not ask for DPOR; is

12:04:57 8 that correct?

12:04:57 9 A. Correct.

12:04:58 10 Q. Would there be, in your understanding, a two-track

12:05:09 11 system for this requirement, like documentary proof of

12:05:15 12 citizenship; for example, not applying to federal

12:05:18 13 elections?

12:05:20 14 A. I don't understand the question.

12:05:22 15 Q. Well, actually, I'll strike that. Let's move to

12:05:27 16 the next question.

12:05:28 17 What types of documents do you understand

12:05:32 18 would qualify as documentary proof of residence?

12:05:36 19 A. I don't know.

12:05:42 20 Q. Were you able to open the currently marked

12:05:44 21 exhibits -- previously marked exhibits? Do you have those?

12:05:50 22 I wanted to pull up Exhibit 24.

12:05:55 23 A. I don't have those. He was able to drop 21 and

12:05:59 24 19.

12:06:00 25 Q. Okay. Let's see. I'm going to share my screen if

12:06:04 1 I can.

12:06:07 2 MR. SHERMAN: I did drop that in the Pinal
12:06:09 3 County deposition exhibits, Samantha, so she should --
12:06:14 4 Ms. Lewis should have that.

12:06:16 5 MS. KELTY: Oh, great. Thank you, Jon.

12:06:22 6 MR. SHERMAN: Are you not seeing it there?

12:06:24 7 THE WITNESS: I'm working it.

12:07:00 8 MR. CAMERON: Jon, it's not a lettered
12:07:01 9 exhibit, is it?

12:07:05 10 MS. KELTY: Ms. Lewis, let's do this. I'll
12:07:06 11 just share my screen.

12:07:09 12 BY MS. KELTY:

12:07:14 13 Q. Okay. Can you see this, Ms. Lewis?

12:07:15 14 A. Yes, ma'am.

12:07:17 15 Q. Okay. This is Petty Exhibit 24.

12:07:20 16 A. Okay.

12:07:26 17 Q. Have you ever seen this document?

12:07:27 18 A. No.

12:07:29 19 Q. Okay. Are you familiar -- about halfway down, it
12:07:35 20 refers to Gonzalez.

12:07:37 21 Are you familiar with the Gonzalez
12:07:38 22 stipulation?

12:07:40 23 A. No, ma'am.

12:07:44 24 Q. Okay.

12:07:50 25 A. I do know that, though [indicating].

12:07:52 1 Q. What's that?

12:07:52 2 A. That a tribal ID does not require an address be

12:07:55 3 listed.

12:07:57 4 Q. Okay. What is your understanding of that?

12:08:00 5 A. What it says: A tribal ID does not require an

12:08:03 6 address be listed.

12:08:05 7 Q. And did you understand that that was part of the

12:08:09 8 Gonzalez stipulation, or you just understood that as a

12:08:12 9 requirement?

12:08:12 10 A. I just understood that as a requirement.

12:08:14 11 Q. So you are currently implementing that in that

12:08:17 12 manner; correct?

12:08:21 13 A. Implementing what?

12:08:23 14 Q. You are currently not requiring tribal IDs to have

12:08:26 15 an address listed?

12:08:28 16 A. I don't have any authority over that whatsoever.

12:08:32 17 Q. Okay. So if a --

12:08:38 18 A. I don't -- Samantha, I don't make tribal IDs.

12:08:42 19 Q. And so -- I'm sorry. Yes. No, you don't.

12:08:45 20 In order to register to vote --

12:08:51 21 A. Okay. Can you clarify your question?

12:08:59 22 MR. MORGAN: Form. I'm lost.

12:09:02 23 MS. KELTY: I'm sorry. Craig, can you repeat

12:09:04 24 that?

12:09:05 25 MR. MORGAN: Yeah. I object to form. I'm

12:09:07 1 totally lost at this point. I don't even know what
12:09:11 2 question is pending.

12:09:13 3 BY MS. KELTY:

12:09:14 4 Q. Ms. Lewis, what do you use tribal IDs for in your
12:09:18 5 office?

12:09:20 6 A. They may utilize it as a proof when they're
12:09:27 7 registering to vote.

12:09:31 8 Q. Okay. And do you commonly see tribal IDs as proof
12:09:35 9 when registering to vote?

12:09:40 10 A. I don't know.

12:09:41 11 Q. Do you know if the tribes that intersect with your
12:09:50 12 county have tribal IDs that their members use as proof when
12:09:55 13 registering to vote?

12:09:58 14 A. Yes.

12:09:59 15 Q. Okay. And is that -- are those acceptable IDs
12:10:07 16 even if they don't list a residential address?

12:10:10 17 A. Yes.

12:10:10 18 Q. Are you familiar with a declaration that the
12:10:24 19 homeless population can use as proof when registering to
12:10:29 20 vote?

12:10:32 21 A. That's vague. Can you clarify?

12:10:37 22 Q. For individuals that lack an address, are you --
12:10:43 23 are they able to use a declaration as proof that they are
12:10:51 24 qualified?

12:10:54 25 A. Yes.

12:10:56 1 Q. Is there a version of that declaration that has
12:11:02 2 been drafted?

12:11:06 3 A. I don't know.

12:11:08 4 Q. Okay.

12:11:20 5 MS. KELTY: I don't think I have any more
12:11:22 6 questions for you. I'm going to stop my share here. But
12:11:25 7 hang tight because Ms. Yun may have questions for you.

12:11:31 8 THE WITNESS: Okay.

12:11:31 9

12:11:31 10 EXAMINATION

12:11:32 11 BY MS. YUN:

12:11:32 12 Q. Hi, Ms. Lewis. My name is Jennifer Yun, and I
12:11:38 13 represent the United States in this case.

12:11:40 14 I have just a -- are you having trouble
12:11:43 15 hearing my voice?

12:11:45 16 A. Yes. There is a delay.

12:11:50 17 Q. Okay. I will try to speak somewhat slowly. And
12:11:57 18 just let me know if you're having trouble understanding my
12:12:00 19 questions or hearing me. Okay?

12:12:01 20 A. Thank you.

12:12:03 21 Q. So I just have a few more questions, and hopefully
12:12:08 22 we can let you go and have lunch soon.

12:12:12 23 So I just wanted to follow up on something
12:12:14 24 that you spoke to Mr. Sherman about earlier today.

12:12:18 25 So you stated that your office is not

12:12:22 1 indefinitely holding registration forms currently. Do you
12:12:27 2 remember saying that?

12:12:28 3 A. Yes.

12:12:29 4 Q. What is your office doing with the registration
12:12:34 5 forms right now if you're not holding them?

12:12:39 6 You said you're not holding them. So what
12:12:41 7 are you doing with them right now? Are you just processing
12:12:43 8 them?

12:12:45 9 A. I think I need you to clarify the question, ma'am.

12:12:52 10 Q. Sure.

12:12:53 11 Earlier, Mr. Sherman asked -- and this is not
12:12:57 12 verbatim -- whether -- I think it was in the context of
12:13:01 13 implementing HB 2492's requirements, and you said you're
12:13:07 14 not implementing. Do you remember that?

12:13:09 15 A. I do.

12:13:10 16 Q. And I think after that, Mr. Sherman asked, "Is
12:13:15 17 your office indefinitely holding the registration forms
12:13:18 18 that are coming into your office right now?" And I believe
12:13:22 19 your answer was "No."

12:13:27 20 Do you remember that?

12:13:28 21 A. I do. But the way in which you're asking and how
12:13:31 22 it pertains to the question, I think maybe I am confused
12:13:35 23 about because as far as how long we hold voter registration
12:13:39 24 forms for retention versus processing for this situation,
12:13:45 25 there could be confusion there that --

12:13:50 1 Q. I see.

12:13:50 2 So was your answer earlier about retention?

12:13:54 3 A. We do hold registration forms for retention. I

12:13:59 4 believe it is indefinitely.

12:14:01 5 Q. Okay. And are you processing registration forms

12:14:06 6 as they are coming in right now without regards to

12:14:10 7 HB 2492's requirements?

12:14:11 8 A. Absolutely.

12:14:13 9 Q. Understood. Thank you.

12:14:15 10 I want to now ask about birthplace

12:14:23 11 information on Arizona's voter registration form. So we

12:14:25 12 are switching topics.

12:14:26 13 A. Okay.

12:14:26 14 Q. So birthplace has been an optional field on the

12:14:33 15 state voter registration form; is that right?

12:14:36 16 A. Correct.

12:14:38 17 Q. And has your office used a voter's birth --

12:14:45 18 birthplace information for any purpose when you're

12:14:47 19 processing the registration applications?

12:14:52 20 A. I don't know. I don't believe so.

12:14:58 21 Q. So you enter it into the AVID system; is that

12:15:01 22 right?

12:15:01 23 A. Yes, ma'am.

12:15:02 24 Q. But you don't -- you don't believe that you --

12:15:05 25 your office uses it for --

12:15:08 1 A. Correct.

12:15:09 2 Q. -- any other purpose? Okay. Thank you.

12:15:11 3 And do you -- and we talked about -- you

12:15:16 4 talked about some databases and -- or databases that you

12:15:19 5 don't have access to or have access to earlier.

12:15:23 6 Do you have any access to any databases that

12:15:26 7 would allow you to verify someone's birthplace?

12:15:33 8 A. No.

12:15:35 9 Q. Do you have any other ways to verify someone's

12:15:39 10 birthplace information?

12:15:40 11 A. No.

12:15:41 12 Q. And I'm now asking about not just about birthplace

12:15:48 13 but about looking up a voter in general in the AVID system.

12:15:52 14 When you -- when you are trying to look up a

12:15:55 15 voter in the AVID system, what fields on the registration

12:16:00 16 form do you use to look up a -- look up a voter?

12:16:04 17 A. Can you clarify your question, ma'am?

12:16:13 18 Q. Sure.

12:16:14 19 So when you get a -- when you get an

12:16:18 20 application and you want to make sure that this voter

12:16:21 21 doesn't already exist, you know, there is already a file on

12:16:24 22 the -- on the database -- on the registration voter file.

12:16:29 23 What -- which information from that registration form do

12:16:32 24 you input into the AVID system to look up -- look -- to see

12:16:36 25 if that person already exists?

12:16:38 1 A. Are you referring -- are you referring to a search
12:16:42 2 query?

12:16:43 3 Q. Yes.

12:16:45 4 A. We can utilize several aspects found on the form:
12:16:49 5 first name, middle name, last name, date of birth, address.
12:16:59 6 Those are the ones that I'm aware of.

12:17:01 7 Q. Okay. Thank you.

12:17:05 8 I want to move on to ask you about the
12:17:10 9 citizenship checkbox. Do you know what I'm referring to
12:17:13 10 when I say that?

12:17:14 11 A. Yes, ma'am.

12:17:15 12 Q. On the -- on the state's registration form?

12:17:19 13 A. Yes, ma'am.

12:17:19 14 Q. And -- sorry. Let me back up.

12:17:33 15 And -- and I'm actually asking about
12:17:34 16 something slightly different, which is documentary proof of
12:17:37 17 citizenship.

12:17:38 18 Are you aware of any instance in your county
12:17:41 19 where a voter submits documentary proof of citizenship and
12:17:45 20 the copy is illegible?

12:17:48 21 A. Yes.

12:17:49 22 Q. What do you do when that is the case? What does
12:17:54 23 your office do?

12:17:55 24 A. We send them a letter that says the documentation
12:17:59 25 that they have provided is illegible.

12:18:03 1 Q. And it req- -- it asks them to provide a legible

12:18:09 2 copy?

12:18:10 3 A. That is correct.

12:18:11 4 Q. Would you ever use the fact that some -- someone

12:18:17 5 checked the citizenship checkbox as proof of citizenship

12:18:23 6 when the -- when they didn't provide legible documentary

12:18:27 7 proof of citizenship?

12:18:28 8 A. No.

12:18:33 9 MS. YUN: Okay. I do not have any further
12:18:35 10 questions. I believe some defense attorneys might have
12:18:39 11 questions for you, though.

12:18:43 12 THE WITNESS: Thank you.

12:18:45 13 MR. LANGHOFER: I've got a few questions, but
12:18:47 14 I'll defer to Kathryn and Craig first.

12:18:47 15 MS. BOUGHTON: Craig, why don't you go first.
12:18:54 16 That's fine.

12:18:54 17 MR. MORGAN: At this point, I don't have any
12:18:55 18 questions. I'll let you know if that changes.

12:19:03 19 MR. LANGHOFER: Sounds good. So, Kathryn,
12:19:04 20 did you say you're okay with me going first? I don't want
12:19:07 21 to step on toes.

12:19:08 22 MS. BOUGHTON: No, that's fine. Go ahead.

23 ///

24 ///

25 ///

1 EXAMINATION

2 BY MR. LANGHOFER:

12:19:11 3 Q. Good afternoon, I guess it is. I don't have a
12:19:14 4 whole lot of -- my name is Kory Langhofer. I work for the
12:19:16 5 Republican National Committee. And I don't have a whole
12:19:18 6 lot of questions for you, but there are some things that I
12:19:21 7 wanted to just walk through and make sure that we're, you
12:19:24 8 know, understanding it all properly.

12:19:27 9 So let's start with the birthplace, which was
12:19:31 10 something that the United States was just asking you about.

12:19:35 11 If someone puts the birth -- birthplace on
12:19:39 12 the forms currently, the registration forms, does your
12:19:43 13 office enter that information into the voter file?

12:19:48 14 A. Yes.

12:19:49 15 Q. And imagine a situation where you have two people
12:19:56 16 with the same name and, coincidentally, the same birthday,
12:20:01 17 so something common like John Smith. And then, you know,
12:20:05 18 the birthdays, I guess, are equally common; let's say
12:20:08 19 January 1st, 1950.

12:20:11 20 If you had a new registration form -- so, you
12:20:15 21 know, John Smith Number 1 from, let's say, Chicago,
12:20:18 22 Illinois, was in the database. He's already registered.
12:20:21 23 Then you get a new registration form for John Smith
12:20:24 24 Number 2, same birthday.

12:20:26 25 In that sort of situation, could you use the

12:20:29 1 birthplace to help determine whether this is a duplicate

12:20:33 2 registrant or a new registrant?

12:20:37 3 A. I don't know, sir.

12:20:40 4 Q. And do you mean that you haven't done it before,

12:20:46 5 or you don't know whether that would be permissible?

12:20:48 6 A. Exactly. I've never run into that scenario before

12:20:51 7 where I would have needed direction as I'm learning. So I

12:20:55 8 can't speak to that process effectively.

12:20:58 9 Q. Okay. You do agree that birthplace is a way of

12:21:02 10 distinguishing between people, though?

12:21:04 11 A. Yes.

12:21:04 12 Q. All right. Does your office have access to any

12:21:14 13 databases other than AVID and SAVE and the HAVA checks that

12:21:19 14 are more accurate than the databases you're currently

12:21:22 15 using?

12:21:24 16 A. Not that I know of.

12:21:25 17 Q. Does it have access to any databases other than

12:21:27 18 those that are more current or up to date?

12:21:34 19 A. No. We have AVID.

12:21:37 20 Q. There was a question earlier -- I'm not -- I'm

12:21:42 21 just not sure I heard the answer to this. You may have

12:21:45 22 answered already.

12:21:46 23 But if you send out letters to registrants

12:21:50 24 saying, "Hey, we -- we need your DPOC because you didn't

12:21:53 25 attach it to the state form," roughly what percentage of

12:21:56 1 those folks do you hear back from with the DPOC?

12:22:00 2 A. I don't know.

12:22:03 3 Q. The October 2022 incident where the MVD database
12:22:14 4 was providing wrong information, did you follow the steps
12:22:18 5 that the secretary of state told you guys to follow to make
12:22:22 6 sure that voters weren't prejudiced?

12:22:24 7 A. Absolutely.

12:22:26 8 Q. Do you know whether anyone was unable to vote as a
12:22:30 9 result of this?

12:22:31 10 A. I do not.

12:22:33 11 Q. Have you ever received registration forms with
12:22:43 12 false information?

12:22:44 13 A. Yes.

12:22:46 14 Q. Could you tell me about those?

12:22:49 15 A. We had an issue where we received information
12:22:54 16 creating a duplicate. We sent a letter explaining to the
12:23:00 17 registrant that it appeared we had received a duplicate
12:23:05 18 registration, asking them to confirm information. They
12:23:08 19 then got back in touch with our office. They filed a
12:23:12 20 police report. And then it went to the AG's office.

12:23:17 21 Q. Is that the only time you can think of where you
12:23:20 22 received a registration form with false information?

12:23:31 23 A. We had a few of them. Yeah, we had a few of them
12:23:36 24 prior to the general election in 2022 where we sent out
12:23:41 25 information to registrants that it appeared that some of

12:23:45 1 their information had been transposed and we needed them to
12:23:49 2 clarify the information with us. Come to find out that
12:23:53 3 they had not filled out that voter registration form, and
12:23:58 4 then they were instructed to contact law enforcement and --
12:24:01 5 and then they take it from there.

12:24:03 6 Q. So how -- you said their information was
12:24:09 7 transposed. Just walk me through that. I want to
12:24:09 8 understand that a little bit better.

12:24:13 9 A. The -- they were lacking information on the form,
12:24:15 10 hadn't provided, you know, the full date of birth, or
12:24:19 11 instead of the address being 2005 South Clubhouse Drive, it
12:24:24 12 was 5002 South Clubhouse Drive and same name. So it
12:24:31 13 creates a situation where we have to send a letter in the
12:24:35 14 system.

12:24:35 15 So we notify the voter that it appears that
12:24:38 16 maybe they made a mistake on their form. They then
12:24:41 17 followed up with us and said that they had not updated
12:24:43 18 their voter registration. And then they asked what they do
12:24:47 19 next. We asked them to please contact law enforcement, and
12:24:50 20 then it's out of our hands.

12:24:52 21 Q. How long have you been with the Pinal County
12:24:57 22 Recorder's Office or -- yeah, Pinal County recorder?

12:24:57 23 A. I was appointed August 5th of 2022. Just over a
12:25:01 24 year now -- or just about at a year.

12:25:03 25 Q. So are you familiar with the case of Roberto

12:25:09 1 Garcia, who was criminally prosecuted for registering and
12:25:13 2 voting in your county?

12:25:16 3 A. There are some of the words that you are saying
12:25:18 4 I'm losing on your mic. So can you say that again?

12:25:21 5 Q. Yeah. I'm sorry. I'm going to speak up just a
12:25:23 6 little bit.

12:25:24 7 I asked whether you're familiar with the case
12:25:25 8 of Roberto Garcia, who was criminally prosecuted in your
12:25:29 9 county for registering and voting?

12:25:33 10 A. It does not ring a bell, sir.

12:25:35 11 Q. Okay. Are you aware of criminal prosecutions in
12:25:39 12 your county generally for voter fraud?

12:25:41 13 A. I am not.

12:25:43 14 Q. Okay. Bear with me one second here. I just want
12:25:48 15 to check my notes to make sure I'm not missing something.

12:26:00 16 MR. LANGHOFER: All right. I think -- I
12:26:02 17 think that's all the questions I have, but there might be
12:26:02 18 some other questions from the secretary of state or from
12:26:04 19 the Attorney General's Office. Thanks for your time.

12:26:06 20 THE WITNESS: Thank you, sir.

12:26:07 21

12:26:08 22 EXAMINATION

12:26:08 23 BY MS. BOUGHTON:

12:26:08 24 Q. Hi. Good afternoon, Ms. Lewis. I just have a few
12:26:11 25 quick questions for you. My name, again, is Kathryn

12:26:14 1 Boughton. I represent the state and attorney general in
12:26:16 2 this. Thanks for your time today.
12:26:18 3 First, I just wanted to ask if you know
12:26:22 4 generally -- when processing the state form, we've talked
12:26:26 5 about how birthplace is an optional field. Do you know if
12:26:29 6 voter applicants usually fill out that field?

12:26:32 7 A. I do not know.

12:26:34 8 Q. Okay. And then I just wanted to draw your
12:26:39 9 attention to one quick thing. It's going to be exhibit --
12:26:42 10 it's labeled as C in your folder, the RFP responses. We
12:26:53 11 are going to go to RFP 15, which is at the bottom of --
12:27:01 12 looks like page 10, the very last one.

12:27:09 13 Let me know when you get there.

12:27:11 14 A. What page -- okay. RFP Number 15, ma'am?

12:27:22 15 Q. Yes.

12:27:22 16 A. Yes, ma'am.

12:27:23 17 Q. Okay. So this request asks for documents
12:27:27 18 regarding voter fraud cases in your county.

12:27:30 19 And your response reads in part, "Defendant
12:27:32 20 Lewis is neither a law enforcement nor prosecutorial agency
12:27:36 21 and does not determine who commits 'voter fraud,' and such
12:27:39 22 request is better suited for the Arizona Attorney General's
12:27:42 23 Office, which investigates and prosecutes allegations of
12:27:46 24 voter fraud."

12:27:47 25 Is that response still accurate today?

12:27:49 1 A. Yes, ma'am.

12:27:52 2 MS. BOUGHTON: Thank you so much. That's all
12:27:54 3 the questions I have for you. I'm not sure if Mr. Morgan
12:27:56 4 has anything.

12:27:57 5 MR. MORGAN: As much as I'd love to talk with
12:28:00 6 you, Dana, I've got nothing.

12:28:03 7 THE WITNESS: Thank you, Mr. Morgan.

12:28:06 8 MR. MORGAN: You bet.

12:28:12 9 Are we done?

12:28:12 10 MS. BOUGHTON: Before we go off the record --
12:28:14 11 sorry. I just want to clarify, Cindy, was the defendants'
12:28:17 12 counsels' agreement that an objection by one be deemed an
12:28:20 13 objection joined by all defense counsel ever? Did that
12:28:23 14 make it on the record?

12:28:29 15 THE COURT REPORTER: You may have said it at
12:28:29 16 the beginning.

12:28:29 17 MR. MORGAN: It did now.

12:28:29 18 THE COURT REPORTER: Do you want to repeat
12:28:29 19 it? Or you just did.

12:28:31 20 MS. BOUGHTON: I want to --

12:28:31 21 MR. MORGAN: Yeah, I think that's the
12:28:32 22 agreement, Kathryn. Everyone agree or -- let's put it this
12:28:35 23 way: Does anyone disagree?

12:28:38 24 MR. SHERMAN: We -- we agreed to that at the
12:28:40 25 beginning of the deposition today.

12:28:42 1 MS. BOUGHTON: Oh, thanks. I just wanted to
12:28:44 2 confirm it was on the record.

12:28:50 3 MR. CAMERON: Okay. I have a few questions
12:28:51 4 with Pinal County. And I'm going to move forward here,
12:28:56 5 maybe a little closer.

12:28:56 6

12:28:56 7 EXAMINATION

12:28:56 8 BY MR. CAMERON:

12:28:58 9 Q. Dana, did you answer all the questions the best
12:29:01 10 you could?

12:29:02 11 A. Yes, sir.

12:29:02 12 Q. Or were there any questions that you found
12:29:04 13 confusing?

12:29:05 14 A. In my ability to answer?

12:29:09 15 Q. In the way they were asked?

12:29:13 16 A. Some.

12:29:14 17 Q. Do you rely not only on the audible stimulus or
12:29:21 18 audible questions but you also look at the person's face to
12:29:26 19 try to track the questions?

12:29:27 20 A. That is correct.

12:29:28 21 MR. MORGAN: Form.

12:29:28 22 BY MR. CAMERON:

12:29:32 23 Q. And did you have trouble tracking some of the
12:29:34 24 people's faces in those questions at times?

12:29:40 25 A. Yes.

12:29:41 1 Q. Okay.

12:29:43 2 MR. CAMERON: Nothing further.

12:29:55 3 THE WITNESS: Are they going to ask me more
12:29:57 4 questions about that, being deaf?

12:29:58 5 MR. CAMERON: No.
12:29:58 6 Okay. Anybody else?

12:30:01 7 MR. MORGAN: I'm sorry. Ms. Lewis, did you
12:30:04 8 just say you were deaf?

12:30:05 9 THE WITNESS: In my -- partially in my one
12:30:11 10 ear.

12:30:11 11 MR. MORGAN: Okay. Which ear?

12:30:12 12 THE WITNESS: This ear [indicating].

12:30:13 13 MR. MORGAN: Can you tell us -- I think
12:30:14 14 you're pointing to your left ear, but I'm looking at the
12:30:16 15 screen. I don't know which ear you're pointing at.

12:30:18 16 THE WITNESS: It's my left ear. So that's
12:30:20 17 why I had to turn in several times when they were doing the
12:30:22 18 objections because then, what happens is I can't hear the
12:30:26 19 information coming, so I had to turn. So that's why I
12:30:30 20 apologized to Cindy. I jumped in to answer before the
12:30:34 21 objections were happening. So yeah, sometimes it can be
12:30:37 22 difficult.

12:30:39 23 MR. MORGAN: Okay. Well, thank you.
12:30:47 24 And do the plaintiffs have any more
12:30:48 25 questions, or can we go off the record?

12:30:53 1 MR. SHERMAN: We can go off the record.
12:30:55 2 Thank you very much.
12:30:56 3 MR. MORGAN: Fantastic.
12:30:57 4 THE VIDEOGRAPHER: Okay. We are off the
12:30:59 5 record. Time on the video monitor is 12:31. This ends
12:31:07 6 Volume 1, Media Number 2 of 30(b)(6) deposition of Pinal
12:31:16 7 County Recorder by Dana Lewis.
12:31:20 8 (The following occurred off the video
12:31:20 9 record.)
12:31:20 10 THE COURT REPORTER: Could I get the orders
12:31:20 11 for any defendants who would like to order a copy or a
12:31:28 12 rough draft?
12:31:28 13 MR. MORGAN: This is Craig Morgan. I'll
12:31:30 14 order a copy of the transcript, please.
15 (The proceedings concluded at 12:31 p.m.)
16
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DANA LEWIS

1 STATE OF ARIZONA)
COUNTY OF MARICOPA)

2

3 BE IT KNOWN that the foregoing deposition was taken
4 by me pursuant to stipulation of counsel; that I was then
5 and there a Certified Court Reporter in the State of
6 Arizona, and by virtue hereof authorized to administer an
7 oath; that the witness before testifying was duly sworn by
8 me to testify to the whole truth; pursuant to request,
9 notification was provided that the deposition is available
10 for review and signature; that the questions propounded by
11 counsel and the answers of the witness thereto were taken
12 down by me in shorthand and thereafter transcribed into
13 typewriting under my direction; that the foregoing pages
14 are a full, true and accurate transcript of all the
15 proceedings had upon the taking of deposition, all done to
16 the best of my skill and ability.

17 I FURTHER CERTIFY that I am in no way related
18 to nor employed by any parties hereto; nor am I in any
19 way interested in the outcome thereof.


20 Dated at Phoenix, Arizona, this 18th day of
21 August, 2023.

22

23

24

25


CINDY MAHONEY, RPR, RMR NO. 50680

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UNITED STATES DISTRICT COURT
DISTRICT OF ARIZONA

Mi Familia Vota, et al.,)	
)	
Plaintiffs,)	Case No.
	)	2:22-cv-00509-PHX-SRB
v.	)	(Lead)
)	
Adrian Fontes, in his	)	No. CV-22-00519-PHX-SRB
official capacity as	)	No. CV-22-01003-PHX-SRB
Arizona Secretary of State,	)	No. CV-22-01124-PHX-SRB
et al.,	)	No. CV-22-01369-PHX-SRB
	)	No. CV-22-01381-PHX-SRB
Defendants.	)	No. CV-22-01602-PHX-SRB
	)	No. CV-22-01901-PHX-SRB

AND CONSOLIDATED CASES.

VIDEO-RECORDED VIDEOCONFERENCE 30(b)(6) DEPOSITION OF
SANTA CRUZ COUNTY RECORDER, REPRESENTED BY ANA MORENO

Nogales, Arizona

August 10, 2023

Prepared by:
CINDY MAHONEY, RPR, RMR
Certified Court Reporter
Certificate No. 50680



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1 THE VIDEO-RECORDED VIDEOCONFERENCE 30(b)(6)
 2 DEPOSITION OF SANTA CRUZ COUNTY RECORDER, REPRESENTED BY
 3 ANA MORENO, commenced at 9:11 a.m. on August 10, 2023, at
 4 Nogales, Arizona, before Cindy Mahoney, RPR, RMR (via
 5 videoconference), Arizona Certified Court Reporter
 6 No. 50680.

7
8 * * *

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26 Sarah Johnston
27 Daxon Ernyei
28 Gareth Fowler
29 Daniel Rohan, Videographer

1 TRANSCRIPT OF PROCEEDINGS

2
09:10:56 3 THE VIDEOGRAPHER: We are on the record.
09:10:58 4 Time on the video monitor is 9:11 a.m. Here begins
09:11:06 5 Volume 1, Media Number 1, in the deposition of Santa Cruz
09:11:14 6 County Recorder 30(b)(6) designee, by Anita Moreno, in the
09:11:17 7 matter of Mi Familia Vota, et al., v. Adrian Fontes, et
09:11:23 8 al., in the United States District Court, District of
09:11:26 9 Arizona, Case Number 2:22-cv-00509-SRB.

09:11:37 10 Today's date is August 10th, 2023. Our court
09:11:41 11 reporter is Cindy Mahoney. I am Daniel Rohan, certified
09:11:47 12 legal videographer. We both represent Coash Court
09:11:50 13 Reporting & Video.

09:11:50 14 This video deposition is taking place at 2150
09:11:55 15 North Congress Drive, Suite 101, in Nogales, Arizona 85621.

09:12:00 16 Counsel, please identify yourselves and state
09:12:03 17 whom you represent.

09:12:05 18 MR. HERRERA: Good morning. Ernest Herrera
09:12:06 19 for Promise Arizona plaintiffs. And I have my colleague
09:12:10 20 Erika Cervantes with me.

09:12:16 21 MR. FERGUSON: This is Brent Ferguson of
09:12:18 22 Campaign Legal Center, representing the LUCHA plaintiffs.

09:12:22 23 MS. LORENZO: This is Daniela Lorenzo of
09:12:26 24 Elias Law Group, representing the MFV plaintiffs.

09:12:30 25 MS. RIZZONI: This is Cat Rizzoni from Latham

09:12:36 1 & Watkins on behalf of the Equity Coalition plaintiffs.

09:12:39 2 MR. BABBITT: This is Christopher Babbitt,
09:12:47 3 Wilmer Hale, representing the Democratic National Committee
09:12:51 4 and Arizona Democratic Party.

09:12:53 5 MR. HORLEY: Hi. This is Tim Horley. I'm
09:13:02 6 with the Arizona Attorney General's Office, representing
09:13:04 7 the State of Arizona and the Arizona Attorney General.

09:13:07 8 MS. ESTES-WERTHER: Christina Estes-Werther
09:13:12 9 for Santa Cruz County Recorder.

09:13:15 10 MR. PIERCE: And Justin Pierce, also for the
09:13:18 11 Santa Cruz County.

09:13:20 12 MR. LANGHOFER: Kory Langhofer for the RNC.

09:13:24 13 MS. STUART: Shayna Stuart from Sherman &
09:13:28 14 Howard for the Arizona Secretary of State, Adrian Fontes.

09:13:51 15 MR. HERRERA: Is that everybody? All right.

09:13:52 16 THE VIDEOGRAPHER: Will the court reporter
09:13:54 17 please swear in the witness.

09:13:55 18
09:13:55 19 ANA MORENO,
09:13:55 20 the witness herein, being first duly sworn,
09:13:55 21 was examined and testified as follows:

09:13:55 22
09:14:02 23 EXAMINATION

09:14:02 24 BY MR. HERRERA:

09:14:06 25 Q. Hi. Good morning, Ms. Moreno. My name is Ernest

09:14:10 1 Herrera, and I'm an attorney at the Mexican American Legal
09:14:16 2 Defense and Educational Fund. I represent plaintiffs
09:14:17 3 Promise Arizona and Southwest Voter Registration Education
09:14:21 4 Project in this litigation.

09:14:23 5 Can you please state and spell your name?

09:14:27 6 A. My legal name is Ana, A-n-a. I go by Anita,

09:14:32 7 A-n-i-t-a, Moreno, M-o-r-e-n-o.

09:14:36 8 Q. Thank you.

09:14:37 9 And before we go further, I have -- our
09:14:40 10 building, we have, like, window units -- old window units
09:14:43 11 for AC. And I know we're on Zoom, so please let me know if
09:14:48 12 you can't hear me or if I'm not coming through clearly and
09:14:51 13 I'll make some adjustments here.

09:14:53 14 A. I understand. Thank you.

09:14:56 15 Q. Have you been known by any other names?

09:15:00 16 A. No. Just Anita.

09:15:03 17 Q. Are you represented by an attorney today?

09:15:06 18 A. Christina and -- and Justin introduced themselves.

09:15:14 19 Q. And for today's deposition, where are you
09:15:21 20 physically located?

09:15:23 21 A. The Santa Cruz County Complex, 2150 North Congress
09:15:29 22 Drive, Suite 101, Nogales, Arizona 85621.

09:15:33 23 Q. Have you ever had your deposition taken before?

09:15:37 24 A. Yes, I have.

09:15:38 25 Q. Okay. And what was the -- what kind of case was

09:15:41 1 that?

09:15:42 2 A. I was a real estate agent and the seller -- there
09:15:50 3 was a -- the seller was an LLC. And what the seller did,
09:15:58 4 prior to closing made changes on his LLC that wasn't
09:16:05 5 approved by his son and we all got in. We all were called
09:16:11 6 in to -- as part of the case of his son suing his father.

09:16:17 7 Q. Was it just the deposition in that case?

09:16:22 8 A. Right. Yes.

09:16:23 9 Q. Okay. Have you had your deposition taken at any
09:16:26 10 other times?

09:16:28 11 A. Prior to that, it might have been seven years ago.

09:16:35 12 Q. And what was the nature of that case?

09:16:40 13 A. I was the escrow agent for a local title company,
09:16:49 14 and there was some disbursement of funds that I made a
09:16:53 15 decision on which brought in a dissatisfied contractor.
09:17:08 16 And, you know, it all worked out at the end just like the
09:17:11 17 most recent one, but we all -- again, the title, escrow
09:17:18 18 agents, we were all brought into a lawsuit.

09:17:25 19 Q. Thank you. And let me go over a few ground rules.

09:17:30 20 First, I should ask: Were there any other
09:17:33 21 depositions that you've had taken of you before besides
09:17:38 22 those two cases?

09:17:46 23 A. Prior to the one about 7 years ago, there was --
09:17:50 24 there was one 20 years, possibly 22 years, prior to the one
09:18:01 25 that was seven 7 ago.

09:18:03 1 Q. Okay. Let me go over a few ground rules.

09:18:09 2 Before I go further, I don't need to know too
09:18:12 3 many details about the case, but was that also a real
09:18:14 4 estate case?

09:18:15 5 A. It had to do, yes, with a real estate transaction.

09:18:19 6 Q. Okay. Let me go over a few ground rules here so
09:18:23 7 that we're on the same page about how we're going to
09:18:25 8 conduct this deposition.

09:18:27 9 The court reporter has put you under oath,
09:18:30 10 which means that you are obligated to tell the truth.

09:18:32 11 Do you understand that?

09:18:33 12 A. I do.

09:18:34 13 Q. And although we are conducting this deposition via
09:18:38 14 Zoom, that oath has the same force and effect as if you
09:18:41 15 were testifying in a court of law in front of a judge or
09:18:44 16 jury.

09:18:44 17 Do you understand that?

09:18:45 18 A. I do.

09:18:45 19 Q. During this deposition, I'm going to ask you some
09:18:51 20 questions and you will be answering my questions. Because
09:18:54 21 the court reporter is taking down everything we're saying,
09:18:57 22 it is important that you provide audible answers to my
09:19:00 23 questions; for example, no uh-huhs or shaking your head.

09:19:04 24 Do you understand?

09:19:05 25 A. I do.

09:19:06 1 Q. If you do not understand a question, please tell
09:19:09 2 me that you don't understand and I will rephrase the
09:19:11 3 question. Also feel free to ask me to repeat the question.
09:19:15 4 Okay?

09:19:15 5 A. I understand.

09:19:33 6 (An off-the-record discussion ensued.)

09:19:33 7 BY MR. HERRERA:

09:19:35 8 Q. Are we on the same page as to not speaking over
09:19:39 9 each other?

09:19:43 10 Please let me know that the court reporter --
09:19:45 11 well, please know that the court reporter can only write
09:19:48 12 what one person is saying at a time, so let's try to
09:19:51 13 help -- help her out. Okay?

09:19:53 14 A. I understand.

09:19:54 15 Q. Okay. If I ask a question and you answer a
09:19:57 16 question -- let me -- oh, during this deposition, attorneys
09:20:02 17 may make objections. Even if they make objections, unless
09:20:06 18 your attorney specifically instructs you not to answer the
09:20:08 19 question, you must still answer the question.

09:20:11 20 Do you understand?

09:20:12 21 A. Yes.

09:20:13 22 Q. And sometime after we complete your deposition,
09:20:18 23 you will receive a typed transcript of this deposition.
09:20:21 24 And unless you waive that, you'll have an opportunity to
09:20:24 25 review the transcript and correct any errors that you see

09:20:29 1 and then you will sign it under penalty of perjury.

09:20:32 2 However, I will warn you that if you make
09:20:35 3 anything more than clerical changes, like correcting typos,
09:20:38 4 attorneys in this case will be able to comment on those
09:20:41 5 changes at trial, which could affect your credibility
09:20:44 6 before the judge in the future. So please try to give your
09:20:47 7 best test- -- the best testimony you can here today.

09:20:49 8 Do you understand that?

09:20:50 9 A. Yes.

09:20:51 10 Q. If you need to take a break for any reason, please
09:20:54 11 let me know and we can take a break. However, if there is
09:20:57 12 a question pending that you have not finished answering, I
09:21:00 13 will ask you to answer the question first and then we can
09:21:02 14 take a break. Okay?

09:21:04 15 A. Yes.

09:21:04 16 Q. Okay. Now, is there any reason that you cannot
09:21:10 17 give your best testimony here today?

09:21:12 18 A. No.

09:21:26 19 Q. Have you -- have you consumed any substances in
09:21:31 20 the last 24 hours that would prevent you from giving your
09:21:34 21 best testimony here today?

09:21:36 22 A. No.

09:21:38 23 Q. And I sensed a little bit of hesitation about the
09:21:47 24 best testimony question.

09:21:48 25 Is there -- is -- was there any reason for

09:21:51 1 that?

09:21:54 2 A. So for the past three days and the weekend, I was
09:22:01 3 preparing for the election officers -- I mean, the election
09:22:06 4 certification training for Monday, Tuesday, and yesterday.
09:22:11 5 So that's where my mind was.

09:22:13 6 But no, I'm fine. I'm fine.

09:22:15 7 Q. Okay. And -- so my next question is related to
09:22:20 8 that.

09:22:21 9 So what, if anything, did you do to prepare
09:22:23 10 for this deposition?

09:22:26 11 A. I think that -- my conversation with Justin and
09:22:32 12 Christina to -- to prepare me for the deposition. And I
09:22:43 13 wish I had more time to have gotten all the details of --
09:22:50 14 of the --

09:22:51 15 Q. And I should add -- sorry -- you don't need to
09:22:54 16 give me any details about the details of what you've talked
09:22:56 17 about with the attorneys.

09:22:57 18 But anything else, please?

09:23:01 19 A. Just the preparation that I had in a conversation
09:23:06 20 with Christina and Justin.

09:23:07 21 Q. And you were saying, I think, you -- that you
09:23:12 22 wished you had more time and I interrupted you.

09:23:19 23 A. I need a -- I'm so new to what I'm doing with
09:23:28 24 this -- my new position here with the county, that -- time
09:23:31 25 is -- more time is always good for me.

09:23:36 1 Q. Okay. And you mentioned your new position at the
09:23:39 2 County.

09:23:39 3 Can you -- can you tell me about that a
09:23:41 4 little bit?

09:23:42 5 A. So I was appointed December 20th and I took office
09:23:49 6 January 3rd. So it's -- what? A little over seven --
09:23:54 7 eight months that I've been here. And I -- like I said,
09:24:05 8 time would -- more time possibly would have been better, I
09:24:13 9 suppose.

09:24:14 10 Q. And by "position," is that -- what is the title?

09:24:20 11 A. County recorder.

09:24:22 12 Q. Okay. And -- well, congratulations first, by the
09:24:29 13 way.

09:24:29 14 A. Thank you.

09:24:30 15 Q. A little bit late, but congratulations.

09:24:34 16 Before that, did you work in the county?

09:24:39 17 A. No.

09:24:40 18 Q. Okay. All right. Well, in preparation for your
09:24:46 19 deposition today, did you review any documents besides
09:24:50 20 communications from your attorneys?

09:24:54 21 A. Not being -- not being familiar with the questions
09:25:01 22 but based on the information of the topics of that -- that
09:25:06 23 notice of deposition, I was going through and reading up on
09:25:15 24 the house bills and those areas that you might be asking
09:25:22 25 about.

09:25:29 1 Q. And in terms of documents related to those topics,
09:25:38 2 did you happen to look at any documents related to
09:25:43 3 elections, voting, or Santa Cruz's voting -- voting
09:25:50 4 administration?

09:25:51 5 A. Yes.

09:25:52 6 Q. Okay. And what -- what were those documents?

09:25:55 7 A. The process, the -- the reason why I'm here. So
09:26:03 8 it's -- it's the main -- the maintenance of the voter
09:26:06 9 registration list, the -- the -- you know, to facilitate
09:26:12 10 early voting and ballot mail, signature affidavit. So this
09:26:20 11 is -- I'm training myself for this position or educating
09:26:27 12 myself.

09:26:32 13 Q. Did you review, for example, for -- for voter
09:26:38 14 registration, what -- what kinds of documents did you
09:26:39 15 review there?

09:26:42 16 A. Items that are required to -- for the voter
09:26:56 17 registration.

09:26:56 18 Q. The documents someone would need to submit if they
09:26:59 19 were registering to vote?

09:27:00 20 A. Yes.

09:27:01 21 Q. Okay. Well, we'll get to some of those documents,
09:27:13 22 but what I wanted to ask was: Did you happen to review any
09:27:17 23 election procedure manuals?

09:27:20 24 A. Yes.

09:27:20 25 Q. Okay. Did you review any documents having to do

09:27:32 1 with -- internal documents for Santa Cruz County having to
09:27:38 2 do with elections?

09:27:46 3 A. Yes.

09:27:53 4 Q. Okay. And what were those documents?

09:27:57 5 A. Excuse me. As -- as the days go and there's
09:28:09 6 matters or issues that come up, I look at the documents,
09:28:13 7 whether it's a registration form that was not completely
09:28:18 8 signed, then the process of what is done to -- to advise
09:28:25 9 the voter of what is missing. So there's a schedule of
09:28:33 10 events with --

09:28:43 11 Q. Did you -- did you speak with anyone from the
09:28:52 12 Santa Cruz Recorder's Office in preparation for your
09:28:54 13 deposition today besides the attorneys?

09:28:59 14 A. The staff is fairly new, but I do have one staff
09:29:08 15 member that's been here possibly -- a little over a year.
09:29:13 16 So as I just -- if I have a concern even with the -- with
09:29:19 17 how I'm not understanding the question or I -- I -- I have
09:29:26 18 asked him, you know, twice, as a matter of fact, to clarify
09:29:33 19 some -- some questions that I wasn't -- or potential
09:29:40 20 question that I may have.

09:29:41 21 Q. And that person who's been there over a year,
09:29:44 22 what's his name?

09:29:46 23 A. Angel Aguilar.

09:29:50 24 Q. And what is his job title there?

09:29:53 25 A. He is a recorder clerk, and he's also an election

09:30:02 1 clerk.

09:30:06 2 And just to mention that the other gal,

09:30:09 3 Saibet Gastelum, who was very new -- I think she -- she

09:30:17 4 might have been here maybe eight months. And through the

09:30:23 5 2022 election, they sort of caught on, but three months

09:30:28 6 ago, she moved on to the county attorney's office.

09:30:43 7 Q. Now, besides reviewing the documents that you
09:30:45 8 mentioned and then speaking with Mr. Aguilar, did you do
09:30:51 9 anything else to prepare for your deposition today?

09:31:07 10 Is that a no?

09:31:08 11 A. I'm thinking. So prepared -- having the
09:31:17 12 opportunity again when I received the notification that I
09:31:21 13 was going to be deposed, I -- I tried my best to -- to
09:31:35 14 familiarize myself with -- with the case. But it's just --
09:31:39 15 again, I'll just say no.

09:31:42 16 Q. And do you know what this litigation is about?

09:31:58 17 You don't have to know the claims. Just
09:32:01 18 generally what it's about.

09:32:06 19 A. I just -- I'm -- it is about the voting procedures
09:32:16 20 and the assumption of failure within the process.

09:32:23 21 Q. Now, I'm going to ask you a few questions about

09:32:29 22 your -- your background or your work background, training.

09:32:35 23 Can you tell me about your educational

09:32:36 24 background a little bit?

09:32:38 25 A. So I graduated from Nogales High School, and I

09:32:41 1 went to Pima College for two years. So it was just general
09:32:47 2 studies. But I did not -- I was short two -- two or four
09:32:51 3 credits to get an associate's.

09:32:55 4 Q. Do you have any certifications or licenses?

09:33:01 5 A. So throughout -- I retired from the title and
09:33:08 6 escrow industry in December of 2019. So for 30-some years,
09:33:14 7 there was always trainings; there was always certificates
09:33:17 8 being -- being issued.

09:33:25 9 Q. And I -- I think I asked you already, but have you
09:33:37 10 ever worked anywhere within Santa Cruz County before?

09:33:42 11 A. No.

09:33:48 12 Q. Okay. So before becoming county recorder, you did
09:33:52 13 not have any other role at Santa Cruz -- at the Santa Cruz
09:34:01 14 County Recorder's Office?

09:34:01 15 A. That's correct.

09:34:02 16 Q. Okay. What is your prior experience with
09:34:09 17 elections; have you ever run for office or anything like
09:34:12 18 that?

09:34:14 19 A. So when I retired in 2019, that same January I
09:34:21 20 decided to go to real estate school and get my real estate
09:34:25 21 license. At the same time, I decided to run for county
09:34:32 22 recorder. So for -- for the 2020 election, I didn't go
09:34:42 23 through -- past the primary.

09:34:45 24 Q. And when you worked on that campaign, did you ever
09:34:47 25 have to do anything having to do with helping people

09:34:53 1 register to vote?

09:34:56 2 A. The world was shut down at the time, so everything
09:35:00 3 was so limited -- so limited that I want to say yes, but
09:35:11 4 I'll say no --

09:35:12 5 Q. Okay.

09:35:13 6 A. -- because it was so limited.

09:35:16 7 Q. Sure.

09:35:19 8 And what was the -- the result of that --
09:35:21 9 what was the result of that election in 2020?

09:35:25 10 A. So I was short by, I believe, 80-some votes.

09:35:31 11 Q. Every -- every vote counts; right?

09:35:33 12 A. Correct.

09:35:35 13 Q. Okay. And so you -- you didn't -- well, before --
09:35:51 14 before that run for office, had you ever been involved in
09:35:55 15 elections or county politics or anything like that?

09:36:03 16 A. For a brief three, four years in my young life,
09:36:13 17 when I came back home from living in Tucson, I started -- I
09:36:19 18 worked for the City of Nogales for about ten months when
09:36:24 19 the city attorneys offered me a job with them. And the
09:36:28 20 city attorneys were very, very, very, very close to the
09:36:36 21 Democratic party. And with that, I -- I was very, very
09:36:42 22 young but I knew how involved they were and -- with the
09:36:47 23 state, not -- not -- of course with local government, but
09:36:52 24 they were very, very well into it with the state government
09:36:55 25 too.

09:36:57 1 So did I get familiar? No. Was I living
09:37:02 2 in -- in the campaign process? Yes. But I didn't run any
09:37:10 3 particular -- basically, what I was doing was picking up
09:37:14 4 donation checks.

09:37:17 5 Q. I see. Okay.

09:37:18 6 So you were -- you weren't doing any, say,
09:37:22 7 voter registration drives, for example?

09:37:23 8 A. No. No.

09:37:26 9 Q. All right.

09:37:26 10 MR. HERRERA: Well, I'm going to ask our --
09:37:32 11 Mr. Rohan if we can pull up the -- or I don't know who
09:37:39 12 handles the exhibits, but if we could pull up the first
09:37:42 13 exhibit. I believe it's Exhibit A in our folder.

09:37:55 14 THE COURT REPORTER: Do you want to mark this
09:37:59 15 Exhibit 89 -- I mean 98?

09:38:06 16 MR. HERRERA: I was going to say 98. Thank
09:38:07 17 you. Yes, please.

09:38:07 18 (The document was marked as Exhibit 98
09:38:09 19 for identification.)

09:38:09 20 BY MR. HERRERA:

09:38:10 21 Q. So this is an exhibit we've marked as Exhibit 98.

09:38:13 22 And do you recognize this document,

09:38:15 23 Ms. Moreno?

09:38:16 24 A. Yes.

09:38:22 25 Q. Okay. And do you -- I should say before we go

09:38:29 1 further, do you have any documents with you right now on
09:38:32 2 your desk?

09:38:34 3 A. I've got that document.

09:38:36 4 Q. Okay. Is that the only document you have in front
09:38:38 5 of you?

09:38:39 6 A. I've got my -- my 2019 EPM annotated notebook.

09:38:55 7 Q. Okay. And is that -- is that open in front of
09:38:57 8 you -- the annotated 2019 EPM?

09:39:01 9 A. Yes, it is.

09:39:02 10 Q. And when you say "annotated," is that -- are those
09:39:05 11 your annotations or -- or it has annotations on it?

09:39:08 12 A. What I understood, it was never approved. It
09:39:11 13 never went past -- or the governor never approved it, so
09:39:18 14 we're using the -- it was for 2022 but it's for the 2019
09:39:24 15 annotated form. I guess in 2022 it did not -- it was not
09:39:34 16 approved.

09:39:35 17 Q. I see. Well, let's -- looking at this exhibit
09:39:42 18 that's up on the screen here, this is not the only page.
09:39:46 19 I'll represent that to you. But if we can go to the second
09:39:58 20 page, please.

09:40:03 21 Do you recognize these -- I'm sorry. Can we
09:40:11 22 go to the fifth page.

09:40:18 23 And do you recognize the topics here -- that
09:40:25 24 begin here?

09:40:25 25 A. Yes.

09:40:25 1 Q. And do you understand that you, Ms. Moreno, have
09:40:32 2 been designated as the representative to testify -- to
09:40:36 3 testify on behalf of the Santa Cruz County Recorder's
09:40:42 4 Office?

09:40:42 5 A. Yes.

09:40:42 6 Q. Okay. And you -- you have not been -- you are not
09:40:46 7 testifying in your individual capacity but as an -- as a
09:40:49 8 representative of the recorder's office?

09:40:53 9 A. Correct.

09:40:55 10 Q. Okay. And can we stipulate that whenever I say
09:40:58 11 "you" or "your," that -- for the most part, unless I
09:41:02 12 specify, that will be the equivalent of me saying "your
09:41:06 13 office" or "your offices"?

09:41:10 14 A. I understand.

09:41:14 15 Q. Now, looking at this topic list, I believe you
09:41:23 16 mentioned this earlier but you reviewed these topics;
09:41:28 17 correct?

09:41:28 18 A. Yes.

09:41:29 19 Q. And are you prepared to address each of these
09:41:33 20 topics today?

09:41:34 21 A. I can try.

09:41:46 22 Q. Okay. Let me ask it this way: Were there any
09:41:50 23 topics, as you read through them, that you feel as though
09:41:54 24 you do not have much knowledge about?

09:42:03 25 A. Yes.

09:42:04 1 Q. Okay. And which ones would those be?

09:42:08 2 And we can -- we can -- you can refer to your
09:42:10 3 paper copy, or we can scroll through if we -- if we need
09:42:38 4 to.

09:43:09 5 A. Number 1.

09:43:10 6 Q. Okay. And what part of Number 1 might you not be
09:43:14 7 able to be prepared to address?

09:43:22 8 A. What -- with -- with the house bills and senate
09:43:31 9 bills, that's what we work -- on the election end of it,
09:43:37 10 that's what we work a lot with. And I just don't have them
09:43:41 11 down pat, so every time there's a senate bill or a house
09:43:44 12 bill, I have to go back and read on it because I just --
09:43:49 13 there's just so many of them that I just don't know them.

09:43:53 14 Q. Sure. I understand. And I don't expect that of
09:43:56 15 you. I have to go look at them every time too.

09:44:00 16 So what I'm asking is: In terms of the
09:44:06 17 County's interpretation and implementation of those bills
09:44:11 18 listed there, would you be able to testify about that?

09:44:15 19 A. You know, I can certainly try.

09:44:29 20 Q. Okay. Are there any other topics that stick out
09:44:36 21 to you as ones that you may not be prepared to testify
09:44:39 22 about today?

09:45:22 23 A. 19 really sticks out only because -- well, 19.

09:45:28 24 Q. Can we go to page 8, please.

09:45:40 25 So Topic 19 is about your county voter

09:45:49 1 registration system -- your county's voter registration
09:45:52 2 system and how your personnel interacts with these systems;
09:45:55 3 right?

09:45:57 4 A. Yes.

09:45:57 5 Q. Okay. And you mentioned Mr. Aguilar earlier.

09:46:05 6 Would he be more familiar with these topics
09:46:09 7 for Santa Cruz --

09:46:15 8 MR. PIERCE: Object -- object to foundation.

09:46:15 9 BY MR. HERRERA:

09:46:17 10 Q. Okay. Is there anyone in your office more
09:46:19 11 knowledgeable than Mr. Aguilar about these things, if you
09:46:25 12 know?

09:46:29 13 A. It would be -- it would be Angel.

09:46:32 14 Q. And who is Angel?

09:46:34 15 A. Aguilar.

09:46:35 16 Q. Okay. Sorry. I missed his first name earlier.

09:46:54 17 Does -- does Mr. Aguilar -- if you know, does
09:47:01 18 Mr. Aguilar train other voter clerks and election workers
09:47:07 19 in your office?

09:47:09 20 A. It would be me. And I just hired my new -- or I
09:47:22 21 just hired my chief deputy recorder.

09:47:30 22 Q. Okay. And does -- who is your chief deputy
09:47:34 23 recorder?

09:47:34 24 A. Yolanda Kory.

09:47:36 25 Q. What was the last name again? I'm sorry.

09:47:37 1 A. Kory, K-o-r-y.

09:47:41 2 Q. And does Ms. Kory have -- if you know, have

09:47:47 3 experience with election procedures and voter registration?

09:47:52 4 A. No, she doesn't.

09:47:54 5 Q. Okay. How many people work in the election side

09:47:59 6 of the Santa Cruz County Recorder's Office?

09:48:02 7 A. Three.

09:48:09 8 Q. And does Santa Cruz County or -- or does the --

09:48:13 9 does your office contract with any outside companies or --

09:48:19 10 or agencies to do the work of election administration or

09:48:24 11 voter registration?

09:48:27 12 A. No.

09:48:31 13 Q. Okay. So it's just you and the three people you

09:48:35 14 mentioned who do the voter registration; right?

09:48:38 15 A. Yes.

09:48:38 16 Q. Have you attended any -- you personally, have you

09:48:52 17 attended any trainings on voter registration put on by the

09:48:56 18 state or anyone else?

09:48:58 19 A. Yes.

09:48:59 20 Q. Okay. And when was that?

09:49:01 21 A. This past Monday, Tuesday, and Wednesday.

09:49:06 22 Q. Okay. And before that, had you attended any

09:49:10 23 trainings for voter registration put on by the Secretary of

09:49:14 24 State's Office or anyone else?

09:49:17 25 A. There was an election officers' conference in June

09:49:33 1 that I went to and, of course, the training of this past
09:49:40 2 week.

09:49:45 3 Q. And who put on the training this past week?

09:49:48 4 A. The secretary of state.

09:50:04 5 Q. And did anyone -- did anyone else from your office
09:50:07 6 accompany you to that training?

09:50:09 7 A. Yes. The five of us went.

09:50:15 8 Q. So you, the three people who work on elections,
09:50:20 9 and then who else went?

09:50:22 10 A. It was Monica Gutierrez. She was a temp from last
09:50:28 11 fall, and she just -- we just turned her to permanent
09:50:31 12 employee. And Rosa Anna Fajardo. She's been in this
09:50:38 13 department for maybe 18 months, maybe a little bit longer.
09:50:43 14 And she is also a recurring clerk/election clerk.

09:50:55 15 Q. All right. Well, let's -- let's see how far we
09:51:01 16 can get on some of these questions. And if you don't know,
09:51:04 17 you know, please explain that.

09:51:07 18 Now, let's go to -- if we can please go to,
09:51:37 19 in the folder, Exhibit C -- I'm sorry, Exhibit B. Sorry
09:51:49 20 about that.

09:52:04 21 And do you recognize this first page of this
09:52:07 22 document, Ms. Moreno?

09:52:10 23 A. I might have come across it. I can't say for
09:52:21 24 sure.

09:52:22 25 Q. Okay. And from the title, as you can see, it

09:52:27 1 says, "Defendant's Responses to Plaintiff's First Set of
09:52:31 2 Requests for Production."

09:52:34 3 And well, you can see there on the first
09:52:38 4 sentence of -- in the body of the document that these are
09:52:42 5 the requests for production of the Santa Cruz County
09:52:46 6 Recorder's Office in this case.

09:52:49 7 Did you help in gathering documents to answer
09:52:52 8 these requests for production?

09:52:55 9 A. With the help of Saibet Gastelum and Angel
09:53:01 10 Aguilar, we were able to produce those documents.

09:53:04 11 Q. Okay. Can we go to Request For Production
09:53:08 12 Number 10 on page 6.

09:53:09 13 THE COURT REPORTER: Do you want to mark this
09:53:12 14 as Exhibit 99?

09:53:13 15 MR. HERRERA: Yes, please.

09:53:13 16 (The document was marked as Exhibit 99
09:53:16 17 for identification.)

09:53:16 18 BY MR. HERRERA:

09:53:27 19 Q. Okay. And this RFP Number 10 in Exhibit 99 asks
09:53:33 20 for "All documents and communications regarding A.R.S.
09:53:39 21 Section 16-165, as amended by H.B. 2243"; right?

09:53:46 22 A. Yes.

09:53:47 23 Q. Okay. And based on your response, your office had
09:53:52 24 no responsive documents to this request; is that right?

09:53:57 25 MR. PIERCE: Object to the form and

09:54:00 1 foundation.

09:54:02 2 BY MR. HERRERA:

09:54:02 3 Q. Okay. Is that still the case that you don't have

09:54:04 4 any -- is that still the case that you don't have any

09:54:16 5 responsive documents to that request?

09:54:18 6 A. Correct.

09:54:45 7 MR. HERRERA: Now, can we go to Exhibit C in

09:54:47 8 the folder. And can we mark this as Exhibit 100, please.

09:55:03 9 BY MR. HERRERA:

09:55:03 10 Q. Now, Ms. Moreno, we're showing you on the screen

09:55:06 11 here another exhibit that has been marked as Exhibit 100.

09:55:13 12 And -- or actually, I'm sorry.

09:55:16 13 MR. HERRERA: Let's not mark -- can we strike

09:55:18 14 that and not do this Exhibit 100. This has been previously

09:55:21 15 marked as Exhibit 6 in a prior deposition.

09:55:21 16 BY MR. HERRERA:

09:55:33 17 Q. Do you recognize this document from its first

09:55:36 18 page, Ms. Moreno?

09:55:39 19 A. Yes.

09:55:41 20 Q. Okay. And what is it, based on the first page?

09:55:46 21 A. It's a 2019 Elections Procedures Manual.

09:55:52 22 Q. And what is the purpose of the Elections

09:55:58 23 Procedures Manual?

09:55:58 24 MR. PIERCE: Object; foundation.

09:56:00 25 THE WITNESS: It's -- it's our bible per se

09:56:06 1 as to -- to follow policies and procedures.

09:56:13 2 BY MR. HERRERA:

09:56:13 3 Q. And by "policies and procedures," is that with

09:56:20 4 regard to election administration?

09:56:22 5 A. Yes.

09:56:23 6 Q. Okay. Is this version -- or rather, is the 2019

09:56:35 7 Elections Procedures Manual still currently the one that

09:56:39 8 you use to guide your office in administering elections?

09:56:46 9 A. As I mentioned to you, what I have is the -- is

09:56:54 10 the 2019 EPM manual, parentheses, 22 -- 2022 annotated.

09:57:02 11 Q. And so do you use the 2022 annotated?

09:57:06 12 A. Yes.

09:57:07 13 Q. Okay. And is that something that your office uses

09:57:11 14 as well to guide you in administering elections?

09:57:16 15 A. Yes.

09:57:16 16 Q. Do you know what month that 2022 Election

09:57:23 17 Procedures Manual was created?

09:57:25 18 A. No.

09:57:28 19 MR. HERRERA: And I'll ask counsel, since

09:57:31 20 Ms. Moreno has that in front of her, if we can get a copy

09:57:34 21 of that later.

09:57:37 22 MR. PIERCE: That shouldn't be a problem.

09:57:39 23 MR. HERRERA: Thank you, Mr. Pierce.

09:57:44 24 BY MR. HERRERA:

09:57:49 25 Q. And in the annotated version, what does -- what

09:57:53 1 does the annotated version have in it that's different from
09:57:58 2 this 2019 version?

09:58:00 3 A. I don't know.

09:58:17 4 Q. And when you say that it's annotated, are -- are
09:58:21 5 the annotations in line or kind of in comment bubbles on
09:58:28 6 the side? How does that look?

09:58:38 7 A. It -- since -- I could see, for example, there are
09:58:47 8 some line items, like, drawn with a -- like, not slashed
09:58:55 9 out but with just a line across them, and then there could
09:59:01 10 be a word inserted. Some other items could be in a
09:59:10 11 different color. But I can't compare it to the 2019
09:59:16 12 because I don't have -- I haven't worked with the 2019.

09:59:20 13 Q. Okay. So have you reviewed the 2019 Elections
09:59:26 14 Procedures Manual, the one that's in front of you -- or
09:59:29 15 rather, on the screen?

09:59:30 16 A. Yes.

09:59:33 17 Q. Okay. And is your office, if you know, legally
09:59:38 18 required to follow the 2019 Elections Procedures Manual?

09:59:43 19 MR. PIERCE: Object; foundation.

09:59:46 20 MR. LANGHOFER: Object to form.

09:59:46 21 MR. PIERCE: Form.

10:00:05 22 MR. LANGHOFER: Calls for a legal conclusion.

10:00:05 23 THE WITNESS: All I've worked with since I
10:00:09 24 came in was with the 2022 annotated version. And when I
10:00:16 25 make reference to the staff, it's based on -- on this EPM.

10:00:35 1 BY MR. HERRERA:

10:00:36 2 Q. And so you don't know if there is a version of the

10:00:41 3 Elections Procedures Manual that's legally binding on your

10:00:44 4 office?

10:00:45 5 MR. LANGHOFER: Object to form. Calls for a

10:00:52 6 legal conclusion.

10:00:52 7 THE WITNESS: I'm sure -- I'm sure there is.

10:00:55 8 I just -- like I said, I -- this is what I have and this is

10:00:58 9 what I've been using.

10:01:00 10 BY MR. HERRERA:

10:01:08 11 Q. Can legally binding guidance be conveyed by the

10:01:11 12 Secretary of State's Office to your office by any other

10:01:13 13 means outside of the Elections Procedures Manual, if you

10:01:18 14 know?

10:01:18 15 MR. LANGHOFER: Same objection.

10:01:21 16 MS. STUART: Form.

10:01:22 17 THE WITNESS: I don't know.

10:01:24 18 BY MR. HERRERA:

10:01:25 19 Q. Do you ever get -- and without telling me the

10:01:29 20 contents, do you ever get any memoranda from the Secretary

10:01:34 21 of State's Office about election procedures?

10:01:48 22 A. Not that I can recall.

10:02:14 23 MR. HERRERA: Now, let's go to another

10:02:16 24 exhibit that has been marked in a previous deposition. And

10:02:21 25 for the court reporter, that's Exhibit D in our folder.

10:02:29 1 Now this -- this exhibit was marked as Exhibit 35 in a
10:02:34 2 prior deposition.

10:02:34 3 BY MR. HERRERA:

10:02:34 4 Q. It says -- down there, it says "Petty," Ms. Moreno
10:02:37 5 because Ms. Petty is -- was the designee for Maricopa
10:02:37 6 County.

10:02:45 7 So this -- I'll represent to you -- and you
10:02:47 8 can kind of see at the very top -- it's a little small --
10:02:50 9 that it says, "2023 Elections Procedures Manual, June 2023
10:02:55 10 Draft."

10:02:57 11 Have you ever reviewed this document before,
10:03:01 12 a 20 -- a 2023 draft of the Elections Procedures Manual?

10:03:05 13 A. We've been involved in -- in changes that may
10:03:15 14 occur, deletion of certain items. And so I have been
10:03:31 15 involved with that. I have seen it. I have read it.

10:03:33 16 Q. Okay. And you mentioned changes and deletions
10:03:37 17 that your office may have been involved in. Can you tell
10:03:39 18 me about the changes that your office has been involved in
10:03:43 19 with regard to the draft 2023 Elections Procedures Manual?

10:03:47 20 A. Nothing in specific. There's just -- there could
10:03:51 21 be a comment or a suggestion and that involves all the
10:03:59 22 county recorders.

10:04:03 23 Q. Are there any comments that you or your office has
10:04:08 24 submitted to the secretary of state on this June 2023
10:04:13 25 draft?

10:04:15 1 A. No.

10:04:17 2 Q. Have you communicated any suggestions verbally to
10:04:23 3 the Secretary of State's Office about the June 2023 draft
10:04:26 4 Elections Procedures Manual?

10:04:28 5 A. No.

10:04:30 6 Q. You mentioned deletions.

10:04:38 7 What are the deletions that you're referring
10:04:40 8 to with regard to the June 2023 draft of the Elections
10:04:48 9 Procedures Manual?

10:04:48 10 A. I couldn't say precisely what they -- what they
10:04:51 11 might be. You know, just at the end of the day, I don't
10:04:57 12 know what the end result is or will be. I'd have to go
10:05:05 13 back to maybe some notes or past meetings, but I couldn't
10:05:12 14 tell you.

10:05:16 15 Q. Now, have you -- have you actually read some of
10:05:24 16 the changes that are shown in this June 2023 draft of the
10:05:28 17 Elections Procedures Manual?

10:05:30 18 A. At the time that we had meetings, you know, we --
10:05:36 19 we -- I had read as to what the comments may be or
10:05:42 20 suggestions may be, but like I said, I haven't seen the
10:05:48 21 final version if -- no, I just don't know what the final
10:05:57 22 version will be.

10:05:57 23 Q. Are -- are there any thoughts that you had or
10:06:05 24 opinions that you had about some of the changes suggested
10:06:09 25 to the June 2023 draft of the Elections Procedures Manual?

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10:06:13 2
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10:06:30 6
10:06:30 7
10:06:38 8
10:06:39 9
10:06:41 10
10:06:42 11
10:06:49 12
10:06:58 13
10:07:01 14
10:07:05 15
10:07:10 16
10:07:15 17
10:07:25 18
10:07:25 19
10:07:28 20
10:07:38 21
10:07:59 22
10:08:03 23
10:08:07 24
10:08:11 25

A. No.

Q. Now I want to -- you've mentioned the training that you attended put on by the secretary of state recently, and I think you said it was on -- it started on Monday?

A. Yes.

Q. So it would be Monday, the 7th?

A. Yes.

Q. August 7, 2023?

A. Yes.

Q. Okay. And what was the training about?

A. It -- elections, voter registration, early voting, the early ballot.

Q. How much of the training was about voter registration, in terms of the portion of it?

A. Probably 45 minutes.

Q. 45 minutes of the whole three days was about voter registration?

A. Well, the process of voter registration, but you also have the early ballots, the mail-out ballots, the -- you know, different steps, and, you know, like, what they try to do is they would take a topic and -- and there's discussion -- there's presentation, discussion within those 45 minutes.

Q. And was -- were there any presentations or

10:08:16 1 discussions of maintaining the list of voters who are
10:08:24 2 registered to vote?

10:08:27 3 A. Yes.

10:08:29 4 Q. Okay. And do -- what do you recall about that?

10:08:37 5 A. That would be the -- the AVID program where
10:08:43 6 there's a list of voter registration.

10:08:46 7 Q. Okay. And as far as -- as far as you understand,
10:08:51 8 what is the AVID program?

10:08:53 9 A. It's the access voter registration or Arizona
10:09:03 10 voters' registration -- I'm sorry. I need to see it.

10:09:07 11 Q. You don't have to -- you don't have to tell me the
10:09:08 12 acronym, but what's -- what is your understanding of what
10:09:12 13 it is?

10:09:13 14 A. Well, it's just -- it's access to the voters'
10:09:18 15 information database where -- our office has the
10:09:28 16 information on the voter, all the information pertinent to
10:09:37 17 providing that voter with, you know, voting information in
10:09:42 18 the future, and for us to also verify that we have a
10:09:48 19 legitimate registrant.

10:09:53 20 Q. And when you say "legitimate registrant," do you
10:10:02 21 mean someone eligible to vote?

10:10:03 22 A. That's correct.

10:10:04 23 Q. Is there anything else you meant by that?

10:10:08 24 A. No.

10:10:30 25 MR. HERRERA: For the court reporter, can we

10:10:35 1 pull up Exhibit I in the folder.

10:10:49 2 BY MR. HERRERA:

10:10:50 3 Q. Ms. Moreno, this was an exhibit marked in a prior
10:10:54 4 deposition as Exhibit 19.

10:10:56 5 And as you can see from the bold letters
10:10:59 6 there, this is a copy of House Bill 2492 from 2022 from the
10:11:07 7 Arizona legislature.

10:11:08 8 Are you familiar with this house bill at all?

10:11:12 9 A. So when it first came up, again, I went to visit
10:11:18 10 and read up on it but . . .

10:11:30 11 Q. When you say "it first came up," when did it first
10:11:35 12 come up?

10:11:35 13 A. I don't remember. I know that prior to the topics
10:11:42 14 that were outlined on this deposition notice, I had -- I
10:11:47 15 had -- I needed to go and see that house bill or at least
10:11:52 16 read up on it, but I couldn't -- I couldn't tell you what
10:11:55 17 it is.

10:11:58 18 Q. Do you know generally what kinds of changes that
10:12:02 19 this bill made -- makes to the law?

10:12:29 20 And can we go to --

10:12:29 21 THE COURT REPORTER: I didn't hear an answer.
10:12:31 22 I'm sorry.

10:12:32 23 THE WITNESS: No.

10:12:35 24 BY MR. HERRERA:

10:12:36 25 Q. Can we go to Exhibit G in the -- in our folder.

10:12:46 1 Ms. Moreno, I'm showing you an exhibit that
10:12:48 2 was marked in a prior deposition as Exhibit 21. And as you
10:12:52 3 can see from the first page here, it says, "House
10:12:56 4 Bill 2243."

10:12:58 5 Are you familiar with House Bill 2243 from
10:13:03 6 2022?

10:13:05 7 A. No.

10:13:10 8 Q. Okay. Have you ever reviewed that bill?

10:13:16 9 A. I might have. I might have.

10:13:21 10 Q. Do you -- do you happen to recall what that bill
10:13:27 11 is about?

10:13:37 12 A. No.

10:13:45 13 Q. Okay. Would it -- would it ring a bell if I said
10:13:49 14 that it has to do with the cancellation of voter
10:13:57 15 registration?

10:13:57 16 A. Yes.

10:13:58 17 Q. Okay. And what do you recall -- what does that
10:14:03 18 help you remember?

10:14:03 19 A. We had discussed it. We had discussed it with --
10:14:08 20 with the Association of County Recorders. So there's house
10:14:14 21 bills that -- that are presented to us for suggestions or
10:14:20 22 comments. So --

10:14:24 23 Q. And --

10:14:25 24 A. -- so depending on the structure of the bill or
10:14:30 25 what is changing, what's omitted, there are suggestions,

10:14:36 1 comments from the association.

10:14:42 2 Q. And what do you recall about those comments at the
10:14:48 3 association or with the association regarding this House
10:14:53 4 Bill 2243?

10:14:55 5 A. Well, because you did mention it has to do with
10:15:01 6 cancellation of voters, I do know that we've had several
10:15:08 7 discussions about that, but I can't pinpoint exactly what
10:15:14 8 was talked about.

10:15:15 9 Q. And is that something -- is that something that --
10:15:23 10 would anything help you remember what those discussions
10:15:26 11 were about?

10:15:30 12 A. No. I'd have to go back to . . .

10:15:51 13 Q. Do -- do you -- do you recall any discussions with
10:15:54 14 the association you mentioned regarding implementing House
10:16:00 15 Bills 2243 and 2492?

10:16:08 16 A. I'm -- I'm sure -- I don't recall, but I'm sure
10:16:11 17 there was discussions.

10:16:12 18 Q. Okay. And when you say you don't recall, is
10:16:19 19 that -- do you just not recall the substance of them?

10:16:23 20 A. The discussion -- the substance and the
10:16:27 21 discussion.

10:16:28 22 Q. Okay. Do you know generally what these bills mean
10:16:39 23 for how Santa Cruz County runs voter registration?

10:16:47 24 A. They would affect or change the implementation
10:16:59 25 of -- of the process.

10:17:01 1 Q. Okay. And I'm not trying to do an exam here.
10:17:06 2 I've -- I'm just trying to ask, what do you -- what do you
10:17:09 3 know about what these bills do to change how Santa Cruz
10:17:13 4 runs elections?

10:17:20 5 A. Can you repeat that, please?

10:17:21 6 Q. Sure.

10:17:21 7 So what do you know about these bills or how
10:17:25 8 these bills change how Santa Cruz County does voter
10:17:34 9 registration?

10:17:34 10 A. How -- I -- I'm here to make sure that any change
10:17:48 11 with regards to the process that is -- that passes -- that
10:17:57 12 the house bill passes, that we have to implement and we
10:18:01 13 have to go with that process. We have to go with that
10:18:04 14 procedure.

10:18:06 15 Q. And do you know what some of those -- those
10:18:07 16 changes are?

10:18:09 17 A. I can't remember.

10:18:11 18 Q. Would someone else in your office -- who works in
10:18:16 19 your office know about those changes in terms of the
10:18:21 20 everyday application of them?

10:18:25 21 A. I don't know.

10:18:31 22 Q. Would -- would Mr. Aguilar know, perhaps, how
10:18:35 23 these bills have changed -- how your office runs voter
10:18:45 24 registration?

10:18:45 25 A. I don't know.

10:18:47 1 Q. And why -- would it help if you spoke with
10:18:54 2 Mr. Aguilar to determine that?

10:18:57 3 A. I can, yes.

10:19:09 4 Q. Have you ever actually handled a voter
10:19:21 5 registration application that comes into Santa Cruz County
10:19:28 6 Recorder's Office?

10:19:28 7 A. No. In a sense where I have looked over the
10:19:34 8 shoulder of Saibet or Angel to see what they're doing, but
10:19:42 9 I myself have not done it. Whatever is coming in, whatever
10:19:46 10 is -- they're doing on the voters' end, I'm looking over
10:19:51 11 their shoulder so that I can get to know the process.

10:19:55 12 Q. And what have you learned by doing that?

10:19:59 13 A. Well, the information that is required by the
10:20:02 14 registrant in order for him to be -- or for that person to
10:20:08 15 be part of the registration list.

10:20:12 16 Q. Okay. And are you familiar with the requirements
10:20:21 17 of your office in processing that voter registration
10:20:27 18 application when it comes in?

10:20:31 19 A. We're a small office, so if there is a
10:20:41 20 conversation, I can just leave my office and inquire about
10:20:45 21 what's going on. So I try to do my best to be aware of --
10:20:56 22 if there's no conversation, the process is moot.

10:21:02 23 Q. Well, I'm about to go into -- oh, go ahead. I'm
10:21:06 24 sorry.

10:21:06 25 A. So for me to be aware of -- of the process, I

10:21:15 1 believe I -- I'm getting there, yes.

10:21:19 2 Q. Okay.

10:21:19 3 MR. HERRERA: And I think I'm at a good point
10:21:21 4 where I'm going to move on to a new topic here. And I
10:21:25 5 think we can take maybe a ten-minute break so that everyone
10:21:30 6 can get some water and get some rest.

10:21:33 7 Is that okay? Is that okay with everybody?

10:21:37 8 We're off the record -- or can we go off the
10:21:39 9 record, please.

10:21:41 10 THE VIDEOGRAPHER: We are off the record.

10:21:43 11 Time on the video monitor is 10:21 a.m.

10:33:21 12 (A recess ensued.)

10:33:21 13 THE VIDEOGRAPHER: We are on the record.

10:33:25 14 Time on the video monitor is 10:33 a.m.

10:33:29 15 BY MR. HERRERA:

10:33:36 16 Q. Ms. Moreno, Arizona has a documentary proof of

10:33:40 17 citizenship requirement for new voter registration

10:33:43 18 applications; correct?

10:33:44 19 A. Yes.

10:33:45 20 Q. Okay. And I'll refer to the requirement as the

10:33:51 21 "DPOC requirement."

10:33:53 22 Is that -- will you understand that if I say

10:33:55 23 "DPOC"?

10:33:56 24 A. Yes.

10:33:56 25 Q. Okay. Are you familiar with the documents or

10:34:04 1 materials that would constitute -- or that would be
10:34:07 2 satisfactory DPOC in Arizona?
10:34:11 3 A. Yes.
10:34:11 4 Q. Okay. So if I -- you know, if I said Arizona
10:34:22 5 driver's license and ID cards, out-of-state driver's
10:34:26 6 licenses or ID cards, birth certificate, U.S. passport,
10:34:30 7 citizenship and immigration documents, and tribal
10:34:34 8 identification numbers and documents, those things would --
10:34:38 9 would be familiar to you as documentary proof of
10:34:42 10 citizenship?
10:34:42 11 A. Yes.
10:34:43 12 Q. Okay. Now, what can happen if a person registers
10:34:46 13 to vote and they do not supply their voter registration
10:34:50 14 form with DPOC?
10:34:54 15 MR. LANGHOFER: Form.
10:34:58 16 THE WITNESS: A letter is sent to them
10:35:02 17 requesting proof.
10:35:08 18 BY MR. HERRERA:
10:35:09 19 Q. Okay. And so Santa Cruz County would send that
10:35:12 20 person a letter asking for proof of citizenship?
10:35:15 21 A. Correct.
10:35:16 22 Q. And what happens after you send that letter?
10:35:24 23 A. I believe they need to respond within 30 days or
10:35:32 24 that registrant goes to suspense.
10:35:41 25 Q. Suspense. Okay.

10:35:44 1 A. Go ahead.

10:35:44 2 Q. And by "suspense," can you explain what you mean

10:35:48 3 by that?

10:35:49 4 A. They're put on hold. It's just like a -- they're

10:35:56 5 they are put on hold until proof of citizenship -- or proof

10:36:01 6 of -- the proper document is provided.

10:36:07 7 Q. Now, do you know what happens if someone submits a

10:36:13 8 federal voter registration form but does not submit

10:36:18 9 documentary proof of citizenship?

10:36:23 10 A. He's a fed-only voter.

10:36:27 11 Q. And what is a fed-only voter?

10:36:29 12 A. That person can only vote on federal elections.

10:36:33 13 Q. Okay. And if someone submits an Arizona state

10:36:39 14 voter registration application and does submit the

10:36:43 15 documentary proof of citizenship, what -- what kind of

10:36:48 16 voter is that person going to be?

10:36:51 17 A. My god --

10:37:07 18 Q. Would it be full-ballot -- full-ballot voter?

10:37:10 19 A. Full ballot. Correct.

10:37:11 20 Q. Now, do you -- what is the difference between a

10:37:16 21 fed-only and a full-ballot voter?

10:37:20 22 A. Well, the full ballot is you have the candidates,

10:37:26 23 whether it be local, statewide, or nationwide, the federal

10:37:35 24 candidates. You'd have that for the full -- full

10:37:44 25 registrant, while the federal will only be limited to those

10:37:49 1 federal candidates who are running for office.

10:37:55 2 Q. Now, I want to get a sense of the databases that
10:38:01 3 your office has access to in term -- and this is in the
10:38:05 4 context of voter registration.

10:38:07 5 Does your office use the Arizona Motor
10:38:13 6 Vehicles Division databases at all?

10:38:18 7 A. I do know that we do receive registration forms
10:38:28 8 from -- from MVD.

10:38:35 9 Q. And what do you do with those voter registration
10:38:37 10 forms from MVD?

10:38:40 11 A. We go ahead and input all that information in a
10:38:48 12 voter registration list.

10:38:52 13 Q. Okay. And do you use the -- do you have any
10:39:02 14 access to Arizona MVD -- that's Motor Vehicle Division, MVD
10:39:09 15 -- data in your office?

10:39:14 16 A. I don't believe so. That -- what we receive is
10:39:22 17 just the registrant's form completed, and that is uploaded
10:39:30 18 to his profile once that -- the voter's -- registrant's
10:39:39 19 information is inputted.

10:39:41 20 Q. Do you ever use the Arizona MVD database for
10:39:48 21 verification of a voter when they submit a registration
10:39:54 22 application?

10:40:04 23 A. I don't know.

10:40:05 24 Q. Let me ask it a little bit more broadly.

10:40:09 25 When you get a voter registration

10:40:10 1 application, do you do anything in your office to verify
10:40:17 2 that person's identity or eligibility?

10:40:28 3 A. I don't know.

10:40:42 4 Q. Okay. What -- just walk me through -- when you
10:40:46 5 get a voter registration application in your office, you
10:40:50 6 look at the form and then you look at what that person
10:40:56 7 submitted; right? We've talked about documentary proof of
10:41:00 8 citizenship.

10:41:02 9 Is there anything else you do after receiving
10:41:05 10 those materials from the voter?

10:41:14 11 A. If the voter registration form is complete and the
10:41:22 12 profile is -- is produced or -- or -- I'm trying to find
10:41:31 13 that word. If there's anything missing, there is a --
10:41:50 14 there is a letter that is sent to that registrant to
10:41:56 15 provide us with that information.

10:42:00 16 Q. Okay. Do you go -- does your office go look up
10:42:03 17 someone's name or -- using their name or numbers associated
10:42:08 18 with that person and go look them up in any state or
10:42:11 19 federal databases?

10:42:14 20 A. Based on my experience -- and while I'm answering
10:42:18 21 you, for instance, there was one that the address did not
10:42:22 22 make sense, but since I know the County -- not very well,
10:42:30 23 but to know what he might have meant as the address, that
10:42:39 24 we -- I had Angel look at the county records to see if that
10:42:46 25 particular voter owned that particular residence and just

10:42:59 1 to confirm the address. If there is no confirmation, it's
10:43:05 2 hard to provide them with a notice because the address is
10:43:10 3 wrong anyway.

10:43:12 4 Q. So you used your -- your title skills for that --
10:43:16 5 for that one?

10:43:18 6 A. Yes.

10:43:19 7 Q. Are there -- do you go -- have you ever used

10:43:26 8 any -- gone and looked someone up in the Motor Vehicle

10:43:33 9 Division data to verify anything about someone who's

10:43:37 10 applying to vote?

10:43:41 11 A. No.

10:43:41 12 Q. Okay. Do you know if your office -- anyone at

10:43:44 13 your office does that ever?

10:43:45 14 A. No.

10:43:45 15 Q. You don't know?

10:43:47 16 A. I don't know.

10:43:48 17 Q. Okay. Is it possible that they do?

10:43:50 18 A. It's possible.

10:43:52 19 Q. Do you recall anything from that secretary of
10:43:57 20 state training that began on August 7th, this week, that
10:44:02 21 would have explained how to verify someone -- someone's
10:44:08 22 information using the Motor Vehicle Division's data?

10:44:13 23 A. Yes.

10:44:13 24 Q. What do you -- what do you recall about that?

10:44:20 25 A. I don't remember.

10:44:24 1 Q. But people -- people from your office were there
10:44:28 2 at that training; right?

10:44:29 3 A. Yes. Uh-huh.

10:44:30 4 Q. Okay.

10:44:31 5 A. Yes.

10:44:32 6 Q. So they -- they might have remembered that?

10:44:36 7 A. Yes.

10:44:37 8 MR. PIERCE: Objection; form.

10:44:39 9 BY MR. HERRERA:

10:44:39 10 Q. Okay. Yeah.

10:44:40 11 MR. HERRERA: Sorry, Justin. I'm just trying
10:44:42 12 to figure out who might know this information.

10:44:47 13 BY MR. HERRERA:

10:44:48 14 Q. So has your office ever used -- have you heard of
10:45:01 15 the Systematic Alien Verification for Entitlements program?

10:45:09 16 A. Yes. I mean, I -- yes.

10:45:12 17 Q. Okay. And what do you know about it?

10:45:17 18 A. I know that -- that -- I'm -- that it has to do
10:45:32 19 with the registration number that's provided to that
10:45:40 20 individual. I don't know.

10:45:48 21 Q. Does -- does your office use the Systematic Alien
10:46:02 22 Verification for Entitlements program at all for voter
10:46:04 23 purposes?

10:46:06 24 A. I don't know.

10:46:11 25 Q. You might also have seen it as SAVE, S-A-V-E?

10:46:16 1 A. I've seen that, SAVE. I -- I know -- when you
10:46:20 2 mentioned that -- I know the acronym for it, but I don't
10:46:23 3 know.

10:46:25 4 Q. You don't know if your office uses that for voter
10:46:29 5 registration purposes?

10:46:30 6 A. No, I don't.

10:46:31 7 Q. Okay. Have you ever heard of a HAVA check,
10:46:37 8 H-A-V-E -- I'm sorry, H-A-V-A?

10:46:40 9 A. Yes.

10:46:40 10 Q. Okay. And what is that?

10:46:43 11 A. It's the Help -- Help America Vote Act.

10:46:52 12 Q. Okay. And what is a -- what is a HAVA check?

10:46:57 13 A. Can you repeat the question.

10:47:30 14 Q. Sure.

10:47:35 15 So what is -- just what is a HAVA check?
10:47:37 16 Because you seem to have heard of it. But do you know what
10:47:41 17 it is?

10:47:45 18 A. I think it's -- it's helping America vote, exactly
10:47:54 19 what it stands for.

10:47:57 20 Q. Does anyone in your office perform HAVA checks on
10:48:06 21 people registering to vote or trying to register to vote?

10:48:11 22 A. It's my understanding that there is a connection
10:48:17 23 with the AVID, the Active Early Voting List that is
10:48:27 24 connected to HAVA.

10:48:33 25 Q. And what do you mean by that, to the extent

10:48:36 1 it's --

10:48:37 2 A. There is -- I mean, there is some connection.

10:48:45 3 Maybe not intertwined with each other, but there's

10:48:49 4 something -- one has to do with the other.

10:48:54 5 Q. Okay. Is it that someone might not get to be on

10:49:02 6 the early voting list if they don't have a HAVA check,

10:49:05 7 something like that?

10:49:07 8 A. No, I don't think so. I don't think that's

10:49:10 9 affected.

10:49:11 10 Q. Okay.

10:49:12 11 A. I'm not sure.

10:49:13 12 Q. Is it -- do you know if it's something that any of

10:49:15 13 the people who work at your office use -- a HAVA -- the

10:49:19 14 HAVA check?

10:49:23 15 A. I'm sure.

10:49:26 16 Q. Okay. Do you -- are you familiar with what they

10:49:28 17 do to perform a HAVA check?

10:49:33 18 A. No.

10:49:34 19 Q. Okay. And do you -- do you know -- if you -- is

10:49:44 20 that because you don't recall or you just -- you just don't

10:49:47 21 know?

10:49:48 22 A. I just don't recall.

10:49:57 23 Q. Okay. Would it help if you talked to someone who

10:50:00 24 performs -- who might perform HAVA checks or someone who

10:50:03 25 works in the office?

10:50:07 1 A. So as I am -- yes. Yes, yes.

10:50:13 2 Q. And who -- who might know about that, about HAVA

10:50:18 3 checks, at your office?

10:50:19 4 A. Angel.

10:50:21 5 Q. Okay. Angel Aguilar?

10:50:24 6 A. Correct.

10:50:31 7 Q. Is it possible that he knows what your office does

10:50:34 8 with regard to SAVE, if -- if anything?

10:50:37 9 A. Yes.

10:50:38 10 Q. Is there anything that your office does when they

10:50:51 11 get a voter registration -- when you get a voter

10:50:53 12 registration application to make sure you know that that

10:50:56 13 person's a U.S. citizen?

10:51:05 14 A. The -- with the use of the Arizona driver's

10:51:09 15 license.

10:51:09 16 Q. Okay. And how -- how does that tell you that

10:51:12 17 someone's a U.S. citizen?

10:51:17 18 A. If the voter registration is coming from MVD, MVD

10:51:22 19 has already made that determination.

10:51:26 20 Q. I see.

10:51:28 21 So you're -- so you're just talking about

10:51:32 22 when you get a -- an application through the MVD?

10:51:37 23 A. Yes.

10:51:37 24 Q. Okay. Does -- do you use -- do you ever use MVD

10:51:42 25 to tell you or to confirm that someone is a -- or is a U.S.

10:51:47 1 citizen besides from when you get a -- an application from
10:51:51 2 them?

10:51:55 3 A. I don't know.

10:51:56 4 Q. And just to clarify, to your knowledge, someone
10:52:06 5 can have a -- an Arizona driver's license and not be a U.S.
10:52:11 6 citizen; right?

10:52:16 7 MR. LANGHOFER: Form. Calls for a legal
10:52:16 8 conclusion.

10:52:16 9 BY MR. HERRERA:

10:52:19 10 Q. If you know.

10:52:21 11 A. Yes.

10:52:22 12 Q. Okay. And I'm asking you -- I mean, you're in
10:52:27 13 Nogales. I'm from a place closer to the border too. There
10:52:31 14 are -- you might know. I'm just asking if you know if
10:52:34 15 people might have a driver's license and they're not a U.S.
10:52:37 16 citizen.

10:52:38 17 It's possible; right?

10:52:39 18 A. It is possible.

10:52:39 19 Q. Okay.

10:53:09 20 MR. HERRERA: Can we go back -- could we
10:53:11 21 bring up the folder that's Petty Exhibit 19 from the
10:53:16 22 folder, or -- I think we labeled it Exhibit I in the
10:53:20 23 folder. Could we go to page -- bear with me one moment.
10:54:35 24 I'm kind of moving my questions around here.

10:54:50 25 Can we go to page 5, please. One more page

10:55:00 1 down, page 6.

10:55:05 2 BY MR. HERRERA:

10:55:05 3 Q. And, Ms. Moreno, I'm showing you -- this is a few

10:55:09 4 pages down in the House Bill 2492 that I was showing you

10:55:13 5 earlier. And it -- that was marked as an exhibit in a

10:55:16 6 prior deposition, Exhibit 19. And on the sixth page of

10:55:22 7 this document -- or it's page 5 of the bill -- there is a

10:55:27 8 section here that starts with E.

10:55:31 9 Do you see that, the letter E?

10:55:39 10 MR. HERRERA: You can zoom in a little bit,

10:55:39 11 maybe.

10:55:41 12 THE WITNESS: I see it. I see it. I'm

10:55:43 13 sorry, yes.

10:55:43 14 BY MR. HERRERA:

10:55:43 15 Q. And it says, "After complying with Subsection D of

10:55:46 16 this section, if the county recorder or other officer in

10:55:51 17 charge of elections matches the applicant with information

10:55:54 18 that verifies the applicant is a United States citizen" --

10:56:01 19 and do you see -- have you reviewed this section before?

10:56:04 20 A. I'm sure I have, yes.

10:56:08 21 Q. Okay. Well, I want to zoom in a little bit or go

10:56:10 22 farther -- not zoom in, sorry. I want to look farther down

10:56:13 23 in this -- in this paragraph here.

10:56:16 24 And in the middle, it says -- I believe it's

10:56:27 25 the second sentence -- "If the county recorder or other

10:56:34 1 officer in charge of elections matches the applicant with
10:56:37 2 information that the applicant is not a United States
10:56:39 3 citizen, the county recorder or other officer in charge of
10:56:46 4 elections shall reject the application."
10:56:49 5 And then it continues. Do you see that?
10:56:49 6 Do you know, Ms. Moreno --
10:57:01 7 THE COURT REPORTER: I didn't hear an answer.
10:57:01 8 BY MR. HERRERA:
10:57:04 9 Q. Do you see what I -- what I was reading?
10:57:06 10 A. You said it was the second sentence?
10:57:12 11 Q. Yes. I think it starts on line 14.
10:57:19 12 A. Okay. Yes.
10:57:20 13 Q. Okay. Now you -- now you can see what I was
10:57:29 14 reading; right?
10:57:30 15 A. Yes. Uh-huh.
10:57:30 16 Q. And I want you to think about that part that
10:57:37 17 says "matches the applicant with information that the
10:57:40 18 applicant is not a United States citizen."
10:57:42 19 Now, what is information that a voter is
10:57:50 20 not -- or that an applicant is not a United States citizen?
10:57:57 21 A. Can you repeat that, please?
10:57:58 22 Q. Yeah. Sure.
10:57:59 23 So as far as you -- as far as you know, what
10:58:03 24 is information that the applicant is not a United States
10:58:07 25 citizen?

10:58:09 1 MR. LANGHOFER: Calls for a legal conclusion.

10:58:12 2 THE WITNESS: I don't know.

10:58:28 3 BY MR. HERRERA:

10:58:29 4 Q. Do you -- does anyone in your office know what

10:58:31 5 that -- what information would indicate someone is not a

10:58:36 6 United States citizen?

10:58:39 7 MR. LANGHOFER: Foundation.

10:58:39 8 MR. PIERCE: Form.

10:58:51 9 THE WITNESS: It's the lack of providing

10:58:55 10 evidence that they are a United States citizen.

10:59:06 11 BY MR. HERRERA:

10:59:06 12 Q. So you're saying -- so one thing might be the

10:59:10 13 lack -- so by "lack" -- what do you mean by "lack of

10:59:12 14 information"?

10:59:13 15 A. By not providing evidence that they are a U.S.

10:59:18 16 citizen.

10:59:18 17 Q. Okay. Is there some -- would there ever be

10:59:24 18 something -- to you, do you read this at all to mean that

10:59:28 19 there is some piece of information that will tell you that

10:59:31 20 they are not a United States citizen?

10:59:37 21 MS. STUART: Form.

10:59:41 22 THE WITNESS: I don't know.

10:59:44 23 BY MR. HERRERA:

10:59:44 24 Q. Okay. Now, as you are the designee for Santa Cruz

10:59:53 25 County Recorder's Office and you are the county recorder,

11:00:01 1 do you have any idea of how your office will apply this
11:00:06 2 part of the law?

11:00:13 3 MR. LANGHOFER: Form.

11:00:14 4 THE WITNESS: It is my understanding that if
11:00:20 5 you are not able to provide with proof of citizenship or
11:00:26 6 you have not provided proof of citizenship, then you are
11:00:31 7 placed in the federal-only list.

11:00:40 8 BY MR. HERRERA:

11:00:41 9 Q. And it says, "If the county recorder or other
11:00:43 10 officer in charge of elections matches the applicant with
11:00:46 11 information that the applicant is not a United States
11:00:49 12 citizen, the county recorder or other officer in charge of
11:00:53 13 elections shall reject the application."

11:00:56 14 Is -- is there anything that would make you
11:01:00 15 reject the application if you -- if you saw information --
11:01:07 16 let me ask this again.

11:01:09 17 Is there anything that you -- that you would
11:01:13 18 see -- not lack of something, but is there anything -- does
11:01:16 19 this law make sense to you in terms of something you can
11:01:20 20 see that tells you that that person is not a U.S. citizen?

11:01:24 21 MR. PIERCE: Form.

11:01:24 22 MR. LANGHOFER: Form.

11:01:44 23 THE WITNESS: I don't know.

11:01:49 24 BY MR. HERRERA:

11:01:49 25 Q. Now, if you -- if you saw information in, say, a

11:01:56 1 database that showed you that someone 20 years ago was not
11:02:01 2 a U.S. citizen, would that indicate to you that that person
11:02:06 3 is still not a U.S. citizen today?
11:02:17 4 MR. LANGHOFER: Form.
11:02:18 5 MR. HORLEY: Objection.
11:02:18 6 THE WITNESS: No.
11:02:20 7 BY MR. HERRERA:
11:02:21 8 Q. And why not?
11:02:23 9 A. You're looking at 20 years ago, not now.
11:02:33 10 Q. Okay. So it -- someone could have become a
11:02:36 11 citizen in the last 20 years; right?
11:02:39 12 A. Yes.
11:02:39 13 Q. So if some -- if some database like the MVD
11:02:49 14 database showed you that someone was a citizen -- sorry --
11:02:53 15 let me start again.
11:02:54 16 If some database like the Motor Vehicles
11:02:58 17 Division database showed you that someone was not a U.S.
11:03:01 18 citizen 20 years ago, then it's possible that that
11:03:09 19 information does not tell you whether someone's a U.S.
11:03:12 20 citizen today; right?
11:03:15 21 A. Right.
11:03:17 22 MR. HORLEY: Form, foundation.
11:03:19 23 BY MR. HERRERA:
11:03:25 24 Q. Now, what about if you saw information in a
11:03:30 25 database that shows you someone was a U.S. citizen -- or

11:03:33 1 rather was not a U.S. citizen in 2010 -- the year 2010 --

11:03:33 2 MR. LANGHOFER: Form.

11:03:33 3 BY MR. HERRERA:

11:03:40 4 Q. -- would that -- would that tell you or constitute

11:03:43 5 information that someone is not a U.S. citizen today?

11:03:49 6 MR. LANGHOFER: Form.

11:03:50 7 MR. HORLEY: Form.

11:03:55 8 THE WITNESS: No.

11:03:56 9 BY MR. HERRERA:

11:03:57 10 Q. And why not?

11:04:04 11 A. It applies to that individual with -- with not

11:04:12 12 being a U.S. citizen 20 years ago. It would apply to the

11:04:17 13 person that, you know, came across on the database that was

11:04:26 14 not a U.S. citizen 10 years ago.

11:04:29 15 Q. Okay. And for you, what would -- what would the

11:04:33 16 line be in terms of the age of the information to show you

11:04:38 17 that someone's not a U.S. citizen --

11:04:41 18 MR. LANGHOFER: Form. Calls for a legal

11:04:42 19 conclusion.

11:04:42 20 BY MR. HERRERA:

11:04:43 21 Q. -- in order to approve their voter registration

11:04:45 22 application under this law?

11:04:47 23 MR. LANGHOFER: Same objection.

11:04:50 24 THE WITNESS: Given the opportunity, you

11:04:57 25 would reach out via mail for that individual to provide you

11:05:02 1 with proof of citizenship.

11:05:05 2 BY MR. HERRERA:

11:05:09 3 Q. Right.

11:05:09 4 But is there -- well, to you -- or as -- as

11:05:19 5 you understand it, what would be a valid source of

11:05:23 6 information as the law here -- it says, "information in the

11:05:28 7 law."

11:05:29 8 What would be a valid source of information

11:05:31 9 that someone is not a U.S. citizen?

11:05:34 10 MR. LANGHOFER: Form Calls for a legal

11:05:36 11 conclusion.

11:05:36 12 MR. PIERCE: Form.

11:05:39 13 THE WITNESS: I don't know.

11:05:43 14 BY MR. HERRERA:

11:05:48 15 Q. Is there anything -- did -- now, with this piece

11:05:54 16 of the law in mind about information that someone is not a

11:05:57 17 United States citizen, do you recall anything from the

11:06:02 18 secretary of state's training this week that would explain

11:06:05 19 to you how to -- to determine if something is information

11:06:13 20 that someone is not a U.S. citizen?

11:06:18 21 A. I don't remember.

11:06:20 22 MR. LANGHOFER: Form.

11:06:20 23 BY MR. HERRERA:

11:06:22 24 Q. Would -- do you think someone in your office might

11:06:24 25 remember?

11:06:26 1 MR. PIERCE: Foundation.

11:06:30 2 THE WITNESS: I don't know.

11:06:32 3 BY MR. HERRERA:

11:06:48 4 Q. Would -- if -- if some -- if some voter called or

11:06:52 5 some person in the county called and said, "My neighbor is

11:06:57 6 not a United States citizen," would you take that as

11:07:01 7 information that someone is not a United States citizen for

11:07:05 8 purposes of rejecting their voter application?

11:07:08 9 MR. LANGHOFER: Form.

11:07:10 10 MR. HORLEY: Foundation.

11:07:23 11 THE WITNESS: I think I would look to my

11:07:26 12 county attorney to advise me as to what I need to do.

11:07:34 13 BY MR. HERRERA:

11:07:35 14 Q. Now, if -- if some outside organization or group,

11:07:38 15 not a state agency, emails you information saying, "This

11:07:46 16 person and that person, they're not United States

11:07:49 17 citizens," would that be information in your mind that

11:07:54 18 would allow you to reject that person -- those people's

11:07:59 19 voter registration applications on the basis of not being

11:08:02 20 U.S. citizens?

11:08:04 21 MR. HORLEY: Objection; form, foundation.

11:08:13 22 THE WITNESS: Again, I would have to go

11:08:14 23 through -- to legal counsel for that.

11:08:19 24 BY MR. HERRERA:

11:08:21 25 Q. And why would you have to go to legal counsel for

11:08:23 1 those -- for those questions?

11:08:26 2 MR. LANGHOFER: Form.

11:08:27 3 MR. PIERCE: Form.

11:08:28 4 THE WITNESS: Because right now, I don't know

11:08:33 5 what I should do.

11:08:36 6 BY MR. HERRERA:

11:08:38 7 Q. And is that because the law does not -- the law,

11:08:48 8 as written here, does not explain to you what information

11:08:52 9 of someone not being a United States citizen is?

11:08:56 10 MR. PIERCE: Calls for a legal conclusion.

11:09:02 11 THE WITNESS: I don't know.

11:09:15 12 BY MR. HERRERA:

11:09:30 13 Q. Would an anonymous phone call from somebody saying

11:09:34 14 that a particular person who was applying to register to

11:09:38 15 vote was not a United citizen -- States citizen -- would

11:09:41 16 that constitute, in your mind, information that someone is

11:09:46 17 not a U.S. citizen?

11:09:48 18 MR. LANGHOFER: Form. Calls for a legal

11:10:02 19 conclusion.

11:10:02 20 THE WITNESS: I don't know.

11:10:06 21 BY MR. HERRERA:

11:10:07 22 Q. I mean, you don't -- why don't you know?

11:10:12 23 MR. PIERCE: Form.

11:10:15 24 THE WITNESS: I just don't -- I just don't

11:10:26 25 know what I should do.

11:10:35 1 BY MR. HERRERA:

11:10:35 2 Q. Okay. Has the Secretary of State's Office ever
11:10:39 3 given your office a list of information that constitutes
11:10:44 4 evidence that someone is not a U.S. citizen for the
11:10:49 5 purposes of this law?

11:10:52 6 A. What I -- what I do recall is to check the status
11:11:10 7 of a voter -- of a registrant's citizenship due to the --
11:11:18 8 the inquiry in the jur- -- juror's questionnaire where they
11:11:25 9 may have answered "noncitizen" when their actual voter
11:11:39 10 registration, they answered that they were. That, I have
11:11:43 11 come across from the Secretary of State's Office. But the
11:11:51 12 experience of -- of an individual not being a U.S. citizen,
11:12:00 13 I haven't -- I haven't experienced that. I can't recall.

11:12:04 14 Q. Okay. So in -- do you recall an instance where
11:12:09 15 you saw evidence that a registrant for voter registration
11:12:17 16 was not a U.S. citizen?

11:12:23 17 A. Yes. That's something that -- that we have talked
11:12:27 18 about within the staff, yes.

11:12:31 19 Q. Okay. So you -- you've talked about with the
11:12:34 20 staff that you got a -- an application and someone was not
11:12:38 21 a U.S. citizen?

11:12:40 22 A. Correct. That -- yes.

11:12:43 23 Q. Okay. And what was the -- without disclosing the
11:12:48 24 names of anyone, what did you do in that situation or what
11:12:53 25 did your staff do?

11:12:58 1 A. If my memory serves me correctly, I think that --

11:13:03 2 let me rephrase that.

11:13:04 3 If my memory serves me correct, there was a

11:13:09 4 request, a written request, that was mailed to that

11:13:15 5 registrant to provide us with proof of citizenship.

11:13:21 6 Q. And then did the person provide proof of

11:13:24 7 citizenship?

11:13:25 8 A. In the instance with regards to that person

11:13:34 9 answering "no" on the juror's questionnaire to -- to him

11:13:43 10 having information that he was a U.S. citizen, if my memory

11:13:47 11 serves me right, there was proof of citizenship that was

11:13:51 12 provided to us.

11:13:52 13 Q. Okay. So that person did provide -- so in this

11:13:56 14 case, there was a specific person who said "I'm not a U.S.

11:14:00 15 citizen" on the jury questionnaire, but then you sent a

11:14:04 16 notice and that person provided proof of citizenship?

11:14:07 17 A. That's correct.

11:14:08 18 Q. Do you know about how long ago that was or when

11:14:12 19 that was?

11:14:13 20 A. I want to say it was in March -- March, April of

11:14:20 21 this year.

11:14:21 22 Q. Okay. And, again, without disclosing that

11:14:24 23 person's name, was this -- do you know how recent the jury

11:14:31 24 questionnaire had been?

11:14:35 25 A. No, I don't.

11:14:38 1 Q. Do you know if the jury questionnaires where the
11:14:42 2 person that you're talking about from March said "no" -- do
11:14:45 3 you know when they said "no" on the jury questionnaire?

11:14:49 4 A. No, I don't.

11:14:50 5 Q. Okay. Did the person offer an explanation as to
11:14:59 6 why they did not -- or why they had marked "no" on the jury
11:15:06 7 questionnaire as to U.S. citizenship?

11:15:12 8 A. I don't know.

11:15:14 9 Q. And did you or your staff determine that that
11:15:21 10 person from March who said "no" on the jury
11:15:24 11 questionnaire -- did you determine that what they sent in
11:15:26 12 later for proof of citizenship was valid proof of
11:15:29 13 citizenship?

11:15:31 14 A. When I followed up with Angel, he had told me that
11:15:35 15 he did --

11:15:36 16 Q. Okay. And so --

11:15:38 17 A. -- provided --

11:15:39 18 Q. -- was that person someone who was registering to
11:15:43 19 vote or had already been registered to vote?

11:15:46 20 A. Had already been registered to vote.

11:15:48 21 Q. I see.

11:15:50 22 So that person remained registered to vote
11:15:54 23 after you asked for the proof of citizenship?

11:16:01 24 A. I believe so.

11:16:01 25 Q. Okay. Now, could we go to another exhibit. It's

11:16:11 1 Exhibit G in our folder.

11:16:20 2 And, Ms. Moreno, I'm showing you again

11:16:22 3 something I showed you earlier. It's a prior marked

11:16:25 4 Deposition Exhibit 21 and -- from a prior deposition. And

11:16:30 5 it is, again, House Bill 2243. And if we can go to the

11:16:55 6 page 4 of the document?

11:17:00 7 Do you see under the Number 9, the small

11:17:04 8 letter (b), lowercase (b) at line 36?

11:17:12 9 A. Yes.

11:17:12 10 Q. Okay. And do you see where it says, "Receives a

11:17:16 11 summary report from the jury commissioner or jury manager

11:17:20 12 pursuant to Section 22-314 [sic] indicating" that that

11:17:25 13 person -- "that the person has stated that the person is

11:17:28 14 not a resident of the county"?

11:17:32 15 Do you see that?

11:17:33 16 A. Yes.

11:17:40 17 Q. And are you -- have you ever reviewed this -- this

11:17:43 18 part of the law?

11:17:54 19 A. Yes.

11:17:56 20 Q. Okay. And now let's go to page 5 of the document,

11:18:17 21 so the next page down, please.

11:18:20 22 And do you see the Subsection 10, which

11:18:27 23 starts on line 5?

11:18:28 24 A. Yes.

11:18:31 25 Q. And it says, "When the county recorder obtains

11:18:34 1 information pursuant to this section and confirms that the
11:18:37 2 person registered is not a United States citizen, including
11:18:39 3 when the county recorder receives a summary report from the
11:18:43 4 jury commissioner or jury manager pursuant to
11:18:49 5 Section 21-314 indicating that a person who is registered
11:18:52 6 to vote has stated that the person is not a United States
11:18:56 7 citizen."

11:18:56 8 And is that kind of what you were referring
11:19:02 9 to that your office did for someone?

11:19:04 10 A. Yes.

11:19:05 11 Q. Okay. Then the -- this section continues, "Before
11:19:10 12 the county recorder cancels a registration pursuant to this
11:19:14 13 paragraph, the county recorder shall send the person notice
11:19:18 14 by forwardable mail that the person's registration will be
11:19:22 15 cancelled in thirty five days unless the person provides
11:19:26 16 satisfactory evidence of United States citizenship pursuant
11:19:29 17 to Section 16-166."

11:19:35 18 Do you see that?

11:19:35 19 A. Yes.

11:19:35 20 Q. Okay. And in the -- in the case that you
11:19:36 21 mentioned from March of this year where someone had marked
11:19:40 22 "no" on their -- on the jury questionnaire as to U.S.
11:19:43 23 citizenship, is it this section that you were
11:19:47 24 implementing -- that your office was implementing in terms
11:19:49 25 of sending them a notice and asking for proof of

11:19:51 1 citizenship?

11:19:53 2 A. Yes.

11:19:55 3 Q. And now, I'm going to continue here.

11:20:00 4 It says -- or rather, I'm going to go back to

11:20:09 5 the top.

11:20:10 6 "When the county recorder obtains information

11:20:13 7 pursuant to this section and confirms that the person

11:20:15 8 registered is not a United States citizen, including

11:20:19 9 when" -- and then it goes into the jury part.

11:20:22 10 So what would be other types of information

11:20:28 11 that would lead you to be able to confirm that the person

11:20:33 12 is not a United States citizen, putting aside the jury

11:20:38 13 questionnaire instance?

11:20:40 14 MR. LANGHOFER: Calls for a legal conclusion.

11:20:52 15 THE WITNESS: I don't know.

11:21:13 16 BY MR. HERRERA:

11:21:13 17 Q. Okay. And let's -- I'm going to go down -- I want

11:21:19 18 to look at a different section here. Could we go to page 6

11:21:33 19 of the document but it's page 5 of the bill. And then go

11:21:38 20 down to line 41. Okay. And we're looking at Subsection F

11:21:47 21 of this HB 2243.

11:21:50 22 And it says, "Each month the secretary of

11:21:52 23 state shall compare the statewide voter registration

11:21:56 24 database to the driver license database maintained by the

11:22:00 25 Department of Transportation."

11:22:02 1 And then it says, "The secretary of state
11:22:04 2 shall notify the appropriate county recorder if a person
11:22:07 3 who is registered -- registered to vote in that county has
11:22:11 4 changed the person's residence address or is not a United
11:22:14 5 States citizen."

11:22:16 6 Do you see that?

11:22:17 7 A. Yes.

11:22:20 8 Q. Okay. Have you ever received information from the
11:22:24 9 secretary of state that a person is not a United States
11:22:29 10 citizen based on their comparison of the statewide voter
11:22:35 11 registration database to the driver license database?

11:22:43 12 A. I'm sure I have.

11:22:44 13 Q. What makes you sure that you have received that?

11:22:46 14 A. It's just information -- there's some information
11:23:01 15 that's periodically sent to us besides that one example I
11:23:05 16 gave you with regards to the citizenship --

11:23:08 17 Q. Okay.

11:23:09 18 A. -- of that potential juror, so -- and I know Angel
11:23:21 19 handles --

11:23:23 20 Q. Do you know when your office -- how long your
11:23:26 21 office has been receiving that other information besides
11:23:30 22 the jury questionnaire?

11:23:34 23 A. As I mentioned, there is -- there are periodically
11:23:42 24 requests for information provided by the SOS with regards
11:23:47 25 to a -- a reg- -- voter registrant.

11:23:50 1 Q. And does that information that you get from the
11:23:54 2 secretary of state say that certain people are not United
11:23:58 3 States citizens or may not be United States citizens?

11:24:05 4 A. I'm not sure.

11:24:17 5 Q. Would -- would Mr. Aguilar know the answer to that
11:24:21 6 question?

11:24:22 7 MR. PIERCE: Foundation.

11:24:23 8 THE WITNESS: Possibly, yes.

11:24:27 9 BY MR. HERRERA:

11:24:27 10 Q. Okay. But -- because you said -- you said he --
11:24:30 11 that he handles that information that comes in from the
11:24:34 12 Secretary of State's Office; right?

11:24:35 13 A. Correct.

11:24:36 14 Q. Okay. So it's possible that he knows based on --
11:24:42 15 based on that?

11:24:43 16 A. Correct.

11:24:53 17 Q. Now I want to go back to -- well, let's see here.

11:25:07 18 Would anyone else in your office know whether
11:25:11 19 your office uses SAVE for any reason?

11:25:21 20 A. Angel. Angel Aguilar would probably know.

11:25:27 21 Q. Okay. Now, still, I want to look at a part --

11:25:40 22 another part of this bill that we have in front of us in

11:25:45 23 Exhibit 21.

11:25:47 24 MR. HERRERA: And can we go to page 7 of the

11:25:57 25 document but the sixth page of the bill. It's Section H.

11:26:03 1 You can zoom in to that. It starts on line 6.

11:26:09 2 BY MR. HERRERA:

11:26:10 3 Q. So, "To the extent practicable, each month the

11:26:12 4 county recorder shall compare persons who are registered to

11:26:17 5 vote in that county and who the county recorder has reason

11:26:20 6 to believe are not United States citizens and persons who

11:26:25 7 are registered to vote without satisfactory evidence of

11:26:28 8 citizenship as prescribed by Section 16-166 with the

11:26:34 9 Systematic Alien Verification for Entitlements program."

11:26:38 10 And then it says later "to verify the

11:26:45 11 citizenship status of the person registered."

11:26:47 12 Now, do you see that section?

11:26:50 13 A. I do.

11:26:50 14 Q. Okay. Now, looking at this Section H that -- that

11:26:58 15 we just looked at in Exhibit 21, what would be -- what

11:27:04 16 would give your office a reason to believe that a person is

11:27:09 17 not a United States citizen?

11:27:14 18 MR. HORLEY: Objection. Calls for a legal

11:27:19 19 conclusion.

11:27:19 20 THE WITNESS: The -- the notification that we

11:27:30 21 had talked previously that we received from the SOS in this

11:27:34 22 case when I first started back in February or March, April,

11:27:41 23 whatever -- when -- those months where we -- I first came

11:27:46 24 across a list for a registrant's name that he had indicated

11:27:54 25 in the juror's questionnaire that he was not a U.S.

11:27:56 1 citizen. So that would alert us if that person is -- is

11:28:06 2 not a U.S. citizen.

11:28:16 3 BY MR. HERRERA:

11:28:16 4 Q. That's -- that's one example.

11:28:18 5 Besides that example, is there anything else

11:28:21 6 that would give you reason to believe that someone is not a

11:28:24 7 U.S. citizen, someone who is -- and that person is already

11:28:30 8 registered to vote in your county?

11:28:32 9 MR. LANGHOFER: Same objection.

11:28:36 10 THE WITNESS: By information provided by the

11:28:39 11 neighbor, like you said, the information provided by an

11:28:44 12 anonymous call, the information that we might receive

11:28:51 13 through the mail.

11:28:53 14 BY MR. HERRERA:

11:28:53 15 Q. So those -- those examples you just listed, those

11:28:55 16 would give you reason to believe that someone's not a

11:28:59 17 United States citizen?

11:29:01 18 MR. LANGHOFER: Same objection.

11:29:04 19 THE WITNESS: It would give me -- it's

11:29:08 20 something that I have to act upon. But as I mentioned

11:29:13 21 before, I don't know how to act upon it at this point right

11:29:20 22 now at this minute.

11:29:24 23 BY MR. HERRERA:

11:29:25 24 Q. So --

11:29:25 25 A. So --

11:29:34 1 Q. -- when you say "act upon it," do you mean what to
11:29:36 2 do once you receive something like a phone call or an email
11:29:40 3 about someone [overlapping]?

11:29:42 4 A. That's correct. That's correct.

11:29:42 5 Q. And what --

11:29:42 6 THE COURT REPORTER: Can you finish the end?
11:29:42 7 I didn't hear the end. "Like a phone call or an email
11:29:42 8 about" --

11:29:49 9 MR. HERRERA: Sure. So let me -- let me
11:29:50 10 just -- let me just ask the question again.

11:29:50 11 BY MR. HERRERA:

11:29:52 12 Q. So if you received a phone call or an email saying
11:29:58 13 that someone is not a United States citizen, you may not
11:30:04 14 know how to -- to -- what to do with that information; is
11:30:11 15 that right?

11:30:11 16 A. That's correct.

11:30:12 17 Q. And why is that?

11:30:14 18 A. At this -- at this minute, I don't know what I
11:30:19 19 would do if -- if I can't find it for myself here, I would
11:30:25 20 go to legal counsel.

11:30:27 21 Q. Okay. So if you -- you are the county recorder
11:30:32 22 and you're working with your staff.

11:30:36 23 How do you all interpret this "reason to
11:30:39 24 believe" language in Section H in Exhibit 21?

11:30:43 25 MR. LANGHOFER: Same objection.

11:30:45 1 MR. PIERCE: Calls for a legal conclusion.

11:30:47 2 THE WITNESS: For me personally, I -- I, at

11:30:58 3 this point -- I wouldn't -- I need to do something. I need

11:31:03 4 to do something with this information, so it is something

11:31:10 5 that I need to look into as to what the law is telling me

11:31:16 6 to do.

11:31:18 7 BY MR. HERRERA:

11:31:18 8 Q. And why would you -- why would you need to seek

11:31:21 9 legal counsel for --

11:31:25 10 A. Well, what I'm saying is if I can't find it

11:31:29 11 here -- here with the tools that I have, then I would have

11:31:33 12 to go elsewhere.

11:31:35 13 Q. Okay. And by tools that you have here, what are

11:31:43 14 you referring to?

11:31:49 15 A. The EPM.

11:31:52 16 Q. Does your office have any access to the Social
11:32:01 17 Security Administration database for purposes of voter
11:32:08 18 registrations?

11:32:08 19 A. I don't think so.

11:32:15 20 Q. What makes you say that you don't think so?

11:32:21 21 A. I don't think this has ever come up in
11:32:24 22 conversation with my staff.

11:32:26 23 Q. Okay. Might someone in your -- in your office
11:32:30 24 know the answer to that question?

11:32:35 25 A. Possibly.

11:32:36 1 Q. Are you familiar with the Electronic Registration

11:33:14 2 Information Center, or ERIC?

11:33:21 3 A. Yes.

11:33:21 4 Q. Okay. And what is that?

11:33:23 5 A. I understand that that would be a nationwide

11:33:33 6 information center that was established for the intention

11:33:39 7 of cross-referencing voters if -- that's what I understand

11:33:53 8 it to be.

11:33:54 9 Q. Okay. And do you know if your office uses ERIC

11:33:58 10 for U.S. citizenship verification?

11:34:01 11 A. I don't know.

11:34:03 12 Q. Have you ever heard of the National Association

11:34:18 13 for Public Health Statistics and Information Systems?

11:34:18 14 A. I don't -- I don't think I've come across that

11:34:29 15 name. National -- can you repeat that, please?

11:34:33 16 Q. Sure.

11:34:34 17 National Association for Public Health

11:34:37 18 Statistics and Information Systems.

11:34:44 19 A. No.

11:34:45 20 Q. Have you ever heard of the Electronic Verification

11:34:49 21 of Vital Events system?

11:34:54 22 A. Huh-uh.

11:35:17 23 MR. HERRERA: I think we've been going for

11:35:18 24 another hour. I think it might be time for another --

11:35:22 25 another break.

11:35:23 1 Do we want to take maybe a five-minute break
11:35:28 2 and go off the record?

11:35:32 3 THE WITNESS: I'm fine with that.

11:35:33 4 MR. PIERCE: That's fine with me.

11:35:35 5 What's our -- I mean, from a lunch
11:35:37 6 standpoint, what's your plan?

11:35:39 7 MR. HERRERA: I think we could probably
11:35:41 8 finish before lunch, but I'd have to confer with the other
11:35:45 9 plaintiffs here. So if we -- let's -- let's come back in
11:35:48 10 five minutes and before we go back on the record -- we're
11:35:50 11 off the record; right?

11:35:50 12 THE VIDEOGRAPHER: Not yet.

11:35:53 13 MR. HERRERA: Oh, could we go off the
11:35:55 14 record, please.

11:35:56 15 THE VIDEOGRAPHER: We're off the record.

11:35:58 16 Time on the video monitor is 11:35 a.m.

11:36:03 17 (A recess ensued.)

11:45:45 18 THE VIDEOGRAPHER: We are on the record.

11:45:54 19 Time on the video monitor is 11:45 a.m. This begins
11:45:58 20 Media 2.

11:45:59 21 BY MR. HERRERA:

11:46:01 22 Q. Ms. Moreno, earlier you -- I asked you about the
11:46:06 23 word -- the word "information" in one of the laws, in 2492.
11:46:11 24 And then I asked you about reason to believe in the law
11:46:17 25 22 -- 2243. And I asked about some examples -- potential

11:46:25 1 examples of information about someone not being a U.S.
11:46:30 2 citizen. And I asked about the example of, say, an
11:46:35 3 anonymous phone call or an email from someone saying, "That
11:46:39 4 person is not a U.S. citizen."

11:46:43 5 Would it -- would it be fair to say that that
11:46:47 6 kind of information from an email or a phone call might
11:46:52 7 be -- might be a reason to believe someone is not a U.S.
11:46:56 8 citizen but not information?

11:47:04 9 MR. LANGHOFER: Same objection.

11:47:05 10 MR. HORLEY: Objection; form.

11:47:11 11 THE WITNESS: I'm sorry. You're going to
11:47:17 12 have to repeat that question.

11:47:18 13 BY MR. HERRERA:

11:47:19 14 Q. Okay. So earlier, you did say that if someone
11:47:24 15 made an anonymous phone call or sent an email saying that a
11:47:28 16 registered voter was not a U.S. citizen, that that might
11:47:33 17 give you a reason to believe that that person is not a U.S.
11:47:36 18 citizen.

11:47:39 19 That's what you testified earlier; right?

11:47:40 20 A. Yes.

11:47:40 21 Q. Okay. Would that same kind of phone call or email
11:47:47 22 saying that someone's not a U.S. citizen who was registered
11:47:49 23 to vote -- would that also say to you -- or give you --
11:47:54 24 would that be information that says that that person is not
11:47:58 25 a U.S. citizen?

11:48:01 1 MR. HORLEY: Same objection.

11:48:09 2 THE WITNESS: I would suppose so. It's

11:48:16 3 something that -- that -- I'm not going to put it to one

11:48:22 4 side, but it's an inquiry. I need to find out what it is

11:48:27 5 that I need to do.

11:48:30 6 BY MR. HERRERA:

11:48:30 7 Q. Okay. Now, I think this may seem like a dumb

11:48:36 8 question, but there are laws or statutes that currently

11:48:41 9 prohibit a person who is not eligible from registering to

11:48:45 10 vote; right?

11:48:46 11 A. Yes.

11:48:47 12 Q. Okay. And you are aware that -- you are aware of

11:48:57 13 those laws, of when someone's not eligible to vote, they

11:49:02 14 can't register to vote; right?

11:49:06 15 A. When someone is not allowable to vote?

11:49:09 16 Q. When someone is not eligible.

11:49:11 17 A. Oh, eligible to vote. That's correct.

11:49:13 18 Q. Okay. So what does your office do to identify any

11:49:18 19 instances of voter fraud?

11:49:26 20 A. I haven't had any experience with that. I would

11:49:39 21 think that the office would be in communication with the

11:49:42 22 secretary of state and our county attorney.

11:49:48 23 Q. Since you've been in office as the county

11:49:55 24 recorder, have you come across any instances of voter

11:49:59 25 fraud?

11:50:04 1 A. No. No.

11:50:09 2 Q. Has your office dealt with any instances of
11:50:15 3 non-U.S. citizens actually casting a vote?

11:50:23 4 MR. LANGHOFER: Objection; form, foundation.

11:50:31 5 THE WITNESS: I don't know. I don't know.

11:50:34 6 I -- I don't know.

11:50:36 7 BY MR. HERRERA:

11:50:36 8 Q. Has your office ever -- did your office come
11:50:43 9 across any instances of non-U.S. citizens voting in the
11:50:48 10 November 2022 federal elections?

11:50:51 11 MR. LANGHOFER: Form, foundation.

11:50:53 12 THE WITNESS: I don't know.

11:50:54 13 BY MR. HERRERA:

11:50:58 14 Q. And why -- why is it that you don't know?

11:51:04 15 A. I have not experienced -- or I did not work in the
11:51:12 16 '22 elections, and I don't recall a conversation in my
11:51:21 17 office with regards to that in the '22 election.

11:51:49 18 Q. Are you aware of the National Voter Registration
11:51:59 19 Act?

11:51:59 20 A. Yes.

11:52:00 21 Q. Okay. And are you aware of its requirements?

11:52:06 22 A. I'm getting familiar with that.

11:52:09 23 Q. Okay. And what -- what do you -- what do you know
11:52:12 24 about the National Voter Registration Act's requirements?

11:52:21 25 MR. PIERCE: Form.

11:52:33 1 THE WITNESS: Can you refresh my memory?

11:52:38 2 BY MR. HERRERA:

11:52:39 3 Q. Sure.

11:52:40 4 So there are provisions in the NVRA about --
11:52:49 5 that mention the words "non-" -- that mention the words
11:52:52 6 "uniform" and "nondiscriminatory."

11:52:57 7 Does that ring any bells?

11:53:01 8 A. No.

11:53:10 9 Q. Are you aware of any restrictions around the
11:53:15 10 90-day time frame -- 90 days before a federal election?

11:53:22 11 A. The 90-day is establishing, I believe, residency
11:53:27 12 prior to the 90-day election -- I mean, the -- the 90-day
11:53:34 13 time frame before election.

11:53:36 14 Q. Right. Well, it's a provision in the NVRA that
11:53:43 15 applies to systematic removals from the voter registration
11:53:49 16 lists within 90 days before a federal election.

11:53:53 17 Are you familiar with that provision?

11:53:57 18 A. I've heard about it.

11:54:04 19 Q. Okay. And -- but do you know what the
11:54:06 20 requirements are around that provision?

11:54:13 21 A. No.

11:54:15 22 MR. HERRERA: Could we pull up Exhibit K from
11:54:19 23 our folder. And this is -- this is a new exhibit. So
11:54:40 24 could we mark this as Exhibit 100. Thank you.

11:54:40 25 (The document was marked as Exhibit 100

11:54:40 1 for identification.)

11:54:40 2 BY MR. HERRERA:

11:54:46 3 Q. And, Ms. Moreno, I'm showing you a document. It's

11:54:48 4 a -- it is a couple of pages long. And at the top, as you

11:54:57 5 can see, it's an email thread. Now, it's possible that

11:55:03 6 you've never reviewed this.

11:55:05 7 So I'll ask you: Have you ever seen an email

11:55:07 8 from June 16, 2021, from Bob Christie to Alma Schultz?

11:55:17 9 A. No.

11:55:17 10 Q. Okay. Do you know who Suzie Sainz is?

11:55:22 11 A. She was the county recorder. She -- she's the one

11:55:30 12 that retired in this -- in my position.

11:55:34 13 Q. Do you know who Alma Schultz is?

11:55:38 14 A. She's the election director here in Santa Cruz

11:55:43 15 County.

11:55:43 16 Q. Is she still the election director?

11:55:46 17 A. She is.

11:55:47 18 Q. How long has Alma Schultz been the election

11:55:51 19 director in Santa Cruz County?

11:55:53 20 A. I don't know.

11:55:56 21 Q. Does -- does Alma Schultz deal with voter

11:56:05 22 registration at all?

11:56:07 23 A. No.

11:56:09 24 Q. What -- what part of elections does Alma Schultz

11:56:12 25 work on?

11:56:15 1 A. She -- she does the -- the tallying of the
11:56:20 2 ballots. The intake of the ballots, once we receive them,
11:56:29 3 they are -- she takes over. She also is the clerk of the
11:56:36 4 board with the board of supervisors, but on the election
11:56:40 5 end of it, she takes care of the candidates' packages.

11:56:48 6 Q. Okay. Now, below this top email, there -- well,
11:56:57 7 let's go down to the very bottom of the -- of this
11:57:03 8 document. Not the very bottom of the document but the --
11:57:09 9 let's see -- second page at the bottom, please.

11:57:16 10 And do you see an email, Ms. Moreno, that is
11:57:21 11 June 15, 2021, at 2:03 p.m.?

11:57:24 12 A. Yes.

11:57:24 13 Q. Okay. And that's from Bob Christie?

11:57:27 14 A. Yes.

11:57:28 15 Q. Email address Bchristie@ap.org to --

11:57:33 16 A. Yes.

11:57:33 17 Q. -- Suzie Sainz and Alma Schultz.

11:57:37 18 Do you see that?

11:57:37 19 A. Yes.

11:57:37 20 Q. Okay. And the subject is "Records request from
11:57:37 21 The Associated Press."

11:57:41 22 Do you see that?

11:57:41 23 A. Yes.

11:57:44 24 Q. And then it says, in the body of the email after
11:57:48 25 addressing Ms. Sainz and Ms. Schultz, "The Associated Press

11:57:51 1 is collecting information on instances that have been
11:57:54 2 identified or flagged by the county election officials as
11:57:57 3 potential voter fraud stemming from the Nov. 3, 2020,
11:58:04 4 general election."
11:58:05 5 Do you see that?
11:58:06 6 A. Yes.
11:58:06 7 Q. Okay. And then if we look at the third page of
11:58:12 8 the email -- if we go to that page, do you see that there
11:58:21 9 is a signature at the bottom of this paragraph for
11:58:26 10 Mr. Christie -- or Bob Christie, and it has a signature,
11:58:30 11 Bob Christie, under the letters "AP"?
11:58:33 12 A. Yes.
11:58:33 13 Q. Okay. And so do you -- do you -- would it be fair
11:58:38 14 to gather from this that Mr. Christie was a reporter for
11:58:46 15 The Associated Press?
11:58:46 16 A. Yes.
11:58:47 17 MR. LANGHOFER: Foundation.
11:58:49 18 BY MR. HERRERA:
11:58:50 19 Q. Do you have any reason to doubt that that would --
11:58:53 20 at that time, that that person is a member of The
11:59:02 21 Associated Press?
11:59:02 22 A. I don't believe so.
11:59:05 23 Q. Okay. Let's go up to the first page of this
11:59:10 24 document, please.
11:59:16 25 And do you see that Ms. Schultz is -- in the

11:59:22 1 second email on the thread, Ms. Schultz writes to Bob

11:59:27 2 Christie on June 16th, 2021, at 2:00 p.m. an email.

11:59:33 3 Do you see that?

11:59:34 4 A. I do.

11:59:34 5 Q. Okay. And do you see in the body of the email

11:59:39 6 that it says, "Mr. Christie, The Santa Cruz County

11:59:44 7 Elections Department has not had cases identified/flagged

11:59:48 8 as possible voter fraud in connections with the

11:59:53 9 November 3rd, election."

11:59:54 10 Do you see that?

11:59:56 11 A. I do.

11:59:57 12 Q. Okay. Do you know if that statement by

12:00:01 13 Ms. Schultz is accurate?

12:00:12 14 MR. LANGHOFER: Form, foundation.

12:00:13 15 THE WITNESS: I would think so.

12:00:15 16 BY MR. HERRERA:

12:00:16 17 Q. Okay. Do you have any reason to doubt the

12:00:21 18 accuracy of Ms. Schultz's email here?

12:00:23 19 A. No.

12:00:24 20 Q. Okay. And since you've come into office, have

12:00:31 21 there been any -- has Santa Cruz County Elections

12:00:36 22 Department had any cases identified or flagged as possible

12:00:40 23 voter fraud in connection with the -- with any election?

12:00:51 24 A. I don't know.

12:00:58 25 Q. Do you know -- I think you mentioned that -- the

12:01:03 1 position of elections director, you mentioned that earlier.

12:01:08 2 Is that under the county recorder, or is that

12:01:11 3 a separate office?

12:01:11 4 A. It's a separate office.

12:01:13 5 Q. Okay. So -- all right.

12:01:29 6 MR. HERRERA: I think those are all my

12:01:31 7 questions for you today, Ms. Moreno. Thank you very much

12:01:34 8 for your time.

12:01:34 9 I'm going to pass it over to one of my

12:01:36 10 colleagues here.

11 THE WITNESS: Thank you.

12 MR. FERGUSON: Thanks very much.

13

14 EXAMINATION

15 BY MR. FERGUSON:

12:01:44 16 Q. Good morning, Ms. Moreno. My name is Brent

12:01:46 17 Ferguson, and I'm an attorney representing the LUCHA

12:01:49 18 plaintiffs. I'll just have a short set of questions for

12:01:55 19 you today.

12:01:59 20 So we talked -- you talked some earlier today

12:02:02 21 about the new laws, including HB 2492.

12:02:08 22 Are you aware of the provision in HB 2492

12:02:11 23 that requires registration applicants to list their place

12:02:15 24 of birth on the voter registration application form?

12:02:28 25 A. In the previous question with regards to 2492, I

12:02:32 1 had mentioned that I need to familiarize myself with these
12:02:38 2 bills and -- and, you know, to -- to direct your question
12:02:45 3 to -- to answer your question -- I'm sorry -- in speaking
12:02:53 4 with Mr. -- or answering Mr. Herrera's question, there
12:02:59 5 is -- there's some more information that's coming to me
12:03:02 6 with regards to that bill.

12:03:05 7 Q. Okay. So do you recall that -- that specific
12:03:14 8 provision of the bill that I mentioned requiring applicants
12:03:17 9 to list their place of birth?

12:03:20 10 A. Yes.

12:03:21 11 Q. Okay. And we've talked about some -- about which
12:03:28 12 parts of HB 2492 have been implemented.

12:03:33 13 Do you know whether your office is requiring
12:03:37 14 that right now, requiring that provision that applicants
12:03:42 15 list their place of birth?

12:03:48 16 A. I have not come across the new registration form,
12:03:54 17 but I believe -- I believe we -- I believe my office is
12:03:59 18 implementing it.

12:04:00 19 Q. Okay. So if your office receives an application
12:04:05 20 form that does not list a place of birth, it rejects that
12:04:13 21 application?

12:04:16 22 A. I -- I don't know. I don't know.

12:04:24 23 Q. Okay. And who in your office would know the
12:04:28 24 answer to that question?

12:04:30 25 A. Angel Aguilar.

12:04:32 1 Q. Okay. Do you know whether your office has access
12:04:38 2 to any database that would be able to confirm a person's
12:04:43 3 identity by using their birthplace?

12:04:54 4 A. The only one that I can think of right now would
12:05:07 5 be ERIC.

12:05:07 6 Q. You think that ERIC might have the ability to do
12:05:10 7 that?

12:05:11 8 A. Possibly.

12:05:12 9 Q. Okay. Do you have a -- so you said "possibly."
12:05:15 10 Is there -- what's the reason for believing
12:05:18 11 that ERIC might have the ability to do that?

12:05:22 12 A. Because what I understand it to be, it's a
12:05:24 13 nationwide database. It's not mandatory that all states
12:05:34 14 use it. So therefore, if -- if that information is in one
12:05:44 15 of our partnered states, we may be able to access.

12:05:49 16 But again, I'm not -- I've never done it.
12:05:51 17 I've never looked for it. But it's -- it's a possibility
12:05:56 18 that another state might have the date -- or the place of
12:06:01 19 birth that their database might have through the ERIC
12:06:05 20 program that we may be able to use.

12:06:10 21 Q. Are you aware of your office ever accessing the
12:06:15 22 ERIC database?

12:06:17 23 A. I am not aware of it.

12:06:19 24 Q. Okay. Have you ever yourself accessed the ERIC
12:06:27 25 database?

12:06:28 1 A. I have not.

12:06:30 2 Q. Okay. Okay. I'd like to continue with some

12:06:43 3 questions about the use of the state voter registration

12:06:47 4 form and the federal voter registration form.

12:06:51 5 You're aware of those two different forms

12:06:54 6 that people can use in Arizona to register?

12:06:58 7 A. Yes.

12:06:59 8 Q. Okay. And do you know the relative breakdown

12:07:05 9 between the number of state form applications you receive

12:07:09 10 versus the number of federal form applications that you

12:07:12 11 receive at your office?

12:07:14 12 A. I know that the federal forms are a lot less, but

12:07:21 13 I have no idea about -- about statistics or numbers. I

12:07:27 14 don't.

12:07:27 15 Q. Sure. That's fine. Just trying to get a general

12:07:30 16 ballpark.

12:07:31 17 So you would say that there are substantially

12:07:34 18 more state forms that come in than federal forms?

12:07:37 19 A. Yes.

12:07:38 20 Q. Okay. And you spoke a little bit earlier about

12:07:43 21 the National Voter Registration Act, the NVRA.

12:07:47 22 And are you aware of any NVRA agencies in

12:07:54 23 Santa Cruz County that provide voter registration services?

12:08:01 24 MR. HORLEY: Objection; foundation.

12:08:04 25 THE WITNESS: No. The -- the ones that I

12:08:08 1 know that are active are just the parties.

12:08:15 2 BY MR. FERGUSON:

12:08:15 3 Q. Okay. Okay. Do you know if there are any public
12:08:20 4 assistance agencies or things like that that provide voter
12:08:26 5 registration forms?

12:08:30 6 A. I know that the Arizona Department of Economic
12:08:36 7 Security, I believe, is one of the agencies that could
12:08:41 8 provide, but I haven't seen -- or that I know of that have
12:08:46 9 come through our office.

12:08:47 10 Q. Okay. So do you know whether that agency or any
12:08:52 11 others provides the state registration form or the federal
12:08:56 12 registration form in its office?

12:09:01 13 A. Arizona Department of Economic Security,
12:09:06 14 ServiceArizona, Motor Vehicle Division.

12:09:13 15 Q. So for those -- for those agencies that you just
12:09:15 16 mentioned, do you know whether they provide the state
12:09:19 17 registration form or the federal registration form?

12:09:24 18 A. It would be the state.

12:09:26 19 Q. And do you -- does your office give those forms to
12:09:31 20 those agencies?

12:09:35 21 A. I believe that the individual goes online to
12:09:44 22 register, or I have seen the forms come from those
12:09:50 23 agency -- or Motor Vehicle -- the ServiceArizona, a
12:09:55 24 handwritten -- a handwritten form.

12:09:58 25 Q. Okay. And then you mentioned earlier, I believe,

12:10:03 1 your office provides registration forms to political
12:10:07 2 parties; is that correct?
12:10:10 3 A. That's correct.
12:10:11 4 Q. And do you also provide them to third-party groups
12:10:16 5 that -- you know, that are not political parties but
12:10:18 6 they're organizations that assist with voter registration?
12:10:25 7 A. And individuals, yes.
12:10:26 8 Q. And individuals.
12:10:27 9 And when you provide those forms, do you
12:10:32 10 provide the state registration form or the federal
12:10:36 11 registration form?
12:10:36 12 A. The state.
12:10:37 13 Q. Okay. Are you aware of any -- any of those groups
12:10:43 14 or parties that use the federal registration form when they
12:10:48 15 provide voter registration services?
12:10:51 16 A. I'm not aware.
12:10:52 17 Q. Okay. And then I'd like to move on to one final
12:10:59 18 provision of HB 2492, which we've been discussing.
12:11:04 19 Are you aware of the requirement in HB 2492
12:11:08 20 that requires voter registration applicants to provide
12:11:15 21 documentary proof of residency, or DPOR it's often referred
12:11:21 22 to?
12:11:24 23 A. Yeah, I believe that -- yes, I think it could be
12:11:34 24 in the form of a utility bill.
12:11:37 25 Q. Okay. So your office -- is your office currently

12:11:46 1 requiring applicants to provide that documentary proof of
12:11:51 2 residence when they register to vote?

12:11:57 3 A. I don't know.

12:12:01 4 Q. Okay.

12:12:02 5 A. I don't know.

12:12:03 6 Q. Are you aware of the requirement in the law that
12:12:17 7 currently people need to require their -- sorry -- include
12:12:21 8 their residential address? And you mentioned that earlier
12:12:27 9 I think with -- with the case of one specific applicant who
12:12:29 10 didn't provide a correct address. So separately from the
12:12:33 11 documentary proof of residency, but just providing their
12:12:37 12 address on the form?

12:12:40 13 A. Yeah, it was -- it was all misspelled. That's
12:12:44 14 what it was.

12:12:44 15 Q. Sure. Okay.

12:12:47 16 Have you ever encountered a situation where
12:12:49 17 someone doesn't have a numbered street address and so they
12:12:58 18 provide a description of where they live or a drawing of
12:13:04 19 that?

12:13:04 20 A. No.

12:13:08 21 Q. Are you aware of the option to do that in the
12:13:17 22 current law even if you --

12:13:18 23 A. Yes.

12:13:19 24 Q. -- even if you haven't seen it?

12:13:20 25 A. Yes.

12:13:23 1 Q. Is there someone in your office who has -- who you
12:13:33 2 think is familiar with that requirement?

12:13:38 3 A. Yes.

12:13:39 4 Q. And who would that be?

12:13:41 5 A. Angel Aguilar.

12:13:43 6 Q. Okay. And are you aware of Mr. -- if Mr. Aguilar
12:13:51 7 has received voter registration applications that fit that
12:13:56 8 description, that don't have a numbered address but have
12:14:01 9 some kind of description or drawing of where they live?

12:14:04 10 A. I don't know.

12:14:05 11 Q. Okay. And if someone were required to provide
12:14:14 12 documentary proof of residence and they did not have a
12:14:18 13 numbered street address -- let's say, for example, someone
12:14:22 14 who lived in a rural community without a numbered address
12:14:26 15 on their home -- do you know how they would provide
12:14:31 16 documentary proof of residence?

12:14:35 17 A. Well, the --

12:14:43 18 MR. LANGHOFER: Form. Calls for a legal
12:14:48 19 conclusion.

12:14:48 20 THE WITNESS: If -- if it came across me
12:14:51 21 personally, I would go to the tax rolls and confirm the
12:14:59 22 address.

12:15:02 23 BY MR. FERGUSON:

12:15:02 24 Q. Okay. So aside from confirming the address that
12:15:11 25 they gave, if they didn't have a numbered street address at

12:15:18 1 all and so they provided a description on the registration
12:15:21 2 form, are you aware of any way they could provide
12:15:26 3 documentary proof?

12:15:29 4 You mentioned a utility bill before that
12:15:31 5 could be used presumably for a home with a numbered street
12:15:39 6 address. Are you aware of any kind of documentation or way
12:15:43 7 that they would show their proof of residence?

12:15:51 8 MR. HORLEY: Form.

12:15:52 9 MR. LANGHOFER: Form.

12:15:58 10 THE WITNESS: I would -- I -- they would have
12:16:05 11 an internet bill. They would have a -- an electrical bill,
12:16:11 12 a water bill.

12:16:14 13 BY MR. FERGUSON:

12:16:14 14 Q. Okay. Thank you.

12:16:17 15 And just one final question, going back on --
12:16:20 16 on what we covered at the beginning. You mentioned the
12:16:23 17 ERIC database.

12:16:24 18 I'd just like to confirm that you don't have
12:16:28 19 personal experience with the ERIC database or in entering
12:16:35 20 anyone's birthplace in the ERIC database; is that correct?

12:16:39 21 A. That's correct.

12:16:40 22 MR. FERGUSON: Okay. Those are all the
12:16:42 23 questions I have. Thank you very much.

12:16:45 24 THE WITNESS: Thank you, sir.

12:16:55 25 MR. HERRERA: Before we -- before we pass --

12:16:58 1 I think before plaintiffs pass the witness, I think I'd
12:17:01 2 like to put on the record that we want to keep this
12:17:04 3 deposition potentially -- or keep it open for a potential
12:17:08 4 later date based on the witness's knowledge.

12:17:23 5 MR. LANGHOFER: Tim, do you want to go first?
12:17:25 6 Unless there's anyone else on the plaintiffs' side.

12:17:29 7 MR. HORLEY: Yeah, I'm happy -- happy to
12:17:30 8 defer to you, Kory. If you prefer going first, you can go
12:17:33 9 first. I'm happy to go first.

12:17:36 10 MR. LANGHOFER: Why don't you go ahead. I'll
12:17:38 11 make sure my notes are in order to start up as soon as you
12:17:40 12 wrap up.

12:17:42 13 MR. HORLEY: Okay. Very good. And then
12:17:44 14 also, I know we had a conversation about taking a break for
12:17:47 15 lunch. Do you folks want to go off the record for a minute
12:17:49 16 just to touch base on that, make sure we're all good there?

12:17:58 17 MR. PIERCE: Unless we're -- I mean, I don't
12:18:00 18 mind staying on the record unless there's a lot -- I'd
12:18:00 19 prefer just to go through and -- unless you're going for a
12:18:04 20 really long time, I'd rather just get through it.

12:18:09 21 MR. LANGHOFER: That's my preference as well.
12:18:10 22 I don't -- probably don't have more than ten minutes of
12:18:12 23 questions.

12:18:13 24 MR. HORLEY: Okay. Very good. I will try to
12:18:15 25 get through quickly. I do have some documents that I plan

12:18:19 1 to introduce that have not been shared yet.

12:18:22 2 So, Cindy, just let me know what the best way
12:18:26 3 is to do that. I can attach them in the chat, or I could
12:18:30 4 just share -- screen-share them and we can enter them in
12:18:33 5 later once they're marked.

12:18:33 6

12:18:40 7 EXAMINATION

12:18:41 8 BY MR. HORLEY:

12:18:41 9 Q. Good afternoon, Ms. Moreno. My name is Tim
12:18:41 10 Horley.

12:18:44 11 A. Hello.

12:18:45 12 Q. I represent the Arizona attorney general and the
12:18:48 13 State of Arizona in this case. So thank you for your time
12:18:52 14 and patience for answering the questions so far.

12:18:54 15 So I'm just going to ask a few questions on
12:18:57 16 the topics that you discussed today.

12:19:02 17 A. Yes.

12:19:02 18 Q. So I want to turn to the topic of verifying
12:19:19 19 citizenship. And I would like to bring up a document that
12:19:26 20 I have, and I can do it over my screen share, if that works
12:19:28 21 for everybody.

12:19:44 22 Okay. Assuming everybody can see this at
12:19:49 23 this point. So this is a document with Bates Number
12:19:55 24 SCCR000207 and it runs through number 000701.

12:20:04 25 Do you see the number at the lower left of

12:20:07 1 this document, Ms. Moreno -- or lower right? Excuse me.

12:20:14 2 A. The SCC number?

12:20:19 3 Q. Yes.

12:20:19 4 A. Yes.

12:20:20 5 Q. Okay. And so this document was produced by your
12:20:25 6 office in response to the plaintiffs' request for
12:20:27 7 production?

12:20:28 8 A. I believe so.

12:20:32 9 THE COURT REPORTER: Mr. Horley, do you want
12:20:35 10 to mark this Exhibit 101?

12:20:38 11 MR. HORLEY: Yes, I would like to mark this
12:20:40 12 as Exhibit 101.

12:20:40 13 (The document was marked as Exhibit 101
12:20:40 14 for identification.)

12:20:40 15 BY MR. HORLEY:

12:20:45 16 Q. So, Ms. Moreno, can you explain -- let me zoom us
12:20:49 17 in here a little bit more.

12:20:51 18 Do you recognize this document?

12:20:56 19 A. Yes.

12:20:59 20 Q. Okay. And could you explain to me what
12:21:01 21 information this document contains?

12:21:07 22 A. There is a voter registrant. There was a change
12:21:12 23 in their status. And you have to briefly state the reason
12:21:25 24 for the change.

12:21:30 25 Q. Okay. Very good.

12:21:32 1 So this -- this column here on the left where
12:21:35 2 it says "Status," that shows what the voter's status is?

12:21:38 3 A. Yes.

12:21:40 4 Q. And then this second column here that says "Status
12:21:45 5 Reason," that shows why their status was listed as that?

12:21:49 6 A. Yes.

12:21:50 7 Q. Okay. Great.

12:21:53 8 And then I see over on these columns over on
12:21:55 9 the right here, we have three different dates. There's one
12:22:00 10 that says "Registration Date," another that says "County
12:22:00 11 Registration Date."

12:22:04 12 Am I reading that correctly?

12:22:05 13 A. Yes.

12:22:06 14 Q. So those dates show when a person registered to
12:22:10 15 vote?

12:22:10 16 A. Yes.

12:22:11 17 Q. And then this last column, it says, "Effective
12:22:16 18 Date of Change"; is that right?

12:22:18 19 A. Yes.

12:22:18 20 Q. So that shows the date that someone was moved to
12:22:23 21 the status that they currently have; is that right?

12:22:26 22 A. Yes.

12:22:26 23 Q. Okay. Great.

12:22:30 24 So now I would like to draw your attention to
12:22:37 25 page 222 here. So I'm going to scroll. Okay. Here we

12:22:49 1 are.

12:22:49 2 And so I'm going to draw your attention to
12:22:53 3 the fifth row. And there in the first column, it says that
12:23:00 4 the person's status is "Canceled"; correct?

12:23:03 5 A. Yes.

12:23:03 6 Q. So that shows that this person's registration was
12:23:08 7 canceled?

12:23:08 8 A. Yes.

12:23:09 9 Q. And then in the second column, it says, "Invalid
12:23:14 10 Citizenship Proof"; correct?

12:23:16 11 A. Yes.

12:23:16 12 Q. And so does that suggest that they were canceled
12:23:21 13 because they didn't have valid proof of citizenship?

12:23:27 14 MR. HERRERA: Foundation.

12:23:29 15 THE WITNESS: Yes.

12:23:30 16 BY MR. HORLEY:

12:23:32 17 Q. Okay. So does this mean that the person's status
12:23:36 18 was canceled because they did not have proof of
12:23:40 19 citizenship?

12:23:43 20 MR. HERRERA: Objection; foundation, form.

12:23:46 21 THE WITNESS: So for me, never have worked on
12:24:00 22 this list and looking at it, that's what it's saying.

12:24:07 23 BY MR. HORLEY:

12:24:10 24 Q. Okay. Okay. Thanks.

12:24:14 25 So could it suggest that the person's

12:24:19 1 provided some proof but it just wasn't valid proof?

12:24:24 2 MR. HERRERA: Objection; foundation.

12:24:26 3 THE WITNESS: Yes.

12:24:36 4 BY MR. HORLEY:

12:24:37 5 Q. Okay. And could it suggest that this person was
12:24:40 6 not a U.S. citizen?

12:24:42 7 MR. HERRERA: Objection; form.

12:24:45 8 THE WITNESS: Yes.

12:24:53 9 BY MR. HORLEY:

12:24:56 10 Q. Okay. So I will just represent to you, I've gone
12:25:01 11 through this document and I have identified several other
12:25:06 12 rows like this that has something that says someone was --
12:25:09 13 you know, their registration was canceled and then it says
12:25:11 14 "Invalid Citizenship Proof." So I'm not going to make you
12:25:15 15 go through each one of those, so -- because that would be
12:25:18 16 very tedious, would take a long time.

12:25:20 17 So just want to ask you: Is it fair to say
12:25:24 18 that if it says in this form someone's registration was
12:25:27 19 canceled and then it says reason "Invalid Citizenship
12:25:32 20 Proof," that means their registration was canceled because
12:25:35 21 of invalid citizenship proof?

12:25:38 22 MR. HERRERA: Objection; form, foundation.

12:25:45 23 THE WITNESS: Yes.

12:25:56 24 BY MR. HORLEY:

12:25:56 25 Q. Okay. Thanks.

12:25:58 1 So now I want to draw your attention to one
12:26:02 2 other page here down on page 572. So about halfway down, I
12:26:36 3 see an entry that says "NOT ELIGIBLE" under the status
12:26:42 4 column.

12:26:43 5 Am I reading that right?

12:26:44 6 A. Yes.

12:26:48 7 Q. Okay. And then once again, it says that the
12:26:51 8 reason that they're not eligible is "Invalid Citizenship
12:26:54 9 Proof"?

12:26:56 10 A. Yes.

12:26:57 11 Q. Okay. And then, you know, it's -- in some of
12:27:02 12 these other entries -- the one we looked at before, for
12:27:05 13 example -- it says that the person's status was "Canceled"
12:27:09 14 and this one says it's "NOT ELIGIBLE."

12:27:11 15 Do you know if there's a difference between
12:27:14 16 canceled and not eligible?

12:27:20 17 A. No, I don't.

12:27:24 18 Q. Okay. But does noneligible mean that that person
12:27:29 19 is not eligible to vote?

12:27:40 20 MR. HERRERA: Objection; foundation.

12:27:42 21 THE WITNESS: Yes.

12:27:43 22 BY MR. HORLEY:

12:27:47 23 Q. I'm sorry. I didn't catch your answer.

12:27:48 24 Did you -- did you have an answer,

12:27:50 25 Ms. Moreno?

12:27:51 1
12:27:53 2
12:27:58 3
12:28:01 4
12:28:05 5
12:28:05 6
12:28:06 7
12:28:06 8
12:28:11 9
12:28:13 10
12:28:14 11
12:28:18 12
12:28:22 13
12:28:27 14
12:28:27 15
12:28:28 16
12:28:35 17
12:28:40 18
12:28:44 19
12:28:46 20
12:28:50 21
12:28:55 22
12:28:58 23
12:29:08 24
12:29:09 25

A. Yes.

Q. Okay. Thank you. Now I want to draw your attention -- looking over to these date columns here. So in the first two columns, there's a date of September 13th, 2018.

Am I reading that right?

A. Yes.

Q. Okay. And as we talked about before, these dates show when a person registered; correct?

A. Yes.

Q. Okay. And then in the last column, we have a date of 2022. And as we talked about before, that's the date that the person's status was changed to not eligible; correct?

A. Yes.

Q. Okay. So for about four years, from 2018 to 2022, it appears that this person was registered, and then their registration was ruled not eligible in 2022; is that right?

A. Yes.

Q. Okay. So is there a way to tell whether that person voted in that time period while not being eligible?

MR. HERRERA: Objection; foundation.

THE WITNESS: I think there -- I believe so.

BY MR. HORLEY:

Q. Okay. And is it -- is it possible that this

12:29:11 1 person voted while not being a citizen?

12:29:17 2 MR. HERRERA: Objection; foundation.

12:29:22 3 THE WITNESS: I guess it's possible.

12:29:31 4 BY MR. HORLEY:

12:29:33 5 Q. Okay. Thank you. All right. That is all I have
12:29:36 6 for that document.

12:29:38 7 So there's one other document -- well,
12:29:43 8 actually, there's a few more documents I'd like you to look
12:29:45 9 at. So do let me know if you would like to take a break at
12:29:49 10 any time.

12:29:49 11 The next one I would like to look at is Bates
12:29:53 12 Number SCCR 1128. So I'm going to pull that up now on the
12:30:03 13 screen share.

12:30:04 14 Can you see this document?

12:30:05 15 A. I can.

12:30:05 16 Q. Okay. And so you see the number down here in the
12:30:08 17 lower right-hand corner?

12:30:10 18 A. Yes.

12:30:11 19 Q. So was this produced by your office in response to
12:30:16 20 plaintiffs' request for production?

12:30:19 21 A. Yes.

12:30:24 22 Q. Okay. Great.

12:30:25 23 MR. HORLEY: I would like to mark this as
12:30:27 24 Exhibit 102, I believe. Okay.

12:30:27 25 (The document was marked as Exhibit 102

12:30:27 1 for identification.)

12:30:27 2 BY MR. HORLEY:

12:30:37 3 Q. Now I would like to draw your attention to
12:30:39 4 page 1130.

12:30:44 5 So you -- you mentioned before that Ms. Sainz
12:30:46 6 was the former Santa Cruz County recorder; is that right?

12:30:51 7 A. Yes.

12:30:52 8 Q. And is this an email dated February 2, 2021, from
12:30:58 9 Ms. Sainz?

12:30:58 10 A. Yes.

12:31:00 11 Q. And it's to someone named Dakota Bixler; correct?

12:31:05 12 A. Yes.

12:31:06 13 Q. And do you know who Dakota Bixler is?

12:31:11 14 A. No.

12:31:12 15 Q. Okay. So you're not aware if she has any
12:31:17 16 connection to Santa Cruz County government or your office?

12:31:22 17 A. No.

12:31:24 18 Q. Okay. So I want to just give you a moment to just
12:31:29 19 review this email very quickly, and you can just let me
12:31:32 20 know once you've read it.

12:31:36 21 A. Okay.

12:31:54 22 Q. So is Ms. Sainz describing a situation where a
12:32:02 23 voter's ballot should have been canceled but the ballot,
12:32:06 24 quote, had already been opened and tabulated?

12:32:10 25 A. Yes.

12:32:10 1 Q. Okay. And the matter was under -- under
12:32:14 2 investigation by the county sheriff's office; is that
12:32:17 3 right?

12:32:17 4 A. Yes.

12:32:18 5 Q. And then Ms. Sainz asked Dakota Bixler to explain
12:32:23 6 the situation; yes?

12:32:25 7 A. Yes.

12:32:30 8 Q. Okay. So now turning to page 1129, is this a
12:32:35 9 February 2nd email from Dakota Bixler back to Ms. Sainz?

12:32:45 10 A. Yes.

12:32:45 11 Q. Okay. And then same thing with this one, if you
12:32:47 12 want to just take a moment to review it and let me know
12:32:49 13 when you're finished.

12:33:12 14 A. I'm finished.

12:33:18 15 Q. Okay. Thank you.

12:33:19 16 So in this email, does Ms. Bixler state that
12:33:28 17 the voter in question, whose name is redacted, died on
12:33:32 18 September 13th, 2020?

12:33:35 19 A. Yes.

12:33:36 20 Q. And the voter's registration was then canceled
12:33:40 21 because the voter was deceased?

12:33:43 22 A. Yes.

12:33:45 23 Q. And then the voter's -- that voter's mail-in
12:33:50 24 ballot was nonetheless returned after the date of death, on
12:33:56 25 October 21st, 2020; is that right?

12:33:56 1 A. Yes.

12:33:57 2 Q. Okay. And then does Ms. Bixler state, quote,

12:34:03 3 "There was no glitch in the AVID system"?

12:34:08 4 A. Yes.

12:34:09 5 Q. So based on this email, it appears there was no

12:34:13 6 clerical error here; correct?

12:34:17 7 A. Correct.

12:34:18 8 Q. So this didn't happen because someone in your

12:34:22 9 office did anything wrong; correct?

12:34:29 10 A. Correct.

12:34:31 11 Q. Okay. Now I'm going to turn your attention back

12:34:35 12 to page 1130 at the top of the page. And this is

12:34:39 13 continuing from Ms. Bixler, and she wrote, quote, "I hope

12:34:43 14 the County Sheriff's Office is able to get to the bottom of

12:34:46 15 the matter of who voted" -- redacted -- "ballot."

12:34:50 16 Did I read that right?

12:34:52 17 A. Yes.

12:34:52 18 Q. So based on the information in this email, does it

12:34:57 19 seem like there was a possible instance of voter fraud

12:35:01 20 here?

12:35:01 21 A. Yes.

12:35:01 22 Q. It was someone sending in the ballot of someone

12:35:05 23 who had decea- -- who had died?

12:35:08 24 A. Yes.

12:35:10 25 Q. And based on the dates given, this would have been

12:35:15 1 in the 2020 election; correct?

12:35:18 2 A. Yes.

12:35:19 3 Q. Okay. Great.

12:35:22 4 I wanted to go back and quickly look at
12:35:29 5 Exhibit 100, which was already entered. And this was an
12:35:31 6 email from -- that you looked at before that was sent by
12:35:35 7 Ms. Schultz, the Santa Cruz elections director.

12:35:39 8 That's right; right?

12:35:41 9 A. Correct.

12:35:41 10 Q. And in that email, she said that the elections
12:35:46 11 department has not had cases identified or flagged as
12:35:49 12 possible voter fraud in connection with the November 3rd
12:35:53 13 election; right?

12:35:54 14 A. Correct.

12:35:55 15 Q. And she was referring to the 2020 election?

12:35:59 16 A. That's correct.

12:36:00 17 Q. But as you mentioned before, Ms. Schultz does not
12:36:06 18 work for your office; correct?

12:36:08 19 A. That's correct.

12:36:09 20 Q. Right. It's a -- the elections department is a
12:36:13 21 separate entity?

12:36:14 22 A. It is.

12:36:17 23 Q. Okay. Great. All right. One more document --
12:36:23 24 well, let me see here. I want to look at just one more
12:36:35 25 document. Thank you again for your patience as we go

12:36:38 1 through all this.

12:36:42 2 So this is document with Bates Number 001309.

12:36:51 3 Do you see the numbers in the lower

12:36:53 4 right-hand corner of this document?

12:36:54 5 A. I do.

12:36:55 6 Q. And your office produced this in response to

12:36:58 7 plaintiffs' request for production; correct?

12:37:01 8 A. Correct.

12:37:02 9 Q. And then turning to this next page, page 1310, is

12:37:11 10 this an email from Saibet Gastelum?

12:37:14 11 A. Yes.

12:37:16 12 Q. And she used to work in your office; correct?

12:37:19 13 A. Yes.

12:37:22 14 Q. And she is emailing Russ Smith at the Arizona

12:37:26 15 Secretary of State's Office; correct?

12:37:28 16 A. Yes.

12:37:29 17 Q. And that email is dated August 30th, 2022?

12:37:38 18 A. Yes.

12:37:38 19 Q. And the email says that Ms. Gastelum, quote, "ran

12:37:45 20 the HAVA check on this particular voter (image is

12:37:49 21 attached), and it was verified as a hard match but its

12:37:53 22 status appears as not eligible. The voter registration

12:37:56 23 form was completed with the SSN, or Social Security number,

12:37:59 24 and the driver license number. Please advise."

12:38:01 25 Did I read that right?

12:38:02 1 A. Yes.

12:38:02 2 Q. Okay. Now looking at page 1309, this is an
12:38:13 3 August 31, 2022, response to Ms. Gastelum's email; correct?

12:38:17 4 A. Yes.

12:38:21 5 Q. Okay. And Russ Smith states that he looked
12:38:23 6 through the MVD information on this voter; correct?

12:38:25 7 A. Correct.

12:38:26 8 Q. And the MVD, quote, "has this person listed as a
12:38:31 9 Non-US Citizen"; right?

12:38:33 10 A. Correct. Yes.

12:38:37 11 Q. And this person is instead a green card holder;
12:38:44 12 correct?

12:38:44 13 A. Yes.

12:38:45 14 Q. Okay. And then looking lower in the email, Russ
12:38:49 15 Smith notes that the person, quote, "is not a US Citizen";
12:38:54 16 correct?

12:38:54 17 A. Yes.

12:38:55 18 Q. And thus, "they do not qualify to participate in
12:39:00 19 the elections"; correct?

12:39:02 20 A. Yes.

12:39:02 21 Q. And then he says, "So AVID is behaving as expected
12:39:07 22 by marking the voter as Not Eligible"; correct?

12:39:10 23 A. Correct.

12:39:11 24 Q. So is it fair to say this email describes a
12:39:15 25 situation where someone who was not a U.S. citizen tried to

12:39:18 1 register and was not able to?

12:39:20 2 MR. HERRERA: Objection; foundation.

12:39:22 3 THE WITNESS: Yes.

12:39:32 4 BY MR. HORLEY:

12:39:35 5 Q. Do you think this suggests that the MVD database
12:39:39 6 works properly?

12:39:41 7 MR. HERRERA: Objection; form.

12:39:42 8 Sorry, go ahead.

12:39:43 9 BY MR. HORLEY:

12:39:44 10 Q. I'm sorry. I'll repeat the question.

12:39:45 11 So does this email suggest that the MVD
12:39:48 12 database works properly to check people's citizenship?

12:39:53 13 MR. HERRERA: Objection; form.

12:39:58 14 THE WITNESS: I don't know.

12:40:00 15 BY MR. HORLEY:

12:40:01 16 Q. Okay. But do you agree with Russ Smith that if
12:40:05 17 the MVD database shows that someone is a green card holder
12:40:08 18 rather than a citizen, that that shows that person is not a
12:40:11 19 U.S. citizen?

12:40:13 20 MR. HERRERA: Objection; form and foundation.

12:40:17 21 THE WITNESS: Yes.

12:40:18 22 BY MR. HORLEY:

12:40:23 23 Q. Okay. So just a final question here.

12:40:24 24 So is it fair to say we've looked at several
12:40:27 25 documents suggesting that people registering to vote in

12:40:30 1 Santa Cruz County were not eligible because they lacked
12:40:34 2 proof of citizenship?

12:40:39 3 MR. HERRERA: Objection; form, foundation.

12:40:50 4 THE WITNESS: Yes.

12:40:52 5 MR. HORLEY: Okay. Thank you very much,
12:40:53 6 Ms. Moreno. I really appreciate your time. That's all I
12:40:55 7 have.

12:40:55 8 THE COURT REPORTER: You did want to mark
12:40:59 9 that as Exhibit 103; correct?

12:41:02 10 MR. HORLEY: I'm sorry. Yes, please mark
12:41:03 11 that as Exhibit 103. Thank you.

12 12 (The document was marked as Exhibit 103
13 13 for identification.)

14 14

15 15 EXAMINATION

16 16 BY MR. LANGHOFER:

12:41:10 17 Q. Good afternoon, ma'am. My name is Kory Langhofer,
12:41:11 18 and I'm a lawyer for the Republican National Committee.
12:41:14 19 I've just got a handful of questions for you here, mostly
12:41:17 20 in the way of clarification of things that you've been
12:41:20 21 asked already.

12:41:24 22 You were asked some questions on direct about
12:41:26 23 the usefulness of the birthplace information. And if
12:41:35 24 someone puts their birthplace on a voter registration form
12:41:38 25 currently, that information makes its way into the voter

12:41:44 1 file, doesn't it?

12:41:47 2 A. Yes.

12:41:47 3 Q. And so I want to imagine a situation where you've
12:41:53 4 got a new voter registration form that comes in and it has
12:41:56 5 a common name. Let's say it's John Smith. And there's a
12:42:02 6 birthday -- it doesn't matter what the day is, but we'll
12:42:05 7 just say it's January 1st, 1950. And you -- that -- and
12:42:12 8 that person is already in the voter file and you receive a
12:42:15 9 new voter registration form also for a John Smith, also
12:42:19 10 born January 1st, 1950.

12:42:22 11 In this situation, if the John Smith who's
12:42:27 12 already in the voter file has his birthplace in the voter
12:42:32 13 file, could you use the birthplace information on the new
12:42:37 14 voter registration form to determine whether this is the
12:42:41 15 same John Smith or a different John Smith?

12:42:47 16 A. Yes. Because the -- the -- if I'm -- if my memory
12:42:54 17 serves me right, the registration would have the last four
12:42:58 18 digits of the Social Security number. And that's one way
12:43:06 19 of determining that we're not talking about the same
12:43:10 20 person.

12:43:11 21 Q. And wouldn't birthplace be another way of
12:43:14 22 determining whether you're talking about the same person?

12:43:17 23 A. That's correct.

12:43:19 24 Q. Does your office have access to any more accurate
12:43:26 25 databases to confirm eligibility to vote that you're not

12:43:30 1 currently using?

12:43:34 2 A. Not that I'm aware of.

12:43:37 3 Q. Does your office have access to any more
12:43:39 4 up-to-date or current databases to confirm eligibility to
12:43:44 5 vote that you're not currently using?

12:43:47 6 A. Not that I'm aware of.

12:43:53 7 Q. When a voter gives a -- submits a voter
12:44:01 8 registration form but they don't attach documentary proof
12:44:03 9 of citizenship and you can't confirm their citizenship
12:44:09 10 through the HAVA checks so your office sends them a letter
12:44:13 11 saying that you're missing the DPOC, do you know what
12:44:17 12 percentage of those voters write back and send in their
12:44:23 13 DPOC?

12:44:25 14 A. I don't know.

12:44:26 15 Q. Do you know whether it's more or less than half?

12:44:33 16 A. I don't know.

12:44:37 17 Q. When a statute in -- concerning elections is
12:44:46 18 ambiguous, does the -- has the EPM been helpful to your
12:44:54 19 office in understanding that statute?

12:44:58 20 A. Yes. Yes. Again, I have to familiarize myself
12:45:12 21 with -- with the -- with the EPM and also with statutes
12:45:23 22 that change, that are changing, or that when you -- that --
12:45:34 23 I just have to familiarize myself with the statutes.

12:45:38 24 Q. And when -- in order to understand the statutes
12:45:41 25 and interpret them, does your office rely on EPM?

12:45:45 1 A. Yes.

12:45:54 2 Q. When -- does your office receive voter
12:46:00 3 registration forms that contain false information?

12:46:07 4 MR. HERRERA: Objection to the form.

12:46:16 5 BY MR. LANGHOFER:

12:46:16 6 Q. I can give you an example if you'd like.

12:46:22 7 A. I'm sure -- I'm sure we have. As I mentioned
12:46:27 8 before, what I -- my experience has been with -- with an
12:46:33 9 incorrect address, a misspelling of an address. But I'm
12:46:41 10 sure it's possible, yes.

12:46:46 11 Q. Do you have a sense to the frequency with which
12:46:49 12 you get voter registration forms with false information?

12:46:53 13 A. I have no -- no, I don't. I have no idea.

12:46:58 14 MR. LANGHOFER: And I appreciate your time
12:46:59 15 and attention today in letting us go, you know, well after
12:47:02 16 the normal lunch hour here. That's all the questions I
12:47:02 17 have.

12:47:06 18 THE WITNESS: Thank you.

12:47:08 19 MR. HERRERA: If no one else has any from the
12:47:10 20 defendants' side, I do have a couple of follow-ups.

12:47:17 21 No one else? Okay.

12:47:17 22

12:47:18 23 FURTHER EXAMINATION

12:47:18 24 BY MR. HERRERA:

12:47:18 25 Q. So sorry, Ms. Moreno. A couple more questions.

12:47:21 1 MR. HERRERA: Can we pull up what was marked
12:47:22 2 as Exhibit 103.

12:47:34 3 THE VIDEOGRAPHER: Is there a specific
12:47:36 4 document you're asking me to pull up?

12:47:37 5 MR. HERRERA: Yes. It was an email -- a Russ
12:47:42 6 Smith email, I think. It's Exhibit 1-0-3. 103. That's
12:47:44 7 what it was.

12:47:48 8 MR. HORLEY: Sorry. This is --

12:47:54 9 MR. HERRERA: It's not one of mine.

12:47:54 10 MR. HORLEY: Yeah. I'm sorry. This is Tim
12:47:55 11 Horley. I can send that over the chat. I don't think it's
12:47:58 12 in the Dropbox.

12:47:58 13 MR. HERRERA: Oh, okay.

12:48:00 14 MR. HORLEY: Give me one second and I will
12:48:02 15 send that so that the reporter can pull it up.

12:48:17 16 MR. HERRERA: I can pull it up too and share
12:48:19 17 it if you put it in the chat.

12:48:23 18 MR. HORLEY: Yeah, I will send it right now.

12:48:38 19 Okay. That should be the one.

12:48:56 20 BY MR. HERRERA:

12:48:57 21 Q. Ms. Moreno, I'm doing a screen share of a document

12:49:01 22 that Mr. Horley showed you earlier. And it was marked as

12:49:04 23 Exhibit 103 -- 103.

12:49:07 24 A. Yes.

12:49:08 25 Q. So do you recall this document we were looking at

12:49:11 1 just a few moments ago?

12:49:14 2 A. Yes.

12:49:14 3 Q. Okay. And you recall the line in the email -- the

12:49:18 4 lines in the email that say, "As this person is not a US

12:49:20 5 Citizen they do not qualify to participate in the

12:49:23 6 elections"?

12:49:26 7 Do you see that?

12:49:26 8 A. Yes.

12:49:27 9 Q. Okay. So this is -- earlier you said that you

12:49:34 10 don't -- you aren't familiar with HAVA checks; right?

12:49:37 11 A. I need to -- to learn how to maneuver it better,

12:49:49 12 familiar to the function or -- or how to retrieve or how to

12:49:58 13 get into AVID, yes. But it's a little bit more complex

12:50:04 14 than -- than I thought it would be.

12:50:10 15 Q. Okay. Are you familiar -- it says -- in the

12:50:14 16 email, it says this person is "Authorized Presence of 2,"

12:50:19 17 and then it has an em dash. And then it says, "Green Card

12:50:19 18 Holder."

12:50:24 19 Do you know what a green card is?

12:50:25 20 A. It's -- it's the resident alien -- resident alien

12:50:37 21 card. I guess that's what you call it.

12:50:40 22 Q. Okay. Are you familiar with the process of

12:50:44 23 naturalization to become a U.S. citizen?

12:50:50 24 A. Not -- not really, but I do know that the -- that

12:51:02 25 the fact that we -- to become a U.S. citizen, the -- it's

12:51:06 1 not an overnight process. And I know there's classes to be
12:51:11 2 taken and a test to be taken and a graduation -- I guess,
12:51:18 3 that's what you call it -- or a ceremony.

12:51:22 4 Q. And are you aware of what kind of immigration
12:51:30 5 status green card indicates for somebody?

12:51:36 6 A. It is the -- it gives you authority to -- to work
12:51:44 7 in the -- to live -- to work in the United States.

12:51:49 8 Q. Do you know if it's possible that someone who has
12:51:51 9 a green card can become a U.S. citizen?

12:51:56 10 A. Yes.

12:51:57 11 Q. Okay. Now, if we look at this -- this information
12:52:01 12 is coming from the MVD; right? Do you understand that to
12:52:04 13 be the Motor Vehicle Division?

12:52:06 14 A. That's correct, yes.

12:52:08 15 Q. Do you see where it says, "MVD Record Date"?

12:52:15 16 A. Yes.

12:52:15 17 Q. Do you see that it says January 24th, 2019?

12:52:20 18 A. Yes.

12:52:20 19 Q. However, the email from Mr. Smith to Saibet
12:52:26 20 Gastelum is August 31st; right?

12:52:32 21 A. Yes.

12:52:32 22 Q. Is it possible that someone can become a U.S.
12:52:35 23 citizen within -- is it possible that this person here,
12:52:42 24 since January 2019 -- between January 2019 and August 2022,
12:52:47 25 became a U.S. citizen?

12:52:53 1 A. It's possible.

12:52:54 2 Q. Okay. Do you know if that -- if your office asked

12:52:59 3 or sent a notice to see if this person had documentary

12:53:02 4 proof of citizenship?

12:53:06 5 A. I don't know.

12:53:08 6 Q. So it's possible that your office confirmed that

12:53:13 7 this person was a U.S. citizen later; right?

12:53:19 8 A. Yes.

12:53:21 9 Q. And it's possible that this person in Exhibit 103

12:53:26 10 is actually a U.S. citizen?

12:53:29 11 A. It's possible.

12:53:30 12 Q. Okay.

12:53:31 13 MR. HERRERA: Thank you. Those are all my

12:53:33 14 questions. Thank you.

12:53:41 15 MR. LANGHOFER: Shayna, do you have anything?

12:53:45 16 MS. STUART: No, I don't. Thank you.

12:53:50 17 MR. LANGHOFER: Okay. Justin?

12:53:51 18 MR. PIERCE: No. We'll read and sign. We're

12:53:53 19 done.

12:53:54 20 MR. LANGHOFER: Ernest, you guys are done for

12:53:57 21 the plaintiffs?

12:53:57 22 MR. HERRERA: Yes. I -- Brent? Yeah, I

12:54:00 23 think so. I am.

12:54:02 24 MR. FERGUSON: I'm done. Thanks.

12:54:04 25 MR. LANGHOFER: All right. Dan, I guess

12:54:05 1
12:54:07 2
12:54:08 3
12:54:13 4
12:54:17 5
12:54:17 6
12:54:17 7
12:54:27 8
12:54:27 9
12:54:28 10
12:54:30 11
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that's a wrap.

THE VIDEOGRAPHER: We are off the record.

Time on the video monitor is 12:54 p.m. This ends
Volume 1, Media Number 2, in the 30(b)(6) deposition of
Santa Cruz County Recorder, designed by Anita Moreno.

(The following occurred off the video
record.)

THE COURT REPORTER: Can I get any defendant
orders on the record, please?

MS. STUART: Yes. Cindy, this is Shayna.
We'd like to order a copy. Thank you.

(The proceedings concluded at 12:54 p.m.)

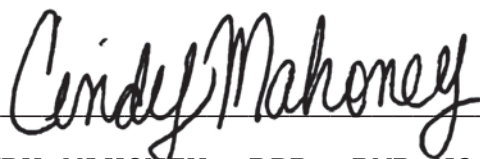
ANA MORENO

1 STATE OF ARIZONA)
2 COUNTY OF MARICOPA)

3 BE IT KNOWN that the foregoing deposition was taken
4 by me pursuant to stipulation of counsel; that I was then
5 and there a Certified Court Reporter in the State of
6 Arizona, and by virtue hereof authorized to administer an
7 oath; that the witness before testifying was duly sworn by
8 me to testify to the whole truth; pursuant to request,
9 notification was provided that the deposition is available
10 for review and signature; that the questions propounded by
11 counsel and the answers of the witness thereto were taken
12 down by me in shorthand and thereafter transcribed into
13 typewriting under my direction; that the foregoing pages
14 are a full, true and accurate transcript of all the
15 proceedings had upon the taking of deposition, all done to
16 the best of my skill and ability.

17 I FURTHER CERTIFY that I am in no way related
18 to nor employed by any parties hereto; nor am I in any
19 way interested in the outcome thereof.

20 Dated at Phoenix, Arizona, this 22nd day of
21 September, 2023.

22 

23 _____
24 CINDY MAHONEY, RPR, RMR NO. 50680

25

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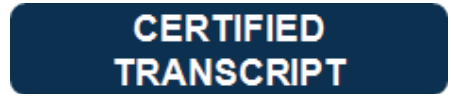
UNITED STATES DISTRICT COURT
DISTRICT OF ARIZONA

Mi Familia Vota, et al.,)	
)	
Plaintiffs,)	Case No.
	)	2:22-cv-00509-PHX-SRB
v.	)	(Lead)
)	
Adrian Fontes, in his	)	No. CV-22-00519-PHX-SRB
official capacity as	)	No. CV-22-01003-PHX-SRB
Arizona Secretary of State,	)	No. CV-22-01124-PHX-SRB
et al.,	)	No. CV-22-01369-PHX-SRB
	)	No. CV-22-01381-PHX-SRB
Defendants.	)	No. CV-22-01602-PHX-SRB
	)	No. CV-22-01901-PHX-SRB

AND CONSOLIDATED CASES.

30(b)(6) DEPOSITION OF ARIZONA DEPARTMENT OF
TRANSPORTATION, REPRESENTED BY ERIC RUSSELL JORGENSEN
Phoenix, Arizona
August 11, 2023

Prepared by:
CINDY MAHONEY, RPR, RMR
Certified Court Reporter
Certificate No. 50680



1	I N D E X		
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 2 OF TRANSPORTATION, REPRESENTED BY ERIC RUSSELL JORGENSEN,
 3 commenced at 9:15 a.m. on August 11, 2023, at the Arizona
 4 Attorney General's Office, 2005 North Central Avenue,
 5 Phoenix, Arizona, before Cindy Mahoney, RPR, RMR, Arizona
 6 Certified Court Reporter No. 50680.

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23 Darrell Reddix
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TRANSCRIPT OF PROCEEDINGS

ERIC RUSSELL JORGENSEN,
the witness herein, being first duly sworn,
was examined and testified as follows:

EXAMINATION

BY MR. HERRERA:

Q. Good morning. Is it Mr. Jorgensen or Jorgensen?

A. Jorgensen.

Q. Good morning, Mr. Jorgensen. My name is Ernest
Herrera, and I'm an attorney at the Mexican American Legal
Defense and Educational Fund. I represent plaintiffs
Promise Arizona and Southwest Voter Registration Education
Project in this litigation.

Can you please state and spell your name for
the record.

A. Eric, E-r-i-c; Russell, R-u-s-s-e-l-l; Jorgensen,
J-o-r-g-e-n-s-e-n.

Q. And have you been known by any other names?

A. No.

Q. Is that a no?

A. No.

Q. What other names -- sorry. You already said no.

Are you represented by an attorney today?

09:15:08
09:15:22
09:15:34
09:15:43

1 A. Yes.

2 Q. And who is your attorney?

3 A. Josh Whitaker of the Attorney General's Office.

4 Q. Have you ever had your deposition taken before?

09:15:54 5 A. Yes.

6 Q. How many times?

7 A. I think once.

8 Q. Okay. And when was that?

09:16:14 9 A. Several years ago. Probably '19, '18 -- 2019,
10 2018.

11 Q. And what was the -- the nature of the case?

12 A. It was an authorized presence case for ability to
13 receive state benefits.

14 MR. MORGAN: Mr. Herrera.

09:16:34 15 MR. HERRERA: Yes.

16 MR. MORGAN: Just since there was a lull
17 there because the court reporter asked him to slow down,
18 can we get on the record -- I don't think we have -- the
19 same agreement we've had throughout this deposition, which
09:16:45 20 is that an objection for one party -- an objection for one
21 defendant constitutes an objection joined by all
22 defendants? That way, we're not all objecting today.

23 Is that -- is that okay with everyone?

24 MR. HERRERA: That's okay with me.

09:17:01 25 MR. WHITAKER: Good idea.

1 MR. MORGAN: Any objections? All right.

2 Hearing none, that is the stipulation on the
3 record. Thank you.

4 BY MR. HERRERA:

09:17:11

5 Q. And in that case about driver licenses -- or
6 benefits, would it be fair to say that you were a witness
7 for the defendant or on the -- a party as a defendant?

8 A. Yes.

09:17:27

9 Q. Okay. Let me go over a few ground rules so that
10 we're on the same page about how to conduct this
11 deposition. The court reporter has put you under oath,
12 which means that you are under an obligation to tell the
13 truth. Do you understand that?

14 A. Yes.

09:17:36

15 Q. Although we are in a somewhat informal
16 environment, that oath has the same force and effect as if
17 you were testifying in a court of law in front of a judge
18 or jury. Do you understand that?

19 A. Yes.

09:17:49

20 Q. The court reporter will take down everything you
21 say and anything that anyone else says unless we go off the
22 record. Do you understand that?

23 A. Yes.

09:18:01

24 Q. During the course of this deposition, I am going
25 to ask you some questions and you are going to give me your

1 answers to those questions. Because the court reporter
2 will be typing everything that we say here today, it is
3 important that you give audible answers to my questions, no
4 "uh-huhs" or shaking your head. Okay?

09:18:17

5 A. Okay.

09:18:32

6 Q. And I'll try not to talk too fast. It is also
7 very important that we do not talk over each other. It
8 happens all the time in normal conversation because we
9 can't anticipate when the other person is going to be
10 finished. But in this situation, the court reporter can
11 only write what one person is saying at a time. So let's
12 try to help her out. Okay?

13 A. Yes.

09:18:45

14 Q. If you do not understand a question, please tell
15 me that you don't understand and I'll rephrase the
16 question. Okay?

17 A. Okay.

09:18:58

18 Q. I don't want you to guess. If you don't know the
19 answer to a question, simply state that you don't know.
20 However, I am entitled to your best estimate. So for
21 example, if I ask you if you know the date that something
22 happened, you may not know the exact date, but if you can
23 estimate that it happened after Christmas but before
24 Valentine's Day, I'm entitled to know your estimate. Do
09:19:14 25 you understand?

1 A. Yes.

2 Q. Throughout the course of the deposition, your
3 attorney may make objections. Even if your attorney
4 objects, unless he specifically instructs you not to answer
09:19:27 5 the question, you still must answer that question. He is
6 simply preserving his right to object to the question. Do
7 you understand?

8 A. Yes.

9 Q. Sometime after we complete your deposition, unless
09:19:40 10 you waive this, you will receive a typed transcript of this
11 deposition. You'll have an opportunity to review the
12 transcript and correct any errors you see, and then you
13 will sign it under penalty of perjury. However, I will
14 warn you that if you make anything more than clerical
09:19:57 15 changes like correcting typos, attorneys in this case will
16 be able to comment on those changes at trial, which could
17 affect your credibility before the judge or jury in the
18 future. So please try to give the best testimony you can
19 here today. Do you understand that?

09:20:12 20 A. Yes.

21 Q. If you need to take a break for any reason, please
22 let me know and we can take a break. However, if there is
23 a question pending that you have not answered, I will ask
24 you to answer the question first and then we can take a
09:20:26 25 break. Okay?

1 A. [Nodded up and down.]

2 Q. Is there any reason that you cannot give your best
3 testimony here today?

4 A. No.

09:20:33

5 Q. Have you consumed any substances in the past
6 24 hours or medications that would prevent you from giving
7 your best testimony here today?

8 A. No.

09:20:50

9 Q. What, if anything, did you do to prepare for this
10 deposition?

11 A. I reviewed some of the information that we
12 provided in the past, the interrogatories and some of the
13 emails.

09:21:07

14 Q. I'd like to open up one exhibit. This is the --
15 I'm going to share it in the Zoom -- or a document. And on
16 the Zoom on the screen in front of you -- I'm going to send
17 it to the court reporter. We're going to share it in the
18 chat as well.

09:21:58

19 MR. HERRERA: I'd like to mark this as
20 Exhibit 104, please.

21 (The document was marked as Exhibit 104 for
22 identification.)

23 BY MR. HERRERA:

09:22:07

24 Q. And do you recognize this document from the title
25 there?

1 A. Yes.

2 Q. Okay. And what is this document?

3 A. I'm not sure I know how to describe it legally.

4 Q. Sure. Is this the -- is this the notice to appear
09:22:29 5 today for a deposition?

6 A. Yes.

7 Q. Okay. So I'm going to go down to the third page
8 of this document. And it starts with Exhibit A. And then
9 I'm going to go down a little further to page 3 where it
09:22:47 10 says "Topics."

11 Mr. Jorgensen, have you reviewed these
12 topics?

13 A. Yes.

14 Q. Are you familiar with these topics listed here?

09:22:58 15 A. Yes.

16 Q. Are you prepared to testify about these topics
17 today?

18 A. Yes.

19 Q. Okay. Are there any that you would not be able to
09:23:09 20 testify to?

21 A. No.

22 MR. WHITAKER: Objection on that last
23 question. Possible overbreadth. To the extent that it
24 talks about, for example, all communications -- for
09:23:33 25 example, Number 7 is -- is, as worded, rather broad. So I

1 just wanted to lodge the possible overbroad objection. I
2 think reasonable efforts is the standard.

3 MR. HERRERA: Okay.

4 BY MR. HERRERA:

09:23:55 5 Q. So earlier you mentioned, Mr. Jorgensen, that you
6 reviewed some documents in -- that you produced in response
7 to plaintiffs' requests; is that right?

8 A. Correct.

09:24:11 9 Q. Okay. What -- so you reviewed -- did you review
10 any particular set of them, or did you look through all of
11 them?

12 A. I looked through what we had produced as part of
13 both interrogatories and the -- and the request for
14 production. So I at least leafed back through them.

09:24:28 15 Q. Outside of those documents, did you review any
16 other documents in preparation?

17 A. No.

18 Q. Besides reviewing documents, what did you do to
19 prepare for your deposition today?

09:24:47 20 A. I asked staff to walk me back through the process
21 of obtaining the license with authorized presence so that I
22 was once again familiar with some of the details on that.

23 Q. And when you say "obtaining a license with
24 authorized presence," can you say what you mean by that?

09:25:06 25 A. So if -- what exactly we need to do to show that a

1 person has authorized presence so we can issue the license,
2 whether that's because they are a citizen or not a citizen
3 but with authorized presence.

09:25:25

4 Q. And without disclosing any conversations with
5 attorneys, can you tell me with whom you spoke to walk you
6 through that process?

7 A. Madelene Carbajal.

8 Q. And who is Madelene Carbajal?

9 A. She is our policy specialist for drivers.

09:25:46

10 Q. And what are Ms. Carbajal's duties?

11 A. She is in charge of making sure that we all
12 understand what the policies, laws, and requirements are
13 around things related to drivers.

09:26:15

14 Q. Okay. And so besides speaking with Ms. Carbajal,
15 did you do anything else to prepare for your deposition?

16 A. No.

17 Q. Besides Ms. Carbajal, did you speak with anyone
18 else who works for ADOT besides any attorneys?

09:26:43

19 A. I did have a conversation with another Madeline
20 Kinder, who helps with some of the technical aspects of the
21 system, to specifically refresh on how some of the system
22 pieces work, actually.

09:27:02

23 Q. And, I'm sorry, I should have said this earlier,
24 but I said "ADOT." I meant Arizona Department of
25 Transportation. Is -- how do people usually abbreviate --

1 A. ADOT.

2 Q. Okay. Besides Ms. Kinder and Ms. Carbajal, anyone
3 else with ADOT with whom you spoke to prepare?

4 A. No.

09:27:23 5 Q. The court reporter is going to hand you a document
6 which we'll mark as Exhibit 105.

7 (The document was marked as Exhibit 105
8 for identification.)

9 BY MR. HERRERA:

09:28:18 10 Q. And, Mr. Jorgensen, do you recognize this
11 document?

12 A. Yes.

13 Q. And what is this document?

09:28:32 14 A. This was the interrogatory request with our
15 response.

16 Q. Okay. So you could take a second to review it,
17 but to confirm, this does contain the responses of ADOT;
18 right?

19 A. It does.

09:28:44 20 Q. And did you prepare the answers to these
21 interrogatories?

22 A. Yes.

23 Q. Did anyone else assist you in preparing the
24 answers to these interrogatories?

09:29:04 25 A. Yes.

1 Q. And besides any attorneys, who assisted you in
2 preparing these answers?

3 A. That would be Madelene Carbajal, who I mentioned
4 before, and Madeline Kinder, who I mentioned before.

09:29:19 5 Q. Did you review all of the answers to these
6 interrogatories?

7 A. Yes.

8 Q. And now we're going to hand you an exhibit that I
9 would like to mark as Exhibit 106.

09:29:52 10 (The document was marked as Exhibit 106
11 for identification.)

12 BY MR. HERRERA:

13 Q. And do you recognize this document, Mr. Jorgensen?

14 A. Yes.

09:30:15 15 Q. And what is this document?

16 A. This is the request for production in this case
17 with our responses.

18 Q. Okay. Would that be plaintiffs' requests for
19 production to ADOT and ADOT's responses?

09:30:31 20 A. Yes.

21 Q. Okay. And did you prepare the responses to these
22 requests for production?

23 A. Yes.

09:30:41 24 Q. Okay. Did anyone assist you in preparing these
25 responses?

1 A. Yes.

2 Q. Okay. And who were those people?

3 A. It would be Madelene Carbajal, Madeline Kinder,
4 and Amanda Kindle.

09:30:50

5 Q. And who is Amanda Kindle?

6 A. Amanda Kindle leads our change control process and
7 helps -- helped gathering the documents.

8 Q. What is -- what does "change control
9 process" mean?

09:31:08

10 A. Every time we make a change to process, procedure,
11 system, we go through a change control, and she manages
12 that process, the documents, what the change is.

13 Q. Is that -- when you say a "change in process" and
14 "procedure," is that an -- is she more on the technical

09:31:30

15 side or more on the regulatory side or both or something?

16 A. She would coordinate both the business and
17 technical aspects of the change -- of the recording of the
18 change.

19 Q. Okay. And does she do that just for -- or across
20 the board for ADOT?

09:31:46

21 A. For the Motor Vehicle Division of the Arizona
22 Department of Transportation, yes.

23 Q. And did you review the responses and the documents
24 produced in response to these requests for production?

09:32:04

25 A. Yes.

1 Q. Okay. So I'm going to ask you a little bit about
2 your current employment.

3 Where are you employed?

4 A. I am employed at the Motor Vehicle Division of the
09:32:24 5 Arizona Department of Transportation.

6 Q. And what is your position?

7 A. I'm the director of the Motor Vehicle Division.

8 Q. And how long have you held your position at the
9 Arizona Department of Transportation?

09:32:39 10 A. Just over eight years.

11 Q. What does your role as director of Motor Vehicle
12 Division entail?

13 A. I guide the policies, strategy, and operations of
14 the Motor Vehicle Division in its functions of providing
09:33:02 15 customer service at our offices as well as the back-office
16 things that are associated with that provision of service.

17 Q. I'm going to hand you what is marked as -- what
18 has been marked as Exhibit 107.

19 (The document was marked as Exhibit 107
09:33:48 20 for identification.)

21 BY MR. HERRERA:

22 Q. And do you recognize this document?

23 A. Yes.

24 Q. And what is this document?

09:33:59 25 A. This is an organizational chart of ADOT.

1 Q. And to your knowledge, is this -- you could take a
2 minute to review it, but is this document accurate or
3 current?

4 A. Yes.

09:34:12

5 Q. And so the Motor Vehicle Division falls under the
6 deputy director of MVD and compliance Wayde Webb? Is that
7 right?

8 A. Correct.

09:34:42

9 Q. And who else -- under the Motor Vehicle Division,
10 who else -- who else leads the Motor Vehicle Division
11 besides you as director?

12 A. So I would report directly to Wayde Webb, the
13 deputy director. So I'm not sure if that's what you're
14 asking.

09:35:05

15 Q. Yes. Do you have an executive team within the
16 Motor Vehicles Division?

17 A. I do.

18 Q. Okay. And who are they?

09:35:20

19 A. That would be two deputy directors, one -- two
20 people who oversee internal support, and one person who
21 does our customer service -- customer experience
22 coordination.

23 MR. HERRERA: Could we take a minute -- could
24 we go off the record for a minute.

09:35:51

25 MR. WHITAKER: Sure.

1 (An off-the-record discussion ensued.)

2 BY MR. HERRERA:

3 Q. We're back on the record.

4 And, Mr. Jorgensen, sorry for that
09:39:40 5 interruption. We are -- you were telling me about the
6 people who work in the Motor Vehicle Division as part of
7 the leadership of the Motor Vehicle Division. How many
8 people are employed at the Motor Vehicle Division?

9 A. I don't have an exact number. It's about 860.

09:40:11 10 Q. And what is the Enforcement and Compliance
11 Division?

12 A. That is a separate division of ADOT that does
13 investigation of -- internal investigations, fraud
14 investigations, external fraud investigations, and handles
09:40:29 15 things like ports of entry, some of those items.

16 Q. Do any of the other departments listed on this org
17 chart deal with driver license and driver license data?

18 A. Yes.

19 Q. Okay. And which ones would those be?

09:40:45 20 A. You would have it under the Law and Policy segment
21 here. So the Executive Hearing Office, for example, hears
22 cases -- disputed cases and would have access to that
23 information. In a broader -- not to -- to the information
24 as part of the system, but as a -- engaged in the topic,
09:41:16 25 you would see our government relations as well.

1 Q. Okay. And I should have clarified this earlier,
2 but which part of this organizational chart manages driver
3 license data for ADOT?

4 A. The Motor Vehicle Division does.

09:41:37

5 Q. Okay. Now, you said that the Motor Vehicle
6 Division -- you mentioned that the -- you just said that
7 the Motor Vehicle Division manages driver license data;
8 right?

9 A. Yes.

09:42:04

10 Q. Who -- who manages other identification data for
11 Arizona state identifications?

12 A. I'm sorry. I don't understand.

13 Q. Are there other kinds of credentials or
14 identifications besides driver licenses?

09:42:20

15 A. So, yes, there are state-issued IDs as well.
16 Broadly, we call them all credentials, and they're managed
17 by the Motor Vehicle Division.

18 Q. And what data does MVD manage pertaining to driver
19 licenses?

09:42:43

20 A. MVD manages the motor vehicle record, including
21 the applications that are made, the dispositions of those
22 applications, and the status of what those records are, the
23 maintenance and upkeep of those records.

09:43:09

24 Q. What is the system called that MVD uses to manage
25 driver license data?

1 A. Broadly, we'll call that system MAX.

2 Q. And does MAX stand for anything?

3 A. No.

4 Q. And how many employees at MVD work on managing the
09:43:24 5 MAX system?

6 A. I'm not sure I understand what you mean
7 by "managing."

8 Q. Are there -- well, can you describe more about
9 what the MAX system is?

09:43:43 10 A. Sure. MAX system is -- it's actually a
11 conglomeration of many systems together, many different
12 databases and functionality that allow the division to
13 provide services to the public. So at the front line -- at
14 the -- in one of our offices or in one of our third
09:44:04 15 parties, it's -- it's the front end of that is the system
16 that the customer service representative would use to issue
17 licenses to a customer. At the same time, it is the system
18 that is behind the portal that we have in our -- for
19 self-service by customers from their home, which we call
09:44:24 20 Azmvdnow.gov.

21 And it also manages the record more broadly.
22 So any enforcement actions or court actions or anything
23 that's taken against it, a driver is managed through that
24 system as well. And we broadly refer to all of those
09:44:42 25 things as our MAX system because there's one way to access

1 that.

2 Q. I see.

3 So would it be inaccurate to say that MAX
4 system is a database?

09:44:57

5 A. I think that's the common way people would refer
6 to the system, but structurally it is much more than a
7 database. There are -- there are thousands of databases,
8 tables, and pieces that make up different aspects of the
9 system.

09:45:17

10 Q. Okay. So when we're talking about -- we've been
11 talking about driver licenses. How does the MAX system --
12 or rather, how is data about individuals' driver licenses
13 stored in the MAX system?

09:45:41

14 A. There are multiple tables within the MAX system in
15 SQL databases for most of those records that would be where
16 the data is stored, depending on database structure.

17 Q. And so are there -- are there multiple tables for
18 different types of driver licenses? Or why are there
19 different tables for driver licenses?

09:46:11

20 MR. WHITAKER: Objection. Compound.
21 BY MR. HERRERA:

22 Q. Why are there multiple tables for driver licenses?

09:46:24

23 A. We will -- we'll quickly get beyond my technical
24 depth on that question. It has to do with the choices of
25 how we organize data for efficient retrieval of the

1 information.

2 Q. Is there a set of fields and values that are
3 uniform across all driver license holders in -- in MAX?

4 A. Yes.

09:46:48

5 Q. Okay. And what is -- when did ADOT begin using
6 the MAX system?

7 A. We went into production April 20th, 2020.

8 Q. When was production completed?

9 A. That was -- that was our go-live.

09:47:10

10 Q. And what is the difference between the MAX system
11 and the legacy ADOT data system for driver license and
12 identification customer information?

13 A. The legacy system was a mainframe system and used
14 mainframe technologies; did not use, for example,

09:47:36

15 relational databases to maintain data integrity and those
16 kinds of things. It was a 40-year-old -- in some pieces
17 40-year-old, 30-year-old system as compared to MAX, which
18 is a modern SQL back end for most pieces of it with .NET

09:48:13

19 architecture, cloud-based in the Azure Google cloud -- or
20 Azure government cloud.

21 Q. And what are all of the different kinds of
22 credentials that MVD manages?

23 A. Broadly there are two types of credentials: There
24 are driver's licenses and IDs. There are differences and
25 limitations, subclassifications of each of those.

09:48:38

1 Q. So the nondriver identification credentials, those
2 are also managed using the MAX system?

3 A. Correct.

4 Q. When information is stored for a customer in MAX,
09:49:03 5 is there a customer ID or number?

6 A. There is.

7 Q. Okay. And what is the proper name for that
8 number?

9 A. Customer number.

09:49:13 10 Q. And this may -- I'm not trying to be esoteric, but
11 what is -- what is a customer for MVD?

12 A. So it can mean several things. It could be
13 somebody who comes in and requests a driver's license. So
14 every person that comes in and goes through a driver's
09:49:37 15 license process and creates a record that way would be a
16 customer. But in our database we'll also have things where
17 the customer didn't directly request something. So, for
18 example, getting a ticket and having the court send us a
19 notice of the -- of penalty of some sort or another can
09:49:58 20 also create a customer record in our database with whatever
21 information the court sends to us. So that would also --
22 and if we can match them, then they would be one record,
23 but if we can't, then they might -- that might create
24 another record, either because they don't exist in the
09:50:12 25 database or they exist somewhere else.

1 So it's -- a customer for us is any -- any
2 individual or organization with whom we have some needed
3 business that we report their -- some aspect of a record in
4 our system.

09:50:29

5 Q. Can there be more than one customer number in the
6 MVD MAX system for the same individual person?

7 A. Yes.

8 Q. Okay. And how can that happen?

09:50:48

9 A. So it shouldn't happen because we should be able
10 to find the same customer, match them up, but sometimes we
11 don't always have matching data between two different
12 sources. If something comes in from the courts and they
13 didn't have much enough information to match it with
14 another record that we already had, that might create a
15 duplicate record which we might find and correct or we
16 might not find.

09:51:05

17 Q. And when someone is issued a driver license in
18 Arizona, is there a number associated with that driver
19 license?

09:51:18

20 A. There is.

21 Q. And what is that number called in the MAX system?

22 A. That's called the driver license number, or DLN.

23 Q. Is the driver license number different than a
24 customer ID number for a single individual?

09:51:33

25 A. It is.

1 Q. Okay. So can there be a single individual who has
2 a customer number that is different than their current
3 valid driver license number?

09:51:49

4 A. Every customer number will be different than their
5 driver license number. They are not the same.

6 Q. And what is the purpose of the customer number?

09:52:08

7 A. The customer number is to identify a -- supposed
8 to be to identify a unique customer. This is a common
9 number across all the records that we have and know about
10 that unique customer.

11 Q. And so you mentioned that someone could be
12 assigned a customer number if they perhaps have a run-in
13 with the law or if they have a driver license. Will they
14 also be assigned -- will someone who just has a Arizona
15 non-driver license identification credential also have a
16 customer number?

09:52:34

17 A. Yes.

18 Q. So let's first talk about -- in terms of who can
19 get these credentials that we're talking about, for a
20 driver license, broadly speaking, can -- I assume U.S.
21 citizens can receive a driver license in Arizona?

09:52:58

22 A. If they meet all of the proper requirements.

23 Q. Okay. Can a naturalized U.S. citizen receive a
24 driver license in Arizona?

09:53:21

25 A. With the same stipulation, yes.

1 Q. Okay. Can a non-U.S. citizen get a driver license
2 in Arizona?

3 A. Yes, depending on whether they can show authorized
4 presence.

09:53:36 5 Q. Okay. And what is "authorized presence"?

6 A. My understanding is it's not defined anywhere
7 other than to say that it's something that shows that they
8 have a legal right to be in the country.

09:53:57 9 Q. Okay. And how does MVD determine that someone has
10 authorized presence for the purpose of getting a driver
11 license?

12 A. We review the documents they bring in to support
13 that claim.

09:54:26 14 Q. So would someone with a green card -- so,
15 therefore, someone who is a lawful permanent resident -- be
16 able to get a driver license in Arizona?

17 A. Assuming they met all the other requirements and
18 the card was not expired, valid, ready to go, yes.

09:54:46 19 Q. Can someone who has deferred action for childhood
20 arrivals get a driver license in Arizona?

21 A. With the same stipulations, yes.

22 Q. Can someone on different types of visas get a
23 driver license in Arizona?

09:55:07 24 A. Yes. There are many different types of visas that
25 are allowed to have presence as long as their -- and that

1 would get very complex very quickly. But, yes, for the
2 most part, I believe so.

3 Q. And we're going to hand you an exhibit that has
4 been marked as 108. Exhibit 108.

09:55:44 5 (The document was marked as Exhibit 108
6 for identification.)

7 BY MR. HERRERA:

8 Q. And, Mr. Jorgensen, do you recognize this
9 document?

09:56:08 10 A. Yes.

11 Q. And what is this document?

12 A. This is what we would call our One Source
13 document, which is a detail of -- it's basically the
14 instructions for a CSR to -- customer service
09:56:27 15 representative to process.

16 Q. And what would a CSR be processing?

17 A. A driver's license application or other credential
18 application.

19 Q. What is a -- what is an Arizona "credential
09:56:48 20 number"?

21 A. That is the same thing that I referred to earlier
22 as a driver license number, but it's broad enough to
23 include both driver license and a nondriving ID.

24 Q. Can a single customer -- can someone with the same
09:57:05 25 customer -- under one customer ID number have more than one

1 Arizona credential number?

2 A. Only in one specific case they can. Most cases,
3 no.

4 Q. What's that case?

09:57:22

5 A. Law allows for someone who has what we would call
6 a travel ID -- or in other words, something that is
7 compliant with the REAL ID Act of 2005 -- can have both a
8 driver's license and ID card where one is compliant and the
9 other is not with the REAL ID Act. It's the only place in
10 which they should have two credential numbers.

09:57:48

11 Q. Now, what happens -- what happens if someone under
12 one customer ID -- so one customer -- for some reason can
13 no longer have a driver license but they can have an
14 Arizona nondriver ID? What happens in terms of their
15 credential number?

09:58:15

16 A. I'm not sure.

17 Q. Okay.

18 MR. WHITAKER: Could you repeat that
19 question?

09:58:24

20 MR. HERRERA: Sure.

21 BY MR. HERRERA:

22 Q. So I guess maybe I'll ask it in a more leading
23 way.

09:58:33

24 If someone changes from having a valid driver
25 license to having a valid Arizona ID that's not a driver

1 license, does that same customer now still only have one
2 credential number that's active?

3 A. They would only have one active credential number.
4 I don't know that they would be the same number.

09:58:54 5 Q. Okay. So the credential number might stay the
6 same but it's a different credential?

7 A. And that's the part I'm not sure about. I don't
8 know if the number will change or not.

9 Q. Okay. All right. Well, let's look at the
09:59:11 10 document I put in front of you and forgot to ask you more
11 about.

12 Exhibit 108 is -- you said it's part of MVD
13 One Source. What overall is -- MVD One Source, you said,
14 is something that CSRs use to give them instructions?

09:59:32 15 A. It's part of the MAX system and it contains
16 policies, procedures, additional information, help files.
17 It's -- by its name, it's the one source they're supposed
18 to go to to answer questions about how to process any work
19 that they're doing.

09:59:54 20 Q. And who can access the MVD One Source?

21 A. Any of our CSRs, our customer service
22 representatives, and any third-party customer service
23 representatives can access that, as well as their
24 management.

10:00:13 25 Q. And I imagine based on the requests for production

1 responses that -- what I have handed you is not the entire
2 MVD One Source; right?

3 A. Correct.

4 Q. Okay. And which portion did I -- did I hand you?

10:00:27 5 And you can take a second to review it.

6 A. So this is a section entitled "Acceptable
7 Documents for Non-Commercial Credentials."

8 Q. And have you reviewed this section of MVD One
9 Source before?

10:00:41 10 A. Yes.

11 Q. So at the top of this document, it says,
12 "Acceptable Documents"; right?

13 A. Yes. "Acceptable Documentation."

14 Oh, yes, "Acceptable Documents" in the
10:00:56 15 subheader, yes.

16 Q. And what does "Acceptable Documents" refer to?

17 A. These are the documents that we can accept to
18 prove different requirements, including authorized
19 presence, name, address, Social Security number.

10:01:18 20 Q. And what is an "original credential"?

21 A. When we refer to an original credential, we mean
22 the first issuance of a credential and not a subsequent
23 renewal or reinstatement of the same credential.

24 Q. Are there credentials other than original?

10:01:49 25 MR. WHITAKER: Objection. Ambiguous. I'm

1 not sure whether you are referring to a distinction other
2 than what the witness just used to --

3 BY MR. HERRERA:

10:02:02

4 Q. So are there -- if someone renewed -- if someone
5 got a driver license for the first time, is that what an
6 original credential would be?

7 A. That would be an example of an original
8 credential.

10:02:14

9 Q. Okay. And what if that same person got -- renewed
10 their driver license? Would that still be an original
11 credential?

12 A. If they are renewing the same credential, no.
13 Then that is no longer what we would call an original
14 credential.

10:02:25

15 Q. Okay. So in the first sentence in the first
16 paragraph on ADCT00004, it mentions that primary forms of
17 identification are used to establish various things about a
18 customer, including authorized presence in the U.S.

10:02:54

19 And we went over what authorized presence
20 means for MVD purposes; right?

21 A. [Nodded up and down.]

22 Q. Is that correct?

23 A. Yes.

10:03:07

24 Q. Later in that same paragraph, on ADOT00004, it
25 says that in addition to a form of primary identification,

1 "the customer must provide their full social security
2 number."

3 Are there any numbers that can be used
4 instead of a Social Security number?

10:03:21 5 A. I'm sorry. I don't see where you were reading.

6 Q. It says in the first paragraph at the last -- in
7 the last clause of the last sentence, "the customer must
8 provide their full social security number for verification
9 purposes."

10:03:55 10 A. In the case that they -- that a person has a
11 status that doesn't allow a Social Security number --
12 doesn't allow them to have one, yes, then a separate
13 number.

14 Q. Okay. And what -- what other numbers can be used
10:04:08 15 there?

16 A. In that case, we'd rely on the document that
17 provided the authorized presence to be the identifier.

18 Q. Okay. And how does MVD use a Social Security
19 number for identification verification?

10:04:36 20 A. The Social Security number is collected and it is
21 run against a federal system called Social Security Online
22 Verification, or SSOLV, to make sure that it is the correct
23 number and it is associated with that individual.

24 Q. Okay. And what information does -- what happens
10:04:56 25 when that verification is done by MVD?

10:05:09

1 A. I'm not sure I understand.

2 Q. What is -- what is the response that MVD gets back
3 from that verification service?

4 A. It's a positive or negative response. Did it
5 match or did it not match?

6 Q. Does it give MVD any other information about a
7 person other than the yes or the no?

8 A. No. It's a yes or no.

10:05:39

9 Q. Let's go to ADOT000006, so page 3 of this document
10 we're looking at, of Exhibit 108.

11 Do you see the heading that says "Acceptable
12 Primary Documents"?

13 A. Yes.

10:05:54

14 Q. Okay. Is this list under "Acceptable Primary
15 Documents" on page 3 of Exhibit 108 a complete list of
16 acceptable primary documents that can show authorized
17 presence in the United States?

18 A. No.

10:06:08

19 Q. Okay. What are -- what are some other documents
20 that you can show?

21 A. They would be very specific edge case-type
22 authorized presence documents issued by the federal
23 government. So different -- different types of visas or
24 something along those lines that don't fall into the norm,
10:06:30 25 and somebody may present those and then they would be

1 reviewed more on a case-by-case basis.

2 Q. Okay. So if one -- but someone can present a U.S.
3 certificate of naturalization as an acceptable primary
4 document to get a -- an Arizona driver license?

10:06:46

5 A. Correct.

6 Q. And someone can present a U.S. citizen -- a
7 certificate of citizenship as primary -- as a primary
8 document to receive an Arizona driver license; right?

9 A. Correct.

10:07:03

10 Q. Someone can present an I-94 form with an unexpired
11 foreign passport and an unexpired U.S. visa as acceptable
12 primary documents to establish authorized presence to get
13 an acceptable -- or to get an Arizona driver license;
14 right?

10:07:23

15 A. Correct.

16 Q. And someone can present a permanent resident card
17 as an acceptable primary document in order to get a Arizona
18 driver license?

19 A. Correct.

10:07:48

20 Q. Do identifications showing authorized presence in
21 the U.S. have to be nonexpired other than if you're using
22 an expired U.S. passport?

23 A. In most cases, yes.

10:08:06

24 Q. Okay. Do you know of any cases where that's not
25 the case?

10:08:26 1 A. So, for example, a permanent resident card will be
2 good for ten years now. And if you come in and have an
3 expired permanent resident card and we've issued on that
4 before, we can do, for example, a one-year extension while
5 you're renewing your card, but it then turns it into a
6 limited term -- a reduced term of what we would issue.

7 Q. And you mentioned this a little bit earlier, but
8 what is a REAL ID?

10:08:46 9 A. The REAL ID Act of 2005 is a federal act that
10 required certain documents to be provided in the licensing
11 process if that license was going to be used for the
12 purpose of federal identification, such as at TSA in the
13 airports or federal buildings or nuclear power plants.

10:09:03 14 Q. And I rather gather from your earlier testimony
15 that Arizona MVD does issue REAL IDs?

16 A. We issue REAL IDs as well noncompliant IDs.

17 Q. Does the list of acceptable primary documents
18 change if someone is applying for a REAL ID versus a
19 non-REAL ID?

10:09:46 20 A. I'm trying to remember if there are any exceptions
21 to it in a legacy. There -- it is possible that there are
22 some legacy -- when I say "legacy," I mean a
23 noncompliant -- noncompliant with REAL ID. There may be a
24 couple other documents that we might be able to use because
10:10:06 25 they're not regulated by the federal government. But

1 again, they would be edge cases and reviewed on a kind of a
2 one-off. If somebody doesn't have one of these and they
3 have something else that they could produce, we might be
4 able to accept something else.

10:10:22

5 Q. Can someone who presents a U.S. certificate of
6 naturalization use that as an acceptable primary document
7 to get a REAL ID?

8 A. Yes.

10:10:39

9 Q. Can someone who has a permanent resident card use
10 that as an acceptable primary document to get an Arizona
11 REAL ID?

12 A. Yes.

10:10:58

13 Q. Can someone present an I-94 form with an unexpired
14 foreign passport and an unexpired U.S. visa to get a REAL
15 ID in Arizona?

16 A. Yes.

17 Q. Are you familiar with the Systematic Alien
18 Verification for Entitlements program run by the United
19 States Citizenship and Immigration Services?

10:11:20

20 A. Yes.

21 Q. Okay. And do you know this program as SAVE,
22 S-A-V-E, if I refer to it with that acronym?

23 A. Yes.

10:11:34

24 Q. Does ADOT use SAVE for verification of authorized
25 presence when someone applies for an Arizona credential

1 such as a driver license?

2 A. Yes.

3 Q. For which types of customers or applicants does
4 ADOT use SAVE?

10:11:49

5 A. We will use it for any noncitizen authorized
6 presence category if it's REAL ID-compliant, and we may use
7 it if it's not REAL ID-compliant.

8 Q. And what would be a case where you don't use it if
9 it's non-REAL ID-compliant?

10:12:15

10 A. We might not use it -- we more likely -- in
11 practice, many CSRs will always use SAVE because they've
12 just gotten used to using it. It's not required for a
13 non-REAL ID license. If there's any question about the
14 document, if anything is illegible on the document or hard
15 to read, it would be verified in the -- in the SAVE system.
16 If there's any suspicion of the document, it would be -- it
17 would be verified through the SAVE system.

10:12:39

18 Q. Does ADOT have an agreement with USCIS for use of
19 SAVE?

10:12:53

20 A. Yes.

21 Q. And does ADOT use SAVE for anyone who comes into
22 or who presents a United States birth certificate as their
23 primary document?

24 A. No.

10:13:08

25 Q. Why not?

1 A. It's not verifiable in SAVE, as far as I know.

2 Q. When you say "it's not verifiable in SAVE," a U.S.
3 birth certificate, what do you mean by that?

10:13:23

4 A. The purpose of SAVE is to verify documents issued
5 by the federal government to say whether or not they are
6 here -- whether it's a foreign national coming in or a
7 foreign person coming in with -- and then having an
8 authorized presence in the United States. And the birth
9 certificate would be a natural-born citizen, so they

10:13:41

10 don't -- they don't report back on birth certificates.

11 Q. And just to be clear -- I think you said this
12 earlier -- but what is a CSR?

13 A. Customer service representative.

10:13:53

14 Q. Okay. And a customer service representative would
15 be someone who works in an MVD office anywhere in the
16 state; right?

17 A. Correct. Whether that is our office or a
18 third-party -- authorized third-party office.

10:14:07

19 Q. Are there authorized third-party offices where you
20 can go get a driver license?

21 A. There are.

22 Q. And there would be a -- CSRs who work there too?

23 A. Correct.

10:14:19

24 Q. So a CSR is someone to whom you would show one of
25 these primary documents; right?

1 A. Correct.

2 MR. WHITAKER: Can you clarify that last
3 question? The word "you," do you mean the applicant?

4 MR. HERRERA: Oh, sure.

10:14:31 5 BY MR. HERRERA:

6 Q. So an applicant for a -- an Arizona credential
7 would present their primary document to a CSR; right?

8 A. Correct.

9 Q. Okay. Does ADOT ever use SAVE for anyone who is a
10 natural-born U.S. citizen?

11 A. We should not.

12 Q. Why not?

13 A. Because it wouldn't show any information for that
14 natural-born U.S. citizen.

10:15:04 15 Q. What are the restrictions in place for ADOT's use
16 of SAVE, if any?

17 A. It's to be used for the licensing application
18 process.

19 Q. Okay. And does that mean that you can't use it
10:15:24 20 for any purpose other than licensing?

21 A. By "licensing" I'm going to include
22 identification. So it's for the issuing and maintenance of
23 credential records. So . . .

24 Q. What are the requirements in place for ADOT's use
10:15:47 25 of SAVE in terms of the verification process?

1 A. I'm not sure I understand.

2 Q. So an ADOT use -- you mentioned that CSRs and
3 perhaps others at ADOT will use SAVE; right?

4 A. [Nodded up and down.]

10:16:03

5 Q. What are the guidelines in place for those
6 individuals to use SAVE?

7 A. Are you talking about what guidelines we put in
8 place for our employees?

9 Q. That's right.

10:16:18

10 A. Okay. Like anything in the system, they're only
11 allowed to use it for official purposes, and their official
12 purposes would, therefore, be limited in that moment to
13 processing an application or validating some documentation
14 for the customer to be able to process their transaction.

10:16:35

15 Q. And is a -- is a CSR supposed to accept the first
16 response that they get back from SAVE?

17 MR. WHITAKER: Objection. Incomplete
18 hypothetical.

19 MR. HERRERA: Sure.

10:16:56

20 BY MR. HERRERA:

21 Q. Well, is a CSR supposed to do any further
22 verification beyond the initial results given to them
23 through the use of SAVE?

24 MR. WHITAKER: Same objection.

10:17:10

25 THE WITNESS: If we're presented a document

10:17:29

1 and we run it through SAVE and it comes back with a final
2 response on it, then that would be it. That would be the
3 end of it. Sometimes it does come back and it says further
4 research needed and we have to wait for the federal
5 government to operate SAVE to do further research to give
6 us an answer and we'll have to go back in and check on it.
7 But from a standpoint of what SAVE says, we take and we
8 don't do further research on it.

10:17:43

9 BY MR. HERRERA:

10 Q. That helps.

11 What is a "final result"? Or will it -- how
12 is that indicated in SAVE that it's a final result?

10:18:01

13 A. It will no longer be a pending. It will not have
14 a pending status. It has the ability to go to an
15 enhanced -- or I forget what the actual term in SAVE is,
16 but there is a -- "additional review" I think is what it's
17 called, and it will go through. And it's not something
18 that we do. It's something that the feds do, and then we
19 have to go back and check it. And when it says it's final,
20 that's when we will accept it, whether it was on the first
21 one or after it went through additional review.

10:18:15

22 Q. Is -- does ADOT ever use SAVE in order to verify
23 someone when that person is applying to register to vote
24 through MVD?

10:18:39

25 A. I'm not sure I understand what you mean by

1 "applying to register to vote."

2 MR. WHITAKER: I think we might be straying
3 outside of the 30(b)(6) topics. I'm not sure. I guess for
4 now I'll lodge an objection that I'm questioning whether
10:18:59 5 that particular question is within the 30(b)(6) notice.

6 BY MR. HERRERA:

7 Q. Do -- does -- can someone register to vote at MVD?

8 A. We accept -- part of our driver's license and
9 credential application process, we do accept applications
10:19:23 10 for registering to vote, and we forward those applications
11 to the secretary of state. We also allow those
12 applications to be submitted via our website, our customer
13 website. It can go to the secretary of state. Motor
14 Vehicle Division does not actually register them to vote.
10:19:41 15 We transmit the application to the secretary of state.

16 Q. Okay. What if a credential shows -- excuse me.

17 So if someone's credential -- Arizona
18 credential shows one type of authorized presence and then
19 SAVE shows a different result, what does MVD do?

10:20:28 20 MR. WHITAKER: Objection. May assume facts
21 not in evidence.

22 THE WITNESS: I'm not sure I understand the
23 scenario.

24 BY MR. HERRERA:

10:20:38 25 Q. So when does -- is SAVE used only upon application

1 for an original credential?

2 A. No. It's also used for renewal. But, yes, it's
3 only used upon an application.

10:21:00

4 Q. Okay. And when -- so if someone does it in the
5 case of renewal, what happens if the existing credential
6 prior to the renewal credential has one -- is based on one
7 authorized status type but then SAVE shows a different
8 authorized status type?

9 A. SAVE --

10:21:18

10 MR. WHITAKER: Same objection. Go ahead.

11 THE WITNESS: SAVE would -- we use SAVE to
12 validate the document that they present. So if they're
13 presenting a document and SAVE cannot validate that
14 document because it's no longer valid, then we wouldn't
15 issue.

10:21:31

16 BY MR. HERRERA:

17 Q. So earlier you mentioned that sometimes the result
18 you get back from SAVE is that additional information is
19 needed or investigation -- I forgot what you said exactly.
20 What was it?

10:21:53

21 A. I don't remember.

22 Q. Is it additional verification, perhaps?

23 A. Something along those lines, yes.

10:22:05

24 Q. So how much time does ADOT give for SAVE to do
25 additional verification before making a decision about

1 someone's credential issuance?

2 A. We will wait until we have that final -- or until
3 the person decides that they no longer want the credential.

10:22:27

4 So if it -- as long as it takes the federal government to
5 respond, we'll keep that open and pending.

6 Q. Does that ever -- does that additional
7 verification ever take longer than 30 days?

8 A. Yes.

9 Q. Does it ever take longer than 30 days?

10:22:40

10 A. I'm not sure. I know that it can take a very long
11 time.

12 Q. Okay. So let's go back to Exhibit 105. And
13 Exhibit 105, that was the exhibit marked which was ADOT's
14 responses to the plaintiffs' first set of interrogatories;
15 right?

10:23:20

16 A. Correct.

17 Q. Let's look on page 4 of the answers to the
18 interrogatories. And do you see Interrogatory Number 4?

19 A. Yes.

10:23:37

20 Q. And once someone is issued an original credential
21 by MVD, is that customer categorized as one of the
22 categories listed in response to Interrogatory Number 4?

23 A. Yes.

10:24:12

24 Q. I'm not going to make you read them all, but there
25 are two non-foreign -- sorry -- the two non-foreign

1 subcategories that MVD currently uses are U.S.

2 citizen/non-foreign and naturalized citizen; right?

3 A. Correct.

4 Q. So a naturalized citizen is someone who is -- who

10:24:32 5 naturalized as a U.S. citizen; right?

6 A. It's someone who presented a certificate of -- of

7 naturalization as their proof of authorized presence.

8 Q. And so a naturalized citizen as -- categorized as

9 non-foreign in -- for MVD; right?

10:24:52 10 A. Correct.

11 Q. Then U.S. citizen/non-foreign means citizens who

12 are born in the U.S., U.S. territories, or U.S.

13 possessions; right?

14 A. Correct.

10:25:13 15 Q. Now, the three foreign subcategories -- strike

16 that.

17 The three foreign subcategories for MVD

18 customers are resident/permanent alien, temporary INS, and

19 Canada; right?

10:25:31 20 A. Correct.

21 Q. Is there such a thing as an F-type license in

22 the -- for MVD?

23 A. Not anymore. Not in the new system. We don't

24 classify things that way.

10:25:47 25 Q. Okay. What happened to F-type license?

1 A. F-type was pre-MAX, so before April 20th of 2020
2 in the legacy system. That was -- that was how we would
3 categorize what is now listed in the foreign.

10:26:42

4 Q. And how did customers who had credentials
5 qualified as an F-type license get recategorized when ADOT
6 made that transition?

7 A. I'm -- they all became part of the foreign
8 category. I'm not sure how we would have categorized them
9 between the three subcategories. Not positive.

10:27:16

10 Q. Would -- would anyone who is an F-type -- rather,
11 I'll ask it this way.

12 Everyone who had an F-type license prior to
13 April 20, 2020, was recategorized, assuming it was still
14 valid, as one of the three now foreign types or foreign
15 subcategories?

10:27:38

16 A. They would have been categorized into the -- the
17 foreign category.

18 Q. Okay. So anyone who had an F-type, assuming they
19 didn't change status or their license didn't expire, was
20 changed to either resident/permanent alien, temporary INS,
21 or Canada; right?

10:27:52

22 A. Correct.

23 Q. And when you look -- what is the field that you
24 would look at in the MAX system to find these -- these
25 subcategories?

10:28:17

1 So for authorized -- for the different
2 authorized presence types, where would you find that
3 information in -- in MAX?

4 A. So that would be part of our application process.

10:28:34

5 As you're going through and presenting a document, you
6 would tell us what kind of document you're presenting, and
7 that would allow you to designate what -- which, you know,
8 pop-up box would appear to allow you to designate which
9 category that that belonged to.

10:28:51

10 Q. Is there a field in the MAX system where you --
11 where you can find that info about somebody or about a
12 customer?

13 A. Yes.

10:29:01

14 Q. Okay. And what is that -- do you know what that
15 field is called?

16 A. Offhand, I can't remember what the name is, but it
17 is in the interrogatories -- or in the request for
18 production, there would be the name of it.

10:29:28

19 Q. And is it -- is there a single field that would
20 show the person's authorized presence subcategory?

21 A. Yes.

22 Q. Okay. And what are -- what do the actual values
23 in the MAX system say for these different subcategories?

24 A. They are numerical.

10:29:43

25 Q. Okay. Do you know what -- I'm not trying to test

1 you, but what are the different numbers assigned for the
2 different subcategories for authorized presence?

3 A. Naturalized citizen is 1; U.S. citizen/
4 non-foreign is 4; and the other three are -- the other
5 three, I don't remember what order they are in.

10:30:03

6 MR. WHITAKER: I want to make a general
7 observation. I think we marked parts of this information
8 as confidential when we were producing documents. So I
9 think I'll designate, under the supplemental protective
10 order, parts of the transcript that relate to specific
11 fields in systems as confidential. I wanted to note that
12 on the record.

10:30:23

13 MR. HERRERA: Is that for individual
14 customers or . . .

10:30:39

15 MR. WHITAKER: I believe it has to do with --
16 part of the concern is not wanting to make public all the
17 details of how the system works for security purposes, not
18 just individual information. So we would like to designate
19 parts of the transcript -- I understand the supplemental
20 protective order will allow us to go back and specify which
21 parts. But I'm noting on the record that we're getting
22 into territory that we will want to mark confidential under
23 the supplemental protective order because it talks about
24 specific parts of ADOT's system and there are, as I
25 understand, some security concerns about publicizing a lot

10:31:03

10:31:20

1 of the internal ADOT system.

2 MR. HERRERA: Is that security concern
3 different than the Driver Privacy Protection Act concerns?

10:31:38

4 MR. WHITAKER: Yes. Yes. You will notice
5 that when we produce some documents, we mark them
6 confidential, and that was part of the reason. I don't
7 want to -- I'm just noting that now. Feel free to proceed.

8 MR. HERRERA: Okay. I ask because --

10:32:00

9 MR. MORGAN: Counsel -- Mr. Whitaker, I don't
10 know about others; I cannot hear you very well at all.

11 MR. WHITAKER: Okay. Sorry.

12 MR. MORGAN: You're soft-spoken even in front
13 of the microphone, brother, so if you could --

10:32:11

14 MR. HERRERA: Can we go off the record?
15 Let's go off the record.

16 (An off-the-record discussion ensued,
17 followed by a recess.)

10:54:57

18 MR. HERRERA: I wanted to put on the record
19 earlier about the driver license voter registration
20 objection. That is -- driver license voter registration
21 Section 16-112 is amended by HB 2492.

22 MR. WHITAKER: Oh.

23 MR. HERRERA: I believe our Topic 1 touches
24 on 2492 -- or deals with 2492 broadly.

10:55:43

25 MR. WHITAKER: I'm not sure that HB 2492

1 amends 16-112 in a substantive way along the lines of
2 this -- in a substantive way along the lines of your
3 question, but, I mean, we'll just state the objection and
4 keep going. I'm not instructing the witness not to answer.

10:56:05

5 MR. HERRERA: Okay. Yeah. Okay.

6 BY MR. HERRERA:

7 Q. All right. Let's -- can we look, Mr. Jorgensen,
8 at Exhibit 106, which were the requests for production
9 responses. Please turn to RFP Number 8, which is on
10 page 6.

10:56:39

11 And do you see that the response to RFP
12 Number 8 in Exhibit 106 goes on to the next page?

13 A. Yes.

14 Q. Or begins on the next page, page 7; right?

10:57:03

15 A. Yes.

16 Q. Okay. And in the response, you gave some figures;
17 correct?

18 A. Correct.

19 Q. Were those the numbers that were current as of
20 your response to these requests for production?

10:57:17

21 A. Correct.

22 Q. And that was on July 14th, 2023; right?

23 A. Correct.

24 Q. Okay. So under D it says: "The Department no
25 longer uses F-type credentials (see Response to

10:57:38

1 Interrogatory Number 4). The number of credential holders
2 with a foreign authorized presence status who will be 18 or
3 older by renewal is 339,505." Right?

4 A. Correct.

10:57:56

5 Q. And then if you look at F, it says: "The
6 Department no longer uses F-type credentials. The number
7 of credential holders with a foreign authorized presence
8 status over the age of 18 is 336,766." Right?

9 A. Correct.

10:58:26

10 Q. And the reason that the D number is larger is that
11 it includes people who, by the time of their renewal, will
12 be 18 or older?

13 A. Correct.

10:59:04

14 Q. Okay. How does MVD, if at all, retain information
15 about the types of documents or identification shown when
16 that person applies for an Arizona credential originally?

17 A. Of the authorized presence documentation?

18 Q. Yes.

10:59:22

19 A. It is recorded in the MAX system as to what
20 document was presented, and then all documents that were
21 used in support of that are scanned into the system and
22 attached to the record.

10:59:38

23 Q. How long are the documents that are scanned into
24 the system regarding authorized presence retained in the
25 MAX system?

1 A. I believe it is ten years, but I can't quite -- I
2 can't remember if that's correct or not.

3 Q. So where might we be able to find that answer?

4 A. That would be in our retention policy.

10:59:59 5 Q. Okay. But it might -- might be ten years?

6 A. Yeah. I don't want to guess on that one. It
7 would be consistent with our retention policy.

8 Q. What types of -- and to clarify, when you said the
9 documents presented for authorized presence that are
11:00:37 10 scanned in, what types of documents would be scanned in to
11 show authorized presence?

12 A. It would be whatever the customer presented. So
13 whether it was a birth certificate, certificate of
14 naturalization, employment authorization card, EAC, EAD --
11:00:55 15 whatever they were showing, that -- that would be scanned
16 into the system.

17 Q. All right.

18 MR. HERRERA: So we're going to move to
19 another document here. And this is -- this one we're going
11:01:24 20 to mark as Exhibit 109. Exhibit 109 for those listening.

21 (The document was marked as Exhibit 109
22 for identification.)

23 MR. HERRERA: For the record, this exhibit is
24 Bates-stamped ADOT001081 through ADOT001130.

11:02:26 25 BY MR. HERRERA:

1 Q. Do you recognize this document?

2 A. Yes.

3 Q. Okay. And what is this document?

4 A. This is another One Source document regarding the
5 process for processing an application for credential.

11:02:35

6 Q. Okay. And let's go to 1088. So the ADOT numbers
7 on the bottom have -- they're called Bates stamps. So
8 let's go to the one that says ADOT001088. It would be
9 page 8 of this One Source.

11:03:05

10 Do you see where it says "Names Section"?

11 A. Yes.

12 Q. Does this describe how a customer's name is
13 entered when processing a credential?

14 A. Yes.

11:03:18

15 Q. This section on 1088 provides some requirements
16 for names in MAX; right?

17 A. Correct.

18 Q. Do you see in the first gray box on 1088 that
19 "Names with an accent mark"? And then it lists some in a
20 parentheses. Then it says "above letters like ñ are not
21 permitted in MAX."

11:03:41

22 A. Yes.

23 Q. What does MVD do when processing someone with an
24 accent mark letter or something like an "ñ" in their name?

11:03:56

25 A. It processes it excluding the accent mark so that

1 it is one of the 26 letters of the English alphabet.

2 Q. Okay. And what does MVD do when processing a
3 customer with other types of characters in their names
4 besides Latin?

11:04:17 5 A. They're converted -- they have to be converted to
6 Latin characters.

7 Q. And still looking at this ADOT001088 page, what
8 does MVD do when processing someone with a hyphenated last
9 name?

11:04:58 10 A. A hyphen is -- is an allowed character.

11 Q. Okay. Does the hyphen in a last name that is
12 hyphenated ever get changed to a space in MVD?

13 A. The instruction is that it should always appear as
14 it is in the document that is showing the name; so it
15 should not.

11:05:17 16 Q. So if someone's name is hyphenated in their last
17 name, it won't get also combined into one name; right?

18 A. I'm not --

19 Q. As in -- as in if it's -- if the name is
11:05:39 20 Johnson-Smith, it won't get turned into all one word:
21 Johnsonsmith?

22 A. It should not.

23 Q. Okay. What does MVD do when processing someone
24 with two last names that are not hyphenated?

11:05:58 25 A. It includes both last names.

1 Q. And are those two last names included in the --
2 in -- both in the last name field?

3 A. They should be, yes.

4 Q. Okay. Does -- I see that you said "should be" for
11:06:15 5 several of these.

6 Does MVD ever do any kind of audit to make
7 sure that the names reflect what is in the documents?

8 A. We do.

9 Q. Okay. And how often does that happen?

11:06:27 10 A. We do a sampling on a weekly basis of transactions
11 processed.

12 Q. So I think from your earlier -- from your earlier
13 answer, I gather that a space is an allowed character in a
14 name?

11:07:02 15 A. It is, yes.

16 Q. Okay. When do Arizona driver licenses expire?

17 A. It depends on several factors from the type of the
18 license that it is to the documents that were used to prove
19 authorized presence or meet other requirements. So it
11:07:32 20 varies.

21 Q. Do REAL IDs expire?

22 A. They do. They have a maximum term of eight years
23 but might be at a smaller term based on the underlying
24 documentation or other limitations.

11:07:53 25 Q. Outside of REAL IDs, are there any non-REAL

1 Arizona driver licenses that can be valid for longer than
2 eight years without needing renewal?

3 A. Yes.

11:08:14

4 Q. Are there any non-REAL ID Arizona credentials that
5 can be valid for longer than ten years?

6 A. Yes.

7 Q. We're going to look at another document here. And
8 this document begins -- we're going to mark this as 110,
9 Exhibit 110.

11:08:35

10 (The document was marked as Exhibit 110
11 for identification.)

12 BY MR. HERRERA:

13 Q. The Bates stamp on this document is -- the Bates
14 stamp on this document is ADOT000102.

11:09:13

15 And what is this document?

16 A. This is another One Source document, this one on
17 the subject of credential renewal.

18 Q. And what is a renewal of a license?

11:09:36

19 A. An original credential is issued for a specific
20 period of time, and then it must be renewed, which means
21 that we have to reprocess it, although it requires less
22 things to reprocess that application. And then every --
23 they're all limited in term, so each time that it expires,
24 it's the process of going through and updating it once

11:09:57

25 again.

1 Q. And does this document shown in Exhibit 110, this
2 MVD One Source, show some of the requirements and rules for
3 renewals?

4 A. Yes, it does.

11:10:25

5 Q. Do you know if this document in Exhibit 110
6 reflects the law around driver license and ID renewals as
7 amended by the challenged laws HB 2492 and 2243?

8 MR. WHITAKER: Objection. Calls for a legal
9 conclusion.

11:10:52

10 THE WITNESS: We did not change any of the
11 process around doing the renewal, so it's the same before
12 and after.

13 BY MR. HERRERA:

11:11:07

14 Q. Okay. Do you see on the first page of ADOT000102
15 that there's a heading that says "Credential Renewal
16 Requirements"?

17 A. Yes.

18 Q. One of the requirements of credential renewal is
19 primary identification; right?

11:11:21

20 A. Correct.

21 Q. Also a customer, upon renewal, will get a new
22 expiration date for the credential; right?

23 A. Correct.

11:11:32

24 Q. For foreign authorized presence customers renewing
25 a credential, they get an expiration date based on their

1 provided foreign authorized presence documents; right?

2 A. Correct. Up to the maximum time allowed by the
3 license itself.

4 Q. And would a person who showed a permanent resident
11:11:49 5 identification originally have to show proof of permanent
6 residence again upon renewal?

7 A. Yes.

8 Q. Okay. And why is that?

9 A. The permanent residence card expires after ten
11:12:06 10 years.

11 Q. Is that all permanent resident cards?

12 A. My understanding is they didn't use to, but all
13 the ones that are being issued now are, to the best of my
14 knowledge.

11:12:17 15 Q. Okay. Let's go to page 2 of this exhibit, or
16 Bates stamp ADO1000103.

17 What does the information under the section
18 titled "Renewal Time Frames" describe?

19 A. This is how long a license can be renewed for, so
11:12:39 20 what the time period following the renewal would be.

21 Q. So the one -- the head- -- under that, there's a
22 heading that says "The following are renewable for 55 years
23 at a time." What does that part mean?

24 A. So in the sub-bullets you'll see who that applies
11:12:58 25 to. For example, after a customer's 60th birthday, instead

1 of having -- so a nonlegacy license today -- or a legacy
2 license today would be good for -- until you were 65 in its
3 most -- in its broadest use; right? So after your 60th
4 birthday, we don't allow you to go beyond that. And then
11:13:21 5 every time you renew after your 60th birthday, it's only
6 good for a five-year period in the renewal.

7 Q. I see.

8 And so is that the same for a person who's an
9 out-of-state student?

11:13:32 10 A. Yes.

11 Q. Do these categories of people listed under
12 "renewable for five years at a time" have to renew at least
13 every five years?

14 A. If they want to maintain their license, yes.

11:13:52 15 Q. When must someone who does not fall within one of
16 these categories renew their driver license?

17 A. Again, depends on the driver license type that
18 we're talking about. For a REAL ID-compliant driver's
19 license, that would be eight years. For a legacy driver's
11:14:13 20 license, a noncompliant driver's license, that would be the
21 -- in most cases, up to the 65-year time frame, and then
22 every five years thereafter.

23 Q. Is there any reason someone younger than 60 and
24 not within one of the categories under renewable for five
11:14:31 25 years at a time on page 2 of Exhibit 110 would have to

1 renew their license?

2 A. Yes.

3 Q. Okay. What would that reason --

4 A. For example, authorized presence. If the document

11:14:44 5 is not valid for a time period longer than that -- longer

6 than the -- that's less than this time frame, then it would

7 only be issued for the time period where it was valid. Sex

8 offenders are another one. Someone who's categorized as a

9 sex offender can only register for one year. So those are

11:15:04 10 some examples of . . .

11 Q. And then you already said the REAL ID requirement

12 is eight years?

13 A. Eight years.

14 Q. So if someone did not fall into one of the

11:15:24 15 "renewable for five years at a time" category and had a

16 REAL ID, then their license could be good -- could be good

17 for up to eight years, assuming it's not one of the

18 authorized presences that expires sooner?

19 A. As long as there's not some underlying factor that

11:15:40 20 says it's only valid for this, such as expiring authorized

21 presence, yes.

22 Q. Earlier -- I'm -- I forgot to ask this one.

23 On the names -- "allowable names in MAX,"

24 someone who has in their last name an apostrophe, is

11:16:00 25 that -- does that also go into the system, or is that

1 changed in any way?

2 A. I do not remember whether -- whether an apostrophe
3 is allowed or not.

4 Q. Would that also be somewhere in the One Sources?

11:16:47 5 A. It's possible, or it might just be rejected by the
6 system to say it's not allowed. So it might not -- if it's
7 not allowed, it might be entirely controlled by the system
8 and it might not be in the One Source documentation.

9 Q. Okay. So -- sorry. To go back to the exhibit we
11:17:08 10 were looking at, 110, can we look at Bates stamp
11 ADOT000105. And that would be page 4 of the exhibit.

12 Do you see that section with the heading
13 "Authorized Presence Credential Renewal"?

14 A. Yes.

11:17:31 15 Q. And please review the paragraph -- the first
16 paragraph under "Authorized Presence Credential Renewal."

17 Now, that paragraph says that "The Foreign
18 credential expiration date shall coincide with the
19 customer's assigned authorized presence expiration date."

11:18:04 20 And then it says, "unless an indefinite status or duration
21 of status has been granted." And I paraphrased a little
22 bit there. But I wanted to ask: What is an "indefinite
23 status"?

24 A. So one example that -- might be the prior
11:18:25 25 permanent resident that did not expire, so if they had that

1 originally, that would be a case where . . .

2 Q. Are you referring to perhaps an -- an older
3 permanent residence card?

4 A. Correct. Yeah.

11:18:47

5 Q. Okay.

6 A. Or any case where there's not an expiration date
7 on the documentation.

8 Q. Okay. Sorry.

9 MR. HERRERA: Just to check with everyone
10 online . . .

11:19:15

11 BY MR. HERRERA:

12 Q. Are permanent residents categorized as customers
13 with indefinite status?

14 A. Because the card expires at ten years, it's --
15 it's for a maximum of ten years.

11:19:33

16 Q. Okay. Does someone who has a foreign authorized
17 presence credential and has indefinite status -- so it
18 would have to be one of the older types of permanent
19 residence -- not have to renew if they do not fall into one
20 of the categories on page 2 that we reviewed a bit ago with
21 regard to every five years?

11:19:50

22 A. They would renew whenever the license expired. So
23 if it was a legacy credential, it would renew at 65.

24 Q. Now, if someone has a foreign authorized
25 precedence -- presence Arizona credential and has

11:20:12

1 indefinite status or another foreign authorized presence
2 status in the MVD MAX system, what happens if that customer
3 seeks to get a renewed license and shows documentation
4 establishing that they have naturalized as a U.S. citizen?

11:20:32

5 A. Then we would change their status to naturalized
6 and record the naturalization.

7 Q. And what happens to a foreign authorized presence
8 credential customer's categorization in MAX once that
9 customer renews and shows proof of naturalization as a U.S.
10 citizen?

11:20:47

11 A. I'm sorry?

12 Q. What happens in MAX when someone shows that
13 they've naturalized?

14 A. It's recorded as naturalized, so it will now be a
15 Category 1 under the non-foreign.

11:21:01

16 Q. And does that happen instantaneously or whenever
17 it's entered?

18 A. Correct.

19 Q. Okay. And for customers -- for customers who are
20 currently categorized under a foreign authorized presence
21 subcategory, what does Arizona law require of that person
22 with regard to his or her driver license if he or she
23 naturalizes as a U.S. citizen?

11:21:25

24 MR. WHITAKER: Objection. Calls for a legal
25 conclusion.

11:21:42

1 THE WITNESS: To my knowledge, there is no
2 requirement for them to do anything.

3 BY MR. HERRERA:

4 Q. Okay. Does MVD law or the MVD -- I'm sorry.
5 Strike that.

11:21:57

6 Does Arizona law, to your understanding, or
7 the MVD require someone who is naturalized as a U.S.
8 citizen to do anything relating to their driver license if
9 his or her driver license is unexpired and valid but was
10 obtained prior to naturalization?

11:22:14

11 MR. WHITAKER: Calls for a legal conclusion.

12 THE WITNESS: No.

13 BY MR. HERRERA:

14 Q. That's a "no"; right?

11:22:22

15 A. No.

16 Q. Does the MVD or ADOT track whether customers with
17 valid credentials based on foreign authorized presence have
18 naturalized -- as a U.S. citizens upon -- excuse me. Let
19 me start that again.

11:22:37

20 Does MVD or ADOT track whether customers with
21 valid credentials based on foreign authorized presence
22 whether they have naturalized as U.S. citizens upon the
23 point of their naturalization?

24 A. No, we do not.

11:23:02

25 Q. Okay. Does the MVD or ADOT notify customers who

1 naturalize as U.S. citizens but still have an unexpired
2 valid credential based on foreign authorized presence?

3 A. I'm not sure I understand.

4 Q. Does MVD or ADOT send any kind of notification to
5 someone who has naturalized or once they have naturalized
6 but they still have a -- an unexpired valid credential
7 based on foreign authorized presence?

8 A. We wouldn't know that they had naturalized.

9 Q. So you don't send any --

10 A. So we wouldn't send anything, no.

11 Q. Okay. Is there any requirement that someone with
12 an unexpired foreign authorized presence driver license or
13 credential renew his or her license upon naturalization as
14 a U.S. citizen?

15 MR. WHITAKER: Possibly calls for a legal
16 conclusion, depending on how the question is interpreted.

17 THE WITNESS: Not that I'm aware of.

18 BY MR. HERRERA:

19 Q. Okay. Is there any requirement that someone with
20 an unexpired foreign authorized presence driver license or
21 credential renew his or her license soon after
22 naturalization as a U.S. citizen?

23 MR. WHITAKER: Same objection.

24 THE WITNESS: Not that I'm aware of.

25 BY MR. HERRERA:

1 Q. How many people update their driver licenses or
2 credentials immediately after naturalization as a U.S.
3 citizen besides when renewal is required?

4 MR. WHITAKER: Foundation.

11:24:30

5 THE WITNESS: I wouldn't know.

6 BY MR. HERRERA:

7 Q. How many people update their driver licenses or
8 credentials upon naturalization as a U.S. citizen as part
9 of their renewal process?

11:24:51

10 A. I -- I don't know that offhand.

11 Q. If someone who -- if someone who is naturalized as
12 a U.S. citizen does not show proof of naturalization but
13 must renew his or her license due to expiration, does that
14 person have to update their categorization from foreign
15 authorized presence to non-foreign authorized presence?

11:25:14

16 A. The person would have to demonstrate authorized
17 presence somehow. So if their existing one was expired and
18 that's why they -- the license was expiring, they would
19 have to show something that -- to prove authorized
20 presence.

11:25:31

21 Q. What license type does a naturalized citizen have
22 if that person does not renew the license and show evidence
23 of naturalization?

24 A. I don't understand the question.

11:25:43

25 Q. So if someone -- what license type would someone

1 with a foreign authorized presence driver license have if
2 that person does not renew the license and show evidence of
3 naturalization?

11:26:01

4 A. They would continue to have a foreign-type
5 license.

6 Q. If you obtained a license before -- excuse me.

7 Does anyone at ADOT track how many people
8 update driver's licenses upon naturalization?

9 A. That is not a report that we run, no.

11:26:16

10 Q. If you obtained a license before naturalization,
11 therefore as -- likely as a foreign authorized presence
12 customer, is it easier to renew your license without
13 updating your status than to renew it and update your
14 status?

11:26:42

15 MR. WHITAKER: Objection. Incomplete
16 hypothetical.

17 THE WITNESS: It would -- it would -- it goes
18 back to the same point that I made before. If their
19 license is expiring because their proof of authorized
20 presence is expiring, they're going to have to show
21 something, and if they don't have another piece, then the
22 only thing you could do was show they naturalized, the
23 proof of naturalization.

11:27:00

24 BY MR. HERRERA:

11:27:12

25 Q. And what is required to show -- to prove that

1 someone's a naturalized citizen, can they show a copy of
2 their naturalization certificate?

3 A. No. We need an original document.

4 Q. Okay. Can it be a -- can someone who is trying to
11:27:29 5 establish that they are a naturalized U.S. citizen for
6 Arizona driver's license purposes show a replacement copy
7 of their naturalization certificate?

8 A. They would need to show an official copy of it.
9 As long as it's still an official copy and can be validated
11:27:48 10 through SAVE, then it would be fine.

11 Q. How many customers in the MVD MAX system currently
12 have an unexpired foreign authorized presence credential
13 but are now naturalized U.S. citizens?

14 A. We have no way of knowing that.

11:28:10 15 Q. How does the MVD change practices when there is a
16 new law affecting MVD operations?

17 A. We begin with establishing a change control team
18 that will review the law, understand what the implications
19 would be, decide who needs to be involved. It goes through
11:28:45 20 our change process board -- change control board where we
21 discuss how this is going to change it. If the system and
22 things that need to be done, those get assigned an IT
23 ticket to go in and do an update. Then it's all brought
24 back and tested -- the process is tested through, One
11:29:07 25 Source is updated, policy is updated as needed. And then

1 it's -- as we approach the deadline for the implementation,
2 that whole change process is approved and implemented.

3 Q. And how does the MVD change practices when there
4 is a new law affecting voting?

11:29:27

5 A. That's part of the same process.

6 MR. MORGAN: Form.

7 BY MR. HERRERA:

8 Q. Who is involved in examining changing the MVD's
9 practices when there is a new law affecting MVD operations?

11:29:46

10 A. It would be -- it would depend upon what the
11 operation -- the operational effect is, but it would be our
12 policy experts, the people who are impacted, the business
13 people that are impacted, the product owners for the
14 different systems, and IT resources.

11:30:08

15 Q. You mentioned something about the change board.
16 Where in ADOT does the -- is the change board?

17 A. That is within the Motor Vehicle Division.

18 Q. And who is -- who are the members of the change
19 board?

11:30:27

20 A. That would be permanently the members of the
21 executive team. Amanda Kindle, who I mentioned before, is
22 the head of -- she's the organizational lead to make sure
23 that happens. Then it would depend on specifically who --
24 what the change was to see who else would be on the -- on

11:30:50

25 the change review team.

1 Q. Does -- does the MVD have legislative liaisons or
2 other legislative advocates?

3 A. Yes.

4 Q. And who are they?

11:31:09

5 A. Our current legislative liaison is Anthony
6 Casselman.

7 Q. Anyone else?

8 A. I think he's the only one.

9 Q. All right.

11:31:30

10 MR. HERRERA: I don't have a copy of it, but
11 I am going to pull up on the screen here and share a copy
12 of the -- what has previously been marked as an exhibit,
13 but it's House Bill 2492. So I'm going to pull that up.
14 Someone is going to put it in the chat. Sorry about that.

11:33:39

15 So I'm showing on the big screen here in
16 front of -- in front of the witness what has been
17 previously marked in a prior deposition as Exhibit 19.

18 BY MR. HERRERA:

19 Q. And it is -- do you recognize this document?

11:33:56

20 A. Yes.

21 Q. And what is this document?

22 A. That is the chaptered version of House Bill 2492.

23 Q. And have you -- you have reviewed House Bill 2492?

24 A. I have.

11:34:07

25 Q. Okay. What changes, if any, has ADOT made to --

1 to its operations after the passage of HB 2492?

2 A. Sometimes it's a little hard to separate the two
3 bills.

4 Q. Okay. Well, let's -- let me walk you through some
11:34:28 5 of them. I'm going to the second page of Exhibit 19. And
6 one of them amends A.R.S. 16-101.

7 And do you see that there is a change that
8 says: "Is a citizen of the United States," and then the
9 language is added, "AND HAS PROVIDED SATISFACTORY EVIDENCE
11:35:00 10 OF CITIZENSHIP AS PRESCRIBED IN SECTION 16-166"?

11 A. Yes.

12 Q. And then do you -- I'm trying to go to another
13 part that might -- there's also a section that talks about
14 a proof of location of residence. Do you see that?

11:35:40 15 A. Yes.

16 Q. And then do you see in Section E, I've highlighted
17 there at the end: "THE COUNTY RECORDER OR OTHER OFFICER IN
18 CHARGE OF ELECTIONS SHALL NOTIFY THE APPLICANT THAT THE
19 COUNTY RECORDER OR OTHER OFFICER IN CHARGE OF ELECTIONS
11:36:13 20 COULD NOT VERIFY THAT THE APPLICANT IS A UNITED STATES
21 CITIZEN AND THAT THE APPLICANT WILL NOT BE QUALIFIED TO
22 VOTE IN A PRESIDENTIAL ELECTION OR BY MAIL WITH AN EARLY
23 BALLOT."

24 Do you -- does that help refresh your memory
11:36:26 25 as to which bill this is?

1 A. It -- it does.

2 Q. Okay. So what changes, if any, has ADOT made to
3 its operations after the passage of HB 2492?

11:36:48

4 A. So I believe this bill required us to provide --
5 in that it required the secretary of state to consult with
6 the -- I think it -- what it termed in here was the MVD --
7 or ADOT database, driver license database, which meant that
8 we had to implement a way for them to review the records
9 that we had.

11:37:08

10 Q. And by -- what do you mean by allow the secretary
11 of state to access the data?

12 A. I don't remember which section it is in here,
13 but . . .

14 Q. Let's see. I'll try to search.

11:37:36

15 A. Or I may be thinking of the other bill still.

16 Q. Let's look at the -- let's look at the other bill.
17 So I'm going to pull up what was marked in a
18 prior deposition as Exhibit G. And -- I'm sorry,
19 Exhibit 21.

11:38:14

20 So Exhibit 21, do you see that it says at the
21 top House Bill 2243?

22 A. I don't.

23 Q. Oh. I'm not sharing it.

11:38:28

24 All right. So now I'm showing -- do you see
25 there at the bottom there's a sticker that says "Petty

1 Exhibit Number 21"?

2 A. Yes.

3 Q. Okay. So this was marked in a prior deposition as

4 Exhibit 21. And do you recognize that this is House

11:38:41 5 Bill 2243?

6 A. Yes.

7 Q. Okay. And I'm going to go down to -- at the top

8 here, there's one section that amends of the -- the Arizona

9 Revised Statutes, and then I'm going to go down to page 3

11:38:59 10 of the bill. And do you see that there's some changes to

11 Arizona Revised Statute 16-165?

12 A. Yes.

13 Q. Okay. And then I'm going to go down to

14 Section F -- Subsection F of 16-165 as shown in this bill.

11:39:23 15 Do you see the Section F there?

16 A. Yes.

17 Q. Okay. So "EACH MONTH THE SECRETARY OF STATE SHALL

18 COMPARE THE STATEWIDE VOTER REGISTRATION DATABASE TO THE

19 DRIVER LICENSE DATABASE MAINTAINED BY THE DEPARTMENT OF

11:39:37 20 TRANSPORTATION. THE SECRETARY OF STATE SHALL NOTIFY THE

21 APPROPRIATE COUNTY RECORDER IF A PERSON WHO IS REGISTERED

22 TO VOTE IN THAT COUNTY HAS CHANGED THE PERSON'S RESIDENCE

23 ADDRESS OR IS NOT A UNITED STATES CITIZEN."

24 Do you see that?

11:39:50 25 A. Yes.

1 Q. Okay. Now, now that we've seen the two bills,
2 let's go back to 2492. Has ADOT changed its operations at
3 all to comply with the changes made by HB 2492?

4 A. So to the best of my recollection, we -- we
11:40:12 5 handled these two bills in parallel, so there was some
6 crossover, but I don't -- my recollection is that the other
7 bill didn't have anything that we needed to change in our
8 processes. And everything -- all the changes we made I
9 believe were consistent with the second bill.

11:40:30 10 MR. WHITAKER: And I'll just note for the
11 record that the witness doesn't have a hard copy of 2492 in
12 front of him which may help if he flips through it to
13 remind him or refresh his memory. I -- you identified
14 specific parts of it, but . . .

11:40:50 15 MR. HERRERA: I don't know if I have one.

16 MR. WHITAKER: I'm not trying to be
17 difficult; it's just they're complex bills. So far, he's
18 only seen parts of HB 2492 right now.

19 MR. HERRERA: Well, let's -- let's come back
11:41:05 20 to it, then.

21 BY MR. HERRERA:

22 Q. After the passage of these two bills, has ADOT
23 given the county recorders any new access to data after the
24 passage of these two laws?

11:41:17 25 A. To county recorders? Not directly.

1 Q. And when you say "directly," what do you mean?

2 A. Historically, all of our access to county
3 recorders comes through the Secretary of State's Office,
4 not directly to the counties.

11:41:35 5 Q. And so is there any other access that counties
6 have that is new as of the passage of these bills?

7 A. No.

8 Q. Okay. Is there any access to data that county
9 recorders had -- any access to ADOT data that county
10 recorders had prior to the passage of these bills?

11 A. My understanding and best of my knowledge, the --
12 all of the voter registration data access goes through the
13 Secretary of State's Office. We connect to the Secretary
14 of State's Office. The county connects to the secretary of
11:42:14 15 state. And that's where all the interchange happens.

16 MR. WHITAKER: I'm not sure that question
17 falls within the 30(b)(6) topics. I'm not instructing the
18 witness not to answer but noting that observation.

19 BY MR. HERRERA:

11:42:29 20 Q. Has ADOT given the secretary of state any new
21 access to ADOT's data after HB 2492 or 2243's passage?

22 A. Yes.

23 Q. Okay. And what is that new access the secretary
24 of state has?

11:42:42 25 A. We created two files that would assist them in

11:43:09

1 doing the necessary comparisons; one file being a complete
2 customer extract, including the current authorized presence
3 status and address information; the other being a -- and
4 this might be from the other -- from the first bill -- a
5 list of any credential that we received that is -- that has
6 been canceled due to a credential being issued in another
7 jurisdiction.

11:43:29

8 Q. Besides the two files you said -- send to the
9 secretary of state, is there any new access that the
10 secretary of state has to ADOT's data besides those two
11 extracts?

12 A. Not in response to implementing this bill, no.

11:43:48

13 Q. In response to implementing the two bills, did
14 ADOT modify any access to ADOT's data that the secretary of
15 state has?

16 A. Not beyond the provision of those two, no. I
17 don't believe.

11:44:19

18 Q. So the two -- has ADOT given the attorney general
19 any new access to data after the passage of these two
20 bills?

21 A. No.

22 Q. Has the Attorney General's Office requested access
23 to ADOT's MVD data at all?

11:44:37

24 A. There's been no request for any new access to our
25 data.

1 Q. Okay. Has the Attorney General's Office requested
2 access to any of ADOT's data?

3 A. Can you clarify?

4 Q. Sorry about that. I'll strike that one.

11:45:00 5 Now, I'm going to come back to the two files
6 you mentioned that are sent to the secretary of state.

7 What was ADOT's role in voter registration
8 before the passage of the two challenged laws?

9 A. ADOT has a responsibility that during a qualified
11:45:25 10 transaction, we allow a voter to register, submit an
11 application for registration through MVD. So whether
12 that's a driver's license application or an ID application
13 or an address change, something along those lines, we'll
14 ask questions of the voter if they want to register or
11:45:53 15 update their voter registration.

16 Additionally, we operate the ServiceArizona
17 website, which has a standalone application on it that
18 allows a voter to go online to submit a voter registration
19 application. We pass that through to the secretary of
11:46:15 20 state. In all cases we pass the data through to the
21 secretary of state.

22 Q. And since the passage of House Bills 2492 and
23 2243, has ADOT changed how it processes or passes on those
24 applications for voter registration to the secretary of
11:46:36 25 state?

1 A. Not as a result of implementing these laws, and
2 beyond that, unless there are minor technical changes. And
3 I don't remember if we've done some minor tweaks or
4 adjustments to it, but . . .

11:46:54 5 Q. Okay. Do you know if there are recent technical
6 tweaks or changes to processing of voter registration
7 applications through MVD?

8 MR. WHITAKER: I'm going to object. I think
9 that does fall outside of the 30(b)(6) topics, but I'm not
11:47:09 10 going to instruct the witness not to answer.

11 You can answer if you understand the
12 question.

13 THE WITNESS: I don't believe so, but I
14 didn't specifically review to make sure that that wasn't
11:47:16 15 the case.

16 BY MR. HERRERA:

17 Q. Okay. What existing access does the secretary of
18 state have to Arizona Department of Transportation data
19 prior to the passage of House Bills 2492 and 2243?

11:47:34 20 MR. WHITAKER: Same objection.

21 THE WITNESS: Those are listed in the
22 interrogatories, and -- or I think it was in the
23 interrogatories, request for production. So there is a
24 list of them there. But offhand, there are -- I don't have
11:47:47 25 that in front of me to make sure I catch everything, but

1 there are -- there are several interfaces that we use. As
2 I mentioned, we pass through all the data for new voter
3 registration or updates. There's a file that goes over for
4 that. There is a --

11:48:12

5 BY MR. HERRERA:

6 Q. Actually, can you pull up Exhibit 105. It's the
7 responses to plaintiffs' interrogatories.

8 A. Yeah.

11:48:31

9 Q. And do you see on page 4 the answer to
10 Interrogatory Number 3?

11 A. Sorry. Were you asking about county recorders?

12 Q. I was not, but I would like to look at this
13 interrogatory. I asked about the secretary of state.

14 A. Okay.

11:48:50

15 Q. But here in Interrogatory Number 3, it says,
16 "Describe in detail the processes by which County recorders
17 will access the driver license data maintained by the
18 Department and use those data to verify an Arizona voter's
19 U.S. citizenship under A.R.S. 16-165(K) as amended by
20 HB 2243, or under A.R.S. Section 16-121.01(D)(1) as amended
21 by HB 2492."

11:49:10

22 Do you see that?

23 A. Yes.

11:49:28

24 Q. And then your response was: "County recorders
25 access customer data provided to the Secretary of State via

1 the Secretary of State's Office."

2 A. Correct.

3 Q. Okay. So what is the nature of that access that
4 is provided to the secretary of state and therefore also
11:49:44 5 provided to the county recorders?

6 A. Right. So that -- that would be the files that we
7 put on, the new files that we discussed earlier that were
8 created for the responsiveness. So those go onto a secure
9 FTP server for the secretary of state to receive. And then
11:50:06 10 I don't know how they process beyond that.

11 Q. Okay. Is there any kind of lookup ability that
12 county recorders or the secretary of state have in ADOT's
13 data?

14 A. The secretary of state --

11:50:22 15 MR. MORGAN: Form.

16 THE WITNESS: The secretary of state does
17 have a lookup capability. We call it the "HAVA check."
18 And its parameters are outlined in one of the requests for
19 response.

11:50:40 20 BY MR. HERRERA:

21 Q. In the -- would that be in the request for
22 production responses?

23 A. Yeah.

24 Q. Okay. So let's look at the Request for Production
11:51:23 25 Number 7. And this is in Exhibit 106.

1 Okay. And do you see Request for Production

2 Number 7?

3 A. I do.

4 Q. Yeah. I'm not going to reread it all.

11:51:45 5 But the response is on page 6 of Exhibit 106.

6 And do you see that it says: "Data is stored and shared

7 with the Secretary of State via various files and API

8 connections. File layouts and API interface specifications

9 are being included to show all information that is stored

11:52:07 10 and shared with the Secretary of State. These

11 specifications have been gathered and are in the process of

12 being produced"?

13 What is an API interface?

14 A. That is a -- basically, it would be the lookup

11:52:22 15 tool. It's a way for their system to connect to ours

16 directly to request a specific set of data within a

17 specific set of parameters that they provide, and we return

18 to them over that same connection the data that they were

19 requesting.

11:52:38 20 Q. What does API stand for?

21 A. I can't remember off the top of my head. It's a
22 technical -- IT technical term.

23 Q. It's -- it's a common -- I can't remember it
24 either, but is it not a common term for -- in data access?

11:52:57 25 A. Correct. It's a -- it's a -- describing a

1 protocol of making a connection.

2 Q. Okay. So what is -- in the API interface that is
3 referenced here for the secretary of state, what -- how
4 does that work?

11:53:17

5 A. The secretary of state provides a -- via this
6 connection, which is established between their system and
7 MAX -- they formulate a request, send us a -- tell us what
8 request they're making and send certain data parameters to
9 us. We process the request and return records based on

11:53:43

10 their -- on their input value of whatever they sent to us.

11 Q. Okay. And is the -- are the data requests by the
12 secretary of state through this API interface always the
13 same in terms of fields, or is it always a different
14 request?

11:54:08

15 A. I -- I don't understand.

16 MR. WHITAKER: Objection. Ambiguous.

17 BY MR. HERRERA:

18 Q. Yeah. So you're saying that you give data to the
19 secretary of state.

11:54:14

20 A. Uh-huh.

21 Q. What is the data that the secretary of state can
22 get through the API interface?

23 A. So that is detailed in the specification, and that
24 would probably be the best place to look at that to --

11:54:26

25 which I believe we provided.

1 Q. Okay. Does the secretary of state -- can the
2 secretary of state access citizenship data through the API
3 interface?

4 A. I'd want to verify in the specification. I
11:54:45 5 believe it's there, but I would want to verify in the
6 specification.

7 MR. MORGAN: Form.

8 BY MR. HERRERA:

9 Q. Go ahead. Were you finished?

11:54:53 10 A. Yeah.

11 Q. Okay. Can the secretary of state look up
12 authorized presence information about a customer using the
13 API interface?

14 A. We'd have to consult the specification.

11:55:09 15 Q. You don't -- you don't recall right now?

16 A. I don't recall off the top of my head. There's a
17 lot of fields in there. I think it's in there, but I'd
18 want to -- I'd want to consult the specification.

19 Q. And earlier you mentioned the HAVA checks. What
11:55:30 20 is a HAVA check?

21 A. That's the same thing.

22 Q. That's the same thing. Okay.

23 And what is HAVA?

24 A. Helping America Vote Act.

11:55:38 25 Q. Okay. And what is a HAVA check?

11:55:54

1 A. It's a lookup of a customer. So it's using this
2 check to make sure that the customer -- which is why I said
3 I think that it's in the specification, but we'd want to
4 check to make sure. It's something to verify that the
5 customer is -- that the information that we have meets
6 their needs.

7 Q. Did -- did the HAVA checks exist prior to the
8 passage of HB 2492 and 2243?

9 A. Yes.

11:56:13

10 Q. And did this -- did ADOT change the HAVA check or
11 API interface at all to comply with those bills?

12 A. Not to my knowledge. The only thing we did to
13 comply with the two files.

11:56:32

14 Q. The only thing you've done to comply with the laws
15 are produce the two files --

16 A. Correct.

17 Q. -- or customer extracts?

18 A. [Nodded up and down.]

19 Q. Is that a "yes"?

11:56:50

20 A. Yes.

21 MR. HERRERA: I think we can take a break
22 now.

23 (A recess ensued.)

24 BY MR. HERRERA:

12:19:36

25 Q. Okay. Mr. Jorgensen, we're going to --

1 All right. Mr. Jorgensen, I'm going to hand
2 you what we'll mark as Exhibit 111.

3 (The document was marked as Exhibit 111
4 for identification.)

5 MR. HERRERA: Bear with me. I'm finding a
6 copy for Josh here.

7 BY MR. HERRERA:

8 Q. All right. Mr. Jorgensen, I'm showing you a
9 document that's been marked as Exhibit 111. And the first
10 page, as you can see at the very bottom -- it's a little
11 blurry, but it has -- it says ADOT001400.

12:21:02

12 Do you see that?

13 A. Yes.

14 Q. Okay. What is this document?

12:21:13

15 A. This is the technical specifications for the
16 answer to the request for production.

17 MR. WHITAKER: I'll quickly note this, as
18 well as other documents, have been marked confidential
19 according to the protective order. So noting that on the
20 record.

12:21:30

21 MR. HERRERA: Understood.

22 BY MR. HERRERA:

23 Q. And what -- what do we see on the first page of
24 this document?

12:21:45

25 A. This is the fields layout for the new customer

1 extract file and the new canceled out-of-state file that we
2 provided in response to implementing these bills.

3 Q. Now let's go to page 3, which here the Bates stamp
4 would be ADOT001402. Do you see that?

12:22:15

5 A. Yes.

6 Q. And what is "File: ERIC 60-day"?

7 A. There is a -- Arizona participates in the ERIC
8 program, and every 60 days we send a file to the Secretary
9 of State's Office that is used to participate in that
10 program.

12:22:41

11 Q. That's a file sent to the secretary of state?

12 A. Correct.

13 Q. And is that something that existed prior to the HB
14 2492 and 2243?

12:22:54

15 A. It is, yes.

16 Q. Okay. And has ADOT's sending of that file,
17 processing of that file changed since the passage of those
18 two laws?

19 A. No.

12:23:07

20 Q. To go back one page, look at ADOT001401. Do you
21 see that, that it says, "File: Nightly Full Voter
22 Registration/Update"?

23 A. Yes.

24 Q. What is that?

12:23:32

25 A. That is the file description for the file that we

1 produced each night that would have all new voter
2 registration and update information that we collected from
3 customers.

12:23:53 4 Q. And so that is -- that reflects all of the -- does
5 that only reflect people who registered to vote through
6 DMV -- or MVD? Sorry.

7 A. It would reflect any customer who said that they
8 wanted to update or register to vote. So it would be the
9 information from their application.

12:24:10 10 Q. Is this Nightly Full Voter Registration/Update
11 something that was provided to the secretary of state by
12 ADOT prior to House Bills 2492 and 2243?

13 A. Yes, it was.

14 Q. Has any part of this layout of this file changed
12:24:33 15 since the passage of HB 2243 or 2492?

16 A. I do not believe so.

17 Q. You said -- do you -- is that because you don't
18 know for sure?

19 A. It's -- it certainly wasn't part of the
12:24:51 20 implementation of those bills. And I'm not positive that
21 we haven't made any change to it, but I don't recall any
22 changes being made to it.

23 Q. Now, on -- also on 1402, ADOT001402, underneath
24 the "ERIC 60-day," there's a different heading that says
12:25:41 25 "API specifications." What is that?

1 A. So this is the -- basically the instructions of
2 how to form a request via the API process.

3 Q. And who would -- who would make a request?

4 A. That would be the Secretary of State's Office.

12:26:01

5 Q. Okay. So this is -- these are instructions for
6 the secretary of state to make any request about ADOT data?

7 A. So these would be very specific. So under the --
8 under that, you see what the request has to look like, and
9 then you see what our response would look like.

12:26:24

10 Q. Is this -- under the "API Specifications" heading,
11 it says "API:" -- and then I'm just going to read the words
12 and not all of the code stuff. But it says:

14 EligibilityLookup." And then there's an em dash, and it
15 says "returns a single customer."

12:26:50

16 Do you see that?

17 A. Yes.

18 Q. And what -- what is that?

19 A. So this is a single customer lookup that the
20 secretary of state can perform. They provide the data
21 that's shown under the "Request," and we return the data
22 that's shown under the "Return." And it's one single
23 customer. It's a full match.

12:27:00

24 Q. So under the "Return" part, are those all of the
25 different -- does the secretary of state actually get data

12:27:17

1 from all of these data fields for the single lookup person?

2 A. They do.

3 MR. MORGAN: Foundation.

4 BY MR. HERRERA:

12:27:34

5 Q. Now, when the secretary of state makes a request
6 through this API that we've just looked at, the "returns a
7 single customer" API, what is -- do you know what the
8 interface actually looks like for the secretary of state?

9 A. I do not.

12:27:52

10 Q. Okay. Is that something that the Secretary of
11 State's Office has available to it through a single
12 computer? Multiple computers?

13 MR. WHITAKER: Foundation.

14 MR. MORGAN: Foundation.

12:28:10

15 THE WITNESS: I don't know.

16 BY MR. HERRERA:

17 Q. How does the secretary of state access this API
18 "returns a single customer"?

19 MR. MORGAN: Foundation.

12:28:25

20 THE WITNESS: I'm not sure I understand.
21 What do you mean?

22 BY MR. HERRERA:

23 Q. How does the secretary of state do this? Is it
24 like a browser search bar or something, or what is it?

12:28:35

25 MR. WHITAKER: Foundation.

1 MR. MORGAN: Foundation.

2 THE WITNESS: This would be something that

3 they -- that they in their own computer system --

4 BY MR. HERRERA:

12:28:39

5 Q. Yeah.

6 A. -- would put in code to run this -- this search.

7 Q. I see.

8 A. That's why from our side we don't know what it

9 looks like on their side.

12:28:52

10 Q. I see.

11 Is there an overall system that the secretary

12 of state has either in the form of a program or a cloud

13 access to all of these APIs and data files that we're

14 looking at in this exhibit?

12:29:15

15 MR. WHITAKER: Foundation.

16 MR. MORGAN: Foundation, form.

17 THE WITNESS: I'm not aware of how they -- I

18 know they have a program called AVID, and I know that we

19 make connections -- like these connections exist through

12:29:27

20 it. I don't know how they implement any of the other files

21 that they use.

22 BY MR. HERRERA:

23 Q. Okay. So if these exist, how -- how does the

24 secretary of state -- how -- rather, how does ADOT work

12:29:45

25 with the secretary of state, if at all, to set up the

1 access to these?

2 A. So for the APIs?

3 Q. For the -- let's focus on the APIs, yeah.

4 A. So we would provide the -- the access to our side

12:30:03 5 to be able to make the calls. We describe to them --

6 that's what this information is here is --

7 Q. You're pointing at which page?

8 A. -- is the API -- so this is the -- ADOT001402,

9 under "API Specifications" where it says "API:" and then

12:30:23 10 it's got some text, that is the location that their system

11 would point to. It is -- and then it -- using standard API

12 protocol language, the request -- you see where it's got

13 the curly brackets and the -- that would describe to them

14 how they make that call. So they would insert this as code

12:30:52 15 in their system, and that would send the request to us.

16 And we would have to have -- basically what we do is we

17 white-list their address that they're coming from and allow

18 them to make that connection to us.

19 Q. What does that mean to say that you "white-list

12:31:14 20 the address that they're coming from"?

21 A. It's the security between the servers to say

22 what -- what connections can be allowed into our system.

23 And so we have a secure connection between the secretary of

24 state and our servers.

12:31:30 25 Q. And how, on the secretary of state's end, does the

1 secretary of state enter a request for a -- for this API
2 "returns a single customer" on 1402?

3 MR. WHITAKER: Foundation.

4 MR. MORGAN: Foundation.

12:31:58

5 THE WITNESS: I'm not familiar with their
6 system, so I don't know what it looks like on their side to
7 do the actual data entry for it.

8 BY MR. HERRERA:

12:32:13

9 Q. Does anyone at -- at ADOT know what the secretary
10 of state's interface looks like on their end for accessing
11 this API "returns a single customer"?

12 A. I couldn't say if anybody's ever been over and
13 seen it and would know that, but it's not part of what we
14 would generally know or do as part of -- of how we do the
15 implementation.

12:32:33

16 Q. On page -- on ADOT001402, for the single customer
17 API, does the secretary of state have to put in every
18 single piece of that info to make a request?

12:33:10

19 MR. WHITAKER: Just to clarify -- note my
20 objection. Do you mean going on to the next page too?

21 MR. HERRERA: Well, sorry. So yes.

22 BY MR. HERRERA:

12:33:24

23 Q. Beginning on page ADOT001402, under "returns a
24 single customer" and then "Request," there are a list of
25 items there before the word "Return."

1 Do you see those?

2 A. Yes.

3 Q. What -- what are those lines?

4 A. Those are the items that you can send as part of

12:33:37 5 the request.

6 Q. Does the secretary of state have to enter

7 something in every one of those fields or pieces of

8 information in order to get a return?

9 A. I do not believe that they have to do all of them.

12:34:12 10 But I cannot say for sure.

11 Q. Does ADOT do any testing of this API "returns a

12 single customer" on its end to see whether you would need

13 to input some combination of these request fields in order

14 to get a return?

12:34:39 15 A. Yes. That would be something that we'd define as

16 part of our system.

17 Q. Okay. Do you know where that would be defined?

18 A. I'd have to ask somebody. I don't -- I don't know

19 precisely.

12:34:51 20 Q. And who would -- do you know who you would ask for

21 that?

22 A. I'd ask Madeline Kinder.

23 Q. Madeline Kinder.

24 Does -- does -- when you're actually making

12:35:08 25 the request here with these fields under "returns a single

1 customer," do -- do all of these -- do all of the values
2 that you put into these fields have to actually match for
3 the same customer in order to get a -- a return on
4 somebody?

12:35:30 5 A. To clarify, you mean the request -- do the request
6 values have to all be for the same customer? I'm sorry.

7 Q. Yeah. Yeah.

8 A. I don't understand.

9 Q. Yeah. Well, first of all, let me back up a
12:35:48 10 second.

11 Under "Request" -- under "returns a single
12 customer," one of these request lines says
13 "customerNumberId," and it's all one word; right?

14 A. Uh-huh.

12:36:00 15 Q. What would you -- what would you call this
16 generally?

17 A. That's the field name.

18 Q. That's the field name. Okay. I'm not too far off
19 when I say "field"?

12:36:09 20 A. Right.

21 Q. So what would be something that you put into the
22 field in this request form? What would you call that?

23 A. The data element.

24 Q. Okay. So if -- does the secretary of state -- I
12:36:26 25 know you already answered this, but I'm going to ask it

1 with the correct words.

2 Does the secretary of state have to enter the
3 correct combination of data elements in these fields under
4 "Request" on 1402 in order to get a return?

12:36:45

5 MR. WHITAKER: To clarify, you mean 1402 and
6 1403?

7 MR. HERRERA: 1402 and 1403, yeah.

8 THE WITNESS: If I enter data into these
9 fields, yes, it has to match what is in the system to be
10 able to produce a record back. If we can't find a record
11 that matches the data elements entered into the system,
12 then we would not return a record.

12:37:04

13 BY MR. HERRERA:

14 Q. And under this "returns a single customer" API,
15 does the secretary of state have to enter someone's last
16 four -- last four digits of their Social Security number in
17 order to get a return?

12:37:33

18 A. That was the part that I'm not sure if all pieces
19 of information have to be entered or not.

12:37:49

20 Q. And so there we would ask Madeline Kinder?

21 A. Uh-huh.

22 Q. Okay. So before I move on to the -- to the next
23 API, I just want to make sure I understand what -- what the
24 secretary of state sees in terms of return, if they do

12:38:26

25 indeed get a valid return, among all of these fields listed

1 under "Return" that begins on 1403 but continues all the
2 way to 1406.

3 So what -- what does the secretary of state
4 see in a valid response to a -- or a return to a request
12:38:52 5 among the fields listed beginning on 1403 and continuing to
6 1406?

7 A. So they would see the field name, and they'd also
8 see the value that we returned from that field in a
9 format -- this format's called the JSON file.

12:39:06 10 Q. Okay.

11 A. And -- and that is what they would get back.
12 The -- the -- if you see on 1403, under "Return," you see
13 "result." It says "customer ID" in quotes, colon, then
14 it's a number, a zero, indicating that the return value
12:39:30 15 will be a number; whereas the next one is "firstName,"
16 colon, and you see a value that says "string," indicating
17 it will be a string as the return value for that field.

18 Q. And so one of the values -- or one of the -- the
19 secretary of state, if they received a valid return to a
12:40:00 20 single customer API request, they would get -- or the
21 secretary of state would get, for example, information
22 about that person's authorized presence?

23 A. That is correct. That's shown several fields down
24 from the top. Maybe it's ten fields down from the top,
12:40:18 25 "authorizedPresenceTypeId" with the number. So it would

1 give a number. Those are the -- the numbers that we
2 discussed before; 1 for naturalized, 4 for citizen, and I
3 don't remember offhand what the -- each one of the foreign
4 ones was.

12:40:32 5 Q. Also in response to an API single customer request
6 by the secretary of state in this API, the secretary of
7 state could get -- would get in a -- in a return the voter
8 registration purpose; right?

9 A. Yes. It would get a field entitled
12:40:57 10 "voterRegistrationPurpose," and it's a Boolean, so it would
11 be either true or false.

12 Q. And what is "voterRegistrationPurpose"?

13 A. I do not know.

14 Q. Under the "Return" fields for this API we're
12:41:19 15 looking at between 1403 and 1406, the secretary of state
16 would also receive the "credentialIssueDate" and
17 "credentialExpirationDate"; right?

18 A. Correct.

19 Q. What is the "credentialIssueDate"?

12:41:39 20 A. That is the date that the record is updated in our
21 system as having become the new current active credential.

22 Q. And then "credentialExpirationDate," that field is
23 when the credential expires?

24 A. Correct.

12:41:54 25 Q. And still looking at this single customer API that

1 the secretary of state has available to it, what, if
2 anything, involved in this API formats the return in the
3 way of an evaluation of the data besides a presentation of
4 the data itself?

12:42:34

5 A. I'm not sure I understand.

6 Q. So let's look at 14 -- ADOT001406.

7 A. Okay.

8 Q. And if you refer from 1403 to 1406, you can see
9 that this is still the "Return" portion or specifications
10 of the API lookup "returns a single customer"; right?

12:43:01

11 A. [Nodded up and down.]

12 Q. Under -- is that correct?

13 A. Yes.

14 MR. WHITAKER: Do you mean list of customers?

12:43:14

15 I missed the question.

16 MR. HERRERA: No.

17 BY MR. HERRERA:

18 Q. So under "returns a single customer" API, the

19 "Return" fields begin on 1403 and continue to 1406. And

12:43:29

20 then on 1406, there is something called

21 "validationResults."

22 Do you see that?

23 A. Yes.

24 Q. Okay. What -- what is that?

12:43:38

25 A. These are -- are codes used to make sure that

12:44:04

1 the -- the connection -- the return data went through the
2 system properly and there weren't any errors in the pulling
3 of -- in the connection in the reading of the data. So
4 it's to validate back to secretary of state you sent a
5 request and we're sending this request in response to it
6 and everything connected and you got everything the way it
7 was supposed to come back.

12:44:20

8 Q. Okay. And then right above "validationResults" on
9 1406, it says, "matchCriteria." What does that mean?

10 A. I'm not sure.

11 Q. Then one more question on this API.

12 On ADOT001402, under "Request," one of the
13 fields, as you can see, says, "customerNumberId."

14 Do you see that?

12:44:47

15 A. Yes.

16 Q. Okay. Does the secretary of state, in order to
17 use the "returns a single customer" API, have to have the
18 ADOT customer ID to look someone up?

19 A. I don't know.

12:45:09

20 Q. And who would know that?

21 A. That's Maddie.

22 Q. Maddie Kinder?

23 A. Kinder. Yes.

24 Q. Is that Maddie Kinder?

12:45:17

25 A. Yes.

1 Q. So let's look at ADOT001406. And do you see the
2 bold heading that says "API:"? And then in the brackets

4 "/Customer/Voter/EligibilityDetailLookup"?

12:45:46

5 A. Yes.

6 Q. Then em dash, "returns a list of customers"?

7 A. Yes.

8 Q. What is that?

12:45:56

9 A. So this is a very similar one, but instead of
10 returning a single customer, it will return anybody who
11 matches to the criteria.

12 Q. Now, did -- did these APIs exist before 2492 and
13 2243?

14 A. Yes.

12:46:12

15 Q. Okay. Is either one of these -- well, both you
16 can tell me, but is either one of these what is used by the
17 secretary of state for HAVA checks?

18 A. Yes.

19 Q. Okay. Did -- are both used for HAVA checks?

12:46:26

20 A. Yes.

21 Q. Have these APIs, the one that begins on 1402 --
22 ADOT001402 and the one that begins on ADOT001406 -- has
23 either of these changed since the passage of House
24 Bills 2492 and 2243?

12:46:53

25 A. I do not believe so.

1 Q. Okay. So focusing on the API "returns a list of
2 customers" that begins on ADOT001406, under the "Request"
3 portion, again we have a list of fields; right?

4 A. [Nodded up and down.]

12:47:11 5 Q. So for the "returns a list of customers" request
6 on the API, what minimum number of these fields does the
7 secretary of state have to input in order to -- to make a
8 valid request that would get a return?

12:47:32 9 A. I know that they don't have to do all of them for
10 the list of customers, but I don't know if there is a
11 minimum they have to do for it.

12 Q. It sounds like for a "returns a list of
13 customers," they don't have to have a value for all of the
14 fields; is that right?

12:47:48 15 A. Correct.

16 Q. That's correct.

17 A. Yes.

18 Q. Sorry. I'm going to jump back to the API "returns
19 a single customer."

12:48:00 20 Are you familiar with the matching -- how
21 ADOT -- how the match is actually made to the data that is
22 being looked up by the secretary of state?

23 A. I'm not sure I understand the question.

12:48:27 24 Q. Is there an algorithm that guides the matching
25 between the values that -- or the data elements that the

1 secretary of state puts in a request and the return values
2 that ADOT produces?

3 A. Right. Yeah. So some of them are full match. So
4 for example, customer number ID would -- if you put in a
12:48:49 5 value, it's going to do an exact match to it. Same thing
6 with the last four of Social Security number and driver's
7 license number. I am not sure if the date of birth has to
8 be exact or not. And then we would -- we always have some
9 sort of matching first name, last name, but I -- I'm not
12:49:11 10 exactly sure which -- which criteria we would use in this
11 particular check.

12 Q. Can the secretary of state use a Boolean search
13 language in order to get a "return to a single customer"
14 API request?

12:49:33 15 A. I don't believe so.

16 MR. MORGAN: Form.

17 THE WITNESS: And to clarify that, meaning
18 it's not accepted criteria on the API call. What their
19 system does to accept a Boolean and make multiple requests,
12:49:57 20 I couldn't say.

21 BY MR. HERRERA:

22 Q. So is it possible that there is additional --
23 there are additional specifications that the secretary of
24 state puts onto their use of this API?

12:50:11 25 A. Certainly there would be -- however they implement

1 it would have its own parameters.

2 Q. Earlier, a second ago, you were -- you were
3 talking about an exact match on the last four of Social
4 Security number. What do you mean by "an exact match"?

12:50:30

5 A. The last four numbers of the Social Security
6 number would have to match the exact same order as the --
7 same value and order as the -- what we have on file for
8 them.

12:50:55

9 Q. Are you -- do you know for a fact that for -- that
10 for all Social Security number holders, the last four
11 digits of the Social Security number are unique?

12 A. I'm not sure I understand.

12:51:13

13 Q. So is it possible that if you looked up in this
14 API the last four digits of a Social Security number, that
15 you would get more than one person?

12:51:30

16 A. So that's -- that's -- that comes down to that
17 question of that's why I don't know if all of these are
18 required on a single customer lookup versus the multiple
19 customer lookup where we know that you can have multiple
20 returns. So I don't know if there's a -- if that's
21 required or not, but obviously there's more than 10,000
22 Social Security numbers out there, which means the last
23 four are always -- there are multiple customers with the
24 same last four.

12:51:45

25 Q. Right. Because we're working off the idea that if

1 you just go by the last four, there's only so many
2 combinations of the last four digits; right?

3 A. Correct.

12:51:58

4 Q. And there's way more Social Security numbers than
5 there are last four digits of Social Security numbers?

6 A. Correct.

12:52:20

7 Q. Do you know if -- or -- or can this API for a
8 single customer on the secretary of state's end be
9 automated, or does it -- do you have to make a manual
10 search every time?

11 A. It's automated.

12 Q. And how do you know that?

12:52:35

13 A. That's the way the API functions is it's a call
14 into the system, and the call automatically generates a
15 response. It does its own lookup. There's no manual
16 intervention on any of our APIs.

12:52:54

17 Q. And I think I the know answer because of your
18 earlier answers, but how does this API "returns a single
19 customer" look in terms of the interface? How does it look
20 for the county recorders?

21 A. I have no idea.

22 Q. So let's go back to the API "returns a list of
23 customers," which begins on ADOT001406.

12:53:28

24 So do you know if the -- or rather, are the
25 fields that come up in the "Results" for the "returns a

1 list of customers" API the same fields that are available
2 in the "returns a single customer" API?

3 A. They are.

4 Q. And then for the "returns a list of customers"

12:53:55

5 API, is there a matching algorithm that ADOT created in
6 order to produce the returns to a request?

7 A. Yes.

8 Q. Okay. Are you familiar with that algorithm?

9 A. Not in detail.

12:54:13

10 Q. Okay. And who would know that?

11 A. That would be Maddie -- Maddie Kinder, yes.

12 Q. And so does the secretary of state -- I think you

13 said earlier -- you confirmed that the secretary of state

14 uses the "returns a list of customers" API in order to

12:54:49

15 conduct HAVA checks?

16 A. They can, yes.

17 Q. Do you know if they do?

18 A. We know that both of them are used. That's the

19 purpose for them. So I don't -- I guess couldn't speak to

12:55:08

20 the purpose every time that they run the check, but that's

21 why we give it to them. That's why they have the API.

22 Q. Does ADOT ever offer assistance to the Secretary

23 of State's Office upon request for clarification of any of

24 the return data in response to the -- either of these two

12:55:46

25 APIs?

1 A. Yes.

2 Q. Okay. How often does that happen?

3 A. I don't know.

4 Q. Okay. And what is the kind of assistance that

12:55:54

5 ADOT offers in terms of clarification of return data in --
6 in this API?

7 A. Generally it would be technical, making sure that

8 they understand why they're seeing something. So it would

9 be a technical "can you validate that this record returned

12:56:11

10 properly" type of request.

11 Q. And what does that clarification look like from --

12 on ADOT's end when sending to -- when doing something like

13 that for the secretary of state?

14 A. We would review the record, make sure that, you

12:56:31

15 know -- kind of pull it ourselves, make sure it matches to

16 what's actually in the record, and we could tell them, you

17 know, what we found.

18 Q. Now, are any of -- were any of the fields listed

19 in the response -- or, rather, the "Return" portions of

12:57:24

20 either of these APIs in this document created for the

21 purpose of these APIs rather than something that's just for

22 ADOT's internal use?

23 MR. WHITAKER: Outside the scope of 30(b)(6)

24 topics, but I'm not going to instruct the witness not to

12:57:47

25 answer.

1 THE WITNESS: Could you repeat the question
2 for me?

3 BY MR. HERRERA:

12:58:09

4 Q. So were any of these -- any of the fields in
5 either of these APIs in this document created just for the
6 purposes of these APIs rather than something that ADOT uses
7 just for its own -- its own purposes?

8 MR. WHITAKER: Same objection.

12:58:27

9 THE WITNESS: I'm -- I'm sorry, I'm afraid I
10 don't understand the question.

11 BY MR. HERRERA:

12:58:40

12 Q. So under "customerNumberId," which is part of the
13 return that comes through these -- through the API
14 requests -- "customerNumberId," that's something that ADOT
15 uses as -- every day -- right? -- for its own data
16 purposes?

17 A. Correct.

12:58:54

18 Q. Okay. Same thing for "credentialIssueDate,"
19 that's something that ADOT uses for its own purposes;
20 right?

21 A. Correct.

22 Q. Are any of these other fields things that were
23 just created for these APIs?

24 MR. WHITAKER: Same objection.

12:59:01

25 THE WITNESS: I'm sure the validation fields

1 would be created for the purpose of this and not for
2 regular use by ADOT. All the error messaging that occurs
3 down below is specifically for the API.

4 MR. HERRERA: And I just want to put on the
12:59:37 5 record our response to the objections about the scope. So
6 we did -- one of the topics asks for -- asks about the
7 responses to the discovery requests. And this document
8 was, as you said, part of the discovery responses. The
9 other part is that I think it's clear from the county
13:00:03 10 recorder depositions, Josh, that these things are being
11 used by the counties and may be part of implementation of
12 the two challenged laws, including 2243. So we do think
13 that they are within the scope of our topics here today.

14 MR. WHITAKER: Understood.

13:00:26 15 BY MR. HERRERA:

16 Q. Besides -- so looking at these -- all of these
17 fields, under "authorizedPresenceType," do you know why
18 authorized presence is a piece of data that is needed for a
19 HAVA check?

13:01:09 20 A. I do not. I'm not -- I'm not familiar with what
21 the HAVA check on the actual voter's side is. We're just
22 the provision of the information.

23 Q. So don't know what -- so you -- is there a --
24 strike that.

13:01:24 25 When were these APIs set up in the first

1 place?

2 A. I'm not sure but it's been many, many years.

13:01:48 3 Q. Sorry. Just to clarify, these APIs that are on
4 pages ADOT 1402 and ADOT 1406, these were set up many years
5 ago?

6 A. Let me clarify. These specific implementations
7 were set up as part of the new system, so they went live
8 with the system. There were ways to do that prior to going
9 live with our new system. So these specific APIs would
13:02:03 10 have been 4/20 of 2020.

11 Q. So on April 20th of 2020, were there any new
12 fields available through these APIs that were not available
13 when the legacy system was in place?

14 A. Because the -- because fields changed, yes. Most
13:02:21 15 certainly there were changes to what the fields would be.
16 I'm not sure what those details would be, though.

17 Q. Was any authorized presence or citizenship data
18 available before April 20 of 2020 through the analogs to
19 these APIs for the secretary of state?

13:02:44 20 A. Because it's here, it is likely, but I can't speak
21 for sure. I don't have the specifications of how that
22 worked before.

23 Q. Did ADOT go through any kind of process with the
24 secretary of state in terms of approving which types of
13:03:03 25 data to give the secretary of state in response -- or as

1 part of these APIs?

2 A. Yes.

3 Q. And do you know when that process happened?

4 A. It would have been prior to our go-live at some
13:03:17 5 point. It would have been prior to 4/20 of 2020,
6 significantly -- because I know they had to do their own
7 upgrades as well.

8 Q. Were you involved in that process?

9 A. Not directly.

10 13:03:27 Q. Do you know who was involved?

11 A. I don't at this point. I don't know exactly which
12 staff would have been involved in doing it.

13 Q. Are you aware of any discussion of authorized
14 presence or citizenship data being discussed as part of the
15 13:03:53 approval of which data to give the secretary of state
16 through these APIs?

17 A. Can you repeat the question?

18 Q. Sure.

19 So through these APIs -- and you mentioned
13:04:05 20 there was a process for setting them up; right?

21 A. Correct.

22 Q. And was there any discussion of whether or not to
23 provide -- let me strike that.

24 So in setting up these APIs, in that process
13:04:20 25 with the Secretary of State's Office, was there any

1 discussion of the reasoning of why they needed the
2 authorized presence or citizenship information as part of
3 the returns?

13:04:35 4 A. I don't know if there was any discussion about
5 reason for using different pieces of data.

6 Q. Are you aware that -- are you -- are you aware of
7 whether the county recorders used these APIs to determine
8 if a voter registrant is a citizen -- U.S. citizen or not?

13:05:01 9 A. To the best of my knowledge, the county recorders
10 don't have direct access to this. So if they're accessing
11 it, it would be through the secretary of state system. And
12 I don't know how they use that information once they have
13 it.

14 Q. So you don't know whether the secretary of state
13:05:15 15 uses the information returned through these APIs -- whether
16 they actually look at the citizenship or authorized
17 presence data?

18 A. I'm unfamiliar with what use they make of this
19 data, correct.

13:05:39 20 MR. HERRERA: I think I'm at a good stopping
21 point for lunch.

22 Let's go off the record, please. Thank you.

23 (An off-the-record discussion ensued.)

24 MR. HERRERA: So I just want to put on the
13:06:39 25 record that it appears that Madeline Kinder is someone who

1 may be more knowledgeable about some of these topics asked
2 about this morning. Is it possible to make her available?
3 That would be my request to you. I know that you can't
4 necessarily answer that now, but . . .

13:06:56

5 MR. WHITAKER: So one -- I would need to talk
6 with the witness, but one thought I had during those
7 questions is whether it would be possible to try to contact
8 her on a break because we don't -- under 30(b)(6), you just
9 need to prepare whoever is the designee. It doesn't need
10 to be the person who's most knowledgeable. Do you have any
11 reaction to that thought to try to educate the current
12 designee?

13:07:16

13 MR. HERRERA: My -- my initial reaction is
14 that based on the responses, because it seems pretty
15 technical, that it may require her. That's my only -- my
16 only reaction.

13:07:32

17 MR. WHITAKER: Yeah. We'll think about it.
18 Because I hear what you're saying. There were several
19 questions about it.

13:07:44

20 MR. HERRERA: Yeah. And with all respect to
21 Mr. Jorgensen, it's very technical-sounding stuff, so --
22 yeah. Because I know that people are specialized in
23 certain things.

24 We can go off the record.

13:07:55

25 (A recess ensued.)

1 MR. WHITAKER: During the break,
2 Mr. Jorgensen had an opportunity to talk with Maddie
3 Kinder --

4 MR. HERRERA: Yes.

14:12:40

5 MR. WHITAKER: -- about some of the questions
6 that were asked earlier to try to fill in his knowledge. I
7 think it would be an efficient use of time for him to try
8 to answer those questions now. So I'm thinking of just
9 having the witness say what he learned over break.

14:12:59

10 MR. HERRERA: Okay.

11 MR. WHITAKER: Is that all right?

12 MR. HERRERA: Yes. If you want to just --
13 okay. That's fine.

14:13:06

14 MR. WHITAKER: Okay. It was about the API
15 interfaces.

16 THE WITNESS: Correct.

17 MR. HERRERA: Okay.

18 MR. WHITAKER: So I'm not sure we need to do
19 question by question.

14:13:29

20 I think, Eric, if you don't mind, if you
21 could just sort of explain what you learned about the API
22 interface.

23 THE WITNESS: All right. So we had some
24 question about what the lookup criteria was, how the

14:13:48

25 matching criteria was, and what was required. So for the

1 single customer or the list, it responds -- the lookup
2 criteria is the same. If it has a customer number ID, if
3 that's in there, it will look up on that. So if that is
4 provided, it will go and it will find that customer number
14:14:09 5 regardless of what else is provided. It will find that
6 customer and return that match.
7 If a customer number is not provided, then it
8 will be -- it will go to the driver's license number and
9 to -- see if it can find a match on the driver's license
14:14:25 10 number. If it cannot, it will then kick out to last name
11 and date of birth.
12 And if not, then it will try last name and
13 first name. The code is not currently configured to use
14 the last four of SSN, so even while it's an -- it's an
14:14:51 15 allowed input, it's not looked up.
16 Everything is an exact match.
17 BY MR. HERRERA:
18 Q. Did Ms. Kinder refer to any documents when she was
19 providing you this information?
14:15:05 20 A. She actually had a conversation with one of the
21 developers to -- who explained.
22 Q. Who is the developer?
23 A. I'm not sure who she talked to.
24 Q. Is it an outside party or a developer who works
14:15:19 25 for ADOT?

1 A. It's a developer who works for ADOT but would be a
2 contractor.

3 Q. Has ADOT done -- this is in case you were able to
4 talk to Ms. Kinder about it.

14:15:38

5 With regard to the APIs that we were
6 discussing that the secretary of state has access to, has
7 ADOT done any analysis of -- with regard to how reliable
8 the match is when someone -- when a search is made?

9 A. How --

14:15:59

10 Q. How reliable a match is when you put in
11 information for people.

12 A. So there -- there -- it requires an exact match on
13 them -- on the -- on the lookup. So I'm not sure if that
14 answers the question or not.

14:16:17

15 Q. Does -- does ADOT do any analysis of the
16 reliability of the matches -- well, let me -- let me strike
17 that.

14:16:50

18 Has ADOT done -- with regards to the APIs,
19 has ADOT done any analysis of how accurate authorized
20 presence data are in the data that the APIs return?

21 A. So the API returns -- it returns whatever the
22 current recorded authorized presence is for that record.

23 Q. Okay.

14:17:08

24 A. There's actually a little bit more if you would
25 like me to continue.

1 Q. Oh, please, please.

2 A. The other -- another piece that we -- that we had
3 talked about was the difference between what got returned
4 on the -- on the single customer versus the multiple
14:17:21 5 customer. And to clarify, the API that returns a single
6 customer will only return one customer. So if you put in
7 data that would identify more than one customer, it will
8 tell you you've got too many results. And so it will only
9 return the value when you get down to one single
14:17:42 10 identifiable customer.

11 On the other hand, the -- the other one will
12 return multiple. So it will return everything that we can
13 find, but it is limited at 50. So if there are more than
14 50 records that would match, it will say, "You need to
14:17:55 15 provide more data to shrink the results," so that we're
16 only providing 50 of those.

17 There is also a question about voter
18 registration purpose and what that meant. To clarify that,
19 there are certain criteria that were established by the
14:18:17 20 secretary of state for us to return true versus false as to
21 whether this could be used for voter registration purposes.
22 So some flags that would be associated with that is are
23 they over 16? Do we have a valid county code? Is there a
24 residential address? Do we have authorized presence data
14:18:38 25 for them? So if something is there that would keep them

1 from being -- from this being able to be used for voter
2 registration purposes, that flag would return a false;
3 otherwise, it returns a true.

4 These -- I think you asked about these
14:18:58 5 validation result fields. That is for the program itself
6 to determine whether or not a valid request was made. So
7 it's a validation of the request being made.

8 And the match criteria is -- as I described,
9 there was a hierarchy to the matching, so the matching
14:19:26 10 criteria describes what was used to do the actual matching.
11 And it's a numerical value, and each one has its own --
12 each number tells you what kind of match was made.

13 Q. All right. What are the different kinds of
14 matches?

14:19:42 15 A. For example, was it done off the customer number
16 versus last name and date of birth versus DLN, those
17 combinations.

18 Q. Will the match criteria at all tell you if there
19 is more than one person returned?

14:20:02 20 A. So that would be in the -- in the results
21 themselves. For -- for the single customer, that would
22 return in the error message from it that there are too many
23 results. That's how you would tell. And then if it was --
24 on the other one -- on the multiple returns, they would --
14:20:25 25 actually, all the results would show up in the same JSON

1 file.

14:20:48 2 Q. When you -- when you are using the single-use
3 API -- or the single return API, does the API ask you --
4 or, rather, does the API tell you what additional criteria
5 would be needed for an exact match?

6 A. No. No. It just tells you that you -- that you
7 had too many pieces -- too many returns.

8 Q. Okay. And then for -- and why wouldn't the API
9 have something like that that tells you what to put in?

14:21:12 10 MR. WHITAKER: Objection; foundation.

11 THE WITNESS: So, I mean, there could be
12 multiple different things that would resolve that; right?
13 So if you -- for example, I mean, if you only put in a
14 first name, you're going to get, you know, millions of --
14:21:34 15 well, hundreds of thousands of errors. And there are
16 multiple things that would allow to you put in different
17 pieces. So -- and because the call identifies what the
18 potential inputs are, the user knows what they could put
19 in -- right? -- what could be there to be put in to reduce
14:21:57 20 it.

21 So it's never going back. Like, if you put
22 in a last name and date of birth and it might return 5 or 6
23 of those -- right? -- with somebody that has the same last
24 name, same date of birth. There might be multiple ways to
14:22:16 25 resolve that. So it's not like the program goes back out

14:22:33

1 and tries to figure out what are all the differences. It
2 just tells you try something -- add some data. What data
3 do you have? And that allows the operator on the other
4 side to be able to look at what data they actually have
5 that might be useful and try that.

6 BY MR. HERRERA:

14:22:53

7 Q. Is there any feature of the -- of the multiple
8 customer returned API, if you get a match -- if you get
9 more than 50 matches, does it tell you what -- which
10 criteria to add to try to get a better match?

11 A. No. It wouldn't know what to -- how to do that.
12 It wouldn't know how to do that.

14:23:27

13 Q. So is there any data available through the --
14 either of the APIs that allows the secretary of state or
15 county recorders to compare the date documentation of
16 authorized presence -- sorry.

14:24:09

17 Okay. So for -- for -- is there any data
18 available through the API that allows the secretary or
19 county recorder to compare the date of the documentation of
20 authorized presence aside from U.S. citizenship with the
21 date of the voter registration application?

14:24:39

22 A. Because we only collect documentation as part of a
23 credentialing event, that date of the issuance would be the
24 date that we collected the authorized presence
25 documentation.

1 Q. I see. So the -- you don't have a different date
2 for the collection of the authorized presence document --
3 that date is not different -- strike that.

4 The collection date of the authorized
14:24:56 5 presence document is not a different one than the
6 credential issuance date?

7 A. Correct.

8 Q. Okay. And there is no other data field in MVD's
9 data that would show collection of a document proving --
14:25:19 10 proving authorized presence?

11 A. It would show --

12 Q. The date of collection of the authorized presence
13 document.

14 A. There is likely metadata -- like whenever we do a
14:25:31 15 scan, there's metadata associated with the scan of when the
16 scan was created, but it's always created as part of that
17 credentialing piece, so we don't track it separately. So
18 there's no -- there's no data field for it of when this was
19 necessarily captured. It's -- it's the same as the -- as
14:25:52 20 the issuance.

21 Q. Okay. Are there instances where a person can be
22 reissued a credential without providing proof of authorized
23 presence?

24 A. Are you speaking like of a duplicate credential or
14:26:43 25 a replacement credential?

1 Q. Yes. Well, replacement or perhaps a photo change.

2 A. For a REAL ID-compliant card, it requires -- it
3 requires someone to reverify their information every time.

4 For a non-REAL ID-compliant card, it does not. So you can
14:27:13 5 do this if you're -- if it's not a REAL ID-compliant, we

6 don't require you to every time come in and re-prove if
7 it's still within the time period. So you could issue a
8 replacement license or something along those lines.

9 Q. So if you lose your REAL ID after having presented
14:27:29 10 your authorized presence document for the original REAL ID
11 or the one you lost, then to get a replacement REAL ID, you
12 have to show your authorized presence document again?

13 A. Correct.

14 Q. For a non-REAL ID, if you're replacing a lost
14:27:46 15 credential that is a non-REAL ID, then you don't have to
16 show the authorized presence document again?

17 A. If it's not expired, correct.

18 Q. If the authorized presence is not expired?

19 A. Correct.

14:27:59 20 Q. Now, I know that you can update your photograph on
21 your Arizona credential; is that right?

22 A. Yes.

23 Q. Okay. When you update your photograph, assuming
24 you're not doing a renewal of your credential, do you have
14:28:21 25 to show your -- prove your authorized presence again?

14:28:45

1 A. When you -- when you're doing a photo, it's
2 typically done as part of something else; Right? So I --
3 and anytime you come into the office to request a new
4 credential, whether it's a duplicate or anything like that,
5 that's like when we would ask for a photo to be redone
6 because you're there and it will keep your photo fresh.

14:29:09

7 So REAL ID requires, whenever we issue a new
8 credential, that we check -- we check the -- the authorized
9 presence documentation, if it's still good or not. So in
10 all of those cases, yes, we'd have to check the
11 documentation. But if it's not REAL ID-compliant, then we
12 wouldn't check the documentation.

14:29:35

13 Q. In terms of the loss of a -- or, rather, when
14 someone wants to change the address -- change their address
15 and have that reflected on a credential, does that person
16 have to show their authorized -- prove their authorized
17 presence again with a new document or with a document?

14:29:58

18 A. I believe the answer is the same on all these
19 questions. The REAL ID requires, every time we issue a new
20 one, to re-prove it, and non-REAL ID-compliant does not.

14:31:24

21 Q. One second. Sorry.
22 I'm going to show you what we looked at
23 earlier, which is Exhibit I from a previous -- I'm sorry --
24 Exhibit 19 from a previous deposition. And it is -- I'm
25 going to go to the top. It's House Bill 2492. So it's

1 showing -- showing up on the screen there.

2 So as you can see, that's Exhibit 19 on the

3 first page. I'm going to go down to one of the sections

4 here. And on page 4 -- so this is a subsection to

14:31:51 5 amended -- or how the bill amends A.R.S. 16-121.01,

6 "Requirements for proper registration; violation;

7 classification." If we go down to Subsection D, there is a

8 paragraph here that says: "WITHIN TEN DAYS AFTER RECEIVING

9 AN APPLICATION FOR REGISTRATION ON A FORM PRODUCED BY THE

14:32:20 10 UNITED STATES ELECTION ASSISTANCE COMMISSION THAT IS NOT

11 ACCOMPANIED BY SATISFACTORY EVIDENCE OF CITIZENSHIP, THE

12 COUNTY RECORDER OR OTHER OFFICER IN CHARGE OF ELECTIONS

13 SHALL USE ALL AVAILABLE" -- "AVAILABLE RESOURCES TO VERIFY

14 THE CITIZENSHIP STATUS OF THE APPLICANT AND AT A MINIMUM

14:32:42 15 SHALL COMPARE THE INFORMATION AVAILABLE ON THE APPLICATION

16 FOR REGISTRATION WITH THE FOLLOWING, PROVIDED THE COUNTY

17 HAS ACCESS." And there's a colon there.

18 And then if we go on to the next page, one of

19 these numbers -- well, the first one is "THE DEPARTMENT OF

14:33:00 20 TRANSPORTATION DATABASES OF ARIZONA DRIVER LICENSES OR

21 NONOPERATING IDENTIFICATION LICENSES."

22 Do the APIs that are available -- do county

23 recorders use the APIs that are available to the secretary

24 of state in order to comply with the section that I just

14:33:25 25 read?

1 MR. WHITAKER: Foundation.

2 THE WITNESS: I don't know how county

3 recorders use that. My understanding is that it's the

4 secretary of state that we actually connect to. The county

14:33:36 5 recorders would connect through the secretary of state to

6 use any of those resources.

7 BY MR. HERRERA:

8 Q. Do you know if the county recorder -- in that

9 case, do you know if the county recorder could do what this

14:33:47 10 part of the law says by using those APIs available to the

11 secretary of state?

12 MR. WHITAKER: Calls for a legal conclusion.

13 THE WITNESS: The return from that does

14 include authorized presence, the authorized presence

14:34:07 15 number. So if that -- if the county recorder felt that

16 that was sufficient to do what they needed to, then I

17 suppose that they could.

18 BY MR. HERRERA:

19 Q. This paragraph here says -- okay.

14:34:22 20 So would something -- would the authorized

21 presence value in a driver license customer's record

22 establish under this statute -- or this part of the

23 statute, or -- or would it verify the citizenship status of

24 the applicant?

14:34:46 25 MR. WHITAKER: Calls for a legal conclusion

1 and compound.

2 THE WITNESS: What it provides is what

3 document they used when they applied for services with us,

4 driver's license or ID. So it would tell them at that

14:34:59 5 point in time what document was used and the validity

6 period, potentially, because it can't extend beyond the

7 date of the license.

8 BY MR. HERRERA:

9 Q. So it would not verify the citizenship; it would

14:35:15 10 just -- the API would be able to confirm what data ADOT has

11 on authorized presence; right?

12 A. That would be correct.

13 Q. Now, I'm going to go down to also this

14 subsection -- of 16-121.01, Subsection E, which in the

14:35:42 15 middle of this paragraph here, I've kind of highlighted it.

16 There's Subsection E: "IF THE COUNTY

17 RECORDER OR OTHER OFFICER IN CHARGE OF ELECTIONS MATCHES

18 THE APPLICANT WITH INFORMATION THAT THE APPLICANT IS NOT A

19 UNITED STATES CITIZEN, THE COUNTY RECORDER OR OTHER OFFICER

14:35:58 20 IN CHARGE OF ELECTION SHALL REJECT THE APPLICATION, NOTIFY

21 THE APPLICANT THAT THE APPLICATION WAS REJECTED BECAUSE THE

22 APPLICANT IS NOT A UNITED STATES CITIZEN AND FORWARD THE

23 APPLICATION TO THE COUNTY ATTORNEY AND ATTORNEY GENERAL FOR

24 INVESTIGATION."

14:36:14 25 Do you know if the county recorders used the

1 APIs available to the secretary of state through -- from
2 ADOT to look up this kind of information mentioned here in
3 the part that I just read?

4 MR. MORGAN: Form.

14:36:40

5 THE WITNESS: We know that the county
6 recorders, through the secretary of state, use the
7 information accessed through the API. I -- I don't have
8 information as to what they do with that information.

9 BY MR. HERRERA:

14:37:04

10 Q. Okay. Now let's go back to the exhibit that had
11 the extracts, which are -- and the APIs, which is the
12 ADOT001400, Exhibit -- I forget the exhibit number. Oh,
13 111. Exhibit 111.

14 A. Okay.

14:37:32

15 Q. All right. And so on the first page there is
16 something that says a "Customer Extract." Do you see that?

17 A. Yes.

18 Q. Okay. So on page ADOT001400, under "File:
19 Customer Extract," what is this?

14:37:57

20 A. This is the file that we created to give to the
21 secretary of state on a monthly basis so that they could
22 implement the legislative changes.

23 Q. And by legislative changes that -- so that they
24 could implement them, is that in reference to the monthly
25 comparison of the voter registration database and Arizona

14:38:18

1 Department of Transportation driver license database?

2 A. Yes.

3 Q. And then underneath that, there is a different

4 "File: Credentials Canceled Out of State." What is that?

14:38:38

5 A. That is another file that was created at the same
6 time. It is a listing of every credential, driver license,
7 or ID that we canceled because we received notice from

8 another state that they issued something in another state.

9 Again, it was created for the purpose of implementing this

14:38:56

10 legislation.

11 Q. And when did ADOT begin sending those -- when did

12 ADOT create these two extracts?

13 A. It was in the fall of 2022.

14 Q. If you know, when did the secretary of state begin

14:39:18

15 to receive those two file extracts referenced on

16 ADOT001400?

17 A. We began placing --

18 MR. MORGAN: Form.

19 THE WITNESS: We began placing it on the FTP

14:39:35

20 site on -- in end of November, and I believe the first time
21 the secretary of state picked it up was in December.

22 BY MR. HERRERA:

23 Q. What is the FTP site?

24 A. It's a secure site that -- File Transfer Protocol

14:39:53

25 site to allow us to exchange very large files between us.

1 Q. And how long has the -- this FTP been set up
2 between ADOT and the secretary of state?

3 A. Several years.

4 Q. What was the purpose that this FTP site was
5 created?

14:40:19

6 A. To exchange large files. So prior to these large
7 files, we also have the nightly voter file and the ERIC
8 file. That's where those files are placed.

9 Q. Now, looking at -- let's focus on ADOT001400.

14:40:47

10 Under the "Customer Extract," the last field here says --
11 it's all one word: "NonCitizen." Do you see that?

12 A. Yes.

13 Q. In parenthesis it says: "(Will be marked 'Y' if
14 ADOT records indicate the person is a noncitizen; this will
15 otherwise be blank)"; right?

14:41:15

16 A. Correct.

17 Q. How is -- under this file extract on the
18 "NonCitizen" field, what will cause a -- what will cause
19 the value Y to be entered in that field?

14:41:38

20 A. If the authorized presence value is anything other
21 than 1 or 4, which would be naturalized or citizen, not
22 foreign.

23 Q. And are there other values for that field besides
24 "Y" for the "NonCitizen" field?

14:42:02

25 A. No.

1 Q. For someone who does have an authorized presence
2 value of 1 or 4, meaning that in ADOT's data they're shown
3 as a U.S. citizen, what is the value that will be put in
4 the "NonCitizen" field?

14:42:30

5 A. It will be empty.

6 Q. "Empty" as in nothing will be there?

7 A. Correct.

8 Q. Now, this customer extract that is -- that ADOT
9 created in the fall of 2022 to send to the Secretary of
10 State's Office, how many customers does that include?

14:42:53

11 A. It's about 7.3 million customers.

12 Q. And what are the parameters of who is included in
13 that customer extract?

14 A. It would be any customer with the driver's license
15 or identification card that we would have.

14:43:12

16 Q. So this customer extract that you send to the --
17 that ADOT sends to the Secretary of State's Office, it
18 includes persons who do not have a value entered under the
19 "NonCitizen" field?

14:43:40

20 A. Yes.

21 Q. Okay. Now, every month when ADOT sends this
22 customer extract to the Secretary of State's Office, is it
23 always the full set of customers with a credential in the
24 ADOT system?

14:44:10

25 A. Yes.

1 Q. Therefore, the secretary of state receives --
2 well, is there anything -- and you may have answered this
3 question just now, but is there anything that prevents ADOT
4 from sending some subset of customers that it has sent in a
14:44:32 5 previous month in the next month's extract -- customer
6 extract?

7 MR. WHITAKER: Ambiguous.

8 THE WITNESS: I'm not sure I understand.

9 BY MR. HERRERA:

14:44:43 10 Q. I guess I'm trying to figure out the timing here.
11 Do you -- you're always -- is -- is the
12 customer extract all of the active credential holders in
13 ADOT's system as of the date of the creation of the
14 extract?

14:45:03 15 A. So, yeah, it's always a full extract of our
16 customer database of those credential holders. So it's
17 going to pull all the credential holders at that given
18 time. It's always a full extract, not just an update.

19 Q. If someone has updated their authorized presence
14:45:25 20 from one of the foreign authorized presence values to
21 non-foreign, will that be reflected in a -- in the next
22 month's extract?

23 A. Yes.

24 Q. Is there any lag time that you know of in updating
14:45:44 25 the authorized presence field between extracts?

1 A. No. That's the real-time change to the file. As
2 soon as it's -- as soon as that credential is issued with
3 the new authorized presence, that's how it will be
4 reflected in the system.

14:46:03 5 Q. Does the customer extract include any expired --
6 customers with expired credentials?

7 A. Yes.

8 Q. Okay. Does the customer extract that the -- that
9 we're looking at here on ADOT001400 include -- and I'm
10 hoping this is the right word -- revoked credentials?

11 A. Yes.

12 Q. What is the -- in terms of the "NonCitizen" field
13 in the customer extract that we're looking at in
14 ADOT001400, what will the "NonCitizen" field be marked if
15 SAVE -- if a SAVE check being run by ADOT on a customer is
16 awaiting verification from SAVE?

17 A. It will depend on what the customer already had in
18 the database. So until there's an issuance, until we have
19 a SAVE return, we don't do a new issuance. So it won't
20 show any new data. It will show whatever was there prior
21 to us running the SAVE check.

22 Q. Okay. So if someone is -- if someone has applied
23 for a credential and they are -- and it's their original
24 credential, meaning they have not had a credential before,
25 and you are awaiting verification from SAVE, will that

1 person be reported in this customer extract --

2 A. No.

3 Q. -- at all?

4 A. They will not.

14:47:57 5 Q. So it does not -- the customer extract does not
6 include any -- anyone who is awaiting a decision -- well,
7 let me strike that.

8 Would it be fair to say that the customer
9 extract that ADOT sends to the secretary of state does not
14:48:18 10 include anyone who has not yet been issued an original
11 credential?

12 A. Yes. Correct.

13 Q. So if there's someone who is attempting -- a
14 customer who is attempting to renew a credential and they
14:48:36 15 are presenting an authorized presence document that is for
16 a foreign subtype and they're awaiting verification from
17 SAVE, what -- what will it show in the "NonCitizen" field?

18 A. On the renewal of credential, it will show the
19 existing credential as it exists.

14:49:08 20 Q. Now, if someone -- let's take another example
21 or -- well, if someone who is a -- who had a foreign
22 subtype authorized presence credential and is attempting to
23 get a new credential that would reflect that they have
24 naturalized as a U.S. citizen but there is a pending SAVE
14:49:44 25 verification being done by ADOT of that naturalization

1 proof, how would that person appear in the "NonCitizen"
2 field in the customer extract?

3 A. Because it would be pending, we wouldn't have
4 issued a new authorization type. So they would still
14:50:02 5 appear as one of the foreign subtypes.

6 Q. So if someone's credential has expired due to
7 their authorized -- their foreign authorized presence
8 document expiring itself but the customer has presented a
9 document that shows naturalized -- naturalization but you
14:51:29 10 are awaiting a SAVE verification there, how would that
11 person show up in the "NonCitizen" field of the customer
12 extract?

13 A. In the same way that -- since the SAVE hasn't
14 completed, we haven't issued a new license, so it will
14:51:45 15 still show as foreign.

16 Q. Okay. And so even though they're expired, they'll
17 still show up in the customer extract?

18 A. Yes.

19 Q. Was the -- now I can't remember if I asked this.
14:52:17 20 Was the "NonCitizen" field in the customer
21 extract on ADOT001400 created specifically for this
22 customer extract?

23 A. Yes.

24 Q. And so that would have been created in summer or
14:52:42 25 fall of 2022?

1 A. Because it's part of the -- the report itself, so
2 it's just a derived field from other sources, yes. So it
3 was created at the same time this report was created.

14:53:01 4 Q. Does the -- does ADOT query any outside sources of
5 information in order to answer the NonCitizen -- put a
6 value in the "NonCitizen" field in the customer extract
7 that we're talking about?

14:53:19 8 A. The only time we will query an outside source is
9 at the time of issuance, we'll query SAVE, as we've been
10 discussing. Outside of that, no.

11 Q. Therefore, ADOT does not search records of any
12 naturalization ceremonies, for example, before filling out
13 the "NonCitizen" value in the customer extract that we're
14 looking at?

14:53:41 15 A. We do not.

16 Q. Does the -- does ADOT send -- along with the
17 customer extract on ADOT001400, does ADOT send any
18 documents or data about the authorized presence documents
19 presented by the customer to the secretary of state?

14:54:47 20 A. No.

21 Q. Sorry about that. I'm trying to see what still
22 might or might not be necessary to ask you.

23 MR. WHITAKER: Do you want to go off the
24 record for a few minutes?

14:56:11 25 MR. HERRERA: Yeah. Let me -- can we go off

1 the record.

2 (A recess ensued.)

3 BY MR. HERRERA:

15:08:45 4 Q. Mr. Jorgensen, I'm going to show you another
5 document that I would like to mark as Exhibit 112.

6 (The document was marked as Exhibit 112
7 for identification.)

8 BY MR. HERRERA:

15:09:31 9 Q. Mr. Jorgensen, you've been handed what's been
10 marked as Exhibit 112. And the Bates stamp from the
11 production is ADOT001464. Do you recognize this document?

12 A. Yes.

13 Q. Okay. What is this document?

15:09:52 14 A. This is an email discussing the implementation of
15 the files that we've been discussing.

16 MR. WHITAKER: Noting for the record that it
17 is marked confidential.

18 MR. HERRERA: Noted.

19 BY MR. HERRERA:

15:10:04 20 Q. Who is Anthony Previte?

21 A. Anthony is one of our contractors that is a
22 developer on our team.

23 Q. And what is he a contractor for?

24 A. He does development in the MAX system.

15:10:20 25 Q. Who is Bronco Briggs?

1 A. He is another contractor that works on the MAX
2 system.

3 Q. What is the MAX Operations Support?

4 A. That is the team that does the daily operations
15:10:46 5 for the whole MAX system to make sure that everything is
6 running correctly. Also in charge of -- like when a new
7 job like these would begin to occur, it makes sure that it
8 happens properly.

9 Q. Now, this -- in this document, do you see that on
15:11:05 10 November 15, 2022, Mr. Previte says to Mr. Briggs and MAX
11 Operations Support that, quote: "This job is switched on
12 now along with the related batch job for sending monthly
13 driver license cancellations."

14 Do you see that?

15:11:21 15 A. Yes.

16 Q. What is the "this job" referring to?

17 A. That would be the file created to do the
18 comparisons. So the big customer extract file.

19 Q. Okay. If we could go to the last -- well, let's
15:11:37 20 go to the second page of this email thread. Do you see an
21 email that's kind of buried in there from Anthony Previte
22 on August 15th at 2:18 p.m.?

23 A. August 15?

24 Q. August 15, 2022, at 2:18 p.m. It's in the middle
15:12:05 25 of the page.

1 A. Okay. Yes.

2 Q. And this is on ADOT001465. And what is in that
3 email from Mr. Previte there?

15:12:25

4 A. This is -- this is the plans to implement the
5 customer extract file.

6 Q. And by "customer extract file," you're talking
7 about the one ADOT sends to the secretary of state monthly
8 with the "NonCitizen" fields?

9 A. Correct.

15:12:38

10 Q. Now, from August 15th, 2022, to today, has the
11 customer extract with the "NonCitizen" fields changed at
12 all?

13 A. I'm not sure. We could easily compare the -- the
14 file elements that were in this document with -- with
15 what's in there. But it looks at first blush to be the
16 same.

15:13:11

17 Q. Now, if the job was switched on on November 15th,
18 2022, when would the first customer extract have been sent
19 to the secretary of state?

15:13:28

20 A. It would have been at the beginning of December.

21 Q. And I think you might have said this earlier, but
22 how is the customer extract sent to the secretary of state?

23 A. It is placed on a secure FTP server, and the
24 secretary of state has access to it.

15:13:48

25 Q. Has -- has ADOT sent a customer -- the same

1 customer -- not the same -- well, strike that.

2 Has ADOT sent a customer extract with the

3 same specifications every month since December 2022?

4 A. Yes.

15:14:06 5 Q. Do you know what the MVM report database is?

6 A. MVM stands for Motor Vehicle Modernization. It's
7 our project that does all of the MAX implementation. And
8 the report database is a -- it's just a collection of
9 different reports that are produced and can be run on -- on
10 request.

15:14:47

11 Q. Do you know what a -- what an LECU designation is?

12 A. I do.

13 Q. What is that?

14 MR. WHITAKER: We're going to designate this
15 part of the deposition for counsel only. So I think it's
16 just counsel on the line.

15:15:11

17 MR. HERRERA: Well, our expert --

18 MR. MORGAN: Wait. Wait. Why are we
19 designating it for counsel only?

15:15:30

20 MR. WHITAKER: Well, I take it that the
21 answer may be highly confidential. I guess I defer to you.

22 MR. MORGAN: I say that because my client
23 representative may be on the line. I don't remember.

24 But -- so let's follow through.

15:15:46

25 MR. WHITAKER: Do you consider the answer to

1 his question highly confidential?

2 THE WITNESS: Yes.

3 MR. WHITAKER: Then I think we should
4 designate this particular part of the deposition for
15:15:55 5 counsel only. So is it possible for those who are not
6 counsel to hop off and hop back on? It's a short answer.

7 MR. HERRERA: Okay. Yeah, I think we can ask
8 our expert to get off.

9 Dr. McDonald, we can text you in a second.

15:16:20 10 MR. MORGAN: I'm going to reserve the right
11 to challenge that designation. I don't understand why
12 we're designating it that, but . . .

13 MR. HERRERA: We're reserving the right to
14 challenge it too.

15:16:28 15 MR. MORGAN: I hear you. I hear you. I --
16 I -- it's highly unusual in the middle of a deposition to
17 require a party to leave. But to the extent Ms. Connor is
18 on the line, I'm going to ask her to hang up and I'll let
19 her know when it's okay to hop back on. I don't know if
15:16:48 20 she's on the line or not.

21 MR. HERRERA: Our person is off.

22 BY MR. HERRERA:

23 [REDACTED]
24 [REDACTED]
15:17:03 25 [REDACTED]

1 MR. WHITAKER: That's it. We don't need to
2 designate the rest of it.

3 MR. HERRERA: I don't have any other
4 questions about that.

15:17:12 5 MR. WHITAKER: Okay. Yeah, people can come
6 back on. It's just that particular -- that particular
7 piece of information was highly confidential. People can
8 come back on.

9 MR. LANGHOFER: This is Kory for RNC. We'd
15:17:44 10 be fine with the redaction. I don't think it's relevant,
11 and if it reduces risk to anyone to a marginal degree --

12 MR. WHITAKER: That's a fair point. Sure.

13 MR. HERRERA: I think we can discuss after.
14 I don't know that we'd have a different answer. We'd have
15:17:56 15 to confer after, but yeah.

16 MR. MORGAN: Yeah, I'm okay with the
17 redaction too.

18 MR. WHITAKER: Should we -- should I -- I
19 don't want to use your guys' time while we're waiting for
15:18:30 20 your expert to come back on. Should we go off the record
21 for, like --

22 MR. HERRERA: I think we can just keep going.

23 MR. WHITAKER: Okay.

24 BY MR. HERRERA:

15:18:38 25 Q. So I did -- to jump back to a different subject

1 outside of the extract, earlier I may have asked you what
2 Help America Vote Act is; right?

3 A. Yes.

15:18:54 4 Q. Do you know what Help America Vote Verification
5 is?

6 A. That is the HAVV check, the H-A-V-V check, and
7 that's what we use the APIs for.

8 Q. And does -- so MVD -- Arizona MVD participates in
9 or uses HAVV?

15:19:15 10 A. Yeah. We are the conduit for it.

11 Q. What information does ADOT receive from HAVV?

12 A. I'm not sure because we simply pass it through to
13 the secretary of state.

14 Q. Do you know if there is any authorized presence or
15:19:31 15 citizenship data that comes from HAVV?

16 A. I do not. I couldn't say for sure.

17 Q. Do you know if any information about someone's
18 social security comes through HAVV?

19 A. It does.

15:19:46 20 Q. Okay. And do you know what information that is?

21 A. It's a verification of their Social Security
22 number.

23 Q. Okay. Did -- did ADOT conduct any testing of the
24 customer extract before beginning to send it to the
15:20:35 25 Secretary of State's Office?

1 A. Yes.

2 Q. And what was that -- what did that testing consist
3 of?

15:20:45

4 A. We would actually run test files. So we -- we'd
5 start in a limited environment, run small files, and then
6 build up to running full files in our preproduction
7 environment, which is basically a copy of our regular,
8 normal production environment.

9 Q. What was the purpose of that testing?

15:20:59

10 A. It was to make sure that all the records pulled
11 properly and formatted properly and then the file would
12 then be readable by the secretary of state.

13 Q. Were -- were there any changes made because of
14 testing to the customer extract?

15:21:20

15 A. I couldn't say for sure. There's often a change
16 that will occur to match the actual specification to make
17 sure that it comes out correct. We didn't change the -- I
18 would say we wouldn't -- we didn't change the format that
19 we were producing, but we may have changed something to
20 make sure that it worked and came out.

15:21:38

21 Q. Has ADOT discussed with the secretary of state any
22 safeguards to prevent any data mismatches in the customer
23 extract or the -- either of the customer extracts being
24 sent to the secretary of state?

15:22:05

25 A. Can you clarify "data mismatch"?

1 Q. Any mismatches regarding the identity of a person.

2 A. So our -- our discussions have been limited to
3 here is -- here's the information that you will need to do
4 a check, but we haven't discussed how they actually use it
15:22:28 5 on their side to do that or what -- what they would be
6 looking at to compare to make sure that they got the right
7 customer.

8 Q. So in those discussions, did the secretary of
9 state make certain requests for certain types of
15:22:43 10 information?

11 A. Yes.

12 Q. And what were those requests?

13 MR. MORGAN: Form.

14 THE WITNESS: So the -- the entire outline of
15:22:52 15 the file would be what was necessary to make the change --
16 or to make the matches in our -- in our discussions between
17 us and the secretary of state. And whether -- you know, I
18 can't tell you that one came up from us versus them. We've
19 done matching for a very long time, so we know what to
15:23:11 20 start with from a basis. But all of it was -- was subject
21 to the discussion of what would be needed to do some sort
22 of match.

23 BY MR. HERRERA:

24 Q. You said that matching has been done for some
15:23:25 25 amount of time by ADOT. What kind of matching are you

1 talking about?

2 A. So when I refer to that is like -- like the
3 existing APIs, like the files that we already send over to
4 them for ERIC, for example, all of those were created in
15:23:41 5 concert to make sure that they could match to our system.

6 Q. What, if anything, does ADOT have to do with the
7 comparison that the secretary of state is supposed to
8 conduct under HB 2243 between the voter registration
9 database and the MVD's data for noncitizen identification
15:24:04 10 purposes other than sending the data extracts?

11 A. Nothing.

12 Q. Does ADOT participate at all in helping the
13 secretary of state conduct database comparisons for
14 purposes of HB 2243 compliance other than sending the data
15:24:21 15 extracts?

16 A. Only to the extent that if they had a question and
17 needed us to answer something, then we could answer
18 questions. We'd always be available to do that.

19 Q. And has the secretary of state had any questions
15:24:34 20 about the customer extract?

21 A. Not to my knowledge, but I wouldn't know all of
22 the questions.

23 Q. Is there someone who is in contact with the
24 secretary of state who might have received such questions?

15:24:47 25 A. It could come in through a variety of places. I

1 assume that our technical teams would probably talk to each
2 other.

3 Q. And who are the -- who is the technical team at
4 MVD who talks to the secretary of state?

15:25:00

5 A. Could be a variety of people depending on what the
6 issue was.

7 Q. But you are not aware of any questions the
8 secretary of state has had for ADOT about the customer
9 extracts?

15:25:15

10 A. I am not. We do meet regularly with the secretary
11 of state. Nothing has come up in that regard.

12 Q. Has ADOT offered any technical assistance to the
13 secretary of state for conducting database comparisons for
14 purposes of HB 2243 compliance other than sending the data
15 extracts?

15:25:31

16 A. Again, other than answering an -- if this was a
17 specific question, we always have that as an open offer,
18 but we did not -- we're not helping to design any of the
19 match, no.

15:25:45

20 Q. Well, this may be related to your answer, but has
21 ADOT given any matching criteria to the secretary of state
22 for conducting database comparisons for purposes of HB 2243
23 compliance other than sending the data extracts?

24 A. No.

15:26:00

25 Q. Has ADOT given any algorithms to the secretary of

1 state for conducting database comparisons for purposes of
2 HB 2243 compliance other than sending the data extracts?

3 A. Not to my knowledge.

4 Q. Who is Russ Smith?

15:26:37 5 A. He is an employee of secretary of state -- or at
6 least was.

7 Q. So I'm going to show you another document. I
8 don't think I have the paper version, but I'll put it in
9 the chat here.

15:27:03 10 (The document was marked as Exhibit 113
11 for identification.)

12 BY MR. HERRERA:

13 Q. And we're going to open up this file here.

14 Do you recognize -- sorry.

15:27:57 15 Now I'm sharing my screen to show you
16 Exhibit 113, which are -- which is -- begins with
17 AZSOS-267124 and then it goes through all the way to
18 AZSOS-267128. Do you see that?

19 A. Yes.

15:28:29 20 Q. Okay. So I'm going to go to the top here.

21 And I will say for the record I think this
22 does mention LECU, so I don't know if we want to --

23 MR. WHITAKER: Let's just not say what that
24 means.

15:28:45 25 MR. HERRERA: Right. Okay.

1 BY MR. HERRERA:

2 Q. And I'm not asking about it. It's just that I
3 think it's in here.

4 And so have you ever seen this email before?

15:28:59 5 A. I am not familiar with this specific email.

6 Q. And this is an email from Russ Smith to various
7 ADOT people on December 19, 2022; right?

8 A. Correct.

9 Q. And the email says: "Hi Bronco. Thank you for
15:29:26 10 the clarification. I know that we would be looking at
11 running close to 50,000 checks once a month."

12 Do you know what Mr. Smith is referring to in
13 this email?

14 A. I do not.

15:29:41 15 Q. If we go down to the email below that from Bronco
16 Briggs to Russ Smith and others, it says: "Good Afternoon
17 Russ, I have assigned the research to a developer for this
18 Sprint to review the end point and determine the effort to
19 return additional status values. I should have a response
15:30:06 20 ready for you at the beginning of the New Year. Question
21 for you - what do you anticipate the number of 'peak'
22 validations to be performed per day/hour/minute?"

23 Do you know what Mr. Briggs is referring to
24 there?

15:30:22 25 A. I -- I do not. Looks like an API call, though, of

1 some sort.

2 Q. An API what?

3 A. It appears to be an API call, but I don't know
4 what call it is. But when he says "end point," that's
15:30:32 5 usually what we mean.

6 Q. It's API call -- what --

7 A. Yeah, an API. So like we've talked about the
8 different APIs before. End point is the location --
9 that's -- that's the terminology for the location that we
15:30:45 10 would use to connect. But I'm not sure what API we would
11 be talking about here.

12 Q. Do you know if ADOT has talked to the Secretary of
13 State's Office about setting -- setting up any new APIs
14 besides the two APIs that we were discussing earlier?

15:31:01 15 A. Yes.

16 Q. Okay. And what are those new APIs that are being
17 discussed with the Secretary of State's Office?

18 A. Currently? We are talking --

19 MR. WHITAKER: That's -- that's, I think,
15:31:12 20 outside the scope of the 30(b)(6) topics. I'm not going to
21 instruct him not to answer.

22 You can answer in your personal capacity.

23 MR. HERRERA: Okay. I can -- maybe this will
24 help.

15:31:20 25 BY MR. HERRERA:

1 Q. Are any of the new APIs being discussed with the
2 Secretary of State's Office part of complying with either
3 HB 2492 or 2243?

4 A. No.

15:31:31

5 Q. Okay. Obviously subject to the objection, what
6 are the purposes of the new APIs being discussed?

7 A. To give voters more information about the current
8 registration status when they go in to do an update of
9 their information.

15:32:18

10 Q. Actually, I'm going to pull it up again, that
11 document we were just looking at, Exhibit 113. I want to
12 go down to an email further down. It's on the second page
13 of this document. So on the second page. And it's an
14 email from Russ Smith, also on December 19, 2022, to
15 Christy Hood at ADOT and Kevin Kumpf, and then other people
16 are copied there.

15:32:43

17 And do you see that it says in the middle
18 sentence: "I know Bronco was going to check with his team
19 on what it would be" -- "what it would look to increase the
20 bandwidth to the amount of Authorized Presence validations
21 that can be run through our End-Point at the same time. He
22 was also going to verify what DL/ID Statuses other than
23 Active we can request visibility to through our End-Point."

15:33:01

24 And why -- why is authorized presence being
25 discussed here?

15:33:23

1 MR. WHITAKER: Foundation.

2 THE WITNESS: So that looks like a discussion
3 about the APIs that we discussed earlier because that's the
4 ones that would have that information. But I don't have
15:33:41 5 any context for that discussion, the date being after the
6 time that we put in the file. So I don't -- I don't know
7 what the impetus of that discussion was.

8 MR. WHITAKER: Ernest, I printed -- this was
9 among the exhibits you had put in the Dropbox late last
15:34:09 10 night.

11 MR. HERRERA: Yeah.

12 MR. WHITAKER: I printed a copy. Would it
13 help if I just gave this to the witness so he can read --

14 MR. HERRERA: Oh, yeah. I'm sorry. I
15:34:16 15 thought he had a copy. That's my fault.

16 MR. WHITAKER: Oh, do you already have one?
17 I think you mentioned this was one you were
18 just going to share.

19 Why don't you read that from the beginning
15:34:26 20 and then you can get some context.

21 If that's all right with you.

22 MR. MORGAN: While -- you know what? Can
23 someone tell me, while he's doing that, where we are in the
24 email, what page?

15:34:36 25 MR. HERRERA: We were looking at page 2,

1 which is AZSOS-267125.

2 MR. MORGAN: Thanks.

3 BY MR. HERRERA:

4 Q. Let's scroll down further. Do you see on -- I'm

15:35:17 5 going to go down to AZSOS-267127, so the last -- or the

6 second to last page of this exhibit. And it says on

7 "Tuesday, December 6, 2022, at 12:17 p.m., Bronco Briggs

8 wrote: Two new batch jobs were developed by the" capital D

9 "Driver's team in early fall for the new legislation. The

15:35:48 10 two requested files are available now for SOS to download

11 from the DMZ SFTP server. We will review the API endpoint

12 for the third request. Please advise if there are any

13 questions. The jobs are currently scheduled to run on the

14 first Monday of each month. The data here is from

15:36:05 15 November."

16 Is there any new API, having seen this, that

17 ADOT is developing for the secretary of state in relation

18 to HB 2492 or 2243?

19 A. No.

15:36:33 20 Q. Then do you know why there would be a question

21 about bandwidth to address the amount of authorized

22 presence validations that can be run through SOS's end

23 point?

24 A. So this looks like it's discussing the existing

15:36:49 25 end point that we have, the one that we have -- that we

1 talked about earlier.

2 Q. So the -- perhaps the -- well, so you're talking
3 about it might have to do with one of the two existing
4 APIs?

15:36:59 5 A. Correct.

6 Q. Do you know what Swagger is?

7 A. I don't.

8 Q. Okay. That's not something that ADOT has? Or is
9 it?

15:37:11 10 A. No. Not to my knowledge. I won't make a joke.

11 I will -- Swagger is a -- it's an IT program,
12 but I don't think it's an ADOT IT program.

13 MR. HERRERA: Okay. Maybe we could get some
14 clarification or confirmation of that after of it -- if
15:37:49 15 Swagger is an ADOT program or software?

16 MR. WHITAKER: I'll take that back. I don't
17 know enough about it to know whether it is fairly within
18 the 30(b)(6) topics, but, you know, we're trying to --

19 MR. HERRERA: Okay. I don't either.

15:38:17 20 BY MR. HERRERA:

21 Q. I'm going to hand you what -- you're being handed
22 what has been marked as Exhibit 114.

23 (The document was marked as Exhibit 114
24 for identification.)

15:39:08 25 MR. HERRERA: And for the record, Exhibit 114

1 are ADOT001493 through 1494.

2 MR. WHITAKER: Also noting on the record it's
3 marked confidential.

4 BY MR. HERRERA:

15:39:36 5 Q. Do you know -- have you seen this document before?

6 A. I'm not sure. I don't remember seeing this
7 before.

8 Q. And who is Chelsie Padilla?

9 A. Chelsie works for the -- she's a contractor, works
15:40:13 10 on the MAX development team. She's an administrative
11 project manager-type person.

12 Q. I'm going to mark another exhibit, but I'm pretty
13 sure I don't have a paper copy of this one, unless Josh
14 does, for to you look at. But this is -- we're going to
15:41:07 15 mark as Exhibit 115 AZSOS-255142.

16 (The document was marked as Exhibit 115
17 for identification.)

18 MR. HERRERA: And I'm going to show it on the
19 screen here.

15:41:35 20 MR. WHITAKER: Was that one that was in the
21 Dropbox?

22 MR. HERRERA: It was, but it might have been
23 a bit late for you to print it.

24 MR. WHITAKER: Okay. I'm not seeing it among
15:41:44 25 the stuff I printed.

1 MR. HERRERA: You might have -- it might have
2 been too late.

3 BY MR. HERRERA:

4 Q. Okay. So this is a document. It's about three
15:41:57 5 pages. And it appears to be a printout from Microsoft
6 Viva, which I'm not -- I don't know how to use. I don't
7 know what that is. But it appears to be from Microsoft
8 Viva to Russ Smith.

9 Do you see that?

15:42:13 10 A. Yes.

11 Q. And do you see underneath it says: "Subject:
12 Your daily briefing"?

13 A. Yes. I can't quite see it. Yes.

14 Q. And do you see underneath: "Prepare for today's
15:42:32 15 meeting, 3:00 to 4:00 PM MVD/SOS 2243 Meeting"?

16 And then it says "Organizer" and then "2
17 emails may be related."

18 And under that is an email ostensibly from
19 you, Eric Jorgensen. And then it has an out-of-office
15:42:54 20 reply.

21 Did you attend a meeting on December 5th,
22 2022, with the Secretary of State's Office? On
23 December 5th, 2022?

24 A. I would have to check my calendar. I don't -- I
15:43:12 25 don't remember. It's possible. We meet regularly. I'm

1 not sure.

2 Q. Okay.

3 MR. WHITAKER: Oh, I do have a hard copy of
4 this.

15:43:22

5 MR. HERRERA: Oh, okay.

6 MR. WHITAKER: It's 255142?

7 MR. HERRERA: Yes.

8 BY MR. HERRERA:

15:43:37

9 Q. If you go to the second page of this exhibit,
10 Mr. Jorgensen, there is another note here. And of course I
11 can't speak to the layouts here or the -- who's saying
12 what. But it says: "Yesterday, 'Hi Bronco and Madelene, A
13 few months ago we had a meeting where we started to discuss
14 the proposed upcoming changes in 2243 that the courts are
15 working on. I wanted to set up a time on Monday (possibly
16 3:00pm) to continue our conversation on the . . ." And
17 then it cuts off.

15:43:58

18 Do you recall what you might have discussed
19 in December of 2022 with Russ Smith about HB 2243?

15:44:16

20 A. No.

21 Q. Who is Mali Manjarrez-Bautista?

22 A. I do not know.

23 Q. Do you know who Alex Trinh is?

15:44:41

24 A. Yes. Alex Trinh works for us. He's on the MAX
25 operations team.

1 Q. All right. What was -- what was the policy of
2 ADOT toward HB 2492 during the legislative session in 2022
3 during which the bill was being considered?

4 MR. WHITAKER: Objection. Broad.
5 You can answer.

6 THE WITNESS: Of which bill?

7 BY MR. HERRERA:

8 Q. HB 2492, the earlier of the two bills.

9 A. That's the one that requires us to do the
10 out-of-state credential list.

11 Q. That would be the later bill, yeah.

12 A. Okay. The one that does the comparison. The
13 department --

14 Q. Well, 2243 has both the database comparisons and
15 the out-of-state, so . . .

16 A. Okay. The department was neutral -- took a
17 neutral position on both those bills.

18 Q. Okay. And did ADOT give any input to the
19 legislature on HB 2243?

20 A. I know that we gave input on some of the bills
21 about it not -- yes, we did on some of them.

22 Q. Okay. And do you know what the input was to the
23 legislature?

24 A. We had some concerns about how we could actually
25 implement it and what information was actually available

1 and what -- you know, what practically we could provide.

2 And so we made those concerns clear.

3 Q. And what were -- what were those concerns about
4 what you could provide?

15:46:27

5 A. Some of it was limitations in what we actually
6 record when a credential is canceled out of state. There
7 was some -- there was -- I believe early on there was a
8 requirement about we needed to provide the new address that
9 the person -- out of state, which we don't have information
10 on that. So it was that type of -- of feedback of if we
11 don't have that information or, you know, it's -- it's
12 limited in its availability.

15:46:48

13 Q. Did you give any input to the legislature during
14 the consideration of either of these bills about ADOT's
15 limitations in terms of data related to authorized presence
16 or citizenship?

15:47:10

17 A. Meaning the validity of -- of that or --

18 Q. Anything about citizenship or authorized presence.

19 A. I don't remember us giving any -- any feedback on
20 that specifically.

15:47:39

21 MR. HERRERA: I'm going to mark another
22 exhibit, this one as Exhibit 116. I don't have a printout,
23 but it is ADOT001594.

24 (The document was marked as Exhibit 116
25 for identification.)

15:48:02

1 BY MR. HERRERA:

2 Q. So can you see that this is a three-page document?
3 I'm going to scroll through it really quickly. It's
4 consecutively marked ADOT 1594 to 1596. Do you see that?

15:48:39

5 A. Yes.

6 Q. I'm going to go back to the top.

7 And at the top is an email from Jessica Byrd
8 to Madelene Carbajal on July 7, 2022, and the subject is
9 "Re" -- regarding -- "HB2243." Do you see that?

15:48:56

10 A. Yes.

11 Q. Okay. Who is Jessica Byrd?

12 A. She is a business analyst with MVD.

13 Q. I'm going to go down here in the emails. And
14 there is an email on July 7, 2022, at 8:13 a.m. from

15:49:24

15 Madelene Carbajal. And she wrote: "Just a heads up that
16 this was just signed. Page 5. Ugh."

17 Do you know why that would have been the
18 reaction of Ms. Carbajal to this bill passing, 2243?

19 A. I don't.

15:49:54

20 Q. Did you ever have discussions during the
21 legislative session with Ms. Carbajal about 2243?

22 A. Yes.

23 Q. And what were -- what did you discuss with her?

24 A. It would have been how we would do the

15:50:10

25 implementation were it to -- were it to come to pass. If

1 there was any concerns, she would have been one of the
2 people that would help us identify if there were things
3 that we couldn't do that were required in the bill.

4 Q. I think we can take -- well, one more -- several
15:50:29 5 more questions.

6 What is ADOT's position today on continued
7 compliance with HB 2492 and 2243?

8 MR. WHITAKER: Objection. Overbroad,
9 ambiguous.

10 THE WITNESS: Currently it's the law as
11 written --

12 MR. MORGAN: Form.

13 THE WITNESS: -- and that's -- and that's
14 what we're implementing.

15:50:54 15 BY MR. HERRERA:

16 Q. Are there any new -- is there any new access that
17 ADOT is going to give or has given to the Attorney
18 General's Office to ADOT's data in order to comply with HB
19 2492 and 2243?

15:51:20 20 A. We would -- we will give access to the Attorney
21 General's Office if they decide that they need something
22 different than what they might be able to get today.

23 Q. And what is it that the attorney general has
24 access to today from ADOT's data for purposes of voter
15:51:39 25 registration?

1 A. Many government agencies can request MVRs, motor
2 vehicle records, things of that nature through a portal
3 process. And I don't know if that's sufficient for what
4 they would need or not. And, of course, they always have
15:51:58 5 the ability to call directly to us and ask for specifics
6 about a specific customer if they needed to.

7 Q. Is there anything -- we discussed earlier the HAVA
8 checks; right?

9 A. Uh-huh.

15:52:31 10 Q. Okay. Is there anything -- is there such a thing
11 as a soft match in a HAVA check?

12 A. I've heard that term used before, but I'm not sure
13 exactly what it refers to.

14 Q. Okay.

15:52:56 15 MR. HERRERA: I think -- could we take a
16 break and confer with the plaintiffs and see what other
17 questions we might have?

18 MR. WHITAKER: Yeah.

19 (A recess ensued.)

16:09:19 20 BY MR. HERRERA:

21 Q. Mr. Jorgensen, I'd like to go back to an exhibit
22 we looked at earlier, Exhibit 112, which is ADOT001464.
23 And if you could please turn to the third page of that
24 document, and it says ADOT001466.

16:09:49 25 And do you see in the middle paragraph with

1 the text -- but after Number 1, it says: "To comply with
2 Subsection F, a new report titled 'SOS Customer Extract':
3 a monthly extract of all customers with an active DL or ID
4 that contains Address Last-Change dates and
16:10:11 5 Non-Citizen-Status information"?

6 Earlier you testified that the extract being
7 sent to the Secretary of State's Office every month with
8 the noncitizenship data contains expired and revoked
9 licenses. Why does it say "active DL or ID" here?

16:10:50 10 A. I'm not sure. That may be a change. This was
11 from August to the point that we actually implemented it.
12 So we may have gone on to implement not just active, and it
13 also might be what we consider active, meaning --

14 Q. I see. So active -- is it possible that active
16:11:14 15 includes expired and revoked?

16 A. It could be active record with it. I would have
17 to go back and check on that.

18 Q. So you would have to check that?

19 A. Yeah.

16:11:23 20 Q. Okay. But you're not sure right now?

21 A. Yeah, I'm not -- I'm not -- the thing that makes
22 me think about it is it has 7.3 million records in it,
23 which is more than the active number of driver's licenses
24 that we have. So driver's licenses and IDs. So, I mean,
16:11:41 25 that's almost our entire population.

1 Q. Right. So that's what makes you think that the
2 extract includes revoked and expired licenses and the IDs?

3 A. So a revoked license or a suspended license,
4 something that has some sort of -- of prohibition on it
16:12:01 5 would still be an active license. Even an expired could
6 potentially be an active license, whereas like a canceled
7 out of jurisdiction would be an inactivated record. So I'd
8 have to clarify exactly what they meant by "active" on
9 that.

16:12:18 10 Q. Okay. But to confirm, the current extract that
11 ADOT sends to the Secretary of State's Office does contain
12 IDs and driver's licenses records that have expired,
13 revoked, and suspended licenses?

14 A. That is my understanding and I can confirm that.

16:12:43 15 MR. HERRERA: Well, we'd like a confirmation
16 for -- I'll just put that on the record.

17 Okay. Those are all of my questions for you
18 today. However, I think one of the other plaintiffs -- a
19 couple of the other plaintiffs might have questions for you
16:12:58 20 now via Zoom.

21

22

EXAMINATION

23 BY MS. COHEN:

24 Q. Hi, Mr. Jorgensen. This is Michelle Kanter Cohen.
16:13:12 25 I am with Fair Elections Center, and I represent the Poder

1 Latinx plaintiffs in this matter.

2 Can you hear me okay?

3 A. Yes.

4 Q. Great.

16:13:22

5 MS. COHEN: I want to -- Darrell, if you
6 could pull up the document that is Bates-labeled Pima
7 County 0032. I'd like to mark this -- I think we're at
8 Exhibit 117; is that right?

9 THE COURT REPORTER: Yes,

16:13:50

10 (The document was marked as Exhibit 117
11 for identification.)

12 BY MS. COHEN:

13 Q. I'm not sure if your counsel has a paper copy of
14 this one for you or not, so . . .

16:13:52

15 MR. HERRERA: Michelle, Niyati is pulling up
16 the -- the file. There you go.

17 MS. COHEN: Okay.

18 BY MS. COHEN:

16:14:17

19 Q. So, Mr. Jorgensen, are you able to see this on the
20 screen?

21 A. Yes.

22 Q. Okay. Do you recognize this document?

23 A. That is a -- one of our standard government data
24 access agreements.

16:14:33

25 Q. And this is an access agreement with the Pima

1 County Recorder's Office VR; correct?

2 A. That's what it is showing, yes.

3 Q. Okay. And "VR" is voter registration; is that
4 right?

16:14:48

5 A. I mean, that's a good assumption. I don't -- I
6 don't have any way of confirming that, but that's what it
7 looks like.

16:15:37

8 Q. Okay. If we could scroll down to Bates
9 Number 0045, please. Okay. Go down to the signature on
10 this document.

11 Okay. So you see the signature of the Pima
12 County Recorder --

13 A. Yes.

16:15:52

14 Q. -- Gabriella Cazares-Kelly? And Robert Smith,
15 administrator for the Motor Vehicle Division?

16 A. Correct.

17 Q. Okay. And if we scroll down to the director's
18 authorization, is that -- is that your signature down at
19 the bottom --

16:16:04

20 A. Yes.

21 Q. -- there on -- was it June 25 -- sorry -- 2022?

22 A. Yes, it is.

23 Q. Okay. And so why did ADOT establish this
24 agreement with the Pima County Recorder's Office?

16:16:21

25 A. Would it be okay if we scrolled up to the top of

1 that?

2 Q. Sure. Take your time. Yeah.

3 A. Top of the previous page. Right there. Down just
4 a little bit. Okay. This is an agreement to allow access
5 to a government agency, in this case the Pima County
6 Recorder's Office, to request through the MVRRS

16:16:45

7 application, which is a -- it is a portal hosted by the
8 Department of Administration that is used for records
9 requests. And they actually pull the records from us at
10 ADOT. And this was to allow them the ability to get a
11 39-month driving -- driver record and a 5-year certified
12 driver record. So they can request those and have those.

16:17:10

13 Q. Do you know why they requested access to those?

14 A. I'm not aware of what their -- their use of that
15 is or how they're using it.

16:17:39

16 Q. When they are being authorized to access the ADOT
17 data through MVRRS, is that also using an API?

18 A. So that's actually going directly to a portal that
19 is used by -- or -- or maintained by the Department of
20 Administration. And it produces, actually, a PDF of a
21 driver -- of an official driver record.

16:18:10

22 Q. So this would allow them to access records one at
23 a time; is that right?

24 A. Correct. An interactive version like that would
25 be one record at a time.

16:18:30

1 Q. How would Pima County search for a particular
2 record in this portal?

3 A. They would need some information around a driver
4 license number, date of birth, just a couple different
16:18:53 5 record pieces that they can use to try to find something
6 around the driver record.

7 Q. Do you know what else other than driver's license
8 and date of birth they could use?

9 A. Not offhand. I don't remember what DOA's search
16:19:11 10 criteria are for that.

11 Q. Would anyone else at ADOT know?

12 A. I mean, we could go back and find the answer.

13 MR. WHITAKER: I would note for the record
14 that -- my objection that this appears to be outside the
16:19:28 15 scope of the 30(b)(6) topics, or at least I don't see how
16 it falls within the 30(b)(6) topics.

17 MS. COHEN: Well, let's take a look at the Bates
18 page labeled 0056. It's in the same document. I'm sorry.
19 The Pima County 0056. Sorry about that.

16:20:01 20 BY MS. COHEN:

21 Q. Okay. And let's scroll up so we can see the
22 heading on that page.

23 And this is headed -- this is all part of the
24 same document that's -- was produced as the ADOT Government
16:20:28 25 Agency Electronic Data Access Agreement. Is this -- this

1 is labeled "SAVE Quick Start Guide for New Super Users."

2 Did I read that right?

3 A. That's what I see the title as.

4 Q. Do you recall whether this is an attachment to the
16:20:46 5 agreement that starts on 0032 we were just discussing?

6 A. I do not believe so. I don't recognize this as
7 being something that we provided.

8 Q. Okay.

9 MR. WHITAKER: Can I just quickly ask was
16:21:06 10 this in the Dropbox last night?

11 MS. COHEN: Yes. There was an initial error
12 in terms of the way I saved the document. I did make a
13 mistake with it, so the Bates number was there and then I
14 had to swap out the correct PDF. So it's possible that --
16:21:24 15 I'm not sure when you -- when you looked at it. It's
16 possible that the incorrect PDF was up there.

17 MR. WHITAKER: Okay. I was going to say I
18 recall a Pima County document that looked identical to the
19 secretary of state document. So that may have been when I
16:21:39 20 looked at it.

21 MS. COHEN: Okay. Yeah. That was the --
22 that was the PDF in error.

23 MR. WHITAKER: Okay.

24 MS. COHEN: Okay. Let's -- let's go ahead
16:21:53 25 and take down this exhibit. I'll move on. Darrell, if you

1 could pull up AZSOS-102956, please. It's also in the
2 Dropbox.

3 MR. WHITAKER: Okay. This one I do have a
4 copy of.

16:22:17 5 MS. COHEN: Great.

6 (The document was marked as Exhibit 118
7 for identification.)

8 BY MS. COHEN:

9 Q. So this is an email from Christy Hood at ADOT to
10 Yolanda Morales at SOS, to other folks, and copied to
11 Madelene Carbajal and Lisa Moore at ADOT as well; correct?

12 A. Correct.

13 Q. And looking at the email, Christy says: "Happy
14 Monday! I was able to confirm that the Secretary of State
15 has an existing AZ MVD Now account and MVRRS account. AZ
16 MVD Now user access is managed by the Secretary of State
17 account administrator."

18 Did I read at that right?

19 A. Yes.

16:23:19 20 Q. What is "AZ MVD Now"?

21 A. That is our customer portal. So it is a website
22 that -- in this case, it would be what the secretary of
23 state could access as a customer of MVD, and it would give
24 them services specific to them as a user.

16:23:43 25 Q. And what would the secretary of state be able to

1 access through AZ MVD Now?

2 A. It looks like in this they're specifically looking
3 at what we call the "Application Viewer," which is a
4 special service we provide to the secretary of state that
5 allows them to look up what the actual scanned paper
6 application of an applicant for a credential looks like so
7 they could see what exactly was marked on the application
8 of "Do you wish to register to vote or update your address
9 or update your information with the secretary of state?"

10 So they can actually read that by using this site.

11 Q. And the MVRRS account referenced in the same
12 sentence is the system we were just speaking about with the
13 previous document; correct?

14 A. That's correct.

15 Q. What other counties that you know of have access
16 to -- other than Pima, to the MVRRS directly?

17 MR. WHITAKER: I'll just quickly interject.
18 I think this is also outside the scope of the 30(b)(6)
19 topics, but the witness is free to answer.

20 THE WITNESS: I believe most counties have
21 access to it, but I would have to check to make sure.

22 BY MS. COHEN:

23 Q. Is that a tool that counties use or can use to
24 access citizenship information or authorized presence
25 information?

1 A. The -- I don't believe that the driver license
2 record has anything about citizenship information on it.
3 It would have things like address or current license
4 status, the license number, things more broadly about it --
16:25:49 5 I believe verification of age and residential address and
6 location.

7 Q. Thank you.

8 MS. COHEN: We can take this one down.

9 Darrell, could you pull up AZSOS-017979. We're going to
16:26:21 10 mark this as Exhibit 119, please.

11 This was in the Dropbox, so hopefully you
12 have a paper copy.

13 (The document was marked as Exhibit 119
14 for identification.)

15 BY MS. COHEN:

16 Q. And this is a 2022 -- sorry -- March 30th, 2022,
17 email from Yolanda Morales at the Secretary of State's
18 Office to Russ Smith and some other folks at the Secretary
19 of State's Office; correct?

16:27:03 20 A. Yes. That's what it appears to be.

21 Q. Okay. And what I want to do is -- if we can go to
22 the second -- I'm sorry -- the first paragraph, the third
23 sentence starting "The reason why." I'm not going to
24 mention the person's name, but "The reason why" this person
16:27:24 25 voter "is not able to use ServiceArizona is because his

1 'Authorized Presence Value' with MVD is Resident/Permanent
2 Alien, 'Green Card' holder. He should be advised to make
3 an appointment with MVD to update his citizenship status.
4 He is currently registered with Maricopa and provided DPOC
16:27:55 5 in 2018. Until MVD has proof of citizenship on file he
6 will not be able to use SAZ."

7 Just to clarify, "DPOC," to your
8 understanding, would be documentary proof of citizenship;
9 correct?

16:28:10 10 A. Yes.

11 Q. And "SAZ" is ServiceArizona?

12 A. Correct.

13 Q. So this is an example of a citizen whose
14 information in MVD is still resident/permanent alien;
16:28:27 15 correct?

16 A. It would appear so, yes.

17 MR. WHITAKER: Again I'll interject. I think
18 this is beyond the scope of the 30(b)(6) topics, but I'm
19 not instructing the witness not to answer.

16:28:36 20 BY MS. COHEN:

21 Q. How frequently do you think this situation of a
22 citizen whose information is out of date as to their status
23 in MVD occurs?

24 MR. MORGAN: Form.

16:28:55 25 MR. WHITAKER: Foundation also.

1 THE WITNESS: We really would have no way of
2 knowing that.

3 BY MS. COHEN:

16:29:08

4 Q. I want to take you to the next paragraph, last
5 sentence. This says: "As we get closer to the Primary and
6 General election this type of situation will be a daily
7 occurrence requiring the use of Swagger and MVD tools to
8 figure out the situation."

9 Do you see where it says that?

16:29:26

10 A. Yes.

11 Q. Is it your understanding that the Secretary of
12 State's Office personnel here, Ms. Morales, was indicating
13 that this type of out-of-date information would be a daily
14 occurrence?

16:29:45

15 MR. WHITAKER: Same objection about --

16 MR. MORGAN: Object to form, foundation.

17 MR. WHITAKER: Same objection to the 30(b)(6)
18 scope and foundation.

19 BY MS. COHEN:

16:29:58

20 Q. You can answer.

21 A. To be honest, I'm not sure what exactly she's
22 referring to because she also refers to a link being out of
23 date. And so I'm not -- I'm not sure which -- which
24 concern she has. So I don't know.

16:30:18

25 Q. Okay. But just to clarify, this is a person who

1 provided documentary proof of citizenship in 2018, and this
2 email is dated 2022; correct?

3 MR. MORGAN: Asked and answered.

4 THE WITNESS: That's what I'm reading.

16:30:38

5 BY MS. COHEN:

6 Q. I'm sorry, I didn't hear the response.

7 A. That's what I'm reading here as well.

8 Q. And it says there: "He should be advised to make
9 an appointment with MVD to update his citizenship status."

16:30:50

10 Would you agree with that advice?

11 MR. MORGAN: Object to form.

12 MR. WHITAKER: Outside the scope.

13 THE WITNESS: So the -- the only way you can
14 use ServiceArizona to do that, to register online, is to

16:31:04

15 have the correct authorized presence status, either a 1 or
16 a 4 with us. So if he wants to register using

17 ServiceArizona, he would have to get a new license that now
18 uses the new citizenship status and he'd have to prove

19 that. That's the only way he'll be able to use that. That
20 is a correct interpretation of why it was not working.

16:31:27

21 BY MS. COHEN:

22 Q. And that's an in-person appointment; correct?

23 A. Yes. That would need to be to be done in person,
24 meaning providing --

16:31:43

25 Q. He would have to bring -- I'm sorry.

1 A. Sorry. Meaning providing the documentation and
2 getting a new license, that is an in-person, yes.

3 Q. And he would have to bring his documentary proof
4 of citizenship to that appointment; right?

16:31:56 5 A. Correct. Correct.

6 MS. COHEN: I'm just going to take a minute
7 to check my notes. Let's take five minutes. Go off the
8 record, please.

9 (A recess ensued.)

16:38:38 10 MR. WHITAKER: Michelle, Eric -- the witness
11 got an answer from a question that he couldn't answer in
12 Ernest's questioning. If you don't have more questions, I
13 was thinking of returning to that to try to supplement the
14 record, but I leave that to your judgment.

16:39:04 15 MS. COHEN: That's fine. I don't have more
16 questions, so we can return to that.

17 MR. WHITAKER: Okay. I believe the --

18 MR. LANGHOFER: Before we --

19 MR. WHITAKER: Sorry. Kory?

16:39:15 20 MR. LANGHOFER: This is Kory for the RNC. I
21 want to -- I think this has been the third break we've
22 taken in the last hour. I think this has been the third
23 break we've taken in the last hour, and we're rounding
24 third on eight hours of, you know, clock time. That's not
16:39:38 25 all questioning time. And I appreciate people need time to

1 questioning figure out their questions and such, but I
2 don't think by taking serial breaks it's okay to sort of
3 extend almost indefinitely the seven-hour clock here. So
4 we're not going to make a motion right now, but it's been
16:39:53 5 kind of a running issue at these depositions. I want to mention
6 it so we're aware of it going forward.

7 MS. COHEN: I think it is important for us to
8 be able to, you know, streamline here and actually in the
9 end conserve our witnesses' time and our co-counsel. So I
16:40:12 10 think we're endeavoring to coordinate and make sure that --
11 that we're doing that.

12 MR. LANGHOFER: Our position is that it's
13 certainly not conserving co-counsel's time; right? Like,
14 we're all sitting here waiting on these breaks; seems like
16:40:26 15 every ten minutes we take another break. And your position
16 is, of course, it doesn't come out of the witness's time,
17 but I don't think that by potentially shifting what should
18 have been depo prep time to break time in the middle of a
19 deposition that's an appropriate use of the seven-hour
16:40:41 20 allotment. So we don't need to draw swords about this.
21 I'm just -- I mentioned the issue, and I've sort of said my
22 piece. We'll see what happens in the future.

23 MR. MORGAN: Well -- this is Craig Morgan for
24 the secretary of state. I tend to appreciate -- I
16:40:53 25 appreciate Mr. Langhofer's point, and I do think it's

1 something that I'm going to ask everyone to think about and
2 address before my client's representative is deposed
3 because I am not okay with the way time has been running
4 today.

16:41:13 5 MR. WHITAKER: Thank you both.

6 So I believe Ernest's question was about a --
7 was it Exhibit 112, ADOT001464, about what "active" meant;
8 is that right?

9 THE WITNESS: Correct.

16:41:34 10 MR. WHITAKER: So go ahead, Eric, with what
11 you've learned since.

12 THE WITNESS: So it is just confirming what I
13 said before. When it says "active," it doesn't necessarily
14 mean it means an active record with us. So it can be an
16:41:47 15 expired or canceled or revoked or suspended state. So
16 it's -- it's not necessarily that the credential itself has
17 to be totally pristine. It's just that -- that the record
18 is active with us.

19 MR. HERRERA: Understood. No follow-up
16:42:07 20 there.

21 MR. WHITAKER: Okay. Who's next for
22 questioning? Is there another plaintiffs' counsel?

23 MS. BRAILEY: Yes.

24 EXAMINATION

16:42:13 25 BY MS. BRAILEY:

1 Q. Hi, Mr. Jorgensen. I'm Emily Brailey. I
2 represent the United States here. I have only a few
3 follow-up questions for you.

16:42:28

4 If we could go back to Exhibit 111, which I
5 believe was ADOT 1400. And if you could go to 1406, which
6 is the page that has the "API" and ends in "returns a list
7 of customers." Are you with me?

8 A. Yes.

16:42:54

9 Q. Great. So you mentioned that it is possible under
10 one circumstance for a customer to have two customer IDs.
11 And I'm wondering what does that look like if you look that
12 customer up in -- using this API, would you have a result
13 of both customer IDs or what would that look like?

16:43:18

14 A. So it would depend on how you look the customer
15 up. If you go by customer number, then yes, it would
16 return -- it would be -- you would be able to see both IDs.
17 If you look it up by the ID number, then you'd only see the
18 ID that was -- that you had queried on.

19 Q. Got it.

16:43:37

20 And so you mentioned there's a circumstance
21 where one customer could have multiple IDs. Is there --
22 has there ever been a situation where -- where two
23 customers can have the same ID or multiple customers can
24 have the same ID?

16:43:55

25 A. There should never be a scenario where multiple

1 customers have the same ID.

2 Q. And to the extent you know the answer to this, if
3 we're talking about driver license numbers and not customer
4 IDs -- I'm wondering about the scenarios with driver
16:44:13 5 license numbers. Has there ever been a situation where
6 multiple customers could be given the same driver license
7 number?

8 A. The system is set up to prevent that. So there
9 should not be a case where multiple customers have the same
16:44:29 10 DL or ID number generally.

11 Q. I see. Okay. So back to the scenario when we're
12 looking people up using the API. And if there are multiple
13 records that are produced as a result of the query, how
14 would -- I guess, does ADOT have a procedure in place
16:44:52 15 that -- to determine whether these are the same individuals
16 or different individuals if the information you put into
17 the query comes back with multiple hits?

18 A. So if they have different customer ID number -- or
19 customer number IDs, then the system considers them to be a
16:45:13 20 different individual. So that's -- that's how we identify
21 what we believe to be a unique individual.

22 Q. So there would never be a situation where in the
23 hierarchy, for example, you don't have customer ID, you
24 don't have -- you know, you're going down the hierarchy and
16:45:35 25 you're down to maybe the name and birth date, or, you know,

1 one of the names and the birth date or something, in -- in
2 that situation when -- if you have a hit, is it possible
3 for those hits not to be associated with customer IDs?

16:45:57 4 A. So every record that we have will return a
5 customer ID. So each one, you'll be able to see it. That
6 will be able to tell you whether or not we believe that's a
7 separate individual or the same person.

8 Q. Okay. Got it.

16:46:15 9 And I noticed in the request there are six --
10 six criteria that you can use to find a record. Do you
11 know why those were the six criteria chosen to be able to
12 identify records in MAX?

16:46:37 13 A. That would have been done in consultation with the
14 secretary of state to say what -- what would be a viable
15 search methodology.

16 MR. WHITAKER: And I will note that question,
17 I think, is outside the scope of the 30(b)(6) topics, but
18 the witness can and has answered it.

19 BY MS. BRAILEY:

16:46:53 20 Q. Do you know when that consultation would have
21 happened?

22 A. So these -- these APIs, as they exist today, were
23 created in 2020. And I -- as I've said before, I don't
24 know what the prior ones looked like. And so I imagine
16:47:12 25 that they're built off of those prior ones. I can't tell

1 you exactly when that consultation would have occurred.

2 Q. Got it.

3 So just so that I'm clear, it would have been
4 some kind of communication with the secretary and the
16:47:24 5 secretary would have said something to the effect of these
6 are the types of criteria that would be the best to be able
7 to identify a record in the system. Is that my
8 understanding of how this would have happened?

9 A. Typically, we would work it by saying here's the
16:47:43 10 information that we have and here's the information that
11 you have and let's work together to see what would work for
12 a match.

13 Q. Got it.

14 And you told us multiple times that other
16:47:55 15 than the two files that are indicated -- excerpt files, I
16 guess, indicated in this exhibit, there are no other
17 programming changes as a result of HB 2492 or 2243. So
18 does that also mean that there are no programmatic updates
19 coming to the types of information that would be requested?
16:48:19 20 Like, you're not going to add, for example, place of birth
21 as a criteria?

22 A. Well, correct. We don't have any other
23 discussion. Place of birth isn't something that we store,
24 so we would never have that as a criteria.

16:48:34 25 Q. Got it. That's helpful.

1 Okay. So just a couple really, really small
2 questions. So MAX, if -- if my understanding is correct,
3 it's behind tons and tons of other portals. So is it -- so
4 it's also behind ServiceArizona?

16:48:54

5 A. Correct.

6 Q. Okay. So any information that's in ServiceArizona
7 would be -- strike that. I'm going to move on.

16:49:20

8 Okay. And you spoke a little bit about the
9 kind of information that the counties have access to with
10 MVRRS. Other than MVRRS and other than information that
11 comes in the purely PDF type of record, is there any other
12 data that counties have access to from ADOT?

13 MR. WHITAKER: Outside the scope. The
14 witness is free to answer if he has knowledge.

16:49:41

15 THE WITNESS: I'm not aware of anything else
16 that's a direct connect to us.

17 BY MS. BRAILEY:

18 Q. What information is shared between other states
19 and ADOT?

16:49:56

20 MR. WHITAKER: Same objection.

21 THE WITNESS: For -- can you clarify that?
22 I'm not sure what you mean by . . .

23 BY MS. BRAILEY:

24 Q. Yes.

16:50:07

25 So my understanding from what you said today

1 is there's an interaction between ADOT and other states
2 through maybe ERIC and -- is that correct?

3 A. That's correct. We do participate in the ERIC
4 program.

16:50:22

5 Q. Okay. And so if we go to -- I believe what has
6 been marked as Exhibit -- I believe this was 115. It's the
7 exhibit that begins with AZSOS-255142. And if you go to
8 the page that ends in AZSOS-255143.

9 Do you have that in front of you?

16:50:56

10 A. Yes.

11 Q. And so there's a message on here that says "3 days
12 ago they asked, 'Could you please provide me with the
13 contact information for the following states?'" And then
14 there are three state names. Do you see that --

16:51:11

15 A. Yes.

16 Q. -- on the page?

17 What is that in reference to?

18 MR. WHITAKER: Again, outside the scope.

19 He's free to answer if he has knowledge.

16:51:21

20 THE WITNESS: I don't know. That wasn't
21 between any of us.

22 BY MS. BRAILEY:

23 Q. Got it.

24 Do you have any idea, to the extent of your
16:51:30 25 experience and your knowledge, whether there would be, I

1 guess, any other information shared between states and ADOT
2 that is not related to ERIC?

3 MR. WHITAKER: Same objection.

4 THE WITNESS: Could you clarify what you mean
16:51:44 5 by -- states share a lot of information for all of the
6 driver license and vehicle services that we do. I'm not
7 sure what you're referring to.

8 BY MS. BRAILEY:

9 Q. I guess I'm just wondering if there's any kind of
16:52:01 10 system or portal or way that states are sending
11 identification information on individuals who, you know,
12 maybe they had an Arizona license and they canceled it in
13 that state or whatnot, if there's just an interchange of
14 information that's outside of ERIC between other states'
16:52:23 15 departments of transportation and ADOT.

16 A. Sure. Yes, there are -- there are a couple
17 systems that we use that help us know where a license is
18 and that can be used to electronically provide us with a,
19 you know, notification that -- that they have now
16:52:40 20 registered a license in another state. Not all states
21 participate in those systems, but there is some ability to
22 do that.

23 Q. And -- and so whatever information you would get
24 from those states, I guess, would that be part of MAX?

16:52:58 25 A. So if we get a record through, for example, the

1 State-to-State system to say, "Hey, I've now moved" --
2 that's the official name of the -- of that program is
3 State-to-State -- "I've now moved to New Mexico, and I've
4 gotten a New Mexico license," and they send us a
16:53:17 5 State-to-State message, yes, then we would cancel it in MAX
6 and that would become part of the record of MAX.

7 Q. That's helpful.

8 MS. BRAILEY: Okay. Those are the -- and
9 that is end of my questioning. Thank you so much,
16:53:39 10 Mr. Jorgensen.

11 And I will pass this along to anybody else,
12 if there is somebody else.

13 MR. WHITAKER: This is -- this is Josh. I
14 don't plan to ask any questions. So I guess I'll ask
16:53:53 15 whether -- I take it that no other plaintiff wants to ask
16 questions. Does anyone on the defense side want to ask
17 questions to ADOT's 30(b)(6) witness?

18 MR. WOODFIN: I have a few, if you don't
19 mind.

16:54:09 20 MR. WHITAKER: Well, my preferences aren't
21 what governs here. Go ahead.

22 MR. WOODFIN: Thank you.

23

24 EXAMINATION

16:54:11 25 BY MR. WOODFIN:

1 Q. Mr. Jorgensen, can you hear me okay?

2 A. Yes, I can.

3 Q. Okay. My name is Conor Woodfin. I represent the
4 Republican National Committee. And this should only take a
16:54:27 5 few minutes.

6 Let's start with the MAX system. Earlier
7 this morning, Mr. Herrera asked you whether you do any
8 audits of the MAX databases. And if you recall, you
9 mentioned you do weekly sampling. What do you check for
16:54:42 10 during that sampling process?

11 A. So that would be a review to make sure that we go
12 back through whatever was provided by the applicant and
13 make sure that all of that matches what was entered into
14 the system and that it was all done correctly and then the
16:55:02 15 product itself, whether driver's license or whatever, was
16 issued properly.

17 Q. Do you find errors when you do that process?

18 A. Yes, there are errors that we will find in that
19 process.

16:55:16 20 Q. Do you have any idea what the error rate is?

21 A. Right now, it runs -- we -- the error rate runs in
22 the high 80s -- well, the correct rate runs in the high
23 80s, so . . .

24 Q. Can you explain what that means?

16:55:33 25 A. 80 percent -- high 80 percent, so 85 to 89 percent

1 range is where we're typically at with the driver's license
2 error rate.

3 Q. Does -- does that mean that of the sample that you
4 pulled, 80 percent of those within the sample are errors?

16:55:52

5 A. Are error-free.

6 Q. Are error-free. Thank you.

7 And then I assume you correct the errors?

8 A. Correct.

16:56:03

9 Q. Would you characterize the databases in the MAX
10 system as accurate?

11 MR. WHITAKER: Objection. Overbroad.

12 THE WITNESS: When we -- when we look at the

13 MAX system itself and the errors, typically the types of
14 errors that we find is that something wasn't properly

16:56:20

15 scanned in or something along those lines. Typically, it's
16 not something that would be -- that -- that would
17 invalidate the data that is in the system. Largely, yes,
18 the system is accurate.

19 BY MR. WOODFIN:

16:56:35

20 Q. Is the MAX system more accurate than the legacy
21 system?

22 A. I would say that the MAX system has more checks
23 and balances into it, making it harder to do certain
24 errors. It's certainly -- certainly makes it harder to
16:56:58 25 enter. The old system was fairly free-form in the way that

1 you would enter it. So there was a lot more in the way of
2 typos and those kind of things that could occur in the old
3 system, which would lead the new system to be more accurate
4 from that respect.

16:57:17 5 Q. Is the customer extract data that you provide to
6 the secretary of state accurate?

7 A. It is an accurate reflection of what we have in
8 the system.

9 Q. Do you know of any practical steps you could take
16:57:31 10 to make that extract data more accurate?

11 A. No.

12 Q. No. So then are you confident that the data you
13 share with the secretary of state is as reasonably accurate
14 as possible?

16:57:46 15 A. It is --

16 MR. WHITAKER: I'm going to object.
17 Ambiguous. Go ahead.

18 THE WITNESS: It is -- again, like I said,
19 it's an accurate reflection of whatever is in the database.
16:57:56 20 Yes, I am very confident that it accurately reflects what
21 we have recorded.

22 BY MR. WOODFIN:

23 Q. Do you know when Arizona began requiring
24 documentary proof of citizenship to obtain a driver's
16:58:09 25 license?

1 MR. WHITAKER: Objection outside the scope,
2 and I think calls for a legal conclusion.

3 MR. HERRERA: Objection. Misstates the
4 testimony, I think, too.

16:58:17 5 BY MR. WOODFIN:

6 Q. I'll ask it this way: Do you know when ADOT began
7 requiring documentary proof of citizenship?

8 MR. WHITAKER: Same objection.

9 MR. HERRERA: Same objection. Misstates the
16:58:26 10 testimony.

11 THE WITNESS: I -- I do not offhand know when
12 that happened.

13 BY MR. WOODFIN:

14 Q. Does ADOT have access to any database that
16:58:38 15 contains a record of every United States citizen?

16 MR. MORGAN: Form.

17 MR. WHITAKER: And outside the scope.

18 THE WITNESS: I'm not aware of a database
19 that contains every United States citizen.

16:58:56 20 BY MR. WOODFIN:

21 Q. Not aware of any database?

22 A. No.

23 Q. If someone is unable to show authorized presence
24 documents, would you conclude that that person is not a
16:59:08 25 U.S. citizen?

1 MR. WHITAKER: Objection. Incomplete
2 hypothetical.

3 THE WITNESS: If a person doesn't show
4 authorized presence documentation, then we would not issue
16:59:22 5 a license for them. So we would -- based on the fact that
6 you have to provide documentation to get a license. I'm
7 not sure if that answers your question.

8 BY MR. WOODFIN:

9 Q. Maybe a different way of asking this is do you
16:59:37 10 have access to any other information that would
11 affirmatively prove that someone who is unable to provide
12 authorized presence documents is not a U.S. citizen?

13 MR. MORGAN: Form.

14 MR. WHITAKER: Join.

16:59:52 15 MR. MORGAN: And vague as to what "any other
16 information" means.

17 THE WITNESS: Yeah. I'm not sure I
18 understand the question.

19 BY MR. WOODFIN:

16:59:59 20 Q. All right. I'll try one more time, and then we
21 can move on.

22 Other than the absence of evidence that
23 someone is a U.S. citizen, what other information do you
24 have within the databases that would show that someone is
17:00:15 25 not a U.S. citizen?

1 MR. MORGAN: Form. Vague as to
2 "information."

3 THE WITNESS: So I'll put it this way: From
4 our perspective, what is important is that the customer
17:00:31 5 provide proof that they are. And outside of that, we --
6 there's nothing else that we do other than receive the
7 documentation from the customer and validate it. That's
8 the only thing that we do.

9 MR. WOODFIN: Okay. That's all I have.
17:00:45 10 Thank you.

11 MR. WHITAKER: Okay. I think that is
12 everyone, but I'll -- I'll give one last chance. It's
13 5:00 p.m. on a Friday. Anyone want to extend their Friday
14 longer?

17:00:58 15 MR. HERRERA: No questions from Promise
16 Arizona.

17 MR. MORGAN: Nothing from me other than
18 thanks a lot for being patient and considerate in all of
19 your time today. Really appreciate it.

17:01:18 20 MR. WHITAKER: Thank you very much.
21 We will read and sign.

22 MR. HERRERA: Before we close the record,
23 plaintiffs just wanted to -- I think we can go off the
24 record for this.

17:01:27 25 THE COURT REPORTER: Can I get any defense

1 orders, if you'd like a copy?

2 MR. WHITAKER: We would like a copy.

3 MR. WOODFIN: We would like a copy as well.

4 (The proceedings concluded at 5:01 p.m.)

5

6

ERIC RUSSELL JORGENSEN

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1 STATE OF ARIZONA)
2 COUNTY OF MARICOPA)

3 BE IT KNOWN that the foregoing deposition was taken
4 by me pursuant to stipulation of counsel; that I was then
5 and there a Certified Court Reporter in the State of
6 Arizona, and by virtue hereof authorized to administer an
7 oath; that the witness before testifying was duly sworn by
8 me to testify to the whole truth; pursuant to request,
9 notification was provided that the deposition is available
10 for review and signature; that the questions propounded by
11 counsel and the answers of the witness thereto were taken
12 down by me in shorthand and thereafter transcribed into
13 typewriting under my direction; that the foregoing pages
14 are a full, true and accurate transcript of all the
15 proceedings had upon the taking of deposition, all done to
16 the best of my skill and ability.

17 I FURTHER CERTIFY that I am in no way related
18 to nor employed by any parties hereto; nor am I in any
19 way interested in the outcome thereof.

20 Dated at Phoenix, Arizona, this 28th day of
21 August, 2023.

22 
23 _____
24 CINDY MAHONEY, RPR, RMR NO. 50680

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UNITED STATES DISTRICT COURT
DISTRICT OF ARIZONA

Mi Familia Vota, et al.,)	
)	Case No:
Plaintiffs,	)	2:22-cv-00509-SRB
	)	(Lead)
vs.)	
	)	CV-22-00519-PHX-SRB
Adrian Fontes, in his official	)	CV-22-01003-PHX-SRB
capacity as Arizona Secretary of	)	CV-22-01124-PHX-SRB
State, et al.,	)	CV-22-01369-PHX-SRB
	)	CV-22-01381-PHX-SRB
Defendants.	)	CV-22-01602-PHX-SRB
	)	CV-22-01901-PHX-SRB
_____)	
AND CONSOLIDATED CASES.)	
_____)	

DEPOSITION OF COCHISE COUNTY RECORDER
REPRESENTED BY DAVID W. STEVENS
VIDEOTAPED

Bisbee, Arizona
August 14, 2023

Reported by:
Jody L. Lenschow, RMR, CRR
Certified Court Reporter
Certification No. 50192



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1 VIDEOTAPED DEPOSITION OF COCHISE COUNTY RECORDER
 2 REPRESENTED BY DAVID W. STEVENS
 3 was taken on August 14, 2023, commencing at 9:35 a.m.,
 4 at the offices of the Cochise County Recorder,
 5 1416 Melody Lane, Bisbee, Arizona, before Jody L.
 6 Lenschow, RMR, CRR, Certified Reporter No. 50192 for the
 7 State of Arizona, reported via Zoom Videoconferencing.

8 * * *

9
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23 ALSO PRESENT VIA ZOOM:
24 Mr. Jimmie Sullivan, Videographer
25 Mr. Daxon Ernyei, RNC

09:32:11 1 THE VIDEOGRAPHER: Okay. We are on the
09:32:12 2 record. Time on the video monitor is 9:32. Here begins
09:32:21 3 Volume 1, Media No. 1 in the deposition of 30(b)(6)
09:32:28 4 Defendant Cochise County Recorder David W. Stevens in
09:32:34 5 the matter of Mi Familia Vota, et al. versus Adrian
09:32:40 6 Fontes in the United States District Court, District of
09:32:45 7 Arizona, Case No. 2:22-cv-00509-SRB. Today's date is
09:33:02 8 August 14th, 2023. Our court reporter is Jody Lenschow.
09:33:08 9 I am Jimmie Sullivan, a certified legal videographer.
09:33:13 10 We both represent Coash Reporting & Video. The
09:33:19 11 deposition is taking place at 1415 Melody Lane, Bisbee,
09:33:27 12 Arizona. And, Counsels, would you please identify
09:33:30 13 yourselves.

09:33:32 14 MR. SHERMAN: Jon Sherman at Fair
09:33:35 15 Elections Center. I'm representing the Poder Latinx
09:33:39 16 plaintiffs.

09:33:40 17 MR. CORREA: I am Paul Correa for the
09:33:42 18 Cochise County Attorney. I'm representing our County
09:33:45 19 Recorder, David Stevens.

09:33:51 20 THE VIDEOGRAPHER: Is that everyone?

09:33:52 21 MS. DIBRELL: This is Mollie DiBrell from
09:33:55 22 Elias Law Group on behalf of Plaintiffs Mi Familia Vota
09:33:58 23 and Voto Latino.

09:34:00 24 MS. BRAILEY: Emily Brailey on behalf of
09:34:01 25 the United States.

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MS. CERVANTEZ: Erika Cervantez
representing Promise Arizona Plaintiffs.
MS. RILEY-SWANBECK: Britany
Riley-Swanbeck from Wilmer Hale representing the
Democratic National Committee and the Arizona Democratic
Party.
MR. JOHNSON: Hayden Johnson for the LUCHA
plaintiffs.
MR. HORLEY: Tim Horley for the State of
Arizona and the Arizona Attorney General.
MR. LANGHOFER: Kory Langhofer for the
RNC.
MS. PORTER: Hannah Porter for Intervenor
Speaker Toma and President Petersen.
MS. STUART: Shayna Stuart for the Arizona
Secretary of State, Adrian Fontes.
THE VIDEOGRAPHER: Is that everyone?
All right. Would the court reporter
please swear in the witness.
DAVID W. STEVENS,
called as a witness herein, having been first duly sworn
by the Certified Court Reporter to speak the truth and
nothing but the truth, was examined and testified as
follows:

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UNITED STATES DISTRICT COURT
DISTRICT OF ARIZONA

Mi Familia Vota, et al.,)	
)	
Plaintiffs,)	Case No.
	)	2:22-cv-00509-PHX-SRB
v.	)	(Lead)
)	
Adrian Fontes, in his	)	No. CV-22-00519-PHX-SRB
official capacity as	)	No. CV-22-01003-PHX-SRB
Arizona Secretary of State,	)	No. CV-22-01124-PHX-SRB
et al.,	)	No. CV-22-01369-PHX-SRB
	)	No. CV-22-01381-PHX-SRB
Defendants.	)	No. CV-22-01602-PHX-SRB
	)	No. CV-22-01901-PHX-SRB

AND CONSOLIDATED CASES.

VIDEO-RECORDED VIDEOCONFERENCE 30(b)(6) DEPOSITION OF GILA
COUNTY RECORDER, REPRESENTED BY CHARLOTTE ASRARYNEZAMI

Globe, Arizona

August 16, 2023

Prepared by:
CINDY MAHONEY, RPR, RMR
Certified Court Reporter
Certificate No. 50680



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1 VIDEO-RECORDED VIDEOCONFERENCE 30(b)(6)
 2 DEPOSITION OF GILA COUNTY RECORDER, REPRESENTED BY
 3 CHARLOTTE ASRARYNEZAMI, commenced at 9:03 a.m. on
 4 August 16, 2023, at Globe, Arizona, before Cindy Mahoney,
 5 RPR, RMR (via videoconference), Arizona Certified Court
 6 Reporter No. 50680.

7 * * *

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34 ALSO PRESENT (all via videoconference):
35 Daxon Ernyei
36 Gareth Fowler
37 Daniel Rohan, Videographer

1 TRANSCRIPT OF PROCEEDINGS

2
09:03:57 3 THE VIDEOGRAPHER: We are on the record.

09:03:59 4 Time on the video monitor is 9:03 a.m. Here begins

09:04:05 5 Volume 1, Media Number 1, in the 30(b)(6) deposition of

09:04:11 6 Gila County Recorder, designed by Charlotte Asrarynezami,

09:04:15 7 in the United States District Court, District of Arizona,

09:04:19 8 Case Number 2:22-cv-00509-PHX.

09:04:27 9 Today's date is August 16th, 2023. Our court

09:04:31 10 reporter is Cindy Mahoney. I am Daniel Rohan, a certified

09:04:36 11 legal videographer. We both represent Coash Court

09:04:40 12 Reporting & Video.

09:04:40 13 This video deposition is taking place at 1400

09:04:43 14 East Ash Street, Globe, Arizona 85501.

09:04:49 15 Counsel, please identify yourselves and state

09:04:51 16 whom you represent.

09:04:54 17 MR. FERGUSON: I'm Brent Ferguson with the

09:04:57 18 Campaign Legal Center, representing the LUCHA plaintiffs.

09:04:57 19 MR. DALTON: Jeff Dalton representing the

09:05:09 20 Gila County Chief Deputy Recorder Charlotte Asrarynezami

09:05:14 21 MR. HIRSCHHEL: My name is Andrew Hirschel.

09:05:16 22 I'm from Arnold & Porter, representing Poder Latinx.

09:05:16 23 MS. LORENZO: My name is Daniela Lorenzo.

09:05:22 24 I'm from Elias Law Group, representing MFV plaintiffs.

09:05:29 25 MS. CERVANTES: My name is Erika Cervantes,

09:05:33 1 and I am representing Promise Arizona plaintiffs.

09:05:34 2 MR. MAKKER: Amit Makker from Latham &
09:05:34 3 Watkins, representing the Arizona Asian American Native
09:05:42 4 Hawaiian and Pacific Islander for Equity Coalition
09:05:42 5 plaintiff.

09:05:43 6 MR. VOLCHOK: Daniel Volchok from Wilmer
09:05:47 7 Cutler Pickering Hale and Dorr for the Democratic National
09:05:48 8 Committee and the Arizona Democratic Party.

09:05:53 9 MS. BOUGHTON: Kathryn Boughton for the State
09:05:53 10 of Arizona and Arizona Attorney General Kris Mayes.

09:05:53 11 MR. LANGHOFER: Kory Langhofer --

09:06:03 12 MR. MORGAN: Craig Morgan. Sorry. Craig
09:06:05 13 Morgan. I represent the secretary of state.

09:06:07 14 MR. LANGHOFER: In case it wasn't clear, Kory
09:06:09 15 Langhofer for the RNC.

09:06:12 16 MS. PORTER: Hannah Porter from Gallagher &
09:06:13 17 Kennedy on behalf of intervenor defendants Speaker Toma and
09:06:17 18 President Petersen.

09:06:28 19 THE VIDEOGRAPHER: Okay. Will the court
09:06:29 20 reporter please swear in the witness.

21 ///

22 ///

23 ///

24 ///

25 ///

1 CHARLOTTE ASRARYNEZAMI,
2 the witness herein, being first duly sworn,
3 was examined and testified as follows:
4

09:06:47 5 MR. FERGUSON: Thank you.

09:06:47 6

09:06:48 7 EXAMINATION

09:06:48 8 BY MR. FERGUSON:

09:06:48 9 Q. Good morning, Ms. Asrarynezami. Please let me
09:06:52 10 know if I'm not getting your name right. Thanks so much
09:06:55 11 for being here today.

09:06:56 12 We're just going to start off by talking
09:06:59 13 about a few basics about you and the background of this
09:07:04 14 deposition.

09:07:05 15 So could you start by just stating your name
09:07:08 16 for the record and spelling it.

09:07:09 17 I know you did that before we were on the
09:07:12 18 record, but if you would just do it one more time, that
09:07:14 19 would be helpful.

09:07:15 20 A. Charlotte Asrarynezami, A-s-r-a-r-y-n-e-z-a-m-i.

09:07:23 21 Q. Thanks so much. So a little bit about how the
09:07:25 22 deposition will work, do you understand that you're
09:07:29 23 testifying under oath today?

09:07:31 24 A. Yes.

09:07:31 25 Q. Excellent.

09:07:33 1 And you understand that a court reporter is
09:07:35 2 transcribing the deposition?

09:07:37 3 A. Yes.

09:07:37 4 Q. Okay. Great.

09:07:40 5 So just to make it easier for the court
09:07:44 6 reporter, if every time you answer a question, if you could
09:07:47 7 answer it audibly rather than nodding or shaking your head
09:07:51 8 and say things like "yes" or "no" rather than saying
09:07:53 9 "uh-huh." Does that work?

09:07:54 10 A. Okay. Yes.

09:07:55 11 Q. Great.

09:07:56 12 And if you don't understand a question that I
09:07:58 13 ask, please let me know. And I can repeat it, or I can
09:08:02 14 rephrase it.

09:08:03 15 So if you do answer the question, I'll assume
09:08:06 16 you did understand it. Do you understand that?

09:08:08 17 A. Yes.

09:08:09 18 Q. Okay. Great.

09:08:11 19 So as I'm asking questions, you might hear
09:08:14 20 your attorney or other attorneys object to a question I
09:08:18 21 ask. So if that happens, then please let them finish the
09:08:21 22 objection. Then after they finish, you can still answer
09:08:25 23 the question.

09:08:26 24 You should still answer it unless they --
09:08:28 25 unless your attorney directs you not to answer it. Do you

09:08:32 1 understand that?

09:08:32 2 A. Yes.

09:08:33 3 Q. Okay. Great.

09:08:34 4 Is there any reason that you can't give full,
09:08:39 5 complete, and truthful testimony today?

09:08:41 6 A. No.

09:08:44 7 Q. Great.

09:08:45 8 Have you taken any medications in the last
09:08:47 9 24 hours that would affect your ability to testify today?

09:08:50 10 A. No.

09:08:52 11 Q. Great. So I'll probably take a couple breaks
09:08:56 12 throughout this deposition. If you would like to take a
09:08:58 13 break, just let me know.

09:08:59 14 The only thing I would ask is that if I've
09:09:02 15 already asked a question and you want to take a break,
09:09:05 16 please answer that question first before we take the break.

09:09:11 17 Do you understand that?

09:09:11 18 A. Yes.

09:09:12 19 Q. Great.

09:09:16 20 Have you ever been deposed before?

09:09:17 21 A. No.

09:09:17 22 Q. Okay. And once again for the record -- I know you
09:09:21 23 mentioned this -- could you tell us where you're physically
09:09:25 24 located today?

09:09:26 25 A. I'm at 1400 East Ash Street in Globe, Arizona

09:09:29 1 85501.

09:09:32 2 Q. Excellent.

09:09:33 3 Did you bring any materials with you to the

09:09:36 4 deposition?

09:09:37 5 A. No. I have -- I have the deposition folder

09:09:46 6 Dropbox.

09:09:47 7 Q. Excellent. Yeah. The one that I sent?

09:09:50 8 A. Yes.

09:09:50 9 Q. Okay. Great.

09:09:52 10 Do you have any -- so all those documents

09:09:56 11 we'll look at later. Do you have any other documents in

09:09:58 12 front of you right now?

09:10:00 13 A. No.

09:10:00 14 Q. Okay. Great.

09:10:03 15 So now we'll just talk briefly some about

09:10:06 16 your background. And we can start with your educational

09:10:10 17 background.

09:10:11 18 Can you tell me about any school or degrees

09:10:14 19 you've completed after high school?

09:10:17 20 A. I have an AA in general science.

09:10:20 21 Q. Okay. And where is that from?

09:10:22 22 A. The Gila Pueblo Community College.

09:10:26 23 Q. Excellent.

09:10:28 24 And a little bit about your professional

09:10:31 25 background. Can you tell me your current title at the

09:10:36 1 County Recorder's Office?

09:10:37 2 A. I'm a chief deputy recorder.

09:10:39 3 Q. And how long have you been in that position?

09:10:42 4 A. Since 2016.

09:10:43 5 Q. Okay. And did you have any other job within the

09:10:49 6 County Recorder's Office before you were chief deputy?

09:10:52 7 A. Yes.

09:10:52 8 Q. Okay. What position was that?

09:10:55 9 A. As -- I've been a clerk, a recorder clerk senior,

09:10:59 10 the office supervisor, and a voter registration

09:11:02 11 coordinator.

09:11:02 12 Q. Okay. A lot of positions.

09:11:05 13 So when did you join the County Recorder's

09:11:08 14 Office?

09:11:08 15 A. In 2010.

09:11:11 16 Q. Okay. So you've been working there about

09:11:14 17 13 years?

09:11:15 18 A. Yes.

09:11:15 19 Q. Okay. Excellent.

09:11:18 20 And so before 2010, can you tell me what jobs

09:11:25 21 you held?

09:11:26 22 A. Oh, gosh, I had a job as a janitor for a really

09:11:33 23 long time. I've worked for the Globe justice court.

09:11:40 24 Q. Okay.

09:11:43 25 A. Yeah.

09:11:43 1 Q. And did you have any jobs before you were at the
09:11:50 2 County Recorder's Office that involved any kind of voter
09:11:53 3 registration or voting or anything similar to that?

09:11:56 4 A. No.

09:11:56 5 Q. Okay. And have you previously used any names
09:12:04 6 other than your current one?

09:12:06 7 A. My maiden name, which is Williams.

09:12:09 8 Q. Okay. And when did you change your name from
09:12:11 9 Williams?

09:12:12 10 A. 2018.

09:12:14 11 Q. Okay. So you were known as Charlotte Williams,
09:12:20 12 after you became chief -- chief deputy recorder, for a
09:12:23 13 couple years --

09:12:24 14 A. Yes.

09:12:25 15 Q. -- is that correct?

09:12:25 16 A. Yes.

09:12:28 17 Q. Okay. Excellent.

09:12:31 18 Now we're going to move on to just what
09:12:32 19 you've done to prepare for the deposition today. So I'm
09:12:35 20 going to pull up Document A in the Dropbox.

09:12:40 21 And what I'm going to try to do is share my
09:12:43 22 screen just to make sure we're all looking at the same
09:12:46 23 thing. So I'm going to -- I know you have it too. But I'm
09:12:55 24 going to do that and make sure.

09:12:56 25 Can you see that?

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09:13:40 25

A. Yes.

Q. Okay. Excellent. Let me pull it up right now.

Okay.

So do you recognize this document?

A. Yes.

Q. Okay. Can you tell me what it is?

A. The notice of -- the plaintiffs' notice of deposition.

THE COURT REPORTER: Do you want to mark this?

MR. FERGUSON: Yes, please. I think we're on 128; is that correct?

THE COURT REPORTER: 129.

MR. FERGUSON: 129. Okay. Can we please mark it as Exhibit 129.

(The document was marked as Exhibit 129 for identification.)

MR. FERGUSON: Thanks very much.

MR. MAKKER: Hey, Brent, just to jump in, I think -- don't we have, like, two going today? I don't know if --

MR. FERGUSON: We do.

MR. MAKKER: Okay. I don't know if you guys coordinated that, so just wanted to make sure.

MR. FERGUSON: Yeah, the other one going on

09:13:42 1 today is starting in a few hours. And we're --

09:13:47 2 MR. MAKKER: Okay. Got it.

09:13:47 3 MR. FERGUSON: -- making an effort --

09:13:47 4 MR. MAKKER: Got it. Yep.

09:13:50 5 MR. FERGUSON: Thanks for inquiring on that,

09:13:51 6 though. Appreciate it.

09:13:56 7 BY MR. FERGUSON:

09:13:57 8 Q. Let's go down -- I'm going to scroll down on this

09:14:05 9 to the top of page 5.

09:14:06 10 Do you see where it says "Topics" on the top

09:14:10 11 of page 5 of that document?

09:14:12 12 A. Yes.

09:14:12 13 Q. Great.

09:14:13 14 And have you reviewed the topics that are

09:14:17 15 listed here?

09:14:18 16 A. Yes.

09:14:19 17 Q. And are you prepared to discuss all the topics

09:14:26 18 listed here today?

09:14:27 19 A. Yes.

09:14:28 20 Q. Excellent. Okay. Thanks very much.

09:14:33 21 Are there any topics that you don't feel

09:14:36 22 prepared to address?

09:14:39 23 A. No.

09:14:40 24 Q. Okay. Excellent.

09:14:43 25 Do you understand that you have been

09:14:48 1 designated to be the deponent for -- on behalf of the Gila

09:14:55 2 County Recorder's Office today?

09:14:55 3 A. Yes.

09:14:56 4 Q. And so as part of that, I may sometimes use the

09:15:00 5 word "you" or "your." And unless I say otherwise, I'm

09:15:04 6 referring to the County Recorder's Office generally.

09:15:10 7 Do you understand that?

09:15:11 8 A. Yes.

09:15:12 9 Q. Okay. Excellent.

09:15:17 10 Okay. So let's talk a little bit more about
09:15:19 11 your preparation for the deposition.

09:15:23 12 First of all, if you discussed anything with
09:15:25 13 your attorney about this deposition, please don't tell me
09:15:27 14 the substance of what you discussed. But it's okay to say
09:15:31 15 that you did meet with your attorney.

09:15:35 16 So can you tell me if you met with anyone in
09:15:38 17 your office to prepare for the deposition?

09:15:42 18 A. Does that include my county attorney?

09:15:46 19 Q. Yes.

09:15:47 20 You can tell me just that you -- if you had a
09:15:49 21 meeting. But please don't tell me what you discussed.

09:15:52 22 A. Yes.

09:15:52 23 Q. Okay. Great.

09:15:54 24 And how many meetings did you have with the
09:15:56 25 county attorney?

09:15:57 1 A. We've had maybe two meetings and a couple phone
09:16:04 2 calls.

09:16:06 3 Q. Okay. Excellent.

09:16:09 4 And how long were those meetings?

09:16:11 5 A. Oh, gosh, I couldn't -- I couldn't say.

09:16:16 6 Q. Yeah, nothing exact. But if you give me, you
09:16:18 7 know, a rough idea --

09:16:19 8 A. Anywhere from 2 minutes to 40 minutes.

09:16:23 9 Q. Okay. That was two meetings, you said anywhere
09:16:28 10 between 2 and 40 minutes -- anywhere between 2 and 40
09:16:34 11 minutes?

09:16:34 12 A. Yes. Yes.

09:16:35 13 Q. Okay. And did you meet with anyone else other
09:16:40 14 than your attorney about the deposition?

09:16:42 15 A. I had met with the recorder.

09:16:44 16 Q. Okay. And was that just one meeting?

09:16:48 17 A. Two.

09:16:50 18 Q. Two meetings.

09:16:51 19 Can you tell me what you talked about with
09:16:55 20 the county recorder to prepare for the deposition in those
09:16:57 21 meetings?

09:16:58 22 A. We went over these topics.

09:17:02 23 Q. The topics listed on the document we're looking
09:17:04 24 at?

09:17:05 25 A. Yes.

09:17:06 1 Q. Okay. Excellent.

09:17:07 2 Is there any particular topic that you
09:17:14 3 recall, from those meetings, discussing?

09:17:20 4 A. Nothing in particular.

09:17:21 5 Q. Okay. And did you review any other documents in
09:17:30 6 preparation for the deposition?

09:17:32 7 A. I have reviewed the Election Procedures Manual and
09:17:38 8 the -- the Election Procedures Manual.

09:17:41 9 Q. Okay. And is that the 2019 version of the EPM --

09:17:45 10 A. Yes.

09:17:45 11 Q. -- that you're referring to?

09:17:47 12 A. Yes.

09:17:47 13 Q. Great.

09:17:49 14 And then do you have an idea of what this
09:17:53 15 lawsuit is about?

09:17:55 16 A. I have an idea, yes.

09:17:58 17 Q. Okay. Can -- of course, you don't need to know
09:18:02 18 exactly or talk about specific claims. But can you just
09:18:05 19 give me your general understanding of what it's about?

09:18:10 20 A. I believe it is about requiring people to put
09:18:20 21 their place of birth as a requirement for the voter
09:18:25 22 registration and kind of what -- that's one part of it --
09:18:28 23 and what that would look like for voter registration.

09:18:35 24 Q. Okay. Excellent. So I'm going to pull up a
09:18:39 25 different document now, if you'll bear with me one moment.

09:19:00 1 Can you see the document that's on the screen
09:19:01 2 now?
09:19:02 3 A. Yes.
09:19:02 4 Q. And do you recognize this document?
09:19:06 5 A. Yes.
09:19:06 6 Q. Okay. Can you tell me what it is?
09:19:10 7 A. It's the interrogatories.
09:19:14 8 Q. Okay. And those are -- and you've seen this
09:19:18 9 document before --
09:19:18 10 A. Yes.
09:19:21 11 Q. -- and read those interrogatories; is that
09:19:22 12 correct?
09:19:22 13 A. Yes.
09:19:22 14 Q. Okay. Excellent.
09:19:23 15 Now I'll just quickly go to one more just to
09:19:29 16 make sure you've seen that.
09:19:35 17 THE COURT REPORTER: Sorry. While you're
09:19:36 18 doing that, do you want to mark that?
09:19:39 19 MR. FERGUSON: Yes. Thank you for that. We
09:19:39 20 were on 129; is that correct? So this is Exhibit 130.
09:19:49 21 THE COURT REPORTER: Yes, this is 130.
09:19:49 22 (The document was marked as Exhibit 130
09:19:49 23 for identification.)
09:19:50 24 (An off-the-record discussion ensued.)
09:19:50 25 MR. FERGUSON: I'm going to pull up right now

09:19:58 1 Document C. So if we could mark that as 131, that would be
09:20:02 2 great.

09:20:05 3 (The document was marked as Exhibit 131
09:20:09 4 for identification.)

09:20:09 5 BY MR. FERGUSON:

09:20:10 6 Q. Can you see the document that I just pulled up
09:20:12 7 now?

09:20:13 8 A. Yes.

09:20:14 9 Q. Okay. And can you tell me what that document is?

09:20:16 10 A. Those are our responses to the interrogatories.

09:20:20 11 Q. And were you involved in preparing those
09:20:22 12 responses?

09:20:23 13 A. Yes.

09:20:23 14 Q. Okay. Can you tell me what you did to prepare
09:20:27 15 those responses?

09:20:30 16 A. I consulted with my legal counsel and the recorder
09:20:35 17 and our Election Procedures Manual.

09:20:37 18 Q. Okay. And can you tell me about how much time you
09:20:43 19 spent on preparing those responses?

09:20:46 20 A. Oh, gosh, several days.

09:20:48 21 Q. Okay. All right. For now, I'm going to pull that
09:20:55 22 down off the screen.

09:20:57 23 And I just want to move on to just generally
09:21:01 24 a few things about what your office does and
09:21:05 25 responsibilities.

09:21:06 1 So can you just describe for me generally
09:21:09 2 what the County Recorder's Office does with respect to --
09:21:14 3 with respect to elections in the county?
09:21:17 4 A. So we take the voter registration forms that are
09:21:22 5 given to us by voters throughout the county. We enter them
09:21:25 6 into our system. And we process them. We maintain those
09:21:30 7 rolls. And we are responsible for mailing out early
09:21:33 8 ballots and the signature verification of those early
09:21:37 9 ballots.

09:21:38 10 Q. Okay. And is there anyone else within your office
09:21:43 11 that works on the election side performing those -- those
09:21:47 12 duties that you just described besides you and the county
09:21:50 13 recorder?

09:21:50 14 A. Yes.

09:21:53 15 Q. How many people is that?

09:21:57 16 A. We try to cross-train. So a lot of the employees
09:22:01 17 have a little bit of experience. But I would say maybe one
09:22:04 18 other employee who does the majority of voter registration.

09:22:10 19 Q. Okay. And what's that person's name?

09:22:12 20 A. Katie Judd.

09:22:14 21 Q. Katie Judd.

09:22:15 22 Okay. You said there are a few other people
09:22:17 23 that might do a little bit. Could you tell me their names
09:22:22 24 too, please?

09:22:23 25 A. Taylor Holland and Stephanie Johnson.

09:22:27 1 Q. Okay. And you mentioned Katie Judd. Can we go
09:22:35 2 over her responsibilities a little bit more?

09:22:38 3 You might have started to mention it, but can
09:22:41 4 you tell me what she does in the office?

09:22:42 5 A. She processes the daily mail that comes through
09:22:48 6 and the EZ voters. So she does a lot of the day-to-day
09:22:52 7 transactions.

09:22:52 8 Q. Okay. So is she the main person who is receiving
09:22:57 9 and reviewing voter registration forms that come in?

09:23:00 10 A. Yes.

09:23:00 11 Q. And do you do that yourself also?

09:23:04 12 A. Yes.

09:23:05 13 Q. Okay. So you share that responsibility. Is that
09:23:11 14 shared about 50-50, or does -- do either one of you do the
09:23:14 15 primary amount of that?

09:23:16 16 A. Katie does the primary -- the primary amount of
09:23:21 17 it.

09:23:21 18 Q. Okay. Excellent.

09:23:23 19 Okay. I'd like to move on now to the
09:23:29 20 Election Procedures Manual that you mentioned a few moments
09:23:33 21 ago. So I will -- I'm going to pull up that document as
09:23:37 22 well. Give me just a moment.

09:23:51 23 So scrolling to the top, this is Document F,
09:23:55 24 and it's already been marked as -- sorry for that. It's
09:24:01 25 already been marked as Petty Exhibit 6.

09:24:07 1 Do you recognize this as the 2019 Election
09:24:11 2 Procedures Manual?
09:24:11 3 A. Yes.
09:24:12 4 Q. Great. And I'll refer to that as the "EPM."
09:24:17 5 Can you tell me just how your office uses the
09:24:20 6 EPM?
09:24:24 7 A. We use it as a reference guide.
09:24:33 8 Q. Sure. And do you refer to it when you're
09:24:36 9 implementing voter registration rules, things like that?
09:24:41 10 A. Yes.
09:24:41 11 Q. And I think we mentioned this before.
09:24:46 12 Is the 2019 version still the operative
09:24:50 13 version?
09:24:53 14 A. Yes, I believe.
09:24:54 15 Q. So that's the one that -- is this the only one you
09:24:57 16 refer to --
09:24:58 17 A. Yes.
09:24:58 18 Q. -- in your job today? Okay.
09:25:03 19 And is -- is the EPM binding on your office,
09:25:05 20 meaning you're required to follow it?
09:25:08 21 A. I believe so.
09:25:15 22 MR. FERGUSON: Okay.
09:25:19 23 MR. LANGHOFER: Form. Calls for a legal
09:25:21 24 conclusion.
09:25:21 25 BY MR. FERGUSON:

09:25:22 1 Q. Okay. Now we'll move on to one more document

09:25:30 2 here. So just one moment.

09:25:44 3 Okay. And this is Document G, which has

09:25:47 4 already been marked Exhibit 35. Do you recognize this

09:25:51 5 document?

09:25:51 6 A. Yes.

09:25:54 7 Q. Okay. Can you tell me what it is?

09:25:54 8 A. It's the draft of the -- of the procedures manual

09:25:59 9 for the -- for June 2023.

09:26:03 10 Q. Okay. Excellent.

09:26:04 11 So you've seen this document before; is that
09:26:06 12 correct?

09:26:06 13 A. Yes.

09:26:07 14 Q. Okay. And have you provided any comments on this
09:26:14 15 draft or previous drafts to the Secretary of State's Office
09:26:18 16 or anyone else?

09:26:20 17 A. No.

09:26:20 18 Q. Okay. Have you attended any meetings or trainings
09:26:31 19 with the secretary of state about this document?

09:26:38 20 A. Yes.

09:26:39 21 Q. Okay. Can you tell me about that meeting?

09:26:44 22 A. We've had a couple of Teams meetings to go over
09:26:48 23 comments and go over their draft of the procedures manual.

09:26:56 24 Q. Okay. And were those -- can you tell me roughly
09:26:59 25 when those meetings were?

09:27:02 1 A. Oh, I think -- I think we have one -- I want to
09:27:06 2 say once a month --
09:27:07 3 Q. Okay.
09:27:08 4 A. -- if not twice a month.
09:27:11 5 Q. And so that's been for the last six months or the
09:27:17 6 last year that you've had once-a-month meetings?
09:27:20 7 A. I don't -- I don't remember. I don't recall.
09:27:22 8 Q. And you said that your office hasn't provided
09:27:25 9 input on this draft or previous drafts though; is that
09:27:30 10 right?
09:27:30 11 A. No.
09:27:30 12 Q. Okay. But have -- in those meetings, have other
09:27:38 13 county recorders or other people in those meetings provided
09:27:42 14 comments? Is that what was happening at those meetings?
09:27:47 15 A. Other counties have provided comments, yes.
09:27:49 16 Q. Okay. Great.
09:27:51 17 And are you -- just to the extent that you
09:27:54 18 know or remember, can you tell me what those comments were
09:27:58 19 about, which subjects of the EPM those were about?
09:28:05 20 MR. MORGAN: Form.
09:28:05 21 THE WITNESS: I couldn't tell you. I don't
09:28:07 22 remember. It's a lot of detail.
09:28:08 23 BY MR. FERGUSON:
09:28:10 24 Q. Okay. Do you have any recollection of topics that
09:28:16 25 were covered in these meetings or changes to the EPM that

09:28:21 1 were covered in these meetings?

09:28:24 2 A. No.

09:28:25 3 Q. Do you remember discussing, for example, a
09:28:32 4 provision in newly enacted law that requires a registration
09:28:38 5 applicant to list their place of birth on an application?

09:28:44 6 MR. MORGAN: Form.

09:28:46 7 THE WITNESS: I don't -- I don't recall
09:28:48 8 specifically.

09:28:49 9 BY MR. FERGUSON:

09:28:49 10 Q. Okay. Is there anyone else in your office that's
09:28:54 11 been attending these meetings?

09:28:57 12 A. Yes.

09:28:57 13 Q. Okay. Can you tell me who that is?

09:29:00 14 A. All of the ones I've listed before.

09:29:02 15 Q. Okay. So the county recorder attends them, and I
09:29:09 16 believe it was -- Ms. Judd attends them as well?

09:29:12 17 A. Yes.

09:29:12 18 Q. Okay. Okay. I'd like to just move on to the laws
09:29:23 19 that are being challenged in this lawsuit.

09:29:29 20 So are you aware of the two laws that are
09:29:32 21 being challenged here: That's HB 2492 and HB 2243?

09:29:39 22 A. Yes.

09:29:40 23 Q. Okay. And have you received any guidance from the
09:29:47 24 secretary of state or anyone else within the state about
09:29:51 25 implementation of those laws?

09:29:52 1 A. No.

09:29:53 2 Q. Okay. The meetings that you mentioned a moment

09:30:04 3 ago, those have not involved any -- any kind of guidance

09:30:12 4 about implementation?

09:30:13 5 A. No.

09:30:14 6 Q. I'm going to pull up one more document right now.

09:30:23 7 And this is Document I in the folder, which I believe we do

09:30:26 8 need to mark as a new exhibit. I think -- is that 131 or

09:30:34 9 132?

09:30:34 10 THE COURT REPORTER: 132.

09:30:34 11 (The document was marked as Exhibit 132

09:30:34 12 for identification.)

09:30:40 13 MR. FERGUSON: Okay. Thanks very much.

09:30:40 14 BY MR. FERGUSON:

09:30:40 15 Q. Do you recognize this document?

09:30:43 16 A. Yes.

09:30:45 17 Q. Okay. Can you tell me what it is?

09:30:47 18 A. It's an email from Kori.

09:30:51 19 Q. An email from Kori Lorick?

09:30:54 20 A. Yes.

09:30:54 21 Q. And is Kori Lorick from the Secretary of State's

09:31:01 22 Office?

09:31:01 23 A. Yes.

09:31:05 24 Q. Did you receive this email, or have you seen it

09:31:08 25 before?

09:31:08 1
09:31:09 2
09:31:13 3
09:31:14 4
09:31:28 5
09:31:31 6
09:31:36 7
09:31:40 8
09:31:46 9
09:31:46 10
09:31:49 11
09:31:52 12
09:31:53 13
09:32:00 14
09:32:06 15
09:32:12 16
09:32:13 17
09:32:14 18
09:32:15 19
09:32:15 20
09:32:17 21
09:32:26 22
09:32:31 23
09:32:32 24
09:32:34 25

A. Yes.

Q. Okay. Can you tell me what it's referring to or what it's about?

A. I believe it's about a call we had. And we discussed the implementation of the house bills and the effective date of those.

Q. Okay. And so this document refers to a training that was on August 25th, 2022; is that correct?

A. Yes.

Q. And do you remember if you or anyone from your office attended that?

A. I don't remember.

Q. Okay. Do you remember if this training or other ones contained material about implementation of -- of those two laws that we just mentioned: 2492 and 2243?

MR. MORGAN: Form.

THE WITNESS: Can you repeat that?

BY MR. FERGUSON:

Q. Sure.

Do you remember if this training or any others contained material about implementing the challenged laws, which are HB 2243 and 2492?

MR. MORGAN: Form.

THE WITNESS: I -- I don't remember. I don't recall.

09:32:34 1 BY MR. FERGUSON:

09:32:34 2 Q. Okay. Has the Secretary of State's Office

09:32:45 3 directed you to implement any parts of HB 2492?

09:32:53 4 A. No.

09:32:53 5 Q. Okay. And has the Secretary of State's Office

09:32:58 6 directed you to implement any parts of HB 2243?

09:33:02 7 A. No.

09:33:02 8 Q. Okay. Are you implementing any part of HB 2492?

09:33:15 9 A. I don't believe so.

09:33:23 10 Q. Okay. Give me just a moment. I'm going to pull

09:33:34 11 up one more document here.

09:34:10 12 Okay. And we just talked about 2492.

09:34:15 13 Is your office implementing any portion of

09:34:18 14 HB 2243?

09:34:20 15 A. No.

09:34:21 16 Q. Okay. I'm going to pull up what we had before as

09:34:28 17 Document B.

09:34:31 18 MR. FERGUSON: I think we marked that as

09:34:33 19 Exhibit 130; is that correct?

09:34:37 20 THE COURT REPORTER: Yes.

09:34:43 21 BY MR. FERGUSON:

09:34:45 22 Q. Okay. And this is the set of interrogatories that

09:34:49 23 you saw a few moments ago. I'm going to go to the top of

09:34:54 24 page 10 of this document, which is Interrogatory Number 8.

09:35:03 25 Okay. So do you see that right there on the

09:35:09 1 screen --

09:35:09 2 A. Yes.

09:35:09 3 Q. -- Interrogatory Number 8?

09:35:12 4 Okay. I'm going to read for the record just

09:35:14 5 the beginning of that interrogatory.

09:35:16 6 "Identify and describe each method by which

09:35:21 7 Registered Voters or Voter Registration Applicants can

09:35:22 8 appeal, contest, or cure decisions by Your office based on

09:35:26 9 a finding of non- -- noncitizenship or absence of DPOC or

09:35:30 10 failure to check the Citizenship Checkbox."

09:35:37 11 Is that what it says right there?

09:35:39 12 A. Yes.

09:35:39 13 Q. Okay. And do you remember this interrogatory from

09:35:46 14 -- from answering it?

09:35:46 15 A. Yes.

09:35:49 16 Q. Okay. Excellent. Now I'm going to once again

09:35:51 17 share the -- your office's answers to those

09:35:58 18 interrogatories.

09:36:08 19 So can you see that on the screen now?

09:36:11 20 A. Yes.

09:36:12 21 Q. So I'm going to go down to the answer to

09:36:17 22 Interrogatory Number 8. Can you see that there? I'm

09:36:23 23 highlighting it.

09:36:23 24 A. Yes.

09:36:24 25 Q. Okay. Could you just read for me the -- what's

09:36:28 1 highlighted there that's the beginning of the answer to
09:36:32 2 Interrogatory Number 8?

09:36:33 3 A. I can't see the first part.

09:36:39 4 Q. I'm sorry about that. Okay. Can you see it now?

09:36:41 5 A. Yes.

09:36:43 6 Q. Okay. Sorry. I'll just let you read the first
09:36:48 7 sentence without highlighting it.

09:36:48 8 A. "They either provide their DPOC or provide a voter
09:36:51 9 registration with a box checked."

09:36:53 10 Q. Okay. Excellent.

09:36:54 11 So does this answer indicate that if someone
09:36:58 12 submits a voter registration form without the citizenship
09:37:02 13 box checked, then you will contact them and ask them to
09:37:07 14 resubmit the form with the box checked?

09:37:11 15 A. If they haven't provided DPOC; if -- if they've
09:37:21 16 answered "no" as well.

09:37:25 17 Q. If they've -- so that's if they've entered "no"
09:37:31 18 in -- where would they have entered "no"?

09:37:35 19 A. On the voter registration form.

09:37:43 20 Q. If they've answered "no" to the question that they
09:37:46 21 are -- asking whether they're a U.S. citizen?

09:37:47 22 A. Correct.

09:37:48 23 Q. Okay. Under -- so under your current practice, if
09:37:53 24 they have -- if they've had -- have answered "yes" to that
09:37:57 25 question or if they've signed -- if they've signed the box

09:38:03 1 saying that they are a U.S. citizen but they have not
09:38:08 2 checked the checkbox that asks whether the person is a U.S.
09:38:14 3 citizen, how does your office handle those applications
09:38:19 4 currently?

09:38:21 5 A. Can you repeat that?

09:38:22 6 Q. Sure.

09:38:22 7 If someone submits a voter registration form
09:38:27 8 and they have answered "yes" that they are a U.S. citizen
09:38:32 9 or they have indicated that they are by signing the form at
09:38:35 10 the bottom under penalty of perjury but separately they
09:38:40 11 have failed to check the box saying "I am a U.S. citizen,"
09:38:45 12 how does your office treat those applications?

09:38:51 13 A. Well, they -- they would have -- they would -- in
09:39:00 14 order for them to indicate they were -- in order to -- that
09:39:04 15 box says that they are a citizen if they check it.

09:39:10 16 I'm not sure I understand the question.

09:39:12 17 Q. Okay. Sure. Let me -- let me try that one more
09:39:16 18 time.

09:39:17 19 If someone submits a voter registration
09:39:22 20 form -- let's use the federal form, for example. Are you
09:39:26 21 familiar with the federal voter registration form?

09:39:29 22 A. Yes.

09:39:29 23 Q. Okay. So if someone fills out the federal voter
09:39:37 24 registration form and they've completed the form in its
09:39:40 25 entirety with everything that's required except they have

09:39:46 1 not checked the box that asks if they are a U.S. citizen,
09:39:52 2 how does your office treat that application?
09:39:57 3 A. We would enter it. And we would run it through
09:40:01 4 the HAVA checks. And it may provide a proof of citizenship
09:40:06 5 that way. If not, we would send them a letter.
09:40:11 6 Q. Okay. So you would run a HAVA check. And would
09:40:17 7 you treat that form the same way if it had that -- that
09:40:24 8 checkmark next to the citizenship checkbox -- you would run
09:40:26 9 those same checks that you mentioned?
09:40:28 10 A. Yes.
09:40:28 11 Q. Okay. Okay. So do you treat the form any
09:40:35 12 differently if it has the citizenship checkbox checked or
09:40:40 13 if it doesn't have it checked?
09:40:43 14 A. We send a letter if the box is not checked and we
09:40:53 15 can't provide proof of citizenship through the HAVA checks.
09:40:58 16 Q. Okay. And do you also send that letter if the box
09:41:03 17 is checked but you can't find proof of citizenship through
09:41:08 18 the HAVA checks that you mentioned?
09:41:13 19 A. Can you repeat that?
09:41:14 20 Q. Sure.
09:41:15 21 If the box is checked and then you can't find
09:41:21 22 proof of citizenship through those HAVA checks that you
09:41:24 23 mentioned, do you also send that letter?
09:41:27 24 A. Yes.
09:41:28 25 Q. Okay. So if I'm understanding correctly, you go

09:41:33 1 through the same process currently regardless of whether
09:41:37 2 that box is checked?
09:41:41 3 A. Yes.
09:41:46 4 Q. Okay. Thank you very much. Give me just a
09:41:54 5 moment.
09:42:03 6 If you do receive an application without the
09:42:07 7 citizenship box checked either on the federal form or the
09:42:11 8 state voter registration form and you find through HAVA
09:42:19 9 checks or elsewhere an indication that the person is a U.S.
09:42:24 10 citizen, do you accept that form or do you reject that
09:42:28 11 form?
09:42:29 12 A. We accept that.
09:42:31 13 Q. Okay. Excellent. Okay. I'm going to move on to
09:42:41 14 your office's use of databases in performing your job.
09:42:47 15 Does your office use the Arizona Motor
09:42:52 16 Vehicles Division, or MVD, database?
09:42:56 17 A. Yes. I believe it interfaces with our voter
09:42:59 18 registration system.
09:42:59 19 Q. Okay. And what is that system called?
09:43:02 20 A. AVID.
09:43:02 21 Q. Okay. So you use the AVID system which interfaces
09:43:07 22 with the MVD database; is that correct?
09:43:09 23 A. Correct.
09:43:11 24 Q. And what do you use that system for?
09:43:15 25 A. It -- it -- it's the one that checks for

09:43:20 1 citizenship.

09:43:20 2 Q. Okay. Can you just walk me through how that

09:43:24 3 process goes in your office using someone's application and

09:43:29 4 running it through that AVID check system?

09:43:32 5 A. We would enter a voter registration form, enter

09:43:36 6 all the data, and then we would hit the HAVA check button.

09:43:39 7 It runs it through the motor vehicle database. It also

09:43:42 8 runs it through, I believe, the vital statistics database

09:43:47 9 as well.

09:43:48 10 Q. Okay.

09:43:50 11 A. And then update it and --

09:43:50 12 Q. Okay.

09:43:54 13 A. -- based on those results.

09:43:55 14 Q. And in talking about those results, can you tell

09:43:58 15 me what are the possible results that your office could get

09:44:03 16 once you run that?

09:44:04 17 A. You would have a full registered voter who's a

09:44:10 18 citizen, or you could have the fed ID or the fed no ID

09:44:16 19 statuses.

09:44:18 20 Q. Okay. Is one possibility that it would show that

09:44:21 21 the applicant has an F-type driver's license?

09:44:24 22 A. Correct.

09:44:25 23 Q. Okay. And can you tell me what an F-type license

09:44:29 24 is?

09:44:29 25 A. I can't.

09:44:36 1 Q. Okay. Is it -- does it refresh your recollection
09:44:43 2 that an F-type license is one that tells you whether the
09:44:48 3 person was a U.S. citizen at the time they received a
09:44:52 4 driver's license?

09:44:53 5 A. Can you say that again?

09:45:00 6 Q. Sure. Let's -- let me withdraw that question for
09:45:04 7 now. And I want to pull up the EPM again, so I'm going to
09:45:09 8 share my screen once more.

09:45:19 9 Okay. Can you see the EPM -- the 2019 EPM up
09:45:24 10 here again?

09:45:25 11 A. Yes.

09:45:26 12 Q. It's been marked as Exhibit 6. Okay. I'm going
09:45:29 13 to scroll down to page 3 of the EPM. Bear with me for a
09:45:43 14 moment.

09:45:44 15 Okay. Could you -- if you can -- can you see
09:45:46 16 the bottom of page 3 there?

09:45:48 17 A. Yes.

09:45:49 18 Q. Okay. And I'm highlighting it. Hopefully --
09:45:53 19 well, it's going to block your view again.

09:45:55 20 If you could just take a moment to look at
09:45:59 21 that second to last paragraph that begins with "an Arizona
09:46:05 22 driver's license."

09:46:06 23 Do you see the paragraph I'm talking about?

09:46:07 24 A. Yes.

09:46:11 25 Q. I'll just give you a moment to look at that.

09:46:21 1 Okay. Do you see the part of that paragraph
09:46:24 2 where it refers to -- it says, "The verification must not
09:46:27 3 return a result that indicates noncitizenship" or an
09:46:30 4 "'F-type' license"?

09:46:31 5 A. Yes.

09:46:32 6 Q. Okay. Does that help you recall what an F-type
09:46:36 7 license is?

09:46:36 8 A. Yes.

09:46:37 9 Q. Okay. Can you tell me your understanding of it
09:46:40 10 now?

09:46:41 11 A. That they -- yes, that they're not a citizen.

09:46:45 12 Q. Okay. And to your knowledge, if someone has an
09:46:50 13 F-type license, does that indicate that they were not a
09:46:56 14 U.S. citizen only when they received that driver's license?

09:47:08 15 A. Can you repeat that?

09:47:11 16 MS. BOUGHTON: Foundation.

09:47:11 17 BY MR. FERGUSON:

09:47:12 18 Q. Sure.

09:47:13 19 To your knowledge, does the fact that someone
09:47:17 20 has an F-type license indicate that they were not a U.S.
09:47:22 21 citizen when they received that driver's license?

09:47:29 22 MR. LANGHOFER: Form.

09:47:30 23 THE WITNESS: Yes.

09:47:31 24 BY MR. FERGUSON:

09:47:35 25 Q. And so is it -- when you're processing voter

09:47:40 1 registration applications and you use the AVID database,
09:47:45 2 have you seen a result come up that someone has an F-type
09:47:48 3 license?
09:47:49 4 A. I have.
09:47:50 5 Q. Okay. And do you know whether it happens that
09:47:56 6 someone receives an F-type license and later is naturalized
09:48:04 7 and becomes a U.S. citizen?
09:48:13 8 A. Can that happen? Is that what --
09:48:15 9 Q. Yeah, that's the question.
09:48:17 10 A. Yes --
09:48:18 11 Q. Okay.
09:48:20 12 A. -- I would think.
09:48:23 13 Q. Okay. And if someone is -- when you're running
09:48:28 14 that AVID check through the MVD, do you send a notice
09:48:31 15 letter to people who are deemed ineligible by that check?
09:48:37 16 A. Yes.
09:48:37 17 Q. Okay. And do people sometimes provide their proof
09:48:44 18 of citizenship after receiving such a letter?
09:48:53 19 A. I'm sure they have.
09:48:55 20 Q. Okay. Is there someone in your office that would
09:49:00 21 handle those situations other than you?
09:49:04 22 A. The recorder.
09:49:07 23 Q. Okay. If someone provides proof of citizenship
09:49:14 24 after receiving one of those letters, would it be Ms. Judd
09:49:20 25 who normally would -- would receive and handle those

09:49:26 1 documents?

09:49:27 2 A. She could, yes.

09:49:32 3 MR. FERGUSON: Okay. Okay. So I'd like to
09:49:37 4 move on to one more document right now. And I'll share my
09:49:47 5 screen once more. I'm going to pull up Document L.

09:49:53 6 This one does need to be marked, I believe.
09:49:59 7 I think that will be Exhibit 133?

09:50:01 8 THE COURT REPORTER: Yes.

09:50:01 9 (The document was marked as Exhibit 133
09:50:03 10 for identification.)

09:50:03 11 BY MR. FERGUSON:

09:50:06 12 Q. Can you see the document on the screen there?

09:50:09 13 A. Yes.

09:50:10 14 Q. Okay. And do you recognize the document?

09:50:13 15 A. Yes.

09:50:13 16 Q. Okay. And starting at that middle of the page
09:50:20 17 where it says "Press Release," could you describe what that
09:50:26 18 press release is?

09:50:32 19 A. There was a data -- there was an error that
09:50:36 20 affected some of the federal-only voters --

09:50:40 21 Q. Okay.

09:50:46 22 A. Or full-ballot voters, I guess it affected them.

09:50:51 23 Q. Okay. Great. I will read for the record just one
09:50:56 24 part of that press release from the Secretary of State's
09:51:00 25 Office.

09:51:01 1 "My office found and corrected a database
09:51:05 2 error in concert with the Motor Vehicle Division which led
09:51:08 3 to less than a quarter of 1 percent of voters to be
09:51:11 4 registered as federal-only voters when they should have
09:51:15 5 been registered as full-ballot voters."

09:51:17 6 Do you remember this incident?

09:51:23 7 A. I do.

09:51:24 8 Q. Okay. And can you tell me how it affected voters
09:51:32 9 in Gila County?

09:51:33 10 A. I don't recall. I don't recall how many we had
09:51:39 11 affected by this --

09:51:39 12 Q. Okay.

09:51:41 13 A. -- if any.

09:51:44 14 Q. You do remember that some voters were affected by
09:51:47 15 it?

09:51:47 16 A. Correct.

09:51:49 17 Q. And do you remember the steps your office took to
09:51:56 18 try to correct that error?

09:52:00 19 A. I -- I -- I don't recall if we had any voters
09:52:06 20 affected by this.

09:52:06 21 Q. Okay. You don't recall for sure?

09:52:08 22 A. Yeah.

09:52:09 23 Q. Do you remember receiving the -- or did -- sorry.
09:52:16 24 Withdrawn.

09:52:16 25 Did you receive this email that's on top of

09:52:20 1 the press relief -- release on the first page of this
09:52:23 2 document?

09:52:36 3 A. I'm sorry. Can you repeat that?

09:52:37 4 Q. Sure.

09:52:38 5 I'm just asking if you received this email
09:52:42 6 that's at the top of the document we're looking at,
09:52:47 7 Document L, that I think is marked 133 right now.

09:52:53 8 A. Yes.

09:52:53 9 Q. Okay. And did you correspond with the Secretary
09:53:01 10 of State's Office at all in response to this email or about
09:53:06 11 this incident?

09:53:08 12 A. I -- I don't know.

09:53:23 13 Q. You don't remember?

09:53:25 14 A. I don't recall.

09:53:26 15 Q. Okay. Do you think anyone else in your office
09:53:33 16 would recall?

09:53:35 17 A. No.

09:53:36 18 Q. Okay. I'm going to take that document off the
09:53:53 19 screen.

09:53:53 20 So we talked a little bit about AVID and the
09:53:57 21 MVD database. I want to talk about the Systematic Alien
09:54:04 22 Verification for Entitlements, which I'll call "SAVE."

09:54:07 23 Are you familiar with the SAVE program?

09:54:09 24 A. Yes.

09:54:12 25 Q. And can you tell me what it is?

09:54:14 1 A. We -- we use it to verify citizenship.

09:54:21 2 Q. Okay. And can you describe the process of how you

09:54:25 3 use it to verify citizenship?

09:54:28 4 A. We enter information, and it runs it against --

09:54:32 5 I'm not really 100 percent sure on the logistics of it.

09:54:36 6 But we enter the, like, alien registration number and the

09:54:40 7 name. And it runs it and tells us if we have results or

09:54:44 8 not.

09:54:44 9 Q. Okay. And you mentioned the alien registration

09:54:47 10 number. Is it correct that you can only use SAVE if you

09:54:54 11 have an alien registration number or a citizenship

09:54:58 12 certificate number or a naturalization certificate number?

09:55:04 13 A. I believe so, but I am not sure.

09:55:09 14 Q. Okay. Have you -- have you personally used the

09:55:14 15 SAVE system?

09:55:14 16 A. I have, but not a lot.

09:55:17 17 Q. Sure.

09:55:19 18 Just to your -- to your memory, does it

09:55:21 19 require putting in one of those numbers that I mentioned?

09:55:28 20 A. I don't recall if it requires it.

09:55:30 21 Q. Okay. But you don't know of any other way to use

09:55:35 22 SAVE other than putting in one of those numbers; is that

09:55:40 23 correct?

09:55:40 24 A. I have put those numbers in before.

09:55:45 25 Q. Okay. So is the only situation in which your

09:55:57 1 office uses SAVE a situation in which someone who's

09:56:04 2 applying to register to vote provides one of -- an A-number

09:56:09 3 or one of those numbers that we've been talking about?

09:56:12 4 A. I believe so.

09:56:13 5 Q. Okay. You can't think of any other situations in

09:56:19 6 which your office would use the SAVE system; is that

09:56:24 7 correct?

09:56:24 8 A. No.

09:56:27 9 Q. Okay. So if you enter someone's A-number into

09:56:35 10 SAVE, what are the potential results you could get back

09:56:41 11 from the SAVE system?

09:56:44 12 A. It would just verify whether or not they were a

09:56:47 13 citizen or not.

09:56:49 14 Q. Okay. And let's say you enter that information

09:56:56 15 and you got a result saying that the person is not a U.S.

09:56:59 16 citizen. You know, maybe it identifies them as a legal

09:57:03 17 permanent resident. What do you do with regard to that

09:57:08 18 application?

09:57:10 19 A. If it comes back as a -- I think it is -- I think

09:57:29 20 it's not eligible, invalid citizenship.

09:57:34 21 Q. Okay. And so if you do get that -- if you get

09:57:38 22 that answer, that they're not a citizen, do you take any

09:57:45 23 other steps within the SAVE database to determine whether

09:57:51 24 they're a citizen?

09:57:53 25 A. No.

09:57:54 1 Q. And do you use any other kind of database to
09:58:00 2 determine whether they're a citizen after you get that --
09:58:03 3 that result?

09:58:05 4 A. No.

09:58:09 5 Q. Okay. Do you send them -- if you get that
09:58:13 6 negative result saying that they're not a U.S. citizen, do
09:58:16 7 you send them a letter?

09:58:18 8 A. Yes.

09:58:18 9 Q. And let's say you're using the SAVE system and it
09:58:24 10 returns no match so it can't tell you whether they're --
09:58:30 11 whether they're a citizen or not. How do you process those
09:58:33 12 applications?

09:58:35 13 A. We would ask for more information.

09:58:37 14 Q. Okay. You ask for more information from the
09:58:41 15 voter?

09:58:42 16 A. Correct.

09:58:43 17 Q. Okay. If you ask for more information and don't
09:58:48 18 hear back, do you register them as a federal-only voter?

09:58:55 19 A. I believe so.

09:59:01 20 Q. Okay. And then I'll ask the same question I asked
09:59:08 21 a moment ago.
09:59:08 22 If you -- if you get that initial response
09:59:13 23 from -- from SAVE saying that there's no match, are there
09:59:17 24 any other steps that you take within the SAVE database to
09:59:22 25 try to determine if they're a citizen or not?

09:59:25 1 A. I don't believe so within the SAVE -- SAVE
09:59:31 2 database.
09:59:31 3 Q. Okay. And -- and then you mentioned sending a
09:59:33 4 letter.
09:59:36 5 Are there any other databases that you would
09:59:38 6 look at to try to determine if they're a U.S. citizen?
09:59:45 7 A. You would use AVID as well.
09:59:47 8 Q. Okay. Okay. Now I'd like to move on to talk a
09:59:58 9 little bit about the two challenged laws we've been talking
10:00:02 10 about already.
10:00:04 11 The first one we'll talk about is HB 2492.
10:00:10 12 And I will pull that up onto the screen one more time.
10:00:26 13 Okay. And this is Document J, which is marked as
10:00:31 14 Exhibit 19.
10:00:33 15 Do you recognize that as HB 2492?
10:00:35 16 A. Yes.
10:00:36 17 Q. Okay. And I believe you mentioned this before,
10:00:40 18 but are you aware of the provision in 2492 that requires
10:00:46 19 registration applicants to list their place of birth on the
10:00:49 20 application form?
10:00:51 21 A. Am I aware of it?
10:01:01 22 Q. Right. Sorry. You don't need to look at it yet
10:01:05 23 for -- for that. I'm just asking generally if you're aware
10:01:08 24 of --
10:01:09 25 A. Yes.

10:01:09 1 Q. -- the provision. Okay. Great.

10:01:12 2 And is your office implementing that

10:01:15 3 requirement right now?

10:01:16 4 A. No.

10:01:17 5 Q. Okay. Does your office have access to any kind of

10:01:21 6 database that would confirm a person's identity by using

10:01:26 7 their place of birth?

10:01:29 8 A. No.

10:01:30 9 Q. Okay. So separately from the birthplace

10:01:38 10 requirement, are you aware of the provision in 2492 that

10:01:43 11 requires voter registration applicants to provide

10:01:47 12 documentary proof of their residence?

10:01:53 13 A. Yes.

10:01:53 14 Q. Okay. And are you implementing that requirement?

10:01:56 15 A. No.

10:01:56 16 Q. Okay. So as it is right now before implementing

10:02:02 17 that requirement, is it correct that applicants have to

10:02:06 18 provide on their application either a residential address

10:02:11 19 or some kind of description or drawing of their residence?

10:02:15 20 A. Yes.

10:02:17 21 Q. Okay. And if -- so if that happens within your

10:02:22 22 office, if you receive an application that has either a

10:02:26 23 description of someone's residence or a drawing, how do you

10:02:32 24 locate where that residence is?

10:02:35 25 A. We work with our GSI [sic] department, and then

10:02:42 1 we -- that typically happens for our reservation addresses
10:02:49 2 so we kind of just have an idea of where those places are.

10:02:56 3 Q. Okay. Excellent.

10:02:58 4 And are you normally able to locate the
10:03:03 5 residence using that method?

10:03:07 6 A. Normally.

10:03:08 7 Q. Okay. Great.

10:03:12 8 So you mentioned -- I think you just
10:03:14 9 mentioned this about reservations. But there are some
10:03:19 10 people in Gila County that lack a standard residential
10:03:23 11 street address; is that correct?

10:03:25 12 A. Correct.

10:03:26 13 Q. And you said that typically happens on Native
10:03:30 14 American reservations?

10:03:31 15 A. Yes.

10:03:32 16 Q. Okay. Which reservations are in the county?

10:03:40 17 A. We have the White Mountain Apache reservation. We
10:03:45 18 have the Tonto -- Tonto Apache, and we also have the San
10:03:52 19 Carlos Apache reservation.

10:03:54 20 Q. Okay. And do you ever get -- withdrawn.

10:04:06 21 So from your experience, applicants from one
10:04:10 22 of those reservations are less likely to have a standard
10:04:14 23 residential street address?

10:04:16 24 A. Correct.

10:04:16 25 Q. Okay. And are -- do you ever get applications

10:04:20 1 from people outside reservations that are -- also lack a
10:04:26 2 residential street address?

10:04:31 3 A. Not typically.

10:04:32 4 Q. Okay. Okay. So talking more about that
10:04:39 5 documentary proof of residence requirement -- I'll call
10:04:43 6 that "DPOR." We also spoke a little bit previously about
10:04:50 7 the federal voter registration form. To your -- sorry.

10:04:57 8 To your knowledge, will that new DPOR
10:05:00 9 requirement apply to the federal registration form?

10:05:07 10 MS. BOUGHTON: Form. Calls for a legal
10:05:08 11 conclusion.

10:05:11 12 THE WITNESS: Would it apply to the federal
10:05:13 13 form --

10:05:14 14 BY MR. FERGUSON:

10:05:14 15 Q. Right.

10:05:14 16 A. -- DPOR -- providing DPOR?

10:05:18 17 Q. Yeah.

10:05:18 18 A. I would assume.

10:05:21 19 Q. Okay. And you're aware that on the federal form,
10:05:27 20 each state has an individual set of instructions that helps
10:05:32 21 people complete the federal form?

10:05:36 22 A. I am not aware.

10:05:38 23 Q. Okay. Are you aware of any requests that the
10:05:43 24 state has made to -- regarding instructions on the federal
10:05:50 25 form?

10:05:53 1
10:05:54 2
10:05:55 3
10:05:55 4
10:06:06 5
10:06:12 6
10:06:15 7
10:06:22 8
10:06:23 9
10:06:27 10
10:06:28 11
10:06:31 12
10:06:35 13
10:06:42 14
10:06:43 15
10:06:46 16
10:06:47 17
10:06:51 18
10:07:00 19
10:07:03 20
10:07:06 21
10:07:14 22
10:07:17 23
10:07:21 24
10:07:23 25

MR. MORGAN: Form.

THE WITNESS: I am not aware.

BY MR. FERGUSON:

Q. Okay. If the DPOR requirement is applied to the federal form -- sorry. Strike that, please.

Do you know whether the federal registration form currently requires someone to provide DPOR when they submit it?

A. Do I know if it's required?

Q. Correct.

A. I do not -- I do not believe it is required.

Q. Okay. So if it were required, would that result in the federal form being rejected?

MS. BOUGHTON: Form.

THE WITNESS: I -- I wouldn't know.

BY MR. FERGUSON:

Q. Okay. We talked a moment ago about people who are unable to provide a street address because they lack a standard residential address.

How would someone who lacks a standard residential address be able to provide DPOR?

A. I don't know.

Q. Okay. Is it unclear to you?

A. Yes.

Q. And what -- what types of documents would be

10:07:29 1 acceptable as DPOR?

10:07:34 2 MR. LANGHOFER: Form. Calls for a legal

10:07:35 3 conclusion.

10:07:37 4 THE WITNESS: I wouldn't know.

10:07:40 5 MR. FERGUSON: Okay. I'm going to pull up

10:07:43 6 one more document here. And this is Document R, which has

10:07:51 7 been marked as Exhibit 24 already.

10:07:51 8 BY MR. FERGUSON:

10:08:05 9 Q. Can you see that document on the screen?

10:08:07 10 A. Yes.

10:08:07 11 Q. Okay. Great.

10:08:09 12 Have you seen this document before?

10:08:10 13 A. Yes.

10:08:10 14 Q. Can you describe to me what it is?

10:08:13 15 A. It would be what constitutes the document -- what

10:08:17 16 constitutes the DPOR.

10:08:19 17 Q. Okay. Great.

10:08:21 18 Where did you get this document?

10:08:24 19 A. It was in an email.

10:08:29 20 Q. Okay. Do you know who the email was from?

10:08:33 21 A. I don't recall.

10:08:34 22 Q. Okay. Do you recall if it was from the Secretary

10:08:40 23 of State's Office?

10:08:40 24 A. I don't recall.

10:08:42 25 Q. Okay. Do you know if the -- this chart was made

10:08:47 1 by the Secretary of State's Office?

10:08:50 2 A. I can't say for certain. I don't recall.

10:08:57 3 Q. Okay. Do you recall whether you've -- whether you
10:09:05 4 received this document from someone within the County
10:09:12 5 Recorder's Office?

10:09:12 6 A. I -- I did not receive it from someone within the
10:09:15 7 County Recorder's Office.

10:09:17 8 Q. Okay. Do you recall if it was from someone --
10:09:23 9 strike that.

10:09:24 10 So if you could look at the document. And if
10:09:32 11 you could look at the third box down on the left where it
10:09:35 12 says, "Tribal identification card."

10:09:44 13 Would you accept a tribal identification card
10:09:45 14 as documentary proof of residence?

10:09:49 15 A. I would.

10:09:50 16 Q. Okay. And is the answer the same for a utility
10:09:56 17 bill? You can see that on the fifth box down on the left.

10:10:00 18 A. I would, yes.

10:10:01 19 Q. Okay. And then if you look at the last box down
10:10:05 20 on the bottom left that says, "Written confirmation signed
10:10:08 21 by the registrant that they qualify to register," would you
10:10:15 22 accept that as documentary proof of residence?

10:10:18 23 A. Yes.

10:10:18 24 Q. Okay. Great.

10:10:21 25 Are there -- I'll pull that off the screen

10:10:25 1 for now.

10:10:25 2 Are there agencies in the county that provide
10:10:31 3 voter registration services pursuant to the National Voter
10:10:36 4 Registration Act that you're aware of?

10:10:38 5 A. Are there what?

10:10:41 6 Q. Are there agencies within the county that provide
10:10:48 7 voter registration services other than the County
10:10:51 8 Recorder's Office but -- public assistance agencies, for
10:10:54 9 example?

10:10:54 10 A. Yes.

10:10:55 11 Q. And to your knowledge, has there -- has anyone
10:11:04 12 helped educate those agencies on the DPOR requirement that
10:11:09 13 we've been discussing?

10:11:13 14 A. I have no idea.

10:11:14 15 Q. Okay. Great.

10:11:19 16 I'm going to take us back to HB 2492, so I'll
10:11:25 17 pull that document up one more time and share my screen.

10:11:38 18 Okay.

10:11:38 19 Can you see 2492 up here again?

10:11:41 20 A. Yes.

10:11:41 21 Q. Great. And that's Exhibit 19 once more.

10:11:46 22 Okay. I want to look at a provision on

10:11:53 23 page 5 of this document. I'm going to read this for the

10:12:03 24 record off of page 5.

10:12:05 25 It says, "If the county recorder or other

10:12:08 1 officer in charge of elections matches the applicant with
10:12:12 2 information that the applicant is not a United States
10:12:15 3 citizen, the county recorder or other officer in charge of
10:12:19 4 elections shall reject the application."

10:12:24 5 Do you see that -- that part that I just
10:12:28 6 read?

10:12:28 7 A. Yes.

10:12:29 8 Q. Okay. Let's focus on the word "information" in
10:12:34 9 that sentence I read.

10:12:35 10 Have you received any guidance about what
10:12:39 11 constitutes information that a person is not yet --
10:12:42 12 sorry -- that the applicant is not a U.S. citizen?

10:12:48 13 A. Have I received any guidance -- can you repeat
10:12:51 14 that?

10:12:52 15 Q. Sure.

10:12:53 16 Have you received any guidance about what
10:12:59 17 qualifies as information that the applicant is not a U.S.
10:13:03 18 citizen?

10:13:07 19 A. No.

10:13:15 20 Q. Okay. And is it -- is that clear to you right now
10:13:23 21 what qualifies as information that someone is not a U.S.
10:13:27 22 citizen?

10:13:27 23 A. No.

10:13:28 24 Q. Okay. If you were to run an AVID check, that we
10:13:36 25 mentioned, through the MVD database and it shows that the

10:13:42 1 person was issued an F-type license 20 years ago and
10:13:49 2 therefore were not a citizen 20 years ago, would that
10:13:55 3 constitute information that someone is not a U.S. citizen?

10:14:01 4 MS. BOUGHTON: Form.

10:14:03 5 THE COURT REPORTER: What was the answer?

10:14:04 6 THE WITNESS: Yes.

10:14:06 7 BY MR. FERGUSON:

10:14:06 8 Q. It would? Okay.

10:14:08 9 So using that same example, if -- if someone
10:14:22 10 received that license 20 years ago and they were not a
10:14:27 11 citizen at that time, could that person have naturalized
10:14:32 12 and become a U.S. citizen since they --

10:14:32 13 MS. BOUGHTON: Form.

10:14:32 14 BY MR. FERGUSON:

10:14:36 15 Q. -- received that license 20 years ago?

10:14:43 16 A. I guess it's possible.

10:14:47 17 Q. What are some other sources of information that a
10:14:53 18 person is not a U.S. citizen that your office could use in
10:14:58 19 making that determination?

10:15:01 20 MR. LANGHOFER: Form. Calls for a legal
10:15:06 21 conclusion.

10:15:06 22 THE WITNESS: We would just -- I think we
10:15:09 23 would just have the MVD database to use.

10:15:15 24 BY MR. FERGUSON:

10:15:16 25 Q. Okay. So for example, if your office received a

10:15:20 1 letter from the neighbor of a voter registration applicant
10:15:25 2 and that letter claimed that the person is not a U.S.
10:15:29 3 citizen, would that qualify as information that a person is
10:15:34 4 not a U.S. citizen?

10:15:37 5 MR. LANGHOFER: Same objection.

10:15:38 6 THE WITNESS: No.

10:15:40 7 BY MR. FERGUSON:

10:15:42 8 Q. What about if you received an email with a list of
10:15:46 9 people who are allegedly not U.S. citizens and that email
10:15:50 10 was sent to you by an individual or a private organization?

10:15:56 11 MR. LANGHOFER: Same objection.

10:16:00 12 THE WITNESS: No.

10:16:03 13 MR. FERGUSON: Okay. Okay. I'd like to move
10:16:06 14 on now to HB 2243. I'll pull that up on the screen in a
10:16:14 15 moment.

10:16:14 16 BY MR. FERGUSON:

10:16:33 17 Q. Okay. Do you see HB 2243 on the screen?

10:16:33 18 A. Yes.

10:16:37 19 Q. Okay. And that's been marked as Exhibit 21.

10:16:43 20 I'd like to go to the top of page 3 here.

10:16:51 21 And I'd like to look at Section 165.

10:16:55 22 So do you see on line 6, the highlighted

10:16:58 23 portion that says, "The county recorder shall cancel

10:17:02 24 registration"?

10:17:06 25 A. Yes.

10:17:06 1 Q. And then there's a list of numbers below that.

10:17:09 2 And I'm going to scroll down to page 4 until we get to

10:17:13 3 Number 10.

10:17:16 4 Do you see Number 10 there that's

10:17:17 5 highlighted?

10:17:18 6 A. Yes.

10:17:20 7 Q. If you can just take a moment to read that. I'll

10:17:23 8 give you a second.

10:17:37 9 Okay. And I'll -- I'll read the first part

10:17:39 10 of that into the record here.

10:17:41 11 "When the county recorder obtains information

10:17:44 12 pursuant to this section and confirms that the person

10:17:48 13 registered is not a U.S. citizen" -- so as we did with the

10:17:57 14 last provision, let's focus on the phrase "obtains

10:18:01 15 information."

10:18:04 16 Do you have a clear idea of what it means to

10:18:06 17 obtain information that someone is not a U.S. citizen?

10:18:13 18 MR. LANGHOFER: Form. Calls for a legal

10:18:14 19 conclusion.

10:18:15 20 MR. FERGUSON: Counsel. Sorry. Counsel, if

10:18:17 21 you want to -- I'll be asking a few questions on these

10:18:19 22 topics. If you want to stipulate that same objection for

10:18:23 23 the next few minutes, that's fine.

10:18:24 24 MR. LANGHOFER: That would be great. Thank

10:18:26 25 you.

10:18:27 1 MR. MORGAN: Let us know, please, when you're
10:18:29 2 done asking these questions when the stipulation ends.

10:18:33 3 MR. FERGUSON: Will do.

10:18:34 4 Sorry about that interruption. I will repeat
10:18:37 5 that question.

10:18:37 6 BY MR. FERGUSON:

10:18:38 7 Q. Do you have a clear idea of what it means to
10:18:41 8 obtain information that someone is not a U.S. citizen?

10:18:48 9 A. I believe so.

10:18:49 10 Q. Okay. Can you tell me what -- what that is?

10:18:56 11 A. Well, in this example, it would be information
10:19:00 12 from the jury commissioner.

10:19:02 13 Q. Okay. And that's the -- the lines of
10:19:09 14 Subsection 10 there that refer to the jury commissioner, is
10:19:12 15 that what you're referring to here?

10:19:14 16 A. Yes.

10:19:15 17 Q. Okay. Are there any other methods that you would
10:19:20 18 use to obtain information that someone is not a U.S.
10:19:23 19 citizen?

10:19:28 20 A. The AVID database and the SAVE database.

10:19:33 21 Q. Okay. Are those -- are those the only methods
10:19:40 22 that you know of right now?

10:19:43 23 A. I believe so, yes.

10:19:44 24 Q. Okay. And has your office received any guidance
10:19:51 25 about what it means to obtain information that someone is

10:19:55 1 not a U.S. citizen?

10:19:57 2 A. I don't believe so.

10:19:59 3 Q. Okay. Now I'd like to just scroll down to the top

10:20:05 4 of page 6 of 2243.

10:20:08 5 Do you see Subsections G through J

10:20:14 6 highlighted there?

10:20:16 7 A. Yes.

10:20:16 8 Q. I'll give you, once again, just a few minutes --

10:20:20 9 sorry -- a few moments to look. You don't have to read the

10:20:24 10 whole thing in detail but just -- you can take a second to

10:20:27 11 look and get a sense of what it's saying there.

10:20:47 12 Okay. Is it correct that the Subsections G

10:20:50 13 through J, these describe monthly checks against different

10:20:55 14 databases that the county recorder is required to perform;

10:20:59 15 is that correct?

10:21:00 16 A. Correct.

10:21:01 17 Q. And those databases listed here include the Social

10:21:08 18 Security Administration, or SSA, database and the SAVE

10:21:11 19 program that we discussed before; is that correct?

10:21:13 20 A. Yes.

10:21:14 21 Q. Okay. So going back to that phrase "obtains

10:21:21 22 information" that we've just been talking about, would

10:21:26 23 these databases listed here, such as the Social Security

10:21:31 24 Administration database, the SAVE program -- would they be

10:21:35 25 methods used to obtain information that someone is not a

10:21:38 1 U.S. citizen?

10:21:41 2 A. Yes.

10:21:42 3 Q. Okay. Once again, if a person's neighbor sent you

10:21:53 4 -- sent your office a letter saying that they were not a

10:21:58 5 U.S. citizen, would that be obtaining information that

10:22:04 6 someone is not a U.S. citizen?

10:22:07 7 A. No.

10:22:08 8 Q. Okay. And then the question I asked before about

10:22:12 9 receiving an email from an individual or private

10:22:17 10 organization with a list of people who are allegedly not

10:22:21 11 U.S. citizens, would that be obtaining information?

10:22:24 12 A. No.

10:22:25 13 Q. Okay. And if you could look down again at

10:22:38 14 Subsection J that's on the screen. I'll read it for the

10:22:44 15 record.

10:22:44 16 "To the extent practicable, the county

10:22:47 17 recorder shall review relevant city, town, county, state

10:22:51 18 and federal databases to which the county recorder has

10:22:56 19 access to confirm information obtained . . ."

10:23:03 20 Are there any other relevant city, town,

10:23:08 21 county, state, or federal databases that you could use to

10:23:11 22 obtain information that someone is not a U.S. citizen?

10:23:16 23 A. Not that I have access to.

10:23:18 24 Q. Okay. Can you think of databases that you don't

10:23:23 25 have access to that could be used for that?

10:23:30 1 A. I -- I can't.

10:23:31 2 Q. Okay. And then finally on the same section we've

10:23:37 3 been talking about, we talked about the phrase "obtains

10:23:40 4 information." I'm going to read Subsection 10 again, the

10:23:48 5 first sentence.

10:23:49 6 "When the county recorder obtains information

10:23:53 7 pursuant to this section and confirms that the person

10:23:55 8 registered is not a U.S. citizen" -- do you have a clear

10:24:03 9 idea of how you confirm that the person is not a U.S.

10:24:06 10 citizen?

10:24:07 11 A. Yes.

10:24:08 12 Q. Okay. Can you tell me how to do that?

10:24:12 13 A. Either through the MVD database or the SAVE

10:24:14 14 database.

10:24:14 15 Q. Okay. And so a few moments ago, we talked about

10:24:20 16 obtaining information. And I think you mentioned those

10:24:25 17 same databases you could use: MVD or SAVE.

10:24:29 18 And so if you referred to those databases,

10:24:35 19 that would constitute both obtaining information and

10:24:39 20 confirming that the person registered is not a U.S.

10:24:42 21 citizen; is that correct?

10:24:44 22 A. Yes.

10:24:45 23 Q. Okay. Now let's go to page 6 once more. Okay.

10:25:04 24 I'd like to look in particular at Subsection H near the

10:25:11 25 top. If you could just take a moment to look at that, and

10:25:16 1 then I'll read it.

10:25:34 2 Okay. So I'll read the subsection.

10:25:38 3 "To the extent practicable, each month the

10:25:42 4 county recorder shall compare persons who are registered to

10:25:44 5 vote in that county and who the county recorder has reason

10:25:49 6 to believe are not United States citizens."

10:25:54 7 Do you have a clear idea of what it means to

10:25:58 8 have "reason to believe" that someone is not a U.S.

10:26:01 9 citizen?

10:26:03 10 A. Yes.

10:26:04 11 Q. Can you describe to me your understanding of that?

10:26:08 12 A. If the recorder was presented with information to

10:26:19 13 suspect that this person wasn't a citizen, we would

10:26:22 14 research that.

10:26:23 15 Q. Okay. And can you tell me what kind of

10:26:32 16 information might lead you to do that research?

10:26:37 17 A. For example, like you were saying, if we got an

10:26:41 18 email, we could research that. But we wouldn't --

10:26:45 19 Q. Sure.

10:26:47 20 So under your understanding, if you received

10:26:50 21 the email that I mentioned before from a private

10:26:56 22 organization or individual claiming that a certain person

10:27:01 23 or people were not U.S. citizens, that would give you

10:27:06 24 reason to believe that someone is not a U.S. citizen?

10:27:09 25 A. We would research it.

10:27:10 1 Q. Okay. And would that lead you to check the SAVE

10:27:18 2 database to see if that person was a U.S. citizen?

10:27:22 3 A. We could use that tool, yes.

10:27:24 4 Q. Okay. If someone is on the list of federal-only

10:27:38 5 voters in Gila County, is that a reason to believe that

10:27:41 6 they're not a U.S. citizen?

10:27:54 7 A. I'm not sure.

10:27:56 8 Q. Okay. That's unclear to you?

10:27:59 9 A. Yes.

10:27:59 10 Q. Okay. Okay. Let's move on to discuss a couple of

10:28:09 11 these databases in more detail.

10:28:15 12 And I want to go back to the SSA database

10:28:20 13 that's mentioned in Subsection G here at the top of the

10:28:23 14 screen.

10:28:24 15 Does your office currently use the SSA

10:28:28 16 database for anything?

10:28:30 17 A. I believe it's part of the HAVA checks.

10:28:36 18 MR. FERGUSON: Okay. Just one moment.

10:28:39 19 Sorry.

10:28:39 20 I think we're at the point where we can stop

10:28:47 21 that stipulation about objections probably. Is that good

10:28:47 22 with everyone?

10:28:52 23 BY MR. FERGUSON:

10:28:52 24 Q. Okay. Sorry to interrupt.

10:28:54 25 You think the SSA database comes up as part

10:28:57 1 of the HAVA checks? Is that what you said?

10:29:01 2 A. Yes.

10:29:02 3 Q. Okay. And does your office use the SSA database
10:29:09 4 directly?

10:29:10 5 A. If you're asking if we log in to the Social
10:29:18 6 Security database on our own, no, we do not.

10:29:21 7 Q. Yeah, that is what I was asking. Thank you.

10:29:24 8 But you believe that the Social Security
10:29:31 9 database is somehow incorporated into the HAVA check
10:29:39 10 system? Is that what you meant by your previous answer?

10:29:41 11 A. Yes.

10:29:43 12 Q. Do you know exactly how that works?

10:29:47 13 A. Not exactly, no.

10:29:48 14 Q. Okay. And do you have any plans to gain access
10:29:56 15 directly to the SSA database so your office could log in
10:30:00 16 directly and do that?

10:30:02 17 A. No.

10:30:02 18 Q. Okay. And are you aware of how the SSA database
10:30:09 19 can be used -- sorry. Strike that.

10:30:12 20 Are you aware of whether it can be used to
10:30:16 21 verify citizenship?

10:30:19 22 A. AVID interfaces with it, so it can be used to --

10:30:32 23 Q. Okay. I'd like to also look at the database
10:30:39 24 mentioned in Subsection I, which is now at the top of the
10:30:43 25 screen in HB 2243 on page 6. I'll give you just a moment

10:30:50 1 to look at that.

10:31:01 2 And I'll read into the record part of

10:31:08 3 Subsection I.

10:31:09 4 "The county recorder shall compare the
10:31:12 5 Electronic Verification of Vital Events system maintained
10:31:17 6 by a National Association for Public Health Statistics and
10:31:21 7 Information Systems."

10:31:24 8 Are you aware of that database mentioned
10:31:27 9 there, the Electronic Verification of Vital Events
10:31:30 10 database?

10:31:33 11 A. I believe it also interfaces with AVID.

10:31:36 12 Q. Okay. But once again, your office doesn't have
10:31:42 13 direct access to the database?

10:31:50 14 A. No.

10:31:50 15 Q. And do you know -- and you don't have any plans to
10:31:53 16 gain direct access to it?

10:31:55 17 A. No.

10:31:55 18 Q. Okay. And do you know if it can be used to verify
10:32:04 19 citizenship?

10:32:10 20 A. Yes.

10:32:10 21 Q. It can be used for that purpose?

10:32:14 22 A. Yes.

10:32:15 23 Q. Okay. And is that belief based on your belief
10:32:23 24 that it interfaces with the AVID system?

10:32:26 25 A. Yes.

10:32:27 1 Q. Okay. But you don't know directly how that works?

10:32:33 2 A. Correct.

10:32:34 3 Q. Okay. Both for this database, the EVVE database,
10:32:42 4 and the SSA database, are you directly aware of instances
10:32:46 5 in which those databases have been used to verify an
10:32:52 6 applicant's citizenship?

10:32:54 7 A. What was the first one?

10:32:55 8 Q. The two that we've just been talking about, so the
10:33:01 9 Electronic Verification of Vital Events and the SSA.

10:33:05 10 A. And I'm sorry. What was the question?

10:33:07 11 Q. No problem.

10:33:08 12 Are you aware of any specific instance in
10:33:13 13 which these databases have been used to verify someone's
10:33:17 14 citizenship?

10:33:19 15 A. Yes.

10:33:20 16 Q. Okay. Can you tell me about those specific
10:33:23 17 instances?

10:33:25 18 A. I am not sure.

10:33:36 19 Q. And when I say "specific instances," I mean an
10:33:40 20 application coming into the office in which one of those
10:33:45 21 databases was used to verify citizenship. Are you
10:33:50 22 recalling a specific one?

10:33:54 23 A. Well, I recall the motor vehicle one.

10:33:57 24 Q. Okay. Okay. So you're aware that -- of specific
10:34:03 25 instances in which the MVD database has been used to verify

10:34:07 1 citizenship; is that correct?

10:34:09 2 A. Yes.

10:34:09 3 Q. But you're not aware of how the SSA database would
10:34:15 4 have been used as part of that process?

10:34:17 5 A. No. I am aware.

10:34:19 6 Q. Okay. Can you tell me how it was used as part of
10:34:23 7 that process?

10:34:24 8 A. It will -- it's part of the HAVA checks. It's
10:34:27 9 ran, and it will obtain the -- the last four of the Social
10:34:30 10 Security number or not.

10:34:33 11 Q. Okay. And let's go back to specific instances.

10:34:40 12 You're aware of a specific applicant whose
10:34:45 13 citizenship was checked in that manner that you just
10:34:48 14 described?

10:34:51 15 A. I'm not -- I'm not aware of a specific one, no.

10:34:54 16 Q. Okay. And then same question with regard to the
10:35:00 17 Electronic Verification of Vital Events system. Are you
10:35:04 18 aware of a specific applicant in which -- for which that's
10:35:09 19 happened?

10:35:09 20 A. No.

10:35:10 21 MR. FERGUSON: Okay. I'd like to move on to
10:35:21 22 something called the Electronic Registration Information
10:35:27 23 Center. And that's not mentioned right here on this text,
10:35:30 24 so I'm going to stop sharing the screen.

10:35:30 25 BY MR. FERGUSON:

10:35:36 1 Q. Are you aware of the Electronic Registration
10:35:40 2 Information Center that's called ERIC sometimes?

10:35:42 3 A. Yes.

10:35:43 4 Q. Okay. And can you describe to me what ERIC is?

10:35:50 5 A. It is information that we get from other states
10:35:57 6 that we use to -- we use it as a list maintenance tool.

10:36:03 7 Q. Okay. And does your office in particular use
10:36:10 8 ERIC --

10:36:11 9 A. Yes.

10:36:11 10 Q. -- or is it just used statewide? You're -- sorry
10:36:14 11 to cut you off.

10:36:15 12 Your office in particular uses it?

10:36:17 13 A. Well, it is statewide.

10:36:19 14 Q. Right.

10:36:19 15 But -- but your office accesses ERIC
10:36:25 16 directly?

10:36:26 17 A. We receive a spreadsheet.

10:36:30 18 Q. Okay. And who do you receive that spreadsheet
10:36:34 19 from?

10:36:35 20 A. The secretary of state.

10:36:37 21 Q. Okay. And you said that that information is used
10:36:44 22 to update the voter rolls?

10:36:48 23 A. It's -- yes. It can be used to maintain the list,
10:36:52 24 yes.

10:36:55 25 Q. And what would that spreadsheet indicate on it?

10:36:58 1 What does it contain?

10:37:04 2 A. Names and number of -- their voter registration
10:37:10 3 number. It contains a match score. And then depending on
10:37:15 4 what report we request or what it -- it depends on what
10:37:19 5 kind of a process we'll use for it.

10:37:22 6 Q. Okay. And when you say "match score," can you
10:37:27 7 tell me what you mean by that?

10:37:31 8 A. So my understanding is that there's a score that
10:37:40 9 is given to the data based on a program that ERIC has so
10:37:46 10 that there's really no personal identifying information
10:37:48 11 that gets released. And so they make matches based on
10:37:54 12 that.

10:37:55 13 Q. Okay. And is that often related to if someone has
10:38:01 14 registered to vote in a different state?

10:38:04 15 A. It can be, yes.

10:38:06 16 Q. Okay. Are there any other things that it contains
10:38:11 17 other than someone who's registered in a different state?

10:38:15 18 A. There is a deceased record or deceased report that
10:38:21 19 we could receive as well, I believe.

10:38:25 20 Q. Okay. And does it ever contain information on
10:38:29 21 whether people are U.S. citizens?

10:38:33 22 A. I don't believe so.

10:38:34 23 Q. Okay. Do you know of any way to use ERIC to
10:38:39 24 verify whether someone's a U.S. citizen?

10:38:43 25 A. No, I don't.

10:38:47 1 Q. Okay. Now I'd like to talk a little bit about the
10:38:53 2 state registration form and the federal form that we've
10:38:57 3 talked about a few times. You're aware of the difference
10:39:06 4 between those two types of forms; is that correct?

10:39:09 5 A. Yes.

10:39:10 6 Q. Can you give me the relative breakdown between the
10:39:13 7 number of state form applications your office receives
10:39:16 8 versus federal form applications you receive?

10:39:20 9 A. I cannot.

10:39:21 10 Q. Okay. And I'm not asking for exact numbers. But
10:39:25 11 can you tell me, like, whether the -- the majority are
10:39:29 12 state forms?

10:39:32 13 A. The majority would be state forms, yes.

10:39:35 14 Q. Okay. Would you say it's substantially more state
10:39:41 15 forms than federal forms?

10:39:44 16 A. Yes.

10:39:44 17 Q. Okay. And we -- we talked a little bit ago about
10:39:52 18 those -- those agencies, such as public assistance
10:39:56 19 agencies, that are designated to provide voter registration
10:40:00 20 services.

10:40:03 21 Are you aware of any of those agencies that
10:40:08 22 use the federal form?

10:40:15 23 A. I am not aware.

10:40:16 24 Q. Okay. Do you know whether they use the state form
10:40:21 25 or federal form?

10:40:23 1 A. I do not.

10:40:25 2 MR. MORGAN: Foundation.

10:40:27 3 BY MR. FERGUSON:

10:40:28 4 Q. Sorry. I didn't get your answer.

10:40:29 5 A. I do not.

10:40:30 6 Q. Okay. And your office provides registration forms

10:40:38 7 to -- to third-party voter registration groups; is that

10:40:44 8 correct?

10:40:44 9 A. Yes.

10:40:45 10 Q. Okay. And when you provide those forms, do you

10:40:49 11 provide the state form?

10:40:52 12 A. Yes.

10:40:53 13 Q. Okay. Do you know whether those groups normally

10:40:59 14 use the state form?

10:41:05 15 A. I believe that they normally use the state form.

10:41:07 16 Q. Okay. And are you aware of any -- any such groups

10:41:12 17 that use the federal form?

10:41:14 18 A. I am not aware.

10:41:17 19 Q. Okay. Does your office process state form

10:41:24 20 applications any differently from federal form

10:41:28 21 applications?

10:41:29 22 A. No.

10:41:30 23 Q. Okay. So you use the same verification procedures

10:41:38 24 for documentary proof of citizenship regardless of whether

10:41:42 25 the applicant uses the state form or federal form?

10:41:45 1 A. Correct.

10:41:54 2 Q. Okay. I'd like to talk a little bit about

10:41:57 3 instances of voter fraud in the county or -- and how your

10:42:02 4 office handles it.

10:42:04 5 Can you just tell me in general what your

10:42:07 6 office does to identify instances of voter fraud?

10:42:16 7 A. We use the ERIC report.

10:42:21 8 Q. Okay. Can you describe in a little more detail

10:42:27 9 how that works?

10:42:28 10 A. There's a report we can request that will give us

10:42:33 11 information on people who may have voted in other states.

10:42:37 12 Q. Okay. And is that -- I suppose is that the only

10:42:43 13 way that you identify instances of fraud?

10:42:49 14 A. We -- it's -- I guess if they were brought to our

10:42:52 15 attention, we could research them.

10:42:54 16 Q. Okay. And so you perform investigations -- if --

10:43:01 17 if you receive information about potential fraud, you

10:43:05 18 perform an investigation?

10:43:08 19 A. I believe it has to be a formal challenge. I'm

10:43:11 20 sorry.

10:43:12 21 Q. No problem.

10:43:15 22 It needs to be a formal challenge. Can you

10:43:19 23 describe what you mean by "formal challenge"?

10:43:22 24 A. Like an early ballot challenge. There's a

10:43:28 25 process, I believe, and we would have to start that.

10:43:31 1 Q. So if someone wants your office to initiate an
10:43:35 2 investigation, they would have to file a formal challenge;
10:43:39 3 is that correct?
10:43:40 4 A. I believe so, yes.
10:43:42 5 Q. Okay. And if you were to receive any type of
10:43:49 6 challenge and perform an investigation, who would lead that
10:43:54 7 investigation within your office?
10:43:57 8 A. Myself or the recorder.
10:43:59 9 Q. Okay. And has that happened recently?
10:44:05 10 A. We have had an instance of a double voter -- a
10:44:10 11 potential double voter that we did research, yes.
10:44:14 12 Q. And can you tell me the outcome of that research?
10:44:17 13 A. I don't -- I don't know the outcome. I did
10:44:22 14 consult with the other state. So I don't know the outcome,
10:44:26 15 though.
10:44:27 16 Q. Okay. So this is an instance in which you
10:44:32 17 believed it was possible that someone had voted both in
10:44:36 18 Gila County and in another state in the same election?
10:44:40 19 A. We had received notification, yes, that that was
10:44:43 20 possible.
10:44:47 21 Q. And what was the source of that notification that
10:44:50 22 you received?
10:44:52 23 A. I believe it was the ERIC report.
10:44:54 24 Q. Okay. And is that the only investigation that you
10:45:03 25 are aware of that you performed since you became deputy

10:45:08 1 recorder?

10:45:10 2 A. I'm -- I will -- I guess I should say there are

10:45:17 3 two results. But one indicated that it wasn't an actual --

10:45:24 4 there was no -- it was a -- someone who was claimed to be

10:45:29 5 deceased when they voted, but that -- that wasn't true.

10:45:32 6 Q. So this was a separate -- a second investigation?

10:45:35 7 A. Yes.

10:45:36 8 Q. And you received information that they were

10:45:40 9 deceased; you investigated and found that it was not

10:45:46 10 correct?

10:45:46 11 A. Yeah, I believe they had died. They had voted and

10:45:49 12 then passed away. And so, therefore, they were valid.

10:45:52 13 Q. Okay. So those are the two -- are there any other

10:45:59 14 investigations that you performed into voter fraud or

10:46:05 15 similar incidents like that?

10:46:06 16 A. No.

10:46:11 17 Q. Are you aware of instances of noncitizens voting

10:46:15 18 in Gila County?

10:46:18 19 A. I am not aware --

10:46:21 20 Q. Okay.

10:46:22 21 A. -- of any.

10:46:23 22 Q. And are you aware of instances of noncitizens

10:46:27 23 registering to vote in Gila County?

10:46:31 24 A. I am not aware of any.

10:46:33 25 Q. Okay. Give me just a moment. I'm going to pull

10:46:53 1 up one additional document here. Okay. Can you see that
10:47:23 2 document up here?

10:47:24 3 A. Yes.

10:47:25 4 MR. FERGUSON: This is Document N -- the PDF
10:47:28 5 of Document N from the Dropbox. And this one, I believe,
10:47:32 6 does need to be marked as an exhibit. I think we're at
10:47:36 7 134?

10:47:37 8 THE COURT REPORTER: Yes.

10:47:37 9 (The document was marked as Exhibit 134
10:47:38 10 for identification.)

10:47:38 11 BY MR. FERGUSON:

10:47:42 12 Q. Do you recognize this email?

10:47:43 13 A. Yes.

10:47:44 14 Q. And this was sent to you; is that correct?

10:47:46 15 A. Yes.

10:47:47 16 Q. Okay. And can you describe to me what this email
10:47:53 17 is?

10:47:54 18 A. It's an email from Ian Camacho, who was letting us
10:48:00 19 know that he'd found several voters that appeared to be
10:48:04 20 illegally registered at addresses.

10:48:09 21 Q. And did you do any follow-up on this email?

10:48:13 22 A. We did.

10:48:14 23 Q. Okay. Can you tell me what follow-up you did?

10:48:21 24 A. We sent them letters.

10:48:23 25 Q. Okay.

10:48:25 1 A. A lot of them were -- a lot of them ended up to be
10:48:28 2 people who were registering at like a PostNets. And so we
10:48:33 3 let them know that they needed to provide a residential
10:48:35 4 address.

10:48:36 5 Q. Okay. So it appeared that the problem was they --
10:48:41 6 by "PostNets," do you mean they registered at a post office
10:48:44 7 box?

10:48:44 8 A. Right. Well --

10:48:47 9 Q. Sorry. Go ahead.

10:48:49 10 A. -- it's not really a post office box per se. I
10:48:52 11 guess it's like a place that you could -- I guess -- I
10:48:56 12 guess so, yes.

10:48:57 13 Q. Okay. Something -- something similar to a P.O.
10:49:01 14 box?

10:49:01 15 A. Yes.

10:49:01 16 Q. Okay. And you followed up with them to inform
10:49:09 17 them that they needed to register at -- using their home
10:49:15 18 residential address; is that correct?

10:49:17 19 A. Correct.

10:49:18 20 Q. Okay. And did you identify any instances of fraud
10:49:26 21 when you did the follow-up to this email?

10:49:28 22 A. No.

10:49:29 23 Q. Okay. Do you think your office's work in
10:49:40 24 preventing voter fraud in Gila County is effective?

10:49:47 25 A. I believe so.

10:49:48 1 MR. FERGUSON: Okay. Okay. I'm going to
10:49:52 2 stop sharing that document. I think it's probably a good
10:49:58 3 time for a break. Are you ready for a break?

10:50:02 4 THE WITNESS: Sure.

10:50:04 5 MR. FERGUSON: Okay. Does ten minutes work
10:50:07 6 for everyone? And we can restart at 11:00 Arizona time.

10:50:16 7 MR. LANGHOFER: Sounds good.

10:50:18 8 MR. FERGUSON: We can go off the record.

10:50:20 9 THE VIDEOGRAPHER: We are off the record.
10:50:22 10 Time on the video monitor is 10:50 a.m.

10:50:27 11 (A recess ensued.)

11:00:59 12 THE VIDEOGRAPHER: We are on the record.
11:01:15 13 Time on the video monitor is 11:01 a.m.

11:01:19 14 MR. FERGUSON: Okay. Thanks very much.
11:01:25 15 I'm just going to continue for a little bit
11:01:28 16 more and then pass it off to one of my colleagues.
11:01:32 17 So I'd like to bring up Document D from the
11:01:37 18 folder. And I'll share my screen so everyone can see that.

11:01:37 19 BY MR. FERGUSON:

11:01:59 20 Q. Okay. Can you see that document on the screen?
11:02:01 21 A. Yes.
11:02:02 22 Q. And have you seen this one before?
11:02:04 23 A. Yes.
11:02:05 24 Q. And can you tell me what that is?
11:02:10 25 A. Our responses to the request for productions.

11:02:16 1 Q. Great. And so you did send documents in response
11:02:24 2 to this request for production; is that correct?

11:02:27 3 A. Yes.

11:02:28 4 Q. Okay. Can you, I guess, describe to me your
11:02:34 5 process for locating documents that would be responsive to
11:02:42 6 these requests for production?

11:02:45 7 A. So we did some searching of our emails. We used,
11:02:56 8 I believe, the procedures manual. We did -- we used AVID
11:03:07 9 for some searching results.

11:03:13 10 Q. Okay. And did you search through your office's
11:03:18 11 computer files?

11:03:22 12 A. Computer -- what do you mean by "computer files"?

11:03:29 13 Q. Files that are on your computer or the computer of
11:03:36 14 any other employee in the office.

11:03:39 15 A. I searched my emails.

11:03:41 16 Q. Okay. Do you have a shared drive on your -- on
11:03:51 17 the county recorder's computer system --

11:03:54 18 A. Yes.

11:03:55 19 Q. -- that all the employees have access to?

11:03:59 20 Did you perform any search on that drive?

11:04:02 21 A. I did not.

11:04:03 22 Q. Okay. And did you perform any search on the files
11:04:08 23 of your -- just your own computer or that of anyone else?

11:04:12 24 A. The recorder did hers as well.

11:04:15 25 Q. Okay. And what -- do you know if that was her

11:04:18 1 emails or just her computer itself?

11:04:21 2 A. Her emails.

11:04:22 3 Q. Okay. What search terms did you use when
11:04:32 4 performing those searches?

11:04:33 5 A. I used birthplace, citizenship checkbox, and the
11:04:39 6 house bill numbers.

11:04:41 7 Q. Okay. Birthplace, citizenship box, and the house
11:04:45 8 bill numbers?

11:04:45 9 A. Yes.

11:04:46 10 Q. Okay. And only those four things?

11:04:48 11 A. Yes.

11:04:49 12 MR. FERGUSON: Okay. I'm going to pull up
11:04:58 13 Document C right now.

11:05:00 14 THE COURT REPORTER: Would you like to mark
11:05:03 15 that one as 135?

11:05:04 16 MR. FERGUSON: Yep. Sorry about that.

11:05:04 17 (The document was marked as Exhibit 135
11:05:04 18 for identification.)

11:05:25 19 MR. FERGUSON: I apologize. I'm going to
11:05:26 20 pull up Document B first and then C. So give me just one
11:05:34 21 moment. Okay.

11:05:34 22 BY MR. FERGUSON:

11:05:50 23 Q. Can you see that Document B once again on the
11:05:54 24 screen?

11:05:54 25 A. Yes.

11:05:55 1 Q. And do you see Interrogatory Number 11 there?

11:06:03 2 A. Yes.

11:06:03 3 Q. Okay. And I'll read it into the record.

11:06:06 4 "For every Request for Production served on

11:06:08 5 You in this matter, please describe the methodology for

11:06:11 6 your search for responsive documents and productions,

11:06:15 7 including but not limited to identifying the individuals

11:06:19 8 who assisted in the search, custodians, search terms, date

11:06:23 9 ranges."

11:06:29 10 Did I read that correctly?

11:06:29 11 A. Yes.

11:06:30 12 Q. Okay. Great. Now I'll switch back to Document C.

11:06:47 13 Okay.

11:06:47 14 Now do you see Document C up here?

11:06:50 15 A. Yes.

11:06:51 16 Q. Okay. So do you see Answer to Interrogatory 11?

11:06:57 17 A. Yes.

11:06:57 18 Q. Could you read that to me?

11:06:59 19 A. "The knowledge of the Recorder's chief deputy."

11:07:03 20 Q. Okay. Is it true that you also performed searches

11:07:09 21 for files in this case?

11:07:11 22 A. Yes.

11:07:12 23 Q. Do you still think that that answer is correct?

11:07:16 24 A. No.

11:07:17 25 Q. Okay. Do you want to give a new answer to that

11:07:25 1 interrogatory?

11:07:26 2 A. Sure. Yeah, we used the search terms that I spoke

11:07:32 3 about before, and we searched the emails --

11:07:34 4 Q. Okay.

11:07:35 5 A. -- of both the chief deputy recorder and the

11:07:40 6 recorder.

11:07:40 7 Q. Okay. Thank you. I'm going to take that document

11:07:47 8 off the screen and introduce one more. I'm going to pull

11:08:02 9 up Document E on the screen.

11:08:16 10 Did that come up for you?

11:08:17 11 A. Yes.

11:08:18 12 Q. Okay. Great.

11:08:19 13 Do you recognize this document?

11:08:21 14 A. I -- I don't recognize it.

11:08:32 15 MR. FERGUSON: Okay. And I do think we need

11:08:33 16 to mark this one as Exhibit -- I think it's 136.

11:08:38 17 THE COURT REPORTER: Yes.

11:08:38 18 (The document was marked as Exhibit 136

11:08:43 19 for identification.)

11:08:43 20 BY MR. FERGUSON:

11:08:45 21 Q. You said you don't recognize this document?

11:08:47 22 A. I -- I do.

11:08:50 23 Q. You do?

11:08:51 24 A. Yes.

11:08:51 25 Q. Okay. Can you tell me what it is?

11:08:53 1 A. I believe it is the -- it is a response to one of
11:09:09 2 the interrogatories.

11:09:12 3 Q. Okay. But you're not sure which one?

11:09:16 4 A. No.

11:09:17 5 MR. FERGUSON: Okay. Let me -- maybe I'll
11:09:21 6 just pull up that document requesting production one more
11:09:27 7 time to make it more clear.

11:09:27 8 BY MR. FERGUSON:

11:09:57 9 Q. Okay. Did that document come up for you?

11:10:01 10 A. Yes.

11:10:02 11 Q. Okay. So do you see where it says Answer for --
11:10:05 12 to Request for Production 3?

11:10:08 13 A. Yes.

11:10:10 14 MR. FERGUSON: Great. And for the record,
11:10:11 15 this is Document D, the answers to requests for production.

11:10:19 16 BY MR. FERGUSON:

11:10:20 17 Q. Could you just take a moment to read after it
11:10:27 18 says "Request for Production 3."

11:10:37 19 And so I'll read the first part of that into
11:10:43 20 the record.

11:10:44 21 "Any and all Documents and Communications
11:10:46 22 relating to -- including but not limited to a complete list
11:10:50 23 of -- Registered Voters whose registrations were canceled,
11:10:54 24 suspended, removed, placed on Congressional-only or
11:10:58 25 federal-only status."

11:11:00 1 Is that what it says at the beginning of
11:11:03 2 that?

11:11:03 3 A. Yes.

11:11:03 4 Q. Okay. And then I believe these are your answers
11:11:10 5 closer to the bottom of page 4 in bold; is that correct?

11:11:14 6 A. Yes.

11:11:14 7 Q. Okay. I'll give you a moment to read those.

11:11:27 8 A. Okay.

11:11:28 9 Q. Okay. Great.

11:11:29 10 And so the first answer says, "As to
11:11:32 11 Documents and Communications regarding cancellation,
11:11:35 12 suspension, placement on Congressional-only or
11:11:38 13 federal-only" -- it continues to say -- "see the Google
11:11:41 14 Drive link."

11:11:42 15 A. Yes.

11:11:42 16 Q. Did I read that correctly? Okay.

11:11:46 17 Does that refresh your memory about what that
11:11:49 18 spreadsheet we looked at is?

11:11:51 19 A. Yes.

11:11:51 20 Q. Okay. I'll pull that up as we're talking so we
11:11:57 21 can look at it again.

11:12:00 22 But can you tell me now what that spreadsheet
11:12:04 23 is that's Document E that I think we marked as 136?

11:12:09 24 A. Anyone who was -- their status changed from -- I
11:12:16 25 believe it was January 2022.

11:12:27 1 Q. You said anyone who -- sorry. Were you -- were
11:12:29 2 you still talking?

11:12:30 3 A. No.

11:12:30 4 Q. Okay. You said anyone whose status changed
11:12:35 5 starting with January 1st, 2022?

11:12:42 6 A. Whatever the date was provided on the --

11:12:44 7 Q. Sure. Sure. But it's a listed -- a list of
11:12:47 8 voters whose status changed?

11:12:50 9 A. Correct.

11:12:50 10 Q. Okay. And that -- so that's a total of five
11:12:55 11 voters in that time period?

11:13:00 12 A. Yes.

11:13:01 13 Q. Okay. And --

11:13:03 14 A. I think it was -- I think this list is actually
11:13:06 15 only people who were federal-only is who's changed.

11:13:12 16 Q. Okay. So it's a list of people who were
11:13:16 17 federal-only voters and then their status changed after
11:13:20 18 that?

11:13:21 19 A. Correct.

11:13:21 20 Q. Okay. Do you have a list of all federal-only
11:13:31 21 voters in Gila County?

11:13:33 22 A. Yes.

11:13:33 23 Q. Okay. Do you know if -- sorry. Go ahead.

11:13:38 24 A. Sorry. I could have one.

11:13:41 25 Q. Okay. Do you know if you produced that list in

11:13:47 1 response to this question that we read?

11:13:50 2 A. No, I don't think --

11:14:03 3 Q. Okay.

11:14:04 4 A. -- provided that separately, no.

11:14:06 5 Q. Do you know if there would have been a reason not
11:14:08 6 to provide that?

11:14:09 7 A. No. Other than I guess I didn't understand the
11:14:14 8 question -- the request.

11:14:14 9 MR. FERGUSON: Sure.

11:14:19 10 Counsel, if you are able to access that list,
11:14:21 11 we'd appreciate seeing it.

11:14:25 12 BY MR. FERGUSON:

11:14:25 13 Q. Do you know about how many people in Gila County
11:14:28 14 are registered as federal-only voters?

11:14:32 15 A. About -- about -- less than 70, I believe.

11:14:36 16 Q. Less than 70. Okay.

11:14:39 17 And do you know how many total are
11:14:44 18 registered, not just federal-only, but everyone?

11:14:47 19 A. About 36,000.

11:14:49 20 Q. Okay. So about 70 out of 36,000?

11:14:52 21 A. Uh-huh.

11:14:53 22 Q. Okay.

11:14:54 23 A. Yes.

11:14:58 24 MR. FERGUSON: I'm going to stop sharing my
11:15:00 25 screen. Okay. That concludes my questions for now.

11:15:03 1 Thanks very much for your time. I appreciate
11:15:05 2 it.

11:15:06 3 We're going to move on to some questions by
11:15:08 4 Mr. Hirschel.

11:15:10 5

11:15:19 6 EXAMINATION

11:15:19 7 BY MR. HIRSCHEL:

11:15:20 8 Q. Hi. Good afternoon.

11:15:22 9 A. Hello.

11:15:22 10 Q. I suppose good morning in Arizona. As

11:15:26 11 Mr. Ferguson said, my name is Andrew Hirschel. I'm with

11:15:30 12 Arnold & Porter. I represent Poder Latinx. I'm going to

11:15:33 13 try my best to make this take very little of your time.

11:15:36 14 Just a few questions.

11:15:37 15 So my first question is about the EPM.

11:15:43 16 Mr. Ferguson asked if the EPM is legally binding, and you

11:15:47 17 said you believe so. Does that apply to the -- to the

11:15:50 18 entire EPM?

11:15:53 19 MR. LANGHOFER: Form. Calls for a legal
11:15:54 20 conclusion.

11:15:56 21 THE WITNESS: I would assume so, yes.

11:15:59 22 BY MR. HIRSCHEL:

11:16:01 23 Q. Can legally binding guidance be conveyed by the

11:16:05 24 Secretary of State's Office to the County Recorder's Office

11:16:09 25 in any other way besides the EPM?

11:16:14 1 MR. LANGHOFER: Form; foundation.

11:16:15 2 MR. MORGAN: Calls for a legal conclusion.

11:16:17 3 THE WITNESS: I am not aware of that.

11:16:20 4 BY MR. HIRSCHHEL:

11:16:21 5 Q. You're not aware of any other way that legally

11:16:23 6 binding guidance could be conveyed by the secretary of

11:16:26 7 state?

11:16:26 8 A. I don't know --

11:16:27 9 MR. MORGAN: Asked and answered.

11:16:29 10 THE COURT REPORTER: Can you repeat your

11:16:30 11 answer?

11:16:31 12 THE WITNESS: I don't know.

11:16:34 13 BY MR. HIRSCHHEL:

11:16:34 14 Q. Okay. I'm going to move on. I have a couple

11:16:36 15 questions about the MVD.

11:16:40 16 You can use the MVD to confirm that someone

11:16:43 17 is a citizen; right?

11:16:45 18 A. Correct.

11:16:46 19 Q. And I just want to clarify. Can you use the MVD

11:16:53 20 to confirm that someone is not a citizen?

11:16:57 21 A. Correct.

11:16:58 22 Q. How would you use the MVD to confirm that someone

11:17:02 23 is not a citizen?

11:17:04 24 A. The results would come back, and they would say

11:17:07 25 they were an F-type license.

11:17:08 1 Q. When -- when you discussed F-type licenses with
 11:17:12 2 Mr. Ferguson earlier, I believe you discussed how an F-type
 11:17:21 3 license reflects a person's citizenship status at a certain
 11:17:26 4 point in time but not necessarily their current citizenship
 11:17:30 5 status.

11:17:31 6 Do you recall testifying to that?

11:17:33 7 A. Yes.

11:17:34 8 Q. So if you do a check in MVD and it comes back that
 11:17:41 9 the person has an F-type license, isn't it possible that a
 11:17:47 10 person could have naturalized between the time that they
 11:17:50 11 got their F-type license and now?

11:17:55 12 A. I guess it could be true.

11:17:57 13 Q. So you can't -- you can't use the MVD to
 11:18:03 14 conclusively determine that someone is not a citizen right
 11:18:07 15 now; isn't that right?

11:18:11 16 A. Can you repeat that?

11:18:13 17 Q. Because of the possibility that someone could
 11:18:17 18 naturalize between the time they obtained an F-type license
 11:18:20 19 and today, wouldn't it be the case that you cannot use the
 11:18:26 20 MVD to conclusively determine that someone is not a citizen
 11:18:31 21 today?

11:18:33 22 MS. PORTER: Form.

11:18:36 23 THE WITNESS: I think that could be true.

11:18:36 24 BY MR. HIRSCHER:

11:18:39 25 Q. So you cannot use the MVD to confirm that someone

11:18:41 1 is not a citizen?

11:18:46 2 MS. BOUGHTON: Form.

11:18:49 3 THE WITNESS: If -- I guess if they had

11:18:51 4 naturalized between the two times, no.

11:18:57 5 BY MR. HIRSCHTEL:

11:19:01 6 Q. A number of the provisions in the two laws we've

11:19:04 7 been talking about require the county recorder to do things

11:19:08 8 -- it uses the language "to the extent practicable."

11:19:12 9 You looked at this, some of these sections,

11:19:14 10 before. And we could pull them up if you want to.

11:19:18 11 Do you understand what "to the extent

11:19:20 12 practicable" means?

11:19:25 13 MR. LANGHOFER: Form. Calls for a legal

11:19:27 14 conclusion.

11:19:27 15 THE WITNESS: I don't.

11:19:33 16 BY MR. HIRSCHTEL:

11:19:34 17 Q. Do you know who in your office would decide

11:19:36 18 whether something is practicable?

11:19:41 19 A. I would assume my county attorney would.

11:19:50 20 Q. In your opinion, is it practicable for the County

11:19:53 21 Recorder's Office to use MVD driver license and

11:19:57 22 nonoperating ID license information -- or nonoperating ID

11:20:02 23 -- excuse me -- information to verify voter citizenship?

11:20:07 24 MR. MORGAN: Form.

11:20:07 25 MR. LANGHOFER: Same objection.

11:20:10 1 THE WITNESS: I don't have an opinion on
11:20:12 2 that.

11:20:12 3 BY MR. HIRSCHTEL:

11:20:13 4 Q. Okay. I've got a couple questions about the SAVE
11:20:15 5 database.

11:20:15 6 You talked previously about A-numbers and
11:20:18 7 naturalization certificate numbers. How do you obtain
11:20:22 8 those numbers?

11:20:24 9 A. They're provided by the voter.

11:20:27 10 Q. In what form are they provided by the voter?

11:20:30 11 A. The voter registration form.

11:20:33 12 Q. If someone provides a naturalization certificate,
11:20:36 13 does that satisfy the DPCC requirement?

11:20:39 14 MR. LANGHOFER: Same objection.

11:20:42 15 THE WITNESS: I believe it would.

11:20:43 16 BY MR. HIRSCHTEL:

11:20:44 17 Q. So if someone provides a naturalization
11:20:47 18 certificate, do you have to check the number in the SAVE
11:20:50 19 system or are they set?

11:20:53 20 A. We check it.

11:20:55 21 Q. When you check a naturalization certificate number
11:20:58 22 in the SAVE system, do you also check A-numbers?

11:21:05 23 A. If it's provided.

11:21:07 24 Q. Is that to say that sometimes you only check one
11:21:11 25 of those numbers but not both?

11:21:15 1 A. To be -- to be honest, I don't -- I haven't used
11:21:18 2 the SAVE program that often so I -- I can't -- I can't
11:21:27 3 recall what it actually requires.

11:21:29 4 Q. Can you use the -- moving on to the Social
11:21:37 5 Security database, can you use that database to confirm
11:21:40 6 that someone is a citizen?

11:21:44 7 A. We can confirm that they have a Social Security
11:21:46 8 number or not.

11:21:51 9 Q. And can you use the Social Security database to
11:21:54 10 confirm that someone is not a citizen?

11:21:58 11 A. We can confirm that they have a Social Security
11:22:02 12 number.

11:22:04 13 Q. But that's all?

11:22:06 14 A. Correct.

11:22:07 15 Q. Do you know if USCIS has an alternative
11:22:14 16 verification citizen -- system -- excuse me -- for
11:22:17 17 citizenship?

11:22:17 18 A. I have no idea.

11:22:18 19 Q. So you've never used a USCIS alternative
11:22:22 20 verification system for citizenship?

11:22:25 21 A. I don't believe -- I don't know what that is, so I
11:22:31 22 don't know.

11:22:32 23 Q. Okay. In HB 2243, there are a couple places where
11:22:46 24 the county recorder is supposed to compare voter rolls to
11:22:49 25 other databases each month. Are you familiar with that

11:22:52 1 language?

11:22:53 2 A. Yes.

11:22:54 3 Q. Is it practicable to compare the voter rolls to
11:22:59 4 other databases each month?

11:23:02 5 MR. LANGHOFER: Same objection.

11:23:06 6 THE WITNESS: I don't know.

11:23:06 7 BY MR. HIRSCHER:

11:23:15 8 Q. Do you think it would be possible to do that?

11:23:18 9 A. I'm sure it might be possible. I don't know how
11:23:21 10 long it would take.

11:23:24 11 Q. Thinking about how long it would take, there's a
11:23:27 12 point in HB 2492 where it says that the attorney general
11:23:33 13 should use, quote, "all available resources to verify the
11:23:38 14 citizenship status" of each applicant.

11:23:42 15 Would it be possible to use all of your
11:23:44 16 office's available resources to -- to perform those checks?

11:23:55 17 A. I guess it could be possible.

11:23:56 18 Q. Would there be any downsides that you can think of
11:23:59 19 to doing that?

11:24:01 20 A. Time.

11:24:02 21 MR. MORGAN: Form.

11:24:04 22 BY MR. FERGUSON:

11:24:04 23 Q. Anything else?

11:24:07 24 A. Staff.

11:24:09 25 Q. What do you mean by "staff"?

11:24:11 1 A. Having enough staff to do that.

11:24:17 2 Q. Okay. Just a few more questions.

11:24:22 3 You spoke with Mr. Ferguson previously about

11:24:27 4 what the language in HB 2492 and 2243 -- scratch that.

11:24:36 5 Strike that.

11:24:36 6 You spoke previously about information that

11:24:40 7 someone is not a U.S. citizen. The -- these laws use the

11:24:45 8 word "information." I want to just identify a few

11:24:49 9 examples. And my question for you is whether this would

11:24:55 10 constitute information that someone is not a U.S. citizen?

11:25:01 11 So my first example is anything besides a

11:25:05 12 government database, could anything else be information

11:25:10 13 that someone is not a U.S. citizen?

11:25:20 14 MS. BOUGHTON: Form.

11:25:20 15 THE WITNESS: I guess it could be. I'm

11:25:22 16 not --

11:25:22 17 BY MR. HIRSCHER:

11:25:23 18 Q. What about if a voter called your office and said

11:25:26 19 they're not a citizen? Would that be information that

11:25:29 20 they're not a citizen?

11:25:32 21 MR. LANGHOFER: Same objection. Asked and

11:25:33 22 answered.

11:25:37 23 THE WITNESS: I suppose we could look into

11:25:39 24 that.

11:25:40 25 ///

11:25:40 1 BY MR. HIRSCHTEL:

11:25:40 2 Q. What if they emailed your office?

11:25:42 3 MR. LANGHOFER: Same objection. Asked and
11:25:44 4 answered.

11:25:44 5 THE WITNESS: We could look into that.

11:25:46 6 BY MR. HIRSCHTEL:

11:25:47 7 Q. What about if a voter's family member called the
11:25:50 8 office and said that someone else is not a citizen? Would
11:25:53 9 that be valid information that they're not a citizen?

11:25:56 10 MR. LANGHOFER: Same objection.

11:26:00 11 THE WITNESS: We would look into it. We
11:26:01 12 wouldn't take anything at face value.

11:26:06 13 MR. HIRSCHTEL: Counsel, should we stipulate
11:26:07 14 the objection to -- I'm going to just do a few more of
11:26:10 15 these.

11:26:12 16 MR. LANGHOFER: Yeah. I think that is good.
11:26:14 17 The objection's form and calls for a legal conclusion.

11:26:17 18 Go ahead.

11:26:18 19 MR. MORGAN: Can you just let us know when
11:26:19 20 you're done asking questions subject to the stipulation.

11:26:23 21 MR. HIRSCHTEL: Happy to.

11:26:24 22 BY MR. HIRSCHTEL:

11:26:25 23 Q. What about a phone call from a law enforcement in
11:26:28 24 Arizona? Would that provide information that someone is
11:26:31 25 not a citizen?

11:26:35 1 A. Not -- not that we would act on alone, no.

11:26:39 2 Q. How about a phone call from law enforcement in

11:26:42 3 another state?

11:26:46 4 A. That would be the same answer.

11:26:49 5 Q. What about an email or a letter from law

11:26:52 6 enforcement in Arizona?

11:26:59 7 A. Same answer.

11:27:00 8 Q. Email or letter from law enforcement in another

11:27:02 9 state?

11:27:03 10 A. We would definitely -- we would look into things.

11:27:10 11 Q. What do you mean you would look into things?

11:27:13 12 A. I guess we would, you know, run their -- run their

11:27:14 13 information through the HAVA check again to see if that's

11:27:19 14 -- if they're a citizen or not, if we got any different

11:27:23 15 results from the first time.

11:27:25 16 Q. So an email or letter from law enforcement in

11:27:26 17 another state, is your answer that that would constitute

11:27:29 18 information that someone's not a citizen?

11:27:31 19 A. We would look into it.

11:27:34 20 Q. So is that -- is that information, then?

11:27:38 21 A. It could be considered -- if it -- sure.

11:27:43 22 Q. What if you received an anonymous call, someone

11:27:47 23 said, "I know this other person is not a citizen"? Would

11:27:50 24 that be information that that other person is not a

11:27:53 25 citizen?

11:27:56 1 A. It could be considered that.

11:27:59 2 Q. Would your office act on that?

11:28:02 3 A. We would -- I don't -- we wouldn't act on it. We

11:28:12 4 wouldn't cancel someone based on that.

11:28:13 5 Q. What about if you received an anonymous email?

11:28:18 6 A. We wouldn't cancel someone based on that.

11:28:21 7 Q. Okay. I'm going to ask you many of those same

11:28:25 8 examples now. So the stipulation continues as to the

11:28:29 9 objection.

11:28:31 10 But this time, instead of information, I want

11:28:34 11 to ask whether it would give you reason to believe that

11:28:37 12 someone is not a citizen since the laws also use that

11:28:40 13 language.

11:28:42 14 Could anything besides a government or voter

11:28:45 15 registration database give you a reason to believe that

11:28:48 16 someone is not a citizen?

11:28:51 17 A. We wouldn't cancel based on that.

11:29:09 18 Q. How about a phone call from a voter? Could that

11:29:24 19 give you reason to believe that someone is not a citizen?

11:29:30 20 A. No.

11:29:35 21 Q. What about an email from a voter?

11:29:38 22 A. We would -- we wouldn't -- we wouldn't cancel

11:29:44 23 based on that.

11:29:45 24 Q. Could a signed letter from a voter give you reason

11:29:50 25 to believe that someone is not a citizen?

11:29:53 1 A. No.

11:30:01 2 Q. What about a phone call from a voter's family

11:30:05 3 member?

11:30:08 4 A. We -- we would research all of these things.

11:30:13 5 Q. So is that to say that they would give you a

11:30:15 6 reason to believe that these people are not citizens?

11:30:21 7 A. No.

11:30:23 8 Q. What about a phone call from law enforcement in

11:30:27 9 Arizona?

11:30:30 10 A. No.

11:30:31 11 Q. Or an email or letter from law enforcement in

11:30:35 12 Arizona?

11:30:36 13 A. No.

11:30:37 14 Q. A phone call, email, or letter from law

11:30:40 15 enforcement outside of Arizona?

11:30:43 16 A. No.

11:30:46 17 Q. How about an anonymous phone call?

11:30:50 18 A. No.

11:30:51 19 Q. Or an anonymous email address?

11:30:56 20 A. No.

11:30:56 21 Q. If a voter put their first name in the last name

11:31:03 22 box, put their last name in the first name box on their

11:31:06 23 registration form, would that give you reason to believe

11:31:08 24 that they're not a citizen?

11:31:11 25 A. No.

11:31:11 1 Q. What if they put a foreign place of birth on their
11:31:16 2 registration form? Is that a reason to believe they're not
11:31:19 3 a citizen?

11:31:20 4 A. No.

11:31:24 5 Q. If you identify a registered voter who has
11:31:28 6 satisfied the DPOC requirement but has an F-type license,
11:31:33 7 is there a reason to believe they're not a U.S. citizen?

11:31:39 8 A. No.

11:31:42 9 Q. What about registered voters who are exempt from
11:31:46 10 the DPOC requirement because they registered prior to the
11:31:49 11 DPOC requirement going into effect? Would there be reason
11:31:52 12 to believe that they're not U.S. citizens?

11:31:55 13 A. No.

11:31:56 14 Q. Has your office received any guidance from the
11:32:00 15 secretary of state on what would constitute a reason to
11:32:04 16 believe or would give you a reason to believe that a voter
11:32:07 17 is not a citizen?

11:32:08 18 A. I don't believe so.

11:32:16 19 MR. HIRSCHER: Can we go off the record.

11:32:18 20 THE VIDEOGRAPHER: We are off the record.

11:32:26 21 Time on the video monitor is 11:32 a.m.

11:32:32 22 (An off-the-record discussion ensued.)

11:33:27 23 THE VIDEOGRAPHER: We're on the record. Time

11:33:37 24 on the video monitor is 11:33 a.m.

11:33:42 25 MR. HIRSCHER: That's all my questions.

11:33:44 1 Thank you very much for your time.

11:33:50 2 MR. LANGHOFER: Craig and Kathryn, I'll defer
11:33:52 3 to you guys, being representatives of the government.

11:33:54 4 MR. MORGAN: Yeah. Craig Morgan for the
11:33:56 5 secretary of state. I don't have any questions.

11:33:57 6 I just want to say thank you. You were very
11:33:59 7 brave and very honest. We appreciate your time.

11:34:02 8 THE WITNESS: No problem. Thank you.

11:34:02 9

11:34:02 10 EXAMINATION

11:34:02 11 BY MS. BOUGHTON:

11:34:05 12 Q. Good afternoon. I do have a few quick questions.
11:34:08 13 And I echo Craig. Thanks for your time today.

11:34:12 14 Again, my name is Kathryn Boughton. I
11:34:15 15 represent the state and attorney general in this case.

11:34:18 16 So I wanted to talk to you about the
11:34:23 17 citizenship checkbox. You may recall plaintiffs' counsel
11:34:27 18 -- Mr. Ferguson asked you some questions about what your
11:34:29 19 office does when the box is or isn't checked.

11:34:33 20 Do you recall that?

11:34:34 21 A. Yes.

11:34:35 22 Q. Do you think that the citizenship checkbox
11:34:42 23 provides your office with information about whether the
11:34:45 24 voter is a citizen?

11:34:48 25 A. That I -- I don't have an opinion on that.

11:34:56 1 Q. If the citizenship checkbox is not marked, your

11:35:08 2 office runs the HAVA check; correct?

11:35:10 3 A. We run HAVA checks regardless.

11:35:14 4 Q. And on the HAVA check, we discussed how the AVID
11:35:30 5 system interfaces with MVD data; correct?

11:35:33 6 A. Yes.

11:35:34 7 Q. And is it your opinion, the office's opinion, that
11:35:40 8 that data is generally reliable?

11:35:42 9 A. Yes.

11:35:45 10 MR. FERGUSON: Objection. Calls for
11:35:48 11 speculation.

11:35:48 12 BY MS. BOUGHTON:

11:35:48 13 Q. Are you aware of any instances in which HAVA
11:35:51 14 returned inaccurate data regarding whether a voter -- or an
11:35:54 15 applicant was a noncitizen?

11:35:57 16 A. I guess we could say that's -- the email regarding
11:36:00 17 the press release would say that, yes.

11:36:05 18 Q. And did I -- was I -- do I recall your testimony
11:36:09 19 correctly that you were not sure if Gila County had any
11:36:13 20 voters affected by that?

11:36:14 21 A. I don't recall if we did.

11:36:16 22 Q. Okay. But generally is it a common occurrence
11:36:22 23 that the MVD's data -- do you have frequent instances where
11:36:25 24 the data is -- returns inaccurate information to your
11:36:29 25 knowledge?

11:36:29 1 A. Not to my knowledge.

11:36:30 2 Q. And similarly, with the SAVE database, do you find
11:36:37 3 that information to be generally reliable?

11:36:41 4 A. Yes.

11:36:41 5 Q. The state form has a place for voters --
11:36:49 6 applicants to put their birthplace; correct?

11:36:52 7 A. Yes.

11:36:52 8 Q. Do voters generally submit that information?

11:37:00 9 A. Generally.

11:37:04 10 Q. And if a voter submits -- lists their birthplace,
11:37:08 11 is that entered into AVID?

11:37:09 12 A. Yes.

11:37:10 13 Q. If at some point there were two applications
11:37:17 14 submitted to your office and they had the same name, the
11:37:20 15 same address, but they listed two different places of
11:37:24 16 birth, how would your office handle that?

11:37:29 17 MR. MAKKER: Objection. Incomplete
11:37:32 18 hypothetical.

11:37:32 19 THE WITNESS: We would just enter the
11:37:33 20 information as it came in.

11:37:36 21 BY MS. BOUGHTON:

11:37:39 22 Q. Would you do any -- contact the voter who
11:37:42 23 submitted the application?

11:37:45 24 MR. MAKKER: Same objection.

11:37:46 25 THE WITNESS: No.

11:37:48 1 MR. LANGHOFER: This "incomplete
11:37:49 2 hypothetical" objection is not recognized under the Federal
11:37:53 3 Rules of Procedure, so I just want to flag it as potential
11:37:57 4 witness coaching.

11:38:14 5 MR. MAKKER: Okay.

11:38:14 6 BY MS. BOUGHTON:

11:38:15 7 Q. One thing I wanted to loop back on just to
11:38:18 8 clarify -- one of plaintiffs' counsels was asking you some
11:38:23 9 questions about what might give the office a reason to
11:38:26 10 believe that the voter was not a U.S. citizen.

11:38:29 11 And I think that you testified that if
11:38:31 12 somebody was listed as a federal-only voter, that you
11:38:35 13 weren't sure if that might be a reason to believe they were
11:38:39 14 not a U.S. citizen.

11:38:40 15 Did I hear that correctly?

11:38:42 16 A. Can you say it again, please?

11:38:48 17 Q. Sure. So I guess I'll rephrase my question.

11:38:53 18 If a voter submits a federal application,
11:38:59 19 voter registration form, they attest that they're a U.S.
11:39:02 20 citizen; correct?

11:39:03 21 A. Yes.

11:39:25 22 MS. BOUGHTON: That's all I have for you
11:39:27 23 today. Thank you so much. I really appreciate your time.

11:39:29 24 THE WITNESS: You're welcome.

11:39:29 25

11:39:29 1 EXAMINATION

11:39:29 2 BY MR. LANGHOFER:

11:39:34 3 Q. Good morning, ma'am. My name is Kory Langhofer,

11:39:34 4 and I represent the RNC. I have really just a handful of

11:39:37 5 questions that haven't been touched on yet.

11:39:40 6 When your office receives a state

11:39:46 7 registration form without DPOC and you can't find evidence

11:39:50 8 of citizenship in the MVD system so you send out a notice

11:39:55 9 to the voter saying that you need this DPOC, do you know

11:40:00 10 roughly how many of those -- what percentage of those end

11:40:03 11 up responding with DPOC?

11:40:07 12 A. I don't know exact numbers, no.

11:40:08 13 Q. Do you have a rough order of magnitude, you know,

11:40:11 14 like generally what we're talking about?

11:40:13 15 A. I -- we have very few federal voters, so the

11:40:17 16 majority of them probably.

11:40:19 17 Q. Okay. So you -- do you mean -- just want to make

11:40:26 18 sure we're clear on this -- a majority of the folks who get

11:40:27 19 the notification letter are able to respond and give you

11:40:29 20 the DPOC?

11:40:30 21 A. Correct.

11:40:30 22 Q. Okay. And does your office have access to any

11:40:41 23 databases that are more reliable than the MVD database and

11:40:47 24 SAVE database that you guys use currently?

11:40:50 25 A. No.

11:40:51 1 Q. And do you have any access to any databases that
11:40:55 2 for purposes of checking citizenship are more up to date
11:40:59 3 than those two databases?

11:41:01 4 A. Not that I'm aware of.

11:41:05 5 Q. If you're required, then, to perform some sort of
11:41:08 6 citizenship check, do you have any better tools than what
11:41:12 7 you're currently using?

11:41:14 8 A. Not that I'm aware of.

11:41:15 9 Q. Does your office receive voter registration forms
11:41:24 10 with false information?

11:41:31 11 MR. MAKKER: Objection. Lacks foundation.

11:41:35 12 THE WITNESS: I don't know.

11:41:37 13 BY MR. LANGHOFER:

11:41:38 14 Q. Why do you say that?

11:41:40 15 A. For -- I guess, for instance, I can't verify a
11:41:46 16 place of birth. So I wouldn't know if they were -- if that
11:41:51 17 was false information or not.

11:41:53 18 Q. Have you received voter registration forms from
11:41:56 19 convicted felons, for example?

11:42:05 20 A. I'm sure we have, but they -- we do get -- there
11:42:14 21 is a felony check that's run as well so . . .

11:42:18 22 Q. And do you ever identify, as part of that check,
11:42:21 23 people who have already been convicted of felonies?

11:42:26 24 A. I haven't seen one personally.

11:42:29 25 Q. Do you know them to have happened inside the

11:42:33 1 office?

11:42:33 2 A. I can't -- I couldn't tell you.

11:42:36 3 Q. Bear with me just one second here. I want to make
11:42:45 4 sure that -- I don't want to ask any questions that have
11:42:48 5 already been done, but I don't want to skip anything
11:42:50 6 either.

11:42:50 7 The October 2022 incident where the MVD
11:42:53 8 database, the AVID system had a problem with the
11:42:57 9 citizenship checks, are you aware of anyone in your county
11:42:59 10 who was disenfranchised as a result of that?

11:43:04 11 A. I am not aware.

11:43:07 12 MR. LANGHOFER: All right. Ma'am, I
11:43:08 13 appreciate your time. Those are all the questions that I
11:43:10 14 have.

11:43:12 15 THE WITNESS: Thank you.

11:43:12 16

11:43:12 17 EXAMINATION

11:43:12 18 BY MR. MAKKER:

11:43:12 19 Q. I had one follow-up.

11:43:14 20 Do you know how many of the letters that you
11:43:16 21 send out when somebody had not provided DPOC are not
11:43:21 22 responded to?

11:43:24 23 A. I am not aware of that number offhand.

11:43:29 24 MR. MAKKER: Okay. Thank you.

11:43:40 25 THE COURT REPORTER: Would you like to go off

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the record?

MR. LANGHOFER: I think we're done. Does anyone else have anything further?

MR. MORGAN: I don't think we need to go off the record yet. If there's nobody else, we can just end the deposition.

I assume counsel for the witness is going to read and sign; right?

MR. DALTON: Yes.

THE VIDEOGRAPHER: We're off the record. Time on the video monitor is 11:44 a.m. This ends Volume 1, Media Number 2, of the 30(b)(6) deposition of Gila County Recorder, designed by Charlotte Asrarynezami.

(The proceedings concluded at 11:44 a.m.)

CHARLOTTE ASRARYNEZAMI

1 STATE OF ARIZONA)
COUNTY OF MARICOPA)

2

3 BE IT KNOWN that the foregoing deposition was taken
4 by me pursuant to stipulation of counsel; that I was then
5 and there a Certified Court Reporter in the State of
6 Arizona, and by virtue hereof authorized to administer an
7 oath; that the witness before testifying was duly sworn by
8 me to testify to the whole truth; pursuant to request,
9 notification was provided that the deposition is available
10 for review and signature; that the questions propounded by
11 counsel and the answers of the witness thereto were taken
12 down by me in shorthand and thereafter transcribed into
13 typewriting under my direction; that the foregoing pages
14 are a full, true and accurate transcript of all the
15 proceedings had upon the taking of deposition, all done to
16 the best of my skill and ability.

17 I FURTHER CERTIFY that I am in no way related
18 to nor employed by any parties hereto; nor am I in any
19 way interested in the outcome thereof.


20 Dated at Phoenix, Arizona, this 30th day of
21 August, 2023.

22

23

24

25


CINDY MAHONEY, RPR, RMR NO. 50680

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UNITED STATES DISTRICT COURT
DISTRICT OF ARIZONA

Mi Familia Vota, et al.,)	
)	
Plaintiffs,)	Case No.
	)	2:22-cv-00509-PHX-SRB
v.	)	(Lead)
)	
Adrian Fontes, in his	)	No. CV-22-00519-PHX-SRB
official capacity as	)	No. CV-22-01003-PHX-SRB
Arizona Secretary of State,	)	No. CV-22-01124-PHX-SRB
et al.,	)	No. CV-22-01369-PHX-SRB
	)	No. CV-22-01381-PHX-SRB
Defendants.	)	No. CV-22-01602-PHX-SRB
	)	No. CV-22-01901-PHX-SRB
_____)	
AND CONSOLIDATED CASES.)	
_____)	

VIDEO-RECORDED VIDEOCONFERENCE 30(b)(6) DEPOSITION OF
YAVAPAI COUNTY RECORDER, REPRESENTED BY MATT JACKSON WEBBER

Prescott, Arizona

August 16, 2023

Prepared by:
CINDY MAHONEY, RPR, RMR
Certified Court Reporter
Certificate No. 50680



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VIDEO-RECORDED VIDEOCONFERENCE 30 (b) (6)

DEPOSITION OF YAVAPAI COUNTY RECORDER, REPRESENTED BY MATT JACKSON WEBBER, commenced at 1:02 p.m. on August 16, 2023, at Prescott, Arizona, before Cindy Mahoney, RPR, RMR (via videoconference), Arizona Certified Court Reporter No. 50680.

* * *

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Michelle Burchill
Karen McCracken
Leslie Mansfield
Daxon Ernyei
Colleen Connor
Daniel Rohan, Videographer

1 TRANSCRIPT OF PROCEEDINGS

2
13:02:46 3 THE VIDEOGRAPHER: We are on the record.
13:02:49 4 Time on the video monitor is 1:02 p.m. Here begins
13:02:54 5 Volume 1, Media Number 1 in the 30(b)(6) deposition of
13:03:01 6 Yavapai County Recorder, by Matt Webber, in the matter of
13:03:06 7 Mi Familia Vota, et al., v. Adrian Fontes, et al., in the
13:03:10 8 United States District Court, District of Arizona, Case
13:03:15 9 Number 2:22-cv-00509-SRB.

13:03:20 10 Today's date is August 16th, 2023. Our court
13:03:24 11 reporter is Cindy Mahoney. I am Daniel Rohan, a certified
13:03:31 12 legal videographer. We both represent Coash Court
13:03:36 13 Reporting & Video. This video deposition is taking place
13:03:37 14 at 1015 Fair Street, Prescott, Arizona 86305.

13:03:43 15 Counsel, please identify yourselves and state
13:03:46 16 whom you represent.

13:03:47 17 MR. SHERMAN: Jon Sherman from Fair Elections
13:03:50 18 Center. I represent the Poder Latinx plaintiffs in this
13:03:54 19 case.

13:03:58 20 MR. ATKINS: Alexander Atkins with Elias Law
13:04:01 21 Group. I represent Mi Familia Vota and Voto Latino.

13:04:08 22 MR. MESSER: Joshua Messer from Osborn
13:04:11 23 Maledon. I represent the Tohono O'odham Nation, Gila River
13:04:15 24 Indian Community, Keanu Stevens, Alanna Siquieros, and
13:04:20 25 LaDonna Jacket.

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MR. GORDON: Mike Gordon, Yavapai County.
MR. JOHNSON: Hayden Johnson from Campaign
Legal Center. I represent the LUCHA plaintiffs.
MS. CERVANTES: Erika Cervantes representing
the Promise Arizona plaintiffs.
MR. HORLEY: Tim Horley representing the
State of Arizona and the Arizona Attorney General.
MR. VOLCHOK: Daniel Volchok from Wilmer
Cutler Pickering Hale & Dorr for the Democratic National
Committee and the Arizona Democratic Party.
MS. SHAH: Niyati Shah for the AZANHPI for
Equity Coalition plaintiffs.
MR. LANGHOFER: Kory Langhofer for the RNC.
MS. STUART: Shayna Stuart for the Arizona
Secretary of State Adrian Fontes.
MS. PORTER: Hannah Porter from Gallagher &
Kennedy for intervenor defendants Speaker Toma and
President Petersen.
THE VIDEOGRAPHER: Will the court reporter
please swear in the witness.
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1 MATT JACKSON WEBBER,
2 the witness herein, being first duly sworn,
3 was examined and testified as follows:
4

13:05:37 5 EXAMINATION

13:05:37 6 BY MR. SHERMAN:

13:05:42 7 Q. Good afternoon, Mr. Webber. Thank you for being
13:05:45 8 with us and taking the time for this deposition.

13:05:48 9 Could I ask that you please state your full
13:05:50 10 name for the record and your full title.

13:05:53 11 A. Matt Jackson Webber. And my full title is program
13:06:01 12 manager for voter registration and early voting.

13:06:06 13 Q. How long have you been in that position?

13:06:07 14 A. Since December.

13:06:09 15 Q. And how long have you been with the Yavapai County
13:06:13 16 Recorder's Office?

13:06:13 17 A. Since 2017.

13:06:15 18 Q. And what are the different positions you've held
13:06:18 19 since 2017?

13:06:20 20 A. I started as -- I'm trying to remember the exact
13:06:28 21 job title, but it was dealing with the mailing and early
13:06:33 22 voting. And then I became a voter registration specialist
13:06:40 23 II and then moved up into what we now call the registrar of
13:06:47 24 voters, but you have my official title.

13:06:49 25 Q. Thank you.

13:06:50 1 Are you represented by an attorney today?

13:06:52 2 A. Yes.

13:06:53 3 Q. And who is that?

13:06:54 4 A. Michael Gordon.

13:06:57 5 Q. Thank you.

13:06:57 6 For today's deposition, I want to make sure
13:06:59 7 the record is clear on a couple of points.

13:07:02 8 Do you understand you are testifying under
13:07:03 9 oath today?

13:07:04 10 A. Yes.

13:07:06 11 Q. Do you understand the court reporter is
13:07:07 12 transcribing this deposition?

13:07:09 13 A. Yes.

13:07:09 14 Q. With that in mind, please answer questions audibly
13:07:12 15 and clearly. Please let me know if you do not understand a
13:07:15 16 question or need me to repeat any part of it. If I ask the
13:07:19 17 question and you answer the question, I will assume that
13:07:22 18 you understood the question. If you do not understand a
13:07:24 19 question, please tell me so. Is that all okay?

13:07:29 20 A. Yes.

13:07:29 21 Q. Great.

13:07:30 22 During this deposition, attorneys may make
13:07:33 23 objections. Even if they make objections, unless your
13:07:36 24 attorney specifically instructs you not to answer a
13:07:39 25 question, you must still answer the question. Do you

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understand?

A. Yes.

Q. Any reason you can't testify truthfully today?

A. No.

Q. Is there any reason that you can't give full, complete, and accurate testimony today?

A. No.

Q. Are you on any medications or experiencing any condition that would prevent you from giving full and truthful testimony today?

A. No.

Q. If at any time you need to take a break, please let me know. The only thing I ask is that if I've already asked a question and that question is pending, please finish answering that question before taking the break. Do you understand?

A. Yes.

Q. Great.

Have you ever been deposed before?

A. No.

Q. For today's deposition, where are you physically located?

A. I am at 1015 Fair Street in Prescott, Arizona.

Q. And who else is in the room with you?

A. Michael Gordon.

13:08:27 1 Q. Did you bring any materials with you to the
13:08:29 2 deposition?

13:08:30 3 A. I have hard copies of the production materials
13:08:36 4 that we produced.

13:08:38 5 Q. Great.

13:08:39 6 Anything else?

13:08:42 7 A. I -- well, I have a notepad that's blank and my
13:08:48 8 phone.

13:08:48 9 Q. Great.

13:08:49 10 Do you have any documents in front of you?

13:08:51 11 A. The documents, again, it was the documents we
13:08:55 12 produced at the request, but there's no other documents
13:09:01 13 than that.

13:09:02 14 Q. Great.

13:09:03 15 Could I ask you to take a look at Exhibit A
13:09:05 16 of the Yavapai County recorder deposition exhibits?

13:09:11 17 A. I will have to find it. That's not organized
13:09:13 18 so . . .

13:09:15 19 THE COURT REPORTER: Do you want to mark this
13:09:15 20 as Exhibit 137?

13:09:21 21 MR. SHERMAN: Yes, I do want to mark it as
13:09:23 22 Exhibit 137.

13:09:23 23 BY MR. SHERMAN:

13:09:24 24 Q. I just want to clarify. This is in the SharePoint
13:09:27 25 folder that you're using for the potential deposition

13:09:31 1 exhibits, so if --

13:09:32 2 A. That may be easier to find there. Let me pull
13:09:34 3 that up.

13:09:35 4 Q. Yeah. I think pulling it up on your laptop screen
13:09:39 5 might be just easier.

13:09:39 6 (The document was marked as Exhibit 137
13:10:08 7 for identification.)

13:10:08 8 THE WITNESS: So I want to make sure I'm
13:10:09 9 looking at -- this was Exhibit A from the -- not the one --
13:10:15 10 we produced an Exhibit A, I think, in our first request for
13:10:19 11 production.

13:10:19 12 BY MR. SHERMAN:

13:10:19 13 Q. Yeah. Those -- those numbers -- those -- that
13:10:22 14 lettering from the -- what you produced is not what I'm
13:10:24 15 using. I'm just --

13:10:24 16 A. Okay.

13:10:25 17 Q. --referring to --

13:10:25 18 A. That -- I think we're in the right place.

13:10:28 19 THE COURT REPORTER: I need one at a time,
13:10:29 20 please, so I can get you all on the record.

13:10:29 21 MR. SHERMAN: Yeah. Sorry, Cindy.

13:10:33 22 THE WITNESS: So it's -- it's a court
13:10:35 23 document.

13:10:37 24 BY MR. SHERMAN:

13:10:37 25 Q. Okay. So what is this document?

13:10:38 1 A. It's Plaintiffs' Second Amended Notice of
13:10:42 2 Deposition of Yavapai County Recorder's Office Pursuant to
13:10:46 3 Rule 30(b)(6).

13:10:49 4 Q. Great. We've marked this as Exhibit 137.
13:10:53 5 Have you seen this before today?

13:10:54 6 A. Yes.

13:10:54 7 Q. Do you understand you've been designated as a
13:10:57 8 representative to testify on behalf of the Yavapai County
13:11:02 9 Recorder's Office, not in your individual capacity?

13:11:04 10 A. Yes.

13:11:04 11 Q. Can we stipulate that whenever I say "you" or
13:11:06 12 "your," that will be the equivalent of saying "your office"
13:11:09 13 or "your office's"?

13:11:11 14 A. Yes.

13:11:12 15 Q. Can we also stipulate that unless it is otherwise
13:11:14 16 specified, your use of the words "I" or "me" shall refer to
13:11:18 17 the Yavapai County Recorder's Office?

13:11:20 18 A. Yes.

13:11:21 19 Q. Can we turn to Schedule A in this -- this is
13:11:25 20 basically the list of "Topics" starting at the bottom of
13:11:29 21 page 4.

13:11:32 22 A. Okay.

13:11:33 23 Q. Have you had a chance to review this list of the
13:11:37 24 28 topics?

13:11:37 25 A. Yes.

13:11:38 1 Q. And are you prepared to address each of these

13:11:41 2 today?

13:11:42 3 A. Yes.

13:11:42 4 Q. Great.

13:11:43 5 What did you do to prepare for today's
13:11:47 6 deposition?

13:11:48 7 A. I printed out the documents. I read them. I did
13:11:53 8 go back over the documents that we had given in production
13:12:00 9 and the -- and the answers to the interrogatories and just
13:12:04 10 reviewed those.

13:12:06 11 Q. Great.

13:12:07 12 Let's take a look at Exhibit B in your folder
13:12:15 13 -- the SharePoint folder.

13:12:18 14 What is this document?

13:12:19 15 A. It's, again, another legal document that just
13:12:29 16 says, "To plaintiff." I don't see an actual title on it --
13:12:34 17 or interrogatories.

13:12:38 18 Q. Do you see the title to the right on the first
13:12:40 19 page in bold?

13:12:44 20 A. Oh, okay. Defendant Yavapai County Recorder's
13:12:47 21 Answers to Plaintiffs' First Set of Interrogatories.

13:12:50 22 Q. Great.

13:12:53 23 And you prepared this document in
13:12:55 24 consultation with your counsel?

13:12:57 25 A. Yes.

13:13:00 1 MR. SHERMAN: Can we mark this as

13:13:05 2 Exhibit 138.

13:13:05 3 (The document was marked as Exhibit 138

13:13:05 4 for identification.)

13:13:06 5 BY MR. SHERMAN:

13:13:06 6 Q. And you verified this document at the time it was
13:13:08 7 served; correct?

13:13:09 8 A. Yes.

13:13:09 9 Q. Did you confer with anyone else in the office in
13:13:15 10 preparing this document?

13:13:17 11 A. Yes. I conferred with the Yavapai County Recorder
13:13:22 12 Michelle Burchill and the Chief Deputy Karen McCracken.

13:13:27 13 Q. And any update to your responses since this was
13:13:31 14 served?

13:13:40 15 A. Not to my knowledge.

13:13:42 16 Q. Okay. Can we take a look at Exhibit C.

13:13:52 17 And what is this document?

13:13:54 18 A. Defendant Yavapai County Recorder's First Amended
13:14:00 19 Answers to Plaintiffs' First Set of Interrogatories.

13:14:04 20 Q. And you prepared this document in consultation
13:14:06 21 with your counsel?

13:14:07 22 A. Yes.

13:14:09 23 MR. SHERMAN: Can we mark this as

13:14:11 24 Exhibit 139.

13:14:11 25 (The document was marked as Exhibit 139

13:14:15 1 for identification.)

13:14:15 2 BY MR. SHERMAN:

13:14:15 3 Q. You verified this document at the time it was
13:14:17 4 served; correct?

13:14:17 5 A. Yes.

13:14:18 6 Q. And you consulted the same people in preparing
13:14:22 7 this document?

13:14:24 8 A. Yes.

13:14:24 9 Q. And upon review of this before the deposition, did
13:14:31 10 you see any updates to your responses that you want to
13:14:34 11 inform us of?

13:14:36 12 A. No.

13:14:38 13 Q. Okay. Can we take a look at Exhibit D. What is
13:14:50 14 Exhibit D?

13:14:52 15 A. Defendant Yavapai County Recorder's First
13:14:55 16 Supplemental Response to Plaintiffs' First Set of Requests
13:14:59 17 for Production of Documents.

13:15:02 18 MR. SHERMAN: Can we mark this as
13:15:04 19 Exhibit 140.

13:15:04 20 (The document was marked as Exhibit 140
13:15:04 21 for identification.)

13:15:04 22 BY MR. SHERMAN:

13:15:06 23 Q. Did you review this document before this
13:15:09 24 deposition?

13:15:11 25 A. Yes.

13:15:11 1 Q. And any update to your responses?

13:15:14 2 A. No.

13:15:16 3 Q. Can we take a look at Exhibit E. What is Exhibit
13:15:27 4 E?

13:15:28 5 A. Defendant Yavapai County Recorder's Second
13:15:30 6 Supplemental Response to Plaintiffs' First Set of Requests
13:15:34 7 for Production of Documents.

13:15:37 8 Q. And you worked on this document in consultation
13:15:41 9 with your counsel?

13:15:42 10 A. Yes.

13:15:43 11 Q. Great.

13:15:45 12 MR. SHERMAN: Can we mark this as
13:15:48 13 Exhibit 141.
13:15:48 14 (The document was marked as Exhibit 141
13:15:49 15 for identification.)

13:15:49 16 BY MR. SHERMAN:

13:15:51 17 Q. And did you review this before today's deposition?

13:15:55 18 A. Yes.

13:15:55 19 Q. Any update to your responses?

13:15:58 20 A. No.

13:15:59 21 Q. Can we take a look at Exhibit F. Just two more of
13:16:06 22 these.

13:16:06 23 A. Okay.

13:16:07 24 Q. What is Exhibit F?

13:16:11 25 A. Yavapai County Recorder's Response to Consolidated

13:16:14 1 Plaintiffs' First Set of Requests for Production of
13:16:17 2 Documents.

13:16:18 3 Q. And did you review this -- excuse me. Strike
13:16:21 4 that.

13:16:22 5 You prepared this in consultation with your
13:16:24 6 counsel?

13:16:25 7 A. Yes.

13:16:26 8 MR. SHERMAN: Can we mark this as
13:16:31 9 Exhibit 142?

13:16:31 10 (The document was marked as Exhibit 142
13:16:32 11 for identification.)

13:16:32 12 BY MR. SHERMAN:

13:16:32 13 Q. Any update to your responses?

13:16:34 14 A. No.

13:16:35 15 Q. Okay. And lastly, can we take a look at Exhibit
13:16:40 16 G. What is Exhibit G?

13:16:46 17 A. Yavapai County Recorder's Answers to Consolidated
13:16:49 18 Plaintiffs' First Set of Interrogatories.

13:16:51 19 Q. And you prepared this document -- these answers in
13:16:55 20 consultation with your counsel?

13:16:57 21 A. Yes.

13:16:59 22 MR. SHERMAN: And can we mark this as
13:17:00 23 Exhibit 143.

13:17:00 24 (The document was marked as Exhibit 143
13:17:02 25 for identification.)

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BY MR. SHERMAN:
Q. And you verified this document at the time it was served?
A. Yes.
Q. And you prepared it in consultation with the county recorder and -- in consultation with the county recorder?
A. Yes.
Q. Anyone else?
A. The chief deputy county recorder.
Q. Any updates to your responses in these answers to the consolidated plaintiffs' interrogatories?
A. No.
Q. Okay. Thanks very much.
So I want to ask you a few questions about the Election Procedures Manual. Is this -- is the version of the -- the 2019 version of the Election Procedures Manual, is that still the currently operative version of the EPM that your office follows?
A. Yes.
Q. Is your office legally required to follow the EPM?
MS. STUART: Form.
THE WITNESS: We follow the EPM as it is backed by statute. I think there are some issues with -- it's part of the new EPM. Part of it was not actually

13:18:15 1 authorized by statute, but we -- we follow it as guidance

13:18:20 2 if it's not in statute.

13:18:22 3 BY MR. SHERMAN:

13:18:22 4 Q. So to the extent there's no conflict with the

13:18:25 5 statute, are you legally required to follow the EPM?

13:18:28 6 A. Yes.

13:18:29 7 MS. STUART: Form.

13:18:30 8 MR. LANGHOFER: Calls for a legal conclusion.

13:18:30 9 BY MR. SHERMAN:

13:18:33 10 Q. To the extent you perceive -- strike that.

13:18:36 11 Are all parts of the EPM legally binding on

13:18:40 12 your office?

13:18:43 13 MS. STUART: Form.

13:18:43 14 MR. LANGHOFER: Same objection.

13:18:46 15 BY MR. SHERMAN:

13:18:46 16 Q. You can answer. They're just --

13:18:47 17 A. No.

13:18:48 18 Q. -- objecting for the record.

13:18:48 19 Which parts of the EPM are not legally

13:18:50 20 binding on your office?

13:18:51 21 A. The forms particularly would not be binding. We

13:18:55 22 do not have to use the forms that they have. There may be

13:19:01 23 other things that are recommended but not required.

13:19:08 24 Q. And how do you know if those parts of the EPM are

13:19:12 25 not required?

13:19:13 1 A. The only way we would know is, if we had a
 13:19:17 2 question, we would ask that question to someone -- maybe
 13:19:22 3 the Secretary of State's Office, maybe our legal counsel --
 13:19:25 4 and get guidance on that.

13:19:28 5 Q. Okay. And your legal counsel might advise in some
 13:19:32 6 places that a particular part of the EPM conflicts with
 13:19:36 7 Arizona statutes or the Arizona Constitution, and in that
 13:19:39 8 case, you wouldn't need to follow that part of the EPM?

13:19:42 9 A. That would probably be the recommendation that
 13:19:46 10 would be given to the county recorder. And then it would
 13:19:50 11 be the county recorder's decision what path to take.

13:19:56 12 Q. Understood.

13:19:56 13 Is Chapter 1 on "Voter Registration" legally
 13:20:01 14 binding on your office?

13:20:03 15 MR. LANGHOFER: Same objection.

13:20:05 16 MR. HORLEY: Objection.

13:20:06 17 THE WITNESS: Yes.

13:20:06 18 BY MR. SHERMAN:

13:20:07 19 Q. Can legally binding guidance be conveyed by the
 13:20:09 20 Secretary of State's Office to your office by any means
 13:20:12 21 outside of the EPM?

13:20:15 22 MS. STUART: Form.

13:20:16 23 MR. LANGHOFER: Same objection.

13:20:17 24 THE WITNESS: Not to my knowledge.

13:20:19 25 BY MR. SHERMAN:

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Q. Okay.

MR. LANGHOFER: Jon, is this a good time to put on the record our stipulation that an objection by one defendant will be treated as an objection by all?

MR. SHERMAN: Of course.

MR. LANGHOFER: Thanks.

BY MR. SHERMAN:

Q. So before, you testified that you may need to consult the Arizona Secretary of State's Office where there's a perceived conflict between Arizona statutes or the Arizona Constitution and parts of the EPM. Would an Arizona Secretary of State's -- would a response from the Secretary of State's Office by way of a memorandum or an email, would that be binding -- legally binding guidance to your office?

MS. STUART: Form.

MR. LANGHOFER: Same objection.

THE WITNESS: I don't believe so.

BY MR. SHERMAN:

Q. Okay. Are you aware of any counties that do not believe Chapter 1 on voter registration procedures is binding know?

A. Not to my knowledge.

MR. LANGHOFER: Foundation.

BY MR. SHERMAN:

13:21:19 1 Q. Okay. Are you currently enforcing any part of HB

13:21:26 2 2492?

13:21:26 3 A. No.

13:21:27 4 Q. Is your office holding voter registration

13:21:29 5 applications in an indefinite pending status while you're

13:21:33 6 awaiting guidance from the Secretary of State's Office on

13:21:36 7 HB 2492?

13:21:37 8 A. No.

13:21:38 9 Q. Are you currently enforcing any part of HB 2243?

13:21:42 10 A. No.

13:21:43 11 Q. Has your office seen the draft 2023 EPM?

13:21:47 12 A. Yes.

13:21:48 13 Q. Have you provided comments on it to the Secretary
13:21:53 14 of State's Office?

13:21:53 15 A. Yes.

13:21:53 16 Q. Did that 2023 EPM, in your view, contain guidance
13:22:03 17 -- sufficient guidance on HB 22 -- 24 -- 2492 and 2243?

13:22:12 18 MR. LANGHOFER: Same objection.

13:22:13 19 THE WITNESS: I can't answer the question. I
13:22:16 20 did not evaluate that part on the sufficiency of the
13:22:18 21 guidance. I knew it was there, but knowing everything
13:22:22 22 else, it's in the air.

13:22:26 23 BY MR. SHERMAN:

13:22:27 24 Q. Understood.

13:22:27 25 Has your office been provided any other draft

13:22:32 1 guidance or document beyond the draft 2023 EPM that
13:22:36 2 elaborates on interpretation or implementation of HB 2492
13:22:41 3 or HB 2243?

13:22:42 4 A. There have been some documents -- I believe we
13:22:46 5 provided them in production -- where there was discussion
13:22:50 6 with the Secretary of State's Office on what their
13:22:54 7 interpretation of that statute was. And then we actually
13:23:01 8 did some work in our AVID system that if we have to
13:23:06 9 implement it, how that would be done.

13:23:10 10 Q. Have most of those documents focused on the juror
13:23:14 11 questionnaire piece of HB 2492 or HB 2243?

13:23:20 12 A. There -- most of it was on the juror
13:23:23 13 questionnaire. There is some of the work that we --
13:23:26 14 preliminary work we did in the AVID system dealing with how
13:23:30 15 we would deal with the MVD portion of it. So there's both.

13:23:37 16 Q. Has your office been part of any communications
13:23:40 17 with the Secretary of State's Office regarding
13:23:42 18 interpretation or implementation of HB 2492?

13:23:47 19 A. Yes.

13:23:49 20 Q. How many would you say?

13:23:51 21 A. I -- I don't know. There have been many threads
13:23:58 22 going back and forth at different times. And even before I
13:24:03 23 was in my position, I think I've seen some of those threads
13:24:07 24 in what we produced.

13:24:08 25 Q. Beyond the email traffic, have you had in-person

13:24:12 1 meetings or meetings by Zoom that aren't recorded in the
13:24:17 2 email?

13:24:18 3 A. No. The only meetings that I have had that deal
13:24:23 4 with these issues would be in our AVID enhancement
13:24:27 5 committee and dealing with the software application of how
13:24:31 6 to implement those statutes if they get implemented.

13:24:36 7 Q. Do you know if Ms. Burchill has had such meetings
13:24:40 8 about the implementation of HB 2492?

13:24:44 9 A. Not to my knowledge.

13:24:45 10 Q. Has your office been a part of any communications
13:24:47 11 or meetings with the Arizona Secretary of State's Office
13:24:49 12 regarding interpretation or implementation of HB 2243?

13:24:53 13 A. Yes.

13:24:54 14 Q. And how many discussions have there been?

13:24:58 15 A. Again, several. You would see, again, in the
13:25:02 16 threads that we -- that we provided. And then also we
13:25:09 17 would have some -- it would be discussed from time to time,
13:25:13 18 I believe, on the secretary of state calls. And then,
13:25:20 19 again, we did have some things, I believe, in the AVID
13:25:23 20 enhancement about implementing those into the software
13:25:27 21 system.

13:25:28 22 Q. Gotcha.

13:25:30 23 Have there been additional -- has your office
13:25:35 24 provided feedback on HB 2243 in some of these in-person
13:25:41 25 meetings or telephone calls or Zoom meetings?

13:25:44 1 A. I know we have provided input into some of the
13:25:50 2 AVID software things. I don't recall a time when we've
13:25:58 3 given input in those calls.

13:26:01 4 Q. Okay. In 2021, was the draft EPM adopted?

13:26:07 5 A. No.

13:26:08 6 Q. Is it possible there will be no agreement on a
13:26:11 7 revised and updated EPM this year?

13:26:13 8 A. Yes.

13:26:15 9 Q. If there's no approved revised EPM by this time
13:26:18 10 next year, will your office nevertheless be obligated to
13:26:22 11 enforce the portions of HB 2492 and HB 2243 that are
13:26:26 12 directed at county recorders?

13:26:28 13 MR. LANGHOFER: Same objection.

13:26:31 14 THE WITNESS: Yes.

13:26:31 15 BY MR. SHERMAN:

13:26:31 16 Q. And your office opposed the enactment of HB 2492
13:26:36 17 and HB 2243 last year; correct?

13:26:38 18 A. Yes.

13:26:39 19 Q. Do you recall what the basis of your office's
13:26:45 20 opposition to HB 2492 was?

13:26:48 21 A. I get them messed up. I know the -- the past
13:26:56 22 county recorder, Leslie Hoffman, was opposed to -- I
13:27:01 23 believe -- is that the one with the documenting proof of
13:27:03 24 residency? Is that -- am I thinking of the right number?

13:27:07 25 Q. So 2492 has a variety of provisions sort of on the

13:27:12 1 front end of voter registration.

13:27:15 2 A. Okay.

13:27:15 3 Q. And HB 2243 is sort of the back end with currently
13:27:22 4 registered voters. But we'll take a look at both, and you
13:27:24 5 can refer to both. Might be good to pull those -- pull
13:27:27 6 those out, if you have them printed out. It's Petty
13:27:30 7 Exhibits 19 and 21.

13:27:33 8 A. Okay. I will pull those up.

13:27:35 9 Q. Actually, we're going to look quickly at one other
13:27:37 10 document. If you're pulling it up on your computer, why
13:27:41 11 don't we direct you first to Exhibit R in the potential
13:27:46 12 exhibits folder.

13:27:52 13 A. Okay.

13:27:56 14 Q. What is -- sorry?

13:27:57 15 A. I -- it may be in a different folder here. It may
13:28:00 16 be in the new folder. I don't have an R. I have looked in
13:28:20 17 here because I have two different folders that I was sent.

13:28:57 18 Q. Do you see the full list of exhibits in that
13:28:59 19 folder? Should go through Z and A, AA, BB --

13:29:04 20 A. Yes. Yes, I'm in --

13:29:04 21 Q. Okay.

13:29:06 22 A. I had a previous folder.

13:29:07 23 Q. Okay. So if you could go to Exhibit R, please.

13:29:11 24 A. Sure.

13:29:12 25 Q. Thank you.

13:29:15 1 And what is this document?

13:29:20 2 A. Let me see if I can make it a little bigger.

13:29:27 3 It says, "Voter Registration; verification;

13:29:31 4 citizenship," HB 2492.

13:29:35 5 Q. Do you recognize this document, what this is?

13:29:39 6 A. I have seen this -- I reviewed this document the

13:29:47 7 other day. I don't know the origin of this. I -- I would

13:29:56 8 just have to be guessing as to the origin of the document

13:30:01 9 itself.

13:30:02 10 Q. What does it appear to be?

13:30:04 11 A. It appears to be comments given to maybe the

13:30:12 12 recorders association or the county's association on -- on

13:30:20 13 that bill so . . .

13:30:22 14 MR. SHERMAN: Can we mark this as

13:30:23 15 Exhibit 144.

13:30:23 16 (The document was marked as Exhibit 144

13:30:23 17 for identification.)

13:30:28 18 BY MR. SHERMAN:

13:30:28 19 Q. And if you scroll down to the bottom of page 2, I

13:30:36 20 believe this is where Leslie Hoffman of Yavapai County is.

13:30:39 21 Do you see that?

13:30:40 22 A. Yes.

13:30:40 23 Q. And do you see where it shows the "Suggested

13:30:44 24 Position"?

13:30:46 25 A. Yes.

13:30:46 1 Q. And that was opposed; correct?

13:30:49 2 A. Yes.

13:30:49 3 Q. And above that it says, "Programmatic Impact."
13:30:54 4 "Significant" was what was recorded; correct?

13:30:56 5 A. Yes.

13:30:57 6 Q. Can you elaborate on why your office recorded the
13:31:03 7 programmatic impact of HB 2492 as significant?

13:31:08 8 A. It would change a lot of the things that we would
13:31:10 9 do and make it difficult in some cases to -- to get people
13:31:19 10 registered to vote. And, again, I believe from what I know
13:31:32 11 of speaking with the past county recorder that it seemed to
13:31:41 12 be a lot of work for very little gain, I guess, would be
13:31:46 13 the way I would phrase it.

13:31:49 14 Q. Could you elaborate on that? Why did your office
13:31:53 15 believe that it would -- HB 2492 would provide very little
13:31:59 16 gain?

13:32:00 17 A. Well, it's -- we just didn't see how -- and again,
13:32:04 18 I'm thinking of 2492. And again, I get -- I get the two
13:32:08 19 confused sometimes -- was the --

13:32:11 20 Q. Before you answer then, why don't we take a look
13:32:14 21 at the statute so you can refresh --

13:32:17 22 A. Yes.

13:32:17 23 Q. And it would be good if on a break maybe your
13:32:20 24 counsel could print those two out so you have those
13:32:23 25 separate and apart from your laptop exhibits.

13:32:26 1 A. Yeah. I have them. I need to pull them out so --
13:32:28 2 but we will do that. And I pulled them out, but I keep
13:32:32 3 confusing which one is which. I look at the clauses and
13:32:37 4 not the actual numbers.

13:32:38 5 Q. Gotcha. You know what? Why don't we do that.
13:32:40 6 Can we take a two- or three-minute break and go off the
13:32:44 7 record so you can have those handy, printed out in front of
13:32:47 8 you?

13:32:47 9 A. Sure.

13:32:49 10 Q. I have a number of questions about that.

13:32:51 11 A. Yeah.

13:32:57 12 THE VIDEOGRAPHER: We are off the record.

13:33:00 13 Time on the video monitor is 1:33 p.m.

13:33:11 14 (A recess ensued.)

13:35:39 15 THE VIDEOGRAPHER: We're on the record. Time
13:35:53 16 on the video monitor is 1:35 p.m.

13:35:57 17 MR. SHERMAN: Thanks.

13:35:57 18 BY MR. SHERMAN:

13:35:59 19 Q. Mr. Webber, you were testifying a moment ago that
13:36:06 20 your office didn't believe that HB 2492 would provide very
13:36:11 21 much gain; that it would provide very little gain and
13:36:15 22 wasn't worth the burden it would impose on your office.
13:36:19 23 Did I capture that correctly?

13:36:21 24 A. Yes.

13:36:21 25 Q. And can you elaborate on that? With -- now that

13:36:25 1 you have HB 2492 in front of you, can you elaborate on what
13:36:28 2 your office's thinking was there?

13:36:30 3 A. There were a number of parts in that bill and
13:36:38 4 statute now that asked for us to check different databases
13:36:44 5 that we had no access to and could not get access to.
13:36:51 6 They're not our databases.

13:36:55 7 And I think then really probably the biggest
13:36:58 8 issue that I remember us having with that was the
13:37:06 9 documentary proof of residence. We do have some people
13:37:10 10 living in rural places. We have people who live in places
13:37:16 11 maybe, let's say, with their parents that may have a great
13:37:20 12 deal of difficulty producing that proof.

13:37:24 13 Q. Any other issues of interpretation or
13:37:31 14 implementation that your office foresaw reviewing HB 2492?

13:37:37 15 A. I believe there were questions on whether -- with
13:37:46 16 the citizenship where we had had people grandfathered in
13:37:50 17 with their driver's license from before, would they now not
13:37:56 18 be considered to have proven citizenship and then have to
13:38:00 19 go back and do that? And would we have to put them in
13:38:06 20 suspense or some other category if they did not do that.

13:38:09 21 Q. Understood.

13:38:11 22 So back on Exhibit 144, which we just marked,
13:38:17 23 Leslie Hoffman reported her opposition to -- your office's
13:38:17 24 opposition to HB 2492.

13:38:22 25 And the "Description of Provisions" said,

13:38:24 1 "Agree with all. There is so much wrong with this
13:38:27 2 including that he's obviously unaware of the LULAC case and
13:38:30 3 federal laws. Once again trying to impose felonies on us."

13:38:33 4 Do you recall what federal law violations
13:38:36 5 your office saw in HB 2492?

13:38:43 6 MR. LANGHOFER: Same objection.

13:38:45 7 THE WITNESS: I don't recall specifically.

13:38:49 8 BY MR. SHERMAN:

13:38:50 9 Q. Okay. Can we look briefly at Exhibit X.

13:39:03 10 Once you have that up, if you could tell me
13:39:05 11 what -- what does this document appear to be?

13:39:07 12 A. It appears to be a list of bills of -- with a
13:39:14 13 title -- what position the Arizona Association of Counties
13:39:20 14 had and sponsored, the status, and looks like responses --
13:39:29 15 and it looks like it -- I would see people's first name
13:39:34 16 there. I would imagine "Leslie" would be -- have been
13:39:39 17 Leslie Hoffman, but I cannot be positive on that.

13:39:42 18 Q. And you produced this document to us --
13:39:44 19 correct? -- your office?

13:39:46 20 A. Yes.

13:39:46 21 Q. And do you see on -- I think it's page 8 of 12 --
13:39:50 22 here where HB 2492 is mentioned?

13:40:02 23 MR. SHERMAN: While you're looking for that,
13:40:03 24 can we mark this as Exhibit 145.

13:40:03 25 (The document was marked as Exhibit 145)

13:40:09 1 for identification.)

13:40:09 2 THE WITNESS: Yes, I can see that now.

13:40:11 3 BY MR. SHERMAN:

13:40:11 4 Q. Great.

13:40:12 5 And do you see that there was -- opposition

13:40:16 6 was recorded; correct?

13:40:17 7 A. Yes.

13:40:18 8 Q. And you see Leslie's comment "Agree with all.

13:40:21 9 There is so much wrong with this including that he's

13:40:23 10 obviously unaware of the LULAC case and federal laws"?

13:40:29 11 This is the same comment as in the other

13:40:31 12 document we were just looking at; is that correct?

13:40:34 13 A. Yes. Although I think -- well, there's Lynn right

13:40:41 14 behind it that says "opposed," but -- and I don't think

13:40:43 15 that was in the original comment.

13:40:44 16 Q. Understood. Thanks for that clarification.

13:40:47 17 So in both HB 2492 and HB 2243, the term

13:40:53 18 "information" is used. What is information that a person

13:40:57 19 is not a United States citizen?

13:41:04 20 MR. LANGHOFER: Same objection.

13:41:07 21 THE WITNESS: We would have no access to

13:41:10 22 information that someone is not a U.S. citizen unless we

13:41:16 23 actually went in and -- during our checks with the Motor

13:41:24 24 Vehicle Division, that -- and it showed up that they had --

13:41:28 25 they were a foreign national. That would be the only

13:41:30 1 information we would have.

13:41:32 2 BY MR. SHERMAN:

13:41:32 3 Q. When you run a HAVA check and ascertain that
13:41:35 4 someone was issued an F-type license, say, 15 years ago, is
13:41:40 5 that information that the person is not a U.S. citizen in
13:41:43 6 the present day?

13:41:46 7 MR. LANGHOFER: Same objection.

13:41:47 8 THE WITNESS: No.

13:41:48 9 BY MR. SHERMAN:

13:41:48 10 Q. It's -- it's -- is it conclusive evidence of a
13:41:51 11 lack of U.S. citizenship?

13:41:54 12 MR. LANGHOFER: Same objection.

13:41:56 13 THE WITNESS: No.

13:41:56 14 BY MR. SHERMAN:

13:41:56 15 Q. So what does your office do when the HAVA check
13:42:00 16 reflects that the applicant was issued an F-type license at
13:42:03 17 some point in the past?

13:42:04 18 A. We ask them to produce some proof of citizenship
13:42:10 19 to register them.

13:42:12 20 Q. And do you ask for alien registration numbers?

13:42:17 21 A. We -- it is one of the things we could ask for,
13:42:20 22 yes.

13:42:21 23 Q. Is it one of the things you do ask for?

13:42:23 24 A. Yes.

13:42:23 25 Q. Do you also ask for naturalization certificates,

13:42:28 1 either a copy of it or the number on the certificate, the

13:42:33 2 naturalization certificate number?

13:42:35 3 A. Actually, we look for a copy of it. We cannot

13:42:40 4 check a number on a naturalization certificate.

13:42:42 5 Q. There are two numbers on a naturalization

13:42:45 6 certificate; correct?

13:42:46 7 A. I believe so.

13:42:47 8 Q. And that's -- and what are those two numbers?

13:42:50 9 A. I believe there's the alien registration number,

13:42:53 10 and then there is the certificate number.

13:42:55 11 Q. And you -- why can't you check the naturalization

13:42:59 12 certificate number?

13:43:03 13 A. In our SAVE system that we are provided, there is

13:43:06 14 no place to actually enter that. And we do have people

13:43:11 15 provide it, and we ask them to give us the other number

13:43:14 16 that is on that certificate.

13:43:16 17 Q. And by "the other number," you mean the alien

13:43:20 18 registration number or A-number; correct?

13:43:21 19 A. Yes.

13:43:22 20 Q. Can we take a look -- just backtracking a little

13:43:25 21 bit, can we look at Exhibit H here in your folder.

13:43:38 22 A. Okay.

13:43:39 23 Q. What is this document?

13:43:41 24 A. It's an email with the subject "Forward HB 2492."

13:43:41 25 MR. SHERMAN: Could we mark this --

13:43:41 1
13:43:52 2
13:43:54 3
13:43:58 4
13:44:00 5
13:44:00 6
13:44:06 7
13:44:06 8
13:44:06 9
13:44:11 10
13:44:15 11
13:44:19 12
13:44:22 13
13:44:25 14
13:44:26 15
13:44:37 16
13:44:39 17
13:44:46 18
13:44:51 19
13:44:53 20
13:44:53 21
13:44:55 22
13:44:58 23
13:45:03 24
13:45:05 25

BY MR. SHERMAN:

Q. Who's it from?

A. It is from Leslie Hoffman.

MR. SHERMAN: And can we mark this as Exhibit 146.

(The document was marked as Exhibit 146 for identification.)

BY MR. SHERMAN:

Q. If I could have you look at -- before we switch away from this document, this document at the top right has Leslie Hoffman saying, quote, "We decided rather than try to hash our concerns with HB 2492 over the phone, we would compile our notes and send to the SOS"; is that correct?

A. Yes.

Q. And if we could look at Exhibit K in your folder, what does this document appear to be?

A. It's an email from Leslie Hoffman on the subject of HB 2492.

Q. If you need to toggle between the two, that's fine.

Is this the same -- part of the same chain that we were just looking at?

A. Yes, I believe so.

MR. SHERMAN: Could we mark this as Exhibit 147.

13:45:05 1 (The document was marked as Exhibit 147
13:45:08 2 for identification.)
13:45:08 3 BY MR. SHERMAN:
13:45:09 4 Q. So sticking with this part of the chain,
13:45:12 5 Exhibit 147, do you see on this page under the comments on
13:45:16 6 page 5 it reads, "The only time we know or presume a
13:45:22 7 registrant is not a foreign citizen it would show as an
13:45:25 8 F-type DL. However in our experience, these people have
13:45:30 9 been naturalized and just forgot to change their DL."
13:45:34 10 Did I read that correctly?
13:45:34 11 A. Yes.
13:45:35 12 Q. Could you elaborate on what your -- what Leslie
13:45:37 13 Hoffman was expressing in that sentence -- in those two
13:45:42 14 sentences?
13:45:43 15 A. It is not uncommon when we have an F-type license
13:45:48 16 that the person had not updated their driver's license and
13:45:53 17 they had become a naturalized citizen. And because they
13:45:58 18 had not updated their driver's license, when we run the
13:46:02 19 HAVA checks, they still come back up with the foreign
13:46:06 20 national designation.
13:46:08 21 Q. And is that why you have to take further steps
13:46:10 22 with the SAVE system?
13:46:13 23 A. Yes. If -- if we get an alien registration
13:46:17 24 number, we -- we would do that. They may provide an
13:46:22 25 updated driver's license or a passport that could -- or

13:46:27 1 give us an actual -- show us the certificate. And we could
13:46:32 2 then process that.

13:46:34 3 Q. Understood.

13:46:34 4 So leaving aside the MVD databases, if some
13:46:38 5 other government database contained data showing that a
13:46:42 6 person in question was not a citizen some 20 years in the
13:46:47 7 past, that wouldn't be information that the person has a --
13:46:52 8 is -- in the present day, lacks citizenship; correct?

13:46:55 9 MR. LANGHOFER: Objection.

13:46:58 10 THE WITNESS: Yes, that's correct.

13:47:00 11 MR. HORLEY: Calls for a legal conclusion.

13:47:01 12 BY MR. SHERMAN:

13:47:01 13 Q. Would you need to follow similar follow-up
13:47:04 14 procedures to confirm or deny whether that person is a U.S.
13:47:09 15 citizen in the present day?

13:47:10 16 A. Yes.

13:47:12 17 Q. So government databases that contain old
13:47:22 18 information on transactions completed with a voter
13:47:28 19 registration applicant or a particular registered voter,
13:47:31 20 can they ever be conclusive as to present day U.S.
13:47:35 21 citizenship?

13:47:37 22 A. No.

13:47:43 23 Q. What are valid -- I'm going to ask about what --
13:47:46 24 you know, sort of valid sources of information.

13:47:49 25 MR. SHERMAN: And, Kory, do you want to enter

13:47:51 1 our usual standing agreed-upon objection for form and calls
13:47:56 2 for a legal conclusion here?

13:47:57 3 MR. LANGHOFER: Yes. Thanks, Jon.

13:48:00 4 MR. SHERMAN: All right. I'll tell -- I'll
13:48:01 5 note when we're coming out of that.

13:48:01 6 BY MR. SHERMAN:

13:48:01 7 Q. So what are -- what are some valid sources of
13:48:03 8 information that someone is not a U.S. citizen? Could it
13:48:06 9 be anything beyond a government or voter registration
13:48:10 10 database?

13:48:10 11 A. Not -- not to my knowledge.

13:48:14 12 Q. Could a phone call from the voter in question
13:48:18 13 constitute information that they are not a U.S. citizen?

13:48:24 14 A. Not that we would use, no.

13:48:26 15 Q. Could an email from that voter in question or
13:48:30 16 voter registration applicant constitute information that
13:48:33 17 they are not U.S. citizens?

13:48:35 18 A. No. Same -- same. We would not use that.

13:48:39 19 Q. How about a signed letter from that voter or voter
13:48:42 20 registration applicant?

13:48:42 21 A. No.

13:48:44 22 Q. How about a phone call from a member of the voter
13:48:47 23 or voter registration applicant's family?

13:48:50 24 A. No.

13:48:51 25 Q. What about a letter from a neighbor of the voter

13:48:54 1 or voter registration applicant?

13:48:56 2 A. No.

13:48:57 3 Q. Would a phone call from law enforcement in Arizona

13:49:02 4 or any state constitute information that the voter or voter

13:49:08 5 registration applicant is not a U.S. citizen?

13:49:13 6 A. In that situation, I believe we would ask for --

13:49:15 7 if they could produce evidence of that if it was from a

13:49:21 8 governmental agency.

13:49:22 9 Q. And what sort of evidence could law enforcement in

13:49:27 10 Arizona or another state provide that would constitute

13:49:30 11 evidence of a lack of U.S. citizenship?

13:49:35 12 A. That I do not know specifically.

13:49:37 13 Q. Okay. Have you ever been provided with guidance

13:49:43 14 from the U.S. -- from the Arizona Secretary of State's

13:49:46 15 Office as to what would constitute evidence of a lack of

13:49:49 16 U.S. citizenship in such circumstances?

13:49:53 17 A. I don't believe so. Not to my recollection.

13:49:57 18 Q. Would an email or letter from law enforcement in

13:50:01 19 Arizona or in another state constitute information that the

13:50:05 20 voter or voter registration applicant was not a U.S.

13:50:09 21 citizen?

13:50:10 22 A. No.

13:50:12 23 Q. How about an anonymous call or an anonymous email?

13:50:16 24 A. No.

13:50:17 25 Q. And what about lists provided by third-party

13:50:21 1 organizations like True the Vote?

13:50:23 2 A. No.

13:50:27 3 MR. SHERMAN: So that will end the
13:50:30 4 agreed-upon objection. We'll just be on standard operating
13:50:33 5 procedure now.

13:50:35 6 MR. LANGHOFER: Noted. Thanks.

13:50:36 7 BY MR. SHERMAN:

13:50:36 8 Q. So for HB 2492, by what means could you -- could
13:50:41 9 your office confirm the authenticity of information that a
13:50:46 10 voter registration applicant is not a U.S. citizen?

13:50:51 11 A. I don't believe -- beside what's in here in 2492,
13:50:57 12 I don't think there's anything we could use to confirm they
13:51:02 13 were not a citizen. Just --

13:51:07 14 Q. Sorry. Go ahead. I didn't mean to interrupt.

13:51:08 15 A. Again, just our HAVA checks, you know, as we spoke
13:51:11 16 about before, is the only thing we have.

13:51:17 17 Q. By -- under HB 2243, by what means can you confirm
13:51:22 18 the accuracy -- excuse me. Let me strike that.

13:51:26 19 Under HB 2243, by what means can you confirm
13:51:30 20 the authenticity of information that a registered voter is
13:51:34 21 not a U.S. citizen?

13:51:37 22 A. It would -- I believe that is the one where they
13:51:56 23 may put that they're not a citizen on a juror form. I'm
13:52:08 24 looking through the --

13:52:09 25 Q. Let me -- let me withdraw this question. We'll

13:52:11 1 come back to this. I'll talk more about this more
13:52:11 2 specifically in a second.

13:52:15 3 Has the Secretary of State's Office ever
13:52:17 4 given you -- your office a list of information that
13:52:19 5 constitutes evidence of a lack of U.S. citizenship?

13:52:26 6 A. Only in the Elections Procedures Manual with
13:52:33 7 finding the HAVA check with the -- what used to be called
13:52:36 8 F-type license.

13:52:38 9 Q. Okay. Has he given -- has the Secretary of
13:52:42 10 State's Office given a more comprehensive list of
13:52:45 11 everything that would constitute evidence of a lack of U.S.
13:52:48 12 citizenship?

13:52:49 13 A. Not to my knowledge.

13:52:51 14 Q. What if you identify a registered voter who has
13:52:54 15 already satisfied the DPOC requirement -- withdraw that
13:52:59 16 question.

13:53:00 17 What if you identify a registered voter who
13:53:03 18 is exempt from the DPOC requirement because they were
13:53:05 19 grandfathered in under that provision in the DPOC law
13:53:09 20 because they registered prior to 2005 when DPOC went into
13:53:14 21 effect, would their lack of having shown DPOC at any point,
13:53:18 22 would that be information tending to show that they're not
13:53:21 23 a U.S. citizen?

13:53:22 24 A. No.

13:53:29 25 MR. HORLEY: Same objection. Calls for

13:53:36 1 legal conclusion.

13:53:36 2 BY MR. SHERMAN:

13:53:36 3 Q. HB 2492 uses the phrase "any other state, city,

13:53:43 4 town, county, or federal database and any other database

13:53:47 5 relating to voter registration."

13:53:50 6 What is a database relating to voter

13:53:53 7 registration?

13:53:54 8 MR. LANGHOFER: Same objection.

13:53:57 9 THE WITNESS: The only one I know of is our

13:53:59 10 actual database we use, the AVID system.

13:54:02 11 BY MR. SHERMAN:

13:54:02 12 Q. And beyond AVID, could a list of voters received

13:54:06 13 from an Arizona agency, another state's government agency,

13:54:10 14 a private group or a private citizen -- could that

13:54:13 15 constitute a database relating to voter registration?

13:54:18 16 MR. LANGHOFER: Same objection.

13:54:21 17 THE WITNESS: I don't know how to answer that

13:54:22 18 question. I don't know if it does or does not.

13:54:23 19 BY MR. SHERMAN:

13:54:24 20 Q. Is it clear or unclear?

13:54:26 21 A. It's unclear.

13:54:31 22 Q. Let's take a look at HB 2492 -- excuse me -- HB

13:54:39 23 2243. I apologize.

13:54:42 24 And if you could scroll down to

13:54:48 25 Subpart A(10) -- 16-165 A(10), which is on page -- my

13:54:58 1 apologies -- top of page 4.

13:54:58 2 A. Yes.

13:55:02 3 Q. And you see that it says, "When the county

13:55:03 4 recorder obtains information pursuant to this section and

13:55:07 5 confirms that the person registered is not a United States

13:55:10 6 citizen."

13:55:13 7 Do you see that section?

13:55:15 8 A. Yes.

13:55:15 9 Q. And I read that language correctly?

13:55:17 10 A. Yes.

13:55:18 11 Q. And do you see at the bottom of page 5 through --

13:55:23 12 onto page 6 Subparts F through J? If you could take a

13:55:34 13 moment just to review Subparts F through J.

13:55:37 14 A. Okay.

13:56:09 15 Q. Just let me know when you're done.

13:56:11 16 A. I've -- I've looked it over.

13:56:13 17 Q. Great.

13:56:14 18 So this Section A(10) that we were just

13:56:18 19 looking at before requires cancellation when the county

13:56:22 20 recorder obtains information pursuant to the section and

13:56:24 21 confirms that the person registered is not a United States

13:56:27 22 citizen.

13:56:28 23 Do you understand how you would obtain that

13:56:32 24 information that a person registered is not a United States

13:56:34 25 citizen?

13:56:37 1 A. No, I don't know how we would actually ascertain
13:56:40 2 that.

13:56:41 3 Q. Are the enumerated database matching requirements
13:56:45 4 or procedures in F through J, are those -- are those the
13:56:49 5 means by which your office would be required to obtain
13:56:53 6 information of a lack of citizenship?

13:56:56 7 MR. LANGHOFER: Same objections.

13:56:57 8 MR. HORLEY: Same objection.

13:56:58 9 THE WITNESS: I believe -- if we had access
13:57:00 10 to those and it would provide us that information, I
13:57:06 11 believe we would have to do it.

13:57:08 12 BY MR. SHERMAN:

13:57:13 13 Q. So how would your office then confirm the
13:57:16 14 information that it had separately obtained?

13:57:20 15 Are -- are these provisions in F through J --
13:57:23 16 these database matching provisions, are they intended for
13:57:27 17 confirmation of information that is separately obtained?

13:57:33 18 MR. LANGHOFER: Foundation.

13:57:34 19 THE WITNESS: I believe so.

13:57:34 20 BY MR. SHERMAN:

13:57:35 21 Q. So are you supposed to obtain information of a
13:57:37 22 lack of citizenship using F through J or confirm
13:57:44 23 information of a lack of citizenship using F through J?

13:57:47 24 MR. LANGHOFER: Form. Calls for a legal
13:57:51 25 conclusion.

13:57:51 1 THE WITNESS: I would say that what they're
13:57:58 2 asking for is to probably confirm it because it's already
13:58:05 3 in our database to confirm that citizenship.

13:58:08 4 BY MR. SHERMAN:

13:58:12 5 Q. Is it clear or unclear whether you're supposed to
13:58:14 6 use Subparts F through J to obtain information of a lack of
13:58:18 7 citizenship or to confirm information of a lack of U.S.
13:58:22 8 citizenship?

13:58:22 9 MR. LANGHOFER: Same objection.

13:58:26 10 THE WITNESS: I -- I believe it's to confirm
13:58:31 11 those who are already registered who -- by -- I believe are
13:58:40 12 either citizens, that have proven citizenship or, as we
13:58:43 13 would say, are fed-only voters. They have attested that
13:58:47 14 they are citizens.

13:58:48 15 BY MR. SHERMAN:

13:58:49 16 Q. Well, let's look back at A -- A and A(10). And
13:58:53 17 maybe we should just start at the top of the statute on --
13:58:59 18 16-165 begins at the top of page 3.

13:59:03 19 A. Okay.

13:59:04 20 Q. And this says, "A, The county recorder shall
13:59:08 21 cancel a registration"; correct?

13:59:11 22 A. Yes.

13:59:12 23 Q. In line 6.

13:59:12 24 So this statute only applies to removal or
13:59:17 25 cancellation of a registration of an existing registered

13:59:21 1 voter; correct?

13:59:21 2 A. Yes.

13:59:22 3 Q. All right. So in Subpart A(10) on page 4, the
13:59:28 4 circumstance in which the county recorder is to remove or
13:59:30 5 cancel that registration is when the county recorder
13:59:34 6 obtains information pursuant to the section and confirms
13:59:38 7 that the person registered is not a United States citizen;
13:59:41 8 is that correct?

13:59:42 9 A. Yes.

13:59:42 10 Q. And the -- do you understand how this provision
13:59:48 11 interrelates and operates in conjunction with F through J
13:59:54 12 below?

13:59:55 13 A. I -- I'm not particularly clear on that, to be
14:00:01 14 quite honest with you.

14:00:03 15 Q. All right. Could we take a look at Exhibit I.
14:00:17 16 What is Exhibit I?

14:00:18 17 A. House Bill 2617.

14:00:24 18 MR. SHERMAN: Can we mark this as -- I
14:00:26 19 believe this is Exhibit 148.
14:00:26 20 (The document was marked as Exhibit 148
14:00:29 21 for identification.)

14:00:29 22 BY MR. SHERMAN:

14:00:29 23 Q. And this is the "Senate Engrossed" version of that
14:00:33 24 House Bill; correct?

14:00:33 25 A. Yes.

14:00:34 1 Q. Was this the -- was this bill the precursor to HB
14:00:38 2 2243?
14:00:39 3 A. I believe so.
14:00:40 4 Q. Did you have conversations about HB 2617 as well?
14:00:45 5 A. I -- I don't remember if it was specifically this
14:00:50 6 bill or the items in the bill that got carried over to the
14:00:58 7 surviving bill, I guess I would put it.
14:01:02 8 Q. Understood.
14:01:05 9 A. Yeah.
14:01:05 10 Q. And was this bill vetoed?
14:01:07 11 A. I believe so, yes.
14:01:07 12 Q. And was that -- was it vetoed in May 2022? Do you
14:01:12 13 recall?
14:01:12 14 A. I do not recall when it was vetoed.
14:01:14 15 Q. Fair enough.
14:01:17 16 Could we take a look at Exhibit Q.
14:01:28 17 What is Exhibit Q?
14:01:30 18 A. Went back to -- there we go. Exhibit Q, it says,
14:01:42 19 "HB 2617 - Voter registration; cancellation; causes."
14:01:48 20 Q. And could you scroll down -- oh, sorry.
14:01:51 21 MR. SHERMAN: I should mark this as
14:01:52 22 Exhibit 149.
14:01:52 23 (The document was marked as Exhibit 149
14:01:53 24 for identification.)
14:01:53 25 BY MR. SHERMAN:

14:01:54 1 Q. Could you scroll down to Yavapai County, bottom of
14:01:59 2 page 2, Leslie Hoffman of Yavapai County.

14:02:01 3 A. Yes.

14:02:02 4 Q. And do you see that it listed under "Programmatic
14:02:05 5 Impact" "Significant"?

14:02:07 6 A. Yes.

14:02:09 7 Q. And why did your office believe this would have a
14:02:11 8 significant programmatic impact?

14:02:14 9 A. Well, from, I believe, our standpoint, how we
14:02:20 10 would get the data from the MVD and whether they could
14:02:24 11 actually get the data. And then how do we match it up with
14:02:28 12 what we have in ours.

14:02:32 13 And then there were questions about --
14:02:35 14 they're talking about databases, and we had no idea which
14:02:38 15 actually ones those would be. So . . .

14:02:41 16 Q. And you see -- and so that was the basis for the
14:02:44 17 opposition to this bill?

14:02:46 18 A. I believe so, yes.

14:02:47 19 Q. And do you see under "Description of Provisions"
14:02:51 20 where Leslie Hoffman recorded "What city, town, and federal
14:02:56 21 databases are they talking about? I could go on and on"?

14:02:57 22 A. Yes.

14:03:06 23 Q. If you could flip back to HB 2617, which we marked
14:03:09 24 as Exhibit 148, but it's Exhibit I in your folder. If you
14:03:23 25 could flip down to page -- I think it's bill page number 3.

14:03:30 1 Yeah. Page number 4 of the -- at the bottom of the bill,
14:03:36 2 it's page number 3.

14:03:37 3 A. Okay. I'm there.

14:03:38 4 Q. And F through J, provisions Subpart F through J
14:03:44 5 are somewhat similar; right? Or quite similar to what was
14:03:48 6 included in HB 2243; is that correct?

14:03:51 7 If you want to take a moment to review,
14:03:53 8 that's fine.

14:03:53 9 A. I will take a moment. Yes, they appear similar.

14:04:15 10 Q. If we could take a look at Exhibit 77. This was
14:04:20 11 previously marked in Hilary Hiser's deposition. So Hiser
14:04:25 12 Exhibit 77.

14:04:35 13 A. Okay. Different folder.

14:04:53 14 Q. Just let me know when you're there.

14:04:58 15 A. Okay. I'm there.

14:04:59 16 Q. And this is a series of emails from Karen
14:05:06 17 McCracken; correct?

14:05:07 18 A. Yes.

14:05:08 19 Q. And if you can scroll down to where she's talking
14:05:11 20 about 10 (F) .

14:05:16 21 A. Yes.

14:05:16 22 Q. On -- at the bottom of page 1 -- let's do that
14:05:19 23 first.

14:05:19 24 Bottom of page 1, this email from Karen
14:05:22 25 McCracken, the Subject is "Forward: ASAP - Need feedback

14:05:25 1 on revised 2617."

14:05:28 2 What is Karen referring to by using the
14:05:32 3 phrase "revised 2617"?

14:05:37 4 A. I don't know.

14:05:38 5 Q. Is that the bill that became 2243?

14:05:43 6 A. Again, I don't know. I --

14:05:46 7 Q. Okay.

14:05:46 8 A. I wouldn't doubt it, but I do not know.

14:05:49 9 Q. But 2617 is the bill we were just looking at that
14:05:55 10 was vetoed; correct?

14:05:57 11 A. Yes.

14:05:58 12 Q. And you see under Item 10(F), she wrote, "What are
14:06:01 13 we supposed to do with this information? Send a notice?
14:06:04 14 We certainly cannot change their voter registration."

14:06:08 15 Do you recall what Karen -- Karen's thinking
14:06:12 16 was in writing that?

14:06:14 17 A. No, I do not recall what her thinking was.

14:06:17 18 Q. Do you know what idea she was expressing here?

14:06:23 19 A. I'd have to look back at 10(F). If 10(F) is --

14:06:27 20 Q. That's fine. It's Exhibit I again.

14:06:32 21 A. Okay.

14:07:09 22 Q. Do you see 10(F)?

14:07:10 23 A. Yes.

14:07:10 24 Q. Okay. So this is the provision that deals with
14:07:13 25 the MVD; correct?

14:07:14 1 A. Yes.

14:07:14 2 Q. And so when Karen said, "We certainly cannot

14:07:18 3 change their voter registration," what was she expressing?

14:07:23 4 A. I believe that it's -- was that if they say

14:07:29 5 someone has changed their residence address, that we -- we

14:07:36 6 can't just go change their voter registration because of

14:07:38 7 that; or is not a United States citizen, we can't just go

14:07:47 8 change that voter registration.

14:07:51 9 Q. That would not be a base -- if the MVD database

14:07:55 10 contained information showing they had an F-type license at

14:07:58 11 some point in the past, your testimony is that Karen was

14:08:02 12 expressing that you couldn't just remove someone from the

14:08:05 13 rolls based on that old information; is that correct?

14:08:08 14 A. That was -- that would be correct, because we

14:08:11 15 would have updated information of the proof that they had

14:08:15 16 given us.

14:08:17 17 THE COURT REPORTER: I'm sorry. Kory, did

14:08:18 18 you object?

14:08:21 19 MR. LANGHOFER: I did.

14:08:24 20 THE COURT REPORTER: If you could just pause

14:08:26 21 a moment to make sure I get the objections, that would be

14:08:29 22 great.

14:08:31 23 BY MR. SHERMAN:

14:08:31 24 Q. If you could just take a quick look at 10(G).

14:08:33 25 "To the extent practicable, each month the

14:08:38 1 county recorder shall compare the county's registration
14:08:38 2 database to the Social Security Administration database."
14:08:42 3 Back on the Hiser Exhibit 77 -- if you could
14:08:46 4 go back to that, please.
14:08:47 5 A. Okay.
14:08:49 6 Q. Do you see on page 2 where Karen McCracken wrote,
14:08:56 7 "What are we supposed to do with this information? What
14:08:58 8 are we looking for?"
14:09:01 9 A. Yes.
14:09:02 10 Q. Do you understand how Social Security databases
14:09:05 11 could be used for citizenship verification?
14:09:08 12 A. I do not. I don't know that -- I know noncitizens
14:09:17 13 can have a Social Security number. I don't know if there's
14:09:22 14 a way to use that.
14:09:24 15 Q. Do you know anything about what citizenship data
14:09:28 16 is included in SSA's databases?
14:09:33 17 A. No.
14:09:34 18 Q. And I take it you don't know of -- I'll strike
14:09:37 19 that.
14:09:40 20 Okay. If we could look back at HB 2243,
14:09:43 21 which I believe you have in front of you.
14:09:45 22 A. Yes.
14:09:46 23 Q. If you look down at 16-165(A)(H) -- excuse me --
14:09:56 24 just H -- 16-165(H). Just let me know when you're there.
14:10:15 25 Should be on page 6.

14:10:17 1 A. Yes. I'm there.

14:10:18 2 Q. "To the extent practicable, each month the county

14:10:21 3 recorder shall compare persons who are registered to vote

14:10:24 4 in that county and who the county recorder has reason to

14:10:26 5 believe are not United States citizens . . . with the

14:10:31 6 Systematic Alien Verification for Entitlements program

14:10:34 7 maintained by the U.S. Citizenship and Immigration Services

14:10:38 8 to verify the citizenship status of the persons

14:10:41 9 registered."

14:10:43 10 What would give your office a reason to

14:10:45 11 believe a person is not a United States citizen?

14:10:48 12 MR. LANGHOFER: Same objection.

14:10:49 13 MR. HORLEY: Calls for a legal conclusion.

14:10:52 14 THE WITNESS: We -- I don't know of anything

14:10:56 15 that would as far as the checks and things that we have

14:11:00 16 that would give us a notion that someone is not a U.S.

14:11:05 17 citizen.

14:11:05 18 BY MR. SHERMAN:

14:11:05 19 Q. Has the Secretary of State's Office provided your

14:11:08 20 office with a list of what would give you or your staff a

14:11:12 21 valid reason to believe someone is not a United States

14:11:14 22 citizen?

14:11:17 23 A. Only in the Election Procedures Manual with a

14:11:22 24 F-type license.

14:11:23 25 Q. Okay. Has the Secretary of State's Office ever

14:11:25 1 provided your office with a list of what will not give you
14:11:29 2 or your staff a valid reason to believe someone is not a
14:11:32 3 United States citizen?

14:11:32 4 A. I don't believe so.

14:11:35 5 Q. Is this language "has reason to believe are not
14:11:40 6 United States citizens" -- is that clear or unclear?

14:11:46 7 MR. LANGHOFER: Same objection.

14:11:49 8 THE WITNESS: It is unclear.

14:11:50 9 BY MR. SHERMAN:

14:11:51 10 Q. I'm going to provide you with the same scenarios
14:11:53 11 as before. We're just going to focus on this language in
14:11:56 12 Subpart H.

14:11:57 13 MR. SHERMAN: Kory, do you want to enter the
14:11:59 14 form and calls for a legal conclusion objections for this
14:12:02 15 series?

14:12:03 16 MR. LANGHOFER: Yes. Thanks, Jon.

14:12:05 17 BY MR. SHERMAN:

14:12:06 18 Q. Would anything beyond a government or voter
14:12:09 19 registration database give your office reason to believe
14:12:11 20 that a registered voter is not a United States citizen?

14:12:16 21 A. No.

14:12:17 22 Q. Can a phone call from the voter in question give
14:12:21 23 you reason to believe that that voter is not a United
14:12:24 24 States citizen?

14:12:26 25 A. No.

14:12:27 1 Q. How about an email from the voter in question?

14:12:29 2 A. No.

14:12:29 3 Q. A signed letter from the voter in question?

14:12:32 4 A. No.

14:12:32 5 Q. How about a phone call from a member of that

14:12:35 6 voter's family?

14:12:36 7 A. No.

14:12:37 8 Q. A letter from a neighbor of that voter?

14:12:40 9 A. No.

14:12:40 10 Q. Would a phone call from law enforcement in Arizona

14:12:45 11 give your office reason to believe that a voter, a

14:12:49 12 particular voter, is not a United States citizen?

14:12:52 13 A. Again, I would ask for them to produce some

14:12:55 14 evidence of that before we could do anything with that.

14:12:59 15 Q. Understood.

14:13:00 16 But would it give your office reason to

14:13:02 17 believe that they're not a United States citizen such that

14:13:06 18 you would perform this SAVE system check outlined in

14:13:09 19 Subpart H?

14:13:10 20 A. No.

14:13:12 21 Q. Would a email or letter from -- excuse me. Let me

14:13:21 22 back up one.

14:13:21 23 Would a phone call from law enforcement in

14:13:23 24 another state give you or your office reason to believe

14:13:27 25 that someone is not -- a registered voter is not a U.S.

14:13:31 1 citizen?

14:13:34 2 A. Again, we would ask for evidence, but the SAVE

14:13:37 3 system would not -- we would not check the SAVE system. It

14:13:41 4 wouldn't do us any good, so . . .

14:13:44 5 Q. So this -- this statutory provision that we just

14:13:49 6 read -- right? -- would require your office to conduct a

14:13:52 7 SAVE system check if you had reason to believe a registered

14:13:56 8 voter is not a U.S. citizen; is that correct?

14:13:58 9 A. Yes.

14:13:59 10 Q. Would a phone call from law enforcement in Arizona

14:14:03 11 or another state give you reason to believe that someone is

14:14:06 12 not a U.S. citizen such that you would have to perform that

14:14:09 13 SAVE system check?

14:14:13 14 A. Quite possibly, yes.

14:14:16 15 Q. Would an email or letter from law enforcement in

14:14:19 16 Arizona or another state give your office reason to believe

14:14:23 17 that that registered voter is not a U.S. citizen such that

14:14:26 18 you would have to perform this SAVE system check?

14:14:30 19 A. Again, quite possibly, yes.

14:14:32 20 Q. How about an anonymous call or an anonymous email?

14:14:35 21 A. No.

14:14:36 22 Q. What about lists provided by third-party

14:14:40 23 organizations like True the Vote?

14:14:41 24 A. No.

14:14:41 25 Q. What if the registered voter transposed their

14:14:45 1 first and last name on the registration form such that
14:14:47 2 their first name was in the last name field and the last
14:14:50 3 name was in the first name field? Would that give you
14:14:54 4 reason to believe that that registered voter was not a U.S.
14:14:56 5 citizen?

14:14:58 6 A. No.

14:15:01 7 Q. What if the registered voter recorded a foreign
14:15:04 8 place of birth on their form?

14:15:06 9 A. No.

14:15:06 10 Q. What if you identify a registered voter who has
14:15:11 11 already satisfied the DPOC requirement but still holds an
14:15:13 12 F-type license in the MVD database? Is that reason to
14:15:17 13 believe they are not, in fact, U.S. citizens?

14:15:19 14 A. No.

14:15:19 15 Q. What about voters who are exempt from the DPOC
14:15:24 16 requirement under that safe harbor provision of the DPOC
14:15:28 17 law, would that failure or exemption from the DP- --
14:15:31 18 failure to show DPOC -- would that give your office a
14:15:34 19 reason to believe they're not U.S. citizens?

14:15:35 20 A. No.

14:15:36 21 Q. Has your office received any guidance on when your
14:15:40 22 office -- strike that. Covered that already.

14:15:45 23 If we could look back at Hiser Exhibit 77.
14:15:49 24 You may still have that up on your screen.

14:15:51 25 A. Yes, I have it.

14:15:52 1 Q. Okay. Great. Let me scroll back to that real
14:15:56 2 quick.
14:15:56 3 Do you see under 10(H) -- Item 10(H) on
14:16:00 4 page 2?
14:16:01 5 A. Yes.
14:16:01 6 Q. Karen McCracken wrote, "What would give us reason
14:16:04 7 to believe they are not a citizen? An anonymous tip?"
14:16:10 8 Do you know -- do you share her skeptical
14:16:15 9 view of this provision?
14:16:17 10 A. Yes.
14:16:19 11 Q. If we could look at Petty Exhibit 20. Goes back a
14:16:36 12 little ways.
14:16:39 13 Do you want to take a moment to review this
14:16:41 14 email from Stephen Richer?
14:16:45 15 A. Petty Exhibit 20?
14:16:50 16 Q. And what's -- and just take a look first at the
14:16:53 17 Subject line here "Re: ASAP - need feedback on revised
14:17:00 18 2617."
14:17:01 19 So Stephen Richer was responding to the same
14:17:04 20 legislative proposal; correct?
14:17:06 21 A. I believe so.
14:17:07 22 Q. And he wrote: "Does this get rid of the situation
14:17:11 23 whereby any person can submit us lists that we" have --
14:17:14 24 "then have to check. E.g.," quote, "Hi, I used my super
14:17:18 25 secret research program to figure out that these 300,000

14:17:21 1 people are not citizens. Please check the citizenship of
14:17:24 2 every single one of them right now."
14:17:27 3 Do you think that HB 2243's reason-to-believe
14:17:34 4 provision still leaves open this risk or threat that a
14:17:39 5 third-party group could provide your office with a list of
14:17:43 6 people they suspect are not citizens and thereby obligate
14:17:47 7 your office to check all of them?
14:17:53 8 A. I don't know.
14:17:56 9 Q. Is it clear or unclear?
14:17:58 10 A. It is unclear what is reason to believe. What is
14:18:05 11 the standard of that? I -- I don't know what the standard
14:18:08 12 is.
14:18:09 13 Q. It's possible that it could be interpreted to
14:18:14 14 allow third-party groups to give your office a list of
14:18:19 15 registered voters that you would then have to run through
14:18:21 16 the SAVE system?
14:18:23 17 A. It is possible.
14:18:25 18 Q. Thank you.
14:18:27 19 A number of these provisions in HB 2243, such
14:18:32 20 as, I believe, F -- let me just go back to it.
14:18:43 21 A number of these provisions, like G, H, and
14:18:46 22 J on page 6, use the phrase "to the extent practicable."
14:18:54 23 Do you see that language?
14:18:55 24 A. Yes.
14:18:55 25 Q. Do you understand who would make the call as to

14:18:59 1 whether it's practicable or not?

14:19:02 2 A. No.

14:19:04 3 Q. Could it be your office?

14:19:06 4 A. It certainly could be.

14:19:08 5 Q. Could it be the Arizona Secretary of State's

14:19:11 6 Office?

14:19:11 7 A. That's a possibility.

14:19:13 8 Q. Could it be some other agency or entity?

14:19:17 9 A. Again, I don't know how broad that can be

14:19:22 10 interpreted.

14:19:24 11 Q. Is this language "to the extent practicable" clear

14:19:27 12 or unclear?

14:19:30 13 A. It is unclear.

14:19:31 14 Q. If we could look quickly at Exhibit J. And what

14:19:44 15 does this appear to be?

14:19:46 16 A. It -- it's an email from Leslie Hoffman to

14:19:51 17 Jennifer Marson on -- re: "HB 2617 - Does the Amendment

14:19:57 18 Change Your Position?"

14:20:00 19 MR. SHERMAN: Could we mark this as

14:20:01 20 Exhibit 150.

14:20:01 21 (The document was marked as Exhibit 150

14:20:01 22 for identification.)

14:20:01 23 BY MR. SHERMAN:

14:20:03 24 Q. And if you scroll down -- so up top, you can see

14:20:07 25 Leslie Hoffman wrote, "Still oppose. Agree with Robyn and

14:20:11 1 Patty"; correct?

14:20:11 2 A. Yes.

14:20:11 3 Q. And down below, the email that preceded it asks --
14:20:19 4 asked your office to review whether the phrases "if
14:20:23 5 practicable" or "if the county has access" changed anything
14:20:28 6 for them in terms of their opposition to 2617; is that
14:20:31 7 correct?

14:20:31 8 A. Yes.

14:20:32 9 Q. And do you recall the thinking at the office -- at
14:20:37 10 your office as to why those -- the addition of those
14:20:41 11 phrases didn't change the office's opposition to 2617?

14:20:46 12 A. I believe, if my recollection is correct, that it
14:20:51 13 was still unclear. And it would have been a lot if we had
14:20:58 14 to do these things. Many of them would be a complete waste
14:21:01 15 of time because those databases aren't going to give us the
14:21:05 16 information that it seems someone thought they would.

14:21:09 17 Q. If we could look at HB 2492 again. And I just
14:21:17 18 want to direct your attention to provision on page 7. This
14:21:29 19 is A.R.S. 16-143. You see that? If you can just take a
14:21:37 20 moment to review that language.

14:21:57 21 So this -- this provision, 16-143, required
14:22:03 22 the secretary of state and each county recorder to make
14:22:07 23 available to the general attorney a list of all individuals
14:22:10 24 who are registered to vote and who have not provided DPOC;
14:22:13 25 is that correct?

14:22:13 1 A. Yes.

14:22:14 2 Q. And there was a deadline of October 31st, 2022;

14:22:18 3 correct?

14:22:18 4 A. Yes.

14:22:18 5 Q. Now that that deadline has come and gone, is your

14:22:23 6 office no longer obligated to provide these lists?

14:22:31 7 MR. LANGHOFER: Same objection.

14:22:32 8 THE WITNESS: I don't see a requirement that

14:22:34 9 we need to provide the list.

14:22:36 10 BY MR. SHERMAN:

14:22:38 11 Q. If we could take a look quickly at Exhibit K. Oh,

14:22:53 12 I'm sorry. We've introduced this before.

14:22:54 13 Just for the record, this is -- it will be

14:22:57 14 Exhibit K in your folder. It's the correct exhibit. But

14:23:02 15 for others' reference, this is 147.

14:23:07 16 And do you see at the bottom here under

14:23:14 17 "Comments" on page 7 where it says, "But: 16-143A - if we

14:23:21 18 read this right, this is a one-time report as a specific

14:23:25 19 date was given. If this entire law was extended to

14:23:29 20 12-31-22," we will -- "will we never have to provide the

14:23:33 21 report?"

14:23:34 22 Do you see that language?

14:23:35 23 A. Yes.

14:23:35 24 Q. Did your office ever get an answer or resolution

14:23:40 25 to this question?

14:23:45 1 A. Not to my knowledge.

14:23:46 2 Q. Is it clear or unclear whether you need to provide
14:23:49 3 that list to the AG?

14:23:51 4 MR. LANGHOFER: Same objection.

14:23:52 5 THE WITNESS: I -- I don't understand the
14:23:58 6 question as to the timing of providing that, that list.

14:24:04 7 BY MR. SHERMAN:

14:24:04 8 Q. Okay. I'll withdraw the question.

14:24:06 9 MR. SHERMAN: We've been going for a fair
14:24:09 10 amount of time. Would now be a good time to take a 10- or
14:24:13 11 15-minute break before we move onto the next session?

14:24:16 12 THE WITNESS: Sure.

14:24:17 13 MR. SHERMAN: Why don't we take 15 and come
14:24:18 14 back at what, I believe, will be 2:39 your time.

14:24:24 15 Okay. We can go off the record.

14:24:26 16 THE VIDEOGRAPHER: We're off the record.
14:24:27 17 Time on the video monitor is 2:24 p.m.

14:24:32 18 (A recess ensued.)

14:39:51 19 THE VIDEOGRAPHER: We are on the record.
14:40:11 20 Time on the video monitor is 2:40 p.m.

14:40:15 21 MR. SHERMAN: Thank you.

14:40:15 22 BY MR. SHERMAN:

14:40:17 23 Q. Mr. Webber, earlier we were talking about HAVA
14:40:20 24 checks that are conducted against the MVD database;
14:40:25 25 correct?

14:40:25 1 A. Yes.

14:40:26 2 Q. Besides F-type licenses, are there any other
14:40:32 3 license types that would require your office to follow up
14:40:34 4 and seek additional documentary proof of citizenship?

14:40:38 5 A. Not to my knowledge.

14:40:40 6 Q. Is there any other kind of result from the HAVA
14:40:44 7 check that could prompt your office to seek additional
14:40:49 8 valid DPOC?

14:40:51 9 A. No. And what happens now -- I don't believe
14:40:55 10 they're actually still called F-type licenses, because they
14:41:00 11 all used to start with an F. We will get -- when -- in
14:41:03 12 that HAVA check, it will come back -- either it will say
14:41:07 13 "U.S. citizen" or "naturalized citizen," or I believe it
14:41:10 14 says "foreign national" or something of that sort. And
14:41:14 15 that's what it -- when it comes back as foreign, that's
14:41:18 16 what will flag it for us as not having citizenship.

14:41:22 17 Q. Do you know what the name of the new type of
14:41:25 18 F-type license is? Is it called a foreign authorized
14:41:29 19 presence license or something else?

14:41:31 20 A. Yeah, it may be. I know we do get, I believe, in
14:41:37 21 -- when we check the verification, I believe it does say
14:41:40 22 foreign authorized presence, but it may say something
14:41:44 23 slightly different than that.

14:41:46 24 Q. Understood.

14:41:46 25 And that will only tell you that that person

14:41:49 1 was not a citizen at some point in the past; correct?

14:41:53 2 A. Yes.

14:41:55 3 Q. And that's why you follow up with a notice letter

14:41:59 4 and asking for DPOC; is that correct?

14:42:02 5 A. Yes.

14:42:02 6 Q. How often do you encounter registrants with F-type

14:42:06 7 or foreign authorized presence licenses?

14:42:10 8 A. Not too often. I don't have any statistics on it.

14:42:16 9 Most of the time when we -- we are sending our DPOC

14:42:20 10 letters, it's because they didn't provide a license number

14:42:24 11 at all. But again, I do not have data on how many are

14:42:29 12 actually the foreign presence license.

14:42:32 13 Q. And earlier, we were talking about exhibit that

14:42:35 14 showed -- right? -- that your office tends to think those

14:42:37 15 are people who just didn't update MVD after they

14:42:42 16 naturalized; is that correct?

14:42:43 17 A. That's what we found in most cases, yes.

14:42:45 18 Q. And how often do applicants provide DPOC in

14:42:50 19 response to the notice letter you send out after you see

14:42:54 20 they have an F-type or foreign authorized presence license?

14:42:57 21 A. Again, it's not something we track. It's

14:43:02 22 anecdotal, I believe, almost all the time. I cannot say

14:43:09 23 all the time.

14:43:11 24 Q. But almost all the time?

14:43:12 25 A. Yes, I believe so.

14:43:14 1 Q. So in asking for DPOC, the applicant can present a
14:43:21 2 naturalization certificate; correct?

14:43:22 3 A. Yes.

14:43:24 4 Q. And they can also present a alien registration
14:43:27 5 number; correct?

14:43:28 6 A. Yes.

14:43:28 7 Q. Why don't we take a look quickly at some of the
14:43:33 8 form letters that you, your office, produced. This is
14:43:35 9 Exhibit AA in your folder down towards the bottom.

14:43:45 10 A. Okay.

14:43:52 11 Q. And I believe -- so what is -- what is this --
14:43:53 12 this is a few different documents all combined into one, 12
14:43:58 13 pages. What are these documents?

14:44:01 14 A. I'm still pulling it up. I have a couple folders
14:44:06 15 here.

14:44:06 16 Q. My apologies.

14:44:08 17 A. And I have to find the right one. Okay.

14:44:13 18 So, yes, these are all one -- this one, the
14:44:14 19 first one in AA is actually -- it's an address letter. We
14:44:20 20 can't confirm the address of -- of the person.

14:44:24 21 This person would have had probably DPOC
14:44:30 22 already so -- but this is -- would be an address letter if
14:44:35 23 we can't confirm where they live to precinct them
14:44:40 24 correctly.

14:44:40 25 Q. More generally, if you could just scroll down

14:44:43 1 through all 12 pages and just tell me generally what --

14:44:48 2 A. Okay.

14:44:49 3 Q. -- what these are.

14:44:50 4 A. The second one is an ID card for someone who has

14:44:55 5 not provided citizenship, but they are on the active early

14:44:58 6 voting list.

14:45:00 7 Third one is they haven't proven citizenship,

14:45:07 8 and they are on -- they are not on the active early voting

14:45:08 9 list.

14:45:11 10 The fourth one is what we would call fed, no

14:45:15 11 ID. They haven't provided citizenship and nor do we have a

14:45:19 12 Social Security number to prove -- prove that they're

14:45:22 13 actually a human being, which is what we use Social

14:45:25 14 Security numbers for.

14:45:29 15 So then the next one, "Voter Registration

14:45:32 16 Form Box 22." It's -- didn't respond to the questions in

14:45:40 17 Box 22. And this would be if we do not have either the --

14:45:48 18 well, if they didn't put a birth date. But mostly if they

14:45:52 19 didn't put anything in the citizenship checkbox, and they

14:45:55 20 did not -- we couldn't find -- couldn't find -- verify

14:46:01 21 their citizenship through HAVA checks, they would get that

14:46:03 22 letter.

14:46:03 23 And here's what we would send to federal-only

14:46:09 24 voters. That, again, this is not people who would have a

14:46:14 25 -- come back as a foreign national. But again, they would

14:46:17 1 be federal voters. We would send this out explaining to
14:46:23 2 them what they need to do to become eligible.
14:46:27 3 Q. Which one of these do you send when you see an
14:46:30 4 F-type license? Is that the one all the way at the bottom?
14:46:36 5 A. Let me find it. Yes. Yeah, the "Not Eligible."
14:46:46 6 Q. Okay. And this -- the portion of this notice
14:46:52 7 letter -- sorry. Let me back up one sec.
14:46:54 8 MR. SHERMAN: Can we mark this as
14:46:56 9 Exhibit 151.
14:46:56 10 (The document was marked as Exhibit 151
14:46:57 11 for identification.)
14:46:57 12 BY MR. SHERMAN:
14:46:58 13 Q. This last notice letter in the series calls for an
14:47:01 14 alien registration number; correct?
14:47:03 15 A. Yes.
14:47:04 16 Q. That's one of the forms of DPOC that can be
14:47:07 17 provided?
14:47:08 18 A. Yes.
14:47:09 19 Q. Does it ask for or suggest to the applicant that
14:47:16 20 they can provide a naturalization -- a copy of their
14:47:19 21 naturalization certificate?
14:47:20 22 A. No, it does not.
14:47:22 23 Q. And why not?
14:47:24 24 A. Probably because we just forgot it.
14:47:27 25 Q. And it doesn't ask for a naturalization

14:47:30 1 certificate number. Is that -- earlier, you testified

14:47:34 2 that's because you can't search -- query for that in the

14:47:38 3 SAVE system; is that correct?

14:47:39 4 A. Yes.

14:47:39 5 Q. If you were to be provided with a copy of a
14:47:44 6 naturalization certificate and you verified it as DPOC,
14:47:50 7 that trumps the record of an F-type license in the MVD
14:47:54 8 database; correct?

14:47:55 9 A. Yes.

14:47:56 10 Q. I just wanted to confirm that.

14:47:59 11 But if you get a naturalization certificate
14:48:03 12 number -- well, that you can't search -- strike that.

14:48:07 13 If you get an alien registration number, that
14:48:10 14 you have to take a further step to verify; correct?

14:48:13 15 A. Yes.

14:48:13 16 Q. And that's -- and what do you do with the alien
14:48:16 17 registration number?

14:48:17 18 A. That -- that's in the SAVE system.

14:48:20 19 Q. And do you ever -- there's -- there's no place for
14:48:24 20 you to input a naturalization certificate number
14:48:27 21 whatsoever?

14:48:27 22 A. No.

14:48:28 23 Q. If I could have you take a look at Exhibit P in
14:48:37 24 your folder. Okay.

14:48:41 25 And what is this document? You might want to

14:48:43 1 read it from bottom to top just so it's clear.

14:48:47 2 A. Okay. So it is a -- it's an email chain. And

14:48:59 3 I -- I remember this email chain so . . .

14:49:03 4 Q. You were on this email chain; yes?

14:49:05 5 A. Yes. Yes, I do remember this. And this is

14:49:08 6 something that happens when people are -- they register to

14:49:14 7 vote at a naturalization ceremony. And there are actually

14:49:20 8 specially marked forms for those ceremonies. And they will

14:49:23 9 -- the people there who are doing the naturalization

14:49:28 10 ceremony will actually mark those paper forms "citizenship

14:49:34 11 checked" because they will not come back in the SAVE

14:49:38 12 system, even with an alien registration number, very

14:49:42 13 quickly because they haven't been put into the system yet.

14:49:47 14 MR. SHERMAN: Can we mark this as

14:49:49 15 Exhibit 152.

14:49:49 16 (The document was marked as Exhibit 152

14:49:50 17 for identification.)

14:49:50 18 BY MR. SHERMAN:

14:49:51 19 Q. And so a couple questions on this.

14:49:53 20 When a registration's occurring at the

14:49:57 21 naturalization ceremony, your office is reviewing a copy of

14:50:01 22 the naturalization certificate at the ceremony?

14:50:05 23 A. No. No. It's --

14:50:07 24 Q. What is it based on?

14:50:09 25 A. It is based on a registration form, a paper

14:50:14 1 registration form. There are specially coded registration
14:50:18 2 forms that come from naturalization ceremonies.

14:50:23 3 And again, it's common practice. They will
14:50:26 4 have the people fill them out after the ceremony, and they
14:50:32 5 will mark them "citizenship checked," you know, the people
14:50:37 6 at the ceremony themselves that are performing the
14:50:41 7 ceremony. And then we will get those registration forms.

14:50:44 8 Q. Is it a special Arizona registration form or a
14:50:48 9 copy -- a special Arizona voter registration form?

14:50:51 10 A. It is an Arizona voter registration form. There
14:50:54 11 are codes on them that tell us where that registration form
14:50:59 12 originated, and there's a special code for naturalization
14:51:03 13 ceremonies.

14:51:04 14 Q. Understood.

14:51:05 15 And in this circumstance, you're saying a
14:51:09 16 variety of the county recorder staff on this email are all
14:51:13 17 chiming in to say, "You can override the HAVA check in this
14:51:19 18 circumstance"; correct?

14:51:20 19 A. Yes.

14:51:21 20 Q. Because -- and why is that?

14:51:24 21 A. Because they have had their citizenship checked
14:51:28 22 and -- at the -- and filled out the form at the
14:51:32 23 naturalization ceremony.

14:51:33 24 Q. And you were testifying earlier that there's a bit
14:51:42 25 of a lag between when a naturalization occurs and when

14:51:47 1 that's updated in the SAVE system; is that correct?

14:51:49 2 A. Yes.

14:51:50 3 Q. Do you know what kind -- what -- how long that lag
14:51:53 4 can be?

14:51:53 5 A. I really do not.

14:51:56 6 Q. Have any -- has -- anyone in your office have some
14:52:04 7 familiarity with that?

14:52:05 8 A. We may have one person who may have a sense of it.
14:52:12 9 I -- I can't say that she knows exactly how long the lag
14:52:17 10 might be. We don't get a lot of these, so it's not a --
14:52:21 11 it's not common.

14:52:23 12 Q. Suffice it to say, though, if you were to check
14:52:26 13 the SAVE system right after a naturalization ceremony, the
14:52:29 14 person would still not -- their citizenship -- U.S.
14:52:33 15 citizenship would not be reflected in that?

14:52:36 16 A. I would believe it's safe to say that, yes.

14:52:37 17 Q. Does your existing agreement with ADOT's Motor
14:52:42 18 Vehicle Division cover the uses outlined in HB 2492 and
14:52:46 19 HB 2243 that we've been discussing?

14:52:49 20 A. I don't believe Yavapai County has an agreement
14:52:53 21 with the MVD.

14:52:54 22 Q. Okay.

14:52:55 23 A. I believe that's through the Secretary of State's
14:52:58 24 Office.

14:52:58 25 Q. Understood.

14:52:59 1 Do you know whether that agreement with the
14:53:01 2 Secretary of State's Office covers the uses mandated in
14:53:07 3 2492 and 2243?

14:53:07 4 A. I do not know.

14:53:09 5 Q. Have you -- has your office ever encountered
14:53:13 6 instances where a voter registration applicant who is a
14:53:16 7 U.S. citizen was flagged erroneously as a noncitizen in the
14:53:20 8 MVD database?

14:53:22 9 A. We assume that there -- it was erroneous to
14:53:28 10 provide DPOC and they had had an F-type license, or the
14:53:32 11 foreign presence license, yes.

14:53:35 12 Q. Do you recall an incident from last year where
14:53:37 13 database matching produced erroneous results and caused the
14:53:41 14 downgrading of thousands of voters to federal-only voting
14:53:44 15 status?

14:53:48 16 A. I remember hearing about that, yes.

14:53:49 17 Q. Can we take a look at Exhibit L.

14:53:58 18 What is this document?

14:54:02 19 A. It's from AVID Help on MVD, HAVA checks,
14:54:12 20 follow-up.

14:54:14 21 MR. SHERMAN: Can we mark this as
14:54:16 22 Exhibit 153.

14:54:16 23 (The document was marked as Exhibit 153
14:54:16 24 for identification.)

14:54:16 25 BY MR. SHERMAN:

14:54:20 1 Q. And did you receive a copy of this last October?

14:54:25 2 A. I'm not sure if I received a copy of it or the
14:54:30 3 current registrar received a copy of it. I was aware of
14:54:35 4 the issues.

14:54:37 5 Q. What -- what happened in this incident?

14:54:48 6 A. I think there were records coming over from the
14:54:50 7 MVD that didn't have an authorized presence value or
14:54:57 8 citizenship that would say that they were citizens. And so
14:55:04 9 it would -- if it doesn't come back as that, I believe it
14:55:08 10 would say that the citizenship was not proven.

14:55:12 11 Q. But these turned out to actually be folks who had
14:55:15 12 shown DPOC in the past; correct?

14:55:17 13 A. Yes, I believe so.

14:55:19 14 Q. And so they were erroneously downgraded to
14:55:23 15 fed-only voting status; correct?

14:55:26 16 A. I don't know if -- how many were downgraded. If
14:55:32 17 they had already proven citizenship prior to that, we would
14:55:38 18 not have done it. I don't believe it was -- it did it
14:55:42 19 immediately through the system. And I know we had people
14:55:48 20 check. And I don't even know if we had any that that had
14:55:52 21 happened to. But I know it did happen in the system.

14:55:55 22 Q. Can you take a look at paragraph 3 of this letter.

14:55:58 23 A. Yes.

14:55:59 24 Q. Just review that, and I'll ask you about it once
14:56:03 25 you're done.

14:56:03 1 A. Okay. Okay.

14:56:18 2 Q. How many voters in your county were erroneously
14:56:21 3 flagged as fed-only?

14:56:24 4 A. I don't recall the number.

14:56:28 5 Q. Based on this, you can't -- you can't say?

14:56:33 6 A. Based on this, no, I cannot say.

14:56:37 7 Q. Okay. It says, "Your county has 4 records that
14:56:40 8 returned a hard-match with unauthorized presence indicating
14:56:43 9 citizenship in 25 records that might be a soft-match."
14:56:48 10 Do you see that?

14:56:48 11 A. I think I may have been looking at the wrong
14:56:50 12 paragraph.

14:56:53 13 Q. Third full paragraph after "Dear Yavapai."

14:56:58 14 A. Okay. Yeah, I was looking at the wrong paragraph.

14:57:01 15 Q. Sorry.

14:57:01 16 A. Okay.

14:57:03 17 Q. Take a look at that.

14:57:12 18 A. Okay. All right. Yeah, I see that four.

14:57:21 19 Q. So how many voters in your county were erroneously
14:57:24 20 flagged as fed-only due to this incident?

14:57:28 21 A. I'm trying to interpret it. It's actually not
14:57:51 22 very clear.

14:57:51 23 Q. Okay.

14:57:52 24 A. Said we had four records that "returned a
14:57:55 25 hard-match with the authorized presence indicating

14:57:57 1 citizenship in 25 records that might be a soft-match."

14:58:01 2 Q. We can move on.

14:58:02 3 In the last sentence, though, it says "6
14:58:05 4 records in your county have an active early ballot
14:58:08 5 associated with them."

14:58:09 6 Does that mean six ballots -- six fed-only
14:58:12 7 early ballots went out prior to you receiving this notice?

14:58:17 8 A. It is possible.

14:58:21 9 Q. Okay. In light of this incident, this database
14:58:24 10 error, what does this say to you about the reliability of
14:58:28 11 database matching to assess a person's current U.S.
14:58:32 12 citizenship status?

14:58:33 13 A. It's possible it could be problematic.

14:58:37 14 Q. What does it say to you about the reliability of
14:58:39 15 database matching for determining whether someone has
14:58:43 16 previously shown DPOC?

14:58:46 17 MR. LANGHOFER: Form.

14:58:50 18 THE WITNESS: I really don't understand about
14:58:53 19 the -- the question. I don't understand the database and
14:59:00 20 the previous provided DPOC.

14:59:02 21 BY MR. SHERMAN:

14:59:02 22 Q. I'll rephrase.

14:59:03 23 In light of this incident, what does it say
14:59:06 24 to you about the reliability of relying on the MVD database
14:59:10 25 to determine whether voters have previously shown

14:59:14 1 documentary proof of citizenship?

14:59:17 2 MR. LANGHOFER: Form.

14:59:18 3 THE WITNESS: I -- it shows me that the MVD,
14:59:22 4 again, can be problematic as far as if they previous --
14:59:27 5 previously showed a county or us that DPOC. I don't think
14:59:33 6 -- that's not a matching issue that -- we have that in our
14:59:37 7 records.

14:59:37 8 So again, I'd have to look at this more
14:59:42 9 closely to determine exactly what happened. And -- but it
14:59:47 10 does show that it is -- can be problematic with the MVD.

14:59:51 11 BY MR. SHERMAN:

14:59:57 12 Q. Is it feasible to use MVD data to conclusively
15:00:02 13 determine a lack of U.S. citizenship?

15:00:06 14 A. I wouldn't say "conclusively." That's why we
15:00:10 15 would send a letter to allow them to provide us other
15:00:17 16 documentation.

15:00:18 17 Q. In terms of resources, access, and training, is it
15:00:21 18 practicable for your office to use MVD databases for
15:00:25 19 citizenship verification?

15:00:29 20 A. I believe it's really the only database we have
15:00:35 21 that contains that unless we get an A-number and can use
15:00:39 22 the SAVE can be.

15:00:40 23 THE COURT REPORTER: Did someone object in
15:00:44 24 the middle?

15:00:45 25 MR. LANGHOFER: I did.

15:00:46 1 BY MR. SHERMAN:

15:00:47 2 Q. HB 2243 requires you to compare your county's

15:00:50 3 voters to the MVD databases on a monthly basis; is that

15:00:54 4 practicable?

15:00:55 5 A. No.

15:00:56 6 MR. LANGHOFER: Form.

15:00:57 7 BY MR. SHERMAN:

15:00:58 8 Q. Has your office ever been given a specific list of

15:01:01 9 means by which a voter registration applicant can be deemed

15:01:04 10 or proven a noncitizen?

15:01:06 11 A. No.

15:01:07 12 Q. Same question for registered voters.

15:01:11 13 A. No.

15:01:12 14 Q. We've already talked some about the SAVE system.

15:01:17 15 And you use that for purposes of following up with voter

15:01:23 16 registration applicants who have come back as holding an

15:01:26 17 F-type license in the MVD database; is that correct?

15:01:30 18 A. Only if we have an A-number.

15:01:33 19 Q. So if they -- if the applicant provides an

15:01:35 20 A-number, then you can use the SAVE system; correct?

15:01:39 21 A. Yes.

15:01:40 22 Q. Do you currently have A-numbers for all -- you

15:01:49 23 don't have A-numbers for all -- let me strike that

15:01:51 24 question.

15:01:52 25 How frequently do you use the SAVE system?

15:01:58 1 A. I imagine it may be used weekly. I don't actually
15:02:06 2 enter them in. Another person does that. It's not
15:02:11 3 infrequent, but it's neither really frequent. It's just as
15:02:16 4 needed.

15:02:17 5 Q. Who in your office actually conducts the SAVE
15:02:21 6 verification checks?

15:02:22 7 A. Usually it's Celeste Audis.

15:02:25 8 Q. What was her last name again?

15:02:27 9 A. Audis, A-u-d-i-s.

15:02:32 10 Q. Is it common for people -- registrants to put down
15:02:36 11 A-numbers or naturalization certificate numbers on their
15:02:39 12 Arizona voter registration form themselves?

15:02:43 13 A. It's not common unless, I believe, if they -- if
15:02:50 14 they have one, they'll put it on, and sometimes, not
15:02:55 15 always, if they have an A-number.

15:02:58 16 Q. And there's just one field for that; right?

15:03:01 17 A. Yes.

15:03:02 18 Q. So if a person puts down their naturalization
15:03:05 19 certificate number instead of their A-number, you can't do
15:03:08 20 anything with the naturalization certificate number;
15:03:10 21 correct?

15:03:10 22 A. Yes. That's -- we contact them to ask them for
15:03:15 23 their A-number.

15:03:16 24 Q. Do you know if the Arizona Secretary of State's
15:03:19 25 Office has ever communicated to county recorders that

15:03:26 1 naturalization certificate numbers are unusable in the SAVE

15:03:30 2 system?

15:03:30 3 MR. LANGHOFER: Form, foundation.

15:03:33 4 THE WITNESS: Not to my knowledge.

15:03:35 5 BY MR. SHERMAN:

15:03:36 6 Q. Do you know if that's conveyed to registration
15:03:41 7 applicants using the Arizona voter registration form?

15:03:45 8 A. I would have to actually look at the form and see
15:03:48 9 what is in the form, if it said -- I believe it says
15:03:53 10 actually alien registration number, but it may say also
15:03:57 11 something else, and I just can't recall.

15:04:00 12 Q. Got it.

15:04:01 13 Could we take a quick look at Exhibit M.

15:04:16 14 A. Okay.

15:04:17 15 Q. And what is this document?

15:04:19 16 A. This is the 2023 Election Procedures Manual. This
15:04:25 17 is the draft from June 2023.

15:04:29 18 Q. And is this the version you annotated with your
15:04:32 19 comments?

15:04:32 20 A. Yes.

15:04:33 21 Q. Okay.

15:04:35 22 MR. SHERMAN: Could we mark this as

15:04:38 23 Exhibit 154.

15:04:38 24 (The document was marked as Exhibit 154

15:04:39 25 for identification.)

15:04:39 1 BY MR. SHERMAN:

15:04:40 2 Q. And if you scroll down to page 9, bottom right,

15:04:51 3 page 9, do you see your comment there where you wrote,

15:04:56 4 "Does SAVE allow you to check the Citizenship Certificate

15:04:58 5 Number or Naturalization Certificate Number? Our person

15:05:01 6 who does our SAVE check say these do not work, only the

15:05:06 7 Alien Registration Number works"?

15:05:07 8 A. Yes.

15:05:08 9 Q. And you wrote that; correct?

15:05:09 10 A. Yes.

15:05:10 11 Q. And that reflects what Celeste Audis told you?

15:05:14 12 A. Yes.

15:05:21 13 Q. Just to be clear, you don't have alien

15:05:25 14 registration numbers for all naturalized citizens in your

15:05:29 15 county; correct?

15:05:30 16 A. Correct.

15:05:36 17 Q. What is -- what does your office do if the SAVE

15:05:40 18 system search matches to a record reflecting a lack of U.S.

15:05:43 19 citizenship?

15:05:47 20 A. I -- I don't believe we've seen that. We -- we

15:05:51 21 may get a nonmatch if the person's name does not match with

15:05:55 22 the number. I don't believe we've ever seen it come up

15:06:01 23 saying, you know, this is a foreign national or -- or --

15:06:04 24 you know, or anything like that. It's -- if the -- if the

15:06:08 25 A-number doesn't match that person's name and date of

15:06:11 1 birth, I think it just comes up not a match.

15:06:15 2 Q. What do you do in those circumstances where you
15:06:17 3 get a nonmatch?

15:06:19 4 A. Well, then we would contact that registrant and
15:06:23 5 say, "You know, this didn't match." You know, they can
15:06:29 6 transpose numbers and things such as that.

15:06:32 7 And we try to find a different way or a good
15:06:35 8 alien registration number to see if we can verify their --
15:06:41 9 their citizenship.

15:06:44 10 Q. And do such individuals typically complete the
15:06:48 11 registration process ultimately? Are you able to work
15:06:50 12 through those issues?

15:06:51 13 A. Again, I believe so. We do not track how many
15:06:55 14 have or have not. You know, we can look at and see how
15:06:59 15 many people have not, you know, or listed as not
15:07:02 16 registered. But we have no way of tracking how many people
15:07:04 17 have actually fixed that registration form and become a
15:07:09 18 full-registered voter.

15:07:11 19 Q. To the best of your knowledge, when your office
15:07:13 20 has used SAVE system queries, you've either confirmed the
15:07:19 21 applicant's naturalization or just gotten no match at all?

15:07:23 22 A. Yes.

15:07:23 23 Q. Okay. And have you ever had to use USCIS's
15:07:28 24 alternative verification process?

15:07:31 25 A. I'm not even aware of the alternative verification

15:07:36 1 process.

15:07:37 2 Q. So you're not sure what steps you would need to

15:07:40 3 follow if the SAVE query returned information showing the

15:07:46 4 person was not a citizen at some point in the past?

15:07:50 5 A. No.

15:07:53 6 Q. Does the -- does your office have an agreement

15:07:57 7 directly with USCIS?

15:08:00 8 A. With the SAVE system, yes.

15:08:02 9 Q. Okay. Let's take a look at Exhibit O. You can

15:08:12 10 ignore the -- we could have removed, I guess, the Exhibit C

15:08:16 11 at the top here. That was your Exhibit C. But here it's

15:08:18 12 in your folder as Exhibit O.

15:08:20 13 A. Okay. Yes.

15:08:22 14 Q. Okay. What is this document?

15:08:24 15 A. That is the agreement between Yavapai County, the

15:08:29 16 secretary of state for reimbursing for SAVE usage.

15:08:34 17 MR. SHERMAN: Can we mark this as

15:08:38 18 Exhibit 155.

15:08:38 19 (The document was marked as Exhibit 155

15:08:38 20 for identification.)

15:08:38 21 BY MR. SHERMAN:

15:08:42 22 Q. And do you see under the "Recitals," Recital C

15:08:42 23 says, "The Parties desire for the County Recorders to have

15:08:46 24 access to the SAVE program for the purpose of verifying the

15:08:49 25 citizenship and immigration status information of

15:08:52 1 non-citizen and naturalized or derived U.S. citizen

15:08:56 2 registrants when they register to vote"?

15:08:58 3 Did I read that correctly?

15:08:58 4 A. Yes.

15:08:59 5 Q. Does this agreement only cover SAVE system usage

15:09:04 6 at the point of registration?

15:09:08 7 A. It covers it at the point where we are registering

15:09:14 8 them in our office.

15:09:16 9 Q. Does it cover the uses outlined in HB 2243 to

15:09:21 10 compare registered voters against the SAVE system?

15:09:25 11 MR. LANGHOFER: Form. Calls for a legal

15:09:28 12 conclusion.

15:09:28 13 THE WITNESS: No. It does not seem to.

15:09:32 14 BY MR. SHERMAN:

15:09:42 15 Q. If you return information in the SAVE system

15:09:44 16 showing that the person was not a U.S. citizen at some

15:09:47 17 point in the past, would you determine that that was

15:09:50 18 conclusive evidence that the person is not a U.S. citizen

15:09:54 19 in the present?

15:09:55 20 A. I don't believe the SAVE system would return that.

15:10:01 21 It tells us -- either it matches with their alien

15:10:05 22 registration number or it doesn't. That's -- it's A or B.

15:10:11 23 Q. That's been your experience. But hypothetically,

15:10:13 24 if an alien registration -- if querying a particular

15:10:17 25 A-number returned information that the person was a foreign

15:10:20 1 national, what would you do with that information?

15:10:26 2 A. I -- I would probably be talking to a lot of
15:10:28 3 people and wondering what exactly that was because it would
15:10:33 4 be incredibly unusual.

15:10:38 5 Q. Would you agree that SAVE can be used to confirm
15:10:41 6 naturalization but cannot be used to confirm a lack of
15:10:44 7 naturalization?

15:10:45 8 A. The way we use it, yes.

15:10:48 9 Q. HB 2243 would require you to compare all of your
15:10:58 10 county's voters whom you had reason to believe are not U.S.
15:11:00 11 citizens to the SAVE system on a monthly basis. Is that
15:11:04 12 practicable?

15:11:06 13 A. No.

15:11:07 14 MR. LANGHOFER: Form. Calls for a legal
15:11:13 15 conclusion.

15:11:13 16 THE WITNESS: And I did answer "no."

15:11:14 17 BY MR. SHERMAN:

15:11:15 18 Q. If we could take a look at Hiser Exhibit 77 again.
15:11:30 19 I don't have too much more.

15:11:32 20 A. Okay. We're doing fine.

15:11:36 21 Q. So we've looked at this before. If you could
15:11:38 22 scroll down to item 10(H) again.

15:11:42 23 Karen McCracken wrote -- additionally, on
15:11:45 24 Item 10(H), she wrote, "Also, how are we to compare all of
15:11:48 25 our registered voters to a federal database of millions

15:11:51 1 upon millions?"

15:11:54 2 Do you see that sentence?

15:11:55 3 A. Yes.

15:11:55 4 Q. And would it be possible to compare all of the

15:12:06 5 county's registered voters against the SAVE system?

15:12:11 6 A. Not without a lot more employees and, well, alien

15:12:15 7 registration numbers. So practicably, no.

15:12:19 8 Q. Thank you.

15:12:22 9 Could we take a quick look at Exhibit 79.

15:12:26 10 This is also from the Hiser deposition.

15:12:33 11 And do you see under the fourth bullet point

15:12:36 12 where Leslie Hoffman wrote: "When we check alien

15:12:39 13 registration numbers for naturalization through DHS,

15:12:42 14 we supply the number to check against their database. They

15:12:45 15 don't just provide their whole database to us and I highly

15:12:49 16 doubt that they would"?

15:12:50 17 A. Yes, I see that.

15:12:51 18 Q. Do you agree with that statement?

15:12:53 19 A. Yes.

15:12:54 20 Q. Both of these challenged laws refer to the

15:13:01 21 National Association for Public Health Statistics and

15:13:04 22 Information Systems. Do you have any familiarity with

15:13:06 23 them?

15:13:06 24 A. No.

15:13:08 25 Q. Have you ever heard of the Electronic Verification

15:13:13 1 of Vital Events database?

15:13:14 2 A. No.

15:13:15 3 Q. Have you ever used that database, or has your

15:13:19 4 office ever used that database?

15:13:20 5 A. No.

15:13:21 6 Q. Do you know if it can be used for U.S. citizenship

15:13:26 7 verification?

15:13:27 8 A. I do not know.

15:13:28 9 Q. Okay. Are you familiar with the Electronic

15:13:33 10 Registration Information Center?

15:13:33 11 A. Yes.

15:13:34 12 Q. Do you know if ERIC's data contains any U.S.

15:13:40 13 citizenship data?

15:13:41 14 A. Not that I know of.

15:13:43 15 Q. Is it possible to use ERIC for U.S. citizenship

15:13:47 16 verification?

15:13:47 17 A. I do not believe so.

15:13:49 18 Q. Do you have the ability to search or interface

15:13:53 19 with any other government databases with U.S. citizenship

15:13:56 20 data?

15:13:58 21 A. Only the MVD and then the SAVE system.

15:14:02 22 Q. Has your office been communicating with any other

15:14:05 23 person or entity regarding the use of any other database

15:14:07 24 for citizenship verification?

15:14:09 25 A. No.

15:14:10 1 Q. Do you see in the last bullet still on Exhibit 79
15:14:21 2 Leslie Hoffman wrote: "What city, town and federal
15:14:24 3 databases are they talking about that we are supposed to
15:14:27 4 run our voter rolls against? Do they know something about
15:14:30 5 people keeping track of us in citizenship status that we
15:14:33 6 don't?"

15:14:34 7 Do you share the -- does your office still
15:14:37 8 share the sentiment expressed in this bullet point?

15:14:41 9 A. Yes.

15:14:41 10 MR. LANGHOFER: Form

15:14:43 11 BY MR. SHERMAN:

15:14:44 12 Q. Has your office -- if these laws were to go into
15:14:48 13 effect, they would require comparing of voter registration
15:14:51 14 applicant or registered voters' information against many
15:14:56 15 different databases.

15:14:57 16 Has your office been provided any guidance
15:15:00 17 whatsoever on how you would resolve conflicting information
15:15:03 18 on citizenship from those different databases?

15:15:06 19 A. No.

15:15:08 20 Q. Just one other area I wanted to ask you about and
15:15:13 21 then I'll finish. My colleagues may have additional
15:15:16 22 questions.

15:15:18 23 If a registered voter is removed from the
15:15:21 24 rolls under HB 2243, based upon an erroneous determination
15:15:26 25 that they're not a U.S. citizen, can that voter be added

15:15:30 1 back to the rolls if the registration deadline has already
15:15:33 2 passed?
15:15:34 3 A. I don't know.
15:15:38 4 Q. Is that laid out anywhere in the EPM or elsewhere?
15:15:42 5 A. Not that I know of.
15:15:45 6 Q. So it could potentially vary from county to county
15:15:48 7 based on what folks are doing with that individual?
15:15:52 8 MR. LANGHOFER: Form.
15:15:53 9 THE WITNESS: It -- yes, it could. And I
15:15:58 10 believe it becomes, in the end, a judgment call from the
15:16:03 11 county recorder if someone was erroneously canceled, what
15:16:07 12 should happen with that.
15:16:08 13 BY MR. SHERMAN:
15:16:09 14 Q. So it would be a judgment call is your testimony?
15:16:11 15 A. I -- I believe so.
15:16:12 16 MR. LANGHOFER: Form.
15:16:13 17 BY MR. SHERMAN:
15:16:15 18 Q. Currently, if someone were erroneously identified
15:16:18 19 as having committed a felony -- excuse me. Let me rephrase
15:16:25 20 this.
15:16:25 21 If someone were erroneously identified as
15:16:28 22 having been convicted of a felony and therefor
15:16:30 23 disenfranchised under Arizona law, but the information
15:16:33 24 about the error didn't come out until after the
15:16:36 25 registration deadline, how would your office currently deal

15:16:39 1 with that situation?

15:16:42 2 A. Again, it would be a judgment call. I would

15:16:46 3 imagine the person would be restored to full-voting rights

15:16:52 4 if it was erroneous on our part that we -- we canceled a

15:16:58 5 voter who shouldn't have been canceled.

15:17:01 6 Q. But it would be a judgment call of each county

15:17:05 7 recorder's office?

15:17:05 8 A. I -- I believe it would be.

15:17:06 9 Q. Okay.

15:17:08 10 MR. SHERMAN: All right. Thank you very much

15:17:08 11 for your time, Mr. Webber. Other plaintiffs' counsel may

15:17:13 12 have questions for you, but I'm done. Thank you.

15:17:17 13 THE WITNESS: Thank you.

15:17:17 14

15:17:17 15 EXAMINATION

15:17:17 16 BY MR. ATKINS:

15:17:22 17 Q. Hi, Mr. Webber. My name is Alex Atkins, and I

15:17:24 18 represent plaintiffs Mi Familia and Voto Latino. I don't

15:17:30 19 have many questions for you, but I do have a few.

15:17:35 20 First of all, am I correct that in Arizona,

15:17:39 21 voters can register both using the state registration form

15:17:43 22 and the federal registration form?

15:17:46 23 A. Yes.

15:17:47 24 Q. And the federal form is the registration form that

15:17:55 25 states are required to accept and use to register voters

15:18:00 1 for federal elections under the NVRA; right?

15:18:03 2 A. Yes.

15:18:03 3 Q. And in Arizona, voters can be registered either as
15:18:14 4 federal-only voters or as full-ballot voters; is that
15:18:19 5 right?

15:18:19 6 A. Yes.

15:18:29 7 (An off-the-record discussion ensued.)

15:18:29 8 BY MR. ATKINS:

15:18:48 9 Q. What's the difference between a federal-only voter
15:18:51 10 and a full-ballot voter?

15:18:53 11 A. The difference, as far as registering goes, is a
15:18:59 12 proof of citizenship. Have they given us documentary proof
15:19:04 13 of citizenship? In the election, they would vote only for
15:19:08 14 those federal offices. They would not vote for state or
15:19:11 15 local offices or questions.

15:19:14 16 Q. Understood.

15:19:17 17 So is it fair to say that Arizona then has a
15:19:27 18 dual-registration system?

15:19:30 19 A. Yes.

15:19:33 20 Q. Now, and the dual-registration system hasn't
15:19:41 21 always been in place; correct?

15:19:43 22 A. That's correct.

15:19:45 23 Q. So when the dual-registration system was adopted
15:19:51 24 in Arizona, is it correct that there were already many
15:19:57 25 people who were registered to vote in Arizona who had not

15:20:00 1 shown any DPOC?

15:20:04 2 A. I believe so.

15:20:06 3 Q. And those voters would have been registered to

15:20:11 4 vote both in state and federal elections; correct?

15:20:13 5 A. Again, I believe so.

15:20:16 6 Q. And do you know -- when the dual-registration

15:20:21 7 system was adopted, those already-registered voters, were

15:20:25 8 they required to provide DPOC after the fact?

15:20:31 9 A. I do not believe so.

15:20:33 10 Q. But since the adoption of the dual-registration

15:20:40 11 system, if a registrant wants to be able to vote in all

15:20:45 12 elections, they must provide DPOC; correct?

15:20:50 13 A. Yes.

15:20:50 14 Q. Do you know if it is the case today in your county

15:20:57 15 that there are registered voters who are permitted to vote

15:21:02 16 a full ballot who have never provided any DPOC?

15:21:07 17 A. I don't know any specific examples, but I believe

15:21:10 18 we probably have many.

15:21:12 19 Q. And do you know approximately how many of those

15:21:18 20 voters are in Yavapai County?

15:21:21 21 A. No, I do not have a number.

15:21:23 22 Q. But you said you believe there's many?

15:21:26 23 A. Yes. I do believe we do have many.

15:21:30 24 Q. Do you know how many voters in your county are

15:21:34 25 currently registered as federal-only voters?

15:21:39 1 A. We had our last quarterly report on July 1st. We
15:21:47 2 had about 340. But that would be active and inactive
15:21:52 3 federal voters.

15:21:53 4 Q. And approximately how many registrants does the
15:21:58 5 county have in total?

15:22:00 6 A. We have about 187,000 active and inactive
15:22:06 7 registrants.

15:22:07 8 Q. Understood.

15:22:09 9 So it sounds like it's fair to say that the
15:22:12 10 federal-only voters make up a very small percentage of your
15:22:17 11 registrants?

15:22:17 12 A. Yes.

15:22:18 13 Q. So I'd like to talk a bit about your office's
15:22:35 14 current practices for handling registrations who use the
15:22:41 15 state form. And I understand that you've already testified
15:22:46 16 that your office has not implemented any aspect of HB 2492
15:22:55 17 or 2243. I'm only asking about what the office is
15:22:59 18 currently doing, not taking into account those laws.

15:23:05 19 So first of all, if an applicant submits a
15:23:14 20 state registration form and they provide adequate DPOC, but
15:23:19 21 they don't provide their place of birth, is it correct that
15:23:24 22 your office would still register that applicant to vote?

15:23:27 23 A. Yes.

15:23:28 24 Q. And that's because birthplace is not currently,
15:23:37 25 absent 2492, required to register to vote; correct?

15:23:42 1 A. Correct.

15:23:42 2 Q. And you understand that under HB 2492, a state

15:24:00 3 form applicant must include their place of birth or the

15:24:05 4 form cannot be accepted for registration; right?

15:24:07 5 A. Yes.

15:24:08 6 Q. Does your office have any means of accurately

15:24:14 7 confirming that the place of birth that a registrant

15:24:19 8 provides is correct?

15:24:21 9 A. No.

15:24:23 10 Q. Would your office be able to verify a person's

15:24:29 11 citizenship using their place of birth?

15:24:31 12 A. No.

15:24:32 13 Q. So is it fair to say that Yavapai County cannot

15:24:39 14 use birthplace information to determine whether an

15:24:43 15 applicant is qualified to vote?

15:24:46 16 A. Yes.

15:24:47 17 Q. And just to confirm, your office hasn't received

15:24:56 18 any guidance from the secretary of state about how to

15:25:01 19 implement the birthplace requirement; right?

15:25:03 20 A. Yeah. Not to my knowledge, no.

15:25:07 21 Q. Are you aware of any other state that requires

15:25:10 22 birthplace information in order to register a voter?

15:25:14 23 MR. LANGHOFER: Form; foundation.

15:25:18 24 THE COURT REPORTER: What was the answer?

15:25:18 25 THE WITNESS: No.

15:25:21 1

15:25:22 2

BY MR. ATKINS:

15:25:23 3

Q. Okay. Shifting gears a little bit, I'd like to

15:25:26 4

talk about the citizenship checkbox that appears on both

15:25:32 5

the state form and the federal form.

15:25:36 6

So first of all, the citizenship checkbox on

15:25:40 7

both forms has been in existence for a while; correct?

15:25:47 8

It's not a new --

15:25:48 9

A. Yes.

15:25:54 10

Q. And is it correct that your office follows the

15:25:58 11

2019 EPM when it comes to the citizenship checkbox?

15:26:04 12

A. Yes.

15:26:30 13

Q. If an applicant submits a state registration form

15:26:36 14

and they don't provide DPOC and they don't mark the

15:26:41 15

citizenship checkbox, but you're able to confirm their

15:26:46 16

citizenship via their driver's license number or an

15:26:51 17

A-number, for example, would you still register them to

15:26:55 18

vote?

15:26:56 19

A. Yes.

15:26:57 20

Q. So is it fair to say that completing the

15:27:02 21

citizenship checkbox is not necessary for your office to

15:27:07 22

confirm that an applicant is a citizen?

15:27:10 23

MR. LANGHOFER: Form.

15:27:12 24

THE WITNESS: In cases where we can have

15:27:18 25

evidence of citizenship through driver's license or alien

15:27:22 1 registration number, we would not need that to be checked.

15:27:25 2 BY MR. ATKINS:

15:27:26 3 Q. And to be clear, if a state form applicant

15:27:30 4 provided DPOC, you would not reject their application

15:27:36 5 simply for them failing to check the citizenship checkbox;

15:27:41 6 right?

15:27:41 7 A. No. No.

15:27:46 8 Q. Turning to federal form applicants, applicants who

15:27:53 9 complete the federal registration form establish their

15:27:58 10 citizenship by affirming their citizenship under penalty of

15:28:03 11 perjury on the federal form; correct?

15:28:06 12 A. Yes.

15:28:07 13 Q. And accordingly, if an applicant submits a federal

15:28:15 14 form and signs that citizenship affirmation, your office

15:28:21 15 has accepted such applications even if they fail to mark

15:28:26 16 the citizenship checkbox; right?

15:28:27 17 A. Yes.

15:28:28 18 Q. On either form -- state or federal -- what use, if

15:28:43 19 any, does your office make an applicant having checked the

15:28:51 20 citizenship checkbox?

15:28:53 21 A. The only use would be if we could not find

15:28:58 22 citizenship or weren't provided documentary proof of

15:29:02 23 citizenship on the state form. Because there's not the

15:29:05 24 attestation on the state form, we would need to have that

15:29:09 25 checked for them to attest that they are a citizen.

15:29:13 1 Q. And so if someone submitted a state form without
15:29:22 2 DPOC and without checking the checkbox, what would be your
15:29:27 3 protocol for handling that application?

15:29:30 4 A. We would send them the letter that said they need
15:29:34 5 to fill out that checkbox to make that attestation.

15:29:39 6 Q. Understood.

15:29:41 7 And you understand that under HB 2492, your
15:30:03 8 office would be required to reject both state and federal
15:30:07 9 forms if the applicant failed to check the citizenship
15:30:11 10 checkbox regardless of what other information they might
15:30:17 11 provide; right?

15:30:18 12 A. Yes.

15:30:18 13 Q. So if the citizenship checkbox becomes mandatory
15:30:25 14 under HB 2492, do you know if your office has any plans for
15:30:32 15 how they would change the processing of applications or the
15:30:37 16 review of the citizenship checkbox?

15:30:40 17 A. We don't have plans for that at this moment. But
15:30:44 18 we would have to, obviously, design some if that becomes
15:30:50 19 what we have to do.

15:30:52 20 Q. So shifting -- shifting away from the registration
15:31:01 21 applications, I just have a few more general questions.

15:31:07 22 First of all, you would agree with me --
15:31:10 23 right? -- that even prior to HB 2492 and 2243, it has been
15:31:18 24 illegal for a person who is not a U.S. citizen to register
15:31:21 25 to vote in Arizona?

15:31:23 1 A. Yes.

15:31:24 2 Q. And would you also agree that there are existing
15:31:29 3 policies, laws, or procedures in place to prevent
15:31:33 4 noncitizens from voting?

15:31:35 5 A. Yes.

15:31:37 6 Q. And isn't it a felony in Arizona for a person to
15:31:45 7 register when they know they're not entitled or qualified
15:31:49 8 to register?

15:31:50 9 A. Yes.

15:31:53 10 Q. Is it correct that you are not aware of any
15:32:07 11 instances of noncitizens registering or voting in Yavapai
15:32:14 12 County?

15:32:14 13 A. Yes, I am not aware of any.

15:32:18 14 Q. And you're not aware of any documents or
15:32:23 15 communications in your office's possession that pertain to
15:32:29 16 alleged instances of noncitizen registration or voting?

15:32:33 17 A. Yeah, I am not aware of any.

15:32:36 18 Q. All right. Finally, I just have a few questions
15:32:43 19 about voting by mail in Arizona.

15:32:48 20 So first of all, in Arizona, absentee ballots
15:32:53 21 are referred to as early ballots; right?

15:32:55 22 A. Yes.

15:32:56 23 Q. And currently, Arizona allows all registered
15:33:02 24 voters to vote by early ballot; right?

15:33:05 25 A. No. A federal-only voter who has not proven their

15:33:10 1 identity will have to vote the first time at a polling
15:33:15 2 place to prove their identity.

15:33:19 3 Q. Understood.

15:33:20 4 But with the exception of that kind of
15:33:26 5 limited pool of first-time voters, aside from that
15:33:34 6 exception, all registered voters are permitted to vote
15:33:37 7 early by mail; correct?

15:33:38 8 A. Yes.

15:33:40 9 Q. And do you know how long that's been the case?

15:33:45 10 A. No, I don't actually have the number of years that
15:33:51 11 it's been in place. I know it's been quite a long time.

15:33:58 12 Q. And the right to vote by an early ballot has not
15:34:05 13 historically depended on which registration form an
15:34:10 14 applicant used; right?

15:34:11 15 A. Correct.

15:34:13 16 MR. LANGHOFER: Form.

15:34:18 17 BY MR. ATKINS:

15:34:19 18 Q. And -- and, you know, similarly, any registered
15:34:26 19 voter can request to be put on the early active voting list
15:34:31 20 regardless of which form they use to register; right?

15:34:35 21 MR. LANGHOFER: Form.

15:34:36 22 THE WITNESS: Yes.

15:34:38 23 BY MR. ATKINS:

15:34:40 24 Q. And if a voter is on the active early voting list,
15:34:45 25 does that mean that they're automatically sent a ballot by

15:34:48 1 mail for each election for which they're eligible without
15:34:53 2 having to request it each time?

15:34:54 3 A. Yes.

15:34:55 4 MR. LANGHOFER: Form.

15:34:56 5 BY MR. ATKINS:

15:34:58 6 Q. And those voters stay on the active early voting
15:35:02 7 list unless they fail to vote in two subsequent elections;
15:35:07 8 right?

15:35:08 9 MR. LANGHOFER: Form. Calls for a legal
15:35:09 10 conclusion.

15:35:09 11 THE WITNESS: Yes. Unless they remove
15:35:13 12 themselves.

15:35:14 13 BY MR. ATKINS:

15:35:17 14 Q. Is it fair to say that voting by early ballot by
15:35:21 15 mail is commonly used in Arizona?

15:35:26 16 A. Yes.

15:35:28 17 Q. Most Arizonans vote via mail; right?

15:35:33 18 A. I can't speak to all Arizonans. The vast majority
15:35:37 19 of Yavapai County voters vote by mail.

15:35:41 20 Q. Do you happen to know roughly what percentage of
15:35:45 21 Yavapai County voters voted by early ballot in 2022?

15:35:51 22 A. I -- I believe it was over 80 percent. I don't
15:35:56 23 have the exact number, but it was a high number.

15:36:01 24 Q. Based on your experience as a Yavapai County
15:36:08 25 election official, are there benefits to voters being able

15:36:13 1 to vote early by mail?

15:36:16 2 A. I believe so, yes.

15:36:18 3 Q. Can you elaborate on what those benefits are?

15:36:24 4 A. They get to have their ballot at home and can look

15:36:28 5 at all the things on the ballot and study them, research

15:36:32 6 them, and then fill it out and -- at their leisure instead

15:36:39 7 of trying to -- especially our longer ballots -- trying to

15:36:42 8 get through it all, you know, at a vote center where it may

15:36:46 9 be quite busy and they might feel pressure to do that.

15:36:50 10 It's also convenience for them. And some

15:36:55 11 people don't want to go and stand in line and do those

15:36:59 12 things or -- and may not be capable of doing so. So those

15:37:03 13 are some of the major benefits of voting by mail.

15:37:09 14 Q. So someone who votes early by mail, they don't

15:37:14 15 even need to figure out where their polling place is;

15:37:20 16 right?

15:37:20 17 A. No. Yeah, they don't need that.

15:37:22 18 Q. And early ballots in Yavapai County have prepaid

15:37:28 19 return postage; right?

15:37:29 20 A. Yes.

15:37:30 21 Q. So an early voter can simply fill out their ballot

15:37:36 22 and drop it in the mail, and their ballot's effectively

15:37:42 23 been cast; right?

15:37:42 24 A. Yes. Once we've received it.

15:37:46 25 Q. You mentioned that some voters might not have the

15:37:49 1 ability to vote at a polling place. Why would someone be
15:37:56 2 unable to vote in person at a polling place?

15:37:59 3 A. Well, I think it would be -- it's easier for some
15:38:02 4 people not to go to the voting place. I -- I can't say
15:38:06 5 that they could not vote at the voting place. But I think
15:38:10 6 it would be much easier on them if they have mobility
15:38:14 7 issues and things that they may choose to vote by mail
15:38:17 8 instead.

15:38:20 9 Q. And it's the case that sometimes voters are out of
15:38:23 10 the county or out of the state when it's election day;
15:38:28 11 correct?

15:38:28 12 A. Correct.

15:38:31 13 Q. So is it fair to say that another advantage of
15:38:33 14 voting early by mail is not having to be physically in the
15:38:38 15 county on election day?

15:38:40 16 A. Yes.

15:38:47 17 Q. Do you understand that under HB 2492, voters who
15:38:51 18 fail to provide DPOC will not be permitted to vote early by
15:38:58 19 mail?

15:38:59 20 A. Yes.

15:39:00 21 Q. And so under 2492, a voter who fails to provide
15:39:09 22 DPOC, they would lose all the benefits we've discussed of
15:39:14 23 voting early by mail; correct?

15:39:16 24 A. Yes.

15:39:22 25 MR. ATKINS: Thank you very much. That's all

15:39:23 1 the questions I have.

15:39:29 2 MR. MESSER: I think I'm up next, Mr. Webber.

15:39:31 3 But before I dive in -- we've been going another hour or
15:39:33 4 so. Do you need a break, or are you okay pressing forward?

15:39:33 5 THE WITNESS: I'm doing okay, surprisingly.

15:39:39 6 MR. MESSER: Okay. If that changes at any
15:39:40 7 point, just let me know. I'm happy to let you take a break
15:39:43 8 for a drink of water or something.

15:39:43 9

15:39:43 10 EXAMINATION

15:39:45 11 BY MR. MESSER:

15:39:45 12 Q. It's been a long time now, but I mentioned earlier
15:39:48 13 my name is Josh Messer. I represent the Tohono O'odham
15:39:51 14 Nation, the Gila River Indian Community, and several
15:39:54 15 individuals. It's nice to meet you this afternoon. Thank
15:39:56 16 you for taking the time.

15:39:58 17 Can you hear me okay?

15:39:59 18 A. Yes.

15:40:00 19 Q. Okay.

15:40:03 20 MR. MESSER: And, Cindy, can you hear me
15:40:04 21 okay?

15:40:04 22 THE COURT REPORTER: Yes.

15:40:04 23 MR. MESSER: Perfect.

15:40:07 24 BY MR. MESSER:

15:40:07 25 Q. I have a fairly discrete set of questions about

15:40:12 1 someone who's a registrant -- or applying to register to
15:40:14 2 vote's residential address and the documentary proof of
15:40:18 3 location of residence requirement that you -- that you
15:40:20 4 mentioned earlier. So I'll -- we'll start at the beginning
15:40:23 5 of the process.

15:40:25 6 Does an applicant need to provide their
15:40:27 7 residential address in order to register to vote?

15:40:30 8 A. The registrant needs to give us information on
15:40:34 9 where they reside, whether it's an actual standardized
15:40:41 10 address or something else where we can put them in the
15:40:43 11 right precinct and split so we can get them the right
15:40:47 12 ballot.

15:40:47 13 Q. What is something else if it's not a standardized
15:40:51 14 residential address?

15:40:52 15 A. It may -- it may be a parcel number. It may be a
15:40:57 16 latitude, longitude. It could be a Google Plus code. You
15:41:03 17 know, and we will take any of those where we can actually
15:41:07 18 locate where the person is and get them registered.

15:41:14 19 Q. Could a -- could an applicant provide, like, a
15:41:19 20 description of where their residence is on their
15:41:22 21 application form?

15:41:23 22 A. There is a place on the paper form to do that.
15:41:28 23 And we accept that if, again, given that map or
15:41:33 24 description, we can actually locate where they're at.

15:41:36 25 Q. All right. So we'll take the next set of

15:41:44 1 questions in sort of two -- two phases: one, if they
15:41:46 2 provide a standardized residential address or just
15:41:49 3 residential address, and then if they provide a
15:41:52 4 description.

15:41:53 5 On the residential address, does a P.O. box
15:41:58 6 satisfy the residential address requirement?

15:41:59 7 A. No.

15:42:01 8 Q. How does the county recorder's office use the
15:42:06 9 residential address as part of this voter registration
15:42:09 10 application?

15:42:10 11 A. We take the voter -- the address and it -- it goes
15:42:14 12 into our system, which we have all the standardized county
15:42:23 13 addresses in our system. And if it matches up to one, then
15:42:26 14 that will automatically put them in the precinct and split,
15:42:29 15 and those various districts they get to vote in. And so we
15:42:32 16 assign them that for their balloting purposes.

15:42:37 17 Q. What if it doesn't match something in the
15:42:40 18 database?

15:42:41 19 A. Well, there's a number of things that we will do.
15:42:45 20 We will look into our GIS system and see if there's a
15:42:50 21 person of that name. And, you know, did they transpose a
15:42:54 22 number? Did they do something? And -- and look and see if
15:42:59 23 we can actually locate them.

15:43:01 24 We'll also look if -- if it just doesn't
15:43:03 25 match our -- you know, matches a road in a direction and

15:43:08 1 everything but the number is off, we may look in the USPS
15:43:13 2 to see do they have a -- that mailing address is something
15:43:16 3 that might be the same location but not match what we have
15:43:21 4 in our county database. And that does happen from time to
15:43:24 5 time.

15:43:26 6 If it's -- again, if it's a more rural area,
15:43:32 7 you know, then -- then we have to look at descriptions and
15:43:36 8 those types of things. It could be -- in our situation, we
15:43:41 9 have a very large rural area that has phases and then lots
15:43:47 10 and, you know, what phase, what lot, and those types of
15:43:50 11 things. And we can locate people that way.

15:43:53 12 And again, sometimes they'll put a latitude
15:43:56 13 and longitude or a Google Plus code and, you know, those
15:44:00 14 types of things. As long as we determine where they're at,
15:44:03 15 we will register them.

15:44:05 16 Q. How often does it come up that someone's
15:44:12 17 residence -- the address they provide on the application
15:44:15 18 form doesn't match something in the database and you have
15:44:17 19 to take these extra steps?

15:44:19 20 A. It happens several times a day.

15:44:23 21 Q. Can you quantify that as a percentage of
15:44:29 22 applications?

15:44:30 23 A. I don't have hard enough numbers on it to do a --
15:44:35 24 do the math on it to give you a percentage. But we do get
15:44:39 25 some every day. Probably out of -- out of 100, we'll get a

15:44:44 1 couple that we have to do a little extra work on.

15:44:48 2 Q. And how much is a little extra work? Or in other
15:44:56 3 words, how much effort do you put in to trying to find
15:45:00 4 someone if their address doesn't match up with something
15:45:03 5 that's already in the database?

15:45:05 6 A. Again, it depends. Sometimes they're easy to
15:45:09 7 match up, and it doesn't take very long at all, and we
15:45:12 8 stop.

15:45:13 9 But we will go through the entire process of
15:45:15 10 looking them up in our GIS, looking up the USPS. I mean,
15:45:19 11 we will look at Google Street View. We will, you know, do
15:45:24 12 all the things that we have and we can do. And if we can't
15:45:29 13 finally match them, that's when we will send them the
15:45:33 14 letter that says we have no idea where you actually live.

15:45:36 15 Q. And I think you jumped to my next question.

15:45:39 16 So once you've gone through all these --
15:45:41 17 these extra efforts, you send the applicant a letter
15:45:45 18 saying, "We can't locate your residence address"?

15:45:48 19 A. Yes.

15:45:48 20 Q. And where do you send that letter?

15:45:50 21 A. To their mailing address.

15:45:53 22 Q. And is that -- or can that be different from their
15:45:57 23 residential address?

15:45:57 24 A. Yes.

15:45:58 25 Q. Do you have a sense of how often those follow-up

15:46:05 1 letters are returned as undeliverable or returned to your
15:46:09 2 office for some other reason?

15:46:11 3 A. I -- I don't have a percentage. I know that there
15:46:16 4 are some, not too many. But there will be some that will
15:46:20 5 be returned undeliverable. We get -- if we have --
15:46:25 6 sometimes someone will put an address down in a rural area
15:46:31 7 that we know does not give residential service from the
15:46:35 8 USPS, and they won't put down a P.O. box. And we pretty
15:46:40 9 much know that letter will -- will be coming back. We'll
15:46:44 10 send it anyway. And hopefully, maybe it will get there.
15:46:48 11 But -- but we do see that. But not too often.

15:46:53 12 Q. On these circumstances where they're in a more
15:46:56 13 rural area where you know or are pretty sure that the
15:46:59 14 letter is not going to get to them because there's not USPS
15:47:04 15 service or -- for whatever reason, are there any other
15:47:05 16 steps that your office takes to notify the voter that their
15:47:10 17 residence address isn't matching up with your databases?

15:47:12 18 A. Well, if they have a phone number or an email
15:47:15 19 address, we'll use that to try to contact them.

15:47:18 20 Q. Do you do that in addition to sending the letter,
15:47:23 21 or only if the letter doesn't work in the first --

15:47:26 22 A. Basically if the letter doesn't work.

15:47:31 23 Q. And if after all this process you've gone through
15:47:41 24 searching through the database, you sent the letter, you
15:47:44 25 followed up through other means, if those are available, if

15:47:47 1 you still don't hear from the voter or the voter doesn't
15:47:50 2 provide information confirming where their residence
15:47:54 3 address is, will that voter ultimately be registered?

15:47:57 4 A. No. They -- at the time when have -- we do the
15:48:01 5 initial processing and if we can't find them, they're
15:48:07 6 placed in suspense. And waiting verification is the
15:48:09 7 reason. And they will remain in that status until that
15:48:14 8 issue is cleared up.

15:48:16 9 Q. And if they do get back in touch with you and
15:48:18 10 they're able to confirm, "Yes, this is where I live," does
15:48:24 11 your office update a database? Or how does at that play
15:48:28 12 into the broader system?

15:48:29 13 A. Well, we -- we would take the -- the registrant
15:48:33 14 and make them an active, valid registrant. And if you --
15:48:39 15 and in our county, most of the time it's a parcel number
15:48:42 16 just because of the way our county is. But we would
15:48:45 17 actually put -- drop a pin on our map where they're at and
15:48:52 18 mark that as in some way where -- again, usually it's the
15:48:57 19 parcel number where we know we can go right back to it.

15:49:01 20 Q. And is the map your GIS system or is it a --

15:49:04 21 A. No. The map is -- is called TotalAddress. It's
15:49:09 22 part of our AVID voter registration system. The address
15:49:13 23 points do come from our GIS and are imported into it.

15:49:18 24 Q. Thank you.

15:49:19 25 So now we'll shift gears a little bit to sort

15:49:38 1 of the other method of figuring out where someone lives.

15:49:41 2 We were talking about them providing an address.

15:49:43 3 You also -- we also earlier discussed them
15:49:45 4 providing a description of their location. So how does
15:49:48 5 your office make use of a description of the location of
15:49:52 6 someone's residence?

15:49:54 7 A. Well, again, it's the more descriptive, the easier
15:49:58 8 it is. It may be coming to looking at a map and going,
15:50:03 9 okay, you know, three miles down this road. And, you
15:50:07 10 know -- and if there's landmarks and those types of things,
15:50:12 11 we -- we will try to do that.

15:50:16 12 And it's actually sometimes, when we call
15:50:18 13 people or they call us, we will go through on a map. You
15:50:23 14 know, have a -- like a satellite map and go: "All right.
15:50:27 15 You're down over by here. All right. Let's -- you're on
15:50:29 16 this road. Which way do you go?" And we go find actually
15:50:32 17 the place where they live.

15:50:34 18 So sometimes it does take actually talking to
15:50:38 19 people. And we will sometimes send them a satellite map of
15:50:41 20 an area if we think it's -- you know, it's somewhere in
15:50:45 21 here, but we have no idea which one it is and let them
15:50:49 22 maybe mark a parcel.

15:50:51 23 Q. And when you say send them -- send them a map -- a
15:50:53 24 satellite map, are you sending that through mail?

15:50:57 25 A. Usually it's mail. But we can -- if we have an

15:51:01 1 email, we can email it too.

15:51:02 2 Q. And is that -- I think you gave an example of sort
15:51:06 3 of what a description would look like. "It's three miles
15:51:09 4 down this road but past this landmark."

15:51:11 5 Are there other descriptions that your office
15:51:13 6 has seen when people provide a description rather than an
15:51:17 7 address?

15:51:17 8 A. Sometimes they will draw a -- sometimes a very
15:51:24 9 poor map that doesn't work very well for us.

15:51:28 10 They will go, you know, "Up Highway 89 six
15:51:31 11 miles, and then you're going to just take this road." And
15:51:35 12 they kind of just do a squiggly line and put an X. And
15:51:41 13 that's -- that's difficult unless their name is on the
15:51:44 14 property and we can figure that out.

15:51:47 15 Q. In the circumstances where some -- an applicant
15:51:53 16 provides a description of where they live, how often are
15:51:57 17 you able to ultimately, you know, identify where they live
15:52:00 18 and register that -- move that voter into the active voter
15:52:04 19 list?

15:52:05 20 A. Again, it just depends on the description. If
15:52:09 21 they provide -- obviously, if they provide you something
15:52:13 22 very specific, we have a very good shot at doing it. The
15:52:17 23 less specific it is, the less chance we have of finding
15:52:23 24 that in that initial pass.

15:52:25 25 We don't have statistics on it, you know, but

15:52:30 1 again, it's very reliant on what information we get.

15:52:38 2 Q. Does it also turn on how rural that particular
15:52:44 3 applicant is? In other words, are there parts of the
15:52:48 4 county where it's harder to be specific with a description
15:52:50 5 of where somebody lives?

15:52:53 6 A. I don't think so. The roads generally have names.
15:52:59 7 And again, we get into an area and -- and all of our
15:53:04 8 nongovernmental land has -- has individual parcel numbers.
15:53:11 9 And then governmental land, like forest service land stuff,
15:53:16 10 will generally be larger parcels.

15:53:19 11 We actually have one registrant on a -- we --
15:53:23 12 we put the baseline and meridian, you know, what -- what
15:53:29 13 township and all that kind of stuff in -- as their address.
15:53:31 14 So -- but most of the time, it's a parcel number for us.
15:53:35 15 We're fortunate in that way in Arizona for -- for our part
15:53:38 16 of Arizona that we have that.

15:53:40 17 Q. And when you get an application that uses a
15:53:45 18 description of location of residence rather than an
15:53:48 19 address, how often does that description match what that
15:53:53 20 person might have on their driver's license or whatever
15:53:56 21 other identifying documentation they're registering with?

15:54:00 22 A. Many times it's -- actually, if it comes out of
15:54:05 23 the electronic system from ServiceArizona, it will be
15:54:08 24 exactly what's on their driver's license.

15:54:11 25 But sometimes it's close. And again,

15:54:19 1 sometimes we may have something completely different. They
15:54:23 2 maybe have not changed their driver's license yet if they
15:54:26 3 moved from one location to another and submitted the paper
15:54:32 4 form. So it's, again, very dependent on that application.

15:54:39 5 Q. Excuse me. But in some cases, do you see examples
15:54:42 6 where someone provides a description of their residence,
15:54:47 7 "the third house past the second right on this road," and
15:54:50 8 that's also how they define their address on their driver's
15:54:54 9 license?

15:54:54 10 A. Usually not in that detail on the driver's
15:54:59 11 license. I think it's space. I mean, but you will have
15:55:04 12 some that's like, you know, five miles down this road on
15:55:08 13 the right, you know. So that's -- you can see --

15:55:15 14 And again, if we can locate it, we'll drop
15:55:19 15 our point. And a lot of times, we will tell the person,
15:55:22 16 "It's this parcel," and we'll tell them what parcel number
15:55:25 17 it is so they have that for future reference.

15:55:29 18 Q. And this is not just your office but your
15:55:34 19 knowledge about the broader county apparatus. Do you know
15:55:38 20 if there's a county department that provides addresses for
15:55:43 21 residences that don't already have them?

15:55:46 22 A. Yes. And so in cities and towns, the city and
15:55:50 23 towns take care of that.

15:55:52 24 If it's outside of a city and town, our
15:55:54 25 county development services can provide people addresses.

15:55:58 1 They generally -- I believe they apply for an address.

15:56:03 2 They would like to have a road named. Some roads aren't

15:56:07 3 named. But they'll want to have a road named or address

15:56:09 4 number assigned, and they will do that.

15:56:12 5 Q. Do you have a sense of how long it takes to get an
15:56:17 6 address assigned after someone applies?

15:56:20 7 A. I do not.

15:56:23 8 Q. And does your office have any role in that process
15:56:32 9 in assigning an address to somebody?

15:56:34 10 A. No.

15:56:35 11 Q. Do you know whether voter registration is lower in
15:56:51 12 the native communities -- Native American communities in
15:56:53 13 Yavapai County versus the rest of the county?

15:56:56 14 A. I do not know.

15:56:58 15 Q. Does your office do -- have any particular efforts
15:57:03 16 focused or aimed at increasing voter registration in the
15:57:07 17 Native American community?

15:57:08 18 A. Not specifically, no.

15:57:11 19 Q. And I -- by "not specifically," do you mean you
15:57:14 20 have more general voter registration campaigns that
15:57:17 21 target --

15:57:18 22 A. We -- we have -- you know, we put out information
15:57:22 23 for people to register and when elections are and those
15:57:27 24 types of things.

15:57:29 25 Both of our native communities -- well, one

15:57:33 1 is just -- it's about a mile here from where I'm sitting.
15:57:38 2 So it's in Prescott itself. And the other one is right in
15:57:42 3 the middle of the Verde Valley.

15:57:44 4 We don't have the big rural areas of
15:57:48 5 reservation land that some counties have. That's not what
15:57:53 6 we have in Yavapai County.

15:57:55 7 Q. And I -- corollary to that, do you have a sense of
15:57:59 8 how many native voters have nonstandard addresses or would
15:58:06 9 provide a description of their location of residence versus
15:58:10 10 an actual residential address?

15:58:13 11 A. We have on both the -- here in Prescott and over
15:58:19 12 by Camp Verde, they have assigned street addresses in those
15:58:23 13 areas. So it's not really an issue. Every once in a
15:58:27 14 while, you may have someone moving onto a place that --
15:58:31 15 that doesn't have -- they haven't assigned an address yet.
15:58:35 16 And then we will have -- you know, we will find where
15:58:38 17 that's at and drop our point.

15:58:41 18 Q. I think those are my background questions.

15:58:46 19 I'd like to shift to talking about HB 2492,
15:58:51 20 which I know you've answered a lot of questions about
15:58:53 21 today. So you should be very familiar with it by now.

15:58:57 22 A. Okay.

15:58:57 23 Q. For the record, this was also Petty Exhibit 19.

15:59:03 24 And, Mr. Webber, if I could have you turn to
15:59:07 25 page 5 -- well, it's page 5 in my version. I hope it's

15:59:11 1 page 5 in your version.

15:59:13 2 A. The 16-123?

15:59:16 3 Q. Exactly, yes.

15:59:18 4 A. Okay.

15:59:23 5 Q. Mr. Atkins was asking you about the distinction
15:59:27 6 between federal and state form voters. Do you remember
15:59:28 7 that?

15:59:29 8 A. Yes.

15:59:30 9 Q. Do you have an understanding of whether this
15:59:33 10 specific Section 16-123 would apply to both federal form
15:59:39 11 and state form voters?

15:59:42 12 MR. LANGHOFER: Form. Calls for a legal
15:59:43 13 conclusion.

15:59:50 14 THE WITNESS: I don't -- it doesn't seem to
15:59:58 15 vary upon what form, so not -- not to my knowledge. I
16:00:05 16 don't think they're -- they would treat forms any
16:00:07 17 differently.

16:00:10 18 BY MR. MESSER:

16:00:10 19 Q. So to your knowledge then, based on that, would it
16:00:14 20 -- earlier, when you were discussing with Mr. Atkins, you
16:00:17 21 discussed the sort of two-track approach: Those who
16:00:21 22 completed the federal form without documentary proof of
16:00:24 23 citizenship were able to vote in federal elections only;
16:00:28 24 those who did provide documentary proof of citizenship
16:00:32 25 could vote in all elections. Do you remember that?

16:00:36 1 A. Yes.

16:00:36 2 Q. Is it your understanding then that 16-123 would
16:00:39 3 create a similar sort of two-tracking where those who
16:00:44 4 registered but didn't provide documentary proof of
16:00:46 5 residence would be eligible to vote in federal elections
16:00:49 6 but not state elections?

16:00:51 7 MR. LANGHOFER: Same objection.

16:00:54 8 THE WITNESS: I do not know if -- because we
16:01:02 9 haven't applied this -- would we actually register that
16:01:05 10 person or put them in suspense where they would not be
16:01:08 11 registered to vote without that documentary proof.

16:01:12 12 BY MR. MESSER:

16:01:15 13 Q. Okay.

16:01:15 14 A. It seems to be independent of citizenship in my
16:01:18 15 reading of it, although, again, we haven't applied it and
16:01:22 16 dug deep so . . .

16:01:24 17 Q. And I realize now that I've done this a little bit
16:01:26 18 out of order.

16:01:27 19 I was talking about documentary proof of
16:01:30 20 residence. Do you know what I mean when I say that?

16:01:33 21 A. Yes.

16:01:33 22 Q. And what's your understanding of documentary proof
16:01:35 23 of residence?

16:01:36 24 A. That they would have to provide some documentation
16:01:41 25 that they actually live, you know, where they have put --

16:01:46 1 placed on their registration form.

16:01:51 2 And we -- I think when we looked at it, we

16:01:55 3 felt that, like, if they have their Arizona driver's

16:01:58 4 license, they would be fine. Or an Arizona identification

16:02:01 5 card, they would be fine. You know, they may have to

16:02:05 6 provide some type of bill or something like that to show,

16:02:11 7 you know, where they live.

16:02:14 8 We had a list of documents. I can't quote

16:02:16 9 them off the top of my head. But things that would be

16:02:19 10 proof. And I believe it's in part of the statute.

16:02:23 11 Q. And when you say "when we looked at it," who do

16:02:27 12 you mean?

16:02:27 13 A. Myself, the county recorder, and the deputy county

16:02:36 14 recorder.

16:02:36 15 Q. And I think you also mentioned a "they" in terms

16:02:42 16 of providing guidance or feedback. Do you know who

16:02:46 17 "they" was, or can you tell me who "they" is?

16:02:50 18 A. If we're looking for guidance, I mean, it could

16:02:54 19 come from -- from a court. It could come from the

16:03:00 20 Secretary of State's Office, you know, about what would be

16:03:05 21 and wouldn't be, you know, in their opinion what is

16:03:11 22 acceptable documentary proof of citizenship.

16:03:14 23 We started off -- and we didn't get very far

16:03:17 24 with it because we just stopped because we weren't going to

16:03:21 25 put it into effect. But we started with actually part of

16:03:25 1 our ID requirements for -- for going to a vote center and
16:03:31 2 what -- what's a good idea and a good ID to go and vote and
16:03:37 3 started to base it off of that.

16:03:39 4 Q. And what were some of those examples?

16:03:42 5 A. Well, it may be, you know, you could have a
16:03:52 6 different government issued ID that had the address on it.
16:03:54 7 Or you had an ID and some type of utility bill or something
16:04:00 8 addressed to that house from voter registration.

16:04:05 9 Or again, there were a number of different
16:04:07 10 things. Off the top of my head, I -- I couldn't get them
16:04:10 11 to you. I think they're probably in some of our production
16:04:12 12 documents somewhere. But yeah.

16:04:16 13 Q. Have you received guidance from the Secretary of
16:04:19 14 State's Office on what some of the documents that would
16:04:22 15 satisfy 16-123 are?

16:04:25 16 A. I believe there was one document that came out and
16:04:31 17 discussing it quite early after it had passed. It wasn't
16:04:37 18 really a guidance document. I think it was more of "let's
16:04:41 19 look at this to see whether this" -- you know, to begin
16:04:45 20 maybe providing something that make a guidance document.
16:04:50 21 And again, I believe it's in the production somewhere.

16:04:53 22 Q. And I think you're right. So if I could have you
16:04:56 23 look at Petty Exhibit -- oh, gosh -- 24.

16:05:05 24 A. Let me find that. Petty 24.

16:05:22 25 Q. It should have a cover page that says "Exhibit J."

16:05:25 1 A. Yes. Yes.

16:05:26 2 Q. Then the second page is a chart. Do you see that?

16:05:30 3 A. Yes.

16:05:31 4 Q. Is that the document you remember?

16:05:31 5 A. Yeah, I believe it was part of a larger document.

16:05:37 6 And it actually went over two pages, if I remember when I

16:05:40 7 saw it, but I could be wrong on that. But that's -- I

16:05:44 8 think it was part of a larger discussion of a number of

16:05:49 9 different things for different bills that had passed.

16:05:52 10 Q. But is this the -- oh, I'm sorry. I didn't mean

16:05:54 11 to cut you off.

16:05:55 12 A. No. But this was the chart that was in that

16:05:58 13 document.

16:05:59 14 Q. Okay. Thank you.

16:06:00 15 So I think we've touched on a few of these,

16:06:05 16 but I just want to walk through some of them quickly.

16:06:09 17 Both you and the chart mention that an

16:06:12 18 Arizona driver's license would work to satisfy the

16:06:15 19 documentary proof of residence requirement; correct?

16:06:17 20 A. Yes.

16:06:17 21 Q. Do you know whether driver's licenses can list

16:06:22 22 P.O. boxes rather than a residence address?

16:06:25 23 A. Yes, they can list P.O. boxes.

16:06:28 24 Q. So would a driver's license that lists a P.O. box

16:06:33 25 still work to satisfy 16-123?

16:06:38 1 A. That I would have to look at more specifically.
16:06:42 2 It would seem like it should not because -- well, for the
16:06:46 3 obvious reason, because it's not a residence address. But
16:06:50 4 I'd have to look specifically at the language whether it
16:06:54 5 actually required it to have a residential address. And I
16:06:58 6 don't remember off the top of my head.

16:07:02 7 Q. There's also the -- from the "Copy of valid,
16:07:08 8 unexpired AZDL" cell down, it also lists "Tribal
16:07:12 9 identification card, census card, tribal ID card, tribal
16:07:17 10 enrollment card." Do you see that?

16:07:18 11 A. Yes.

16:07:18 12 Q. If you go to the right, in the bottom of that box,
16:07:21 13 it says, "Pursuant to Gonzalez, a tribal ID does not
16:07:25 14 require an address be listed." Do you see that?

16:07:27 15 A. Yes.

16:07:29 16 Q. Do you -- are you familiar with the Gonzalez
16:07:33 17 stipulation?

16:07:33 18 A. Yes, I am.

16:07:34 19 Q. And under that stipulation, do tribal IDs have to
16:07:40 20 list residential address to be accepted valid forms of ID
16:07:45 21 to register to vote?

16:07:47 22 MR. LANGHOFER: Form. Calls for a legal
16:07:49 23 conclusion.

16:07:49 24 THE WITNESS: No, they do not.

16:07:49 25 BY MR. MESSER:

16:07:56 1 Q. So would a -- in your opinion, does a tribal ID
16:07:58 2 card that doesn't list a residence address satisfy 16-123?

16:08:04 3 MR. LANGHOFER: Same objection.

16:08:06 4 THE WITNESS: I don't know. I don't know.

16:08:09 5 BY MR. MESSER:

16:08:30 6 Q. And if -- the very bottom cell says, "Written
16:08:34 7 confirmation signed by the registrant that they qualify to
16:08:37 8 register" -- "that they qualify to register pursuant to
16:08:40 9 16-166(B) (providing an address at a homeless center; USPS
16:08:45 10 General Delivery; Courthouse."

16:08:47 11 Do you see that?

16:08:48 12 A. Yes.

16:08:48 13 Q. Is that essentially someone signing a declaration
16:08:51 14 that they reside in the county and are able to vote; they
16:08:56 15 just might be experiencing homelessness?

16:08:59 16 A. I believe so, yes.

16:09:00 17 Q. And has your office drafted a version of that
16:09:04 18 declaration?

16:09:05 19 A. No.

16:09:06 20 Q. Is that something your office would draft?

16:09:10 21 A. Quite possibly, yes.

16:09:12 22 Q. Is it something that might come from the secretary
16:09:16 23 of state?

16:09:16 24 A. Again, it -- it might.

16:09:18 25 Q. And do you know -- excuse me.

16:09:20 1 Do you know whether the secretary of state
16:09:22 2 has drafted a version of that declaration?

16:09:25 3 A. Not to my knowledge.

16:09:34 4 Q. And then if I could also have you look real quick
16:09:43 5 at what I think is Exhibit G in your -- in your files and
16:09:48 6 was earlier marked as Exhibit 143.

16:10:01 7 A. The other file folder.

16:10:02 8 Q. You're going to be a pro at this by the end of the
16:10:02 9 day.

16:10:05 10 A. Well, if I'd have known how this was going to
16:10:07 11 work, I would have organized these files a little
16:10:09 12 differently. But live and learn.

16:10:15 13 Q. These should be "Yavapai County Recorder's Answers
16:10:20 14 to Consolidated Plaintiffs' First Set of Interrogatories."

16:10:22 15 A. Yes.

16:10:23 16 Q. All right. If I could have you turn to page 6 of
16:10:27 17 that document.

16:10:33 18 A. Okay.

16:10:33 19 Q. That should be Interrogatory 7. Do you see that?

16:10:36 20 A. Yes.

16:10:37 21 Q. All right. I'll just -- rather than read through
16:10:42 22 it, I'll just ask you to read through what Interrogatory
16:10:44 23 Number 7 is. And let me know when you've done that.

16:10:53 24 A. Okay.

16:11:05 25 Q. And then your office's response was that "Yavapai

16:11:10 1 County has not implemented any of the challenged laws.
16:11:12 2 However, pursuant to A.R.S. Section 16-123, the items
16:11:17 3 identified in A.R.S. Section 16-579(A)(1) are considered
16:11:22 4 satisfactory proof of residency."

16:11:24 5 Did I read that correctly?

16:11:25 6 A. Yes.

16:11:26 7 Q. Do you know what sort of documents 16-579(A)(1)
16:11:32 8 identifies or lists?

16:11:34 9 A. Not -- not off the top of my head. I believe it
16:11:37 10 may be some of the ID requirements for in-person voting.

16:11:44 11 Q. And are there other documents that 16-578 --
16:11:52 12 579(A)(1) doesn't list that would be acceptable to prove
16:11:56 13 location of residence?

16:11:58 14 A. Not to my knowledge.

16:12:02 15 Q. All right. I think I'm very close to done. I
16:12:08 16 just have one thing to -- to loop back to.

16:12:10 17 Earlier when you were speaking with
16:12:13 18 Mr. Sherman, you were discussing some of your -- your
16:12:18 19 office's opposition to 2492 as it was working its way
16:12:23 20 through the legislature. And I believe I heard you say
16:12:27 21 that part of the opposition was that providing proof,
16:12:30 22 documentary proof, of location of residence would be very
16:12:33 23 hard for some voters. Do you remember that?

16:12:35 24 A. Yes.

16:12:35 25 Q. And you listed students as one of those -- one of

16:12:40 1 those groups of people; correct?

16:12:42 2 A. Yes.

16:12:42 3 Q. Very rural voters, do I have that correct?

16:12:46 4 A. Yes.

16:12:46 5 Q. What about voters who may be experiencing

16:12:50 6 homelessness?

16:12:52 7 A. Again, that could be an issue, although, again, I

16:12:59 8 believe that we would have to have some type of attestation

16:13:01 9 or something to basically waive that requirement and

16:13:11 10 that -- it would be difficult maybe for some of them to get

16:13:16 11 ahold of and fill out. But, yeah, homelessness could be an

16:13:21 12 issue.

16:13:22 13 Q. Are there any other groups of people that you

16:13:25 14 haven't talked about and I haven't talked about that you

16:13:27 15 think this documentary proof of location of residence

16:13:30 16 requirement would be particularly onerous for?

16:13:33 17 A. Well, it could be any person who may live at a

16:13:37 18 residence but have nothing in their name at that residence.

16:13:41 19 Maybe they are, you know -- they're just living in a room

16:13:46 20 there, and they're not related to the people. You know,

16:13:49 21 how do they now prove that they're at that -- that place?

16:13:56 22 And you can look at a lot of different

16:13:59 23 situations like that where the person doesn't own the

16:14:02 24 property, doesn't get mail in their name, you know, like a

16:14:08 25 utility bill or something like that that's listed in their

16:14:11 1 name at that address. How -- how do they prove that they
16:14:16 2 are -- you know, that they reside there? It could be
16:14:19 3 difficult for all kinds of people.

16:14:23 4 MR. MESSER: Thank you. I appreciate that.
16:14:25 5 I think that is my last question. So thank you so much for
16:14:27 6 your time this afternoon. I appreciate it.

16:14:30 7 You've got -- soon your first deposition will
16:14:33 8 be over. Others might have questions for you. But
16:14:35 9 otherwise, it was nice to meet you. Thank you so much.

16:14:39 10 THE WITNESS: Thank you.

16:14:39 11

16:14:39 12 EXAMINATION

16:14:40 13 BY MR. JOHNSON:

16:14:41 14 Q. Mr. Webber, my name is Hayden Johnson. I
16:14:42 15 represent the LUCHA plaintiffs. I have a couple, you know,
16:14:46 16 minutes of questions.

16:14:46 17 Would you like to take a quick break before
16:14:49 18 we dive into those?

16:14:50 19 A. No. I'm actually doing well.

16:14:51 20 Q. Okay. Great.

16:14:52 21 And I was wondering: Would it be helpful if
16:14:55 22 I screen share the documents that we're talking about so
16:14:57 23 you have them up right away and don't have to search? I'm
16:15:02 24 happy to do that.

16:15:02 25 A. Either way is fine with me. I can -- I can read

16:15:05 1 it on my screen if you provide it or if I have to go find
16:15:08 2 it, so . . .

16:15:09 3 Q. That sounds good. Well, let's start with you
16:15:12 4 searching for it. And if that proves to be difficult, then
16:15:14 5 we can pull them up.

16:15:15 6 A. Okay.

16:15:16 7 Q. So I would like to talk a little bit about --
16:15:20 8 follow up a little bit about how your -- how Yavapai County
16:15:22 9 treats state forms versus federal forms and the LULAC
16:15:27 10 settlement.

16:15:28 11 So I guess first, can you give me a sense of
16:15:30 12 what is the relative breakdown between the number of state
16:15:34 13 form applications versus federal form applications that
16:15:37 14 your office receives?

16:15:39 15 A. I don't have that data right in front of me, but
16:15:42 16 it is -- the vast, vast majority are state forms, either
16:15:46 17 the paper form or electronic. You know, it's not -- we
16:15:51 18 don't get that many federal forms, but we definitely do get
16:15:54 19 some.

16:15:55 20 Q. Okay. Thank you.

16:15:57 21 And does your office currently process state
16:16:02 22 form voter registration applications different in any way
16:16:05 23 from federal form applications?

16:16:08 24 A. No.

16:16:10 25 Q. Okay. So I'd like to turn to one of the

16:16:14 1 documents. It's marked as Exhibit T in the folder.

16:16:19 2 MR. JOHNSON: And we'll mark it. I think

16:16:20 3 we're at 156 at this point. This is a new document.

16:16:20 4 (The document was marked as Exhibit 156

16:16:20 5 for identification.)

16:16:34 6 THE WITNESS: Okay. I have it open.

16:16:34 7 BY MR. JOHNSON:

16:16:35 8 Q. All right. What is this document?

16:16:36 9 A. These are instructions that we have for our people

16:16:42 10 who enter our forms, so especially newer people we're

16:16:49 11 training to enter our forms.

16:16:51 12 Q. Okay. And this is for -- am I right? This is for

16:16:56 13 Arizona state registration forms?

16:16:58 14 A. This is for an Arizona registration form -- state

16:17:01 15 registration form.

16:17:02 16 Q. Okay. And if you don't mind scrolling down to

16:17:06 17 page 4 for me. Do you see item number 9 on page 4?

16:17:10 18 A. Yes.

16:17:12 19 Q. And that says, Click on "Run HAVA Checks"; is that

16:17:15 20 right?

16:17:15 21 A. Yes.

16:17:16 22 Q. So is that currently used for state form

16:17:20 23 applicants to do a HAVA check for potential U.S.

16:17:23 24 citizenship information?

16:17:24 25 A. It's used for every registrant.

16:17:29 1 Q. But it -- one purpose of that is checking for U.S.
16:17:31 2 citizenship information; is that right?
16:17:32 3 A. Yes. Yes.
16:17:33 4 Q. And that's for a state form?
16:17:35 5 A. Yes.
16:17:37 6 Q. Okay. And then if you go to -- if you don't mind
16:17:41 7 pulling up Exhibit V, which we'll now mark as 157.
16:17:41 8 (The document was marked as Exhibit 157
16:17:41 9 for identification.)
16:17:41 10 BY MR. JOHNSON:
16:17:41 11 Q. When you have that up, would you mind letting me
16:17:57 12 know what that document is?
16:18:02 13 A. "National Registration Forms."
16:18:05 14 Q. Is this basically the same instruction set but for
16:18:08 15 national registration -- the federal form?
16:18:12 16 A. Yes. I believe so. I believe it covers the exact
16:18:17 17 same thing. It's put into the system the exact same way.
16:18:20 18 Q. Okay. If we scroll down again to page 4, item
16:18:25 19 number 9, do you see where it says, "Click on 'Run HAVA
16:18:28 20 Checks' "?
16:18:28 21 A. Yeah.
16:18:29 22 Q. And so does that function the same way currently
16:18:33 23 as for your processing state forms?
16:18:35 24 A. Yes.
16:18:36 25 Q. So is there -- is there any information you

16:18:42 1 receive on the state form that is not on the federal form
16:18:46 2 that have a bearing on your determination of whether the
16:18:49 3 applicant is a U.S. citizen?

16:18:52 4 MR. LANGHOFER: Form.

16:18:54 5 THE WITNESS: It -- there may be -- if they
16:18:58 6 put their driver's license number on a state form, it --
16:19:01 7 it's much more likely to come up as a match with something
16:19:07 8 existing with the MVD.

16:19:10 9 If they don't have it on the federal form,
16:19:12 10 then it's looking at, you know, their name, date of birth
16:19:17 11 to try to see if we can come up with a match. So I believe
16:19:22 12 that just with a driver's license number, it's easier to
16:19:25 13 get an MVD match, which is where we have the citizenship
16:19:31 14 information.

16:19:31 15 BY MR. JOHNSON:

16:19:32 16 Q. So from your perspective, can you think of any
16:19:36 17 reason why a voter submitting a state form instead of a
16:19:38 18 federal form would be any less qualified to vote in federal
16:19:42 19 elections?

16:19:43 20 A. No.

16:19:44 21 MR. LANGHOFER: Form.

16:19:45 22 BY MR. JOHNSON:

16:19:49 23 Q. Let's pull up now what's listed as Exhibit K in
16:19:54 24 your folder, but it's been marked as Exhibit 147.

16:20:08 25 A. 147. I don't -- oh, Exhibit K?

16:20:10 1 Q. Yeah. In your folder, it's K.

16:20:13 2 A. Okay. All right. Too many numbers rolling around

16:20:15 3 here.

16:20:15 4 Q. We've already talked about this document a little

16:20:17 5 bit --

16:20:19 6 A. Okay.

16:20:19 7 Q. -- with my colleague, Mr. Sherman.

16:20:21 8 A. Okay. I have it up.

16:20:25 9 Q. Do you remember talking about this document a

16:20:27 10 minute ago?

16:20:28 11 A. Yes.

16:20:28 12 Q. So on page 1 in the header where it says "Page 4,"

16:20:37 13 do you see that paragraph?

16:20:38 14 A. Yes.

16:20:38 15 Q. What is that paragraph talking about?

16:20:42 16 A. It's talking about entering a person with an

16:20:51 17 incomplete state form into our system, because we have to

16:20:55 18 do that to generate them their notice.

16:21:00 19 And then what do we do with -- you know, what

16:21:06 20 status do we put them in?

16:21:09 21 You know, tracking it, again, our system

16:21:12 22 doesn't track this very well. And, you know, it's -- so

16:21:21 23 it's not -- we're not rejecting an application. We're just

16:21:26 24 marking it as something maybe in suspense or could be not

16:21:31 25 registered, not eligible, depending on the reasoning, and

16:21:36 1 that we do run HAVA checks on every applicant regardless.

16:21:42 2 And we still do that.

16:21:44 3 Q. And is that one you're referring to -- you see the
16:21:48 4 second to last sentence "We're required by LULAC to run a
16:21:52 5 HAVA check on every application even if DO- -- DPOC is not
16:21:57 6 included"? Is that what you're referring to?

16:21:58 7 A. Yes.

16:21:59 8 Q. And that just -- what's -- what's "required by
16:22:01 9 LULAC" mean?

16:22:02 10 A. Well, it was an -- I believe a settlement in
16:22:09 11 court.

16:22:09 12 Again, I've never seen the actual document of
16:22:14 13 the settlement. But it was something where we would run --
16:22:19 14 I think the results were we would run citizenship checks on
16:22:23 15 all of our applicants. And if they came up with proof of
16:22:29 16 citizenship, then we would make them full voters.

16:22:32 17 Q. And what you mean by "all of our applicants" is
16:22:35 18 state form applicant, federal form applicant, anybody who
16:22:38 19 applies, you do the same process?

16:22:40 20 A. Yes.

16:22:41 21 Q. Okay. And do you see the final sentence of that
16:22:44 22 paragraph where it says, "But now if do this, we are guilty
16:22:48 23 of a class 6 felony"? Do you see that?

16:22:50 24 A. Yes.

16:22:51 25 Q. Is that your office's understanding that if you

16:22:54 1 follow that LULAC process, you may have committed a Class 6
16:22:59 2 felony under this law?

16:23:00 3 A. That -- that could certainly be a possibility.

16:23:04 4 Q. All right. Next is another document you've
16:23:12 5 already seen. It's listed as Exhibit M under your -- in
16:23:16 6 your folder, but it's been marked as Exhibit 154.

16:23:20 7 Let me know if you have that up.

16:23:23 8 A. I have it up.

16:23:28 9 Q. All right. And if you don't mind scrolling down
16:23:31 10 to page 24.

16:23:56 11 A. Okay. I'm on page 24.

16:23:58 12 Q. And just to remind us, what is this document?

16:24:01 13 A. This is the draft Election Procedures Manual from
16:24:05 14 this year.

16:24:06 15 Q. This has your comments on it; right?

16:24:09 16 A. I believe so.

16:24:11 17 Q. Okay. And this comment on page 24, do you see
16:24:14 18 that on the right side?

16:24:16 19 A. We should put the page numbers on the -- 24 -- I
16:24:26 20 don't see the comment bubble. I remember making a comment
16:24:31 21 on it, though.

16:24:34 22 Q. Let's see. I'll share my screen quickly here and
16:24:37 23 then --

16:24:37 24 A. Okay.

16:24:38 25 Q. -- you can see that.

16:24:41 1 Do you see that up now?

16:24:42 2 A. Yes.

16:24:42 3 Q. Do you see the comment bubble here on the --

16:24:45 4 A. Yes.

16:24:45 5 Q. -- right side?

16:24:48 6 And I'll say -- the comment says, "Doesn't

16:24:50 7 the LULAC consent decree preclude this?" Do you see that?

16:24:54 8 A. Yes.

16:24:54 9 Q. Okay. And that's the same LULAC case we've been

16:24:57 10 talking about; right?

16:24:58 11 A. Yes.

16:24:59 12 Q. You're saying that the LULAC consent decree

16:25:03 13 precludes treating different types of applications -- state

16:25:06 14 form versus federal form -- differently; right?

16:25:06 15 MR. LANGHOFER: Form. Calls for legal

16:25:06 16 conclusion.

16:25:12 17 THE WITNESS: Yes.

16:25:14 18 BY MR. JOHNSON:

16:25:14 19 Q. Great. Thank you.

16:25:15 20 And that's the position of your office;

16:25:18 21 right?

16:25:19 22 MR. LANGHOFER: Same.

16:25:20 23 THE WITNESS: Yes.

16:25:20 24 BY MR. JOHNSON:

16:25:28 25 Q. So next, we have Exhibit N in your folder.

16:25:32 1 MR. JOHNSON: I don't think this one has been

16:25:34 2 marked. So it can be 158.

16:25:34 3 (The document was marked as Exhibit 158

16:25:43 4 for identification.)

16:25:43 5 BY MR. JOHNSON:

16:25:43 6 Q. Do you have that one pulled up, Mr. Webber?

16:25:46 7 A. I am pulling it up right this second.

16:25:50 8 Okay. I have it pulled up.

16:25:52 9 Q. What is this document?

16:25:56 10 A. I am not actually sure what this document is.

16:26:07 11 Q. This is one of the documents that your office

16:26:10 12 produced in response to a request in this litigation;

16:26:12 13 right?

16:26:13 14 A. Yes. We did produce this document. I'm not sure

16:26:18 15 exactly where it came from.

16:26:21 16 Q. What, in a general sense, does it appear to be?

16:26:24 17 A. It appears to be a questioning on the -- the

16:26:35 18 legality or the -- I don't know the -- the -- how wise

16:26:42 19 certain bills are. And it may be that that bill that we're

16:26:49 20 talking about -- what -- 2492, but it doesn't state that.

16:26:57 21 I'd have to go back and look at the line

16:26:59 22 numbers and try to compare it, but that's what I believe it

16:27:02 23 is.

16:27:03 24 Q. Okay. Does this appear to be just discussing some

16:27:05 25 of the -- your office's perceived defects in the law?

16:27:09 1 A. Yes. Yes.

16:27:11 2 Q. And does that include some references to the LULAC
16:27:15 3 consent decree that you can see on the page?

16:27:18 4 A. Yes.

16:27:18 5 MR. LANGHOFER: Same objection.

16:27:21 6 THE WITNESS: Yes, I can see that. I can see
16:27:25 7 on the page -- under the page 3 and then C.

16:27:31 8 BY MR. JOHNSON:

16:27:31 9 Q. Do you see under where it says page 6, "Again, we
16:27:34 10 are not in compliance with LULAC"? Do you see that?

16:27:39 11 MR. LANGHOFER: Same objection.

16:27:40 12 THE WITNESS: Yes, I do see that.

16:27:43 13 BY MR. JOHNSON:

16:27:45 14 Q. And do you see just above page 6 where it says:
16:27:47 15 "People using different forms are being treated
16:27:49 16 differently. This is what LULAC was preventing?" Do you
16:27:54 17 see that?

16:27:54 18 MR. LANGHOFER: Same objection.

16:27:55 19 THE WITNESS: Yes, I do see that.

16:27:57 20 BY MR. JOHNSON:

16:27:58 21 Q. And is that still your office's position that
16:28:01 22 these are defects in the bill?

16:28:03 23 MR. LANGHOFER: Same objection.

16:28:05 24 THE WITNESS: Yes.

16:28:10 25 MR. JOHNSON: All right. Next, let's pull up

16:28:17 1 Exhibit CC, which has not been marked yet. So we can mark
16:28:22 2 that as 159, please.

16:28:22 3 (The document was marked as Exhibit 159
16:28:30 4 for identification.)

16:28:30 5 THE WITNESS: I have it up.

16:28:34 6 BY MR. JOHNSON:

16:28:35 7 Q. What is this document?

16:28:36 8 A. It looks like it's meeting notes from a secretary
16:28:44 9 of state and county meeting from May 11th of 2023.

16:28:52 10 Q. Do you see your email on the CC line there?

16:28:56 11 A. No. It's very small. I -- I do not doubt it
16:29:03 12 whatsoever. I see it now.

16:29:05 13 Q. Do you recall attending this meeting on May 11?

16:29:09 14 A. After I looked at the meeting notes. I might not
16:29:15 15 specifically remember what I did on May 11th.

16:29:18 16 Q. Okay. Do you want to just take a quick look at
16:29:23 17 the meeting notes to refresh your recollection here?

16:29:25 18 A. Yeah. Yes. I remember the meeting.

16:29:42 19 Q. Okay. I'd like to direct your attention down to,
16:29:48 20 let's see, page 4. It starts at the top "Recorder
16:30:15 21 Cazares-Kelly." Do you see that?

16:30:16 22 A. Yes.

16:30:16 23 Q. Do you see the bullet point that says, "DPOC:
16:30:19 24 Proof of citizenship and ID's"?

16:30:20 25 A. Yes.

16:30:21 1 Q. What does the next bullet point say, just in
16:30:24 2 general terms?

16:30:25 3 A. The secretary will compare LULAC litigation to new
16:30:30 4 statute and report back to the group.

16:30:33 5 Q. Okay. And what -- did you ever get a report back?

16:30:37 6 A. I don't believe so.

16:30:38 7 Q. Okay. So from your experience, will the different
16:30:51 8 processing -- strike that.

16:30:53 9 From your experience, will the different
16:30:58 10 processing of state form applications versus federal form
16:31:02 11 applications -- if HB 2492 goes into effect, will that
16:31:06 12 increase the burdens on your office?

16:31:09 13 MR. LANGHOFER: Form.

16:31:10 14 THE WITNESS: Yes.

16:31:13 15 BY MR. JOHNSON:

16:31:13 16 Q. Does that include the risk of criminal penalties
16:31:15 17 like we just discussed?

16:31:18 18 MR. LANGHOFER: Form --

16:31:20 19 THE WITNESS: Yes.

16:31:21 20 MR. LANGHOFER: -- and foundation.

16:31:21 21 BY MR. JOHNSON:

16:31:22 22 Q. From your experience, will the different
16:31:24 23 processing of state form applications versus federal form
16:31:27 24 applications under this law increase the likelihood that
16:31:31 25 your office may reject registrations from eligible

16:31:33 1 applicants?

16:31:36 2 MR. LANGHOFER: Form.

16:31:38 3 THE WITNESS: Yes.

16:31:38 4 BY MR. JOHNSON:

16:31:41 5 Q. All right. I'd like to talk about another
16:31:45 6 document here, Exhibit W in your folder.

16:31:53 7 MS. STUART: Hayden, I'm so sorry to
16:31:53 8 interrupt. I know you guys want to keep going, but I do
16:31:55 9 need to use the restroom. So if we're going to look at a
16:31:58 10 new document, would now be a good time to do that, a little
16:32:01 11 break?

16:32:02 12 MR. JOHNSON: Thank you, Cindy. I'm so sorry
16:32:03 13 I wasn't thinking about that. Let's go off the record
16:32:05 14 here.

16:32:07 15 THE VIDEOGRAPHER: We're off the record.
16:32:10 16 Time on the video monitor is 4:32 p.m.

16:32:25 17 (A recess ensued.)

16:36:57 18 THE VIDEOGRAPHER: We're on the record. Time
16:37:21 19 on the video monitor is 4:37 p.m.

16:37:21 20 BY MR. JOHNSON:

16:37:25 21 Q. All right. Mr. Webber, thank you again.

16:37:28 22 We were just about to talk about another

16:37:30 23 document. It's Exhibit W in your folder, and we just

16:37:34 24 marked it as Exhibit 160.

16:37:34 25 (The document was marked as Exhibit 160)

16:37:34 1
16:37:41 2
16:37:41 3
16:37:43 4
16:37:45 5
16:37:45 6
16:37:50 7
16:37:54 8
16:37:56 9
16:37:59 10
16:38:01 11
16:38:04 12
16:38:05 13
16:38:13 14
16:38:19 15
16:38:26 16
16:38:28 17
16:38:34 18
16:38:37 19
16:38:38 20
16:38:41 21
16:38:46 22
16:38:53 23
16:39:01 24
16:39:05 25

for identification.)
BY MR. JOHNSON:
Q. When you see Exhibit W, can you let me know?
A. I have it open.
Q. Great.
And does this document appear to be an email exchange between different Yavapai County officials -- Yavapai County recorder officials?
A. It's Yavapai County officials, I believe. It's not just recorder.
Q. So that would include county board of supervisors officials; is that right?
A. We have county -- assistant county attorney. We have some people from the courts, from the schools, looks like assessor and treasurer and sheriffs. So, yeah, it looks like -- like a leadership group from the county.
Q. Okay. And if we scroll down to page 2, do you see where the header says, "Legislative Update"?
A. Yes.
Q. And the second paragraph there, do you see where it references HB 2492?
A. Yes.
Q. Do you see the reference describing HB 2492 to -- this will -- I'm quoting now -- "in part will relitigate the 2013 Arizona v. Inter Tribal Council of Arizona

16:39:09 1 decision by the U.S. Supreme Court under a new court"? Do

16:39:13 2 you see that passage?

16:39:16 3 MR. LANGHOFER: Form. Calls for legal

16:39:19 4 conclusion.

16:39:19 5 THE WITNESS: Yes.

16:39:19 6 BY MR. JOHNSON:

16:39:19 7 Q. What do you understand that passage to mean?

16:39:23 8 MR. LANGHOFER: Same.

16:39:24 9 THE WITNESS: It appears that this is

16:39:27 10 bringing up subjects that have already been litigated and

16:39:32 11 would seem to be relit- -- have to be relitigated under the

16:39:38 12 new statute.

16:39:41 13 MR. JOHNSON: Okay. Thank you.

16:39:42 14 Let's pull up Exhibit S, which I don't think

16:39:53 15 has been marked yet. If so, that's 161.

16:39:53 16 (The document was marked as Exhibit 161

16:39:53 17 for identification.)

16:40:11 18 THE WITNESS: I have it open.

16:40:13 19 BY MR. JOHNSON:

16:40:13 20 Q. All right. We're going back to some of the

16:40:16 21 questions my colleague, Mr. Messer, was asking.

16:40:19 22 Do you see a couple paragraphs down where it

16:40:22 23 starts "HB 2492 would require proof of residence location"?

16:40:26 24 Do you see that?

16:40:26 25 A. Yes.

16:40:27 1 Q. I guess I should back up.

16:40:30 2 What is this document?

16:40:31 3 A. It is a letter from our past county recorder to

16:40:38 4 the governor of Arizona.

16:40:39 5 Q. What kind of letter is it?

16:40:42 6 A. It's a letter commenting upon HB 2492, and it's

16:40:49 7 asking that it be vetoed.

16:40:54 8 Q. And so that passage I just referenced requires

16:40:57 9 proof of residence location. Is that the DPOR requirement

16:41:01 10 you discussed with Mr. Messer?

16:41:04 11 A. Yes.

16:41:04 12 Q. And do you see the line where it says, "This is

16:41:08 13 another burden on potential qualified voters who wish to

16:41:11 14 have their voices heard"? Do you see that?

16:41:14 15 A. Yes.

16:41:15 16 Q. So do you think that DPOR will make it more

16:41:18 17 difficult for qualified voters to get registered?

16:41:22 18 A. Yes.

16:41:24 19 MR. LANGHOFER: Form; foundation.

16:41:26 20 BY MR. JOHNSON:

16:41:27 21 Q. And the next paragraph there, do you see that

16:41:30 22 paragraph?

16:41:31 23 A. Yes.

16:41:33 24 Q. Where it says, "HB 2492 criminalizes election

16:41:37 25 officials for completing our job duties"?

16:41:41 1 A. Yes.

16:41:42 2 Q. Is that, again, referencing the potential criminal

16:41:47 3 risks that Yavapai election officials might face

16:41:47 4 [indiscernible]?

16:41:47 5 A. Yes.

16:41:47 6 THE COURT REPORTER: I'm sorry. Can you

16:41:47 7 repeat the end? "Election officials might face . . ."

16:41:58 8 MR. JOHNSON: -- under this law.

16:42:05 9 THE WITNESS: And the answer was "yes."

16:42:05 10 BY MR. JOHNSON:

16:42:10 11 Q. All right. Just two more documents, Mr. Webber.

16:42:13 12 I'm sorry I'm making you shuffle around here.

16:42:16 13 Let's pull up Exhibit U in your folder. And

16:42:19 14 that's going to be marked as 162.

16:42:19 15 (The document was marked as Exhibit 162

16:42:30 16 for identification.)

16:42:30 17 THE WITNESS: I have it up.

16:42:32 18 BY MR. JOHNSON:

16:42:32 19 Q. What is this document?

16:42:34 20 A. That's a -- that's an instruction document for

16:42:37 21 people who are learning or doing our registration forms and

16:42:43 22 our -- for our paper forms.

16:42:45 23 Q. And is this sort of similar to the instructions

16:42:50 24 from Exhibit T and Exhibit V that we looked at a minute

16:42:53 25 ago?

16:42:54 1 A. Yes.

16:42:55 2 Q. Okay. And what is "Box 22"?

16:42:59 3 A. Box 22 is where the checkboxes for being a citizen

16:43:06 4 and being of at least 18 years of age on the registration

16:43:11 5 form.

16:43:12 6 Q. Okay. So when processing an application regarding

16:43:15 7 Box 22, what happens if someone leaves the citizenship box

16:43:22 8 blank?

16:43:23 9 A. Currently, if we find through the HAVA check

16:43:29 10 citizenship or if there's an alien registration number, the

16:43:34 11 SAVE system, and they have a date of birth that makes them

16:43:42 12 18, we -- we basically ignore if they're not checked.

16:43:46 13 Q. So if you do a HAVA check or a citizenship check

16:43:51 14 and find proof of U.S. citizenship, that checkbox doesn't

16:43:55 15 add anything to your processing of the registration right?

16:43:59 16 MR. LANGHOFER: Form.

16:43:59 17 THE WITNESS: Yeah. Correct.

16:44:02 18 BY MR. JOHNSON:

16:44:03 19 Q. And in cases where the voter has submitted

16:44:06 20 documentary proof of citizenship with their application,

16:44:09 21 does the checkbox there add anything to your processing of

16:44:13 22 the registration?

16:44:14 23 MR. LANGHOFER: Form.

16:44:15 24 THE WITNESS: No.

16:44:15 25 BY MR. JOHNSON:

16:44:21 1 Q. All right. I did -- I did promise this would be
16:44:23 2 the last document.

16:44:24 3 So we have Exhibit Z in your folder, which
16:44:29 4 will be marked as 163.

16:44:29 5 (The document was marked as Exhibit 163
16:44:37 6 for identification.)

16:44:37 7 THE WITNESS: Okay. I do have it open.

16:44:43 8 BY MR. JOHNSON:

16:44:43 9 Q. All right. And what is this document?

16:44:45 10 A. This is another instruction sheet for adding a
16:44:50 11 registrant that would be a new registrant or if we don't
16:44:55 12 know they're already a current registrant. It depends on
16:44:58 13 how it turns out but --

16:45:00 14 Q. Was part of the processing for a new registrant
16:45:03 15 determining if they are already on the rolls?

16:45:06 16 A. Yes.

16:45:07 17 Q. Okay. And if you go to page 2, do you see the
16:45:11 18 search field there?

16:45:13 19 A. Yes.

16:45:13 20 Q. What are the search fields there to search if
16:45:18 21 someone's already in the system?

16:45:19 22 A. Last name, first name, the last four of their
16:45:23 23 Social Security number, their date of birth, and their
16:45:26 24 Arizona driver's license or ID number.

16:45:29 25 Q. Is birthplace one of those fields?

16:45:32 1 A. No.

16:45:33 2 Q. Do you use birthplace to determine if someone's

16:45:36 3 already on the voter registration rolls?

16:45:39 4 A. No.

16:45:40 5 Q. Do you use birthplace to determine a voter's

16:45:43 6 identity in this way?

16:45:45 7 A. No.

16:45:49 8 MR. JOHNSON: All right. That's all my
16:45:50 9 questions, Mr. Webber. I don't know if other plaintiff
16:45:53 10 groups will be asking questions, but I really appreciate
16:45:55 11 your time. Thank you.

16:45:57 12 THE WITNESS: Thank you.

16:46:12 13 MR. LANGHOFER: Anything else from the
16:46:12 14 plaintiffs, or should the defense go?

16:46:16 15 MR. JOHNSON: I think that's it for us.
16:46:18 16 Thank you.

16:46:21 17 MR. LANGHOFER: Tim and Shayna, I'm happy to
16:46:24 18 defer to you guys if you want to go first.

16:46:27 19 MR. HORLEY: Likewise. Shayna, did you have
16:46:29 20 anything you wanted to ask?

16:46:31 21 MS. STUART: Not at this time, but I'll let
16:46:34 22 you guys go ahead. And if I have any follow-up, I'll go
16:46:37 23 after you or Kory. Thank you.

16:46:42 24 MR. HORLEY: Okay. Kory, I'm happy to have
16:46:43 25 you take the first go.

16:46:45 1 MR. LANGHOFER: Yeah.

16:46:46 2

16:46:47 3

EXAMINATION

16:46:47 4

BY MR. LANGHOFER:

16:46:47 5

Q. All right. Mr. Webber, my name is Kory Langhofer, and I'm counsel for the RNC. And thank you for your time today.

16:46:49 6

16:46:55 7

16:46:56 8

Let me -- bear with me. I'm going to try to pull up a different program to have my questions in front of me.

16:47:01 9

16:47:03 10

16:47:06 11

All right. So let's start with this. Your office lobbied against the two bills in question, did it not?

16:47:11 12

16:47:15 13

16:47:15 14

A. Yes.

16:47:17 15

Q. And you have also failed to implement both of the bills; correct?

16:47:25 16

16:47:26 17

A. Yes.

16:47:26 18

Q. Which court authorized you to not implement these bills?

16:47:31 19

16:47:32 20

A. We did not have an opinion of the court. We did seek our own legal counsel.

16:47:37 21

16:47:39 22

Q. So you -- you've chosen to not implement a statute without a court order authorizing that?

16:47:44 23

16:47:45 24

A. Yes.

16:47:48 25

Q. And you testified that you think this -- these

16:47:53 1 bills are illegal?

16:47:55 2 A. I believe so.

16:47:57 3 Q. Is it fair to say then that you're on the
16:48:01 4 plaintiffs' side in this litigation?

16:48:04 5 A. We have not taken a side, but we do look at
16:48:10 6 difficulties that it will give us in some legal aspects
16:48:14 7 with implementing these laws.

16:48:16 8 Q. Well, you say you're not taking a side. Let's
16:48:19 9 just pause a minute.

16:48:20 10 You lobbied against the bill. You failed to
16:48:21 11 implement it. You've said on the record under oath you
16:48:23 12 think it's illegal. In what way have you not taken a side
16:48:29 13 with the plaintiffs in this litigation?

16:48:33 14 MR. ATKINS: Objection. Asked and answered.

16:48:33 15 BY MR. LANGHOFER:

16:48:36 16 Q. No, I'm asking for clarification.

16:48:37 17 In which way have you not taken a side?

16:48:39 18 A. Well, we have not filed any documents, I
16:48:42 19 believe -- and this may be more of a question for my legal
16:48:47 20 counsel -- any documents saying that we want, you know, to
16:48:53 21 -- to file on the side of the plaintiffs.

16:48:57 22 Q. Okay. So in the sense that you've not filed
16:48:59 23 something, that's how you failed to take a side on -- in
16:49:02 24 support of the plaintiffs?

16:49:03 25 A. Yeah.

16:49:04 1 Q. Okay. You're also -- you also expressed some
16:49:09 2 concerns that the -- about the substance of the bill. I
16:49:12 3 think one of your concerns was that there were criminal
16:49:14 4 penalties potentially for county recorders who violate it.
16:49:18 5 Did I get that right?

16:49:19 6 A. Yes.

16:49:20 7 Q. And did you say -- I don't remember this from your
16:49:23 8 direct.

16:49:24 9 Did you say you think it violates the
16:49:26 10 Gonzalez settlement?

16:49:27 11 A. I'm trying to remember what is -- what we're
16:49:31 12 looking at the Gonzalez settlement. And I'm trying to
16:49:37 13 recollect exactly what area it was. And I think it was
16:49:44 14 documentary proof of residency, but I can't remember
16:49:48 15 exactly what that was.

16:49:49 16 Q. If you didn't testify to that, then it doesn't
16:49:52 17 matter, I suppose.

16:49:52 18 You disagree with what the bill is doing
16:49:54 19 substantively on DPOC; correct?

16:49:58 20 A. Yeah, I disagree because I believe we already have
16:50:04 21 a -- have a court case on that. And it puts us in the
16:50:07 22 middle. That's really -- a lot of the stuff puts us in the
16:50:11 23 middle of current -- already-issued rulings and state
16:50:16 24 statute, and we'd really rather not be in the middle.

16:50:20 25 Q. And you disagree [indiscernible] substantively on

16:50:24 1 DPOR?

16:50:24 2 THE COURT REPORTER: Can you repeat that,

16:50:25 3 Kory?

16:50:25 4 BY MR. LANGHOFER:

16:50:26 5 Q. You disagree substantively with what the bill is

16:50:28 6 doing -- the bills are doing with respect to DPOR?

16:50:32 7 A. Yes.

16:50:32 8 Q. And you don't like the countywide list maintenance

16:50:38 9 requirements?

16:50:38 10 A. We don't feel that the countywide list maintenance

16:50:42 11 processes are even possible the way they're written. We

16:50:47 12 don't have access to the databases. We do not -- you know,

16:50:53 13 they're asking us to do things that we actually cannot do.

16:50:57 14 Q. So you don't like what the bill requires with

16:51:01 15 respect to countywide list maintenance?

16:51:02 16 A. Yes.

16:51:04 17 Q. When you say it's not possible, don't you mean

16:51:06 18 it's not possible with the current systems you have?

16:51:10 19 A. It's not possible with any of the databases that

16:51:14 20 we have access to.

16:51:16 21 Q. But if you were given additional resources, like

16:51:20 22 an API, for example, to check this stuff with automation

16:51:24 23 rather than manually, it may then be possible?

16:51:27 24 MR. ATKINS: Objection. Calls for

16:51:31 25 speculation.

16:51:31 1 THE WITNESS: If we had access to the actual
16:51:33 2 databases and what databases those were. You know, if it
16:51:40 3 says a local database, we don't know what that is.

16:51:44 4 BY MR. LANGHOFER:

16:51:46 5 Q. Do you -- is your position that you need more
16:51:49 6 monetary resources to implement this bill?

16:51:51 7 A. I think we would need monetary resources and a lot
16:51:56 8 of clarification and cooperation from a lot of other
16:52:01 9 governmental agencies in state, local, federal to be able
16:52:08 10 to implement this.

16:52:09 11 Q. Okay. Now, these -- all these concerns you have
16:52:15 12 with the bill, you were represented at the Capitol by a
16:52:18 13 lobbyist; correct?

16:52:19 14 A. I believe so.

16:52:20 15 Q. Jen Marson?

16:52:22 16 A. I believe she's with the Arizona Association of
16:52:26 17 Counties, yes.

16:52:27 18 Q. So she represented you indirectly there?

16:52:30 19 A. Yes.

16:52:30 20 Q. She does a good job; right? Jen's good at her
16:52:33 21 job?

16:52:33 22 A. I believe so.

16:52:34 23 Q. She expressed all these concerns to the Senate
16:52:37 24 while she was there?

16:52:39 25 A. I would imagine so.

16:52:41 1 Q. Did she persuade a majority of the Senate to vote
16:52:44 2 against this bill?

16:52:45 3 A. No.

16:52:46 4 Q. Did she express these concerns to the House while
16:52:49 5 she was there?

16:52:50 6 A. I, again, would imagine so.

16:52:52 7 Q. Did she persuade a majority of the House that
16:52:55 8 these substantive concerns should result in the bill being
16:52:59 9 rejected?

16:53:00 10 A. Does not appear so.

16:53:01 11 Q. And you all communicated with the governor's
16:53:04 12 office?

16:53:04 13 A. Yes. The county recorder did send a letter to the
16:53:09 14 governor's office.

16:53:10 15 Q. And the concerns you wanted to raise were
16:53:12 16 contained in that letter?

16:53:14 17 A. Yes.

16:53:14 18 Q. Did the governor veto the bill?

16:53:18 19 A. The governor, I believe, signed the bill.

16:53:21 20 Q. So no -- your substantive concerns were raised in
16:53:25 21 the House, the Senate, and at the governor's office, and
16:53:28 22 none of the political branches agreed with your assessment?

16:53:31 23 A. Yes.

16:53:31 24 Q. You said a few minutes ago that you think this
16:53:33 25 bill is going to increase the likelihood of you rejecting

16:53:37 1 eligible applicants. I want to be clear about that because
16:53:42 2 I don't think you mean those words literally.

16:53:45 3 If I understand it correctly, what you mean
16:53:46 4 is increase the likelihood that you would reject someone
16:53:50 5 who, if they followed the correct procedures, could, in
16:53:54 6 fact, successfully register to vote but not -- you don't
16:53:56 7 mean rejecting people who actually comply with the laws as
16:53:59 8 written; am I correct?

16:54:03 9 MR. JOHNSON: Objection. Misstates.

16:54:04 10 THE WITNESS: I believe -- to state it
16:54:05 11 correctly, I believe we will be rejecting voters who, under
16:54:10 12 past laws, would be currently eligible, especially with the
16:54:13 13 documentary proof of residency. I think that would be an
16:54:16 14 accurate statement.

16:54:18 15 BY MR. LANGHOFER:

16:54:18 16 Q. Okay. So it's not that you're going to violate
16:54:20 17 the statute that's written; it's just that you'll be
16:54:21 18 rejecting applications that might have been accepted under
16:54:25 19 different statutes?

16:54:28 20 MR. JOHNSON: Objection. Misstates
16:54:29 21 testimony.

16:54:29 22 And, Cindy, it might be a good opportunity
16:54:31 23 for us to just clarify for the record that if plaintiffs
16:54:35 24 make an objection, that is an objection for all the
16:54:37 25 plaintiffs.

16:54:39 1 MR. LANGHOFER: The stipulation as to
16:54:40 2 objections is fine with us.

16:54:40 3 MR. JOHNSON: Thank you.

16:54:43 4 BY MR. LANGHOFER:

16:54:43 5 Q. Sir, do you remember the question?

16:54:44 6 A. Could you repeat it, please?

16:54:46 7 Q. Yeah. I don't want to put words in your mouth,
16:54:50 8 and I don't want to mischaracterize your testimony. I
16:54:51 9 really want to get what you're saying precisely here.

16:54:54 10 I think what you're saying is the new law
16:54:57 11 would require you to reject applications that may have been
16:55:00 12 accepted before, but you're not saying that you're just
16:55:03 13 going to misapply the new laws and reject people who comply
16:55:07 14 with the new registration requirements?

16:55:10 15 A. No. We would not misapply the new law to reject
16:55:15 16 anyone.

16:55:16 17 Q. You mentioned a moment ago problems with DPOR.
16:55:20 18 You think that's, you know, particularly likely to result
16:55:22 19 in rejected applications. Homeless people will be able to
16:55:28 20 register under the new statute, won't they?

16:55:31 21 A. To submit a registration form or --

16:55:33 22 Q. To successfully register.

16:55:36 23 A. If they provide documentary proof of residency.

16:55:41 24 Q. So that could include, for example, proof that
16:55:46 25 they're staying at a homeless shelter; correct?

16:55:50 1 A. It could.

16:55:52 2 MR. MESSER: Assumes facts.

16:55:53 3 BY MR. LANGHOFER:

16:55:53 4 Q. Or if -- failing all else, they could do a
16:55:57 5 declaration that they live at a particular intersection;
16:56:00 6 correct?

16:56:00 7 A. Yes, they could.

16:56:01 8 Q. Okay. So even where someone has no traditional
16:56:04 9 address and no home, the DPOR requirement would not bar
16:56:10 10 voter registration?

16:56:10 11 MR. MESSER: Assumes facts. Calls for
16:56:11 12 speculation.

16:56:15 13 THE WITNESS: Again, from what I looked at --
16:56:17 14 and I believe that the part of having the declaration for
16:56:23 15 people who were homeless and -- were -- was more referring
16:56:25 16 to as people who may be in a very rural area and don't own
16:56:30 17 the property, don't have utility bills. They may not have
16:56:34 18 any of the documents that's required of them, and they're
16:56:39 19 not homeless. They just live in a place that it is very
16:56:45 20 difficult for them to get documentation.

16:56:47 21 BY MR. LANGHOFER:

16:56:48 22 Q. Okay. So let's think precisely about who that
16:56:51 23 would include. That would include someone who doesn't have
16:56:54 24 a driver's license with their residential address on it,
16:56:57 25 doesn't have a lease, doesn't have mail at that address,

16:57:01 1 doesn't have utilities at that address, and can't sign a
16:57:05 2 declaration about where they live, also can't draw a map.
16:57:08 3 Am I getting that right?

16:57:10 4 A. No. I -- again, from my interpretation, the
16:57:13 5 declaration is for people who are homeless and, you know,
16:57:20 6 have a general delivery address. I'd have to look
16:57:24 7 specifically at it, but we have people in here -- and
16:57:27 8 again, as I look at it, I look at someone who has a P.O.
16:57:33 9 box and lives in a rural area -- let's say by Ash Fork and
16:57:37 10 Seligman -- they don't own the property; some of them don't
16:57:41 11 even have utilities -- I think it would be very difficult
16:57:44 12 for them to comply with that law.

16:57:47 13 And I may be misapplying the law about the
16:57:50 14 declaration, but it was my thought that it was only for
16:57:55 15 people who basically did not have a residence. These
16:57:58 16 people have a residence, but they have a -- would have a
16:58:02 17 very hard time proving it.

16:58:04 18 Q. It sounds like we agree then that what's doing a
16:58:07 19 lot of work in your analysis is the idea that if you have a
16:58:10 20 residence, the declaration option is not available to you?

16:58:14 21 A. That's -- that was my interpretation of it.

16:58:17 22 Q. Okay. So if that's available to everyone, do you
16:58:22 23 still think the DPOR requirement is going to be a
16:58:24 24 significant problem for people in this situation?

16:58:26 25 A. If it was available to all people who just say "I

16:58:31 1 can't provide it" or what -- I mean, I don't know how --
16:58:33 2 what format would be. But that would certainly alleviate
16:58:38 3 much of the burden.

16:58:39 4 Q. Okay. So at that point, you'd be left with people
16:58:42 5 who don't have a driver's license with their residential
16:58:44 6 address, don't have a lease, don't have utilities, don't
16:58:46 7 have mail, and can't file a declaration?

16:58:49 8 A. Yes. And if -- with a declaration, if we could
16:58:53 9 accept that, then that would be probably the only people
16:58:57 10 who would then be disenfranchised from what we do
16:59:03 11 currently.

16:59:04 12 Q. Can you think of anyone who would fit in that
16:59:06 13 category?

16:59:07 14 A. No.

16:59:08 15 Q. You said that someone who fills out the federal
16:59:15 16 form is no more or less qualified than one who fills out
16:59:20 17 the state form. And I want to put that to you slightly
16:59:24 18 differently.

16:59:25 19 What if there are two people sitting next to
16:59:29 20 each other -- and I guess the sort of hypothetical you were
16:59:30 21 thinking of is one's got a federal form, one's got a state
16:59:34 22 form; otherwise, they're identical. And they -- they may
16:59:35 23 have a different outcome to filling out those forms.

16:59:38 24 What if two people are filling out the forms
16:59:40 25 next to each other; one of them has a pen that works, and

16:59:41 1 one of them has a pen that doesn't. We agree there would
16:59:44 2 be a different outcome for the registration forms if they
16:59:47 3 submitted them; correct?

16:59:48 4 A. Sure.

16:59:48 5 Q. What's your reaction to that problem?

16:59:52 6 A. If they have a -- if one can't fill out the form
16:59:58 7 because their pen is -- doesn't work?

17:00:00 8 Q. That's right.

17:00:01 9 A. We wouldn't accept the form because it would be
17:00:01 10 incomplete.

17:00:07 11 Q. Oh, okay. So we do agree that filling out forms
17:00:10 12 completely and properly is important legally?

17:00:13 13 A. Yes.

17:00:20 14 Q. Bear with me. I'm going to check through my notes
17:00:24 15 here.

17:00:24 16 You also said that you're unaware of any
17:00:28 17 foreign national who has tried to register in your county.
17:00:34 18 But I think you also said you're unaware of how many people
17:00:38 19 receive the notification that are saying they failed to
17:00:41 20 submit DPOC and then never get back to the county and
17:00:47 21 provide that DPOC. Am I remembering your testimony
17:00:48 22 correctly?

17:00:48 23 A. Yes.

17:00:49 24 Q. Do you know whether people who don't respond to
17:00:52 25 that were or were not U.S. citizens?

17:00:55 1 A. We do not know that.

17:00:58 2 Q. So it's not that you know that no foreign
17:01:02 3 nationals have tried to register in your county; it's just
17:01:04 4 that it's an unknown?

17:01:06 5 A. Yeah. I -- I have no knowledge of any doing it,
17:01:09 6 so -- of any foreign nationals trying to register in the
17:01:14 7 county.

17:01:14 8 Q. This October 2022 incident where there was a
17:01:17 9 problem with the AVID system, was anyone in your county
17:01:22 10 disenfranchised as a result of that?

17:01:24 11 A. I do not believe so.

17:01:26 12 Q. Okay. And I think you were asked a question that
17:01:30 13 I objected to about whether this tells you anything about
17:01:33 14 the reliability of these systems. And I believe you were
17:01:40 15 -- you offered your opinion on that. I want to sort of
17:01:44 16 turn that around.

17:01:44 17 If you believe that the AVID system is
17:01:50 18 unreliable and you use AVID partly to confirm citizenship,
17:01:54 19 wouldn't you then have some value in someone checking a box
17:01:57 20 and swearing under penalty of perjury that they are a U.S.
17:02:01 21 citizen?

17:02:03 22 A. Yes.

17:02:17 23 MR. LANGHOFER: Mr. Webber, that's all the
17:02:18 24 questions I have for you. Thanks very much.

17:02:21 25 THE WITNESS: Thank you.

17:02:21 1

17:02:21 2

EXAMINATION

17:02:21 3

BY MR. HORLEY:

17:02:27 4

Q. Hi, Mr. Webber. My name is Tim Horley. I am with

17:02:31 5

the State of Arizona and the Arizona Attorney General's

17:02:34 6

Office. I do have a few questions for you. And I'm

17:02:38 7

probably going to introduce a few documents. I'm going to

17:02:41 8

try not to go too long here because I know we're getting

17:02:42 9

late in the day.

17:02:43 10

I wanted to see -- before we do that, would

17:02:44 11

you like a short break before we dive in?

17:02:46 12

A. No. I'm doing okay.

17:02:49 13

Q. Okay. Fantastic.

17:02:50 14

All right. So there's been a lot of

17:02:54 15

discussion so far about your office's position on these

17:02:57 16

laws. I just wanted to clarify one thing.

17:03:00 17

Will your office adhere to whatever a court

17:03:03 18

orders regarding the implementation of these laws?

17:03:06 19

A. Yes.

17:03:07 20

Q. Okay. Right.

17:03:09 21

And then you mentioned that some of the

17:03:12 22

phrases in HB 2492 and 2243 are unclear; correct?

17:03:19 23

A. Yes.

17:03:20 24

Q. But guidance from the secretary of state could be

17:03:23 25

useful to clarify that?

17:03:26 1 A. Yes, it could be.

17:03:28 2 Q. And then perhaps that could come in the form of an
17:03:31 3 updated EPM?

17:03:33 4 A. Yes.

17:03:35 5 Q. And the EPM generally provides guidance on a lot
17:03:39 6 of different voting laws -- right? -- including ones on
17:03:41 7 topics that aren't even relevant to the ones we've talked
17:03:44 8 about today; yes?

17:03:46 9 A. Yes.

17:03:46 10 Q. And do you generally rely on the EPM to help
17:03:50 11 implement those other voting laws?

17:03:52 12 A. Yes, we do.

17:03:53 13 Q. And so would it be easy to implement other voting
17:03:57 14 laws without the EPM?

17:04:00 15 A. It -- it would probably make it more difficult.
17:04:05 16 We could do it, but it would make it more difficult.

17:04:09 17 Q. So there are other voting laws that are difficult
17:04:11 18 to implement without guidance from the secretary of state;
17:04:15 19 correct?

17:04:15 20 A. Yes.

17:04:16 21 Q. So the same thing is true for these laws that is
17:04:20 22 true for those other laws; correct?

17:04:22 23 A. Yes.

17:04:24 24 Q. Okay. Thank you.

17:04:25 25 I wanted to ask you a few questions about

17:04:28 1 verifying or checking citizenship.

17:04:31 2 So does your office do anything to verify
17:04:34 3 DPOC when it is received; so, for example, when someone
17:04:37 4 sends you a birth certificate or a passport, like a
17:04:40 5 photocopy?

17:04:41 6 A. No.

17:04:44 7 Q. Okay. So you don't take any steps to verify the
17:04:47 8 authenticity of those?

17:04:48 9 A. No. We -- we accept it at face value.

17:04:51 10 Q. Okay. All right. I want to ask about the
17:04:58 11 checkbox. So for state forms, if a registrant were to mark
17:05:02 12 "no" in the citizenship checkbox but also provide a copy of
17:05:08 13 a citizenship document, like a birth certificate, what
17:05:10 14 would your office do in that situation?

17:05:12 15 A. If they checked "no," we would actually probably
17:05:17 16 return the form to them to -- to fix it. If it's an actual
17:05:22 17 check "no," if they -- you know, could very well be a
17:05:26 18 mistake, but they would have to correct that.

17:05:29 19 Q. Okay. Understood.

17:05:30 20 Could it suggest that there might be some
17:05:32 21 problem with the proof of citizenship that they provided?

17:05:37 22 A. It could.

17:05:39 23 Q. Okay. And then is it possible for a registered
17:05:43 24 voter to submit a copy of a citizenship document, like a
17:05:46 25 birth certificate, that is defective in some way, for

17:05:50 1 example, it's blurry or it's difficult to read?

17:05:52 2 A. If -- if we could not, you know, determine what it
17:05:57 3 was, if it was -- we would not accept it. We would require
17:06:01 4 something that was legible.

17:06:04 5 Q. Okay. So, yeah, if there was a problem with
17:06:08 6 legibility or if it belonged to someone who has a similar
17:06:12 7 name or birth date, could that raise issues?

17:06:15 8 A. Yes. Yeah. If it doesn't match up, it would
17:06:19 9 raise issues.

17:06:19 10 Q. So in those situations, would it be helpful to
17:06:22 11 know how the voter answered the citizenship checkbox?

17:06:27 12 A. Yes. Yes.

17:06:28 13 Q. Okay. All right. So now I do want to look at one
17:06:33 14 of the documents that your office shared in response to
17:06:37 15 plaintiffs' request for production. I didn't see it in the
17:06:40 16 Dropbox.

17:06:40 17 So if it's all right with you and with
17:06:42 18 everybody else, I'm just going to screen share it, and we
17:06:45 19 can just look at it together.

17:06:46 20 A. Sure.

17:06:47 21 Q. Okay. One moment.

17:06:53 22 MR. JOHNSON: What Bates number, Tim?

17:06:56 23 MR. HORLEY: There is no Bates number for
17:06:57 24 this. This is Exhibit B from the Equity Coalition's
17:07:02 25 Request for Production. I believe it was responsive to

17:07:05 1 Request for Production 4 and 5. But it's just a -- it's a
17:07:09 2 spreadsheet, as you'll see.

17:07:09 3 MR. JOHNSON: Thanks.

17:07:19 4 MR. HORLEY. This one is not previously
17:07:19 5 marked. So once we've got it authenticated, I'd like to
17:07:21 6 mark it as Exhibit 164, I believe.

17:07:21 7 (The document was marked as Exhibit 164
17:07:21 8 for identification.)

17:07:21 9 (An off-the-record discussion ensued.)

17:07:21 10 BY MR. HORLEY:

17:07:38 11 Q. Okay. Mr. Webber, can you see this?

17:07:41 12 A. Yes.

17:07:42 13 Q. Okay. Excellent. One moment. Okay.

17:07:51 14 Can you still see the spreadsheet here?

17:07:53 15 A. Yes.

17:07:54 16 Q. Okay. So do you recognize this document?

17:07:59 17 A. Yes, I do.

17:08:00 18 Q. And could you describe what this document shows?

17:08:06 19 A. It was a document we produced for production. And
17:08:12 20 it was -- I can't remember exactly which one it was, but we
17:08:21 21 removed the personally identifiable information out of it.
17:08:29 22 And I would have to go back and look to see exactly, but it
17:08:35 23 looks like we have all kinds of different registrants.

17:08:39 24 So it may be the entire list, but I'm not
17:08:41 25 sure. I'd have to go back and look at their production

17:08:45 1 request and see if we did pare it down any, so . . .

17:08:51 2 Q. Yeah. Understood.

17:08:53 3 Just -- if you could just describe in a
17:08:55 4 nutshell what this document shows us?

17:08:58 5 A. Okay.

17:08:58 6 So the first column is the "Status," what the
17:09:02 7 registration status is.

17:09:03 8 Second column is "Status Reason." Third
17:09:07 9 column is how they registered.

17:09:11 10 The fourth column is "Source of
17:09:15 11 Registration," where that registration came from.

17:09:19 12 Citizenship is -- is -- I believe it's the "Citizenship
17:09:25 13 Verified." Yes. And then federal -- probably there's
17:09:31 14 "Federal-ID" and "Federal-no ID," I would believe. And
17:09:36 15 then "PEVL," which is now AEVL.

17:09:39 16 And then there's a -- their original
17:09:43 17 registration date in the state, their county registration
17:09:45 18 date, and then the effective date of change, which is the
17:09:49 19 last change in their record.

17:09:53 20 Q. Okay. Very good. Thank you. That's very, very
17:09:54 21 helpful.

17:09:55 22 So in the first column, it says "Status," and
17:09:57 23 that refers to their current registration status; correct?

17:10:00 24 A. Yes.

17:10:01 25 Q. So if, for example -- like here on Row 4, it says

17:10:05 1 "canceled," that means that person's registration has been
17:10:08 2 canceled; is that right?

17:10:09 3 A. Yes.

17:10:10 4 Q. Okay. And then this in the "Status Reason" column
17:10:14 5 here, it says why that status exists; correct?

17:10:17 6 A. Yes.

17:10:17 7 Q. Okay. So in this example, it says "NVRA is the
17:10:24 8 status reason. Can you explain what that means?

17:10:26 9 A. That's National Voter Registration Act. This
17:10:31 10 person would have been canceled. We would have -- we've
17:10:34 11 gotten return mail, and it had gone the two federal
17:10:38 12 election cycles without them correcting their address. And
17:10:41 13 then they would be canceled after that.

17:10:43 14 Q. Thank you. That is helpful.

17:10:48 15 Now I'm going to take us down to Row 3963.
17:10:52 16 So just a moment while I get us there.

17:11:17 17 Okay. Here we are. So do you see this row
17:11:20 18 this I'm highlighting here?

17:11:21 19 A. Yes.

17:11:22 20 Q. And this person's status is listed as "not
17:11:26 21 eligible"; correct?

17:11:27 22 A. Yes, it is.

17:11:28 23 Q. So what is the difference between determining that
17:11:31 24 someone is not eligible and then rejecting their
17:11:35 25 application?

17:11:37 1 A. A "not eligible" would be a rejected application
17:11:45 2 because -- and again, with this one it's -- there was
17:11:48 3 invalid citizenship proof or -- invalid citizen- -- I don't
17:11:52 4 think proof. I think it -- they probably showed up with
17:11:54 5 the F-type license, the foreign national, you know,
17:12:03 6 designation on their MVD.

17:12:05 7 Again, with different -- I'd have to look at
17:12:09 8 a specific record, but that's usually what it is. They
17:12:12 9 come up as not being a U.S. citizen in the HAVA checks.
17:12:16 10 And this is how they are put, at least until they provide
17:12:22 11 citizenship proof.

17:12:25 12 Q. Okay. So in this case, someone's -- their
17:12:31 13 registration was rejected because they didn't have
17:12:34 14 citizenship proof?

17:12:34 15 A. Yes.

17:12:35 16 Q. And is it possible that there -- you mentioned the
17:12:41 17 F-type license. Is it possible that there could be some
17:12:43 18 other reason that they would be rejected on this basis?

17:12:46 19 A. I -- I don't believe so. I believe that is the
17:12:49 20 only time we go to "not eligible" is if they come up in our
17:12:55 21 HAVA checks as a foreign national. And that's from the
17:12:58 22 F-type license in the MVD.

17:13:00 23 Q. Okay. So if someone just failed to submit proof
17:13:04 24 of citizenship, what would their status be?

17:13:08 25 A. They would be active and valid if that was the

17:13:13 1 only issue, but they would be a federal voter.

17:13:16 2 Q. Okay. And then in those cases, you would send
17:13:19 3 them a notice, as you mentioned?

17:13:21 4 A. Yes.

17:13:22 5 Q. Okay. And then is it possible that this person or
17:13:26 6 someone with these similar status and reason would be a
17:13:31 7 non-U.S. citizen?

17:13:33 8 A. It is possible.

17:13:34 9 Q. Okay. But there's no way to tell just from
17:13:36 10 looking at this spreadsheet?

17:13:38 11 A. No.

17:13:40 12 Q. Okay. Then I wanted to clarify a couple more
17:13:46 13 things about this spreadsheet.

17:13:49 14 So we talked about before in Column E, there
17:13:52 15 is an entry for whether their citizenship was verified?

17:13:56 16 A. Yes.

17:13:56 17 Q. Is that right? Okay.

17:13:58 18 And then these three columns -- I could
17:14:01 19 scroll back up to the top, but I just wanted to confirm
17:14:03 20 those are for the dates of registration and then the date
17:14:06 21 that their status was updated?

17:14:07 22 A. Yes.

17:14:10 23 Q. Thank you very much. That is all I have for that
17:14:12 24 document. So I'm going to stop that screen share.

17:14:20 25 Okay. So I did want to ask you a few more

17:14:23 1 questions about the database issue and the MVD database.

17:14:27 2 So earlier, you were asked about some errors
17:14:30 3 in the MVD system. And that was at Exhibit 153, which in
17:14:35 4 your Dropbox is Exhibit L.

17:14:55 5 A. Okay. I have it open.

17:14:57 6 Q. Okay. Fantastic.

17:14:58 7 So do you recall this document? Was this
17:15:02 8 issue with the MVD database voters getting downgraded in
17:15:07 9 the database?

17:15:07 10 A. Yes.

17:15:09 11 Q. So you told my colleague, Mr. Langhofer, that
17:15:12 12 nobody was disenfranchised based on this; correct?

17:15:14 13 A. To my knowledge, no one was disenfranchised.

17:15:18 14 Q. Then as we talked about before, it was a little
17:15:20 15 unclear, but you thought maybe six voters were affected by
17:15:25 16 this issue; is that right?

17:15:27 17 A. It looks like from their analysis that they came
17:15:33 18 up with six records that did. Again, whether we had caught
17:15:40 19 it before or not, I don't know. But it looks like six
17:15:45 20 records were affected by this.

17:15:49 21 Q. Okay. And then you said that there are about
17:15:52 22 187,000 registered voters in Yavapai County; is that right?

17:15:56 23 A. Yes.

17:15:57 24 Q. So this affected a very small proportion of
17:16:01 25 Yavapai County voters; is that right?

17:16:02 1 A. Yes.

17:16:04 2 Q. And then are the type of problems that arose here
17:16:08 3 common?

17:16:09 4 A. Not common. They're not unknown. And it's not
17:16:14 5 necessarily authorized presence. It's -- we had -- we've
17:16:19 6 had issues with the MVD having not cleared mailing
17:16:26 7 addresses and things. So we have had problems with the MVD
17:16:31 8 database from time to time, not common. But generally,
17:16:36 9 they have an impact.

17:16:39 10 Q. Okay. So would you say that overall, the MVD
17:16:43 11 database is reliable?

17:16:44 12 A. Overall, yes.

17:16:46 13 Q. Okay. Great.

17:16:48 14 Then would you say the same for the SAVE
17:16:51 15 database?

17:16:52 16 A. As far as I know, the SAVE database works quite
17:16:57 17 well.

17:16:58 18 Q. Yes. And you mentioned before that if a
17:17:03 19 naturalized citizen status hasn't been updated with the
17:17:06 20 MVD, for example, if they had what was called an F-type
17:17:09 21 license -- now it's called something else. I forget what
17:17:12 22 it's called -- but if -- in that situation, they can
17:17:15 23 reconcile that matter by just providing your office with
17:17:18 24 documentation of the naturalization; is that right?

17:17:21 25 A. Or any other type of thing. Let's say a passport

17:17:26 1 they have. Anything that will prove citizenship would do
17:17:30 2 it.

17:17:30 3 Q. Okay. Great.

17:17:33 4 And then I wanted to ask one question about
17:17:36 5 Social Security. You mentioned before that, you know,
17:17:39 6 someone having a Social Security number wouldn't be proof
17:17:42 7 of citizenship. If someone did not have a Social Security
17:17:47 8 number, could that suggest the person is not a U.S.
17:17:49 9 citizen?

17:17:51 10 A. If they didn't put it on their -- their form, no.
17:17:58 11 We have a lot of people that won't put them on their forms.
17:18:02 12 They don't like them out there so . . .

17:18:05 13 Q. But if you were to look at a Social Security
17:18:08 14 check, for example, and you found there is no Social
17:18:11 15 Security number associated with that person, might that
17:18:13 16 suggest that person is not a U.S. citizen?

17:18:16 17 A. It -- it might suggest that that person isn't who
17:18:19 18 they're claiming to be. And that would -- that actually
17:18:23 19 comes up as -- in our system that we couldn't verify their
17:18:28 20 identity. And that's another thing where they get a
17:18:33 21 letter.

17:18:33 22 So -- and we do get those that don't match
17:18:37 23 from time to time. I don't know if any of them were issues
17:18:44 24 besides people, you know, just writing down the wrong
17:18:47 25 number. But we do get those, and we do send them the

17:18:50 1 letters that they haven't provided proof of identity.

17:18:54 2 Q. Okay. Understood.

17:18:58 3 And then I wanted to clarify, if an
17:19:00 4 individual fails to provide DPOC but checks the
17:19:05 5 "citizenship" box on the form, are they registered as a
17:19:08 6 full-ballot voter?

17:19:11 7 A. If -- if we cannot discover DPOC and they didn't
17:19:19 8 provide it, but they checked it, they would still be a --
17:19:22 9 they would it be a federal voter. It's only if we have the
17:19:25 10 documentary proof that they become the full voter.

17:19:30 11 Q. Okay. Thank you. Thanks for clarifying that.

17:19:32 12 Now I wanted to ask you a bit about jury
17:19:36 13 questionnaires. This came up a little bit earlier in your
17:19:39 14 testimony.

17:19:39 15 A. Yes.

17:19:39 16 Q. So you're aware of these questionnaires that
17:19:43 17 report whether someone says they were a citizen or a
17:19:46 18 noncitizen?

17:19:46 19 A. Yes.

17:19:47 20 Q. And your office receives those reports?

17:19:50 21 A. Yes.

17:19:53 22 Q. And if you received information from a jury report
17:19:55 23 that someone was not a U.S. citizen, would you consider
17:19:59 24 that reason to believe that the applicant was not a U.S.
17:20:01 25 citizen?

17:20:03 1 A. I believe it's something that we should check on

17:20:08 2 to make sure, you know, that -- because they did tell a

17:20:14 3 court that they're not a U.S. citizen.

17:20:16 4 Q. So that could be a reason to believe that they are

17:20:19 5 not a U.S. citizen?

17:20:20 6 A. Yes. Yes.

17:20:21 7 Q. Great.

17:20:23 8 And then I did want to have you take a look
17:20:27 9 at one more document, which I don't think is in the Dropbox
17:20:30 10 and, I believe, has not been shared yet. So I am going to
17:20:35 11 go ahead and do another screen share on that one.

17:20:54 12 Do you see this document, Mr. Webber?

17:20:57 13 A. Yes.

17:21:00 14 Q. Okay. And do you see the numbers here in the
17:21:03 15 lower right-hand corner?

17:21:05 16 A. Yes.

17:21:05 17 Q. So is this something that your office produced in
17:21:09 18 response to plaintiffs' request for production?

17:21:13 19 A. Yes.

17:21:16 20 Q. Okay. Great.

17:21:17 21 MR. HORLEY: So I would like to mark this as
17:21:20 22 Exhibit Number 165. And I will share this in the chat at
17:21:25 23 the end of the deposition or at the end of my questions.

17:21:25 24 (The document was marked as Exhibit 165
17:21:25 25 for identification.)

17:21:25 1 BY MR. HORLEY:

17:21:25 2 Q. I'm going to turn to pages 289 and 290 here.

17:21:40 3 Do you see this email from Ashish Puri?

17:21:45 4 A. Yes.

17:21:46 5 Q. Do you recognize who that is?

17:21:48 6 A. Yes. I know who that is.

17:21:50 7 Q. Who is Mr. Puri?

17:21:54 8 A. He is -- he works with the company who programs

17:21:59 9 our database, the AVID database.

17:22:05 10 Q. Okay. Great. Thank you.

17:22:07 11 And then do you see your name here in the

17:22:11 12 middle of this?

17:22:13 13 A. I'm sure it's there. There we go, yes. There I

17:22:19 14 am.

17:22:20 15 Q. Okay. So that's your name and email address.

17:22:24 16 Okay.

17:22:24 17 So I'm just -- it's kind of on two pages

17:22:32 18 here. But would you just take a quick moment to review

17:22:35 19 this email from Ashish Puri.

17:22:42 20 A. Okay.

17:22:43 21 Q. Okay. So -- and is Mr. Puri asking for feedback

17:22:49 22 about the juror questionnaire process?

17:22:52 23 A. Yes. In particular, how we would implement it in

17:22:58 24 the software system with -- if the state got the

17:23:03 25 questionnaire data, how they would roll it out to the

17:23:07 1 counties.

17:23:09 2 Q. Okay. Thank you.

17:23:10 3 And then moving up here. Again, we're kind
17:23:13 4 of on two pages here. But is this an email that you wrote
17:23:18 5 in response to that?

17:23:19 6 A. I believe so, yes. Yes, it is.

17:23:27 7 Q. Okay. Yes. Thank you.

17:23:28 8 And then if you wouldn't mind taking a moment
17:23:30 9 to review -- I'll try to get all of the text here. Just
17:23:34 10 let me know when you're finished reading over this.

17:23:42 11 A. Okay. Yes. And I do remember this.

17:23:45 12 Q. Okay. So could you explain what concerns you were
17:23:49 13 discussing in this email?

17:23:50 14 A. Well, it was if, let's say, we had a situation
17:23:56 15 where someone with -- who had put on their jury form they
17:24:01 16 were not longer a resident of the county.

17:24:04 17 And the way the system works is that it gets
17:24:08 18 put on a clock. You mark it. You send them -- you would
17:24:12 19 send them a notice they would have so many days to reply,
17:24:15 20 again, from the statute. And you -- but what -- you know,
17:24:21 21 the question here is: "What if they were already in the
17:24:26 22 NVRA process; they had already had other returned mail?"
17:24:30 23 We couldn't have two clocks going and require us to do two
17:24:34 24 different things with the record.

17:24:37 25 And that would be you -- how do we settle

17:24:42 1 this conflict, you know, because they're already in a -- in
17:24:49 2 the NVRA process from the National Voter Registration Act.
17:24:52 3 Well, now if they get into the juror process for saying
17:24:57 4 they're not a resident, you know, we -- we have -- we have
17:25:02 5 a problem. The system won't be able to do both.

17:25:10 6 And so it's -- you know, how do we -- how do
17:25:15 7 we deal with that in the system? What is the process to
17:25:18 8 make sure that we just don't muck everything up and things
17:25:23 9 can't get processed at all?

17:25:25 10 Q. Okay. Thank you for explaining that. Appreciate
17:25:27 11 that.

17:25:28 12 So I'm going to move us up here a little bit.

17:25:32 13 So here, this is Mr. Puri responding to your
17:25:36 14 email; is that right?

17:25:36 15 A. Yes.

17:25:37 16 Q. Okay. And then Mr. Puri says, "In my view,
17:25:41 17 someone claiming to not be a citizen on a Jury call is more
17:25:45 18 serious than just undeliverable mail NVRA process"; is that
17:25:49 19 right?

17:25:49 20 A. Yes.

17:25:50 21 Q. And do you agree that that kind of concern is more
17:25:54 22 serious than the NVRA process?

17:25:57 23 A. I don't know if it is being that if the NVRA
17:26:05 24 process is something called by federal law and, obviously,
17:26:09 25 the jury one is something in state law, this would be

17:26:14 1 something that would have to be -- I don't know if it would
17:26:18 2 be litigated or not. But we would have to get some
17:26:21 3 opinions on would one trump the other so . . .

17:26:29 4 Q. Okay. Understood. All right. I think that is
17:26:31 5 all I have on that particular document.

17:26:34 6 Now I wanted to just circle back to the
17:26:42 7 birthplace issue really quickly.

17:26:44 8 So for the state form, your office does not
17:26:47 9 actively track whether a voter provides a correct or
17:26:51 10 incorrect birthplace on their form; is that right?

17:26:54 11 A. Yes.

17:26:55 12 Q. And I understand there's probably no tracking of
17:26:59 13 this. But generally, do most voters include their
17:27:06 14 birthplace when they're filling out the form?

17:27:10 15 A. I don't know a percentage. A lot of them do. We
17:27:14 16 can actually pull that data, but I don't think I've ever
17:27:17 17 pulled it and examined it. But I know it's -- it's common
17:27:21 18 to find it, but I don't know how common.

17:27:25 19 Q. Okay. And then does your office ever use
17:27:29 20 birthplace as part of a voter's personal identifying
17:27:32 21 information? So, for example, if a voter called you over
17:27:35 22 the phone and you needed to identify them, could you use
17:27:38 23 that?

17:27:38 24 A. Yes. Yes, that is -- that is the purpose that we
17:27:41 25 really use it for, to identify them.

17:27:45 1 Q. Okay. I'm sorry.

17:27:50 2 So if there was a discrepancy between two
17:27:53 3 applications -- so let's suppose they had the same name,
17:27:55 4 same address, but listed two different places of birth, how
17:27:59 5 would the County address that situation?

17:28:02 6 A. Well, we would take -- if everything else matched
17:28:06 7 up, I mean, the same date of birth -- you know, a lot of
17:28:11 8 times you'll have the same Social Security, same driver's
17:28:14 9 license, and they'll put something different. We -- we
17:28:17 10 take the latest one because there's not -- there's not a
17:28:21 11 procedure to use if they decided to change what they wrote
17:28:26 12 down on their place of birth.

17:28:30 13 Q. Okay. Understood.

17:28:31 14 And if a court or the secretary of state
17:28:34 15 issued guidance that your office should change how it uses
17:28:38 16 birthplace information, would -- would your office follow
17:28:41 17 that instruction?

17:28:42 18 A. Yes.

17:28:43 19 Q. Okay. And so if a registrant were to write on his
17:28:48 20 or her form that she was born in State 1 -- let's say New
17:28:54 21 York, for example -- but also provided a copy of a birth
17:28:57 22 certificate that was from a different state -- let's say
17:29:00 23 Florida -- what would your office do?

17:29:06 24 A. You know, I don't know if we would actually
17:29:12 25 compare that. We don't look at the place of birth

17:29:16 1 generally. We enter it into the database, but it's not one
17:29:20 2 of those things that we look at to compare with anything
17:29:23 3 else. So I -- I believe it would probably just go right on
17:29:27 4 through.

17:29:29 5 Q. Okay. So it wouldn't raise a red flag that, you
17:29:32 6 know, either their form is wrong or the birth certificate
17:29:36 7 is wrong?

17:29:37 8 A. No. I believe if the birth certificate looks on
17:29:41 9 its face to be valid, we would accept it.

17:29:46 10 Q. Okay. Let me just take one quick look at my notes
17:29:53 11 if you don't mind.

17:30:01 12 MR. HORLEY: All right. I believe that is
17:30:01 13 all I have for you, Mr. Webber. Thank you very much for
17:30:04 14 your time. Really appreciate it.

17:30:07 15 THE WITNESS: Thank you.

17:30:23 16 THE VIDEOGRAPHER: Is that everything from
17:30:25 17 everybody?

17:30:25 18 MR. LANGHOFER: Shayna, do you have
17:30:30 19 questions?

17:30:31 20 MS. STUART: No, I do not. Thanks.

17:30:33 21 MS. PORTER: I also don't have any questions.
17:30:35 22 Thank you for your time today, Mr. Webber.

17:30:38 23 THE WITNESS: Thank you.

17:30:38 24 MR. ATKINS: I just have a few additional
17:30:41 25 questions. This is Alex Atkins again, representing Mi

17:30:42 1 Familia Vota and Voto Latino.

17:30:42 2

17:30:43 3

FURTHER EXAMINATION

17:30:43 4

BY MR. ATKINS:

17:30:43 5

Q. Mr. Horley was just asking you about the

17:30:54 6

birthplace information provided on applications. And is it

17:30:59 7

correct that you said that it's sometimes used to confirm a

17:31:05 8

voter's identity when they call in to your office?

17:31:07 9

A. Yes.

17:31:08 10

Q. But to be clear, it's not a piece of information

17:31:14 11

that's used to determine whether they are qualified to

17:31:18 12

vote; correct?

17:31:19 13

A. Yes.

17:31:21 14

Q. And are there other pieces of information that

17:31:25 15

your office uses to confirm a voter's identity over the

17:31:31 16

phone?

17:31:31 17

A. We would -- may use -- there's a "parent name"

17:31:35 18

box. We can actually look and, you know, do other things.

17:31:41 19

I mean, I'll ask the last four of their Social Security

17:31:44 20

number, you know, confirm your date of birth, confirm --

17:31:47 21

you know, any of the pieces of information that aren't

17:31:50 22

generally available to the public, we could use any of that

17:31:55 23

information to confirm who they are.

17:32:00 24

MR. ATKINS: Thanks. That's all my

17:32:02 25

questions.

17:32:11 1
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MR. JOHNSON: Read and sign, Mike?
MR. GORDON: Yeah, we'll read and sign.
MR. LANGHOFER: Great. I think we're done then.

THE VIDEOGRAPHER: We are off the record. The time on the video monitor is 5:32 p.m. This ends Volume 1, Media Number 3, of the 30(b)(6) deposition of Yavapai County Recorder, by Matt Webber.

(The following occurred off the video record.)

THE COURT REPORTER: Who would like a copy of this transcript?

MS. PORTER: Cindy, I will order it.
(The proceedings concluded at 5:32 p.m.)

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MATT JACKSON WEBBER

1 STATE OF ARIZONA)
COUNTY OF MARICOPA)

2

3 BE IT KNOWN that the foregoing deposition was taken
4 by me pursuant to stipulation of counsel; that I was then
5 and there a Certified Court Reporter in the State of
6 Arizona, and by virtue hereof authorized to administer an
7 oath; that the witness before testifying was duly sworn by
8 me to testify to the whole truth; pursuant to request,
9 notification was provided that the deposition is available
10 for review and signature; that the questions propounded by
11 counsel and the answers of the witness thereto were taken
12 down by me in shorthand and thereafter transcribed into
13 typewriting under my direction; that the foregoing pages
14 are a full, true and accurate transcript of all the
15 proceedings had upon the taking of deposition, all done to
16 the best of my skill and ability.

17 I FURTHER CERTIFY that I am in no way related
18 to nor employed by any parties hereto; nor am I in any
19 way interested in the outcome thereof.

20 Dated at Phoenix, Arizona, this 31st day of
21 August, 2023.

22

23

24

25


CINDY MAHONEY, RPR, RMR NO. 50680

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UNITED STATES DISTRICT COURT
DISTRICT OF ARIZONA

Mi Familia Vota, et al.,)	
)	
Plaintiffs,)	Case No.
	)	2:22-cv-00509-PHX-SRB
v.	)	(Lead)
)	
Adrian Fontes, in his	)	No. CV-22-00519-PHX-SRB
official capacity as	)	No. CV-22-01003-PHX-SRB
Arizona Secretary of State,	)	No. CV-22-01124-PHX-SRB
et al.,	)	No. CV-22-01369-PHX-SRB
	)	No. CV-22-01381-PHX-SRB
Defendants.	)	No. CV-22-01602-PHX-SRB
	)	No. CV-22-01901-PHX-SRB

AND CONSOLIDATED CASES.

VIDEO-RECORDED VIDEOCONFERENCE 30(b)(6) DEPOSITION OF
COCONINO COUNTY RECORDER, REPRESENTED BY DONNA CASNER

Flagstaff, Arizona

August 23, 2023

Prepared by:
CINDY MAHONEY, RPR, RMR
Certified Court Reporter
Certificate No. 50680



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1 VIDEO-RECORDED VIDEOCONFERENCE 30(b)(6)
 2 DEPOSITION OF COCONINO COUNTY RECORDER, REPRESENTED BY
 3 DONNA CASNER, commenced at 2:33 p.m. on August 23, 2023, at
 4 Flagstaff, Arizona, before Cindy Mahoney, RPR, RMR (via
 5 videoconference), Arizona Certified Court Reporter No.
 6 50680.

8 * * *

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ALSO PRESENT:

Patty Hansen

ALSO PRESENT (all via videoconference)

Jean Roof
Gareth Fowler
Daniel Rohan, Videographer

14:33:42 1 THE VIDEOGRAPHER: We are on the record.
14:33:42 2 Time on the video monitor is 2:33 p.m. Here begins
14:33:49 3 Volume 1, Media Number 1, in the 30(b)(6) deposition of
14:33:53 4 Coconino County Recorder, by Donna Casner, in the matter of
14:33:59 5 Mi Familia Vota, et al., v. Adrian Fontes, et al., in the
14:34:04 6 United States District Court, District of Arizona, Case
14:34:08 7 Number 2:22-cv-00509-SRB.

14:34:13 8 Today's date is August 23rd, 2023. Our court
14:34:17 9 reporter is Cindy Mahoney. I am Daniel Rohan, a certified
14:34:22 10 legal videographer. We both represent Coash Court
14:34:24 11 Reporting & Video.

14:34:25 12 This video deposition is taking place at
14:34:27 13 Coconino County Recorder's Office, 110 East Cherry Avenue,
14:34:31 14 Flagstaff, Arizona 86001.

14:34:33 15 Council, please identify yourselves and state
14:34:36 16 whom you represent.

14:34:37 17 MR. ATKINS: Alexander Atkins. I represent
14:34:40 18 Mi Familia Vota and Voto Latino.

14:34:44 19 MS. WINKELER: Rose Winkeler, Flagstaff Law
14:34:47 20 Group, representing Coconino County Recorder's Office.

14:34:49 21 MR. BABBITT: Christopher Babbitt --

14:35:00 22 MR. HORLEY: Tim Horley, representing -- oh,
14:35:00 23 I'm sorry.

14:35:01 24 MR. BABBITT: Go ahead.

14:35:02 25 MR. MORGAN: Okay. Thanks. Tim Horley,

14:35:04 1 representing the State of Arizona and the Arizona attorney
14:35:06 2 general.

14:35:09 3 MR. BABBITT: Christopher Babbitt for the
14:35:10 4 Democratic National Committee and the Arizona Democratic
14:35:10 5 Party.

14:35:13 6 MR. MORGAN: Craig Morgan for Sherman &
14:35:15 7 Howard on behalf of the Secretary of State Adrian Fontes.

14:35:19 8 MR. LANGHOFER: Kory Langhofer for the RNC.

14:35:23 9 MR. HERRERA: Ernest Herrera for Promise
14:35:28 10 Arizona.

14:35:28 11 MS. LANG: Danielle Lang for the LUCHA
14:35:31 12 plaintiffs.

14:35:33 13 MR. PATTERSON: Beauregard Patterson for
14:35:33 14 Poder Latinx, Chicanos Por La Causa, and Chicanos Por La
14:35:49 15 Causa Action Fund.

14:35:49 16
14:35:49 17 DONNA CASNER,
14:35:49 18 the witness herein, being first duly sworn,
14:35:49 19 was examined and testified as follows:

14:35:49 20
14:35:56 21 EXAMINATION

14:35:56 22 BY MR. ATKINS:

14:36:00 23 Q. Good afternoon, Ms. Casner. Thank you for your
14:36:04 24 patience.

14:36:07 25 Just to start, could you state your full name

14:36:10 1 for the record.

14:36:11 2 A. Donna Casner.

14:36:13 3 Q. What's your full title?

14:36:16 4 A. Coconino County chief deputy recorder.

14:36:19 5 Q. And how long have you been the chief deputy
14:36:22 6 recorder?

14:36:24 7 A. Since January 2013.

14:36:28 8 Q. And have you held any other roles with the
14:36:31 9 Coconino -- Coconino County Recorder's Office?

14:36:34 10 A. Yes. I've been employed with the recorder's
14:36:37 11 office since June of 2004 in various roles, mostly with
14:36:42 12 voter registration.

14:36:52 13 Q. And I won't go through all the kind of prefatory
14:36:55 14 questions that you already heard with Ms. Hansen, but just
14:36:58 15 to confirm, you understand that you're testifying under
14:37:01 16 oath?

14:37:02 17 A. Yes.

14:37:02 18 Q. And is there anything that would prevent you from
14:37:08 19 giving full, complete, and accurate testimony today?

14:37:12 20 A. No.

14:37:13 21 Q. Have you ever been deposed previously regarding
14:37:19 22 voter registration in Coconino County?

14:37:21 23 A. No.

14:37:22 24 Q. Can you please describe your responsibilities in
14:37:37 25 your role?

14:37:39 1 A. Yes. I oversee the voter registration and early
14:37:43 2 voting division, so basically everything to do with any
14:37:50 3 kind of voter registration, list maintenance. We also
14:37:55 4 process petitions related to elections and conduct all
14:38:01 5 aspects of early voting.

14:38:03 6 Q. So one question that I think we haven't been able
14:38:11 7 to get a complete answer to yet is: Do you -- are you able
14:38:17 8 to give us a sense of the proportion of state form voter
14:38:23 9 registration applicants versus federal form applicants?

14:38:27 10 A. As far as applicants, not -- no. But I can tell
14:38:34 11 you that -- I can tell you the approximate number of actual
14:38:41 12 federal-only voters versus -- is that what you're looking
14:38:43 13 for?

14:38:44 14 Q. That would be helpful.

14:38:46 15 A. So since July of this -- July 1st of 2023, this
14:38:53 16 year, we had 591 active federal-only voters and 1,167
14:39:01 17 inactive federal-only voters. And I think we have
14:39:06 18 approximately 89,000 total active voters right now. So
14:39:12 19 it's -- it's a small number, but it's still -- it's in the
14:39:16 20 hundreds.

14:39:18 21 Q. So the vast majority of active registrants in
14:39:22 22 Coconino County are full-ballot voters?

14:39:25 23 A. Correct.

14:39:27 24 Q. Ms. Hansen and I spoke briefly about VRAC, and I'm
14:39:41 25 wondering if you have any insights into whether VRAC has

14:39:46 1 done any work or made any proposals regarding HB 2492 or
14:39:54 2 2243.

14:39:54 3 A. I believe that for 2243, there were two VRAC
14:40:01 4 papers proposed, but nothing has been finalized yet on how
14:40:09 5 we would go forward with processing the jury
14:40:13 6 questionnaires, the nonresident and the noncitizen jury
14:40:16 7 questionnaires. So there were two issues: one for
14:40:21 8 nonresident and one for noncitizen.

14:40:22 9 Q. Understood.

14:40:24 10 And so jury questionnaire matters are the
14:40:31 11 only issue or only component of the challenged laws that
14:40:35 12 VRAC has taken up at this point?

14:40:38 13 A. To my knowledge, yes.

14:40:39 14 Q. And do you know what the basic substance of VRAC's
14:40:47 15 proposal was regarding citizenship vis-a-vis the jury
14:40:55 16 questionnaire?

14:40:57 17 A. I know that the VRAC papers were based off of if
14:41:04 18 the new laws are followed, so basically the same as what's
14:41:11 19 going to be put in the new EPM if the laws are upheld.

14:41:17 20 Q. Understood.

14:41:18 21 Separately, are you aware if either the state
14:41:24 22 or federal registration forms have been revised at all as a
14:41:30 23 result of HB 2492 or 2243?

14:41:35 24 A. I am not aware. I know that I -- I have the most
14:41:42 25 recent copy of the registration form and it was revised on

14:41:52 1 the bottom -- it was provided by the secretary of state,
14:41:55 2 revised September of 2022. So that's the most recent form
14:42:00 3 we are using, and I believe that is the most recent form
14:42:04 4 available.

14:42:06 5 Q. Understood. One moment.

14:42:23 6 Is it correct that voter registration
14:42:27 7 applicants who complete the federal registration form must
14:42:34 8 affirm their citizenship under the penalty of perjury?

14:42:42 9 A. Yes.

14:42:45 10 Q. And under federal law, does that affirmation of
14:42:54 11 citizenship -- is that sufficient to confirm the
14:43:00 12 applicant's citizenship?

14:43:02 13 MR. LANGHOFER: Calls for a legal conclusion.

14:43:05 14 THE WITNESS: For the federal form, yes.

14:43:06 15 BY MR. ATKINS:

14:43:13 16 Q. So if a federal form applicant completes the
14:43:16 17 citizenship affirmation but does not respond to the
14:43:21 18 citizenship checkbox, does your office register that voter
14:43:27 19 for federal elections?

14:43:30 20 A. For federal elections, yes. If -- if they did not
14:43:35 21 provide DPOC but they checked "yes" to the citizenship box,
14:43:40 22 they will be a federal-only voter.

14:43:44 23 Q. And -- and what if they did not provide DPOC and
14:43:52 24 did not check "yes" or "no" but did complete the
14:43:55 25 citizenship affirmation that comes along with them signing

14:43:59 1 the federal form?

14:44:02 2 A. So we follow the EPM. So we would put them in
14:44:05 3 suspense -- a suspense status and send them a letter to
14:44:10 4 confirm that they are a U.S. citizen.

14:44:14 5 Q. Give me just one moment, please.

14:44:42 6 Some questions about the various databases
14:44:48 7 that have been discussed today thus far.

14:44:52 8 First, AVID. At a high level, could you just
14:44:58 9 describe how AVID is utilized in the voter registration
14:45:02 10 process?

14:45:06 11 A. Yes. So AVID is our voter registration database.
14:45:09 12 It holds all of the information about our voters. It also
14:45:14 13 holds all of their voting history and early ballots being
14:45:21 14 issued, things like that. When we enter a registration, it
14:45:26 15 also runs what we call the HAVA checks to check against
14:45:31 16 the -- the other databases that are connected to it for
14:45:36 17 things like citizenship proof and identity.

14:45:41 18 Q. And when the AVID database runs the HAVA check, is
14:45:51 19 it querying databases other than the MVD ADOT database?

14:45:57 20 A. Yes. It queries the MVD database and also the
14:46:03 21 Social Security Administration, the -- the state health
14:46:08 22 department for death records, and any -- I'm not sure
14:46:15 23 exactly which courts, but it checks for felony records
14:46:21 24 through the courts as well.

14:46:24 25 Q. And am I correct that Ms. Hansen testified

14:46:30 1 earlier -- and maybe you can confirm -- that the HAVA check
14:46:37 2 utilizing the Social Security database is confirming
14:46:44 3 identity as opposed to confirming citizenship; is that
14:46:51 4 right?

14:46:51 5 A. That's correct.

14:46:51 6 Q. So is it correct that the MVD data is the only
14:46:56 7 data that HAVA is querying that provides information on
14:47:01 8 citizenship?

14:47:03 9 A. That is correct.

14:47:04 10 Q. What is the AVID Enhancement Committee?

14:47:11 11 A. It is a group of AVID users from the county that
14:47:19 12 are very well versed in AVID and also the secretary of
14:47:25 13 state and the actual AVID, like, software developers. And
14:47:32 14 what we do is we -- we bring ideas for enhancing the
14:47:38 15 system, making it either easier for us to use or if there's
14:47:44 16 a bug or -- or a new law that we have to implement, we
14:47:51 17 would go through that committee to make decisions on what
14:47:56 18 needs to be done.

14:48:02 19 Q. And to your knowledge, has the AVID Enhancement
14:48:05 20 Committee had any meetings or done any work relating to
14:48:09 21 implementation of HB 2492 or 2243?

14:48:15 22 A. I know that they have started plans on
14:48:18 23 implementing the jury one, not 2492 -- the other one, the
14:48:26 24 jury questionnaire -- to go along with the VRAC papers that
14:48:31 25 I had mentioned before. So there is some preliminary,

14:48:36 1 like, just brainstorming on how AVID would have to change
14:48:41 2 with that but nothing has been implemented yet or accepted
14:48:48 3 by the VRAC steering committee, which is -- which has to
14:48:51 4 accept all of our enhancements.

14:48:55 5 Q. When you use the AVID system to run the HAVA check
14:49:05 6 and -- and it queries MVD's data, what are the different
14:49:15 7 possible results you can get back from that inquiry to --
14:49:19 8 into MVD data? Like, what are the possible outcomes?

14:49:26 9 A. There's U.S. citizen and then I believe it's
14:49:31 10 something like resident alien or -- it's whatever we use
14:49:38 11 that we know they're not a citizen. I'd have to look it up
14:49:41 12 for the exact wording. It has something to do with
14:49:49 13 resident: legal resident, something like that. And that's
14:49:54 14 how we know that they were not -- they did not show
14:49:59 15 citizenship proof when they got their driver's license.

14:50:02 16 Q. Understood.

14:50:07 17 And am I correct that the inquiry into the
14:50:15 18 MVD data takes place whether the applicant provides a
14:50:20 19 driver's license number or not?

14:50:23 20 A. Right. We have to run a HAVA check every time we
14:50:28 21 enter a registration or do an update to a registration.

14:50:35 22 Q. So if they happen to provide a driver's license
14:50:38 23 number, that's an additional piece of data that's used
14:50:43 24 to -- to query the MVD database; but if not, the other
14:50:49 25 information about themselves that they provided is -- is

14:50:52 1 what's used to get a result from MVD?

14:50:59 2 A. Right. Even if they don't put a driver's license

14:51:02 3 down on their form, it will still do a query and let us

14:51:06 4 know if something is found in MVD based on the other --

14:51:10 5 like the date of birth, the name.

14:51:14 6 Q. Can you describe how your office uses ERIC with
14:51:30 7 regard to voter registration?

14:51:35 8 A. Yes. So we will receive -- and this comes from --
14:51:39 9 organized by the Secretary of State's Office. But we
14:51:43 10 receive lists from other states on possible matches. And
14:51:50 11 then we have to compare things like the effective date of
14:51:55 12 change. Did the voter register at the other state later
14:52:02 13 than us and -- to determine if we need to cancel them here.

14:52:09 14 Q. Is ERIC used at all in determining or verifying
14:52:15 15 whether a voter is a U.S. citizen?

14:52:19 16 A. Not that I know offhand. We use it for list
14:52:24 17 maintenance in regards to if they move to another state,
14:52:30 18 and we also compare if they voted in more than one state.

14:52:35 19 Q. Do you know if ERIC even hypothetically could be
14:52:39 20 used with regard to citizenship inquiries?

14:52:44 21 A. I do not.

14:52:45 22 Q. Switching over to talk a bit about the SAVE
14:52:56 23 database.

14:52:58 24 First, do you know how long the Coconino
14:53:05 25 County Recorder's Office has been using SAVE?

14:53:11 1 A. I would say at least five or six years. It's
14:53:14 2 whenever they had agreement that all the states could use
14:53:23 3 it. Prior to that, I believe it was only Maricopa County
14:53:26 4 that had a separate agreement to use it. So we fell under
14:53:33 5 the blanket of the secretary of state's agreement is my
14:53:39 6 understanding.

14:53:39 7 Q. And under -- under that agreement, are there
14:53:43 8 certain processes that you're required to follow when using
14:53:49 9 the SAVE database?

14:53:51 10 A. I mean, it's -- it's fairly straightforward. It
14:53:55 11 does mention in the EPM that we are to use it to verify
14:54:02 12 citizenship if they provided a naturalization number.
14:54:06 13 That's the reason that we would use SAVE -- is to confirm
14:54:11 14 that that natural -- well, to use that naturalization
14:54:14 15 number to confirm that they are a U.S. citizen.

14:54:19 16 Q. And the same goes for if they provide an alien
14:54:24 17 registration number?

14:54:26 18 A. Right. I guess, I -- but -- yes.

14:54:31 19 Q. Do you know if the secretary's existing agreement
14:54:41 20 regarding SAVE would cover the contemplated uses of SAVE
14:54:46 21 under HB 2492 and 2243?

14:54:51 22 A. I don't know. I don't -- I don't know if I
14:54:56 23 understand the question.

14:55:01 24 Q. That's fine. We can -- we can move past it.

14:55:04 25 Is it correct that SAVE can only be utilized

14:55:16 1 in conjunction with a naturalization number or an A-number?

14:55:23 2 A. That's my understanding, yes.

14:55:27 3 Q. And so SAVE can only be utilized to confirm

14:55:31 4 whether someone has become a U.S. citizen as opposed to

14:55:38 5 confirming a natural-born U.S. citizen; right?

14:55:41 6 A. Correct.

14:55:42 7 Q. What is your office's policy if the SAVE search

14:55:53 8 returns no match?

14:55:59 9 A. We follow up with the voter and we ask them for

14:56:04 10 further documentation. A lot of times, they can show us

14:56:09 11 their actual naturalization papers because my understanding

14:56:15 12 is there is a lag time that SAVE will update their

14:56:22 13 information.

14:56:25 14 Q. And so if you ask an applicant for additional

14:56:30 15 documentation, do you then provide that documentation to

14:56:38 16 USCIS through SAVE so that they can look into it further,

14:56:42 17 or do you look into it further independently?

14:56:47 18 A. If they show us their naturalization document, we

14:56:51 19 take it at face value.

14:56:55 20 Q. And what if, for example -- well, strike that.

14:57:05 21 Are you familiar with USCIS's alternative

14:57:11 22 verification procedures through SAVE?

14:57:16 23 A. No, I am not.

14:57:18 24 Q. Are you aware of any circumstances where SAVE did

14:57:25 25 not return a match and you were never ultimately able to

14:57:33 1 confirm the applicant's citizenship status?

14:57:38 2 A. I am not aware of that situation.

14:57:49 3 Q. Is SAVE used by your office only at the point of
14:57:53 4 voter registration, or is it also used for any sort of
14:57:58 5 ongoing maintenance or -- or, I guess, post hoc checks into
14:58:03 6 a person's citizenship status?

14:58:07 7 A. It's only used at initial registration when we
14:58:12 8 need to check that number to get proof of citizenship.

14:58:25 9 Q. Other than the MVD database through AVID --
14:58:30 10 through AVID and the HAVA check process and the SAVE
14:58:34 11 database, are there any other databases that your office
14:58:37 12 uses to inquire into a registrant's citizenship status?

14:58:44 13 A. No.

14:58:46 14 Q. Are you aware that HB 2492 would require your
14:58:51 15 office to also utilize, quote, "any other state, city,
14:58:57 16 town, county, or federal database and any other database
14:59:01 17 relating to voter registration"?

14:59:05 18 A. I did read that, yes.

14:59:07 19 Q. Do you have any idea what databases that language
14:59:11 20 is referring to?

14:59:13 21 MR. LANGHOFER: Calls for legal conclusion.

14:59:17 22 THE WITNESS: No.

14:59:18 23 BY MR. ATKINS:

14:59:18 24 Q. Are you aware of any other databases that you're
14:59:21 25 not currently using that would be useful to your office's

14:59:26 1 voter registration efforts?

14:59:29 2 A. No.

14:59:30 3 MR. LANGHOFER: Asked and answered.

14:59:34 4 Alexander, she isn't a representative for the
14:59:37 5 whole office. So I think we've already asked these
14:59:38 6 questions of someone else from the same office; right? I
14:59:42 7 mean -- I mean, to the extent --

14:59:47 8 MR. ATKINS: I don't -- you know, she --
14:59:48 9 she's been designated as the witness that is most
14:59:51 10 knowledgeable on these questions. So to the extent
14:59:55 11 Ms. Hansen spoke to them, I don't think that precludes me
14:59:57 12 from ensuring that we have full and complete answers from
15:00:00 13 the office.

15:00:01 14 MR. LANGHOFER: Yeah, it's your depo time.

15:00:04 15 MR. ATKINS: It is.

15:00:05 16 BY MR. ATKINS:

15:00:14 17 Q. We talked briefly about how the Social Security
15:00:18 18 Administration data is utilized as part of the HAVA check
15:00:21 19 for confirming an applicant's identity.

15:00:26 20 Aside from that use, have you ever utilized
15:00:31 21 the Social Security data in any other context in your
15:00:36 22 position?

15:00:38 23 A. No.

15:00:40 24 Q. Do you know if Social Security Administration data
15:00:44 25 could be used to verify citizen -- citizenship status?

15:00:48 1 A. I am not aware of that.

15:00:53 2 Q. Are you familiar with the National Association for

15:01:00 3 Public Health Statistics and Information Systems, or

15:01:01 4 NAPHSIS?

15:01:02 5 A. I've never heard of that.

15:01:06 6 Q. So you're not familiar with any of its databases,

15:01:10 7 then?

15:01:11 8 A. Correct. I am not.

15:01:17 9 MR. ATKINS: I don't have any further

15:01:19 10 questions for you, but I'm sure some of my colleagues do.

15:01:22 11 Thank you very much for your time.

15:01:25 12 THE WITNESS: Thank you.

15:01:31 13 MS. LANG: Should we take a short break?

15:01:34 14 MR. ATKINS: Yeah. Can we -- can we take a

15:01:37 15 ten-minute break to see what else we have for Ms. Casner?

15:01:48 16 MR. MORGAN: Sounds good. Do you think it's

15:01:50 17 possible, at least for the plaintiffs -- we're going to --

15:01:52 18 I have -- I have obligations to my children at 5:30. I

15:01:57 19 just want to make sure we're on track to be done.

15:02:06 20 THE COURT REPORTER: Do you want to --

15:02:08 21 MR. ATKINS: Are we off the record?

15:02:08 22 MR. MORGAN: Sure.

15:02:20 23 (An off-the-record discussion ensued.)

15:02:20 24 THE VIDEOGRAPHER: We're off the record.

15:02:26 25 Time on the video monitor is 3:02 p.m.

15:02:30 1
15:12:30 2
15:12:42 3
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15:12:56 10
15:12:59 11
15:13:08 12
15:13:10 13
15:13:14 14
15:13:19 15
15:13:24 16
15:13:27 17
15:13:29 18
15:13:30 19
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15:13:39 21
15:13:48 22
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15:13:57 24
15:14:02 25

(A recess ensued.)

THE VIDEOGRAPHER: We are on the record.
Time on the video monitor is 3:12 p.m.

EXAMINATION

BY MR. PATTERSON:

Q. Thank you for your time today again, Ms. Casner. Hopefully we'll be able to wrap this up shortly and have you on your way.

I have a few follow-up questions regarding the MVD database and the USCIS's SAVE system. So I'd like to begin with the MVD databases.

Do you recall an incident from last year that was flagged by the Arizona Secretary of State's Office where database matching produced erroneous results and caused the downgrading of thousands of voters to federal-only voting status?

A. Yes, I do.

Q. What happened?

A. So basically, the secretary of state notified us that the MVD was erroneously not letting us know that the voter was a citizen, so they were being put as fed-only voters for a period of time.

And then we received instructions from the secretary of state on how to rectify them. We got a list

15:14:07 1 to review and then a letter that we sent out -- a template
15:14:13 2 letter that we sent out to those voters letting them know.
15:14:17 3 Q. Do you recall what was the cause of the error that
15:14:23 4 downgraded these voters to federal-only status?
15:14:29 5 A. I do not.
15:14:31 6 Q. And how many voters were affected in Coconino
15:14:37 7 County?
15:14:37 8 A. I do have a copy of the email that I sent to the
15:14:45 9 secretary of state with our findings. And I can just read
15:14:50 10 that off if --
15:14:55 11 Q. Yes.
15:14:57 12 A. So two records had already been sent a fed-only
15:15:05 13 ballot. We changed them from fed-only to full-ballot
15:15:08 14 status and we reissued a full ballot with a letter. So
15:15:12 15 that was two voters.
15:15:13 16 Five records were determined to not be a
15:15:16 17 match with the MVD record, the list, so they remained in
15:15:21 18 their original fed-only status.
15:15:26 19 16 records were changed from fed-only to
15:15:28 20 full-ballot status. And by doing so, they were added to
15:15:32 21 the AEVL and are now being sent a full ballot. They were
15:15:36 22 previously not sent a ballot.
15:15:40 23 86 records were changed from fed only to full
15:15:42 24 ballot, but they were not on AEVL, so they were not sent a
15:15:47 25 ballot.

15:15:53 1 Q. In your professional capacity, what does this
15:16:01 2 error say to you about the reliability of database matching
15:16:04 3 to assess a person's current U.S. citizenship status?

15:16:08 4 A. Databases may sometimes have an error. But in my
15:16:19 5 experience, it's been quickly caught and rectified, as it
15:16:23 6 was with this.

15:16:25 7 Q. And what does it say to you about the reliability
15:16:30 8 of database matching to assess whether voters have
15:16:34 9 previously satisfied the DPOC requirement?

15:16:41 10 A. I'm comfortable with the databases performing the
15:16:47 11 function that they need to.

15:16:50 12 Q. Is it feasible to use MGB -- MVD driver's license
15:16:59 13 and nonoperating ID databases to conclusively determine a
15:17:04 14 lack of U.S. citizenship?

15:17:10 15 A. I'm confident that if the driver's license is
15:17:22 16 flagged as non-U.S. citizen, then the database will let me
15:17:27 17 know that.

15:17:30 18 Q. Okay. And is it practicable -- scratch that.
15:17:42 19 By statute, your office is required to check
15:17:54 20 MVD databases for citizenship verification on a monthly
15:17:58 21 basis. Is this practicable?

15:18:03 22 MR. LANGHOFER: Calls for a legal conclusion.

15:18:06 23 THE WITNESS: I don't have an opinion on
15:18:11 24 that. I follow the procedures.

15:18:15 25 BY MR. PATTERSON:

15:18:22 1 Q. But in -- with regard to the resources of your
15:18:29 2 office, are you capable of checking against the MVD
15:18:37 3 database for citizenship verification on a monthly basis?

15:18:43 4 A. It depends on how it's done. If it's an
15:18:47 5 automatic -- which I assume it would be an automatic
15:18:52 6 function of AVID, then yes, it would be capable.

15:18:58 7 Q. Okay. Thank you.

15:18:59 8 Moving on to the SAVE system, is it common
15:19:07 9 for people to put down an alien registration number or a
15:19:12 10 naturalization certificate number on their Arizona voter
15:19:16 11 registration form?

15:19:18 12 A. It's not common. We see very few in the
15:19:26 13 percentage of overall registrations.

15:19:28 14 Q. Are you able to provide a ballpark percentage?

15:19:33 15 A. I -- I don't see every form that comes through our
15:19:39 16 office, but I would say, if I had to ballpark, maybe one or
15:19:44 17 two a month.

15:19:46 18 Q. Okay. Thank you.

15:19:49 19 If just an alien registration number or a
15:19:53 20 naturalization certificate number is provided, does your
15:19:56 21 office check that using the SAVE system?

15:20:00 22 A. If there are no other -- if there is no other DPOC
15:20:07 23 provided, then yes. If we are able to -- from, like, a
15:20:11 24 driver's license or something like that, then we don't need
15:20:17 25 to. But if that's the only DPOC, then we run it through.

15:20:25 1 Q. Can you check both the alien registration number
15:20:29 2 and naturalization certificate number at the same time in
15:20:33 3 the same -- in the SAVE system?

15:20:36 4 A. My understanding is the SAVE system will take
15:20:39 5 either one.

15:20:42 6 Q. By "either one," does that mean that you -- in
15:20:46 7 order to check those numbers, you'd have to do either/or,
15:20:51 8 or would you be able to put in both of those numbers
15:20:55 9 simultaneously?

15:20:55 10 A. Either/or.

15:20:57 11 Q. Okay. Do you have alien registration numbers or
15:21:03 12 naturalization certificate numbers for all naturalized
15:21:06 13 registered voters in Coconino County?

15:21:07 14 A. No. Only if they actually provide that on their
15:21:11 15 form.

15:21:12 16 Q. And what does your office do if the SAVE system
15:21:17 17 search matches to a record reflecting a lack of U.S.
15:21:21 18 citizenship?

15:21:23 19 A. We will follow up with the voter and ask for proof
15:21:27 20 of citizenship.

15:21:29 21 Q. And how frequently does this occur?

15:21:34 22 A. Very seldom. I would have to actually do some
15:21:39 23 research to even find any of those situations.

15:21:44 24 Q. When you run a SAVE system search and in the case
15:21:51 25 where it indicates a record reflecting a lack of U.S.

15:21:57 1 citizenship, is that conclusive? Is that the end of the
15:22:02 2 road for that voter registration applicant or registered
15:22:08 3 voter?

15:22:09 4 A. No. That's when we would follow up with them and
15:22:12 5 ask either to see their naturalization documents or let us
15:22:19 6 know, you know -- give us a different form of citizenship
15:22:23 7 proof.

15:22:25 8 Q. Do you take -- in addition to that, do you take
15:22:29 9 any other steps to verify that individual citizenship
15:22:34 10 status if initial verification fails to verify U.S.
15:22:39 11 citizenship?

15:22:41 12 A. Well, we -- we do all of our checks, MVD, you
15:22:45 13 know, everything through AVID. And then if that comes back
15:22:51 14 with nothing and the SAVE program comes back as noncitizen,
15:22:55 15 that's when we would reach out to them and let them know
15:22:58 16 that we need another form of citizenship proof.

15:23:03 17 Q. Do you have any familiarity with USCIS's
15:23:06 18 additional verification procedures --

15:23:08 19 A. I do not.

15:23:09 20 Q. -- following the initial search?

15:23:12 21 A. No.

15:23:16 22 Q. Okay. And -- and in the case where you contact
15:23:30 23 individuals following a search which indicates a lack of
15:23:35 24 citizenship, do these individuals typically complete the
15:23:40 25 registration process by providing DPOC after receiving your

15:23:43 1 notice letter?

15:23:45 2 A. I -- I couldn't say how many, but I do recall at
15:23:53 3 least a few instances of them saying that they were very
15:23:58 4 recently naturalized. I would have to do some research to
15:24:01 5 actually find those scenarios, though. But it's -- the
15:24:07 6 amount that we have to follow up on is so small that it
15:24:13 7 doesn't happen very often.

15:24:14 8 Q. Okay. Thank you. I only have two more questions.
15:24:19 9 Would you agree that SAVE can be used to
15:24:22 10 confirm U.S. citizenship but cannot be used to confirm a
15:24:25 11 lack of U.S. citizenship?

15:24:28 12 A. Yes. Because if it -- if it is -- if there is a
15:24:39 13 lapse in when they became a citizen and it's still showing
15:24:44 14 that they are not, then -- then I can't 100 percent use
15:24:53 15 that as they are not a citizen.

15:24:57 16 Q. Thank you.

15:24:58 17 And has your office been communicating with
15:25:01 18 the USCIS about HB 2492 and HB 2243?

15:25:09 19 A. Not that I'm aware of.

15:25:12 20 Q. Okay.

15:25:13 21 MR. PATTERSON: Thank you very much. That
15:25:14 22 completes my questions.

15:25:17 23 THE WITNESS: Thank you.

15:25:23 24 MR. LANGHOFER: Tim, do you have some
15:25:25 25 questions?

15:25:26 1 MR. HORLEY: Yes, I do have a few questions,
15:25:30 2 hopefully not too many.

15:25:30 3

15:25:30 4 EXAMINATION

15:25:30 5 BY MR. HORLEY:

15:25:33 6 Q. But I do have a few documents I wanted to look at
15:25:36 7 with you, Ms. Casner, if that's all right.

15:25:42 8 So yes, Ms. Casner, I'm -- my name is Tim
15:25:43 9 Horley. I'm with the Arizona Attorney General's Office.
15:25:46 10 Thanks for sticking with us through the afternoon today.

15:25:49 11 So I just have a few questions I wanted to
15:25:53 12 follow up on. If a registrant were to mark "no" in the
15:26:00 13 citizenship checkbox but also provide a purported copy of a
15:26:04 14 citizenship document, like a birth certificate, what would
15:26:07 15 your office do in that situation?

15:26:10 16 A. According to our current procedures manual, we
15:26:14 17 would take the DPOC as proof of citizenship and register
15:26:19 18 them.

15:26:21 19 Q. Okay. So even if they say "No, I'm not a citizen"
15:26:26 20 on the form, as long as there's DPOC, you accept DPOC at
15:26:30 21 face value?

15:26:31 22 A. Right. We will follow up with them as well, but
15:26:37 23 the EPM does specifically say that even if they checked
15:26:42 24 "no," we will still register them as long as DPOC says
15:26:46 25 otherwise.

15:26:48 1 Q. Okay. And so you say you would follow up with

15:26:51 2 them.

15:26:51 3 Is that like a set procedure or just

15:26:54 4 something you might --

15:26:56 5 A. You know, it -- it happens so seldom I can't even

15:27:01 6 think of a time when it has, but I would have to look into

15:27:06 7 it to see. I think we have -- may have a letter that we

15:27:10 8 send them about that.

15:27:13 9 Q. Okay. And one other thing that Ms. Hansen

15:27:18 10 mentioned you might know more about is whether it's

15:27:21 11 possible for a registrant to submit a purported copy of a

15:27:26 12 citizenship document like a birth certificate or a passport

15:27:29 13 that was somehow defective; for example, it was blurry or

15:27:32 14 difficult to read.

15:27:34 15 What would you do in that situation?

15:27:37 16 A. If we couldn't make out enough to match it to the

15:27:43 17 voter's form, the information on their form, then we would

15:27:47 18 ask for a clarifying copy. I cannot recall a time when

15:27:54 19 that has happened.

15:27:56 20 Q. Okay. What about if it looked like the document

15:28:02 21 maybe belonged to someone else who was registered who had a

15:28:04 22 similar name, like if it was someone named John Smith, for

15:28:10 23 example?

15:28:10 24 A. We would also match other identifying information

15:28:15 25 like date of birth to make sure.

15:28:20 1 Q. Okay. And so in those situations, would it be

15:28:25 2 helpful to know how the voter answered the citizenship

15:28:28 3 checkbox?

15:28:31 4 A. I don't see that as helping.

15:28:38 5 Q. All right. I now want to ask you about one of the

15:28:42 6 documents that your office produced. It is a spreadsheet.

15:28:45 7 So I'm going to do what I did before and just screen-share,

15:28:49 8 and then I will send it around to everybody in the chat.

15:29:07 9 Okay. Can you see this document, Ms. Casner?

15:29:10 10 A. Yes.

15:29:11 11 Q. And do you recognize this document?

15:29:15 12 A. I do.

15:29:17 13 Q. And did your office produce this in response to

15:29:21 14 plaintiffs' request for production?

15:29:23 15 A. Yes.

15:29:24 16 Q. Okay.

15:29:26 17 MR. HORLEY: I would like to mark this as

15:29:30 18 Exhibit -- I believe we're at 180.

15:29:32 19 THE COURT REPORTER: Yes.

15:29:33 20 MR. HORLEY: Okay. Thank you.

15:29:33 21 (The document was marked as Exhibit 180

15:29:38 22 for identification.)

15:29:38 23 BY MR. HORLEY:

15:29:39 24 Q. So could you tell me sort of in a nutshell what

15:29:43 25 does this document show us?

15:29:44 1 A. This is a list from our AVID database for any
15:29:52 2 registrant in a suspense status, a not-eligible status, or
15:29:57 3 a not-registered status as of the time that it was
15:30:01 4 produced.

15:30:03 5 Q. Okay. Thank you. And then I'm going to ask you a
15:30:09 6 little bit about just these columns.

15:30:11 7 So I see this first column says "Status," so
15:30:13 8 that shows someone's voter registration status; is that
15:30:17 9 right?

15:30:17 10 A. Correct.

15:30:18 11 Q. And then the "Status Reason," that gives the
15:30:22 12 reason for their current registration status; is that
15:30:28 13 right?

15:30:28 14 A. Right.

15:30:29 15 Q. Okay. Great. I'm just going to expand these so
15:30:31 16 they're a little easier to read.

15:30:33 17 And then this next column shows the date of
15:30:36 18 registration?

15:30:38 19 A. Correct.

15:30:39 20 Q. And then this column here, Column E, shows the
15:30:44 21 date that -- of change, so that would show the date that
15:30:47 22 this current status was listed?

15:30:53 23 A. Usually the -- the effective date of change is the
15:30:59 24 last time something significant happened with the record.
15:31:03 25 So I couldn't say that it's always just when the status was

15:31:09 1 changed, but when the status changed, it does affect that
15:31:17 2 effective date, if that makes sense.

15:31:21 3 Q. Okay. Yes, I think so. Just trying to get an
15:31:23 4 idea of what we're looking at here.

15:31:27 5 So -- okay. And then I want to draw your
15:31:28 6 attention to Row Number 25. And it says this person's
15:31:32 7 status is "Not Registered." And then it says the status
15:31:34 8 reason is "Purged."

15:31:35 9 Am I reading that right?

15:31:36 10 A. Yes.

15:31:37 11 Q. Can you explain what "purged" means in this
15:31:43 12 context?

15:31:46 13 A. Those are from a very long time ago. We don't use
15:31:51 14 that status anymore, but if -- if I were to say -- I mean,
15:32:01 15 the only time they are purged is if they were in a
15:32:07 16 not-registered status for so long -- or a canceled status,
15:32:12 17 I should say, for so long that they became not registered.
15:32:19 18 I would have to look into it to see exactly what happened
15:32:23 19 with those records.

15:32:27 20 But one way or another, "purged" means that
15:32:33 21 they were removed, essentially, from the list of -- of
15:32:40 22 voters into a not-registered state because they were either
15:32:44 23 in suspense for so long or in rejected status for so long.
15:32:51 24 That -- that's my best thought. But I would have to look
15:32:57 25 back. That status has not been used for a very long time.

15:33:01 1 Q. Okay. Understood. Thank you.

15:33:03 2 Now I want to draw your attention to Row 44
15:33:07 3 here.

15:33:12 4 A. Yes.

15:33:12 5 Q. I'll move it up a little bit.

15:33:12 6 So here it says that the status is "Not
15:33:14 7 Eligible"; right?

15:33:16 8 A. Correct.

15:33:16 9 Q. And then the reason is "Invalid Citizenship
15:33:20 10 Proof"; correct?

15:33:20 11 A. Yes.

15:33:22 12 Q. Okay. So what does this status reason mean?

15:33:27 13 A. This could mean either that they marked "no" on
15:33:34 14 the -- on the box and we did not have DPOC or we received
15:33:43 15 notification from the MVD that they were not a citizen or
15:33:51 16 we received information from the SAVE program that they
15:33:55 17 weren't a citizen and we were not able to receive any DPOC.

15:34:02 18 Q. Okay. So in this situation, would you follow up
15:34:06 19 with a voter before you determined they were not eligible,
15:34:09 20 or does -- does that process happen without giving notice
15:34:14 21 first?

15:34:16 22 A. For these specific ones where we are getting that
15:34:21 23 information from the database that they are not a citizen,
15:34:26 24 we change them to not eligible and then follow up.

15:34:31 25 Q. Okay. And is there a reason why it's listed as

15:34:33 1 not eligible rather than, for example, suspense?

15:34:38 2 A. Yes. The suspense are for federal -- federal form
15:34:49 3 voters that did not answer the checkbox -- checkbox
15:34:56 4 question and did not provide DPOC.

15:35:02 5 Q. Okay. I think you're sort of getting at my next
15:35:04 6 question, which is: Why would someone in this situation
15:35:07 7 not be listed as a fed-only voter? Why would they be
15:35:12 8 considered not eligible?

15:35:14 9 A. If they used the state form and they said "no" and
15:35:23 10 they didn't have DPOC.

15:35:27 11 Q. Okay. So is this -- does this suggest that this
15:35:32 12 person may not be a U.S. citizen when they attempted to
15:35:36 13 register to vote?

15:35:39 14 A. Without any other proof, yes.

15:35:48 15 Q. Okay. I know Ms. Hansen mentioned there have been
15:35:50 16 some situations like at voter registration drives, for
15:35:54 17 example, when someone may have filled out a form trying to
15:35:59 18 enter someone else's information or otherwise falsely
15:36:03 19 filling out a form.

15:36:04 20 Could this be that kind of situation?

15:36:09 21 A. No. No.

15:36:09 22 THE COURT REPORTER: I'm sorry. Did someone
15:36:21 23 object?

15:36:21 24 MS. LANG: I did. I had an objection for
15:36:22 25 calls for speculation and lack of foundation.

15:36:22 1 (An off-the-record discussion ensued.)

15:36:22 2 BY MR. HORLEY:

15:36:22 3 Q. Okay. Thank you.

15:36:37 4 Now I want to look to a row that is much
15:36:39 5 lower down, so just one moment while I get us there.

15:36:53 6 Okay. Actually, I think I'm done asking
15:37:06 7 questions about this document. I just wanted to ask you
15:37:12 8 about one other thing that Ms. Hansen mentioned.

15:37:15 9 She said that you have someone who checks the
15:37:19 10 voter list to determine whether people have moved to a
15:37:21 11 different jurisdiction; is that right?

15:37:26 12 A. Someone who checks?

15:37:29 13 Q. Yes. Someone in your office whose responsibility
15:37:33 14 is to look at current voter lists and see whether that
15:37:36 15 person has moved out of Arizona or moved to a different
15:37:40 16 county.

15:37:41 17 A. I -- I don't recall that. I don't -- we don't
15:37:46 18 have anyone who does that.

15:37:50 19 Q. Oh, okay. Maybe I --

15:37:51 20 A. It may have been -- you may have misunderstood,
15:37:53 21 maybe.

15:37:55 22 Q. Okay. It's possible. I thought she mentioned
15:37:58 23 something about that.

15:37:58 24 Okay. I have another document I would like
15:38:02 25 to look at. This one, it will just be a quick one. Okay.

15:38:25 1 Can you see this document, Ms. Casner?

15:38:27 2 A. Yes.

15:38:28 3 Q. And do you recognize this document?

15:38:31 4 A. Yes.

15:38:31 5 Q. And did your office produce this in response to
15:38:35 6 plaintiffs' request for production?

15:38:37 7 A. Yes.

15:38:40 8 MR. HORLEY: All right. I'd like to mark
15:38:42 9 this as Exhibit 181.

15:38:42 10 (The document was marked as Exhibit 181
15:38:47 11 for identification.)

15:38:47 12 BY MR. HORLEY:

15:38:49 13 Q. Okay. Could you please explain in a nutshell what
15:38:52 14 this spreadsheet shows?

15:38:54 15 A. Yes. This is a voter list out of our AVID
15:39:01 16 database of records in canceled status, anything other than
15:39:09 17 moved out of jurisdiction. I believe I separated those out
15:39:13 18 and there's a different spreadsheet for those.

15:39:18 19 Q. Got it. All right.

15:39:20 20 So similar to before, we have this "Status"
15:39:23 21 column and a "Status Reason" column, and same thing applies
15:39:26 22 here, shows their current status and why?

15:39:30 23 A. Yes.

15:39:31 24 Q. Okay. Thank you. All right. I'm going to go
15:39:34 25 down -- I'm going to go to this row here, which is

15:39:50 1 Row 15409.

15:39:53 2 Do you see that, Ms. Casner?

15:39:54 3 A. Yes.

15:39:56 4 Q. And here it says that the person's status is
15:39:59 5 "Canceled"; correct?

15:40:01 6 A. Correct.

15:40:01 7 Q. And the reason that their registration was
15:40:04 8 canceled was "Involuntary Cancellation"; is that right?

15:40:06 9 A. Yes.

15:40:08 10 Q. Can you explain what that means?

15:40:11 11 A. Yes. Involuntary cancellation is when they stated
15:40:18 12 on a jury questionnaire that they were -- I believe it is
15:40:23 13 that they were not a citizen. I know it has to do with the
15:40:28 14 jury questionnaire. And I don't know if that status reason
15:40:33 15 is even used anymore or if it's something else in the
15:40:38 16 system now, but that's what we used to use as perjury
15:40:44 17 questionnaires.

15:40:46 18 Q. Got it. Okay.

15:40:47 19 Then I see here in Column E it says May 18,
15:40:52 20 2022; is that right?

15:40:53 21 A. Yes.

15:40:53 22 Q. So --

15:40:54 23 A. So likely, it is still -- yeah, it is still the
15:40:57 24 status that we use, then.

15:40:59 25 Q. Okay. Understood.

15:41:00 1 So -- so your testimony, just for -- to be
15:41:03 2 clear, is that if it says "Involuntary Cancellation,"
15:41:06 3 that's because it came from a jury report or someone --

15:41:06 4 A. Yes.

15:41:10 5 Q. -- reported they were not a citizen?

15:41:14 6 Okay. Thank you. That is all I have on that
15:41:15 7 one.

15:41:19 8 Okay. Another quick document that I
15:41:24 9 discussed briefly with Ms. Hansen -- and she mentioned that
15:41:27 10 you might be the person to ask about, so I'm going to pull
15:41:30 11 that up really fast.

15:41:41 12 Okay. Do you see this document, Ms. Casner?

15:41:44 13 A. I do.

15:41:45 14 Q. Okay. And this was previously marked as
15:41:50 15 Exhibit 178.

15:41:53 16 And so do you recognize this document?

15:41:57 17 A. I do.

15:41:58 18 Q. And Ms. Hansen mentioned that your office
15:42:02 19 participated in a SAVE tutorial.

15:42:06 20 Did you participate in that tutorial?

15:42:08 21 A. Yes.

15:42:09 22 Q. Okay. Was this guidance part of that tutorial?

15:42:15 23 A. I cannot say for certain. What I recall about the
15:42:22 24 tutorial was they went through how to look up a voter's
15:42:29 25 citizenship status. I don't recall them talking about

15:42:35 1 initiating a case involving a fraudulent document. They
15:42:40 2 provided this information separate from the actual
15:42:46 3 tutorial.

15:42:50 4 Q. Okay. So does this document address what to do if
15:42:57 5 you receive a document that might be a fraudulent
15:43:02 6 immigration document?

15:43:08 7 A. Yes, I would say that, just looking at it, that's
15:43:15 8 what it does.

15:43:18 9 Q. And so is -- have you ever encountered people
15:43:21 10 submitting fraudulent naturalization documents or other
15:43:25 11 immigration-related documents?

15:43:27 12 A. No.

15:43:34 13 Q. Okay. And then Ms. Hansen mentioned that -- and I
15:43:38 14 think you mentioned as well that your office takes
15:43:41 15 naturalization documents at face value; is that right?

15:43:44 16 A. Yes.

15:43:45 17 Q. And in your view, is that consistent with this
15:43:48 18 guidance?

15:43:51 19 MS. LANG: Objection. Lack of foundation.

15:43:57 20 THE WITNESS: I -- I don't have -- I don't
15:43:59 21 know.

15:44:00 22 BY MR. HORLEY:

15:44:01 23 Q. Okay. But there is a possibility that someone
15:44:04 24 could submit a fraudulent naturalization document?

15:44:09 25 MS. LANG: Objection. Lack of foundation.

15:44:11 1 Calls for speculation.

15:44:14 2 THE WITNESS: I don't know.

15:44:15 3 BY MR. HORLEY:

15:44:18 4 Q. Okay. That is all I have on that one. Just a few
15:44:21 5 more questions for you. Thank you for your patience.

15:44:25 6 So I just want to ask a few more questions
15:44:28 7 here.

15:44:29 8 If you received information from MVD that
15:44:31 9 someone was not a U.S. citizen, would you consider that a
15:44:34 10 reason to believe that the person was not a U.S. citizen?

15:44:37 11 A. It's -- it's a reason to follow up with the voter
15:44:46 12 and make sure we get proof of citizenship.

15:44:51 13 Q. And same question for SAVE.

15:44:54 14 If you -- if the SAVE check showed that
15:44:56 15 someone was not a citizen, would that be a reason to
15:44:58 16 believe that someone was not a U.S. citizen?

15:45:02 17 A. It would be a reason to follow up with the voter
15:45:06 18 and get proof of citizenship.

15:45:09 19 Q. And you mentioned -- and Ms. Hansen also discussed
15:45:15 20 the jury questionnaire process. And -- that, you know, you
15:45:21 21 received these reports that -- where someone says they were
15:45:24 22 not a U.S. citizen. And Ms. Hansen indicated that you
15:45:27 23 might have more information on what happens next in your
15:45:30 24 office when you get those reports.

15:45:32 25 Could you just walk me through that process?

15:45:38 1 A. We have only started receiving those lists
15:45:45 2 recently. And then we -- we used to receive notifications
15:45:53 3 a long time ago and that's where the involuntary
15:45:57 4 cancellations come from. I don't see them every day, but
15:46:02 5 what we do is we send them a letter letting them know that
15:46:09 6 they need to confirm with us whether or not they're a
15:46:13 7 citizen and that's when they go into involuntary
15:46:18 8 cancellation status.

15:46:21 9 Q. Understood. So if they -- if they get back to you
15:46:25 10 and say, "Yes, I am a U.S. citizen," is them saying that
15:46:29 11 enough or do you require some DPOC or other proof?

15:46:35 12 A. We -- we will -- I believe we will require DPOC in
15:46:46 13 that situation.

15:46:52 14 Q. Okay. I think I am at my last question.

15:47:00 15 So last question is on the topic of
15:47:03 16 birthplace. So Ms. Hansen mentioned you might know a
15:47:08 17 little bit about this.

15:47:09 18 If someone called into your office and you
15:47:13 19 needed to verify their identity, could you use their
15:47:16 20 birthplace listed on the form as a way to verify that
15:47:19 21 identity?

15:47:23 22 A. We could use it to verify we're pulling up the
15:47:28 23 correct person, but that's after we ask for their name and
15:47:31 24 their date of birth at least. If it's a common name, we
15:47:38 25 could ask them that, but it's not specifically in any

15:47:42 1 instructions for our staff to ask for that.

15:47:45 2 Q. Okay. Could you use it as, like, a sort of

15:47:48 3 security question to make sure that the person on the other

15:47:50 4 end of the line is who they say they are?

15:47:53 5 A. We could.

15:47:54 6 Q. Does your office ever do that?

15:47:57 7 A. No, not that I'm aware of.

15:48:00 8 Q. Okay.

15:48:01 9 MR. HORLEY: That is all my questions. Thank
15:48:03 10 you very much.

15:48:05 11 THE WITNESS: Thank you.

15:48:05 12

15:48:05 13 EXAMINATION

15:48:05 14 BY MR. LANGHOFER:

15:48:10 15 Q. Hi, Donna My name is Kory Langhofer, and I'm --
15:48:12 16 I represent the RNC in this. I think I've only got two
15:48:15 17 questions for you because we got to almost everything else
15:48:18 18 before.

15:48:18 19 So the first question was: When you all send
15:48:22 20 out the notices to someone who has submitted a state form
15:48:26 21 and doesn't have DPOC saying, "Hey, we still need your
15:48:31 22 DPOC," what percentage of them respond and provide the
15:48:37 23 DPOC?

15:48:40 24 A. I -- I could not say offhand. I would have to
15:48:47 25 compare the voter list that -- I mean, we have provided the

15:48:53 1 federal-only voter list. I would have to go through and
15:48:58 2 see, like, a period of time from one period to the next.
15:49:07 3 But I -- I don't even want to speculate on how many without
15:49:13 4 actually looking at our database and giving a concrete
15:49:17 5 answer.

15:49:17 6 Q. Do you know whether it would be more or less than
15:49:19 7 half?

15:49:20 8 A. I -- if I had to say, I would say less than half.

15:49:25 9 Q. Well, if it's not too much trouble, if that's the
15:49:30 10 sort of data that you can pull easily, it would be nice to
15:49:33 11 get that and follow up. I don't think we need to reconvene
15:49:37 12 everyone for that, obviously, though.

15:49:38 13 The second question -- let me find it in my
15:49:42 14 notes here. I think that Ms. Hansen suggested we ask this
15:49:45 15 of you.

15:50:04 16 MR. LANGHOFER: In fact, it looks to me like
15:50:10 17 Tim already asked my second question. So you get off easy
15:50:14 18 today. Thanks very much.

15:50:15 19 Are there any other questions on the defense
15:50:18 20 side?

15:50:23 21 MR. MORGAN: Nothing from the secretary of
15:50:27 22 state.

15:50:27 23 MR. LANGHOFER: All right. Any redirect from
15:50:29 24 the plaintiffs?

15:50:31 25 MR. ATKINS: I have just one follow-up

15:50:33 1 question.

15:50:33 2

15:50:34 3 FURTHER EXAMINATION

15:50:38 4 BY MR. ATKINS:

15:50:39 5 Q. Just to clarify, the checkbox requirement on the
15:50:48 6 federal form, isn't it the case that the EPM provides that
15:50:58 7 failure to answer the checkbox or providing a "no" answer
15:51:03 8 does not invalidate the form so long as they swear or
15:51:07 9 affirm their citizenship in Box 9 of the federal form?

15:51:16 10 A. I would have to look at the actual wording. My
15:51:21 11 understanding, without looking at that, is that it's
15:51:25 12 specifically about the checkbox. If it -- if it was not
15:51:32 13 checked but DPOC was provided, then that's enough to make
15:51:39 14 them a full voter.

15:51:41 15 Q. Can we please look at Petty Exhibit 6, which is
15:51:45 16 the 2019 EPM.

15:51:55 17 A. Okay. I am looking at the "Failure to Properly
15:51:59 18 Answer Citizenship Question" section.

15:52:03 19 Q. If you could just read that -- that first
15:52:06 20 paragraph.

15:52:09 21 A. "A registrant's failure to answer the citizenship
15:52:12 22 question or 'no' answer to the citizenship question on the
15:52:16 23 State or Federal Form does not invalidate the form so long
15:52:21 24 as there is some other appropriate indicator that the
15:52:23 25 registrant is a U.S. citizen."

15:52:27 1 Do you want me to go on?

15:52:28 2 Q. I guess, the part that's of interest to me is down
15:52:34 3 below.

15:52:34 4 It says, quote, "Other appropriate indicators
15:52:37 5 of U.S. citizenship include providing valid DPOC," which is
15:52:42 6 consistent with your answers, "or a signature
15:52:46 7 swearing/affirming that the registrant is a U.S. citizen
15:52:50 8 (e.g., Box 9 on the Federal Form)."

15:52:53 9 So I guess that's what I'm referring to where
15:52:58 10 it seems that the EPA is -- or the EPM is instructing your
15:53:03 11 office to not reject a form for failure to complete the
15:53:08 12 checkbox so long as they swear or affirm their citizenship
15:53:13 13 in Box 9.

15:53:16 14 A. Okay. That makes sense to me now that you said
15:53:19 15 that.

15:53:22 16 Q. So is it perhaps the case that your office has
15:53:27 17 been placing federal form applicants into suspense for
15:53:36 18 failure to complete the checkbox unnecessarily?

15:53:42 19 A. That is possible, yes.

15:53:44 20 Q. But you would agree with me that, pursuant to this
15:53:48 21 paragraph of the EPM, it would appear that so long as they
15:53:52 22 complete the citizenship affirmation in Box 9, their
15:53:57 23 failure to complete the checkbox or to mark "no" is not
15:54:01 24 grounds for invalidation?

15:54:03 25 A. Yes, that makes sense.

15:54:08 1 MR. ATKINS: Okay. Thank you. I don't have
15:54:09 2 any other questions.

15:54:16 3 MR. LANGHOFER: Rose, read and sign?

15:54:19 4 MS. WINKELER: What's that?

15:54:20 5 MR. LANGHOFER: Are you guys going --

15:54:20 6 MS. WINKELER: Oh, read and sign, yes.

15:54:22 7 Sorry.

15:54:22 8 THE VIDEOGRAPHER: We are off the record.
15:54:23 9 Time on the video monitor is 3:54 p.m. This ends Volume 1,
15:54:29 10 Media Number 1, in the 30(b)(6) deposition of Coconino
15:54:34 11 County Recorder, by Donna Casner.

12 (The proceedings concluded at 3:54 p.m.)

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DONNA CASNER

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1 STATE OF ARIZONA)
COUNTY OF MARICOPA)

2

3 BE IT KNOWN that the foregoing deposition was taken
4 by me pursuant to stipulation of counsel; that I was then
5 and there a Certified Court Reporter in the State of
6 Arizona, and by virtue hereof authorized to administer an
7 oath; that the witness before testifying was duly sworn by
8 me to testify to the whole truth; pursuant to request,
9 notification was provided that the deposition is available
10 for review and signature; that the questions propounded by
11 counsel and the answers of the witness thereto were taken
12 down by me in shorthand and thereafter transcribed into
13 typewriting under my direction; that the foregoing pages
14 are a full, true and accurate transcript of all the
15 proceedings had upon the taking of deposition, all done to
16 the best of my skill and ability.

17 I FURTHER CERTIFY that I am in no way related
18 to nor employed by any parties hereto; nor am I in any
19 way interested in the outcome thereof.


20 Dated at Phoenix, Arizona, this 8th day of
21 September, 2023.

22

23

24

25


CINDY MAHONEY, RPR, RMR NO. 50680

<p>Exhibits</p> <p>180 Casner Exhibit 2:13 31:21</p> <p>181 Casner Exhibit 2:15 37:9,10</p> <p>1 7:3 47:9,10</p> <p>1,167 10:16</p> <p>100 28:14</p> <p>110 7:13</p> <p>15409 38:1</p> <p>16 23:19</p> <p>178 39:15</p> <p>18 38:19</p> <p>180 31:18,21</p> <p>181 37:9,10</p> <p>1st 10:15</p> <hr/> <p style="text-align: center;">2</p> <p>2004 9:11</p> <p>2013 9:7</p> <p>2019 45:16</p> <p>2022 12:2 38:20</p> <p>2023 7:8 10:15</p> <p>2243 11:2,3,23 14:21 17:21 28:18</p> <p>23rd 7:8</p> <p>2492 11:1,23 14:21,23 17:21 19:14 28:18</p> <p>25 33:6</p> <p>2:22-cv-00509-srb 7:7</p> <p>2:33 7:2</p> <hr/> <p style="text-align: center;">3</p> <p>30(b)(6) 7:3 47:10</p> <p>3:02 21:25</p> <p>3:12 22:3</p> <p>3:54 47:9,12</p>	<p style="text-align: center;">4</p> <p>44 34:2</p> <hr/> <p style="text-align: center;">5</p> <p>591 10:16</p> <p>5:30 21:18</p> <hr/> <p style="text-align: center;">6</p> <p>6 45:15</p> <hr/> <p style="text-align: center;">8</p> <p>86 23:23</p> <p>86001 7:14</p> <p>89,000 10:18</p> <hr/> <p style="text-align: center;">9</p> <p>9 45:9 46:8,13,22</p> <hr/> <p style="text-align: center;">A</p> <p>A-NUMBER 18:1</p> <p>accept 15:4 29:20</p> <p>accepted 15:2</p> <p>accurate 9:19</p> <p>Action 8:15</p> <p>active 10:16,18,21</p> <p>actual 10:11 14:13 18:11 40:2 45:10</p> <p>added 23:20</p> <p>addition 27:8</p> <p>additional 15:23 18:14 27:18</p> <p>address 40:4</p> <p>Administration 13:21 20:18,24</p> <p>ADOT 13:19</p> <p>Adrian 7:5 8:7</p> <p>AEVL 23:21,24</p> <p>affect 33:1</p>	<p>affected 23:6</p> <p>affirm 12:8 45:9 46:12</p> <p>affirmation 12:10,17, 25 46:22</p> <p>afternoon 8:23 29:10</p> <p>agree 28:9 46:20</p> <p>agreement 17:2,4,5,7, 19</p> <p>ahead 7:24</p> <p>Alexander 7:17 20:4</p> <p>alien 15:10 17:16 25:9, 19 26:1,11</p> <p>alternative 18:21</p> <p>amount 28:6</p> <p>answers 20:12 46:6</p> <p>anymore 33:14 38:15</p> <p>applicant 12:16 15:18 18:14 27:2</p> <p>applicant's 12:12 19:1 20:19</p> <p>applicants 10:9,10 12:7 46:17</p> <p>applies 37:21</p> <p>approximate 10:11</p> <p>approximately 10:18</p> <p>Arizona 7:6,14 8:1,4,10 22:14 25:10 29:9 36:15</p> <p>aspects 10:5</p> <p>assess 24:3,8</p> <p>Association 21:2</p> <p>assume 25:5</p> <p>Atkins 7:17 8:22 12:15 19:23 20:8,15,16 21:9, 14,21 44:25 45:4 47:1</p> <p>attempted 35:12</p> <p>attention 33:6 34:2</p> <p>attorney 8:1 29:9</p> <p>August 7:8</p> <p>automatic 25:5</p> <p>Avenue 7:13</p>	<p>AVID 13:8,9,11,18 14:10,11,12,13,19 15:1, 5 19:9,10 25:6 27:13 32:1 37:15</p> <p>aware 11:21,24 18:24 19:2,14,24 21:1 28:19 43:7</p> <hr/> <p style="text-align: center;">B</p> <p>Babbitt 7:21,24 8:3</p> <p>back 15:7 27:13,14 33:25 42:9</p> <p>ballot 23:13,14,21,22, 24,25</p> <p>ballots 13:13</p> <p>ballpark 25:14,16</p> <p>based 11:17 16:4</p> <p>basic 11:14</p> <p>basically 10:2 11:18 22:20</p> <p>basis 24:21 25:3</p> <p>Beauregard 8:13</p> <p>begin 22:12</p> <p>begins 7:2</p> <p>behalf 8:7</p> <p>belonged 30:21</p> <p>birth 16:5 29:14 30:12, 25 42:24</p> <p>birthplace 42:16,20</p> <p>bit 16:22 32:6 34:5 42:17</p> <p>blanket 17:5</p> <p>blurry 30:13</p> <p>bottom 12:1</p> <p>box 12:21 34:14 45:9 46:8,13,22</p> <p>brainstorming 15:1</p> <p>break 21:13,15</p> <p>briefly 10:24 20:17 39:9</p> <p>bring 14:14</p>
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UNITED STATES DISTRICT COURT
DISTRICT OF ARIZONA

Mi Familia Vota, et al.,)	
)	
Plaintiffs,)	Case No.
	)	2:22-cv-00509-PHX-SRB
v.	)	(Lead)
)	
Adrian Fontes, in his	)	No. CV-22-00519-PHX-SRB
official capacity as	)	No. CV-22-01003-PHX-SRB
Arizona Secretary of State,	)	No. CV-22-01124-PHX-SRB
et al.,	)	No. CV-22-01369-PHX-SRB
	)	No. CV-22-01381-PHX-SRB
Defendants.	)	No. CV-22-01602-PHX-SRB
	)	No. CV-22-01901-PHX-SRB

AND CONSOLIDATED CASES.

VIDEO-RECORDED VIDEOCONFERENCE 30(b)(6) DEPOSITION OF
COCONINO COUNTY RECORDER, REPRESENTED BY PATTY HANSEN

Flagstaff, Arizona

August 23, 2023

Prepared by:
CINDY MAHONEY, RPR, RMR
Certified Court Reporter
Certificate No. 50680



1	I N D E X		
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1 VIDEO-RECORDED VIDEOCONFERENCE 30(b)(6)
 2 DEPOSITION OF COCONINO COUNTY RECORDER, REPRESENTED BY
 3 PATTY HANSEN, commenced at 9:15 a.m. on August 23, 2023, at
 4 Flagstaff, Arizona, before Cindy Mahoney, RPR, RMR (via
 5 videoconference), Arizona Certified Court Reporter No.
 6 50680.

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24 ALSO PRESENT:

25 Donna Casner; Jean Roof; Joann Munoz; Richard Colwell;
Colleen Connor; Gareth Fowler; Daniel Rohan, Videographer

1 TRANSCRIPT OF PROCEEDINGS

2
09:15:09 3 THE VIDEOGRAPHER: We are on the record.
09:15:10 4 Time on the video monitor is 9:15 a.m. Here begins
09:15:16 5 Volume 1, Media Number 1, in the 30(b)(6) deposition of
09:15:20 6 Coconino County Recorder, by Patty Hansen and Donna Casner,
09:15:26 7 in the matter of Mi Familia Vota, et al., v. Adrian Fontes,
09:15:31 8 et al., in the United States District Court, District of
09:15:36 9 Arizona, Case Number 2:22-cv-00509-SRB.

09:15:44 10 Today's date is August 23rd, 2023. Our court
09:15:48 11 reporter is Cindy Mahoney. I am Daniel Rohan, a certified
09:15:53 12 legal videographer. We both represent Coash Court
09:15:57 13 Reporting & Video.

09:15:57 14 This video deposition is taking place at
09:16:00 15 Coconino County Recorder's Office, 110 East Cherry Avenue,
09:16:05 16 Flagstaff, Arizona 86001.

09:16:08 17 Counsel, please identify yourselves and state
09:16:10 18 whom you represent.

09:16:12 19 MR. ATKINS: Good morning. My name is
09:16:14 20 Alexander Atkins. I'm with Elias Law Group, and I
09:16:18 21 represent Mi Familia Vota and Voto Latino, plaintiffs in
09:16:22 22 the case.

09:16:24 23 MS. WINKELER: Rose Winkeler, Flagstaff Law
09:16:32 24 Group. I represent Coconino County recorder Patty Hansen.

09:16:36 25 MR. HERRERA: Ernest Herrera, one of the

09:16:44 1 counsel for plaintiffs -- Promise Arizona plaintiffs.

09:16:48 2 MR. HORLEY: Tim Horley with the State of
09:16:53 3 Arizona and the Arizona Attorney General's Office.

09:16:57 4 MR. BABBITT: Christopher Babbitt for the
09:16:59 5 Democratic National Committee and the Arizona Democratic
09:17:01 6 Party.

09:17:04 7 MS. CERVANTES: Erika Cervantes for Promise
09:17:06 8 Arizona plaintiffs.

09:17:07 9 MR. PATTERSON: Beauregard Patterson for
09:17:13 10 Poder Latinx, Chicanos Por La Causa, and Chicanos Por La
09:17:18 11 Causa Action Fund.

09:17:19 12 MR. MORGAN: Craig Morgan for Sherman &
09:17:22 13 Howard, on behalf of the Secretary of State. With me is
09:17:25 14 the state elections director, Colleen Connor.

09:17:28 15 MR. BASILE: And Thomas Basile for the
09:17:37 16 Intervenor-Defendant Republican National Committee.

09:17:49 17 THE VIDEOGRAPHER: It looks like everybody.
09:17:50 18 Can the -- sorry. Was there anyone else?

09:17:55 19 Will the court reporter please swear in the
09:18:00 20 witness.

21 ///

22 ///

23 ///

24 ///

25 ///

1 PATTY HANSEN,
2 the witness herein, being first duly sworn,
3 was examined and testified as follows:
4

09:18:02 5 EXAMINATION

09:18:02 6 BY MR. ATKINS:

09:18:18 7 Q. Good morning, Ms. Hansen. As you just heard, my
09:18:21 8 name is Alex Atkins. I represent the plaintiffs, Mi
09:18:23 9 Familia Vota and Voto Latino, in this lawsuit. And thank
09:18:27 10 you for taking the time to speak with us this morning.

09:18:31 11 A. Good morning.

09:18:33 12 MR. ATKINS: A few things just to get on the
09:18:35 13 record out of the gate; namely, any objections raised by
09:18:42 14 either side will apply to all parties on that side.

09:18:48 15 I also want to note that this 30(b)(6)
09:18:52 16 deposition of Coconino County recorder is -- the witness
09:18:58 17 designated is Ms. Hansen, but there is also Donna Casner,
09:19:07 18 who will be offering testimony after Ms. Hansen.

09:19:11 19 BY MR. ATKINS:

09:19:11 20 Q. Ms. Hansen, if I ask you a question that is more
09:19:15 21 appropriately answered by Ms. Casner, just please let me
09:19:19 22 know that and -- and we can flag it and ask it later when
09:19:22 23 we switch witnesses.

09:19:24 24 Does that make sense?

09:19:25 25 A. Yes.

09:19:26 1 Q. Okay. So as I'm sure you know, there's various
09:19:32 2 plaintiff groups that have brought legal challenges against
09:19:37 3 HB 2492 and HB 2243, and those cases have all been
09:19:42 4 consolidated together into this lawsuit. So I'm going to
09:19:47 5 be doing the initial questioning today, and then when I'm
09:19:49 6 done, counsel for some of the other plaintiff groups and
09:19:54 7 potentially defendants and intervenors will likely have
09:19:58 8 additional questions for you as well.

09:20:00 9 A. Okay.

09:20:01 10 Q. Could you please state your full name for the
09:20:04 11 record.

09:20:04 12 A. Patty Hansen.

09:20:07 13 Q. And what is your current title?

09:20:10 14 A. I'm the Coconino County recorder.

09:20:14 15 Q. And how long have you been the county recorder in
09:20:18 16 Coconino County?

09:20:18 17 A. Since January 2013.

09:20:23 18 Q. Have you held any other roles with the county
09:20:27 19 recorder's office?

09:20:27 20 A. Yes. In 2003 until I became recorder, I was the
09:20:32 21 election administrator in the recorder's office.

09:20:38 22 Q. So you have 20 years of election administration
09:20:41 23 experience in Coconino County; is that correct?

09:20:46 24 A. That is correct.

09:20:46 25 Q. And could you just describe at a high level what

09:20:49 1 your responsibilities are as recorder?

09:20:54 2 A. As recorder, I'm responsible for voter

09:20:58 3 registration, early voting, petition signature

09:21:04 4 verification, also overseeing the official record of

09:21:09 5 property records in the county.

09:21:13 6 Q. Understood.

09:21:14 7 And are you represented by an attorney here

09:21:16 8 today?

09:21:17 9 A. Yes, I am. Rose Winkeler.

09:21:20 10 Q. And she's in the room with you?

09:21:22 11 A. Yes.

09:21:23 12 Q. So before we jump into questions, just a couple of

09:21:30 13 points I want to make sure we're all clear on.

09:21:34 14 You understand that you're testifying under

09:21:36 15 oath today?

09:21:37 16 A. Yes, I do.

09:21:38 17 Q. And do you understand that the court reporter is

09:21:42 18 transcribing this deposition?

09:21:44 19 A. Yes.

09:21:46 20 Q. So with that in mind, and especially because we're

09:21:48 21 here on Zoom, please make sure you answer questions audibly

09:21:53 22 and clearly. Please let me know if you don't understand a

09:21:58 23 question or need me to rephrase or repeat any part of it.

09:22:03 24 A. Okay.

09:22:04 25 Q. If -- if I ask you a question and you answer it,

09:22:08 1 I'll assume that you understood it. So if you don't

09:22:11 2 understand, just please let me know.

09:22:13 3 A. Okay.

09:22:14 4 Q. And so throughout the deposition, attorneys may
09:22:21 5 make objections to questions that are asked of you. So it
09:22:25 6 will help if you just give a short pause after the question
09:22:28 7 is asked before you answer so that any attorneys have an
09:22:32 8 opportunity to object, but you're still able to answer the
09:22:39 9 question despite the objections unless your attorney
09:22:41 10 instructs you not to answer.

09:22:43 11 Does that make sense?

09:22:44 12 A. Yes, it does.

09:22:45 13 Q. Is there any reason today that you aren't able to
09:22:51 14 give full, complete, and accurate testimony?

09:22:55 15 A. No.

09:22:59 16 Q. If at any point during the deposition you need to
09:23:02 17 take a break for any reason, please just let me know. The
09:23:06 18 only thing I ask is that if there's a question pending,
09:23:10 19 we'll finish answering that question and then we can take a
09:23:14 20 break.

09:23:16 21 A. Okay.

09:23:17 22 Q. Have you ever been deposed before?

09:23:21 23 A. Yes.

09:23:22 24 Q. Approximately how many times?

09:23:25 25 A. That, I can't remember. I'm sorry.

09:23:31 1 Q. I take it it's -- it's a significant number,
09:23:34 2 though?

09:23:35 3 A. Yes. I also worked in another -- in two other
09:23:40 4 states and have been involved in lawsuits there.

09:23:45 5 Q. So in terms of depositions having to do with the
09:23:51 6 Coconino County Recorder's Office and specifically voter
09:23:59 7 registration or -- or list maintenance activities, have you
09:24:03 8 been deposed in that capacity on those subjects?

09:24:07 9 A. I believe so. There's been cases like the
09:24:13 10 Gonzalez case and things like that. But I -- I guess I
09:24:19 11 can't say for sure -- remember exactly what the depositions
09:24:23 12 were about.

09:24:24 13 Q. Sure.

09:24:25 14 But you were deposed in the Gonzalez case?

09:24:28 15 A. I believe so.

09:24:33 16 Q. Okay. And just for the record, where are you
09:24:37 17 physically located today?

09:24:39 18 A. In the county recorder's office.

09:24:43 19 Q. And who else is in the room with you?

09:24:46 20 A. My Chief Deputy, Donna Casner, and my legal
09:24:52 21 counsel, Rose Winkeler.

09:24:55 22 Q. And did you bring any materials with you to the
09:24:59 23 deposition?

09:25:00 24 A. Yes.

09:25:01 25 Q. And what are those materials?

09:25:06 1 A. Some notes, copies of the interrogatories, my
09:25:11 2 letter to the governor, and then responses that we sent
09:25:22 3 to -- in regards to the court cases, the discovery request,
09:25:28 4 the responses -- not the actual materials for the
09:25:32 5 discovery, but the responses that we sent along with it.

09:25:36 6 Q. I understand.

09:25:38 7 So I believe you said you have some notes
09:25:40 8 with you. Are you able to describe what those notes are or
09:25:46 9 where they came from?

09:25:46 10 A. Yeah. They were notes that Donna and I had made
09:25:51 11 on who would probably have the most knowledge about the
09:25:56 12 questions that you had sent for the deposition.

09:26:04 13 Q. Okay. All right. Thank you very much.

09:26:06 14 I'd like to introduce as our first exhibit
09:26:12 15 what is labeled in the folder as Exhibit A.

09:26:21 16 You can let me know when you have that
09:26:26 17 document in front of you, Ms. Hansen.

09:26:29 18 A. Yes, I do.

09:26:31 19 Q. Okay.

09:26:31 20 MR. ATKINS: And I'd like to mark this as
09:26:33 21 Exhibit 166.

09:26:36 22 (The document was marked as Exhibit 166
09:26:38 23 for identification.)

09:26:38 24 BY MR. ATKINS:

09:26:38 25 Q. Have you seen this document before today?

09:26:41 1 A. Yes.

09:26:42 2 Q. And what do you understand this document to be?

09:26:49 3 A. Let me see. This is our -- let me see, the notice
09:26:54 4 of deposition for the recorder's office today.

09:27:01 5 Q. And do you understand that you've been designated
09:27:03 6 as a representative to testify on behalf of the Coconino
09:27:10 7 County Recorder's Office as opposed to in your individual
09:27:12 8 capacity?

09:27:13 9 A. Yes.

09:27:15 10 Q. And can we stipulate, therefore, that whenever I
09:27:19 11 say "you" or "your," that that will be the equivalent of
09:27:22 12 saying "your office"?

09:27:25 13 A. Yes, that's fine.

09:27:27 14 Q. And can we also stipulate that unless you specify
09:27:32 15 otherwise, if you use the word "I" or "me," that shall
09:27:38 16 refer to the Coconino County Recorder's Office?

09:27:41 17 A. Okay. Yes.

09:27:43 18 Q. All right. If you can please turn to page 4 of
09:27:52 19 Exhibit 166, the deposition notice.

09:28:01 20 A. Okay.

09:28:02 21 Q. So starting at the bottom of page 4 is a list of
09:28:07 22 28 topics for today's deposition.

09:28:11 23 Did you review this list prior to the
09:28:14 24 deposition today?

09:28:17 25 A. Yes, I did.

09:28:17 1 Q. Now, I understand that there may be topics that

09:28:22 2 Ms. Casner is prepared to address as opposed to you.

09:28:27 3 Are -- are you aware of specific topics that

09:28:30 4 you are not prepared to address today?

09:28:34 5 A. Yes. When it talks about the AVID voter

09:28:38 6 registration system and the specifics for the procedures

09:28:43 7 for the staff in the office, Donna is much more

09:28:49 8 knowledgeable of the forms and she's the one who does the

09:28:53 9 day-to-day supervision of those staff and uses those

09:28:58 10 materials.

09:29:00 11 Q. Understood.

09:29:01 12 So with the exception of those topics, are

09:29:07 13 you prepared to address the remaining topics on the

09:29:10 14 deposition notice?

09:29:11 15 A. Yes, I am.

09:29:14 16 Q. And did you discuss today's deposition with anyone

09:29:20 17 else outside of your office, besides Ms. Winkeler?

09:29:25 18 A. No.

09:29:29 19 Q. And other than the documents that you have with

09:29:32 20 you there, did you review any other documents in

09:29:34 21 preparation for the deposition?

09:29:37 22 A. Yes. I looked over some emails that I had

09:29:45 23 received and I think were part of the discovery.

09:29:49 24 Q. Understood.

09:29:50 25 Okay. I'd like to pull up our next exhibit,

09:29:56 1 which is marked as Exhibit B in the folder. Please let me
09:30:05 2 know when you have that document in front of you.

09:30:12 3 A. It's in front of me.

09:30:14 4 Q. And do you recognize this document?

09:30:17 5 A. Yes, I do.

09:30:18 6 Q. And what do you recognize it to be?

09:30:22 7 A. It's the request for production of documents that
09:30:27 8 we had in our office in relation to the Asian American
09:30:36 9 Native Hawaiian and Pacific Islanders for Equity
09:30:41 10 Coalition's case.

09:30:43 11 Q. Thank you.

09:30:44 12 I know that plaintiff, their name is a bit of
09:30:48 13 a mouthful. We tend to -- to refer to them as simply "the
09:30:52 14 Equity Coalition," so feel free to -- if you need to use
09:30:56 15 their name again.

09:30:58 16 So just to be clear for the record, these are
09:31:02 17 your responses to Equity Coalition's first requests for
09:31:08 18 production, which you submitted on February 10th, 2023; is
09:31:16 19 that correct?

09:31:16 20 A. That is correct.

09:31:17 21 Q. And were you involved in preparing these
09:31:23 22 responses?

09:31:23 23 A. Somewhat. Donna Casner pulled the list and things
09:31:32 24 like that and pulled the materials together.

09:31:37 25 Q. Did you review this response before today's

09:31:44 1
09:31:45 2
09:31:45 3
09:31:51 4
09:31:54 5
09:31:55 6
09:32:01 7
09:32:10 8
09:32:11 9
09:32:15 10
09:32:15 11
09:32:17 12
09:32:17 13
09:32:19 14
09:32:19 15
09:32:20 16
09:32:22 17
09:32:24 18
09:32:24 19
09:32:24 20
09:32:24 21
09:32:30 22
09:32:33 23
09:32:40 24
09:32:49 25

deposition?
A. Yes.
Q. Are there any updates to the responses contained
in this document that you would like to make at this time?
A. No.
Q. Okay. If we can next pull up what's marked as
Exhibit C in the folder.
THE COURT REPORTER: And just for the record,
you wanted to mark the previous one as Exhibit 167?
MR. ATKINS: Yes. Apologies.
THE COURT REPORTER: No problem.
MR. ATKINS: Thank you.
(The document was marked as Exhibit 167
for identification.)
THE WITNESS: It's -- I have it in front of
me.
MR. ATKINS: Okay. Let's please mark this as
Exhibit 168.
(The document was marked as Exhibit 168
for identification.)
BY MR. ATKINS:
Q. And what do you recognize this document to be?
A. This is our response to the first set of
interrogatories for the Mi Familia Vota, et al., case.
Q. Understood.

09:32:50 1 And so for the record, this is Coconino
09:32:54 2 County recorder's answers to Equity Coalition's
09:32:57 3 interrogatories, which you submitted in this case, again,
09:33:01 4 on February 10th, 2023; correct?
09:33:04 5 A. Yes. Correct.
09:33:09 6 Q. Did you verify the responses to the
09:33:12 7 interrogatories in this document?
09:33:15 8 A. Yes, I did.
09:33:18 9 Q. I just want to note for the record that the -- I
09:33:21 10 noticed last night that the verification page for this
09:33:25 11 document has your name but doesn't actually have your
09:33:28 12 signature.
09:33:30 13 So I just want to confirm that you did, in
09:33:34 14 fact, verify these responses and intended to sign the
09:33:38 15 verification page?
09:33:39 16 A. Yes.
09:33:40 17 Q. And were you involved in preparing these
09:33:46 18 responses?
09:33:51 19 A. Yes, working with my legal counsel, Rose Winkeler,
09:33:56 20 and with Donna.
09:33:58 21 Q. And are there any updates or changes that you
09:33:59 22 would like to make to these responses?
09:34:02 23 A. No.
09:34:08 24 Q. All right. Let's please pull up what's marked as
09:34:11 25 Exhibit D in the folder.

09:34:21 1 A. Okay. It's in front of me.

09:34:25 2 MR. ATKINS: Let's please mark this as

09:34:26 3 Exhibit 169.

09:34:26 4 (The document was marked as Exhibit 169

09:34:29 5 for identification.)

09:34:29 6 BY MR. ATKINS:

09:34:31 7 Q. And what do you recognize this document to be?

09:34:35 8 A. This is our response for the request of production

09:34:41 9 of documents that was -- let me see. I don't see a date on

09:34:49 10 here. But I think it was our second request for documents

09:34:56 11 so --

09:34:58 12 Q. So --

09:34:59 13 A. June 29th of 2023.

09:35:03 14 Q. Great.

09:35:05 15 So this is your office's responses to

09:35:08 16 consolidated plaintiffs' request for production submitted

09:35:12 17 June 29, 2023?

09:35:14 18 A. That's correct.

09:35:15 19 Q. And were you involved in preparing these

09:35:19 20 responses?

09:35:23 21 A. Yes.

09:35:23 22 Q. And are there any updates that you would like to

09:35:26 23 make to these responses?

09:35:27 24 A. No.

09:35:28 25 Q. All right.

09:35:33 1 A. We did send supplemental because we found Donna
09:35:38 2 was able to find my comments that I had made to the Arizona
09:35:46 3 Association of Counties in their ALTO system. And I'm
09:35:49 4 sorry. I don't remember which discovery request that would
09:35:51 5 go to. But I know that Rose Winkeler sent those to you.

09:35:58 6 Q. Yes. Confirmed. We received several supplemental
09:36:04 7 documents produced by your office, I believe, on Monday of
09:36:10 8 this week.

09:36:10 9 A. Okay.

09:36:11 10 Q. So other than supplementing the production in
09:36:14 11 conjunction with this response, you don't have any updates
09:36:17 12 or changes to make to the responses in this document?

09:36:23 13 A. No.

09:36:24 14 Q. All right. Just one more of these. If we can
09:36:26 15 please pull up what's marked as Exhibit E.

09:36:34 16 A. Okay. And this is response to interrogatories --
09:36:42 17 the first set of interrogatories that was sent to us.

09:36:48 18 MR. ATKINS: Let's please mark this as
09:36:49 19 Exhibit 170.

09:36:49 20 (The document was marked as Exhibit 170
09:36:54 21 for identification.)

09:36:54 22 BY MR. ATKINS:

09:36:54 23 Q. These are your office's responses to consolidated
09:36:56 24 plaintiffs' interrogatories dated June 29, 2023?

09:37:03 25 A. Yes.

09:37:03 1 Q. And did you verify these responses?

09:37:08 2 A. Yes, I did.

09:37:09 3 Q. Note for the record that the verification is

09:37:13 4 signed on this document by Ms. Hansen.

09:37:17 5 And you were involved in preparing these

09:37:20 6 responses as well?

09:37:24 7 A. Yes. Along with Donna Casner and Rose Winkeler.

09:37:26 8 Q. And do you have any updates or changes to make to

09:37:29 9 these responses?

09:37:30 10 A. No.

09:37:30 11 Q. Okay. Thank you.

09:37:36 12 Switching gears a bit, just want to discuss

09:37:39 13 the responsibilities of your office with respect to voter

09:37:45 14 registration and elections.

09:37:47 15 A. Okay.

09:37:48 16 Q. Can you just say again what your responsibilities

09:37:53 17 are with regard to voter registration and elections?

09:37:59 18 A. Okay. Our office is responsible for processing

09:38:04 19 and maintaining the list of registered voters and also

09:38:10 20 conducting early voting and signature verification for

09:38:18 21 petitions. And that's in regards to elections.

09:38:22 22 Q. And who in your office specifically is responsible

09:38:26 23 for processing voter registration applications?

09:38:30 24 A. The person responsible for supervising the staff

09:38:36 25 and overseeing our voter registration division is Donna

09:38:39 1 Casner.

09:38:41 2 Q. And who is responsible for maintaining the list of

09:38:47 3 registered voters?

09:38:48 4 A. Legally responsible is me.

09:38:51 5 Q. And is there someone else who actually performs

09:38:55 6 that function underneath you?

09:38:57 7 A. Yes. That would be Donna Casner.

09:39:03 8 Q. And who is responsible for and who administers the

09:39:09 9 early voting tasks that you described?

09:39:13 10 A. Donna Casner also does that.

09:39:16 11 Q. And for early voters in Coconino County, am I

09:39:22 12 correct that they can submit their ballots in person?

09:39:27 13 A. Yes, they can.

09:39:29 14 Q. And they can also submit them by mail?

09:39:36 15 A. Yes.

09:39:36 16 Q. Is it also possible for them to submit them

09:39:39 17 through dropboxes?

09:39:40 18 A. Yes. We do have dropboxes in areas of the county.

09:39:45 19 Q. And is Ms. Casner responsible for processing those

09:39:48 20 early ballots?

09:39:51 21 A. Yes, she is.

09:39:52 22 Q. Approximately how many staff members in your

09:40:04 23 office work on voter registration and list maintenance?

09:40:15 24 A. I think five or six.

09:40:16 25 Q. And are those individuals supervised by you and

09:40:21 1 Ms. Casner?

09:40:23 2 A. Yes. And also, our voter registration manager --
09:40:28 3 or supervisor, Sedona Stone.

09:40:31 4 Q. And can you describe that individual's role and
09:40:39 5 how it differs from your own?

09:40:40 6 A. I think Donna would probably be able to give you
09:40:45 7 more information since she directly supervises Sedona, but
09:40:50 8 they, I know, divide duties and that. And Donna -- or
09:40:56 9 Sedona is more working directly with the -- our
09:41:01 10 administrative specialist I's that are actually doing the
09:41:05 11 data entry. She's checking their work. She oversees the
09:41:10 12 function of our Flagstaff Mall office.

09:41:13 13 Q. Are you familiar with the Voter Registry Advisory
09:41:13 14 Committee?

09:41:13 15 A. Voter Registry?

09:41:22 16 Q. Or VRAC?

09:41:25 17 A. Oh, VRAC. I am, yes.

09:41:25 18 Q. And can you just, at a high level, explain what
09:41:28 19 that committee is?

09:41:29 20 A. That committee discusses procedures and also how
09:41:37 21 AVID, the state voter registration system, should function.
09:41:44 22 VRAC was first created to create uniform procedures across
09:41:50 23 the state when we went on the statewide system back in the
09:41:56 24 early 2000s after the Help America Vote Act went into
09:42:01 25 effect.

09:42:05 1 Q. And do you have a role on the VRAC committee?

09:42:08 2 A. I'm a member.

09:42:09 3 Q. And am I correct that VRAC puts out issue papers?

09:42:19 4 A. Yes.

09:42:19 5 Q. And what is the purpose of those issue papers?

09:42:25 6 A. I think the main purpose is to provide uniformity

09:42:28 7 across the counties; that we're doing things in the same

09:42:34 8 manner.

09:42:37 9 Q. And -- and who drafts VRAC issue papers?

09:42:44 10 A. In the past, it was -- the Secretary of State's

09:42:48 11 Office would draft them and then bring them to the

09:42:50 12 committee, and then the committee would vote on them.

09:42:52 13 It seems to me right now that there's some

09:42:56 14 change that the secretary of state would prefer that the

09:42:59 15 VRAC committee come up with the issue papers that they

09:43:03 16 bring forward. But from my recollection, that has not been

09:43:08 17 finalized if that change is going to come about.

09:43:12 18 Q. Understood.

09:43:15 19 So is it fair to say that VRAC works with the

09:43:22 20 secretary's office to try and create uniformity across the

09:43:25 21 county recorders' offices?

09:43:27 22 A. Yes. And it's in how we process registrations and

09:43:35 23 also in how the AVID system works.

09:43:41 24 Q. So I'd like to discuss one of the laws being

09:43:46 25 challenged in this litigation, HB 2492.

09:43:50 1 Are you familiar with that law?

09:43:52 2 A. Yes.

09:43:53 3 Q. And am I correct that your office opposed HB 2492

09:43:59 4 last year?

09:44:01 5 A. Yes.

09:44:03 6 Q. If I can ask you to look at what's marked as

09:44:10 7 Exhibit F in the folder.

09:44:21 8 A. Maybe just a sec. The computer went to sleep.

09:44:27 9 Q. Take your time.

09:44:39 10 A. Okay.

09:44:39 11 Q. So let's mark --

09:44:42 12 A. It's in front of me.

09:44:44 13 Q. Great.

09:44:44 14 And what is this document?

09:44:45 15 A. This is the letter that I sent to Governor Ducey's

09:44:50 16 office asking him to veto 2492.

09:44:55 17 MR. ATKINS: So let's mark this as

09:44:57 18 Exhibit 171.

09:44:57 19 (The document was marked as Exhibit 171

09:45:00 20 for identification.)

09:45:00 21 BY MR. ATKINS:

09:45:01 22 Q. And did you write this letter?

09:45:03 23 A. Yes, I did.

09:45:04 24 Q. If I can direct you to the second paragraph of the

09:45:11 25 letter. You wrote, quote, "I am concerned that the

09:45:15 1 legislation runs afoul of some provisions of the National
 09:45:21 2 Voter Registration Act of 1993 (NVRA) and the U.S. Supreme
 09:45:25 3 Court decision in the Arizona v. Inter Tribal Council of
 09:45:29 4 Arizona . . . Case," with a citation.

09:45:31 5 Did I read that correctly?

09:45:33 6 A. Yes, you did.

09:45:34 7 Q. And does this continue to be your view of 2492
 09:45:40 8 today?

09:45:42 9 MR. HORLEY: Objection. Calls for a legal
 09:45:45 10 conclusion.

09:45:46 11 MR. BASILE: Objection.

09:45:47 12 BY MR. ATKINS:

09:45:48 13 Q. You can answer.

09:45:48 14 A. Yes.

09:45:50 15 Q. If I can next direct you to paragraph 4 at the
 09:45:56 16 bottom of the page.

09:45:59 17 You wrote, quote, "The bill also requires
 09:46:02 18 proof of residence location. This would be very difficult
 09:46:05 19 for Native American voters that reside on the Hopi and
 09:46:10 20 Navajo reservations. Many of the citizens that live on the
 09:46:11 21 reservation do not have a street address. When they
 09:46:13 22 register to vote they put a narrative description of the
 09:46:15 23 location of their residence. This allows us to determine
 09:46:18 24 their voting precinct, school district and hospital
 09:46:22 25 district. They do not have a deed or rental agreement for

09:46:24 1 their residence. Sadly, some of the Native American
 09:46:27 2 citizens do not have access to public utilities so they do
 09:46:31 3 not have utility bills that they could use to prove the
 09:46:34 4 location of their residence. This requirement would make
 09:46:37 5 it extremely difficult for them to register to vote."

09:46:41 6 Did I read that correctly?

09:46:42 7 A. Yes, you did.

09:46:45 8 Q. And does this also continue to be your view today?

09:46:50 9 MR. HORLEY: Same objection.

09:46:55 10 MS. WINKELER: You can go ahead and answer.

09:46:56 11 THE WITNESS: Yes

09:46:57 12 BY MR. ATKINS:

09:46:57 13 Q. And finally, if I can direct you to the fifth
 09:47:00 14 paragraph on the next page, you wrote, quote, "I have
 09:47:05 15 worked in the field of voter registration and election
 09:47:08 16 administration for 35 years, and this bill is trying to
 09:47:11 17 address problems that just do not exist. It will create
 09:47:15 18 barriers for our citizens to have to overcome to exercise
 09:47:19 19 their right to vote," end quote.

09:47:22 20 Did I read that correctly?

09:47:24 21 A. Yes.

09:47:24 22 Q. And does that also continue to be your view today?

09:47:30 23 MR. HORLEY: Same objection.

09:47:32 24 THE WITNESS: Yes, it is.

09:47:33 25 BY MR. ATKINS:

09:47:35 1 Q. What did you mean when you referred to, quote,

09:47:39 2 "problems that just do not exist"?

09:47:43 3 A. I just don't see that we are having people

09:47:47 4 register to vote that don't have a residence in our county.

09:47:56 5 Q. What -- what problems, if any, do you think that

09:48:06 6 HB 2492 is trying to address?

09:48:11 7 MR. HORLEY: Same objection.

09:48:12 8 THE WITNESS: That, I don't know for sure.

09:48:20 9 It -- citizenship questions and also residence. But I

09:48:35 10 can't say what the legislators were trying to accomplish

09:48:41 11 with this.

09:48:42 12 BY MR. ATKINS:

09:48:42 13 Q. And in the final quote of yours from the letter

09:48:44 14 that I read you, you referred to HB 2492 creating barriers

09:48:52 15 for your citizens that they will have to overcome to

09:48:55 16 exercise the right to vote.

09:48:57 17 Can you elaborate at all on what barriers you

09:49:02 18 believe HB 2492 creates for your citizens?

09:49:07 19 A. It's requiring additional activities, producing

09:49:11 20 documents that are not required now, and I don't think

09:49:18 21 really serves a purpose in voter registration.

09:49:24 22 Q. And how does the requirement that voters produce

09:49:29 23 additional documents create a barrier that they have to

09:49:33 24 overcome?

09:49:35 25 MR. HORLEY: Same objection.

09:49:38 1 THE WITNESS: If they don't have an Arizona
09:49:40 2 driver's license or state ID, they're going to have to
09:49:45 3 somehow make copies of the utility bill or a bank statement
09:49:51 4 or certificate of Indian blood or tribal ID, and it's just
09:50:00 5 an additional requirement that is -- they're going to have
09:50:06 6 to meet to be able to register to vote.

09:50:11 7 BY MR. ATKINS:

09:50:12 8 Q. If I can finally direct you to the last paragraph
09:50:14 9 of your letter, you wrote, quote, "These are just a few of
09:50:20 10 the concerns that I have with HB2492."

09:50:28 11 Did I read that correctly?

09:50:28 12 A. Yes.

09:50:31 13 Q. Are there additional concerns that you have with
09:50:37 14 2492 that you did not address in this letter?

09:50:40 15 A. Yes, in regards to citizenship. And I -- I do
09:50:49 16 apologize. I get 2492 and 2243 mixed up, but --

09:50:56 17 Q. I'll admit that I do as well sometimes, so no need
09:51:00 18 to apologize.

09:51:02 19 A. So requiring a box to be met on citizenship, which
09:51:08 20 is -- I believe is in 2492, it -- that we would reject a
09:51:14 21 form because it's not marked is contrary to -- if you
09:51:20 22 provided proof of citizenship, it seems to be that it's
09:51:24 23 just an error in filling out the form. It's not an
09:51:29 24 error -- or it's not proving that you're not a U.S. citizen
09:51:33 25 to vote.

09:51:35 1 So there's things like that that

09:51:39 2 procedurally -- and having to cancel registrations that --

09:51:44 3 within a certain time period goes against some of the NVRA

09:51:52 4 requirements. Because the information is secondhand

09:51:54 5 information, they should be made inactive and kept on the

09:51:58 6 rolls for two federal general elections and then canceled.

09:52:02 7 Q. Understood.

09:52:03 8 So in addition to the concerns you raised in

09:52:07 9 your letter, you also have concerns about the citizenship

09:52:12 10 checkbox requirement; correct?

09:52:16 11 A. Yes.

09:52:16 12 Q. And you also have concerns about the requirement

09:52:21 13 that certain registrations are canceled within a period of

09:52:27 14 time?

09:52:27 15 A. Yes.

09:52:30 16 Q. We'll likely discuss both of those issues further

09:52:33 17 a little later in the deposition, but before we move on,

09:52:36 18 are there any additional concerns other than those two and

09:52:41 19 the ones in the letter that you have with either law?

09:52:49 20 A. Not that I can think of it right now.

09:52:51 21 Q. Okay. So let's talk a little bit about the other

09:52:53 22 law being challenged, HB 2243. If we can please look at

09:53:02 23 what's marked as Exhibit G.

09:53:18 24 A. Okay.

09:53:19 25 Q. And do you recognize this document?

09:53:22 1 A. Yes, I do.

09:53:23 2 Q. And can you describe what it is?

09:53:26 3 A. It's the comments that I put into the AACo ALTO

09:53:32 4 system in regards to what position -- or in regards to the

09:53:40 5 Bill 2243.

09:53:45 6 MR. ATKINS: So let's please mark this

09:53:47 7 document as Exhibit 172.

09:53:47 8 (The document was marked as Exhibit 172

09:53:50 9 for identification.)

09:53:50 10 BY MR. ATKINS:

09:53:57 11 Q. And AACo refers to the Arizona Association of

09:54:02 12 Counties; correct?

09:54:03 13 A. That is correct.

09:54:04 14 Q. And can you just briefly describe what AACo is?

09:54:10 15 A. AACo is an organization made up of elected county

09:54:17 16 officials across the state. And they do the majority of

09:54:23 17 our lobbying at the legislature for each of the affiliates.

09:54:31 18 The recorders' association is an affiliate of AACo.

09:54:41 19 Q. Thank you.

09:54:42 20 So at the bottom of the page of this

09:54:44 21 document, there's a box that starts on the first page and

09:54:48 22 continues onto the second page. This box contains your

09:54:54 23 analysis and comments on HB 2243; right?

09:54:58 24 A. That is correct.

09:54:59 25 Q. So at the top of the second page under "Projected

09:55:05 1 Impact," your comment reads, quote, "I don't think this
09:55:09 2 accomplishes anything. We follow list maintenance
09:55:12 3 requirements which identify people that have moved out of
09:55:15 4 state. We end up canceling them through the list
09:55:18 5 maintenance procedures. Adding a sentence to the voter
09:55:22 6 registration form isn't going to do anything."
09:55:27 7 Did I read that correctly?
09:55:28 8 A. Yes, you did.
09:55:29 9 Q. And does that continue to be your view today?
09:55:35 10 MR. HORLEY: Objection to the extent it calls
09:55:37 11 for a legal conclusion.
09:55:40 12 THE WITNESS: Yes.
09:55:40 13 BY MR. ATKINS:
09:55:44 14 Q. All right. If we can now look at what's marked as
09:55:48 15 Exhibit H.
09:55:48 16 A. It's in front of me.
09:55:48 17 (The document was marked as Exhibit 173
09:55:48 18 for identification.)
09:55:48 19 BY MR. ATKINS:
09:56:10 20 Q. And am I correct that this is -- also comments
09:56:13 21 that you've provided to AACo, but this time on HB 2617?
09:56:20 22 A. Yes.
09:56:23 23 Q. And am I correct that HB 2617 was a predecessor
09:56:28 24 bill to HB 2243?
09:56:31 25 A. Yes, I believe so.

09:56:34 1 Q. So again, the box at the bottom of the page
09:56:39 2 contains your comments and analysis on HB 2617; right?
09:56:45 3 A. Yes, it does.
09:56:46 4 Q. So under "Projected Impact," your comment reads,
09:56:51 5 quote, "It appears that this legislator thinks we do not
09:56:58 6 verify U.S. citizenship. We already have a process in
09:57:00 7 place that checks a registrant's citizenship. Checking if
09:57:04 8 someone has a driver's license in another state should not
09:57:07 9 trigger a cancellation in our state. This would cause
09:57:11 10 major problems for military voters. This also goes against
09:57:15 11 the NVRA and will result in us being tied up in a court
09:57:19 12 case. This is another example of a solution to a problem
09:57:22 13 that does not exist. It is too bad the legislator doesn't
09:57:27 14 take the time to read the elections procedures manual,
09:57:30 15 state statutes and federal laws to understand what is
09:57:33 16 already required and in place."
09:57:37 17 Did I read that correctly?
09:57:38 18 A. Yes, you did.
09:57:40 19 Q. And does that statement continue to represent your
09:57:45 20 perspective today?
09:57:46 21 MR. HORLEY: Same objection.
09:57:48 22 MR. BASILE: Objection.
09:57:48 23 THE WITNESS: Yes, it does.
09:57:50 24 BY MR. ATKINS:
09:57:52 25 Q. Can you briefly explain how your office already

09:57:56 1 verifies U.S. citizenship?

09:57:59 2 A. U.S. citizenship is verified through the AVID

09:58:04 3 system, which runs it against the Motor Vehicle Division's

09:58:10 4 database. And we also will verify if they have included

09:58:19 5 documentation, such as a photocopy of their passport, or if

09:58:27 6 they have a state driver's license that has -- indicates

09:58:32 7 that they have proven citizenship in that state and also

09:58:37 8 through the state program.

09:58:41 9 Q. Understood.

09:58:42 10 So to summarize, there are a number of

09:58:46 11 different documents or pieces of information that a

09:58:51 12 registrant can provide to your office that you then use to

09:58:55 13 verify their citizenship; is that right?

09:58:58 14 A. Yes, that is correct. I forgot to mention also

09:59:02 15 birth certificate.

09:59:04 16 Q. And based on your comments in the document we're

09:59:10 17 looking at, is it your position that those existing methods

09:59:15 18 for verifying citizenship are already sufficient?

09:59:22 19 A. Yes, it is.

09:59:24 20 Q. And so is it your position that the additional

09:59:31 21 requirements for citizenship verification proposed in

09:59:37 22 HB 2617 are unnecessary?

09:59:43 23 A. Yes.

09:59:44 24 Q. In your statement, you referred to this bill being

09:59:52 25 "another example of a solution to a problem that does not

09:59:55 1 exist."

09:59:57 2 Can you explain what you meant by that

10:00:00 3 statement?

10:00:03 4 A. In my now 36 years of doing voter registration, I

10:00:10 5 have not seen any proof that non-U.S. citizens are

10:00:14 6 registering and voting.

10:00:23 7 Q. Returning to HB 2492, has your office discussed

10:00:29 8 how to interpret that law with anyone?

10:00:33 9 A. Just with each other a little bit. Mainly what

10:00:39 10 we're doing is waiting for guidance from the Secretary of

10:00:45 11 State's Office.

10:00:45 12 Q. So when you discussed it amongst yourselves in the

10:00:51 13 office, what specifically did you discuss?

10:00:56 14 A. Questions about federal-only voters, as I recall,

10:01:05 15 versus congressional-only voters. Also, we don't -- none

10:01:15 16 of us seem to know the additional database they talk about

10:01:19 17 running the information against. I think it's something

10:01:23 18 with public health.

10:01:25 19 And that's about it. The main thing is that

10:01:28 20 we find the legislation confusing, and we're waiting for

10:01:32 21 guidance from the Secretary of State's Office.

10:01:36 22 Q. And is your office currently enforcing any

10:01:40 23 provisions of HB 2492?

10:01:43 24 A. No.

10:01:44 25 Q. And is your office handling voter registration

10:01:51 1 applications differently as a result of HB 2492?

10:01:57 2 A. No.

10:01:58 3 Q. Similarly, has your office discussed how to

10:02:06 4 interpret HB 2243?

10:02:13 5 A. Just like I said with -- previously for 2492.

10:02:21 6 Q. And is it the case that you are also not currently

10:02:24 7 enforcing any provisions of 2243?

10:02:27 8 A. That is correct.

10:02:28 9 Q. To your knowledge, are all the counties in Arizona
10:02:36 10 adhering to the secretary of state's advice on what to
10:02:41 11 implement and what not to implement from those laws at this
10:02:44 12 time?

10:02:45 13 MR. HORLEY: Objection; foundation.

10:02:47 14 THE WITNESS: That, I cannot say.

10:02:51 15 BY MR. ATKINS:

10:02:52 16 Q. Are you aware of any counties that are currently
10:02:55 17 implementing any provisions of 2492?

10:03:00 18 MR. HORLEY: Same objection.

10:03:00 19 THE WITNESS: I have not discussed it with
10:03:03 20 any of the counties.

10:03:07 21 BY MR. ATKINS:

10:03:15 22 Q. All right. I'd like to have you look at an
10:03:19 23 existing exhibit from a previous deposition. This is Petty
10:03:24 24 Exhibit 6.

10:03:38 25 A. Which letter is it?

10:03:39 1 Q. So --

10:03:41 2 A. I'm sorry.

10:03:41 3 Q. So this exhibit is not in the folder that I

10:03:45 4 emailed. It's underneath -- it's within the -- the Dropbox

10:03:50 5 link that was also in my email.

10:03:50 6 A. Oh.

10:04:39 7 Q. Are you all able to pull that up, or should we

10:04:42 8 take a short break?

10:04:43 9 A. I think we should take a short break.

10:04:46 10 MR. ATKINS: All right. Can we please go off

10:04:48 11 the record.

10:04:49 12 THE VIDEOGRAPHER: Of course. We are off the

10:04:55 13 record. Time on the video monitor is 10:04 a.m.

10:05:09 14 (A recess ensued.)

10:12:29 15 THE VIDEOGRAPHER: We are on the record.

10:12:44 16 Time on the video monitor is 10:12 a.m.

10:12:48 17 BY MR. ATKINS:

10:12:52 18 Q. Ms. Hansen, do you now have Petty Exhibit 6 in

10:12:56 19 front of you?

10:12:58 20 A. Yes.

10:12:59 21 Q. And can you tell me what this document is?

10:13:03 22 A. It's the 2019 Elections Procedures Manual.

10:13:08 23 Q. And is that also referred to as the EPM?

10:13:13 24 A. Yes, it is.

10:13:15 25 Q. Is the 2019 EPM still the operative version of the

10:13:21 1 Elections Procedures Manual?

10:13:23 2 A. Yes.

10:13:26 3 Q. Is your office required to follow the EPM?

10:13:32 4 A. Yes, we are.

10:13:34 5 Q. Are all parts of the EPM binding on your office?

10:13:40 6 MR. MORGAN: Objection. Calls for a legal

10:13:44 7 conclusion.

10:13:44 8 THE WITNESS: Yes.

10:13:45 9 BY MR. ATKINS:

10:14:00 10 Q. Can binding guidance be conveyed to your office by

10:14:05 11 the Secretary of State's Office by any other means other

10:14:08 12 than the EPM?

10:14:10 13 MR. HORLEY: Same objection.

10:14:14 14 THE WITNESS: Not that I'm aware of. They

10:14:17 15 will share with us best practices and guidances. Like, if

10:14:24 16 there's a court decision, they will also provide an

10:14:26 17 addendum to the EPM if it's needed, but that would be

10:14:33 18 binding.

10:14:34 19 BY MR. ATKINS:

10:14:36 20 Q. Has -- has your office seen the draft 2023 EPM?

10:14:43 21 A. Yes, we have.

10:14:44 22 Q. And have you provided comments on the 2023 EPM?

10:14:50 23 A. Yes. The only comment I think we provided was in

10:14:55 24 regards to including forms -- if we were going to include

10:15:01 25 all the forms in the appendix.

10:15:09 1 Q. Did you provide any comments on the 2023 EPM
10:15:14 2 concerning HB 2492 or HB 2243?

10:15:20 3 A. No, not that I recall.

10:15:23 4 Q. If we can please look at what's marked as I in the
10:15:35 5 potential exhibits folder.

10:15:41 6 A. Okay.

10:15:41 7 (The document was marked as Exhibit 174
10:15:41 8 for identification.)

10:15:42 9 BY MR. ATKINS:

10:15:42 10 Q. Do you recognize this document?

10:15:46 11 A. Not as a document.

10:15:51 12 Q. What do you recognize it as?

10:15:53 13 A. It says it's part of the Teams chat with the
10:15:59 14 discussion -- I guess, a discussion with Secretary of
10:16:07 15 State's Office. I don't know if it's from the Hobbs
10:16:12 16 administration or the Fontes administration.

10:16:16 17 Q. Would you like to take a moment to -- to look at
10:16:20 18 the document and see if it's familiar to you?

10:16:22 19 A. Sure.

10:16:29 20 Oh, it must be from July 18th of this year.
10:16:33 21 So it's the Fontes.

10:16:40 22 Q. So am I -- am I correct that this is a chat log
10:16:44 23 from a Microsoft Teams meeting with the secretary's office
10:16:49 24 to discuss the 2023 EPM?

10:16:54 25 A. I assume so, yes.

10:16:59 1 Q. Did your office participate in this meeting?

10:17:01 2 A. Yes, we did.

10:17:02 3 Q. Did you participate in the meeting?

10:17:06 4 A. I think so.

10:17:08 5 Q. Do you have any recollection of what was discussed

10:17:12 6 during this meeting?

10:17:15 7 A. Not specific to this. We've had several Teams

10:17:19 8 meetings.

10:17:21 9 Q. If you can turn to the fourth page of the

10:17:28 10 document. At the top of the page, it says, "Pinal agrees!"

10:17:37 11 A. Okay.

10:17:38 12 Q. So just underneath that, do you see a message with

10:17:46 13 your name from July 18th at 1:50 p.m.?

10:17:51 14 A. Yes.

10:17:52 15 Q. So the message says, quote, "If we have DPOC we

10:18:02 16 should not reject for the box not being checked."

10:18:05 17 Did I read that correctly?

10:18:07 18 A. Yes, you did.

10:18:09 19 Q. And "DPOC" stands for documentary proof of

10:18:14 20 citizenship; right?

10:18:16 21 A. Yes.

10:18:18 22 Q. And do you typically refer to it as DPOC?

10:18:25 23 A. Sometimes. Usually I say "proof of citizenship,"

10:18:31 24 but yeah, DPOC is a common use among the counties.

10:18:37 25 Q. So if I refer to it as DPOC, you'll understand

10:18:39 1 what I'm referring to?

10:18:40 2 A. Yes.

10:18:41 3 Q. Did you write that message that we just read?

10:18:52 4 A. Yes.

10:18:55 5 Q. Can you explain what was being discussed and what

10:18:59 6 you meant by your message?

10:19:03 7 A. I'm assuming that it was in response to talking

10:19:08 8 about if the citizenship box is not checked on the

10:19:15 9 registration form, that we would have to reject the

10:19:21 10 document. But I believe, as I stated earlier, that proof

10:19:25 11 of citizenship should be enough. You shouldn't have to

10:19:31 12 check the box too on the registration form.

10:19:39 13 Q. And do you see underneath your message it says,

10:19:46 14 quote, "like 4"?

10:19:50 15 A. Yes.

10:19:50 16 Q. Do you know what that means?

10:19:54 17 A. I'm thinking that probably is four people liked my

10:19:58 18 comment.

10:20:01 19 Q. Do you know who on this meeting liked your

10:20:05 20 comment?

10:20:05 21 A. No, I don't.

10:20:07 22 Q. Has the Fontes administration provided your office

10:20:22 23 with any other draft guidance or documents beyond the 2023

10:20:29 24 EPM that elaborate on interpretation or implementation of

10:20:36 25 HB 2492 or 2243?

10:20:40 1 A. I don't believe so. I know we had the written
 10:20:47 2 document from the Hobbs administration, Kori Lorick, but I
 10:20:53 3 don't recall receiving anything else from the Fontes
 10:20:57 4 administration so far than what we have in the EPM -- or
 10:21:02 5 draft EPM.

10:21:03 6 Q. And the document that you're referring to from the
 10:21:07 7 Hobbs administration, am I correct that that's the
 10:21:13 8 December 2022 communication that advised the counties not
 10:21:19 9 to implement certain provisions of the laws?

10:21:28 10 A. Yes.

10:21:29 11 Q. Have there been any VRAC proposals made regarding
 10:21:35 12 HB 2492 or 2243?

10:21:39 13 A. I'm sorry, I don't remember. Donna may be able to
 10:21:46 14 remember that better.

10:21:49 15 I have had to miss some meetings in the past
 10:21:52 16 couple months, so I'm not as up to date on what's been
 10:21:59 17 discussed at the meetings.

10:22:02 18 Q. That's fine.

10:22:06 19 Is it possible that there will not be
 10:22:10 20 agreement on a revised EPM and there, thus, will not be a
 10:22:16 21 new operative EPM this year?

10:22:22 22 MR. MORGAN: Form, foundation.

10:22:25 23 THE WITNESS: I -- I don't know. It has to
 10:22:30 24 have agreement between the governor's office, the Attorney
 10:22:34 25 General's Office, and the secretary of state's, from my

10:22:37 1 understanding, but I don't know what kind of discussions of
 10:22:40 2 that are going on. It has happened in the past with not
 10:22:48 3 having an approved new EPM, but I'm hopeful that we will
 10:22:55 4 have a new one.

10:22:56 5 BY MR. ATKINS:

10:22:58 6 Q. If there's not an approved new EPM by this time
 10:23:02 7 next year in 2024, will your office nonetheless be
 10:23:09 8 obligated to enforce HB 2492 and HB 2243?

10:23:17 9 MR. HORLEY: Objection. Calls for legal
 10:23:19 10 conclusion.

10:23:19 11 THE WITNESS: I would need to ask my legal
 10:23:21 12 counsel on that.

10:23:23 13 BY MR. ATKINS:

10:23:27 14 Q. So let's change gears a little bit and talk about
 10:23:29 15 the voter registration process.

10:23:33 16 So in Arizona, voters can register using
 10:23:36 17 either the state voter registration form or what's known as
 10:23:40 18 the federal form; correct?

10:23:43 19 A. Yes.

10:23:44 20 Q. And the state form is prepared by the Secretary of
 10:23:50 21 State's Office; right?

10:23:50 22 A. Yes.

10:23:51 23 Q. Whereas, the federal form is the registration form
 10:23:57 24 that states are required to accept and use to register
 10:24:01 25 voters for federal elections; right?

10:24:05 1 A. Yes.

10:24:06 2 Q. And that requirement comes from the National Voter

10:24:12 3 Registration Act, or NVRA?

10:24:16 4 A. Yes.

10:24:17 5 Q. Am I correct that neither the state form nor the
10:24:21 6 federal form has been updated to reflect any of the new
10:24:25 7 requirements under 2492 or 2243?

10:24:32 8 A. That, I'm not sure on. There was the additional
10:24:36 9 language that if you register to vote in another state,
10:24:41 10 your registration would be canceled in Arizona, as I
10:24:46 11 recall. And I don't know if that's on the new form or not.

10:24:52 12 Q. When you're referring to that new language, is
10:24:56 13 there somewhere where you are aware that that new language
10:25:00 14 is present?

10:25:02 15 A. No. I haven't looked at the registration forms
10:25:08 16 and we have not -- as I recall, we have not ordered new
10:25:12 17 ones yet. Donna Casner would be able to answer that better
10:25:17 18 than me.

10:25:18 19 Q. Is it the case that Arizona voters are registered
10:25:29 20 as either federal-only voters or full-ballot voters?

10:25:35 21 A. Yes.

10:25:36 22 Q. And full-ballot voters can vote in state and local
10:25:49 23 elections in addition to federal elections; correct?

10:25:53 24 A. That is correct.

10:25:54 25 Q. Is whether someone is registered as a federal-only

10:26:05 1 or full-ballot voter dependent on whether the registrant

10:26:08 2 provides DPOC when they register?

10:26:11 3 A. Yes.

10:26:12 4 Q. If I use the term "dual-registration system," can

10:26:22 5 we agree that I'm referring to this system that

10:26:27 6 distinguishes between federal-only and full-ballot voters?

10:26:31 7 A. Yes.

10:26:37 8 Q. Do you know how long the dual-registration system

10:26:40 9 in Arizona has been in place?

10:26:47 10 A. No. It came out of the court -- a court case, and

10:26:51 11 I think it was the ITCA case. I can't re- -- I get the

10:26:55 12 cases mixed up, so I'm sorry.

10:26:59 13 Q. Not a problem.

10:27:00 14 Is it fair to say that the dual-registration

10:27:02 15 system has been in place for multiple presidential election

10:27:08 16 cycles?

10:27:09 17 A. I would say at least two, maybe three.

10:27:15 18 Q. And is it the case that Arizona voters were not

10:27:18 19 always required to provide DPOC when they registered to

10:27:22 20 vote?

10:27:25 21 A. That is correct.

10:27:26 22 Q. And so prior to DPOC being required, voters were

10:27:35 23 registered to vote in state, local, and federal elections

10:27:41 24 regardless of whether they provided DPOC; right?

10:27:44 25 A. That is correct.

10:27:47 1 Q. The dual-registration system doesn't require those
10:27:56 2 voters who had previously registered without DPOC to come
10:28:01 3 back and provide DPOC in order to maintain their
10:28:04 4 full-ballot status, does it?

10:28:08 5 A. No, it does not.

10:28:09 6 Q. But under the dual-registration system, every
10:28:16 7 applicant now has to provide DPOC if they want to vote in
10:28:20 8 state, local elections; right?

10:28:22 9 A. That is correct.

10:28:23 10 Q. Today, there are voters who remain registered as
10:28:29 11 full-ballot voters who never provided DPOC; correct?

10:28:34 12 A. Yes.

10:28:35 13 Q. Do you know approximately how many of those voters
10:28:38 14 there are in Coconino County?

10:28:40 15 A. No, I do not.

10:28:42 16 Q. Do you know approximately how many voters in
10:28:45 17 Coconino County are currently registered as federal-only
10:28:50 18 voters?

10:28:50 19 A. Donna could tell you that. She runs our
10:28:55 20 statistics.

10:29:06 21 Q. What does your office currently do if a voter
10:29:11 22 registration applicant fails to provide DPOC when they
10:29:14 23 register?

10:29:14 24 A. We try to contact them to tell them they need to
10:29:23 25 send us the DPOC to be able to vote for a full ballot, and

10:29:31 1 that's done with a letter. If it's close to the voter
10:29:38 2 registration deadline, we may try to reach them by phone.
10:29:46 3 And we do that prior to every election that we're going to
10:29:51 4 be conducting so they're aware that if they wanted to vote
10:29:54 5 a full ballot, that they will need to supply that DPOC.
10:30:00 6 Q. And to be clear, is a voter in that situation
10:30:05 7 registered to vote in federal elections?
10:30:10 8 A. Yes. Not in the presidential preference election.
10:30:17 9 Q. But all other federal elections other than the
10:30:20 10 presidential preference?
10:30:22 11 A. That's correct.
10:30:25 12 THE WITNESS: Is that correct, Donna? Sorry.
10:30:28 13 BY MR. ATKINS:
10:30:28 14 Q. We can -- we can double-check with her when we
10:30:30 15 switch.
10:30:31 16 A. Yeah, check with her.
10:30:32 17 Q. If we can please look at the document marked J.
10:31:12 18 A. Okay.
10:31:13 19 MR. ATKINS: Let's mark this as Exhibit 175.
10:31:13 20 (The document was marked as Exhibit 175
10:31:16 21 for identification.)
10:31:16 22 BY MR. ATKINS:
10:31:17 23 Q. Is this the letter that you were just referencing
10:31:19 24 that you send to voters who failed to provide DPOC when
10:31:23 25 they register?

10:31:24 1 A. Yes.

10:31:26 2 Q. And this letter has bullet points listing

10:31:31 3 different forms of DPOC that the applicant can provide;

10:31:34 4 right?

10:31:35 5 A. Yes.

10:31:41 6 Q. Let's please look at Document K.

10:31:57 7 A. Okay.

10:32:03 8 MR. ATKINS: Let's please mark this as

10:32:05 9 Exhibit 176.

10:32:05 10 (The document was marked as Exhibit 176

10:32:07 11 for identification.)

10:32:07 12 BY MR. ATKINS:

10:32:13 13 Q. What is this document?

10:32:14 14 A. This, I'll have you refer to Donna. This is part

10:32:21 15 of the letter that she sends out -- or our office sends

10:32:25 16 out, and she's much more familiar with how we deal with

10:32:29 17 that.

10:32:32 18 Q. Sure.

10:32:35 19 But can I just ask you: Is this a form that

10:32:39 20 accompanies the letter we were just looking at?

10:32:42 21 A. Yes.

10:32:42 22 Q. So I'd like to talk now a bit about your office's

10:33:06 23 current practices for applicants who register using the

10:33:11 24 state form.

10:33:13 25 A. Okay.

10:33:14 1 Q. If we could please turn back to Exhibit 169. This
10:33:27 2 is your office's June 29th responses to consolidated
10:33:36 3 plaintiffs' requests for production.

10:33:42 4 A. Okay.

10:33:42 5 Q. If I can please have you look at Request for
10:33:45 6 Production Number 1, which is on the second page.

10:33:51 7 A. Okay.

10:33:52 8 Q. So RFP 1 asks for "All documents and
10:33:58 9 communications from January 1, 2017, to the present
10:34:03 10 relating to the use of birthplace and Citizenship Checkbox
10:34:06 11 on the State Form, including but not limited to whether
10:34:11 12 Voter Registration Applicants were required to provide
10:34:13 13 birthplace or complete the Citizenship Checkbox to be
10:34:17 14 registered to vote, whether Voter Registration Applicants
10:34:21 15 actually did provide such information, how frequently Voter
10:34:26 16 Registration Applicants actually did provide a correct or
10:34:31 17 incorrect birthplace, fail to provide a birthplace,
10:34:35 18 complete or fail to complete the Citizenship Checkbox, or
10:34:38 19 make errors in completing the Citizenship Checkbox, and
10:34:42 20 whether Voter Registration Applicants were rejected for
10:34:45 21 failing to provide this information."

10:34:49 22 The request goes on, but we can stop there.

10:34:51 23 Did I read that correctly?

10:34:53 24 A. Yes.

10:34:57 25 Q. And if I can direct you to your response to RFP 1,

10:35:05 1 it reads, quote, "The Recorder follows the processes and
10:35:08 2 procedures regarding a voter registration applicant's
10:35:11 3 failure to check the citizenship checkbox on a state form
10:35:15 4 set forth in the 2019" EPM "Chapter 1, Section IV(C) (4) and
10:35:24 5 does not use information related to the birthplace of a
10:35:28 6 voter registration applicant to verify such person's
10:35:31 7 eligibility to vote. Further, the Recorder does not
10:35:36 8 maintain a distinct record as to whether Applicants check
10:35:38 9 the Citizenship" checkbox "or provide birthplace
10:35:42 10 information and do not have a way to obtain that
10:35:45 11 information other than reviewing every Application."
10:35:50 12 And the response goes on.
10:35:52 13 But did I read that part correctly?
10:35:53 14 A. Yes, you did.
10:35:57 15 Q. So currently, if an applicant submits a state
10:36:00 16 registration form and provides adequate DPOC but no
10:36:06 17 birthplace information, your office still registers the
10:36:10 18 applicant to vote; correct?
10:36:12 19 A. Yes, that is correct.
10:36:19 20 Q. And is that because birthplace is not currently
10:36:22 21 required to register applicants to vote?
10:36:25 22 A. It's an optional field.
10:36:28 23 Q. So if the applicant does include birthplace
10:36:32 24 information, your office doesn't keep track of that
10:36:38 25 information; correct?

10:36:40 1 A. That's correct.

10:36:42 2 Q. So now, if we can turn to Exhibit 170, which is

10:36:57 3 your office's June 29th, 2023, responses to consolidated

10:37:02 4 plaintiffs' interrogatories.

10:37:08 5 A. Okay.

10:37:09 6 Q. And if we can look at Interrogatory Number 1.

10:37:17 7 So this interrogatory asks you to "Identify

10:37:20 8 and describe each way that Your office uses or would use

10:37:24 9 information related to the birthplace of a Voter

10:37:27 10 Registration Applicant -- including Applicants for whom you

10:37:30 11 already have DPOC -- to verify such person's eligibility to

10:37:34 12 vote, including but not limited to each way in which a

10:37:39 13 Voter Registration Applicant's failure to provide their

10:37:41 14 birthplace affects or would affect Your ability to confirm

10:37:46 15 the Voter Registration Applicant's identity or determine

10:37:49 16 whether that person is eligible to register and vote in

10:37:53 17 Arizona."

10:37:54 18 Did I read that part of the interrogatory

10:37:58 19 correctly?

10:37:58 20 A. Yes, you did.

10:37:59 21 Q. And your response to Interrogatory 1 reads, quote,

10:38:06 22 "The Coconino County Recorder does not currently and does

10:38:10 23 not anticipate using birthplace information to verify or

10:38:14 24 confirm Voter Registration Applicant's identity or

10:38:17 25 eligibility to register and vote in Arizona. Further, the

10:38:21 1 Coconino County Recorder believes this requirement to be in
 10:38:24 2 violation of the Civil Rights Act of 1964," 52 U.S. Code
 10:38:30 3 Section 10101(a)(2)(B), "consistent with guidance provided
 10:38:35 4 by the Arizona Secretary of State's Office in December
 10:38:39 5 of 2022, and unless and until it receives contradictory
 10:38:42 6 guidance from the Secretary of State or a court order
 10:38:45 7 saying otherwise, it does not intend to require provision
 10:38:49 8 of this information to complete voter registration
 10:38:52 9 applications."

10:38:53 10 Did I read that correctly?

10:38:54 11 A. Yes, you did.

10:38:56 12 Q. And is that still your position today?

10:39:00 13 MR. HORLEY: Objection to the extent it calls
 10:39:04 14 for a legal conclusion.

10:39:04 15 THE WITNESS: Yes, I'll still follow the
 10:39:07 16 guidance from Secretary of State's Office.

10:39:10 17 BY MR. ATKINS:

10:39:13 18 Q. So you don't use birthplace information to verify
 10:39:18 19 or confirm voter identity or eligibility; correct?

10:39:23 20 A. That's correct.

10:39:24 21 Q. And you believe that requiring a citizen to
 10:39:31 22 provide birthplace information in order for their
 10:39:35 23 application to be accepted violates the Civil Rights Act;
 10:39:40 24 correct?

10:39:40 25 A. According --

10:39:41 1 MR. HORLEY: Same objection.

10:39:43 2 THE WITNESS: According to what we received

10:39:45 3 from the Secretary of State's Office. I think it was Kori

10:39:52 4 Lorick's memo that she sent out to us.

10:39:52 5 BY MR. ATKINS:

10:39:56 6 Q. So you agree with Kori Lorick's memo in that

10:40:00 7 regard?

10:40:03 8 A. Yes.

10:40:04 9 Q. Do you understand that under HB 2492, a state form

10:40:07 10 applicant must include their place of birth on the form or

10:40:11 11 it cannot be accepted by your office?

10:40:14 12 BY MR. HORLEY: Same objection.

10:40:18 13 THE WITNESS: Yes, I believe that's in there.

10:40:21 14 BY MR. ATKINS:

10:40:22 15 Q. Does your office have any means of accurately

10:40:25 16 confirming that a voter's stated place of birth is

10:40:30 17 accurate?

10:40:33 18 A. No, we do not.

10:40:36 19 Q. Would your office be able to verify a registrant's

10:40:41 20 citizenship using their place of birth?

10:40:45 21 A. Not necessarily. I worked in a state where we

10:40:49 22 were -- where people had to supply birthplace not for proof

10:40:55 23 of citizenship, but we had -- we would have people that

10:40:59 24 would be born in Germany, they were children of military

10:41:05 25 personnel. And just because you're born in another

10:41:09 1 country, it doesn't mean that you are not a U.S. citizen if

10:41:13 2 your parents are U.S. citizens.

10:41:17 3 Q. So is it fair to say that Coconino County cannot

10:41:20 4 use birthplace information to verify whether an applicant

10:41:24 5 is qualified to vote?

10:41:27 6 A. That is correct.

10:41:29 7 Q. And other than the communication from Ms. Lorick
10:41:42 8 in December 2022 and the draft EPM, have you received any
10:41:49 9 guidance from the secretary of state about how to implement
10:41:53 10 the birthplace requirement if the law goes into effect?

10:41:58 11 A. No.

10:42:00 12 Q. Are you aware of any other state that requires
10:42:03 13 birthplace information in order to register to vote?

10:42:09 14 MR. LANGHOFER: Calls for a legal conclusion.

10:42:12 15 THE WITNESS: When I worked in Nebraska,
10:42:14 16 birthplace was one of the info -- pieces of information
10:42:17 17 that was asked for. So I know Nebraska required it. I
10:42:24 18 don't know that they still do or not.

10:42:26 19 BY MR. ATKINS:

10:42:26 20 Q. Do you know if Nebraska would reject voter
10:42:31 21 registration applications that failed to provide birthplace
10:42:33 22 information?

10:42:33 23 MR. LANGHOFER: Same objection.

10:42:39 24 THE WITNESS: That, I cannot remember. I do
10:42:40 25 know we had to follow up with the registrants if they would

10:42:46 1 list another country to find out if their parents were U.S.
10:42:49 2 citizens or if they were naturalized citizens. They did
10:42:54 3 not have to provide proof of that. We would just -- we
10:42:58 4 could verify it either through a letter or over the phone.

10:43:04 5 BY MR. ATKINS:

10:43:04 6 Q. Did Nebraska at that time have a DPOC requirement
10:43:08 7 like Arizona does?

10:43:09 8 MR. LANGHOFER: Same objection.

10:43:12 9 THE WITNESS: No, it did not.

10:43:14 10 BY MR. ATKINS:

10:43:15 11 Q. I'd like to shift gears and speak again about the
10:43:19 12 citizenship checkbox, which appears on both the state form
10:43:25 13 and the federal form; right?

10:43:28 14 A. Yes.

10:43:28 15 Q. And I'm correct that the citizenship checkbox on
10:43:36 16 both forms is -- is not new. It's been there for a while;
10:43:43 17 right?

10:43:43 18 A. Yes, that is correct.

10:43:45 19 Q. But your office hasn't historically rejected voter
10:43:51 20 application forms simply because a person failed to check
10:43:55 21 the checkbox; correct?

10:43:59 22 A. That is correct. If they provided DPOC or if it
10:44:07 23 was a federal-only voter and we could confirm identity for
10:44:15 24 being able to vote by mail or in person. You have to mark
10:44:23 25 the box -- if you did not -- on a federal form if you

10:44:27 1 didn't provide DPOC.

10:44:32 2 Q. Your office follows the 2019 EPM when it comes to
10:44:38 3 the citizenship checkbox; right?

10:44:40 4 A. Yes, we do.

10:44:42 5 Q. And the 2019 EPM provides that failure to answer
10:44:48 6 the checkbox or a "no" answer doesn't invalidate the form
10:44:55 7 if there is some other appropriate indicator of
10:44:59 8 citizenship; is that right?

10:45:01 9 MR. LANGHOFER: Same objection.

10:45:04 10 THE WITNESS: If the person marked "no" on
10:45:05 11 the form that they're not a U.S. citizen but they provided
10:45:09 12 proof of -- or provided DPOC, we would go ahead and
10:45:14 13 register them.

10:45:14 14 Now, if they marked "no" and they did not
10:45:18 15 provide DPOC, then we would not be able to.

10:45:27 16 BY MR. ATKINS:

10:45:27 17 Q. And you understand that under HB 2492, an
10:45:30 18 applicant using either the state form or the federal form
10:45:34 19 must affirmatively check the box confirming that they are a
10:45:37 20 citizen or their registration will be rejected; right?

10:45:41 21 MR. LANGHOFER: Same objection.

10:45:43 22 MR. HORLEY: Objection.

10:45:45 23 THE WITNESS: I believe that's how it reads.

10:45:48 24 BY MR. ATKINS:

10:45:48 25 Q. And to confirm, your office is not currently

10:45:52 1 implementing that requirement; right?

10:45:55 2 A. That is correct.

10:45:58 3 Q. So right now, if an applicant submits the state

10:46:01 4 form and provides DPOC but does not mark the citizenship

10:46:05 5 checkbox, your office accepts the application; correct?

10:46:10 6 A. Yes.

10:46:11 7 Q. So is it fair to say that completing the
10:46:29 8 citizenship checkbox is not necessary to your office
10:46:36 9 confirming that a state form applicant is a citizen?

10:46:44 10 MR. LANGHOFER: [Indiscernible.]

10:46:44 11 THE COURT REPORTER: Kory, I couldn't hear
10:46:46 12 you.

10:46:47 13 MR. LANGHOFER: Same objection.

10:46:51 14 THE WITNESS: Could you repeat that?

10:46:55 15 BY MR. ATKINS:

10:46:56 16 Q. Yeah. Let me -- let me back up a little bit.

10:46:58 17 It's the case -- right? -- that state form

10:47:03 18 applicants have to provide DPOC with their registration;

10:47:07 19 right?

10:47:09 20 A. Yes.

10:47:09 21 Q. So if a state form applicant submits their form

10:47:17 22 with DPOC, their completing the citizenship checkbox is not

10:47:22 23 necessary for your office to confirm that they're a

10:47:25 24 citizen; right?

10:47:27 25 A. Yes, that is correct.

10:47:28 1 Q. Now, turning back to federal form applicants, am I
10:47:38 2 correct that the federal form contains an affirmation of
10:47:44 3 citizenship under the penalty of perjury at the bottom of
10:47:49 4 the form?

10:47:52 5 A. I don't remember. I'm sorry. I believe Donna
10:48:08 6 could answer that better than me.

10:48:23 7 Q. Let's shift gears away from voter registration.
10:48:31 8 And I just have a few more questions about the challenged
10:48:36 9 laws.

10:48:38 10 Am I correct that prior to HB 2492 and 2243,
10:48:42 11 it was illegal for a person who was not a U.S. citizen to
10:48:48 12 register to vote in Arizona?

10:48:50 13 MR. LANGHOFER: Same objection.

10:48:53 14 THE WITNESS: Yes.

10:48:54 15 BY MR. ATKINS:

10:48:56 16 Q. And would you also agree that prior to 2492 and
10:49:01 17 2243, Arizona had policies, laws, or procedures in place to
10:49:08 18 prevent noncitizens from voting?

10:49:13 19 A. Yes.

10:49:14 20 MR. LANGHOFER: Same objection.

10:49:15 21 BY MR. ATKINS:

10:49:19 22 Q. In fact, isn't it a felony for a person to
10:49:23 23 register when they know that they're not entitled to
10:49:26 24 register?

10:49:27 25 MR. LANGHOFER: Same objection.

10:49:29 1 THE WITNESS: I believe it is a felony, yes.

10:49:31 2 BY MR. ATKINS:

10:49:38 3 Q. So if we can continue looking at Exhibit 170, your
10:49:44 4 office's responses to consolidated plaintiffs'
10:49:48 5 interrogatories. If I can have you look at Interrogatory
10:49:55 6 No. 9, which starts on the bottom of page 7.

10:50:15 7 A. Okay.

10:50:18 8 Q. So I won't go through reading out the requests and
10:50:23 9 your response with this one, but looking it over, do you
10:50:26 10 see that this interrogatory concerns instances of voter
10:50:33 11 fraud having to do with whether or not the person is a U.S.
10:50:39 12 citizen or a resident of the county?

10:50:45 13 A. Yes.

10:50:46 14 Q. And your response on page 8 provides that your
10:50:53 15 office isn't aware of any instances or any records
10:50:59 16 providing evidence of such instances of noncitizens or
10:51:05 17 nonresidents registering or voting; is that right?

10:51:10 18 A. That is correct.

10:51:11 19 Q. And is that still the case today, that your office
10:51:13 20 is not aware of any instances of noncitizens registering or
10:51:18 21 voting in the county?

10:51:21 22 A. Yes.

10:51:23 23 Q. Almost done. Just want to ask a few questions
10:51:30 24 about voting by mail.

10:51:37 25 Arizona currently allows all registered

10:51:39 1 voters to vote by early ballot; correct?

10:51:45 2 A. Not by mail. Federal-only voters that have not
10:51:49 3 provided an identity have to vote the first time in person.

10:51:55 4 Q. But other than first-time federal form voters, all
10:52:02 5 other registered voters are entitled to vote early by mail;
10:52:07 6 right?

10:52:07 7 A. That is correct.

10:52:09 8 Q. And do you know how long that's --

10:52:13 9 MR. LANGHOFER: [Indiscernible.]

10:52:13 10 THE COURT REPORTER: I didn't hear you, Kory.

10:52:17 11 MR. LANGHOFER: I just said, "Same
10:52:19 12 objection."

10:52:20 13 BY MR. ATKINS:

10:52:22 14 Q. And do you know how long it's been the case
10:52:24 15 that -- aside from that one exception, that all Arizona
10:52:28 16 registered voters have been able to vote early by mail?

10:52:33 17 MR. LANGHOFER: Same objection.

10:52:35 18 THE WITNESS: I know it's been at least the
10:52:37 19 20 years I have been here. I don't know when "no-excuse"
10:52:43 20 early voting went into effect.

10:52:46 21 BY MR. ATKINS:

10:52:46 22 Q. So during your time as an election administrator,
10:52:51 23 the -- the right to request an early ballot has not
10:52:59 24 depended on which form a voter uses to register, noting the
10:53:03 25 exception that you raised about first-time federal-only

10:53:03 1 voters?

10:53:07 2 MR. LANGHOFER: Same objection.

10:53:07 3 THE WITNESS: That is correct.

10:53:11 4 BY MR. ATKINS:

10:53:20 5 Q. So if a voter is on the active early voting list,
10:53:25 6 that means that they're automatically sent a ballot by mail
10:53:28 7 for each election without them having to request it each
10:53:32 8 time; right?

10:53:34 9 A. Not for unaffiliated voters in the partisan
10:53:42 10 primary election. They need to tell us which party ballot
10:53:45 11 they want -- wish to vote. Otherwise, it won't be mailed
10:53:49 12 to them.

10:53:51 13 Q. But for affiliated voters and for all voters in
10:53:55 14 general elections, if they're on the active early voting
10:53:59 15 list, they're automatically sent their ballot by mail;
10:54:03 16 correct?

10:54:03 17 A. Yes, that is correct.

10:54:04 18 Q. And those voters stay on the active early voting
10:54:11 19 list unless they fail to vote in two subsequent elections;
10:54:14 20 right?

10:54:17 21 MR. LANGHOFER: Same objection.

10:54:18 22 THE WITNESS: I believe it's two state
10:54:22 23 elections, like, two election cycles right now.

10:54:27 24 BY MR. ATKINS:

10:54:28 25 Q. Understood.

10:54:29 1 Is it fair to say that voting by early ballot

10:54:34 2 by mail is commonly used in Arizona?

10:54:39 3 A. Yes, it is.

10:54:41 4 Q. Most Arizona voters vote by mail; right?

10:54:46 5 A. A large percentage do.

10:54:49 6 Q. And is that true in your county?

10:54:52 7 A. Yes.

10:54:53 8 Q. Do you happen to know roughly what percentage of

10:54:57 9 Coconino County voters voted by early ballot by mail in the

10:55:04 10 2022 general election?

10:55:06 11 A. I can't remember. I'd have to look the

10:55:11 12 information up. I know that it was over 80 percent, as I

10:55:17 13 recall, that voted early, but some of those early voters

10:55:21 14 voted in person early.

10:55:24 15 Q. Understood.

10:55:25 16 Based on your significant experience as an
10:55:31 17 election official, are there benefits to voters being able
10:55:37 18 to vote using an early ballot?

10:55:43 19 A. As an election administrator, you know, it's up to
10:55:52 20 the voter whether they want to or not.

10:55:56 21 Q. Do you -- do you think that the ability to vote
10:56:00 22 early by mail provides benefits to the voter?

10:56:06 23 A. I think to some voters, they definitely believe
10:56:11 24 that.

10:56:11 25 Q. The early ballots that your office sends out have

10:56:15 1 prepaid return postage; right?

10:56:19 2 A. That is correct.

10:56:21 3 Q. So a voter can simply complete their ballot and
10:56:25 4 drop it in the mail; right?

10:56:27 5 A. That is correct.

10:56:30 6 Q. And voters who cast early ballots by mail don't
10:56:35 7 need to visit a polling location or arrange time off or
10:56:41 8 transportation to get there; right?

10:56:45 9 A. That -- that is correct -- majority. You may, if
10:56:49 10 you live in the rural parts of the area, have to -- and you
10:56:53 11 don't have a car, make arrangements to get to the postal
10:56:57 12 areas because they're not delivered to their home. But the
10:57:00 13 majority of the voters, yes.

10:57:02 14 Q. Do you agree that some voters face obstacles to
10:57:06 15 voting in person on election day?

10:57:13 16 A. I would say some voters do.

10:57:18 17 Q. And do you agree that those voters benefit from
10:57:24 18 the flexibility of an early ballot and being able to vote
10:57:28 19 by mail?

10:57:31 20 A. Yes.

10:57:35 21 Q. Do you understand that under HB 2492, voters who
10:57:41 22 fail to provide DPOC will not be permitted to vote by mail
10:57:47 23 with an early ballot?

10:57:50 24 MR. HORLEY: Objection. Calls for a legal
10:57:52 25 conclusion.

10:57:52 1 THE WITNESS: Yes, that's how I believe it

10:57:54 2 reads.

10:57:55 3 BY MR. ATKINS:

10:57:57 4 Q. And so do you agree that those voters would then

10:58:02 5 lose the benefits of early voting by mail that we've

10:58:06 6 discussed?

10:58:10 7 A. Yes.

10:58:13 8 Q. All right.

10:58:17 9 MR. ATKINS: I believe that's all the
10:58:19 10 questions I have for you, Ms. Hansen. So we can switch
10:58:26 11 over to speaking with Ms. Casner.

10:58:33 12 Would you -- would you or anyone like to take
10:58:35 13 a short break before we switch over?

10:58:40 14 THE WITNESS: Yes, please.

10:58:41 15 MR. ATKINS: All right. Does ten minutes
10:58:46 16 work or -- or would longer be helpful?

10:58:50 17 THE WITNESS: I think ten minutes is fine.
10:58:52 18 Thank you.

10:58:53 19 MR. MORGAN: Real quick, I don't have any
10:58:55 20 questions for Ms. Hansen. And thank you, by the way,
10:58:57 21 Ms. Hansen, very much. But to the extent others do, does
10:59:00 22 it make sense to let that happen before we switch to the
10:59:03 23 next witness?

10:59:10 24 MR. LANGHOFER: That's customary.

10:59:13 25 MR. MORGAN: Yeah, I think that's customary.

10:59:14 1 Yeah.

10:59:14 2 MR. ATKINS: Okay. That's -- that's fine
10:59:16 3 with me.

10:59:18 4 MR. MORGAN: After the break.

10:59:21 5 MR. ATKINS: Yeah. So why don't we take our
10:59:22 6 ten-minute break and reconvene at ten past the hour again.
10:59:25 7 And, at that time, if other plaintiffs and then other
10:59:31 8 parties have questions, they can address them with
10:59:34 9 Ms. Hansen.

10:59:35 10 MR. MORGAN: Thank you.

10:59:36 11 THE VIDEOGRAPHER: We are off the record.
10:59:38 12 Time on the video monitor is 10:59 a.m. This ends Media 1.

11:13:10 13 (A recess ensued.)

11:13:10 14 THE VIDEOGRAPHER: We are on the record.

11:13:20 15 Time on the video monitor is 11:13 a.m. This begins
11:13:25 16 Media 2.

11:13:25 17

11:13:25 18 EXAMINATION

11:13:25 19 BY MR. PATTERSON:

11:13:28 20 Q. Thank you again for your time, Ms. Hansen. I just
11:13:32 21 have some questions for you related to the provisions in
11:13:39 22 HB 2492 and 2243.

11:13:44 23 Earlier, you stated that your office opposed

11:13:47 24 the enactment of HB 2492; is that correct?

11:13:54 25 A. Yes.

11:13:54 1 Q. And what was the basis of that opposition?

11:13:58 2 A. The main was con- -- conflicting on requirements

11:14:05 3 with the NVRA and also the proof of residency.

11:14:12 4 Q. And --

11:14:19 5 (Video disturbance.)

11:14:19 6 THE COURT REPORTER: I didn't hear the end of
11:14:21 7 answer. "Proof of residency" and -- I'm sorry. I thought
11:14:24 8 you said something.

11:14:26 9 THE WITNESS: No. The NVRA and proof of
11:14:30 10 residency requirement.

11:14:34 11 BY MR. PATTERSON:

11:14:34 12 Q. And can you tell me -- within HB 2492 and 2243,
11:14:45 13 what is information that a person is not a United States
11:14:50 14 citizen?

11:14:52 15 MR. HORLEY: Objection. Calls for a legal
11:14:55 16 conclusion.

11:14:55 17 BY MR. PATTERSON:

11:14:55 18 Q. You can answer the question.

11:14:57 19 A. Okay. I'm sorry. Would you repeat that?

11:15:01 20 Q. What would be information that would indicate that
11:15:05 21 a person is not a United States citizen under HB 2492 and
11:15:11 22 HB 2243?

11:15:13 23 MR. HORLEY: Same objection.

11:15:18 24 THE WITNESS: Well, if you mark the box "no,"
11:15:23 25 that's real clear you're not a U.S. citizen. I guess --

11:15:30 1 BY MR. PATTERSON:

11:15:31 2 Q. Has your -- oh, sorry.

11:15:34 3 A. Yeah, that's -- I don't know -- I don't really
11:15:38 4 understand what you're asking, I guess.

11:15:41 5 Q. Has your office ever been given a specific list of
11:15:49 6 means or criteria in which a voter registration applicant
11:15:55 7 can be deemed or proven to be a noncitizen?

11:16:00 8 A. Well, if it comes back through the AVID check with
11:16:09 9 Motor Vehicles and they've been issued a F-license, then
11:16:14 10 that indicates that they're not a U.S. citizen. That would
11:16:17 11 be one way we knew we needed to follow up with the person.

11:16:21 12 And I think the "F" stands for foreign or --
11:16:26 13 non-U.S. citizens could get a driver's license, so it
11:16:29 14 indicates to us -- if their records show they're not a U.S.
11:16:34 15 citizen, then it would alert us.

11:16:37 16 Q. And besides, if someone were to check that they
11:16:44 17 are not a U.S. citizen on -- on the form or the
11:16:50 18 information -- information coming up in the AVID check that
11:16:53 19 would indicate that they're a noncitizen, is there any
11:16:56 20 other types of information that your office would consider
11:17:03 21 or find to be indicative that a person is not a U.S.
11:17:10 22 citizen?

11:17:11 23 MR. HORLEY: Objection; form. Calls for a
11:17:13 24 legal conclusion.

11:17:14 25 THE WITNESS: If they mark on their jury

11:17:16 1 questionnaire that they're not a U.S. citizen, that would
11:17:20 2 alert us. So my experience has been that people that do
11:17:25 3 that mark it because they don't want to serve on the jury,
11:17:28 4 not because they're in the U.S. citizens.

11:17:28 5 BY MR. PATTERSON:

11:17:35 6 Q. Thank you.

11:17:40 7 Is the data in a government database showing
11:17:43 8 noncitizenship 20 years ago information that the person is
11:17:49 9 not a U.S. citizen today?

11:17:52 10 MR. HORLEY: Same objection.

11:17:58 11 THE WITNESS: We wouldn't have a database
11:18:01 12 that's 20 years old that I know of.

11:18:07 13 Are you asking if you registered to vote
11:18:09 14 prior to the proof of U.S. citizenship requirement, would
11:18:15 15 we know if they were a U.S. citizen or not?

11:18:19 16 BY MR. PATTERSON:

11:18:19 17 Q. Sorry. Let me restate.

11:18:20 18 If -- if there was information showing that
11:18:24 19 an individual was a noncitizen, say, many years ago -- so
11:18:32 20 not that the database itself is 20 years old, but that a
11:18:36 21 doc- -- a document within the database was indicative that
11:18:39 22 an individual had not been a citizen 20 years ago -- would
11:18:44 23 that information be valid in demonstrating that a person is
11:18:50 24 not a U.S. citizen today?

11:18:52 25 MR. HORLEY: Form. Calls for a legal

11:18:55 1 conclusion.

11:18:56 2 THE WITNESS: I don't know that we would have
11:18:58 3 a document in our database that would show somebody's not a
11:19:02 4 U.S. citizen because we only -- from 20 years ago, anybody
11:19:13 5 who was not registered is not in our database right now.

11:19:27 6 BY MR. PATTERSON:

11:19:28 7 Q. How recent does a document -- scratch that.

11:19:41 8 Where's the line? When is information too
11:19:44 9 old to be information that is relevant to the consideration
11:19:50 10 of whether someone is not a U.S. citizen in the present
11:19:54 11 day?

11:19:55 12 MR. HORLEY: Same objection.

11:19:58 13 THE WITNESS: I don't know.

11:20:02 14 BY MR. PATTERSON:

11:20:02 15 Q. Okay. Thank you.

11:20:06 16 And moving on, what are valid sources of
11:20:09 17 information that someone is not a U.S. citizen?

11:20:14 18 MR. HORLEY: Same objection.

11:20:17 19 THE WITNESS: They tell us they're not a U.S.
11:20:20 20 citizen or they mark it on the form. I don't know any
11:20:27 21 other documents out there that would show you're not a U.S.
11:20:34 22 citizen that anybody would present to us or that we would
11:20:38 23 have.

11:20:39 24 BY MR. PATTERSON:

11:20:40 25 Q. Would -- would anything beyond a government or

11:20:48 1 voter registration date -- registration database be able to
11:20:54 2 be a source of information that could indicate that someone
11:20:59 3 is not a U.S. citizen?

11:21:00 4 MR. HORLEY: Same objection. Also
11:21:02 5 foundation.

11:21:10 6 THE WITNESS: We check -- I guess it is with
11:21:11 7 governmental databases -- is what we would check against
11:21:18 8 and information the registrant would provide. That's all
11:21:26 9 I --

11:21:26 10 BY MR. PATTERSON:

11:21:26 11 Q. Would --

11:21:27 12 A. I -- I haven't had people come to me and say, you
11:21:30 13 know, that registrants are not a U.S. citizen, you know,
11:21:36 14 and they should not be registered as specific registrant.
11:21:41 15 So yeah, I don't know.

11:21:42 16 Q. So a phone call from another voter would not be
11:21:47 17 information that would be a valid source for whether or not
11:21:52 18 someone is a U.S. citizen, then?

11:21:56 19 MR. HORLEY: Same objection. Form.

11:21:59 20 THE WITNESS: The DPOC, if they've proven
11:22:03 21 citizenship. We're not going to go on secondhand
11:22:05 22 information on somebody's citizenship status.

11:22:10 23 BY MR. PATTERSON:

11:22:10 24 Q. And -- and that would include an email or signed
11:22:15 25 letter from another voter; correct?

11:22:19 1 MR. LANGHOFER: Form.

11:22:21 2 THE WITNESS: I haven't received those that I

11:22:23 3 know of. We have a gentleman that is checking our

11:22:29 4 databases, but as I recall, most of those are people he

11:22:34 5 thinks has moved or do not live in Arizona.

11:22:40 6 BY MR. PATTERSON:

11:22:40 7 Q. What about a phone call from a law enforcement

11:22:47 8 officer in Arizona?

11:22:51 9 MR. HORLEY: Same objection.

11:22:53 10 THE WITNESS: I would probably talk to my

11:22:55 11 legal counsel and say, "What's up on this?"

11:23:00 12 BY MR. PATTERSON:

11:23:00 13 Q. And what about a phone call from law enforcement

11:23:03 14 in another state?

11:23:07 15 MR. HORLEY: Same objection.

11:23:07 16 THE WITNESS: Same thing. I would check with

11:23:09 17 my legal counsel.

11:23:12 18 BY MR. PATTERSON:

11:23:16 19 Q. And what about information or lists provided by

11:23:21 20 third-party organizations, like True the Vote or Look Ahead

11:23:26 21 America?

11:23:26 22 MR. HORLEY: Same objection.

11:23:28 23 THE WITNESS: Those are not acceptable

11:23:30 24 sources under the NVRA to start list maintenance

11:23:38 25 procedures, so no.

11:23:41 1 BY MR. PATTERSON:

11:23:48 2 Q. And what about an anonymous call or email?

11:23:54 3 MR. HORLEY: Same objection.

11:23:58 4 THE WITNESS: No. I don't take anonymous
11:24:01 5 requests.

11:24:02 6 BY MR. PATTERSON:

11:24:09 7 Q. By what means can you confirm the authenticity of
11:24:12 8 such information that a voter registration applicant is not
11:24:16 9 a United States citizen?

11:24:25 10 A. If they mark "no" on the registration form or if
11:24:28 11 it comes back through our citizenship checks that indicate
11:24:34 12 that they're not a U.S. citizen and the procedures manual,
11:24:44 13 those checks.

11:24:44 14 Q. And has the Secretary of State's Office ever given
11:24:47 15 your office a list of information that constitutes as
11:24:50 16 evidence of a lack of U.S. citizenship?

11:24:55 17 A. No. Not that I'm aware of, no.

11:25:01 18 Q. What if you identify a registered voter who has
11:25:05 19 already satisfied the DPOC requirement but still holds an
11:25:09 20 F-type license? Is that information that the registered
11:25:14 21 voter is not, in fact, a U.S. citizen?

11:25:17 22 MR. HORLEY: Same objection.

11:25:19 23 THE WITNESS: No. In fact, I know of a case
11:25:21 24 where a county employee had become a naturalized citizen
11:25:27 25 and it kept coming back through Motor Vehicles that he was

11:25:32 1 not a U.S. citizen. And so he provided us copies of our --

11:25:39 2 or showed us that he was a naturalized citizen.

11:25:41 3 So there was a lag there, but we follow up

11:25:45 4 with people registering to make sure that they have not --

11:25:52 5 that they are, indeed, not a U.S. citizen and they have not

11:25:56 6 become a naturalized citizen.

11:25:59 7 BY MR. PATTERSON:

11:26:06 8 Q. And what if you identify a registered voter who is

11:26:09 9 exempt from the DPOC requirement and has never shown DPOC

11:26:13 10 because they registered prior to when DPOC went into

11:26:17 11 effect? Is that information showing that they are not a

11:26:20 12 U.S. citizen?

11:26:22 13 MR. HORLEY: Same objection.

11:26:25 14 THE WITNESS: No. Because we weren't asking

11:26:30 15 at the time they registered.

11:26:33 16 BY MR. PATTERSON:

11:26:37 17 Q. Thank you.

11:26:38 18 Moving on, what is a database related to

11:26:44 19 voter registration?

11:26:50 20 A. Our system is AVID. It is our statewide voter

11:26:55 21 registration system.

11:27:02 22 Q. And for clarification, this comes from A.R.S.

11:27:10 23 16-121.01(D)(5), "Any other state, city, town, county, or

11:27:15 24 federal database, and any other database relating to voter

11:27:18 25 registration."

11:27:20 1 Could it be a list of voters you received

11:27:22 2 from another Arizona agency?

11:27:26 3 MR. HORLEY: Same objection.

11:27:32 4 THE WITNESS: Not to register to vote. If

11:27:36 5 you're one of the NVRA agencies that have to do

11:27:40 6 registration, like Motor Vehicles or Department of Economic

11:27:46 7 Security programs or programs that assist voters with

11:27:52 8 disabilities, it comes through our AVID system.

11:27:56 9 BY MR. PATTERSON:

11:27:57 10 Q. Outside of AVID, are there other databases that

11:28:03 11 relate to voter registration under the statute?

11:28:10 12 A. We're part of the ERIC, Electronic Registration

11:28:16 13 Information Center, I think. It -- it's a group of states

11:28:20 14 that have gotten together where they compare voter

11:28:26 15 registration databases to see if there has been people who

11:28:30 16 have moved to another state after they were registered in

11:28:36 17 our state so we know to follow up with them to make sure if

11:28:41 18 they have -- if that is indeed them; that we cancel them

11:28:46 19 here in our state.

11:28:50 20 Is that what you mean by databases? I mean,

11:28:52 21 we check -- there's also -- we can check through the SAVE

11:28:57 22 program U.S. citizenship or, like, Motor Vehicles

11:29:04 23 Department. But we don't deal with any other agencies or

11:29:08 24 that -- well, Social Security, I think the AVID system does

11:29:12 25 run a check against in regards to identity, looking for the

11:29:18 1 last four digits of the Social Security and the name and
11:29:22 2 birth date.
11:29:23 3 But they're all governmental except for ERIC,
11:29:26 4 which is quasi-governmental, in that it's -- states are
11:29:32 5 working together to try to keep their list clean. And
11:29:32 6 also --
11:29:39 7 Q. I'm sorry.
11:29:40 8 A. They also check to make sure people don't vote in
11:29:43 9 two states in the same election -- ERIC does.
11:29:49 10 Q. What about a list of registered voters provided by
11:29:53 11 a private group, would that be a database related to voter
11:29:59 12 registration?
11:29:59 13 A. No, I would not use that.
11:30:05 14 MR. HORLEY: Form.
11:30:06 15 BY MR. PATTERSON:
11:30:06 16 Q. And what about data provided from another state
11:30:15 17 government agency, say, a California county sheriff's
11:30:21 18 office? Would that be a database related to voter
11:30:27 19 registration?
11:30:27 20 MR. HORLEY: Same objection.
11:30:30 21 THE WITNESS: No. I don't know why they
11:30:32 22 would contact us.
11:30:33 23 BY MR. PATTERSON:
11:30:52 24 Q. Please take a moment -- if we could take a moment
11:30:54 25 to look at -- if we can take a moment to look at 16-165(A).

11:31:06 1 The statute states, "The county recorder
11:31:08 2 shall cancel registration"; is that correct?

11:31:18 3 MS. WINKELER: Can you give us a minute to
11:31:20 4 pull up the statute?

11:31:21 5 MR. PATTERSON: Absolutely.

11:31:25 6 THE WITNESS: Would you please restate the --

11:31:25 7 BY MR. PATTERSON:

11:31:28 8 Q. Yes. It's 61-165 Sub A. It's in HB 2243. Oh,
11:31:51 9 and (A) (10). Sorry. A Sub 10.

11:32:54 10 A. Okay. So it's in regards to canceling the
11:32:57 11 registration from information from the jury commissioner.

11:33:04 12 Q. Yes.

11:33:04 13 A. Yeah.

11:33:05 14 Q. So at the beginning of 16-165(A), it states, "The
11:33:10 15 county recorder shall cancel a registration"; correct?

11:33:18 16 A. Yes.

11:33:19 17 Q. And after that language, HB 2243 lists the number
11:33:23 18 of ways a voter registration can be canceled; true?

11:33:27 19 A. That's correct.

11:33:28 20 Q. And now if we can skip to 16-165(A) (10), on
11:33:36 21 page 4.

11:33:37 22 Read together, this provision reads, the
11:33:41 23 county recorder shall cancel a registration "when the
11:33:46 24 county recorder obtains information pursuant to the section
11:33:50 25 and confirms that the person registered is not a United

11:33:53 1 States citizen"; is that correct?

11:33:57 2 A. Yes.

11:33:58 3 Q. Under this provision, how does one obtain

11:34:02 4 information that a person registered is not a United States

11:34:06 5 citizen?

11:34:08 6 MR. LANGHOFER: Same objection.

11:34:09 7 MR. HORLEY: Calls for a legal conclusion.

11:34:11 8 THE WITNESS: The jury commissioner sends out

11:34:16 9 questionnaires. And one of the questions is: "Are you a

11:34:20 10 U.S. citizen?" And if they marked "no," then we get a

11:34:24 11 report from them. We used to get, as I recall, the actual

11:34:30 12 questionnaire, but now it's a report that lists who's

11:34:37 13 responded. And if they say they're not a U.S. citizen,

11:34:41 14 then we would know that.

11:34:43 15 Now, our experience has been the majority of

11:34:47 16 those that mark "no," they're not a U.S. citizen are not

11:34:51 17 registered to vote, but we have come across instances when

11:34:55 18 we've followed up with people where they marked "no,"

11:34:59 19 they're not a U.S. citizen, and they are registered when we

11:35:02 20 contact them, we find out that they marked "no" to get out

11:35:06 21 of jury duty.

11:35:09 22 BY MR. PATTERSON:

11:35:09 23 Q. And outside of the -- besides the jury

11:35:17 24 questionnaire, are there any other ways that your office

11:35:23 25 obtains information that a person is -- that is registered

11:35:29 1 is not a U.S. citizen?

11:35:32 2 MR. HORLEY: Same objection.

11:35:32 3 THE WITNESS: Not that I can think of right

11:35:34 4 now.

11:35:35 5 BY MR. PATTERSON:

11:35:37 6 Q. Thank you.

11:35:37 7 May you please take a moment to review 16-165

11:36:06 8 Sub G through J. We can take a moment while you review

11:36:12 9 that. Sorry. F through J.

11:36:59 10 A. Okay.

11:37:00 11 Q. Are the listed databases outlined in Subsections F

11:37:05 12 through J the means on how one obtains information of

11:37:11 13 noncitizenship?

11:37:12 14 A. I don't believe J is implemented right now. I

11:37:18 15 think that's listed in 2492 maybe and in 2243, Public

11:37:30 16 Health Statistics and Information System.

11:37:30 17 Q. If J were implemented, would that be a database in

11:37:38 18 which one would obtain information of noncitizenship?

11:37:43 19 MR. HORLEY: Objection. Calls for a legal

11:37:44 20 conclusion. Calls for speculation.

11:37:48 21 THE WITNESS: These databases are set up

11:37:50 22 through the Secretary of State's Office, how they run them

11:37:53 23 through, except for the jury commission. So even that, I

11:37:58 24 believe -- that, I'll have to ask Donna if that does come

11:38:01 25 through the Secretary of State's Office or directly to us

11:38:04 1 from the jury commissioner.

11:38:07 2 But it's set up through the AVID system, the
11:38:12 3 checks. So if it's part of the EPM and that's one of the
11:38:17 4 things that we -- that the secretary of state is required
11:38:21 5 to set up, we would use that.

11:38:25 6 BY MR. PATTERSON:

11:38:34 7 Q. But is it -- are these databases that are outlined
11:39:01 8 in the statute in -- the intended means for how one obtains
11:39:07 9 information of noncitizenship?

11:39:13 10 MR. LANGHOFER: Calls for a legal conclusion.
11:39:14 11 Calls for speculation.

11:39:19 12 THE WITNESS: It's how our state is set up to
11:39:22 13 check for citizenship.

11:39:24 14 BY MR. PATTERSON:

11:39:27 15 Q. Can the Arizona MVD driver's license and
11:39:32 16 nonoperating ID database be used to obtain information that
11:39:37 17 a registered voter is not a U.S. citizen?

11:39:41 18 MR. HORLEY: Same objection.

11:39:44 19 THE WITNESS: It's being used now.

11:39:56 20 BY MR. PATTERSON:

11:39:57 21 Q. It's being used to obtain information that a
11:40:02 22 registered voter is not a U.S. citizen? That's what you're
11:40:05 23 saying?

11:40:05 24 A. Yes. If it comes back that it indicates a foreign
11:40:11 25 national has the driver's license and the person would be

11:40:16 1 registered, we would need to follow up with that person to
11:40:19 2 see if the information is current.
11:40:23 3 You don't have to update your driver's
11:40:26 4 license, I don't believe -- I'm not an expert on driver's
11:40:30 5 licenses -- when you become a U.S. citizen. But you can't
11:40:32 6 register to vote until you become a naturalized citizen.
11:40:37 7 So there is -- could be a discrepancy between the driver's
11:40:42 8 license and registration, which is why we follow up to make
11:40:46 9 sure the information is accurate and up to date.
11:40:50 10 BY MR. PATTERSON:
11:40:52 11 Q. Is there anything beyond a database -- can your
11:40:58 12 office obtain information that a person registered is not a
11:41:02 13 United States citizen through any other means?
11:41:05 14 MR. HORLEY: Same objection.
11:41:08 15 THE WITNESS: No. I've never seen anything
11:41:13 16 that would be another way of showing a person's not a U.S.
11:41:17 17 citizen. I've never come across that and I don't -- I
11:41:23 18 can't think of anything, but I'm not an expert on
11:41:28 19 citizenship.
11:41:29 20 BY MR. PATTERSON:
11:41:29 21 Q. Has your office received any guidance on how one
11:41:32 22 obtains information that a person registered is not a U.S.
11:41:35 23 citizen under 16-165(A)(10)?
11:41:40 24 A. We do through the EPM.
11:41:44 25 Q. And has your office received any guidance on how

11:41:50 1 to order -- checking these databases?

11:42:01 2 A. Well, we got a tutorial for how to use the SAVE
11:42:06 3 program. That's all I'm aware of.

11:42:09 4 Q. What happens if there is conflicting data between
11:42:14 5 databases?

11:42:17 6 A. I have not come across that.

11:42:20 7 Q. Okay. So now, how would your office confirm that
11:42:28 8 a person registered is not a United States citizen under
11:42:31 9 16-165 (A) (10)?

11:42:36 10 MR. HORLEY: Calls for a legal conclusion.

11:42:39 11 THE WITNESS: We confirm citizenship. We
11:42:41 12 don't confirm noncitizenship.

11:42:44 13 BY MR. PATTERSON:

11:42:59 14 Q. What would give your office a reason to believe
11:43:00 15 that a person is not a U.S. citizen?

11:43:06 16 MR. HORLEY: Same objection.

11:43:07 17 MR. LANGHOFER: Same objection.

11:43:10 18 THE WITNESS: They mark "no" on the voter
11:43:12 19 registration form, or we would get an indication from Motor
11:43:20 20 Vehicles that they have an F-license, or from the jury
11:43:25 21 commissioner that they marked "no" on the questionnaire.

11:43:30 22 BY MR. PATTERSON:

11:43:36 23 Q. And if -- if we could take a moment to look at

11:43:45 24 A.R.S. 16-165 Sub I.

11:44:07 25 A. Okay.

11:44:08 1 Q. Based on 16-165 Sub I, is there anything else that
11:44:23 2 would give your office a reason to believe that a person is
11:44:26 3 not a U.S. citizen?

11:44:28 4 MR. HORLEY: Same objection.

11:44:33 5 THE WITNESS: I think I stated what we would
11:44:37 6 consider an indication of non-U.S. citizenship.

11:44:43 7 BY MR. PATTERSON:

11:44:47 8 Q. Has the Secretary of State's Office provided your
11:44:51 9 office with a list of what would give you or your staff a
11:44:55 10 valid reason to believe someone is not a U.S. citizen?

11:45:00 11 A. The only guidance we received from the secretary
11:45:05 12 of state's in the EPM.

11:45:07 13 Q. And in the EPM, was the secretary of state
11:45:13 14 provided any guidance on what your office should consider a
11:45:19 15 valid reason to believe that someone is not a U.S. citizen?

11:45:25 16 A. Not that I recall. We confirm citizenship. We
11:45:31 17 don't confirm noncitizenship.

11:45:35 18 Q. Has the Secretary of State's Office provided your
11:45:40 19 office with a list of what will not give you or your staff
11:45:44 20 a valid reason to believe someone is not a U.S. citizen?

11:45:50 21 A. Not that I'm aware of, except through if it's
11:45:53 22 mentioned in the EPM. And I don't recall anything in the
11:45:57 23 EPM that specifically talks about confirming people being
11:46:05 24 noncitizens, except what I've already mentioned for
11:46:08 25 confirming citizenship.

11:46:11 1 Q. I'm going to provide you with the same scenario
11:46:15 2 that we went over earlier.

11:46:18 3 MR. PATTERSON: But before doing so, I would
11:46:22 4 like to stipulate to -- I'm assuming that there's going to
11:46:28 5 be an objection to this as there was before. I'm willing
11:46:31 6 to stipulate to a global objection to these following
11:46:34 7 questions, if that is all right with defense counsel.

11:46:40 8 MR. LANGHOFER: Sounds good.

11:46:40 9 MR. MORGAN: That's fine with me.

11:46:41 10 MR. LANGHOFER: The objections, I suppose,
11:46:43 11 are calls for a legal conclusion and form?

11:46:47 12 MR. PATTERSON: Yes.

11:46:50 13 BY MR. PATTERSON:

11:46:51 14 Q. So would anything beyond a government or voter
11:46:59 15 registration database?

11:47:12 16 A. Prove noncitizenship? Is that what you're asking?

11:47:20 17 Q. Is there -- sorry. Is -- let's take a step back.

11:47:22 18 So is there anything beyond a government or
11:47:30 19 voter registration database that would give your office a
11:47:34 20 reason to believe that a person is not a U.S. citizen?

11:47:38 21 A. Just if they marked "no" on the registration form.

11:47:44 22 Q. Can a phone call from a voter -- would a phone
11:47:54 23 call from a voter be a reason to believe a person is not a
11:48:02 24 U.S. citizen?

11:48:03 25 A. No.

11:48:05 1 Q. How about an email from the voter?

11:48:11 2 A. From a -- another voter than the person?

11:48:15 3 Q. I'm sorry. Yes.

11:48:16 4 An email from --

11:48:19 5 A. No.

11:48:20 6 Q. Sorry. No. The same. From the same voter. My

11:48:27 7 apologies. So an email from the voter saying that they are

11:48:36 8 not a citizen.

11:48:39 9 A. The voter themselves saying they're not a citizen?

11:48:41 10 Q. Yes. The voter themselves, yes.

11:48:43 11 A. Yes.

11:48:45 12 Q. And --

11:48:45 13 A. We would want to make sure it is the voter asking

11:48:49 14 questions and stuff.

11:48:52 15 I've had instances where a spouse tried to

11:48:54 16 kill off another spouse with a registration, and so I do

11:49:00 17 know that you can't go by secondhand information. You need

11:49:04 18 to talk to the actual person.

11:49:10 19 Q. And for the sake of clarity, I wanted to ask the

11:49:22 20 previous question again, because now that we have -- are of

11:49:22 21 the same understanding.

11:49:30 22 So if you received a phone call from the

11:49:32 23 voter that they are not a citizen, would that give your

11:49:36 24 office reason to believe that they are not?

11:49:39 25 A. Yes. We ask them to confirm some information so

11:49:43 1 we verify that they are the actual registrant. But yes,

11:49:48 2 that would be enough.

11:49:49 3 Q. And what about a signed letter from the voter?

11:49:53 4 A. Yes.

11:49:54 5 Q. How about a phone call from a member of the
11:50:00 6 voter's family?

11:50:02 7 A. No.

11:50:03 8 Q. Would a letter from a neighbor provide your office
11:50:12 9 a reason to believe that the voter is a noncitizen?

11:50:16 10 A. No.

11:50:17 11 Q. What about a phone call from law enforcement in
11:50:23 12 Arizona?

11:50:26 13 A. That, I'd have to ask legal counsel. I haven't
11:50:30 14 had that situation come up.

11:50:34 15 Q. And what about a phone call from a law enforcement
11:50:42 16 in another state?

11:50:44 17 A. I'd ask legal counsel for guidance.

11:50:48 18 Q. Would an email or letter from law enforcement in
11:50:53 19 Arizona provide your office reason to believe that a voter
11:50:58 20 is a noncitizen?

11:50:59 21 A. I would, again, ask legal counsel.

11:51:02 22 Q. And what about an email or letter from law
11:51:06 23 enforcement in another state?

11:51:08 24 A. Same thing. I'd ask legal counsel for guidance.

11:51:12 25 Q. How about an anonymous call?

11:51:15 1 A. No.

11:51:17 2 Q. And -- or an anonymous email?

11:51:22 3 A. No.

11:51:24 4 Q. What about lists provided by third-party
11:51:30 5 organizations, like True the Vote?

11:51:31 6 A. No.

11:51:33 7 Q. Okay. Thank you.

11:51:37 8 MR. PATTERSON: We will be moving on to other
11:51:38 9 questions, so at this point the global objection can end.

11:51:43 10 MR. LANGHOFER: Thanks.

11:51:44 11 BY MR. PATTERSON:

11:51:45 12 Q. What if the registered voter transposed the first
11:51:48 13 and last name of their registration application form?
11:51:54 14 Would that give your office reason to believe that they
11:51:59 15 were a noncitizen?

11:52:00 16 MR. HORLEY: Same objection.

11:52:06 17 THE WITNESS: No.

11:52:06 18 BY MR. PATTERSON:

11:52:08 19 Q. What if the registered voter recorded a foreign
11:52:11 20 place of birth on their form?

11:52:15 21 MR. HORLEY: Same objection.

11:52:16 22 THE WITNESS: No.

11:52:17 23 BY MR. PATTERSON:

11:52:17 24 Q. What if you identify a registered voter who has
11:52:21 25 already satisfied the DPOC requirement but still holds an

11:52:24 1 F-type license? Is that a reason to believe they are not,

11:52:29 2 in fact, a U.S. citizen?

11:52:31 3 MR. HORLEY: Same objection. Calls for a

11:52:33 4 legal conclusion.

11:52:34 5 THE WITNESS: No.

11:52:34 6 BY MR. PATTERSON:

11:52:37 7 Q. What about registered voters who are exempt from

11:52:41 8 DPOC under the safe harbor provision because they

11:52:44 9 registered prior to the DPOC requirement going into effect

11:52:48 10 in 2005? Would that failure to show DPOC under this

11:52:53 11 exemption give your office a reason to believe they are not

11:52:56 12 U.S. citizens?

11:52:59 13 MR. HORLEY: Same objection.

11:52:59 14 THE WITNESS: No.

11:53:01 15 BY MR. PATTERSON:

11:53:01 16 Q. Has your office received any guidance on when your

11:53:05 17 office would have reason to believe that a registered voter

11:53:07 18 is not a U.S. citizen?

11:53:12 19 A. Only through the EPM.

11:53:15 20 Q. Thank you.

11:53:16 21 Moving on, a number of provisions in both

11:53:21 22 laws only obligate your office to the extent they are

11:53:26 23 practical -- practicable. Who makes that call?

11:53:33 24 MR. HORLEY: Same objection.

11:53:36 25 THE WITNESS: I would believe that if it's

11:53:38 1 procedures in regards to voter registration, the Secretary
11:53:47 2 of State's Office.

11:53:47 3 BY MR. PATTERSON:

11:53:47 4 Q. And do you meant -- do you understand what is
11:53:51 5 meant by "practicable" within these laws? Is it clear or
11:54:01 6 unclear?

11:54:01 7 MR. LANGHOFER: Same objection.

11:54:03 8 MR. HORLEY: Same objection.

11:54:06 9 THE WITNESS: No, not really. It's a -- a
11:54:11 10 vague term.

11:54:13 11 BY MR. PATTERSON:

11:54:16 12 Q. In terms of resources access -- scratch that.
11:54:23 13 Moving on. If a registered voter is removed
11:54:29 14 from the rolls under HB 2243 based upon an erroneous
11:54:34 15 determination that they are not a U.S. citizen, can that
11:54:37 16 voter be added back to the rolls if the registration
11:54:40 17 deadline has already passed?

11:54:47 18 A. If it's our mistake, yes.

11:54:51 19 Q. And what are the mechanics of adding the voter
11:54:57 20 back to the rolls?

11:55:01 21 A. That, I'd have to ask the legal counsel on the
11:55:06 22 best approach.

11:55:11 23 MR. PATTERSON: Thank you, Ms. Hansen. That
11:55:14 24 completes my questions for you on behalf of Poder.

11:55:20 25 THE WITNESS: Okay. Thank you.

11:55:24 1 MR. PATTERSON: At this point, do we want to
11:55:26 2 take another break or --

11:55:33 3 MR. LANGHOFER: Do you think there will be
11:55:34 4 more questions from the plaintiffs?

11:55:35 5 MR. PATTERSON: Yes. I believe there's one
11:55:37 6 other party that has about 10 to 15 minutes of questions, I
11:55:41 7 believe, but I don't want to speak for them.

11:55:46 8 MS. LANG: That's me. I'm happy -- it is
11:55:46 9 going to be short. And I'm happy to go if Ms. Hansen is
11:55:49 10 ready to go. And I'm also happy for us to take a short
11:55:52 11 break. It's entirely up to you, Ms. Hansen.

11:55:57 12 THE WITNESS: I'm fine.

11:55:58 13 MS. LANG: And everybody else okay with that?

11:56:02 14 THE WITNESS: And I -- I've seen your name
11:56:04 15 many times so . . .

11:56:07 16 MS. LANG: Likewise, actually. So very good
11:56:08 17 to see you.

11:56:09 18 Is that okay with everybody else? All right.

11:56:09 19

11:56:09 20 EXAMINATION

11:56:14 21 BY MS. LANG:

11:56:14 22 Q. Well, with that, thank you so much for your time
11:56:16 23 today, Ms. Hansen. My name is Danielle Lang, and I
11:56:18 24 represent the LUCHA plaintiffs in this matter.

11:56:21 25 And as was represented earlier, I really have

11:56:24 1 a very brief set of questions that I want to go through
11:56:27 2 with you, and then we will hopefully wrap -- wrap up your
11:56:33 3 testimony soon.

11:56:34 4 I want to talk a little bit about kind of
11:56:38 5 state versus federal forms and their usage. And most
11:56:44 6 importantly, I'd like to get to an understanding of kind of
11:56:48 7 the relative breakdown of usage between state and federal
11:56:52 8 forms.

11:56:53 9 Would you say that the majority of voter
11:56:56 10 registration forms that you receive in your office are the
11:56:59 11 state form rather than the federal form?

11:57:02 12 A. Yes, I would.

11:57:05 13 Q. Like by a substantial margin? Is that fair to
11:57:11 14 say?

11:57:11 15 A. It depends on the election time. I know that
11:57:17 16 there's been organizations that registered voters on the
11:57:21 17 college campus that use the federal form more and some were
11:57:28 18 -- it's -- they're usually out-of-state organizations that
11:57:31 19 come in. And also, if they're going to be registering
11:57:36 20 voters where it may be several counties at the event. But
11:57:43 21 most of the organizations locally use the state form.

11:57:47 22 Q. Okay. And sometimes your office would provide
11:57:53 23 voter registration forms to groups that are doing voter
11:57:56 24 registration drives; is that right?

11:57:57 25 A. Yes.

11:57:58 1 Q. And in that case, does your office provide state
11:58:01 2 forms rather than federal forms?
11:58:03 3 A. Yes.
11:58:04 4 Q. Okay. And your office also receives voter
11:58:12 5 registration forms from agencies that are required to
11:58:15 6 conduct voter registration under the NVRA; is that right?
11:58:18 7 A. Yes.
11:58:21 8 Q. Not talking about the MVD but the other agencies
11:58:24 9 that are required to do voter registration, do they use the
11:58:27 10 state form in helping individuals register to vote at the
11:58:31 11 agencies?
11:58:32 12 A. Yes, they do. But as I recall, they need to have
11:58:35 13 the federal form available too. But I --
11:58:40 14 Q. Okay.
11:58:40 15 A. What we receive mostly is state forms.
11:58:44 16 Q. Got it.
11:58:45 17 And I understand from your testimony earlier
11:58:55 18 that right now, your office kind of processes forms
11:59:00 19 identically, whether they're state form or federal form; is
11:59:04 20 that right?
11:59:04 21 A. That's correct.
11:59:05 22 Q. Okay. It's also my understanding that it's -- if
11:59:09 23 the provisions of HB 2492 were to go into effect and be
11:59:14 24 implemented, that it would require you to treat state and
11:59:18 25 federal forms differently.

11:59:20 1 Is that your understanding?

11:59:21 2 A. That is my understanding.

11:59:23 3 Q. Okay. And is that one of the objections you had

11:59:27 4 to this bill when it was pending?

11:59:30 5 A. Yes, it is.

11:59:33 6 Q. And based on your experience, is there any kind of

11:59:39 7 reason why you would process a voter registration form

11:59:42 8 differently simply because of whether it's on a federal

11:59:47 9 form or a state form?

11:59:50 10 A. No. It's -- has the same information. I don't

11:59:57 11 see it -- it being filled out on a different type of paper,

12:00:00 12 why that would matter how you would be treated.

12:00:04 13 Q. Thank you.

12:00:11 14 And so from your experience, if you had to

12:00:15 15 treat state forms versus federal forms differently and

12:00:18 16 reject fed- -- state forms in their entirety if they did

12:00:23 17 not include DPOC, would that likely lead to you rejecting

12:00:27 18 more applications?

12:00:29 19 A. Yes.

12:00:30 20 Q. And then my next set of questions are briefly

12:00:39 21 about the documentary proof of residence requirements in

12:00:44 22 the law.

12:00:46 23 And you already testified earlier about your

12:00:49 24 veto letter where you specifically identified your concerns

12:00:53 25 about documentary proof of residence; is that right?

12:00:56 1 A. Yes.

12:00:57 2 Q. And can you just elaborate a little bit about what

12:01:00 3 your concern was with respect to that requirement and

12:01:04 4 especially as it applies to native voters?

12:01:08 5 A. Well, on the reservations, they don't have -- not

12:01:14 6 everybody has street addresses and not everybody has

12:01:19 7 utilities. We have people that live in -- have living

12:01:25 8 situations where they haul their water. They may have

12:01:27 9 solar, if they do have electricity, and they're not going

12:01:32 10 to have utility bills. I don't know if everybody, you

12:01:38 11 know, would have a bank statement. Internet is not

12:01:46 12 available throughout the reservation or even cell phone

12:01:49 13 service.

12:01:51 14 So I do know several of the people I've

12:01:54 15 talked to on the reservation have TracFones, so that

12:02:00 16 wouldn't have a bill coming to them. So it's difficult for

12:02:03 17 them to get the necessary ID, possibly, to be able to even

12:02:12 18 submit when they register.

12:02:15 19 And also, you need a photocopier if you're

12:02:19 20 sending copies. And so it would be an additional

12:02:23 21 requirement they would have to do if they didn't have an

12:02:28 22 Arizona driver's license or state ID.

12:02:33 23 Q. Thank you.

12:02:34 24 And, you know, one of the concerns you

12:02:37 25 raised, there is, obviously, issues with residential

12:02:40 1 addressing. But you also mentioned the kind of practical
12:02:43 2 difficulties even for someone who does have a residential
12:02:47 3 address to kind of obtain the documentation of that
12:02:50 4 address.

12:02:51 5 Is that what I understand your testimony to
12:02:53 6 be about? Is that right?

12:02:54 7 A. Some people, yeah.

12:02:54 8 Q. Yeah.

12:02:56 9 A. I think there's a problem.

12:02:58 10 Q. And would -- would those concerns potentially
12:03:01 11 extend not only to native voters but also some other rural
12:03:05 12 or low-income voters in your county?

12:03:09 13 A. Yes, I think so. We have people that we say live
12:03:13 14 off the grid. They may be living in a fifth wheel kind of,
12:03:20 15 you know, RV-type unit in the forest or something. And
12:03:25 16 they're eligible to register to vote if that's where
12:03:28 17 they're residing. But again, they don't have the access to
12:03:37 18 a lot of these IDs that other -- those of us that live in
12:03:41 19 the city or more urban areas would have.

12:03:45 20 Q. And in your experience, is it possible that
12:03:49 21 students might also have difficulty obtaining this type of
12:03:52 22 documentation and then getting copies of that type of
12:03:55 23 documentation?

12:03:56 24 A. Yes. If you live in the dormitory, unfortunately,
12:04:02 25 a student ID does not work because it doesn't have your

12:04:06 1 residence on it. And the -- they don't pay utilities.

12:04:15 2 It's included in the dorms or whatever. That's why I know

12:04:19 3 a lot of the college students end up voting early instead

12:04:24 4 of going to a polling place because it's -- they don't have

12:04:28 5 the necessary ID to show to either vote early in person or

12:04:33 6 to vote at the polling place on election day.

12:04:39 7 Q. Thank you.

12:04:42 8 And just talking a little bit about kind of

12:04:45 9 how you process residential addresses, and it -- my

12:04:50 10 understanding is that on a voter registration form, folks

12:04:53 11 have two options as far as providing their residence. They

12:04:56 12 can either provide a traditional street address or they can

12:05:01 13 draw a location or kind of provide other information about

12:05:05 14 their location of residence if they don't have a tradition

12:05:07 15 street address; is that right?

12:05:09 16 A. That is correct.

12:05:11 17 Q. Okay. So starting with that first option, if --

12:05:15 18 if a street address is provided and you input that address

12:05:21 19 into your system, is it sometimes the case that that

12:05:24 20 address is not recognized by your system?

12:05:29 21 A. Yes. Especially, like, in new housing

12:05:32 22 developments or that, we would have to add the street and

12:05:36 23 the address to the system.

12:05:39 24 Q. And can you just talk through a little bit how

12:05:42 25 that's done?

12:05:44 1 A. It's a GIS-type-based system. So we would put a
12:05:50 2 dot to indicate where the residence is at, and then we go
12:05:56 3 in and add it to the system by putting in the address and
12:06:01 4 what districts they were in. Though, since it's GIS-based,
12:06:06 5 a lot of that districting automatically comes in because of
12:06:10 6 the layer with the -- the layers within the GIS system.

12:06:15 7 Q. And so sometimes if that address comes in as kind
12:06:19 8 of not recognized within your system, does that require
12:06:21 9 additional follow-up to the voter?

12:06:24 10 A. Sometimes if it's not -- like, if it's a -- not a
12:06:30 11 street address at all, we will try to contact the voter to
12:06:36 12 see if they could give us more information if we cannot
12:06:40 13 determine where on the map they would be located. Because
12:06:44 14 the residence determines what's going to be on your ballot,
12:06:48 15 what districts you live in. And so that's why our
12:06:54 16 nonstandard addressing a lot of times will not be a street
12:07:00 17 address; we give it an artificial address.

12:07:04 18 So let's say that we could determine that
12:07:08 19 your -- you live in the Leupp precinct and you're in the
12:07:13 20 Flagstaff school district, and then we would give you a
12:07:18 21 0-Leupp-0, which tells us what ballot style you would get.
12:07:23 22 And we know the general area where you reside. And if --
12:07:29 23 Leupp is also in the Tuba City school district, so if
12:07:35 24 you're on the other side of the line in the school
12:07:37 25 district, we would give you 0-Leupp-1.

12:07:41 1 But sometimes if it's on -- really close to
12:07:44 2 the dividing line from their description, we have to call
12:07:47 3 them and try to locate them on exactly where they're at to
12:07:53 4 know which address to give them.

12:07:58 5 That's probably a -- more detail than you
12:08:01 6 wanted.

12:08:01 7 Q. No. It was actually perfect.

12:08:03 8 If we could open up the document in the
12:08:06 9 potential exhibits folder that is labeled L and mark that
12:08:11 10 as the next exhibit.

12:08:11 11 (The document was marked as Exhibit 177
12:08:23 12 for identification.)

12:08:23 13 BY MS. LANG:

12:08:28 14 Q. When you have it open, just let me know if you
12:08:30 15 recognize the document.

12:08:31 16 A. Yes.

12:08:34 17 Q. And can you just identify for me what that
12:08:37 18 document is?

12:08:38 19 A. This is the letter we send when we have questions
12:08:43 20 in regards to registrations.

12:08:43 21 Q. And --

12:08:51 22 A. If it was damaged or the residence is missing or
12:08:53 23 we can't find it.

12:08:54 24 Q. And so I see here that one of the options is the
12:09:00 25 information regarding your residence is missing or unclear;

12:09:03 1 is that right?

12:09:04 2 A. Yes.

12:09:05 3 Q. And so is this the form you would use if your --

12:09:10 4 if the address provided is, you know, not coming up in your

12:09:14 5 system or that you otherwise are unable to kind of pinpoint

12:09:17 6 the location of residence for a voter?

12:09:20 7 A. Yes.

12:09:21 8 Q. Okay. And what kind of -- kind of response from a

12:09:28 9 voter is sufficient to kind of resolve these types of

12:09:32 10 issues?

12:09:34 11 A. Usually they would give us a call or -- and help

12:09:39 12 us find where they're located, or they could respond by

12:09:45 13 giving us a -- like, if they're not on the reservation,

12:09:50 14 their parcel number and lot number, longitude or latitude.

12:09:55 15 So a lot of people don't have that. And sometimes, we're

12:10:00 16 now getting some of the Google codes that also help us

12:10:05 17 locate them.

12:10:09 18 Q. Sounds like there's a lot of different kind of

12:10:11 19 options. Is that fair to say?

12:10:12 20 A. Yes, there is.

12:10:13 21 Q. And you don't provide -- and you don't require

12:10:16 22 those voters to provide any documentation, but rather they

12:10:21 23 can provide this information for -- by the phone for

12:10:24 24 example; is that right?

12:10:24 25 A. Yes. Yeah, they wouldn't have any documentation

12:10:29 1 really that would show it. I mean, if they were the
12:10:32 2 property owner, maybe they could, you know -- we could
12:10:37 3 check with the assessor's office, but otherwise, no. If
12:10:42 4 you're renting, you're not going to know that information.

12:10:46 5 Q. And -- and I think you've already testified to
12:10:49 6 this. But is it more likely that native voters living on
12:10:53 7 reservations in your county are more likely to encounter
12:10:57 8 kind of non- -- have nonstandard addresses?

12:11:00 9 A. Yes, that's correct. It's been left up to each
12:11:03 10 chapter whether they're going to be implementing 911
12:11:07 11 addresses, and it's been a very slow process. And
12:11:14 12 unfortunately, they just don't have street addresses.

12:11:19 13 Q. And in your experience, is it common for these
12:11:26 14 kind of nonstandard addressing markers, like a longitude or
12:11:32 15 latitude or Google codes and these other forms of
12:11:36 16 nonstandard addressing, to a full -- to appear on
12:11:40 17 identification documents, like your driver's license or
12:11:45 18 tribal ID?

12:11:47 19 A. No.

12:11:48 20 Q. Okay.

12:11:50 21 A. I know for tribal ID, it would be more their
12:11:53 22 chapter. And we do try to make our precincts follow
12:11:58 23 chapter lines, but they're not necessarily consistent or
12:12:04 24 set in stone. Like, we can't get a map of the exact ones
12:12:08 25 because people can change their chapters and things like

12:12:12 1 that.

12:12:15 2 Q. And I notice in your interrogatory responses that
12:12:18 3 you mentioned that sometimes your office might help to
12:12:22 4 assign an address.

12:12:25 5 By that, did you mean the kind of, like,
12:12:28 6 assignment that you make might make internally just for
12:12:30 7 your own purposes, or does your office actually help folks
12:12:34 8 get a 911 address, for example?

12:12:36 9 A. No. It's the artificial address that we give
12:12:41 10 internally, which tells us the ballot style. So we know
12:12:44 11 what ballot either to be issued to them at a polling place
12:12:48 12 or what ballot for early voting.

12:12:52 13 Q. Do you know what office within the county is
12:12:55 14 responsible for helping individuals get a standard address
12:12:58 15 if they want one?

12:13:00 16 A. If they're not on the reservation, it would be
12:13:05 17 through our GIS department right now, as I recall. And on
12:13:11 18 the reservation, it's like Navajo Nation. From what I
12:13:16 19 understand, it's left up to each of the chapters. And
12:13:18 20 chapters are kind of how they divide the reservation and --
12:13:22 21 for their governing.

12:13:24 22 And I'm not sure what the Hopi Tribe -- how
12:13:30 23 they do their addressing, but it would be through the
12:13:35 24 reservation. The county does not assign addresses on
12:13:40 25 reservation land or also in the national parks, so . . .

12:13:53 1 Q. In Coconino County, do you know, is the voter
12:13:57 2 registration rate among native voters lower than the rate
12:14:01 3 overall of voter registration in the county?

12:14:05 4 A. I have not checked that against the census
12:14:10 5 numbers. So no, I can't say.

12:14:13 6 Q. I'd like to look at the exhibit that's been marked
12:14:30 7 Exhibit 24.

12:14:38 8 MS. LANG: Do you have access to that, Rose?

12:14:40 9 MS. WINKELER: Yeah, if you could just give
12:14:41 10 me a minute.

12:14:42 11 MS. LANG: Yes, of course.

12:15:14 12 THE WITNESS: Okay.

12:15:15 13 BY MS. LANG:

12:15:16 14 Q. And if you can look at the second page in this
12:15:20 15 document.

12:15:21 16 Have you seen this document before?

12:15:23 17 A. Yes. I think it was included in the information
12:15:27 18 that Kori Lorick sent out.

12:15:32 19 Q. And do you know when that was?

12:15:33 20 A. When that was?

12:15:35 21 Q. Yes.

12:15:37 22 A. I'm thinking, well, it must have been at the end
12:15:39 23 of 2022 because it was prior to the Fontes administration.

12:15:45 24 Q. Okay. And is it your understanding that if the
12:15:54 25 DPOR requirement were to be implemented, that this chart

12:15:57 1 would help you determine what forms of documentation could

12:16:01 2 be accepted under that requirement?

12:16:04 3 A. Yes. I would assume that it would be included in

12:16:09 4 the EPM.

12:16:11 5 Q. Okay. So -- but right now, your office has not

12:16:16 6 implemented the DPOR requirement at all; is that correct?

12:16:19 7 A. That is correct.

12:16:19 8 Q. Okay. I just wanted to ask briefly about the

12:16:28 9 document listed, kind of -- the very last document on this

12:16:32 10 chart, written confirmation signed by the registrant that

12:16:35 11 they qualify to register. And then in the parenthesis, it

12:16:40 12 explains, like, for -- for folks who are at a homeless

12:16:43 13 center or are using the courthouse as their kind of

12:16:49 14 residence.

12:16:52 15 Do you know if there is currently a kind of

12:16:56 16 document available that such voters could use as written

12:16:59 17 confirmation of their residence?

12:17:03 18 A. No, I'm not familiar with any document like that.

12:17:09 19 Q. Okay. Are you familiar with any kind of document

12:17:19 20 promulgated by the secretary of state or otherwise that

12:17:22 21 would allow voters to kind of affirm their residence as a

12:17:27 22 way to provide documentary proof of residence?

12:17:31 23 A. Not now, no.

12:17:33 24 Q. Okay. Outside of this chart, have you received

12:17:37 25 any additional guidance about how you would implement the

12:17:41 1 DPOR -- how you should implement the DPOR requirements if

12:17:45 2 they are implemented?

12:17:46 3 A. No.

12:18:00 4 MS. LANG: I don't have any further questions
12:18:01 5 for you, Ms. Hansen. Thank you so much for your time.

12:18:05 6 THE WITNESS: Thank you.

12:18:15 7 BY MR. HORLEY: Hi, Ms. Hansen. I am Tim
12:18:15 8 Horley with the State of Arizona and the Arizona Attorney
12:18:18 9 General's Office. I don't know if any other plaintiffs
12:18:21 10 have any other questions. Also, I'm not sure if folks
12:18:27 11 would like to take a short break. Up to you, Ms. Hansen,
12:18:27 12 on that.

12:18:28 13 Cindy, I see a hand.

12:18:28 14 THE COURT REPORTER: Please.

12:18:34 15 Okay. Is everybody okay with a short break
12:18:36 16 here?

12:18:37 17 MR. MORGAN: At this hour, I think we ought
12:18:39 18 to have lunch.

12:18:44 19 MR. HORLEY: I have no problem with a lunch
12:18:45 20 break, but up to you, Ms. Hansen and Rose, what your
12:18:52 21 thoughts are about that.

12:18:55 22 THE COURT REPORTER: Do you want to go off
12:18:58 23 the record for this?

12:18:58 24 MR. HORLEY: Sure.

12:18:59 25 THE VIDEOGRAPHER: We are off the record.

12:19:00 1 Time on the video monitor is 12:18 p.m.

12:19:04 2 (A recess ensued.)

13:24:51 3 THE VIDEOGRAPHER: We are on the record.

13:25:08 4 Time on the video monitor is 1:25 p.m.

13:25:12 5

13:25:14 6 EXAMINATION

13:25:14 7 BY MR. HORLEY:

13:25:14 8 Q. All right. Hello, Ms. Hansen. Thanks for your
13:25:17 9 time.

13:25:17 10 As I mentioned before, my name is Tim Horley.

13:25:21 11 I'm with the state attorney general's office.

13:25:23 12 So I do have a few questions that I wanted to
13:25:25 13 follow up -- follow up on, a few topics. And I may
13:25:28 14 introduce a couple different documents that haven't been
13:25:32 15 introduced yet. And if there are any that you think would
13:25:35 16 be better addressed to Ms. Casner, just let me know and I
13:25:40 17 will plan to ask those questions of her at that time.

13:25:43 18 A. Okay.

13:25:43 19 Q. So you mentioned that your office was opposed to
13:25:49 20 the passage of these laws and sent Governor Ducey a letter
13:25:53 21 asking him to veto them; is that correct?

13:25:55 22 A. I sent a letter to -- asking him to veto 2492.

13:26:02 23 Q. Okay. Great.

13:26:03 24 And then -- but I just wanted to confirm that
13:26:07 25 -- will you adhere to whatever a court orders regarding the

13:26:10 1 implementation of these laws?

13:26:12 2 A. Oh, Yes.

13:26:14 3 Q. And you mentioned that some phrases in HB 2492 and
13:26:20 4 2243 are unclear; correct?

13:26:23 5 A. Yes.

13:26:23 6 Q. And guidance from the secretary of state on those
13:26:28 7 unclear provisions would be helpful?

13:26:30 8 A. That's correct.

13:26:31 9 Q. And that could come in the form of an updated EPM,
13:26:36 10 for example?

13:26:37 11 A. Yes.

13:26:38 12 Q. And the EPM provides guidance on a lot of
13:26:41 13 different voting laws, including laws on topics that aren't
13:26:45 14 relevant to the laws we're talking about here; correct?

13:26:49 15 A. Yes.

13:26:50 16 Q. And do you generally rely on the EPM to help
13:26:55 17 implement those other voting laws?

13:26:57 18 A. Yes, I do.

13:26:58 19 Q. And would it be easy to implement those other
13:27:02 20 voting laws without the EPM?

13:27:06 21 A. Not necessarily. I refer to it quite often to
13:27:13 22 make sure that we're doing things correctly.

13:27:16 23 Q. Okay. So it's fair to say that there are
13:27:19 24 different voting laws that are also difficult to implement
13:27:22 25 without further guidance from the secretary of state; is

13:27:26 1 that right?

13:27:26 2 MR. MORGAN: Form.

13:27:27 3 THE WITNESS: That's correct. Especially in
13:27:29 4 regards to court decisions.

13:27:31 5 BY MR. HORLEY:

13:27:32 6 Q. Okay. So same thing is true for these laws that
13:27:35 7 is true for those other laws; correct?

13:27:38 8 A. That's correct.

13:27:40 9 Q. Okay. Great.

13:27:41 10 And then I wanted to look once again at the
13:27:44 11 exhibit that's been marked number 172. I believe it's
13:27:48 12 noted as Exhibit G in the zip file.

13:28:00 13 A. Okay.

13:28:01 14 Q. Okay. And then if you look down at the bottom of
13:28:04 15 page 1, top of page 2, there's a part where it says,
13:28:09 16 "Suggested position"; is that right?

13:28:12 17 A. Yes.

13:28:13 18 Q. And then there it says, "Take no position"; is
13:28:17 19 that right?

13:28:17 20 A. Yes.

13:28:18 21 Q. So does that mean that you wanted the AACo not to
13:28:23 22 take a position on these laws?

13:28:25 23 A. At -- on this specific bill as it was introduced,
13:28:30 24 yes.

13:28:31 25 Q. Okay. So that is different than saying you

13:28:34 1 opposed the law; correct?

13:28:37 2 A. Yes.

13:28:38 3 Q. Okay.

13:28:40 4 A. At that time, I thought it was asking for things
13:28:45 5 that we already -- that were covered with other procedures.
13:28:50 6 But as I recall, another bill was -- amendments
13:28:57 7 incorporated in, but I may be wrong on that because there's
13:29:01 8 so many pieces of legislation.

13:29:03 9 Q. Okay. Understood.

13:29:03 10 But just in this document, you did not oppose
13:29:07 11 HB 2243; is that right?

13:29:08 12 A. That's correct.

13:29:10 13 Q. Okay. Great. Thank you.

13:29:11 14 And then I wanted to touch base on the topic
13:29:16 15 of verifying or checking citizenship.

13:29:19 16 So do the recorders -- does your office do
13:29:22 17 anything to verify DPOC when it is received?

13:29:28 18 A. No.

13:29:30 19 Q. Okay. So it's just taken at face value?

13:29:34 20 A. Yes, it is.

13:29:35 21 Q. Okay. And is DPC -- DPOC normally provided as a
13:29:42 22 photocopy?

13:29:42 23 A. For the documents like the -- a birth certificate
13:29:48 24 or pages out of the passport, yes. Or sometimes, they'll
13:29:52 25 take a picture of it on their phone and then send it to us.

13:29:57 1 Q. Okay. And then you noted in your testimony that
13:30:04 2 the citizenship checkbox is not relevant if the recorder
13:30:08 3 has DPOC from the applicant already; is that right?

13:30:12 4 A. That's correct.

13:30:13 5 Q. Okay. What if the recorder does not have DPOC?

13:30:20 6 A. Then it would not meet the requirements under the
13:30:23 7 current state law.

13:30:25 8 Q. Okay. Would the citizenship checkbox be relevant
13:30:27 9 in that case?

13:30:30 10 A. It depends -- there's the affirmation at the
13:30:34 11 bottom of the form where they're saying, you know, that
13:30:38 12 they meet the qualifications.

13:30:41 13 Prior to Prop 200, which had put in the proof
13:30:45 14 of citizenship, the affirmation was enough. But currently,
13:30:50 15 with us now, we would make them a federal-only voter if
13:30:53 16 they -- well, hold it. No. If they marked the federal --
13:30:59 17 if they did not mark the box -- I'll have to defer to Donna
13:31:02 18 on that. I'm sorry. I'm getting my stuff confused.

13:31:05 19 Q. Okay. No worries. I'll just make a note of that
13:31:08 20 to follow up with Ms. Casner.

13:31:10 21 And so maybe this will be helpful, a more
13:31:16 22 specific question.

13:31:17 23 If the registrant were to mark "no" in the
13:31:21 24 citizenship checkbox but provided a purported copy of a
13:31:26 25 citizenship document, like a copy of a birth certificate,

13:31:28 1 for example, what would your office do in that situation?

13:31:33 2 A. We would follow up with the registrant to see what
13:31:36 3 the issue is.

13:31:41 4 Q. Okay. And would that issue possibly raise a red
13:31:44 5 flag about either the checkbox being marked wrong or
13:31:48 6 perhaps the proof of citizenship document being faulty?

13:31:52 7 A. My guess is it's the checkbox would probably be
13:31:57 8 what it is. But I think people can become citizens of
13:32:03 9 other countries and give up their U.S. citizenship. But,
13:32:08 10 you know, since it conflicts, we would want some kind of
13:32:11 11 verification from the registrant on why there's a
13:32:18 12 discrepancy there.

13:32:19 13 Q. Okay. Understood.

13:32:23 14 And another question on this. Is it possible
13:32:25 15 for a registered voter to submit a copy of a citizenship
13:32:29 16 document -- again, like a birth certificate or a passport
13:32:31 17 -- that is defective in some way; for example, maybe it's
13:32:35 18 blurry or hard to read?

13:32:38 19 A. We would ask them to send one that is clear.

13:32:43 20 Q. Okay. So does that -- in your experience, does
13:32:46 21 that happen frequently that there's something wrong with
13:32:50 22 the -- the document that they submit?

13:32:52 23 A. I'd have to defer to Donna on that. I don't
13:32:55 24 handle the citizenship paperwork that comes in very often.

13:33:00 25 Q. Okay. Understood.

13:33:02 1 But in those situations, if there was an
13:33:04 2 issue with the document, would it be helpful to know how
13:33:07 3 the citizen or the -- excuse me -- how the voter answered
13:33:10 4 the citizenship checkbox?

13:33:14 5 A. Yes. Because if they mark "no," we'd have to
13:33:17 6 definitely follow up with them.

13:33:20 7 Q. Okay. Understood.

13:33:22 8 And then I had some more specific questions
13:33:25 9 on this that refer to some spreadsheets with voter --
13:33:31 10 registered voter data that your office produced. And my
13:33:34 11 guess is that might be better directed toward Ms. Casner.

13:33:39 12 Do you think that's right?

13:33:39 13 A. Yes.

13:33:40 14 Q. Okay. Okay. Very good. So I'll just skip over
13:33:44 15 those for now.

13:33:45 16 I did want to ask you a few questions about
13:33:52 17 the databases that your office uses to verify citizenship.

13:33:56 18 So does your office use the HAVA check system
13:34:01 19 across the AVID database?

13:34:02 20 A. Yes, we do.

13:34:03 21 Q. And then that uses the MVD's data; correct?

13:34:11 22 A. Yes.

13:34:12 23 Q. Okay. And then you said that your office does use
13:34:15 24 the SAVE system as well?

13:34:18 25 A. Yes.

13:34:18 1 Q. And does the recorder's office consider the MVD
13:34:23 2 data to be generally reliable?

13:34:26 3 A. Yes. Generally. There was a glitch, as I recall,
13:34:35 4 that was found in October maybe of 2022 that the secretary
13:34:43 5 of state notified us about. And we had to go back and
13:34:47 6 double-check on those. And I know Donna can tell you, you
13:34:52 7 know, what we found during that time period where there was
13:34:58 8 some problems with the citizenship match with the MVD.

13:35:04 9 Q. Okay. Understood.

13:35:07 10 And in your experience, are those kinds of
13:35:10 11 incidents common?

13:35:11 12 A. No.

13:35:12 13 Q. Okay. And if a naturalized citizen status has not
13:35:18 14 yet been updated with the MVD -- like we talked about
13:35:22 15 before, if someone has an F-type license from a long time
13:35:25 16 ago, for example, they can easily reconcile that matter by
13:35:28 17 providing your office with documentation of their
13:35:31 18 naturalization; correct?

13:35:32 19 A. Yes.

13:35:35 20 Q. And does the recorder's office generally consider
13:35:38 21 the SAVE data to be reliable?

13:35:42 22 A. Yes.

13:35:42 23 Q. Okay. I did want to take a look at one document
13:35:47 24 that hasn't been marked as an exhibit yet. So I think
13:35:51 25 probably the easiest way for me to do this -- but anybody

13:35:54 1 who disagrees can chime in -- is just to share it on my
13:35:57 2 screen, and then I will send it in the Zoom chat or by
13:36:02 3 email so that we can have it entered in for everybody else.

13:36:05 4 Does that sound okay to you, Ms. Hansen?

13:36:08 5 A. Yes, it does.

13:36:09 6 Q. Okay. Can you see this document that I have
13:36:34 7 shared, Ms. Hansen?

13:36:34 8 A. Yes.

13:36:38 9 Q. And you mentioned before that your office was
13:36:41 10 involved in some tutorials on how to use the SAVE system;
13:36:46 11 is that right?

13:36:46 12 A. Yes.

13:36:46 13 Q. And did you participate in those tutorials?

13:36:50 14 A. No, I did not.

13:36:52 15 Q. Okay. And do you recognize this document?

13:37:02 16 A. I saw it in the -- what we sent to you. Donna was
13:37:04 17 the one that supplied this. Donna and Sedona were the two
13:37:10 18 that I know that had -- went through the tutorial.

13:37:10 19 Q. Okay. Very good.

13:37:10 20 But you recognize this as a document that
13:37:19 21 your office produced in response to the plaintiffs'
13:37:21 22 requests for production?

13:37:22 23 A. Yes.

13:37:23 24 Q. Okay. Very good.

13:37:25 25 MR. HORLEY: Then I would like to mark this

13:37:26 1 as exhibit -- I believe we're at 178 now. Is that right?

13:37:29 2 THE COURT REPORTER: Yes.

13:37:29 3 MR. HORLEY: Okay. I'd like to mark it as
13:37:32 4 that exhibit. I may have more questions on that for
13:37:36 5 Ms. Casner as well.

13:37:36 6 (The document was marked as Exhibit 178
13:37:36 7 for identification.)

13:37:36 8 BY MR. HORLEY:

13:37:39 9 Q. And just to take a quick look, if you don't mind
13:37:44 10 reviewing it really quickly. I see here at the top, it
13:37:46 11 says, "How to Initiate a Case Involving a Potentially
13:37:49 12 Fraudulent Document"; is that right?

13:37:54 13 A. Yes, that's what it says.

13:37:55 14 Q. Do you know if your office has had to use this
13:37:57 15 guidance because they've received potentially fraudulent
13:38:00 16 documents?

13:38:02 17 A. That, I'll have to ask Donna -- respond. I'm not
13:38:06 18 aware that we have. It wasn't brought to my attention.
13:38:10 19 But Donna is the one that works with it.

13:38:13 20 Q. Okay. Thank you. I will stop that screen share.

13:38:22 21 Another question on the topic of databases.
13:38:25 22 You mentioned sometimes using Social Security information
13:38:30 23 or that -- that's part of what the MVD database checks; is
13:38:34 24 that right?

13:38:34 25 A. Yes. Well, it's -- it's through the HAVA system.

13:38:40 1 And I -- that's to match for the federal-only voters' proof
13:38:46 2 of identity.

13:38:49 3 Q. Okay. Understood. So that's HAVA system and it's
13:38:54 4 used to show identity. Okay.

13:38:55 5 So if a voter does not have a Social Security
13:38:59 6 number when one of the checks is run, could that suggest
13:39:02 7 that that person is not a U.S. citizen?

13:39:05 8 A. No. It means they didn't fill out the
13:39:08 9 information, didn't have an Arizona driver's license, and
13:39:14 10 they didn't provide any of the DPOC.

13:39:19 11 Q. Understood.

13:39:20 12 So they wouldn't have provided their Social
13:39:22 13 Security number when they applied for a driver's license?

13:39:26 14 A. No. Driver's license would show up if there's a
13:39:30 15 match. But there's some people that are not -- don't have
13:39:37 16 Arizona driver's license. They use the federal-only -- the
13:39:41 17 federal form or national form to register.

13:39:46 18 And the Social Security number would -- if it
13:39:50 19 had a match in the Social Security system, would prove
13:39:53 20 their identity essentially. The NVRA has it in there about
13:40:00 21 identity on what -- if you -- if we accept it or they've
13:40:06 22 proven identity, they can vote an early ballot, from what I
13:40:09 23 understand, and they don't have to show up in person to
13:40:13 24 vote. But if they have not, they will have to show up in
13:40:16 25 person to vote for the first time. And then after the

13:40:21 1 first time, it's -- they could vote by mail.

13:40:26 2 Q. Okay. So I -- just to be clear, if that check was
13:40:30 3 run and there just was no Social Security number, what
13:40:34 4 would happen then?

13:40:36 5 A. They would be put as a federal-only voter and ID
13:40:42 6 required. I think we call it "fed ID." And they would not
13:40:49 7 be mailed an early ballot if they had requested one.

13:40:55 8 Q. Okay. Understood.

13:40:58 9 And then just one point of clarification. If
13:41:01 10 an individual fails to provide DPOC but does check the
13:41:06 11 citizenship box "yes," are they registered as a full-ballot
13:41:10 12 voter?

13:41:10 13 A. No. They would be a federal-only voter.

13:41:17 14 Q. Okay. Understood.

13:41:19 15 I wanted to ask you a little bit more about
13:41:22 16 the jury questionnaire reports that your office receives.

13:41:25 17 A. Okay.

13:41:26 18 Q. You mentioned that most people submitted -- you
13:41:30 19 know, said on their questionnaire that they're not a U.S.
13:41:33 20 citizen just to get out of jury duty; is that right?

13:41:36 21 A. Some -- yeah, some people. That's where I -- it's
13:41:41 22 not a large number of people, but when we've followed up
13:41:46 23 with them, that's what they have been -- they say. So I
13:41:52 24 have verified recently that there is an oath now -- I don't
13:41:56 25 know if it wasn't on in the past -- that they're swearing

13:42:02 1 or affirming that the information on the jury questionnaire
13:42:06 2 is truthful.

13:42:09 3 Q. Yes. So if they -- you mentioned that they -- you
13:42:14 4 think that in most cases, they're just, for lack of a
13:42:19 5 better term, lying on the form to try to get out of jury
13:42:21 6 duty. Does your office confirm that? Like, what's the
13:42:25 7 process for making sure that it was just a
13:42:29 8 misrepresentation?

13:42:30 9 A. We would send a letter or try to call them and see
13:42:36 10 why they marked -- are they indeed not a U.S. citizen.
13:42:41 11 Because some people that are not U.S. citizens have a
13:42:45 12 driver's license and they may be in the jury pool -- to
13:42:51 13 have the jury pool. And so those cases, they can't serve
13:42:57 14 on a jury either.

13:43:00 15 Q. So there are some cases where that -- that answer
13:43:04 16 they gave on the questionnaire is truthful and they are not
13:43:06 17 U.S. citizens?

13:43:08 18 A. Not if they're registrants. I'm not aware of --
13:43:13 19 and that's what -- when we get the list -- Donna is more
13:43:18 20 familiar with this.

13:43:20 21 From what I understand, when it says "not
13:43:22 22 U.S. citizen" on the jury list, when they check it, they
13:43:26 23 find out they're not registered voters. But Donna is much
13:43:31 24 more familiar with the jury list processing than I am.

13:43:35 25 Q. Okay. I just had one more question on that.

13:43:40 1 You mentioned that when you -- when you get
13:43:46 2 this information, you reach out to the -- to the voter and
13:43:49 3 you -- or the person who put this on there, the registrant,
13:43:52 4 and you confirm with them. At that point, do you just take
13:43:56 5 their word for it at face value -- if they say, "Oh, no --
13:44:00 6 yes, I'm a citizen. I just put that down on the jury
13:44:04 7 form," is that the end of the inquiry, or do you ask for
13:44:07 8 some kind of verification?

13:44:08 9 A. It would be the end of the inquiry if they had
13:44:11 10 supplied DPOC.

13:44:13 11 Q. Okay. And if they hadn't supplied DPOC --

13:44:17 12 A. Then they would have to submit something.

13:44:21 13 Q. Okay. Thank you.

13:44:22 14 A. I don't know if we've had that situation ever come
13:44:25 15 up, though.

13:44:26 16 Q. Understood. Okay.

13:44:28 17 And now, I wanted to talk a little bit about
13:44:32 18 birthplace.

13:44:33 19 You mentioned that you used to work as an
13:44:35 20 elections official in the state of Nebraska; is that right?

13:44:38 21 A. Yes.

13:44:39 22 Q. And you mentioned that their voters were required
13:44:43 23 to list birthplace on their applications?

13:44:46 24 A. Yes.

13:44:46 25 Q. And so if they -- if they didn't -- if they listed

13:44:52 1 a birthplace that was outside of the United States, your
13:44:55 2 office would have to follow up with them to confirm that
13:44:59 3 they were eligible to vote?

13:45:01 4 A. Yes.

13:45:02 5 Q. Okay. Did you find that process to be burdensome
13:45:08 6 on voters?

13:45:10 7 A. No. Because we would take their word for it if
13:45:14 8 they said they were naturalized.

13:45:16 9 Now, if they were naturalized citizens, we
13:45:19 10 did ask for the date of their nat- -- naturalization. And
13:45:24 11 if they said that a parent was a U.S. citizen, they didn't
13:45:28 12 have to provide any additional proof or anything.

13:45:33 13 Q. Okay. And did you -- in your view, was that
13:45:35 14 process discriminatory toward any group of voters?

13:45:39 15 A. No. Not in Nebraska, no.

13:45:44 16 Q. Okay. Thank you.

13:45:45 17 And I just wanted to confirm, your office
13:45:50 18 doesn't track whether voters provide correct or incorrect
13:45:54 19 birthplaces on the form as it exists now; correct?

13:45:56 20 A. That is correct.

13:45:57 21 Q. And I understand there's probably no easy way to
13:46:01 22 determine this, but generally, in your experience, do
13:46:05 23 voters commonly list their birthplace even though it's not
13:46:08 24 required?

13:46:10 25 A. They will put a lot of times -- I'll have to look

13:46:14 1 at the form, but I think it says "county," and sometimes
13:46:19 2 they'll put country, like USA on it, or instead of a state
13:46:25 3 or, you know, where they were registered -- I mean where
13:46:31 4 they were born.

13:46:32 5 Q. Okay. So it's fairly common for people to include
13:46:36 6 that on their form?

13:46:37 7 A. Yeah. The forms I have processed, I see that
13:46:41 8 filled out.

13:46:42 9 Q. Okay. And then does the county ever use that as a
13:46:49 10 way to help identify a voter over phone? For example, if
13:46:51 11 they call and they say, "I'm so and so," and you can ask,
13:46:53 12 "Are you the so and so who was born in this place?"

13:46:57 13 A. That, I would have to ask Donna. I don't ask for
13:47:05 14 birthplace when I ask for confirmation, but I'm not
13:47:11 15 positive what our current written procedures are for our
13:47:16 16 staff in the office. Since it's not required, my guess is
13:47:21 17 they don't, but Donna could answer that better.

13:47:24 18 Q. Okay. Thank you.

13:47:25 19 And if a court or the secretary of state
13:47:28 20 issued guidance that a county should change how it uses
13:47:33 21 birthplace information, would the recorder follow that
13:47:35 22 instruction?

13:47:35 23 A. Yes.

13:47:42 24 Q. And let's -- let's imagine a scenario where a
13:47:44 25 registrant were to write on his or her form that she was

13:47:48 1 born in one state -- for example, New York -- but then
13:47:51 2 provided a copy of the birth certificate that was from a
13:47:54 3 different state -- let's say Florida -- what would your
13:47:57 4 office do in that situation?

13:48:02 5 MS. LANG: Form.

13:48:02 6 THE WITNESS: That, I don't know. I'm not
13:48:03 7 aware we've ever had that situation come up.

13:48:03 8 BY MR. HORLEY:

13:48:07 9 Q. Could that situation potentially raise a red flag
13:48:10 10 about that voter's identity?

13:48:16 11 A. Yeah, I guess. I'd probably want to ask legal
13:48:20 12 counsel on, you know, that because I don't know if it would
13:48:24 13 indicate the type of fraud or what. But, yeah, I'm not
13:48:31 14 aware that the -- a lot of times, they will put Arizona --
13:48:36 15 they -- like, if they put Arizona as their birthplace for
13:48:40 16 one and then the birth certificate was somewhere else --
13:48:44 17 people don't fill out forms very well, and they're like,
13:48:48 18 "I'm in Arizona," and they just write the state they're in.

13:48:53 19 Q. Understood.

13:48:54 20 A. That would be, I think, more common than if it was
13:48:57 21 like a New York or Florida situation.

13:49:02 22 Q. Okay. Thank you.

13:49:04 23 I wanted to quickly go over some documents
13:49:08 24 that haven't been entered yet. These are emails and
13:49:12 25 attachments that you were involved in. So I'm going to do

13:49:14 1 the same screen sharing thing.

13:49:17 2 A. Okay.

13:49:17 3 Q. So just one moment while I pull those up.

13:49:43 4 Okay. Can you see this document?

13:49:45 5 A. Yes. But I can't really read it.

13:49:50 6 There, that's good.

13:49:51 7 Q. Better. Okay.

13:49:53 8 And then I am going to -- well, first, let me

13:49:57 9 ask: So -- so you -- do you recognize this -- this

13:49:59 10 document?

13:50:00 11 A. Yes.

13:50:02 12 Q. And did your office produce this in response to

13:50:06 13 plaintiffs' request for production?

13:50:08 14 A. Yes.

13:50:08 15 Q. Okay.

13:50:10 16 MR. HORLEY: Okay. I would like to mark this

13:50:11 17 as Exhibit 178.

13:50:21 18 THE COURT REPORTER: 179.

13:50:26 19 MR. HORLEY: I'm sorry. 179.

13:50:26 20 (The document was marked as Exhibit 179

13:50:31 21 for identification.)

13:50:31 22 BY MR. HORLEY:

13:50:32 23 Q. Okay. So I'm going to scroll down here toward the

13:50:37 24 bottom of page 1, top of page 2.

13:50:40 25 Do you recognize this email from Ian Camacho?

13:50:45 1 A. Yes.

13:50:45 2 Q. And I'll give you just a quick second to review
13:50:49 3 the text of that email.

13:50:55 4 A. Okay.

13:50:56 5 Q. Okay. And then scrolling up here, I see in your
13:51:01 6 response that you said, "Mr. Camacho, we looked into the
13:51:05 7 list registrants you sent to us and have taken the
13:51:08 8 necessary actions under law to address the issues that we
13:51:10 9 found"; is that right?

13:51:11 10 A. Yes.

13:51:11 11 Q. So could you just tell me a little bit more about
13:51:16 12 what happened with this email?

13:51:21 13 A. We checked what he -- what's -- what he sent and
13:51:25 14 we found that he didn't have all the information, as I
13:51:33 15 recall. Most of the registrants had either moved out of
13:51:37 16 state and had already been canceled or were -- I'll have to
13:51:44 17 ask Donna more. Donna and Sedona are the two that checked
13:51:49 18 that. But I don't take his information for cancellation.

13:51:56 19 What we would do if we did have a question is
13:51:59 20 we would send probably a voter ID card -- so Donna will
13:52:03 21 confirm this -- to an address where we think somebody may
13:52:08 22 have moved and see if it comes back to us with a different
13:52:11 23 address or undeliverable.

13:52:14 24 Q. Okay. Understood.

13:52:17 25 And has your office received a lot of these

13:52:21 1 kinds of emails and things like this from -- from

13:52:25 2 Mr. Camacho?

13:52:26 3 A. Yes. He seems to be quite regular at sending it.

13:52:31 4 Q. And from other voters as well?

13:52:35 5 A. I can't recall from other voters, no.

13:52:37 6 Q. Okay. Do you think that having more sort of

13:52:43 7 robust authentication procedures in the registration

13:52:48 8 process might help to cut down on these sorts of inquiries

13:52:51 9 from -- from folks like Mr. Camacho?

13:52:55 10 A. No. I think he doesn't understand all of the

13:53:04 11 laws. Like, you can stay registered to vote in Arizona,

13:53:08 12 and if you're working, you know, in Washington, D.C. --

13:53:13 13 people have two residences. So they can kind of decide on

13:53:17 14 their own. And he doesn't have that information.

13:53:20 15 And he looks at stuff like it's zoned

13:53:24 16 commercial property, and it turns out there is an apartment

13:53:29 17 or a living space at the commercial property. He's kind of

13:53:33 18 a -- I don't know. He wants to -- he wants to do our job,

13:53:39 19 I guess, for us. So that's why I never respond what we

13:53:45 20 find out to him.

13:53:49 21 Q. Understood. All right. Thank you. That's all I

13:53:52 22 have on that document.

13:53:55 23 MR. HORLEY: And I believe those are all the

13:53:57 24 questions I have for you. Thank you, Ms. Hansen.

13:53:58 25 I think maybe some of my colleagues on the

13:54:00 1 defense side might have further questions.

13:54:03 2 THE WITNESS: Okay. Thank you.

13:54:06 3 MR. LANGHOFER: Thanks, Tim. I'm happy to go
13:54:07 4 unless another one of the defense counsel wants to go
13:54:11 5 first.

13:54:11 6

13:54:11 7 EXAMINATION

13:54:11 8 BY MR. LANGHOFER:

13:54:11 9 Q. All right. Hearing none, Ms. Hansen, I'm Kory
13:54:14 10 Langhofer. I -- I don't know that we've ever talked --

13:54:19 11 A. Yeah, we've met. I recognize your name too.

13:54:21 12 Q. Yeah. Yeah, I think we've communicated a lot in
13:54:24 13 writing. Nice -- nice to connect, even if it's virtually
13:54:27 14 here.

13:54:28 15 A. Nice to see you.

13:54:28 16 Q. I represent the RNC in this case. And, you know,
13:54:34 17 you've, obviously, endured hours of questions here. I
13:54:36 18 don't have much to add to that, but I have just a couple --
13:54:39 19 a handful, I should say.

13:54:40 20 So has your office ever referred anything to
13:54:46 21 law enforcement that arose out of voter registration
13:54:51 22 issues?

13:54:51 23 A. Yes, we have.

13:54:53 24 Q. Can you tell me about those?

13:54:56 25 A. You're asking me to remember details.

13:54:58 1 It seems to me it was in regards to the town
13:55:04 2 of Tusayan and a person who voted twice -- or attempted to
13:55:13 3 vote twice. Those are the ones that I remember that we
13:55:19 4 would refer to.

13:55:21 5 Q. Did they have issues with folks in Tusayan
13:55:25 6 registering or attempting to register to vote there even
13:55:27 7 though they didn't live there?

13:55:29 8 A. Well, Tusayan is an interesting community in that
13:55:33 9 the -- most of the property is owned by businesses and
13:55:40 10 that, and so there's not a lot of private ownership of
13:55:44 11 property. And so the people who work there live in housing
13:55:46 12 provided by their employer or in a campground there. And
13:55:53 13 it's, unfortunately, a community that there has been a lot
13:55:58 14 of disagreement with different groups and there's been a
13:56:02 15 lot of accusations about people not residing there and
13:56:06 16 being ineligible to vote and -- from the two sides up there
13:56:12 17 that are in disagreement.

13:56:15 18 Q. And have you been able to definitively resolve
13:56:18 19 whether those folks actually reside where they came to
13:56:21 20 reside?

13:56:22 21 A. Well, it's been my experience people -- if there's
13:56:26 22 a question on residency, we have them -- we read them the
13:56:31 23 statute or have them read the statute and say where
13:56:36 24 you're -- you know, saying is your residence, do you meet
13:56:41 25 it. And we take their word for it.

13:56:41 1 Q. So --

13:56:43 2 A. And it's hard in that case because, like I said,
13:56:47 3 it's tied -- some people tie it to their employment. So if
13:56:52 4 they lose their job, they may move into the campground.
13:56:56 5 And it's -- it's a unique community.

13:57:03 6 Q. Those disputes in Tusayan have been going on for
13:57:06 7 quite a few years; am I right?

13:57:08 8 A. Yes, they have.

13:57:09 9 Q. At least -- at least eight years? Am I right
13:57:13 10 about that?

13:57:14 11 A. At least eight, yeah.

13:57:16 12 Q. Okay. Does your office have access to any
13:57:22 13 databases that you could use to check citizenship that are
13:57:28 14 more accurate than the MVD database and the SAVE database?

13:57:37 15 A. Not right now that I'm aware of, no. The one I
13:57:42 16 think is -- I have the most trust in is the SAVE database,
13:57:47 17 but that's not if you're born in the U.S. type things.
13:57:53 18 It's more -- from what I understand, that would be more
13:57:56 19 naturalization or things like that.

13:58:00 20 I don't know how it works. I know some
13:58:03 21 businesses check for -- if they're documented, I guess.
13:58:10 22 But those kind of databases, it is whether you're -- you've
13:58:14 23 entered the country with the correct documentation or if
13:58:19 24 you have not, so . . .

13:58:23 25 Q. Do you have -- apart from the MVD database and the

13:58:27 1 SAVE database, do you have access to anything that is more
13:58:32 2 current and reflects on citizenship status, any more up to
13:58:38 3 date?

13:58:38 4 A. No.

13:58:39 5 Q. Okay. When your office gets a state voter
13:58:49 6 registration form and there's no DPOC in the system -- so
13:58:53 7 you send out a notice to the voter saying, "You're missing
13:58:58 8 the DPOC," do you know what percentage of them respond and
13:59:01 9 provide the DPOC?

13:59:03 10 A. No, I don't. Donna may have a better idea of that
13:59:07 11 since she's the one that sends out the letters --

13:59:10 12 Q. Yeah.

13:59:11 13 A. -- or her staff does.

13:59:13 14 Q. I'll probably ask her about it.

13:59:14 15 Do you have a rough order of magnitude sense?
13:59:17 16 Are we talking like -- you know, do you have any even "wet
13:59:20 17 finger in the air" idea?

13:59:22 18 A. No. It depends on how many, like, federal-only
13:59:31 19 register -- or the federal forms we can get in, that's what
13:59:34 20 -- those forms -- we have that missing a lot more, I think,
13:59:38 21 than we do on the state forms.

13:59:40 22 Q. Yeah. The -- I want to talk about the checkbox,
13:59:49 23 because I think I've got a couple questions about the
13:59:51 24 checkbox briefly.

13:59:54 25 You had said that there were some problems

13:59:56 1 with the MVD database. I think in October of 2022 is when
14:00:00 2 they had that glitch, so -- but you'd also said that you
14:00:05 3 think, generally, it's a reliable system. Am I remembering
14:00:07 4 that right?

14:00:09 5 A. Yes.

14:00:09 6 Q. So it's reliable but imperfect. And you'd also
14:00:15 7 mentioned something -- I don't think I'd even thought of it
14:00:18 8 before, but the process of renouncing your citizenship.

14:00:20 9 You could provide DPOC and then the next day
14:00:23 10 or years later renounce your citizenship, theoretically.
14:00:28 11 So if we know that there are sometimes errors in the MVD
14:00:31 12 database or someone could lose their citizenship status, in
14:00:35 13 those sorts of circumstances, wouldn't there be at least
14:00:38 14 some value in having someone check a citizenship box and
14:00:41 15 say, like, "No, whatever your database says, whatever I put
14:00:44 16 in the database years ago through the MVD process, I am
14:00:48 17 currently a citizen"?

14:00:50 18 A. Well, one of my problems with the citizenship box
14:00:55 19 is it's buried in a small area. My personal opinion, if
14:01:00 20 they would put it really big in a giant box at the top --
14:01:04 21 "Are you a U.S. citizen, yes or no?" -- you wouldn't have
14:01:08 22 people missing it.

14:01:10 23 Q. So --

14:01:11 24 A. So that's -- it's -- the design of the form, I
14:01:19 25 think, leads to people missing things. It's right above,

14:01:24 1 as I recall, the signature box. It's a little bitty print.
14:01:28 2 And people -- I don't know. Since I've been doing this
14:01:34 3 36 years now, people used to fill out forms better than
14:01:38 4 they do now.

14:01:40 5 Q. I guess I'm not surprised to hear that. You know,
14:01:44 6 having employed some people younger than me, I'm not
14:01:46 7 shocked to hear you say that.

14:01:49 8 Well -- okay. So that's an interesting
14:01:53 9 point. Maybe there's a formatting issue there. What if we
14:01:56 10 could -- what if we could, you know, spend some hours and
14:01:58 11 reformat that document so that it was really prominent and
14:02:03 12 very clear, the citizenship answer is necessary and it was
14:02:10 13 very -- the wording was very simple so people can
14:02:12 14 understand it?

14:02:14 15 So basically, I'm imagining a world where we
14:02:17 16 could take out your formatting concerns. If we could do
14:02:21 17 that, would you agree that there would be some
14:02:23 18 informational value in having the answer from people, like
14:02:26 19 having them say that they are still citizens?

14:02:30 20 MS. LANG: Objection. Calls for speculation.

14:02:33 21 THE WITNESS: If they supply the proof of
14:02:37 22 citizenship, you've met the requirement. The point of both
14:02:42 23 of those -- the box and the DPOC -- is we're trying to find
14:02:47 24 out: Are you a U.S. citizen? Yes or no?

14:02:50 25 And I think both things -- you know, if we

14:02:55 1 could take it that the box is checked "yes" and you don't
14:02:59 2 have to supply the DPOC, you know, it would be, we take you
14:03:04 3 at your word in signing the affirmation. If you supply the
14:03:10 4 DPOC, you've supplied proof of citizenship. So why do you
14:03:13 5 have to check a box too, I guess. That's what -- it seems
14:03:19 6 kind of redundant.

14:03:20 7 BY MR. LANGHOFER:

14:03:20 8 Q. Let's walk through that.

14:03:21 9 So if someone provides you a DPOC, let's say
14:03:30 10 they attach a copy of their birth certificate but they
14:03:34 11 don't check the box, it would be possible, wouldn't it,
14:03:37 12 that they have renounced their citizenship since they were
14:03:41 13 born; right? So even if they've got a -- they've got DPOC,
14:03:46 14 they -- in order to really know whether they're a citizen,
14:03:49 15 you need them to currently indicate whether they're a
14:03:52 16 citizen. Do you agree with that?

14:03:53 17 MS. LANG: Objection. Calls for speculation.

14:03:59 18 THE WITNESS: I don't know how many people
14:04:01 19 renounce citizenship.

14:04:06 20 BY MR. LANGHOFER:

14:04:06 21 Q. Not many.

14:04:07 22 A. I mean, you know, it's -- I've never seen it
14:04:10 23 happen personally but . . .

14:04:13 24 Q. Yeah, I think that's a fair point.

14:04:14 25 A. I mean, I don't like -- I don't think it's good to

14:04:18 1 have a procedure in place where you may put a block for any
14:04:27 2 what-if scenario, no matter how minute the reason it's
14:04:33 3 there, that may keep eligible people from being able to
14:04:37 4 exercise their right to vote.

14:04:39 5 Q. Well, so I understand what you're saying. And
14:04:45 6 the -- I think what you're saying is, this is why you would
14:04:48 7 vote against the bill. And I think you've articulated that
14:04:52 8 really well, and I think you -- I think you articulated
14:04:54 9 that to the governor as well as anyone. So I understand
14:04:59 10 why you think it's a bad idea.

14:05:01 11 I'm asking a little bit different question,
14:05:03 12 though, which is: You know, it is theoretically possible
14:05:09 13 that someone could obtain DPOC at some point? They have a
14:05:13 14 naturalization certificate; they have a birth certificate;
14:05:13 15 a passport. And after getting that, they're either
14:05:18 16 forcibly denaturalized -- there is a process for that -- or
14:05:21 17 they renounced their citizenship.

14:05:23 18 And so if we're not requiring them to say, "I
14:05:27 19 am currently a U.S. citizen," isn't there some chance
14:05:30 20 you're letting someone register who's, in fact, not a
14:05:33 21 citizen?

14:05:33 22 MS. LANG: Objection. Calls for speculation.
14:05:36 23 Asked and answered.

14:05:39 24 THE WITNESS: It could be a possibility but
14:05:44 25 not a probability.

14:05:46 1 BY MR. LANGHOFER:

14:05:47 2 Q. So --

14:05:47 3 A. In my opinion. And this is my opinion.

14:05:51 4 Q. Yeah, I -- I totally understand that.

14:05:54 5 So similarly, if the MVD system has had
14:05:58 6 problems -- you know, in October of 2022, there was a
14:06:01 7 problem. I think it lasted only a week or so. But if it
14:06:05 8 has had problems -- and for many of these voters, the DPOC
14:06:10 9 that you're relying on is just in the system, which
14:06:13 10 apparently has some problems. For those folks, isn't it
14:06:17 11 also valuable to have a current avowal from the registrant
14:06:23 12 that they are a U.S. citizen?

14:06:25 13 MS. LANG: Objection. Lack of foundation.
14:06:28 14 The problem that was identified in the MVD database is
14:06:34 15 not --

14:06:34 16 MR. LANGHOFER: Speaking objections are not
14:06:34 17 allowed. You don't get to coach the witness. You've made
14:06:34 18 your objection.

14:06:38 19 THE WITNESS: Well, at the time there was the
14:06:41 20 problem, there were new databases being created. AVID was
14:06:47 21 new or, you know, updated -- well, AVID essentially was new
14:06:51 22 because it was PowerProfile before and that -- that's my
14:06:55 23 problem with databases. Any database is possible to get a
14:07:01 24 glitch in, no matter which ones you look at.

14:07:01 25 BY MR. LANGHOFER:

14:07:06 1 Q. Those glitches -- those glitches don't all go one
14:07:09 2 way; they don't all indicate that someone is not a citizen
14:07:12 3 when they actually are; they could also indicate that
14:07:13 4 someone is a citizen when there's not evidence of that;
14:07:16 5 fair?

14:07:16 6 MS. LANG: Objection. Lack of foundation.
14:07:17 7 Calls for speculation.

14:07:20 8 THE WITNESS: I guess if there's a glitch.
14:07:22 9 BY MR. LANGHOFER:

14:07:23 10 Q. Yeah. And so because you're partially worried
14:07:26 11 about glitches, wouldn't the requirement that a proposed
14:07:32 12 registrant has to say, "I currently am a citizen" add some
14:07:37 13 informational value?

14:07:38 14 MS. LANG: Objection. Calls for speculation.
14:07:42 15 Asked and answered

14:07:43 16 THE WITNESS: Yeah, they provided it if they
14:07:46 17 provided DPOC.

14:07:47 18 BY MR. LANGHOFER:

14:07:49 19 Q. But -- but the evidence of DPOC in [indiscernible]
14:07:49 20 database --

14:07:49 21 THE COURT REPORTER: I'm sorry. You cut out.
14:07:49 22 You cut out. "The evidence of DPOC" --

14:07:49 23 BY MR. LANGHOFER:

14:07:58 24 Q. -- is, for some people, just what's in the
14:08:00 25 database, which we're acknowledging here could be

14:08:03 1 unreliable?

14:08:04 2 MS. LANG: Objection. Argumentative.

14:08:06 3 Objection. Asked and answered. Calls for speculation.

14:08:13 4 THE WITNESS: We've had the instance, as I
14:08:17 5 mentioned, the county employee that I know who got
14:08:21 6 naturalized, but the Motor Vehicles still did not have him
14:08:26 7 in as a citizen.

14:08:31 8 BY MR. LANGHOFER:

14:08:31 9 Q. So in that case, would there have been some
14:08:35 10 informational value in him saying on the form that he's a
14:08:38 11 citizen?

14:08:38 12 A. I think he did.

14:08:40 13 Q. Okay. And there was informational value in that?

14:08:45 14 A. We couldn't take it as proof of citizenship.

14:08:49 15 Q. That's not what I asked.

14:08:51 16 A. Yeah. And our procedures in the EPM was to --
14:08:57 17 that -- as I recall, is that if it was a -- indicated in an
14:09:04 18 MVD, we could not take that "Yes, I'm a U.S. citizen" as
14:09:09 19 proof of citizenship and we had to follow up with him.

14:09:14 20 Q. We -- we definitely understand that you oppose
14:09:18 21 these laws. I mean, that's a matter of public record.
14:09:20 22 You've testified to it already. I'm not asking whether you
14:09:23 23 think it's right.

14:09:23 24 A. Yeah.

14:09:24 25 Q. What I'm saying is, if you know that these

14:09:27 1 databases can have errors and the errors could say that
14:09:30 2 someone has provided DPOC when, in fact, they haven't,
14:09:33 3 isn't there informational value in asking them to swear
14:09:37 4 that they are, in fact, citizens?

14:09:39 5 MS. LANG: Objection. Asked and answered.
14:09:42 6 Argumentative. Speculative.

14:09:43 7 Mr. Langhofer, you've asked this question at
14:09:45 8 least four times now and you've gotten an answer.

14:09:48 9 MR. LANGHOFER: Danielle, she's dodged it.
14:09:52 10 No, she -- she has not -- I have not gotten an answer.
14:09:52 11 She's answered a different question, which is basically
14:09:53 12 whether she thinks it's a good policy. And she definitely
14:09:56 13 doesn't think it's a good policy.

14:09:58 14 But she does have an answer for this
14:09:59 15 question, which I will get before we're done here.

14:10:03 16 THE WITNESS: Well, you're asking my opinion
14:10:05 17 and I don't -- I don't think --

14:10:08 18 BY MR. LANGHOFER:

14:10:09 19 Q. Is it your position that there is no informational
14:10:11 20 value in this checkbox even when you know that for some
14:10:15 21 people, their DPOC indication in the database could be
14:10:19 22 wrong?

14:10:19 23 MS. LANG: Objection. Lack of foundation.
14:10:22 24 Asked and answered. Argumentative. Calls for speculation.

14:10:26 25 THE WITNESS: I think it's informational if

14:10:29 1 they mark "no." For me, that's information that I would
14:10:35 2 find useful.

14:10:36 3 BY MR. LANGHOFER:

14:10:37 4 Q. And if someone marks "yes," you don't think that
14:10:39 5 has any informational value?

14:10:40 6 A. Not if they provided DPOC.

14:10:42 7 Q. And what if they refused to answer it? Wouldn't
14:10:44 8 that --

14:10:45 9 A. Then they're a federal-only voter because of the
14:10:49 10 decision in the court case.

14:10:51 11 Q. If someone refuses to answer a question, couldn't
14:10:54 12 it imply that the answer is not advantageous to them?

14:10:58 13 MS. LANG: Objection. Calls for speculation.
14:11:00 14 Lack of foundation.

14:11:02 15 THE WITNESS: Can I ask my legal counsel a
14:11:06 16 question?

14:11:08 17 BY MR. LANGHOFER:

14:11:08 18 Q. Yeah, you can. I mean, I think the custom which
14:11:11 19 they --

14:11:15 20 A. I -- you know, you're asking me if I have an
14:11:18 21 opinion on whether that information would be useful to us
14:11:25 22 to process registrations; right?

14:11:27 23 Q. No. I'm asking whether there's information value
14:11:30 24 there. Whether -- whether it's useful to you is kind of
14:11:32 25 something that the Court will be looking at eventually.

14:11:39 1 A. I'm not seeing the difference, I guess, is my
14:11:41 2 problem.

14:11:43 3 Q. I think the question -- the last question I asked
14:11:46 4 was: Is it your position that there is no informational
14:11:49 5 value when someone says -- refuses to say whether they're a
14:11:54 6 citizen?

14:11:55 7 MS. LANG: Objection. Lack of foundation.
14:11:57 8 Calls for speculation. Asked and answered. Argumentative.

14:12:03 9 THE WITNESS: I guess not.

14:12:07 10 BY MR. LANGHOFER:

14:12:09 11 Q. I'm sorry.

14:12:09 12 Are you saying that's not your position or
14:12:11 13 it's not informational value?

14:12:13 14 A. It's -- information -- you've signed an oath that
14:12:17 15 says an affirmation that the information is -- you meet the
14:12:22 16 qualifications to register to vote, which is listed on the
14:12:25 17 registration form. You've provided DPOC. So I -- yeah.

14:12:32 18 Q. So --

14:12:32 19 A. I'm sorry.

14:12:33 20 Q. I'm sorry. You're getting confused.

14:12:35 21 You just said -- I was about to take your
14:12:38 22 answer as your final position, but then you said, "You've
14:12:40 23 provided DPOC." And I was trying to limit this to people
14:12:43 24 for whom the database says they provided DPOC, but we have
14:12:48 25 already discussed the database could be wrong.

14:12:50 1 So you've got the database. Could be right,
14:12:54 2 could be wrong -- probably right -- and they refuse to
14:12:58 3 check the box saying they're a citizen. Are you saying the
14:13:01 4 absence of that information has no informational value?

14:13:06 5 MS. LANG: Objection. Lack of foundation.
14:13:08 6 Calls for speculation. Asked and answered. Argumentative.

14:13:14 7 THE WITNESS: Like I said, if you mark "no,"
14:13:22 8 we're going to assume you're not. So I -- if you mark
14:13:28 9 "yes," it's the same as providing the DPOC or not providing
14:13:32 10 it. You're a fed-only voter.

14:13:32 11 BY MR. LANGHOFER:

14:13:35 12 Q. And if someone refuses to mark the box --

14:13:38 13 A. You don't know if they're refusing or if they
14:13:41 14 missed it while filling it out. Unless the person is in
14:13:47 15 front of me and I'm asking them, "Are you a U.S. citizen?"
14:13:50 16 The only way I would know they refused is they tell me, "I
14:13:55 17 refuse to answer that."

14:13:59 18 So I guess that's where I'm coming from.

14:14:03 19 Q. If I understand it correctly then, you would
14:14:06 20 attribute nonresponsiveness to voter error and overlook it?

14:14:14 21 A. That's how I would look at it, yes.

14:14:16 22 Q. What if a voter put their name but nothing else on
14:14:20 23 the form, would you attribute that silence to voter error
14:14:23 24 and register them?

14:14:23 25 A. No. We --

14:14:24 1 MS. LANG: Objection. Lack of -- objection;
14:14:29 2 form.

14:14:30 3 THE WITNESS: In the EPM, it spells out what
14:14:33 4 is needed, and also in the statute, what is required to
14:14:37 5 register. So if you don't have an address, you don't have
14:14:40 6 your birth date, you don't have a signature, we can't
14:14:45 7 register you.

14:14:45 8 BY MR. LANGHOFER:

14:14:46 9 Q. Okay. And if the statute says you've got to have
14:14:49 10 a check in that box, you would ignore that part of the
14:14:52 11 statute?

14:14:53 12 MS. LANG: Objection. Lack of foundation.
14:14:55 13 Misstates testimony.

14:14:57 14 THE WITNESS: We would follow what the Court
14:15:01 15 rules in this case

14:15:03 16 BY MR. LANGHOFER:

14:15:03 17 Q. Okay. Let's move on, mostly to save Ms. Lang's
14:15:10 18 vocal cords from further objections.

14:15:13 19 MS. LANG: Thank you.

14:15:15 20 MR. LANGHOFER: Yeah.

14:15:23 21 MR. MORGAN: I think we've also learned when
14:15:23 22 Kory says he has a handful of questions, he has huge hands.

14:15:28 23 BY MR. LANGHOFER:

14:15:28 24 Q. All right. So I think this is my last question.

14:15:32 25 So we've heard from some other counties that

14:15:34 1 sometimes there's these voter registration drives and
14:15:38 2 they'll get a whole bunch of forms in. And then
14:15:40 3 occasionally, on -- they'll have -- it appears to be some
14:15:44 4 bad apples, folks who are filling out voter registration
14:15:47 5 forms with the same information multiple times, maybe
14:15:49 6 handwriting is all the same, kind of suspicious patterns in
14:15:53 7 these voter registration forms.

14:15:54 8 Have you had anything like that in Coconino
14:16:03 9 County?

14:16:03 10 MS. LANG: Objection. Lack of foundation.

14:16:04 11 THE WITNESS: Yeah, we've had registrations
14:16:05 12 where it's obvious that somebody was trying to register
14:16:10 13 someone else; that it was not filled out by the
14:16:13 14 registrants.

14:16:17 15 BY MR. LANGHOFER:

14:16:17 16 Q. How is it obvious?

14:16:19 17 A. Well, a lot of it is the -- if there -- if it's a
14:16:22 18 reregistration, they'll have wrong information, like birth
14:16:26 19 dates. And the best way for us to check these things is
14:16:30 20 when we put it in the system and they run the HAVA check
14:16:35 21 against Motor Vehicles, it comes back and it's -- there's
14:16:39 22 no match or it's, like, somebody else's. Usually it's no
14:16:45 23 match because they don't know what the driver's license
14:16:48 24 number would be and such.

14:16:56 25 That's -- but Donna is much more familiar

14:16:58 1 with this since she does the majority -- or oversees the
14:17:01 2 majority of voter registrations processing.

14:17:03 3 Q. All right.

14:17:04 4 A. But it's -- we haven't seen a lot of it, but we've
14:17:08 5 seen some. I know some counties have had more problems
14:17:13 6 than we have had here, thank goodness.

14:17:15 7 Q. Do you have any sense of how many we're talking
14:17:17 8 about in your county?

14:17:19 9 A. I'd have to ask Donna on that.

14:17:23 10 MR. LANGHOFER: Thank you, ma'am. That's all
14:17:24 11 the questions I have.

14:17:25 12 Are we going to ask questions of Donna now?

14:17:48 13 MR. MORGAN: Yeah, I don't -- I don't pretend
14:17:50 14 that I'm in charge or anything, but, I guess, does anybody
14:17:54 15 else have questions for the recorder?

14:17:58 16 MS. LANG: I have just a couple follow-up
14:18:00 17 questions for Ms. Hansen, but I don't have big hands like
14:18:02 18 Kory, so I do mean just a couple of questions, if that's
14:18:02 19 all right.

14:18:10 20 I don't know if any of the other plaintiffs
14:18:11 21 have any follow-up. Alex very well may.

14:18:15 22 Is it okay with you, Alex, if I just go
14:18:18 23 ahead?

14:18:20 24 MR. ATKINS: Yeah, that's just fine.

14:18:20 25 MS. LANG: Great.

14:18:20 1 FURTHER EXAMINATION

14:18:20 2 BY MS. LANG:

14:18:20 3 Q. Thanks, Ms. Hansen.

14:18:23 4 I just -- you'll have to forgive me. I'm not
14:18:26 5 familiar with the place. But you were talking about a town
14:18:30 6 with Mr. Langhofer -- Tusayan?

14:18:33 7 A. Tusayan.

14:18:34 8 Q. Tusayan. Okay.

14:18:36 9 And I think you testified that there maybe
14:18:40 10 have been one or two referrals there related to double
14:18:44 11 voting; is that right?

14:18:45 12 A. Yes.

14:18:48 13 Q. And you had -- you had agreed with Mr. Langhofer
14:18:51 14 that there had been some disagreements about residents
14:18:56 15 there about the residency status of some of those
14:18:59 16 individuals.

14:19:01 17 Have you actually had any referrals for
14:19:03 18 anyone who was actually found to not reside there that was
14:19:09 19 claiming to reside there?

14:19:12 20 A. Well, we turned it over to the county attorney's
14:19:14 21 office for investigation, so they would be the ones to
14:19:20 22 check with on it -- or the sheriff. I think the sheriff
14:19:25 23 would be -- do follow-up on that.

14:19:27 24 Q. Okay. And you mentioned that a number of the
14:19:30 25 people in this town live on campgrounds; is that right?

14:19:34 1 A. Well, they live in either a campground -- but the
14:19:37 2 campground would be the private area, where they're living
14:19:41 3 actually in something, you know, like a tent or an RV that
14:19:47 4 they own. Or they live in company housing. Like,
14:19:52 5 McDonald's has a -- there has a dormitory, and it's a lot
14:19:57 6 of motels. So the motels would have living situations for
14:20:03 7 their employees.

14:20:05 8 Q. And many of those folks that reside on campgrounds
14:20:08 9 or in dormitories are legitimate residents that are
14:20:12 10 eligible to vote in the state of Arizona; correct?

14:20:15 11 A. Yes.

14:20:16 12 Q. And would those folks, based on your experience,
14:20:19 13 have easy access to any documentation of their residence if
14:20:24 14 they're living on a campground or an RV?

14:20:28 15 A. Well, they, I would think, would have a more
14:20:31 16 difficult time. So now there would be -- I guess I'm
14:20:40 17 trying to think for utilities and that. I don't -- I'd
14:20:45 18 have to ask Donna if she -- how many she would see that was
14:20:49 19 coming from that area that may not have the proof of
14:20:58 20 citizenship or -- but residency, I think, would be harder.

14:21:02 21 I do know Tusayan, as I recall, has an
14:21:06 22 awfully high number of people on the active early voting
14:21:09 23 list. And so they don't have to show ID to vote. So if
14:21:19 24 you're voting by mail, we check your signature. So since
14:21:24 25 we don't do the document -- the proof of residency yet, I

14:21:31 1 don't know.

14:21:33 2 MS. LANG: Thank you. I don't have any
14:21:34 3 further questions.

14:21:35 4 MR. ATKINS: I think I have just two.

14:21:35 5

14:21:40 6 FURTHER EXAMINATION

14:21:40 7 BY MR. ATKINS:

14:21:40 8 Q. Ms. Hansen, how long has it been since you worked
14:21:45 9 in election administration in the state of Nebraska?

14:21:49 10 A. I worked in the state of Nebraska starting in
14:21:52 11 April 1st, 1987, through 1999.

14:21:57 12 Q. And are you up to date on Nebraska's requirements
14:22:02 13 for voter registration?

14:22:05 14 A. No.

14:22:07 15 MR. ATKINS: I don't have any other
14:22:08 16 questions. Thank you. Thanks so much.

14:22:13 17 MR. MORGAN: All right. If there are no more
14:22:15 18 questions, I -- unlike Kory's hands, I have a relatively
14:22:19 19 small bladder. Can we take five minutes as we transition
14:22:22 20 to the next witness?

14:22:26 21 MS. WINKELER: That's good for us.

14:22:27 22 THE WITNESS: That's good.

14:22:28 23 MR. MORGAN: Thank you.

14:22:28 24 THE VIDEOGRAPHER: We are off the record.

14:22:29 25 Time on the video monitor is 2:22 p.m.

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(The proceedings concluded at 2:22 p.m.)

PATTY HANSEN

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2

3 BE IT KNOWN that the foregoing deposition was taken
4 by me pursuant to stipulation of counsel; that I was then
5 and there a Certified Court Reporter in the State of
6 Arizona, and by virtue hereof authorized to administer an
7 oath; that the witness before testifying was duly sworn by
8 me to testify to the whole truth; pursuant to request,
9 notification was provided that the deposition is available
10 for review and signature; that the questions propounded by
11 counsel and the answers of the witness thereto were taken
12 down by me in shorthand and thereafter transcribed into
13 typewriting under my direction; that the foregoing pages
14 are a full, true and accurate transcript of all the
15 proceedings had upon the taking of deposition, all done to
16 the best of my skill and ability.

17 I FURTHER CERTIFY that I am in no way related
18 to nor employed by any parties hereto; nor am I in any
19 way interested in the outcome thereof.


20 Dated at Phoenix, Arizona, this 8th day of
21 September, 2023.

22

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24

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CINDY MAHONEY, RPR, RMR NO. 50680

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UNITED STATES DISTRICT COURT
DISTRICT OF ARIZONA

Mi Familia Vota, et al.,)	
)	
Plaintiffs,)	Case No.
	)	2:22-cv-00509-PHX-SRB
v.	)	(Lead)
)	
Adrian Fontes, in his	)	No. CV-22-00519-PHX-SRB
official capacity as	)	No. CV-22-01003-PHX-SRB
Arizona Secretary of State,	)	No. CV-22-01124-PHX-SRB
et al.,	)	No. CV-22-01369-PHX-SRB
	)	No. CV-22-01381-PHX-SRB
Defendants.	)	No. CV-22-01602-PHX-SRB
	)	No. CV-22-01901-PHX-SRB

AND CONSOLIDATED CASES.

VIDEO-RECORDED VIDEOCONFERENCE 30(b)(6) DEPOSITION OF U.S. CITIZENSHIP AND IMMIGRATION SERVICES (USCIS), REPRESENTED BY SHANNON SLATTERY, MARIAH DOOLITTLE, RUSSELL FILIGHERA

Camp Springs, Maryland

August 25, 2023

Prepared by:
CINDY MAHONEY, RPR, RMR
Certified Court Reporter
Certificate No. 50680



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1 VIDEO-RECORDED VIDEOCONFERENCE 30 (b) (6)
 2 DEPOSITION OF U.S. CITIZENSHIP AND IMMIGRATION SERVICES
 3 (USCIS), REPRESENTED BY SHANNON SLATTERY, MARIAH DOOLITTLE,
 4 RUSSELL FILIGHERA, at 12:07 p.m. EDT on August 25, 2023, at
 5 Camp Springs, Maryland, before Cindy Mahoney, RPR, RMR (via
 6 videoconference), Arizona Certified Court Reporter No.
 7 50680.

8 * * *

9
10
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17 ALSO PRESENT (all via videoconference):

18 Shalaka Phadnis

19 Daniel Rohan, Videographer

20

21

22

23

24

25

1 TRANSCRIPT OF PROCEEDINGS

2
3 THE VIDEOGRAPHER: We are on the record.

4 Time on the video monitor is 12:07 p.m. Here begins

12:07:52 5 Volume 1, Media Number 1, in the 30(b)(6) deposition of

12:08:01 6 U.S. Citizenship and Immigration Services, witnesses by

12:07:57 7 Russell Filighera, Mariah Doolittle, and Shannon Slattery,

12:08:08 8 in the matter of Mi Familia Vota, et al., v. Adrian Fontes,

12:08:13 9 et al., in the United States District Court, District of

12:08:16 10 Arizona, Case Number 2:22-cv-00509-SRB.

12:08:24 11 Today's date is August 25th, 2023. Our court

12:08:28 12 reporter is Cindy Mahoney. My name is Dan Rohan, certified

12:08:35 13 legal videographer. We both represent Coash Court

12:08:39 14 Reporting & Video. This video deposition is taking place

12:08:41 15 at 5900 Capital Gateway Drive, Camp Springs, Maryland

12:08:46 16 20588.

12:08:48 17 Counsel, please identify yourselves and state

12:08:50 18 whom you represent.

12:08:52 19 MR. SHERMAN: Jon Sherman at Fair Elections

12:08:55 20 Center. I represent the Poder Latinx plaintiffs in this

12:08:59 21 case.

12:09:00 22 MR. ATKINS: Alexander Atkins for Elias Law

12:09:07 23 Group, representing plaintiffs Mi Familia Vota and Voto

12:09:11 24 Latino.

12:09:11 25 MR. HERRERA: Ernest Herrera, representing

12:09:20 1 Promise Arizona plaintiffs.

12:09:21 2 MS. SHAH: Niyati Shah, representing the
12:09:27 3 Equity Coalition plaintiffs.

12:09:28 4 MS. LANG: Danielle Lang, representing the
12:09:31 5 LUCHA plaintiffs.

12:09:35 6 MR. MORGAN: Craig Morgan for Sherman &
12:09:40 7 Howard, on behalf of Adrian Fontes, the Arizona secretary
12:09:44 8 of state.

12:09:45 9 MR. WHITAKER: Josh Whitaker on behalf of the
12:09:49 10 Arizona attorney general.

12:09:52 11 MR. LANGHOFER: Kory Langhofer for the RNC.

12:09:56 12 MR. BURKLEY: On our side, Bruce Burkley for
12:10:12 13 U.S. Citizenship and Immigration Services.

12:10:15 14 MR. BUSCH: And Philip Busch, U.S.
12:10:17 15 Citizenship and Immigration Services.

12:10:19 16
12:10:19 17 SHANNON SLATTERY, MARIAH DOOLITTLE, RUSSELL FILIGHERA,
18 the witnesses herein, being first duly sworn,
19 were examined and testified as follows:

20
21 EXAMINATION

22 BY MR. SHERMAN:

12:10:39 23 Q. Good morning. I should say "good afternoon."
12:10:42 24 Good morning to folks in Arizona, but good afternoon to
12:10:45 25 Ms. Slattery, Ms. Doolittle, and Mr. Filighera. Thank you

12:10:48 1 for being with us.

12:10:50 2 Again, my name is Jon Sherman. I'm with Fair
12:10:54 3 Elections Center. I represent the Poder Latinx plaintiffs
12:10:56 4 in this consolidated case.

12:10:58 5 I have some basic questions at the beginning
12:11:00 6 of this deposition. And I think it -- given that we have
12:11:05 7 three designees all testifying at once, I think we should
12:11:10 8 just establish an order of response. So if we could just
12:11:12 9 go Ms. Slattery, Ms. Doolittle, Mr. Filighera for these
12:11:16 10 intro questions, I think that would be most efficient.

12:11:20 11 Could you each please state your full name
12:11:21 12 and title for the record.

12:11:24 13 MS. SLATTERY: Good afternoon, everyone. My
12:11:26 14 name is Shannon Slattery. I am currently the acting chief
12:11:30 15 of the SAVE program.

12:11:35 16 MS. DOOLITTLE: My name is Mariah Doolittle.
12:11:35 17 I am the chief of product management and delivery.

12:11:40 18 MR. FILIGHERA: I am Russell Filighera. I am
12:11:43 19 the status verification operations branch chief.

12:11:43 20 BY MR. SHERMAN:

12:11:48 21 Q. Thank you.

12:11:48 22 How long have you been in these roles?

12:11:48 23 MS. SLATTERY: I've currently been in the
12:11:55 24 role since June 20th, 2023.

12:11:57 25 MS. DOOLITTLE: I have been officially in

12:12:00 1 this role since last September of -- 27th, so almost a year
12:12:07 2 know.

12:12:08 3 MR. FILIGHERA: I've been in this current
12:12:10 4 role since October 2022.

12:12:12 5 BY MR. SHERMAN:

12:12:13 6 Q. What positions did you hold before your current
12:12:16 7 ones?

12:12:17 8 MS. SLATTERY: I've held a variety of
12:12:19 9 positions within USCIS, including immigration services
12:12:22 10 officer, chief of the intergovernmental affairs team, chief
12:12:28 11 of the adjustment of status branch in USCIS field
12:12:34 12 operations, chief of staff in field operations, acting
12:12:37 13 assistant associate -- deputy assistant associate director
12:12:41 14 in field operations, and prior to coming to SAVE was a
12:12:43 15 senior advisor in the immigration records and identity
12:12:48 16 services front office.

12:12:51 17 MS. DOOLITTLE: Prior to this role, I was a
12:12:57 18 product owner in another division, IRIS IIMD. Before that,
12:12:58 19 I was in the verification division as an MPA, working on
12:13:01 20 the E-Verify and the SAVE program.

12:13:07 21 MR. FILIGHERA: Prior to the current
12:13:08 22 position, I was a supervisory management and program
12:13:12 23 analyst starting in 2009 with USCIS in a section called
12:13:17 24 case resolution. It was later renamed in a reorganization
12:13:21 25 as resolutions and products, where I maintained that same

12:13:24 1 position title, supervisory management program analyst,
12:13:28 2 until the current position that I am now.

12:13:32 3 BY MR. SHERMAN:

12:13:32 4 Q. Beyond what you three have just stated, could you
12:13:35 5 give a short description of your professional background?

12:13:39 6 MS. SLATTERY: I have been with USCIS for
12:13:41 7 15 years in the positions as described. Prior to joining
12:13:45 8 USCIS, I was an attorney in practice in the public
12:13:48 9 defender's office in Maricopa County, Arizona.

12:13:53 10 MS. DOOLITTLE: I've been with USCIS for
12:13:55 11 about 12 years in the MPA role, in the product owner role,
12:13:59 12 and now a supervisor role. Prior to that, I was a
12:14:03 13 government contractor for the Army, and prior to that, U.S.
12:14:09 14 Army reserve.

12:14:13 15 MR. FILIGHERA: With USCIS, as mentioned
12:14:14 16 prior, I started in 2009. Previous to the 2009 start with
12:14:19 17 USCIS, since 1994 up to 2009, I was with the Internal
12:14:26 18 Revenue Service.

12:14:26 19 BY MR. SHERMAN:

12:14:26 20 Q. Thank you.

12:14:27 21 Are you represented by an attorney today?
12:14:30 22 And who is that?

12:14:33 23 MS. SLATTERY: We are represented by USCIS
12:14:38 24 Office of Chief Counsel. Persons present in the room are
12:14:40 25 Bruce Burkley and Philip Busch.

12:14:42 1 BY MR. SHERMAN:

12:14:42 2 Q. Great. Thank you. For today's deposition, I want
12:14:44 3 to make sure the record is clear on a couple of points.

12:14:47 4 Do you each understand you are testifying
12:14:49 5 under oath today?

12:14:51 6 MS. SLATTERY: Yes.

12:14:52 7 MS. DOOLITTLE: Yes.

12:14:53 8 MR. FILIGHERA: Yes.

12:14:55 9 BY MR. SHERMAN:

12:14:55 10 Q. Do you understand a court reporter is transcribing
12:14:57 11 this deposition?

12:14:59 12 MS. SLATTERY: Yes.

12:15:00 13 MS. DOOLITTLE: Yes.

12:15:01 14 MR. FILIGHERA: Yes.

12:15:01 15 BY MR. SHERMAN:

12:15:01 16 Q. With that in mind, please answer questions audibly
12:15:04 17 and clearly. Please let me know if you do not understand a
12:15:07 18 question or need me to repeat any part of it.

12:15:09 19 If I ask a question and you answer the
12:15:12 20 question, I will assume that you understood the question.

12:15:15 21 If you did not understand the question, though, just please
12:15:17 22 tell me. Do you understand?

12:15:19 23 MS. SLATTERY: Yes.

12:15:20 24 MS. DOOLITTLE: Yes.

12:15:21 25 MR. FILIGHERA: Yes.

12:15:22 1 BY MR. SHERMAN:

12:15:23 2 Q. During this deposition, attorneys may make
12:15:25 3 objections. Even if they make objections, unless your
12:15:28 4 attorneys specifically instruct you not to answer the
12:15:31 5 question, you must still answer the question. Do you
12:15:31 6 understand?

12:15:33 7 MS. SLATTERY: Yes.

12:15:33 8 MS. DOOLITTLE: Yes.

12:15:33 9 MR. FILIGHERA: Yes.

12:15:37 10 BY MR. SHERMAN:

12:15:37 11 Q. Any reason you can't testify truthfully today?

12:15:42 12 MS. SLATTERY: No.

12:15:43 13 MS. DOOLITTLE: No.

12:15:43 14 MR. FILIGHERA: No.

12:15:44 15 BY MR. SHERMAN:

12:15:44 16 Q. Is there any reason that you can't give full,
12:15:47 17 complete, and accurate testimony today?

12:15:49 18 MS. SLATTERY: No.

12:15:51 19 MS. DOOLITTLE: No.

12:15:51 20 MR. FILIGHERA: No.

12:15:52 21 BY MR. SHERMAN:

12:15:53 22 Q. Are you on any medications or experiencing any
12:15:56 23 condition that would prevent you from giving full and
12:15:58 24 truthful testimony today?

12:15:59 25 MS. SLATTERY: No.

12:16:00 1 MS. DOOLITTLE: No.

12:16:01 2 MR. FILIGHERA: No.

12:16:01 3 BY MR. SHERMAN:

12:16:03 4 Q. If at any time you need to take a break, please
12:16:05 5 let me know. The only thing I ask is if there's a pending
12:16:08 6 question, that you answer the question before we take the
12:16:10 7 break. Do you understand?

12:16:12 8 MS. SLATTERY: Yes.

12:16:13 9 MS. DOOLITTLE: Yes.

12:16:13 10 MR. FILIGHERA: Yes.

12:16:14 11 BY MR. SHERMAN:

12:16:15 12 Q. Have you ever been deposed before? And how many
12:16:18 13 times, if so?

12:16:19 14 MS. SLATTERY: No.

12:16:20 15 MS. DOOLITTLE: Never.

12:16:21 16 MR. FILIGHERA: Not -- never.

12:16:24 17 BY MR. SHERMAN:

12:16:26 18 Q. For today's deposition, where are each of you
12:16:29 19 physically located?

12:16:30 20 MS. SLATTERY: I am located at 5900 Capital
12:16:34 21 Gateway Drive in Camp Springs, Maryland.

12:16:38 22 MS. DOOLITTLE: I'm located at home in West
12:16:41 23 Des Moines, Iowa.

12:16:43 24 MR. FILIGHERA: Located at my home in Orchard
12:16:47 25 Park, New York.

12:16:49 1 BY MR. SHERMAN:

12:16:49 2 Q. And who else is in the room with each of you?

12:16:52 3 MS. SLATTERY: As stated before, I'm joined
12:16:54 4 in the room by Bruce Burkley and Philip Busch, with USCIS
12:17:00 5 OCC.

12:17:00 6 MS. DOOLITTLE: I have no one in the room
12:17:01 7 with me.

12:17:02 8 MR. FILIGHERA: I have nobody in the room
12:17:03 9 with me.

12:17:04 10 BY MR. SHERMAN:

12:17:05 11 Q. Did you bring any materials with you to the
12:17:07 12 deposition? And if so, what?

12:17:10 13 MS. SLATTERY: I have printouts of the
12:17:12 14 materials that were provided by counsel in this case as the
12:17:16 15 materials for discussion today. I have blank paper and
12:17:19 16 pens, my cell phones, and a snack.

12:17:24 17 MS. DOOLITTLE: I have what was provided
12:17:28 18 previously on my computer. And my cell phones are in the
12:17:34 19 room with me as well.

12:17:36 20 MR. FILIGHERA: I have what was provided
12:17:40 21 previously on my computer and a notepad and pen.

12:17:40 22 (In the Q/A format, Ms. Slattery is.

12:17:40 23 answering the questions; Ms. Doolittle and
12:17:40 24 Mr. Filighera will be represented as

12:17:44 25 "MS. DOOLITTLE" and "MR. FILIGHERA.")

12:17:44 1 BY MR. SHERMAN:

12:17:45 2 Q. Great. Thank you.

12:17:46 3 I want to turn to -- for the Dropbox and the
12:17:51 4 depo- -- and the deposition exhibits that were provided,
12:17:53 5 everything is a document that USCIS provided to us except
12:17:58 6 for these first two that I'm going to ask you about. If
12:18:02 7 you could just refer to, either on your computers or if you
12:18:05 8 have it printed, the subpoena that appeared first in the
12:18:11 9 Dropbox.

12:18:14 10 And I'll ask -- for each of the deposition
12:18:17 11 exhibits, because, Ms. Slattery, you'll be speaking first,
12:18:21 12 I'll ask you first if you can authenticate it, and we can
12:18:25 13 introduce it as an exhibit. If you want to pass that off
12:18:28 14 to Ms. Doolittle or Mr. Filighera at any point, just let me
12:18:32 15 know.

12:18:33 16 So, Ms. Slattery, what is this document?

12:18:39 17 A. The first exhibit is labeled "Subpoena to Testify
12:18:41 18 at a Deposition in a Civil Action." In the "to" line, it
12:18:46 19 lists U.S. Citizenship and Immigration Services. The top
12:18:48 20 header is that it is a document of the United States
12:18:51 21 District Court for the District of Arizona.

12:18:53 22 Q. Thank you.

12:18:54 23 MR. SHERMAN: Can we mark this as
12:18:55 24 Exhibit 182.

12:18:55 25 (The document was marked as Exhibit 182

12:18:55 1 for identification.)

12:18:55 2 BY MR. SHERMAN:

12:19:04 3 Q. And, Ms. Slattery, if you could also look at the
12:19:05 4 second exhibit that was in the Dropbox. What is that
12:19:09 5 document?

12:19:12 6 A. The next document I have, unless this was an
12:19:14 7 attachment to the subpoena itself, is an extract of the
12:19:17 8 Federal Rules of Civil Procedure, Rule 45(c), (d), (e), and
12:19:25 9 (g).

12:19:25 10 MR. MORGAN: Hey, Jon, before we get too
12:19:26 11 deep, can we go ahead and put on the record our stipulation
12:19:30 12 with respect to the objections?

12:19:31 13 MR. SHERMAN: For sure. Do you want to
12:19:33 14 restate that?

12:19:34 15 MR. MORGAN: Yeah, I got it. Thanks.

12:19:36 16 The parties -- the defendants agree that an
12:19:39 17 objection by one defendant will constitute an objection on
12:19:43 18 behalf of all defendants. And similarly, the plaintiffs
12:19:46 19 agree that an objection by one plaintiff will constitute an
12:19:49 20 objection on behalf of all plaintiffs so that everyone is
12:19:54 21 able to reserve objections without inundating the court
12:19:58 22 reporter with tons of objections to claim on the record.

12:20:00 23 Is everybody -- does anyone disagree with my
12:20:02 24 statement?

12:20:05 25 MR. SHERMAN: No.

12:20:07 1 MR. MORGAN: Excellent. Thanks, Jon. I'm
12:20:09 2 sorry about that.

12:20:09 3 MR. SHERMAN: No, it's all good.

12:20:10 4 BY MR. SHERMAN:

12:20:11 5 Q. So, Ms. Slattery, just to rehearse, the document
12:20:15 6 you're looking at, again, if you could just restate it for
12:20:20 7 the record.

12:20:20 8 A. Sure. The previous document is an extract from
12:20:22 9 the Federal Rule of Civil Procedure. It appears to be a
12:20:26 10 Rule 45, Subset (c), (d), (e), and (g), effective date
12:20:31 11 12/1/13.

12:20:32 12 Q. I think that might just be part of the subpoena --
12:20:34 13 the form subpoena. If you could look at the attachment
12:20:38 14 that we provided, Exhibit A.

12:20:40 15 A. Sure. The next item is a pleading in the United
12:20:45 16 States District Court, District of Arizona as -- listed as
12:20:47 17 Exhibit A for USCIS A0888a Subpoena.

12:20:54 18 Q. Great.

12:20:55 19 MR. SHERMAN: Can we mark this as
12:20:57 20 Exhibit 183.

12:20:57 21 (The document was marked as Exhibit 183
12:20:57 22 for identification.)

12:20:57 23 BY MR. SHERMAN:

12:21:01 24 Q. Do you understand that you have been designated as
12:21:03 25 representatives to testify on behalf of USCIS, not in your

12:21:06 1 individual capacities?

12:21:09 2 MS. SLATTERY: I do.

12:21:10 3 MS. DOOLITTLE: I do.

12:21:11 4 MR. FILIGHERA: I do.

12:21:12 5 BY MR. SHERMAN:

12:21:12 6 Q. Can we stipulate that whenever I say "you" or

12:21:15 7 "your," that will be the equivalent of saying "USCIS" or

12:21:18 8 "USCIS's"?

12:21:22 9 MS. SLATTERY: Yes.

12:21:23 10 MS. DOOLITTLE: Yes.

12:21:23 11 MR. FILIGHERA: Yes.

12:21:24 12 BY MR. SHERMAN:

12:21:24 13 Q. Can we also stipulate that unless it is otherwise

12:21:27 14 specified, your use of the words "I" or "me" shall refer to

12:21:30 15 USCIS?

12:21:32 16 MS. SLATTERY: Yes.

12:21:33 17 MS. DOOLITTLE: Yes.

12:21:34 18 MR. FILIGHERA: Yes.

12:21:34 19 BY MR. SHERMAN:

12:21:35 20 Q. Great.

12:21:35 21 And if we could look on pages -- effectively,

12:21:40 22 I guess it's page 2, but it's labeled 1. 1 and 2, as

12:21:45 23 recorded on the bottom of this document, those are the 10

12:21:48 24 topics for this 30(b)(6) deposition.

12:21:52 25 Did you -- did each of you review this list

12:21:54 1 prior to this deposition?

12:21:56 2 MS. SLATTERY: Yes.

12:21:57 3 MS. DOOLITTLE: Yes.

12:21:58 4 MR. FILIGHERA: Yes.

12:21:59 5 BY MR. SHERMAN:

12:22:00 6 Q. And are you collectively prepared to address each
12:22:02 7 of these today?

12:22:04 8 MS. SLATTERY: Yes.

12:22:04 9 MS. DOOLITTLE: Yes.

12:22:05 10 MR. FILIGHERA: Yes.

12:22:06 11 BY MR. SHERMAN:

12:22:07 12 Q. Great.

12:22:08 13 What did each of you do to prepare for
12:22:11 14 today's deposition?

12:22:12 15 MS. SLATTERY: I reviewed the documents
12:22:14 16 provided, and we also looked at USCIS historical
12:22:20 17 information related to the questions asked and outlined in
12:22:23 18 the subpoena and reviewed that information as well as
12:22:26 19 looked at and provided a briefing for the group that is
12:22:30 20 present on this call regarding the SAVE system and the
12:22:33 21 initial questions that were asked.

12:22:35 22 MS. DOOLITTLE: I looked at the document as
12:22:40 23 well. I saw what questions may be applicable to me and my
12:22:44 24 scope. And I then talked to some of the subject matter
12:22:49 25 experts at USCIS to confirm some of my knowledge for today

12:22:59 1 for the questions.

12:22:59 2 MR. FILIGHERA: Similar. I looked at the
12:23:02 3 documents that were presented for today, reviewed the
12:23:06 4 questions, and -- and reviewed materials and background
12:23:11 5 based on those questions for our policy and procedures.

12:23:15 6 BY MR. SHERMAN:

12:23:15 7 Q. And did each of you meet with your counsel to
12:23:19 8 prepare for today's deposition?

12:23:22 9 MS. SLATTERY: Yes.

12:23:23 10 MS. DOOLITTLE: Yes.

12:23:24 11 MR. FILIGHERA: Yes.

12:23:26 12 BY MR. SHERMAN:

12:23:28 13 Q. So for the balance of the deposition, I think the
12:23:31 14 most efficient way to do this is Ms. Slattery will respond
12:23:36 15 first to the question, and then if she decides to designate
12:23:42 16 one of the other two designees, Ms. Doolittle or
12:23:45 17 Mr. Filighera, she can pass it off after she answers
12:23:49 18 substantively or in lieu of her answering the question
12:23:54 19 substantively.

12:23:55 20 There's no need to have all three people
12:23:58 21 testify on all questions. Ms. Slattery, if you -- if
12:24:04 22 the -- if USCIS's answer is complete with your response,
12:24:07 23 that can be the end. But otherwise, please -- if it's
12:24:13 24 incomplete, please pass it off to Ms. Doolittle or
12:24:14 25 Mr. Filighera to complete the agency's response.

12:24:19 1 So the most basic question, what -- what is
12:24:21 2 the SAVE system?

12:24:23 3 A. The SAVE system is an online system that is
12:24:26 4 available for use by federal, state, and local
12:24:29 5 benefit-granting agencies. The purpose of the system is to
12:24:34 6 provide immigration status information that will enable
12:24:36 7 those agencies to make a benefits determination about the
12:24:39 8 particular benefits that they administer.

12:24:43 9 Q. And is it also to verify citizenship status?

12:24:47 10 A. Among the statuses that SAVE can provide is
12:24:51 11 confirmation of citizenship status, either naturalized or
12:24:55 12 acquired, or those citizens through -- who have a
12:24:59 13 DHS-issued record. So those are citizens that have gone
12:25:02 14 through a naturalization ceremony or have acquired
12:25:06 15 citizenship through operation of law and they have a record
12:25:08 16 with DHS systems.

12:25:10 17 Q. Thank you.

12:25:11 18 And I will keep moving, in the interest of
12:25:13 19 time, but just please cut me off if you had intended -- or
12:25:17 20 if, Ms. Doolittle or Mr. Filighera, you had more to say,
12:25:20 21 just cut me off and let me know I'm moving too quickly to
12:25:24 22 the next question.

12:25:25 23 Is SAVE a system, a database, or a program?
12:25:29 24 And what are the differences in any implications to
12:25:33 25 those -- the differences in those labels, if so?

12:25:36 1 A. SAVE is a system. It is not a database or a
12:25:39 2 system of record origin. While SAVE does maintain
12:25:43 3 transactional data for the information that is put into the
12:25:46 4 SAVE system and the record of a transaction being
12:25:49 5 completed, SAVE does rely on source record systems that are
12:25:53 6 maintained by different DHS agencies, including USCIS.
12:25:58 7 Those are the systems of record that are
12:26:01 8 housing the immigration information that SAVE bounces
12:26:04 9 against in order to make an information match based against
12:26:08 10 information that is provided by the user agency.

12:26:12 11 Q. Does the SAVE system draw upon many databases at
12:26:15 12 once, or is all the data stored in one unified database?

12:26:15 13 A. I actually will defer to Mariah on this question
12:26:24 14 regarding the organization of the data systems.

12:26:24 15 MS. DOOLITTLE: Sure. So SAVE primarily will
12:26:29 16 go against one database, but there are two that we
12:26:34 17 traditionally pull from. The other systems that we rely
12:26:38 18 on, a lot of those are transactional records as well, so a
12:26:41 19 lot of that information is pooled towards indexes.

12:26:51 20 THE COURT REPORTER: "Towards" what?

12:26:51 21 MS. DOOLITTLE: It's pooled within indexes.

12:26:51 22 We refer to them as data links.

12:26:54 23 BY MR. SHERMAN:

12:26:55 24 Q. Who owns the database or the information contained
12:26:59 25 therein?

12:27:01 1 MS. DOOLITTLE: The owner of it depends on
12:27:02 2 the division, what their mission is, because it is
12:27:07 3 collected over a lot of encounters. So if somebody has an
12:27:11 4 encounter with USCIS, it depends on how they have that
12:27:14 5 encounter, or with DHS, what system might have a record of
12:27:19 6 that person, such as a pending application.

12:27:19 7 BY MR. SHERMAN:

12:27:25 8 Q. Are all the owners subunits of DHS?

12:27:31 9 MS. DOOLITTLE: Yes. All owners are subunits
12:27:34 10 of DHS, outside of -- potentially, when we go into manual
12:27:42 11 for reviews, there could be an instance where it could be
12:27:46 12 Department of State.

12:27:48 13 BY MR. SHERMAN:

12:27:48 14 Q. Understood.

12:27:49 15 What forms of U.S. citizenship is it possible
12:27:53 16 for SAVE to verify? Alternatively, what can the SAVE
12:27:57 17 system be used for?

12:27:59 18 A. Within the SAVE system, as it comes to citizenship
12:28:02 19 again, it is either a naturalized citizen or a person who
12:28:06 20 has acquired citizenship by operation of law firm and that
12:28:09 21 person has a record within DHS systems.

12:28:11 22 We do not verify U.S.-born citizens. We do
12:28:14 23 not use Social Security systems for verification, and we do
12:28:18 24 not use U.S. passports for verification. It is dependent
12:28:21 25 on those DHS records.

12:28:24 1 Q. Understood.

12:28:24 2 So it's impossible for the SAVE system to
12:28:27 3 verify citizenship based on state department documents;
12:28:34 4 correct?

12:28:34 5 A. SAVE system does not currently verify based on
12:28:37 6 state department documentation, no. It is DHS-issued
12:28:41 7 documentation.

12:28:41 8 Q. And it can't verify U.S.-born citizenship based on
12:28:45 9 U.S. birth certificates; correct?

12:28:46 10 A. Correct. USCIS does not have a record of those --
12:28:51 11 those documents.

12:28:52 12 Q. So as you stated, the SAVE system can only be used
12:28:59 13 to verify naturalized or derived U.S. citizenship; correct?

12:29:02 14 A. Correct.

12:29:03 15 Q. Okay. Beyond verification for public benefits or
12:29:06 16 assistance, what are some of the other contexts in which
12:29:09 17 SAVE is used?

12:29:11 18 A. SAVE can also be used for licensure verification.
12:29:15 19 Department of Motor Vehicles does use it for REAL ID
12:29:19 20 purposes related to driver's licenses. FAA also has an
12:29:22 21 agreement with us to do licensure for persons who are
12:29:25 22 having unescorted access to secure areas in federal
12:29:30 23 facilities that are aviation-based.

12:29:33 24 Q. Are those -- is that for security clearances?

12:29:35 25 A. It can be, yes.

12:29:37 1 Q. Okay. Is -- is there any other context in which
12:29:40 2 it's used for security clearances?

12:29:42 3 A. For federal employment purposes, it is often used
12:29:45 4 for background security clearances.

12:29:47 5 Q. Any other contexts we haven't gone over?

12:29:52 6 A. Not to my recollection, no.

12:29:56 7 Q. Is it used in the voter registration context?

12:30:01 8 A. Yes. It can be used under circumstances where an
12:30:05 9 agency is doing voter verification and they have signed a
12:30:10 10 memorandum of agreement with USCIS that is based on legal
12:30:15 11 authority to conduct the verification and that we have a
12:30:18 12 grounding purpose for the verification being conducted.

12:30:22 13 Q. How many states and/or counties are using -- let's
12:30:28 14 start with states.

12:30:28 15 How many states are using it nationwide for
12:30:29 16 voter registration?

12:30:30 17 A. I believe we have less than ten states total, and
12:30:34 18 only a handful of those are actively using it for voter
12:30:38 19 verification at this time.

12:30:40 20 Q. Do you know which are using it actively?

12:30:43 21 A. I don't have the list in front of me currently,
12:30:45 22 no. I know Arizona, which is the subject of this
12:30:49 23 conversation, is one of the states that does use the
12:30:52 24 system. And under their MOA, they have -- the secretary of
12:30:57 25 state is the principal authority there, and there are five

12:30:59 1 counties with whom we have reimbursable agreements as well.

12:31:02 2 Q. Understood.

12:31:03 3 MR. MORGAN: For the record, "MOA," does that
12:31:06 4 mean memorandum of understanding, ma'am?

12:31:08 5 MS. SLATTERY: It is a memorandum of
12:31:09 6 agreement.

12:31:11 7 MR. MORGAN: Okay. Thank you.

12:31:13 8 BY MR. SHERMAN:

12:31:13 9 Q. What is a "user agency" in the SAVE system's
12:31:17 10 terminology?

12:31:17 11 A. A user agency is an agency, as I indicated just a
12:31:21 12 moment ago, that has approached SAVE to request use of the
12:31:25 13 system. They have provided the legal authorities under
12:31:29 14 which they would be authorized to verify immigration status
12:31:32 15 and the purpose for that verification. They have entered
12:31:36 16 into an agreement, our memorandum of understanding, with
12:31:40 17 USCIS, and they have entered into a reimbursable agreement
12:31:44 18 that discusses how payment for use of the system will be
12:31:48 19 made.

12:31:49 20 Q. What is an "applicant" in the SAVE program's
12:31:52 21 terminology?

12:31:52 22 A. An applicant in this case would be an individual
12:31:55 23 who is seeking a state, federal, or local benefit and has
12:32:00 24 applied to an agency who is a user of the SAVE system in
12:32:03 25 order to achieve that benefit.

12:32:05 1 Q. So just so the record is clear, how do the terms
12:32:07 2 "user agency" and "applicant" translate or map onto the
12:32:13 3 voter registration context?

12:32:13 4 A. The agency would be the organization that has the
12:32:17 5 agreement with SAVE. The user would be a member of the
12:32:21 6 organization who is accessing the SAVE system in order to
12:32:24 7 run a verification case. The benefit applicant in this
12:32:28 8 case would be the individual about whom the verification is
12:32:30 9 being conducted.

12:32:33 10 Q. Does --

12:32:34 11 A. If I may, in some cases, depending on how a system
12:32:38 12 is set up, a benefit applicant may be entering information
12:32:42 13 directly.

12:32:43 14 Q. How many user agencies are there currently for the
12:32:47 15 SAVE system nationwide?

12:32:48 16 A. There are about 1,200 organizations nationwide.
12:32:52 17 We do have principal organizations. Out of the 1,200,
12:32:56 18 there are also some organizations that have subagencies
12:32:59 19 through which -- which work through them, but we count them
12:33:02 20 as 1,200 agencies at present.

12:33:04 21 Q. Understood.

12:33:05 22 And only six of those are using it -- using
12:33:07 23 the SAVE system for any kind of election administration
12:33:10 24 purpose; right?

12:33:11 25 A. Yes.

12:33:12 1 Q. Is there anything in federal law that requires
12:33:18 2 USCIS to enter into MOAs with particular user agencies?

12:33:28 3 MR. BURKLEY: I'll say that, you know, this
12:33:29 4 is a legal question. I don't know if you want to answer a
12:33:34 5 legal question or --

12:33:34 6 MS. SLATTERY: It's a legal question. There
12:33:36 7 are a number of different laws that were put in place that
12:33:38 8 authorize the use of SAVE and the purposes for which SAVE
12:33:41 9 can be used. They are outlined in our MOAs and in the
12:33:46 10 documentation, the user guide that relates to the program.

12:33:50 11 BY MR. SHERMAN:

12:33:50 12 Q. Maybe stated another way, does USCIS have some
12:33:53 13 discretion as to -- let me rephrase the question.

12:33:57 14 Does USCIS have discretion as to which user
12:34:00 15 agencies to enter into MOAs with?

12:34:03 16 A. When USCIS is approached by a user agency, as I
12:34:07 17 indicated, we will look at the legal authorities under
12:34:09 18 which they're authorized to use the program and the purpose
12:34:12 19 for the verification. If, after legal review, those things
12:34:16 20 are present, USCIS will be in the memorandum of agreement
12:34:20 21 process.

12:34:22 22 Q. Could you list all the sources of data that the
12:34:25 23 SAVE system can draw upon when a user agency attempts to
12:34:29 24 verify a particular individual applicant's naturalized or
12:34:31 25 derived U.S. citizenship?

12:34:34 1 A. As indicated, those are DHS-related systems.

12:34:36 2 MS. SLATTERY: I'll ask Mariah, please, to
12:34:39 3 speak about those.

12:34:40 4 MS. DOOLITTLE: Are you asking for the
12:34:42 5 systems, or are you asking for the data points we use to
12:34:46 6 pull information from our data sources?

12:34:46 7 BY MR. SHERMAN:

12:34:49 8 Q. The data points. What -- what sources of data,
12:34:52 9 you know, are accessed by SAVE?

12:34:54 10 MS. DOOLITTLE: For a case creation, which is
12:34:57 11 the information that we would care about, it's first name,
12:35:00 12 last name, middle name if they have, their date of birth,
12:35:04 13 and then the enumerators. The enumerators are DHS
12:35:09 14 enumerators, such as an E-number, a USCIS number, a
12:35:13 15 naturalization number.

12:35:13 16 BY MR. SHERMAN:

12:35:15 17 Q. Sorry. I accidentally jumped ahead.

12:35:17 18 I meant to -- I meant to ask you what -- what
12:35:20 19 are the various sources of data that the SAVE system can
12:35:24 20 draw upon when a query is made? Sorry about that.

12:35:27 21 MS. DOOLITTLE: So at a high level, when a
12:35:30 22 case is entered with the -- with the fields that I just
12:35:34 23 spoke about for case creation, the systems will go out and
12:35:38 24 they will check the -- if they have records and find record
12:35:43 25 of somebody's inputted information. So they'll take that

12:35:46 1 total package of what is in that case and they'll go out to
12:35:51 2 the systems to say can we find the last name, first name,
12:35:54 3 date of birth, and enumerator associated with that person?

12:35:58 4 At some point, there could be a photo that
12:36:00 5 needs to be brought back as well for that review, or it
12:36:05 6 could be applications -- either approved applications or
12:36:08 7 pending applications and also removal orders; however, that
12:36:17 8 usually happens during manual review for that last one.

12:36:17 9 BY MR. SHERMAN:

12:36:22 10 Q. Earlier you testified that the SAVE system's data
12:36:26 11 is limited to just DHS databases. Are there any other
12:36:29 12 federal government databases included within the SAVE
12:36:32 13 system?

12:36:34 14 MS. DOOLITTLE: Not --

12:36:37 15 MS. SLATTERY: Go ahead, Mariah.

12:36:38 16 MS. DOOLITTLE: Shannon, you can go ahead.

12:36:43 17 MS. SLATTERY: I would say that we also do on
12:36:46 18 occasion check Executive Office of Immigration Review data.
12:36:50 19 I would defer to Mariah on whether that's a direct feed of
12:36:53 20 data or whether that's something that we verify during
12:36:56 21 manual review.

12:36:59 22 MS. DOOLITTLE: That is -- I'll actually ask
12:37:02 23 Russ: Is that something that we verify on manual review?

12:37:05 24 MR. FILIGHERA: We have access to those
12:37:07 25 records in manual review, but in the context of derived

12:37:12 1 citizen or naturalized citizen, I'm not sure if that would
12:37:15 2 even be an occurrence. No recollection for that.

12:37:15 3 BY MR. SHERMAN:

12:37:20 4 Q. Fair enough.

12:37:20 5 Any other data sources ingested and available
12:37:23 6 to the SAVE system?

12:37:29 7 A. Unless Russ has additional data sources he'd like
12:37:31 8 to mention for manual review, no.

12:37:36 9 Q. Okay. Is the SAVE system's data fixed or
12:37:38 10 continuously updated?

12:37:44 11 MS. DOOLITTLE: Shannon, I can answer that
12:37:46 12 one if you want.

12:37:46 13 MS. SLATTERY: Please.

12:37:47 14 MS. DOOLITTLE: It's continuously updated
12:37:58 15 [video disturbance].

12:37:58 16 THE COURT REPORTER: I'm sorry. You're
12:37:58 17 cutting out for me. I'm sorry. Ms. Doolittle, you're
12:37:58 18 cutting out.

12:38:00 19 I heard "It's continuously updated."

12:38:03 20 MS. DOOLITTLE: Yes. It's continuously
12:38:05 21 updated, so if an application goes from pending to
12:38:09 22 approved, that would be updated within the systems. If
12:38:13 23 somebody's status had changed, that would be updated in the
12:38:16 24 systems. If an applicant went to update their own
12:38:20 25 information, that would also be updated within the systems.

12:38:23 1 It is not stagnant. It is not a solid record
12:38:28 2 where the applicant only has one chance at it. There's
12:38:32 3 multiple ways within an immigration journey that someone's
12:38:37 4 information gets updated.

12:38:37 5 BY MR. SHERMAN:

12:38:40 6 Q. Is SAVE a data retrieval system or something else?
12:38:44 7 And what does that mean?

12:38:47 8 A. SAVE is a system that, again, intakes data and
12:38:50 9 matches that data against other record systems. So again,
12:38:54 10 the applicant or the agency would enter information into
12:38:57 11 SAVE. As Mariah described earlier, SAVE would bounce that
12:39:00 12 data against the data sources that we use as an agency, and
12:39:03 13 those are the sources that are outlined in our system of
12:39:06 14 record notices that are publicly available. And then that
12:39:09 15 information would result in a response being given back to
12:39:13 16 the user agency.

12:39:15 17 Q. What, if any, are the limitations of such a data
12:39:19 18 retrieval system?

12:39:21 19 A. The limitations are, I would say, first and
12:39:24 20 foremost, the quality of the data entered into the system.
12:39:26 21 In order to match against a record, the quality of the data
12:39:30 22 needs to be sufficient in order to allow that match to take
12:39:34 23 place. The SAVE system does have processes in place where
12:39:36 24 if that initial automated match is not capable of being
12:39:41 25 achieved, that we will go in and do manual review

12:39:44 1 processes, but really it's the quality of the data.
12:39:46 2 And I think there are certain circumstances
12:39:49 3 where we've had issues with data feeds happening. That is
12:39:54 4 a common situation -- where you have system-to-system
12:39:57 5 interactions, there can be times where something in that
12:39:59 6 connection doesn't work properly. However, those things
12:40:02 7 are generally quickly identified and rectified such that we
12:40:05 8 could get the information and we would not return a
12:40:08 9 response until we were confident that we had done the
12:40:10 10 search properly.

12:40:13 11 Q. And when you say "a data feed problem," what --
12:40:16 12 what does that actually cause?

12:40:17 13 A. So it can -- and I'll defer to Mariah here in just
12:40:20 14 a moment, but it can cause either us not to be able to
12:40:23 15 retrieve data or that we are looking at data that perhaps
12:40:25 16 is incomplete for a response.

12:40:28 17 MS. SLATTERY: Mariah, would you like to add
12:40:29 18 to that?

12:40:30 19 MS. DOOLITTLE: There also could be the
12:40:35 20 implication of lag time between systems when the data gets
12:40:39 21 entered by an agency -- either an outside agency or USCIS,
12:40:45 22 such as if somebody went through a naturalization process,
12:40:49 23 and that can cause discrepancies between the systems
12:40:54 24 because the records have to be updated over time for SAVE
12:41:00 25 to be able to pull that as that person's status. But that

12:41:05 1 is actually why we have the manual review in place for
12:41:07 2 agencies. So if it does not come back of what the external
12:41:13 3 agency is expecting, we have manual reviewers that can
12:41:16 4 retrieve that information.

12:41:20 5 BY MR. SHERMAN:

12:41:20 6 Q. Understood. Yeah, I have a number of questions
12:41:21 7 about additional verification later.

12:41:22 8 Just so I understand, for the data field
12:41:25 9 errors, it might cause certain data not to be updated;
12:41:32 10 correct?

12:41:32 11 A. We could see situations where we see a latency lag
12:41:34 12 in data systems. Again, SAVE is a point-in-time
12:41:38 13 verification system. But if we are aware that the latency
12:41:41 14 exists or we become aware that it exists, there are steps
12:41:44 15 taken to rectify that. And again, if at any time an agency
12:41:46 16 does not see a result they are expecting, they can push the
12:41:49 17 case for additional verification and ask us to review that
12:41:52 18 information.

12:41:52 19 Q. How long does it usually take to identify these
12:41:56 20 data feed errors?

12:41:57 21 A. Often, we're seeing them quickly because someone
12:41:59 22 will report it to us. We also monitor data on a regular
12:42:02 23 basis and are able to identify with our OIT teams when
12:42:07 24 there are latency issues with systems.

12:42:09 25 Q. Understood.

12:42:10 1 But just so I under- -- the record is clear,
12:42:12 2 is it a day, a week, several weeks, a month, two months,
12:42:15 3 three months?

12:42:15 4 A. Typically, it's hours to days. Unless there's a
12:42:19 5 complex issue with a problem, it's generally very quickly
12:42:21 6 identified and rectified.

12:42:22 7 Q. Okay. How frequently is SAVE system data updated?
12:42:28 8 Is it just dynamic and continuously updated?

12:42:31 9 A. Again, SAVE does not maintain an independent data
12:42:35 10 record of systems. We are moving and working against data
12:42:38 11 systems that are monitored and managed by other components.
12:42:41 12 So we are drawing data that is updated as those systems are
12:42:45 13 updated.

12:42:47 14 MS. SLATTERY: And, Mariah, you can correct
12:42:48 15 me if I'm wrong, but we do generally receive feeds from
12:42:50 16 those systems, and we're doing verifications, I think, most
12:42:54 17 of the time on a 24-hour basis?

12:42:56 18 MS. DOOLITTLE: Correct.

12:42:59 19 BY MR. SHERMAN:

12:42:59 20 Q. Following naturalization, how long does it take
12:43:02 21 for that record or data on naturalization to be available
12:43:05 22 and accessible within the SAVE system?

12:43:08 23 A. Once the record has been entered into the system,
12:43:11 24 it's typically within 24 hours. Where we can see
12:43:16 25 point-of-time lags is if there are -- let me back up a

12:43:20 1 step.

12:43:21 2 There are two types of ceremonies that take
12:43:23 3 place within the naturalization arena: One is an
12:43:26 4 administrative ceremony that is under the control of USCIS;
12:43:28 5 the other is a judicial ceremony where we are working with
12:43:31 6 the courts to conduct naturalization. Depending on the
12:43:34 7 time of the ceremony, the size of the ceremony, and how
12:43:37 8 quickly records can get updated, we can see some delays in
12:43:42 9 getting information into systems.

12:43:43 10 We do not want to complete those record
12:43:45 11 updates until the ceremony is completed because we do have
12:43:48 12 instances where someone doesn't appear for a ceremony or we
12:43:51 13 have a just-in-time check that indicates the ceremony
12:43:54 14 should not go forward, so those persons would not have gone
12:43:56 15 through final naturalization.

12:43:58 16 And just to give you a sense of scope, we
12:44:00 17 have small ceremonies that take place with one or two
12:44:02 18 people in an office up to ceremonies of thousands that take
12:44:05 19 place in arenas, and it just depends on the jurisdiction
12:44:07 20 that we're in. We do make every effort to get that
12:44:10 21 information into the systems and updated as quickly as
12:44:13 22 possible.

12:44:14 23 Q. So for ceremonies with naturalized citizens in the
12:44:20 24 thousands, how long does it generally take to get all of
12:44:22 25 that data into usable format for the SAVE system?

12:44:28 1 A. Typically, again, it happens very quickly.
12:44:30 2 Offices are well trained to do this and they're very
12:44:34 3 systematic in how the work gets completed. So generally we
12:44:37 4 would not expect more than a day or two delay.

12:44:40 5 Q. Have you seen delays in that input before?

12:44:44 6 A. I have not personally experienced that, no.

12:44:46 7 Q. Have any of the witnesses?

12:44:52 8 MS. DOOLITTLE: I have not experienced that
12:44:53 9 delay, but I know that some of our applicants think there's
12:44:57 10 a delay because they go to a different agency, create a
12:45:00 11 case before it gets updated, so there could be things like
12:45:04 12 a federal working day -- might have been that the ceremony
12:45:08 13 was on Friday, that Monday is a federal working day, a
12:45:12 14 national holiday -- anytime that the federal government
12:45:15 15 would be closed during that time, the applicant might get
12:45:20 16 ahead of the process by going to an external agency,
12:45:23 17 creating that SAVE case, and the information is not there.
12:45:27 18 That's not a data latency issue. That's a time issue that
12:45:30 19 Shannon described.

12:45:32 20 BY MR. SHERMAN:

12:45:32 21 Q. Understood.

12:45:33 22 So have -- have any of you seen a lag of
12:45:36 23 weeks or months to upload naturalization data -- input
12:45:43 24 naturalization data?

12:45:46 25 A. No.

12:45:46 1 MS. DOOLITTLE: We would also not be privy to
12:45:49 2 that because that is not under our purview, adjudication.
12:45:51 3 The verification division does not adjudicate. The SAVE
12:45:55 4 system does not adjudicate, so those timelines aren't
12:45:58 5 something that we would be aware of.

12:45:58 6 BY MR. SHERMAN:

12:46:01 7 Q. Okay. So just so I'm clear, you're not able to --
12:46:02 8 the three -- the three of you are not able to testify to
12:46:06 9 that question; correct?

12:46:11 10 MS. DOOLITTLE: I am not able to.

12:46:14 11 MS. SLATTERY: Based on my former position
12:46:15 12 with field operations, I can -- and having had experience
12:46:20 13 in a field office that conducted naturalization ceremonies,
12:46:22 14 I can tell you, as a representative of USCIS in that
12:46:25 15 capacity, that was not an experience that I had.

12:46:25 16 BY MR. SHERMAN:

12:46:31 17 Q. Have you ever had to create any work-arounds for
12:46:35 18 particular individuals whose data is not -- naturalization
12:46:37 19 data is not showing up in the system?

12:46:40 20 And let's put it this way: If an election is
12:46:43 21 fast approaching and they need to be verified so they can
12:46:46 22 vote, has there ever been an instance where USCIS has had
12:46:50 23 to develop some kind of other work-around to confirm that
12:46:55 24 naturalization data?

12:46:59 25 A. For purposes of the SAVE system, I am not aware

12:47:02 1 that we have created a work-around for that purpose.

12:47:07 2 Q. It's basically the -- the applicant would just
12:47:09 3 have to submit their naturalization certificate in that
12:47:12 4 circumstance?

12:47:14 5 A. I'm not sure I understand the circumstance that
12:47:16 6 you're describing. So this is a person who -- who is
12:47:19 7 seeking to register to vote, has a naturalization
12:47:23 8 certificate, and you're indicating that there is some sort
12:47:27 9 of delay in the system whereby that person was not able to
12:47:31 10 be verified?

12:47:32 11 Q. Correct. Correct.

12:47:33 12 A. So again, in that circumstance -- and I'll ask
12:47:37 13 Russ to chime in here in just a moment -- SAVE has the
12:47:40 14 manual verification process. So we have the automated
12:47:42 15 process at first step, at which we would match the data and
12:47:45 16 seek to match the data.

12:47:47 17 If that returned an unexpected result, the
12:47:50 18 agency would have the option of providing and requesting
12:47:53 19 additional verification. At that second step of the
12:47:56 20 process, they can submit a document.

12:48:00 21 If they -- if we were still not able to match
12:48:03 22 at that the second step and the agency failed to submit a
12:48:05 23 document and they went to third step in the process, we
12:48:08 24 would require them to submit a copy of the document. And
12:48:10 25 that document would allow us to do a deeper records search.

12:48:14 1 And with that, I'll turn it over to Russ to
12:48:16 2 talk about what that processing is.

12:48:19 3 Q. I -- we could hold off on that for now. I have a
12:48:21 4 bunch of questions on additional verification, so we can --
12:48:24 5 we can defer on those for the moment, but thank you.

12:48:26 6 Could I ask you to take a look at USCIS SAVE
12:48:30 7 Bates Stamp 1. The rest of the documents I'll refer to --
12:48:37 8 the rest of the exhibits are all Bates-stamped by your
12:48:40 9 office. So I'll just refer to the Bates stamp number.

12:48:46 10 What is this document?

12:48:49 11 A. Per the item Bates Stamp marked USCIS SAVE 00001,
12:48:53 12 it is the Memorandum of Agreement Between USCIS and the
12:48:56 13 Office of the Arizona Secretary of State.

12:49:00 14 MR. SHERMAN: Can we mark this as
12:49:01 15 Exhibit 184, please.

12:49:01 16 (The document was marked as Exhibit 184
12:49:01 17 for identification.)

12:49:06 18 BY MR. SHERMAN:

12:49:06 19 Q. When was this MOA executed?

12:49:08 20 A. The final signature of execution on this MOA took
12:49:09 21 place on October 31st, 2018.

12:49:12 22 Q. And this is still currently operative?

12:49:13 23 A. It is.

12:49:14 24 Q. And is this a voter registration MOA, also known
12:49:18 25 by the acronym VRMOA?

12:49:20 1 A. It is.

12:49:21 2 Q. Currently, does USCIS have an MOA with each of the
12:49:24 3 county recorders in Arizona or just with the Arizona
12:49:28 4 Secretary of State's Office?

12:49:28 5 A. Currently, there is a VRMOA with the Arizona
12:49:32 6 secretary of state. We do have RMOAs, which are
12:49:34 7 reimbursement MOAs, with five counties that are for billing
12:49:40 8 purposes.

12:49:41 9 Q. Is the Arizona Secretary of State's Office the
12:49:43 10 super user that grants access to the user agencies or are
12:49:47 11 county recorder's offices and users -- i.e. staff -- in
12:49:51 12 those offices?

12:49:52 13 A. My understanding is that it is the Arizona
12:49:55 14 secretary of state that is the super user that would enroll
12:49:59 15 sub-users.

12:50:00 16 Q. So there's -- there's not a designated super user
12:50:03 17 for each of the county recorder offices?

12:50:06 18 A. I would have to confirm records on that. I don't
12:50:07 19 have that information in front of me at this moment.

12:50:10 20 Q. If we could just take a look at -- look at another
12:50:14 21 exhibit, maybe this will clarify it. 755. Once you're
12:50:45 22 there, just let me know.

12:50:46 23 A. So you're looking at 755, which is an email
12:50:50 24 exchange between SAVE registration and Hilary Hiser?

12:50:53 25 Q. Correct. Yes.

12:50:54 1 MR. SHERMAN: Could we mark this as
12:50:55 2 Exhibit 185.

12:50:55 3 (The document was marked as Exhibit 185
12:50:59 4 for identification.)

12:50:59 5 BY MR. SHERMAN:

12:51:00 6 Q. If you can take a moment just to review this and
12:51:02 7 see if this clarifies whether county recorders have super
12:51:06 8 users within them.

12:51:11 9 A. This is a request from Ms. Hiser to be established
12:51:22 10 as a super user for the Pima County Recorder's Office.

12:51:26 11 Q. Okay. So you don't know if this was granted or
12:51:29 12 not; correct?

12:51:34 13 A. I believe the following page 756 indicates that
12:51:47 14 the request was not granted to participate separately in
12:51:51 15 the SAVE program and no agency super user.

12:51:55 16 Q. I think that email might precede, but it's fine.
12:51:58 17 If it's unclear, we can move on. I think that email
12:52:01 18 precedes the one at top.

12:52:03 19 But in any event, according to USCIS's
12:52:07 20 terminology, what are the "departments," quote/unquote, in
12:52:10 21 Arizona?

12:52:13 22 A. The department in Arizona would be the Arizona
12:52:16 23 secretary of state, I believe.

12:52:18 24 Q. And are the county recorder's offices also
12:52:22 25 departments?

12:52:27 1 A. I don't know the answer to that question in this
12:52:29 2 moment. I can confirm as needed.

12:52:32 3 Q. All right. What -- what are the "groups" in --
12:52:39 4 using USCIS's terminology?

12:52:43 5 A. Within the SAVE system, there are super users;
12:52:47 6 there are departments; there are agencies; and then there
12:52:50 7 are groups within the agencies which, my understanding,
12:52:53 8 represents the users within that agency.

12:52:56 9 Q. Okay. So the users are the sort of end of the
12:53:02 10 line -- the actual staff at the county recorder's offices
12:53:04 11 that are doing SAVE verif- -- inputting data in the SAVE
12:53:09 12 system; correct?

12:53:10 13 A. Correct.

12:53:11 14 Q. Okay. And then groups -- "groups" are groups of
12:53:14 15 those users?

12:53:20 16 A. Again, I don't have the definitions in front of me
12:53:22 17 at that moment, so I would like to confirm that.

12:53:25 18 Q. Okay. All right. We'll just skip this one.

12:53:36 19 Can the Arizona Secretary of State's Office
12:53:39 20 make verification requests itself through the SAVE system?

12:53:43 21 A. My understanding is that the Arizona secretary of
12:53:46 22 state does not make requests through the system itself. It
12:53:49 23 is the recorder's offices that do so.

12:53:52 24 Q. Okay. And do the -- Maricopa and Pima County, do
12:54:00 25 they have independent access to the SAVE system?

12:54:05 1 A. My understanding, again, is that the way this is
12:54:08 2 structured is that the access is through the secretary of
12:54:10 3 state system and that Maricopa and the other counties that
12:54:13 4 have a separate MOA, that that is a reimbursable MOA.

12:54:17 5 Q. Understood.

12:54:17 6 So all -- all counties are accessing SAVE
12:54:21 7 through the Arizona secretary of state's account; is that
12:54:25 8 correct?

12:54:25 9 A. That is my understanding, yes.

12:54:27 10 Q. Okay. If I could have you look at 1744. It
12:54:52 11 should be the last -- last document in the production.

12:54:54 12 A. Got it.

12:54:55 13 Q. Great.

12:54:56 14 What is this document?

12:54:58 15 A. These documents are data table charts labeled "Inq
12:55:04 16 9," relating to Subpoena Inquiry 9, and "Inq 10."

12:55:10 17 Q. And how were they produced?

12:55:13 18 A. These were produced based on information compiled
12:55:16 19 by the SAVE data team.

12:55:22 20 Q. And that was in response to the subpoena issued to
12:55:26 21 USCIS?

12:55:26 22 A. Correct.

12:55:28 23 MR. SHERMAN: So could we mark USCIS SAVE
12:55:32 24 Bates Stamp 1744 as Exhibit 186.

12:55:32 25 (The document was marked as Exhibit 186)

12:55:35 1 for identification.)

12:55:35 2 BY MR. SHERMAN:

12:55:39 3 Q. And could you also please look, Ms. Slattery, at

12:55:42 4 1743.

12:55:47 5 A. Yes.

12:55:48 6 Q. What is -- what is recorded in 1743? What is this

12:55:52 7 document?

12:55:53 8 A. This, again, is a data table labeled "Inq 10,"

12:55:58 9 referencing Item 10 of the subpoena list. It is a data

12:56:02 10 table that indicates the year and data information relating

12:56:07 11 to the Arizona office's use of SAVE.

12:56:12 12 MR. SHERMAN: Could we mark that as

12:56:12 13 Exhibit 187.

12:56:12 14 (The document was marked as Exhibit 187

12:56:14 15 for identification.)

12:56:14 16 BY MR. SHERMAN:

12:56:15 17 Q. So for both of these tables that we were just

12:56:19 18 looking at -- Maricopa County, Pima County, and Yavapai

12:56:24 19 County -- the recorder's offices for each of them have

12:56:27 20 separate entries, and then there is an entry for the office

12:56:30 21 of the secretary of state.

12:56:33 22 What -- what -- does this mean that the other

12:56:36 23 12 county recorders' offices' data is what's reflected in

12:56:40 24 those record entries for the office of the secretary of

12:56:43 25 state?

12:56:44 1 MR. MORGAN: Form.

12:56:51 2 BY MR. SHERMAN:

12:56:51 3 Q. I can ask -- I'll ask it a different way.

12:56:52 4 What's -- what is the activity reflected in
12:56:57 5 the record entries for Arizona Office of the Secretary of
12:57:01 6 State if the secretary of state doesn't have the authority
12:57:04 7 to perform verifications in SAVE?

12:57:08 8 A. My understanding is that there are smaller
12:57:10 9 counties in Arizona that are coming through the secretary
12:57:13 10 of state in order to conduct the verification, so then it
12:57:15 11 shows up under the secretary of state's user ID.

12:57:18 12 Q. Understood.

12:57:19 13 So Maricopa and Yavapai and Pima County
12:57:23 14 recorders' data, that's reflected in separate entries, and
12:57:26 15 then the other 12 entries -- the other 12 counties are
12:57:29 16 reflected in the Office of the Secretary of State lines;
12:57:32 17 correct?

12:57:32 18 A. I think -- yes. And that's due to the -- the
12:57:35 19 manner in which we are tracking the billing for purposes so
12:57:38 20 that the counties that are being billed separately and have
12:57:41 21 RMOAs are identified based on their user traffic versus the
12:57:45 22 secretary of state's MOA, which for billing purposes is
12:57:47 23 treated as a separate entity.

12:57:50 24 Q. Understood. If you could take a look -- going
12:57:52 25 back to the MOA, if you could look -- take a look at

12:57:57 1 page 2. Sorry in advance for making you flip back and

12:58:03 2 forth. I have lots of questions on the MOA --

12:58:03 3 A. Okay.

12:58:05 4 Q. -- the SAVE Program Guide.

12:58:08 5 Do you see on page 2 of the MOA where it says

12:58:11 6 the purpose of this MOA's granting SAVE access to the

12:58:15 7 Arizona secretary of state and the county recorders is for

12:58:18 8 citizenship verification, quote, "when applicants" -- I'm

12:58:27 9 subbing in -- "when applicants register to vote"?

12:58:29 10 A. Yes. It's in paragraph 1

12:58:31 11 Q. Right.

12:58:32 12 "When they register to vote," meaning the

12:58:34 13 applicants; correct?

12:58:34 14 A. Correct.

12:58:36 15 Q. Do you also see on page 4 of the MOA where it says

12:58:42 16 the purpose of this MOA is granting SAVE access to --

12:58:42 17 excuse me.

12:58:49 18 Do you see Subpart (g) where it says, "Use

12:58:54 19 any information provided by DHS-USCIS under this MOA solely

12:59:00 20 for the purpose of determining the eligibility of persons

12:59:03 21 applying for the benefit"?

12:59:04 22 Did I read that correctly?

12:59:04 23 A. You did.

12:59:07 24 Q. Is a currently registered Arizona voter applying

12:59:10 25 for any benefit?

12:59:13 1 A. I'm not sure I understand your question.

12:59:16 2 Q. If --

12:59:20 3 MR. WHITAKER: Objection. Arguably calls for
12:59:22 4 a legal conclusion.

12:59:23 5 BY MR. SHERMAN:

12:59:24 6 Q. Is a currently registered Arizona -- not -- excuse
12:59:24 7 me.

12:59:28 8 Is a currently registered Arizona voter, not
12:59:30 9 a voter registration applicant who's first applying to
12:59:35 10 register to vote -- is a currently registered Arizona voter
12:59:39 11 applying for a benefit?

12:59:42 12 MR. LANGHOFER: Same objection.

12:59:44 13 MR. BURKLEY: I'm going to object also
12:59:49 14 because I think maybe the definition of what a benefit is
12:59:51 15 is in play here. So I don't know if that's the same thing
12:59:58 16 that we're thinking about or that you're thinking about at
13:00:01 17 this point. So I would object. Calls for a legal
13:00:02 18 conclusion.

13:00:03 19 BY MR. SHERMAN:

13:00:03 20 Q. What is -- what is a benefit under this VRMOA?

13:00:07 21 MR. LANGHOFER: Same objection.

13:00:15 22 MS. SLATTERY: For purposes as defined in the
13:00:18 23 MOA, as outlined in the first paragraph under Section 3,
13:00:20 24 "Purpose," this would be the benefit that -- for which SAVE
13:00:24 25 is to be used is for confirming the status information of

13:00:28 1 individuals who are registering to vote.

13:00:32 2 BY MR. SHERMAN:

13:00:32 3 Q. Okay. So the benefit issued by the user agency

13:00:35 4 under Subpart (g) is voter registration; correct?

13:00:40 5 MR. LANGHOFER: Same objection.

13:00:43 6 MS. SLATTERY: That is the way the MOA is

13:00:48 7 drafted and as stated in the "Purpose" section.

13:00:51 8 BY MR. SHERMAN:

13:00:52 9 Q. Okay. Thank you.

13:00:52 10 And so if someone is already registered to

13:00:55 11 vote in Arizona, they're not applying for voter

13:01:00 12 registration; i.e., the benefit under this MOA; correct?

13:01:03 13 A. I would defer that question to the Arizona

13:01:08 14 secretary of state in terms of how they define registering

13:01:10 15 to vote.

13:01:11 16 For purposes of SAVE, we have authorized the

13:01:14 17 secretary of states in related counties to use SAVE for the

13:01:18 18 purpose of verifying individuals who are registering to

13:01:20 19 vote.

13:01:21 20 Q. Understood.

13:01:22 21 Are -- is USCIS the ultimate authority on

13:01:27 22 interpreting this MOA?

13:01:30 23 A. USCIS has entered into this MOA, and for purposes

13:01:34 24 of its use, it would be the authority on the MOA.

13:01:38 25 Q. Okay. So if there's a dispute between USCIS and

13:01:41 1 the Arizona Secretary of State's Office as to the meaning
13:01:45 2 of terms in this MOA, who decides -- who resolves that
13:01:49 3 dispute?

13:01:50 4 MR. LANGHOFER: Same objection.

13:01:51 5 MS. SLATTERY: USCIS would work with the
13:01:59 6 agency to ensure common understanding of the terminology
13:02:01 7 and would be, as the owner of the SAVE system, determining
13:02:05 8 whether the system is being used for its intended purpose
13:02:08 9 as defined in the MOA.

13:02:08 10 BY MR. SHERMAN:

13:02:10 11 Q. And if there's an ultimate disagreement, who would
13:02:12 12 be the final word on the meaning of the MOA?

13:02:16 13 MR. LANGHOFER: Same objection.

13:02:17 14 MS. SLATTERY: It's USCIS's system and use,
13:02:23 15 and we would make a determination of whether the terms of
13:02:26 16 the MOA are being followed or being violated.

13:02:29 17 BY MR. SHERMAN:

13:02:29 18 Q. Thank you.

13:02:30 19 Can we take a look at SAVE 655 -- USCIS SAVE
13:02:35 20 655.

13:02:50 21 And when you're there, what is this document?

13:03:31 22 A. Can you give us a minute? I don't have a printed
13:03:33 23 document.

13:03:33 24 Q. Yes. For sure. You could -- you could pull it up
13:03:35 25 on your laptop, too, in the Dropbox folder if you don't

13:03:39 1 have it printed out. Again, this is 655.

13:03:48 2 A. So the document marked with the Bates Number 655
13:03:52 3 is labeled as the "Reimbursement Memorandum of Agreement
13:03:55 4 Between the Department of Homeland Security, USCIS, and the
13:03:59 5 Pima County Recorder's Office."

13:04:00 6 Q. Thank you.

13:04:01 7 MR. SHERMAN: And if we could please mark
13:04:02 8 this as 188, Exhibit 188.

13:04:02 9 (The document was marked as Exhibit 188
13:04:02 10 for identification.)

13:04:02 11 BY MR. SHERMAN:

13:04:05 12 Q. So do you see under II(A) on the first page here
13:04:08 13 that it says, "The Arizona MOA governs the provision of
13:04:11 14 SAVE verification services to the User Agency for the
13:04:14 15 purpose of verifying citizenship and immigration status
13:04:17 16 information of non-citizen and naturalized or derived U.S.
13:04:22 17 citizen registrants (registrants) when they register to
13:04:25 18 vote (benefit)"?

13:04:31 19 A. I do.

13:04:32 20 Q. Thank you.

13:04:34 21 And these RMOAs have been signed with which
13:04:39 22 Arizona counties?

13:04:40 23 A. There are five counties. I believe they are
13:04:43 24 Maricopa, Pima, Yavapai -- I don't remember the last two.

13:04:56 25 Q. That's fine. We can -- we can move on.

13:04:58 1 If you could take a look at the SAVE Program
13:05:02 2 Guide as well. I'm looking specifically at page -- Bates
13:05:07 3 stamp page -- Bates Stamp 87.

13:05:18 4 First, when you're there, I'll ask you what
13:05:20 5 this is.

13:05:28 6 A. You said page 87 -- or Bates Stamp 87?

13:05:31 7 Q. Right.

13:05:31 8 Before you flip there, what is this document?

13:05:34 9 A. So the document marked as Bates Stamp

13:05:37 10 USCIS SAVE 79 is the SAVE Program Guide.

13:05:42 11 Q. Great.

13:05:43 12 MR. SHERMAN: Could we mark this as

13:05:44 13 Exhibit 189.

13:05:44 14 (Reporter clarification.)

13:05:44 15 (The document was marked as Exhibit 189

13:05:54 16 for identification.)

13:05:54 17 BY MR. SHERMAN:

13:05:56 18 Q. If you could flip to page 87 or -- excuse me --

13:05:58 19 Bates Stamp 87 here.

13:06:00 20 A. Yes.

13:06:00 21 Q. Do you see where it says -- this is under 3.4.1 --

13:06:09 22 "Users may run SAVE verification only on benefit

13:06:14 23 applicants"? Do you see that in paragraph --

13:06:17 24 A. Yes. It's paragraph 2, Section 3.4.1.

13:06:20 25 Q. In USCIS's view, is an existing registered voter a

13:06:24 1 benefit applicant, given what we've reviewed in the SAVE

13:06:29 2 Program Guide and the MOA and the RMOA?

13:06:32 3 MR. WHITAKER: Same objections.

13:06:38 4 MS. SLATTERY: Can you tell me what your

13:06:38 5 definition of "existing" is in this question?

13:06:42 6 BY MR. SHERMAN:

13:06:42 7 Q. A currently -- currently registered voter.

13:06:45 8 A. A currently registered voter would be past the

13:06:48 9 point of registering to vote, so it would appear to be

13:06:50 10 outside the terms of the MOA.

13:06:52 11 Q. Okay. Does the language we reviewed in the MOA,

13:07:00 12 the RMOA, and the SAVE Program Guide mean that once a

13:07:04 13 person is registered to vote, the user agency cannot use

13:07:07 14 the SAVE system as a tool to call into question and

13:07:11 15 investigate the citizenship of currently registered voters?

13:07:14 16 MR. WHITAKER: Same objection.

13:07:17 17 MS. SLATTERY: The activity as you outlined

13:07:23 18 in your question would be outside the terms of the MOA as

13:07:23 19 written.

13:07:24 20 BY MR. SHERMAN:

13:07:25 21 Q. Does the Arizona attorney general -- sorry.

13:07:29 22 Withdraw that question.

13:07:29 23 One other question on the SAVE Program Guide

13:07:33 24 before I move on.

13:07:41 25 Is the SAVE Program Guide incorporated by

13:07:44 1 reference into the MOA?

13:07:47 2 A. It is.

13:07:49 3 Q. Anything else incorporated by reference into the
13:07:53 4 MOA such that it's binding on the signatories?

13:07:57 5 MR. LANGHOFER: Same objection.

13:08:11 6 MR. BURKLEY: You want her to take time to go
13:08:13 7 through the entire MOA and --

13:08:16 8 MR. SHERMAN: Well --

13:08:17 9 MR. BURKLEY: -- look at references?

13:08:18 10 MR. SHERMAN: I'll ask some more specific
13:08:20 11 questions about that later. We can move on for now.

13:08:22 12 BY MR. SHERMAN:

13:08:23 13 Q. Does the Arizona Attorney General's Office have an
13:08:26 14 existing MOA with USCIS?

13:08:28 15 A. Not at this time.

13:08:30 16 Q. Does it need one, or can the Arizona Secretary of
13:08:34 17 State's Office give the AG access to the SAVE system?

13:08:34 18 MR. LANGHOFER: Same objection.

13:08:41 19 MS. SLATTERY: Agencies cannot independently
13:08:42 20 give agencies access to SAVE for purposes other than as
13:08:47 21 outlined in the MOA. If the Arizona attorney general
13:08:51 22 wished to use SAVE for a specific purpose, they would need
13:08:53 23 to approach SAVE to register as a user and provide the
13:08:57 24 legal authorities and purpose for the verification and sign
13:09:00 25 an MOA with the SAVE program.

13:09:03 1 BY MR. SHERMAN:

13:09:03 2 Q. So the existing MOA with the Arizona Secretary of
13:09:07 3 State's Office can't just be updated to include the Arizona
13:09:09 4 attorney general; it has to be a new MOA with the AG's
13:09:15 5 office; correct?

13:09:15 6 MR. LANGHOFER: Same objection.

13:09:17 7 MS. SLATTERY: If the Arizona secretary of
13:09:20 8 state approached USCIS to make a bilateral modification to
13:09:24 9 the MOA with the appropriate legal authorities, that is
13:09:27 10 allowable under the terms of the MOA, but the MOA, as it is
13:09:32 11 drafted, applies to the agency for which it was drafted.

13:09:34 12 BY MR. SHERMAN:

13:09:35 13 Q. Okay. Understood.

13:09:35 14 Has USCIS discussed extending access to the
13:09:40 15 Arizona Attorney General's Office?

13:09:42 16 A. There was an exchange of emails, and my
13:09:45 17 understanding is a conversation with regard to the
13:09:48 18 potential for extending use of SAVE to the -- to the
13:09:52 19 Arizona Attorney General's Office -- as outlined in my
13:09:55 20 previous response, the information conveyed was that there
13:09:58 21 would either have to be a bilateral modification of the
13:10:00 22 existing MOA or the Attorney General's Office would need to
13:10:04 23 pursue an independent MOA.

13:10:06 24 Q. When was this conversation?

13:10:11 25 A. I believe it was in 2018 or 20- -- I would have to

13:10:14 1 look at the email references.

13:10:17 2 Q. Was it after the challenged laws in this case were
13:10:21 3 enacted?

13:10:24 4 A. I don't know the answer to that question. We'd
13:10:27 5 have to look at the date.

13:10:28 6 Q. Do you know the outcome of those discussions?

13:10:32 7 A. Can you be more specific about what you mean as
13:10:35 8 "the outcome of those discussions"?

13:10:36 9 Are you asking me if the Attorney General's
13:10:39 10 Office has applied for an MOA?

13:10:40 11 Q. Yes.

13:10:41 12 A. To my knowledge, they have not.

13:10:46 13 Q. Can we take a look at USCIS SAVE 001524. Just let
13:11:05 14 me know when you're -- when you've found it.

13:11:07 15 You can also it pull up on your laptop if
13:11:09 16 that's easier. For some documents, I thought it would be
13:11:12 17 easier to have in front of you. That's why I suggested
13:11:15 18 printing them off. But if it's more efficient to pull them
13:11:18 19 up on your laptop, by all means.

13:11:25 20 And what is this document?

13:11:26 21 A. 1524 is an email. It is from Kori Lorick to
13:11:33 22 Walter Russell and others regarding the Arizona Office of
13:11:40 23 the Secretary of State SAVE agreement. The email is dated
13:11:43 24 June 28th, 2022.

13:11:46 25 MR. SHERMAN: Can we mark this as

13:11:46 1 Exhibit 190.

13:11:46 2 (The document was marked as Exhibit 190
13:11:48 3 for identification.)

13:11:48 4 BY MR. SHERMAN:

13:11:49 5 Q. If you want to take a moment just to review this
13:11:53 6 exchange, particularly Thursday, June 9th, 2022,
13:12:00 7 12:24 p.m., at the bottom of 1525.

13:12:14 8 What does that email from George Sauter
13:12:17 9 reflect?

13:12:18 10 A. The information reflects that the contact is with
13:12:23 11 the Arizona secretary of state and has asked for voter
13:12:28 12 registration. They seem to be asking if the Arizona
13:12:30 13 attorney general can access SAVE for the investigation of
13:12:33 14 voter registration eligibility per their stated law,
13:12:36 15 HB 2492. Will they need their own separate account or use
13:12:41 16 the secretary of state's account?

13:12:43 17 Q. Thank you.

13:12:43 18 So there were email exchanges and
13:12:45 19 conversations about Arizona attorney general access after
13:12:50 20 HB 2492 was enacted; correct?

13:12:53 21 A. That is what the email reflects.

13:12:55 22 Q. Okay. Could we take a look at USCIS SAVE 632.

13:13:18 23 And what is this document?

13:13:20 24 A. This document marked 632 is also an email. In
13:13:25 25 this case, it is from Jon Mills to "Klorick" at the

13:13:31 1 Secretary of State's Office and "Achan" at the Secretary of
13:13:34 2 State's Office. It is titled "SAVE Voter Registration
13:13:37 3 Agreement with Secretary of State's Office," dated
13:13:40 4 Wednesday, July 13, 2022.

13:13:43 5 Q. Great. Thank you.

13:13:43 6 And there's a second email in this chain
13:13:48 7 preceding it; correct?

13:13:52 8 A. Yes. It is -- it is an earlier email. It is
13:13:55 9 marked as 633. That email is dated July 12. It is from
13:14:01 10 Grenville Harrop to "Klorick" and "Achan" at the azsos.gov
13:14:08 11 email address. The subject is "SAVE Addendum Request."

13:14:11 12 MR. SHERMAN: Could we mark this as
13:14:12 13 Exhibit 191.

13:14:12 14 (The document was marked as Exhibit 191
13:14:13 15 for identification.)

13:14:13 16 BY MR. SHERMAN:

13:14:15 17 Q. So in the first -- in the Jonathan Mills email up
13:14:19 18 top, what was Jon Mills telling the Arizona Secretary of
13:14:29 19 State's Office regarding the AG's use of SAVE?

13:14:34 20 A. This email reflects that the information -- SAVE
13:14:44 21 use can only be conducted by the Arizona county recorders,
13:14:46 22 according to the MOA; that in the event that the Arizona
13:14:50 23 Attorney General's Office, which is not currently an
13:14:51 24 authorized user, wishes to use SAVE for an investigative
13:14:54 25 purpose, it is not authorized under the current MOA; and

13:14:58 1 that the attorney general would -- we would need to add a
13:15:04 2 bilateral modification as described previously, or that
13:15:08 3 there would need to be an independent MOA for the Arizona
13:15:12 4 Attorney General's Office. There is a recommendation at a
13:15:15 5 minimum that they be separated for purposes of billing and
13:15:17 6 to make tracking usage easier in the event the Arizona
13:15:24 7 Attorney General's Office wishes to pursue an MOA.

13:15:24 8 Q. And an investigative purpose is not one of the
13:15:26 9 authorized purposes under the current MOA with the Arizona
13:15:31 10 Secretary of State's Office; is that correct?

13:15:32 11 MR. LANGHOFER: Same objection.

13:15:33 12 MR. WHITAKER: Same objection.

13:15:36 13 MS. SLATTERY: That is not currently
13:15:37 14 reflected in the secretary of state's MOA. Correct.

13:15:40 15 BY MR. SHERMAN:

13:15:41 16 Q. So in the -- and then in the earlier --
13:15:45 17 sequentially earlier email, 633 -- I should say
13:15:49 18 chronologically earlier email -- this was sent by Grenville
13:15:56 19 Harrop; correct?

13:15:56 20 A. Correct.

13:15:57 21 Q. And this -- this email says there are -- does this
13:16:00 22 email say that there are no agencies anywhere in the
13:16:03 23 country with SAVE MOAs and access to SAVE for what can be
13:16:08 24 construed as, quote, "law enforcement purposes"?

13:16:13 25 A. That is what paragraph 1 of the email reflects,

13:16:15 1 yes.

13:16:16 2 Q. Is that accurate?

13:16:19 3 A. I think I'd like to make sure that we're being
13:16:30 4 clear about what we're describing as law enforcement
13:16:32 5 purposes and whether or not it includes security and
13:16:35 6 background checks because, again, there are circumstances
13:16:37 7 where we do have agencies that are conducting it for
13:16:40 8 background checks and security purposes.

13:16:44 9 Q. Do you want to take a look at paragraph 3 of this
13:16:47 10 email?

13:16:48 11 This says, "SAVE does have agreements for
13:16:50 12 background investigation agencies" --

13:16:52 13 A. Correct.

13:16:52 14 Q. -- "but based on the narrow context of granting an
13:16:55 15 individual a security clearance after verification of their
13:16:58 16 immigration status. The clearance would be granted either
13:17:01 17 for on-boarding for employment or to grant access to secure
13:17:04 18 information or facility."

13:17:06 19 Beyond those contexts, are there any other
13:17:10 20 user agencies out there that have a SAVE MOA for "law
13:17:14 21 enforcement purposes," quote/unquote?

13:17:15 22 A. I did not have an opportunity to review every MOA,
13:17:18 23 but to my knowledge, they are not --

13:17:20 24 Q. Understood.

13:17:21 25 A. -- being used for that purpose at this time.

13:17:24 1 Q. So if the Arizona Attorney General's Office was
13:17:28 2 granted access for the purposes outlined in the challenged
13:17:33 3 laws in this case, they would be the first agency in the
13:17:37 4 country to secure a SAVE MOA for a, quote, "law enforcement
13:17:40 5 purpose"?

13:17:46 6 A. As they have not either approached us or provided
13:17:48 7 legal authority for that purpose, if they were to be
13:17:52 8 granted an MOA, they would potentially be the first, yes.

13:17:57 9 Q. Why is it that to date no user agencies anywhere
13:18:01 10 in the country have been granted access to SAVE for, quote,
13:18:04 11 "law enforcement purposes"?

13:18:06 12 MR. WHITAKER: Objection. Calls for
13:18:08 13 speculation.

13:18:16 14 MR. SHERMAN: Agree to disagree, but we'll
13:18:19 15 let the witness answer.

13:18:29 16 MS. SLATTERY: Can you restate the question,
13:18:30 17 please?

13:18:31 18 BY MR. SHERMAN:

13:18:31 19 Q. Of course.

13:18:32 20 Why is it that to date no user agencies have
13:18:35 21 been granted access to SAVE for law enforcement purposes,
13:18:38 22 as used in this email?

13:18:41 23 MR. WHITAKER: Same objection.

13:18:43 24 MS. SLATTERY: I'm afraid I can't answer why
13:18:44 25 agencies would have not requested access to SAVE.

13:18:48 1 And again, I would need to review all of our
13:18:51 2 MOAs to confirm the question that you're asking with regard
13:18:53 3 to whether we have any agencies that are using it for law
13:18:56 4 enforcement purposes.

13:18:57 5 BY MR. SHERMAN:

13:18:58 6 Q. Have any agencies -- state or local agencies
13:19:02 7 approached USCIS to enter into an MOA and be granted SAVE
13:19:08 8 access for a law enforcement purpose before these recent
13:19:12 9 conversations with the Arizona Attorney General's Office?

13:19:16 10 MR. LANGHOFER: I think this is outside the
13:19:18 11 scope of the noticed deposition.

13:19:23 12 MS. SLATTERY: I do not have any information
13:19:24 13 to confirm or answer that question in front of me. And I
13:19:28 14 have only been with the program for 45 days, so I can state
13:19:31 15 conclusively that during my tenure, I have not received a
13:19:33 16 request. And I would need to conduct additional research
13:19:36 17 if that is something you'd like us to reply to.

13:19:39 18 BY MR. SHERMAN:

13:19:39 19 Q. Understood.

13:19:39 20 Does federal law authorize using SAVE for law
13:19:49 21 enforcement purposes?

13:19:51 22 MR. LANGHOFER: Calls for a legal conclusion.

13:19:56 23 MR. BURKLEY: We object. Calls for a legal
13:19:58 24 conclusion.

13:20:02 25 MR. SHERMAN: Are you instructing her not to

13:20:03 1 answer, or can she proceed?

13:20:10 2 MR. BURKLEY: Can you rephrase the question?

13:20:12 3 BY MR. SHERMAN:

13:20:12 4 Q. Are there any federal statutes that explicitly
13:20:15 5 authorize using the SAVE system for law enforcement
13:20:18 6 purposes?

13:20:20 7 MR. LANGHOFER: Same objection.

13:20:24 8 MR. BURKLEY: Answer as best you can.

13:20:27 9 MS. SLATTERY: I am not aware of one at this
13:20:28 10 time, no.

13:20:29 11 BY MR. SHERMAN:

13:20:31 12 Q. Okay. And what are the specific federal statutes
13:20:35 13 that authorize the use of the SAVE system for citizenship
13:20:40 14 verification purposes in the voter registration context?

13:20:44 15 MR. LANGHOFER: Same objection.

13:20:48 16 MS. SLATTERY: I would refer back to the
13:20:49 17 terms of the MOA which outline the specific legal
13:20:53 18 authorities under which the MOA is agreed to and that
13:20:56 19 support the use of the SAVE system in the voter
13:21:01 20 verification context. They're outlined on page 1 of the
13:21:03 21 MOA.

13:21:04 22 BY MR. SHERMAN:

13:21:11 23 Q. Document that -- the document that we were just
13:21:12 24 discussing, Exhibit 191, Bates Stamp 633, this email
13:21:17 25 reflects that the Arizona Attorney General's Office has

13:21:19 1 been referred to ICE's Law Enforcement Support Center; is
13:21:25 2 that correct?

13:21:25 3 A. Correct. The information provided was that
13:21:28 4 agencies who -- who seek immigration information for law
13:21:33 5 enforcement purposes can coordinate with ICE's LESC, the
13:21:36 6 Law Enforcement Support Center, for that purpose.

13:21:39 7 Q. And do you see the line in bold at the top of that
13:21:42 8 paragraph that reads, "Previous requests for SAVE access
13:21:45 9 from law enforcement agencies have been referred to the Law
13:21:50 10 Enforcement Support Center"? Do you see that?

13:21:52 11 A. I apologize. I shifted documents, so I'm trying
13:21:54 12 to --

13:21:54 13 Q. No worries. I'll give you a second to get back
13:21:54 14 there.

13:21:57 15 A. Yes, I do see the line in bold in the email.

13:21:59 16 Q. And so does that mean that previous applicants for
13:22:04 17 SAVE access for law enforcement purposes have all been
13:22:07 18 denied?

13:22:10 19 A. I would say that the statement in the email is the
13:22:15 20 statement that it is. I do not have information to suggest
13:22:18 21 that all requests have been routed this way. As I
13:22:21 22 indicated, though, I can say that I am not aware currently
13:22:24 23 of SAVE being used for law enforcement purposes or --

13:22:24 24 Q. I see.

13:22:29 25 A. -- or that we have an agency for that purpose.

13:22:34 1 Q. Okay. And is the Arizona Attorney General's
13:22:37 2 Office separately pursuing an MOA at this time with your
13:22:38 3 office?

13:22:39 4 A. I am not aware that they have requested one, no.

13:22:42 5 Q. Have you been having conversations with the
13:22:45 6 Arizona Attorney General's Office about this?

13:22:48 7 A. I have not, no.

13:22:50 8 Q. And when -- when I say "you," I mean USCIS.

13:22:54 9 A. Correct. And as the SAVE program chief, I would
13:22:57 10 be aware of conversations to that -- to that nature.

13:23:00 11 Q. Understood. I just wanted to confirm so the
13:23:02 12 record is clear.

13:23:03 13 A. Sure.

13:23:03 14 Q. Is the Arizona Secretary of State's Office
13:23:08 15 negotiating with your office on the AG's behalf?

13:23:13 16 A. I am not aware that they are at this time. I
13:23:16 17 think the last engagement we had on that was back in '22.

13:23:20 18 Q. Understood.

13:23:22 19 Has USCIS discussed revising the existing MOA
13:23:27 20 with their office -- with the Arizona Secretary of State's
13:23:30 21 Office since the challenged laws in this litigation were
13:23:32 22 enacted?

13:23:34 23 A. To my knowledge, the last engagement with the
13:23:36 24 Arizona Secretary of State's Office is what's represented
13:23:39 25 in the 22 emails and the related phone call where the

13:23:43 1 requirements about the use of the program by the Arizona --
13:23:47 2 the U.S. Attorney General and the secretary of state were
13:23:50 3 outlined regarding the current MOA and its use for voter
13:23:56 4 registration verification.

13:23:57 5 Q. Can I ask you to take a look at 632 again, the
13:24:01 6 previous email in that document.

13:24:06 7 A. Yes.

13:24:07 8 Q. Before -- the second to last sentence in Jon
13:24:11 9 Mills' email says, "We could also discuss, if necessary,
13:24:14 10 expansion of the existing SAVE MOA to include voter list
13:24:18 11 maintenance activities by Arizona County Recorders, as long
13:24:21 12 as those activities are consistent with law, rules,
13:24:24 13 regulations and DHS guidance."

13:24:26 14 Did I read that correctly?

13:24:28 15 A. Yes.

13:24:30 16 Q. What has been the outcome, if any -- have you --
13:24:35 17 excuse me. Let me withdraw that question.

13:24:37 18 Have you had those conversations about
13:24:39 19 modifying the SAVE MOA in the way described in this email?

13:24:43 20 A. To my knowledge, the exchange that is represented
13:24:45 21 in this email and the related conversation which reflected
13:24:51 22 the same contents as the email is the last engagement that
13:24:54 23 has been had on this subject.

13:24:56 24 Q. Understood.

13:24:57 25 Who would decide whether the proposed use of

13:25:05 1 the SAVE system is, quote, "consistent with laws, rules,
13:25:08 2 regulations and DHS guidance"?

13:25:10 3 A. Again, as part of the request to join the SAVE
13:25:14 4 system as a registered agency, the -- the requesting agency
13:25:18 5 would have to submit documentation of the legal authorities
13:25:20 6 that would be required -- that would allow them to conduct
13:25:24 7 the verifications and the proposed use of the system. That
13:25:27 8 would be reviewed within USCIS by the Office of Chief
13:25:32 9 Counsel as well as the SAVE personnel. And after that
13:25:35 10 review, we would make the determination whether the agency
13:25:39 11 could register for SAVE purposes. So USCIS, the components
13:25:44 12 of it collectively, would make that determination.

13:25:46 13 Q. Understood.

13:25:47 14 And if a proposed purpose, pursuant to a new
13:25:52 15 state law, is the subject of litigation such as this
13:25:55 16 litigation, does USCIS have a policy of holding off on a
13:26:00 17 new MOA or granting or expanding access to the SAVE system
13:26:04 18 until the resolution of that litigation?

13:26:08 19 A. I think anytime we would be approaching a
13:26:12 20 registration where there was a question of law that was
13:26:13 21 unsettled, we would take a look at what was happening at
13:26:18 22 the time. It would be a case-by-case determination.

13:26:22 23 Q. So USCIS has the discretion to hold off on
13:26:26 24 granting SAVE access until the litigation over the proposed
13:26:33 25 uses of the SAVE system has been resolved?

13:26:38 1 A. I think it's fair to say that, again, we would
13:26:40 2 look at a situation, then make a determination about
13:26:42 3 whether the authority to use the system was clear and
13:26:47 4 whether it supported use for the purpose requested.

13:26:51 5 Q. The MOA refers to compliance with -- well, strike
13:27:00 6 that. I'll get -- I'll get to that in a minute.

13:27:02 7 So going back to the MOA with the Arizona
13:27:06 8 Secretary of State's Office, what is the Verification
13:27:10 9 Information System, or VIS?

13:27:12 10 A. That is the system that SAVE uses in order to do
13:27:15 11 the data logic and matching for the information that's
13:27:18 12 input into the SAVE system.

13:27:20 13 MS. SLATTERY: And I can ask Mariah to add on
13:27:23 14 to that if I misstated -- or can correct anything.

13:27:25 15 MS. DOOLITTLE: You stated that correctly,
13:27:28 16 Shannon.

13:27:28 17 BY MR. SHERMAN:

13:27:29 18 Q. Is it the application program interface, or API,
13:27:32 19 that Arizona county recorders use?

13:27:36 20 MS. DOOLITTLE: In layman's terms, they go
13:27:38 21 through the browser. So somebody that has access would be
13:27:40 22 going through the browser to access SAVE versus our web
13:27:45 23 service agencies that have to build out to.

13:27:45 24 BY MR. SHERMAN:

13:27:49 25 Q. Understood.

13:27:49 1 Is VIS just the system itself that makes all
13:27:53 2 naturalized or derived citizenship status data available,
13:27:55 3 or it's just the API?

13:27:58 4 MS. DOOLITTLE: It's a -- I would call it a
13:28:02 5 suite of systems, SAVE, which is -- within part of VIS,
13:28:08 6 doesn't have that information, so we go out to do the data
13:28:12 7 calls. When an agency enters a case and what they're using
13:28:17 8 to enter, then it will go out to bring back that
13:28:21 9 information in a payload to give to the verification system
13:28:26 10 and then match it to a response that the agency would
13:28:31 11 receive on that applicant.

13:28:31 12 BY MR. SHERMAN:

13:28:31 13 Q. Thank you.

13:28:34 14 How do user agencies such as county
13:28:37 15 recorder's offices in Arizona query the SAVE system for a
13:28:40 16 benefit applicant's naturalized or derived citizenship?

13:28:43 17 And I'm referring here to page 2 of the MOA
13:28:46 18 if that's helpful.

13:28:46 19 A. Can you restate your question, please?

13:28:46 20 Q. Sure.

13:28:58 21 How do user agencies such as county
13:29:01 22 recorder's offices in Arizona query the SAVE system for a
13:29:03 23 benefit applicant's naturalized or derived citizenship?

13:29:07 24 A. So the state agency, as Mariah said, typically
13:29:11 25 would come into the verification system one of two ways.

13:29:12 1 There is the online system that USCIS maintains, which is
13:29:17 2 our browser system. In that case, the user would come in
13:29:20 3 directly onto the -- the website and enter the agency
13:29:24 4 information for the applicant after going through and
13:29:27 5 providing the user's password and user ID. That
13:29:32 6 information would then be entered into the system, and then
13:29:35 7 they would click "submit," and the data would move into the
13:29:38 8 SAVE system.

13:29:40 9 Q. And there's an additional verification process as
13:29:42 10 well; correct?

13:29:43 11 A. Correct. If -- so the first stage of the
13:29:47 12 verification process is automated. Once that data is
13:29:50 13 entered into SAVE, it goes through an automatic matching
13:29:53 14 process.

13:29:53 15 If, for some reason, we are unable to provide
13:29:55 16 a status match at first step, the automated level, or if
13:30:01 17 the agency determines that the response received at the
13:30:04 18 automated level is not answering their need for an
13:30:08 19 eligibility determination, then a case can be pushed for
13:30:10 20 additional verification.

13:30:12 21 Q. What are --

13:30:12 22 A. There are also -- there are also some instances
13:30:14 23 where SAVE will identify to the agency that the case needs
13:30:17 24 to go to additional verification because there may have
13:30:20 25 been information missing in the initial data submission.

13:30:23 1 Q. Thank you.

13:30:24 2 What information do user agencies have to
13:30:27 3 input for the SAVE system's initial verification?

13:30:30 4 A. They have to input a first name, a last name, a
13:30:34 5 date of birth, an immigration enumerator. At least one --
13:30:39 6 these are typically unique identifier numbers that are
13:30:42 7 associated with a USCIS-issued document, such as an alien
13:30:46 8 registration number, an A-number; an I-94 number, which is
13:30:51 9 the arrival/departure document; a receipt issued by USCIS;
13:30:56 10 or a related document.

13:30:58 11 Q. If we could take a look at USCIS SAVE 13.

13:31:13 12 When you're there, what is this document?

13:31:16 13 A. This document is titled "Fact Sheet, Information
13:31:20 14 for Voter Registration Agencies: Conducting Verifications
13:31:22 15 Through SAVE."

13:31:24 16 MR. SHERMAN: Can we mark this, please, as
13:31:25 17 Exhibit 192.

13:31:25 18 (The document was marked as Exhibit 192
13:31:27 19 for identification.)

13:31:27 20 BY MR. SHERMAN:

13:31:29 21 Q. And -- and the information you were just
13:31:31 22 describing about what needs to be input into SAVE to start
13:31:35 23 an initial verification, that's reflected at the bottom of
13:31:37 24 page 1 onto page 2; correct?

13:31:39 25 A. Correct.

13:31:40 1 Q. Can SAVE match applicants without a numeric
13:31:40 2 identifier?

13:31:49 3 A. No. SAVE is unable to do a verification with just
13:31:51 4 name and date of birth information.

13:31:53 5 Q. Could I have you also look at USCIS 663. You
13:32:09 6 might want to keep the MOA out, the SAVE Program Guide. At
13:32:10 7 this point, I would pull out the MOA. To make your life
13:32:11 8 easier, I would pull out the MOA, the SAVE Program Guide,
13:32:14 9 and 663. A lot of the other documents you could keep --
13:32:22 10 we've probably gone through already, and those are the main
13:32:24 11 ones I'll focus on, at least for this section. Thank you.

13:32:34 12 So what is 663, when you're there?

13:33:12 13 If it's easier to pull it up on Dropbox to,
13:33:16 14 you --

13:33:16 15 A. We're going to have to.

13:33:18 16 Q. Sorry about that.

13:33:19 17 A. No, it's all good.

13:33:22 18 Document 663 is a one-page document titled
13:33:23 19 "How to Initiate a Case." I'm sorry. Three pages,
13:33:27 20 three-page document.

13:33:27 21 Q. Great.

13:33:28 22 MR. SHERMAN: Could we mark this as
13:33:29 23 Exhibit 193.

13:33:29 24 (The document was marked as Exhibit 193
13:33:32 25 for identification.)

13:33:32 1 BY MR. SHERMAN:

13:33:33 2 Q. And the information you were just describing that
13:33:35 3 you need to enter into the SAVE system as a user agency is
13:33:38 4 reflected in Step 2; correct? First name, last name, date
13:33:41 5 of birth, and at least one enumerator; correct?

13:33:43 6 A. Correct.

13:33:43 7 Q. And what does it mean that SAVE is now, quote,
13:33:48 8 "enumerator-based rather than document-based," end quote?

13:33:52 9 A. So when we made some updates to SAVE in the 2017,
13:34:01 10 2016, 2018 time period, we moved away from having
13:34:04 11 individuals submit documents solely and started across the
13:34:10 12 agency using the enumerators of the documents.

13:34:13 13 So each document within DHS bears certain
13:34:17 14 identifying information. It can be an A-number; it can be
13:34:20 15 a particular type of document number; it could be a receipt
13:34:23 16 number. But what we have found is tracking the information
13:34:27 17 to the enumerator makes searching the records more
13:34:31 18 efficient. And so having the name and date of birth
13:34:34 19 information as well as the enumerator allows us to match
13:34:37 20 the information in the most effective way possible.

13:34:39 21 Q. So for the, quote, "current immigration document
13:34:42 22 number," end quote, what document numbers can be used to
13:34:45 23 initiate initial verification?

13:34:48 24 A. There's a whole variety of documents that can be
13:34:51 25 used. They are outlined in our SAVE user guide information

13:34:56 1 as well as information available on our commonly used
13:34:59 2 immigration documents pages.

13:35:01 3 The most common for U.S. citizens would be
13:35:04 4 the certificate of naturalization or the certificate of
13:35:06 5 citizenship.

13:35:09 6 Q. And only an America identifier issued by DHS or
13:35:13 7 INS before it can work; correct?

13:35:15 8 A. Correct. We would not be verifying information
13:35:17 9 such as a Social Security number or a U.S. passport number
13:35:21 10 issued by an outside agency.

13:35:26 11 Q. For purposes of identifying naturalized or derived
13:35:33 12 citizenship status, what are all the viable options the
13:35:36 13 user agency can input?

13:35:37 14 A. I'm sorry. Can you repeat your question?

13:35:39 15 Q. For sure.

13:35:40 16 For purposes of verifying naturalized or
13:35:43 17 derived citizenship status, what are all the viable options
13:35:46 18 the user agency can input?

13:35:49 19 A. The most common will obviously be the certificate
13:35:52 20 of naturalization, the certificate of citizenship.

13:35:54 21 I'll ask Russ to chime in at this stage,
13:35:57 22 because there are other documents that we can use in the
13:35:59 23 immigration history that we can track information with.
13:36:01 24 Russ.

13:36:04 25 MR. FILIGHERA: In some instances there could

13:36:10 1 be older documents, I want to say, besides the certificate
13:36:14 2 of naturalizat- -- certificate of naturalization,
13:36:17 3 certificate of citizenship. In the past, there was old
13:36:21 4 form numbers previous to -- I want to say there was a form
13:36:26 5 for identification cards for residents. There's also
13:36:31 6 another document about birth abroad -- I mean birth
13:36:34 7 within the -- abroad that -- for a U.S. citizen.

13:36:38 8 So on those form numbers, if I recollect, one
13:36:41 9 of them was a 179 identification card. The other form,
13:36:46 10 though, can only be used -- it's an older-age document --
13:36:50 11 if the person was not a born U.S. citizen, of course, and
13:36:55 12 they have to have a collaborating D- -- record in our DHS
13:37:01 13 databases, the databases we access.

13:37:02 14 So again, it's just the -- the document
13:37:04 15 itself might lead to identifying information: name, date
13:37:08 16 of birth, that numeric ID that could be found in a record.

13:37:11 17 BY MR. SHERMAN:

13:37:11 18 Q. Thank you.

13:37:12 19 Can a SAVE system query be performed with
13:37:15 20 just a single document number or numeric identifier?

13:37:19 21 A. At least one enumerator must be input into the
13:37:22 22 system; however, we do recommend to agencies that they
13:37:25 23 input as many enumerators as they have available because it
13:37:28 24 does assist with identifying the records.

13:37:30 25 Q. Can naturalized or derived citizenship be verified

13:37:33 1 through SAVE without any of the following: an A-number,
13:37:36 2 naturalization certificate number, or citizenship
13:37:38 3 certificate number?

13:37:39 4 Mr. Filighera, was that what you were
13:37:41 5 describing? Those were some of the alternatives you were
13:37:45 6 just listing?

13:37:45 7 MR. FILIGHERA: So we base manual
13:37:48 8 verification or additional verification on name, date of
13:37:49 9 birth, and numeric ID, that numeric identifier. In some
13:37:53 10 cases, when we request a document to be provided, that
13:37:57 11 document would also have to be something that -- you know,
13:37:59 12 that can be found in the DHS records. So over the history
13:38:03 13 of time, there's some older documents beyond the most
13:38:06 14 current certificates that you would see issued today.

13:38:09 15 BY MR. SHERMAN:

13:38:09 16 Q. And naturalization certificates contain both an
13:38:12 17 A-number and a naturalization certificate number; correct?

13:38:17 18 A. Current versions of them do. There are some, I
13:38:20 19 believe, older versions that may have one or the other but
13:38:22 20 not necessarily both.

13:38:24 21 Q. Understood.

13:38:26 22 And the user agency is able to plug in both
13:38:27 23 of those numbers into the SAVE system API to initiate
13:38:33 24 verification; correct?

13:38:34 25 A. The enumerators that are available can be entered

13:38:37 1 into the system, and the system will accept more than one.

13:38:40 2 Q. Does the likelihood of matching and verifying the
13:38:43 3 applicant increase if the user agency plugs in more than
13:38:47 4 one identifying number from a DHS document?

13:38:49 5 A. Yes. As I stated, the minimum practice is to
13:38:51 6 include one unique enumerator. We do recommend that as
13:38:56 7 many as the agency has available be entered for purposes of
13:39:00 8 making the automated verification as easily as possible and
13:39:02 9 also to assist with tracking records if we need to move to
13:39:04 10 a manual verification.

13:39:06 11 Q. And back on 663, which we marked as Exhibit 193,
13:39:12 12 close to the bottom of that document, it says, "This means
13:39:16 13 you may send as many enumerators as are available,
13:39:19 14 regardless of document type, which increases the chance of
13:39:22 15 receiving an affirmative response at initial verification";
13:39:26 16 is that correct?

13:39:26 17 A. Yes.

13:39:27 18 Q. And that's what we were just talking about?

13:39:30 19 A. Yes.

13:39:30 20 Q. And does that obviate the need or minimize the
13:39:37 21 need for additional documentation?

13:39:41 22 A. It can make it easier. Again, the more
13:39:43 23 enumerators we're able to have access to and can support
13:39:47 24 automated verification, it reduces the need to request a
13:39:50 25 document if we have to move to manual verification.

13:39:54 1 Q. The Yavapai County Recorder's Office has testified
13:39:58 2 in this case that it cannot query the naturalization
13:40:00 3 certificate number. Any reason why they say that?

13:40:06 4 MR. MORGAN: Foundation.

13:40:12 5 BY MR. SHERMAN:

13:40:12 6 Q. Assume for purposes of this question that I'm
13:40:14 7 repeating their transcript -- deposition transcript
13:40:18 8 accurately.

13:40:26 9 A. I would have to confirm on the naturalization
13:40:27 10 certificate.

13:40:30 11 MS. SLATTERY: Mariah, are you aware of a
13:40:30 12 reason that wouldn't be available?

13:40:32 13 MS. DOOLITTLE: If they had a number
13:40:35 14 available to them on it -- an older certificate that you
13:40:37 15 spoke to before that wouldn't have one, then they, of
13:40:42 16 course, can't enter something that has nothing on it. But
13:40:45 17 outside of that, they should be able to enter it.

13:40:50 18 BY MR. SHERMAN:

13:40:50 19 Q. There's -- the user interface they're looking at
13:40:52 20 in the Yavapai County Recorder's Office should have a field
13:40:55 21 to put in the naturalization certificate number; correct?

13:41:09 22 A. I would -- I would like to go back and confirm
13:41:12 23 with specificity that the naturalization certificate
13:41:15 24 number, which I believe can be entered but I will confirm,
13:41:19 25 is an available data field. I'm unable to see it on the

13:41:22 1 document at the moment.

13:41:23 2 Q. Okay. If you want to take a moment just to
13:41:26 3 confirm that if it will take just a minute to look.

13:41:30 4 MS. DOOLITTLE: [Indiscernible] of that can
13:41:30 5 be added.

13:41:30 6 THE COURT REPORTER: I'm sorry. Say that
13:41:30 7 again.

13:41:34 8 MS. DOOLITTLE: It's correct that
13:41:35 9 naturalization numbers and citizenship numbers can be added
13:41:40 10 within the SAVE system.

13:41:51 11 MR. MORGAN: Jon, if that's the answer, I
13:41:53 12 guess you could move on. But if it's not the answer and
13:41:55 13 Ms. Slattery's still looking, I propose we take a
13:41:58 14 five-minute break so some of us can maybe use the services.

13:42:03 15 MS. SLATTERY: No, I can just confirm that
13:42:04 16 the alien number and the naturalization citizenship number
13:42:06 17 are separate fields.

13:42:06 18 BY MR. SHERMAN:

13:42:08 19 Q. Okay. But both are available to the county
13:42:08 20 recorders?

13:42:12 21 A. We would need to check their account specifically
13:42:14 22 to determine that it was available, but it is a standard
13:42:16 23 field.

13:42:17 24 MR. SHERMAN: Okay. Ms. Slattery,
13:42:20 25 Ms. Doolittle, Mr. Filighera, is it okay if we keep going

13:42:24 1 for another 15, 20 before taking a break, or should we take
13:42:28 2 a break now?

13:42:35 3 MS. SLATTERY: We can keep going.

13:42:36 4 BY MR. SHERMAN:

13:42:37 5 Q. Okay. What are the possible results of the
13:42:39 6 initial verification for naturalized or derived
13:42:42 7 citizenship? What does the user see on screen?

13:42:48 8 And you can refer to 665, if helpful, in the
13:42:55 9 document we've been looking at I think on your laptop.

13:43:08 10 What does -- what does the user agency see if
13:43:10 11 naturalized or derived citizenship is confirmed?

13:43:20 12 A. They would see the confirmed response indicating
13:43:23 13 U.S. citizenship.

13:43:27 14 Q. Is that a light green box at the top of the screen
13:43:30 15 as shown in the top of 665?

13:43:39 16 A. Yes. This -- in the case of the document, this
13:43:47 17 does reflect a lawful permanent resident status, but that
13:43:52 18 is how the -- how a response would be returned.

13:43:53 19 And then underneath that, you'll see the
13:43:55 20 response details, including the case verification number
13:43:58 21 and the related information, along with the country code, a
13:44:02 22 class of admission code, and date information as
13:44:07 23 appropriate.

13:44:08 24 Q. And if additional verification is needed, what
13:44:10 25 does the user see on screen?

13:44:12 1 A. There would be a button at the bottom of the
13:44:16 2 screen which -- there's first a button -- a box at the top
13:44:23 3 of the screen with a yellow triangle that says, "Institute
13:44:25 4 Additional Verification."

13:44:26 5 At the bottom of the screen, there is a green
13:44:29 6 button that allows the user to click to institute that
13:44:31 7 additional verification.

13:44:33 8 Q. So the user agency gets a notice saying
13:44:37 9 additional -- additional verification is required and all
13:44:39 10 they need to do to initiate additional verification is
13:44:42 11 click that yellow button at the bottom of the screen --
13:44:46 12 excuse me -- green button at the bottom of the screen?

13:44:48 13 A. They can also add additional comments. You'll see
13:44:52 14 a "Special Comments" field where they can provide
13:44:55 15 information to USCIS regarding information they may be
13:44:58 16 seeking.

13:44:59 17 There are also "Additional Request
13:45:00 18 Information" where they may be looking for information
13:45:04 19 related to specific status information that they can also
13:45:08 20 click that would indicate to us additional information that
13:45:11 21 they may be seeking. And then they can upload a document
13:45:14 22 at this stage or a file, and then they could click
13:45:17 23 additional -- "Institute Additional Verification."

13:45:21 24 Q. So those are the steps that are required to
13:45:24 25 initiate additional verification; correct?

13:45:26 1 A. Those are the data fields that are available for
13:45:29 2 the agency to provide additional information, yes.

13:45:31 3 Q. They don't need to fill those out; those are just
13:45:34 4 helpful for manual review; correct?

13:45:38 5 A. They are helpful for manual review, and we would
13:45:45 6 encourage states to fill them out -- or agencies to fill
13:45:47 7 them out as much as possible.

13:45:49 8 Q. And then clicking the green button at the bottom,
13:45:51 9 that initiates additional verification regardless of
13:45:55 10 whether the comments and the other information have been
13:45:57 11 provided; correct?

13:46:01 12 MS. SLATTERY: Mariah, can you confirm that?
13:46:01 13 I believe it does.

13:46:02 14 MS. DOOLITTLE: I believe it does as well.
13:46:05 15 I'm more on the back end of the system than the front-end
13:46:09 16 portion.

13:46:11 17 Potentially, Russ might be able to verify,
13:46:13 18 but . . .

13:46:16 19 MR. FILIGHERA: Will you repeat that
13:46:18 20 question.

13:46:19 21 BY MR. SHERMAN:

13:46:20 22 Q. Does clicking -- yes.
13:46:21 23 Does clicking the green button marked
13:46:24 24 "Initiate Additional Verification" -- does that start the
13:46:28 25 additional verification process?

13:46:30 1 MR. FILIGHERA: I'm under the impression,
13:46:31 2 based on my recollection, that upon hitting that button, it
13:46:35 3 would then go on to additional verification and get placed
13:46:38 4 into our queue of cases to work.

13:46:43 5 BY MR. SHERMAN:

13:46:43 6 Q. Understood.

13:46:44 7 And IAV -- or initial additional
13:46:44 8 verification, or IAV, response upon initial verification,
13:46:54 9 that -- excuse me. Let me back up. I misstated one word.

13:46:56 10 An initiate additional verification, or IAV,
13:47:00 11 response, that isn't -- that doesn't necessarily mean that
13:47:04 12 the applicant is ineligible to receive the benefit;
13:47:07 13 correct?

13:47:07 14 A. Correct. In fact, we would say to agencies that
13:47:11 15 if they have any reason to question the result that was
13:47:14 16 received, that they should initiate additional verification
13:47:18 17 and that it, you know, again, should not be determined to
13:47:22 18 be an indication of eligibility if it does not provide the
13:47:25 19 information that the agency needs to do that eligibility
13:47:28 20 determination.

13:47:29 21 Q. If we could look back at page 4 of the MOA. These
13:47:35 22 are the user agency obligations.

13:47:46 23 Is the user agency bound to comply with the
13:47:48 24 MOA?

13:47:51 25 MR. MORGAN: Calls for a legal conclusion.

13:47:56 1 MS. SLATTERY: Yes. This is the contract
13:47:58 2 between the agency and USCIS, the terms of which we would
13:48:01 3 expect them to follow.
13:48:02 4 BY MR. SHERMAN:
13:48:02 5 Q. And SAVE system access is contingent upon
13:48:06 6 following the terms of the MOA; correct?
13:48:08 7 A. Correct.
13:48:09 8 Q. Is the user agency bound to comply with the SAVE
13:48:14 9 Program Guide?
13:48:14 10 A. Yes.
13:48:16 11 Q. The SAVE voter registration fact sheet?
13:48:20 12 A. That's a fact sheet for informational purposes.
13:48:22 13 It does reflect the requirements that are consistent with
13:48:26 14 the SAVE system as well as the user guide.
13:48:29 15 Q. How about the template notice letters to
13:48:32 16 applicants on correcting, updating, renewing, or obtaining
13:48:35 17 a record?
13:48:38 18 A. The expectation of an agency is that they would
13:48:40 19 provide information to a benefit applicant if they needed
13:48:43 20 to correct the record, yes.
13:48:45 21 Q. Are they bound by the terms in those fact sheets
13:48:50 22 on correcting, updating, renewing, or obtaining records?
13:48:54 23 MR. LANGHOFER: Same objection.
13:48:56 24 MS. SLATTERY: To which fact sheet are you
13:48:58 25 specifically referring? I'd like to look at the language.

13:49:00 1 BY MR. SHERMAN:

13:49:01 2 Q. For sure.

13:49:13 3 Oh, I know what this is. This is 11/12 at

13:49:17 4 the end of the MOA: "Information for Registrants:

13:49:22 5 Verification of Citizenship Status and How to Obtain Your

13:49:26 6 Document or Correct Your Record with USCIS."

13:49:28 7 This is part of Exhibit 184, the MOA. So

13:49:32 8 it's just appended to the end of the MOA.

13:49:45 9 A. This is an information worksheet for a benefit

13:49:47 10 applicant that explains how to obtain correction of

13:49:51 11 documents with USCIS. As part of the terms of the MOA, the

13:49:55 12 agency would be required to provide information to the

13:49:59 13 benefit applicant about how to go about correcting the

13:50:01 14 record.

13:50:02 15 Q. And would they provide this sheet?

13:50:06 16 A. This sheet is one of the options an agency would

13:50:08 17 have to provide information. This one is the one that is

13:50:11 18 attached to this MOA as part of this package.

13:50:14 19 There is additional information available at

13:50:17 20 uscis.gov. And we also have benefit applicant fact sheets

13:50:20 21 that are available within the SAVE system to user agencies.

13:50:23 22 So there are multiple resources that can provide

13:50:25 23 information about records correction updates.

13:50:29 24 Q. Is this effectively incorporated into the terms

13:50:32 25 and conditions of the MOA?

13:50:32 1 MR. LANGHOFER: Same objection.

13:50:46 2 MS. SLATTERY: It is provided as part of this
13:50:49 3 MOA and can be provided to benefit applicants.

13:50:52 4 BY MR. SHERMAN:

13:50:52 5 Q. Is the web-based tutorial that USCIS provides --
13:50:56 6 is that binding on the user agency?

13:50:59 7 A. The tutorial is training and guidance information
13:51:02 8 about how to use the system. It reflects information
13:51:04 9 that's outlined in the MOA regarding the terms and
13:51:07 10 conditions of use.

13:51:09 11 Q. Can I have you look at B(1)(d) on page 4 of the
13:51:18 12 MOA.

13:51:18 13 A. Yes.

13:51:19 14 Q. Do you see that it says, "User agency agrees
13:51:22 15 to:"?

13:51:23 16 Subpart (d) says, "Ensure all users
13:51:25 17 performing verification procedures comply with all
13:51:28 18 requirements contained in the SAVE Program Guide, SAVE
13:51:31 19 Voter Registration Fact Sheet, web-based tutorial, and this
13:51:34 20 MOA, and updates to these requirements"?

13:51:37 21 A. Yes.

13:51:37 22 Q. Does that mean the user agency is bound by all
13:51:40 23 sources?

13:51:41 24 A. Yes. And as updates are made to them, they would
13:51:44 25 be required to stay aware of those updates and incorporate

13:51:48 1 them into their user practices.

13:51:50 2 Q. Great. Thank you.

13:51:51 3 Below that, if I could direct your attention

13:51:53 4 to Subpart 1(f), which says, "Ensure all Users perform any

13:51:59 5 additional verification procedures the SAVE program

13:52:03 6 requires and/or the registrant requests after the User

13:52:07 7 Agency initiates a request for verification. For voter

13:52:11 8 registration verification, User Agency must institute

13:52:15 9 additional verification for any registrant that does not

13:52:18 10 verify as a naturalized or derived citizen on initial

13:52:21 11 verification, including in all cases where the User Agency

13:52:25 12 receives any SAVE response other than that of naturalized

13:52:29 13 or derived citizen."

13:52:30 14 This -- this paragraph obligates the user

13:52:35 15 agency to initiate additional verification procedures that

13:52:39 16 the SAVE program requires and/or the registrant requests

13:52:44 17 after initial verification fails to confirm naturalized or

13:52:48 18 derived citizenship; correct?

13:52:50 19 MR. LANGHOFER: Same objection.

13:52:53 20 MS. SLATTERY: That is what is stated in

13:52:55 21 subparagraph (f).

13:52:56 22 BY MR. SHERMAN:

13:52:56 23 Q. How would you characterize the obligation in

13:52:58 24 Subpart (f)?

13:53:00 25 A. Unless a user agency has an alternative means to

13:53:03 1 verify citizenship as outlined in the SAVE user guide, we
13:53:07 2 would expect agencies to complete the verification process
13:53:10 3 through all steps as necessary.

13:53:12 4 Q. This paragraph is binding on the Arizona Secretary
13:53:17 5 of State's Office and Arizona county recorders?

13:53:19 6 A. As a term of the --

13:53:21 7 MR. MORGAN: Calls for a legal conclusion.

13:53:23 8 THE COURT REPORTER: Can you repeat the
13:53:25 9 answer?

13:53:25 10 MS. SLATTERY: It is a term of the MOA that
13:53:27 11 is signed by that agency, yes.

13:53:30 12 BY MR. SHERMAN:

13:53:33 13 Q. Is -- is there some alternative process in Arizona
13:53:36 14 that exempts them from Subpart (f)?

13:53:40 15 MR. MORGAN: Calls for a legal conclusion.

13:53:43 16 MS. SLATTERY: I am not aware of an
13:53:45 17 alternative process and would defer to Arizona to be
13:53:48 18 responsive to their process.

13:53:53 19 MR. WHITAKER: Jon, if you could find a
13:53:55 20 moment for a break, that would be great.

13:53:57 21 MR. MORGAN: Same here.

13:53:58 22 MR. SHERMAN: For sure. Let me just ask one
13:54:02 23 follow-up question to this. Well, we were going to move on
13:54:07 24 to another document, so . . .

13:54:09 25 BY MR. SHERMAN:

13:54:09 1 Q. But I just want to -- I want to be just clear on
13:54:10 2 this point.

13:54:11 3 Has the Arizona Secretary of State's Office
13:54:13 4 ever sought an exemption from USCIS based on some
13:54:18 5 alternative process in Arizona law procedures?

13:54:25 6 A. I am not aware of one.

13:54:27 7 MR. SHERMAN: Okay. Thanks.

13:54:28 8 Why don't we take -- is a 15-minute break
13:54:32 9 appropriate at this point?

13:54:36 10 MR. LANGHOFER: I'm fine with that. Let's go
13:54:38 11 off the record. Let's talk about time after we're off the
13:54:40 12 record.

13:54:40 13 MR. SHERMAN: Okay. We can talk off the
13:54:40 14 record, yeah.

13:54:42 15 THE VIDEOGRAPHER: We're off the record.
13:54:43 16 Time on the video monitor is 1:54 p.m. This ends Volume 1,
13:54:48 17 Media 1.

13:54:51 18 (A recess ensued.)

14:13:17 19 THE VIDEOGRAPHER: We are on the record.
14:13:29 20 Time on the video monitor is 2:13 p.m. This begins media
14:13:34 21 number -- Volume Number 1, Media Number 2.

14:13:43 22 MR. SHERMAN: Mr. Morgan, did you want to
14:13:45 23 just state something --

14:13:46 24 MR. MORGAN: Sure. We have attempted to
14:13:50 25 reach Mr. Langhofer, counsel for the RNC, who is not

14:13:55 1 present. I placed a telephone call to Mr. Langhofer.
14:14:02 2 Something has unexpectedly required him to step away for a
14:14:05 3 moment. He did tell me that we should proceed without him,
14:14:08 4 so we're just putting that on the record. Thanks.

14:14:14 5 MR. SHERMAN: Thank you.

14:14:14 6 BY MR. SHERMAN:

14:14:18 7 Q. So I want to revisit the requirement for
14:14:23 8 additional verification. If we can turn to the SAVE
14:14:23 9 Program Guide.

14:14:31 10 And, Ms. Slattery -- actually, all the
14:14:32 11 witnesses, for a -- most of the questions for the next
14:14:35 12 handful -- many pages in my outline are about the MOA, the
14:14:37 13 SAVE Program Guide, and Bates Stamp Number 13 through 16.
14:14:44 14 So if you want to take a moment to pull those three
14:14:47 15 documents out, I think that might help speed things along.

14:14:53 16 The next question is on the SAVE Program
14:14:58 17 Guide at USCIS SAVE 87. Just let me know when you're
14:15:05 18 there.

14:15:15 19 A. I have it.

14:15:15 20 Q. Excellent. Thank you.

14:15:20 21 So you see the bottom paragraph -- I'll just
14:15:23 22 read it. This is at the bottom of 87.

14:15:25 23 "Users must perform any and all additional
14:15:27 24 verification procedures SAVE requires and/or the applicant
14:15:31 25 requests when SAVE returns a response of 'Institute

14:15:36 1 Additional Verification, 'Resubmit Doc' or otherwise
14:15:40 2 indicates that additional verification is required, or the
14:15:43 3 benefit applicant requests additional verification, the
14:15:46 4 user must continue the verification process to ensure that
14:15:49 5 SAVE can conduct the necessary research on behalf of the
14:15:53 6 benefit applicant. This is necessary because user agencies
14:15:56 7 may not rely on a SAVE response to deny an application for
14:16:00 8 benefits unless the agency has followed all SAVE
14:16:04 9 verification procedures. Following SAVE verification
14:16:08 10 procedures requires user agencies to respond to a request
14:16:11 11 for additional review when prompted by SAVE or requested by
14:16:14 12 the applicant by submitting any additional information or
14:16:18 13 documents and receiving SAVE's final response regarding the
14:16:22 14 applicant's immigration status or records. Otherwise, the
14:16:25 15 user agency may deny eligible persons benefits that they
14:16:30 16 are lawfully entitled to receive. Accordingly, SAVE
14:16:33 17 requires the agency to have instituted additional
14:16:36 18 verification and followed all verification steps before it
14:16:39 19 can deny a benefit based on the SAVE response."

14:16:43 20 Did I read that correctly?

14:16:44 21 A. All but the last sentence.

14:16:49 22 Q. I'll try one more time.

14:16:51 23 "Accordingly, SAVE requires the agency to
14:16:53 24 have instituted additional verification and followed all
14:16:56 25 verification steps before it can deny a benefit based on

14:17:01 1 the SAVE response."

14:17:01 2 The last sentence I'll return -- of this
14:17:03 3 paragraph I will return to in a moment. I won't leave that
14:17:06 4 out.

14:17:07 5 But did I read -- did I read everything there
14:17:10 6 just correctly?

14:17:12 7 A. Yes. The words you read are what is represented
14:17:16 8 in the program guide.

14:17:17 9 Q. Is this binding on SAVE user agencies?

14:17:21 10 A. As outlined in the MOA, it is one of the items we
14:17:29 11 require users to follow.

14:17:29 12 Q. So additional verifications are mandatory and not
14:17:36 13 discretionary for user agencies; correct?

14:17:38 14 A. Yes. Unless they have an alternative procedure,
14:17:41 15 as outlined in the last sentence of that paragraph.

14:17:43 16 Q. So turning to that last sentence at the top of 88
14:17:47 17 of the SAVE -- USCIS SAVE 88, top of the page, bottom final
14:17:54 18 sentence of that paragraph I was reading, "If an agency has
14:17:57 19 alternative processes upon which to base its decision to
14:18:00 20 grant or deny a benefit, additional verification in SAVE is
14:18:05 21 not required."

14:18:05 22 What does that mean in the context of Arizona
14:18:08 23 voter registration procedures?

14:18:11 24 A. I'm not sure I understand the question you're
14:18:13 25 asking me.

14:18:13 1 Q. What is the -- what is the alternative process in
14:18:21 2 Arizona voter registration procedures that -- well, let
14:18:24 3 me -- let me phrase it a different way.

14:18:26 4 What is a type of alternative process that
14:18:28 5 would exempt a user agency from the requirement to engage
14:18:35 6 in additional verification?

14:18:38 7 MR. MORGAN: Calls for a legal conclusion.

14:18:44 8 MS. SLATTERY: The specifics of the
14:18:47 9 alternative process would be within the realm of the agency
14:18:49 10 to answer. Certainly, there are documents that an agency
14:18:53 11 could look at, such as a certificate of naturalization.

14:18:56 12 For acquired citizens, there are some who
14:18:58 13 don't have a DHS document or who might have a DHS document
14:19:02 14 but who would also have a U.S. passport. So there are
14:19:04 15 alternative document verifications that an agency could do
14:19:07 16 with the documents in front of them should they choose to
14:19:10 17 do so.

14:19:11 18 BY MR. SHERMAN:

14:19:11 19 Q. Assuming that the applicant hasn't provided some
14:19:14 20 other form of valid documentary proof of citizenship to the
14:19:18 21 user agency and the user agency is really relying on the
14:19:22 22 SAVE system for verification of naturalized or derived
14:19:27 23 citizenship, there is no alternative; correct? There is no
14:19:31 24 alternative process; correct?

14:19:36 25 MR. WHITAKER: Form.

14:19:38 1 MR. LANGHOFER: Same objection.

14:19:39 2 MS. SLATTERY: I think in the question as you

14:19:41 3 have constructed it, because of the innate assumption,

14:19:42 4 there would not be. However, I would say in return, that a

14:19:47 5 state would have the opportunity and ability to request

14:19:50 6 information as needed. And they would also have the

14:19:53 7 opportunity and ability to do that when pursuing SAVE

14:19:56 8 additional verification in order to acquire documentation,

14:19:59 9 should it be necessary.

14:19:59 10 BY MR. SHERMAN:

14:20:00 11 Q. Has any user agency ever been exempted from the

14:20:03 12 requirement for additional verification?

14:20:08 13 A. Not to my knowledge.

14:20:10 14 Q. Has USCIS ever had a conversation or email

14:20:15 15 exchange, ever formalized an agreement to exempt a user

14:20:19 16 agency from additional verification?

14:20:23 17 A. I am not individually aware of one, but I

14:20:38 18 understand, based on historical information, we may have an

14:20:41 19 agency that is exempt. I don't have further details at

14:20:44 20 this time.

14:20:44 21 Q. But that isn't the Arizona Secretary of State's

14:20:48 22 Office or any Arizona county recorder's office, is it?

14:20:51 23 A. It is not.

14:20:52 24 Q. So just so the record is clear here, is additional

14:20:57 25 verification required of Arizona county recorders pursuant

14:21:00 1 to their -- the MOA with the Arizona Secretary of State's

14:21:05 2 Office?

14:21:05 3 A. Under the terms of the SAVE MOA, additional

14:21:07 4 verification is required if the agency does not get the

14:21:11 5 information it needs from the SAVE verification process and

14:21:14 6 if they are not instituting alternative procedures.

14:21:17 7 Q. Do you do any monitoring or compliance to check if
14:21:23 8 they have alternative procedures?

14:21:26 9 A. We do have monitoring and compliance capabilities.
14:21:28 10 I am not aware that we've spoken specifically to that
14:21:33 11 issue.

14:21:33 12 Q. How do you enforce this requirement to pursue
14:21:36 13 additional verification procedures?

14:21:38 14 A. Typically, we would look at the data available in
14:21:42 15 the agency's transactional history. And we have agency
14:21:45 16 relationship managers who are responsible for coordinating
14:21:48 17 with agencies to look at and ask questions about use if we
14:21:52 18 notice patterns that indicate terms of the MOA are not
14:21:56 19 being followed.

14:21:59 20 Q. What are the consequences for noncompliance with
14:22:01 21 terms of the MOA compliance?

14:22:04 22 A. Typically, there's an escalation process where we
14:22:06 23 would first look to engage with the agency and encourage
14:22:09 24 compliant behavior, including continuing training,
14:22:13 25 providing additional information.

14:22:14 1 We could escalate to meeting with
14:22:16 2 administrative officials of the agencies to talk about what
14:22:18 3 we're seeing as current issues. At the ultimate step of
14:22:23 4 escalation, we could remove an agency from SAVE use.

14:22:28 5 Q. Is there any documentation of compliance with the
14:22:31 6 additional verification requirement, or is it just data
14:22:33 7 stored in the -- metadata stored in the SAVE system?

14:22:37 8 A. I'm not sure I understand your question.

14:22:41 9 Q. How do you keep track of compliance with the
14:22:46 10 additional verification requirement?

14:22:48 11 A. We would look typically at the data.

14:22:49 12 Q. If we look back at page 87 -- Bates Stamp 87, just
14:23:00 13 the page before. Right above the paragraph I read before,
14:23:03 14 there's the sentence "Failure to follow this requirement
14:23:06 15 violates the MOA and may result in the individual user of
14:23:10 16 the entire agency losing access to SAVE."

14:23:13 17 I understand that's referring to a different
14:23:15 18 term of the MOA.

14:23:16 19 Does that also apply to noncompliance with
14:23:20 20 the additional verification requirement?

14:23:23 21 MR. MORGAN: Calls for a legal conclusion.

14:23:25 22 MS. SLATTERY: SAVE may terminate a user
14:23:31 23 agency for behavioral violations of the MOA. As I
14:23:33 24 indicated, it is an escalation process, and that would be a
14:23:37 25 course of last resort if we could not achieve compliant

14:23:40 1 behavior.

14:23:41 2 BY MR. SHERMAN:

14:23:41 3 Q. Can I direct your attention back to page 4 of the
14:23:44 4 MOA. This is again within the user agency obligations.

14:23:57 5 Do you see Subpart (g) on page 4?

14:24:02 6 A. Yes.

14:24:02 7 Q. This obligates the user agency to, quote, "Use any
14:24:05 8 information provided by DHS-USCIS under this MOA solely for
14:24:09 9 the purpose of determining the eligibility of persons
14:24:12 10 applying for the benefit issued by the user agency and
14:24:15 11 limit use of such information in accordance with this and
14:24:19 12 all other provisions of this MOA"; is that correct?

14:24:23 13 A. That is what the term states, yes.

14:24:25 14 Q. Am I right to read that language to mean that this
14:24:27 15 MOA binds user agencies to use SAVE just at the point of
14:24:32 16 processing a new voter registration application and not for
14:24:36 17 checking registered voters en masse?

14:24:40 18 MR. MORGAN: Calls for a legal conclusion.

14:24:41 19 MS. SLATTERY: As outlined in paragraph 1 on
14:24:47 20 page 2, the purpose of this MOA does authorize use of SAVE
14:24:53 21 for the purpose of verifying citizenship and immigration of
14:24:56 22 status information of noncitizens -- noncitizen and
14:24:59 23 naturalized or derived U.S. citizen registrants when they
14:25:03 24 registered to vote.

14:25:04 25 MR. MORGAN: Jon, so I don't have to keep

14:25:06 1 interrupting you, because I don't like to, can we stipulate
14:25:08 2 that with respect to any question where you ask the witness
14:25:12 3 to determine or state what the contract means or requires,
14:25:16 4 that I have a standing legal conclusion objection?

14:25:21 5 MR. SHERMAN: With respect to any question
14:25:25 6 regarding the meaning of the MOA --

14:25:27 7 MR. MORGAN: Yes.

14:25:28 8 MR. SHERMAN: -- I think we can stipulate to
14:25:30 9 that, yes.

14:25:31 10 MR. MORGAN: Great. Thank you.

14:25:32 11 BY MR. SHERMAN:

14:25:34 12 Q. Just more generally, Ms. Slattery, is conduct
14:25:37 13 out -- is user agency conduct outside the scope of the MOA
14:25:42 14 or for a purpose not authorized by the MOA -- is that
14:25:46 15 permissible or not under the MOA?

14:25:49 16 A. The terms of the MOA define the permissible use of
14:25:52 17 SAVE. So if -- if it is not defined in terms of the MOA,
14:25:55 18 it would be outside of the MOA.

14:25:57 19 Q. And if it's outside the scope of the MOA's
14:26:00 20 purposes, then it's a violation of the MOA, just to be
14:26:02 21 clear?

14:26:03 22 A. It's not a permissible use of SAVE.

14:26:07 23 Q. Consistent with the MOA's defined user agency
14:26:11 24 obligations, could the SAVE system be used just against
14:26:14 25 individuals that county recorders have reason to believe

14:26:18 1 lack U.S. citizenship?

14:26:23 2 MR. WHITAKER: Calls for a legal conclusion.

14:26:26 3 MS. SLATTERY: I'm sorry. I don't understand
14:26:26 4 the question.

14:26:26 5 BY MR. SHERMAN:

14:26:27 6 Q. Let's assume for argument sake -- and I'm not --

14:26:30 7 I'm not asking you to interpret any of the challenged state

14:26:34 8 laws in this case. We're just focused on the MOA.

14:26:36 9 Let's assume for argument sake that a state

14:26:38 10 law directs election officials to verify the citizenship

14:26:42 11 status of any registered voter anytime they suspect a

14:26:46 12 particular registered voter lacks U.S. citizenship. Is

14:26:50 13 acting on the basis of mere suspicion consistent with

14:26:54 14 USCIS's standard VRMOA that the Arizona Secretary of

14:27:00 15 State's Office signed?

14:27:00 16 MR. LANGHOFER: Calls for a legal conclusion.

14:27:04 17 MR. BURKLEY: I agree, but if you're

14:27:05 18 comfortable trying to answer with the knowledge you have,

14:27:08 19 go ahead.

14:27:10 20 MS. SLATTERY: As part of SAVE's MOA and as

14:27:14 21 through the intent and purpose of the program, SAVE should

14:27:15 22 not be used for any purpose other than as authorized,

14:27:18 23 including discrimination or any other type of use.

14:27:26 24 BY MR. SHERMAN:

14:27:30 25 Q. Let's -- let's take the focus off Arizona, which

14:27:33 1 just has the authorized use of using the SAVE system at the
14:27:40 2 point of voter registration.

14:27:42 3 You have other states that are using the SAVE
14:27:44 4 system for voter list maintenance purposes. Could one of
14:27:48 5 those states use the SAVE system for voter list
14:27:51 6 maintenance -- i.e., voter removal -- based on a reason to
14:27:57 7 believe that certain registered voters are not U.S.
14:28:01 8 citizens?

14:28:02 9 MR. LANGHOFER: Same objection and scope.

14:28:12 10 MS. SLATTERY: For voter list maintenance
14:28:13 11 purposes, the terms of use would be defined in the MOA and
14:28:17 12 would allow agencies to verify registered and enrolled
14:28:21 13 voters that are currently on the list.

14:28:25 14 BY MR. SHERMAN:

14:28:25 15 Q. Can those states act on mere suspicion of a lack
14:28:28 16 of citizenship?

14:28:30 17 MR. LANGHOFER: Same objections.

14:28:32 18 MS. SLATTERY: I don't -- I don't understand
14:28:34 19 what you mean by "mere suspicion." I don't know what would
14:28:37 20 prompt the state to take that action.

14:28:39 21 BY MR. SHERMAN:

14:28:41 22 Q. So we don't have this in front of us, but you have
14:28:45 23 separate MOAs for voter list maintenance; correct?

14:28:48 24 A. Correct.

14:28:49 25 Q. Under those voter list maintenance MOAs, what is

14:28:54 1 the defined scope of using the SAVE system?

14:29:01 2 A. I don't have that MOA in front of me at this time.

14:29:04 3 Q. Okay.

14:29:05 4 MR. BURKLEY: I'm going to -- I think we're
14:29:06 5 getting outside of the 30(b)(6) topics a bit, but I'll let
14:29:10 6 the witness answer.

14:29:10 7 MR. SHERMAN: I mean, it's related -- it's
14:29:15 8 related to HB 2243 in this case and whether or not
14:29:19 9 Arizona's permissions will be extended to cover HB 2243,
14:29:24 10 which is a voter list maintenance purpose.

14:29:24 11 BY MR. SHERMAN:

14:29:27 12 Q. But let me -- let me bring -- let me bring the
14:29:28 13 focus back. And I just want to ask this in a way that
14:29:31 14 hopefully clarifies it.

14:29:33 15 Could -- if -- if HB 2243 were implemented
14:29:37 16 and Arizona were to seek expansion of their existing MOA to
14:29:45 17 include the provisions in HB 2243, which has been
14:29:49 18 challenged in this case, would it be permissible,
14:29:53 19 consistent with that MOA's terms, to act on a mere reason
14:29:58 20 to believe and use the SAVE system to investigate the
14:30:02 21 citizenship of individual registered voters that they have
14:30:07 22 reason to believe are not U.S. citizens?

14:30:11 23 MR. MORGAN: Objection to form.

14:30:13 24 MR. BURKLEY: Objection to the extent it
14:30:14 25 calls for speculation.

14:30:14 1 MR. WHITAKER: And legal conclusion.

14:30:26 2 MR. MORGAN: Yeah, that too.

14:30:26 3 MS. SLATTERY: I have not studied the terms
14:30:28 4 of the law that you are referencing and would not be able
14:30:32 5 to answer that question in the manner it was posed.

14:30:37 6 BY MR. SHERMAN:

14:30:37 7 Q. Fair enough.

14:30:38 8 Can I direct your attention to Subpart (k) on
14:30:43 9 page 5 of the MOA.

14:30:49 10 This reads that the user agency, quote,
14:30:52 11 must -- must, quote, "Comply with federal laws prohibiting
14:30:56 12 discrimination against registrants and discriminatory use
14:30:59 13 of the SAVE Program based upon the national origin, color,
14:31:03 14 race, gender, religion, or disability of the registrant,
14:31:06 15 including but not limited to the National Voter
14:31:10 16 Registration Act, 52 U.S.C. 20501, as amended, the Help
14:31:14 17 America Vote Act, 52 U.S.C. 20901, as amended, the Voting
14:31:19 18 Rights Act, as amended, and the Civil Rights Act of 1960,
14:31:22 19 as amended."

14:31:24 20 Does USCIS do any independent evaluation as
14:31:30 21 to whether or not a proposed use of the SAVE system would
14:31:35 22 violate these federal laws, or are you waiting essentially
14:31:37 23 on federal courts to find a violation of these federal
14:31:41 24 laws?

14:31:42 25 A. I'm not sure I understand the question. We do do

14:31:47 1 an evaluation of the legal authorities under which system
14:31:51 2 use is requested both for the authority to view and request
14:31:58 3 immigration status as well as to use the SAVE system.

14:32:02 4 Q. Do you evaluate federal election-related statutes,
14:32:06 5 federal voting-related statutes?

14:32:11 6 A. In looking at the agency's authorities, that would
14:32:15 7 be one of the statutes that would be considered when it
14:32:17 8 comes to voter registration questions and registration.

14:32:17 9 (Reporter clarification.)

14:32:17 10 BY MR. SHERMAN:

14:32:29 11 Q. So if a user agency -- just to take an easy one,
14:32:32 12 the -- the National Voter Registration Act -- let's just --
14:32:35 13 for argument sake, it does -- it prohibits removing voters
14:32:41 14 90 days before -- within 90 days of a federal election. So
14:32:44 15 if a user agency came -- approached USCIS and said, "We
14:32:49 16 wanted to remove voters from the rolls every month,
14:32:53 17 including in the months leading up to a federal election,"
14:32:57 18 would your office identify that as a violation and exclude
14:33:02 19 that as a permissible use under the MOA?

14:33:06 20 MR. LANGHOFER: Form. Calls for legal
14:33:07 21 conclusion. Compound.

14:33:09 22 MS. SLATTERY: As outlined in the MOA, the
14:33:15 23 applicable provisions of the law would be incorporated into
14:33:18 24 the MOA by reference, so those provisions would be
14:33:23 25 considered in determining the agency's use.

14:33:23 1 BY MR. SHERMAN:

14:33:26 2 Q. Okay. So you're not just waiting on judicial
14:33:29 3 determinations finding a violation of federal law; you do
14:33:32 4 an independent evaluation of federal statutes, federal
14:33:36 5 civil rights and voting rights statutes; is that correct?

14:33:39 6 A. Again, as we look at an agency's eligibility to
14:33:43 7 use SAVE, we would look at all of the relevant legal
14:33:46 8 provisions under which the use is requested and the intent
14:33:49 9 and purpose of the request.

14:33:53 10 Q. Lastly, for the MOA, at least for now,
14:33:57 11 Subparts (l) and (m) under -- on page 5, these read --
14:34:06 12 well, I'll just ask you: What are the user agency's
14:34:08 13 obligations under these two provisions: (l) and (m)?

14:34:13 14 A. Under Subsection (l), the user agencies are
14:34:16 15 required to -- and I quote -- "provide all registrants who
14:34:20 16 do not verify as a citizen under the terms of the MOA with
14:34:25 17 adequate written notice that their citizenship could not be
14:34:28 18 verified and the information necessary to contact DHS-USCIS
14:34:34 19 (see attachment 1: Fact Sheet 'Information for
14:34:37 20 Registrants,' which is subject to revision and reposting on
14:34:40 21 the SAVE Website and Online Resources) so that individuals
14:34:43 22 may obtain a copy of their Naturalization Certificate or
14:34:46 23 Certificate of Citizenship, or correct their records in a
14:34:49 24 timely manner, if necessary."

14:34:54 25 Q. Does an Arizona documentary proof of citizenship

14:34:58 1 deficiency notice letter satisfy this requirement, or do

14:35:02 2 the counties have to send the SAVE fact sheet that USCIS

14:35:06 3 provides?

14:35:06 4 MR. LANGHOFER: Same objection.

14:35:16 5 MS. SLATTERY: The term of the MOA calls for

14:35:17 6 adequate written notice. Certainly, we would like to see

14:35:20 7 the SAVE information in USCIS records correction and

14:35:24 8 information explicitly included as part of that; however,

14:35:27 9 should an agency separately reference that, the information

14:35:31 10 is publicly available and could be -- both that fact sheet

14:35:34 11 or reference to the uscis.gov website with regard to record

14:35:40 12 correction information.

14:35:40 13 BY MR. SHERMAN:

14:35:40 14 Q. So an Arizona county recorder could satisfy this

14:35:44 15 requirement as long as they make reference to the document

14:35:47 16 on how to correct and update one's records even if that

14:35:52 17 particular document wasn't included?

14:35:57 18 MR. WHITAKER: Same objections.

14:36:06 19 MS. SLATTERY: The preference -- and strong

14:36:08 20 preference I think would be to include the fact sheet

14:36:11 21 information for registrants. The terms, as written, do

14:36:13 22 indicate that the information necessary to contact

14:36:17 23 DHS-USCIS be included in the notice letter.

14:36:17 24 BY MR. SHERMAN:

14:36:19 25 Q. But beyond a strong preference, would they be

14:36:22 1 violating the terms of the MOA if they didn't provide the
14:36:25 2 SAVE fact sheet on how to correct and update one's records?
14:36:29 3 MR. LANGHOFER: Same objection.
14:36:43 4 MS. SLATTERY: Sorry. I'm looking at the
14:36:52 5 language.
14:36:52 6 BY MR. SHERMAN:
14:36:53 7 Q. For sure. We could also bring in -- for the
14:36:55 8 purpose of this -- answering this question, you could take
14:36:57 9 a look at page 8 -- Bates stamp page 88 of the SAVE Program
14:37:05 10 Guide.
14:37:05 11 Under 3.4.3, "Due process," it reads, "All
14:37:09 12 applicants who are denied benefits based solely or in part
14:37:13 13 on the SAVE response must be provided with adequate written
14:37:16 14 notice and the information necessary to contact DHS so that
14:37:20 15 they may correct their records in a timely manner. SAVE
14:37:23 16 has Fact Sheets that user agencies should give to all of
14:37:26 17 their applicants who they deny a benefit based on SAVE's
14:37:30 18 response regarding their immigration status."
14:37:32 19 Earlier, you testified that the SAVE Program
14:37:35 20 Guide is incorporated by reference into the MOA and
14:37:38 21 therefore binding.
14:37:39 22 So I'll ask again: Are the SAVE fact sheets
14:37:44 23 on how to correct and update one's records binding on the
14:37:48 24 user agencies?
14:37:58 25 MR. LANGHOFER: Same objection.

14:37:58 1 MS. SLATTERY: In reviewing the language of
14:38:00 2 both documents, the fact sheets that agencies should give
14:38:03 3 to all of their applicants -- again, all of these fact
14:38:06 4 sheets are currently available in forms that can be
14:38:11 5 accessed by user agencies. And in addition, we also have
14:38:14 6 information available on the USCIS website. So the
14:38:18 7 information -- this information should be provided to users
14:38:22 8 so that they can -- I'm sorry -- to benefit applicants so
14:38:25 9 that they can update their records correction information.
14:38:25 10 BY MR. SHERMAN:
14:38:28 11 Q. And would it violate the terms of the MOA to fail
14:38:31 12 to do so?
14:38:33 13 MR. LANGHOFER: Same objection.
14:38:34 14 MS. SLATTERY: Are you asking about failure
14:38:35 15 to provide a specific document or failure to provide
14:38:38 16 information -- failure to provide information?
14:38:40 17 BY MR. SHERMAN:
14:38:43 18 Q. Failure to provide the information contained in
14:38:46 19 the document on how to correct and update one's records.
14:38:46 20 MR. LANGHOFER: Same objection.
14:38:53 21 MS. SLATTERY: Failure to provide access to
14:38:54 22 information regarding how to correct records would prove to
14:38:59 23 be outside the terms of the MOA. It would be a violation
14:39:01 24 of the MOA.
14:39:02 25 BY MR. SHERMAN:

14:39:02 1 Q. Okay. Thank you.

14:39:03 2 I'm going to shift for a couple minutes --

14:39:06 3 and maybe this will give you a break, Ms. Slattery. This

14:39:10 4 section is all on the data issues that SAVE has seen.

14:39:15 5 So what are some of the data integrity issues

14:39:17 6 that SAVE has encountered over the years that can lead to

14:39:20 7 failures to verify applicants as naturalized or derived

14:39:23 8 citizens?

14:39:27 9 A. Principally, data integrity issues stem largely

14:39:31 10 from the way data is entered into a system. Oftentimes we

14:39:37 11 find users transpose data; numbers and letters may be out

14:39:42 12 of sequence. There are a lot of typographical errors.

14:39:46 13 So with that information, we do allow -- we

14:39:50 14 do include steps in the process whereby an agency can and

14:39:54 15 is actually prompted to review the information to ensure

14:39:57 16 that it is being entered into the system accurately.

14:40:00 17 We also provide guidance information,

14:40:03 18 recommending strongly to agencies that they enter

14:40:05 19 information exactly as it appears on immigration document

14:40:09 20 information. And again, that's because that allows us to

14:40:10 21 make the most accurate records match within DHS systems.

14:40:15 22 Q. USCIS records are not fully electronic yet; right?

14:40:19 23 A. No. We are in process of moving towards

14:40:23 24 electronic records. We do have a significant number of our

14:40:26 25 records that have already been moved to electronic data

14:40:28 1 systems.

14:40:30 2 Q. And so there is still -- at this time, there is

14:40:33 3 still human error in input of DHS records; correct?

14:40:40 4 A. Can you restate your question?

14:40:41 5 Are you asking me: Are we data entering by

14:40:43 6 hand USCIS historic records?

14:40:46 7 Q. Any USCIS records.

14:40:49 8 A. So there is always a potential for data entry to

14:40:52 9 be a factor when you're dealing with transposition of data

14:40:55 10 from hard copy to systems.

14:40:58 11 Q. Okay. So is the answer that there -- yes, that

14:41:01 12 there is some human error when it comes to inputting --

14:41:05 13 A. There can be.

14:41:06 14 Q. Okay. Any computer errors?

14:41:12 15 MS. SLATTERY: Mariah, do you want to talk

14:41:12 16 about computer matching?

14:41:19 17 THE COURT REPORTER: You're muted.

14:41:22 18 MS. DOOLITTLE: We're only as good as our

14:41:24 19 records. So if somebody sends us an immigration record, we

14:41:30 20 will try to match that with the records that we have

14:41:33 21 available to us. If we cannot make a match based on what

14:41:38 22 they've sent, which, to what Shannon alluded to, could be a

14:41:43 23 typo on their side, transposed numbers, not putting in

14:41:48 24 enumerators, that's where we then can fall back onto our

14:41:50 25 manual verification of the records that we have on hand.

14:41:54 1 At that point, there is a number of systems that could be
14:41:58 2 searched, depending on that person's initial record or what
14:42:03 3 we have at USCIS for them.

14:42:06 4 BY MR. SHERMAN:

14:42:06 5 Q. Could you speak to some of the data errors you see
14:42:09 6 with respect to name discrepancies?

14:42:13 7 MS. DOOLITTLE: Sure. So some of the data
14:42:16 8 errors for name discrepancies could be that the name is too
14:42:19 9 long; the string of characters could be too long for the
14:42:24 10 system. Because of that, with older system records, it
14:42:28 11 could have been truncated, or if there was a hyphenated
14:42:31 12 name, that would have caused issues in the past.

14:42:34 13 We are now modernizing. And as Shannon
14:42:37 14 stated, we are trying to bring all of our records either
14:42:40 15 digitized or electronically captured to try to stop some of
14:42:46 16 those related issues to our records.

14:42:46 17 BY MR. SHERMAN:

14:42:49 18 Q. Are there issues with similar -- similar names
14:42:53 19 leading to a false match?

14:42:56 20 MS. DOOLITTLE: There could be related to
14:43:01 21 that false match. However, that would be low based on last
14:43:04 22 name, first name -- middle initial could be added, their
14:43:09 23 date of birth, and the enumerators that are there for them.
14:43:13 24 It could happen, but it does not -- there's not a high rate
14:43:18 25 of that happening, I should say.

14:43:20 1 BY MR. SHERMAN:

14:43:21 2 Q. What about first and last name transpositions?

14:43:25 3 MS. DOOLITTLE: Our algorithms actually
14:43:27 4 account for that. So we have what we call fuzzy matching.
14:43:31 5 So if somebody puts a last name in the place of the first
14:43:33 6 name, a first name in place of the last name, and also of a
14:43:37 7 date of birth as well, we have the ability to go out and
14:43:41 8 search those records in a myriad of combinations based on
14:43:46 9 what's entered.

14:43:47 10 If it goes above a certain threshold, we will
14:43:50 11 bring that information back. And again, if it can't
14:43:53 12 because there's conflicting info, it would then go for that
14:43:57 13 manual review where people would go out to search the
14:44:00 14 systems to try to match, or we will contact the agency to
14:44:03 15 ask them to give us more information on their applicant.

14:44:03 16 BY MR. SHERMAN:

14:44:08 17 Q. What about compound, unhyphenated last names?

14:44:15 18 MS. DOOLITTLE: That is very dependent on our
14:44:16 19 source systems. As Shannon stated before, SAVE is not a
14:44:21 20 data repository, and so if their systems -- that I can't
14:44:23 21 attest to -- have issues with that, that could cause
14:44:26 22 issues.

14:44:28 23 BY MR. SHERMAN:

14:44:28 24 Q. What about name changes subsequent to when
14:44:33 25 immigration or citizenship documentation was issued; so for

14:44:37 1 instance, marriage and a change of a maiden name subsequent

14:44:40 2 to naturalization?

14:44:40 3 A. In the event --

14:44:45 4 MS. SLATTERY: I'm sorry. Go ahead, Mariah.

14:44:46 5 MS. DOOLITTLE: No, you can go. I think

14:44:47 6 we're probably going to say the same thing.

14:44:49 7 MS. SLATTERY: In the event there's a name

14:44:51 8 change that hasn't been reported to USCIS, we would not

14:44:53 9 have a record of the name change.

14:44:56 10 MS. DOOLITTLE: Exactly. And it could be the

14:44:59 11 external agency that would have to ask that person to

14:45:01 12 update their records.

14:45:04 13 BY MR. SHERMAN:

14:45:04 14 Q. I would imagine the situation is fairly common.

14:45:08 15 Has that been your experience?

14:45:11 16 MR. WHITAKER: Objection. Leading.

14:45:15 17 BY MR. SHERMAN:

14:45:15 18 Q. How common is this experience?

14:45:19 19 A. Certainly when you deal with, you know, nearly a

14:45:21 20 million naturalizations every year, there's an opportunity

14:45:24 21 for changes to occur between the time a person is

14:45:27 22 naturalized and the next opportunity they have to encounter

14:45:31 23 USCIS. I don't have a percentage of frequency, but I can

14:45:35 24 tell you we are communicating to benefit applicants

14:45:39 25 regularly that when changes occur, they should update their

14:45:42 1 information with us.

14:45:44 2 Q. Are there any particular vulnerabilities for data
14:45:47 3 integrity that pop up on the SAVE system's end?

14:45:53 4 A. I'm sorry. Can you give me an example of what
14:45:55 5 you're asking about?

14:45:56 6 Q. I'm not -- I'm not sure of all the possibilities
14:46:00 7 that you might confront. A number of -- a number of the
14:46:03 8 data integrity issues we've been discussing have been on
14:46:07 9 DHS agency ends, human error and input. Are there any
14:46:11 10 other vulnerabilities for data integrity that we haven't
14:46:17 11 discussed?

14:46:19 12 MS. SLATTERY: Mariah?

14:46:21 13 MS. DOOLITTLE: Let me think on that one for
14:46:23 14 a while. I'm unsure if there is if we haven't gone over
14:46:27 15 them because we're only as good as our records. So for the
14:46:29 16 SAVE program, we have to match on what gets sent to us for
14:46:34 17 that agency. So I think we've covered all of them. If I
14:46:40 18 think of one, though, I will . . .

14:46:43 19 BY MR. SHERMAN:

14:46:44 20 Q. Okay. Have you experienced any temporary glitches
14:46:46 21 that resulted in feeding inaccurate data for a short -- you
14:46:53 22 know, any amount of time?

14:46:56 23 MS. DOOLITTLE: Yes. There's been times
14:46:58 24 where somebody's class of admission has changed due to a
14:47:02 25 pending application or a group -- a population gets

14:47:08 1 temporary protective status. And so if SAVE doesn't have
14:47:12 2 access to those records or those changes in a timely manner
14:47:16 3 when that person filed with an agency, that could result in
14:47:21 4 a mismatch of information.

14:47:22 5 And at that point, that is when the agency
14:47:26 6 that submitted the case is to work with that benefit
14:47:29 7 applicant to ensure that their information is correct with
14:47:33 8 USCIS and that they've submitted their most recent
14:47:36 9 immigration documents and given us all relevant
14:47:39 10 information.

14:47:40 11 BY MR. SHERMAN:

14:47:41 12 Q. What are some data integrity issues that you have
14:47:43 13 observed on the user agency's end?

14:47:51 14 MS. DOOLITTLE: Again, we're only as good as
14:47:53 15 what is entered into the system. So if any agencies happen
14:47:57 16 to enter in any information that doesn't apply directly to
14:48:05 17 that applicant, that could definitely cause issues with
14:48:09 18 getting the proper response back for that person.

14:48:13 19 BY MR. SHERMAN:

14:48:13 20 Q. Any systematic computer errors that you've
14:48:16 21 observed on user agencies' end?

14:48:21 22 MS. DOOLITTLE: If there are errors that
14:48:23 23 occur, we work with the agency; we test with the agency to
14:48:26 24 ensure that -- that they're able to use our system. If we
14:48:32 25 do have anything such as outages, we do let our systems

14:48:36 1 know, but our systems are queueing systems, so cases could
14:48:39 2 still go in without being impacted. It would just not be
14:48:43 3 the three seconds to get that automated response back for
14:48:47 4 that person.

14:48:49 5 BY MR. SHERMAN:

14:48:50 6 Q. Any other data integrity issues that we haven't
14:48:53 7 discussed?

14:49:00 8 A. I can't think of any at this time.

14:49:02 9 Q. Okay. So I want to shift back to USCIS's
14:49:05 10 additional or -- or alternative verification procedures
14:49:08 11 that we've been discussing periodically and just drill down
14:49:11 12 into this.

14:49:13 13 So USCIS does have this additional
14:49:16 14 verification process if SAVE cannot verify the voter
14:49:20 15 registration applicant as a naturalized or derived citizen
14:49:23 16 upon the initial query; is that right?

14:49:27 17 A. That is correct. If the automated first response
14:49:30 18 returns anything unexpected or is unable to return a
14:49:33 19 response, it would shift to a manual verification process.

14:49:36 20 Q. Got it.

14:49:36 21 So that -- that's the same additional
14:49:39 22 verification process if there's no match whatsoever; right?

14:49:45 23 A. Correct.

14:49:46 24 Q. Is it more appropriate to call this "additional
14:49:49 25 verification" or "alternative verification"?

14:49:53 1 A. The term we use to describe this is "institute
14:49:56 2 additional verification."

14:49:58 3 Q. How is additional verification triggered?

14:50:03 4 A. Again, as we covered earlier, it can be done where
14:50:06 5 SAVE sends a response to the user agency asking them to
14:50:10 6 institute additional verification. Similarly, if an agency
14:50:14 7 receives a response that is unexpected or doesn't comport
14:50:17 8 with the information they believe to be accurate, they can
14:50:21 9 request additional verification through the system.

14:50:25 10 MS. DOOLITTLE: I would add to that if the
14:50:29 11 applicant is denaturalized, deceased, or deported or has a
14:50:32 12 removal order that we are able to potentially access on
14:50:38 13 them at that time of the -- and just for when that case is
14:50:42 14 created, that could then trigger institute additional
14:50:45 15 verification.

14:50:49 16 BY MR. SHERMAN:

14:50:49 17 Q. So that's -- if you've verified someone is a
14:50:52 18 citizen, you may still have to put them into an additional
14:50:58 19 verification process in those circumstances?

14:51:00 20 MS. DOOLITTLE: Not verify them as a citizen.
14:51:03 21 Just an applicant's information moving through, if it came
14:51:07 22 back that they were deceased, institute additional
14:51:11 23 verification would happen or denaturalized or deported.

14:51:11 24 BY MR. SHERMAN:

14:51:11 25 Q. Understood.

14:51:17 1 And would you also initiate additional
14:51:20 2 verification if there was a resubmit response -- a resubmit
14:51:23 3 doc response?

14:51:26 4 MS. SLATTERY: Russ, do you want to talk
14:51:27 5 about when resubmit docs comes into play and what that
14:51:28 6 looks like?

14:51:31 7 MR. FILIGHERA: Yeah. So additional
14:51:33 8 verification comes in two forms; it could be with
14:51:37 9 documentation or without. So we call additional
14:51:40 10 verification without documentation almost like a
14:51:43 11 second-step process where when it comes into the system,
14:51:46 12 we'll have the same data the agency entered originally on
14:51:50 13 the applicant. In some instances, they may actually add
14:51:53 14 additional comments, such as maybe they'll add another
14:51:57 15 identifying number, or if they caught something, they can
14:51:59 16 add a comment that.

14:52:01 17 That information is taken. We go into core
14:52:04 18 database systems similar to what you heard today, some of
14:52:07 19 them direct access, some through a query into a system that
14:52:13 20 queries multiple at the same time. If we're able to match
14:52:15 21 name, date of birth, numeric ID, they could receive at that
14:52:21 22 second step, without the documentation, a United States
14:52:23 23 citizenship response, USC response.

14:52:26 24 If by some chance that information we cannot
14:52:29 25 match or in an instance where somebody indicates the

14:52:33 1 document certificate and we're not finding that information
14:52:37 2 to match, we will go back with a response that -- as you
14:52:40 3 just indicated in your question, of resubmit with
14:52:43 4 documentation, which is a way to notify the agency through
14:52:47 5 the SAVE program that we are requesting a document. And at
14:52:50 6 that point, that goes onto the additional third step with
14:52:52 7 the document for matching from there.

14:52:55 8 BY MR. SHERMAN:

14:52:55 9 Q. Thank you.

14:52:57 10 And you would also initiate additional
14:53:01 11 verification if the applicant is concerned about the
14:53:03 12 response and requests additional verification; is that
14:53:10 13 right?

14:53:10 14 MR. FILIGHERA: I'm sorry. Shannon, do you
14:53:13 15 want me to take this?

14:53:13 16 MS. SLATTERY: Actually, I was going to ask
14:53:14 17 to repeat the question. I missed the last half of it.

14:53:16 18 BY MR. SHERMAN:

14:53:17 19 Q. Would you also initiate additional verification if
14:53:19 20 the applicant is concerned about the response and requests
14:53:22 21 additional verification?

14:53:23 22 A. Yes. An applicant can ask the agency to institute
14:53:27 23 additional verification if the response is unexpected or if
14:53:29 24 there's another reason they would want additional
14:53:31 25 verification.

14:53:32 1 Q. Okay. In the document Bates-stamped 13 -- it's
14:53:39 2 actually on the second page, which is Bates-stamped 14.
14:53:51 3 The first full paragraph after that quote from the MOA
14:53:55 4 says, "To comply with the VRMOA, a user agency cannot
14:54:01 5 terminate the SAVE verification process after initial
14:54:04 6 verification when an individual does not verify as a U.S.
14:54:06 7 citizen."
14:54:09 8 And later on it says, "It is not appropriate
14:54:13 9 to conduct" -- this is -- two paragraphs below that, it
14:54:18 10 says, "It is not appropriate for a user agency to conduct
14:54:21 11 verifications if it does not intend to complete the
14:54:24 12 verification process."
14:54:26 13 Why does this document say that?
14:54:41 14 Sorry. You're muted.
14:54:44 15 A. Sorry. Our expectations for SAVE users is that
14:54:47 16 when they use the SAVE system, that they will follow the
14:54:49 17 additional verification processes when necessary or when
14:54:52 18 information is returned that is unexpected.
14:54:56 19 Q. And it's a requirement of the MOA to initiate
14:55:01 20 additional verification in the circumstances we were just
14:55:04 21 discussing; correct?
14:55:05 22 A. The SAVE process is a three-step process, and if
14:55:08 23 institutional ver- -- additional verification is
14:55:10 24 recommended or warranted, we would ask agencies to follow
14:55:13 25 through with that per the terms of the MOA.

14:55:15 1 Q. Is the responsibility for the initiating
14:55:19 2 additional verification on the user agency or USCIS?

14:55:23 3 A. Typically, it's on the user agency. USCIS can
14:55:26 4 indicate to the agency that additional verification is
14:55:30 5 recommended, and so they'll receive the "institute
14:55:33 6 additional verification" response as part of certain
14:55:35 7 responses.

14:55:37 8 Q. And is the responsibility for carrying out
14:55:39 9 additional verification on the user agency or USCIS?

14:55:43 10 A. It's not an either/or. The responsibility of the
14:55:48 11 user agency is to initiate the additional verification.
14:55:51 12 The responsibility for executing the additional
14:55:54 13 verification is on the USCIS.

14:55:56 14 Q. Thank you.

14:55:57 15 And I'm referring in this question to the
14:55:58 16 bottom of the page we were just looking at, USCIS SAVE 14.

14:56:03 17 When, if ever, is it permissible for the user
14:56:06 18 agency to not pursue additional verification?

14:56:11 19 A. Again, as a general course, we would expect
14:56:13 20 agencies to pursue through all of the SAVE steps unless, as
14:56:17 21 outlined in the user guide, there is an alternative
14:56:19 22 verification procedure available that satisfies the state's
14:56:22 23 benefit eligibility determination.

14:56:25 24 Q. Do those alternatives include the three bullet
14:56:29 25 points listed at the bottom of page 2, which is USCIS SAVE

14:56:33 1 Bates Stamp 14?

14:56:34 2 A. Yes.

14:56:35 3 Q. Great.

14:56:36 4 What does second-level verification entail?

14:56:43 5 MS. SLATTERY: Russ, do you want to talk

14:56:45 6 about second-step verification?

14:56:45 7 MR. FILIGHERA: Sure. So second-step

14:56:49 8 verification is additional verification where the -- we

14:56:52 9 take a look at the data the agency entered on the

14:56:55 10 applicant -- name, date of birth, numeric identifier -- in

14:57:00 11 addition to any comments that they added when they

14:57:04 12 escalated it to additional verification.

14:57:07 13 The process entails taking that data and

14:57:10 14 going into source systems and outside of the SAVE program,

14:57:14 15 as mentioned, depending on the records from USCIS, to see

14:57:18 16 if we can make a match based on that information to the

14:57:22 17 most current status.

14:57:24 18 In the case for these questions, if it's a

14:57:27 19 derived or naturalized U.S. citizen and we can find the

14:57:31 20 records, we will provide that response. As I mentioned in

14:57:35 21 a previous question, if they indicate at second step that

14:57:39 22 the document is a certificate number and we're not coming

14:57:41 23 up with a derived U.S. citizen, we will actually ask for

14:57:45 24 the document to see what they're having -- to see if there

14:57:47 25 was a data discrepancy of some sort or another data entry.

14:57:51 1 Or in cases where we cannot find a matching record to
14:57:55 2 provide based on the information entered, data alone, we go
14:57:59 3 back with resubmit, and that's where the document comes in
14:58:02 4 and we go into the third-step process.

14:58:05 5 BY MR. SHERMAN:

14:58:05 6 Q. I'll ask separately about, yeah, third level, but
14:58:07 7 just to stick with second level for a second, just so I'm
14:58:10 8 clear, what information and/or documents does the user
14:58:13 9 agency need to provide to USCIS at the second level?

14:58:17 10 MR. FILIGHERA: So the document -- the
14:58:20 11 information doesn't change from the basics of name, date of
14:58:24 12 birth, numeric IDs. The information that carried over from
14:58:29 13 the SAVE program through our cases that we're working on at
14:58:30 14 manual is the same with the exception that there is a
14:58:35 15 "Agency Comment" field that can be used in the SAVE program
14:58:37 16 where you can provide additional information. So for
14:58:40 17 example, maybe an agency realizes that they forgot an ID or
14:58:44 18 made a mistake or added a name, they can pass a message
14:58:47 19 along that we could take into consideration, and we will
14:58:50 20 take that information into consideration.

14:58:53 21 BY MR. SHERMAN:

14:58:54 22 Q. What information does the user agency need to
14:58:56 23 provide to the applicant at second-level verification?

14:59:00 24 MR. FILIGHERA: So from this standpoint, the
14:59:04 25 user agency has already submitted the original, so -- I

14:59:09 1 believe in previous questions you showed in one of your
14:59:11 2 documents how they can institute additional verification.
14:59:15 3 So at that point, I can only speak to the data entry point,
14:59:18 4 and that would be they would -- the agency submits it for
14:59:22 5 additional verification. What they advise their applicant
14:59:25 6 I couldn't speak to.

14:59:26 7 BY MR. SHERMAN:

14:59:29 8 Q. Ms. Slattery, are you able to speak to that?

14:59:32 9 A. Typically, again, the verification process at this
14:59:34 10 stage isn't complete on -- for purposes of SAVE. Often, we
14:59:39 11 find that benefit applicant -- benefit agencies are sharing
14:59:42 12 with applicants that their case is still in progress. And
14:59:45 13 benefit applicants also have the opportunity to use the
14:59:48 14 SAVE CaseCheck system. So they can actually see their
14:59:52 15 system -- their case as it moves through the process and
14:59:53 16 through the system.

14:59:55 17 Q. Do you contact the registrant to obtain
15:00:00 18 documentary proof of citizenship at the second-level
15:00:03 19 verification?

15:00:03 20 A. We do not contact the benefit applicant during the
15:00:06 21 process. That is done by the user agency.

15:00:09 22 Q. Does the --

15:00:10 23 A. So they would contact the applicant and then
15:00:12 24 submit and upload the document or direct the applicant to
15:00:15 25 do so.

15:00:15 1 Q. And do they contact the registration applicant to
15:00:21 2 obtain documentary proof of citizenship before or after
15:00:26 3 second-level verification fails?

15:00:28 4 A. That would depend on the agency process. They can
15:00:33 5 contact at any point in time for SAVE purposes, and the
15:00:38 6 document may be uploaded at second step, although it is not
15:00:42 7 required. It would be required for third-level
15:00:44 8 verification.

15:00:44 9 Q. And this is -- this is not an automated process;
15:00:48 10 right? This is conducted by USCIS employees?

15:00:52 11 A. Which process are you speaking of?

15:00:55 12 Q. Is second-level verification conducted by USCIS
15:00:58 13 employees?

15:01:00 14 A. It is.

15:01:00 15 Q. Do you contact the -- does the user agency contact
15:01:04 16 the registration applicant to correct or update their
15:01:08 17 records or obtain a copy of the records prior to
15:01:11 18 second-level verification?

15:01:15 19 A. I would have -- we would have to defer to the
15:01:16 20 agency regarding their specific procedures.

15:01:20 21 Q. Does the MOA speak -- or any of the fact sheets
15:01:22 22 speak to this?

15:01:28 23 If you could take a look, actually, at page 5
15:01:30 24 of the MOA, Subpart (1), which we were looking at before.
15:01:50 25 I'm not sure that makes it clear.

15:01:52 1 Fact sheet -- the fact sheet that's at USCIS
15:01:56 2 SAVE page 15 -- at the top of page 15, it says, "Every user
15:02:08 3 agency that enters into a VRMOA must prepare standard
15:02:14 4 notification correspondence and provide it for DHS
15:02:16 5 approval. This provision becomes significant after a
15:02:19 6 second-step additional verification is conducted; the
15:02:22 7 individual does not verify as a U.S. citizen; and the user
15:02:26 8 agency does not have a copy of the necessary immigration
15:02:29 9 document."

15:02:29 10 A. Correct. And that's because the document is
15:02:32 11 required for third-level verification. It is an optional
15:02:35 12 capability for second-level verification.

15:02:37 13 Q. Understood.

15:02:38 14 So typically the user agency won't contact
15:02:40 15 the registrant -- registration applicant for these
15:02:45 16 documents or to correct or update the records until after
15:02:48 17 second- -- second-level verification fails; is that
15:02:51 18 correct?

15:02:51 19 A. The requirement for SAVE purposes would be to have
15:02:54 20 that document for third-level verification. What the
15:02:58 21 agency typically does would be for the agency to answer.

15:03:01 22 Q. If I could have Ms. Slattery and Mr. Filighera --
15:03:06 23 if you could both look at the SAVE Program Guide again on
15:03:10 24 page 93.

15:03:12 25 This is describing second-level verification.

15:03:15 1 I'm not going to read all of this, but if you could just
15:03:19 2 take a look at the additional information that the user may
15:03:25 3 submit. It's at the top of Bates Stamp USCIS SAVE 93.

15:03:30 4 A. Uh-huh. We have it.

15:03:34 5 Q. Are all of these just guidelines for the user
15:03:38 6 agency? Are they recommendations, or are they obligated to
15:03:41 7 send any and all of that following information if they have
15:03:44 8 it available?

15:03:47 9 A. It's additional information. They may submit that
15:03:52 10 information. They can also put the "Initiate Additional
15:03:58 11 Verification" button without that additional information,
15:04:00 12 but it will make us -- we will move this case to third step
15:04:04 13 or send back to the agency for additional information.

15:04:07 14 Q. So if you don't have the additional information
15:04:09 15 listed here on page Bates Stamp 93, it will make it harder
15:04:14 16 to complete -- successfully complete the second-level
15:04:20 17 verification; is that right?

15:04:20 18 A. Since we would be working with the same set of
15:04:23 19 information with which we ran the automated verification,
15:04:26 20 you know, the -- the verifiers would be dependent on that
15:04:30 21 information.

15:04:31 22 I'll defer to Russ regarding situations where
15:04:35 23 it becomes -- where the difference is the manual
15:04:38 24 verification and the fact that we can search systems
15:04:40 25 differently.

15:04:41 1 MR. FILIGHERA: So in -- to go back to your
15:04:44 2 original question, the failure to add these -- this
15:04:47 3 additional information leaves us with the same data for
15:04:51 4 information that was run initially.

15:04:53 5 Now, we do go into core systems and do a
15:04:56 6 thorough research still, even if they do not add the
15:05:00 7 comments, to see if there's anything that is be able to
15:05:05 8 found in our core systems. There could be a transposed
15:05:08 9 digit or other examples such as that that -- for -- in the
15:05:12 10 core system we're able to find the records, and we would
15:05:15 11 provide them. But again, it -- it is much greater and
15:05:19 12 easier for us to match at second step with the additional
15:05:23 13 information versus trying to go with what was run
15:05:25 14 initially.

15:05:26 15 BY MR. SHERMAN:

15:05:26 16 Q. Understood.

15:05:27 17 Now maybe is as good a time as any to direct
15:05:31 18 you to USCIS SAVE 381, which was in the Dropbox. I just
15:05:41 19 have a quick question about this document once we
15:05:44 20 authenticate it.

15:05:50 21 Mr. Filighera, it may be a question for you.
15:05:52 22 Do you have it up?

15:05:55 23 MR. FILIGHERA: It's coming up right now.
15:05:56 24 Sorry. I'm downloading it.

15:05:58 25 BY MR. SHERMAN:

15:05:58 1 Q. No, no, it's all good.

15:05:58 2 MR. FILIGHERA: I am looking at the document,
15:05:58 3 yes.

15:05:58 4 BY MR. SHERMAN:

15:06:03 5 Q. What is this document?

15:06:07 6 MR. FILIGHERA: I believe -- and Shannon can
15:06:09 7 also add to this -- this is a document provided on -- a
15:06:11 8 guide on how you can institute additional verification with
15:06:15 9 a document And a -- I'm sorry -- and a response received
15:06:23 10 with the document. I'm sorry.

15:06:28 11 MR. SHERMAN: Can we mark this as
15:06:29 12 Exhibit 194.

15:06:29 13 (The document was marked as Exhibit 194
15:06:31 14 for identification.)

15:06:31 15 BY MR. SHERMAN:

15:06:31 16 Q. Ms. Slattery or Mr. Filighera, what -- what is
15:06:33 17 this additional response: "Institute Additional
15:06:37 18 Verification with Document"?

15:06:40 19 How does this differ, if at all, from the
15:06:42 20 regular institute additional verification?

15:06:45 21 A. So again, when this is issued to an agency, the
15:06:50 22 purpose of this -- of this notification is to ask the
15:06:53 23 agency to submit a document, meaning the data that's been
15:06:56 24 provided isn't sufficient to make the match and we would
15:07:00 25 like to see the documentation that's been provided or could

15:07:02 1 be provided by the benefit applicant in order to match that
15:07:05 2 against available systems.

15:07:08 3 Q. So this is essentially skipping straight to the
15:07:10 4 third-level verification?

15:07:12 5 A. Yes.

15:07:14 6 Q. And in what circumstances would you just skip the
15:07:16 7 second-level verification and go to third level?

15:07:20 8 A. Again, it would be a situation where we are unable
15:07:23 9 to match the data and have -- for purposes of verification,
15:07:27 10 would require the document to make any further research.

15:07:32 11 Q. I guess I'm just a little bit confused as to when
15:07:34 12 you do simple IAV versus skip to the third level. How do
15:07:40 13 you make that determination? Or how does the system --

15:07:45 14 MS. SLATTERY: Mariah, are you able to talk
15:07:46 15 about that from a system standpoint?

15:07:50 16 MS. DOOLITTLE: I'm not. I know the
15:07:52 17 intention of it is to ensure you have a document because
15:07:56 18 you're -- you're reviewing that information on second
15:07:59 19 stop -- or second step and you may or may not have a
15:08:02 20 document there. For third-step, the document is required.

15:08:02 21 BY MR. SHERMAN:

15:08:12 22 Q. Okay. I'm not sure I totally understand, but we
15:08:14 23 can move on.

15:08:18 24 If we could take a look at USCIS SAVE 562.
15:08:28 25 This might take a minute. It's a lengthy document. You

15:08:31 1 may want to -- if you don't have it printed, you could just
15:08:34 2 pull it up on the screen. 562 is down a ways in this
15:08:37 3 PowerPoint.

15:08:55 4 A. The current tutorial slide "SAVE Training
15:08:59 5 Opportunities"?

15:09:00 6 Q. Yes.

15:09:01 7 Could we -- so this is -- is this the SAVE
15:09:02 8 User Forum PowerPoint?

15:09:04 9 A. It is. The 2018 Forum PowerPoint.

15:09:08 10 MR. SHERMAN: Could we mark this as
15:09:09 11 Exhibit 195.

15:09:09 12 (The document was marked as Exhibit 195
15:09:12 13 for identification.)

15:09:12 14 BY MR. SHERMAN:

15:09:12 15 Q. And is this -- on page 5 -- Bates stamp page 562,
15:09:17 16 is this the screen that a user agency will see at the
15:09:21 17 second step?

15:09:26 18 A. The item marked Bates Stamp 562 is -- in my deck
15:09:31 19 is a current tutorial on SAVE training opportunities. I'm
15:09:41 20 looking at 552. My apologies.

15:09:43 21 Yes, this -- this -- for the 2018 version of
15:09:49 22 the screen, this is the sample second-step response for
15:09:51 23 instituting additional verification.

15:09:52 24 Q. Great.

15:09:53 25 A. It hasn't changed substantially since this time.

15:09:56 1 Q. And on the next page, 563, what is that screen?

15:10:01 2 Is that for third-level verification?

15:10:03 3 A. It is.

15:10:05 4 Q. How long does second-level verification take?

15:10:11 5 A. Typically, in a normal business year where we

15:10:14 6 don't have a backlog, second- and third-step response will

15:10:19 7 take about three to five days. At present, SAVE has a

15:10:24 8 backlog that we are currently at about 20 days for each

15:10:27 9 step of the ver- -- the manual verification process.

15:10:31 10 Q. You said 20 days?

15:10:32 11 A. Yes. Approximately. It can be more for complex

15:10:37 12 cases or cases that require additional research.

15:10:40 13 Q. How much longer?

15:10:41 14 A. Depends on the complexity of the case and how much

15:10:44 15 research we have to do.

15:10:46 16 Q. How many cases are in the queue; like, just real

15:10:51 17 number?

15:10:54 18 A. I don't remember the precise number. I want to

15:10:57 19 say we're in the 120,000 range in the backlog presently.

15:11:01 20 Q. How long has this backlog existed?

15:11:07 21 A. Since about midyear 2021.

15:11:10 22 Q. And cases for all different types of user agencies

15:11:17 23 are in the queue; right?

15:11:18 24 A. Correct. We operate on a first in, first out

15:11:22 25 system, so the cases, as they are moved through the

15:11:24 1 process, will be in the order that they were received at
15:11:27 2 each step.

15:11:29 3 Q. Is there any priority given to specific user
15:11:33 4 agencies like voter registration agencies?

15:11:39 5 A. At this time, it is not. We are again working to
15:11:43 6 queue on a first in, first out basis.

15:11:45 7 MS. SLATTERY: Russ, is there anything you'd
15:11:46 8 like to add on that one?

15:11:48 9 MR. FILIGHERA: No. I agree. Right now,
15:11:51 10 there is no current practice on agencywide priority of
15:11:56 11 caseload.

15:11:56 12 BY MR. SHERMAN:

15:11:56 13 Q. So just to be -- so the record is clear, a voter
15:11:59 14 registration applicant who's sent to second-level
15:12:03 15 verification, the backlog means they're at the back of the
15:12:05 16 queue; correct?

15:12:08 17 MR. FILIGHERA: Correct.

15:12:09 18 MS. SLATTERY: No. Actually, I would -- I
15:12:11 19 would -- go ahead, Russ.

15:12:12 20 MR. FILIGHERA: So if it goes to institute
15:12:14 21 additional verification, it would go into the SVS queue
15:12:20 22 and -- Status Verification System is our case management
15:12:22 23 system with SAVE that we are assigned the case for. So
15:12:26 24 when Shannon mentioned the queue of cases, it goes into
15:12:30 25 that queue and gets assigned first in, first out, as cases

15:12:34 1 are constantly coming in from all our user agencies.

15:12:38 2 BY MR. SHERMAN:

15:12:38 3 Q. Understood.

15:12:39 4 At any given moment, how many are in that
15:12:42 5 particular queue?

15:12:46 6 MR. FILIGHERA: When you say "particular,"
15:12:47 7 you mean to -- to clarify, you're saying just the
15:12:51 8 second-step additional versus third step?

15:12:54 9 BY MR. SHERMAN:

15:12:54 10 Q. Yeah, just for second step right now.

15:12:56 11 MR. FILIGHERA: It's a combined queue total,
15:12:59 12 so I don't have that amount on hand.

15:13:03 13 BY MR. SHERMAN:

15:13:03 14 Q. Ballpark?

15:13:05 15 MR. FILIGHERA: I actually don't know offhand
15:13:11 16 the actual exact amount, but I could actually give you a
15:13:14 17 ballpark in a second. It's roughly right now around
15:13:26 18 100,000 additional verification cases in our queue right
15:13:30 19 now at second step that you requested.

15:13:34 20 BY MR. SHERMAN:

15:13:35 21 Q. At second step. And that's first in, first out?

15:13:38 22 MR. FILIGHERA: Correct.

15:13:40 23 BY MR. SHERMAN:

15:13:40 24 Q. Has USCIS ever had a backlog like this?

15:13:45 25 A. This is an unprecedented backlog for USCIS. As I

15:13:48 1 said, typically our -- our normal course of business for
15:13:51 2 second- and third-step verifications is in the three- to
15:13:54 3 five-day range.

15:13:55 4 Q. And what's the trend line here? Is it getting
15:13:58 5 better, worse, or staying about the same?

15:14:00 6 A. It's getting much better. We actually reduced the
15:14:03 7 backlog by more than half and continue to make reductions.
15:14:06 8 And the time to service has dropped from a high of about
15:14:12 9 36 days to right about 20 days right now. And we continue
15:14:15 10 to make improvements on a regular basis.

15:14:18 11 Q. So if a registration applicant registers, though,
15:14:22 12 under current circumstances, just before the deadline in
15:14:26 13 Arizona about, say, 35 days before the election and then
15:14:31 14 they do not verify as a naturalized or derived citizen and
15:14:34 15 are forced to go through second-level verification, it's
15:14:38 16 possible that that additional verification procedure won't
15:14:41 17 be complete by the registration deadline; correct?

15:14:47 18 A. Again, the current process is taking about
15:14:50 19 20 days. So depending on where that queue falls in the
15:14:54 20 time frame that you are identifying, there is the potential
15:14:56 21 to go outside of it. And certainly, we are trying to work
15:15:00 22 as efficiently as possible to get all cases through as
15:15:03 23 quickly as we can.

15:15:05 24 Q. What does third-level verification entail if
15:15:09 25 you -- if USCIS cannot verify the applicant at second-level

15:15:18 1 verification?

15:15:18 2 MR. FILIGHERA: Shannon, I could take that if

15:15:19 3 you would like.

15:15:21 4 For third-level verification, it's institute

15:15:24 5 additional verification with document. Or third level,

15:15:26 6 that means, again, the case will come over into our case

15:15:30 7 management system to -- with the same information that was

15:15:34 8 entered by the agency when they instituted that additional

15:15:38 9 verification with document; so in other words, name, date

15:15:42 10 of birth, numeric identifier, additional comments, and then

15:15:46 11 they will also have a document attached.

15:15:49 12 So the process at that point, then, now that

15:15:53 13 we have a document in addition to the data or comments that

15:15:57 14 they've made where we can look at the document and go into

15:15:59 15 systems to see if we find other discrepancies -- maybe that

15:16:02 16 the agency made a data entry -- and the information in the

15:16:06 17 document should be more exact to the actual record as long

15:16:11 18 as nothing has changed in the applicant's record that they

15:16:13 19 did not update USCIS databases with.

15:16:17 20 BY MR. SHERMAN:

15:16:17 21 Q. In addition to scanning and uploading -- right? --

15:16:19 22 there's also something called Form G-845. Could you

15:16:23 23 explain what that is?

15:16:25 24 MR. FILIGHERA: G-845 process was a paper

15:16:29 25 form that -- SAVE actually went under some modernization

15:16:34 1 efforts to try to go paperless. So for the most part,
15:16:40 2 cases to date that I can recollect, we haven't actually had
15:16:43 3 a physical G-845 case in some time -- I would even say a
15:16:48 4 year. It is still in the -- the guidance, but for the most
15:16:52 5 part, the quickest way an agency will always get responses
15:16:56 6 is to follow the electronic process and upload the
15:16:58 7 document.

15:16:59 8 BY MR. SHERMAN:

15:17:00 9 Q. Is there anything -- I'm sorry.

15:17:02 10 A. No, I was going to say, just to add on to that,
15:17:05 11 currently, agencies need to contact SAVE in order to be --
15:17:09 12 to be allowed to submit a paper G-845; otherwise, we do
15:17:13 13 require agencies to go through the system process.

15:17:15 14 Q. Understood.

15:17:16 15 Is there anything the registration applicant
15:17:18 16 needs to do at third-level verification?

15:17:21 17 A. Not with regard to SAVE. They would be
15:17:24 18 interacting with the agency to ensure the agency has the
15:17:27 19 information or to receive instruction from the agency on
15:17:30 20 how to upload the document.

15:17:31 21 Q. And what information does the user agency need to
15:17:34 22 provide to the applicant at third-level verification?

15:17:37 23 A. Similar to second step, they would be able to
15:17:40 24 provide the applicant information about the fact that their
15:17:43 25 case is still being processed and refer the case to the

15:17:46 1 SAVE CaseCheck system in order for the applicant to
15:17:48 2 directly take a look at how their case is moving through
15:17:50 3 the process.

15:17:52 4 Q. And third-level verification is also conducted by
15:17:55 5 USCIS employees; right?

15:17:58 6 A. Correct.

15:17:58 7 Q. How long does third-level verification take?

15:18:06 8 A. As we just discussed in the previous response
15:18:10 9 regarding the backlog, right now we're averaging about 20
15:18:14 10 days for each of the manual verification steps. We do
15:18:15 11 do -- make every effort to make the cases go through the
15:18:19 12 system as efficiently as possible.

15:18:20 13 Q. So is the backlog identical for second- and third-
15:18:24 14 verificat- -- third-level verification?

15:18:26 15 A. I think the volume levels are slightly different
15:18:29 16 in that we have perhaps more cases at second-step than at
15:18:32 17 third because, again, we're doing those verifications
15:18:35 18 first. And I don't mean first in terms of order, but
15:18:38 19 second step comes before third, so they're being worked in
15:18:41 20 parallel.

15:18:41 21 MS. SLATTERY: Russ, do you want to speak
15:18:42 22 more about how the second- and third-step distribution
15:18:45 23 works?

15:18:46 24 MR. FILIGHERA: Sure. Second- and third-step
15:18:47 25 cases technically have a separate queue within our case

15:18:50 1 management system, but as Shannon mentioned, historically
15:18:54 2 we'll see more second-step cases than third-step cases.
15:18:57 3 It's earlier in the process.

15:18:58 4 The case queues, though, allow our verifiers
15:19:02 5 or examiners to process manual cases to go into the system
15:19:08 6 and request workload. That workload gets assigned to them
15:19:13 7 first come, first served. So you can get a mix of these
15:19:16 8 cases based on how long they've been in the queue, based on
15:19:21 9 their receipt date.

15:19:22 10 Some staff can be profiled in the system
15:19:26 11 based on you, you know, experience or -- or levels where
15:19:30 12 they might only be working on the second-step queue or
15:19:34 13 many -- the most experienced people could be working
15:19:36 14 simultaneously on both the second and third step at the
15:19:38 15 same time. It is two separate queues in a way, but users
15:19:44 16 in case management can pull down the oldest cases out of
15:19:48 17 both in some instances.

15:19:49 18 MS. SLATTERY: And just to add an additional
15:19:51 19 factor as we're talking about the backlog and the process,
15:19:54 20 we are not only having our employees who are currently
15:19:58 21 assigned to permanent positions that are working in our
15:20:02 22 manual verification work group -- the legal instrument
15:20:05 23 examiners -- but we also have a volunteer core from across
15:20:08 24 the verification division who are trained personnel that
15:20:12 25 are working cases on overtime.

15:20:12 1 BY MR. SHERMAN:

15:20:12 2 Q. Understood.

15:20:14 3 How many total people are on the teams that
15:20:17 4 are working on second- and third-level verification?

15:20:22 5 MS. SLATTERY: Russ, do you want to talk
15:20:23 6 about permanent staff and then I can add on top?

15:20:25 7 MR. FILIGHERA: Sure. Right now, currently
15:20:27 8 on last check, our staff that's dedicated to the queues in
15:20:32 9 our status verification operations are called legal
15:20:35 10 instrument examiners. Roughly, right now it's at 113
15:20:38 11 people that are working out of three main operation centers
15:20:42 12 we have.

15:20:43 13 In addition to that, there's roughly 17
15:20:46 14 supervisory examiners that can actually also assist in
15:20:49 15 processing cases. And we do have some part-time workload
15:20:54 16 that could be done from management program analysts at our
15:20:57 17 headquarters SVO branch, or status verification operations
15:21:01 18 branch, but they're not 100 percent dedicated. That group
15:21:04 19 roughly reports directly to me or their supervisors. It's
15:21:08 20 roughly, like, 23 currently or so.

15:21:10 21 And then Shannon mentioned that due to the
15:21:13 22 current queues, we went out and received a series of
15:21:16 23 volunteers, formerly trained people, that are in other
15:21:20 24 parts of the organization right now as well as others that
15:21:23 25 took on training to work second-step cases. That's roughly

15:21:27 1 30 people that have been doing that portion. Some of them
15:21:30 2 can do it on regular time if workload permits, but we've
15:21:33 3 been offering overtime to maximize as much as we can to try
15:21:38 4 to alleviate the queues.

15:21:39 5 BY MR. SHERMAN:

15:21:39 6 Q. And so given the backlog, total time for
15:21:42 7 additional verification can exceed 40 days; is that
15:21:49 8 correct?

15:21:49 9 MR. FILIGHERA: Each step of the process,
15:21:51 10 both at the second step without document and then
15:21:53 11 additional with document, correct, they are separate -- you
15:21:57 12 know, at least around 20 days or so, and it can fluctuate,
15:22:01 13 as Shannon mentioned, on incoming workload.

15:22:01 14 BY MR. SHERMAN:

15:22:04 15 Q. 20 days is an average, you said; correct?

15:22:06 16 MR. FILIGHERA: Yes. So technically, we've
15:22:09 17 seen a trend that's going down, but -- and again, in this
15:22:11 18 example -- and I believe that's what your question is --
15:22:14 19 for second step, it could be 20 days or so, depending on
15:22:17 20 the situation of the incoming and outgoing. And then if
15:22:22 21 you were asked to provide document, you would go back in
15:22:26 22 the queue and it could take another additional, on top of
15:22:27 23 that, 20 days.

15:22:28 24 BY MR. SHERMAN:

15:22:28 25 Q. And both second- and third-level verification

15:22:31 1 could be more than 20 days each? That's just an average
15:22:34 2 number?

15:22:34 3 A. Currently, it's an -- it's not necessarily an
15:22:39 4 average number, but as we have applied more researches and
15:22:44 5 with the overtime and with the staffing -- and what we're
15:22:46 6 trying to do from a staffing perspective then is the more
15:22:49 7 cases you work more than are coming in, of course, you can
15:22:54 8 see a trend, and sometimes that it goes down. So the
15:22:55 9 reason why we say that, it -- we have, as mentioned, 1,200
15:22:58 10 agencies loading cases in, so we're -- we're working as
15:23:02 11 much staffing as we can. So to give you an exact date at
15:23:06 12 any moment in time, it could fluctuate.

15:23:08 13 BY MR. SHERMAN:

15:23:08 14 Q. What happens if USCIS cannot verify the applicant
15:23:11 15 at third-level verification?

15:23:15 16 MR. FILIGHERA: Shannon, if you're okay, I'm
15:23:16 17 going to take this.

15:23:18 18 So at third-level verification, now that we
15:23:21 19 have a document, we go through a very thorough research.
15:23:23 20 And after we go through that research, we do not present a
15:23:29 21 response that says that they're not a United States
15:23:32 22 citizen, for example.

15:23:33 23 What -- we would go back where -- is an
15:23:36 24 unable to verify that document or that information. And
15:23:40 25 then we apply comments to the agency that refers that

15:23:44 1 applicant that says, "Please refer the applicant to the
15:23:48 2 USCIS website," or "Contact our national contact operations
15:23:54 3 center," in that regards to hopefully go in and update the
15:23:58 4 records if need be.

15:23:59 5 BY MR. SHERMAN:

15:24:00 6 Q. Is there a message that appears for the user
15:24:03 7 agency that says, "Unable to verify; advise applicant to
15:24:08 8 visit local USCIS office to inquire"?

15:24:13 9 MR. FILIGHERA: They receive an "unable to
15:24:14 10 verify" response from our system. How it shows exactly, I
15:24:17 11 think on the front end -- I might need Shannon to add to
15:24:21 12 it, but we put a comment -- a standard comment that we
15:24:22 13 advise our -- our processors, our verifiers to state,
15:24:27 14 "Please refer applicants to USCIS contact center" number,
15:24:32 15 and we provide the 800 number, or "Go to the USCIS
15:24:34 16 website."

15:24:34 17 BY MR. SHERMAN:

15:24:38 18 Q. I was just quoting from the bottom of
15:24:40 19 USCIS SAVE 000093. This is in the SAVE Program Guide.

15:24:45 20 It says instructions -- "Examples of such
15:24:47 21 responses and instructions include 'Unable to Verify,
15:24:51 22 Advise Applicant to visit local USCIS office to inquire.'"

15:24:54 23 I understand that's just an example.

15:24:56 24 Do you know what the current language is?

15:25:01 25 MR. FILIGHERA: I believe it's along the

15:25:02 1 lines of "Please refer the applicant to" -- and it's the
15:25:07 2 call number, the 800 number, and -- or the USCIS website.
15:25:12 3 And it's -- it's a standard what we call comment that we
15:25:15 4 add, so they'll see "unable to verify" is the major
15:25:18 5 response we provide. And that is in the comments.

15:25:21 6 BY MR. SHERMAN:

15:25:23 7 Q. So I understand your testimony, USCIS is not able
15:25:26 8 to resolve all cases where additional verification is
15:25:30 9 initiated; correct?

15:25:33 10 MR. FILIGHERA: We will come across cases
15:25:34 11 that, after thorough research, including all electronic
15:25:38 12 records as well as physical records, if need be, if we are
15:25:41 13 unable to verify matching to the information on the
15:25:45 14 documents presented, we will provide an "unable to verify"
15:25:49 15 response in some cases.

15:25:50 16 BY MR. SHERMAN:

15:25:51 17 Q. And for cases that you -- for additional
15:25:54 18 verifications that you are able to resolve, what has USCIS
15:25:59 19 discovered are the typical reasons that prevented a
15:26:04 20 nonmatch or caused an erroneous match to -- upon initial
15:26:11 21 verification?

15:26:13 22 MR. FILIGHERA: Statistically, I wouldn't
15:26:14 23 have that figure at my fingertips, but as mentioned
15:26:17 24 multiple times, we are really reliant on two things: the
15:26:20 25 data that the agency enters and what the record shows.

15:26:23 1 So when you go to additional verification,
15:26:26 2 it's the same process as initial and second and third. It
15:26:29 3 is as good as the data that they're entering and what the
15:26:32 4 records show.

15:26:32 5 In the manual process, the only -- third
15:26:35 6 step, the only addition is the document. That document
15:26:38 7 does help show us in some cases where an agency maybe did
15:26:42 8 not touch the error of their data entry compared to what
15:26:46 9 the record actually shows. So that -- that's one example.

15:26:48 10 BY MR. SHERMAN:

15:26:51 11 Q. Understood.

15:26:51 12 For cases that are never resolved, are they
15:26:53 13 left open indefinitely, like unsolved cases, or do they
15:26:59 14 time out at some point?

15:27:01 15 MR. FILIGHERA: Once a case has gone to
15:27:03 16 additional verification in our application, it -- it must
15:27:06 17 be worked. It doesn't go to a queue where it never gets
15:27:06 18 resolved.

15:27:11 19 It could mean a positive response like
15:27:12 20 "United States citizen" or a response "unable to verify"
15:27:15 21 where it -- that will close the case out on our manual
15:27:19 22 third-step level. Then it's up to the applicant at that
15:27:23 23 point. They get the instructions, as well as the agency,
15:27:25 24 on that response on how to handle next steps from there in
15:27:28 25 regards to my part of the procedure.

15:27:30 1 BY MR. SHERMAN:

15:27:30 2 Q. Understood.

15:27:31 3 So I guess the question more specifically is:

15:27:34 4 Do you work under a deadline to resolve the additional

15:27:39 5 verification case, or can it be kept open for years and

15:27:42 6 years and years?

15:27:45 7 MR. FILIGHERA: We always try to maximize our

15:27:48 8 turnaround times on cases that -- even if you're taking

15:27:50 9 longer to research or for record purposes, we're constantly

15:27:54 10 monitoring those queues of cases. So we do not keep cases

15:27:58 11 open for years.

15:28:00 12 It -- now, that time frame depends on the

15:28:02 13 downstream partners or partners we deal with in the

15:28:05 14 records, if there's an inquiry or something we're trying to

15:28:08 15 determine. But I would not say that it would be years.

15:28:12 16 You can have cases that are a little bit extended beyond

15:28:15 17 the time frame due to the complexity or the records that

15:28:18 18 we're researching.

15:28:19 19 BY MR. SHERMAN:

15:28:20 20 Q. Understood.

15:28:20 21 How do you know when to give up?

15:28:33 22 MR. FILIGHERA: It's not necessarily that we

15:28:37 23 give up. It's a situation where we do thorough research in

15:28:42 24 electronic databases, and if we're able to find it, we, of

15:28:46 25 course, resolve.

15:28:47 1 If somebody provides us a naturalization
15:28:49 2 or -- or a certificate of citizenship, that information, if
15:28:55 3 not found in electronic database, we will even go further
15:28:58 4 to pull physical files if need to be. That's where the
15:29:02 5 complexity comes in.

15:29:04 6 We'll reach out to the file holder, which can
15:29:08 7 include field offices at USCIS that have the current file,
15:29:09 8 or it could be with our national records center, or it can
15:29:13 9 actually be retired files based on the age of the
15:29:15 10 naturalization or certificate application. And we will go
15:29:18 11 to that extent to pull those records.

15:29:21 12 We will, in addition, based on that
15:29:23 13 information, even reach out to jurisdictions. If they
15:29:26 14 naturalize through the courts and we see CIS records but
15:29:29 15 maybe not updated -- so we -- we turn over every
15:29:32 16 possibility. We will reach out to our office of records
15:29:36 17 management with additional resources even on historical
15:29:39 18 records. But at that point, once we cannot confirm in
15:29:44 19 electronic databases or physical file information, then we
15:29:52 20 would be resolved to unable to verify.

15:29:52 21 BY MR. SHERMAN:

15:29:52 22 Q. How many currently open cases do you have in the
15:29:57 23 additional verification queue?

15:30:00 24 So you told us how large the backlog is, but
15:30:01 25 I assume not all of those are open cases.

15:30:04 1 MR. FILIGHERA: When you say "open" --

15:30:06 2 BY MR. SHERMAN:

15:30:06 3 Q. Currently being worked.

15:30:09 4 MR. FILIGHERA: So at any moment, if we have
15:30:10 5 113 people processing cases, barring, you know, leave and
15:30:15 6 things and all the additional numbers I gave you -- they're
15:30:20 7 actually first come, first served, so they're working that
15:30:23 8 case as the assignment.

15:30:24 9 If they have to look further, we will send
15:30:29 10 information out behind the scenes to our records centers by
15:30:34 11 sending messages over so they can place that case in what
15:30:38 12 we call case continue to process. Those cases -- continue
15:30:43 13 to process will allow the person working cases to see that
15:30:46 14 they have continued cases while they work on the more
15:30:49 15 active cases while they're waiting for messages to come
15:30:52 16 back.

15:30:52 17 So you can have active cases that you work
15:30:54 18 right away, first in, first out. You can pause some cases
15:30:58 19 and continue to process while you're reaching out for
15:31:01 20 further information.

15:31:02 21 But I know Shannon's already mentioned when
15:31:04 22 it's in that continue-to-process stage, the agency is, on
15:31:08 23 their end, seeing that there's a verification still in
15:31:11 24 process. It's not a completed answer; just means it's
15:31:14 25 still with us and we're working on it.

15:31:14 1 BY MR. SHERMAN:

15:31:16 2 Q. And you don't have statistics on, like, how -- how
15:31:18 3 many cases any one of those 130 people has open at any one
15:31:24 4 time, do you?

15:31:24 5 MR. FILIGHERA: No. Usually -- what we do in
15:31:26 6 our case management system currently is they can pull down
15:31:30 7 anywhere from 10 to 20 cases at a time just to put into the
15:31:34 8 queue to work. But we don't hold them overnight.

15:31:36 9 Our case management systems allow for them to
15:31:38 10 put them back in the queue or something like that to make
15:31:40 11 sure they're getting picked up so no case gets stuck behind
15:31:44 12 or throughout the day.

15:31:45 13 So at any point, you would just have to
15:31:50 14 extrapolate based on the amount of users -- people are
15:31:52 15 pulling on -- on cases out of the queue and resolving them
15:31:53 16 right away.

15:31:55 17 BY MR. SHERMAN:

15:31:55 18 Q. Thank you.

15:31:55 19 So earlier I asked -- I think it was
15:31:57 20 Ms. Slattery -- whether the SAVE system can only be used to
15:32:01 21 verify naturalized or derived U.S. citizenship. And the --
15:32:07 22 she answered in the affirmative. So now I'm going to ask
15:32:11 23 just a mirror image of that question.

15:32:12 24 Can the SAVE system be used to verify a lack
15:32:16 25 of naturalized or derived citizenship?

15:32:20 1 A. SAVE doesn't verify the absence of information.
15:32:23 2 What we would do is, as Russ has described, through our
15:32:27 3 case verification process, we would exhaust all avenues to
15:32:30 4 determine if there is a USCIS record that could be
15:32:34 5 confirmed. If there is not, we would return the "unable to
15:32:37 6 confirm" response.

15:32:39 7 Q. Understood.

15:32:41 8 MR. SHERMAN: So I want to switch gears to --
15:32:45 9 and just for purposes of planning, I have about --
15:32:48 10 something like six and a half pages left. So at some point
15:32:52 11 in these six and a half pages of outline, we can stop for
15:33:00 12 lunch, the 20-minute lunch for Arizona folks. Does that
15:33:05 13 make sense?

15:33:10 14 MR. WHITAKER: I think that's fine.

15:33:14 15 MR. BURKLEY: We object.

15:33:14 16 MR. BUSCH: Yeah, we're not interested in
15:33:15 17 lunch here in Maryland. We want to get this done as soon
15:33:19 18 as possible.

15:33:20 19 MR. SHERMAN: Right. I know.

15:33:21 20 MR. MORGAN: Yeah, I don't need lunch. Maybe
15:33:24 21 a five-minute bathroom break at some point. Beyond that,
15:33:28 22 I'm fine.

15:33:28 23 MR. SHERMAN: Should we do -- should we do a
15:33:30 24 10- or 15-minute break now and just power through to the
15:33:33 25 end?

15:33:35 1 MR. MORGAN: I'm okay with that.

15:33:37 2 MR. SHERMAN: I mean, that would be the end

15:33:38 3 of my questions. Then --

15:33:40 4 MR. MORGAN: Oh, we're well aware, Jon.

15:33:43 5 MR. SHERMAN: Well, I want to just make the

15:33:45 6 witness --

15:33:47 7 MR. MORGAN: Okay. Let the record reflect

15:33:51 8 everybody was smiling.

15:33:54 9 MR. SHERMAN: So we can go off the record.

15:33:56 10 Why don't we do a ten-minute break now.

15:34:00 11 THE VIDEOGRAPHER: We're off the record.

15:34:01 12 Time on the video monitor is 3:34 p.m. This ends Media 2.

15:50:00 13 (A recess ensued.)

15:50:00 14 THE VIDEOGRAPHER: We are on the record.

15:50:16 15 Time on the video monitor is 3:50 p.m. This begins Volume

15:50:25 16 1, Media 3.

15:50:25 17 MR. SHERMAN: Thank you.

15:50:25 18 BY MR. SHERMAN:

15:50:26 19 Q. Ms. Slattery, earlier we were talking about this

15:50:29 20 document USCIS SAVE 11. This is attached to the MOA that

15:50:36 21 your office provided. This is Information for Registrants:

15:50:41 22 Verification of Citizenship Status and How to Obtain Your

15:50:45 23 Document or Correct Your Record with USCIS.

15:50:48 24 I'd ask that you keep that document in front

15:50:51 25 of you. This series of questions is all about correcting,

15:50:53 1 updating, renewing, obtaining, or replacing records.

15:50:58 2 And the other one that I wanted to introduce

15:51:00 3 is 18 -- USCIS SAVE 18. What is this document?

15:51:17 4 A. Document 18 bears the SAVE logo in the upper left

15:51:22 5 corner. The title of the document is "Records: Fast Facts

15:51:24 6 for Benefit Applicants."

15:51:26 7 MR. SHERMAN: Can we mark this as

15:51:27 8 Exhibit 196.

15:51:27 9 (The document was marked as Exhibit 196

15:51:31 10 for identification.)

15:51:31 11 BY MR. SHERMAN:

15:51:32 12 Q. What -- when are these two documents provided to

15:51:35 13 benefit applicants?

15:51:38 14 A. So these are documents that agencies can share

15:51:40 15 with benefit applicants with regard to next steps if SAVE

15:51:47 16 cannot verify status, particularly the fast facts for

15:51:50 17 benefit sheet. This provides the applicants information --

15:51:54 18 and both documents do provide the applicants with

15:51:56 19 information about steps they can take to correct records

15:51:58 20 with USCIS.

15:52:00 21 Q. Are applicants who fail to verify as naturalized

15:52:03 22 or derived citizens also sent a notice letter asking for

15:52:06 23 additional documents to establish their citizenship?

15:52:10 24 A. Sent by whom?

15:52:11 25 Q. Sent by the --

15:52:12 1 A. USCIS sends a document?

15:52:14 2 Q. Sent by the user agency. Sorry.

15:52:16 3 A. The user agency should be communicating with the

15:52:19 4 benefit applicant under the terms of the MOA to advise them

15:52:22 5 that their citizenship was unable to be confirmed by SAVE

15:52:27 6 and what the next steps are that they can take to correct

15:52:30 7 their record with USCIS if they believe that status -- that

15:52:33 8 response to be an error.

15:52:35 9 Q. Should the user agency also be sending a notice

15:52:39 10 letter to the applicant telling them "Here are some other

15:52:43 11 ways you can establish your U.S. citizenship with a -- with

15:52:47 12 documentary proof"?

15:52:50 13 A. You mean outside of the information that's already

15:52:53 14 provided as part of these sets of information?

15:52:56 15 Q. Correct.

15:53:01 16 Maybe let's take a look at 1586 and 1588. I

15:53:10 17 don't have a ton of exhibits left, if that's any

15:53:13 18 consolation.

15:53:23 19 What is -- when you have it out, what is

15:53:25 20 USCIS SAVE 1586?

15:53:29 21 A. 1586 is a document titled "Citizenship Proof

15:53:44 22 Needed -- State Voter Registration Form."

15:53:48 23 MR. SHERMAN: Can we mark this as

15:53:49 24 Exhibit 197.

15:53:49 25 (The document was marked as Exhibit 197

15:53:49 1 for identification.)

15:53:54 2 BY MR. SHERMAN:

15:53:54 3 Q. And when -- when is this -- did your office create
15:53:57 4 this?

15:53:57 5 A. This is not a USCIS document, no.

15:54:01 6 Q. Okay. Is this something that Arizona -- the
15:54:06 7 Arizona Secretary of State's Office provided to USCIS?

15:54:09 8 MR. MORGAN: Foundation, form.

15:54:15 9 MS. SLATTERY: I don't have the ability to
15:54:17 10 answer that question as this occurred before I became part
15:54:19 11 of the SAVE program.

15:54:22 12 BY MR. SHERMAN:

15:54:22 13 Q. So you're not sure of the origin of this document?

15:54:27 14 A. I am not.

15:54:28 15 Q. Okay. And you're not sure how it's used?

15:54:32 16 A. Based on the content of the document, it appears
15:54:34 17 to serve as notification to a voter registrant applicant
15:54:40 18 that they -- that their information was not able to be
15:54:44 19 verified or that they have not yet received documentation
15:54:50 20 for U.S. citizenship -- of U.S. citizen status for the
15:54:54 21 purpose of voter verif- -- voter registration.

15:54:55 22 Q. And you're not sure if USCIS has approved this
15:54:58 23 document in any way?

15:55:03 24 A. I am not aware that we have approved the document.
15:55:05 25 My understanding is, at the time Arizona was in

15:55:09 1 conversation with USCIS about the MOA, that members of the
15:55:13 2 SAVE staff may have reviewed documents. I am uncertain if
15:55:17 3 these are those documents or that these are final copies of
15:55:20 4 what was produced.

15:55:22 5 Q. If you could take a look at 1588, please.

15:55:29 6 A. Okay.

15:55:30 7 Q. What is this document?

15:55:31 8 A. 2nd Notice That Citizenship Documentation
15:55:33 9 Needed -- State Voter Registration Form.

15:55:36 10 MR. SHERMAN: Can we mark this as
15:55:37 11 Exhibit 198.

15:55:37 12 (The document was marked as Exhibit 198
15:55:37 13 for identification.)

15:55:37 14 BY MR. SHERMAN:

15:55:41 15 Q. Do you know the origin of this document?

15:55:45 16 A. I do not.

15:55:46 17 Q. What does it appear to be? Strike that. You
15:55:52 18 already answered that.

15:55:53 19 Are you -- do you know when it's used?

15:55:59 20 A. As directed, it would be a notice to a voter
15:56:04 21 registration applicant that the agency requesting
15:56:07 22 information has not yet received documentation from that
15:56:10 23 applicant of their United States citizenship status.

15:56:14 24 Q. Under the MOA, does USCIS have to approve

15:56:16 25 Arizona's documentary proof of citizenship deficiency

15:56:19 1 notice letters?

15:56:24 2 A. We do not have to approve them.

15:56:26 3 Q. How would an applicant learn of an issue with the
15:56:30 4 SAVE -- their SAVE query such that they would need to
15:56:32 5 correct, update, renew, obtain, or replace the records in
15:56:36 6 the SAVE system to obtain the benefit they're seeking from
15:56:39 7 the user agency?

15:56:42 8 A. The benefit applicants typically can communicate
15:56:44 9 with the user agency. They also would have access to the
15:56:48 10 SAVE CaseCheck system, which does provide information about
15:56:52 11 where the case is in the process.

15:56:54 12 Q. Back on USCIS SAVE 00011, which is appended to the
15:57:05 13 MOA, I just want to ask a few questions about this
15:57:09 14 document.

15:57:12 15 Is this a template that can be modified, or
15:57:15 16 is this what county recorders are actually required to
15:57:22 17 send?

15:57:23 18 A. This document is not a template.

15:57:26 19 Q. And what does this document notify voter
15:57:30 20 registration applicants of?

15:57:31 21 A. This document is titled "How to Obtain Your
15:57:35 22 Document or Correct Your Record with USCIS." So it
15:57:36 23 contains information as of its revision date of
15:57:41 24 October 2018 as to how an individual could request records
15:57:45 25 correction from USCIS.

15:57:46 1 Q. Can the SAVE system be used to correct, update,
15:57:49 2 renew, or replace records in USCIS?

15:57:52 3 A. No. SAVE does not do any records correction
15:57:55 4 activity. That would be through the USCIS systems of
15:57:58 5 record or the DHS system of record, depending on the
15:58:01 6 document.

15:58:01 7 Q. So how does an applicant go about correcting or
15:58:03 8 updating their records with DHS?

15:58:06 9 A. The applicant would need to make contact with the
15:58:09 10 agency that issued the record. So for purposes of USCIS
15:58:12 11 records, they would contact us typically through -- they
15:58:17 12 have a couple different channels, depending on the nature
15:58:19 13 of the correction that's needed.

15:58:20 14 So if they're not sure where to start, they
15:58:22 15 can call the national customer service center, which is our
15:58:24 16 800 number. At that point, they will be either directed to
15:58:28 17 complete a form -- such as if they need a replacement
15:58:31 18 certificate, you'll see that the form ends -- 565 is listed
15:58:34 19 on the fact sheet.

15:58:35 20 If it's a different type of record
15:58:37 21 correction, they may be referred to a USCIS field office in
15:58:41 22 order for that office to verify identity and to take the
15:58:45 23 record correction request.

15:58:47 24 At that point, they also would have an
15:58:48 25 opportunity to file a request through FOIA. And then the

15:58:52 1 FOIA process, in order to request records correction, this
15:58:56 2 document does reflect that they could directly schedule an
15:58:58 3 appointment for in-person interview at local USCIS. That
15:59:02 4 is no longer -- InfoPass is no longer in use. That's a
15:59:06 5 modified process now, so they would contact the national
15:59:09 6 customer service center in order to schedule an
15:59:12 7 appointment.

15:59:12 8 Q. Understood.

15:59:13 9 A. Or as the last item states, they can just send us
15:59:16 10 a letter directly and then that letter will be routed
15:59:18 11 appropriately for a records correction request.

15:59:21 12 Q. Okay. So I want to make sure I understand all of
15:59:23 13 the different avenues.

15:59:24 14 So they can file a form to obtain a
15:59:26 15 replacement naturalization certificate; that's one option
15:59:29 16 that's listed here; correct?

15:59:31 17 A. Correct.

15:59:31 18 Q. How much does that generally cost?

15:59:34 19 A. It depends on the nature of the correction. If
15:59:37 20 it's a USCIS error, I believe the form can be submitted
15:59:40 21 without a fee.

15:59:40 22 If it's an update or a change or it's a lost
15:59:43 23 or destroyed certificate, there would be a fee associated
15:59:46 24 with the form. And the most recent fee is published with
15:59:49 25 the form along with instructions on when the fee is

15:59:52 1 required on our website.

15:59:54 2 Q. How long does that process take?

15:59:56 3 A. It depends again on the nature of the correction.

15:59:59 4 Right now, the 565 processing times are posted on the USCIS
16:00:03 5 website under the processing times information page.

16:00:07 6 Q. And so you said before you can't schedule an

16:00:11 7 appointment anymore for an in-person --

16:00:13 8 A. You can no longer directly schedule an
16:00:15 9 appointment.

16:00:15 10 Q. Okay.

16:00:16 11 A. There was a period of time where we had a system
16:00:18 12 called InfoPass that applicants could go into to request a
16:00:21 13 specific appointment at a field office. That system was
16:00:24 14 phased out a couple of years ago. Now individuals would
16:00:30 15 call the USCIS customer contact center that will do an
16:00:31 16 intake process with the applicant and then schedule an
16:00:34 17 appointment as necessary.

16:00:35 18 Q. How quickly can an applicant get an appointment?

16:00:39 19 A. It depends on the field office and the
16:00:41 20 availability of the appointments. If there's an urgency --
16:00:44 21 urgent need for an appointment, that can be relayed to the
16:00:47 22 customer contact center and they can contact the field
16:00:49 23 office to see if a more recent appointment can be made
16:00:52 24 available.

16:00:52 25 Q. Does getting registered to vote in time for an

16:00:55 1 election qualify as an urgent need?

16:00:58 2 A. I don't know if that is a specifically labeled

16:01:00 3 item in the call center scripts.

16:01:03 4 Q. Okay. How quickly can the USCIS office act to

16:01:06 5 correct or update the person's record?

16:01:09 6 A. It depends on the nature of the correction.

16:01:12 7 Q. Ballpark?

16:01:15 8 A. It -- again, it would depend on the nature of the

16:01:17 9 correction, whether retrieval of the physical file is

16:01:20 10 required, whether there is data matching that has to be

16:01:22 11 done to look at different files and different records.

16:01:26 12 Again, it depends on the type of correction that's being

16:01:29 13 requested.

16:01:29 14 Q. For some corrections, could it take weeks or

16:01:32 15 months?

16:01:33 16 A. Depending on the complexity of the correction,

16:01:35 17 potentially, but that would be, I think, more unusual than

16:01:38 18 not.

16:01:41 19 Q. So another option is they could submit a

16:01:43 20 request -- the request in writing to correct the record.

16:01:46 21 How long does that method take to correct or update the

16:01:49 22 record?

16:01:50 23 A. Again, it would vary depending on the time for

16:01:53 24 intake of the request, the nature of the request, and how

16:01:55 25 the request would need to be routed to get to the

16:01:58 1 appropriate office for action.

16:01:59 2 Q. Are there any other means to correct or update a
16:02:03 3 record in the SAVE system?

16:02:04 4 I'll ask about the FOIA in a second.

16:02:06 5 A. Well, again, you would not be updating records in
16:02:09 6 the SAVE system. The record would be updated in the USCIS
16:02:11 7 system of record, and then SAVE would be able to access
16:02:15 8 that record when additional verification was performed.

16:02:20 9 Q. So if the applicant doesn't know the information
16:02:22 10 they need to correct, they first need to submit a FOIA
16:02:25 11 request; is that correct?

16:02:26 12 A. That is correct. That is the records process
16:02:28 13 through which applicants can access their immigration
16:02:31 14 record.

16:02:32 15 Q. How long do those FOIA requests generally take?

16:02:34 16 A. FOIA has a multitiered process for requests. They
16:02:38 17 would be able to submit a request for expedited. I don't
16:02:41 18 recall off the top of my head what the time period is for
16:02:44 19 the expedite request, but all of the information is
16:02:46 20 published on the FOIA pages on the USCIS website.

16:02:48 21 Q. Would they expedite a request for voter
16:02:53 22 registration purposes if there's an upcoming election?

16:02:55 23 A. Expedite is case-by-case determination. So it
16:02:58 24 would be reviewed in context and based on the factors and
16:03:01 25 justifications submitted.

16:03:03 1 Q. How easy or hard would you say that FOIA process

16:03:06 2 is for an applicant who isn't represented by counsel?

16:03:14 3 MR. MORGAN: Speculation.

16:03:19 4 BY MR. SHERMAN:

16:03:19 5 Q. You can answer.

16:03:20 6 A. As with all processes, it would depend on the

16:03:23 7 person's ability to navigate the process. Certainly, there

16:03:26 8 are barriers that could occur like language issues and

16:03:28 9 understanding, but our role is always to put processes

16:03:31 10 together that can be navigated by people who are

16:03:35 11 unrepresented; in fact, the majority of our processes are

16:03:37 12 designed to be used for people who are unrepresented. So

16:03:40 13 everything is publicly available; information is available

16:03:44 14 and the process is outlined online.

16:03:46 15 Q. How easy or hard would you say the correction or

16:03:49 16 updating process is for someone with a high school

16:03:52 17 education and high school literacy level?

16:03:55 18 MR. MORGAN: Calls for speculation.

16:03:58 19 MS. SLATTERY: Again, USCIS designs

16:04:01 20 communication materials to be readily understood by the

16:04:04 21 public accessing our systems.

16:04:06 22 BY MR. SHERMAN:

16:04:07 23 Q. Is this document USCIS SAVE 11 and also 12, the

16:04:13 24 back or reverse side -- is this available in translation?

16:04:17 25 A. It is not.

16:04:21 1 Q. Do you ensure that user agencies provide the same
16:04:25 2 information in translation?

16:04:27 3 A. That is not a requirement of the MOU.

16:04:31 4 Q. Are there any documents, fact sheets, notice
16:04:35 5 letters that the SAVE program requires that are available
16:04:40 6 in translation?

16:04:44 7 A. I am not aware of any at this time. I will say
16:04:48 8 that USCIS does have a Spanish-language website and that we
16:04:53 9 do have a multilingual web page that offers a variety of
16:04:58 10 resources. I do not recall whether any of the SAVE
16:05:01 11 resources are published to that site.

16:05:02 12 Q. So as far as you're aware, are there any
16:05:07 13 SAVE-related materials that are available in translation?

16:05:13 14 A. We do not currently have any published on the SAVE
16:05:16 15 system resources that agencies have access to.

16:05:21 16 Q. Do user agencies have any SAVE-related materials
16:05:25 17 that are available in translation?

16:05:28 18 A. I am not aware of any. That does not mean they
16:05:31 19 don't exist. I'm just not aware of them.

16:05:35 20 Q. Are any of the other witnesses aware of any such
16:05:41 21 materials?

16:05:47 22 MS. DOOLITTLE: I am not.

16:05:48 23 MR. FILIGHERA: I am not aware.

16:05:51 24 BY MR. SHERMAN:

16:05:52 25 Q. I think we've been over this before, the maiden

16:05:55 1 name issue, but the SAVE Program Guide, on page 93, if I

16:06:07 2 could ask you to just look back at that under second-level

16:06:23 3 verification, top of USCIS SAVE 93.

16:06:25 4 A. I have it.

16:06:26 5 Q. These instructions on second-level verification

16:06:29 6 explicitly call for unverified applicants' maiden names; is

16:06:34 7 that correct?

16:06:34 8 A. It indicates that it is one option that can be

16:06:36 9 added in the comments field in order to provide additional

16:06:39 10 information that would be able to be researched in -- in

16:06:42 11 DHS systems.

16:06:43 12 Q. Does that suggest that it is a common problem that

16:06:47 13 user agencies face or that the SAVE system faces?

16:06:52 14 A. I think it's reasonable to say that a change of

16:06:55 15 name particularly due to marriage is something that we

16:06:58 16 would encounter on a regular basis. And so being that that

16:07:02 17 would be one of the more common types of name change or

16:07:05 18 documentary changes that people would need to notify USCIS

16:07:08 19 of, that that's the reason it's included here.

16:07:11 20 Q. Just to make this concrete, can you just walk me

16:07:15 21 through again the steps an applicant would need to take to

16:07:18 22 create or update a DHS record that still has their maiden

16:07:23 23 or premarital name?

16:07:23 24 A. So I don't think we walked through the specific

16:07:25 25 steps. However, the steps that they would take was they

16:07:27 1 would need to contact the agency through one of the
16:07:30 2 appropriate channels; they would need to advise us of the
16:07:33 3 need of correction; and they would need to provide
16:07:35 4 documentary evidence showing the correction to be made. So
16:07:38 5 in the case of marriage, it would be a copy of a marriage
16:07:40 6 certificate indicating the change of name, or if they had
16:07:44 7 gone through a court procedure to change name, the order
16:07:48 8 documenting the change of name.

16:07:51 9 Q. How long does the process take once the voter
16:07:55 10 registration applicant submits the request and
16:07:57 11 documentation, like a marriage certificate?

16:07:58 12 A. Again, it would depend on the -- how the
16:08:02 13 information was submitted, the nature of the change, and
16:08:04 14 the process required in order to execute the change. So
16:08:07 15 again, if we have to pull a hard file in order to verify
16:08:11 16 information, that could take longer than something we're
16:08:13 17 able to do just through a systems check.

16:08:17 18 Q. How long does it take to renew a record that is
16:08:21 19 accessed within the SAVE system?

16:08:25 20 A. Do you mean a record that's been updated?

16:08:30 21 Q. Correct.

16:08:32 22 A. So I'll ask Mariah to jump in here as well.

16:08:36 23 Typically, I think once the record correction is updated
16:08:38 24 and it's available in the source systems, we would
16:08:42 25 generally expect -- have access to that record within about

16:08:45 1 24 hours of the system update based on how we connect to
16:08:49 2 that system.

16:08:51 3 MS. SLATTERY: Mariah, could you add?

16:08:52 4 MS. DOOLITTLE: Correct. Within 24 hours is
16:08:55 5 when we do -- we do multiple data refreshes, but that is
16:08:59 6 the basic timeline for us to get information from our data
16:09:02 7 links, which compose the information coming out from those
16:09:07 8 source systems.

16:09:07 9 BY MR. SHERMAN:

16:09:09 10 Q. How long does it take a benefit applicant to
16:09:11 11 obtain or replace a record that is accessed within the SAVE
16:09:16 12 system?

16:09:16 13 A. Can you repeat the question, please?

16:09:18 14 Q. How long does it take a benefit applicant to
16:09:20 15 obtain or replace a record that is accessed within the SAVE
16:09:25 16 system?

16:09:25 17 A. A USCIS record?

16:09:27 18 Q. Yes.

16:09:28 19 A. A DHS record? Again, it would depend on the
16:09:32 20 applicant making the record request for USCIS records.
16:09:34 21 That would be -- for a FOIA process, the processing
16:09:36 22 guidelines are published on the web page. I can't speak
16:09:39 23 for other agencies and their FOIA processes. However, they
16:09:44 24 usually publish their information to the web as well. I
16:09:48 25 don't know what their FOIA processing timelines are.

16:09:51 1 Q. Is one able to correct a name associated with an
16:09:54 2 alien registration number?

16:09:58 3 A. Can you say more about the question you're asking?
16:10:01 4 So if you have a record that contains an A-number and a
16:10:05 5 name and there's a name correction to be made?

16:10:08 6 Q. Correct.

16:10:09 7 A. Typically, that would be within a record confine.
16:10:13 8 So the information as it relates to the individual or the
16:10:17 9 form that is being updated or the output from that form --
16:10:22 10 so a receipt notice, a certificate -- those records would
16:10:25 11 all be related. And so the information update would be
16:10:28 12 made in the record.

16:10:30 13 Q. Okay. Last section. Just have a handful more
16:10:36 14 questions.

16:10:36 15 How long have Arizona election officials been
16:10:39 16 using the SAVE system for purposes of citizenship
16:10:42 17 verification upon receipt of a new voter registration
16:10:45 18 application?

16:10:47 19 A. The current MOA was signed in 2018.

16:10:51 20 Q. And before that point?

16:10:54 21 A. I don't know the original date. Was it 2016? It
16:11:01 22 would have been the counties, not the state. The state
16:11:03 23 would have been 2018.

16:11:05 24 Q. Okay. How many other states are using the SAVE
16:11:08 25 system for this purpose? I think you said earlier.

16:11:10 1 A. We've covered that already. Yeah, it was less
16:11:13 2 than ten. I think we determined that there were six total.

16:11:17 3 Q. Are any other state or county election authorities
16:11:20 4 anywhere in the nation using the SAVE system to investigate
16:11:23 5 currently registered voter citizenship status?

16:11:29 6 A. We do have, I believe, at least one state that is
16:11:46 7 using SAVE for voter list maintenance.

16:11:50 8 Q. In your view, is that the same as investigating
16:11:54 9 currently registered voter citizenship status?

16:12:03 10 A. What is your definition of "investigation" for
16:12:05 11 purposes of your question?

16:12:07 12 Q. That they would be plugging in registered voters'
16:12:12 13 information -- name, numeric identifiers -- into the SAVE
16:12:17 14 system to investigate their citizenship status.

16:12:21 15 A. Well, again, SAVE would not be providing anything
16:12:25 16 back but the citizenship information, so for purposes of
16:12:28 17 SAVE for -- and depending on the terms of the MOA, which I
16:12:32 18 don't have in front of me, SAVE would allow submission of
16:12:37 19 data for purposes of verifying information in association
16:12:42 20 with the terms of the MOA.

16:12:44 21 Q. Is it advisable to run the same person through the
16:12:48 22 SAVE system multiple times a year?

16:12:55 23 MR. WHITAKER: Objection. Ambiguous. Go
16:12:56 24 ahead.

16:12:59 25 MS. SLATTERY: We can have situations where

16:13:02 1 someone is run through SAVE's -- SAVE for different
16:13:05 2 purposes in a year. Again, we have applicants who may be
16:13:09 3 going to multiple benefit agencies for different purposes,
16:13:13 4 so we may in fact have information for those applicants
16:13:15 5 being submitted to SAVE.

16:13:18 6 BY MR. SHERMAN:

16:13:28 7 Q. Is USCIS able to monitor compliance with
16:13:31 8 requirements to send notices to the voter registration
16:13:33 9 applicants?

16:13:35 10 A. That's not a component of the SAVE system, no. We
16:13:40 11 don't currently monitor that through our system.

16:13:42 12 Q. How does USCIS enforce the additional verification
16:13:46 13 requirements?

16:13:48 14 A. We, again, have an escalating process where we
16:13:52 15 work with agencies to point out deficits in compliant
16:13:57 16 behavior and then to work with them to bring behavior into
16:14:00 17 compliance through our escalation process.

16:14:05 18 Q. Well, maybe I'll ask this concretely for Arizona.
16:14:07 19 Have you done monitoring and -- engaged in any monitoring
16:14:09 20 or reviewing of records on county recorders' usage of SAVE?

16:14:14 21 A. We have not done any since I joined the SAVE
16:14:19 22 program. I understand that in 2018 there was a proposed
16:14:24 23 opportunity to go out and do a desk audit. That was
16:14:28 24 suspended at the time while the negotiations about the MOA
16:14:30 25 were under way.

16:14:31 1 Q. Have there been any desk audits or site visits for
16:14:36 2 Arizona county recorders' offices?

16:14:39 3 A. I am not personally aware of any.

16:14:41 4 Q. Have there been any other audits of any Arizona
16:14:47 5 county recorder's activity regarding SAVE under the MOA?

16:14:51 6 A. Again, we have agency account relationship
16:14:53 7 managers that are in regular contact with agencies when
16:14:57 8 they have questions or issues or if we see an issue that we
16:15:00 9 need to reach out to the agency about, but specifically to
16:15:02 10 desk audits or site visits, I am not aware of any.

16:15:06 11 Q. Have there been any other systemic monitoring and
16:15:11 12 compliance activities focused on Arizona's use of the SAVE
16:15:14 13 system for purposes of voter registration?

16:15:20 14 A. I am not aware of any.

16:15:22 15 Q. Have you identified any noncompliance on the part
16:15:24 16 of the Arizona Secretary of State's Office or Arizona
16:15:28 17 county recorders?

16:15:37 18 I'll come back to this question in a minute.

16:15:39 19 We can -- we can pass on this for now.

16:15:40 20 What are the consequences for a user agency
16:15:43 21 if it does not comply with the MOA or other requirements?

16:15:46 22 A. As previously discussed, there's an escalating
16:15:49 23 process that we work through with agencies where we can and
16:15:52 24 often do require no -- revisiting training, completing
16:15:57 25 tutorials. We may talk with administrators of the agency

16:16:00 1 to ensure compliant behavior up to and including
16:16:04 2 terminating an agency from SAVE if the behavior is not
16:16:07 3 corrected.

16:16:08 4 Q. Have you ever suspended a user agency temporarily?

16:16:12 5 A. I am not aware individually of that occurring, but
16:16:18 6 I believe we have done so historically.

16:16:20 7 Q. Have you ever terminated a user agency's MOA and
16:16:24 8 access to SAVE?

16:16:25 9 A. Yes.

16:16:25 10 Q. How many?

16:16:27 11 A. I don't know the answer to that question.

16:16:29 12 Q. Why did you terminate them, if you remember some
16:16:36 13 of the reasons?

16:16:37 14 A. I don't know the answer to that question at this
16:16:39 15 time.

16:16:40 16 Q. Okay. Do you know if it was generally for
16:16:43 17 violation of the terms of their MOAs?

16:16:46 18 A. I don't know the answer to that question.

16:16:49 19 Q. I think you basically covered this, but just to
16:16:53 20 ensure: Have you ever engaged with any Arizona county
16:16:57 21 recorders directly about noncompliance with any part of the
16:16:59 22 MOAs?

16:17:01 23 A. Again, in 2018 there was the beginnings of a desk
16:17:04 24 audit process with the organization -- I believe it was --
16:17:09 25 I don't recall which county it was. We do have emails

16:17:12 1 showing that there was plans in the works to conduct a desk
16:17:16 2 audit. That was tabled pending completion of the MOA
16:17:19 3 negotiations.

16:17:21 4 Q. What triggered that conversation, exploring a desk
16:17:26 5 audit?

16:17:26 6 A. I don't have that information.

16:17:29 7 Q. If would could take a look at 1744 and 1743.
16:17:33 8 These were previously marked as Exhibit 186 and
16:17:36 9 Exhibit 187.

16:17:59 10 Just to rehearse, what are these two
16:18:02 11 spreadsheets again? And how were they created?

16:18:05 12 A. So 1744 is labeled "Inq 9," which relates to
16:18:12 13 Inquiry 9 of the subpoena in this proceeding. 1743 is
16:18:17 14 labeled "Inquiry 10" and relates to Inquiry 10 of the
16:18:20 15 subpoena. These documents are data tables showing
16:18:26 16 information about the use of the Arizona recorders' offices
16:18:30 17 and secretary of state and their SAVE cases.

16:18:34 18 Q. And you're attesting to the accuracy of this data;
16:18:37 19 correct?

16:18:37 20 A. Yes.

16:18:38 21 Q. And again, the Arizona Secretary of State's Office
16:18:43 22 is listed here because it's a stand-in for the other 12
16:18:49 23 counties that are using the SAVE system through its
16:18:51 24 account?

16:18:52 25 A. Correct.

16:18:54 1 Q. Did the data contained in these spreadsheets come
16:18:59 2 to USCIS's attention in preparing these documents in
16:19:02 3 response to the subpoena, or has this history been
16:19:06 4 documented previously and brought to your attention?

16:19:09 5 A. These tables were consolidated for purposes of
16:19:12 6 this proceeding.

16:19:18 7 Q. Have the -- well, if I could just clarify the
16:19:19 8 question.

16:19:20 9 So you were -- were you aware of the
16:19:22 10 information that's contained in these tables -- these
16:19:25 11 spreadsheets before they were compiled?

16:19:31 12 A. The first time I had access to this data was when
16:19:35 13 these spreadsheets were put together.

16:19:36 14 Q. Having now reviewed the data in 1744 and 1743 --
16:19:41 15 and you could take a minute or two to look back through
16:19:44 16 it -- would you say that Arizona's county recorders have
16:19:47 17 been complying with the additional verification procedure
16:19:49 18 requirements?

16:19:52 19 A. The data indicates that for purposes of using the
16:19:56 20 SAVE system for additional verification, for second step,
16:19:58 21 and third step, that cases have not been routinely
16:20:01 22 submitted and completed through those steps.

16:20:08 23 Where we do see consistent use -- and this is
16:20:12 24 on Table 9 for the Pima County Recorder's Office -- the
16:20:18 25 cases that were submitted for additional verification, we

16:20:22 1 do have completed responses either confirming or showing a
16:20:24 2 lack of additional -- a lack of verification for all cases
16:20:28 3 submitted.

16:20:28 4 Q. I want to drill down into this some.

16:20:33 5 For Maricopa, Pima, Yavapai, would you agree
16:20:38 6 that these entries show very, very low compliance with the
16:20:41 7 additional verification requirement and in some cases zero
16:20:45 8 compliance with that requirement?

16:20:47 9 A. The data indicates that cases were not submitted
16:20:49 10 to second step or third step in the SAVE system.

16:20:53 11 Q. For example, in 2020, there were over 1,000 cases
16:20:59 12 out of Maricopa that could not be verified upon initial
16:21:02 13 verification; is that correct?

16:21:03 14 A. That is correct.

16:21:05 15 Q. And the Maricopa County Recorder's Office
16:21:08 16 submitted just three of those to SAVE for additional
16:21:12 17 verification; correct?

16:21:13 18 A. Which document are you looking at?

16:21:15 19 Q. Sorry. 1744. If you look at line 2020 -- year --
16:21:20 20 the year is 2020 for Maricopa County Recorder's Office.

16:21:24 21 A. Yes. It indicates three cases were submitted for
16:21:27 22 additional verification. All three were determined to be
16:21:32 23 confirmed citizens after the additional information was
16:21:35 24 provided.

16:21:36 25 Q. And that's 3 out of over 1,000 cases that were

16:21:40 1 submitted for additional -- 3 out of -- 3 out of 1,000
16:21:45 2 cases that were not verified upon initial verification; is
16:21:50 3 that correct?

16:21:50 4 A. The 1,800 cases in Column 2 represents those
16:21:56 5 records that were confirmed at initial verification.

16:21:59 6 Q. So subtracting that --

16:22:01 7 A. So that would be the remainder, yes.

16:22:03 8 Q. Subtracting that from the total cases submitted to
16:22:05 9 SAVE by Arizona agencies, you agree that there were about
16:22:09 10 1,000 -- over 1,000 cases that did not verify upon initial
16:22:14 11 verification; correct?

16:22:16 12 A. Numerically, that's the difference between the two
16:22:18 13 numbers, yes.

16:22:18 14 Q. And only 3 of those 1,000-plus cases were
16:22:22 15 forwarded to additional verification; correct?

16:22:24 16 A. Through the SAVE system, yes.

16:22:26 17 Q. And then in 1743, in the same year, 2020, for the
16:22:37 18 Maricopa County Recorder's Office, there were 1,037 cases
16:22:43 19 where SAVE requested Arizona to provide additional
16:22:46 20 information but none was provided. Do you see that?

16:22:50 21 A. I do.

16:22:51 22 Q. And then of those, two cases were submitted to
16:22:56 23 additional verification?

16:23:00 24 A. That's what's indicated in the data, yes.

16:23:01 25 Q. And back on 1744, is it correct that for the

16:23:07 1 current year, 2023, that Maricopa, Pima, and all the other
16:23:14 2 counties represented in the last line, the Office of the
16:23:17 3 Secretary of State, no county has submitted any case for
16:23:20 4 additional verification this year?

16:23:23 5 A. That's what the data indicates, yes.

16:23:25 6 Q. Is there a lag in when this data is recorded, or
16:23:28 7 is what I just said accurate?

16:23:32 8 A. The data is accurate as of the date it was run,
16:23:35 9 which was in July of this year. If there were additional
16:23:38 10 submissions after that date, they would not be reflected in
16:23:40 11 the data that's in front of us today.

16:23:42 12 Q. Understood.

16:23:44 13 So in the best-case scenario in this chart,
16:23:47 14 in 1744, in 2020, Pima submitted a little under half of its
16:23:51 15 cases for additional verification where USCIS requested
16:23:55 16 additional verification; is that correct?

16:23:58 17 A. And you're looking at the 1744 for 2020 for Pima
16:24:05 18 County?

16:24:05 19 Q. Correct.

16:24:06 20 A. Yes. Indicates there were 107 cases submitted for
16:24:12 21 additional verification.

16:24:14 22 Q. So even in the best case, Pima County -- Pima
16:24:18 23 County Recorder's Office failed to initiate additional
16:24:20 24 verification in over half of the cases where your agency
16:24:23 25 requested it; correct?

16:24:24 1 A. The data indicates only 107 cases were submitted.

16:24:29 2 Q. Do you agree that these spreadsheets we've been
16:24:31 3 looking at show this noncompliance with additional
16:24:35 4 verification procedures has been ongoing from 2016
16:24:38 5 through 2023?

16:24:41 6 MR. WHITAKER: Objection. Ambiguous and
16:24:43 7 calls for a legal conclusion.

16:24:50 8 BY MR. SHERMAN:

16:24:50 9 Q. Let me back up one step.

16:24:52 10 Do you agree that these spreadsheets we've
16:24:55 11 been looking at show a history of noncompliance?

16:25:00 12 MR. WHITAKER: Same objection.

16:25:03 13 MR. LANGHOFER: Legal conclusion.

16:25:07 14 MS. SLATTERY: Again, I think we would
16:25:08 15 need -- the data, as it is laid out, indicates what it
16:25:12 16 indicates. We would need to look more deeply at the data
16:25:15 17 and take a look at the agency's history and do a compliance
16:25:20 18 consultation with them to understand fully what the data
16:25:23 19 indicates and whether there were any actions taken outside
16:25:25 20 of SAVE.

16:25:26 21 BY MR. SHERMAN:

16:25:27 22 Q. What do you mean when you say "actions taken
16:25:29 23 outside of SAVE"?

16:25:31 24 A. Again, per the SAVE user guide, agencies may not
16:25:35 25 need to continue with second or third step if they have

16:25:37 1 used alternate verification procedures.

16:25:40 2 Q. And so you have -- USCIS doesn't have knowledge or
16:25:45 3 data on whether these alternative procedures have been
16:25:48 4 used; correct?

16:25:49 5 A. We would not.

16:25:50 6 Q. So in some instances, perhaps if you -- if you
16:26:04 7 generate an additional verification, an IAV notice,
16:26:11 8 institute additional verification notice, or response
16:26:13 9 through the SAVE system, the county recorder's office is
16:26:19 10 obligated to take that step -- correct? -- at that time?

16:26:22 11 A. They would be --

16:26:23 12 MR. WHITAKER: Objection. Calls for legal
16:26:25 13 conclusion.

16:26:26 14 MS. SLATTERY: The user would be prompted by
16:26:32 15 the system to complete that next step in the process and
16:26:35 16 would receive the institute additional verification
16:26:39 17 notification.

16:26:39 18 BY MR. SHERMAN:

16:26:46 19 Q. Over this -- so in 1744, this goes back to 2018;
16:26:53 20 in 1743, this goes back to 2016. In all this time, has
16:26:58 21 USCIS taken steps to investigate whether there were
16:27:03 22 alternative procedures that were -- that were used by
16:27:07 23 Arizona county recorder offices in lieu of initiating
16:27:11 24 additional verification?

16:27:13 25 A. As previously mentioned, in 2018 the organization

16:27:17 1 was in the process of putting together a desk audit and a
16:27:20 2 site visit with some of the agencies. That audit was
16:27:24 3 terminated -- or postponed, I would say, due to the MOA
16:27:28 4 negotiations that were undergoing -- under way.

16:27:31 5 Q. And then after 2018, there's been noncompliance --
16:27:37 6 at least on paper, it looks like noncompliance with the
16:27:41 7 additional verification requirement.

16:27:43 8 Did USCIS take any steps over the last five
16:27:46 9 years to investigate whether the county recorders' offices
16:27:49 10 were instituting additional verification procedures or
16:27:55 11 using alternative means --

16:27:56 12 MR. WHITAKER: Objection.

16:27:57 13 BY MR. SHERMAN:

16:27:57 14 Q. -- in lieu of them?

16:28:01 15 MR. WHITAKER: Sorry. Objection.
16:28:02 16 Argumentative to the first part of the question.

16:28:04 17 MR. SHERMAN: I didn't mean to be
16:28:06 18 argumentative at all. I can restate it if necessary.

16:28:13 19 MR. BURKLEY: Can you answer it?

16:28:14 20 MS. SLATTERY: I'm not aware of specific
16:28:16 21 actions that have been taken to follow up on whether
16:28:19 22 additional alternative procedures are being used.

16:28:21 23 BY MR. SHERMAN:

16:28:22 24 Q. Thank you. I appreciate that. That's all I was
16:28:24 25 trying to figure out.

16:28:25 1 Have there been any warnings or notices

16:28:31 2 issued to Arizona county recorders based on the data

16:28:34 3 reflected in these spreadsheets?

16:28:37 4 A. I am not aware of any at this time.

16:28:39 5 Q. Any corrective measures?

16:28:45 6 A. I'm not aware of any at this time.

16:28:47 7 Q. Any suspensions or terminations?

16:28:51 8 A. I am not aware if there have been any suspensions

16:28:55 9 or terminations at this time.

16:28:55 10 Q. Would this past apparent noncompliance with the

16:29:00 11 additional verification requirement factor into USCIS's

16:29:02 12 willingness to modify or expand the MOA to cover new uses

16:29:06 13 required by Arizona law, such as using SAVE to investigate

16:29:10 14 the current citizenship status of currently registered

16:29:13 15 voters?

16:29:15 16 MR. WHITAKER: Objection to the phrase

16:29:17 17 "apparent noncompliance." It's argumentative.

16:29:23 18 MS. SLATTERY: We would look at the new MOA

16:29:26 19 negotiations. We would, of course, be looking at the legal

16:29:29 20 authorities and the purpose for which the verification is

16:29:31 21 being proposed and would be looking at whether those

16:29:36 22 purposes are clearly outlined in the legislation.

16:29:40 23 BY MR. SHERMAN:

16:29:40 24 Q. Would USCIS need to assure itself that alternative

16:29:45 25 processes account for the shortfall in additional

16:29:49 1 verification reflected in 1744 and 1743?

16:29:55 2 A. I'm not sure I understand the question. Can you
16:29:58 3 restate, please?

16:29:58 4 Q. Before -- I'll restate it.

16:29:59 5 Before engage- -- before modifying or

16:30:02 6 expanding Arizona's existing MOA to use the SAVE system,

16:30:08 7 would USCIS need to investigate whether or not there have

16:30:15 8 been alternative processes that explain the shortfall in

16:30:22 9 additional verification procedures that have been -- that

16:30:24 10 are reflected in 1744 and 1743?

16:30:30 11 MS. PORTER: Form

16:30:37 12 MS. SLATTERY: As I don't have a current

16:30:39 13 request from -- for expansion in front of me and this data

16:30:42 14 is data I learned about through the course of this

16:30:45 15 proceeding, we would be evaluating any new requests on a

16:30:48 16 case-by-case basis, considering all the factors in front of

16:30:51 17 us at the time.

16:30:51 18 BY MR. SHERMAN:

16:30:53 19 Q. And what would those factors be?

16:30:54 20 A. Again, we would be looking at the legal

16:30:56 21 authorities and the proposed use of the system.

16:31:01 22 Q. Would some of the factors include this history

16:31:04 23 reflected in 1744 and 1743?

16:31:26 24 A. Sorry. I'm thinking.

16:31:27 25 Q. Take your time.

16:31:30 1 A. Potentially.

16:31:32 2 Q. In this circumstance, the SAVE system and USCIS's
16:31:37 3 additional verification procedures are gatekeepers not for
16:31:42 4 public assistance but for applicants to exercise their
16:31:44 5 right to vote.

16:31:46 6 Given the history and the data reflected here
16:31:49 7 in 1744 and 1743, is USCIS comfortable with expanding
16:31:54 8 the -- the use of the SAVE system by Arizona election
16:31:58 9 officials to encompass the removal of voters from the
16:32:02 10 rolls?

16:32:02 11 A. We do not have --

16:32:12 12 (Reporter clarification.)

16:32:12 13 MS. PORTER: Form.

16:32:15 14 MS. SLATTERY: We don't currently have a
16:32:16 15 request in front of us proposing expanded use of the
16:32:19 16 Arizona MOA. We're proposing a new MOA by another Arizona
16:32:24 17 user.

16:32:25 18 BY MR. SHERMAN:

16:32:25 19 Q. Right. I understand you don't currently, but if
16:32:27 20 Arizona laws have changed -- if you were to have such a
16:32:32 21 proposal in the future? Same question.

16:32:39 22 MS. PORTER: Form.

16:32:40 23 MR. LANGHOFER: Form. Scope. Speculation.

16:32:43 24 MS. SLATTERY: Again, we would take into
16:32:44 25 consideration the facts present before us at the time a

16:32:47 1 request would come to us. We do not currently have a
16:32:50 2 request in front of us asking for changes to the MOA or for
16:32:54 3 a new user to be added to SAVE for the purposes you
16:32:58 4 described.

16:32:58 5 BY MR. SHERMAN:

16:33:01 6 Q. So are you aware that HB 2243, as enacted in
16:33:05 7 Arizona, requires the use of the SAVE system to check any
16:33:12 8 person that county recorders or their staff have reason to
16:33:16 9 believe is not a U.S. citizen?

16:33:20 10 A. I'm aware that the legislation exists. Again, we
16:33:23 11 do not have a request in front of us to use SAVE for that
16:33:26 12 purpose.

16:33:27 13 Q. Is USCIS required by federal law to expand the
16:33:38 14 Arizona MOA to include such voter removal or voter list
16:33:44 15 maintenance activities?

16:33:47 16 MR. LANGHOFER: Calls for a legal conclusion.

16:33:51 17 MR. BURKLEY: Objection. Calls for a legal
16:33:51 18 conclusion.

16:33:53 19 I'll let you answer if you're comfortable
16:33:56 20 with it.

16:34:07 21 (Inaudible conversation.)

16:34:07 22 MR. MORGAN: I don't know that we're picking
16:34:09 23 her up, Counselor.

16:34:12 24 MS. SLATTERY: Can you repeat the question,
16:34:15 25 please?

16:34:15 1 BY MR. SHERMAN:

16:34:16 2 Q. Sure.

16:34:16 3 Is USCIS required by federal law to expand
16:34:22 4 Arizona's MOA to include the purpose -- the activity I just
16:34:27 5 described from HB 2243?

16:34:30 6 MR. LANGHOFER: Same objection.

16:34:31 7 MR. WHITAKER: Another objection I'll add is
16:34:32 8 I think we're pretty far beyond the scope of the
16:34:35 9 30(b)(6) -- I mean the -- yeah, the deposition topics,
16:34:37 10 unless I'm mistaken.

16:34:41 11 MR. BURKLEY: If you don't know --

16:34:41 12 MR. BUSCH: Yeah, I mean, are you asking her
16:34:41 13 to basically testify as -- like an expert witness about
16:34:49 14 what federal law requires in a future hypothetical
16:34:51 15 situation?

16:34:51 16 MR. SHERMAN: Well, the law has been passed.
16:34:53 17 It's enacted. It's not been implemented yet. Inevitably,
16:34:57 18 the SAVE system is going to get this request. I'm just
16:35:03 19 trying to ascertain how you would evaluate that request
16:35:06 20 when inevitably it comes to you, barring some court --
16:35:09 21 barring some injunction against the law.

16:35:13 22 MR. BUSCH: She answered that at least three
16:35:16 23 or four times.

16:35:18 24 MR. SHERMAN: Okay. Fair enough.

16:35:18 25 BY MR. SHERMAN:

16:35:21 1 Q. Does USCIS -- when a -- when a state enacts a new
16:35:28 2 law, how do you evaluate requests for an MOA from that
16:35:33 3 state to fulfill the purposes of that new law?

16:35:37 4 A. Again, as I've already outlined, we would ask --
16:35:41 5 A, the state would have to come to us for purposes of
16:35:43 6 registering for SAVE. As part of that, they would be
16:35:46 7 required to submit the legal authorities under which they
16:35:51 8 are able to verify immigration status as well as -- sorry.
16:35:57 9 There are two factors. I lost the second one.

16:36:00 10 The purpose for using SAVE and the legal
16:36:03 11 authority to verify immigration status, they would need to
16:36:06 12 provide documentation of those requirements to us. That
16:36:10 13 information would go through a legal review with the Office
16:36:13 14 of Chief Counsel and with SAVE personnel, and then we
16:36:17 15 would -- if both of those things prove to be true and the
16:36:19 16 authorization is there, we would move into MOA discussions.

16:36:24 17 Q. Do you think that given -- given SAVE is sort of
16:36:28 18 the ultimate arbitrator of whether certain people can
16:36:33 19 register to vote in Arizona, do you think that calls for
16:36:37 20 greater enforcement of the additional verification
16:36:40 21 requirement as -- as presented in the MOA?

16:36:44 22 A. First, I'd like to clarify your statement that
16:36:46 23 SAVE is an arbitrator.

16:36:48 24 MR. WHITAKER: Yeah, I was going to object.
16:36:50 25 I was going to object as argumentative to that part of it.

16:36:53 1 MR. LANGHOFER: And scope.

16:36:54 2 BY MR. SHERMAN:

16:36:54 3 Q. I can -- I can rephrase the question.

16:36:56 4 Given -- given the SAVE system ultimately
16:37:02 5 will dictate whether certain individuals can register and
16:37:07 6 vote in Arizona, does that, to your mind, call for greater
16:37:11 7 enforcement of the additional verification requirement in
16:37:14 8 the MOA?

16:37:15 9 MR. LANGHOFER: Scope.

16:37:18 10 MS. PORTER: Form.

16:37:20 11 MS. SLATTERY: Again, SAVE does not make
16:37:23 12 eligibility determinations. SAVE provides information that
16:37:27 13 the benefit agency may use in making an eligibility
16:37:30 14 determination.

16:37:32 15 BY MR. SHERMAN:

16:37:33 16 Q. Understood.

16:37:34 17 Given that Arizona county recorders are
16:37:36 18 relying on the SAVE system to determine whether or not
16:37:40 19 registration applicants -- and if HB 2243 goes into effect,
16:37:45 20 registered voters can continue to vote in Arizona -- does
16:37:49 21 that call for greater enforcement of the additional
16:37:52 22 verification requirement?

16:37:54 23 MR. LANGHOFER: Scope.

16:37:56 24 MR. MORGAN: Calls for a legal conclusion.

16:38:02 25 MS. SLATTERY: Again, SAVE provides

16:38:04 1 information that is used by state agencies in eligibility
16:38:08 2 benefit determinations. SAVE will follow through with the
16:38:11 3 terms of the MOA and will execute our compliance activities
16:38:16 4 as outlined.

16:38:18 5 BY MR. SHERMAN:

16:38:19 6 Q. Do you know if a third-party benefit applicant can
16:38:25 7 sue to enforce the terms of the MOA?

16:38:28 8 MR. LANGHOFER: Calls for legal conclusion.
16:38:29 9 Scope.

16:38:34 10 BY MR. SHERMAN:

16:38:35 11 Q. If you want to refer to the MOA, page 8,
16:38:38 12 Section VI(D). This is my last question.

16:38:48 13 Page 8, there's a section on third-party
16:38:52 14 liability. It says, "Each party of this MOA shall be
16:38:53 15 solely responsible for its own defense against any claim or
16:38:57 16 action by third parties arising out of or related to the
16:39:00 17 execution and/or performance of this MOA, whether civil or
16:39:04 18 criminal, and retain responsibility for the payment of any
16:39:06 19 corresponding liability."

16:39:13 20 Do you know if -- do you know if third-party
16:39:17 21 benefit applicants can sue to enforce the terms of the MOA?
16:39:23 22 Have they done so?

16:39:25 23 MR. LANGHOFER: Same objections. Plus
16:39:26 24 compound.

16:39:29 25 MS. SLATTERY: I am not aware of any suits in

16:39:32 1 that regard. And the document, as you outlined, speaks for
16:39:34 2 itself.

16:39:35 3 BY MR. SHERMAN:

16:39:36 4 Q. Okay.

16:39:36 5 MR. SHERMAN: Thank you very much,
16:39:38 6 Ms. Slattery, Ms. Doolittle, and Mr. Filighera. Those are
16:39:44 7 all the questions I have.

16:39:47 8 I think other plaintiffs' counsel might have
16:39:50 9 an additional question or two, and then we can move on to
16:39:53 10 the defendants' counsel. Thank you again for your time
16:39:56 11 today.

16:40:07 12 MR. HERRERA: Would it be possible to take a
16:40:09 13 five-minute break to confer with counsel -- with counsel?
16:40:15 14 It's just -- I may not have any questions, but just to
16:40:18 15 verify.

16:40:19 16 MR. MORGAN: The answer from my perspective
16:40:20 17 is of course. Of course, you can have five minutes to
16:40:27 18 talk.

16:40:27 19 MR. HERRERA: All right. Thanks.

16:40:27 20 Can we go off the record.

16:40:28 21 THE VIDEOGRAPHER: We are off the record.

16:40:29 22 Time on the video monitor is 4:40 p.m.

16:49:31 23 (A recess ensued.)

16:49:31 24 THE VIDEOGRAPHER: We are on the record.

16:49:52 25 Time on the video monitor is 4:50 p.m.

16:49:58 1 MR. HERRERA: Ernest Herrera for Promise
16:50:00 2 Arizona's plaintiffs. Good afternoon. I don't -- I don't
16:50:02 3 have any questions for you. So I'm going to pass the
16:50:05 4 witness.

16:50:05 5 Sorry. That was a little anticlimactic, but
16:50:08 6 thank you.

16:50:15 7 MR. MORGAN: Are there any questions from any
16:50:18 8 other plaintiffs?

16:50:20 9 MS. LANG: No, there are not any further
16:50:22 10 questions from other plaintiff groups. So this can be
16:50:25 11 passed to the defendants at this point.

16:50:26 12 MR. MORGAN: Good deal. Anybody on the
16:50:28 13 defense side have any questions for these folks?

16:50:30 14 MR. WHITAKER: I do. Sorry. On a -- late on
16:50:33 15 a Friday. But it will be a lot shorter, I promise. I'm a
16:50:38 16 very short person.

16:50:40 17 MR. MORGAN: I swear if you say "handful,"
16:50:41 18 I'm going to throw my monitor at a window.

16:50:47 19 MR. WHITAKER: I won't use that word.

16:50:47 20

16:50:47 21 EXAMINATION

16:50:47 22 BY MR. WHITAKER:

16:50:49 23 Q. I did want to ask about -- first of all, thank you
16:50:54 24 very much for your time. And I'll try to be as sensitive
16:50:56 25 to your time as possible.

16:50:59 1 I did want to ask about -- and this is -- I
16:51:03 2 did want to ask about a document USCIS SAVE 000666. I
16:51:10 3 don't know whether that's one you printed or not or whether
16:51:12 4 I need to pull it up and share my screen.

16:51:17 5 A. It's not currently printed, but we have it up on
16:51:19 6 the computer.

16:51:20 7 Q. Okay.

16:51:23 8 MR. WHITAKER: And then the court reporter,
16:51:24 9 do you have it? Or will you be able to have access to it?

16:51:36 10 (An off-the-record discussion ensued.)

16:51:36 11 MR. WHITAKER: I think -- well, let me
16:51:39 12 authenticate it first.

16:51:46 13 THE COURT REPORTER: And we'll mark this
16:51:46 14 Exhibit 199?

16:51:48 15 MR. WHITAKER: Yeah.

16:51:48 16 (The document was marked as Exhibit 199
16:51:49 17 for identification.)

16:51:49 18 BY MR. WHITAKER:

16:51:50 19 Q. So this document is titled "How to Initiate a Case
16:51:54 20 Involving a Potentially Fraudulent Document"; is that
16:51:58 21 right?

16:51:58 22 A. That is the document I'm looking at, yes.

16:52:00 23 Q. And can you explain a little bit about the purpose
16:52:04 24 of this document?

16:52:06 25 A. So this is an information sheet that SAVE produced

16:52:10 1 in order to advise agencies of a new capability within the
16:52:14 2 SAVE system that would allow them to identify documents
16:52:19 3 that they believe may be of a questionable nature.

16:52:22 4 Q. And what do you mean by "questionable nature"?

16:52:26 5 A. If there's something about the document that the
16:52:28 6 agency doesn't think looks legitimate.

16:52:31 7 Q. What would be the example of that?

16:52:34 8 A. It could be anything, I suppose. There's a
16:52:39 9 watermark that doesn't look right; there's a photograph
16:52:41 10 that appears to have been altered; there is information on
16:52:45 11 the document that appears to have been altered; it doesn't
16:52:48 12 appear to be legitimate based on what they know to be a
16:52:52 13 legitimate document issued by the agency.

16:52:54 14 Q. And this is an update in 2019.

16:52:57 15 Was there a process before 2019 by which a
16:53:00 16 user agency could alert USCIS to this sort of document?

16:53:07 17 A. USCIS has a variety of different capabilities
16:53:10 18 where people can report information to us. There are tip
16:53:16 19 lines that work through our FDNS teams. They can send
16:53:16 20 letters to the agency. As with all communication,
16:53:21 21 applicants can always send us something or agencies can
16:53:23 22 send us something if they're concerned about information.

16:53:26 23 Q. I see the first sentence of this document says,
16:53:32 24 "The 2019 update of the SAVE interface has made it possible
16:53:37 25 to flag potentially fraudulent documents at initial

16:53:40 1 verification."

16:53:40 2 So was the idea here that before there wasn't
16:53:45 3 an easy way to do that at the initial verification through
16:53:48 4 SAVE and after 2019 there is?

16:53:51 5 A. It's a system capability that was added in the
16:53:54 6 SAVE system so there's a way to do it as part of submitting
16:53:57 7 data into the system.

16:53:59 8 Q. And why was that update made in 2019?

16:54:05 9 A. I wasn't present when that information was added
16:54:09 10 to the system. Based on the information in the document in
16:54:14 11 front of me today, it was an additional capability that we
16:54:16 12 either probably had received requests from user agencies,
16:54:19 13 because we do modify the system in response to feedback, or
16:54:24 14 it was an identified need that the agency identified.

16:54:27 15 Q. Okay. So to the best of your knowledge anyway, it
16:54:32 16 was probably based on either agency users asking for this
16:54:35 17 sort of system or someone within USCIS asking for this sort
16:54:44 18 of mechanism; is that fair?

16:54:46 19 A. Those are two of the primary ways through which we
16:54:49 20 would begin the process for making system updates. There
16:54:52 21 are other avenues through which we can receive information
16:54:54 22 or recommended updates.

16:54:58 23 Q. Do you know whether the secretary of state or
16:55:10 24 recorders in Arizona have access to this mechanism?

16:55:14 25 A. I do not know specifically. This is a feature

16:55:16 1 that is available in the online browser system, though, so
16:55:20 2 if they're using it through the USCIS SAVE browser system,
16:55:23 3 it is a feature that's available.

16:55:26 4 Q. Is it a standard feature?

16:55:29 5 MS. SLATTERY: Mariah, can you chime in on
16:55:31 6 that?

16:55:31 7 MS. DOOLITTLE: Yes. So when somebody is
16:55:34 8 accessing SAVE through the web browser, that means any
16:55:37 9 agency that accesses it that way, any of their users that
16:55:41 10 access it that way, any of their groups that access it that
16:55:44 11 way, it's the same package. So it -- it's no different
16:55:48 12 than if you go to any website, you're going to see the same
16:55:52 13 thing as somebody else.

16:55:54 14 We don't have a subscriber service or
16:55:57 15 anything like that where you get better features or not.
16:55:59 16 It's just the same for users or web browser users. They
16:56:06 17 would have access to it.

16:56:06 18 BY MR. WHITAKER:

16:56:08 19 Q. Have any agency users used this mechanism since
16:56:11 20 2019?

16:56:14 21 MR. MORGAN: Foundation.

16:56:17 22 MS. SLATTERY: I don't have any --

16:56:17 23 (Reporter clarification.)

16:56:21 24 MS. SLATTERY: I don't have any data
16:56:25 25 responsive to that question in front of me. I'm not able

16:56:27 1 to answer.

16:56:28 2 BY MR. WHITAKER:

16:56:32 3 Q. Does any other witness know whether an agency user
16:56:35 4 has used this mechanism since it was implemented in 2019?

16:56:46 5 MS. SLATTERY: Russ or Mariah, do you have
16:56:47 6 any responsive information?

16:56:49 7 MR. FILIGHERA: I don't have statistics, but
16:56:50 8 I have seen the flag on a case before. But to what extent,
16:57:00 9 how often, and who, I could not answer.

16:57:07 10 BY MR. WHITAKER:

16:57:07 11 Q. And then just to close the loop on that, Mariah,
16:57:09 12 is it fair to say you don't -- you know you know?

16:57:11 13 MS. DOOLITTLE: Yes. That feature predates
16:57:13 14 me. I wouldn't be tracking it as to how often somebody
16:57:16 15 would be using it.

16:57:16 16 But to Russ, when cases do go to manual
16:57:19 17 verification, which that would -- as he indicated, he has
16:57:24 18 seen the flag when that happens. But without any data in
16:57:27 19 front of any of us, it would be hard to say if there's an
16:57:31 20 upward trend, downward trend, if it's never used, always
16:57:34 21 used. It would just be hard to say.

16:57:37 22 BY MR. WHITAKER:

16:57:37 23 Q. I see that on that first page there's a Step 2
16:57:41 24 that says, "Request Fraud & Continue."

16:57:47 25 I'll read the second sentence in that

16:57:48 1 paragraph. It says, "You must have a document to proceed
16:57:51 2 with initial verification for all cases you suspect are
16:57:55 3 fraudulent."

16:57:58 4 Does -- does the SAVE system offer guidance
16:58:01 5 as to what counts as a case that is suspected to be
16:58:05 6 fraudulent?

16:58:08 7 A. I am not aware at this time of specific guidance
16:58:21 8 regarding fraudulent information. As an agency, USCIS does
16:58:25 9 share information about fraud that can occur, and we do
16:58:29 10 have outreach efforts to benefit applicants to talk to them
16:58:33 11 about not engaging with persons who would give them
16:58:36 12 fraudulent information or assist them in filing fraudulent
16:58:39 13 documents. I'll stop there.

16:58:49 14 Q. If I wanted to see that guidance, where would I go
16:58:52 15 to look for it?

16:58:57 16 A. For the agency?

16:58:58 17 Q. Yeah.

16:58:58 18 A. Typically, it would be on our USCIS website.

16:59:05 19 Q. Do you know whether the agency lists all
16:59:09 20 circumstances that could count as a case suspected to be
16:59:13 21 fraudulent?

16:59:17 22 A. No. I think that there's likely to be more
16:59:22 23 exemplar information. An exhaustive list could be
16:59:28 24 extensive.

16:59:29 25 Q. Do you think it would be practical to try to

16:59:31 1 create an exhaustive list of all situations that could
16:59:35 2 count as cases suspected to be fraudulent?

16:59:47 3 A. Again, "exhaustive" by its mere definition
16:59:51 4 suggests that it would be an enormous effort. And given
16:59:53 5 the variety of ways that things can be changed or altered,
16:59:58 6 I would hesitate to say that we could complete an
17:00:00 7 exhaustive list from that.

17:00:04 8 Q. I'll go to the next page, Step 4: "Case escalated
17:00:10 9 to third-level verification."

17:00:11 10 It says, "When a fraud case is initiated, it
17:00:14 11 bypasses initial verification and is escalated for manual
17:00:18 12 verification."

17:00:20 13 I think earlier the testimony was along the
17:00:22 14 lines that manual verification is thorough; it refers -- it
17:00:26 15 involves potentially electronic and physical document
17:00:30 16 review. Is that right?

17:00:33 17 A. Yes, it does.

17:00:34 18 And Russ can provide detailed information
17:00:37 19 about the process that's undertaken.

17:00:40 20 MR. FILIGHERA: Yes. So when we say
17:00:43 21 "physical document," it's not physical document of what's
17:00:48 22 been uploaded into the manual case. The case, when it gets
17:00:54 23 escalated to additional with document, is a scanned image.

17:00:58 24 Earlier, I believe what you were referencing
17:01:00 25 is our thorough research we do in regard to the databases;

17:01:05 1 that if we're still not finding the information and it
17:01:09 2 appears that document has information where it could show
17:01:13 3 that the physical file -- like, what we call an A-file or
17:01:18 4 certificate file -- exists in our records department,
17:01:21 5 that's what's meant by "physical review."

17:01:23 6 We're not in personal contact of an
17:01:27 7 applicant's documents. It's, rather, an image of what they
17:01:30 8 provided through the agency, but then we will use that in a
17:01:33 9 way to reach out to physical file office locations to that
17:01:37 10 way make sure that the electronic databases for some reason
17:01:42 11 were not reflecting to match the actual physical record
17:01:45 12 that we have.

17:01:46 13 BY MR. WHITAKER:

17:01:48 14 Q. And I -- I recall Mariah saying near the beginning
17:01:51 15 that sometimes the state department is a source consulted
17:01:56 16 in manual review; is that right?

17:01:59 17 MR. FILIGHERA: The databases that we
17:02:01 18 research in the manual process are all within the USCIS for
17:02:07 19 naturalization or certificate of naturalization. What
17:02:09 20 records might feed into those records, I wouldn't know, you
17:02:13 21 know, all the possibilities.

17:02:15 22 But from a USCIS standpoint, if a person
17:02:20 23 becomes a naturalized citizen either through the courts or
17:02:22 24 through USCIS application processes or certificate of
17:02:27 25 citizenship application, we -- we rely on those DHS

17:02:33 1 records. So we do not -- so Department of State, we do
17:02:37 2 not, as I mentioned earlier, verify U.S. passports. We do
17:02:43 3 not verify born U.S. citizens. It is derived citizens or
17:02:49 4 naturalized citizens that have an immigration record or DHS
17:02:52 5 record that we can rely on to confirm based on the
17:02:55 6 information the agency provides or the document provided.

17:03:00 7 BY MR. WHITAKER:

17:03:01 8 Q. Mariah, was I right earlier that you mentioned the
17:03:03 9 state department as part of the manual review? And if so,
17:03:06 10 can you explain what you meant by that?

17:03:09 11 MS. DOOLITTLE: Yes. Within our data
17:03:11 12 repositories that we have, sometimes we can get access to
17:03:18 13 visas and other elements of -- Department of State,
17:03:21 14 sometimes we have to work with them for instances like
17:03:25 15 United for Ukraine, for instance. That was a -- outside of
17:03:30 16 DHS -- DHS was not the only runner of that. It was also
17:03:34 17 Department of State. So in instances like that, sometimes
17:03:36 18 we do have to work with other agencies in processing people
17:03:41 19 for immigration.

17:03:41 20 BY MR. WHITAKER:

17:03:46 21 Q. Step 5 on this document says, "Case is Resolved."
17:03:50 22 What are the possible resolutions that --
17:03:54 23 that would show when a case is resolved after this process?

17:03:59 24 MS. SLATTERY: Russ, you want to take that?

17:04:02 25 MR. FILIGHERA: So in the manual process, if

17:04:04 1 somebody indicated that -- the counterfeit that you're
17:04:09 2 talking about and the possible response, in the manual
17:04:12 3 process, it doesn't change what we do. We process as
17:04:15 4 normal the case.

17:04:17 5 So if it came in at third step, additional
17:04:20 6 verification with a scanned image, the possible responses
17:04:23 7 would include everything matches, United States citizen or
17:04:27 8 derived United States citizen or naturalized citizen. It
17:04:30 9 could result in unable to verify, extending an applicant
17:04:37 10 into -- based on comments to the agency, stating to contact
17:04:41 11 our -- our customer service line or go to the website to
17:04:44 12 update their record.

17:04:45 13 In rare cases, there is a response where
17:04:51 14 something can go back in our response side that says
17:04:54 15 "appears counterfeit," but again, we're looking at an image
17:04:58 16 of a document. So with a certificate or naturalization
17:05:03 17 certificate, the absence of information does not mean
17:05:07 18 necessarily counterfeit. It would be unable to verify in
17:05:12 19 that instance. So that way the applicant has a chance to
17:05:18 20 go and update their records.

17:05:21 21 BY MR. WHITAKER:

17:05:21 22 Q. Understood.

17:05:22 23 Do you have a sense for -- I guess you
17:05:25 24 haven't been at the agency as long as some others, Russ,
17:05:28 25 but do you have a sense for how often the "appears

17:05:31 1 counterfeit" comment gets returned?

17:05:34 2 MR. FILIGHERA: I do not have the statistic
17:05:36 3 how often at my fingertips, no.

17:05:42 4 BY MR. WHITAKER:

17:05:45 5 Q. There's two other documents. They should be even
17:05:49 6 faster. One is -- I think it was Exhibit 184. This is the
17:05:56 7 MOA.

17:06:08 8 So there were some questions about the last
17:06:10 9 two pages of the MOA. It's a -- well, it's actually, I
17:06:13 10 guess, a document appended to the MOA on USCIS SAVE 11 and
17:06:19 11 12. Those are the page numbers.

17:06:25 12 Do you see that document I'm referring to?

17:06:31 13 A. Yes, we have it.

17:06:35 14 Q. Okay. And remind me just generally -- I
17:06:40 15 understood the testimony to be along the lines that if --
17:06:44 16 this is a document that could be given to an applicant if
17:06:47 17 they want to try to correct their -- their records as a
17:06:54 18 result of what happens in SAVE. Is that right?

17:06:57 19 A. Correct. If SAVE returns a response indicating
17:07:00 20 they're unable to verify as part of the process, the user
17:07:04 21 agency should be providing the benefit applicant
17:07:07 22 information about how to correct their records. This is
17:07:10 23 one form that that records correction information could
17:07:14 24 take.

17:07:15 25 Q. Got it.

17:07:16 1 And the last page, there's a list of bullets.

17:07:20 2 And above it says, "We recommend that you include the
17:07:23 3 following information in your submission, if available."

17:07:26 4 Do you see that?

17:07:28 5 A. Yes.

17:07:28 6 Q. And is that "we" being USCIS and "you" being the
17:07:35 7 applicant?

17:07:36 8 A. Yes.

17:07:38 9 Q. And the fourth bullet point there says, "Date and
17:07:41 10 place of birth." Do you see that?

17:07:44 11 A. Yes.

17:07:45 12 Q. Why does USCIS recommend that the applicant
17:07:50 13 include place of birth in their submission?

17:07:57 14 A. I don't know why that was included in this
17:08:01 15 particular document.

17:08:02 16 Q. Is it -- is it fair to infer that whoever created
17:08:09 17 this document thought that place of birth would be a useful
17:08:15 18 piece of information?

17:08:19 19 MR. ATKINS: Objection; foundation.
17:08:22 20 Speculation.

17:08:22 21 MS. LANG: Same objections.

17:08:28 22 MS. SLATTERY: Based on its inclusion in the
17:08:29 23 document, I would say it was considered to be a factor that
17:08:33 24 could be of use in making a records correction update or
17:08:37 25 additional information available to the agency that would

17:08:39 1 assist us in confirming a record or making an update.

17:08:42 2 BY MR. WHITAKER:

17:08:51 3 Q. All right. I'll turn to one more document. This
17:08:59 4 is the fact sheet. I believe it was Exhibit 192. Starts
17:09:08 5 on USCIS SAVE 13.

17:09:19 6 A. Got it.

17:09:23 7 Q. Now I'm on page 2 of that document. The last full
17:09:29 8 paragraph, I think there were some questions about this,
17:09:34 9 but I wanted to drill down just a little bit more.

17:09:37 10 The last sentence says, "The following are
17:09:41 11 examples of when a user agency may not need to conduct
17:09:45 12 additional verification after contacting the individual
17:09:48 13 being verified."

17:09:49 14 Do you see that?

17:09:50 15 A. I do.

17:09:52 16 Q. Now, are the bullet points that follow meant to be
17:09:56 17 an exhaustive list or just illustrations of when the user
17:10:00 18 agency may not need to conduct additional verification?

17:10:05 19 A. They're primarily illustrative. Another bullet
17:10:09 20 that could have been added is when an individual withdraws
17:10:12 21 a request for voter registration and so the verification
17:10:15 22 would no longer be needed.

17:10:18 23 Q. Are these sorts of examples things that could
17:10:22 24 explain why, say, a county recorder makes an initial
17:10:29 25 request to SAVE but then doesn't request additional

17:10:32 1 verification?

17:10:34 2 A. As the document indicates, if an agency has one of
17:10:38 3 these things and is satisfied with that for purposes of
17:10:40 4 eligibility, the additional verification step is not
17:10:44 5 required.

17:10:45 6 Q. The first bullet point is "When the individual
17:10:49 7 returns an authorized attestation form stating that the
17:10:53 8 individual is not a United States citizen."

17:10:56 9 Do you see that?

17:10:57 10 A. Yes.

17:10:59 11 Q. Why is that an example of when the user agency may
17:11:04 12 not need to conduct additional verification?

17:11:08 13 A. For purposes of the voter verification, the
17:11:13 14 operative status that the agency would be receiving is U.S.
17:11:17 15 citizen. If the individual provides documentary evidence
17:11:20 16 attesting to the fact that they are not one, there would be
17:11:23 17 no purpose with continuing for the verification for the
17:11:25 18 purpose of receiving a U.S. citizen response.

17:11:29 19 Q. So for example, if there were a form that said,
17:11:33 20 "Are you a citizen; yes or no? You have to answer under
17:11:37 21 penalty of perjury," is that something that if the
17:11:40 22 applicant said "no," that would be a -- that would be an
17:11:43 23 example of when the user agency may not need to conduct
17:11:47 24 additional verification?

17:11:51 25 MR. HERRERA: Object to form.

17:11:53 1 MS. LANG: Lack of foundation. Calls for
17:11:53 2 speculation.

17:12:03 3 MS. SLATTERY: I think it would depend on the
17:12:06 4 entirety of the form. And I would say that depending on
17:12:09 5 whether it's considered an attested form and how the agency
17:12:13 6 would view the form would determine if they would proceed
17:12:17 7 to next steps.

17:12:22 8 BY MR. WHITAKER:

17:12:22 9 Q. When this document uses the phrase "authorized
17:12:25 10 attestation form," is it referring to a specific form that
17:12:30 11 USCIS requires to be used or is that a general guideline
17:12:34 12 that -- that state agencies could fill in with their own
17:12:39 13 forms?

17:12:40 14 A. There is not a U.S. definition that I am aware of
17:12:45 15 for "authorized attestation form."

17:12:48 16 Q. That last bullet point, "When the individual does
17:12:56 17 not respond within applicable time frames to the user
17:12:59 18 agency inquiry for attestation or proof of
17:13:02 19 citizenship," what -- what is that referring to?

17:13:06 20 A. The issuing agencies have their own policies and
17:13:09 21 procedures that govern their process for eligibility
17:13:13 22 determination. If there are guidelines that they follow
17:13:17 23 for purposes of requiring responses of applicants, this
17:13:21 24 would refer to that process, and it would vary by agency.
17:13:24 25 That is not a USCIS- or SAVE-controlled timeline.

17:13:30 1 Q. So if a -- if an agency user, for example, said to
17:13:35 2 an applicant "You need to give us a document within
17:13:38 3 30 days" and the applicant doesn't respond within 30 days,
17:13:43 4 can the -- can the agency user -- is that an example when
17:13:47 5 the user agency may not need to conduct additional
17:13:50 6 verification?

17:13:52 7 A. I think the document speaks for itself with regard
17:13:54 8 to what it says about the agency response timelines.
17:13:56 9 That's a hypothetical.

17:14:05 10 MR. WHITAKER: I think that's all the
17:14:06 11 questions I have. I understand the RNC's counsel may have
17:14:12 12 more.

17:14:12 13 MR. LANGHOFER: Thanks, Josh.

17:14:13 14 Good afternoon, everyone. I'm Kory
17:14:15 15 Langhofer. I represent the RNC. I think I've only got
17:14:18 16 nine questions, although sometimes, you know, there's a
17:14:20 17 little bit of follow-up on this and that.

17:14:21 18

17:14:21 19 EXAMINATION

17:14:21 20 BY MR. LANGHOFER:

17:14:22 21 Q. In how many states is the SAVE system used to
17:14:26 22 confirm citizenship for purposes of voter registration?

17:14:31 23 A. I believe at this time there are six states that
17:14:34 24 have voter MOAs with us.

17:14:37 25 Q. Would USCIS authorize that use of the SAVE system

17:14:41 1 if it believed the system were unreliable for that purpose?

17:14:46 2 MR. HERRERA: Objection to form.

17:14:50 3 MS. SLATTERY: I'm not sure I understand the
17:14:51 4 question you're asking.

17:14:53 5 Are you asking me whether the SAVE system is
17:14:55 6 unreliable for a specific purpose, or are you asking me
17:14:59 7 what we would do to verify an agency's intended use and
17:15:01 8 registration request for SAVE?

17:15:03 9 BY MR. LANGHOFER:

17:15:03 10 Q. More the former. Let -- let me ask it perhaps a
17:15:05 11 little bit more directly.

17:15:06 12 Is the SAVE system reliable for purposes of
17:15:09 13 determining citizenship status for naturalized and derived
17:15:13 14 citizens?

17:15:13 15 A. As you heard us describe, the SAVE system will
17:15:16 16 return the data and information that we are able to confirm
17:15:19 17 in systems as they currently exist. It is a point-of-time
17:15:22 18 verification. The information that we have is based on the
17:15:25 19 information that is in DHS systems of record.

17:15:31 20 Q. And in your experience, is that a reliable system?

17:15:38 21 A. Tell me what you mean by "reliable."

17:15:39 22 Are we able to return verifications in a
17:15:42 23 majority of cases? Yes.

17:15:44 24 Q. And those verifications are accurate?

17:15:46 25 A. We return a verification response in majority of

17:15:49 1 cases. If at any point an agency or user believes that a
17:15:52 2 response is inaccurate, they are requested to submit the
17:15:54 3 case for additional verification and we'll go through the
17:15:54 4 steps that you've heard already described today.

17:16:01 5 Q. Have you done any -- do you have an understanding
17:16:03 6 of how often the system returns an inaccurate answer on the
17:16:08 7 question of citizenship?

17:16:10 8 A. I do not have that data in front of me, no.

17:16:13 9 MS. SLATTERY: Mariah, do you have any data
17:16:18 10 on that?

17:16:21 11 MS. DOOLITTLE: I don't. That would be
17:16:22 12 something that we would probably do in an audit to see, but
17:16:26 13 I have not heard that to ever be an issue.

17:16:30 14 So if it turned out to be an issue -- if a
17:16:33 15 lot of agencies started to report they were seeing that,
17:16:35 16 then we would definitely audit the system to see what that
17:16:39 17 particular cause might be. But since I've been here, I
17:16:42 18 have not seen that or heard that to be an issue.

17:16:47 19 BY MR. LANGHOFER:

17:16:47 20 Q. Have there been any such audits?

17:16:55 21 A. I'm not aware of any particular ones right now.

17:16:57 22 MS. DOOLITTLE: No. I would say -- Russ,
17:17:01 23 have you ever been asked to audit for U.S. citizenship?

17:17:02 24 MR. FILIGHERA: I cannot recall, for initial
17:17:04 25 processing and auditing, just the U.S. citizenship.

17:17:09 1 MS. DOOLITTLE: It's slightly an odd request
17:17:10 2 because we don't have access to U.S. citizenship records
17:17:15 3 except for the acquired citizenship or derived or that --
17:17:21 4 and not every derived citizen has records with us because
17:17:24 5 they might not have ever had to get a citizenship document.
17:17:31 6 It's a slightly odd request.

17:17:32 7 BY MR. LANGHOFER:

17:17:35 8 Q. How many requests do you receive every year to
17:17:37 9 correct the citizenship status information in the system
17:17:41 10 for derived or naturalized citizens?

17:17:44 11 A. SAVE would not receive any requests because we
17:17:48 12 don't do the records correction. As for the agency, I
17:17:50 13 can't speak to that number.

17:17:52 14 Q. Would you be able to see in the system when the
17:17:58 15 agencies had corrected information pursuant to such a
17:18:01 16 request?

17:18:03 17 MS. SLATTERY: Mariah, you want to talk about
17:18:05 18 what we see when the data requests are updated?

17:18:08 19 MS. DOOLITTLE: We generally wouldn't see a
17:18:11 20 request. We would get that information back -- so when a
17:18:15 21 system is updated, it matters if we have a case in our
17:18:19 22 system or coming through because, as Shannon pointed out
17:18:23 23 earlier, it's a point in time for that.

17:18:28 24 So it would be something that I would think
17:18:29 25 more on the manual side of review that they would be

17:18:32 1 tracking down to see if it's a pending application,
17:18:34 2 potentially what state it's in, but I -- it's out of my
17:18:38 3 scope.

17:18:39 4 BY MR. LANGHOFER:

17:18:42 5 Q. Is there a national system to confirm citizenship
17:18:46 6 status for derived and natural citizens that is more
17:18:49 7 accurate than the SAVE system?

17:18:52 8 A. I'm not aware.

17:18:56 9 MR. HERRERA: Objection to form. Sorry.

17:18:58 10 BY MR. LANGHOFER:

17:18:59 11 Q. I'm not sure that I heard the answer, ma'am.

17:19:01 12 A. I'm not aware of one right now. USCIS and DHS is
17:19:03 13 the repository for naturalized and acquired citizen
17:19:07 14 information. The time, as Mariah indicated, where we would
17:19:11 15 not have access to that record information is for acquired
17:19:14 16 citizens who did not have an encounter with USCIS in order
17:19:16 17 to get documentary proof of their citizenship status.

17:19:20 18 Q. Is there a nationwide system to confirm
17:19:23 19 citizenship for derived or natural citizens that is more up
17:19:26 20 to date than the SAVE system?

17:19:28 21 A. Again, SAVE is not a system of record. We are
17:19:32 22 pinging against DHS data systems that contain the
17:19:35 23 naturalized and acquired citizen information.

17:19:40 24 Q. Is there a way of accessing that information that
17:19:44 25 is more current or more up to date than the SAVE system?

17:19:48 1 A. I'm not sure I understand your question.

17:19:51 2 Q. I guess in -- one of the issues in the case is
17:19:54 3 whether the timing of the data that you access through the
17:20:02 4 SAVE system is delayed such that it's unreliable or
17:20:05 5 inaccurate.

17:20:05 6 I guess I'm -- what I'm trying to get at is:
17:20:07 7 Is there some other way of getting that information that is
17:20:11 8 more current or more up to date than working with the SAVE
17:20:14 9 system?

17:20:15 10 A. To my knowledge, there is not an alternate system
17:20:15 11 that pings DHS data sources in the same manner that SAVE
17:20:15 12 does at present.

17:20:15 13 (Reporter clarification.)

17:20:24 14 MS. SLATTERY: There is not an alternate data
17:20:26 15 system that accesses DHS records in the manner that SAVE
17:20:29 16 does.

17:20:31 17 BY MR. LANGHOFER:

17:20:31 18 Q. What does the system do in the case of a
17:20:33 19 denaturalization or renunciation of citizenship?

17:20:37 20 A. Again, that would be a record update in DHS data
17:20:41 21 systems. It's not a record update that SAVE handles
17:20:45 22 independently.

17:20:46 23 MS. SLATTERY: Mariah, do you want to talk
17:20:47 24 about what we might see in systems for denats/
17:20:51 25 renunciations?

17:20:54 1 MS. DOOLITTLE: For -- I'm trying to think
17:20:58 2 of -- in IRIES, we might just see a code, or it could be
17:21:03 3 something to do with -- with deportation. But it's not
17:21:09 4 really in depth. It's just -- it's showing us that that is
17:21:11 5 the status of that person at that time.

17:21:11 6 BY MR. LANGHOFER:

17:21:19 7 Q. And you said, I think, for "IRIES"? Did I hear
17:21:20 8 that right?

17:21:21 9 MS. DOOLITTLE: Yes. That would be the
17:21:22 10 system that we are -- we are going against for that.

17:21:26 11 THE COURT REPORTER: Can you spell that?

17:21:28 12 MS. SLATTERY: Yes. Give me one moment. I
17:21:43 13 don't want -- I-R-I-E-S.

17:21:43 14 BY MR. LANGHOFER:

17:21:47 15 Q. Do you know what that stands for, Ms. Doolittle?

17:21:49 16 MS. DOOLITTLE: I don't, unfortunately.

17:21:49 17 BY MR. LANGHOFER:

17:21:52 18 Q. You were just looking at something now to get the
17:21:53 19 answer. Do you mind if I ask you what you were looking at?
17:21:56 20 Just a customary question.

17:21:57 21 MS. DOOLITTLE: I was just looking at one of
17:21:59 22 our confluence pages.

17:22:02 23 BY MR. LANGHOFER:

17:22:02 24 Q. And that's within the USCIS system, then, like one
17:22:07 25 of your official records?

17:22:10 1 MS. DOOLITTLE: Yes.

17:22:10 2 BY MR. LANGHOFER:

17:22:10 3 Q. Okay. So for a denaturaliz- -- denaturalized or
17:22:16 4 renounced citizenship, would -- what would the county
17:22:23 5 recorders see if they're querying the system for that
17:22:26 6 individual's citizenship status?

17:22:29 7 A. As a response?

17:22:32 8 Q. Correct.

17:22:32 9 Would it indicate that they're a citizen, or
17:22:34 10 would it indicate that they're a noncitizen?

17:22:39 11 A. Again, we don't typically indicate someone is a
17:22:43 12 noncitizen. We would indicate whether we were able to
17:22:45 13 verify the citizenship information, as Mr. Filighera has
17:22:48 14 described, or we would return unable to verify.

17:22:53 15 Q. And what would it say in these cases of
17:22:55 16 denaturalization and renunciation?

17:23:00 17 MS. SLATTERY: Russ, do you know the answer
17:23:02 18 to that? I don't know that I've seen a case within a
17:23:04 19 renunciation or revocation.

17:23:04 20 MR. FILIGHERA: I have not come across many
17:23:07 21 in that regard. But what you stated, we would do our
17:23:09 22 research based on the information provided in the manual
17:23:12 23 process.

17:23:14 24 That case would most likely go to document
17:23:17 25 requested. And in that case, if we're not able to verify

17:23:20 1 that they're in that current status, they would -- they
17:23:23 2 would receive unable to verify.

17:23:24 3 In some cases, if they don't hold any
17:23:27 4 immigration status whatsoever, we can provide a "no
17:23:30 5 status" response. Again, I'm not too sure how often that
17:23:37 6 has actually happened over time.

17:23:40 7 MS. DOOLITTLE: I agree. I just know that
17:23:43 8 it's possible.

17:23:46 9 BY MR. LANGHOFER:

17:23:46 10 Q. And would it go to this manual process that you
17:23:49 11 were discussing, Mr. Filighera, only if they request
17:23:53 12 additional verification, or would that happen just
17:23:56 13 automatically?

17:23:58 14 MR. FILIGHERA: Mariah, at first step, do
17:24:01 15 you -- at initial query, do you know in that regards?

17:24:06 16 I know in the manual process, if we came
17:24:08 17 across, at the additional verification step, a situation
17:24:11 18 where we cannot verify a current status and we would have
17:24:18 19 access to records that possibly show this, we would go back
17:24:21 20 with the resubmit response that was mentioned earlier and
17:24:24 21 request documents.

17:24:25 22 And then at that point, it would go on to the
17:24:27 23 third-step level verification. And based on the documents
17:24:32 24 again presented, it should be the most current immigration
17:24:36 25 documents. And if we cannot verify that they're in that

17:24:38 1 status and they have a document presented, it could be
17:24:43 2 unable to verify and request them to go and either contact
17:24:46 3 the national customer service line or the USCIS website
17:24:50 4 about updating the records.

17:24:52 5 BY MR. LANGHOFER:

17:24:52 6 Q. I think I -- I think I understand that. Thanks
17:24:57 7 for that.

17:24:57 8 I'm wondering whether -- I think you said at
17:25:00 9 the beginning of your answer that if you became aware of
17:25:02 10 that, this is the process you'd follow. I'm wondering
17:25:06 11 whether you'd become aware of that automatically when the
17:25:08 12 county recorders start searching a person in the system or
17:25:11 13 whether the county recorders might get an indication that
17:25:16 14 that person's citizenship has been verified against a
17:25:18 15 system and if they fail to request additional verification,
17:25:23 16 whether the county recorder essentially would not be aware
17:25:25 17 that there's a denaturalization or renunciation situation.

17:25:33 18 MS. DOOLITTLE: That would be -- that's a
17:25:36 19 hypothetical that we would have to run a test case through
17:25:39 20 our system just to see, because immigration is complex. So
17:25:44 21 that person might have a different status or no status, as
17:25:50 22 Russ indicated. So that would be impossible to say right
17:25:56 23 now just doing a hypothetical.

17:25:57 24 If that person was going through that
17:25:59 25 process, we wouldn't know where they are in that process of

17:26:03 1 your hypothetical. Are they -- did they denounce? Is that
17:26:06 2 completely done and adjudicated? Have we received the
17:26:09 3 record? Can we get the record?

17:26:11 4 It's too hypothetical to say this is the
17:26:14 5 response that they would get if they could get a response
17:26:18 6 on initial with that.

17:26:19 7 BY MR. LANGHOFER:

17:26:20 8 Q. Thank you. I think I get it. Thank you.

17:26:22 9 When there are errors in the SAVE system due
17:26:30 10 to -- let's say data entry error, for example -- would
17:26:35 11 those errors necessarily indicate that a citizen is a
17:26:42 12 noncitizen or could you also have the error that a
17:26:45 13 noncitizen is mistakenly indicated to be a citizen?

17:26:50 14 MS. LANG: Objection; form.

17:26:55 15 MS. SLATTERY: As we outlined earlier, there
17:26:59 16 is always a possibility that an error can occur and a
17:27:06 17 mistake in status could be returned.

17:27:08 18 I'll ask Mariah momentarily to talk about the
17:27:11 19 matching logic and how -- the fact that we try really, both
17:27:15 20 through the automated process and through the manual
17:27:18 21 process, to ensure that we are matching the information as
17:27:21 22 accurately as possible.

17:27:23 23 As Mariah mentioned earlier, there are
17:27:26 24 factors built into the system in a way where we can look at
17:27:30 25 data that may have been transposed, such as names being

17:27:33 1 reversed or numbers being reversed. And when that fails,
17:27:36 2 then we are in the manual verification process where Russ
17:27:40 3 and his team would actually take a really good look at the
17:27:42 4 documents.

17:27:43 5 The possibility for error is always with us,
17:27:46 6 but certainly we are doing everything we can to mitigate
17:27:49 7 that to the greatest extent possible.

17:27:52 8 Mariah, did you want to add anything?

17:27:54 9 MS. DOOLITTLE: I would just add for somebody
17:27:57 10 that is submitting a case, if they have their immigration
17:28:01 11 documentation or they know their status and they received
17:28:04 12 that and were contacted by that agency, the agency is then
17:28:09 13 supposed to push it to additional verification where we
17:28:13 14 would then be able to catch that error. Without that step,
17:28:16 15 we would have no way of knowing that there was an error in
17:28:19 16 the first place. It would just look like a case that went
17:28:21 17 through on initial to us.

17:28:26 18 BY MR. LANGHOFER:

17:28:27 19 Q. So if we think of a citizen, someone who's
17:28:30 20 recently naturalized, for example -- when you run them
17:28:34 21 through the system, due to some error along the way that
17:28:37 22 might get sorted out eventually but there was an error and
17:28:40 23 it initially indicates the person is not a citizen; their
17:28:41 24 citizenship status can't be verified -- let's think of it
17:28:44 25 as a false negative; right? It says, "No, not verified,"

17:28:47 1 so it's -- but it's false. It's a false negative. Could
17:28:49 2 there be false positives where somebody who's not yet
17:28:54 3 naturalized has, due to whatever error, apparent
17:28:57 4 verification in the system?

17:29:00 5 MS. DOOLITTLE: There's -- as Shannon said,
17:29:02 6 there's always a possibility of the error. I have not seen
17:29:06 7 a -- I can't remember any circumstance where I've seen that
17:29:12 8 where they were said to be a U.S. citizen when they were
17:29:15 9 not a U.S. citizen, even if they were pending citizenship
17:29:18 10 or potentially the records hadn't caught up for that.

17:29:23 11 BY MR. LANGHOFER:

17:29:25 12 Q. So last question.

17:29:26 13 The -- more broadly, we've been talking about
17:29:30 14 the SAVE system, but I'm wondering if -- is there a
17:29:33 15 database of all the biographical information for all U.S.
17:29:39 16 citizens? Does such a thing exist?

17:29:41 17 MS. LANG: Objection. Scope. Lack of
17:29:44 18 foundation.

17:29:47 19 MS. SLATTERY: Are you asking if USCIS
17:29:49 20 maintains such a database or if one exists generally?

17:29:49 21 BY MR. LANGHOFER:

17:29:54 22 Q. If one exists generally.

17:29:56 23 A. I am not aware and cannot speak to anything
17:29:58 24 outside of the USCIS data systems related to
17:30:00 25 naturalization.

17:30:03 1 Q. Ms. Doolittle?

17:30:05 2 MS. DOOLITTLE: Same response. If it does
17:30:08 3 exist, I don't know about it and we wouldn't be able to
17:30:11 4 speak to it.

17:30:14 5 BY MR. LANGHOFER:

17:30:14 6 Q. Mr. Filighera?

17:30:15 7 MR. FILIGHERA: Same response. I'm not aware
17:30:16 8 of one.

17:30:17 9 MR. LANGHOFER: Okay. Thanks very much for
17:30:18 10 your time. I really appreciate it.

17:30:21 11 Anything else on the defense side?

17:30:26 12 MR. MORGAN: Craig Morgan for the secretary
17:30:28 13 of state. I don't have any questions.

17:30:29 14 I just want to -- I think I speak for
17:30:31 15 everyone when I say thank you for your time and your
17:30:33 16 patience and your thorough preparation. That goes to your
17:30:38 17 counsel too.

17:30:41 18 MS. PORTER: I don't have any questions
17:30:43 19 either. Thank you, everyone.

17:30:48 20 MR. SHERMAN: For my part, no further
17:30:49 21 questions from this plaintiff group. I don't know if
17:30:51 22 anyone else intends any other redirect.

17:30:59 23 MR. HERRERA: No, not here. Thank you for
17:31:01 24 your time.

17:31:02 25 MS. LANG: Likewise. Thank you.

17:31:04 1 MR. SHERMAN: Thank you very much for your
17:31:06 2 time. I think we kept it relatively short. 5:30. Thanks
17:31:13 3 again for spending -- spending the time. We know you're
17:31:16 4 very busy.

17:31:22 5 MR. LANGHOFER: Have a good weekend,
17:31:22 6 everyone.

17:31:22 7 MR. MORGAN: Go off the record?

17:31:22 8 MR. SHERMAN: Yes.

17:31:22 9 THE VIDEOGRAPHER: We'll go off record. We
17:31:25 10 are off the record. Time on the video monitor is 5:31 p.m.
17:31:30 11 This ends Volume 1, Media Number 3, in the deposition of
17:31:36 12 Russell Filighera, Mariah Doolittle, and Shannon Slattery,
17:31:42 13 as 30(b)(6) designees of USCIS.

17:31:42 14 (The following occurred off the video
17:31:58 15 record.)

17:31:58 16 THE COURT REPORTER: Could I get copy orders
17:32:01 17 from any defendants, please?

17:32:01 18 MR. LANGHOFER: Yes, please.

19 (The proceedings concluded at 5:32 p.m.)

20

21 (Signature not requested)

22

23 _____
SHANNON SLATTERY, MARIAH DOOLITTLE, RUSSELL FILIGHERA

24


25

1 STATE OF ARIZONA)
2 COUNTY OF MARICOPA)

3 BE IT KNOWN that the foregoing deposition was taken
4 by me pursuant to stipulation of counsel; that I was then
5 and there a Certified Court Reporter in the State of
6 Arizona, and by virtue hereof authorized to administer an
7 oath; that the witness before testifying was duly sworn by
8 me to testify to the whole truth; that signature was not
9 requested; that the questions propounded by counsel and the
10 answers of the witness thereto were taken down by me in
11 shorthand and thereafter transcribed into typewriting under
12 my direction; that the foregoing pages are a full, true and
13 accurate transcript of all the proceedings had upon the
14 taking of deposition, all done to the best of my skill and
15 ability.

16 I FURTHER CERTIFY that I am in no way related
17 to nor employed by any parties hereto; nor am I in any
18 way interested in the outcome thereof.

19 Dated at Phoenix, Arizona, this 8th day of
20 September, 2023.

21 
22 _____
23 CINDY MAHONEY, RPR, RMR NO. 50680

24
25

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UNITED STATES DISTRICT COURT
DISTRICT OF ARIZONA

Mi Familia Vota, et al.,)	
)	
Plaintiffs,)	Case No.
	)	2:22-cv-00509-PHX-SRB
v.	)	(Lead)
)	
Adrian Fontes, in his	)	No. CV-22-00519-PHX-SRB
official capacity as	)	No. CV-22-01003-PHX-SRB
Arizona Secretary of State,	)	No. CV-22-01124-PHX-SRB
et al.,	)	No. CV-22-01369-PHX-SRB
	)	No. CV-22-01381-PHX-SRB
Defendants.	)	No. CV-22-01602-PHX-SRB
	)	No. CV-22-01901-PHX-SRB

AND CONSOLIDATED CASES.

VIDEO-RECORDED VIDEOCONFERENCE 30(b)(6) DEPOSITION OF
YUMA COUNTY RECORDER, REPRESENTED BY
JOANN MUNOZ AND SARAH JOHNSTON

Yuma, Arizona

August 28, 2023

Prepared by:
CINDY MAHONEY, RPR, RMR
Certified Court Reporter
Certificate No. 50680



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RETRIEVED FROM PUBLIC ACCESS TO CRIMINAL RECORDS

1 THE VIDEO-RECORDED VIDEOCONFERENCE 30(b)(6)
 2 DEPOSITION OF YUMA COUNTY RECORDER, REPRESENTED BY JOANN
 3 MUNOZ AND SARAH JOHNSTON, commenced at 9:05 a.m. on
 4 August 28, 2023, at Yuma, Arizona, before Cindy Mahoney,
 5 RPR, RMR (via videoconference), Arizona Certified Court
 6 Reporter No. 50680.

7

8

* * *

9

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22 Daniel Rohan, Videographer (via videoconference)

23

24

25

26

1 TRANSCRIPT OF PROCEEDINGS

2
3 THE VIDEOGRAPHER: We are on the record.09:05:09 4 Time on the video monitor is 9:05 a.m. Here begins
09:05:13 5 Volume 1, Media Number 1, in the 30(b)(6) deposition of
09:05:18 6 Yuma County recorder, by Joann Munoz and Sarah Johnston, in
09:05:25 7 the matter of Mi Familia Vota, et al., v. Adrian Fontes, et
09:05:30 8 al, in the United States District Court, for the District
09:05:33 9 of Arizona, Case Number 2:22-cv-00509-SRB.09:05:41 10 Today's date is August 28th, 2023. Our court
09:05:45 11 reporter is Cindy Mahoney. I am Daniel Rohan, a certified
09:05:49 12 legal videographer. We both represent Coash Court
09:05:53 13 Reporting & Video.09:05:53 14 This video deposition is taking place at Yuma
09:05:57 15 County Recorder's Office, 102 South Main Street, Yuma,
09:06:00 16 Arizona 85364.09:06:02 17 Counsel, please identify yourselves and state
09:06:05 18 whom you represent.09:06:07 19 MR. KEREKES: Bill Kerekes, representing
09:06:07 20 Richard Colwell, Yuma County recorder.09:06:11 21 MR. HERRERA: Ernest Herrera, representing
09:06:14 22 Promise Arizona plaintiffs. And I have co-counsel with me
09:06:16 23 today, Erika Cervantes.09:06:22 24 MS. LORENZO: Daniela Lorenzo, representing
09:06:23 25 MFV plaintiffs.

09:06:25 1 MR. FERGUSON: This is Brent Ferguson,
09:06:26 2 representing the LUCHA plaintiffs.

09:06:33 3 MR. HORLEY: Tim Horley, representing the
09:06:34 4 State of Arizona and the Arizona attorney general.

09:06:40 5 MS. SWANBECK: Britany Riley-Swanbeck,
09:06:40 6 representing the Democratic National Committee and Arizona
09:06:44 7 Democratic Party.

09:06:46 8 MR. PATTERSON: Beauregard --

09:06:47 9 MR. MORGAN: Craig Morgan -- go ahead. Go
09:06:47 10 ahead.

09:06:48 11 MR. PATTERSON: Beauregard Patterson,
09:06:50 12 representing the Poder Latino plaintiffs.

09:06:54 13 MR. MORGAN: Craig Morgan, for Sherman &
09:06:55 14 Howard, representing the secretary of state.

09:06:57 15 MR. LANGHOFER: Kory Langhofer for the RNC.

09:07:06 16 MR. SNOW: Ryan Snow, with the Lawyers'
09:07:07 17 Committee, for Tohono O'odham Nation plaintiffs.

09:07:07 18
09:07:07 19 JOANN MUNOZ AND SARAH JOHNSTON,
09:07:07 20 the witness herein, being first duly sworn,
09:07:07 21 was examined and testified as follows:

09:07:27 22
09:07:27 23 MR. MORGAN: Ernest, before we get started,
09:07:28 24 can we put on the record the standard agreement that an
09:07:31 25 objection by one defendant is an objection for all

09:07:35 1 defendants and an objection by one plaintiff would be an
09:07:39 2 objection for all plaintiffs?

09:07:40 3 MR. HERRERA: Yeah. No opposition here.

09:07:41 4 MR. MORGAN: Great. Thanks.

09:07:43 5

09:07:43 6 EXAMINATION

09:07:43 7 BY MR. HERRERA:

09:07:48 8 Q. Good morning, Ms. Munoz and Ms. Johnston. My name
09:07:51 9 is Ernest -- I'm sorry. Was there someone else?

09:07:55 10 My name is Ernest Herrera, and I'm an
09:07:58 11 attorney at the Mexican American Legal Defense and
09:08:01 12 Educational Fund. I represent plaintiffs Promise Arizona
09:08:04 13 and Southwest Voter Registration Education Project in this
09:08:09 14 case.

09:08:09 15 Can you please state and spell your name.

09:08:14 16 MS. MUNOZ: Joann Munoz; J-o-a-n-n,

09:08:14 17 M-u-n-o-z.

09:08:14 18 BY MR. HERRERA:

09:08:21 19 Q. And, Ms. Johnston, could you also state and spell
09:08:22 20 your name. I may not have questions for you for a while,
09:08:25 21 but just this one.

09:08:26 22 MS. JOHNSTON: Yes. Sarah Johnston,

09:08:26 23 S-a-r-a-h.

09:08:31 24 BY MR. HERRERA:

09:08:31 25 Q. And can you spell the --

09:08:34 1 MS. JOHNSTON: Johnston, J-o-h-n-s-t-o-n.

09:08:37 2 BY MR. HERRERA:

09:08:37 3 Q. Thank you.

09:08:38 4 And has either of you been known by any other
09:08:45 5 names?

09:08:48 6 MS. MUNOZ: I have.

09:08:48 7 MS. JOHNSTON: Same.

09:08:48 8 BY MR. HERRERA;

09:08:48 9 Q. Okay. Please -- can you please state what your
09:08:50 10 other -- other names you've been known by.

09:08:52 11 MS. MUNOZ: Joann Dominguez and Joann Avila.

09:08:57 12 BY MR. HERRERA:

09:08:57 13 Q. And, Ms. Johnston?

09:08:59 14 MS. JOHNSTON: Sarah Howard.

09:08:59 15 (In the Q/A format, Ms. Munoz is
09:08:59 16 answering the questions; Ms. Johnston will
09:08:59 17 be represented as "MS. JOHNSTON.")

09:09:02 18 BY MR. HERRERA:

09:09:02 19 Q. And, Ms. Munoz, are you represented by an attorney
09:09:06 20 today?

09:09:07 21 A. Yes.

09:09:08 22 Q. Okay. Who is that?

09:09:11 23 A. William Kerekes.

09:09:12 24 Q. And he is there in the room with you; right?

09:09:15 25 A. Yes.

09:09:15 1 Q. For today's deposition, where are you physically
09:09:21 2 located?

09:09:21 3 A. We are at the Yuma County Recorder's Office, 102
09:09:25 4 South Main Street, Yuma, Arizona 85364.

09:09:29 5 Q. And, Ms. Munoz, have you ever had your deposition
09:09:32 6 taken before?

09:09:33 7 A. No.

09:09:34 8 Q. And let me go over a few ground rules since you
09:09:40 9 haven't had your deposition taken before so that we are on
09:09:44 10 the same page about how the deposition will go.

09:09:48 11 The court reporter has put you under oath,
09:09:50 12 which means that you are obligated to tell the truth. Do
09:09:53 13 you understand that?

09:09:53 14 A. Yes.

09:09:54 15 Q. And, Ms. Johnston, do you understand --
09:09:58 16 Ms. Johnston, do you understand that?

09:10:00 17 MS. JOHNSTON: Yes.

09:10:01 18 BY MR. HERRERA:

09:10:01 19 Q. Although we are conducting this deposition in an
09:10:04 20 informal setting, that oath has the same force and effect
09:10:07 21 as if you were testifying in a court of law in front of a
09:10:10 22 judge or a jury. Do you understand that, Ms. Munoz?

09:10:12 23 A. Yes.

09:10:13 24 Q. And, Ms. Johnston?

09:10:15 25 MS. JOHNSTON: Yes.

09:10:18 1 BY MR. HERRERA:

09:10:18 2 Q. Because the court reporter is taking down
09:10:20 3 everything we're saying, it's important that you provide
09:10:23 4 audible answers to my questions; for examples, no uh-huhs
09:10:28 5 or shaking your head. Do you understand that, Ms. Munoz?

09:10:30 6 A. Yes.

09:10:31 7 Q. And, Ms. Johnston?

09:10:32 8 MS. JOHNSTON: Yes.

09:10:34 9 BY MR. HERRERA:

09:10:34 10 Q. If you do not understand a question, please tell
09:10:36 11 me that you don't understand and I will rephrase the
09:10:39 12 question. Also, feel free to ask me to repeat the
09:10:43 13 question. Okay, Ms. Munoz?

09:10:45 14 A. Yes.

09:10:46 15 Q. And, Ms. Johnston?

09:10:48 16 MS. JOHNSTON: Yes.

09:10:55 17 BY MR. HERRERA:

09:10:55 18 Q. Are we on the same page -- well, let's try not to
09:11:00 19 speak over each other. It happens in natural conversation
09:11:06 20 because we don't know when the other person is going to
09:11:08 21 stop speaking. But in this case, let's try to not speak
09:11:12 22 over each other. So let me finish my question, and I will
09:11:15 23 not interrupt your answer. Is that okay, Ms. Munoz?

09:11:20 24 A. Yes.

09:11:20 25 ///

09:11:20 1 BY MR. HERRERA:

09:11:21 2 Q. And, Ms. Johnston?

09:11:22 3 MS. JOHNSTON: Yes.

09:11:24 4 BY MR. HERRERA:

09:11:25 5 Q. If I ask a question -- excuse me.

09:11:29 6 During this deposition, attorneys may make
09:11:31 7 objections. Even if they make objections, unless your
09:11:35 8 attorney specifically instructs you not to answer the
09:11:37 9 question, you must still answer the question. Do you
09:11:41 10 understand that, Ms. Munoz?

09:11:42 11 A. Yes.

09:11:44 12 Q. And, Ms. Johnston?

09:11:46 13 MS. JOHNSTON: Yes.

09:11:46 14 BY MR. HERRERA:

09:11:50 15 Q. Sometime after we complete your deposition, you
09:11:53 16 will receive a typed transcript of this deposition. You'll
09:11:56 17 have an opportunity to review the transcript and correct
09:11:59 18 any errors that you see, and then you will sign in under --
09:12:03 19 sign it under penalty of perjury.

09:12:05 20 However, I will warn you that if you make
09:12:07 21 anything more than clerical changes, like correcting typos,
09:12:11 22 attorneys in this case will be able to comment on those
09:12:14 23 changes at trial, which could affect your credibility
09:12:17 24 before the judge or jury in the future. So please try to
09:12:21 25 give your best testimony you can here today. Do you

09:12:23 1 understand that, Ms. Munoz?

09:12:24 2 A. Yes.

09:12:25 3 Q. And, Ms. Johnston?

09:12:27 4 MS. JOHNSTON: Yes.

09:12:27 5 BY MR. HERRERA:

09:12:28 6 Q. If you need a break for any reason, please let me
09:12:30 7 know and we can take a break. However, if there is a
09:12:34 8 question pending that you have not answered, I will ask you
09:12:36 9 to answer the question first and then we can take a break.
09:12:38 10 Okay, Ms. Munoz?

09:12:40 11 A. Yes.

09:12:40 12 Q. And, Ms. Johnston?

09:12:42 13 MS. JOHNSTON: Yes.

09:12:42 14 BY MR. HERRERA:

09:12:43 15 Q. And one more thing is we're under a little bit of
09:12:48 16 a time constraint, so I may speak fast at times. I will
09:12:50 17 try to slow myself down. Okay.

09:12:54 18 Is there any reason that you cannot give your
09:12:57 19 best testimony here today, Ms. Munoz?

09:13:00 20 A. No.

09:13:01 21 Q. Okay. And, Ms. Johnston?

09:13:02 22 MS. JOHNSTON: No.

09:13:03 23 BY MR. HERRERA:

09:13:03 24 Q. Okay. Have -- Ms. Munoz, have you consumed any
09:13:10 25 substances or medication in the past 24 hours that would

09:13:13 1 prevent you from giving your best testimony here today?

09:13:16 2 A. No.

09:13:17 3 Q. Okay. And, Ms. Johnston, have you consumed
09:13:21 4 anything, including medications, in the past 24 hours that
09:13:25 5 would prevent you from giving your best testimony here
09:13:27 6 today?

09:13:28 7 MS. JOHNSTON: No.

09:13:29 8 BY MR. HERRERA:

09:13:32 9 Q. Ms. Johnston -- I'm sorry.

09:13:34 10 Ms. Munoz, what, if anything, did you do to
09:13:36 11 prepare for this deposition?

09:13:39 12 A. I looked over our topics in the interrogatories.

09:13:43 13 Q. Okay. And by "topics," do you mean 30(b)(6)
09:13:47 14 notice topics?

09:13:50 15 A. They are the ones that are in our -- I have them
09:13:55 16 right here -- in our notice of deposition.

09:14:01 17 Q. I think you're looking at something, but I'm going
09:14:03 18 to show something on the screen. I'll introduce it a
09:14:06 19 little bit early.

09:14:07 20 MR. HERRERA: But could we mark this as
09:14:09 21 exhibit -- Cindy, what exhibit number are we on?

09:14:11 22 THE COURT REPORTER: 200.

09:14:12 23 MR. HERRERA: Okay. I'm going to mark this
09:14:15 24 as Exhibit 200 and put it in the chat here. One moment.
09:14:54 25 So that -- I'm going to show a document on the screen here.

09:14:57 1 And there's -- also in the chat for people watching here.
09:14:57 2 (The document was marked as Exhibit 200
09:14:57 3 for identification.)
09:14:57 4 BY MR. HERRERA:
09:15:23 5 Q. Okay. So I'm showing you what has been marked as
09:15:25 6 Exhibit 200.
09:15:27 7 This is -- and do you see at the top it says
09:15:29 8 "Plaintiffs' Amended Notice of Deposition of Yuma County
09:15:33 9 Recorder's Office Pursuant to Rule 30(b)(6)"?
09:15:36 10 A. Yes.
09:15:39 11 Q. Do you see that?
09:15:42 12 A. Yes.
09:15:44 13 Q. All right. And are -- Ms. Munoz, are these the
09:15:47 14 topics that you were just referring to?
09:15:50 15 A. Yes.
09:15:51 16 Q. Okay. And in preparation for your deposition
09:15:59 17 today, did you review the topics that are on page --
09:16:06 18 beginning on page 5 of Exhibit 200?
09:16:09 19 A. Yes.
09:16:10 20 Q. All right. Now, Ms. Munoz, did -- did you review
09:16:28 21 any documents besides this Exhibit 200 in preparation for
09:16:33 22 your deposition?
09:16:34 23 A. I just looked over the other one that I -- that --
09:16:38 24 you know, that I had -- was the consolidated -- the
09:16:43 25 answers -- the recorder's answers to consolidated.

09:16:48 1 Q. Would that be the interrogatories -- to the
09:16:51 2 interrogatories?

09:16:52 3 A. Yes.

09:16:53 4 Q. Okay. And did you look over any other -- any
09:17:00 5 other documents in preparation for your deposition?

09:17:03 6 A. Just the house bills that were in the topics.

09:17:08 7 Q. Okay. And are you familiar with those house
09:17:11 8 bills?

09:17:11 9 A. I'm familiar.

09:17:12 10 Q. Okay. And do you know -- is it House Bills 2492
09:17:17 11 and 2243 that you reviewed?

09:17:20 12 A. Yes.

09:17:22 13 Q. Now, in preparation for your deposition, did you
09:17:27 14 meet with anything [verbatim] besides speaking with the
09:17:31 15 attorney?

09:17:32 16 A. No.

09:17:33 17 Q. Okay. Did you speak with anyone else within the
09:17:40 18 Yuma County Recorder's Office in preparation for your
09:17:43 19 deposition?

09:17:44 20 A. Just counsel and Mrs. Sarah Johnston and our
09:17:47 21 recorder.

09:17:48 22 Q. Okay. And who -- can you say who the recorder is?

09:17:52 23 A. Richard Colwell.

09:17:53 24 Q. And do you know -- since you reviewed the -- the
09:18:05 25 bills that you just mentioned, do you know what this

09:18:08 1 litigation is about generally?

09:18:11 2 A. I'm familiar with it.

09:18:13 3 Q. Okay. And can you -- well, let's go into a little
09:18:19 4 bit of your background.

09:18:20 5 Can you tell me about your educational
09:18:22 6 background?

09:18:23 7 A. High school diploma.

09:18:27 8 Q. And, Ms. Johnston?

09:18:29 9 MS. JOHNSTON: High school diploma, some
09:18:30 10 college credits, and CERA graduate

09:18:35 11 BY MR. HERRERA:

09:18:36 12 Q. And, Ms. Munoz, what is your professional
09:18:39 13 background?

09:18:42 14 A. Here at the recorder's office?

09:18:44 15 Q. Yes.

09:18:45 16 Let's start with: How long have you worked
09:18:47 17 at the County Recorder's Office?

09:18:50 18 A. 13 years.

09:18:51 19 Q. And just to be clear, that's the Yuma County
09:18:54 20 Recorder's Office; right?

09:18:57 21 A. Yes.

09:18:57 22 Q. And what is your current role within the Yuma
09:19:02 23 County Recorder's Office?

09:19:02 24 A. Voter services coordinator.

09:19:04 25 Q. And, Ms. Johnston, what is your current role?

09:19:06 1 MS. JOHNSTON: My current role, I am a legal
09:19:08 2 secretary for Yuma County.
09:19:12 3 BY MR. HERRERA:
09:19:14 4 Q. Okay. So are you -- do you work for the County
09:19:16 5 Recorder's Office any longer?
09:19:17 6 MS. JOHNSTON: No. I consult for them,
09:19:19 7 though.
09:19:20 8 BY MR. HERRERA:
09:19:20 9 Q. Did you work at the County Recorder's Office
09:19:23 10 before?
09:19:24 11 MS. JOHNSTON: Yes.
09:19:24 12 BY MR. HERRERA:
09:19:24 13 Q. And how long did you work there?
09:19:26 14 MS. JOHNSTON: Five years.
09:19:28 15 BY MR. HERRERA:
09:19:41 16 Q. And, Ms. Munoz, before your current position, what
09:19:45 17 was your prior role with Yuma County Recorder's Office?
09:19:49 18 A. The lead voter specialist.
09:19:53 19 Q. And what is -- in your current role, what are --
09:19:59 20 what are your duties?
09:20:01 21 A. I run reports for parties. I supervise three --
09:20:08 22 four other employees. We do the voter registration form.
09:20:25 23 Q. Do you -- besides the voter registration forms,
09:20:28 24 what else are your -- does -- do your duties include?
09:20:32 25 A. Running reports, being in contact with the parties

09:20:38 1 that I run the reports for.

09:20:41 2 Q. And by "reports" -- what do you mean by "running
09:20:43 3 reports"?

09:20:44 4 A. Quarterly reports.

09:20:50 5 Q. And do those quarterly reports go to anyone in
09:20:55 6 particular? Are they sent to anyone?

09:20:57 7 A. They get sent to the state -- secretary of state.

09:21:03 8 Q. And what is contained in the quarterly reports to
09:21:06 9 the secretary of state?

09:21:07 10 A. Our voter registration numbers.

09:21:11 11 Q. And by "voter registration numbers," what is
09:21:17 12 included in those?

09:21:18 13 A. The list of voters.

09:21:29 14 Q. So besides voter registration forms and running
09:21:32 15 reports, do you work on anything else? And -- and then you
09:21:39 16 supervise some staff. Do you work on anything else in Yuma
09:21:45 17 County Recorder's Office?

09:21:45 18 A. We do the testing in our AVID system, the
09:21:51 19 enhancements.

09:21:51 20 Q. And when you said -- did you say "AVID"?

09:21:53 21 A. Yes.

09:21:53 22 Q. And is that A-V-I-D?

09:21:58 23 A. Yes.

09:21:58 24 Q. And what does -- what is testing in the AVID
09:22:02 25 system?

09:22:04 1 A. Any enhancements that may be needed.

09:22:15 2 Q. And can you give -- can you give some examples of
09:22:18 3 some enhancements that you've tested in the AVID system?

09:22:22 4 A. Sure. We went from PEVL to AEVL. And we just had
09:22:28 5 to make sure it was in all of our -- on all of our tabs
09:22:33 6 that we have, making sure it was appearing as it should be.

09:22:37 7 Q. And -- and just for the sake of the court
09:22:41 8 reporter, can you say what "PEVL" and "AEVL" are?

09:22:43 9 A. PEVL is the permanent early voting list; and it
09:22:47 10 went to AEVL, which is the absentee early voting list --
09:22:58 11 active. I'm sorry. Active early voting list.

09:23:02 12 Q. And in your prior role, I think you said it was a
09:23:08 13 voter service specialist -- or correct me if I'm --

09:23:11 14 A. Lead voter service specialist.

09:23:17 15 Q. Okay. And what did that job entail?

09:23:19 16 A. Entering voter -- voter registration forms, UOCAVA
09:23:26 17 voters.

09:23:30 18 Q. And entering -- when you say "entering voter
09:23:39 19 registration forms," what would -- do you mean you would
09:23:42 20 enter them into the voter registration system?

09:23:46 21 A. Yes. Into our AVID system.

09:23:49 22 Q. And is AVID the -- the statewide voter
09:23:53 23 registration system?

09:23:54 24 A. Yes.

09:23:54 25 Q. Okay. Now, Ms. Johnston, what did you work on

09:23:59 1 when you worked in your prior role at the Yuma County
09:24:03 2 Recorder's Office?
09:24:03 3 MS. JOHNSTON: I was previously the voter
09:24:06 4 services coordinator. And I supervised four voter services
09:24:12 5 staff, including Ms. Munoz, when she was the lead voter
09:24:15 6 services specialist.
09:24:17 7 I ran quarterly reports for the secretary of
09:24:22 8 state, which is the voter registration figures broken down
09:24:26 9 by the political parties and their districts.
09:24:29 10 I also handled all public records requests
09:24:33 11 that pertained to voter registration. I administered and
09:24:39 12 supervised early voting throughout the 27 days and
09:24:46 13 conducted any post-election reports for the political
09:24:51 14 parties and for the Secretary of State's Office as well as
09:24:55 15 any reports that needed to go for canvassing.
09:24:59 16 BY MR. HERRERA:
09:25:06 17 Q. And when did you -- when did that role end for
09:25:16 18 you, Ms. Johnston?
09:25:17 19 MS. JOHNSTON: January of 2023.
09:25:34 20 BY MR. HERRERA:
09:25:34 21 Q. Ms. Munoz, we've already looked at Exhibit 200, so
09:25:38 22 I'm going to bring that back up on the screen here.
09:25:58 23 And as we were looking at before, on page 5
09:26:02 24 of Exhibit 200, the 30(b)(6) topics begin; right?
09:26:06 25 A. Yes.

09:26:07 1 Q. And you can kind of see the first one, just as an
09:26:14 2 example: "Your plans and policies, procedures, materials,
09:26:20 3 guidance, instructions, training materials."

09:26:23 4 Do you see that language in Topic 1?

09:26:25 5 A. Yes.

09:26:26 6 Q. Okay. Now, do you understand, Ms. Munoz, that you
09:26:33 7 have been designated as one of the representatives or
09:26:36 8 witnesses to testify on behalf of the Yuma County
09:26:40 9 Recorder's Office, not in your individual capacity? Do
09:26:44 10 you understand that?

09:26:44 11 A. Yes.

09:26:44 12 Q. Okay. And, Ms. Johnston, do you understand that
09:26:48 13 you have also been designated as a representative to
09:26:51 14 testify on behalf of the Yuma County Recorder's Office, not
09:26:56 15 in your individual capacity?

09:26:57 16 MS. JOHNSTON: Yes.

09:26:58 17 BY MR. HERRERA:

09:26:58 18 Q. And, Ms. Johnston, did you also review the topics
09:27:01 19 in the 30(b)(6) deposition notice that we're looking at?

09:27:04 20 MS. JOHNSTON: Yes.

09:27:05 21 BY MR. HERRERA:

09:27:05 22 Q. Okay. And, Ms. Munoz, can we stipulate that
09:27:14 23 whenever I say "you" or "your," that unless I specify, we
09:27:19 24 will be -- it will be the equivalent of me saying "your
09:27:23 25 office" or the "Yuma County Recorder's Office"? Do you

09:27:29 1 understand that?

09:27:29 2 A. Yes.

09:27:29 3 Q. And, Ms. Johnston, as well?

09:27:31 4 MS. JOHNSTON: Yes.

09:27:32 5 BY MR. HERRERA:

09:27:36 6 Q. Ms. Munoz, are you prepared to address each of the
09:27:40 7 topics in the 30(b)(6) notice today?

09:27:44 8 A. Yes.

09:27:45 9 Q. Are there any topics that you're not prepared to
09:27:51 10 discuss today?

09:27:58 11 A. No.

09:28:01 12 Q. And Ms. -- well, I think we'll -- for
09:28:05 13 Ms. Johnston, I'll ask you later perhaps because I think
09:28:09 14 you're maybe here in case there's something that was from
09:28:12 15 before.

09:28:15 16 But, Ms. Johnston, would you be prepared to
09:28:19 17 answer questions regarding these topics?

09:28:21 18 MS. JOHNSTON: Yes.

09:28:26 19 MR. HERRERA: So we're going to pull up
09:28:27 20 another document. We're going to mark this as Exhibit 201.
09:28:27 21 (The document was marked as Exhibit 201
09:29:10 22 for identification.)

09:29:10 23 BY MR. HERRERA:

09:29:10 24 Q. Ms. Munoz, do you recognize the first page of this
09:29:13 25 document?

09:29:14 1 A. Yes.

09:29:14 2 Q. Okay. And it says "Yuma County Recorder's Answers

09:29:19 3 to Consolidated Plaintiffs' First Set of Interrogatories."

09:29:23 4 You see that; right?

09:29:25 5 A. Yes.

09:29:27 6 Q. Okay. Now I'm going to scroll through just to

09:29:29 7 show you that the document is complete. So there's

09:29:34 8 pages 4, 5, and then it ends on page 12 with the signature

09:29:47 9 of Mr. Colwell.

09:29:53 10 Now, did you help prepare the answers to

09:29:59 11 these -- these answers to these interrogatories?

09:30:02 12 A. No.

09:30:04 13 Q. Do you know who prepared them?

09:30:06 14 A. Yes.

09:30:06 15 Q. Okay. Who prepared the answers?

09:30:09 16 A. It was Mrs. Johnston and Mr. Colwell.

09:30:14 17 Q. So is that true, Mrs. Johnston, that you helped to

09:30:17 18 prepare these answers with Mr. Colwell?

09:30:20 19 MS. JOHNSTON: Yes.

09:30:20 20 BY MR. HERRERA:

09:30:20 21 Q. Okay. I'm going to go to Interrogatory Answer

09:30:43 22 Number 10.

09:30:52 23 And the question, as you can see, it says,

09:30:57 24 "Identify all state and county interests that you believe

09:31:00 25 are furthered by the Challenged Laws." And that's how the

09:31:05 1 question begins, but there's more.

09:31:07 2 Do you see that interrogatory?

09:31:08 3 A. Yes.

09:31:09 4 Q. Okay. And, Ms. Munoz, do you see that -- do you

09:31:18 5 see the response on the next page to that interrogatory?

09:31:22 6 A. Yes.

09:31:22 7 Q. Okay. And it says there, "The Recorder believes

09:31:28 8 that requiring the implementation of the challenged laws

09:31:31 9 may lead to conflicts between state and federal laws,

09:31:34 10 potentially exposing the Recorder's Office to liability."

09:31:38 11 Can you explain what is meant by that answer,

09:31:40 12 Ms. Munoz?

09:31:42 13 MR. LANGHOFER: Calls for a legal conclusion.

09:31:44 14 MR. HORLEY: Calls for a legal conclusion.

09:31:47 15 MS. MUNOZ: No, I cannot.

09:31:49 16 BY MR. HERRERA:

09:31:50 17 Q. Ms. Johnston, do you -- do you know why the answer

09:31:53 18 says, "The Recorder believes that requiring the

09:31:57 19 implementation of the challenged laws may lead to conflicts

09:32:00 20 between state and federal laws, potentially" --

09:32:04 21 MR. LANGHOFER: Same objection.

09:32:05 22 BY MR. HERRERA:

09:32:07 23 Q. -- "potentially exposing the Recorder's Office to

09:32:09 24 liability"?

09:32:09 25 MR. LANGHOFER: Same objection.

09:32:12 1 MS. JOHNSTON: Yes.

09:32:12 2 BY MR. HERRERA:

09:32:12 3 Q. Okay. Why does it say that? Or can you expand on

09:32:17 4 that?

09:32:17 5 MS. JOHNSTON: Sure. One of the --

09:32:18 6 MR. LANGHOFER: Same objection.

09:32:23 7 MS. JOHNSTON: -- one of the bills, 2492, I

09:32:28 8 believe, conflicts with LULAC, which is a federal law, from

09:32:37 9 my understanding.

09:32:41 10 BY MR. HERRERA:

09:32:42 11 Q. And are there -- is there anything else there that

09:32:45 12 you think is part of that -- the reason for that answer?

09:32:49 13 MR. LANGHOFER: Same objection.

09:32:50 14 MR. HORLEY: Same.

09:32:53 15 MS. JOHNSTON: I believe that some of the

09:32:58 16 implications of these bills would conflict with current

09:33:03 17 processes and things that are already put in place that

09:33:09 18 suffice obtaining citizenship.

09:33:12 19 BY MR. HERRERA:

09:33:13 20 Q. And can you explain what those -- what those --

09:33:17 21 what those are?

09:33:18 22 MR. LANGHOFER: Same objection.

09:33:19 23 MS. JOHNSTON: Sure. Yes. When we register

09:33:23 24 a voter or when staff registers a voter here in Yuma

09:33:27 25 County, we run what's called HAVA checks, which is the Help

09:33:33 1 America Vote Act, and we obtain citizenship through the
09:33:37 2 interface with the MVD. And this bill would require voters
09:33:44 3 to present citizenship when registering to vote.

09:33:51 4 BY MR. HERRERA:

09:33:52 5 Q. When you say "present citizenship," what do you
09:33:54 6 mean by that?

09:33:56 7 MS. JOHNSTON: Either present a birth
09:33:59 8 certificate or a passport or naturalization documents.

09:34:06 9 BY MR. HERRERA:

09:34:06 10 Q. And that would -- and you say that would conflict
09:34:11 11 with current processes?

09:34:12 12 MS. JOHNSTON: Correct.

09:34:13 13 BY MR. HERRERA:

09:34:14 14 Q. How so?

09:34:15 15 MS. JOHNSTON: Well, yes and no. It's very
09:34:17 16 complex. Sorry. When a voter registers through our
09:34:23 17 office, we run, again, the HAVA checks through the MVD,
09:34:27 18 which will acquire the voter's or potential voter's
09:34:32 19 citizenship based off what they provided to the MVD.

09:34:35 20 If at that point we cannot obtain
09:34:40 21 citizenship, we take the next steps to -- to obtain that
09:34:45 22 information from the voter.

09:34:48 23 BY MR. HERRERA:

09:34:48 24 Q. Okay. And what would those next steps usually be?

09:34:52 25 MS. JOHNSTON: If the HAVA checks came back

09:34:54 1 that the Social Security was a match but does not have
09:35:00 2 citizenship information on file through the MVD, the voter
09:35:05 3 will become a federal-only voter, which now the new bill
09:35:10 4 would, I believe, not make them a federal-only voter. They
09:35:15 5 would just not be eligible to vote. And that's the
09:35:21 6 conflict.

09:35:23 7 BY MR. HERRERA:

09:35:23 8 Q. Besides those things that you just identified, are
09:35:27 9 there any other -- well, first of all, are there any other
09:35:29 10 processes that the challenged laws would disrupt or in any
09:35:35 11 way change for Yuma County Recorder's Office?

09:35:39 12 MS. JOHNSTON: The proof of residence.

09:35:39 13 BY MR. HERRERA:

09:35:43 14 Q. And how would the laws affect -- affect that?

09:35:47 15 MS. JOHNSTON: Currently, we do not have
09:35:49 16 voters bring in any kind of utility bill or ID when they
09:35:56 17 register to vote. They sign and affirm on the Arizona
09:36:03 18 state registration form that they are filling it out
09:36:05 19 completely and honestly.

09:36:08 20 BY MR. HERRERA:

09:36:12 21 Q. And this may be a question for Ms. Munoz, but I'll
09:36:17 22 ask both of you.

09:36:18 23 Is that something -- the proof of residency
09:36:22 24 in the form of a utility bill or something else, is that
09:36:25 25 something that Yuma County is now requiring of voters to

09:36:31 1 register?

09:36:33 2 A. No.

09:36:37 3 Q. And that was -- sorry.

09:36:38 4 Who was that? Was it Ms. Munoz?

09:36:40 5 A. Yes.

09:36:42 6 Q. Now, besides -- Ms. Johnston, besides these

09:37:01 7 processes that you identified, are there -- are there any

09:37:04 8 other conflicts that would occur between state and federal

09:37:13 9 laws that -- by -- by your understanding because of the

09:37:20 10 challenged laws?

09:37:21 11 MS. JOHNSTON: Not that --

09:37:22 12 MR. LANGHOFER: Same objection.

09:37:22 13 THE COURT REPORTER: I'm sorry. Can you

09:37:26 14 repeat that answer?

09:37:26 15 MS. JOHNSTON: Not that I can think of.

09:37:31 16 BY MR. HERRERA:

09:37:31 17 Q. I'm going to go to another answer to the

09:37:34 18 interrogatories here. I'm going to go to Interrogatory

09:37:38 19 Number 1. So I want to -- Ms. Munoz, if you can look at

09:37:38 20 the Interrogatory Number 1.

09:37:57 21 It says, "Identify and describe each way that

09:37:59 22 your office uses or would use information related to the

09:38:03 23 birthplace of a voter registration applicant."

09:38:06 24 Do you see that question?

09:38:07 25 A. Yes.

09:38:07 1 Q. Okay. And then in the answer, do you see -- are
09:38:12 2 you familiar with this answer? I'll give you a second to
09:38:15 3 look at it.

09:38:17 4 A. I am familiar with that answer.

09:38:19 5 Q. Okay. And, Ms. Munoz, do you see where it says,
09:38:28 6 "it should be emphasized that the birthplace information is
09:38:31 7 not required and does not affect a voter's ability to
09:38:35 8 register or cast a ballot"?

09:38:36 9 Do you see that?

09:38:36 10 A. Yes.

09:38:36 11 Q. And then do you see the next sentence where it
09:38:39 12 says, "The Yuma County Recorder's Office does not currently
09:38:42 13 use and does not plan to utilize birthplace information to
09:38:45 14 verify or confirm the identity or eligibility of Voter
09:38:49 15 Registration Applicants"?

09:38:51 16 Do you see that?

09:38:53 17 A. Yes.

09:38:53 18 Q. Okay. Is that still the case that Yuma County
09:38:56 19 doesn't plan to use that information on birthplace?

09:39:00 20 A. Yes.

09:39:01 21 Q. Okay. And do you know why that is that Yuma
09:39:06 22 County Recorder's Office does not plan to use -- utilize
09:39:08 23 that information on birthplace?

09:39:10 24 A. We are waiting for direction from the secretary of
09:39:13 25 state on that.

09:39:14 1 Q. I see.

09:39:17 2 And has the Yuma County Recorder's Office, in
09:39:23 3 your experience, ever used information on someone's
09:39:27 4 birthplace to determine eligibility to vote?

09:39:33 5 A. Not that I am aware of, no.

09:39:35 6 Q. And, Ms. Johnston, as far as you're aware, has the
09:39:39 7 Yuma County Recorder's Office ever used birthplace
09:39:42 8 information in order to determine eligibility to vote?

09:39:45 9 MS. JOHNSTON: No.

09:39:46 10 BY MR. HERRERA:

09:39:54 11 Q. And, Ms. Johnston, since you helped prepare the
09:39:57 12 answers to these interrogatories, I'll ask you: "Why is it
09:40:03 13 that Yuma County Recorder's Office does not plan to utilize
09:40:07 14 birthplace information to verify or confirm the identity or
09:40:11 15 eligibility of applicants?"

09:40:12 16 MS. JOHNSTON: I believe the recorder's
09:40:16 17 office will use it if it is a law and is put in place and
09:40:21 18 the Secretary of State's Office provides a new registration
09:40:24 19 form that makes it a required field.

09:40:35 20 MR. HERRERA: And -- sorry. For the people
09:40:38 21 at home, I did not put Exhibit 102 -- or sorry -- 201 in
09:40:49 22 the -- in the chat here. So I'll put that in here now for
09:40:52 23 your reference.

09:40:54 24 And I think all counsel should have the
09:40:56 25 Dropbox. So if I forget to put an exhibit here in the --

09:41:01 1 in the chat, please let me know. But you should have a
09:41:06 2 link that I sent out.

09:41:14 3 BY MR. HERRERA:

09:41:14 4 Q. Okay. Ms. -- Ms. Munoz, who is the current Yuma
09:41:19 5 County recorder?

09:41:20 6 A. Mr. Richard Colwell.

09:41:21 7 Q. All right. Sorry. You answered that one already.
09:41:24 8 But thank you for telling me -- telling me again.

09:41:27 9 But how -- how long has Mr. Colwell been in
09:41:31 10 office?

09:41:33 11 A. A little over a year. About a year -- 13 months.

09:41:40 12 Q. And who was the previous Yuma County recorder?

09:41:43 13 A. Ms. Robyn Stallworth-Pouquette.

09:41:47 14 Q. And when did Ms. Stallworth-Pouquette leave her
09:41:54 15 position?

09:41:55 16 A. July of 2022.

09:42:00 17 Q. Do you know why Ms. Stallworth-Pouquette left her
09:42:04 18 position as county recorder?

09:42:04 19 A. No, I do not.

09:42:05 20 Q. Ms. Johnston, do you know why

09:42:08 21 Ms. Stallworth-Pouquette left her position as county

09:42:13 22 recorder?

09:42:13 23 MS. JOHNSTON: I don't know exactly.

09:42:14 24 BY MR. HERRERA:

09:42:15 25 Q. Okay. And, Ms. Munoz, you said you -- you

09:42:34 1 supervised -- you supervise three individuals? Or are
09:42:37 2 there more?

09:42:41 3 A. As of right now, there's three.

09:42:43 4 Q. Okay. And how many people work in the county
09:42:45 5 recorder's office in Yuma?

09:42:47 6 A. As a whole?

09:42:48 7 Q. Yes, as a whole.

09:42:50 8 A. 10, 12. About 12.

09:42:57 9 Q. And how many of those 10 or 12 work on voter --
09:43:04 10 elections generally?

09:43:06 11 A. Elections -- elections and voter registration are
09:43:13 12 two different departments. Is that -- is that what you --

09:43:16 13 Q. Yes, that helps.

09:43:18 14 So if you combine elections and voter
09:43:21 15 registration -- well, let's take it one by one.

09:43:23 16 A. Okay.

09:43:24 17 Q. So in elections -- how many work in elections?

09:43:28 18 A. Three.

09:43:28 19 Q. And how many people work in voter registration?

09:43:31 20 A. Four.

09:43:32 21 Q. And then the rest of the 10 or 12, are those
09:43:36 22 people who work in other business of the Yuma County
09:43:40 23 Recorder's Office besides voting?

09:43:42 24 A. Yes.

09:43:43 25 Q. Okay. And in voter registration, is that -- are

09:43:54 1 those you plus the three people you supervise?

09:43:56 2 A. Yes.

09:43:57 3 Q. Okay. And what do -- what are the positions of

09:44:01 4 the other people you supervise?

09:44:05 5 A. One is the lead voter service specialist, and the

09:44:08 6 other two are our voter service specialists.

09:44:14 7 Q. Okay. And what is the -- what are the duties of a

09:44:17 8 voter service specialist?

09:44:18 9 A. A voter service specialist, they take care of

09:44:22 10 online registrations, which come from our EZ Voter, from

09:44:26 11 MVD. They work the front counter, taking in anything that

09:44:32 12 comes in. They handle the mail, voter registration forms

09:44:38 13 that are walk-ins. They answer the phone. They're in

09:44:47 14 charge of mailing out any notices that need to be mailed

09:44:50 15 out, ID cards.

09:45:19 16 Am I continuing?

09:45:20 17 Q. No. Sorry.

09:45:21 18 A. I'm sorry.

09:45:22 19 MR. HERRERA: I am pulling up another

09:45:23 20 document for you. And this is -- this document was marked

09:45:29 21 in a previous exhibit as Exhibit 6, so many exhibits ago.

09:45:41 22 So I'm going to share it on the screen here.

09:45:41 23 BY MR. HERRERA:

09:46:00 24 Q. Do you see this document?

09:46:01 25 A. Yes.

09:46:02 1 Q. Okay. And it's about 59 pages long. But do you
09:46:10 2 see that -- do you recognize this -- the first page here of
09:46:12 3 this document?
09:46:13 4 A. Yes.
09:46:15 5 Q. Okay. And what is it?
09:46:17 6 A. Our Elections Procedure Manual.
09:46:19 7 Q. And what is the purpose of the Election Procedures
09:46:24 8 Manual?
09:46:24 9 A. It's a guideline that we use.
09:46:28 10 Q. And a guideline that you use for what?
09:46:32 11 A. To run voter registration.
09:46:37 12 Q. And is the 2019 Elections Procedures Manual the
09:46:52 13 one that's currently in effect?
09:46:55 14 A. Yes.
09:46:56 15 Q. Ms. Munoz, to your understanding, is your office
09:47:04 16 legally required to follow the Elections Procedures Manual?
09:47:08 17 MR. LANGHOFER: Calls for a legal conclusion.
09:47:12 18 MS. MUNOZ: Yes.
09:47:13 19 BY MR. HERRERA:
09:47:16 20 Q. Are all parts of the Elections Procedures Manual
09:47:19 21 legally binding on your office?
09:47:22 22 MR. LANGHOFER: Same objection.
09:47:25 23 MS. MUNOZ: I'd have to seek counsel on that.
09:47:28 24 BY MR. HERRERA:
09:47:28 25 Q. Okay. Are you legally required to follow

09:47:32 1 Chapter 1 of the Elections Procedures Manual?

09:47:37 2 MR. LANGHOFER: Same objection.

09:47:40 3 BY MR. HERRERA:

09:47:41 4 Q. That's on --

09:47:45 5 A. Yes.

09:47:46 6 Q. Okay. Are you aware -- are you aware of any

09:47:57 7 counties -- county recorders offices that do not follow

09:48:00 8 Chapter 1 of the Election Procedures Manual?

09:48:04 9 MR. LANGHOFER: Foundation.

09:48:04 10 MR. HORLEY: Objection; foundation.

09:48:05 11 MS. MUNOZ: No.

09:48:15 12 MR. HERRERA: I'm going to show you another

09:48:17 13 document. Just give me one second. I'm going to zoom in.

09:48:36 14 I'd like to -- this is a document that was

09:48:41 15 marked in a prior deposition as Exhibit 35.

09:48:41 16 BY MR. HERRERA:

09:48:48 17 Q. Do you see the first page of this document at the

09:48:50 18 top?

09:48:51 19 A. Yes.

09:48:52 20 Q. Okay. And I'm going to represent to you that

09:48:59 21 there are 68 pages to this document.

09:49:06 22 But do you recognize what this -- what this

09:49:09 23 document is from the first page?

09:49:20 24 A. No.

09:49:26 25 Q. Do you see that there's a watermark there that

09:49:28 1 says "Draft"?

09:49:29 2 A. Yes.

09:49:31 3 Q. And do you see at the top -- the top header there

09:49:34 4 "Arizona Secretary of State 2023 Elections Procedures

09:49:37 5 Manual - June 2023 Draft"?

09:49:40 6 A. Yes.

09:49:40 7 Q. And have you reviewed the June 2023 draft of the

09:49:43 8 Elections Procedures Manual?

09:49:45 9 A. I reviewed a bit of it, yes.

09:49:49 10 Q. Okay. And what -- what parts have you reviewed?

09:49:52 11 A. The voter registration, Chapter 1.

09:49:55 12 Q. And what was -- what did you -- did you do

09:50:04 13 anything after reviewing the Chapter 1 of the draft

09:50:07 14 Elections Procedures Manual?

09:50:09 15 A. No.

09:50:12 16 Q. Have you ever sent any comments or edits to -- to

09:50:19 17 the Secretary of State's Office regarding the June 2023

09:50:24 18 draft of the Elections Procedures Manual?

09:50:26 19 A. No.

09:50:28 20 Q. Have you ever attended a meeting with the

09:50:33 21 Secretary of State's Office to discuss the June 2023

09:50:37 22 Elections Procedures Manual?

09:50:39 23 A. Yes.

09:50:39 24 Q. Okay. And when was that meeting?

09:50:43 25 A. There was a few different meetings in regards to

09:50:47 1
09:50:49 2
09:50:54 3
09:50:57 4
09:51:02 5
09:51:05 6
09:51:08 7
09:51:16 8
09:51:20 9
09:51:26 10
09:51:32 11
09:51:32 12
09:51:42 13
09:51:46 14
09:51:53 15
09:51:55 16
09:52:03 17
09:52:09 18
09:52:11 19
09:52:11 20
09:52:15 21
09:52:18 22
09:52:21 23
09:52:24 24
09:52:25 25

the chapters.

Q. Okay. And what was the most recent meeting?

A. I can't remember.

Q. And when you say there were a few, can you -- can you estimate about how many meetings?

A. Probably four or five.

Q. And during -- I guess, from what -- about what date to what date have these four or five meetings with the Secretary of State's Office on the Elections Procedures Manual draft have you -- have there -- when did those take place?

A. From March until just -- July.

Q. And would that be March 2023 to July 2023?

A. Yes.

Q. Now, going back to -- well, have any of these meetings involved anyone discussing Chapter 1 of the Elections Procedures Manual, which is voter registration?

A. Can you repeat that question?

Q. Sure.

So of these meetings with the Secretary of State's Office regarding the draft Elections Procedures Manual, have any of the meetings involved discussing Chapter 1 of the Elections Procedures Manual draft?

A. Yes.

Q. And how many of those meetings involved discussing

09:52:29 1 Chapter 1 of the draft Elections Procedures Manual?

09:52:33 2 A. Just one.

09:52:34 3 Q. And which meeting -- do you remember when that

09:52:38 4 meeting was?

09:52:39 5 A. No, I do not remember.

09:52:40 6 Q. Do you remember what month?

09:52:46 7 A. No.

09:52:47 8 Q. Can you say if it was perhaps the spring or the

09:52:52 9 summer of this year?

09:52:54 10 A. It was this year.

09:52:57 11 Q. But can you say whether it was the spring or the

09:53:01 12 summer?

09:53:03 13 A. I -- I can't remember.

09:53:06 14 Q. Okay. Now, what was discussed in that meeting

09:53:12 15 regarding Chapter 1 of the draft Elections Procedures

09:53:17 16 Manual?

09:53:17 17 A. We just went over the draft. If any of the

09:53:22 18 counties had anything different, they would address it.

09:53:27 19 Q. Did you have anything different or any comments on

09:53:31 20 Chapter 1 in the secretary of state meeting?

09:53:33 21 A. No.

09:53:36 22 Q. Did anyone else from Yuma County have comments

09:53:40 23 during the meeting with the Secretary of State's Office on

09:53:43 24 Chapter 1 of the draft Elections Procedures Manual?

09:53:45 25 A. No.

09:53:49 1 Q. Did any comments from other counties stand out to
09:53:53 2 you in the meeting with the Secretary of State's Office on
09:53:56 3 Chapter 1 of the Elections Procedures Manual?

09:53:58 4 A. No.

09:54:00 5 Q. Did -- do you recall any discussion of House Bills
09:54:08 6 2492 or 2243 during the discussion of Chapter 1 of the
09:54:14 7 Elections Procedures Manual with the secretary of state?

09:54:17 8 A. Not that I recall.

09:54:32 9 Q. Ms. Munoz, has the -- has your office or the
09:54:52 10 County Recorder's Office been provided any other guidance
09:54:55 11 besides the 2023 draft -- well, let me start that again.

09:55:00 12 Has your office been provided any other
09:55:03 13 guidance beyond the Elections Procedures Manual that
09:55:08 14 elaborates on implementation of House Bill 2492?

09:55:14 15 MR. MORGAN: Form.

09:55:18 16 MS. MUNOZ: No.

09:55:18 17 BY MR. HERRERA:

09:55:19 18 Q. Has your office been provided any other guidance
09:55:22 19 other than the Elections Procedures Manual or draft
09:55:26 20 Elections Procedures Manual on the implementation of House
09:55:32 21 Bill 2243?

09:55:33 22 MR. MORGAN: Form.

09:55:34 23 MS. MUNOZ: No.

09:56:07 24 MR. HERRERA: I'm going to pull up another
09:56:08 25 document here. And this is -- I'm going to show this

09:56:14 1 document on the screen. And I'd like to mark this exhibit
09:56:27 2 shown on the screen -- actually, let me start -- let me
09:56:31 3 reshare that.

09:56:47 4 I'd like to mark this document as
09:56:51 5 Exhibit 202.

09:56:51 6 (The document was marked as Exhibit 202
09:56:51 7 for identification.)

09:56:57 8 MR. HERRERA: And for the record, this is a
09:56:59 9 document that has Bates Stamp YUMA-000763.

09:57:09 10 BY MR. HERRERA:

09:57:09 11 Q. And, Ms. Munoz, do recognize this document?

09:57:15 12 A. Yes.

09:57:15 13 Q. And what is it?

09:57:16 14 A. It is the schedule to go over the chapters in the
09:57:19 15 EPM.

09:57:20 16 Q. And it says at the top, "Chapters 1 and 2, (early
09:57:27 17 voting & VEM)." That -- that -- deadlines for comments
09:57:42 18 were in March of 2023; right?

09:57:44 19 A. Yes.

09:57:45 20 Q. Okay. So before March -- or by that March
09:57:50 21 deadline, did Yuma submit any comments or edits on
09:57:54 22 Chapter 1 of the draft Elections Procedures Manual?

09:58:00 23 A. No.

09:58:00 24 Q. Do you know if -- does Yuma County Recorder's
09:58:09 25 Office plan to submit any edits in the future to the draft

09:58:17 1 EPM?

09:58:18 2 MR. LANGHOFER: Form.

09:58:20 3 MS. MUNOZ: None that I am aware of.

09:58:57 4 MR. HERRERA: I'm going to show you another
09:59:00 5 document here. Bear with me.

09:59:00 6 BY MR. HERRERA:

09:59:26 7 Q. And do you see that there's a document being
09:59:29 8 shared on the screen now?

09:59:33 9 A. Yes.

09:59:33 10 Q. And this is an email about two pages long; right?

09:59:36 11 A. Yes.

09:59:37 12 MR. HERRERA: Okay. And for the record, I'll
09:59:39 13 represent that this is Bates-stamped YUMA-000533
09:59:50 14 through 534, numbered consecutively.

09:59:53 15 And I'd like to mark this as Exhibit 203.
09:59:53 16 (The document was marked as Exhibit 203
09:59:56 17 for identification.)

09:59:56 18 BY MR. HERRERA:

10:00:02 19 Q. And, Ms. Munoz, I see that you are one of the
10:00:07 20 recipients of this email as a CC. Do you see that?

10:00:12 21 A. Yes.

10:00:12 22 Q. Okay. And it's an email from July 5th. And I'm
10:00:17 23 going to go down to the contents of the email, July 5th,
10:00:21 24 2023.

10:00:21 25 Do you recognize this email at all?

10:00:23 1 A. Yes.

10:00:24 2 Q. Okay. And what is this email about?

10:00:28 3 A. It looks like it's in regards to any deadlines
10:00:31 4 that need to be submitted to the secretary of state.

10:00:35 5 Q. Okay. And it does mention here a Chapter 1 voter
10:00:44 6 registration that is in Part V of the draft EPM.

10:00:48 7 Do you recall reviewing Part V of the draft
10:00:54 8 EPM, including Chapter 1, Voter Registration?

10:00:59 9 A. I cannot recall.

10:01:03 10 Q. After this -- it says that there was a deadline on
10:01:10 11 July 11, 2023. Do you see that?

10:01:12 12 A. Yes.

10:01:13 13 Q. And the deadline says, "Deadlines to email edits
10:01:17 14 and comments on assigned chapters to Colleen Connor."

10:01:21 15 Do you see that?

10:01:21 16 A. Yes.

10:01:21 17 Q. Do you know what is meant by "assigned chapters"?

10:01:25 18 A. No, I do not.

10:01:26 19 Q. Did you submit any edits or comments to EPM Part V
10:01:36 20 of the working draft?

10:01:38 21 A. No.

10:01:42 22 Q. Here it says, "Attachments: EPM Part V Working
10:01:47 23 Draft."

10:01:47 24 Did you submit any comments to the Secretary
10:01:50 25 of State's Office or Colleen Connor on that version?

10:01:54 1 A. No.

10:02:03 2 MR. HERRERA: And when we take a break, I'll
10:02:05 3 share these -- these two documents for those who couldn't
10:02:08 4 get the Dropbox.

10:02:10 5 BY MR. HERRERA:

10:02:23 6 Q. Ms. -- Ms. Munoz, are you currently enforcing any
10:02:27 7 part of the law HB 2492?

10:02:31 8 A. No.

10:02:33 9 Q. Okay. And 2492, if you recall, is one of the two
10:02:40 10 bills; right?

10:02:42 11 A. Yes.

10:02:42 12 Q. Are you -- are you looking at something right now?

10:02:44 13 A. Yes. It's the HB -- the 2492 that you're
10:02:48 14 referencing.

10:02:48 15 Q. Okay. And which one -- for 2492, how are you
10:02:54 16 familiar with that law? Or did -- let me -- let me strike
10:02:58 17 that. That was a confusing question.

10:03:00 18 HB 2492, what is that law generally about in
10:03:05 19 your mind?

10:03:06 20 A. Voter registration.

10:03:07 21 Q. And by "voter registration," is it about
10:03:13 22 processing applications or something else?

10:03:17 23 A. No. It's in regards to the verification of
10:03:20 24 citizenship.

10:03:24 25 Q. And then there's another bill that's the subject

10:03:27 1 of this lawsuit, HB 2243. Are you familiar with that law?

10:03:33 2 A. Yes.

10:03:34 3 Q. Okay. And which -- what is that law about?

10:03:36 4 A. It's about the residency of voters.

10:03:40 5 Q. The -- okay.

10:03:43 6 Anything else?

10:03:47 7 A. And the cancellation of voters.

10:03:50 8 Q. Does your office use the Arizona Motor Vehicle

10:04:24 9 Division's database at all?

10:04:26 10 A. Yes.

10:04:27 11 Q. Okay. And how does your office use the Arizona

10:04:30 12 Motor Vehicles Division database?

10:04:33 13 A. We receive voter registration forms from them for

10:04:36 14 people that go and register as they're getting their

10:04:40 15 driver's license.

10:04:44 16 Q. Okay. Besides getting registration -- voter

10:04:53 17 registration forms from the MVD, do you use the MVD

10:04:56 18 database for any other -- and by "MVD," I mean Motor

10:05:00 19 Vehicles Division.

10:05:01 20 Do you use the MVD database for anything

10:05:03 21 else?

10:05:04 22 A. We run our HAVA checks through there.

10:05:07 23 Q. And when you run a HAVA check, can you tell me --

10:05:15 24 walk me through what that -- what that looks like when you

10:05:18 25 use -- do a HAVA check?

10:05:19 1 A. So when you run a HAVA check on somebody, it's
10:05:23 2 giving you a hard match or a soft match on that voter.
10:05:28 3 Q. And can you explain the difference between those
10:05:30 4 two?
10:05:31 5 A. A hard match would give you the -- the -- it would
10:05:35 6 match it up with their social, date of birth, driver's
10:05:38 7 license, name. The soft match may be a name; it may be a
10:05:43 8 date of birth.
10:05:46 9 Q. Is there -- so on a soft match, is there kind of a
10:05:51 10 minimum number of fields or pieces of information that it
10:05:56 11 would match?
10:05:57 12 A. Yes.
10:05:58 13 Q. Okay. And do you know what that minimum is?
10:06:01 14 A. Just maybe their name.
10:06:04 15 Q. Okay. So it can be as little as matching a name
10:06:09 16 match for a soft match in a HAVA check?
10:06:12 17 A. Yes.
10:06:12 18 Q. Okay. What happens when -- when you're doing a
10:06:18 19 HAVA check as -- there's only a soft match?
10:06:23 20 A. So we'll -- we will not match it up with the
10:06:26 21 person that comes up on there. And we would create a new
10:06:29 22 record for that voter since it is not a hard match.
10:06:32 23 Q. And by "create a new record," what do you mean?
10:06:38 24 A. They get their own voter registration ID number.
10:06:44 25 Q. So what is -- what is the purpose of a HAVA check?

10:06:56 1 A. It is to verify citizenship and to verify that
10:07:00 2 they are a person.

10:07:02 3 Q. Okay. And is it -- when you say "verify that it
10:07:05 4 is a person," just to -- what does that mean?

10:07:08 5 A. That they do have a social; they do have a date of
10:07:12 6 birth; and driver's license.

10:07:15 7 Q. What happens if they don't come up in the MVD
10:07:21 8 database when you do a HAVA check?

10:07:24 9 A. It they do not come up --

10:07:26 10 Q. Yes.

10:07:26 11 A. -- in the database? We continue to register that
10:07:31 12 person.

10:07:33 13 Q. Now, when you're looking at a HAVA check, what
10:07:37 14 is -- what is the citizenship information that you receive
10:07:40 15 through that HAVA check?

10:07:42 16 A. The verification that they are a U.S. citizen.

10:07:46 17 Q. And what is that -- how is that -- how is
10:07:52 18 citizenship -- U.S. citizenship verified to you through the
10:07:55 19 HAVA check?

10:07:56 20 A. I believe they have to take their birth
10:08:01 21 certificate or passport or naturalization form to the
10:08:06 22 Department of Motor Vehicles, and they verify it there.

10:08:09 23 Q. Right.

10:08:10 24 What I mean is, on your end, what is the
10:08:12 25 information you get from the HAVA check about citizenship?

10:08:17 1 A. The verification form. We can see the
10:08:21 2 verification that DMV has verified that they are a U.S.
10:08:26 3 citizen.
10:08:26 4 Q. And what is -- tell me what the -- I imagine this
10:08:31 5 is on a computer screen or -- right?
10:08:32 6 A. Yes.
10:08:33 7 Q. Okay. What does it look like when it says that
10:08:36 8 citizenship has been verified for someone in a HAVA check?
10:08:44 9 A. It just says "citizenship verified."
10:08:50 10 Q. Does it give you any other -- does the HAVA check
10:08:52 11 give you any other information about the person besides
10:08:55 12 the -- saying "citizenship verified"?
10:08:59 13 A. It gives you the name, social, date of birth,
10:09:03 14 driver's license number.
10:09:04 15 Q. Does the HAVA check tell you why someone -- if --
10:09:07 16 in the instance where someone's citizenship is not
10:09:11 17 verified, what does it say in the HAVA check?
10:09:14 18 A. I can't really recall off the top of my head what
10:09:23 19 it says.
10:09:25 20 Q. Does it -- have you had an instance where
10:09:28 21 citizenship was not verified through a HAVA check?
10:09:31 22 A. Yes.
10:09:32 23 Q. Okay. And how frequently does that happen?
10:09:36 24 A. Not very frequently.
10:09:38 25 Q. Okay. And when -- what do you do when there is --

10:09:42 1 when it says that citizenship is not verified in a HAVA
10:09:48 2 check?

10:09:48 3 A. We will continue to process the form. We will
10:09:54 4 notify also the voter that we cannot prove citizenship. We
10:09:58 5 will send them a letter.

10:10:01 6 Q. And when you send that person a letter, what does
10:10:15 7 it say -- what does it say for that person when citizenship
10:10:22 8 is not verified? Does it say "not verified" or what?

10:10:25 9 A. Citizenship could not be verified and for them to
10:10:29 10 please provide anything that's listed, like a birth
10:10:32 11 certificate, passport, or naturalization papers.

10:10:38 12 Q. Does the -- when citizenship is not verified, what
10:10:42 13 is the reason that -- does the HAVA check give any reason
10:10:46 14 for why citizenship was not verified?

10:10:50 15 A. They just couldn't verify citizenship.

10:10:53 16 Q. Does it -- does the HAVA check tell you whether,
10:10:57 17 for example, someone has a certain type of driver's license
10:11:00 18 and that is why they're not being verified as a U.S.
10:11:03 19 citizen?

10:11:05 20 A. Yes.

10:11:05 21 Q. Okay. And -- okay.

10:11:07 22 So what is -- what does it say about that
10:11:10 23 person's type of license when they -- when they are not
10:11:13 24 verified as a U.S. citizen in a HAVA check?

10:11:15 25 A. It's an F-type license.

10:11:18 1 Q. And what is an F-type license?

10:11:21 2 A. Foreign.

10:11:25 3 Q. Does the HAVA check tell you when the F-type

10:11:30 4 license was obtained from the MVD when you get a non- --

10:11:35 5 someone who's not verified as a U.S. citizen?

10:11:37 6 A. Yes.

10:11:37 7 Q. Okay. And so it has the actual date of when that

10:11:45 8 person got the driver's license?

10:11:46 9 A. Yes. When the date was issued. The issue date,

10:11:50 10 yes.

10:11:51 11 Q. Date issued.

10:11:53 12 Now, you say you send a notice to the -- in

10:12:17 13 that instance where they have an F-type license and the

10:12:19 14 citizenship is nonverified, you send a notice to that

10:12:23 15 person; right?

10:12:24 16 A. Yes.

10:12:24 17 Q. Okay. And what does the notice say?

10:12:29 18 A. To please verify -- to please bring in their

10:12:32 19 passport, birth certificate, or naturalization documents.

10:12:35 20 Q. And do you recall the last time you had to do that

10:12:47 21 was?

10:12:48 22 A. No, I cannot recall.

10:12:51 23 Q. Do you recall what typically has happened when

10:12:57 24 you've sent out a notice like that to someone about their

10:13:00 25 citizenship not being verified in a HAVA check?

10:13:03 1 A. Some will come in contact with us and bring in
10:13:08 2 those three documents mentioned.

10:13:10 3 Q. And so some people have brought in proof of
10:13:13 4 citizenship and -- even though they had an F-type license
10:13:18 5 in the HAVA check?

10:13:19 6 A. Yes.

10:13:23 7 Q. Do you know why -- how is it that someone with an
10:13:27 8 F-type license would -- would also be able to have
10:13:30 9 documentary proof of citizenship?

10:13:32 10 A. They had not taken it to the Department of Motor
10:13:35 11 Vehicles yet to take that flag off of their driver's
10:13:39 12 license.

10:13:39 13 Q. I see.

10:13:40 14 So someone could become naturalized as a U.S.
10:13:45 15 citizen sometime after they got that F-type license; is
10:13:49 16 that right?

10:13:49 17 A. Yes.

10:13:50 18 Q. About how many times a month do you or your office
10:14:14 19 encounter someone who, in a HAVA check, has an F-type
10:14:19 20 license?

10:14:25 21 A. Maybe twice a month.

10:14:30 22 Q. Twice a month. Okay.

10:14:31 23 And for the people who actually bring in
10:14:34 24 their documentary proof of citizenship, what type of proof
10:14:38 25 of citizenship do they usually end up showing you?

10:14:43 1 A. The passport, birth certificate, or
10:14:46 2 naturalization.
10:14:47 3 Q. And when you say "naturalization," is that a
10:14:50 4 naturalization certificate or something --
10:14:52 5 A. Yes.
10:14:53 6 Q. -- else?
10:14:54 7 A. Their naturalization certificate.
10:15:01 8 Q. Now, when you get that -- when someone shows
10:15:03 9 that -- that document to show their citizenship after
10:15:06 10 receiving a notice because of a HAVA check, does Yuma
10:15:10 11 County keep a record of that document?
10:15:14 12 A. We do.
10:15:15 13 Q. Okay. And you make a copy of it?
10:15:18 14 A. We just usually verify it. If they mail it in
10:15:23 15 a -- by the mail, then we'll keep it. But if they just
10:15:27 16 bring it into our office, we will verify it in person.
10:15:30 17 Q. When you say "verify it in person," do you -- do
10:15:32 18 you make a copy of it and keep it?
10:15:34 19 A. No.
10:15:35 20 Q. Okay. And for the people who send in the copies,
10:15:39 21 where does that -- what happens to that copy of that
10:15:42 22 person's document?
10:15:43 23 A. We have to keep it for two years.
10:15:47 24 Q. So if someone comes and shows a proof of
10:15:52 25 citizenship document in person and you don't make a copy of

10:15:55 1 it, then you don't have that on record for two years;

10:15:58 2 right?

10:15:59 3 A. Right.

10:16:19 4 MR. HERRERA: I think since we've been going
10:16:20 5 for a little over an hour, we're going to take, I think, a
10:16:24 6 five- or ten-minute break -- maybe ten-minute break -- and
10:16:28 7 come back. Is that okay with everybody?

10:16:31 8 MS. MUNOZ: Yes.

10:16:32 9 MR. HERRERA: Let's go off the record,
10:16:33 10 please.

10:16:34 11 THE VIDEOGRAPHER: We're off the record.
10:16:35 12 Time on the video monitor is 10:16 a.m. This ends Media 1.

10:28:26 13 (A recess ensued.)

10:28:27 14 THE VIDEOGRAPHER: We are on the record.

10:28:34 15 Time on the video monitor is 10:28 a.m. This begins

10:28:39 16 Media 2.

10:28:40 17 BY MR. HERRERA:

10:28:40 18 Q. Ms. Munoz, earlier you mentioned -- I think both

10:28:46 19 of you discussed birthplace.

10:28:48 20 And, Ms. Munoz, you said that Yuma doesn't

10:28:51 21 have plans to use birthplace information; right?

10:28:57 22 A. No. Not until we get guidance from secretary of

10:29:00 23 state.

10:29:00 24 Q. Okay. And in terms of looking at birthplace for

10:29:07 25 someone's -- when someone has registered to vote, is there

10:29:13 1 any database that you could go look at to -- to use

10:29:19 2 birthplace information in order to determine that person's

10:29:23 3 eligibility to vote?

10:29:26 4 A. No.

10:29:27 5 Q. No?

10:29:27 6 A. No.

10:29:28 7 Q. Is there any database that you know of that would

10:29:34 8 allow you to learn anything more about a person's

10:29:38 9 eligibility to vote based on their birthplace?

10:29:43 10 A. No.

10:29:44 11 Q. Do you -- are you familiar with the United States

10:29:56 12 Citizenship and Immigration Services' SAVE program?

10:30:01 13 A. Yes.

10:30:01 14 Q. Okay. And SAVE meaning Systematic Alien

10:30:08 15 Verification for Entitlements?

10:30:10 16 A. Yes.

10:30:10 17 Q. Okay. And what is -- as far as you know, what is

10:30:14 18 the SAVE system?

10:30:16 19 A. Where we can verify citizenship if a voter writes

10:30:22 20 down an A-number on their form.

10:30:28 21 Q. And why -- are there any other instances besides

10:30:31 22 when someone writes down an A-number that you could use

10:30:34 23 SAVE to verify someone's citizenship?

10:30:36 24 A. No.

10:30:37 25 Q. Why not?

10:30:39 1 A. I've only used it for A-numbers that I'm -- I used
10:30:45 2 it for.

10:30:46 3 Q. And an A-number, just for -- so that we're clear
10:30:50 4 on the record, an A-number is an alien number; so it's a
10:30:54 5 citizen -- I'm sorry -- an immigration number?

10:30:56 6 A. Yes.

10:30:57 7 Q. Okay. How often does someone write down an
10:31:03 8 A-number in his or her voter registration application?

10:31:08 9 MR. MORGAN: Foundation.

10:31:09 10 MS. MUNOZ: Not quite often.

10:31:11 11 BY MR. HERRERA:

10:31:13 12 Q. And about how many times a year does someone
10:31:17 13 submit a voter registration application and write down an
10:31:21 14 A-number?

10:31:23 15 A. What was that question again? I'm sorry.

10:31:25 16 Q. Sure.
10:31:25 17 About how many times a year does someone give
10:31:29 18 an A-number in their voter registration application?

10:31:34 19 MR. MORGAN: Foundation. Speculation.

10:31:37 20 MS. MUNOZ: I can't answer that.

10:31:39 21 BY MR. HERRERA:

10:31:46 22 Q. And when you're using SAVE to verify someone's
10:31:49 23 citizenship, what happens when you put in that person's
10:31:55 24 information generally? What do you get back?

10:31:59 25 A. That they are a U.S. citizen.

10:32:03 1 Q. Have you ever had an instance where -- well, how
10:32:10 2 long does it take to get that result from SAVE?

10:32:13 3 A. Maybe a few seconds to a minute.

10:32:19 4 Q. Has there ever been an instance where, when using
10:32:23 5 SAVE for verification of citizenship, that you have had to
10:32:26 6 wait for further verification?

10:32:28 7 A. No.

10:32:37 8 Q. Have -- in SAVE -- when using SAVE, to your
10:32:46 9 knowledge, has SAVE ever not been able to verify someone's
10:32:51 10 U.S. citizenship?

10:32:52 11 A. No.

10:32:54 12 Q. And so every time you use -- you have used SAVE,
10:32:59 13 it has given that that -- it has verified that that person
10:33:03 14 is a citizen?

10:33:03 15 A. Yes.

10:33:05 16 Q. Does your office currently use -- oh, in -- in
10:33:16 17 relation to when someone applies to register to vote, when
10:33:21 18 would you use SAVE?

10:33:24 19 A. When they write down a number -- an A-number on
10:33:30 20 their form.

10:33:31 21 Q. Okay. About how long after the voter registration
10:33:34 22 application would you actually use SAVE? A week? Two
10:33:36 23 weeks? A month?

10:33:38 24 A. Right when I'm registering them or updating their
10:33:41 25 information, yes.

10:33:41 1 Q. Okay. Now, for someone who has already been
10:33:45 2 registered to vote for some period of time, have you ever
10:33:50 3 used SAVE to -- to verify someone's citizenship?

10:33:57 4 A. No.

10:33:59 5 Q. Okay. Does Yuma County plan to -- well, we'll get
10:34:04 6 to that in a second.

10:34:06 7 I'm going to show you a document that was
10:34:26 8 marked in a previous deposition as Exhibit 19.

10:35:03 9 And do you see that on the screen there's a
10:35:04 10 document and it says "House Bill 2492" at the top?

10:35:07 11 A. Yes.

10:35:07 12 Q. And it's -- and here it says Petty Exhibit 19. So
10:35:11 13 this is Exhibit 19 in this case.

10:35:15 14 As you said earlier you reviewed House
10:35:21 15 Bill 2492; right?

10:35:21 16 A. Yes.

10:35:22 17 Q. And I'll show you that this is the -- a copy of
10:35:28 18 the -- of the entire bill. So I'll just scroll through it.

10:35:31 19 Sorry for the fire engine noises.

10:35:36 20 We're going to go to page 5 of the bill. All
10:36:44 21 right. So I'm going to go to the middle of the -- this
10:36:49 22 language.

10:36:49 23 So here, if we look up before this section
10:36:53 24 that I was looking at, do you see where it says,
10:36:59 25 "16-121.01, Requirements for proper registration"?

10:37:02 1 A. Yes.

10:37:02 2 Q. Okay. The whole title of that heading that --

10:37:06 3 that section is "Requirements for proper registration;

10:37:10 4 violations; classification." So I'm going to scroll down

10:37:18 5 here to page 5.

10:37:25 6 And do you see this Subsection E, capital E?

10:37:30 7 A. Yes.

10:37:30 8 Q. Okay. And do you see the section that begins with

10:37:35 9 "After complying with Subsection D of this subsection" --

10:37:39 10 or "this section"?

10:37:39 11 A. Yes.

10:37:41 12 Q. Now, I'm going to go to -- in the middle here, it

10:37:46 13 says, "If the county recorder or other officer in charge of

10:37:51 14 elections matches the applicant with information that the

10:37:55 15 applicant is not a United States citizen, the county

10:37:58 16 recorder or other officer in charge of elections shall

10:38:01 17 reject the application."

10:38:03 18 Do you see that?

10:38:04 19 A. Yes.

10:38:07 20 Q. What is -- what is information that the applicant

10:38:15 21 is not a United States citizen?

10:38:18 22 MR. LANGHOFER: Objection.

10:38:19 23 MR. HORLEY: Objection. Calls for a legal

10:38:26 24 conclusion.

10:38:26 25 MS. MUNOZ: Can you repeat your question?

10:38:28 1 I'm sorry.

10:38:28 2 BY MR. HERRERA:

10:38:28 3 Q. Sure.

10:38:29 4 What is information that a voter registration

10:38:32 5 applicant is not a United States citizen?

10:38:36 6 MR. HORLEY: Same objection.

10:38:37 7 MS. MUNOZ: If it does not come back as a

10:38:41 8 citizen from our HAVA check or if they provide an A-number

10:38:44 9 on their form from SAVE.

10:38:50 10 BY MR. HERRERA:

10:38:54 11 Q. So earlier we mentioned an instance where, in the

10:38:59 12 HAVA check, someone's -- someone comes back with an F-type

10:39:03 13 license; right?

10:39:04 14 A. Yes.

10:39:05 15 Q. And in that instance, you'll ask them to -- you'll

10:39:09 16 send a notification; right?

10:39:10 17 A. Yes.

10:39:11 18 Q. Now, in your current operation, do you -- when you

10:39:15 19 send a notice, do you say that their application was

10:39:19 20 rejected?

10:39:23 21 A. No.

10:39:24 22 Q. Okay. So that's different than what this

10:39:31 23 subsection says; right?

10:39:39 24 MR. HERRERA: I can zoom in there. Sorry.

10:39:40 25 THE WITNESS: Yeah. So it's saying if the

10:39:42 1 applicant is not a United States citizen. So if it matches
10:39:47 2 it saying they're not a U.S. citizen, they get "not
10:39:50 3 eligible."

10:39:53 4 BY MR. HERRERA:

10:39:53 5 Q. Okay. Do you -- do you send that person a notice
10:39:59 6 to ask for proof of citizenship first, or do you reject the
10:40:03 7 application?

10:40:03 8 A. We put them in "not eligible, citizenship not
10:40:08 9 verified," and we do reach out to them in a letter.

10:40:12 10 Q. Okay. And do you tell -- do you tell the person
10:40:18 11 who you send the notice to that their application was
10:40:20 12 rejected?

10:40:22 13 A. No, we do not tell them that. We tell them that
10:40:26 14 it was -- that they are not eligible to register to vote.

10:40:31 15 Q. Does -- does someone having an F-type license
10:40:49 16 necessarily tell you that that person is not a U.S.
10:40:53 17 citizen?

10:40:56 18 A. The F-type license?

10:40:57 19 Q. Right.

10:40:59 20 A. Yes. That's an indicator.

10:41:03 21 Q. Okay. An indicator, does that tell you for
10:41:05 22 certain that that person is not a U.S. citizen?

10:41:08 23 A. I would say not for certain.

10:41:11 24 Q. And is data in a government's database showing
10:41:15 25 noncitizenship -- non-U.S. citizenship 20 years ago

10:41:21 1 information that the person is not a United States citizen
10:41:24 2 today?

10:41:25 3 MR. LANGHOFER: Calls for a legal conclusion.

10:41:27 4 MS. MUNOZ: I can't answer that question.

10:41:29 5 BY MR. HERRERA:

10:41:29 6 Q. Okay. And why not?

10:41:31 7 A. I don't recall from 20 years ago. I don't know --
10:41:35 8 maybe I'm misunderstanding the question.

10:41:37 9 Q. Sure.

10:41:38 10 So if you have -- if you have someone -- if
10:41:40 11 it shows someone's driver's license that was issued
10:41:46 12 20 years ago but it shows an F-type license, does that mean
10:41:49 13 that that person's not a U.S. citizen today?

10:41:53 14 MR. LANGHOFER: Same objection.

10:41:53 15 MR. HORLEY: Same.

10:41:54 16 MS. MUNOZ: I couldn't say.

10:41:56 17 BY MR. HERRERA:

10:41:56 18 Q. Why not?

10:41:57 19 A. I -- I don't know.

10:42:01 20 Q. And in terms of -- and in that case, you -- what
10:42:11 21 would you -- you would ask for more information from that
10:42:14 22 applicant; right?

10:42:16 23 A. Yes. I know at a time they are grandfathered in.

10:42:25 24 Q. What are -- and when you say -- sorry.

10:42:29 25 When you say "grandfathered in," what do you

10:42:32 1 mean?

10:42:32 2 A. By -- in our statute book, if they did -- if they
10:42:36 3 were registered by -- I can't recall the exact date --
10:42:42 4 either 1997 or 2004 -- that they were -- they were
10:42:48 5 grandfathered in to be a full-ballot voter.

10:42:51 6 Q. I see.

10:42:52 7 So that's -- is that versus a federal-only
10:42:57 8 voter?

10:42:59 9 A. What was that? I'm sorry.

10:43:01 10 Q. When you -- when you say a -- when you say they're
10:43:04 11 "grandfathered in to be a full-ballot voter," what do you
10:43:07 12 mean by that?

10:43:08 13 A. That they're able to vote a full ballot.

10:43:11 14 Q. And what would a non-full-ballot be?

10:43:14 15 A. A fed voter -- federal voter.

10:43:17 16 Q. Okay. So only federal elections; right?

10:43:19 17 A. Yes.

10:43:20 18 Q. Now, when someone registers to vote -- well, let
10:43:29 19 me strike that.

10:43:30 20 What are valid sources of -- besides SAVE and
10:43:47 21 HAVA, what are valid sources of information that someone is
10:43:50 22 not a U.S. citizen?

10:43:52 23 MR. LANGHOFER: Calls for a legal conclusion.

10:43:56 24 MS. MUNOZ: I'm sorry. Can you repeat the
10:43:57 25 question?

10:43:57 1 BY MR. HERRERA:

10:43:58 2 Q. Sure.

10:43:58 3 So besides SAVE and HAVA checks, which we've

10:44:01 4 discussed already, what are valid sources of information

10:44:06 5 that someone is not a United States citizen?

10:44:09 6 MR. LANGHOFER: Same objection.

10:44:10 7 MS. MUNOZ: That would be those two only.

10:44:13 8 BY MR. HERRERA:

10:44:19 9 Q. Beyond HAVA and SAVE, is there any -- would --

10:44:26 10 would a phone call from another voter about the applicant

10:44:33 11 be information that that person is not a U.S. citizen?

10:44:36 12 MR. LANGHOFER: Same objection.

10:44:38 13 MR. HORLEY: Same.

10:44:39 14 MS. MUNOZ: No.

10:44:39 15 BY MR. HERRERA:

10:44:40 16 Q. Why not?

10:44:41 17 MR. LANGHOFER: Same objection.

10:44:42 18 MS. MUNOZ: It can be an angry person calling

10:44:45 19 in.

10:44:49 20 BY MR. HERRERA:

10:44:50 21 Q. And would -- would an email or a -- would an email

10:45:06 22 from an outside organization writing to Yuma County, saying

10:45:12 23 that an applicant is not a U.S. citizen -- would that be

10:45:17 24 information that that person is not a U.S. citizen?

10:45:20 25 MR. LANGHOFER: Same objection.

10:45:21 1 MS. MUNOZ: No.

10:45:27 2 BY MR. HERRERA:

10:45:39 3 Q. Has the Secretary of State's Office -- again,

10:45:44 4 referring back to this text that I've highlighted about

10:45:48 5 information that the applicant is not a U.S. -- United

10:45:51 6 States citizen -- has the Secretary of State's Office ever

10:45:54 7 given your office a list of information that constitutes

10:45:58 8 evidence of a lack of citizenship?

10:46:01 9 A. Not that I recall.

10:46:03 10 Q. Now I'm going to go down to a different section of

10:46:26 11 the law here.

10:46:30 12 Do you see at the top of page -- or, rather,

10:46:59 13 at the top of the screen here, it says page 4 and then

10:47:02 14 Subsection D? Do you see that?

10:47:05 15 A. Yes.

10:47:06 16 Q. It says, "Within ten days after receiving an

10:47:09 17 application for registration on a form produced by the

10:47:12 18 United States Election Assistance Commission that is not

10:47:15 19 accompanied by satisfactory evidence of citizenship, the

10:47:19 20 county recorder or other officer in charge of elections

10:47:22 21 shall use all available resources to verify the citizenship

10:47:26 22 status of the applicant."

10:47:28 23 And do you see that?

10:47:29 24 A. Yes.

10:47:30 25 Q. And so I -- I didn't read the whole thing. But

10:47:34 1 then there's a list of things after that paragraph; right?

10:47:37 2 A. Yes.

10:47:39 3 Q. And do you see that Number 5 is -- it says, "Any

10:47:47 4 other state, city, town, county or federal database and any

10:47:52 5 other database relating to voter registration to which the

10:47:56 6 county recorder or officer in charge of elections has

10:47:59 7 access, including an Electronic Registration Information

10:48:04 8 Center database"?

10:48:06 9 Do you see that?

10:48:06 10 A. Yes.

10:48:08 11 Q. Okay. What are these other databases relating to

10:48:17 12 voter registration?

10:48:19 13 MR. HORLEY: Objection. Calls for a legal

10:48:21 14 conclusion.

10:48:21 15 MS. MUNOZ: None that I'm aware of.

10:48:23 16 BY MR. HERRERA:

10:48:24 17 Q. Okay. Now, if another state government agency --

10:48:36 18 are there any other state government agency databases that

10:48:41 19 you would look at for U.S. citizenship information?

10:48:45 20 A. None that I'm aware of.

10:48:48 21 Q. I'm going to go to a different part of the law

10:49:07 22 here. And we're on page 7 of the bill.

10:49:22 23 And do you see that under -- there's a

10:49:23 24 heading that says "16-143, Federal-only voters; attorney

10:49:29 25 general; investigation; report"?

10:49:34 1 A. Yes.

10:49:35 2 Q. Okay. Do you see that it says in section --

10:49:46 3 Subsection A, "The secretary of state and each county

10:49:50 4 recorder shall make available to the attorney general a

10:49:52 5 list of all individuals who are registered to vote and who

10:49:55 6 have not provided satisfactory evidence of citizenship

10:49:58 7 pursuant to Section 16-166 and shall provide, on or before

10:50:04 8 October 31st, 2022, the applications of individuals who are

10:50:09 9 registered to vote and who have not provided satisfactory

10:50:13 10 evidence of citizenship"?

10:50:17 11 Do you see that?

10:50:17 12 A. Yes.

10:50:17 13 Q. Did you provide this list before October 31st,

10:50:28 14 2022?

10:50:28 15 A. No.

10:50:30 16 Q. Okay. And, Ms. Johnston, since you were there

10:50:32 17 before, did you -- do you recall Yuma County providing this

10:50:36 18 list on or before October 31, 2022?

10:50:40 19 MS. JOHNSTON: No.

10:50:42 20 BY MR. HERRERA:

10:50:48 21 Q. Is Yuma County -- since that -- that date has

10:50:51 22 passed, October 31, 2022, is Yuma County planning to send

10:50:59 23 the attorney general a list of the voters as described in

10:51:02 24 this Subsection A of 16-143, Ms. Munoz?

10:51:07 25 A. We are waiting for guidance from the secretary of

10:51:07 1 state.

10:51:17 2 A. I'm going to show you another document, so please

10:51:20 3 bear with me for a second. So I'm going to share with you

10:52:00 4 another document on the screen here. And this is

10:52:03 5 Exhibit 21 from a prior deposition in this case.

10:52:11 6 And do you see at the top it says, "House

10:52:13 7 Bill 2243," Ms. Munoz?

10:52:14 8 A. Yes.

10:52:15 9 Q. And before, you said that you reviewed this

10:52:24 10 document; right?

10:52:25 11 A. Yes.

10:52:26 12 Q. So I'm going to show you, again, some provisions

10:52:33 13 from this bill like I did with the other bill.

10:52:36 14 Please take a moment to look at 16-165(A),

10:52:43 15 which I'm going to show you on the screen here.

10:52:55 16 And do you see at the top it says, "The

10:52:57 17 county recorder" -- first, let me say it's a section

10:53:03 18 amending Section 16-165, Causes for cancellation; report;

10:53:10 19 right?

10:53:10 20 A. Yes.

10:53:11 21 Q. Okay. And then it says, under Subsection A, "The

10:53:15 22 county recorder shall cancel a registration," and then

10:53:18 23 there's a number of -- a list of things after that; right?

10:53:24 24 A. Yes.

10:53:24 25 Q. Okay. And so after that Subsection A, "shall

10:53:33 1 cancel a registration," there is a list of ways or reasons

10:53:38 2 why voter registration should be canceled; right?

10:53:41 3 A. Yes.

10:53:41 4 Q. Okay. So let's go down to Number 10. And so a

10:53:53 5 voter registration shall be canceled -- and you see

10:53:56 6 Number 10.

10:53:57 7 It says in Number 10, "when the county

10:53:59 8 recorder obtains information pursuant to this section and

10:54:02 9 confirms that the person registered is not a United States

10:54:05 10 citizen."

10:54:08 11 Do you see that?

10:54:08 12 A. Yes.

10:54:09 13 Q. Okay. Now, I'll -- please take a moment to

10:54:18 14 review -- read through Section 10 -- or Subsection 10. Can

10:54:21 15 you do that for me?

10:54:22 16 A. Yes.

10:54:23 17 Q. Okay. Have you had a chance to review it?

10:55:08 18 A. Almost done.

10:55:09 19 Q. Sorry.

10:55:24 20 A. Okay.

10:55:24 21 Q. Okay. So under this provision that you just

10:55:28 22 reviewed, (A) (10) of 16-165, how does one, quote, "obtain

10:55:40 23 information," close quote, that a person registered is not

10:55:44 24 a United States citizen?

10:55:49 25 MR. LANGHOFER: Calls for a legal conclusion.

10:55:50 1 MS. MUNOZ: According to this, it says the
10:55:52 2 jury commissioner.
10:55:53 3 BY MR. HERRERA:
10:55:54 4 Q. Okay. Jury commissioner.
10:55:57 5 But do you see it says "including when"?
10:56:08 6 Right?
10:56:08 7 A. Yes.
10:56:08 8 Q. Okay. So are there any other -- as far as you
10:56:11 9 know, other ways to obtain information that a person
10:56:16 10 registered is not a United States citizen?
10:56:18 11 MR. LANGHOFER: Same objection.
10:56:20 12 MS. MUNOZ: None that I'm aware of.
10:56:20 13 BY MR. HERRERA:
10:56:23 14 Q. Okay. Now I'm going to go down to another -- so
10:56:29 15 still within -- we're still looking within this section,
10:56:33 16 which is Section 16-165. So I'm going to go to the next
10:56:37 17 page and go after Number 10 here.
10:56:40 18 And then there are -- do you see there are a
10:56:41 19 number of letters that are still under this section?
10:56:44 20 A. Yes.
10:56:45 21 Q. So I'm going to scroll down to page 5 of the bill.
10:56:50 22 And at the bottom of page 5 of the bill,
10:56:53 23 still within 16-165, do you see that it says, under
10:57:01 24 Subsection F, "Each month the secretary of state shall
10:57:04 25 compare the statewide voter registration database to the

10:57:07 1 driver license database maintained by the Department of
 10:57:12 2 Transportation"?

10:57:12 3 A. Yes.

10:57:15 4 Q. And then it says, "The secretary of state shall
 10:57:17 5 notify the appropriate county recorder if a person who is
 10:57:21 6 registered to vote in that county has changed the person's
 10:57:25 7 residence address or is not a U.S. citizen."

10:57:27 8 Do you see that?

10:57:29 9 A. Yes.

10:57:32 10 Q. Does Yuma County look at a comparison -- any data
 10:57:36 11 from a comparison of the MVD database to the voter
 10:57:42 12 registration database?

10:57:46 13 A. I am not sure.

10:57:50 14 Q. You're not sure -- you're not sure if you get data
 10:57:53 15 like that?

10:57:55 16 A. Yes.

10:57:55 17 Q. Okay. Now I'm going to go down to Section H.
 10:58:35 18 Do you see that it says, "To the extent
 10:58:37 19 practicable, each month the county recorder shall compare
 10:58:39 20 persons who are registered to vote in that county and who
 10:58:42 21 the county recorder has reason to believe are not United
 10:58:46 22 States citizens and persons who are registered to vote
 10:58:48 23 without satisfactory evidence of citizenship as prescribed
 10:58:52 24 by Section 16-166 with the Systematic Alien Verification
 10:58:59 25 for Entitlements program maintained by the United States

10:59:02 1 Citizenship and Immigration Services to verify the
10:59:05 2 citizenship status"?

10:59:09 3 Do you see that?

10:59:09 4 A. Yes.

10:59:10 5 Q. Okay. Does Yuma County currently, on a monthly
10:59:13 6 basis, run persons who are registered -- who are already
10:59:19 7 registered to vote through SAVE?

10:59:24 8 A. Do we run them through SAVE of people who are
10:59:27 9 registered to vote?

10:59:28 10 Q. Right. As this section says. And you can take a
10:59:30 11 second to read it again.

10:59:50 12 MR. HORLEY: I'm going to the object to the
10:59:52 13 extent it calls for a legal conclusion.

11:00:15 14 MS. MUNOZ: Okay. I reread it.

11:00:17 15 BY MR. HERRERA:

11:00:17 16 Q. Okay. So does Yuma County, on an -- every month
11:00:22 17 use SAVE in this way as described in Subsection H?

11:00:29 18 A. No.

11:00:30 19 MR. HORLEY: Objection to the extent it calls
11:00:30 20 for a legal conclusion.

11:00:33 21 BY MR. HERRERA:

11:00:33 22 Q. So Yuma County does not, on a monthly basis, run
11:00:39 23 people who it has reason to believe are not United States
11:00:42 24 citizens through SAVE?

11:00:44 25 A. No.

11:00:45 1 Q. Okay. Now, do you see this language that says --
11:00:50 2 I'm going to highlight it for you -- "who the county
11:00:54 3 recorder has reason to believe are not United States
11:00:56 4 citizens"?
11:00:58 5 Do you see that?
11:00:58 6 A. Yes.
11:00:58 7 Q. What would give your office a reason to believe a
11:01:11 8 person is not a United States citizen?
11:01:15 9 MR. LANGHOFER: Calls for a legal conclusion.
11:01:18 10 MS. MUNOZ: I would have to seek counsel on
11:01:18 11 that one.
11:01:20 12 BY MR. HERRERA:
11:01:21 13 Q. Okay. Has the Secretary of State's Office
11:01:23 14 provided you any information on how to interpret this part
11:01:27 15 of the law?
11:01:32 16 A. No.
11:01:33 17 Q. Would -- when you say that you would either --
11:01:41 18 seek counsel, what do you mean by that?
11:01:48 19 A. I don't understand the question. I don't -- I
11:02:06 20 don't think I'm understanding the -- that area right there.
11:02:09 21 Q. The "reason to believe" language, you don't
11:02:12 22 understand that?
11:02:12 23 (Reporter clarification.)
11:02:21 24 THE WITNESS: Yes, that's the area.
11:02:21 25 ///

11:02:22 1 BY MR. HERRERA:

11:02:22 2 Q. Okay. Now, why is it that you're having trouble

11:02:26 3 understanding what "reason to believe are not United States

11:02:29 4 citizens" is?

11:02:33 5 A. I understand what a United States citizen -- that

11:02:36 6 are not United States citizen. I just don't get "who the

11:02:39 7 county recorder has reason to believe are not United States

11:02:45 8 citizens."

11:02:47 9 Q. And do you know if anyone else in the Yuma County

11:02:53 10 Recorder's Office understands this language?

11:02:54 11 A. Mrs. Sarah Johnston might.

11:02:57 12 Q. Okay. Ms. Johnston, do you understand this

11:03:00 13 language?

11:03:00 14 MS. JOHNSTON: Yes.

11:03:01 15 BY MR. HERRERA:

11:03:01 16 Q. And what does this mean to you?

11:03:03 17 MR. LANGHOFER: Calls for a legal conclusion.

11:03:04 18 MS. JOHNSTON: Because this is the new

11:03:10 19 language that is being adopted, I would assume that it is

11:03:13 20 in regards to the jury list.

11:03:18 21 BY MR. HERRERA:

11:03:20 22 Q. I see.

11:03:21 23 So you think it's from the jury list. That's

11:03:22 24 where you would get the reason to believe?

11:03:24 25 MS. JOHNSTON: Correct. If a voter is

11:03:26 1 registered to vote and is an active registered voter, that
11:03:30 2 means they have met the minimum qualifications to be a
11:03:34 3 registered voter.

11:03:38 4 So therefore, we would not take hearsay
11:03:43 5 information that somebody's not a citizen. It would need
11:03:47 6 to be the jury list that the voter is marking that they are
11:03:51 7 not a citizen.

11:03:53 8 BY MR. HERRERA:

11:03:54 9 Q. When you say "hearsay," what do you mean by that?

11:03:56 10 MS. JOHNSTON: The county recorder will not
11:03:58 11 take a phone call from somebody and that person implying
11:04:04 12 that another person is not registered to vote.

11:04:08 13 BY MR. HERRERA:

11:04:08 14 Q. Okay. And where do you -- where do you get that
11:04:12 15 interpretation from?

11:04:13 16 MS. JOHNSTON: Well, if a voter has been
11:04:15 17 properly registered to vote, citizenship has already been
11:04:19 18 verified. Therefore, there would be no reason to revisit
11:04:26 19 that information unless it's coming from an official
11:04:31 20 document, such as the jury list.

11:04:33 21 BY MR. HERRERA:

11:04:36 22 Q. And do you think that additional guidance may be
11:04:43 23 needed on this "reason to believe" language?

11:04:47 24 MS. JOHNSTON: Yes.

11:04:48 25 MR. LANGHOFER: Calls for legal conclusion.

11:04:49 1 BY MR. HERRERA:

11:04:49 2 Q. And why is that?

11:04:51 3 MS. JOHNSTON: I would --

11:04:51 4 MR. LANGHOFER: Same objection.

11:04:53 5 MS. JOHNSTON: I would want clarification on

11:04:57 6 what reasons deem additional investigation on that person's

11:05:05 7 citizenship.

11:05:06 8 BY MR. HERRERA:

11:05:10 9 Q. Would you say that a Yuma County recorder voter

11:05:16 10 services specialist would be able to understand this

11:05:18 11 language from reading it: "reason to believe"?

11:05:21 12 MR. LANGHOFER: Form.

11:05:22 13 MR. MORGAN: Foundation. Speculation.

11:05:26 14 MS. JOHNSTON: I -- I guess that would be up

11:05:29 15 to how they -- no. No, I don't.

11:05:35 16 BY MR. HERRERA:

11:05:36 17 Q. Okay. And from the language, the way that the law

11:05:41 18 is written here, do you think that it's clear for a county

11:05:54 19 recorder employee to understand what is meant by "county

11:05:59 20 recorder has reason to believe are not United States

11:05:59 21 citizens"?

11:06:03 22 MR. LANGHOFER: Calls for --

11:06:03 23 MR. MORGAN: Speculation.

11:06:08 24 MS. JOHNSTON: No.

11:06:10 25 ///

11:06:10 1 BY MR. HERRERA:

11:06:13 2 Q. So I want to go back to some other language in
11:06:15 3 this bill, Ms. Munoz, and go back to Section (A)(10) -- or
11:06:29 4 Subsection (A)(10).

11:06:31 5 And if we go further, you -- you've read this
11:06:39 6 section before. But I want to focus on this first sentence
11:07:02 7 again: "When the county recorder obtains information
11:07:04 8 pursuant to this section and confirms that the person
11:07:07 9 registered is not a United States citizen."

11:07:14 10 What -- how would the Yuma County Recorder's
11:07:21 11 Office confirm that a person registered is not a United
11:07:22 12 States citizen under this section?

11:07:25 13 MR. LANGHOFER: Calls for a legal conclusion.

11:07:35 14 MS. MUNOZ: I don't see how we can confirm
11:07:41 15 that the person registered is not a United States citizen
11:07:44 16 unless we run it through the SAVE program or HAVA with --
11:07:49 17 if they provide that information needed.

11:07:51 18 BY MR. HERRERA:

11:07:52 19 Q. And for SAVE, you would need that person's -- you
11:07:57 20 would need an A-number or something like that; right?

11:07:59 21 A. Yes.

11:07:59 22 Q. Okay. Does -- when someone applies -- registers
11:08:06 23 to vote and they use an A-number, does -- and let's say
11:08:13 24 that person who had an A-number, you confirmed their
11:08:16 25 citizenship through some document. Does Yuma County save

11:08:21 1 that A-number later -- for later?

11:08:26 2 A. It's put in their record when we register them.

11:08:31 3 Q. And when you say "their record" when you register
11:08:34 4 them, is that in a database that Yuma County keeps, or is
11:08:38 5 that something that's in the state database?

11:08:40 6 A. It's in the state database.

11:08:42 7 Q. So could you go -- for someone who used an
11:08:44 8 A-number to register, could you go look up their A-number
11:08:47 9 again later on?

11:08:50 10 A. No. I would see no need for that.

11:08:54 11 Q. Would you be able to if you wanted to?

11:08:57 12 A. If I needed to, yes.

11:08:59 13 Q. Okay. Now focusing again on this
11:09:14 14 "confirms" language, I'm going to go down to some of these
11:09:21 15 other subsections we were looking at. So we looked at the
11:09:24 16 MVD.

11:09:25 17 Can the Arizona MVD driver license and
11:09:28 18 nonoperating ID database be used to confirm that a
11:09:31 19 registered voter is not a U.S. citizen?

11:09:35 20 MR. HORLEY: Same objection.

11:09:43 21 MS. MUNOZ: Can you -- can you repeat what
11:09:56 22 the question was? I'm sorry.

11:09:57 23 BY MR. HERRERA:

11:09:58 24 Q. Sure.

11:09:58 25 So we have this information above that -- or

11:10:01 1 this -- this language that says "when the county recorder
11:10:04 2 obtains information and confirms." Do you see that "and
11:10:09 3 confirms"?

11:10:10 4 A. Yes.

11:10:10 5 Q. Okay. So focus -- thinking about that, when we go
11:10:14 6 down to Section F -- or just generally, can the Arizona MVD
11:10:20 7 driver license database be used to confirm that a
11:10:24 8 registered voter is not a U.S. citizen?

11:10:27 9 MR. HORLEY: Calls for legal conclusion.

11:10:29 10 MS. MUNOZ: Yes.

11:10:30 11 BY MR. HERRERA:

11:10:32 12 Q. And how -- how do you do that? How do you use the
11:10:43 13 MVD database to confirm that someone is not a U.S. citizen?

11:10:46 14 A. The HAVA checks.

11:10:48 15 Q. And the -- but the HAVA checks show you if someone
11:10:52 16 has an F-type license; right?

11:10:54 17 A. Yes.

11:10:55 18 Q. Has your office received any guidance from the
11:11:00 19 Secretary of State's Office on how the county recorder's
11:11:06 20 office would confirm that a person registered is not a
11:11:08 21 United States citizen?

11:11:15 22 A. Not that I'm aware of.

11:11:20 23 Q. Would your office -- in order to implement House
11:11:25 24 Bill 2243, would your office need guidance on this section
11:11:29 25 of 16-165(A)(10) regarding -- regarding --

11:11:29 1 MR. HORLEY: Objection. Calls for a legal
11:11:29 2 conclusion.
11:11:41 3 THE COURT REPORTER: "Regarding" what? There
11:11:41 4 was an overlap.
11:11:41 5 BY MR. HERRERA:
11:11:46 6 Q. Regarding "confirms" -- the "confirms" language.
11:11:46 7 A. Yes.
11:11:50 8 Q. I can ask the whole question again.
11:11:52 9 So would your office prefer guidance on how
11:11:59 10 to implement 16-165(A)(10) with regard to this "confirms"
11:12:06 11 language?
11:12:08 12 A. Yes. We would need guidance from the secretary of
11:12:10 13 state on that.
11:12:12 14 Q. And why -- and why is that?
11:12:16 15 MR. HORLEY: Same objection.
11:12:19 16 MS. MUNOZ: We get the guidance from them.
11:12:19 17 (Reporter clarification.)
11:12:19 18 MR. HERRERA: Ms. Munoz, if you can give --
11:12:40 19 sorry -- just a little beat for the other attorneys to
11:12:41 20 object. Sorry about that.
11:12:41 21 BY MR. HERRERA:
11:12:57 22 Q. Now I want to go back to -- well, let's see here.
11:13:05 23 Looking again at this Section (A)(10) of
11:13:10 24 16-165, it says at the end here, "If the person registered
11:13:17 25 does not provide satisfactory evidence within thirty five

11:13:23 1 days, the county recorder shall cancel the registration and
11:13:25 2 notify the county attorney and attorney general for
11:13:28 3 possible investigation."

11:13:32 4 Do you see that?

11:13:32 5 A. Yes, I see that.

11:13:33 6 Q. And what do you -- what do you think this means:
11:13:41 7 "notify the county attorney and attorney general for
11:13:44 8 possible investigation"?

11:13:46 9 MR. HORLEY: Calls for a legal conclusion.

11:13:50 10 MS. MUNOZ: What do I think that -- what you
11:13:53 11 have highlighted means?

11:13:54 12 BY MR. HERRERA:

11:13:54 13 Q. Right.

11:13:56 14 A. It means that if we do not -- if there's -- that
11:14:11 15 if they cannot provide satisfactory proof of citizenship,
11:14:15 16 that they would have to forward it to the county attorney
11:14:19 17 or attorney general.

11:14:21 18 Q. And why -- why would you -- what do you think the
11:14:25 19 county attorney or attorney general would do in this
11:14:27 20 instance?

11:14:29 21 MR. MORGAN: Calls for speculation.

11:14:30 22 MS. MUNOZ: I cannot say.

11:14:33 23 BY MR. HERRERA:

11:14:34 24 Q. Do you think that someone might be criminally
11:14:37 25 prosecuted if you send their information under this

11:14:40 1 subsection to the county attorney or attorney general?

11:14:43 2 MR. LANGHOFER: Same objection.

11:14:43 3 MR. MORGAN: Calls far speculation.

11:14:47 4 MS. MUNOZ: It's possible.

11:14:50 5 BY MR. HERRERA:

11:14:50 6 Q. Now, again, this Subsection (A)(10), it talks

11:14:55 7 about 35 days you send a notice; right? And then they have

11:15:00 8 35 days to respond; is that right?

11:15:03 9 A. That's what it reads.

11:15:04 10 Q. Now I want to ask this kind of -- well, you're

11:15:11 11 not -- are you implementing -- is Yuma County implementing

11:15:14 12 this part of the law yet?

11:15:16 13 A. We are not.

11:15:17 14 Q. Okay. Do you ever cancel voter registrations for

11:15:27 15 people who have already been registered?

11:15:31 16 A. No, we do not.

11:15:33 17 Q. So if you were to implement this

11:15:36 18 Section (A)(10) -- if Yuma County was -- was to implement

11:15:41 19 this section and someone was removed from the voter rolls,

11:15:48 20 what do you think that Yuma County would do if you get

11:15:52 21 information after the 35 days that someone actually is

11:15:57 22 eligible? So they send in something late, what would you

11:16:00 23 do?

11:16:02 24 MR. HORLEY: Calls for speculation.

11:16:05 25 MS. MUNOZ: I don't -- I don't think I can

11:16:06 1 answer that. We're -- we're not doing that. We're waiting

11:16:09 2 for guidance from the secretary of state on this.

11:16:11 3 BY MR. HERRERA:

11:16:14 4 Q. And if a registered voter is removed from the
11:16:17 5 voter list or voter registration rolls under this section
11:16:21 6 based on an erroneous determination that they are not a
11:16:25 7 United States citizen, can that voter be added back to the
11:16:29 8 rolls if their voter registration deadline has already
11:16:32 9 passed?

11:16:34 10 MR. LANGHOFER: Calls for a legal conclusion.

11:16:40 11 MS. MUNOZ: I don't think I'm quite
11:16:41 12 understanding the question.

11:16:43 13 BY MR. HERRERA:

11:16:45 14 Q. So -- that's fine.

11:16:47 15 So you're not -- that's fine. We'll move on.

11:16:54 16 Have you received any information from the
11:17:03 17 Secretary of State's Office -- so putting aside HAVA
11:17:08 18 checks, have you ever received any information from the
11:17:12 19 Secretary of State's Office describing that someone might
11:17:15 20 not be a U.S. citizen based on use of MVD data?

11:17:23 21 A. Not that I'm aware of.

11:17:26 22 Q. Now I'm going to go to another subsection here of
11:17:33 23 this law -- of this bill. We're going to go down to G.

11:17:37 24 And do you see G here says, "To the extent
11:17:40 25 practicable, each month the county recorder shall compare

11:17:44 1 the county's voter registration database to the Social
11:17:50 2 Security Administration database"?

11:17:52 3 Do you see that?

11:17:52 4 A. I do see that.

11:17:53 5 Q. Does the Yuma County Recorder's Office ever use
11:17:58 6 the Social Security Administration database for voter
11:18:01 7 registration purposes?

11:18:05 8 A. No.

11:18:06 9 Q. Okay. Do you know if you would be able to get
11:18:14 10 citizenship information from the Social Security
11:18:18 11 Administration database?

11:18:21 12 A. No.

11:18:22 13 Q. Does the Yuma County Recorder's Office have access
11:18:26 14 to the Social Security Administration database?

11:18:29 15 A. No.

11:18:30 16 Q. Now -- sorry to jump back to a different topic.
11:18:36 17 We were talking about SAVE.

11:18:40 18 And do you recall the provision that says
11:18:43 19 that -- here, H, that says that "each month the county
11:18:48 20 recorder shall compare persons," and then it says with SAVE
11:18:54 21 here? Do you see that?

11:18:56 22 A. Yes, I do.

11:18:57 23 Q. Is it practicable for the Yuma County Recorder's
11:19:04 24 Office to run a list of people through SAVE every month?

11:19:08 25 MR. HORLEY: Calls for a legal conclusion.

11:19:09 1 MR. LANGHOFER: Calls for a legal conclusion.

11:19:12 2 MS. MUNOZ: No.

11:19:13 3 BY MR. HERRERA:

11:19:16 4 Q. Why not?

11:19:19 5 MR. LANGHOFER: Same objection.

11:19:19 6 MS. MUNOZ: I don't think I can answer that

11:19:25 7 question. I don't know if Mrs. Johnston is able to or not.

11:19:28 8 BY MR. HERRERA:

11:19:30 9 Q. Ms. Johnston, do you have an answer there?

11:19:32 10 MS. JOHNSTON: Sure. I think it's important

11:19:33 11 to note that in order to be a registered voter, once again,

11:19:37 12 you have to have met the minimum qualifications, which is

11:19:40 13 being a U.S. citizen.

11:19:42 14 If we cannot obtain citizenship on behalf of

11:19:46 15 the voter, the voter -- and also obtain that the voter is

11:19:51 16 not a citizen, they become a federal-only voter.

11:19:55 17 I believe what this language is saying is

11:19:57 18 that they would want or -- or whoever is implementing this

11:20:00 19 law would want the county recorder office to run the list

11:20:04 20 of federal-only voters through the SAVE program. Those

11:20:09 21 voters cannot be ran through the SAVE program without the

11:20:12 22 minimum information in order to run it.

11:20:14 23 So if we don't have a naturalization number

11:20:16 24 or an alien number, that information cannot be ran through

11:20:20 25 SAVE. You have to have one of those two.

11:20:26 1 BY MR. HERRERA:

11:20:26 2 Q. And so what does that mean for the ability of Yuma

11:20:29 3 County to be able to comply with this Subsection H, running

11:20:33 4 people through SAVE every month?

11:20:35 5 MS. JOHNSTON: I don't think Yuma County has

11:20:36 6 the --

11:20:38 7 MR. HORLEY: Same objection.

11:20:41 8 MS. JOHNSTON: -- staff and the resources to

11:20:45 9 run hundreds of federal-only voters through the SAVE

11:20:50 10 program. The staff would have to individually open up each

11:20:54 11 one of those records to see if a voter once provided a

11:20:59 12 A-number or a naturalization number.

11:20:59 13 BY MR. HERRERA:

11:21:03 14 Q. And now for -- and within that scenario where

11:21:06 15 you're doing this or where Yuma County is doing this, is

11:21:10 16 there any part of this law, from your understanding, that

11:21:13 17 would prevent you from -- "you" meaning the office -- from

11:21:20 18 running the same person? Say, they're a federal-only --

11:21:25 19 say, in -- say, in August they're a federal-only voter and

11:21:28 20 then next month, in September, they're also a federal-only

11:21:32 21 voter. Would -- would this law mean that you have to do it

11:21:33 22 again?

11:21:34 23 MR. LANGHOFER: Same objection.

11:21:37 24 MS. JOHNSTON: That's how I read it, yes.

11:21:39 25 ///

11:21:39 1 BY MR. HERRERA:

11:21:39 2 Q. Okay. So there's no limitation of how many times

11:21:42 3 you run a person on a monthly basis through SAVE; right?

11:21:47 4 MS. JOHNSTON: It's all -- it sounds like we

11:21:49 5 shall compare the persons once a month. So that's a must.

11:21:54 6 BY MR. HERRERA:

11:21:55 7 Q. Now, this -- Ms. Johnston, are you familiar with a

11:22:00 8 person ever losing their U.S. citizenship?

11:22:07 9 MS. JOHNSTON: No.

11:22:08 10 BY MR. HERRERA:

11:22:09 11 Q. Okay. Do you know what renunciation of U.S.

11:22:14 12 citizenship is?

11:22:14 13 MS. JOHNSTON: Yes.

11:22:17 14 BY MR. HERRERA:

11:22:17 15 Q. Have you ever run into a case of someone

11:22:19 16 renouncing their U.S. citizenship?

11:22:20 17 MS. JOHNSTON: Never.

11:22:21 18 BY MR. HERRERA:

11:22:21 19 Q. Okay. Have you ever heard of someone's

11:22:26 20 citizenship being stripped or removed?

11:22:28 21 MS. JOHNSTON: No.

11:22:29 22 BY MR. HERRERA:

11:22:30 23 Q. Okay. And have you ever run into an instance of

11:22:34 24 that in Yuma County?

11:22:35 25 MS. JOHNSTON: No.

11:22:35 1 BY MR. HERRERA:

11:22:36 2 Q. And I should have asked this earlier. And maybe

11:22:39 3 I -- I don't know if Ms. Munoz would know this better or

11:22:41 4 Ms. Johnston.

11:22:43 5 How many federal-only voters does Yuma County

11:22:46 6 have approximately?

11:22:50 7 A. Approximately about 905.

11:23:04 8 Q. I'm going to go to another section here. And it

11:23:08 9 says -- it's Subsection I of -- we're still in HB 2243.

11:23:12 10 Subsection I of this amended version of 16-165, I'm going

11:23:19 11 to highlight it there.

11:23:24 12 And it says, "For persons who are registered

11:23:25 13 to vote without satisfactory evidence of citizenship, the

11:23:31 14 county recorder shall compare the Electronic Verification

11:23:35 15 of Vital Events system maintained by a national -- by a

11:23:39 16 National Association for Public Health Statistics and

11:23:44 17 Information Systems, if accessible, with the information on

11:23:46 18 the person's voter registration file."

11:23:48 19 Ms. Munoz, have you ever heard of the

11:23:57 20 NAPHSIS?

11:23:57 21 A. No.

11:23:58 22 Q. Do you have any familiarity with the NAPHSIS's

11:24:04 23 Electronic Verification of Vital Events?

11:24:07 24 A. No, I do not.

11:24:10 25 Q. Do you have any knowledge of the U.S. citizenship

11:24:14 1 status data that is available in the NAPHSIS EVVE database?

11:24:19 2 A. No.

11:24:21 3 Q. Do you currently use NAPHSIS EVVE database for
11:24:27 4 U.S. citizenship verification?

11:24:29 5 A. No.

11:24:30 6 Q. Do you know if Yuma County Recorder's Office has
11:24:35 7 any plans to use the EVVE database?

11:24:38 8 A. I do not.

11:24:44 9 Q. And then here it says section -- Subsection J, "To
11:24:48 10 the extent practicable, the county recorder shall review
11:24:51 11 relevant city, town, county, state, and federal databases
11:24:54 12 to which the county recorder has access to confirm
11:24:57 13 information obtained that requires cancellation of
11:25:00 14 registrations pursuant to this section."

11:25:03 15 Do you -- what other relevant city, town,
11:25:07 16 county, state, or federal databases does your office have
11:25:10 17 access to for the purposes of verifying citizenship?

11:25:16 18 MR. HORLEY: Calls for a legal conclusion.

11:25:18 19 MS. MUNOZ: None that I'm aware of besides
11:25:20 20 the HAVA and SAVE.

11:25:23 21 BY MR. HERRERA:

11:25:25 22 Q. Are you familiar with what ERIC is?

11:25:29 23 A. I've heard of it, yes.

11:25:31 24 Q. Electronic Registration Information Center?

11:25:33 25 A. Yes.

11:25:34 1 Q. Okay. Have -- have you ever -- does Yuma County
11:25:39 2 currently use ERIC for citizenship verification?

11:25:43 3 A. For citizenship verification? Not that I'm aware
11:25:47 4 of.

11:25:49 5 Q. Are there any laws or statutes currently
11:26:04 6 prohibiting a person who is not eligible to vote from
11:26:09 7 registering to vote as far as you're aware?

11:26:13 8 MR. LANGHOFER: Calls for a legal conclusion.

11:26:14 9 MS. MUNOZ: What was the question again? I'm
11:26:16 10 sorry.

11:26:16 11 BY MR. HERRERA:

11:26:16 12 Q. Sure.

11:26:17 13 So are there laws or statutes in Arizona that
11:26:20 14 prohibit a person who is not eligible to vote from
11:26:22 15 registering to vote?

11:26:26 16 MR. HORLEY: Same objection.

11:26:28 17 MS. MUNOZ: I -- I don't know.

11:26:31 18 BY MR. HERRERA:

11:26:31 19 Q. So how about this? Under state law, someone who's
11:26:35 20 not eligible to vote can't register to vote; right?

11:26:38 21 MR. LANGHOFER: Calls for legal conclusion.

11:26:41 22 MS. MUNOZ: Felons cannot register to vote.

11:26:45 23 BY MR. HERRERA:

11:26:46 24 Q. Well, let me ask it differently.

11:26:49 25 So what is your -- I'll ask a different

11:26:51 1 question.

11:26:51 2 What does your office do to identify any
11:26:54 3 instances of voter fraud?

11:27:02 4 A. Can you -- can you repeat that again? I don't
11:27:04 5 think I'm understanding it.

11:27:05 6 Q. Sure.

11:27:06 7 Are you aware of what voter fraud is
11:27:11 8 generally?

11:27:13 9 A. Generally, yes.

11:27:14 10 Q. Okay. And what would that -- what would voter --
11:27:17 11 some examples of voter fraud be?

11:27:19 12 A. What I would think would be voter fraud is
11:27:25 13 somebody trying to vote twice, living in one state and
11:27:30 14 voting in another.

11:27:34 15 Q. And does your office try to identify instances of
11:27:42 16 someone who is committing voter fraud?

11:27:46 17 A. We do.

11:27:47 18 Q. Okay. And how do you do that?

11:27:50 19 A. We get -- I'm trying to think here.

11:28:01 20 Can you -- can you repeat the question again?

11:28:03 21 Q. Sure.

11:28:04 22 You identified some instances of voter fraud.

11:28:12 23 What -- how does your office go about finding those --
11:28:15 24 those instances of voter fraud?

11:28:19 25 A. I don't think I have had instances. Mrs. Johnston

11:28:24 1 might have.

11:28:28 2 Q. And, Ms. Johnston, can you -- can you elaborate?

11:28:31 3 How -- what are ways that Yuma County has

11:28:37 4 sought to identify voter fraud?

11:28:39 5 MS. JOHNSTON: Sure. I guess we can start

11:28:42 6 with the registration forms. Here in Yuma County, we

11:28:48 7 receive thousands of third-party registration forms done by

11:28:54 8 third-party registration groups that are either incomplete

11:29:02 9 or have, in the past, provided information of multiple

11:29:08 10 people. For instance, theoretically, somebody could

11:29:14 11 register using my name, Joann's date of birth, and a

11:29:20 12 recorder's driver's license. That would be an initial

11:29:23 13 voter fraud. Somebody is basically lying on their

11:29:28 14 registration form.

11:29:29 15 That has happened several times in the past.

11:29:34 16 We catch those -- that information when -- Yuma is a very

11:29:39 17 small town, and sometimes we are familiar with some of the

11:29:41 18 people that they are trying to use information on.

11:29:47 19 Also, through the HAVA checks, when it comes

11:29:54 20 down to voting, the system has mechanisms in place to show

11:29:59 21 if somebody is attempting to vote twice. So if somebody

11:30:04 22 submits an early ballot, that early ballot is accounted for

11:30:08 23 in the system.

11:30:09 24 And then if they try to vote in person,

11:30:12 25 either during early voting or on election day, we will

11:30:17 1 receive a flag. And that voter will likely vote
11:30:22 2 provisionally. But it's still an attempt to vote twice;
11:30:26 3 therefore, voter fraud, and then also the ERIC data.
11:30:33 4 BY MR. HERRERA:
11:30:36 5 Q. And do any of those ways of looking for instances
11:30:43 6 of voter fraud involve looking for persons who are not U.S.
11:30:47 7 citizens?
11:30:48 8 MS. JOHNSTON: No.
11:30:48 9 BY MR. HERRERA:
11:30:48 10 Q. No?
11:30:53 11 MS. JOHNSTON: No. Again, to be registered
11:30:54 12 to vote, we have already checked citizenship.
11:30:58 13 BY MR. HERRERA:
11:30:59 14 Q. Okay. Are you aware of any way that -- well, let
11:31:04 15 me strike that.
11:31:05 16 Can private citizens submit allegations about
11:31:16 17 potential voter fraud to your office?
11:31:18 18 MS. JOHNSTON: Have they?
11:31:20 19 BY MR. HERRERA:
11:31:20 20 Q. Yes.
11:31:22 21 MS. JOHNSTON: No.
11:31:22 22 BY MR. HERRERA:
11:31:23 23 Q. I asked, "Can they?" But have they?
11:31:25 24 MS. JOHNSTON: Have they? No. Can they?
11:31:28 25 Yes.

11:31:28 1 BY MR. HERRERA:

11:31:33 2 Q. In your experience, Ms. Johnston, or at -- strike
11:31:36 3 that.

11:31:37 4 Has the county recorder's office identified
11:31:42 5 voter fraud in the form of U.S. citizens who -- or non-U.S.
11:31:47 6 citizens who are registered to vote?

11:31:49 7 MS. JOHNSTON: No.

11:31:56 8 MR. HERRERA: I'm going to show another
11:31:58 9 document. And this is a document that was marked in a
11:32:19 10 prior exhibit [sic] as Exhibit 149 -- 149.

11:32:24 11 I'll just share it in the chat for everybody.

11:32:40 12 BY MR. HERRERA:

11:32:40 13 Q. And, Ms. Johnston, do you see this document here?

11:32:43 14 MS. JOHNSTON: Yes.

11:32:43 15 BY MR. HERRERA:

11:32:44 16 Q. Okay. And do you see that at the top it says
11:32:48 17 "Exhibit 149, HB 2617 - Voter registration; cancellations;
11:32:53 18 causes"?

11:32:53 19 MS. JOHNSTON: Yes.

11:32:53 20 BY MR. HERRERA:

11:32:54 21 Q. And do you see that it says, "Last action, May 27,
11:32:58 22 2022"?

11:32:58 23 MS. JOHNSTON: Yes.

11:32:58 24 BY MR. HERRERA:

11:32:59 25 Q. And it says, "Governor vetoed"?

11:33:02 1 MS. JOHNSTON: Yes.

11:33:03 2 BY MR. HERRERA:

11:33:03 3 Q. Then under "Short Note:" it says, "Short Note:

11:33:09 4 Cancel voter reg if 'non citizen' is checked on voter form

11:33:14 5 or have D" -- I don't know if that's "DL" or DI -- "from

11:33:19 6 another state." Do you see that?

11:33:20 7 MS. JOHNSTON: Yes.

11:33:21 8 BY MR. HERRERA:

11:33:21 9 Q. And do you see that there is a -- under "Analysis

11:33:25 10 and Comments Responses," in January 27th, 2022, there was a

11:33:32 11 comment from Robyn Stallworth-Pouquette from Yuma County?

11:33:36 12 MS. JOHNSTON: Yes.

11:33:37 13 BY MR. HERRERA:

11:33:37 14 Q. Are you familiar with any comments submitted by

11:33:41 15 Ms. Stallworth-Pouquette in January of 2022 regarding this

11:33:46 16 bill?

11:33:47 17 MS. JOHNSTON: Some comments but not all.

11:33:49 18 BY MR. HERRERA:

11:33:50 19 Q. Okay. And do you see this first comment here?

11:33:54 20 It says, "Analysis/Comments, Robyn Pouquette

11:33:57 21 of Yuma County." Is that Robyn Stallworth-Pouquette?

11:34:02 22 MS. JOHNSTON: Yes.

11:34:03 23 BY MR. HERRERA:

11:34:03 24 Q. And do you see that it says, "Suggested Position:

11:34:05 25 Oppose"?

11:34:07 1 MS. JOHNSTON: Yes.

11:34:08 2 BY MR. HERRERA:

11:34:08 3 Q. Do you recall the Yuma County Recorder's Office

11:34:10 4 opposing HB 2617?

11:34:14 5 MS. JOHNSTON: I don't recall.

11:34:15 6 BY MR. HERRERA:

11:34:15 7 Q. Okay. Do you see where it says "Oppose . . . This

11:34:21 8 is a significant impact on our offices and makes us

11:34:24 9 constant investigators unnecessarily"?

11:34:27 10 Do you see that?

11:34:28 11 MS. JOHNSTON: Yes.

11:34:28 12 BY MR. HERRERA:

11:34:29 13 Q. Did you have any role in preparing this comment?

11:34:32 14 MS. JOHNSTON: No.

11:34:34 15 BY MR. HERRERA:

11:34:36 16 Q. With regard to HB 2243, do you think that --

11:34:42 17 Ms. Johnston, do you think that HB 2243 makes the personnel

11:34:48 18 in the Yuma County office constant investigators

11:34:51 19 unnecessarily?

11:34:52 20 MS. JOHNSTON: Yes.

11:34:52 21 BY MR. HERRERA:

11:34:54 22 Q. And, Ms. Munoz, do you think that -- I'll ask you

11:34:58 23 the same question.

11:34:59 24 Ms. Munoz, do you think that HB 2243's

11:35:02 25 provisions that we were reading makes the Yuma County

11:35:07 1 Recorder's Office constant investigators unnecessarily?

11:35:10 2 A. Yes.

11:35:11 3 Q. Okay. And, Ms. Munoz, in the next sentence, in

11:35:15 4 the comment from Ms. Pouquette, last year -- and this is,

11:35:18 5 of course, about a different bill. But I will represent to

11:35:21 6 you that HB 2617 became a lot of the language of 2243.

11:35:28 7 It says, "We do not have the capability to

11:35:31 8 expand our checks beyond the system, which does several

11:35:34 9 things to ensure we have clean rolls and we consistently

11:35:37 10 review these records but we cannot manually go through

11:35:40 11 cities, et cetera."

11:35:44 12 Would you agree with that statement with

11:35:46 13 regard to 2243?

11:35:58 14 A. Yes.

11:36:14 15 Q. Ms. Johnston, are you aware -- was -- are you

11:36:18 16 aware of what the AAOC is?

11:36:20 17 MS. JOHNSTON: Yes.

11:36:21 18 BY MR. HERRERA:

11:36:21 19 Q. Okay. And what is that?

11:36:22 20 MS. JOHNSTON: AAOC, it's the Arizona

11:36:26 21 Association of Counties.

11:36:28 22 BY MR. HERRERA:

11:36:28 23 Q. Okay. And did you ever participate in any of the

11:36:33 24 meetings of AAOC?

11:36:35 25 MS. JOHNSTON: Limited -- limited amount of

11:36:37 1 meetings, yes.

11:36:38 2 BY MR. HERRERA:

11:36:39 3 Q. Did -- in your previous role, was
11:36:43 4 Ms. Stallworth-Pouquette involved with the AAOC?

11:36:48 5 MS. JOHNSTON: Yes.

11:36:48 6 BY MR. HERRERA:

11:36:49 7 Q. And do you know what her involvement was with that
11:36:52 8 organization?

11:36:53 9 MS. JOHNSTON: Not exactly.

11:36:56 10 BY MR. HERRERA:

11:36:56 11 Q. Okay. Do you know if she was the president ever?

11:36:59 12 MS. JOHNSTON: I believe so, yes.

11:37:00 13 BY MR. HERRERA:

11:37:01 14 Q. Okay. And so did you ever observe her
11:37:09 15 participation as president of the AAOC?

11:37:11 16 MS. JOHNSTON: Yes.

11:37:12 17 BY MR. HERRERA:

11:37:12 18 Q. Okay. And what did -- do you recall, in the
11:37:16 19 meetings of the AAOC, the discussion of House Bill 2492 or
11:37:22 20 2243?

11:37:22 21 MS. JOHNSTON: Vaguely.

11:37:25 22 BY MR. HERRERA:

11:37:26 23 Q. Okay. And what do you recall?

11:37:28 24 MS. JOHNSTON: Just the discussion of how it
11:37:34 25 would impact the different counties.

11:37:36 1 BY MR. HERRERA:

11:37:37 2 Q. Okay. And what was -- what was that discussion
11:37:40 3 like?

11:37:41 4 MS. JOHNSTON: Mostly how these bills are
11:37:49 5 either contradicting or they are trying to reinvent
11:37:56 6 something that is already currently being done.

11:38:03 7 BY MR. HERRERA:

11:38:05 8 Q. And do you recall if Ms. Stallworth-Pouquette held
11:38:12 9 that position?

11:38:14 10 MS. JOHNSTON: Excuse me. Can you repeat
11:38:15 11 that?

11:38:15 12 BY MR. HERRERA:

11:38:15 13 Q. Do you recall if Ms. Stallworth-Pouquette held
11:38:17 14 that position?

11:38:19 15 MS. JOHNSTON: Yes. I believe she was in
11:38:23 16 opposition of it.

11:38:24 17 BY MR. HERRERA:

11:38:25 18 Q. Of both bills?

11:38:29 19 MS. JOHNSTON: I can't say for certain, but
11:38:32 20 from the last exhibit you provided, I would say yes to at
11:38:38 21 least 2243.

11:38:48 22 MR. HERRERA: Well, I think we could take
11:38:55 23 another break. I'm going to confer with my aligned
11:39:00 24 counsel, but I think -- could we go take another break and
11:39:02 25 go off the record for about five minutes.

11:39:05 1 MR. LANGHOFER: I'm good.

11:39:06 2 THE VIDEOGRAPHER: We're off the record.

11:39:08 3 Time on the video is 11:39 a.m.

11:39:11 4 (A recess ensued.)

11:48:40 5 THE VIDEOGRAPHER: We're on the record. Time
11:49:01 6 on the video monitor is 11:48 a.m.

11:49:05 7 MR. HERRERA: So, Ms. Munoz and Ms. Johnston,
11:49:08 8 thank you for your time today. And thank you for your work
11:49:11 9 on elections and voter registration. Those are all the
11:49:15 10 questions I have for you today.

11:49:16 11 I'll pass the witness.

11:49:16 12 Beauregard, you're muted.

11:49:30 13 MR. PATTERSON: Thank you.

14

15

EXAMINATION

16 BY MR. PATTERSON:

17 Q. Ms. Munoz and Ms. Johnston, I have a few follow-up
18 questions. And I'd like to move through them quickly,
19 hopefully. So I hope not to waste much of your time.

11:49:46 20 So earlier you stated that the EPM is legally
11:49:51 21 binding guidance from the AZ secretary of state. Is there
11:49:57 22 any other methods in which the Arizona secretary of state
11:50:02 23 conveys legally binding guidance on your office other than
11:50:06 24 the EPM?

11:50:07 25 MR. LANGHOFER: Calls for a legal conclusion.

11:50:10 1 MR. MORGAN: Form.

11:50:13 2 MS. MUNOZ: We have our Arizona state

11:50:16 3 statutes.

11:50:19 4 BY MR. PATTERSON:

11:50:19 5 Q. Okay. And if there were to be no update to the

11:50:29 6 EPM, would your county still be obligated to enforce

11:50:36 7 HB 2492 and HB 2243?

11:50:40 8 MR. LANGHOFER: Calls for a legal conclusion.

11:50:43 9 MS. MUNOZ: I would have to ask counsel on

11:50:44 10 that.

11:50:45 11 BY MR. PATTERSON:

11:50:45 12 Q. Okay. Thank you.

11:50:48 13 What are sources of information -- I want to

11:50:53 14 go back to the topic of what are valid sources of

11:50:56 15 information that someone is not a U.S. citizen.

11:51:04 16 Are there any sources beyond a government

11:51:07 17 database or voter registration database that would provide

11:51:13 18 a valid source of information that someone is not a U.S.

11:51:16 19 citizen?

11:51:16 20 MR. LANGHOFER: Same objection.

11:51:19 21 MS. MUNOZ: None that I'm aware of.

11:51:22 22 BY MR. PATTERSON:

11:51:22 23 Q. If the voter themselves -- herself or himself were

11:51:28 24 to call your office and indicate that they were not a U.S.

11:51:34 25 citizen, would that be a valid source of information?

11:51:39 1 MR. LANGHOFER: Same objection.

11:51:42 2 MS. MUNOZ: If the voter themselves called

11:51:44 3 us?

11:51:44 4 BY MR. PATTERSON:

11:51:45 5 Q. Yes.

11:51:47 6 A. If we've already obtained proof of citizenship and

11:51:53 7 now they're telling me that they are not a U.S. citizen?

11:51:57 8 Q. Yes.

11:51:59 9 A. I would have to ask for guidance. Maybe

11:52:03 10 Mrs. Johnston would be able to answer that question better.

11:52:07 11 Q. Mrs. Johnston, what would your answer be?

11:52:10 12 MS. JOHNSTON: I think if the voter

11:52:12 13 themselves called and we verified that we were speaking

11:52:15 14 with the voter and they told us they were not a

11:52:19 15 citizenship -- or not a citizen, I would ask several

11:52:23 16 follow-up questions and ask them to bring in some kind of

11:52:28 17 documentation to show that they were, I would assume,

11:52:32 18 stripped of their citizenship, because we once had that on

11:52:36 19 file that they were a citizen.

11:52:38 20 BY MR. PATTERSON:

11:52:39 21 Q. Thank you.

11:52:40 22 How about if you received an email from the

11:52:44 23 voter?

11:52:45 24 MR. MORGAN: Calls for a legal conclusion.

11:52:47 25 Hey, Beauregard, can we have the same

11:52:49 1 stipulation we had last time you asked this line of
11:52:51 2 questioning? So it will be --

11:52:51 3 MR. PATTERSON: Yes, absolutely.

11:52:54 4 MR. MORGAN: -- standing calls for legal
11:52:54 5 conclusion objection on this line of questioning?

11:52:56 6 MR. PATTERSON: Absolutely.

11:52:58 7 MR. MORGAN: Thanks. I appreciate it.

11:53:00 8 BY MR. PATTERSON:

11:53:00 9 Q. So to restate the question, how about if your
11:53:03 10 office were to receive an email from the voter?

11:53:09 11 MS. JOHNSTON: I would say the office would
11:53:12 12 go the same route and request for that person to come in
11:53:16 13 person or to call us to obtain sensitive information that
11:53:22 14 is not a public record to verify that we are speaking with
11:53:26 15 the voter themselves.

11:53:28 16 BY MR. PATTERSON:

11:53:28 17 Q. And what if you were to receive a signed letter
11:53:34 18 from the voter?

11:53:34 19 MS. JOHNSTON: Like a notarized letter?

11:53:36 20 BY MR. PATTERSON:

11:53:36 21 Q. No. Just a letter bearing their signature.

11:53:41 22 MS. JOHNSTON: I would -- I would assume the
11:53:45 23 office would still request follow-up documentation.

11:53:53 24 BY MR. PATTERSON:

11:53:53 25 Q. Okay. Would a phone call from a member of the

11:53:58 1 voter's family constitute a valid source of information

11:54:03 2 that that voter is not a U.S. citizen?

11:54:08 3 MS. JOHNSTON: No.

11:54:10 4 BY MR. PATTERSON

11:54:10 5 Q. Could it -- a letter from a neighbor be a valid

11:54:14 6 source of information?

11:54:15 7 MS. JOHNSTON: No.

11:54:17 8 BY MR. PATTERSON:

11:54:17 9 Q. What about a phone call from law enforcement in

11:54:20 10 Arizona?

11:54:20 11 MS. JOHNSTON: Potentially.

11:54:26 12 BY MR. PATTERSON:

11:54:26 13 Q. Could you elaborate?

11:54:27 14 MS. JOHNSTON: I -- I would assume the office

11:54:35 15 would ask that police officer or -- or special agent for

11:54:45 16 documentation proving that the person is not a citizen and

11:54:48 17 not take it at face value.

11:54:51 18 BY MR. PATTERSON:

11:54:51 19 Q. Thank you.

11:54:52 20 How about a phone call from law enforcement

11:54:54 21 in another state?

11:54:58 22 MS. JOHNSTON: We would likely follow the

11:55:00 23 same route.

11:55:01 24 BY MR. PATTERSON:

11:55:02 25 Q. And what about an email or a letter from law

11:55:07 1 enforcement in Arizona or law enforcement from another
11:55:10 2 state?
11:55:11 3 MS. JOHNSTON: We would probably still ask
11:55:13 4 for some kind of verification proving that the voter they
11:55:17 5 are speaking about does not have citizenship.
11:55:19 6 BY MR. PATTERSON:
11:55:21 7 Q. How about an anonymous call?
11:55:24 8 MS. JOHNSTON: No.
11:55:25 9 BY MR. PATTERSON:
11:55:26 10 Q. An anonymous email address -- I mean, email from
11:55:30 11 a -- sorry.
11:55:33 12 How about an anonymous -- an email from an
11:55:37 13 anonymous source?
11:55:39 14 MS. JOHNSTON: No.
11:55:40 15 BY MR. PATTERSON:
11:55:40 16 Q. What about lists provided by third-party
11:55:44 17 organizations like True the Vote?
11:55:45 18 MS. JOHNSTON: No.
11:55:48 19 BY MR. PATTERSON:
11:55:49 20 Q. Thank you.
11:55:50 21 And what if you identify a registered voter
11:55:55 22 who has already satisfied the DPOC requirement but still
11:55:59 23 holds an F-type license? Is that information that a
11:56:02 24 registered voter is not in fact a U.S. citizen?
11:56:08 25 MR. LANGHOFER: Calls for a legal conclusion.

11:56:11 1 MS. JOHNSTON: Can you restate that, please?

11:56:14 2 BY MR. PATTERSON:

11:56:14 3 Q. Sorry.

11:56:15 4 What if you identify a registered voter who
11:56:17 5 has already satisfied DPOC but you find that they still
11:56:25 6 hold an F-type license? Would that information be
11:56:31 7 information that would indicate that they are not in fact a
11:56:34 8 U.S. citizen?

11:56:36 9 MS. JOHNSTON: No. Only if they are
11:56:40 10 reregistering from another county and their voter records
11:56:45 11 are not linked to each other.

11:56:47 12 BY MR. PATTERSON:

11:56:48 13 Q. What if you identify a registered voter who is
11:56:53 14 exempt from the documentary proof of citizenship
11:56:57 15 requirement and has never shown DPOC because they
11:57:01 16 registered prior to when DPOC went into effect? Is that
11:57:06 17 information showing that they are not a U.S. citizen?

11:57:11 18 MS. JOHNSTON: If the voter is registered to
11:57:14 19 vote and they were issued a driver's license I believe
11:57:18 20 before October of 1996, they have been deemed to have
11:57:24 21 submitted satisfactory evidence that they are a citizen.
11:57:29 22 Therefore, we would not require the voter to resubmit
11:57:35 23 citizenship unless they are a brand-new registered voter.

11:57:49 24 BY MR. PATTERSON:

11:57:49 25 Q. Thank you.

11:57:50 1 A.R.S. 16-165(A)(10), turning to that please,
11:57:59 2 it states, "When a county recorder obtains information
11:58:02 3 pursuant to this section and confirms that the person
11:58:06 4 registered is not a United States citizen, including when
11:58:10 5 the county recorder receives a summary report from a jury
11:58:12 6 commissioner or jury manager pursuant to Section 21-314
11:58:16 7 indicating the person who is registered to vote has stated
11:58:20 8 the person's not a U.S. citizen." I want to focus on the
11:58:24 9 word "confirm."

11:58:25 10 By what means can you confirm the
11:58:28 11 authenticity of such information that a voter registration
11:58:34 12 applicant is not a U.S. citizen?

11:58:38 13 MR. HORLEY: This is Tim Horley. I just want
11:58:39 14 to make sure the same stipulation applies that -- for
11:58:43 15 objecting to calls for a legal conclusion.

11:58:45 16 MR. PATTERSON: Yes.

11:58:45 17 MR. HORLEY: Okay.

11:58:47 18 MS. JOHNSTON: I think that is where our
11:58:50 19 office is having trouble interpreting this new law.

11:58:57 20 If a voter has provided DPOC and then is
11:59:03 21 called for jury duty and potentially wants to get out of
11:59:05 22 jury duty by marking "not a citizen," I believe our office
11:59:11 23 would not cancel the voter unless absolutely required.

11:59:15 24 I believe that we would prefer to put them in
11:59:19 25 suspense and then reach out to the voter and confirming why

11:59:26 1 they may be marked not a citizen since we already have DPOC

11:59:32 2 on file.

11:59:33 3 BY MR. PATTERSON:

11:59:36 4 Q. Okay. Excellent. Thank you.

11:59:38 5 Turning back to A.R.S. 16-165, I believe the

12:00:01 6 statutory subsections are F through J, which are the

12:00:07 7 databases that are listed to be used to obtain information.

12:00:15 8 Can the Arizona MVD driver's license and

12:00:22 9 nonoperating ID database be used to obtain information that

12:00:25 10 a registered voter is not a U.S. citizen?

12:00:28 11 MS. JOHNSTON: Yes.

12:00:30 12 BY MR. PATTERSON:

12:00:30 13 Q. Is there anything beyond a database that can be

12:00:34 14 used to obtain information that a registered voter is not a

12:00:37 15 U.S. citizen?

12:00:38 16 MS. JOHNSTON: Not at the moment. Unless the

12:00:50 17 voter is marking "no" on the jury list, no.

12:00:52 18 BY MR. PATTERSON:

12:00:53 19 Q. Thank you. And thank you for the clarification.

12:00:55 20 And has your office received any guidance on

12:00:58 21 how one obtains information that a person registered is not

12:01:02 22 a U.S. citizen under 16-165(A)(10)?

12:01:08 23 A. No, no. Sorry.

12:01:10 24 Q. Okay. Now, how would your office confirm that a

12:01:15 25 person registered is not a U.S. citizen under

12:01:19 1 16-165 (A) (10) ?

12:01:25 2 MS. JOHNSTON: We are not sure.

12:01:27 3 BY MR. PATTERSON:

12:01:27 4 Q. Thank you.

12:01:28 5 And based upon the database matching

12:01:38 6 requirements listed in 16-165(F) through (J) -- actually,

12:01:46 7 scratch that.

12:01:48 8 Looking at the database matching requirements

12:01:51 9 listed in 16-165(F) through (J), would it be through using

12:01:59 10 these databases that your office confirms that a person is

12:02:05 11 not a United States citizen?

12:02:07 12 MS. JOHNSTON: It could be.

12:02:09 13 BY MR. PATTERSON:

12:02:11 14 Q. Does -- scratch that.

12:02:15 15 Does the outlying subparts in (F) through (J)

12:02:37 16 below mean that your office is supposed to obtain

12:02:51 17 information regarding noncitizenship or that the database

12:02:54 18 matching is how one confirms information regarding

12:02:58 19 noncitizenship?

12:03:07 20 MS. JOHNSTON: I would prefer to read the

12:03:09 21 statute before answering.

12:03:11 22 BY MR. PATTERSON:

12:03:12 23 Q. Yes. Absolutely.

12:03:14 24 And is it clear or unclear to your office

12:03:26 25 how -- scratch that.

12:03:28 1 I believe that you have already answered
12:03:29 2 this, but just to be -- for the sake of clarification, is
12:03:35 3 it clear or unclear to your office how you would confirm
12:03:39 4 that a person is registered -- sorry.

12:03:44 5 How you would confirm whether a person
12:03:47 6 registered is not a United States citizen and whether --
12:03:53 7 and how to use the databases listed in 16-165(F) through
12:04:01 8 (J) as part of this process?

12:04:05 9 MR. HORLEY: Objection; form. Compound.
12:04:07 10 Calls for a legal conclusion.

12:04:09 11 MS. JOHNSTON: Would this pertain to somebody
12:04:13 12 who is already registered to vote with DPOC or a new
12:04:17 13 registered voter without DPOC?

12:04:19 14 BY MR. PATTERSON:

12:04:19 15 Q. Sorry. Let me reask the question.

12:04:23 16 Is it clear or unclear to your office how to
12:04:31 17 confirm that a person is registered -- sorry. Scratch
12:04:37 18 that.

12:04:38 19 Is it clear or unclear to your office how to
12:04:40 20 confirm whether a registered person is a United States
12:04:44 21 citizen?

12:04:46 22 MR. HORLEY: Calls for a legal conclusion.

12:04:50 23 MS. JOHNSTON: Currently, if a registered
12:04:52 24 voter -- if a -- if there is already a record for the
12:04:58 25 registered voter and they have DPOC on file, it is unclear

12:05:04 1 how we would obtain information proving they're not a
12:05:07 2 citizen if information was provided to us that they are not
12:05:11 3 a citizen.
12:05:13 4 BY MR. PATTERSON:
12:05:13 5 Q. Thank you.
12:05:14 6 Turning back to 16-165(H), what would give
12:05:20 7 your office a reason to believe a registered voter is not a
12:05:23 8 citizen?
12:05:25 9 MR. HORLEY: Same objection.
12:05:27 10 MS. JOHNSTON: If they marked they're not a
12:05:29 11 citizen on a jury list.
12:05:32 12 BY MR. PATTERSON:
12:05:32 13 Q. Is there any other reason -- sorry. Scratch that.
12:05:42 14 Is there any other way -- actually, scratch
12:05:45 15 that.
12:05:45 16 I'm going to provide you with the same
12:05:48 17 scenarios as we went over before.
12:05:53 18 Is there anything beyond a government or
12:05:56 19 voter registration database that you would pull information
12:06:02 20 that would give you reason to believe that a registered
12:06:05 21 voter is not a U.S. citizen?
12:06:06 22 MS. JOHNSTON: No.
12:06:07 23 BY MR. PATTERSON:
12:06:09 24 Q. Could a phone call -- sorry.
12:06:12 25 Can a phone call from the voter give you

12:06:17 1 reason to believe that that voter is not a U.S. citizen?

12:06:23 2 MR. HORLEY: This is Tim Horley. Just

12:06:24 3 confirming our same stipulation still applies. We've just

12:06:28 4 been jumping to a different part of the statute. So I just

12:06:30 5 want to make sure.

12:06:30 6 MR. PATTERSON: Yes. Yes, it does.

12:06:34 7 MS. JOHNSTON: I believe -- I believe we've

12:06:36 8 already answered this question. If a voter calls us saying

12:06:42 9 that they are no longer a citizen after we've already

12:06:46 10 acquired citizenship on their behalf or if they provided it

12:06:51 11 to us previously, we would want to confirm we are in fact

12:06:54 12 speaking with that voter. And we would ask them to provide

12:07:00 13 documentation proving that they are no longer a citizen.

12:07:04 14 If they are persistent on not being a

12:07:11 15 citizen, we would send them a letter to remove themselves

12:07:17 16 from the voter roll.

12:07:19 17 BY MR. PATTERSON:

12:07:21 18 Q. Thank you.

12:07:21 19 And with the understanding that we have gone

12:07:23 20 over these scenarios before and in a slightly different

12:07:26 21 context, I'm going to ask a couple of them combined for the

12:07:33 22 sake of time and with the understanding that your answers

12:07:36 23 may be the same.

12:07:38 24 So how about an email or signed letter from

12:07:41 25 the voter?

12:07:44 1 MS. JOHNSTON: We would want to confirm that
12:07:46 2 we are speaking with that voter before initiating any
12:07:51 3 cancellation of their record.
12:07:53 4 BY MR. PATTERSON:
12:07:53 5 Q. How about a phone call from a member of the
12:07:55 6 voter's family?
12:07:56 7 MS. JOHNSTON: No.
12:08:00 8 BY MR. PATTERSON:
12:08:00 9 Q. Would a letter from a neighbor give your office a
12:08:02 10 reason to believe that a registered voter is not a citizen?
12:08:07 11 MS. JOHNSTON: No.
12:08:08 12 BY MR. PATTERSON:
12:08:08 13 Q. What about a phone call from law enforcement in
12:08:11 14 Arizona or in another state?
12:08:15 15 MS. JOHNSTON: Potentially.
12:08:16 16 BY MR. PATTERSON:
12:08:18 17 Q. Is there any distinction between whether or not
12:08:21 18 it's in-state law enforcement or out-of-state law
12:08:25 19 enforcement?
12:08:25 20 MS. JOHNSTON: No. I think potentially
12:08:27 21 either way.
12:08:29 22 BY MR. PATTERSON:
12:08:29 23 Q. Okay. What about an email or letter from law
12:08:33 24 enforcement in Arizona or from another state?
12:08:36 25 MS. JOHNSTON: We would ask for documentation

12:08:40 1 showing that the said voter was not a citizen.

12:08:44 2 BY MR. PATTERSON:

12:08:45 3 Q. How about an anonymous call? Would that -- or an

12:08:50 4 anonymous email? Would that give your office reason to

12:08:52 5 believe that a voter is a noncitizen?

12:08:54 6 MS. JOHNSTON: No.

12:08:55 7 BY MR. PATTERSON:

12:08:55 8 Q. And what about lists provided by third-party

12:08:59 9 organizations?

12:08:59 10 MS. JOHNSTON: Government entities or

12:09:05 11 non-government entities?

12:09:06 12 BY MR. PATTERSON:

12:09:06 13 Q. Non-government entities.

12:09:08 14 MS. JOHNSTON: No.

12:09:09 15 BY MR. PATTERSON:

12:09:09 16 Q. What if the registered voter transposed, so

12:09:12 17 reversed the order of, their first and last name on their

12:09:16 18 registration application form?

12:09:18 19 MS. JOHNSTON: Their information would be ran

12:09:21 20 through HAVA, and it would likely come back as a soft

12:09:27 21 match. And staff would determine if it's a true match

12:09:31 22 based off of other information provided.

12:09:34 23 BY MR. PATTERSON:

12:09:34 24 Q. So based on that, would that by itself be a reason

12:09:41 25 to believe that a voter is a noncitizen?

12:09:46 1 MS. JOHNSTON: No.

12:09:47 2 BY MR. PATTERSON:

12:09:49 3 Q. What if the registered voter recorded a foreign
12:09:53 4 place of birth on their form?

12:09:54 5 MS. JOHNSTON: No.

12:09:55 6 BY MR. PATTERSON:

12:09:55 7 Q. What if you identify a registered voter who has
12:09:58 8 already satisfied the DPOC requirement but still holds an
12:10:02 9 F-type license? Would that create a reason to believe that
12:10:06 10 they are not in fact a U.S. citizen?

12:10:08 11 MS. JOHNSTON: No.

12:10:09 12 BY MR. PATTERSON:

12:10:10 13 Q. What about registered voters who are exempt from
12:10:12 14 DPOC under the safe harbor provision because they
12:10:16 15 registered prior to the DPOC requirement going into effect
12:10:18 16 in 2005? Would that failure to show DPOC under the
12:10:22 17 exemption give your office a reason to believe they are not
12:10:25 18 a U.S. citizen?

12:10:26 19 MS. JOHNSTON: Only if they are a brand-new
12:10:31 20 registrant.

12:10:32 21 BY MR. PATTERSON:

12:10:32 22 Q. Has your office received any guidance on when your
12:10:35 23 office would have reason to believe that a registered voter
12:10:37 24 is not a U.S. citizen?

12:10:40 25 MS. JOHNSTON: No.

12:10:41 1 BY MR. PATTERSON:

12:10:41 2 Q. Thank you. We just have a couple more questions.

12:10:43 3 Then I'll be done.

12:10:45 4 A number of provisions in both HB 2243 and

12:10:54 5 HB 2492 only obligate your office to the extent they are

12:11:01 6 practical. Who -- practicable. Who makes that call? So

12:11:06 7 who makes the call that it's practicable?

12:11:11 8 MS. JOHNSTON: I would say the county

12:11:13 9 recorder.

12:11:13 10 BY MR. PATTERSON:

12:11:15 11 Q. Do you understand -- does your office understand

12:11:20 12 what is meant by "practicable" in these laws?

12:11:24 13 MS. JOHNSTON: No.

12:11:30 14 BY MR. PATTERSON:

12:11:30 15 Q. And just for clarification, is it clear or

12:11:35 16 unclear?

12:11:36 17 MS. JOHNSTON: It's unclear.

12:11:37 18 BY MR. PATTERSON:

12:11:38 19 Q. Thank you.

12:11:38 20 If a registered voter is removed from the

12:11:41 21 rolls under HB 2243 based upon an erroneous determination

12:11:45 22 that they are not a U.S. citizen, can that voter be added

12:11:49 23 back to the rolls if the registration deadline has already

12:11:51 24 passed?

12:11:52 25 MS. JOHNSTON: Yes. So, one, you cannot

12:11:58 1 cancel somebody who is not eligible initially. So if a
12:12:03 2 voter does not hold DPOC and we run HAVA checks and it
12:12:08 3 comes back as a permanent resident or not a U.S. citizen,
12:12:15 4 the voter goes into the system as not eligible, invalid
12:12:20 5 proof of citizenship.

12:12:22 6 The voter can -- we do send out a letter to
12:12:25 7 the voter explaining that their eligibility has not been
12:12:30 8 met and they can reregister by filling out a new Arizona
12:12:35 9 state registration form and provide additional DPOC
12:12:39 10 information.

12:12:40 11 BY MR. PATTERSON:

12:12:41 12 Q. If HB 2243 were to take effect, would you still be
12:12:46 13 able to add that -- a voter who was erroneously removed
12:12:52 14 back onto the rolls after the registration deadline?

12:12:59 15 MR. HORLEY: Calls for speculation.

12:13:01 16 MS. JOHNSTON: I believe what the bill states
12:13:04 17 is after the 35 days, they don't provide DPOC, they shall
12:13:11 18 be removed from the voter rolls. Our county would have
12:13:14 19 them reregister anytime after the 35th day.

12:13:19 20 BY MR. PATTERSON:

12:13:22 21 Q. And even if the regist- -- would they be able to
12:13:24 22 reregister even if the registration deadline had passed?

12:13:30 23 MR. HORLEY: Same objection.

12:13:31 24 MS. JOHNSTON: No. It would have been past
12:13:33 25 the 35th day, which by law I believe is requiring us to

12:13:38 1 cancel the registration.

12:13:39 2 BY MR. PATTERSON:

12:13:42 3 Q. Is -- I have one final question.

12:13:51 4 Is this clearly laid -- are any of these

12:14:00 5 procedures clearly laid out in the EPM?

12:14:03 6 MS. JOHNSTON: No.

12:14:05 7 BY MR. PATTERSON:

12:14:06 8 Q. Is there anywhere else that these procedures are

12:14:08 9 laid out?

12:14:10 10 MS. JOHNSTON: Not procedures, no.

12:14:12 11 BY MR. PATTERSON:

12:14:13 12 Q. And could this practice vary from county to

12:14:16 13 county?

12:14:16 14 MS. JOHNSTON: Currently, yes.

12:14:20 15 MR. PATTERSON: Thank you. I have no more

12:14:22 16 questions, so I will pass it to my co-counsel -- or

12:14:29 17 co-plaintiffs.

12:14:29 18

12:14:29 19 EXAMINATION

12:14:29 20 BY MR. SNOW:

12:14:38 21 Q. Hello, Ms. Munoz and Ms. Johnston. My name is

12:14:40 22 Ryan Snow. I'm with the Lawyers' Committee, representing

12:14:43 23 the Tohono O'odham plaintiffs?

12:14:46 24 And I'm going to be asking a few questions

12:14:49 25 just focused on the documentary proof of residence

12:14:52 1 requirement in HB 2492.

12:14:56 2 And if you need me to repeat myself or speak
12:14:58 3 up, please let me know.

12:15:00 4 MR. SNOW: And that goes for our esteemed
12:15:02 5 colleagues who are recording as well as this.

12:15:02 6 BY MR. SNOW:

12:15:06 7 Q. So first, thanks so much for your work in election
12:15:10 8 administration and for being with us today.

12:15:13 9 So I have a few questions just about the
12:15:15 10 current practices concerning residential address.

12:15:19 11 So in order to register to vote, applicants
12:15:21 12 who are -- are currently required to provide their
12:15:24 13 residential address, or if they don't have a residential
12:15:26 14 address, a description or drawing of the location of the
12:15:29 15 residence; is that correct?

12:15:30 16 MS. JOHNSTON: Correct.

12:15:31 17 BY MR. SNOW:

12:15:31 18 Q. Thank you.

12:15:32 19 And a P.O. box can't be used to satisfy that
12:15:35 20 requirement; correct?

12:15:36 21 MS. JOHNSTON: Correct.

12:15:36 22 BY MR. SNOW:

12:15:40 23 Q. And why is residence address or location
12:15:44 24 information important for voter registration?

12:15:44 25 MS. JOHNSTON: Precincting and districting

12:15:44 1 the voter.

12:15:46 2 BY MR. SNOW:

12:15:46 3 Q. And can you describe a little bit more about that,
12:15:49 4 please?

12:15:49 5 MS. JOHNSTON: Sure. Depending on where the
12:15:51 6 voter lives, they will be assigned a precinct and a
12:15:57 7 congressional district, a legislative district, board of
12:16:00 8 supervisor district, and so forth.

12:16:02 9 BY MR. SNOW:

12:16:02 10 Q. Thank you.

12:16:04 11 So if someone provides a residential address,
12:16:07 12 how does the county use that information to locate the
12:16:09 13 residence for precincting and districting?

12:16:11 14 MS. JOHNSTON: AVID is the statewide database
12:16:15 15 that 13 of the 15 counties use. Within AVID, there is
12:16:22 16 something called TotalAddress which geocodes and drops a
12:16:27 17 pin on the address of the voter.

12:16:27 18 BY MR. SNOW:

12:16:32 19 Q. And so the geocode location, does that then become
12:16:36 20 part of the voter's record?

12:16:37 21 MS. JOHNSTON: Not the geocode, no. Just the
12:16:40 22 precinct information and the address.

12:16:40 23 BY MR. SNOW:

12:16:42 24 Q. So where is the geocode information stored?

12:16:44 25 MS. JOHNSTON: In the -- I would assume the

12:16:47 1 back end of TotalAddress.

12:16:47 2 BY MR. SNOW:

12:16:50 3 Q. And again, TotalAddress is part of AVID?

12:16:53 4 MS. JOHNSTON: Correct.

12:16:54 5 BY MR. SNOW:

12:16:54 6 Q. And so that's for a standard residential address

12:16:58 7 or a nonstandard residential address?

12:17:00 8 MS. JOHNSTON: Standard.

12:17:00 9 BY MR. SNOW:

12:17:01 10 Q. So what would be the process for someone providing

12:17:04 11 a nonstandard residence address? How would that work with

12:17:07 12 the system you just described?

12:17:08 13 MS. JOHNSTON: Typically, a nonstandard

12:17:11 14 address here in Yuma County would be on a reservation,

12:17:16 15 which is not -- does not fall under the jurisdiction of the

12:17:20 16 county. Therefore, our GIS department does not have the --

12:17:27 17 the longitude and latitude of those addresses. But we are

12:17:33 18 familiar with the area; therefore, we would manually drop a

12:17:39 19 pin in the area of the said address.

12:17:39 20 BY MR. SNOW:

12:17:44 21 Q. Thank you.

12:17:44 22 So how would you go about locating the

12:17:46 23 physical location of that address, the nonstandard address?

12:17:50 24 MS. JOHNSTON: Looking on a map.

12:17:50 25 ///

12:17:50 1 BY MR. SNOW:

12:17:52 2 Q. And that would be if the registrant or the
12:17:55 3 applicant just provided their nonstandard address without a
12:17:57 4 depiction or description; is that correct?

12:17:58 5 MS. JOHNSTON: Correct.

12:17:58 6 BY MR. SNOW:

12:18:00 7 Q. And so where do you -- where do you get the map
12:18:04 8 that you use to locate a nonstandard address?

12:18:06 9 MS. JOHNSTON: GIS.

12:18:06 10 BY MR. SNOW:

12:18:09 11 Q. So this is based on your familiarity with the
12:18:14 12 coordinates of locations on tribal land?

12:18:16 13 MS. JOHNSTON: Correct.

12:18:16 14 BY MR. SNOW:

12:18:17 15 Q. And what's the basis for your knowledge about
12:18:20 16 that?

12:18:20 17 MS. JOHNSTON: Typically, when somebody
12:18:25 18 provides us a nonstandard address, they are providing a
12:18:29 19 street name, and we are able to locate that street name on
12:18:33 20 the map. Although it's not in the jurisdiction, we still
12:18:37 21 have a map of the streets on reservation land.

12:18:37 22 BY MR. SNOW:

12:18:42 23 Q. And where did you get the map?

12:18:44 24 A. GIS.

12:18:45 25 Q. GIS.

12:18:46 1 So have you had any contact with the tribal
12:18:47 2 governments around -- around this?

12:18:49 3 MS. JOHNSTON: No.

12:18:49 4 BY MR. SNOW:

12:18:52 5 Q. Thank you.

12:18:52 6 And then so turning to -- if someone provides
12:18:54 7 a description or depiction of their address, what's the
12:18:59 8 process for locating them as far as their location for the
12:19:03 9 purposes of precincting and districting?

12:19:06 10 MS. JOHNSTON: So if someone is without a
12:19:10 11 home and draws a picture of where they're staying -- I
12:19:20 12 would say because Yuma is a fairly small town, we're very
12:19:24 13 familiar with our area. So if somebody were to draw a
12:19:29 14 picture of the Ocean-to-Ocean Bridge, we would have a very
12:19:34 15 good idea of where that's located, and we could manually
12:19:37 16 drop a pin in that area.

12:19:37 17 BY MR. SNOW:

12:19:40 18 Q. And so for a person who provides a description of
12:19:43 19 or depiction of their location residence, how is that
12:19:47 20 represented in their voter record?

12:19:49 21 MS. JOHNSTON: We would mark it as a
12:19:51 22 nonstandard address in the system, which will allow us to
12:19:57 23 bypass finding the geocode address.

12:19:57 24 BY MR. SNOW:

12:20:02 25 Q. And so then you would -- you would put the geocode

12:20:05 1 in yourself?

12:20:06 2 MS. JOHNSTON: We would manually drop the
12:20:09 3 pin, yes, which would geocode it.

12:20:09 4 BY MR. SNOW:

12:20:09 5 Q. Thank you.

12:20:12 6 And then, again, the geocode is part of, you
12:20:14 7 think, the back end of AVID, but it's not part of the
12:20:17 8 voter's record; is that correct?

12:20:18 9 MS. JOHNSTON: Correct.

12:20:18 10 BY MR. SNOW:

12:20:19 11 Q. So if the voter were to move -- sorry. Scratch
12:20:19 12 that.

12:20:23 13 If you were to reassign precincts and you
12:20:25 14 were to have to reassign individuals who already are in
12:20:27 15 your system as registered, how would you go about
12:20:31 16 redetermining their geolocation for the purposes of
12:20:33 17 precinct reassignment?

12:20:34 18 MS. JOHNSTON: Likely, the area that they are
12:20:37 19 in is not going to be split.

12:20:37 20 BY MR. SNOW:

12:20:40 21 Q. And why is that?

12:20:41 22 MS. JOHNSTON: For redistricting purposes,
12:20:46 23 they don't split, like, neighborhoods. I'm not completely
12:20:53 24 sure all the rules in redistricting, but it's very rare for
12:21:00 25 a neighborhood to be split into two different districts.

12:21:00 1 BY MR. SNOW:

12:21:07 2 Q. Okay. Thank you.

12:21:08 3 So have you ever encountered a case where a
12:21:12 4 standard residential address is not able to be located
12:21:14 5 using the process you just described?

12:21:15 6 MS. JOHNSTON: No. Not in Yuma County.

12:21:15 7 BY MR. SNOW:

12:21:19 8 Q. Have you ever encountered a situation where a
12:21:21 9 nonstandard resident's potential address is not able to be
12:21:25 10 located through the process you just described?

12:21:26 11 MS. JOHNSTON: No.

12:21:26 12 BY MR. SNOW:

12:21:27 13 Q. Have you ever encountered a situation where a
12:21:30 14 description or depiction of a location of residence is not
12:21:33 15 able to be located through the process you just described?

12:21:35 16 MS. JOHNSTON: No.

12:21:35 17 BY MR. SNOW:

12:21:37 18 Q. Thank you.

12:21:44 19 To your knowledge, is it more common for
12:21:46 20 applicants on Native American reservations to have a
12:21:51 21 nonstandard address?

12:21:52 22 MS. JOHNSTON: No. We don't have a lot of
12:21:57 23 nonstandard addresses here in Yuma County.

12:22:00 24 The -- the two major reservations that we
12:22:04 25 have here in Yuma, one is actually located in California,

12:22:10 1 but they typically commute here to Yuma since it's more --
12:22:14 2 it's closer to the city.

12:22:17 3 The Cocopah reservation, we don't have --
12:22:22 4 it's a very small couple roads. So we don't have any
12:22:25 5 issues being able to determine a location.

12:22:25 6 BY MR. SNOW:

12:22:29 7 Q. I'm sorry. That's the Cocopah reservation?

12:22:32 8 MS. JOHNSTON: The Cocopah, yes.

12:22:32 9 BY MR. SNOW:

12:22:32 10 Q. Cocopah.

12:22:33 11 And what about the Quechan?

12:22:36 12 MS. JOHNSTON: That is located in
12:22:37 13 Winterhaven, California.

12:22:38 14 BY MR. SNOW:

12:22:38 15 Q. So do you have any tribal land then that's located
12:22:42 16 in Yuma County?

12:22:45 17 MS. JOHNSTON: Can you repeat that?

12:22:46 18 BY MR. SNOW:

12:22:46 19 Q. Do you have -- so to your knowledge, do you have
12:22:47 20 any tribal land that's located in Yuma County?

12:22:50 21 MS. JOHNSTON: Just the Cocopah Nation.

12:22:50 22 BY MR. SNOW:

12:22:52 23 Q. Okay. So just to reiterate, so you wouldn't say
12:23:01 24 that in Yuma County applicants with nonstandard addresses
12:23:07 25 are more likely to reside on tribal land?

12:23:08 1 MS. JOHNSTON: I would not say that, correct.

12:23:11 2 I would say most people with a nonstandard address here in

12:23:15 3 Yuma County are without home.

12:23:15 4 BY MR. SNOW:

12:23:20 5 Q. Thank you.

12:23:21 6 So what would be the process for a voter if

12:23:24 7 their address couldn't be located or their location of

12:23:27 8 residence couldn't be located?

12:23:28 9 MS. JOHNSTON: If we could not locate

12:23:30 10 somebody's address, we would put the voter in suspense and

12:23:35 11 send correspondence to the mailing address that they

12:23:39 12 provide.

12:23:39 13 BY MR. SNOW:

12:23:41 14 Q. Would you take any other steps?

12:23:44 15 MS. JOHNSTON: No.

12:23:44 16 BY MR. SNOW:

12:23:48 17 Q. If they had a phone number listed, would you call

12:23:49 18 the phone number?

12:23:51 19 MS. JOHNSTON: Yes.

12:23:51 20 BY MR. SNOW:

12:23:53 21 Q. Would you ever attempt to conduct an in-person

12:23:55 22 visit?

12:23:55 23 MS. JOHNSTON: If we can contact them, yes.

12:23:58 24 BY MR. SNOW:

12:23:58 25 Q. So only if you can contact them first?

12:24:01 1 MS. JOHNSTON: Yes. Typically, somebody with
12:24:05 2 a nonstandard address, they would provide us a P.O. box
12:24:09 3 and we would send the notice to the P.O. box.

12:24:13 4 If they provide a phone number, we would be
12:24:16 5 able to also contact them by phone.

12:24:20 6 And then we would ask them to either come
12:24:24 7 down to the office and fill out a new registration form or
12:24:28 8 let them know we would be mailing them one. And they would
12:24:31 9 need to resubmit another registration form with a valid
12:24:38 10 address.

12:24:38 11 BY MR. SNOW:

12:24:43 12 Q. Sorry. What would be an example of an invalid
12:24:46 13 address?

12:24:46 14 MS. JOHNSTON: McDonald's.

12:24:46 15 BY MR. SNOW:

12:24:49 16 Q. I see.

12:24:49 17 So that would be the process for anybody
12:24:51 18 who's the -- whose -- whose registration address --
12:24:56 19 residence address could not be located; is that correct?

12:24:58 20 MS. JOHNSTON: Correct.

12:24:58 21 BY MR. SNOW:

12:24:59 22 Q. But in your experience, you haven't -- you haven't
12:25:02 23 encountered that situation; correct?

12:25:03 24 MS. JOHNSTON: Third-party registration forms
12:25:07 25 typically have some form of invalid address on it. We see

12:25:12 1 a pattern where people will register at a business, which
12:25:16 2 is not a valid residential address.

12:25:16 3 BY MR. SNOW:

12:25:19 4 Q. I see.

12:25:20 5 But if that applicant suggested that they
12:25:23 6 resided near that -- that business, that would be valid for
12:25:27 7 the purposes if they lacked a home?

12:25:29 8 MS. JOHNSTON: No.

12:25:29 9 BY MR. SNOW:

12:25:31 10 Q. What would they need to do to provide that
12:25:33 11 information?

12:25:33 12 MS. JOHNSTON: They would need to provide a
12:25:36 13 physical residential address or the area but not an address
12:25:42 14 of a business.

12:25:42 15 BY MR. SNOW:

12:25:44 16 Q. I see.

12:25:45 17 So could they say, you know, near the
12:25:47 18 McDonald's by such and such intersection?

12:25:49 19 MS. JOHNSTON: Yes.

12:25:49 20 BY MR. SNOW:

12:25:50 21 Q. Okay. Thank you.

12:25:52 22 MS. JOHNSTON: But we would have them put
12:25:55 23 that on the form. So we would put them in suspense and
12:25:56 24 require them to draw that picture in Box 23.

12:25:56 25 ///

12:25:56 1 BY MR. SNOW:

12:26:01 2 Q. Okay. Thank you.

12:26:12 3 To your knowledge, how long has Yuma County
12:26:13 4 used the process you described -- just described for
12:26:16 5 nonstandard addresses and depictions and descriptions?

12:26:20 6 MS. JOHNSTON: Definitely within the five
12:26:25 7 years that I worked for the county recorder's office.

12:26:31 8 MS. MUNOZ: Same. I've been on the voter
12:26:33 9 registration side since 2012, so since then.

12:26:33 10 BY MR. SNOW:

12:26:33 11 Q. Thank you.

12:26:38 12 And during that time, have you encountered
12:26:40 13 any issues with that process in terms of locating the
12:26:46 14 residences of voter registration applicants?

12:26:54 15 A. No.

12:26:58 16 Q. Thank you.

12:26:58 17 And have you ever encountered any complaints
12:27:01 18 from voters about that process?

12:27:04 19 MS. JOHNSTON: No.

12:27:04 20 BY MR. SNOW:

12:27:04 21 Q. Thank you.

12:27:23 22 Has anyone ever provided a document to your
12:27:27 23 office that contains a nonstandard address on that
12:27:31 24 document?

12:27:33 25 MS. JOHNSTON: Not that I'm aware of.

12:27:33 1 BY MR. SNOW:

12:27:35 2 Q. Has anyone ever provided your office a document
12:27:38 3 that contains a description or a depiction of their
12:27:42 4 residence?

12:27:43 5 MS. JOHNSTON: Other than the Arizona state
12:27:45 6 registration form, no.

12:27:45 7 BY MR. SNOW:

12:27:47 8 Q. Thank you.

12:27:48 9 Are you aware of documents that exist that
12:27:50 10 contain those types of addresses?

12:27:52 11 MS. JOHNSTON: No.

12:27:52 12 BY MR. SNOW:

12:27:58 13 Q. Do you know if Yuma County provides standard
12:28:01 14 addresses for homes in the county?

12:28:04 15 MS. JOHNSTON: Standard addresses, yes.

12:28:04 16 BY MR. SNOW:

12:28:07 17 Q. And what department provides addresses?

12:28:09 18 MS. JOHNSTON: Planning and zoning --

12:28:09 19 BY MR. SHOW:

12:28:09 20 Q. And --

12:28:12 21 MS. JOHNSTON: -- or the city, which is
12:28:15 22 community development.

12:28:15 23 BY MR. SNOW:

12:28:15 24 Q. Thanks.

12:28:19 25 And to your knowledge, what does that process

12:28:21 1 entail?

12:28:22 2 MS. JOHNSTON: I'm not sure. I don't work
12:28:24 3 for those departments.

12:28:24 4 BY MR. SNOW:

12:28:26 5 Q. Thank you.

12:28:26 6 To your knowledge, does the county ever
12:28:32 7 provide addresses for homes that are located on Native
12:28:35 8 American reservations?

12:28:36 9 MS. JOHNSTON: I am not sure.

12:28:36 10 BY MR. SNOW:

12:28:41 11 Q. Thank you.

12:28:42 12 So how much contact does your office have
12:28:46 13 with tribal governments?

12:28:48 14 MS. JOHNSTON: Minimal.

12:28:48 15 BY MR. SNOW:

12:28:50 16 Q. And what's -- what's the nature of that contact?

12:28:52 17 MS. JOHNSTON: I -- I think I've been reached
12:28:56 18 out to once in regards to a public records request from a
12:29:09 19 student who was doing some research.

12:29:12 20 They wanted to know the turnout of Native
12:29:20 21 Americans, and, unfortunately, we do not keep a record of
12:29:24 22 demographics based on race, religion, sexual -- gender and
12:29:32 23 how -- and if they vote or do not vote.

12:29:32 24 BY MR. SNOW:

12:29:36 25 Q. Thank you.

12:29:36 1 Does your office keep information based on
12:29:39 2 the location of a voter for different purposes and turnout
12:29:45 3 for those areas?

12:29:47 4 MS. JOHNSTON: Not specifically for those
12:29:48 5 areas. But our office maintains a list of voters who vote.
12:29:54 6 And it could, I'm sure, be filtered through Excel, looking
12:29:59 7 for specific addresses.

12:29:59 8 BY MR. SNOW:

12:30:02 9 Q. But you haven't undertaken that analysis yourself?

12:30:05 10 MS. JOHNSTON: No.

12:30:05 11 BY MR. SNOW:

12:30:07 12 Q. So you wouldn't be able to say whether voter
12:30:10 13 registration rates were lower on tribal land than in other
12:30:13 14 communities?

12:30:13 15 MS. JOHNSTON: No.

12:30:13 16 BY MR. SNOW:

12:30:19 17 Q. If the documentary proof of residence provision is
12:30:23 18 implemented, does your office currently have plans to reach
12:30:26 19 out to the tribes in your county to provide education on
12:30:29 20 the new requirement?

12:30:30 21 MS. JOHNSTON: Not currently.

12:30:30 22 BY MR. SNOW:

12:30:34 23 Q. Is that something that your office would
12:30:37 24 undertake?

12:30:37 25 MS. JOHNSTON: Once we receive guidance from

12:30:40 1 the state, yes.

12:30:41 2 BY MR. SNOW:

12:30:42 3 Q. And just to confirm, you have yet to receive
12:30:44 4 guidance from the state on the documentary proof of
12:30:47 5 residence requirement?

12:30:47 6 MS. JOHNSTON: Correct.

12:30:47 7 BY MR. SNOW:

12:30:48 8 Q. And you're not currently enforcing that
12:30:50 9 requirement; correct?

12:30:50 10 MS. JOHNSTON: Correct.

12:30:50 11 BY MR. SNOW:

12:30:50 12 Q. So just a few more questions.

12:30:50 13 To your knowledge, will the documentary proof
12:30:58 14 of residence requirement in HB 2492 apply to the federal
12:31:01 15 form?

12:31:01 16 MS. JOHNSTON: Yes.

12:31:01 17 BY MR. SNOW:

12:31:07 18 Q. And the current federal form instructions do not
12:31:09 19 ask for documentary proof of residence; correct?

12:31:12 20 MS. JOHNSTON: Correct.

12:31:12 21 BY MR. SNOW:

12:31:13 22 Q. Are you aware of any request by the state to
12:31:15 23 update the Election Assistance Commission instructions on
12:31:17 24 the federal form?

12:31:18 25 MS. JOHNSTON: Can you restate that, please?

12:31:18 1 BY MR. SNOW:

12:31:21 2 Q. Are you aware of any request by the State of
12:31:25 3 Arizona to update the election administration -- Election
12:31:28 4 Assistance Commission instructions on the federal form?

12:31:31 5 MS. JOHNSTON: I am not aware.

12:31:31 6 BY MR. SNOW:

12:31:34 7 Q. So if the documentary proof of residence
12:31:40 8 requirement were implemented for the federal form, those
12:31:45 9 who apply without providing documentary proof of residence
12:31:48 10 would have their federal form rejected under the current
12:31:51 11 law; correct?

12:31:51 12 MS. JOHNSTON: Correct.

12:31:53 13 MR. LANGHOFER: Legal conclusion.

12:31:53 14 BY MR. SNOW:

12:31:55 15 Q. Your office would reject those forms; correct?

12:32:01 16 MS. JOHNSTON: Once we receive guidance from
12:32:03 17 the state on how to implement these laws, if the state law
12:32:09 18 is requiring us to reject the registration form, we will
12:32:12 19 follow what state law requires us to do.

12:32:12 20 BY MR. SNOW:

12:32:16 21 Q. Thank you.

12:32:16 22 And you would rely on guidance from the
12:32:19 23 Secretary of State's Office on that point?

12:32:21 24 MS. JOHNSTON: Yes.

12:32:21 25 ///

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BY MR. SNOW:

Q. Okay. Would you rely on guidance from any other source on that point?

MS. JOHNSTON: No.

BY MR. SNOW:

Q. And would that guidance be contained in the Election Procedures Manual?

MS. JOHNSTON: Yes.

BY MR. SNOW:

Q. Would the guidance be contained in any other source from the Secretary of State's Office besides the Election Procedures Manual?

MS. JOHNSTON: No.

BY MR. SNOW:

Q. Thank you. What documents -- what types of documents would qualify to satisfy the documentary proof of registration requirement -- sorry.

What type of -- types of documents would qualify to satisfy the documentary proof of residence requirement, to your knowledge?

MR. HORLEY: Foundation. Calls for a legal conclusion. Calls for speculation.

MS. JOHNSTON: I would assume a picture ID with -- that has their residential address on it, such as a

12:33:34 1 driver's license or a bill or a combination of both.

12:33:47 2 MR. SNOW: Okay. Let's take a quick look at
12:33:50 3 a document. It's the document marked Yuma Bates 000019.
12:33:58 4 I'm going to put it in the chat.

12:34:01 5 MR. MORGAN: Ryan, how much time are you
12:34:02 6 looking at here? I'm thinking about lunch.

12:34:05 7 MR. SNOW: Really, only a few more questions.
12:34:06 8 I just want to go through this exhibit and then just a few
12:34:13 9 follow-up questions. Then I should be done.

12:34:14 10 And I know one of my colleagues on the line
12:34:16 11 might have a few additional questions. But if not, then
12:34:19 12 we'll be done with the DPOR stuff.

12:34:19 13 BY MR. SNOW:

12:34:25 14 Q. So are you able to pull up the document I just put
12:34:28 15 in the chat labeled YUMA-000019?

12:34:43 16 MS. JOHNSTON: Give me one second.

12:34:43 17 BY MR. SNOW:

12:34:46 18 Q. Sure. And apologies. I didn't provide this in
12:34:48 19 advance.

12:34:59 20 MS. JOHNSTON: I have it pulled up.

12:34:59 21 BY MR. SNOW:

12:34:59 22 Q. Thank you.

12:35:01 23 And looking at the top line on the first
12:35:02 24 page, what does it say there, the very first line?

12:35:04 25 MS. JOHNSTON: "VRAC Legislative Policy

12:35:07 1 Updates."

12:35:07 2 BY MR. SNOW:

12:35:07 3 Q. And so what is this document?

12:35:08 4 MS. JOHNSTON: This appears to be a VRAC

12:35:15 5 white paper.

12:35:15 6 BY MR. SNOW:

12:35:16 7 Q. And what is VRAC?

12:35:20 8 MS. JOHNSTON: I don't know the exact acronym

12:35:25 9 for it. I would -- voter registration something

12:35:31 10 committee -- advisory committee probably.

12:35:31 11 BY MR. SNOW:

12:35:34 12 Q. Have you seen this particular document before?

12:35:35 13 And you can take a moment to review.

12:35:38 14 MS. JOHNSTON: I have not.

12:35:38 15 BY MR. SNOW:

12:35:41 16 Q. Ms. Munoz?

12:35:42 17 MS. MUNOZ: I have not.

12:35:43 18 BY MR. SNOW:

12:35:43 19 Q. Have you seen similar documents to this before?

12:35:47 20 MS. JOHNSTON: I have seen VRAC papers in the

12:35:49 21 past but not pertaining to this specific topic.

12:35:49 22 BY MR. SNOW:

12:35:54 23 Q. Okay.

12:35:57 24 THE COURT REPORTER: Do you want to mark

12:35:58 25 this?

12:35:59 1 MR. SNOW: Oh, I'm sorry. Thank you. I do
12:36:01 2 not know -- what is our current exhibit number? Apologies.

12:36:04 3 THE COURT REPORTER: 204.

12:36:05 4 MR. SNOW: 204. Thank you very much. And
12:36:09 5 apologies.

12:36:09 6 So I'll mark this as Exhibit 204.

7 (The document was marked as Exhibit 204
8 for identification.)

9 BY MR. SNOW:

10 Q. And this is a document that was provided to the
11 plaintiffs -- or to the parties by your office in response
12 to a request for production.

12:36:23 13 So just scrolling down to page 10, which is
12:36:26 14 marked Bates 20 -- sorry -- Bates 28 in the bottom
12:36:32 15 right-hand corner. It's page -- sorry -- page 10 of the
12:36:36 16 document.

12:36:37 17 And you see that subheader that says
12:36:38 18 "(HB 2492 - List Maintenance Residency/Citizenship)"?

12:36:45 19 MS. JOHNSTON: Yes.

12:36:45 20 BY MR. SNOW:

12:36:46 21 Q. Okay. And below that, it says, "HB 2492 has a
12:36:52 22 delayed effective date of January 1st, 2023, and litigation
12:36:55 23 is ongoing"; is that correct?

12:36:57 24 MS. JOHNSTON: Yes.

12:36:57 25 ///

12:36:57 1 BY MR. SNOW:

12:36:58 2 Q. It says, "Significant changes to policy and the
12:37:00 3 voter registration database will be needed"; is that
12:37:02 4 correct?

12:37:02 5 MS. JOHNSTON: Yes.

12:37:02 6 BY MR. SNOW:

12:37:04 7 Q. Then turning down to the next page, there's a
12:37:06 8 subheader that says, "Documentary Proof of -- Documentary
12:37:09 9 Proof of Residency." Excuse me.

12:37:12 10 MS. JOHNSTON: Yes.

12:37:12 11 BY MR. SNOW:

12:37:14 12 Q. Thank you.

12:37:14 13 Then below that, it says, "DPOR must
12:37:17 14 accompany the state form but does not need to accompany the
12:37:19 15 federal form. Requiring DPOR conflicts with the National
12:37:22 16 Voter Registration Act ('NVRA') and Inter -- and Arizona v.
12:37:27 17 Inter Tribal Council of Arizona, 570 U.S. 1, 18 (2013)"; is
12:37:31 18 that correct?

12:37:31 19 MS. JOHNSTON: Yes.

12:37:31 20 BY MR. SNOW:

12:37:34 21 Q. So looking at that statement, would your office
12:37:41 22 rely on that statement in enforcing the DPOR provision?

12:37:43 23 MS. JOHNSTON: Yes.

12:37:43 24 BY MR. SNOW:

12:37:48 25 Q. Thank you.

12:37:48 1 And then looking below that: "What
12:37:50 2 constitutes Documentary Proof of Residency?" And then
12:37:53 3 there's a list on the left side of different kinds of IDs.
12:37:57 4 And then on the right, it has some statutory citations and
12:38:01 5 some other text; is that correct?

12:38:04 6 MS. JOHNSTON: Yes.

12:38:04 7 BY MR. SNOW:

12:38:07 8 Q. Thank you.

12:38:08 9 And looking at the left column, are there any
12:38:15 10 categories of ID that you say you're not familiar with?

12:38:19 11 You can just take a moment to review.

12:38:21 12 MS. JOHNSTON: I'm familiar with all of
12:38:29 13 those.

12:38:29 14 BY MR. SNOW:

12:38:31 15 Q. So looking at the -- the row labeled "Tribal
12:38:33 16 Identification Card (census card, tribal ID, or tribal
12:38:36 17 enrollment card)," and then over on the right, the
12:38:41 18 corresponding box says, "A.R.S. 16-123, ('Any of the
12:38:45 19 identifying documents prescribed in section 16-579,
12:38:48 20 subsection a, paragraph 1 constitutes satisfactory proof of
12:38:52 21 location of residence')"; is that -- is that correct?

12:38:55 22 MS. JOHNSTON: Correct. That's what it says.

12:38:55 23 BY MR. SNOW:

12:38:58 24 Q. And, then, are you familiar with the documents
12:39:01 25 referred to when it says "any of the identifying documents

12:39:03 1 prescribed in section 16-579, subsection a, paragraph 1"?

12:39:09 2 MS. JOHNSTON: I'm sorry. Where are you

12:39:14 3 seeing -- oh.

12:39:14 4 BY MR. SNOW:

12:39:14 5 Q. Yeah.

12:39:17 6 Are you familiar -- are you familiar with the

12:39:18 7 documents that are referred to by that -- that citation?

12:39:21 8 MS. JOHNSTON: Give me one second. Let me

12:39:29 9 review it.

12:39:29 10 BY MR. SNOW:

12:39:29 11 Q. Sure. Take your time.

12:39:51 12 Are you referring to a list of statutes?

12:39:54 13 MS. JOHNSTON: Yes.

12:39:54 14 BY MR. SNOW:

12:39:55 15 Q. Thank you.

12:40:17 16 MS. JOHNSTON: Yes, we are familiar with --

12:40:21 17 with the list of satisfactory proof of residency.

12:40:21 18 BY MR. SNOW:

12:40:26 19 Q. Thank you.

12:40:26 20 That includes tribal identification cards as

12:40:29 21 described in this document?

12:40:30 22 MS. JOHNSTON: Correct.

12:40:30 23 BY MR. SNOW:

12:40:32 24 Q. To your knowledge, do tribal identification cards

12:40:35 25 always contain a residential address?

12:40:36 1 MS. JOHNSTON: Not that I'm aware of.

12:40:36 2 BY MR. SNOW:

12:40:40 3 Q. Have you ever seen a tribal identification card of
12:40:42 4 some type that does not contain a residential address?

12:40:44 5 MS. JOHNSTON: I have never seen a tribal
12:40:46 6 identification card at all.

12:40:46 7 BY MR. SNOW:

12:40:48 8 Q. Okay. Okay. Looking back to Exhibit 204 and
12:41:00 9 looking down at that last column, it states -- that last
12:41:09 10 row and left column states, "Written confirmation signed by
12:41:12 11 the registrant that they qualify to register pursuant to
12:41:14 12 16-166(B) (providing address at a homeless center; USPS
12:41:22 13 General Delivery; Courthouse)"; is that correct?

12:41:22 14 MS. JOHNSTON: Correct.

12:41:22 15 BY MR. SNOW:

12:41:23 16 Q. And then what does that written confirmation refer
12:41:26 17 to?

12:41:27 18 MS. JOHNSTON: If a homeless voter is
12:41:30 19 attempting to register to vote, they may use the nearest JP
12:41:37 20 courthouse. They may use a general post office where they
12:41:47 21 reside by.

12:41:47 22 BY MR. SNOW:

12:41:50 23 Q. And so is this -- is this written confirmation --
12:41:53 24 is this something that your office currently uses?

12:41:55 25 MS. JOHNSTON: Yes.

12:41:55 1 BY MR. SNOW:

12:41:57 2 Q. And would that be contained on a voter
12:41:59 3 registration form or another document?

12:42:04 4 MS. JOHNSTON: A voter could write "Justice
12:42:09 5 of the Peace 1," and we would have an idea of where that
12:42:09 6 is.

12:42:09 7 BY MR. SNOW:

12:42:17 8 Q. Okay. But it's -- your office would rely on the
12:42:19 9 written confirmation signed by the registrant that they
12:42:22 10 qualify to register and reside at that location?

12:42:25 11 MS. JOHNSTON: Yes.

12:42:25 12 BY MR. SNOW:

12:42:25 13 Q. Thank you.

12:42:30 14 And then looking back at this -- this list
12:42:35 15 of -- of documents, how would these documents be submitted
12:42:42 16 to your office?

12:42:43 17 MS. JOHNSTON: Either in person or through
12:42:48 18 the mail.

12:42:48 19 BY MR. SNOW:

12:42:52 20 Q. Could they be submitted by email or fax?

12:42:56 21 MS. JOHNSTON: It would likely be attached to
12:43:07 22 their registration form, so no. We do not accept
12:43:13 23 electronic email versions of the registration form.

12:43:21 24 If somebody is registering through
12:43:23 25 ServiceArizona, which is electronic, they would have to

12:43:27 1 have a physical permanent residential address in order to
12:43:32 2 go through ServiceArizona. They can't leave that blank.

12:43:32 3 BY MR. SNOW:

12:43:39 4 Q. Thank you.

12:43:40 5 And then so if a person who registers using
12:43:44 6 one of these -- these documents to establish their location
12:43:48 7 of residency, if they later update their voter registration
12:43:53 8 information other than their address, would they have to
12:43:55 9 provide that documentation again?

12:43:57 10 MS. JOHNSTON: Yes.

12:43:57 11 BY MR. SNOW:

12:43:59 12 Q. Even if they're not changing their address?

12:44:01 13 MS. JOHNSTON: Well, let me rephrase that.
12:44:09 14 They're not providing any documentation -- well, is this
12:44:15 15 after the implementation of this bill?

12:44:15 16 BY MR. SNOW:

12:44:19 17 Q. Yeah. Yeah.

12:44:19 18 I'm asking how -- how would your office
12:44:21 19 handle a situation where somebody who's already provided
12:44:24 20 documentary proof of residency updates their voter
12:44:29 21 registration information other than their residence address
12:44:34 22 that they've already provided documentation for?

12:44:34 23 MS. JOHNSTON: We will wait for state
12:44:35 24 guidance.

12:44:36 25 THE COURT REPORTER: I didn't hear the

12:44:37 1 objection.

12:44:40 2 MR. HORLEY: I'm sorry. Calls for
12:44:42 3 speculation.

12:44:42 4 BY MR. SNOW:

12:44:50 5 Q. Your office currently requires documentary proof
12:44:54 6 of citizenship for registration using the state form; is
12:44:58 7 that correct?

12:44:58 8 MS. JOHNSTON: Using all forms, correct.
12:44:58 9 BY MR. SNOW:

12:45:03 10 Q. If somebody had -- if somebody who's registered
12:45:07 11 who's already provided their proof of citizenship updates
12:45:09 12 their voter registration form, do they have to provide
12:45:11 13 their proof of citizenship again?

12:45:14 14 MR. LANGHOFER: Calls for a legal conclusion.

12:45:15 15 MS. JOHNSTON: No. HAVA checks would be ran
12:45:19 16 on the record again. Every time a voter updates their
12:45:24 17 record, HAVA checks are ran. And if the voter provided
12:45:29 18 DPOC outside of their driver's license, our office would
12:45:35 19 have made note of that in the voter record; therefore, the
12:45:40 20 voter would not be required to resubmit DPOC.

12:45:40 21 BY MR. SNOW:

12:45:45 22 Q. Is there any equivalent process to a HAVA check
12:45:47 23 for checking documentary proof of residency?

12:45:52 24 MS. JOHNSTON: No.

12:45:52 25 ///

12:45:58 1 BY MR. SNOW:

12:45:58 2 Q. So again, your office would have to locate that --
12:46:02 3 that residence on a map and assign it a -- drop a pin to
12:46:06 4 assign it a geocode; is that correct?

12:46:07 5 MR. LANGHOFER: Asked and answered.

12:46:08 6 MS. JOHNSTON: Correct.

12:46:08 7 BY MR. SNOW:

12:46:12 8 Q. Looking at the documents in Exhibit 204, under
12:46:17 9 "What constitutes Documentary Proof of Residency?" would
12:46:20 10 any of these documents assist you in dropping that pin to
12:46:25 11 locate their geocode address?

12:46:28 12 MS. JOHNSTON: Yes.

12:46:28 13 BY MR. SNOW:

12:46:33 14 Q. And in -- in what way?

12:46:35 15 MS. JOHNSTON: Well, if they're providing a
12:46:36 16 driver's license, they're providing us a standard address.

12:46:36 17 BY MR. SNOW:

12:46:42 18 Q. Sorry. Let me be more specific. For someone with
12:46:44 19 a nonstandard address.

12:46:46 20 MS. JOHNSTON: Okay.

12:46:46 21 BY MR. SNOW:

12:46:47 22 Q. So in other words, let's look specifically at the
12:46:52 23 tribal identification card.

12:46:52 24 If someone has a nonstandard address and
12:46:54 25 they're providing a tribal identification card that doesn't

12:46:57 1 contain an address, does that -- does that documentation
12:47:02 2 assist you in dropping the pin on the map to find their
12:47:06 3 geocode?

12:47:08 4 MS. JOHNSTON: If the tribal ID does not have
12:47:10 5 the address, that would not help us in dropping a pin.

12:47:10 6 BY MR. SNOW:

12:47:16 7 Q. But again, you -- you haven't had any issues thus
12:47:19 8 far, in your experience, in terms of locating nonstandard
12:47:22 9 addresses to drop the pin?

12:47:23 10 MS. JOHNSTON: Correct.

12:47:24 11 MR. SNOW: Okay. I'm done. I really
12:47:27 12 appreciate your time and all of your work.

12:47:29 13 THE COURT REPORTER: If we could take a
12:47:31 14 break.

12:47:48 15 (An off-the-record discussion ensued.)

12:47:48 16 THE VIDEOGRAPHER: We're off the record.
12:47:49 17 Time on the video monitor is 12:47 p.m. This ends Media 2.

13:34:22 18 (A recess ensued.)

13:34:23 19 THE VIDEOGRAPHER: We are on the record.
13:34:34 20 Time on the video monitor is 1:34 p.m. This begins
13:34:39 21 Media 3.

13:34:40 22 MR. HERRERA: Hi. This is Ernest Herrera, on
13:34:43 23 the record again.

13:34:46 24 After a break, I have no further questions at
13:34:50 25 this time. However, I don't know if any other plaintiffs

13:34:53 1 groups do. So barring any -- anyone piping up right now, I
13:35:00 2 think we can pass it to the defendants -- pass the witness
13:35:03 3 to the defendants.

13:35:05 4 MR. LANGHOFER: Thanks, Ernest.

13:35:05 5

13:35:05 6 EXAMINATION

13:35:05 7 BY MR. LANGHOFER:

13:35:08 8 Q. Looks like I'll be going first for the defendants.

13:35:10 9 My name is Kory Langhofer. And I represent
13:35:13 10 the Republican National Committee. And I have just a few
13:35:17 11 questions for you, not nearly as long as what you got from
13:35:21 12 the plaintiffs.

13:35:22 13 And then after that, I think the attorney
13:35:23 14 general is going to have a few questions for you and maybe
13:35:26 15 the secretary of state, the legislature, but probably just
13:35:28 16 two of us.

13:35:29 17 So let's just go through these. I believe it
13:35:37 18 was -- Ms. Johnston had mentioned some voter registration
13:35:40 19 forms that you all get in from third-party voter
13:35:44 20 registration drives that have incorrect information on
13:35:46 21 them.

13:35:47 22 Do you have any sense of how often you get
13:35:49 23 forms like that where the information is filled out so
13:35:54 24 incorrectly as to make you think that it was intentional?

13:36:00 25 MS. JOHNSTON: I would say more during big

13:36:05 1 election cycles, either midterm or presidential, and it's
13:36:10 2 pretty often.

13:36:12 3 BY MR. LANGHOFER:

13:36:12 4 Q. Do you have any idea of how many forms like that
13:36:14 5 you might get per presidential cycle?

13:36:17 6 MS. JOHNSTON: Hundreds.

13:36:21 7 BY MR. LANGHOFER:

13:36:22 8 Q. And what -- are those referred to the county
13:36:25 9 attorney and attorney general for prosecution?

13:36:28 10 MS. JOHNSTON: In the past, we have provided
13:36:30 11 them, yes.

13:36:31 12 And I know former recorder Robyn
13:36:37 13 Stallworth-Pouquette had -- also took them to the
13:36:39 14 legislature.

13:36:39 15 BY MR. LANGHOFER:

13:36:41 16 Q. Do you know whether she took that to the
13:36:42 17 legislature before these bills were passed?

13:36:46 18 MS. JOHNSTON: Yes. It would have been in
13:36:47 19 2016 and '18.

13:36:50 20 BY MR. LANGHOFER:

13:36:54 21 Q. All right. When someone puts their birthplace on
13:37:00 22 a voter registration form, do you put that information into
13:37:03 23 the voter file?

13:37:04 24 MS. JOHNSTON: Yes.

13:37:05 25 ///

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13:38:05 25

BY MR. LANGHOFER:

Q. And is that information that you can use to verify someone's identity when they call in to speak with you?

MS. JOHNSTON: We don't use it as a way to identify somebody over the phone.

BY MR. LANGHOFER:

Q. What do you use to identify someone over the phone?

MS. JOHNSTON: The last four of their social typically is what we would use.

BY MR. LANGHOFER:

Q. What about their birthday?

MS. JOHNSTON: And their full date of birth.

BY MR. LANGHOFER:

Q. Could you use the birthplace even if you don't currently?

MS. JOHNSTON: We could. But we have some voters who change that information almost every time they register to vote. So we don't really use it for verification purposes.

BY MR. LANGHOFER:

Q. So the same person might say that they were born in Los Angeles and the next time they register or change their address, they might say they were born in Idaho?

MS. JOHNSTON: Correct.

13:38:06 1 BY MR. LANGHOFER:

13:38:08 2 Q. Any idea why people would do that?

13:38:11 3 MS. JOHNSTON: No idea. Currently, it's not
13:38:15 4 a required form or a required field on the state
13:38:21 5 registration form. So most of the time it's left blank.

13:38:27 6 BY MR. LANGHOFER:

13:38:27 7 Q. I see.

13:38:28 8 If -- what if you had a person with a common
13:38:33 9 name and there happened to be two people with that name and
13:38:36 10 the same birthday? In that sort of situation, could you
13:38:39 11 use the birthplace to determine whether it's the same
13:38:42 12 person or two different people?

13:38:44 13 MS. JOHNSTON: We would likely use the last
13:38:46 14 four of their social.

13:38:49 15 BY MR. LANGHOFER:

13:38:49 16 Q. What if they didn't provide a Social Security
13:38:51 17 number?

13:38:52 18 MS. JOHNSTON: It would have likely got
13:38:54 19 acquired through the HAVA checks.

13:38:56 20 BY MR. LANGHOFER:

13:38:57 21 Q. But the birthplace is something that you could use
13:39:00 22 in addition to Social Security to determine whether it's
13:39:01 23 the same person?

13:39:03 24 MS. JOHNSTON: We could use it, yes.

13:39:04 25 ///

13:39:04 1 BY MR. LANGHOFER:

13:39:05 2 Q. Okay. Do you guys have access to any databases
13:39:10 3 other than the HAVA checks and the SAVE database to
13:39:13 4 determine whether someone is a citizen?

13:39:15 5 MS. JOHNSTON: No.

13:39:16 6 BY MR. LANGHOFER:

13:39:24 7 Q. When someone registers using the state form and
13:39:29 8 they don't provide DPOC and you all send out a notification
13:39:34 9 letter saying, "Hey, we're missing your DPOC" -- in this
13:39:36 10 case, I guess I'm assuming that it's someone for whom
13:39:39 11 there's not DPOC in the HAVA check -- discovered in the
13:39:43 12 HAVA check. Of the folks who get those sorts of
13:39:47 13 notification letters, what percentage of them do you think
13:39:49 14 respond and end up providing satisfactory DPOC?

13:39:53 15 MS. JOHNSTON: I can't give a statistical
13:39:56 16 figure.

13:39:56 17 BY MR. LANGHOFER:

13:39:58 18 Q. Do you have a sense of -- is it more than half?

13:40:00 19 MS. JOHNSTON: But it's a -- a small amount
13:40:01 20 of people come back providing DPOC.

13:40:05 21 BY MR. LANGHOFER:

13:40:05 22 Q. So less than 25 percent?

13:40:09 23 MS. JOHNSTON: Yeah.

13:40:10 24 BY MR. LANGHOFER:

13:40:11 25 Q. Okay. The -- well, let me not get into that. I

13:40:30 1 think that wasn't opened up on direct examination. Bear
13:40:35 2 with me one second. I'm just going to look through my
13:40:37 3 notes here, make sure we've touched on everything.

13:40:40 4 The -- we have heard from other counties
13:40:57 5 about this -- a problem apparently in October of 2022 of
13:41:02 6 the HAVA checks incorrectly indicating that some folks were
13:41:05 7 not citizens. Are you familiar with that?

13:41:07 8 MS. JOHNSTON: Yes.

13:41:08 9 BY MR. LANGHOFER:

13:41:09 10 Q. Do you know of anyone who was denied full
13:41:14 11 registration in your county because of that issue?

13:41:17 12 MS. JOHNSTON: It's possible, yes, but later
13:41:21 13 confirmed with the voter that they are a citizen after
13:41:25 14 sending the required correspondence and receiving either a
13:41:29 15 phone call from them saying that they're confused on why
13:41:34 16 and then they resubmit another registration form with
13:41:38 17 additional DPOC.

13:41:39 18 BY MR. LANGHOFER:

13:41:39 19 Q. Okay. So would all the voters who would have been
13:41:42 20 affected by that then have had a chance to get a full
13:41:45 21 registration instead of a federal-only?

13:41:47 22 MS. JOHNSTON: All of those voters would have
13:41:49 23 been able to rectify their -- their status, yes.

13:41:52 24 BY MR. LANGHOFER:

13:41:54 25 Q. Do you know whether it's possible for the HAVA

13:41:57 1 checks to not only incorrectly indicate that someone is not
13:42:00 2 a citizen but to incorrectly indicate that they are a
13:42:05 3 citizen?

13:42:05 4 MS. JOHNSTON: I suppose it's possible if
13:42:09 5 there was some glitch in the system. And let's say I ran
13:42:14 6 HAVA checks on Joann -- but what the staff does is they
13:42:19 7 look at the verification tab to make sure that the name
13:42:23 8 does match. I believe in the instance you were talking
13:42:26 9 about, it was returning a record for somebody else.

13:42:30 10 BY MR. LANGHOFER:

13:42:33 11 Q. And I didn't want to cut you off, ma'am. Do you
13:42:36 12 have more?

13:42:36 13 MS. JOHNSTON: No.

13:42:38 14 BY MR. LANGHOFER:

13:42:42 15 Q. Thinking about the possibility that it would
13:42:44 16 incorrectly indicate that someone's a citizen, would your
13:42:46 17 office find that's there informational value in having a
13:42:50 18 separate indication from the voter, the checkbox
13:42:52 19 specifically, confirming that they're a citizen?

13:42:54 20 MS. JOHNSTON: So yes, the voter has to mark
13:43:00 21 questions -- the two questions that are in Box 22,
13:43:03 22 affirming that they are or are not a citizen.

13:43:06 23 BY MR. LANGHOFER:

13:43:07 24 Q. And does that add value to your office?

13:43:09 25 MS. JOHNSTON: Yes.

13:43:11 1 MR. LANGHOFER: Thanks very much for your
13:43:11 2 time. I promised this would be shorter. That's all the
13:43:14 3 questions I had.

13:43:15 4 Tim.

13:43:16 5 MR. HORLEY: Yes. Thanks, Kory.

13:43:17 6

13:43:18 7 EXAMINATION

13:43:18 8 BY MR. HORLEY:

13:43:21 9 Q. Hello, Ms. Munoz and Ms. Johnston. I am with the
13:43:24 10 State of Arizona and the Arizona Attorney General's Office.
13:43:28 11 I will not have too many questions?

13:43:31 12 Fortunately, Kory already covered some of the
13:43:33 13 things I wanted to discuss. But I do have a few documents
13:43:34 14 that we haven't looked at yet. So I will screen-share
13:43:38 15 those and then send them around in the chat once I'm done
13:43:42 16 speaking about them for everybody to look at.

13:43:47 17 So starting with some of your testimony --
13:43:52 18 and this is more for you, Ms. Johnston, because I think you
13:43:55 19 spoke about this a little bit more.

13:43:57 20 You mentioned that some phrases in the
13:44:01 21 challenged laws HB 2492 and 2243 are unclear; correct?

13:44:05 22 MS. JOHNSTON: Correct.

13:44:07 23 BY MR. HORLEY:

13:44:08 24 Q. And then you testified that it would be helpful to
13:44:10 25 have guidance from the secretary of state on how to

13:44:12 1 implement those parts; is that right?

13:44:15 2 MS. JOHNSTON: Correct.

13:44:15 3 BY MR. HORLEY:

13:44:17 4 Q. And that could come in the form of an updated EPM?

13:44:21 5 MS. JOHNSTON: Correct.

13:44:21 6 BY MR. HORLEY:

13:44:23 7 Q. And the EPM provides guidance on a lot of other
13:44:25 8 voting laws -- right? -- not just these laws?

13:44:28 9 MS. JOHNSTON: Correct.

13:44:29 10 BY MR. HORLEY:

13:44:30 11 Q. And do you generally rely on the EPM to help
13:44:32 12 implement those other voting laws?

13:44:34 13 MS. JOHNSTON: Yes.

13:44:36 14 BY MR. HORLEY:

13:44:36 15 Q. Okay. So would it be easy to implement those
13:44:39 16 other voting laws without the EPM?

13:44:42 17 MS. JOHNSTON: No.

13:44:43 18 BY MR. HORLEY:

13:44:44 19 Q. Okay. So other laws can also be difficult to
13:44:50 20 implement without further guidance from the secretary of
13:44:50 21 state; is that right?

13:44:52 22 MS. JOHNSTON: Not only further guidance, but
13:44:53 23 enhancements to the voter registration system to make sure
13:44:56 24 that those new laws are being implemented into the voter's
13:44:59 25 record.

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BY MR. HORLEY:

Q. Okay. So same thing is true here that is true for a lot of these other voting laws: It's helpful to have guidance and also to update your systems to be able to implement them?

MS. JOHNSTON: Correct.

BY MR. HORLEY:

Q. Okay. Thank you.

And now I wanted to talk a little bit more about how you verify citizenship, specifically DPOC.

Does your office do anything to verify DPOC when it is received?

MS. JOHNSTON: Well, every voter is ran through the HAVA checks. So if Joann is registering to vote and she comes into the office with a birth certificate, we could bypass -- we could manually select "yes" on citizenship, but ultimately we would still be running HAVA checks.

BY MR. HORLEY:

Q. Okay. Understood.

But if someone submits, say, a copy of their birth certificate, is there anything that your office does to verify the accuracy of that document?

MS. JOHNSTON: No.

///

13:46:05 1 BY MR. HORLEY:

13:46:06 2 Q. Okay. So it's just accepted at face value?

13:46:10 3 MS. JOHNSTON: Along with the HAVA checks,
13:46:11 4 yes.

13:46:13 5 BY MR. HORLEY:

13:46:13 6 Q. Along with the HAVA checks. Okay. Thank you.

13:46:15 7 I believe -- so you talked a little bit about
13:46:22 8 the checkbox that appears on the voter forms.

13:46:26 9 If the recorder does not have DPOC, is the
13:46:31 10 information contained in that checkbox helpful?

13:46:34 11 MS. JOHNSTON: It is helpful, but it does not
13:46:39 12 suffice for DPOC.

13:46:41 13 BY MR. HORLEY:

13:46:42 14 Q. Okay. So in that case, if there's no DPOC, you
13:46:46 15 would still run a check and possibly reach out to the
13:46:49 16 voter?

13:46:49 17 MS. JOHNSTON: If there is -- so let me
13:46:53 18 rephrase this. If the voter provides a driver's license
13:46:57 19 number or enough information where we can run HAVA checks
13:47:01 20 and determine a true match, we would register the voter.

13:47:06 21 Now, if the voter marked "no," they are not a
13:47:09 22 citizen and they are a first-time registrant and they mark
13:47:13 23 "no" on the form, we would likely just put them in as not
13:47:17 24 eligible, invalid proof of citizenship, because they are
13:47:20 25 already telling us that they are not a citizen.

13:47:22 1 BY MR. HORLEY:

13:47:25 2 Q. Okay. Thank you.

13:47:25 3 You kind of anticipated where I was going.

13:47:27 4 So thank you for that. Then one other question about this.

13:47:31 5 If a -- is it possible for a registered voter
13:47:34 6 to submit a copy of a citizenship document, like a copy of
13:47:37 7 a birth certificate, that is defective in some ways; for
13:47:42 8 example, it's blurry or difficult to read?

13:47:44 9 MS. JOHNSTON: A voter can provide a
13:47:48 10 defective naturalization paperwork of some sort, and that
13:47:52 11 information could be verified through SAVE as long as we
13:47:55 12 can read the numeric information on the form.

13:48:01 13 BY MR. HORLEY:

13:48:02 14 Q. Okay. Same thing could be true for, say, a copy
13:48:04 15 of a passport or a birth certificate or something like
13:48:07 16 that?

13:48:08 17 MS. JOHNSTON: Yes. We can't run it through
13:48:13 18 a system. The only thing we can run through a system is an
13:48:17 19 alien number or a naturalization number. We cannot run a
13:48:23 20 U.S. passport or a birth certificate through any additional
13:48:26 21 checks.

13:48:27 22 BY MR. HORLEY:

13:48:29 23 Q. Okay. Understood.

13:48:30 24 And so if you had a situation where their
13:48:33 25 DPOC was defective in some way, would it be helpful to know

13:48:36 1 how the voter answered the checkbox?

13:48:39 2 MS. JOHNSTON: Sure.

13:48:42 3 BY MR. HORLEY:

13:48:43 4 Q. Okay. Thank you.

13:48:45 5 Okay. I have the first document that I want

13:48:48 6 to look at. So I'm going to screen-share it. One moment.

13:48:59 7 Okay.

13:49:00 8 Can you both see this document?

13:49:04 9 MS. JOHNSTON: Yes.

13:49:06 10 BY MR. HORLEY:

13:49:07 11 Q. And do you recognize what this document is?

13:49:10 12 MS. JOHNSTON: Yes.

13:49:10 13 BY MR. HORLEY:

13:49:12 14 Q. And did your office produce this in response to

13:49:15 15 plaintiffs' request for production?

13:49:17 16 MS. JOHNSTON: I believe so. I believe ours

13:49:22 17 had a -- an additional header, though, with maybe a time

13:49:28 18 date stamp, but I'm not quite sure. But it looks like

13:49:32 19 something we could have produced, yes.

13:49:35 20 MR. HORLEY: Okay. I would like to mark this

13:49:37 21 as exhibit -- I believe we're at Number 205. Is that

13:49:41 22 right, Cindy?

13:49:41 23 THE COURT REPORTER: Yes.

13:49:41 24 (The document was marked as Exhibit 205

13:49:47 25 for identification.)

13:49:47 1 BY MR. HORLEY:

13:49:49 2 Q. So I see here there's a column for "Status." Does
13:49:53 3 that say what someone's voter registration status is?

13:49:56 4 MS. JOHNSTON: Yes.

13:49:57 5 BY MR. HORLEY:

13:49:57 6 Q. And then here it says the "Status Reason." And
13:50:00 7 that tells us why that person has this status; is that
13:50:00 8 right?

13:50:04 9 MS. JOHNSTON: Correct.

13:50:16 10 BY MR. HORLEY:

13:50:18 11 Q. So I'd like to look quickly at a row down here.
13:50:29 12 Okay.

13:50:29 13 Do you see this row here, Row 491?

13:50:32 14 MS. JOHNSTON: Yes.

13:50:32 15 BY MR. HORLEY:

13:50:33 16 Q. It says that the person's status is "not
13:50:37 17 eligible," and the reason is "invalid citizenship proof";
13:50:40 18 is that right?

13:50:40 19 MS. JOHNSTON: Correct.

13:50:42 20 BY MR. HORLEY:

13:50:43 21 Q. Okay. So is this what you described earlier in
13:50:46 22 your testimony? And I forget whether it was Ms. Munoz or
13:50:49 23 Ms. Johnston on this.

13:50:51 24 But that -- when a HAVA check cannot verify
13:50:54 25 citizenship, is this that -- that sort of situation?

13:50:58 1 MS. JOHNSTON: If the HAVA check is ran and
13:51:00 2 the verification comes back as not a citizen or permanent
13:51:05 3 resident, the voter gets this status in "Status Reason."

13:51:12 4 BY MR. HORLEY:

13:51:12 5 Q. Is this a status that is something that can be
13:51:15 6 fixed; like, after you send the notice, you can update this
13:51:20 7 status, or is "not eligible" equivalent to canceling their
13:51:24 8 registration?

13:51:24 9 MS. JOHNSTON: In my opinion, it is not
13:51:27 10 equivalent. In order to cancel something, you have to have
13:51:30 11 been registered. This person was never registered. They
13:51:36 12 were entered into the system but did not meet the minimum
13:51:40 13 qualifications; therefore, they were never registered. So
13:51:43 14 there was nothing to cancel.

13:51:45 15 BY MR. HORLEY:

13:51:46 16 Q. Okay. Understood.
13:51:47 17 So is this sort of the same thing as
13:51:49 18 rejecting someone's application?

13:51:51 19 MS. JOHNSTON: Yes.

13:51:52 20 BY MR. HORLEY:

13:51:53 21 Q. Okay. Thank you.

13:51:56 22 And then I wanted to just look at these
13:51:59 23 columns here really quickly.

13:52:02 24 So these columns here tell us when the voter
13:52:05 25 registered; is that right?

13:52:06 1 MS. JOHNSTON: It would be the registration
13:52:08 2 date, their county registration date, and their effective
13:52:12 3 date of change, yes.

13:52:13 4 BY MR. HORLEY:

13:52:13 5 Q. Okay. And so that effective date of change is the
13:52:16 6 last time that this spreadsheet was updated?

13:52:18 7 MS. JOHNSTON: Correct.

13:52:19 8 BY MR. HORLEY:

13:52:20 9 Q. Okay. Thank you.

13:52:22 10 Now I want to look at another row. Do you
13:52:28 11 see this row, Row 145?

13:52:31 12 MS. JOHNSTON: Correct.

13:52:31 13 BY MR. HORLEY:

13:52:33 14 Q. So I see here it says that this person's status is
13:52:36 15 canceled, and the reason is invalid residence address; is
13:52:40 16 that right?

13:52:40 17 MS. JOHNSTON: Yes.

13:52:41 18 BY MR. HORLEY:

13:52:42 19 Q. So what does that mean?

13:52:45 20 MS. JOHNSTON: I'm going to assume this
13:52:46 21 record was done in the previous voter registration database
13:52:50 22 called PowerProfile, which is very different from the
13:52:55 23 current registration database.

13:52:58 24 So when we were in PowerProfile -- and laws
13:53:01 25 were different as well back in 2014 -- this person likely

13:53:07 1 submitted a registration form and either left the
13:53:12 2 residential address portion of the form blank or did not
13:53:15 3 provide or follow up with our office to give us a standard
13:53:20 4 or a nonstandard address, and eventually it just timed out.

13:53:28 5 So I believe the state law says that if a
13:53:30 6 voter does not respond within 90 days, they can go into the
13:53:37 7 system as basically rejected.

13:53:40 8 BY MR. HORLEY:

13:53:42 9 Q. Okay. So this is basically a rejection for having
13:53:46 10 no -- like, no certifiable address information?

13:53:49 11 MS. JOHNSTON: Correct.

13:53:50 12 BY MR. HORLEY:

13:53:51 13 Q. Could this be a situation like you mentioned
13:53:53 14 earlier where someone puts down a commercial address as
13:53:56 15 their address?

13:53:58 16 MS. JOHNSTON: Yes. They -- the voter would
13:54:01 17 have put -- been put into suspense if they were an active
13:54:05 18 voter; or even a brand-new voter, they would have been put
13:54:09 19 in suspense. Correspondence would have been sent to the
13:54:12 20 voter to obtain residential address. And after not hearing
13:54:17 21 from the voter for so many days, they would ultimately get
13:54:22 22 rejected.

13:54:22 23 BY MR. HORLEY:

13:54:23 24 Q. Okay. Great. Thank you. All right. I have one
13:54:25 25 more row in this document. Just get us there really

13:54:32 1 quickly.

13:54:38 2 Do you see this row here, Row 1064?

13:54:43 3 MS. JOHNSTON: Correct.

13:54:44 4 BY MR. HORLEY:

13:54:44 5 Q. In this row, it says that the person's status is
13:54:46 6 canceled, and the reason is involuntary cancellation; is
13:54:51 7 that right?

13:54:51 8 MS. JOHNSTON: It looks like it, yes.

13:54:52 9 BY MR. HORLEY:

13:54:53 10 Q. What does "involuntary cancellation" mean?

13:54:56 11 MS. JOHNSTON: Well, I wasn't here in 2006 to
13:54:58 12 know exactly what prompted the staff to do that, but if --
13:55:03 13 I can take a good guess. Maybe another record was created
13:55:11 14 erroneously and staff had to cancel that record, so that
13:55:14 15 way, the voter didn't have double record.

13:55:17 16 BY MR. HORLEY:

13:55:17 17 Q. Okay. Understood. Thank you.

13:55:18 18 All right. I'm going to close out of this
13:55:22 19 document. Okay.

13:55:29 20 And then I have another one here. Can you
13:55:40 21 see this document?

13:55:41 22 MS. JOHNSTON: Yes.

13:55:41 23 BY MR. HORLEY:

13:55:42 24 Q. Okay. Was this the one that you referred to
13:55:44 25 before that you thought, you know, that your office

13:55:47 1 produced?

13:55:48 2 MS. JOHNSTON: Yes.

13:55:48 3 BY MR. HORLEY:

13:55:49 4 Q. Okay. So this is something that your office
13:55:51 5 produced in response to plaintiffs' request for production?

13:55:55 6 MS. JOHNSTON: Yes.

13:55:55 7 MR. HORLEY: Okay. I would like to mark this
13:55:57 8 as Exhibit 206, please.

13:56:04 9 (Reporter clarification.)
13:56:04 10 (The document was marked as Exhibit 206
13:56:25 11 for identification.)

13:56:25 12 MR. MORGAN: Tim, who produced it?

13:56:28 13 MR. HORLEY: I believe it was Yuma County,
13:56:30 14 the Yuma County Recorder's Office.

13:56:32 15 MR. MORGAN: Okay. Great. Thanks.

13:56:36 16 BY MR. HORLEY:

13:56:39 17 Q. Okay. So this one has a bit more information.
13:56:43 18 But I want to turn to this column here where it says
13:56:49 19 "Status." That is someone's voter registration status;
13:56:52 20 correct?

13:56:52 21 MS. JOHNSTON: Correct.

13:56:53 22 BY MR. HORLEY:

13:56:54 23 Q. And then this gives you the status reason?

13:56:55 24 MS. JOHNSTON: Correct.

13:56:57 25 ///

13:56:57 1 BY MR. HORLEY:

13:56:58 2 Q. What is the difference between this spreadsheet
13:57:01 3 and the one that we just looked at?

13:57:03 4 MS. JOHNSTON: These are our federal-only
13:57:06 5 voters. If you see the header at the very bottom of that
13:57:10 6 worksheet . . .

13:57:10 7 BY MR. HORLEY:

13:57:13 8 Q. Yes. Okay. Okay.

13:57:16 9 And then what about -- let's take a look at
13:57:18 10 this sheet.

13:57:21 11 So what does this sheet describe?

13:57:24 12 MS. JOHNSTON: Canceled and -- canceled
13:57:27 13 voters and voters that are in suspense.

13:57:30 14 BY MR. HORLEY:

13:57:30 15 Q. Okay. And does this show voters whose
13:57:33 16 registration was canceled after they had registered?

13:57:37 17 MS. JOHNSTON: Yes. In order to be canceled,
13:57:46 18 you have to have been registered.

13:57:47 19 BY MR. HORLEY:

13:57:48 20 Q. Okay. So it is the case that sometimes your
13:57:50 21 office cancels people's registration after they have
13:57:54 22 registered?

13:57:54 23 MS. JOHNSTON: Correct. So as you can see,
13:57:57 24 some of these people are deceased; some of them moved maybe
13:58:02 25 out of state; or we got returned mail from them and they

13:58:08 1 did not follow up with us within four federal cycles.

13:58:12 2 BY MR. HORLEY:

13:58:15 3 Q. Okay. Understood.

13:58:15 4 Just going to look quickly here at Row 261.

13:58:26 5 This one says that the voter's registration was canceled
13:58:31 6 for invalid citizenship proof; correct?

13:58:33 7 MS. JOHNSTON: Correct.

13:58:34 8 BY MR. HORLEY:

13:58:34 9 Q. Would that be a similar circumstance where they
13:58:37 10 just never provided DPOC?

13:58:41 11 MS. JOHNSTON: Or HAVA checks were ran and it
13:58:46 12 came back as not a citizen.

13:58:51 13 I am assuming this was also done in
13:58:53 14 PowerProfile, which has different terminology than what
13:58:56 15 AVID uses.

13:58:58 16 BY MR. HORLEY:

13:58:58 17 Q. Okay. And so could this have been an instance of
13:59:01 18 someone attempting to register who is not a U.S. citizen?

13:59:04 19 MS. JOHNSTON: It could be, yes.

13:59:06 20 BY MR. HORLEY:

13:59:06 21 Q. Okay. And then one more row, this one.

13:59:17 22 So this one says the voter's registration was
13:59:22 23 canceled and it was involuntary cancellation; is that
13:59:25 24 right?

13:59:25 25 MS. JOHNSTON: Correct.

13:59:26 1 BY MR. HORLEY:

13:59:26 2 Q. And so would the same thing apply here, how you
13:59:30 3 described the other type of involuntary cancellation, or is
13:59:32 4 there any difference?

13:59:33 5 MS. JOHNSTON: I would assume that this
13:59:35 6 record was created by accident. And maybe the voter
13:59:38 7 already held an active record, so this one got canceled.

13:59:43 8 BY MR. HORLEY:

13:59:43 9 Q. Okay. Could it come from some other reason like,
13:59:46 10 for example, someone said they were not a citizen on a jury
13:59:49 11 questionnaire?

13:59:50 12 MS. JOHNSTON: No.

13:59:51 13 BY MR. HORLEY:

13:59:52 14 Q. Okay. Okay. Thank you. That is all I have for
13:59:55 15 that one.

14:00:04 16 Okay. So I wanted to talk a little bit about
14:00:06 17 one of the questions that my colleague Kory asked you.

14:00:10 18 He said that there -- you have noticed that
14:00:15 19 there are sometimes hundreds of instances where you get
14:00:20 20 voter registration applications with false information
14:00:23 21 around presidential and midterm election cycles; is that
14:00:27 22 right?

14:00:27 23 MS. JOHNSTON: Correct.

14:00:28 24 BY MR. HORLEY:

14:00:28 25 Q. And those come often from third-party registration

14:00:31 1 drives?

14:00:32 2 MS. JOHNSTON: Correct.

14:00:33 3 BY MR. HORLEY:

14:00:33 4 Q. And you mentioned that Yuma County is not a huge
14:00:36 5 place, so sometimes you know who people -- who these people
14:00:41 6 are who are putting false information on their
14:00:45 7 registration; is that right?

14:00:45 8 MS. JOHNSTON: Correct.

14:00:47 9 BY MR. HORLEY:

14:00:48 10 Q. Do you have any sense of why they would enter
14:00:52 11 false information on their registration applications?

14:00:54 12 MS. JOHNSTON: I personally believe that the
14:00:57 13 information could be getting data mined or people are
14:01:03 14 getting paid per form, the circulators are getting paid per
14:01:05 15 form.

14:01:05 16 BY MR. HORLEY:

14:01:09 17 Q. And so how would that lead to someone entering
14:01:12 18 false information on the form?

14:01:12 19 MS. JOHNSTON: If you're getting a dollar per
14:01:16 20 form and you want to make more money, there's potentially
14:01:21 21 people that will fill out fake registration forms to get
14:01:24 22 paid the dollar per form, but that's just an assumption of
14:01:30 23 mine.

14:01:30 24 BY MR. HORLEY:

14:01:31 25 Q. Okay. Thank you. Understood.

14:01:33 1 Is it possible that some of the people who
14:01:35 2 are submitting these false forms are not eligible to vote
14:01:39 3 in Yuma County?

14:01:41 4 MR. HERRERA: Objection; form.

14:01:44 5 MS. JOHNSTON: I am not sure of the
14:01:45 6 circulators' qualifications.

14:01:48 7 BY MR. HORLEY:

14:01:49 8 Q. And what about the people whose names are on the
14:01:52 9 applications?

14:01:53 10 MS. JOHNSTON: Can you repeat the question?

14:01:53 11 BY MR. HORLEY:

14:01:57 12 Q. So is it possible that the people who -- whose
14:02:00 13 names are on the applications that have the false
14:02:03 14 information -- is it possible that those people are not
14:02:07 15 eligible to vote?

14:02:09 16 MS. JOHNSTON: It is possible, sure.

14:02:13 17 BY MR. HORLEY:

14:02:15 18 Q. Is it possible that some of them are not U.S.
14:02:17 19 citizens?

14:02:18 20 MS. JOHNSTON: It is possible, but we would
14:02:20 21 find that out through the HAVA checks.

14:02:20 22 BY MR. HORLEY:

14:02:24 23 Q. Have you ever encountered a situation from those
14:02:28 24 third-party registrations where you do a HAVA check and it
14:02:30 25 turns out that person is not a U.S. citizen?

14:02:33 1 MS. JOHNSTON: It would likely not come back
14:02:34 2 with any information at all because there wouldn't be
14:02:37 3 enough matching information to determine a true match of
14:02:42 4 that person.

14:02:43 5 BY MR. HORLEY:

14:02:48 6 Q. Understood. I've got three more documents that we
14:02:53 7 will hopefully get through quickly here. Thank you for
14:02:55 8 your patience.

14:03:07 9 And can you see this document?

14:03:11 10 MS. JOHNSTON: Yes.

14:03:13 11 BY MR. HORLEY:

14:03:13 12 Q. Do you recognize this document?

14:03:15 13 MS. JOHNSTON: Yes.

14:03:16 14 BY MR. HORLEY:

14:03:18 15 Q. Did your office produce this in response to
14:03:20 16 plaintiffs' request for production?

14:03:21 17 MS. JOHNSTON: Yes.

14:03:23 18 MR. HORLEY: Okay. I would like to mark this
14:03:24 19 as Document Number 207 -- or Exhibit 207.

14:03:43 20 (An off-the-record discussion ensued.)

14:03:43 21 (The document was marked as Exhibit 207
14:03:48 22 for identification.)

14:03:48 23 BY MR. HORLEY:

14:03:48 24 Q. I'm going to zoom out a little bit and just give
14:03:52 25 you a moment to review this document. Just let me know

14:03:57 1 when you're finished reviewing or if you'd like me to
14:03:59 2 scroll down.

14:04:00 3 MS. JOHNSTON: I'm finished.

14:04:01 4 BY MR. HORLEY:

14:04:02 5 Q. Okay. Thank you.

14:04:04 6 So what is this document describing?

14:04:07 7 MS. JOHNSTON: This document is describing
14:04:12 8 some investigative work I did once I received the ERIC file
14:04:21 9 for cross-state participation, I believe it was called, and
14:04:27 10 which is -- I'm not really sure how ERIC obtains it. But
14:04:33 11 it's basically information letting us know that somebody
14:04:37 12 with a similar name, driver's license, social voted in our
14:04:42 13 county along with another state.

14:04:44 14 BY MR. HORLEY:

14:04:47 15 Q. Okay. And what was the result of that
14:04:53 16 investigation?

14:04:55 17 MS. JOHNSTON: A majority of the people on
14:04:58 18 the list that we investigated voted in Yuma County as well
14:05:06 19 as the referenced state.

14:05:08 20 BY MR. HORLEY:

14:05:08 21 Q. Okay. So for example, I see three people's names
14:05:14 22 here. And it looks like they voted in both Yuma County and
14:05:18 23 Washington state; is that right?

14:05:20 24 MS. JOHNSTON: Correct.

14:05:20 25 ///

14:05:20 1 BY MR. HORLEY:

14:05:22 2 Q. Okay. So did these people commit voter fraud?

14:05:25 3 MS. JOHNSTON: Yes.

14:05:26 4 BY MR. HORLEY:

14:05:27 5 Q. Okay. And then there's a fourth person on the

14:05:30 6 next page. Same thing here?

14:05:32 7 MS. JOHNSTON: Correct.

14:05:33 8 BY MR. HORLEY:

14:05:34 9 Q. Okay. Thank you. I'm going to move on to the

14:05:39 10 next document.

14:05:47 11 Can you see this document?

14:05:48 12 MS. JOHNSTON: Yes.

14:05:48 13 BY MR. HORLEY:

14:05:50 14 Q. And was this also produced by your office in

14:05:52 15 response to plaintiffs' request for production?

14:05:54 16 MS. JOHNSTON: Yes.

14:05:54 17 BY MR. HORLEY:

14:05:56 18 Q. And you recognize this document?

14:05:57 19 MS. JOHNSTON: Yes.

14:05:58 20 BY MR. HORLEY:

14:05:59 21 Q. And was this sent from you -- I remember you said

14:06:02 22 your name -- your last name used to be Howard.

14:06:05 23 MS. JOHNSTON: Yes.

14:06:06 24 MR. HORLEY: Okay. I'd like to mark this as

14:06:09 25 Exhibit Number 208.

14:06:09 1 (The document was marked as Exhibit 208
14:06:19 2 for identification.)
14:06:19 3 MS. JOHNSTON: Just to be clear, none of
14:06:21 4 these have anything to do with citizenship.
14:06:24 5 BY MR. HORLEY:
14:06:24 6 Q. Correct.
14:06:25 7 But these are people who voted when they,
14:06:27 8 like, voted in more than one jurisdiction; correct?
14:06:30 9 MS. JOHNSTON: Right.
14:06:30 10 BY MR. HORLEY:
14:06:33 11 Q. Okay. And so does this describe two incidences of
14:06:38 12 that?
14:06:38 13 MS. JOHNSTON: Yes.
14:06:40 14 BY MR. HORLEY:
14:06:40 15 Q. And this was a case where you had two voters who
14:06:42 16 voted in Yuma County and in the state of Oregon; is that
14:06:46 17 right?
14:06:46 18 MS. JOHNSTON: Correct.
14:06:46 19 BY MR. HORLEY:
14:06:48 20 Q. Okay. Thank you. All right. I'm going to now
14:06:53 21 look at the next document.
14:06:57 22 Do you recognize this document?
14:06:59 23 MS. JOHNSTON: Yes.
14:07:01 24 BY MR. HORLEY:
14:07:03 25 Q. And your office produced this in response to

14:07:04 1 plaintiffs' request for production?

14:07:06 2 MS. JOHNSTON: Yes.

14:07:08 3 MR. HORLEY: Okay. I'd like to enter this as
14:07:11 4 Exhibit 209.

14:07:11 5 (The document was marked as Exhibit 209
14:07:11 6 for identification.)

14:07:11 7 BY MR. HORLEY:

14:07:20 8 Q. And so here, I see there's an email from a special
14:07:24 9 agent at the Arizona Attorney General's Office. And he is
14:07:29 10 asking the former Yuma County recorder whether she has
14:07:35 11 continued to compile suspected fraudulent registrations and
14:07:40 12 if he could be updated with an updated spreadsheet about
14:07:42 13 that; is that right?

14:07:43 14 MS. JOHNSTON: Correct.

14:07:43 15 BY MR. HORLEY:

14:07:45 16 Q. And then I see here that the former recorder said
14:07:47 17 that there was one more instance noted in the spreadsheet?

14:07:50 18 MS. JOHNSTON: I replied that there was one
14:07:54 19 more.

14:07:55 20 BY MR. HORLEY:

14:07:55 21 Q. Oh, yes, that's right. You replied that there was
14:07:57 22 one more. Okay. Thank you.

14:07:59 23 And is this the spreadsheet to which you
14:08:04 24 referred?

14:08:04 25 MS. JOHNSTON: I believe so, yes. Yes.

14:08:09 1 BY MR. HORLEY:

14:08:12 2 Q. So these are all instances of potential fraud; is
14:08:16 3 that right?

14:08:16 4 MS. JOHNSTON: Correct.

14:08:17 5 BY MR. HORLEY:

14:08:19 6 Q. And can you tell from this what the basis to
14:08:23 7 believe that they were fraudulent was?

14:08:26 8 MS. JOHNSTON: Yes. So let's say -- let's
14:08:31 9 just go with the first one: Teresa Aguirre. She was
14:08:34 10 likely already a registered voter where -- it has under
14:08:38 11 column "Real Driver's License" and "Real Voter ID" number.
14:08:43 12 So she is already a real active voter participant.

14:08:50 13 We receive a registration form with similar
14:08:56 14 information but the date of birth. So a majority of these
14:09:00 15 had transposed date of birth.

14:09:04 16 So this is where I go back to the data
14:09:06 17 minding -- mining -- is that they have enough information
14:09:09 18 to transpose the information which, because we have
14:09:17 19 safeguards in place, they don't really make it through.
14:09:19 20 But in our opinion, this is them trying.

14:09:21 21 BY MR. HORLEY:

14:09:23 22 Q. I see.

14:09:23 23 So in most of these cases, is it fair to say
14:09:26 24 this is an example of someone trying to register twice?

14:09:31 25 MS. JOHNSTON: Not the same person. I

14:09:33 1 believe that these are third-party registration circulators
14:09:37 2 that are filling out the fake information on behalf of the
14:09:42 3 voter.

14:09:44 4 That's why -- if you see under "Issues," the
14:09:47 5 date of birth is likely because it transposed. The
14:09:51 6 signature is different from the signature we have from the
14:09:54 7 real voter, which also is on their record from the driver's
14:09:58 8 license. And their driver's license number may have been
14:10:00 9 transposed or be different.

14:10:01 10 BY MR. HORLEY:

14:10:03 11 Q. Okay. Understood.

14:10:04 12 So now I wanted to look at this row down here
14:10:09 13 for Jose Francisco Ybarra. It looks like the same date of
14:10:15 14 birth. Fake and real date of birth are the same; is that
14:10:19 15 right?

14:10:19 16 MS. JOHNSTON: It looks like it, yes. That
14:10:21 17 might have been a typo.

14:10:25 18 BY MR. HORLEY:

14:10:25 19 Q. Understood. Okay.

14:10:27 20 But it also could be someone who has -- that
14:10:31 21 wasn't the issue; the date of birth was in fact the same?

14:10:34 22 MS. JOHNSTON: They -- they could have put
14:10:38 23 3/12/1970. But I would need to look into that voter's
14:10:40 24 record to see what the discrepancy was.

14:10:43 25 ///

14:10:43 1 BY MR. HORLEY:

14:10:44 2 Q. Okay. It looks like here there's different
14:10:47 3 driver's license numbers; is that right?

14:10:48 4 MS. JOHNSTON: Correct.

14:10:48 5 BY MR. HORLEY:

14:10:51 6 Q. And then when you have some columns like here, for
14:10:56 7 example, where there is no fake date of birth but it says
14:11:01 8 "fake Social Security number," do you know what that --
14:11:06 9 what that signifies?

14:11:07 10 MS. JOHNSTON: If it's a blank field, it was
14:11:09 11 left blank on the form.

14:11:12 12 BY MR. HORLEY:

14:11:13 13 Q. Okay. Does that mean that it wasn't an issue of
14:11:16 14 the birthday being transposed?

14:11:19 15 MS. JOHNSTON: Correct.

14:11:19 16 BY MR. HORLEY:

14:11:20 17 Q. Okay. But someone's offered a false Social
14:11:22 18 Security number?

14:11:23 19 MS. JOHNSTON: Yes. Two different ones. So
14:11:25 20 it looks like that person maybe submitted two registration
14:11:31 21 forms for Brianda Tamal- -- I can't see that last name.

14:11:40 22 BY MR. HORLEY:

14:11:40 23 Q. Oh, yes. I think it's Talamantes.

14:11:43 24 MS. JOHNSTON: Yeah. If you can zoom in a
14:11:46 25 little bit, I could probably see it.

14:11:48 1 But it looks like they might have submitted
14:11:50 2 two. And that's why they provided two different fake
14:11:56 3 Social Security numbers compared to the one real.

14:11:59 4 BY MR. HORLEY:

14:12:00 5 Q. Okay. Is it possible that anyone listed on this
14:12:03 6 spreadsheet was not a U.S. citizen?

14:12:07 7 MR. HERRERA: Objection; form.

14:12:09 8 MS. JOHNSTON: I think it is not possible,
14:12:11 9 because I don't think these are real people.

14:12:14 10 BY MR. HORLEY:

14:12:14 11 Q. So you think all of these names are not real
14:12:18 12 people?

14:12:19 13 MS. JOHNSTON: I -- yeah. There's fake
14:12:23 14 information for all of these people, so correct.

14:12:27 15 BY MR. HORLEY:

14:12:29 16 Q. Okay. All right. Thank you. That's all I have
14:12:32 17 for that one. And then I do have one last one.

14:12:37 18 Do you recognize this document?

14:12:40 19 MS. JOHNSTON: Yes.

14:12:41 20 BY MR. HORLEY:

14:12:42 21 Q. And your office produced this in response to
14:12:45 22 plaintiffs' request for production?

14:12:46 23 MS. JOHNSTON: Yes.

14:12:49 24 MR. HORLEY: I'd like to mark this as
14:12:51 25 Exhibit Number 210.

14:12:51 1 (The document was marked as Exhibit 210
14:12:59 2 for identification.)
14:12:59 3 BY MR. HORLEY:
14:13:00 4 Q. This is another list of incidents of voting in
14:13:04 5 more than one jurisdiction; is that right?
14:13:06 6 MS. JOHNSTON: Yes.
14:13:07 7 BY MR. HORLEY:
14:13:09 8 Q. Okay. And I see that there are four incidents on
14:13:13 9 this page; is that right?
14:13:15 10 MS. JOHNSTON: Yes.
14:13:15 11 BY MR. HORLEY:
14:13:16 12 Q. Then on this page, there are two more?
14:13:19 13 MS. JOHNSTON: Yes.
14:13:19 14 BY MR. HORLEY:
14:13:22 15 Q. So this document records six total instances of
14:13:26 16 voting in more than one jurisdiction?
14:13:26 17 MS. JOHNSTON: Yes.
14:13:27 18 MR. HORLEY: Okay. Thank you. That is all I
14:13:31 19 have. Those are all my questions.
14:13:32 20 So thank you again for your time. I really
14:13:34 21 appreciate it.
14:13:37 22 MR. LANGHOFER: Craig, anything from you?
14:13:39 23 MR. MORGAN: Yeah?
14:13:39 24 ///
14:13:39 25 ///

14:13:39 1
14:13:39 2
14:13:41 3
14:13:44 4
14:13:46 5
14:13:51 6
14:13:52 7
14:13:55 8
14:13:58 9
14:13:59 10
14:14:01 11
14:14:01 12
14:14:04 13
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14:14:24 20
14:14:25 21
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EXAMINATION

BY MR. MORGAN:

Q. Hi, my name is Craig. I represent the secretary of state. Thanks for taking the time to put up with a bunch lawyers. God knows I don't like to.

So just a moment ago, we were looking at some exhibits. I think you indicated -- one of you indicated that you thought it was all fraudulent or fake, false information. Do you recall that?

MS. JOHNSTON: Yes.

BY MR. MORGAN:

Q. Can you tell me -- are you saying that you think that someone just provided that information falsely but nobody voted based on it? No votes were cast based on that information; correct?

MS. JOHNSTON: Correct. They didn't meet the minimum qualifications because we couldn't verify HAVA checks with them.

MR. MORGAN: Okay. Thanks. I just wanted a clarification. I appreciate it.

No further questions for me.

MR. LANGHOFER: Anyone from the legislature?

All right.

How about redirect from the plaintiffs?

MR. HERRERA: No redirect from the

14:14:35 1 plaintiffs. This is Ernest Herrera. Reserve all remaining
14:14:39 2 questions for the time of trial.

14:14:44 3 MR. LANGHOFER: Sounds good. Bill, I guess
14:14:45 4 you guys would be reading and signing.

14:14:48 5 MR. KEREKES: Yes, we will.

14:14:50 6 MR. LANGHOFER: Great. I guess we'll go off
14:14:52 7 the record.

14:14:52 8 MR. MORGAN: Yeah, let's go off the record.

14:14:54 9 THE VIDEOGRAPHER: We are off the record.

14:14:55 10 Time on the video monitor is 2:14 p.m. This ends Volume 1,
14:15:02 11 Media 3, in the 30(b)(6) deposition of Yuma County
14:15:06 12 Recorder, by Joann Munoz and Sarah Johnston.

13 (The proceedings concluded at 2:15 p.m.)
14

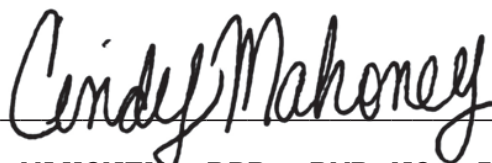
15 _____
JOANN MUNOZ AND SARAH JOHNSTON
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1 STATE OF ARIZONA)
2 COUNTY OF MARICOPA)

3 BE IT KNOWN that the foregoing deposition was taken
4 by me pursuant to stipulation of counsel; that I was then
5 and there a Certified Court Reporter in the State of
6 Arizona, and by virtue hereof authorized to administer an
7 oath; that the witness before testifying was duly sworn by
8 me to testify to the whole truth; pursuant to request,
9 notification was provided that the deposition is available
10 for review and signature; that the questions propounded by
11 counsel and the answers of the witness thereto were taken
12 down by me in shorthand and thereafter transcribed into
13 typewriting under my direction; that the foregoing pages
14 are a full, true and accurate transcript of all the
15 proceedings had upon the taking of deposition, all done to
16 the best of my skill and ability.

17 I FURTHER CERTIFY that I am in no way related
18 to nor employed by any parties hereto; nor am I in any
19 way interested in the outcome thereof.

20 Dated at Phoenix, Arizona, this 11th day of
21 September, 2023.

22 

23 _____
24 CINDY MAHONEY, RPR, RMR NO. 50680

25

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UNITED STATES DISTRICT COURT
DISTRICT OF ARIZONA

Mi Familia Vota, et al.,)	
)	
Plaintiffs,)	Case No.
	)	2:22-cv-00509-PHX-SRB
v.	)	(Lead)
)	
Adrian Fontes, in his	)	No. CV-22-00519-PHX-SRB
official capacity as	)	No. CV-22-01003-PHX-SRB
Arizona Secretary of State,	)	No. CV-22-01124-PHX-SRB
et al.,	)	No. CV-22-01369-PHX-SRB
	)	No. CV-22-01381-PHX-SRB
Defendants.	)	No. CV-22-01602-PHX-SRB
	)	No. CV-22-01901-PHX-SRB

AND CONSOLIDATED CASES.

VIDEOTAPED 30(b)(6) DEPOSITION OF THE
ARIZONA ATTORNEY GENERAL, REPRESENTED BY
WILLIAM KNUTH, TODD LAWSON, AND KEITH THOMAS

Phoenix, Arizona

August 29, 2023

Prepared by:
CINDY MAHONEY, RPR, RMR
Certified Court Reporter
Certificate No. 50680



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RETRIEVED FROM DEMOCRACYDOCKET.COM

1 VIDEOTAPED 30(b)(6) DEPOSITION OF THE ARIZONA
 2 ATTORNEY GENERAL, REPRESENTED BY WILLIAM KNUTH, TODD
 3 LAWSON, AND KEITH THOMAS, commenced at 9:34 a.m. on
 4 August 29, 2023, at the Arizona Attorney General's Office,
 5 2005 North Central Avenue, Phoenix, Arizona, before Cindy
 6 Mahoney, RPR, RMR, Arizona Certified Court Reporter No.
 7 50680.

8
 9 * * *

10
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14 ALSO PRESENT (via videoconference):

15 Amy Chan
16 Anna Critz
Laurie Stirling
17 Jack O'Connor
Colleen Connor

18 ALSO PRESENT (in person):

19 Kyra Haas
20 Devon Vaughan
Daniel Rohan, Videographer

21

22

23

24

25

1 TRANSCRIPT OF PROCEEDINGS

09:34:33 2

09:34:36 3

THE VIDEOGRAPHER: We are on the record.

09:34:38 4

Time on the video monitor is 9:34 a.m. Here begins

09:34:41 5

Volume 1, Media Number 1, in the deposition of our 30(b)(6)

09:34:46 6

designee of the Arizona Attorney General's Office, by Bill

09:34:50 7

Knuth, Keith Thomas, Todd Lawson, in the matter of Mi

09:34:58 8

Familia Vota, et al., v. Adrian Fontes, et al., in the

09:35:00 9

United States District Court, District of Arizona, Case

09:35:11 10

Number 2:22-cv-00509-SRB.

09:35:12 11

Today's date is August 29, 2023. Our court

09:35:16 12

reporter is Cindy Mahoney. I am Daniel Rohan, a certified

09:35:20 13

legal videographer. We both represent Coash Court

09:35:24 14

Reporting & Video.

09:35:25 15

This video deposition is taking place at the

09:35:27 16

Arizona Attorney General's Office, 2005 North Central

09:35:32 17

Avenue, Phoenix, Arizona 85004.

09:35:35 18

Counsel, please identify yourselves and state

09:35:37 19

whom you represent.

09:35:38 20

MR. DODGE: Christopher D. Dodge, joined by

09:35:41 21

Elisabeth Frost, on behalf of the Mi Familia Vota and Voto

09:35:44 22

Latino plaintiffs.

09:35:45 23

MR. OMI: Evan Omi, from Latham & Watkins,

09:35:45 24

representing Arizona Asian American Native Hawaiian Pacific

09:35:45 25

Islander for Equity Coalition.

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09:36:49 19
09:36:58 20
09:37:02 21
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25

MR. HERRERA: Ernest Herrera --
MS. YUN: Jennifer Yun on behalf of --
Jennifer Yun on behalf of the United States.
MR. HERRERA: Ernest Herrera. I'm joined by
Erika Cervantes, on behalf of Promise Arizona and Southwest
Voter Registration Education Project.
MR. FREEDMAN: John Freedman and Michelle
Kanter Cohen for the Poder Latinx plaintiffs.
MR. WHITAKER: Josh Whitaker, joined by
Kathryn Boughton and, for now, Josh Bendor, on behalf of
the Arizona attorney general.
MR. VOLCHOK: Daniel Volchok for the
Democratic National Committee and the Arizona Democratic
Party.
MR. LANGHOFER: Kory Langhofer.
MR. MORGAN: Craig Morgan and Shayna Stuart,
for Sherman & Howard, on behalf of the secretary of state.
MS. PORTER: Hannah Porter on behalf of
defendant intervenors Speaker Toma and President Petersen.
MR. SNOW: Ryan Snow on behalf of Tohono
O'odham plaintiffs.
MS. DANAHY: Molly Danahy on behalf of the
LUCHA plaintiffs.
///
///

1 WILLIAM KNUTH,
2 the witness herein, being first duly sworn,
3 was examined and testified as follows:
4

09:37:21 5 EXAMINATION

09:37:21 6 BY MR. DODGE:

09:37:22 7 Q. Good morning, Mr. Knuth. My name is Chris Dodge.
09:37:25 8 As you just heard, I represent the Mi Familia Vota and Voto
09:37:29 9 Latino plaintiffs in this matter.

09:37:30 10 Could you please state your full name for the
09:37:30 11 record.

09:37:32 12 A. Yes. It's William Knuth. That's K-n-u-t-h.

09:37:36 13 Q. And have you ever been deposed before, Mr. Knuth?

09:37:38 14 A. Yes, I have.

09:37:39 15 Q. Okay. I know you're familiar with depositions
09:37:42 16 then, but let's quickly go over some deposition ground
09:37:46 17 rules.

09:37:46 18 You understand that today we have a court
09:37:48 19 reporter here whose job it is to make a complete and
09:37:50 20 accurate record of what we are saying today?

09:37:52 21 A. Yes.

09:37:53 22 Q. So that the court reporter can accurately record
09:37:56 23 today's deposition, can we agree that you'll answer my
09:37:58 24 questions audibly and clearly?

09:38:00 25 A. Yes.

09:38:00 1 Q. And so that means no shaking your head or
09:38:03 2 responding with "uh-huh" or "huh-uh." Do you understand
09:38:06 3 that?

09:38:06 4 A. I do.

09:38:06 5 Q. Okay. And can we agree that today you will wait
09:38:09 6 for me to finish my question before answering so that we
09:38:12 7 don't talk over each other?

09:38:14 8 A. Yes.

09:38:14 9 Q. And if you do not understand or if a question is
09:38:16 10 confusing, can you please just let me know? And I will
09:38:19 11 either repeat it or try to ask it a different way.

09:38:22 12 A. Yes.

09:38:23 13 Q. If I do ask a question and you answer the
09:38:25 14 question, I will assume that you understood the question.
09:38:27 15 Does that sound fair?

09:38:28 16 A. Yes.

09:38:28 17 Q. If at any time today you would like to take a
09:38:31 18 break, please just let me know. The one thing I ask is
09:38:34 19 that if I have already asked a question, that you finish
09:38:36 20 answering that question before asking for a break. Does
09:38:38 21 that make sense?

09:38:39 22 A. Yes, it does.

09:38:40 23 Q. Okay. The court reporter asked you to take an
09:38:42 24 oath just a moment ago; correct?

09:38:44 25 A. Yes.

09:38:44 1 Q. And you took that oath and agreed to provide
09:38:47 2 truthful and complete testimony to the best of your ability
09:38:49 3 today; right?
09:38:50 4 A. Yes.
09:38:50 5 Q. Is there any reason you can't testify fully and
09:38:52 6 truthfully today?
09:38:54 7 A. No, there's not.
09:38:55 8 Q. You mentioned just a moment ago that you've been
09:38:58 9 deposed before; correct?
09:38:59 10 A. Yes.
09:38:59 11 Q. How many other times have you been deposed?
09:39:02 12 A. At least once, maybe twice. It's been several
09:39:07 13 years.
09:39:07 14 Q. And in either of those instances, did your
09:39:11 15 deposition concern elections?
09:39:12 16 A. No.
09:39:13 17 Q. Did you bring any materials with you to the
09:39:16 18 deposition today?
09:39:17 19 A. No.
09:39:17 20 Q. Do you have any documents in front of you?
09:39:20 21 A. No, I don't.
09:39:21 22 Q. You are currently employed by the Arizona Attorney
09:39:26 23 General's Office; correct?
09:39:26 24 A. Yes.
09:39:26 25 Q. And what is your role there?

09:39:29 1 A. I'm a lead specialist agent. My main focus is
09:39:33 2 election integrity investigation.

09:39:34 3 Q. How long have you been in that position?

09:39:37 4 A. I've been with the attorney general just over four
09:39:42 5 years. And I've been in that role in election integrity
09:39:45 6 for most of that time; maybe four or five months, less than
09:39:50 7 that.

09:39:50 8 Q. Okay. And what are your responsibilities in your
09:39:52 9 current role?

09:39:53 10 A. Mainly -- well, I'm in -- I'm a criminal
09:39:57 11 investigator as a whole, but I have kind of taken a
09:40:02 12 specialty to anything that comes in involving anything to
09:40:06 13 do with voter election integrity complaints.

09:40:09 14 Q. Who do you report to in that role?

09:40:11 15 A. My supervisor is Supervising Special Agent John
09:40:15 16 Hillmann.

09:40:17 17 Q. Anyone else?

09:40:18 18 A. Well, Chief Jim Cope.

09:40:22 19 Q. And does anyone report to you in your current
09:40:24 20 role?

09:40:24 21 A. Only in the absence of Hillmann because I'm -- I'm
09:40:28 22 a lead special agent, so I take over responsibilities when
09:40:31 23 he's not around sometimes.

09:40:32 24 Q. Understood.

09:40:33 25 And you mentioned that you had another role

09:40:34 1 at the Attorney General's Office for four or five months.

09:40:37 2 Can you tell me what role that was?

09:40:39 3 A. It was just general fraud investigation.

09:40:41 4 Q. And that was your first role at the Attorney
09:40:45 5 General's Office?

09:40:45 6 A. Yes, sir.

09:40:45 7 Q. And did you have any sort of investigative
09:40:49 8 position before you joined the Attorney General's Office?

09:40:51 9 A. Yes. I was involved in law enforcement for over
09:40:56 10 20 years. In that time period, I worked for several years
09:41:00 11 as a homicide investigator -- investigator in Pima County,
09:41:05 12 Tucson.

09:41:06 13 I also was a child crimes investigator, also
09:41:08 14 for Pima County Sheriff's Department, Tucson. I've been
09:41:12 15 involved in a handful of specialized units involved in
09:41:16 16 investigations of one kind or another.

09:41:18 17 Q. Great. Thank you.

09:41:20 18 You understand that today you're here as a
09:41:23 19 representative to testify on behalf of the Attorney
09:41:26 20 General's Office; correct?

09:41:26 21 A. Yes.

09:41:26 22 Q. And so if today I refer to "you" or "your," you
09:41:30 23 understand that I'll be referring to the Attorney General's
09:41:31 24 Office as a whole and not to you personally; correct?

09:41:34 25 A. Yes.

09:41:37 1 Q. Okay. I'm going to hand you what will be marked
09:41:39 2 as Exhibit 211, which is in the Dropbox in Number 1.
09:41:39 3 (The document was marked as Exhibit 211
09:41:39 4 for identification.)
09:41:39 5 BY MR. DODGE:
09:41:49 6 Q. Are you familiar with this document?
09:41:50 7 A. I have looked at it, yes.
09:41:51 8 Q. Can you tell me what this document is?
09:41:53 9 A. This is a -- forgive my lack of legalese. This is
09:41:59 10 the suit involving the -- your clients and -- and the other
09:42:08 11 assigned folks.
09:42:09 12 Q. Okay. And can you turn to page 4 of this
09:42:12 13 document.
09:42:14 14 You see where it says "Deposition Topics" at
09:42:17 15 the top?
09:42:17 16 A. Yes, sir.
09:42:18 17 Q. Have you reviewed these topics?
09:42:19 18 A. I have.
09:42:19 19 Q. Can you identify which of these topics you're
09:42:23 20 prepare to testify to today?
09:42:25 21 A. I believe that I can speak to 1 vaguely, somewhat
09:42:45 22 2, 3. Number 4 and 5 are more likely going to be
09:42:53 23 Mr. Thomas's area. And the rest I can just say I may have
09:43:02 24 general knowledge about. I don't know that I have anything
09:43:06 25 extra to offer in those areas.

09:43:07 1 Q. Okay. I appreciate that.

09:43:11 2 What did you do to prepare for today's
09:43:15 3 deposition?

09:43:16 4 A. Mainly just reviewed all the documentation that
09:43:19 5 was provided to me regarding, you know, emails and
09:43:24 6 interrogatories and responses and et cetera.

09:43:27 7 Q. And with the exception of any attorneys for the
09:43:30 8 Attorney General's Office, did you meet with anyone from
09:43:33 9 your office today to prepare for today's deposition?

09:43:36 10 A. Outside of my office, no.

09:43:38 11 Q. Did you discuss today's deposition with anyone
09:43:47 12 else outside of your office, excepting any legal counsel in
09:43:51 13 this case?

09:43:51 14 A. No.

09:43:52 15 Q. Did you meet with any attorneys in preparation for
09:43:57 16 today's deposition?

09:43:58 17 A. No, not outside my office.

09:44:02 18 Q. Did you meet with any attorneys within the
09:44:05 19 Attorney General's Office to prepare for today's
09:44:06 20 deposition?

09:44:06 21 A. Yes.

09:44:06 22 Q. How many times did you meet with them?

09:44:08 23 A. Twice.

09:44:10 24 Q. For about how long were those meetings?

09:44:12 25 A. Total of maybe a couple hours.

09:44:19 1 Q. I'm now going to ask some questions about the
09:44:26 2 enactment of HB 2492 and HB 2243. Are you prepared to
09:44:31 3 testify on those topics today?

09:44:34 4 A. To the best of my ability.

09:44:36 5 Q. Are you familiar with HB 2492?

09:44:39 6 A. Just generally. I reviewed it.

09:44:41 7 Q. And are you familiar with HB 2243?

09:44:44 8 A. Yes. Same -- same answer.

09:44:46 9 Q. If I refer to these bills today as the "challenged
09:44:50 10 laws," will you understand that I'm referring to HB 2492
09:44:54 11 and HB 2243?

09:44:54 12 A. Yes.

09:44:56 13 Q. Does the Attorney General's Office typically track
09:45:00 14 proposed legislation pending before the Arizona
09:45:02 15 legislature?

09:45:06 16 A. That would probably be a question better suited
09:45:10 17 for the attorney part of our agency. I can't really answer
09:45:15 18 that accurately, I don't feel.

09:45:18 19 Q. Are you aware of whether your office has a
09:45:20 20 legislative liaison?

09:45:22 21 A. I believe we do.

09:45:23 22 Q. Do you know what the duties of the legislative
09:45:26 23 liaison are?

09:45:26 24 A. I wouldn't want to speculate on that.

09:45:28 25 Q. Do you know who the current legislative liaison

09:45:39 1 is?

09:45:40 2 A. Unfortunately, I don't.

09:45:42 3 Q. In that case, I'd like to ask you some questions
09:46:12 4 about the interpretation and enforcement of HB 2492 and
09:46:19 5 HB 2243. Are you prepared to testify today on those
09:46:22 6 topics?

09:46:23 7 A. Yes.

09:46:23 8 Q. You would agree with me that prior to the
09:46:27 9 enactment of HB 2492 and HB 2243, it was illegal for a
09:46:33 10 person who was not a United States citizen to register to
09:46:34 11 vote in Arizona; correct?

09:46:37 12 A. Yes.

09:46:39 13 MR. LANGHOFER: Calls for legal conclusion.

09:46:39 14 BY MR. DODGE:

09:46:40 15 Q. And you would also agree with me that prior to the
09:46:43 16 enactment of HB 2492 and HB 2243, there were policies,
09:46:46 17 laws, and procedures in place in Arizona to prevent
09:46:49 18 noncitizens from voting; correct?

09:46:52 19 MR. LANGHOFER: Same objection.

09:46:54 20 THE WITNESS: There are -- yeah, there's
09:46:57 21 procedures and policies, yes.

09:46:57 22 BY MR. DODGE:

09:46:59 23 Q. And, in fact, your office --

09:47:01 24 MR. MORGAN: Counsel, since objections are
09:47:03 25 coming in, can we put on the record our ongoing stipulation

09:47:07 1 that an objection for one is an objection for all parties
09:47:10 2 on that side of the case?

09:47:12 3 MR. DODGE: That's fine with us.

09:47:14 4 MR. MORGAN: Thanks.

09:47:14 5 BY MR. DODGE:

09:47:16 6 Q. In fact, prior to HB 2492 and HB 2243, your
09:47:21 7 office, the Attorney General's Office, had policies and
09:47:22 8 procedures in place to prevent noncitizens from voting;
09:47:27 9 correct?

09:47:27 10 A. Interpreted through A.R.S. Title 16, I would say.
09:47:35 11 I don't know that the agency itself has a policy.

09:47:40 12 Q. But, for example, your office had the authority to
09:47:42 13 prosecute individuals who illegally registered or voter --
09:47:46 14 illegally registered or voted with felony charges; correct?

09:47:50 15 A. That's true.

09:47:51 16 Q. Did the Secretary of State's Office have any
09:47:55 17 policies in place to prevent noncitizen voting prior to the
09:47:58 18 enactment of the challenged laws?

09:47:59 19 MR. WHITAKER: Foundation.

09:48:02 20 THE WITNESS: I couldn't speak to the
09:48:04 21 Secretary of State's Office.

09:48:04 22 BY MR. DODGE:

09:48:06 23 Q. Did the county recorders' offices have any
09:48:09 24 policies in place to prevent noncitizen voting prior to the
09:48:12 25 enactment of the challenged legislation?

09:48:14 1 MR. WHITAKER: Foundation.

09:48:15 2 THE WITNESS: Again, I can't speak to the

09:48:17 3 recorder's office.

09:48:18 4 BY MR. DODGE:

09:48:19 5 Q. You would agree, however, that in Arizona it is a

09:48:21 6 felony for a person to register as an elector when they

09:48:24 7 know they are not entitled to such registration; correct?

09:48:29 8 MR. LANGHOFER: Calls for legal conclusion.

09:48:30 9 THE WITNESS: Yes.

09:48:31 10 BY MR. DODGE:

09:48:31 11 Q. And that was a felony before the challenged laws

09:48:34 12 were passed; correct?

09:48:35 13 A. Yes.

09:48:36 14 MR. LANGHOFER: Same objection.

09:48:37 15 BY MR. DODGE:

09:48:41 16 Q. And as the chief law enforcement officer of

09:48:43 17 Arizona, the attorney general has the authority to

09:48:45 18 prosecute noncitizens who register to vote despite knowing

09:48:48 19 they're not entitled to register; correct?

09:48:51 20 A. Yes.

09:48:52 21 Q. And that was true before the --

09:48:52 22 MR. LANGHOFER: Same.

09:48:52 23 BY MR. DODGE:

09:48:53 24 Q. -- enactment of challenged laws; correct?

09:48:58 25 MR. LANGHOFER: Same objection.

09:48:58 1 THE WITNESS: Yes.

09:48:58 2 BY MR. DODGE:

09:48:58 3 Q. And that remains true today as well; correct?

09:49:02 4 MR. LANGHOFER: Same objection.

09:49:03 5 THE WITNESS: Yes.

09:49:06 6 BY MR. DODGE:

09:49:07 7 Q. I'm going to hand you what will be marked as

09:49:10 8 Exhibit 212 and is in the Dropbox folder as Number 6.

09:49:10 9 (The document was marked as Exhibit 212

09:49:10 10 for identification.)

09:49:17 11 BY MR. DODGE:

09:49:17 12 Q. Are you familiar with this document?

09:49:24 13 A. I have seen it.

09:49:25 14 Q. Can you tell me what this document is?

09:49:27 15 A. This is the document that outlines the

09:49:31 16 interrogatories for refer- -- reference our office.

09:49:36 17 Q. And you reviewed your office's responses to the

09:49:38 18 interrogatories in preparation for today's deposition;

09:49:41 19 correct?

09:49:41 20 A. I did.

09:49:42 21 Q. Did you assist at all in preparing this document

09:49:44 22 on behalf of your office?

09:49:46 23 A. I did not.

09:49:47 24 Q. Do you know who in your office did assist in

09:49:49 25 preparing the responses to this document?

09:49:52 1 A. I would have to make assumptions on that. I'm not
09:49:56 2 certain, no.

09:49:56 3 Q. Okay. Can you turn to page 11 of this document
09:50:01 4 and review Interrogatory Number 2.

09:50:23 5 A. Okay.

09:50:23 6 Q. And you see that your office responded to
09:50:26 7 Interrogatory Number 2 a little below that; right?

09:50:27 8 A. Correct.

09:50:28 9 Q. And your office has chosen to break your response
09:50:31 10 to this interrogatory out into subparts; correct?

09:50:34 11 A. Correct.

09:50:34 12 Q. But those subparts were not part of the original
09:50:38 13 interrogatories as served on your office by the plaintiffs;
09:50:42 14 correct?

09:50:42 15 A. I do not believe so.

09:50:43 16 MR. WHITAKER: Objection. Arguably legal
09:50:46 17 conclusion.

09:50:46 18 BY MR. DODGE:

09:50:47 19 Q. Subpart 1 on page 11 asks your office to, quote,
09:50:51 20 "Identify all provisions of the challenged laws that you
09:50:54 21 intend to implement or enforce."

09:50:56 22 Did I read that correctly?

09:50:57 23 A. You did.

09:50:58 24 Q. As of the time of these responses, had your office
09:51:04 25 initiated any investigation under the challenged laws?

09:51:09 1 A. Not to my -- not that I'm aware of, no.

09:51:12 2 Q. And since your office served these responses, has

09:51:15 3 your office initiated any investigation under the

09:51:18 4 challenged laws?

09:51:18 5 A. I'm not aware of any, no.

09:51:20 6 Q. Your response to Subpart 1 says that your -- that

09:51:27 7 if your office, quote, "were to receive information or a

09:51:31 8 referral for investigation under the challenged laws, the

09:51:33 9 office would evaluate and consider investigations on a

09:51:36 10 case-by-case basis."

09:51:38 11 Do you see that?

09:51:39 12 A. Yes.

09:51:40 13 Q. So is it correct that your office is currently

09:51:44 14 ready to investigate, potentially prosecute a violation of

09:51:47 15 this provision if a referral is made?

09:51:51 16 MR. WHITAKER: Objection. Ambiguous.

09:51:53 17 THE WITNESS: As with any referral to our

09:51:57 18 agency, if we receive one, it will be evaluated and

09:52:02 19 determined whether an investigation is warranted.

09:52:04 20 BY MR. DODGE:

09:52:04 21 Q. So it's correct, then, that your office doesn't

09:52:07 22 presently have a stated policy of not investigating or

09:52:09 23 prosecuting alleged violations of the challenged laws; is

09:52:16 24 that right?

09:52:16 25 A. Yes, that would be correct.

09:52:17 1 Q. But it's also the case that your office has not
09:52:20 2 yet received any referrals under the challenged laws;
09:52:23 3 correct?

09:52:23 4 A. I'm aware of none.

09:52:25 5 Q. Understanding that any investigation would be
09:52:31 6 case-dependent, what would an investigation by your office
09:52:34 7 under the challenged laws look like?

09:52:37 8 MR. WHITAKER: Objection. Ambiguous and
09:52:40 9 arguably compound.

09:52:43 10 MR. LANGHOFER: Speculation.

09:52:46 11 THE WITNESS: I -- I handle all
09:52:48 12 investigations exact- -- well, me and the office handle
09:52:53 13 investigations exactly the same. They're received through
09:52:58 14 whatever the source may be. It's initially evaluated.
09:53:03 15 There's an evaluation made as to the merit of the
09:53:06 16 allegation, and then appropriate investigation is performed
09:53:10 17 after that.

09:53:11 18 BY MR. DODGE:

09:53:11 19 Q. Who conducts that evaluation?

09:53:14 20 MR. WHITAKER: Objection. Ambiguous and
09:53:16 21 compound.

09:53:17 22 THE WITNESS: I would say that that depends
09:53:20 23 on how -- how that was received -- how the complaint was
09:53:24 24 received to our office. We -- it could come through our
09:53:28 25 duty agent system where the initial evaluation falls on

09:53:32 1 them.

09:53:33 2 If it's -- sometimes a document will get

09:53:37 3 directly sent to us from an entity -- for example, social

09:53:42 4 secur- -- or secretary of state or recorder -- at which

09:53:45 5 time sometimes I will get that directly and then I'll

09:53:47 6 evaluate it. It's -- so it depends on how it gets to us

09:53:52 7 would be the best answer I --

09:53:53 8 BY MR. DODGE:

09:53:53 9 Q. Could you tell me how a referral might get to you

09:53:55 10 guys then?

09:53:56 11 A. Either through our intake portal or through our

09:54:00 12 duty agent line is typically the most common. I have

09:54:05 13 received direct complaints from an entity because I have

09:54:08 14 relationships with them.

09:54:09 15 Q. When you say "entity," what are you referring to?

09:54:11 16 A. I'm referring to somebody that -- you know, at

09:54:14 17 the Secretary of State's Office or the recorder's office or

09:54:16 18 something like that.

09:54:17 19 Q. A moment ago you mentioned an intake portal. Is

09:54:20 20 that the Election Integrity Unit portal?

09:54:23 21 A. It's -- my understanding, if I'm up to speed on

09:54:27 22 this, is that at one point it would have been; that we no

09:54:30 23 longer have an official election integrity intake portal,

09:54:34 24 so now it's just general -- a general intake portal.

09:54:37 25 Q. And so that general intake portal is on behalf of

09:54:41 1 your entire office and not specific to elections; is that

09:54:44 2 right?

09:54:44 3 A. Correct.

09:54:45 4 Q. You also mentioned a duty agent. Can you tell me

09:54:48 5 who the duty agent is?

09:54:49 6 A. We have two: Paul Hermanns and Robert Everett.

09:54:55 7 They work off set schedules so that somebody's available.

09:54:59 8 Q. And I apologize that I'm not as familiar with law

09:55:01 9 enforcement terminology.

09:55:01 10 Can you tell me what a duty agent is?

09:55:03 11 A. Basically, in this office they're a -- they're a

09:55:06 12 filter for -- you know, we get, as you may expect, several

09:55:11 13 complaints through our portal on a daily basis. They're

09:55:14 14 kind of that first wave to evaluate and see if there's

09:55:19 15 anything -- if the complaint can even be investigated; if

09:55:22 16 there's enough information for it to even go anywhere. So

09:55:26 17 they're just kind of the first-line evaluation.

09:55:28 18 Q. I see.

09:55:29 19 And their roles are not specific to

09:55:31 20 elections?

09:55:32 21 A. No.

09:55:34 22 Q. Okay. So you mentioned your office's intake

09:55:38 23 portal, the duty agents, direct referrals from entities

09:55:42 24 such as the secretary of states or the county recorders'

09:55:44 25 offices. Are there any other ways in which your office

09:55:48 1 might receive a referral for an investigation under
09:55:51 2 something like the challenged laws?
09:55:52 3 A. I mean, I can't say that there's no other way. I
09:56:00 4 mean, if a law enforcement agency, for example, reaches out
09:56:05 5 to somebody in our office, I mean, that could happen. It's
09:56:08 6 not very common, but, I mean, it could certainly happen.
09:56:10 7 Q. But those ones we discussed are the primary
09:56:12 8 methods of referrals?
09:56:13 9 A. I would say that's accurate.
09:56:15 10 Q. What sources would your office rely on to conduct
09:56:17 11 an investigation under the challenged laws?
09:56:19 12 MR. WHITAKER: Objection. Ambiguous.
09:56:22 13 Compound.
09:56:23 14 THE WITNESS: I would refer to a number of
09:56:28 15 databases or law enforcement-related information that I
09:56:32 16 have access to: Motor Vehicle records; criminal histories;
09:56:41 17 TLO is a popular one that we use. There's -- there's a
09:56:46 18 handful of law enforcement databases that we have access to
09:56:49 19 that are useful.
09:56:50 20 BY MR. DODGE:
09:56:52 21 Q. Okay. I'm going to ask some more questions about
09:56:54 22 those databases in a moment.
09:56:55 23 But for the time being, can you tell me about
09:56:57 24 any other sources besides databases your office -- your
09:57:00 25 office would rely on for an investigation like this?

09:57:04 1 MR. WHITAKER: Same objections.

09:57:05 2 THE WITNESS: I mean, I guess I would have to
09:57:09 3 include in that just standard investigative police work,
09:57:14 4 interviews with people, witnesses, evidence, you know,
09:57:19 5 those kind of things.

09:57:20 6 BY MR. DODGE:

09:57:20 7 Q. And who would you interview for an investigation
09:57:23 8 under the challenged laws?

09:57:24 9 MR. WHITAKER: Same objections.

09:57:26 10 THE WITNESS: I think that that's a difficult
09:57:28 11 question to answer because it would be case-by-case.

09:57:32 12 BY MR. DODGE:

09:57:33 13 Q. Is it likely you would investigate the individual
09:57:35 14 who was the subject matter of the investigation?

09:57:38 15 MR. WHITAKER: Same objections.

09:57:39 16 THE WITNESS: Ultimately, yes, I believe that
09:57:42 17 would be the case.

09:57:42 18 BY MR. DODGE:

09:57:43 19 Q. Would you interview any of their family members?

09:57:45 20 MR. WHITAKER: Same objections.

09:57:46 21 THE WITNESS: Again, it's case-by-case, but
09:57:49 22 yeah, potentially.

09:57:50 23 BY MR. DODGE:

09:57:51 24 Q. Would you interview their neighbors?

09:57:53 25 MR. WHITAKER: Same objection.

09:57:54 1 THE WITNESS: I have to give you the same
09:57:58 2 answer. I mean, case-by-case -- I would feel like that
09:58:01 3 would be more -- I would feel that I would have to have a
09:58:06 4 pretty good reason to do that. It seems like it may not be
09:58:10 5 useful for me, but I can't say that for sure.

09:58:12 6 BY MR. DODGE:

09:58:13 7 Q. If an individual -- strike that.

09:58:15 8 If someone has alleged that an individual is
09:58:18 9 not a United States citizen but has registered to vote or
09:58:22 10 cast a ballot, what types of witnesses would be helpful in
09:58:26 11 investigating that claim?

09:58:35 12 A. Well, certainly part of the investigation would be
09:58:40 13 contacting likely the recorder's office for -- to get some
09:58:46 14 evidence if there is a voting history or if it's a voter
09:58:48 15 registration -- we have to start there to begin with.

09:58:52 16 And then it -- again, I have to kind of fall
09:58:55 17 back on case-by-case, but, I mean, at some point or
09:58:59 18 another, the -- the alleged individual would need to be
09:59:02 19 spoken to, and, you know, research has to be done to see if
09:59:08 20 I can determine with certainty, you know, what somebody's
09:59:13 21 eligibility is, those kinds of things.

09:59:16 22 Q. Would you potentially interview a persons's
09:59:21 23 employer as part of an investigation into their
09:59:24 24 citizenship?

09:59:26 25 A. Yeah, it's definitely a possibility.

09:59:28 1 Q. Would you potentially interview members of any
09:59:31 2 organizations the person belongs to, like a church or a
09:59:34 3 civic group?

09:59:36 4 A. I can't give you a definitive answer on that. I
09:59:41 5 think it would be unlikely.

09:59:42 6 Q. But it's possible?

09:59:43 7 A. It could be.

09:59:44 8 Q. When an individual is the subject matter of an
09:59:49 9 investigation into something like an allegation that they
09:59:53 10 are a noncitizen trying to vote in Arizona, does that
09:59:56 11 individual receive any sort of notice from your office?

10:00:00 12 A. I'm sorry. I -- are you asking if they are
10:00:06 13 notified that they're being investigated?

10:00:08 14 Q. That's right.

10:00:09 15 A. No.

10:00:10 16 Q. At any point in the investigation?

10:00:12 17 A. Not typically, until I go knock on their door.

10:00:17 18 Q. Would it be possible that a person subject to an
10:00:29 19 investigation by your office would need to retain an
10:00:32 20 attorney to assist them in the course of your
10:00:35 21 investigation?

10:00:36 22 MR. WHITAKER: Objection. Ambiguous.

10:00:40 23 THE WITNESS: I mean, I -- certainly, they
10:00:46 24 have a right to do so. I'm certain it could happen. It's
10:00:50 25 a possibility.

10:00:51 1 BY MR. DODGE:

10:00:53 2 Q. Are you aware of an individual who you have been
10:00:56 3 investigating ever obtaining or seeking counsel to assist
10:01:00 4 them while you investigate them?

10:01:03 5 MR. WHITAKER: Objection. Ambiguous.

10:01:05 6 THE WITNESS: I've done hundreds of
10:01:09 7 investigations. I'm certain that at some point in time
10:01:12 8 somebody's gotten counsel.

10:01:14 9 BY MR. DODGE:

10:01:15 10 Q. Would an investigation under the challenged laws
10:01:19 11 differ in any way from the other kinds of investigations
10:01:22 12 your office conducts?

10:01:24 13 A. From my standpoint, no. My investigations are all
10:01:27 14 the same, the procedure -- you know, the procedural part.
10:01:32 15 Obviously, they're different in other ways.

10:01:35 16 Q. Has your office conducted any analysis into which
10:01:39 17 groups of voters might be most impacted by enforcement of
10:01:42 18 the challenged laws?

10:01:44 19 A. That would probably be a question better suited
10:01:49 20 for the -- like, the civil attorneys or the -- or lawyers.
10:01:56 21 I -- I'm not aware of anything. I can't really speak to
10:02:01 22 it.

10:02:03 23 Q. Are you aware of whether certain groups of voters
10:02:04 24 are more likely to be naturalized citizens than others?

10:02:10 25 A. I -- I wouldn't have an opinion on that.

10:02:13 1 Q. I'm not asking for an opinion, I guess.

10:02:18 2 Just in -- in the course of, you know, your
10:02:20 3 experience as an investigator in Pima County and with the
10:02:23 4 Attorney General's Office, are you aware of whether, for
10:02:26 5 example, Hispanics in Arizona are more likely to be
10:02:29 6 naturalized citizens than white people in Arizona?

10:02:36 7 A. I mean, again, that's not really -- that's not
10:02:39 8 really in purview. I mean, we have a high Hispanic
10:02:42 9 population in Arizona. Does that affect it? Possibly.

10:02:45 10 Q. Are you aware of whether Asians in Arizona are
10:02:50 11 more likely to be naturalized citizens than white people in
10:02:54 12 Arizona?

10:02:54 13 A. I -- this is definitely something I can't comment
10:02:57 14 on. I would have no idea.

10:02:59 15 Q. Are you aware of whether some groups of voters are
10:03:04 16 more likely to have nonstandard addresses than others?

10:03:08 17 MR. WHITAKER: Objection. Unclear as to
10:03:11 18 "nonstandard addresses."

10:03:15 19 THE WITNESS: I mean, I guess I should be
10:03:21 20 clear.

10:03:23 21 By "nonstandard address," you're referring
10:03:25 22 to, you know, no number or street, ZIP code-type situation?

10:03:32 23 BY MR. DODGE:

10:03:32 24 Q. That's right.

10:03:33 25 A. Okay. I can speak through experience that I

10:03:35 1 have -- I encounter that on reservation land sometimes, but

10:03:39 2 it's not the only place.

10:03:42 3 Q. But it's correct that certain groups of voters --
10:03:45 4 for example, those on reservations -- are more likely to
10:03:49 5 have nonstandard addresses than your typical citizen in
10:03:53 6 Arizona?

10:03:54 7 MR. WHITAKER: Objection; foundation.

10:03:56 8 THE WITNESS: I don't know if "more
10:03:58 9 likely" is fair. I mean, we have a lot of rural -- we have
10:04:00 10 a lot of rural areas in the counties of Arizona. And I --
10:04:02 11 and I'm not an expert. So I -- I don't think that I would
10:04:07 12 be comfortable with that analogy -- that statement.

10:04:11 13 BY MR. DODGE:

10:04:13 14 Q. Can you tell me about where, in your experience,
10:04:15 15 you've encountered nonstandard addresses then?

10:04:21 16 A. I've done investigations in Apache County where I
10:04:36 17 encountered that situation. I believe I ran into that
10:04:47 18 situation in an investigation in La Paz County perhaps at
10:04:51 19 one point. It's not a -- I haven't run across it that
10:04:54 20 often.

10:04:54 21 Q. That experience in Apache County, did that involve
10:04:58 22 reservation land?

10:04:59 23 A. Partially, yes.

10:05:00 24 Q. What do you mean by "partially"?

10:05:02 25 A. I mean, the -- yes, my investigation led me to

10:05:05 1 some areas like that, but it wasn't the entirety of the
10:05:08 2 investigation.

10:05:09 3 Q. But that part of the investigation that was on
10:05:13 4 reservation land, that was an example where you encountered
10:05:16 5 nonstandard addresses; correct?

10:05:18 6 A. Correct.

10:05:18 7 Q. And with respect to La Paz County, was that also
10:05:23 8 reservation land where you encountered nonstandard
10:05:26 9 addresses as part of your investigation?

10:05:29 10 A. Yes.

10:05:31 11 Q. The next set of questions I have are about access
10:05:42 12 to databases. My understanding is you're not going to be
10:05:45 13 testifying on that today; is that correct?

10:05:46 14 A. I feel like Keith Thomas may be better suited for
10:05:50 15 that.

10:05:59 16 Q. I'm going to hand you what has already been marked
10:06:20 17 as Petty Exhibit 19, which is in the Dropbox folder as
10:06:25 18 Number 7.

10:06:34 19 Are you familiar with this document?

10:06:35 20 A. I have seen it, yes.

10:06:37 21 Q. Can you tell me what this document is?

10:06:38 22 A. This is the verbiage of House Bill 2492.

10:06:45 23 Q. Did you review this document in preparation for
10:06:48 24 today's deposition?

10:06:49 25 A. I did. It's a lot, but I did.

10:06:55 1 Q. Fair enough.

10:06:56 2 Can you please turn to page 8 of this

10:06:58 3 document. Scratch that. Page 7.

10:07:06 4 A. Okay.

10:07:06 5 Q. Do you see, beginning at line 13, Section 7 of the

10:07:13 6 bill?

10:07:14 7 A. Yes.

10:07:15 8 Q. Just take a moment and review this section.

10:08:03 9 Section A of this provision requires the

10:08:05 10 secretary of state and each county recorder in Arizona to

10:08:08 11 supply your office with a list of all individuals who are

10:08:11 12 registered to vote and have not provided satisfactory

10:08:14 13 evidence of citizenship. Did I get that right?

10:08:16 14 A. Yes, that's correct.

10:08:18 15 Q. Did your office receive such a list from the

10:08:19 16 secretary of state?

10:08:21 17 A. Not to my knowledge.

10:08:22 18 Q. If your office were to have received such a list,

10:08:26 19 do you have idea how many individuals might be on it?

10:08:29 20 A. No.

10:08:30 21 Q. Did your office receive such a list from each

10:08:34 22 county recorder in Arizona?

10:08:35 23 A. Not to my knowledge.

10:08:37 24 Q. And if your office were to have received those

10:08:41 25 lists, do you have any idea how many individuals in

10:08:45 1 aggregate would have been on the county recorders' lists?

10:08:47 2 A. I would have no idea.

10:08:48 3 Q. Do you know how many people, at the time of

10:08:52 4 HB 2492's enactment, were registered to vote in Arizona but

10:08:56 5 had not provided documentary proof of citizenship?

10:08:59 6 A. I -- I would have no idea of that number.

10:09:01 7 Q. Do you know if there's an individual in your

10:09:04 8 office who would know whether or not you have received

10:09:07 9 these lists from the secretary of state and the county

10:09:12 10 recorders?

10:09:12 11 A. I -- I mean, I have to make the assumption that it

10:09:19 12 would have either come through -- well, it would have had

10:09:24 13 to have been delivered to us through our intake. And I --

10:09:27 14 I have no knowledge of that, so I don't know that there is

10:09:29 15 anybody that would.

10:09:30 16 Q. Okay. I just want to make sure I'm asking these

10:09:32 17 questions to the right individual.

10:09:34 18 A. Yeah, I understand.

10:09:34 19 Q. But it sounds like it's your understanding that

10:09:37 20 had these lists come into your office, you would have been

10:09:40 21 made aware of them?

10:09:40 22 A. I certainly hope so.

10:09:41 23 Q. Got it.

10:09:42 24 I just asked you about whether you're aware

10:09:46 25 of how many people at the time of HB 2492's enactment were

10:09:48 1 registered to vote in Arizona but had not provided
10:09:51 2 documentary proof of citizenship; is that right?

10:09:53 3 A. Yes.

10:09:54 4 Q. And you said you didn't know?

10:09:56 5 A. No.

10:09:56 6 Q. Do you know if that would be tens of thousand of
10:10:00 7 individuals?

10:10:03 8 A. I -- I don't feel comfortable speculating at all
10:10:09 9 on that. I really don't.

10:10:11 10 Q. Looking at Subsection B of Section 7, which begins
10:10:17 11 on line 24, can you please read aloud from line 24 to
10:10:23 12 line 27.

10:10:24 13 A. Yes.

10:10:25 14 It says, "B. The attorney general shall use
10:10:29 15 all available resources to verify the citizenship status of
10:10:32 16 the applicant and at a minimum shall compare the
10:10:35 17 information available on the application for registration
10:10:37 18 with the following."

10:10:41 19 Q. Then it lists some databases; correct?

10:10:43 20 A. It does.

10:10:44 21 Q. Okay. So this section states that the attorney
10:10:47 22 general, quote, "shall use all available resources to
10:10:49 23 verify the citizenship status of an applicant"; correct?

10:10:52 24 A. Correct.

10:10:53 25 Q. And "shall" is a command word; right?

10:10:56 1 A. It is.

10:10:56 2 Q. So there's no discretion about whether or not your

10:10:59 3 office adheres to this command under --

10:11:03 4 MR. WHITAKER: Objection.

10:11:03 5 BY MR. DODGE:

10:11:03 6 Q. -- the text of the law; correct?

10:11:03 7 MR. WHITAKER: Objection. Calls for a legal

10:11:07 8 conclusion.

10:11:07 9 THE WITNESS: I -- at face value, "shall"

10:11:11 10 tells me that I need to do it.

10:11:13 11 BY MR. DODGE:

10:11:13 12 Q. And your office was also commanded to use, quote,

10:11:15 13 "all available resources"; correct?

10:11:18 14 A. Yes.

10:11:18 15 Q. And what does "all available resources" mean?

10:11:22 16 MR. WHITAKER: Objection.

10:11:24 17 MR. LANGHOFER: Calls for a legal conclusion.

10:11:25 18 MR. WHITAKER: Join.

10:11:27 19 THE WITNESS: For me, all available resources

10:11:31 20 are those that -- that I, as a law enforcement

10:11:36 21 investigator, have access to that are -- or -- or -- and

10:11:44 22 not only that I directly have access to but that I can -- I

10:11:48 23 can reach out to other people and request information.

10:11:52 24 BY MR. DODGE:

10:11:52 25 Q. So it's essentially asking you to use maximum

10:11:56 1 effort in the --

10:11:57 2 A. That would be fair to say.

10:11:58 3 MR. WHITAKER: Objection. Calls for a legal
10:12:00 4 conclusion.

10:12:00 5 MR. LANGHOFER: Same objection.

10:12:02 6 BY MR. DODGE:

10:12:02 7 Q. Did your office, in fact, commit all available
10:12:05 8 resources to an investigation of this type?

10:12:09 9 A. Can you ask that again?

10:12:11 10 MR. LANGHOFER: Form

10:12:11 11 BY MR. DODGE:

10:12:14 12 Q. So Section B says, "The attorney general shall use
10:12:17 13 all available resources to verify the citizenship status of
10:12:20 14 the applicant," referring to the lists that were supposed
10:12:23 15 to be provided to your office; correct?

10:12:25 16 A. Okay. Yes.

10:12:26 17 Q. You've testified today that you're not aware of
10:12:29 18 your office receiving any of those lists?

10:12:31 19 A. I'm not.

10:12:31 20 Q. So are you aware of whether or not your office, in
10:12:34 21 fact, conducted any investigation as described in Section 7
10:12:40 22 of HB 2492?

10:12:43 23 A. I'm not aware of any, no.

10:12:45 24 Q. And is there anyone else in your office who would
10:12:51 25 be aware of whether the Attorney General's Office conducted

10:12:53 1 an investigation of the sort required under Section 7?

10:12:56 2 A. I think that's unlikely.

10:12:58 3 Q. Is Mr. Thomas the right individual to ask about
10:13:16 4 your office's use of the databases described in the
10:13:19 5 remainder of this section?

10:13:20 6 A. He -- he would be more knowledgeable. I mean, I
10:13:24 7 can give you general information, but he would be more
10:13:26 8 knowledgeable on the larger scope, I believe.

10:13:30 9 Q. Looking at line 42 on this page, can you read
10:13:47 10 Section D aloud.

10:13:49 11 A. Yes.

10:13:49 12 "The attorney general shall prosecute
10:13:52 13 individuals who are found to not be United States citizens
10:13:55 14 pursuant to Section 16-182."

10:13:58 15 Q. And this section also uses the command "shall";
10:14:01 16 correct?

10:14:01 17 A. It does.

10:14:02 18 Q. So the legislature's chosen text commanded your
10:14:08 19 office to prosecute individuals found not to be United
10:14:14 20 States citizens pursuant to Section 16-182; correct?

10:14:14 21 MR. LANGHOFER: Form.

10:14:16 22 THE WITNESS: That's -- that's what I take
10:14:17 23 here, yes.

10:14:19 24 BY MR. DODGE:

10:14:22 25 Q. Did your office, in fact, prosecute any

10:14:24 1 individuals for registering to vote as a noncitizen

10:14:28 2 pursuant to Subsection D of HB 2492?

10:14:35 3 A. That's a -- I think I need some clarity on that.

10:14:41 4 Q. Section 7 instructs your office to conduct an

10:14:45 5 investigation into individuals registered to vote in

10:14:49 6 Arizona who have not provided satisfactory evidence of

10:14:51 7 citizenship; correct?

10:14:52 8 A. Right.

10:14:53 9 Q. Your office did not, in fact, conduct that

10:14:58 10 investigation; correct?

10:14:59 11 A. Correct. Yeah, we have received nothing to

10:15:03 12 investigate.

10:15:03 13 Q. So then your office also would not have prosecuted

10:15:08 14 any individuals pursuant to the investigation described in

10:15:12 15 this subsection; correct?

10:15:13 16 A. That's correct.

10:15:14 17 Q. Subsection E of this section states that the

10:15:21 18 attorney general, quote, "shall submit a report to various

10:15:26 19 state officers on or before March 31, 2023, detailing all

10:15:30 20 findings relating to this investigation." [Quoted as read.]

10:15:33 21 Did I get that right?

10:15:35 22 A. Yes.

10:15:36 23 Q. Did your office, in fact, submit such a report?

10:15:40 24 A. I believe our office did. It's not -- it would

10:15:48 25 not come from me.

10:15:50 1 Q. So did you participate in the preparation of such
10:15:52 2 a report?

10:15:53 3 A. No.

10:15:56 4 Q. I'm going to hand you what will be marked as
10:16:00 5 Exhibit 213. It's in the Dropbox folder as 8.

10:16:00 6 (The document was marked as Exhibit 213
10:16:07 7 for identification.)

10:16:07 8 BY MR. DODGE:

10:16:07 9 Q. Can you tell me what this document is?

10:16:10 10 A. This is letterhead from my office to Secretary of
10:16:22 11 State Fontes, State Senator President Petersen, and Arizona
10:16:27 12 Speaker Toma. And it's regarding report under A.R.S.
10:16:31 13 Section 16-143 (E).

10:16:34 14 Q. Can you tell me who sent this correspondence?

10:16:38 15 A. This is signed by Josh Whitaker.

10:16:41 16 Q. And can you read aloud the body of this document,
10:16:45 17 beginning with "a statute enacted."

10:16:48 18 A. Sure.

10:16:49 19 "A statute enacted last year requires the
10:16:52 20 Attorney General to submit, on or before March 31st, 2023,
10:16:56 21 a report 'detailing all findings relating to the
10:17:00 22 citizenship status of individuals who are registered to
10:17:03 23 vote and who have not provided satisfactory evidence of
10:17:06 24 citizenship pursuant to Section 16-166' of the Arizona
10:17:13 25 Revised Statutes. A.R.S. Section 16-143 (E). The Attorney

10:17:19 1 General has no findings to report at this time."

10:17:23 2 Q. Thank you.

10:17:23 3 So the attorney general indicated here that
10:17:26 4 he, quote, "has no findings to report at this time";
10:17:29 5 correct?

10:17:29 6 MR. WHITAKER: Objection. Slightly misstates
10:17:31 7 the test- -- the record.

10:17:35 8 BY MR. DODGE:

10:17:35 9 Q. The letter indicates the attorney general, quote,
10:17:37 10 "has no findings to report at this time"; correct?

10:17:40 11 A. That is the verbiage, yes.

10:17:44 12 Q. Can you tell me what that means?

10:17:50 13 A. I mean, it -- it sounds to me that there -- I
10:17:57 14 don't know how else to say it. There's nothing to report.
10:18:00 15 We -- we don't have any information for you.

10:18:02 16 Q. So accurate to say, then, that this letter does
10:18:08 17 not identify any individuals registered to vote in Arizona
10:18:11 18 who, in fact, are not United States citizens?

10:18:15 19 A. No, this letter does not mention that.

10:18:18 20 Q. Is your office still -- strike that.

10:18:23 21 Does your office have any plans to engage in
10:18:27 22 the investigation described in Section 7 of HB 2492?

10:18:32 23 A. I guess the answer to that is yes, because our --
10:18:42 24 we currently conduct investigations of such, and so we will
10:18:45 25 continue to conduct investigations of such. When -- upon

10:18:47 1 referral from somewhere, we will do the investigation.

10:18:49 2 Q. My question is a little different.

10:18:51 3 HB 2492 instructs the secretary of state and

10:18:56 4 the county recorders to send you lists of individuals who

10:18:58 5 are registered to vote who have not provided satisfactory

10:19:02 6 evidence of citizenship; correct?

10:19:03 7 A. Yes.

10:19:03 8 Q. And the same provision also instructs your office

10:19:06 9 to investigate those lists if you receive them?

10:19:08 10 A. Correct.

10:19:09 11 Q. You have not yet conducted that investigation;

10:19:13 12 correct?

10:19:14 13 A. No.

10:19:14 14 Q. Do you have plans to conduct that specific

10:19:17 15 investigation in the future?

10:19:18 16 A. Certainly. If something is referred to us, yes.

10:19:20 17 Q. If the secretary of state were, tomorrow, to send

10:19:23 18 your office a list of individuals registered to vote in

10:19:26 19 Arizona who had not provided satisfactory proof of

10:19:30 20 evidence, you would accept that referral and investigate

10:19:32 21 the citizenship of those individuals?

10:19:34 22 A. Yes.

10:19:36 23 Q. If the county recorder sent you a similar list,

10:19:39 24 would you likewise investigate the citizenship of those

10:19:43 25 individuals?

10:19:45 1 A. Yes.

10:19:45 2 Q. Would your office prepare a report for the
10:19:54 3 secretary of state, the senate president, and the house
10:19:58 4 speaker detailing the findings of those reports -- those
10:20:02 5 investigations?

10:20:02 6 MR. WHITAKER: Objection; foundation.

10:20:05 7 THE WITNESS: I can certainly tell you that I
10:20:09 8 would not be responsible for that report. I -- if -- so I
10:20:14 9 really can't answer that with certainty. I can make an
10:20:18 10 assumption.

10:20:19 11 BY MR. DODGE:

10:20:22 12 Q. And your office is authorized to investigate the
10:20:27 13 citizenship of individual registered voters if such a
10:20:33 14 referral were to be made by the secretary of state or
10:20:35 15 county recorder's office; correct?

10:20:37 16 MR. WHITAKER: Objection. Ambiguous.

10:20:41 17 THE WITNESS: Yeah, I believe that, yes, we
10:20:42 18 are.

10:20:49 19 BY MR. DODGE:

10:20:50 20 Q. If you were to conduct such an investigation upon
10:20:53 21 a referral from the secretary of state or the county
10:20:58 22 recorder's office, would you be required to use all
10:21:00 23 available resources in the conduct of that investigation?

10:21:03 24 MR. WHITAKER: Objection. Calls for --

10:21:05 25 MR. LANGHOFER: Calls for a legal conclusion.

10:21:08 1 THE WITNESS: I can answer that by saying
10:21:10 2 that I will always use all available resources in my
10:21:13 3 investigation.
10:21:14 4 BY MR. DODGE:
10:21:26 5 Q. If one of these lists provided by the secretary of
10:21:30 6 state or the county recorder's office were to contain
10:21:35 7 hundreds of voters who had not yet provided satisfactory
10:21:40 8 proof of citizenship, what resources would be required to
10:21:45 9 investigate the citizenship of those individuals?
10:21:49 10 MR. WHITAKER: Objection. Ambiguous.
10:21:50 11 MR. LANGHOFER: Same objection.
10:21:52 12 THE WITNESS: If I'm understanding your
10:21:57 13 question correctly, you're asking what resources we would
10:22:03 14 need to do hundreds of investigations like that?
10:22:06 15 BY MR. DODGE:
10:22:07 16 Q. Basically.
10:22:08 17 A. I think that that's a question that needs to be
10:22:11 18 qualified by how long do we have to complete the
10:22:14 19 investigations? I mean, that's -- it's going to take
10:22:18 20 resources. It's a lot.
10:22:19 21 Q. You testified a moment ago that in any
10:22:22 22 investigation you use all available resources; correct?
10:22:24 23 A. Correct.
10:22:27 24 Q. And so if the secretary of state referred hundreds
10:22:28 25 of names to your office as individuals registered to vote

10:22:31 1 without satisfactory proof of citizenship, you would also

10:22:34 2 use all available resources to investigate those

10:22:37 3 individuals as well; correct?

10:22:39 4 MR. WHITAKER: Objection. Ambiguous.

10:22:43 5 THE WITNESS: Yes. The resources available

10:22:45 6 would be utilized in every investigation. I -- I took your

10:22:49 7 question to mean something different.

10:22:50 8 BY MR. DODGE:

10:22:54 9 Q. But it would be difficult for you alone to

10:22:55 10 investigate the citizenship of hundreds of individuals;

10:22:57 11 right?

10:22:59 12 A. With -- yeah, that's why I mentioned the time

10:23:02 13 frame. Yes, it would be.

10:23:02 14 Q. So would your office then reallocate investigators

10:23:06 15 from other divisions to assist with that investigation?

10:23:09 16 MR. WHITAKER: Objection. Ambiguous.

10:23:12 17 THE WITNESS: That's -- that's a decision

10:23:15 18 that would be made above my pay grade, but it wouldn't be

10:23:19 19 unheard of.

10:23:19 20 BY MR. DODGE:

10:23:22 21 Q. And those investigators would have to come from

10:23:25 22 separation divisions with separate responsibilities;

10:23:28 23 correct?

10:23:28 24 MR. WHITAKER: Objection; foundation.

10:23:32 25 THE WITNESS: I guess that they would have

10:23:36 1 to, being that I am the only dedicated election
10:23:43 2 investigator, so yes.
10:23:44 3 BY MR. DODGE:
10:23:54 4 Q. I'm going to hand you now what's previously been
10:23:57 5 marked as Petty Exhibit 21, which is in the Dropbox folder
10:24:03 6 at Number 9.
10:24:09 7 Are you familiar with this document?
10:24:11 8 A. Yes.
10:24:12 9 Q. Can you tell me what this document is?
10:24:14 10 A. This is the -- the verbiage of House Bill 2243.
10:24:25 11 Q. Can you please turn to page 4 of this document.
10:25:02 12 Can you review beginning at line 5, Section 10.
10:25:06 13 A. Yes. Okay.
10:25:49 14 Q. The final sentence of this section reads, "If the
10:25:52 15 person registered does not provide satisfactory evidence
10:25:56 16 within thirty five days, the county recorder shall cancel
10:25:59 17 the registration and notify the county attorney and
10:26:02 18 attorney general for possible investigation."
10:26:05 19 Did I read that right?
10:26:06 20 A. You did.
10:26:06 21 Q. What does the term "possible investigation" mean?
10:26:09 22 MR. WHITAKER: Objection. Calls for a legal
10:26:15 23 conclusion.
10:26:15 24 THE WITNESS: I would -- I would take -- I
10:26:18 25 would read that as a possible investigation into the --

10:26:27 1 into the -- whether this is a valid registered voter or
10:26:33 2 a -- yeah, I guess that's the best way to answer it: An
10:26:35 3 investigation into whether this person is a valid voter,
10:26:40 4 able to be registered.

10:26:41 5 BY MR. DODGE:

10:26:42 6 Q. Would your office conduct an investigation if it
10:26:44 7 received such a referral from a county recorder's office?

10:26:48 8 A. If we receive a referral, yes, we will.

10:26:50 9 MR. WHITAKER: Objection.

10:26:51 10 THE WITNESS: Or at least if it's -- if
10:26:54 11 it's -- warrants -- if it warrants investigation.

10:26:57 12 BY MR. DODGE:

10:26:58 13 Q. So your office will at least assess the referral,
10:27:02 14 which requires resources and time?

10:27:05 15 MR. WHITAKER: Objection. Ambiguous.

10:27:08 16 THE WITNESS: Yes.

10:27:09 17 BY MR. DODGE:

10:27:11 18 Q. And it will then make a judgment about whether or
10:27:15 19 not further investigation is warranted?

10:27:16 20 MR. WHITAKER: Same objection.

10:27:19 21 THE WITNESS: That's correct.

10:27:20 22 BY MR. DODGE:

10:27:20 23 Q. And if an investigation was warranted, your office
10:27:21 24 would again use all available resources to execute that
10:27:26 25 investigation?

10:27:26 1 MR. WHITAKER: Same objection.

10:27:29 2 THE WITNESS: Yes.

10:27:29 3 BY MR. DODGE:

10:27:31 4 Q. Can you refer back to what I believe is

10:27:33 5 Exhibit 212, which are your office's interrogatory

10:27:37 6 responses. I'll just say we'll be referring to this

10:27:40 7 document frequently, so it might be good to keep it handy.

10:27:47 8 Can you turn to page 14 and review Subpart 4

10:27:56 9 of your response there.

10:28:07 10 MR. LANGHOFER: Which item was this in the

10:28:09 11 Dropbox folder?

10:28:10 12 MR. DODGE: This was Number 6.

10:28:14 13 MR. LANGHOFER: Thank you.

10:28:35 14 THE WITNESS: Okay.

10:28:40 15 BY MR. DODGE:

10:28:40 16 Q. And your response to Subpart 4 -- this is still in

10:28:43 17 reference to Interrogatory Number 2, which we were

10:28:46 18 discussing earlier; correct?

10:28:48 19 A. Yes, I believe so.

10:28:49 20 Q. And this subpart asks about your plans for

10:29:02 21 implementation or enforcement of the challenged laws,

10:29:05 22 including whether such plans involve any possible

10:29:08 23 investigation under A.R.S. Section 16-165(A)(10) and what

10:29:14 24 such investigations will entail; correct?

10:29:17 25 A. Yes.

10:29:21 1 Q. And beginning a sentence into your response, your
 10:29:26 2 office writes, "If the Attorney General's Office were to
 10:29:28 3 receive information or a referral for investigation under
 10:29:32 4 the challenged laws, the office would evaluate and consider
 10:29:34 5 investigations on a case-by-case basis considering the
 10:29:37 6 facts of the referral, available resources, and whether the
 10:29:40 7 office has access to citizenship information."

10:29:43 8 Did I read that correctly?

10:29:44 9 A. You did.

10:29:45 10 Q. You mentioned a moment ago that your office would
 10:29:56 11 evaluate the credibility of such a referral in any
 10:30:00 12 instance; correct?

10:30:01 13 A. Yes.

10:30:02 14 Q. And would pursue an investigation if the referral
 10:30:07 15 was credible; correct?

10:30:10 16 MR. WHITAKER: Objection. Ambiguous.

10:30:13 17 THE WITNESS: That's fair to say, I think.

10:30:14 18 BY MR. DODGE:

10:30:16 19 Q. Are you aware of whether your office would be
 10:30:18 20 willing to prosecute a case under this provision?

10:30:25 21 MR. WHITAKER: Objection. Foundation and
 10:30:28 22 ambiguous.

10:30:30 23 MR. LANGHOFER: Speculation.

10:30:34 24 THE WITNESS: My best answer for that is if
 10:30:38 25 the -- if the investigation warrants such, then yes, we

10:30:43 1 prosecute.

10:30:44 2 BY MR. DODGE:

10:30:44 3 Q. Has your office received a referral under

10:30:48 4 A.R.S. Section 16-165(A)(10) yet?

10:30:54 5 A. Not that I'm aware of.

10:30:56 6 Q. Can you describe to me what investigation under

10:30:58 7 this section would look like?

10:31:09 8 A. I would feel -- feel more comfortable answering

10:31:36 9 that if I just feel like the questions -- the nature of the

10:31:41 10 investigation under that statute is kind of vague to me, so

10:31:45 11 I -- that's hard for me to answer.

10:31:47 12 Q. What's vague about it to you?

10:31:49 13 A. Well, I mean, I don't have A.R.S. 16-165(A)(10) in

10:31:54 14 front of me, so that's a start.

10:32:19 15 Q. Are you -- are you aware of what documents can

10:32:22 16 provide satisfactory proof of citizenship under HB 2243?

10:32:28 17 MR. LANGHOFER: Calls for a legal conclusion.

10:32:31 18 THE WITNESS: That -- that's really not a

10:32:36 19 question that I feel comfortable answering. I wouldn't

10:32:38 20 know the volume of those documents.

10:32:42 21 BY MR. DODGE:

10:32:43 22 Q. Okay. I'm going to hand you what will be marked

10:32:45 23 as Exhibit 214. It is in the Dropbox as Number 10.

10:32:45 24 (The document was marked as Exhibit 214

10:32:45 25 for identification.)

10:32:59 1 BY MR. DODGE:

10:32:59 2 Q. Will you accept my representation that this is a

10:33:01 3 true and correct copy of A.R.S. 16-166?

10:33:07 4 MR. LANGHOFER: Form.

10:33:09 5 THE WITNESS: As far as I can tell, yes.

10:33:11 6 BY MR. DODGE:

10:33:18 7 Q. Can you take a moment to review Subsection F.

10:33:40 8 A. Okay.

10:33:59 9 Q. This section of A.R.S. 16-166 identifies various

10:34:11 10 forms of identification that can be used to establish

10:34:14 11 citizenship; correct?

10:34:15 12 A. It does.

10:34:19 13 Q. The first is a driver's license issued in Arizona

10:34:21 14 after October 1, 1996, or in another state if the license

10:34:26 15 reflects that the person has provided satisfactory proof of

10:34:30 16 citizenship; correct?

10:34:31 17 MR. WHITAKER: Objection. Slightly

10:34:34 18 understates the report.

10:34:39 19 THE WITNESS: It does say "driver's license

10:34:42 20 number or nonoperating identification" and equivalent --

10:34:50 21 equivalent government -- governmental agency of another

10:34:53 22 state.

10:34:54 23 BY MR. DODGE:

10:34:54 24 Q. Okay. Thank you for that clarification.

10:34:56 25 Do you know what percentage of individuals in

10:34:58 1 Arizona have a driver's license?

10:35:01 2 A. I do not.

10:35:04 3 Q. Do you have a best guess?

10:35:08 4 MR. LANGHOFER: Foundation.

10:35:09 5 THE WITNESS: No, I really don't. I mean,

10:35:10 6 that's pretty -- with the older population, younger

10:35:15 7 population -- that would be very difficult to answer. I

10:35:18 8 even don't know if I'd guess that.

10:35:18 9 BY MR. DODGE:

10:35:19 10 Q. But fair to say not everyone in Arizona has a

10:35:22 11 driver's license?

10:35:22 12 A. No, of course not.

10:35:23 13 Q. And you just identified two populations that are

10:35:27 14 maybe more likely not to have driver's licenses; namely,

10:35:30 15 older individuals and younger individuals; is that fair?

10:35:33 16 A. I think so.

10:35:33 17 Q. Can you think of any other groups of people in

10:35:36 18 Arizona who might be less likely to have a driver's

10:35:41 19 license?

10:35:41 20 MR. LANGHOFER: Scope. Foundation.

10:35:42 21 THE WITNESS: I mean, I don't think you

10:35:46 22 can -- I think that there's not any large populations of

10:35:50 23 people that would be more likely to not have a license. I

10:35:54 24 mean, there's all kinds of factors involved, you know?

10:35:56 25 People that lost their license for whatever reason or --

10:35:59 1 you know, a number of different things, so --

10:36:01 2 BY MR DODGE:

10:36:01 3 Q. Would disabled people be more likely to not have a
10:36:04 4 driver's license?

10:36:05 5 MR. WHITAKER: Foundation.

10:36:08 6 THE WITNESS: I mean, I -- I don't -- I don't
10:36:12 7 if that's -- I don't know if I can answer that either
10:36:15 8 because it depends on -- "disability" is a large term. So
10:36:18 9 I don't know that I can answer that for you.

10:36:20 10 BY MR. DODGE:

10:36:21 11 Q. Do you know how much it costs to obtain a driver's
10:36:23 12 license in Arizona?

10:36:26 13 MR. LANGHOFER: Scope.

10:36:27 14 THE WITNESS: I don't know exactly. I think
10:36:29 15 it's -- I mean, I haven't gotten one in a while. I think
10:36:33 16 it's probably around 25 bucks or something. I don't know.

10:36:36 17 BY MR. DODGE:

10:36:36 18 Q. How often does a person have to renew their
10:36:39 19 driver's license in Arizona?

10:36:40 20 MR. WHITAKER: Foundation.

10:36:41 21 MR. LANGHOFER: Scope. Calls for a legal
10:36:48 22 conclusion.

10:36:48 23 THE WITNESS: I -- I mean, as far as I know,
10:36:55 24 I mean, driver's licenses are good for many years. So I
10:37:01 25 don't know if there's an actual -- to be honest with you, I

10:37:03 1 don't know if there's an actual time limit given on a
10:37:05 2 license.

10:37:06 3 BY MR. DODGE:

10:37:06 4 Q. So Arizona driver's license -- driver's licenses
10:37:08 5 are valid for a very long time?

10:37:10 6 A. Yes.

10:37:11 7 MR. WHITAKER: Foundation.

10:37:13 8 BY MR. DODGE:

10:37:13 9 Q. Do you know how long it takes to obtain a driver's
10:37:16 10 license?

10:37:16 11 MR. WHITAKER: Foundation and scope.

10:37:21 12 THE WITNESS: Not exactly. I mean, I
10:37:25 13 imagine, you know, the process takes however long it gets
10:37:30 14 to have one mailed to you or whatever to get a physical
10:37:32 15 license. I -- I don't know exactly.

10:37:34 16 BY MR. DODGE:

10:37:34 17 Q. Might take a few weeks?

10:37:36 18 A. Could.

10:37:37 19 Q. Returning to 16-166, the second document listed
10:37:41 20 here is "a legible copy of the applicant's birth
10:37:45 21 certificate that verifies citizenship to the satisfaction
10:37:48 22 of the county recorder."

10:37:50 23 Did I get that one right?

10:37:52 24 A. Yes.

10:37:53 25 Q. I think we discussed this earlier today, but you

10:37:57 1 would agree that there are citizens in Arizona who are not
10:38:00 2 born within Arizona; right?
10:38:03 3 A. Well, yeah, of course.
10:38:04 4 Q. And there are citizens in Arizona who weren't born
10:38:06 5 within the United States; correct?
10:38:08 6 A. Yes.
10:38:09 7 Q. An individual citizen in Arizona who's not born in
10:38:16 8 the United States would not have a birth certificate that
10:38:19 9 establishes their American citizenship, right?
10:38:24 10 A. I'm sorry. I lost you for a minute there. Can
10:38:26 11 you repeat that?
10:38:27 12 Q. A naturalized citizen living in Arizona who was
10:38:32 13 born outside of the United States would not possess a birth
10:38:35 14 certificate that could establish their United States
10:38:37 15 citizenship; correct?
10:38:39 16 MR. LANGHOFER: Calls for legal conclusion.
10:38:40 17 Foundation.
10:38:40 18 THE WITNESS: I mean, honestly, I don't know
10:38:45 19 if I can answer that. I don't think so.
10:38:47 20 BY MR. DODGE:
10:38:48 21 Q. If an individual was born in Mexico and became a
10:38:51 22 naturalized United States citizen living in Arizona, their
10:38:55 23 Mexican birth certificate would not assist in establishing
10:38:58 24 their American citizenship; right?
10:39:00 25 MR. LANGHOFER: Foundation. Speculation.

10:39:05 1 There's nothing about Mexican birth certificate.

10:39:05 2 THE WITNESS: I would say that's probably
10:39:07 3 true.

10:39:08 4 BY MR. DODGE:

10:39:09 5 Q. Could you imagine a situation where a non-United
10:39:12 6 States birth certificate would assist you in establishing
10:39:14 7 an individual's United States citizenship?

10:39:19 8 A. No.

10:39:20 9 Q. Would you agree that many individuals born within
10:39:25 10 the United States lack access to photocopies of their birth
10:39:29 11 certificates?

10:39:32 12 MR. LANGHOFER: Foundation.

10:39:33 13 THE WITNESS: I mean --

10:39:35 14 MR. LANGHOFER: Scope.

10:39:38 15 THE WITNESS: -- I'm sure there are people
10:39:40 16 that, for whatever reason, don't have access to their birth
10:39:43 17 certificate. I -- I wouldn't be able to give you much more
10:39:46 18 information about how many or how often that occurs.

10:39:48 19 BY MR. DODGE:

10:39:48 20 Q. It's the sort of thing a person could misplace
10:39:51 21 while moving or something; right?

10:39:52 22 A. Certainly.

10:39:54 23 Q. Do you know how much it costs to obtain a birth
10:39:59 24 certificate in Arizona?

10:40:02 25 MR. LANGHOFER: Foundation.

10:40:03 1 THE WITNESS: I have no idea.

10:40:03 2 BY MR. DODGE:

10:40:05 3 Q. Do you know how long the process is to obtain a
10:40:07 4 birth certificate in Arizona?

10:40:08 5 MR. LANGHOFER: Same objection.

10:40:09 6 THE WITNESS: Again, I have no knowledge of
10:40:11 7 that.

10:40:11 8 BY MR. DODGE:

10:40:12 9 Q. Do you know how much it costs to obtain a birth
10:40:14 10 certificate in California?

10:40:17 11 MR. LANGHOFER: Same objection.

10:40:17 12 THE WITNESS: Absolutely not.

10:40:18 13 BY MR. DODGE:

10:40:19 14 Q. And I assume you also don't know how long that
10:40:22 15 process would take; right?

10:40:23 16 A. That's correct.

10:40:24 17 MR. LANGHOFER: Same objection.

10:40:24 18 BY MR. DODGE:

10:40:26 19 Q. The third document listed in Section 166 is "a
10:40:33 20 legible photocopy of pertinent pages of the applicant's
10:40:33 21 United States passport identifying the applicant, the
10:40:35 22 applicant's passport number or presentation to the county
10:40:38 23 recorder of the applicant's United States passport."
10:40:40 24 Did I get that right?

10:40:42 25 A. Yes.

10:40:42 1 Q. Do you know what percentage of individuals in
10:40:45 2 Arizona have a valid United States passport?

10:40:51 3 MR. LANGHOFER: Same objection.

10:40:52 4 THE WITNESS: I would have absolutely no
10:40:54 5 idea.

10:40:54 6 BY MR. DODGE:

10:40:54 7 Q. Maybe half?

10:40:57 8 MR. WHITAKER: Speculation.

10:40:58 9 THE WITNESS: I really don't know.

10:40:59 10 BY MR. DODGE:

10:41:00 11 Q. Do you know how much it costs to obtain a
10:41:02 12 passport?

10:41:04 13 MR. LANGHOFER: Same objection.

10:41:06 14 THE WITNESS: No, I do not.

10:41:07 15 BY MR. DODGE:

10:41:08 16 Q. Do you know how long it takes to get a passport?

10:41:12 17 MR. LANGHOFER: Same objection.

10:41:13 18 THE WITNESS: From listening to people talk
10:41:17 19 about it, I hear it takes a long time, but I don't know
10:41:20 20 personally.

10:41:21 21 BY MR. DODGE:

10:41:21 22 Q. If we could briefly return to what was marked as
10:41:24 23 Petty Exhibit 21, which is the copy of HB 2243. If we
10:41:29 24 could return to page 4, Section 10.

10:41:44 25 Beginning on line 10 of that section, it

10:41:46 1 reads, "Before the county recorder cancels a registration
10:41:49 2 pursuant to this paragraph, the county recorder shall send
10:41:51 3 the person notice by forwardable mail that the person's
10:41:55 4 registration will be canceled in thirty five days unless
10:41:57 5 the person provides satisfactory evidence of United States
10:42:00 6 citizenship pursuant to Section 16-166"; correct?

10:42:04 7 A. That is what it says.

10:42:05 8 Q. That's the provision Section 16-666 -- strike
10:42:10 9 that.

10:42:11 10 We were just discussing Section 16-166;
10:42:14 11 correct?

10:42:14 12 A. Yes, prior to this.

10:42:18 13 MR. DODGE: Is now a good time for a break?

10:42:20 14 MR. WHITAKER: Sure.

10:42:20 15 MR. DODGE: We've been going about an hour.

10:42:21 16 MR. WHITAKER: Okay with you?

10:42:21 17 THE WITNESS: Fine with me.

10:42:24 18 MR. DODGE: Can we go off the record.

10:42:27 19 THE VIDEOGRAPHER: We're off the record.

10:42:28 20 Time on the video monitor is 10:42 a.m.

10:42:28 21 (A recess ensued.)

10:56:47 22 THE VIDEOGRAPHER: We are on the record.

10:57:01 23 Time on the video monitor is 10:56 a.m.

10:57:05 24 BY MR. DODGE:

10:57:06 25 Q. Welcome back, Mr. Knuth.

10:57:08 1 You'll recall that some time ago we were
10:57:12 2 discussing what sort of investigation your office would
10:57:15 3 conduct if you were to receive from either the secretary of
10:57:17 4 state or the county recorders a list of individuals
10:57:21 5 registered in Arizona who had not provided satisfactory
10:57:25 6 proof of citizenship. Do you recall that?

10:57:26 7 A. I do.

10:57:27 8 Q. If the secretary of state or the county recorder
10:57:33 9 office were to convey such a list to your office, would
10:57:36 10 that come through the duty agent?

10:57:40 11 A. It -- it could go two different ways, to be quite
10:57:51 12 honest. It could -- it -- given the -- that we're talking
10:57:56 13 about -- and this is -- this would be new. So if -- I
10:58:02 14 would think that a list like that would probably come
10:58:06 15 through our -- our civil level, because that's how the
10:58:18 16 Election Integrity Unit portal used to work, if that makes
10:58:22 17 sense. It's a little confusing.

10:58:24 18 The Election Integrity Unit's intake would
10:58:27 19 initially come into the civil entity of our agency and then
10:58:30 20 it would be sent down. So -- because it's such a -- I feel
10:58:35 21 like it would be such a vast -- or a -- you know, a large
10:58:38 22 document or a lot to offer, that it may come in that way.
10:58:42 23 I really -- I can't say for sure, though. I mean, it --
10:58:47 24 I'm really not -- not certain how it would get to us.
10:58:50 25 Q. You mentioned a second way it might come in.

10:58:53 1 Could you tell me what that is?

10:58:55 2 A. I was talking about the duty agent way.

10:58:57 3 Q. I see.

10:58:58 4 So focusing on the duty agents for a moment,

10:59:02 5 what would that look like?

10:59:05 6 A. That would come in via whatever sort of referral

10:59:09 7 we -- we would get into our -- into our online database or

10:59:18 8 online complaint form, something sent into the office. To

10:59:25 9 my knowledge, they get complaints from various -- various

10:59:29 10 ways.

10:59:31 11 Q. If the duty agent were to receive a list from the

10:59:34 12 secretary of state or county recorder's office with

10:59:36 13 hundreds of names on it, would they open a referral for

10:59:41 14 each of those individual names, or would it be a single

10:59:43 15 referral?

10:59:46 16 MR. LANGHOFER: Speculation.

10:59:50 17 THE WITNESS: My thought is that they would

10:59:53 18 likely hand that over to me in its entirety and allow me to

10:59:58 19 make such a decision or somebody on my level to make a

11:00:02 20 decision.

11:00:02 21 BY MR. DODGE:

11:00:03 22 Q. And in that case, what decision would you make?

11:00:08 23 MR. WHITAKER: Ambiguous.

11:00:09 24 MR. LANGHOFER: Speculation.

11:00:12 25 THE WITNESS: My assumption would be that I

11:00:14 1 have to address each individual as an individual and -- and
11:00:21 2 evaluate each individual case as its own case.
11:00:24 3 BY MR. DODGE:
11:00:25 4 Q. So such a referral from the Secretary of State's
11:00:28 5 Office or a county recorder's office could potentially
11:00:31 6 result in hundreds of new matters for you?
11:00:36 7 MR. WHITAKER: Ambiguous.
11:00:37 8 THE WITNESS: I think that potential exists.
11:00:40 9 BY MR. DODGE:
11:00:40 10 Q. It could be thousands of new cases for you?
11:00:44 11 MR. WHITAKER: Same objection.
11:00:45 12 THE WITNESS: Yeah, I can only speculate.
11:00:47 13 BY MR. DODGE:
11:00:53 14 Q. How would such a number of referrals impact your
11:00:59 15 workload as the investigator most responsible for
11:01:04 16 election-related investigations?
11:01:07 17 A. I mean, I think it's obvious I'm going to have
11:01:11 18 more -- more on my plate. I think that that's -- I think
11:01:15 19 that's a discussion that would have to be had with several
11:01:21 20 members of the Criminal Investigations Division about, you
11:01:24 21 know, how -- how are we going to handle this situation most
11:01:27 22 appropriately?
11:01:28 23 Q. How many active election-related investigations do
11:01:32 24 you have right now?
11:01:36 25 A. I think I have about ten right now.

11:01:41 1 Q. So receiving a referral with hundreds or thousands
11:01:44 2 of new cases would be an order-of-magnitude increase in
11:01:47 3 your workload; correct?

11:01:49 4 A. Potentially.

11:01:51 5 Q. If such referrals were made three months before an
11:01:58 6 election, would you attempt to complete those
11:02:02 7 investigations prior to the election?

11:02:05 8 MR. WHITAKER: Ambiguous.

11:02:06 9 MR. LANGHOFER: Speculation.

11:02:09 10 THE WITNESS: I think the best answer to that
11:02:11 11 question is I attempt to complete investigations as quickly
11:02:15 12 as I can.

11:02:20 13 BY MR. DODGE:

11:02:23 14 Q. Would it be feasible to complete that many
11:02:25 15 investigations accurately on such a time frame?

11:02:28 16 MR. WHITAKER: Ambiguous.

11:02:29 17 MR. LANGHOFER: Speculation.

11:02:31 18 THE WITNESS: That -- that would totally
11:02:34 19 depend on what -- what each investigation entailed and
11:02:37 20 how -- the depth that each investigation would have to
11:02:42 21 have.

11:02:42 22 BY MR. DODGE:

11:02:42 23 Q. You mentioned a moment ago that you currently have
11:02:44 24 ten active investigations roughly; right?

11:02:46 25 A. Somewhere right around there.

11:02:48 1 MR. WHITAKER: Objection. Slightly
11:02:49 2 mischaracterizes the record.

11:02:50 3 BY MR. DODGE:

11:02:51 4 Q. Is that a -- is that a typical workload for you at
11:02:53 5 any given time?

11:02:55 6 A. I don't think that there's a -- I don't think
11:02:57 7 there's a way to say that I have a typical workload. It's
11:03:01 8 ebb and flow, so . . .

11:03:04 9 Q. Not unusual to have about ten active cases at any
11:03:07 10 given time, though?

11:03:08 11 A. Absolutely not.

11:03:09 12 Q. Would it be unusual to have 50 active cases at a
11:03:13 13 given time?

11:03:17 14 A. Honestly, no, it wouldn't be unusual.

11:03:22 15 Q. How many investigations do you feel like you can
11:03:26 16 handle at any given time and feel like you're doing justice
11:03:30 17 and a good job on any individual investigation?

11:03:34 18 MR. LANGHOFER: Speculation.

11:03:37 19 THE WITNESS: I think that -- I think that
11:03:39 20 can't be accurately answered unless I know what each
11:03:42 21 investigation involves.

11:03:43 22 BY MR. DODGE:

11:03:44 23 Q. You would agree there is some outer bound at which
11:03:47 24 point you are no longer capable of holding yourself to the
11:03:51 25 investigative standard that you ordinarily would like to

11:03:53 1 achieve? Is that fair?

11:03:55 2 A. Yes.

11:03:56 3 Q. So in other words, there's a point at which

11:04:01 4 additional resources will be required from the Attorney

11:04:03 5 General's Office for justice to be done in any of these

11:04:05 6 investigations; right?

11:04:09 7 MR. WHITAKER: Ambiguous.

11:04:11 8 THE WITNESS: I think that's fair.

11:04:13 9 BY MR. DODGE:

11:04:18 10 Q. I want to ask a few more questions also about how

11:04:21 11 you came to your current role.

11:04:23 12 Why did you join the Attorney General's

11:04:30 13 Office?

11:04:30 14 A. I had retired after just over 20 years from Sedona

11:04:39 15 Police Department, and I -- I left there for reasons that

11:04:45 16 police officers leave the field. And I knew that I wasn't

11:04:49 17 done working, so I just -- I found a job here.

11:04:52 18 Q. And your first job here was in general fraud

11:04:55 19 investigations; correct?

11:04:56 20 A. Correct.

11:04:57 21 Q. Was there something specific about fraud that

11:04:59 22 interested you, or was it just the best position available

11:05:02 23 at the time?

11:05:03 24 A. It was -- it was an available job and it -- it

11:05:08 25 worked out for me at the time.

11:05:09 1 Q. And you pretty quickly transitioned into doing
11:05:13 2 election-related investigations; is that right?

11:05:15 3 A. Yes, pretty quickly.

11:05:16 4 Q. Can you tell me why you transitioned into an
11:05:18 5 election-related role?

11:05:20 6 A. The -- from -- from my low level, my understanding
11:05:26 7 is that the agency had been approved for an Election
11:05:33 8 Integrity Unit -- had been funded, and they needed to build
11:05:36 9 that team. And I was -- I offered to be the -- the
11:05:42 10 investigator on that team.

11:05:43 11 Q. And why did you offer yourself up for that role?

11:05:46 12 A. Just a general interest of mine.

11:05:48 13 Q. In investigation -- in elections and what?

11:05:51 14 A. And I -- yes, as being a -- kind of -- I don't
11:05:58 15 what's the best way to put it. I've just been active in
11:06:01 16 the elective process my whole life, since I was old enough
11:06:04 17 to vote. So it's just an interesting topic for me.

11:06:05 18 Q. So you just mean as a citizen, you've been an
11:06:06 19 active voter?

11:06:07 20 A. Yes.

11:06:08 21 Q. Have you been involved in elections in any other
11:06:10 22 capacity? Running for office? Volunteering?

11:06:12 23 A. No. No.

11:06:13 24 Q. You're just -- you're a good citizen?

11:06:16 25 A. I guess, if that's what you want to call it.

11:06:19 1 Q. And you vote regularly?

11:06:20 2 A. Yes.

11:06:20 3 Q. And you think elections are interesting?

11:06:22 4 A. I do.

11:06:23 5 Q. Any other reasons why you offered to join the
11:06:26 6 Election Integrity Unit?

11:06:30 7 A. No, not really.

11:06:32 8 Q. And just to understand the chronology there a bit,
11:06:36 9 the Election Integrity Unit, when was it created relative
11:06:40 10 to when you joined the Attorney General's Office?

11:06:43 11 A. I don't know that I can accurately tell you that.
11:06:47 12 I mean, again, I have to say that I was -- I would consider
11:06:52 13 myself still brand new to the agency, so I was still
11:06:57 14 adjusting to how things work around here.

11:06:59 15 So the -- the absolute timeline of when the
11:07:04 16 unit was approved and when they decided to make selections
11:07:07 17 and/or build the team and all that, I don't know that I can
11:07:11 18 accurately tell you that. I know when it was -- when it
11:07:16 19 came up and I heard about it, I went to my -- the
11:07:21 20 supervisor at the time and said that would be something I'm
11:07:24 21 interested in. That's -- that's what I can tell you.

11:07:27 22 Q. And do you recall the month and year you joined
11:07:28 23 the Attorney General's Office?

11:07:30 24 A. I believe it's September of 2019.

11:07:33 25 Q. And then you joined the Election Integrity Unit

11:07:36 1 approximately what month after that?

11:07:38 2 A. I get -- I get confused here. It's -- I believe I

11:07:44 3 was in place in that by -- by October. Actually, it may be

11:07:56 4 earlier than that. It may have even been summer of 2020

11:08:04 5 that I . . .

11:08:09 6 Q. So your best recollection is you joined the

11:08:12 7 Attorney General's Office in September 2019 and were

11:08:14 8 working in the Election Integrity Unit by the following

11:08:18 9 summer?

11:08:18 10 A. Yeah, that would be the best -- I don't want to

11:08:21 11 misspeak, so . . .

11:08:22 12 Q. Did you have any expectations as to whether the
11:08:27 13 unit would uncover certain kinds of fraud when you joined
11:08:32 14 it?

11:08:32 15 A. No, I don't think I had any expectations.

11:08:35 16 Q. What expectation did you have with respect to the
11:08:39 17 kind of investigations that you would be conducting?

11:08:43 18 A. I don't know that I had any expectations, because
11:08:46 19 it was a brand-new thing. Obviously, I can -- I can assume
11:08:52 20 that anything that is involved in the electoral process or,
11:08:57 21 you know -- you know, voter -- voter-related items would be
11:09:04 22 conning my way, but very generally -- I really didn't know
11:09:06 23 what to expect.

11:09:07 24 Q. Did you have any expectation about whether or not
11:09:08 25 the unit would focus more on elected officials as compared

11:09:12 1 to voters?

11:09:14 2 A. No. I think my assumption at the time would be
11:09:18 3 that it would be the totality of the -- of all of it.

11:09:23 4 Q. Any other expectations you had about what your
11:09:27 5 work at the unit would entail at the time?

11:09:30 6 A. No, not that I can recall.

11:09:32 7 Q. I now have questions about the Election Integrity
11:09:39 8 Unit itself. I understand you're sharing this duty with
11:09:41 9 Mr. Thomas.

11:09:45 10 I'd like to ask you questions about the
11:09:50 11 Election Integrity Unit's portal, the complaints it
11:09:54 12 generated, and the investigations that ensued. Are you
11:09:57 13 prepared to testify on that today?

11:09:59 14 A. I can do a pretty good job, I feel.

11:10:02 15 Q. That's great.

11:10:03 16 If we can go back to Exhibit 212, which are
11:10:13 17 your interrogatory responses. And if you could look at
11:10:16 18 page 5.

11:10:16 19 MR. DODGE: For those following at home, this
11:10:22 20 is still Number 6 in the Dropbox.

11:10:27 21 THE WITNESS: Did you say page 5? I'm sorry.

11:10:29 22 BY MR. DODGE:

11:10:30 23 Q. I did. I'm actually going to ask you to look at
11:10:33 24 page 4 instead. I skipped ahead a little bit.

11:10:36 25 If you could turn at page 4 and look at

11:10:37 1 Interrogatory Number 1 for a moment.

11:11:09 2 A. Okay.

11:11:10 3 Q. You see below that your office has again divided

11:11:15 4 this interrogatory into subparts; correct?

11:11:18 5 A. Yes.

11:11:19 6 Q. Could you turn to the next page and look at your

11:11:23 7 response to Subpart 2.

11:11:41 8 A. Yes.

11:11:42 9 Q. Okay. Your office has characterized Subpart 2 as,

11:11:47 10 quote, "Identify all evidence that supports the contention

11:11:49 11 that the Challenged Laws further the interests identified

11:11:52 12 above, including any evidence of voter fraud committed by

11:11:55 13 non-citizens in Arizona since January 1, 2016."

11:12:00 14 Did I get that correct?

11:12:03 15 A. Yes.

11:12:03 16 Q. Okay. Could you turn to the next page of this

11:12:09 17 document.

11:12:16 18 And looking at line 10, your office

11:12:20 19 responded, "The Attorney General's Office has compiled two

11:12:22 20 spreadsheets of complaints submitted via this portal with

11:12:25 21 redactions. These spreadsheets have been produced as

11:12:29 22 AG007958, AG011687."

11:12:35 23 Do you see that?

11:12:35 24 A. I do.

11:12:36 25 Q. Do you know what portal is being referred to

11:12:38 1 there?

11:12:42 2 A. When I hear "portal," my automatic assumption is

11:12:51 3 it's talking about the election integrity portal. I mean,

11:12:55 4 that -- I don't really see a lot of context and guarantee

11:13:00 5 that's correct, but that would be my assumption.

11:13:02 6 Q. Do you know when your office created the Election

11:13:13 7 Integrity Unit intake portal?

11:13:17 8 A. I believe it stated that it was 2020. I don't

11:13:22 9 know anything more specific than.

11:13:24 10 Q. Do you know why your office chose to create the

11:13:27 11 portal in 2020?

11:13:31 12 A. I -- I don't know. I mean, I -- again, it -- it

11:13:38 13 was the onset of the Election Integrity Unit, so it may be

11:13:43 14 related to that.

11:13:43 15 Q. Did any similar sort of election-focused portal

11:13:47 16 exist at the Attorney General's Office prior to 2020?

11:13:51 17 A. I wouldn't -- I wouldn't be aware if there were.

11:13:55 18 Q. I think you testified to this -- well, actually,

11:13:58 19 strike that.

11:13:58 20 You're not aware that -- of any earlier

11:14:02 21 portal related to elections; correct?

11:14:05 22 A. That would be correct.

11:14:06 23 Q. You testified to this a bit earlier, but is the

11:14:10 24 Election Integrity Unit online intake portal still

11:14:12 25 operating?

11:14:14 1 A. My -- my understanding is that it has been
11:14:17 2 removed. I can't tell you that for certain. I haven't
11:14:19 3 gone to the web page and witnessed that it's not there
11:14:23 4 anymore myself, but that was the plan.

11:14:26 5 Q. Do you know when it was removed?

11:14:35 6 MR. WHITAKER: Foundation.

11:14:37 7 THE WITNESS: I believe a discussion that I
11:14:41 8 was part of about removing that was approximately three or
11:14:50 9 four months ago, I believe.

11:14:53 10 BY MR. DODGE:

11:14:54 11 Q. Okay. You referred earlier to the plan to remove
11:14:57 12 the Election Integrity Unit intake portal. Can you tell me
11:15:01 13 who was responsible for any plan to remove it?

11:15:10 14 MR. LANGHOFER: Scope.

11:15:12 15 THE WITNESS: It was -- I'm not recalling a
11:15:20 16 name right now. It was a member of our team on the sixth
11:15:26 17 floor -- Hayleigh. I apologize. It was -- I was in the
11:15:39 18 meeting with one of our employees named Hayleigh, and
11:15:43 19 I'm -- her last name is escaping me right now.

11:15:44 20 BY MR. DODGE:

11:15:44 21 Q. Does the sixth floor mean anything in the context
11:15:47 22 of your office?

11:15:47 23 A. To me, it's the -- like, the civil entity.
11:15:49 24 That -- it's the best description I have for it. I don't
11:15:49 25 go up there very much.

11:15:53 1 Q. Okay. So it's where the civil office of the
11:15:55 2 Attorney General's Office is?
11:15:55 3 A. That's my belief, yes.
11:15:56 4 Q. Have you ever been to the sixth floor?
11:15:59 5 A. Maybe once or twice.
11:16:01 6 Q. Is it where the leadership of the civil office
11:16:04 7 sits?
11:16:04 8 A. That's my understanding.
11:16:09 9 Q. So the sixth floor just refers generally to the
11:16:12 10 civil office, or does it refer to the leadership of the
11:16:14 11 civil office?
11:16:14 12 A. No, I -- well, not for me.
11:16:15 13 Q. Okay. Is your office still investigating
11:16:18 14 complaints that have been filed in the Election Integrity
11:16:22 15 Unit portal?
11:16:23 16 A. Yes.
11:16:24 17 Q. These were complaints filed before it may have
11:16:29 18 been taken offline?
11:16:30 19 A. Yes.
11:16:42 20 Q. Turning back to your response to Interrogatory
11:16:45 21 Number 1, Subpart 2, your response indicated that there
11:16:48 22 were two spreadsheets that compile complaints reported
11:16:54 23 through the portal; correct?
11:16:56 24 A. Yes.
11:16:58 25 Q. And to date, how many complaints about voting and

11:17:03 1 election-related violations have been submitted to the
11:17:06 2 Election Integrity Unit through the online portal?
11:17:10 3 A. It's in the thousands. I couldn't -- I mean,
11:17:18 4 that's the best I can give you. A lot.
11:17:20 5 Q. Tens of thousands? Thousands?
11:17:23 6 A. I'm comfortable with "thousands." I really -- I'm
11:17:25 7 not sure.
11:17:27 8 Q. You chuckled a little bit when I asked that
11:17:30 9 question. Can I ask why?
11:17:31 10 A. No, just because it's a -- it's a very big number
11:17:34 11 that I, obviously, can't speculate on.
11:17:38 12 Q. Are you surprised at the number of complaints that
11:17:41 13 were submitted through the portal?
11:17:44 14 A. No.
11:17:48 15 Q. I'm going to ask you to now look at what will be
11:17:58 16 labeled as 216 -- 215, which is a large Excel file that I'm
11:18:07 17 going to ask you to look at on a computer if that's
11:18:10 18 possible.
11:18:11 19 MR. DODGE: I'm going to give you this just
11:18:11 20 to look at.
11:18:11 21 (Reporter clarification.)
11:18:28 22 MR. DODGE: It's Number 13 on the Dropbox.
11:18:28 23 Does the witness have access to that?
11:18:32 24 MR. WHITAKER: Let me think about that. You
11:18:35 25 can use this.

11:18:36 1 MR. DODGE: Would it help to go off the
11:18:38 2 record for a minute?
11:18:39 3 MR. WHITAKER: Yes. Can we do that?
11:18:40 4 MR. DODGE: Off the record for just a minute.
11:18:43 5 THE VIDEOGRAPHER: We are off the record.
11:18:44 6 Time on the video monitor is 11:18 a.m.
11:20:11 7 (An off-the-record discussion ensued.)
11:20:11 8 THE VIDEOGRAPHER: We are on the record.
11:26:03 9 Time on the video monitor is 11:26 a.m.
11:26:06 10 MR. DODGE: Okay. After much effort, we have
11:26:10 11 now managed to get this document up on the screen, which
11:26:15 12 I'll have marked as Exhibit 215.
11:26:15 13 (The document was marked as Exhibit 215
11:26:21 14 for identification.)
11:26:21 15 BY MR. DODGE:
11:26:22 16 Q. I'll represent to you that this was produced to us
11:26:24 17 as AG007958, which is one of the documents referenced in
11:26:30 18 the interrogatory response we were just discussing.
11:26:35 19 Can you tell me what this document is?
11:26:44 20 A. This -- what I have in front of me here? That's
11:26:49 21 what's up there?
11:26:50 22 Q. I believe so.
11:26:51 23 A. Well, it looks like a EIU spreadsheet, because the
11:26:56 24 EIU number is listed.
11:27:02 25 Q. And can you tell me what this document shows?

11:27:04 1 A. It has some EIU-assigned numbers. It looks like
11:27:18 2 the -- what the general complaint regards and then some
11:27:29 3 commentary. Looks like it's maybe some sort of a -- like a
11:27:42 4 summary of a complaint.

11:27:48 5 Q. Can you tell me where the entries in this
11:27:51 6 spreadsheet come from?

11:27:55 7 A. Given the -- the way it's laid out, I would think
11:28:06 8 this was probably generated by the then -- I guess we call
11:28:14 9 it the administrator of the election integrity portal
11:28:19 10 perhaps.

11:28:20 11 Q. Who was the administrator of the election
11:28:21 12 integrity portal?

11:28:23 13 A. Jen Wright.

11:28:26 14 Q. Is that a position that continued to exist after
11:28:33 15 Jen Wright departed your office?

11:28:36 16 A. No is the easy answer.

11:28:42 17 Q. Was the administrator of the portal an official
11:28:45 18 position or sort of a de facto role?

11:28:49 19 A. My -- my description -- as I understand it, Jen
11:29:01 20 Wright was the -- I call it the tip of the spear of the
11:29:08 21 Election Integrity Unit. So all -- all things came
11:29:11 22 through -- all portal items came through her. They came
11:29:14 23 into her and she was the one that received all that.

11:29:18 24 Q. So she was the individual most responsible for
11:29:22 25 reviewing complaints filed with the portal?

11:29:25 1 A. That would be fair to say, I believe.

11:29:26 2 Q. Do you know what time period is covered by the
11:29:32 3 spreadsheet we were just looking at?

11:29:35 4 A. I don't.

11:29:39 5 MR. WHITAKER: For the record, the witness, I
11:29:42 6 don't think, is looking at the spreadsheet anymore.

11:29:44 7 THE WITNESS: Yeah.

11:29:44 8 MR. DODGE: Sorry. I'm trying to download it
11:29:46 9 as a Excel file, which will make it easier to review, but
11:29:51 10 the mouse is being uncooperative.

11:30:02 11 I apologize. Can we go off the record again.

11:30:04 12 THE VIDEOGRAPHER: We are off the record.

11:30:07 13 Time on the video monitor is 11:30 a.m. This ends Media 1.

11:30:13 14 (An off-the-record discussion ensued.)

11:31:57 15 THE VIDEOGRAPHER: We are on the record.

11:32:11 16 Time on the video monitor is 11:32 a.m. This begins

11:32:16 17 Media 2.

11:32:17 18 BY MR. DODGE:

11:32:19 19 Q. Okay. After several breaks off the record,
11:32:22 20 Mr. Knuth, you can see why I became a lawyer and not an IT
11:32:26 21 person.

11:32:26 22 We are still looking at what was produced to

11:32:30 23 us as AG007958, which you previously described as a

11:32:35 24 compilation of referrals to the Election Integrity Unit

11:32:37 25 through the online intake portal; is that right?

11:32:40 1 A. Yes.

11:32:41 2 Q. And I believe I asked you if you knew what time
11:32:44 3 period was covered by this particular document. Do you
11:32:47 4 have any idea?

11:32:49 5 A. It -- based on the EIU number designation, it's --
11:32:55 6 these are from 2021, it appears.

11:33:00 7 Q. Would you dispute my representation that this
11:33:02 8 particular document includes complaints filed in the portal
11:33:06 9 from 2020 through about mid October 2021?

11:33:15 10 A. I'm not seeing any 2020 dates as of yet, so that's
11:33:19 11 hard for me to say that that's --

11:33:27 12 Q. So it looks like these are mostly complaints filed
11:33:30 13 in 2021?

11:33:30 14 A. Everything that I'm seeing is 2021 dated right
11:33:33 15 now.

11:33:33 16 Q. There's a large gap in this document between lines
11:33:40 17 96 and 2278. Do you have any idea why that gap exists?

11:33:47 18 A. I have no idea.

11:33:48 19 Q. So did you assist in preparing this document at
11:33:51 20 all?

11:33:51 21 A. No.

11:33:52 22 Q. Is this a document your office maintains in the
11:33:56 23 ordinary course?

11:33:57 24 A. If it -- if it's the EIU spreadsheet, then, yeah,
11:34:06 25 that would be accurate. I just -- I -- I don't -- I don't

11:34:12 1 deal in the EIU spreadsheet specifically, so it's hard for
11:34:17 2 me to say for sure.

11:34:19 3 Q. But these entries look familiar to you as --

11:34:22 4 A. I mean, yeah, I'm familiar with the format, yeah.

11:34:24 5 Q. Okay. I'm now going to ask you to look at what
11:34:30 6 I'll call Exhibit 216, which was produced to us as
11:34:39 7 AG001687.

11:34:39 8 (The document was marked as Exhibit 216
11:34:41 9 for identification.)

11:34:41 10 MR. MORGAN: Have we started yet?

11:34:43 11 MR. LANGHOFER: Yeah, I've not heard
11:34:43 12 anything. Are we on the record?

11:34:43 13 MR. MORGAN: I don't know if we're on the
11:34:43 14 record or not. They're on mute.

11:34:43 15 THE COURT REPORTER: Do you want to go off
11:34:55 16 the record?

11:34:55 17 MR. DODGE: Yeah, let's go off the record.

11:35:05 18 THE VIDEOGRAPHER: We're off the record.

11:35:06 19 Time on the video monitor is 11:35 a.m.

11:37:54 20 (An off-the-record discussion ensued.)

11:37:54 21 THE VIDEOGRAPHER: We are on the record.

11:40:45 22 Time on the video monitor is 11:40 a.m.

11:40:48 23 MR. DODGE: Okay. Just to put on the record,
11:40:51 24 we had some minor technical snafus over the last few
11:40:56 25 minutes where the individuals present in the room where the

11:40:59 1 deposition is occurring were on the record discussing
11:41:03 2 Exhibit 215 and 216, which are numbers 13 and 14 in the
11:41:07 3 Dropbox. Mr. Knuth offered some descriptions of the
11:41:12 4 exhibits. We believe the technical snafus have been worked
11:41:16 5 out, and we are all back on the record.

11:41:18 6 BY MR. DODGE:

11:41:19 7 Q. Mr. Knuth, we were just discussing exhibit --

11:41:22 8 MR. LANGHOFER: Before we move on -- Kory
11:41:24 9 Langhofer for the RNC. I'll just note that we'll preserve
11:41:28 10 any objections for the portion that we couldn't hear you
11:41:29 11 for, you know, later, if necessary.

11:41:29 12 MR. DODGE: So noted.

11:41:29 13 BY MR. DODGE:

11:41:32 14 Q. Mr. Knuth, we were looking at Exhibit 216, which I
11:41:37 15 just pulled up, which was produced to us as AG0011687. Can
11:41:45 16 you tell us what this document is?

11:41:49 17 A. Based on the formatting, I would assume that it's
11:41:51 18 an EIU, Election Integrity Unit, spreadsheet.

11:41:55 19 Q. So this is similar to Exhibit 215, which we were
11:41:59 20 just looking at; correct?

11:42:00 21 A. Yes.

11:42:00 22 Q. And do the entries on this spreadsheet also come
11:42:02 23 from the Election Integrity Unit intake portal?

11:42:05 24 A. That's my assumption by looking at them.

11:42:09 25 Q. And do you have any sense of what the time period

11:42:13 1 is covered by this spreadsheet?

11:42:16 2 A. Based on the designated EIU numbers, I'm seeing a

11:42:23 3 lot of 2022 numbers, but it's nothing more specific than

11:42:27 4 that.

11:42:28 5 Q. Do you see any --

11:42:29 6 A. Oh, there's '23.

11:42:32 7 Q. Some 2021s?

11:42:37 8 A. Yes, there are some 2021s.

11:42:37 9 Q. So it looks like it this spreadsheet covers some

11:42:40 10 portion of 2021 through sometime in 2023; is that right?

11:42:42 11 A. It looks that way, yes.

11:42:44 12 Q. Beyond the time period that they cover, is there

11:42:46 13 any difference between the information contained in

11:42:50 14 Exhibit 215, which I can pull up if you would like, and

11:42:53 15 Exhibit 216, which we're currently looking at?

11:42:57 16 A. Can you scroll right. It seems -- I don't know

11:43:06 17 about the header necessarily being exactly the same, but

11:43:10 18 the formatting looks about the same.

11:43:10 19 Q. Generally speaking, they appear to contain similar

11:43:14 20 kinds of information that might be included in a referral

11:43:16 21 to the EIU?

11:43:17 22 A. Yeah, that's fair.

11:43:18 23 Q. I'd like to understand some of the columns in

11:43:22 24 these spreadsheets.

11:43:24 25 Column A refers to, quote, "EIU Number." Can

11:43:29 1 you tell me what that refers to?

11:43:31 2 A. It's a unique identifier for each complaint that

11:43:36 3 is received through the election integrity portal.

11:43:41 4 Q. And so that number wouldn't have existed prior to

11:43:44 5 the creation of the portal?

11:43:47 6 A. No, I can't imagine it would.

11:43:50 7 Q. Column B includes the header "Submission ID." Can

11:43:55 8 you tell me what that refers to?

11:43:57 9 A. I -- I am not familiar with this spreadsheet, so

11:44:00 10 no, I can't tell you exactly what that is.

11:44:02 11 Q. What about Column C? Can you tell me what a

11:44:05 12 serial number is in this context?

11:44:08 13 A. I can see that they're sequential, but I don't

11:44:11 14 know exactly what they are.

11:44:14 15 Q. But those numbers appear to be for recordkeeping

11:44:18 16 purposes with respect to referrals?

11:44:18 17 A. I would assume so, yes.

11:44:20 18 Q. Looking at Column L, it says, "My complaint

11:44:24 19 alleges violations of election law related to."

11:44:31 20 Then you see in the entries below various

11:44:35 21 phrases: "Voter registration," "election administration,"

11:44:39 22 "early voting," "election day polling place issues."

11:44:45 23 Were these options offered on a list in the

11:44:48 24 portal?

11:44:50 25 A. I'm not positive of that. It's possible. I don't

11:44:58 1 know for sure.

11:45:00 2 Q. So bearing in mind both Exhibit 215 and
11:45:05 3 Exhibit 216, do you know whether any of the complaints in
11:45:08 4 these spreadsheets concern allegations of a noncitizen
11:45:11 5 registering to vote or voting in an election in Arizona?

11:45:18 6 A. If I understand correctly, with -- I mean, without
11:45:20 7 reviewing the entirety of the spreadsheet, I can't tell you
11:45:23 8 if there's any in there or not, no.

11:45:26 9 Q. Do you know whether or not any complaints referred
11:45:30 10 through the EIU intake portal involved allegations of
11:45:35 11 noncitizens registering to vote or voting in Arizona?

11:45:39 12 A. In -- in a broad time period, are you referring
11:45:44 13 to?

11:45:44 14 Q. In any time period.

11:45:45 15 A. Yes, there have been.

11:45:46 16 Q. And those -- would that have been between the time
11:45:50 17 period of 2020 and 2023?

11:45:54 18 A. I don't believe that the cases I'm aware of were
11:46:07 19 within that time frame. I think they were before that.
11:46:09 20 One of them may have been.

11:46:11 21 Q. So you're not sure, sitting here today, whether or
11:46:15 22 not any of the referrals compiled in Exhibits 215 and 216
11:46:20 23 involve allegations of noncitizens registering to vote or
11:46:23 24 voting in Arizona; correct?

11:46:25 25 A. That would be fair to say, yes.

11:46:27 1 Q. I'm going to return to Exhibit 215 and scroll to
11:46:33 2 line 2493. Okay.

11:46:45 3 This line number has the EIU Number
11:46:49 4 EIU-2021-26038-312. Do you see that?

11:46:54 5 A. I do.

11:46:55 6 Q. And I'm scrolling over to Column Y, which says,
11:47:09 7 "In early October 2020 a person living in Arizona who's not
11:47:12 8 a U.S. citizen and who's not a registered voter received a
11:47:16 9 ballot for voting in the 2020 election on November 3,
11:47:19 10 2020."

11:47:20 11 Did I read that correctly?

11:47:21 12 A. From what I -- I can't see the whole thing.

11:47:26 13 MR. WHITAKER: Can you see it up there?

11:47:28 14 THE WITNESS: Oh, sorry. That probably would
11:47:30 15 be easier. I apologize.

11:47:30 16 MR. WHITAKER: On the top -- the top part.

11:47:41 17 THE WITNESS: Okay. Yeah, I see what you're
11:47:43 18 saying there.

11:47:43 19 BY MR. DODGE:

11:47:43 20 Q. And I read that correctly?

11:47:45 21 A. Yes.

11:47:45 22 Q. Do you know whether or not your office ever
11:47:47 23 investigated this claim?

11:47:53 24 A. I -- I can't say with certainty. It's -- I mean,
11:48:05 25 again, the volume of cases is overwhelming, so I -- too

11:48:10 1 overwhelming to tell you for certain what happened with
11:48:12 2 that particular one.

11:48:14 3 Q. Do you know if your office would have made a
11:48:15 4 credibility determination as to this referral?

11:48:19 5 A. I'm sure we would have.

11:48:21 6 Q. Do you know what determination your office reached
11:48:26 7 with respect to whether or not this complaint was credible?

11:48:34 8 A. No. I -- I'm not intimately familiar with what
11:48:39 9 case this is, so . . .

11:48:41 10 Q. If you don't recall a referral alleging that a
11:48:48 11 noncitizen voted in an Arizona election, does that indicate
11:48:52 12 to you that the referral was never elevated for
11:48:56 13 investigation?

11:48:59 14 A. That's not necessarily the case, because I can't
11:49:03 15 tell you right now if this is one of the cases I mentioned
11:49:08 16 earlier that I do know we have a case on. I'm just not --
11:49:11 17 I'm not positive if it's one of those or not. So it's
11:49:16 18 difficult for me to make that --

11:49:17 19 Q. So no specific recollection as to this case?

11:49:19 20 A. No.

11:49:19 21 Q. You said a moment ago that the number of referrals
11:49:22 22 through the portal was overwhelming. Did I get that right?

11:49:25 23 A. It's a large number, yes.

11:49:27 24 Q. Were a large number of those referrals ultimately
11:49:31 25 not found to be credible by your office?

11:49:35 1 A. I mean, there are certain -- certainly complaints
11:49:40 2 that are found to not be credible. I -- as far as, like, a
11:49:44 3 percentage or anything, I couldn't tell you what it is, but
11:49:46 4 yes, certainly.

11:49:47 5 Q. Are most of the referrals made through the portal
11:49:52 6 ultimately found not credible?

11:49:55 7 A. I don't think "most of" is fair to say.

11:49:58 8 Q. Does your office investigate most of the claims
11:50:00 9 made through the portal?

11:50:02 10 A. At least initially.

11:50:03 11 Q. And that's just to make a determination of
11:50:06 12 credibility and whether or not follow-up is warranted;
11:50:10 13 right?

11:50:10 14 A. Correct.

11:50:11 15 Q. So beyond those preliminary steps, does your
11:50:14 16 office investigate -- has your office investigated most of
11:50:16 17 the claims in the portal?

11:50:20 18 A. Yeah, I think that's an accurate thing to say.

11:50:23 19 Q. I'm going to scroll to line 4061 in this
11:50:31 20 spreadsheet. And this has the EIU Number
11:50:42 21 EIU-2021-28104-1880. Do you see that?

11:50:44 22 A. Yes.

11:50:44 23 Q. Okay. And the complaint appears to have to do
11:50:48 24 with voter registration. Do you see that?

11:50:50 25 A. I do.

11:50:51 1 Q. And Column V, the referring individual provided
11:51:08 2 information: "The above-named person is a Canadian
11:51:11 3 citizen. He visits U.S. (Maricopa County) for a few months
11:51:16 4 per year. He received a ballot, non-solicited, his name on
11:51:20 5 it. My question: How many more thousands of ballots were
11:51:23 6 mailed out to nonvalid, noneligible persons?"

11:51:25 7 Did I read that correctly?

11:51:28 8 A. I'm not seeing that whole statement.

11:51:37 9 Q. It might be helpful if you look up top.

11:51:40 10 A. Thank you. I'm sorry.

11:51:42 11 Q. So you want take a moment to review that.

11:51:52 12 A. Okay. Yes, I see what you're saying now.

11:51:54 13 Q. Do you know if your office ever investigated this
11:51:58 14 claim?

11:52:02 15 A. I don't know for certain.

11:52:04 16 Q. Do you know if your office reached any
11:52:07 17 determination that this referral was credible?

11:52:11 18 A. I -- I don't have an opinion on that.

11:52:15 19 Q. Do you know whether or not your office ever
11:52:17 20 prosecuted the person named in this referral?

11:52:24 21 A. I don't.

11:52:25 22 Q. I'm going to scroll to line 4161 of Exhibit 215.

11:52:53 23 Okay. This -- this entry has the EIU Number
11:52:57 24 EIU-2021-28389-1980. Do you see that?

11:53:02 25 A. I do.

11:53:04 1 Q. This complaint also appears to concern voter
11:53:06 2 registration. Do you see that?

11:53:06 3 A. I do.

11:53:07 4 Q. And then the referring individual included the
11:53:12 5 information, quote, "Voting registration by illegals from
11:53:14 6 Mexico."

11:53:15 7 Did I read that correctly?

11:53:16 8 A. Yes.

11:53:16 9 Q. Do you know if your office investigated this
11:53:19 10 claim?

11:53:21 11 A. I -- that's pretty vague, so I have no idea, no.

11:53:25 12 Q. Would it be possible for your office to
11:53:27 13 investigate a claim like this?

11:53:29 14 A. Well, certainly, yes.

11:53:30 15 Q. How would you do so?

11:53:35 16 A. By -- beginning by determining the legitimacy of
11:53:46 17 the complaint. If there's enough information to support or
11:53:49 18 to give us a starting point to begin an investigation and
11:53:54 19 then the typical investigative process after that.

11:53:59 20 Q. Okay. This person provides a bit more color in
11:54:02 21 Column Y.

11:54:03 22 It says, "I personally witnessed a person
11:54:05 23 registering in or around 1996 between Clinton's first and
11:54:08 24 second term. It was a couple being registered by the
11:54:12 25 employees of Walmart, and I was concerned living next to

11:54:12 1 the Mexico border in Douglas, Arizona (where I was living
11:54:19 2 at that time) everyone registering was illegal citizens. I
11:54:21 3 knew one of the employees personally and asked her if they
11:54:26 4 are requiring proof of citizenship, and she said, no, they
11:54:26 5 weren't. I asked, how do you know if they are citizens?
11:54:29 6 And she replied that they signed the registration, which
11:54:33 7 requires an address. I said, they could put any relative's
11:54:36 8 address. And then Wendy said that everyone is verified in
11:54:40 9 the recorder's office. So I went on my way thinking anyone
11:54:42 10 registering illegal would be thrown out. On my way to the
11:54:44 11 car, I saw the couple that registered drive off with
11:54:48 12 Sonoran plates on their small, red car. You could verify
11:54:50 13 during that time there were driver's licenses that was
11:54:54 14 issued to illegals as well. Once anyone is registered,
11:54:57 15 they will always stay registered. So how many other
11:55:00 16 illegals have registered the same way and have driver's
11:55:02 17 license as their identification? With the amount of
11:55:05 18 illegals that are in our country, they can sway the
11:55:08 19 election here and in multiple states. If there's any way
11:55:10 20 to determine on the voting roles if they are illegal
11:55:13 21 citizens, that would be appreciated. Please no canned
11:55:14 22 letter, and take this suggestion seriously."

11:55:17 23 Did I read that correctly?

11:55:20 24 A. Appears to be, yes.

11:55:21 25 Q. How would you investigate a claim like this?

11:55:24 1 A. Well, I would -- just to make sure I'm accurate
11:55:27 2 here, if you could give me the EIU number again -- show me
11:55:32 3 that EIU number.

11:55:35 4 I'm -- I'm immediately seeing some
11:55:36 5 difficulties as the allegation is from 1996 in 2021. Makes
11:55:44 6 for a difficult start to investigation.

11:55:44 7 Q. So would your office consider a complaint like
11:55:46 8 this to be credible?

11:55:48 9 A. I find it hard to believe.

11:55:49 10 Q. Okay. And your best understanding sitting here
11:55:55 11 today is that your office would not have committed any
11:55:58 12 investigatory resources to this claim; correct?

11:56:00 13 A. I'm considering that to be not likely.

11:56:06 14 Q. I'll do a couple more of these. I'm going to go
11:56:09 15 to line 4337 in Exhibit 215.

11:56:19 16 This has the EIU Number EIU-2021-28946-2156.
11:56:26 17 Do you see that?

11:56:26 18 A. I do.

11:56:27 19 Q. This also appears to concern voter registration?

11:56:29 20 A. Yes.

11:56:29 21 Q. The person in Column B of this referral says,
11:56:35 22 "Person registered to vote in this election is not a U.S.
11:56:38 23 citizen."

11:56:39 24 Did I read that correctly?

11:56:39 25 A. You did.

11:56:40 1 Q. Then a couple columns over in Column Y, they add a
11:56:44 2 bit more color and they say, "My mother-in-law was
11:56:47 3 approached at a DMV while she was renewing her driver's
11:56:51 4 license and asked if she wanted to register to vote. She
11:56:52 5 said she didn't think she can vote since she is not a U.S.
11:56:55 6 citizen; only a permanent resident. They told her she
11:56:57 7 could register and did register to her -- her to vote as a
11:57:00 8 Democrat. She received her ballot in the mail, and I was
11:57:02 9 able to see that ballot because she is older and lives with
11:57:05 10 me and my wife. She didn't vote. And I forwarded this
11:57:08 11 information to the office of Katie Hobbs and it did not get
11:57:11 12 resolved. My problem is how do they allow people to
11:57:13 13 register non-U.S. citizens to vote in the first place? And
11:57:15 14 how does the Democrat party allow this? I do not want to
11:57:18 15 get my mother-in-law in trouble, but I would like to see
11:57:20 16 this process controlled a little better for fair and honest
11:57:23 17 election. I have attached a copy of the ballot to show my
11:57:26 18 evidence. Thank you. [Redacted.]"

11:57:28 19 Did I read that correctly?

11:57:29 20 A. Yes.

11:57:29 21 Q. Do you know if your office ever investigated this
11:57:33 22 claim?

11:57:34 23 A. I can't say with certainty whether -- whether we
11:57:44 24 did or not. I mean, I -- I don't have intimate information
11:57:49 25 about it -- or recollection, I should say.

11:57:53 1 Q. Do you know if your office made any credibility
11:57:55 2 determination with respect to this claim?

11:57:57 3 A. I would expect that we did.

11:57:58 4 Q. Do you have any idea what that assessment was?

11:58:04 5 A. Can you take it back to the dialogue, if you will?

11:58:21 6 Whether it's by familiarity -- I hate that word -- being
11:58:29 7 familiar with it or being familiar with the situation, I
11:58:36 8 can tell you that the first -- there's two keys here for
11:58:40 9 me. First is that we know that there was not a vote cast,
11:58:45 10 based on the verbiage, and likely, the prospective for me
11:58:52 11 would be to -- I don't know if it said what county. I'm
11:58:58 12 assuming Maricopa. I don't know if it's in there. But
11:59:00 13 anyway, let the appropriate county recorder's office know
11:59:03 14 about -- you know, that this -- we -- we have information
11:59:07 15 that this could be an invalid registration.

11:59:11 16 Q. So in other words, you're saying you might refer
11:59:13 17 something like this to a county recorder's office?

11:59:16 18 A. I don't know if refer -- "refer" is probably not
11:59:21 19 right. Provide them with the information so that they can
11:59:23 20 follow up on their end, reference the voter registration.

11:59:28 21 The -- the fact that the vote was never cast
11:59:36 22 makes this a little bit more difficult to go -- to conduct
11:59:42 23 an investigation and reach a prosecutory level because
11:59:44 24 there's no -- there's -- the registration is a factor that
11:59:48 25 is very difficult to follow up on, because they're a random

11:59:52 1 person who was out collecting registrations, and there's --
11:59:54 2 because no vote was cast, there's no crime that we can
11:59:57 3 really go after.

11:59:58 4 Q. Do you know if this referral would have resulted
12:00:01 5 in a prosecution or a conviction?

12:00:04 6 A. Based on what I'm reading here, I think it's
12:00:07 7 unlikely that it was prosecuted.

12:00:28 8 Q. Okay. I'm going to go to Row 444 in this
12:00:33 9 document.

12:00:37 10 MR. WHITAKER: Is this a new document?

12:00:46 11 MR. DODGE: This is Exhibit 215 still.

12:00:53 12 Scratch that. It is Exhibit 216.

12:01:03 13 BY MR. DODGE:

12:01:12 14 Q. Okay. This is EIU Number EIU-2022-66175-3244. Do
12:01:20 15 I have that correct?

12:01:21 16 A. Yes.

12:01:21 17 Q. This also appears to concern voter registration.

12:01:24 18 Do you see that?

12:01:25 19 A. I do.

12:01:25 20 Q. And in Column V, referring individual writes,
12:01:31 21 "People have to be citizens to vote. Federal voter
12:01:34 22 registration still says they are attesting to being legally
12:01:37 23 able to vote, I believe. Pima County Recorder's Office is
12:01:39 24 telling people they don't have to be citizens to vote."

12:01:44 25 Then Column Y, this individual write, "In

12:01:48 1 brief, while I was working at the Pima County Recorder's
12:01:50 2 Office on July 5th, the last day to register for primary, I
12:01:54 3 heard a staff member telling people coming in to register
12:01:56 4 that they 'don't have to be citizens to vote' (direct
12:02:00 5 quote). As a former commissioner of the Election Integrity
12:02:03 6 Commission here in Pima County, I wasn't happy hearing this
12:02:06 7 employee saying this without elaborating further. This
12:02:07 8 happened after she talked a person earlier out of changing
12:02:10 9 their voter registration form from Democrat to Republican.
12:02:14 10 She persuaded them they'd be better off registering as an
12:02:17 11 independent; they could still vote in the primary. Nothing
12:02:19 12 too terrible with that, but speaks to her own partisanship,
12:02:19 13 I think."

12:02:23 14 Did I basically that read correctly?

12:02:25 15 A. Yes.

12:02:25 16 Q. Do you know if your office ever investigated this
12:02:28 17 referral?

12:02:30 18 A. I can't say with certainty.

12:02:33 19 Q. Do you think it's likely, based on the information
12:02:36 20 we just read, that your office would have investigated?

12:02:38 21 A. I think we would have done an initial overview of
12:02:42 22 it to -- for credibility and the ability to follow up on
12:02:47 23 it.

12:02:47 24 Q. What credibility determination do you think your
12:02:50 25 office would have reached based on the information we

12:02:54 1 reviewed?

12:02:54 2 A. I -- again, I can -- I can speculate, but the
12:02:59 3 process likely would have been to contact the -- I'm sorry.
12:03:02 4 It was Pima County recorder?

12:03:04 5 Q. That's correct.

12:03:05 6 A. Yes. And try to get some determination of who
12:03:11 7 this employee was and if this conversation actually
12:03:15 8 occurred.

12:03:17 9 Q. Do you think it's likely this sort of a referral
12:03:20 10 would have resulted in a prosecution or a conviction?

12:03:22 11 A. I can't say. I have too little information.

12:03:26 12 Q. Okay. Continuing to look at Exhibit 216, I'm just
12:03:30 13 going to scroll down to the bottom.

12:03:32 14 It appears, based on this final line number,
12:03:34 15 that there are approximately 1,550 complaints in this
12:03:40 16 document; correct?

12:03:41 17 A. I mean, yeah, based on the number, I guess.

12:03:44 18 Q. Sitting here today, are you able to identify any
12:03:49 19 other entries in these spreadsheets alleging voting by a
12:03:52 20 noncitizen?

12:03:53 21 A. No.

12:03:54 22 Q. And I believe I asked you this earlier, but
12:03:58 23 sitting here today, with respect to how many complaints
12:04:02 24 about voting and election-related violations have been
12:04:05 25 submitted through the portal, your best recollection is

12:04:09 1 that it's in the thousands?

12:04:10 2 A. That's fair, yes.

12:04:12 3 Q. To your knowledge, would any complaints submitted

12:04:16 4 be -- any complaints submitted via the portal not be

12:04:19 5 included in the two spreadsheets we looked at?

12:04:21 6 A. Not to my knowledge.

12:04:24 7 Q. Do you know if any of the complaints or referrals

12:04:33 8 included in these two spreadsheets concern allegations of a

12:04:36 9 nonresident registering to vote or voting in an election in

12:04:40 10 Arizona?

12:04:46 11 A. Non- -- I would need a -- some sort of a

12:04:51 12 qualification as what you mean by "nonresident," because I

12:04:54 13 may have a different opinion about that than you do.

12:04:56 14 Q. Why don't you give me your understanding of the

12:04:58 15 term first.

12:04:59 16 A. A nonresident, to me, is a -- is a nonresident of

12:05:04 17 Arizona, so -- in which case, this spreadsheet very likely

12:05:10 18 has issues of nonresidents voting because they live in

12:05:13 19 another state and they voted in Maricopa County or in

12:05:15 20 Arizona. So -- so in that fashion, yes.

12:05:20 21 Q. And so your -- your definition of "nonresident"

12:05:23 22 would not include someone who, for example, voted in the

12:05:25 23 wrong county within Arizona but who is a bona fide Arizona

12:05:29 24 resident; is that right?

12:05:31 25 A. A non- -- a -- in example form, a Gila County --

12:05:43 1 Gila County voter who voted in Maricopa County I would also
12:05:47 2 call a nonresident because they didn't vote in their
12:05:50 3 jurisdiction.

12:05:51 4 Q. And would these two spreadsheets likely include
12:05:56 5 referrals or complaints regarding an individual in Arizona
12:06:02 6 voting in the wrong county in Arizona as well?

12:06:04 7 A. It's very likely.

12:06:08 8 Q. We talked a bit earlier about how your office
12:06:13 9 conducts sort of a preliminary assessment of a referral to
12:06:15 10 determine whether further investigation is warranted;
12:06:18 11 correct?

12:06:18 12 A. Right.

12:06:19 13 Q. And that's how you determine whether to
12:06:22 14 investigate one of these complaints; right?

12:06:25 15 A. Yeah.

12:06:26 16 Q. How many of the complaints in these spreadsheets
12:06:32 17 do you think your office has investigated, meaning, gone
12:06:35 18 beyond the initial assessment phase?

12:06:40 19 A. Given my lack of really detailed knowledge of
12:06:51 20 these particular spreadsheets, that's a very difficult
12:06:54 21 thing for me to answer. My assumption would be that we
12:07:00 22 investigated quite a few of them. I just -- but without
12:07:07 23 that intimate knowledge, I'm not -- I'm not comfortable
12:07:10 24 saying that.

12:07:11 25 Q. Beyond you, who else has been responsible for

12:07:13 1 investigating referrals made to the Election Integrity Unit
12:07:18 2 portal?

12:07:20 3 A. Well, the -- these -- the election integrity
12:07:32 4 spreadsheets that come into the portal were distributed by
12:07:39 5 Jen Wright, so some of these referrals I may not have ever
12:07:46 6 even known existed. That's where I'm having the difficulty
12:07:49 7 answering the question, if that makes sense.

12:07:51 8 Q. Was Ms. Wright responsible for making the initial
12:07:54 9 credibility assessment?

12:07:58 10 A. I don't know if "responsible" is fair. It did
12:08:04 11 occur.

12:08:06 12 Q. When you say "it did occur," does that mean she
12:08:11 13 always sort of made the initial determination or she
12:08:14 14 sometimes did?

12:08:15 15 A. Sometimes

12:08:17 16 Q. Who else would sometimes make that initial
12:08:21 17 determination?

12:08:22 18 A. The -- if it -- if it were forwarded to criminal
12:08:29 19 investigations, it would have gone through the pipeline
12:08:32 20 that consisted of Attorney Todd Lawson and myself.

12:08:36 21 Q. So beyond Jen Wright, yourself, and perhaps
12:08:42 22 Mr. Lawson, were there any other individuals responsible
12:08:45 23 for making an initial assessment with respect to the
12:08:49 24 credibility of any referrals through the portal?

12:08:52 25 A. No. Well, no, not through the portal. I'm sorry.

12:08:58 1 I apologize.

12:08:58 2 Q. So the referrals in these spreadsheets from the

12:09:00 3 portal that we've been discussing, the initial

12:09:02 4 credibility -- the initial credibility assessment for them

12:09:06 5 would have been made by one of you, Ms. Wright, or

12:09:09 6 Mr. Lawson?

12:09:09 7 A. I believe that's accurate to say, yes.

12:09:13 8 Q. Is it your understanding that Ms. Wright sometimes

12:09:19 9 would not refer on complaints to you and Mr. Lawson?

12:09:24 10 A. That's my belief.

12:09:26 11 Q. Do you know how often she chose to refer or hold

12:09:30 12 back a complaint from the portal to you and Mr. Lawson?

12:09:33 13 A. I -- I don't have an understanding of that.

12:09:37 14 Q. Do you know how many of the complaints in these

12:09:40 15 spreadsheets ultimately resulted in a prosecution?

12:09:44 16 A. I -- I could not accurately answer that.

12:09:48 17 Q. Do you have an estimate?

12:09:49 18 A. Well, again, I'd have to go back to the fact that

12:09:52 19 this spreadsheet is not something I'm -- it wasn't

12:09:58 20 something I had involvement in, so it's really hard for me

12:10:02 21 to say how many --

12:10:03 22 Q. Let me -- let me ask it at a different angle then.

12:10:05 23 How many election-related prosecutions are

12:10:07 24 you aware of from your office since the creation of the

12:10:11 25 portal approximately?

12:10:15 1 A. I mean, I know the figure -- I know the figure is
12:10:27 2 out there somewhere. I don't know it by -- I don't have it
12:10:31 3 ingrained to memory.

12:10:32 4 Q. I'm not asking --

12:10:33 5 A. I'm going to put it somewhere around 100.

12:10:35 6 Q. Okay.

12:10:39 7 MR. WHITAKER: Just for scope, I want to
12:10:41 8 reiterate that we have Todd Lawson as the designee.

12:10:44 9 MR. DODGE: I appreciate that. And I'll ask
12:10:45 10 Mr. Lawson these questions as well.

12:10:47 11 BY MR. DODGE:

12:10:48 12 Q. So your -- your best guess is that there are
12:10:51 13 around 100 prosecutions since the creation of the Election
12:10:56 14 Integrity Unit --

12:10:56 15 A. If I had to guess.

12:10:57 16 Q. -- best guess?

12:10:59 17 And you agree there are thousands of entries
12:11:00 18 in the spreadsheets we've looked at; correct?

12:11:03 19 A. True.

12:11:07 20 Q. Are you aware of any -- are you aware of whether
12:11:10 21 any of the referrals to the intake portal that resulted in
12:11:15 22 a prosecution concerned allegations of illegal registration
12:11:19 23 or voting by a noncitizen?

12:11:25 24 A. I'd have to answer that kind of back where I was
12:11:28 25 before; that we -- I do know of a couple of cases. I just

12:11:33 1 don't know if their scope was within the time of the
12:11:36 2 portal. So that's -- I can't really accurately say.

12:11:39 3 Q. Okay. So your -- your testimony is that you're
12:11:40 4 aware of a couple prosecutions involving allegations of
12:11:46 5 registration and voting by noncitizens, but you're not sure
12:11:49 6 if they came from the portal?

12:11:50 7 A. Correct. That's fair.

12:11:53 8 Q. Of the prosecution you're aware of, do you know if
12:11:56 9 any concerned allegations of illegal registration or voting
12:12:02 10 by a nonresident, using your understanding of the term?

12:12:08 11 A. I -- I don't know.

12:12:23 12 MR. DODGE: For the record, I'm going to stop
12:12:24 13 sharing my screen and put these documents aside for a
12:12:27 14 moment.

12:12:32 15 Can you folks still hear me remotely?

12:12:39 16 MR. LANGHOFER: Yes.

12:12:41 17 BY MR. DODGE:

12:12:42 18 Q. I'm going to hand you what will be marked as

12:12:44 19 Exhibit 217, which is in the Dropbox at Number 15.

12:12:44 20 (The document was marked as Exhibit 217

12:12:50 21 for identification.)

12:12:50 22 BY MR. DODGE:

12:12:53 23 Q. Can you tell me what this document is?

12:12:55 24 A. This looks like a complaint form that probably

12:13:01 25 would have been generated from our online complaint entity.

12:13:07 1 Q. When you say "online complaint entity," are you
12:13:09 2 referring to the portal?

12:13:11 3 A. My -- my knowledge of how the system works is not
12:13:19 4 fantastic, but I -- this could be through the -- the
12:13:25 5 general complaints where the duty agents would -- would be
12:13:30 6 involved.

12:13:31 7 Q. But this is a standard intake form?

12:13:33 8 A. It appears to be.

12:13:34 9 Q. And you're just not sure if it is a standard form
12:13:37 10 for the portal or a standard form that --

12:13:41 11 A. I --

12:13:41 12 Q. -- that a duty agent might complete when they
12:13:45 13 receive information?

12:13:45 14 A. My -- my belief would be that this came through
12:13:49 15 the duty agent route. Mainly, I say that because I'm not
12:13:54 16 aware that there's an actual form associated with the
12:13:56 17 online -- the EIU portal. But that -- I could be wrong on
12:14:00 18 that, but I'm not aware of a specific form.

12:14:02 19 Q. How are complaints in the portal stored?

12:14:09 20 A. That is a much better-suited question for an IT
12:14:16 21 person with the agency. I believe it goes into some sort
12:14:18 22 of a database or something.

12:14:19 23 Q. If you wanted to review a complaint made through
12:14:21 24 the portal and you wanted to call up a particular EIU
12:14:25 25 number, how would you go about doing that?

12:14:27 1 A. I would have not been able to look something
12:14:30 2 directly into the -- wherever the portal complaints came
12:14:33 3 in. I would not have access to that.
12:14:35 4 Q. So you would only have access to that information
12:14:37 5 if Ms. Wright chose to forward it to you?
12:14:40 6 A. Correct.
12:14:40 7 Q. And when she forwarded you that information, what
12:14:46 8 kinds of information were included when she forwarded the
12:14:49 9 referral?
12:14:49 10 A. Generally, it was the -- generally, it was the
12:14:58 11 duplication of the form that's filled out on the -- via the
12:15:03 12 portal, the -- you know, it's -- when you go in there and
12:15:07 13 make a complaint, it gives you a standardized form to fill
12:15:10 14 out the blanks or whatever. So usually, she would include
12:15:15 15 that, whatever that was -- was received.
12:15:19 16 Q. And complaints she didn't forward to you, do you
12:15:22 17 know if that information was saved anywhere?
12:15:24 18 A. I don't know.
12:15:26 19 Q. Returning to Exhibit 217, you said this appears to
12:15:31 20 be a standard duty agent intake form; is that right?
12:15:35 21 A. I -- it could be duty agent. It could be -- it's
12:15:39 22 an intake form, though. It's a complaint form.
12:15:42 23 Q. This complaint form appears to indicate that the
12:15:45 24 complaint was submitted anonymously; is that right?
12:15:48 25 A. Yes.

12:15:53 1 Q. In your experience, are many of the complaints
12:15:58 2 made to the Election Integrity Unit made anonymously?
12:16:03 3 A. It's not uncommon.
12:16:06 4 Q. Would you say most are submitted anonymously?
12:16:09 5 A. I wouldn't say most are.
12:16:11 6 Q. Substantial number?
12:16:14 7 A. Yeah, I guess that's -- I guess that's fair.
12:16:18 8 Q. Does whether a complaint is made anonymously
12:16:21 9 impact your assessment of its credibility?
12:16:24 10 A. Not at face value. I -- I would be remiss to say
12:16:28 11 that it doesn't make it harder.
12:16:31 12 Q. But it doesn't, in your opinion, bear on
12:16:34 13 credibility?
12:16:34 14 A. No, not right away.
12:16:36 15 Q. Does your office follow up on anonymous
12:16:40 16 complaints?
12:16:41 17 A. If we have enough information to do so.
12:16:43 18 Q. Do any anonymous complaints reach the
12:16:46 19 investigation stage?
12:16:49 20 A. I'm sure they do. I can't tell you for sure.
12:16:53 21 Q. Looking about halfway down this document where it
12:16:57 22 says, "Complaint details," the document says, "This person
12:17:04 23 brags about being illegal and being registered to vote in
12:17:07 24 Maricopa County. He voted in last year's national
12:17:09 25 election."

12:17:10 1 Did I read that correctly?

12:17:11 2 A. Yes.

12:17:11 3 Q. And I'll note that portions of this document are

12:17:14 4 redacted, including potentially the individual's name.

12:17:18 5 This form appears to indicate that the

12:17:22 6 complaint was not reported to a law enforcement agency. Do

12:17:26 7 I have that correct?

12:17:28 8 A. Yes.

12:17:30 9 Q. What does that mean exactly?

12:17:32 10 A. That -- that's a section that is -- occasionally,

12:17:39 11 from -- from time to time, somebody will make the same

12:17:45 12 complaint, if you will, to a sheriff's department and to

12:17:50 13 us. That would be where it would be noted that it was also

12:17:53 14 documented under Maricopa County Sheriff's Office number

12:17:56 15 blah, blah, blah.

12:18:02 16 Q. Do you know if your office ever made a credibility

12:18:05 17 determination with respect to this complaint?

12:18:10 18 A. I believe that this was handled at the duty agent

12:18:18 19 level, if I'm considering the right document.

12:18:22 20 Q. How do you know that?

12:18:25 21 A. Because I reviewed -- I've reviewed the case.

12:18:32 22 Q. When you say "handled at the duty agent level,"

12:18:34 23 what does that mean?

12:18:36 24 A. Means that they made a -- they did an initial

12:18:41 25 evaluation and found that there was no -- there was

12:18:44 1 something in -- there was something in the way of creating

12:18:49 2 an actual case number for this.

12:18:51 3 Q. Is there anything on this document that indicates

12:18:54 4 that the duty agent resolved this complaint?

12:18:58 5 A. No, not on here, there aren't.

12:19:00 6 Q. So you base that just based on your own

12:19:02 7 familiarity with this individual case?

12:19:04 8 A. Well, and the way the -- the process in which the

12:19:08 9 duty agents do things.

12:19:10 10 Q. Can you tell me what that -- what do you mean by

12:19:11 11 that?

12:19:11 12 A. I mean, that they -- he -- the duty agent did an

12:19:15 13 initial evaluation and determined that there was -- it

12:19:18 14 didn't need to be forwarded to anybody to create an actual

12:19:22 15 case.

12:19:24 16 Q. Okay. I'm going to hand you now what will be

12:19:31 17 marked Exhibit 218, which is Number 16 in the Dropbox.

12:19:31 18 (The document was marked as Exhibit 218

12:19:40 19 for identification.)

12:19:40 20 BY MR. DODGE:

12:19:44 21 Q. Can you tell me what this document is?

12:19:46 22 A. It's an attorney -- well, the top is Attorney

12:19:54 23 General's Office investigations case opening form.

12:19:56 24 Q. Is this a standard form in your office?

12:19:58 25 A. Yes.

12:19:59 1 Q. What is this form used for?

12:20:02 2 A. When a -- when a complaint is -- is turned into an

12:20:07 3 actual case, then this form is generated.

12:20:11 4 Q. When you say "an actual case," you mean once it

12:20:14 5 sort of moved past the credibility determination phase into

12:20:17 6 the investigation phase?

12:20:17 7 A. Correct.

12:20:18 8 Q. And looking about halfway down the front page of

12:20:20 9 this document, it looks like you were the agent assigned to

12:20:23 10 this case; correct?

12:20:24 11 A. That's what it says.

12:20:25 12 Q. Do you recall this particular case?

12:20:28 13 A. Yes.

12:20:35 14 Q. Can you turn to the third page of this document.

12:20:49 15 A. Third, yes.

12:20:54 16 Q. About halfway down the page it says, "Office of

12:20:57 17 Arizona Attorney General Mark Brnovich Election Complaint

12:21:01 18 Form." Do you see that?

12:21:01 19 A. Yes.

12:21:02 20 Q. Can you tell me what an election complaint form

12:21:04 21 it?

12:21:06 22 A. This would have come in through the portal and

12:21:09 23 filled out electronically.

12:21:12 24 Q. I see.

12:21:13 25 Is this something the portal generates

12:21:15 1 automatically based on the inputs a referring person makes?

12:21:19 2 A. That's my understanding. Again, I'm not the IT

12:21:23 3 person but --

12:21:23 4 Q. So this is a form you would have received from

12:21:25 5 Ms. Wright when she chose to pass on a referral?

12:21:28 6 A. Appears to be, yes.

12:21:31 7 Q. Can you look at the next page of this document.

12:21:49 8 And at the top it says, "State, in your own

12:21:52 9 words, what exactly transpired; specifically, when and

12:21:55 10 where did the events take place?" so forth.

12:21:58 11 Do you see that?

12:21:58 12 A. Yes, I do.

12:21:59 13 Q. And then in response, this complaining individual

12:22:01 14 wrote, "I witnessed this person fill out and sign an

12:22:03 15 election ballot last year in the general election of 2020.

12:22:06 16 I know for a fact that he is an illegal undocumented

12:22:08 17 alien."

12:22:09 18 Did I read that correctly?

12:22:09 19 A. You did.

12:22:10 20 Q. And going back to the prior page and maybe the

12:22:21 21 bottom of the page right before that, it looks like on

12:22:24 22 January 5th, 2022, Jennifer Wright referred this complaint

12:22:28 23 to Mr. Lawson. Do you see that?

12:22:31 24 A. Oh, January 5th, 2022. Yes, I see that.

12:22:35 25 Q. And then going back to the second page, Mr. Lawson

12:22:43 1 emails you and asks you to conduct an initial review of the

12:22:46 2 complaint. "If you find it to have merit, can you please

12:22:49 3 open an investigation? Thanks."

12:22:51 4 Did I get that correct?

12:22:52 5 A. You did.

12:22:52 6 Q. And then right above that, you write, "Todd, there

12:22:57 7 is no evidence to support the allegation that [name

12:23:00 8 redacted] is not a U.S. citizen. Thanks, Bill."

12:23:03 9 Did I get that right?

12:23:04 10 A. Yeah.

12:23:05 11 Q. What steps did you take to determine that this

12:23:08 12 individual was a U.S. citizen?

12:23:10 13 A. It's incorporated in the first page of this

12:23:13 14 document. It was -- I researched the individual. I

12:23:25 15 initially determined that he had a steady residence and a

12:23:30 16 steady employment in Arizona for many, many years prior.

12:23:33 17 He did have a valid driver's license.

12:23:36 18 I then followed up by contacting the Social

12:23:41 19 Security Administration and verif- -- verifying that the

12:23:43 20 Social Security number was related to that subject, and all

12:23:51 21 of those things were the case.

12:23:53 22 Q. And those are ordinary investigative steps you

12:23:56 23 take for a claim like this?

12:23:58 24 A. It is.

12:23:59 25 Q. Turning back to the second page, Mr. Lawson

12:24:01 1 responds to your email and says, "Ok. Can you please do an

12:24:04 2 open/close in SIS to document the complaint? I will remove

12:24:09 3 it from my coming-to-FSP tracking list. Thanks, T."

12:24:12 4 Did I get that right?

12:24:12 5 A. Yes.

12:24:14 6 Q. Can you tell me what SIS stands for?

12:24:18 7 A. Special Investigations Section.

12:24:19 8 Q. That's part of the Criminal Division at the

12:24:22 9 Attorney General's Office?

12:24:22 10 A. Yes.

12:24:22 11 Q. And how does the Election Integrity Unit relate to

12:24:25 12 SIS?

12:24:27 13 A. It's just a subpart, I guess is the best way to

12:24:30 14 say it.

12:24:31 15 Q. What is an open-close?

12:24:34 16 A. We use an open/close as a -- it's mostly a

12:24:43 17 tracking tool. It's more -- it's more easily tracked

12:24:49 18 and -- and serves better than just having a complaint

12:24:53 19 number. So that's the reason that -- like we talked about

12:24:56 20 the case opening form, that case opening form generates

12:24:59 21 that SIS number, and that's far easier to track.

12:25:04 22 And so even though I did an initial

12:25:06 23 investigation and found this -- that there wasn't anything

12:25:08 24 I could work with here, I wanted it to be able to be

12:25:11 25 documented statistically for future reference, so the SIS

12:25:16 1 number was created for better document tracking or
12:25:19 2 documentation.
12:25:20 3 Q. You ultimately determined that the allegation in
12:25:23 4 this complaint form was baseless; correct?
12:25:25 5 A. Yes.
12:25:26 6 Q. Are there instances where a claim is baseless
12:25:29 7 where you would not record a complaint using an open/close?
12:25:36 8 A. I -- honestly, I'm sure that it happens. It's my
12:25:40 9 practice to always do an open/close for tracking purposes.
12:25:45 10 I've made a habit out of it for several, several years.
12:25:48 11 Q. Even when the claim lacks merit?
12:25:48 12 A. Yes.
12:25:51 13 Q. What does Mr. Lawson mean when he says "my
12:25:54 14 coming-to-FSP tracking list"?
12:25:57 15 A. FSP is the -- the best way I can describe it is
12:26:06 16 the attorney's side of criminal investigations. So fraud
12:26:08 17 and special prosecutions is what that stands for. So he's
12:26:12 18 just saying, "I'm going to take it off" -- "I'm not going
12:26:15 19 to clutter myself, expecting this to come to me as a case,
12:26:19 20 because I know you're going to close it."
12:26:21 21 Q. Got it.
12:26:24 22 MR. DODGE: Why don't we go off the record.
12:26:26 23 THE VIDEOGRAPHER: We are off the record.
12:26:28 24 Time on the video monitor is 12:26 p.m.
12:26:33 25 (A recess ensued.)

12:32:52 1 THE VIDEOGRAPHER: We are on the record.

12:37:30 2 Time on the video monitor is 12:37 p.m.

12:37:34 3 BY MR. DODGE:

12:37:36 4 Q. Mr. Knuth, you testified earlier that you believe

12:37:40 5 the Election Integrity Unit had investigated most of the

12:37:47 6 referrals listed on Exhibits 215 and 216; correct?

12:37:51 7 A. I think I had some reservation in that answer

12:37:57 8 because I'm not really familiar with that spreadsheet.

12:37:59 9 It's not something that I had much to do with. My

12:38:03 10 assumption would be that, yeah, we investigated quite a few

12:38:06 11 of those.

12:38:07 12 Q. And you didn't have access to that spreadsheet in

12:38:10 13 part because referrals through the portal didn't come

12:38:14 14 directly to you; right?

12:38:15 15 A. Right.

12:38:16 16 Q. So you only received intake portal referrals that

12:38:20 17 were passed along by Ms. Wright?

12:38:23 18 A. Yes.

12:38:24 19 Q. And you're not sure how often Ms. Wright made the

12:38:27 20 determination to pass on a referral or to not pass it on;

12:38:31 21 right?

12:38:31 22 A. Right. I have no idea.

12:38:32 23 Q. Do you have a rough sense of how many referrals

12:38:34 24 Ms. Wright did pass on to you or Mr. Lawson when she was

12:38:39 25 responsible for overseeing the portal?

12:38:42 1 A. Man, I -- I would really, really be guessing at a

12:38:50 2 number there. It's a large number.

12:38:51 3 Q. Hundreds?

12:38:52 4 A. Yeah, I would say that's fair to say.

12:38:54 5 Q. Maybe thousands? More like hundreds?

12:38:59 6 A. It could be in the thousands.

12:38:59 7 Q. Low thousands maybe?

12:39:02 8 A. Yeah. I'll -- I mean, that's probably fairly

12:39:05 9 close.

12:39:06 10 Q. And so when you say that your office investigated

12:39:09 11 a majority of those referrals, are you referring

12:39:12 12 specifically to the ones that were passed on to you by

12:39:15 13 Ms. Wright?

12:39:17 14 A. Yes.

12:39:18 15 Q. So not necessarily --

12:39:19 16 A. Well, yes. Yes.

12:39:20 17 Q. So not necessarily every single thing that was

12:39:23 18 ever put in the portal ever; correct?

12:39:25 19 A. No. Yeah, I guess, that's fair to say.

12:39:28 20 MR. DODGE: Okay. I'm going to pass to

12:39:31 21 Mr. Herrera.

12:39:52 22 MR. HERRERA: Thank you for bearing with us

12:39:53 23 as we switch out seats.

12:39:54 24 THE WITNESS: No worries.

12:39:54 25 EXAMINATION

12:39:55 1 BY MR. HERRERA:

12:39:55 2 Q. Mr. Knuth, my name is Ernest Herrera, and I'm an
12:39:59 3 attorney for the group known as the Promise Arizona
12:40:01 4 plaintiffs. I just have a few questions for you.

12:40:06 5 You have a -- obviously, you have a law
12:40:18 6 enforcement background, as you discussed earlier; right?

12:40:19 7 A. Yes.

12:40:20 8 Q. Okay. Does the Attorney General's Office ever
12:40:25 9 work with county recorders' offices on election
12:40:30 10 investigations, including fraud investigations?

12:40:33 11 A. I guess for clarity, are you talking about working
12:40:38 12 in concert with one another, like a joint investigation?

12:40:42 13 Q. Either that or something like getting information
12:40:48 14 from the county recorder's office.

12:40:49 15 A. Yeah, that happens frequently.

12:40:51 16 Q. Okay.

12:40:51 17 A. We -- yes, we get referrals from recorders'
12:40:55 18 offices frequently.

12:40:56 19 Q. Now, do you ever, as part of your investigation,
12:40:58 20 go and talk with the county recorders' offices to get more
12:41:02 21 information?

12:41:03 22 A. Sure.

12:41:04 23 Q. Do you have regular meetings with county
12:41:09 24 recorders' offices on things like detecting fraud?

12:41:15 25 A. No. I will qualify that by saying I have had that

12:41:21 1 sort of contact with one of the counties in the state so
12:41:24 2 far, and it's a plan to incorporate that in the future.

12:41:27 3 Q. Okay. I see.

12:41:28 4 So what's -- what's that plan to incorporate
12:41:30 5 that in the future?

12:41:31 6 A. It's just a -- it's a -- we'll call it a goal.
12:41:36 7 It's a goal of the agency to have more outreach with the
12:41:44 8 county recorders' offices across the state.

12:41:46 9 Q. And --

12:41:47 10 A. Just communication basically.

12:41:48 11 Q. Can you say what -- which county that is?

12:41:51 12 A. That I've already done this in?

12:41:53 13 Q. Yes.

12:41:54 14 A. Apache.

12:41:55 15 Q. And with Apache County, would it be helping them
12:41:57 16 set up something like their own election integrity unit
12:42:01 17 or -- or something else?

12:42:01 18 A. No. No. It's really more of a -- it's more of a
12:42:09 19 familiarization, building lines of communication. It's
12:42:15 20 almost like a review for a test in school. We just go in
12:42:19 21 and we go through election law and election procedures and
12:42:22 22 say, "Hey, are we all on the same page here? Is everybody
12:42:26 23 doing what they're supposed to be doing?" That kind of
12:42:27 24 thing. It's very informal.

12:42:28 25 Q. I see.

12:42:29 1 That kind of relates to my next question,
12:42:31 2 which is: Does -- have you or has your office ever
12:42:37 3 conducted a training for county recorder personnel on how
12:42:41 4 to detect or investigate potential voter fraud?

12:42:45 5 A. To my knowledge, that hasn't happened. And also
12:42:47 6 to my knowledge, I believe that's under the scope of the
12:42:49 7 Secretary of State's Office, so I don't know if we would be
12:42:52 8 allowed to.

12:42:52 9 Q. Okay. And that probably answers my next question,
12:42:58 10 which is: Does your office or do you plan to conduct any
12:43:01 11 trainings on detecting or investigating potential voter
12:43:05 12 fraud with the county recorders?

12:43:08 13 A. I would say that I -- because I'm -- I don't
12:43:13 14 believe that we would have the jurisdiction to do that --
12:43:16 15 it would be something I would love to do, but I don't know
12:43:18 16 that we would be able to. And it -- it loosely may come up
12:43:22 17 in conversation if I do indeed get to go visit the counties
12:43:26 18 and talk to them all. I mean, it would be very informal,
12:43:30 19 though.

12:43:31 20 Q. However, you haven't had any discussion --

12:43:33 21 A. I haven't.

12:43:34 22 Q. -- about doing a training like that; right?

12:43:36 23 A. No.

12:43:36 24 Q. Okay. In your background as a law enforcement
12:43:39 25 official or officer, do you have to familiarize -- or did

12:43:43 1 you have to familiarize yourself with language of statutes?

12:43:47 2 A. Yes.

12:43:47 3 Q. And did you have to familiarize yourself with
12:43:52 4 language of case law, like legal case law?

12:43:57 5 A. A little bit. Not as much as statutes, but a
12:43:59 6 little, yes.

12:44:00 7 Q. Okay. I have family in law enforcement. I know
12:44:04 8 they do kind of a rudimentary Fourth Amendment training;
12:44:07 9 right? So anything like that?

12:44:09 10 A. Yeah, that would be fair.

12:44:10 11 Q. Okay. Now, a little while ago you had something
12:44:16 12 in front of you that -- Exhibit 21 -- and it was the House
12:44:21 13 Bill 2243. Can you -- not to make you go on a scavenger
12:44:24 14 hunt. Can you pull that up?

12:44:26 15 A. Yeah.

12:44:28 16 Q. So earlier we were looking at section --

12:44:35 17 Subsection (A) (10) of the amended 16-165. So in that

12:44:43 18 document you have there, Exhibit 21, it should be on

12:44:46 19 page --

12:44:50 20 A. Four?

12:44:51 21 Q. Yes. Four.

12:44:53 22 A. Okay.

12:44:54 23 Q. Thanks.

12:44:55 24 A. I'm there.

12:44:55 25 Q. Okay. So earlier Mr. -- Mr. Dodge was reading

12:45:01 1 through with you some of the language, and you saw the
12:45:03 2 language at the end that said, "The county recorder shall
12:45:08 3 cancel the registration and notify the county attorney and
12:45:11 4 attorney general for possible investigation."

12:45:14 5 Do you recall that?

12:45:14 6 A. Yes.

12:45:15 7 Q. Now, around that time in your testimony -- and
12:45:19 8 correct me if I'm wrong -- I believe you referred to -- and
12:45:24 9 it may have been about something else, but you referred to
12:45:26 10 something as "vague" or seeming vague. Do you recall that?

12:45:30 11 A. I remember asking for clarification because
12:45:34 12 something was vague, but I can't tell you what it was
12:45:36 13 about.

12:45:36 14 Q. Was it about one of our -- one of the questions of
12:45:39 15 the plaintiffs or something else or --

12:45:41 16 A. I believe so.

12:45:42 17 Q. Okay.

12:45:43 18 A. I don't remember.

12:45:44 19 Q. We'll move on.

12:45:46 20 So looking at this A(10), as you can see, at
12:45:54 21 the top, it says, "When the county recorder obtains
12:46:00 22 information pursuant to this section."

12:46:02 23 Do you see that?

12:46:02 24 A. Yes, I do.

12:46:03 25 Q. Okay. So now I'm going to -- if you go down to

12:46:08 1 the -- page 6 of the bill, which is the seventh page of
12:46:14 2 this Exhibit 21, do you see section -- you'll see a
12:46:19 3 Subsection H. It's about line 6 on page 6.
12:46:29 4 A. On page 6. If I can get the pages apart. Yes,
12:46:38 5 now I do.
12:46:38 6 Q. So do you see the section that says H?
12:46:43 7 A. Yes.
12:46:43 8 Q. Okay. Can you take a minute to read that one to
12:46:47 9 yourself, that Section H.
12:46:51 10 A. Okay.
12:47:07 11 Q. Okay. And have you ever read this part of HB 2243
12:47:13 12 before?
12:47:14 13 A. I reviewed all the documents so -- I didn't commit
12:47:17 14 them to memory, but I've reviewed everything here.
12:47:19 15 Q. Okay. And do you know what the Systematic Alien
12:47:27 16 Verification for Entitlements program is?
12:47:30 17 A. I have heard it referenced. I believe it's --
12:47:33 18 it's referred to as SAVE. I don't know much about it.
12:47:37 19 Q. Okay. And do you ever use SAVE in your -- as part
12:47:41 20 of your investigations?
12:47:42 21 A. No. My understanding is that we don't have access
12:47:45 22 to such a system.
12:47:46 23 Q. And by "we," you mean the AG's office?
12:47:49 24 A. Yes.
12:47:51 25 Q. And do you see the third line in that Subsection H

12:47:57 1 in -- on page 6 of Exhibit 21 where it says, "Who the
12:48:02 2 county recorder has reason to believe are not United States
12:48:05 3 citizens"?

12:48:07 4 A. Yes, I see that.

12:48:08 5 Q. Okay. Does the phrase "reason to believe" seem
12:48:14 6 familiar to you from any other context?

12:48:24 7 A. I mean, I -- obviously, I'm familiar with the
12:48:27 8 statement "reason to believe." I don't know if I
12:48:27 9 understand what your question is, though.

12:48:29 10 Q. I mean, have you -- have you seen it before --
12:48:32 11 elsewhere in the criminal law context?

12:48:39 12 A. I mean, "reason to believe" is -- I mean, that's
12:48:46 13 pretty generic. If you were asking me, you know, like,
12:48:48 14 reasonable doubt, that would be something I'd be more apt
12:48:52 15 to say, "Oh, yeah, I see that in law -- you know, law all
12:48:55 16 the time." But "reason to believe" is just kind of broad
12:48:59 17 and vague, you know. It's common. So I don't know. I
12:49:02 18 don't know that I'd say I see it frequently or anything.

12:49:05 19 Q. I see.

12:49:06 20 And by "vague," what do you mean by that?

12:49:08 21 A. That was a bad choice of words. It's just a
12:49:12 22 very -- it's just a very basic statement. I mean, to me --
12:49:16 23 to me, "reason to believe" is used frequently in all kinds
12:49:21 24 of context.

12:49:23 25 Q. And so it's -- it's not exactly, for example,

12:49:30 1 something you would have seen for -- in reasonable
12:49:35 2 suspicion or probable cause standard; right?
12:49:38 3 A. Yeah, I don't put it --
12:49:38 4 MR. WHITAKER: Calls for a legal conclusion.
12:49:39 5 THE WITNESS: Sorry. I don't put it in the
12:49:43 6 same box as that, to me.
12:49:45 7 BY MR. HERRERA:
12:49:45 8 Q. Okay.
12:49:45 9 A. I guess that's the best way I can say it.
12:49:50 10 Q. And has the Election Integrity Unit done any
12:49:59 11 training with county recorder personnel on what "reason to
12:50:03 12 believe" means in the context of this part of 2243 that we
12:50:07 13 just looked at?
12:50:08 14 A. No.
12:50:10 15 MR. HERRERA: Okay. I think those are all my
12:50:12 16 questions. Are we going off the record now for --
12:50:21 17 MR. DODGE: Do you want to see if any other
12:50:22 18 plaintiffs have questions?
12:50:24 19 MR. HERRERA: Oh, yeah.
12:50:24 20 MR. WHITAKER: And maybe also defendants
12:50:26 21 because -- because if Bill's going to go, we should
12:50:28 22 probably do that.
12:50:31 23 So first, any other plaintiffs want to ask
12:50:34 24 Mr. Knuth questions? Can the other plaintiffs hear us
12:50:44 25 still?

12:50:52 1 MR. DODGE: In the interest of efficiency,
12:50:54 2 anyone with questions for Mr. Knuth should ask them now
12:50:56 3 while he's here with us. If any other plaintiff groups
12:50:59 4 have questions for him on the topics he's spoken to, can
12:51:03 5 you indicate that now, please?

12:51:20 6 Hearing nothing from plaintiffs' counsel, I
12:51:22 7 guess we'll see if any defendants want to redirect with
12:51:25 8 Mr. Knuth now.

12:51:29 9 MR. LANGHOFER: This is Kory Langhofer for
12:51:30 10 the RNC. I have a couple questions, but it -- I imagine
12:51:34 11 that the AG's office probably has some. And their
12:51:38 12 questioning would be more organized since they've met with
12:51:40 13 the witness. Perhaps I should go after them if that's all
12:51:43 14 right with everyone.

12:51:43 15 MR. DODGE: That makes sense to me.

12:51:46 16 MR. WHITAKER: That's fine. I just had a
12:51:47 17 couple clarifying ones. So I guess I'll go if no one
12:51:47 18 objects.

12:51:47 19

12:51:51 20 EXAMINATION

12:51:51 21 BY MR. WHITAKER:

12:51:53 22 Q. Mr. Knuth, I believe you testified earlier that
12:51:56 23 you thought the intake portal may have been removed from
12:52:00 24 the website. Are you positive about that?

12:52:03 25 A. No. I actually had an opportunity to take a look,

12:52:09 1 and we -- we did have a meeting suggesting that it was
12:52:12 2 going to be removed, but apparently it is still there.

12:52:15 3 Q. Okay. So the way -- the best way to find out
12:52:18 4 whether the intake portal has been removed is to go on our
12:52:22 5 website. Is that fair?

12:52:23 6 A. Yes.

12:52:23 7 Q. And I think this was clear earlier, but I want to
12:52:29 8 make sure.

12:52:30 9 Are you aware of specific plans the office
12:52:33 10 has to investigate referrals -- referrals under the
12:52:36 11 challenged laws apart from just general investigative
12:52:39 12 practices?

12:52:40 13 A. No, I'm not.

12:52:45 14 MR. WHITAKER: That's really all the
12:52:46 15 clarifications I have.

12:52:47 16 So, Mr. Langhofer, over to you.

12:52:52 17 MR. LANGHOFER: Thanks, Josh.

12:52:52 18

12:52:52 19 EXAMINATION

12:52:52 20 BY MR. LANGHOFER:

12:52:58 21 Q. My name is Kory Langhofer, and I represent the
12:53:00 22 Republican National Committee. I have just a handful of
12:53:03 23 questions for you. I don't think it will take very long at
12:53:03 24 all.

12:53:06 25 Could you clarify the difference between

12:53:09 1 investigations in which you conclude there's a credible
12:53:14 2 complaint or credible allegation and ones in which someone
12:53:18 3 is eventually prosecuted?

12:53:26 4 A. I don't know if I understood. From what you're
12:53:28 5 asking, I think one leads to the other.

12:53:33 6 You're -- you're asking about when we
12:53:35 7 determine that a case has validity and needs to be
12:53:39 8 investigated and when a case would lead to prosecution? Do
12:53:45 9 I understand that correct?

12:53:46 10 Q. Well, the -- I think that, if I understand your
12:53:50 11 earlier testimony, when a complaint comes in through the
12:53:54 12 portal, for example, you first do an assessment to
12:53:57 13 determine whether it's credible and worth more time for an
12:54:01 14 investigation. Am I remembering that correctly?

12:54:04 15 MR. DODGE: Objection; form.

12:54:06 16 THE WITNESS: If it -- yeah, we're
12:54:09 17 determining if it -- if it's a viable case and it looks
12:54:11 18 like it has some merit to it.

12:54:13 19 BY MR. LANGHOFER:

12:54:15 20 Q. But that's different from a decision about whether
12:54:17 21 to prosecute; correct?

12:54:18 22 A. Yes. Absolutely.

12:54:19 23 Q. Okay. Can you talk about what -- what's left to
12:54:25 24 do after you determine it's a credible allegation until you
12:54:28 25 get to the point of deciding to prosecute?

12:54:31 1 A. Well, it's certainly case-by-case, so I'll -- in a
12:54:37 2 kind of generic form, once it's determined that there's the
12:54:44 3 validity to it and it's -- it can be investigated, all of
12:54:50 4 the investigative tools are used to get as much information
12:54:54 5 as we can to determine if indeed we have probable cause to
12:55:01 6 believe a crime has been committed. And if we do, at that
12:55:04 7 time, we forward it for potential prosecution.

12:55:07 8 Q. Is every case in which you believe the complaint
12:55:13 9 is credible ultimately prosecuted?

12:55:16 10 A. No.

12:55:18 11 Q. How many of the credible complaints do you think
12:55:21 12 result in prosecution?

12:55:29 13 MR. DODGE: Objection; foundation.

12:55:34 14 THE WITNESS: That's a very difficult
12:55:36 15 question to answer. I -- I think that there are probably
12:55:48 16 more cases that we do investigations on that end up not
12:55:56 17 satisfying what we believe we need for prosecution. But I
12:56:01 18 can't tell you, you know, if it's half and half or less.
12:56:04 19 It's -- you know, it's just a really difficult question to
12:56:08 20 answer, honestly.

12:56:10 21 BY MR. LANGHOFER:

12:56:11 22 Q. So if your office determines -- what's the
12:56:17 23 standard of proof for a criminal conviction?

12:56:22 24 A. We need to establish that -- excuse me --
12:56:25 25 establish that there's probable cause to -- to charge

12:56:28 1 somebody with a crime.

12:56:30 2 Q. And then in order for them to be convicted, it has
12:56:33 3 to be proven beyond a reasonable doubt; correct?

12:56:36 4 MR. DODGE: Objection; foundation. Calls for
12:56:37 5 a legal conclusion.

12:56:38 6 THE WITNESS: That's my understanding.

12:56:40 7 BY MR. LANGHOFER:

12:56:43 8 Q. Does your office bring all the cases for which it
12:56:46 9 has probable cause, or does it only bring the cases that it
12:56:49 10 believes it can prove beyond a reasonable doubt?

12:56:53 11 MR. DODGE: Objection; foundation.

12:56:56 12 THE WITNESS: I can -- I can speak for
12:56:58 13 myself, as an investigator, that if I believe there's
12:57:02 14 probable cause that a crime has been committed, then it is
12:57:04 15 forwarded for potential -- forwarded for potential
12:57:07 16 prosecution.

12:57:07 17 BY MR. LANGHOFER:

12:57:09 18 Q. Okay. And then from there, the decision is made
12:57:14 19 by Todd Lawson; is that right?

12:57:16 20 A. Typically, in the cases I'm involved in, yes.

12:57:20 21 Q. In your -- I want to -- you had a series of
12:57:28 22 questions on direct about individuals who couldn't provide
12:57:36 23 documentary proof of residency and citizenship.

12:57:39 24 In the investigations that you've been
12:57:40 25 involved in regarding improper registration, have you ever

12:57:46 1 encountered an individual who didn't have a driver's
12:57:51 2 license, a nonoperating identification issued by ADOT after
12:57:55 3 1996, a birth certificate, passport, naturalization papers
12:57:59 4 or naturalization number, BIA card number, tribal treaty
12:58:05 5 card number, or tribal enrollment number, like, none of
12:58:10 6 those eight things?

12:58:10 7 MR. DODGE: Objection. Compound.

12:58:12 8 THE WITNESS: That was a very hard question
12:58:13 9 to follow, sir. I -- I lost you with all those documents.

12:58:17 10 Can you -- can you bring that down to what
12:58:20 11 the question was and just say "these documents" so that I
12:58:23 12 can understand it easier?

12:58:24 13 BY MR. LANGHOFER:

12:58:25 14 Q. Yeah.

12:58:26 15 So I guess the question is: Have you ever
12:58:28 16 met someone who, even though he's a U.S. -- he or she is a
12:58:32 17 U.S. citizen, wouldn't be able to satisfy the documentation
12:58:35 18 requirement in Section 166? And so you looked at them
12:58:39 19 before, but I'll same them again. It includes driver's
12:58:43 20 license, nonoperating ID issued after 1996 by ADOT, birth
12:58:50 21 certificate, passport, naturalization papers or
12:58:53 22 naturalization number, BIA card number, tribal treaty card
12:58:58 23 number, or tribal enrollment number, any of those things.

12:59:01 24 MR. DODGE: Objection. Compound.

12:59:02 25 THE WITNESS: I -- for me to say that I've

12:59:07 1 never encountered somebody in my 25-year career that didn't
12:59:13 2 have any of those things would be -- that would be remiss.
12:59:19 3 I mean, I don't know how else to answer that.

12:59:22 4 BY MR. LANGHOFER:

12:59:23 5 Q. Can you think of anyone, as you sit here, that you
12:59:26 6 have encountered who, as you recall, had none of those
12:59:30 7 eight things?

12:59:31 8 A. Not specifically.

12:59:34 9 Q. Can you think of anyone you've heard about around
12:59:37 10 the office, like a case that has been discussed but you
12:59:40 11 weren't personally for, that would meet those criteria?

12:59:44 12 A. No.

12:59:44 13 MR. DODGE: Objection. Calls for
12:59:45 14 speculation. Foundation.

12:59:45 15 BY MR. LANGHOFER:

12:59:51 16 Q. Have you ever prosecuted someone for registering
12:59:56 17 or attempting to register without being a citizen only to
13:00:00 18 later find out the defendant was, in fact, a U.S. citizen?

13:00:06 19 A. I don't recall ever having involvement in a case
13:00:10 20 like that.

13:00:13 21 Q. Have you ever prosecuted a person for voting or
13:00:18 22 attempting to vote without being a U.S. citizen only to
13:00:21 23 later find out that the defendant is a U.S. citizen?

13:00:26 24 A. I don't recall any cases like that.

13:00:33 25 MR. LANGHOFER: Thanks very much, sir. Those

13:00:33 1 are all the questions I have for you.

13:00:38 2 MR. DODGE: I have just a couple more in
13:00:40 3 case -- unless there are any other defendants or
13:00:41 4 intervenors.

13:00:41 5 MR. WHITAKER: I was just going to say, let's
13:00:43 6 see if there are any other defendants --

13:00:45 7 MR. DODGE: Yeah, the floor is open for
13:00:47 8 defendants, but otherwise . . .

13:00:52 9
13:00:52 10 FURTHER EXAMINATION

13:00:53 11 BY MR. DODGE:

13:00:54 12 Q. Mr. Knuth, I promise we're getting close.

13:00:56 13 You testified just a moment ago that the
13:00:59 14 intake portal is, in fact, still alive; correct?

13:01:01 15 A. Yes.

13:01:01 16 Q. And you testified that you were involved in a
13:01:05 17 conversation sometime in the spring or thereabouts about
13:01:09 18 whether or not to potentially take it offline; is that
13:01:13 19 right?

13:01:13 20 A. Correct.

13:01:13 21 Q. Do you know why the decision was made ultimately
13:01:15 22 to keep it online?

13:01:17 23 A. I don't. All we had was a discussion about the --
13:01:22 24 no more Election Integrity Unit, so should the portal stay;
13:01:26 25 should it go? I was the under the impression it was going

13:01:28 1 to come down but . . .

13:01:29 2 Q. Mr. Langhofer just asked you some questions about

13:01:33 3 whether or not cases that you find to be credible are

13:01:39 4 always referred on for prosecution. Do you remember that?

13:01:41 5 A. Yes.

13:01:43 6 Q. When it comes to investigating a person's

13:01:45 7 citizenship, that's a fairly binary question from an

13:01:49 8 investigative standpoint; right?

13:01:53 9 A. Yeah, I mean, it's pretty cut and dried. They're

13:01:57 10 either a citizen or they're not.

13:01:57 11 Q. Are you aware of any case where your office

13:02:00 12 determined that an individual was, as a matter of fact, not

13:02:05 13 a U.S. citizen but either registered to vote or cast a

13:02:12 14 ballot where that case was not then referred on to a

13:02:16 15 prosecutor?

13:02:20 16 A. Not that I'm aware of.

13:02:22 17 Q. And that's in part because whether or not

13:02:24 18 someone's a citizen is a very simple question, and so if

13:02:27 19 you prove it as a matter of fact, there's not much of a

13:02:31 20 reason to doubt the ability to prove it beyond a reasonable

13:02:34 21 doubt; right?

13:02:36 22 MR. WHITAKER: Objection. Leading.

13:02:40 23 THE WITNESS: I mean, I think it's -- I think

13:02:43 24 if I satisfied in my mind that I have proven or disproven

13:02:48 25 somebody's a citizen, then I feel comfortable presenting

13:02:51 1 that case for prosecution.

13:02:52 2 BY MR. DODGE:

13:02:54 3 Q. Returning to the issue of credibility assessments,

13:02:57 4 can it be the case that your office receives a referral

13:03:01 5 where the complainant is credible but where their

13:03:05 6 allegation ultimately turns out to be incorrect?

13:03:08 7 A. Sure. Certainly.

13:03:09 8 Q. Could it be also then be the case that your office
13:03:12 9 receives a complaint that is deemed credible but where
13:03:16 10 ultimately you feel you can't meet the burden necessary to
13:03:21 11 refer for prosecution?

13:03:22 12 A. Yes.

13:03:24 13 MR. DODGE: Nothing further.

13:03:27 14 MR. WHITAKER: Nothing further from us.

13:03:31 15 MR. DODGE: Okay. Let's go off the record.

13:03:33 16 THE VIDEOGRAPHER: We are of the record.

13:03:36 17 Time on the video monitor is 1:03 p.m.

13:03:41 18 (A recess ensued.)

13:29:14 19 (Todd Lawson is now present at the
13:42:06 20 deposition.)

13:42:06 21 THE VIDEOGRAPHER: We are on the record.

13:43:21 22 Time on the video monitor is 1:43 p.m.

13:43:31 23 ///

24 ///

25 TODD LAWSON,

1 the witness herein, being first duly sworn,
2 was examined and testified as follows:

3

13:43:37

4

EXAMINATION

13:43:37

5

BY MR. DODGE:

13:43:40

6

Q. Okay. Good afternoon, Mr. Lawson. My name is

13:43:43

7

Chris Dodge. I represent Mi Familia Vota and Voto Latino

13:43:47

8

in this matter.

13:43:48

9

Could you please state your full name for the

13:43:50

10

record, spelling your last name.

13:43:51

11

A. Sure. Todd Lawson, L-a-w-s-o-n.

13:43:54

12

Q. And have you ever been deposed before?

13:43:56

13

A. A couples times.

13:43:57

14

Q. Okay. Well, I know you're an attorney, and it

13:44:01

15

sounds like you've been deposed before, but just very

13:44:01

16

quickly, some ground rules.

13:44:03

17

You understand that we have a court reporter

13:44:04

18

here whose job it is to make a complete and accurate record

13:44:09

19

of what we're saying here today?

13:44:09

20

A. Yes, sir.

13:44:10

21

Q. And so that the court reporter can accurately

13:44:13

22

record today's deposition, can we agree that you'll answer

13:44:16

23

my questions audibly and clearly?

13:44:17

24

A. Yes, sir.

13:44:18

25

Q. And can we agree that you will wait for me to

13:44:20 1 finish my questions before answering so that we don't talk
13:44:23 2 over each other?

13:44:23 3 A. Yes, sir.

13:44:23 4 Q. If you do not understand a question or if a
13:44:28 5 question is confusing, please just let me know and I will
13:44:30 6 either repeat it or try to ask it a different way. Does
13:44:33 7 that sound fair?

13:44:34 8 A. Yes.

13:44:34 9 Q. But if I ask a question and you do answer it, I
13:44:37 10 will assume that you understood that question. That sound
13:44:40 11 fair?

13:44:40 12 A. Understood.

13:44:41 13 Q. If you would like to take a break at any time,
13:44:44 14 please just let me know. The only condition on that is
13:44:47 15 that I ask that you finish any pending question before
13:44:51 16 asking to take a break.

13:44:52 17 A. Sounds fair.

13:44:53 18 Q. The court reporter asked you to take an oath just
13:44:55 19 a moment ago; right?

13:44:57 20 A. Yes, sir.

13:44:57 21 Q. And you took that oath and agreed to provide
13:45:00 22 truthful and complete testimony to the best of your ability
13:45:03 23 today?

13:45:03 24 A. Yes, sir.

13:45:03 25 Q. Any reason why you can't testify fully and

13:45:06 1 truthfully today?

13:45:08 2 A. No, sir.

13:45:08 3 Q. You said you've been deposed once or twice before?

13:45:11 4 A. I believe twice, but it's been a long time.

13:45:15 5 Q. Did any of those depositions concern

13:45:18 6 election-related issues?

13:45:19 7 A. No, sir.

13:45:20 8 Q. Do you have any materials here with you today?

13:45:23 9 A. I brought a notepad and -- just so I can remember,

13:45:27 10 like, your name, but other than that, I don't have any

13:45:31 11 materials that I brought with me up here. I reviewed some

13:45:35 12 materials that were sent to me this morning, and I talked

13:45:38 13 with counsel. That's about it.

13:45:40 14 Q. And no notes in that notepad or anything of the

13:45:43 15 sort?

13:45:43 16 A. No, sir.

13:45:44 17 Q. You're currently employed by the Arizona Attorney

13:45:48 18 General's Office; is that right?

13:45:48 19 A. Yes, sir.

13:45:49 20 Q. What's your role with the attorney general?

13:45:51 21 A. I'm a senior litigation counsel in the Criminal

13:45:54 22 Division, assigned to the Fraud & Special Prosecutions

13:45:56 23 Section.

13:45:57 24 Q. How long how you served in that role?

13:45:59 25 A. Technically, since the end of the fiscal year. My

13:46:02 1 previous few years, I was assigned under a budget line for
13:46:06 2 the Election Integrity Unit, which was, again, attached to
13:46:09 3 the Criminal Division. And I was assigned Fraud & Special
13:46:14 4 Prosecutions Section. But I -- my understanding is, as of
13:46:17 5 July 1, that funding is lapsed and I'm now back on the
13:46:20 6 general fund. So that's the best of my knowledge there.

13:46:25 7 Q. You said "back on the general fund." Were you --
13:46:28 8 did you have a position with the Attorney General's Office
13:46:29 9 before you had that role at the Election Integrity Unit?

13:46:31 10 A. Yes. I've been with the Attorney General's Office
13:46:34 11 in one form or another since 1999.

13:46:37 12 Q. And I don't need your full history with the
13:46:40 13 Attorney General's Office, but what role did you have
13:46:42 14 before joining the Election Integrity Unit?

13:46:45 15 A. I was hired as -- actually, I started as an
13:46:48 16 intern. I was hired as a law clerk. I became an assistant
13:46:51 17 attorney general -- I started as a special assistant
13:46:54 18 attorney general in May of 2000.

13:46:57 19 And then when a position opened up, I became
13:46:59 20 an assistant attorney general. Remained that through 1990
13:47:03 21 -- excuse me -- remained that through 2019 when the
13:47:07 22 Election Integrity Unit was opened. And I took a senior
13:47:10 23 counsel position in connection with the formation of that
13:47:13 24 unit.

13:47:14 25 But essentially, my real estate didn't

13:47:16 1 change. My person I reported to didn't change. The only
13:47:20 2 thing that changed was the funding that paid for my
13:47:21 3 position.

13:47:22 4 Q. In your role as senior counsel to the Election
13:47:26 5 Integrity Unit, what responsibilities did you have?

13:47:28 6 A. The unit was set up unlike any other unit that I
13:47:32 7 have been aware of within our agency in that it was
13:47:35 8 divided. There were four separate positions there. One
13:47:39 9 was an investigator position that reported up a chain of
13:47:42 10 command through special investigations. Myself, I was
13:47:47 11 assigned to report to the same boss that I had been
13:47:50 12 reporting to for the preceding decade, which is the Fraud &
13:47:56 13 Special Prosecutions Section, chief counsel.

13:47:57 14 There was a support staff person who
13:48:01 15 essentially became a secretary in our unit, and she didn't
13:48:05 16 report to me or didn't -- I didn't even work with her. She
13:48:08 17 was assigned to a pool for the way they address such money.
13:48:13 18 And then Jennifer Wright was the other attorney assigned,
13:48:16 19 and she had an entirely different chain of command than I
13:48:20 20 did.

13:48:20 21 Q. So sounds like there were, excluding support
13:48:23 22 staff, three individuals who belonged to the Election
13:48:27 23 Integrity Unit during the time?

13:48:27 24 A. We were told it was four FTEs. So it was one who
13:48:31 25 was treated as a support staff, one who was an

13:48:34 1 investigator, and two were attorneys.

13:48:35 2 Q. What's an FTE?

13:48:37 3 A. Full-time equivalent. It's budget -- it's state
13:48:40 4 government budget-speak for person and the cost of all
13:48:43 5 their benefits.

13:48:44 6 Q. But each of you within the unit answered up to
13:48:47 7 someone outside the unit; is that right?

13:48:49 8 A. We -- again, what, in my mind, made it different
13:48:55 9 is -- like, for example, I've been attached to units
13:48:56 10 before, and the unit all works together. Here the unit
13:49:00 11 essentially existed on a budget and only on budget. The --
13:49:05 12 all the people essentially answer to different people and
13:49:09 13 not to each other, which was somewhat unique.

13:49:12 14 Q. So you didn't answer to Ms. Wright?

13:49:14 15 A. No.

13:49:15 16 Q. Who did Ms. Wright answer to?

13:49:18 17 A. I believe she was assigned in the Solicitor
13:49:21 18 General's Office, but her chain of command was never made
13:49:24 19 clear it me.

13:49:25 20 Q. Did anyone report to you in your role as senior
13:49:27 21 counsel?

13:49:28 22 A. Nope. I was a unit of one essentially. And
13:49:31 23 anything I did essentially went up the same chain of
13:49:34 24 command I had always had through the special counsel --
13:49:37 25 excuse me -- through the chief litigation counsel for the

13:49:39 1 Fraud & Special Prosecutions Section, which for most of the

13:49:43 2 time we're talking about here was Blaine Gadow.

13:49:49 3 Q. You understand that you're here today as a

13:49:50 4 representative to testify on behalf of the Attorney

13:49:53 5 General's Office; correct?

13:49:53 6 A. Yes. First time I've ever done that.

13:49:55 7 Q. You understand, then, that for purposes of this

13:49:57 8 deposition, if I refer to "you" or "your," I'll be

13:50:00 9 referring to the Attorney General's Office and not you

13:50:02 10 specifically?

13:50:02 11 A. I understand that. I will do my best to speak on

13:50:05 12 behalf of the agency to the extent that I know what the

13:50:07 13 agency was doing.

13:50:10 14 Q. You understand that -- as a corollary, that your

13:50:11 15 answers can be based not only on your personal knowledge

13:50:15 16 but information known or available to your office?

13:50:17 17 A. Yes.

13:50:17 18 Q. Okay. We actually -- do you have exhibits in

13:50:27 19 front of you that were left by Mr. Knuth?

13:50:30 20 A. Is that what these are? Are they numbered?

13:50:31 21 MR. WHITAKER: It appears so.

13:50:33 22 BY MR. DODGE:

13:50:34 23 Q. Would you find the one marked exhibit --

13:50:35 24 A. They're not marked.

13:50:39 25 Q. Would you mind handing them back to me, then, if

13:50:42 1 that's okay?

13:50:43 2 A. No problem.

13:50:47 3 Q. I'm going to hand you what was previously marked
13:50:49 4 as Exhibit 211.

13:50:53 5 A. Can I write on it so that I know it's 211?

13:50:58 6 Q. Sure.

13:50:58 7 A. All right. Go ahead.

13:50:59 8 Q. Are you familiar with this document?

13:51:00 9 A. I believe I have seen it before. Could I take a
13:51:03 10 moment to familiarize myself with it?

13:51:05 11 Q. Please do.

13:51:11 12 A. Yes, I've seen -- I recognize the middle couple
13:51:14 13 pages of here -- of this document here, so yes, I've seen
13:51:18 14 this before.

13:51:18 15 Q. Can you tell me what you recognize?

13:51:21 16 A. The part that I spent the most time working on
13:51:24 17 were the deposition topics. There are 14 numbered
13:51:28 18 paragraphs that appear on page 4 and 5.

13:51:30 19 Q. And you've reviewed these topics?

13:51:31 20 A. Yes.

13:51:32 21 Q. Can you indicate to me which of these topics
13:51:35 22 you're prepared to speak to today?

13:51:37 23 A. That was something that counsel indicated they had
13:51:43 24 agreement on what I was to speak on. I will tell you, as a
13:51:48 25 criminal practitioner, I'm not used to the whole objections

13:51:53 1 and then being told to answer the question anyway. And so
13:51:56 2 I'm prepared to at least have some form of an answer to
13:52:00 3 anything you ask me. To the extent that counsel here have
13:52:05 4 decided I'm not the person who will answer it, I'm going to
13:52:10 5 do the best I can and --

13:52:11 6 Q. Let me ask it a different way.

13:52:13 7 A. -- do what I can.

13:52:14 8 Q. Let me ask it a different way, then.

13:52:14 9 Are there any topics here that you feel you
13:52:16 10 are not prepared to testify to today?

13:52:18 11 A. There are certain things that, due to the way the
13:52:27 12 organization was structured and the responsibilities that I
13:52:31 13 had, happened entirely out of my purview and without any
13:52:36 14 consultation of me, and so there are certain decisions that
13:52:40 15 were made that did not involve active criminal prosecutions
13:52:45 16 or the review of criminal charges. And I was not involved
13:52:49 17 in those, and so my knowledge of those things is limited,
13:52:52 18 and my ability to testify to them is limited.

13:52:56 19 To the extent that certain documents exist
13:52:58 20 that I've been made available -- I can try to give you my
13:53:05 21 best knowledge of those. But there are certain topics in
13:53:09 22 that area where my knowledge is limited.

13:53:12 23 Q. I appreciate you making that clear.

13:53:16 24 Are there any topics here in particular,
13:53:22 25 though, that, based on that limitation you just described,

13:53:26 1 you feel in particular would not be appropriate to ask you
13:53:29 2 about?

13:53:34 3 MR. WHITAKER: I think --

13:53:35 4 THE WITNESS: Well, I can offer an example
13:53:37 5 unless . . .

13:53:38 6 MR. WHITAKER: Sure.

13:53:39 7 THE WITNESS: My example would be, like,
13:53:41 8 Number 12, the Election Procedures Manual was an item that
13:53:48 9 was -- in the division of work, was placed on Jennifer
13:53:51 10 Wright's responsibility; it was not given to me.

13:53:54 11 In my history with the office, I've only ever
13:53:56 12 been involved with one version of the Election Procedures
13:53:59 13 Manual, and it was not one from 2017 to present. And so I
13:54:04 14 cannot speak to the drafting of election procedures manuals
13:54:08 15 from 2017 to present, other than I received one after it
13:54:13 16 was adopted and have used it in the course of my work and
13:54:16 17 use it as a resource.

13:54:18 18 But in terms of, you know, the issues that
13:54:23 19 went into its drafting and some of the issues that we're
13:54:26 20 talking about here, I know it simply as a resource, not as
13:54:30 21 anything that is -- was created or I had involvement with
13:54:33 22 its creation.

13:54:34 23 BY MR. DODGE:

13:54:34 24 Q. Any other topics that you wish to identify or
13:54:40 25 is -- recognizing that you've indicated there are other

13:54:43 1 general areas that you're not equipped to testify on?

13:54:47 2 MR. WHITAKER: I'll object a little bit. I
13:54:49 3 think this calls for a legal conclusion about the
13:54:52 4 appropriateness of the 30(b)(6) designee that Mr. Lawson,
13:54:57 5 especially as a criminal attorney -- well, I'll just leave
13:54:59 6 it at that. I think it calls for a legal conclusion.

13:55:02 7 THE WITNESS: Yeah. And to the extent that
13:55:04 8 we had divisions of responsibility in our office -- and
13:55:07 9 things to deal with legislation and with civil and
13:55:11 10 administrative actions just were not anything that I was
13:55:13 11 involved in, because I am a full-time criminal practitioner
13:55:17 12 with responsibilities that not only include election cases
13:55:21 13 but other matters. I was not brought in or consulted on a
13:55:25 14 number of things, so my knowledge of those things is fairly
13:55:29 15 limited.

13:55:29 16 BY MR. DODGE:

13:55:29 17 Q. Is it the case that when you were senior -- senior
13:55:31 18 counsel at the Election Integrity Unit, you continued to
13:55:34 19 have non-election-related matters?

13:55:36 20 A. Correct.

13:55:36 21 Q. About what percentage of your time was committed
13:55:41 22 to election-related matters?

13:55:43 23 A. That's difficult to say. Up through 2021, I would
13:55:53 24 say it was still less than half. And when -- 2021, there
13:56:03 25 was a reshuffling of some cases. As we had different

13:56:06 1 personnel issues, I was able to take on more. But then as
13:56:11 2 things have gone on and our staffing levels have changed,
13:56:15 3 as of today, it's again less than half -- or as of the
13:56:19 4 expiration of the funding.

13:56:21 5 Q. Did you volunteer to join the Election Integrity
13:56:24 6 Unit?

13:56:24 7 A. It was offered to me as a promotion and so I did
13:56:30 8 accept it.

13:56:30 9 Q. Is the reason you accepted it because it was a
13:56:34 10 promotion?

13:56:34 11 A. Correct.

13:56:35 12 Q. Excepting any attorneys from the Attorney
13:56:42 13 General's Office, did you meet with anyone from your office
13:56:44 14 to prepare for today's deposition?

13:56:48 15 A. Anyone outside the office?

13:56:49 16 Q. Counsel from the office.

13:56:52 17 A. Yeah, I met with the individuals seated to my left
13:56:55 18 here. That's the only people I've met with regarding this.
13:57:01 19 Oh, actually, I did consult with Mr. Knuth at one point.

13:57:03 20 Q. Okay. What did you consult with him about?

13:57:07 21 A. There are two matters that are -- involve cases
13:57:16 22 that were charged but have not been served. And there are
13:57:21 23 ethical issues and issues related to grand jury seal that
13:57:28 24 are somewhat thorny for someone in my position as a
13:57:32 25 criminal practitioner.

13:57:35 1 ER 3.8 talks about what a prosecutor can and
13:57:38 2 cannot do in terms of certain confidences. And there's a
13:57:43 3 Statute 13-2812. And I wanted to make sure that we were
13:57:47 4 both on the same page in terms of our obligations as
13:57:49 5 representatives of the agency not to compromise the
13:57:54 6 confidences there. And so that's -- that was the issues
13:57:57 7 that we discussed.

13:57:58 8 Q. Did you speak with Mr. Knuth about anything else?

13:58:02 9 A. I mean, I speak to Mr. Knuth on a fairly regular
13:58:06 10 basis about case-related things, but in terms of
13:58:09 11 anticipation of today, that's the only issue that I talked
13:58:12 12 about in anticipation of today.

13:58:14 13 Q. Any other individuals besides Mr. Knuth who you --
13:58:18 14 and counsel who you met with about today's deposition?

13:58:22 15 A. My supervisor.

13:58:23 16 Q. And -- I'm sorry. Remind me who your supervisor
13:58:26 17 is.

13:58:27 18 A. Criminal -- Criminal Division Chief Counsel Nick
13:58:30 19 Klingerman.

13:58:31 20 Q. What did you discuss with Mr. Klingerman?

13:58:33 21 A. He was present in the preparations with this and
13:58:36 22 had input on it. I did not -- I don't think I met
13:58:39 23 separately with him about it other than to tell him what
13:58:43 24 this was and that this was going on.

13:58:45 25 Q. Okay. And how many times did you meet with

13:58:48 1 counsel for the Attorney General's Office to discuss
13:58:51 2 today's deposition?

13:58:53 3 A. Three or two.

13:58:56 4 MR. WHITAKER: I'm not testifying.

13:58:58 5 THE WITNESS: You're not testifying. Okay.

13:58:59 6 So this is a pop quiz of how many times did I meet with
13:59:02 7 him. I know of two, and it might have been three.

13:59:04 8 BY MR. DODGE:

13:59:04 9 Q. Okay. And about how long did you meet with him?

13:59:08 10 A. One of them lasted most of the morning.

13:59:10 11 Q. And how long was the other one?

13:59:14 12 A. An hour.

13:59:16 13 MR. WHITAKER: I'm not testifying.

13:59:17 14 THE WITNESS: I think so. Time is a flat
13:59:19 15 circle after the pandemic so . . .

13:59:21 16 BY MR. DODGE:

13:59:22 17 Q. Did -- did you review any documents in
13:59:25 18 anticipation of today's deposition?

13:59:27 19 A. Sure did.

13:59:28 20 Q. I'm going to ask you some questions about the
13:59:36 21 enactment of HB 2492 and HB 2243.

13:59:39 22 A. I got it.

13:59:40 23 Q. Are you familiar with HB 2492?

13:59:42 24 A. I am in terms of it was things that were brought
13:59:45 25 to my attention as a part of the report that was addressed

13:59:50 1 to the legislature in March of this year and in
13:59:54 2 anticipation of the testimony here and this legal
13:59:59 3 situation, yes.

14:00:00 4 Q. So you were aware of at least some provisions of
14:00:02 5 HB 2492 before preparing for this deposition?

14:00:04 6 A. Yes.

14:00:06 7 Q. Were you familiar with other provisions of HB 2492
14:00:10 8 beyond the one requiring a report be sent to the
14:00:13 9 legislature?

14:00:15 10 A. No.

14:00:17 11 Q. Are you familiar with HB 2243?

14:00:20 12 A. I believe we -- we reviewed those before here. If
14:00:24 13 you could show me what it is, I can tell you if I'm
14:00:26 14 familiar with it.

14:00:27 15 Q. We'll get to that in a second. I guess, for now,
14:00:30 16 I want to make sure you're familiar --

14:00:31 17 A. I know there are two bills. I couldn't tell you
14:00:34 18 their numbers offhand.

14:00:35 19 Q. If I refer to these bills as the "challenged
14:00:37 20 laws," you'll understand I'm referring to these two?

14:00:38 21 A. That's a term I've seen in your materials, so I
14:00:40 22 know that, yes.

14:00:41 23 Q. Does the Attorney General's Office track proposed
14:00:49 24 legislation for the legislature?

14:00:50 25 A. I know that we have people responsible for that.

14:00:54 1 And I'm vaguely familiar with the legislative information
14:00:59 2 system that allows you to set up a thing to track
14:01:02 3 legislation. I have so assume, since we pay people to do
14:01:04 4 that, they probably do that.

14:01:06 5 Q. Do you know if the Attorney General's Office has a
14:01:08 6 legislative liaison?

14:01:10 7 A. We did at the time when these were passed, so yes.

14:01:15 8 Q. And who was that individual at the time?

14:01:17 9 A. The person I dealt with was Josh Kredit, but it
14:01:21 10 was very rare that I would deal with him directly. There
14:01:25 11 was another person there who I dealt with whose name
14:01:28 12 escapes me -- a woman, but I cannot remember her name
14:01:32 13 offhand.

14:01:32 14 Q. Do you know what the responsibilities of the
14:01:35 15 legislative liaison are?

14:01:37 16 A. I assume it is give and take with the legislature
14:01:42 17 in terms of answering questions and providing information
14:01:46 18 from the agency to the legislature as well as -- I know, at
14:01:51 19 least in my experience, we have brought legislation to
14:01:55 20 legislators for purposes of getting it passed.

14:01:58 21 Q. If I were to tell you that the individual who was
14:02:00 22 the legislative liaison at the time these bills were before
14:02:03 23 the legislature, that her name was Edith Lefevre --

14:02:07 24 A. Okay.

14:02:07 25 Q. -- would you believe me?

14:02:09 1 A. That sounds plausible. That might have been the
14:02:12 2 person I was dealing with. I had a piece of legislation I
14:02:14 3 was responsible for in 2021. I say I was responsible -- I
14:02:18 4 was the person who originally drafted the proposal.

14:02:21 5 Q. Do you recall that Ms. Lefevre was, in fact, the
14:02:27 6 legislative liaison at that time?

14:02:28 7 A. Like I said, I wish I could remember. She's --
14:02:31 8 you know, hopefully, she doesn't see this deposition and
14:02:33 9 see that I've forgotten her name.

14:02:35 10 Q. But you recall that there was --

14:02:36 11 A. There was a woman whose -- who I dealt with and
14:02:39 12 whose name has escaped me. And I apologize for that.
14:02:42 13 Could be her.

14:02:43 14 Q. Do you recall if the person was named Edie?

14:02:47 15 A. I can see her in my mind's eye. I cannot remember
14:02:51 16 her name.

14:02:52 17 Q. Did your office ask you to speak with this
14:02:57 18 individual in preparing for today's deposition?

14:02:59 19 A. No.

14:02:59 20 Q. Was anyone from your office, including the
14:03:06 21 legislative liaison or anyone who worked with the
14:03:09 22 legislative liaison, involved in drafting other of the
14:03:11 23 challenged laws?

14:03:12 24 A. Not to my knowledge, no.

14:03:14 25 Q. Did anyone from your office testify before any

14:03:18 1 legislative committees regarding either of the challenged
14:03:21 2 laws?

14:03:21 3 A. Not to my knowledge, no.

14:03:22 4 Q. Did anyone in your office communicate about the
14:03:27 5 challenged laws with legislators or their staff prior to
14:03:31 6 their enactment?

14:03:32 7 A. I was shown a document in the materials that were
14:03:34 8 provided this morning, which seemed to indicate that the
14:03:37 9 answer to that is yes, but that is the first time I've seen
14:03:41 10 anything about that.

14:03:42 11 Q. Besides the documents you reviewed this morning,
14:03:44 12 are you aware of any communications between individuals in
14:03:48 13 your office and legislators or their staff about the
14:03:52 14 challenged laws?

14:03:52 15 A. No, sir.

14:03:53 16 Q. Did your office provide any legislators or their
14:04:00 17 staff information or data concerning alleged or prosecuted
14:04:04 18 election crimes while the legislature was considering the
14:04:09 19 challenged laws?

14:04:10 20 A. So let me answer that by saying we frequently got
14:04:14 21 questions about the nature of our caseload from a number of
14:04:18 22 different sources, including legislators, and they came in
14:04:21 23 through a whole bunch of different areas and means. So is
14:04:27 24 it possible I got an inquiry that I answered from a
14:04:29 25 legislator? It's possible.

14:04:33 1 That was part of the reason we set up some of
14:04:35 2 the public-facing documents we did with some of the
14:04:37 3 information about our cases. But in terms of specific
14:04:41 4 inquiries about that particular bill from a particular
14:04:45 5 legislator trying to come up with information about it, I
14:04:49 6 can't say that. I can't agree with that.

14:04:51 7 Q. You mentioned that either you or your office
14:04:54 8 frequently got inquiries through various channels from
14:04:59 9 legislators about your caseload; is that right?

14:04:59 10 A. Correct.

14:04:59 11 Q. Can you describe those for me?

14:05:01 12 A. People frequently wanted to know what we -- A,
14:05:04 13 what we were doing; and B, whether they had their own thing
14:05:10 14 that they wanted to complain about or something they wanted
14:05:13 15 to refer to us, we had those sorts of intake questions as
14:05:20 16 well.

14:05:20 17 Q. Can you identify any legislators where either they
14:05:26 18 or their staff made a referral to you, asked your office to
14:05:31 19 investigate something?

14:05:32 20 A. The only two I can think of offhand is there was a
14:05:38 21 case involving a relative of representative or -- I
14:05:42 22 apologize if -- she could be a senator -- Epstein and -- or
14:05:48 23 Epstein. I may be mispronouncing. I read it on paper. I
14:05:52 24 don't know how to pronounce it. And then we had an entire
14:05:56 25 category in our database of complaints from Mr. Finchem.

14:06:00 1 Q. Any other referrals from legislators or their
14:06:05 2 staff that come to mind beyond from Ms. Epstein or
14:06:08 3 Mr. Finchem?

14:06:08 4 A. I don't know that the complaint was from
14:06:10 5 Representative Epstein or -- I apologize if I'm misstating
14:06:15 6 her title. I'm going to refer to her as Representative
14:06:17 7 Epstein and just apologize in advance if she's a senator.

14:06:21 8 The complaint was about one of her relatives
14:06:25 9 and, I believe, was related in terms of being from someone
14:06:30 10 in the legislature about -- you know, about an opponent,
14:06:34 11 but I can't say with definitive source as I sit here.

14:06:39 12 But then beyond that, I know there were
14:06:44 13 numerous complaints from Representative Finchem. And then
14:06:47 14 I know there were other complaints that probably went back
14:06:51 15 to legislators, but the names weren't always passed along
14:06:55 16 to me with the substance of the complaint. And so I -- I
14:07:01 17 can't, as I sit here today, just generally say that I had
14:07:04 18 this many complaints from this many representatives.

14:07:07 19 Q. In those instances where you received complaints
14:07:11 20 or referrals that may have originated with the legislator,
14:07:15 21 are you aware who those legislators are?

14:07:18 22 A. The information may not have been passed to me.
14:07:21 23 But this is my first time being questioned as a
14:07:24 24 representative of the agency. There may be a record
14:07:27 25 somewhere in the agency that indicated at intake that this

14:07:32 1 complaint came from a representative, but by the time it
14:07:35 2 came to me for review, that name had been essentially
14:07:41 3 separated from it.

14:07:42 4 Q. So in your capacity as a representative today of
14:07:44 5 the Attorney General's Office, are you aware of who those
14:07:48 6 legislator were, regardless of whether or not that
14:07:51 7 information was passed on to you in your personal capacity?

14:07:54 8 A. I am not aware, but it doesn't mean that the
14:07:57 9 record doesn't exist somewhere in the agency.

14:08:02 10 Q. Okay. Could you tell me about the name of the
14:08:05 11 complaint that Ms. Epstein made?

14:08:06 12 A. So it was not a complaint from her. It was a
14:08:10 13 complaint involving a family member of hers. And it was
14:08:14 14 actually a complaint I reviewed in preparation here today
14:08:16 15 because it was a residency complaint.

14:08:19 16 The complaint involved a son of hers, I
14:08:24 17 believe, who is an actor in New York. And the complaint
14:08:30 18 was that he was registered to vote and voting in Tempe
14:08:34 19 while living in New York. And we found no wrongdoing and
14:08:39 20 closed the complaint.

14:08:41 21 Q. And you indicated it was a political opponent that
14:08:44 22 may have been made that referral?

14:08:45 23 A. I got a sense that it was but -- because of the
14:08:49 24 way the information came to us, but I can't recall
14:08:53 25 specifics about it. But I do remember the nature of the

14:08:56 1 allegation and the discussion that we had in terms of

14:09:00 2 closing it.

14:09:02 3 Q. I am going to hand you what I'll ask to be marked

14:09:24 4 as Exhibit 217 -- 219.

14:09:32 5 A. 219. Is it okay if I write "219" on this?

14:09:35 6 Q. Please do. This is Number 2 in the Dropbox.

14:09:35 7 (The document was marked as Exhibit 219

14:09:45 8 for identification.)

14:09:45 9 BY MR. DODGE:

14:09:45 10 Q. Can you turn to the second page of this document.

14:09:49 11 A. Yes, sir.

14:09:51 12 Q. Actually, the very, very bottom of the first page.

14:09:56 13 You see at the bottom of the first page

14:09:57 14 there's a January 20th, 2022, email from a Lisette Flores,

14:10:03 15 with an email address ending in @azleg.gov?

14:10:07 16 A. Yes.

14:10:07 17 Q. To an Edith.lefevre@azag.gov?

14:10:12 18 A. I see that.

14:10:13 19 Q. Okay. Looking at the second page, Ms. Flores

14:10:22 20 writes, "Edith, I hope all is well. I'm reaching out to

14:10:27 21 get info on voter fraud cases the AG's office is

14:10:28 22 prosecuting, can you provide me the short basis for the

14:10:30 23 charge, for example, voted twice, voted using another's

14:10:33 24 ballot, non-citizen vote, et cetera."

14:10:37 25 Did I read that correctly?

14:10:38 1 A. You are.

14:10:39 2 Q. And based on this email, can you tell me who

14:10:44 3 Ms. Flores is?

14:10:45 4 A. Her signature file directly below that there
14:10:50 5 indicates apparently who she is. I must say I do not know
14:10:54 6 Ms. Flores.

14:10:55 7 Q. And January 20th, 2022, the date this email was

14:11:01 8 sent --

14:11:02 9 A. Yes.

14:11:02 10 Q. -- the challenged laws were pending before the

14:11:05 11 legislature at that time; is that right?

14:11:07 12 A. I have no information about that.

14:11:10 13 I guess I would turn the question back on

14:11:12 14 you. Are these laws passed in 2022? Is that correct.

14:11:15 15 Q. That is correct.

14:11:16 16 A. Yeah, then, I assume they would have been filed by

14:11:19 17 January of 2022, then.

14:11:21 18 Q. That would have been during the relevant

14:11:23 19 legislative session for a law enacted in 2022; right?

14:11:25 20 A. After the first Monday in January, yes.

14:11:28 21 Q. And looking again at the bottom of page 1, the

14:11:31 22 email from Ms. Flores to Ms. Lefevre is titled "Voter

14:11:36 23 Fraud"; is that right?

14:11:36 24 A. Yes. This is fairly typical of a number of

14:11:41 25 complaint -- not complaints -- requests that we got from

14:11:44 1 media outlets, legislators wanting to know what we were

14:11:49 2 doing. And so that doesn't surprise me.

14:11:51 3 Q. Are you aware of any other emails from legislators
14:11:56 4 or their staff in the first half of 2022 to the Attorney
14:12:02 5 General's Office regarding allegations of voter fraud?

14:12:06 6 A. So let me -- let me stop by -- let me answer the
14:12:10 7 question by providing a little bit of background. I have
14:12:13 8 in the past been a registered lobbyist on behalf of the
14:12:17 9 Attorney General's Office. That has lapsed.

14:12:19 10 I'm aware generally that as a staff member of
14:12:22 11 the Attorney General's Office, I cannot have communications
14:12:26 12 with the legislature in certain aspects without having to
14:12:30 13 register as a lobbyist. And so it has been drilled in me
14:12:35 14 over successive administration that if a legislator gets in
14:12:38 15 contact with me, I am not to respond; I am to pass it on to
14:12:43 16 a member of the senior staff who would handle that response
14:12:48 17 so that I am not essentially lobbying a member of the
14:12:48 18 legislature.

14:12:52 19 Q. But excluding your personal experience, are you
14:12:53 20 aware, again, in your capacity as a representative witness,
14:12:55 21 of any other instances of a legislator or their staff
14:13:00 22 emailing the Attorney General's Office during the first
14:13:02 23 half of 2022?

14:13:03 24 A. Well, I'm sure if some of those occurred, they're
14:13:06 25 not -- they're not things I was aware of. I was not copied on

14:13:09 1 this message. I was not notified of this message. I don't
14:13:13 2 even think necessarily that the response that was sent out
14:13:17 3 even was brought to me as a draft.

14:13:19 4 Q. Okay. Looking at the top of the first page, you
14:13:23 5 see an email from Joshua Kredit on January 21st, 2022;
14:13:29 6 right?

14:13:29 7 A. Yes.

14:13:29 8 Q. Can you tell me who Mr. Kredit is?

14:13:32 9 A. He's the person I understood to be our legislative
14:13:35 10 liaison.

14:13:35 11 Q. Okay. Can you tell me anything else about his
14:13:38 12 role at the Attorney General's Office while he was there?

14:13:42 13 A. That's it. If he had other roles, I was not aware
14:13:45 14 of them.

14:13:47 15 Q. Is Mr. Kredit still with the Attorney General's
14:13:52 16 Office?

14:13:52 17 A. I don't believe he is, but I -- the turnover on --
14:13:56 18 in terms of administration was pretty complete, as I
14:14:00 19 understand.

14:14:00 20 Q. Do you know what Mr. Kredit's current role is?

14:14:03 21 A. I do not.

14:14:03 22 Q. Did your office attempt to contact Mr. Kredit in
14:14:13 23 preparing for today's deposition?

14:14:14 24 A. I did not. I am not aware of any attempt to
14:14:17 25 contact him. I was not provided with that information

14:14:20 1 prior to this.

14:14:21 2 Q. You weren't asked to speak with him?

14:14:23 3 A. I was not asked to speak to him, no.

14:14:25 4 Q. Okay. Mr. Kredit, in this email, asks the
14:14:28 5 recipients for, quote, "Thoughts on this draft response
14:14:31 6 from Edie"; correct?

14:14:34 7 A. That is what it says on the document, yes.

14:14:36 8 Q. So would you agree that he's asking for comments
14:14:40 9 on a draft response that Ms. Lefevre prepared for
14:14:44 10 Ms. Flores?

14:14:46 11 A. I believe the document speaks for itself. I
14:14:49 12 cannot speak to Mr. Kredit's intentions in it.

14:14:52 13 Q. So when he asks, "Thoughts on this draft response
14:14:55 14 from Edie," what do you understand that to mean?

14:14:58 15 A. What it says.

14:15:00 16 Q. Okay. And below that, there's a draft response
14:15:02 17 presumably from Ms. Lefevre; correct?

14:15:05 18 A. That's what it appears to be.

14:15:06 19 Q. That response appears to be in response to the
14:15:10 20 prior email from Ms. Flores; correct?

14:15:13 21 A. It would be appear to be responsive, but again, I
14:15:16 22 was not involved in the creating of this draft.

14:15:17 23 Q. Can you tell me who Joe Kanefield is?

14:15:20 24 A. He was the chief of staff.

14:15:21 25 Q. Is he still with the office?

14:15:25 1 A. No.

14:15:26 2 Q. About when did he leave the office?

14:15:27 3 A. I believe with the transition.

14:15:29 4 Q. That would have been in early 2022?

14:15:32 5 A. First Monday of 2023.

14:15:34 6 Q. 2023.

14:15:35 7 Did your office attempt to contact

14:15:38 8 Mr. Kanefield in preparing for today's deposition?

14:15:42 9 A. I was not involved in any such attempts.

14:15:44 10 Q. So you weren't asked to speak with Mr. Kanefield?

14:15:46 11 A. No, sir.

14:15:46 12 Q. Okay. Her name has already come up, but can you

14:15:51 13 tell me who Jennifer Wright is?

14:15:51 14 A. Jennifer Wright was the civil person assigned to

14:15:54 15 the Election Integrity Unit, and she was an attorney with

14:16:00 16 the office.

14:16:01 17 Q. What was her title within the Election Integrity

14:16:07 18 Unit?

14:16:07 19 A. She may have had a senior litigation counsel tag.

14:16:11 20 I honestly don't -- the division between who were just

14:16:16 21 assistant attorney generals and senior litigation counsels

14:16:18 22 is somewhat confusing to me, and I've worked here for

14:16:22 23 20 years.

14:16:22 24 Q. Was she senior to you in the Election Integrity

14:16:28 25 Unit?

14:16:28 1 A. I believe she had a title, which was the director
14:16:32 2 of the unit, but in terms of the way the unit was
14:16:38 3 structured, I did not answer to her, and she did not direct
14:16:41 4 me in any way. So financially, she may have made more
14:16:47 5 money than I did. Administratively, she had different
14:16:51 6 responsibilities than I did, and very rarely did we
14:16:55 7 interact.

14:16:56 8 Q. But her title was director?

14:16:58 9 A. Yes.

14:16:59 10 Q. And what were her --

14:17:02 11 A. Actually, let me strike that. I'm not sure her
14:17:04 12 title was director. I think her title may have been unit
14:17:07 13 chief, but I can't say authoritatively what that was. As
14:17:14 14 far as I -- she was not my boss, and so whatever she used
14:17:16 15 as a title was something that was between her and her
14:17:19 16 supervisor, not me.

14:17:20 17 Q. Did people at the Attorney General's Office ever
14:17:22 18 refer to her as the director of the Election Integrity
14:17:27 19 Unit?

14:17:27 20 A. Not that I recall, but it -- I didn't.

14:17:33 21 Q. What were her duties as a unit chief?

14:17:38 22 A. So the division of responsibilities between the
14:17:42 23 two lawyers assigned to the unit, me being one and she
14:17:45 24 being the other, was that I was handling criminal
14:17:48 25 prosecutions and criminal reviews, and she essentially

14:17:52 1 handled everything else, which involved public
14:17:56 2 communications, administrator reviews, civil litigation.
14:18:01 3 And she also handled general intake and -- which included
14:18:05 4 some criminal intake, to which she had some guidelines that
14:18:09 5 we were -- had discussed previously. And I could talk a
14:18:15 6 little bit more about that if you have more questions about
14:18:17 7 it.

14:18:17 8 Q. These were -- these were guidelines you gave to
14:18:20 9 her?

14:18:20 10 A. No. These were guidelines that were actually set
14:18:22 11 by the division chief above me in terms of when we started
14:18:29 12 getting complaints and we wanted to have a system so that
14:18:32 13 we could present a good face to the public in terms of
14:18:35 14 accepting complaints and that we could then pursue them as
14:18:41 15 an agency in a somewhat efficient manner.

14:18:44 16 Q. Were those guidelines reduced to writing?

14:18:46 17 A. I don't believe so.

14:18:47 18 Q. So they were orally communicated?

14:18:48 19 A. Yes.

14:18:49 20 Q. You mentioned that one of Ms. Wright's roles as
14:18:55 21 unit chief would have been intake; correct?

14:18:57 22 A. Correct.

14:18:57 23 Q. That included intake of referrals that could
14:19:01 24 potentially lead to criminal investigation prosecution;
14:19:04 25 right?

14:19:05 1 A. Correct.

14:19:05 2 Q. So in that role, Ms. Wright would have been well
14:19:08 3 positioned to know about any alleged instance of
14:19:11 4 noncitizens voting in Arizona; right?

14:19:15 5 MR. WHITAKER: Objection; foundation.

14:19:16 6 THE WITNESS: She would have been a person
14:19:18 7 who would have received complaints. And so to -- your
14:19:23 8 question -- I'm sorry. Could you repeat your question?

14:19:25 9 BY MR. DODGE:

14:19:25 10 Q. Yeah.

14:19:25 11 I'm asking: In her position as unit chief,
14:19:28 12 she would have been well positioned to know about any
14:19:30 13 alleged instances of noncitizen registration or voting in
14:19:34 14 Arizona that were referred to the office?

14:19:37 15 MR. WHITAKER: Same objection.

14:19:38 16 THE WITNESS: Thank you for restating it. I
14:19:43 17 want to answer that by saying probably. And I can explain
14:19:48 18 why I'm shading that if you want me to.

14:19:50 19 BY MR. DODGE:

14:19:51 20 Q. Sure.

14:19:52 21 A. The system that was set up was actually quite
14:19:59 22 popular, much to our surprise. And we got a lot -- a large
14:20:06 23 number of complaints. And so it completely overwhelmed our
14:20:11 24 ability to manage it at the intake stage.

14:20:15 25 And then we automated some of the materials

14:20:17 1 in terms -- to make things able to be tracked. And so that
14:20:21 2 initial review was conducted by Ms. Wright, to my
14:20:29 3 knowledge, but I can't say with certainty that she read
14:20:32 4 every single complaint that came in.

14:20:35 5 And so my choice of word was "probably." If
14:20:39 6 a person made an allegation about a noncitizen or
14:20:42 7 nonresident voting, it would have come through her purview
14:20:47 8 in many aspects but not all. And she may have read them,
14:20:53 9 and she may not have.

14:20:54 10 Q. Setting aside whether Ms. Wright looked at any
14:20:58 11 individual referral, in her role as being in charge of
14:21:01 12 intake, any allegation made through the portal you
14:21:06 13 mentioned that concerned an allegation of noncitizen or
14:21:10 14 nonresident registration of voting would have been one she
14:21:14 15 had access to; right?

14:21:15 16 A. She would have access to it, without question.

14:21:17 17 Q. And in the ordinary event, she would have been the
14:21:20 18 first individual at the Election Integrity Unit to review
14:21:23 19 that complaint?

14:21:23 20 A. That is correct. And one other thing I think you
14:21:27 21 should be aware of, that involved complaints that came
14:21:30 22 through the portal. There was also our investigation
14:21:34 23 section, which, you know, does consumer protection
14:21:37 24 complaints and general allegations. If a complaint came in
14:21:40 25 through there, it would have come in through SIS, not

14:21:45 1 through Jennifer Wright.

14:21:46 2 And so if an allegation was made through that

14:21:48 3 route, it ultimately would have been either Bill Knuth or

14:21:52 4 Roger Geisler or someone in the investigations section who

14:21:56 5 would have reviewed it. And it may not have gotten to

14:21:58 6 Jennifer Wright.

14:22:01 7 Q. If such a referral progressed to an invest- --

14:22:03 8 investigatory stage, would Ms. Wright ordinarily have been

14:22:07 9 made aware of it?

14:22:09 10 A. Perhaps. And we may have conflict checked it with

14:22:15 11 her to say, "Hey, we have an allegation involving X. Do

14:22:17 12 you have an allegation involving X?" without necessarily

14:22:21 13 sharing with her a lot of the details about what it was.

14:22:25 14 Q. Ms. Wright is no longer with the Attorney

14:22:27 15 General's Office?

14:22:27 16 A. That's correct.

14:22:28 17 Q. When did she leave?

14:22:30 18 A. I know there's a notice of claim about it and

14:22:35 19 there's a dispute about it, so I know the time may be

14:22:38 20 disputed. Sometime in December or January of 2022 to 2023.

14:22:44 21 Q. Did your office attempt to contact Ms. Wright in

14:22:46 22 preparing for today's deposition?

14:22:48 23 A. I am aware that she is -- a notice of claim has

14:22:53 24 been filed against us, so I believe she's adversarial to

14:22:56 25 us. And I don't know anything else beyond that in terms of

14:22:59 1 her willingness to provide us any information. I have not

14:23:02 2 spoken with her in advance of my statement here today.

14:23:05 3 Q. Looking back at this exhibit, looking at the CC

14:23:09 4 line at the top, do you see an individual named Ryan

14:23:12 5 Anderson?

14:23:12 6 A. Yes, I do.

14:23:12 7 This is on 219?

14:23:14 8 Q. Correct.

14:23:14 9 A. Yes.

14:23:15 10 Q. Can you tell me who Mr. Anderson is?

14:23:17 11 A. Mr. Anderson was communications staff within the

14:23:21 12 agency.

14:23:23 13 Q. Do you recall his title?

14:23:26 14 A. I do not. I know he was -- his responsibility was

14:23:35 15 communications issues outside, so he may have been in the

14:23:40 16 information office, but I don't know his exact title.

14:23:43 17 Q. Is he still with the Attorney General's Office?

14:23:45 18 A. No, sir.

14:23:46 19 Q. Do you know when he left?

14:23:49 20 A. No, I do not.

14:23:54 21 Q. Around the time of the transition?

14:23:56 22 A. I would, yes, believe that he left sometime around

14:23:59 23 the transition, but I do not know the -- he was outside of

14:24:03 24 my work area, and so when he left, it was -- I was not

14:24:07 25 notified.

14:24:09 1 Q. Are you aware of whether Mr. Anderson previously
14:24:12 2 served as campaign manager for Attorney General Brnovich?

14:24:17 3 A. I'm not.

14:24:18 4 Q. Did your office attempt to contact Mr. Anderson in
14:24:23 5 preparing for today's deposition?

14:24:24 6 A. I am not aware of any such contact.

14:24:26 7 Q. Were you asked to speak with Mr. Anderson in
14:24:29 8 anticipation of today's deposition?

14:24:31 9 A. I was not asked.

14:24:33 10 Q. Okay. Turning back to this email, at the top of
14:24:42 11 Ms. Lefevre's draft, she writes, "Hi Lisette, thank you for
14:24:44 12 your email. Attached is an up-to-date document that is
14:24:47 13 available on our website that lists the criminal election
14:24:50 14 integrity cases our office has prosecuted going back to the
14:24:54 15 2010 election cycle."

14:24:55 16 Did I get that right?

14:24:56 17 A. You did.

14:24:57 18 Q. So fair to say that this email included an
14:25:00 19 attachment with a list of prosecutions?

14:25:03 20 A. It says it does up at the top.

14:25:05 21 Q. Well-spotted.

14:25:09 22 I'm going to hand you what I'll mark -- ask
14:25:12 23 to be marked as Exhibit 220.

14:25:13 24 A. I'll take it.

14:25:20 25 Q. And which is in the Dropbox as 2A.

14:25:20 1 (The document was marked as Exhibit 220
14:25:23 2 for identification.)
14:25:23 3 BY MR. DODGE:
14:25:24 4 Q. Can you tell me what this document is?
14:25:27 5 A. I do know what this document is.
14:25:34 6 Q. Can you tell me what it is?
14:25:36 7 A. So this is a list of cases that was originally
14:25:43 8 maintained by myself but was later taken over by the
14:25:47 9 communications staff and was edited by them during points
14:25:52 10 -- during the Brnovich administration.
14:25:55 11 This is an update tag -- tag on it there
14:25:59 12 saying last updated January 21 of 2022. That was during
14:26:04 13 the time period where this document was maintained by
14:26:07 14 communications staff, not by myself. But I am very
14:26:12 15 familiar with this document. I have been involved with it
14:26:16 16 numerous times over its lifespan dating back to 2011.
14:26:19 17 Q. So this is a document that is recurringly updated
14:26:25 18 by the Attorney General's Office?
14:26:25 19 A. You're looking at the person who updated it most
14:26:27 20 of the time.
14:26:28 21 Q. Can you tell me when it was first created?
14:26:30 22 A. I believe I created it in 2011.
14:26:32 23 Q. When did you stop being responsible for
14:26:37 24 maintaining this document?
14:26:40 25 A. At some point during the Brnovich administration.

14:26:45 1 What I was doing was maintaining a document that exists in
14:26:50 2 our Criminal Division data system. And I was updating it
14:26:55 3 and I noticed that a version was up on the website that was
14:26:58 4 different than the one I was updating. And when I would
14:27:01 5 send them changes, they would not just take my document and
14:27:04 6 put it up. They were changing something on their own. And
14:27:07 7 I was not responsible for some of those edits. I don't
14:27:11 8 remember exactly when that happened, but at some point
14:27:16 9 since the Brnovich folks left, I resumed taking control of
14:27:21 10 this document.

14:27:22 11 Q. So I'd like to explore the chronology a little
14:27:25 12 bit.

14:27:25 13 So you created this document in 2011?

14:27:27 14 A. The original version of it, yes, I believe I did.

14:27:29 15 Q. When did -- when did it first go on the attorney
14:27:31 16 general's website?

14:27:37 17 A. So originally, it was created -- let me answer
14:27:41 18 with a timeline. Originally, it was created in response to
14:27:45 19 media requests. And it was a document we would produce in
14:27:48 20 response to requests.

14:27:49 21 At some point, the press office decided it
14:27:52 22 was more efficient than to -- instead of having it sitting
14:27:56 23 somewhere and putting it out for request, to just have it
14:27:59 24 publicly available so people could get it on their own. I
14:28:03 25 don't know exactly when that was.

14:28:04 1 Q. Was there a time period when you were responsible
14:28:06 2 for the document where you would update it, send it to the
14:28:11 3 press people, and then they would update the website
14:28:13 4 accordingly?

14:28:14 5 A. That used to occur at some point.

14:28:15 6 Q. And that was prior to Mr. Brnovich being attorney
14:28:20 7 general?

14:28:20 8 A. I think it may have actually been early in his
14:28:23 9 first term that was also the process that was used. But
14:28:25 10 again, the timeline on this document -- I mean, I have a
14:28:29 11 child older than this document, so -- or younger than this
14:28:32 12 than this document, so it's --

14:28:35 13 Q. So for at least some portion of time either
14:28:37 14 preceding Mr. Brnovich's time as attorney general and early
14:28:41 15 on perhaps in his administration, you would update this
14:28:44 16 document and it would then be put on the website?

14:28:47 17 A. Correct.

14:28:48 18 Q. But there came a time where you would update this
14:28:51 19 document, send it to communications individuals, and they
14:28:54 20 would then edit the document?

14:28:55 21 A. They were editing a version of it that they had
14:28:59 22 that was somewhat similar to what I was sending them but
14:29:02 23 was not the same. And that -- this is that.

14:29:07 24 Q. The edited version?

14:29:08 25 A. Correct. The version that was being maintained by

14:29:11 1 the communications staff.

14:29:12 2 Q. Can you tell who on the communications staff would
14:29:14 3 edit this document?

14:29:16 4 A. It was not -- it was not apparent to me who. My
14:29:21 5 job at the time was to provide regular updates specifically
14:29:25 6 directly to my supervisor, Blaine Gadow. He would
14:29:29 7 communicate those to the division chief, and the division
14:29:32 8 chief would communicate them to the executive staff. And
14:29:35 9 by that point, I was separated from the process, and I
14:29:39 10 don't know who was doing what with what I was reporting up.

14:29:42 11 Q. What kind of edits would the communications staff
14:29:45 12 make to this document?

14:29:46 13 A. For example, you'll see the very -- this document
14:29:49 14 here, 220, these paragraphs that are written in the front
14:29:53 15 here, I wrote these. And they were intended to summarize
14:29:59 16 how the cases were resolved.

14:30:01 17 You'll see here there comes a time when they
14:30:05 18 are linked. The links generally delineate when somebody
14:30:11 19 was doing things that -- I did not have the ability to put
14:30:15 20 links on the website. And so some of that is my -- you see
14:30:20 21 there's my words there, and then some of them there are --
14:30:25 22 the words I was provided may not necessarily have gone up.

14:30:31 23 And then there are a number of ongoing cases
14:30:33 24 where we couldn't comment anyway and we would just link the
14:30:37 25 materials.

14:30:38 1 Q. Were you given the opportunity to review those
14:30:40 2 edits before they were put up on the website?
14:30:42 3 A. Not always.
14:30:43 4 Q. Sometimes?
14:30:44 5 A. Sometimes. You're talking about a document that
14:30:47 6 was sometimes updated monthly, so -- and it was something
14:30:53 7 that I would report on monthly basis and then would get
14:30:56 8 separated from me. And if communications staff had any
14:31:00 9 questions, sometimes they would reach out to me and
14:31:01 10 sometimes they would just update it without consulting with
14:31:04 11 me.
14:31:04 12 Q. When you were given the opportunity to review the
14:31:07 13 edits, did you typically agree with them?
14:31:10 14 A. Generally. Generally, I viewed my job as
14:31:14 15 educating communications staff who often were not criminal
14:31:18 16 practitioners, were not familiar with the nature of
14:31:21 17 criminal practice. Like, for example -- again, I've worked
14:31:25 18 under four AGs now. We have a -- actually, five AGs now.
14:31:32 19 We have a constant education of the things that you can and
14:31:36 20 cannot say in the course of a pending criminal prosecution.
14:31:39 21 And so while AGs may want to talk about this
14:31:43 22 case they just filed, we have ethical restrictions on what
14:31:46 23 we can and can't say. And so that has -- I viewed most of
14:31:50 24 my communications to those staff as "I know you want to say
14:31:54 25 this, and I can tell you we can say this."

14:31:59 1 Q. What were the nature of the edits the
14:32:02 2 communications staff would generally make?
14:32:07 3 A. They would want to know more detail about the
14:32:10 4 case, and I would generally provide them what I could
14:32:17 5 provide them. And if they had summarized things in a way
14:32:21 6 that wasn't accurate, I would do my best to make it
14:32:24 7 accurate.
14:32:24 8 Q. So sometimes there were edits that you felt made
14:32:27 9 the description inaccurate?
14:32:28 10 A. Sometimes. Like, there was a version of this
14:32:32 11 document at some point that referred to these as -- all of
14:32:35 12 these as double-voting prosecutions, and they were not. So
14:32:38 13 I remember having a discussion that went through several
14:32:42 14 months of revisions where I sent the same revision every
14:32:45 15 month, saying, "This needs to change," and it didn't
14:32:47 16 change. But I don't recall specifically when or where
14:32:51 17 those changes were made.
14:32:52 18 Q. So some version of this document was live on the
14:32:55 19 website for some period of time with edits that you
14:32:58 20 disagreed with?
14:32:58 21 A. Yes. But I -- my job is not communications. My
14:33:02 22 job is prosecutor -- you know, as a prosecutor, and as long
14:33:07 23 as it was in compliance with our ethical and legal
14:33:10 24 obligations, it was not my job to change it.
14:33:12 25 Q. And so for at least that portion of time, the

14:33:15 1 document inaccurately characterized some of these cases

14:33:19 2 publicly?

14:33:20 3 A. I -- I'm hesitant to say "inaccurately" because I

14:33:28 4 don't want to cast dispersions on the work of the

14:33:32 5 communications staff. I think sometimes some changes could

14:33:36 6 have been made which may have expressed things a little

14:33:39 7 differently.

14:33:39 8 Q. Fair to say, then, that there are many versions of

14:33:42 9 this document?

14:33:43 10 A. Lots.

14:33:44 11 Q. Including versions that were made public either

14:33:48 12 online or in response to press requests and versions that

14:33:50 13 were not made public and remained internal to the office;

14:33:53 14 right?

14:33:54 15 A. I suppose that is accurate, but I can only speak

14:34:02 16 to the versions that I authored. I don't know to what

14:34:08 17 extent the public-facing versions were preserved or if they

14:34:12 18 were just overwritten as changes were made.

14:34:14 19 Q. Do you know if all versions of this document,

14:34:17 20 public and non-public public, currently in the Attorney

14:34:21 21 General's Office's possession have been produced in this

14:34:24 22 litigation?

14:34:24 23 A. I do not. But I did see another version which

14:34:26 24 came through in the materials you provided today.

14:34:29 25 Q. During the interregnum when you were not

14:34:35 1 responsible for this document, who was responsible for it?

14:34:36 2 A. Communications staff and -- which generally would
14:34:42 3 have included Mr. Anderson, but I don't know who else was
14:34:45 4 responsible for it in -- in his unit.

14:34:48 5 Q. Returning to Exhibit 220.

14:34:51 6 A. Yes, sir.

14:34:52 7 Q. Is this a complete list of all the criminal
14:34:55 8 election cases that the Attorney General's Office
14:34:57 9 prosecuted between 2010 and January 21st, 2022?

14:35:02 10 A. I would say yes, but allow me to explain. This is
14:35:07 11 the version as of February of -- excuse me -- January of
14:35:10 12 2022 and would include only cases that we could talk about
14:35:15 13 in a public setting. So materials -- matters that are
14:35:20 14 filed but no service had been performed -- the question
14:35:26 15 was: Have we prosecuted? I believe we have done what
14:35:29 16 would be considered prosecution, but we're not talking
14:35:32 17 about those because we're not permitted to.

14:35:33 18 Q. So with that caveat about your ethical limitations
14:35:36 19 in making certain criminal matters public, this is
14:35:37 20 otherwise a complete list of prosecutions; correct?

14:35:40 21 A. I believe it is. There were one or two matters
14:35:44 22 that were dismissed that I believe are not on this version.

14:35:56 23 Q. Got it.

14:35:58 24 Those were cases, then, that didn't result in
14:36:00 25 a conviction?

14:36:00 1 A. Correct. And so this -- essentially, the
14:36:02 2 iteration of this document that was public at this time
14:36:05 3 were just pending and convictions, and there were a couple
14:36:09 4 others where we had prosecuted but had dismissed.

14:36:12 5 Q. And that's -- is that always true of this
14:36:14 6 document, that it contains pending cases and convictions,
14:36:17 7 and if a case is subsequently dismissed or doesn't result
14:36:20 8 in a conviction, it's removed from this list?

14:36:22 9 A. It was during a certain time I believe in the
14:36:25 10 last iteration I -- you sent it to me today. And if you
14:36:31 11 could show me the one that you sent today, I believe there
14:36:34 12 are references to some of those dismissed cases. I put
14:36:36 13 those on there. I believe it's an accurate part -- you
14:36:40 14 know, it's -- part of saying we accurately did our work is
14:36:43 15 to say, hey, we filed this case, but ultimately we
14:36:45 16 dismissed it. I think that is something that this agency
14:36:48 17 should talk about.

14:36:49 18 Q. It's important that this list be accurate?

14:36:51 19 A. In my opinion, yes.

14:36:52 20 Q. Okay. We'll get to that more recent version in a
14:36:56 21 bit.

14:36:56 22 But for now, bearing this version of the
14:36:58 23 document in mind, the one current through January 21st,
14:37:02 24 2022.

14:37:02 25 A. Yes.

14:37:03 1 Q. Can we return to Exhibit 219 and Ms. Lefevre's
14:37:08 2 draft response to Ms. Flores.
14:37:10 3 A. Yes, sir.
14:37:11 4 Q. Just taking a moment to review the draft response,
14:37:16 5 does it make any reference to an instance of registration
14:37:21 6 or voting by a noncitizen in Arizona?
14:37:24 7 A. Could I have time to review it?
14:37:27 8 Q. Of course.
14:37:49 9 A. I'm sorry. Could you restate your question?
14:38:07 10 Q. Great.
14:38:08 11 So now that you've refreshed your
14:38:10 12 recollection of this document, my question is: Does
14:38:13 13 Ms. Lefevre's proposed response to Ms. Flores reference any
14:38:16 14 instances of registration or voting by noncitizens in
14:38:20 15 Arizona?
14:38:21 16 A. By noncitizens, no. I do not see a reference to
14:38:26 17 that in this draft.
14:38:27 18 Q. And the same is true of the attached list of
14:38:30 19 prosecutions you were just looking at; correct?
14:38:32 20 A. And so the attached list, which is 220, these are
14:38:38 21 primarily double-voting cases. And there are a couple on
14:38:44 22 here that are not voting cases at all; for example,
14:38:50 23 number 24.
14:38:54 24 But in terms of these that are filed here and
14:38:57 25 listed on this list, to my knowledge, none of these involve

14:39:00 1 noncitizen voting. That is correct.

14:39:04 2 Q. Do you have any reason to believe that there were
14:39:12 3 prosecutions for noncitizen registration or voting in
14:39:15 4 Arizona that the Attorney General's Office chose not to
14:39:19 5 include either in this proposed response to Ms. Flores or
14:39:23 6 this list of prosecutions?

14:39:27 7 MR. WHITAKER: Objection; foundation.

14:39:32 8 THE WITNESS: Could you restate that?

14:39:34 9 BY MR. DODGE:

14:39:34 10 Q. Let me ask it in two parts. Exhibit 220 --

14:39:37 11 A. Yes.

14:39:38 12 Q. You just testified that none of these cases
14:39:40 13 concern voting by noncitizens in Arizona; right?

14:39:42 14 A. This is correct.

14:39:45 15 Q. And were at least at one point responsible for
14:39:48 16 maintaining this document?

14:39:48 17 A. I maintained this document.

14:39:49 18 Q. Did you have any reason to not include
14:39:52 19 prosecutions of noncitizen voting in this document?

14:39:55 20 A. Let me -- can I answer that by offering you a
14:40:00 21 different -- different answer? I maintained this document.

14:40:04 22 This is a report of my cases.

14:40:08 23 I was generally the person who handled

14:40:10 24 election issues, but I was -- I am one of many assistant

14:40:14 25 attorney generals at this time who were handling these.

14:40:17 1 Actually, in the course of preparing for this deposition,
14:40:20 2 we discovered that there was a case that had been similarly
14:40:24 3 situated to the one I can't tell you about that is -- it's
14:40:27 4 the same posture. It went through grand jury and has not
14:40:30 5 been served was but was prosecuted by an assistant general
14:40:33 6 in Tucson.

14:40:34 7 And so the answer to that is this is a list
14:40:38 8 of the cases that I knew about. Is it possible someone
14:40:42 9 else in this agency pursued a case that I wasn't aware of?
14:40:48 10 It's possible. Is this, to my knowledge, the authoritative
14:40:52 11 list of the election prosecutions that our agency pursued?
14:40:56 12 I believe it is.

14:40:56 13 Q. Let me ask you just a couple questions about that.
14:40:58 14 Is there a reason why you, your office, or
14:41:02 15 whoever was responsible for maintaining this list at any
14:41:05 16 given time would have chosen not to include a
14:41:08 17 noncitizenship voting case they were aware of from this
14:41:11 18 list?

14:41:11 19 A. I cannot think of a reason, no.

14:41:13 20 MR. WHITAKER: Objection; foundation.

14:41:14 21 BY MR. DODGE:

14:41:14 22 Q. In fact, they probably would have had incentive to
14:41:18 23 include it on this list to ensure that it remained complete
14:41:21 24 and accurate --

14:41:22 25 MR. WHITAKER: Objection. Objection;

14:41:24 1 foundation.

14:41:24 2 BY MR. DODGE:

14:41:25 3 Q. -- correct?

14:41:25 4 A. I will tell you the -- the moment we had a case --

14:41:29 5 an election-related case we could talk about, there was a

14:41:33 6 reporting requirement to our supervisors that -- those

14:41:36 7 cases inevitably wound up either on this list or were the

14:41:40 8 subject of some sort of media release.

14:41:43 9 So I think if a case like that existed within

14:41:47 10 the agency was public, it would have been either added to

14:41:52 11 this list by communications staff or would have been

14:41:54 12 subject to some form of press release if it had existed.

14:41:58 13 What I don't want to get caught in a trap

14:42:01 14 with is -- so many of our units and AAGs themselves are --

14:42:07 15 essentially, we're not islands unto ourselves, but I am not

14:42:11 16 my fellow AAG's keepers; they're not my brothers. And so

14:42:15 17 I could -- it's possible one of them had a case that I

14:42:18 18 didn't know about.

14:42:18 19 Q. So fair to say for any public case involving

14:42:21 20 noncitizen registration or voting in Arizona, very likely

14:42:25 21 it would be on this list?

14:42:26 22 A. I would say "very likely" is a good term I would

14:42:29 23 use, yes.

14:42:30 24 Q. And if it came to your awareness, you would have

14:42:31 25 wanted it included on the list?

14:42:32 1 A. Absolutely.

14:42:35 2 Q. So similar questions with respect to 219

14:42:43 3 specifically. Can you think of any reason why the Attorney

14:42:46 4 General's Office, when asked about voter fraud by staff or

14:42:50 5 a legislator in an email titled "Voter Fraud," would have

14:42:54 6 not included examples -- public examples of registration or

14:42:58 7 voting by noncitizens in Arizona?

14:43:00 8 A. No, sir, I cannot.

14:43:01 9 MR. WHITAKER: Foundation.

14:43:03 10 THE WITNESS: I'm sorry. Go ahead.

14:43:05 11 MR. WHITAKER: Foundation.

14:43:05 12 THE WITNESS: No, sir, I cannot.

14:43:06 13 BY MR. DODGE:

14:43:10 14 Q. In fact, to provide -- well, strike that.

14:43:14 15 When your office does receive requests for

14:43:17 16 information from legislators, does your office endeavor to

14:43:21 17 be complete and accurate in providing responses to

14:43:23 18 legislators?

14:43:24 19 A. To the legal extent we can. And again, being a

14:43:28 20 criminal prosecutor, we have tremendous restrictions on the

14:43:33 21 information we can provide about ongoing investigations and

14:43:36 22 pending matters.

14:43:38 23 And so if a legislator asked us are we

14:43:41 24 investigating X or -- we often can't answer that if we are.

14:43:47 25 And if we're not, generally we will say we're not, if

14:43:50 1 there's a catch-22 there. That's kind of what the legal
14:43:56 2 ethics tell us we have to do.

14:43:58 3 Q. So in providing a response to Ms. Flores here, to
14:44:02 4 provide the most complete response possible, your office
14:44:05 5 likely would have provided any public information it had
14:44:08 6 about cases involving noncitizen voting; correct?

14:44:11 7 A. Yes, I would agree with that.

14:44:13 8 Q. Mr. Kredit's email here is dated January 21st;
14:44:19 9 correct?

14:44:19 10 A. That is the date on the top email. That's
14:44:23 11 correct. The date on the bottom is January 20th.

14:44:25 12 Q. And in his email, he says, "We can probably send
14:44:28 13 it Monday morning sometime"; right?

14:44:31 14 A. I don't have a calendar in front of me, but I
14:44:33 15 assume there's a weekend in there.

14:44:34 16 Q. But he says that; right?

14:44:37 17 A. I see what -- the document speaks for itself.

14:44:39 18 Q. And he's referring to the draft response,
14:44:41 19 presumably; right?

14:44:42 20 A. The document speaks for itself on that point.

14:44:45 21 Q. I'm going to hand you what I'll ask to be marked
14:44:55 22 as Exhibit 221. And this is Number 3 in the Dropbox
14:45:19 23 folder.
14:45:19 24 (The document was marked as Exhibit 221
14:45:20 25 for identification.)

14:45:20 1 BY MR. DODGE:

14:45:21 2 Q. This is a January 27, 2022, email from Mr. Kredit

14:45:25 3 to Mr. Kanefield; correct?

14:45:28 4 A. That is what it purports to be. Again, my first

14:45:33 5 review of this document was this morning when I saw it.

14:45:37 6 Q. Looking at the second page of this exhibit, you

14:45:41 7 see at the bottom the same January 20th, 2022, email from

14:45:45 8 Ms. Flores to Ms. Lefevre that we were previously

14:45:49 9 discussing; right?

14:45:49 10 A. And a separate one on the 25th, yes.

14:45:53 11 Q. Let's talk about that.

14:45:55 12 So there's an email on January 26, again from

14:45:58 13 Ms. Flores to Ms. Lefevre; correct?

14:46:02 14 A. I will say the document appears to speak for

14:46:05 15 itself. It would appear, based on my prior knowledge of

14:46:07 16 email systems, that Ms. Flores forwarded her previous

14:46:10 17 request and said, "Why haven't you responded to my first

14:46:14 18 request?" That's kind of the way I read it, but I think

14:46:16 19 the document more or less speaks for itself.

14:46:18 20 Q. So six days after initially emailing Ms. Lefevre,

14:46:23 21 Ms. Flores is emailed again, following up for a response?

14:46:26 22 A. That's what it appears to be.

14:46:27 23 Q. So fair to say that Ms. Flores had probably not

14:46:31 24 received a response at this point?

14:46:32 25 A. I think that is a fair characterization, but I

14:46:35 1 cannot -- I do not know Ms. Flores, and I did not -- was

14:46:39 2 not involved in this.

14:46:41 3 Q. Okay. So looking back at the top of this,
14:46:44 4 Mr. Kredit writes, "Thoughts on this email going back to
14:46:48 5 Senate Democrat staff? Ryan, Rick, and I have edited it
14:46:51 6 more since you last saw it, and Lisette F reached back out
14:46:55 7 to Edie yesterday to get the status of her request."

14:46:58 8 Did I read that correctly?

14:46:59 9 A. You did.

14:46:59 10 Q. Do you know who the "Ryan" being referred to there
14:47:04 11 is?

14:47:08 12 A. Again, just based on my familiarity with senior
14:47:11 13 staff, the only one I'm aware of was Ryan Anderson, but I
14:47:15 14 don't know specifically.

14:47:16 15 Q. Is it possible you mean Ryan Armstrong?

14:47:18 16 A. I do not know Ryan Armstrong.

14:47:21 17 Q. Is it possible I miswrote the name in my outline?

14:47:26 18 A. It's entirely possible. I have -- I have a
14:47:31 19 terrible time with names, so it's -- it could be either.

14:47:33 20 Q. Do you know who the "Rick" being referred to there
14:47:36 21 could be? Possibly Rick Medina?

14:47:42 22 A. Could be Rick Medina. It's possible.

14:47:44 23 Q. Can you tell me who Rick Medina was?

14:47:46 24 A. I know Rick Medina by face. I know he's an
14:47:50 25 executive person. I know he is way up on my chain of

14:47:53 1 command and that I said hello to him when I saw him, but I
14:47:58 2 do not know exactly what his title was.

14:47:58 3 Q. Do you recall generally what his role at the
14:48:02 4 Attorney General's Office was?

14:48:02 5 A. Executive level. And I am not executive level.

14:48:07 6 Q. What floor did he sit on?

14:48:09 7 A. I believe on six or seven, but I'm on two.

14:48:14 8 MR. WHITAKER: You're on one.

14:48:16 9 THE WITNESS: Yes, you're on one today.

14:48:16 10 BY MR. DODGE:

14:48:18 11 Q. Does the sixth floor mean anything to you?

14:48:20 12 A. I think Ms. Wright was on the sixth floor. So
14:48:24 13 that was one cut below the executive staff.

14:48:27 14 Q. Is Mr. Medina still at the Attorney General's
14:48:29 15 Office?

14:48:29 16 A. Not to my knowledge.

14:48:30 17 Q. And did he also leave around the time of the
14:48:31 18 transition?

14:48:32 19 A. Sounds -- sounds plausible. I have not seen any
14:48:36 20 executive staff carried over, to my knowledge.

14:48:39 21 Q. Mr. Kredit appears to be asking Mr. Kanefield for
14:48:43 22 his thoughts on this draft email to Ms. Flores and the
14:48:46 23 senate Democrat staff. Is that fair to say?

14:48:48 24 A. My answer would be the document speaks for itself.
14:48:51 25 That is what it appears to say.

14:48:53 1 Q. I'll give you a moment to review the document, but

14:48:58 2 I'd like you to have the question in mind while do you it.

14:49:00 3 A. Sure.

14:49:00 4 Q. Does this updated version of the draft email to

14:49:04 5 Ms. Flores that includes edits from Mr. Anderson,

14:49:08 6 Mr. Medina identify any examples of noncitizens registering

14:49:15 7 or voting in Arizona?

14:49:30 8 MR. LANGHOFER: Document speaks for itself.

14:50:00 9 THE WITNESS: The voice who came over the

14:50:04 10 speaker is correct. It is a document that speaks for

14:50:07 11 itself. I view this as -- your question as a reading

14:50:11 12 comprehension question. And as I read this, I do not see

14:50:14 13 any specific reference to noncitizen voting in this answer.

14:50:20 14 BY MR. DODGE:

14:50:21 15 Q. And as you testified before, in providing, to the

14:50:26 16 best of its ability and consistent with its ethical

14:50:30 17 obligations, the Attorney General's Office here would have

14:50:32 18 been endeavoring to include -- strike that.

14:50:36 19 The Attorney General's Office would have

14:50:41 20 included any public information regarding noncitizen

14:50:46 21 registration or voting in preparing this response to the

14:50:50 22 legislative staff's inquiry about voter fraud in Arizona;

14:50:53 23 right?

14:50:54 24 MR. WHITAKER: Foundation.

14:50:55 25 THE WITNESS: With the objection that's said,

14:50:58 1 to my knowledge, if there had been such a case to report,
14:51:04 2 it would have been listed. I believe it would have. But
14:51:09 3 to my knowledge, there was no such case and nothing to
14:51:12 4 report.

14:51:12 5 BY MR. DODGE:

14:51:16 6 Q. You can't think of any reason why the Attorney
14:51:19 7 General's Office would not want to share public information
14:51:22 8 about incidents of not noncitizens registering or voting
14:51:26 9 with a member of the legislature or their staff; right?

14:51:30 10 A. The key word in there being "public," I cannot
14:51:33 11 think of a reason why we wouldn't share public information,
14:51:37 12 no.

14:51:37 13 Q. Do you think having information about incidents of
14:51:45 14 noncitizen registration or voting in Arizona could be
14:51:47 15 useful to legislators or their staff in considering whether
14:51:51 16 to enact the challenged laws?

14:51:55 17 MR. WHITAKER: Form, foundation.

14:51:58 18 THE WITNESS: I always tried to answer the
14:52:00 19 questions to the legislature when they were posed to me.

14:52:04 20 BY MR. DODGE:

14:52:04 21 Q. Presumably, if they asked for information, they
14:52:06 22 consider it relevant to their legislative deliberations;
14:52:10 23 right?

14:52:10 24 MR. WHITAKER: Foundation.

14:52:11 25 THE WITNESS: I -- I view state government as

14:52:14 1 being something where if the state legislature comes asking

14:52:20 2 for factual questions, we can provide factual answers, yes.

14:52:23 3 BY MR. DODGE:

14:52:24 4 Q. Presumably, they want answers to their questions?

14:52:26 5 MR. WHITAKER: Foundation.

14:52:27 6 THE WITNESS: They're entitled to the truth.

14:52:30 7 BY MR. DODGE:

14:52:35 8 Q. Beyond the communications we've been discussing in

14:52:39 9 Exhibits 219, 220, and 221, are there any instances of your

14:52:45 10 office communicating with the legislature or any

14:52:48 11 legislative staff about incidents of voter fraud while the

14:52:53 12 challenged laws were pending before the Arizona

14:52:55 13 legislature?

14:52:56 14 A. I am not aware of any. I don't think -- even in

14:53:00 15 the materials you provided today, there was some additional

14:53:05 16 email that I had not seen before today. I don't think that

14:53:08 17 that email message meets those -- your question, but

14:53:15 18 specifically prior to today, I certainly was not aware of

14:53:17 19 any of. And I don't think the documents you provided have

14:53:19 20 changed my opinion on that.

14:53:20 21 Q. Are there any instances beyond those we've

14:53:23 22 discussed of your office communicating with anyone at the

14:53:27 23 legislature about the challenged laws while they were

14:53:30 24 pending before the legislature?

14:53:32 25 A. I'm sorry. Could you restate your question?

14:53:35 1 Q. Did your office communicate with anyone at the
14:53:39 2 legislature regarding the challenged laws while they were
14:53:42 3 pending before the legislature?

14:53:43 4 A. I reviewed this morning an email message which led
14:53:47 5 me to believe the answer to that is yes, but that is the
14:53:51 6 first document I have seen that is any indication that we
14:53:56 7 did.

14:53:57 8 Q. So beyond this document, you're not aware of any?

14:53:59 9 A. I -- yeah. That was the first I had heard.

14:54:02 10 Q. Okay. I'm going to hand you what I'll ask to be

14:54:16 11 marked as Exhibit 222.

14:54:20 12 Is this the document you were just referring
14:54:22 13 to?

14:54:22 14 (The document was marked as Exhibit 222
14:54:22 15 for identification.)

14:54:22 16 BY MR. DODGE:

14:54:30 17 Q. This is Number 4 in the Dropbox.

14:54:38 18 A. This would not meet the criteria for the question
14:54:40 19 you just asked me. This is an email internally between
14:54:44 20 Ms. Lefevre and Mr. Kredit. It's not a communication back
14:54:49 21 to the legislature. So I -- I recall seeing a document in
14:54:59 22 your packet that was a comment from Ms. Wright.

14:55:01 23 Q. Well, we'll get there, but let me ask you about
14:55:01 24 this.

14:55:01 25 A. Okay.

14:55:04 1 Q. Looking at the bottom of this document, do you see

14:55:06 2 a March 9, 2022, email from a Ms. Selby?

14:55:10 3 A. Yes, sir.

14:55:10 4 Q. And looking at the bottom of her email, can you
14:55:15 5 tell me who Ms. Selby appears to be?

14:55:17 6 A. It speaks for itself that she would be a person
14:55:20 7 with a governor's office.

14:55:23 8 Q. And specifically with the Governor's Office of
14:55:26 9 Strategic Planning and Budgeting; right?

14:55:26 10 A. Yes.

14:55:27 11 Q. And her role appears to be budget analyst. Fair
14:55:31 12 to say?

14:55:32 13 A. It's what it says.

14:55:35 14 Q. Do you know what the -- well, strike that.

14:55:38 15 What is the Office of Strategic Planning and
14:55:41 16 Budgeting?

14:55:41 17 A. I guess it involves money, but beyond that, I am
14:55:44 18 not familiar with it.

14:55:46 19 Q. Have you ever fielded an inquiry from the Office
14:55:50 20 of Strategic Planning and Budgeting?

14:55:50 21 A. No, sir. And I do not know Ms. Selby.

14:55:55 22 Q. Ms. Selby's email is to an Ana Gonzalez and a
14:55:59 23 Lizette Morgan, apparently at the Attorney General's
14:56:03 24 Office. Do you see that?

14:56:03 25 A. I do see that.

14:56:05 1 Q. Do you know who Ms. Gonzalez is?

14:56:07 2 A. No, sir.

14:56:08 3 Q. Do you know who Ms. Morgan is?

14:56:10 4 A. Ms. Morgan's name is familiar, but I cannot place

14:56:14 5 where she fit in the larger picture of the office.

14:56:17 6 Q. Do you don't know what her role is?

14:56:19 7 A. I am a line attorney. And there are a number of

14:56:25 8 people in various aspects of management that had very

14:56:28 9 important jobs, and I don't mean to cast dispersions on

14:56:30 10 them, but I don't know their titles offhand.

14:56:32 11 Q. Your recollection, then, is that Ms. Morgan was in

14:56:34 12 management?

14:56:34 13 A. Yes. Somewhere.

14:56:37 14 Q. Do you know if she's still at the Attorney

14:56:40 15 General's Office?

14:56:40 16 A. I do not.

14:56:41 17 Q. Looking at Ms. Selby's email, she writes, "I had a

14:56:45 18 few questions about how HB2492 would impact the Attorney

14:56:50 19 General's office."

14:56:51 20 Did I read that correctly?

14:56:51 21 A. I do see that.

14:56:55 22 Q. And it appears that Ms. Morgan forwards the email

14:57:04 23 to Ms. Lefevre and writes, "OSPB is asking questions again.

14:57:09 24 I'm assuming you are evaluating this and that you can reply

14:57:13 25 to them as necessary."

14:57:14 1 Do you see that?

14:57:14 2 A. I do see that.

14:57:15 3 Q. And there's a Leslie Heathcotte --

14:57:19 4 A. Yes.

14:57:19 5 Q. -- CC'd on that.

14:57:21 6 A. Yes.

14:57:21 7 Q. Do you who Leslie Heathcotte is?

14:57:23 8 A. She is, again, a high-ranking executive within the

14:57:26 9 agency, but her exact title is not something that I have

14:57:30 10 committed to memory.

14:57:31 11 Q. She was a management person?

14:57:33 12 A. I believe she still is.

14:57:35 13 Q. Your understanding is she's still with the

14:57:37 14 Attorney General's Office?

14:57:37 15 A. I -- if she has left, I have not heard. But she

14:57:43 16 had been around for a while.

14:57:45 17 Q. She was with the Attorney General's Office prior

14:57:48 18 to Mr. Brnovich being attorney general, then?

14:57:53 19 A. See, now you're going to ask me that and I

14:57:57 20 can't -- she is an important person within the AG's

14:57:59 21 administration executive structure, but I cannot tell you

14:58:03 22 offhand how long or what her title was. But when I see her

14:58:09 23 name, my brain says that was someone important.

14:58:14 24 Q. Okay. Ms. Morgan says "OSPB is asking questions

14:58:18 25 again"; right?

14:58:18 1 A. I do see that.

14:58:19 2 Q. Does that suggest to you that OSPB had been asking
14:58:23 3 questions before about HB 2492?

14:58:24 4 A. The document speaks for itself. I cannot speak to
14:58:28 5 prior requests or things that counsel may have located in
14:58:33 6 terms of gathering discovery. I'm not aware of a prior
14:58:35 7 request.

14:58:35 8 Q. But would you read the email that way?

14:58:38 9 A. The document speaks for itself.

14:58:40 10 Q. Are you aware of whether OSPB had asked questions

14:58:44 11 about HB 2492 beyond Ms. Selby's March 9th, 2022, email?

14:58:49 12 A. Honestly, before I referred to this document, I
14:58:52 13 wasn't even sure what OSPB was. I'm not sure I've ever
14:58:54 14 heard of it before.

14:58:55 15 Q. Did anyone ask you to consult with Ms. Morgan
14:59:00 16 regarding today's deposition?

14:59:02 17 A. No, sir.

14:59:03 18 Q. Do you know if your office reached out to
14:59:05 19 Ms. Morgan regarding today's deposition?

14:59:06 20 A. I have no knowledge of that.

14:59:07 21 Q. Did anyone in your office ask you to speak with
14:59:11 22 Ms. Heathcotte for today's deposition?

14:59:15 23 A. No. No. I said, as I sit here, I want to say
14:59:20 24 that I have seen an email from her in the new
14:59:22 25 administration, leading me to believe that she might still

14:59:25 1 be here, but my memory of that is hazy. I can't -- it's

14:59:30 2 hard to say when people leave from other divisions because

14:59:33 3 I don't get -- we don't have a sports page like that.

14:59:36 4 Q. Ms. Lefevre forwards this email to Mr. Kredit on

14:59:41 5 March 9th, 2022; right?

14:59:42 6 A. Yes.

14:59:43 7 Q. And she writes, "Questions regarding HB 2492, want

14:59:47 8 me to pass along to Beau?" Right?

14:59:50 9 A. Yes.

14:59:51 10 Q. Who's Beau?

14:59:52 11 A. The only person I know with that name in this

14:59:55 12 agency was Beau Roysden.

14:59:57 13 Q. And what is or was his role at the Attorney

15:00:01 14 General's Office?

15:00:01 15 A. I'm fairly certain he was solicitor general.

15:00:05 16 Q. I think I know the answer to this, because

15:00:08 17 Mr. Bendor was here earlier. Is he still the solicitor

15:00:10 18 general?

15:00:11 19 A. No, sir.

15:00:11 20 Q. He left around the time of the transition?

15:00:12 21 A. Absolutely.

15:00:13 22 Q. You seem very certain of that.

15:00:16 23 A. I -- I understand there's been a 100 percent

15:00:19 24 turnover in the Solicitor General's Office; or if not 100,

15:00:24 25 90-something percent.

15:00:25 1 Q. Does that include amongst line staff?

15:00:30 2 A. Aside from support staff, I believe that's
15:00:34 3 correct. Attorneys have turned over.

15:00:35 4 Q. Do you know if the Attorney General's Office ever
15:00:38 5 responded to this email from Ms. Selby?

15:00:39 6 A. I do not. I was not aware of this email before I
15:00:43 7 read it this morning.

15:00:44 8 Q. Is there a reason your office would not respond to
15:00:47 9 a request from the governor's office like this?

15:00:50 10 MR. WHITAKER: Foundation.

15:00:50 11 THE WITNESS: I am not aware one of one.

15:00:53 12 BY MR. DODGE:

15:00:55 13 Q. And as with a request from a legislator, your
15:00:57 14 office would presumably endeavor to be as complete and
15:01:00 15 accurate as possible within the bounds of its ethical
15:01:04 16 obligations in responding to inquiries from the governor's
15:01:07 17 office; right?

15:01:07 18 MR. WHITAKER: Foundation.

15:01:07 19 THE WITNESS: I can only speak to my own
15:01:10 20 motivations as a 23-year member of the bureaucracy, that if
15:01:14 21 I got a request -- question from an executive person, that
15:01:18 22 I would endeavor to answer it or put it in the
15:01:22 23 responsibility of someone who would answer it. And I have
15:01:24 24 no reason to indicate that Lizette Morgan would do
15:01:28 25 otherwise. I think we would answer the governor's office

15:01:35 1 if they asked us.

15:01:36 2 BY MR. DODGE:

15:01:36 3 Q. Does your office frequently receive inquiries from
15:01:40 4 the governor's office?

15:01:41 5 A. I can't speak to the frequency. I know we do
15:01:45 6 every once in a while.

15:01:47 7 Q. Would you have given any input on a response to an
15:01:51 8 inquiry like this from the governor's office?

15:01:53 9 A. If I had been consulted, I might have contemplated
15:01:57 10 the question, but I was not consulted.

15:02:00 11 Q. How did your office anticipate at the time of this
15:02:08 12 email that HB 2492 would impact it?

15:02:13 13 A. I can say, as one of the people who -- as I read
15:02:17 14 the legislation, the questions that I have, nobody asked me
15:02:25 15 those -- to contemplate those questions at this time. I
15:02:30 16 was not made aware of the bill. I was not consulted.

15:02:36 17 Q. What would those questions have been?

15:02:38 18 A. How would we have addressed these complaints if we
15:02:41 19 received them?

15:02:44 20 Q. When you -- so you had the question "How would we
15:02:49 21 address these complaints when we receive them?"

15:02:51 22 A. When I learned of the legislation and when counsel
15:02:54 23 brought to me the issues in your suit --

15:02:58 24 MR. WHITAKER: Just to -- you can answer, but
15:03:00 25 just don't get into the communications we've had.

15:03:03 1 THE WITNESS: Of course. We have -- we have
15:03:09 2 a number of complaints that come into our agency on a daily
15:03:14 3 basis on -- in terms of the election unit during this time.
15:03:18 4 We were getting lots of complaints.

15:03:21 5 And so we had a process set up by which we
15:03:24 6 would review and intake complaints. And certainly, if we
15:03:27 7 got a complaint in like this, I think we would want to talk
15:03:30 8 about how we would intake and review a complaint like this
15:03:36 9 if we got it and what sort of resources we would marshal to
15:03:41 10 address it if we got it. But at no point was I made aware
15:03:46 11 of this complaint -- this inquiry or these pending pieces
15:03:52 12 of legislation at this time.

15:03:52 13 BY MR. DODGE:

15:03:52 14 Q. When you say "a complaint like this," what are you
15:03:55 15 referring to?

15:03:55 16 A. The legislation, as I recall -- and you indicated
15:03:58 17 at some point back there you were going to show it to me,
15:04:01 18 and I haven't seen it yet -- my recollection is that it
15:04:05 19 requires recorders to refer matters to us. And if a matter
15:04:11 20 was referred by a recorder, we would be -- our agency would
15:04:16 21 conduct an intake review.

15:04:24 22 To bring you back to Document 222, I was not
15:04:27 23 consulted at this time.

15:04:32 24 Q. I'll hand you what's previously been marked as

15:04:35 25 Petty Exhibit 19.

15:04:37 1 A. 19. Thank you.

15:04:38 2 Q. You don't have to mark that.

15:04:39 3 A. I see it is marked. Thank you.

15:04:41 4 Q. If you could turn to page 8 of that document.

15:05:01 5 A. Yes, sir.

15:05:01 6 Q. Look at Section 7, beginning on page 13.

15:05:05 7 A. 13.

15:05:07 8 Q. I apologize. Line 13 on what is marked as page 7.

15:05:11 9 It's the eighth page of the PDF. It's numbered 7.

15:05:14 10 A. Yes.

15:05:14 11 Q. Do you see Section 7 on line 13?

15:05:16 12 A. I do.

15:05:18 13 Q. Is this the complaint that you had in mind just a

15:05:21 14 moment ago when you were talking about the questions you

15:05:24 15 had about the bill?

15:05:24 16 A. Could I have a moment to review it?

15:05:28 17 Q. Of course.

15:05:29 18 A. The thing I was referring to essentially is what

15:05:42 19 is contained in paragraph A of the statute here marked

15:05:49 20 16-143, lines 15 through 23 of page 7.

15:05:56 21 Q. And why did you have the reaction of wondering how

15:05:59 22 you would handle a complaint of the sort described in this

15:06:04 23 section?

15:06:04 24 A. Because we receive any sort -- any possible number

15:06:09 25 of election complaints come in through intake. And to the

15:06:13 1 extent that -- our system in place was anything criminal
15:06:16 2 would come over for criminal review. If we received a
15:06:20 3 criminal review in this circumstance, how would they be
15:06:24 4 processed.

15:06:26 5 Q. Were you concerned about the volume of criminal
15:06:30 6 investigations or prosecutions this section would require?

15:06:34 7 A. No, sir.

15:06:35 8 Q. So what specifically were you thinking about in
15:06:38 9 terms of how they'd be handled?

15:06:41 10 A. At a basic level, sir, as a prosecutor, I'm not an
15:06:50 11 investigator. My job is to prove things in court. But at
15:06:54 12 the same time, I'm aware of the resources that are
15:06:57 13 available to investigators, and we do not have access to
15:07:03 14 citizenship databases. Those are federal in nature. And
15:07:09 15 this essentially presumes that we are going to be
15:07:13 16 arbitrators of citizenship when we don't have access to
15:07:16 17 that information.

15:07:18 18 Q. So in other words, your reaction was that the
15:07:21 19 legislation is asking you to do something your office
15:07:23 20 essentially cannot?

15:07:26 21 A. Wouldn't necessarily say "cannot." I would say
15:07:29 22 "had not." And I don't know that we had ever fully
15:07:32 23 explored whether we could, but my gut reaction at that
15:07:37 24 time -- and the same as I sit here today -- is that I don't
15:07:40 25 think we can. I don't think we have the ability to. But

15:07:43 1 we've never fully explored it.

15:07:53 2 Q. So suffice to say that the criminal referrals that

15:08:01 3 might stem from Section A that we just discussed, it would

15:08:06 4 be very burdensome on your office?

15:08:08 5 A. Could potentially be burdensome. To my knowledge,

15:08:11 6 we have received no complaints. So it has been the

15:08:14 7 opposite of burdensome.

15:08:16 8 Q. Okay. Let's go back to Exhibit 222.

15:08:22 9 A. Yes, sir.

15:08:22 10 Q. And returning to Ms. Selby's email, at the bottom,

15:08:36 11 she writes, "HB2492 would require the Attorney General's

15:08:39 12 office to verify the citizenship status of voters who have

15:08:42 13 not provided adequate proof of citizenship and provide a

15:08:44 14 report by March 31, 2023."

15:08:47 15 Did I read that correctly?

15:08:49 16 A. You did.

15:08:49 17 Q. And then she writes, "Do you have an estimate for

15:08:53 18 what it will take to complete this report?"

15:08:56 19 Did I read that correctly?

15:08:57 20 A. Yes, sir.

15:08:58 21 Q. Do you know if your office ever responded to that

15:09:00 22 question?

15:09:01 23 A. We did.

15:09:02 24 Q. Okay. Does your office have an estimate of how

15:09:06 25 long it would have taken to prepare that report?

15:09:09 1 A. I'm sorry. Maybe my -- I believe I may have
15:09:12 2 answer inaccurately. I am aware that we responded, as
15:09:15 3 directed, by March 31st of 2023. How much went into that,
15:09:19 4 I do not have that answer. My apologies if I have
15:09:24 5 inaccurately --

15:09:25 6 Q. Setting aside any response the Attorney General's
15:09:28 7 Office actually did submit --

15:09:28 8 A. Yes.

15:09:31 9 Q. -- and setting aside whether any such an
15:09:34 10 investigation, in fact, occurred, based on what you
15:09:36 11 reviewed today and what we just discussed from Section 7 of
15:09:40 12 HB 2492, do you have an estimate here today of how long it
15:09:45 13 would have taken to conduct that review if the secretary of
15:09:47 14 state and the county recorders' offices had provided you
15:09:50 15 lists of individuals registered to vote in Arizona who had
15:09:55 16 not provided satisfactory proof of citizenship?

15:09:58 17 MR. LANGHOFER: Speculation.

15:10:00 18 THE WITNESS: That's what I was looking for.
15:10:01 19 The answer in your question is I don't know, because I
15:10:06 20 don't know how many people would have been referred. If we
15:10:14 21 got a couple of referrals of a handful of people, it may
15:10:20 22 have been a negligible impact. If we had received
15:10:24 23 phonebooks of people that people were alleging were
15:10:28 24 noncitizens voting, then it would have been a drain on the
15:10:32 25 entire agency; somewhere between nothing and the entire

15:10:37 1 agency stopping to work on this.

15:10:38 2 BY MR. DODGE:

15:10:39 3 Q. Let's say it was a few thousand names. What sort
15:10:41 4 of an estimate would have in that situation?

15:10:44 5 A. I can only speculate as to what the investigative
15:10:48 6 response would have been. Given the -- from where I sit as
15:10:54 7 a prosecutor, I am not aware that the agency possessed the
15:10:58 8 investigative tools to make authoritative determinations of
15:11:03 9 citizenship as to anyone.

15:11:09 10 Q. How would -- would it have endeavored to do that
15:11:16 11 if asked to do so?

15:11:17 12 MR. WHITAKER: Foundation.

15:11:18 13 THE WITNESS: And I believe the -- I can't
15:11:22 14 object to the question because I'm not the lawyer here, but
15:11:25 15 I can only speculate. Given that -- at least to my
15:11:31 16 knowledge, if the questions that are being posed by these
15:11:35 17 complaints that would have come through this legislation --
15:11:38 18 what we talked about in Exhibit 19 -- a complaint would
15:11:46 19 have come over that so many people are noncitizens, I don't
15:11:51 20 know what our agency could do to verify citizenship beyond
15:11:57 21 essentially going hat in hand to the federal government and
15:12:00 22 saying, "Would you give us this information, please?" to
15:12:05 23 which the federal government, I believe, would have been
15:12:07 24 entirely -- entirely free to reject our request altogether.

15:12:12 25 BY MR. DODGE:

15:12:12 1 Q. So you're not sure whether your agency is capable
15:12:16 2 of making authoritative determinations of citizenship when
15:12:22 3 an individual is referred to you?

15:12:24 4 A. Not without the full cooperation of the federal
15:12:27 5 government. And I'm not entirely certain if we would get
15:12:30 6 it in this context.

15:12:32 7 Q. Returning to Ms. Selby's email, she says, "Does
15:12:38 8 the attorney general's" -- pardon me. I'll start again.

15:12:41 9 "Does the Attorney General's office have
15:12:43 10 access to all of the databases listed in this bill?"

15:12:46 11 Do you see that?

15:12:47 12 A. Yes, I see the reference there.

15:12:49 13 Q. Do you know if your office has access to the
15:12:51 14 various databases listed in HB 2492?

15:12:54 15 A. Can you provide me the list?

15:12:55 16 Q. Let's pull back up Petty Exhibit 19.

15:13:00 17 A. Yes, sir.

15:13:01 18 Q. And you can go back to page 7, where you were
15:13:04 19 before.

15:13:05 20 A. I'm sorry. I'm bumping my mic. I hope the
15:13:09 21 recording isn't trashed. Good. All right. Thank you.

15:13:11 22 MR. WHITAKER: And I'll object to scope. We
15:13:14 23 have a different designee we've identified, but I'm not
15:13:16 24 going to prevent the witness from answering.

15:13:19 25 BY MR. DODGE:

15:13:20 1 Q. Are you on page 7 of Petty Exhibit 19?

15:13:21 2 A. Yes, sir.

15:13:21 3 Q. Do you see beginning on line 28 a list of

15:13:25 4 databases?

15:13:25 5 A. I do. I see it's essentially letter B there.

15:13:30 6 Q. Correct.

15:13:31 7 A. Is that what you're referring to?

15:13:32 8 Q. Do you know whether your agency has access to

15:13:34 9 these databases?

15:13:34 10 A. So I would essentially follow what my counsel

15:13:39 11 said. I understand that other witnesses are investigators,

15:13:42 12 and investigators' statements would be more authoritative

15:13:45 13 than mine. I'm aware that we have access to -- as an

15:13:51 14 agency, to driver's licenses, number 1 there.

15:13:57 15 And I know we have other access in terms of

15:14:04 16 we were getting cooperation from recorders with regard to

15:14:09 17 voter registration databases in 5.

15:14:13 18 I am aware that we sent requests on a

15:14:17 19 case-by-case basis to the Social Security Administration

15:14:20 20 for database 2 but that the responses that we received from

15:14:25 21 them are authoritative only as to whether the person has a

15:14:29 22 Social Security number. It is not determinative of

15:14:31 23 citizenship. And a person who's a legal permanent resident

15:14:38 24 can have a Social Security number and not be a citizen. So

15:14:41 25 essentially, it's the opposite of authoritative on

15:14:44 1 citizenship.

15:14:45 2 So -- and again, I have experience in terms

15:14:48 3 of having done Simpson hearings in the criminal court and

15:14:52 4 so I know that there are some cooperations available for

15:14:56 5 United States citizenship in terms of release conditions

15:15:00 6 and establishing them at the time of charges, but I'm not

15:15:05 7 aware of citizenship information being available to

15:15:09 8 investigators. And that would be a question you'd have to

15:15:11 9 ask to Agent Knuth or someone else from investigations. I

15:15:20 10 hope my answer is complete.

15:15:21 11 Q. Looking back at Ms. Selby's email, the next thing

15:15:24 12 she says is "This bill would also require the Attorney

15:15:29 13 General to prosecute anyone registered to vote who is not a

15:15:33 14 US citizen. Is there an anticipated increase in workload

15:15:35 15 due to this provision?"

15:15:38 16 Do you see that?

15:15:38 17 A. I do see that.

15:15:40 18 Q. What view did your office have on this question at

15:15:42 19 that time?

15:15:42 20 A. I'm not aware of any view at that time because I

15:15:45 21 was not brought into this discussion. I'm not aware of the

15:15:48 22 response to it.

15:15:48 23 Q. Do you have any view on that question at this

15:15:51 24 time?

15:15:51 25 A. I can speak to my experience that since that time,

15:15:54 1 we have not prosecuted any of these, so the anticipated
15:15:59 2 increased workload turned out to be nothing.

15:16:05 3 Q. You testified earlier that you're not aware of the
15:16:10 4 secretary of state ever providing a list of registered
15:16:13 5 voters who had not provided satisfactory proof of
15:16:16 6 citizenship; is that right?

15:16:17 7 A. In terms of it being a complaint under this
15:16:19 8 section, I'm not aware of any recorder or secretary of
15:16:24 9 state complaint that made it to me. It doesn't necessarily
15:16:28 10 mean that a complaint didn't go to Ms. Wright or that a
15:16:32 11 complaint didn't go to investigations, but I'm not aware of
15:16:36 12 any such complaint coming at least in terms of up for
15:16:40 13 criminal prosecution review.

15:16:41 14 Q. Did your office ever respond to the question about
15:16:44 15 the anticipated increase in workload due to HB 2492?

15:16:48 16 A. Before today, I wasn't even aware there was a
15:16:50 17 request, so I cannot speak to whether there was any
15:16:54 18 response.

15:16:57 19 Q. I'm going to hand you what I'll ask to be marked
15:17:06 20 as Exhibit 213 -- 223.)

15:17:06 21 (The document was marked as Exhibit 223
15:17:14 22 for identification.)

15:17:14 23 BY MR. DODGE:

15:17:14 24 Q. 223.

15:17:15 25 A. Yes, sir.

15:17:16 1 Q. And this is Number 5 in the Dropbox.

15:17:24 2 A. Yes. This is the Jennifer Wright email I think I
15:17:27 3 was referring to earlier.

15:17:29 4 Q. And looking at the bottom of this document first,
15:17:34 5 you see that this is the same March 9, 2022, email from
15:17:38 6 Ms. Selby to Ms. Gonzalez and Ms. Morgan; right?

15:17:42 7 A. I do believe I see that in there. You are
15:17:47 8 correct.

15:17:47 9 Q. So this is just a different chain stemming from
15:17:49 10 that same email; correct?

15:17:51 11 A. It would appear to be, yes.

15:17:53 12 Q. And looking at the second page of this document,
15:18:04 13 about halfway down, do you see that Ms. Selby sends another
15:18:07 14 email to Ms. Gonzalez and Ms. Morgan on March 21, 2022, at
15:18:12 15 11:36 a.m., in which she writes, "I just wanted to see if
15:18:15 16 you had any check in and see what information you had on
15:18:17 17 the impact HB2492 would have on the AG's office"?

15:18:20 18 Did I get that right?

15:18:21 19 A. I see that there, yes.

15:18:23 20 Q. So fair to say that Ms. Selby had not received a
15:18:29 21 response to her March 9 email as of March 21?

15:18:39 22 MR. LANGHOFER: Foundation.

15:18:40 23 THE WITNESS: I --

15:18:41 24 MR. LANGHOFER: Document speaks --

15:18:43 25 THE WITNESS: I can't speak to that. My

15:18:46 1 answer would be speculative.

15:18:47 2 BY MR. DODGE:

15:18:48 3 Q. Is that a fair inference to draw for any
15:18:51 4 reasonable person reading this email thread?

15:18:53 5 A. I'll go back to the document speaks for itself.

15:18:56 6 Q. No indication in this email that Ms. Morgan --
15:19:02 7 pardon me -- that Ms. Selby had received a response as of
15:19:05 8 March 21st?

15:19:06 9 MR. LANGHOFER: Same objection.

15:19:08 10 THE WITNESS: I can't speak to what response
15:19:10 11 may or may not have happened. I am not aware of any.

15:19:13 12 BY MR. DODGE:

15:19:14 13 Q. At the top of the second page, Ms. Lefevre
15:19:17 14 forwards this email to Mr. Roysden; is that right?

15:19:21 15 A. It does appear to be that that's correct.

15:19:24 16 Q. And then looking at the first page, Mr. Roysden --
15:19:34 17 Mr. Roysden forwards the document to Michael Catlett and
15:19:40 18 Jennifer Wright?

15:19:40 19 A. Correct. That's what it appears to do.

15:19:43 20 Q. And then above that, Ms. Wright offers some
15:19:45 21 thoughts in response to Ms. Selby's questions; right?

15:19:47 22 A. I do see that.

15:19:49 23 Q. And the first section of her response is titled
15:19:54 24 "Databases"; right?

15:19:55 25 A. I do see that.

15:19:57 1 Q. She indicates she's not sure whether the Attorney
15:20:04 2 General's Office has access to the Social Security
15:20:06 3 database; is that right?

15:20:09 4 A. It does say that, correct.

15:20:14 5 Q. She also indicates that the Attorney General's
15:20:18 6 Office lacks access to a public health database; is that
15:20:23 7 right?

15:20:23 8 A. It does say that in the second line there, yes.

15:20:26 9 Q. Do you know what public health database she's
15:20:29 10 referring to there?

15:20:30 11 A. I'm referring back to Exhibit 19, which says, in
15:20:44 12 line 33 of page 7, "a National Association for Public
15:20:53 13 Health Statistics and Information Systems Electronic
15:20:56 14 Verification of Vital Events system. I believe she may
15:20:59 15 have been referring to that."

15:21:01 16 Q. And her response indicates she's not sure if the
15:21:11 17 attorney general has access to that particular database;
15:21:15 18 right?

15:21:15 19 A. That's what it says.

15:21:16 20 Q. And, then, in the last sentence of this portion of
15:21:23 21 her email she says, "Whether or not ERIC information is
15:21:27 22 readily available will depend entirely on who is elected
15:21:32 23 SOS."

15:21:32 24 Did I get that right?

15:21:34 25 A. That is what it says.

15:21:35 1 Q. Do you know what ERIC is?

15:21:37 2 A. Election Registration Information Center.

15:21:46 3 Q. That is correct.

15:21:48 4 A. All right. I need to buy a lottery ticket later.

15:21:51 5 Q. Do you know what it means when Ms. Wright says

15:21:53 6 "access to ERIC information will depend on who is SOS"?

15:21:59 7 A. I may have an idea, but I don't want to speculate

15:22:04 8 as to her exact meaning.

15:22:07 9 Q. Why don't you give me your best guess as you

15:22:10 10 understand it.

15:22:10 11 A. My understanding is that ERIC information is

15:22:13 12 shared on a case-by-case basis with us at the Attorney

15:22:18 13 General's Office, and if they refer something to us, it is

15:22:21 14 their discretion to do so. And if they choose either not

15:22:25 15 to participate in ERIC or not to refer material to us, that

15:22:28 16 would be within the -- the secretary of state's discretion.

15:22:33 17 Q. And she's indicating that whether or not that

15:22:35 18 sharing of information will happen will depend on who the

15:22:39 19 secretary of state is?

15:22:39 20 A. I think she's more concisely saying what I just

15:22:42 21 said.

15:22:43 22 Q. Do you know if Arizona is currently a member of

15:22:46 23 ERIC?

15:22:49 24 A. To my knowledge, yes. But I am not responsible

15:22:57 25 for that sort of determination. That would be a secretary

15:23:00 1 of state function.

15:23:02 2 Q. Are you aware whether there are any efforts in
15:23:03 3 Arizona to remove the state from ERIC?

15:23:08 4 A. In Arizona, no.

15:23:12 5 THE COURT REPORTER: Kory did you object?

15:23:17 6 MR. LANGHOFER: Yes. Scope and relevance.

15:23:17 7 MR. DODGE: Yeah. And, Kory, your last
15:23:17 8 couple objections have been a little hazy on the record,
15:23:17 9 just as an FYI.

15:23:17 10 THE COURT REPORTER: Make sure you completely
15:23:20 11 unmute before you talk.

15:23:20 12 BY MR. DODGE:

15:23:29 13 Q. You recall in the prior exhibit that Ms. Selby
15:23:32 14 asked for an estimate for what it would take the AG's
15:23:35 15 office to complete a report regarding the citizenship
15:23:38 16 status of individuals registered to vote in Arizona but who
15:23:44 17 had not supplied satisfactory proof of citizenship?

15:23:47 18 A. Counselor, you're going to have to tell me which
15:23:49 19 prior exhibit. I've got six of them here.

15:23:52 20 Q. I believe it's Exhibit 222.

15:23:53 21 A. All right.

15:23:57 22 Q. I'm looking at 222, Ms. Selby's email, the first
15:24:06 23 two sentences of it, the largest paragraph.

15:24:09 24 A. Yes.

15:24:10 25 Q. You want take a moment to familiarize with that

15:24:12 1 again?

15:24:12 2 A. You're referring to the question in the third line
15:24:14 3 of that paragraph that begins "HB2492. Does the Attorney
15:24:20 4 General's office have access to the databases?" I'm sorry.
15:24:22 5 The previous question.

15:24:23 6 Q. Exactly.

15:24:23 7 A. "Do you have an estimate for what it would take
15:24:25 8 for -- to complete this report?" That's the question
15:24:29 9 you're asking me?

15:24:32 10 Q. Correct.

15:24:34 11 Do you recall discussing that?

15:24:35 12 A. I have never been involved with discussions
15:24:37 13 regarding that.

15:24:38 14 Q. I mean here today between us. We --

15:24:43 15 Do you recall discussing Exhibit 222?

15:24:45 16 A. Earlier today, yes.

15:24:46 17 Q. You recall I asked some questions about the
15:24:48 18 language you just read from that email?

15:24:49 19 A. I was here, yes.

15:24:50 20 Q. Okay. Returning to Exhibit 223 and looking at the
15:24:54 21 portion of Ms. Wright's email titled "Analysis," she
15:24:57 22 writes, "This bill would give us 151 days (but only 103
15:25:01 23 business days) to conduct the analysis. Based on the
15:25:04 24 latest data from county recorder websites, there are
15:25:06 25 approximately 22,000 federal only voters throughout

15:25:10 1 Arizona. Accordingly, SIS would have to investigate
15:25:13 2 upwards to 214 names each business day. That said, SIS may
15:25:17 3 be able to quickly pare down that number based on
15:25:20 4 electronic database compares, but we should check with
15:25:20 5 SIS."

15:25:24 6 Did I get that correct?

15:25:25 7 A. I do see that.

15:25:26 8 Q. Do you know whether the Attorney General's Office
15:25:30 9 ever did, in fact, investigate the citizenship of
15:25:35 10 federal-only voters in Arizona?

15:25:39 11 A. Can you clarify your question, please?

15:25:41 12 Q. Ms. Wright indicates that there are approximately
15:25:43 13 22,000 federal-only voters throughout Arizona; correct?

15:25:46 14 A. Yes.

15:25:46 15 Q. Does the phrase "federal-only voters" mean
15:25:50 16 anything to you?

15:25:50 17 A. It does.

15:25:51 18 Q. She subsequently says that to review those voters
15:26:02 19 in a 151-day time period, referring to the March deadline
15:26:06 20 to submit a report to the legislature, she says, "SIS would
15:26:11 21 have to investigate upwards to 214 names each business
15:26:15 22 day"; right?

15:26:15 23 A. I see her math, yes.

15:26:17 24 Q. Did the Attorney General's Office, in fact, ever
15:26:20 25 engage in an investigation of those 22,000 federal-only

15:26:25 1 voters to determine their citizenship?

15:26:26 2 A. To my knowledge, no.

15:26:27 3 Q. But as we discussed today, it did produce the

15:26:34 4 report to the legislature referenced by Ms. Selby; correct?

15:26:37 5 A. Yes. I believe counsel seated to my left is the

15:26:40 6 one who signed it.

15:26:41 7 Q. Do you know if Ms. Wright's response here was ever

15:26:45 8 conveyed to Ms. Selby?

15:26:47 9 A. I do not.

15:26:49 10 Q. Did anyone from your office ever discuss the

15:26:53 11 challenged laws with the Secretary of State's Office while

15:26:57 12 the bills were pending before the legislature?

15:27:00 13 A. To my knowledge, no.

15:27:01 14 Q. Did anyone from your office discuss the challenged

15:27:03 15 laws with any third-party organizations while the bills

15:27:06 16 were pending before the legislature?

15:27:08 17 A. To my knowledge, no. Again, to -- I think it's

15:27:11 18 important to caveat, because this is my first time speaking

15:27:14 19 ever as a representative of the organization, and so I want

15:27:16 20 to make sure that my answer is clear, I was not involved in

15:27:21 21 the responses that we've talked about here in terms of

15:27:23 22 Number 223, Number 222. These are all things that are

15:27:27 23 communications between executive staff and, to some extent,

15:27:31 24 Ms. Wright. I was not aware of any of these communications

15:27:35 25 before they were provided to me as exhibits for this

15:27:38 1 deposition.

15:27:40 2 MR. DODGE: Why don't we go off the record
15:27:43 3 and take a short break.

15:27:44 4 THE VIDEOGRAPHER: We're off the record.
15:27:46 5 Time on the video monitor is 3:27 p.m. This ends Media 2.

15:45:05 6 (A recess ensued.)

15:45:05 7 THE VIDEOGRAPHER: We're on the record. Time
15:45:30 8 on the video monitor is 3:45 p.m.

15:45:33 9 MR. DODGE:

15:45:34 10 Q. Mr. Lawson, I'd like to ask you some questions
15:45:37 11 about your office's prosecution of election crimes since
15:45:42 12 2010. Are you prepared to speak to that today?

15:45:44 13 A. I am.

15:45:45 14 Q. There should be -- could you actually hand me the
15:45:50 15 exhibits in front of you.

15:45:51 16 A. I have written my initials on the ones that you
15:45:54 17 handed me.

15:45:54 18 Q. Are there additional exhibits up there?

15:45:56 19 A. No, sir. Each one I've written the number unless
15:46:04 20 it was already written, and I put my initials on it.

15:46:10 21 Q. I'm going to --

15:46:10 22 (An off-the-record discussion ensued.)

15:46:35 23 BY MR. DODGE:

15:46:35 24 Q. I'm going to hand you what has previously been
15:46:38 25 marked as Exhibit 212 and which is in the Dropbox as

15:46:42 1 Number 6.

15:46:45 2 A. Yes, sir.

15:46:46 3 Q. Okay. And can you tell me what this document is?

15:46:55 4 A. I have seen what may be a version of this document

15:46:59 5 before. I'm not sure if I've seen this one, but it is a

15:47:02 6 response to a set of interrogatories apparently served on

15:47:05 7 this agency.

15:47:07 8 Q. And did you review this document in preparation

15:47:09 9 for your deposition today?

15:47:10 10 A. I reviewed what may be a version of this document.

15:47:13 11 I'm not sure if I reviewed this exact one.

15:47:17 12 Q. Could you turn to page 7 --

15:47:21 13 A. Yes, sir.

15:47:21 14 Q. -- of this document.

15:47:24 15 Actually, why don't you start by looking at

15:47:33 16 page 4 and reviewing Interrogatory Number 1.

15:47:41 17 A. Page 4. Yes, sir.

15:47:56 18 Q. Okay. And you see that in your office's response

15:47:59 19 to Interrogatory Number 1, you've broken up the response in

15:48:03 20 subparts?

15:48:03 21 A. I do see that that was counsel's way of addressing

15:48:06 22 it, yes.

15:48:07 23 Q. And turning to page 5, could you review Subpart 2

15:48:23 24 as well as your response to that subpart.

15:48:28 25 A. I see the response which begins on page 5 and

15:48:34 1 carries over to page 6.

15:48:37 2 Q. And, in fact, carries on a little further on
15:48:39 3 page 7 as well; right?

15:48:40 4 A. You are correct.

15:48:41 5 Q. Subpart 2, as characterized by your office, is
15:48:48 6 "Identify all evidence that supports the contention that
15:48:51 7 the challenged laws further the interests identified above,
15:48:53 8 including any evidence of voter fraud committed by
15:48:56 9 noncitizens in Arizona since January 1, 2016."

15:48:59 10 Did I get that right?

15:49:01 11 A. I see that, yes.

15:49:02 12 Q. Okay. And turning to the top of page 7 and
15:49:07 13 looking at line 1, your response states here "The Attorney
15:49:12 14 General's Office also prosecutes some crimes related to
15:49:14 15 voting in elections. A list of such prosecutions, as of
15:49:18 16 April 2023, has been produced as AG000349. This list does
15:49:25 17 not include prosecutions by other enforcing authorities,
15:49:27 18 such as county attorneys."

15:49:30 19 Did I get correct?

15:49:31 20 A. That is what the document says.

15:49:35 21 Q. I'm going to hand you what I will asked to be

15:49:38 22 marked as Exhibit 224.

15:49:38 23 (The document was marked as Exhibit 224

15:49:46 24 for identification.)

15:49:46 25 BY MR. DODGE:

15:49:46 1 Q. Can you tell me what this document is?

15:49:49 2 A. I will know it based on the last page which, if it

15:49:55 3 is what I think it is -- yes, it is a version of the

15:49:57 4 document. So if I could direct you to page 8, you'll see

15:50:03 5 that document number that begins 499. That is the document

15:50:07 6 that I have essentially continuously maintained back to the

15:50:10 7 previous decade-plus. This is Version 23 of that document

15:50:14 8 as of April 4 of 2023.

15:50:18 9 This is the -- what we referred to earlier as

15:50:20 10 the document which for a while I was no longer maintaining

15:50:23 11 when it was in a public form. This is a document -- I

15:50:27 12 maintained this version. So yes, I am familiar with this

15:50:30 13 document.

15:50:30 14 Q. Okay. And I'll note for the record that this is

15:50:32 15 Number 24 in the Dropbox.

15:50:37 16 As you just indicated, this is a more

15:50:38 17 up-to-date version of a list of prosecutions we were

15:50:41 18 discussing earlier; correct?

15:50:42 19 A. That is correct.

15:50:43 20 Q. Based on page 8, it appears this is recent as of

15:50:46 21 April 4th, 2023?

15:50:48 22 A. That's correct.

15:50:48 23 Q. Is this the most recent version of this document?

15:50:50 24 A. I believe I have not done an update since then,

15:50:53 25 although I've been asked to do so. I've been busy doing

15:50:55 1 other things.

15:50:56 2 Q. You -- you have not updated this document because

15:51:02 3 of other duties associated with your job and not because of

15:51:05 4 this litigation?

15:51:05 5 A. That's correct.

15:51:06 6 Q. And the version of this document we're looking at

15:51:13 7 is one that you, yourself, have prepared; correct?

15:51:17 8 A. As of April 4, everything on this document is

15:51:21 9 accurate. Several things on this document have changed

15:51:25 10 since it was prepared. And I'm familiar with a few of

15:51:28 11 those as we're sitting here today, because I knew you would

15:51:31 12 be asking about some of them.

15:51:33 13 But I cannot -- like, for example, there are

15:51:35 14 certain statistics and numbers in here that have

15:51:37 15 undoubtedly changed. And do I have the current

15:51:40 16 information? No. What I can tell you is that this

15:51:42 17 document was accurate as of April 4.

15:51:45 18 Q. You testified earlier that under Attorney General

15:51:53 19 Brnovich, communications staff would sometimes edit this

15:51:55 20 document without consulting you?

15:51:57 21 A. Correct.

15:51:58 22 Q. Does this version of the document contain any

15:52:01 23 edits or language or verbiage that was not approved of by

15:52:06 24 you?

15:52:14 25 A. I do not think so. I think essentially I was

15:52:21 1 given free reign to rewrite this document and I
15:52:26 2 restructured it, if you can tell, so that I thought it
15:52:30 3 better addressed some of the questions that we had. So I
15:52:34 4 believe everything in here I would be comfortable saying I
15:52:38 5 authored, or if I wasn't the author, it's something that
15:52:41 6 I'm comfortable adopting as an accurate statement of those
15:52:44 7 cases.

15:52:46 8 Q. And this document covers prosecutions from 2010
15:52:49 9 through April 4th, 2023; correct?

15:52:50 10 A. The 2010 election cycle. You'll see the first
15:52:54 11 cases are from 2011, but they arise from the 2010 election.

15:52:58 12 Q. And setting aside nonpublic records that your
15:53:02 13 office is not able to disclose, is this document a complete
15:53:09 14 list of election-related prosecutions since the 2010
15:53:12 15 election cycle?

15:53:13 16 A. It is, as of April 4. And I notice -- for
15:53:23 17 example, you'll note on page 5 there's a reference to the
15:53:26 18 Proodian case at the bottom. That is a case that was
15:53:29 19 dismissed.

15:53:30 20 The previous iterations that were maintained
15:53:32 21 by the Brnovich administration omitted the reference to
15:53:35 22 this case, but I included it because I believe it's fair to
15:53:38 23 say that we pursued a case but that we dismissed the case.

15:53:45 24 Q. I just want to make sure I have an answer to my
15:53:49 25 question.

15:53:49 1 But you agree that this list is complete as

15:53:51 2 of April 4th, 2023, excepting any nonpublic information?

15:53:55 3 A. Correct.

15:53:58 4 Q. What records do you use to compile and maintain

15:54:02 5 this document?

15:54:04 6 A. You're basically looking at it. This is -- and I

15:54:09 7 will speak to the process and -- we don't have a good

15:54:14 8 agency database or case tracking system. And I was getting

15:54:18 9 repeated inquiries from members of the media that were

15:54:21 10 being directed to my supervisor and me saying, "Can you

15:54:24 11 please provide us with what you have done?"

15:54:27 12 And so in response, I began preparing this

15:54:31 13 document and keeping track of it so that I would have a

15:54:36 14 canned response when we would get repeated inquiries. And

15:54:39 15 we did get -- for over a decade, I've gotten repeated

15:54:44 16 inquiries for this exact information. And so when we would

15:54:48 17 get those requests, we would update the document and then

15:54:52 18 provide it to people. And then we started doing periodic

15:54:55 19 updates to the document, and the last of those was in April

15:54:58 20 of this year.

15:55:02 21 Does that answer your question?

15:55:03 22 Q. It does.

15:55:06 23 A. This is a reactive document that I maintain

15:55:09 24 myself.

15:55:10 25 Q. If others in your office become aware of

15:55:12 1 election-related prosecutions, do they know to refer those

15:55:17 2 prosecutions to you so they can be included on this list?

15:55:20 3 A. Generally, yes. And if there were other cases

15:55:25 4 that were public that I was aware of, I would include them

15:55:28 5 here. But I believe I'm the prosecutor for all of these

15:55:32 6 cases.

15:55:33 7 And again, there's one case that I'm aware of

15:55:35 8 that was -- is being pursued by our Tucson office that is

15:55:40 9 not listed here, but it's not public. So that is why it

15:55:44 10 wouldn't be listed here.

15:55:45 11 Q. Can you read aloud the title of Section A at the

15:55:48 12 top of this document?

15:55:49 13 A. These are "Prosecutions Related to Illegal Voting

15:55:52 14 By Individuals Since 2010."

15:55:54 15 Q. And I know you're familiar with the section, but

15:55:57 16 can you take just a moment to review it?

15:56:01 17 A. Sure. What would you like to know?

15:56:04 18 Q. You would agree that Section A indicates that

15:56:08 19 there have been 38 prosecutions of illegal voting in

15:56:12 20 Arizona since the 2010 election; right?

15:56:13 21 A. That is accurate as of April 4. I believe that is

15:56:17 22 correct, with the caveat there -- below there of there was

15:56:21 23 the additional case of Ms. Hannah that was overturned by

15:56:24 24 the court of appeals and Mr. Proodian, who was dismissed.

15:56:28 25 Q. So including those two cases that did not

15:56:31 1 ultimately result in convictions, there have been 40

15:56:33 2 prosecutions?

15:56:34 3 A. 40 matters filed unsealed and at least proceeded

15:56:37 4 to arraignment, yes.

15:56:38 5 Q. How many elections have been held in Arizona since

15:56:41 6 the 2010 election cycle?

15:56:43 7 A. Counting special elections or --

15:56:45 8 Q. Any election.

15:56:47 9 A. Could I say dozens?

15:56:49 10 Q. You can.

15:56:49 11 A. I would say dozens.

15:56:51 12 Q. How many ballots have been cast in Arizona since

15:56:56 13 the 2010 election cycle?

15:56:58 14 A. Undoubtedly, millions.

15:57:02 15 Q. Fair to say over 10 million?

15:57:06 16 A. I would not dispute that number if you have a

15:57:08 17 basis for it, Counsel.

15:57:11 18 Q. Do any of the cases listed in Section A involve

15:57:17 19 illegal registration or voting by a noncitizen?

15:57:20 20 A. By a noncitizen, no.

15:57:23 21 Q. Is it fair to say that many of these -- I think

15:57:28 22 you testified to this earlier -- appear to reflect

15:57:31 23 instances of double voting by persons in Arizona and in

15:57:34 24 another state or within multiple counties within Arizona?

15:57:38 25 A. Could I answer the question by saying -- I would

15:57:41 1 refer you back to the title, which says, "Prosecutions
15:57:44 2 Related to Illegal Voting." That's actually a reference to
15:57:49 3 the illegal voting statute, which is 16-1016.

15:57:53 4 There are a number of ways you can violate
15:57:55 5 that statute, which include double voting and also voting
15:57:58 6 more than once either -- and voting when you are not
15:58:02 7 eligible to vote. So this list includes -- is primarily
15:58:07 8 double voting. And you can see that in terms of the
15:58:09 9 notations on the cases. But is it exclusively double
15:58:13 10 voting? It is not.

15:58:17 11 I hope that addresses your question.

15:58:18 12 Q. So it's a large number of double voting, but it's
15:58:20 13 not exclusively instances of double voting?

15:58:22 14 A. Correct.

15:58:23 15 Q. Casting multiple ballots was already illegal in
15:58:27 16 Arizona prior to the enactment of HB 2492 and 2243;
15:58:31 17 correct?

15:58:31 18 A. I believe the statute dates back to the '70s,
15:58:34 19 yes.

15:58:35 20 Q. And the challenged laws at issue in this
15:58:38 21 litigation do not concern double voting; correct?

15:58:40 22 A. I'm not aware that they do.

15:58:42 23 Q. A handful of the cases in Section A also appear to
15:58:47 24 concern illegally registering to vote with a felony
15:58:49 25 conviction without rights restored?

15:58:51 1 A. Correct.

15:58:52 2 Q. A couple also appear to concern voting under the

15:58:56 3 name of a deceased person?

15:58:57 4 A. Correct. Those are the primary ways that

15:59:01 5 violations of 16-1016 have occurred in our caseload.

15:59:05 6 Q. But none concern voting by noncitizens; correct?

15:59:08 7 A. I am not aware of one that is public.

15:59:14 8 Q. Is there any indication in this document that

15:59:17 9 those who double voted were not residents of Arizona or the

15:59:21 10 county they voted in at the time they registered to vote?

15:59:24 11 A. So I had -- I have to answer this question in a

15:59:31 12 slightly different manner than it's phrased. And I want to

15:59:34 13 make sure that you understand why.

15:59:39 14 The statute that we prosecute under talks

15:59:42 15 about whether a person votes on the same day in two

15:59:47 16 different states, which is something that you legally

15:59:51 17 cannot do, because you can only be a resident of one state

15:59:54 18 at a time. And we do not make the determination in terms

15:59:58 19 of criminal pursuit which state you are a resident of.

16:00:03 20 And so could I say that, for example, any

16:00:08 21 given case on this -- like, for example Mr. Sack, who is

16:00:15 22 Number 20, he illegally voted in the state of Colorado and

16:00:18 23 the state of Arizona in 2012. Could I say that Mr. Sack

16:00:22 24 had no valid claim to Arizona residency or had no valid

16:00:25 25 claim to Colorado residency? That was not an issue that we

16:00:29 1 got to the bottom of because our statute only required us
16:00:32 2 to prove that he voted in both states on the same day.
16:00:35 3 Q. I understand your testimony to be that your office
16:00:39 4 does not make a determination of where a person is actually
16:00:42 5 a resident at the time they -- they double vote?
16:00:47 6 A. And that is because it's not required under the
16:00:50 7 statute and there's -- the statute that determines
16:00:55 8 residency is somewhat ill-defined in terms of excluding a
16:01:02 9 place. You are allowed to have an intent to remain in a
16:01:08 10 place with a tie to residency there in order to qualify,
16:01:11 11 and it's a fairly easy standard that someone could qualify
16:01:14 12 in more than one state at one time.
16:01:16 13 Q. I appreciate your response.
16:01:19 14 My original question is slightly different,
16:01:22 15 which is that rather than focusing on the time of casting
16:01:25 16 the ballots, I'm curious about the time an individual
16:01:29 17 registers to vote prior to that.
16:01:29 18 A. Sure.
16:01:32 19 Q. In a double-voting case, does your office make any
16:01:35 20 determination about whether or not a person was a resident
16:01:38 21 at the time they registered to vote?
16:01:42 22 A. Residency, for purposes of these cases -- and I'll
16:01:46 23 speak in general terms -- is something that is claimed
16:01:51 24 through a voter registration document, and a person would
16:01:53 25 make an avowal that they were a resident on that day.

16:01:57 1 The fact pattern that we look for in
16:01:59 2 double-voting cases essentially is a timeline where a
16:02:03 3 person registers in one state, registers in another, votes
16:02:06 4 in either state, and then votes in either state so that
16:02:11 5 they are acting on both registrations at the same time and
16:02:15 6 when there is a single election day for those two votes.
16:02:19 7 And the -- essentially it's perjury by inconsistent
16:02:23 8 statement. You cannot be a resident of two places at once.
16:02:27 9 And 16-101 says that. And so one of those declarations is
16:02:33 10 false, and we don't know which. And for purposes of our
16:02:36 11 statute, we aren't required to prove which.
16:02:40 12 Does that -- does that make sense? I'm not
16:02:41 13 trying to duck your question. What I'm saying is the
16:02:44 14 standard for residency is so loose that the legislature has
16:02:50 15 given us a statute where we are not required to prove it in
16:02:53 16 order to make our criminal case.
16:02:55 17 Q. Is it fair to say that a double-voting
16:02:57 18 investigation or prosecution -- is it focused on the time
16:03:03 19 the ballots are cast?
16:03:04 20 A. We do primarily focus on double voting in a same
16:03:09 21 election on the same election day, yes.
16:03:11 22 Q. And regardless of whether or not it's necessary
16:03:13 23 for a prosecution, as a matter of fact, your office does
16:03:17 24 not actually determine whether or not a registration form
16:03:24 25 or avowal is accurate at the time it is made?

16:03:27 1 A. Because it's such a subjective standard, we will
16:03:32 2 take essentially the statement on the form as
16:03:37 3 authoritative, but what we look for are people acting on
16:03:40 4 more than one registration on the same election day, which
16:03:44 5 is legally impermissible.

16:03:44 6 Q. And that acting is subsequent to the act of
16:03:44 7 registration?

16:03:48 8 A. Correct.

16:03:50 9 Q. So further regulations regarding the time of
16:03:52 10 registration would not be likely to bear on that
16:03:54 11 investigation on what a person subsequently did?

16:03:59 12 MR. WHITAKER: Foundation.

16:04:03 13 THE WITNESS: It's a hypothetical I have not
16:04:05 14 considered, but generally, we are not investigating illegal
16:04:13 15 registration complaints because the registration standard
16:04:19 16 is generally "this is where I am, and this is where I
16:04:23 17 intend to remain." And it is a very subjective standard
16:04:27 18 that is very difficult to disprove.

16:04:31 19 Not in this context, but I have had
16:04:33 20 hypothetical, you know, cases brought to us for review over
16:04:36 21 the years where making a determination of residency -- for
16:04:42 22 example, Representative Epstein's family member, who, by
16:04:47 23 allegation, appears to spend the bulk of his time in New
16:04:51 24 York City but his intent to remain is in Tempe, and that's
16:04:54 25 where he's registered to vote, he's allowed to do that.

16:04:57 1 And so what we look for, hypothetically,
16:05:02 2 would be if Representative Epstein's son also registered to
16:05:06 3 vote in New York and then voted in both places at the same
16:05:10 4 time. That would be a crime that we would review. The
16:05:13 5 idea that he was registered in Arizona but living in New
16:05:17 6 York is not something that we would be prepared to pursue
16:05:20 7 as a criminal charge.

16:05:22 8 Q. You mentioned that because -- because residency is
16:05:26 9 such a matter of subjective intent, your office tends not
16:05:29 10 to pursue illegal registration cases; is that right?

16:05:31 11 A. Correct.

16:05:32 12 Q. In fact, in Section A of this exhibit, none of
16:05:36 13 these cases involved convictions for illegal registration
16:05:41 14 as a nonresident; correct?

16:05:44 15 A. Let me review them very briefly.

16:06:18 16 So there is a group of people towards the end
16:06:22 17 of this list -- Mr. Clark, Number 26; Ms. Smith, Number 27;
16:06:29 18 Mr. Nelson, Number 28 -- who were convicted felons who
16:06:36 19 should not have registered to vote, but then they also
16:06:38 20 illegally voted. My recollection as I sit here is that I
16:06:41 21 did not have them enter guilty pleas to 16-182 offenses,
16:06:48 22 but they may have been charged with those violations as
16:06:51 23 being not able to register to vote as not eligible, but
16:06:55 24 they would be U.S. citizens.

16:06:58 25 So sometimes that charge did -- was charged,

16:07:01 1 and it may have been a charge that we enter -- had somebody
16:07:04 2 enter a guilty plea to as part of a plea resolution, but I
16:07:12 3 cannot think of any offhand where that was the case.

16:07:14 4 Q. So your best awareness, then, the only cases in
16:07:17 5 Section A that even plausibly, as a factual matter,
16:07:22 6 involved situations where someone illegally registered, it
16:07:25 7 was due to their status as a convicted felony rather than
16:07:28 8 anything to do with their residency; is that right?

16:07:30 9 A. Yes. It's because, as a criminal prosecutor, it's
16:07:33 10 readily provable to prove that someone does not have legal
16:07:37 11 status to register to vote as a -- as -- because they're
16:07:41 12 not eligible as opposed to a very subjective "this is where
16:07:45 13 I intend to be a resident."

16:07:46 14 MR. WHITAKER: Foundation as to that last
16:07:48 15 question.

16:07:49 16 BY MR. DODGE:

16:07:49 17 Q. Looking at page 5 of this document, the additional
16:07:53 18 note section, which we've already looked at a little bit.

16:07:56 19 A. Yes, sir.

16:07:56 20 Q. I'd like to ask you questions about the first
16:07:58 21 bullet --

16:07:59 22 A. Yes.

16:07:59 23 Q. -- which says, "Four additional cases have been
16:08:02 24 charged and are sealed pending the arrest of defendants."

16:08:04 25 A. Yes.

16:08:05 1 Q. Can you tell me anything about the status of those
16:08:06 2 four cases?

16:08:07 3 A. One has since been arrested and is now public,
16:08:12 4 although I haven't updated this document to list that case.
16:08:16 5 It's in Pima County Superior Court. The last name on it is
16:08:21 6 Verdugo.

16:08:23 7 One of the three that remains is a noncitizen
16:08:27 8 case that I thought you -- that we've talked about and
16:08:31 9 apparently is referenced in some of the documents that were
16:08:33 10 turned over.

16:08:34 11 And then I'm aware of another case that
16:08:37 12 involves a noncitizen. Those are both sealed pending
16:08:42 13 service.

16:08:43 14 So that's -- that is -- what that bullet
16:08:47 15 point is referring to is matters that are sealed pending
16:08:48 16 service. Ms. Verdugo has now been served, so I can talk
16:08:51 17 about her, but the other parties I cannot.

16:08:53 18 Q. So to be clear, your testimony here is that the
16:08:56 19 two of these four additional cases involve allegations of a
16:08:59 20 noncitizen registering or voting?

16:09:01 21 A. I'm aware of two. At this time, when I was
16:09:03 22 counting four in April, I'm not sure I was aware of the
16:09:06 23 other ones. So I think accurate -- it may have been
16:09:08 24 accurate to say there was a fifth one that I wasn't aware
16:09:11 25 of at the time. But of the four that I was referring to on

16:09:14 1 April 4, one has been arrested and has been served and is
16:09:20 2 now public, but the other three are not.

16:09:23 3 Q. So referring specifically to the allegation of a
16:09:28 4 noncitizen registering or voting that you are aware of at
16:09:32 5 the time, is there any additional information you can
16:09:36 6 provide about the status of this case at this time?

16:09:39 7 A. As to the status, the case has been presented to a
16:09:45 8 grand jury. There has been a warrant issued for the
16:09:50 9 defendant's arrest. And beyond that, I can't comment.

16:09:53 10 Q. Presumably, no conviction has yet been obtained in
16:10:00 11 that case?

16:10:00 12 A. That is accurate.

16:10:00 13 Q. And your office isn't able to provide any further
16:10:07 14 details on that case; correct?

16:10:08 15 A. I can speak in broad outlines. This is -- my
16:10:11 16 concern here is the limits of ER 3.8 which talk about my
16:10:16 17 ability to comment on things without holding someone up to
16:10:20 18 public scorn. I'm concerned about commenting on somebody
16:10:23 19 who hasn't been served with their warrant.

16:10:26 20 I am prepared to speak in broad outlines
16:10:29 21 about what the allegations were in that case, because I
16:10:32 22 think they may be pertinent to you, without compromising
16:10:35 23 the secrecy of that case.

16:10:37 24 Q. Why don't you provide me those details to the
16:10:39 25 extent you feel able.

16:10:40 1 MR. WHITAKER: And I'm going to just -- I'm
16:10:41 2 going to designate this part of the deposition
16:10:45 3 confidential, for counsels' eyes only -- well,
16:10:50 4 confidential. That may not resolve your concerns, but that
16:10:53 5 at least provides some -- some protections.

16:10:57 6 THE WITNESS: And I guess to the extent that
16:10:58 7 I'm speaking to a record here, the concerns that I have are
16:11:04 8 based on ER 3.8 and also A.R.S. 13-2812, which talk about
16:11:08 9 confidentiality of grand jury proceedings. I'm going to
16:11:12 10 attempt to accommodate your questions without compromising
16:11:15 11 the secrecy of these matters.

16:11:18 12 The two cases that I'm aware of, one which I
16:11:21 13 handled, and the other was handled by a separate attorney
16:11:24 14 general in Tucson -- the case I handled involved an
16:11:29 15 individual who was apprehended by local police in a
16:11:36 16 jurisdiction in southern Arizona. That individual
16:11:40 17 indicated that he was a noncitizen and asked to be turned
16:11:44 18 over to ICE for removal.

16:11:48 19 At the time he was searched, they found a
16:11:51 20 voter registration card on his person. And ICE contacted
16:11:55 21 our agency and referred the matter for further
16:11:58 22 investigation.

16:12:00 23 When his photo registration records and his
16:12:02 24 voting records were researched, it was determined that he
16:12:07 25 had voted in numerous elections under an identity that he

16:12:12 1 had assumed many years prior when he entered the United
16:12:18 2 States and that he had continued to vote under that until
16:12:24 3 he had a falling out with the people who had provided him
16:12:28 4 with that information.

16:12:30 5 And then they had sought to get him
16:12:35 6 criminally charged for something else. And when he was
16:12:37 7 arrested on that charge, he decided to own up to his true
16:12:41 8 identity and asked for removal. And in the course of that,
16:12:45 9 his past conduct came to light.

16:12:48 10 And I -- I have tried to sanitize that best I
16:12:52 11 can without providing any specifics about the individual,
16:12:56 12 but at the same time, I'm trying to cooperate with your
16:12:58 13 question.

16:12:58 14 BY MR. DODGE:

16:12:58 15 Q. Are you able to state how long the individual
16:13:04 16 lived under that false identity?

16:13:06 17 A. To do so accurately would be difficult. I believe
16:13:11 18 it was at least five election cycles, so over a decade.

16:13:17 19 Q. Do you think it's fair to say that this ability --
16:13:21 20 this individual's ability to assume a false identity for
16:13:23 21 that long was a very elaborate act of deception?

16:13:29 22 A. I think, actually, in the grand scheme of things,
16:13:32 23 it may have been fairly simple --

16:13:34 24 MR. LANGHOFER: Form.

16:13:35 25 THE WITNESS: -- in that he was provided an

16:13:38 1 identity by people who had a child die young and that the
16:13:44 2 family had not -- somehow the death had not been recorded
16:13:48 3 through some -- either the death occurred in Mexico or
16:13:51 4 outside the jurisdiction. There was nothing that turned
16:13:55 5 off that record, and so they passed it to this individual
16:14:01 6 with -- you know, essentially, consensually, and he entered
16:14:05 7 as if he was the person who had died and lived under that
16:14:09 8 person's name for a lengthy period of time.

16:14:12 9 BY MR. DODGE:

16:14:13 10 Q. Are you aware --

16:14:13 11 A. Do you have any other questions about that one?

16:14:16 12 Because I can --

16:14:16 13 Q. Maybe just one.

16:14:17 14 Are you aware, in your experience as a law
16:14:21 15 enforcement individual, of any other persons assuming the
16:14:25 16 identity of a deceased person like that regardless of
16:14:34 17 whether they voted?

16:14:34 18 A. I'm not a big True Crime fan, so I -- I can't say
16:14:37 19 that I watch a lot of TV about those sorts of cases, but I
16:14:41 20 assume it is possible to do that in terms of if you come
16:14:48 21 in --

16:14:49 22 Q. You're not -- I'm asking about your knowledge.

16:14:51 23 You're not familiar of any other instance of
16:14:54 24 someone doing that in the state of Arizona during the time
16:14:56 25 you've been at the Attorney General's Office?

16:14:58 1 A. I prosecuted -- I had a caseload of identity theft
16:15:02 2 before I came over this. I'm aware of several people who
16:15:06 3 stole identities and used them for lengthy periods of time.
16:15:09 4 And so this does not -- is not out of the question in terms
16:15:12 5 of --

16:15:12 6 Q. My question is specific.

16:15:14 7 Are you aware of any other instances during
16:15:15 8 your time at the Attorney General's Office of a person
16:15:19 9 living under an assumed identity based on someone's death
16:15:24 10 occurring and not being recorded by the relevant
16:15:26 11 authorities in Arizona?

16:15:28 12 A. Offhand, that specific set of circumstances, I'm
16:15:32 13 not. Other than the -- the other case that we're aware of
16:15:37 14 where there's a similar allegation where an individual was
16:15:43 15 investigated federally, they made a determination that
16:15:46 16 there was a substantial amount of AHCCCS benefits that had
16:15:50 17 been paid to that person, who was a noncitizen, as
16:15:54 18 determined in the federal case.

16:15:55 19 They -- that person was turned over to AHCCCS
16:15:58 20 for an investigation, and AHCCCS uncovered a voter
16:16:05 21 registration component to that individual. And then the
16:16:10 22 case -- the second case that I only recently learned of was
16:16:13 23 filed based upon that. It's primarily an AHCCCS fraud
16:16:17 24 prosecution, but there is a charge involving illegal voting
16:16:21 25 and registration that is part of that case. That's the

16:16:29 1 second matter.

16:16:29 2 Q. Okay. I'd like to introduce an exhibit that,
16:16:33 3 unfortunately, did not make it into my box. It's Number 39
16:16:36 4 in the Dropbox. I'm going to try pulling it up on the Zoom
16:16:39 5 again with share screen.

16:16:41 6 MS. DODGE: If you could admit me to the Zoom
16:16:42 7 room, Madam Court Reporter.

16:16:46 8 THE WITNESS: There is somebody sitting in
16:16:48 9 your waiting room, by the way.

16:16:49 10 MR. DODGE: It's probably me.

16:16:50 11 THE WITNESS: Oh, it is you.

16:17:19 12 MR. DODGE: False alarm, everyone. We do
16:17:21 13 have it printed out.

16:17:21 14 BY MR. DODGE:

16:17:22 15 Q. I'm going to hand you what I'll ask to be marked

16:17:25 16 as Exhibit 225, which is in the Dropbox as 6A.

17 (The document was marked as Exhibit 225

18 for identification.)

19 BY MR. DODGE:

20 Q. Are you familiar with this document?

21 A. Yes.

16:17:51 22 Q. Did you assist in your office's response to this
16:17:57 23 document?

16:17:57 24 A. I believe I did.

16:17:59 25 Q. Okay. Could you turn to the second page and

16:18:01 1 briefly review Interrogatory Number 1.

16:18:04 2 A. Yes, sir.

16:18:29 3 Q. Okay. And, then, your supplemental response to

16:18:32 4 Subpart 2 reads, "The office is aware of two cases

16:18:34 5 involving a charge of voting by a non-citizen. In both

16:18:36 6 cases, the non-citizen used the identity of another

16:18:39 7 individual to vote. Because both cases are sealed, the

16:18:42 8 Attorney General's Office refrains from saying anything

16:18:43 9 more about these cases at this time."

16:18:45 10 Did I read that correctly?

16:18:47 11 A. You are reading that correctly.

16:18:49 12 Q. You have alluded to these two cases already in

16:18:52 13 your testimony today; correct?

16:18:53 14 A. Yeah. My interest here today was to provide you

16:18:56 15 some more information beyond what this limited response

16:18:59 16 says.

16:19:00 17 Q. Setting aside the two cases you've alluded to

16:19:03 18 today in your testimony, are you aware of any other pending

16:19:08 19 investigations or prosecutions in Arizona involving a

16:19:12 20 charge of illegal registration or voting by a noncitizen?

16:19:15 21 A. By the Attorney General's Office?

16:19:16 22 Q. Yes.

16:19:17 23 A. I am not.

16:19:17 24 Q. And the two pending cases you are aware of have

16:19:24 25 not yet resulted in convictions?

16:19:25 1 A. They have not. Both are currently on warrant

16:19:29 2 status and they're not public.

16:19:30 3 Q. And you have no knowledge of if or when those

16:19:37 4 cases will go to trial; correct?

16:19:38 5 A. They cannot proceed to trial until the individuals

16:19:41 6 are located.

16:19:42 7 Q. So they may never proceed to trial?

16:19:44 8 A. They may not.

16:19:45 9 Q. They may never result in convictions?

16:19:47 10 A. Correct. If the individuals are never located.

16:19:53 11 Q. They could also result in -- not result in

16:19:56 12 convictions even if they were located?

16:19:58 13 A. True.

16:20:00 14 Q. Can you tell me which units at the Attorney

16:20:08 15 General's Office are overseeing these two cases?

16:20:10 16 A. My -- one is assigned to me. So I am assigned to

16:20:15 17 the Fraud & Special Prosecution Section of the Criminal

16:20:18 18 Division.

16:20:18 19 The other is SAWCCE, which is the southern

16:20:23 20 Arizona white collar -- what are those two Es for? --

16:20:27 21 enforcement -- I'm not good at government bureaucracy

16:20:33 22 alphabetical soup, but it's the -- our Tucson unit --

16:20:39 23 southern Arizona white collar enforcement.

16:20:39 24 Q. Is there a reason that unit of your office is

16:20:43 25 handling that prosecution instead of you?

16:20:46 1 A. It comes from the origination of the case. That
16:20:48 2 case originated as an AHCCCS fraud complaint, and that was
16:20:53 3 the driving force behind that case. The election issue was
16:20:58 4 secondary. That's why it wasn't assigned to me. And I
16:21:02 5 didn't even learn of it until we started preparing for
16:21:05 6 this.

16:21:06 7 MR. WHITAKER: Can you spell "AHCCCS" for the
16:21:08 8 court reporter?

16:21:08 9 THE WITNESS: Oh, yes. Okay. She's got it.

16:21:13 10 MR. WHITAKER: Okay.

16:21:13 11 BY MR. DODGE:

16:21:14 12 Q. Returning to Exhibit 212.

16:21:18 13 A. Yes, sir.

16:21:19 14 Q. And specifically to your response to Interrogatory

16:21:25 15 Number 3, at the bottom of page 16, could you just take a

16:21:32 16 moment to review Interrogatory Number 3.

16:21:57 17 A. Yes. And this is what I discussed earlier, that

16:22:00 18 at the time I prepared the April 2023 thing, I was only

16:22:07 19 aware of one matter, and that was what this answer related

16:22:12 20 to. I think we revised that to say there were two. So I'm

16:22:15 21 familiar with this.

16:22:17 22 Q. Setting aside the two matters you referred to,

16:22:21 23 does your office's response to Interrogatory Number 3

16:22:24 24 anywhere identify a noncitizen convicted for registering to

16:22:30 25 vote or casting a ballot in Arizona since 2016?

16:22:34 1 A. It does not.

16:22:35 2 Q. So is it fair to say that your office has not

16:22:38 3 convicted a single individual registering to vote or

16:22:41 4 casting a ballot as a noncitizen since 2016?

16:22:44 5 A. I believe that is a fair statement.

16:22:47 6 Q. Are you aware of whether your office has convicted

16:22:55 7 an individual of registering to vote or casting a ballot as

16:22:58 8 a noncitizen since you joined the Attorney General's

16:23:05 9 Office?

16:23:05 10 A. That's difficult to say, because I joined the

16:23:14 11 Attorney General's Office over 20 years ago, and I did not

16:23:17 12 become responsible for this caseload until 2010.

16:23:20 13 Q. Okay. So since -- same question but since 2010.

16:23:24 14 A. Since I became assigned to it -- and again, as we

16:23:27 15 discovered with the case that's being prosecuted out of

16:23:30 16 Tucson, if voting was a secondary charge on an indictment

16:23:35 17 that led with an AHCCCS fraud charge or a -- a fraud, it's

16:23:40 18 possible there may have been a conviction there that

16:23:43 19 another attorney did that I'm not aware of, but

16:23:46 20 specifically as to things that I am aware of, no, I'm not

16:23:50 21 aware of any other noncitizen cases from 2010 onward.

16:23:57 22 Q. And is there any individual in the Attorney

16:24:00 23 General's Office who more familiar -- who would be more

16:24:04 24 familiar with a case concerning a prosecution concerning

16:24:11 25 illegal voting over that time period?

16:24:13 1 A. I don't believe so, but I only know what I know.

16:24:17 2 Q. So sitting here today as the most knowledgeable

16:24:20 3 person in the Attorney General's Office regarding

16:24:22 4 prosecutions for illegal voting, you agree you are not able

16:24:25 5 to identify a single conviction since 2010 of an individual

16:24:29 6 for registering to vote or casting a ballot as a

16:24:32 7 noncitizen?

16:24:33 8 A. I am not aware of any such matters, according to

16:24:38 9 what you're saying there.

16:24:42 10 Q. How many investigations has your office conducted

16:24:46 11 into election crimes by voters since 2010?

16:24:51 12 A. So I need to caveat my answer because I sit as

16:24:59 13 prosecutor, and so only matters that are referred to me are

16:25:03 14 matters that have -- a certain level of investigation has

16:25:07 15 been done of complaints and they've been determined to be

16:25:09 16 merit worthy of prosecution. I would say that number is

16:25:14 17 somewhere in the 2- to 300 range.

16:25:19 18 In terms of number of investigations that

16:25:23 19 have been conducted, I would assume it's slightly larger

16:25:27 20 than that. In terms of the number of complaints we

16:25:30 21 received, it's an order of magnitude bigger than that.

16:25:33 22 Q. Thousands of complaints?

16:25:36 23 A. Just from 2020 alone.

16:25:41 24 Q. And how many convictions has your office obtained

16:25:47 25 since 2010 for election crimes committed by voters?

16:25:50 1 A. That's what the list is intended to document.

16:25:55 2 Q. Sitting here today, are you able to identify an
16:25:59 3 instance where another prosecuting authority in Arizona has
16:26:02 4 convicted a noncitizen of registering to vote or casting a
16:26:06 5 ballot in Arizona?

16:26:07 6 A. Since when?

16:26:09 7 Q. Since 2010.

16:26:14 8 A. No, I don't believe so. But I know there is such
16:26:18 9 a list that exists, and I believe it's been turned over to
16:26:22 10 you.

16:26:24 11 Q. From the Attorney General's Office?

16:26:26 12 A. Yes.

16:26:30 13 Q. But you're not able to identify any such case
16:26:35 14 since 2010?

16:26:37 15 A. The list that I have seen goes back pretty far.
16:26:43 16 And I know there are cases on there that -- where the
16:26:45 17 Attorney General's Office is not the prosecuting agency.
16:26:48 18 They are prosecutions of individuals who are not U.S.
16:26:51 19 citizens for registering to vote. And I cannot recall off
16:26:58 20 the top of my head what year they were from, but I know
16:26:59 21 some of them predate 2010. I just don't know whether some
16:27:02 22 of them are after as well.

16:27:04 23 Q. Are you aware of any -- if any of the prosecutions
16:27:06 24 on that list relate to the 2020 election?

16:27:10 25 A. I don't believe they do, but again, I'm a

16:27:15 1 spokesperson for the agency here, so to the extent that I'm
16:27:19 2 speaking on behalf of other agencies, I know -- I know
16:27:21 3 generally of some of those things, but I -- I can't really
16:27:25 4 speak authoritatively to what the U.S. Attorney's Office
16:27:27 5 has done or Maricopa County Attorney's Office has done.

16:27:31 6 Q. Looking back at Exhibit 224, turning to page 6,
16:27:39 7 this is a continuation of the additional note's bullets?

16:27:45 8 A. Yes.

16:27:45 9 Q. First bullet at the top of this page says, "There
16:27:49 10 are approximately 174 allegations of illegal voting
16:27:52 11 currently under investigation arising from the 2020
16:27:52 12 election cycle."

16:27:56 13 Do I have that right?

16:27:56 14 A. You do.

16:27:57 15 Q. The first sub-bullet there says, "Approximately
16:27:59 16 two involved ballots cast by individuals who are not
16:28:01 17 eligible to vote."

16:28:02 18 A. Correct.

16:28:02 19 Q. Do you know the basis on which those individuals
16:28:07 20 are not eligible to vote allegedly?

16:28:08 21 A. So I'm going to just stop here and say I did not
16:28:12 22 fully prepare encyclopedia knowledge of the crosscuts of
16:28:16 23 this part for this here today. I can tell you from my best
16:28:23 24 recollection, but if I get my actual statistics and cases
16:28:26 25 out in front, I may want to revise some of the -- the basis

16:28:26 1 for this.

16:28:32 2 I will tell you generally the two that I

16:28:36 3 believe this is referring to are going to be individuals

16:28:38 4 who are most likely convicted felons. I don't believe that

16:28:42 5 these are going to be noncitizen allegations.

16:28:44 6 Q. Okay. And there are other bases on which an

16:28:47 7 individual might not be eligible to vote beyond being

16:28:51 8 convicted of a felony or not being a citizen; correct?

16:28:53 9 A. Correct. One of our convictions is a person who

16:28:56 10 simply was not registered to vote even though they were

16:28:58 11 eligible to.

16:28:59 12 Q. A person could also be under the age of 18, for

16:29:03 13 example?

16:29:03 14 A. Yes.

16:29:04 15 Q. Okay. This next sub-bullet says, "Approximately

16:29:07 16 27 involved ballots cast in the names of deceased

16:29:10 17 individuals."

16:29:10 18 A. Correct.

16:29:10 19 Q. Do I have that right?

16:29:12 20 And the bullet after that says,

16:29:14 21 "Approximately 145 involved individuals alleged to have

16:29:18 22 cast ballots in more than one state."

16:29:18 23 Do I have that right?

16:29:20 24 A. You see it.

16:29:20 25 Q. And none of these 174 cases, as you understand it,

16:29:28 1 involve allegations of registration or voting by a
16:29:32 2 noncitizen; correct?
16:29:33 3 A. No, they do not.
16:29:39 4 Q. A few bullets down, fourth from the top of the
16:29:42 5 list, says, "Approximately 65 of the pending investigations
16:29:45 6 were referred by the Public Interest Legal Foundation."
16:29:47 7 A. That's correct.
16:29:48 8 Q. Do you regularly receive referrals from the Public
16:29:53 9 Interest Legal Foundation?
16:29:53 10 A. I did not before the 2020 general election. And
16:29:57 11 I'll tell you -- you see here this and the category that
16:30:01 12 follows it -- we don't have a tracking system for cases.
16:30:08 13 And so I'm -- I'm -- you're looking at the tracking system.
16:30:13 14 I noted that a number of our complaints which
16:30:17 15 were referred to me for opening criminal investigations
16:30:19 16 indicated their source on them as being the Public Interest
16:30:24 17 Legal Foundation. And because we did get numerous media
16:30:27 18 complaints for "Where are your complaints coming from?" I
16:30:31 19 began just to take a tick of, okay, here's one from Public
16:30:34 20 Interest Legal, and I had a tick mark for that.
16:30:36 21 And so when I hit -- you know, I hit 65 at
16:30:42 22 this point, and so that's why I indicated that there is so
16:30:45 23 that if we got a media request for how many came from
16:30:48 24 there, we would be able to answer it.
16:30:50 25 Q. But you didn't receive referrals from them prior

16:30:54 1 to the 2020 election?

16:30:54 2 A. I can't say that I had ever even heard of them
16:30:57 3 before the 2020 general election.

16:30:59 4 Q. Would you say 65 is a large number of referrals?

16:31:01 5 A. It is.

16:31:02 6 Q. Did any of the referrals from the Public Interest
16:31:05 7 Legal Foundation every lead to a conviction?

16:31:06 8 A. I can't speak to that here today. I would need to
16:31:12 9 trace before I could make something -- a determinative
16:31:15 10 statement like that.

16:31:17 11 I can tell you that when complaints came into
16:31:21 12 our office, there was a process in place where they were
16:31:24 13 supposed to be initially vetted for -- just to make sure
16:31:28 14 that the data lined up across the various states and that
16:31:33 15 the ones from the Public Interest Legal Foundation met that
16:31:36 16 first test. It didn't mean they were eventually going to
16:31:41 17 be prosecuted. It just meant they made it through the
16:31:43 18 first stage of review.

16:31:44 19 Q. But you can't recall specifically if any of the
16:31:47 20 cases they referred to you resulted in a conviction?

16:31:49 21 A. I cannot, as I sit here today.

16:31:51 22 Q. And based on your prior testimony, it's fair to
16:31:53 23 say that even if any of them did lead to a conviction, they
16:31:58 24 could not be for voting by either a noncitizen or a
16:32:00 25 nonresident?

16:32:01 1 A. I don't remember the basis of the Public Interest
16:32:06 2 Legal Foundation's complaints other than to say my
16:32:10 3 recollection of them as I sit here today -- and I could be
16:32:15 4 contradicted by my own documents if I could review them --
16:32:18 5 the bulk of their complaints were matching state
16:32:25 6 registration and voting records. The bulk of their
16:32:29 7 complaints were, as I recall, between the state of a
16:32:33 8 Washington and the state of Arizona -- was the number --
16:32:36 9 was a large source of their complaints.

16:32:38 10 Q. The bullet below that says, "Approximately 22 of
16:32:42 11 the pending investigations were referred by former
16:32:45 12 Representative Mark Finchem."

16:32:47 13 Did I get that right?

16:32:48 14 A. You did.

16:32:48 15 Q. Did you routinely receive criminal referrals from
16:32:53 16 Mr. Finchem?

16:32:53 17 A. No. But I received enough and -- received enough
16:32:57 18 complaint -- excuse me -- media requests for are we working
16:33:00 19 with complaints from Representative Finchem, that I began
16:33:04 20 tracking it because I was getting requests for what we were
16:33:08 21 doing on those.

16:33:11 22 So is 22 significant? I mean, you can see
16:33:14 23 the overall number here. 22 is a percentage of it.
16:33:18 24 Whether that's significant or not, I'll leave that up to
16:33:21 25 you. But it was something where I was getting the

16:33:23 1 question, and so I wanted to be able to answer it.

16:33:25 2 Q. Did any of the referrals from Mr. Finchem ever

16:33:28 3 lead to a conviction?

16:33:29 4 A. To my knowledge, one did, but I'm hard pressed as

16:33:37 5 I sit here to say which one it was.

16:33:39 6 Q. You don't recall any facts of that conviction?

16:33:41 7 A. It's one of the very late ones. Perhaps Mr. Zia,

16:33:48 8 Number 37. I want to say it's that one. I'm about

16:33:58 9 75 percent sure it's that one.

16:34:02 10 Q. And looking back at page 5, that case that you're

16:34:07 11 referring to, appears to indicate that the individual was

16:34:10 12 convicted of voting an early ballot that had, in fact, been

16:34:15 13 issued to his son and without his son's permission, while

16:34:18 14 also casting his own ballot, in the 2020 general election;

16:34:21 15 correct?

16:34:21 16 A. So this update as of April 4 shows it in progress.

16:34:24 17 He's -- Mr. Zia has since been convicted, so I can talk

16:34:28 18 about this in greater detail.

16:34:30 19 Q. Was my characterization of the charge there

16:34:32 20 accurate?

16:34:33 21 A. Could you restate it?

16:34:36 22 Q. Based on the description in this document, it

16:34:39 23 appears that the defendant was alleged to have voted an

16:34:43 24 early ballot issued to his son without his son's permission

16:34:46 25 while also casting his own ballot in the 2020 general

16:34:48 1 election.

16:34:49 2 A. The summary that I have written here is accurate.

16:34:51 3 There's a larger story there which kind of was the nature

16:34:56 4 of the complaint, but that is what -- ultimately, what

16:34:58 5 Mr. Zia was convicted of was voting his son's ballot

16:35:01 6 without permission.

16:35:04 7 Q. And you can't think of any other cases referred by

16:35:07 8 Mr. Finchem that resulted in a conviction?

16:35:10 9 A. I cannot. And I believe -- and as I sit here, I

16:35:15 10 would put it about 75 percent accuracy. I believe

16:35:17 11 Mr. Zia's complaint was originally a Finchem source

16:35:21 12 complaint.

16:35:22 13 Q. Did you find most of Mr. Finchem's referrals to be

16:35:26 14 credible?

16:35:28 15 A. At a basic level -- let me answer your question by

16:35:31 16 saying the overwhelming number of our complaints never got

16:35:36 17 to the end. So the number of complaints that failed to get

16:35:45 18 to filing I would say is well in excess of 80 percent.

16:35:50 19 And so the fact that Mr. Finchem's complaints

16:35:54 20 did not result in a number of convictions is not unusual.

16:35:57 21 Most of our complaints didn't result in complaint -- in

16:36:01 22 convictions. So if any one agency has a good track record

16:36:06 23 with us, it's probably the secretary of state.

16:36:08 24 Q. In general, are referrals from another government

16:36:12 25 office more likely to be credible and result in conviction

16:36:15 1 than referrals from private individuals?

16:36:20 2 A. In my experience, probably yes.

16:36:24 3 Q. When I say "private individuals," I include

16:36:26 4 Mr. Finchem. Same answer?

16:36:28 5 A. Yes, I would agree with that. Generally, you are
16:36:32 6 correct.

16:36:33 7 Q. The next bullet on this list says, quote, "6

16:36:37 8 matters opened as a result of the Arizona State

16:36:39 9 Senate/Cyber Ninjas Audit were closed without the filing of

16:36:42 10 charges."

16:36:42 11 A. Yes.

16:36:42 12 Q. Did I read that correctly?

16:36:43 13 So fair to say that no referral to your

16:36:45 14 office, based on the Cyber Ninjas audit, resulted in filing

16:36:50 15 of charges?

16:36:50 16 A. That is accurate. And we did have repeated

16:36:52 17 questions about that. And that's exactly why this bullet

16:36:55 18 point exists.

16:36:57 19 And I did review those six here today because

16:37:00 20 I knew you would be asking about citizen and residency

16:37:04 21 questions. And so if I could just make sure that you have

16:37:09 22 enough information -- and I don't want to hide something

16:37:11 23 under a bullet point here. Two of these cases of these six

16:37:16 24 are -- involved allegations that I think may be pertinent

16:37:18 25 to you. One is a residency allegation where an individual

16:37:22 1 was alleged not to be a resident of Arizona; was alleged to
16:37:25 2 have been a resident of Texas. That -- that case was
16:37:28 3 closed without filing of charges.

16:37:31 4 And the other was a person who was alleged to
16:37:33 5 be a noncitizen; was alleged to be a citizen of Israel; and
16:37:38 6 was determined not to be a criminal charge because he voted
16:37:42 7 legally in the United States through UOCAVA. And both of
16:37:46 8 those matters were closed without the filing of criminal
16:37:49 9 charges.

16:37:50 10 Q. How were those matters from the Cyber Ninjas'
16:37:54 11 audit referred to?

16:37:55 12 A. They were -- the process that was in place was
16:37:57 13 that the Cyber Ninjas' audit was treated as a criminal
16:38:02 14 complaint and was investigated by the investigation
16:38:06 15 section. And if, in their review, they determined in that
16:38:09 16 review that any crimes were committed, those matters were
16:38:13 17 spun off into separate cases and they were referred for
16:38:16 18 prosecution. There were six such spin-off cases that I
16:38:21 19 handled, and none of them were charged.

16:38:26 20 Q. So fair to say that the allegations referred to
16:38:28 21 your office from the Cyber Ninjas' audit regarding
16:38:31 22 allegations of nonresident and noncitizen voting were
16:38:35 23 ultimately found baseless?

16:38:37 24 A. I believe that -- none of them merited criminal
16:38:40 25 prosecution would be the metric that I looked at them

16:38:43 1 under. None of them were provable to our charging

16:38:47 2 standard.

16:38:48 3 Q. The final bullet in this list says, "There are 3
16:38:50 4 allegations of illegal voting currently under investigation
16:38:52 5 arising from the 2022 cycle."

16:38:55 6 Did I read that right?

16:38:56 7 A. Correct.

16:38:56 8 Q. What's the current status of those investigations?

16:39:00 9 A. I did not prepare on that topic here today. So

16:39:07 10 I --

16:39:07 11 Q. Do you know whether --

16:39:08 12 A. -- I cannot offer you that information at this
16:39:09 13 time.

16:39:10 14 Q. Do you know whether any concerned allegations of
16:39:13 15 registration or voting by a noncitizen?

16:39:17 16 A. I -- I'm -- I'm sorry. I am not prepared to tell
16:39:20 17 you which three those are. I would want to look at those
16:39:23 18 and be able to give you more specificity.

16:39:26 19 I specifically prepared on any issues related
16:39:30 20 to citizenship or registration. Those didn't come up in my
16:39:32 21 review, and so I don't want to say no, but I don't believe
16:39:36 22 that they do.

16:39:37 23 Q. But just for the record, then, sitting here today,
16:39:40 24 you are not able to state that any of those pending
16:39:42 25 investigations concern allegations of noncitizen

16:39:45 1 registration or voting or nonresident registration or
16:39:49 2 voting?

16:39:49 3 A. I'm not prepared to make that statement, but,
16:39:52 4 Counsel, what I will do is I will go back and verify those
16:39:56 5 and then provide that information to our counsel. And if
16:39:58 6 there's any change to that answer, I -- I want to make sure
16:40:02 7 that my statement here today is correct.

16:40:05 8 I don't believe they do, but I want to make
16:40:07 9 sure of that before I set it in concrete. Is that okay?

16:40:13 10 Q. Turning to Section B of this document, it's titled
16:40:19 11 "Prosecutions Related to Elections Since 2010"; right?

16:40:22 12 A. Yes.

16:40:22 13 Q. These cases do not involve allegations of illegal
16:40:29 14 registration or illegal voting by individual voters;
16:40:32 15 correct?

16:40:32 16 A. That's correct. And that's -- why I broke this
16:40:34 17 out the way I did is that the public document was often
16:40:38 18 confused among these two types of cases.

16:40:41 19 Q. Okay. I'm going to shift gears and ask about the
16:40:52 20 state's interest in passing the challenged legislation.

16:40:55 21 A. Sure.

16:40:56 22 Q. Can you return to Exhibit 212.

16:40:59 23 A. Yes, sir.

16:41:01 24 Q. And again, briefly review Interrogatory

16:41:05 25 Number 1 --

16:41:05 1 A. Number 1.

16:41:05 2 Q. -- on page 4. This is Dropbox Number 6.

16:41:15 3 A. Yes.

16:41:22 4 Q. Okay. Your office characterized Subpart 1 of

16:41:28 5 Interrogatory Number 1 as "Identify all state interests

16:41:31 6 that you believe are furthered by the challenged laws . . .

16:41:34 7 Your answer should specify which alleged state interest(s)

16:41:38 8 support each challenged provision of the Challenged Laws

16:41:39 9 and the connection between the alleged state interests and

16:41:43 10 challenged provisions."

16:41:43 11 Did I get that correct?

16:41:44 12 A. That is what it says.

16:41:45 13 Q. Okay. Could you take a moment to review your

16:41:52 14 office's response to Subpart 1.

16:41:55 15 A. How can I help you? I did that earlier. I'm

16:41:58 16 sorry.

16:41:58 17 Q. Okay. Your response indicates that HB 2492 and

16:42:04 18 HB 2243 ensure that voter registration is limited to those

16:42:07 19 who are eligible to vote; correct?

16:42:09 20 A. That is the statement here. I think that that is

16:42:12 21 the general overall concern of -- that appears to be behind

16:42:17 22 these laws is that voter registration be limited to

16:42:22 23 eligible individuals.

16:42:23 24 Q. And how do these laws do that?

16:42:26 25 MR. WHITAKER: Objection. Calls for a legal

16:42:26 1 conclusion.

16:42:28 2 And I'm not remembering the exact details of
16:42:32 3 our emails before this, but it may be outside the scope,
16:42:36 4 depending on our email correspondence.

16:42:38 5 THE WITNESS: I'm a person who enforces the
16:42:40 6 law. I'm not a person who creates the law. I'm sure you
16:42:44 7 can go and find records that I have filed in my cases in
16:42:48 8 terms of sentencing recommendations that say we are -- the
16:42:51 9 state has an interest in making sure that elections are
16:42:54 10 fairly conducted and that only individuals who are eligible
16:42:58 11 to vote are voting and only -- they're only voting once.

16:43:02 12 And so I think that is an overriding state
16:43:06 13 interest, and I think that is something that may have been
16:43:09 14 of work here, but I can't say specifically.

16:43:11 15 BY MR. DODGE:

16:43:11 16 Q. So you're not able to testify today to how HB 2492
16:43:15 17 and HB 2243 help to ensure that voter registration is
16:43:19 18 limited to those who are eligible to vote; right?

16:43:22 19 MR. WHITAKER: Objection. Legal conclusion
16:43:24 20 and scope issues as explained in email correspondence with
16:43:28 21 opposing counsel.

16:43:30 22 THE WITNESS: I am not a legislator. I don't
16:43:32 23 know what other -- what else they were thinking at the time
16:43:36 24 they brought -- they brought this into law.

16:43:39 25 BY MR. DODGE:

16:43:43 1 Q. You would agree with me that prior to the
16:43:44 2 enactment of the challenged laws, it was illegal in Arizona
16:43:48 3 to register to vote or to cast a ballot when ineligible to
16:43:52 4 do so; correct?

16:43:53 5 A. Correct.

16:43:54 6 Q. In fact, those are felonies?

16:43:55 7 MR. LANGHOFER: Calls for legal conclusion.

16:43:58 8 THE WITNESS: I think it's correct, so . . .

16:44:02 9 BY MR. DODGE:

16:44:02 10 Q. Those were -- those were felonies under Arizona
16:44:04 11 law prior to enactment of the challenged laws; correct?

16:44:06 12 MR. LANGHOFER: Same objection.

16:44:07 13 THE WITNESS: 16-1182. Yes.

16:44:13 14 BY MR. DODGE:

16:44:22 15 Q. You referred earlier today to two pending cases
16:44:27 16 involving allegations of a noncitizen voting; correct?

16:44:29 17 A. Correct.

16:44:30 18 Q. Are you able to explain today how the challenged
16:44:33 19 laws might have prevented those individuals from
16:44:37 20 registering or voting?

16:44:39 21 MR. WHITAKER: Objection. Legal conclusion.
16:44:45 22 Same scope concerns.

16:44:49 23 THE WITNESS: I'm not sure how I track is
16:44:52 24 preventing. Criminal law is reactive. People do things
16:45:00 25 that violate the law and then we prosecute them for it. I

16:45:04 1 can't say how we would have prevented anything.

16:45:07 2 BY MR. DODGE:

16:45:08 3 Q. Do you have any view on whether those individuals
16:45:12 4 would have been able to successfully cast ballots if the
16:45:16 5 challenged laws had been in place at the time?

16:45:18 6 MR. WHITAKER: Same objections and
16:45:21 7 foundation.

16:45:22 8 THE WITNESS: I cannot speculate as to that.
16:45:30 9 There are a number of intervening circumstances in the
16:45:33 10 cases that would be speculative as to how anything would
16:45:38 11 have impacted them.

16:45:38 12 BY MR. DODGE:

16:45:41 13 Q. You indicated earlier that you are not aware of a
16:45:45 14 single conviction by your office of a noncitizen for
16:45:48 15 registering to vote or casting a ballot in Arizona going
16:45:51 16 back to 2010; correct?

16:45:53 17 A. I believe that's accurate, correct.

16:45:55 18 Q. So in your view, was voting by noncitizens a
16:45:59 19 problem in Arizona prior to the enactment of the challenged
16:46:02 20 laws?

16:46:04 21 A. I can only speak to --

16:46:05 22 MR. LANGHOFER: Form.

16:46:06 23 THE WITNESS: I can only speak to what we can
16:46:08 24 prove to beyond a reasonable doubt standard that no
16:46:12 25 allegations like that were brought to us that were provable

16:46:17 1 and to the beyond a reasonable doubt standard. As to

16:46:22 2 the -- whether the problem exists, I just don't know.

16:46:25 3 BY MR. DODGE:

16:46:27 4 Q. Would you agree with me that whether or not a
16:46:29 5 person is a citizen is a binary question? A person either
16:46:35 6 is a citizen or they're not?

16:46:37 7 A. I'd say that you're beyond my scope of expertise.
16:46:40 8 We can talk about the rules of criminal procedure, but
16:46:43 9 citizenship is a thing that I know is super complex, and it
16:46:48 10 is something conveyed by a federal law that I do not
16:46:52 11 practice in regular --

16:46:53 12 Q. A person can be a U.S. citizen; right?

16:46:56 13 A. I believe that is correct.

16:46:57 14 Q. A person can also not be a U.S. citizen; correct?

16:47:00 15 A. I believe that is also correct.

16:47:01 16 Q. A person can't be both?

16:47:04 17 A. A dual citizenship is a thing.

16:47:07 18 Q. In that case, they would be a U.S. citizen; right?

16:47:09 19 A. Potentially. I don't -- I don't pretend to be an
16:47:13 20 expert in citizenship.

16:47:49 21 MR. WHITAKER: How much longer do you
16:47:50 22 anticipate with this witness?

16:47:52 23 MR. DODGE: Do you want to go off the record?

16:47:55 24 MR. WHITAKER: Well, in a sense no, because
16:47:59 25 I'd like to use record time.

16:48:02 1 MR. DODGE: Why don't we go off the record.

16:48:06 2 MR. WHITAKER: Sure.

16:48:07 3 THE VIDEOGRAPHER: We are off the record.

16:48:09 4 Time on the video monitor is 4:48 p.m.

16:48:14 5 (A recess ensued.)

16:55:33 6 THE VIDEOGRAPHER: We are on the record.

16:55:49 7 Time on the video monitor is 4:55 p.m.

16:55:53 8 BY MR. DODGE:

16:55:55 9 Q. Mr. Lawson, I'm going to ask you to look back at

16:55:58 10 Exhibit 212 and again at your office's response to

16:56:02 11 Subpart 1 of Interrogatory Number 1.

16:56:05 12 A. Yes, sir.

16:56:06 13 Q. Your response indicates as well that the

16:56:11 14 challenged laws help to promote public trust in elections;

16:56:14 15 is that correct?

16:56:15 16 A. To the extent that I am not a legislator, I can

16:56:22 17 think that that was probably what motivated them, but

16:56:27 18 again, I -- beyond that, I can't speak to the specifics.

16:56:31 19 Q. Are you able to explain how the challenged laws

16:56:35 20 promote public trust in elections?

16:56:39 21 MR. WHITAKER: Same objections as before on

16:56:40 22 this subpart.

16:56:41 23 THE WITNESS: I am not.

16:56:43 24 BY MR. DODGE:

16:56:43 25 Q. Your response states that, quote, "Some members of

16:56:46 1 the public may feel doubt about election results, rightly

16:56:49 2 or wrongly"; correct?

16:56:50 3 A. Is that in our -- is that in here?

16:56:56 4 Q. That's at page 5, line 11.

16:57:01 5 A. Yes.

16:57:01 6 Q. Does your office have a view as to whether these
16:57:05 7 doubts are right or wrong?

16:57:08 8 A. I think that's -- our job is to --

16:57:09 9 MR. WHITAKER: Compound.

16:57:10 10 THE WITNESS: -- to determine if they're
16:57:11 11 right or wrong. That's what we had a complaint line for
16:57:14 12 and -- so that people could complain their doubts to us and
16:57:18 13 we would look into them.

16:57:19 14 THE COURT REPORTER: Did someone object in
16:57:22 15 the middle?

16:57:22 16 MR. WHITAKER: I said compound.

16:57:26 17 BY MR. DODGE:

16:57:27 18 Q. Can you explain why you believe the challenged
16:57:30 19 laws may help to alleviate such doubt?

16:57:32 20 MR. WHITAKER: Same objections as to the
16:57:33 21 subpart voiced previously. Go ahead.

16:57:35 22 THE WITNESS: I cannot speak to the intent of
16:57:39 23 the legislature. I can speak to -- a number of people have
16:57:43 24 issues, and one of the things our unit attempted to do was
16:57:50 25 to investigate and pursue righteous complaints and to

16:57:55 1 determine which ones had no merit and to explain why they
16:57:58 2 had no merit.

16:57:58 3 BY MR. DODGE:

16:57:58 4 Q. Your response here states that some members of the
16:58:01 5 public may feel doubt about election results, rightly or
16:58:04 6 wrongly.

16:58:05 7 Would you agree with me that the term "may"
16:58:06 8 suggests speculation as to whether individuals feel such
16:58:13 9 doubts?

16:58:14 10 A. You are correct.

16:58:15 11 Q. So your response is not categorically stating that
16:58:22 12 the public may feel doubt -- strike that.

16:58:25 13 Your response is not categorically stating
16:58:27 14 that the public feels doubt about election results, rightly
16:58:30 15 or wrongly?

16:58:31 16 A. No, sir.

16:58:31 17 Q. And the next sentence says, "The Challenged Laws
16:58:37 18 may help alleviate such doubt."

16:58:40 19 That also is a speculative statement;
16:58:43 20 correct?

16:58:43 21 A. Correct.

16:58:44 22 Q. So your response does not categorically state that
16:58:47 23 the challenged laws will help to alleviate such doubt; is
16:58:50 24 that right?

16:58:50 25 A. I think that's accurate.

16:58:52 1 Q. Has your office -- does your office have any
16:58:56 2 evidence that the challenged laws have helped to alleviate
16:58:59 3 such doubt among the public?

16:59:02 4 A. I'm hesitant to answer because I don't think we've
16:59:07 5 ever had the challenged laws activated. We've never
16:59:09 6 received a complaint which would activate them. So I don't
16:59:13 7 know that the challenged laws have done a thing other than
16:59:16 8 a single-page report.

16:59:18 9 Q. They're on the books; right?

16:59:19 10 A. Correct.

16:59:20 11 Q. Does your office -- does your office have any
16:59:23 12 evidence that the enactment of the challenged laws,
16:59:28 13 including them in the Arizona Revised Statutes, has done
16:59:34 14 anything to alleviate public doubt about election results?

16:59:38 15 MR. WHITAKER: Same objections. Go ahead.

16:59:40 16 THE WITNESS: I think any answer to that
16:59:42 17 question would be speculative. You'd have to talk to an
16:59:44 18 awful lot of people.

16:59:45 19 BY MR. DODGE:

16:59:49 20 Q. Speaking of those people, has your office
16:59:51 21 identified any members of the public whose doubts about
16:59:55 22 election results have been alleviated by the enactment of
16:59:57 23 the challenged laws?

16:59:59 24 MR. WHITAKER: Foundation. Go ahead.

17:00:00 25 THE WITNESS: I don't have any people who I

17:00:03 1 know are happy with this law. I'm not a -- can't speak to

17:00:08 2 that.

17:00:08 3 BY MR. DODGE:

17:00:10 4 Q. Has your office identified what percentage of

17:00:12 5 Arizona voters have doubts about election results?

17:00:17 6 A. I'm not aware of any such efforts by our office to

17:00:21 7 poll or survey individuals about this law. I don't have

17:00:25 8 any information to answer your question.

17:00:26 9 Q. Is it your office's position that it is
17:00:30 10 appropriate to legislate to address unfounded doubts about
17:00:33 11 election results even if that legislation makes it harder
17:00:37 12 for some lawful Arizona citizens to vote?

17:00:40 13 MR. WHITAKER: Same objection as before.

17:00:42 14 MR. LANGHOFER: Form. Scope.

17:00:46 15 THE WITNESS: Mr. Dodge, I -- I'm not a
17:00:51 16 policymaker for the agency. There is an elected attorney
17:00:57 17 general who makes those sorts of decisions. I am not that
17:00:59 18 person.

17:01:00 19 My job is to prosecute cases that are before
17:01:03 20 me with prosecutorial merit. And I can't make those sorts
17:01:06 21 of conclusions.

17:01:07 22 BY MR. DODGE:

17:01:08 23 Q. If otherwise eligible voters have their voter
17:01:11 24 registrations rejected or canceled due to the challenged
17:01:13 25 laws, do you think that could erode public trust in

17:01:17 1 elections?

17:01:17 2 MR. WHITAKER: Foundation and similar
17:01:20 3 objections.

17:01:21 4 MR. LANGHOFER: Scope.

17:01:21 5 THE WITNESS: I don't have any basis to
17:01:24 6 indicate whether that is occurring or not, so I can't
17:01:25 7 really speak to it. I think it's too speculative.

17:01:27 8 BY MR. DODGE:

17:01:27 9 Q. More generally, do you think that if eligible
17:01:30 10 voters have their voter registrations rejected or canceled,
17:01:34 11 despite being eligible, that that might erode public trust
17:01:37 12 in elections?

17:01:39 13 MR. WHITAKER: Same objections.

17:01:41 14 THE WITNESS: I think we could talk a number
17:01:46 15 of hypotheticals here today about what could erode public
17:01:50 16 trust in elections, and you can come up with any number of
17:01:54 17 them that would erode public trust. I can't speak one way
17:01:59 18 or another to them in terms of from where I sit as a
17:02:04 19 representative of this agency.

17:02:06 20 BY MR. DODGE:

17:02:10 21 Q. Your office identified two possible state
17:02:14 22 interests that the legislature may have had in enacting the
17:02:19 23 challenged laws. Is that fair to say?

17:02:19 24 A. That's the answer that we've -- that you've
17:02:21 25 referred to here.

17:02:23 1 Q. As a representative of the Attorney General's
17:02:28 2 Office, the state interests in that interrogatory response
17:02:31 3 are the only ones that the office has identified that it
17:02:38 4 believes the challenged laws may help to advance or
17:02:43 5 promote; correct?

17:02:44 6 MR. WHITAKER: Same objections.

17:02:45 7 THE WITNESS: And I think the word "may" is
17:02:47 8 doing a lot of work in that sentence, but yes, that's
17:02:49 9 correct.

17:02:49 10 BY MR. DODGE:

17:02:54 11 Q. Your office has not supplemented its response to
17:02:56 12 this interrogatory; correct?

17:02:59 13 A. Did we? Exhibit 225.

17:03:13 14 Q. Let me be more specific.

17:03:19 15 Has your office amended its response to
17:03:23 16 Subpart 1 of Interrogatory Number 1?

17:03:28 17 A. Counsel, here's where I have to play -- I'm not
17:03:32 18 counsel in this case, so if there has been more than one
17:03:36 19 response or supplement to this, I'm not aware of anything
17:03:38 20 more than Exhibit 225.

17:03:40 21 Q. If I represented to you that Exhibit 225 is the
17:03:44 22 only amended response your office has provided in this
17:03:47 23 litigation, would you take that representation?

17:03:49 24 A. Sounds good to me.

17:03:50 25 Q. And in those amended responses, there is no

17:03:54 1 amendment to your office's response to Subpart 1 of
 17:03:58 2 Interrogatory Number 1; correct?
 17:03:58 3 A. And I would agree with that -- if what you're
 17:04:01 4 telling me is correct, I'm not aware of any other change to
 17:04:03 5 it.
 17:04:04 6 Q. Okay.

17:04:09 7 MR. DODGE: Can we go off the record for one
 17:04:12 8 minute.

17:04:14 9 THE VIDEOGRAPHER: We're off the record. The
 17:04:16 10 time on the video monitor is 5:04 p.m. This ends Media 3.

17:04:23 11 (A recess ensued.)

17:05:50 12 THE VIDEOGRAPHER: We are on the record.
 17:06:05 13 Time on the video monitor is 5:06 p.m. This begins
 17:06:09 14 Media 4.

17:06:10 15 MR. DODGE: Mr. Lawson, I have no further
 17:06:16 16 questions for you.

17:06:17 17 Before we bring in Mr. Thomas, I'm going to
 17:06:22 18 open the floor for redirect from defendants and
 17:06:26 19 intervenors.

17:06:28 20 MR. WHITAKER: I have no redirect.
 17:06:29 21 Mr. Langhofer, go for it.

17:06:29 22 MR. LANGHOFER: Thanks, Josh.

17:06:29 23

17:06:31 24 EXAMINATION

17:06:32 25 BY MR. LANGHOFER:

17:06:36 1 Q. I'm Kory Langhofer, and I'm representing the RNC.
17:06:39 2 And, Mr. Lawson, I believe we've spoken a few times. It's
17:06:44 3 nice to put a face to a voice and a name finally.

17:06:47 4 One thing I learned about you over time is
17:06:52 5 that you have what I have described to other people as an
17:06:52 6 appropriate view of the world of political prosecutions and
17:07:03 7 the standard of proof in these cases. And I think you
17:07:05 8 mentioned this probably 45 minutes or so ago.

17:07:11 9 You were talking about readily provable
17:07:13 10 defenses. What did you mean by that?

17:07:17 11 A. I think that came up in reference to determining
17:07:22 12 residency or eligibility to vote. Is that what you're
17:07:26 13 recalling?

17:07:27 14 Q. I think that sounds right.

17:07:29 15 So in your mind, is there a difference
17:07:31 16 between cases in which there's probable cause and cases
17:07:35 17 that are readily provable?

17:07:36 18 A. Our charging standard is a reasonable likelihood
17:07:39 19 of conviction, which means that there's a -- more likely
17:07:43 20 than not, that a jury at trial would find the defendant
17:07:46 21 guilty to a beyond a reasonable doubt standard.

17:07:49 22 That takes into account a number of
17:07:51 23 circumstances, including the provability of the
17:07:56 24 allegations, the availability of witnesses, and, obviously,
17:08:00 25 the availability of ready defenses to the charges and the

17:08:04 1 allegations that are made.

17:08:07 2 Having reviewed a number of residency
17:08:10 3 allegations over the course of my time with this caseload
17:08:14 4 and the Attorney General's Office, proving residency or --
17:08:19 5 as the condition of eligibility that causes somebody to be
17:08:23 6 brought before us for criminal review is a very slippery
17:08:28 7 standard that readily -- it has a ready defense of "I
17:08:34 8 believed I was a resident, and this is why I believe I'm a
17:08:37 9 resident; or I'm -- this is why I'm eligible, and this is
17:08:39 10 why I believe I'm eligible." And that's why we've been
17:08:42 11 very hesitant to pursue eligibility cases when there is not
17:08:49 12 readily available concrete proof.

17:08:52 13 And the two contexts that I think are most
17:08:55 14 obvious here in this caseload that we've talked about in
17:08:57 15 terms of Exhibit 224 are instances where people have voted
17:09:04 16 in more than one state on one day and have completed
17:09:08 17 conflicting declarations in writing in two different states
17:09:11 18 in one day and for people who are not eligible to vote but
17:09:16 19 are convicted felons where we have records that show they
17:09:20 20 are convicted, and we have a lack of records showing that
17:09:23 21 their rights have been restored.

17:09:25 22 When you have allegations like I referred to
17:09:28 23 in Mr. Dodge's questions, there was an individual who was
17:09:32 24 alleged to have been a resident of Texas and illegally
17:09:37 25 voted in Arizona. And I indicated that our fact pattern we

17:09:42 1 look for was register, register, vote, vote. That case, it
17:09:48 2 was register, vote, register, vote, which is a lawful
17:09:51 3 pattern.

17:09:52 4 And the idea that they want to say that the
17:09:56 5 vote happened when he was already eligible to register to
17:09:59 6 vote in Texas, yes, but he was also registered -- or
17:10:03 7 able -- he was previously registered in Arizona and
17:10:06 8 subjectively believed he could continue to vote in Arizona
17:10:09 9 and had a factual basis to do so.

17:10:12 10 So yes, we stay away from cases that exist
17:10:15 11 where the proof of the offense exists entirely in the
17:10:18 12 defendant's mind, because the defendant could subjectively
17:10:23 13 take the stand and say what they need to in order to obtain
17:10:25 14 an acquittal.

17:10:28 15 Does that address your question?

17:10:31 16 Q. It does. Thank you.

17:10:32 17 Is it fair to say, then, that the number of
17:10:35 18 cases in which there's probable cause is larger than the
17:10:38 19 number of cases that are readily provable?

17:10:44 20 A. So the standard by which -- I'm sorry. I think
17:10:48 21 you have -- you have them backwards. Let me make -- let me
17:10:51 22 make sure that I'm understanding your question.

17:10:53 23 We have a number of complaints that come in
17:10:56 24 that don't even get off the first stage -- get through that
17:11:00 25 first stage. There needs to be a reasonable suspicion that

17:11:03 1 there's an actual crime alleged.

17:11:06 2 And once there's that sort of basis that a
17:11:09 3 crime has occurred, then an investigation can occur. And
17:11:12 4 then there needs to be a reasonable suspicion for things
17:11:16 5 such as search warrants or subpoenas and things like that
17:11:18 6 to get further in the process.

17:11:21 7 To get onto my side of the equation for
17:11:25 8 charging, I -- my metric is a reasonable likelihood of
17:11:28 9 conviction, that being a higher standard than reasonable
17:11:32 10 suspicion and then probable cause and then the higher
17:11:37 11 standard of reasonable likelihood of conviction.

17:11:40 12 Does that make sense?

17:11:41 13 Q. So --

17:11:42 14 A. I thought you had the first two switched.

17:11:44 15 Q. I said it backwards by exhaustion, in which case I
17:11:52 16 apologize. Let me try it again.

17:11:53 17 If I understand it correctly, the number of
17:11:54 18 cases with probable would be greater than the number of
17:11:59 19 cases in which there's a ready -- readily provable offense.
17:12:02 20 Basically, readily provable offense is a subset of cases of
17:12:06 21 probable cause?

17:12:06 22 A. Yes. You could say that a number of complaints,
17:12:09 23 there's probably cause to believe that offense was
17:12:12 24 committed, but I can't prove it beyond a reasonable doubt.
17:12:14 25 That is correct. There's a smaller group of those and then

17:12:18 1 an even smaller group that we actually carry through and
17:12:21 2 make the discretion to act on and then ultimately get --
17:12:27 3 obtain a conviction for it. It's a gradually reducing
17:12:30 4 number.

17:12:41 5 Q. And in your mind, the -- if we were to think about
17:12:50 6 a preponderance standard, you know, more likely than not to
17:12:54 7 be true, is that also a larger group of cases than cases
17:12:59 8 that are readily provable, the ones that are actually
17:13:02 9 charged?

17:13:03 10 A. See, now you're taking me back to which standard
17:13:05 11 is higher than which standard, preponderance being higher
17:13:13 12 than probable cause, I believe. This is things I did not
17:13:17 13 prepare for today.

17:13:19 14 I think these are all gradually reducing
17:13:22 15 numbers that you're talking about here. The further you
17:13:25 16 get along in the process, there -- the cases become more
17:13:30 17 difficult to prove to the higher standards, yes, and that
17:13:34 18 number reduces.

17:13:35 19 Q. So there -- there's a conversation you and I
17:13:39 20 had -- you and I had years ago, which I will not ask you to
17:13:41 21 recall, but I guess what I'm getting at is, is there a
17:13:46 22 difference between believing something to be true and being
17:13:50 23 so confident that it is readily provable and you feel
17:13:55 24 comfortable charging?

17:13:55 25 A. Very much so. Having done this job for a long

17:13:59 1 time, there are a number of things where I can look at the
17:14:04 2 pattern and say this is almost certainly what happened, but
17:14:06 3 it's what I can prove that matters.

17:14:08 4 And it's not my job to have a gut and -- and
17:14:12 5 my gut feelings don't obtain convictions. I need to be
17:14:15 6 able to prove things. And you have to be able to separate
17:14:18 7 those two to do your job correctly in this position.

17:14:23 8 Q. I want to shift gears a little bit. Let's talk
17:14:29 9 about that online summary of election prosecutions.

17:14:29 10 A. Yes.

17:14:31 11 Q. And I've learned today from you that there are
17:14:35 12 apparently different versions of that document.

17:14:35 13 A. That's correct.

17:14:36 14 Q. You had some concerns about the description in the
17:14:40 15 version that was made publicly available. But if we limit
17:14:44 16 our focus to just the one that was publicly available on
17:14:47 17 the website, were all those cases at least real?

17:14:50 18 A. Yes.

17:14:53 19 Q. And were they, in fact, prosecutions for election
17:14:56 20 crimes?

17:14:56 21 A. Yes.

17:14:57 22 Q. Do you believe that any of those were materially
17:15:02 23 inaccurate in their summary of the cases?

17:15:06 24 A. I don't believe so, but I'd want to go through and
17:15:09 25 review the draft with a fine-tooth comb and probably go

17:15:15 1 back and review and see if I have my emails that I
17:15:17 2 exchanged at the time about the changes I was requesting.

17:15:20 3 A number of the changes I was requesting were
17:15:22 4 due to things that were inaccurate. And then I would
17:15:26 5 request changes, and then the following month I would
17:15:29 6 submit my requested changes for what had changed in that
17:15:34 7 month and was also requesting the same changes from
17:15:37 8 previous months again.

17:15:39 9 Q. I see.

17:15:43 10 You had -- one of the issues in this case is
17:15:49 11 whether there's some value in citizens or -- or proposed
17:15:59 12 registrants checking a box and saying that they're, in
17:16:02 13 fact, a citizen -- a citizen of the United States before
17:16:03 14 registering. And I want to ask you about that,
17:16:06 15 particularly in the context of -- you had talked about the
17:16:09 16 defenses that people raise and saying, you know, reasonable
17:16:13 17 mistake -- essential defenses; reasonable mistake; I
17:16:16 18 thought I was, but, you know, turns out there's some sort
17:16:20 19 of paperwork error.

17:16:23 20 In going through the complaints that come
17:16:28 21 into your office and thinking about whether cases could be
17:16:32 22 charged, has the fact that the recitations -- the factual
17:16:39 23 recitations a proposed will registrant make at the bottom
17:16:42 24 of the form before they sign under penalty of perjury are,
17:16:46 25 you know, in small print, the bottom of the document, not

17:16:49 1 called out individually -- has that ever been a concern for
17:16:54 2 you in deciding whether to move forward with criminal
17:16:58 3 prosecution?

17:16:58 4 MR. DODGE: Objection; form, foundation.

17:17:00 5 THE WITNESS: I'm sorry. Could I restate
17:17:02 6 your question as saying -- are you -- have I ever been
17:17:05 7 concerned about the size of the type on a voter
17:17:07 8 registration form?

17:17:09 9 BY MR. LANGHOFER:

17:17:10 10 Q. Yeah, I -- I guess that's part of my question.
17:17:14 11 But perhaps I should word it more clearly.

17:17:16 12 You know, for now, let me -- let me just --
17:17:20 13 assume that at the bottom of the standard registration form
17:17:23 14 there's a series of recitations about what it takes to be
17:17:26 15 qualified to register to vote -- I'm a felon; I'm a
17:17:30 16 citizen; I'm, in fact, a resident; and so on -- and small
17:17:34 17 type, sort of listed in summary form, a little bit of
17:17:38 18 legalese. Someone could sign that and then conceivably
17:17:42 19 later on say -- I'm just hypothesizing here -- later on
17:17:45 20 say that "I signed it, but I didn't read it carefully; it
17:17:47 21 was just, you know, honest -- you know, honest mistake."

17:17:51 22 So has -- have you ever come across that sort
17:17:54 23 of scenario where someone made a false statement but
17:17:57 24 because it was in a contract of adhesion-like scenario,
17:18:01 25 you're worried about enforceability -- criminal

17:18:04 1 enforceability?

17:18:05 2 MR. DODGE: Objection; foundation, form.

17:18:08 3 Calls for speculation.

17:18:10 4 THE WITNESS: Contract of adhesion stopped --
17:18:13 5 makes me want to think the last time I heard that was
17:18:16 6 probably in the ASU law school in terms of a concept
17:18:22 7 applying to something like this.

17:18:25 8 I can't speculate on that. I would say just
17:18:33 9 generally, there are references on here to a case. It is
17:18:50 10 Number 26: Mr. Clark.

17:18:54 11 BY MR. LANGHOFER:

17:18:55 12 Q. Okay.

17:18:55 13 A. Mr. Clark was convicted in Pima -- Pima County
17:18:59 14 Superior Court earlier this summer, and he was a convicted
17:19:02 15 felon who registered to vote and voted while in custody in
17:19:06 16 the Pima County jail. And he was not eligible to do so as
17:19:09 17 a convicted felon.

17:19:12 18 He essentially claimed that he was told he
17:19:15 19 was eligible to do so and -- but he could not identify who
17:19:19 20 told him that, and that he signed the form, essentially
17:19:23 21 ignoring the language which was there in plain sight,
17:19:27 22 because somebody told him to. I had no issue and the jury
17:19:33 23 had no issue with holding him accountable to the language
17:19:37 24 he agreed to.

17:19:38 25 I would say, in my experience since 2010,

17:19:41 1 voter registration forms have come in numerous formats and
17:19:45 2 type faces and print sizes. And ServiceArizona is an
17:19:49 3 entirely different animal altogether from physical forms.
17:19:55 4 The size of the type or the nature of the declaration has
17:19:59 5 never really been anything that has been a significant
17:20:02 6 impact on a charging decision.

17:20:11 7 I would say the larger issue, which I would
17:20:14 8 just -- again, speaking generally -- and I'm not referring
17:20:16 9 to any particular case here, setting Mr. Clark aside --
17:20:20 10 mental capacity of the individuals who are involved is
17:20:24 11 always a factor that goes into the calculus. And if you
17:20:27 12 told me my facts that I'm reviewing are someone who is
17:20:31 13 96 years old and didn't understand what they were doing,
17:20:34 14 that might be a factor, but I -- we could spend all day
17:20:38 15 here talking about hypotheticals.

17:20:40 16 Q. Have you seen -- you've seen cases where someone
17:20:49 17 lied about whether they were a felon when registering to
17:20:51 18 vote?

17:20:51 19 A. Yes. There's a number of these cases in the list
17:20:55 20 here. I don't need to refer to them by number beyond
17:20:57 21 they're here.

17:20:58 22 Q. And you've seen cases in which someone lied about
17:21:02 23 voting only once?

17:21:03 24 A. Yes.

17:21:04 25 Q. And you've apparently seen two cases recently

17:21:10 1 where someone lied about being a citizen?

17:21:15 2 A. There are two cases that we referred to earlier --
17:21:17 3 they're both older cases -- that are on warrant status
17:21:21 4 where that is the allegation. They were essentially people
17:21:26 5 who had been engaged in systematic identity theft over a
17:21:29 6 period of years, and one aspect of that was illegally
17:21:34 7 registering to vote and voting.

17:21:37 8 Q. Did I understand correctly that you have not seen
17:21:40 9 a case where someone lied about their residence, like
17:21:43 10 they -- someone said they're a resident of Maricopa County
17:21:45 11 when, in fact, it was Apache County?

17:21:49 12 A. No. And, in fact, I could say that Number 36 on
17:21:57 13 the list, Mr. Luttrell, he registered to vote twice in the
17:22:04 14 same day: once was in Maricopa County; one was in Coconino
17:22:09 15 County. It was not caught between the two counties. And
17:22:13 16 essentially, he made a false claim to residency in two
17:22:16 17 different counties, and he was convicted of that, illegally
17:22:21 18 voting, based on that he eventually voted in both counties.

17:22:24 19 So it is -- it is exceedingly rare, though,
17:22:29 20 because of the subjective nature of residency -- like,
17:22:32 21 could I tell you here today where is Mr. Luttrell actually
17:22:35 22 a resident of? Subjectively, I believe that he was a
17:22:40 23 resident of Maricopa County. But did he actually own
17:22:42 24 property in Coconino County and fill out a form that says
17:22:46 25 he's entitled to register there? Yeah, he did.

17:22:50 1 And because the standard is so loose, that's
17:22:53 2 why the law is the way it is. I'm not required to prove
17:22:56 3 one or the other, because it's subjective. What I prove is
17:23:00 4 the inconsistent statements; that he voted in both places
17:23:03 5 on the same day, and that can't be true.

17:23:10 6 MR. LANGHOFER: Mr. Lawson, I appreciate your
17:23:11 7 time. And I promised I wouldn't keep you long. Those are
17:23:14 8 all the questions I have for you this evening. Thank you.

17:23:16 9 MR. DODGE: I have just one or two more.

17:23:16 10

17:23:20 11 FURTHER EXAMINATION

17:23:20 12 BY MR. DODGE:

17:23:20 13 Q. Mr. Lawson, Mr. Langhofer just asked you some
17:23:20 14 questions about the difference between the beyond
17:23:23 15 reasonable doubt standard and a preponderance standard. Do
17:23:26 16 you recall that?

17:23:26 17 A. I'm going to be embarrassed if I got that wrong,
17:23:29 18 so I hope I got it right.

17:23:30 19 Q. I promise I don't have a law school pop quiz for
17:23:33 20 you.

17:23:33 21 Are you aware of any cases alleging
17:23:37 22 registration or voting by noncitizens that were referred to
17:23:41 23 you for prosecution that you felt could meet a
17:23:45 24 preponderance standard but not a beyond a reasonable doubt
17:23:48 25 standard?

17:23:48 1 A. You're going to -- you're going to go into a lot
17:23:50 2 of detail that I don't have. We've had a number of cases
17:23:55 3 that are referred to us for review that involve any number
17:23:59 4 of allegations, some of which are noncitizen, non- -- like,
17:24:03 5 for example, the case I referred to involving the UOCAVA
17:24:06 6 voter from Israel, that was a noncitizen allegation. It
17:24:11 7 did come to my side. It was opened. And we did eventually
17:24:14 8 close it because it can't be sustained. I believe that
17:24:19 9 that made the initial review.

17:24:21 10 So there was a finding by an agent that there
17:24:23 11 was at least a reasonable suspicion that an offense
17:24:27 12 occurred. Whether there was a probable cause finding
17:24:32 13 there, I don't know. That would have been made by the
17:24:34 14 agent.

17:24:36 15 My metric is whether I have something I can
17:24:40 16 charge. And I'm -- so I'm primarily focused on the beyond
17:24:44 17 a reasonable doubt standard and whether there's a
17:24:46 18 reasonable likelihood of conviction. So whether the
17:24:50 19 investigators -- Mr. Thomas may be able to speak to that or
17:24:53 20 Mr. Knuth can speak to that, whether they made individual
17:24:56 21 findings on that. In order for those -- those cases to be
17:24:59 22 passed across to me and to come to me for review, that's on
17:25:03 23 them.

17:25:04 24 Q. Okay. In response to a question from

17:25:07 25 Mr. Langhofer right now, you referred to the two pending

17:25:11 1 cases regarding alleged voting by noncitizens as older

17:25:15 2 cases; is that right?

17:25:15 3 A. They are.

17:25:16 4 Q. Can you tell me what -- can you tell me anything

17:25:20 5 about the time period of those cases, including when any

17:25:24 6 indictment was issued in those cases?

17:25:26 7 A. Emails that we discussed -- so my case I'm much

17:25:33 8 more familiar with --

17:25:33 9 Q. Why don't we start with that.

17:25:34 10 A. -- than the case out of -- out of Tucson. My

17:25:38 11 recollection is that my case was filed in 2019 and predates

17:25:45 12 the formation of the EIU. Its allegation which -- when it

17:25:50 13 opens to me, it gets a number with a year in it. It was a

17:25:53 14 2017 when it got to me. And so it took a couple years for

17:25:57 15 us to finish and file.

17:25:59 16 The case out of Tucson I want to say is in a

17:26:04 17 similar time frame; that it was something that was filed in

17:26:07 18 2019. But I -- honestly, I would want to refresh before I

17:26:12 19 gave you a specific case. None of them are 2020 cases, and

17:26:17 20 none of them are 2022 cases. So to me, that's older.

17:26:20 21 Q. So none of them resulted from a referral to the

17:26:24 22 Election Integrity Unit?

17:26:24 23 A. No. They predate.

17:26:25 24 Q. And the details of those cases would not have been

17:26:33 25 known by the legislature at the time they considered the

17:26:35 1 challenged laws; right?

17:26:36 2 A. The people who know about them are here in this

17:26:39 3 room and on this call and the members of the grand jury who

17:26:41 4 heard them. That's it.

17:26:43 5 MR. DODGE: I don't think I have any other
17:26:46 6 questions for Mr. Lawson.

17:26:47 7 MR. WHITAKER: Anything else from any other
17:26:49 8 defendants? Hearing none, let's --

17:26:54 9 MR. DODGE: Let's go off the record.

17:26:56 10 THE VIDEOGRAPHER: We are off the record.

17:27:00 11 Time on the video monitor is 5:26 p.m.

17:27:07 12 (A recess ensued.)

17:29:34 13 THE VIDEOGRAPHER: We are on the record.

17:29:49 14 Time on the video monitor is 5:29 p.m.

17:29:49 15

17:29:53 16 EXAMINATION

17:29:53 17 BY MR. DODGE:

17:29:54 18 Q. Hello, Mr. Thomas.

17:29:56 19 Could you please state your name for the
17:29:58 20 record.

17:29:58 21 A. Yes. My name is Keith Ross Thomas.

17:30:01 22 Q. I'm just going to go over some deposition ground
17:30:05 23 rules very briefly.

17:30:06 24 You understand that we have a court reporter
17:30:07 25 here whose job it is to make a complete and accurate record

17:30:10 1 of what we're saying here today?

17:30:11 2 A. I do.

17:30:13 3 Q. And so that the reporter can accurately record
17:30:14 4 today's deposition, can we agree that you will answer my
17:30:17 5 questions audibly and clearly?

17:30:18 6 A. Yes.

17:30:19 7 Q. If you do not understand a question or if a
17:30:22 8 question is confusing, please let me know and I will repeat
17:30:24 9 it or try to ask it in a different way. Does that make
17:30:27 10 sense?

17:30:27 11 A. Yes.

17:30:28 12 Q. If I do ask a question and you answer it, I will
17:30:31 13 assume that you understood the question. Make sense?

17:30:33 14 A. Yes.

17:30:33 15 Q. If you need to take a break, please just let me
17:30:36 16 know, but please finish answering any pending question
17:30:40 17 before doing so. Fair enough?

17:30:41 18 A. Yes.

17:30:41 19 Q. The court reporter asked you to take an oath just
17:30:45 20 a moment ago; correct?

17:30:47 21 A. No.

17:30:48 22 MR. DODGE: Then why don't we do that now.

23 ///

24 ///

25 KEITH THOMAS,

1 the witness herein, being first duly sworn,
2 was examined and testified as follows:

3
4 BY MR. DODGE:

17:31:03 5 Q. So just a moment ago you took an oath to

17:31:05 6 administered by the court reporter; correct?

17:31:07 7 A. I did.

17:31:07 8 Q. And you agreed to provide truthful and complete

17:31:11 9 testimony today; correct?

17:31:11 10 A. Yes.

17:31:11 11 Q. Any reason why you can't testify fully and
17:31:15 12 truthfully today?

17:31:15 13 A. No.

17:31:16 14 Q. Mr. Thomas, have you been deposed before?

17:31:19 15 A. I have.

17:31:20 16 Q. About how many times?

17:31:22 17 A. I don't know -- I don't know exactly how many.

17:31:25 18 I've been deposed criminally, civilly in other suits that
17:31:33 19 are nonrelated to the state. I would say, ballpark, maybe
17:31:39 20 a dozen, two dozen at least.

17:31:41 21 Q. Have any of these depositions concerned elections?

17:31:44 22 A. No.

17:31:46 23 Q. What's your current role at the Arizona Attorney

17:31:49 24 General's Office?

17:31:49 25 A. I'm a supervising special agent.

17:31:52 1 Q. And how long have you been in that role?

17:31:53 2 A. Approximately four years now.

17:32:00 3 Q. What are your responsibilities in that role?

17:32:02 4 A. My responsibilities right now are administrative.

17:32:06 5 So I'm in charge of training, purchasing, other

17:32:10 6 administrative duties to make sure that the Special

17:32:13 7 Investigations Section is operating, functioning correctly.

17:32:15 8 Q. And who do you report to in your current role?

17:32:18 9 A. Chief Agent James Cope.

17:32:21 10 Q. And does anyone report to you in your role?

17:32:23 11 A. No.

17:32:24 12 Q. How long have you been at the Attorney General's

17:32:28 13 Office generally?

17:32:29 14 A. Ten years.

17:32:30 15 Q. You understand that today you're here as a

17:32:33 16 representative on behalf of the Attorney General's Office;

17:32:35 17 correct?

17:32:35 18 A. Yes.

17:32:36 19 Q. And so if I refer to "you" or "your," you

17:32:38 20 understand that I'll be referring to the Attorney General's

17:32:41 21 Office as a whole and not to you personally; correct?

17:32:43 22 A. Correct.

17:32:44 23 Q. So you understand that your answers can be based

17:32:47 24 not just on your personal knowledge but also information

17:32:49 25 known or available to the Attorney General's Office;

17:32:52 1 correct?

17:32:52 2 A. Correct.

17:32:52 3 Q. Okay. I'm going to ask you to look at what has
17:33:05 4 been has previously been marked as Petty Exhibit 19, which
17:33:16 5 is 7 in the Dropbox. Let me mark it. Sorry.

17:33:20 6 A. And to correct how long I've been a supervisor --
17:33:20 7 I just did the math -- it's longer than that.

17:33:20 8 THE COURT REPORTER: Can you repeat that?

17:33:20 9 THE WITNESS: To correct how long I've been a
17:33:27 10 supervisor, it's been since 2016. So seven years. Sorry.

17:33:31 11 BY MR. DODGE:

17:33:31 12 Q. Can you tell me what this document is?

17:33:33 13 A. This is House Bill 2492.

17:33:38 14 Q. And are you familiar with this document?

17:33:40 15 A. I am.

17:33:41 16 Q. Did you review this document in preparation for
17:33:44 17 today's deposition?

17:33:45 18 A. I did.

17:33:46 19 Q. Could you please turn to page 4 and review
17:33:52 20 Section D at the bottom of that page.

17:34:03 21 A. You just want Section D? Not all --

17:34:29 22 Q. There's fine. That's fine.

17:34:30 23 A. Okay.

17:34:31 24 Q. Section D says, "Within ten days after receiving
17:34:34 25 an application for registration on a form produced by the

17:34:36 1 United States Election Assistance Commission that is not
17:34:39 2 accompanied by satisfactory evidence of citizenship, the
17:34:41 3 county recorder or other officer in charge of elections
17:34:44 4 shall use all available resources to verify the citizenship
17:34:47 5 status of the applicant and at a minimum shall compare the
17:34:50 6 information available on the application for registration
17:34:52 7 with the following, provided the county has access."

17:34:55 8 Did I get that right?

17:34:56 9 A. That is correct.

17:34:57 10 Q. When this bill uses the term an "application for
17:35:02 11 registration on a form produced by the United States
17:35:05 12 Election Assistance Commission," do you understand that to
17:35:06 13 be referring to something commonly called "the federal
17:35:08 14 form"?

17:35:12 15 MR. WHITAKER: Objection. Legal conclusion
17:35:15 16 and, I think, scope.

17:35:16 17 MR. LANGHOFER: Legal conclusion.

17:35:20 18 THE WITNESS: My -- my interpretation is a
17:35:23 19 voter registration form.

17:35:25 20 BY MR. DODGE:

17:35:26 21 Q. One prescribed by a federal agency; namely, the
17:35:31 22 United States Election Assistance Commission?

17:35:33 23 A. I would believe so. The only one I've ever seen
17:35:36 24 is the one that is filled out here in Arizona, I guess.
17:35:40 25 I'm not sure if there's a federal form or a -- or a state

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17:36:07 9
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17:36:11 11
17:36:14 12
17:36:18 13
17:36:20 14
17:36:23 15
17:36:25 16
17:36:26 17
17:36:27 18
17:36:30 19
17:36:34 20
17:36:40 21
17:36:55 22
17:36:56 23
17:37:02 24
17:37:05 25

form.

Q. Would you agree this section requires county recorders to search through a number of databases upon receiving a federal -- upon receiving the registration form described in the section when it's not accompanied by documentary proof of citizenship?

MR. WHITAKER: Legal conclusion and scope.

THE WITNESS: To verify a form, I would say yes, they would have to if there was no documentation.

BY MR. DODGE:

Q. And the databases that the county recorders are required to search include the Arizona Department of Transportation driver's license database?

MR. WHITAKER: Same objections.

THE WITNESS: I believe that could be one of them, yes.

BY MR. DODGE:

Q. Why don't you take a moment and review the numerals in Subsection D, beginning on line 42 of page 4 and ending at line 8 of page 5. Let me know when you're ready to proceed.

A. I'm ready.

Q. So based on your review of this text, the databases the county recorders must search under this part of the law include the Arizona Department of Transportation

17:37:09 1 database?

17:37:09 2 A. Yes.

17:37:10 3 Q. The Social Security Administration database?

17:37:13 4 A. Yes.

17:37:14 5 Q. The United States Citizenship and Immigration

17:37:16 6 Services database?

17:37:16 7 A. Yes.

17:37:17 8 Q. The National Association for Public Health

17:37:22 9 Statistics and Information Systems database?

17:37:22 10 A. Correct.

17:37:23 11 Q. The ERIC database?

17:37:25 12 A. Correct.

17:37:26 13 Q. And any other database the recorder or election

17:37:30 14 officer has access to, correct?

17:37:31 15 A. Correct.

17:37:32 16 MR. WHITAKER: Same objections to those

17:37:33 17 questions.

17:37:34 18 BY MR. DODGE:

17:37:34 19 Q. Can you now take a moment to review Subsection E,

17:37:38 20 beginning at line 9.

17:37:45 21 A. Okay.

17:38:20 22 Q. Beginning at line 14, it says, "If the county

17:38:24 23 recorder or other officer in charge of elections matches of

17:38:26 24 the applicant with information that the applicant is not a

17:38:28 25 United States citizen, the county recorder or other officer

17:38:31 1 in charge of elections shall reject the application, notify
17:38:34 2 the applicant that the application was rejected because the
17:38:37 3 applicant is not a United States citizen, and forward the
17:38:40 4 application to the county attorney and attorney general for
17:38:43 5 investigation."

17:38:44 6 Did I get that right?

17:38:44 7 A. That is correct.

17:38:45 8 Q. Who in your office would be responsible for
17:38:47 9 performing such an investigation?

17:38:50 10 A. If it was a criminal violation, it would come to
17:38:53 11 the Special Investigations Section.

17:38:56 12 Q. And would Mr. Knuth be responsible for
17:38:58 13 investigating it at that point?

17:38:59 14 A. Yes. I believe he would be the one that would be
17:39:02 15 assigned that case

17:39:03 16 Q. Have any county recorders' offices referred
17:39:07 17 applications to you since the enactment of HB 2492 that
17:39:11 18 appear to match an applicant with information that they are
17:39:13 19 not a citizen?

17:39:15 20 A. Not that I'm aware of.

17:39:19 21 Q. Has your office made any plans to comply with the
17:39:22 22 requirement that it, quote, investigate any applications
17:39:25 23 that it received from county recorder offices under this
17:39:28 24 provision?

17:39:29 25 MR. WHITAKER: Objection. I think

17:39:30 1 mischaracterizes the record.

17:39:34 2 BY MR. DODGE:

17:39:34 3 Q. You can answer.

17:39:35 4 A. I'm not aware of any, no.

17:39:37 5 Q. Has your office drafted any policies or procedures

17:39:45 6 related to how it intends to enforce this provision of

17:39:47 7 HB 2492?

17:39:50 8 A. Not that I'm aware of.

17:39:51 9 Q. Do you know if your office has any plans to create

17:39:54 10 such policies or procedures?

17:39:55 11 A. Not that I'm aware of.

17:39:57 12 Q. Has your office created any training or guidance

17:40:01 13 materials related to how it intends to enforce this

17:40:03 14 provision of HB 2492?

17:40:05 15 A. Not that I'm aware of.

17:40:05 16 Q. Does your office have any plans to create any

17:40:07 17 training or guidance materials?

17:40:08 18 A. Not that I'm aware of.

17:40:09 19 Q. Okay. Can you please refer to -- let me hand you

17:40:16 20 what's previously been marked as Exhibit 212, which, again,

17:40:21 21 is Number 6 in the Dropbox.

17:40:28 22 Can you tell me what this document is?

17:40:29 23 A. This is the interrogatories, plaintiffs' first set

17:40:34 24 of.

17:40:37 25 Q. And did you review this document in preparation

17:40:40 1 for today's deposition?

17:40:41 2 A. I did.

17:40:42 3 Q. Did you help at all with the preparation of this
17:40:45 4 document?

17:40:45 5 A. No.

17:40:46 6 Q. Could you please turn to page 23 and review

17:40:50 7 Interrogatory Number 6.

17:40:53 8 Could you read aloud the first sentence of
17:40:55 9 that interrogatory.

17:41:00 10 A. 23 and Interrogatory Number 6?

17:41:03 11 Q. Yes. Page 23. It's right at the top,
17:41:06 12 Interrogatory Number 6.

17:41:06 13 A. "Identify all databases or other sources of
17:41:10 14 citizenship information that are accessible to you or that
17:41:14 15 you anticipate will become accessible to you, and which of
17:41:17 16 those are practicable to use in ways required by the
17:41:21 17 Challenged Laws. Your answer should identify by name any
17:41:26 18 witness who have or likely to have knowledge or information
17:41:31 19 related to the identified databases."

17:41:35 20 Q. You see below that your office responded to this
17:41:38 21 interrogatory in a number of subparts; is that correct?

17:41:40 22 A. That is correct.

17:41:41 23 Q. Could you take a moment to review your resp- --
17:41:44 24 Subpart 1 and your response to Subpart 1.

17:41:48 25 A. Okay.

17:42:40 1 Q. Looking at line 22, your response states, quote,
17:42:43 2 "If investigators in the Attorney General's Office need to
17:42:46 3 verify an individual's social security number, they can
17:42:48 4 make a formal request to the federal Social Security
17:42:51 5 Administration. However, investigators do not have direct
17:42:53 6 access to the Social Security Administration's database."

17:42:56 7 Did I get that right?

17:42:57 8 A. That's correct.

17:42:58 9 Q. It's correct to say that your office does not have
17:43:00 10 direct access to the Social Security Administration's
17:43:03 11 database?

17:43:03 12 A. We do not.

17:43:04 13 Q. Instead, your office has to make a formal request
17:43:07 14 to the Social Security Administration?

17:43:09 15 A. Correct. In the past, it's been by fax.

17:43:13 16 Q. Does it continue to be by fax?

17:43:15 17 A. I don't know if it's changed. As of about a year
17:43:18 18 ago, it still was a fax.

17:43:20 19 Q. Does your office use fax for any other business it
17:43:24 20 conducts?

17:43:25 21 A. We used to use them for the search warrant center,
17:43:29 22 but we converted over to emails, I believe.

17:43:31 23 Q. So outdated method for communicating with the
17:43:35 24 Social Security Administration?

17:43:36 25 A. It is.

17:43:37 1 Q. How does your office make a formal request to the
17:43:42 2 Social Security Administration?

17:43:44 3 A. It is usually on a letterhead, when it's by fax,
17:43:48 4 asking to verify the Social Security number to -- to find
17:43:51 5 out if it matches a particular individual. The Social
17:43:56 6 Security Administration will just either verify it matches
17:43:58 7 the person or does not match the person. They don't give
17:44:01 8 us the name that it actually matches.

17:44:03 9 Q. What information do you need to provide to the
17:44:05 10 Social Security Administration when you make such a
17:44:08 11 request?

17:44:08 12 A. Generally, we just include that it's a criminal
17:44:11 13 investigation. I've always added, at least when I was an
17:44:15 14 investigator, a case number that's associated with that for
17:44:18 15 tracking and auditing purposes.

17:44:21 16 Q. Who in your office is responsible for making such
17:44:26 17 requests?

17:44:27 18 A. All agents. If they are assigned the case, they
17:44:30 19 actually do the work.

17:44:31 20 Q. Does the Social Security Administration ever not
17:44:35 21 respond to a request?

17:44:36 22 A. I think at times they are very slow because they
17:44:41 23 go to one point of contact that I'm aware of that they all
17:44:45 24 trickle into. And they handle them for all law enforcement
17:44:49 25 agencies. I would hope it's not nationwide. Maybe just

17:44:54 1 Arizona.

17:44:55 2 Q. How long does it typically take to receive a

17:44:58 3 response?

17:45:01 4 A. I would estimate maybe a day or two. It -- as

17:45:06 5 long as they're not inundated with responses. I know

17:45:09 6 during this last election investigations that we went

17:45:13 7 through, the 2020 -- I'm sure they received quite a bit.

17:45:18 8 Q. And that one-day estimate is when you make a

17:45:20 9 request for a single Social Security number?

17:45:23 10 A. Correct.

17:45:24 11 Q. Would it take longer if you made a request for

17:45:27 12 many Social Security numbers all at once?

17:45:29 13 A. Absolutely.

17:45:29 14 Q. Would it take longer to fax a list of numerous

17:45:33 15 Social Security numbers to the Social Security

17:45:36 16 Administration?

17:45:36 17 A. Yes.

17:45:37 18 Q. I think you testified to this earlier, but the

17:45:40 19 Social Security Administration's response is usually either

17:45:43 20 indicating a match or a not match; is that right?

17:45:46 21 A. Correct.

17:45:46 22 Q. They don't provide any additional information?

17:45:49 23 A. Not that I'm aware of.

17:45:50 24 Q. So the response would not include anything with

17:45:54 25 respect to whether or not any given individual is a U.S.

17:45:56 1 citizen; right?

17:45:58 2 A. Correct.

17:45:58 3 Q. Looking at line 26 of your response, it states,

17:46:04 4 "If investigators in the Attorney General's Office need to

17:46:08 5 verify whether an individual was born in Arizona, they can

17:46:10 6 ask the Arizona Department of Health Services (Vital

17:46:14 7 Records) for a birth certificate. If Investigators need to

17:46:16 8 verify whether an individual was born in a different state,

17:46:19 9 they generally can ask an equivalent agency of that state."

17:46:21 10 Did I get that right?

17:46:22 11 A. That is correct.

17:46:23 12 Q. Is your office able to directly access the Arizona

17:46:26 13 Department of Health Services' records?

17:46:27 14 A. No.

17:46:28 15 Q. So you need to make a request of that agency?

17:46:31 16 A. Yes.

17:46:32 17 Q. How do you make such a request?

17:46:35 18 A. I believe now they email all requests over to

17:46:38 19 Vital Records.

17:46:39 20 Q. When you say "they," you're referring to

17:46:43 21 investigators in your office?

17:46:43 22 A. Investigators. Yes, sir.

17:46:44 23 Q. What sort of information needs to be included in

17:46:47 24 that request?

17:46:47 25 A. I believe it's very similar to the Social Security

17:46:50 1 request. They would have to include case number,
17:46:54 2 indicating that they have an investigation, and then all
17:46:59 3 the particulars of the involved individual. I believe that
17:47:02 4 Vital Records actually provided the investigators a form at
17:47:06 5 one point that they filled out, and they would transmit
17:47:10 6 that.

17:47:10 7 Q. They no longer need to complete a form?

17:47:13 8 A. As far as I know, they still need to. There's --
17:47:17 9 there's -- there used to be, at least when I was
17:47:20 10 conducting, verifications years ago. We would have to
17:47:24 11 check a box for what it was for, or else then they would
17:47:28 12 charge the agency if you didn't say it was for a criminal
17:47:31 13 investigation or some form of an investigation.

17:47:34 14 Q. Does that agency ever not respond to a request?

17:47:38 15 A. I would not say that they don't respond, but
17:47:42 16 they're very slow.

17:47:44 17 Q. Slower than the Social Security Administration?

17:47:46 18 A. Much slower.

17:47:47 19 Q. So how long does it typically take to receive a
17:47:50 20 response?

17:47:53 21 A. Some of the agents that work for me within the
17:47:57 22 past year or so complained that it was taking two, three
17:48:00 23 weeks at minimum.

17:48:02 24 Q. And that's when requesting a birth certificate for
17:48:05 25 just one individual; right?

17:48:05 1 A. Yes. That's -- that's just from Arizona. I know

17:48:09 2 other states, they didn't even receive responses back.

17:48:12 3 Q. Presumably, it would take longer for them to

17:48:14 4 respond if an investigator made a request for numerous

17:48:17 5 individuals at one time; right?

17:48:19 6 A. I will assume it would take longer, yes --

17:48:22 7 workload.

17:48:23 8 Q. And when the agency does respond to a request,

17:48:24 9 what information do they provide your office?

17:48:27 10 A. That I don't know. I have not seen those requests

17:48:31 11 come back as of recent. When I used to submit them a long

17:48:35 12 time ago, they would give back, like, a birth certificate

17:48:40 13 basically or a death certificate, you know, regarding --

17:48:44 14 Q. If the -- if the agency responded indicating it

17:48:47 15 lacked a birth certificate -- an Arizona birth certificate

17:48:49 16 for that individual, do they ever issue responses like

17:48:52 17 that?

17:48:53 18 A. They would say there's no record found.

17:48:55 19 Q. Would that indicate to your office that the

17:48:57 20 individual was not a United States citizen?

17:48:59 21 A. No.

17:49:01 22 Q. You alluded to this a moment ago with respect to

17:49:07 23 requests to other states.

17:49:08 24 How frequently do investigators in your

17:49:11 25 office make requests to similar agencies in other states?

17:49:15 1 A. I believe you had Special Agent Knuth in here. I
17:49:20 2 believe he's emailed numerous states, California being one.
17:49:25 3 I don't think he's ever received a birth certificate back
17:49:28 4 from them.

17:49:30 5 Q. California is probably a state where a lot of
17:49:34 6 individuals in Arizona not born in Arizona are from; right?

17:49:38 7 A. Yes.

17:49:39 8 Q. Probably have to reach out to the California
17:49:42 9 agency more often than other states? Fair to say?

17:49:45 10 A. Not necessarily. We have a lot of transplants.

17:49:50 11 Q. Do -- do most states fail to respond to requests
17:49:56 12 for birth certificates?

17:49:57 13 A. I think it just depends on the state. Some states
17:50:01 14 are more open to public records than others. Arizona is
17:50:06 15 one of those that is very open. California is not. I
17:50:12 16 think it just depends on each state.

17:50:15 17 Q. Looking at line 3 of page 24, your response
17:50:19 18 states, "Investigators in the Attorney General's Office
17:50:21 19 can [sic] access Arizona Department of Transportation
17:50:24 20 databases."

17:50:25 21 Did I get that right?

17:50:26 22 A. That's correct.

17:50:27 23 Q. How do investigators in your office access DOT
17:50:27 24 databases?

17:50:27 25 A. So we have access through the Arizona Criminal

17:50:38 1 Justice Information System, which is linked to the
17:50:38 2 national -- national database, which is managed by the FBI.
17:50:44 3 They're all interconnected. They have direct access
17:50:49 4 through five terminals that are located within this
17:50:50 5 building.

17:50:51 6 Q. Are all investigators in your office familiar with
17:50:56 7 the DOT database?

17:50:57 8 A. Yes.

17:50:59 9 Q. How would investigators in your office use that
17:51:02 10 database to determine if someone was a U.S. citizen?

17:51:05 11 A. They would -- they would log into it. They could
17:51:09 12 pull up a driver's license. That would give them a
17:51:13 13 photograph, a series of signatures. It actually will give
17:51:18 14 them a historic listing of all the photographs and
17:51:22 15 signatures that are associated with that license.

17:51:25 16 Now, that is related, you know, basically to
17:51:30 17 any driver's license or identification card that -- that
17:51:36 18 ADOT has on file.

17:51:38 19 Q. Is the ADOT database information always up to
17:51:46 20 date?

17:51:46 21 A. I think I need more -- a little more
17:51:49 22 clarification. You mean, like, current addresses?

17:51:52 23 Q. Is the information contained in that database
17:51:55 24 usually up to date?

17:51:57 25 A. It -- our access to it, yes, is -- is whatever

17:52:02 1 they have updated with, but it's -- to say everybody's
17:52:06 2 information is always accurate -- is not. Having worked as
17:52:09 3 a patrol officer for 15 years, working the road, I know
17:52:13 4 people don't update their driver's license address within
17:52:16 5 ten business days. So I would say no.

17:52:21 6 Q. And an individual might not update the Department
17:52:26 7 of Transportation on whether or not they became a
17:52:27 8 naturalized citizen, for example; right?

17:52:31 9 MR. WHITAKER: Form, foundation.

17:52:32 10 THE WITNESS: I'm not sure if they're
17:52:33 11 required to notify them.

17:52:35 12 BY MR. DODGE:

17:52:35 13 Q. In which case, they wouldn't; right?

17:52:38 14 MR. WHITAKER: Foundation.

17:52:39 15 THE WITNESS: Yeah, I -- I don't know if I
17:52:41 16 could answer that. I don't know if they're required to.

17:52:43 17 BY MR. DODGE:

17:52:45 18 Q. Noncitizens are able to obtain driver's licenses
17:52:47 19 in Arizona; correct?

17:52:48 20 A. That is correct.

17:52:49 21 Q. And if a noncitizen obtained a driver's license in
17:52:52 22 Arizona and subsequently became a naturalized citizen,
17:52:55 23 would the Department of Transportation's database reflect
17:52:58 24 that information?

17:52:59 25 MR. WHITAKER: Foundation.

17:53:01 1 THE WITNESS: I don't think it would. At
17:53:03 2 least the access that we see, we would not know of the
17:53:06 3 difference.
17:53:06 4 BY MR. DODGE:
17:53:07 5 Q. And I believe you just testified that you're not
17:53:08 6 aware of any requirement that an individual who becomes a
17:53:10 7 naturalized citizen is required to update their status with
17:53:13 8 the Department of Transportation; correct?
17:53:15 9 MR. WHITAKER: Slightly misconstrued
17:53:17 10 testimony.
17:53:19 11 THE WITNESS: Correct.
17:53:19 12 BY MR. DODGE:
17:53:21 13 Q. Do you know how many individuals in the Department
17:53:25 14 of Transportation's databases currently have an unexpired
17:53:30 15 foreign authorized driver's license but are now naturalized
17:53:33 16 citizens?
17:53:33 17 A. I do not.
17:53:35 18 Q. Does your office consider it conclusive proof that
17:53:39 19 a person is not a U.S. citizen if they are listed as a
17:53:41 20 noncitizen in the Department of Transportation's database?
17:53:44 21 A. That I can't answer. Again, we don't -- when you
17:53:49 22 view the screen, it doesn't tell you if they're a citizen,
17:53:52 23 a noncitizen, or a legal resident or here legally.
17:53:58 24 Q. Looking at line 5 on page 24, your response
17:54:01 25 states, quote, "Investigators in the Attorney General's

17:54:03 1 Office cannot (as far as they know) access USCIS
17:54:07 2 databases."
17:54:07 3 Did I get that right?
17:54:09 4 A. Correct.
17:54:09 5 Q. So to your knowledge, investigators in your office
17:54:13 6 cannot access the USCIS database; right?
17:54:15 7 A. No.
17:54:15 8 Q. Has an investigator in your office ever needed to
17:54:18 9 access the USCIS database?
17:54:22 10 MR. WHITAKER: Foundation.
17:54:22 11 THE WITNESS: I have, yes. I would say
17:54:23 12 others have, yes.
17:54:24 13 BY MR. DODGE:
17:54:24 14 Q. Were you ultimately able to access that database?
17:54:26 15 A. No.
17:54:27 16 Q. Did you try to access it?
17:54:29 17 A. No.
17:54:30 18 Q. Why not?
17:54:32 19 A. That's a federal database. We usually have to
17:54:35 20 send our request to a federal agent for them to access the
17:54:40 21 database and then send us the information back.
17:54:43 22 Q. So it's not practical or convenient for
17:54:47 23 investigators in your office to access that database?
17:54:50 24 A. No.
17:54:51 25 MR. WHITAKER: Foundation.

17:54:52 1 BY MR. DODGE:

17:54:53 2 Q. It's difficult or even impossible?

17:54:57 3 A. It's difficult and it's slow.

17:55:02 4 Q. Line 7 of your response states, quote,

17:55:05 5 "Investigators in the Attorney General's Office are unsure

17:55:08 6 whether they can access the National Association for Public

17:55:13 7 Health Statistics and Information Systems databases."

17:55:13 8 Did I get that right?

17:55:15 9 A. Correct.

17:55:16 10 Q. Are you aware of an investigator in your office

17:55:19 11 ever trying to access a database maintained by that agency?

17:55:23 12 A. No, I'm not.

17:55:24 13 Q. Is that a resource that investigators in your

17:55:26 14 office have ever needed to consult?

17:55:28 15 A. Not that I'm aware of; nor would I advise them to

17:55:32 16 use it.

17:55:32 17 Q. Why not?

17:55:33 18 A. Because it's an "org," a ".org." It's not a

17:55:37 19 government address.

17:55:38 20 Q. And because of that, you would have doubts as to

17:55:44 21 its reliability?

17:55:45 22 A. Correct.

17:55:46 23 Q. Do you know whether that database allows you

17:55:50 24 reliably match an Arizona voter record to a database record

17:55:54 25 in that database?

17:55:55 1 A. I don't know.

17:55:57 2 Q. Do you know whether that database provides

17:56:02 3 information about a person's citizenship?

17:56:05 4 A. I don't know.

17:56:06 5 Q. Line 9 of your response states, "quote,

17:56:14 6 "Investigators in the Attorney General's Office do not have

17:56:17 7 direct access to voter registration databases maintained by

17:56:20 8 County Recorders or to the Electronic Registration

17:56:24 9 Information Center database."

17:56:24 10 Did I get that right?

17:56:26 11 A. Yes.

17:56:26 12 Q. So correct that your office did not have access to

17:56:30 13 ERIC?

17:56:31 14 A. No.

17:56:31 15 Q. Has your office ever requested access to ERIC?

17:56:35 16 A. I don't know.

17:56:36 17 Q. And has an investigator in your office ever needed

17:56:39 18 to use ERIC in the course of their duties?

17:56:43 19 A. Not that I'm aware of.

17:56:45 20 Q. Turning to Subpart 2, can you just briefly review

17:56:54 21 your response there.

17:57:25 22 A. Okay.

17:57:33 23 Q. Looking at the top of page 25, at line 1, your

17:57:48 24 response here indicates, quote, "The Attorney General notes

17:57:51 25 that A.R.S. Section 16-143 directs another party to provide

17:57:54 1 the Attorney General access to a USCIS database. However,
17:57:58 2 investigators in the Attorney General's Office are
17:58:00 3 currently unaware of such access having been granted."

17:58:03 4 Did I get that right?

17:58:03 5 A. Correct.

17:58:04 6 Q. To your knowledge, has your office yet been
17:58:06 7 granted access to any USCIS database that contains
17:58:10 8 citizenship information?

17:58:10 9 A. No.

17:58:11 10 Q. Who would be able to grant such access?

17:58:13 11 A. Only the federal government.

17:58:15 12 Q. Does any official within the State of Arizona have
17:58:17 13 the power to grant that access?

17:58:19 14 A. No.

17:58:19 15 MR. WHITAKER: Foundation.

17:58:19 16 BY MR. DODGE:

17:58:19 17 Q. That would include the secretary of state?

17:58:21 18 MR. WHITAKER: Foundation.

17:58:24 19 THE WITNESS: Correct.

17:58:25 20 BY MR. DODGE:

17:58:25 21 Q. Do you know if any agreement between the secretary
17:58:27 22 of state and USCIS would allow access to such a database?

17:58:32 23 MR. WHITAKER: Foundation.

17:58:34 24 MS. STUART: Form.

17:58:35 25 THE WITNESS: I do not.

17:58:36 1 BY MR. DODGE:

17:58:38 2 Q. Is it fair to say, then, that your office does not
17:58:40 3 have access to several of the databases that HB 2492
17:58:45 4 requires it to consult when investigating an alleged
17:58:47 5 noncitizen?

17:58:49 6 A. Correct.

17:58:50 7 MR. LANGHOFER: Legal conclusion.

17:58:52 8 BY MR. DODGE:

17:58:52 9 Q. Is it also fair to say that several of the
17:58:54 10 databases that HB 2492 requires you to consult are not the
17:58:57 11 databases that investigators in your office would
17:58:59 12 ordinarily consult in their duties?

17:59:02 13 MR. WHITAKER: Legal conclusion.

17:59:04 14 THE WITNESS: Not ordinarily check into? I
17:59:09 15 don't know if I could answer that. I would say they would
17:59:11 16 like to be able to, but they can't.

17:59:13 17 BY MR. DODGE:

17:59:13 18 Q. And there you're referring to USCIS? Or which
17:59:17 19 databases are you referring to?

17:59:18 20 A. ERIC, USCIS.

17:59:22 21 Q. But there are databases in that list -- for
17:59:25 22 example, the one that you noted ended in .org -- that are
17:59:28 23 not databases your investigators would ordinarily consult
17:59:31 24 in their duties; right?

17:59:33 25 A. No. Those would be considered what I call

17:59:37 1 intelligence leads.

17:59:40 2 Q. And by that, you mean something that might be

17:59:42 3 useful in starting an investigation, but it's not something

17:59:45 4 you ultimately rely on?

17:59:46 5 A. No. You cannot use it as evidence.

17:59:49 6 Q. The databases that HB 2492 requires investigators

17:59:55 7 in your office to consult includes databases that

17:59:59 8 investigators are not familiar with; correct?

18:00:03 9 A. Correct.

18:00:03 10 Q. And as we discussed, it includes databases that

18:00:08 11 your office does not actually have access to?

18:00:10 12 MR. WHITAKER: Asked and answered.

18:00:12 13 MR. LANGHOFER: Legal conclusion.

18:00:13 14 THE WITNESS: Correct.

18:00:14 15 BY MR. DODGE:

18:00:14 16 Q. And it also includes databases that may not
18:00:16 17 provide accurate or up-to-date information about a person's
18:00:19 18 citizenship; correct?

18:00:21 19 MR. LANGHOFER: Foundation.

18:00:21 20 MR. WHITAKER: And compound.

18:00:25 21 THE WITNESS: I would ask for clarification
18:00:26 22 on which database you're asking for.

18:00:29 23 BY MR. DODGE:

18:00:30 24 Q. Do you believe any of the databases provide
18:00:32 25 accurate or up-to-date information about a person's

18:00:34 1
18:00:35 2
18:00:37 3
18:00:38 4
18:00:41 5
18:00:45 6
18:00:45 7
18:00:47 8
18:00:47 9
18:00:49 10
18:00:50 11
18:00:52 12
18:00:56 13
18:00:58 14
18:00:59 15
18:01:01 16
18:01:01 17
18:01:02 18
18:01:05 19
18:01:09 20
18:01:11 21
18:01:24 22
18:01:27 23
18:01:28 24
18:01:32 25

citizenship?
A. I believe that the USCIS --
MR. LANGHOFER: Foundation.
THE WITNESS: -- database would, because it's
managed by Homeland Security investigations.
BY MR. DODGE:
Q. Any other databases?
MR. LANGHOFER: Foundation.
THE WITNESS: U.S. State Department.
BY MR. DODGE:
Q. So fair to say that the only databases that you
believe that contain reliable and up-to-date citizenship
information are those that your office generally does not
have access to?
A. Correct.
MR. LANGHOFER: Foundation.
BY MR. DODGE:
Q. In view of these limitations, does your office
have plans about how it intends to comply with HB 2492?
A. I do not know the answer to that.
Q. Turning to Subpart 3, that states, "Identify which
of the databases or other sources of citizenship
information that are accessible to you or that you
anticipate will become accessible to you are practicable to
use in the ways required by the Challenged Laws."

18:01:34 1 Did I get that right?

18:01:35 2 A. Correct.

18:01:35 3 Q. Turning to the top of page 26, line 1, part of

18:01:44 4 your response to that interrogatory states, quote, "As

18:01:47 5 stated above, investigators in the Attorney General's

18:01:49 6 Office can access Arizona Department of Transportation

18:01:51 7 databases. However, these databases are only as reliable

18:01:54 8 as the information put in and may not be decisive about

18:01:58 9 U.S. citizenship."

18:01:58 10 Did I get that right?

18:01:59 11 A. That's correct.

18:01:59 12 Q. Is there a reason your office included that caveat

18:02:03 13 specifically for the Arizona Department of Transportation

18:02:05 14 but not for other databases?

18:02:09 15 A. The Department of Transportation does not

18:02:13 16 designate citizenship, if that's what you're asking.

18:02:16 17 That's why we could not -- we couldn't use that database to

18:02:20 18 verify citizenship.

18:02:22 19 You could have non-USCs that are here legally

18:02:27 20 that have driver's licenses or ID cards, and it -- it

18:02:31 21 wouldn't look different than you and I having a driver's

18:02:35 22 license or ID card.

18:02:35 23 Q. What type of evidence would your office consider

18:02:44 24 sufficient probable cause to believe that an applicant is

18:02:46 25 not a citizen?

18:02:48 1 MR. LANGHOFER: Speculation.

18:02:50 2 THE WITNESS: I think it would just have to

18:02:52 3 depend on the complaint itself. Every -- every one is

18:02:56 4 reviewed for its own merits. I couldn't give you a

18:02:59 5 specific template for that, because they're all different.

18:02:59 6 BY MR. DODGE:

18:03:03 7 Q. Would an individual coming to your office and

18:03:05 8 stating that they think their neighbor is not a citizen

18:03:08 9 constitute probable cause?

18:03:11 10 MR. LANGHOFER: Legal conclusion.

18:03:13 11 THE WITNESS: It may. Depends on the

18:03:15 12 information they provide.

18:03:17 13 BY MR. DODGE:

18:03:19 14 Q. Would a Facebook post from an individual stating

18:03:22 15 that they believe an individual is not a citizen and is

18:03:24 16 voting in Arizona constitute probable cause?

18:03:29 17 A. No.

18:03:29 18 MR. WHITAKER: Speculation.

18:03:29 19 MR. LANGHOFER: Legal conclusion.

18:03:30 20 THE WITNESS: No. That's -- I mean, the

18:03:31 21 highest you could get is reasonable suspicion. You could

18:03:36 22 never get to probable cause on that.

18:03:38 23 BY MR. DODGE:

18:03:38 24 Q. What -- what does your office do once it has

18:03:41 25 reasonable suspicion that someone is not a citizen and is

18:03:45 1 voting in Arizona?

18:03:47 2 MR. WHITAKER: Speculation.

18:03:49 3 THE WITNESS: For me personally and the other

18:03:51 4 investigators, we would look in to see, you know, how long

18:03:55 5 their standing was, if -- we could use other databases that

18:04:02 6 could show addresses, potentially where they were born, and

18:04:09 7 it -- generally -- so on some of those complaints, we were

18:04:12 8 able to determine that they actually had been here and had

18:04:15 9 family here for quite a while, so we didn't need to go any

18:04:19 10 further.

18:04:19 11 BY MR. DODGE:

18:04:20 12 Q. So a Facebook post might be sufficient to have one

18:04:24 13 of your investigators further investigate an individual?

18:04:27 14 Is that fair?

18:04:29 15 A. Yes. We would call that, like, a cursory.

18:04:35 16 Q. Do you know whether applicants with certain

18:04:38 17 surnames are more likely to be mistakenly matched in a

18:04:41 18 database with a noncitizen?

18:04:44 19 MR. LANGHOFER: Foundation.

18:04:45 20 MR. WHITAKER: Yeah, and compound.

18:04:47 21 THE WITNESS: That I don't know. I think I

18:04:49 22 would have to -- I'd have to see the name itself.

18:04:52 23 BY MR. DODGE:

18:04:53 24 Q. Does your office consider a person's birthplace to

18:04:57 25 be reliable evidence of U.S. citizenship?

18:04:58 1 A. Yes.

18:04:58 2 Q. In what context?

18:05:00 3 A. If they're born in the United States and they have

18:05:04 4 a birth certificate that is issued by a state department of

18:05:10 5 Vital Records or someone that was -- a birth certificate

18:05:14 6 that was issued that -- if they were born abroad, like, on

18:05:17 7 a U.S. military installation, those verify citizenship.

18:05:24 8 Doesn't mean they couldn't have had their civil rights

18:05:26 9 taken away, but for citizen purposes -- citizenship

18:05:30 10 purposes, yes.

18:05:31 11 Q. Does your office consider the fact that a person's

18:05:34 12 birthplace is outside of the United States to be reliable

18:05:37 13 evidence that they are not a United States citizen?

18:05:40 14 A. No.

18:05:41 15 Q. I'm going to -- I'm going to take a hard-right

18:05:49 16 turn to a different subject here. And I'm -- these

18:05:54 17 questions relate to claims made in the wake of the 2020

18:05:57 18 election.

18:05:59 19 MR. WHITAKER: While we're transitioning,

18:05:59 20 what's the time on the record?

18:06:04 21 THE COURT REPORTER: 6 hours, 45 minutes.

18:06:05 22 MR. DODGE: Okay. Can we go off the record

18:06:07 23 for one minute maybe just to evaluate what to do with these

18:06:08 24 last 15 minutes.

18:06:10 25 MR. WHITAKER: Sure.

18:06:11 1 THE VIDEOGRAPHER: We're off the record.

18:06:14 2 Time on the video monitor is 6:06 p.m.

18:06:34 3 (An off-the-record discussion ensued.)

18:06:34 4 THE VIDEOGRAPHER: We are on the record.

18:13:13 5 Time on the video monitor is 6:13 p.m.

18:13:16 6 BY MR. DODGE:

18:13:18 7 Q. Welcome back, Mr. Thomas. I'd like to ask you
18:13:23 8 some questions about the Election Integrity Unit, if that's
18:13:24 9 okay.

18:13:25 10 A. Yes, sir.

18:13:26 11 Q. It was created in 2019; is that right?

18:13:28 12 A. I believe that's correct.

18:13:29 13 Q. And was it created by the legislature or by the
18:13:31 14 Attorney General's Office?

18:13:32 15 A. That I don't know.

18:13:33 16 Q. What was its purpose when it was first created?

18:13:38 17 A. It was to be able to conduct investigations on
18:13:42 18 cases that were referred to us on voter fraud. I know
18:13:48 19 initially when I started with this agency in 2013, that we
18:13:56 20 received cases from the Clean Elections, and they would
18:14:00 21 just be randomly assigned to different investigators. And
18:14:04 22 I thought it was a great idea that they designated one
18:14:08 23 individual that was the point of contact. Made it more
18:14:12 24 efficient.

18:14:14 25 Q. And the Election Integrity Unit was funded by the

18:14:17 1 legislature at the time it was created; correct?

18:14:20 2 A. I believe so.

18:14:20 3 Q. It was -- it was led by Ms. Wright from 2019 to
18:14:24 4 2023, thereabouts?

18:14:26 5 A. I don't know if it was -- well, I would say it was
18:14:29 6 led by her on the civil side, not on the criminal side.

18:14:33 7 Q. Okay. Do you know whether the Election Integrity
18:14:35 8 Unit was modeled on similar units in attorney generals'
18:14:40 9 offices in other states?

18:14:42 10 A. I don't know the answer to that.

18:14:46 11 Q. Can you tell me what the current mission of the
18:14:52 12 Election Integrity Unit is?

18:14:53 13 A. I believe it's to investigate voter fraud and to
18:14:56 14 try to reestablish integrity within the election system.

18:15:03 15 Q. I'm going to hand you what I'll ask to be marked
18:15:11 16 as Exhibit 226, which is 12.1 in the Dropbox.

18:15:19 17 This appears to be a January 23, 2023,
18:15:21 18 article in the New York Times. Do I have that right?

18:15:21 19 A. Yes.

18:15:21 20 (The document was marked as Exhibit 226
18:15:26 21 for identification.)

18:15:26 22 BY MR. DODGE:

18:15:28 23 Q. And the title of this article is "Voter Fraud Unit
18:15:31 24 in Arizona Will Shift Focus to Voter Rights." Did I get
18:15:34 25 that right?

18:15:35 1 A. Yes.

18:15:39 2 Q. And right below that title is -- states, "Kris

18:15:44 3 Mayes, the state's Democratic attorney general, is shifting

18:15:46 4 gears on election issues in an office her Republican

18:15:50 5 predecessor created."

18:15:50 6 Did I get that right?

18:15:51 7 A. Correct.

18:15:52 8 Q. Okay. And then the first three sentences of this

18:15:55 9 article state, "Arizona's new Democratic attorney general,

18:15:59 10 Kris Mayes, is redirecting an election integrity unit her

18:16:02 11 Republican predecessor created, focusing its work instead

18:16:04 12 on addressing voter suppression. The shift by Ms. Mayes is

18:16:08 13 one of her first acts since she took office this month.

18:16:11 14 "The unit's former leader, Jennifer Wright,

18:16:11 15 meanwhile, has joined a legal effort to invalidate

18:16:16 16 Ms. Mayes's narrow victory in the November election.

18:16:17 17 'Under my predecessor's administration, the election

18:16:21 18 integrity unit searched widely for voter fraud and found

18:16:23 19 scant evidence of it occurring in Arizona,' Ms. Mayes said

18:16:27 20 in a statement provided by her office on Monday. 'That's

18:16:29 21 because instances of voter fraud are exceedingly rare.'"

18:16:32 22 Did I get all that right?

18:16:34 23 A. Correct.

18:16:34 24 Q. So fair to say that one of Ms. Mayes's first acts

18:16:37 25 in office as attorney general was to refocus the election

18:16:41 1 Election Integrity Unit's mission?

18:16:42 2 A. Correct.

18:16:46 3 Q. And --

18:16:47 4 MR. LANGHOFER: Scope and relevance.

18:16:48 5 BY MR. DODGE:

18:16:48 6 Q. The quote in the third paragraph is attributed
18:16:51 7 directly to Attorney General Mayes; is that right?

18:16:54 8 A. Correct.

18:16:55 9 Q. Any reason to doubt that Ms. Mayes said that?

18:16:59 10 A. No.

18:17:00 11 Q. So is it the attorney general's view that
18:17:03 12 instances of voter fraud in Arizona are exceedingly rare?

18:17:09 13 A. Correct.

18:17:10 14 Q. Has the Arizona legislature made the decision to
18:17:18 15 stop funding the Election Integrity Unit?

18:17:21 16 A. I don't know the answer to that.

18:17:22 17 Q. Could you pull up Exhibit 212 again and turn to
18:17:28 18 page 9.

18:17:39 19 And you see your response to Subpart 5 here
18:17:48 20 states, "Identify by name any witnesses who have or are
18:17:51 21 likely to have knowledge or information related to how the
18:17:53 22 Challenged Laws are likely to interact with the state
18:17:56 23 interests identified in this answer."

18:17:57 24 Did I get that right?

18:17:58 25 A. Yes.

18:17:58 1 Q. Looking at Footnote 3 on the next page, it
18:18:01 2 states -- well, above that, you see that Jennifer Wright is
18:18:06 3 identified as an individual, quote, "likely to have
18:18:08 4 information about complaints submitted through the Election
18:18:12 5 Integrity Unit's online intake portal other complaints";
18:18:13 6 right?

18:18:14 7 A. Correct.

18:18:15 8 Q. Then there's a note associated with Ms. Wright.

18:18:18 9 It says, "Jennifer Wright left the Attorney
18:18:18 10 General's Office in January 2023. Since then, the
18:18:20 11 Legislature has discontinued funding for the office's
18:18:24 12 Election Integrity Unit."

18:18:26 13 Did I get that right?

18:18:26 14 A. That's correct.

18:18:27 15 Q. Any reason to doubt the accuracy of that
18:18:29 16 statement?

18:18:30 17 A. No.

18:18:34 18 Q. Are you aware of an investigation launched by the
18:18:46 19 Arizona State Senate into the conduct-- that's not a
18:18:51 20 word. Strike that.

18:18:51 21 Are you aware of an investigation launched by

18:18:54 22 the Arizona State Senate into the 2020 general election in

18:18:58 23 Maricopa County?

18:18:58 24 A. Yes.

18:19:00 25 Q. Are you familiar with a company called Cyber

18:19:03 1 Ninjas?

18:19:03 2 A. Yes.

18:19:04 3 Q. Can you tell me generally what Cyber Ninjas?

18:19:08 4 A. Cyber Ninjas was formed by Doug Logan, who is kind

18:19:12 5 of a tech individual that started this Cyber Ninjas, LLC.

18:19:20 6 He tried to pull in some individuals to assist him on

18:19:23 7 conducting an audit of the 2020 election in Arizona.

18:19:32 8 I know he evaluated the computer systems or

18:19:35 9 the voting systems that were used in Maricopa County.

18:19:41 10 Also, they reviewed the paper ballots themselves, some

18:19:45 11 other documents.

18:19:49 12 They used the Colosseum to do it. They hired

18:19:53 13 a bunch of volunteers to do work, which was kind of scary.

18:19:59 14 And --

18:20:02 15 Q. What was scary about it?

18:20:04 16 A. Well, so I manage our -- our evidence room, and we

18:20:08 17 believe in chain of custody on documents. Anything that's

18:20:14 18 seized in evidence, you have to have a chain of custody.

18:20:16 19 And you always want to make sure and maintain that chain of

18:20:18 20 custody for the integrity of the evidence.

18:20:20 21 From what I could see in the news media on

18:20:24 22 videos that were -- that I viewed, chain of custody was not

18:20:28 23 extremely tight down there. So any evidence, as far as I'm

18:20:33 24 concerned as an expert, that was obtained through that, I

18:20:38 25 think I would attack its chain of custody just based on

18:20:41 1 what I could see as an evidence custodian.

18:20:44 2 Q. In March 2021, State Senate President Karen Fann

18:20:49 3 retained Cyber Ninjas to conduct an audit of the 2020

18:20:53 4 general election in Maricopa County; correct?

18:20:54 5 A. That's correct.

18:20:55 6 Q. Was your office kept apprised of the Cyber Ninjas'

18:20:58 7 audit while it was occurring?

18:21:00 8 A. No.

18:21:00 9 Q. Did your office ask to be kept apprised of the

18:21:04 10 audit while it was occurring?

18:21:06 11 A. That I don't know.

18:21:07 12 Q. Was your office ultimately asked to investigate

18:21:12 13 the findings of that audit?

18:21:15 14 A. Yes.

18:21:15 15 Q. Did that require your office to investigate voting

18:21:24 16 by noncitizens or nonresidents in Arizona?

18:21:31 17 A. I would say that would be part of it, yes. But it

18:21:37 18 wasn't -- it was -- I don't think that was specifically the

18:21:41 19 things that they were looking at. They were looking at

18:21:43 20 more, like, people that technically didn't exist, dead

18:21:48 21 voters, people that moved out of county, potentially

18:21:53 22 nonresidents, but I didn't believe that that was a

18:21:56 23 citizenship issue.

18:21:57 24 Q. Can you describe the effort your office undertook

18:21:59 25 to investigate the claims made in the Cyber Ninjas' audit

18:22:04 1 in response to Ms. Fann's request?

18:22:06 2 A. Absolutely. We started out with two

18:22:10 3 investigators, which was Bill Knuth and Roger Geisler. And

18:22:15 4 then we received a big push from our executive office where

18:22:21 5 we -- our former chief agent took every special agent --

18:22:28 6 and there's 72 of us -- and made all 72 of us work these

18:22:32 7 investigations.

18:22:34 8 Q. Did that come at the expense of other work

18:22:38 9 investigators in your office do?

18:22:40 10 A. Absolutely.

18:22:40 11 Q. Those are important cases?

18:22:43 12 A. Yes.

18:22:44 13 Q. Cases related to the enforcement of criminal laws

18:22:46 14 in the state of Arizona?

18:22:47 15 A. Yes.

18:22:48 16 Q. And how long were those 72 special agents

18:22:53 17 reassigned to conduct this investigation?

18:22:57 18 A. I believe we started in October of 2022. We ran

18:23:04 19 all agents until approximately March or April. I would say

18:23:17 20 until April, then we tapered them off.

18:23:20 21 Q. And fair to say that thousands of man- and

18:23:24 22 woman-hours were put into those efforts?

18:23:26 23 A. Yes.

18:23:26 24 Q. Hours that would have been put towards other

18:23:30 25 criminal investigations, had they been not diverted to the

18:23:34 1 Cyber Ninjas audit?

18:23:34 2 A. Yes.

18:23:48 3 MR. DODGE: Go off the record for a minute.

18:23:51 4 THE VIDEOGRAPHER: We're off the record.

18:23:52 5 Time on the video monitor is 6:23 p.m.

18:23:58 6 (An off-the-record discussion ensued.)

18:25:57 7 THE VIDEOGRAPHER: We are on the record.

18:26:04 8 Time on the video monitor is 6:26 p.m.

18:26:10 9 BY MR. DODGE:

18:26:11 10 Q. Mr. Thomas, we were discussing your office's very
18:26:17 11 significant efforts to investigate claims made in the Cyber
18:26:21 12 Ninjas audit in the fall of 2022. Do I have that right?

18:26:26 13 A. Correct.

18:26:26 14 Q. What came of your office's efforts to investigate
18:26:30 15 the claims made in that audit?

18:26:33 16 A. We only had one dead-voter case that I'm aware of.
18:26:39 17 We had a few -- very few off-cases that it -- came out of
18:26:44 18 that.

18:26:44 19 Q. So a small handful of prosecutions were generated
18:26:48 20 by that work?

18:26:49 21 A. I believe so. I want to say there was probably
18:26:51 22 less than a dozen that came out of that.

18:26:54 23 Q. That's a pretty small number for 72 investigators
18:26:59 24 working for six months, thousands and thousands hours?

18:27:02 25 Fair to say?

18:27:02 1 A. Yes.

18:27:03 2 MR. LANGHOFER: Argumentative.

18:27:03 3 BY MR. DODGE:

18:27:04 4 Q. Very small?

18:27:06 5 A. Very small.

18:27:07 6 MR. LANGHOFER: Argumentative.

18:27:07 7 BY MR. DODGE:

18:27:08 8 Q. A misallocation of this office's resources?

18:27:11 9 MR. WHITAKER: Foundation.

18:27:12 10 MR. LANGHOFER: Argumentative.

18:27:12 11 THE WITNESS: I don't know if I could answer

18:27:13 12 that. We're at the mercy of the attorney general.

18:27:17 13 BY MR. DODGE:

18:27:19 14 Q. The small handful of prosecutions that did result,

18:27:22 15 none of those involved voting by noncitizens, to your

18:27:25 16 knowledge; correct?

18:27:27 17 A. To my knowledge, correct.

18:27:28 18 Q. None of them involved voting by nonresidents;

18:27:33 19 correct?

18:27:33 20 A. That I don't know.

18:27:36 21 Q. I'm going to hand you what I will ask to be marked

18:27:42 22 as Exhibit 227, which is in the Dropbox as 29.

18:27:42 23 (The document was marked as Exhibit 227

18:27:51 24 for identification.)

18:27:51 25 BY MR. DODGE:

18:27:51 1 Q. Are you familiar with this document?

18:27:54 2 A. I don't remember if I read this or not.

18:28:03 3 Q. Does this appear to be a press release from the

18:28:06 4 Attorney General's Office?

18:28:07 5 A. I believe so, yes.

18:28:08 6 Q. It's dated February 22, 2023?

18:28:14 7 A. Yes.

18:28:15 8 Q. And it states, "Today, Arizona Attorney General

18:28:18 9 Kris Mayes released documents related to the investigations

18:28:19 10 into the handling of the 2020 election in Arizona";

18:28:23 11 correct?

18:28:23 12 A. Correct.

18:28:29 13 Q. This press release refers to documents generated

18:28:33 14 by your office that had not previously been released to the

18:28:36 15 public; correct?

18:28:36 16 A. That is correct.

18:28:37 17 Q. Who made the decision to release those documents?

18:28:41 18 A. Ms. Mayes.

18:28:42 19 Q. In the box in the middle of this page, there's of

18:28:48 20 a quote attributed to Ms. Mayes that reads, "'The results

18:28:51 21 of this exhaustive and extensive investigation showed we

18:28:54 22 have suspected for over two years -- the 2020 election in

18:28:57 23 Arizona was conducted fairly and accurately by election

18:29:01 24 officials,' said Attorney General Kris Mayes. 'The ten

18:29:03 25 thousand plus hours spent diligently investigating every

18:29:06 1 conspiracy theory under the sun distracted this office from
18:29:09 2 its core mission of protecting the people of Arizona from
18:29:11 3 real crime and fraud.'" "

18:29:13 4 Did I get that right?

18:29:14 5 A. Yes.

18:29:15 6 Q. This quote is from the current attorney general;
18:29:19 7 correct?

18:29:19 8 A. Yes.

18:29:20 9 Q. And to your knowledge, remains her official
18:29:23 10 position?

18:29:23 11 A. Yes.

18:29:23 12 Q. Any reason to doubt that quote is attributable to
18:29:26 13 Ms. Mayes?

18:29:28 14 A. No.

18:29:29 15 Q. Then there's another quote from her at the bottom
18:29:31 16 of this page that says, "'Voter fraud is rare, and
18:29:34 17 instances should be handled according to applicable laws
18:29:34 18 when they do occur,' continued Attorney General Mayes.
18:29:40 19 'But it is time to work together to defend American
18:29:41 20 democracy and uphold the rule of law. It's time for the
18:29:45 21 divisiveness to stop, and it's time for our country to
18:29:45 22 heal.'" "

18:29:47 23 Did I get that correct?

18:29:48 24 A. Yes.

18:29:49 25 Q. Any reason to doubt that quote is from Ms. Mayes?

18:29:51 1 A. No.

18:29:51 2 Q. And so it's the position of the attorney general

18:29:54 3 that prosecutions of voter fraud are -- not only that

18:29:58 4 prosecutions of voter fraud are rare but that actual

18:30:01 5 instances of voter fraud are rare as well; correct?

18:30:04 6 A. Correct.

18:30:17 7 MR. DODGE: No further questions.

18:30:21 8 MR. WHITAKER: Anyone else from plaintiffs'
18:30:24 9 side with the remaining time we have?

18:30:29 10 MR. DODGE: Jen, I left you 90 seconds. I
18:30:35 11 don't think she's asking questions.

18:30:38 12 MR. WHITAKER: Okay.

18:30:41 13 MS. YUN: Nothing from us. Thanks.

18:30:42 14 MR. WHITAKER: Okay. I have no redirect.

18:30:45 15 Mr. Langhofer, do you have any redirect?

18:30:49 16 MR. LANGHOFER: No. Thank you.

18:30:53 17 (An off-the-record discussion was held.)

18:31:06 18 THE VIDEOGRAPHER: We're off the record.

18:31:08 19 Time on the video monitor is 6:31 p.m. This ends Volume 1,
18:31:13 20 Media Number 4, in the deposition of Bill Knuth, Keith
18:31:19 21 Thomas, Todd Lawson, 30(b)(6) deposition of the Arizona
18:31:22 22 attorney general.

23 (The proceedings concluded at 6:31 p.m.)

24

25 WILLIAM KNUTH, TODD LAWSON, AND KEITH THOMAS

1 STATE OF ARIZONA)
2 COUNTY OF MARICOPA)

3 BE IT KNOWN that the foregoing deposition was taken
4 by me pursuant to stipulation of counsel; that I was then
5 and there a Certified Court Reporter in the State of
6 Arizona, and by virtue hereof authorized to administer an
7 oath; that the witness before testifying was duly sworn by
8 me to testify to the whole truth; pursuant to request,
9 notification was provided that the deposition is available
10 for review and signature; that the questions propounded by
11 counsel and the answers of the witness thereto were taken
12 down by me in shorthand and thereafter transcribed into
13 typewriting under my direction; that the foregoing pages
14 are a full, true and accurate transcript of all the
15 proceedings had upon the taking of deposition, all done to
16 the best of my skill and ability.

17 I FURTHER CERTIFY that I am in no way related
18 to nor employed by any parties hereto; nor am I in any
19 way interested in the outcome thereof.

20 Dated at Phoenix, Arizona, this 5th day of
21 September, 2023.

22 

23 _____
24 CINDY MAHONEY, RPR, RMR NO. 50680

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IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ARIZONA

Mi Familia Vota, et al.,)	
)	
Plaintiffs,)	
)	
vs.	)	No. 2:22-cv-00509-PHX-SRB
	)	(Lead)
Adrian Fontes, in his)	
official capacity as Arizona)	
Secretary of State, et al.,)	
)	
Defendants.)	
)	
<hr/> AND CONSOLIDATED CASES	)	No. CV-22-00519-PHX-SRB
	)	No. CV-22-01003-PHX-SRB
	)	No. CV-22-01124-PHX-SRB
	)	No. CV-22-01369-PHX-SRB
	)	No. CV-22-01381-PHX-SRB
	)	No. CV-22-01602-PHX-SRB
	)	No. CV-22-01901-PHX-SRB
)	

VIDEOTAPED 30(b)(6) DEPOSITION OF LA PAZ COUNTY RECORDER
BY AND THROUGH RICHARD GARCIA

Parker, Arizona
August 30, 2023

Prepared By:
Karen L. Locker, RPR
Certified Reporter #50821



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1 VIDEOTAPED DEPOSITION OF RICHARD GARCIA
2 was taken on August 30th, 2023, commencing at 9:04 a.m.,
3 at 1112 Joshua Avenue Street, Parker, Arizona, before
4 Karen L. Locker, a Certified Reporter in the State of
5 Arizona, reported via Zoom Videoconference.

6

7

* * *

8

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9

(All parties appeared via Zoom Videoconference)

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3 Jimmie Sullivan, Videographer
4 Leslie Mansfield
5 Laurie Stirling

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09:04:18 1 THE VIDEOGRAPHER: We are now on the record.

09:04:21 2 Time on the monitor is 9:04. Here begins Volume 1, Media

09:04:33 3 No. 1 of the deposition of Richard Garcia in the matter of

09:04:33 4 Mi Familia Vota, et al. vs. Adrian Fontes and Ben Toma and

09:04:48 5 Warren Petersen, in the United States District Court,

09:04:53 6 District of Arizona, case No. 2:22-cv-00509-SRB.

09:05:05 7 Today's date is August 30th, 2023.

09:05:10 8 Our court reporter is Karen Locker. I am Jimmie

09:05:15 9 Sullivan, a certified legal videographer. We both

09:05:22 10 represent Coash Court Reporting & Video.

09:05:25 11 This deposition is taking place in Mr. Garcia's

09:05:28 12 office at 1112 Joshua Avenue, Parker, Arizona.

09:05:35 13 And, counsel, would you please identify

09:05:39 14 yourselves.

09:05:39 15 MS. RIZZONI: Good morning. Oh, go ahead.

09:05:41 16 MR. MITCHELL: Sorry. Yeah, good morning, Jason

09:05:43 17 Mitchell on behalf of Richard Garcia.

09:05:46 18 MS. RIZZONI: Good morning. This is Cat Rizzoni

09:05:48 19 on behalf of Plaintiff Asian American Native Hawaiian

09:05:48 20 Pacific Islander for Equity Coalition.

09:06:15 21 THE VIDEOGRAPHER: Okay. Does --

09:06:15 22 MR. ATKINS: Alexander Atkins of Elias Law Group

09:06:18 23 representing Plaintiffs Mi Familia Vota and Voto Latino.

09:06:18 24 MS. CERVANTES: Erika Cervantes with the Mexican

09:06:18 25 American Legal Defense and Educational Fund representing

09:06:28 1 Promise Arizona Plaintiffs.

09:06:33 2 MS. MOTZKIN: Leah Motzkin representing Poder
09:06:33 3 Latinx, Chicanos Por La Causa, and Chicanos Por La Causa
09:06:40 4 Action Fund.

09:06:40 5 MS. LANG: Danielle Lang representing the LUCHA
09:06:43 6 plaintiffs.

09:06:44 7 MS. NESWOOD: Allison Neswood representing
09:06:44 8 Tohono O'odham Nation, Gila River Indian Community, and
09:06:50 9 three Native American individuals.

09:06:54 10 MR. HORLEY: Tim Horley representing the State
09:06:54 11 of Arizona and the Arizona Attorney General.

09:06:54 12 MR. MORGAN: Craig Morgan for Sherman & Howard
09:07:02 13 representing the Secretary of State.

09:07:02 14 MR. LANGHOFER: Kory Langhofer for the RNC.

09:07:10 15 MS. FITZGIBBONS: Liv Fitzgibbons with Gallagher
09:07:13 16 & Kennedy for Speaker Toma and President Peterson.

09:07:23 17 MR. HEMSTREET: Robbie Hemstreet also here on
09:05:51 18 behalf of plaintiff Asian American Native Hawaiian and
09:07:29 19 Pacific Islander for Equity Coalition.

09:07:31 20 MS. RIZZONI: I think that's everyone.

09:07:38 21 So welcome, Mr. -- oh, did I miss someone?

09:07:38 22 THE VIDEOGRAPHER: Yeah, we need to swear in the
09:07:41 23 witness.

09:07:41 24 MS. RIZZONI: Oh, got it.

09:07:46 25 THE VIDEOGRAPHER: And, Ms. Locker, could you

09:08:38 1 is G-A-R-C-I-A.

09:08:38 2 Q. Thank you.

09:08:39 3 And what is your current title, Mr. Garcia?

09:08:42 4 A. County Recorder.

09:08:44 5 Q. County Recorder for La Paz County?

09:08:47 6 A. For La Paz County. La Paz County Recorder.

09:08:47 7 Q. And how long have you served in the role?

09:08:50 8 A. I was elected in 2020.

09:08:52 9 Q. Okay. And, just for today's deposition, I want

09:08:55 10 to make sure the record is clear on a couple of points.

09:08:58 11 So do you understand that you're testifying

09:09:00 12 under oath today?

09:09:01 13 A. Yes.

09:09:02 14 Q. Okay. And is there any reason that you can't

09:09:06 15 give full, complete, and accurate testimony today?

09:09:09 16 A. I'm sorry. What was your question again?

09:09:11 17 Q. Is there any reason that you cannot give full,

09:09:15 18 complete, and accurate testimony today?

09:09:17 19 A. No. As best as I can, but, no.

09:09:21 20 Q. Okay. And you understand that a court reporter

09:09:24 21 will be transcribing today's deposition, correct?

09:09:27 22 A. Yes.

09:09:27 23 Q. Okay. And, just for the sake of the court

09:09:30 24 reporter, I want to just make sure a couple of things are

09:09:33 25 clear.

09:09:33 1 So to make sure Karen can do her job, I'd ask
09:09:36 2 that you let me finish my question before answering, and I
09:09:39 3 will make sure that you finish your answer before I ask
09:09:41 4 the next question.

09:09:43 5 Does that make sense?

09:09:44 6 A. Yes.

09:09:44 7 Q. Okay. And because she will be transcribing
09:09:49 8 everything, it's important that you answer questions
09:09:51 9 audibly and clearly instead of using things like head
09:09:55 10 shakes, nods, et cetera.

09:09:57 11 Does that make sense?

09:09:58 12 A. Yes.

09:09:59 13 Q. Okay. Will you let me know if you don't
09:10:01 14 understand a question or need me to repeat it?

09:10:03 15 A. Yes. I will let you know.

09:10:06 16 Q. Okay. So, with that, if ask a question and you
09:10:09 17 answer, I will assume that you understood the question.

09:10:11 18 Does that make sense?

09:10:12 19 A. Yes.

09:10:12 20 Q. Okay. And, if at any time you would like to
09:10:19 21 take a break, that's fine. Please let me know. The only
09:10:22 22 thing I'd ask is that if a question is pending that you
09:10:25 23 answer the question before we take a break.

09:10:27 24 Does that make sense?

09:10:28 25 A. Yes.

09:10:28 1 Q. And since this is taken remotely -- I see that
09:10:32 2 Mr. Mitchell is in the room with you.
09:10:34 3 Is there anyone else who is in the room with you
09:10:37 4 today?
09:10:37 5 A. No.
09:10:37 6 Q. And, again, because this is remote, I just want
09:10:44 7 to make sure that your answers that you're giving are your
09:10:48 8 own today. So, for the record, can you confirm that you
09:10:51 9 are not and will not be receiving, you know, text
09:10:53 10 messages, notes, emails, or anything during the deposition
09:10:57 11 suggesting what your answer should be?
09:10:59 12 A. Yes.
09:11:00 13 Q. And last point is that, you know, from time to
09:11:05 14 time, Mr. Mitchell may object to one of my questions,
09:11:08 15 other attorneys here may object to one of my questions.
09:11:11 16 Unless Mr. Mitchell or someone else specifically instructs
09:11:15 17 you not to respond, you're expected to answer the question
09:11:17 18 posed.
09:11:18 19 Does that make sense?
09:11:19 20 A. Yes.
09:11:19 21 Q. Okay. Mr. Garcia, have you ever been deposed
09:11:24 22 before?
09:11:24 23 A. No. This is the first time.
09:11:26 24 Q. Okay. Well, very exciting. We'll try to make
09:11:31 25 it as quick and painless as possible.

09:11:33 1 Did you bring any materials to your deposition
09:11:35 2 today?
09:11:35 3 A. Just what was provided to me by Mr. Mitchell.
09:11:39 4 Q. And the materials provided to you from
09:11:44 5 Mr. Mitchell, was that a, like a zip drive of documents?
09:11:47 6 A. Yes.
09:11:48 7 Q. Okay. Called La Paz depo exhibits?
09:11:51 8 A. Yes.
09:11:52 9 Q. Okay. Fabulous.
09:11:55 10 And do you have those in front of you today?
09:11:57 11 A. Yes.
09:11:58 12 Q. Great. And besides those documents, do you have
09:11:59 13 anything else sitting in front of you today?
09:12:07 14 A. Those and some of the RFPs that we had provided.
09:12:14 15 Q. Okay. That works.
09:12:15 16 All right. Well, then, with that in mind, I
09:12:17 17 think we can jump in.
09:12:20 18 The first thing I'd like you to open is the
09:12:20 19 document labeled document A. And let me know when you
09:12:25 20 have that open in front of you.
09:12:43 21 A. I got it open.
09:12:45 22 Q. Great. And have you seen this document before?
09:12:48 23 A. When it was given to me.
09:12:50 24 Q. Okay. And can you tell me what this document
09:12:52 25 is?

09:13:02 1 A. I mean, not off the top of my head. I mean, I
09:13:04 2 still have to read it. I didn't get to read a lot of this
09:13:08 3 stuff, but kind of skimmed through it, and...

09:13:10 4 Q. On the first glance, does it appear to be an
09:13:13 5 August 11th, 2023 amended deposition notice sent to your
09:13:17 6 office?

09:13:17 7 A. Yes, it is dated August 11, 2023.

09:13:20 8 Q. Okay. And do you understand that you've been
09:13:24 9 designated as a representative to testify on behalf of the
09:13:30 10 La Paz County Recorder's Office?

09:13:31 11 A. Yes.

09:13:32 12 Q. So, with that in mind, can we stipulate that
09:13:35 13 when I ask a question that uses you or your, that will be
09:13:38 14 the equivalent of asking a question to the La Paz County
09:13:42 15 Recorder's Office?

09:13:42 16 A. Yes.

09:13:43 17 Q. Let's turn to page five of that document, and at
09:13:51 18 the top should be a bolded header called topics.

09:13:55 19 Do you see that?

09:14:01 20 A. Yes.

09:14:01 21 Q. And then there should be a list of 28 separate
09:14:04 22 topics following.

09:14:05 23 A. Hmm hmm. Yes.

09:14:05 24 Q. Do you see that?

09:14:06 25 A. Yes.

09:14:06 1 Q. And are you prepared to address these topics

09:14:09 2 today?

09:14:09 3 A. As best as I can.

09:14:11 4 Q. Okay. And did you do anything to prepare for
09:14:14 5 today's deposition?

09:14:16 6 A. I read through it, read up on, a little bit on
09:14:20 7 the bills.

09:14:21 8 Q. You read through the bills, and what else?

09:14:24 9 A. Just the paperwork that was provided to me.

09:14:27 10 Q. And the paperwork, again, that was provided to
09:14:32 11 you was just this list of exhibits?

09:14:32 12 A. This particular one, yes, I recall getting it.

09:14:35 13 Q. Okay.

09:14:36 14 A. (Indiscernible.)

09:14:36 15 (The Reporter asked for clarification.)

09:14:40 16 THE WITNESS: I recall getting this one earlier
09:14:42 17 than I -- because I received it again today, but, by
09:14:44 18 Mr. Mitchell, but I did have it already, so I did look
09:14:48 19 through it.

09:14:48 20 Q. Besides looking through the documents that were
09:14:51 21 provided to you from Mr. Mitchell, did you do anything
09:14:53 22 else to prepare for today's deposition?

09:14:54 23 A. Just read through the EPM a little bit, and,
09:14:59 24 like I said, just read through this document.

09:15:01 25 Q. Okay. All right. So the next couple of

09:15:14 1 questions I'm going to ask relate to documents B through
09:15:16 2 F. So just to make sure we marked them, real quickly go
09:15:17 3 ahead and open each of those, and then we'll just start
09:15:19 4 with document -- oh, I'm sorry, actually, can we go back?

09:15:21 5 Document A we need to mark that for the record,

09:15:24 6 as exhibit, I believe the last exhibit is document --

09:15:29 7 Was that 228 is the next one, Karen?

09:15:29 8 THE REPORTER: Yes.

09:15:36 9 MS. RIZZONI: Okay. So let's mark document A,

09:15:38 10 the amended deposition notice as Exhibit 228.

09:15:38 11 BY MS. RIZZONI:

09:15:42 12 Q. And then, Mr. Garcia, if you can go ahead and
09:15:47 13 open B through F. And let me know when you have them
09:15:51 14 open.

09:16:14 15 A. Okay. I got them open.

09:16:17 16 Q. Great. All right. Let's start with document B.
09:16:18 17 Do you recognize that document?

09:16:20 18 A. Like I said, I just, I'm -- yes, yes, I do.

09:16:24 19 Yeah.

09:16:24 20 Q. Okay. And can you tell me what that document
09:16:27 21 is?

09:16:27 22 A. It was a request for production, some questions
09:16:33 23 that were being asked and my responses to them.

09:16:35 24 Q. Does this appear to be the February 13th, 2023,
09:16:41 25 responses from your office to the Equity Coalition's

09:16:46 1 request for document production?

09:16:48 2 A. I don't see a date on here, so I couldn't say if
09:16:58 3 it was that date or not.

09:17:01 4 Q. If you turn to the very last page, Mr. Garcia --

09:17:06 5 A. Oh, yes. Yeah, 13th day of February.

09:17:10 6 Q. Okay. So, for the record, these are the

09:17:12 7 February 13th, 2023 responses from La Paz County

09:17:17 8 Recorder's Office to Equity Coalition's request for

09:17:21 9 production of documents.

09:17:21 10 And let's mark this as Exhibit 229.

09:17:30 11 Okay. And could you take a look at document C.

09:17:33 12 And let me know when that's open.

09:17:35 13 A. It's open.

09:17:35 14 Q. Great. And do you recognize that document?

09:17:38 15 A. Yes.

09:17:38 16 Q. And what is that document?

09:17:41 17 A. These are just the objections and, objections

09:17:44 18 and responses to the, what was being produced, or

09:17:50 19 fulfilling the request for productions.

09:17:52 20 Q. Okay. For the record, these are the June 30th,

09:17:57 21 2023 responses from the La Paz County Recorder's Office to

09:18:01 22 the consolidated plaintiff's request for production of

09:18:03 23 documents.

09:18:05 24 And, Mr. Garcia, were you involved in preparing

09:18:07 25 your office's responses to these two sets of requests for

09:18:10 1 production of documents?

09:18:12 2 A. I was.

09:18:13 3 Q. Okay. Was anyone else involved in preparing

09:18:16 4 your responses?

09:18:17 5 A. My chief deputy.

09:18:19 6 Q. And who might that be?

09:18:21 7 A. Matthew Aguilar.

09:18:24 8 Q. Okay. Anyone else?

09:18:25 9 A. That was it.

09:18:26 10 Q. Okay. And what steps did your office take to

09:18:31 11 prepare La Paz County's responses to these two sets of

09:18:35 12 document requests?

09:18:37 13 A. Just looking through the procedures manual

09:18:40 14 and -- basically it. Just looking through the procedures

09:18:44 15 manual.

09:18:44 16 Q. So, to be clear, these documents B and C, which

09:18:52 17 are Exhibits 229 and 230, requested that your office

09:18:58 18 produce certain documentation.

09:19:00 19 Did you look through certain documentation to

09:19:02 20 decide what to produce?

09:19:04 21 A. Well, like I said, we looked at the EPM.

09:19:11 22 Anything that was provided would have been either copied

09:19:16 23 from a, you know, made a copy from, you know, certain

09:19:22 24 information that we already had printed out that we knew

09:19:25 25 that we could make it available.

09:19:28 1 Q. Okay. Besides the EPM, did you -- well, strike
09:19:37 2 that. That's fine.

09:19:40 3 Okay. Did you have any updates to make today to
09:19:42 4 these two sets of responses to plaintiff's document
09:19:46 5 requests?

09:19:47 6 A. I don't believe so.

09:19:49 7 Q. Okay. All right. Let's move on to document D.
09:19:54 8 Let me know when that is open.

09:19:58 9 A. I have it open.

09:19:59 10 Q. Okay. And do you recognize that document?
09:20:01 11 A. Yes.

09:20:02 12 Q. Okay. And what is that document?
09:20:04 13 A. These are just the responses to interrogatories.

09:20:06 14 Q. Okay. And, for the record, these are the
09:20:10 15 January 27th, 2023, La Paz County Recorder's responses to
09:20:16 16 Equity Coalition's interrogatories. And let's mark these
09:20:20 17 as Exhibit 231.

09:20:25 18 And then can you take a look at document E.
09:20:30 19 And do you recognize that document?
09:20:31 20 A. Yes.

09:20:33 21 Q. And do these appear to be the June 30th, 2023
09:20:37 22 responses from the La Paz County Recorder to the
09:20:41 23 consolidated plaintiff's interrogatories?
09:20:42 24 A. Yes. June 30th. Yes.

09:20:44 25 Q. Okay. Let's mark this as Exhibit 232.

09:20:51 1 And then last one, document F.

09:20:54 2 Do you recognize that document?

09:20:56 3 A. Yes.

09:20:58 4 Q. And do those appear to be the August 8th, 2023

09:21:08 5 supplemental responses of La Paz County Recorder's Office

09:21:09 6 to the consolidated plaintiff's interrogatories?

09:21:13 7 A. Yes.

09:21:14 8 Q. And let's mark that as Exhibit 233.

09:21:23 9 Mr. Garcia, were you involved in preparing your

09:21:23 10 office's responses to these sets of interrogatories?

09:21:24 11 A. I was involved.

09:21:24 12 Q. Okay. And, in fact, you verified your office's

09:21:27 13 responses to these interrogatories. Is that right?

09:21:29 14 A. Yes.

09:21:30 15 Q. And what steps did your office take to prepare

09:21:34 16 these responses to interrogatories?

09:21:40 17 A. As I said before, just referred to the EPM, any

09:21:45 18 copies of any kind of report that we may have. That's

09:21:52 19 pretty much about it.

09:21:52 20 Q. And were -- so who else -- was anyone else

09:21:55 21 involved in preparing these response to interrogatories?

09:21:59 22 A. As I stated before, my chief deputy, Matthew

09:22:06 23 Aguilar was also involved.

09:22:07 24 Q. Anyone else besides you and Mr. Aguilar?

09:22:10 25 A. No. I mean, there's only three, or two of us

09:22:12 1 here in the office. It was only me and him.

09:22:15 2 Q. Okay. Do you have any updates to make today to

09:22:18 3 your office's responses to these sets of interrogatories?

09:22:21 4 A. No.

09:22:21 5 Q. Okay. So sitting here today, each of La Paz

09:22:21 6 County's responses to plaintiff's document requests and

09:22:31 7 interrogatories remain complete, true, and accurate, to

09:22:34 8 the best of your knowledge?

09:22:35 9 A. To the best of my knowledge, yes.

09:22:37 10 Q. Okay. All right. I'd like to shift gears to

09:22:42 11 the elections procedures manual, which you've alluded to.

09:22:44 12 So I take it you're familiar with the elections

09:22:47 13 procedures manual. Is that right?

09:22:49 14 A. Yeah.

09:22:49 15 Q. And if I shorten that to EPM, you'll understand

09:22:52 16 that that means elections procedures manual?

09:22:53 17 A. Yes.

09:22:54 18 Q. Okay. Good. All right. The 2019 version of

09:23:00 19 the EPM is still the currently operative version. Is that

09:23:02 20 right?

09:23:02 21 A. Yes.

09:23:04 22 Q. And your office is legally required to follow

09:23:07 23 the EPM?

09:23:10 24 DEFENSE COUNSEL: Calls for legal conclusion.

09:23:10 25 MR. HORLEY: Also, could we state on the

09:23:15 1 record -- this is Tim Horley for the State of Arizona and
09:23:18 2 the Arizona Attorney General -- that an objection by one
09:23:19 3 lawyer from one side is an objection for all lawyers, per
09:23:22 4 our usual stipulation?

09:23:25 5 MR. MORGAN: Secretary of State is fine with
09:23:28 6 that.

09:23:28 7 MS. RIZZONI: As are we.

09:23:31 8 MR. HORLEY: Great. Thank you.

09:23:34 9 BY MS. RIZZONI:

09:23:34 10 Q. So, Mr. Garcia, again, you're expected to answer
09:23:37 11 unless specifically instructed not to. So I'll repeat my
09:23:41 12 question, which is, is your office legally required to
09:23:43 13 follow the EPM?

09:23:51 14 DEFENSE COUNSEL: Calls for legal conclusion.

09:23:53 15 THE WITNESS: To my knowledge, yes. It's, it's
09:23:59 16 a guide and it's helpful to us to, you know, to follow the
09:24:02 17 statutes, so...

09:24:05 18 BY MS. RIZZONI:

09:24:05 19 Q. Are you aware of any rule that would allow you
09:24:08 20 to deviate from the EPM?

09:24:12 21 DEFENSE COUNSEL: Same objection.

09:24:14 22 THE WITNESS: Could you clarify the answer
09:24:18 23 again -- could you ask the question again?

09:24:20 24 BY MS. RIZZONI:

09:24:20 25 Q. Right. So I'm trying to understand your

09:24:22 1 understanding of the, like the binding nature of the EPM
09:24:29 2 on your office.

09:24:31 3 So are you, do you understand, like is there
09:24:35 4 a -- I guess, what is your basis -- scratch that.

09:24:40 5 Do you -- is there any basis under which you
09:24:49 6 could deviate from the EPM?

09:24:53 7 DEFENSE COUNSEL: Same objection.

09:25:00 8 THE WITNESS: So to not follow it? Is that what
09:25:11 9 you're asking me?

09:25:12 10 BY MS. RIZZONI:

09:25:12 11 Q. Yes.

09:25:13 12 A. I mean, I could follow the statute but, go
09:25:19 13 straight to the statute. But EPM has always been a guide
09:25:23 14 and helpful, so, I mean, we always refer to it and use it.

09:25:26 15 Q. When you say a guide, is it a discretionary
09:25:29 16 guide, to your understanding, or is it required that your
09:25:32 17 office follows the EPM?

09:25:35 18 DEFENSE COUNSEL: Same, same objection.

09:25:38 19 THE WITNESS: I have never been told that we had
09:25:40 20 to use it, but it's always been helpful for us to use it.
09:25:44 21 So we have, we've always used it, and we will continue to
09:25:46 22 use it.

09:25:47 23 BY MS. RIZZONI:

09:25:47 24 Q. If not the EPM, what would you consider legally
09:25:51 25 binding guidance on your office when it comes to how you

09:25:55 1 administer elections in your county?

09:25:58 2 DEFENSE COUNSEL: Same, same objection.

09:25:59 3 THE WITNESS: Well, if it wasn't the EPM it

09:26:01 4 would just be the statute book, the Arizona Revised

09:26:08 5 Statutes book.

09:26:09 6 BY MS. RIZZONI:

09:26:09 7 Q. To clarify, however, it's your practice that you

09:26:12 8 will follow the EPM. Is that right?

09:26:15 9 A. Yes.

09:26:15 10 Q. Okay. And the Secretary of State is the office

09:26:23 11 who is responsible for promulgating the EPM. Is that

09:26:26 12 right?

09:26:26 13 A. Yes.

09:26:27 14 Q. And can the Secretary of State convey legally

09:26:33 15 binding guidance to your office by any means outside of

09:26:36 16 the EPM?

09:26:38 17 DEFENSE COUNSEL: Same objection.

09:26:39 18 Form, foundation, calls for legal conclusion.

09:26:42 19 THE WITNESS: Sorry. Can you ask, repeat the

09:26:45 20 question, clarify it?

09:26:47 21 BY MS. RIZZONI:

09:26:47 22 Q. Sure. Can the Secretary of State's office

09:26:51 23 convey legally binding guidance to your office by any

09:26:54 24 means outside of the EPM?

09:26:56 25 DEFENSE COUNSEL: Same objections.

09:26:57 1 THE WITNESS: So, in other words, you're asking

09:27:06 2 if they can give us legal counsel outside of that? Is

09:27:09 3 that what -- am I understanding you correctly?

09:27:11 4 BY MS. RIZZONI:

09:27:12 5 Q. I'm trying to understand. So if, for example,

09:27:13 6 the Secretary of State was to email you information about

09:27:16 7 how to administer elections, would that be legally binding

09:27:23 8 on your office?

09:27:25 9 DEFENSE COUNSEL: Same objection.

09:27:26 10 Foundation, calls for legal conclusion.

09:27:29 11 THE WITNESS: I would say no.

09:27:31 12 DEFENSE COUNSEL: Calls for speculation.

09:27:34 13 BY MS. RIZZONI:

09:27:34 14 Q. What about if they were, if the Secretary of

09:27:37 15 State's Office was to communicate with your office over

09:27:39 16 the phone? Would that be legally binding guidance?

09:27:44 17 DEFENSE COUNSEL: Calls for legal -- same

09:27:47 18 objections.

09:27:47 19 THE WITNESS: No.

09:27:49 20 BY MS. RIZZONI:

09:27:49 21 Q. Are you familiar with the Voter Registration

09:27:56 22 Advisory Committee?

09:27:56 23 A. No.

09:27:56 24 Q. No. So would you agree, then, that a Voter

09:28:01 25 Registration Advisory Committee proposal would not be

09:28:04 1 legally binding guidance on your office?

09:28:07 2 DEFENSE COUNSEL: Same objections.

09:28:08 3 THE WITNESS: I would say no.

09:28:09 4 BY MS. RIZZONI:

09:28:10 5 Q. Is your office aware of a draft EPM for 2023?

09:28:15 6 A. Yes.

09:28:15 7 Q. And have you provided any comments to the

09:28:20 8 Secretary of State on that draft EPM for 2023?

09:28:27 9 A. I don't believe I made any comments to it.

09:28:32 10 Q. To your understanding, does the draft EPM for

09:28:38 11 2023 include guidance for how to implement H.B. 2492

09:28:46 12 and/or H.B. 2243?

09:28:48 13 A. I believe there is something written out about

09:28:55 14 it, but it just depends on what the outcome of this

09:28:59 15 litigation, it should be included in there. But as of

09:29:03 16 right now I don't think it, it's probably part of it.

09:29:07 17 Q. You said that you --

09:29:09 18 A. To my knowledge.

09:29:12 19 Q. Sorry. I interrupted you. Go ahead.

09:29:13 20 A. To my knowledge, you know.

09:29:16 21 Q. To your knowledge it does, the draft EPM does

09:29:23 22 include guidance for how to implement these two laws?

09:29:27 23 A. There, there is something written out about

09:29:29 24 it --

09:29:29 25 Q. Okay.

09:29:29 1 A. -- yes.

09:29:29 2 Q. Okay. And you said you haven't provided

09:29:32 3 comments on the draft 2023 EPM.

09:29:35 4 Do you intend to provide comments at any point?

09:29:38 5 A. Possibly.

09:29:44 6 Q. Have you discussed the contents of the draft EPM

09:29:48 7 with staff at your office?

09:29:50 8 A. So my chief deputy, he's on some of those calls,

09:29:57 9 so, I mean, he is aware of it. So, like I said, there is

09:30:00 10 only three of us, so he's aware of that.

09:30:03 11 Q. Okay. And do you understand -- or strike that.

09:30:10 12 If you were to provide comments, do you

09:30:12 13 currently have an idea of what comments you might make to

09:30:15 14 the draft guidance?

09:30:17 15 DEFENSE COUNSEL: Calls for speculation.

09:30:18 16 THE WITNESS: Not at the time, no.

09:30:20 17 BY MS. RIZZONI:

09:30:20 18 Q. Okay. Besides the draft EPM for 2023, have you

09:30:24 19 received any other guidance from the Secretary of State

09:30:27 20 about how to implement H.B. 2492 and H.B. 2243?

09:30:32 21 A. Not to my knowledge.

09:30:35 22 Q. All right. Let's take a look at document G.

09:30:38 23 Let me know when you have that up.

09:30:50 24 A. I have it up.

09:30:51 25 Q. Great. Do you recognize this document?

09:30:55 1 A. Yes.

09:30:57 2 Q. Okay. And what is this document?

09:31:01 3 A. Just an email between my chief deputy and Kori

09:31:12 4 Lorick, who used to be the SOS office in the last

09:31:16 5 administration, in regards to implementation of the two

09:31:22 6 bills.

09:31:23 7 Q. And then, if I can direct your attention to the

09:31:27 8 very top of the document, it looks like this email from

09:31:30 9 Kori Lorick is being forwarded from your deputy,

09:31:37 10 Mr. Aguilar, to Mr. Mitchell CCing you. Is that correct?

09:31:43 11 A. Yes.

09:31:44 12 Q. Okay. And you do you know what prompted

09:31:49 13 Mr. Aguilar to forward this message from Ms. Lorick to

09:31:53 14 Mr. Mitchell copying you?

09:31:56 15 A. Maybe he was probably on a phone call where it

09:32:03 16 was maybe possibly discussed.

09:32:05 17 Q. Were you on a phone call where this was

09:32:08 18 discussed?

09:32:09 19 A. I would say probably not.

09:32:12 20 Q. Do you, do you know why this email may have been

09:32:20 21 discussed during a phone call between Mr. Aguilar and

09:32:25 22 Mr. Mitchell?

09:32:25 23 A. I don't think it was just between two people.

09:32:28 24 It may have been a joint call between, you know, other

09:32:32 25 recorder's offices and elections departments and -- that's

09:32:35 1 what I'm thinking.

09:32:36 2 Q. Did you have calls with other recorder's offices
09:32:41 3 about implementing these two bills?

09:32:45 4 A. I'm sure there must have been.

09:32:50 5 Q. Were you present for any of those calls?

09:32:53 6 A. Not to my knowledge.

09:32:58 7 Q. Would Mr. Aguilar be the person who would have
09:33:02 8 participated in those calls?

09:33:03 9 A. He's been on the calls more than I have. Since
09:33:06 10 we're a small office I can't, you know, be --

09:33:10 11 Q. So, to be clear, have you been on any of these
09:33:13 12 calls with other County Recorder's Offices about
09:33:16 13 implementing the bills?

09:33:17 14 A. I can't recall anything recent.

09:33:23 15 Q. Can you recall anything at all?

09:33:25 16 A. This started since last year, so, I mean, this
09:33:30 17 email is from, looks like it was from last year -- well,
09:33:35 18 actually, at the beginning of the year -- and now I can't
09:33:40 19 recall.

09:33:41 20 Q. Okay. We'll come back to that, but I want to
09:33:44 21 just ask a couple of questions about this email in
09:33:46 22 particular first.

09:33:47 23 So you said Ms. Lorick, she used to work for the
09:33:51 24 Secretary of State's Office as the elections director. Is
09:33:56 25 that right?

09:33:56 1 A. That is correct.

09:33:56 2 Q. Okay. And I want to direct your attention to

09:34:01 3 the very beginning of Ms. Lorick's email, which is at the

09:34:10 4 bottom of page one, beginning of page two. And she

09:34:10 5 writes:

09:34:16 6 It's been several weeks since we last discussed

09:34:19 7 implementation of H.B. 2492 and H.B. 2243, both of which

09:34:23 8 go into effect January 1st, 2023. If you'll recall, we

09:34:27 9 met several times throughout the year to review

09:34:30 10 implementation and the resulting impacts to the VR system,

09:34:35 11 as well as voter registration procedures. Several

09:34:35 12 questions remained as to whether we could implement

09:34:38 13 requirements that would conflict with the NVRA, federal

09:34:38 14 settlements, and court cases.

09:34:41 15 Having thoroughly analyzed the changes that both

09:34:45 16 bills require, the Secretary of State's Office believes

09:34:46 17 that there is no way to implement certain requirements

09:34:49 18 without conflicting with federal law. Given the Supremacy

09:34:53 19 Clause in the United State's Constitution, U.S.

09:34:54 20 Constitution article VI, clause 2, federal law should

09:34:55 21 prevail in these instances, so our office will not be

09:34:59 22 implementing those provisions.

09:35:01 23 Do you see that?

09:35:01 24 A. Yes.

09:35:03 25 Q. Okay. And then in her next paragraph she goes

09:35:05 1 on to note which provisions her office interprets as

09:35:10 2 conflicting with federal law.

09:35:11 3 Do you see that?

09:35:12 4 A. Yes.

09:35:13 5 Q. Okay. And does your office agree that these

09:35:18 6 provisions of the bills conflict with federal law?

09:35:22 7 DEFENSE COUNSEL: Calls for legal conclusion.

09:35:25 8 THE WITNESS: Yes.

09:35:25 9 BY MS. RIZZONI:

09:35:30 10 Q. Is guidance from any other entity beyond the

09:35:33 11 Secretary of State about how to implement these two laws,

09:35:36 12 legally binding on County Recorders.

09:35:41 13 DEFENSE COUNSEL: Same objection.

09:35:44 14 THE WITNESS: Not that I can recall, no.

09:35:46 15 BY MS. RIZZONI:

09:35:46 16 Q. Not that you're currently aware of either?

09:35:49 17 A. Right.

09:35:49 18 Q. Okay. Are you currently implementing any part

09:35:58 19 H.B. 2492?

09:36:01 20 A. No.

09:36:01 21 Q. And are you currently implementing any part of

09:36:07 22 the H.B. 2243?

09:36:09 23 A. No.

09:36:10 24 Q. And from the email we just looked at -- which,

09:36:15 25 by the way, I'm not sure we marked that, but if we

09:36:18 1 haven't, that's Exhibit 234.

09:36:24 2 So besides discussing with the Secretary of

09:36:26 3 State's Office have you discussed implementation of

09:36:29 4 H.B. 2492 and H.B. 2243 with anyone else?

09:36:34 5 A. No.

09:36:34 6 Q. Have you discussed implementation of these two
09:36:38 7 laws internally?

09:36:39 8 A. We discuss it, but I mean, whether we follow it
09:36:45 9 or not will be determined on what is decided after this
09:36:48 10 case.

09:36:49 11 Q. Can you tell me a little bit more about what you
09:36:52 12 discussed about implementing these two laws?

09:36:55 13 A. I mean, it's not, not, not a whole lot, other
09:37:00 14 than, you know, just kind of, not so much -- I mean, we'll
09:37:18 15 implement it as whatever is decided, but, you know, we
09:37:20 16 just kind of talk about as far as, you know, what is
09:37:25 17 mentioned here, having voters, you know, filling out,
09:37:31 18 making sure they fill out their voter registration form
09:37:36 19 completely and make sure that they don't miss any, any of
09:37:39 20 the required fields.

09:37:42 21 Q. So besides discussing ensuring that voter
09:37:49 22 applicants fill out their voter registration forms
09:37:52 23 completely, have you had any other internal discussions
09:37:54 24 with your staff about implementing these two laws?

09:37:57 25 A. No. There's just kind of basic as far as the

09:38:03 1 voter form.

09:38:03 2 Q. Okay.

09:38:05 3 A. Making sure that it's filled out completely.

09:38:07 4 Q. Let's turn back to document, document D, La Paz

09:38:27 5 County Recorder's response to the Equity Coalition

09:38:31 6 interrogatories. And can you take a look at your response

09:38:33 7 to interrogatory 1. Let me know when you're there.

09:38:40 8 A. I'm here.

09:38:41 9 Q. Okay. Your response is:

09:38:46 10 At this time the La Paz County Recorder's Office

09:38:48 11 has no plans, policies, procedures, or training materials

09:38:51 12 regarding the actual or prospective implementation of H.B.

09:38:55 13 2492. The La Paz County Recorder and his staff have

09:38:55 14 engaged in discussions regarding the prospective

09:39:02 15 implementation of H.B. 2243; however, they are waiting to

09:39:05 16 receive further guidance from the Arizona Secretary of

09:39:07 17 State regarding the new law.

09:39:08 18 Did I read that correctly?

09:39:09 19 A. Yes.

09:39:10 20 Q. Okay. And then can you tell me what you mean

09:39:13 21 here by prospective implementation of H.B. 2243?

09:39:19 22 A. Kind of what I was just saying earlier. I mean,

09:39:23 23 that's kind of more of discussion that we would have to

09:39:25 24 make sure, you know, that voters fill out, you know, the

09:39:30 25 form completely.

09:39:32 1 Q. And when with you say the form, what are you
09:39:35 2 referring to?

09:39:35 3 A. The voter registration form.

09:39:37 4 Q. Okay. And why were you discussing the need to
09:39:41 5 ensure that voters are filling out the voter registration
09:39:46 6 form completely in the context of prospective
09:39:47 7 implementation of H.B. 2243?

09:39:50 8 A. Just because we want them to be registered
09:39:55 9 properly and, you know, abide by what this by, you know,
09:40:00 10 what's required by the voter registration forms to make
09:40:04 11 sure that they're registered properly.

09:40:06 12 Q. Was your office concerned about H.B. 2243 was
09:40:10 13 going to cause issues with voters not being able to
09:40:14 14 complete the form properly?

09:40:15 15 A. Maybe a little bit. Not so much filling out the
09:40:21 16 form, but just, you know, providing a, the residency and,
09:40:32 17 and proper DPOC, the documentary proof of citizenship.

09:40:32 18 Q. So your office was concerned that voters may
09:40:43 19 have difficulty providing the documentary proof of
09:40:46 20 citizenship and information about their residency. Is
09:40:50 21 that correct?

09:40:50 22 A. Not so much trouble providing it, just, you
09:40:54 23 know, maybe not realizing that they would have to provide
09:40:59 24 that information.

09:41:00 25 Q. Okay. Okay. Before H.B. 2492 was passed into

09:41:14 1 law, did your office oppose the passage of that bill?

09:41:17 2 A. I can't, I can't recall.

09:41:26 3 Q. And what about H.B. 2243? Was your office
09:41:31 4 opposed to the passage of that bill?

09:41:34 5 A. I can't recall if we were opposed or not opposed
09:41:38 6 to it.

09:41:39 7 Q. Are you familiar with the Arizona Association of
09:41:42 8 Counties?

09:41:43 9 A. Yes.

09:41:44 10 Q. Okay. And are you a member of the Arizona
09:41:50 11 Association of Counties?

09:41:51 12 A. Yes.

09:41:53 13 Q. And can you tell me a little bit about what the
09:41:54 14 Arizona Association of Counties does with respect to, I
09:41:59 15 guess, the legislative docket and bill that it supports or
09:42:03 16 doesn't support?

09:42:04 17 A. Well, you know, they, they give us the language
09:42:09 18 to the bill and ask us for just feedback on it, and any
09:42:19 19 concerns or -- that's kind of basically it. I mean, we
09:42:22 20 just kind of give our thoughts on it.

09:42:24 21 Q. Did the Arizona Association of Counties ever
09:42:28 22 reach out to your office for feedback about either of
09:42:32 23 these bills?

09:42:33 24 A. I mean, emails circulate sometimes asking, you
09:42:39 25 know, if we like something or don't like it, but, but I

09:42:45 1 can't recall how many times, or anything like that.

09:42:50 2 Q. Do you recall if the Arizona Association of
09:42:56 3 Counties ever emailed you at all about either of these
09:42:58 4 bills?

09:42:58 5 A. I recall some emails probably going around about
09:43:04 6 it, I'm sure.

09:43:05 7 Q. And did they ask you whether or not you had
09:43:08 8 feedback on either bill?

09:43:10 9 A. Well, they asked us all, and whether I responded
09:43:15 10 to it or not I can't recall, and, if I did, I mean, it
09:43:18 11 must have been a while back. So I can't recall.

09:43:21 12 Q. So you don't currently recall responding to any
09:43:24 13 request for feedback from the Arizona Association of
09:43:27 14 Counties about either H.B. 2492 or H.B. 2243?

09:43:33 15 A. Like I said, it may be in the past, several
09:43:37 16 months ago, maybe last year, but not recent.

09:43:44 17 Q. Did you ever provide feedback to Arizona
09:43:47 18 Association of Counties about either bill?

09:43:49 19 A. I can't recall.

09:43:53 20 Q. Okay. What about H.B. 2617? Do you recall that
09:43:59 21 bill?

09:43:59 22 A. Not too much. I think the 2243 and the 2492 has
09:44:11 23 been kind of more out there more than the 2617 that you
09:44:15 24 just said.

09:44:16 25 Q. Do you recall that 2617 was the predecessor bill

09:44:21 1 to 2243?

09:44:23 2 A. I can't remember. I don't recall. There's too

09:44:28 3 much, too many bills in it, you know, to keep up with them

09:44:33 4 sometimes.

09:44:33 5 Q. Okay.

09:44:33 6 A. It's challenging.

09:44:34 7 Q. Let's take a look at document J then. Maybe

09:44:38 8 this will jog your memory. Let me know when you have it

09:44:41 9 open.

09:44:41 10 A. Which one?

09:44:42 11 Q. Document J.

09:44:58 12 A. Yeah, I got it up.

09:45:00 13 Q. Great. Okay. I'd like to first direct your

09:45:06 14 attention to the middle of the page, the email from

09:45:10 15 Jennifer Marson.

09:45:11 16 Do you see that?

09:45:12 17 A. Hum hmm. Yes.

09:45:13 18 Q. And Jennifer Marson, she works at AA -- I'm

09:45:18 19 sorry -- at the Arizona Association of Counties, correct?

09:45:21 20 A. Correct.

09:45:22 21 Q. She is their executive director. Is that right?

09:45:26 22 A. That is correct.

09:45:27 23 Q. Okay. And this email which is from March 14th,

09:45:31 24 2022, from Ms. Marson is sent to, what looks like, all of

09:45:34 25 the County Recorders, including yourself. Is that right?

09:45:38 1 A. Yes. Yes.

09:45:38 2 Q. And the subject line is: H.B. 2617 - Does the

09:45:38 3 amendment change your position?

09:45:48 4 There's a typo, but I assume she means position.

09:45:49 5 Is that right?

09:45:49 6 A. Yeah.

09:45:50 7 Q. Okay. So she writes:

09:45:55 8 Dear Recorders: Please review H.B. 2617.

09:45:59 9 Originally this bill required your offices to review a

09:45:59 10 bunch of different databases (state, federal, local) to

09:45:59 11 try and verify someone's citizenship. Many of them are

09:46:13 12 databases to which counties do not have that kind of

09:46:13 13 access. As a result a floor amendment was added to

09:46:13 14 include the phrases "if practicable" or "if the county has

09:46:13 15 access".

09:46:14 16 Do you see that?

09:46:15 17 A. Yes.

09:46:16 18 Q. Okay. And then she asks on the beginning of

09:46:21 19 next page: Does this change your position?

09:46:23 20 Do you see that?

09:46:24 21 A. Yes.

09:46:25 22 Q. Okay. And at the very top much of the email, it

09:46:28 23 looks like you respond the next day, and you write:

09:46:32 24 Opposed. Agree with comments made.

09:46:34 25 Is that right?

09:46:34 1 A. Right.

09:46:35 2 Q. So it's fair to say then that you were opposed

09:46:38 3 to the H.B. 2617 bill?

09:46:41 4 A. Well, yes. Since it was, I wrote it down there,

09:46:51 5 yeah.

09:46:52 6 Q. And does this refresh your memory at all about

09:46:56 7 maybe some of the conversations you had with Arizona

09:46:59 8 Association of Counties about the other two bills?

09:47:00 9 A. That I -- no, I can't recall.

09:47:03 10 Q. So if you were opposed to 2617, were you opposed

09:47:12 11 to 2243 as passed?

09:47:17 12 A. No. I mean, like I said, I mean, whatever, I'm

09:47:25 13 nominal on this, so whatever is decided, that's what we'll

09:47:30 14 do.

09:47:38 15 Q. Are you aware of any changes that are made to

09:47:41 16 the H.B. 2617 bill that were made to the 2243 bill that

09:47:48 17 would have changed your position on whether you opposed

09:47:51 18 the bill?

09:47:52 19 A. After this email --

09:47:58 20 Q. Right.

09:47:58 21 A. -- no. And if I had opposed it, I can't recall

09:48:03 22 exactly what was said, and maybe because we wouldn't have

09:48:06 23 access to certain databases. But that's pretty much all I

09:48:12 24 can remember.

09:48:12 25 Q. Okay. We will come back to that language, but I

09:48:17 1 appreciate you taking a look at that.

09:48:20 2 All right. Let's shift gears to -- oh, I'm

09:48:24 3 sorry. No, one more question on that.

09:48:26 4 So you mentioned that you were opposed to 2617

09:48:32 5 because it required you to review databases that you may

09:48:35 6 not have access to. Is that right?

09:48:37 7 A. That's correct.

09:48:38 8 Q. Is there any other reason you were opposed to

09:48:41 9 H.B. 2617?

09:48:42 10 A. Not that I can recall, no.

09:48:44 11 Q. Okay. All right. We can shift gears now.

09:48:50 12 Let's talk more about the voter registration

09:48:55 13 process in La Paz County generally.

09:48:58 14 So can you tell me, Mr. Garcia, what methods a

09:49:02 15 potential voter can use to register to vote in your

09:49:06 16 county?

09:49:06 17 A. Can you clarify that? Are you talking about

09:49:12 18 like citizenship verifica -- citizenship proof? Are

09:49:15 19 you --

09:49:15 20 Q. First, I just want to talk about generally. So

09:49:17 21 like I'm talking about things like, you know, online, the

09:49:17 22 Motor --

09:49:17 23 A. Oh.

09:49:17 24 Q. -- Vehicle Division --

09:49:17 25 A. Oh.

09:49:20 1 Q. -- form, the state form, the federal forms?

09:49:20 2 A. Yeah.

09:49:21 3 Q. I just want you to you walk me through how

09:49:25 4 long a person --

09:49:25 5 A. Yeah. So, yeah, a voter can utilize the

09:49:31 6 ServiceArizona.com, register electronically that way

09:49:34 7 through the MVD. They can use paper form, whether it's a

09:49:38 8 state form or federal form. They can either pick those up

09:49:45 9 somewhere, you know, either at a post office or library,

09:49:48 10 or they can come in here in the office and do it.

09:49:50 11 Q. What about NVRA agencies? Are you familiar with

09:49:58 12 those?

09:49:59 13 A. Are you, is that like, what, like DES or

09:50:05 14 something? Is that what you're referring to?

09:50:08 15 Q. I'm referring to, yeah, any agency that you work

09:50:10 16 with that may help with voter registration.

09:50:12 17 A. What was your question again, I'm asking? What

09:50:19 18 was your question again? Can you repeat it?

09:50:21 19 Q. Yeah. Well, maybe I will just ask it this way.

09:50:23 20 So, besides ServiceArizona, electronic

09:50:27 21 registration, the MVD, the state or federal paper form,

09:50:30 22 are there any other ways that a potential voter can use to

09:50:35 23 register to vote in your county?

09:50:36 24 A. Probably the, through DES is what I can think

09:50:36 25 of.

09:50:42 1 Q. And what is DES?

09:50:44 2 A. Department of Economic Security. There is an

09:50:51 3 office here, so, I mean, somebody could register through

09:50:55 4 there.

09:50:56 5 Q. And what about -- are you familiar with the

09:51:06 6 UOCAVA, federal postcard and federal write-in absentee

09:51:11 7 ballots?

09:51:13 8 A. Is that the FWABs, I think, the FWAB form,

09:51:20 9 federal write-in absentee? Is that what you said?

09:51:21 10 Q. Federal postcard and federal write-in absentee

09:51:21 11 ballot.

09:51:26 12 A. Oh, FPCA card. Yeah, that's for uniformed and

09:51:29 13 overseas citizens, military, could register using that

09:51:35 14 card, their FPCA card applications, yes.

09:51:38 15 Q. Okay. So any other means, besides those we just

09:51:41 16 discussed could an applicant use to register to vote in

09:51:49 17 your county?

09:51:49 18 A. Right. What we just mentioned, yes, yes, they

09:51:52 19 would utilize those methods.

09:51:55 20 Q. Okay. Great. Okay. Let's talk about

09:51:58 21 citizenship verification. I want to just direct your

09:52:01 22 attention first to document H. If you could open that and

09:52:04 23 let me know when it's open.

09:52:17 24 A. I have it open.

09:52:18 25 Q. Great. Have you seen this document before?

09:52:20 1 A. Yes.

09:52:23 2 Q. And what is it?

09:52:24 3 A. An email from Mr. Aguilar to Mr. Mitchell in
09:52:33 4 regards of how we verify citizenship.

09:52:35 5 Q. Okay. Sorry. I keep forgetting to mark exhibit
09:52:38 6 numbers. So let me just go back and say document J should
09:52:43 7 be Exhibit 235. And then we are going to mark this,
09:52:50 8 document H, as 236. Okay?

09:52:57 9 Okay. All right. So do you know what prompted
09:53:03 10 Mr. Aguilar to email this to Mr. Mitchell copying you?

09:53:08 11 A. Could have been the litigation.

09:53:21 12 Q. Can you be more specific about that?

09:53:25 13 A. Well, the lawsuit that we're, that we're in
09:53:29 14 right now. I'm assuming that it would have had to have
09:53:32 15 been in related, in relation to that.

09:53:35 16 Q. Okay. Okay. So it says:
09:53:40 17 Jason, the way we verified citizenship is
09:53:42 18 through the AVID system using HAVA, and if it is not
09:53:42 19 verified through HAVA we send letter asking the voter for
09:53:51 20 proof of citizenship according to statute and we also have
09:53:52 21 access to the SAVE program.

09:53:54 22 Did I read that right?

09:53:55 23 A. Yes, you did.

09:53:57 24 Q. Okay. Great. And AVID here refers to the
09:54:03 25 Access Voter Information Database, correct?

09:54:08 1 A. That is correct.

09:54:08 2 Q. And HAVA is the Help America Vote Again Act?

09:54:12 3 A. Correct.

09:54:12 4 Q. And SAVE is the Systematic Alien Verification
09:54:16 5 for Entitlements program?

09:54:16 6 A. That is correct.

09:54:17 7 Q. Great. Okay. So the process described in this
09:54:20 8 email, does it relate to how La Paz County verifies
09:54:25 9 citizenship of voter applicants who do not provide
09:54:30 10 documentary proof of citizenship?

09:54:32 11 A. So it's more of when somebody registers to vote,
09:54:39 12 the AVID system will verify that through the system
09:54:44 13 itself, matching information on the voter, whether it's
09:54:49 14 through their SSA, obviously, their date of birth, MVD
09:54:54 15 crossmatches with MVD, SSA, other government offices like
09:55:05 16 DHS, but mainly MVD as far as the citizenship is, you
09:55:12 17 know, concerned.

09:55:12 18 Q. Okay. Let's take that in just slightly more
09:55:17 19 bite-size pieces going step-by-step through that.

09:55:20 20 So how, how, how does your office use the AVID
09:55:23 21 system to verify an applicant's citizenship?

09:55:26 22 A. So, so we enter them into the system and it
09:55:32 23 crossmatches with MVD. So that clears out, that would
09:55:36 24 confirm their, it would confirm their citizenship through
09:55:39 25 MVD based off of their driver's license.

09:55:42 1 Q. Okay. So the MVD database has information about
09:55:48 2 an applicant's citizenship. Is that right?
09:55:50 3 A. That's correct.
09:55:51 4 Q. And are you aware of any other databases that
09:55:55 5 are accessible through AVID that also include citizenship
09:55:59 6 information?
09:56:00 7 A. Through AVID, as far as citizenship, no, not to
09:56:08 8 my knowledge. That's mainly, mainly through MVD.
09:56:11 9 Q. Okay. Are you familiar with HAVA checks?
09:56:15 10 A. Yes. So that's part of when we enter into the
09:56:19 11 system it does, what we call, the HAVA checks, which when
09:56:23 12 it does crossmatch with MVD, but it also does through SSA.
09:56:27 13 So I guess SSA would be another one, SSA and also DHS and
09:56:32 14 the court system.
09:56:33 15 Q. And what was the last one?
09:56:35 16 A. The courts.
09:56:36 17 Q. Courts.
09:56:37 18 A. Yeah.
09:56:38 19 Q. Okay. Okay. So, just to be clear, you enter
09:56:42 20 the registration form information into AVID.
09:56:46 21 A. Correct.
09:56:46 22 Q. AVID -- then what does AVID do?
09:56:49 23 A. It crossmatches, it does the HAVA checks.
09:56:54 24 Q. Okay. Then it does the HAVA check.
09:56:54 25 A. Right.

09:56:56 1 Q. And through the HAVA check, it consults these
09:56:59 2 different databases, the Motor Vehicle Division, the SSA,
09:57:04 3 the DHS, and the courts. Is that right?
09:57:05 4 A. That's correct.
09:57:06 5 Q. Okay. The MVD database we have already
09:57:09 6 discussed. That has information about an applicant's
09:57:11 7 citizenship.
09:57:12 8 The SSA database, is that the Social Security
09:57:18 9 Administration database?
09:57:18 10 A. That is correct.
09:57:18 11 Q. Okay. And does that have information about an
09:57:21 12 applicant's citizenship?
09:57:21 13 A. I mean, I would assume that the SSA would have
09:57:30 14 specific numbers for a person who is maybe a legal
09:57:34 15 permanent resident, but, you know, it wouldn't necessarily
09:57:36 16 tell us as far as citizenship, to my knowledge, when it
09:57:39 17 crosschecks with the SSA. It's, as far as citizenship it
09:57:44 18 would be through the MVD.
09:57:46 19 Q. Okay. And the DHS, that's the Department of
09:57:51 20 Homeland Security. Is that right?
09:57:53 21 A. Department of Health Services.
09:57:55 22 Q. Department of Health Services. Thank you.
09:57:59 23 And would that have information about an
09:58:01 24 applicant's citizenship?
09:58:02 25 A. No. That's more for deceased people.

09:58:05 1 Q. Okay. And when it accesses the courts, is that
09:58:11 2 like a particular court system it's accessing? Or what do
09:58:14 3 you mean by that?

09:58:15 4 A. Well, the court system, the statewide court
09:58:20 5 system, and that's for felony checks.

09:58:23 6 Q. So that, the court system that runs through the
09:58:26 7 HAVA check, would that have information about citizenship?

09:58:32 8 A. Not to my knowledge, no. It's, like I said,
09:58:35 9 it's more of a felony check.

09:58:38 10 Q. Okay. So sitting here today, it's the Motor
09:58:41 11 Vehicle database that would have the information about an
09:58:44 12 applicant's citizenship?

09:58:45 13 A. Yes.

09:58:46 14 Q. Okay. Okay. And are HAVA checks run for every
09:59:00 15 voter applicant?

09:59:02 16 A. Yes.

09:59:02 17 Q. And when you're running a HAVA check, what
09:59:09 18 information does it show you about the applicant's
09:59:13 19 citizenship?

09:59:13 20 A. So it would show DMV, the MVD information. It
09:59:26 21 would basically tell you if there was a legal permanent
09:59:31 22 resident maybe that may have, maybe would have -- if a
09:59:34 23 legal permanent resident would have used, or tried to
09:59:38 24 register, they would have, you know, an F number, I
09:59:41 25 believe, is what it would be. So it's a, they have a

09:59:45 1 different number, as opposed to someone who is actually a
09:59:49 2 citizen, to my knowledge.

09:59:50 3 Q. And by F number, are you referring to F-type
09:59:53 4 licenses?

09:59:54 5 A. Yes. F-type licenses, yes.

09:59:57 6 Q. Okay. And F-type licenses are used for people
10:00:01 7 who, at the time of registering, are lawful permanent
10:00:06 8 residents but not citizens. Is that right? I'm sorry.
10:00:09 9 Scratch that.

10:00:11 10 At the time that the person registers for their
10:00:13 11 driver's license, that means that they're not a citizen;
10:00:19 12 they're a lawful permanent resident.

10:00:20 13 A. Correct.

10:00:21 14 Q. Okay. Okay. So if the HAVA check matches to
10:00:32 15 information saying that the applicant is a citizen, do you
10:00:35 16 register that applicant as a full-ballot voter?

10:00:39 17 A. Yes.

10:00:40 18 Q. Okay. And if HAVA does not match the citizen's
10:00:45 19 information, what does your office do then?

10:00:48 20 A. So if they didn't, so if, if they didn't provide
10:00:58 21 their driver's license we run HAVA checks, and if MVD
10:01:03 22 provides it, we'll make them a full-ballot voter. If we
10:01:06 23 can't get any kind of citizenship verification, we would
10:01:18 24 place them as a didn't provide any citizenship
10:01:24 25 verification, we would put them as a fed-only voter,

10:01:34 1 federal-only voter. If they didn't provide any kind of
10:01:37 2 citizenship when they register to vote we would mark them
10:01:41 3 as a fed-only voter.

10:01:41 4 Q. Can you tell me what it means --

10:01:42 5 A. If that's what you're asking.

10:01:45 6 Q. Well, there's a couple of questions there.

10:01:47 7 So can you tell me what that means to be a
10:01:49 8 fed-only voter?

10:01:51 9 A. It means they would only be able to vote in
10:01:56 10 federal races.

10:01:57 11 Q. So if the HAVA check returns, you know, no match
10:02:05 12 to citizenship information, or it says they're a lawful
10:02:11 13 permanent resident because they have an F-type license --

10:02:13 14 A. Oh, if it comes back as an F-type license then
10:02:16 15 we will follow up with correspondence. We won't register
10:02:20 16 them. We'll put them as a not eligible, invalid
10:02:26 17 citizenship proof, and send them a letter and, asking them
10:02:30 18 to, you know, correct it if that's not accurate. Because
10:02:35 19 I would think that there could be occasions where somebody
10:02:39 20 could, you know, become a citizen, and within that time
10:02:44 21 frame, maybe they didn't, just didn't update their
10:02:48 22 driver's license to reflect that they're a citizen now and
10:02:49 23 they still have their F-type license.

10:02:49 24 Q. Got it.

10:02:51 25 A. So we follow up with a correspondence letting

10:02:53 1 them know, you know, the results of their, after we
10:02:58 2 process their application and letting them know what they
10:03:00 3 need to do as far as curing or correcting it.
10:03:03 4 Q. Okay. So you send a notice to voter applicants
10:03:08 5 who come back with an F-type license inviting them to
10:03:13 6 cure. Is that correct?
10:03:14 7 A. Yes. They can correct, if, if they are actually
10:03:17 8 a citizen.
10:03:18 9 Q. Of course.
10:03:18 10 A. Right.
10:03:20 11 Q. Do you send these notices to voter applicants
10:03:23 12 for any other reason?
10:03:24 13 A. We will send, probably not the same
10:03:30 14 correspondence, but we will send correspondence to people
10:03:34 15 that, you know, maybe didn't provide the citizenship
10:03:36 16 proof, and we end up registering them as a federal-ballot
10:03:42 17 voter only and letting them know how they can correct
10:03:45 18 that.
10:03:45 19 Q. Okay. So if you run the HAVA check and it
10:03:50 20 doesn't match the citizenship information, your office
10:03:52 21 will send them a notice letting them know that they have
10:03:55 22 been enrolled as a federal-only voter and how to cure so
10:03:59 23 that they can be restored to a full-ballot voter. Is that
10:04:02 24 right?
10:04:02 25 A. If they didn't provide citizenship --

10:04:05 1 Q. Okay.

10:04:05 2 A. -- with their application. Now, a lot of times

10:04:08 3 the HAVA checks may come back and actually provide that

10:04:11 4 information for us, which we'll then make them a

10:04:15 5 full-ballot voter, if MVD comes back with citizenship

10:04:20 6 verification to where maybe the voter just didn't put it

10:04:23 7 on their application.

10:04:23 8 Q. Got it.

10:04:24 9 A. Yes.

10:04:27 10 Q. So let's talk quickly about the F-type licenses.

10:04:37 11 So you mentioned that there are situations where

10:04:39 12 a person may just not have updated their driver's license

10:04:43 13 information but between the time they got the F-type

10:04:47 14 license and the time that they are trying to register to

10:04:49 15 vote they have been naturalized.

10:04:51 16 Have you had any personal experience at your

10:04:53 17 office with those sorts of voters?

10:04:56 18 A. Possibly. I mean, if there was, like I said, we

10:05:08 19 would follow up with correspondence and asking them to fix

10:05:14 20 it. So I mean at that point I would assume they would

10:05:19 21 either maybe show you with their naturalization

10:05:22 22 certificate. But I can't recall if we actually had a

10:05:29 23 scenario exactly like that.

10:05:29 24 Q. Okay. But you can't recall either, if you had

10:05:31 25 done that, whether or not the applicant cured by sending

10:05:34 1 in naturalization information?

10:05:37 2 A. Right off the top of my head no, but, I mean,

10:05:40 3 that's what we would do in a scenario like that if they,

10:05:44 4 you know, if that did happen.

10:05:45 5 Q. Got it.

10:05:46 6 A. We'd follow up with correspondence letting them

10:05:49 7 know what they need to do to fix it.

10:05:52 8 Q. Okay. And these notices that you send out

10:06:01 9 asking, you know, letting people know sort of the, the

10:06:04 10 status of these checks and asking them to cure, what do

10:06:09 11 these notices say?

10:06:14 12 A. I mean, I don't got the letter in front of me.

10:06:17 13 I mean, I'd have to get that from my chief deputy. He is

10:06:23 14 usually the one that sends out the correspondence, so I

10:06:25 15 mean, he has copies of the letter. But, yeah, I don't

10:06:30 16 have it in front of me, but it would be something along

10:06:32 17 the lines of them just asking them to, giving them the

10:06:38 18 methods as to how they can cure their, the DPOC

10:06:43 19 requirement.

10:06:43 20 Q. Do you know if the notices are in English or any

10:06:45 21 other languages too?

10:06:47 22 A. I mean, it's in English. Like I said, I'd have

10:06:52 23 to see if it's, if it's, the full thing is in Spanish as

10:06:57 24 well, or usually a lot of times there's a statement on

10:06:59 25 there in Spanish saying, you know, if you need this letter

10:07:03 1 or notice in Spanish, please notify our office and we can

10:07:08 2 always provide them one.

10:07:09 3 Q. Do you know if La Paz produced any notices in
10:07:16 4 this litigation?

10:07:17 5 A. I'm sorry. Can you ask that again?

10:07:19 6 Q. Are you aware whether or not your office
10:07:21 7 produced any copies of these notices?

10:07:24 8 A. The letters? Is that what you're asking?
10:07:29 9 The -- is that what you're asking, the letters if we
10:07:32 10 produced any kind of --

10:07:33 11 Q. Well, so I reviewed your productions and I
10:07:35 12 didn't see any sample notices produced by your office, so
10:07:39 13 I was just wondering whether or not you're planning on
10:07:45 14 supplementing a production with those notices.

10:07:48 15 A. I mean, we can.

10:07:50 16 Q. Okay. Maybe I can talk to Mr. Mitchell about
10:07:54 17 that on a break.

10:07:55 18 A. Okay.

10:07:56 19 MS. RIZZONI: I do think we've gone about an
10:07:58 20 hour on the record, so I want to offer if you wanted to
10:08:01 21 take a five-minute break or if you want to just keep
10:08:05 22 chugging along.

10:08:07 23 THE WITNESS: I'll take a little break.

10:08:09 24 MS. RIZZONI: Okay. Great. Well, then let's
10:08:11 25 reconvene in about five if that works, unless you need a

10:08:15 1 longer break.

10:08:16 2 THE WITNESS: Okay. Five minutes is good
10:08:16 3 enough.

10:08:19 4 MS. RIZZONI: Okay. Great.

10:08:21 5 THE VIDEOGRAPHER: Okay. We are off the record.
10:08:23 6 Time on the monitor is 10:08.

10:08:26 7 (Recess taken from 10:08 a.m. to 10:16 a.m.)

10:15:53 8 THE VIDEOGRAPHER: Okay. We are on the record.
10:16:09 9 Time on the monitor is 10:16. And you may proceed.

10:16:17 10 BY MS. RIZZONI:

10:16:18 11 Q. Great. Welcome back, Mr. Garcia.

10:16:20 12 Just a few more questions about these database
10:16:23 13 checks before we can move on to something new.

10:16:27 14 So before we broke for the five minutes we were
10:16:30 15 talking about, I guess, the potential for voters who were
10:16:36 16 lawful permanent residents at the time, but they got their
10:16:40 17 driver's license returning a, you know, non-citizen match
10:16:46 18 through the MVD database because of their F-type license,
10:16:47 19 and then later curing, after being served with a notice,
10:16:52 20 you know, showing that they've since become naturalized.

10:16:55 21 Do you remember talking about that?

10:16:56 22 A. Yes.

10:16:56 23 Q. Okay. So would you agree, then, that the MVD
10:17:06 24 database cannot conclusively determine that a person is or
10:17:11 25 is not a U.S. citizen?

10:17:15 1 A. Well, they can determine that based off of their
10:17:20 2 driver's license.

10:17:20 3 Q. If, for example, the driver's license is an
10:17:22 4 F-type license but the voter applicant has since
10:17:26 5 naturalized and become a citizen, then the database would
10:17:29 6 show that they're not a citizen although they really were.
10:17:34 7 That's correct?

10:17:35 8 A. That is correct. Unless, until they maybe renew
10:17:39 9 their driver's license, then they would probably get a,
10:17:41 10 I'm assuming they would get a different number identifying
10:17:43 11 them being a citizen.

10:17:44 12 Q. But you would agree, then, that the Motor
10:17:55 13 Vehicle database does not conclusively determine that a
10:17:57 14 person is not a U.S. citizen.

10:17:59 15 DEFENSE COUNSEL: Objection; misstates
10:18:01 16 testimony, leading.

10:18:03 17 THE WITNESS: So you're saying the MVD cannot
10:18:07 18 determine if they are a U.S. citizen. Is that what you're
10:18:09 19 asking me?

10:18:10 20 BY MS. RIZZONI:

10:18:10 21 Q. I'm asking you if the MVD can conclusively
10:18:13 22 determine whether or not an applicant is not a U.S.
10:18:15 23 citizen.

10:18:16 24 A. Well, they can.

10:18:23 25 Q. What do you mean by that?

10:18:25 1 A. Well, based off of their driver's license. I
10:18:29 2 mean, they would fulfill the citizenship requirement when
10:18:35 3 they register to vote. When they register with the DMV
10:18:39 4 they would have the driver's license number that would
10:18:41 5 determine that they are a citizen.

10:18:44 6 Q. Right. So the driver's license could determine
10:18:47 7 that a person is a citizen. I'm asking the inverse,
10:18:50 8 whether or not the database could determine conclusively
10:18:53 9 whether or not a person is not a citizen.

10:18:55 10 A. Oh.

10:18:56 11 DEFENSE COUNSEL: Asked and answered.

10:18:59 12 THE WITNESS: Well, they could get an F-type
10:19:02 13 license, which would mean they are not a citizen.

10:19:04 14 BY MS. RIZZONI:

10:19:04 15 Q. That would mean that they were not a citizen at
10:19:07 16 the time that they acquired the license.

10:19:08 17 A. Right.

10:19:09 18 Q. But they could have naturalized in the time
10:19:12 19 since. Is that right?

10:19:12 20 A. They could have, they could.

10:19:14 21 Q. Okay. So my question, then, is whether the MVD
10:19:18 22 database can conclusively determine whether or not a
10:19:20 23 person is not a U.S. citizen.

10:19:23 24 DEFENSE COUNSEL: Asked and answered.

10:19:24 25 THE WITNESS: I mean, unless they, like I said,

10:19:27 1 unless they update their driver's license they would

10:19:30 2 probably just be still considered not a citizen.

10:19:36 3 BY MS. RIZZONI:

10:19:36 4 Q. Okay. All right. One more database to talk

10:19:40 5 about with respect to this email and then we can, we can

10:19:42 6 move along.

10:19:52 7 So the SAVE program, that's a database that's

10:19:55 8 run by the United States Citizenship and Immigration

10:19:59 9 Services. Is that right?

10:19:59 10 A. Yes.

10:20:00 11 Q. And I'm probably going to refer to that as

10:20:07 12 USCIS. Does that work for you?

10:20:08 13 A. Yes.

10:20:08 14 Q. And it sounds like, from this email, your office

10:20:10 15 has access to the SAVE database.

10:20:13 16 A. Yes.

10:20:14 17 Q. And your office uses SAVE to perform citizen

10:20:17 18 checks for voter applicants. Is that right?

10:20:19 19 A. We have the ability to do so, but I never recall

10:20:25 20 having a need to use it.

10:20:29 21 Q. And then is it correct that SAVE is used to

10:20:33 22 verify the citizenship of naturalized voters only?

10:20:37 23 A. To my knowledge, yes.

10:20:39 24 Q. And do you know whether or not you can use the

10:20:45 25 SAVE system for citizenship verification purposes without

10:20:51 1 having an alien registration number or naturalization
10:20:54 2 certificate number?

10:20:56 3 A. That I don't know.

10:20:56 4 Q. And if an applicant provides their
10:21:02 5 naturalization certificate is that enough to satisfy the
10:21:05 6 DPOC requirement? Or do you also check the alien
10:21:09 7 registration number or their naturalization certificate
10:21:12 8 number using the SAVE system?

10:21:17 9 A. If they provided a number then we would use that
10:21:21 10 number. If they provided, you know, that number on the
10:21:26 11 registration form then we would utilize that number. But,
10:21:31 12 as I said, I never had to have a need to utilize the SAVE.

10:21:37 13 Q. So, just to be clear, when you say the number,
10:21:41 14 is that the alien registration number or naturalization
10:21:45 15 certificate number?

10:21:45 16 A. Sorry. Naturalization number.

10:21:47 17 Q. Okay. And when you say you've never had a need
10:21:53 18 to use SAVE, I guess, tell me then, under what
10:21:57 19 circumstances would your office need to use the SAVE
10:21:59 20 database to verify ones citizenship?

10:22:02 21 A. We got the form with their naturalization number
10:22:10 22 on it, and maybe didn't provide the driver's license
10:22:16 23 number, and maybe that driver's license number came back
10:22:19 24 as an F-type but yet there was a naturalization number on
10:22:23 25 there, then I'm assuming in that scenario we would

10:22:25 1 probably utilize the SAVE program.

10:22:27 2 Q. So would you use the SAVE program for

10:22:31 3 applicants, every applicant that includes an A number or a

10:22:34 4 naturalization certificate number on their registration

10:22:36 5 form?

10:22:36 6 A. If they provided a naturalization number.

10:22:42 7 Q. And, in that case, would you always consult SAVE

10:22:45 8 or only when they don't also provide some other

10:22:45 9 information indicating citizenship?

10:22:49 10 A. Only if there was no information and just that

10:22:52 11 naturalization number. But usually the HAVA checks would

10:22:56 12 clear that, would suffice that, that DPOC. This would

10:23:00 13 only be if we didn't have any result from the HAVA checks

10:23:05 14 and the, but we did have a naturalization number, then we

10:23:10 15 would utilize the SAVE with that.

10:23:12 16 Q. Okay. So just to clarify sort of the order of
10:23:16 17 operations at your office.

10:23:17 18 So you first access AVID, that runs the HAVA
10:23:20 19 check. If the HAVA check doesn't return something back
10:23:24 20 about the applicant's citizenship and they have provided
10:23:28 21 either an alien registration number or a naturalization
10:23:32 22 certificate number, then you would use SAVE. Is that
10:23:36 23 right?

10:23:36 24 A. That is correct.

10:23:37 25 Q. So I think I already know the answer to this

10:23:45 1 just because you said you haven't, you don't recall any
10:23:47 2 uses of the SAVE program, but, as a general practice, do
10:23:51 3 you know whether your office would search SAVE with the
10:23:55 4 alien registration number, the naturalization certificate
10:23:58 5 number, or both numbers?

10:23:59 6 A. Pending the number is provided. I mean, if they
10:24:05 7 provided a number, I mean, we would use it.

10:24:07 8 Q. If they provided both numbers, the alien
10:24:11 9 registration number and the naturalization number would
10:24:11 10 you use both.

10:24:11 11 (Simultaneous speakers.)

10:24:11 12 MS. RIZZONI: Sorry.

10:24:17 13 THE WITNESS: I, if they provided an A number we
10:24:21 14 would use that, I mean, or the naturalization number.

10:24:28 15 Again, I'm not, never had a need to utilize it, so I'm not
10:24:32 16 sure what kind of results would be, what it would be like
10:24:36 17 for an A number. But, but if they provided it we would
10:24:41 18 use it.

10:24:42 19 BY MS. RIZZONI:

10:24:42 20 Q. Do you know if a SAVE check is more accurate if
10:24:46 21 you enter both numbers into the system?

10:24:48 22 A. That I don't know.

10:24:50 23 DEFENSE COUNSEL: Foundation.

10:24:51 24 BY MS. RIZZONI:

10:24:54 25 Q. All right. So if SAVE indicates that the voter

10:24:57 1 has been naturalized, you would register them as a
10:25:01 2 full-ballot voter, correct?

10:25:03 3 A. If it came back as being that they were a
10:25:05 4 citizen, yeah.

10:25:06 5 Q. And then what happens at your office if the SAVE
10:25:10 6 system search returns either no match or a record
10:25:14 7 reflecting a lack of citizenship?

10:25:16 8 A. We would just follow up with a letter letting
10:25:21 9 them know that, you know, of our, the results of their
10:25:25 10 application and anyway for them to correct it.

10:25:29 11 Q. Okay. Do you know whether or not USCIS has an
10:25:38 12 alternative or an additional verification process?

10:25:42 13 A. Yeah, I don't know that.

10:25:44 14 Q. Okay. So safe to say that you've never used
10:25:51 15 USCIS's alternative or additional verification procedures?

10:25:55 16 A. Correct.

10:25:55 17 Q. Okay. Okay. And beyond AVID, the HAVA check,
10:26:05 18 which looks at the MVD database, and the SAVE, does your
10:26:09 19 office have access to any other databases that could be
10:26:13 20 used to verify citizenship information, to your knowledge?

10:26:19 21 A. No, not to my knowledge.

10:26:21 22 Q. And these procedures that we just talked about,
10:26:29 23 you know, using AVID, HAVA checks, SAVE, does La Paz
10:26:33 24 County follow those procedures regardless of the manner in
10:26:36 25 which the voter registered, meaning the state form, the

10:26:39 1 federal form, online, et cetera?

10:26:42 2 A. That's correct.

10:26:43 3 Q. And who in your office is responsible for
10:26:46 4 verifying voter applicant citizenship status?

10:26:51 5 A. Well, that would be my chief deputy who is also,
10:26:55 6 does the voter registration part of the office because we
10:26:59 7 are a small office.

10:27:00 8 Q. Okay. So Mr. Aguilar would be the person
10:27:03 9 responsible for verifying voter applicant citizenship
10:27:06 10 status?

10:27:06 11 A. Yes.

10:27:07 12 Q. Okay. And do you happen to know how long it
10:27:11 13 takes to run a check to verify an applicant citizenship
10:27:16 14 status?

10:27:17 15 A. I mean, it probably does that in a matter of
10:27:26 16 seconds, less than a minute. It runs the checks and DMV
10:27:31 17 will give us results within a few seconds.

10:27:34 18 Q. Does it make a difference to your answer whether
10:27:38 19 or not, what results are returned by the different
10:27:41 20 database checks?

10:27:43 21 A. I'm sorry. Can you ask that again?

10:27:46 22 Q. Like, for example, if you get no conclusive

10:27:52 23 information from the HAVA check, then you need to access

10:27:56 24 SAVE, I would assume that takes longer than just running a

10:28:00 25 HAVA check?

10:28:01 1 A. I don't know how long SAVE would take, because,
10:28:04 2 again, I haven't used it for that, but, I mean, if we
10:28:07 3 didn't get any result back from MVD, again, we would still
10:28:11 4 follow up with a letter letting them know how to correct
10:28:15 5 it and that we didn't have, you know, to suffice the DPOC
10:28:19 6 requirement. And then, again, depending on what kind of
10:28:22 7 information, you know, if they gave us a number, we would
10:28:25 8 utilize it for SAVE, but, again, I don't know how long it
10:28:27 9 would take for SAVE to, you know, to verify that
10:28:30 10 information, whether it takes a couple of seconds or a
10:28:34 11 minute or a day. I don't know.

10:28:35 12 Q. And you said there are three people in your
10:28:38 13 office, that's you, Mr. Aguilar, and then who is the
10:28:40 14 third?

10:28:40 15 A. That is our recording clerk, front desk.

10:28:44 16 Q. Okay. And Mr. Aguilar's duties include
10:28:47 17 verifying the applicant's citizenship, voter registration.
10:28:52 18 What else does he do?

10:28:54 19 A. Well, he is my chief deputy, but, you know, like
10:28:58 20 I said we're a small office, so he does do the voter
10:29:00 21 registration part of it as well.

10:29:02 22 Q. Okay. Besides voter registration and verifying
10:29:05 23 citizenship, does he have any other job responsibilities?

10:29:08 24 A. Well, he oversees the front, the front of the
10:29:12 25 office. I mean, as far as voter registration, processing

10:29:19 1 of the applicants, the applications, sending out voter ID
10:29:24 2 cards, early voting, when early voting is going on, I
10:29:28 3 mean, he's involved in that, but I'm involved in that as
10:29:30 4 well.

10:29:31 5 Q. You guys are busy, I take it?

10:29:33 6 A. Yeah.

10:29:34 7 Q. Okay. Great. Okay. Once a voter is
10:29:47 8 registered, under what circumstances, if any, does your
10:29:50 9 office reverify a registered voter's citizenship?

10:29:53 10 A. Are you asking me if they come back as being a
10:30:00 11 citizenship, citizen, if we follow up with that? Is that
10:30:02 12 what you're asking me?

10:30:03 13 Q. No. I'm asking if a voter is, it passes all the
10:30:07 14 checks, you register them, as, you know, a voter, do you
10:30:12 15 ever go back and recheck them?

10:30:15 16 A. No.

10:30:18 17 Q. Okay. All right. Let's turn to the laws. So
10:30:25 18 I'd ask you to open what is premarked as Petty Exhibit 19.
10:30:36 19 Let me know when you have that open.

10:30:41 20 A. I have it open.

10:30:43 21 Q. And this is House Bill 2492, correct?

10:30:47 22 A. Correct.

10:30:47 23 Q. Okay. So I'd like to direct your attention to
10:30:51 24 page four near the bottom, line 35, section D. Let me
10:30:58 25 know when you're there.

10:31:05 1 A. Section D you said?

10:31:06 2 Q. Yes. Line 35.

10:31:08 3 A. Yes.

10:31:09 4 Q. Okay. So H.B. 2492 says:

10:31:15 5 Within ten days after receiving an application

10:31:17 6 for registration on a form produced by the United States

10:31:23 7 Election Assistance Commission that is not accompanied by

10:31:24 8 satisfactory evidence of citizenship, the County Recorder

10:31:26 9 or other officer in charge of elections shall use all

10:31:30 10 available resources to verify the citizenship status of

10:31:33 11 the applicant and at a minimum shall compare the

10:31:36 12 information available on the application for registration

10:31:39 13 with the following, provided the county has access.

10:31:44 14 Do you see that?

10:31:45 15 A. Yes.

10:31:45 16 Q. And then H.B. 2492 goes on to list a number of

10:31:50 17 databases, right?

10:31:51 18 A. Right.

10:31:52 19 Q. Okay. And the first database it lists is the

10:31:55 20 Department of Transportation databases of Arizona driver

10:31:59 21 licenses or nonoperating identification licenses, right?

10:32:02 22 A. Yes.

10:32:03 23 Q. And is this the same database that is accessible

10:32:08 24 to your office through the HAVA check, or is this

10:32:08 25 referring to something different?

10:32:10 1 A. I'm assuming it's the same, MVD, through the

10:32:10 2 HAVA checks.

10:32:21 3 Q. Okay. And we discussed this before. You use

10:32:24 4 the information through the ADOT MVD database to verify

10:32:29 5 citizenship information as part of the HAVA check?

10:32:32 6 A. Yeah, if it's part of MVD, I would say yes,

10:32:34 7 but...

10:32:38 8 Q. Okay. Does your county have a memorandum of
10:32:42 9 understanding or memorandum of agreement with the ADOT MVD
10:32:48 10 to govern their use of information in that database?

10:32:56 11 A. I would think it's probably something through
10:33:00 12 the state.

10:33:02 13 Q. Okay. So currently it's your belief that that
10:33:04 14 memoranda would be something through the Secretary of
10:33:07 15 State's Office and not specific to your office?

10:33:08 16 A. Yes. To my understanding, to my knowledge,
10:33:11 17 yes --

10:33:11 18 Q. Okay.

10:33:11 19 A. -- that's correct.

10:33:12 20 Q. Okay. So do you know whether or not that
10:33:14 21 existing agreement would cover the use cases outlined in
10:33:18 22 H.B. 2492?

10:33:18 23 DEFENSE COUNSEL: Foundation.

10:33:28 24 THE WITNESS: Yeah, I don't know.

10:33:28 25 BY MS. RIZZONI:

10:33:28 1 Q. Hold on one second.

10:34:06 2 Okay. Do you recall an incident from last year

10:34:12 3 where database matching with the MVD database produced

10:34:16 4 erroneous results that caused thousands of voters to be

10:34:20 5 downgraded to federal-only voting status?

10:34:23 6 A. Rings a bell, but I can't entirely remember all

10:34:30 7 the details about it.

10:34:32 8 Q. Can you tell me what you do remember?

10:34:35 9 A. Just basically that. I mean, I remember

10:34:38 10 something happening, but I don't know in detail, I can't

10:34:41 11 remember in detail what it actually, what actually went

10:34:44 12 down.

10:34:44 13 Q. Okay. It's your understanding, though, that

10:34:47 14 there was an error with the MVD database that caused the

10:34:51 15 downgrading of these voters to federal-only status?

10:34:54 16 A. If I recall correctly, I remember something

10:34:57 17 happening like that. But, again, I don't know in detail.

10:34:59 18 Q. Okay. Let's take a look at document I. We'll

10:35:03 19 just quickly take a look. Hopefully that will refresh

10:35:07 20 your recollection.

10:35:11 21 Let me know when it's open.

10:35:12 22 A. I got it open.

10:35:15 23 Q. Okay. And I'm sorry. I'm so bad with the

10:35:17 24 exhibit numbers. We are on 230 -- no, wait, what are we

10:35:24 25 on? I think we're on 237. So let's mark this as

10:35:35 1 Exhibit 237. Thank you. Okay.

10:35:44 2 Okay. Have you ever seen this document before?

10:35:45 3 A. I don't recall. Maybe I have, but I just don't

10:35:53 4 remember, but...

10:35:55 5 Q. I'm going to direct your attention to the to

10:36:00 6 line. It says, Rgarcia@lapazcountyz.org.

10:36:04 7 That's your email. Is that right?

10:36:05 8 A. Yeah, that is correct.

10:36:06 9 Q. All right. This is an email, for the record,

10:36:11 10 AZSOS-239292, and it's from the AVID help desk to Richard

10:36:18 11 Garcia and Mr. Aguilar, and the subject line is MVD HAVA

10:36:24 12 checks follow up. And I'd like to direct your attention

10:36:30 13 to the second paragraph. It says:

10:36:32 14 Following the MVD's investigation, we learned

10:36:35 15 that the HAVA check was reviewing MVD records that did not

10:36:38 16 have an authorized presence value. This led the HAVA

10:36:41 17 check to review extraneous records in addition to the

10:36:44 18 state-issued ID record, if it existed. As a secondary

19 issue, the HAVA check did not consistently prioritize the

20 state-issued ID when returning an authorized presence

21 value.

22 (The Reporter requested Ms. Rizzoni to slow

23 down.)

24 MS. RIZZONI: Sorry. Yes.

25 BY MS. RIZZONI:

10:36:58 1 Q. As a secondary issue, the HAVA check did not
10:37:01 2 consistently prioritize the state-issued ID when returning
10:37:05 3 an authorized presence value. This meant that some voter
10:37:09 4 records were incorrectly receiving a null value for
10:37:11 5 authorized presence, which resulted in the voter being
10:37:15 6 placed in fed-only status when they should have been
10:37:19 7 full-ballot voters.

10:37:19 8 Do you see that, Mr. Garcia?

10:37:22 9 A. Yes.

10:37:23 10 Q. Okay. Does that refresh your recollection about
10:37:25 11 what happened last year with the MVD database?

10:37:28 12 A. Yeah, a little bit.

10:37:32 13 Q. Okay. Do you recall whether this issue affected
10:37:39 14 voters in La Paz County?

10:37:40 15 A. I would, I mean, at that time we have, we have
10:37:50 16 less than 20 that are -- oh, wait a minute. I'm sorry.
10:38:00 17 So these are -- yeah, I can't recall if we had many people
10:38:08 18 affected by that or not.

10:38:09 19 Q. Do you recall whether any people in La Paz
10:38:14 20 County were affected by this error?

10:38:16 21 A. Yeah, I'm sorry. I don't recall if any or how
10:38:21 22 many. I mean, we all -- if there was just maybe a day
10:38:25 23 that that happened, which maybe it sounds like, it
10:38:29 24 probably wouldn't have been many, if it did, but I can't
10:38:33 25 give you a number.

10:38:49 1 Q. Okay. Do you recall whether or not your office
 10:38:52 2 was concerned about this database error occurring so close
 10:38:57 3 to the November 2022 election?

10:38:59 4 A. I mean, something like that would be concerning.

10:39:07 5 Q. You'd be concerned that the database error would
 10:39:12 6 have caused maybe the disenfranchisement of people who
 10:39:18 7 were previously registered as full-ballot voters?

10:39:21 8 A. I mean, yeah. I mean, if that's what was going
 10:39:22 9 to happen it would be concerning.

10:39:33 10 DEFENSE COUNSEL: Question mischaracterizes the
 10:39:35 11 record.

10:39:37 12 BY MS. RIZZONI:

10:39:38 13 Q. All right. So the, let's just go back to
 10:39:41 14 H.B. 2492, that's Petty Exhibit 19. Same spot, which is
 10:39:44 15 page four. We are now at line 44. Okay.

10:39:54 16 Are you there?

10:39:55 17 A. Yes.

10:39:58 18 Q. Okay. So the second database that H.B. 2492
 10:40:04 19 asks County Recorders to access is the Social Security
 10:40:09 20 Administration databases.

10:40:11 21 Do you see that?

10:40:11 22 A. Yes.

10:40:12 23 Q. And we are already sort of briefly talked about
 10:40:16 24 this. So La Paz County has access to the Social Security
 10:40:20 25 Administration database?

10:40:21 1 A. Through the HAVA checks.

10:40:23 2 Q. Through the HAVA check.

10:40:24 3 And I believe it was your testimony that you do

10:40:28 4 not use it to verify citizenship status?

10:40:31 5 A. That's just to verify their social. I don't

10:40:35 6 think it's connected with citizenship verification.

10:40:41 7 Q. Okay.

10:40:41 8 A. Although I -- at least to my knowledge.

10:40:44 9 Q. Fair enough.

10:40:46 10 Okay. So I'll ask you to flip the page to page

10:40:49 11 five, the first line, No. 3, is the United States

10:40:56 12 Citizenship and Immigration Services Systematic Alien

10:41:01 13 Verification for Entitlements Program, if practicable.

10:41:03 14 Do you see that?

10:41:04 15 A. Yes.

10:41:04 16 Q. So we have already talked about SAVE at length,

10:41:07 17 which your office would use to verify voter applicants who

10:41:12 18 provide an A number or a naturalization certificate

10:41:16 19 number, right?

10:41:17 20 A. Yes.

10:41:17 21 Q. And at the end of No. 3, it says, if

10:41:26 22 practicable.

10:41:27 23 Do you have an understanding of what that means?

10:41:32 24 DEFENSE COUNSEL: Calls for legal conclusion.

10:41:34 25 THE WITNESS: No.

10:41:36 1 BY MS. RIZZONI:
10:41:36 2 Q. No.
10:41:39 3 Do you have, does your county, I'm sorry, have
10:41:42 4 an agreement with the USCIS that governs the use of your,
10:41:49 5 of the data in the SAVE program?
10:41:51 6 A. I would think so. Since we have access to it, I
10:41:55 7 would think yes.
10:41:56 8 Q. Do you know if your, if that agreement would
10:41:59 9 being directly with your county, or is that through the
10:42:02 10 Secretary of State?
10:42:03 11 A. My thought would be through the Secretary of
10:42:10 12 State.
10:42:10 13 Q. Okay. Do you know whether that existing
10:42:16 14 agreement with USCIS covers the use cases outlined in
10:42:22 15 H.B. 2492?
10:42:26 16 A. I do not know.
10:42:27 17 Q. And what about the use cases in H.B. 2243?
10:42:31 18 A. I don't know that either.
10:42:32 19 Q. Okay. So No. 4, the fourth database, is a
10:42:39 20 National Association For Public Health Statistics and
10:42:43 21 Information Systems Electronic Verification of Vital
10:42:47 22 Events System.
10:42:47 23 Do you see that?
10:42:49 24 A. Yes.
10:42:49 25 Q. Are you familiar with that database?

10:42:51 1 A. No.

10:42:52 2 Q. Okay. So safe to say you've never used that

10:42:56 3 database to verify citizenship?

10:42:59 4 A. That is correct.

10:43:00 5 Q. Okay. Do you know if you have access to that

10:43:03 6 database?

10:43:03 7 A. I do not.

10:43:06 8 Q. You do not know or you do not have access?

10:43:09 9 A. I do not know.

10:43:10 10 Q. Okay. Do you know whether -- oh, I'm sorry.

10:43:17 11 Scratch that.

10:43:20 12 Do you know whether or not you can use this

10:43:27 13 database to verify citizenship of a voter applicant?

10:43:31 14 DEFENSE COUNSEL: Foundation.

10:43:32 15 THE WITNESS: I do not know.

10:43:34 16 BY MS. RIZZONI:

10:43:35 17 Q. Okay.

10:43:35 18 A. And I think the fact that I don't know, I would

10:43:38 19 say I don't have access to it.

10:43:39 20 Q. Okay. I don't want you to speculate, so if you

10:43:43 21 don't know that's a perfectly fine answer too.

10:43:46 22 A. Okay.

10:43:47 23 Q. Okay. So the last database is No. 5, that's on

10:43:51 24 line five of page five. And it says:

10:43:52 25 The County Recorder should consult any other

10:43:56 1 state, city, town, county, or federal database and any
 10:44:00 2 other database relating to voter registration to which the
 10:44:05 3 County Recorder or officer in charge of elections has
 10:44:08 4 access, including an electronic registration information
 10:44:11 5 center database.

10:44:13 6 Do you see that?

10:44:14 7 A. Yes.

10:44:14 8 Q. Okay. Do you have any idea what databases that
 10:44:17 9 might be referring to?

10:44:20 10 DEFENSE COUNSEL: Calls for legal conclusion.

10:44:22 11 THE WITNESS: I don't.

10:44:22 12 BY MS. RIZZONI:

10:44:24 13 Q. Are you aware of any other database that you are
 10:44:26 14 not currently using that would be useful in carrying out
 10:44:30 15 your office's voter registration duties?

10:44:33 16 A. No, I don't.

10:44:34 17 Q. Okay. Let's flip back a page to page four
 10:44:40 18 again. And I'll direct your attention to line 38. And
 10:44:46 19 let me know when you're there.

10:44:49 20 A. I'm there.

10:44:50 21 Q. So H.B. 2492 states that your office must use,
 10:44:57 22 quote: All available resources to verify the citizenship
 10:45:00 23 status of the applicant of the applicant.

10:45:03 24 Do you see that?

10:45:04 25 A. Yes.

10:45:04 1 Q. What do you understand use all available
10:45:09 2 resources to mean?
10:45:11 3 DEFENSE COUNSEL: Calls for legal conclusion.
10:45:14 4 THE WITNESS: Anything that's being made
10:45:20 5 available to, anything that's given access to us to use.
10:45:24 6 That's what I'm thinking.
10:45:26 7 BY MS. RIZZONI:
10:45:27 8 Q. And when you say anything, are you referring to
10:45:29 9 databases to which you may have access?
10:45:31 10 A. Yes, sorry, databases. If we are given access,
10:45:35 11 that's what I'm assuming that's what it means.
10:45:40 12 Q. All right. Let's go to page five, the next
10:45:43 13 page, and I'll direct your attention to lines 14, to line
10:45:48 14 14. And starting on line 14, on page 5, on H.B. 2492, it
10:45:58 15 says:
10:45:59 16 If the County Recorder or other officer in
10:46:01 17 charge of elections matches the applicant with the
10:46:04 18 information that the applicant is not a U.S. citizen the
10:46:08 19 County Recorder or other officer in charge of elections
10:46:11 20 shall reject the application.
10:46:13 21 Do you see that?
10:46:14 22 A. Yes.
10:46:14 23 Q. What information can be used to confirm a voter
10:46:21 24 is not a U.S. citizen?
10:46:23 25 DEFENSE COUNSEL: Same objection.

10:46:25 1 THE WITNESS: Sorry. Can you ask that again?

10:46:29 2 BY MS. RIZZONI:

10:46:30 3 Q. Yeah. What information could be used to confirm

10:46:33 4 a voter is not a U.S. citizen?

10:46:37 5 DEFENSE COUNSEL: Same objection.

10:46:41 6 THE WITNESS: The only thing I can think of is

10:46:46 7 depending on the results of our HAVA checks.

10:46:49 8 BY MS. RIZZONI:

10:46:49 9 Q. Could the information be anything beyond the

10:46:52 10 information that you gleaned from a HAVA check?

10:46:55 11 DEFENSE COUNSEL: Same objection.

10:46:57 12 THE WITNESS: I mean, outside of that, or --

10:46:59 13 like I said, we have access to SAVE. I mean, we didn't

10:47:02 14 get any -- out of that. I don't think anything else.

10:47:06 15 BY MS. RIZZONI:

10:47:07 16 Q. So could the information be something beyond

10:47:12 17 information from a government or voter registration

10:47:15 18 database?

10:47:17 19 DEFENSE COUNSEL: Same objection.

10:47:18 20 THE WITNESS: I mean, that's all I have access

10:47:22 21 to, so, I mean, I couldn't say. I mean, that's all I have

10:47:27 22 access to is just through the HAVA checks and SAVE.

10:47:31 23 BY MS. RIZZONI:

10:47:31 24 Q. So if a person called up your office and said, I

10:47:35 25 don't think my neighbor is a citizen and he is voting,

10:47:36 1 that wouldn't be information that would confirm a person
10:47:39 2 is not a U.S. citizen?

10:47:40 3 DEFENSE COUNSEL: Same objection. Calls for
10:47:42 4 legal conclusion.

10:47:44 5 THE WITNESS: I mean, if somebody did that, no,
10:47:47 6 I mean, that's not -- I wouldn't take somebody's word for
10:47:52 7 it just because they said it.

10:47:55 8 BY MS. RIZZONI:

10:47:55 9 Q. Okay. Just to clarify.

10:47:57 10 So has your office ever been given a specific
10:48:00 11 list of means by which a voter applicant can be determined
10:48:03 12 or proven to be a not citizen?

10:48:06 13 A. I think -- so that's receiving a list of people
10:48:27 14 that are not citizens? Is that what you're asking?

10:48:29 15 Q. No. I'm asking about whether you have ever been
10:48:33 16 given a specific list of means by which a voter applicant
10:48:36 17 can be determined or proven to be a non-citizen.

10:48:40 18 A. I don't recall anything like that, having
10:48:42 19 received something.

10:48:42 20 Q. Has the Secretary of State's Office ever given
10:48:45 21 your office a list of information that would constitute
10:48:48 22 evidence of a lack of U.S. citizenship?

10:48:53 23 A. Non-U.S. citizen. I mean, I can't recall. I
10:49:12 24 mean, my chief deputy would be the one to receive it, so
10:49:17 25 I'd have to say I can't recall.

10:49:19 1 Q. Sitting here today, you're not aware of any
10:49:22 2 Secretary of State guidance about --
10:49:22 3 A. Right.
10:49:24 4 Q. -- the needing of information that would
10:49:25 5 constitute evidence that a person is not a U.S. citizen,
10:49:29 6 right?
10:49:29 7 A. I don't recall anything like that.
10:49:31 8 Q. All right. Now, it says, information that the
10:49:36 9 applicant is not a United States citizenship -- or is not
10:49:39 10 a U.S. citizen. I want to ask about the age of that
10:49:47 11 information.
10:49:47 12 Is there -- when would information be too old to
10:49:53 13 qualify as information that someone is not a United States
10:49:56 14 citizen today?
10:50:00 15 DEFENSE COUNSEL: Calls for legal conclusion.
10:50:03 16 THE WITNESS: I'm not sure. Other than maybe it
10:50:13 17 was a passport or, you know, if there was an expiration
10:50:16 18 date on it. I guess something like that.
10:50:21 19 BY MS. RIZZONI:
10:50:21 20 Q. Would an expired passport show that someone is
10:50:27 21 not a United States citizen today?
10:50:29 22 DEFENSE COUNSEL: Same objection.
10:50:31 23 THE WITNESS: Yeah, I'm not, I'm not, I'm not
10:50:33 24 entirely sure. I mean, other than it's expired, so I
10:50:39 25 don't think they would be able to use an expired passport.

10:50:43 1 BY MS. RIZZONI:

10:50:44 2 Q. So, sitting here today, you're not aware of like

10:50:47 3 an age cutoff for the information that could be used to

10:50:50 4 confirm whether or not someone is a U.S. citizen?

10:50:54 5 A. That's correct.

10:50:56 6 DEFENSE COUNSEL: Same objection.

10:50:58 7 BY MS. RIZZONI:

10:50:58 8 Q. Okay. All right. Let's move on to what is

10:51:02 9 premarked as Petty Exhibit 21, which is H.B. 2243.

10:51:11 10 Let me know when you have that open.

10:51:12 11 A. I've got it open.

10:51:14 12 Q. Okay. And I'm going to ask you some similar

10:51:17 13 questions about this bill.

10:51:19 14 So I'd like to direct your attention to page

10:51:21 15 four, line five, which is section 10.

10:51:27 16 Do you see that?

10:51:28 17 A. Yes.

10:51:32 18 Q. Okay. And under H.B. 2243, the County Recorder

10:51:38 19 shall cancel a registration, quote:

10:51:41 20 When the County Recorder obtains information

10:51:43 21 pursuant to this section and confirms that the person

10:51:48 22 registered is not a United States citizen.

10:51:50 23 Do you see that?

10:51:51 24 A. Line 10, you said, right?

10:51:54 25 Q. Line 10?

10:51:56 1 A. Could you say that again? I kind of lost it.

10:51:58 2 Q. Hmm hmm.

10:51:59 3 When the County Recorder obtains information
10:52:01 4 pursuant to this section and confirms that the person
10:52:05 5 registered is not a United States citizen.

10:52:07 6 Do you see that?

10:52:07 7 A. Okay. Yes.

10:52:08 8 Q. Okay. So we talked a little bit about
10:52:12 9 information and confirmations with respect to 2492. I
10:52:16 10 just wanted to see if you had a sense of what information
10:52:20 11 can be used to confirm a voter is not a citizen in the
10:52:24 12 context of H.B. 2243.

10:52:27 13 DEFENSE COUNSEL: Calls for legal conclusion.

10:52:29 14 THE WITNESS: Can you clarify the question a
10:52:33 15 little bit?

10:52:33 16 BY MS. RIZZONI:

10:52:33 17 Q. Yeah. So earlier we talked about with respect
10:52:35 18 to 2492 that you, you know, had never received, for
10:52:41 19 example, guidance from the Secretary of State about what
10:52:44 20 information could be used to confirm a person is not a
10:52:49 21 United States citizen. And so I just have a similar
10:52:51 22 question here, which is, A, to get a sense of what you
10:52:54 23 understand that information to mean, and, I'm going to
10:52:58 24 also ask questions about whether you received any guidance
10:53:00 25 on it.

10:53:01 1 So let's just start with whether you have an
10:53:04 2 understanding and what that understanding is about what
10:53:07 3 information could be used to confirm a voter is not a
10:53:11 4 citizen for purposes of this bill.
10:53:13 5 A. Yeah, I don't think we received any kind of
10:53:15 6 guidance on any of these two bills.
10:53:17 7 Q. Okay. And beyond guidance, do you have an
10:53:22 8 understanding of what information could be used to confirm
10:53:26 9 a voter is not a United States citizen?
10:53:28 10 DEFENSE COUNSEL: Same objection.
10:53:29 11 THE WITNESS: Is not a citizen?
10:53:31 12 BY MS. RIZZONI:
10:53:32 13 Q. Correct.
10:53:33 14 A. Again, I would have to refer to results of HAVA
10:53:37 15 checks.
10:53:40 16 Q. Okay. So for purposes of H.B. 2243, like with
10:53:48 17 H.B. 2492, it's the understanding that the information
10:53:52 18 that this is referring to would be exclusive to the
10:53:55 19 databases that you have access to.
10:54:00 20 DEFENSE COUNSEL: Same objection.
10:54:01 21 THE WITNESS: Yeah.
10:54:02 22 BY MS. RIZZONI:
10:54:07 23 Q. All right. Let's flip to page six, line six,
10:54:14 24 section H. Let me know when you're there.
10:54:22 25 A. Did you say line eight?

10:54:25 1 Q. Page six, line six, section H.

10:54:28 2 A. Yes. I'm there.

10:54:29 3 Q. Okay. It says:

10:54:30 4 To the extent practicable, each month the County

10:54:35 5 Recorder shall compare persons who are registered to vote

10:54:38 6 in that county and who the County Recorder has reason to

10:54:42 7 believe are not U.S. citizens and persons who are

10:54:45 8 registered to vote without satisfactory evidence of

10:54:48 9 citizenship as prescribed by Section 18-166 with the

10:54:54 10 Systematic Alien Verification for Entitlements Program

10:54:57 11 maintained by the United States Citizenship and

10:54:59 12 Immigration Services to verify the citizenship status of

10:55:02 13 the persons registered.

10:55:04 14 Do you see that?

10:55:04 15 A. Yes.

10:55:05 16 Q. Okay. And what is your understanding of what

10:55:09 17 would give your office a reason to believe a person is not

10:55:13 18 a United States citizen?

10:55:16 19 DEFENSE COUNSEL: Calls for a legal conclusion.

10:55:18 20 THE WITNESS: Again, I mean, if something came

10:55:23 21 back as not being verified through the HAVA checks.

10:55:26 22 BY MS. RIZZONI:

10:55:30 23 Q. So beyond the HAVA check, anything else that

10:55:33 24 would give your office reason to believe a person is not a

10:55:36 25 United States citizen?

10:55:38 1 DEFENSE COUNSEL: Same objection.

10:55:42 2 THE WITNESS: No.

10:55:44 3 BY MS. RIZZONI:

10:55:48 4 Q. Has your office ever been given specific

10:55:51 5 guidance about what would give rise to a reason to believe

10:55:55 6 a person is not a U.S. citizen?

10:55:58 7 A. Not that I can recall.

10:56:03 8 Q. And what about the converse? Has your office

10:56:06 9 ever been provided with specific guidance regarding what

10:56:09 10 is not a valid reason to believe someone is not a U.S.

10:56:13 11 citizen?

10:56:15 12 A. Not to my knowledge.

10:56:19 13 Q. Okay. Last question about H.B. 2243. If we can

10:56:27 14 just scooch down to line 20, section J.

10:56:32 15 Let me know when you're there.

10:56:34 16 A. I'm sorry. Which page?

10:56:35 17 Q. I'm sorry. Page six, line 20, section J.

10:56:40 18 A. I see it.

10:56:41 19 Q. Okay. It says:

10:56:44 20 To the extent practicable, the County Recorder

10:56:47 21 shall review relevant city, town, county, state, and

10:56:50 22 federal databases to which the County Recorder has access

10:56:54 23 to confirm information obtained that requires cancelation

10:56:58 24 of registrations pursuant to this section?

10:57:01 25 Do you see that?

10:57:01 1 A. Yes.

10:57:02 2 Q. Okay. And do you have any idea what databases

10:57:07 3 this language might be referring to?

10:57:10 4 DEFENSE COUNSEL: Same objection.

10:57:11 5 THE WITNESS: No.

10:57:12 6 BY MS. RIZZONI:

10:57:12 7 Q. And are you aware of any database that you're

10:57:16 8 not currently using that would be useful in carrying out

10:57:19 9 your office's list maintenance duties?

10:57:22 10 A. No.

10:57:22 11 Q. And the, the preparatory language for this

10:57:30 12 section J is to the extent practicable.

10:57:32 13 Do you know what that means in this context?

10:57:34 14 DEFENSE COUNSEL: Same objection.

10:57:36 15 THE WITNESS: No.

10:57:37 16 BY MS. RIZZONI:

10:57:47 17 Q. Let's turn quickly back to document F, which are

10:57:51 18 the supplemental responses to the consolidated plaintiff

10:57:56 19 interrogatories. And I'll direct your attention to

10:58:06 20 interrogatory 9, which is on, I guess, the third page of

10:58:18 21 this document. There are no page numbers, though. And

10:58:22 22 I'll let you quickly read interrogatory 9 to yourself.

10:58:25 23 Let me know when you're done.

10:58:37 24 A. I read it.

10:59:01 25 Q. Great. And then if you can flip to the next

10:59:04 1 page to your response. It reads:

10:59:07 2 Recorder Garcia has been in his position since

10:59:09 3 2020, and, to the best of his knowledge and the

10:59:12 4 information available to him, he believes that there have

10:59:16 5 not -- there has not been an instance of a non-citizen

10:59:19 6 registering to vote or voting in La Paz County.

10:59:22 7 Do you see that?

10:59:23 8 A. Yes.

10:59:23 9 Q. And sitting here today is it still true that

10:59:26 10 your office is not aware of any non-citizen registering to

10:59:30 11 vote or voting in La Paz County?

10:59:32 12 A. To my knowledge, you know, that still stands.

10:59:36 13 Q. Okay. Now prior to the passage of H.B. 2492 and

10:59:42 14 H.B. 2243, it was not legal for a non-citizen to register

10:59:46 15 to vote. Is that right?

10:59:49 16 DEFENSE COUNSEL: Calls for legal conclusion.

10:59:51 17 THE WITNESS: Right. Non-citizen would not be

10:59:55 18 registered to vote.

10:59:56 19 BY MS. RIZZONI:

10:59:58 20 Q. And prior to the passage of these laws there

11:00:01 21 were, in fact, policies, laws, and procedures in place in

11:00:03 22 Arizona to prevent non-citizens from voting?

11:00:08 23 DEFENSE COUNSEL: Same objection.

11:00:11 24 THE WITNESS: I mean, right. I mean, if they

11:00:13 25 didn't provide the citizenship proof we wouldn't be able

11:00:17 1 to -- if they weren't citizens, yeah, they wouldn't be
11:00:20 2 able to be registered. They wouldn't have the, the DPOC,
11:00:25 3 but again --
11:00:26 4 BY MS. RIZZONI:
11:00:26 5 Q. My question was slightly different. It's about
11:00:28 6 whether or not it was legal for non-citizens to try to
11:00:32 7 register to vote in Arizona prior to the passage of these
11:00:35 8 laws.
11:00:35 9 A. It wasn't legal, no.
11:00:38 10 DEFENSE COUNSEL: Same objection.
11:00:41 11 MS. RIZZONI: All right. I have hit a natural
11:00:46 12 breaking point, so would you be interested in taking a
11:00:51 13 five-minute break?
11:00:54 14 THE WITNESS: Yeah. That's fine.
11:00:55 15 MS. RIZZONI: Great. So, I guess, we'll
11:01:02 16 reconvene around 11:05.
11:01:05 17 THE WITNESS: Okay.
11:01:09 18 MS. RIZZONI: I think Jimmy might need to sign
11:01:11 19 us off, though.
11:01:12 20 THE VIDEOGRAPHER: I apologize. Yes.
11:01:15 21 We are off the record at 11:01, and this will
11:01:24 22 end Media No. 1.
11:01:27 23 (Recess taken from 11:01 a.m. to 11:12 a.m.)
11:12:40 24 THE VIDEOGRAPHER: Okay. We are back on the
11:12:44 25 record. Time on the monitor is 11:12. This will begin

11:12:54 1 Media No. 2.

11:12:55 2 BY MS. RIZZONI:

11:12:56 3 Q. Welcome back, Mr. Garcia. Like I previewed off

11:12:59 4 the record, just one more module for me before I'll turn

11:13:03 5 it over to anyone else who wants to jump in.

11:13:05 6 But I'd like to just shift gears to talk a bit

11:13:09 7 about the documentary proof of residency requirements from

11:13:16 8 H.B. 2492, but wanted to start off with how your county

11:13:19 9 currently uses voter applicant residence information.

11:13:21 10 So in order to register to vote is it the case

11:13:24 11 that applicants are currently required to provide their

11:13:27 12 residential address, or if they don't have a residential

11:13:30 13 address, a description or drawing of the location of the

11:13:33 14 residence?

11:13:34 15 A. That's correct.

11:13:35 16 Q. Okay. And do you know whether or not a PO box

11:13:40 17 can be used to meet that requirement?

11:13:42 18 A. Not to my knowledge, not a PO box.

11:13:48 19 Q. Okay. So a PO box cannot be used to meet the

11:13:52 20 residency requirement?

11:13:53 21 A. Correct. It would have to be their physical

11:13:55 22 residence or them drawing a map of where they live,

11:13:58 23 basically what you stated.

11:14:00 24 Q. Okay. And why is residence information or

11:14:03 25 location information important for voter registration?

11:14:07 1 A. Well, that's how we would determine which area
11:14:11 2 in the county they live in, or precinct split or part, and
11:14:17 3 each precinct split or part is associated with different
11:14:22 4 districts, fire districts, water district, school
11:14:22 5 district. So it's important for them to register with
11:14:26 6 their physical residence. That way they're eligible to
11:14:30 7 vote, you know, if it's a town election, they're, they
11:14:32 8 would be eligible to vote for that, or if they don't live
11:14:35 9 within the town limits then they would, you know, they
11:14:37 10 wouldn't get, they wouldn't get the ballot for that
11:14:37 11 particular election.

11:14:40 12 So it would determine what they're allowed to
11:14:44 13 vote in, and if, you know, if it's a district election, or
11:14:46 14 if that makes sense.

11:14:47 15 Q. Yeah, that's helpful.

11:14:49 16 Okay. So let's talk about each of those two
11:14:52 17 options. So first I'll ask about the process when someone
11:14:56 18 provides a residential address and then I'll ask about the
11:14:59 19 process about when someone provides a residence location,
11:15:02 20 description, or drawing.

11:15:03 21 So, first, if someone provides a residential
11:15:06 22 address, how does the county use the information to locate
11:15:09 23 the residence?

11:15:10 24 A. So if somebody registers we enter their address
11:15:17 25 into the voter registration database. I would say about

11:15:28 1 95 percent of the time that address is probably already
11:15:33 2 within our database, so we'll be able to locate that
11:15:36 3 address within our system to make sure which precinct
11:15:41 4 splits to register them in. That's how we would verify
11:15:45 5 it. If, for some reason, it wasn't in our -- maybe, we
11:15:48 6 didn't have an address point for that specific address, we
11:15:52 7 would utilize other, other means to locate where that
11:15:57 8 address is.

11:15:59 9 Q. And what would those other means be that you
11:16:03 10 described to --

11:16:05 11 A. So based off of that, we would, you know, we
11:16:07 12 would access the county assessor's website, enter that
11:16:13 13 information in, the situs address would, you know, more
11:16:16 14 likely come up. We would utilize any parcel maps, 911
11:16:22 15 address from the county to verify, you know, the address,
11:16:25 16 if for some reason we weren't able to locate it. That
11:16:28 17 would help us to properly precinct them.

11:16:33 18 Q. You said about 95 percent of the time when you
11:16:36 19 enter the information through AVID it results in a match?

11:16:39 20 A. Yeah. Usually we will be able to find an
11:16:43 21 address that the person is using.

11:16:44 22 Q. Okay. And then 5 percent of the time what
11:16:49 23 happens?

11:16:49 24 A. I mean, like I said, if they give us an address
11:16:57 25 and it's maybe not in our system, then we would have to

11:17:00 1 research it and we were able to locate it based off of
11:17:04 2 parcel maps, assessor situs addresses to be able to locate
11:17:09 3 it and properly precinct them in their proper precinct
11:17:14 4 part.

11:17:14 5 Q. And what happens if you can't locate an address
11:17:17 6 using these alternative means?

11:17:20 7 A. Yeah, at that point, I don't know. I mean, I
11:17:31 8 don't recall a time where we haven't been able to locate
11:17:34 9 somebody. Yeah, I mean, usually it works out. We're able
11:17:42 10 to actually locate them.

11:17:44 11 Q. Do you know whether in the case of the 5 percent
11:17:49 12 where there is no match and you have to look up things
11:17:51 13 alternatively and you can't locate the address, would you,
11:17:55 14 would your office send a notice to that applicant?

11:17:58 15 A. Yeah, I guess if -- yeah, if there was no other
11:18:01 16 way to connect it, I mean, yeah, we would follow up with
11:18:04 17 an address, or excuse me, a letter asking them to clarify
11:18:11 18 their address.

11:18:12 19 Q. And does your office register voters whose
11:18:16 20 address can't be located?

11:18:18 21 A. Not that I'm aware of, no. I mean, again, I
11:18:29 22 don't process them, so I can't, wouldn't be able to say or
11:18:35 23 clar -- you know, confirm that, you know. But, you know,
11:18:41 24 like I said, most of the time, I mean, their address is,
11:18:45 25 is in the system, so --

11:18:46 1 Q. Okay.

11:18:47 2 A. -- we are able to utilize that to precinct them.

11:18:51 3 Q. Now, does La Paz County have any Native American

11:18:56 4 Reservations?

11:18:56 5 A. Yeah. We are surrounded by Indian Reservation,

11:19:03 6 yes, Native American Reservation.

11:19:04 7 Q. And how many Native American Reservations are

11:19:07 8 located within La Paz County?

11:19:08 9 A. I mean, it's just the one, the Colorado River

11:19:14 10 Indian Tribes.

11:19:15 11 Q. And, in your experience, is it more common for

11:19:18 12 residential addresses used in the Colorado River Tribe to

11:19:22 13 not be located in the AVID database?

11:19:24 14 A. Again, we would use means, like if it's on a

11:19:34 15 tribal reservation, we would use like the Colorado River

11:19:42 16 Indian Tribe's Fire Department. We would, we would

11:19:47 17 contact the CRIT Fire Department to verify an address,

11:19:54 18 location.

11:19:54 19 Q. Okay. That's helpful.

11:20:00 20 A. Yeah, if we weren't able to locate it, I mean,

11:20:03 21 if we didn't know, I mean, we do have those means to

11:20:06 22 verify, just to be able to precinct them correctly.

11:20:10 23 Q. Right. My question is slightly different, which

11:20:13 24 is about, I guess, when you're talking about a voter

11:20:17 25 applicant from the Colorado River Reservation, is it more

11:20:22 1 common for them to fall in the 95 percent bucket that is
11:20:25 2 matched to the AVID database? Or is it more common for
11:20:30 3 them to fall within the 5 percent that needs the
11:20:33 4 alternative means to verify their address?

11:20:36 5 A. I may even have the percentages wrong, but, I
11:20:38 6 mean, they fall -- we are able to locate them and precinct
11:20:40 7 them.

11:20:41 8 Q. Right. But is that generally, in your
11:20:44 9 experience, through the AVID database or is that through
11:20:48 10 the alternative means like contacting their fire
11:20:52 11 department?

11:20:52 12 A. I would say most of the time it's already in the
11:20:56 13 AVID, AVID system.

11:20:58 14 Q. All right. So let's talk now about when a voter
11:21:05 15 registration applicant provides a residence location,
11:21:08 16 description, or drawing.

11:21:11 17 Is that what applicants are asked to do if they
11:21:14 18 live at a residence that doesn't have a residential
11:21:16 19 address or if the address they provide can't be located?

11:21:19 20 A. I think it's more of an option, you know. I
11:21:28 21 just know that on the voter form it does request them, ask
11:21:32 22 them to draw a map if they're not, I guess, if they didn't
11:21:38 23 know their address. I'm not sure. I mean, we haven't
11:21:41 24 seen any come through there like that where they're
11:21:44 25 drawing maps on the voter forms, but, I mean, they do have

11:21:47 1 that option to, you know, to describe where they're
11:21:51 2 located.

11:21:52 3 Q. And in the event that a voter includes a
11:22:00 4 description or drawing of their residence location, how
11:22:03 5 does your office use that to confirm their location?

11:22:14 6 A. I guess it depends on how good their map is. I
11:22:20 7 mean, if they use cross streets, probably utilize maybe
11:22:25 8 some parcel maps, usually parcel maps. We would use
11:22:43 9 parcel maps to try to verify their location.

11:22:48 10 Q. Just want to sort of clear this up.

11:22:51 11 So for the percentage of people whose addresses
11:22:54 12 don't, can't be located using AVID, you use parcel maps,
11:23:00 13 you use the county assessor -- I'm sorry, the county
11:23:04 14 assessor parcel maps, and for the Colorado River Tribe you
11:23:07 15 might contact their fire department.

11:23:10 16 Besides those means, do you use anything else to
11:23:12 17 verify addresses that can't be located through the AVID
11:23:16 18 system?

11:23:17 19 A. Our community development has 911 addresses, the
11:23:22 20 address listing, so, I mean, we can also use that. But,
11:23:26 21 you know, whatever the voter puts on there, I mean,
11:23:29 22 they're, you know, we're taking it that that's a good
11:23:32 23 address. So we'll register them if we can locate it.

11:23:37 24 Q. Right. I just want to make sure for the record
11:23:40 25 that we have a clear sort of description from you of all

11:23:43 1 of the different alternative means besides AVID that you

11:23:46 2 can use to confirm.

11:23:47 3 So we have currently the county assessor parcel

11:23:51 4 maps, the 911 addresses, for the Colorado River Tribe, in

11:23:56 5 particular their fire department.

11:23:57 6 What else would you use, maps?

11:24:00 7 A. Yeah, I mean, yeah, if we had any maps. I mean,

11:24:03 8 that's basically what I can think of off the top of my

11:24:06 9 head what we would use.

11:24:09 10 Q. Do you know how long the county has used --

11:24:33 11 strike that.

11:24:42 12 Do you know what applicants who live on the

11:24:45 13 Colorado River Tribe Reservation are more likely to

11:24:49 14 provide a residence location, description, or drawing as

11:24:52 15 opposed to residential address?

11:24:54 16 DEFENSE COUNSEL: Asked and answered.

11:24:56 17 THE WITNESS: To my knowledge, they have always

11:24:58 18 given an address. Like I said, I, again, I don't process

11:25:03 19 the forms, but I can't recall a time where, you know, I

11:25:10 20 have seen an actual drawing on a voter registration form,

11:25:13 21 you know, as a map to their location. I mean, an address

11:25:18 22 has always, you know, has always been provided.

11:25:20 23 BY MS. RIZZONI:

11:25:30 24 Q. All right. Shifting gears slightly.

11:25:33 25 Does your office do anything to try to increase

11:25:37 1 registration of Native American voters?

11:25:41 2 A. Are you asking like voter outreach?

11:25:43 3 Q. Could be anything. Voter outreach, just wanted
11:25:47 4 to --

11:25:47 5 A. I mean, we, we do set up voter registration
11:25:54 6 drives in different areas of the county for everybody,
11:25:59 7 so...

11:26:00 8 Q. Do you do any voter outreach or registration
11:26:04 9 drives that are specifically targeted toward Native
11:26:10 10 American voters?

11:26:10 11 A. We have. We set up the early voting sites, but
11:26:13 12 ever since COVID that's kind of been a, we weren't allowed
11:26:18 13 to at that, during that time, and we have not heard
11:26:21 14 anything back from them.

11:26:22 15 Q. And what was the impetus for these targeted
11:26:27 16 outreach programs toward the Native American voters in
11:26:31 17 your community?

11:26:32 18 A. Could you clarify your question again? I'm
11:26:35 19 sorry.

11:26:35 20 Q. Yeah. So for these, these, these, these
11:26:40 21 outreach efforts toward the Native Americans in your
11:26:44 22 community, I'm wondering what the impetus was for
11:26:49 23 targeting those, those groups.

11:26:58 24 A. What do you -- I'm sorry.

11:26:58 25 Q. Yeah. That's fine. So what I'm basically

11:27:01 1 getting at is whether or not your office thinks there are
11:27:05 2 special challenges that that demographic might face when
11:27:09 3 it comes to registering to vote and whether that might be
11:27:13 4 the motivation behind the special outreach programs that
11:27:17 5 your office does?

11:27:18 6 A. I don't think it's that. I mean, it's just
11:27:21 7 something that we do. I mean, like I said, we do that for
11:27:25 8 everyone. Other than, like I said, with COVID, I mean,
11:27:29 9 the Tribes were pretty strict on all that kind of stuff so
11:27:35 10 we weren't allowed to set up.

11:27:37 11 Q. But I think you testified just a little earlier
11:27:39 12 that you may have done some outreach programs that were
11:27:43 13 specific to the tribes. So there was no particular reason
11:27:45 14 that you targeted that group?

11:27:49 15 A. Not a particular -- other than just to provide,
11:27:51 16 you know, the ability for them to register or to vote
11:27:54 17 early or, you know, not a particular reason targeting them
11:27:57 18 or anything like that, no.

11:27:59 19 Q. Do you think that Native American voters in your
11:28:02 20 community face any particular challenges when trying to
11:28:06 21 register to vote?

11:28:07 22 A. I don't think so.

11:28:08 23 Q. Okay. Do you know whether voter registration is
11:28:13 24 lower in the Native communities in La Paz County than your
11:28:16 25 county average?

11:28:17 1 A. Possibly.

11:28:25 2 Q. Why do you say that?

11:28:26 3 A. I'm not sure, because we don't track, you know,
11:28:30 4 we don't track, you know, race or anything like that. So,
11:28:37 5 I mean, there is one particular area that is on the Res
11:28:47 6 and, I mean, when you look at the numbers, I mean, it is
11:28:50 7 less than other areas, but, I mean, I wouldn't, I wouldn't
11:29:01 8 be able to tell you, I mean, because we don't track any
11:29:04 9 kind of race or anything like that.

11:29:06 10 Q. But you're aware of that at least one part of
11:29:14 11 the reservation where the registration is lower the county
11:29:19 12 average?

11:29:19 13 A. It's not lower than -- it's lower than some
11:29:21 14 areas but then it's higher than other areas, so...

11:29:26 15 Q. What can you tell me about the DPOR requirement
11:29:38 16 of H.B. 2492?

11:29:40 17 A. The DPOR, is that -- you're talking about proof
11:29:45 18 of residency?

11:29:47 19 Q. Correct.

11:29:48 20 A. So what specific are you asking? Just --

11:29:50 21 Q. Wondering your understanding of the new
11:29:52 22 requirements under the law.

11:29:55 23 DEFENSE COUNSEL: Calls for legal conclusion.

11:29:57 24 THE WITNESS: Not much, other than they would
11:30:02 25 have to just give us a proof of residency when they

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11:30:10
11:30:11
11:30:14
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11:31:05

1 register.
2 BY MS. RIZZONI:
3 Q. You understand the requirement, the requirement
4 for documentary proof of residency under H.B. 2492 to be
5 different than what is currently required under the law?
6 DEFENSE COUNSEL: Same objection.
7 THE WITNESS: I mean, I'd have to read, I'd have
8 to read the bill again.
9 MS. RIZZONI: Okay. All right. I think I'm
10 done. I think others may jump in with some questions. I
11 don't know if they are prepared to jump in now or if we
12 want to take a break, but that is all for me.
13 I thank you very much for your time, Mr. Garcia.
14 THE WITNESS: Thank you.
15 MS. RIZZONI: And we'll let my colleagues jump
16 in.
17 MS. MOTZKIN: Hi, Mr. Garcia. Are you ready to
18 move through about ten more minutes of questioning, or
19 would you like a break at this point?
20 THE WITNESS: We can keep going.
21 MS. MOTZKIN: Okay. Wonderful.
22
23 EXAMINATION
24 BY MS. MOTZKIN:
25 Q. MY name is Leah Motzkin. Nice to meet you.

11:31:06 1 And I'll just jump in. Some of these will seem
11:31:08 2 a little bit random or repetitive because we are just
11:31:12 3 jumping in, so thanks for bearing with me.

11:31:14 4 My first question is if there's no approved or
11:31:16 5 revised EPM by this time next year, will you, never the
11:31:16 6 less, be obligated to enforce the portions of H.B. 2492
11:31:26 7 and H.B. 2243 that are directed at County Recorders?

11:31:29 8 DEFENSE COUNSEL: Objection. Calls for
11:31:31 9 speculation. Speculation and legal conclusion.

11:31:34 10 THE WITNESS: I mean, I will, whatever is
11:31:36 11 decided, that's what we need to do.

11:31:39 12 BY MS. MOTZKIN:

11:31:43 13 Q. Okay. You testified earlier that the MVD
11:31:48 14 database has information about citizenship and that you
11:31:49 15 access that data through HAVA checks, correct?

11:31:51 16 A. That's correct.

11:31:51 17 Q. Is there any other way that you access that
11:31:54 18 database?

11:31:56 19 A. No. It's just through, just through our AVID
11:31:59 20 system, the voter registration database.

11:32:02 21 Q. Okay. And is old government data, such as MVD
11:32:04 22 records from ten years ago, indicative of a lack of U.S.
11:32:08 23 citizenship today?

11:32:10 24 DEFENSE COUNSEL: Calls for legal conclusion.

11:32:12 25 THE WITNESS: Not to my knowledge.

11:32:15 1 BY MS. MOTZKIN:

11:32:19 2 Q. Okay. Quickly looking at the text of H.B. 2492,

11:32:23 3 which is Petty Exhibit 19. I'm looking at page seven,

11:32:28 4 line six, line 16, which is -- or I'm sorry -- it is

11:32:34 5 16-143. This provision lays out for federal-only voters,

11:32:41 6 I'm looking at line 17, that, the Secretary of State and

11:32:46 7 each County Recorder shall make available to the attorney

11:32:47 8 general a list of all individuals who are registered to

11:32:51 9 vote and who have not provided satisfactory evidence of

11:32:53 10 citizenship pursuant to Section 16-166 -- and it continues

11:33:00 11 -- on or before October 31st, 2022.

11:33:03 12 Since that deadline has passed, is your office

11:33:06 13 no longer required by this provision to submit to the

11:33:10 14 attorney general a list of registered voters who have not

11:33:14 15 shown satisfactory DPOC?

11:33:15 16 DEFENSE COUNSEL: Form. Calls for legal

11:33:18 17 conclusion

11:33:18 18 THE WITNESS: Not to my knowledge. I mean, it's

11:33:20 19 part of this bill, so, I mean, whatever is decided, that's

11:33:23 20 what we'll do.

11:33:23 21 BY MS. MOTZKIN:

11:33:23 22 Q. Thanks.

11:33:29 23 And we discussed previously in, with both 2492

11:33:32 24 and 2243 what is information that a person is not a U.S.

11:33:35 25 citizen, correct?

11:33:37 1 A. I'm sorry. Can you say that again?

11:33:39 2 Q. We discussed, you discussed previously with Cat
11:33:43 3 what information, about information that a person is not a
11:33:47 4 U.S. citizen in the context of both bills, correct?

11:33:50 5 A. Right.

11:33:50 6 Q. Okay. So I just have a few questions about
11:33:53 7 that.

11:33:53 8 If the HAVA check reflects that the applicant
11:33:56 9 was issued an F-type license 20 years ago, is that
11:34:00 10 information showing a present day lack of U.S.
11:34:03 11 citizenship?

11:34:05 12 DEFENSE COUNSEL: Objection; calls for legal
11:34:07 13 conclusion and asked and answered.

11:34:09 14 THE WITNESS: So are you asking me if it would
11:34:16 15 show citizenship today?

11:34:16 16 BY MS. MOTZKIN:

11:34:19 17 Q. Yes. Would it show a present day lack of U.S.
11:34:22 18 citizenship?

11:34:23 19 DEFENSE COUNSEL: Same objection.

11:34:24 20 THE WITNESS: I can't -- I, I don't know. If
11:34:32 21 they were a non-citizen ten years ago and if they
11:34:38 22 preregistered or reapplied through the DMV and they became
11:34:43 23 a citizen since then, you know, I would say it would come
11:34:49 24 through as being, you know, satisfactory DPOC. If they
11:34:52 25 already became a citizen, they reregistered and went and

11:34:56 1 got a new driver's license, I can only assume the new
11:35:01 2 license would reflect citizenship.

11:35:03 3 BY MS. MOTZKIN:

11:35:05 4 Q. But what if they haven't gotten a new license?

11:35:05 5 DEFENSE COUNSEL: Same objection.

11:35:09 6 THE WITNESS: If they never changed that, I can
11:35:12 7 only assume that it would be the same.

11:35:14 8 BY MS. MOTZKIN:

11:35:14 9 Q. What do you mean by that?

11:35:17 10 A. Well, if they were, if they were not, if they
11:35:20 11 weren't a citizen and they're still not a citizen today, I
11:35:29 12 mean, that's what I mean. That's my answer. I mean, if
11:35:31 13 they weren't a citizen then and they're still not a
11:35:34 14 citizen now, I don't, at least I don't -- I'm assuming
11:35:36 15 that their driver's license wouldn't reflect anything
11:35:39 16 different.

11:35:40 17 Q. Okay. And if some other database showed from
11:35:44 18 20 years ago that someone wasn't a U.S. citizen at that
11:35:47 19 point, would that be information showing a present day
11:35:50 20 lack of U.S. citizenship?

11:35:52 21 DEFENSE COUNSEL: Same objections.

11:35:55 22 THE WITNESS: It wasn't ten years ago, I mean, I
11:35:59 23 don't think it would be different.

11:35:59 24 BY MS. MOTZKIN:

11:36:05 25 Q. So you're saying it would, avenge the present

11:36:10 1 lack of U.S. citizenship?

11:36:13 2 A. I'm assuming that's how it would be in the
11:36:17 3 system. If that's what you're asking.

11:36:22 4 MS. MOTZKIN: Okay. I'm going run through a few
11:36:25 5 different scenarios of what are valid sources of
11:36:27 6 information that someone is not a U.S. citizen. If
11:36:29 7 opposing counsel wants to enter standing objections at
11:36:32 8 this point, we could do that to move things quickly.

11:36:35 9 MR. MORGAN: Yeah, Leah, are you thinking about
11:36:37 10 the same objections we did for Beaugregard as to form and
11:36:41 11 speculation, calls for legal conclusion?

11:36:42 12 MS. MOTZKIN: I am.

11:36:44 13 MR. MORGAN: Yeah, that's cool with me.

11:36:47 14 MR. HORLEY: Same here.

11:36:51 15 MR. MORGAN: Thanks for being proactive.

11:36:51 16 MS. MOTZKIN: Thanks.

11:36:52 17 BY MS. MOTZKIN:

11:36:52 18 Q. So, Mr. Garcia, we already discussed what are
11:36:53 19 some valid sources of information that someone is not a
11:36:55 20 U.S. citizen.

11:36:55 21 Could it also be a phone call from a voter?

11:37:00 22 A. Somebody calling me and telling me someone is
11:37:05 23 not a citizen?

11:37:05 24 Q. Sorry. Someone is calling to you tell that they
11:37:09 25 themselves are not a citizen.

11:37:11 1 A. They themselves are not a citizen? Are you
11:37:19 2 asking what we would do or --
11:37:20 3 Q. Yes. Is that a valid source of information that
11:37:24 4 someone is not a U.S. citizen?
11:37:25 5 A. I'm just trying to understand your question.
11:37:37 6 Are you saying if somebody calls us, notifies us
11:37:40 7 that they are not a citizen, right?
11:37:42 8 Q. Correct.
11:37:43 9 A. What we would do?
11:37:47 10 Q. Yes. But also is that a valid source of
11:37:50 11 information that that person is not a citizen?
11:37:52 12 A. If they themselves, I mean -- I mean, we just
11:38:08 13 don't take people's words for it.
11:38:11 14 Q. How about an email from the voter?
11:38:14 15 A. I mean, any time anybody calls us or emails us,
11:38:19 16 we always verify identity, so...
11:38:23 17 Q. So you would say the same, no, that for a signed
11:38:27 18 letter from the voter?
11:38:29 19 A. That they're not a citizen? We would, we would
11:38:32 20 need to research.
11:38:34 21 Q. Okay. And would the same be true for a phone
11:38:37 22 call from a member of the voter's family?
11:38:42 23 A. We won't change somebody's voter registration
11:38:48 24 because, you know, some other member of their family
11:38:52 25 called us. I mean, we would need to ver -- any, any, any

11:38:55 1 communication over phone we verify people's identity.

11:38:58 2 Q. Okay. And I'm assuming that would be true,
11:39:05 3 then, for a phone call from law enforcement in Arizona or
11:39:09 4 elsewhere?

11:39:10 5 A. If it was law enforcement? Are you saying
11:39:17 6 that -- I'm not understanding your question about the law
11:39:19 7 enforcement.

11:39:19 8 Q. If a law enforcement officer from Arizona or
11:39:23 9 elsewhere, called with information that someone is not a
11:39:28 10 U.S. citizen, would that be a valid source of information
11:39:31 11 under the laws?

11:39:32 12 A. I'm not sure.

11:39:35 13 Q. Okay. What about lists provided by third party
11:39:41 14 organizations like True the Vote?

11:39:46 15 A. Yeah, we would -- we wouldn't just take their
11:39:54 16 word for it. I mean, there's, has to be some research on
11:39:58 17 our part.

11:39:59 18 Q. But you would look into that?

11:40:02 19 A. I would say, yeah, we would look into it, but
11:40:06 20 not, you know, act on it right away or do anything to
11:40:10 21 somebody's voter registration information --

11:40:14 22 Q. I'm sorry.

11:40:14 23 (The Reporter indicated an inability to hear
11:40:14 24 what was said.)

11:40:21 25 THE WITNESS: I just said, if that's what she

11:40:23 1 was asking if we would actually, you know, change
11:40:26 2 someone's voter registration just based off of someone
11:40:29 3 just giving us information like that.

11:40:30 4 BY MS. MOTZKIN:

11:40:30 5 Q. What if you identify a registered voter who has
11:40:36 6 already satisfied the DPOC requirement, but still holds an
11:40:39 7 F-type license? Is that information that the registered
11:40:41 8 voter is not, in fact, a U.S. citizen?

11:40:48 9 A. So you're saying if they registered -- if they
11:40:54 10 already suffice the DPOC requirement but they still had an
11:41:00 11 F-type license?

11:41:01 12 Q. Correct. Would that be information that the
11:41:05 13 registered voter is not a U.S. citizen?

11:41:07 14 A. I mean, we would need, I mean, the F-type
11:41:10 15 license wouldn't suffice the DPOC requirement, so we would
11:41:13 16 need some other form of verification on his, on the
11:41:17 17 person's DPOC.

11:41:20 18 Q. Okay. And if you identify a registered voter
11:41:25 19 who is exempt from the DPOC requirement and has never
11:41:28 20 shown it because they registered prior to when that went
11:41:31 21 into effect, is that information that they are not a U.S.
11:41:35 22 citizen?

11:41:35 23 A. Is what not --
11:41:39 24 Can you clarify the question?

11:41:40 25 Q. Yeah. Thanks.

11:41:42 1 Is identifying a registered voter, the fact that
11:41:45 2 they are exempt from the DPOC requirement and have never
11:41:50 3 shown that DPOC, is that information that they are not a
11:41:52 4 U.S. citizen?

11:41:54 5 A. I mean, if they register to vote they need to
11:42:01 6 show DPOC.

11:42:02 7 Q. Okay. By what means can you confirm the
11:42:07 8 authenticity of information that a voter, that a
11:42:12 9 registered voter applicant is not a United States citizen?
11:42:15 10 Both 2492 and 2243 kind of discuss confirming that
11:42:24 11 information that a voter was not a United States citizen,
11:42:26 12 so we talked about that already in both cases. Sorry.
11:42:30 13 That was a little unclear. But I'm just going to ask you
11:42:33 14 two quick questions related to that, this idea of
11:42:33 15 obtaining information and confirming information.

11:42:39 16 So quickly looking at 2243, which --

11:42:41 17 MR. HORLEY: Hi, Leah, sorry. Just before we
11:42:43 18 jump in. Our standing objections will still apply here,
11:42:43 19 yes?

11:42:51 20 MS. MOTZKIN: Thanks. Can we take off the
11:42:51 21 standing objections currently?

11:42:54 22 MR. HORLEY: Oh, take them off. Okay. Thank
11:42:56 23 you.

11:42:56 24 MS. MOTZKIN: Thanks.

11:42:56 25 BY MS. MOTZKIN:

11:42:57 1 Q. So, quickly, jumping into 2243, I'm looking at

11:43:09 2 section 16-165 F through J.

11:43:22 3 Will you please take just one moment to review

11:43:24 4 that? So I'm looking at page six.

11:43:35 5 A. Okay.

11:43:35 6 Q. And page five, looking at, starting on page

11:43:39 7 five, line 41, and looking through line 23 on page six,

11:43:48 8 there are a number of different provisions that list

11:43:52 9 databases. And my question for you, based on that --

11:43:57 10 And can you let me know when you've taken a

11:44:00 11 moment to review that?

11:44:01 12 A. Give me a minute.

11:44:03 13 Q. Thanks.

11:44:43 14 A. Okay.

11:44:43 15 Q. So are the database matching procedures

11:44:47 16 enumerated here, the means by which County Recorders are

11:44:50 17 to obtain information of a lack of U.S. citizenship?

11:44:55 18 DEFENSE COUNSEL: Calls for legal conclusion.

11:44:57 19 THE WITNESS: I mean, we run HAVA checks on the

11:45:07 20 people that register to vote, so that's what we utilize.

11:45:12 21 BY MS. MOTZKIN:

11:45:12 22 Q. Okay. And are these, are these database

11:45:15 23 matching procedures the means by which County Recorders

11:45:18 24 are to confirm information of a lack of U.S. citizenship?

11:45:23 25 DEFENSE COUNSEL: Same objection.

11:45:24 1 THE WITNESS: I mean, if somebody registered to
11:45:26 2 vote then the HAVA checks will confirm residency or not --
11:45:31 3 or not the residency, excuse me -- DPOC or not.

11:45:33 4 BY MS. MOTZKIN:

11:45:34 5 Q. Okay. And are these provisions clear or
11:45:37 6 unclear?

11:45:38 7 DEFENSE COUNSEL: Same objection.

11:45:38 8 BY MS. MOTZKIN:

11:45:53 9 Q. Okay.

11:45:57 10 A. I mean, we just -- all I can tell you is we run
11:46:00 11 the DPOC through HAVA, if it confirms it, you know, we
11:46:05 12 suffice the citizenship requirement.

11:46:08 13 MS. MOTZKIN: Okay. I'm going to run through
11:46:10 14 some of the similar scenarios as we went through before,
11:46:13 15 so I'm going allow folks to enter that standing objection
11:46:18 16 again if they would like to.

11:46:20 17 MR. HORLEY: Yes, please. Thank you.

11:46:20 18 BY MS. MOTZKIN:

11:46:23 19 Q. Okay. And we discussed earlier the language of
11:46:25 20 reason to believe, and I'm going to ask you a few
11:46:27 21 different scenarios would give you a reason to believe
11:46:28 22 that a person is not a U.S. citizen.

11:46:30 23 So what about a phone call from the voter
11:46:33 24 themselves?

11:46:33 25 A. Like I said, I mean, we get any phone calls or

11:46:45 1 any emails or letters, I mean, everything is, we confirm a

11:46:49 2 person's resident -- identity.

11:46:53 3 Q. Okay. How about a signed letter from the voter?

11:46:56 4 A. Again, some, there need to be some confirmation

11:47:04 5 that the person contacting us is the actual person.

11:47:07 6 That's just, just what we do.

11:47:10 7 Q. Okay. Would a phone call from a member of the

11:47:14 8 voter's family give you a reason to believe that a person

11:47:17 9 is not a U.S. citizen?

11:47:19 10 A. Again, we wouldn't take somebody's word for it

11:47:34 11 just because they are calling us and telling us that. I

11:47:38 12 mean, we would need something proving that.

11:47:40 13 Q. Okay. And what about a letter from a neighbor?

11:47:44 14 Would that give you the reason to believe that a voter is

11:47:47 15 a non-citizen?

11:47:49 16 A. I mean, again, you know, we're not going to just

11:47:53 17 act on it because someone is contacting us. We would need

11:47:56 18 some type of proof and, you know, confirmation of identity

11:47:59 19 of the person, the actual voter.

11:48:01 20 Q. So, similarly, it would be no for anything from

11:48:06 21 law enforcement? And, by anything, I mean a phone call, a

11:48:08 22 letter, an email from law enforcement?

11:48:10 23 A. I mean, we would need something documented.

11:48:19 24 Q. What about lists provided -- go ahead.

11:48:22 25 A. I mean, just something telling us, yeah, I mean,

11:48:27 1 some type of proof. What that proof would be, I don't
11:48:31 2 know. I just know that when somebody registers, you know,
11:48:34 3 we put them through the system, it goes through, you know,
11:48:36 4 goes through the HAVA checks. If it clears out with the
11:48:39 5 DPOC, I mean, we'll register them.

11:48:41 6 Q. Okay. What about lists provided by third party
11:48:44 7 organizations, like True the Vote?

11:48:47 8 A. I mean, I don't ever recall getting any kind of
11:48:52 9 list from them as far as non-citizens, that I'm aware of,
11:48:58 10 but, again, I mean, we're -- we won't just act just
11:49:03 11 because someone is contacting us and telling us things. I
11:49:07 12 mean, we have to do our own research on it.

11:49:11 13 MS. MOTZKIN: Okay. Got it.

11:49:13 14 And we can reinstate the standard operating
11:49:16 15 procedures and move through some final questions.

11:49:16 16 BY MS. MOTZKIN:

11:49:23 17 Q. In 2492 it mentions any other database relating
11:49:27 18 to voter register, which you discussed earlier, correct?

11:49:30 19 A. Yes.

11:49:31 20 Q. Could that be a list of voters you receive from
11:49:35 21 another Arizona agency?

11:49:38 22 DEFENSE COUNSEL: Calls for legal conclusion.

11:49:40 23 THE WITNESS: I'm sorry. The list of voters you
11:49:42 24 were saying?

11:49:42 25 BY MS. MOTZKIN:

11:49:42 1 Q. That you would receive from another Arizona
11:49:45 2 agency.
11:49:45 3 DEFENSE COUNSEL: Same objection.
11:49:49 4 THE WITNESS: Getting the list, getting the list
11:49:50 5 of voters that are not citizens.
11:49:53 6 BY MS. MOTZKIN:
11:49:53 7 Q. Yeah. Is that a database relating to voter
11:49:53 8 registration?
11:49:58 9 DEFENSE COUNSEL: Same objection.
11:49:59 10 THE WITNESS: I don't recall ever getting
11:50:00 11 anything like that.
11:50:00 12 BY MS. MOTZKIN:
11:50:00 13 Q. Okay. But if you did get that, would that be a
11:50:04 14 database relating to voter registration?
11:50:06 15 A. Just receiving a list?
11:50:09 16 DEFENSE COUNSEL: Same objection.
11:50:10 17 THE WITNESS: Yeah, I don't know if that would
11:50:12 18 be considered a database to -- I mean, we wouldn't have
11:50:14 19 access to it. It's just being given to us, so I don't
11:50:17 20 know, I mean...
11:50:18 21 BY MS. MOTZKIN:
11:50:18 22 Q. Okay. What about from a private individual, or
11:50:21 23 a list from a private group or a private citizen?
11:50:26 24 DEFENSE COUNSEL: Same objection.
11:50:27 25 THE WITNESS: Say the same thing, I mean...

11:50:35 1 BY MS. MOTZKIN:

11:50:35 2 Q. Okay. And my final question is if a registered
11:50:38 3 voter is removed from the rolls under H.B. 2243, based
11:50:43 4 upon an erroneous determination that they are not a U.S.
11:50:47 5 citizen, can that voter be added back to the rolls if the
11:50:52 6 registration deadline has already passed?

11:50:55 7 A. If they were a non-citizen?

11:51:09 8 Q. Yes. If they were erroneously determined to be
11:51:13 9 a non-citizen.

11:51:14 10 A. Oh. But they were a citizen?

11:51:17 11 Q. Correct.

11:51:17 12 A. I'd probably have to get some type of guidance
11:51:24 13 on that, but, I mean -- yeah, I'm not sure how that would
11:51:33 14 work. Wouldn't want to -- I would have to get some type
11:51:36 15 of counsel on that.

11:51:39 16 MS. MOTZKIN: Okay. Thank you. I have no more
11:51:41 17 questions.

11:51:45 18 Is there anyone else in our group who is asking
11:51:49 19 questions?

11:51:54 20 THE VIDEOGRAPHER: Okay. If no one is wanting
11:51:59 21 to come on, we'll go off the record.

11:52:02 22 MR. HORLEY: Sorry, Jimmy, I think the defense
11:52:04 23 might want to ask some questions. I'm not sure, you know,
11:52:07 24 if the plaintiffs want to discuss that first, or if we're
11:52:10 25 just ready to go into that. Sounds like no one from the

11:52:15 1 plaintiffs' side has any more questions.

11:52:21 2 Yeah, we can go off the record quickly. Thanks.

11:52:24 3 THE VIDEOGRAPHER: Okay. Are we going to end
11:52:26 4 the deposition?

11:52:28 5 MS. RIZZONI: Let's quickly go off the record so
11:52:31 6 week confirm if defendants want to take any.

11:52:33 7 THE VIDEOGRAPHER: Okay. We are going to go off
11:52:35 8 the record. Time on the monitor is 11:52.

11:52:44 9 (Recess taken from 11:52 a.m. to 11:53 a.m.)

11:53:39 10 THE VIDEOGRAPHER: We are back on the record.
11:53:53 11 Time on the monitor is 11:53.

11:53:53 12

11:53:53 13 EXAMINATION

11:53:53 14 BY MR. HORLEY:

11:54:03 15 Q. All right. Good morning, Mr. Garcia. My name
11:54:05 16 is Tim Horley. I represent the State of Arizona and the
11:54:08 17 Arizona Attorney General in this case.

11:54:09 18 So thank you for your patience and answering all
11:54:12 19 these questions so far. I will try not to take up too
11:54:15 20 much of your time. I just have a few, sort of a handful
11:54:18 21 of questions to get through here.

11:54:20 22 So first question is will your office adhere to
11:54:24 23 whatever a court orders regarding the implementation of
11:54:28 24 these laws?

11:54:29 25 A. Yes.

11:54:29 1 Q. And then I wanted to ask a little bit about
11:54:35 2 verifying citizenship.

11:54:39 3 So does your office do anything to verify DPOC
11:54:43 4 when it is received?

11:54:45 5 A. I mean, if we receive DPOC, I mean, I mean,
11:54:49 6 that, they sufficed already the requirement. I don't, I
11:54:55 7 don't see a need for follow-up, to my knowledge.

11:54:58 8 Q. So if you get -- oh, I'm sorry.

11:55:01 9 A. To my knowledge. That's what I said.

11:55:03 10 Q. Okay. So if you got, for example, a photocopy
11:55:06 11 of a birth certificate, there is nothing you would do to
11:55:09 12 verify the authenticity of that document?

11:55:11 13 A. No. Because, I mean, that's, that's one of the
11:55:16 14 things that the voter can do. They can, you know, submit
11:55:20 15 their application with the copy of, you know, the birth
11:55:22 16 certificate or copy of a valid U.S. passport, you know,
11:55:27 17 copy of their driver's license.

11:55:31 18 Q. Okay. And I wanted to ask you a few questions
11:55:35 19 about the citizenship checkbox that appears on the state
11:55:38 20 form.

11:55:39 21 Are you familiar with that checkbox I'm
11:55:41 22 referring to?

11:55:42 23 A. Yeah. Where it asks them to swear -- excuse
11:55:46 24 me -- to affirm they're, if they're a U.S. citizen, right,
11:55:51 25 above the age require -- the age question?

11:55:55 1 Q. Yes, right. And then that appears on federal
11:55:57 2 forms as well. Is that right?

11:56:00 3 A. Yes. Yes.

11:56:01 4 Q. And for a federal form, do you think that the
11:56:07 5 citizenship checkbox provides you with information about
11:56:10 6 whether a voter is a citizen?

11:56:11 7 A. Just the fact that they're marking it doesn't
11:56:18 8 give us information to confirm it.

11:56:21 9 Q. Okay. So if they said, yes, I am a citizen in
11:56:25 10 the checkbox, that wouldn't give you information on
11:56:28 11 whether that person is a citizen?

11:56:30 12 A. I mean, to my understanding, no. I mean, we
11:56:35 13 would have nothing to compare, I mean, the check mark --
11:56:40 14 we don't compare the check mark against the database.

11:56:44 15 Q. Okay. And what if that check mark was entered
11:56:48 16 and signed, you know, they signed under it saying, I
11:56:50 17 attest that this is accurate, sort of under penalty of
11:56:55 18 perjury? Would that provide you with information?

11:56:57 19 A. I mean, they're just, they're just stating that
11:57:01 20 they are. Again, I mean, if they did that, didn't provide
11:57:08 21 DPOC, whether they didn't give us their driver's license
11:57:12 22 number, I mean, we process the application that way and it
11:57:15 23 comes back with a driver's license information through
11:57:20 24 MVD, I mean, we would probably register that person as a
11:57:24 25 full-ballot voter.

11:57:27 1 Q. Understood. What if they checked no on the
11:57:31 2 checkbox?

11:57:34 3 A. What we would do?

11:57:41 4 Q. Yeah. Well, more so what, you know, does that
11:57:44 5 provide you with information about whether that person is
11:57:47 6 a citizen?

11:57:48 7 A. I mean, it's just, they're just checking no. I
11:57:53 8 mean, they could have done it mistakenly too. I mean,
11:57:57 9 there would have to be more information, I think, for us
11:57:59 10 to really verify if they are really are or not.

11:58:03 11 Q. So, regardless of what they check, you would do
11:58:07 12 a HAVA check to determine whether they were a citizen?

11:58:10 13 A. Yeah. We still, we still process it.

11:58:13 14 Q. Okay. And then I'm going to ask you just the
11:58:18 15 same basic set of questions about state form.

11:58:20 16 So do you think the citizenship checkbox on the
11:58:23 17 state form provides information about whether someone is a
11:58:28 18 U.S. citizen?

11:58:29 19 A. I mean, I don't, I don't see it any different.
11:58:32 20 I mean --

11:58:33 21 Q. So --

11:58:34 22 A. -- there would need to be more information for
11:58:36 23 us to verify other than just the check mark.

11:58:39 24 Q. Okay. Understood.

11:58:42 25 What if the person does not provide DPOC and

11:58:46 1 they just check the checkbox? Would the checkbox help
11:58:51 2 provide information in that case?

11:58:52 3 A. If they did provide DPOC?

11:58:59 4 Q. If they did not provide DPOC.

11:59:01 5 A. But they did check mark it?

11:59:04 6 Q. Yeah.

11:59:05 7 A. I mean, with the cross-check with the MVD, the
11:59:12 8 HAVA checks, it may give us the DPOC for that person to
11:59:22 9 confirm their --

11:59:23 10 Q. Okay.

11:59:23 11 A. -- citizenship, running through HAVA checks.

11:59:27 12 Q. Okay. Understood.

11:59:30 13 And we talked a little bit before about someone
11:59:35 14 submitting a DPOC document, like for example, a copy of a
11:59:39 15 birth certificate.

11:59:39 16 Is it possible that they could submit a copy
11:59:43 17 like that that was defective in some way, for example,
11:59:48 18 it's blurry or difficult to read?

11:59:51 19 A. I guess anything is possible. I don't recall us
11:59:55 20 ever getting one where we cannot read.

11:59:59 21 Q. Okay. Understood. Or what if it had a name
12:00:03 22 that was a very common name, like John Smith or something,
12:00:06 23 so it matched another person on the voter list? Could
12:00:12 24 that happen?

12:00:12 25 A. Well, I mean, it also has their date of birth,

12:00:19 1 social security number.

12:00:25 2 Q. Okay. And in those situations where you got a
12:00:28 3 blurry copy, or it might match with some other voter's
12:00:32 4 information, would it be helpful to verifying citizenship
12:00:36 5 to know how they answer the citizenship checkbox?

12:00:40 6 A. Could you clarify your question again?

12:00:43 7 Q. So in those situations where you got some DPOC
12:00:47 8 that might have been difficult to verify, would it be
12:00:51 9 helpful to know how they answered the question, the
12:00:57 10 citizenship checkbox?

12:01:02 11 A. I don't know how helpful that would be just
12:01:07 12 because they marked it. Again, I mean, we process them
12:01:13 13 and, you know, they can still go through the HAVA checks
12:01:16 14 and, you know, if we're able to obtain DPOC through that
12:01:19 15 way, in that manner, I mean, I think we're okay to accept
12:01:26 16 that.

12:01:27 17 Q. Okay. Thank you.

12:01:29 18 Does your office consider MVD data to be
12:01:33 19 generally reliable?

12:01:42 20 A. I would say so, yes.

12:01:46 21 Q. And if you had a situation where there was a
12:01:49 22 naturalized citizen, whose status hadn't yet been updated
12:01:54 23 with the MVD, they could fix that by providing your office
12:01:58 24 with documentation of their naturalization, correct?

12:02:02 25 A. Correct. Again, we would follow up, in a

12:02:06 1 scenario like that, we would follow up with some, a
12:02:08 2 letter, correspondence to them, letting them know the
12:02:12 3 situation and how to correct it.

12:02:13 4 Q. Okay. And do you consider SAVE data to be
12:02:19 5 generally reliable?

12:02:21 6 A. I would think, yes. Again, like I stated
12:02:27 7 earlier, I haven't had a need to use SAVE, so I mean, I'll
12:02:33 8 leave it at that. I mean, I would hope so. I would think
12:02:36 9 so.

12:02:37 10 Q. And you mentioned before that social security
12:02:42 11 numbers couldn't necessarily be used to confirm whether
12:02:45 12 someone is a citizen, because someone who is a permanent
12:02:49 13 resident might have a social security number. Is that
12:02:51 14 right?

12:02:51 15 A. I mean, they could. I'm not entirely sure, I
12:02:55 16 mean, if they could or couldn't. I mean, my thought is
12:03:01 17 no. It would be hard for me to say for 100 percent sure
12:03:04 18 if they could or couldn't. I mean, I know through the
12:03:08 19 DMV, I mean, they got that F-type license that would
12:03:12 20 differentiate as far as the driver's license. I'm not --
12:03:14 21 maybe possibly the social security maybe. I'm not sure on
12:03:18 22 that entirely.

12:03:20 23 Q. Okay. Understood.

12:03:21 24 But if someone did not have a social security
12:03:24 25 number, could that indicate that that person was not a

12:03:27 1 citizen?

12:03:27 2 A. If they didn't have one?

12:03:31 3 Q. Yeah.

12:03:34 4 A. Meaning they didn't put it on their form?

12:03:44 5 Q. Yes. Or the check showed no social security

12:03:47 6 number for that person.

12:03:48 7 A. Well, I mean, like I said, we run the HAVA

12:03:51 8 check, so it does cross-check with SSA, so there's always

12:03:56 9 that, that it could, you know, that it would come back

12:04:00 10 with the match through there and give us their, verify

12:04:05 11 their SSA through there, if the form didn't have it.

12:04:08 12 Q. Okay. Got it.

12:04:10 13 All right. I wanted to ask you quickly about

12:04:13 14 reports from jury commission with the questionnaire that

12:04:18 15 folks fill out when they do jury duty that asks them

12:04:22 16 whether they're a citizen or not.

12:04:24 17 Are you aware of those kind of reports?

12:04:26 18 A. Yeah. I know we, we do receive it from the

12:04:30 19 courts.

12:04:31 20 Q. Okay. And can you explain what you receive.

12:04:34 21 A. Just, you know, lists of people that fill out

12:04:44 22 the -- it's basically a copy of the jury questionnaire,

12:04:46 23 and, you know, it has those questions on there if they're

12:04:52 24 a citizen, if they're a resident, if they're a felon. It

12:04:55 25 has their information on there.

12:04:59 1 Q. So if, if you received a report that showed that
12:05:03 2 someone wrote on that questionnaire, I am not a U.S.
12:05:07 3 citizen, would you consider that reason to believe that
12:05:09 4 that person is not a U.S. citizen?

12:05:12 5 A. Again, I guess, we could, but we would still
12:05:26 6 follow up and send out some correspondence.

12:05:32 7 Q. Okay. Understood.

12:05:35 8 And then I wanted to ask you a little bit about
12:05:39 9 birthplace. And so you're aware that on the state form
12:05:44 10 there's an optional box where a person can list their
12:05:49 11 place of birth. Is that right?

12:05:51 12 A. Yeah. I believe, yeah.

12:05:52 13 Q. And your office doesn't actively track whether
12:05:58 14 people put their birthplace down on that form, correct?

12:06:03 15 A. Correct.

12:06:04 16 Q. So I know there's probably no easy way to
12:06:08 17 determine the answer to this question, but do you know how
12:06:12 18 many people typically include that information?

12:06:14 19 A. I mean, yeah, it's hard to determine. I mean,
12:06:27 20 usually people that actually fill it out here at the
12:06:30 21 office, from what I can see, generally fill that
12:06:32 22 information in.

12:06:34 23 Q. So do you say most people fill in that
12:06:38 24 information?

12:06:39 25 A. From what I can see when they come in and fill

12:06:44 1 in the paper, the actual application, paper application.

12:06:47 2 Now, if you look at the EZ Voter ones, the ones that come

12:06:51 3 in electronically, then that probably won't have it. But

12:06:55 4 it's hard to say how many do or don't. I would say

12:06:58 5 probably the most probably don't.

12:07:01 6 Q. Most probably don't. Okay.

12:07:03 7 And in your interrogatories, you noted that your

12:07:09 8 office uses birthplace as a security question sometimes

12:07:12 9 when someone calls in on the phone, like to verify that

12:07:16 10 the person who is calling in is who they say they are. Is

12:07:20 11 that right?

12:07:20 12 A. I mean, as far as their date of birth, you know,

12:07:25 13 that's for the social, DM number, we do use that.

12:07:33 14 Q. And do you use birthplace as well?

12:07:45 15 A. Hard for me to say, because I, I usually use

12:07:51 16 that, that kind of information to confirm their identity.

12:07:58 17 But, as far as their birthplace, I mean, we could, and

12:08:02 18 maybe my chief deputy has.

12:08:05 19 Q. Okay. I would like to just turn really quick to

12:08:09 20 the document that was labeled document E, and I believe it

12:08:14 21 was marked as Exhibit No. 232.

12:08:17 22 And if you don't mind just looking at the second

12:08:20 23 page of that document.

12:08:23 24 A. Which number?

12:08:33 25 Q. So it was document E.

12:08:41 1 A. Okay. Which page?

12:08:44 2 Q. Second page. Where it says, interrogatory

12:08:47 3 No. 1.

12:08:48 4 A. Yeah.

12:08:49 5 Q. So if you wouldn't mind just taking a moment to

12:08:54 6 just read through that interrogatory and your response and

12:08:57 7 let me know when you're finished.

12:09:29 8 A. Okay.

12:09:30 9 Q. Okay. So is the response that you gave there

12:09:35 10 still accurate?

12:09:36 11 A. Well, I think -- well, no, not 100 percent.

12:09:45 12 Like I said, I mean, I think DOB, last four social,

12:09:50 13 driver's license numbers, are more of a better way to

12:09:57 14 identify that, the identity.

12:10:03 15 Q. Okay. So your office does not use birthplace to

12:10:07 16 verify someone's identity?

12:10:08 17 A. Like I said, maybe, maybe my chief deputy also

12:10:12 18 goes to that, but to my understanding, as far as when I

12:10:16 19 have done it, I usually go with the other ones that I

12:10:20 20 mentioned.

12:10:20 21 Q. Okay. Understood.

12:10:22 22 So if there was a discrepancy between two

12:10:26 23 applications, so let's say they had the same name, the

12:10:28 24 same address, but they listed two different places of

12:10:31 25 birth, how would you your office handle that situation?

12:10:34 1 A. Two different -- same person, two different
12:10:37 2 places of birth, right?

12:10:39 3 Q. Yeah. Same information but looks like two
12:10:42 4 different places of birth.

12:10:44 5 A. How we would handle it as far as?

12:10:50 6 Q. Any -- would you do -- you know, would that
12:10:52 7 raise any issue? Would they been registered as separate
12:10:55 8 voters?

12:10:55 9 A. Oh.

12:10:56 10 Q. Would they be treated as different people?

12:10:57 11 A. Well, I mean, if they had two different birth
12:11:00 12 places in the same -- I mean, definitely want to look at
12:11:07 13 the date of birth. I mean, it could always be a junior
12:11:10 14 and a senior.

12:11:11 15 I'm not sure if that's answering your question
12:11:14 16 or not. I mean, if we would follow up we would, yeah, we
12:11:18 17 would follow up with it.

12:11:20 18 Q. Yeah. So suppose that all of their other
12:11:24 19 information that was on the form appeared to be identical,
12:11:28 20 but the one thing that was different was place of birth.

12:11:31 21 A. Place of birth. Okay. Yeah, wouldn't be able
12:11:40 22 to say, I mean, at this time. I mean, I don't know. If
12:11:44 23 it was just their place of birth would be the indicator
12:11:48 24 for us to -- I mean, I guess, everything else matches, is
12:11:57 25 identical. It's kind of hard for me to say, because we

12:12:06 1 never had to deal with their birthplace.

12:12:09 2 Q. Understood.

12:12:09 3 So would you follow up with the voter in that
12:12:12 4 situation?

12:12:18 5 MS. LANG: Objection; speculation.

12:12:23 6 THE WITNESS: I mean, if that's what the
12:12:27 7 decision on this base requires us to do, to pay attention
12:12:34 8 to the place of birth, I mean, that's what we'll do.

12:12:38 9 BY MR. HORLEY:

12:12:38 10 Q. Okay. Great. And that sort of anticipates my
12:12:42 11 next question. So if the court or the Secretary of State
12:12:46 12 issued guidance that changed how your office should use
12:12:51 13 birthplace information on the form, you would follow that
12:12:54 14 guidance, correct?

12:12:55 15 A. I mean, any guidance we would definitely use.

12:13:11 16 Q. Okay. I just have a few more questions. Thanks
12:13:14 17 again for your time.

12:13:15 18 So we talked a little bit, or you talked a
12:13:18 19 little bit earlier in your testimony about an October 2022
12:13:22 20 incident where there was an AVID glitch that led to some
12:13:26 21 voters getting downgraded to being fed-only voters.

12:13:30 22 Do you recall that?

12:13:33 23 A. Yes.

12:13:33 24 MS. RIZZONI: Objection to form.

12:13:33 25 BY MR. HORLEY:

12:13:40 1 Q. And, to your knowledge, were any voters
12:13:42 2 disenfranchised by that incident?

12:13:45 3 A. Not to my knowledge.

12:13:46 4 Q. Okay. And do you ever receive registration
12:13:50 5 forms from third party voter registration organizations
12:13:54 6 that conduct registration drives?

12:13:57 7 A. Registration drives? Yeah.

12:14:00 8 Q. Okay. And we've heard from some other County
12:14:04 9 Recorders that they have received large numbers of voter
12:14:09 10 registration forms from such drives that have false
12:14:11 11 information. For example, it might have like a totally
12:14:14 12 false name or a false identity, false driver's license
12:14:18 13 numbers.

12:14:18 14 Has your office experienced anything like that?

12:14:21 15 A. To my knowledge, no. Fortunately, no, we have
12:14:26 16 not.

12:14:27 17 Q. Okay. Great. And last little set of questions
12:14:31 18 here.

12:14:31 19 Your office does not investigate cases of
12:14:34 20 potential voter fraud, correct?

12:14:36 21 A. If anything like that would come up, we would,
12:14:41 22 anything would be referred to the AG's office.

12:14:43 23 Q. Right. Because your office is not responsible
12:14:46 24 for investigating voter fraud?

12:14:48 25 A. No. We're not police, you know.

12:14:52 1 Q. All right.

12:14:52 2 A. Yeah.

12:14:53 3 Q. And so you don't keep any records on potential
12:14:57 4 voter fraud. Is that right?

12:15:00 5 A. I mean, if it went to the AG's office and the AG
12:15:04 6 contacted us for some type of assistance, then we would,
12:15:08 7 you know, we would definitely have something on record on
12:15:10 8 our file.

12:15:12 9 Q. Okay. Understood.

12:15:14 10 Are you aware of any instances of voter fraud in
12:15:17 11 your county?

12:15:17 12 A. Not that I'm aware of, no.

12:15:20 13 Q. Okay. So you've never sent that kind of
12:15:23 14 information over to the attorney general's office?

12:15:26 15 A. I mean, anything to do with anything like this,
12:15:40 16 in regards to these two bills or anything like that, no.

12:15:44 17 MR. HORLEY: Okay. That is all the questions I
12:15:47 18 have. Thank you very much, Mr. Garcia. I really
12:15:50 19 appreciate it.

12:15:50 20

12:15:50 21 EXAMINATION

12:15:50 22 BY MR. LANGHOFER:

12:15:52 23 Q. Good afternoon now, Mr. Garcia. My name is Kory
12:15:55 24 Langhofer, and I represent the RNC. So the questions I
12:16:02 25 had on my list have been almost entirely covered. There's

12:16:03 1 literally only one that hasn't been asked. And so my only
12:16:07 2 question for you is this.

12:16:08 3 When you receive a state registration form right
12:16:12 4 now and the voter hasn't attached DPOC, and your office
12:16:17 5 sends them a notification letter saying, hey, we can't,
12:16:21 6 and you can't find -- let me, let me back up.

12:16:23 7 You receive a voter register form, state form,
12:16:26 8 DPOC isn't attached, and you can't confirm, you know,
12:16:29 9 prior instances of DPOC using the MVD database. So your
12:16:34 10 office sends the voter a notification letter saying, hey,
12:16:38 11 we don't have your DPOC, we need in that in order to
12:16:41 12 register you.

12:16:42 13 Do you know what percentage of those, roughly,
12:16:44 14 the voter responds and provides DPOC?

12:16:50 15 A. I don't know the percentage.

12:16:54 16 So you're saying if somebody registers to vote
12:16:59 17 and they didn't give us the DPOC, meaning, they didn't
12:17:03 18 even write -- you're saying they didn't even write the
12:17:08 19 driver's license number on their application?

12:17:10 20 Is that what you're also saying?

12:17:15 21 Q. No. So this is -- what I have in mind is maybe
12:17:16 22 they wrote the driver's license number down, maybe they
12:17:19 23 wrote their A number down, or naturalization number, but
12:17:22 24 you -- they didn't provide documents themselves.

12:17:25 25 A. Oh.

12:17:27 1 Q. And using your systems, you can't find where
12:17:30 2 they've previously provide DPOC. Like in searching the
12:17:36 3 MVD database or the SAVE database, sounds like you don't
12:17:37 4 use that, but if you did.

12:17:37 5 A. Hmm hmm.

12:17:38 6 Q. So you've got to send them a notification letter
12:17:40 7 that says, hey, we can't see that you're a citizen, you've
12:17:43 8 got to send this information back to us in order for us to
12:17:46 9 register you. So in one of those instances where you're
12:17:48 10 sending out the notification letter asking for DPOC.

12:17:51 11 I'm just wondering how many people, who get that
12:17:54 12 sort of letter, end up responding with the DPOC?

12:17:58 13 MS. RIZZONI: Lack of foundation.

12:18:02 14 THE WITNESS: You know, I don't know off the top
12:18:04 15 of my head. I mean, my chief deputy would be the one to
12:18:09 16 see that kind of stuff more than I would. But as far as
12:18:14 17 to my understanding or knowledge, I don't think we have
12:18:17 18 any, hardly, if any, hardly any at all that are possibly
12:18:25 19 in that scenario.

12:18:25 20 BY MR. LANGHOFER:

12:18:29 21 Q. Hardly any at all where you send the
12:18:31 22 notification letter, or hardly any at all that respond
12:18:34 23 with the DPOC?

12:18:36 24 A. Usually people are pretty good as far as
12:18:38 25 responding when we send them stuff, but in that scenario

12:18:42 1 it's hard for me to say how many or a percentage, because,
12:18:46 2 again, I don't, I don't see that kind of stuff as much as
12:18:48 3 my chief deputy does, but -- it's hard for me to say. I,
12:18:54 4 I wouldn't have a percentage for you.

12:18:56 5 Q. Do you know whether it's more or less than half
12:18:59 6 of them who respond?

12:19:00 7 A. It's hardly -- I would say we hardly get a
12:19:04 8 scenario even like that.

12:19:05 9 Q. Okay.

12:19:05 10 A. Usually when we run the HAVA checks, we usually
12:19:09 11 get, I would say, we always get some type of, you know,
12:19:12 12 result from it --

12:19:13 13 Q. I see, yeah.

12:19:15 14 A. -- but...

12:19:16 15 MR. LANGHOFER: I promised I wouldn't have you
12:19:16 16 for long and I'm not going to repeat the questions you've
12:19:19 17 already been asked. Thanks very much for your time.

12:19:22 18 Craig, do you have any questions or anyone for
12:19:27 19 the senate, president, and speaker of the house?

12:19:27 20 MR. MORGAN: I have got nothing. Thanks for
12:19:29 21 your time.

12:19:32 22 MS. FITZGIBBONS: I have got nothing either.
12:19:33 23 Thank you.

12:19:36 24 MR. LANGHOFER: Cat, anything more from your
12:19:37 25 side?

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MS. RIZZONI: Nothing more from me.

Thank you so much Mr. Garcia. Really been very helpful. We appreciate you taking the time, and hopefully you get to have a nice lunch now.

THE WITNESS: Thank you. Likewise.

THE VIDEOGRAPHER: Okay. We are going to go off the record. Time on the monitor is 12:19. This ends Volume 1, Media No. 2 of the deposition 30(b)(6), Richard Garcia.

Thank you very much.

(The deposition concluded at 12:19 p.m.)

(Exhibits 228 through Exhibit 237 were marked for identification.)

(Signature Not Requested.)

RICHARD GARCIA

1 STATE OF ARIZONA)
2) ss.
3 COUNTY OF MARICOPA)

4 BE IT KNOWN that the foregoing deposition was
5 taken before me, KAREN L. LOCKER, RPR, Certified Reporter
6 No. 50821 for the State of Arizona, and by virtue thereof
7 authorized to administer an oath; that the witness before
8 testifying was duly sworn by me to testify to the whole
9 truth; deposition review and signature was not requested;
10 that the questions propounded by counsel and the answers
11 of the witness thereto were taken down by me in shorthand
12 and thereafter transcribed into typewriting under my
13 direction; that the foregoing pages contain a full, true,
14 and accurate transcript of all proceedings and testimony
15 had, all to the best of my skill and ability.

16 I FURTHER CERTIFY that I am not related to nor
17 employed by any of the parties hereto and have no interest
18 in the outcome thereof.

19 DATED at Phoenix, Arizona, this 8th day of
20 September, 2023.

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22
23
24
25



KAREN L. LOCKER, RPR
Certified Court Reporter No. 50821

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UNITED STATES DISTRICT COURT
DISTRICT OF ARIZONA

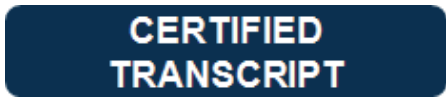
Mi Familia Vota, et al.,)	
)	Case No:
Plaintiffs,	)	2:22-cv-00509-SRB
	)	(Lead)
vs.)	
	)	CV-22-00519-PHX-SRB
Adrian Fontes, in his official	)	CV-22-01003-PHX-SRB
capacity as Arizona Secretary of	)	CV-22-01124-PHX-SRB
State, et al.,	)	CV-22-01369-PHX-SRB
	)	CV-22-01381-PHX-SRB
Defendants.	)	CV-22-01602-PHX-SRB
	)	CV-22-01901-PHX-SRB
_____)	
AND CONSOLIDATED CASES.)	
_____)	

DEPOSITION OF APACHE COUNTY RECORDER
REPRESENTED BY ANNALEE SHREEVE
VIDEOTAPED

St. Johns, Arizona
August 31, 2023

Prepared by:

Jody L. Lenschow, RMR, CRR
Certified Court Reporter
Certification No. 50192



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1 VIDEOTAPED DEPOSITION OF APACHE COUNTY RECORDER
 2 REPRESENTED BY ANNALEE SHREEVE
 3 was taken on August 31, 2023, commencing at 1:03 p.m.,
 4 at the Offices of the Apache County Attorney, 245 W. 1st
 5 Street South, St. Johns, Arizona, before Jody L.
 6 Lenschow, RMR, CRR, Certified Reporter No. 50192 for the
 7 State of Arizona, reported via Zoom Videoconferencing.

8
 9 * * *

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ALSO PRESENT: Mr. Craig Tsosie,
Chief Deputy Recorder

ALSO PRESENT VIA ZOOM: Mr. Daniel Rohan,
Videographer

01:03:23 1 THE VIDEOGRAPHER: We are on the record.
01:03:24 2 Time on the video monitor is 1:03 p.m. Here begins
01:03:29 3 Volume 1, Media No. 1 in the 30(b)(6) deposition of
01:03:34 4 Apache County Recorder by Annalee Shreeve in the matter
01:03:39 5 of Mi Familia Vota, et al. v. Adrian Fontes, et al. in
01:03:44 6 the United States District Court, District of Arizona,
01:03:46 7 Case No. 2:22-cv-00509-PHX-SRB.

01:03:55 8 Today's date is August 31st, 2023. Our
01:03:58 9 court reporter is Jody Lenschow. I am Daniel Rohan,
01:04:03 10 certified legal videographer. We both represent Coash
01:04:08 11 Court Reporting & Video. This video deposition is
01:04:09 12 taking place at the Apache County Attorney's Office,
01:04:13 13 245 West 1st Street South, St. Johns, Arizona, 85936.

01:04:19 14 Counsel, please identify yourselves and
01:04:20 15 state whom you represent.

01:04:21 16 MR. FERGUSON: My name is Brent Ferguson
01:04:25 17 of the Campaign Legal Center, and I represent the LUCHA
01:04:28 18 plaintiffs.

01:04:31 19 MS. ROBERTSON: In the room is Celeste
01:04:36 20 Robertson, and I represent Apache County Recorder Larry
01:04:38 21 Noble.

01:04:46 22 MR. HERRERA: Ernest Herrera, and I
01:04:48 23 represent Promise Arizona Plaintiffs.

01:04:50 24 MR. SNOW: Ryan Snow for Tohono O'odham
01:04:54 25 plaintiffs.

01:04:55 1 MR. DODGE: Christopher D. Dodge on behalf
01:04:56 2 of the MFV plaintiffs.

01:04:59 3 MR. VOLCHOK: Daniel Volchok for the
01:05:01 4 Democratic National Committee and the Arizona Democratic
01:05:04 5 Party.

01:05:07 6 MR. PATTERSON: Beauregard Patterson on
01:05:09 7 behalf of Poder Latinx and CPLC.

01:05:15 8 MR. WHITAKER: Josh Whitaker, joined by my
01:05:18 9 colleague, Kathryn Boughton, on behalf of the Arizona
01:05:22 10 Attorney General.

01:05:24 11 MS. STUART: Shayna Stuart on behalf of
01:05:26 12 the Arizona Secretary of State Adrian Fontes.

01:05:30 13 MR. LANGHOFER: Kory Langhofer for the
01:05:32 14 RNC.

01:05:39 15 THE VIDEOGRAPHER: Will the court reporter
01:05:40 16 please swear in the witness.

17

18

19 ANNALEE SHREEVE,
20 called as a witness herein, having been first duly sworn
21 by the Certified Court Reporter to speak the truth and
22 nothing but the truth, was examined and testified as
23 follows:

24

01:05:54 24 MR. FERGUSON: Great. Thanks. The first
01:05:55 25 thing, we've been doing a stipulation where one

01:05:58 1 defendant's objection will apply to all defendants, and
01:06:01 2 same thing for the plaintiffs. One plaintiff's
01:06:03 3 objection will apply to all. So I would like to put
01:06:06 4 that on the record right now. Let us know if anyone has
01:06:10 5 a problem with that.

01:06:10 6 Great.

01:06:10 7

01:06:16 8 EXAMINATION

01:06:16 9 BY MR. FERGUSON:

01:06:19 10 Q. Good afternoon, Ms. Shreeve. Thanks for being
01:06:21 11 here with us. I'm just going to go over some basics of
01:06:26 12 the deposition and how it will work today right at the
01:06:29 13 beginning here. So if you could start off just by
01:06:32 14 stating your name for the record and spelling your last
01:06:34 15 name, please.

01:06:36 16 A. Annalee Shreeve, S-H-R-E-E-V-E.

01:06:42 17 Q. Great. Thanks so much.

01:06:44 18 And I know that you have a few people in the
01:06:46 19 room with you today. Could you tell me who that is?

01:06:51 20 A. We have the Chief Deputy Recorder, Craig
01:06:55 21 Tsosie, and --

01:06:58 22 MS. ROBERTSON: Co-counsel, Kody
01:07:00 23 Richardson, from the Apache County Attorney's
01:07:01 24 Office.

01:07:01 25 THE WITNESS: Sorry.

01:07:04 1 BY MR. FERGUSON:

01:07:04 2 Q. Great. And your attorney, Celeste Robertson,

01:07:06 3 is there as well, correct?

01:07:09 4 A. That is correct.

01:07:10 5 Q. Thank you. Appreciate it.

01:07:12 6 Okay. Just a little bit more about how the

01:07:15 7 deposition will work. Do you understand that you're

01:07:18 8 testifying under oath today?

01:07:20 9 A. Yes.

01:07:21 10 Q. And do you understand that a court reporter is

01:07:23 11 transcribing the deposition?

01:07:26 12 A. Yes.

01:07:27 13 Q. Great.

01:07:28 14 So just so we can make it easier for the court

01:07:32 15 reporter, can I ask you when you answer my questions,

01:07:34 16 can you do it audibly by saying things like yes or no,

01:07:39 17 rather than nodding or shaking your head, just so she is

01:07:41 18 able to get anything down?

01:07:44 19 A. Yes.

01:07:45 20 Q. Great.

01:07:45 21 And then if you don't understand a question I

01:07:47 22 ask, then please let me know, and I'll repeat it or

01:07:51 23 rephrase; and so if you do answer the question, I'll

01:07:55 24 assume that you understood what I asked. Do you

01:07:59 25 understand that?

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01:09:04 24
01:09:06 25

A. Yes.

Q. Okay. Great.

And then, also, you might hear your attorney or other attorneys object to a question I ask. So if that happens, please let them finish the objection, and then after that you can still answer the question, unless you're directed by your attorney not to answer that. Is that -- do you understand that?

A. Understood.

Q. Great. Thank you.

Is there is any reason that you can't give full, complete and truthful testimony today?

A. No.

Q. And have you taken any substances or medications or anything like that in the last 24 hours that would affect your ability to testify?

A. No.

Q. Great.

And so if you would like to take a break at any point, just let me know, and we can go off the record and take a break. I'll just ask that if you do want to take a break, if I've already asked a question and it's pending, please answer that question before we take the break.

A. Understood.

01:09:07 1 Q. Great. Thank you.

01:09:07 2 Have you ever been deposed before?

01:09:11 3 A. No.

01:09:12 4 Q. This is your first time? Okay.

01:09:14 5 A. Very first time, yes.

01:09:16 6 Q. Great.

01:09:18 7 And did you bring any materials with you to the

01:09:21 8 deposition?

01:09:22 9 A. A notebook and pen and copies of the documents

01:09:26 10 provided by my attorney.

01:09:28 11 Q. Okay. And those are the documents that I've

01:09:31 12 shared in a Dropbox; is that correct?

01:09:33 13 A. That's correct.

01:09:34 14 Q. Okay. Excellent.

01:09:36 15 And so you have all of those in front of you in

01:09:40 16 paper form right now?

01:09:42 17 A. That is correct, yes.

01:09:43 18 Q. Okay. Excellent.

01:09:44 19 So I'll be sharing my screen for some, but,

01:09:47 20 also, I'll just refer to some of them sometimes so we

01:09:50 21 can just make sure that we're on the same page when we

01:09:53 22 get to those.

01:09:56 23 Now I'd like to ask just a little bit about

01:09:59 24 your background. So, first, can you tell me some about

01:10:04 25 your educational background? Do you have any schooling

01:10:08 1 or degrees after high school?

01:10:11 2 A. I do. I have a Bachelor's in small business

01:10:16 3 management. I am a veteran of the Air Force. Other

01:10:23 4 than that, I've been with the Apache County Recorder's

01:10:26 5 Office since November of 2023. So I am still new to

01:10:32 6 this job, so there are going to be some questions that I

01:10:35 7 can't answer because I am still being trained for the

01:10:38 8 position, so...

01:10:39 9 Q. Okay. Sure. We can talk about that in a

01:10:42 10 little bit.

01:10:42 11 Did you say November 2022 that you started?

01:10:47 12 A. 2022, yes, that's correct.

01:10:49 13 Q. Just making sure.

01:10:50 14 A. Sorry. I'll correct myself.

01:10:52 15 Q. Yeah, no problem.

01:10:52 16 So you've been in the job a little bit less

01:10:57 17 than a year?

01:10:57 18 A. Yes.

01:10:59 19 Q. Okay. Excellent. That's helpful.

01:11:00 20 And can you tell me what your current title is

01:11:04 21 in the Recorder's Office?

01:11:06 22 A. Yes. I'm the voter registration supervisor.

01:11:10 23 Q. Okay. And has that been your title since you

01:11:12 24 started there?

01:11:14 25 A. No. I was actually hired as a temporary. I

01:11:21 1 got this position, I believe, in January of 2023.

01:11:26 2 Q. Okay. So you were temporary for a couple

01:11:29 3 months and then became the voter registration supervisor

01:11:33 4 this last January?

01:11:35 5 A. That's correct, yes.

01:11:37 6 Q. Great. And can you just briefly tell me a

01:11:41 7 little bit about your work before you got to the County

01:11:44 8 Recorder's Office, the job you had immediately before

01:11:47 9 that?

01:11:47 10 A. My last position was in the Air Force.

01:11:52 11 Q. Okay.

01:11:52 12 A. I was a staff sergeant. I was a stay-at-home

01:11:55 13 mom for about ten years before I got this position at

01:11:57 14 the Recorder's Office.

01:12:01 15 Q. Okay. And have you ever previously held a job

01:12:04 16 dealing with voter registration or anything similar

01:12:08 17 before this?

01:12:09 18 A. No, I have not. No.

01:12:10 19 Q. Okay. And have you previously used any names

01:12:14 20 other than the one you use right now?

01:12:17 21 A. I was Annalee Hammond, was my previous married

01:12:22 22 name. Annalee Shreeve is my maiden name.

01:12:27 23 Q. Okay. Thank you. You said Hammond was your

01:12:30 24 previous last name?

01:12:31 25 A. Hammond, yes, H-A-M-M-O-N-D.

01:12:33 1 Q. Great. Thank you.

01:12:36 2 A. Uh-huh.

01:12:36 3 Q. Okay. Now we're going to talk for a couple
01:12:38 4 minutes just about what you mentioned previously about
01:12:41 5 preparing for the deposition and your experience with
01:12:44 6 these topics. I'd like you to take a look at what's
01:12:49 7 been labeled as Document A, which is the amended
01:12:52 8 deposition notice.

01:12:53 9 And I believe we're on Exhibit 244, so if we
01:12:58 10 could mark that as Exhibit 244, please.

01:13:04 11 Do you have that document in front of you?

01:13:05 12 A. I do.

01:13:06 13 Q. Okay. And do you recognize this as the amended
01:13:13 14 deposition notice?

01:13:14 15 A. I do.

01:13:15 16 Q. And you've seen it before?

01:13:17 17 A. I have, yes.

01:13:20 18 Q. Great.

01:13:23 19 And do you recognize that for purposes of this
01:13:27 20 deposition you've been designated as a representative of
01:13:31 21 the Apache County Recorder's Office?

01:13:34 22 A. I do.

01:13:35 23 Q. Okay. Great.

01:13:37 24 And could you take a look at Page 5 of that
01:13:45 25 document, where it says "Topics" at the top?

01:13:49 1 A. Okay.

01:13:50 2 Q. And have you seen that part of the document

01:13:52 3 before?

01:13:55 4 A. Yes, I have.

01:13:56 5 Q. Great.

01:13:57 6 And are you prepared to talk about the topics

01:14:01 7 listed there that's Pages 5 through 8?

01:14:06 8 A. I am.

01:14:07 9 Q. Okay. Great.

01:14:08 10 Are there any specific topics that you don't

01:14:11 11 feel prepared to address?

01:14:14 12 A. No.

01:14:19 13 Q. Okay. Now I guess I'd like to talk, aside from

01:14:22 14 looking at that notice, talk a little bit about how you

01:14:24 15 prepared for the deposition today, so I'm going to ask

01:14:28 16 about conversations you've had. So if you've discussed

01:14:30 17 anything with your attorneys, please don't tell me the

01:14:33 18 content or substance of that conversation; but you can

01:14:38 19 mention that you have met with them, just not what you

01:14:41 20 talked about. If it's anyone else, it's fine to say.

01:14:44 21 So can you tell me who in your office you've

01:14:49 22 met with to prepare for the deposition?

01:14:54 23 A. Angela Gatchell --

01:14:54 24 Q. Okay.

01:14:58 25 A. -- our project coordinator, and that's it.

01:15:04 1 Q. And that's the only person? Okay.

01:15:05 2 A. That's it. We're a small office. There's not

01:15:07 3 too many of us.

01:15:09 4 Q. Sure.

01:15:10 5 And how long did you meet with her, about?

01:15:15 6 A. Not very long. I would say probably about an

01:15:19 7 hour --

01:15:20 8 Q. Okay.

01:15:20 9 A. -- total.

01:15:21 10 Q. And what did you talk about with her?

01:15:25 11 A. We mostly went through when we were producing

01:15:29 12 the documents and reports to, you know, find out which

01:15:33 13 ones were requested and what, you know -- reviewed this

01:15:40 14 Document A and went and, you know, ran the reports that

01:15:46 15 were requested, so...

01:15:47 16 Q. Okay. Great.

01:15:49 17 A. And that's it.

01:15:50 18 Q. So you played a role with her in finding the

01:15:52 19 documents to produce and answering the interrogatories?

01:15:56 20 A. That's correct, yes.

01:16:01 21 Q. And have you met with your attorneys about the

01:16:03 22 deposition?

01:16:04 23 A. I have, yes.

01:16:05 24 Q. Okay. How many times was that?

01:16:09 25 A. Once.

01:16:11 1 Q. Okay. And about how long was that meeting?

01:16:15 2 A. A little over an hour.

01:16:18 3 Q. Okay. And do you have a general sense of what
01:16:23 4 this lawsuit is about? You know, I'm not asking for a
01:16:28 5 lot of specifics, but if you have a general impression
01:16:30 6 or understanding of it, could you tell me what that is?

01:16:34 7 A. I do. General understanding is that the
01:16:41 8 lawsuit is about voters' rights in regards to the
01:16:50 9 addressing and citizenship proof, proof of citizenship,
01:16:54 10 so...

01:16:56 11 Q. Okay. Great. Thank you.

01:16:58 12 And then I'd just like to know a little about
01:17:03 13 your operations in the Recorder's Office. You mentioned
01:17:07 14 that it's a small office. Could you tell me, apart from
01:17:12 15 the County Recorder, who else within your office works
01:17:18 16 on voter registration?

01:17:21 17 A. It is myself and one other employee, Austin
01:17:26 18 King, and Alyssa Wahl also assists in some of the voter
01:17:38 19 registration. We also have two outreach employees that
01:17:41 20 work on the Navajo Reservation. That's Esther Kirk and
01:17:47 21 Brenda Wilson.

01:17:49 22 Q. Okay. That's helpful. Thank you. And --
01:17:54 23 sorry about that.

01:17:55 24 Could you tell me what those two employees that
01:17:59 25 do outreach on the Navajo Reservation, could you tell me

01:18:02 1 in a little bit more detail what they do?

01:18:05 2 A. So in compliance with the NRAF with that they
01:18:11 3 do outreach on the Navajo Reservation to high schools,
01:18:16 4 chapter houses, and other residents up there to educate
01:18:22 5 them on voter registration, get them registered and that
01:18:26 6 sort of thing, so...

01:18:28 7 Q. Okay. So do they hold voter registration
01:18:31 8 drives and things like that?

01:18:32 9 A. They do, yes.

01:18:34 10 Q. Okay. Great.

01:18:37 11 A. And they also help out with, you know,
01:18:39 12 translation and that sort of thing as well.

01:18:42 13 Q. Excellent.

01:18:44 14 And so you mentioned Angela Gatchell before.

01:18:49 15 Does she work on voter registration as well or in a
01:18:52 16 different department?

01:18:54 17 A. She is the project coordinator for the
01:18:57 18 Recorder's Office, so she does pretty much everything.
01:19:04 19 Yeah. She is my backup for most of the tasks that are
01:19:08 20 in regards to voter registration, so she'll assist me if
01:19:14 21 I'm not in the office.

01:19:18 22 Q. Okay. Excellent.

01:19:18 23 And then you mentioned Mr. Tsosie, who is in
01:19:22 24 the room with you, I believe. Could you tell me a
01:19:24 25 little bit about his role?

01:19:26 1 A. Mr. Tsosie is our Chief Deputy Recorder. He's
01:19:32 2 been with us --

01:19:32 3 MR. TSOSIE: Since June.

01:19:34 4 THE WITNESS: -- since June, yeah. He's
01:19:36 5 pretty new to the position, so he's still training,
01:19:36 6 yeah.

01:19:36 7 BY MR. FERGUSON:

01:19:42 8 Q. But he works on voter registration issues as
01:19:44 9 well?

01:19:44 10 A. Yes.

01:19:47 11 Q. Okay. Okay. Excellent.

01:19:50 12 I'd like to move on now, and if you could take
01:19:55 13 a look at Document F. I can pull that up on the screen,
01:20:01 14 if you need, but if you have it in front of you, you
01:20:03 15 could just take a look at the paper version.

01:20:07 16 A. I do not have the F.

01:20:11 17 MS. ROBERTSON: I don't think we have F,
01:20:12 18 Brent, if you could pull that one up.

01:20:12 19 THE WITNESS: Yeah.

01:20:15 20 BY MR. FERGUSON:

01:20:15 21 Q. Yeah, I can share my screen. You have a screen
01:20:17 22 that you can see, right?

01:20:19 23 A. Yes.

01:20:19 24 Q. Okay. Great.

01:20:21 25 I'm going to share now. It's Petty 6.

01:20:43 1 Can you see that document on the screen?

01:20:49 2 A. No, not yet.

01:20:52 3 Q. Is anything coming up?

01:20:54 4 A. No. I just see your file folder.

01:20:58 5 Q. Sorry about that. All right.

01:21:00 6 A. That's okay.

01:21:17 7 Okay, I can see it now.

01:21:19 8 Q. Okay. Excellent.

01:21:19 9 Do you recognize this document?

01:21:21 10 A. I do.

01:21:23 11 Q. Okay. Can you tell me what it is?

01:21:25 12 A. It's the elections procedures manual.

01:21:29 13 Q. Okay. And what do you use the EPM for?

01:21:36 14 A. It is all of the statutes that are in regards

01:21:40 15 to voter registration and elections. So if I need to

01:21:44 16 know, you know, timelines or guidelines or what the

01:21:49 17 statute says, I refer back to this. So...

01:21:53 18 Q. Excellent.

01:21:55 19 And I'll just note for the record here that

01:21:57 20 this is already introduced as Exhibit 6.

01:22:01 21 And you see on the top that it says 2019?

01:22:09 22 A. Yes.

01:22:09 23 Q. Is the 2019 version still the one that you use

01:22:13 24 in your office?

01:22:17 25 A. I believe so.

01:22:19 1 Q. Okay.

01:22:19 2 A. I know that they're in the works of updating it

01:22:23 3 now.

01:22:24 4 Q. Okay.

01:22:25 5 A. So the new one won't be out yet.

01:22:27 6 Q. But this is the one that you refer to?

01:22:29 7 A. This is the most current, yes.

01:22:31 8 Q. Okay. Excellent.

01:22:33 9 And, to your knowledge, is this EPM binding on

01:22:40 10 your office?

01:22:41 11 A. Yes, it is.

01:22:42 12 Q. Okay. Great.

01:22:46 13 MR. WHITAKER: Calls for a legal

01:22:47 14 conclusion.

01:22:53 15 BY MR. FERGUSON:

01:22:54 16 Q. All right. Now, I would just like to talk a

01:22:57 17 little bit about the two laws that are challenged in

01:23:00 18 this lawsuit, and that's H.B. 2492 and H.B. 2243. Are

01:23:10 19 you aware of those two laws?

01:23:13 20 A. Vaguely, yes.

01:23:15 21 Q. Okay. And, again, I'm not asking for a lot of

01:23:20 22 specifics or a full description, but could you give me a

01:23:25 23 general sense or your understanding of what's contained

01:23:30 24 in H.B. 2492?

01:23:34 25 A. I actually can't, so...

01:23:39 1 Q. Okay. And is that the same with H.B. 2243?

01:23:43 2 A. That's correct. I'm not that familiar
01:23:46 3 specifically with them. Yeah.

01:23:48 4 Q. Sure.

01:23:52 5 Is your office implementing any parts of
01:23:58 6 H.B. 2492?

01:24:01 7 A. Yes.

01:24:03 8 Q. Okay. Can you tell me which parts?

01:24:10 9 A. Which -- so I know that we follow all the
01:24:13 10 statutes and laws regarding voter registration and
01:24:18 11 elections. I can't specifically say which one.

01:24:24 12 Q. Okay.

01:24:28 13 MS. ROBERTSON: Brent, could I just
01:24:30 14 clarify for a second?

01:24:31 15 MR. FERGUSON: Sure.

01:24:32 16 MS. ROBERTSON: So, Annalee, those are the
01:24:36 17 laws that are the subject of the litigation.

01:24:37 18 THE WITNESS: Okay. So then that's the
01:24:44 19 citizenship and the voter registration, the addressing
01:24:48 20 part of it, correct? Am I --

01:24:52 21 MS. ROBERTSON: They address some of that,
01:24:54 22 yes.

01:24:54 23 THE WITNESS: Okay. All right.

01:24:57 24 Yeah. I'm just not that versed on the
01:25:01 25 specifics of those, so...

01:25:03 1 BY MR. FERGUSON:

01:25:03 2 Q. Yeah, that's fine, and certainly, you know, if
01:25:06 3 you're not sure, that's totally fine, and you can tell
01:25:09 4 me you don't know.

01:25:11 5 A. Okay.

01:25:12 6 Q. So I'll ask again. Are you currently
01:25:16 7 implementing any parts of the law, to your awareness?

01:25:23 8 A. As far as I know, our office follows all of the
01:25:26 9 statutes and laws, so, yes, I would assume so, yeah.

01:25:32 10 Q. Okay. I will -- I'm going to pull up
01:25:39 11 Document E right now. Do you have that in front of you,
01:25:46 12 or should I put it on the screen?

01:25:47 13 A. Can you put it on the screen, please?

01:25:49 14 Q. Yeah, happy to.

01:25:50 15 A. Oh, you do have it, okay.

01:25:53 16 Q. You've got it?

01:25:54 17 A. Yes, I do have it.

01:25:56 18 Q. Okay. Let's take a look at -- so do you see at
01:26:01 19 the top, the first page, it says "Apache County
01:26:05 20 Recorder's Answers to First Set of Interrogatories,"
01:26:07 21 just to make sure we're --

01:26:09 22 A. Yes.

01:26:09 23 Q. -- looking at the same thing?

01:26:11 24 A. Uh-huh.

01:26:11 25 Q. Okay. Let's go to the second page, and then if

01:26:18 1 you look at where it says "Answer" right in the middle
01:26:20 2 of the second page of the document; do you see that?
01:26:23 3 A. Yes, I do.
01:26:24 4 Q. Okay. Could you just read aloud the first
01:26:32 5 sentence of that?
01:26:34 6 A. Of the answer portion?
01:26:36 7 Q. Yes, please.
01:26:38 8 A. "The Apache County Recorder has not made or
01:26:42 9 implemented any plans, policies or procedures regarding
01:26:44 10 the actual or prospective implementation of H.B. 2492,
01:26:52 11 and the Apache County Recorder will not do so until
01:26:55 12 further guidance is received from the Secretary of
01:26:58 13 State. Should additional guidance be received, the
01:27:01 14 Apache County Recorder will supplement this response."
01:27:04 15 And, yes, this refreshes my memory. Thank you.
01:27:07 16 Q. Okay. That's just what I was going to --
01:27:08 17 A. Yes.
01:27:09 18 Q. Okay. Excellent.
01:27:10 19 So it refreshes your memory that you're not
01:27:18 20 implementing that law, your office is not?
01:27:20 21 A. That's correct. Yes, I do know that -- yeah,
01:27:23 22 I'm aware that the Secretary of State is still working
01:27:25 23 on giving us clarification on this --
01:27:28 24 Q. Okay.
01:27:28 25 A. -- before we implement anything.

01:27:29 1 Q. Excellent. Thank you.

01:27:30 2 And one thing, just generally, I forgot to
01:27:34 3 mention before. Since you're representing your office,
01:27:37 4 sometimes I'll use the word you or your, and when I say
01:27:41 5 that, I'll usually mean your office as a whole, unless I
01:27:45 6 say otherwise. Does that work for you?

01:27:48 7 A. I understand. Yes.

01:27:51 8 Q. I don't mean you personally, yeah. Okay,
01:27:53 9 great.

01:27:54 10 So let's just, to save time, let's move on to
01:27:56 11 H.B. 2243, the other law at issue here. And if you'll
01:28:07 12 look at the next page of that document, Page 3, you
01:28:12 13 don't need to read it aloud, but if you could read where
01:28:14 14 it says "Answer" at the top of Page 3.

01:28:19 15 A. Yes. Would you like me to read it aloud?

01:28:23 16 Q. You don't need to read it aloud, but -- and I'd
01:28:28 17 just ask if your office is implementing any portion of
01:28:31 18 H.B. 2243 at this time?

01:28:35 19 A. At this time, no. We're waiting on direction
01:28:38 20 from the Secretary of State's Office --

01:28:41 21 Q. Okay.

01:28:41 22 A. -- before we implement any of those.

01:28:44 23 Q. Excellent. Okay. I appreciate that. I don't
01:28:46 24 think we've yet marked this as an exhibit, but I think
01:28:48 25 we're on Exhibit 245. So if we could mark that as 245

01:28:55 1 right now.

01:28:55 2 Thanks very much.

01:29:06 3 Okay. So I'd like to look at one more document

01:29:10 4 now, which is Document B. Do you have that one

01:29:18 5 available or should I pull it --

01:29:21 6 A. Yes, I do have that available.

01:29:24 7 Q. Great. And so let's mark that one as

01:29:27 8 Exhibit 246.

01:29:32 9 And could you tell me what this document is?

01:29:36 10 A. This is the -- our responses to the

01:29:42 11 interrogatories for the lawsuit.

01:29:45 12 Q. Great. Thank you.

01:29:48 13 And you said before that you worked on

01:29:55 14 providing these responses; is that correct?

01:29:56 15 A. I did.

01:29:57 16 Q. Okay. Excellent.

01:29:58 17 So I'd like to go to the top of Page 6 of that

01:30:06 18 document. I'll give you a second to get there.

01:30:11 19 A. Okay. I'm there.

01:30:16 20 Q. Great.

01:30:17 21 Do you see where it says "Response" there

01:30:19 22 starting on Line 6 of Page 6?

01:30:22 23 A. I do.

01:30:23 24 Q. Okay. I'll just give you a second to take a

01:30:26 25 look. Could you just read that response? I'll give you

01:30:29 1 a second to do that.

01:30:39 2 A. Okay.

01:30:40 3 Q. Okay. Thank you.

01:30:41 4 So I'll read the first part of that into the
01:30:44 5 record. It says, "Should a voter registration applicant
01:30:49 6 fail to provide proof of citizenship or fail to check
01:30:52 7 the citizenship box on the Arizona voter registration
01:30:55 8 form will be sent a notice from the Apache County
01:31:00 9 Recorder's Office."

01:31:02 10 Did I read that correctly there?

01:31:04 11 A. That is correct, yes.

01:31:05 12 Q. Okay. So I'm just trying to figure out exactly
01:31:10 13 what your process is in this situation. So does this
01:31:14 14 answer mean that if someone fills out a voter
01:31:18 15 registration application without the citizenship box
01:31:21 16 checked, but they have provided documentary proof of
01:31:26 17 citizenship, then you contact them and notify them to
01:31:31 18 resubmit the form with the box checked?

01:31:36 19 A. At this time, no. That -- yes, we would rely
01:31:43 20 on using our HAVA checks and, you know, visually looking
01:31:48 21 at their documentation as well.

01:31:51 22 Q. Okay.

01:31:53 23 A. Yeah. And that kind of supersedes checkmarking
01:31:57 24 that box. If they provide the proof and it goes through
01:31:59 25 the HAVA check correctly, even if they haven't

01:32:03 1 checkmarked that box, they should be fine.

01:32:05 2 Q. Okay. So --

01:32:06 3 A. If they don't do either one of those, then,

01:32:09 4 yes, we would send them a letter.

01:32:11 5 Q. I see. Okay. So if someone applies and they

01:32:16 6 provide proof of citizenship, but they haven't checked

01:32:19 7 the box, then they are registered; is that correct?

01:32:25 8 A. That is -- that is correct.

01:32:28 9 Q. Okay.

01:32:28 10 A. As long as their information makes it through

01:32:30 11 the HAVA checks and all of that and those documents are,

01:32:34 12 you know, legitimate, then, yes, that would be -- they

01:32:38 13 would be registered.

01:32:40 14 Q. Okay. Great. Thank you.

01:32:43 15 And what if they submit the application and the

01:32:46 16 box is checked, but they have not provided proof of

01:32:50 17 citizenship; what do you do with that application?

01:32:54 18 A. Then they would be placed on suspense and sent

01:32:58 19 a letter to provide proof for citizenship.

01:33:03 20 Q. Okay.

01:33:04 21 A. So, yeah, the proof of citizenship, the

01:33:07 22 documents provided by the voter or the registrant

01:33:11 23 supersedes that checkmarked box.

01:33:14 24 Q. Okay. Excellent.

01:33:16 25 So I just want to clarify the first sentence of

01:33:21 1 this response here that I read, saying that if they
01:33:27 2 failed to check the citizenship box, they will be sent a
01:33:31 3 notice. That is not intended to mean that they will be
01:33:37 4 sent a notice if they've provided proof of citizenship;
01:33:45 5 is that correct?

01:33:45 6 A. That's correct. It probably needs to be
01:33:47 7 clarified, yes.

01:33:48 8 Q. Okay. Thank you. Thanks for clarifying that.
01:33:50 9 I appreciate it.

01:33:51 10 And then we've talked a little bit about
01:33:57 11 implementing these two laws that we've been discussing.

01:34:04 12 Has your office had any communications with the
01:34:07 13 Secretary of State's Office about implementing either
01:34:10 14 H.B. 2492 or H.B. 2243?

01:34:14 15 A. I have -- I am aware that the Secretary of
01:34:18 16 State's Office is working on those. I've been a party
01:34:21 17 to meetings where they've discussed it.

01:34:24 18 Q. Okay.

01:34:24 19 A. So, yeah.

01:34:25 20 Q. And can you tell me a little bit more about
01:34:27 21 those meetings, rough ballpark of how many and when they
01:34:35 22 were?

01:34:35 23 A. Probably maybe three or four. Yeah. But it's
01:34:45 24 more when we're -- we're waiting on clarification from
01:34:51 25 them. I believe they're working on a VRAC paper in

01:34:56 1 order for those. So, you know, when questions arise
01:34:58 2 around these topics, they'll say we're still working on
01:35:02 3 that.

01:35:02 4 Q. Okay. And so those few meetings, have those
01:35:08 5 all been within -- between January and today?

01:35:13 6 A. Yes.

01:35:15 7 Q. Okay. And do you remember any specific topics
01:35:18 8 you discussed about things like the citizenship checkbox
01:35:23 9 or providing someone's birthplace or anything else?

01:35:29 10 A. Vaguely, but mostly in regards to the AVID
01:35:33 11 system. I'm on those calls for having the AVID system
01:35:38 12 updated and those sorts of things. So we cannot make
01:35:43 13 any changes to the AVID system and all of that until the
01:35:48 14 VRAC papers come down with more direction from the
01:35:52 15 Secretary of State. So that's usually where my
01:35:55 16 meetings -- where this comes into play for myself.

01:35:57 17 Q. Okay. And so we'll talk some more about the
01:35:59 18 AVID system later, but maybe we can just clarify now.
01:36:06 19 So you mentioned potential updates to the AVID system,
01:36:09 20 and is that -- can you tell me what those potential
01:36:14 21 updates are intended to do?

01:36:17 22 A. To comply with the laws, so to make sure that
01:36:22 23 our system is allowing for those things to be recorded
01:36:27 24 correctly.

01:36:28 25 Q. Okay. And that would be -- do you know what

01:36:33 1 specific parts of the law would require changes to AVID?

01:36:40 2 A. I think it's in the functionality of AVID.

01:36:44 3 We're wanting to make sure that it provides all of the

01:36:46 4 functionality that it needs in order to comply with the

01:36:49 5 law once it's fully, you know, fully enacted, I guess --

01:36:56 6 Q. Okay.

01:36:57 7 A. -- from the Secretary of State. So...

01:36:58 8 Q. Great. Thank you.

01:36:59 9 And so are you aware of any specific changes to

01:37:07 10 the AVID system, you know, any specific functionality

01:37:12 11 that it might have or anything like that?

01:37:17 12 A. At this point, no, we have not -- I know that

01:37:20 13 as part of that advisory board, we haven't made any

01:37:24 14 changes yet until we hear more from the Secretary of

01:37:28 15 State.

01:37:28 16 Q. Okay. And you mentioned the VRAC papers.

01:37:31 17 Could you tell me what VRAC stands for?

01:37:35 18 A. Oh, my gosh. Actually, no, I can't.

01:37:40 19 Q. Is it voter registration advisory committee; is
01:37:44 20 that correct?

01:37:44 21 A. Yes, yes. Yeah. Sorry.

01:37:46 22 Q. No problem.

01:37:49 23 A. I'm still new to the position, so I'm like I
01:37:52 24 don't know all of the lingo yet.

01:37:53 25 Q. Yeah.

01:37:54 1 A. I know what it means, but I don't --

01:37:56 2 Q. There's a lot of acronyms, for sure. No
01:37:59 3 problem.

01:37:59 4 And so what is -- are you on that; are you a
01:38:03 5 member of that?

01:38:03 6 A. I'm not on the advisory committee, but I am
01:38:07 7 part of the user group that suggests the changes that
01:38:14 8 need to be made to AVID. So I'm part of one of the
01:38:18 9 users that, you know, sees problems, asks for upgrades,
01:38:23 10 and that sort of thing.

01:38:26 11 Q. All right. Okay. And as part of that group,
01:38:28 12 are there specific upgrades that that group has
01:38:34 13 suggested?

01:38:37 14 A. I can't speak to any specifically. I know that
01:38:41 15 it's come up, but none of them -- none of those
01:38:44 16 suggestions have come from the Apache County Recorder's
01:38:48 17 Office, from us, so...

01:38:51 18 Q. Okay. And so there are employees of other
01:38:55 19 County Recorder's Office that are in that group with
01:38:57 20 you?

01:38:57 21 A. That's correct, yes.

01:38:59 22 Q. Okay. But you don't have any recollection of
01:39:03 23 requests that those members have made?

01:39:06 24 A. Not specifically, no.

01:39:09 25 Q. Okay. And so is that the only role you play on

01:39:12 1 VRAC is just with the AVID update system?

01:39:15 2 A. Yes, that's correct.

01:39:19 3 Q. And do you -- have you heard from the Secretary
01:39:22 4 of State's Office or anyone else when these updates will
01:39:26 5 likely be made?

01:39:30 6 A. All I know -- all I've heard is that they won't
01:39:33 7 be made until after we get direction and the finalized
01:39:38 8 VRAC paper from the Secretary of State.

01:39:40 9 Q. Okay.

01:39:41 10 A. And I don't know when that will be, so...

01:39:44 11 Q. Okay.

01:39:45 12 A. Yeah.

01:39:46 13 Q. Great.

01:39:47 14 So I'd like to move on now to a specific
01:39:51 15 provision of H.B. 2492. So, let's see. That's going to
01:39:58 16 be Document I. Do you have that, or would you like me
01:40:02 17 to pull that one up?

01:40:03 18 A. I do.

01:40:05 19 Q. You have that?

01:40:05 20 A. I do. I have it.

01:40:06 21 Q. Okay. Great.

01:40:13 22 Okay. And this has been introduced as
01:40:19 23 Document -- or, sorry, as Exhibit 19 already.

01:40:30 24 Sorry. Just one second.

01:40:31 25 MR. FERGUSON: Jody, did we mark the

01:40:35 1 Document B as Exhibit 246?

01:40:35 2 THE COURT REPORTER: (Nodded.)

01:40:40 3 MR. FERGUSON: Okay. I just wanted to

01:40:41 4 double-check that we had that, and thank you.

01:40:41 5 BY MR. FERGUSON:

01:40:44 6 Q. Okay. So you've seen this Document I before,

01:40:50 7 H.B. 2492?

01:40:51 8 A. This is my first time looking at it as a whole.

01:40:54 9 Q. Okay. Okay. Sure.

01:41:02 10 So let's look at Page 3 of Document I.

01:41:18 11 Do you have Page 3 there?

01:41:20 12 A. I do.

01:41:21 13 Q. And if you could look down starting at Line 29

01:41:24 14 of that document, if you could just take a couple

01:41:28 15 moments to read Lines 29 through 33.

01:41:52 16 A. Okay.

01:41:53 17 Q. Okay. Thank you.

01:41:54 18 I'll just read it into the record. "A person

01:41:59 19 is presumed to be properly registered to vote on

01:42:02 20 completion of a registration form as prescribed by

01:42:06 21 Section 16-152 that contains at least the name, the

01:42:10 22 residence address or location, proof of location of

01:42:13 23 residence as prescribed by Section 16-123, the date and

01:42:19 24 place of birth."

01:42:20 25 A. Uh-huh.

01:42:21 1 Q. Are you aware of the requirement in H.B. 2492
01:42:24 2 that voter registration applicants list their place of
01:42:29 3 birth on an application form?

01:42:33 4 A. Yes.

01:42:34 5 Q. Okay. And is your office requiring applicants
01:42:39 6 to list their place of birth right now?

01:42:45 7 A. They can't -- I wouldn't say we require it.

01:42:50 8 Q. Okay.

01:42:52 9 A. As far as like proof of residency, that -- the
01:42:57 10 place of birth does not play into their proof of
01:43:02 11 citizenship at all, so...

01:43:05 12 Q. Okay. So if someone --

01:43:06 13 A. But it is an item -- it is an item that is
01:43:09 14 filled out on the voter registration form, but...

01:43:11 15 Q. Right. So -- right, there's a space for it on
01:43:15 16 the form.

01:43:15 17 If you receive an application that's missing
01:43:20 18 the place of birth, but it has everything else that's
01:43:23 19 required, is that person registered?

01:43:28 20 A. Yes, they are.

01:43:30 21 Q. Okay. And does your office have access to any
01:43:36 22 kind of database that would confirm a person's identity
01:43:41 23 just by using their place of birth?

01:43:46 24 A. By just place of birth by itself?

01:43:52 25 Q. Or in combination with their name, for example.

01:43:55 1 I mean, yes, not submitting solely the place of birth,
01:43:58 2 but do you -- let me rephrase it.

01:44:01 3 Is there any database you have where you could
01:44:04 4 submit their registration information and confirm their
01:44:09 5 identity by matching their place of birth to the place
01:44:14 6 of birth in that database?

01:44:18 7 A. Not that I'm aware of. It's not one of the --
01:44:21 8 it's usually, you know, social security number, driver's
01:44:24 9 license number, name, date of birth, those items.

01:44:29 10 Q. Okay. Thank you.

01:44:31 11 Moving on to a different provision, are you
01:44:36 12 aware that H.B. 2492 also requires voter registration
01:44:41 13 applicants to provide documentary proof of residency or
01:44:47 14 DPOR?

01:44:48 15 A. Yes.

01:44:50 16 Q. Okay. So I'll point you to that same document,
01:44:56 17 Document I that we were looking at, and the bottom of
01:45:02 18 Page 5.

01:45:07 19 A. Okay.

01:45:10 20 Q. And if you could take a look at starting with
01:45:13 21 Line 40 near the bottom of Page 5, and I'll just read
01:45:18 22 that. "Proof of location of residence. Except for
01:45:23 23 persons who register pursuant to Section 16-103, a
01:45:27 24 person who registers to vote shall provide an
01:45:30 25 identifying document that establishes proof of location

01:45:32 1 of residence."

01:45:34 2 A. Uh-huh.

01:45:35 3 Q. Did I read that correctly?

01:45:37 4 A. Yes, you did.

01:45:38 5 Q. Okay. And is your office implementing that
01:45:45 6 requirement that people provide DPOR?

01:45:50 7 A. We do have to have like a physical address in
01:45:54 8 order to register them; but as far as like them
01:45:59 9 providing a document that proves that they live there,
01:46:02 10 no, we do not.

01:46:02 11 Q. Okay.

01:46:02 12 A. Other than we send out letters and they can
01:46:06 13 write their description, you know, their address, a
01:46:10 14 Google Plus Code, that sort of thing. It has to have a
01:46:13 15 signature.

01:46:13 16 Q. Okay.

01:46:14 17 A. But it doesn't require further documents to
01:46:16 18 prove that they live at that location.

01:46:18 19 Q. Okay. Thank you. That's helpful.

01:46:22 20 So let's talk a little bit about what you just
01:46:26 21 mentioned, how people show where they live.

01:46:30 22 So, basically, your last answer means that they
01:46:34 23 don't have to have any kind of document, like an ID with
01:46:39 24 their address or a utility bill or anything like that --

01:46:43 25 A. That's correct.

01:46:43 1 Q. -- but they have to provide some kind of
01:46:46 2 address on the registration form; is that correct?

01:46:50 3 A. That is correct.

01:46:53 4 Q. Okay. And can you tell me, once you get that
01:46:59 5 application form and it has an address on it, how do you
01:47:03 6 go about verifying that address in your system?

01:47:08 7 A. So in the AVID system, once they give us an
01:47:11 8 address, we type it in. If there is a location point
01:47:18 9 saved in the Total Address system, then we can link it
01:47:23 10 to that location.

01:47:25 11 Q. Okay.

01:47:26 12 A. And that's how we would verify it.

01:47:30 13 Apache County is definitely very unique in our
01:47:35 14 addressing on the Navajo Nation and, you know, in the
01:47:40 15 southern part of the county as well. So if we are able
01:47:44 16 to find -- if they can provide like a Google Plus Code
01:47:48 17 or something like that, we can add a point when we find
01:47:51 18 their residence, we can add a point to Total Address and
01:47:55 19 verify it that way.

01:47:57 20 Q. Okay. Let's talk a little bit more about that
01:48:01 21 process. So you're saying if someone provides an
01:48:07 22 address and you put it into the Total Address system and
01:48:11 23 nothing comes up or there's no point, then you will
01:48:15 24 contact them for more information; is that correct?

01:48:19 25 A. That's correct, yes.

01:48:20 1 Q. Okay.

01:48:20 2 A. So they can draw a map, you know, on the voter

01:48:24 3 registration form. They can provide other descriptions

01:48:28 4 of where they live.

01:48:30 5 Q. Okay.

01:48:30 6 A. And if we can locate their residence, we can

01:48:33 7 add that point to Total Address and have them verified.

01:48:38 8 Q. Okay.

01:48:38 9 A. If we still need more information, we would put

01:48:41 10 them in suspense and send them an address verification

01:48:44 11 letter for them to provide more information.

01:48:47 12 Q. Okay. So let's talk about that letter in a

01:48:50 13 moment. But when you're describing asking for more

01:48:58 14 information that you just did, if you haven't yet sent

01:49:00 15 the letter, then what's your process of doing that? Is

01:49:04 16 this when someone's registering in person?

01:49:09 17 A. Yes, and usually it even happens, you know,

01:49:12 18 through the MVD, all of that. So if we do have any

01:49:18 19 questions, as long as -- we can contact the registrant

01:49:24 20 and speak with them over the phone, as long as they're

01:49:27 21 describing that same address that they put on that form

01:49:31 22 and we can locate that same address. It might have a

01:49:34 23 new -- they may need to give more descriptors or that

01:49:38 24 sort of thing. If they're trying to completely change

01:49:41 25 it and put it, you know, somewhere else in a different

01:49:43 1 town, we cannot change that address until we have their
01:49:46 2 signature or a new voter registration form, if that
01:49:50 3 makes sense.

01:49:51 4 Q. Okay. Let's get to the letter you're
01:49:57 5 mentioning, which is, I believe, Document L. Do you
01:50:05 6 have that in front of you?

01:50:07 7 A. No.

01:50:08 8 Yeah, our address verification letter.

01:50:15 9 Q. Okay. So this is what you send if someone
01:50:18 10 provides an address that can't be located in the Total
01:50:23 11 Address system, is that -- that's correct?

01:50:25 12 A. That's correct.

01:50:27 13 Q. Okay. And then if you could go down to the
01:50:34 14 bottom of that document, under where it says
01:50:37 15 "Signature," and there's a couple sentences in
01:50:42 16 parentheses; do you see that?

01:50:46 17 A. Yes, I do.

01:50:49 18 Q. Okay. So I'll read that for the record. "Use
01:50:52 19 information such as north, south, east, west and mile
01:50:55 20 markers of State Highways, apartment complex names, NHA
01:51:01 21 housing names," and then it gives some examples.

01:51:05 22 Did I read that correctly?

01:51:08 23 A. Yes, you did.

01:51:10 24 Q. Okay. And so if someone -- if you send this
01:51:12 25 letter to someone and they respond by providing a

01:51:20 1 description like one of these examples, so one example
01:51:24 2 is one and a half miles southwest of KTNN radio
01:51:29 3 station --
01:51:29 4 A. Uh-huh.
01:51:30 5 Q. -- can you tell me how you would use that
01:51:34 6 description to get their address properly entered in the
01:51:40 7 Total Address system?
01:51:42 8 A. Uh-huh. So normally, because we do have quite
01:51:46 9 a few of these addresses like this, they may just be
01:51:49 10 directionally, you know, southwest of a major, you know,
01:51:55 11 point. If we -- if there is a residence there and it
01:52:01 12 fits their description, then we can add a Total Address
01:52:05 13 point to that description, to that point, and then
01:52:11 14 assign them that address.
01:52:15 15 Q. Okay.
01:52:15 16 A. But if that -- if that point puts them in the
01:52:18 17 middle of a lake or someplace where there is not a
01:52:20 18 residence, using Google Earth or Google Maps, there is
01:52:25 19 not something there, then we would probably contact the
01:52:30 20 registrant again for more clarification.
01:52:32 21 Q. Okay. So let's assume on this example, again,
01:52:39 22 1.5 miles southwest of the radio station, you would take
01:52:43 23 that and then look at a map online, like Google Maps or
01:52:48 24 something, and drop a point, and then that would be the
01:52:51 25 person's official address under the system?

01:52:56 1 A. That is correct.

01:52:58 2 Q. Okay. Okay. But then I think you said if it

01:53:02 3 looks like it's not a location where someone could live,

01:53:06 4 then you will follow up with them again to try to get

01:53:09 5 more specific information?

01:53:12 6 A. That is correct.

01:53:14 7 Q. And aside from descriptions, sometimes people

01:53:18 8 provide drawings of where they live on the voter

01:53:25 9 registration application as well; is that correct?

01:53:27 10 A. That is correct.

01:53:28 11 Q. Okay. And can you tell me the same thing, your

01:53:33 12 process for trying to match that with a specific point

01:53:38 13 in the Total Address system?

01:53:42 14 A. Yes. I would just follow their direction,

01:53:45 15 follow that drawing as much as I can. Sometimes they're

01:53:48 16 upside down. Sometimes they're sideways. But we do our

01:53:53 17 absolute best to, you know, follow the description that

01:53:55 18 the registrant has put there and then find the location.

01:53:59 19 And it's the same with the other, is if that description

01:54:03 20 does not locate an actual residence on the map or we're

01:54:07 21 still not sure, then we would contact the registrant

01:54:11 22 again --

01:54:12 23 Q. Okay.

01:54:12 24 A. -- for more clarification.

01:54:15 25 Q. And if that situation comes up where you can't

01:54:19 1 get an exact location, then how -- how would you send
01:54:25 2 the incomplete address letter if you don't have -- if
01:54:29 3 you just have a drawing or a description or something
01:54:34 4 like that?

01:54:36 5 A. So we would send the letter to their mailing
01:54:38 6 address, which is usually different than that physical
01:54:42 7 address.

01:54:43 8 Q. Okay.

01:54:45 9 A. There are instances where they do not provide a
01:54:49 10 mailing address that is different from that description.

01:54:52 11 In that case we would try to contact them via phone,
01:54:57 12 e-mail, if that is provided on the registration form.

01:55:04 13 So other than that, if they -- like let's say
01:55:07 14 they just give a physical address that we can't verify
01:55:10 15 and they don't give us any other, you know, contact
01:55:14 16 information. Then, you know, we do -- we do try to send
01:55:19 17 it out to that physical address, and normally it will
01:55:22 18 probably come back to us undeliverable.

01:55:24 19 Q. Okay. And in the situation where you try to do
01:55:32 20 followup as you've described, so if you send that letter
01:55:36 21 or you try to contact them in a different way and you're
01:55:40 22 unable to do so, what happens to that person's
01:55:45 23 registration?

01:55:48 24 A. They would more than likely stay in suspense,
01:55:52 25 waiting verification.

01:55:53 1 Q. Okay.

01:55:55 2 A. This is part of it where I'm still getting

01:55:59 3 training.

01:55:59 4 Q. Okay.

01:56:00 5 A. I do know that there are, you know, certain

01:56:03 6 rules about how long they can stay in suspense, and I

01:56:06 7 think they have to go through a cycle of not voting

01:56:10 8 during so many, you know, elections and that sort of

01:56:13 9 thing. I am still training on that.

01:56:17 10 Q. Okay.

01:56:17 11 A. But in Apache County, since I've been in this

01:56:20 12 position, I haven't canceled anybody or anything in that

01:56:24 13 status because I'm still working with the Secretary of

01:56:27 14 State on training how to do that.

01:56:29 15 Q. Okay. Sure. And if they're in that suspense

01:56:35 16 category, are they able to vote in the -- in any

01:56:41 17 elections?

01:56:43 18 A. If they did try to vote, we would have to have

01:56:46 19 them verify that address. More than likely they would

01:56:49 20 have to vote provisionally.

01:56:51 21 Q. Okay.

01:56:53 22 A. Yes. But they are able to still vote if

01:56:56 23 they're in suspense provisionally, yeah.

01:57:00 24 Q. Okay. They'll vote a provisional ballot.

01:57:05 25 And you started this job, I know, in November

01:57:09 1 of 2022. Were there situations after the November '22
01:57:17 2 election where people voted provisionally?

01:57:21 3 A. Yes.

01:57:22 4 Q. Okay. And do you know about how many people?

01:57:28 5 A. I don't know that number. Like I said, I
01:57:30 6 started about maybe three days before the election.

01:57:35 7 Q. Okay.

01:57:35 8 A. So, you know, started as a temp just helping
01:57:37 9 out and whatever. So I don't know the specifics about
01:57:40 10 the November '22 election.

01:57:43 11 Q. Okay. And I'm not asking for specific numbers
01:57:49 12 here, but do you have a sense of those people who do
01:57:55 13 vote provisionally because they're on the suspense list,
01:57:59 14 about what proportion are able to have their vote
01:58:05 15 counted after follow-up?

01:58:09 16 A. Like I said, my only experience was with this
01:58:12 17 past election. I do not know the numbers from that
01:58:15 18 election myself. I don't believe the number's super
01:58:21 19 high, but I don't want to speak to that if I don't know
01:58:24 20 the answer.

01:58:25 21 Q. Okay. Fair.

01:58:27 22 And you mentioned the Navajo Reservation a few
01:58:32 23 minutes ago. Can you tell me which other Native
01:58:35 24 American Reservations are in Apache County?

01:58:41 25 A. I believe that's the only one, as far as I

01:58:46 1 know.

01:58:46 2 Q. Okay.

01:58:46 3 A. I don't think any others come into the Apache
01:58:54 4 County.

01:58:54 5 Q. And are there areas or -- strike that.
01:58:59 6 Do you know of areas on the Navajo Reservation
01:59:03 7 or any Reservations that lack a numbered street address?

01:59:09 8 A. Yes, many.

01:59:10 9 Q. Okay.

01:59:11 10 A. Many.

01:59:13 11 Q. And would you say it's more likely that a home
01:59:18 12 on a Reservation would lack a street address than a home
01:59:22 13 elsewhere?

01:59:24 14 A. Yes. I know that the southern part of the
01:59:29 15 county as well we've got a lot of addresses that do not
01:59:36 16 have 911 addresses, I guess, that are not assigned an
01:59:40 17 actual address that are very, very rural. So I would
01:59:46 18 say more likely, yes, on the Navajo Nation they have
01:59:52 19 fewer addresses; but I do come in contact with that in
01:59:55 20 the other part of the county as well.

01:59:57 21 Q. And when you say no 911 address, what does that
02:00:01 22 mean?

02:00:02 23 A. That would be like an address that is assigned,
02:00:06 24 that the county would assign to that residence --

02:00:11 25 Q. Okay.

02:00:13 1 A. -- that's on the record. So if you Googled it,
02:00:16 2 you would be able to find it.

02:00:17 3 Q. Okay. And so you've seen voter registration
02:00:26 4 applications from a Reservation that lack a standard
02:00:29 5 street address; is that correct?

02:00:32 6 A. Yes, I would say a high proportion --

02:00:35 7 Q. Okay.

02:00:35 8 A. -- that are on the Navajo Nation are -- lack a
02:00:38 9 standard address, yeah.

02:00:39 10 Q. But would you say over half?

02:00:43 11 A. Oh, yeah. Yes.

02:00:45 12 Q. Okay. And do you know if voter registration
02:00:53 13 rates are lower for people who live on a Reservation
02:00:59 14 than people who live elsewhere in Apache County?

02:01:05 15 MR. LANGHOFER: Foundation.

02:01:11 16 THE WITNESS: Am I able to answer?

02:01:12 17 BY MR. FERGUSON:

02:01:12 18 Q. Yeah, go ahead.

02:01:17 19 A. Okay. I wouldn't know. I wouldn't know that.

02:01:19 20 Q. Okay. Let's move back a little bit to
02:01:27 21 documentary proof of residence that we were talking
02:01:30 22 about and how that applies to people who lack a standard
02:01:33 23 street address.

02:01:37 24 Do you know how someone who lacks a standard
02:01:39 25 street address would be able to provide DPOR?

02:01:46 1 MR. LANGHOFER: Calls for a legal
02:01:47 2 conclusion.

02:01:56 3 THE WITNESS: As far as that, they can,
02:01:58 4 you know, draw the map, give a more descriptive of where
02:02:05 5 the house is located. They can provide a Google Plus
02:02:13 6 Code. We do send out, you know, instructions on how to
02:02:15 7 find a Google Plus Code to all of those people. We can
02:02:21 8 call them, speak to them and that sort of thing. We can
02:02:25 9 also -- I know that we can have our outreach employees
02:02:29 10 go and try to locate the house that way as well.

02:02:33 11 BY MR. FERGUSON:

02:02:33 12 Q. Okay. Thank you.

02:02:40 13 So let's move back to that requirement we were
02:02:42 14 discussing in H.B. 2492. The applicants provide some
02:02:49 15 kind of document that proves their residency separately
02:02:54 16 from just providing a verified address. And can you
02:03:04 17 take a look at Document J? Do you have that in front of
02:03:06 18 you?

02:03:06 19 A. No, I do not.

02:03:11 20 Q. Okay. I'll pull it up on the screen.

02:03:21 21 Okay. Do you see that?

02:03:24 22 A. I do.

02:03:25 23 Q. Great. So this has been marked as Exhibit 24
02:03:28 24 already.

02:03:28 25 Have you ever seen this document before?

02:03:32 1 A. I have not, no.

02:03:33 2 Q. Okay. So I'll represent to you that the State

02:03:38 3 of Arizona has submitted this document in this case and

02:03:42 4 has indicated that it's a chart created by the Secretary

02:03:46 5 of State about DPOR.

02:03:50 6 A. Okay.

02:03:50 7 Q. So, to your knowledge, this document has not

02:03:52 8 been sent to your office or the office of any other

02:04:05 9 County Recorders?

02:04:05 10 A. I do not know.

02:04:06 11 Q. And if -- on the second page here you'll see in

02:04:09 12 green it says "What constitutes Documentary Proof of

02:04:13 13 Residency?" If you look at the third box down, it says,

02:04:18 14 "Tribal identification card." Do you see that?

02:04:21 15 A. Yes.

02:04:22 16 Q. Would your office accept that as valid

02:04:26 17 documentary proof of residency?

02:04:28 18 A. Yes, we would.

02:04:30 19 Q. Okay. And then now down to the fifth box,

02:04:34 20 where it says "Utility bill, bank statement, Arizona

02:04:38 21 insurance card," would your office accept those

02:04:43 22 documents as acceptable documentary proof of residency?

02:04:49 23 A. Yes, we would.

02:04:51 24 Q. And would you accept an affidavit from the

02:04:55 25 applicant saying that they're qualified to register?

02:05:02 1 A. We would have to have other checks and balances
02:05:07 2 in place. We can't just take their word for it, I
02:05:10 3 guess.

02:05:11 4 Q. Okay.

02:05:12 5 A. Yeah.

02:05:12 6 Q. Sure. Okay. I'll stop sharing my screen now.

02:05:17 7 Are you familiar with the National Voter
02:05:25 8 Registration Act or NVRA?

02:05:27 9 A. Yes.

02:05:30 10 Q. Okay. And are there agencies in Apache County
02:05:33 11 that provide voter registration services pursuant to the
02:05:38 12 NVRA?

02:05:41 13 A. Yes, there are.

02:05:42 14 Q. Okay. Do you know which agencies those are?
02:05:47 15 I'm not asking you to list all of them, but are you
02:05:49 16 aware of a few?

02:05:52 17 A. So like that would be like DES, public -- you
02:05:58 18 know, public assistance programs, that sort of thing.

02:06:00 19 Q. Okay. Excellent.

02:06:01 20 And are you aware of any effort to educate
02:06:04 21 those agencies on the DPOR requirement we've been
02:06:12 22 discussing in H.B. 2492?

02:06:15 23 A. I am not aware.

02:06:17 24 Q. Okay.

02:06:17 25 A. I can't answer that.

02:06:18 1 Q. Okay. I'd like to turn now to Document D. Do
02:06:26 2 you have that one?

02:06:27 3 A. I do.

02:06:28 4 Q. Okay. Great. So let me pull that up as well.
02:06:35 5 Have you seen this document before?

02:06:37 6 A. I have, yes.

02:06:38 7 Q. Okay. Can you describe what it is?

02:06:42 8 A. It is an e-mail thread between the Secretary of
02:06:52 9 State's Office, the AVID group, in regards to unverified
02:07:02 10 addresses in AVID and Total Address.

02:07:06 11 Q. Okay. And have you seen this e-mail as part of
02:07:11 12 your job or have you seen it just in preparing for the
02:07:15 13 deposition today?

02:07:17 14 A. Just in preparing for the deposition today.

02:07:22 15 Q. Okay. So I'm going to read just a portion of
02:07:29 16 this first page for the record. And if we can mark this
02:07:36 17 document as Exhibit 247, please.

02:07:46 18 So this is -- I'm going to read from the first
02:07:50 19 paragraph. "These are addresses that are neither
02:07:53 20 connected to a standard point nor have an actual point
02:07:57 21 dropped in TA." Do you see that part?

02:08:00 22 A. I do.

02:08:01 23 Q. Okay. And TA, is that Total Address that we've
02:08:04 24 been talking about?

02:08:06 25 A. It is, yes.

02:08:08 1 Q. Okay. And then at the bottom of the e-mail it
02:08:12 2 says "Apache" and then the number 15,019; is that
02:08:22 3 correct?

02:08:22 4 A. That is correct.

02:08:23 5 Q. Okay. So to your understanding, is this e-mail
02:08:26 6 saying that as of March 2022, there are 15,019 voters in
02:08:32 7 Apache County whose address was not connected to a point
02:08:36 8 in the TA system?

02:08:38 9 A. That is correct.

02:08:39 10 Q. Okay. And so were you -- before you saw this
02:08:43 11 e-mail, were you aware of this problem?

02:08:49 12 A. Yes, I was.

02:08:50 13 Q. Okay.

02:08:51 14 A. Uh-huh.

02:08:51 15 Q. And I know that you started about six months
02:08:55 16 after this e-mail was sent, but can you tell me, to your
02:09:00 17 knowledge, what the office has done to address this
02:09:03 18 problem?

02:09:05 19 A. We've actually been working very hard to get
02:09:09 20 this number down. We are now in the 8,000s,
02:09:14 21 approximately.

02:09:16 22 Q. Okay.

02:09:18 23 A. When I started, I think we were at around
02:09:22 24 30,000. So this has been kind of my personal big goal
02:09:27 25 to get this completed, and I have been in contact with

02:09:32 1 Russ Smith from the Secretary of State's Office and the
02:09:37 2 AVID -- in the AVID department to get this reconciled --
02:09:42 3 Q. Okay.
02:09:43 4 A. -- as quickly as possible.
02:09:45 5 Q. Okay. So that number was at 15,000 in March
02:09:49 6 and then it went up to 30,000 --
02:09:53 7 A. It was at 30,000 last November when I first
02:10:00 8 started.
02:10:01 9 Q. Okay.
02:10:01 10 A. So I don't know --
02:10:03 11 Q. Right.
02:10:03 12 A. -- a date on this
02:10:05 13 Q. Okay.
02:10:07 14 A. Okay.
02:10:07 15 Q. So this e-mail says March 2022. Sorry. I
02:10:12 16 should have said the year.
02:10:14 17 A. Yeah. So it did go up, apparently.
02:10:18 18 Q. Okay. And now you said it's down to about
02:10:20 19 8,000.
02:10:21 20 A. Uh-huh.
02:10:21 21 Q. Can you tell me how -- how you have lowered the
02:10:26 22 number?
02:10:27 23 A. We've manually had to go in to each individual
02:10:32 24 record and reconcile their address in Total Address. So
02:10:37 25 it's been a big endeavor.

02:10:39 1 Q. Okay. And is that normally done without
02:10:45 2 contacting the voter or applicant?

02:10:50 3 A. For the most part, yes, because some of them
02:10:53 4 are as simple as taking out a space that was in there
02:10:57 5 and then it suddenly will recognize the address and --

02:11:01 6 Q. I see.

02:11:01 7 A. -- we just update it and reconcile it. Some
02:11:05 8 are not so easy. We can't find the address. So what we
02:11:08 9 would do is put them in suspense and send them a letter
02:11:11 10 for verification.

02:11:13 11 Q. Okay. So some of the -- some of that 15,000 or
02:11:18 12 later 30,000 were just because of things like typos?

02:11:23 13 A. Yes. Yes.

02:11:29 14 Q. Okay. And then some portion of them were also
02:11:31 15 because the description or address couldn't be located
02:11:35 16 even if it -- even if there was no typo?

02:11:39 17 A. That's correct, yes.

02:11:42 18 Q. Okay. And can you tell me what -- so the
02:11:45 19 voters on that list that were at 15,000 in March of
02:11:55 20 2022, were they all on the suspense list that you
02:11:58 21 mentioned before?

02:12:01 22 A. No, they were not. Some --

02:12:02 23 Q. Okay.

02:12:02 24 A. And where these originated, for the most part,
02:12:07 25 was when we migrated from the old voter registration

02:12:13 1 system to AVID --

02:12:15 2 Q. Okay.

02:12:16 3 A. -- and started using Total Address. That's
02:12:19 4 where most of many them were originated from. Most of
02:12:24 5 the counties had those reconciled I believe it was
02:12:27 6 2020 --

02:12:28 7 Q. Okay.

02:12:28 8 A. -- when that migration happened. So they were
02:12:33 9 still active and everything in the system. We just --
02:12:37 10 they were just still showing in AVID that they were not
02:12:41 11 reconciled. So a lot of them, yes, are active. They
02:12:44 12 could vote, everything. We just have to verify those
02:12:48 13 addresses.

02:12:49 14 Q. Okay. Thank you.

02:12:51 15 And that -- so do you have a ballpark idea of
02:12:56 16 what proportion of those voters, of the 15,000, were
02:13:02 17 active and able to vote at that time?

02:13:08 18 A. I would say a majority of them. There were not
02:13:12 19 so many that, you know, did not -- were not assigned a
02:13:15 20 precinct part because of the unverified address.

02:13:20 21 Q. I see.

02:13:20 22 A. Yeah, that's a small portion of them.

02:13:23 23 Q. And so the -- that's what I was going to get to
02:13:26 24 next. If someone doesn't have a specific point in TA,
02:13:33 25 it could link that voter to the wrong precinct; is that

02:13:40 1 correct?

02:13:40 2 A. It could, yes.

02:13:41 3 Q. Okay. Or would it sometimes not assign them to

02:13:44 4 a precinct?

02:13:45 5 A. So it would either assign them to no precinct.

02:13:50 6 Q. Okay.

02:13:50 7 A. In that case, you know, they wouldn't -- they

02:13:52 8 would not be able to vote because they are not assigned

02:13:56 9 a precinct. For the most part, they -- when that

02:14:02 10 migration happened -- I'm still trying to understand the

02:14:05 11 AVID system.

02:14:06 12 Q. Sure.

02:14:07 13 A. But from what I understand is that they still

02:14:12 14 maintained the same precinct that they were assigned in

02:14:16 15 the previous system. So they were still able to vote.

02:14:19 16 But once we go and reconcile them, sometimes it -- their

02:14:23 17 house really isn't there. It's over here. So it may

02:14:26 18 put them in a different precinct.

02:14:29 19 Q. Okay.

02:14:29 20 A. Yeah.

02:14:33 21 Q. Thank you.

02:14:34 22 And so the people out of this 15,000 and then

02:14:38 23 the later 30,000, the ones that are on the suspense

02:14:46 24 list, is that because they would be in the wrong

02:14:48 25 precinct or not assigned to a precinct?

02:14:51 1 A. So the ones that are being put in the suspense
02:14:54 2 list, as we go through, you know, this 15,000 whatever,
02:14:59 3 they have to manually be put on the suspense list.

02:15:02 4 Q. Okay.

02:15:02 5 A. So we've reviewed it, we haven't been able to
02:15:05 6 reconcile their address in Total Address, and we put
02:15:08 7 them on suspense and send them a letter. So none of
02:15:12 8 them were automatically put in suspense --

02:15:14 9 Q. I see. I see.

02:15:15 10 A. -- by the system. So if they had an unverified
02:15:19 11 address left over from that merge --

02:15:22 12 Q. Uh-huh.

02:15:23 13 A. -- then they were still able to vote based on
02:15:27 14 that precinct that they were assigned from before --

02:15:29 15 Q. Okay.

02:15:29 16 A. -- if they were assigned one.

02:15:30 17 Q. So the suspense list is only for people who
02:15:34 18 you've gone in to manually look at the address and you
02:15:36 19 cannot confirm or pinpoint it, and then someone in your
02:15:41 20 office puts them on that list; is that correct?

02:15:44 21 A. That's correct, yes.

02:15:46 22 Q. Okay.

02:15:46 23 A. Uh-huh.

02:15:47 24 Q. Thank you.

02:15:48 25 Do you know about how many voters out of that

02:15:58 1 15,000 lived on a Reservation?

02:16:06 2 A. I can't say for sure, but I would say the

02:16:08 3 majority were from -- were on the Reservation, yes.

02:16:12 4 Q. Okay. And you provided a document as part of

02:16:20 5 the discovery in this case, Request for Production 3,

02:16:23 6 that had a suspense list; do you remember that?

02:16:28 7 A. I do.

02:16:29 8 Q. Okay. And is that the same list that we've

02:16:34 9 been talking about just now?

02:16:39 10 A. Yes.

02:16:39 11 Q. Okay.

02:16:40 12 A. Obviously it's changed since that production.

02:16:42 13 Q. Sure.

02:16:42 14 A. Because we've added more to it.

02:16:48 15 Q. Okay. But every person on that list is on

02:16:50 16 there because of some kind of problem with their

02:16:55 17 address; is that correct?

02:16:59 18 A. I believe so. I'm trying to remember. Because

02:17:05 19 you can run that -- you can put voters on suspense for

02:17:10 20 more than just address verification. But I believe I

02:17:14 21 had run that report, the suspense list, based on the

02:17:18 22 unverified addresses.

02:17:19 23 Q. Okay. And do you --

02:17:23 24 A. If I remember.

02:17:24 25 Q. Sure.

02:17:26 1 Do you remember about how many people were on
02:17:28 2 that list when you sent it? Again, I'm not asking for
02:17:32 3 exact numbers.

02:17:34 4 A. I do not.

02:17:35 5 Q. Okay.

02:17:36 6 A. I do not remember.

02:17:37 7 Q. If it says "Waiting Verification" on that
02:17:42 8 suspense list, does that refer to the waiting for
02:17:46 9 verification of their address?

02:17:48 10 A. Yes. There would be a further, other
02:17:53 11 specification. It would be you put them in suspense,
02:17:56 12 they're waiting verification, and then you would choose
02:17:58 13 the reason why. Some of those could be citizenship.
02:18:01 14 Some of it could be address verification. There's
02:18:04 15 multiple choices there. But I believe the one that I
02:18:09 16 sent you was based on missing or incomplete address.

02:18:14 17 Q. Okay. Thank you.

02:18:16 18 And then just going back to you mentioned the
02:18:28 19 county providing addresses for homes, and I think you
02:18:32 20 mentioned that with regard to the southern part of
02:18:35 21 Apache County. Do you know what agency or division of
02:18:41 22 the county government provides those addresses?

02:18:47 23 A. Our Apache County Engineering provides those.

02:18:50 24 Q. Okay. And do they -- do they also provide
02:18:55 25 addresses for homes on Reservations or not?

02:19:01 1 A. I do not believe so, no.

02:19:03 2 Q. Okay. If you'll just give me one moment.

02:19:15 3 MS. ROBERTSON: Brent, perhaps we could
02:19:16 4 take just a five-minute break, if this is a good time.

02:19:18 5 MR. FERGUSON: Yeah, that's good with me.
02:19:20 6 Is that good with everyone else?

02:19:23 7 THE WITNESS: That's fine.

02:19:24 8 THE VIDEOGRAPHER: We are off the record.
02:19:25 9 Time on the video monitor is 2:19 p.m.

02:19:30 10 (A recess was taken.)

02:26:20 11 THE VIDEOGRAPHER: We are on the record.
02:26:21 12 Time on the video monitor is 2:26 p.m.

02:26:26 13 BY MR. FERGUSON:

02:26:27 14 Q. Great. Thank you.

02:26:28 15 So we've been talking a little bit about how
02:26:34 16 voters were placed on the suspense list. Has Apache
02:26:41 17 County ever removed voters from the rolls because their
02:26:47 18 address couldn't be verified?

02:26:51 19 A. In the time that I have been here, no, because
02:26:54 20 I know that it needs to be done. Like I said, I'm still
02:26:59 21 being trained on that procedure and policy. But I do
02:27:03 22 have a list. I know that, you know, we have to wait
02:27:08 23 35 days from the time that their notice goes out and
02:27:12 24 that sort of thing. We have to wait so many election
02:27:15 25 cycles before we can actually cancel them. That has not

02:27:19 1 happened since I've been here, because I'm waiting --
02:27:22 2 I'm working with the Secretary of State's Office to get
02:27:25 3 trained on doing that.
02:27:27 4 Q. Sure.
02:27:28 5 A. But I do know that there is a policy on when
02:27:30 6 you can cancel voters on that suspense list.
02:27:35 7 Q. Okay.
02:27:36 8 A. There is a time limit, yeah.
02:27:39 9 Q. So they could be on the suspense list for some
02:27:42 10 certain period of time and then removed.
02:27:46 11 Is there any situation you're aware of where
02:27:48 12 voters were simply removed without being placed on a
02:27:52 13 suspense list?
02:27:54 14 A. The only time we would do that is if they are
02:27:59 15 deceased or we have proof that they have moved out of
02:28:02 16 the county.
02:28:03 17 Q. Okay.
02:28:03 18 A. But not for -- not for unverified addresses,
02:28:07 19 no.
02:28:07 20 Q. Okay. Okay. Thank you.
02:28:07 21 And then we've talked some about the documents
02:28:15 22 that someone might be able to provide for proof of
02:28:25 23 residency, and you mentioned before that a Tribal
02:28:30 24 identification card or utility bill would be acceptable;
02:28:38 25 is that correct?

02:28:38 1 A. That is correct, yes.

02:28:40 2 Q. Okay. If you'll give me just one moment.

02:28:57 3 Do you ever refer to documents like that when
02:29:00 4 going through the process of locating voters, or do you
02:29:06 5 just use their description and the map that you
02:29:10 6 mentioned?

02:29:15 7 A. So I will run usually like the HAVA check, like
02:29:19 8 if they -- let's say they gave me a drawing and a
02:29:23 9 description and I still can't figure it out. I can run
02:29:26 10 a HAVA check and see what's on their driver's license.
02:29:29 11 Usually it's the same exact thing that they've given me,
02:29:32 12 so it's not very helpful. And I also have looked on
02:29:36 13 past voter registration forms if they've done one before
02:29:40 14 to see if they have a similar description or other, you
02:29:44 15 know, that sort of thin. But --

02:29:47 16 Q. Okay.

02:29:48 17 A. I wouldn't -- I wouldn't refer to like their
02:29:50 18 Tribal ID, because all we have is the ID number. We
02:29:53 19 don't necessarily have those on file; or like a utility
02:29:58 20 bill, we wouldn't keep that on file with us to refer to,
02:30:03 21 so...

02:30:05 22 Q. Okay. Thank you.

02:30:06 23 So moving on, could you just describe in
02:30:13 24 general how the office works to protect against voter
02:30:18 25 fraud?

02:30:22 1 A. For the most part, it is reviewing the voter
02:30:29 2 registration form to make sure that signatures match,
02:30:32 3 the handwriting matches. And then once we enter it into
02:30:37 4 the AVID system, we do like a HAVA check. It will also
02:30:43 5 double-check to make sure if there's any other voters
02:30:45 6 with that same social, date of birth, and name. It will
02:30:49 7 tell us if there's other matches. The system does that
02:30:53 8 for us automatically, so -- yeah.

02:30:58 9 Q. And --

02:30:58 10 A. And --

02:30:59 11 Q. Sorry. Go ahead.

02:31:01 12 A. No, I just know that there's cases like if we
02:31:05 13 get voter registration forms and they look like they
02:31:08 14 haven't been filled out like or they've been filled out
02:31:11 15 by someone other than the person that signed it, you can
02:31:15 16 kind of tell. We go through training and certification
02:31:18 17 for like signature verification.

02:31:20 18 Q. Okay.

02:31:21 19 A. That sort of thing, so...

02:31:25 20 Q. Sure. And let's talk about -- a little bit
02:31:27 21 more about that, about the steps you would take if you
02:31:30 22 believe there might be an instance of fraud. You
02:31:33 23 mentioned the signature matching. What would your next
02:31:39 24 steps be there?

02:31:42 25 A. I would probably be consulting our County

02:31:45 1 Attorney or the Secretary of State's Office if I found
02:31:47 2 anything like that --

02:31:48 3 Q. Okay.

02:31:49 4 A. -- and, you know, before I moved forward.

02:31:51 5 Q. Okay. Great.

02:31:52 6 And so are you essentially the leader of any
02:31:58 7 investigation into that in your office?

02:32:01 8 A. In our office, yes, I would be the person that
02:32:03 9 would investigate that, yeah.

02:32:06 10 Q. Okay. And do you think overall your office's
02:32:11 11 work has been effective in preventing fraud?

02:32:15 12 A. I believe so. I haven't had to deal with
02:32:20 13 any -- I've been made aware of past situations before I
02:32:24 14 took the position of that, but I personally haven't had
02:32:29 15 to deal with any possible voter fraud myself.

02:32:33 16 Q. Okay. So you haven't yourself witnessed or
02:32:40 17 known about any instances of fraud in Apache County?

02:32:47 18 MR. LANGHOFER: Foundation.

02:32:49 19 THE WITNESS: Yeah, did you want me to
02:32:50 20 answer?

02:32:51 21 BY MR. FERGUSON:

02:32:51 22 Q. Yes, you can go ahead. Sorry.

02:32:54 23 A. Okay. No, it's okay.

02:32:57 24 I have been aware of some possible situations
02:33:00 25 where there have been voter fraud, yes.

02:33:03 1 Q. Okay.

02:33:03 2 A. But that was before I was the person in the
02:33:05 3 position.

02:33:06 4 Q. Okay.

02:33:06 5 A. So I do know that it has happened.

02:33:08 6 Q. Okay. And can people submit allegations about
02:33:14 7 fraud to your office?

02:33:18 8 A. Yes, they can.

02:33:19 9 Q. Okay. And has that happened since you started
02:33:23 10 in your job there?

02:33:25 11 A. No, it has not.

02:33:29 12 Q. Okay. Have you engaged in any meetings or
02:33:34 13 discussions since you've been in the office about
02:33:42 14 preventing fraud with people outside the Apache County
02:33:45 15 Recorder's Office?

02:33:49 16 A. I personally have -- I know that they do
02:33:52 17 provide those trainings and meetings through the
02:33:55 18 Secretary of State's Office. I wasn't the one to attend
02:33:59 19 that specific meeting. I believe another person from
02:34:02 20 our office was the one to attend that.

02:34:06 21 Q. Okay.

02:34:06 22 A. But they are made available through the
02:34:09 23 Secretary of State's Office.

02:34:10 24 Q. Sure.

02:34:11 25 And those are general trainings and not

02:34:19 1 specific meetings about things that --

02:34:19 2 A. Oh, like a --

02:34:23 3 Q. -- things specific to Apache County?

02:34:26 4 A. Yeah, that's correct. Yeah. I haven't heard
02:34:30 5 of any specific meeting about any possible fraud in
02:34:33 6 Apache County.

02:34:36 7 Q. Okay. And we talked about AVID and the MVD
02:34:40 8 database before. So it's correct that your office uses
02:34:45 9 that database?

02:34:46 10 A. That's correct.

02:34:48 11 Q. Okay. And what do you use that for?

02:34:51 12 A. To -- we run -- or the HAVA checks go through
02:34:54 13 the MVD and the Social Security Administration to let us
02:34:59 14 know if there's anything on that person's record that
02:35:02 15 would keep them from being a registered voter.

02:35:05 16 Q. Okay.

02:35:07 17 A. Yeah.

02:35:07 18 Q. Let's talk about those two databases

02:35:13 19 separately. So with the MVD system, can you just walk
02:35:17 20 me through how that process happens when you enter the
02:35:22 21 person's information?

02:35:24 22 A. Yeah. So we enter their information into the
02:35:28 23 AVID system and then we just click a button that says
02:35:33 24 HAVA checks and it does -- I don't know the
02:35:35 25 interworkings of it on their end, but it does bounce

02:35:39 1 back with that -- with those two databases.

02:35:43 2 If there is an issue, it would pop back with a
02:35:47 3 button that says this person does not have proof of
02:35:52 4 citizenship. They would be a federal ID only voter,
02:35:58 5 which means that they could only vote in federal
02:36:00 6 elections. They would not be able to participate in the
02:36:03 7 others.

02:36:07 8 Q. And you're describing the HAVA check system; is
02:36:10 9 that correct?

02:36:10 10 A. That's correct, yes.

02:36:13 11 Q. And you're saying that the back end of it uses
02:36:15 12 the MVD database and the SSA database; is that correct?

02:36:21 13 A. That's correct.

02:36:22 14 Q. Okay.

02:36:22 15 A. Yes.

02:36:23 16 Q. You don't have any way to access the SSA
02:36:32 17 database directly; is that correct?

02:36:34 18 A. That's correct.

02:36:37 19 Q. Okay. And when you get a result from that HAVA
02:36:43 20 check system, do you have any -- is there any indication
02:36:49 21 of where the information came from, which back end
02:36:53 22 database it came from?

02:36:56 23 A. The only time is it will specify either SSA or
02:37:02 24 MVD.

02:37:03 25 Q. Okay.

02:37:04 1 A. But I don't know -- I wouldn't know if it's
02:37:06 2 because of a suspended license or lack of social
02:37:11 3 security number. I would not know the reason behind it,
02:37:17 4 if that makes -- is that what you're asking?

02:37:19 5 Q. Yes. Thank you.

02:37:20 6 A. Okay. Okay.

02:37:21 7 Q. And then aside from that, if you get a result,
02:37:26 8 will it just tell you eligible or ineligible, or will it
02:37:30 9 give you more detailed information?

02:37:34 10 A. No, it would just tell me that this person came
02:37:36 11 up with data from either the MVT or SSA, they will be a
02:37:41 12 federal ID only voter, and then processed accordingly.

02:37:49 13 Q. Okay.

02:37:49 14 A. And it would automatically put them in fed
02:37:52 15 only.

02:37:53 16 Q. I see.

02:37:54 17 And would it -- would it also show whether that
02:37:58 18 applicant has an F-Type license?

02:38:01 19 A. It would not tell me which, no.

02:38:03 20 Q. Okay. Do you know what an F-type license is?

02:38:08 21 A. I actually do not, no.

02:38:10 22 Q. Okay. If I told you it was a foreign
02:38:16 23 authorized presence license or a license that indicates
02:38:18 24 that a person was not a U.S. citizen when they received
02:38:24 25 the license, does that refresh your recollection?

02:38:29 1 A. Yes.

02:38:32 2 Q. Okay. And have you encountered that before

02:38:36 3 or --

02:38:37 4 A. I have not, no.

02:38:40 5 Q. Okay. Do you -- sorry. Just going back to

02:38:47 6 that previous question, do you know if anyone else in

02:38:49 7 your office has encountered that, dealt with F-type

02:38:58 8 licenses, or can you tell me who --

02:39:02 9 A. As far as I know, no. The majority of our

02:39:05 10 voter registrations are usually through the MVD or

02:39:08 11 Service Arizona --

02:39:08 12 Q. Okay.

02:39:09 13 A. -- that sort of thing. We don't get a lot of

02:39:13 14 verifications at the window in office --

02:39:15 15 Q. Okay.

02:39:15 16 A. -- per se. So, no, I don't.

02:39:20 17 Q. Okay.

02:39:20 18 A. And I haven't come across too many of them,

02:39:23 19 so...

02:39:23 20 Q. Okay. And if you -- so if someone is deemed

02:39:36 21 ineligible or a federal only voter after you do the HAVA

02:39:41 22 check, do you contact that voter or that applicant?

02:39:47 23 A. Yes. There would be an automatic notice

02:39:50 24 created to inform them that they would be a federal ID

02:39:54 25 only and give them the opportunity to bring the

02:39:57 1 proper -- the proper documents in to prove citizenship.

02:40:04 2 Q. Okay. And does that happen, where people later

02:40:09 3 provide that documentation; have you seen it happen?

02:40:11 4 A. I have, yes, uh-huh.

02:40:13 5 Q. Okay. So it's the case that the HAVA check

02:40:17 6 doesn't always have the most up-to-date data on

02:40:20 7 someone's citizenship status; is that correct?

02:40:24 8 A. That's correct. I mean I wouldn't say it's

02:40:27 9 like super -- that doesn't happen a lot; but, yes,

02:40:33 10 that's correct. I have had a few people come in and

02:40:35 11 verify their citizenship when it came up as federal ID

02:40:39 12 only before, so...

02:40:44 13 Q. Okay. And about -- so in your nine, ten months

02:40:50 14 in the office, can you tell me generally how many

02:40:59 15 federal only applications you received or -- sorry.

02:41:04 16 Strike that. Let me rephrase it.

02:41:06 17 How many people have been deemed federal only

02:41:12 18 in your time in the office? And once again, not a

02:41:16 19 specific number, but if you can give me some kind of

02:41:19 20 ballpark, that would be helpful.

02:41:21 21 A. I would say less than 30 --

02:41:25 22 Q. Okay.

02:41:25 23 A. -- that I've come across.

02:41:27 24 Q. Okay. So that's less than 30 federal only, and

02:41:30 25 then some people who have later provided proof of

02:41:35 1 citizenship after being deemed that?

02:41:41 2 A. Yeah.

02:41:41 3 Q. Okay. Thank you.

02:41:41 4 A. And that's probably three or four for that.

02:41:45 5 Q. Okay.

02:41:45 6 A. Yeah.

02:41:48 7 Q. And I'd like to move now to Document K. Do you

02:41:50 8 have that one?

02:41:55 9 A. I do not, no.

02:41:56 10 Q. Okay. Let me pull that up on the screen.

02:42:08 11 Okay. Can you see that one?

02:42:09 12 A. I can.

02:42:10 13 Q. Okay. And this has been marked Exhibit 133

02:42:13 14 already.

02:42:14 15 Do you recognize this?

02:42:16 16 A. I have not seen this one yet, no.

02:42:22 17 Q. Okay. So I'm going to read from near the

02:42:26 18 bottom of the page, the press release from the Secretary

02:42:30 19 of State, and I see it's dated October 18th, so it must

02:42:33 20 have been issued shortly before you joined the office.

02:42:38 21 The press release, I'm going to read from the

02:42:42 22 middle of it. "My office found and corrected a database

02:42:45 23 error in concert with the Motor Vehicle Division, which

02:42:48 24 led to less than a quarter of one percent of voters to

02:42:51 25 be registered as federal only voters when they should

02:42:54 1 have been registered as full ballot voters."

02:42:59 2 Did I read that correctly?

02:43:01 3 A. You did.

02:43:03 4 Q. Okay. Are you aware of this incident
02:43:06 5 happening?

02:43:07 6 A. I am. I know that we were sent a file of these
02:43:14 7 fed ID onllys that we were supposed to review and make
02:43:19 8 sure that they were done correctly. I don't believe
02:43:22 9 that Apache County had very many. I think there was
02:43:24 10 like eight or -- I don't -- I can't tell you the number,
02:43:28 11 but it was -- but we did go through and verify those --

02:43:33 12 Q. Okay.

02:43:33 13 A. -- to ensure that they were --

02:43:35 14 Q. Sorry.

02:43:36 15 A. Yeah, we made sure that they were correctly
02:43:40 16 designated as federal ID only.

02:43:45 17 Q. Okay. So it affected some voters in Apache
02:43:50 18 County?

02:43:50 19 A. It did.

02:43:51 20 Q. Okay. I'm going to take that document off the
02:44:01 21 screen.

02:44:01 22 Okay. So let's move on to the SAVE database or
02:44:08 23 Systematic Alien Verification for Entitlements. Are you
02:44:13 24 familiar with that program?

02:44:17 25 A. I have just learned about it. They will be

02:44:20 1 doing a training this summer that I -- or next month, I
02:44:25 2 believe.

02:44:25 3 Q. Okay.

02:44:25 4 A. That -- yeah.

02:44:26 5 Q. Sorry.

02:44:26 6 A. So I'm not super familiar with it. I know it
02:44:29 7 exists, but I haven't had that training yet.

02:44:32 8 Q. Okay. So you've never used it?

02:44:34 9 A. No, I have not.

02:44:36 10 Q. Okay. Are you aware that SAVE is used for when

02:44:46 11 people use an A-Number to provide citizenship

02:44:52 12 verification?

02:44:55 13 A. Yes, I'm generally aware of that, yes.

02:44:59 14 Q. Okay. And do you know about how often that

02:45:01 15 happens in Apache County?

02:45:05 16 A. I think personally I've come across one.

02:45:10 17 Q. Okay.

02:45:10 18 A. One myself. So it's not very often.

02:45:12 19 Q. So it's rare?

02:45:14 20 A. Yeah.

02:45:16 21 Q. Do you know if there's any way to use the SAVE
02:45:19 22 program if someone hasn't provided a number like that?

02:45:25 23 A. I do not know how it works. Like I said, I
02:45:28 24 haven't had the training yet, so...

02:45:30 25 Q. Okay. Sure.

02:45:32 1 So you're not aware of the results that the
02:45:36 2 SAVE system could give you if you enter someone's number
02:45:44 3 into it?

02:45:44 4 A. Yes, that's correct. I'm not aware of that.

02:45:46 5 Q. Okay. And is there anyone else in your office
02:45:49 6 who's dealt with SAVE checks like that, that you're
02:45:53 7 aware of?

02:45:55 8 A. No. We're all pretty much new, so...

02:45:58 9 Q. Okay.

02:45:58 10 A. Yeah, no.

02:46:03 11 Q. Fair enough.

02:46:03 12 Are there any databases other than the ones
02:46:11 13 we've discussed thus far that you use for voter
02:46:18 14 registration in any way?

02:46:23 15 A. As far as for verifying citizenship?

02:46:27 16 Q. Yes.

02:46:29 17 A. I think that we've covered all of them that I'm
02:46:32 18 aware of, yeah.

02:46:34 19 Q. Okay. And have you heard of the EVVE database,
02:46:40 20 which stands for Electronic Verification of Vital Events
02:46:43 21 database?

02:46:45 22 A. I have not, no.

02:46:49 23 Q. To your knowledge, your office doesn't have any
02:46:51 24 access to that database?

02:46:54 25 A. They may have access. I just -- I personally

02:47:01 1 do not know that.

02:47:02 2 Q. And the same question with ERIC, the Electronic
02:47:06 3 Registration Information Center. Are you aware of that
02:47:07 4 one?

02:47:08 5 A. Yes, I am.

02:47:09 6 Q. Okay. And does your office use that?

02:47:12 7 A. Yes, we do.

02:47:14 8 Q. Okay. What do you use that for?

02:47:17 9 A. From what I've utilized it for, usually it's to
02:47:21 10 verify deceased records and that sort of thing. I'm not
02:47:26 11 super adept at it yet, and normally it's automatic
02:47:33 12 through AVID and the Secretary of State's Office. I --
02:47:36 13 you know, I don't have to -- they'll send me the
02:47:39 14 results. I don't usually have to go search that
02:47:42 15 database.

02:47:42 16 Q. I see. So you don't normally access it
02:47:49 17 yourself?

02:47:50 18 A. No, I do not. Yeah, there's usually not a need
02:47:55 19 for that.

02:47:57 20 Q. Okay. And are you aware of it ever being used
02:48:01 21 for verification of citizenship status?

02:48:06 22 A. From what I've used it for, no, I haven't
02:48:10 23 utilized it for that purpose, no.

02:48:14 24 Q. Okay. Great.

02:48:15 25 I just want to talk for a couple minutes about

02:48:17 1 the federal voter registration form, and then shortly
02:48:24 2 after that I will be finished with questioning for now
02:48:28 3 and I'll pass it on to one of my colleagues.

02:48:31 4 So are you aware of the federal voter
02:48:36 5 registration form?

02:48:38 6 A. Yes.

02:48:40 7 Q. Okay. And can you give me just a general idea
02:48:43 8 of the relative breakdown between the number of state
02:48:46 9 form applications versus federal form applications that
02:48:49 10 your office receives?

02:48:53 11 A. We don't receive hardly any federal application
02:48:58 12 forms. I mean it's maybe -- it's a very small number.

02:49:03 13 Q. Okay.

02:49:03 14 A. Very, very small number. Most of them are the
02:49:06 15 state, state forms.

02:49:07 16 Q. So almost all state form?

02:49:11 17 A. Yes. Yeah.

02:49:14 18 Q. Okay. Great.

02:49:15 19 And we talked a little bit before about those
02:49:18 20 agencies that provide voter registration services under
02:49:21 21 the NVRA. Are you aware of any of those agencies that
02:49:27 22 use the federal form when they provide those services?

02:49:34 23 A. Not specifically, no, I'm not.

02:49:36 24 Q. Okay. And your office also provides blank
02:49:44 25 registration forms to third-party groups that register

02:49:47 1 voters; is that correct?

02:49:49 2 A. That is correct, yes.

02:49:51 3 Q. And just to your knowledge, do you know whether

02:49:55 4 those groups use the state form more often than the

02:50:02 5 federal form?

02:50:03 6 A. It would be the state form that we would give

02:50:07 7 if they come and request some directly from our office.

02:50:10 8 It would be the state form.

02:50:11 9 Q. Okay. And are you aware of any of those groups

02:50:13 10 that use the federal form?

02:50:17 11 A. No. As far as I know, no.

02:50:20 12 Q. Okay. Does your office, when you receive those

02:50:25 13 forms, do you process the state form applications any

02:50:29 14 differently from the federal forms?

02:50:33 15 A. There's a designation that we have to give it,

02:50:37 16 the source of registration, when we process those. So,

02:50:41 17 yes, there would -- there's a difference in AVID on how

02:50:44 18 we process those.

02:50:44 19 Q. Okay. Thank you.

02:50:45 20 A. But it's mostly the same. It's just a couple

02:50:48 21 different things that are different.

02:50:50 22 Q. Okay. But other than just entering what type

02:50:51 23 of form it is, you don't process or review them

02:50:55 24 differently in substance?

02:50:57 25 A. No.

02:50:59 1 Q. Okay. Thank you.

02:51:02 2 MR. FERGUSON: Okay. That's all the
02:51:03 3 questions that I have right now. Thank you so much for
02:51:06 4 your time.

02:51:07 5 THE WITNESS: Thank you.

02:51:10 6 MR. FERGUSON: I'm going to yield the
02:51:13 7 floor to Mr. Patterson, who is going to ask a few
02:51:15 8 questions. I don't know if he or if anyone else would
02:51:17 9 like to take a short break before then, but let me know
02:51:21 10 if so.

02:51:21 11

02:51:21 12 EXAMINATION

02:51:43 13 BY MR. PATTERSON:

02:51:43 14 Q. If no one wants to take a break, I'm ready to
02:51:47 15 go ahead.

02:51:52 16 Okay, I'll take that silence as to continue.

02:52:01 17 Thank you, Ms. Robertson. I have a few more
02:52:07 18 questions, and hopefully we'll be on our way here.

02:52:13 19 So earlier in your testimony you had said that
02:52:17 20 the EPM is legally binding guidance from the Arizona
02:52:24 21 Secretary of State. Can the Arizona Secretary of State
02:52:28 22 convey legally binding guidance to your office by any
02:52:33 23 other means than the EPM?

02:52:36 24 MR. LANGHOFER: Calls for a legal
02:52:40 25 conclusion.

02:52:41 1 BY MR. PATTERSON:

02:52:42 2 Q. You can answer.

02:52:43 3 A. Yes.

02:52:45 4 Q. And even if there is no EPM update, will your
02:52:50 5 county be obligated to enforce H.B. 2492 and H.B. 2243?

02:52:57 6 MR. LANGHOFER: Calls for a legal
02:52:59 7 conclusion.

02:53:05 8 BY MR. PATTERSON:

02:53:05 9 Q. You can answer.

02:53:06 10 A. Okay. Sorry.

02:53:09 11 As far as I know, I take the direction from the
02:53:14 12 Secretary of State if -- before any of that
02:53:18 13 implementation happens. I'm waiting for that before we
02:53:21 14 do that.

02:53:23 15 Q. Okay. Thank you.

02:53:23 16 Regarding the types of information that your
02:53:35 17 office considers when reviewing a registered person's
02:53:47 18 citizenship status, is old government data such as MVD
02:53:59 19 records from ten years ago indicative of a lack of U.S.
02:54:04 20 citizenship today?

02:54:07 21 MR. LANGHOFER: Same objection.

02:54:11 22 BY MR. PATTERSON:

02:54:12 23 Q. You can answer.

02:54:14 24 A. Yeah, so if it's like an old -- like an old
02:54:18 25 driver's license that they're trying to provide, even

02:54:21 1 though it's ten years old, is that what you're asking,
02:54:24 2 would that still be --

02:54:26 3 Q. So what I'm asking is, during a database check,
02:54:31 4 if you find a document from a number of years ago that
02:54:37 5 indicates that a registered voter is not a citizen,
02:54:42 6 would that be information indicative of a lack of
02:54:46 7 citizenship; does your office consider that information
02:54:49 8 would be indicative of a lack of citizenship?

02:54:52 9 MR. LANGHOFER: Same objection.

02:54:54 10 Beaugard, should we just stipulate that
02:54:55 11 we'll be objecting to this whole line?

02:55:01 12 MR. PATTERSON: Yes, absolutely.

02:55:02 13 THE WITNESS: And do you want me to still
02:55:03 14 answer?

02:55:03 15 BY MR. PATTERSON:

02:55:04 16 Q. Yes.

02:55:05 17 A. Okay. So I mean that voter could have provided
02:55:09 18 proof since that point in time, so we go by the latest
02:55:14 19 information, the newest information that we have on that
02:55:17 20 voter, so -- to prove the citizenship. But let's say
02:55:24 21 that's the only proof that they have or the only
02:55:27 22 information I have, then that's what I would have to go
02:55:29 23 by.

02:55:31 24 Q. Thank you very much.

02:55:32 25 What are valid sources of information that your

02:55:43 1 office considers -- sorry. Scratch that.

02:55:47 2 What are valid sources of information that

02:55:53 3 someone is not a U.S. citizen?

02:55:57 4 A. That they're not a U.S. citizen?

02:56:00 5 Q. Yes.

02:56:04 6 A. So like an ID that says that they're not a U.S.

02:56:11 7 citizen, that sort of thing. Like normally someone's

02:56:15 8 not going to show me information saying that they're not

02:56:17 9 a U.S. citizen when they try to show -- try to register

02:56:21 10 to vote, if that makes sense. They're usually trying to

02:56:24 11 prove that they're a citizen. So --

02:56:27 12 Q. Absolutely. Absolutely.

02:56:30 13 A. -- you know. Yeah.

02:56:33 14 Q. Let me ask you a few more specific questions as

02:56:37 15 to whether or not these types or sources of information

02:56:44 16 are valid sources for identifying whether or not someone

02:56:48 17 is a U.S. citizen.

02:56:51 18 Are there sources beyond a government or voter

02:56:59 19 registration database in which you may find information

02:57:05 20 that is valid that someone is not a U.S. citizen?

02:57:17 21 MR. WHITAKER: Ambiguous.

02:57:18 22 THE WITNESS: Yeah.

02:57:19 23 BY MR. PATTERSON:

02:57:19 24 Q. I'm sorry. I need to rephrase that question.

02:57:23 25 Is there anything beyond a government or voter

02:57:28 1 registration database that you consider a valid source
02:57:29 2 of information when considering whether or not someone
02:57:33 3 is a U.S. citizen?

02:57:35 4 A. We would only use -- or like I said, we use the
02:57:40 5 HAVA checks, we use the Secretary of State guidelines
02:57:44 6 and, you know, the EPM when we're verifying that. So I
02:57:48 7 would not go outside of those sources unless they were
02:57:53 8 approved sources.

02:57:56 9 Q. Okay. Thank you.

02:57:56 10 If the registered voter were to call your
02:58:04 11 office and say that they were not a citizen, would that
02:58:11 12 be a valid source of information?

02:58:17 13 A. We could take that, but like I said, it would
02:58:20 14 have to be in writing. Like everything that -- any
02:58:23 15 changes made to a voter's record has to include a
02:58:26 16 signature and be in writing and be accompanied by
02:58:29 17 documentation before we can change that voter's status.

02:58:33 18 So if somebody called me and said I'm not a
02:58:36 19 citizen, I can't just go cancel their voter
02:58:39 20 registration. I have to have documented proof and a
02:58:42 21 signature and all of that before I can cancel them.

02:58:44 22 Q. Thank you.

02:58:45 23 You may have answered the -- you have likely
02:58:50 24 answered these next pair of questions, but for the sake
02:58:55 25 of clarity, how about an e-mail or a signed letter from

02:58:58 1 the voter?

02:59:03 2 A. So an e-mail, no, because it does not include

02:59:07 3 an actual signature. If they sent in a letter -- but

02:59:11 4 then again, I'm not going to -- I would need legal proof

02:59:18 5 documentation along with their personal word of that.

02:59:22 6 Does that make sense?

02:59:24 7 Q. Yes, it does.

02:59:25 8 A. I can't just have, yeah, John Smith telling me

02:59:28 9 I'm not a -- you know, and here's my signature that I'm

02:59:30 10 not a citizen. I would not take that as proof, no.

02:59:34 11 Q. Thank you.

02:59:36 12 How about a phone call from a member of the

02:59:39 13 voter's family?

02:59:40 14 A. Definitely not, no.

02:59:43 15 Q. What about a letter from a neighbor?

02:59:46 16 A. Definitely not, no.

02:59:48 17 Q. What about a phone call that you receive from

02:59:53 18 law enforcement in Arizona?

02:59:57 19 A. Law enforcement probably would not notify us in

03:00:02 20 that manner. They would send us, you know, legal

03:00:07 21 documentation in order to prove that. Yeah, it would

03:00:12 22 not go through a telephone call.

03:00:14 23 Q. Okay. Again, for the sake of clarity, but what

03:00:19 24 about a phone call from law enforcement in another

03:00:21 25 state?

03:00:24 1 A. Absolutely not, no.

03:00:26 2 Q. What about an e-mail or a letter from law
03:00:29 3 enforcement in Arizona or from another state?

03:00:34 4 A. No. It would have to be accompanied by legal
03:00:37 5 documentation.

03:00:39 6 Q. And what about an anonymous call or an
03:00:43 7 anonymous e-mail?

03:00:46 8 A. No.

03:00:48 9 Q. And what about lists provided by third-party
03:00:53 10 organizations like True the Vote?

03:00:57 11 A. If we did receive something like that from an
03:01:00 12 organization, we would have to do further investigation,
03:01:03 13 and I would probably notify the Secretary of State's
03:01:06 14 Office to that information and follow, you know, their
03:01:11 15 guidance on how to handle that, because I do know that
03:01:13 16 there are, you know, people that go out and do that,
03:01:17 17 so...

03:01:19 18 Q. Thank you.

03:01:20 19 What if you identify a registered voter who has
03:01:23 20 already satisfied the documentary proof of citizenship
03:01:27 21 requirement, but still holds an F-type license? Is the
03:01:33 22 fact that they hold an F-type license information that
03:01:36 23 the registered voter is not, in fact, a U.S. citizen?

03:01:40 24 A. If we verified -- because people can keep an ID
03:01:45 25 card for a really long time. If they've already

03:01:48 1 satisfied and proven that they're a citizen through, you
03:01:51 2 know, our HAVA checks, the MVD, Social Security Office
03:01:54 3 and everything, if they have an old ID that's an F-Type,
03:01:58 4 it -- yeah, they're fine.

03:02:01 5 Q. Thank you.

03:02:01 6 A. And if they're already registered and already
03:02:04 7 validated, if that makes sense.

03:02:07 8 Q. Yes. Thank you.

03:02:07 9 This next question is a bit of a mouthful. So
03:02:11 10 I apologize in advance.

03:02:12 11 A. Okay.

03:02:13 12 Q. What if you identify a registered voter who is
03:02:18 13 exempt from documentary proof of citizenship
03:02:21 14 requirements and has never shown DPOC because they
03:02:26 15 registered prior to when DPOC went into effect? Is that
03:02:30 16 information showing that they are not a U.S. citizen?

03:02:37 17 A. So I'm not personally aware of a situation
03:02:39 18 where they would be exempt. And like I said, I'm new to
03:02:44 19 my job. So if there is somebody that is verified in the
03:02:47 20 system previously, I don't have an issue. Does that
03:02:53 21 make sense? Like they've already been -- they'd be
03:02:56 22 grandfathered in, I guess.

03:02:58 23 Q. Yes, that makes sense. Thank you.

03:03:00 24 A. Yeah.

03:03:00 25 Q. By what means can you confirm the authenticity

03:03:09 1 of such information that a voter registrant/applicant is
03:03:15 2 not a United States citizen?

03:03:22 3 MR. WHITAKER: Ambiguous.

03:03:24 4 THE WITNESS: Yeah, that's kind of the
03:03:25 5 same answer as before. Usually they're trying to prove
03:03:32 6 citizenship, so they're not going to bring me -- I mean
03:03:35 7 I guess you're asking if I can recognize documents that
03:03:40 8 prove that they're not a citizen, such as like a
03:03:45 9 passport from a different country or that sort of thing?

03:03:53 10 BY MR. PATTERSON:

03:03:55 11 Q. I am asking in -- so if we could go to
03:04:03 12 ARS 16-165(A)(10).

03:04:11 13 A. Uh-huh.

03:04:11 14 Q. It says in the statute, "When the County
03:04:14 15 Recorder obtains information pursuant to this section
03:04:16 16 and confirms that the person registered is not a United
03:04:20 17 States citizen, including when the County Recorder
03:04:22 18 receives a summary report from the jury commissioner or
03:04:26 19 jury manager pursuant to Section 21-314 indicating that
03:04:30 20 a person who is registered to vote has stated that the
03:04:33 21 person is not a United States citizen."

03:04:35 22 And in the case where the County Recorder's
03:04:40 23 Office confirms that a person is not a United States
03:04:44 24 citizen, I'm asking how do you confirm the authenticity
03:04:51 25 or the accuracy of the information that you have found

03:05:01 1 that indicates that an applicant is not a United States
03:05:06 2 citizen?

03:05:08 3 A. Okay.

03:05:11 4 MR. WHITAKER: Same objection.

03:05:12 5 THE WITNESS: I understand what you're
03:05:13 6 asking. I would just -- we go by what the HAVA checks
03:05:15 7 go by, even if like -- if someone were to bring me their
03:05:20 8 passport from France, it's not -- like I don't have to
03:05:25 9 really -- they still have to go through that HAVA check.
03:05:29 10 So I rely upon what the HAVA check comes back as in
03:05:35 11 order for my determination. It's not me personally that
03:05:39 12 decides that.

03:05:41 13 BY MR. PATTERSON:

03:05:41 14 Q. All right. Thank you.

03:05:42 15 A. So I don't know what they're using. Does that
03:05:44 16 make sense? Does that answer the question?

03:05:46 17 Q. Yes, that makes sense.

03:05:47 18 And I have another follow-up question, hitting
03:05:53 19 at the same topic, just slightly different. So by what
03:05:58 20 means can you confirm the accuracy of information that a
03:06:02 21 registered voter is not a U.S. citizen? So instead of a
03:06:05 22 voter registration applicant, I'm asking the same
03:06:08 23 question, but for a registered voter.

03:06:11 24 MR. WHITAKER: Same objection.

03:06:15 25 THE WITNESS: Yeah, there wouldn't be --

03:06:16 1 they wouldn't be a registered voter. Like we don't go
03:06:19 2 back through and audit the registrants per se, if that's
03:06:28 3 what you're asking. We don't -- once they have provided
03:06:33 4 proof of citizenship, they can be registered. If they
03:06:36 5 have not, then they would not be registered. So the
03:06:43 6 chances of somebody being a registered voter means that
03:06:45 7 they must have previously shown proof of citizenship.

03:06:49 8 We don't audit those again, unless we get
03:06:54 9 notification let's say from another country that that
03:06:57 10 country -- that they've been, you know, naturalized to
03:07:01 11 another country and we receive documentation of that,
03:07:05 12 that they're no longer -- if they left the country and
03:07:08 13 are no longer citizens in the United States. But
03:07:13 14 that -- like I said, that situation doesn't really
03:07:15 15 happen with Apache County, so...

03:07:22 16 BY MR. PATTERSON:

03:07:22 17 Q. All right. Thank you.

03:07:23 18 Moving on to a different topic. What else
03:07:25 19 beyond AVID can constitute a database relating to voter
03:07:34 20 registration?

03:07:34 21 A. That's what the Apache County and most of the
03:07:39 22 state of Arizona uses AVID. So I wouldn't -- there's no
03:07:42 23 other -- I mean other than old records that we keep on
03:07:46 24 file in the Recorder's Office, like old microfilms and
03:07:51 25 logbooks and that sort of thing. But there is not

03:07:55 1 another database that I would consult, because AVID is
03:08:00 2 the one that is approved by the Secretary of State for
03:08:03 3 maintaining records.

03:08:06 4 Q. Could a list of registered voters provided by
03:08:09 5 another Arizona agency constitute a database related to
03:08:14 6 voter registration?

03:08:19 7 A. I don't know that they would -- I would take
03:08:23 8 the AVID information over what they gave me, because
03:08:26 9 AVID is what is approved and what is used. So I don't
03:08:30 10 know -- I can't verify where their information is coming
03:08:33 11 from, because we are tasked with maintaining those
03:08:36 12 records.

03:08:37 13 Q. All right. Thank you.

03:08:38 14 And could a list of registered voters provided
03:08:42 15 by another state government's agency constitute a
03:08:46 16 database relating to voter registration?

03:08:52 17 A. No. I mean unless that other state is
03:08:55 18 saying -- because we do this often. The other state
03:08:57 19 will say this person is now registered in our state.
03:09:01 20 But there's -- yeah. The AVID system is what I would
03:09:05 21 refer to --

03:09:06 22 Q. Okay.

03:09:07 23 A. -- above all, yeah.

03:09:09 24 Q. And, finally, could a list of registered voters
03:09:12 25 provided by a private individual or private group

03:09:15 1 constitute a database relating to voter registration?

03:09:20 2 A. No. Again, I would refer to the AVID database

03:09:24 3 before them.

03:09:27 4 Q. All right. Thank you.

03:09:29 5 Can we take a moment to review the statutes

03:09:33 6 enumerated in ARS 16-165(F) through (J), which is also

03:09:41 7 H.B. 2243 (H) through (K).

03:09:51 8 Once you've had a chance to look at it, let me

03:09:53 9 know, please.

03:09:54 10 A. Yeah. Just give me a moment. Is it --

03:10:08 11 MR. FERGUSON: Document H is 2243.

03:10:11 12 THE WITNESS: And can you repeat?

03:10:15 13 BY MR. PATTERSON:

03:10:16 14 Q. Do you -- the sections are different depending

03:10:18 15 on what document you have before you. So do you have --

03:10:21 16 A. Gotcha.

03:10:21 17 Q. -- H.B. 2243 in front of you or do you have the

03:10:24 18 Arizona statutes in front of you?

03:10:29 19 A. I have Exhibit 19, the House Bill 2492.

03:10:29 20 Q. Okay. That --

03:10:33 21 A. Oh, wait. Sorry.

03:10:35 22 I've got it now. Celeste just pulled it up on

03:10:39 23 her laptop for me. Okay. Yes.

03:10:44 24 All right. And which portion did you want me

03:10:51 25 to review?

03:10:55 1 Q. The section would be (F) through (J).

03:11:13 2 A. Sorry, I'm having technical difficulties.

03:11:17 3 Q. That's all right.

03:11:19 4 A. All right.

03:11:31 5 Okay. Go ahead.

03:11:37 6 Q. Okay. Are the database matching procedures

03:11:40 7 enumerated in these sections the means by which County

03:11:44 8 Recorders are to obtain information on a lack of U.S.

03:11:49 9 citizenship?

03:11:51 10 MR. LANGHOFER: Same objection.

03:11:59 11 THE WITNESS: I would say for our office,

03:12:05 12 yes, we use the HAVA checks, the MVDs, the Social

03:12:11 13 Security Administration databases in order -- and what

03:12:14 14 that comes back to us as is what we use, whether -- to

03:12:21 15 prove whether or not they are a citizen or not.

03:12:27 16 BY MR. PATTERSON:

03:12:27 17 Q. And are these database matching procedures

03:12:32 18 which are enumerated in these statutes the means by

03:12:36 19 which your office confirms information of a lack of U.S.

03:12:45 20 citizenship?

03:12:47 21 A. That is correct.

03:12:50 22 Q. And is this clear or unclear -- I'm sorry.

03:12:55 23 Scratch that.

03:12:56 24 Is it clear or unclear to your office how to

03:13:04 25 use these databases?

03:13:08 1 MR. LANGHOFER: Calls for a legal
03:13:12 2 conclusion.
03:13:12 3 BY MR. PATTERSON:
03:13:12 4 Q. You can answer.
03:13:16 5 A. It's -- we are clear on how to use them. I do
03:13:19 6 not know their processes through the HAVA checks
03:13:21 7 specifically, but like I said, it's a button in AVID
03:13:25 8 that we click, and it runs the test through those
03:13:28 9 databases and gives us a result.
03:13:33 10 Q. Excellent. Thank you.
03:13:34 11 A. And so I rely on that result, yeah.
03:13:40 12 Q. And one more follow-up, actually, on that. And
03:13:44 13 is it -- actually, no, scratch that.
03:13:50 14 What would give your office a reason to believe
03:13:55 15 a person is not a U.S. citizen?
03:13:59 16 MR. LANGHOFER: Same objection.
03:14:05 17 BY MR. PATTERSON:
03:14:05 18 Q. You can answer.
03:14:08 19 A. So a -- when we run it through the HAVA checks,
03:14:13 20 if it pops up and says that there's no proof of
03:14:18 21 citizenship, that would cause our office to believe that
03:14:20 22 they're not a citizen, and that's what we rely upon.
03:14:27 23 It's not, you know, based on a person's judgment or
03:14:31 24 anything like that. So we rely upon the results from
03:14:35 25 that check through HAVA in order to make that

03:14:39 1 determination.

03:14:41 2 Q. Thank you.

03:14:44 3 I'm going to give you some of the same
03:14:48 4 scenarios that we went through before, but in the
03:14:50 5 context of reason to believe.

03:14:54 6 Would anything beyond a government or voter
03:14:58 7 registration database give your office reason to believe
03:15:00 8 that a registered voter is not a U.S. citizen?

03:15:04 9 MR. LANGHOFER: Same objection.

03:15:05 10 I'll just note that I think that
03:15:08 11 stipulation's still in place, Beauregard, until you tell
03:15:11 12 us otherwise, so...

03:15:14 13 MR. PATTERSON: Yes, absolutely.

03:15:15 14 THE WITNESS: No, that's what we would
03:15:16 15 base it upon. We wouldn't base it upon any other
03:15:20 16 information.

03:15:23 17 BY MR. PATTERSON:

03:15:23 18 Q. And can a call from a voter give your office
03:15:28 19 reason to believe that a registered voter is not a U.S.
03:15:34 20 citizen?

03:15:42 21 MR. WHITAKER: Calls for speculation.

03:15:44 22 THE WITNESS: They can call us and let us
03:15:45 23 know, but it still would not change that voter's status
03:15:48 24 until there was an investigation done or if there's like
03:15:53 25 documentation provided. So we would not just go cancel

03:15:57 1 somebody based on so-and-so's phone call about that. We
03:16:00 2 would still go through the proper channels to verify
03:16:03 3 their citizenship.

03:16:06 4 BY MR. PATTERSON:

03:16:06 5 Q. Thank you. Sorry, I was not clear in my
03:16:10 6 question.

03:16:10 7 In this case if the voter himself or herself
03:16:15 8 called your office and indicated that they were not a
03:16:19 9 citizen, would that give you reason to believe that they
03:16:22 10 were not a citizen?

03:16:25 11 A. It would, but it still wouldn't change their
03:16:28 12 voting status until we had documentation. So --

03:16:33 13 Q. Sorry.

03:16:33 14 A. Yeah, it would give me reason to -- it would
03:16:36 15 give me reason to maybe investigate and get more
03:16:39 16 answers, but I would not just go cancel their voter
03:16:42 17 registration based on their word through a phone call.

03:16:46 18 Q. What about an e-mail or signed letter from the
03:16:51 19 voter?

03:16:54 20 A. And same situation. They would not
03:16:56 21 automatically get canceled. We would have to go through
03:17:00 22 verification processes, and we would need proper
03:17:04 23 documentation before we made changes to the voter
03:17:07 24 record.

03:17:07 25 Q. How about a phone call from a member of the

03:17:10 1 voter's family?

03:17:11 2 A. Same. Absolutely not. Yeah.

03:17:14 3 Q. How about a letter from a neighbor?

03:17:17 4 A. Same.

03:17:19 5 Q. What about a phone call from law enforcement in

03:17:23 6 Arizona or from another state?

03:17:27 7 A. Same.

03:17:29 8 Q. How about an e-mail or letter from law

03:17:32 9 enforcement in Arizona or another state?

03:17:36 10 A. Same. Until there's actual proof that -- you

03:17:40 11 know, if the letter included documented proof that they

03:17:43 12 are not a citizen, I would -- me personally, being so

03:17:48 13 new to the position, I would still reach out to the

03:17:50 14 Secretary of State's Office before I made any changes to

03:17:53 15 the voter record, so...

03:17:56 16 Q. How about an anonymous call or e-mail?

03:18:00 17 A. There's -- yeah, no.

03:18:02 18 Q. And how about lists provided by third-party

03:18:06 19 organizations?

03:18:07 20 A. Same.

03:18:10 21 Q. What if the registered voter transposed, so

03:18:14 22 mixed up their first and last name on their registration

03:18:18 23 application form; would that give you a reason to

03:18:22 24 believe that they're not a U.S. citizen?

03:18:26 25 A. No.

03:18:26 1 MR. WHITAKER: Ambiguous.

03:18:26 2 THE WITNESS: Yeah. It wouldn't change

03:18:29 3 their -- yeah, I see what you're saying. But no.

03:18:35 4 BY MR. PATTERSON:

03:18:35 5 Q. What if the registered voter recorded a foreign

03:18:39 6 place of birth on their form?

03:18:41 7 A. That wouldn't change the status because they

03:18:45 8 could still have become a U.S. citizen. So we go by

03:18:49 9 those HAVA checks.

03:18:53 10 Q. What if you identify a registered voter who has

03:18:56 11 already satisfied the documentary proof of citizenship

03:19:02 12 requirement, but still holds an F-type license; is that

03:19:06 13 a reason to believe they are not, in fact, a U.S.

03:19:08 14 citizen?

03:19:11 15 A. No. If they've already satisfied their proof

03:19:15 16 of citizenship and they had that license, no, that

03:19:17 17 wouldn't change anything.

03:19:22 18 Q. What about registered voters who were exempt

03:19:25 19 from DPOC under the safe harbor provision because they

03:19:29 20 registered prior to the DPOC requirement going into

03:19:31 21 effect in 2005; would that failure to show DPOC under

03:19:36 22 this exemption give your office a reason to believe they

03:19:39 23 are not U.S. citizens?

03:19:43 24 A. No. They would be grandfathered in, yeah,

03:19:49 25 and...

03:19:49 1 Q. Has your office received any guidance on when
03:19:52 2 your office would have reason to believe that a
03:19:56 3 registered voter is not a U.S. citizen?

03:20:02 4 A. I don't understand that question.

03:20:04 5 Q. Has your office received any guidance from the
03:20:07 6 Secretary of State's Office on when to -- scratch that.
03:20:18 7 Have you received any guidance from the
03:20:23 8 Secretary of State's Office on what amounts to a reason
03:20:30 9 to believe that a registered voter is not a U.S.
03:20:33 10 citizen?

03:20:39 11 A. In my knowledge, no. I mean I'm sure that they
03:20:42 12 have, but I haven't personally. Yeah.

03:20:46 13 Q. Thank you.

03:20:47 14 A number of provisions in both -- scratch that.

03:20:57 15 Actually, I'm going to move on to something
03:20:59 16 else. ARS 16-143(A) states that the Secretary of State
03:21:16 17 and each County Recorder shall make available to the
03:21:19 18 Attorney General a list of all individuals who are
03:21:21 19 registered to vote and who have not provided
03:21:24 20 satisfactory evidence of citizenship pursuant to
03:21:28 21 Section 16-166 and shall provide, on or before
03:21:32 22 October 31, 2022, the applications of individuals who
03:21:36 23 are registered to vote and who have not provided
03:21:40 24 satisfactory evidence of citizenship pursuant to
03:21:42 25 Section 16-166.

03:21:46 1 A. Okay. Uh-huh.

03:21:47 2 Q. Since the October 31 deadline has passed, are

03:21:52 3 you still obligated to send this data to the Arizona

03:21:56 4 Attorney General's Office?

03:21:59 5 MR. WHITAKER: Legal conclusion.

03:22:04 6 THE WITNESS: Yes. But by the deadline.

03:22:06 7 So, yeah.

03:22:14 8 BY MR. PATTERSON:

03:22:14 9 Q. Do you use the SAVE program's additional

03:22:19 10 verification procedures -- wait. Scratch that.

03:22:26 11 If a -- scratch that.

03:22:29 12 When you run a SAVE verification check and it

03:22:36 13 comes back as inconclusive, do you do any additional

03:22:44 14 verification under SAVE?

03:22:50 15 A. So in regards to the SAVE program, I have not

03:22:54 16 personally attended that training yet. I am not

03:22:58 17 familiar with how it works or anything like that. So

03:23:03 18 I'm going to have to say I can't answer that question in

03:23:06 19 regards to any of the SAVE program.

03:23:09 20 Q. Got it. Thank you. I only have two more

03:23:12 21 questions for you.

03:23:15 22 If a registered voter is removed from the rolls

03:23:24 23 under H.B. 2243 based upon an erroneous determination

03:23:29 24 that they are not a U.S. citizen, can that voter be

03:23:32 25 added back to the rolls if the registration deadline has

03:23:36 1 already passed?

03:23:38 2 MR. LANGHOFER: Same objection.

03:23:43 3 THE WITNESS: So you're asking if -- if,

03:23:45 4 let's say, they were removed when they shouldn't have

03:23:51 5 been, can they be added back to the system even though

03:23:55 6 like that -- you know what, I don't know the answer to

03:23:59 7 that question, and me personally, I would have to reach

03:24:01 8 out to the Secretary of State before I go -- because,

03:24:05 9 like I said, I am new and have not come across that

03:24:08 10 situation, so I wouldn't -- me personally, I wouldn't do

03:24:12 11 anything with that voter's record until I get more

03:24:14 12 direction.

03:24:17 13 BY MR. PATTERSON:

03:24:18 14 Q. Okay. Thank you.

03:24:19 15 And a number of provisions in both H.B. 2243

03:24:24 16 and H.B. 2492 only obligate your office to the extent

03:24:35 17 they are practicable. Do you understand what is meant

03:24:37 18 by practicable in these laws?

03:24:40 19 MR. LANGHOFER: Same objection.

03:24:44 20 THE WITNESS: I understand the word, yes,

03:24:45 21 and I understand, you know, generally what that means.

03:24:53 22 BY MR. PATTERSON:

03:24:54 23 Q. Do you understand what that standard means in

03:24:58 24 terms of these statutes?

03:25:02 25 MR. LANGHOFER: Same objection.

03:25:09 1 THE WITNESS: So I have not gone through
03:25:12 2 these statutes in depth personally, so I can't -- I
03:25:18 3 understand what it means to know practicably, whatever,
03:25:23 4 but I haven't studied them enough to know the specifics
03:25:26 5 of what it's talking about.

03:25:27 6 BY MR. PATTERSON:

03:25:27 7 Q. Who in your office --

03:25:27 8 A. Oh.

03:25:30 9 Q. Oh, I'm sorry.

03:25:30 10 A. Go ahead.

03:25:31 11 Q. I'll let you finish.

03:25:32 12 A. No, I'm done.

03:25:33 13 Q. Okay. Who in your office is responsible for
03:25:39 14 determining when it is practicable to follow the
03:25:51 15 procedures in these laws?

03:25:54 16 A. I would go by the direction of my County
03:25:58 17 Recorder and the Secretary of State's Office.

03:26:00 18 Q. Okay. Thank you.

03:26:03 19 MR. PATTERSON: That wraps up my line of
03:26:05 20 questioning. I'm not certain if anyone else has any
03:26:10 21 other questions. If they do, they can speak up; but,
03:26:20 22 otherwise, we on the plaintiff side have wrapped up.

03:26:27 23 THE VIDEOGRAPHER: Counsel, can we take
03:26:28 24 five minutes, please?

03:26:30 25 MR. LANGHOFER: Sounds good.

03:26:31 1 THE VIDEOGRAPHER: We are off the record.
03:26:34 2 Time on the video monitor is 3:26 p.m. This ends
03:26:38 3 Media 1.

03:29:37 4 (A recess was taken.)

03:32:20 5 THE VIDEOGRAPHER: We're on the record.
03:32:45 6 Time on the video monitor is 3:23 p.m. This begins
03:32:48 7 Media 2.

03:32:55 8 I'm sorry, 3:32 p.m.

03:32:59 9 MR. WHITAKER: This is Josh Whitaker for
03:33:00 10 the Attorney General. Did any other plaintiffs have
03:33:02 11 questions for the witness?

03:33:11 12 MR. FERGUSON: I don't think so.

03:33:11 13

03:33:11 14 EXAMINATION

03:33:11 15 BY MR. WHITAKER:

03:33:15 16 Q. Okay. Then I think I'll -- if you don't mind,
03:33:17 17 ma'am, I'll ask you a few follow-ups. And, first of
03:33:19 18 all, thank you very much for your time here today.

03:33:24 19 I'll start with birthplace. I understand that
03:33:27 20 birthplace, there's a spot on the state form for
03:33:33 21 birthplace, a registrant -- an applicant's birthplace
03:33:36 22 right now; is that right?

03:33:37 23 A. That is correct.

03:33:39 24 Q. And am I correct that right now your office
03:33:44 25 doesn't require that spot on the form to be filled out

03:33:50 1 as a condition for registering the applicant?

03:33:54 2 A. That is correct.

03:33:56 3 Q. And is that because the EPM says that that part
03:34:01 4 of the form is optional?

03:34:03 5 A. That is correct.

03:34:07 6 Q. If the EPM were to change and say that that
03:34:10 7 part of the form is required, would your office treat it
03:34:15 8 as required for registration?

03:34:19 9 A. Yes, we would.

03:34:23 10 Q. If there were a law passed that requires
03:34:26 11 birthplace to be on the form and if a court upholds that
03:34:31 12 requirement, would your office require that spot on the
03:34:35 13 form to be filled out to register the applicant?

03:34:38 14 A. Yes, we would.

03:34:43 15 Q. I'd like to turn a little bit into the existing
03:34:47 16 EPM, the 2019 EPM, about birthplace. Let me see if I
03:34:52 17 can share my screen with you.

03:35:02 18 Can you see that?

03:35:03 19 A. I can.

03:35:07 20 Q. Let's go to Page -- well, let's see.

03:35:13 21 And for the record, this was earlier shown the
03:35:17 22 witness. I think it's Document F. It was previously
03:35:20 23 marked as Exhibit 6. Let's go to Page 3 of this EPM.
03:35:27 24 Subsection A there says "Citizenship Requirement." Do
03:35:32 25 you see that?

03:35:32 1 A. I do.

03:35:34 2 Q. And then the heading number 1 under that says
03:35:38 3 "Valid Forms of DPOC." Do you see that?

03:35:41 4 A. I do.

03:35:43 5 Q. Okay. And then on the next page, Page 4,
03:35:47 6 letter B says "Birth Certificate." Do you see that?

03:35:50 7 A. I do.

03:35:52 8 Q. All right. And then the last paragraph there,
03:35:55 9 I'll just read it for you. This is the bottom of Page 4
03:35:59 10 going onto the top of Page 5.

03:36:02 11 It says, "The registrant must supply supporting
03:36:05 12 legal documentation (such as a marriage certificate or
03:36:09 13 court-documented name change) if the name on the birth
03:36:12 14 certificate or document is not the registrant's current
03:36:15 15 legal name. If the registrant cannot provide supporting
03:36:19 16 legal documentation to account for a different last
03:36:22 17 name, a County Recorder must accept the birth
03:36:25 18 certificate or document if at least the following
03:36:28 19 information matches on both the birth certificate or
03:36:33 20 document and the registration form."

03:36:35 21 And then it says, "First name, Middle name,
03:36:38 22 Place of birth, Date of birth and Parents' names."

03:36:43 23 Did I read that right?

03:36:44 24 A. You did.

03:36:46 25 Q. So am I understanding this correctly that in

03:36:48 1 some situations your office will be comparing what's on
03:36:54 2 the registration form with what's on the copy of the
03:36:58 3 birth certificate, and one important piece of
03:37:02 4 information in that comparison is place of birth?

03:37:05 5 A. That is correct.

03:37:11 6 Q. In those situations, would it be important that
03:37:14 7 the registrant have filled out the place of birth form
03:37:17 8 on the registration form?

03:37:20 9 A. In that case, yes, it would.

03:37:27 10 Q. Let's go to Part C below that, "U.S. Passport."
03:37:32 11 I'll read the first two paragraphs there. It says, "A
03:37:36 12 registrant may submit a legible copy of the pertinent
03:37:40 13 pages of the registrant's U.S. passport or passport
03:37:44 14 card, or present the registrant's U.S. passport or
03:37:47 15 passport card to the County Recorder, as DPOC.
03:37:51 16 ARS 16-166(F)(3). The pertinent pages of a U.S.
03:37:56 17 passport are those that contain the photo, passport
03:37:59 18 number, name, nationality, date of birth, gender, place
03:38:03 19 of birth, and signature (if applicable). A U.S.
03:38:07 20 passport card also may be accepted, which does not
03:38:09 21 contain a signature."

03:38:10 22 Did I read that right?

03:38:12 23 A. You did.

03:38:16 24 Q. In your capacity so far this year as the voter
03:38:20 25 registration supervisor, have you had occasion to review

03:38:22 1 U.S. passports?

03:38:25 2 A. I have not ever had to -- had anybody use a
03:38:29 3 passport as their form of identification, no.

03:38:34 4 Q. What's the most common form of identification
03:38:36 5 that you see?

03:38:38 6 A. Usually a driver's license, Tribal ID card,
03:38:42 7 especially for here in Apache County, and then usually
03:38:49 8 it's through the HAVA checks. Like we don't -- I don't
03:38:52 9 have to do too many over-the-counter verifications for
03:38:59 10 initial voters myself personally.

03:39:04 11 Q. If you were to get a U.S. passport as a form of
03:39:08 12 identification, based on this second paragraph that I
03:39:12 13 read to you, would place of birth be an important piece
03:39:16 14 of information you would be looking for on the passport?

03:39:20 15 A. Yes.

03:39:26 16 Q. Let's go to Page 34 of this EPM. Scrolling
03:39:32 17 down now.

03:39:36 18 So, actually, let's go to Page 33. This is
03:39:40 19 Roman numeral VIII, "Voter Registration List
03:39:45 20 Maintenance." Do you see that?

03:39:46 21 A. I do.

03:39:46 22 Q. And then looking at Subsection A, "Deceased,
03:39:53 23 Felon, and Incapacitated Registrants," and then
03:39:56 24 Sub-Subsection 1, "Deceased Registrants," and then on
03:39:59 25 the next page Sub-Sub-Subsection C, "Other Sources of

03:40:05 1 Information on Deceased Registrants."

03:40:09 2 Do you see that?

03:40:09 3 A. I do.

03:40:11 4 Q. Okay. I'll read the first couple sentences
03:40:13 5 here. It says, "A County Recorder may also cancel a
03:40:17 6 registrant's record if the County Recorder determines
03:40:19 7 that the registrant is deceased based on other reliable
03:40:23 8 sources, see ARS 16-165(A)(2), including, but not
03:40:28 9 limited to, death notices received by the County
03:40:31 10 Recorder's Office and an affidavit of death from the
03:40:33 11 registrant's next of kin. A County Recorder should
03:40:36 12 match as much information as possible (including first
03:40:39 13 name, last name, maiden name (if applicable), year of
03:40:44 14 birth, place of birth, and city or town of residence)
03:40:48 15 and be reasonably certain that a true match exists
03:40:52 16 before canceling a registrant."

03:40:54 17 Did I read that right?

03:40:56 18 A. You did.

03:40:57 19 Q. Based on that second sentence, when it says
03:41:00 20 place of birth, in this situation when your office would
03:41:04 21 be trying to match information on this source of
03:41:10 22 information on a deceased registrant, would place of
03:41:12 23 birth be an important piece of information in that
03:41:15 24 context?

03:41:17 25 A. Yes.

03:41:20 1 Q. Would it be important in that context for the
03:41:23 2 registrant to have filled out the place of birth form on
03:41:26 3 the registration form?

03:41:29 4 A. For this purpose, yes.

03:41:42 5 Q. I'll stop sharing my screen.

03:41:45 6 If there were a situation where a registrant
03:41:51 7 wrote on their form that they were born in one state,
03:41:55 8 let's say Nevada, but then they provided a copy of a
03:41:59 9 birth certificate from a different state, let's say
03:42:03 10 Colorado, would that be an indication to your office
03:42:08 11 that something's wrong with the application?

03:42:14 12 A. It definitely -- especially if that's their
03:42:17 13 sole identification that they're providing and then they
03:42:23 14 write a different state, yes, we would need more
03:42:25 15 verification then in order to register that voter.

03:42:33 16 Q. Suppose there's a dispute that arises about
03:42:37 17 whether a registered voter is a citizen. Suppose the
03:42:40 18 voter says that they were born in the United States,
03:42:43 19 let's say Colorado, but you get some sort of credible
03:42:49 20 information from someone else that the voter was born in
03:42:53 21 another country. In that sort of situation, would it be
03:42:58 22 useful to know what the voter said on their form about
03:43:03 23 the state or country of birth they were -- their state
03:43:06 24 or country of birth?

03:43:11 25 A. It would be important to know, yes, but for me

03:43:17 1 personally, I would want more direction, either from my
03:43:21 2 County Attorney or the Secretary of State's Office,
03:43:22 3 before I went forward with any actions on that.

03:43:28 4 Q. Would you say that a person's place of birth,
03:43:33 5 namely the state or country in which they are born, is
03:43:37 6 information that can be used to verify someone's
03:43:42 7 identity?

03:43:45 8 MR. FERGUSON: Objection, calls for a
03:43:46 9 legal conclusion.

03:43:50 10 THE WITNESS: Yes, you could use that as
03:43:52 11 information to determine who they are, yes.

03:43:52 12 BY MR. WHITAKER:

03:43:59 13 Q. Is it important during the registration process
03:44:01 14 to make sure that the person who's submitting the form
03:44:04 15 is actually who they say they are?

03:44:06 16 A. Yes, it is.

03:44:15 17 Q. I'll switch gears a little bit and talk about
03:44:18 18 the prevention of voter fraud. You were asked a few
03:44:21 19 questions about that, and I think one of your answers
03:44:23 20 said something like you can kind of tell when a
03:44:28 21 registration form is being filled out by someone else.
03:44:31 22 Do you remember that answer?

03:44:34 23 A. Yes, I do.

03:44:36 24 Q. Could you explain a little bit what you meant
03:44:38 25 by that?

03:44:40 1 A. So I can tell based on like handwriting, and we
03:44:49 2 do also -- like if someone is assisting another person
03:44:52 3 filling out that form, there is a space at the bottom
03:44:55 4 where that assisting person has to sign. So if you can
03:45:00 5 tell that the handwriting is different from the
03:45:03 6 signature or if we -- if we compared the handwriting on
03:45:08 7 this new form to the other -- the old form, another old
03:45:12 8 form of that person, you can kind of tell if it's them
03:45:16 9 or not based on handwriting and if it's not certified by
03:45:20 10 another person that's assisting them with a signature at
03:45:23 11 the bottom.

03:45:27 12 Those are some of the things that we look for.
03:45:31 13 You know, if we get a new voter registration form for an
03:45:34 14 existing voter and the handwriting on the new form is
03:45:41 15 considerably different than previous forms and other
03:45:45 16 handwriting samples that we have for that voter, and
03:45:49 17 let's say they're leaving out certain information that a
03:45:53 18 per -- you know, there's little things that you can look
03:45:56 19 for to kind of point you in that direction, that it
03:46:01 20 might be fraudulent.

03:46:05 21 Q. What if -- what if you don't have -- what if
03:46:08 22 there's a situation where you, for example, don't have
03:46:11 23 other handwriting to compare to and you don't have any
03:46:15 24 information of that signature at the bottom that
03:46:18 25 indicates it was filled out by someone else? Is it

03:46:20 1 possible that there would be situations that could slip
03:46:23 2 past you?

03:46:25 3 A. Uh-huh, absolutely.

03:46:26 4 Q. I guess I'm asking --

03:46:26 5 A. Yes.

03:46:27 6 Q. -- is it a foolproof system?

03:46:29 7 A. It's not a foolproof system, no. No.

03:46:40 8 Q. On the HAVA check I think your testimony was
03:46:42 9 that you do the HAVA check and then you get back a
03:46:45 10 response that either says citizen or no proof of
03:46:48 11 citizenship, and that's based on running through MVD and
03:46:52 12 Social Security databases; is that a fair summary?

03:46:56 13 A. That's, yes, what I testified, yes.

03:47:04 14 Q. Do you know how often the MVD or Security
03:47:10 15 Social databases yield a false positive, that is, they
03:47:14 16 say that someone is a citizen when, in fact, they're
03:47:16 17 not?

03:47:18 18 A. I don't know that statistic, no.

03:47:30 19 Q. I'll turn a little bit -- turn gears just a
03:47:35 20 little bit to the citizenship checkbox, and by that I
03:47:38 21 mean that box on the form that says "Are you a citizen,"
03:47:40 22 "Yes" or "No." Do you know what I'm talking about?

03:47:43 23 A. Yes, I do.

03:47:50 24 Q. Okay. And here I'll pull up the EPM again and
03:48:02 25 I'll go to Page 20. So I'm on Page 20, a heading that

03:48:12 1 says, "4. Failure to Properly Answer Citizenship
03:48:15 2 Question." Do you see that?

03:48:16 3 A. I do.

03:48:18 4 Q. Okay. And right now the guidance is, "A
03:48:22 5 registrant's failure to answer the citizenship question
03:48:25 6 or no answer to the citizenship question on the state or
03:48:29 7 federal form does not invalidate the form so long as
03:48:31 8 there is some other appropriate indicator that the
03:48:34 9 registrant is a U.S. citizen, ARS 16-121.01(A)."

03:48:39 10 Did I read that part right?

03:48:41 11 A. You did.

03:48:43 12 Q. Okay. If the EPM were to change and say,
03:48:49 13 actually, the applicant needs to answer yes on the
03:48:55 14 checkbox, even if they also provide DPOC, would the
03:49:03 15 Recorder's Office follow that guidance?

03:49:06 16 A. We would. We would follow the latest current
03:49:09 17 guidance and EPM, yes.

03:49:14 18 Q. If there were to be a statute passed that says
03:49:17 19 you need to have a yes in that checkbox in addition to
03:49:22 20 DPOC and that requirement were upheld in court, would
03:49:27 21 the Recorder's Office follow that requirement?

03:49:31 22 A. Yes, we would.

03:49:35 23 Q. Okay. Let's imagine that -- imagine for a
03:49:39 24 moment that there is no EPM. It just never existed.
03:49:46 25 And you get a registration form where someone checks the

03:49:50 1 box "No" on the question of whether they are a citizen.
03:49:55 2 They say, no, I'm not. Is that information that you
03:50:00 3 think would be material to your determination of whether
03:50:03 4 that person is a citizen?

03:50:07 5 A. Yes.

03:50:09 6 Q. And why is that?

03:50:12 7 A. If they're saying no, they're not a citizen,
03:50:15 8 I'm taking them at their word, and if I don't have any
03:50:18 9 other guidance, then I would have to take their answer
03:50:22 10 on that, and they also sign the bottom too.

03:50:27 11 Q. Would you -- oh, go ahead. What were you
03:50:29 12 saying about the signing?

03:50:30 13 A. No, that's fine. That's fine.

03:50:32 14 Q. Okay.

03:50:33 15 A. I'm good.

03:50:35 16 Q. Do you think that a registrant is one of the
03:50:39 17 most reliable sources possible on whether the registrant
03:50:43 18 himself or herself is a citizen?

03:50:49 19 A. I do, but I would rely upon other verification
03:50:57 20 because sometimes people are not truthful.

03:51:02 21 Q. And what do you mean by --

03:51:04 22 A. I'm sure that --

03:51:05 23 Q. Go ahead.

03:51:06 24 A. No. So I know that that person is probably the
03:51:10 25 best source of information about themselves, but

03:51:14 1 sometimes people can be deceitful. So when it comes to
03:51:17 2 verifying citizenship, it's better to go based off of
03:51:23 3 like the HAVA checks or verification of, you know,
03:51:27 4 identification and that sort of thing, rather than take
03:51:30 5 someone's word for it.

03:51:35 6 Q. I want you to imagine a situation where the
03:51:38 7 DPOC provided raises a question in your mind. Maybe
03:51:44 8 it's blurry. Maybe you can't quite tell what the name
03:51:48 9 is. Maybe you suspect Photoshop or something like that.

03:51:48 10 A. Uh-huh.

03:51:56 11 Q. In that situation, do you think it would be
03:51:57 12 important to know whether that registrant marked "No" in
03:52:04 13 the citizenship checkbox?

03:52:11 14 A. Yes, but then again, it's -- I would probably
03:52:16 15 ask for better proof or clearer, you know, like clearer
03:52:21 16 documentation, that sort of thing. But yes. But like I
03:52:24 17 said, normally people are trying to verify their
03:52:32 18 citizenship, rather than not verify their citizenship,
03:52:37 19 so -- but that would be something to look at, yes.

03:52:52 20 Q. You mentioned earlier that there are -- there
03:52:55 21 may be ways in which people can be citizens, but then no
03:53:01 22 longer be citizens, I think. Can you explain what you
03:53:04 23 meant by that? I think you used as an example someone
03:53:08 24 who permanently leaves the country. Can you explain
03:53:11 25 what you meant by that?

03:53:11 1 A. Yeah. Like so if, you know, you're born and
03:53:15 2 raised here, but you move to Brazil and you become a
03:53:18 3 Brazilian citizen and you relinquish your American
03:53:23 4 citizenship rights, that sort of thing. So unless that
03:53:29 5 new proof of citizenship in a different country is
03:53:34 6 provided to our Recorder's Office, we may not know that
03:53:43 7 you are no longer a citizen, unless there were checks
03:53:46 8 like through the MVD or that sort -- or Social Security
03:53:49 9 Office that came back and told us, oh, they're no longer
03:53:52 10 a citizen. So...

03:53:56 11 Q. Let's suppose a person like that comes --
03:54:03 12 visits the United States and then gives you their birth
03:54:07 13 certificate because they were born in the United States,
03:54:10 14 but checks "No" in the citizenship checkbox when asked
03:54:15 15 whether they are a U.S. citizen.

03:54:18 16 A. Okay.

03:54:19 17 Q. Would it be important in your mind that they
03:54:21 18 checked "No" in that circumstance to determine whether
03:54:25 19 they are --

03:54:26 20 A. Yes, it would.

03:54:28 21 Q. Oh, go ahead.

03:54:28 22 A. Yes. No, that would be important. I would
03:54:31 23 probably ask further, you know, or so what do you mean
03:54:35 24 by this? You were born here, but you're saying you're
03:54:38 25 not a citizen. And then, you know, ask them to provide

03:54:40 1 proof. More than likely, like in my scenario, they
03:54:45 2 would provide their Brazilian citizenship, that sort of
03:54:49 3 thing. So by them marking no in that case would give me
03:54:54 4 pause for more verification.

03:55:04 5 Q. I'll stop sharing my screen. I should have
03:55:07 6 done that already.

03:55:08 7 There is another document, and I don't know if
03:55:11 8 you were involved in the preparation of this or not, but
03:55:14 9 it seems like one of the documents produced by the
03:55:19 10 County Recorder's Office here was a large PDF. It was
03:55:23 11 like a 1,000-page PDF of voter registration rows. Are
03:55:31 12 you familiar with what I'm talking about?

03:55:35 13 A. Not really, unless that was our suspense list,
03:55:39 14 maybe, but...

03:55:43 15 Q. I'm not quite sure, to be honest, so I'll
03:55:48 16 share. What I'm going to do is -- it was roughly a
03:55:50 17 1,200-page document. I've only done the first 25 pages
03:55:55 18 of it to make it manageable.

03:55:58 19 A. Okay.

03:55:58 20 Q. I'll show it to you now, and maybe you know
03:56:00 21 what it is, maybe you don't. I'm not sure.

03:56:04 22 A. Okay.

03:56:17 23 Q. Okay. Do you see my screen here?

03:56:20 24 A. I do.

03:56:22 25 Q. And what -- do you know what this document is?

03:56:30 1 A. I do not believe I was the one that ran this
03:56:33 2 report, but it looks like it's showing all of our county
03:56:44 3 voters with their source of registration and date and
03:56:48 4 then whether or not their citizenship is verified, so...

03:56:59 5 Q. Okay. Well, I'll ask you a couple of questions
03:57:00 6 about this document and --

03:57:00 7 A. Uh-huh.

03:57:06 8 Q. Yeah, I'll ask you a couple of questions about
03:57:08 9 it.

03:57:08 10 Let's go to Page -- and, again, this is not the
03:57:11 11 full document. This is just the first 25 pages of a
03:57:14 12 much larger document.

03:57:16 13 A. Okay.

03:57:17 14 Q. I'm going to Page 3 of the document and I'm
03:57:20 15 going near the bottom. I'm interested in this row here.
03:57:27 16 Do you see the one I've highlighted?

03:57:29 17 A. Okay. I do.

03:57:31 18 Q. Okay. Now, so as I read this document, this
03:57:34 19 says registration date April 5th, 2022; citizenship
03:57:39 20 verified, no.

03:57:42 21 Can you explain what that means?

03:57:46 22 A. So what that would have been -- and it looks
03:57:49 23 like they were in person. I was not working for the
03:57:53 24 county at this time, but I'm familiar with the data. So
03:57:59 25 it more than likely means someone came into the office,

03:58:03 1 registered to vote, did not provide proper -- like a
03:58:08 2 driver's license, that sort of thing, and then when they
03:58:12 3 were entered into the AVID system and ran the HAVA
03:58:16 4 check, it came back as not a citizen.

03:58:16 5 Q. Okay.

03:58:21 6 A. So they can still be on our rolls that way,
03:58:28 7 but -- and if you notice in the other column under
03:58:32 8 Federal-ID Only, they are a federal only voter.

03:58:36 9 Q. I see. You're referring to this column that my
03:58:39 10 cursor is over --

03:58:39 11 A. Yes.

03:58:40 12 Q. -- where it says -- right?

03:58:42 13 A. Yes.

03:58:49 14 Q. Let's go down to Page 14 near the top here. So
03:59:00 15 this is, I think, the fourth row on Page 14. I see
03:59:04 16 registration date March 18th, 2020; citizenship
03:59:08 17 verified, no.

03:59:11 18 Is that right?

03:59:13 19 A. That is correct, yes.

03:59:15 20 Q. Okay. But this one, it doesn't say federal
03:59:19 21 only voter. Do you know why that is?

03:59:23 22 A. So to the best of my knowledge, I don't -- I
03:59:28 23 really don't know why it would do that, because in AVID,
03:59:31 24 if I'm running that -- it looks like someone manually
03:59:36 25 changed that federal ID only and didn't fix the

03:59:44 1 citizenship. Because you can do that manually. But so
03:59:48 2 that's what it looks like to me, that somebody probably
03:59:51 3 manually made that change.

03:59:54 4 Q. Manually made which change?

03:59:57 5 A. To make them -- I don't -- honestly, that is
04:00:03 6 the strangest situation. It was probably not processed
04:00:06 7 correctly, in my opinion, because if citizenship was not
04:00:13 8 verified, they should not -- they should be a fed only.

04:00:19 9 And if they provided proof and they only
04:00:21 10 switched the federal ID only status and didn't correct
04:00:25 11 the citizenship checkmark box, then that means one of
04:00:33 12 our employees did not process it correctly.

04:00:39 13 Q. Is it possible -- employees are human. Humans
04:00:42 14 make mistakes, of course.

04:00:43 15 A. Yes, yes. Yes.

04:00:44 16 Q. Is it possible that human error could lead to
04:00:47 17 someone who is -- who has not provided proof of
04:00:51 18 citizenship and is not a federal only voter and
04:00:56 19 nevertheless is registered and votes?

04:00:59 20 A. Yes, absolutely. There's always human error.
04:01:03 21 Yeah.

04:01:06 22 Q. How about -- we'll go down to Page 22. Let's
04:01:15 23 go to the middle, roughly, of this page. This is --
04:01:23 24 this is one it seems similar to me. You've got a
04:01:27 25 registration date of June 27th, 2022; citizenship

04:01:31 1 verified, no; and then not a federal only voter. Is
04:01:37 2 this another possible human error situation?

04:01:41 3 A. It could be. It could be.

04:01:46 4 Q. Oh, and I'm reminded that I have --

04:01:46 5 A. Because --

04:01:48 6 Q. Go ahead.

04:01:49 7 A. No, so when you enter it into AVID and if that
04:01:52 8 citizenship is not verified, AVID automatically puts
04:01:57 9 them in federal ID only, so that answer would
04:02:00 10 automatically be yes in that column. So this means that
04:02:04 11 somebody went and manually changed that federal ID only
04:02:09 12 status, because AVID is designed to automatic -- at that
04:02:18 13 point in time for sure. I think that they're updating
04:02:21 14 that now. But it will automatically put them into
04:02:24 15 federal ID only for you. So it had to have been a human
04:02:30 16 that changed it.

04:02:34 17 Q. And I'm realizing I didn't mark this as an
04:02:37 18 exhibit, and I don't know what exhibit we're on.

04:02:43 19 MR. WHITAKER: Jody, do you know what
04:02:44 20 exhibit number we're on?

04:02:48 21 THE COURT REPORTER: 248.

04:02:51 22 MR. WHITAKER: Okay. This is just the
04:02:52 23 first 25 pages of a larger document, but I think for
04:02:59 24 manageability purposes that's fine. We'll mark -- can
04:03:05 25 we mark this as 228?

04:03:07 1 THE COURT REPORTER: 248.

04:03:09 2 MR. WHITAKER: Oh, 248. Thanks. And I
04:03:11 3 can e-mail all parties a copy of this 25-page excerpt.

04:03:17 4 I think that's all the questions I have
04:03:19 5 for now. Thank you very much for your time.

04:03:23 6 THE WITNESS: Thank you.

04:03:44 7 MS. STUART: The Secretary doesn't have
04:03:45 8 any questions. Thank you so much for your time today.
04:03:48 9 I'm not sure if someone from the RNC, Kory, if you have
04:03:51 10 questions or not?

04:03:52 11 MR. LANGHOFER: Thanks. I might have -- I
04:03:53 12 think I've got just one.

04:03:53 13
04:03:55 14 EXAMINATION

04:03:55 15 BY MR. LANGHOFER:

04:03:56 16 Q. Thanks for your time this afternoon, ma'am. I
04:03:59 17 just have one question for you, and that is, we've heard
04:04:01 18 from some other counties that they occasionally have big
04:04:04 19 voter registration drives in their county and they'll
04:04:07 20 get stacks of voter registration forms, and a number of
04:04:12 21 the forms that they get in those drives end up having
04:04:16 22 false information on them or appeared that they're, you
04:04:20 23 know, hunting.

04:04:21 24 Have you seen anything like that in Apache
04:04:24 25 County?

04:04:24 1 A. Yes, we have. It was kind of when I first took
04:04:27 2 over. They were forwarded from the Secretary of State's
04:04:31 3 Office to Apache County, but I have seen that there were
04:04:40 4 some that the Secretary of State's Office was concerned
04:04:44 5 about and gave them back to us to review and do what we
04:04:50 6 needed to, but that's kind of when I first got the job,
04:04:54 7 so it's -- yeah.

04:04:59 8 Q. Did your office --

04:04:57 9 A. I was still in transition then. Uh-huh.

04:04:59 10 Q. Did your office end up concluding those weren't
04:05:03 11 authentic or not legitimate?

04:05:06 12 A. So we had to be very careful when processing
04:05:10 13 them. Of course, we have to assume that they are
04:05:12 14 legitimate. But, of course, there were several that we
04:05:17 15 could not process because they either were missing the
04:05:22 16 current information that we have to have, which is kind
04:05:25 17 of why we assumed that they were being collected
04:05:28 18 fraudulently, is because they all came from the same
04:05:31 19 source and they were not filled out correctly, lots of
04:05:37 20 missing signatures or that sort of thing on those, so...

04:05:45 21 Q. I want to make sure I understand what you said
04:05:46 22 a moment ago. Did you all conclude that some of them
04:05:50 23 were, in fact, fraudulent forms?

04:05:52 24 A. Yes, some of them were fraudulent forms.

04:05:56 25 Q. Did you refer those to the County Attorney for

04:05:59 1 prosecution?

04:06:02 2 A. I do not believe so. Like I said, it's kind of
04:06:05 3 when I was first taking over, and that was the -- that
04:06:09 4 responsibility would have been our previous Chief Deputy
04:06:13 5 Recorder who was handling that. I was just kind of
04:06:16 6 researching each of them and that sort of thing for her.
04:06:19 7 So I don't know what happened with those.

04:06:22 8 Q. Okay. I take it then you also wouldn't know if
04:06:24 9 they were referred to the Attorney General for
04:06:25 10 prosecution?

04:06:27 11 A. I do not know. No, I have no idea.

04:06:31 12 Q. Do you know about that happening -- apparently
04:06:34 13 you remember this time when you first got there. Have
04:06:36 14 you heard about that happening before you got to the
04:06:37 15 office?

04:06:39 16 A. No. No, I haven't heard of any instances of
04:06:43 17 that, but.

04:06:45 18 Q. Any idea how many forms you felt that were
04:06:49 19 fraudulent from that incident when you first got to the
04:06:51 20 office?

04:06:55 21 A. I can give you kind of a ballpark. There was
04:06:57 22 in total probably around 50 from that same organization
04:07:03 23 source. I would say that we could determine that were
04:07:10 24 probably more than likely fraudulent was probably --
04:07:14 25 that we could prove were fraudulent, if that makes any

04:07:18 1 sense, was probably, you know, 10, 15 percent of those
04:07:23 2 50.

04:07:24 3 Q. Which organization was it that turned those in?

04:07:29 4 A. Oh, gosh. I cannot remember the name of the
04:07:32 5 organization. They changed it. Changed their name,
04:07:36 6 apparently. So I honestly don't remember off the top of
04:07:38 7 my head. Like I said, it's like when I first took over
04:07:41 8 the job and it -- yeah.

04:07:41 9 Q. Well, I said I --

04:07:44 10 A. I definitely didn't retain that information.

04:07:48 11 MR. LANGHOFER: And I told you I had one
04:07:49 12 question, but it turned into about ten with follow-ups,
04:07:51 13 so I'm sorry about that.

04:07:51 14 THE WITNESS: That's okay. It got
04:07:54 15 interesting. That's okay.

04:07:54 16 MR. LANGHOFER: So I think that's all the
04:07:56 17 questions for the defense, unless Hannah's got
04:07:58 18 something.

04:08:02 19 Not seeing Hannah speak up, any redirect
04:08:04 20 from the plaintiffs?

04:08:12 21 MS. YUN: Hi. This is Jennifer Yun on
04:08:15 22 behalf of the United States. I'm not sure if Brent
04:08:21 23 or -- is planning on doing any redirect. If not, I have
04:08:24 24 a few questions.

04:08:27 25 MR. FERGUSON: You can go ahead.

04:08:31 1 MS. YUN: Okay.

04:08:31 2

04:08:31 3 EXAMINATION

04:08:31 4 BY MS. YUN:

04:08:31 5 Q. Okay. Thank you. Just a few more questions.

04:08:34 6 I'm so sorry for keeping you for so many hours.

04:08:38 7 Mr. Whitaker from the Attorney General's Office

04:08:40 8 asked you a few questions about birthplace from the --

04:08:47 9 and was referencing the EPM. Do you remember that?

04:08:50 10 A. I do.

04:08:51 11 Q. Do you have the 2019 EPM in front of you or

04:08:55 12 should -- I can also share the screen if that's -- share

04:08:57 13 my screen if --

04:08:59 14 A. I do have -- yeah, I do have it.

04:09:02 15 Q. Okay, great.

04:09:04 16 I -- you can take look at it or I'm referring

04:09:08 17 to Page 4 of the EPM where Mr. Whitaker referenced with

04:09:17 18 regards to inspecting birth certificates.

04:09:20 19 A. Okay.

04:09:23 20 Q. So this inspecting of birth certificates, that

04:09:27 21 would only happen only if the name on the birth

04:09:32 22 certificate is not the registrant's current legal name

04:09:35 23 and they can't provide any documentation explaining why;

04:09:35 24 is that right?

04:09:45 25 A. Let me just review it real quick.

04:09:47 1 Q. Sure. It's towards the end of the -- the
04:09:51 2 bottom of Page 4, going onto the next page.

04:10:01 3 A. And yes. So with the way that it's worded, the
04:10:06 4 only time is if they don't have the supporting document,
04:10:09 5 like a marriage certificate or a legal name change
04:10:12 6 document, is the only time that we would be referencing
04:10:16 7 those other items.

04:10:19 8 Q. And how often does your office encounter birth
04:10:24 9 certificates as a way to verify someone's citizenship
04:10:26 10 status?

04:10:28 11 A. I personally have yet to ever have somebody
04:10:31 12 bring their birth certificate in, so...

04:10:34 13 Q. And so that's within the last, say, nine, ten
04:10:39 14 months of working there?

04:10:41 15 A. That's correct.

04:10:43 16 Q. And how -- do you know -- do you know, based on
04:10:49 17 your colleagues or your predecessors, how often your
04:10:53 18 office encounters a situation where the registrant
04:10:56 19 cannot provide any documentation showing why they have a
04:10:59 20 different last name from what is reflected on the birth
04:11:04 21 certificate?

04:11:04 22 A. As far as I know, that hasn't been an issue. I
04:11:09 23 would also point out that most of our voter
04:11:14 24 registrations, like initial voter registrations, which
04:11:17 25 is when they have to provide that documentation, most of

04:11:20 1 them are done through like probably the DMV, where the

04:11:25 2 DMV is also giving them a driver's license or ID, and

04:11:29 3 they are verifying those documents.

04:11:32 4 So the Recorder's Office doesn't necessarily --

04:11:36 5 we're not always the one that is recording the -- or

04:11:39 6 checking those documents.

04:11:42 7 Q. Understood.

04:11:43 8 MS. YUN: I have no further questions.

04:11:45 9 Thank you.

04:11:47 10 THE WITNESS: Okay.

04:11:50 11 MR. LANGHOFER: Anything else from the

04:11:51 12 plaintiffs?

04:11:53 13 All right, Celeste, are you guys going to

04:11:55 14 read and sign?

04:11:58 15 MS. ROBERTSON: I'm sorry. What was that,

04:11:59 16 Kory?

04:11:59 17 MR. LANGHOFER: You guys are going to read

04:12:01 18 and sign the transcript, I assume?

04:12:02 19 MS. ROBERTSON: Yes. Yes, we will.

04:12:05 20 MR. LANGHOFER: I guess that's it. Ma'am,

04:12:06 21 thanks again for your time.

04:12:08 22 And, Dan, do you want to take us off the

04:12:10 23 record.

04:12:10 24 THE VIDEOGRAPHER: We are off the record.

04:12:11 25 Time on the video monitor is 4:12 p.m. This ends

04:12:14

1 Volume 1, Media No. 2 in the 30(b)(6) deposition of

04:12:20

2 Apache County Recorder by Annalee Shreeve.

3 (Deposition Exhibits 244 through 248,
4 inclusive, were marked for identification.)

5 (The videotaped deposition concluded at
6 4:12 p.m.)

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ANNALEE SHREEVE

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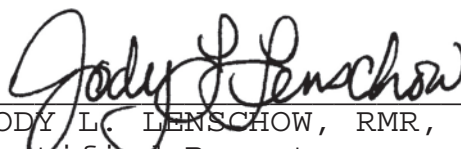
25

1 STATE OF ARIZONA)
) ss.
2 COUNTY OF MARICOPA)

3
4 BE IT KNOWN that the foregoing videotaped
5 deposition was taken before me, JODY L. LENSCHOW, RMR,
6 CRR, Certified Reporter No. 50192 for the State of
7 Arizona, and by virtue thereof authorized to administer
8 an oath; that the witness before testifying was duly
9 sworn by me; that the questions propounded by counsel
10 and the answers of the witness thereto were taken down
11 by me in shorthand and thereafter transcribed under my
12 direction; that a review of the transcript by the
13 witness was requested; that the foregoing pages contain
14 a full, true, and accurate transcript of all proceedings
15 and testimony had, all to the best of my skill and
16 ability.

17 I FURTHER CERTIFY that I am not related to nor
18 employed by any of the parties hereto and have no
19 interest in the outcome thereof.

20 DATED at Phoenix, Arizona, this 11th day of
21 September, 2023.

22
23 

24 _____
JODY L. LENSCHOW, RMR, CRR
25 Certified Reporter
Certificate No. 50192

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IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ARIZONA

Mi Familia Vota, et al.,)	
)	
Plaintiffs,)	
)	
vs.	)	No. 2:22-cv-00509-PHX-SRB
	)	(Lead)
Adrian Fontes, in his)	
official capacity as Arizona)	
Secretary of State, et al.,)	
)	
Defendants.)	
)	
<hr/> AND CONSOLIDATED CASES	)	No. CV-22-00519-PHX-SRB
	)	No. CV-22-01003-PHX-SRB
	)	No. CV-22-01124-PHX-SRB
	)	No. CV-22-01369-PHX-SRB
	)	No. CV-22-01381-PHX-SRB
	)	No. CV-22-01602-PHX-SRB
	)	No. CV-22-01901-PHX-SRB
)	

VIDEOTAPED 30(b)(6) DEPOSITION OF GREENLEE COUNTY RECORDER
BY AND THROUGH SHARIE MILHEIRO

Clifton, Arizona
August 31, 2023

Prepared By:
Karen L. Locker, RPR
Certified Reporter #50821



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14 Also Present:

15 Daniel Rohan, Videographer
16 Neethu Putta, Esq.
17 Heidi Strigenz

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09:36:29 1 THE VIDEOGRAPHER: We are on the record. Time
09:36:30 2 on the video monitor is 9:36 a.m.

09:36:33 3 Here begins Volume 1, Media No. 1 in the
09:36:36 4 30(b)(6) deposition of Greenlee County Recorder by Sharie
09:36:43 5 Milheiro in the matter of Mi Familia Vota, et al., v.
09:36:49 6 Adrian Fontes, et al., in the United States District
09:36:49 7 Court, District of Arizona, case No.
09:37:00 8 2:22-cv-00509-PHX-SRB.

09:37:00 9 Today's date is August 31st, 2023.

09:37:04 10 Our court reporter is Karen Locker. I am Daniel
09:37:08 11 Rohan, a certified legal videographer. We both represent
09:37:12 12 Coash Court Reporting & Video.

09:37:15 13 This video deposition is taking place at the
09:37:19 14 Greenlee County Recorder's Office, 253 5th Street,
09:37:21 15 Clifton, Arizona, 85533.

09:37:23 16 Would counsel please introduce themselves and
09:37:25 17 state whom they represent.

09:37:28 18 MS. RILEY-SWANBECK: Britany Riley-Swanbeck and
09:37:31 19 Daniel Volchok for the Democratic National Committee and
09:37:33 20 Arizona Democratic Party.

09:37:38 21 MR. ATKINS: Alexander Atkins of Elias Law Group
09:37:38 22 for plaintiffs Mi Familia Vota and Voto Latino.

09:37:38 23 MR. DIAZ: Jonathan Diaz from Campaign Legal
09:37:38 24 Center on behalf of the LUCHA plaintiffs.

09:37:38 25 MR. HIRSCHTEL: I'm Andrew Hirschel from Arnold &

09:37:58 1 Porter on behalf of Poder Latinx.

09:37:58 2 MR. HERRERA: Ernest Herrera on behalf of
09:38:00 3 Promise Arizona plaintiffs.

09:38:10 4 MS. BOUGHTON: Kathryn Boughton on behalf of the
09:38:13 5 State and Arizona Attorney General.

09:38:16 6 MS. STUART: Shayna Stuart on behalf of the
09:38:21 7 Arizona Secretary of State Adrian Fontes.

09:38:26 8 MR. LANGHOFER: Kory Langhofer for the RNC.

09:38:39 9 MS. PORTER: Hannah Porter on behalf of
09:38:41 10 Defendant Interveners Speaker Toma and President Petersen.

09:38:47 11 MR. GRIFFITH: I'm Gary Griffith. I'm
09:38:50 12 representing the Greenlee County Attorney -- sorry -- I'm
09:38:54 13 Greenlee County Attorney representing Greenlee County
09:38:56 14 Recorder Sharie Milheiro.

09:39:00 15 THE VIDEOGRAPHER: Will the court reporter
09:39:01 16 please swear in the witness.

09:39:14 17
18 SHARIE MILHEIRO,
19 a witness herein, having been first duly sworn by the
20 Certified Reporter to speak the truth and nothing but the
21 truth, was examined and testified as follows:

22

23 EXAMINATION

24 BY MS. RILEY-SWANBECK:

09:39:20 25 Q. Okay. Ms. Milheiro, could you please state your

09:39:23 1 full name for the record?

09:39:24 2 A. Sharie Milheiro.

09:39:26 3 Q. And just a few preliminary questions for you
09:39:30 4 about today's deposition.

09:39:32 5 Do you understand that you are testifying under
09:39:34 6 oath?

09:39:34 7 A. Yes.

09:39:35 8 Q. And do you understand that a court reporter is
09:39:38 9 transcribing this deposition?

09:39:40 10 A. Yes.

09:39:41 11 Q. So, with that in mind, please answer questions
09:39:46 12 fully rather than nodding, shaking your head, or saying
09:39:49 13 uh-huh or huh-uh. Is that okay?

09:39:52 14 A. Okay.

09:39:53 15 Q. So please let me know if you do not understand
09:39:57 16 one of my questions. I'm happy to repeat any part of it.
09:40:01 17 All right?

09:40:02 18 A. Okay.

09:40:02 19 Q. And so if I do ask a question and you answer it,
09:40:05 20 I will assume that you understood what I have asked. Is
09:40:09 21 that all right?

09:40:09 22 A. Right.

09:40:09 23 Q. And if at any time you would like for us to take
09:40:14 24 a break, just let me know. The only thing I would ask is
09:40:17 25 that if I have a question and you haven't answered it yet,

09:40:20 1 please answer the question and then ask to take a break.

09:40:23 2 Okay?

09:40:24 3 A. Okay.

09:40:24 4 Q. Is there anyone else in the room with you right

09:40:29 5 now?

09:40:29 6 A. My attorney.

09:40:31 7 Q. Anyone else?

09:40:32 8 A. That's it.

09:40:33 9 Q. Did you bring any materials with you today?

09:40:38 10 A. I brought the paperwork that was given to my

09:40:42 11 attorney to be printed out, and I brought the procedures

09:40:45 12 manual.

09:40:45 13 Q. Is there any reason that you can't give complete

09:40:51 14 and accurate testimony today?

09:40:52 15 A. No.

09:40:53 16 Q. So you understand that you're here in your

09:40:58 17 capacity as the Greenlee County Recorder, right?

09:41:00 18 A. Right.

09:41:01 19 Q. So you're not here in your individual capacity?

09:41:06 20 A. That's correct.

09:41:07 21 Q. So if I say you or your, can we both agree that

09:41:14 22 I mean your office or your offices?

09:41:16 23 A. Right.

09:41:16 24 Q. How long have you been the Greenlee County

09:41:21 25 Recorder?

09:41:21 1 A. I be -- I was appointed in 2019.

09:41:25 2 Q. Have you held any other roles in the office?

09:41:29 3 A. I was an administrative assistant beginning in

09:41:35 4 April of, I believe it's April 2018.

09:41:38 5 Q. As an administrative assistant, was that an

09:41:45 6 election administration role?

09:41:47 7 A. Yes.

09:41:48 8 Q. What were your responsibilities?

09:41:49 9 A. I helped with voter registration. I helped with

09:41:56 10 the elections during the 2018 election season. We also do

09:42:04 11 the recordings, so we are, we are, we are part of the

09:42:08 12 recorder functions as well. So we do the recorded

09:42:13 13 documents and that kind of stuff.

09:42:15 14 Q. So it's both elections and the other recording

09:42:19 15 responsibilities?

09:42:19 16 A. Right.

09:42:20 17 Q. Let's look at a few documents.

09:42:25 18 Can you look at what we've labeled as document

09:42:28 19 No. 1. It's the amended deposition notice. And let me

09:42:31 20 know when you have that in front of you.

09:42:33 21 A. I do have that in front of me, I believe.

09:42:36 22 Q. Have you seen this document before?

09:42:39 23 A. Yes.

09:42:43 24 Q. What is it?

09:42:44 25 A. It was just amending the deposition for my

09:42:48 1 office.

09:42:52 2 Q. Can you turn to page four of that document,

09:42:55 3 where it says topics?

09:42:57 4 A. Okay.

09:42:58 5 Q. So there's a pretty long list of topics there,

09:43:01 6 but did you review this list before the deposition?

09:43:03 7 A. I did.

09:43:04 8 Q. And are you prepared to address each of these

09:43:07 9 today?

09:43:08 10 A. Yes.

09:43:08 11 Q. Great. Thank you.

09:43:12 12 I'm going to have you turn to what we labeled as

09:43:15 13 document No. 2. It says, Defendant Greenlee County

09:43:20 14 Recorder Response to Request For Production.

09:43:22 15 Do you have that?

09:43:22 16 A. I do, yes.

09:43:24 17 Q. Do you recognize this document?

09:43:25 18 A. Yes.

09:43:28 19 Q. What is it?

09:43:29 20 A. It's my responses, I believe, to the first set

09:43:34 21 of request for production.

09:43:37 22 Q. You can take a second to look through, but do

09:43:43 23 you have any updates to your responses?

09:43:45 24 A. Not at this time, no.

09:43:46 25 Q. We'll move to what is --

09:43:51 1 And, excuse me. I'm so sorry, Karen. Could we

09:43:54 2 mark the deposition notice as Exhibit 238, and then the

09:44:04 3 RFP responses as 239. Apologies for that.

09:44:12 4 I'll have you look at what we've marked as

09:44:14 5 No. 3, which we will mark for identification as

09:44:20 6 Exhibit 240.

09:44:20 7 Do you have that in front of you?

09:44:22 8 A. Am I looking at the third document that was
09:44:29 9 presented?

09:44:30 10 Q. Yes.

09:44:30 11 A. Okay. That was the response to the consolidated
09:44:36 12 plaintiff's first set of requests for production.

09:44:40 13 Q. And do you recognize this document?

09:44:41 14 A. Yes, I do.

09:44:43 15 Q. Do you have any updates to your office's
09:44:46 16 responses?

09:44:49 17 A. No. Not at this time.

09:44:50 18 Q. And just one more. We are going to go to the
09:44:54 19 document that we have called No. 4, which --

09:44:58 20 A. Okay.

09:44:59 21 Q. -- I'll mark as Exhibit 241.

09:45:09 22 And do you recognize this document?

09:45:10 23 A. Yes, I do.

09:45:10 24 Q. What is it?

09:45:12 25 A. The response to consolidated plaintiff's first

09:45:16 1 set of interrogatories.

09:45:17 2 Q. You can take a look, but do you have any updates
09:45:22 3 to your office's response?

09:45:24 4 A. I don't believe so, no.

09:45:25 5 Q. Thank you.

09:45:29 6 You mentioned that you have the elections
09:45:34 7 procedure manual with you.

09:45:35 8 A. Yes.

09:45:35 9 Q. Can I assume that you're familiar with the
09:45:38 10 elections procedures manual?

09:45:40 11 A. Yes.

09:45:40 12 Q. Is the 2019 EPM, or elections procedures manual,
09:45:48 13 still the currently operative EPM?

09:45:54 14 A. It is.

09:45:55 15 Q. Does your office follow the EPM?

09:45:57 16 A. We do.

09:45:58 17 Q. Do you understand the EPM to be legally binding
09:46:02 18 on your office?

09:46:03 19 A. That is my understanding.

09:46:05 20 DEFENSE COUNSEL: Calls for legal conclusion.

09:46:09 21 BY MS. RILEY-SWANBECK:

09:46:09 22 Q. Does your office receive guidance from the

09:46:12 23 Secretary of State in any way other than through the EPM,
09:46:16 24 for example, via legal memoranda or emails?

09:46:20 25 DEFENSE COUNSEL: Form.

09:46:21 1 THE WITNESS: We do get emails from the
09:46:23 2 Secretary of State's Office occasionally.
09:46:25 3 BY MS. RILEY-SWANBECK:
09:46:25 4 Q. When you receive those emails do you follow the
09:46:28 5 guidance from the Secretary of State's Office?
09:46:32 6 A. We try to follow the guidance from the Secretary
09:46:35 7 of State, yes.
09:46:36 8 Q. Has your office seen the 2023 draft EPM?
09:46:42 9 A. We, we have, but we haven't really dove in real
09:46:53 10 deeply into it. We have viewed it.
09:46:56 11 Q. Have you provided any comments to the Secretary
09:47:00 12 of State's Office on the EPM?
09:47:01 13 A. No, I have not.
09:47:01 14 Q. Do you intend to provide comments?
09:47:08 15 A. At this time, no.
09:47:10 16 Q. We talked about the 2023 EPM, but in 2021 the
09:47:16 17 draft EPM was not approved as official by the Secretary of
09:47:21 18 State, right?
09:47:22 19 A. Right.
09:47:24 20 DEFENSE COUNSEL: Foundation.
09:47:26 21 BY MS. RILEY-SWANBECK:
09:47:27 22 Q. You understand that this litigation challenges
09:47:31 23 changes to Arizona law made by House Bills 2492 and 2243,
09:47:39 24 right?
09:47:39 25 A. Right.

09:47:39 1 Q. In general terms, what is your understanding of
09:47:42 2 what H.B. 2492 provides?

09:47:48 3 A. 2492 is requesting documentary proof of
09:47:54 4 citizenship as well as documentary proof of residency.

09:48:02 5 Q. And does it impose any obligations on your
09:48:05 6 office?

09:48:06 7 DEFENSE COUNSEL: Calls for legal conclusion.

09:48:10 8 BY MS. RILEY-SWANBECK:

09:48:10 9 Q. You can answer.

09:48:11 10 A. Okay. It does call for us to request proof of
09:48:15 11 citizenship or proof of residency to register to vote.

09:48:21 12 Q. In general terms, what's your understanding of
09:48:25 13 what H.B. 2243 does?

09:48:29 14 A. My general understanding is that it calls for
09:48:36 15 causes for cancelation, the different reasons for
09:48:39 16 canceling a voter from our voter rolls.

09:48:43 17 Q. Greenlee County is a part of the Arizona
09:48:51 18 Association of Counties, correct?

09:48:54 19 A. That is correct.

09:48:55 20 Q. And as a member your office can weigh in on
09:48:57 21 whether the association supports or opposes bills
09:49:01 22 introduced in the Arizona legislature, right?

09:49:04 23 A. Right.

09:49:05 24 Q. Will you please pull up what we have labeled as
09:49:09 25 Document 6, and we will introduce as Exhibit 242.

09:49:16 1 A. Okay.

09:49:17 2 Q. Are you familiar with this document?

09:49:20 3 A. Yes, I am.

09:49:21 4 Q. It's addressed to you, right?

09:49:25 5 A. Right.

09:49:25 6 Q. So in the body of the email it says, your name,

09:49:31 7 and then your analysis of H.B. 2492, voter registration,

09:49:40 8 verification, citizenship is displayed below.

09:49:44 9 Did I read that correctly?

09:49:46 10 A. Yes.

09:49:46 11 Q. And then near the bottom, next to recommended

09:49:49 12 position, it says, opposed, correct?

09:49:52 13 A. That is correct.

09:49:54 14 Q. Does that mean that your office opposed

09:49:59 15 H.B. 2492 at the time of this email?

09:50:00 16 A. At the time of that email, yes, we opposed.

09:50:04 17 Q. Why did your office oppose 2492 at that time?

09:50:08 18 A. From what I recall it was because the

09:50:14 19 citizenship requirements were in conflict with the federal

09:50:20 20 laws.

09:50:20 21 Q. Do you recall which federal laws you were

09:50:24 22 concerned about?

09:50:25 23 A. I believe it was the NAVRA laws, that this was

09:50:30 24 requiring more information for proof of citizenship.

09:50:37 25 Q. And then right above recommended position, it

09:50:41 1 says, projected impact, agree with other comments.

09:50:45 2 Did I read that right?

09:50:46 3 A. Yes.

09:50:47 4 Q. Do you recall what other comments you agreed
09:50:51 5 with?

09:50:52 6 A. I don't recall.

09:50:53 7 Q. Okay. Are you currently enforcing any part of
09:51:00 8 22 -- or excuse me -- 2492?

09:51:03 9 A. We've just been following the 2019 procedures
09:51:09 10 manual.

09:51:10 11 Q. So does that mean that you are not currently
09:51:13 12 enforcing H.B. 2492?

09:51:16 13 A. I mean, yeah, if that's -- right. Because we
09:51:24 14 are going by the 2019 procedures manual.

09:51:27 15 Q. Are you currently enforcing any parts of 2243?

09:51:33 16 A. No.

09:51:33 17 Q. So is your office currently holding any voter
09:51:41 18 registration applications in an indefinite pending status
09:51:45 19 until you receive guidance from the Secretary of State
09:51:47 20 about how to implement 2492 or 2243?

09:51:51 21 A. At this time, no.

09:51:52 22 Q. Other than the draft EPM that we talked about,
09:51:59 23 has your office received any guidance from any government
09:52:04 24 entity, including the Secretary of State, that addresses
09:52:07 25 the implementation of 2492 or 2243?

09:52:12 1 A. We have gotten guidance from the Secretary of
09:52:18 2 State's Office, but it is all pending litigation, and some
09:52:22 3 guidance is just a draft; it's not definite.

09:52:25 4 Q. What guidance have you received?

09:52:28 5 A. A basic -- from what I recall, some of the
09:52:34 6 guidance was that some of the laws could not be
09:52:40 7 implemented due to the federal laws that they would, that
09:52:45 8 they would break, from my recollection.

09:52:49 9 Q. Do you remember when you received that guidance?

09:52:52 10 A. I don't remember the date, no.

09:52:55 11 Q. Was it this year? Do you recall?

09:53:02 12 A. I believe it might have been at the end of last
09:53:05 13 year, but I can't remember.

09:53:06 14 Q. Do you recall any other communications with the
09:53:12 15 Secretary of State about the implementation of 2492?

09:53:19 16 A. There may have been some meetings that, where
09:53:23 17 they have talked about it, but I can't recall the details
09:53:26 18 of any of those.

09:53:27 19 Q. Has your office been a part of any discussions
09:53:32 20 with the Secretary of State about the implementation of
09:53:37 21 2243?

09:53:37 22 A. Yes.

09:53:39 23 Q. What were those communications?

09:53:45 24 A. Again, I don't recall the specifics. I'm sure
09:53:52 25 we had conversations through meetings, and potentially

09:53:56 1 through emails, but I do not recall the specifics.

09:53:59 2 Q. Do you remember maybe when those communications
09:54:04 3 were?

09:54:05 4 A. I believe a lot of was done towards the end of
09:54:10 5 2022, and then, you know, in between January and now
09:54:16 6 there's probably been a few as well.

09:54:22 7 Q. So you mentioned that your office is following
09:54:24 8 the 2019 EPM, right?

09:54:27 9 A. Right.

09:54:28 10 Q. Do you have plans to enforce the portions of
09:54:34 11 2492 and 2243 directed at County Recorders even if a new
09:54:38 12 EPM is not approved?

09:54:40 13 A. I would be going by the guidance of my attorney
09:54:50 14 at that point.

09:54:52 15 Q. Let's discuss your office's use of some of the
09:54:55 16 databases in the voter registration process.

09:54:59 17 Are you familiar with the Arizona Voter
09:55:01 18 Information Database, or AVID?

09:55:04 19 A. Yes, I am.

09:55:05 20 Q. What is AVID?

09:55:07 21 A. That is our voter registration program that is
09:55:12 22 facilitated by the state through 13 counties.

09:55:17 23 Q. So does your office use AVID, then, as a part of
09:55:20 24 your voter registration efforts?

09:55:25 25 A. Yes, we do.

09:55:26 1 Q. Can you describe how you use AVID?

09:55:28 2 A. We use AVID to register our voters, make changes

09:55:35 3 to voter records when necessary, and to send out our early

09:55:43 4 ballots.

09:55:44 5 Q. So the information that an applicant provides on

09:55:50 6 their voter registration form, does that -- do you enter

09:55:54 7 that into AVID?

09:55:55 8 A. Yes, we do.

09:55:56 9 Q. Is AVID used at all in determining, or in

09:56:01 10 verifying whether a registrant is a U.S. citizen?

09:56:06 11 A. Yes, it is.

09:56:07 12 Q. How is AVID, how is AVID used?

09:56:12 13 A. There's a function of AVID called a HAVA check,

09:56:17 14 which runs the driver's license number and the social,

09:56:22 15 last four of the social security number against the Motor

09:56:28 16 Vehicle database and, I believe, the, through the Social

09:56:35 17 Security Administration to verify identity or citizenship.

09:56:39 18 Q. Let's look at H.B. 2492. So this is No. 7 of

09:56:45 19 the documents I sent, and it has previously been marked in

09:56:52 20 another deposition as Exhibit 19. And so if you'll turn

09:56:58 21 to page four, near the bottom there, at line 35.

09:57:04 22 A. Okay.

09:57:05 23 Q. And do you see subsection D?

09:57:10 24 A. On line 35? Yes.

09:57:14 25 Q. So this section says:

09:57:17 1 Within ten days after receiving an application
09:57:20 2 for registration on a form produced by the United States
09:57:25 3 Election Assistance Commission that is not accompanied by
09:57:29 4 satisfactory evidence of citizenship, the County Recorder
09:57:32 5 or other officer in charge of elections shall use all
09:57:35 6 available resources to verify the citizenship status of
09:57:38 7 the applicant and, at minimum, shall compare the
09:57:42 8 information available on the application for registration
09:57:45 9 with the following, provided the county has access.

09:57:49 10 Did I read that right?

09:57:50 11 A. Yes.

09:57:51 12 Q. And then it goes on to list a number of
09:57:53 13 databases, correct?

09:57:55 14 A. Correct.

09:57:55 15 Q. The first listed database is the Department of
09:58:02 16 Transportation databases of Arizona driver licenses or
09:58:04 17 nonoperating identification licenses.

09:58:07 18 Are you familiar with the Arizona Department of
09:58:11 19 Transportation databases?

09:58:12 20 A. I don't have direct access to the Motor Vehicle.
09:58:21 21 I have access through the AVID program.

09:58:24 22 Q. So your office uses AVID to match registrants
09:58:29 23 with data in the databases, correct?

09:58:32 24 A. Correct.

09:58:33 25 Q. And so does your office use, I'll say ADOT,

09:58:39 1 rather than going through the whole term, but does your
09:58:42 2 office use ADOT data to confirm a registrant's driver's
09:58:49 3 license information?

09:58:50 4 A. Through the AVID program, yes.

09:58:51 5 Q. Are driver's license the most common form of
09:58:55 6 documentary proof of citizenship, or DPOC, that your
09:59:00 7 office receives?

09:59:01 8 A. Yes, it is.

09:59:02 9 Q. So, but what happens if an applicant's driver's
09:59:08 10 license cannot be verified in the ADOT databases?

09:59:13 11 A. We look to other ways to identify the voter
09:59:19 12 through the social security, last four of the social
09:59:24 13 security number.

09:59:28 14 Q. So is that the only way that you could then
09:59:31 15 identify the voter, through the use of the social security
09:59:34 16 database?

09:59:35 17 A. We could potentially also use the SAVE program,
09:59:39 18 with enough information on the voter registration record.

09:59:44 19 Q. Okay. What would you, what information would
09:59:47 20 you need for the SAVE program?

09:59:48 21 A. Honestly, I have not used the SAVE program in
09:59:55 22 quite some time, so I can't recall exactly what all I
10:00:01 23 would need.

10:00:02 24 Q. Okay. Are there driver's licenses that would be
10:00:08 25 too old to be looked up through AVID and the ADOT

10:00:13 1 databases?

10:00:14 2 A. Not that I'm aware of.

10:00:16 3 Q. Are you aware that there are different types of

10:00:20 4 driver's license in Arizona?

10:00:21 5 A. Yes.

10:00:22 6 Q. Are you familiar with the F-type license?

10:00:27 7 A. Yes.

10:00:27 8 Q. What is an F-type license?

10:00:31 9 A. My understanding, the F-type license is an

10:00:35 10 individual who is not a citizen but is authorized to be in

10:00:40 11 the state.

10:00:41 12 Q. So when you're attempting to match registrant's

10:00:46 13 with the ADOT system, if the database shows that an

10:00:51 14 applicant has a driver's license that is an F-type

10:00:55 15 license, is the assumption that that person is a

10:00:59 16 non-citizen?

10:00:59 17 A. That would be the assumption.

10:01:01 18 Q. But an F-type license can only provide

10:01:05 19 information about the person's citizenship as of the time

10:01:09 20 that they receive the license, right?

10:01:13 21 DEFENSE COUNSEL: Form.

10:01:15 22 THE WITNESS: That was my understanding.

10:01:16 23 BY MS. RILEY-SWANBECK:

10:01:16 24 Q. Do you know how long Arizona driver's licenses

10:01:22 25 are valid?

10:01:24 1 A. I do not.

10:01:25 2 Q. Do you know if it's more than, more or less than
10:01:33 3 ten years?

10:01:34 4 A. I do not know.

10:01:35 5 Q. Okay. Has your office ever encountered an
10:01:40 6 individual with an F-type license who is a citizen?

10:01:44 7 A. Not that I'm aware of.

10:01:46 8 Q. Okay. If an applicant's driver's license is
10:01:52 9 expired, are you still able to use that information to
10:01:56 10 verify their citizenship?

10:01:58 11 A. We would run their information back through a
10:02:04 12 HAVA check.

10:02:04 13 Q. And that would tell you whether or not they're a
10:02:10 14 citizen?

10:02:11 15 A. That would tell me if the expired license has
10:02:16 16 been, is still expired. And, if it's not, it would, it
10:02:22 17 would identify whether the person was a citizen.

10:02:25 18 Q. But if the license is expired, would that
10:02:30 19 provide you with any information one way or the other?

10:02:33 20 A. I, I'm not sure. I, I have not come across that
10:02:40 21 scenario.

10:02:42 22 Q. What if an applicant provides an out-of-state
10:02:46 23 driver's license as their documentary proof of
10:02:50 24 citizenship? What does your office do then?

10:02:51 25 A. I, from what I recall, some states have an

10:02:54 1 identifier that they have been verified as a citizen on
10:02:59 2 the driver's license, and we would check for that.
10:03:02 3 Q. So, in that case, you are not using the
10:03:09 4 databases, you're just looking to whatever is on the face
10:03:13 5 of the license?
10:03:13 6 A. If we have it in front of us, yes.
10:03:16 7 Q. If a person is from a state that does not say on
10:03:22 8 the driver's license whether or not they're a citizen,
10:03:25 9 what do you do with that out-of-state license?
10:03:28 10 A. We notate the driver's license, but we can't
10:03:35 11 really do anything with that.
10:03:36 12 Q. So you would need additional information from
10:03:39 13 that person?
10:03:39 14 A. Right.
10:03:40 15 Q. Does your office use ADOT data in ways other
10:03:47 16 than by looking up driver's license numbers?
10:03:50 17 A. No.
10:03:51 18 Q. Can you use the data to confirm a registrant's
10:03:57 19 identity and eligibility if they don't provide a driver's
10:04:01 20 license number at all?
10:04:02 21 A. We can run them through the social security.
10:04:06 22 Q. But you can't use the ADOT data, right?
10:04:12 23 A. If it's not provided, right.
10:04:14 24 Q. Has your office encountered instances where a
10:04:21 25 voter registration applicant who was a U.S. citizen was

10:04:24 1 wrongly flagged as a non-citizen by a search of the ADOT

10:04:29 2 or MVD driver's license databases?

10:04:31 3 A. We were made aware by the Secretary of State's

10:04:35 4 Office that this had happened.

10:04:37 5 Q. When did that happen?

10:04:41 6 A. I believe it was sometime at the beginning of

10:04:45 7 this year, but I can't recall certain dates. I'm not

10:04:49 8 certain on that.

10:04:50 9 Q. Are you familiar with the term, fed voter or

10:04:57 10 federal-only voter?

10:04:58 11 A. Yes.

10:04:59 12 Q. What does it mean if a voter has a federal-only

10:05:03 13 voter status?

10:05:04 14 A. If the voter is a fed-only voter, typically it

10:05:09 15 is because they have not provided proof of citizenship but

10:05:13 16 have sworn that they are a citizen.

10:05:15 17 Q. You mentioned that you were made aware of a

10:05:21 18 situation from the Secretary of State. Is that the

10:05:26 19 incident last year where the database matching software

10:05:31 20 caused thousands of voters to be downgraded to

10:05:35 21 federal-only status? Is that what you're talking about?

10:05:39 22 DEFENSE COUNSEL: Form.

10:05:39 23 THE WITNESS: I'm not, I'm not sure how many

10:05:42 24 voters were affected. I only know what was for Greenlee

10:05:48 25 County. I'm assuming, or I -- I'm not sure if that was

10:05:52 1 the same incident or not, but I --

2 DEFENSE COUNSEL: The question was -- I'm sorry.

3 Go ahead.

4 (The Reporter requested clarification.)

5 MR. LANGHOFER: It's Kory Langhofer. I was

6 going to say the question mischaracterizes the evidence.

10:06:04 7 But I didn't mean to cut off your answer, ma'am. Go

10:06:07 8 ahead.

10:06:07 9 THE WITNESS: No, I, I, I was done.

10:06:09 10 BY MS. RILEY-SWANBECK:

10:06:13 11 Q. Turn to what we marked as No. 8, which we will

10:06:17 12 mark as Exhibit 243. And you can take a second to read

10:06:26 13 this document.

10:06:30 14 Do you recognize this document? I know the font

10:06:38 15 is a little small.

10:06:59 16 A. Yes, I do recall this.

10:07:01 17 Q. What is, what is this document?

10:07:04 18 A. This was an email from the representative from

10:07:10 19 the Secretary of State's Office, I believe, regarding the

10:07:17 20 MVD record, or the malfunction of MVD to our AVID program

10:07:25 21 listing voters as fed-only.

10:07:31 22 Q. Is this what you were referring to when you

10:07:33 23 answered my question about the databases erroneously

10:07:38 24 marking people as non-citizens?

10:07:41 25 A. Yes.

10:07:41 1 Q. And so, in this incident, already registered
10:07:49 2 voters who had shown proof of citizenship were downgraded
10:07:53 3 to federal-only status, right?

10:07:56 4 A. That is my understanding.

10:07:58 5 Q. Does this say anything to you about the
10:08:01 6 reliability about the database matching process to assess
10:08:06 7 a person's citizenship status?

10:08:09 8 DEFENSE COUNSEL: Form and foundation.

10:08:12 9 THE WITNESS: Are you asking whether the Motor
10:08:19 10 Vehicle program is reliable?

10:08:22 11 BY MS. RILEY-SWANBECK:

10:08:25 12 Q. Do you believe that the Motor Vehicle program is
10:08:27 13 reliable to assess a person's current citizenship status?

10:08:34 14 DEFENSE COUNSEL: Form, foundation.

10:08:37 15 THE WITNESS: I believe the program is not full
10:08:44 16 proof, but overall has been reliable.

10:08:50 17 BY MS. RILEY-SWANBECK:

10:08:51 18 Q. Do you think it's possible that if people could
10:08:55 19 erroneously be identified as not having shown DPOC, as
10:09:00 20 they were here, that they could be erroneously identified
10:09:04 21 as non-citizens under 2492 and 2243's procedures?

10:09:14 22 DEFENSE COUNSEL: Form, foundation. Calls for
10:09:15 23 speculation.

10:09:18 24 THE WITNESS: Can you repeat the question,
10:09:19 25 please?

10:09:19 1 BY MS. RILEY-SWANBECK:

10:09:19 2 Q. Of course.

10:09:20 3 Is it possible that if people could be
10:09:22 4 erroneously identified as not having shown DPOC, as they
10:09:26 5 did in this incident, that they could also be erroneously
10:09:29 6 identified as non-citizens under H.B. 2492 and 2243's
10:09:36 7 requirements?

10:09:38 8 A. Because I don't know Motor Vehicle's system, I
10:09:44 9 can't really respond to the reliability of their system,
10:09:49 10 other than, according to this incident, I feel like it
10:09:54 11 could happen again.

10:09:56 12 Q. Are you familiar with the Electronic
10:09:58 13 Registration Information Center, or ERIC?

10:10:02 14 A. Yes.

10:10:03 15 Q. What is ERIC?

10:10:04 16 A. ERIC is a list maintenance program.

10:10:11 17 Q. Does your office use ERIC?

10:10:13 18 A. We do.

10:10:13 19 Q. Can you describe your office's use of ERIC?

10:10:17 20 A. We use ERIC to compare registrations to see if
10:10:26 21 voters are registered in another state that are also
10:10:30 22 registered within Greenlee County.

10:10:35 23 Q. Do you use ERIC at all to determine whether a
10:10:40 24 registrant is a U.S. citizen?

10:10:41 25 A. No. Not that I'm aware of, no.

10:10:43 1 Q. Do you think that you could use ERIC to

10:10:46 2 determine whether someone is a U.S. citizen?

10:10:49 3 A. I believe ERIC is a list maintenance program and

10:10:54 4 is not intended for verifying citizenship.

10:10:57 5 Q. Let's go back to 2492, so that's No. 7, I

10:11:07 6 believe. We're still on page four at the very bottom.

10:11:13 7 The second listed database is the Social

10:11:18 8 Security Administration database.

10:11:19 9 Do you see that?

10:11:19 10 A. Yes.

10:11:20 11 Q. Are you familiar with the Social Security

10:11:24 12 Administration, or SSA, database?

10:11:26 13 A. As it relates to AVID, yes.

10:11:29 14 Q. So you said earlier that you use the SS database

10:11:36 15 with AVID? Is that correct?

10:11:37 16 A. Through AVID. That is correct.

10:11:39 17 Q. So do you have any independent access to the

10:11:43 18 database, apart from AVID?

10:11:46 19 A. I do not.

10:11:47 20 Q. Could it be used to verify citizenship status?

10:11:52 21 A. I believe so.

10:11:56 22 Q. Do you know how?

10:11:58 23 A. It would run the, through AVID it would run

10:12:05 24 social security number against the Social Security

10:12:08 25 Administration database verifying the identity of that

10:12:12 1 voter.

10:12:15 2 Q. So if a person did not provide a social security

10:12:19 3 number, would you be able to use that system?

10:12:21 4 A. No.

10:12:22 5 Q. Let's turn the page on 2492. We'll be at the

10:12:28 6 top of page five. And the third database listed is the

10:12:34 7 United States Citizenship and Immigration Service's

10:12:39 8 Systematic Alien Verification for Entitlements Program. A

10:12:42 9 little bit of a mouthful, but I think we've talked about

10:12:46 10 that as SAVE. Is that right?

10:12:48 11 A. Right.

10:12:48 12 Q. Are you familiar with SAVE?

10:12:50 13 A. Vaguely familiar with SAVE, yes.

10:12:54 14 Q. Can you explain what SAVE, what the SAVE

10:12:57 15 database is?

10:12:58 16 A. From my understanding the SAVE database would

10:13:05 17 verify if somebody has become a naturalized citizen.

10:13:13 18 Q. And earlier, did you say that your office does

10:13:16 19 have access to the SAVE database?

10:13:18 20 A. Yes.

10:13:19 21 Q. How do you, how do you use SAVE?

10:13:23 22 A. We haven't had to use SAVE in, probably, several

10:13:33 23 years, to my recollection, but we would use the SAVE

10:13:37 24 program if we had somebody that we could not verify

10:13:41 25 whether they were a citizen, and the information would

10:13:46 1 then be run against the SAVE program.

10:13:52 2 Q. Are there processes for using SAVE that you must

10:13:55 3 follow?

10:13:55 4 A. I, I'm sure there is, but I'm not sure what the

10:14:03 5 processes would be. We haven't used it.

10:14:06 6 Q. Do you know where the processes come from?

10:14:10 7 A. We would access that through the Secretary of

10:14:15 8 State.

10:14:15 9 Q. And that's through the Arizona Secretary of

10:14:21 10 State?

10:14:21 11 A. Right.

10:14:23 12 Q. When you say you would access it through the

10:14:27 13 Secretary of State, does that mean through a system that

10:14:30 14 the Secretary of State has provided?

10:14:32 15 A. From my recollection, they gave us access

10:14:38 16 through, to the SAVE program, so I, again, we have not

10:14:44 17 used that system. I'm, I'm guessing that that would be

10:14:49 18 some sort of a web link that we would have to access it.

10:14:53 19 Q. Do you recall whether your office has entered

10:15:00 20 into any agreements with USCIS about the SAVE database?

10:15:07 21 A. We entered into agreements through the Secretary

10:15:11 22 of State's Office to have access to that program.

10:15:13 23 Q. Do you know if those existing agreements would

10:15:16 24 cover the use of SAVE that 2492 requires?

10:15:23 25 DEFENSE COUNSEL: Calls for legal conclusion.

10:15:26 1 BY MS. RILEY-SWANBECK:

10:15:27 2 Q. You can answer.

10:15:28 3 A. Okay. Yeah, I would imagine it would, we would
10:15:33 4 be able to use the SAVE program.

10:15:36 5 Q. And so you can use SAVE to look up whether an
10:15:39 6 applicant is a naturalized citizen, right?

10:15:42 7 A. Right.

10:15:42 8 Q. And, in order to look up an applicant, you would
10:15:47 9 need their alien registration number, or their A number,
10:15:51 10 right?

10:15:52 11 A. That is my understanding.

10:15:53 12 Q. Or you could use their, the number on their
10:15:59 13 naturalization certificate, right?

10:16:01 14 A. That is to my understanding.

10:16:04 15 Q. And I understand that you said that it's been a
10:16:08 16 while, so...

10:16:10 17 Do you recall how you would obtain an
10:16:12 18 applicant's A number or their naturalization certificate
10:16:16 19 number?

10:16:16 20 A. I believe they are allowed to write that on the
10:16:20 21 voter registration form.

10:16:23 22 Q. Could you look up an applicant's information if
10:16:27 23 you did not have their A number or their naturalization
10:16:32 24 certificate number through SAVE?

10:16:33 25 A. Because I haven't used SAVE in that I don't know

10:16:40 1 what is required. I would have to view the program to see
10:16:45 2 what it requires.

10:16:46 3 Q. Do you know what your office would do if SAVE
10:16:50 4 returned no matches to a record?

10:16:55 5 A. If it did not, if it did not have a match, I
10:16:59 6 believe we would send notification to the, to the
10:17:05 7 registrant to provide more information.

10:17:09 8 Q. So then are you familiar with SAVE's alternative
10:17:18 9 verification procedures?

10:17:19 10 A. No.

10:17:20 11 Q. So the SAVE database cannot be used to verify
10:17:32 12 the citizenship status of someone who is a natural born
10:17:36 13 citizen, correct?

10:17:37 14 A. That's my understanding.

10:17:38 15 Q. So it could only confirm naturalization or
10:17:44 16 derivative citizenship from a parent, right?

10:17:47 17 A. That is what I understand, yes.

10:17:49 18 Q. Does your office currently use the ADOT or SAVE
10:17:57 19 database to check existing registrant's citizenship
10:18:00 20 status?

10:18:02 21 A. If they are an existing registrant, we wouldn't
10:18:07 22 run it again without reason.

10:18:10 23 Q. Back to our list of databases in 2492.

10:18:18 24 The fourth is a National Association For Public
10:18:23 25 Health Statistics and Information Systems Electronic

10:18:28 1 Verification of Vital Events System, right?

10:18:31 2 A. Right.

10:18:31 3 Q. Have you ever heard of the National Association

10:18:35 4 For Public Health Statistics and Information System, or

10:18:44 5 NAPHSIS?

10:18:44 6 A. I have not.

10:18:45 7 Q. So does that mean you are not familiar with

10:18:48 8 NAPHSIS's electronic verification of vital events, or EVVE

10:18:53 9 database?

10:18:54 10 A. I'm not aware -- I never use that. I am not

10:18:58 11 aware of that.

10:18:59 12 Q. Are there any other databases that your office

10:19:02 13 uses to look up voter registrants or verify their

10:19:06 14 citizenship status?

10:19:07 15 A. No.

10:19:07 16 Q. Are you aware that 2492 states that your office

10:19:15 17 must use any other state, city, town, county, or federal

10:19:20 18 database, and any other database relating to voter

10:19:25 19 registration?

10:19:26 20 A. I understood that that was in the bill. My

10:19:32 21 understanding was that if it was applicable, which we

10:19:38 22 don't have, that I'm aware of, we don't have access to.

10:19:43 23 Q. And is that you don't have access to any other

10:19:48 24 databases?

10:19:48 25 A. That I'm aware of, no.

10:19:50 1 Q. Do you know what databases that language is

10:19:54 2 referring to, or might be referring to?

10:19:58 3 DEFENSE COUNSEL: Calls for legal conclusion.

10:20:02 4 BY MS. RILEY-SWANBECK:

10:20:02 5 Q. You can go ahead.

10:20:03 6 A. I'm assuming it's regarding, maybe like the

10:20:13 7 health department, through their records.

10:20:15 8 Q. Would that be the Arizona Health Department?

10:20:19 9 A. Right.

10:20:19 10 Q. Are you familiar with what records they have

10:20:25 11 available that would be useful for determining

10:20:28 12 citizenship?

10:20:29 13 A. I believe they are the vital statistics, so they

10:20:35 14 would be able to provide a birth certificate.

10:20:37 15 Q. But you do not currently have access to that

10:20:43 16 database?

10:20:43 17 A. Not that I'm aware of, no.

10:20:45 18 Q. Are you aware that H.B. 2492 states that your

10:20:50 19 office must use all available resources to verify

10:20:55 20 citizenship of a federal form applicant who fails to

10:20:58 21 provide proof of, documentary proof of citizenship?

10:21:04 22 A. I did read that, yes.

10:21:05 23 Q. If a law tells your office to use all available

10:21:10 24 resources to perform, to perform these database searches,

10:21:15 25 what do you understand that to mean?

10:21:16 1 A. I understand that --

10:21:19 2 DEFENSE COUNSEL: Calls for legal conclusion.

10:21:25 3 BY MS. RILEY-SWANBECK:

10:21:26 4 Q. And you can go ahead and answer.

10:21:27 5 A. I -- I'm sorry. Can you repeat the question?

10:21:31 6 Q. Of course. If a law tells your office to use

10:21:34 7 all available resources to perform these database

10:21:39 8 searches, what do you understand that to mean?

10:21:41 9 DEFENSE COUNSEL: Same objection.

10:21:43 10 THE WITNESS: I understand that to mean any

10:21:47 11 resource that we have available to us.

10:21:49 12 BY MS. RILEY-SWANBECK:

10:21:53 13 Q. We're going to go back to 2492. And can you go

10:21:56 14 to line 14. Same page that we're on, so page five. And

10:22:05 15 it reads:

10:22:06 16 If the County Recorder or other officer in

10:22:09 17 charge of elections matches the applicant with information

10:22:12 18 that the applicant is not a United States citizen, the

10:22:16 19 County Recorder or other officer in charge of elections

10:22:19 20 shall reject the application.

10:22:22 21 Did I read that right?

10:22:23 22 A. Yes.

10:22:24 23 Q. What is your understanding of the phrase,

10:22:27 24 information that the applicant is not a United States

10:22:30 25 citizen?

10:22:32 1 DEFENSE COUNSEL: Calls for a legal conclusion.

10:22:43 2 THE WITNESS: I would imagine that any other

10:23:04 3 information would, would be the SAVE program where it

10:23:09 4 might say that they are something other than a citizen.

10:23:15 5 And, in that case, it says we should reach out to that.

10:23:23 6 BY MS. RILEY-SWANBECK:

10:23:23 7 Q. So if I understood you correctly, information

10:23:25 8 that the applicant is not a United States citizen would be

10:23:29 9 information from the SAVE database? Is that correct?

10:23:31 10 A. That's the way I understand it.

10:23:34 11 Q. Are there other valid sources of information

10:23:41 12 that someone is not a United States citizen?

10:23:44 13 DEFENSE COUNSEL: Same objection.

10:23:47 14 THE WITNESS: I don't know what other sources

10:23:50 15 would, would be able to validate that information.

10:23:55 16 BY MS. RILEY-SWANBECK:

10:23:56 17 Q. Has the Secretary of State's office ever given

10:23:59 18 your office a list of the types of information that would

10:24:03 19 constitute evidence of a lack of U.S. citizenship?

10:24:07 20 A. The only one that I can recall is part of that

10:24:12 21 SAVE program where it would indicate that the person was

10:24:16 22 not a citizen, or the F-type license would also indicate

10:24:30 23 the voter is not a citizen.

10:24:33 24 Q. So the Secretary of State's Office has provided

10:24:37 25 you with a list that includes the SAVE database and the

10:24:43 1 F-type license as evidence?

10:24:46 2 A. That would be through the 2019 procedures

10:24:49 3 manual, right.

10:24:50 4 Q. Have they ever provided you with any other

10:24:55 5 guidance about what types of information constitute

10:24:59 6 evidence that an applicant is not a U.S. citizen?

10:25:04 7 A. I would imagine if there's anything more it

10:25:07 8 would be in the procedures manual, which I cannot recall

10:25:10 9 at this time.

10:25:10 10 Q. If a database like SAVE stated that a person was

10:25:18 11 not a citizen at some point in the past, would your office

10:25:22 12 treat that as information that the person is not is a

10:25:25 13 United States citizen today for purposes of implementing

10:25:30 14 2492?

10:25:31 15 DEFENSE COUNSEL: Same objection.

10:25:34 16 THE WITNESS: If I understand this correctly,

10:25:39 17 the, if the voter has since become a citizen, the SAVE

10:25:47 18 results that were done in the past would not -- the SAVE

10:25:53 19 results that indicated that it was not, the person was not

10:25:56 20 a citizen would not be relevant if they have since become

10:26:00 21 a citizen and we were able to verify that.

10:26:02 22 BY MS. RILEY-SWANBECK:

10:26:04 23 Q. How would you verify that a person has since

10:26:07 24 become a citizen if the databases are not updated?

10:26:11 25 A. If, well, if the database is not updated, I

10:26:16 1 don't see how we would be able to validate that.

10:26:19 2 Q. Let me give you another specific example.

10:26:23 3 So if a HAVA check reflects that an applicant

10:26:26 4 was issued an F-type license 20 years ago, would your

10:26:32 5 office consider that information that today that person is

10:26:34 6 not a U.S. citizen?

10:26:36 7 DEFENSE COUNSEL: Same objection.

10:26:42 8 THE WITNESS: No.

10:26:42 9 BY MS. RILEY-SWANBECK:

10:26:42 10 Q. I'm sorry. Could you repeat your answer?

10:26:44 11 A. No.

10:26:45 12 Q. And why not?

10:26:46 13 A. Because we would be able to validate citizenship

10:26:50 14 through the current HAVA check.

10:26:52 15 Q. How would you verify citizenship through the

10:26:56 16 current HAVA check?

10:26:57 17 A. Through the current HAVA check we would have a

10:27:01 18 driver's license and social security number to verify.

10:27:04 19 Q. And so even if the person still has an F-type

10:27:12 20 license, you would be able to verify that they are today a

10:27:18 21 citizen?

10:27:19 22 A. If they have, if they still have an F-type

10:27:22 23 license, I would not be able to verify citizenship.

10:27:26 24 Q. If they still have an F-type license what

10:27:31 25 procedures would your office follow after you received

10:27:33 1 that information?

10:27:33 2 A. We would follow the 2019 procedures manual in
10:27:41 3 regards to the F-type license.

10:27:43 4 Q. Do you currently recall what the procedures
10:27:49 5 manual says?

10:27:50 6 A. From what I recall, for an F-type license we
10:27:53 7 would mark them as unregistered.

10:27:57 8 Q. What happens when a person has been marked as
10:28:03 9 unregistered?

10:28:04 10 A. They would not, they would not be registered
10:28:07 11 into the system.

10:28:08 12 Q. So if some other database, so not your AVID
10:28:12 13 database, contains data showing a person was not a U.S.
10:28:19 14 citizen 20 years ago, would that be information that today
10:28:22 15 that person is not a citizen?

10:28:24 16 DEFENSE COUNSEL: Same objection.

10:28:25 17 THE WITNESS: I'm sorry. Can you repeat the
10:28:27 18 question?

10:28:27 19 BY MS. RILEY-SWANBECK:

10:28:28 20 Q. Of course.

10:28:28 21 So if some other database, so not the MVD or
10:28:33 22 AVID database, contains data showing that a person was not
10:28:38 23 a U.S. citizen 20 years ago, would that, is that
10:28:41 24 information showing that today the person is not a U.S.
10:28:47 25 citizen?

10:28:48 1 DEFENSE COUNSEL: Same objection.

10:28:49 2 THE WITNESS: I don't believe that would be

10:28:53 3 information that today the person is not a citizen. It

10:28:58 4 only reflects what was done back then.

10:29:02 5 BY MS. RILEY-SWANBECK:

10:29:05 6 Q. I'd like to discuss voting by mail with you for

10:29:14 7 a little bit.

10:29:16 8 In Arizona, absentee ballots are called early

10:29:20 9 ballots, correct?

10:29:20 10 A. That's correct.

10:29:21 11 Q. And Arizona currently allows all registered

10:29:25 12 voters to vote by early ballot, correct?

10:29:29 13 A. Not all early voters. If --

10:29:36 14 Q. Go ahead.

10:29:36 15 A. If a voter has not provided proof of identity or

10:29:42 16 citizenship, and we cannot verify that information, they

10:29:48 17 would, if I remember correctly, they would then have to

10:29:54 18 present some form of identification to be able to be on

10:30:02 19 the early vote list.

10:30:03 20 Q. And is that under 2492?

10:30:07 21 A. I actually believe that is part of the 2019

10:30:12 22 procedures manual.

10:30:12 23 Q. Okay. Is it fair to say that early ballot

10:30:19 24 voting is common in Greenlee County?

10:30:23 25 A. Yes.

10:30:24 1 Q. Do you know what percentage of Greenlee County
10:30:26 2 voters voted by early ballot in the 2022 general election?

10:30:30 3 A. I can't recall a percentage.

10:30:32 4 Q. Do you know if it was a majority?

10:30:34 5 A. I, I cannot recall.

10:30:38 6 Q. Based on your experience as an election
10:30:43 7 official, are there benefits to voters being able to use
10:30:47 8 an early ballot?

10:30:48 9 A. I believe that it can be a benefit for people
10:30:55 10 that are not able to go to the polling locations.

10:31:00 11 Q. And the early ballots that Greenlee County sends
10:31:05 12 out have prepaid return postage, right?

10:31:08 13 A. Right.

10:31:08 14 Q. So a voter can just complete the ballot and drop
10:31:12 15 it in the mail, right?

10:31:13 16 A. Right.

10:31:13 17 Q. And that voter would not need to arrange
10:31:19 18 transportation to a polling location, right?

10:31:22 19 A. Right.

10:31:22 20 Q. A voter who uses an early ballot to vote does
10:31:25 21 not have to plan on going to the polling place around
10:31:29 22 work.

10:31:30 23 A. Right.

10:31:30 24 Q. And an early ballot voter does not need to stand
10:31:37 25 in line to vote.

10:31:37 1 A. Right.

10:31:38 2 Q. Sometimes voters who live in Greenlee County are

10:31:45 3 outside of Arizona or outside of the county on election

10:31:49 4 day, right?

10:31:51 5 A. Right.

10:31:51 6 Q. But you understand that under H.B. 2492, voters

10:31:56 7 who do not supply documentary proof of citizenship will

10:32:02 8 not be permitted to vote by mail with an early ballot,

10:32:07 9 right?

10:32:07 10 A. Right.

10:32:08 11 Q. You agree that these voters impacted by 2492

10:32:12 12 would lose the benefits that we just discussed about

10:32:16 13 voting an early ballot by mail?

10:32:19 14 A. Meaning, voters who do not provide citizenship?

10:32:23 15 Q. Yes.

10:32:24 16 A. They would lose the ability to vote early by

10:32:28 17 mail, yes.

10:32:34 18 MS. RILEY-SWANBECK: Thank you, Ms. Milheiro. I

10:32:35 19 have no further questions, but I think it might be a good

10:32:38 20 time for us to take a quick break, and I believe some of

10:32:41 21 the other plaintiffs will have a few questions for you.

10:32:44 22 THE WITNESS: Okay.

10:32:45 23 THE VIDEOGRAPHER: We are off the record. Time

10:32:54 24 the video monitor is 10:32 a.m.

10:32:57 25 (Recess taken from 10:32 a.m. to 10:42 a.m.)

10:42:02 1 THE VIDEOGRAPHER: We are on the record. Time
10:42:07 2 on the video monitor is 10:42 a.m.

10:42:07 3

10:42:07 4 EXAMINATION

10:42:07 5 BY MR. DIAZ:

10:42:12 6 Q. Okay. Good morning, Ms. Milheiro. My name is
10:42:15 7 Jonathan Diaz. I represent one of the other plaintiff
10:42:18 8 groups in this case. I have a few questions for you about
10:42:21 9 the documentary proof of residence requirement in the laws
10:42:27 10 that we are talking about today.

10:42:28 11 So, in order to register to vote, an applicant
10:42:31 12 is required to provide their residential address or, if
10:42:35 13 they don't have a residential address, a description or
10:42:38 14 drawing of the location of their residence. Is that
10:42:38 15 right?

10:42:41 16 A. Right.

10:42:42 17 Q. And can a PO box be used to meet that
10:42:46 18 requirement?

10:42:46 19 A. No.

10:42:46 20 Q. And how does your office use resident address or
10:42:53 21 the location information for voter registration?

10:42:55 22 A. We use that information to put them in the right
10:43:05 23 voting precinct.

10:43:09 24 Q. Okay. So let's talk about that in a little more
10:43:12 25 detail.

10:43:12 1 If someone provides you with a residential
10:43:15 2 street address, how do you use that information to locate
10:43:18 3 where the residence is?

10:43:19 4 A. Well, we would, we would use that information
10:43:26 5 off of -- and compare it to the location for the, where
10:43:34 6 the district or precinct lies.

10:43:37 7 Q. Can you look up the address in a database?

10:43:40 8 A. In our AVID program it does have an address
10:43:47 9 database.

10:43:47 10 Q. Is it ever the case that you put in a
10:43:50 11 residential address and you aren't able to locate it in
10:43:53 12 the AVID database?

10:43:54 13 A. That I'm aware of, no.

10:43:56 14 Q. Okay. Would your office register a voter whose
10:44:05 15 address couldn't be located in that database?

10:44:07 16 A. Umm --

10:44:11 17 Q. Assuming they provided a street address?

10:44:13 18 A. If they provided a street address, we would
10:44:17 19 attempt to put them in the correct precinct based on that
10:44:21 20 address.

10:44:22 21 Q. I mean, if you just couldn't locate it. If
10:44:25 22 they, you know, gave you an address that didn't exist.

10:44:28 23 A. If they gave us an address we would request more
10:44:28 24 information.

10:44:32 25 Q. And how would you make that request?

10:44:35 1 A. We would either call the voter or send them a
10:44:41 2 notice, or by email, whatever means we have available to
10:44:46 3 contact the voter.

10:44:46 4 Q. And when you say send a notice, do you mean by
10:44:51 5 physical mail?

10:44:51 6 A. Right.

10:44:51 7 Q. Okay. And when a voter or registration
10:44:58 8 applicant provides a resident location, description, or
10:45:00 9 drawing, how do you use that to locate the voter?

10:45:03 10 A. We have not had that scenario within Greenlee
10:45:15 11 County.

10:45:15 12 Q. Okay. Are you aware of any voter registration
10:45:19 13 applicants in Greenlee County who lack a residential
10:45:24 14 street address?

10:45:24 15 A. I am not aware of a voter that does not have a
10:45:28 16 residential address.

10:45:31 17 Q. Does the county assign addresses to homes or
10:45:39 18 buildings in the county, to your knowledge?

10:45:41 19 A. We don't assign the address.

10:45:44 20 Q. That's not something your office does?

10:45:46 21 A. Right. We don't.

10:45:47 22 Q. Do you know if there is another county
10:45:49 23 government office that would do something like that?

10:45:51 24 A. I would imagine maybe our planning and zoning.

10:45:56 25 Q. Okay. That's, it's all right if you don't know.

10:46:00 1 That's not in your job description.

10:46:03 2 Are there any Native American reservations in

10:46:09 3 Greenlee County?

10:46:09 4 A. There are not.

10:46:10 5 Q. But there are still, presumably, Native American

10:46:15 6 voters in Greenlee County. Is that right?

10:46:16 7 A. I would presume so, yes.

10:46:18 8 Q. Okay. Does your office do anything in

10:46:21 9 particular to increase registration among Native voters?

10:46:25 10 A. We don't do anything different than what we

10:46:29 11 would do for anybody else.

10:46:31 12 Q. Does your office do anything in general to

10:46:35 13 increase voter registration in the county.

10:46:37 14 A. Occasionally we go to different locations within

10:46:40 15 the county to attempt to register voters.

10:46:50 16 Q. Okay. I'm going to ask you to look at the

10:46:55 17 document we've numbered as No. 12 in the exhibits that you

10:46:58 18 were sent.

10:47:04 19 A. I, I don't actually have No. 12.

10:47:10 20 Q. That one was sent later than the others, so it

10:47:14 21 may not have made it into your printed packet.

10:47:20 22 That's okay. I actually don't think we need it.

10:47:24 23 So you're aware of the documentary proof of

10:47:29 24 residence requirement in H.B. 2492. Is that right?

10:47:32 25 A. Right.

10:47:33 1 Q. And does the documentary proof of residence
10:47:36 2 requirement apply to voters who register using the federal
10:47:39 3 form?

10:47:44 4 DEFENSE COUNSEL: Calls for legal conclusion.

10:47:46 5 THE WITNESS: Using the federal form, I don't
10:47:49 6 believe so.

10:47:49 7 BY MR. DIAZ:

10:47:49 8 Q. So if a voter applied to register using the
10:47:53 9 federal form, and did not provide documentary proof of
10:47:57 10 residence, how would you handle that application?

10:47:59 11 A. We would register the voter.

10:48:02 12 Q. Would you register them as a full-ballot voter
10:48:06 13 or a federal-only voter?

10:48:09 14 A. A full-ballot voter.

10:48:11 15 Q. Okay. And if someone registered to vote using
10:48:17 16 the state form and didn't provide documentary proof of
10:48:21 17 residence, how would you process that application?

10:48:24 18 A. If they don't provide documentary proof of
10:48:28 19 residency we have been following the 2019 procedures
10:48:33 20 manual; however, we, we, we have had an instance where a
10:48:45 21 voter had the proof of residency and then -- so we accept
10:48:55 22 anything where they voluntarily provide it.

10:48:59 23 Q. Has your office encountered an instance where
10:49:02 24 someone applied using the state form without providing
10:49:06 25 documentary proof of residence?

10:49:08 1 A. Not that I'm aware of.

10:49:09 2 Q. Okay. I'm going to ask you now to look at

10:49:15 3 document No. 11, which has been previously marked as

10:49:23 4 Exhibit 24 in a different deposition.

10:49:29 5 A. Okay.

10:49:30 6 Q. And on the second page you should see a chart.

10:49:33 7 A. Yes.

10:49:33 8 Q. Okay. Have you seen this chart before?

10:49:36 9 A. Yes.

10:49:36 10 Q. And what is that?

10:49:38 11 A. This is what constitutes the documentary proof

10:49:44 12 of residency.

10:49:46 13 Q. And do you know where this chart came from?

10:49:50 14 A. I believe that was a draft from the previous

10:49:53 15 Secretary of State's administration.

10:49:56 16 Q. And when you say a draft, what do you mean by

10:50:00 17 that?

10:50:00 18 A. This was draft guidance that they had provided

10:50:06 19 at one point, I believe it was towards the end of last

10:50:12 20 year.

10:50:12 21 Q. And so if it was draft guidance, does that mean

10:50:16 22 it was not officially adopted?

10:50:18 23 A. Right.

10:50:19 24 Q. Okay. Going down to the last row of that chart,

10:50:25 25 the box beginning with written confirmation. I'll give

10:50:31 1 you a second to look at that.

10:50:36 2 A. Okay.

10:50:39 3 Q. Is there a form or other declaration that, you
10:50:48 4 know, a template that your office has created for voters
10:50:53 5 seeking to use this option to establish their residence?

10:50:56 6 A. Our office at this time has not come up with a
10:50:56 7 template.

10:51:00 8 Q. Do you know if the Secretary has developed a
10:51:03 9 form or template for voters using this option?

10:51:07 10 A. I don't recall.

10:51:10 11 Q. Have you encountered any instances in your
10:51:16 12 county of a voter attempting to register to vote using an
10:51:23 13 address at a homeless shelter, courthouse, or other
10:51:26 14 location authorized by 16-166(B)?

10:51:30 15 A. No.

10:51:30 16 Q. Are there any documents, that you can think of,
10:51:36 17 not on this list that you would accept as documentary
10:51:39 18 proof of residence for voter registration?

10:51:41 19 A. Off the top of my head, no.

10:51:49 20 Q. Would your office accept an affidavit, a sworn
10:51:55 21 affidavit attesting to a voter's residence as proof of
10:51:59 22 their residence in the county?

10:52:00 23 A. Under the, under the new law, I don't think that
10:52:05 24 would be acceptable.

10:52:09 25 Q. Are you familiar with the Gonzalez stipulation

10:52:17 1 related to voter ID?

10:52:20 2 A. I'm, I'm not familiar with that.

10:52:21 3 Q. Okay. Is a tribal ID an acceptable form of
10:52:28 4 voter ID for living in Arizona.

10:52:31 5 A. Yes.

10:52:32 6 DEFENSE COUNSEL: Calls for legal conclusion.

10:52:33 7 BY MR. DIAZ:

10:52:33 8 Q. Is that the case even if it does not list a
10:52:36 9 residential address on it?

10:52:38 10 DEFENSE COUNSEL: Same objection.

10:52:41 11 THE WITNESS: It that a valid form of ID?

10:52:44 12 BY MR. DIAZ:

10:52:44 13 Q. For voting in Arizona?

10:52:45 14 A. Yes.

10:52:45 15 Q. If your office required a voter to provide
10:52:57 16 documentary proof of residence or citizenship, how could a
10:53:01 17 voter submit those documents to your office, in what form?

10:53:05 18 A. They could bring them into our office or mail
10:53:09 19 those documents to us.

10:53:10 20 Q. Would they be able to send a document by fax, a
10:53:16 21 copy of a document?

10:53:17 22 A. We have a fax machine, so we could accept it
10:53:20 23 that way.

10:53:21 24 Q. Would your office accept a scanned copy by
10:53:26 25 email?

10:53:26 1 A. Yes.

10:53:33 2 MR. DIAZ: I think that those are all of my
10:53:36 3 questions. Thank you very much.

10:53:36 4 THE WITNESS: Thank you.

10:53:37 5 MR. DIAZ: I think one of my colleagues will
10:53:39 6 take it from here.

10:53:49 7 (Brief pause due to audio issue.)

10:53:49 8 MR. HIRSCHTEL: Okay. I'll start that over.

10:53:49 9

10:53:49 10 EXAMINATION

10:53:49 11 BY MR. HIRSCHTEL:

10:54:08 12 Q. Good morning, Ms. Milheiro. My name is Andrew
10:54:08 13 Hirschtel. I'm from the law firm Arnold & Porter and I
10:54:08 14 represent Poder Latinx.

10:54:14 15 My questions are going to follow up on some of
10:54:19 16 the earlier questions that you were asked, and just go
10:54:21 17 into a little bit more detail, but I'll try not to take up
10:54:26 18 too much of your time with them.

10:54:28 19 The first question is about the EPM. You
10:54:31 20 mentioned earlier that your office views the EPM as
10:54:34 21 legally binding. Do you recall that?

10:54:36 22 A. Right.

10:54:38 23 Q. I just want to clarify that that applies to all
10:54:41 24 parts of the EPM, including Chapter 1 on voter
10:54:46 25 registration?

10:54:46 1 DEFENSE COUNSEL: Calls for legal conclusion.

10:54:50 2 THE WITNESS: Right.

10:54:50 3 BY MR. HIRSCHTEL:

10:54:54 4 Q. Okay. And now I want to talk about this word,
10:54:57 5 information, that appears in both 2492 and 2243.

10:55:03 6 Are you familiar with their references to
10:55:06 7 information that someone is not a United States citizen?

10:55:09 8 A. I'm familiar with that term in those bills.

10:55:12 9 Q. So I want to ask you about a few specific
10:55:19 10 examples and whether your office would view them as
10:55:22 11 information that someone is not a United States citizen,
10:55:26 12 as you understand it.

10:55:29 13 Could, if a voter called your office and told
10:55:32 14 you that they themselves were not a United States citizen,
10:55:36 15 would that be information that they're not a citizen?

10:55:40 16 DEFENSE COUNSEL: Calls for legal conclusion.

10:55:42 17 Can we get the stipulation that we'll just
10:55:45 18 object to this entire line of questioning?

10:55:48 19 MR. HIRSCHTEL: Yeah. I'm okay with that.

10:55:53 20 THE WITNESS: Do I still answer, or --

10:55:53 21 BY MR. HIRSCHTEL:

10:55:57 22 Q. Yeah. Please.

10:55:58 23 A. Okay. And, I'm sorry, can you just, one more
10:56:00 24 time --

10:56:02 25 Q. Yeah. If a voter called your office and said,

10:56:05 1 I'm not a United States citizen, or I'm not sure whether

10:56:08 2 I'm a United States citizen, would that be information

10:56:10 3 that that person is not a United States citizen?

10:56:13 4 A. I would, I would say that would be information.

10:56:20 5 Q. And how about if they emailed you that same

10:56:24 6 information?

10:56:24 7 A. I mean, yeah, that would be information that we

10:56:31 8 would use.

10:56:31 9 Q. And what if they sent you a letter?

10:56:34 10 A. Yes.

10:56:34 11 Q. And what if you got a phone call from a family

10:56:39 12 member of a voter saying, my brother or my dad is not a

10:56:42 13 United States citizen, would that be information that that

10:56:45 14 person is not a citizen?

10:56:46 15 A. To my understanding of that, yes.

10:56:50 16 Q. How about a letter from a neighbor?

10:56:52 17 A. It's my understanding that that would be an

10:56:57 18 information, yes.

10:57:00 19 Q. What if you got a phone call from Arizona law

10:57:04 20 enforcement saying, we, we don't think this particular

10:57:06 21 person is a United States citizen, would that be

10:57:09 22 information that a person is not a United States citizen?

10:57:11 23 A. It's my understanding, yes, that is considered

10:57:16 24 information.

10:57:16 25 Q. What about an email or a letter from law

10:57:20 1 enforcement in Arizona?

10:57:20 2 A. Again, it's my understanding that would be

10:57:26 3 considered information.

10:57:27 4 Q. And what about an email or a letter from law

10:57:29 5 enforcement in another state about a voter?

10:57:34 6 A. I, I -- to my understanding, that would still be

10:57:38 7 considered information.

10:57:39 8 Q. Just a couple more.

10:57:41 9 What if you received an anonymous phone call

10:57:45 10 that a particular person is not a United States citizen,

10:57:49 11 would that constitute information that the person isn't?

10:57:54 12 A. I mean, I would -- the way I understand it, that

10:57:56 13 is information. Whether it's valid or not, I don't know.

10:57:59 14 Q. Same thing for an anonymous email?

10:58:04 15 A. My answer would be the same.

10:58:06 16 Q. And last one.

10:58:07 17 What about a list of names provided by a third

10:58:10 18 party organization like True the Vote?

10:58:13 19 A. Yeah. My -- I would consider that a form of

10:58:20 20 information.

10:58:20 21 Q. Are you familiar with the fact that --

10:58:26 22 I think we can end the stipulation as to the

10:58:30 23 continuing objection.

10:58:34 24 MR. LANGHOFER: Sounds good.

10:58:34 25 BY MR. HIRSCHER:

10:58:37 1 Q. Are you familiar, Ms. Milheiro, with the fact
 10:58:39 2 that some voters are exempt from the DPOC requirement, the
 10:58:42 3 DPOC requirement, because they registered before it went
 10:58:45 4 into effect?

10:58:45 5 A. I remember hearing that, yes.

10:58:48 6 Q. And if you identify a registered voter who is
 10:58:54 7 exempt from that requirement and has never shown DPOC
 10:58:58 8 because they registered before that requirement went into
 10:59:02 9 effect, would any of that constitute information that that
 10:59:06 10 person is not a U.S. citizen?

10:59:11 11 DEFENSE COUNSEL: Same objection.

10:59:12 12 THE WITNESS: I don't believe so.

10:59:12 13 BY MR. HIRSCHER:

10:59:18 14 Q. Okay. The statutes -- still talking about
 10:59:22 15 information -- describe obtaining information, for
 10:59:29 16 example -- well, let me just ask. Strike that.

10:59:46 17 If you, if you look at 2243 -- is that something
 10:59:52 18 that you have in front of you, as previously labeled
 10:59:55 19 Exhibit 21?

10:59:59 20 A. I do not have Exhibit 21. Was there, could it
 11:00:06 21 be labeled something else?

11:00:08 22 Q. I think it was referenced earlier, but we can
 11:00:13 23 avoid putting any more documents on the screen. I
 11:00:19 24 think --

11:00:19 25 When the statutes refer to obtaining

11:00:23 1 information, excuse me, are there, how would your office
11:00:28 2 obtain information that a person is not a United States
11:00:32 3 citizen?

11:00:33 4 DEFENSE COUNSEL: Same objection.

11:00:35 5 THE WITNESS: I'm not sure I understand the
11:00:39 6 question. Are you talking about how we would physically
11:00:41 7 obtain that information?

11:00:41 8 BY MR. HIRSCHER:

11:00:45 9 Q. Yeah. Well, yes.

11:00:50 10 A. I mean, if we were to physically obtain that
11:00:52 11 information, that would be through mail. Fax would be a
11:01:01 12 phys -- we would have a physical paper to receive with
11:01:05 13 that information.

11:01:06 14 Q. And the statutes also discuss confirming
11:01:13 15 information that a person is not a United States citizen,
11:01:17 16 if you, once you obtain some information you would go
11:01:22 17 about confirming it.

11:01:23 18 Do you know how you would go about confirming
11:01:26 19 that someone is not a United States citizen?

11:01:29 20 A. I don't know how we would confirm that they were
11:01:34 21 not a citizen.

11:01:37 22 Q. Would it be through the database matching
11:01:43 23 requirements that you discussed earlier today?

11:01:46 24 A. Through that database, we could confirm whether
11:01:50 25 they were a citizen.

11:01:52 1 Q. Okay. But if I understand correctly, you're
11:01:55 2 saying you could not confirm that they are not a citizen
11:01:58 3 that way?

11:01:59 4 A. Through the database, if it doesn't come back
11:02:04 5 with any information then, yes, I would say that that
11:02:07 6 would confirm that they're not a citizen.

11:02:10 7 Q. Is there any other way that you might confirm
11:02:13 8 that a person is not a citizen?

11:02:15 9 A. That would be my only, my only way to, to verify
11:02:23 10 whether they were a citizen is to go through that
11:02:26 11 database.

11:02:27 12 Q. In your view, are the requirements in these
11:02:31 13 statutes about confirming information that a person is not
11:02:35 14 a United States citizen, are those requirements clear?

11:02:40 15 DEFENSE COUNSEL: Calls for legal conclusion.

11:02:42 16 THE WITNESS: The requirements for us to
11:02:45 17 confirm?

11:02:45 18 BY MR. HIRSCHER:

11:02:46 19 Q. Yes.

11:02:46 20 A. From what I read, it seems clear what they're
11:02:57 21 requiring.

11:02:58 22 Q. Okay. And last question about information.

11:03:04 23 You spoke earlier a little bit about 20 year old
11:03:12 24 driver's licenses coming in the MVD database. I want
11:03:15 25 to ask if there's a point at which information might be so

11:03:20 1 old that you no longer consider it information that a

11:03:25 2 person is not a United States citizen?

11:03:29 3 A. I would have no reason to go back through those

11:03:34 4 records.

11:03:34 5 Q. Could you explain what you mean?

11:03:36 6 A. If -- there would be no reason for me to look up

11:03:41 7 to see if a voter registered 20 plus years ago, unless

11:03:48 8 they were trying to register to vote again.

11:03:51 9 Q. So if -- we mentioned some different ways that

11:03:57 10 you might receive information earlier. We talked about

11:04:01 11 letters and emails and phone calls. If, for example,

11:04:05 12 someone called and said, well, I don't know about today,

11:04:09 13 but I know that ten years ago this person was not a

11:04:13 14 citizen, would you reject that information as too old, or

11:04:18 15 would that still be information that they are not a

11:04:21 16 citizen today?

11:04:22 17 DEFENSE COUNSEL: Speculation. Calls for legal

11:04:25 18 conclusion.

11:04:25 19 THE WITNESS: I would not reject that

11:04:27 20 information. I think we would have to, to research the

11:04:33 21 information that we were given.

11:04:33 22 BY MR. HIRSCHER:

11:04:35 23 Q. So is that to say that no matter how old the

11:04:38 24 information might be, you would, you would still feel that

11:04:43 25 you have to research it?

11:04:44 1 A. If, if that information is newly discovered,
11:04:53 2 that we have been made aware of it, then we would check to
11:04:58 3 see if we have already done that verification for that
11:05:04 4 voter.

11:05:04 5 Q. And if you hadn't?

11:05:06 6 A. If we hadn't, we would, we would do
11:05:12 7 verification. We would send notice to the voter.

11:05:14 8 Q. Okay. Moving on from information.

11:05:19 9 You also spoke earlier about the language in the
11:05:23 10 statutes referring to any other database.

11:05:27 11 If, if a agency from another state, like a
11:05:34 12 California county sheriff, for example, had a list of
11:05:39 13 voter names, would you consider that to fall within any
11:05:44 14 other database relating to voter registration?

11:05:48 15 DEFENSE COUNSEL: Calls for legal conclusion.

11:05:50 16 THE WITNESS: I guess I'm not understanding the
11:05:54 17 question as far as the database is concerned.

11:05:54 18 BY MR. HIRSCHER:

11:05:58 19 Q. So you were discussing earlier what that
11:06:01 20 language in the statute might mean as far as consulting
11:06:04 21 other databases related to voter registration. And I
11:06:08 22 believe you testified about other state agencies.

11:06:12 23 Do you remember that?

11:06:14 24 A. Oh, the only thing I recall is the SAVE
11:06:16 25 program --

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1 Q. I think --
2 (The Reporter indicated an inability to hear
3 what was said.)
4 THE WITNESS: The SAVE program, and our AVID
5 program that runs through the Social Security
6 Administration, and the ADOT or Motor Vehicle Department.
7 BY MR. HIRSCHHEL:
8 Q. I believe you also talked about the possibility
9 of other databases like the Arizona Health Department.
10 Do you recall talking about that?
11 A. Yes, I do. And that would be if we have access
12 to that.
13 Q. So I'm, I'm following that line of questioning
14 here.
15 Besides Arizona Department of Health, could a
16 California government agency constitute another database
17 that you might have to consult?
18 DEFENSE COUNSEL: Same objection.
19 THE WITNESS: If we're talking about trying to
20 prove citizenship?
21 BY MR. HIRSCHHEL:
22 Q. Yeah.
23 A. I don't know that I would have access to that,
24 so I don't really want to speculate on that one.
25 Q. What about, would you consider any source of

11:07:35 1 information outside of government agencies to possibly be
11:07:42 2 a database relating to voter registration? Can you think
11:07:47 3 of anything?

11:07:47 4 A. If it's, if it's to provide proof of
11:07:51 5 citizenship, I can't think of anything else that would
11:07:54 6 provide proof.

11:07:54 7 Q. Okay. The statutes also use language where they
11:08:02 8 talk about giving you a reason to believe that a person is
11:08:07 9 not a U.S. citizen.

11:08:08 10 Are you familiar with that language?

11:08:09 11 A. I have heard that, yes.

11:08:11 12 Q. So I want to ask you the same examples as before
11:08:19 13 and whether they could give you a reason to believe that a
11:08:22 14 person is not a U.S. citizen. So we are just going to go
11:08:28 15 through those.

11:08:31 16 MR. LANGHOFER: Counsel, why don't we just
11:08:33 17 stipulate to the same objection, that way so we don't
11:08:38 18 interrupt you.

11:08:38 19 MR. HIRSCHER: That would be great.

11:08:38 20 BY MR. HIRSCHER:

11:08:40 21 Q. So if you received a phone call from a voter in
11:08:40 22 which the voter said, I am not sure I'm a United States
11:08:44 23 Citizen or I'm not a United States citizen, would that
11:08:47 24 give you reason to believe that voter is not a U.S.
11:08:50 25 citizen?

11:08:50 1 A. Coming from the voter themselves, I would say

11:08:53 2 yes.

11:08:53 3 Q. How about an email from the voter themselves?

11:08:55 4 A. Yes.

11:08:56 5 Q. Or a signed letter from the voter?

11:08:59 6 A. Yes.

11:08:59 7 Q. How about a phone call from a member of the

11:09:03 8 voter's family?

11:09:04 9 A. I don't know that gives me a reason to believe,

11:09:14 10 but it would be something that we should research, I

11:09:20 11 suppose.

11:09:20 12 Q. How about a letter from a neighbor?

11:09:23 13 A. I would have the same response. I don't know

11:09:26 14 that that gives me a reason to believe that it's true.

11:09:33 15 Q. How about a phone call from Arizona law

11:09:36 16 enforcement?

11:09:36 17 A. Again, same. I don't feel that that, that that

11:09:44 18 would give me a reason to believe that it is true.

11:09:48 19 Q. How about an email or letter from Arizona law

11:09:51 20 enforcement?

11:09:51 21 A. Same response.

11:09:52 22 Q. How about an email or letter from law

11:09:56 23 enforcement in another state?

11:09:58 24 A. Same response.

11:10:00 25 Q. How about an anonymous phone call?

11:10:04 1 A. It's the same. I don't...

11:10:07 2 Q. Or an anonymous email address?

11:10:10 3 A. Same response.

11:10:11 4 Q. And how about a list provided by a third party

11:10:17 5 organization like True the Vote? Could that give you a

11:10:21 6 reason to believe that people on that list are not United

11:10:24 7 States citizens?

11:10:24 8 A. I, I don't know that that's reason to believe

11:10:28 9 that it's true.

11:10:31 10 Q. How about if a voter registered but put their

11:10:39 11 first name in the last name box and put their last name in

11:10:43 12 the first name box on their registration application form?

11:10:47 13 Would that create a reason to believe that they're not a

11:10:51 14 United States citizen?

11:10:52 15 A. No.

11:10:53 16 Q. What if they recorded as their place of birth a

11:10:57 17 foreign country? Is that reason to believe they are not a

11:11:01 18 United States citizen?

11:11:02 19 A. No. Because they could have proven their

11:11:13 20 citizenship since then.

11:11:13 21 Q. And what if you identify a registered voter who

11:11:16 22 has satisfied the DPOC requirement but has an F-type

11:11:20 23 driver's license still? Might that be a reason to believe

11:11:24 24 they are not a United States citizen?

11:11:27 25 A. If they provided proof of citizenship but they

11:11:31 1 still have an F-type license?

11:11:34 2 Q. Right.

11:11:35 3 A. If they provided proof, then I would say they

11:11:39 4 are a citizen.

11:11:39 5 Q. And how about those voters who are exempt from

11:11:43 6 the DPOC requirement because of when they registered?

11:11:47 7 Would their failure to provide DPOC give you a reason to

11:11:51 8 believe they are not citizens?

11:11:53 9 A. Because that wasn't a law at the time, I, I

11:12:01 10 would not have reason to believe that they are not a

11:12:04 11 citizen.

11:12:04 12 Q. Okay. And then that's it for my questions about

11:12:11 13 reason to believe. Thank you.

11:12:13 14 I want to ask you about the provisions in the

11:12:19 15 statute that, that obligate your office to do things to

11:12:24 16 the extent that they are, quote, practicable.

11:12:30 17 Are you familiar with the statutes requiring

11:12:35 18 your office to do things to the extent they're

11:12:36 19 practicable?

11:12:37 20 A. Yes.

11:12:37 21 Q. Who in your office would determine whether

11:12:40 22 something is practicable?

11:12:42 23 A. That would be myself or my chief deputy.

11:12:46 24 Q. Do you feel that it's clear what the statutes

11:12:50 25 mean by, to the extent practicable?

11:12:53 1 DEFENSE COUNSEL: Calls for legal conclusion.

11:12:55 2 THE WITNESS: I don't necessarily -- to the

11:13:02 3 extent practicable that we could do it, that is fairly

11:13:08 4 clear.

11:13:08 5 BY MR. HIRSCHERL:

11:13:16 6 Q. Okay. In one part in H.B. 2492, it says that:

11:13:28 7 Secretary of State and each County Recorder

11:13:31 8 shall make available to the Attorney General a list of all

11:13:34 9 individuals who are registered to vote and who have not

11:13:38 10 provided satisfactory evidence of citizenship pursuant to

11:13:42 11 Section 16-166, and shall provide on or before

11:13:46 12 October 31st, 2022 applications of individuals who are

11:13:51 13 registered to vote and who have not provided satisfactory

11:13:54 14 evidence of citizenship.

11:13:56 15 Since October 31st, 2022 has already past, is it

11:14:03 16 your understanding that your office is no longer required

11:14:05 17 to submit to the Attorney General a list of registered

11:14:09 18 voters who have not shown satisfactory DPOC?

11:14:13 19 DEFENSE COUNSEL: Same objection.

11:14:16 20 THE WITNESS: I didn't -- when I read that, I

11:14:27 21 did not believe that it amounts to just the one occasion

11:14:31 22 to submit that information.

11:14:31 23 BY MR. HIRSCHERL:

11:14:35 24 Q. So what did you understand it to mean, then?

11:14:38 25 A. I understood it that from that date we should be

11:14:42 1 sending the Attorney General information regarding our
11:14:49 2 federal voters.

11:14:50 3 Q. But am I correct in understanding that you have
11:14:53 4 not been doing that up to this point?

11:14:58 5 A. Up to this point we did not.

11:15:00 6 Q. Gosh. Sorry.

11:15:09 7 If a registered voter is removed from the rolls,
11:15:14 8 based on a determination that they're not a U.S. citizen,
11:15:19 9 but then you subsequently discover that that was in error
11:15:24 10 and they are, in fact, a U.S. citizen, but you discover
11:15:28 11 that after the registration deadline, can that voter be
11:15:33 12 added back to the rolls?

11:15:35 13 DEFENSE COUNSEL: Same objection.

11:15:36 14 THE WITNESS: I believe so, because we would
11:15:40 15 revert that back to the date of registration.

11:15:40 16 BY MR. HIRSCHEL:

11:15:45 17 Q. What would be the process for adding the voter
11:15:47 18 back to the rolls in that situation?

11:15:49 19 A. We would find their voter registration and make
11:15:54 20 them an active voter.

11:15:56 21 Q. Is, is that process laid out in the EPM?

11:16:06 22 A. I, I'm not sure. I don't recall reading that
11:16:14 23 process.

11:16:15 24 Q. Would it be possible for how you deal with this
11:16:22 25 sort of situation to vary from county to county?

11:16:26 1 A. I'm sorry. Say that again.

11:16:27 2 Q. Thinking about this situation where someone,

11:16:31 3 where you learned that someone is a citizen and that they

11:16:34 4 were removed from the rolls and now the deadline has

11:16:38 5 passed, but they are a citizen. Could the process for

11:16:40 6 dealing with that situation vary from county to county?

11:16:45 7 DEFENSE COUNSEL: Speculation.

11:16:48 8 THE WITNESS: I don't know how the other

11:16:50 9 counties handle that situation.

11:16:50 10 BY MR. HIRSCHL:

11:16:57 11 Q. But would you say that the way your county would

11:17:00 12 handle that situation is not something that you're doing

11:17:04 13 because it's been explicitly told to you by the Secretary

11:17:10 14 of State somewhere?

11:17:10 15 A. Right. I don't recall that being specifically

11:17:16 16 stated anywhere. But if they were already a registered

11:17:22 17 voter, and it was an error, we would correct the error.

11:17:33 18 MR. HIRSCHL: That's all my questions,

11:17:35 19 Ms. Milheiro. Thank you so much for your time.

11:17:38 20 THE WITNESS: Thank you.

11:17:38 21

11:17:38 22 EXAMINATION

11:17:38 23 BY MR. ATKINS:

11:17:42 24 Q. Hello, Ms. Milheiro. My name is Alex Atkins. I

11:17:46 25 represent Plaintiffs Mi Familia Vota and Voto Latino. And

11:17:50 1 I have very small number of questions for you.

11:17:53 2 Are you good to continue without taking a break
11:17:56 3 at this time?

11:17:57 4 A. Yes.

11:18:00 5 Q. Great, so I'd like to talk a bit about your
11:18:03 6 office's current practices for applicants who register
11:18:07 7 using the state form.

11:18:10 8 First, am I correct that there's a box on the
11:18:13 9 state form for an applicant to provide birthplace
11:18:17 10 information?

11:18:17 11 A. Yes.

11:18:17 12 Q. But your office doesn't reject an applicant's
11:18:24 13 state voter registration form for failing to include their
11:18:29 14 birthplace, correct?

11:18:29 15 A. At this time that is correct.

11:18:31 16 Q. And your office doesn't use an applicant's
11:18:38 17 birthplace information to verify that applicant's
11:18:41 18 citizenship, right?

11:18:42 19 A. That is correct.

11:18:43 20 Q. And, to be clear, your office doesn't use
11:18:49 21 birthplace information to determine if they are qualified
11:18:54 22 to vote, correct?

11:18:55 23 A. That is correct.

11:18:56 24 Q. Does your office have any means of determining
11:19:03 25 the accuracy of birthplace information provided by an

11:19:08 1 applicant?

11:19:09 2 A. The only means I could see would be if the voter

11:19:14 3 provided a birth certificate that we would have access to

11:19:20 4 where they were, to the location of where they were born.

11:19:22 5 Q. So, so with the exception of a voter providing

11:19:28 6 documentation of their place of birth, does your office

11:19:32 7 have any other means of confirming the accuracy of

11:19:36 8 birthplace information?

11:19:36 9 A. Not that I'm aware of, no.

11:19:39 10 Q. Has your office received any guidance from the

11:19:44 11 Secretary of State about how to implement the birthplace

11:19:49 12 information requirements of the H.B. 2492?

11:19:55 13 A. If they have given guidance, I do not recall

11:19:58 14 what that guidance was.

11:20:03 15 Q. Shifting gears a little bit.

11:20:06 16 Are you familiar with the, what's referred to as

11:20:09 17 the citizenship checkbox that appears on both the state

11:20:14 18 and federal registrations forms?

11:20:15 19 A. Yes.

11:20:16 20 Q. And that citizenship checkbox is not a new

11:20:22 21 element of those forms. It's been on there for a while,

11:20:26 22 right?

11:20:26 23 A. Right.

11:20:26 24 Q. And am I correct that your office does not

11:20:33 25 reject voter application forms simply for failure to check

11:20:39 1 the citizenship checkbox?

11:20:40 2 A. At this time that is correct.

11:20:43 3 Q. So thinking about state form registrant's in

11:20:53 4 particular, if an applicant submits a state registration

11:20:57 5 form and provides DPOC but does not complete the

11:21:04 6 citizenship checkbox, your office would still register

11:21:09 7 that voter, correct?

11:21:10 8 A. That is correct. If they have proven

11:21:12 9 citizenship and did not mark that, we would still register

11:21:12 10 them.

11:21:17 11 Q. And they would be registered as a full-ballot

11:21:20 12 voter, right?

11:21:20 13 A. Right.

11:21:21 14 Q. And in the case of federal form applicants, am I

11:21:28 15 correct that federal form applicants adequately establish

11:21:34 16 their citizenship if they affirm their citizenship under

11:21:39 17 the penalty of perjury when they sign the federal form?

11:21:43 18 A. According to what I saw in the procedures

11:21:48 19 manual, that is correct.

11:21:49 20 Q. So if an applicant submits a federal

11:21:52 21 registration form and signs the citizenship affirmation,

11:21:55 22 your office would accept that application even if they

11:21:59 23 failed to complete the citizenship checkbox, right?

11:22:02 24 A. We would accept that application.

11:22:04 25 Q. Shifting gears away from registration

11:22:12 1 applications, would you agree that prior to the passage of

11:22:19 2 H.B. 2492 and 2243, that it was illegal for a person who

11:22:26 3 is not a U.S. citizen to register to vote in Arizona?

11:22:29 4 A. Yes.

11:22:30 5 Q. And would you also agree that Arizona, prior to

11:22:37 6 those two laws, had policies and procedures in place to

11:22:43 7 prevent non-citizens from registering or voting?

11:22:48 8 DEFENSE COUNSEL: Calls for legal conclusion.

11:22:49 9 You can answer.

11:22:52 10 THE WITNESS: Yes.

11:22:53 11 BY MR. ATKINS:

11:22:53 12 Q. And are you aware that in Arizona it's a felony

11:22:56 13 for a person to register when they know they're not

11:23:00 14 entitled to register?

11:23:03 15 A. Yes.

11:23:03 16 DEFENSE COUNSEL: Same objection.

11:23:04 17 THE WITNESS: Sorry. Yes.

11:23:06 18 BY MR. ATKINS:

11:23:08 19 Q. And, to confirm, it was a felony to register if

11:23:12 20 you're not eligible prior to H.B. 2492 and 2243, right?

11:23:22 21 DEFENSE COUNSEL: Same objection.

11:23:24 22 THE WITNESS: Right.

11:23:25 23 BY MR. ATKINS:

11:23:26 24 Q. Am I correct that your office is not aware of

11:23:29 25 any time when a non-U.S. citizen or non-county resident

11:23:36 1 registered to vote or voted in your county?

11:23:38 2 A. That is correct.

11:23:44 3 MR. ATKINS: Thanks so much. Those are all my
11:23:47 4 questions.

11:23:47 5 THE WITNESS: Thank you.

11:24:08 6 MR. LANGHOFER: Anyone else for the plaintiffs?

11:24:08 7 MR. ATKINS: I think that's it.

11:24:08 8

11:24:08 9 EXAMINATION

11:24:08 10 BY MS. BOUGHTON:

11:24:14 11 Q. Okay. Good afternoon, Ms. Milheiro. My name is
11:24:18 12 Kathryn Boughton, and I represent the State in this case
11:24:20 13 and I have a few questions for you.

11:24:22 14 Would you like to take a quick break or keep
11:24:26 15 going?

11:24:26 16 A. Let's keep going.

11:24:28 17 Q. Let's keep going. Okay. Great. Thank you.

11:24:30 18 And thanks for your time today.

11:24:31 19 I wanted to talk to you about an incident that
11:24:34 20 we discussed in which the MVD and Secretary of State
11:24:38 21 alerted you to two voters who had been marked as fed-only
11:24:44 22 in the system.

11:24:45 23 Do you recall talking about that with
11:24:47 24 plaintiff's counsel?

11:24:47 25 A. Yes.

11:24:48 1 Q. Okay. And so I know that we talked about that
11:24:52 2 that information incorrectly flagged them as fed-only
11:24:59 3 voters. But was it your testimony that, kind of despite
11:25:02 4 that instance you generally felt that the HAVA check was
11:25:05 5 reliable as to citizen information?

11:25:07 6 A. Right.

11:25:07 7 Q. So you feel confident that the voters in
11:25:16 8 Greenlee County are properly registered to vote and
11:25:19 9 eligible to vote?

11:25:20 10 A. Yes.

11:25:20 11 Q. Did your office reach out to those two voters?

11:25:26 12 A. We did.

11:25:27 13 Q. Were they able to vote, to your knowledge?

11:25:31 14 A. They, to my knowledge, they would have been able
11:25:38 15 to vote. I don't know if they did.

11:25:39 16 Q. And this instance in which those two voters were
11:25:46 17 flagged by the Secretary and MVD, is that the only
11:25:50 18 instance that you can recall in which the database
11:25:53 19 returned incomplete information?

11:25:55 20 A. Yes.

11:25:56 21 Q. Okay. Thank you.

11:26:02 22 We talked a little bit about what your office
11:26:05 23 might do if you received an application from an applicant
11:26:10 24 who had an F-type license and didn't provide proof of
11:26:14 25 citizenship. And I believe you said that you would mark

11:26:16 1 them as unregistered. Is that right?

11:26:18 2 A. Or they would not be registered. It would be
11:26:23 3 marked as not registered.

11:26:24 4 Q. Okay. If somebody submits a voter application
11:26:28 5 and you determine that they are not eligible, do you
11:26:31 6 inform the applicant that you're not registering them?

11:26:34 7 A. Yes.

11:26:34 8 Q. Is that via letter? Or how do you contact them?

11:26:39 9 A. We send a notice, a letter.

11:26:41 10 Q. Okay. And do you say the, why you think they're
11:26:46 11 not eligible to be registered?

11:26:47 12 A. We do.

11:26:48 13 Q. And not -- okay. So if you determine that we
11:26:53 14 don't think your a citizenship, you would send a letter to
11:26:56 15 the voter to say that, and then would you invite the voter
11:27:00 16 to contact your office if they felt the information is
11:27:02 17 incorrect?

11:27:03 18 A. Yes, we would.

11:27:07 19 Q. Thank you.

11:27:15 20 Counsel before me asked you a few questions
11:27:18 21 about the citizenship checkbox on the state form and the
11:27:21 22 federal form. And I understand your testimony to be that
11:27:24 23 if the bark -- pardon me -- if the box is not marked you
11:27:28 24 still process the form. Is that right?

11:27:30 25 A. If we have been able to provide, or prove

11:27:35 1 citizenship in another means, yes.

11:27:37 2 Q. Yes. Thank you for that clarification.

11:27:42 3 I wanted to ask you. If you receive a form and
11:27:45 4 the box is marked no, does that raise a red flag for you
11:27:49 5 at all while you're processing?

11:27:51 6 A. I would say that that would raise a red flag if
11:27:54 7 it's marked no.

11:27:55 8 Q. Okay. You were asked a series of questions
11:28:16 9 about what might constitute information about whether a
11:28:21 10 voter is or is not a citizen. Do you recall that?

11:28:23 11 A. Yes.

11:28:24 12 Q. Okay. And I guess I generally wanted to ask
11:28:29 13 you, we talked about the EPM and the guidance that it
11:28:33 14 provides your office.

11:28:33 15 Is it your understanding that all counties
11:28:36 16 follow the EPM?

11:28:38 17 A. Yes.

11:28:39 18 Q. So it provides consistency across the state in
11:28:46 19 voter registration procedures?

11:28:48 20 A. Yes.

11:28:48 21 Q. And so if the EPM were to address what is
11:28:51 22 appropriately considered information would your county
11:28:54 23 follow that guidance?

11:28:56 24 A. We would.

11:28:56 25 Q. We discussed that birthplace is a space on the

11:29:17 1 state form, right?

11:29:18 2 A. Right.

11:29:18 3 Q. Does your county ever use birthplace to identify
11:29:24 4 a voter over the phone?

11:29:26 5 A. We would, yes, use that to verify if somebody
11:29:31 6 was calling, or if we were calling a voter to, say, verify
11:29:38 7 a signature on an affidavit envelope, we would use that as
11:29:44 8 identifying information.

11:29:45 9 Q. And if birthplace is provided by the voter, you
11:29:48 10 input that into AVID when processing the registration, the
11:29:53 11 application for registration?

11:29:55 12 A. Yes.

11:29:56 13 Q. Thank you.

11:29:56 14 I believe you testified that you're not aware of
11:30:05 15 any non-U.S. citizen or nonresident registering or voting
11:30:10 16 in your county. Is that correct?

11:30:11 17 A. That is correct.

11:30:12 18 Q. Does your office generally receive reports about
11:30:18 19 voter fraud directly?

11:30:20 20 A. Reports of voter fraud? Like, so somebody
11:30:30 21 just -- of the public asking for that, or, or telling us?
11:30:35 22 Is that -- or report --

11:30:38 23 Q. Yeah. Oh, sorry. Go ahead.

11:30:40 24 A. Or say a report from, for example, the Secretary
11:30:46 25 of State's office?

11:30:48 1 Q. I guess if a constituent was concerned about
11:30:53 2 voter fraud or they might have evidence of voter fraud, do
11:30:57 3 they normally report those instances to you, or would they
11:30:59 4 report them, say, to a sheriff's department or your county
11:31:04 5 attorney's office?

11:31:05 6 A. I mean, I would assume that option would be up
11:31:07 7 to them how they would want to report it. We don't
11:31:10 8 typically see those.

11:31:12 9 MS. BOUGHTON: Okay. Thank you.

11:31:21 10 That's all the questions I have for you. I
11:31:23 11 believe another defense counsel may have a few quick
11:31:27 12 questions for you. Well, I shouldn't say quick. May have
11:31:29 13 some questions for you.

11:31:29 14 THE WITNESS: Thank you.

11:31:29 15

11:31:29 16 EXAMINATION

11:31:29 17 BY MR. LANGHOFER:

11:31:32 18 Q. My name is Kory Langhofer, and I will, in fact,
11:31:32 19 be quick.

11:31:36 20 I represent the Republican National Committee in
11:31:37 21 this case, and I think I have only got two questions that
11:31:40 22 haven't been covered so far.

11:31:42 23 We have heard reports from some counties that
11:31:44 24 they have these large voter registration drives by outside
11:31:47 25 groups, and that sometimes, in connection with those

11:31:50 1 drives, they received significant numbers of voter
11:31:54 2 registration forms that appear to be, not related to real
11:32:04 3 people. That the forms are trying to register someone who
11:32:07 4 either doesn't exist or is entirely duplicative of a form
11:32:13 5 that's already been submitted by a real person but the
11:32:15 6 most recent form they receive wasn't submitted by the same
11:32:19 7 person.

11:32:20 8 So, essentially, they have these voter
11:32:23 9 registration drives that result in a bunch of bad forms
11:32:26 10 being submitted.

11:32:27 11 Have you all seen anything like that in Greenlee
11:32:30 12 County?

11:32:30 13 A. I have not.

11:32:31 14 Q. Okay. My second question is when someone
11:32:38 15 registers on the state form and they don't provide DPOC,
11:32:42 16 and you can't confirm their citizenship with your database
11:32:47 17 checks, so you have to send them the notification letter
11:32:51 18 and ask for DPOC, how many of those folks end up
11:32:55 19 responding and providing the DPOC?

11:32:57 20 A. We, we really don't have that issue here in
11:33:06 21 Greenlee County. We have not -- we have only had a couple
11:33:12 22 recently that they provided a social security number, we
11:33:17 23 sent them a notice, and I don't know, to my recollection,
11:33:21 24 I'm not sure if they responded or not.

11:33:26 25 MR. LANGHOFER: I see.

11:33:27 1 Well, I promised I would only have two
11:33:30 2 questions, and those were them. Thank you very much for
11:33:30 3 your time.

11:33:33 4 Is there anyone else on the defense side who
11:33:34 5 wants to ask questions? Shayna, maybe you or Hannah?

11:33:40 6 MS. STUART: No, none from the Secretary,
11:33:40 7 thanks.

11:33:44 8 MS. PORTER: No questions. Thank you.

11:33:46 9 MR. LANGHOFER: All right. Anyone on the
11:33:48 10 plaintiff side who wants to redirect?

11:33:50 11 MR. ATKINS: I have just a couple additional
11:33:53 12 questions for you Ms. Milheiro.

11:33:56 13 THE WITNESS: Okay.

11:33:56 14

11:33:57 15 FURTHER EXAMINATION

11:33:57 16 BY MR. ATKINS:

11:33:58 17 Q. At moment ago you were asked whether a voter
11:34:03 18 registration applicant checking no on the citizenship
11:34:08 19 checkbox would be what she called a red flag.

11:34:11 20 Do you remember that?

11:34:11 21 A. Yes.

11:34:12 22 Q. Even if someone marks no on the citizenship
11:34:19 23 checkbox, that doesn't invalidate their application,
11:34:22 24 right?

11:34:22 25 A. That is correct.

11:34:24 1 Q. And if the applicant provides DPOC, that would,
11:34:33 2 essentially, outweigh the no check in the checkbox, right?
11:34:36 3 A. That's correct.
11:34:37 4 Q. And, similarly, if on the federal form they sign
11:34:42 5 the affirmation of citizenship, that would also outweigh
11:34:44 6 the no in the checkbox, right?
11:34:46 7 A. That's correct.
11:34:47 8 Q. And is it possible that if someone checks no it
11:34:53 9 could just be a mistake?
11:34:55 10 A. Yes.
11:34:57 11 DEFENSE COUNSEL: Speculation.
11:35:01 12 BY MR. ATKINS:
11:35:02 13 Q. You were also asked about using birthplace
11:35:05 14 information to identify voters over the phone.
11:35:08 15 Do you remember that?
11:35:08 16 A. Yes.
11:35:09 17 Q. And if I understand correctly, someone calls up
11:35:16 18 and says, my name is John Smith and I have a question
11:35:20 19 about my registration or my ballot, using their birthplace
11:35:26 20 is sort of like a security code that your office uses to
11:35:31 21 confirm they are who they say they are. Is that right?
11:35:33 22 A. It would be an option to use that, yes.
11:35:36 23 Q. So are there other pieces of information that
11:35:39 24 you similarly use for that purpose?
11:35:42 25 A. Yes. We would use last four of social and the

11:35:47 1 actual date of birth.

11:35:48 2 Q. Are there any other pieces of information that

11:35:52 3 you use that way?

11:35:54 4 A. Those are the two that we generally use.

11:35:58 5 Q. And is there any special significance to

11:36:01 6 birthplace in that situation that makes it a better piece

11:36:07 7 of information to use than the other two options?

11:36:09 8 A. No.

11:36:14 9 MR. ATKINS: Okay. I have no further questions.

11:36:16 10 Thanks again for your time today.

11:36:18 11 THE WITNESS: Thank you.

11:36:21 12 MR. LANGHOFER: Anyone else on the plaintiff

11:36:24 13 side?

11:36:25 14 MS. RILEY-SWANBECK: No further questions from

11:36:27 15 the DNC.

11:36:31 16 MR. DIAZ: None from LUCHA.

11:36:36 17 MR. HIRSCHER: Nothing from me.

11:36:36 18 MR. LANGHOFER: All right, Sharie, I think that

11:36:38 19 means you're off the hook for the day. Thanks very much

11:36:41 20 for your time.

11:36:42 21 THE WITNESS: Thank you.

11:36:43 22 THE VIDEOGRAPHER: We are off the record. Time

11:36:43 23 on the video monitor is 11:36 a.m.

11:36:52 24 This ends Volume 1, Media No. 1 in the 30(b)(6)

11:36:52 25 deposition of Greenlee County recorder by Sharie Milheiro.

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(The deposition concluded at 11:36 a.m.)

(Exhibit 238 through Exhibit 243 was marked for
identification.)

(Signature Not Requested.)

SHARIE MILHEIRO

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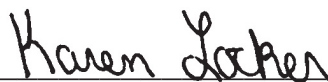
1 STATE OF ARIZONA)
2) SS.
3 COUNTY OF MARICOPA)

4 BE IT KNOWN that the foregoing deposition was
5 taken before me, KAREN L. LOCKER, RPR, Certified Reporter
6 No. 50821 for the State of Arizona, and by virtue thereof
7 authorized to administer an oath; that the witness before
8 testifying was duly sworn by me to testify to the whole
9 truth; deposition review and signature was not requested;
10 that the questions propounded by counsel and the answers
11 of the witness thereto were taken down by me in shorthand
12 and thereafter transcribed into typewriting under my
13 direction; that the foregoing pages contain a full, true,
14 and accurate transcript of all proceedings and testimony
15 had, all to the best of my skill and ability.

16 I FURTHER CERTIFY that I am not related to nor
17 employed by any of the parties hereto and have no interest
18 in the outcome thereof.

19 DATED at Phoenix, Arizona, this 11th day of
20 September, 2023.

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KAREN L. LOCKER, RPR
Certified Court Reporter No. 50821

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UNITED STATES DISTRICT COURT
DISTRICT OF ARIZONA

Mi Familia Vota, et al.,)	
)	Case No:
Plaintiffs,	)	2:22-cv-00509-SRB
	)	(Lead)
vs.)	
	)	CV-22-00519-PHX-SRB
Adrian Fontes, in his official	)	CV-22-01003-PHX-SRB
capacity as Arizona Secretary of	)	CV-22-01124-PHX-SRB
State, et al.,	)	CV-22-01369-PHX-SRB
	)	CV-22-01381-PHX-SRB
Defendants.	)	CV-22-01602-PHX-SRB
	)	CV-22-01901-PHX-SRB
_____)	
AND CONSOLIDATED CASES.)	
_____)	

DEPOSITION OF GRAHAM COUNTY RECORDER
REPRESENTED BY POLLY MERRIMAN
VIDEOTAPED

Safford, Arizona
September 1, 2023

Prepared by:
Jody L. Lenschow, RMR, CRR
Certified Court Reporter
Certification No. 50192



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1 VIDEOTAPED DEPOSITION OF GRAHAM COUNTY RECORDER
 2 REPRESENTED BY POLLY MERRIMAN
 3 was taken on September 1, 2023, commencing at 9:14 a.m.,
 4 at the Graham County Attorney's Office, 800 W. Main
 5 Street, Safford, Arizona, before Jody L. Lenschow, RMR,
 6 CRR, Certified Reporter No. 50192 for the State of
 7 Arizona, reported via Zoom Videoconferencing.

8 * * *

9
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8 ALSO PRESENT VIA ZOOM:
9 Mr. Dan Rohan, Videographer

9

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RETRIEVED FROM DEMOCRACYDOCKET.COM

09:14:06 1 THE VIDEOGRAPHER: We are on the record.
09:14:07 2 Time on the video monitor is 9:14 a.m. Here begins
09:14:10 3 Volume 1, Media No. 1 in the 30(b)(6) deposition of
09:14:14 4 Graham County Recorder by Polly Merriman in the matter
09:14:18 5 of Mi Familia Vota, et al. versus Adrian Fontes, et al.,
09:14:22 6 in the United States District Court, District of
09:14:25 7 Arizona, Case No. 2:22-cv-00509-PHX-SRB.

09:14:35 8 Today's date is September 1st, 2023. Our
09:14:39 9 court reporter is Jody Lenschow. I am Daniel Rohan, a
09:14:44 10 certified legal videographer. We both represent Coash
09:14:48 11 Court Reporting & Video. This video deposition is
09:14:49 12 taking place at the Graham County Attorney's Office,
09:14:53 13 800 West Main Street, Safford, Arizona, 85546.

09:14:57 14 Counsel, would you please identify
09:14:59 15 yourselves and state whom you represent.

09:15:02 16 MR. HEMSTREET: Robbie Hemstreet from
09:15:06 17 Latham & Watkins. I represent Plaintiff Arizona Asian
09:15:09 18 American Native Hawaiian Pacific Islander for Equity
09:15:13 19 Coalition.

09:15:14 20 MR. ATKINS: Alexander Atkins of Elias Law
09:15:18 21 Group. I represent Plaintiffs Mi Familia Vota and Vota
09:15:23 22 Latino.

09:15:24 23 MS. MOTZKIN: Hi. I'm Leah Motzkin of
09:15:28 24 Arnold & Porter and I'm representing Poder Latinx,
09:15:32 25 Chicanos Por La Causa, and Chicanos Por La Causa Action

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Fund.
MR. HERRERA: Good morning. Ernest
Herrera for Promise Arizona Plaintiffs.
MR. HORLEY: Tim Horley for the State of
Arizona and the Arizona Attorney General.
MS. ROOF: Jean Roof for the Graham County
Recorder.
MR. MORGAN: Craig Morgan for Sherman &
Howard on behalf of the Secretary of State.
MR. LANGHOFER: Kory Langhofer for the
RNC.
THE VIDEOGRAPHER: If that's everybody,
can the court reporter please swear in the witness.
POLLY MERRIMAN,
called as a witness herein, having been first duly sworn
by the Certified Court Reporter to speak the truth and
nothing but the truth, was examined and testified as
follows:
EXAMINATION
BY MR. HEMSTREET:
Q. Good morning, Ms. Merriman. My name is Robbie
Hemstreet. I'm an attorney for Latham & Watkins. I
represent the Plaintiff Arizona Asian American Native

09:16:45 1 Hawaiian and Pacific Islander for Equity Coalition in
09:16:47 2 this matter. That's quite a mouthful, so if I refer to
09:16:50 3 it as Equity Collation, will you understand that's who
09:16:52 4 I'm referring to?

09:16:53 5 A. Okay.

09:16:55 6 Q. Can you please state and spell your full name
09:17:00 7 for the record?

09:17:00 8 A. My full legal name is Pauline, P-A-U-L-I-N-E,
09:17:05 9 Merriman, M-E-R-R-I-M-A-N. I hold office as Polly,
09:17:10 10 P-O-L-L-Y, M-E-R-R-I-M-A-N.

09:17:17 11 Q. And what is your title?

09:17:18 12 A. I am the Graham County Recorder.

09:17:20 13 Q. And how long have you been in that role?

09:17:22 14 A. Since March 27th of 2023.

09:17:26 15 Q. And prior to March 27th, 2023, Wendy John was
09:17:33 16 the Graham County Recorder, correct?

09:17:35 17 A. Correct.

09:17:35 18 Q. Do you know how long she was in that role?

09:17:37 19 A. 24 years.

09:17:40 20 Q. Okay. So for today's deposition I want to make
09:17:42 21 the record clear on just a couple of points at the
09:17:45 22 outset. First, you understand that you are testifying
09:17:47 23 under oath today?

09:17:48 24 A. Yes.

09:17:49 25 Q. You understand the court reporter is

09:17:52 1 transcribing this deposition?

09:17:54 2 A. Correct.

09:17:55 3 Q. And with that in mind, please answer questions
09:17:58 4 audibly and clearly. You're doing a great job with yes,
09:18:01 5 but no head shakes, nods. Does that make sense?

09:18:04 6 A. Yeah.

09:18:09 7 Q. To allow the court reporter to do their job,
09:18:11 8 please let me complete my sentence and question before
09:18:13 9 you respond, and I'll try to do the same and let you
09:18:15 10 finish your answer before asking the next question.
09:18:17 11 Make sense?

09:18:18 12 A. Oh. Okay.

09:18:19 13 Q. Will you let me know if you don't understand
09:18:21 14 any part of a question or need me to repeat it?

09:18:23 15 A. Yes.

09:18:27 16 Q. And if I ask a question and you answer it, I
09:18:30 17 will assume that you understand the question. Is that
09:18:31 18 fair?

09:18:32 19 A. Fair.

09:18:35 20 Q. Is there any reason you can't give full,
09:18:37 21 complete, and accurate testimony today?

09:18:40 22 A. I'm sorry, I didn't hear what you said. Can I
09:18:42 23 just make one statement?

09:18:44 24 I'm hard of hearing, and I do have my hearing
09:18:47 25 aids in at full volume, but if you can speak closer to

09:18:51 1 your microphone, that might help me hear clearer.

09:18:58 2 Q. Will do. Is that any better?

09:19:00 3 A. Yeah. Yes.

09:19:02 4 Q. Is there any reason today that you can't give
09:19:04 5 full, complete, and accurate testimony today?

09:19:07 6 A. Not that I'm aware of.

09:19:12 7 Q. All right. You're not on any medications or
09:19:13 8 experiencing any condition that would prevent you from
09:19:16 9 giving full and truthful testimony today?

09:19:17 10 A. No.

09:19:18 11 Q. Now, if at any time you need a break, please
09:19:20 12 let me know, or anyone on your end. The only thing I
09:19:24 13 ask is that if I've already asked a question and it's
09:19:27 14 pending, that you finish answering that question before
09:19:29 15 taking a break. Is that fair?

09:19:30 16 A. Fair.

09:19:31 17 Q. All right. And since this deposition is being
09:19:33 18 taken remotely, can you please confirm who is in the
09:19:35 19 room with you?

09:19:36 20 A. It's myself and Jean Roof.

09:19:39 21 Q. All right. Nobody else?

09:19:43 22 A. Nobody else is in here.

09:19:44 23 Q. Okay. And if anyone enters, will you please
09:19:45 24 let me know?

09:19:46 25 A. I will.

09:19:49 1 Q. And just one last sort of introductory point,
09:19:52 2 because this is a Zoom deposition, can you please
09:19:55 3 confirm that you will not be receiving any texts,
09:19:58 4 e-mails, or other notes during the deposition from
09:20:00 5 anybody else suggesting how you answer?

09:20:03 6 A. Yes.

09:20:08 7 Q. Have you been deposed before?

09:20:09 8 A. Yes.

09:20:09 9 Q. How many times?

09:20:11 10 A. Once.

09:20:14 11 Q. When was that?

09:20:15 12 A. 1992.

09:20:20 13 Q. Do you remember the circumstances?

09:20:21 14 A. It was a personal matter.

09:20:22 15 Q. Personal matter. Personal injury or what --

09:20:26 16 MS. ROOF: I don't -- objection. I don't
09:20:28 17 think that's relevant.

09:20:31 18 BY MR. HEMSTREET:

09:20:32 19 Q. Did you bring any materials to the deposition
09:20:34 20 today?

09:20:35 21 A. I brought the election procedures manual in
09:20:38 22 case I have to refer to it, and I brought notes of like
09:20:43 23 how many voters and things like that, in case you asked
09:20:46 24 for that, and I have the interrogatories printed out,
09:20:54 25 mine and Wendy's, and also our production printed out.

09:20:59 1 Q. Okay. Those -- are all those documents part of
09:21:03 2 the documents that were sent yesterday?

09:21:04 3 A. Correct.

09:21:06 4 Q. Okay.

09:21:06 5 A. No. I'm sorry.

09:21:10 6 Q. Do all those documents come from the
09:21:13 7 productions of Graham County?

09:21:15 8 A. The printouts are from the court case. The
09:21:19 9 paper with the voter totals is something I wrote on a
09:21:22 10 notepad.

09:21:27 11 Q. Well, can you pull up -- and probably be faster
09:21:30 12 this way if you have, actually, the exhibits in front of
09:21:33 13 you. If you can go to the documents marked A,
09:21:36 14 Document A.

09:21:39 15 MS. ROOF: She's just showing you her
09:21:40 16 notes.

09:21:41 17 BY MR. HEMSTREET:

09:21:41 18 Q. Okay. Great.

09:21:42 19 A. Oh, I'm sorry. Is that what --

09:21:45 20 Q. Document A, do you have that in front of you?

09:21:50 21 MS. ROOF: Yes. We have it on a third
09:21:52 22 screen, so she's going to be turning her head, but it's
09:21:54 23 a larger screen, so it will be more easy for her to see
09:21:57 24 it.

09:21:58 25 MR. HEMSTREET: Fair.

09:21:58 1 BY MR. HEMSTREET:

09:21:59 2 Q. Have you seen this document before?

09:22:02 3 A. Yes.

09:22:12 4 Q. All right. Can you tell me what it is?

09:22:13 5 A. It's the notice of deposition that has the

09:22:16 6 topics.

09:22:19 7 Q. All right. And so for the record, this is the

09:22:21 8 amended Graham County Recorder deposition notice, dated

09:22:24 9 August 21st, 2023.

09:22:26 10 MR. HEMSTREET: And, Jody, do you know

09:22:27 11 where the exhibit numbers left off?

09:22:33 12 THE COURT REPORTER: The next number is

09:22:35 13 249.

09:22:35 14 BY MR. HEMSTREET:

09:22:35 15 Q. All right. We'll mark this as Exhibit 249.

09:22:41 16 Ms. Merriman, so do you understand you've been

09:22:42 17 designated to testify on behalf of Graham County

09:22:45 18 Recorder's Office on these topics?

09:22:46 19 A. Yes.

09:22:47 20 Q. Can we stipulate that whenever I use you, your,

09:22:50 21 or your office in a question, that will be the

09:22:52 22 equivalent of saying the Graham County Recorder's

09:22:56 23 Office?

09:22:56 24 A. Yes.

09:23:00 25 Q. All right. And then quickly turning to Page 5

09:23:02 1 of the Exhibit 249. Do you see where it says "Topics"?

09:23:09 2 A. Yes.

09:23:10 3 Q. All right. Are you prepared to address each of

09:23:12 4 these topics today?

09:23:15 5 A. Yes.

09:23:15 6 Q. What did you do to prepare for today's

09:23:17 7 deposition?

09:23:20 8 A. I looked over the topics, and if needed, I

09:23:25 9 looked through my voter AVID system and any e-mails,

09:23:34 10 anything that could pertain to anything that was

09:23:38 11 requested.

09:23:40 12 Q. Did you meet with anyone?

09:23:42 13 A. Jean Roof.

09:23:45 14 Q. Okay. Anybody else?

09:23:45 15 A. No.

09:23:48 16 Q. All right. And so you said you reviewed

09:23:51 17 e-mails, the AVID system, some of these documents. Were

09:23:55 18 there any other documents that you reviewed?

09:23:59 19 A. Not that I recall.

09:24:03 20 Q. If you could turn to the document marked B. B,

09:24:08 21 as in boy.

09:24:09 22 MS. ROOF: B? Okay. Sorry.

09:24:09 23 BY MR. HEMSTREET:

09:24:17 24 Q. And can you let me know if you recognize this

09:24:19 25 document?

09:24:19 1 A. Yes.

09:24:21 2 Q. All right. And what is it?

09:24:24 3 A. This is Defendant Wendy John's responses.

09:24:31 4 Q. So can we mark this as Exhibit 250. For the

09:24:37 5 record, this is Graham County responses to the Equity

09:24:40 6 Coalition's interrogatories dated February 13th, 2023.

09:24:46 7 And we'll just quickly go through several of

09:24:48 8 these. If you could go to Document C.

09:24:54 9 When you have that up, can you let me know if

09:24:56 10 you recognize this document?

09:25:00 11 A. This is my responses to the interrogatories.

09:25:04 12 Q. All right. Thank you. So for the record, this

09:25:06 13 is Graham County responses to the consolidated

09:25:10 14 plaintiffs' interrogatories dated July 10th, 2023; is

09:25:10 15 that right?

09:25:15 16 A. Yes.

09:25:16 17 Q. Okay. And we'll mark this as Exhibit 251.

09:25:23 18 And then could you turn to Document Q.

09:25:33 19 When you have that up, can you let me know what

09:25:35 20 that document is?

09:25:36 21 A. That's supplemental responses, my supplemental

09:25:43 22 responses to the interrogatories.

09:25:45 23 Q. All right. And this is the Graham County

09:25:48 24 supplemental responses to Equity Coalition's

09:25:50 25 interrogatories dated yesterday, August 31st, 2023. And

09:25:55 1 can we mark that as Exhibit 252.

09:26:02 2 Now, were you involved in preparing your

09:26:04 3 office's responses to these interrogatories?

09:26:06 4 A. Yes.

09:26:10 5 Q. To all three of these interrogatories?

09:26:13 6 A. I'm sorry, can you repeat?

09:26:15 7 Q. To all three sets of interrogatories, all three

09:26:18 8 responses?

09:26:20 9 A. No. I was not involved with Wendy John's

09:26:24 10 responses.

09:26:27 11 Q. Okay. Was anyone else involved in any of the

09:26:30 12 responses to these interrogatories?

09:26:31 13 A. No.

09:26:33 14 Q. So just Wendy John and yourself?

09:26:36 15 A. Correct. Yes.

09:26:39 16 Q. What steps did your office take to prepare

09:26:42 17 Graham County's responses to all of these

09:26:44 18 interrogatories?

09:26:47 19 A. If I knew the answer, I gave the answer. If it

09:26:51 20 was something I needed to look up, I utilized the AVID

09:26:54 21 system to look up any information that was needed.

09:26:59 22 Q. Okay. So your answer reflects how you prepared

09:27:02 23 for today's deposition?

09:27:05 24 A. Correct.

09:27:06 25 Q. Sort of looking at the same sets of documents?

09:27:12 1 A. I'm sorry, I'm not understanding what you mean.

09:27:15 2 Q. I just want to establish for the record just
09:27:17 3 all the various steps that you took to answer these
09:27:21 4 interrogatories and try and understand if there's any
09:27:24 5 difference in the documents that you looked at versus
09:27:28 6 preparing for today's deposition, if that's the same
09:27:32 7 thing.

09:27:32 8 A. No, there were no -- no, there were no
09:27:34 9 differences.

09:27:36 10 Q. Okay. Do you have any updates to make to the
09:27:38 11 responses to plaintiffs' interrogatories today?

09:27:40 12 A. No.

09:27:43 13 Q. If you could go to Document D.

09:27:52 14 When you have that up, can you tell me what
09:27:54 15 this is?

09:27:55 16 A. This is Defendant Wendy John's responses to the
09:28:00 17 first request for production of documents.

09:28:03 18 Q. And then can we mark this as Exhibit 253.

09:28:10 19 This is the Graham County responses to Equity
09:28:14 20 Coalition's RFPs dated February 13th, 2023.

09:28:17 21 And then if you could also go to Document E for
09:28:19 22 me.

09:28:27 23 And when you have that up, can you tell me what
09:28:28 24 this is?

09:28:29 25 A. Yes. This is my responses to the first set of

09:28:34 1 requests for production.

09:28:36 2 Q. And this is the responses to the consolidated

09:28:40 3 plaintiffs' RFPs; is that right?

09:28:42 4 A. Oh, yes, it is.

09:28:45 5 Q. Okay. And can we mark this as Exhibit 254.

09:28:53 6 Were you involved in preparing your office's

09:28:55 7 responses to all these sets of RFPs?

09:28:58 8 A. All of the sets that were my responses and my

09:29:05 9 interrogatories. I was not involved in Wendy's.

09:29:08 10 Q. All right. Was anyone else involved in either

09:29:12 11 yours or Wendy's?

09:29:15 12 A. No.

09:29:16 13 Q. So it was just -- sorry. For the record, only

09:29:19 14 Wendy John and yourself were involved in responding to

09:29:21 15 these RFPs?

09:29:23 16 A. Yes.

09:29:27 17 Q. Did you take any other steps other than what

09:29:30 18 we've previously discussed in preparing Graham County's

09:29:33 19 responses to these RFPs?

09:29:35 20 A. None that I recall.

09:29:38 21 Q. Do you have any updates to make to these

09:29:40 22 document requests at this time?

09:29:42 23 A. None at this time.

09:29:49 24 Q. We can set those aside for a second.

09:29:51 25 So are you familiar with the election

09:29:54 1 procedures manual?

09:29:58 2 A. I'm sorry, can you repeat?

09:30:00 3 Q. Are you familiar with the election procedures

09:30:03 4 manual?

09:30:03 5 A. Yes.

09:30:04 6 Q. If I shorten that to EPM, you'll understand I'm

09:30:07 7 referring to the elections procedures manual?

09:30:10 8 A. Yes.

09:30:10 9 Q. The 2019 version of the EPM is still currently

09:30:14 10 operative; is that right?

09:30:15 11 A. Yes.

09:30:17 12 Q. Is your office legally required to follow the

09:30:20 13 EPM?

09:30:20 14 A. Yes.

09:30:22 15 MR. HORLEY: Calls for a legal conclusion.

09:30:24 16 This is Tim Horley.

09:30:26 17 BY MR. HEMSTREET:

09:30:26 18 Q. So you consider the EPM to be legally binding?

09:30:29 19 MR. HORLEY: Same objection.

09:30:32 20 MS. ROOF: You can answer, Polly.

09:30:35 21 MR. LANGHOFER: Robbie, can we get on the

09:30:36 22 record our stipulation that an objection by one

09:30:37 23 defendant is an objection by all?

09:30:39 24 MR. HEMSTREET: Yes.

09:30:39 25 MR. LANGHOFER: Great. Thanks.

09:30:41 1 MR. MORGAN: Yeah, we join in that.

09:30:44 2 Thanks. Thank you.

09:30:46 3 Sorry, Mrs. Roof. Sometimes we're going
09:30:48 4 to have objections. So that doesn't mean you shouldn't
09:30:51 5 answer the question, okay?

09:30:54 6 THE WITNESS: Okay. My answer is yes.

09:30:54 7 MS. ROOF: I instructed her to answer, so
09:30:57 8 I apologize. I think she was just waiting for everyone
09:31:01 9 to be done.

09:31:02 10 MR. MORGAN: Oh, no, that's fine. The
09:31:04 11 audio is kind of wonky today. I can barely hear folks
09:31:06 12 myself, and I'm sure you're having the same issue.

09:31:09 13 Sorry, Mr. Hemstreet.

09:31:10 14 MR. HEMSTREET: No worries.

09:31:10 15 BY MR. HEMSTREET:

09:31:10 16 Q. I'll repeat.

09:31:11 17 Do you consider the EPM to be legally binding?

09:31:14 18 A. I do.

09:31:15 19 MR. HORLEY: Same.

09:31:16 20 THE WITNESS: Yes.

09:31:16 21 BY MR. HEMSTREET:

09:31:16 22 Q. And does that include Chapter 1 regarding voter
09:31:20 23 registration?

09:31:20 24 MR. LANGHOFER: Same objection.

09:31:20 25 THE WITNESS: Yes.

09:31:25 1 BY MR. HEMSTREET:

09:31:25 2 Q. So the Secretary of State promulgates the EPM;

09:31:25 3 is that right?

09:31:29 4 A. Yes.

09:31:30 5 Q. Can the Secretary of State's Office convey

09:31:34 6 legally binding guidance to your office by means outside

09:31:37 7 of the EPM?

09:31:39 8 MR. LANGHOFER: Same objection.

09:31:40 9 MR. HORLEY: Same objection.

09:31:43 10 THE WITNESS: I am not able to answer

09:31:44 11 that. I'm not sure if they can.

09:31:49 12 BY MR. HEMSTREET:

09:31:49 13 Q. So you're not sure one way or the other whether

09:31:52 14 or not the Secretary of State can convey legally binding

09:31:55 15 guidance to your office by different means other than

09:31:57 16 the EPM?

09:31:59 17 A. Correct.

09:32:02 18 Q. Are you familiar with the voter registration

09:32:04 19 advisory committee?

09:32:05 20 A. Yes.

09:32:09 21 Q. And I'll refer to them as VRAC; is that okay?

09:32:12 22 A. Yes.

09:32:12 23 Q. Are VRAC proposals or papers legally binding on

09:32:15 24 your office?

09:32:17 25 MR. HORLEY: Same objection.

09:32:20 1 THE WITNESS: I am not sure that they're

09:32:23 2 legally binding.

09:32:26 3 BY MR. HEMSTREET:

09:32:26 4 Q. Is your office aware of a draft EPM for 2023?

09:32:31 5 A. Yes.

09:32:32 6 Q. Have you provided comments regarding that draft

09:32:34 7 EPM to the Secretary of State?

09:32:37 8 A. No.

09:32:38 9 Q. Do you intend to?

09:32:39 10 A. No.

09:32:42 11 Q. Does the draft EPM for 2023, to your knowledge,

09:32:45 12 include guidance for how to implement H.B. 2492 and

09:32:50 13 H.B. 2243?

09:32:51 14 A. Yes.

09:32:54 15 Q. If there's no approved revised EPM by this time

09:32:58 16 next year, will you nevertheless be obligated to enforce

09:33:02 17 the portions of H.B. 2492 and H.B. 2243 that are

09:33:07 18 directed at the County Recorders?

09:33:09 19 MR. LANGHOFER: Same objection.

09:33:10 20 MR. HORLEY: Calls for --

09:33:12 21 THE WITNESS: I'm uncertain what the

09:33:15 22 question was exactly.

09:33:17 23 BY MR. HEMSTREET:

09:33:17 24 Q. I'll rephrase.

09:33:18 25 I'm trying to understand if -- if there's no

09:33:24 1 approved new draft, so the 2023 draft EPM is not
09:33:27 2 approved, are you still going to be obligated to enforce
09:33:31 3 H.B. 2492 and H.B. 2243 regardless?

09:33:38 4 MR. HORLEY: Same objection.

09:33:38 5 THE WITNESS: It would be pending the
09:33:40 6 outcome of the litigation and any changes to the 2019
09:33:46 7 EPM that would reflect having to implement those.

09:33:51 8 BY MR. HEMSTREET:

09:33:51 9 Q. Other than the draft EPM for 2023, have you
09:33:54 10 received any other guidance from the Secretary of State
09:33:56 11 on how to implement those laws?

09:33:59 12 A. No.

09:34:04 13 Q. So has your office been a part of any
09:34:11 14 communications with the Secretary of State's Office
09:34:13 15 regarding the implementation or interpretation of those
09:34:16 16 laws?

09:34:17 17 A. Nothing outside of the preliminary EPM.

09:34:24 18 Q. Has your office received guidance from the
09:34:27 19 Secretary of State's Office indicating that portions of
09:34:29 20 H.B. 2492 violate federal law?

09:34:33 21 A. Yes.

09:34:38 22 Q. What guidance did you receive?

09:34:41 23 A. In December of 2022 the Secretary of State
09:34:48 24 Katie Hobbs' staff member had advised that we were not
09:34:52 25 to implement it. There was litigation and we were to

09:34:55 1 hold off. And she did make a statement that it did

09:35:00 2 contradict federal law.

09:35:06 3 Q. Do you know which provisions the Secretary of
09:35:08 4 State's Office indicated violated federal law?

09:35:12 5 A. I do not, no.

09:35:16 6 Q. And that guidance, that was directed to
09:35:19 7 Ms. John?

09:35:19 8 A. It was directed to Ms. John.

09:35:25 9 Q. Does your office today agree that these
09:35:27 10 provisions violate federal law?

09:35:31 11 MR. HORLEY: Calls for a legal conclusion.

09:35:33 12 THE WITNESS: Yes.

09:35:35 13 BY MR. HEMSTREET:

09:35:36 14 Q. Why?

09:35:40 15 MR. HORLEY: Same objection.

09:35:41 16 THE WITNESS: Well, there was a lawsuit,
09:35:44 17 and I believe it was in 2018 or 2019, that was referred
09:35:49 18 to as the LULAC consent agreement or something like
09:35:55 19 that, and it changed the way that we processed voters.
09:36:00 20 And in implementing the new bills, it would override
09:36:07 21 what that lawsuit -- the outcome of that lawsuit, to my
09:36:14 22 knowledge.

09:36:14 23 BY MR. HEMSTREET:

09:36:30 24 Q. All right. If you could go to Document F.

09:36:40 25 Do you recognize this document?

09:36:42 1 A. We're getting it up right now. Sorry.

09:36:51 2 This is the e-mail from Kori Lorick.

09:36:56 3 Q. And this was on December 30th, 2022?

09:37:00 4 A. Correct.

09:37:02 5 Oh, sorry.

09:37:05 6 Q. Who is Ms. Lorick?

09:37:10 7 A. She worked in the Secretary of State's Office

09:37:13 8 under Katie Hobbs.

09:37:15 9 Q. In the bcc field, do you see an e-mail with the

09:37:18 10 name Gwyn Villescas, Villescas?

09:37:21 11 A. Yes.

09:37:22 12 Q. All right. And who is Gwyn?

09:37:26 13 A. Gwyn Villescas was Wendy John's chief deputy

09:37:31 14 and is now currently my chief deputy.

09:37:33 15 MR. HEMSTREET: And could we mark this as

09:37:35 16 Exhibit 250, are we on 5 now?

09:37:35 17 THE COURT REPORTER: (Nodded.)

09:37:35 18 BY MR. HEMSTREET:

09:37:43 19 Q. All right. And the first two paragraphs there

09:37:47 20 reads, "It's been several weeks since we last discussed

09:37:50 21 implementation of H.B. 2492 and H.B. 2243, both of which

09:37:56 22 go into effect January 1st, 2023. If you'll recall, we

09:38:02 23 met several times throughout the year to review

09:38:04 24 implementation and the resulting impacts to the VR

09:38:06 25 system as well as voter registration procedures.

09:38:09 1 Several questions remained as to whether we could
 09:38:12 2 implement requirements that would conflict with the
 09:38:14 3 NVRA, federal settlements, and court cases. Having
 09:38:18 4 thoroughly analyzed the changes that both bills require,
 09:38:20 5 the Secretary of State's Office believes that there is
 09:38:22 6 no way to implement certain requirements without
 09:38:24 7 conflicting with federal law."

09:38:26 8 Did I read that correctly?

09:38:28 9 A. Yes.

09:38:32 10 Q. All right. Then Ms. Lorick goes on in the next
 09:38:35 11 paragraph to note, quote, which provisions we interpret
 09:38:37 12 as conflicting with federal law.

09:38:39 13 Do you see that?

09:38:40 14 A. Yes.

09:38:41 15 Q. Are these the provisions that your office
 09:38:44 16 agrees violate federal law?

09:38:46 17 A. Yes.

09:38:48 18 MR. HORLEY: Calls for a legal conclusion.

09:38:51 19 BY MR. HEMSTREET:

09:38:51 20 Q. Are you currently implementing any part of
 09:38:54 21 H.B. 2492?

09:38:56 22 A. No, I am not.

09:38:58 23 Q. Are you currently implementing any part of
 09:39:00 24 H.B. 2243?

09:39:02 25 A. No, I am not.

09:39:05 1 Q. Besides the Secretary of State, has your office
09:39:09 2 discussed the implementation of H.B. 2492 and H.B. 2243
09:39:12 3 with anyone else?

09:39:14 4 A. No.

09:39:16 5 Q. Have you discussed the implementation of either
09:39:19 6 law internally?

09:39:23 7 A. Do you mean with my staff?

09:39:25 8 Q. Correct.

09:39:26 9 A. No.

09:39:28 10 Q. Has your office discussed the implementation of
09:39:30 11 either law with other County Recorders?

09:39:33 12 A. No.

09:39:35 13 Q. Could we actually go to Document B, which --

09:39:43 14 MS. RCOF: B, as in boy?

09:39:44 15 BY MR. HEMSTREET:

09:39:45 16 Q. B, as in boy, which should already be marked as
09:39:48 17 Exhibit 251. I think.

09:39:54 18 And on Page 3, Line 21 through 24, this is in
09:39:58 19 response to Interrogatory 2.

09:40:11 20 Let me know when you're there.

09:40:14 21 A. Yes, we're there.

09:40:16 22 Q. It says, "John has been engaged in discussions
09:40:19 23 with other County Recorders and staff regarding the
09:40:22 24 prospective implementation of H.B. 2243."

09:40:26 25 Do you see that?

09:40:27 1 A. Yes.

09:40:30 2 Q. Do you know with which County Recorders those
09:40:34 3 discussions took place?

09:40:35 4 A. I am not aware who Wendy John spoke with.

09:40:41 5 Q. All right. And so you don't know what was
09:40:44 6 discussed?

09:40:44 7 A. No, I do not.

09:40:45 8 Q. Or when?

09:40:46 9 A. I do not, no.

09:40:49 10 Q. I take it you have not had any discussions with
09:40:51 11 the Arizona Association of Counties regarding the
09:40:55 12 implementation of either law?

09:40:56 13 A. I have not.

09:40:58 14 Q. Was your office opposed to passage of
09:41:02 15 H.B. 2492?

09:41:03 16 A. Yes.

09:41:04 17 Q. Why?

09:41:06 18 A. In lay terms, we felt that it was going to be
09:41:13 19 more difficult for the voter and more difficult for us
09:41:16 20 to process a voter.

09:41:20 21 Q. Was your office opposed to the passage of
09:41:24 22 H.B. 2243?

09:41:26 23 A. Yes.

09:41:27 24 Q. And can you tell me why?

09:41:30 25 A. The same reasons. We felt it would be harder

09:41:35 1 for some voters and it would be harder for us to process

09:41:40 2 voters.

09:41:42 3 Q. When you say harder, did you believe that any

09:41:46 4 voters would potentially be disenfranchised by these

09:41:49 5 laws?

09:41:50 6 MR. LANGHOFER: Calls for speculation.

09:41:53 7 THE WITNESS: That would be possible.

09:41:54 8 BY MR. HEMSTREET:

09:41:54 9 Q. I'm sorry, I think there was some cross-talk.

09:41:57 10 You said you believed it would be possible that --

09:41:58 11 A. It would be pos -- it would possibly be harder

09:42:01 12 for voters to register, and it would disenfranchise

09:42:05 13 some.

09:42:10 14 Q. And could you just elaborate a little more on

09:42:14 15 what makes it harder for them to register? We'll start

09:42:18 16 with H.B. 2492, if you --

09:42:22 17 A. 2492? Can I look at that real quick? I get

09:42:29 18 them confused over which one does which.

09:42:32 19 Q. We'll actually get into the laws a little

09:42:34 20 later. So perhaps now more generally, what are your

09:42:38 21 office's thoughts on what would make it harder, what

09:42:41 22 about these laws makes it harder for voters to register?

09:42:46 23 A. So in dealing with the addressing, there are

09:42:50 24 going to be some voters that would have a difficult time

09:42:53 25 providing proof of residency; that if they have to check

09:43:02 1 the citizenship checkbox in along with providing the
09:43:06 2 DPOC, they may fail to checkmark the box; or answering
09:43:14 3 where their place of birth, if they failed to do that,
09:43:18 4 then we would have to seek out the voter.

09:43:20 5 It just would create more potential problems
09:43:25 6 and more times that we would have to reach out to the
09:43:28 7 voter for that information if that became mandatory
09:43:33 8 fields.

09:43:37 9 Q. Are you familiar with H.B. 2617?

09:43:44 10 A. A little. I'm not real familiar with it. I
09:43:47 11 was under the impression it was vetoed. I didn't
09:43:50 12 research it very much.

09:43:53 13 Q. Did your office support or oppose H.B. 2617?

09:43:59 14 A. I believe it was opposed.

09:44:09 15 Q. If you could open Document J.

09:44:25 16 A. We have it open.

09:44:26 17 Q. And can you tell me what this document is?

09:44:29 18 A. It's an e-mail from Wendy John to multiple
09:44:36 19 entities, looks like some Recorders and AACo, and it's
09:44:43 20 regarding an amendment change to H.B. 2617.

09:44:49 21 Q. And this was sent on March 14th, 2022?

09:44:54 22 A. Correct. Yes.

09:44:56 23 Q. And the subject is "Regarding: H.B. 2617 -
09:45:01 24 Does the Amendment Change Your Position," question mark?

09:45:06 25 A. Yes.

09:45:09 1 Q. Do you see on Page 2 where Stallworth Pouquette
09:45:16 2 writes, "Here is the amended bill. Does this change
09:45:19 3 your position?"

09:45:21 4 A. Yes, I see that.

09:45:23 5 Q. Okay. And then up on Page 1, in response Wendy
09:45:27 6 John replied "I'm still opposed"?

09:45:29 7 A. Yes, she did.

09:45:33 8 Q. And do you know why your office opposed
09:45:37 9 H.B. 2617 as amended?

09:45:41 10 MR. HORLEY: Foundation, calls for
09:45:52 11 speculation.

09:45:52 12 THE WITNESS: Wendy John or -- well, I
09:45:54 13 don't know who wrote that. Robyn, I believe, wrote that
09:46:00 14 the bill had some issue -- would cause some issues with
09:46:05 15 databases to which counties do not have access to, and
09:46:09 16 they were opposed because of that.

09:46:15 17 BY MR. HEMSTREET:

09:46:15 18 Q. Is that issue with access to databases a
09:46:18 19 concern with either H.B. 2492 or H.B. 2243 for your
09:46:23 20 office?

09:46:24 21 A. No.

09:46:30 22 Q. Changing gears slightly, I want to talk about
09:46:33 23 the voter registration process generally. What are the
09:46:36 24 methods that a potential voter can use to register to
09:46:39 25 vote in Graham County?

09:46:43 1 A. Do you mean the type of ways they can register?

09:46:46 2 Q. Yes, the various methods and forms.

09:46:50 3 A. Okay. They can utilize a federal form, a state

09:46:55 4 registration form. They can also register to vote

09:46:58 5 through the Arizona Motor Vehicle Service Arizona

09:47:04 6 currently, and in the future it will be AZ MVD Now.

09:47:08 7 Q. Are you familiar with NVRA agencies?

09:47:15 8 A. MVRA? Oh, NVRA, NVRA.

09:47:20 9 Q. Yes.

09:47:20 10 A. Yes.

09:47:20 11 Q. Are there any in Graham County where voters can

09:47:24 12 register?

09:47:24 13 A. Yes.

09:47:26 14 Q. What form do those NVRA agencies use?

09:47:32 15 A. They use the state form.

09:47:35 16 Q. Besides the federal form, the state form

09:47:39 17 through the MVD and through the NVRA agencies, are there

09:47:46 18 any other ways a potential voter can register to vote in

09:47:50 19 Graham County?

09:47:50 20 A. Not that I can think of at this time.

09:47:56 21 Q. How about the federal postcard, the federal

09:48:03 22 postcard application, FPA?

09:48:06 23 A. Yes, our military and overseas citizens can

09:48:09 24 utilize the FPCA and the FWAB. I apologize. I forgot

09:48:15 25 those. Those are for those individuals.

09:48:24 1 Q. And are there other ways; are there any other
09:48:25 2 ways that you can think of?

09:48:31 3 A. Not that I can think of.

09:48:37 4 Q. So can you take me through how a voter
09:48:40 5 applicant's citizenship is verified today in Graham
09:48:44 6 County?

09:48:44 7 A. So we enter the voter -- the voter's -- or the
09:48:49 8 applicant's registration information into the AVID
09:48:53 9 system, which is our voter registration system that we
09:48:58 10 utilize. And we enter the voter data and we have a box
09:49:03 11 that's called HAVA, Help America Vote Act, and when we
09:49:08 12 click on that, it checks the voter's information through
09:49:12 13 the database of the Arizona Motor Vehicle, the Social
09:49:20 14 Security, and I think it also runs a check through the
09:49:24 15 Death Index, but I am not positive on that.

09:49:30 16 Q. Thank you. I want to break that down a little.
09:49:32 17 So you began with AVID at first; is that
09:49:38 18 correct?

09:49:38 19 A. Yes.

09:49:39 20 Q. And then that runs the HAVA check through AVID?

09:49:43 21 A. Yes, it's through the AVID.

09:49:45 22 Q. And then that HAVA check accesses the MVD
09:49:50 23 database?

09:49:54 24 A. Correct.

09:49:55 25 Q. And then the MVD database contains information

09:49:57 1 about the applicant's citizenship?

09:49:59 2 A. Correct.

09:50:01 3 Q. And you mentioned the Social Security database;

09:50:06 4 is that correct?

09:50:06 5 A. Yes.

09:50:08 6 Q. And so HAVA connects to that database?

09:50:11 7 A. Yes.

09:50:12 8 Q. Does it connect to any other databases?

09:50:16 9 A. As I stated, I think that it connects to a

09:50:21 10 Death Index or like a -- you know, the death records;

09:50:26 11 but I am not absolutely certain. I know that that gets

09:50:32 12 checked at some point in the AVID system, the death

09:50:36 13 records, but I'm not sure if it's during voter

09:50:40 14 registration process.

09:50:43 15 Q. Okay. And then just to make the record clear,

09:50:48 16 beyond the Motor -- the MVD, Social Security, and

09:50:53 17 potentially that death certificate database, there are

09:50:56 18 no other databases you're aware of that HAVA checks?

09:50:59 19 A. No, not that I'm aware of.

09:51:04 20 Q. Are HAVA checks run for each voter applicant or

09:51:07 21 just some?

09:51:08 22 A. All.

09:51:11 23 Q. If HAVA matches to citizenship information, is

09:51:16 24 the voter registered as a full ballot voter?

09:51:19 25 A. Yes.

09:51:20 1 Q. If HAVA does not match to citizenship
09:51:23 2 information, what happens?

09:51:25 3 A. If it does not match any information or
09:51:30 4 partial? Can you tell me which part you're talking
09:51:34 5 about?

09:51:35 6 Q. Well, so first -- thank you.
09:51:38 7 So there's a distinction if it comes back
09:51:42 8 partial information versus no information; is that
09:51:42 9 right?

09:51:45 10 A. Yes.

09:51:46 11 Q. So let's walk through if it comes back with no
09:51:48 12 information. What happens?

09:51:50 13 A. Okay. So if it comes back with no information,
09:51:53 14 the voter is registered as a fed-no ID and they are sent
09:52:00 15 a letter, along with a new voter registration form and a
09:52:04 16 fed-ID only -- or I'm sorry, a federal only ID card.
09:52:10 17 And so they're registered and they can vote, but they
09:52:15 18 will have to provide their proof of citizenship before
09:52:21 19 voting.

09:52:25 20 Q. So -- and you said they were registered as a
09:52:27 21 federal only voter?

09:52:28 22 A. If it matches no information, they're what's
09:52:32 23 called a fed-no ID. So they would not be eligible to
09:52:36 24 receive a ballot by mail, and they would have to provide
09:52:39 25 proof of citizenship before they could vote on election

09:52:42 1 day.

09:52:44 2 Q. And that would include in federal elections

09:52:46 3 they would need to provide that information to the --

09:52:49 4 A. Yes.

09:52:51 5 Q. And if -- let's go through the other scenario,

09:52:54 6 if it comes back with partial information.

09:52:57 7 A. Partial information would allow the voter to be

09:53:00 8 a fed only voter. So they would be eligible to receive

09:53:05 9 a ballot by mail, and they are also sent a letter along

09:53:10 10 with their federal only ID card and a voter

09:53:17 11 registration.

09:53:17 12 The letter lists ways that they can provide

09:53:20 13 proof of citizenship that would allow them to become a

09:53:24 14 full voter, but if they do not, a federal only voter is

09:53:28 15 allowed to be on the AEVL and get their ballot by mail

09:53:32 16 because they did provide proof of citizenship. They

09:53:35 17 just didn't match our Motor Vehicle. So they matched

09:53:40 18 the Social Security, but not the Motor Vehicle.

09:53:44 19 Q. You were anticipating where I was going. Can

09:53:49 20 you perhaps elaborate on the partial information

09:53:51 21 necessary to go from that first scenario we talked about

09:53:53 22 where they come back as a fed-no ID, but what -- what

09:53:58 23 partial information would then allow them to be a

09:53:59 24 federal only, but is short of what's required to become

09:54:03 25 a full ballot voter?

09:54:06 1 A. Okay. If they include their last four of their
09:54:09 2 social on their voter registration form and the system
09:54:13 3 can match Social Security with that number, then the
09:54:17 4 voter becomes a fed only voter.

09:54:21 5 Q. And is that the only scenario, if there's the
09:54:23 6 match on the social security number, that they are able
09:54:26 7 to become a fed only?

09:54:28 8 A. Yes.

09:54:40 9 Q. So the citizenship data from these HAVA checks,
09:54:46 10 those come from the MVD database, right?

09:54:51 11 A. The driver's license information comes from the
09:54:54 12 Motor Vehicle -- Arizona Motor Vehicle.

09:54:56 13 Q. And is that where the citizenship data
09:54:58 14 specifically for the HAVA checks comes from?

09:55:02 15 A. The driver's license. I believe the Social
09:55:05 16 Security runs through the Social Security Index, but I'm
09:55:11 17 absolutely not certain. That is just how I always
09:55:14 18 perceived it.

09:55:17 19 Q. And I want to clarify my question. The
09:55:22 20 citizenship data specifically, are you saying that
09:55:25 21 you're not sure if that comes from the Social Security
09:55:30 22 database?

09:55:30 23 A. If a person puts their social security number
09:55:34 24 on their voter registration form, but they do not
09:55:36 25 include an Arizona driver's license, when I click on

09:55:39 1 HAVA check, it runs through the Social Security and it
09:55:42 2 will match or it may match, but it will run a check
09:55:46 3 through the Arizona Motor Vehicle. If it finds their
09:55:50 4 driver's license, then they're processed and made a full
09:55:53 5 voter. If it cannot locate the driver's license through
09:55:55 6 the Arizona MVD, then that would be considered a no
09:55:59 7 match to the driver's license, and they would be
09:56:03 8 registered still with the federal only, but just with
09:56:05 9 the Social Security match. And if there was no match,
09:56:08 10 then they would be a fed-ID only. I'm sorry. Yeah,
09:56:13 11 fed-no ID. I apologize.

09:56:15 12 Q. There are different types of driver's licenses,
09:56:18 13 correct?

09:56:18 14 A. Correct.

09:56:19 15 Q. And are you familiar with the F-type license?

09:56:23 16 A. Yes.

09:56:24 17 Q. What is that?

09:56:25 18 A. That is a foreign driver's license. So it
09:56:28 19 would be a driver's license that is a -- that belongs to
09:56:33 20 a non-U.S. citizen.

09:56:36 21 Q. When you're attempting to match registrants
09:56:38 22 with the MVD database, what happens if the applicant's
09:56:44 23 driver's license is an F-Type?

09:56:47 24 A. So if it's an F-type license, then the voter
09:56:50 25 would be made fed-no ID, and we would reach out to them

09:56:54 1 to see if they went through naturalization, and if they
09:56:58 2 have their certificate of citizenship or -- and if they,
09:57:06 3 you know, have that information, they could bring it in
09:57:08 4 and we could make them a full voter.

09:57:12 5 Q. Okay. So if you identify an applicant who has
09:57:15 6 that F-type license, you send them a notice, and then
09:57:20 7 they're required to present their naturalization
09:57:23 8 certificate or A-Number or some other form of DPOC?

09:57:28 9 A. Correct.

09:57:31 10 Q. And then do you check that naturalization
09:57:34 11 number or A-Number against a database?

09:57:40 12 A. I do not. I have not.

09:57:43 13 Q. Okay. Are you aware one way or the other if
09:57:45 14 there's a database to check that number against?

09:57:48 15 A. Yes, there is the SAVE database.

09:57:53 16 Q. Does your office have access to the SAVE
09:57:57 17 database?

09:57:58 18 A. We do have access to it.

09:58:01 19 Q. And the SAVE database, is that run by the
09:58:03 20 United States Citizenship and Immigration Services?

09:58:08 21 A. I would be speculating, because I have not
09:58:11 22 utilized that system to run a check. So I'm not exactly
09:58:18 23 sure who is in control of that system. I have not used
09:58:25 24 it, so I'm not really aware. I know it's a website.

09:58:31 25 Q. It's fine if you don't know. So you don't know

09:58:34 1 one way or the other who runs the SAVE database?

09:58:37 2 A. I do not.

09:58:39 3 Q. And your office or you've never used it?

09:58:43 4 A. I logged on when I very first started in 2016

09:58:47 5 at the Graham County Recorder's Office to -- I had to

09:58:53 6 get credentials in order to log in, and that is all that

09:58:56 7 I've done on that program.

09:59:00 8 Q. So we talked through a little bit if someone

09:59:03 9 has an F-type license, they are then required to provide

09:59:07 10 a naturalization number or some other form of

09:59:11 11 documentary proof of citizenship to become registered.

09:59:18 12 What would be the result, though, if someone

09:59:20 13 had an F-type license that was ten years old? Would

09:59:25 14 that be the same result that we just discussed, where

09:59:27 15 they would need to still provide proof of citizenship?

09:59:31 16 A. Yes.

09:59:34 17 Q. Do you treat that dated F-type license,

09:59:40 18 something that's that old, to be conclusive evidence

09:59:43 19 that someone is not a citizen?

09:59:46 20 A. Yes.

09:59:50 21 And I'm going to have to retract what I said a

09:59:53 22 minute ago, because I said they would be registered as a

09:59:55 23 fed voter, but they would not be.

09:59:58 24 An F-Type license, they would actually be in

10:00:00 25 the system as not eligible, invalid citizenship, and we

10:00:06 1 would send them the information letting them know that
10:00:07 2 if they did go through the naturalization process and
10:00:13 3 have their certificate, they could bring that in and we
10:00:15 4 could get them registered to vote. Because an F-Type
10:00:21 5 license does inform us that the person that is applying
10:00:23 6 to register to vote is a noncitizen.

10:00:29 7 Q. But would you agree that them having an F-type
10:00:33 8 license doesn't mean that they haven't naturalized since
10:00:36 9 obtaining that license?

10:00:37 10 A. Yes.

10:00:39 11 Q. So someone with an F-Type license could be a
10:00:42 12 citizen that's just not in the database; is that right?

10:00:45 13 A. Yes.

10:00:50 14 Q. So you'd agree with me that the MVD database is
10:00:53 15 not infallible in terms of its ability to accurately
10:00:57 16 verify a person's citizenship status?

10:01:01 17 MR. HORLEY: Objection, leading.

10:01:04 18 MS. ROOF: You can answer, Polly.

10:01:05 19 THE WITNESS: Okay. I would -- I would
10:01:07 20 agree in the sense that I don't believe that any program
10:01:11 21 is infallible.

10:01:16 22 BY MR. HEMSTREET:

10:01:17 23 Q. Has your office ever sent out a notice to a
10:01:19 24 person for lack of citizenship after the applicant
10:01:22 25 failed to match with citizenship information in one of

10:01:25 1 these databases?

10:01:28 2 A. I'm sorry, can you repeat that?

10:01:33 3 Q. Have you ever had to send out one of these

10:01:36 4 notices that we've discussed where someone failed to

10:01:38 5 match with citizenship information?

10:01:41 6 A. Yes.

10:01:43 7 Q. How many times has your office sent out a

10:01:45 8 notice that they could not be verified for citizenship?

10:01:51 9 A. I wouldn't know off the top of my head. Well,

10:01:53 10 I can tell you as of right now today, Graham County has

10:01:59 11 47 fed voters. So I've sent at least 47 letters.

10:02:06 12 Q. Has any applicant cured after receiving one of

10:02:09 13 these notices?

10:02:11 14 A. Not these 47, but in the past I have had a

10:02:16 15 person bring a birth certificate in. I've had them

10:02:19 16 bring in an enhanced out-of-state driver's license and

10:02:22 17 present that to become a full ballot voter.

10:02:28 18 Q. And so then if the voter fails to cure, what

10:02:32 19 happens then?

10:02:33 20 A. They remain a fed voter.

10:02:36 21 Q. So their registration is just federal only?

10:02:40 22 A. Correct, or fed-no ID.

10:02:43 23 Q. Or fed-no ID?

10:02:44 24 A. Correct.

10:02:47 25 Q. And once a voter is registered, are there any

10:02:51 1 circumstances where your office will reverify that

10:02:54 2 registered voter's citizenship?

10:02:56 3 A. Only if they resubmit a new form.

10:03:00 4 Q. And is the process about the same as the one we

10:03:04 5 discussed?

10:03:04 6 A. Yes.

10:03:09 7 Q. And then who at your office is responsible for

10:03:12 8 verifying voter applicants' citizenship status?

10:03:15 9 A. Myself.

10:03:17 10 Q. Anybody else?

10:03:18 11 A. No.

10:03:20 12 Q. Okay.

10:03:21 13 A. Not at this time.

10:03:24 14 MR. HEMSTREET: I'm at a natural

10:03:25 15 stopping point if we would like to take a short break

10:03:28 16 right now.

10:03:34 17 MR. MORGAN: Fine by me.

10:03:37 18 MR. LANGHOFER: Same here.

10:03:41 19 MR. HEMSTREET: Well, if we can go off the

10:03:42 20 record, and let's say about five minutes.

10:03:44 21 THE VIDEOGRAPHER: We're off the record.

10:03:45 22 Time on the video monitor is 10:03 a.m.

10:03:47 23 (A recess was taken.)

10:17:38 24 THE VIDEOGRAPHER: We're on the record.

10:17:39 25 Time on the video monitor is 10:17 a.m.

10:17:43 1 BY MR. HEMSTREET:

10:17:44 2 Q. All right. Is anyone else in the room with you

10:17:48 3 besides Jean now?

10:17:49 4 A. No, just Jean and I.

10:17:52 5 Q. Great. I'd like to turn to the challenged laws

10:17:55 6 now. If you could open what's been premarked as Petty

10:17:59 7 Exhibit 19.

10:18:04 8 When you have that up, can you tell me what

10:18:05 9 that document is?

10:18:12 10 A. That is the House Bill 2492.

10:18:16 11 Q. Okay. Can you please turn to Page 4 at the

10:18:20 12 bottom, Line 35?

10:18:31 13 A. Okay.

10:18:33 14 Q. And there it says, "Within ten days after

10:18:37 15 receiving an application for registration on a form

10:18:41 16 produced by the United States Election Assistance

10:18:44 17 Commission that is not accompanied by satisfactory

10:18:46 18 evidence of citizenship, the County Recorder or other

10:18:50 19 officer in charge of elections shall use all available

10:18:54 20 resources to verify the citizenship status of the

10:18:57 21 applicant and at a minimum compare the information

10:19:00 22 available on the application for registration with the

10:19:03 23 following, provided the county has access."

10:19:06 24 Did I read that correctly?

10:19:08 25 A. Yes.

10:19:10 1 Q. Okay. It then goes on to list a number of
10:19:12 2 databases, and the first is the Department of
10:19:16 3 Transportation databases of Arizona driver's licenses or
10:19:19 4 nonoperating identification licenses.
10:19:24 5 Are you familiar with the Arizona Department of
10:19:26 6 Transportation databases?
10:19:27 7 A. Yes.
10:19:28 8 Q. Is that the same as we've been discussing and
10:19:31 9 calling MVD?
10:19:32 10 A. Yes.
10:19:37 11 Q. And you used the information from the ADOT or
10:19:40 12 MVD database to confirm citizenship as we discussed
10:19:43 13 earlier, right?
10:19:44 14 A. Yes.
10:19:46 15 Q. Does your county have a memorandum of
10:19:48 16 understanding or agreement with the Arizona Department
10:19:54 17 of Transportation's MVD to govern the sharing of this
10:19:58 18 data?
10:19:59 19 A. No.
10:20:02 20 Q. Okay. Do you know if the State or Secretary of
10:20:05 21 State's Office has an agreement?
10:20:06 22 A. I believe so.
10:20:10 23 Q. Do you know whether that existing agreement
10:20:13 24 covers the uses outlined in H.B. 2492?
10:20:17 25 A. I'm not aware.

10:20:20 1 Q. Do you recall an incident last year where
10:20:24 2 database matching with the MVD database produced
10:20:27 3 erroneous results and caused downgrading of voters to
10:20:31 4 federal only voting status?

10:20:36 5 A. I did not remember that, but I was reminded in
10:20:41 6 looking over the items that you guys provided, and then
10:20:47 7 I recalled that, yes, there was a time last year that
10:20:51 8 there was a problem.

10:20:54 9 Q. If we could quickly go to Document M, as in
10:21:04 10 ma'am.

10:21:04 11 A. Okay.

10:21:06 12 Q. Is this the document that you were referring
10:21:08 13 to?

10:21:09 14 A. Yes.

10:21:11 15 Q. And so this is an e-mail; is that right?

10:21:14 16 A. Yes.

10:21:15 17 Q. And it's from AVID Help?

10:21:19 18 A. Yes.

10:21:21 19 Q. And it's to Wendy John at Graham; is that
10:21:21 20 right?

10:21:25 21 A. Yes.

10:21:27 22 Q. Okay. And the first line of it, "As we
10:21:32 23 discussed on our call today, this information
10:21:35 24 provides -- or this e-mail provides information and
10:21:37 25 action items about the MVD issues that we have been

10:21:39 1 investigating," and then the last sentence of the
10:21:44 2 first -- the next paragraph, "This meant that some voter
10:21:47 3 records were incorrectly receiving a null value for
10:21:52 4 authorized presence, which resulted in the voter being
10:21:55 5 placed in fed only status when they should have been --"

10:22:01 6 MS. ROOF: Do you want it opened?

10:22:02 7 THE WITNESS: Yeah. I'm sorry.

10:22:02 8 MS. ROOF: That's okay.

10:22:02 9 THE WITNESS: Let me get to that.

10:22:05 10 And you're talking about the paragraph

10:22:07 11 "To ensure that no incorrectly-issued federal only
10:22:10 12 ballots," that paragraph?

10:22:11 13 BY MR. HEMSTREET:

10:22:12 14 Q. I'm sorry. No, the -- it's the second
10:22:14 15 paragraph of the e-mail that begins with "Following the
10:22:19 16 MVD's investigation."

10:22:20 17 A. Oh, I see. Okay.

10:22:22 18 Q. Read that last --

10:22:21 19 A. Sorry about that.

10:22:21 20 Q. Can you just confirm that that last sentence

10:22:25 21 says that voters were placed in fed only status when

10:22:29 22 they should have been full ballot voters?

10:22:32 23 A. Yes.

10:22:34 24 Q. Okay. And if you see the Bates number in the

10:22:40 25 bottom right-hand corner of that document, starts with

10:22:43 1 AZ?

10:22:44 2 A. Yes.

10:22:45 3 Q. I'll represent this was produced by the

10:22:48 4 Secretary of State in this litigation.

10:22:51 5 MR. HEMSTREET: Can we mark this first as

10:22:55 6 Exhibit 256, I believe, Jody.

10:23:02 7 MR. LANGHOFER: Hasn't this one been

10:23:04 8 marked several times already?

10:23:05 9 MR. HEMSTREET: Okay.

10:23:10 10 BY MR. HEMSTREET:

10:23:10 11 Q. So your office is aware that there was a

10:23:12 12 database error that's referred to in this e-mail from

10:23:15 13 October of 2022?

10:23:17 14 A. Yes.

10:23:18 15 Q. Did this error affect any voters in Graham

10:23:23 16 County?

10:23:23 17 A. I do not recall. I know that we reached out to

10:23:28 18 the voters that they notified us that could potentially

10:23:30 19 be affected, and I know that we did send letters to

10:23:34 20 them, and I do believe we ran them back through the

10:23:39 21 database to make sure -- like to check for a rematch.

10:23:44 22 If it matched it, we notified the voter and

10:23:47 23 told them that they were a full ballot voter and not a

10:23:51 24 fed voter and provided them with a full ballot, a full

10:23:57 25 voter ballot.

10:24:00 1 Q. Was your office concerned about this error
10:24:03 2 being so close to the November 2022 election?

10:24:08 3 A. I don't recall if we were concerned pertaining
10:24:11 4 to the election.

10:24:13 5 Q. In light of this, what does this say to you
10:24:16 6 about the reliability of the data matching to assess a
10:24:20 7 person's citizenship status?

10:24:22 8 MR. LANGHOFER: Form.

10:24:26 9 MS. ROOF: You can answer.

10:24:28 10 THE WITNESS: I can't really say what I
10:24:30 11 felt about it at the time.

10:24:38 12 BY MR. HEMSTREET:

10:24:38 13 Q. Going back to 2492 and the databases listed
10:24:45 14 there, it then says the Social Security Administration
10:24:54 15 database; do you see that in --

10:24:56 16 A. Yes.

10:24:57 17 Q. -- what's been marked Exhibit 19?

10:25:00 18 Is this the same database we were discussing
10:25:02 19 earlier?

10:25:03 20 A. Yes.

10:25:03 21 Q. And so you have access to that?

10:25:08 22 A. I'm sorry, can you say that again?

10:25:09 23 Q. So your office has access to that?

10:25:12 24 A. Through the HAVA check. We don't have
10:25:15 25 individual access to any of these databases. Just that

10:25:21 1 when we click on that HAVA check, it checks both the
10:25:26 2 Department of Transportation database and the Social
10:25:33 3 Security.

10:25:33 4 Q. Do you know if this Social Security
10:25:36 5 Administration database can verify citizenship status at
10:25:40 6 all?

10:25:41 7 A. I know that it can for Social Security.

10:25:46 8 Q. Okay. But you don't know one way or the other
10:25:48 9 on citizenship status?

10:25:50 10 A. I do not know.

10:25:53 11 Q. The next database on the lists in the law is
10:25:56 12 SAVE. We've already discussed SAVE.

10:26:00 13 A. Yes.

10:26:01 14 Q. And is this, again, only used to verify
10:26:04 15 citizenship of naturalized voters?

10:26:08 16 A. As far as I'm aware of. I don't utilize it for
10:26:14 17 any other -- like for just a -- for any voter
10:26:21 18 registration form, I don't utilize SAVE.

10:26:24 19 Q. So it's only used if someone presents a
10:26:27 20 naturalization number or A-Number?

10:26:30 21 A. I believe so.

10:26:33 22 Q. It also says if practicable, using this
10:26:39 23 database if practicable. Is that language if
10:26:42 24 practicable clear to you?

10:26:43 25 MR. LANGHOFER: Calls for a legal

10:26:44 1 conclusion.

10:26:44 2 MR. HORLEY: Calls for a legal conclusion.

10:26:46 3 THE WITNESS: I would interpret that to

10:26:49 4 mean if it makes sense to utilize it. I guess I really

10:26:54 5 should not even say, because I don't really know what

10:26:58 6 they're meaning by if practicable.

10:27:02 7 BY MR. HEMSTREET:

10:27:03 8 Q. Is there an agreement specifically with your

10:27:06 9 county to use this database?

10:27:09 10 A. Yes.

10:27:12 11 Q. And so is that existing agreement with the

10:27:16 12 USCIS, or who is that with?

10:27:18 13 A. I believe it is. It's -- well, I know it's --

10:27:23 14 we just refer to it as SAVE. Again, I have not used the

10:27:28 15 database. I am not certain who is in control of it.

10:27:34 16 Q. Do you know if that agreement covers the uses

10:27:36 17 outlined in H.B. 2492?

10:27:39 18 A. I do not know.

10:27:43 19 Q. The next database on here is NAPHSIS, the

10:27:48 20 National Association of Public Health Statistics and

10:27:51 21 Information System. Have you heard of NAPHSIS?

10:27:54 22 A. That might be what I think -- what I thought

10:27:57 23 was called the Death Index, I think, but I think that's

10:28:02 24 what it checks is the death records.

10:28:09 25 Q. Could your office, I guess, use -- or are you

10:28:13 1 familiar with the Electronic Verification of Vital
10:28:15 2 Events database that NAPHSIS operates?
10:28:21 3 A. I am not familiar with that.
10:28:23 4 Q. So you don't know if your office could use the
10:28:26 5 EVVE, the Electronic Verification of Vital Events,
10:28:30 6 database for citizenship verification?
10:28:33 7 A. I do not have access to that, no.
10:28:38 8 Q. And then Line 5 -- or Page 5, Line 5 states
10:28:42 9 that your office must or shall also utilize any other
10:28:47 10 state, city, town, county, or federal database or any
10:28:52 11 other database relating to voter registration.
10:28:54 12 Do you see that?
10:28:55 13 A. I do, yes.
10:28:57 14 Q. Do you have any idea what other databases that
10:29:00 15 language may refer to?
10:29:01 16 MR. LANGHOFER: Same objection.
10:29:04 17 THE WITNESS: No, I do not.
10:29:07 18 BY MR. HEMSTREET:
10:29:07 19 Q. Are you aware of any other databases that
10:29:09 20 you're not currently using that could be useful in
10:29:13 21 carrying out your office's voter registration duties?
10:29:16 22 A. No.
10:29:19 23 Q. And then earlier you said that you access all
10:29:22 24 these databases through HAVA. Is that true for all the
10:29:27 25 databases we just discussed or just the Social Security

10:29:32 1 Administration database and the Motor Vehicle Department

10:29:36 2 database?

10:29:37 3 A. I am only aware of the Social Security, the

10:29:41 4 Motor Vehicle, and possibly the death record.

10:29:45 5 Q. And my question is a little different. Do you

10:29:47 6 access all those through HAVA or are any of them through

10:29:51 7 a separate means of accessing them?

10:29:54 8 A. So we access them through the AVID system in

10:29:59 9 doing the voter process. There's just a button. So

10:30:02 10 when we click on that button, it does a background

10:30:07 11 process that I -- so I don't know where it is or what

10:30:10 12 it's accessing. I just know that it comes back with a

10:30:14 13 match or it doesn't. But I'm not -- you know, so it's

10:30:18 14 literally a button. We don't see what it's checking.

10:30:22 15 It's just called HAVA checks.

10:30:24 16 Q. So you never like open up a different database

10:30:28 17 at any point?

10:30:29 18 A. No.

10:30:31 19 Q. And that's true for all of these?

10:30:33 20 A. True. Yes.

10:30:37 21 Q. Page 4, Line 38, the law states that your

10:30:42 22 office must use all available resources to verify the

10:30:49 23 citizenship of a federal form applicant who fails to

10:30:53 24 provide DPOC.

10:30:54 25 Do you see that?

10:30:55 1 A. Yes.

10:31:01 2 Q. Do you understand use all available resources;

10:31:07 3 do you understand what that means to you?

10:31:09 4 MR. LANGHOFER: Same objection.

10:31:10 5 MR. HORLEY: Calls for a legal conclusion.

10:31:11 6 THE WITNESS: To me that means the HAVA

10:31:14 7 check that's provided through the AVID voter system.

10:31:19 8 BY MR. HEMSTREET:

10:31:19 9 Q. So there are no other resources come to mind

10:31:22 10 that are available to you pursuant to that law?

10:31:28 11 A. Nothing else --

10:31:29 12 MR. HORLEY: Same objection.

10:31:30 13 THE WITNESS: -- other than the SAVE.

10:31:36 14 BY MR. HEMSTREET:

10:31:36 15 Q. And then Page 5, Lines 14 through 17 says, "If

10:31:42 16 the County Recorder or other officer in charge of

10:31:45 17 elections matches the applicant with information that

10:31:48 18 the applicant is not a United States citizen, the County

10:31:53 19 Recorder or other officer in charge of elections shall

10:31:55 20 reject the application."

10:31:57 21 Do you see that?

10:31:57 22 A. I see that, yes.

10:32:01 23 Q. What information could be used to determine an

10:32:05 24 applicant is not a citizen?

10:32:09 25 MR. HORLEY: Same objection.

10:32:11 1 THE WITNESS: I would say just running the
10:32:15 2 HAVA checks and it coming back with hypothetically an
10:32:21 3 F-type license that would confirm that the person was a
10:32:24 4 noncitizen.

10:32:27 5 BY MR. HEMSTREET:

10:32:28 6 Q. And you said would confirm someone is a
10:32:30 7 noncitizen. But earlier we discussed that someone with
10:32:34 8 an F-type license could have naturalized since obtaining
10:32:38 9 that F-type license; is that right?

10:32:40 10 A. Yes, which would require further information
10:32:42 11 from the voter.

10:32:44 12 Q. But in that hypothetical, that information that
10:32:49 13 you receive from the HAVA check would be inaccurate as
10:32:52 14 to their actual citizenship status; is that right?

10:32:56 15 A. It could possibly be.

10:33:05 16 Q. Has your office ever been given a specific list
10:33:07 17 of means by which a voter applicant can be deemed or
10:33:12 18 proven to be a noncitizen?

10:33:17 19 A. Not that I'm aware of.

10:33:19 20 Q. And has the Secretary of State's Office ever
10:33:22 21 given your office a list of the information under this
10:33:25 22 law that constitutes evidence of lack of U.S.
10:33:30 23 citizenship?

10:33:30 24 A. Not to my knowledge.

10:33:35 25 Q. And pursuant to this law and information under

10:33:39 1 it, is there anything beyond a government or voter
10:33:43 2 registration database that you would consider to be
10:33:46 3 information?

10:33:48 4 MR. HORLEY: Same objection.

10:33:49 5 THE WITNESS: No.

10:33:52 6 BY MR. HEMSTREET:

10:33:52 7 Q. I'd like to have you now open what's been
10:33:55 8 premarked as Petty Exhibit 21.

10:34:06 9 When you have that up, can you please tell me
10:34:08 10 what that is?

10:34:09 11 A. That's the House Bill 2243.

10:34:13 12 Q. Great.

10:34:14 13 And on Page 4, Line 5, Section 10, it says that
10:34:21 14 the County Recorder shall cancel a registration, quote,
10:34:25 15 When the County Recorder obtains information pursuant to
10:34:29 16 this section and confirms that the person registered is
10:34:32 17 not a United States citizen.

10:34:36 18 Under this provision, what information could be
10:34:42 19 used to confirm a voter is not a citizen?

10:34:45 20 MR. LANGHOFER: Same objection.

10:34:51 21 THE WITNESS: I'm not certain of what that
10:34:55 22 would mean other than, again, running them through the
10:34:59 23 AVID system and doing the HAVA citizenship checking.

10:35:06 24 BY MR. HEMSTREET:

10:35:06 25 Q. So all the things that we just discussed would

10:35:09 1 apply here?

10:35:10 2 A. Yes.

10:35:13 3 Q. Going to Page 6, Line 6, Section H.

10:35:21 4 A. I'm sorry, that was Page 6?

10:35:23 5 Q. Yes. Line 6.

10:35:25 6 A. Line 6? Okay.

10:35:26 7 Okay, I have it.

10:35:32 8 Q. And here it says, "To the extent practicable,

10:35:37 9 each month the County Recorder shall compare persons who

10:35:39 10 are registered to vote in that county and who the County

10:35:43 11 Recorder has reason to believe are not United States

10:35:47 12 citizens."

10:35:48 13 What would give your office a reason to believe

10:35:51 14 a person is not a U.S. citizen?

10:35:53 15 MR. LANGHOFER: Same objection.

10:35:55 16 MR. HORLEY: Legal conclusion.

10:35:56 17 THE WITNESS: I would not have a reason to

10:35:58 18 believe a person -- let me rephrase that.

10:36:01 19 I can't think of anything that would cause

10:36:06 20 me to think somebody wasn't a U.S. citizen if the system

10:36:11 21 had already matched them.

10:36:13 22 BY MR. HEMSTREET:

10:36:13 23 Q. If the system had matched them.

10:36:16 24 Would the return of an F-type license give your

10:36:19 25 office reason to believe they're not a U.S. citizen

10:36:22 1 under this law?

10:36:24 2 MR. HORLEY: Same objection.

10:36:26 3 THE WITNESS: It would create a reason to
10:36:28 4 reach out to the voter to inquire if they have a
10:36:32 5 naturalization certificate.

10:36:51 6 BY MR. HEMSTREET:

10:36:51 7 Q. And I believe I asked this, but for the wrong
10:36:54 8 law. So has your office ever been given specific
10:36:58 9 guidance on what would give rise to reason to believe a
10:37:01 10 person is not a U.S. citizen?

10:37:06 11 A. No.

10:37:07 12 Q. And how about the converse; has your office
10:37:10 13 ever been provided with specific guidance regarding what
10:37:12 14 is not a valid reason to believe someone is a U.S.
10:37:15 15 citizen?

10:37:16 16 A. No.

10:37:21 17 Q. Page 6, Line 20, Section J, it says, "To the
10:37:28 18 extent practicable, the County Recorder shall review
10:37:32 19 relevant city, town, county, state and federal databases
10:37:36 20 that you have access to to confirm information obtained
10:37:41 21 that requires cancellation of registrations pursuant to
10:37:44 22 this section."

10:37:46 23 Beyond the databases we've already discussed,
10:37:48 24 do you have any idea what databases that language is
10:37:50 25 referring to?

10:37:52 1 MR. HORLEY: Same objection.

10:37:53 2 THE WITNESS: I do not. No.

10:37:57 3 BY MR. HEMSTREET:

10:37:58 4 Q. If a registered voter is removed from the rolls

10:38:01 5 under H.B. 2243 based on an erroneous determination that

10:38:05 6 they are not a U.S. citizen, can that person be added

10:38:08 7 back to the rolls if the registration deadline has

10:38:11 8 passed?

10:38:14 9 A. I believe so. I believe that if there was an

10:38:19 10 error and the voter provided proof and it matched in the

10:38:22 11 system, it would retro back to the date that they first

10:38:26 12 registered.

10:38:27 13 Q. Can you walk through how your county would do

10:38:29 14 that?

10:38:31 15 A. So in the system we just go in and open up the

10:38:36 16 voter's record, and we would input the new information

10:38:41 17 into their record and run the HAVA check again. And if

10:38:45 18 it matched it, then, you know, you're done.

10:38:51 19 If, however, it was, say, a birth certificate

10:38:53 20 that they bring in, then we go into the voter's record

10:38:56 21 and we note that the voter has a -- has provided a U.S.

10:39:01 22 birth certificate, and we go in and we change the

10:39:06 23 registrant status to make them a full ballot voter.

10:39:11 24 Q. Okay. If H.B. 2243 were to take effect, would

10:39:15 25 you still be able to add that erroneously removed voter

10:39:20 1 back onto the rolls after the registration deadline?

10:39:24 2 MR. HORLEY: Calls for a legal conclusion,
10:39:25 3 calls for speculation.

10:39:30 4 THE WITNESS: And I would be speculating,
10:39:31 5 because I am not absolutely familiar with exactly
10:39:39 6 what -- how these processes would take place, because
10:39:42 7 we're not -- we didn't -- we have not ever implemented
10:39:46 8 these, so we have not changed our processes.

10:39:49 9 BY MR. HEMSTREET:

10:39:49 10 Q. So you don't know one way or the other whether
10:39:52 11 H.B. 2243 would change your ability to correct that
10:39:57 12 erroneous removal of a voter?

10:39:59 13 A. I think it --

10:40:01 14 MR. HORLEY: Same objection.

10:40:02 15 THE WITNESS: I think if it was erroneous,
10:40:05 16 we would still be able to make the change. If not, we
10:40:11 17 would just create a new record, I would believe, and
10:40:14 18 retro it back to their date of registration.

10:40:18 19 BY MR. HEMSTREET:

10:40:18 20 Q. Do you know if this is laid out in the draft
10:40:21 21 2023 EPM?

10:40:23 22 A. I do not believe so.

10:40:27 23 Q. Do you know whether or not this practice could
10:40:29 24 vary from county to county?

10:40:32 25 MR. HORLEY: Same objection.

10:40:33 1 THE WITNESS: I do not believe so.

10:40:34 2 MR. HORLEY: Calls for speculation.

10:40:37 3 BY MR. HEMSTREET:

10:40:37 4 Q. I'm sorry, you said you're not clear?

10:40:39 5 A. I don't think so. In my -- to my knowledge,
10:40:43 6 every county processes the same, and it is based on the
10:40:47 7 EPM 2019 currently.

10:40:51 8 Q. And apologies to belabor this point, but on
10:40:58 9 Page 4, Line 5 of 2243 where it says "When the County
10:41:03 10 Recorder obtains information pursuant --"

10:41:09 11 A. Page 4, and that was Line 5?

10:41:15 12 Q. Yes, Section 10.

10:41:17 13 A. Okay.

10:41:21 14 Q. Was it your testimony that you would consider
10:41:23 15 the F-Type license to be information under that law?

10:41:30 16 MR. HORLEY: Calls for a legal conclusion.

10:41:32 17 THE WITNESS: Can you repeat that, please?

10:41:36 18 BY MR. HEMSTREET:

10:41:36 19 Q. Yeah.

10:41:36 20 So the law, you know, asks County Recorders,
10:41:39 21 when they obtain information that someone is not a U.S.
10:41:43 22 citizen or has reason to believe that they're not a U.S.
10:41:46 23 citizen, and we've been discussing F-type licenses, and
10:41:52 24 so I just want to understand. Would your office
10:41:54 25 consider an F-type license to be information that gives

10:41:59 1 your office reason to believe that someone is not a U.S.
10:42:01 2 citizen?

10:42:03 3 MR. HORLEY: Same objection.

10:42:05 4 THE WITNESS: Again, initially we would
10:42:07 5 have to process the voter as a non-U.S. citizen because
10:42:11 6 that is how it returns on an F-type license. So we
10:42:15 7 would reach out to the voter and confirm whether they
10:42:18 8 have or have not done their naturalization and then
10:42:25 9 proceed from that.

10:42:26 10 BY MR. HEMSTREET:

10:42:27 11 Q. And would you then send them notices?

10:42:29 12 A. Yes. We would send them a letter informing
10:42:32 13 them that they would need to provide that certificate.

10:42:37 14 Q. And then if that person doesn't respond in
10:42:40 15 35 days, under this law, are you required to remove them
10:42:43 16 from the rolls?

10:42:48 17 MR. HORLEY: Calls for a legal conclusion,
10:42:49 18 calls for speculation.

10:42:50 19 THE WITNESS: I'm not familiar with what
10:42:52 20 would happen after the 35 days.

10:42:58 21 BY MR. HEMSTREET:

10:42:59 22 Q. If you could, sorry, go to Line 11 through 14,
10:43:06 23 also on Page 4 there.

10:43:07 24 A. Uh-huh.

10:43:08 25 Q. "The County Recorder shall send the person

10:43:11 1 notice by forwardable mail that the person's

10:43:14 2 registration will be canceled in 35 days unless the

10:43:17 3 person provides satisfactory evidence of United States

10:43:21 4 citizenship."

10:43:21 5 Did I read that right?

10:43:25 6 A. Yes, you did.

10:43:26 7 Q. So earlier this morning you said that these

10:43:31 8 laws may disenfranchise voters, potentially. Is this an

10:43:36 9 example of how H.B. 2243 could disenfranchise a citizen?

10:43:41 10 MR. HORLEY: Same objection.

10:43:42 11 THE WITNESS: This could be.

10:43:50 12 BY MR. HEMSTREET:

10:43:51 13 Q. I'm going to change gears slightly. If you

10:43:55 14 could turn back to Document C, which are the Graham

10:44:01 15 County responses to the consolidated plaintiffs'

10:44:03 16 interrogatories.

10:44:13 17 A. Yes, we have it.

10:44:14 18 Q. And if you take a look at interrogatory

10:44:17 19 number 9 and your office's response.

10:44:38 20 Do you see where it says, "Subject to and

10:44:40 21 without waiving these objections, to Merriman's

10:44:43 22 knowledge there has been no case where the county has

10:44:46 23 personally determined that a non-U.S. citizen or

10:44:48 24 non-county resident has registered to vote or voted

10:44:53 25 since she joined the Recorder's Office in February

10:44:55 1 2016"?

10:44:57 2 A. Yes.

10:44:59 3 Q. What do you mean by -- determined?

10:45:06 4 THE COURT REPORTER: You cut out, Robbie.

10:45:08 5 BY MR. HEMSTREET:

10:45:08 6 Q. What does your office mean when it says has not
10:45:10 7 personally determined?

10:45:13 8 A. I don't personally determine anybody's
10:45:15 9 citizenship.

10:45:19 10 Q. Is your office aware of any noncitizen
10:45:21 11 registering to vote or voting in Graham County since
10:45:25 12 February 2016?

10:45:27 13 A. No.

10:45:29 14 Q. How about at any time?

10:45:33 15 A. Not that I'm aware of.

10:45:36 16 Q. And just to be clear for the record, you're not
10:45:38 17 aware of any incidents where a noncitizen registered to
10:45:42 18 vote in Graham County?

10:45:44 19 A. Right, a noncitizen, I'm not aware of any.

10:45:48 20 Q. And you're not aware of any incident in which a
10:45:51 21 noncitizen actually voted in Graham County?

10:45:54 22 A. No, I'm not aware of that.

10:46:01 23 Q. If we could also briefly turn to the document
10:46:04 24 marked N.

10:46:16 25 A. Okay, we're there.

10:46:17 1 Q. Do you recognize this document?

10:46:21 2 A. It is a Sent (Printed) Notices. It is a report

10:46:26 3 that comes out of the AVID system.

10:46:30 4 Q. And does this look like reports that come to

10:46:32 5 your office out of the AVID system?

10:46:35 6 A. Yes, that would be ours.

10:46:38 7 Q. And it says "Graham" there on the left, above

10:46:41 8 the far left column? Sorry.

10:46:44 9 A. Yes.

10:46:45 10 Q. Okay. And then this was produced by your

10:46:50 11 office. There's a Bates number in the far right. Do

10:46:54 12 you see that?

10:46:54 13 A. Yes.

10:46:56 14 Q. Okay.

10:46:56 15 MR. HEMSTREET: And could we mark this as

10:46:57 16 Exhibit 257; is that right, Jody?

10:46:57 17 THE COURT REPORTER: (Nodded.)

10:47:07 18 BY MR. HEMSTREET:

10:47:07 19 Q. Does this reflect all voter register applicants

10:47:10 20 who are placed on federal only status in Graham County

10:47:13 21 from January 1, 2022 to June 14th, 2023?

10:47:20 22 A. Can you go to the bottom of the page, please?

10:47:20 23 MS. RUTH: Yes.

10:47:29 24 THE WITNESS: Can you repeat that

10:47:32 25 question?

10:47:32 1 BY MR. HEMSTREET:

10:47:32 2 Q. Yeah.

10:47:33 3 I'm trying to understand if this reflects all
10:47:36 4 applicants who were placed on fed only status in the
10:47:42 5 dates at the top there?

10:47:44 6 A. No, it does not reflect all of the voters that
10:47:47 7 are registered as a fed voter. It represents all of the
10:47:53 8 printed notices that were sent from January 1st of 2022
10:47:58 9 through June 14th of 2023. This is just a sent notice
10:48:02 10 report.

10:48:05 11 Q. So within those dates this doesn't capture
10:48:09 12 everyone who has attempted to register who's fed only;
10:48:13 13 it just captures those who have been sent notice in that
10:48:16 14 period?

10:48:17 15 A. Yes.

10:48:20 16 Q. And then in the Notice Name column, the very
10:48:25 17 first row or actual entry, it has "F Type License"
10:48:31 18 there; do you see that?

10:48:32 19 A. On Page 1?

10:48:33 20 Q. On Page 1.

10:48:36 21 A. Can you scroll up?

10:48:40 22 Yes, "Registration - F Type License."

10:48:44 23 Q. So that's an example of someone who registered
10:48:48 24 with an F-type license?

10:48:50 25 A. Yes.

10:48:51 1 Q. And so would they be just unable to vote in any

10:48:57 2 election unless they provide DPOC?

10:48:59 3 A. Yes.

10:49:01 4 Q. The rest of the registrations on that first

10:49:06 5 page say "Fed ID Only," correct?

10:49:09 6 A. Yes.

10:49:10 7 Q. And so for all those individuals, they are able

10:49:13 8 to vote, but only in federal elections; is that right?

10:49:18 9 A. And the fed ID stands for that they have to

10:49:21 10 provide proof of citizenship in order to vote.

10:49:25 11 Q. Okay. And then on Page 2 there are a few at

10:49:30 12 the bottom that say "Fed No ID." Can you explain the

10:49:35 13 distinction between "Fed ID Only" and "Fed No ID"?

10:49:41 14 A. I believe they are the same. It was just a

10:49:44 15 change. So there's two different types of notices in

10:49:48 16 our AVID system, and they are actually the same letter.

10:49:52 17 It was just that when we created the notices, we listed

10:49:56 18 the notice under "Registration - Fed ID Only" and then

10:50:00 19 we changed the notice and changed it to "Registration -

10:50:03 20 Fed No ID."

10:50:06 21 Q. Okay. You --

10:50:07 22 A. But it is the same letter.

10:50:09 23 Q. The same letter. And do they have the same --

10:50:11 24 A. The same outcome.

10:50:14 25 I'm sorry?

10:50:16 1 Q. I'm sorry. I believe you said they have the
10:50:17 2 same outcome, they mean the same thing?

10:50:19 3 A. Yes. "Fed ID Only" and "Fed No ID" are the
10:50:23 4 same. They provided -- or they did not provide -- they
10:50:26 5 didn't match or something to that effect.

10:50:31 6 Q. And you said they're unable to vote unless they
10:50:34 7 provide proof of citizenship. Does that apply to
10:50:37 8 federal elections as well?

10:50:39 9 A. Yes. They present -- they will have to
10:50:45 10 present -- I say citizenship. I guess it would be they
10:50:47 11 would have to present a driver's license, some form of
10:50:53 12 proof of citizenship.

10:50:55 13 Q. So is there any difference practically between
10:51:00 14 these "Fed ID Only" and the F-type license?

10:51:05 15 A. So the fed only, they are -- they've proven
10:51:09 16 that they're a citizen and they're allowed to receive a
10:51:13 17 ballot by mail. And so that would be the difference, is
10:51:18 18 that they matched the social, but they may have an
10:51:22 19 out-of-state driver's license, and so they did not match
10:51:26 20 the Arizona MVD system. And so since their social
10:51:31 21 matched, they become a fed only voter with the right to
10:51:34 22 receive a ballot by mail.

10:51:37 23 Q. So they have the right to receive it, but they
10:51:40 24 can't actually vote unless they provide citizenship
10:51:42 25 information?

10:51:43 1 A. The fed only can receive the early ballot and
10:51:48 2 vote that early ballot without any other restriction.
10:51:52 3 Q. But only for federal elections; is that right?
10:51:55 4 A. Right. They will only -- they will receive a
10:51:58 5 federal only ballot.
10:52:00 6 Q. Okay.
10:52:02 7 A. Only, yeah, the federal and congressional
10:52:05 8 races.
10:52:06 9 Q. Whereas in that first row the person with the
10:52:10 10 F-type license, they would not receive a ballot at all?
10:52:13 11 A. They would not. And the "Fed ID Only" or
10:52:17 12 "Fed No ID," they are not eligible to receive a ballot
10:52:20 13 by mail.
10:52:22 14 Q. I'm sorry, I'm confused. I thought you just
10:52:24 15 said that they did receive a ballot by mail, fed only?
10:52:28 16 A. Okay, so there are -- in this sent notice
10:52:30 17 report there are three types of fed -- actually, four.
10:52:34 18 "F Type License," they're not a citizen. They do not
10:52:37 19 get a ballot and they are not registered until they've
10:52:41 20 proven citizenship.
10:52:42 21 A "Fed ID Only" and a "Fed No ID" are people
10:52:47 22 that registered to vote, they provided data, but it did
10:52:51 23 not match the system, maybe, or they didn't provide any
10:52:55 24 citizenship data. They were registered in that
10:52:57 25 retrospect and they are eligible to go to a polling

10:53:01 1 location on election day and vote contingent upon

10:53:06 2 providing proof that they are a citizenship, that they

10:53:09 3 are a citizen.

10:53:10 4 And then there is the "Fed Only," who provided

10:53:14 5 us Social Security, it matched the system, and so we can

10:53:19 6 confirm that they are a citizen. They just did not

10:53:23 7 provide the second part where a driver's license or a

10:53:26 8 birth certificate, but they are eligible to receive a

10:53:30 9 ballot by mail.

10:53:31 10 Q. I understand. So the distinction is basically

10:53:34 11 ID, "Fed ID Only" versus "Fed Only"?

10:53:37 12 A. Correct.

10:53:45 13 Q. I'd like to shift gears again and discuss

10:53:50 14 H.B. 2492's documentary proof of residence requirements.

10:53:56 15 Can we start with how Graham County currently uses

10:54:01 16 voter -- applicants' residence information?

10:54:03 17 So in order to register to vote, applicants are

10:54:07 18 currently required to provide an address, or if they

10:54:10 19 don't, a description or drawing of the location of their

10:54:13 20 residence; is that right?

10:54:14 21 A. Yes.

10:54:16 22 Q. Can a P.O. Box be used to meet that

10:54:18 23 requirement?

10:54:19 24 A. It cannot, no.

10:54:22 25 Q. And why is residence address or location

10:54:25 1 information important for voter registration?

10:54:28 2 A. That is how we precinct the voter and how we

10:54:33 3 know what type of ballot and what type of races they get

10:54:35 4 to vote in.

10:54:39 5 Q. So I want to talk about the two options the

10:54:41 6 voters have in turn. First, the process by which they

10:54:45 7 provide an actual address. If someone provides an

10:54:48 8 address, does the county use -- or how does the county

10:54:51 9 use that address to actually locate the residence?

10:54:55 10 A. So when we input the data into AVID, AVID has a

10:55:01 11 GIS mapping link to Total Address. So when we put that

10:55:05 12 address in, it will match with that. It's a Shake file

10:55:12 13 that belongs to Graham County that got imported into

10:55:15 14 Total Address. So if it matches, then there's no issue

10:55:21 15 currently.

10:55:21 16 Q. Okay.

10:55:23 17 A. If it does not match, then myself, I will

10:55:28 18 utilize the Graham County GIS maps, the Assessor's and

10:55:33 19 Treasurer's either tax or -- either the tax bill

10:55:40 20 information or the property record information, locate

10:55:45 21 the address, and then I can go and pin drop that GIS

10:55:49 22 information into the Total Address system and match the

10:55:52 23 voter. I also utilize that when they do the drawing for

10:55:56 24 the nonstandard address. We can locate that drawing

10:56:01 25 through the GIS map system and we create a pinpoint for

10:56:05 1 that drawing.

10:56:10 2 Q. How common is it for someone who provides an

10:56:12 3 address that you're not able to locate?

10:56:18 4 A. It would be hard to say. We get people that

10:56:23 5 register addresses that are not in our Total Address

10:56:25 6 system because it is a new home build and that

10:56:29 7 information wasn't provided to us to add.

10:56:33 8 So that's why we utilize as many databases as

10:56:37 9 we can to find the address. But as far as not finding

10:56:41 10 an address at all through all of the databases, I would

10:56:45 11 say probably that's occurred maybe once or -- you know,

10:56:53 12 maybe once a month max, once every six months. It's

10:56:57 13 speculating. I don't have any voters currently that are

10:57:00 14 nonstandard addresses or that I cannot locate an address

10:57:04 15 for.

10:57:05 16 Q. In those very rare instances, what does your

10:57:08 17 office do to locate them?

10:57:10 18 A. So we will reach out to the voter and see if

10:57:14 19 they can give us any further information. In the past,

10:57:18 20 when I couldn't locate an address, it actually was not

10:57:21 21 in our county, and so the voter record was transferred

10:57:25 22 to the county it belonged to.

10:57:28 23 We do have one voter that registered, I believe

10:57:33 24 it was back in 2018, who made up an address just because

10:57:39 25 he was homeless, and so we were not able to match that

10:57:42 1 address and, therefore, we had to create an address for
10:57:46 2 the homeless.

10:57:49 3 Q. And was that individual ultimately able to be
10:57:51 4 registered?

10:57:52 5 A. Yes, he was.

10:57:56 6 Q. And so you sort of mentioned this, but when
10:57:59 7 your office doesn't locate them, you said you reach out
10:58:02 8 to the voter. Do you send a notice?

10:58:03 9 A. Yes, if we have a mailing address. We reach
10:58:07 10 out to the voter in any way that they provided contact
10:58:12 11 information. So e-mail, phone, letter, all three, one
10:58:17 12 or all three of them we will reach out to them for the
10:58:19 13 further information.

10:58:23 14 Q. And you also mentioned the new -- a new home
10:58:26 15 build might present an instance where you're unable to
10:58:30 16 locate them in a database. Are there any other
10:58:33 17 residential addresses where it's like more common than
10:58:38 18 other types of residences where you're not able to
10:58:40 19 locate them in the database?

10:58:42 20 A. Not that I can recall right now.

10:58:47 21 Q. Would -- is it any more common to have trouble
10:58:50 22 locating a residence on a Reservation?

10:58:56 23 A. So that would be probably more common that we
10:58:58 24 wouldn't have the tree west of the store, you know. So
10:59:09 25 they'll give us a description. We're not going to have

10:59:11 1 that in our system, so we will have to locate that
10:59:16 2 location and pin drop it into our files to create the
10:59:21 3 address so we can precinct them.
10:59:23 4 One thing that is nice with the Reservations
10:59:27 5 are there's just one precinct in our Peridot residence
10:59:34 6 locations and then one in Bylas. So it's not like it's
10:59:38 7 in -- you know, there's a whole bunch of different
10:59:41 8 choices. So it's not quite difficult, but it is -- it's
10:59:44 9 common.
10:59:46 10 Q. I think and you said slightly more common at
10:59:49 11 least than other residences to have those issues?
10:59:52 12 A. Yes.
10:59:55 13 Q. Beyond the databases you listed, GIS, I believe
10:59:58 14 you said the Assessor's, are there any other methods
11:00:02 15 that you use to locate or any other services you use to
11:00:06 16 locate a residence?
11:00:09 17 A. Google Maps.
11:00:10 18 Q. Google Maps?
11:00:12 19 Would you ever use like the Fire Department or
11:00:17 20 911 information?
11:00:18 21 A. That information is in our GIS maps.
11:00:22 22 Q. Oh, it's in the GIS maps? Okay.
11:00:24 23 A. Yes.
11:00:26 24 Q. And then for the second option, where folks
11:00:30 25 draw a description of their residence, how often do you

11:00:35 1 encounter that?

11:00:38 2 A. I wouldn't say it's very often, and I really
11:00:42 3 couldn't tell you what the amount is, because we don't
11:00:46 4 really have a way of knowing how many have done that and
11:00:50 5 that we've located the address from a drawing. There's
11:00:54 6 no way for me to find that data without searching
11:00:57 7 through every paper registration that was ever turned
11:01:03 8 in.

11:01:05 9 Q. In the example we were discussing where the
11:01:08 10 individual was homeless, do you know if they used a
11:01:10 11 drawing or that option?

11:01:13 12 A. No, they typically will put in an address
11:01:16 13 either at the -- we have two locations. They'll either
11:01:21 14 utilize the Post Office address, like the physical
11:01:24 15 location of the Post Office, or the physical location of
11:01:26 16 our local park.

11:01:31 17 Q. And would it be any more common for folks
11:01:33 18 living on a Reservation to use that option?

11:01:39 19 A. To -- oh. They actually do utilize an address
11:01:44 20 for their local Post Office. There are some that have.

11:01:50 21 Q. There are some that have?

11:01:51 22 A. Yes.

11:01:52 23 Q. And my question is, is it any more common or
11:01:56 24 not than folks not on a Reservation to use that option?

11:02:02 25 A. I wouldn't say it's any -- any more or less

11:02:05 1 common.

11:02:08 2 Q. And then speaking of Native American voters in
11:02:12 3 Graham County, does your office do anything specific to
11:02:15 4 try to increase registration with these voters?

11:02:19 5 A. I'm sorry, to try to what?

11:02:21 6 Q. Increase registration with such voters.

11:02:27 7 A. Nothing that I can think of, other than making
11:02:31 8 sure that we, you know, locate where their residence is,
11:02:37 9 what they've drawn on, and, you know, be able to process
11:02:40 10 them and get them registered.

11:02:44 11 We occasionally will do voter registration
11:02:48 12 drives out on the Reservations. It's not very fruitful,
11:02:52 13 so it sometimes just isn't worth the time and effort.
11:03:00 14 But we do everything that we can to make sure that what
11:03:02 15 they provide on a form is acceptable and that we can
11:03:06 16 register them

11:03:08 17 Q. Are those voter registration drives, are
11:03:14 18 there -- does your office take any specific efforts to
11:03:17 19 make sure that they're targeting Native American voters,
11:03:20 20 or are those drives evenly spread out throughout the
11:03:23 21 county?

11:03:23 22 I'm trying to understand if there are any
11:03:25 23 specific things that your office does to try and
11:03:29 24 increase the registration in that demographic.

11:03:32 25 A. Okay. So, typically, outside of the

11:03:35 1 Reservation areas we get a lot of voter registration
11:03:39 2 drives from other entities, political parties, high
11:03:43 3 schools, things like that. So we don't really reach out
11:03:47 4 too much to the city, like inside the city limit type
11:03:52 5 people.

11:03:53 6 But when we're talking about the Reservation,
11:03:57 7 there's not so many registration drives that are
11:04:00 8 provided out there outside of like candidates, and so in
11:04:05 9 the past there have been voter registration drives in
11:04:08 10 those areas for that reason.

11:04:13 11 Q. Okay. Do you know if voter registration is any
11:04:15 12 lower in Native communities than the county average?

11:04:20 13 A. I'm sorry, can you repeat that?

11:04:22 14 Q. Yeah.

11:04:23 15 Do you know if the registration in Native
11:04:27 16 communities is any lower than the county average?

11:04:31 17 A. I don't believe it's any lower, but I'm -- I
11:04:34 18 would be speculating.

11:04:38 19 Q. If the DPOR, the documentary proof of
11:04:43 20 residence, is implemented by H.B. 2492 and H.B. 2243,
11:04:50 21 what affect do you expect that will have on Native
11:04:54 22 voters attempting to register to vote, if any?

11:04:59 23 MR. HORLEY: Calls for speculation.

11:05:03 24 THE WITNESS: I really don't know what the
11:05:04 25 effect would be because I'm not quite sure what I would

11:05:08 1 be able to do. You know, I don't understand the bill
11:05:12 2 enough to know whether I could still continue to address
11:05:16 3 them the way that I currently do. So I really don't
11:05:23 4 know.

11:05:23 5 BY MR. HEMSTREET:

11:05:23 6 Q. If those requirements are implemented, does
11:05:26 7 your office have any plans currently to have any
11:05:30 8 different drives than you currently do to reach out to
11:05:33 9 the Tribes to educate them on the new requirements?

11:05:38 10 A. I have not looked forward to even assessing
11:05:43 11 that information or -- I have not made any plans.

11:05:49 12 MR. HEMSTREET: I think this is a good
11:05:50 13 time to take a quick break and go off the record.

11:05:57 14 MS. RUTH: Out of curiosity, how much
11:05:58 15 longer do you think it's going to be? Because I'm going
11:06:01 16 to need to feed my daughter again in about probably the
11:06:03 17 next 40 minutes or so, within the next 40 minutes.

11:06:08 18 MR. HEMSTREET: Yeah, so I've --

11:06:08 19 THE COURT REPORTER: Would you like to go
11:06:09 20 off the record first?

11:06:10 21 THE VIDEOGRAPHER: We're off the record.
11:06:10 22 Time on the video monitor is 11:06 a.m. This ends
11:06:16 23 Media 1.

11:06:18 24 (A recess was taken.)

11:15:54 25 THE VIDEOGRAPHER: We're on the record.

11:15:55 1 Time on the video monitor is 11:15 a.m. This begins
11:15:58 2 Media 2.

11:16:01 3 BY MR. HEMSTREET:

11:16:02 4 Q. I'll thank you again for your time,
11:16:05 5 Ms. Merriman. I just have a few items.

11:16:08 6 First, at the beginning you had notes that you
11:16:10 7 showed me. What are those notes, again, that you had?

11:16:18 8 A. So it has the total number of Graham County
11:16:20 9 voters, active and inactive, how many fed voters, which
11:16:26 10 ones are no ID and which ones are fed, how many are
11:16:29 11 active, how many are inactive, how many new voters I've
11:16:33 12 had since January, how many are -- have a residential
11:16:42 13 address that was different than their driver's license,
11:16:46 14 and how many did not report their birthplace. I just
11:16:50 15 was trying to think of things you guys might ask.

11:16:53 16 Q. How did you prepare those; where did you get
11:16:57 17 that information?

11:16:57 18 A. This information is in the AVID system.

11:17:00 19 Q. All of that information was pulled from AVID?

11:17:03 20 A. Yes.

11:17:06 21 MR. HEMSTREET: Well, that is all that I
11:17:08 22 actually have. I don't know if any other plaintiffs.
11:17:13 23 Leah, if you're ready to jump in or --

11:17:18 24 MS. MOTZKIN: Yeah, I am. Thank you.

11:17:19 25 MR. HEMSTREET: Thank you, Ms. Merriman.

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EXAMINATION

BY MS. MOTZKIN:

Q. Hi. Thank you. I'm Leah. I appreciate you answering just a few more questions, and they might feel a little bit out of order, as I'm just jumping in and asking a few questions, so I appreciate you bearing with me.

First, is old government data, such as MVD records from ten years ago, indicative of a lack of current U.S. citizenship?

MR. LANGHOFER: Calls for a legal conclusion.

THE WITNESS: Can you repeat that?

BY MS. MOTZKIN:

Q. Yeah, absolutely.

Is old government data, such as MVD records from ten years ago, is that indicative of a lack of U.S. citizenship today?

A. I'm not sure that I understand your question.

Q. Okay. Is data from the MVD, perhaps that someone has an F-type license, which I know we've talked about in a few contexts, from ten years, is that still indicative of a lack of citizenship currently?

MR. LANGHOFER: Same objection.

THE WITNESS: I'm not really sure how to

11:18:26 1 answer this, because somebody that registered to vote
11:18:29 2 ten years ago, if they haven't updated their voter
11:18:32 3 registration, we would have no reason to rerun their
11:18:37 4 information through the databases, so it would just
11:18:40 5 remain whatever it was ten years ago.

11:18:42 6 BY MS. MOTZKIN:

11:18:43 7 Q. Yeah, I'm sorry. Not voter registration, but
11:18:46 8 MVD records. So is old government data from kind of the
11:18:49 9 MVD records evidence and indicative of a lack of
11:18:55 10 citizenship today?

11:18:57 11 MR. LANGHOFER: Same objection.

11:19:01 12 THE WITNESS: I don't know. I don't know
11:19:03 13 how to answer that. I don't understand what you're
11:19:06 14 saying. I'm sorry.

11:19:09 15 BY MS. MOTZKIN:

11:19:09 16 Q. Okay. When is information too old to qualify
11:19:13 17 as information that someone is not a U.S. citizen today?

11:19:15 18 MR. LANGHOFER: Same objection.

11:19:17 19 THE WITNESS: I'm not aware of a time
11:19:19 20 frame or a time limit.

11:19:24 21 BY MS. MOTZKIN:

11:19:24 22 Q. Okay. And we discussed a little bit about this
11:19:26 23 earlier, but we discussed some of the valid sources of
11:19:30 24 information per both rules that someone is not a U.S.
11:19:34 25 citizen. I'm going to go through and run through a few

11:19:37 1 different hypotheticals to make it a little more
11:19:40 2 concrete.

11:19:40 3 MS. MOTZKIN: If opposing counsel wants to
11:19:42 4 put in any standing objections, now would be a good time
11:19:44 5 on that.

11:19:45 6 MR. LANGHOFER: That's great. Yeah, let's
11:19:47 7 just have a standing objection to calling for a legal
11:19:49 8 conclusion. Thanks.

11:19:51 9 MS. MOTZKIN: Thanks.

11:19:53 10 BY MS. MOTZKIN:

11:19:54 11 Q. Okay. So is anything beyond a government or
11:19:56 12 voter registration database a valid source of
11:19:59 13 information that someone is not a U.S. citizen?

11:20:04 14 A. Outside of Motor Vehicle, Social Security, and
11:20:09 15 the SAVE, I don't have any access to any other database.

11:20:14 16 Q. What about a phone call from the voter?

11:20:19 17 A. To declare that they're a noncitizen?

11:20:21 18 Q. Yeah. Would that be considered a valid source
11:20:23 19 of information that someone is not a U.S. citizen?

11:20:29 20 A. I would have to -- I've never encountered
11:20:35 21 anybody that called and said, hey, I'm not a U.S.
11:20:37 22 citizen. If they did, I would actually have to confirm
11:20:41 23 that I was speaking to the voter.

11:20:51 24 THE COURT REPORTER: We've got some
11:20:52 25 background noise.

11:20:55 1 BY MS. MOTZKIN:

11:20:55 2 Q. How about an e-mail from the voter?

11:20:59 3 A. If a voter e-mailed me and said they were not a

11:21:01 4 U.S. citizen --

11:21:02 5 Q. Uh-huh.

11:21:03 6 A. -- I would still have to -- I would still have

11:21:06 7 to contact that voter, and especially if they're in my

11:21:12 8 system as a U.S. citizen and their citizenship matched

11:21:16 9 our databases, I would be very, very suspicious of

11:21:22 10 receiving an e-mail or a phone call, and I would not

11:21:25 11 process or make any changes without speaking to that

11:21:29 12 voter.

11:21:33 13 And, honestly, they would have to come in and

11:21:34 14 sign a form saying they didn't want to be registered,

11:21:37 15 because if they're in my system as a citizen, they would

11:21:39 16 have to come fill out a form requesting to cancel their

11:21:43 17 voter registration.

11:21:44 18 Q. What about a signed letter from the voter?

11:21:50 19 A. If it was notarized, maybe, but --

11:21:55 20 Q. How about a phone -- oh, I'm sorry.

11:21:56 21 A. Or if it was -- if I was able to verify that

11:22:00 22 signature with the signature that's in their record,

11:22:04 23 which we do that on a canceled request; but, again, that

11:22:10 24 would be very -- that would be very awkward and

11:22:13 25 suspicious.

11:22:15 1 Q. Uh-huh. How about a phone call from a member
11:22:18 2 of the voter's family?
11:22:22 3 A. That they were not a U.S. citizen?
11:22:24 4 Q. Yeah. Would that be considered a valid source
11:22:27 5 of information that someone is not a U.S. citizen?
11:22:30 6 A. I would not consider that a valid source of
11:22:33 7 information that would create me to change anything
11:22:37 8 without, again, reaching out to that voter and making
11:22:40 9 certain that I'm speaking with that voter. And once
11:22:45 10 again, if the voter registration came back that they
11:22:48 11 were a U.S. citizen, I would not change anything based
11:22:52 12 on what somebody else said.
11:22:56 13 Q. Can it be a letter from a neighbor?
11:23:00 14 A. No.
11:23:02 15 Q. What about a phone call from law enforcement in
11:23:04 16 Arizona, would that be a valid source of information
11:23:07 17 that someone is not a U.S. citizen?
11:23:12 18 A. I could maybe consider the information; but,
11:23:15 19 again, I would not do any processes without reaching out
11:23:18 20 to the voter.
11:23:20 21 Q. What about an e-mail or a letter from a law
11:23:25 22 enforcement in -- I'm sorry, a law enforcement officer
11:23:26 23 in another state?
11:23:29 24 A. I would have the same process. I would still
11:23:32 25 have to reach out with the voter. That law office would

11:23:36 1 have to -- or law officer would have to provide a lot of
11:23:41 2 proof matching the voter information for me to even
11:23:45 3 reach out to the voter and question any information.
11:23:49 4 Again, if the database came back saying they're a U.S.
11:23:51 5 citizen, I have no reason to believe that's inaccurate.
11:23:56 6 Q. And I assume that would be the same for a phone
11:23:59 7 call from an officer in another state?
11:24:00 8 A. Correct. Yes.
11:24:02 9 Q. And what about an e-mail from an officer in
11:24:04 10 Arizona?
11:24:05 11 A. The same.
11:24:06 12 Q. The same? Great.
11:24:09 13 How about an anonymous call?
11:24:12 14 A. The same. I would not -- I don't -- I would
11:24:18 15 not make any changes to a voter based on anything like
11:24:22 16 that. If I felt like there was a need to reach out to
11:24:26 17 the voter, I would do so, and I would actually request a
11:24:29 18 meeting with the voter, if possible.
11:24:31 19 Q. Is it fair to say that's the same for an
11:24:34 20 anonymous e-mail?
11:24:35 21 A. That would be the same.
11:24:37 22 Q. Okay. And what about lists provided by
11:24:39 23 third-party organizations like True the Vote?
11:24:44 24 A. I'm sorry, like who?
11:24:45 25 Q. True the Vote is one example of a third-party

11:24:48 1 organization, a list.

11:24:50 2 A. No. I, again, would not process any changes

11:24:55 3 based on any outside data or person.

11:25:00 4 Q. Thank you.

11:25:01 5 Jumping quickly into H.B. 2492, I'm looking at

11:25:05 6 Page 7, Lines 15 through 23, which is also

11:25:14 7 Section 16-143. This provision discusses reporting

11:25:19 8 obligations, the first of which was on or before

11:25:25 9 October 31st, 2022, and that is that the Secretary of

11:25:31 10 State and each County Recorder shall make available to

11:25:34 11 the Attorney General a list of all individuals who are

11:25:36 12 registered to vote and who have not provided

11:25:38 13 satisfactory evidence of citizenship.

11:25:41 14 So since that deadline has passed, is your

11:25:46 15 office no longer required by this provision to submit to

11:25:49 16 the AG a list of its registered voters who have not

11:25:53 17 shown satisfactory DPOC?

11:25:59 18 MR. HORLEY: Calls for a legal conclusion.

11:26:02 19 THE WITNESS: I'm not aware of -- I

11:26:05 20 wouldn't -- I wouldn't know if that is still a

11:26:07 21 requirement. I don't know. I'm going to have to say I

11:26:12 22 have no idea.

11:26:14 23 BY MS. MOTZKIN:

11:26:15 24 Q. Thank you.

11:26:15 25 A. I do know quarterly we report our fed voters

11:26:19 1 like, but that's with our voter statistics, so, you
11:26:23 2 know, all registered voters and then those that are fed
11:26:26 3 only, and that is also placed on our website. Other
11:26:31 4 than that, I don't know of any list.

11:26:34 5 Q. Got it.

11:26:35 6 So jumping in now to 2243, I'm looking at
11:26:41 7 Page 5 and Line 41 and onto Page 6. In ARS 16-165(F)
11:26:52 8 through (J) within H.B. 2243 there are a bunch of
11:26:55 9 enumerated database matching procedures. Do you see
11:27:03 10 those?

11:27:03 11 A. And that was Line 41?

11:27:07 12 Q. Yeah, starting at Line 41, which is (F),
11:27:10 13 Section (F).

11:27:21 14 A. And then what was the question?

11:27:23 15 Q. Yeah. Do you see those?

11:27:25 16 A. Yes.

11:27:26 17 Q. Okay. Are the database matching procedures
11:27:29 18 enumerated here the means by which County Recorders are
11:27:33 19 to obtain information of a lack of U.S. citizenship?

11:27:38 20 MR. HORLEY: Calls for a legal conclusion.
11:27:39 21 I'm not sure whether our standing objection is still in
11:27:41 22 place. We've jumped around a little bit.

11:27:43 23 MS. MOTZKIN: Oh, I'm sorry. Let's take
11:27:45 24 them off.

11:27:45 25 MR. HORLEY: Okay. Thank you.

11:27:46 1 MS. MOTZKIN: And then I hear your
11:27:47 2 objection.

11:27:48 3 BY MS. MOTZKIN:

11:27:49 4 Q. So are these the means by which County
11:27:51 5 Recorders are to obtain information of a lack of U.S.
11:27:55 6 citizenship?

11:27:56 7 MR. HORLEY: Same objection.

11:27:59 8 THE WITNESS: I'm reading it again. Just
11:28:01 9 a minute.

11:28:02 10 BY MS. MOTZKIN:

11:28:02 11 Q. Please.

11:28:13 12 A. I'm not aware that that is currently happening,
11:28:19 13 because each county processes their own voters through
11:28:24 14 AVID and we check our own voters through the databases
11:28:28 15 that are listed in the HAVA checks. I've never been
11:28:32 16 notified with a list that is described there in that.
11:28:38 17 So I don't know what that is.

11:28:41 18 Q. Okay. Are the database matching procedures
11:28:43 19 enumerated in these same 16-165(F) through (J) in
11:28:49 20 H.B. 2243 the means by which County Recorders are to
11:28:52 21 confirm information of a lack of U.S. citizenship?

11:28:57 22 MR. HORLEY: Same objection.

11:28:58 23 THE WITNESS: Can you scroll down?

11:29:18 24 So I currently do not run any kind of -- I
11:29:25 25 don't -- where it says "Each month the County Recorder

11:29:27 1 shall compare persons who are registered to vote in that
 11:29:29 2 county and who the County Recorder has reason to believe
 11:29:32 3 are not U.S. citizens," I don't currently practice
 11:29:38 4 anything like that. I don't process anything monthly.
 11:29:40 5 I process voters upon registration forms
 11:29:45 6 being received, and that is the only time I access their
 11:29:51 7 citizenship database. So if that is something -- that
 11:29:55 8 must be something new to this bill, because I'm not
 11:29:58 9 aware of that, and I don't process -- I don't do that
 11:30:01 10 currently.

11:30:02 11 BY MS. MOTZKIN:

11:30:03 12 Q. Okay. Is this clear or unclear?

11:30:05 13 MR. HORLEY: Same objection.

11:30:07 14 THE WITNESS: To me it's unclear.

11:30:12 15 BY MS. MOTZKIN:

11:30:12 16 Q. Thanks.

11:30:12 17 A. I -- I don't -- yeah, I'm not quite sure what
 11:30:15 18 they're referring to.

11:30:17 19 Q. Okay. And we're going to jump back into some
 11:30:20 20 of the hypotheticals we did before, but kind of focused
 11:30:23 21 instead on this language in 2243, which is reason to
 11:30:28 22 believe. So I'm going to ask you a few questions about
 11:30:30 23 whether certain information would constitute or certain
 11:30:33 24 things would constitute a reason to believe.

11:30:37 25 MS. MOTZKIN: Opposing Counsel, do we want

11:30:39 1 to enter the standing objections?

11:30:41 2 MR. LANGHOFER: Yeah, for calling for a
11:30:43 3 legal conclusion. Thanks.

11:30:44 4 MS. MOTZKIN: Thanks.

11:30:44 5 BY MS. MOTZKIN:

11:30:45 6 Q. Okay. Would anything beyond a government or
11:30:49 7 voter registration database constitute a reason to
11:30:52 8 believe under 2243?

11:30:55 9 A. I do not believe so.

11:30:58 10 Q. Can it be a phone call from the voter?

11:31:03 11 A. Pertaining to which part?

11:31:06 12 Q. Would a phone call from the voter, could
11:31:09 13 anything in a phone call give you a reason to believe
11:31:12 14 that a person is not a U.S. citizen?

11:31:16 15 A. No. My answer's going to be the same. I would
11:31:18 16 not make any process or make any change to a voter with
11:31:26 17 any phone call, any -- any information from outside
11:31:30 18 sources. Like I said, if I had reason, I would reach
11:31:34 19 out to the voter.

11:31:36 20 Q. Okay. What if a registered voter transposed
11:31:39 21 their first and last name on their registration
11:31:41 22 application form?

11:31:44 23 A. We actually have had that happen, and we reach
11:31:46 24 out to the voter when a system doesn't match. Sometimes
11:31:51 25 it will come back on a social with a soft match, and the

11:31:55 1 soft match will show the name being transposed, and
11:31:58 2 we'll reach out to the voter and say, you know, did you
11:32:01 3 inadvertently put your last name first and your first
11:32:05 4 name -- you know, and mix them up. We'll reach out to
11:32:08 5 the voter, again, with all the ways that we have contact
11:32:10 6 information.

11:32:12 7 Q. And what if a registered voter recorded a
11:32:15 8 foreign place of birth on their form; could that give
11:32:18 9 you a reason to believe that the voter is a noncitizen?

11:32:22 10 A. No.

11:32:24 11 Q. What if you identify a registered voter who has
11:32:28 12 already satisfied DPOC requirements, but still holds an
11:32:32 13 F-type license; is that a reason to believe they're not,
11:32:35 14 in fact, a U.S. citizen?

11:32:39 15 A. Can you -- can you resay that?

11:32:42 16 Q. Yeah.

11:32:44 17 If you identify a registered voter who has
11:32:47 18 already satisfied the DPOC requirement, but with an
11:32:51 19 F-type license, is that a reason to believe that they
11:32:53 20 are not a U.S. citizen?

11:32:55 21 A. Okay, so the F-type license does not satisfy
11:32:58 22 the requirement, and so if the voter provided, like
11:33:04 23 previously spoken about, the naturalization
11:33:08 24 certification, they would then become a full voter.
11:33:13 25 Their proof of citizenship would have been satisfied.

11:33:17 1 So the F-type license is no longer factored.

11:33:21 2 Q. What if the registered voter has never provided
11:33:24 3 DPOC because they are exempt from the requirement due to
11:33:28 4 when they registered?

11:33:35 5 A. I'm not certain what I -- I don't understand
11:33:37 6 what you mean.

11:33:38 7 Q. Yeah. So if they registered prior to the DPOC
11:33:43 8 requirement going into effect in 2005, would the failure
11:33:47 9 to show DPOC under this exemption give your office a
11:33:51 10 reason to believe that they are not U.S. citizens?

11:33:57 11 A. I'm sorry, I still don't understand the
11:34:00 12 question.

11:34:02 13 Q. Thanks. Are there -- is it true that there are
11:34:05 14 certain voters who are exempt from the DPOC requirements
11:34:08 15 under a safe harbor provision because they registered
11:34:11 16 prior to the DPOC requirement going into effect in 2005?

11:34:19 17 A. I'm not aware of that. If somebody registered
11:34:23 18 back then and they haven't registered currently, the
11:34:28 19 only time, again, that we will run a voter through the
11:34:32 20 system is if they provide a new voter registration. So
11:34:37 21 we would have no reason to look at old records and run
11:34:42 22 them through the system to check if they are or are not
11:34:44 23 a U.S. citizen. If they registered prior and it says
11:34:48 24 that they are, then I mean that stands.

11:34:54 25 Q. Thanks.

11:34:54 1 MS. MOTZKIN: And we can take away the
11:34:56 2 standing objection, if that's okay with everyone.
11:34:59 3 BY MS. MOTZKIN:
11:34:59 4 Q. I have just a few more questions. Thank you
11:35:01 5 for bearing with me.
11:35:03 6 A. Okay.
11:35:03 7 Q. We discussed earlier how H.B. 2492 states that
11:35:08 8 your office must also utilize any other state, city,
11:35:11 9 town, county, or federal database and any other database
11:35:13 10 relating to voter registration, correct, that we already
11:35:19 11 spoke about that?
11:35:20 12 A. Yes, I remember.
11:35:21 13 Q. Okay. Could a list of registered voters
11:35:25 14 provided by another Arizona agency constitute a database
11:35:29 15 relating to a voter registration?
11:35:32 16 MR. HORLEY: Calls for a legal conclusion.
11:35:33 17 THE WITNESS: No.
11:35:35 18 BY MS. MOTZKIN:
11:35:35 19 Q. Could a list of registered voters provided by
11:35:37 20 another state's government agency constitute a database
11:35:40 21 relating to voter registration?
11:35:45 22 MR. HORLEY: Same objection.
11:35:45 23 THE WITNESS: No.
11:35:46 24 BY MS. MOTZKIN:
11:35:46 25 Q. Okay. And what about from a private group or a

11:35:48 1 private citizen?

11:35:50 2 MR. HORLEY: Same objection.

11:35:51 3 THE WITNESS: No.

11:35:53 4 MS. MOTZKIN: Thank you so much. I have
11:35:54 5 no further questions.

11:35:55 6 THE WITNESS: Thank you.

11:36:02 7 MR. ATKINS: I have maybe five or ten
11:36:03 8 minutes of questions, but I wanted to check with you,
11:36:08 9 Ms. Merriman and Ms. Ruth, if a break is needed at this
11:36:10 10 time.

11:36:11 11 MS. ROOF: It will probably -- I have told
11:36:12 12 my husband to bring her in about ten minutes,
11:36:15 13 potentially, so I'll touch base with him and let you
11:36:17 14 know, but I anticipate within the next 10 to 20 minutes
11:36:21 15 that a break will be needed.

11:36:23 16 MR. ATKINS: Okay. If it's all right, I
11:36:25 17 should be able to conclude my questions within that
11:36:28 18 time.

11:36:28 19

11:36:30 20 EXAMINATION

11:36:30 21 BY MR. ATKINS:

11:36:34 22 Q. So good morning, Ms. Merriman. My name is Alex
11:36:38 23 Atkins. Once again, I represent Plaintiffs Mi Familia
11:36:42 24 Vota and Voto Latino. I appreciate the time you've
11:36:45 25 given all of us this morning.

11:36:47 1 Just have a few questions about various
11:36:52 2 requirements on voter registration forms. So you've
11:36:58 3 spoken a bit about applicants providing information
11:37:00 4 about their place of birth, and I believe just a moment
11:37:05 5 ago you stated that a foreign place of birth would not
11:37:10 6 present a reason to believe that someone's not a U.S.
11:37:13 7 citizen; is that right?

11:37:15 8 A. That's right.

11:37:16 9 Q. Can you explain why that is?

11:37:20 10 A. We actually have citizens that were born in
11:37:24 11 another country due to their family, their parent or
11:37:28 12 something, being in the military. The voter was born in
11:37:36 13 the other country, but they were born as a U.S. citizen
11:37:39 14 and they have the U.S. citizenship to -- you know, the
11:37:45 15 check for U.S. citizenship comes back as a match.

11:37:50 16 I'm sure there's other reasons why somebody
11:37:52 17 would have a birth outside of -- you know, outside of
11:37:56 18 the U.S. But, no, that is not a reason for us to
11:37:59 19 automatically assume that they're not a U.S. citizen.

11:38:02 20 Q. Understood.

11:38:04 21 And I guess as another potential example,
11:38:08 22 naturalized citizens would theoretically have a foreign
11:38:12 23 place of birth, but would nonetheless be citizens,
11:38:16 24 right?

11:38:16 25 A. Right.

11:38:16 1 Q. And your office doesn't reject voter
11:38:19 2 registration forms for failure to include place of
11:38:22 3 birth, right?
11:38:23 4 A. Right, we do not currently reject.
11:38:28 5 Q. And is it correct that your office doesn't use
11:38:31 6 birthplace information to verify an applicant's
11:38:34 7 citizenship?
11:38:35 8 A. Correct. That's true.
11:38:39 9 Q. And just to be clear then, your office doesn't
11:38:43 10 use birthplace information to determine if an applicant
11:38:46 11 is eligible to vote, right?
11:38:49 12 A. Yes.
11:38:54 13 Q. Do you understand that under H.B. 2492 state
11:39:00 14 form voter registration applicants must include their
11:39:03 15 place of birth or the application cannot be processed?
11:39:07 16 MR. HORLEY: Calls for a legal conclusion.
11:39:07 17 THE WITNESS: Yes.
11:39:09 18 BY MR. ATKINS:
11:39:10 19 Q. Does your office have any means of accurately
11:39:14 20 confirming that a place of birth provided by a voter
11:39:19 21 registration applicant is correct?
11:39:22 22 A. No.
11:39:25 23 Q. And does your office have any ability to verify
11:39:29 24 an applicant's citizenship using their place of birth?
11:39:32 25 A. No.

11:39:34 1 Q. Have you received any guidance from the
11:39:37 2 Secretary of State about how to implement the birthplace
11:39:41 3 requirement in H.B. 2492?
11:39:44 4 A. No.
11:39:51 5 Q. Am I correct that in one of your interrogatory
11:39:55 6 responses you stated that your office may use a voter's
11:40:00 7 birthplace to confirm their identity when speaking to
11:40:04 8 them over the phone?
11:40:06 9 A. Yes.
11:40:08 10 Q. Now, we can look at the rog response, if
11:40:13 11 needed, but I believe you also said that you only do
11:40:17 12 that if the voter willingly provides such information.
11:40:23 13 Does that sound right to you?
11:40:24 14 A. Yes.
11:40:27 15 Q. Can you explain, is that if the voter willingly
11:40:31 16 provides their birthplace information on their
11:40:34 17 application or over the phone or both?
11:40:37 18 A. On their application and over the phone. If
11:40:41 19 they provided it on their application, we may say -- you
11:40:44 20 know, we will confirm we're speaking with the voter by
11:40:47 21 requesting their last four of their social, their date
11:40:51 22 of birth, and we'll ask their place of birth if it is
11:40:53 23 listed in the system.
11:40:58 24 Q. And so it sounds like there's other pieces of
11:41:01 25 information about the voter that you would also use to

11:41:05 1 confirm identity over the phone?

11:41:07 2 A. Yes.

11:41:08 3 Q. And just for the record, what other pieces of

11:41:12 4 information are those?

11:41:14 5 A. Their full date of birth, the last four of

11:41:17 6 their social. We will even occasionally ask their

11:41:22 7 mother's maiden name or their father's name, because

11:41:25 8 that is an optional information that the voter can

11:41:30 9 provide, and we'll use that sometimes when speaking with

11:41:33 10 the voter. But mainly it will be their full name, full

11:41:37 11 date of birth, the last four of their social, and

11:41:40 12 possibly place of birth.

11:41:42 13 Q. And does place of birth have any special

11:41:46 14 significance as compared to those other pieces of

11:41:49 15 information when it comes to confirming a voter's

11:41:51 16 identity over the phone?

11:41:52 17 A. No.

11:41:57 18 Q. Shifting gears, I'd like to ask a few questions

11:42:00 19 about the citizenship checkbox that appears on both the

11:42:05 20 state and federal registration form.

11:42:09 21 A. Okay.

11:42:12 22 Q. So, first of all, the citizenship checkbox has

11:42:16 23 been on both voter registration forms for quite some

11:42:18 24 time, right?

11:42:20 25 A. As far as I'm aware.

11:42:23 1 Q. And am I correct that your office does not
11:42:26 2 reject voter registration applicants simply because a
11:42:30 3 person fails to complete the checkbox?

11:42:34 4 A. Yes.

11:42:40 5 Q. So speaking about state form registrants in
11:42:45 6 particular, if a state form applicant provides
11:42:50 7 documentary proof of citizenship, but does not complete
11:42:53 8 the citizenship checkbox, your office would still accept
11:42:57 9 that application, correct?

11:42:59 10 A. Yes.

11:43:00 11 Q. And am I correct that that applicant would be
11:43:03 12 registered as a full ballot voter?

11:43:07 13 A. Yes, if they came back with a match.

11:43:11 14 Q. Now, turning to federal form applicants, am I
11:43:17 15 correct that federal form applicants are able to
11:43:22 16 adequately establish their citizenship by affirming
11:43:25 17 citizenship under the penalty of perjury on the federal
11:43:30 18 form?

11:43:38 19 A. I'm not certain I understand what you're
11:43:41 20 asking.

11:43:42 21 Q. Sure.

11:43:44 22 So I guess I'm alluding to information from the
11:43:53 23 election procedures manual, which I believe says that an
11:43:59 24 appropriate indicator of U.S. citizenship includes
11:44:01 25 swearing or affirming that the applicant is a U.S.

11:44:04 1 citizen on the federal form. I believe it's Box 9 on
11:44:09 2 the federal form, asks the voter to sign their name
11:44:15 3 after an affirmation of eligibility, including
11:44:18 4 citizenship.

11:44:18 5 Does that sound familiar?

11:44:22 6 A. They -- both federal and the state form are
11:44:24 7 processed the same.

11:44:30 8 Q. So if an applicant submits a federal form and
11:44:32 9 signs that citizenship affirmation, but does not
11:44:36 10 complete the citizenship checkbox, does your office
11:44:40 11 still register that voter?

11:44:42 12 A. Yes.

11:44:52 13 MR. ATKINS: That's all the questions I
11:44:53 14 have. Really appreciate it. Thank you.

11:44:55 15 THE WITNESS: Thank you.

11:45:04 16 MR. HORLEY: I'm not sure whether any of
11:45:06 17 the other plaintiffs have questions or, Jean, if now is
11:45:11 18 a good time for us to take the break that you discussed.

11:45:14 19 MS. ROOF: Yeah, let me -- can you give me
11:45:16 20 just a minute. Can you mute us? And I'll let you know,
11:45:19 21 if you just give me a minute.

11:45:21 22 MR. HEMSTREET: We'll go off the record.

11:45:23 23 THE VIDEOGRAPHER: We are off the record.

11:45:24 24 Time on the video monitor is 11:45 a.m.

12:02:47 25 (A recess was taken.)

12:33:25 1 THE VIDEOGRAPHER: We are on the record.
12:33:26 2 Time on the video monitor is 12:33 p.m.

12:33:32 3

12:33:33 4 EXAMINATION

12:33:33 5 BY MR. HORLEY:

12:33:33 6 Q. All right. Hello, Ms. Merriman. My name is
12:33:35 7 Tim Horley, and I am representing the State of Arizona
12:33:38 8 and the Arizona Attorney General in this case. Thanks
12:33:41 9 for your time. I may have just said good morning. I
12:33:44 10 think it's now afternoon. So I do have just a set of
12:33:50 11 questions, hopefully won't go too long. We're going to
12:33:53 12 look at a couple documents, but we'll try to have us out
12:33:56 13 of here expeditiously.

12:33:59 14 So my first set of questions is about sort of
12:34:04 15 implementing laws and how you understand these laws, as
12:34:07 16 plaintiffs asked you a lot about that.

12:34:10 17 So the first question is, will your office
12:34:12 18 adhere to whatever the court orders regarding the
12:34:16 19 implementation of these laws?

12:34:17 20 A. Yes.

12:34:20 21 Q. And you mentioned that some phrases in the
12:34:23 22 challenged laws are unclear; is that right?

12:34:27 23 A. To me.

12:34:29 24 Q. Would guidance from the Secretary of State be
12:34:32 25 helpful in resolving that?

12:34:36 1 A. I would -- yeah, I -- yeah, I think so, and I
12:34:39 2 would also utilize my County Attorney, if needed.

12:34:42 3 Q. Okay. And could that guidance from the
12:34:45 4 Secretary of State come in the form of an updated EPM?

12:34:48 5 A. Yes.

12:34:50 6 Q. And the EPM provides guidance on a lot of
12:34:53 7 voting laws, including laws on topics other than the
12:34:56 8 ones we've been talking about today, correct?

12:34:58 9 A. Yes.

12:35:00 10 Q. And you generally rely on the EPM to help
12:35:03 11 implement those other laws?

12:35:05 12 A. Yes.

12:35:07 13 Q. And would it be easy to implement all of those
12:35:10 14 laws without the EPM?

12:35:15 15 A. On my own?

12:35:18 16 Q. Yeah, if you didn't have the EPM guidance.

12:35:23 17 A. Well, as far as I know, I don't go outside the
12:35:29 18 EPM. So I rely on that to know how I'm supposed to be
12:35:34 19 processing. So I actually would have a hard time doing
12:35:36 20 it outside of the EPM, to be honest.

12:35:40 21 Q. Yes. So other voting laws might be difficult
12:35:44 22 to implement without guidance from the Secretary of
12:35:47 23 State, not just these laws, correct?

12:35:49 24 A. Correct.

12:35:52 25 Q. So the same thing is true for these laws that

12:35:55 1 is true for a lot of other voting laws?

12:35:56 2 A. Yes.

12:36:00 3 Q. Okay. Now, I want to talk a little bit about
12:36:04 4 verifying citizenship and the citizenship checkbox that
12:36:07 5 we talked about.

12:36:10 6 Does your office do anything to verify DPOC
12:36:13 7 when it is received?

12:36:17 8 A. Just the same as I had spoke before. We put
12:36:20 9 them through the AVID voter registration process and
12:36:23 10 click on the HAVA checks.

12:36:27 11 Q. So if there's a photocopy of a birth
12:36:29 12 certificate or a passport, does your office do anything
12:36:32 13 to verify the authenticity of that document?

12:36:36 14 A. We require the original document, and we will
12:36:43 15 utilize that too, but that's outside of like -- so we
12:36:50 16 verify that that is the person and we will use those
12:36:54 17 forms as ways to prove citizenship.

12:36:58 18 Q. Okay. And so I just want to be clear. You
12:37:00 19 require an original, not a photocopy; is that right?

12:37:07 20 A. I'm actually not certain. I would have to look
12:37:09 21 at the EPM, if it says we could accept a copy of it.
12:37:14 22 Most of the time people bring in their birth certificate
12:37:17 23 and we just make a copy of it from the original, if we
12:37:21 24 need to. So I would have to refer to the EPM if a copy
12:37:26 25 is acceptable.

12:37:30 1 Q. Okay. Understood. Thanks.

12:37:32 2 A. Oh --

12:37:33 3 Q. Yes. Go ahead.

12:37:34 4 A. I'm sorry. I actually believe that a copy of

12:37:38 5 the birth certificate is acceptable form.

12:37:43 6 Q. Okay. Understood.

12:37:44 7 And we talked a little bit or you spoke with

12:37:47 8 Mr. Atkins a little bit about the citizenship checkbox

12:37:50 9 that is on the state and federal forms. Do you think

12:37:54 10 that that information, the checkbox, provides you with

12:37:58 11 information on whether a voter is a citizen?

12:38:01 12 A. No.

12:38:05 13 Q. Why not?

12:38:07 14 A. Because the checkbox is just somebody saying.

12:38:12 15 Like it doesn't provide any way for me to check

12:38:16 16 anything. You know, so it's not providing any

12:38:18 17 information. The person is just checkmarking that box

12:38:21 18 saying that they are a citizen, but it's not verifiable.

12:38:28 19 Q. Okay. So if the person does not provide DPOC,

12:38:32 20 would it provide any information in that case?

12:38:35 21 A. No.

12:38:38 22 Q. What about if you ran a HAVA check and it was

12:38:43 23 unclear based on that whether that person was a citizen;

12:38:47 24 would it be helpful to know the answer to the checkbox

12:38:49 25 in that situation?

12:38:50 1 A. No.

12:38:57 2 Q. Okay. If someone were to mark no in the
12:39:01 3 citizenship checkbox, but also provided a copy of a
12:39:05 4 citizenship document, what would you do in that case?

12:39:13 5 A. I am not -- I've never had that happen. I
12:39:17 6 can't speak from experience. I would have to look at
12:39:19 7 the EPM and see if it has -- I don't know if it even has
12:39:23 8 any instructions on if they checkmark no. I would
12:39:27 9 confirm that they meant to checkmark that no.

12:39:32 10 Q. So is it fair to say that that would raise sort
12:39:35 11 of a red flag for your office?

12:39:38 12 A. It would pose a question for sure.

12:39:41 13 Q. And you would want to follow up with the voter
12:39:43 14 to understand why they marked no, correct?

12:39:47 15 A. Yes.

12:39:50 16 Q. Are there situations where someone could
12:39:53 17 renounce their U.S. citizenship?

12:39:56 18 A. Yes.

12:39:59 19 Q. So like, for example, maybe a person was born
12:40:02 20 in the United States, then moves to a different country,
12:40:05 21 let's say Canada, and then once they're in Canada they
12:40:09 22 renounce their United States citizenship.

12:40:12 23 So imagining that scenario, let's suppose that
12:40:15 24 that person comes to Graham County and fills out a voter
12:40:19 25 registration form and then that person provides a birth

12:40:24 1 certificate as DPOC showing a birthplace in the United
12:40:29 2 States, but also checks no on the citizenship checkbox.

12:40:33 3 In that case, would the citizenship checkbox be
12:40:36 4 material to determining whether the registrant is
12:40:39 5 eligible to vote?

12:40:41 6 A. I would probably have to refer to my County
12:40:45 7 Attorney and probably the Secretary of State's Office on
12:40:47 8 how to go forward with that. I've never had that
12:40:52 9 happen. I'm not really certain what the procedure would
12:40:56 10 be in that case.

12:40:59 11 Q. But would you agree that in that situation, you
12:41:03 12 know, that person does have DPOC, but they are, in fact,
12:41:06 13 not a citizen?

12:41:09 14 A. Right. So I would reach out to the voter to
12:41:11 15 ask why they answered that question as no.

12:41:17 16 Q. Right. And so in that case, answering that
12:41:20 17 question no might tell you, oh, this person isn't a U.S.
12:41:24 18 citizen, even though there might be some other data that
12:41:27 19 suggests they are a U.S. citizen?

12:41:30 20 A. Correct. But I would imagine that they still
12:41:32 21 would not come up in the system, in the HAVA checks.

12:41:38 22 Q. Yes, and I think that's -- I was also curious
12:41:41 23 to ask you about that. So if they came up in the HAVA
12:41:46 24 system, but they also had -- you know, and in the HAVA
12:41:48 25 check let's suppose that they were once had a driver's

12:41:51 1 license in Arizona or something when they were a U.S.
12:41:54 2 citizen. In that situation they've now renounced their
12:41:58 3 citizenship. So you run a HAVA check. It says they
12:42:00 4 still have this citizenship, but they've renounced.
12:42:03 5 Would it be helpful in that situation to see, oh,
12:42:06 6 they've marked no in the citizenship checkbox?

12:42:09 7 A. I would still have to handle it the same way
12:42:12 8 and refer to the County Attorney, contact the voter. I
12:42:19 9 would think if they renounced their citizenship, they
12:42:22 10 would no longer have a driver's license or a social
12:42:26 11 security in the system. Just my thought.

12:42:30 12 Q. Okay. But do you --

12:42:30 13 A. But I don't know.

12:42:31 14 Q. Yes, that's fair.

12:42:32 15 So do you know whether that kind of thing would
12:42:35 16 be updated in the system when they renounce their
12:42:38 17 citizenship?

12:42:39 18 A. I don't have knowledge of that.

12:42:42 19 Q. Okay. Thank you.

12:42:44 20 Now I want to ask a few questions about a
12:42:49 21 rather large spreadsheet that your office produced. So
12:42:55 22 I'm just going to pull that up. It's not in the folder
12:42:57 23 that was shared with you, but if it's all right with
12:42:59 24 everybody, I will just share the screen and then I can
12:43:02 25 send it around through the chat after, after I'm done

12:43:06 1 asking questions. Is that all right with you,
12:43:06 2 Ms. Merriman?

12:43:09 3 THE WITNESS: Is that okay?

12:43:10 4 MS. ROOF: Yeah, that's fine. I might
12:43:11 5 have -- is it what we produced as 375?

12:43:16 6 MR. HORLEY: That's right. Yeah.

12:43:18 7 MS. ROOF: Do you mind, just so she can
12:43:20 8 see it on a bigger screen, can I -- I think I have that,
12:43:23 9 but it will just take me a second to get it pulled up.
12:43:26 10 Is that okay?

12:43:28 11 MR. HORLEY: Yeah, absolutely. And we
12:43:28 12 could do it -- I could share the screen at the same
12:43:31 13 time, if that's helpful, or I could not, if that makes
12:43:33 14 sense.

12:43:34 15 MS. ROOF: Let's try just sharing the
12:43:36 16 screen and see if she's able to see it sufficiently, and
12:43:38 17 if she isn't, then I have another alternative to have
12:43:41 18 her see it, though.

12:43:43 19 MR. HORLEY: Okay. Thanks.

12:43:43 20 MR. MORGAN: I'd ask that you share the
12:43:44 21 screen anyway just so we can all see it too.

12:43:48 22 Thanks.

12:43:48 23 BY MR. HORLEY:

12:43:49 24 Q. Yeah, so it should be up now. Are you able to
12:43:50 25 see that, Ms. Merriman?

12:43:53 1 A. Yes.

12:43:54 2 Q. Okay, great. And do you recognize this

12:43:59 3 document?

12:44:00 4 A. I did not produce this document, but it looks

12:44:03 5 like it would be a status report out of AVID's system.

12:44:12 6 Q. Okay. And I'm not sure if you can see it on

12:44:17 7 the screen share, but do you see up here it says

12:44:20 8 GRAHAM000375?

12:44:22 9 A. Yes.

12:44:26 10 Q. Okay. Great.

12:44:27 11 MR. HORLEY: I would like to mark this as

12:44:28 12 Exhibit, I believe we're at number 258; is that right,

12:44:38 13 Jody?

12:44:38 14 THE COURT REPORTER: It is.

12:44:40 15 BY MR. HORLEY:

12:44:41 16 Q. So I see here there's a column for "Status" and

12:44:46 17 then a column for "Status Reason." Am I reading that

12:44:50 18 correctly?

12:44:51 19 A. Yes.

12:44:53 20 Q. So that shows what's someone's registration

12:44:56 21 status and the reason why; is that right?

12:44:59 22 A. Yes.

12:45:00 23 Q. And then over here there's a column that says

12:45:03 24 "Citizenship Verified," is that right?

12:45:05 25 A. Yes.

12:45:06 1 Q. And so if it says "Yes," that means they've

12:45:09 2 been verified as a U.S. citizen; "No," they have not

12:45:11 3 been verified as a U.S. citizen?

12:45:14 4 A. Yes.

12:45:14 5 Q. Okay. And then we talked a lot about the

12:45:18 6 different categories of federal voters. So there's

12:45:21 7 "Federal-ID Only" and "Federal-No ID." So these columns

12:45:25 8 tell us whether that person falls into one of those two

12:45:29 9 categories; is that right?

12:45:30 10 A. Yes.

12:45:33 11 Q. And then over here I see some dates. So it

12:45:37 12 shows a "Registration Date" in these two columns and

12:45:40 13 then the "Date of Change," is that right?

12:45:42 14 A. Yes.

12:45:44 15 Q. And does that "Effective Date of Change" tell

12:45:47 16 us when their status was updated?

12:45:51 17 A. Not always. There are certain times that a

12:45:57 18 status reason would not change the effective date. Say

12:46:02 19 the voter called or filled out a form to change a phone

12:46:07 20 number. That date might not have gotten changed.

12:46:14 21 Q. Okay. Understood. Okay.

12:46:16 22 So I am going to take us down to one of these

12:46:21 23 rows. I'm going to draw your attention to Row 258.

12:46:29 24 A. Okay.

12:46:29 25 Q. Do you see this row, Ms. Merriman?

12:46:32 1 A. Yes, I do.

12:46:34 2 Q. And it says that the person's status is not
12:46:38 3 eligible, and the reason is invalid citizenship proof;
12:46:38 4 is that right?

12:46:41 5 A. Yes.

12:46:43 6 Q. So can you explain what that means?

12:46:46 7 A. So that means that the person registered to
12:46:48 8 vote and they did not -- either they did not provide
12:46:53 9 proof of citizenship or the system could not match their
12:46:58 10 citizenship.

12:47:01 11 So back in -- that happened in 2014. That was
12:47:06 12 prior to my time in the Recorder's Office, but I'm aware
12:47:09 13 that in 2014 there were different rules in processing
12:47:13 14 voters that had unmatched citizenship.

12:47:18 15 Q. Okay. Understood.

12:47:18 16 And so in that case, was this person's
12:47:21 17 registration rejected?

12:47:24 18 A. So we don't reject. They're just not eligible
12:47:31 19 until they provide further proof.

12:47:35 20 Q. Okay. And in these situations, like you said,
12:47:37 21 you would provide notice to the voter and then give them
12:47:39 22 a chance to provide that proof, correct?

12:47:40 23 A. Yes.

12:47:43 24 Q. Okay. All right. Now I'm going to take a look
12:47:47 25 at another row. Row 566 here, do you see that,

12:48:04 1 Ms. Merriman?

12:48:04 2 A. Five-six -- yes.

12:48:07 3 Q. Okay. And then this is sort of the same thing

12:48:10 4 here; is that right?

12:48:11 5 A. Yes, that's going to be the same reason for

12:48:13 6 that.

12:48:18 7 Q. Okay. And here -- well, I'm sorry. I got a

12:48:25 8 little lost.

12:48:25 9 So I'm noticing that in this one, in the

12:48:30 10 "Citizenship Verified" column -- sorry, let me get us

12:48:33 11 back there.

12:48:40 12 In the "Citizenship Verified" column it says

12:48:43 13 the citizenship was verified; is that right?

12:48:49 14 A. Yeah, it says that in that column.

12:48:51 15 Q. Can you explain why it would say that if there

12:48:55 16 was invalid citizenship proof?

12:48:56 17 A. I cannot say why that says "Yes."

12:49:01 18 Q. So does that seem like there may have been

12:49:04 19 perhaps an error in inputting the data here?

12:49:08 20 A. Or there was an error in processing this

12:49:11 21 report.

12:49:15 22 Q. Okay. Understood. All right. So now I've got

12:49:21 23 one more row here. It's way down.

12:49:37 24 Okay. So this row, it's Row 6272; do you see

12:49:41 25 that?

12:49:41 1 A. Yes.

12:49:41 2 Q. Oh, and I see that this person is listed as
12:49:44 3 active and valid registration; is that right?

12:49:47 4 A. Yes.

12:49:49 5 Q. And then I see again in the "Citizenship
12:49:51 6 Verified" column it says "No." So could you explain why
12:49:55 7 that is?

12:49:57 8 A. Again, it could be just something in the way
12:50:03 9 that the report was processed or -- I don't know. I
12:50:10 10 could think of a time like so if the -- if they were not
12:50:17 11 eligible at some point, like the system didn't match
12:50:19 12 them and we sent a letter and the voter provided a
12:50:24 13 certificate of birth, we may have failed to mark that
12:50:30 14 box to "Yes," they were citizenship verified, because
12:50:34 15 you -- I mean you have to checkmark that when you
12:50:36 16 manually process. So that could have been missed.

12:50:42 17 Q. Okay. Understood.

12:50:43 18 So could it also have been the case that this
12:50:46 19 person did not provide DPOC or their citizenship
12:50:50 20 otherwise wasn't verified, but they were nonetheless
12:50:53 21 registered as an active voter?

12:50:56 22 A. That's very unlikely. I'm not saying that we
12:51:00 23 don't make errors, but it's very unlikely that they
12:51:03 24 would be active valid without any kind of citizenship
12:51:07 25 proof.

12:51:10 1 Q. Okay. And I see here in these -- the columns
12:51:13 2 that deal with whether they're a fed -- a fed only voter
12:51:17 3 it also --

12:51:17 4 A. Right.

12:51:18 5 Q. So that would mean that they were registered as
12:51:20 6 a full ballot voter; is that right?

12:51:22 7 A. Correct.

12:51:23 8 Q. So this could have been a situation where
12:51:26 9 someone's citizenship was not verified, but they were
12:51:28 10 registered as a full ballot voter?

12:51:32 11 A. Again, I would say that's not likely. I would
12:51:35 12 believe it was more like they provided a different type
12:51:40 13 form of proof, like a birth certificate or an
12:51:43 14 out-of-state enhanced driver's license, and the user
12:51:47 15 failed to checkmark the citizenship box as verified.

12:51:53 16 Q. Okay. Understood. Thank you.

12:51:55 17 And then just for the record, I just want to
12:51:56 18 make clear that it looks like the "Registration Date"
12:51:59 19 was October 8th, 2018, and then the "Date of Change" is
12:52:04 20 also October 8th, 2018; is that right?

12:52:07 21 A. Yes.

12:52:08 22 Q. Okay. Great. That's all I have on that
12:52:10 23 document. So I'm going to close out of that.

12:52:18 24 Okay. And I have a few questions about some of
12:52:27 25 the databases that we've talked about today. Does your

12:52:30 1 office consider the MVD data that the AVID system uses
12:52:35 2 to be generally reliable?

12:52:37 3 A. Generally. Yes.

12:52:41 4 Q. Yes.

12:52:42 5 And we talked a little bit about a situation
12:52:44 6 where a naturalized citizen's information hasn't been
12:52:49 7 updated in the AVID database yet, so when you check it,
12:52:53 8 it shows that they're not a citizen, even though they
12:52:56 9 are, in fact, a citizen.

12:52:58 10 In that situation, can that voter easily fix
12:53:02 11 the situation by sending you a copy of the
12:53:04 12 naturalization certificate?

12:53:09 13 MR. ATKINS: Objection, form.

12:53:10 14 THE WITNESS: I believe they could provide
12:53:12 15 a copy of the naturalization, but I don't know if -- if
12:53:16 16 it had to be the original, then they would have to bring
12:53:20 17 the original in.

12:53:22 18 BY MR. HORLEY:

12:53:22 19 Q. Okay. But either way, in that situation you
12:53:24 20 mentioned that you would send them a notice, so then
12:53:27 21 they could fix that situation by providing you all with
12:53:30 22 the necessary documents?

12:53:33 23 A. Yes.

12:53:34 24 Q. Okay. Thank you.

12:53:37 25 And you mentioned that your office uses SAVE

12:53:40 1 sometimes, but you don't have a lot of familiarity with
12:53:44 2 using it. Do you consider the SAVE system to be
12:53:47 3 generally reliable?

12:53:50 4 A. I don't have any experience using it, but I
12:53:53 5 would assume that it would be a reliable source.

12:53:59 6 Q. Okay. And then you also mentioned -- I just
12:54:01 7 wanted to be clear. We talked a little bit about Social
12:54:04 8 Security and the fact that the HAVA check also checks
12:54:07 9 whether someone has a social security number. So in
12:54:10 10 your view, does someone having a social security number
12:54:13 11 demonstrate that that person is a U.S. citizen?

12:54:17 12 A. If it comes back with a match, I believe so.

12:54:22 13 Q. Okay. And if someone did not have a social
12:54:26 14 security number, would that indicate that they are not a
12:54:29 15 U.S. citizen?

12:54:30 16 A. If they didn't provide it?

12:54:35 17 Q. Yes, or if there was no match on the social
12:54:39 18 security.

12:54:40 19 A. Not necessarily. If it doesn't match, we just
12:54:44 20 reach out to the voter.

12:54:48 21 Q. Okay. And is it possible that someone who is
12:54:51 22 not a U.S. citizen, maybe they're a green card holder,
12:54:55 23 they would still have a social security number?

12:55:03 24 A. I'm -- I don't have any knowledge of that. I'm
12:55:07 25 not sure whether they get a social security card or not.

12:55:11 1 Q. Okay. Understood. All right.

12:55:13 2 Now, I wanted to ask you some questions about

12:55:17 3 birthplace. So if you have a place where voters can

12:55:24 4 fill out the optional birthplace field, your office does

12:55:27 5 not actively track whether someone enters that

12:55:31 6 information, correct?

12:55:32 7 A. Correct. Yes.

12:55:36 8 Q. In your experience, though, do voters usually

12:55:39 9 include their birthplace on their form?

12:55:43 10 A. It's a 50/50.

12:55:48 11 Q. 50/50? Okay.

12:55:51 12 And now I want to look at another document that

12:55:55 13 you all produced, and this is the 2019 EPM, and I'm

12:56:01 14 aware that we've already had this as an exhibit, but I

12:56:03 15 think that the version you all produced is a little bit

12:56:08 16 larger, so I think it might just be easier if I enter

12:56:10 17 the version that your office shared. So if it's all

12:56:14 18 right with everybody, I'm just going to screen share

12:56:16 19 this one again as well. Does that work for you,

12:56:20 20 Ms. Merriman?

12:56:20 21 A. Yes.

12:56:23 22 Q. Okay.

12:56:29 23 Okay. Can you see that?

12:56:29 24 A. Yes.

12:56:33 25 Q. Okay. And do you recognize this document?

12:56:35 1 A. Yes.

12:56:37 2 Q. And so this is the 2019 EPM that your office
12:56:41 3 produced in discovery in this case?

12:56:44 4 A. Yes.

12:56:46 5 Q. Okay. I would like to mark this as
12:56:48 6 Exhibit 259.

12:56:53 7 So I want to draw your attention here to the
12:56:58 8 bottom of Page 4, top of Page 5. So do you see where it
12:57:05 9 says "Birth Certificate" here?

12:57:06 10 A. Yes.

12:57:09 11 Q. Okay. And then it says, "A registrant may
12:57:12 12 submit a legible copy of the registrant's birth
12:57:16 13 certificate from any U.S. state or territory as
12:57:18 14 satisfactory DPOC. ARS 16-166(F)(2). For U.S. citizens
12:57:26 15 born abroad, a Certificate of Report of Birth or
12:57:28 16 Consular Report of Birth Abroad issued by a consular
12:57:29 17 officer from the U.S. Department of State will suffice
12:57:32 18 for a birth certificate."

12:57:33 19 Did I read that correctly?

12:57:34 20 A. Yes.

12:57:35 21 Q. And then it goes on. "The registrant must
12:57:37 22 supply supporting legal documentation (such as a
12:57:40 23 marriage certificate or court-documented name change) if
12:57:42 24 the name on the birth certificate or document is not the
12:57:45 25 registrant's current legal name."

12:57:45 1 Is that right?

12:57:48 2 A. Right. Yes.

12:57:49 3 Q. Okay. And then it says, "If the registrant

12:57:51 4 cannot provide supporting legal documentation to account

12:57:54 5 for a different last name, a County Recorder must accept

12:57:58 6 the birth certificate or document if at least the

12:58:01 7 following information matches on both the birth

12:58:04 8 certificate or document and the registration form."

12:58:06 9 Is that right?

12:58:07 10 A. Yes.

12:58:09 11 Q. And then it lists the things to match, and it

12:58:12 12 says "First name; Middle name; Place of birth; Date of

12:58:17 13 birth; and Parents' names."

12:58:21 14 Did I read that right?

12:58:23 15 A. Yes.

12:58:24 16 Q. So in this situation it would be important to

12:58:28 17 know the registrant's place of birth; is that right?

12:58:32 18 A. Yes.

12:58:34 19 Q. And so it would be helpful if the person filled

12:58:38 20 in their place of birth information on their voter

12:58:40 21 registration form?

12:58:41 22 A. Yes.

12:58:43 23 Q. And that would be material to you being able to

12:58:46 24 tell whether that person was eligible to vote?

12:58:52 25 MR. ATKINS: Objection, form.

12:58:54 1 THE WITNESS: It would be helpful in
12:58:55 2 matching the information on the birth certificate if the
12:58:59 3 registrant's last name did not match.

12:59:08 4 BY MR. HORLEY:

12:59:08 5 Q. Okay. And, now, next I'm going to look at the
12:59:10 6 same page here where it says "U.S. Passport." Do you
12:59:13 7 see that?

12:59:13 8 A. Yes.

12:59:16 9 Q. Okay. And then I'm just going to read this
12:59:17 10 quickly as well. So it says, "A registrant may submit a
12:59:21 11 legible copy of the pertinent pages of the registrant's
12:59:24 12 U.S. passport or passport card, or present the
12:59:28 13 registrant's U.S. passport or passport card to the
12:59:29 14 County Recorder, as DPOC. ARS 16-166(F)(3)."

12:59:35 15 Is that right?

12:59:35 16 A. Yes.

12:59:36 17 Q. And then it says, "The pertinent pages of a
12:59:39 18 U.S. passport are those that contain the photo, passport
12:59:42 19 number, name, nationality, date of birth, gender, place
12:59:48 20 of birth and signature (if applicable)."

12:59:50 21 Is that right?

12:59:51 22 A. Yes.

12:59:54 23 Q. So in that situation, when you're looking at
12:59:57 24 someone's passport as DPOC, is it helpful to know what
01:00:00 25 their place of birth is?

01:00:03 1 A. We could utilize it to match, yes.

01:00:10 2 Q. Okay. All right. And now I want to look at
01:00:16 3 another page lower down here.

01:00:23 4 So here on Page 34 I'm looking at where it says
01:00:27 5 "C. Other Sources of Information on Deceased
01:00:30 6 Registrants." Do you see that?

01:00:31 7 A. Yes.

01:00:32 8 Q. Okay. So and then it says, "A County Recorder
01:00:34 9 may also cancel a registrant's record if the County
01:00:38 10 Recorder determines that the registrant is deceased
01:00:40 11 based on other reliable sources, see ARS 16-165(A)(2),
01:00:46 12 including, but not limited to, death notices received by
01:00:48 13 the County Recorder's Office and an affidavit of death
01:00:52 14 from the registrant's next of kin. A County Recorder
01:00:55 15 should match as much information as possible (including
01:00:58 16 first name, last name, maiden name (if applicable), year
01:01:02 17 of birth, place of birth, and city or town of residence)
01:01:06 18 and be reasonably certain that a true match exists
01:01:09 19 before canceling a registrant."

01:01:12 20 Did I read that correctly?

01:01:13 21 A. Yes.

01:01:15 22 Q. And so in that situation, would it be helpful
01:01:18 23 to know what the voter's place of birth is?

01:01:26 24 A. I'm not certain, because I don't believe that
01:01:29 25 our affidavit that the next of kin fills out has that

01:01:33 1 information; but if it's there, it would be utilized.

01:01:37 2 It could be utilized.

01:01:40 3 Q. So in that situation it would be helpful if the
01:01:43 4 person included their place of birth on a voter
01:01:45 5 registration form?

01:01:46 6 A. It could be.

01:01:49 7 Q. Would you say it would be important that they
01:01:51 8 did so?

01:01:54 9 A. I wouldn't say it would be important. I feel
01:01:56 10 like we would verify the other items.

01:02:01 11 Q. Okay. But you could --

01:02:03 12 A. That we do currently. Sorry.

01:02:06 13 Q. No, go ahead.

01:02:07 14 A. We currently verify the other items.

01:02:12 15 Q. And you -- do you verify place of birth as
01:02:15 16 well?

01:02:15 17 A. No.

01:02:18 18 Q. Okay. All right. One more page on this.

01:02:21 19 Thank you for bearing with me as we go through this.

01:02:24 20 So on Page 48, I'm looking at where it says,
01:02:30 21 "5. Minimum Requirements for Requesting a
01:02:34 22 Ballot-by-Mail." Do you see that?

01:02:35 23 A. Yes.

01:02:36 24 Q. And then it says, "In order for the County
01:02:39 25 Recorder to process a ballot-by-mail request, the

01:02:42 1 request must contain at least the following information:
01:02:45 2 The voter's name; The voter's residential address; The
01:02:48 3 voter's date of birth; at least one of the following:
01:02:54 4 The voter's state or country of birth; or Another piece
01:02:58 5 of information that, if compared to the voter's record,
01:03:01 6 would confirm the voter's identity, such as the AZDL/ID
01:03:05 7 number or SSN4, father's name, or mother's maiden name."

01:03:09 8 Is that right?

01:03:10 9 A. Yes.

01:03:14 10 Q. So in this situation where you're looking at
01:03:16 11 the requirements for requesting a ballot by mail, would
01:03:19 12 it be helpful if the person had filled in their
01:03:22 13 birthplace on their registration form?

01:03:25 14 A. Not necessarily, because we process the ballot
01:03:30 15 request separately, and our ballot request might
01:03:34 16 actually -- it is one of the items that we put on there,
01:03:39 17 that the voter could provide their state or country of
01:03:42 18 birth, but they do not have to provide it if they
01:03:46 19 provide the other items. So as far as like we'll
01:03:51 20 compare the place of birth on a ballot request versus
01:03:56 21 the voter's registration record. So it's just not
01:03:59 22 something that we would compare, probably. But if it
01:04:02 23 was there and we could utilize it, we might likely
01:04:07 24 utilize it.

01:04:09 25 Q. Okay. And that's because the EPM instructs

01:04:12 1 that that is one of the things that could be used to
01:04:16 2 ensure that they have a valid ballot by mail request; is
01:04:16 3 that right?

01:04:22 4 A. Right.

01:04:26 5 Q. Okay. All right. Thank you.

01:04:31 6 So that is all I have for --

01:04:33 7 MR. HORLEY: Oh, and I'm not sure if I
01:04:34 8 marked this document. This would be Exhibit 259.

01:04:40 9 THE COURT REPORTER: We did.

01:04:42 10 MR. HORLEY: Okay. Thank you.

01:04:47 11 BY MR. HORLEY:

01:04:48 12 Q. All right. So if there was a discrepancy
01:04:50 13 between two applications who had the same name, same
01:04:54 14 address, but listed two different places of birth, how
01:04:57 15 would your office address that?

01:05:02 16 A. In the past, if we've had that, we just put
01:05:06 17 whatever they put on their current form. We don't look
01:05:10 18 into why they put one state over a different state. You
01:05:18 19 know, we don't question why they changed their state of
01:05:21 20 birth.

01:05:23 21 Q. Okay. So you would treat that as a single
01:05:26 22 registrant, not as multiple people?

01:05:28 23 A. Right. Right. If all the other information
01:05:32 24 matched, we would just enter the new state of birth on
01:05:35 25 the new registration form in the current record.

01:05:40 1 Q. Okay. Understood.

01:05:42 2 And if a court or the Secretary of State issued
01:05:46 3 guidance that the county should change how it uses
01:05:49 4 birthplace information, would you follow that guidance?

01:05:52 5 A. If he -- if the Secretary of State put it in
01:05:55 6 the EPM?

01:05:57 7 Q. Yes.

01:05:57 8 A. Yes.

01:05:59 9 Q. Or if a court ordered that you change how you
01:06:02 10 use it, you would follow that guidance as well?

01:06:05 11 A. Yes.

01:06:06 12 Q. Okay. Almost towards the end. Just a few more
01:06:12 13 questions. Thank you again.

01:06:13 14 So I wanted to ask a little bit about
01:06:16 15 third-party voter registration drives. Do you ever
01:06:21 16 receive registration forms from third-party voter
01:06:24 17 registration organizations that conduct registration
01:06:27 18 drives?

01:06:27 19 A. Yes.

01:06:28 20 Q. I'm sorry, what was -- okay.

01:06:31 21 And we've heard from some of the other County
01:06:34 22 Recorders that they've received large numbers of voter
01:06:37 23 registration forms from such drives that have false
01:06:40 24 information; for example, totally false names,
01:06:45 25 identities, false driver's license numbers or things

01:06:48 1 like that.

01:06:49 2 Has your office experienced that?

01:06:51 3 A. We did in 2022.

01:06:56 4 Q. Okay. And could you just describe what
01:06:59 5 happened in 2022 with that?

01:07:02 6 A. So we received it was about 17 or 18 voter
01:07:10 7 registration forms that were turned in to Maricopa
01:07:14 8 County through a third-party registration drive, and in
01:07:19 9 looking at the voter registration forms, they were
01:07:23 10 either already registered and the data was completely
01:07:28 11 off or it matched some of the data, but not all of the
01:07:31 12 data. The signature would be completely different or
01:07:36 13 like the first name would be the middle name and the
01:07:38 14 middle name would be the first name. So there were like
01:07:40 15 differences.

01:07:41 16 And so we did reach out to some of the voters
01:07:44 17 and found that they did not fill out that form. So we
01:07:48 18 sent all those forms on to the County Attorney's Office
01:07:51 19 and we set them aside and did not process them.

01:07:55 20 Q. Okay. Understood.

01:07:56 21 And I just wanted to double-check. You said at
01:07:58 22 the beginning, I think -- I may have misheard you. You
01:08:01 23 said they turned it in to Maricopa County, but did they
01:08:03 24 turn it in to Graham County?

01:08:05 25 A. So they turned them -- the third-party

01:08:08 1 submitter sent all those forms in to Maricopa County.
01:08:11 2 Then Maricopa County took all of the forms that belonged
01:08:14 3 to each of the counties and sent them, you know,
01:08:18 4 forwarded them on to the correct counties. That's why
01:08:21 5 I'm not sure. We had 17 or 18. One of them was not our
01:08:24 6 county, and we had to forward it on to Cochise. So they
01:08:30 7 were turned in to Maricopa, but the forms were all sent
01:08:33 8 to us to be processed.

01:08:36 9 Q. Okay. Understood.

01:08:39 10 So you said that you referred that to the
01:08:44 11 County Attorney's Office. Can you explain why you did
01:08:47 12 that?

01:08:49 13 A. Because we realized that there was -- they were
01:08:52 14 fraudulent, and we weren't certain how to handle it, so
01:08:55 15 Wendy felt like we should advise the County Attorney
01:08:59 16 that it was happening and that we were putting those
01:09:02 17 forms off to the side and we were not processing them.

01:09:08 18 Q. Okay. And would you consider that, those
01:09:11 19 forms, as being fraudulent attempts to register to vote?

01:09:15 20 A. I actually think those were forms filled out by
01:09:19 21 people that were paid to turn in voter registration
01:09:21 22 forms. I do not believe that the voter was creating
01:09:25 23 fraud. I believe that there was a third-party person
01:09:28 24 that was committing fraud by filling out those forms.

01:09:32 25 Q. Okay. Understood.

01:09:33 1 And do you recall which organization it was
01:09:36 2 that turned in those forms?

01:09:39 3 A. I do not recall the organization. I don't
01:09:41 4 think it was one single organization, as it was like
01:09:47 5 voter registration drives. I know each one of the forms
01:09:50 6 had some sort of code stamp on them which told who in
01:09:58 7 that -- I guess in Maricopa County the code meant
01:10:02 8 something to them over who that third-party submitter
01:10:06 9 was, but I am not aware of who it was.

01:10:12 10 Q. Okay. Thanks.

01:10:14 11 And then I wanted to ask a little bit more
01:10:15 12 about the HAVA checks on AVID. So when you are checking
01:10:20 13 a registrant's identity on AVID, is it possible that
01:10:25 14 there could be a false positive match?

01:10:29 15 A. I'm not aware of it.

01:10:33 16 Q. But is it possible that that could happen?

01:10:38 17 A. In my recollection, no. I don't think that it
01:10:42 18 could falsely match it.

01:10:48 19 Q. Okay. And then the last set of questions.
01:10:53 20 Your office does not investigate potential cases of
01:10:56 21 voter fraud, correct?

01:10:58 22 A. We do not, no.

01:11:01 23 Q. Your office isn't responsible for prosecuting
01:11:03 24 cases of voter fraud?

01:11:04 25 A. No.

01:11:07 1 Q. And so you don't keep any records on whether
01:11:10 2 there is or is not voter fraud in Graham County?

01:11:15 3 A. If -- like pertaining to those 17 or 18
01:11:19 4 registration forms, we kept them on hand in case
01:11:22 5 anything came out of it statewide, we could provide
01:11:25 6 those forms, if necessary; but that is all that we do.

01:11:31 7 Q. Okay. And so do you recall any instances of
01:11:34 8 voter fraud of any kind in Graham County since you've
01:11:37 9 been there?

01:11:38 10 A. No.

01:11:40 11 Q. Okay. And that could be because that is not
01:11:42 12 something that your office tracks or is responsible for
01:11:45 13 tracking; is that right?

01:11:47 14 A. Right.

01:11:50 15 Q. Okay.

01:11:51 16 MR. HORLEY: All right. Those are all my
01:11:52 17 questions. Thank you very much, Ms. Merriman.
01:11:53 18 Appreciate your time.

01:11:55 19 THE WITNESS: Thank you.

01:11:55 20

01:11:57 21 EXAMINATION

01:11:57 22 BY MR. LANGHOFER:

01:11:57 23 Q. Good afternoon, ma'am. My name is Kory
01:12:00 24 Langhofer, and I represent the RNC. I think I have just
01:12:02 25 three questions for you, because, mercifully, most of

01:12:06 1 the questions I had have been asked by people that came
01:12:08 2 before me.

01:12:09 3 The first thing I'm going to do is show you
01:12:16 4 a -- the EPM. I think it's already been marked as
01:12:19 5 Exhibit 259.

01:12:23 6 Here we go. And you can see that okay?

01:12:26 7 A. Yes.

01:12:27 8 Q. All right. And I'm on Page 206 of the EPM
01:12:31 9 here, and just for context I'll scroll back up to 205.
01:12:35 10 You can see where in this section it talks about
01:12:37 11 verifying provisional ballot status.

01:12:40 12 You're familiar with provisional ballots, I
01:12:42 13 take it?

01:12:42 14 A. Yes.

01:12:44 15 Q. So I want to look at the last paragraph here.
01:12:48 16 Is that big enough on your screen for you to read it?
01:12:50 17 You don't have to read it out loud. I just want to see
01:12:53 18 if you can read it.

01:12:53 19 A. I can, except like the right side is blocked
01:12:57 20 from the --

01:12:58 21 Q. Oh, I'm sorry. Is that any better?

01:13:00 22 A. -- all the videos.

01:13:04 23 I don't know how to -- how do I get that off?
01:13:08 24 Do I just minimize?

01:13:10 25 Q. Is that better?

01:13:11 1 A. Oh, there. I can read it all there, yeah.

01:13:19 2 Q. Let me know when you're done.

01:13:35 3 A. Okay.

01:13:36 4 Q. All right. And you would agree with me that

01:13:38 5 this paragraph gives you another instance in which it

01:13:44 6 would be appropriate for your office to use birthplace?

01:13:47 7 A. Yes.

01:13:52 8 Q. All right. Let me try to take off my screen

01:13:53 9 share, if I can manage that technologically.

01:13:57 10 So the second question I have for you is, when

01:14:03 11 someone fills out the state form and they don't attach

01:14:06 12 to that DPOC and the HAVA check doesn't return --

01:14:12 13 doesn't show they've previously proven their

01:14:15 14 citizenship, so you have to send a notification to the

01:14:18 15 voter saying, hey, we don't -- we can't confirm your

01:14:21 16 citizenship and so you need to send it in to us in order

01:14:24 17 to register. In those circumstances, how common is it

01:14:30 18 for the voter to respond and actually provide

01:14:34 19 documentary proof of their citizenship?

01:14:36 20 A. Uncommon.

01:14:37 21 Q. Okay. Less than half?

01:14:42 22 A. It's less than an eighth.

01:14:44 23 Q. Okay. Do you know why that is?

01:14:48 24 A. I don't. I have 47 fed voters right now, and

01:14:51 25 every single one of them have received a letter, have

01:14:55 1 the ability to provide the information. Several of them
01:14:59 2 I know are citizens. They just have out-of-state
01:15:04 3 driver's license because they're -- they don't want to
01:15:06 4 change their driver's license, and for whatever reason
01:15:09 5 they don't bring it in or provide a copy.

01:15:12 6 Q. Okay. You say you know they're citizens. How
01:15:16 7 do you know that they're citizens?

01:15:19 8 A. Through church.

01:15:20 9 Q. Does your church check passports?

01:15:23 10 A. Well, no. I shouldn't say that I know that
01:15:26 11 they're citi -- I mean I know that they've been in -- I
01:15:28 12 shouldn't say that. I should strike that. I don't know
01:15:31 13 that they're a U.S. citizen. I know that they've been
01:15:34 14 in the U.S. for a very long time.

01:15:42 15 Q. Last question I've got for you is a
01:15:48 16 hypothetical. So another example about how you might be
01:15:52 17 able to use the birthplace. On the state form the
01:15:58 18 required information includes birth date, but not place
01:16:03 19 of birth or social security, correct?

01:16:05 20 A. Correct.

01:16:07 21 Q. So if you received on -- let's just say on a
01:16:12 22 given day. On, you know, Tuesday, since Monday's a
01:16:15 23 holiday, you receive two voter registration forms. Same
01:16:18 24 name, as it happens. The address could be the same or
01:16:21 25 it could be different. Let's go with different, because

01:16:24 1 Tim's already asked you about the same address. And
01:16:26 2 funny enough, the birth date is the same. But they
01:16:30 3 provided different places of birth.

01:16:34 4 Would you determine that that's the same person
01:16:36 5 or two different people?

01:16:39 6 A. I would likely treat them as two different
01:16:42 7 people and send the letter to each person at each
01:16:48 8 individual address.

01:16:49 9 Q. Based on the different places of birth?

01:16:54 10 A. Well, based on that I don't have a whole lot
01:16:57 11 other information to go off of that they would be the
01:16:59 12 same person, unless you're saying in this hypothetical
01:17:02 13 question that they have the same social, same date of
01:17:05 14 birth, same name, but a different birthplace. I would
01:17:09 15 treat them as the same person. But if all the data is
01:17:13 16 different, I would treat them as individuals.

01:17:16 17 Q. Yeah, I'm imagining a situation where someone
01:17:20 18 just leaves their social off, because it's an optional
01:17:22 19 field and they may not want to give it for one reason or
01:17:27 20 another. Does that change your answer?

01:17:28 21 A. Same name, but different birthplace?

01:17:30 22 Q. (Nodded.)

01:17:31 23 A. Same date of birth?

01:17:32 24 Q. Yes, ma'am.

01:17:33 25 A. I would likely think they were the same person.

01:17:37 1 Q. I'm sorry, different -- you might have just
01:17:40 2 said the same place of birth. I'm saying the name's the
01:17:43 3 same, the birth date's the same, but the place of birth
01:17:46 4 is different.

01:17:49 5 A. I would still have reason to believe that's the
01:17:51 6 same person, and so I would reach out to the most recent
01:17:57 7 voter registration form and send a letter.

01:18:03 8 Q. And you would think it's the same -- what if
01:18:05 9 it's a common name, like Joe Smith?

01:18:10 10 A. And you said different addresses?

01:18:12 11 Q. Correct.

01:18:13 12 A. Okay. Different addresses, I would treat them
01:18:16 13 as individual voters, and I would send a letter to each
01:18:19 14 person at the address that they listed. If I found that
01:18:23 15 they were one and the same, then I would merge the
01:18:26 16 record.

01:18:27 17 Q. Okay.

01:18:29 18 MR. LANGHOFER: That's all the questions I
01:18:30 19 had for you. I really appreciate your time.

01:18:32 20 Any other questions on the defense
01:18:33 21 side?

01:18:39 22 Hearing none, Robbie, any more questions
01:18:41 23 on the plaintiff side?

01:18:43 24 MR. HEMSTREET: I have just one
01:18:44 25 question.

01:18:45 1 RE-EXAMINATION

01:18:45 2 BY MR. HEMSTREET:

01:18:48 3 Q. Regarding, Ms. Merriman, the fed only voters

01:18:50 4 that you know personally through church, do you know if

01:18:53 5 any of those individuals were born in the U.S.?

01:18:56 6 A. I believe they're born in the U.S. They have

01:18:59 7 church records that date back to -- like they date back

01:19:04 8 a ways. What they said is they just don't want to

01:19:07 9 change their driver's license.

01:19:09 10 Whether they're going to bring in their stuff

01:19:11 11 prior to the election? They might. Right now nobody's

01:19:14 12 really worried about it because there isn't an election

01:19:17 13 this year.

01:19:19 14 Q. Fair enough.

01:19:20 15 And from those church records, though, do you

01:19:21 16 have reason -- do the church records --

01:19:23 17 A. I'm sorry?

01:19:24 18 Q. I'm sorry. Do the church records indicate,

01:19:26 19 though, that they were born in the U.S.?

01:19:29 20 A. I believe they would. I don't know. I just

01:19:33 21 know these -- I know two people that recently voted, and

01:19:36 22 they're fed voters that have been here for a long time,

01:19:39 23 but they've maintained their out-of-state driver's

01:19:44 24 license.

01:19:44 25 MR. HEMSTREET: And, Alex, I saw you come

01:19:46 1 on. Do you have any other questions?

01:19:48 2 MR. ATKINS: Yeah, I just have a few
01:19:50 3 follow-up questions.

01:19:50 4

01:19:53 5 RE-EXAMINATION

01:19:53 6 BY MR. ATKINS:

01:19:54 7 Q. Ms. Merriman, can you just remind us all how
01:19:57 8 long you've worked in election administration in Graham
01:20:01 9 County?

01:20:01 10 A. Okay. So I started at the Graham County
01:20:04 11 Recorder's Office in February of 2016.

01:20:08 12 Q. Okay. And in your time working for the Graham
01:20:12 13 County Recorder's Office, have you ever encountered a
01:20:15 14 voter who renounced their citizenship?

01:20:18 15 A. No.

01:20:23 16 Q. Are you able to say approximately how often
01:20:26 17 applicants provide a birth certificate as DPOC?

01:20:35 18 A. Typically, not often, but we do get high school
01:20:39 19 voter registration forms from junior/senior students,
01:20:43 20 and the teacher will always have the student provide a
01:20:47 21 birth certificate, a copy of the birth certificate to
01:20:51 22 go along with the form, just so that we have that
01:20:55 23 information if it is necessary.

01:20:58 24 Q. Have you ever encountered the situation that
01:21:01 25 you discussed with Mr. Horley where someone submitted

01:21:05 1 their birth certificate but had changed their name?

01:21:11 2 A. I don't recall having anyone with a different

01:21:14 3 name than their birth certificate, no.

01:21:17 4 Q. So is it fair to say that you've never had to

01:21:19 5 use someone's place of birth to confirm the validity of

01:21:27 6 a birth certificate because of a name change?

01:21:30 7 A. No, I have not.

01:21:34 8 Q. Have you ever had to use place of birth to

01:21:39 9 confirm the validity of an applicant's passport?

01:21:44 10 A. No, I have not.

01:21:47 11 Q. Have you ever used place of birth to assist you

01:21:52 12 in canceling a registration of a voter being deceased?

01:21:58 13 A. No, I have not.

01:22:00 14 MR. ATKINS: Those are all the questions I
01:22:01 15 have. Really appreciate your time today. Thank you.

01:22:04 16 MR. LANGHOFER: I've got a couple
01:22:05 17 clarification points, unless there's more from the
01:22:06 18 plaintiffs.

01:22:12 19

01:22:12 20 RE-EXAMINATION

01:22:12 21 BY MR. LANGHOFER:

01:22:13 22 Q. So you said a moment ago you've not seen
01:22:15 23 someone submit a birth certificate as documentary proof
01:22:18 24 of citizenship where the birth certificate name was
01:22:22 25 different from their current name. Most women in Graham

01:22:25 1 County change their last name when they get married; is
01:22:27 2 that fair?

01:22:29 3 A. Pretty fair.

01:22:31 4 Q. And some percentage of women in Graham County
01:22:34 5 use their birth certificate as DPOC, right?

01:22:37 6 A. We don't typically have a lot of people that
01:22:40 7 provide a birth certificate for their DPOC.

01:22:43 8 Q. What do they provide?

01:22:46 9 A. A driver's license.

01:22:50 10 Q. And the driver's license, though, in getting
01:22:53 11 their driver's license they could have used their birth
01:22:56 12 certificate at the MVD?

01:23:01 13 A. I'm sorry, I guess I don't understand what
01:23:02 14 you're asking.

01:23:04 15 Q. So Arizona has for a long time required you to
01:23:06 16 prove citizenship or legal status in order to get a
01:23:09 17 driver's license. So you're saying people show their
01:23:13 18 driver's license to establish citizenship most of the
01:23:16 19 time in Graham County.

01:23:18 20 A. They will.

01:23:19 21 Q. But those driver's licenses could themselves
01:23:21 22 have been based on using a birth certificate to prove
01:23:26 23 citizenship?

01:23:27 24 MR. ATKINS: Objection, calls for
01:23:30 25 speculation.

01:23:30 1 THE WITNESS: I would imagine they had to
01:23:31 2 provide their birth certificate to get the Arizona
01:23:33 3 driver's license.

01:23:37 4 BY MR. LANGHOFER:

01:23:37 5 Q. I think you're -- you have not -- speaking of
01:23:40 6 your church records, you've not actually seen any church
01:23:42 7 records that show that these people that you expect are
01:23:44 8 citizens, you've not seen church records proving they're
01:23:47 9 citizens?

01:23:48 10 A. No, I have not, but they do have a
01:23:50 11 state-enhanced driver's license.

01:23:53 12 Q. Okay. From a different state?

01:23:55 13 A. Right.

01:23:58 14 Q. Have they -- have you seen their driver's
01:24:04 15 licenses?

01:24:04 16 A. One of them I've seen.

01:24:09 17 Q. So --

01:24:10 18 A. Not in my work capacity, but outside of my work
01:24:14 19 capacity.

01:24:16 20 Q. I see. So -- and where was that driver's
01:24:20 21 license issued?

01:24:23 22 MS. ROOF: That's not relevant.

01:24:23 23 THE WITNESS: Yeah, I mean --

01:24:26 24 MR. LANGHOFER: Well, I mean I'll explain
01:24:27 25 the relevance. I don't think I'm obligated to, but I

01:24:30 1 think I will.

01:24:33 2 MS. ROOF: I just want to be careful here
01:24:35 3 because I know that this transcript itself hasn't been
01:24:37 4 designated confidential, if we need to designate it in
01:24:39 5 this portion, but this is a small county with only 47
01:24:42 6 people, and I just -- I'm concerned that we're starting
01:24:44 7 to get into information that could disclose the identity
01:24:46 8 of a voter.

01:24:47 9 MR. LANGHOFER: That's fair. I'm not
01:24:48 10 going to ask any names. I'll explain the relevance. I
01:24:51 11 mean --

01:24:51 12 MS. ROOF: But I'm saying even without a
01:24:53 13 name, absent a name, if there's enough information
01:24:55 14 disclosed, I feel like we're to the point where we might
01:24:57 15 be able to ascertain specific voters, and that concerns
01:25:00 16 me.

01:25:01 17 BY MR. LANGHOFER:

01:25:01 18 Q. Okay. Let me ask the question a different way
01:25:03 19 that I think will avoid the sort of individual
01:25:06 20 identifications issue.

01:25:06 21 When you say enhanced driver's license, you
01:25:09 22 mean it's from a state that requires proof of
01:25:11 23 citizenship in order to get a driver's license,
01:25:13 24 correct?

01:25:13 25 A. So an enhanced has the actual stamp that says

01:25:17 1 "USA," which means that they had to verify citizenship
01:25:22 2 in order to acquire that. It's kind of like our travel
01:25:25 3 ID thing that we have to -- that we can do in Arizona.
01:25:31 4 So an enhanced driver's license is an acceptable form.
01:25:35 5 They can provide a copy of an enhanced driver's license
01:25:37 6 to become a full ballot voter.

01:25:40 7 Q. Okay. So it seems to you then this person
01:25:43 8 could prove that he or she is a citizen if he or she
01:25:46 9 wanted to?

01:25:46 10 A. Yes, if they want to.

01:25:49 11 Q. And your office has given this person the
01:25:51 12 option of getting a full ballot by proving
01:25:56 13 citizenship?

01:25:56 14 A. Yep. Yes, as we have all of them.

01:26:04 15 Q. Yeah, of course.

01:26:05 16 MR. LANGHOFER: That's all I've got.
01:26:07 17 Anything else from anyone?

01:26:10 18 Thank you, ma'am, for your time. I really
01:26:13 19 appreciate it.

01:26:14 20 I guess, Dan, do you want to take us off
01:26:16 21 the record.

01:26:16 22 THE VIDEOGRAPHER: You got it.

01:26:17 23 We are off the record. Time on the video
01:26:19 24 monitor is 1:26 p.m. This ends Volume 1, Media 2 in the
01:26:24 25 30(b)(6) deposition of Graham County Recorder by Polly

01:26:29

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Merriman.

(Deposition Exhibits 249 through 259,
inclusive, were marked for identification.)

(The videotaped deposition concluded at
1:26 p.m.)

POLLY MERRIMAN

RETRIEVED FROM DEMOCRACYDOCKET.COM

1 STATE OF ARIZONA)
) ss.
2 COUNTY OF MARICOPA)

3
4 BE IT KNOWN that the foregoing videotaped
5 deposition was taken before me, JODY L. LENSCHOW, RMR,
6 CRR, Certified Reporter No. 50192 for the State of
7 Arizona, and by virtue thereof authorized to administer
8 an oath; that the witness before testifying was duly
9 sworn by me; that the questions propounded by counsel
10 and the answers of the witness thereto were taken down
11 by me in shorthand and thereafter transcribed under my
12 direction; that a review of the transcript by the
13 witness was requested; that the foregoing pages contain
14 a full, true, and accurate transcript of all proceedings
15 and testimony had, all to the best of my skill and
16 ability.

17 I FURTHER CERTIFY that I am not related to nor
18 employed by any of the parties hereto and have no
19 interest in the outcome thereof.

20 DATED at Phoenix, Arizona, this 12th day of
21 September, 2023.

22
23 

24 JODY L. LENSCHOW, RMR, CRR
Certified Reporter
25 Certificate No. 50192

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UNITED STATES DISTRICT COURT
DISTRICT OF ARIZONA

Mi Familia Vota, et al.,)	
)	Case No:
Plaintiffs,	)	2:22-cv-00509-SRB
	)	(Lead)
vs.)	
	)	CV-22-00519-PHX-SRB
Adrian Fontes, in his official	)	CV-22-01003-PHX-SRB
capacity as Arizona Secretary of	)	CV-22-01124-PHX-SRB
State, et al.,	)	CV-22-01369-PHX-SRB
	)	CV-22-01381-PHX-SRB
Defendants.	)	CV-22-01602-PHX-SRB
	)	CV-22-01901-PHX-SRB
_____)	
AND CONSOLIDATED CASES.)	
_____)	

DEPOSITION OF ARIZONA SECRETARY OF STATE
REPRESENTED BY COLLEEN CONNOR
VIDEOTAPED

Phoenix, Arizona
September 7, 2023

Prepared by:
JODY L. LENSCHOW, RMR, CRR
Certified Court Reporter
Certification No. 50192

CINDY MAHONEY, RPR, RMR
Certified Court Reporter
Certification No. 50680



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EXAMINATION BY MS. KANTER COHEN

6 EXAMINATION BY MR. LANGHOFER

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2 REPRESENTED BY COLLEEN CONNOR
3 was taken on September 7, 2023, commencing at 8:25 a.m.
4 at the offices of the United States Department of
5 Justice, Two Renaissance Square, 40 N. Central Avenue,
6 Suite 1800, Phoenix, Arizona, before Jody L. Lenschow
7 and Cindy Mahoney, Certified Reporters in the State of
8 Arizona.

9
10 * * *
RETRIEVED FROM DEMOCRACYDOCKET.COM

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12 ALSO PRESENT: Mr. Christopher Parkinson,
13 Videographer

13

14

14 ALSO PRESENT VIA ZOOM: Pima County Recorder's Office

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08:25:59 1 THE VIDEOGRAPHER: We are on the record.
08:26:00 2 The time on the video monitor is 8:25 a.m. Here begins
08:26:04 3 Volume 1, Media No. 1 in the 30(b)(6) deposition of
08:26:09 4 Arizona Secretary of State by Colleen Connor in the
08:26:13 5 matter of Mi Familia Vota, et al. versus Adrian Fontes
08:26:16 6 in his official capacity as Arizona Secretary of State,
08:26:19 7 et al., in the United States District Court, District of
08:26:23 8 Arizona, Case No. 2:22-cv-00509-SRB.

08:26:31 9 Today's date is September 7th, 2023. Our
08:26:34 10 court reporter is Jody Lenschow. My name is Christopher
08:26:37 11 Parkinson, certified legal videographer. We both
08:26:40 12 represent Coash Court Reporting & Video. This video
08:26:42 13 deposition is taking place at 40 North Central Avenue,
08:26:47 14 Suite 1800, Phoenix, Arizona, 85004.

08:26:50 15 Counsel, please identify yourselves and
08:26:52 16 state whom you represent.

08:26:53 17 MS. BRAILEY: Emily Brailey on behalf of
08:26:55 18 the United States.

08:26:58 19 MS. JHAVERI: Sejal Jhaveri on behalf of
08:26:58 20 the United States.

08:26:59 21 MR. DELLHEIM: Richard Dellheim for the
08:27:02 22 United States.

08:27:02 23 MS. LANG: Danielle Lang for the LUCHA
08:27:04 24 plaintiffs.

08:27:05 25 NIYATI SHAH: Niyati Shah for the Equity

08:27:06 1 Coalition plaintiffs.

08:27:07 2 MS. KANTER COHEN: Michelle Kanter Cohen

08:27:08 3 for Poder Latinx plaintiffs.

08:27:10 4 MR. HERRERA: Ernest Herrera for the

08:27:12 5 Promise Arizona plaintiffs.

08:27:13 6 MR. LANGHOFER: Kory Langhofer for the

08:27:15 7 RNC.

08:27:16 8 MR. MORGAN: Craig Morgan and Shayna

08:27:19 9 Stuart from Sherman & Howard on behalf of the Secretary

08:27:21 10 of State.

08:27:22 11 MR. LANGHOFER: And before we start I'd

08:27:24 12 like to put on the record the stipulation that an

08:27:28 13 objection by one will be an objection for all; is that

08:27:31 14 right, Emily?

08:27:31 15 MS. BRAILEY: Yes, we agree.

08:27:33 16 MR. LANGHOFER: And while we're at it, in

08:27:35 17 the interest of efficiency, I know there's been some

08:27:38 18 conversation before we went on the record about the --

08:27:38 19 MR. MORGAN: She can't hear you.

08:27:40 20 MR. LANGHOFER: -- about the length of

08:27:41 21 time that we'll go today, and the RNC objects to

08:27:44 22 extending the deposition beyond seven hours.

08:27:51 23 MS. BRAILEY: Good morning, Ms. Connor.

08:27:51 24 THE WITNESS: Good morning.

08:27:54 25 MR. WHITAKER: Well, sorry, everyone.

08:27:55 1 Hang on.

08:27:55 2 My appearance, Josh Whitaker for the
08:27:58 3 Arizona Attorney General.

08:27:59 4 And, Craig, I can hear you fine, but at
08:28:02 5 least some people, especially Kory, you're really far
08:28:05 6 away from a mike. I can barely detect that you're
08:28:09 7 talking at all.

08:28:12 8 MR. MORGAN: You know, the mike's right
08:28:13 9 there.

08:28:13 10 MS. BRAILEY: That doesn't work with that.

08:28:13 11 MR. MORGAN: Oh, that doesn't work with
08:28:15 12 that? Okay, got it. Yeah, Sorry, Josh. We'll work on
08:28:18 13 that.

08:28:19 14 MR. WHITAKER: Okay.

08:28:20 15 MS. PORTER: And, sorry, also, Hannah
08:28:21 16 Porter from Gallagher & Kennedy on behalf of Speaker
08:28:24 17 Toma and President Petersen.

08:28:30 18 MR. MORGAN: Anybody else entering
08:28:32 19 appearances on the line?

08:28:34 20 MS. FROST: Elisabeth Frost and Chris
08:28:36 21 Dodge for Mi Familia Vota plaintiffs.

08:28:39 22 MR. BABBITT: Christopher Babbitt for the
08:28:41 23 Arizona Democratic Party and the DNC.

08:28:51 24 THE VIDEOGRAPHER: Would the court
08:28:52 25 reporter please swear in the witness.

08:28:52 1 COLLEEN CONNOR,
08:28:52 2 called as a witness herein, having been first duly sworn
08:28:52 3 by the Certified Court Reporter to speak the truth and
08:28:52 4 nothing but the truth, was examined and testified as
08:29:00 5 follows:

08:29:00 6

08:29:00 7 EXAMINATION

08:29:00 8 BY MS. BRAILEY:

08:29:02 9 Q. Good morning, Ms. Connor. Please state your
08:29:04 10 full name for the record and please spell your last
08:29:06 11 name.

08:29:06 12 A. My full name is Mary Colleen Connor. Connor is
08:29:10 13 spelled C-O-N-N-O-R.

08:29:11 14 Q. And have you been deposed before?

08:29:12 15 A. Yes.

08:29:14 16 Q. Do you understand that the court reporter is
08:29:16 17 transcribing this deposition?

08:29:17 18 A. Yes.

08:29:18 19 Q. And to make the record clear and to help the
08:29:22 20 court reporter, I'm going to lay some ground rules.
08:29:24 21 Let's try to not speak over each other like we might in
08:29:27 22 a normal conversation. It just means I'd like you to
08:29:29 23 let me finish my question before you answer, and I'm
08:29:31 24 going to try my best to make sure you finish your answer
08:29:33 25 before I ask another question. Can we agree to that?

08:29:36 1 A. Yes.

08:29:38 2 Q. And for the same reason, do you agree to please
08:29:42 3 avoid answers like uh-huh, huh-uh, or shaking your head,
08:29:46 4 and answer yes or no for the record?

08:29:48 5 A. Yes.

08:29:48 6 Q. And do you understand that you're testifying
08:29:49 7 under oath today?

08:29:50 8 A. I do.

08:29:51 9 Q. Is there any reason that you cannot give full
08:29:53 10 and true testimony today?

08:29:54 11 A. No.

08:29:56 12 Q. Are you taking any medications or have any
08:29:58 13 conditions that might impact your memory today?

08:30:00 14 A. No.

08:30:01 15 Q. And I'm going to try to ask you whether you
08:30:03 16 need breaks, but if I fail to ask you in time and you
08:30:06 17 need a break, that's fine, we'll take a break. I just
08:30:09 18 would appreciate if you would answer my question before
08:30:13 19 we take the break. Can you agree to that?

08:30:14 20 A. Yes.

08:30:15 21 Q. And you may hear attorneys in the room,
08:30:18 22 including your own counsel, object after I ask
08:30:20 23 questions, but unless your attorney explicitly directs
08:30:24 24 you not to answer, go ahead and answer my question after
08:30:26 25 the objection. Does that work for you?

08:30:27 1 A. That works for me, yes.

08:30:29 2 Q. And can we also agree that unless I specify

08:30:31 3 otherwise, when I say you in a question, I'm referring

08:30:34 4 to the Office of the Secretary of State?

08:30:37 5 A. Uh-huh.

08:30:38 6 Q. And I'll note you nodded your head. I think

08:30:41 7 that's a yes?

08:30:41 8 A. Yes. Sorry. I've already broken the rule.

08:30:45 9 Q. No worries. It's good practice.

08:30:45 10 MR. MORGAN: We're okay with the
08:30:46 11 stipulation, as long as you'll stipulate that when she
08:30:47 12 answers a question, it's for the office and not on her
08:30:50 13 own personal behalf.

08:30:51 14 MS. BRAILEY: Absolutely, yeah.

08:30:52 15 MR. MORGAN: Okay, great.

08:30:53 16 BY MS. BRAILEY:

08:30:54 17 Q. And so you mentioned that you've been deposed
08:30:55 18 before. How many times have you been deposed?

08:30:58 19 A. Oh, less than five.

08:31:00 20 Q. Okay. And in what capacity were you deposed?

08:31:06 21 A. In this capacity as the state elections
08:31:09 22 director and, also, when I was the executive director of
08:31:13 23 the Citizens Clean Elections Commission.

08:31:16 24 Q. Do you remember which cases that was -- those
08:31:18 25 depositions were for?

08:31:19 1 A. Well, the most recent was for -- gosh, I don't
08:31:25 2 know the name of the case, but it had to do with
08:31:28 3 Arizona's early voting list.

08:31:30 4 MR. MORGAN: It's the other --

08:31:32 5 THE WITNESS: I think it's the other
08:31:33 6 Mi Familia case.

08:31:34 7 MR. MORGAN: The other Mi Familia case,
08:31:34 8 yeah.

08:31:35 9 BY MS. BRAILEY:

08:31:35 10 Q. And were there other cases as well?

08:31:36 11 A. There were. I don't know the names.

08:31:38 12 Q. Did you bring any materials with you to the
08:31:41 13 deposition today?

08:31:41 14 A. I just brought a notepad to doodle, otherwise I
08:31:48 15 will doodle on the exhibits.

08:31:54 16 Q. Great. And for the record, what are the
08:31:56 17 documents in front of you?

08:31:57 18 A. Oh. This is a copy of H.B. 2492 and this is a
08:32:00 19 copy of the memorandum of agreement between the U.S.
08:32:04 20 Citizenship and Immigration Services versus -- and
08:32:07 21 Maricopa County.

08:32:07 22 Q. Wonderful.

08:32:09 23 A. I can put them away, if you'd like.

08:32:11 24 Q. No, that's perfectly fine.

08:32:14 25 So let's get to know you a little bit. Can you

08:32:16 1 give me a brief summary of your educational background,
08:32:18 2 including any certifications that you've acquired for
08:32:20 3 your current position?

08:32:21 4 A. Sure. I graduated from college 1987. No, no,
08:32:29 5 I'm sorry, 1991. Graduated from law school in 1994 and
08:32:35 6 moved to Arizona, passed the bar, and have been a member
08:32:40 7 of the bar almost 30 years now.

08:32:45 8 Q. And tell us about your work history.

08:32:48 9 A. I worked at the Arizona Attorney General's
08:32:52 10 Office in the late '90s, and the Citizens Clean
08:32:58 11 Elections Act was passed via a voter-approved initiative
08:33:01 12 in the 1998 election, and in January of 2000 I was hired
08:33:05 13 as the executive director, and that was through -- I
08:33:08 14 worked there through July of 2005. And then I started
08:33:15 15 working at the Maricopa County Attorney's Office
08:33:19 16 August 1st of 2005, and worked there through January of
08:33:28 17 2020. And then from 2020 to December of 2022 I worked
08:33:38 18 briefly at the Pinal County Attorney's Office and then
08:33:42 19 at the Yavapai County Attorney's Office, and then I
08:33:45 20 started as the state elections director January 4th of
08:33:51 21 2023.

08:33:53 22 Q. And what were your roles while you were at
08:33:57 23 Maricopa County?

08:33:58 24 A. At Maricopa County I was a deputy county
08:34:02 25 attorney in the government advice group from 2005

08:34:07 1 through 2011. Bill Montgomery was elected County
08:34:14 2 Attorney in 2010, and then in 2011 I was promoted to be
08:34:18 3 the practice group leader at the government advice
08:34:22 4 practice group, and then I held that position until I
08:34:25 5 left.

08:34:26 6 Q. And what were your roles in Pinal and Yavapai
08:34:32 7 Counties?

08:34:32 8 A. I was deputy county attorney. I represented
08:34:37 9 the Board of Supervisors, the County Recorder, elections
08:34:41 10 department, also did a great deal of public health,
08:34:44 11 probably like most attorneys in that time frame, and
08:34:48 12 there's a free clinic in Yavapai County, a federally
08:34:54 13 qualified health clinic, and I did a lot of work for
08:34:56 14 them.

08:34:56 15 Q. And so you're currently the elections director
08:34:58 16 for the Arizona Secretary of State now?

08:35:00 17 A. That's correct.

08:35:01 18 Q. Describe that role a little bit more, what your
08:35:04 19 responsibilities are, just generally what this role
08:35:06 20 entails.

08:35:07 21 A. The state elections director reports to the
08:35:12 22 Assistant Secretary of State, Keely Varvel, who reports
08:35:15 23 to the Secretary of State, Adrian Fontes, and I oversee
08:35:23 24 the various divisions within the elections department
08:35:29 25 for the Secretary of State's Office, including voter

08:35:33 1 registration, the filing office, the compliance, also
08:35:40 2 called compliance, and enforcement for any late filings,
08:35:47 3 such as lobbyist filings or campaign finance.

08:35:50 4 Q. And how many people report to you?

08:35:54 5 A. I have two people that report directly to me,
08:35:58 6 and I think our department is approximately 20 people
08:36:04 7 all together.

08:36:06 8 Q. I'm going to mark as Exhibit 260, I believe
08:36:09 9 we're at 260, plaintiffs' notice of deposition. And
08:36:22 10 because we don't have the Dropbox in front of you yet,
08:36:25 11 I'm just going to hand you a paper copy for me.

08:36:25 12 A. Uh-huh.

08:36:28 13 Q. Have you seen this document?

08:36:30 14 A. Yes.

08:36:30 15 Q. Who provided it to you?

08:36:31 16 A. My attorney.

08:36:31 17 Q. And do you see the list of topics on Exhibit A?
08:36:34 18 It should be like Page 3 of the document, I believe.

08:36:42 19 A. Exhibit A, yes. Starting with "Definitions"?

08:36:44 20 Q. Uh-huh.

08:36:44 21 A. Yes, I see that.

08:36:45 22 Q. And did you review all of the definitions and
08:36:47 23 topics in Exhibit A?

08:36:48 24 A. Yes.

08:36:49 25 Q. Are you prepared to discuss all of the topics?

08:36:52 1 A. Yes.

08:36:54 2 MR. MORGAN: Well, with the exception of
08:36:55 3 those that we've designated Yolanda for.

08:36:58 4 MS. BRAILEY: Right.

08:36:58 5 BY MS. BRAILEY:

08:37:00 6 Q. Did you meet with anyone in your office to
08:37:01 7 prepare for today's deposition?

08:37:02 8 A. Yes.

08:37:03 9 Q. Who did you meet with?

08:37:05 10 A. I met with -- well, I've had numerous meetings.
08:37:10 11 I can't even count how many meetings. But with the
08:37:15 12 Secretary of State, the Assistant Secretary of State,
08:37:17 13 our general counsel; our outside counsel, Craig Morgan
08:37:21 14 and Shayna Stuart; also, members of the staff,
08:37:26 15 specifically the AVID team, which includes Yolanda
08:37:29 16 Morales, who will be testifying as well, Russ Smith, our
08:37:33 17 election technologies manager, Jason Fountain. I've
08:37:42 18 also met with -- I'm trying to think.

08:37:50 19 MR. MORGAN: Trevor?

08:37:55 20 THE WITNESS: There perhaps are other
08:37:57 21 people, and I was trying to think of it last night, and
08:37:59 22 I just -- so perhaps I will add on to that. But, yes,
08:38:02 23 I've met with many people about this.

08:38:04 24 BY MS. BRAILEY:

08:38:05 25 Q. Sure. For about how long were all of these

08:38:07 1 meetings each?

08:38:09 2 A. Well, yesterday's meeting was all day, but our
08:38:13 3 meetings can last usually two hours.

08:38:20 4 Q. How many times did you meet with your
08:38:23 5 attorneys?

08:38:24 6 A. I don't know.

08:38:26 7 Q. And was anybody else with you during those
08:38:29 8 meetings with the attorneys?

08:38:31 9 A. Other members of the staff, yes.

08:38:34 10 Q. Did you meet with anyone in the Governor's
08:38:36 11 Office?

08:38:36 12 A. Yes. That's who I met with also.

08:38:39 13 Q. Okay. And who did you meet with there?

08:38:40 14 A. I met with Bo Dul, general counsel to the
08:38:44 15 Governor; Kori Lorick, assistant general counsel; and
08:38:50 16 Christine Dyster, and her title is director of board
08:39:00 17 appointments, something to that effect.

08:39:02 18 Q. Did you meet with them all separately or this
08:39:04 19 was one big meeting?

08:39:05 20 A. I met with them all at the same time.

08:39:07 21 Q. And how long was that meeting?

08:39:08 22 A. A half an hour.

08:39:10 23 Q. Only the one time?

08:39:13 24 A. Our meeting, yes, was just the one time last
08:39:17 25 Thursday, but since the transition I have talked to them

08:39:23 1 periodically.

08:39:25 2 Q. But not about the deposition, just about the --

08:39:28 3 A. Not -- yes, correct. Yes, not specifically

08:39:30 4 about the deposition.

08:39:31 5 Q. Right.

08:39:34 6 Did anyone else come to mind yet that you met

08:39:37 7 with?

08:39:37 8 A. Not yet.

08:39:42 9 Q. Okay. Anybody in the AG's Office?

08:39:44 10 A. No.

08:39:44 11 Q. Okay. Any of the counties?

08:39:52 12 A. You know, it might have come up in passing --

08:39:55 13 Q. Okay.

08:39:55 14 A. -- as far as just scheduling purposes. I think

08:39:58 15 that probably is the other category of meeting or

08:40:02 16 talking to people about this, simply just for

08:40:05 17 scheduling, letting people know where I am --

08:40:07 18 Q. Sure.

08:40:07 19 A. -- all of that.

08:40:09 20 Q. Did you review documents to prepare for today's

08:40:11 21 deposition?

08:40:11 22 A. Yes, I did.

08:40:12 23 Q. What did you review?

08:40:13 24 A. I reviewed all of the documents listed in the

08:40:19 25 notice of deposition.

08:40:24 1 Q. Did you do anything else to prepare for today?

08:40:27 2 A. Not that I can think of at this point.

08:40:29 3 Q. And, generally speaking, you understand why
08:40:32 4 you're here; you understand the purpose of your
08:40:35 5 deposition today?

08:40:35 6 A. Yes.

08:40:38 7 Q. Okay. I'm going to mark as Exhibit 261 the
08:40:45 8 Secretary of State's response to the Equity Coalition's
08:40:49 9 first set of production of documents.

08:40:55 10 For those following along on the Dropbox, I
08:40:59 11 believe this is -- it starts with a B.

08:41:05 12 MR. MORGAN: Madam Court Reporter, would
08:41:06 13 it be helpful to you if I write on a Post-It note the
08:41:14 14 numbers?

08:41:14 15 THE COURT REPORTER: I'm going to do it
08:41:15 16 digitally later.

08:41:17 17 MR. MORGAN: Okay, gotcha.

08:41:17 18 BY MS. BRAILEY:

08:41:17 19 Q. Have you seen this document before?

08:41:18 20 A. Yes.

08:41:18 21 Q. Can you describe just very briefly the steps
08:41:21 22 that the office took to respond to the requests?

08:41:23 23 A. The office did --

08:41:27 24 MR. MORGAN: If you know, given what
08:41:29 25 you're --

08:41:29 1 THE WITNESS: Yeah, to the extent that I
08:41:31 2 know --

08:41:31 3 MR. MORGAN: Yeah.

08:41:31 4 THE WITNESS: -- yeah, the office did
08:41:34 5 searches through the IT department for certain keywords
08:41:38 6 in response to the requests for production.

08:41:41 7 BY MS. BRAILEY:

08:41:41 8 Q. Were you involved in those searches?

08:41:44 9 A. No. This was under the former administration.

08:41:51 10 Q. Are there any additional documents that your
08:41:53 11 office plans to produce regarding these requests?

08:41:56 12 A. Not that I'm aware of.

08:41:58 13 Q. Okay. I'm going to mark as Exhibit 262 the
08:42:07 14 Secretary's response to the consolidated plaintiffs'
08:42:10 15 first set of interrogatories.

08:42:10 16 A. Okay.

08:42:13 17 Q. Same question. Have you seen this document
08:42:15 18 before?

08:42:17 19 A. Yes, I have.

08:42:19 20 Q. And can you describe briefly the steps that
08:42:22 21 your office took to respond to this document?

08:42:29 22 A. The office appears to have taken steps to make
08:42:49 23 certain objections, legal objections, to what is being
08:42:53 24 requested, as well as identifying certain individuals
08:43:02 25 with knowledge and explaining what is being disclosed.

08:43:10 1 Q. Were you involved in preparing the responses to
08:43:13 2 these interrogatories?

08:43:14 3 A. I personally was not.

08:43:15 4 Q. Okay. At the end of the document there's a
08:43:19 5 verification page, and it appears that it was signed by
08:43:22 6 Amy Chan; do you see that at the very end of the
08:43:26 7 document?

08:43:28 8 A. Yes, I do.

08:43:30 9 Q. Who is Amy Chan?

08:43:32 10 A. Amy Chan is the general counsel.

08:43:35 11 Q. Great.

08:43:36 12 And I'm going to mark as Exhibit 263 the
08:43:40 13 Secretary's response to the consolidated plaintiffs'
08:43:43 14 first request for production.

08:43:48 15 People following along, I believe that's D at
08:43:50 16 the beginning there.

08:43:51 17 Have you seen this document before?

08:43:52 18 A. Yes, I have.

08:43:55 19 Q. Were you involved in -- or, rather, strike
08:43:55 20 that.

08:43:58 21 Can you describe very briefly the steps the
08:44:00 22 office took to respond to these requests?

08:44:03 23 A. The office did certain word searches, inquiries
08:44:10 24 through the IT department at the Secretary of State's
08:44:15 25 Office, provided the information to our general counsel,

08:44:22 1 Amy Chan, as well as our outside counsel.

08:44:25 2 Q. Were you involved in the search for those
08:44:28 3 documents?

08:44:28 4 A. I was not personally involved.

08:44:30 5 Q. And are there any additional documents
08:44:32 6 that your office plans to produce regarding these
08:44:35 7 requests?

08:44:35 8 A. Not that I'm aware of.

08:44:41 9 Q. Okay. You can put that one away.

08:44:41 10 A. Okay.

08:44:43 11 Q. I'm going to mark as Exhibit 264 -- is that
08:44:47 12 where we're at, 264?

08:44:49 13 MR. MORGAN: Yes.

08:44:50 14 BY MS. BRAILEY:

08:44:50 15 Q. Okay, 264. And people following along, this is

08:44:55 16 E. It's called E, Secretary of State Org Chart on the
08:44:59 17 Dropbox.

08:44:59 18 I'm going to hand you the document.

08:45:05 19 Do you recognize this document?

08:45:06 20 A. Yes. It's an organizational chart for the
08:45:10 21 Secretary of State's Office.

08:45:10 22 Q. And this is for the fiscal year 2023?

08:45:14 23 A. I'm going to look through and --

08:45:16 24 Q. Yes, please. Take a minute, yes.

08:45:18 25 A. -- respond.

08:46:24 1 Okay, I've looked through the document and
08:46:51 2 I've -- just focusing on the page regarding election
08:46:56 3 services. So at this point, could you repeat your
08:46:58 4 question?

08:46:59 5 Q. Is this -- this is an accurate representation
08:47:04 6 of the organizational chart for fiscal year 2023 for the
08:47:06 7 office?

08:47:07 8 A. That's correct, with the exception that some of
08:47:11 9 the employees have changed.

08:47:12 10 Q. Okay. Let's talk about that. So you're on --
08:47:15 11 to be clear, you're on the page, I believe it's Page 14
08:47:18 12 of the document, and this is a representation of the
08:47:20 13 structure of your department, of the election services
08:47:24 14 department?

08:47:28 15 A. Yes.

08:47:30 16 Q. So tell me what is different now.

08:47:35 17 A. Okay. So as far as the two reports to me, the
08:47:38 18 information security officer is the same. The assistant
08:47:43 19 elections director is actually the -- we refer to that
08:47:47 20 position as the deputy elections director, and that's
08:47:49 21 since been filled by Lisa Marra.

08:47:54 22 And then on the -- below Lisa Marra, reporting
08:47:58 23 to her, Jesus Galvan, he has since left the office, and
08:48:04 24 the position for campaign finance supervisor is being
08:48:07 25 filled by Raven Padilla.

08:48:14 1 The next box, the vacant one for outreach
08:48:18 2 coordinator, the information in the parenthetical,
08:48:22 3 that's correct. That position's been moved to the
08:48:26 4 Assistant Secretary of State. Russ Smith, that's
08:48:32 5 correct. His direct report is Jason Fountain.

08:48:37 6 The next box, program coordinator, that
08:48:41 7 position is now called election filing manager, and
08:48:44 8 that's filled by Hope Olguin. Olguin is spelled
08:48:51 9 O-L-G-U-I-N. And so the three -- there are three
08:49:00 10 positions that report -- excuse me. There are now four
08:49:06 11 positions that report to the election filing manager.
08:49:10 12 We moved the campaign finance position to the election
08:49:15 13 filing manager position. And then since then the help
08:49:24 14 desk analyst, she has left, and that position has been
08:49:30 15 filled just within the last week or so, and I don't
08:49:38 16 recall the name of the person.

08:49:39 17 Q. That's no problem.

08:49:40 18 A. But Yolanda Morales is still a direct report to
08:49:49 19 Lisa Marra, but the fellow, Zoe Myers, has left; and
08:49:53 20 then Tanner Robinson is our customer service supervisor.
08:49:56 21 So otherwise correct.

08:49:57 22 Q. Great. Thank you. That's helpful.

08:49:59 23 Which responsibilities fall within your
08:50:02 24 department related to voting and elections?

08:50:08 25 A. Russ Smith and Yolanda Morales, as well as

08:50:16 1 Jason Fountain. So Russ Smith, his title has changed;
08:50:26 2 election information supervisor or something like that.
08:50:31 3 And Yolanda Morales, her title is senior policy advisor,
08:50:38 4 something to that effect.

08:50:42 5 Q. Okay. That's helpful. You can put that away
08:50:44 6 now.

08:50:44 7 A. Okay.

08:50:45 8 Q. So let's talk about the responsibilities as in
08:50:51 9 duties and what your division does related to voting and
08:50:57 10 elections.

08:50:58 11 A. Okay.

08:50:58 12 Q. Can you outline for me those responsibilities
08:51:00 13 and duties?

08:51:02 14 A. Yes. So the Secretary of State is charged as
08:51:06 15 the chief election officer to ensure the implementation
08:51:12 16 of the National Voter Registration Act, as well as any
08:51:15 17 other federal laws, such as the Help America Vote Act.

08:51:21 18 Likewise, the Secretary of State is the chief
08:51:24 19 election officer and oversees and coordinates with the
08:51:30 20 15 County Recorders, County Boards of Supervisors,
08:51:35 21 county elections department to implement Arizona's laws.

08:51:39 22 The Secretary of State also every two years is
08:51:42 23 charged with the duty of drafting an election procedures
08:51:46 24 manual to ensure impartiality, correctness and
08:51:52 25 uniformity of the implementation of Arizona's election

08:51:58 1 laws.

08:52:00 2 Q. And what are your specific responsibilities as
08:52:04 3 the elections director?

08:52:06 4 A. My specific responsibilities are to ensure the
08:52:12 5 Secretary of State's responsibilities are fulfilled,
08:52:15 6 that I keep the Secretary of State apprised of events,
08:52:21 7 as well as the Assistant Secretary of State. Also, to
08:52:25 8 hire capable people, qualified people to the various
08:52:36 9 positions within the office.

08:52:38 10 Many of the staff members that were previously
08:52:42 11 in the elections department have left and moved on to
08:52:45 12 other things. Most people went to the Governor's
08:52:50 13 Office. But there were other issues. There were many
08:52:53 14 individuals who were fellows or interns and their
08:52:56 15 position only lasted a year, so those positions. But
08:52:59 16 that's a big part of my position now, especially in the
08:53:02 17 first year, is to hire people.

08:53:06 18 Q. What do you mean by events when you say you
08:53:08 19 make sure that the Secretary is aware of events?

08:53:13 20 A. Oh, for example, the Secretary of State is
08:53:17 21 kept apprised of the schedule for drafting the
08:53:23 22 procedures manual. That has been a big chunk of my
08:53:26 23 position, and I established a calendar in February of
08:53:34 24 setting forth five different dates by which certain
08:53:39 25 chunks of the election procedures manual would be

08:53:44 1 completed to ensure we hit an August 1st date of an
08:53:49 2 initial draft being done and ready for publication to
08:53:56 3 allow for public comment.

08:53:59 4 The goal being the Secretary of State would
08:54:03 5 meet the October 1st statutory deadline to have a final
08:54:08 6 draft of the election procedures manual, also referred
08:54:12 7 to as the EPM, to submit to the Attorney General and the
08:54:15 8 Governor. So throughout that process I've kept the
08:54:19 9 Secretary of State and Assistant Secretary of State
08:54:22 10 apprised of how things are going.

08:54:26 11 Q. As part of your responsibilities, are you ever
08:54:27 12 asked to provide input on pending legislation?

08:54:34 13 A. I have been periodically. I don't --
08:54:40 14 unfortunately, with limited time, I don't recall
08:54:44 15 providing that much feedback.

08:54:48 16 Q. Uh-huh. And so are all of the registration and
08:54:50 17 election-related issues the responsibility of the
08:54:52 18 election services department?

08:54:54 19 MR. MORGAN: Form.

08:54:58 20 THE WITNESS: They are, generally.

08:55:01 21 I will add, though, the voter registration
08:55:06 22 database was created and is programmed by a third-party
08:55:13 23 vendor. Their name is INEXL, I-N-E-X-L. And so INEXL
08:55:23 24 and their representatives have a great deal of
08:55:27 25 involvement in that process as well.

08:55:30 1 BY MS. BRAILEY:

08:55:30 2 Q. But internal to the Secretary's Office the

08:55:34 3 voter registration and election-related issues fall

08:55:37 4 within your department?

08:55:39 5 A. Yes.

08:55:39 6 Q. And so there's no other department that has

08:55:42 7 those responsibilities?

08:55:43 8 A. That's correct.

08:55:44 9 Q. Okay. And so you mentioned for the EPM, as a

08:55:47 10 big part of your -- as a big part of your

08:55:49 11 responsibilities, that you have these lists of

08:55:52 12 deadlines; and so did you -- were you successful in

08:55:55 13 meeting your August 1st deadline?

08:55:56 14 A. Yes.

08:55:58 15 Q. And have you been successful in the other

08:56:01 16 deadlines that you've met? I'm sorry, that you laid

08:56:04 17 out?

08:56:05 18 A. Yes. I mean there were a few exceptions. Like

08:56:08 19 the 4th of July I think fell on a Tuesday.

08:56:11 20 Q. Uh-huh.

08:56:12 21 A. So I'll just -- generally, the deadlines were

08:56:15 22 established as follows, if you can indulge me.

08:56:18 23 Q. Sure.

08:56:18 24 A. So starting in March, the first Tuesday of the

08:56:21 25 month I would release a section, two, three chapters at

08:56:26 1 a time, and distribute that section, which I also called
08:56:33 2 parts, that first part to the counties, as well as,
08:56:40 3 frankly, cities, towns, other stakeholders, to the
08:56:44 4 Attorney General's Office, to the Governor's Office.

08:56:50 5 And then by the second Tuesday of each month
08:56:53 6 was the deadline I requested, and so it was kind of a
08:56:56 7 soft deadline, by which the county would have comments,
08:57:03 8 corrections, suggestions.

08:57:05 9 And then by the third Tuesday of each month we
08:57:08 10 would have a meeting with the county election officials,
08:57:13 11 which would include the elections directors, Boards of
08:57:17 12 Supervisors, as well as a few other individuals who
08:57:20 13 might be interested and stakeholders, such as the
08:57:23 14 Attorney General's Office or the Governor's Office.

08:57:25 15 So that was the -- that was the roadmap,
08:57:30 16 essentially, done in five different parts.

08:57:35 17 Q. Are you on track to deliver a draft to the AG
08:57:40 18 and the Governor by October 1st?

08:57:42 19 A. Yes.

08:57:45 20 Q. And do you plan to?

08:57:46 21 A. Yes.

08:57:46 22 Q. Okay. We'll speak about the EPM in a little
08:57:49 23 bit, so...

08:57:49 24 A. Okay.

08:57:50 25 Q. That's not all.

08:57:51 1 What is the BPC task force? I've seen in the
08:57:57 2 documents, in e-mails with you, that you've referenced
08:57:59 3 the BPC task force.

08:58:02 4 A. There's the bipartisan policy center. That's
08:58:06 5 not -- but that's a national policy group.

08:58:06 6 Q. Uh-huh.

08:58:10 7 A. And there could be another one, but I don't
08:58:13 8 know.

08:58:13 9 Q. Okay.

08:58:13 10 A. We deal with abbreviations a lot.

08:58:15 11 Q. Uh-huh.

08:58:16 12 A. So I'm not sure.

08:58:17 13 Q. Okay. So I'd like to speak about the Secretary
08:58:20 14 vis-à-vis the County Recorders now, just divisions of
08:58:23 15 responsibilities.

08:58:24 16 So does the Secretary of State interpret the
08:58:27 17 election laws for the state; is that the duty --

08:58:27 18 MR. WHITAKER: Calls for a legal
08:58:27 19 conclusion.

08:58:37 20 BY MS. BRAILEY:

08:58:37 21 Q. Is that the duty of the Secretary's Office?

08:58:41 22 MR. LANGHOFER: Same objection.

08:58:42 23 THE WITNESS: The Secretary of State
08:58:44 24 interprets elections laws, state election laws, but I
08:58:51 25 wouldn't characterize it as for the state, because, of

08:58:55 1 course, we have County Recorders, County Boards of
08:58:58 2 Supervisors, who are duly elected constitutional
08:59:02 3 officers, who are charged with their separate duties;
08:59:06 4 and, therefore, the Secretary of State cannot tell them
08:59:09 5 what to do.

08:59:14 6 BY MS. BRAILEY:

08:59:14 7 Q. So what if the Secretary has an interpretation
08:59:16 8 of an election law and the county has a different
08:59:21 9 interpretation and those interpretations conflict; what
08:59:25 10 should the county do in that situation?

08:59:29 11 MR. MORGAN: Calls for a legal conclusion.

08:59:32 12 BY MS. BRAILEY:

08:59:32 13 Q. And -- uh-huh.

08:59:35 14 A. Well, that has happened. Many election laws --
08:59:40 15 I mean you can't separate elections from politics. So
08:59:45 16 different counties might have a different interpretation
08:59:48 17 of how to implement or execute certain laws.

08:59:55 18 Nevertheless, the election procedures manual
09:00:00 19 does mandate that the Secretary of State establish
09:00:03 20 rules, in consultation with the county election
09:00:06 21 officials, that will provide a manual to the best degree
09:00:16 22 possible for correctness, uniformity, and impartiality.

09:00:20 23 So to the extent that the Secretary of State
09:00:24 24 has the statutory authority to include certain subjects
09:00:29 25 within the procedures manual, it is limited, to that

09:00:34 1 extent the Secretary of State does have a level of
09:00:38 2 control to establish what the interpretation is of
09:00:43 3 Arizona election laws.

09:00:45 4 Q. And so you mentioned that, you know, you, by
09:00:50 5 you obviously I mean the office, drafts the EPM in
09:00:54 6 consultation with the counties; and so are there times,
09:00:58 7 you know, despite the consultation with all the
09:01:00 8 counties, that you are aware that a county has a
09:01:03 9 different interpretation that conflicts with the EPM and
09:01:08 10 does not operate in the uniform way that the EPM might
09:01:13 11 mandate?

09:01:14 12 MR. MORGAN: Object to form.

09:01:19 13 THE WITNESS: If I can make sure I
09:01:21 14 understand your question, are you asking if the counties
09:01:25 15 during this consultation process have an interpretation
09:01:28 16 that conflicts with the Secretary of State's idea of
09:01:34 17 what should happen?

09:01:35 18 BY MS. BRAILEY:

09:01:35 19 Q. And what maybe ends up drafted into the EPM?

09:01:40 20 A. Well, with the consultation with the counties,
09:01:45 21 usually it's -- there are various interpretations. And
09:01:49 22 I'll cite just one very simple example, and, you know,
09:01:55 23 it's one of those items that for some reason, you know,
09:02:02 24 certain people blew it out of proportion, because it was
09:02:04 25 one comment by one county.

09:02:06 1 But, nevertheless, one of the specific duties
09:02:08 2 of the Secretary of State to include in the election
09:02:12 3 procedures manual are procedures related to early
09:02:16 4 voting. So during our very first discussion, because we
09:02:20 5 discussed the early voting chapter, we discussed also
09:02:24 6 the contents of -- content of the early ballot request
09:02:30 7 form, the written request form.

09:02:33 8 And one of the counties, and I can't remember
09:02:37 9 which county, suggested that the voter's date of birth
09:02:45 10 was not required on the early ballot request form. Many
09:02:49 11 counties disagreed. We all read through the sentence,
09:02:55 12 and, you know, it's one of those sentences where there
09:02:58 13 are commas and ands, and it, you know --

09:02:58 14 Q. Uh-huh.

09:03:01 15 A. -- had been amended over the years and it kind
09:03:04 16 of -- you could see how someone could read it to not
09:03:09 17 include the date of birth as a requirement. But I did
09:03:16 18 not and most of the counties did not.

09:03:17 19 So in the end we included the date of birth as
09:03:21 20 being a requirement for an early ballot request, a
09:03:25 21 written request. And that could be the active early
09:03:31 22 voting list request. Nevertheless, we're getting to the
09:03:34 23 same end.

09:03:34 24 Q. Yes.

09:03:35 25 A. There was just a difference of opinion about

09:03:37 1 whether the date of birth was required.

09:03:39 2 So things like that did happen periodically;
09:03:47 3 and, you know, in the end the Secretary of State has to
09:03:49 4 make the final judgment call.

09:03:51 5 Q. And what do you mean by that, the final
09:03:53 6 judgment call?

09:03:55 7 A. As far as what is going to be in the final
09:04:00 8 draft of the election procedures manual. And that issue
09:04:04 9 that I just --

09:04:04 10 Q. Uh-huh.

09:04:05 11 A. That example simply came down to what we
09:04:11 12 believe was the legal requirement.

09:04:14 13 Q. And so in the end the Secretary, if I'm
09:04:16 14 understanding this correctly, the Secretary interpreted
09:04:19 15 the statutory requirements for the early ballot form as
09:04:28 16 requiring a date of birth. The county disagreed. And
09:04:33 17 so in the end that ended up -- that requirement is in
09:04:38 18 the -- is in the EPM and requires counties to reject
09:04:44 19 forms that don't have the date of birth; is that the
09:04:48 20 correct understanding of the events?

09:04:50 21 A. Well, the way the section is written is the
09:04:55 22 minimum requirements, and, you know, and I'm
09:04:59 23 simplifying. I simplified it.

09:05:00 24 Q. Of course.

09:05:00 25 A. You know, because the county who suggested a

09:05:04 1 date of birth was optional, based on the way the
09:05:06 2 sentence was written in statute, it appeared that this
09:05:11 3 individual believed that other elements, even if date of
09:05:16 4 birth wasn't required, if there were sufficient number
09:05:18 5 of other elements included that clearly identified this
09:05:22 6 was the voter, even if the voter had omitted the date of
09:05:27 7 birth, we would still be able to identify the voter.

09:05:31 8 And then we also agreed on the other elements
09:05:35 9 that had to be included in the early ballot request, but
09:05:38 10 in the end the Secretary of State decided the date of
09:05:45 11 birth had to be included.

09:05:47 12 Q. And so earlier when we were discussing the
09:05:50 13 responsibilities of interpreting election statutes in
09:05:54 14 Arizona, as split between the Secretary has its
09:05:59 15 interpretations and the counties have their own, in a
09:06:01 16 situation like this where one county might disagree with
09:06:05 17 an interpretation on the vote by mail form and then it
09:06:10 18 ends up in the EPM, is that county permitted to still
09:06:16 19 form their own interpretation that might differ from the
09:06:19 20 EPM?

09:06:22 21 MR. LANGHOFER: Calls for a legal
09:06:24 22 conclusion.

09:06:26 23 MR. WHITAKER: Calls for a legal
09:06:29 24 conclusion.

09:06:29 25 THE WITNESS: The county -- okay, so for

09:06:31 1 early voting it's the County Recorder that's
09:06:33 2 specifically charged with the duty to undertake early
09:06:38 3 voting, and a County Recorder could have a different,
09:06:44 4 you know, determination or come to a different legal
09:06:47 5 conclusion.

09:06:48 6 Nevertheless, they're required to follow
09:06:50 7 the election procedures manual, and because it has the
09:06:54 8 force and effect of law, and failure to do so could be
09:06:58 9 punished as a Class 2 misdemeanor.

09:07:07 10 BY MS. BRAILEY:

09:07:07 11 Q. And so who in the office specifically actually
09:07:11 12 develops the guidance with the counties, you know, who
09:07:14 13 from -- I guess who from the office is in the meetings
09:07:17 14 when you're developing the guidance for the EPM?

09:07:22 15 A. From my office in the meetings I was present,
09:07:26 16 as well as the AVID team, so Russ Smith, Yolanda
09:07:32 17 Morales, and Jason Fountain. I believe almost all the
09:07:35 18 meetings, unless they were on vacation or something.

09:07:39 19 I think -- there were other members of the
09:07:41 20 staff that joined. I remember Angie Cloutier, she's the
09:07:45 21 security advisor, she was present at one, Lisa Marra,
09:07:53 22 Amy Chan, Hope Olguin. You know, it depended on the
09:07:59 23 content.

09:08:03 24 And, actually, going back to the very first
09:08:05 25 meeting, Secretary Fontes and Assistant Secretary Keely

09:08:11 1 Varvel attended, but remotely, for the very first part
09:08:16 2 of the meeting.

09:08:17 3 Q. Understood.

09:08:19 4 Is there a role for the Attorney General or the
09:08:23 5 Governor in developing the EPM?

09:08:30 6 A. Well, this is a hard answer -- hard question to
09:08:34 7 answer. I think in a normal situation any other year
09:08:41 8 the answer would be a definitive yes, but in this past
09:08:46 9 year the answer was -- is no. The legislature
09:08:53 10 prohibited the Attorney General from giving any legal
09:08:57 11 advice to the Secretary of State through June 30th of
09:09:04 12 2023.

09:09:06 13 So our interactions with the Attorney General
09:09:11 14 have been very limited, and we are prohibited from
09:09:18 15 spending money on outside counsel, and we also -- the
09:09:25 16 Secretary of State's Office was limited to having one
09:09:35 17 in-house attorney. So our -- to a great extent, our
09:09:42 18 hands have been tied. And to the extent that there has
09:09:46 19 been criticism, we have been severely restricted on how
09:09:54 20 much legal advice and from whom we can get that legal
09:09:58 21 advice, and it's been very, very difficult.

09:10:01 22 Q. So what did the situation look like before with
09:10:05 23 the Attorney General in the process of developing the
09:10:07 24 EPM?

09:10:09 25 A. Well, before, there would be discussions with

09:10:13 1 the Attorney General, whoever was assigned to represent
09:10:16 2 the Attorney General, and I think in recent years it's
09:10:21 3 been someone from the Solicitor General's Office. And
09:10:28 4 there would -- through any attorney-client dynamic there
09:10:31 5 could be interactions, especially with new legislation,
09:10:33 6 such as the legislation we're going to talk about today.

09:10:37 7 Q. Uh-huh. Is there a role for the Governor in
09:10:39 8 the drafting process of the EPM?

09:10:47 9 A. I'm not sure if there has traditionally been a
09:10:51 10 role. However, this year I have provided -- you know, I
09:11:01 11 have included them on the distribution list, so...

09:11:03 12 Q. Uh-huh.

09:11:04 13 A. Although, we kind of got off to a rocky start
09:11:08 14 as far as compiling the distribution list,
09:11:12 15 because through a hundred percent fault of my own, I
09:11:16 16 established these deadlines myself, so in meeting the
09:11:19 17 deadlines, I was -- it was very, very hard. And,
09:11:25 18 unfortunately, the very first meeting, that very first
09:11:28 19 Tuesday, I did not release the initial draft until just
09:11:35 20 before the meeting, maybe a day or two before the
09:11:38 21 meeting, so -- but, nevertheless, I digress.

09:11:44 22 The Governor's Office has been included in the
09:11:47 23 distribution list, and I know representatives from the
09:11:53 24 Governor's Office have attended some of those meetings
09:11:55 25 with the counties.

09:11:56 1 Q. And have they commented or added their own
09:12:01 2 insight into how the new draft of the EPM should look?

09:12:09 3 A. The Governor's Office has not, as far as I can
09:12:12 4 recall, weighed in or provided any comments during that
09:12:17 5 five-month period. But to the extent that periodically
09:12:23 6 I might have called or texted -- not texted. Probably
09:12:28 7 called somebody from the Governor's Office with a
09:12:31 8 question. But I can't specifically recall any item
09:12:40 9 about the EPM. There have been other issues, but not
09:12:43 10 the EPM.

09:12:43 11 Q. Uh-huh.

09:12:44 12 A. So, for example, I know today we're going to
09:12:47 13 talk about the first three draft VRAC papers, and I did
09:12:54 14 call Kori Lorick to discuss those papers.

09:13:00 15 Q. Got it.

09:13:03 16 And so just to make sure I understood correctly
09:13:07 17 then, so the Governor's Office hasn't quite -- it
09:13:10 18 doesn't seem that they've weighed in, even though
09:13:13 19 they're on the distribution list, but you've had calls.
09:13:16 20 And was your testimony that those calls were not
09:13:20 21 directly about the EPM drafting, they were about other
09:13:22 22 issues, or were any of those calls directly about EPM
09:13:29 23 drafting or issues within the 2023 draft EPM?

09:13:34 24 A. There -- okay. There was one call specifically
09:13:37 25 about the EPM, and there have -- there have been many

09:13:43 1 calls. So I specifically recall only one discussion,
09:13:48 2 you know, aside from the VRAC paper, to the extent that
09:13:51 3 it's included in the EPM.

09:13:52 4 The one call dealt with a sentence in the voter
09:13:57 5 registration chapter, which the 2021 draft submission
09:14:03 6 had referred to the five-year archive period of
09:14:10 7 incomplete voter registration forms. So an incomplete
09:14:16 8 voter registration form is kept in suspense for five
09:14:21 9 years.

09:14:22 10 And I called Christine Dyster, who was the
09:14:26 11 deputy elections director under the Hobbs administration
09:14:29 12 and shortly under the Fontes administration, and I asked
09:14:33 13 her some historical, you know, the historical
09:14:38 14 perspective; was that kept in to allow a voter or an
09:14:46 15 applicant to use that original incomplete voter
09:14:52 16 registration form to supply the additional information
09:14:54 17 that was needed through that -- throughout that
09:14:57 18 five-year period, or was there some other reason.

09:15:05 19 And she really wasn't exactly sure. You know,
09:15:11 20 understandably, you know, it had been years since the
09:15:14 21 2021 submission. And she said she thought it was to the
09:15:20 22 degree that it would be most advantageous or helpful to
09:15:24 23 voters to have that. She thought that was probably the
09:15:30 24 reason. But something to that effect.

09:15:32 25 Q. I understand.

09:15:33 1 A. But I took it out.

09:15:38 2 Q. And so what is the process for approval of the
09:15:42 3 EPM when we get to October 1st, what's the process?

09:15:46 4 A. And if you don't mind if I just add a little
09:15:50 5 additional information?

09:15:50 6 Q. Please. Please do.

09:15:51 7 A. So to the last question, that five-year archive
09:15:54 8 period of the five -- of the incomplete voter
09:15:58 9 registration form, I took it out following the meeting
09:16:01 10 with the counties.

09:16:04 11 The County Recorders preferred to have language
09:16:09 12 in the EPM that said the incomplete voter registration
09:16:13 13 form shall be retained in suspense until the most -- you
09:16:22 14 know, next general election period, and then it would
09:16:27 15 effectively be archived and not revived if a voter later
09:16:32 16 wanted to supplement the information.

09:16:34 17 Q. Right.

09:16:35 18 A. So because of the preference of the County
09:16:38 19 Recorders --

09:16:38 20 Q. Right.

09:16:38 21 A. -- that five-year archive period was removed.

09:16:43 22 Q. I understand.

09:16:45 23 A. Okay. And so --

09:16:45 24 Q. Thank you for that.

09:16:46 25 A. And, I'm sorry, you asked the next question.

09:16:50 1 Q. Just what is the process for approval of the
09:16:52 2 EPM?

09:16:57 3 MR. LANGHOFER: Calls for a legal
09:17:01 4 conclusion.

09:17:03 5 THE WITNESS: The election procedures
09:17:04 6 manual has to be drafted in consultation with the county
09:17:08 7 election officials and, by October 1st, submitted to the
09:17:12 8 Attorney General and Governor's Office for approval; and
09:17:18 9 that approval shall be issued by December 31st of this
09:17:24 10 year.

09:17:27 11 BY MS. BRAILEY:

09:17:27 12 Q. And so there's no other interaction once you
09:17:29 13 submit the EPM; it's out of your hands; you just wait to
09:17:33 14 find out if the AG and the Governor will approve the
09:17:37 15 final?

09:17:38 16 A. There's no statutorily required interaction. I
09:17:44 17 hope, I really do, I really hope if there are issues,
09:17:47 18 that we -- and I anticipate there will be. I mean I
09:17:51 19 think we all want to have a new EPM. And I hate to make
09:17:57 20 an assumption, but I think anyone that, you know, knows
09:18:01 21 what's in the 2019 EPM and what's in the draft 2023 EPM
09:18:06 22 and what's best for election administrators, especially
09:18:10 23 the high turnover of election administrators, I think
09:18:13 24 it's in everyone's best interest to have an updated
09:18:18 25 election procedures manual.

09:18:19 1 So I think everyone involved, so the Secretary
09:18:25 2 of State, the Attorney General, and the Governor's
09:18:29 3 Office, in good faith want an updated EPM. And I'm
09:18:35 4 emphasizing that simply because of what happened two
09:18:38 5 years ago. There was the politics involved and the EPM
09:18:43 6 was not approved. I want to do everything within my
09:18:46 7 power and control to make sure that does not happen.

09:18:51 8 So hopefully if there is some issue, some
09:18:53 9 obstacle, some discussion that's needed, I really hope
09:18:59 10 that we can have that discussion and work through any
09:19:03 11 problem.

09:19:03 12 Q. Are you aware of about whether during the 2021
09:19:08 13 cycle of drafting the EPM, aside from political issues,
09:19:14 14 if there were open communications about substantive
09:19:19 15 issues that the AG or the Governor had about the EPM?

09:19:30 16 A. Generally, it was not a relationship where
09:19:38 17 there was open dialogue and discussion. There was a
09:19:42 18 very tense relationship. And I know that there was a
09:19:49 19 response provided by the Attorney General's Office in
09:19:54 20 December at some point that essentially stated that the
09:20:04 21 EPM would only be approved by the Attorney General if
09:20:07 22 certain demands were met. And so long story short,
09:20:12 23 there was no EPM.

09:20:13 24 Q. Right. Right.

09:20:17 25 Okay. I'm going to mark as Exhibit 265 this

09:20:25 1 document, which says that it is the 2019 EPM-Annotated
09:20:29 2 (2022) document. You do not need to review that large
09:20:36 3 stack of papers right now.

09:20:36 4 A. Okay.

09:20:37 5 Q. For everyone following online, this should be F
09:20:43 6 with the numbers 288763.

09:20:47 7 What is the annotated version?

09:21:05 8 A. My understanding is that the Secretary of
09:21:11 9 State, because there was no new election procedures
09:21:15 10 manual, wanted to make sure there was information
09:21:19 11 provided to the counties that to help guide them and
09:21:25 12 to help establish some sort of uniformity, clarity,
09:21:28 13 correctness. And so the 2021 EPM, which was not
09:21:38 14 approved, there was this draft guidance document
09:21:45 15 provided to the counties.

09:21:49 16 Q. To your knowledge, are there any material
09:21:51 17 differences between the annotated version of the 2019
09:21:54 18 EPM and the -- I guess can we call it the regular
09:21:58 19 version of the 2019 EPM?

09:22:02 20 A. Okay, I'll premise this by saying, personally,
09:22:05 21 this is the first time I've ever seen this document.

09:22:07 22 Q. Got it. Okay.

09:22:08 23 A. I've heard of it.

09:22:09 24 Q. I understand.

09:22:10 25 A. And then in my capacity, during this time frame

09:22:13 1 I was a deputy county attorney --

09:22:16 2 Q. Right.

09:22:16 3 A. -- I had no reason to look at it. So I have
09:22:20 4 not compared this document to the 2019 EPM.

09:22:24 5 Q. I understand.

09:22:27 6 So with that in mind, based on your knowledge,
09:22:30 7 do you know why some counties would use the annotated
09:22:33 8 version and some counties would not?

09:22:36 9 A. I don't know.

09:22:38 10 Q. Okay. Do you know if -- so just so I
09:22:48 11 understand your testimony correctly, the -- you were
09:22:51 12 aware that so the Secretary wanted some kind of updated
09:22:55 13 version for the counties, and so that's why the
09:22:57 14 annotated version exists; is that correct?

09:22:59 15 A. That's my understanding, yes. I was not with
09:23:02 16 the Secretary of State's Office at the time, but that's
09:23:03 17 to the best of my knowledge.

09:23:05 18 Q. Uh-huh. So at this period in time, you were at
09:23:07 19 Maricopa still?

09:23:08 20 A. In 2022 --

09:23:10 21 Q. No, you were --

09:23:10 22 A. -- I worked at Yavapai County.

09:23:13 23 Q. You were at Yavapai County.

09:23:16 24 And so you heard about the annotated version at
09:23:18 25 Yavapai County?

09:23:21 1 A. I don't know. I just don't remember. You
09:23:24 2 know, I --

09:23:24 3 Q. Uh-huh.

09:23:25 4 A. Just so that we understand the dynamic, there's
09:23:28 5 a civil deputy county attorneys group that met
09:23:32 6 quarterly. We also had many conversations, and perhaps
09:23:39 7 through the civil deputies group, because I was very
09:23:42 8 active in that, I think that's a more likely way that I
09:23:49 9 learned of this.

09:23:50 10 Q. I see. That's helpful.

09:23:54 11 One more sort of technical question about the
09:23:59 12 draft 2023 EPM. I noticed that a lot of the different
09:24:06 13 drafts, the file names have different version numbers,
09:24:09 14 but they all sort of seem to repeat over time within the
09:24:13 15 office. So I see Version 512, Version 1024,
09:24:18 16 Version 2048.

09:24:19 17 Are these like identification numbers or
09:24:23 18 document organization numbers, or do you know what these
09:24:27 19 different version numbers mean and why they repeat?

09:24:30 20 A. I'm sorry, I have no -- are you talking about
09:24:31 21 the electronic file number?

09:24:33 22 Q. Yeah. Uh-huh, I am. I'm just wondering if you
09:24:37 23 know.

09:24:37 24 A. I don't know, but if it was -- if it was my
09:24:40 25 file, I identify documents almost a hundred percent of

09:24:48 1 the time I provide a date.

09:24:52 2 Q. Uh-huh.

09:24:53 3 A. So perhaps it's a date. But if it was provided
09:24:58 4 pursuant to disclosure, there could have been some other
09:25:01 5 system used.

09:25:05 6 Q. All right. Okay. So as we speak about the
09:25:08 7 2023 draft EPM, can you tell me about -- you know, we
09:25:17 8 went over some of these questions with sort of process
09:25:19 9 in the drafting, but can you tell me about any specific
09:25:22 10 discussions there have been with the AG on this draft?

09:25:27 11 MR. MORGAN: One second.

09:25:28 12 MR. LANGHOFER: Object to the extent it
09:25:29 13 calls for legal advice.

09:25:31 14 MR. MORGAN: Yeah, I was thinking about
09:25:32 15 whether to make that objection, so...

09:25:34 16 BY MS. BRAILEY:

09:25:34 17 Q. Without telling me any privileged information.

09:25:37 18 MR. MORGAN: Now I don't need to.

09:25:41 19 THE WITNESS: I'm not aware of any
09:25:43 20 discussion with the Attorney General.

09:25:45 21 BY MS. BRAILEY:

09:25:45 22 Q. Okay. And how about with the Governor's
09:25:47 23 Office?

09:25:47 24 A. About the 2023 draft?

09:25:49 25 Q. Uh-huh.

09:25:52 1 A. I had a meeting with the Governor's Office last
09:25:55 2 Thursday for a half hour.

09:25:55 3 Q. Uh-huh.

09:26:00 4 A. And that -- for the -- actually, that was more
09:26:02 5 in anticipation of this deposition.

09:26:05 6 Q. Right.

09:26:08 7 A. And there could have been something discussed
09:26:10 8 about the EPM, but that really wasn't the intent of the
09:26:13 9 meeting.

09:26:14 10 Q. Okay. And based on what you've told me about
09:26:18 11 just the normal drafting process, my understanding then
09:26:20 12 is that you would have had lots of discussions with the
09:26:23 13 counties already regarding the draft EPM?

09:26:25 14 A. Yes. And those discussions, I will say, those
09:26:29 15 discussions happened the third Tuesday of each month;
09:26:34 16 but there were frequent discussions essentially
09:26:39 17 one-on-one either with me or some other person in my
09:26:45 18 office with the counties, because we're dealing with
09:26:48 19 15 different counties, 15 different elections directors
09:26:52 20 or County Recorders.

09:26:55 21 So I know sometimes those meetings -- those big
09:26:58 22 meetings, you know, there were more than a hundred
09:27:00 23 people on the invitation list and there were -- I think
09:27:03 24 the smallest turnout was -- you know, on any of the
09:27:07 25 meetings was about 50 people. So there were a large

09:27:10 1 number of people on those calls, and I can see that
09:27:14 2 having somewhat of a chilling effect, especially the
09:27:19 3 newer people to elections.

09:27:20 4 Q. Yeah.

09:27:21 5 A. We have, I think, had 12 in the last two years,
09:27:25 6 12 new recorders, chief deputy recorders, or elections
09:27:30 7 directors. And fortunately, you know, we have a lot of
09:27:35 8 people with experience, and some of the people that have
09:27:39 9 been around for many years tended to contribute more,
09:27:43 10 and then a lot of other people did not really talk
09:27:48 11 during those calls; but we reached out and talked
09:27:52 12 one-on-one with those counties, even met with them in
09:27:58 13 person.

09:28:00 14 We, we meaning the Secretary of State, Deputy
09:28:04 15 Elections Director Lisa Marra and I, have been to 13 of
09:28:08 16 the 15 counties personally and visited their Recorders,
09:28:13 17 Boards of Supervisors, elections directors, and
09:28:16 18 sometimes those discussions happen during those visits.

09:28:19 19 And I will say the only reason we haven't been
09:28:21 20 to the other two counties is because we had scheduled
09:28:27 21 it, but the airplane, state airplane, had mechanical
09:28:31 22 problems, so it was canceled at the last minute. And,
09:28:36 23 unfortunately, the logistics of setting that up, we just
09:28:40 24 have not been able to get to those two counties. But
09:28:43 25 it's not for any sleight to the counties. I really -- I

09:28:46 1 really hope we get to them soon.

09:28:48 2 Q. And so all these additional discussions, you
09:28:51 3 know, outside of the meetings, are they memorialized in
09:28:54 4 some way?

09:28:56 5 A. No. I have a good memory.

09:29:04 6 Q. Clearly.

09:29:07 7 And so the 2023 draft EPM was posted for public
09:29:12 8 comment, right?

09:29:12 9 A. Yes, that's correct.

09:29:13 10 Q. And you received several public comments,
09:29:17 11 right?

09:29:17 12 A. We received well over 600 comments.

09:29:22 13 Q. Uh-huh. And have you incorporated or updated
09:29:24 14 the draft based on those comments?

09:29:28 15 A. The EPM draft is a work-in-progress, and I am
09:29:34 16 looking at every single comment, and it's -- actually,
09:29:38 17 it's been very helpful.

09:29:40 18 And, Mr. Langhofer, I appreciate all the
09:29:43 19 comments you've provided, and everyone else. There were
09:29:46 20 some very helpful, you know, thoughtful comments. You
09:29:51 21 know, there were, I don't know, anywhere between 20,
09:29:55 22 25 percent of the comments were copy/paste, you know,
09:30:00 23 comments, maybe not so helpful.

09:30:01 24 Q. Uh-huh. Right.

09:30:04 25 A. But there were some very helpful, thoughtful

09:30:07 1 comments, and I greatly appreciate it because, by and
09:30:10 2 large, sometimes I felt like I was the only one looking
09:30:12 3 at it, other than, you know, the counties.

09:30:15 4 Q. Right.

09:30:16 5 A. So I really -- and, of course, the people in my
09:30:19 6 office. But it really was helpful.

09:30:24 7 Statutorily the Secretary of State was not
09:30:27 8 required to do a public comment period, and the former
09:30:30 9 administration, the Hobbs administration, had a
09:30:34 10 brilliant idea coming up with the public comment period.

09:30:37 11 Their public comment period was 30 days, so we
09:30:40 12 got some criticism on that, but I didn't know how to do
09:30:43 13 a 30-day public comment period and possibly get all the
09:30:46 14 work done by the October 1st deadline. So we had a
09:30:50 15 two-week public comment period and received, like I
09:30:54 16 said, hundreds of comments.

09:30:58 17 Q. Do you -- if plaintiffs succeed in this lawsuit
09:31:05 18 and there are portions of the draft EPM that require
09:31:12 19 updating or editing, would there -- in that scenario,
09:31:17 20 would there be another public comment period if a new
09:31:20 21 version of the draft came out?

09:31:22 22 MR. MORGAN: Objection to the extent it
09:31:23 23 calls for a legal conclusion and speculation.

09:31:28 24 THE WITNESS: Could you repeat the
09:31:29 25 question, please?

09:31:30 1 BY MS. BRAILEY:

09:31:30 2 Q. Sure, and I will rephrase.

09:31:34 3 Actually, we'll come back to that another --
09:31:37 4 later.

09:31:38 5 Just very briefly and just generally, can you
09:31:41 6 describe the updates, the sort of major updates that
09:31:45 7 were made to the 2023 EPM?

09:31:52 8 MR. MORGAN: Form.

09:31:53 9 THE WITNESS: Well, okay, I will -- I'll
09:31:56 10 start with one of the major updates due to case law --

09:31:56 11 BY MS. BRAILEY:

09:31:56 12 Q. Uh-huh.

09:32:03 13 A. -- that has happened since the 2019 EPM was
09:32:09 14 issued.

09:32:10 15 So prior to the 2019 EPM the last one was
09:32:15 16 published in 2014. So there was a great deal to update.

09:32:18 17 Q. Right.

09:32:19 18 A. So included in the 2019 -- it was very
09:32:24 19 thorough, very comprehensive. There have been two or
09:32:28 20 three Supreme Court decisions addressing the issue of
09:32:32 21 whether statutorily certain subjects could be included
09:32:36 22 or should be included and to the degree that those
09:32:42 23 topics were mandatory that the counties follow those
09:32:48 24 requirements in the EPM or were they more of guidance to
09:32:54 25 the counties.

09:32:57 1 For example, in the McKenna v. Soto case, that
09:33:01 2 dealt with whether a nomination -- candidate nomination
09:33:04 3 petition signature was acceptable or not, and one of the
09:33:07 4 arguments in the case was based on the Secretary of
09:33:12 5 State's 2019 EPM, the signature was acceptable or not.
09:33:16 6 I don't recall.

09:33:18 7 But the Supreme Court and the gist of their,
09:33:23 8 you know, holding was the -- statutorily 16 ARS -- I'm
09:33:30 9 sorry, ARS 16-452 does not include candidate nomination
09:33:35 10 petition challenges as one of the areas to be included;
09:33:39 11 and, therefore, that chapter dedicated to nomination
09:33:44 12 petition challenges was more of a guidance to litigants,
09:33:49 13 candidates.

09:33:52 14 For that reason Secretary Fontes requested that
09:33:56 15 I remove those chapters. So the candidate nomination
09:34:01 16 petition challenge chapter was removed. It will be
09:34:04 17 published in a separate guidance document. As well as
09:34:08 18 the chapter regarding new political party recognition.
09:34:12 19 There was not statutory authority to keep that in, and
09:34:16 20 there will be a separate document.

09:34:18 21 And I should add, the separate documents are
09:34:22 22 guidance documents, but they're still very helpful; and
09:34:27 23 on a positive note, they can also be updated more
09:34:30 24 frequently than every two years, as needed.

09:34:34 25 Q. What are those guidance documents called?

09:34:37 1 A. Guide -- they don't have a name yet.

09:34:37 2 Q. Oh. Got it.

09:34:39 3 A. I know. We've been talking about names, but we

09:34:40 4 don't have a name.

09:34:41 5 Q. And where are they located?

09:34:43 6 A. Currently, we haven't finalized those

09:34:49 7 documents, and the best reference as far -- if someone's

09:34:53 8 looking for what will be included, is what was in the

09:34:57 9 2021 submission.

09:34:58 10 Q. Got it.

09:35:00 11 Do you know how those guidance documents will

09:35:02 12 be distributed?

09:35:06 13 A. They'll likely be posted on our website and

09:35:12 14 available on the website, but not distributed in

09:35:15 15 traditional sense of a paper copy.

09:35:18 16 Q. Sure.

09:35:22 17 A. If I can elaborate on that, because Secretary

09:35:24 18 Fontes has made a point.

09:35:26 19 Q. Yes, please.

09:35:26 20 A. So internally just a couple of weeks ago the

09:35:30 21 next step is to have more of a public-facing document.

09:35:37 22 And so this is -- the EPM is for election

09:35:42 23 administrators. The next guidance document or

09:35:45 24 publication will be more of a public-facing document to

09:35:49 25 help members of the public understand how elections

09:35:54

1 work.

09:35:54

2 Q. I understand.

09:35:55

3 A. Without getting into so much of the, you know,
4 footnotes and legalese.

09:36:00

5 Q. Uh-huh.

09:36:01

6 A. But, likewise, we will have additional, you
7 know, more internal election administrator guidance
8 documents as well.

09:36:10

09:36:10

9 Q. I understand.

09:36:12

10 And so my understanding of the 2023 draft EPM

09:36:16

11 is that it includes several of the requirements from the

09:36:23

12 two challenged laws that this lawsuit is about, so it

09:36:27

13 includes the requirements in H.B. 2492 and in 2243; is

09:36:33

14 that correct?

09:36:33

15 A. Yes.

09:36:37

16 Q. And my understanding, based on the documents

09:36:40

17 I've seen, is that the Secretary of State's Office

09:36:44

18 previously took the position that several of these

09:36:46

19 provisions were potentially violating different laws,

09:36:52

20 including federal laws. Are you aware of that position

09:36:55

21 that the Secretary took?

09:36:56

22 A. Yes.

09:37:01

23 Q. And so is the Secretary -- by including -- by

09:37:04

24 including these provisions in the draft, the new draft

09:37:08

25 EPM, what does that mean about the Secretary's position

09:37:12 1 on these provisions?

09:37:14 2 MR. MORGAN: Objection to form, but I
09:37:15 3 think you can fix it. When you say the Secretary's, you
09:37:18 4 mean the office?

09:37:20 5 MS. BRAILEY: Correct.

09:37:20 6 MR. MORGAN: She's not testifying about
09:37:22 7 Mr. Fontes' personal opinion.

09:37:24 8 MS. BRAILEY: Absolutely not, no.

09:37:24 9 MR. MORGAN: Okay. Okay.

09:37:25 10 MS. BRAILEY: About the office.

09:37:26 11 MR. MORGAN: With that clarification,
09:37:26 12 please.

09:37:26 13 THE WITNESS: Yeah.

09:37:26 14 BY MS. BRAILEY:

09:37:26 15 Q. Yeah.

09:37:29 16 A. So as I had indicated, the rollout of the EPM
09:37:36 17 happened very quickly, and so essentially each draft --
09:37:41 18 each part, each segment, we had a maximum of two weeks
09:37:47 19 to draft. We saved the voter registration chapter. You
09:37:53 20 know, it was out of order and, admittedly, it kind of
09:37:58 21 got confusing, but we wanted to save it for the very
09:38:01 22 last one, hoping, praying that we would have some
09:38:07 23 determination, maybe even a settlement among the
09:38:11 24 parties, but some resolution to at least part of this,
09:38:18 25 part of these issues being litigated.

09:38:22 1 Well, that has not happened. So I essentially,
09:38:31 2 me, I knew I -- I knew I didn't have resolution, and I
09:38:38 3 copied and pasted the statutes to the best degree
09:38:43 4 possible, as sterile as possible, the statutes that were
09:38:49 5 amended in the legislation and put them in there as a
09:38:54 6 placeholder where I thought they would fit, knowing that
09:38:58 7 it was subject to change, again, hoping, praying that by
09:39:02 8 October 1st there would be some resolution and some of
09:39:07 9 these provisions could be altered to comport with
09:39:12 10 whatever court ruling we have or if there was some
09:39:14 11 settlement.

09:39:15 12 Q. And so if there is no court ruling or
09:39:17 13 settlement by October 1st, then those placeholders will
09:39:21 14 be in the draft that will go to the AG and the Governor
09:39:25 15 by October 1st?

09:39:26 16 A. That's not accurate, no.

09:39:28 17 Q. Oh. Can you correct me?

09:39:29 18 MR. MORGAN: Objection to the extent that
09:39:32 19 it calls for the revelation of legal advice,
09:39:37 20 particularly things that we've discussed.

09:39:37 21 THE WITNESS: Uh-huh.

09:39:38 22 MR. MORGAN: So just be careful not to
09:39:40 23 give that information.

09:39:45 24 THE WITNESS: Thank you.

09:39:45 25 You know, as far as what will eventually

09:39:47 1 be in the voter registration chapter and the litigation
09:39:51 2 here has taken up -- has, I guess, led to many
09:40:00 3 discussions, has prompted many comments in the public
09:40:04 4 comment period, and they are issues that keep me up at
09:40:08 5 night. And I don't know ultimately what will be in the
09:40:14 6 draft October 1st, and I'm not trying to be coy. It's
09:40:20 7 hard. There are many -- there are options, and we have
09:40:25 8 to choose the best of not so great options.

09:40:29 9 BY MS. BRAILEY:

09:40:30 10 Q. I understand. So let's say that -- strike
09:40:30 11 that.

09:40:38 12 Is it going to be the -- is it going to be the
09:40:47 13 process that draft EPMs will always be followed by a
09:40:51 14 public comment period before being finalized?

09:40:54 15 MR. MORGAN: Object to form, speculation.

09:40:58 16 BY MS. BRAILEY:

09:40:59 17 Q. Let me rephrase.

09:40:59 18 You had mentioned that there's no statutory
09:41:02 19 requirement to having a public comment period, but prior
09:41:06 20 administrations had thought this would be a good idea.
09:41:08 21 You've continued that practice.

09:41:11 22 Is this a practice that you would want to
09:41:13 23 employ every time there's a draft EPM?

09:41:15 24 A. As far as the public comment period, I'm only
09:41:18 25 aware of the Hobbs administration --

09:41:18 1 Q. Uh-huh.

09:41:21 2 A. -- of having that public comment period. I'm
09:41:24 3 not familiar with any other administration having a
09:41:29 4 public comment period.

09:41:33 5 As far as what will happen in the future, it
09:41:35 6 will depend on who is the particular office holder.

09:41:39 7 Q. So let's say that you need to revise this EPM
09:41:43 8 based on whatever the court decides in this case.
09:41:48 9 Because there would be, you know, revisions to the
09:41:52 10 current draft, would you hold another public comment
09:41:57 11 period so that the public sees that new draft?

09:41:59 12 A. No.

09:42:00 13 Q. Okay. And why not?

09:42:01 14 A. Because this procedures manual is a manual for
09:42:08 15 the administration of elections by election officials.
09:42:13 16 These are guidance documents, requirements, for election
09:42:20 17 administrators.

09:42:21 18 Q. Right.

09:42:22 19 A. So to the extent that the public is not pleased
09:42:27 20 with what's in there, we simply do not have the luxury
09:42:33 21 of time to allow for another public comment period.

09:42:39 22 MS. BRAILEY: Okay. So we've been going
09:42:41 23 for not quite an hour and a half. How are -- do you
09:42:45 24 need a break?

09:42:46 25 MR. MORGAN: Yeah, can we take a quick

09:42:48 1 break?

09:42:48 2 MS. BRAILEY: Okay. Yeah, can we take

09:42:50 3 five minutes?

09:42:50 4 THE WITNESS: Okay.

09:42:50 5 MS. BRAILEY: Off the record, please.

09:42:50 6 THE VIDEOGRAPHER: We are off the record.

09:42:51 7 The time on the video monitor is 9:42 a.m.

09:42:55 8 (A recess was taken.)

09:54:29 9 THE VIDEOGRAPHER: We are on the record.

09:54:31 10 The time on the video monitor is 9:54 a.m.

09:54:34 11 BY MS. BRAILEY:

09:54:37 12 Q. So we are here to talk about some things in

09:54:41 13 2492, so let's get to those. So let's talk about

09:54:48 14 establishing identity and citizenship for applicants who

09:54:52 15 are registering to vote in Arizona.

09:54:56 16 So in general, based on the information that's

09:54:57 17 required on the state form -- and when I say state form,

09:55:03 18 you know I'm referring to the Arizona voter registration

09:55:06 19 application?

09:55:06 20 A. Yes.

09:55:07 21 Q. Okay. So in general, based on the information

09:55:10 22 required on the state form and any databases that the

09:55:14 23 counties or the Secretary has access to, does Arizona

09:55:17 24 have issues establishing the identity of voter

09:55:22 25 registration applicants?

09:55:22 1 MR. MORGAN: Form.

09:55:29 2 THE WITNESS: I'm not sure what -- I'm not
09:55:32 3 sure to the degree how Arizona would have trouble
09:55:37 4 establishing identity.

09:55:37 5 BY MS. BRAILEY:

09:55:37 6 Q. I guess in general, are there widespread issues
09:55:43 7 with making sure that those who register to vote and
09:55:49 8 become registered to vote are who -- are who they say
09:55:55 9 they are and are eligible to vote?

09:55:56 10 A. Well, the vast majority of voters --

09:55:56 11 MR. WHITAKER: Form and foundation.

09:55:56 12 MS. LANG: What?

09:56:02 13 MR. MORGAN: Mr. Whitaker said form and
09:56:04 14 foundation, I believe.

09:56:04 15 MS. BRAILEY: Oh.

09:56:10 16 THE WITNESS: The vast ma --

09:56:10 17 MR. MORGAN: I have kids.

09:56:10 18 THE WITNESS: The vast majority of voters
09:56:11 19 register through the Motor Vehicles Department, the MVD,
09:56:15 20 and through that process the AVID system is able to
09:56:22 21 check documentary proof of citizenship, as well as
09:56:25 22 identification of the voters.

09:56:32 23 BY MS. BRAILEY:

09:56:32 24 Q. So let's walk through. How is a voter
09:56:37 25 registration applicant's identity confirmed?

09:56:42 1 A. If an applicant registers through the MVD, it's
09:56:48 2 confirmed by establishing that person has a driver's
09:56:51 3 license or a nonoperating license identification.

09:56:57 4 Q. So what goes into a HAVA check?

09:56:59 5 A. And I'm sorry. Excuse me. The Social Security
09:57:04 6 Administration check is also part of the process.

09:57:10 7 Q. Is the -- tell me about the process. What goes
09:57:13 8 into a HAVA check?

09:57:14 9 A. So a HAVA check, in my understanding, is that
09:57:17 10 it includes the process by which AVID, the access voter
09:57:23 11 information database, that AVID -- well, excuse me. The
09:57:30 12 County Recorder submits information via AVID and -- or
09:57:37 13 the voter directly, and that information is then sent to
09:57:43 14 the MVD to check documentary proof of citizenship or
09:57:49 15 DPOC, or D-P-O-C is what it's also referred to, as well
09:57:55 16 as checking identification and checking the Social
09:58:02 17 Security Administration database.

09:58:04 18 Q. Is AVID automated with the Social Security
09:58:07 19 Administration database?

09:58:08 20 MR. MORGAN: Foundation.

09:58:09 21 THE WITNESS: I don't know.

09:58:14 22 BY MS. BRAILEY:

09:58:14 23 Q. Do you -- based on your experience in both
09:58:19 24 Maricopa, Yavapai, and now with the Secretary, do you
09:58:23 25 know what fields are necessary for a HAVA check?

09:58:26 1 MR. MORGAN: Foundation.

09:58:28 2 THE WITNESS: That would be something for
09:58:32 3 Yolanda to answer.

09:58:34 4 BY MS. BRAILEY:

09:58:34 5 Q. Okay. So I have a series of hypotheticals, and
09:58:39 6 I'm going to go through them, and if you don't know and
09:58:42 7 it's for somebody else, you let me know.

09:58:44 8 A. Okay.

09:58:45 9 Q. So if we have an applicant and they're using
09:58:47 10 the state form to register to vote, they've provided the
09:58:51 11 last four digits of their social security number. They
09:58:54 12 don't provide a driver's license number. So we have
09:58:58 13 their name, their date of birth, and the last four of
09:59:01 14 their social.

09:59:01 15 Has this applicant established their
09:59:04 16 citizenship?

09:59:06 17 MR. MORGAN: Calls for a legal conclusion.

09:59:10 18 THE WITNESS: Okay. Yeah, yeah, these are
09:59:12 19 questions --

09:59:13 20 BY MS. BRAILEY:

09:59:14 21 Q. These are all for Yolanda? Okay.

09:59:14 22 A. -- probably for Yolanda, but I'll say generally
09:59:16 23 the practice is to submit any applicant through the
09:59:22 24 system to check for DPOC.

09:59:24 25 Q. Okay. So, again, based on all your experience,

09:59:39 1 what is a utility of the citizen checkbox for the
09:59:43 2 counties?

09:59:50 3 A. I'm not aware of any.

09:59:52 4 Q. Okay. Can an applicant's answer to the
09:59:56 5 checkbox question override the presence or absence of
10:00:01 6 DPOC?

10:00:03 7 MR. LANGHOFER: Calls for a legal
10:00:07 8 conclusion.

10:00:07 9 THE WITNESS: I'll answer the question by
10:00:09 10 phrasing it that if an applicant submits DPOC, it's
10:00:14 11 irrelevant whether the checkbox is checked or not.

10:00:20 12 BY MS. BRAILEY:

10:00:21 13 Q. Uh-huh. And can election officials use the
10:00:24 14 checkbox to detect whether a noncitizen attempted to
10:00:29 15 register to vote?

10:00:30 16 MR. MORGAN: Calls for a legal conclusion.

10:00:31 17 MR. LANGHOFER: Same.

10:00:33 18 MR. WHITAKER: And speculation.

10:00:35 19 THE WITNESS: I'm not sure I understand
10:00:35 20 the question.

10:00:39 21 BY MS. BRAILEY:

10:00:39 22 Q. I'm wondering if there's any relationship
10:00:41 23 between how somebody might check or not check the
10:00:48 24 citizenship box and whether that information would help
10:00:53 25 a county know whether there's a noncitizen attempting to

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10:01:39
10:01:39
10:01:40
10:01:50
10:01:50
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10:01:56
10:02:00
10:02:03

1 vote?
2 MR. LANGHOFER: Same objections.
3 MR. MORGAN: Objection, calls for a legal
4 conclusion, speculation.
5 THE WITNESS: Not that I'm aware of.
6 BY MS. BRAILEY:
7 Q. Okay. And so prior to H.B. 2492 counties --
8 or, rather, were counties able to confirm an applicant's
9 citizenship status before registering them to vote as a
10 full ballot voter?
11 MR. MORGAN: Foundation.
12 THE WITNESS: So prior to the checkbox
13 being required, was DPOC --
14 BY MS. BRAILEY:
15 Q. Well, did counties have what they needed to
16 confirm voter eligibility?
17 A. Yes.
18 MR. MORGAN: Foundation.
19 MR. LANGHOFER: Form.
20 BY MS. BRAILEY:
21 Q. Okay. So my understanding, under the
22 pre-H.B. 2492 procedures, is that if a person submits a
23 state form without DPOC, but all the other required
24 information on the form, that person could be registered
25 to vote as a federal only voter. Is that -- was my

10:02:07 1 understanding correct?

10:02:09 2 A. Well, if someone applies through the, well, MVD

10:02:16 3 or any registrant, there's an attempt to check whether

10:02:23 4 DPOC has been provided by running the names through the

10:02:29 5 Motor Vehicles Department system to see if the system's

10:02:30 6 able to catch a voter who, for whatever reason, was --

10:02:36 7 did not supply citizenship proof. I'm not sure if that

10:02:41 8 answers your question.

10:02:42 9 Q. No, that's very helpful.

10:02:44 10 But let's say they're run through the system

10:02:47 11 and no DPOC appears for that person, and so all you have

10:02:50 12 is their completed state form --

10:02:52 13 A. Okay.

10:02:52 14 Q. -- and no DPOC. So my understanding is that

10:02:55 15 person could be registered to vote as a federal only

10:02:58 16 voter --

10:02:58 17 A. Yes.

10:02:58 18 Q. -- before the new laws?

10:03:00 19 A. That's correct, yes.

10:03:01 20 Q. Okay. So if that person then provides DPOC

10:03:04 21 later in time, whether it's weeks or months, but they've

10:03:06 22 made the deadline before the election, but they've now

10:03:09 23 provided their DPOC, has this person changed their

10:03:12 24 registration status from federal only to full ballot?

10:03:17 25 MR. MORGAN: Form, foundation.

10:03:22 1 MR. WHITAKER: Form.

10:03:24 2 THE WITNESS: If someone provides DPOC

10:03:26 3 prior to the election, by the Thursday before the

10:03:28 4 election, they will be made a full ballot voter.

10:03:30 5 BY MS. BRAILEY:

10:03:30 6 Q. And so is that a change in voter registration
10:03:33 7 status?

10:03:35 8 A. And I'll just -- for my last answer I'll just
10:03:39 9 caveat that with assuming that the only limitation on
10:03:46 10 becoming a full ballot voter was the DPOC, that person
10:03:50 11 will become a full ballot voter.

10:03:53 12 Now, I'm sorry, could you rephrase the question
10:03:55 13 that you asked me?

10:03:57 14 Q. Yes.

10:03:57 15 So we have the applicant who is a federal only
10:03:59 16 voter because they did not submit DPOC, but their state
10:04:02 17 form was complete.

10:04:03 18 A. Yes.

10:04:03 19 Q. And then weeks, maybe months later they submit
10:04:08 20 DPOC by the deadline.

10:04:10 21 A. Okay.

10:04:10 22 Q. They submit DPOC before an election.

10:04:13 23 A. Okay.

10:04:14 24 Q. Does their registration status change, their
10:04:17 25 voter registration status?

10:04:21 1 A. I'm not sure what you mean by status. I
10:04:24 2 usually think of that as active or inactive.

10:04:27 3 Q. Oh, I see. I see. So I'm thinking about do
10:04:30 4 they switch from being a federal only voter to a full
10:04:33 5 ballot voter?

10:04:34 6 A. If they provide DPOC and all of the other
10:04:37 7 elements that are required are provided.

10:04:40 8 Q. And I guess is a full ballot or a federal only
10:04:47 9 voter, if that's not a registration status, what would
10:04:50 10 you call that?

10:04:54 11 A. Full ballot or federal only, we usually refer
10:04:57 12 to them.

10:04:57 13 Q. Okay. Okay.

10:05:00 14 Let's talk a little bit about the birthplace
10:05:03 15 requirement. So what information does birthplace, the
10:05:06 16 information on where voters are born, what information
10:05:10 17 does that provide -- strike that. Let me try this
10:05:14 18 again.

10:05:15 19 What information does birthplace provide to the
10:05:18 20 Secretary of State?

10:05:18 21 MR. MORGAN: Form.

10:05:21 22 THE WITNESS: I'm not aware of the
10:05:23 23 significance of the birthplace.

10:05:26 24 BY MS. BRAILEY:

10:05:26 25 Q. Does the office use that information for any

10:05:29 1 purpose?

10:05:30 2 A. No.

10:05:31 3 Q. Any administrative purpose?

10:05:32 4 A. No.

10:05:41 5 Q. Has the Secretary of State's Office developed

10:05:43 6 guidance for county election officials for entering

10:05:47 7 birthplace data into AVID?

10:05:51 8 A. There's a working document that is a reflection

10:06:00 9 of many, many, many meetings with the counties about the

10:06:05 10 various requirements under this new legislation, and so

10:06:10 11 the issue of birthplace has been discussed. So to the

10:06:15 12 extent that it's a working draft, there's, I guess,

10:06:23 13 consensus that birthplace doesn't -- is not relevant for

10:06:27 14 purposes of registering to vote.

10:06:31 15 Q. So just so I understand, that's the conclusion

10:06:34 16 that's coming from that group who's creating that

10:06:37 17 working draft?

10:06:38 18 A. That's correct.

10:06:39 19 But as far as entering that information into

10:06:42 20 the AVID system, we're currently shifting to the

10:06:55 21 development of our priorities on what programs are being

10:06:59 22 created to implement the -- this legislation. And we

10:07:07 23 have not yet prioritized, you know, which part of that,

10:07:13 24 part of this legislation, will be programmed first; but

10:07:17 25 I don't anticipate birthplace being at the top of the

10:07:20 1 list.

10:07:21 2 Q. And what's the programmatic changes that the
10:07:25 3 group has discussed for that birthplace requirement?

10:07:27 4 MR. MORGAN: Foundation. If it's
10:07:32 5 something for Yolanda, you don't have to speculate.

10:07:34 6 THE WITNESS: Yeah, I'm not -- yeah, I'm
10:07:36 7 not sure what has and has not been discussed about that.

10:07:43 8 BY MS. BRAILEY:

10:07:51 9 Q. Sorry. So just to back up, the group that you
10:07:53 10 were just talking about who's creating the working
10:07:55 11 document and these programmatic changes, is that the --
10:08:00 12 one of the AVID working groups that you discussed
10:08:03 13 earlier? Is there a name for that group?

10:08:10 14 MR. LANGHOFER: Compound.

10:08:11 15 THE WITNESS: Okay, so just to make sure
10:08:12 16 we're on the same page, it's a document that's
10:08:15 17 approximately 20 pages, but it's not numbered, and it
10:08:19 18 does refer to the VRAC legislative changes document. It
10:08:27 19 has draft across it. And so it refers to H.B. 2492 and
10:08:31 20 2243 and then the effective dates. But that -- that
10:08:42 21 specific group does not have a name. It's not the VRAC
10:08:46 22 name.

10:08:47 23 BY MS. BRAILEY:

10:08:47 24 Q. It's not the VRAC?

10:08:47 25 A. Yeah.

10:08:48 1 Q. Oh, okay. So who is in that group?

10:08:50 2 A. To my understanding, and that's a document that
10:08:53 3 I discussed with the -- well, Kori Lorick, Bo Dul, and
10:08:59 4 Christine Dyster in our meeting last week. I asked them
10:09:02 5 about it, and it was a document that was evolving, and
10:09:07 6 they said it felt like they were having meetings daily
10:09:10 7 about this legislation; but I don't know if it was
10:09:14 8 daily. But they at the time did not mention any name
10:09:19 9 attributed to that group.

10:09:19 10 Q. I see. So they were meeting in the group; and
10:09:23 11 from your discussions, do you know if they were drafting
10:09:26 12 the document, those three, also --

10:09:29 13 A. Yes.

10:09:29 14 Q. -- or was somebody else?

10:09:30 15 A. No, I believe it was Kori Lorick drafting that.

10:09:35 16 Q. And this 20-page document that you're referring
10:09:38 17 to, was that produced as part of the discovery requests
10:09:44 18 in this case?

10:09:45 19 A. Yes, it was.

10:09:48 20 Q. And to the extent you can remember, can you
10:09:54 21 tell me again what the title of the document is?

10:09:58 22 A. I might have a copy of it with me, if I could.

10:10:01 23 Q. Oh, that would be great. Let's --

10:10:06 24 MS. STUART: A previously marked exhibit,
10:10:09 25 I believe is what she's referring to.

10:10:09 1 THE WITNESS: Yeah. Yeah, it looks like
10:10:10 2 this. It was Lerma Exhibit -- and I've written on this
10:10:11 3 one. Lerma Exhibit 39.

10:10:12 4 MR. MORGAN: Yeah, it's Lerma Exhibit 39.

10:10:12 5 BY MS. BRAILEY:

10:10:16 6 Q. Got it. That's very helpful. Thank you.

10:10:42 7 Okay. Thank you. That's all very, very
10:10:44 8 helpful.

10:10:48 9 And so forgive me if I ask you questions about
10:10:51 10 something that's in that document, but the guidance
10:10:57 11 about the birthplace requirement specifically, is that
10:11:04 12 guidance about instructing counties on a uniform way to
10:11:10 13 enter birthplace information into a voter registration
10:11:12 14 database?

10:11:14 15 A. Well, let me -- I guess I should just clarify.
10:11:17 16 My understanding of that document is that it was like a
10:11:21 17 working document. There were these ongoing meetings
10:11:24 18 with the counties, and Kori Lorick or Christine Dyster
10:11:29 19 would continue to add notes as they went through some of
10:11:33 20 the concerns or issues or challenges based with
10:11:39 21 implementing the legislative changes.

10:11:43 22 And to that extent, the Secretary of State's
10:11:48 23 Office, perhaps through the discussions or perhaps
10:11:51 24 through their own counsel, reached the conclusion that
10:11:56 25 the birthplace requirement could violate -- could be a

10:12:01 1 violation of the Civil Rights Act.

10:12:04 2 Q. Right. I'm actually pulling up the document
10:12:07 3 now so I can be more on the same page with you.

10:12:10 4 MR. MORGAN: Well, if you're going to do
10:12:12 5 that, is it all right if she refers to the copy she has?

10:12:15 6 MS. BRAILEY: Absolutely. Yeah.

10:12:16 7 MR. MORGAN: Cool.

10:12:17 8 THE WITNESS: Thanks.

10:12:19 9 MR. MORGAN: Thank you.

10:12:20 10 BY MS. BRAILEY:

10:12:21 11 Q. Okay. So at this point in time there is no
10:12:27 12 standardized data entry guidance for counties for how to
10:12:31 13 enter birthplace into a voter registration database; is
10:12:33 14 that correct?

10:12:33 15 A. Well, at this point we are starting
10:12:40 16 discussions. And I'll back up. So these changes will
10:12:45 17 require a great deal of work to be made into the AVID
10:12:48 18 system to automate this or to incorporate it so it's not
10:12:53 19 all done manually. Now, for the 13 counties. Maricopa
10:12:58 20 and Pima Counties have their own database, and they'll
10:13:01 21 have to sync all of those changes with the AVID changes.
10:13:08 22 But these legislative changes were not funded,
10:13:12 23 and in the initial budget request, I think that was
10:13:17 24 submitted maybe February of 2023, there was
10:13:21 25 approximately \$500,000 requested to make the changes.

10:13:28 1 Q. Right.

10:13:28 2 A. And as I indicated, we have a third-party

10:13:31 3 vendor, and they want to be paid, you know, so they need

10:13:34 4 to --

10:13:34 5 Q. Right. Right.

10:13:36 6 A. They need to be paid to make their -- this

10:13:38 7 money. Now, they have a standard retainer, essentially,

10:13:41 8 for maintenance and operation; but these are referred to

10:13:46 9 sometimes as enhancements or special purchase orders.

10:13:53 10 You know, they just sometimes go by various names, but I

10:13:57 11 think of them as the enhancements --

10:13:58 12 Q. Right.

10:13:58 13 A. -- in addition to the monthly retainer.

10:14:00 14 So this is going to be quite expensive, over

10:14:05 15 \$500,000.

10:14:05 16 Q. Uh-huh.

10:14:08 17 A. So when the budget, the appropriations bill was

10:14:11 18 approved by the legislature, signed by the Governor, it

10:14:14 19 did not include that 500,000.

10:14:19 20 Our budget team, including Secretary Fontes,

10:14:25 21 Assistant Secretary of State Keely Varvel, continued to

10:14:30 22 push for funding. And in mid June of 2023 the

10:14:34 23 legislature did say, okay, you can have the 500,000.

10:14:41 24 This is the gist of it. I was not present. But you can

10:14:44 25 have the 500,000, but you have to spend it by July 1st.

10:14:48 1 So we tried to scramble, see how -- to what
10:14:50 2 extent could we implement anything. And I thought maybe
10:14:53 3 to the extent -- my thinking at the time was maybe to
10:14:55 4 the extent that we could somehow develop a process just
10:15:01 5 to even meet the reporting requirements. There's a
10:15:05 6 quarterly reporting requirement on the number of death
10:15:09 7 records, you know, all of that information. But we
10:15:12 8 weren't able to even get that done in just that two-week
10:15:17 9 period we had to spend 500,000.

10:15:19 10 So our budget director went back to the -- and
10:15:25 11 our legislative liaison, they went back to the budget
10:15:31 12 appropriations group, I think it might be JLBC, or a
10:15:35 13 certain number of legislators that were handling this,
10:15:39 14 and again said, "We need this money. We need at least
10:15:44 15 \$500,000 or some money to start making these changes.
10:15:48 16 We can't do it without money."

10:15:50 17 So finally we -- the legislature approved that
10:15:57 18 \$500,000 appropriation. Then the information technology
10:16:04 19 office within the Arizona Department of Administration
10:16:09 20 has a rule by which any IT change that exceeds \$25,000
10:16:14 21 has to go through a vetting process, and it's referred
10:16:20 22 to as PIJ, P-I-J, which stands for something. I can't
10:16:25 23 tell you what it is.

10:16:25 24 Q. Sure.

10:16:26 25 A. It has to go through this approval process,

10:16:32 1 so -- and that approval process, what I gather, is more
10:16:34 2 like a project summary, how it meets the strategic goals
10:16:38 3 of it.

10:16:38 4 Q. Yeah.

10:16:39 5 A. And we received approval from the Arizona
10:16:42 6 Department of Administration last week, so we can
10:16:47 7 actually start -- so we couldn't really even start
10:16:51 8 realistic discussions until we got the okay.

10:16:55 9 We have the okay. So we are going to start
10:16:59 10 launching those meetings, and we're doing it as a
10:17:03 11 collaborative process and -- but we haven't gotten to
10:17:07 12 the point where we've set up calendars or tried to sync
10:17:14 13 even priorities with what the counties want to
10:17:17 14 prioritize.

10:17:18 15 Q. Right. So this is only the beginning of the
10:17:20 16 process of starting to talk about how to reprogram AVID
10:17:26 17 for the new legislation; is that the gist of what's
10:17:30 18 going on?

10:17:30 19 A. Yeah. Yeah, because we've -- we've been held
10:17:34 20 up because there just wasn't any money.

10:17:40 21 Q. Right, right.

10:17:41 22 And so even in this document, in the Lerma 39,
10:17:50 23 this doesn't speak to what kind of even programmatic
10:18:01 24 changes this group has -- the group who's creating this
10:18:04 25 document has been thinking could be developed in AVID

10:18:08 1 for birthplace entries; is that correct?

10:18:11 2 A. It looks like it was referenced in passing, and
10:18:19 3 I marked the pages as Page 10, just because --

10:18:22 4 Q. Sure. Yep. I'm on the same page as you.
10:18:24 5 Absolutely.

10:18:24 6 A. Yeah, Voter Registration Updates, that the
10:18:27 7 birthplace, that this provision specifically was not
10:18:33 8 going to be implemented because it violated -- in
10:18:36 9 conflict with the Civil Rights Act of 1964.

10:18:44 10 Q. Uh-huh. And so at this point in time, any
10:18:47 11 entry on a state form by an applicant in the birthplace
10:18:51 12 field is entered as is into AVID?

10:18:55 13 MR. MORGAN: Form.

10:18:56 14 Do you mean this point in time as in today
10:18:58 15 or at the time the memo was created?

10:19:00 16 MS. BRAILEY: Today.

10:19:00 17 MR. MORGAN: Okay. Got it.

10:19:01 18 BY MS. BRAILEY:

10:19:02 19 Q. So as of today, when somebody completes their
10:19:06 20 state form, whatever they write into the birthplace
10:19:08 21 field, that is just entered as is into AVID; is that
10:19:13 22 your understanding?

10:19:15 23 A. I don't know how that works.

10:19:17 24 Q. Okay. Okay. So that might be a question for
10:19:19 25 Yolanda.

10:19:27 1 So let me pull up Petty Exhibit 12.

10:19:31 2 And this is Petty Exhibit 12. I don't need you
10:19:43 3 to look at the whole thing. If you go to just Page 4,
10:19:47 4 the bottom should say 882 as the last three numbers.
10:19:52 5 This was produced by Maricopa County.

10:19:57 6 A. Okay.

10:19:57 7 Q. And I'm just wondering, based on your
10:19:59 8 experience at Maricopa County, if you recognize the
10:20:04 9 instructions on entering birthplace, if any of this came
10:20:07 10 into your purview while you were at Maricopa County?

10:20:14 11 A. Yeah, I see the --

10:20:18 12 Q. The instructions for --

10:20:19 13 A. -- the instructions that you're referring to,
10:20:20 14 but this is not something I ever dealt with.

10:20:23 15 Q. Okay. You can put that away.

10:20:23 16 A. Okay.

10:20:39 17 Q. Based on your experience and your knowledge,
10:20:43 18 have the County Recorders been instructed to use
10:20:46 19 birthplace information for any purposes related to voter
10:20:51 20 registration?

10:20:51 21 A. Not that I'm aware of.

10:20:53 22 Q. And, again, based on your experience and your
10:20:55 23 knowledge, are there any administrative uses for
10:20:59 24 collecting birthplace information that would be
10:21:01 25 important for the counties?

10:21:04 1 A. I can't think of anything.

10:21:07 2 Q. And have the counties or any county informed

10:21:11 3 your office that they need birthplace information to be

10:21:14 4 a mandatory field on the state form?

10:21:16 5 A. Not that I'm aware of.

10:21:25 6 Q. I'm realizing some of my questions might
10:21:28 7 be better for Yolanda, so I won't burden you with
10:21:31 8 them.

10:21:38 9 So you can see the instructions from the
10:21:46 10 Petty 12 Exhibit, the instructions for birthplace, what
10:21:49 11 you just reviewed quickly, it said that there's a
10:21:51 12 dropdown menu.

10:21:52 13 A. Yes.

10:21:53 14 Q. And for those who don't have the exhibit in
10:21:55 15 front of you, it just says that there's a dropdown menu
10:21:59 16 where you can choose a state or country of birth.

10:22:03 17 If somebody -- based on, again, your experience
10:22:09 18 and your knowledge with these -- strike that. Let me
10:22:16 19 start at a different place.

10:22:18 20 Under H.B. 2492, if somebody does not put their
10:22:22 21 state or country of birth, is your understanding that
10:22:24 22 that application should be rejected?

10:22:26 23 MR. LANGHOFER: Calls for a legal
10:22:31 24 conclusion.

10:22:31 25 THE WITNESS: Based on H.B. 2492 --

10:22:33 1 BY MS. BRAILEY:

10:22:34 2 Q. Uh-huh.

10:22:34 3 A. -- that legislation, my understanding is that

10:22:38 4 the legislation would limit that registrant from

10:22:47 5 becoming registered. And I use that language

10:22:52 6 deliberately because rejected is not a field.

10:22:54 7 Q. I understand.

10:22:56 8 So that person would not be registered?

10:22:58 9 A. They would not be registered, yeah.

10:23:00 10 Q. Okay. Let's say under the current law somebody

10:23:03 11 wrote a city or a county, so Phoenix or Maricopa, so

10:23:08 12 they did not put a state or a country.

10:23:10 13 A. Uh-huh.

10:23:11 14 Q. Would that applicant be registered?

10:23:17 15 MR. LANGHOFER: Calls for a legal

10:23:18 16 conclusion.

10:23:18 17 THE WITNESS: I don't know how they would

10:23:19 18 handle that, yeah.

10:23:19 19 BY MS. BRAILEY:

10:23:31 20 Q. Do you know how or whether the Secretary will

10:23:37 21 offer guidance to counties about how they should enter

10:23:43 22 the birthplace data in light of the new laws?

10:23:52 23 A. So I can't say any guidance issued by the

10:24:01 24 Secretary of State --

10:24:01 25 Q. Uh-huh.

10:24:02 1 A. -- that's going to be any different from

10:24:04 2 what --

10:24:05 3 Q. I see.

10:24:06 4 A. -- has already been prepared in this document.

10:24:08 5 Q. I see.

10:24:11 6 A. And that we would issue guidance consistent

10:24:14 7 with this information.

10:24:16 8 Nevertheless, we have not had any official

10:24:19 9 meetings with the counties, so I don't know if there is

10:24:23 10 dissent or how that would be handled. There is the VRAC

10:24:27 11 committee, the voter registration advisory committee.

10:24:27 12 Q. Uh-huh.

10:24:32 13 A. And presumably the VRAC committee would make

10:24:35 14 that kind of decision, and that the membership of that

10:24:41 15 committee is all 15 County Recorders --

10:24:44 16 Q. Uh-huh.

10:24:45 17 A. -- plus the Secretary of State. So ultimately

10:24:50 18 what was a VRAC paper will come out of the VRAC

10:24:56 19 committee, and so it's hard to predict what that will

10:24:59 20 look like.

10:25:00 21 Q. Right. And who is the Secretary of State's

10:25:03 22 representative in the VRAC committee?

10:25:05 23 A. That's me.

10:25:05 24 Q. Got it.

10:25:10 25 And so considering you'll be the

10:25:13 1 representative, have you thought about what new guidance
10:25:22 2 or implementation or programs, what should exist for
10:25:26 3 this birthplace field, whether it's a dropdown menu like
10:25:30 4 we saw here or whether it's another way of entering the
10:25:34 5 data?

10:25:34 6 A. Well, okay, so let me just back up, because the
10:25:39 7 VRAC committee has ruffled some feathers, or I have
10:25:42 8 ruffled, frankly, some feathers about my approach to the
10:25:46 9 VRAC committee.

10:25:46 10 So by way of background, this current
10:25:53 11 administration, we are made up mostly of people that
10:25:56 12 have worked at the county level. You know, Secretary of
10:25:59 13 State Fontes was a County Recorder. I was with Maricopa
10:26:06 14 County I think 14 years and then with Pinal and Yavapai.
10:26:11 15 Lisa Marra was the elections director for Cochise
10:26:15 16 County. Hope Olguin was an assistant deputy director
10:26:18 17 for Maricopa County. You know, so we are -- we know
10:26:22 18 county administration.

10:26:23 19 Q. Right.

10:26:23 20 A. So I know historically the Secretary of State
10:26:28 21 has been the drafter of these VRAC papers, and, you
10:26:34 22 know, my first couple of months I was being inundated
10:26:37 23 with we need a VRAC paper. Oh, and, Colleen, you know,
10:26:41 24 you're drafting it.

10:26:43 25 So I was like, wait a minute, I've never even

10:26:46 1 used AVID. We're not --

10:26:46 2 Q. Oh, okay.

10:26:49 3 A. The counties, not the Secretary of State, is

10:26:52 4 the primary user --

10:26:54 5 Q. Yeah.

10:26:54 6 A. -- of AVID. Why in the world -- well, first of

10:26:58 7 all, why would I draft it if I don't have that

10:27:01 8 knowledge. And the first thing is experience. And this

10:27:03 9 will be something that the counties implement, and they

10:27:07 10 are the 15 out of the 16 members.

10:27:10 11 Q. Right.

10:27:11 12 A. And they have some great ideas. They kept

10:27:13 13 telling me about them. But so I said why don't you guys

10:27:17 14 draft them. I mean it sounds like a great idea. And

10:27:20 15 this was completely unrelated to this legislation. So

10:27:26 16 some people were okay with it. Many very vocal members

10:27:31 17 of the VRAC committee were not.

10:27:33 18 But with that said, Secretary Fontes and I have

10:27:40 19 said we are not issuing VRAC papers on this, on these

10:27:45 20 issues related to this legislation --

10:27:47 21 Q. I see.

10:27:47 22 A. -- at this time. However, if any of the County

10:27:51 23 Recorders would like to offer up a VRAC paper, we'd be

10:27:54 24 happy to help organize a VRAC meeting and let's get the

10:27:58 25 ball started, let's get the ball rolling or let's get

10:28:01 1 the meeting started.

10:28:03 2 Q. Right.

10:28:03 3 A. So far that has not happened.

10:28:05 4 Q. I understand. So at this point in time, and by

10:28:08 5 that I mean today --

10:28:09 6 A. Yes.

10:28:10 7 Q. -- there is no current plan for guidance on how

10:28:17 8 applicants should complete the potentially mandatory

10:28:25 9 birthplace field; is that correct?

10:28:27 10 MR. MORGAN: Form.

10:28:27 11 You mean beyond the EPM?

10:28:29 12 MS. BRAILEY: Correct.

10:28:30 13 MR. MORGAN: Okay.

10:28:30 14 THE WITNESS: Well, currently there's no

10:28:31 15 guidance, simply because of the practical part of the

10:28:34 16 money and we couldn't.

10:28:34 17 BY MS. BRAILEY:

10:28:35 18 Q. Right, right.

10:28:35 19 A. We were prohibited under the PIJ thing. But,

10:28:39 20 yeah, there's -- we have no -- no guidance per se.

10:28:43 21 Q. Right. And just to confirm -- I'm so sorry.

10:28:48 22 To make it really clear, because I think what I just

10:28:50 23 asked, I realize I asked about applicants filling in the

10:28:53 24 field. So let me now frame that as there's also no

10:28:57 25 planned guidance for how counties should enter

10:29:01 1 birthplace information into a voter registration

10:29:03 2 database?

10:29:05 3 A. Not that I'm aware of.

10:29:06 4 Q. Right. So taking into consideration all of the

10:29:14 5 changes for H.B. 2492 -- strike that. Let me back up.

10:29:19 6 Is it true that you have read and understood

10:29:26 7 and dealt with all of the H.B. 2492 law, so not just the

10:29:33 8 issues we've talked about today, but you've sort of --

10:29:35 9 you have experience with the whole law, with all of the

10:29:39 10 portions of the bill that passed?

10:29:42 11 A. I'd say generally, yes. Yes, I do.

10:29:45 12 Q. Okay. So taking into consideration H.B. 2492

10:29:48 13 in its totality, including changes in requirements

10:29:52 14 beyond those that we're discussing today or even in the

10:29:56 15 lawsuit, does birthplace now provide necessary

10:30:01 16 information that it hadn't provided before?

10:30:05 17 MR. LANGHOFER: Calls for a legal

10:30:11 18 conclusion.

10:30:11 19 MS. PORTER: Form.

10:30:12 20 THE WITNESS: I'm not aware of any.

10:30:29 21 BY MS. BRAILEY:

10:30:29 22 Q. So I have a few more questions, and I'm -- I

10:30:32 23 understand if, again, you end up telling me these are

10:30:34 24 for Yolanda later, but we'll try.

10:30:39 25 Is it possible for -- based on the databases

10:30:48 1 that exist and are available --

10:30:52 2 A. Uh-huh.

10:30:52 3 Q. -- to the counties, is it possible for election

10:30:55 4 officials to confirm registrants' birthplace

10:30:59 5 information?

10:30:59 6 MR. MORGAN: Form, foundation.

10:31:04 7 THE WITNESS: Okay. So is it possible for

10:31:06 8 a county or the state to confirm some --

10:31:10 9 BY MS. BRAILEY:

10:31:10 10 Q. Uh-huh.

10:31:10 11 A. Not that I'm aware of.

10:31:13 12 Q. So there's no, for example, no database where

10:31:17 13 an official from the county or the state could

10:31:20 14 cross-check a birthplace that somebody entered onto the

10:31:23 15 form?

10:31:23 16 MR. MORGAN: Same objection.

10:31:25 17 THE WITNESS: Yeah, I don't -- I don't

10:31:27 18 know. I just don't know if there's a database that

10:31:30 19 exists. Could be. But, yeah, I'm not aware of any.

10:31:36 20 BY MS. BRAILEY:

10:31:36 21 Q. Do you know what might be necessary for either

10:31:40 22 a county official or the state to be able to confirm a

10:31:44 23 voter applicant's -- voter registration applicants'

10:31:48 24 birthplace?

10:31:48 25 MR. LANGHOFER: Same objection.

10:31:49 1 THE WITNESS: I do not know.

10:31:53 2 BY MS. BRAILEY:

10:31:53 3 Q. Is the Secretary of State's Office planning to
10:31:57 4 create new state forms -- actually, period. Is the
10:32:07 5 Secretary of State's Office planning to create new state
10:32:13 6 forms?

10:32:13 7 MR. MORGAN: Form.

10:32:14 8 THE WITNESS: We have discussed updating
10:32:17 9 the voter registration form, and sitting here today, I
10:32:23 10 can't recall the components. I know certain changes
10:32:25 11 have to be made in the instructions and so forth.

10:32:28 12 BY MS. BRAILEY:

10:32:28 13 Q. Uh-huh.

10:32:28 14 A. But I know we've talked about it I guess
10:32:32 15 generally.

10:32:33 16 Q. Do you know -- or, rather, is there a timeline
10:32:37 17 for creating the state form?

10:32:40 18 A. Well, the timeline will be a part of our
10:32:43 19 discussion as far as, you know, to -- it has to be
10:32:47 20 collaborative with the changes to the AVID process.

10:32:49 21 Q. Right.

10:32:50 22 A. And also sync with the Maricopa/Pima changes as
10:32:54 23 well.

10:32:54 24 Q. Right.

10:32:54 25 And what group is responsible for, I guess,

10:32:58 1 updating the state form?

10:33:05 2 A. Well, it's the elections department division.

10:33:07 3 Q. Are there specific individuals who might be
10:33:10 4 tasked with that project?

10:33:13 5 A. Well, I mean it's understood that it will be
10:33:17 6 the AVID team that works with it, and then I will be
10:33:24 7 involved, as well as the deputy elections director.

10:33:32 8 Q. Do you know whether there will be any kind of
10:33:35 9 public campaign to inform voters about the new state
10:33:39 10 form, if there is one?

10:33:41 11 A. I don't -- I don't know. I don't know if there
10:33:43 12 had even been discussions, and I say that just because
10:33:46 13 the outreach part that used to be part of the elections
10:33:50 14 department has been moved to a different part of the
10:33:53 15 office.

10:33:54 16 Q. I see. So the very general early discussions
10:33:59 17 about updating the state form, what aspects of the, I
10:34:04 18 guess, process of updating have been discussed in that;
10:34:08 19 like what are the actual discussions about for the state
10:34:10 20 form?

10:34:10 21 A. We really haven't gotten into discussions.
10:34:12 22 We've gotten into discussions about discussions.

10:34:15 23 Q. Got it.

10:34:16 24 So is my understanding that it would just be
10:34:18 25 we've all discussed that it has to be on the to-do list?

10:34:22 1 A. Yes, yes.

10:34:24 2 Q. Okay.

10:34:24 3 A. We have like a mile-long to-do list.

10:34:24 4 Q. Great.

10:34:27 5 A. And, yes, that's on it.

10:34:28 6 Q. Okay. Can we please -- oh, one moment. I'm
10:34:33 7 sorry. No, I got ahead of myself.

10:34:38 8 Does the Secretary of State's Office track
10:34:41 9 noncitizen voter -- strike that.

10:34:51 10 Is there any mechanism within the Secretary of
10:34:53 11 State's Office that is tracking whether there are
10:34:56 12 noncitizens registering to vote or have registered to
10:34:59 13 vote?

10:35:00 14 A. Not that I'm aware of.

10:35:04 15 Q. Uh-huh. Is there anyone else, any other entity
10:35:06 16 in the state, and by that I mean it could be a county or
10:35:09 17 the Attorney General, is there any other entity that's
10:35:12 18 made the Secretary of State's Office aware of any
10:35:15 19 noncitizen voter registration?

10:35:21 20 A. Not that I'm aware of. I mean there's the
10:35:26 21 Attorney General's integrity unit that existed. It
10:35:30 22 could still exist. But I think that group was charged
10:35:37 23 with anything to deal with voter fraud or some --
10:35:42 24 something that compromised elections or voting.

10:35:45 25 Q. Right.

10:35:45 1 A. But that's -- just off the top of my head,
10:35:47 2 that's the only group that possibly would.

10:35:50 3 Q. Okay.

10:35:53 4 MS. BRAILEY: If everyone doesn't mind,
10:35:54 5 can we take a five-minute break?

10:35:56 6 Off the record.

10:35:58 7 THE VIDEOGRAPHER: We are off the record.
10:35:59 8 The time on the video monitor is 10:35 a.m. This ends
10:36:02 9 Media 1.

10:36:04 10 (A recess was taken.)

10:48:49 11 THE VIDEOGRAPHER: We are on the record.
10:48:50 12 The time on the video monitor is 10:48 a.m. This begins
10:48:53 13 Media 2.

10:48:55 14 BY MS. BRAILEY:

10:48:55 15 Q. Okay. So now that we have that working, the
10:48:58 16 iPad, please open the document labeled J, it starts with
10:49:02 17 a J, and then the last numbers are 10355.

10:49:12 18 A. Okay.

10:49:12 19 Q. Okay. And when you open that document, I'll
10:49:15 20 represent to you that your office produced this to us.
10:49:18 21 I am marking the exhibit as 266. And if you can scroll
10:49:29 22 down to Page --

10:49:31 23 MR. MORGAN: I want to hand her the paper
10:49:33 24 copy too, if that's all right.

10:49:35 25 MS. BRAILEY: That's great.

10:49:35 1 BY MS. BRAILEY:

10:49:36 2 Q. So scroll to where you see at the bottom 10360.

10:49:42 3 A. Are you talking about the Bates stamp?

10:49:44 4 Q. The Bates stamp, yeah.

10:49:46 5 A. Okay.

10:49:46 6 Q. Wonderful. That's right, we can all use the

10:49:50 7 same verbiage.

10:49:54 8 So just take a second to just review this page.

10:50:18 9 A. Okay.

10:50:18 10 Okay.

10:50:18 11 Q. Okay. And so do these look like instructions

10:50:24 12 for the voting by mail process?

10:50:29 13 A. Yes, they do.

10:50:31 14 Q. Okay. And so do you see that there's a bold

10:50:33 15 paragraph that does say "How is Arizona securing the

10:50:36 16 vote by mail process?"

10:50:38 17 A. Yes.

10:50:39 18 Q. Great.

10:50:47 19 So prior to H.B. 2492, if a voter requested a

10:50:51 20 mail ballot, the processes in this paragraph would apply

10:50:56 21 to them; is that correct; they would receive this tamper

10:51:02 22 evident envelopes, they would have signature

10:51:05 23 verification?

10:51:05 24 A. And you said prior to --

10:51:07 25 Q. Prior to H.B. 2492.

10:51:09 1

A. Yes.

10:51:10 2

Q. Okay. It's possible during, but I believe this

10:51:12 3

document is from prior.

10:51:15 4

A. Okay.

10:51:15 5

Q. So, you know, that's the world.

10:51:19 6

If a federal only voter requested a vote by

10:51:23 7

mail ballot, would these same processes apply to that

10:51:26 8

voter?

10:51:26 9

A. Yes.

10:51:28 10

Q. And so they would receive a tamper evident

10:51:32 11

envelope?

10:51:34 12

A. That's correct.

10:51:34 13

Q. And their signature would go through the

10:51:36 14

signature verification process?

10:51:37 15

A. Yes.

10:51:43 16

MS. BRAILEY: Okay. I'm going to thank

10:51:44 17

you so much for your time, and my colleague is going to

10:51:47 18

ask you some questions.

10:52:02 19

10:52:03 20

EXAMINATION

10:52:03 21

BY MS. LANG:

10:52:20 22

Q. Okay. Thank you so much. For the record, my

10:52:24 23

name is Danielle Lang, and I represent the LUCHA

10:52:27 24

plaintiffs in this matter, and thank you so much for

10:52:28 25

your time today.

10:52:29 1 A. You're welcome.

10:52:31 2 Q. I'm going to try to cover most of the
10:52:34 3 questioning for you for all of the non-U.S. plaintiffs.
10:52:38 4 There may be some follow-up from my colleagues that are
10:52:41 5 here today, but the goal is primarily for you not to
10:52:45 6 face a whole slew of questioners, okay?

10:52:48 7 A. Okay.

10:52:48 8 Q. All right. So I want to start by talking just
10:52:52 9 a little bit about the Secretary's Office's role in the
10:52:59 10 legislative process and then as it applies specifically
10:53:03 11 to the bills that were passed last -- that we're here
10:53:08 12 about today.

10:53:08 13 Who in your office handles legislative affairs?

10:53:14 14 A. George Diaz, D-I-A-Z.

10:53:23 15 Q. And I assume he's not within the elections
10:53:26 16 department?

10:53:27 17 A. No. He's within administration.

10:53:29 18 Q. When there are legislative matters that relate
10:53:33 19 to elections, does Mr. Diaz kind of confer with the
10:53:37 20 elections department in establishing a position or
10:53:42 21 providing input on that legislation?

10:53:47 22 A. Mr. Diaz confers with a large group of people,
10:53:52 23 anyone with election experience and anyone that
10:53:56 24 Secretary Fontes or Assistant Secretary Varvel directs
10:53:59 25 him to talk to.

10:54:00 1 Q. Okay. And I would like you to look at -- let
10:54:12 2 me refer you to there's a folder kind of within the
10:54:16 3 folder that you're looking at that's SOS Exhibits 2.

10:54:16 4 A. Okay.

10:54:21 5 Q. And that's primarily where the exhibits are
10:54:24 6 that we'll talk about today. And there's one labeled
10:54:28 7 H.B. 2492 veto letter, if you could pull that up. And
10:54:33 8 we'll mark that as Exhibit 267.

10:54:43 9 And have you seen this document before?

10:54:45 10 A. Let me just take a look here.

10:54:47 11 Q. Sure. And take a moment to review its
10:55:02 12 contents.

10:55:02 13 A. Yes, I've seen this before.

10:55:03 14 Q. Okay. And this is the veto letter sent by the
10:55:07 15 Former Secretary of State Secretary Hobbs to Governor
10:55:12 16 Ducey about H.B. 2492; is that right?

10:55:17 17 A. I think it's the letter requesting that the
10:55:20 18 legislation be vetoed.

10:55:22 19 Q. Okay. And with respect to the second
10:55:29 20 paragraph, Secretary Hobbs writes that among other
10:55:32 21 things, H.B. 2492 would require voters, including those
10:55:35 22 registering with a federal form, to submit proof of
10:55:38 23 location of residence along with their voter
10:55:41 24 registration form, and she explains that she believes
10:55:48 25 that this is unlawful under the NVRA and directly

10:55:53 1 addressed by a prior Supreme Court decision; do you see
10:55:57 2 that?
10:55:57 3 A. I do.
10:55:59 4 Q. And does the Secretary's Office continue to
10:56:02 5 concur with that position as outlined in that paragraph?
10:56:05 6 MR. LANGHOFER: Form, calls for a legal
10:56:21 7 conclusion.
10:56:21 8 THE WITNESS: I think -- I don't disagree.
10:56:23 9 I think to the extent that the proof of residence was
10:56:31 10 enforced to require a federal form user to provide proof
10:56:36 11 of residence, yes.
10:56:38 12 BY MS. LANG:
10:56:41 13 Q. Okay. I understand.
10:56:41 14 A. Okay.
10:56:41 15 Q. And I think we'll get to kind of questions
10:56:44 16 about its application.
10:56:45 17 A. I see. Okay.
10:56:48 18 Q. And then the next paragraph says, "What's more,
10:56:50 19 the bill creates new criminal penalties aimed at
10:56:53 20 election officials, sets arbitrary rules that will lead
10:56:56 21 to voter confusion, and dictates non-discretionary
10:57:00 22 enforcement requirements for prosecutors."
10:57:01 23 Is that sentence consistent with the
10:57:04 24 Secretary's current position on the new restrictions in
10:57:06 25 H.B. 2492?

10:57:08 1 MR. LANGHOFER: Same objections.

10:57:09 2 MR. MORGAN: Caveat. By Secretary, you
10:57:10 3 mean the office?

10:57:11 4 MS. LANG: Whenever I say the Secretary, I
10:57:13 5 do mean the office.

10:57:13 6 MR. MORGAN: Thank you.

10:57:13 7 MS. LANG: And we can put that on the
10:57:15 8 record. Thank you.

10:57:18 9 THE WITNESS: Yes.

10:57:21 10 BY MS. LANG:

10:57:21 11 Q. Could you describe what you believe are the
10:57:25 12 aspects of H.B. 2492 that set arbitrary rules?

10:57:31 13 MR. LANGHOFER: Same objections.

10:57:34 14 MR. WHITAKER: Calls for a legal
10:57:36 15 conclusion.

10:57:43 16 THE WITNESS: The proof of residence,
10:57:46 17 location of residence requirement is challenging,
10:57:49 18 especially with individuals who are homeless,
10:57:59 19 individuals such as younger individuals or college
10:58:02 20 students that don't have documentary proof of residence.

10:58:09 21 It's just a challenging standard and one
10:58:15 22 that still faces the challenge of being programmed
10:58:20 23 within the AVID system.

10:58:23 24 I don't know. I think you'd have to be
10:58:24 25 more specific about --

10:58:25 1 BY MS. LANG:

10:58:26 2 Q. Fair enough.

10:58:26 3 A. -- the legislation.

10:58:28 4 Q. And I think we'll get into some of those
10:58:30 5 details later.

10:58:31 6 I know that this is your -- related to the
10:58:36 7 prior administration, but I know that you've also had
10:58:38 8 some discussions with the Governor's Office. Other than
10:58:42 9 this letter to the Governor, do you know if the
10:58:44 10 Secretary communicated the office's position on
10:58:48 11 H.B. 2492 during the legislative process?

10:58:54 12 A. I'm not aware of any, but I -- I wouldn't be
10:59:01 13 surprised if there were many discussions about this.

10:59:04 14 Q. Would it typically be the role of Mr. Diaz to
10:59:08 15 engage with legislators about this type of legislation?

10:59:13 16 A. Mr. Diaz would have engaged with legislators
10:59:16 17 during this legislative session, but in 2022 there was a
10:59:21 18 different legislative liaison.

10:59:22 19 Q. And who was that?

10:59:24 20 A. I don't know that person's name.

10:59:26 21 Q. Fair enough.

10:59:27 22 Would it typically be their role to engage on
10:59:31 23 this type of legislation?

10:59:32 24 A. Yes.

10:59:32 25 Q. And make legislators aware of the Secretary's

10:59:36 1 concerns about such legislation?

10:59:37 2 A. Yes.

10:59:43 3 Q. Okay. If we can look at the veto letter for

10:59:59 4 H.B. 2243, which is labeled AZSOS-0371375.

11:00:10 5 A. Okay. It's in that same folder?

11:00:12 6 Q. It is.

11:00:13 7 A. Okay.

11:00:15 8 MR. MORGAN: What was the Bates number,

11:00:16 9 again?

11:00:18 10 MS. LANG: 0371375, and then it says

11:00:22 11 H.B. 2243 veto letter.

11:00:27 12 MR. MORGAN: Here, let me help you out.

11:00:29 13 THE WITNESS: Yeah. It went to the top.

11:00:41 14 MR. MORGAN: H.B. 22 --

11:00:43 15 MS. LANG: 43 veto letter.

11:00:45 16 And we'll mark that as Exhibit 268.

11:00:51 17 BY MS. LANG:

11:00:51 18 Q. And take a moment to read over this letter.

11:01:07 19 MR. WHITAKER: I'm sorry, what was the

11:01:09 20 Bates number, again?

11:01:10 21 MS. LANG: 0371375.

11:01:42 22 THE WITNESS: Okay.

11:01:43 23 BY MS. LANG:

11:01:44 24 Q. Okay. And while I know that this letter was

11:01:47 25 drafted by the prior Secretary of State, do the

11:01:50 1 positions outlined here reflect the current

11:01:55 2 administration's view on H.B. 2243?

11:02:00 3 MR. LANGHOFER: Form, calls for a legal
11:02:03 4 conclusion.

11:02:03 5 THE WITNESS: The letter reflects concerns
11:02:07 6 that are -- that continue to be concerns.

11:02:12 7 BY MS. LANG:

11:02:12 8 Q. Okay. In looking at the second page, in
11:02:14 9 particular, the first sentence says that this bill, like
11:02:18 10 H.B. 2617 before it, requires unreasonable investigation
11:02:22 11 into registered voters, who have already fulfilled
11:02:25 12 citizenship requirements. Anyone, without evidence,
11:02:30 13 could submit a list of voters suspected not to be United
11:02:35 14 States citizens for the county to investigate.

11:02:36 15 Do you see that?

11:02:37 16 A. I do see that, yes.

11:02:40 17 Q. Do you -- does the office continue to consider
11:02:42 18 one of the problems with H.B. 2243 that anyone could
11:02:45 19 submit a list of voters suspected not to be U.S.
11:02:48 20 citizens for the county to investigate?

11:02:50 21 A. Yes.

11:02:52 22 Q. And do you think that every County Recorder
11:02:54 23 would respond in the same way to that kind of list?

11:02:58 24 MR. LANGHOFER: Speculation.

11:02:59 25 THE WITNESS: Yeah, I can't speculate.

11:03:08 1 BY MS. LANG:

11:03:08 2 Q. Okay. And the next -- or one sentence later

11:03:14 3 there's a sentence that begins "And once again, there is

11:03:17 4 no guidance on what constitutes when a county would be,

11:03:22 5 quote, reasonable to believe that investigation is

11:03:26 6 warranted."

11:03:26 7 Do you see that?

11:03:27 8 A. I do, yes.

11:03:28 9 Q. Does the office continue to have concerns that

11:03:31 10 there is no guidance in the statute about what

11:03:33 11 constitutes reason to believe?

11:03:35 12 A. Yes.

11:03:36 13 MR. LANGHOFER: Form, calls for a legal

11:03:43 14 conclusion.

11:03:43 15 BY MS. LANG:

11:03:43 16 Q. And then the following sentence, it says that

11:03:47 17 bad faith actors could call in or submit claims

11:03:51 18 anonymously against their neighbors as much as they

11:03:53 19 like, and counties would still have to investigate

11:03:55 20 the person complained against, whether fairly or

11:03:58 21 unfairly.

11:03:59 22 Does that reflect a concern that your office

11:04:03 23 continues to have?

11:04:05 24 MR. LANGHOFER: Same objections.

11:04:12 25 THE WITNESS: Yes.

11:04:14 1 BY MS. LANG:

11:04:14 2 Q. And in your experience, is it the case that

11:04:16 3 sometimes bad faith actors do submit such claims?

11:04:20 4 MR. LANGHOFER: Foundation.

11:04:22 5 THE WITNESS: I would say generally there

11:04:24 6 are bad faith actors that file complaints.

11:04:45 7 BY MS. LANG:

11:04:47 8 Q. Are you aware of instances where bad faith
11:04:49 9 actors have sent in lists of voters that those actors
11:04:55 10 believe are suspicious in some way?

11:04:59 11 A. Not that I'm aware of.

11:05:01 12 Q. Okay. Are you aware of whether the Secretary's
11:05:20 13 Office communicated these positions to the legislators
11:05:23 14 during the process for H.B. 2243?

11:05:32 15 A. I'm not aware of it, but like I said before, I
11:05:36 16 would be surprised if they had not.

11:05:45 17 Q. I noticed a document in the production, and
11:05:48 18 perhaps we'll look at it, but I just had a quick
11:05:51 19 question, which is are you familiar with the Arizona
11:05:57 20 Commission on African Affairs?

11:05:57 21 A. No.

11:05:59 22 Q. Okay. So, to your knowledge, the Secretary of
11:06:03 23 State doesn't have any role on that commission?

11:06:06 24 A. You know, I just -- I personally just don't
11:06:12 25 know. I'm really --

11:06:12 1 MR. MORGAN: Yeah, beyond the scope of the
11:06:14 2 topics.

11:06:15 3 THE WITNESS: Yeah, I'm really just
11:06:16 4 election-focused.

11:06:18 5 BY MS. LANG:

11:06:18 6 Q. That's fair enough.

11:06:19 7 The only reason I asked is because there is a
11:06:21 8 document specifically about the bill from that
11:06:23 9 commission; but to the extent you don't know about the
11:06:26 10 commission, it doesn't make sense to ask you questions
11:06:28 11 about it. So we'll move on.

11:06:30 12 If you could look at the document labeled
11:06:48 13 AZSOS-22176.

11:06:53 14 A. AZSOS-22176?

11:06:56 15 Q. Yes.

11:06:57 16 A. Pima Notes?

11:06:58 17 Q. Yes.

11:06:59 18 A. Okay.

11:07:04 19 Okay.

11:07:04 20 Q. And this e-mail is dated April 25, 2022. You
11:07:09 21 may or may not be able to answer this, but the way this
11:07:11 22 document was produced, this is all we have and no
11:07:16 23 additional information about it.

11:07:19 24 Have you seen this document before, to your
11:07:22 25 knowledge?

11:07:22 1 A. Let me read through it here.

11:07:24 2 Q. Thank you.

11:07:26 3 And we can mark that as Exhibit 269.

11:08:04 4 A. Yes. I've read the document, but I've never
11:08:07 5 seen it before.

11:08:08 6 Q. Okay. So you wouldn't be able to tell me, you
11:08:11 7 know, who drafted this document or what it reflects?

11:08:18 8 A. Well, as far as who drafted it, I don't know;
11:08:23 9 but what it reflects, it seems to be consistent with
11:08:28 10 some of the discussion that we've had today.

11:08:31 11 Q. Okay. So someone drafted this document that
11:08:34 12 reflects many of the concerns about the bills that we
11:08:38 13 have been talking about today; is that right?

11:08:39 14 A. Correct.

11:08:39 15 Q. Okay. And I think we've already talked
11:08:50 16 about -- and we can put that away. -- that your office
11:08:56 17 has begun discussions about the various steps that would
11:08:59 18 need to be taken to implement these bills; is that
11:08:59 19 right?

11:09:03 20 A. That's correct.

11:09:04 21 Q. Okay. Has your office actually implemented, as

11:09:13 22 in put into place for current use, any parts of

11:09:19 23 H.B. 2492?

11:09:20 24 MR. MORGAN: Form.

11:09:25 25 THE WITNESS: Well, implementation

11:09:28 1 requires programming of AVID, and so to create the
11:09:34 2 programs within AVID we need money. So we've acquired
11:09:38 3 money. So to that extent, we've started implementing.
11:09:45 4 And then discussions with the County Recorders, who are
11:09:47 5 actually the ones that are charged with most of these
11:09:51 6 duties, those have begun as well.

11:09:54 7 BY MS. LANG:

11:09:54 8 Q. Yes. And that's the fault of my questioning.
11:10:00 9 The kind of process that goes into
11:10:06 10 implementation I do understand has begun. Sitting here
11:10:08 11 today, are there any parts of H.B. 2492 that are being
11:10:15 12 enforced by the County Recorders or the Secretary of
11:10:20 13 State's Office?

11:10:20 14 MR. MORGAN: Foundation.

11:10:20 15 MR. LANGHOFER: Foundation.

11:10:23 16 MR. MORGAN: As it relates to others.

11:10:24 17 THE WITNESS: Yeah, I'm not aware of
11:10:27 18 any -- of whether any counties are enforcing it. I'm
11:10:31 19 not sure specifically what you mean by what the
11:10:35 20 Secretary of State would be doing.

11:10:36 21 BY MS. LANG:

11:10:36 22 Q. Has the Secretary provided any guidance to
11:10:39 23 County Recorders to begin enforcing any components of
11:10:42 24 H.B. 2492?

11:10:46 25 A. Okay. As far as the Secretary of State's role

11:10:50 1 in providing guidance, there is the VRAC committee,
11:10:53 2 which is made up of 16 members, one of whom is the
11:10:58 3 Secretary of State. So the Secretary of State would not
11:11:04 4 unilaterally establish guidance without consultation
11:11:10 5 with the 15 County Recorders through the VRAC process.

11:11:14 6 Q. And sitting here today, there's no kind of
11:11:17 7 final guidance through VRAC or otherwise to begin
11:11:21 8 implementation of any component of H.B. 2492; is that
11:11:21 9 right?

11:11:25 10 A. That's correct.

11:11:26 11 Q. Okay. Is the same title for H.B. 2243?

11:11:34 12 A. Refresh my memory. Is that the one about the
11:11:39 13 juror questionnaire and

11:11:39 14 Q. And various other list maintenance requirements
11:11:42 15 related to checking databases for citizenship and
11:11:45 16 whatnot.

11:11:46 17 A. To the extent there have been discussions,
11:11:52 18 that -- to the extent that's implementation, there have
11:11:54 19 been discussions and draft VRAC papers.

11:11:57 20 Q. Yes. I will get to that.

11:11:58 21 I really am only talking about kind of if
11:12:00 22 there's been any kind of decision point from the
11:12:06 23 Secretary's Office on moving forward with enforcement of
11:12:10 24 any of those provisions yet?

11:12:11 25 MR. MORGAN: Form.

11:12:11 1 THE WITNESS: Yeah, you know, if I can
11:12:12 2 just lay the groundwork too.
11:12:14 3 BY MS. LANG:
11:12:14 4 Q. Yeah, please.
11:12:15 5 A. Because this took me a while with -- you know,
11:12:17 6 it was -- it's just a lot. But the implementation of
11:12:20 7 any change just -- it's a very lengthy one.
11:12:24 8 So there is an enhancement committee that
11:12:29 9 discusses changes to AVID. There's the VRAC, you know,
11:12:33 10 the advisory committee, to make sure all the counties
11:12:36 11 are on the same page with the Secretary of State. And
11:12:40 12 then there's the AVID steering committee made up of the
11:12:46 13 County Recorders, the Secretary of State, and the
11:12:49 14 elections director that is the final committee to
11:12:54 15 approve or not to approve any major changes such as
11:12:59 16 this.
11:12:59 17 So any changes would not -- it would take weeks
11:13:03 18 to months to implement changes, the type of changes to
11:13:08 19 which you're addressing.
11:13:09 20 Q. Exactly. And I think all I'm trying to get at
11:13:12 21 is that we haven't gotten to the end point of those
11:13:15 22 processes --
11:13:16 23 A. Correct.
11:13:17 24 Q. -- for any of these provisions?
11:13:18 25 A. That's correct.

11:13:21 1 Q. Okay. If you could open AZSOS-1, which is
11:13:28 2 labeled December 2022 Guidance, and we'll mark that as
11:13:33 3 270.
11:13:37 4 A. Can you repeat that?
11:13:38 5 Q. Yes. It's AZSOS-1.
11:13:38 6 A. AZSOS-1.
11:13:40 7 Q. And then it says December 2022 Guidance.
11:13:44 8 A. Okay.
11:13:47 9 Q. And this is an e-mail from Kori Lorick, I
11:13:50 10 believe to the various County Recorders, on
11:13:54 11 December 30th, 2022; is that right?
11:13:56 12 A. Yes.
11:13:56 13 Q. And have you seen this e-mail before?
11:13:58 14 A. Yes.
11:14:03 15 Q. Okay. And if you could read through the e-mail
11:14:09 16 briefly. I'll give you a moment to do that.
11:14:21 17 MR. MORGAN: I'm sorry. Did you direct us
11:14:22 18 to a page?
11:14:25 19 BY MS. LANG:
11:14:25 20 Q. The first page, the e-mail itself.
11:14:28 21 A. Okay.
11:14:32 22 Q. And the Secretary's Office here outlines a
11:14:36 23 number of provisions that they have determined conflict
11:14:40 24 with federal law; is that right?
11:14:42 25 A. Yes.

11:14:43 1 Q. And is the Secretary's current position

11:14:47 2 consistent with the position outlined in this e-mail?

11:14:49 3 MR. LANGHOFER: Calls for a legal
11:14:50 4 conclusion.

11:14:50 5 THE WITNESS: Yes.

11:14:56 6 BY MS. LANG:

11:14:56 7 Q. And based on that conclusion, the e-mail says
11:15:03 8 that the office will not be implementing those
11:15:07 9 provisions; is that right?

11:15:10 10 A. That's what the e-mail says, yes.

11:15:12 11 Q. And I understand that various efforts are in
11:15:17 12 place to prepare for potential implementation of these
11:15:22 13 provisions; but sitting here today, does the position in
11:15:26 14 this e-mail about actual implementation and enforcement
11:15:30 15 remain the same for the office?

11:15:36 16 A. So to clarify, I don't know exactly what
11:15:42 17 Ms. Lorick meant by implementing those provisions; but
11:15:51 18 we are taking the steps necessary to develop the changes
11:15:55 19 in AVID, to get the counties together, and to start
11:15:59 20 these discussions.

11:16:02 21 The actual implementation will not be a
11:16:05 22 unilateral decision, but, rather, a decision made with
11:16:09 23 the counties, as well as legal advice and any court
11:16:15 24 ruling that may come.

11:16:17 25 Q. Okay. And have the counties received any

11:16:21 1 subsequent guidance that's contrary to this e-mail from
11:16:27 2 the Secretary of State's Office?

11:16:27 3 A. No.

11:16:53 4 Q. Okay. So I'd like to go into a little more
11:16:56 5 detail on the various enforcement steps -- or strike
11:17:02 6 that. The various steps of preparing for implementation
11:17:05 7 that your office has taken.

11:17:06 8 A. Okay.

11:17:07 9 Q. So one, one thing you mentioned is preparing
11:17:11 10 for AVID enhancements; is that right?

11:17:17 11 Or let me rephrase.

11:17:18 12 Working on the potential AVID enhancements that
11:17:22 13 will be necessary to implement these bills; is that
11:17:22 14 right?

11:17:25 15 A. Well, I think there's been discussions, but the
11:17:33 16 AVID enhancements would be kind of at the end of many
11:17:37 17 other events that had to take place prior. So we
11:17:40 18 haven't gotten into the depth of what enhancements would
11:17:44 19 be made because we haven't had those preliminary
11:17:46 20 meetings.

11:17:48 21 Q. I think I understand you. That there's been
11:17:51 22 some initial discussions, but, really, you can't make
11:17:54 23 final decisions about AVID enhancements until kind of
11:17:57 24 more policy-based decisions have been made about how
11:18:01 25 implementation will go forward; is that fair to say?

11:18:02 1 A. That's right. Yes.

11:18:06 2 Q. And you've mentioned a couple of times the

11:18:09 3 drafting of VRAC papers; is that right?

11:18:11 4 A. Yes.

11:18:12 5 Q. And my understanding is that there are some

11:18:15 6 preliminary drafts of VRAC papers related to these

11:18:20 7 bills; is that right?

11:18:22 8 A. Yes.

11:18:23 9 Q. Okay. And if I recall correctly, and we can

11:18:30 10 look at the documents, if necessary, there are three

11:18:34 11 that -- the first three kind of covered jury list

11:18:39 12 maintenance and out-of-state records list maintenance;

11:18:39 13 is that right?

11:18:43 14 A. That's correct.

11:18:44 15 Q. Did you draft -- I know that we had some

11:18:46 16 discussion about kind of the various hubbub about who is

11:18:51 17 going to draft VRAC papers going forward. Who drafted

11:18:55 18 those first three very initial drafts?

11:18:59 19 A. I did.

11:19:00 20 Q. Okay. But it's your position that kind of

11:19:05 21 going forward, it will not be the Secretary's role to be

11:19:10 22 the primary drafter of those papers; is that right?

11:19:12 23 A. Well, going forward, it might be the

11:19:15 24 Secretary's role. But, you know, assuming the Secretary

11:19:21 25 wants to take a particular position, we just want to

11:19:26 1 make clear that we're not the only -- like I said, the
11:19:30 2 Secretary is not going to make a unilateral decision to
11:19:34 3 impose certain policy decisions.

11:19:37 4 These duties are duties of the County
11:19:42 5 Recorders, and so collectively the County Recorders
11:19:45 6 should have a voice and should be the ones initiating
11:19:48 7 some of these documents, especially because they know
11:19:51 8 exactly what needs to be done. They're the ones, the
11:19:54 9 first -- you know, the front-line users of AVID, not the
11:19:58 10 Secretary of State.

11:20:01 11 Q. Entirely understood.
11:20:05 12 If we can briefly look at -- you have to kind
11:20:08 13 of go back out of this folder.

11:20:11 14 MR. MORGAN: I gotcha. I'll take care of
11:20:13 15 it. Don't worry about it.

11:20:14 16 BY MS. LANG:

11:20:14 17 Q. I apologize, to look at AZSOS-305914. I think
11:20:27 18 it's marked N, starts with the letter N.

11:20:32 19 MR. MORGAN: You can hold it too, if
11:20:34 20 that's easier.

11:20:34 21 THE WITNESS: Oh, okay.

11:20:36 22 MS. LANG: Yeah, you can take it off of
11:20:38 23 that.

11:20:38 24 MR. MORGAN: Yeah, you can take it off of
11:20:39 25 that and just hold it. Either way is fine.

11:20:39 1 THE WITNESS: Okay.

11:20:46 2 Okay.

11:20:46 3 BY MS. LANG:

11:20:47 4 Q. Are you familiar with these documents?

11:20:54 5 A. Yes.

11:20:55 6 Q. Okay. And can you let me know kind of in your

11:20:59 7 own words what these documents are? I see there's one

11:21:03 8 that's VRAC 2023-04 and then there's 05 and 06.

11:21:09 9 A. Yes. This is so funny that these were

11:21:15 10 produced.

11:21:15 11 Anyway, yeah, these did not -- these documents

11:21:19 12 were not distributed beyond -- well, other than

11:21:24 13 disclosure in this case, of course. But these were just

11:21:28 14 internal documents that I don't think I even shared with

11:21:31 15 the AVID team, that I just started drafting.

11:21:35 16 Q. So these are some very early drafts --

11:21:37 17 A. Yeah.

11:21:37 18 Q. -- that just you put together?

11:21:38 19 A. Yeah, and I don't have the metadata or the

11:21:42 20 properties, but this is probably February. Yeah, it

11:21:46 21 doesn't look like I even have a date.

11:21:49 22 Q. I think that's correct.

11:21:52 23 So I think you've already said this, but these

11:21:54 24 are documents you drafted?

11:21:55 25 A. Yes, that's correct.

11:21:56 1 Q. And outside of distribution in this case, you
11:21:59 2 know, have not left your desk?

11:22:01 3 A. Yes.

11:22:04 4 Q. Okay. And are there any kind of updated
11:22:09 5 versions of these drafts that are on your desk, or is
11:22:14 6 this kind of where they've been left at the moment?

11:22:17 7 A. There are absolutely no updated versions of
11:22:19 8 these drafts, I'll say that.

11:22:21 9 Q. Okay. And I see this first one, VRAC 2023-004,
11:22:30 10 seems to deal specifically with the documentary proof of
11:22:35 11 residence requirement and place of birth and the
11:22:41 12 checkmark requirement; is that right?

11:22:42 13 A. That's correct.

11:22:43 14 Q. Okay. Going forward, if I say DPOR, will you
11:22:46 15 understand that to mean documentary proof of residence?

11:22:49 16 A. Yes.

11:22:55 17 Q. Okay. Other than, you know, this very internal
11:22:57 18 early draft, are there any VRAC papers in the works with
11:23:03 19 the committee that would address these components of the
11:23:06 20 law?

11:23:10 21 A. No.

11:23:12 22 Q. Okay. And looking at 2023-005, which is Bates
11:23:20 23 stamp 305916, this appears to me to be, you know, a
11:23:26 24 draft that addresses, you know, changes in how
11:23:35 25 documentary proof of citizenship will be dealt with

11:23:38 1 under H.B. 2492; is that correct?

11:23:42 2 A. Yeah. You know, I'll just say these really
11:23:46 3 aren't VRAC papers even, even what I've learned, come to
11:23:50 4 learn to understand what they are. I mean these are
11:23:52 5 really, again, just copying and pasting the statutes.
11:23:58 6 There was no policy. You know, and at the time, of
11:24:03 7 course, we didn't -- we could not utilize the Attorney
11:24:08 8 General's Office for legal advice. We could not pay for
11:24:12 9 an attorney.

11:24:14 10 Q. Yeah.

11:24:14 11 A. And our counsel was very busy with litigation,
11:24:18 12 our outside counsel. So I should elaborate on the VRAC
11:24:24 13 papers too. We have one general counsel, and she's very
11:24:28 14 busy with the -- as we saw the org chart with the 12
11:24:32 15 pages and the 140 employees.

11:24:37 16 So I was the only attorney in the office, and I
11:24:41 17 was by no means going to draft these papers and try to
11:24:48 18 provide legal advice and try to understand the dynamics
11:24:52 19 of AVID. I was working in a vacuum, and it was very
11:24:55 20 frustrating, when I know the county -- so even the
11:25:01 21 smallest county in Arizona has more legal counsel than
11:25:05 22 the Secretary of State. So that's why I tossed it out
11:25:10 23 to the counties, here you go, and I -- you know,
11:25:12 24 practically begging them, again, you guys, we don't have
11:25:16 25 counsel. We don't have money.

11:25:17 1 So this is definitely a point of frustration
11:25:19 2 for me and why -- I'm not trying to dump work on them.
11:25:22 3 I don't know how AVID works, as far as to that granular
11:25:27 4 level.

11:25:27 5 Q. Completely understand. And I also understand
11:25:30 6 how it must not be all that fun to have kind of very
11:25:36 7 initial drafts out there in the world. So it's
11:25:40 8 certainly no judgment. I'm just trying to understand
11:25:43 9 kind of where you all are in that process. So this is
11:25:46 10 very -- you know, the detail you've provided is very
11:25:49 11 helpful.

11:25:50 12 Since you mentioned it about the Attorney
11:25:53 13 General's Office, I think you said that that restriction
11:25:57 14 on communication with the AG's Office expired earlier
11:26:01 15 this summer; is that right?

11:26:03 16 A. It expired June 30th, yes.

11:26:09 17 Q. And has the Secretary of State's Office in any
11:26:12 18 way started to change its relationship with the AG's
11:26:15 19 Office?

11:26:15 20 MR. MORGAN: Objection, form. It's also
11:26:17 21 outside the scope. I'm not going to let her go on the
11:26:19 22 record and talk about her relationship -- our Office's
11:26:21 23 relationship with the Attorney General. It's just not
11:26:24 24 appropriate for a deposition on these issues. And I'm
11:26:28 25 going to instruct her not to answer.

11:26:38 1 MS. LANG: Just to be clear on the record,
11:26:40 2 the witness has referred to this restriction as key.

11:26:42 3 MR. MORGAN: I have no problem with the
11:26:44 4 restriction being discussed in general as it existed,
11:26:46 5 but I'm not going to let -- in this deposition with the
11:26:50 6 topics that I'm aware are being testified about today or
11:26:53 7 that were noticed, we're not going to have a discussion
11:26:56 8 on the record about anything that the Secretary of
11:27:00 9 State's Office is doing vis-à-vis its relationship with
11:27:04 10 the Attorney General's Office as a lawyer and counsel.
11:27:06 11 I'm just not going to let that -- that's not
11:27:09 12 appropriate. It has no business in this case.

11:27:14 13 MS. LANG: Well, I'm trying to understand
11:27:15 14 if the Secretary now has access to more legal resources
11:27:18 15 to interpret these laws, which she has said has been a
11:27:23 16 barrier to implementation. So I understand.

11:27:25 17 MR. MORGAN: I am the only counsel of
11:27:26 18 record to the Secretary for these issues. So the answer
11:27:30 19 to that would be, you know, I'm her lawyer, and she's
11:27:34 20 not going to talk about out conversations either.

11:27:37 21 MS. LANG: That's not what I'm getting at,
11:27:39 22 but we can move on.

11:27:40 23 MR. MORGAN: Good.

11:27:44 24 BY MS. LANG:

11:27:46 25 Q. Would you agree that -- let me back up.

11:27:55 1 Based on kind of your testimony about the
11:27:57 2 challenges in developing guidance on these laws without
11:28:03 3 access to more legal -- internal legal resources, would
11:28:10 4 you agree that the Secretary really needs those
11:28:13 5 additional legal resources in order to be able to
11:28:17 6 interpret these laws?

11:28:20 7 MR. LANGHOFER: Form.

11:28:25 8 MR. MORGAN: Form. Again, I'm going to
11:28:26 9 object to scope. I'm not sure what that has to do with
11:28:30 10 anything.

11:28:31 11 MS. LANG: I mean it's a question about
11:28:32 12 how they're going to go about implementation and how
11:28:35 13 they're going to go about interpretation of the laws.

11:28:38 14 MR. MORGAN: I don't have a problem with
11:28:39 15 questions about that. Where I'm getting, maybe it's my
11:28:42 16 disconnect, is I don't think it's appropriate for her to
11:28:44 17 testify whether she believes she needs access to broader
11:28:50 18 legal resources to be able to do her job. I just -- I
11:28:53 19 don't see how that has anything to do with any of the
11:28:55 20 topics. Point me to the topic.

11:28:59 21 MR. LANGHOFER: Or the case.

11:29:00 22 MR. MORGAN: Well, that goes without
11:29:02 23 saying.

11:29:02 24 MR. LANGHOFER: Leading to relevant
11:29:03 25 information.

11:29:05 1 MR. MORGAN: I mean if you're getting at
11:29:07 2 something, maybe just ask that, because I'm going to be
11:29:10 3 very sensitive to issues related to legal relationships
11:29:14 4 and the need for legal resources.

11:29:16 5 MS. LANG: Nobody is asking for questions
11:29:18 6 related to privileged conversations with lawyers.

11:29:20 7 MR. MORGAN: I understand that.

11:29:21 8 MS. LANG: It is important. Several times
11:29:24 9 now the witness has testified about the limitations on
11:29:28 10 ability to interpret and provide guidance on these laws
11:29:33 11 based on limited access to legal resources, and I think
11:29:38 12 it's important to understand the Secretary's need for
11:29:44 13 substantial legal advice in order to be able to
11:29:47 14 interpret.

11:29:48 15 MR. MORGAN: She didn't say she needed
11:29:50 16 substantial legal advice. That misstates the record.

11:29:53 17 MS. LANG: Well, that is the question I'm
11:29:54 18 asking.

11:29:54 19 MR. MORGAN: That's not the question you
11:29:57 20 asked. So just ask the question, and I'll determine
11:29:59 21 whether I'm going to object again, because I think we've
11:30:00 22 gotten too far afield to even remember what you asked.
11:30:07 23 So just please ask the question again.

11:30:09 24 BY MS. LANG:

11:30:09 25 Q. Okay. Let me try and come at it a different

11:30:11 1 way.

11:30:12 2 Would you agree that these laws seek to make

11:30:21 3 substantial and many different changes to the voter

11:30:26 4 registration process in Arizona?

11:30:28 5 A. Yes.

11:30:30 6 Q. And would you agree that there are a number of

11:30:33 7 components within the law that require interpretation

11:30:43 8 for implementation?

11:30:47 9 MR. WHITAKER: Calls for a legal

11:30:48 10 conclusion.

11:30:56 11 MS. PORTER: Form.

11:30:56 12 THE WITNESS: I think it requires an

11:31:00 13 analysis from the counties' perspective and the state's

11:31:04 14 perspective, including consultation with counsel.

11:31:08 15 BY MS. LANG:

11:31:12 16 Q. Okay.

11:31:12 17 A. And I'm not -- let me just say this. But as

11:31:15 18 far as those papers that we referenced, I'm not going

11:31:17 19 to -- I'm not going to pick up where I left off even if

11:31:21 20 I had counsel or not. That -- my days of drafting, of

11:31:27 21 being a scrivener, are done on these VRAC papers. So I

11:31:33 22 guess if that -- to the extent that that puts an end on

11:31:37 23 the legal counsel issue.

11:31:44 24 Q. Fair enough, and I hear you there.

11:31:46 25 Your office would still have a role with the

11:31:52 1 County Recorders in developing what the guidance in VRAC
11:31:56 2 papers should be on how to implement these laws; is that
11:31:56 3 right?

11:31:59 4 A. Yes.

11:32:00 5 Q. Okay. And I think you've answered this

11:32:13 6 already, but it's really the question I'm trying to get

11:32:15 7 at, which is would it be possible to fully implement

11:32:20 8 these laws without having legal counsel guidance to help

11:32:26 9 understand what they require?

11:32:28 10 MR. LANGHOFER: Calls for a legal
11:32:30 11 conclusion.

11:32:30 12 MS. PORTER: Form.

11:32:32 13 MR. MORGAN: Form.

11:32:32 14 THE WITNESS: There are so many obstacles,

11:32:36 15 I don't even know. I don't even know if I could

11:32:40 16 possibly list them all at this point.

11:32:43 17 BY MS. LANG:

11:32:43 18 Q. And that would be one of them?

11:32:45 19 A. Yeah.

11:32:46 20 Q. Okay. And so I think that we have this on the
11:32:56 21 record already, but -- well, let me back up.

11:33:01 22 Outside of the first kind of six VRAC drafts

11:33:07 23 that I have seen at least, the first three we talked

11:33:10 24 about are the jury questionnaire and out-of-state and

11:33:13 25 then these additional ones, are there any other drafts

11:33:17 1 of VRAC papers related to these challenged laws in
11:33:22 2 existence right now?

11:33:22 3 MR. MORGAN: Well, to be clear, her
11:33:23 4 testimony was that what she's looking at now weren't
11:33:26 5 actually VRAC drafts, notwithstanding the title at the
11:33:29 6 top.

11:33:29 7 THE WITNESS: Exactly.

11:33:29 8 MR. MORGAN: So I don't want you to fall
11:33:31 9 into that trap.

11:33:31 10 THE WITNESS: Exactly. Yes, exactly. I
11:33:34 11 never thought anyone would even see those and...

11:33:37 12 But regardless, there is one other VRAC
11:33:40 13 paper that has been discussed among the VRAC committee,
11:33:45 14 and it has to do with a change, anytime someone goes in
11:33:52 15 to change something on a voter's registration, so, for
11:33:59 16 example, if the street number's transposed and it has to
11:34:02 17 be corrected, you know, little things like that.

11:34:08 18 There has been discussion, apparently for
11:34:10 19 a long while, prior to this administration starting, but
11:34:17 20 the Office of the Secretary of State has had many
11:34:21 21 discussions about whether, you know, simple changes like
11:34:22 22 that are administrative changes or whether they're
11:34:26 23 substantive changes that would require the -- you know,
11:34:30 24 the whole HAVA check process to kick in. There are
11:34:37 25 discussions, and I'm not -- I was a part of a few, but

11:34:39 1 I'm not a part of it. I don't know the status of that
11:34:41 2 now.
11:34:42 3 BY MS. LANG:
11:34:42 4 Q. Are those about kind of what you might call
11:34:45 5 administrative use of --
11:34:47 6 A. Yeah, like administrative changes, so --
11:34:48 7 Q. Yeah.
11:34:49 8 A. -- just, yeah, if someone had a typo or
11:34:53 9 something.
11:34:53 10 Q. Yeah, I had seen some discussions of kind of
11:34:55 11 what the limitation should be on administrative
11:34:59 12 changes --
11:34:59 13 A. Yeah.
11:35:00 14 Q. -- versus other types of changes in the system.
11:35:02 15 A. Yes.
11:35:03 16 Q. Okay. Other than that additional paper, any
11:35:06 17 other kind of VRAC papers that are currently in
11:35:12 18 development as it pertains to these challenged laws?
11:35:14 19 A. No.
11:35:15 20 Q. Okay. So as of now, there's no kind of VRAC
11:35:20 21 paper in development about what would be valid sources
11:35:23 22 of information that someone is not a United States
11:35:27 23 citizen?
11:35:28 24 A. No.
11:35:29 25 Q. Or that, you know, what it means to obtain and

11:35:32 1 confirm -- obtain information and confirm that a person

11:35:36 2 who is registered to vote is not a U.S. citizen?

11:35:40 3 A. There are just no more VRAC papers.

11:35:42 4 Q. Yeah.

11:35:43 5 A. That's it.

11:35:43 6 Q. Yeah. And if you could look at -- go back to
11:35:52 7 the folder that we were at.

11:35:55 8 A. I need that ID.

11:36:01 9 Q. Okay.

11:36:01 10 MR. MORGAN: What folder?

11:36:04 11 MS. LANG: The folder SOS Exhibits 2, and
11:36:07 12 if we could go to AZSOS-357 --

11:36:10 13 MR. MORGAN: Wait. I've still got to find
11:36:12 14 the folder.

11:36:13 15 MS. BRAILEY: Okay, okay. Yeah, yeah,
11:36:14 16 yeah.

11:36:14 17 MR. MORGAN: Wait. I think we're out of
11:36:15 18 wherever you want us to be, because I don't know that
11:36:17 19 baby.

11:36:37 20 MS. LANG: Here you go, and now we just
11:36:38 21 need to find AZSOS-357613.

11:36:46 22 MR. MORGAN: Here you go.

11:36:53 23 THE WITNESS: Okay.

11:36:53 24 BY MS. LANG:

11:36:53 25 Q. And this appears to have an e-mail chain from

11:36:56 1 you dated April 5, 2023; is that correct?

11:37:02 2 A. April 5th --

11:37:05 3 Q. Yes.

11:37:06 4 A. -- 2023?

11:37:07 5 Q. Yes.

11:37:08 6 A. Yeah.

11:37:08 7 Q. And can we mark that as 271.

11:37:16 8 And if you could take a moment just to review
11:37:17 9 your e-mail there.

11:37:26 10 MR. WHITAKER: Are we on Exhibit 271?

11:37:28 11 MS. LANG: Yes.

11:37:32 12 THE WITNESS: Okay.

11:37:32 13 BY MS. LANG:

11:37:35 14 Q. Okay. So you wrote "We have now confirmed that
11:37:37 15 there will not be a stipulated injunction on H.B. 2243."

11:37:42 16 I, of course, do not want to get into kind of
11:37:45 17 the conversations that you had that maybe led you to
11:37:50 18 that understanding; but is it fair to say, based on this
11:38:08 19 e-mail, that in early April, based on your understanding
11:38:13 20 of the status of this litigation, it was the Secretary's
11:38:17 21 plan to try to move forward with the VRAC committee on
11:38:19 22 at least some components of implementation for
11:38:24 23 H.B. 2243?

11:38:28 24 MR. MORGAN: You can answer to the extent
11:38:29 25 it doesn't require or reflect discussions with counsel.

11:38:31 1 THE WITNESS: Yeah, it appears to be
11:38:34 2 saying that, but around this time -- so as I referenced
11:38:38 3 in the e-mail, the super user call -- or, no, no, it
11:38:42 4 would not have been the super user call.

11:38:45 5 So sometime in April was when Secretary
11:38:47 6 Fontes said to all of the County Recorders and elections
11:38:54 7 director on a county call that we're focusing on the
11:39:02 8 budget aspect, and this piecemeal VRAC approach, we're
11:39:09 9 not going to continue with that. We have to get the
11:39:11 10 money first, or something. I can't remember his exact
11:39:15 11 words, but he, you know, pretty much said there are so
11:39:19 12 many VRAC committees that are -- or VRAC papers, we just
11:39:24 13 need to focus on -- you know, we need to start from
11:39:28 14 square one.

11:39:29 15 BY MS. LANG:

11:39:29 16 Q. Okay. And thank you for that.

11:39:30 17 So was this conversation after you sent this
11:39:35 18 e-mail?

11:39:37 19 A. Absolutely, yeah. I wouldn't have sent it
11:39:40 20 otherwise.

11:39:40 21 Q. Okay. So there was a plan to try to move
11:39:42 22 forward with some of these VRAC papers, and there was a
11:39:46 23 decision to stop that; is that fair to say?

11:39:50 24 A. You know, I'm not -- let me just clarify,
11:39:53 25 because I'm not clear on whether the juror questionnaire

11:39:59 1 issue is part of this litigation. Is it?

11:40:01 2 Q. Yes.

11:40:02 3 A. Okay. And I only ask because my -- I haven't
11:40:06 4 read all of the complaints.

11:40:07 5 Q. Fair.

11:40:08 6 A. Because I was -- I was a deputy county attorney
11:40:12 7 and I had only read the ones that the counties were
11:40:16 8 involved.

11:40:17 9 But as far as the juror questionnaire, the line
11:40:22 10 of thinking was that we could weave in the statutory
11:40:26 11 requirements within the federal requirements. So, yeah,
11:40:34 12 at the time that's what -- that's what our goal was, to
11:40:37 13 thread that needle.

11:40:39 14 Q. Okay. So sometime after that Secretary Fontes
11:40:46 15 on a call kind of communicated that he'd like to take a
11:40:50 16 different approach; is that -- is that right?

11:40:55 17 A. Well --

11:40:56 18 Q. Rather -- let me back up. Let's just -- let's
11:40:59 19 back up.

11:41:01 20 Okay. So do you recall when Secretary Fontes
11:41:04 21 kind of came on a call with the County Recorders and
11:41:07 22 kind of discussed how he wanted to prioritize moving
11:41:11 23 forward on these implementation plans?

11:41:14 24 MR. MORGAN: Form.

11:41:15 25 THE WITNESS: So let me just put it this

11:41:17 1 way. I would have not -- I am not empowered or was not
11:41:24 2 empowered or was not comfortable with making that
11:41:28 3 decision. But Secretary Fontes did reach that
11:41:31 4 conclusion, like this is taking up a certain amount of
11:41:36 5 bandwidth and we need to focus on the budget, because
11:41:40 6 regardless of what these VRAC papers say or do or what
11:41:43 7 people, you know, reach the conclusion on on how to do
11:41:47 8 it, we need the money. So the county calls I believe
11:41:52 9 are once a month. It probably was the April call.
11:41:55 10 That's my best guess.

11:41:57 11 BY MS. LANG:

11:42:00 12 Q. Okay. And so based on that decision from
11:42:04 13 Secretary Fontes, did the work at least from the
11:42:06 14 Secretary's Office on these VRAC papers largely stop?

11:42:11 15 A. Yes.

11:42:12 16 Q. Okay. And my understanding is that you finally
11:42:16 17 have gotten some approval for the budgetary issues
11:42:19 18 involved; is that right?

11:42:21 19 A. Yes.

11:42:21 20 Q. Okay. Is the plan to now pick up those
11:42:24 21 processes with the VRAC committee, now that the
11:42:27 22 budgetary issues have been resolved?

11:42:29 23 A. No. So to clarify, we need to internally
11:42:36 24 establish what we're going to do, because we're not
11:42:39 25 going to go into a meeting with 15 County Recorders and

11:42:44 1 all of these changes that need to be implemented without
11:42:48 2 an internal plan. So we're not going to even initiate a
11:42:53 3 VRAC call until we internally are in agreement.

11:42:58 4 Q. Okay. And is the process in place now for you
11:43:03 5 all, for the Secretary of State's Office, internally to
11:43:07 6 start to create that internal plan?

11:43:10 7 A. That's our next step, yes.

11:43:14 8 Q. Okay. Is there an initial meeting set for
11:43:17 9 starting that plan?

11:43:21 10 A. Well, you know, summers are challenging in
11:43:24 11 Arizona, in Phoenix, and we just got the PIJ process
11:43:31 12 approved last week, but many people are on vacation. So
11:43:38 13 it's -- frankly, it's just futile sometimes trying to
11:43:41 14 plan summer meetings.

11:43:44 15 Q. Fair enough. Some sometime this fall you'll
11:43:47 16 move forward with that, is that the current thinking?

11:43:49 17 A. Yeah. I can't say when. You know, we could do
11:43:52 18 something remotely. I don't know. We just don't have
11:43:56 19 that formalized.

11:43:57 20 Q. It's not set yet?

11:43:58 21 A. Yeah.

11:43:59 22 Q. That was my only question.

11:44:01 23 So during the Maricopa County Recorder's
11:44:06 24 deposition, the County Recorder there had said that the
11:44:08 25 kind of VRAC paper, the jury questionnaire VRAC paper,

11:44:15 1 had been revoked. I don't know if that's the right
11:44:17 2 terminology, and we need not go into it; but is the kind
11:44:20 3 of reason for the stoppage that the County Recorder's
11:44:25 4 Office identified the same one that we just talked
11:44:27 5 about, that Secretary Fontes' decision about how to kind
11:44:31 6 of proceed with implementation plans?

11:44:33 7 MR. MORGAN: Form.

11:44:35 8 MS. PORTER: Form, foundation.

11:44:41 9 THE WITNESS: The Maricopa County
11:44:43 10 Recorder's Office was not happy that the Secretary of
11:44:45 11 State was no longer going to be the sole drafter of the
11:44:50 12 VRAC papers, so if she character -- Janine Petty
11:44:56 13 characterized it as revoked, that was her
11:45:00 14 interpretation. Someone can very well -- I hand the
11:45:02 15 baton off to them. That's how it -- that's what
11:45:09 16 happened.

11:45:09 17 BY MS. LANG:

11:45:10 18 Q. Fair enough. I think we might be talking about
11:45:12 19 two different things, and that's my fault.

11:45:14 20 You know, there's the question about who is
11:45:15 21 going to do -- you know, do the drafting of the VRAC
11:45:20 22 papers, and I entirely understand that.

11:45:22 23 And then there is the kind of -- there was, you
11:45:25 24 know, substantial move forward on the jury questionnaire
11:45:28 25 item and then there was a decision to not move forward

11:45:32 1 on that. And I understood you to be saying that was
11:45:35 2 because the Secretary determined that that wasn't the
11:45:37 3 kind of most efficient way to move forward with
11:45:41 4 implementation plans; is that fair?

11:45:43 5 A. Yeah. Well, okay, so, again, VRAC is a
11:45:47 6 16-member committee. We're one member. So we don't
11:45:50 7 have to even initiate a meeting. Any county can run --
11:45:55 8 we can have 20 VRAC papers going and we don't even have
11:45:58 9 to vote on it. So there's nothing holding them back.

11:46:06 10 You know, the Secretary of State announced his position,
11:46:10 11 and that's -- it is what it is.

11:46:12 12 Q. I understand.

11:46:13 13 So it's the Secretary of State's position that
11:46:17 14 your office will not be leading that VRAC work, but that
11:46:19 15 is not an indication to VRAC generally that they are not
11:46:23 16 permitted to move forward on this, and they would be
11:46:25 17 free to do so?

11:46:27 18 A. The Secretary of State is charged with, I think
11:46:32 19 in the mission statement, you know, coordinating and
11:46:37 20 collaborating with the counties, just to get things
11:46:40 21 going.

11:46:40 22 Q. Yeah.

11:46:41 23 A. And then to incorporate any of the
11:46:45 24 recommendations or whatever's adopted in a VRAC paper
11:46:48 25 into the EPM. But any of the 16 members can draft it.

11:46:54 1 So the Secretary of State is not saying you can't draft

11:46:57 2 it. He's just saying we're not doing it.

11:47:00 3 Q. Right. And I think you testified earlier that
11:47:02 4 it's not even that you will never do it, but at least
11:47:05 5 right now that's not what you're doing on these items,
11:47:07 6 because you're focused on different parts of your
11:47:11 7 process?

11:47:11 8 A. Well, yeah, we're focused on the budget, and,
11:47:15 9 frankly, my focus as the elections director is on the
11:47:19 10 EPM.

11:47:21 11 Q. 100 percent. And that's what I'm going to move
11:47:25 12 on to is talking about the EPM.

11:47:29 13 We mentioned that there is a version of the EPM
11:47:36 14 out for public comment, and that was posted on August 1;
11:47:36 15 is that right?

11:47:39 16 A. Yes

11:47:40 17 Q. And I have seen and others have seen the draft
11:47:45 18 EPM version that you've given to the counties of the
11:47:47 19 voter registration chapter, and that was released in
11:47:49 20 July to them; is that correct?

11:47:54 21 A. The last part of the EPM.

11:47:56 22 Q. Yes.

11:47:56 23 A. That was, yes, in July.

11:47:59 24 Q. With respect to the registration chapter alone,
11:48:09 25 did your office make changes between the draft that was

11:48:13 1 sent to the counties and the draft that was published on
11:48:18 2 August 1, you know, for the public to view?

11:48:22 3 A. Yes.

11:48:24 4 Q. Okay. And I think I understood this from your
11:48:29 5 testimony earlier, but are you the person who's
11:48:31 6 primarily responsible for that drafting?

11:48:33 7 A. Yes.

11:48:34 8 Q. Okay. And were those changes primarily kind of
11:48:38 9 in response to county comments?

11:48:41 10 A. Yes.

11:48:41 11 Q. Okay. And you kind of volunteered this

11:48:54 12 earlier, so let me just make sure I'm clear about it.

11:48:57 13 There are components of H.B. 2492 and H.B. 2243 that are

11:49:04 14 included in the 2023 EPM that went out for public

11:49:10 15 comment, correct?

11:49:10 16 A. Correct.

11:49:12 17 Q. Okay. And -- but I think I understood your

11:49:13 18 testimony to be that the approach you took with respect

11:49:17 19 to those bills was to put in the statutory language, but

11:49:23 20 not provide any kind of additional guidance or policy

11:49:28 21 around those new statutory changes; is that true?

11:49:32 22 A. Yeah, that's correct. I think the only change

11:49:35 23 that I made was to the statute that provided a voter

11:49:45 24 registration form shall be rejected, whatever. I can't

11:49:49 25 even remember. But where they used the word rejected,

11:49:51 1 the county said that's not a word, a status code, and so

11:49:55 2 I put -- I changed that to not registered. But that's

11:49:59 3 it. Otherwise, I kept it verbatim.

11:50:03 4 Q. Yeah. Generally, one of the goals and purposes

11:50:11 5 of the EPM is to not only outline the bare statutory

11:50:21 6 language, but to fill in the gaps for implementation; is

11:50:23 7 that correct?

11:50:23 8 A. That's correct.

11:50:24 9 Q. Okay. But for this draft in this moment, your

11:50:32 10 office has not taken that approach for these challenged

11:50:36 11 provisions; is that right?

11:50:39 12 MR. MORGAN: Form.

11:50:42 13 BY MS. LANG:

11:50:42 14 Q. And I just want to be clear that it's not a

11:50:44 15 critique. I just want to be clear about kind of what

11:50:49 16 the current approach is to these provisions in the EPM.

11:50:52 17 A. So to the degree that any of this legislation

11:50:55 18 will be in the final EPM, that decision has not been

11:51:01 19 made.

11:51:02 20 Q. Okay. Yes. But the draft that's out there in

11:51:04 21 the world right now, the approach that was taken was to

11:51:07 22 only include the statutory -- kind of clear statutory

11:51:11 23 language, and not do that kind of gap filling exercise

11:51:15 24 yet?

11:51:17 25 A. Yeah. Exactly.

11:51:22 1 Q. Okay. And I think you testified earlier at
11:51:25 2 some point, in some form, County Recorders will need
11:51:30 3 additional guidance to implement these laws in a way
11:51:33 4 that would be uniform; is that right?

11:51:36 5 MR. LANGHOFER: Calls for a legal
11:51:40 6 conclusion.

11:51:40 7 MR. WHITAKER: Speculation.

11:51:41 8 THE WITNESS: Yeah, guidance from whom?

11:51:43 9 BY MS. LANG:

11:51:44 10 Q. That's a good question.

11:51:47 11 Based on the statutory language itself, without
11:51:55 12 any VRAC papers or EPM -- scratch that.

11:52:04 13 In order to achieve uniformity in implementing
11:52:12 14 these laws, is it your view that additional guidance to
11:52:20 15 the County Recorders from whomever it may come, whether
11:52:23 16 it be the VRAC committee or the Secretary or whatnot,
11:52:26 17 would be necessary to create uniformity?

11:52:29 18 MR. LANGHOFER: Vague, calls for a legal
11:52:34 19 conclusion.

11:52:34 20 THE WITNESS: Well, any implementation of
11:52:36 21 any of these laws the counties should consult with their
11:52:42 22 Deputy County Attorney or County Attorney. That's it.

11:52:56 23 BY MS. LANG:

11:52:56 24 Q. With respect to the registration chapter, I
11:52:59 25 understand it was released to the County Recorders in

11:53:02 1 July and then you had an initial call with them?

11:53:05 2 A. Yes.

11:53:05 3 Q. Is that right?

11:53:06 4 A. Yes.

11:53:06 5 Q. Okay. And what kind of feedback did you
11:53:11 6 receive from the County Recorders during that call?

11:53:16 7 A. So the second Tuesday of the month was the date
11:53:19 8 by which I requested comments, and so Matt Webber from
11:53:25 9 Yavapai County was the only county that had submitted
11:53:29 10 written comments, and then the day before our meeting
11:53:34 11 with the county Janine Petty sent Maricopa County's
11:53:41 12 comments. So, yeah, the call entailed going through the
11:53:45 13 comments from Maricopa and Yavapai Counties.

11:53:52 14 Q. Okay. Since that call, have you received any
11:53:55 15 additional comments from other counties on that chapter?

11:54:03 16 A. I don't know. I can't remember specifically.

11:54:06 17 Q. Okay. And you mentioned having kind of
11:54:10 18 one-on-one conversations with some of the counties.

11:54:13 19 Have you had any one-on-one conversations with the
11:54:16 20 counties about that part of the EPM?

11:54:23 21 A. I talked to different counties, the county
11:54:27 22 elections directors, County Recorders, deputy county
11:54:30 23 recorder -- I'm sorry, chief deputies. I can't say
11:54:33 24 exactly when, like in what sequence or who I talked to
11:54:38 25 about what. Nothing jumps out at me, I guess, at this

11:54:43 1 point.

11:54:43 2 Q. So you don't recall any specific conversations
11:54:45 3 one-on-one with County Recorders about the voter
11:54:48 4 registration part of the manual?

11:54:51 5 A. I can't recall.

11:55:11 6 Q. You've testified that there's no final decision
11:55:14 7 about whether the parts of the EPM that currently -- let
11:55:19 8 me restate the question.

11:55:20 9 I believe you've testified there's no decision
11:55:26 10 about whether or not the draft EPM that you submit on
11:55:30 11 October 1 will include provisions related to the
11:55:34 12 challenged laws in this case; is that right?

11:55:36 13 A. There's no final decision, right.

11:55:39 14 Q. Okay. You'll have to make that decision by
11:55:42 15 October 1st; is that fair to say?

11:55:44 16 A. Yes.

11:55:45 17 Q. Okay. Putting aside any conversations you've
11:55:48 18 had with counsel, do you have kind of any process
11:55:53 19 outlined for how you're going to get to that decision by
11:55:55 20 October 1? I know you said it's causing you to lose
11:55:59 21 sleep, and I understand that. It's -- I understand
11:56:02 22 that.

11:56:03 23 If you could just let me know what process, if
11:56:06 24 any, do you envision for how you will kind of come to
11:56:09 25 that decision?

11:56:13 1 MR. MORGAN: Calls for speculation.

11:56:15 2 To the extent you have a process.

11:56:16 3 THE WITNESS: Yeah, there's just no
11:56:18 4 established process. I mean it's -- how do you go about
11:56:21 5 doing that? I mean I've read the comments. I continue
11:56:23 6 to read the comments. The comments are posted, if you
11:56:26 7 want to read the comments.

11:56:27 8 BY MS. LANG:

11:56:27 9 Q. I have.

11:56:27 10 A. And you'll see they are all over the place on
11:56:30 11 this very topic.

11:56:32 12 Q. Yes.

11:56:33 13 A. And we're going to pick, have to make a
11:56:36 14 decision, and it's not going to be an easy one.

11:56:39 15 Q. Is that a decision that the Secretary will be
11:56:41 16 involved in?

11:56:42 17 A. Absolutely.

11:56:44 18 Q. Okay. And will he be the ultimate
11:56:47 19 decision-maker?

11:56:48 20 A. Yes. It's his manual. Yes.

11:56:49 21 Q. And I have it, if we need it, but I don't know
11:56:58 22 that we do. One comment that caught my eye when I was
11:57:01 23 reviewing the public comments was from Senators
11:57:04 24 Hernandez and Sundareshan. Do you recall seeing a
11:57:09 25 comment from the Senators?

11:57:11 1 A. I don't. I know a lot of legislators submit
11:57:14 2 comments, but I can't say specifically those
11:57:16 3 legislators.

11:57:18 4 Q. So they wrote -- they wrote in favor of
11:57:23 5 removing these components from the EPM, given the
11:57:28 6 pending litigation, and wrote in particular, quote,
11:57:31 7 Should these components remain in the 2023 EPM, it could
11:57:35 8 lead to confusion and, comma, more concerningly, comma,
11:57:39 9 voters being denied the ability to register or vote a
11:57:43 10 full ballot based on a law that may ultimately be
11:57:45 11 rejected by the courts, end quote.

11:57:48 12 Does the concerns raised by the Senators kind
11:57:57 13 of reflect some of the concerns that are perhaps keeping
11:58:01 14 you up at night?

11:58:03 15 MR. MORGAN: Form.

11:58:07 16 MR. LANGHOFER: Calls for a legal
11:58:08 17 conclusion.

11:58:08 18 THE WITNESS: You know, the comments are
11:58:08 19 all over the place. Many of the comments are to that
11:58:13 20 effect. Many of the comments are that the entire voter
11:58:17 21 registration chapter should be removed. Many of the
11:58:20 22 comments say you have to start enforcing documentary
11:58:25 23 proof of citizenship, which has been the law nearly
11:58:28 24 20 years now. So there are a vast number of comments.
11:58:35 25 Yes, we received more than one comment about removing

11:58:39 1 the subject matter of this litigation.

11:58:43 2 BY MS. LANG:

11:58:43 3 Q. Yeah.

11:58:44 4 MR. MORGAN: So just for those keeping
11:58:46 5 track at home, it's noon. I'm starving. So whenever
11:58:50 6 you guys are prepared to break, I'd love a break.

11:58:56 7 MS. LANG: I have just a couple questions
11:58:57 8 left on this topic, and then why don't we break.

11:58:59 9 MR. MORGAN: Okay.

11:59:00 10 BY MS. LANG:

11:59:00 11 Q. Okay. You testified earlier that there are a
11:59:05 12 few options on the table about how to approach the
11:59:09 13 challenged provisions in this law and the EPM and that,
11:59:12 14 you know, none of them are perfect; is that fair to say?

11:59:15 15 A. Yeah, none of them are perfect. None of them
11:59:18 16 are going to please everyone.

11:59:20 17 Q. Yeah. Can you outline kind of what those
11:59:22 18 options on the table are right now?

11:59:25 19 A. I can't. I just don't even know where to
11:59:29 20 begin. I just can't. I can't. The EPM is an
11:59:33 21 overwhelming document. It's nearly 300 pages that's
11:59:37 22 consumed the last five months of my life. I can't
11:59:40 23 possibly start to say what -- you know, and
11:59:42 24 differentiate between the voter registration, fairly
11:59:45 25 differentiate between the many other topics that are

11:59:49 1 very important too.

11:59:51 2 For example, the hand count audit, the
11:59:54 3 certification of an election all are subject of
11:59:57 4 different litigations. So it just wouldn't be fair to
11:59:59 5 even try to go through the deliberative process.

12:00:02 6 Q. That's fair, and I'm not asking you to do that.

12:00:06 7 With respect to whether to include the
12:00:08 8 provisions of the law here or not, I imagine there's a
12:00:14 9 limited set of options. Like what are the options that
12:00:16 10 you kind of see before you right now? I know that
12:00:18 11 making those decisions will be incredibly hard and
12:00:22 12 require a lot of considerations, but kind of what are
12:00:25 13 the options as you see them?

12:00:27 14 MR. MORGAN: Objection, asked and
12:00:29 15 answered.

12:00:29 16 If you have a different answer.

12:00:30 17 THE WITNESS: I don't have a different
12:00:31 18 answer.

12:00:33 19 BY MS. LANG:

12:00:33 20 Q. Is one of the options to remove references to
12:00:37 21 the challenged provisions altogether?

12:00:39 22 A. I'm not going to speculate. I'm not. I mean
12:00:42 23 I'm just not going to speculate. There's not -- there's
12:00:44 24 not an answer I can give you right now that's going to
12:00:47 25 satisfy you.

12:01:10 1 Q. Given your testimony, is it your position that
12:01:12 2 kind of all options are on the table right now?

12:01:14 3 MR. MORGAN: Objection, asked and
12:01:21 4 answered.

12:01:21 5 THE WITNESS: As I said, there are many
12:01:24 6 options. I could not give you an exhaustive list of
12:01:27 7 what the options are.

12:01:28 8 BY MS. LANG:

12:01:28 9 Q. Could you give me some examples of options?

12:01:30 10 A. No, I'm not going to.

12:01:32 11 MR. MORGAN: She's been asked the same
12:01:33 12 question. She's not going to answer it any differently.

12:01:33 13 MS. LANG: You know --

12:01:37 14 MR. MORGAN: It's not happening. She's
12:01:37 15 not answering the question any differently.

12:01:44 16 THE WITNESS: I'm also speaking on behalf
12:01:45 17 of the office, so I -- it really wouldn't be fair of me
12:01:49 18 to even delve into that without at least engaging the
12:01:55 19 Secretary. I mean it's --

12:01:56 20 MR. MORGAN: You're on the record, so
12:01:56 21 let's not do it on the record.

12:01:58 22 On the record she's answered the question.
12:02:01 23 She said she's not going to speculate about what options
12:02:03 24 could be available to the office. I think that's a fair
12:02:05 25 answer. We need to move on. And I'm starving.

12:02:10 1 MS. LANG: We can take a break. We are
12:02:12 2 probably going to revisit this question, so --

12:02:13 3 MR. MORGAN: We're not. You can take it
12:02:14 4 to the judge. We're not talking about it anymore.
12:02:16 5 She's given you her answer. If you have a different
12:02:19 6 question, you can ask it. These questions, we're done.

12:02:23 7 MR. LANGHOFER: I'm sorry to belabor this
12:02:25 8 because we all want to go to lunch, but is the question
12:02:27 9 what they're going to do in deciding whether to
12:02:31 10 implement this in the next EPM?

12:02:33 11 MS. LANG: The question is simply what
12:02:35 12 options are being considered about whether and how these
12:02:39 13 provisions will be included in the EPM.

12:02:41 14 MR. LANGHOFER: Okay.

12:02:42 15 MS. LANG: I kind of think it's a question
12:02:43 16 that you may also be interested in the answer to, and I
12:02:49 17 think it's squarely in the scope. But let's go off the
12:02:53 18 record and take a lunch break.

12:02:55 19 MR. LANGHOFER: Thanks.

12:02:56 20 MS. LANG: Thank you.

12:02:57 21 THE VIDEOGRAPHER: We are off the record.
12:02:57 22 The time on the video monitor is 12:02 p.m.

12:03:03 23 (Deposition Exhibits 260 through 271,
24 inclusive, were digitally marked for
25 identification.)

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(Whereupon, a recess was taken in the proceedings and the following testimony was stenographically transcribed by Cindy Mahoney, RPR, RMR.)

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12:57:31 1 THE VIDEOGRAPHER: We are on the record. The
12:57:32 2 time on the video monitor is 12:57 p.m.

12:57:36 3 BY MS. LANG:

12:57:42 4 Q. Okay. Thank you.

12:57:46 5 So I think when we left off we were talking
12:57:49 6 about the difficult decisions you all are going to have to
12:57:53 7 make about how to format the EPM, given the ongoing
12:57:58 8 challenges to some of the provisions at issue in this
12:58:01 9 litigation.

12:58:02 10 A. Yes.

12:58:02 11 Q. Okay. Can you describe for me -- and I understand
12:58:06 12 that it will not be an exhaustive list -- some of the
12:58:10 13 considerations that go into making that decision about
12:58:15 14 whether or not to include provisions that are currently
12:58:18 15 being challenged in court in the EPM?

12:58:22 16 MR. MORGAN: Form and object to the extent it
12:58:26 17 calls for speculation.

12:58:33 18 If you understand the question, you can
12:58:34 19 answer.

12:58:34 20 THE WITNESS: I do, yes. I have a hard time
12:58:44 21 responding, you know, how I -- I know you want me to give
12:58:47 22 you some definitive list or some examples. I am reluctant
12:58:53 23 to say anything because I don't want to preclude or
12:58:56 24 foreclose Secretary Fontes from making a decision or
12:59:00 25 feeling locked into a decision. And I don't think I could

12:59:06 1 articulate the options very well at this point.

12:59:14 2 MS. PORTER: I'm sorry. Has the deposition
12:59:15 3 started? Because I cannot hear anything from anyone on the
12:59:20 4 Coash line.

12:59:24 5 MR. MORGAN: It has. Can you hear me at all?

12:59:27 6 MR. WHITAKER: I can hear, Hannah, but it's
12:59:28 7 fainter -- much fainter than it was before. I don't know
12:59:31 8 if others are having that experience.

12:59:34 9 THE COURT REPORTER: Do you want to go off
12:59:34 10 the record?

12:59:36 11 MR. MORGAN: Let's go off the record.

12:59:36 12 MS. LANG: Let's go off the record.

12:59:39 13 THE VIDEOGRAPHER: We are off the record.

12:59:46 14 The time on the video monitor is 12:59 p.m.

12:59:54 15 (An off-the-record discussion ensued.)

13:02:33 16 THE VIDEOGRAPHER: We are on the record. The
13:04:30 17 time on the video monitor is 1:04 p.m.

13:04:37 18 BY MS. LANG:

13:04:38 19 Q. I apologize. I'm going to try to get us back
13:04:40 20 again.

13:04:42 21 Prior to our larger break, we had discussed
13:04:48 22 the decision facing the secretary and the secretary's
13:04:54 23 office about how to include or not include provisions that
13:04:56 24 are challenged in this lawsuit in the EPM. And that
13:05:00 25 decision has to be made by October 1; is that right?

13:05:03 1 A. Yes.

13:05:03 2 Q. Okay. And you said there's, you know, many
13:05:07 3 considerations that have to go into that. Is that fair to
13:05:11 4 say?

13:05:11 5 A. Yes.

13:05:11 6 Q. Okay. Without being in any way exhaustive, what
13:05:15 7 are some of the considerations that go into making that
13:05:19 8 choice?

13:05:20 9 A. The considerations are -- involve any potential
13:05:32 10 violations of federal law, the supremacy clause, any cases,
13:05:40 11 historical procedures.

13:05:45 12 Q. The uncertainty about the outcome of this lawsuit;
13:05:48 13 is that fair to say?

13:05:48 14 A. That's correct, yes.

13:05:49 15 Q. Okay. Moving on from the EPM, if the provisions
13:06:05 16 of these laws go into effect and need to be fully
13:06:09 17 implemented, that will require some changes to the state
13:06:13 18 voter registration form as well; is that correct?

13:06:15 19 A. Yes.

13:06:15 20 Q. Okay. Those changes have not yet been made in the
13:06:21 21 form that is available to the public. Is that also
13:06:23 22 correct?

13:06:23 23 A. Yes.

13:06:24 24 Q. Okay. Are there any drafts yet of new state voter
13:06:30 25 registration forms that would include the requirements of

13:06:32 1 the HB 2492?

13:06:33 2 A. No.

13:06:34 3 Q. Okay. I believe one of the requirements of a
13:06:46 4 piece of legislation from 2022 -- not a law at issue in
13:06:53 5 this case, but SB 1013 required the Secretary of State's
13:06:57 6 Office to ask the Election Assistance Commission to change
13:07:01 7 the instructions about documentary proof of citizenship on
13:07:07 8 the federal form. Are you aware of that?

13:07:10 9 A. Yes.

13:07:10 10 Q. Okay. Could you open AZSOS 533 that says, "EAC
13:07:17 11 letter." And we'll mark that as 272.

13:07:17 12 (The document was marked as Exhibit 272
13:07:26 13 for identification.)

13:07:26 14 THE WITNESS: EAC letter.

13:07:29 15 BY MS. LANG:

13:07:30 16 Q. Yes. Okay.

13:07:45 17 A. Is it in one of the folders perhaps?

13:07:48 18 Q. Yes. Apologies. It's in the SOS Exhibits 2
13:07:50 19 folder, AZSOS 533.

13:07:55 20 A. Okay.

13:07:55 21 Q. EAC letter.

13:07:57 22 A. All righty.

13:08:01 23 Q. Have you seen this document before?

13:08:12 24 A. Yes.

13:08:15 25 Q. And is this the letter that Secretary Hobbs sent

13:08:21 1 pursuant to that statute we just discussed requesting

13:08:24 2 updated -- or requesting these different instructions about

13:08:29 3 documentary proof of citizenship on this -- on the federal

13:08:31 4 form?

13:08:32 5 A. Yes.

13:08:32 6 Q. Okay. And do you know if the office has received

13:08:38 7 a response to this letter?

13:08:42 8 A. Not that I'm aware of.

13:08:44 9 Q. Have there been any discussions with the Election

13:08:48 10 Assistance Commission about this request?

13:08:51 11 A. Not that I'm aware of.

13:08:52 12 Q. Okay. And it's correct that these updated

13:08:59 13 instructions have not been included in the federal form;

13:09:04 14 correct?

13:09:04 15 A. That's correct.

13:09:05 16 Q. Okay. One of the steps in preparing to implement

13:09:23 17 these challenged laws, I imagine, will be the creation of

13:09:27 18 template notice letters to voters. Is that -- is that fair

13:09:35 19 to say?

13:09:37 20 A. You know, I don't know. I -- that's something I

13:09:46 21 don't know if we will -- the Secretary of State's Office

13:09:48 22 will continue the practice of drafting template letters.

13:09:52 23 Q. Okay. Historically, has the Secretary of State's

13:09:56 24 Office kind of provided template notice letters to the

13:10:00 25 county recorders that they can then use for various

13:10:02 1 election mail purposes?

13:10:04 2 A. Yes.

13:10:04 3 Q. Okay. But you're not sure if Secretary Fontes's

13:10:10 4 office will continue that practice?

13:10:11 5 A. Yeah, I don't know if we will.

13:10:14 6 Q. Okay. Is it fair to say that your office has not

13:10:19 7 yet drafted any template notice letters related to the

13:10:25 8 challenged provisions?

13:10:25 9 A. There were a few template letters drafted for the

13:10:30 10 first three draft VRAC papers that we discussed.

13:10:34 11 Q. Okay. Were any of those finalized or no?

13:10:37 12 A. No.

13:10:38 13 Q. Okay. Because the VRAC papers themselves have not

13:10:41 14 been finalized; right?

13:10:45 15 A. That was one reason.

13:10:48 16 Q. Okay. Any other reasons?

13:10:51 17 A. There -- there was. I -- which is a legal

13:10:57 18 question that I don't know the answer to. But the NVRA

13:11:04 19 process of whether the initial letter sent out by the jury

13:11:09 20 commissioner satisfies the first NVRA letter notice to the

13:11:17 21 voter -- because the secretary of state's VRAC paper picked

13:11:24 22 up the process kind of in the middle; whereas, there was

13:11:29 23 only one letter being sent to the voter by -- via

13:11:34 24 forwardable mail. And I had some reservations because it

13:11:38 25 didn't seem as though it complied with the two step -- or

13:11:44 1 the two letters in two consecutive elections because -- if
13:11:51 2 the juror commissioner letter satisfied the first letter
13:11:54 3 requirement, if that makes sense.

13:11:55 4 Q. It does.

13:11:56 5 And I think you answered this question, but
13:11:59 6 so far, your office has not kind of resolved that question
13:12:02 7 or set of concerns; correct?

13:12:04 8 A. We've not resolved it. We would need to seek
13:12:08 9 legal advice on that.

13:12:10 10 Q. Okay. Okay. You mentioned that the kind of
13:12:25 11 outreach coordinator role has kind of moved outside of the
13:12:30 12 elections department; is that correct?

13:12:31 13 A. Yes, it has.

13:12:32 14 Q. And does that include any kind of voter education
13:12:36 15 that the Secretary of State's Office will do, or is it a
13:12:40 16 more limited scope?

13:12:42 17 MR. MORGAN: Form.

13:12:43 18 THE WITNESS: Well, the voter outreach
13:12:46 19 employee has moved outside of the elections department, but
13:12:53 20 that person will still be involved in election-related
13:12:56 21 matters. For example, the assistant -- excuse me -- the
13:13:02 22 deputy assistant secretary of state has already scheduled
13:13:08 23 certain outreach events.

13:13:09 24 We've had meetings on the EPM with the Inter
13:13:15 25 Tribal Council of Arizona. We've had a meeting with the

13:13:17 1 Navajo Nation Tribal Council and the Navajo Nation
13:13:21 2 Department of Justice on the EPM. So that process has
13:13:25 3 started in collaboration with the outreach director.

13:13:29 4 BY MS. LANG:

13:13:30 5 Q. Okay. And were you involved in those meetings
13:13:32 6 that you just mentioned?

13:13:34 7 A. Yes.

13:13:34 8 Q. Okay. And so is it fair to say that kind of
13:13:40 9 members of the elections department will continue to work
13:13:42 10 with the outreach coordinator to implement voter education
13:13:47 11 plans?

13:13:47 12 A. Absolutely. Yes.

13:13:48 13 Q. Okay. Based on your testimony today, it seems as
13:13:55 14 though this may be a few steps ahead --

13:13:57 15 A. Okay.

13:13:58 16 Q. -- but have there been yet any discussions or
13:14:04 17 plans as to what the voter education or outreach would need
13:14:07 18 to look like if the challenged laws are fully implemented?

13:14:13 19 A. Well, let me first back up. The voter -- or the
13:14:17 20 outreach coordinator was only recently hired -- I would say
13:14:23 21 maybe six or eight weeks ago. So fairly recently.

13:14:28 22 Q. Yes.

13:14:28 23 A. But any outreach will be done through her as well
13:14:33 24 as the assistant Secretary of State's Office.

13:14:36 25 Q. Are you aware of any plans yet as to how voter

13:14:43 1 outreach would be conducted if these new requirements are
13:14:48 2 put in -- into effect?

13:14:51 3 A. I'm not privy to any scheduled voter outreach at
13:14:56 4 this point.

13:14:57 5 Q. Is it fair to say that some amount of voter
13:15:08 6 education and outreach will be necessary if the challenged
13:15:14 7 provisions are fully implemented?

13:15:16 8 MR. LANGHOFER: Form.

13:15:17 9 MR. MORGAN: Speculation.

13:15:20 10 THE WITNESS: Can you be more specific about
13:15:20 11 what part of the challenges?

13:15:22 12 BY MS. LANG:

13:15:22 13 Q. Yes.

13:15:23 14 For exam- -- as an example, if the
13:15:24 15 documentary proof of residency requirement were to be fully
13:15:29 16 implemented, would some amount of voter education and
13:15:34 17 outreach be necessary to ensure that voters understand
13:15:37 18 those new requirements and -- and can comply with them?

13:15:40 19 A. Yes, I agree.

13:15:42 20 MR. LANGHOFER: Same objections.

13:15:50 21 BY MS. LANG:

13:16:08 22 Q. Okay. Beyond the legal issues at -- at play in
13:16:13 23 this case, what are the secretary's greatest concerns about
13:16:17 24 implementation of the challenged laws?

13:16:20 25 MR. MORGAN: Form.

13:16:21 1 MR. LANGHOFER: Form. Calls for legal
13:16:25 2 conclusion.
13:16:25 3 MS. LANG: I'm sorry. Can you clarify what
13:16:27 4 legal conclusion?
13:16:28 5 MR. LANGHOFER: I'm not sure what --
13:16:28 6 THE COURT REPORTER: Can you speak up?
13:16:31 7 MR. LANGHOFER: I'm not sure what her answer
13:16:32 8 is going to be, but you've been asking about the secretary
13:16:36 9 and his predecessor's legal concerns about it, so I think
13:16:39 10 you're still mining that vein. If I'm wrong --
13:16:43 11 MS. LANG: I said "beyond the legal issues."
13:16:45 12 MR. LANGHOFER: Oh. In that case, it doesn't
13:16:47 13 apply.
13:16:47 14 MS. LANG: Okay. That -- I just wanted to
13:16:48 15 understand.
13:16:49 16 BY MS. LANG:
13:16:50 17 Q. Beyond the legal issues, what are the kind of
13:16:51 18 practical or other impact concerns that the secretary has
13:16:59 19 about implementation of the challenged laws?
13:17:01 20 MR. MORGAN: You mean -- you mean the office?
13:17:02 21 MS. LANG: The office. Always the office.
13:17:04 22 MR. MORGAN: Okay.
13:17:05 23 MS. LANG: But thank you.
13:17:08 24 THE WITNESS: Well, I'll just start with the
13:17:11 25 issue you just brought up: documentary proof of residency.

13:17:21 1 As far as what will satisfy that requirement, that has been

13:17:26 2 a concern that we've discussed many times.

13:17:29 3 BY MS. LANG:

13:17:31 4 Q. Is it a concern that these provisions might be

13:17:34 5 particularly onerous on certain communities of voters?

13:17:40 6 MR. LANGHOFER: Foundation.

13:17:43 7 THE WITNESS: There's concern about

13:17:45 8 identification that doesn't have someone's name or address.

13:17:52 9 There are the special provisions for the Native American

13:17:56 10 communities for the tribal identification, but there still

13:18:01 11 remains a concern about individuals that do not have a

13:18:05 12 standard mailing address -- a residential address. Excuse

13:18:05 13 me.

13:18:05 14 BY MS. LANG:

13:18:13 15 Q. And I think we talked about this a little bit with

13:18:15 16 respect to the veto letters, but does the secretary also

13:18:19 17 have concerns about potential arbitrary treatment under the

13:18:22 18 challenged laws?

13:18:26 19 A. We haven't -- we haven't really discussed the

13:18:28 20 arbitrary, just the general concern about whether people

13:18:36 21 that are otherwise eligible to vote being able to satisfy

13:18:40 22 the DPOR requirement.

13:18:46 23 Q. We had talked about budgetary concerns before, and

13:18:58 24 I know it sounds like some of those budgetary concerns have

13:19:03 25 been alleviated.

13:19:05 1 Has -- have the secretary's budgetary
13:19:08 2 concerns related to implementation been fully alleviated
13:19:12 3 based on this allocation?

13:19:13 4 A. No.

13:19:15 5 Q. Can you elaborate on kind of the continued
13:19:17 6 concerns about, you know, the budgetary implications of
13:19:22 7 implementation?

13:19:24 8 MR. MORGAN: Object to scope.

13:19:26 9 THE WITNESS: So one -- well, one budgetary
13:19:29 10 concern that has been a topic of recent conversations with
13:19:32 11 the counties is funding AVID -- aside from this
13:19:37 12 legislation, funding AVID and the proportion being paid by
13:19:46 13 the counties.

13:19:48 14 So in the past, the counties paid under a
13:19:54 15 million dollars collectively for AVID. And the formula was
13:20:00 16 based on the percentage of voters. And Maricopa County,
13:20:06 17 for example, has not paid -- at a certain time. I think
13:20:14 18 they're paid in full for this year -- well, to a certain
13:20:17 19 extent, I think there's still an outstanding balance of
13:20:21 20 \$90,000. Pima County, I believe there's an outstanding
13:20:27 21 balance of \$15,000.

13:20:28 22 And that gets a little -- you know, there's
13:20:33 23 just tension there because, understandably, Maricopa and
13:20:38 24 Pima Counties have their own voter registration database,
13:20:41 25 so they have an argument as to why they should pay, you

13:20:46 1 know, a certain proportion.

13:20:50 2 So the HAVA funding, it was very

13:20:54 3 disappointing this year. The proportion of the HAVA

13:20:58 4 funding that was being given to the secretary of state --

13:21:02 5 only 25 percent was going to the secretary of state. And

13:21:08 6 the request was for more. But in the end, it works out so

13:21:13 7 the 75 percent of the HAVA funding will go to the counties.

13:21:21 8 Also, even with the amount that the counties

13:21:24 9 paid based on that formula, it still doesn't satisfy the

13:21:30 10 costs of -- just the maintenance and operation cost is

13:21:36 11 approximately 1.3 million.

13:21:40 12 And so the secretary has proposed that from

13:21:46 13 that HAVA funding, you know, 100 percent of the HAVA

13:21:51 14 funding, before it's distributed to the counties at the

13:21:55 15 25/75 percent formula, that from the top, from the gross,

13:22:00 16 that the 1.3 million is satisfied. And then from there we

13:22:05 17 divvy up the money.

13:22:08 18 But in any event, there's -- there's concern

13:22:11 19 about just funding AVID as a whole. We also requested

13:22:17 20 certain new positions be created given the amount of work

13:22:22 21 and the demands on the office. We requested expanding our

13:22:30 22 legal -- in-house legal services and other positions. But

13:22:37 23 yeah, I mean, budget will -- unfortunately, the secretary

13:22:42 24 was not provided the funding that he requested.

13:22:46 25 BY MS. LANG:

13:22:46 1 Q. So you were not successful in getting the budget
13:22:50 2 that would kind of cover those new positions; is that
13:22:52 3 right?

13:22:52 4 A. Yes.

13:22:53 5 Q. Okay. I think you testified already that fully
13:22:57 6 implementing these challenged laws is going to require an
13:23:00 7 enormous amount of work; is that right?

13:23:01 8 A. That's correct.

13:23:02 9 Q. Okay. As you mentioned earlier, Arizona has had a
13:23:19 10 documentary proof of citizenship requirement for
13:23:22 11 registration for quite some time; correct?

13:23:24 12 A. Yes.

13:23:24 13 Q. Okay. So that's nothing new; correct?

13:23:27 14 A. That's right.

13:23:34 15 MR. WHITAKER: Well, calls for a legal
13:23:35 16 conclusion, I think.

13:23:40 17 BY MS. LANG:

13:23:40 18 Q. Can you just describe the impact of this
13:23:42 19 documentary proof of citizenship requirement on -- on
13:23:47 20 voters?

13:23:47 21 MR. MORGAN: Foundation. Calls for
13:23:49 22 speculation.

13:23:52 23 BY MS. LANG:

13:23:52 24 Q. The existing impact based on the existing law.

13:23:55 25 MR. MORGAN: Same objection.

13:23:57 1 THE WITNESS: You know, that's hard to say.
13:23:59 2 It's been the law for so long, I'm not familiar with,
13:24:07 3 necessarily, how it impacts. You know, I just don't have
13:24:09 4 any really comparison.

13:24:14 5 BY MS. LANG:

13:24:14 6 Q. Has the secretary's office kind of looked at the
13:24:17 7 list of federal-only voters and identified any kind of
13:24:22 8 trends in who tends to fall on the federal-only list?

13:24:28 9 MR. MORGAN: Form.

13:24:29 10 THE WITNESS: The Secretary of State's Office
13:24:30 11 may have. It's not anything I'm familiar with, though.

13:24:33 12 BY MS. LANG:

13:24:34 13 Q. Okay. If you could look in -- it's in the SOS
13:24:39 14 Exhibits 2 folder, which I think you may already be in, at
13:24:42 15 AZSOS 8789.

13:24:46 16 A. Hang on a sec, please.

13:24:47 17 Q. Yes.

13:25:04 18 A. Okay. So it's in the SOS folder.

13:25:06 19 Q. SOS 2 folder. AZSOS 8789.

13:25:25 20 A. 8789. Okay.

13:25:27 21 Q. Yes.

13:25:31 22 A. Okay. It's an email from Christine Dyster,
13:25:35 23 1/28/22?

13:25:36 24 Q. That's correct.

13:25:39 25 I imagine you have not necessarily reviewed

13:25:41 1 this particular email. Have you?

13:25:43 2 A. No. This doesn't look familiar.

13:25:45 3 Q. I know that Christine Dyster -- I think you
13:25:49 4 testified to this -- now is at the governor's office. Is
13:25:57 5 that right?

13:25:57 6 A. Yes, she is. She's -- she's going to be leaving
13:25:59 7 soon. I just don't know exactly when.

13:26:02 8 Q. Fair enough.

13:26:02 9 What role did Christine Dyster have at the
13:26:06 10 Secretary of State's Office?

13:26:07 11 A. She was the deputy elections director.

13:26:11 12 Q. Okay. And she writes in this email, "In my
13:26:17 13 experience no proof of citizenship was two things."

13:26:20 14 And then she identifies two kind of
13:26:23 15 possibilities: "1 - New to AZ and hasn't updated DL.
13:26:27 16 Usually younger folks. 2 - Senior Citizens who have no
13:26:33 17 birth certificate and no passport and therefore couldn't
13:26:36 18 verify citizenship at the MVD OR isn't planning on driving
13:26:38 19 so hasn't gone to the MVD." Is that right?

13:26:41 20 A. I see that, yes.

13:26:42 21 Q. Okay. Is that consistent with kind of your
13:26:45 22 understanding of any trends among those who have not
13:26:49 23 provided documentary proof of citizenship?

13:26:52 24 MR. MORGAN: Form. And to the extent we're
13:26:54 25 saying she stated an understanding, she didn't.

13:26:58 1 THE WITNESS: You know, there are anecdotal
13:27:01 2 stories about that, like kids that -- I guess kids -- or
13:27:06 3 kids, you know, people that are younger, they aren't as
13:27:11 4 eager to get driver's licenses or -- yeah. And I think in
13:27:16 5 the trial, in the Gonzalez case or ITC case, there was a
13:27:20 6 senior citizen that was one of the witnesses.

13:27:25 7 BY MS. LANG:

13:27:25 8 Q. Okay.

13:27:26 9 MS. LANG: I'd like to mark that as Exhibit
13:27:31 10 272.

13:27:31 11 THE COURT REPORTER: 273.

13:27:33 12 MS. LANG: 273. Sorry.

13:27:33 13 (The document was marked as Exhibit 273
13:27:37 14 for identification.)

13:27:37 15 BY MS. LANG:

13:27:52 16 Q. I'm not going to go over most of the kind of
13:27:55 17 specifics of how the documentary proof of citizenship
13:27:58 18 system works now because I think that's pretty well
13:28:00 19 established, but I did have one question, which is about
13:28:05 20 expired licenses.

13:28:08 21 I know that there has been -- there have been
13:28:11 22 some questions about whether or not expired MVD licenses
13:28:14 23 can satisfy the DPOC requirement; is that right?

13:28:17 24 A. Yes.

13:28:17 25 Q. Can you tell me kind of what the status of that

13:28:21 1 issue is right now?

13:28:24 2 MR. LANGHOFER: Calls for a legal conclusion.

13:28:26 3 THE WITNESS: The Motor Vehicles Department
13:28:31 4 has said under their AZ MVD Now system and their legacy
13:28:36 5 system they would -- the MVD would be able to run a search
13:28:43 6 and obtain -- potentially obtain DPOC for a voter whose
13:28:50 7 license was suspended or -- or just no longer active, like
13:28:55 8 if they had moved out of Arizona, moved back.

13:28:59 9 However, that scenario where the Secretary of
13:29:05 10 State's Office simply can't implement it without rolling
13:29:08 11 out changes to AVID and going through the process of the
13:29:14 12 enhancement committee, then the steering committee. So
13:29:18 13 there is potential, but it's not something that will
13:29:23 14 automatically happen.

13:29:24 15 BY MS. LANG:

13:29:24 16 Q. Okay. So the current status is that expired
13:29:28 17 licenses cannot satisfy the DPOC requirement right now?

13:29:35 18 A. Correct.

13:29:36 19 Q. But there's a possibility of making that happen in
13:29:39 20 the future?

13:29:39 21 A. There's a possibility. And there's one caveat
13:29:42 22 that the DPOC requirement would be satisfied but the HAVA
13:29:50 23 identification requirement would not because it was not a
13:29:53 24 valid ID.

13:29:55 25 Q. Got it.

13:29:56 1 So I understand that so far, there's at least
13:30:01 2 been a conversation with MVD about the kind of ability to
13:30:04 3 do this; is that right?

13:30:05 4 A. Yes. We have quarterly meetings with MVD.

13:30:09 5 Q. Have any other steps been taken yet to kind of
13:30:12 6 implement that as a reality?

13:30:19 7 MR. MORGAN: Form.

13:30:19 8 THE WITNESS: No. There are a lot of issues
13:30:23 9 that are being worked out and tested. And I can't remember
13:30:27 10 the most recent, but one AVID update, I think it was the
13:30:32 11 8.5. And Yolanda will know more about this, but they're
13:30:35 12 continuing certain testing and working through some issues.

13:30:39 13 BY MS. LANG:

13:30:39 14 Q. Okay. And it's also my understanding that the
13:30:45 15 current process for DPOC is if a voter turns in a voter
13:30:50 16 registration form, they don't put down a driver's license
13:30:52 17 number. That -- the -- through the HAVA check, county
13:31:00 18 recorders can still acquire the documentary proof of
13:31:04 19 citizenship if they get a match with the MVD database; is
13:31:07 20 that right?

13:31:07 21 A. Yes.

13:31:09 22 MR. MORGAN: Form.

13:31:09 23 BY MS. LANG:

13:31:10 24 Q. And --

13:31:16 25 MR. MORGAN: Sorry. Someone's unmuted

13:31:18 1 themselves. Is everything okay?

13:31:26 2 (An off-the-record discussion ensued.)

13:31:26 3 BY MS. LANG:

13:31:27 4 Q. That process of acquiring DPOC even when a
13:31:30 5 driver's license number is not provided is a result of the
13:31:35 6 LULAC consent decree; correct?

13:31:38 7 A. Yes.

13:31:38 8 Q. If the match with the DMV database provides a
13:31:51 9 result indicating noncitizen, what is your understanding of
13:31:56 10 what that reflects -- what information that reflects?

13:32:00 11 MR. LANGHOFER: Foundation.

13:32:00 12 MR. MORGAN: Form.

13:32:03 13 THE WITNESS: Well, I don't know if the MVD
13:32:06 14 results will show noncitizen. I don't think it proves a
13:32:10 15 negative. I think it shows only if there was proof of
13:32:14 16 citizenship.

13:32:16 17 That's my understanding, but that's another
13:32:18 18 one where Yolanda Morales would probably have a better or
13:32:22 19 more thorough answer.

13:32:40 20 BY MS. LANG:

13:33:01 21 Q. If you could open in that same folder what is
13:33:05 22 labeled "11 Petty Exhibit." I think it's the very first
13:33:10 23 document.

13:33:13 24 A. Okay. All right. I'm in the SOS Exhibits 2 and
13:33:33 25 Petty Exhibit --

13:33:34 1 Q. 11.

13:33:34 2 A. 11. Okay. Got it. All righty.

13:33:53 3 Q. And this is an email that includes meeting recap
13:33:58 4 notes from a meeting between the secretary of state and the
13:34:00 5 counties; is that right?

13:34:03 6 A. You know, I'm having trouble scrolling. Oh, I can
13:34:07 7 touch it.

13:34:08 8 Q. You can.

13:34:08 9 A. There you go.

13:34:11 10 Yes. It's a recap.

13:34:14 11 Q. And it's for the May 11th meeting; is that right?

13:34:17 12 A. Yes, that's right.

13:34:18 13 Q. Are you typically in those meetings?

13:34:20 14 A. Yes.

13:34:20 15 Q. And to your recollection, were you in this meeting
13:34:24 16 in particular?

13:34:26 17 A. Yes.

13:34:26 18 Q. Okay. And if you could scroll down actually to
13:34:35 19 the very last page.

13:34:38 20 A. Okay.

13:34:38 21 Q. There's a bullet point there that says, "DPOC:
13:34:44 22 Proof of citizenship and IDs."

13:34:46 23 Do you see that?

13:34:51 24 A. The last bullet point?

13:34:52 25 Q. Yes.

13:34:52 1 A. Yes.

13:34:52 2 Q. And then it says, "The Secretary will compare
13:34:55 3 LULAC litigation to new statute and report back to the
13:34:57 4 group. Enhanced IDs are in the 2019 EPM. Community
13:35:02 5 organizations that register voters want to know if the gold
13:35:05 6 star on drivers licenses is enough to prove citizenship."

13:35:09 7 I was just wondering if you might be able to
13:35:14 8 provide some context as to what the issue was that was
13:35:16 9 being discussed related to proof of citizenship and IDs
13:35:22 10 here.

13:35:25 11 A. It appears that it was the open floor and one of
13:35:30 12 the recorders posed the question, and that's about all I
13:35:38 13 could tell from the notes.

13:35:39 14 Q. Do you know if there's been any kind of follow-up
13:35:44 15 about this question?

13:35:48 16 A. There -- there might have been. I don't attend
13:35:52 17 all of the meetings with -- well, I don't attend all of the
13:35:58 18 voter registration meetings that happen throughout the
13:36:01 19 week. So if it didn't happen in one of the county
13:36:06 20 meetings, I just -- I don't know.

13:36:07 21 Q. Are you aware if the gold star is kind of
13:36:11 22 sufficient for out-of-state driver's licenses to -- to
13:36:17 23 satisfy DPOC?

13:36:19 24 MR. LANGHOFER: Calls for a legal conclusion.

13:36:21 25 THE WITNESS: Yeah, I'm not aware of the gold

13:36:23 1 star --

13:36:25 2 BY MS. LANG:

13:36:25 3 Q. Okay.

13:36:26 4 A. -- satisfying DPOC.

13:36:33 5 Q. We've been talking about what we call the MVD

13:36:37 6 match or the HAVA match throughout today. That match where

13:36:44 7 the voter's information -- the voter registration

13:36:47 8 applicant's information is matched against the MVD database

13:36:50 9 or the SSA database, that happens at the point of a

13:36:56 10 registration; correct?

13:36:57 11 MR. MORGAN: Objection. Scope and

13:36:59 12 foundation.

13:37:00 13 THE WITNESS: That -- that starts the

13:37:06 14 process, assuming it's not an administrative change. So I

13:37:09 15 think that's one of those tension points there. But if

13:37:13 16 it's a voter registration submission, it will initiate the

13:37:18 17 HAVA check SSA process.

13:37:20 18 BY MS. LANG:

13:37:20 19 Q. And after that initial, you know -- a voter

13:37:26 20 registers, they go through that matching process. After

13:37:29 21 that matching process is complete at the point of

13:37:32 22 registration, is there any system in place that kind of

13:37:35 23 continuously checks registered voters against the MVD

13:37:38 24 database?

13:37:39 25 A. No.

13:37:40 1 Q. Okay. So that match only happens at the time of
13:37:44 2 registration, or at the time of an update on registration,
13:37:48 3 that would -- that would trigger a new match?

13:37:50 4 A. Yes.

13:37:54 5 Q. And under the current operative procedures, all
13:38:02 6 voter registration forms are treated equally with respect
13:38:06 7 to documentary proof of citizenship; is that correct?

13:38:08 8 A. That's correct.

13:38:08 9 Q. And that is a result of the LULAC consent decree;
13:38:12 10 correct?

13:38:12 11 A. That's correct.

13:38:13 12 Q. Do you know what the practice was for treatment of
13:38:16 13 state forms versus federal forms with respect to DPOC prior
13:38:20 14 to the LULAC consent decree?

13:38:22 15 MR. MORGAN: Form.

13:38:23 16 THE WITNESS: Yes.

13:38:23 17 BY MS. LANG:

13:38:24 18 Q. Can you describe that process?

13:38:27 19 A. Prior to that process, only a federal form would
13:38:34 20 be submitted through the MVD HAVA check process to provide
13:38:41 21 DPOC, had the voter not submitted it with the federal form.

13:38:47 22 Q. And -- thank you.

13:38:54 23 And the other change there too is that if a
13:38:57 24 state form applicant didn't provide DPOC, that person did
13:39:02 25 not become a federal-only voter; correct?

13:39:06 1 MR. MORGAN: Form and foundation.

13:39:06 2 THE WITNESS: At the time, a voter using the

13:39:09 3 state form and who had failed to provide DPOC, that was the

13:39:16 4 end of the process.

13:39:17 5 BY MS. LANG:

13:39:25 6 Q. Okay. Okay. If you could refer now to Petty

13:39:38 7 Exhibit 19. They're actually labeled with the number

13:39:43 8 first, so 19 Petty Exhibit.

13:39:48 9 A. Okay. It's House Bill 2492?

13:39:56 10 Q. That's correct.

13:40:00 11 A. Okay.

13:40:01 12 Q. All right. So I'll spend some time looking at the

13:40:06 13 statute and talking through some of these changes with you.

13:40:10 14 If you could look at page 2, bottom of page 2

13:40:20 15 to beginning of page 3, there's a change to A.R.S. 16-121.

13:40:27 16 Do you see that?

13:40:27 17 A. I do, yes.

13:40:28 18 Q. And that's the section that defines qualified

13:40:31 19 elector; is that correct?

13:40:32 20 A. Yes.

13:40:32 21 Q. And there's language in here that adds the

13:40:38 22 provision of satisfactory evidence of citizenship as a

13:40:42 23 qualification for an elector; is that right?

13:40:43 24 A. That's right.

13:40:44 25 Q. Okay. By making documentary proof of citizenship

13:40:53 1 a voter qualification, does your office have a position on

13:40:57 2 how this would affect voters that registered prior to the

13:41:01 3 implementation of the DPOC requirement?

13:41:04 4 MR. LANGHOFER: Form. Calls for a legal
13:41:06 5 conclusion.

13:41:10 6 THE WITNESS: The -- okay. With -- your

13:41:14 7 question is: With this new legislation, does it apply

13:41:18 8 retroactively?

13:41:19 9 BY MS. LANG:

13:41:20 10 Q. Yes.

13:41:20 11 A. The answer is no.

13:41:21 12 Q. Okay.

13:41:26 13 MR. WHITAKER: I'm sorry. I don't know if
13:41:28 14 it's just me, but I've gotten kind of intermittently out --
13:41:32 15 going out internet connection.

13:41:35 16 Is anyone else on Zoom experiencing that?

13:41:41 17 MS. CERVANTES: Yeah, same here.

13:41:41 18 MS. PORTER: Yes, it's been a little spotty
13:41:45 19 for me for the last minute or two.

13:41:51 20 MR. BABBITT: Same here.

13:41:51 21 MR. WHITAKER: Maybe can we -- can we at
13:41:53 22 least repeat that last question and answer? I totally
13:41:55 23 missed it.

13:41:56 24 MS. LANG: Yes, we can certainly do that.

25 Can you read it back.

1 MR. MORGAN: Thanks.

2 MS. LANG: Thank you.

3 (The record was read by the reporter as
4 follows:

5 QUESTION: Okay. By making documentary proof
6 of citizenship a voter qualification, does your office have
7 a position on how this would affect voters that registered
8 prior to the implementation of the DPOC requirement?

9 THE COURT REPORTER: There was an objection.

10 ANSWER: The -- okay. With your question --
11 your question is: With this new legislation, does it apply
12 retroactively?

13 QUESTION: Yes.

13:42:33 14 ANSWER: The answer is no.)

13:42:33 15 MR. WHITAKER: Thank you.

13:42:36 16 BY MS. LANG:

13:42:53 17 Q. Are you aware that, you know, when the HB 2492
13:42:57 18 first passed, there was confusion about whether or not this
13:43:06 19 provision would mean that folks who had not provided DPOC
13:43:10 20 prior to that law would be affected? Do you recall that?

13:43:15 21 MR. LANGHOFER: Form.

13:43:15 22 MR. MORGAN: Form. Foundation.

13:43:20 23 THE WITNESS: I'm familiar with the fact that
13:43:22 24 that was an issue raised, but I can't say I have a thorough
13:43:28 25 familiarity.

13:43:28 1 BY MS. LANG:

13:43:29 2 Q. Fair enough.

13:43:29 3 But it is the secretary's position that it

13:43:34 4 does not apply retroactively to those individuals?

13:43:37 5 A. That's correct.

13:43:39 6 MR. LANGHOFER: Calls for a legal conclusion.

13:43:43 7 BY MS. LANG:

13:43:46 8 Q. Okay. And if you could scroll down to page 4 and

13:43:53 9 the section that is started by the letter C on line 24. Do

13:44:02 10 you see that?

13:44:02 11 A. I do, yes.

13:44:03 12 Q. Okay. And it indicates, "Except for a form

13:44:08 13 produced by the United States Election Assistance

13:44:11 14 Commission, any applicant for registration shall be

13:44:14 15 accompanied by satisfactory evidence of citizenship" -- has

13:44:17 16 the citation -- "and the county recorder or other officer

13:44:21 17 in charge of elections shall reject any application for

13:44:24 18 registration that is not accompanied by satisfactory

13:44:27 19 evidence of citizenship"; is that right?

13:44:28 20 A. I see that, yes.

13:44:29 21 Q. Okay. So is this your understanding that it --

13:44:34 22 this would require county recorders to treat applicants

13:44:38 23 differently based on whether or not they submitted a state

13:44:41 24 form for registration or federal form for registration?

13:44:44 25 MR. LANGHOFER: Same objection.

13:44:46 1 THE WITNESS: That's my understanding, yes.

13:44:46 2 BY MS. LANG:

13:44:48 3 Q. Okay. And in that sense, it would unroll -- roll

13:44:52 4 back the LULAC consent decree?

13:44:55 5 MR. LANGHOFER: Same objection.

13:44:57 6 THE WITNESS: Yes.

13:44:57 7 BY MS. LANG:

13:44:58 8 Q. This would not be consistent with the LULAC

13:45:00 9 consent decree; correct?

13:45:02 10 MR. LANGHOFER: Same objection. Asked and

13:45:04 11 answered.

13:45:04 12 THE WITNESS: Assuming the LULAC consent

13:45:08 13 decree is still in effect and the court has jurisdiction,

13:45:10 14 yes.

13:45:14 15 MR. WHITAKER: I assume Kory objected to all

13:45:17 16 those questions, but I can't really hear Kory. So if he

13:45:19 17 didn't --

13:45:19 18 MR. MORGAN: That's a fair assumption, yes.

13:45:22 19 MS. LANG: He did.

13:45:27 20 BY MS. LANG:

13:45:38 21 Q. Can you think of any reason why a voter submitting

13:45:41 22 a state registration form would be less entitled to vote in

13:45:45 23 federal elections than someone submitting a federal form?

13:45:48 24 MR. LANGHOFER: Form. Calls for speculation.

13:45:52 25 THE WITNESS: I'm not aware of any.

13:45:54 1 BY MS. LANG:

13:45:55 2 Q. Okay. Is there any election integrity interest
13:46:06 3 served by treating voters differently based on whether or
13:46:09 4 not they use the state or federal form?

13:46:11 5 MR. MORGAN: Foundation.

13:46:13 6 MR. LANGHOFER: Calls for a legal conclusion.

13:46:14 7 THE WITNESS: What do you mean by "election
13:46:16 8 integrity"?

13:46:17 9 MR. MORGAN: Form.

13:46:20 10 BY MS. LANG:

13:46:24 11 Q. It's a good question.

13:46:27 12 Is -- is there any kind of anti-fraud

13:46:33 13 interest in treating voters differently based on whether or

13:46:36 14 not they submit the state form or the federal form?

13:46:39 15 MR. LANGHOFER: Same objections.

13:46:40 16 MR. MORGAN: Form.

13:46:41 17 THE WITNESS: No, not that I'm aware of.

13:46:43 18 BY MS. LANG:

13:46:43 19 Q. Thank you.

13:46:44 20 Do you know what the impact would be on the
13:46:53 21 federal-only list if all the users that submitted state
13:46:58 22 forms were removed from that list?

13:47:00 23 MR. LANGHOFER: Speculation.

13:47:03 24 THE WITNESS: I do not.

13:47:04 25 BY MS. LANG:

13:47:14 1 Q. Okay. Earlier we talked about the process by
13:47:18 2 which county recorders can acquire documentary proof of
13:47:21 3 citizenship through the MVD match.

13:47:23 4 A. Yes.

13:47:23 5 Q. What is the secretary's position on whether
13:47:28 6 election officials can still go through that process of
13:47:31 7 acquiring DPOC for state form registration applicants under
13:47:37 8 HB 2492?

13:47:39 9 MR. LANGHOFER: Calls for a legal conclusion.

13:47:44 10 THE WITNESS: Well, this law would preclude a
13:47:52 11 state form from being submitted for the HAVA checks.
13:47:56 12 However, that is another area where development and
13:48:01 13 programming and meetings and committees and, you know, the
13:48:07 14 policy process would have to -- to ensue in order to make
13:48:12 15 that change.

13:48:13 16 BY MS. LANG:

13:48:14 17 Q. But it is your understanding that the law would
13:48:16 18 require that change so that DPOC can no longer be acquired
13:48:21 19 for state form applicants?

13:48:24 20 MR. LANGHOFER: Same objection.

13:48:24 21 THE WITNESS: That's my understanding.

13:48:26 22 BY MS. LANG:

13:48:26 23 Q. Okay. Is there any justification for not
13:48:51 24 acquiring -- let me back up.

13:48:53 25 In the office's view, is there any legitimate

13:49:00 1 justification for not acquiring DPOC for state form

13:49:04 2 applicants while doing so for federal form applicants?

13:49:07 3 MR. LANGHOFER: Same objection.

13:49:11 4 THE WITNESS: For not attempting to acquire

13:49:14 5 DPOC? Not that I'm aware of.

13:49:18 6 BY MS. LANG:

13:49:42 7 Q. Earlier you talked about, as an example of a

13:49:46 8 change you went through with the EPM, the removal of the

13:49:50 9 five-year period before something is archived.

13:49:53 10 A. Yes.

13:49:54 11 Q. Okay. And so I did have a question about that.

13:49:57 12 So if we could look at the -- the draft EPM

13:50:04 13 that is labeled "2023 Arizona Secretary of State Elections

13:50:09 14 Procedures Manual draft for public comment."

13:50:20 15 A. 2023.

13:50:22 16 Q. Yes. We'll have to scroll down to page 8 of the

13:50:27 17 EPM.

13:50:36 18 MS. LANG: And yes, I'd like to mark that as

13:50:40 19 274.

13:50:40 20 (The document was marked as Exhibit 274

13:50:48 21 for identification.)

13:50:48 22 THE WITNESS: Okay.

13:50:49 23 BY MS. LANG:

13:51:05 24 Q. So I think Number 3 at the top of this page -- and

13:51:10 25 it refers back to the section titled "Procedures for

13:51:13 1 Registrations With . . . Non-Citizen AZDL/ID#." Do you see
13:51:19 2 that? That section title is on page 7, and then I want to
13:51:23 3 look at Subsection 3.

13:51:26 4 A. Okay.

13:51:28 5 Q. And I think this is the section -- or one of the
13:51:35 6 sections that used to have a sentence about kind of a
13:51:38 7 five-year archive process for applicants who had not
13:51:40 8 provided valid DPOC; is that right?

13:51:44 9 A. Yes, I believe so.

13:51:45 10 Q. And that five-year process has been removed, and I
13:51:49 11 think you testified as to the reasons for that earlier; is
13:51:53 12 that right?

13:51:53 13 A. The consensus among the counties during our phone
13:51:57 14 call to fulfill the requirement for the EPM, the consensus
13:52:02 15 of the counties was to remove that and to restore the
13:52:05 16 language that the person's incomplete registration would be
13:52:14 17 held until the next general election and then purged.

13:52:19 18 Q. So this is not to nitpick in any way, shape, or
13:52:22 19 form. I wanted to make sure I was clear about what the
13:52:25 20 what the potential plan is here.

13:52:26 21 I didn't see that language about until the
13:52:29 22 next general election in the section. Is that -- is it
13:52:33 23 your intent to kind of edit this so that it will have that
13:52:37 24 language about until the next general election?

13:52:39 25 A. That's my intent, yes.

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Q. Okay.

THIS WITNESS: Yolanda, you hear that?

BY MS. LANG:

Q. I just wanted to make sure I understood kind of what the new policy might be. And so that's very helpful.

A. Yeah, actually, Yolanda is on top of it. She's provided language.

Q. Great.

One of the other -- within both HB 2492 and HB 2243, there are a number of requirements that county recorders check against numerous databases in search for evidence of proof of citizenship; is that correct?

A. Yes, that's correct.

Q. Okay. And in the secretary's answer to one of the complaints in this case, the secretary has described these, you know, database sources as, quote, "potentially outdated, unreliable, faulty, or not accurately reflect current U.S. citizenship status."

Does that continue to reflect the secretary's view of the databases included in HB 2492 and 2243?

MR. LANGHOFER: Foundation.

THE WITNESS: So I'll start with the naturalization database, the SAVE database. There are limitations on the use of that database for the initial applicant and the -- the registration process. The current

13:54:30 1 memorandum of understanding, or whatever the agreement is
13:54:34 2 called with USCIS, does not allow for a continue --
13:54:39 3 continuing, ongoing submission to SAVE. Only -- it only
13:54:44 4 allows for the initial submission for a new registrant.
13:54:48 5 So to the extent that that section -- that
13:54:56 6 legislation requires it, we would be in conflict with
13:55:02 7 the -- what's permitted in that agreement.

13:55:04 8 BY MS. LANG:

13:55:05 9 Q. Okay. I'm going to go over some of the other
13:55:08 10 databases as well.

13:55:09 11 A. Okay.

13:55:10 12 Q. So for the MVD database or the ADOT database, my
13:55:19 13 understanding -- is it correct that that database can
13:55:36 14 only -- strike that.

13:55:38 15 With respect to the ADOT or MVD database, I
13:55:44 16 think you testified earlier that that match can only kind
13:55:48 17 of affirm citizenship where MVD has DPOC, but it cannot
13:55:54 18 provide a negative -- it cannot prove a negative or prove
13:55:58 19 that someone is not a citizen; is that correct?

13:56:00 20 A. I'm not aware of any part of that process that
13:56:04 21 would prove a negative.

13:56:05 22 Q. And is part of that reason because that database
13:56:09 23 can only reflect the information that ADOT received at the
13:56:12 24 time the person got a driver's license?

13:56:14 25 A. You know what? I have to correct myself.

13:56:16 1 Actually, it will show that someone is
13:56:20 2 legally in the United States but not -- you know, so I have
13:56:24 3 to correct myself there. It has -- the system provides for
13:56:30 4 authorized presence values as opposed to what used to be
13:56:34 5 referred to as the F-type license. So certain codes show
13:56:41 6 someone has citizenship and certain codes show someone is a
13:56:48 7 foreign national but legally here in the U.S.

13:56:51 8 Q. And that information about someone who's a foreign
13:56:53 9 national who's legally here indicates the information that
13:56:57 10 MVD had at the time the person got their driver's license;
13:57:01 11 correct?

13:57:01 12 MR. LANGHOFER: Foundation.

13:57:01 13 MR. MORGAN: Foundation.

13:57:02 14 THE WITNESS: That's my understanding, yes.

13:57:03 15 BY MS. LANG:

13:57:03 16 Q. Okay. And is it also your understanding that
13:57:08 17 sometimes people naturalize after they get their driver's
13:57:11 18 license and then register to vote?

13:57:13 19 A. Yes.

13:57:14 20 Q. Okay. And so is it sometimes the case that when
13:57:18 21 people get notifications because, you know, they've been
13:57:22 22 rejected through the MVD database match, they come in
13:57:26 23 and -- to county recorders and provide the documentary
13:57:31 24 proof of citizenship?

13:57:31 25 MR. LANGHOFER: Foundation.

13:57:33 1 THE WITNESS: So after they're naturalized,
13:57:38 2 do they -- well, at naturalization ceremonies, there are
13:57:46 3 many efforts to update that information at the time to
13:57:50 4 ensure that situation doesn't preclude someone who's been
13:57:56 5 recently naturalized from being registered to vote.

13:58:00 6 BY MS. LANG:

13:58:00 7 Q. Yes. And I do know that county recorders in the
13:58:07 8 office work on kind of registration efforts at
13:58:09 9 naturalization ceremonies and whatnot.

13:58:11 10 My only question is -- well, let me back up
13:58:16 11 and lay some foundation.

13:58:17 12 If a voter registers or seeks to register to
13:58:25 13 vote, they go through the MVD check and it returns a kind
13:58:26 14 of authorized presence value rather than a citizenship
13:58:30 15 value, that voter will not be registered -- correct? -- at
13:58:37 16 that time?

13:58:37 17 A. Yes. You know, I have to say, though, just
13:58:43 18 generally, this area of questioning, I'm not -- probably
13:58:47 19 not familiar enough, and I probably should stop from trying
13:58:50 20 to answer the questions and Ms. Morales would be a better
13:58:55 21 person to answer the questions.

13:58:57 22 Q. Thank you.

13:58:59 23 And that may be the case for a couple more
13:59:01 24 here, so I'm going to move past that, and let me know if
13:59:07 25 the same applies.

13:59:08 1 A. Okay.

13:59:08 2 Q. With respect to the Social Security Administration
13:59:11 3 database, that is another database that's used for identity
13:59:15 4 confirmation for HAVA purposes; correct?

13:59:19 5 A. Yes.

13:59:19 6 Q. Okay. Do you know if the access that election
13:59:25 7 officials have to the SSA database provides any information
13:59:28 8 about citizenship?

13:59:29 9 A. Not that I'm aware of, but that will be a question
13:59:35 10 I'll defer to Ms. Morales.

13:59:37 11 Q. Okay. With respect to the SAVE database, which is
13:59:54 12 the USCIS database, I think you already testified that one
14:00:00 13 of the problems you see with implementing HB 2243 is that
14:00:07 14 the memorandum of understanding or whatever its title is
14:00:13 15 would not permit a kind of list maintenance use of SAVE; is
14:00:16 16 that correct?

14:00:16 17 A. That's correct.

14:00:21 18 Q. All right. I wanted to talk through a couple
14:00:23 19 other limitations of SAVE. And you let me know if they're
14:00:26 20 not in your purview.

14:00:27 21 MR. MORGAN: Just for the record, we
14:00:28 22 designated Ms. Morales for Topic 11. So I'm just making
14:00:32 23 sure that that's stated openly.

14:00:38 24 MS. LANG: Thank you.

14:00:47 25 Some of the trouble is the, you know, overlap

14:00:48 1 in topics between Topic 4 and later topics but -- but I
14:00:54 2 understand, and we will save some of this for Ms. Morales.

14:01:16 3 MR. MORGAN: And we also designated
14:01:18 4 Ms. Morales for 4(I), 4(C).

14:01:28 5 MS. LANG: Okay.

14:01:37 6 BY MS. LANG:

14:01:38 7 Q. In addition to the specific databases that are
14:01:40 8 identified in HB 2492 and HB 2243, there's a catchall term
14:01:48 9 in the statute that says that the county recorder should
14:01:53 10 refer to any other databases that they have access to to
14:01:57 11 confirm citizenship.

14:02:00 12 Has the secretary identified any other
14:02:04 13 databases not specifically named in the statute that would
14:02:08 14 be appropriate for this purpose?

14:02:10 15 MR. LANGHOFER: Calls for a legal conclusion.

14:02:11 16 THE WITNESS: Not that I'm aware of.

14:02:12 17 BY MS. LANG:

14:02:13 18 Q. Okay. Has there been any guidance provided to the
14:02:18 19 county recorders so far on kind of what databases should be
14:02:22 20 relied on beyond the ones identified in this the statute?

14:02:26 21 MR. MORGAN: Foundation.

14:02:29 22 THE WITNESS: Well, again, as far as
14:02:33 23 guidance, we have not had a meeting among the counties to
14:02:37 24 discuss how to implement that particular provision. And so
14:02:43 25 collectively, we would come up with guidance.

14:02:47 1 BY MS. LANG:

14:02:47 2 Q. It would be your intent, presuming that you have

14:02:50 3 to move forward with implementation, that there would be

14:02:55 4 discussions with the county recorders in order to formulate

14:03:00 5 guidance on that question?

14:03:01 6 A. Well, more broadly, there are going to be

14:03:04 7 discussions with the county recorders on all of the topics

14:03:07 8 being discussed.

14:03:08 9 Q. Okay. But that question of databases that should

14:03:14 10 be used would be part of that?

14:03:15 11 A. Presumably, yes.

14:03:17 12 Q. Okay. So in HB 2492, I think we've talked about

14:03:56 13 the state form applicants. If they don't provide

14:04:00 14 documentary proof of citizenship, they just are not

14:04:03 15 registered.

14:04:04 16 For federal form applicants, county recorders

14:04:07 17 are required to look in these various databases; is that

14:04:12 18 correct?

14:04:12 19 A. I'll have to look back at the legislation to make

14:04:16 20 sure I answer that correctly.

14:04:20 21 Q. Let me try to refer you. It's page 4 and 5.

14:04:29 22 MR. MORGAN: Of exhibit?

14:04:30 23 MS. LANG: Petty Exhibit 19.

14:04:36 24 THE WITNESS: So any application using the

14:04:40 25 federal form, the USEAC, the legislation directs the county

14:04:49 1 recorder to reject any application not accompanied with
14:04:53 2 evidence of citizenship.
14:04:54 3 BY MS. LANG:
14:04:54 4 Q. And then Section D says, for those who do use the
14:04:58 5 federal form, county recorders shall, quote, "use all
14:05:04 6 available resources to verify the citizenship status of the
14:05:07 7 applicant."
14:05:09 8 Do you see that?
14:05:09 9 A. I do, yes.
14:05:10 10 Q. Okay. Then it lists the various databases that
14:05:12 11 need to be used; is that correct?
14:05:16 12 A. Let me just double-check here.
14:05:23 13 It does, yes.
14:05:24 14 Q. And then if we can look at Subsection E on page 5,
14:05:38 15 line 9, it indicates that after reviewing these databases,
14:05:44 16 quote, "If the county recorder or other officer in charge
14:05:47 17 of elections matches the applicant with information that"
14:05:50 18 verifies the applicant is a -- oh, let me strike that.
14:05:55 19 So if there's a match for U.S. citizenship
14:05:58 20 the person is registered. But I want to direct you
14:06:01 21 particularly to the sentence on section -- on line 14 that
14:06:08 22 says, "If the county recorder or other officer in charge of
14:06:12 23 elections matches the applicant with information that the
14:06:14 24 applicant is not a United States citizen, the county
14:06:17 25 recorder or other officer in charge of elections shall

14:06:19 1 reject the application, notify the applicant that the
14:06:23 2 application was rejected because the applicant is not a
14:06:26 3 United States citizen and forward the application to the
14:06:29 4 county attorney and Attorney General for investigation."
14:06:32 5 Do you see that?
14:06:32 6 A. I do, yes.
14:06:34 7 Q. Okay. And so is it your understanding that that
14:06:38 8 means that if -- well, let me back up.
14:06:44 9 What does it mean for -- when would it be the
14:06:53 10 case that a county recorder has matched the applicant with
14:06:57 11 information that the applicant is not a United States
14:06:59 12 citizen?
14:07:00 13 MR. MORGAN: Form. Speculation.
14:07:02 14 MR. LANGHOFER: Calls for a legal conclusion.
14:07:05 15 MR. WHITAKER: Legal conclusion.
14:07:12 16 THE WITNESS: I don't know when a county
14:07:20 17 recorder would come across citizenship status other than
14:07:27 18 those authorized presence values.
14:07:30 19 BY MS. LANG:
14:07:30 20 Q. And so if one of those authorized presence values
14:07:33 21 came up, would that be sufficient information that an
14:07:38 22 applicant is not a United States citizen, that the person
14:07:41 23 would have to forward it to a prosecutor?
14:07:46 24 MR. WHITAKER: Same objection.
14:07:47 25 THE WITNESS: I don't -- I don't know if it

14:07:49 1 would be sufficient. I don't know the standard that would

14:07:50 2 be applied for sufficiency.

14:07:53 3 BY MS. LANG:

14:07:53 4 Q. And we don't have any -- there's not any guidance

14:07:56 5 yet on that question of what information would be

14:07:59 6 sufficient to match as a non-U.S. citizen?

14:08:04 7 MR. MORGAN: Form. Foundation.

14:08:07 8 THE WITNESS: I agree that the statutory

14:08:09 9 change does not impose a standard.

14:08:11 10 BY MS. LANG:

14:08:11 11 Q. Okay. And I think this is plain from kind of your

14:08:17 12 testimony about where you all are in the process, but there

14:08:20 13 hasn't been development of the standard by your office or

14:08:23 14 by the county recorders or anything of that nature; is that

14:08:27 15 correct?

14:08:27 16 MR. MORGAN: Foundation.

14:08:35 17 THE WITNESS: I -- well, as far as

14:08:39 18 development, I think we would need legal advice first and

14:08:43 19 then any standard would have to follow.

14:08:47 20 BY MS. LANG:

14:08:47 21 Q. Okay. And none of that has come to pass yet; is

14:08:51 22 that correct?

14:08:51 23 A. That's my understanding, yes.

14:08:52 24 MR. MORGAN: Form.

14:08:54 25 BY MS. LANG:

14:09:02 1 Q. Okay. To the extent that these data -- databases
14:09:05 2 potentially rely on faulty, unreliable, or out-of-date
14:09:11 3 information, does the office have any concerns that those
14:09:14 4 databases could lead individuals to be forwarded for
14:09:18 5 criminal investigation?

14:09:23 6 MS. PORTER: Form.

14:09:27 7 THE WITNESS: Well, as indicated, we haven't
14:09:32 8 gotten into discussions to the level of detail that you're
14:09:37 9 asking, but that's certainly something that would be
14:09:42 10 discussed among the counties.

14:09:45 11 BY MS. LANG:

14:09:46 12 Q. And this statute imposes a kind of mandatory
14:09:52 13 referral for criminal investigation on county recorders; is
14:09:57 14 that correct?

14:09:57 15 MR. LANGHOFER: Calls for a legal conclusion.

14:10:00 16 MR. WHITAKER: Legal-- jinx.

14:10:06 17 BY MS. LANG:

14:10:06 18 Q. It says, "The county recorder . . . Shall reject
14:10:08 19 the application, notify the applicant that the application
14:10:11 20 was rejected because the applicant is not a United States
14:10:13 21 citizen and forward the application to the county attorney
14:10:17 22 and Attorney General for investigation"; is that right?

14:10:19 23 MR. MORGAN: Form.

14:10:20 24 MR. LANGHOFER: Same objection.

14:10:21 25 THE WITNESS: The language appears to require

14:10:26 1 referral to law enforcement.

14:10:27 2 BY MS. LANG:

14:10:32 3 Q. In the statute, is there kind of any time limit on
14:10:36 4 the age of the data that can be used to refer somebody for
14:10:41 5 criminal prosecution?

14:10:42 6 MR. LANGHOFER: Same objection.

14:10:44 7 MR. MORGAN: Form.

14:10:47 8 MR. WHITAKER: Legal conclusion.

14:10:49 9 THE WITNESS: Well, I mean, that gets into an
14:10:56 10 issue probably outside, like, a statute of limitation or
14:10:59 11 something, so I don't know.

14:11:01 12 BY MS. LANG:

14:11:06 13 Q. Let me put it another way.

14:11:08 14 There's nothing in the statute as far as you
14:11:10 15 know that kind of says that if data is a certain number of
14:11:14 16 years old, it should not be relied upon for this purpose?

14:11:17 17 MR. MORGAN: Form objection.

14:11:20 18 THE WITNESS: I don't see anything in the
14:11:22 19 statute that says that.

14:11:23 20 BY MS. LANG:

14:11:24 21 Q. And again, I do apologize because I know some of
14:11:26 22 this is repetitive based on your testimony, but there's no
14:11:29 23 guidance yet available on kind of any time limitations on
14:11:33 24 the age of data that should be used for this purpose?

14:11:35 25 MR. MORGAN: Form.

14:11:37 1 MR. LANGHOFER: Asked and answered.

14:11:38 2 MR. MORGAN: Foundation.

14:11:39 3 THE WITNESS: Ultimately, we're seeking
14:11:42 4 guidance from the Court in this case. And ultimately,
14:11:48 5 we'll get that sooner than -- or hopefully we'll get that
14:11:52 6 sooner than later, yes.

14:11:53 7 BY MS. LANG:

14:12:03 8 Q. Please do let --

14:12:04 9 MS. LANG: I'm trying to trek through as much
14:12:07 10 as possible, but if anybody needs a break, please do let me
14:12:10 11 know.

14:12:10 12 BY MS. LANG:

14:12:17 13 Q. Do you know what county recorders should do under
14:12:21 14 the statute if there's an in- -- if there's inconsistent
14:12:25 15 information from these databases that one database
14:12:27 16 indicates citizen and another database indicates
14:12:31 17 noncitizen, for example?

14:12:32 18 MR. MORGAN: Objection. Calls for a legal
14:12:35 19 conclusion. Speculation.

14:12:38 20 THE WITNESS: The county recorders should be
14:12:41 21 talking to their county attorney.

14:12:43 22 BY MS. LANG:

14:12:53 23 Q. Just to circle back, you kind of discussed that in
14:12:59 24 order to flesh out some of these questions, there will have
14:13:04 25 to be additional meetings with the county recorders; is

14:13:09 1 that right?

14:13:09 2 MR. MORGAN: Form.

14:13:10 3 BY MS. LANG:

14:13:10 4 Q. Let me rephrase.

14:13:12 5 In order to flesh out some of the questions
14:13:13 6 about how -- what type of guidance is needed and what that
14:13:18 7 guidance should be for implementation, that there would
14:13:21 8 need to be additional meetings with the counties; is that
14:13:23 9 right?

14:13:23 10 A. Well, let's start with the word
14:13:26 11 "guidance" because -- let's not assume that the secretary
14:13:30 12 of state is the one issuing guidance. The -- as I said,
14:13:34 13 the county recorders are duly elected constitutional
14:13:38 14 officers. The county recorders themselves, through the
14:13:42 15 steering committee, can make that decision after seeking
14:13:47 16 legal advice from the county attorney. So the guidance
14:13:52 17 might be coming from the county attorney -- I mean --
14:13:54 18 sorry -- county attorneys and county recorders.

14:13:56 19 Also, we're seeking guidance through this
14:14:00 20 litigation from a federal district court. But there are
14:14:07 21 many questions, I guess, and that goes without saying that
14:14:11 22 we are hoping for guidance and not just guidance from the
14:14:16 23 secretary of state.

14:14:19 24 Q. Understood.

14:14:19 25 I think I was just trying to go to a process

14:14:21 1 question, which is that you talked about earlier kind of
14:14:24 2 consulting with the counties about, you know, these
14:14:29 3 unanswered questions, and I just wanted to know if there
14:14:32 4 are any kind of scheduled meetings with the counties to
14:14:36 5 start kind of fleshing some of these questions out?

14:14:41 6 MR. MORGAN: Form.

14:14:41 7 THE WITNESS: I think I've previously
14:14:43 8 answered that question.

14:14:45 9 BY MS. LANG:

14:14:46 10 Q. Can you remind me what the answer is?

14:14:48 11 A. We only recently received funding. I believe it
14:14:52 12 was last Friday.

14:14:54 13 Q. Yes.

14:14:55 14 A. And we were precluded from starting any process
14:14:58 15 before the PIJ was approved, so it's -- it would be
14:15:02 16 premature to have scheduled anything prior to that
14:15:05 17 approval. But that any -- any planning, any scheduling of
14:15:12 18 meetings, if necessary, would occur in the future.

14:15:24 19 Q. Thank you.

14:15:25 20 If the county recorders are required to
14:16:00 21 engage in all of the database matching that is required
14:16:03 22 both by HB 2492 and HB 2243, do you know what kind of
14:16:09 23 impact that will have on the county recorders' resources?

14:16:13 24 MR. MORGAN: Foundation. Speculation.

14:16:15 25 MR. LANGHOFER: Speculation.

14:16:17 1 THE WITNESS: I have no idea.

14:16:18 2 BY MS. LANG:

14:16:26 3 Q. One of the requirements within the statute is that
14:16:29 4 the county recorders document their efforts to check all of
14:16:33 5 these databases. Has there been any -- is there any
14:16:47 6 guidance that you're aware of on how county recorders
14:16:52 7 should document those efforts?

14:16:56 8 A. Well, the county recorders, they run their own
14:17:00 9 offices and they -- they certainly could establish guidance
14:17:03 10 for themselves.

14:17:05 11 Q. Yes. Let me -- let me try to clarify something
14:17:07 12 about my question about guidance, because I do understand
14:17:10 13 your point about certainly the county recorders are going
14:17:14 14 to have their own internal processes and guidance.

14:17:19 15 My questions with respect to guidance are
14:17:22 16 about guidance that would apply across counties and
14:17:26 17 therefore provide some level of uniformity. And I do
14:17:29 18 understand that that could also not come from the Secretary
14:17:33 19 of State's Office. It could come through the VRAC
14:17:36 20 committee from the counties themselves.

14:17:39 21 So can we understand that when I ask about
14:17:41 22 guidance, I am asking about whether or not you're aware of
14:17:45 23 the existence of guidance that would apply cross-county,
14:17:49 24 whether issued by the guid- -- the secretary or not?

14:17:52 25 MR. MORGAN: I think Ms. Connor is testifying

14:17:53 1 definitely based on her personal knowledge or lack thereof,
14:17:57 2 and if she's not aware -- I think her point is that she's
14:17:58 3 just not aware of it. I don't think she's restrict -- I
14:18:02 4 have certainly not instructed her to restrict it to, you
14:18:04 5 know, anything in specific.

14:18:06 6 I understand your question to be very broad
14:18:08 7 and is she aware of any guidance whatsoever. And I do
14:18:11 8 believe that's how she's answering it.

14:18:15 9 Fair?

14:18:16 10 THE WITNESS: Yep, that's fair.

14:18:16 11 MS. LANG: 100 percent. I just wanted to
14:18:17 12 make sure that we were all on the same page about the
14:18:19 13 terminology and --

14:18:19 14 MR. MORGAN: All good.

14:18:39 15 MS. LANG: All right. Would you like to take
14:18:42 16 a break?

14:18:43 17 MR. MORGAN: Yeah, let's take a break.

14:18:46 18 THE VIDEOGRAPHER: We are off the record.

14:18:48 19 Time on the video monitor is 2:18 p.m. This ends Media 2.

14:31:30 20 (A recess ensued.)

14:31:30 21 THE VIDEOGRAPHER: We are on the record.

14:31:50 22 Time on the video monitor is 2:31 p.m. This begins

14:31:57 23 Media 3.

14:31:57 24 BY MS. LANG:

14:31:58 25 Q. Okay. I'm going to try to ask you a universal

14:32:01 1 question here so that I can try to speed through some more
14:32:04 2 particular questions I had, which is: I think we talked
14:32:08 3 about the status of the various VRAC papers, and there's
14:32:12 4 nothing finalized on the VRAC papers with respect to the
14:32:16 5 challenged laws; correct?

14:32:16 6 A. Yes.

14:32:17 7 Q. Okay. And we've talked about the EPM and that
14:32:21 8 your goal in the EPM was to put in statutory language
14:32:28 9 requirements into the EPM as to the challenged laws, as to
14:32:32 10 the public draft that exists right now, but not any
14:32:36 11 additional kind of gap-filling guidance. Is that also
14:32:40 12 correct?

14:32:40 13 A. The intent was to have a placeholder essentially.

14:32:44 14 Q. Yes.

14:32:45 15 And that placeholder is only the statutory
14:32:48 16 language and not kind of gap-filling guidance or policy?

14:32:54 17 A. Yes. And -- but I will say, I think I mentioned
14:32:57 18 that the rejected, that wasn't an acceptable status. And
14:33:02 19 also the qualified elector definition, I -- I think I
14:33:09 20 omitted the part about having proved DPOC.

14:33:16 21 Q. Okay. But with -- other than those two
14:33:20 22 exceptions, it was not kind of a -- you didn't add any kind
14:33:23 23 of policy or gap-filling guidance; you just included the
14:33:27 24 statutory requirements?

14:33:30 25 A. That's correct.

14:33:31 1 Q. Okay. And so I just want to clarify that given
14:33:35 2 where you are in the process, so early in this process,
14:33:40 3 there is not any other statewide guidance on how these
14:33:50 4 challenged provisions will apply?

14:33:56 5 MR. WHITAKER: Speculation.

14:33:56 6 THE WITNESS: Yeah, given that we're only a
14:33:58 7 week out of approval to move forward, I'm not aware of any
14:34:04 8 statewide guidance.

14:34:08 9 BY MS. LANG:

14:34:09 10 Q. Okay. If we could look at Petty Exhibit 21.

14:34:26 11 A. Okay. Danielle, it's saying your AirPods
14:34:41 12 are . . .

14:34:59 13 I'm there.

14:34:59 14 Q. Okay.

14:35:00 15 A. Could you remind me again where?

14:35:01 16 Q. Yes. So we're looking at Petty Exhibit 21, and
14:35:08 17 I'm looking at page -- page 6.

14:35:37 18 A. Okay.

14:35:57 19 Q. On line 6, page 6, there's a section titled "H."
14:36:01 20 Do you see that?

14:36:03 21 A. Yes.

14:36:03 22 Q. Okay. And here it says, "To the extent
14:36:06 23 practicable, each month the county recorder shall compare
14:36:09 24 persons who are registered to vote in that county and who
14:36:12 25 the county recorder has reason to believe are not United

14:36:15 1 States citizens and persons who are registered to vote
14:36:17 2 without satisfactory evidence of citizenship as prescribed
14:36:22 3 by Section 16-166 with the Systematic Alien Verification
14:36:29 4 for Entitlements program maintained by the United States
14:36:32 5 Citizenship and Immigration Services to verify the
14:36:34 6 citizenship status of the person registered."

14:36:37 7 Do you see that?

14:36:38 8 A. I do.

14:36:38 9 Q. Do you know if this -- these portion -- or this
14:36:42 10 portion of 2243 is in the EPM, the draft EPM that was
14:36:49 11 submitted for public comment?

14:36:51 12 A. I don't recall if I included that.

14:36:54 13 Q. Okay.

14:36:58 14 A. So if I could just back up.

14:36:59 15 Q. Yes.

14:36:59 16 A. For the EPM too, you know, the -- it's -- it's not
14:37:06 17 going to contain everything on elections. It can't
14:37:10 18 possibly contain everything. So that doesn't mean it --
14:37:18 19 it's not going to be in effect. The law is still the law,
14:37:22 20 but it certainly can't be an exhaustive manual.

14:37:26 21 Q. Absolutely. And it bears repeating that none of
14:37:30 22 these questions are meant as a critique and more to clarify
14:37:33 23 kind of what exists out in the world and doesn't yet. And
14:37:37 24 so I just want to make that super clear.

14:37:43 25 A. Okay.

14:37:44 1 MS. LANG: And so I think we've already
14:37:50 2 marked the 2023 draft manual that was put out for public
14:37:57 3 comment. Does anybody know what the exhibit number was?
14:38:12 4 Either 273 or 274.

14:38:12 5 MS. SHAH: I don't think we have.

14:38:12 6 MS. LANG: We haven't marked it yet?

14:38:12 7 MS. SHAH: No.

14:38:12 8 MS. LANG: Okay.

14:38:39 9 BY MS. LANG:

14:38:39 10 Q. But do you see the 2023 Arizona Secretary of State
14:38:44 11 Elections Procedures Manual in the folder? Can you open
14:38:48 12 that for me?

14:38:49 13 A. Are we on SSO -- I'm sorry -- SOS Exhibits 2?

14:38:52 14 Q. Yes. And it's 2023 Arizona Secretary of State
14:38:56 15 Elections Procedures Manual draft.

14:38:57 16 A. Yes, I see.

14:38:59 17 MS. LANG: And we'll mark that as 275.

14:38:59 18 (The document was marked as Exhibit 275
14:39:17 19 for identification.)

14:39:17 20 BY MS. LANG:

14:39:18 21 Q. I'll represent to you that, you know, I've done a
14:39:20 22 search of this document and the only place where the
14:39:23 23 language "reason to believe" appears is on page 86 with
14:39:32 24 respect to equipment decertification.

14:39:34 25 Would that refresh your recollection that

14:39:36 1 perhaps this -- that reason to believe someone's not a U.S.
14:39:40 2 citizen list maintenance requirement was not specifically
14:39:43 3 included in -- in this draft version?

14:39:45 4 MR. MORGAN: We'll allow her to answer it but
14:39:47 5 only with the caveat that she's assuming what you said is
14:39:50 6 true but not checking it.

14:39:52 7 MS. LANG: Fair.

14:39:54 8 THE WITNESS: Well, and I think "reason to
14:39:57 9 believe" is a phrase used in campaign finance, so I'm
14:40:03 10 not -- I'd be surprised if that wasn't used, but perhaps.
14:40:08 11 I don't have any reason to disagree with what you're
14:40:10 12 saying.

14:40:10 13 BY MS. LANG:

14:40:10 14 Q. Okay. Do you have any specific recollection of
14:40:15 15 including these restrictions or these rules about list
14:40:21 16 maintenance and checking all of these databases in the EPM?

14:40:28 17 A. I do not, no.

14:40:30 18 Q. And perhaps we could just look at -- page 34 is
14:40:33 19 where the section on list maintenance begins.

14:40:35 20 A. Okay.

14:40:36 21 Q. And you could just review the kind of headers and
14:40:39 22 see if there's any inclusion there about the standard of
14:40:45 23 checking databases for people county recorders have reason
14:40:49 24 to believe are not U.S. citizens.

14:41:10 25 A. Okay. "Voter Registration List Maintenance"?

14:41:13 1 Q. Yes.

14:41:14 2 A. Okay.

14:41:14 3 Q. Starting on page 34.

14:41:16 4 A. Okay. And I'm sorry. Is there a question?

14:41:24 5 Q. The question is whether or not you see anything in

14:41:28 6 there that specifically discusses the use of these various

14:41:36 7 databases for list maintenance where a county recorder has

14:41:39 8 reason to believe a registrant is not a U.S. citizen.

14:41:43 9 A. Yeah, as indicated and flipping through this, I

14:41:47 10 don't see any reference to that.

14:41:48 11 Q. Great.

14:41:50 12 If we could go back to Petty Exhibit 19.

14:41:57 13 A. Okay.

14:41:59 14 Q. Page 7.

14:42:09 15 A. Okay.

14:42:10 16 Q. There's a requirement here under 16-143 that the

14:42:17 17 secretary provide a list of individuals who are "registered

14:42:20 18 to vote and who have not provided satisfactory evidence of

14:42:24 19 citizenship" to the Attorney General's Office.

14:42:28 20 Do you see that there?

14:42:29 21 A. I do, yes.

14:42:29 22 Q. Okay. And did your office provide that list to

14:42:34 23 the Attorney General's Office?

14:42:36 24 A. Yes. That's my recollection.

14:42:38 25 Q. Okay. Do you know when that was done?

14:42:41 1 A. I do not.

14:42:43 2 Q. And who in your office was in charge of compiling

14:42:50 3 and sending that list?

14:42:53 4 A. I believe it was Kori Lorick who would have, but I

14:43:03 5 -- perhaps Yolanda could answer that.

14:43:09 6 Q. Do you know if any of the county recorders

14:43:16 7 provided those lists? Because there's language in here

14:43:21 8 about each county recorder providing it as well.

14:43:23 9 A. I'm not aware.

14:43:25 10 Q. Okay. Is it your understanding that that would --

14:43:29 11 that list would include all federal-only voters?

14:43:35 12 MR. MORGAN: Form. Which list?

14:43:37 13 MS. LANG: The list that --

14:43:38 14 MR. MORGAN: Her list or the county's list?

14:43:41 15 MS. LANG: Your -- the secretary of state's

14:43:43 16 list.

14:43:43 17 THE WITNESS: Yeah, presumably that would

14:43:45 18 include all federal-only voters.

14:43:47 19 BY MS. LANG:

14:43:47 20 Q. And do you know if it would also include people

14:43:49 21 who haven't provide DPOC because they registered before

14:43:53 22 that requirement was in place?

14:43:55 23 A. I don't know.

14:44:02 24 Q. Would you look at Petty Exhibit 21 again. And

14:44:55 25 that's House Bill 2243.

14:44:58 1 A. Okay.

14:45:00 2 Q. When you get there, I'm looking at page 4.

14:45:06 3 A. Okay.

14:45:07 4 Q. So the section I'm looking at has to do with the

14:45:12 5 jury questionnaires. And so now jury questionnaire summary

14:45:16 6 reports will be sent to the county recorders indicating

14:45:19 7 folks who have said that they're not a citizen. And

14:45:24 8 Subsection 10, line 5 on that page says, "When the county

14:45:28 9 recorder obtains information pursuant to this section and

14:45:32 10 confirms that the person registered is not a United States

14:45:34 11 citizen," that's listed as a cause for cancellation; is

14:45:49 12 that correct?

14:45:49 13 A. Yes, I see that.

14:45:50 14 Q. Okay. Do you know what it -- what that second

14:45:57 15 part of the clause there, "and confirms that the person

14:46:01 16 registered is not a United States citizen," what -- what it

14:46:06 17 would mean to kind of -- you receive the information

14:46:08 18 pursuant to this section. What else would the county

14:46:12 19 recorders need to do to confirm that the person registered

14:46:15 20 is not a United States citizen?

14:46:17 21 MR. LANGHOFER: Calls for a legal conclusion.

14:46:19 22 THE WITNESS: One way to confirm someone's

14:46:22 23 not a citizen is to ask the person if they're a citizen.

14:46:27 24 BY MS. LANG:

14:46:30 25 Q. And so would that be something that the county

14:46:33 1 recorders would be required to do before they act further
14:46:36 2 on that information?

14:46:38 3 MR. LANGHOFER: Same objection.

14:46:41 4 THE WITNESS: Part of the process is to send
14:46:44 5 a letter to the individual based on the summary report from
14:46:50 6 the jury commissioner or jury manager, and within that
14:46:53 7 letter, the individual can state whether that person is or
14:47:00 8 is not a citizen.

14:47:01 9 BY MS. LANG:

14:47:03 10 Q. Okay. So is it your view that confirming that the
14:47:08 11 person registered is not a U.S. citizen would basically
14:47:11 12 mean there was a true match between the summary report and
14:47:17 13 the registered individual and there was no DPOC on file and
14:47:24 14 that there was no response from the voter?

14:47:26 15 MR. LANGHOFER: Same objection.

14:47:29 16 MR. WHITAKER: Legal conclusion.

14:47:31 17 THE WITNESS: No. If there was no response,
14:47:35 18 there was no response. The proving of someone not being a
14:47:41 19 citizen or confirming would only be if the voter did
14:47:46 20 respond and say that the voter is not a citizen, not -- not
14:47:50 21 if the voter did not respond.

14:47:53 22 BY MS. LANG:

14:47:53 23 Q. Okay. So is it your view that if there's no
14:47:56 24 response, there's no confirmation that the person is not a
14:47:59 25 U.S. citizen?

14:48:01 1 MR. LANGHOFER: Same objection.

14:48:03 2 MR. WHITAKER: Same objection.

14:48:03 3 THE WITNESS: I'm sorry. Would you rephrase

14:48:05 4 that?

14:48:05 5 BY MS. LANG:

14:48:06 6 Q. Yeah.

14:48:06 7 I guess -- I understand -- so one cause for

14:48:10 8 cancellation is when the county recorder obtains

14:48:12 9 information pursuant to this section about the jury

14:48:15 10 questionnaires and -- quote, "and confirms that the person

14:48:19 11 registered is not a United States citizen," and further

14:48:24 12 kind of instructs to send that notice that you mentioned

14:48:27 13 and if there's no response, there's a requirement for

14:48:31 14 cancellation.

14:48:32 15 A. Uh-huh.

14:48:33 16 Q. And so I'm trying to understand kind of what

14:48:36 17 additional steps, if any, the language about, "and confirms

14:48:41 18 that the person registered is not a United States

14:48:44 19 citizen" entails?

14:48:45 20 MR. LANGHOFER: Same objection.

14:48:47 21 MR. WHITAKER: Same objection.

14:48:48 22 THE WITNESS: So this section is -- is one

14:48:53 23 where I would seek legal advice because we never received

14:49:01 24 the source document. We never received the questionnaire

14:49:04 25 itself where the voter designates that he or she is not a

14:49:10 1 citizen. We instead get a summary report from the jury
14:49:17 2 manager, jury commissioner, and then my understanding is
14:49:24 3 that that juror questionnaire itself, so the source
14:49:27 4 document, can be destroyed within 90 days.

14:49:32 5 So I would -- without having the firsthand
14:49:38 6 response from the voter, I would seek legal advice as to
14:49:42 7 what authority the county recorder or anyone had to cancel
14:49:50 8 the voter.

14:49:52 9 BY MS. LANG:

14:49:52 10 Q. So sitting here right now, you're not sure?

14:49:56 11 MR. LANGHOFER: Same objection.

14:49:57 12 THE WITNESS: I'm not sure without getting
14:49:58 13 legal advice, correct.

14:50:00 14 BY MS. LANG:

14:50:27 15 Q. Do you know if there's any time limitation on the
14:50:33 16 use of these jury summary reports?

14:50:36 17 For example, is there any limitation that the
14:50:39 18 summary reports are only -- can only be used if the jury
14:50:43 19 questionnaire was filled out after someone had registered
14:50:46 20 to vote rather than before?

14:50:49 21 A. I'm not aware of any time limitation.

14:51:00 22 MR. WHITAKER: Calls for a legal conclusion.

14:51:05 23 MR. MORGAN: Mr. Whitaker said, "Calls for a
14:51:05 24 legal conclusion."

14:51:05 25 Josh, if you could, I think you're getting

14:51:07 1 caught in the spacebar game. If you could wait a second
14:51:11 2 before you object and then object a little louder, I think
14:51:14 3 the court reporter would be in a better position to hear
14:51:16 4 you.

14:51:17 5 MR. WHITAKER: I'll try. Thank you.

14:51:19 6 MR. MORGAN: Thank you.

14:51:27 7 BY MS. LANG:

14:51:33 8 Q. You mentioned a moment ago that the only
14:51:38 9 information received from the jury questionnaire -- from
14:51:41 10 the -- from the courts about the jury questionnaires is a
14:51:44 11 summary report and not the actual questionnaires
14:51:47 12 themselves; is that right?

14:51:48 13 A. That's my understanding.

14:51:49 14 Q. Okay. And that seems to have raised some concern
14:51:54 15 for you. Is that fair to say?

14:51:58 16 A. Yes.

14:51:59 17 Q. Okay. And why is that?

14:52:01 18 A. And -- well, I'll first start by saying, I
14:52:08 19 understand why the juror questionnaires are not just handed
14:52:11 20 over readily.

14:52:11 21 Q. Sure.

14:52:12 22 A. But regardless of that, it gives me pause to take
14:52:18 23 action on a document that's -- that would not be the
14:52:21 24 source -- from the registrant himself or herself.

14:52:25 25 Q. And there could potentially be errors in kind of

14:52:29 1 transcription or kind of in translation since it's not the

14:52:32 2 source document itself?

14:52:34 3 A. Yes. We're all human. There could be a mistake.

14:52:37 4 Q. Looking down at -- we had already looked at -- one

14:53:26 5 moment.

14:53:36 6 On page 6 of this document, Section J, which

14:53:41 7 is on line 20. Do you see that?

14:53:45 8 A. Page 6, J, yes I see that.

14:53:52 9 Q. And this section says, "To the extent practicable,

14:53:55 10 the county recorder shall review relevant city, town,

14:53:59 11 county, state and federal databases to which the county

14:54:01 12 recorder has access to confirm information obtained that

14:54:05 13 requires cancellation of registrations pursuant to this

14:54:08 14 section."

14:54:08 15 Do you see that?

14:54:08 16 A. I do, yes.

14:54:10 17 Q. Would it be your view that the jury questionnaires

14:54:14 18 or the summary reports of the jury questionnaires would

14:54:18 19 fall under this kind of catchall provision?

14:54:21 20 MR. LANGHOFER: Same objection.

14:54:21 21 MR. WHITAKER: Legal conclusion.

14:54:31 22 THE WITNESS: Until you said that, I -- I did

14:54:37 23 not consider the summary reports to be a database. So

14:54:41 24 that's -- that's not anything I'd really put thought into.

14:54:46 25 BY MS. LANG:

14:54:46 1 Q. Looking at Subsection L, starting on line 29, this
14:54:53 2 subsection outlines a number of reports that the secretary
14:54:56 3 of state is required to provide to the legislature at the
14:55:00 4 end of each quarter.

14:55:01 5 A. Yes.

14:55:02 6 Q. Has the secretary of state started providing those
14:55:04 7 reports, to your knowledge?

14:55:07 8 A. Yes, we have. The reports do reflect some numbers
14:55:17 9 but can't provide all of the information and state in the
14:55:22 10 reports that some of the information cannot be provided
14:55:25 11 because of the development -- the AVID development that's
14:55:29 12 needed. And some information could not be obtained because
14:55:34 13 it's information that Maricopa and Pima County, they --
14:55:39 14 they have within their database.

14:55:44 15 Q. It's very understandable if you don't know the
14:55:47 16 answer to this question given the volume of documents in
14:55:50 17 this case, but do you know if those reports have been
14:55:52 18 produced in this case?

14:55:57 19 MR. MORGAN: If you don't know, you don't
14:55:58 20 know.

14:56:00 21 THE WITNESS: Yeah, I just don't know.

14:56:00 22 MR. MORGAN: They wouldn't be introduced
14:56:00 23 unless they were in a relevant custodian that you -- you
14:56:03 24 identified and hit a search term. But if you still want
14:56:06 25 them, send me an email and we'll see if we can get them.

14:56:09 1 MS. LANG: Thank you very much. I appreciate
14:56:11 2 it.

14:56:16 3 THE WITNESS: And if I can add, the second
14:56:18 4 quarter report would have just been submitted within a few
14:56:22 5 weeks ago.

14:56:26 6 MR. MORGAN: And I don't know what the
14:56:28 7 reports would look like. So to the -- I'm not waiving,
14:56:30 8 like, confidentiality or privacy issues. We'll have to
14:56:33 9 deal with that if it becomes an issue.

14:56:35 10 MS. LANG: Understood. And I appreciate it.
14:56:37 11 We'll follow up on that. I'm sure we'll be able to figure
14:56:40 12 it out.

14:56:44 13 BY MS. LANG:

14:56:44 14 Q. Moving on. I have a couple kind of mishmash of
14:56:52 15 questions about birthplace and checkbox.

14:56:58 16 The birthplace requirement only applies to
14:57:01 17 state form applicants; correct?

14:57:04 18 MR. MORGAN: Calls for a legal conclusion.

14:57:06 19 THE WITNESS: That's my understanding, yes.

14:57:08 20 BY MS. LANG:

14:57:08 21 Q. Okay. Do you know what the -- I have seen some
14:57:20 22 documents that refer to ServiceArizona.

14:57:23 23 A. Yes.

14:57:23 24 Q. Can you tell me what that means?

14:57:25 25 MR. MORGAN: Form. Do you mean what is

14:57:27 1 ServiceArizona?

14:57:29 2 BY MS. LANG:

14:57:29 3 Q. What is ServiceArizona, yeah.

14:57:32 4 A. Yolanda Morales would definitely provide -- be

14:57:35 5 able to provide more information. But generally,

14:57:38 6 ServiceArizona is the website that people can go to to

14:57:43 7 register to vote. And currently, the only thing they can

14:57:45 8 do on that is voter registration still. Used to be the MVD

14:57:50 9 website and people could do all sorts of things, but that's

14:57:55 10 transitioning over to a new website: AZ MVD Now.

14:57:58 11 Q. Okay. And is that run by the Secretary of State's

14:58:03 12 Office or by MVD?

14:58:04 13 A. MVD.

14:58:06 14 Q. Okay.

14:58:06 15 A. That's my understanding. So I think any more

14:58:09 16 questions on that we should save for Yolanda.

14:58:11 17 Q. Fair enough. I think this is a policy question,

14:58:13 18 but it might be for Yolanda nonetheless.

14:58:17 19 Is -- is it your understanding that the

14:58:19 20 birthplace requirement is going to apply to ServiceArizona

14:58:22 21 applications or only to state paper form applications?

14:58:30 22 MR. WHITAKER: Legal conclusion.

14:58:34 23 MR. MORGAN: Form and foundation.

14:58:35 24 THE WITNESS: So including the birthplace?

14:58:35 25 BY MS. LANG:

14:58:39 1 Q. Requiring birthplace, yes.

14:58:42 2 A. I think -- I think that would be across the board

14:58:44 3 for any state application or registration.

14:58:51 4 Q. Okay. Can you think of any reason why you would

14:59:06 5 need birthplace information for state app -- applicants

14:59:10 6 using the state application form and not for those using

14:59:15 7 the federal form?

14:59:16 8 A. No.

14:59:16 9 MR. LANGHOFER: Legal conclusion.

14:59:18 10 BY MS. LANG:

14:59:28 11 Q. Moving on to talking about the documentary proof

14:59:33 12 of cit- -- residence requirement, the DPOR requirement.

14:59:36 13 And we've touched on it a bit, but I'm going to go into a

14:59:44 14 little more detail now.

14:59:46 15 As some background, applicants are required

14:59:49 16 to provide their residential address or some sort of

14:59:52 17 description or drawing of their residence when they

14:59:55 18 register to vote; correct?

14:59:56 19 A. Yes.

14:59:57 20 Q. Okay. Is -- I have a line of questions that I

15:00:06 21 think, actually based on your testimony so far, is going to

15:00:09 22 be for Yolanda. Let me just ask the one and we'll see.

15:00:12 23 If someone provides a residential address, do

15:00:17 24 you know if the AVID system does something to kind of match

15:00:21 25 that address with a precinct automatically?

15:00:27 1 A. I'm not sure how that works.

15:00:29 2 Q. All right. Do you know if there's anything in the
15:00:52 3 2019 EPM or in the current draft EPM that kind of addresses
15:00:58 4 what counties should do if a voter's address -- if they
15:01:03 5 can't determine the precinct for a voter's address?

15:01:07 6 A. I'm not aware of any.

15:01:11 7 Q. Are you aware of any kind of guidance on this
15:01:14 8 topic outside of the EPM?

15:01:17 9 A. No.

15:01:18 10 Q. Another option for folks who don't have kind of
15:01:31 11 standard addresses is for them to provide some sort of
15:01:33 12 description of their location of residence; correct?

15:01:36 13 A. Yes.

15:01:36 14 Q. That could be a map; is that correct?

15:01:38 15 A. Yes.

15:01:39 16 Q. Could it also be kind of a description with
15:01:44 17 coordinates or landmarks?

15:01:45 18 A. Yes.

15:01:47 19 Q. Do you know if there's anything in the EPM that
15:01:50 20 kind of helps describe how counties should use those
15:01:54 21 descriptors to properly precinct voters?

15:02:01 22 A. No.

15:02:02 23 Q. Are you aware of any of other guidance --
15:02:06 24 statewide guidance on that topic?

15:02:10 25 A. No. And I think that's uniquely a county issue

15:02:17 1 based on the dynamics of a particular county. I don't know
15:02:23 2 if a statewide document or application would be
15:02:27 3 appropriate.

15:02:29 4 Q. Fair.

15:02:30 5 Are you aware of kind of the circumstances
15:02:33 6 under which a voter is more likely to not have a standard
15:02:37 7 address and rely on a kind of a description or map?

15:02:40 8 A. Yes.

15:02:42 9 MR. LANGHOFER: Foundation.

15:02:42 10 BY MS. LANG:

15:02:43 11 Q. Can you provide kind of some of those
15:02:45 12 circumstances?

15:02:48 13 A. Nonstandard addresses are more common in rural
15:02:52 14 areas or reservation lands.

15:02:57 15 Q. Okay. Is it also more common for students to not
15:03:02 16 have standard addresses that match the precincting system?

15:03:07 17 MR. MORGAN: Form.

15:03:08 18 THE WITNESS: I don't know.

15:03:09 19 BY MS. LANG:

15:03:12 20 Q. Is it more common that people experiencing
15:03:15 21 homelessness might use the option of drawing their
15:03:18 22 residence?

15:03:19 23 A. Not that I'm aware of.

15:03:25 24 Q. So I think we've established under HB 2492, if
15:03:54 25 this was fully implemented, voters would now have to

15:03:57 1 provide some documentary proof of their residence location

15:04:00 2 to register to vote; correct?

15:04:03 3 A. The statutory changes would require DPOR, yes.

15:04:12 4 Q. And it is -- is it the position of the secretary's

15:04:18 5 office, notwithstanding any potential violations of federal

15:04:22 6 law, that the statute requires that documentary proof of

15:04:26 7 residence even for federal form voters?

15:04:33 8 MR. WHITAKER: Calls for a legal conclusion.

15:04:34 9 THE WITNESS: Yeah, that -- I would have

15:04:34 10 to --

15:04:34 11 MR. WHITAKER: Form.

15:04:35 12 THE WITNESS: I would have to get legal

15:04:36 13 advice on that. I don't know the answer.

15:04:38 14 BY MS. LANG:

15:04:48 15 Q. Okay. The instructions for registration in

15:04:53 16 Arizona on the federal form currently don't require --

15:04:56 17 don't discuss documentary proof of residence; is that

15:05:00 18 correct?

15:05:00 19 A. That's correct.

15:05:01 20 Q. Okay. And we looked earlier at the EAC that the

15:05:06 21 secretary's office sent in 2022 requesting an update on the

15:05:10 22 instructions; is that right?

15:05:11 23 A. Yes, we did.

15:05:12 24 Q. And that included some requested instructions

15:05:15 25 about DPOC but did not include any instructions about DPOR;

15:05:21 1 is that correct?

15:05:21 2 A. I'll have to look it up again.

15:05:23 3 Q. Yeah, let's look at it. It's AZSOS 533, the EAC

15:05:33 4 letter.

15:05:33 5 A. Yeah, just a second. Let me log in.

15:05:42 6 Okay. Where is the file, the SOS?

15:05:43 7 Q. SOS Exhibits 2 and AZSOS 533.

15:06:07 8 And the question is kind of whether or not

15:06:08 9 this request adds any request about instructions for

15:06:11 10 documentary proof of residence. So go ahead and take a

15:06:15 11 look and then you can answer.

15:06:16 12 A. I'm not finding the document. Okay. So it's --

15:06:20 13 under the SOS 2, AZSOS.

15:06:22 14 Q. 533. It's right under AZSOS 1.

15:06:32 15 A. Okay. Great. Thank you.

15:06:34 16 Q. No problem. Thank you for bearing with me.

15:06:50 17 A. Okay. So the question is whether there's a

15:06:53 18 request for DPOR to be in the federal form instructions?

15:06:57 19 Q. That's correct, yes.

15:06:59 20 A. This letter does not request that.

15:07:01 21 Q. And are you aware of any other requests to the EAC

15:07:04 22 to add that set of instructions about DPOR?

15:07:07 23 A. Not that I'm aware of.

15:07:08 24 Q. Okay. Do you know whether the DPOR requirement

15:07:14 25 would -- would apply to federal postcard applicants or

15:07:18 1 federal write-in absentee ballot applicants?

15:07:25 2 MR. WHITAKER: Calls for a legal conclusion.

15:07:31 3 THE WITNESS: Yeah, I don't think so. I
15:07:33 4 think that was an error in the draft EPM but -- okay. So
15:07:37 5 some of the federal postcard information and the FWAB stuff
15:07:45 6 need to be corrected in the draft. So just in all candor,
15:07:51 7 you know, I -- I'm -- I'm not sure if that's where that
15:07:55 8 question is coming from.

15:07:56 9 BY MS. LANG:

15:07:57 10 Q. It's not. Just a genuine question of curiosity.

15:08:01 11 I don't know the answer --

15:08:02 12 A. Okay.

15:08:02 13 Q. -- as to whether or not it should apply to those
15:08:05 14 applicants or not.

15:08:07 15 Do you know if it should?

15:08:08 16 A. I don't know right off the top of my head.

15:08:10 17 Q. Okay. Do you know if voters will need to provide
15:08:40 18 a new document proving residence with any address update
15:08:45 19 that they make to their voter registration?

15:08:48 20 MR. MORGAN: Form. Speculation.

15:08:50 21 MR. LANGHOFER: Legal conclusion.

15:08:51 22 THE WITNESS: Not that I'm aware of.

15:08:53 23 MR. WHITAKER: And I think calls for a legal
15:08:54 24 conclusion.

15:08:54 25 MR. MORGAN: Yeah. Mr. Langhofer made that

15:08:59 1 objection.

15:09:54 2 MS. LANG: And please excuse my pause. If it
15:09:56 3 gives anyone comfort, it's because I'm trying to pare down
15:10:00 4 on the questions and see what we need to cover.

15:10:32 5 MR. MORGAN: While we're waiting, can the
15:10:34 6 videographer tell us how long we've been on the record?

15:10:37 7 THE VIDEOGRAPHER: Five hours and eight
15:10:39 8 minutes.

15:10:40 9 MR. MORGAN: Thank you.

15:10:40 10 BY MS. LANG:

15:10:52 11 Q. Okay. If you could open Petty Exhibit 24.

15:11:08 12 A. I think I went into a file that is not the
15:11:12 13 exhibits. Sorry about that.

15:11:48 14 MS. LANG: Let's take a break brief.

15:11:50 15 THE VIDEOGRAPHER: We are off the record.

15:11:52 16 The time on the video monitor is 3:11 p.m.

15:11:57 17 (A recess ensued.)

15:18:33 18 THE VIDEOGRAPHER: We are on the record. The
15:18:50 19 time on the video monitor is 3:18 p.m.

15:18:55 20 MS. LANG: Okay. So thank you all for the
15:18:55 21 indulgence.

15:18:55 22 BY MS. LANG:

15:18:58 23 Q. If we can look at Petty Exhibit 24.

15:19:01 24 A. Okay.

15:19:04 25 Q. Do you recognize this document?

15:19:10 1 A. I do, yes.

15:19:11 2 Q. And can you describe what it is for me?

15:19:14 3 A. It's a table that lists "What constitutes

15:19:22 4 Documentary Proof of Residency."

15:19:22 5 Q. And this is what would constitute DPOR under the

15:19:25 6 HB 2492; correct?

15:19:27 7 A. Yes.

15:19:27 8 Q. Okay. Who drafted this, to your knowledge?

15:19:34 9 A. I don't know.

15:19:35 10 Q. Okay. Does this chart still reflect the

15:19:40 11 secretary's position on what documents would satisfy the

15:19:44 12 DPOR requirement under HB 2492?

15:19:47 13 MR. LANGHOFER: Calls for a legal conclusion.

15:19:50 14 THE WITNESS: Without comparing it to the

15:19:55 15 579(A) (1), it's hard to say. But I think that was the

15:20:01 16 intent of the document, to provide a list, but maybe not an

15:20:05 17 exhaustive list.

15:20:06 18 BY MS. LANG:

15:20:06 19 Q. Okay. Is it a list of at least some documents

15:20:11 20 that would be acceptable DPOR?

15:20:13 21 MR. LANGHOFER: Same objection.

15:20:13 22 THE WITNESS: That's my understanding, yes.

15:20:14 23 BY MS. LANG:

15:20:14 24 Q. Do you know if this document has been sent out to

15:20:17 25 the counties?

15:20:19 1 A. Not that I'm aware of.

15:20:20 2 Q. Okay.

15:20:23 3 MR. MORGAN: Other than as produced in the
15:20:25 4 lawsuit?

15:20:26 5 MS. LANG: Yes.

15:20:26 6 MR. MORGAN: Okay.

15:20:27 7 MS. LANG: Sent out to the county recorders
15:20:29 8 by the secretary of state.

15:20:30 9 MR. MORGAN: Okay. Got it. Yep.

15:20:32 10 Same answer?

15:20:34 11 THE WITNESS: Yes. It looks like it's
15:20:36 12 attached to a filing, though. I'm not sure what the filing
15:20:39 13 was.

15:20:40 14 BY MS. LANG:

15:20:41 15 Q. Yes. It was attached to a filing in this case.
15:20:44 16 And has been produced in this case.

15:20:45 17 A. Okay.

15:20:46 18 Q. But my question --

15:20:47 19 MS. LANG: And thank you for the
15:20:49 20 clarification, Craig.

15:20:49 21 BY MS. LANG:

15:20:49 22 Q. -- is just whether or not the secretary has kind
15:20:53 23 of affirmatively sent this out to the counties.

15:20:55 24 A. Yeah, I'm not aware.

15:20:58 25 Q. Okay. This chart is not in the draft EPM;

15:21:08 1 correct?

15:21:08 2 A. Correct.

15:21:09 3 Q. If it's not in the EPM, would a chart like this

15:21:19 4 providing examples of DPOR be binding on the county

15:21:24 5 recorders?

15:21:26 6 A. No.

15:21:27 7 MR. LANGHOFER: Calls for a legal conclusion.

15:21:31 8 BY MS. LANG:

15:21:33 9 Q. At the bottom here of this chart, there is a --

15:21:39 10 there's an option for one form of DPOR to be "Written

15:21:46 11 confirmation signed by the registrant that they qualify to

15:21:49 12 register pursuant to 16-166(B) (providing an address at a

15:21:54 13 homeless center; USPS General Delivery; Courthouse)."

15:22:03 14 Are you aware of any kind of draft template

15:22:06 15 for a written confirmation of this kind?

15:22:12 16 A. So I read that to be the written confirmation as

15:22:16 17 in the registrant who could be homeless and the residential

15:22:24 18 address, in lieu of a standard residential address, would

15:22:29 19 provide the general delivery address of a post office or a

15:22:34 20 courthouse.

15:22:36 21 So I didn't read this as a separate document.

15:22:40 22 I assumed it would be included in the registration form

15:22:43 23 itself.

15:22:44 24 Q. Okay. That's very -- that's a very helpful

15:22:47 25 clarification.

15:22:48 1 So your understanding of this is that where

15:22:52 2 someone registers to vote and provides as their address a

15:22:55 3 homeless center or USPS general delivery or courthouse

15:22:59 4 under this statute, they wouldn't have to provide any

15:23:02 5 additional documents providing proof of residence?

15:23:06 6 A. Yes, that's correct.

15:23:08 7 Q. Okay.

15:23:10 8 MR. WHITAKER: Calls for a legal conclusion.

15:23:13 9 BY MS. LANG:

15:23:16 10 Q. And if we can return to Petty Exhibit 19, which is

15:23:22 11 HB 2492.

15:23:30 12 A. Okay.

15:23:31 13 Q. Turn to page 6.

15:23:46 14 A. All right.

15:23:47 15 Q. Rather, page 5. I apologize. At the bottom of

15:23:58 16 page 5.

15:23:58 17 A. Okay.

15:23:59 18 Q. And this is the Section 16-123, starting at

15:24:03 19 line 40 on page 5 that requires a proof of DPOR; is that

15:24:13 20 right?

15:24:13 21 A. Yes.

15:24:14 22 Q. Okay. And the language here says that "Except for

15:24:18 23 persons who register pursuant to" 16- -- "Section 16-103, a

15:24:23 24 person who registers to vote shall provide an identifying

15:24:27 25 document that establishes proof of location of residence."

15:24:33 1 Do you see that?

15:24:33 2 A. I do.

15:24:34 3 Q. And would you agree with me that the language "an

15:24:37 4 identifying document" is broad?

15:24:42 5 MR. LANGHOFER: Legal conclusion.

15:24:44 6 THE WITNESS: Yes.

15:24:45 7 MR. WHITAKER: I missed the question, but I

15:24:48 8 think it calls for a legal conclusion.

15:24:51 9 MS. LANG: Kory did --

15:24:53 10 MR. MORGAN: Kory made the objection.

15:24:54 11 MS. LANG: Made the objection. And the

15:24:55 12 question, because it's only fair to you, is whether --

15:25:00 13 whether the witness would agree that the language "an

15:25:05 14 identifying document" is broad.

15:25:09 15 THE WITNESS: The answer was yes.

15:25:11 16 MS. LANG: And there was an objection and --

15:25:12 17 THE WITNESS: The answer was yes.

15:25:14 18 BY MS. LANG:

15:25:15 19 Q. In -- would a declaration from a voter of their

15:25:20 20 location of residence qualify as an identifying document

15:25:26 21 that establishes proof of location of residence?

15:25:29 22 MR. LANGHOFER: Same objection.

15:25:32 23 THE WITNESS: I'm not in a position to answer

15:25:36 24 that without legal advice and without consultations with

15:25:44 25 county recorders.

15:25:44 1 BY MS. LANG:

15:02:57 2 Q. Okay. Do you know if there's any plan to create
15:25:47 3 such a declaration option for voters who would otherwise
15:25:50 4 have difficulty providing other -- another document proving
15:25:55 5 location of residence?

15:25:56 6 A. Not that I'm aware of.

15:25:59 7 Q. You earlier testified that if the DPOR requirement
15:26:44 8 goes into effect, it would require some public education to
15:26:49 9 ensure that voters understand how to comply with it. Would
15:26:56 10 you agree that the new DPOR requirement would also require
15:27:01 11 training for election officials to implement it?

15:27:04 12 MR. MORGAN: Form. Foundation. And the form
15:27:06 13 objection, just for the record, is I'm not sure that's what
15:27:08 14 she said earlier. So just for what it's worth, I'm not
15:27:11 15 disputing it; I just don't know that I agree.

15:27:13 16 MR. LANGHOFER: And legal conclusion.

15:27:13 17 BY MS. LANG:

15:27:15 18 Q. Okay. So let's back up.

15:27:16 19 If the DPOR requirement needs to be fully
15:27:22 20 implemented, would you agree that public education would be
15:27:28 21 an important component of ensuring that voters know how to
15:27:31 22 comply with it?

15:27:33 23 MR. LANGHOFER: Legal conclusion.

15:27:39 24 THE WITNESS: I don't know. I think that
15:27:41 25 would be something that the county recorders would have to

15:27:45 1 weigh in on.

15:27:47 2 BY MS. LANG:

15:27:47 3 Q. Okay. Would implementation require training?

15:27:54 4 MR. LANGHOFER: Same objection.

15:27:55 5 MR. MORGAN: Yeah, form.

15:27:57 6 THE WITNESS: If the county recorders
15:27:59 7 implemented the DPOR, yes, they would have to train people.

15:28:03 8 BY MS. LANG:

15:28:03 9 Q. Okay. Would it also -- would implementation of
15:28:08 10 the DPOR requirement also require some training for the
15:28:12 11 NVRA mandated agencies that provide voter registration
15:28:16 12 services?

15:28:17 13 MR. LANGHOFER: Same objection.

15:28:29 14 THE WITNESS: Yes.

15:28:33 15 BY MS. LANG:

15:28:40 16 Q. During the deposition of the county recorder in
15:28:43 17 Cochise County, there was some discussion that the Cochise
15:28:47 18 County recorder was beginning to implement and enforce the
15:28:51 19 DPOR requirement. Do you have any knowledge of that?

15:28:54 20 A. No.

15:28:55 21 MR. MORGAN: Wait, of the deposition or the
15:28:58 22 implementation?

15:28:59 23 MS. LANG: Of the implementation.

15:29:01 24 THE WITNESS: I'm not aware of that, no.

15:29:03 25 BY MS. LANG:

15:29:03 1 Q. Were you aware of that during the deposition, the
15:29:06 2 county recorder had made that representation?

15:29:09 3 A. No. This is news to me.

15:29:11 4 Q. Okay. I'm going to move on to a different topic.
15:29:22 5 Some additional questions about any concerns about voter
15:29:26 6 fraud.

15:29:27 7 As the state elections chief election
15:29:37 8 officer, does the Secretary of State's Office have any role
15:29:40 9 to play in safeguarding the state elections against fraud?

15:29:43 10 MR. MORGAN: Form.

15:29:49 11 THE WITNESS: The secretary of state, of
15:29:51 12 course, is definitely -- I don't even know how to phrase
15:29:58 13 that. Is -- wants to ensure that there are fair, honest
15:30:04 14 elections.

15:30:05 15 BY MS. LANG:

15:30:06 16 Q. And I imagine there's any number of ways in which
15:30:08 17 the secretary works with election officials to safeguard
15:30:12 18 against fraud; is that accurate?

15:30:14 19 MR. MORGAN: Foundation.

15:30:15 20 THE WITNESS: So I have a little issue with
15:30:17 21 "fraud." I mean, that's -- it's a very broad term. I
15:30:23 22 don't -- I think we need to get more specific as far as
15:30:26 23 that question goes.

15:30:27 24 BY MS. LANG:

15:30:27 25 Q. Fair.

15:30:33 1 So there is a variety of -- there are
15:30:41 2 different types of, you know, fraud, quote/unquote, "fraud"
15:30:46 3 that could occur in elections; correct?

15:30:51 4 MR. MORGAN: Form.

15:30:52 5 BY MS. LANG:

15:30:52 6 Q. For example, there could be fraud committed by
15:30:54 7 election officials or by voters or by candidates, and those
15:30:59 8 would all have different implications; is that fair to say?

15:31:02 9 MR. MORGAN: Form.

15:31:04 10 Having done this before, for what it's worth,
15:31:06 11 I think she is hung up on what kind of fraud you're talking
15:31:09 12 about. So if you have a specific example, I think she'd be
15:31:13 13 in a better position to answer the question.

15:31:13 14 MS. LANG: Yeah.

15:31:15 15 MR. MORGAN: It's a nasty word in the
15:31:17 16 election world these days.

15:31:19 17 MS. LANG: Trust me, I do know.

15:31:26 18 BY MS. LANG:

15:31:29 19 Q. Can we agree that if I -- if I refer to the term
15:31:33 20 "voter fraud" in particular, what I'm referring to is a
15:31:38 21 voter casting a ballot who is ineligible to do so.

15:31:45 22 A. Okay.

15:31:46 23 Q. And that could be for any number of reasons. It
15:31:48 24 could be because they've already voted; because they don't
15:31:51 25 meet the qualifications; because they're not who they say

15:31:55 1 they are.

15:31:56 2 A. Okay.

15:31:57 3 Q. Okay. Do you believe that Arizona has strong

15:32:06 4 safeguards in place to protect against voter fraud?

15:32:09 5 MR. MORGAN: Form.

15:32:09 6 THE WITNESS: Yes.

15:32:12 7 MR. WHITAKER: Foundation.

15:32:10 8 BY MS. LANG:

15:32:13 9 Q. As the state's chief election official, if there

15:32:16 10 was significant voter fraud taking place in Arizona, would

15:32:21 11 the secretary's office be aware of it?

15:32:24 12 MR. MORGAN: Form, foundation.

15:32:26 13 MR. WHITAKER: Foundation.

15:32:28 14 THE WITNESS: So the Secretary of State's

15:32:29 15 Office is not a policing agency; it's not a law enforcement

15:32:32 16 agency. But in general, the secretary of state should be

15:32:40 17 aware and would be aware of any issue involving elections,

15:32:47 18 just in a broad sense.

15:32:49 19 BY MS. LANG:

15:32:57 20 Q. And to hone in for a second on the issue of

15:32:59 21 noncitizen voting in particular, there was an interrogatory

15:33:03 22 given to your office that asked the secretary to identify

15:33:07 23 any evidence they had of noncitizen voting, and your office

15:33:12 24 didn't identify any incidents; is that correct?

15:33:16 25 MR. LANGHOFER: Form.

15:33:16 1 MR. MORGAN: Foundation. If you need to see
15:33:18 2 the document.

15:33:19 3 MS. LANG: Happy to look at the document.

15:33:22 4 MR. MORGAN: Yeah. Please. Thank you.
15:33:25 5 Feels like a lifetime ago we answered this.

15:33:30 6 MS. LANG: So I think it's not in that
15:33:33 7 subfolder.

15:33:39 8 MR. WHITAKER: Might have been marked as
15:33:40 9 Exhibit 262 already.

15:33:43 10 MS. LANG: Yeah. I believe that's right.

15:33:50 11 MR. MORGAN: Is it-- is it the response to
15:33:52 12 the consolidated plaintiffs' first set of interrogatories?

15:33:52 13 MS. LANG: Yes.

15:33:54 14 MR. MORGAN: I've got a copy. What number?
15:33:57 15 What rog?

15:34:01 16 MS. LANG: Yeah. Let's see.

15:34:10 17 MR. WHITAKER: And it was letter C, I think,
15:34:12 18 in the Dropbox.

15:34:13 19 MR. MORGAN: Yeah, it's Exhibit 263. Nope.
15:34:18 20 262 for today.

15:34:23 21 So I've handed the witness Exhibit 262.

15:34:39 22 MS. LANG: Looking for the -- it's
15:34:39 23 Interrogatory Number 6 on page 10. The response -- the
15:34:49 24 substantive response begins on page 12.

15:34:54 25 MR. MORGAN: I take offense to that. I think

15:34:56 1 it was a wholly substantive response.

15:34:59 2 MS. LANG: The non-objections response begins
15:35:02 3 on page 12.

15:35:07 4 MR. MORGAN: Are you talking about line 15
15:35:09 5 through 23?

15:35:10 6 MS. LANG: Yes.

15:35:13 7 BY MS. LANG:

15:35:14 8 Q. And there's a discussion of the existence of these
15:35:16 9 jury summary reports, but your response did not actually
15:35:19 10 identify any specific evidence of any particular instances
15:35:22 11 of noncitizen voting; is that correct?

15:35:25 12 A. I'm sorry. You're going to have to let me read
15:35:27 13 this first.

15:35:28 14 Q. Yes, of course.

15:35:57 15 A. Okay. What was your question?

15:35:59 16 Q. So my question is whether or not your
15:36:01 17 interrogatory response identified any specific instances of
15:36:09 18 alleged noncitizen voting.

15:36:11 19 A. It did not.

15:36:12 20 Q. Okay. Sitting here today, are you aware of any
15:36:17 21 specific instances of alleged noncitizen voting?

15:36:21 22 A. Not that to my knowledge.

15:36:23 23 MR. WHITAKER: Foundation.

15:36:26 24 BY MS. LANG:

15:36:33 25 Q. Are you aware of the secretary's office ever

15:36:35 1 receiving credible evidence related to noncitizen voting?

15:36:40 2 MR. MORGAN: Form.

15:36:42 3 MR. WHITAKER: And foundation.

15:36:49 4 THE WITNESS: Well, I'll premise that by -- I

15:36:50 5 don't know why the Secretary of State's Office would

15:36:51 6 receive that. I mean, it would -- the administration of

15:36:54 7 elections are done at the county level, so county recorders

15:36:59 8 or county election officials would know. But I'm not aware

15:37:04 9 of any specific case brought to the attention of the

15:37:06 10 secretary of state.

15:37:06 11 BY MS. LANG:

15:37:07 12 Q. That's my only question.

15:37:23 13 In recent years, there has been a great deal

15:37:27 14 of -- I'm trying to think of a good way to phrase this --

15:37:36 15 rhetoric about alleged voter fraud in the State of Arizona;

15:37:41 16 is that correct?

15:37:41 17 A. Yes.

15:37:41 18 MR. MORGAN: Form.

15:37:42 19 I'm sorry. I didn't hear the -- what was the

15:37:44 20 question again.

15:37:44 21 BY MS. LANG:

15:37:45 22 Q. The questions was: In the past -- in recent

15:37:47 23 years, there has been a great deal of public rhetoric about

15:37:52 24 the subject of alleged voter fraud in Arizona?

15:37:55 25 MR. MORGAN: Thank you.

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BY MS. LANG:

Q. And are you aware that in 2020, the Republican presidential candidate claimed that 36,000 noncitizens voted in Arizona?

MR. MORGAN: Form. Hearsay.

MS. PORTER: Scope.

THE WITNESS: I'm not aware of that particular claim.

BY MS. LANG:

Q. Okay. Are you aware of any credible evidence that thousands of noncitizens voted in the 2020 election?

A. No.

Q. Would you agree that in recent years, some -- there has been a -- that in recent years there have been many allegations by public figures about alleged voter fraud in Arizona?

MR. MORGAN: Form. Foundation. Hearsay.

THE WITNESS: You know, I can't say with particularity if that's occurred.

BY MS. LANG:

Q. Okay. What I'm trying to get at, for what it's worth, is kind of the impact on the -- on election officials in the secretary's office of the current political climate around issues related broadly to what people might say is election integrity. So to the extent

15:39:44 1 that's useful to you in kind of framing my questions, I'm
15:39:50 2 only trying to lay foundation for that kind of set of
15:39:54 3 questions about the impact.

15:39:55 4 So would -- would you agree that there has
15:39:59 5 been kind of very heated political rhetoric around how
15:40:02 6 elections are conducted in Arizona?

15:40:05 7 MR. LANGHOFER: Scope.

15:40:07 8 MR. WHITAKER: Form. Outside the scope.

15:40:10 9 MR. MORGAN: Yeah, we've got a scope
15:40:11 10 objection, Josh. Thanks. Sorry.

15:40:14 11 THE WITNESS: I believe there's definitely
15:40:17 12 misinformation out there, and it has led to heated rhetoric
15:40:23 13 as you expressed and false allegations, unfair allegations
15:40:31 14 against election officials.

15:40:32 15 BY MS. LANG:

15:40:33 16 Q. Okay. And in recent years, have election
15:40:37 17 officials in Arizona experienced harassment?

15:40:41 18 MR. MORGAN: Same objection. Particularly as
15:40:44 19 to scope, I feel like I've been as generous as I can on
15:40:50 20 these things. I just -- I'm warning you that if we get too
15:40:53 21 far afield of the scope and you can't point to me where in
15:40:56 22 the topics we are, I might have to shut it down because she
15:41:01 23 really does have other things to do. And talking about
15:41:04 24 this, it doesn't seem appropriate to me. I can't link it
15:41:08 25 to the issues left in the case, but maybe you can.

15:41:12 1 MS. LANG: I can. I -- I would be happy to
15:41:15 2 have that discussion off the record. I don't think it's
15:41:17 3 proper to instruct the witness not to answer questions.
15:41:20 4 We're within our seven hours.

15:41:20 5 MR. MORGAN: I don't care.

15:41:21 6 MS. LANG: If you want to say that it's
15:41:22 7 outside the scope.

15:41:23 8 MR. MORGAN: It is outside the scope. And I
15:41:26 9 stand by what I said. So I'm giving you an opportunity to
15:41:28 10 link it.

15:41:30 11 If we need to get to the Judge and I need to
15:41:32 12 get a protective order this afternoon, I'll try. I
15:41:34 13 represent the Secretary of State's Office. This isn't a
15:41:37 14 small po dunk company that sells widgets. These statements
15:41:40 15 have meaning, and we need to stay within the scope.

15:41:51 16 MS. LANG: Okay.

15:41:51 17 BY MS. LANG:

15:41:53 18 Q. Have election officials experienced harassment --

15:41:57 19 MR. MORGAN: Foundation.

15:41:58 20 BY MS. LANG:

15:41:58 21 Q. -- in recent years --

15:41:59 22 MR. LANGHOFER: Scope.

15:42:00 23 BY MS. LANG:

15:42:01 24 Q. -- in Arizona?

15:42:02 25 A. Yes.

15:42:04 1 Q. Okay. To your knowledge, have some election

15:42:06 2 officials faced death threats?

15:42:08 3 MR. LANGHOFER: Scope.

15:42:09 4 MR. MORGAN: Scope.

15:42:10 5 THE WITNESS: Yes.

15:42:10 6 BY MS. LANG:

15:42:11 7 Q. Have some election officials resigned in light of

15:42:13 8 this present environment?

15:42:16 9 MR. MORGAN: Form scope foundation.

15:42:19 10 THE WITNESS: Yes.

15:42:19 11 BY MS. LANG:

15:42:22 12 Q. Have -- have election offices in Arizona

15:42:26 13 experienced substantial turnover in the past couple of

15:42:29 14 years?

15:42:29 15 MR. MORGAN: Form. Scope.

15:42:32 16 MR. LANGHOFER: Foundation.

15:42:32 17 MR. MORGAN: Foundation.

15:42:33 18 THE WITNESS: Yes.

15:42:34 19 BY MS. LANG:

15:42:55 20 Q. Both HB 2492 and HB 2243 include criminal

15:43:01 21 sanctions against election officials if they fail to follow

15:43:05 22 the provisions in the law; is that correct?

15:43:08 23 MR. MORGAN: Form to the extent it misstates

15:43:12 24 the actual law.

15:43:13 25 MR. LANGHOFER: Legal conclusion.

15:43:18 1 You can answer, if you remember.

15:43:20 2 THE WITNESS: Yes.

15:43:21 3 MR. WHITAKER: Vague as to ambiguous. I'm

15:43:24 4 not sure what parts of the law we're talking about.

15:43:28 5 MS. LANG: Okay. I'm trying to move things

15:43:31 6 along.

15:43:31 7 BY MS. LANG:

15:43:31 8 Q. But let's -- Exhibit 19 -- Petty Exhibit 19.

15:43:46 9 MR. WHITAKER: While the witness is turning,

15:43:48 10 Danielle, I wasn't trying to suggest you're delaying.

15:43:52 11 MS. LANG: I understand.

15:43:54 12 MR. MORGAN: We all get along.

15:44:00 13 THE WITNESS: Petty Exhibit 19?

15:44:02 14 BY MS. LANG:

15:44:02 15 Q. Yes. This is HB 2492.

15:44:24 16 A. There's a reference to criminal penalties on

15:44:29 17 page 5 in reference to a county recorder and efforts made

15:44:37 18 to verify citizenship.

15:44:44 19 Q. Correct.

15:44:50 20 On page 4 as well, Section C and line 32, do

15:44:57 21 you see there's another felony penalty if an election

15:45:03 22 official fails to reject an application for lack of DPOC?

15:45:08 23 A. Yes.

15:45:09 24 Q. Okay. And -- okay.

15:45:32 25 Have election officials expressed any

15:45:34 1 concerns to the Secretary of State's Office about the

15:45:37 2 existence of these criminal sanctions?

15:45:42 3 MR. MORGAN: Hearsay.

15:45:43 4 MR. LANGHOFER: Form.

15:45:43 5 THE WITNESS: Yes.

15:45:44 6 BY MS. LANG:

15:45:45 7 Q. Can you describe to me the nature of those

15:45:49 8 concerns and conversations?

15:45:50 9 MR. MORGAN: Same objections.

15:45:56 10 THE WITNESS: Generally, there's concern

15:46:00 11 among election officials of being charged with a crime for

15:46:10 12 trying to do their job.

15:46:11 13 BY MS. LANG:

15:46:15 14 Q. Particularly in the current climate, would you say

15:46:17 15 that these sanctions add to election officials' fears

15:46:21 16 around doing their job?

15:46:22 17 MR. MORGAN: Form and foundation. Scope.

15:46:25 18 THE WITNESS: Yes.

15:46:25 19 BY MS. LANG:

15:46:26 20 Q. And particularly in the current climate, would you

15:46:29 21 agree that these sanctions add to the difficulty of

15:46:32 22 retaining experienced election officials in Arizona?

15:46:35 23 MR. LANGHOFER: Same objections.

15:46:36 24 THE WITNESS: Yes.

15:46:38 25 MR. WHITAKER: Foundation.

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BY MS. LANG:

Q. A lot of election administration, especially voter registration, relies on providing mail notices to voters when there is an issue with their registration; is that right?

A. Yes.

Q. Okay. And based on the office's experience overseeing administration of elections, is it the case that many voters do not respond to those notices?

MR. MORGAN: Foundation.

THE WITNESS: It's really hard to make that assessment.

MR. LANGHOFER: Form.

BY MS. LANG:

Q. Would you say that a lack of response to a mailer asking for DPOC is evidence that an applicant is, in fact, not a citizen?

MR. LANGHOFER: Form and foundation. Speculation.

THE WITNESS: No.

BY MS. LANG:

Q. And would you say that a lack of response to a mailer asking for DPOR is evidence that the applicant is not, in fact, a resident?

MR. LANGHOFER: Same objection. Plus legal

15:47:52 1 conclusion.

15:47:53 2 THE WITNESS: No.

15:47:57 3 MR. WHITAKER: These questions, I think, are
15:47:59 4 also calling for legal conclusions. I can't hear Kory.

15:48:03 5 MS. LANG: He's got you. Thank you.

15:48:06 6 BY MS. LANG:

15:48:10 7 Q. For voters who use paper forms to register, are
15:48:14 8 you -- do the majority of those voters use the state voter
15:48:18 9 registration form?

15:48:19 10 MR. MORGAN: Foundation, form.

15:48:23 11 THE WITNESS: I'm not aware of that.

15:48:25 12 BY MS. LANG:

15:48:25 13 Q. Okay. Do you know if the federal form is
15:48:30 14 available on county recorder websites?

15:48:34 15 A. I don't know.

15:48:35 16 MR. MORGAN: Foundation.

15:48:36 17 BY MS. LANG:

15:48:36 18 Q. How about the secretary of state's website?

15:48:39 19 A. Yes.

15:48:40 20 Q. The federal form?

15:48:42 21 A. To the best of my knowledge, it is available, yes.

15:48:47 22 Q. I'm not doubting you, to be clear. I just wanted
15:48:50 23 to make sure.

15:48:51 24 You'll be happy to know we're winding down.

15:48:59 25 A. All right. Sounds good.

15:49:00 1 Q. At least for myself.

15:49:03 2 What is your office's role in facilitating

15:49:10 3 voter registration at the NVRA mandated agencies?

15:49:18 4 A. To make sure the public agencies provide an

15:49:25 5 opportunity for individuals seeking services to register to

15:49:29 6 vote.

15:49:30 7 Q. Okay. And who currently is the Arizona secretary

15:49:36 8 of state NVRA coordinator?

15:49:38 9 A. Yolanda Morales.

15:49:40 10 Q. Okay. Is one of the responsibilities of the
15:49:45 11 secretary of state to provide training to county recorders
15:49:48 12 on how to process NVRA agency applications?

15:49:56 13 A. You know, I'm not sure. I think that would be a
15:49:59 14 Yolanda question.

15:50:00 15 Q. If we could -- if we could look back at
15:51:56 16 Exhibit 2 -- back at the draft procedures manual for 2023,
15:52:03 17 2023 Arizona Secretary of State Elections Procedures
15:52:07 18 Manual.

15:52:07 19 A. The one for public comment?

15:52:10 20 Q. Yes.

15:52:11 21 A. Okay.

15:52:21 22 Q. Turn to page 16. There's a section that begins on
15:52:36 23 page 15 about "Designated Voter Registration Assistance
15:52:40 24 Agencies," and it goes onto page 16. So just let me know
15:52:44 25 when you're there.

15:52:51 1 A. Yes, I see that.

15:52:52 2 Q. In the 2019 version of this manual, there was
15:52:55 3 language that said, "The Secretary of State's Office will
15:52:58 4 publish guidance for voter registration assistance agencies
15:53:02 5 on complying with state statutory requirements," and that
15:53:07 6 language was deleted from this manual. Could you explain
15:53:12 7 why?

15:53:13 8 A. Yeah. So -- and this goes back to your question
15:53:16 9 about the NVRA Section 7 training. And that was required
15:53:22 10 under a settlement agreement with the League of Women
15:53:27 11 Voters who challenged the public assistance agencies and
15:53:33 12 the provision of an opportunity to register to vote. And
15:53:38 13 under that agreement, there, in fact, was a training
15:53:40 14 requirement for the secretary of state and the NVRA
15:53:48 15 coordinator. That settlement agreement has since expired.

15:53:55 16 Q. Was there previously published guidance under that
15:54:07 17 language from the 2019 Election Procedures Manual?

15:54:13 18 A. Was there guidance about training?

15:54:17 19 Q. Yes.

15:54:18 20 So the 2019 EPM said, quote, "The Secretary
15:54:22 21 of State's Office will publish guidance for voter
15:54:24 22 registration assistance agencies on complying with federal
15:54:27 23 and state statutory requirements, which will be made
15:54:30 24 available at <https://azsos.gov/elections>."

15:54:38 25 And so I guess my question is whether or not

15:54:38 1 that guidance was ever published.

15:54:42 2 A. Presumably. I have no reason to doubt that it was
15:54:44 3 published.

15:54:45 4 Q. Are you aware of whether or not that guidance
15:54:48 5 still exists on the website?

15:54:52 6 A. I can't say sitting here today if that is
15:54:54 7 available on the website.

15:54:55 8 Q. Are you familiar with that guidance one way or
15:54:59 9 another?

15:54:59 10 A. There are definitely training documents
15:55:02 11 specifically on the Section 7, but I just don't know if
15:55:08 12 it's still published on the website.

15:55:10 13 Q. Okay. Since that settlement has expired, does the
15:55:21 14 secretary plan to continue to provide any training to the
15:55:23 15 NVRA agencies?

15:55:26 16 MR. MORGAN: Form.

15:55:28 17 THE WITNESS: We have not had that
15:55:31 18 discussion. But the training has continued specifically to
15:55:39 19 keep the county recorders apprised of their duties as far
15:55:43 20 as the data entry regarding the source code for voter
15:55:49 21 registration applications.

15:55:49 22 BY MS. LANG:

15:55:49 23 Q. And is it the case that one thing that the
15:55:52 24 secretary of state does is provide to the NVRA agencies
15:55:56 25 specially coded voter registration applications for them to

15:55:59 1 use?

15:56:00 2 A. Yes.

15:56:00 3 Q. Okay. And are those the state voter registration

15:56:04 4 form but with that special code?

15:56:06 5 A. Yes.

15:56:07 6 Q. Okay. Are you currently aware of any substantive

15:56:37 7 disagreements between your office, the county recorders, or

15:56:41 8 the attorney general on how to implement the challenged

15:56:46 9 provisions here?

15:56:47 10 MR. LANGHOFER: Foundation.

15:56:49 11 MR. MORGAN: Form. Asked and answered.

15:56:50 12 MR. LANGHOFER: Speculation.

15:56:52 13 THE WITNESS: No.

15:56:52 14 MS. LANG: Let's go off the record.

15:57:09 15 THE VIDEOGRAPHER: We are off the record.

15:57:12 16 The time on the video monitor is 3:57 p.m.

16:05:07 17 (A recess ensued.)

16:05:07 18 THE VIDEOGRAPHER: We are on the record. The

16:05:54 19 time on the video monitor is 4:05 p.m.

16:05:59 20 MS. LANG: Ms. Connor, I don't have any

16:06:01 21 further questions for you. So I just wanted to say thank

16:06:04 22 you so much for your time.

16:06:04 23 THE WITNESS: Thank you.

16:06:04 24 MS. LANG: We really appreciate it.

16:06:06 25 I'm going to pass it off to my colleague,

16:06:07 1 Ms. Kanter Cohen, who does have a few additional questions
16:06:10 2 for you.

16:06:11 3

16:06:16 4 EXAMINATION

16:06:17 5 MS. KANTER COHEN:

16:06:17 6 Q. Good afternoon. My name is Michelle Kanter Cohen,
16:06:19 7 and I represent the Poder Latinx plaintiffs.

16:06:23 8 A. Nice to meet you.

16:06:23 9 Q. Nice to meet you. Thank you.

16:06:25 10 I'll return to the EPM. Can legally binding
16:06:31 11 interpretation or guidance be conveyed by the Secretary of
16:06:35 12 State's Office to county recorders by any means other than
16:06:38 13 the EPM?

16:06:39 14 MR. LANGHOFER: Legal conclusion.

16:06:41 15 MR. WHITAKER: Calls for a legal conclusion.

16:06:44 16 THE WITNESS: Not that I'm aware of.

16:06:45 17 BY MS. KANTER COHEN:

16:06:47 18 Q. Have any Arizona legislators informed your office
16:06:51 19 they believe that the voter registration chapter should be
16:06:53 20 removed?

16:06:55 21 MR. MORGAN: Hearsay.

16:06:56 22 THE WITNESS: I know we've received a lot of
16:07:00 23 comments from legislators. As far as moving the voter --
16:07:05 24 removing the voter registration chapter entirely, I do
16:07:09 25 believe it was the senate president who suggested that, but

16:07:16 1 I could be mistaken. It could be another legislator, but I

16:07:19 2 know that suggestion has been made.

16:07:19 3 BY MS. KANTER COHEN:

16:07:21 4 Q. And that was in the written comments?

16:07:25 5 MR. MORGAN: Form.

16:07:26 6 THE WITNESS: Yes. I think there was also a

16:07:28 7 press release or a tweet or something.

16:07:31 8 BY MS. KANTER COHEN:

16:07:41 9 Q. I wanted to turn to back to some of the provisions

16:07:44 10 in HB 2492 and 2243.

16:07:49 11 What is the secretary of state's position --

16:07:52 12 the office's position on what are valid sources of

16:07:55 13 information that someone is not a U.S. citizen?

16:07:59 14 MR. LANGHOFER: Legal conclusion.

16:08:02 15 MR. MORGAN: Form.

16:08:06 16 Just so we're clear, are you asking her to

16:08:08 17 provide examples of valid -- I may have misunderstood the

16:08:12 18 question.

16:08:12 19 BY MS. KANTER COHEN:

16:08:13 20 Q. What is that -- what does that phrase mean? What

16:08:16 21 are valid sources of, quote, "information"?

16:08:17 22 MR. MORGAN: Form.

16:08:19 23 THE WITNESS: That prove that someone is not

16:08:22 24 a citizen.

16:08:22 25 BY MS. KANTER COHEN:

16:08:23 1 Q. That someone is not a U.S. citizen, as the wording
16:08:28 2 is used in HB 2492 --

16:08:31 3 A. So --

16:08:34 4 Q. -- 2243?

16:08:34 5 MR. WHITAKER: Calls for legal conclusion.

16:08:37 6 THE WITNESS: -- the only information that
16:08:40 7 I'm aware of to -- to prove a negative like that would be
16:08:45 8 the authorized presence codes used by the Motor Vehicle
16:08:53 9 Department.

16:08:54 10 BY MS. KANTER COHEN:

16:08:55 11 Q. So if a person has an ADOT record but no
16:08:58 12 confirmation of citizenship the way the other, would that
16:09:01 13 be information they're not a citizen?

16:09:04 14 MR. MORGAN: Form.

16:09:04 15 MR. LANGHOFER: Legal conclusion.

16:09:07 16 MR. WHITAKER: And I think calls for a legal
16:09:10 17 conclusion.

16:09:11 18 THE WITNESS: Yeah, that would be a question
16:09:12 19 I would seek legal advice about.

16:09:14 20 BY MS. KANTER COHEN:

16:09:16 21 Q. How about for a person with a SAVE record but no
16:09:19 22 confirmed response from the SAVE system as to either
16:09:23 23 citizenship or noncitizenship?

16:09:25 24 MR. LANGHOFER: Legal conclusion.

16:09:26 25 MR. MORGAN: Yeah, form.

16:09:28 1 THE WITNESS: Yeah, I'm not familiar with how
16:09:30 2 the SAVE system even works. I know Yolanda Morales is more
16:09:36 3 familiar with it, but as far as operating it and getting
16:09:40 4 information, my understanding is that the county recorders
16:09:46 5 receive those -- that type -- they receive that type of
16:09:48 6 information. I'm not aware of the secretary of state
16:09:51 7 receiving it.

16:09:51 8 BY MS. KANTER COHEN:

16:09:55 9 Q. Does the secretary of state have a position on
16:09:55 10 what a -- what a person with a SAVE record but no confirmed
16:10:01 11 response in the system would mean as to whether they had,
16:10:04 12 you know, citizenship or noncitizenship confirmed?

16:10:08 13 MR. LANGHOFER: Legal conclusion.

16:10:09 14 MR. MORGAN: Form.

16:10:10 15 THE WITNESS: I'm not aware of any.

16:10:12 16 BY MS. KANTER COHEN:

16:10:22 17 Q. How should county recorders interpret an absence
16:10:26 18 of citizenship information in a database one way or the
16:10:29 19 other under 16-165?

16:10:30 20 MR. MORGAN: Form and foundation. Calls for
16:10:32 21 a legal conclusion.

16:10:34 22 THE WITNESS: An absence of any information
16:10:37 23 regarding citizenship?

16:10:39 24 BY MS. KANTER COHEN:

16:10:39 25 Q. Right.

16:10:40 1 A. I don't think there can be a conclusion if there's
16:10:45 2 no information.

16:10:49 3 Q. Under 16-165, in the view of the Secretary of
16:11:05 4 State's Office, what would give a county recorder a reason
16:11:09 5 to believe a registered voter is not a U.S. citizen?

16:11:12 6 MR. LANGHOFER: Same objections.

16:11:17 7 MR. MORGAN: And speculation.

16:11:18 8 THE WITNESS: So that would be a decision for
16:11:21 9 the county recorders to make.

16:11:22 10 BY MS. KANTER COHEN:

16:11:33 11 Q. Can you recall any conversations regarding the
16:11:37 12 meeting -- sorry.

16:11:39 13 Can you recall any conversations specific to
16:11:41 14 the EPM as to what would give a county recorder a reason to
16:11:48 15 believe a registered voter is not a U.S. citizen or what
16:11:50 16 should go in the EPM with respect to that provision?

16:11:53 17 MR. MORGAN: Form. Hearsay.

16:11:56 18 MR. LANGHOFER: Compound.

16:11:59 19 THE WITNESS: I can't recall any discussions
16:12:03 20 about that.

16:12:04 21 BY MS. KANTER COHEN:

16:12:08 22 Q. Would an anonymous tip be something that could
16:12:16 23 give a county recorder a reason to believe a registered
16:12:18 24 voter is not a citizen?

16:12:20 25 MR. MORGAN: Form. Foundation. Speculation.

16:12:24 1 Calls for legal conclusion.

16:12:24 2 MR. LANGHOFER: Can we stipulate to --

16:12:25 3 MR. MORGAN: Yeah. If you're going to go
16:12:27 4 down that line of questioning, we can just stipulate the
16:12:28 5 objection and stop interrupting you. Is that cool?

16:12:30 6 MS. KANTER COHEN: That's fine.

16:12:31 7 MR. MORGAN: All right. You'll let us know
16:12:33 8 when you're done with that line of questioning and you want
16:12:33 9 us to withdraw the objection?

16:12:33 10 MS. KANTER COHEN: Sure.

16:12:35 11 MR. MORGAN: All right. Cool. Thanks.

16:12:37 12 THE WITNESS: Could you repeat the question,
16:12:38 13 please?

16:12:39 14 BY MS. KANTER COHEN:

16:12:40 15 Q. Sure.

16:12:40 16 Would an anonymous tip provide a county
16:12:45 17 recorder with a reason to believe a registered voter is not
16:12:47 18 a U.S. citizen?

16:12:51 19 A. That would be up to the county recorder.

16:12:55 20 Q. How about a letter from a neighbor? Same
16:12:58 21 question. Would it give the county -- could it give a
16:13:00 22 county recorder a reason to believe the registered voter is
16:13:02 23 not a U.S. citizen?

16:13:03 24 A. That would be up to the county recorder.

16:13:10 25 MR. MORGAN: I close my eyes, I see

16:13:17 1 Beauregard.

16:13:17 2 BY MS. KANTER COHEN:

16:13:17 3 Q. What about lists provided by third-party

16:13:22 4 organizations to the county recorder?

16:13:24 5 A. That would be a decision of the county recorder.

16:13:30 6 Q. How about if a person had an ADOT record but no

16:13:34 7 confirmation of citizenship?

16:13:37 8 A. Would that be reason to believe?

16:13:40 9 Q. Yes.

16:13:41 10 A. That would be a decision for the county recorder.

16:13:44 11 Q. Do you recall any conversations about whether you

16:13:59 12 would include specific gap filling, as we discussed

16:14:03 13 before -- or as Ms. Lang discussed before, gap-filling

16:14:08 14 interpretations outside statutory language in the EPM?

16:14:16 15 MS. KANTER COHEN: Oh, I'm sorry. I'm moving

16:14:16 16 on to a different line of --

16:14:18 17 MR. MORGAN: So the objections, you want us

16:14:20 18 to make them now?

16:14:21 19 MS. KANTER COHEN: Go for it.

16:14:21 20 MR. MORGAN: You want to ask it again because

16:14:22 21 I don't remember the question. I get to zone out when my

16:14:25 22 objections are made.

16:14:26 23 BY MS. KANTER COHEN:

16:14:27 24 Q. Do you recall any conversations about whether you

16:14:30 25 would include specific gap-filling interpretations of the

16:14:35 1 challenged laws outside the statutory language in the EPM?

16:14:38 2 MR. MORGAN: Form. Hearsay. Calls for a
16:14:42 3 legal conclusion.

16:14:42 4 MR. LANGHOFER: Yep.

16:14:44 5 THE WITNESS: I can't specifically recall

16:14:50 6 conversations to that effect.

16:14:51 7 BY MS. KANTER COHEN:

16:14:53 8 Q. Do you generally --

16:14:54 9 MR. MORGAN: You're doing great, by the way.
16:14:56 10 You're killing it.

16:14:58 11 BY MS. KANTER COHEN:

16:14:58 12 Q. Can you generally recall any conversations to that
16:15:00 13 effect?

16:15:01 14 A. So the EPM --

16:15:02 15 MR. MORGAN: Same objections.

16:15:03 16 THE WITNESS: -- is a massive document. I
16:15:08 17 mean, it covers so many topics. I -- I do get lots of
16:15:16 18 recommendations about it. But specifically about this
16:15:23 19 litigation or these laws, I simply can't recall if that
16:15:29 20 request was made.

16:15:30 21 BY MS. KANTER COHEN:

16:15:33 22 Q. Can you recall any specific conversations or
16:15:38 23 discussions to leave out that kind of gap-filling
16:15:45 24 interpretive explanation?

16:15:47 25 MR. MORGAN: Same objections.

16:15:49 1 THE WITNESS: I -- I don't recall
16:15:53 2 conversations or any comment prior to the July 31st draft,
16:16:02 3 but of course, as we've discussed, there have been comments
16:16:08 4 across the board as far as what -- what should be or should
16:16:12 5 not be in the EPM.

16:16:14 6 BY MS. KANTER COHEN:

16:16:15 7 Q. Did any of the -- those comments or conversations
16:16:20 8 since July 31st include county recorders seeking guidance
16:16:26 9 from your office on how to interpret gaps in the challenged
16:16:30 10 laws?

16:16:30 11 MR. MORGAN: Form

16:16:33 12 THE WITNESS: I don't -- I don't think a
16:16:38 13 county recorder has submitted comments, you know, via the
16:16:43 14 portal on the EPM.

16:16:47 15 BY MS. KANTER COHEN:

16:16:49 16 Q. And have you received any questions like that in
16:16:53 17 any other means -- email, phone, et cetera -- other than
16:16:57 18 through the public comments?

16:16:59 19 A. There have been discussions about guidance, and
16:17:04 20 that's the broader issue about the role of the VRAC
16:17:11 21 committee, more specifically the role of the Secretary of
16:17:17 22 State's Office in being the one to generate that guidance.
16:17:21 23 Since it's the county recorders who are the custodians of
16:17:25 24 the voter registration databases or their own records, and
16:17:28 25 they are the first-line users of the AVID database, it has

16:17:34 1 generally been discussed that those ideas or suggestions be
16:17:39 2 generated more from the county recorders. It's odd for the
16:17:47 3 secretary of state, the non-primary users, to dictate what
16:17:52 4 the county recorders should or should not be doing
16:17:55 5 specifically.

16:17:56 6 Q. So outside the role, though, you don't recall any
16:17:58 7 conversations about the substance?

16:18:00 8 MR. MORGAN: Form. Hearsay.

16:18:02 9 THE WITNESS: I'm sorry. About guidance
16:18:05 10 about -- you know, I have to say the word "guidance" is
16:18:09 11 thrown around a lot. And we have many meetings -- many,
16:18:13 12 many, many meetings every week with different election
16:18:18 13 officials. Perhaps there were comments made during one of
16:18:24 14 those meetings, but sitting here today, I do not recall
16:18:28 15 anything.

16:18:29 16 BY MS. KANTER COHEN:

16:18:31 17 Q. All right. I'll move on.

16:18:34 18 A number of provisions in both laws only
16:18:36 19 obligate county recorders to take action with particular
16:18:38 20 information or databases to the extent they're practicable.
16:18:43 21 Who makes that call as to what is practicable?

16:18:45 22 MR. MORGAN: Form and foundation.

16:18:46 23 MR. LANGHOFER: Legal conclusion.

16:18:48 24 MR. MORGAN: Speculation.

16:18:48 25 THE WITNESS: Okay. So --

16:18:50 1 MR. WHITAKER: I think legal conclusion.

16:18:58 2 THE WITNESS: Yeah, so it's -- the duty is on
16:19:01 3 the county recorder to check the database; is that correct?

16:19:04 4 BY MS. KANTER COHEN:

16:19:05 5 Q. Well, so I'm asking specifically about the term
16:19:06 6 "practicable." Do you understand what practicable means in
16:19:12 7 these laws?

16:19:12 8 A. Yeah.

16:19:13 9 MR. MORGAN: Form.

16:19:14 10 BY MS. KANTER COHEN:

16:19:14 11 Q. What do you believe that practical means?

16:19:17 12 MR. LANGHOFER: Legal conclusion.

16:19:18 13 MR. MORGAN: You mean "practicable"?

16:19:20 14 MS. KANTER COHEN: Practicable.

16:19:21 15 THE WITNESS: I think it means if it's
16:19:23 16 feasible.

16:19:24 17 BY MS. KANTER COHEN:

16:19:27 18 Q. Would you expect all county recorders would find
16:19:30 19 the same databases equally practicable?

16:19:30 20 THE COURT REPORTER: I'm sorry. Say that
16:19:30 21 again.

16:19:30 22 BY MS. KANTER COHEN:

16:19:32 23 Q. Would you expect that all county recorders across
16:19:37 24 the 15 counties would find the same databases equally
16:19:41 25 practicable to use?

16:19:43 1 A. Well --

16:19:44 2 MR. MORGAN: I'm sorry.

16:19:45 3 Form. Foundation. Calls for speculation.

16:19:49 4 THE WITNESS: As we've discussed earlier, the

16:19:51 5 SAVE database, the USCIS has restricted how the counties

16:20:03 6 can use it for a check of original voter registration

16:20:12 7 applications. It does not permit the monthly running of

16:20:20 8 names through. So to that extent, it would not be

16:20:24 9 practicable because it would violate the terms of the

16:20:27 10 agreement.

16:20:29 11 BY MS. KANTER COHEN:

16:20:30 12 Q. Anything else?

16:20:31 13 A. I -- I think the Social Security Administration

16:20:35 14 database too is -- that's to prove someone's identity, that

16:20:42 15 they're a person. I don't know if that would be feasible

16:20:48 16 either because it -- that it would elicit the information

16:20:52 17 that is being sought.

16:20:55 18 But yeah, that -- that would be up to the

16:21:01 19 county recorders, ultimately, on how they handle that.

16:21:04 20 Q. What else besides AVID can -- AVID -- sorry --

16:21:08 21 A. That's okay.

16:21:08 22 Q. -- can constitute a database relating to voter

16:21:12 23 registration?

16:21:12 24 MR. MORGAN: Form.

16:21:13 25 MR. LANGHOFER: Legal conclusion.

16:21:14 1 THE WITNESS: Well, Maricopa County has their
16:21:18 2 database. It's VRAZ, V-R-A-Z. And then Pima County has
16:21:24 3 its database. I don't know if Pima County has a name for
16:21:27 4 it, though.

16:21:28 5 BY MS. KANTER COHEN:

16:21:29 6 Q. Are you familiar with ERIC, the Electronic
16:21:32 7 Registration Information Center?

16:21:32 8 A. Yes.

16:21:34 9 Q. You're a board member of ERIC in your capacity as
16:21:36 10 a state elections director. Do I have that right?

16:21:38 11 A. Yes.

16:21:38 12 Q. And ERIC is referenced in the revised 16-121.01.

16:21:44 13 A. That's correct.

16:21:45 14 Q. Does ERIC provide citizenship information in
16:21:48 15 Arizona?

16:21:48 16 A. No.

16:21:50 17 Q. You talked a little bit before about, beyond the
16:22:20 18 legal issues, what are the practical impacts, concerns with
16:22:24 19 implementation of these laws. And I believe you had a
16:22:28 20 discussion with Ms. Lang about the documentary proof of
16:22:28 21 residence.

16:22:30 22 So I wanted to ask you: With respect to the
16:22:33 23 citizenship investigations, beyond the -- same question.
16:22:36 24 Beyond the legal issues, what are the practical impact or
16:22:39 25 concerns with implementation?

16:22:43 1 MR. LANGHOFER: Asked and answered.

16:22:44 2 MR. MORGAN: Yeah. Asked and answered.

16:22:52 3 THE WITNESS: I don't know. I just don't.

16:22:57 4 BY MS. KANTER COHEN:

16:23:05 5 Q. Have you discussed contingency planning for
16:23:08 6 implementation in the event courts did not rule for
16:23:11 7 plaintiffs on the challenged laws?

16:23:14 8 MR. MORGAN: Form.

16:23:16 9 THE WITNESS: So -- so given the fact that we
16:23:21 10 only recently received funding and that we got the green
16:23:25 11 light from the Arizona Department of Administration to
16:23:28 12 start planning the implementation, we have not -- or I
16:23:36 13 guess I should say execution of the statutes, we have not
16:23:41 14 discussed contingencies.

16:23:48 15 BY MS. KANTER COHEN:

16:23:51 16 Q. Are you familiar generally with extracts
16:23:54 17 created -- different topic.

16:23:55 18 Are you familiar generally with extracts
16:23:57 19 created by ADOT in relation to HB 2243?

16:24:04 20 MR. MORGAN: Form. Did you say "extracts"?

16:24:07 21 MS. KANTER COHEN: Extracts.

16:24:08 22 MR. MORGAN: Yeah, form.

16:24:09 23 THE WITNESS: I'm not familiar with what an
16:24:11 24 extract is.

16:24:11 25 BY MS. KANTER COHEN:

16:24:12 1 Q. Okay. Do you recall any conversations about
16:24:21 2 planning to use ADOT data or customer database information
16:24:27 3 to implement the challenged laws?

16:24:29 4 MR. MORGAN: Form. Hearsay.

16:24:32 5 THE WITNESS: I'm sorry. To implement what
16:24:34 6 clause?

16:24:34 7 MR. MORGAN: The challenged laws.

16:24:35 8 THE WITNESS: Oh.

16:24:35 9 BY MS. KANTER COHEN:

16:24:42 10 Q. And these --

16:24:42 11 A. Yeah, I've only been a part of one conversation
16:24:46 12 with ADOT, but there might have been conversations with
16:24:52 13 other members of my -- the current administration's office.
16:24:57 14 And if that occurred, perhaps Ms. Morales would know.

16:25:01 15 Q. So the conversation that you were a part of, what
16:25:03 16 was the nature of that?

16:25:06 17 A. It was more or less a meet and greet,
16:25:10 18 introductions, just a general discussion. I don't recall
16:25:15 19 any specific issue.

16:25:17 20 Q. If a registered voter is removed from the rolls
16:25:26 21 under HB 2243 based on erroneous determination that
16:25:31 22 they're -- that they're not a citizen, has your office
16:25:34 23 provided any interpretation as to whether that person has
16:25:38 24 to be added back to the rolls if the deadline to register
16:25:43 25 has already passed?

16:25:49 1 MR. WHITAKER: Form.

16:25:54 2 THE WITNESS: Well, the county recorders are
16:25:56 3 the only officials that can remove someone. So it wouldn't
16:26:01 4 be the secretary of state that removes anyone from the
16:26:04 5 voter registration database.

16:26:06 6 But with that said, every precaution would be
16:26:09 7 taken before someone's registration is canceled. So I'm
16:26:16 8 not aware of any discussions that go beyond that as far as
16:26:19 9 if this was an error and whether someone would be eligible
16:26:21 10 to vote in an election. Or added back in to that extent.

16:26:42 11 MR. MORGAN: Is ADOT a party to this case?

16:26:46 12 MS. KANTER COHEN: Yes.

16:26:47 13 MR. MORGAN: Okay. Thought so. That's why I
16:26:50 14 didn't object to hearsay. Just making sure.

16:26:52 15 MR. WHITAKER: Nominal party.

16:26:56 16 MR. MORGAN: Nominal party. Okay. Thanks.

16:26:56 17 MS. KANTER COHEN:

16:27:07 18 Q. Double-checking. I think I'm probably done.

16:27:12 19 I'm sorry. I have probably two more
16:27:13 20 questions.

16:27:15 21 In your view, is there a difference between

16:27:17 22 a, quote, "reason to believe," which is the language in HB

16:27:21 23 2243, that a person is not a citizen and a reasonable

16:27:25 24 belief they are not a citizen?

16:27:27 25 MR. LANGHOFER: Legal conclusion.

16:27:36 1 THE WITNESS: I don't know. I would have to

16:27:37 2 seek legal advice on that.

16:27:39 3 MS. KANTER COHEN: All right. That's all I
16:27:44 4 have. Thank you very much.

16:27:46 5 THE WITNESS: Thank you.

16:28:02 6 (An off-the-record discussion ensued.)

16:28:02 7 MS. KANTER COHEN: I have one more thing. I
16:28:03 8 know this is going to get a vociferous objection, but we're
16:28:06 9 going to reserve the right on the record to hold the
16:28:09 10 deposition open pending the EPM, specifically given the
16:28:12 11 October 1st deadline.

16:28:14 12 MR. MORGAN: I don't understand, but you've
16:28:15 13 made your record. I disagree with keeping anything open at
16:28:19 14 all.

16:28:19 15 MS. KANTER COHEN: Okay. Yeah. We can talk
16:28:20 16 about it at some other time. I totally understand.

16:28:21 17 MR. MORGAN: So I've made my record. I
16:28:24 18 disagree.

16:28:26 19 THE WITNESS: Yeah, I'm ready to go.

16:28:31 20 MR. MORGAN: Where are we on the record right
16:28:32 21 now timewise?

16:28:34 22 THE VIDEOGRAPHER: 6 hours and 11 minutes.

16:28:34 23 MR. MORGAN: All right.

16:28:38 24 MS. KANTER COHEN: Can we just put on the
16:28:39 25 record the same stipulation for plaintiffs that an

16:28:40 1 objection from --

16:28:42 2 MR. MORGAN: Yes.

16:28:42 3 Are we still on the record?

16:28:44 4 MS. STUART: Just so we know, Josh, do you
16:28:49 5 plan on asking any questions?

16:28:51 6 MR. WHITAKER: I do. But I assume Kory will
16:28:57 7 too. And I'm happy to let him do that first. He's in the
16:29:00 8 room.

16:29:01 9 MR. MORGAN: Yeah, Kory -- that's fine.

16:29:02 10 And I don't know if you heard, Josh, but I'll
16:29:06 11 just remind you and remind Kory. You know, we're at
16:29:07 12 6 hours, 11 minutes on the record. Colleen's day and this
16:29:13 13 deposition ends at the earlier of seven hours, or 6:00 p.m.
16:29:17 14 So luckily, we won't get to the 6:00 p.m. part, I think.
16:29:20 15 So I'm just letting everyone know that.

16:29:39 16 (An off-the-record discussion ensued.)

16:29:39 17

16:29:39 18 EXAMINATION

16:29:54 19 BY MR. LANGHOFER:

16:30:03 20 Q. All right. Ms. Connor, thanks so much for your
16:30:09 21 professionalism and putting up with all these questions and
16:30:12 22 giving us your time. Not just in this, the professional --
16:30:15 23 I mean just generally. Thanks for that.

16:30:17 24 All right. I've got some questions for you.

16:30:19 25 Some of this is in the -- most of it's in the nature of

16:30:23 1 clarification.

16:30:24 2 You've testified a little bit about how some

16:30:27 3 of the EPM comments were that -- comments on the draft EPM

16:30:31 4 were that the secretary of state is not authorized to

16:30:35 5 regulate voter registration. And are you -- do you recall

16:30:43 6 Section 452, the statute that authorizes publication of the

16:30:46 7 EPM?

16:30:47 8 A. I do.

16:30:47 9 Q. And do you recall that it authorizes the EPM to

16:30:53 10 provide uniform procedures for early voting and voting?

16:30:58 11 A. Yes.

16:30:58 12 Q. Do you know of any language in that statute that

16:31:03 13 authorized EPM to regulate voter registration?

16:31:08 14 MS. LANG: Objection. Calls for a legal

16:31:09 15 conclusion.

16:31:09 16 MS. BRAILEY: Kory, I'm sorry. Can you speak

16:31:09 17 up?

16:31:15 18 MR. LANGHOFER: Yeah, I'll do my best.

16:31:15 19 THE WITNESS: Well, there's authorization

16:31:19 20 to -- or a directive to provide rules on UOCAVA,

16:31:25 21 U-O-C-A-V-A. Also, voter registration is the foundation of

16:31:32 22 an election. So therefore, voter registration implicitly

16:31:41 23 should be included in the EPM.

16:31:44 24 BY MR. LANGHOFER:

16:31:44 25 Q. Okay. So I want to make sure I've got this.

16:31:46 1 So the -- I think the theory, if I'm
16:31:48 2 understanding correctly, is that by authorizing regulation
16:31:51 3 of voting, it implicitly authorizes things that are
16:31:54 4 upstream of that. Is that the argument?

16:31:56 5 MS. LANG: Objection. Calls for a legal
16:31:58 6 conclusion.

16:31:58 7 THE WITNESS: I don't know -- I don't know if
16:31:59 8 I would say "upstream." I think to have an election, you
16:32:05 9 need a system of establishing who is qualified to vote in
16:32:09 10 that election. And certainly, the EPM authorizes rules on
16:32:14 11 early voting and voting, as you said. And therefore, it
16:32:18 12 would be necessary to understand who was eligible to vote
16:32:23 13 via a voter registration chapter.

16:32:25 14 BY MR. LANGHOFER:

16:32:25 15 Q. Got it.

16:32:27 16 You talked a little bit on direct about the
16:32:31 17 prohibitions on outside funding -- or on funding outside
16:32:35 18 counsel for your office.

16:32:37 19 A. Yes.

16:32:37 20 Q. While those restrictions were in place, where was
16:32:40 21 your office getting funding for outside counsel?

16:32:43 22 MR. MORGAN: Scope.

16:32:47 23 MS. BRAILEY: Objection; form.

16:32:48 24 THE WITNESS: The Attorney General's Office
16:32:50 25 appointed outside counsel. And my understanding is that

16:32:54 1 the Attorney General's Office has a fund, essentially, to
16:32:56 2 pay for outside counsel in those situations.

16:33:01 3 BY MR. LANGHOFER:

16:33:02 4 Q. I see. Okay.

16:33:03 5 You were asked on direct whether the
16:33:07 6 birthplace information on the voter registration form would
16:33:09 7 add any value to the job that the counties are doing in the
16:33:15 8 voter registration. I'm paraphrasing somewhat. And I
16:33:17 9 think that your answer was, not as far as you could tell.

16:33:21 10 Do you still have the EPM in front of you,
16:33:26 11 either the 2019 or the draft version?

16:33:28 12 A. I could pull it up.

16:33:29 13 Q. Yeah, let's do that. I guess I'm indifferent as
16:33:34 14 to which one you pull up because the portions I --

16:33:37 15 MR. MORGAN: Take this.

16:33:38 16 Do you mind if she uses the 2019 EPM
16:33:40 17 annotated?

16:33:42 18 MR. LANGHOFER: Actually, I'm not sure that
16:33:44 19 would work because I think the pagination gets messed up.

16:33:46 20 MR. MORGAN: Fair enough.

16:33:50 21 BY MR. LANGHOFER:

16:33:50 22 Q. Why don't we go with -- well, whichever one is
16:33:53 23 easier for you to pull up we'll work with.

16:33:55 24 A. All right. I'll pull up the 2023 --

16:34:03 25 Q. Draft?

16:34:03 1 A. -- draft, yeah.

16:34:04 2 Q. Great. Let's start on page 5 of that. And -- all

16:34:27 3 right. So I think that's PDF page 14 but marked page 5.

16:34:30 4 A. Okay.

16:34:31 5 Q. And for the -- actually, I'm sorry. It starts on

16:34:42 6 marked page 4 and goes onto page 5.

16:34:45 7 A. Okay.

16:34:46 8 Q. At the top of page 5, you see those five bullet

16:34:55 9 points?

16:34:55 10 A. I do, yes.

16:34:56 11 Q. Okay. The middle one says, "Place of birth." Why

16:34:59 12 don't you take a moment, read this section, and familiarize

16:35:02 13 yourself with that.

16:35:07 14 A. Yes, I see it.

16:35:17 15 Q. Okay. Would you agree this is one way that the

16:35:19 16 county recorders could use birthplace information?

16:35:23 17 MS. LANG: Objection; form.

16:35:24 18 THE WITNESS: Yes. Yes.

16:35:26 19 BY MR. LANGHOFER:

16:35:26 20 Q. Let's look in the next section, the "U.S.

16:35:28 21 Passport" section. And the middle paragraph there also

16:35:32 22 says, "place of birth." Why don't you take a moment and

16:35:37 23 read that paragraph.

16:35:37 24 A. What page is that?

16:35:38 25 Q. Same page actually, page -- marked page 5.

16:35:41 1 A. Okay. Yes, I see it.

16:35:53 2 Q. Would you agree this is another way that the
16:35:56 3 county could use birthplace information?

16:35:59 4 MS. LANG: Objection; form.

16:36:00 5 THE WITNESS: Yes.

16:36:01 6 BY MR. LANGHOFER:

16:36:01 7 Q. All right. Let's look at marked page 35. I'll
16:36:04 8 just note that the -- in the current version of the EPM,
16:36:11 9 this is marked page 34, but there's no need for us to
16:36:15 10 overcomplicate this by looking at two exhibits.

16:36:17 11 A. Okay.

16:36:18 12 Q. I think it's PDF page 44.

16:36:28 13 A. Okay. I'm there.

16:36:29 14 Q. All right. So the middle section, letter C,
16:36:32 15 "Other Sources of Information on Deceased Registrants."
16:36:35 16 The fourth line down, it says, "place of birth." That's
16:36:39 17 what I'm getting at ultimately. But take a moment and just
16:36:40 18 read the whole section before I ask you about it, please.

16:36:49 19 A. Okay.

16:36:59 20 Q. Would you agree this is another way that the
16:37:01 21 county recorders could use birthplace information?

16:37:05 22 MS. LANG: Objection; form.

16:37:05 23 THE WITNESS: Yes.

16:37:06 24 BY MR. LANGHOFER:

16:37:07 25 Q. Okay. Let's look next at marked page 48. I think

16:37:11 1 it's PDF page 57, if my math doesn't fail me.

16:37:18 2 A. Okay. PDF page 57 or page 57?

16:37:33 3 Q. PDF page 57. It's -- the page number is 48.

16:37:36 4 A. Okay. Yeah, I'm there.

16:37:37 5 Q. Okay. So part 6(3)(e) also mentions "state or

16:37:46 6 county of birth," but take a moment and familiarize

16:37:49 7 yourself with that language, please.

16:37:58 8 A. Yes, I see it.

16:37:59 9 Q. So same question. Is this another way in which

16:38:01 10 the county recorders could use birthplace information?

16:38:04 11 A. Yes.

16:38:05 12 Q. Okay. Finally, let's look at page -- marked

16:38:09 13 page 206, but it should be PDF page 215. Let me know when

16:38:30 14 you're there.

16:38:37 15 A. Okay.

16:38:38 16 Q. All right. So right before -- near the end of the

16:38:41 17 page, right before -- the paragraph before Subsection (e),

16:38:45 18 in the third line, it says "state or country of birth," but

16:38:48 19 take a moment to read the paragraph or the whole section,

16:38:51 20 whatever you think you need to read.

16:38:57 21 A. Okay. Yes.

16:38:59 22 Q. Would you agree this is another way that the

16:39:01 23 county recorders could use birthplace?

16:39:03 24 A. Yes.

16:39:04 25 Q. Okay. What about when -- let's say during the

16:39:17 1 cure period for early ballot signature matching, if your --
16:39:27 2 if the county recorder concludes that the signature in the
16:39:31 3 voter record and the signature on the early ballot envelope
16:39:35 4 don't apparently match and they try to contact the voter to
16:39:41 5 say, "Did you really sign this?" could the county
16:39:47 6 recorder's office use the voter's birthplace in order to
16:39:51 7 confirm that they're talking to the correct person over the
16:39:54 8 phone?

16:39:55 9 MS. LANG: Objection. Speculation. Form.
16:40:00 10 Foundation.

16:40:00 11 THE WITNESS: The county recorders during the
16:40:03 12 cure period do question the voter about certain personal
16:40:09 13 information to verify the voter did, in fact, sign an early
16:40:16 14 ballot. And yes, that would include birthplace.

16:40:19 15 BY MR. LANGHOFER:

16:40:19 16 Q. Okay. I want to talk about the checkbox for a
16:40:23 17 minute and perhaps in less length than we've talked
16:40:26 18 birthplace.

16:40:27 19 And I want to start by thinking about what
16:40:33 20 problems there might be if the county recorders relied
16:40:38 21 exclusively on the current version of the state form that
16:40:41 22 has, you know, the signature at the bottom saying "I meet
16:40:44 23 all the requirements and" -- but there's no checkbox, of
16:40:47 24 course. And then you do the MVD checks to look for prior
16:40:51 25 evidence of DPOC. So what -- I'm just -- kind of want to

16:40:54 1 think through together the flaws in that system.

16:40:57 2 MS. LANG: Objection. Kory, can you clarify,
16:40:59 3 are you saying that the state form doesn't currently have a
16:41:01 4 checkbox?

16:41:02 5 MR. LANGHOFER: It's not mandatory, I should
16:41:03 6 say.

16:41:04 7 MS. LANG: Okay. Yeah.

16:41:06 8 MR. LANGHOFER: Yeah.

16:41:06 9 BY MR. LANGHOFER:

16:41:08 10 Q. So -- but the -- I haven't asked the question yet.

16:41:15 11 MS. LANG: I understand. I just --

16:41:16 12 BY MR. LANGHOFER:

16:41:18 13 Q. So the MVD database is imperfect because all the
16:41:24 14 databases are imperfect; is that fair?

16:41:26 15 A. That's fair.

16:41:28 16 Q. And do you have any reason to believe that the
16:41:32 17 errors in the MVD database would all be what I would call
16:41:39 18 false negative, where it incorrectly says that someone is
16:41:41 19 not a citizen or indicates no one's yet proven their DPOC,
16:41:49 20 as opposed to an error that would give a false positive
16:41:52 21 incorrectly indicates that someone has already established
16:41:57 22 their citizenship by providing DPOC?

16:41:59 23 MS. LANG: Objection; form. Speculation.

16:42:00 24 MR. MORGAN: Form.

16:42:02 25 MS. LANG: Foundation.

16:42:05 1 MR. MORGAN: Form.

16:42:05 2 BY MR. LANGHOFER:

16:42:05 3 Q. I can ask it in a different way, because I do
16:42:05 4 think that was a long and complicated question.

16:42:07 5 A. Yeah, I just don't know --

16:42:08 6 MR. MORGAN: We'll stipulate to that.

16:42:10 7 THE WITNESS: I'm not familiar enough with
16:42:12 8 databases to be able to address that.

16:42:14 9 BY MR. LANGHOFER:

16:42:15 10 Q. Do -- I want to make sure the question is clear.
16:42:19 11 And if that ends up being your answer, then so it is. But
16:42:22 12 let's make sure my question is clear.

16:42:23 13 You understand the -- the database could
16:42:28 14 incorrectly indicate DPOC has been provided or incorrectly
16:42:32 15 indicate that DPOC has not been provided. Those are both
16:42:36 16 possibilities, just theoretically?

16:42:37 17 A. That's possible, correct.

16:42:38 18 Q. The question is: Do you know whether errors in
16:42:41 19 the MVD database would always about go one way or the
16:42:44 20 other?

16:42:44 21 A. I don't --

16:42:46 22 MS. LANG: Objection; foundation.

16:42:46 23 Speculation.

16:42:48 24 MS. BRAILEY: Form.

16:42:48 25 MR. MORGAN: Calls for a legal conclusion.

16:42:52 1 I withdraw the objection.

16:42:55 2 BY MR. LANGHOFER:

16:42:56 3 Q. Do you know whether the MVD database was built
16:42:58 4 with voter registration in mind?

16:43:02 5 MS. LANG: Objection; foundation.

16:43:05 6 THE WITNESS: I really don't know.

16:43:06 7 BY MR. LANGHOFER:

16:43:07 8 Q. Okay. Same type of question for the SAVE
16:43:10 9 database. Do you know whether the errors in that database
16:43:12 10 would all go one way and not the other?

16:43:15 11 MS. LANG: Objection; foundation.

16:43:16 12 Speculation.

16:43:17 13 THE WITNESS: I don't know.

16:43:19 14 BY MR. LANGHOFER:

16:43:27 15 Q. If someone had provided DPOC when getting their
16:43:31 16 driver's license, and so the MVD database correctly
16:43:36 17 indicates that they have shown DPOC, but after that point
16:43:41 18 in time, their citizenship is either renounced or revoked
16:43:46 19 through denaturalization proceedings, wouldn't the county
16:43:54 20 recorders have the possibility of getting a false
16:43:58 21 indication that this person is a citizen?

16:44:00 22 MR. MORGAN: Form.

16:44:01 23 MS. LANG: Objection. Speculation.

16:44:03 24 MS. BRAILEY: Foundation.

16:44:04 25 MR. MORGAN: Form.

16:44:06 1 THE WITNESS: Yeah, I -- I think to your
16:44:09 2 question, yes, the running of the HAVA checks and checking
16:44:15 3 for DPOC is made at one point in time. Any changes
16:44:20 4 thereafter would not necessarily reflect reality.

16:44:27 5 BY MR. LANGHOFER:

16:44:32 6 Q. Without speaking of any particular cases, you're
16:44:34 7 aware of some prosecutions in Arizona for people who file
16:44:40 8 false voter registration forms?

16:44:43 9 MS. LANG: Objection; foundation.

16:44:46 10 THE WITNESS: Yes.

16:44:47 11 BY MR. LANGHOFER:

16:44:48 12 Q. Okay. And the -- would you agree that one of the
16:44:58 13 defenses in such a case could be, "I didn't read the
16:45:01 14 language closely, it was -- the writing was small and it
16:45:05 15 seemed pretty standard to me"?

16:45:07 16 MS. LANG: Objection. Speculation.

16:45:08 17 THE WITNESS: Yeah, I don't have enough
16:45:11 18 knowledge about those cases.

16:45:12 19 BY MR. LANGHOFER:

16:45:12 20 Q. Okay. You had expressed some concerns about the
16:45:21 21 documentary proof of citizenship requirement.

16:45:22 22 A. Yes.

16:45:23 23 Q. And I think, if I understand correctly, your
16:45:26 24 concern was just generally that it could be difficult for
16:45:28 25 some people to provide that documentation?

16:45:30 1 A. That's correct.

16:45:31 2 Q. If one of the ways of satisfying that requirement
16:45:38 3 were not to provide government issued ID, for example,
16:45:43 4 which could be hard for some people to get, or utility bill
16:45:47 5 which could be difficult if you live with your parents, for
16:45:50 6 example, you could just provide an affidavit that says, "I
16:45:53 7 live in the district at this address."

16:45:57 8 Would that address your concerns about the
16:46:00 9 difficulty of meeting that requirement?

16:46:04 10 A. It could. It -- ideally the legislature would
16:46:10 11 provide for that. But yeah, a declaration from the voter
16:46:14 12 would -- could satisfy the DPOR.

16:46:18 13 Q. Okay. And do you know of anyone who would be
16:46:25 14 unable to provide such a declaration?

16:46:31 15 MR. MORGAN: Foundation.

16:46:32 16 Well, I withdraw that.

16:46:34 17 THE WITNESS: No. Not that I'm aware of
16:46:36 18 specifically.

16:46:37 19 BY MR. LANGHOFER:

16:46:38 20 Q. You had expressed concerns about bad faith actors
16:46:41 21 filing election complaints.

16:46:43 22 A. Yes.

16:46:43 23 Q. I think we all agree that happens.

16:46:47 24 Could we also agree, though, that people file
16:46:49 25 bad faith complaints outside the election context, in

16:46:53 1 criminal law, bad police reports, for example?

16:46:57 2 MS. BRAILEY: Objection.

16:46:58 3 MS. LANG: Objection; foundation.

16:47:00 4 THE WITNESS: Yes.

16:47:07 5 MR. MORGAN: Scope.

16:47:12 6 MR. LANGHOFER: Calls for legal conclusion.

16:47:14 7 BY MR. LANGHOFER:

16:47:16 8 Q. Let's see --

16:47:20 9 MR. MORGAN: Do you want to add anything

16:47:21 10 there, Josh?

16:47:24 11 MR. WHITAKER: No, I can hear Kory now.

16:47:28 12 BY MR. LANGHOFER:

16:47:28 13 Q. The --

16:47:29 14 MR. MORGAN: It's the echo off all the people

16:47:32 15 grouped around him

16:47:33 16 BY MR. LANGHOFER:

16:47:33 17 Q. The HAVA and the SAVE systems that are available

16:47:36 18 to the county recorders, do you know of any more up-to-date

16:47:42 19 systems that are available to the county recorders but not

16:47:45 20 used by them to check citizenship status?

16:47:50 21 MS. BRAILEY: Foundation.

16:47:51 22 THE WITNESS: I'm not aware of any, no.

16:47:52 23 BY MR. LANGHOFER:

16:47:54 24 Q. Are you aware of any more accurate databases that

16:47:56 25 are available to them to check citizenship status?

16:48:02 1 A. I'm not aware of any.

16:48:03 2 Q. We've discussed in a different context the -- a
16:48:14 3 couple of scenarios in which the county recorders receive
16:48:18 4 voter registration forms with false information -- or maybe
16:48:22 5 we discussed it in the context of early ballot envelopes.
16:48:25 6 So let's just sort of go through what those -- we'll start
16:48:29 7 with early ballot envelopes.

16:48:34 8 In your time working in elections
16:48:36 9 administration in Arizona, are you familiar with situations
16:48:41 10 in which early ballots are received ostensibly from voters
16:48:48 11 and with investigation, it turns out that someone other
16:48:50 12 than the voter signed those early ballot envelopes?

16:48:54 13 MS. LANG: Objection; form.

16:48:55 14 THE WITNESS: Yes.

16:48:56 15 BY MR. LANGHOFER:

16:48:56 16 Q. Can you tell us about where you learned about
16:48:59 17 these situations?

16:49:00 18 A. Well, this is, of course, anecdotal but situations
16:49:08 19 while I was a deputy county attorney. So I didn't work in
16:49:11 20 the Criminal Division, and it was just through not
16:49:18 21 attorney-client privileged communications. But just that
16:49:21 22 it periodically happened where a parent will receive a
16:49:25 23 child's ballot and feel confident that the parent knows how
16:49:30 24 the child would vote and has signed an early ballot.

16:49:35 25 Q. And what happens with those in those situations?

16:49:42 1 Let me be more specific. What does the
16:49:44 2 county recorder do in those situations?

16:49:48 3 A. So in 2020, when one -- one of those cases came
16:49:53 4 up, it was a young lady who called because there was a --
16:49:56 5 such a frenzy for people to make sure your ballot counted
16:50:00 6 to post-election call or submit information via the
16:50:04 7 website.

16:50:04 8 And this young lady called the election
16:50:08 9 department and said, "It says I voted, but I didn't," or
16:50:11 10 something like that. And the county recorder inquired and
16:50:18 11 was able to find the copy of the ballot signature, provided
16:50:24 12 it to the voter, and the voter subsequently said, "Oh,
16:50:27 13 never mind" kind of thing. So it's -- it was one of those
16:50:31 14 kind of situations.

16:50:32 15 So that's just anecdotal. I don't know if
16:50:35 16 there was any criminal referral.

16:50:36 17 Q. Do you have a sense of how often this happens in
16:50:41 18 Maricopa County?

16:50:42 19 MS. LANG: Objection; foundation.

16:50:45 20 THE WITNESS: So while I was at Maricopa
16:50:49 21 County, I think maybe three or four times that came up.

16:50:54 22 BY MR. LANGHOFER:

16:50:54 23 Q. In how many years?

16:50:55 24 A. That was 14 years.

16:50:57 25 Q. Okay. And do you have a sense of how often this

16:51:01 1 happens outside of Maricopa County?

16:51:03 2 A. No.

16:51:04 3 Q. Okay. We've heard some testimony from some of the
16:51:08 4 county recorders that occasionally, they'll have voter
16:51:12 5 registration drives where an outside group will bring in a
16:51:15 6 bunch of voter registration forms and, on inspection, it
16:51:19 7 seems that some of those forms are not honest or authentic.

16:51:24 8 A. Yes.

16:51:24 9 Q. Are you familiar with this situation?

16:51:27 10 MS. LANG: Objection; form.

16:51:28 11 THE WITNESS: I'm familiar with the fact that
16:51:34 12 voter registration forms are sometimes submitted,
16:51:38 13 especially when there's an incentive -- monetary incentive
16:51:41 14 for people to gather voter registration forms. And also,
16:51:45 15 if it's tied to an initiative petition gathering, that it
16:51:51 16 periodically comes up when false voter registration forms
16:51:56 17 are submitted.

16:51:56 18 BY MR. LANGHOFER:

16:51:57 19 Q. What do you mean by "false"?

16:52:00 20 A. That whoever is circulating or gathering the voter
16:52:05 21 registration forms will complete one in an effort to get
16:52:09 22 the monetary reward.

16:52:11 23 Q. Okay. So complete it and -- when there's not a
16:52:15 24 real registrant? Is that what you mean?

16:52:17 25 A. That's correct, yes.

16:52:19 1 Q. Complete it in someone else's name?

16:52:20 2 A. Yes.

16:52:20 3 Q. Okay. Do you know about how many of these forms
16:52:24 4 may be received by -- let's start with Maricopa County.

16:52:28 5 MS. LANG: Objection; foundation.
16:52:30 6 Speculation.

16:52:30 7 THE WITNESS: I don't. And also just -- I
16:52:33 8 have never been a part of the Criminal Division in any
16:52:37 9 county attorney's office. So again, this is all just
16:52:40 10 anecdotal information that I heard

16:52:40 11 BY MR. LANGHOFER:

16:52:42 12 Q. Do you know how many of those may be received
16:52:44 13 outside of Maricopa County every year?

16:52:46 14 MS. LANG: Objection; foundation.
16:52:47 15 Speculation.

16:52:47 16 THE WITNESS: I do not.

16:52:50 17 MR. LANGHOFER: I think that's all the
16:52:50 18 questions I have. Thank you.

16:52:53 19 MR. MORGAN: Thanks.

16:52:53 20 Mr. Whitaker, do you have any questions?

16:52:57 21 MR. WHITAKER: I do. And, Colleen, I first
16:53:00 22 want to say you have a hard job both generally and -- today
16:53:04 23 and very appreciated. Your time is always appreciated.

16:53:07 24 MR. MORGAN: Before we go, it's -- just so
16:53:12 25 you know, we're -- we've got about 25 minutes --

16:53:16 1 25 minutes.

16:53:25 2 MR. WHITAKER: Okay. Thanks for letting me
16:53:26 3 know.

16:53:26 4

16:53:26 5 EXAMINATION

16:53:27 6 BY MR. WHITAKER:

16:53:30 7 Q. You testified earlier when talking about how a
16:53:34 8 recorder might confirm someone isn't a citizen is that they
16:53:39 9 would ask the person. Do you remember that?

16:53:42 10 A. I do, yes.

16:53:43 11 Q. And why -- why would that be a good way to figure
16:53:47 12 out whether someone's a citizen?

16:53:51 13 A. Because I don't see any reason why someone would
16:53:58 14 not give accurate information, especially to corroborate
16:54:07 15 some other information that the person inquiring might
16:54:08 16 have.

16:54:10 17 Q. Is it fair to say that people generally know
16:54:13 18 whether they are citizens?

16:54:14 19 A. Yes.

16:54:15 20 Q. The citizenship checkbox on the registration form,
16:54:25 21 that's a way of asking someone whether they are a citizen;
16:54:28 22 right?

16:54:28 23 A. That's true, yes.

16:54:29 24 Q. And, in fact, it's under penalty of perjury
16:54:34 25 because it's on the registration form; is that right?

16:54:36 1 A. That's correct.

16:54:38 2 Q. If someone were to check "no" on the citizenship
16:54:44 3 checkbox, would that give information about whether that
16:54:47 4 person is a citizen?

16:54:49 5 MS. LANG: Objection. Calls for a legal
16:54:53 6 conclusion.

16:54:53 7 MR. WHITAKER: What's the legal conclusion
16:54:54 8 about whether it gives information?

16:54:59 9 THE WITNESS: Umm --

16:54:59 10 MR. MORGAN: You don't answer.

16:55:00 11 MS. LANG: That's a question to me.

16:55:03 12 MR. MORGAN: That's -- you -- you don't have
16:55:06 13 to give legal conclusions.

16:55:06 14 MS. LANG: There were objections --

16:55:09 15 MR. WHITAKER: I'll repeat the question. You
16:55:10 16 can have the objection.

16:55:12 17 MS. LANG: Okay.

16:55:12 18 BY MR. WHITAKER:

16:55:14 19 Q. If someone marks "no" on the citizenship checkbox,
16:55:17 20 what information does that give about their citizenship?

16:55:23 21 MS. LANG: Objection; form.

16:55:27 22 THE WITNESS: It would indicate that the
16:55:29 23 person self-declared himself or herself not to be a
16:55:36 24 citizen.

16:55:37 25 BY MR. WHITAKER:

16:55:40 1 Q. Do you generally trust what people say on the
16:55:43 2 registration form under penalty of perjury?

16:55:45 3 A. Yes.

16:55:47 4 Q. Suppose, then, you have a registration form where
16:55:56 5 someone says "no" on the citizenship checkbox but also
16:56:04 6 submits DPOC that appears to be valid. Would you say,
16:56:09 7 then, that you have conflicting information about whether
16:56:12 8 that person is a citizen?

16:56:13 9 A. Yes.

16:56:16 10 Q. Okay. Would you say that in that situation --
16:56:22 11 well, strike that.

16:56:23 12 Are there situations where someone can be a
16:56:33 13 citizen, say, from birth but then change or renounce their
16:56:39 14 citizenship later in life?

16:56:41 15 MR. MORGAN: Form.

16:56:43 16 THE WITNESS: Yes.

16:56:45 17 BY MR. WHITAKER:

16:56:51 18 Q. Let's imagine, for example, someone submits a copy
16:56:55 19 of a birth certificate with their registration form but
16:57:01 20 also marks "no" on the citizenship checkbox. Would you
16:57:08 21 agree that in that situation, there's conflicting
16:57:10 22 information about whether that person is a citizen?

16:57:14 23 MS. BRAILEY: Speculation.

16:57:15 24 THE WITNESS: Yes.

16:57:15 25 BY MR. WHITAKER:

16:57:18 1 Q. Would you contact that -- do you think one way to
16:57:22 2 try to resolve that conflict would be to reach out to the
16:57:26 3 applicant to ask them whether they intended to check "no"
16:57:29 4 on the checkbox?

16:57:31 5 MS. LANG: Objection; foundation. Form.

16:57:35 6 THE WITNESS: Well, it would be the county
16:57:39 7 recorder that could follow up with the registrant to see if
16:57:44 8 it was an inadvertent check of the noncitizenship status
16:57:51 9 and try to resolve the conflict.

16:57:53 10 BY MR. WHITAKER:

16:57:58 11 Q. I think you mentioned in response to
16:58:00 12 Mr. Langhofer's questions that the MVD data check isn't
16:58:05 13 perfect. Do you recall that?

16:58:08 14 A. I -- yes. To the extent that data in -- you know,
16:58:14 15 it only reflects the accuracy of the data being put in. So
16:58:20 16 yes, there's -- there's potential for erroneous
16:58:23 17 information

16:58:24 18 Q. And the data being put in is data by humans?

16:58:28 19 A. Yes.

16:58:29 20 Q. Is that right?

16:58:30 21 A. Yes.

16:58:31 22 Q. So is it possible to have a situation where
16:58:39 23 someone has what appears to be DPOC and passes the MVD
16:58:44 24 check, but the voter checked "no" on the citizen checkbox
16:58:48 25 and actually isn't currently a citizen?

16:58:52 1 MS. LANG: Objection. Speculation.

16:58:54 2 THE WITNESS: Yes.

16:58:55 3 BY MR. WHITAKER:

16:59:12 4 Q. Mr. Langhofer asked you a series of questions
16:59:15 5 about birthplace, and he walked you through some parts of
16:59:20 6 the EPM about birthplace. Do you remember that?

16:59:22 7 A. I do, yes.

16:59:23 8 Q. Based on those questions, would you agree that
16:59:29 9 there are at least some situations where birthplace is
16:59:33 10 useful for county recorders in the registration context?

16:59:38 11 A. It's useful, yes, to corroborate information.

16:59:44 12 Correct.

16:59:46 13 Q. I'd like to turn your attention to some
17:00:01 14 interrogatory responses. I'll try to share my screen here,
17:00:05 15 but I think they've been marked as Exhibit 262.

17:00:08 16 A. Yes, I have that exhibit in front of me.

17:00:15 17 Q. Okay. Let's start with the response to
17:00:26 18 Interrogatory Number 9. Part of that response says, "The
17:00:38 19 checkbox has always been required under the Help America
17:00:42 20 Vote Act of 2002 ('HAVA')."

17:00:46 21 Could you explain what that -- what the
17:00:48 22 office meant by that?

17:00:56 23 MR. MORGAN: It's page 18.

17:00:58 24 THE WITNESS: Okay.

17:00:59 25 MR. MORGAN: Page 18, line 9 through 15.

17:01:02 1 He's specifically talking about lines 10 and 11.

17:01:06 2 THE WITNESS: It -- the checkbox has always
17:01:13 3 been a required field since HAVA. It's --

17:01:26 4 BY MR. WHITAKER:

17:01:26 5 Q. And by that, do you mean the federal government
17:01:27 6 has required it on the federal form?

17:01:32 7 A. You know, without checking state statute, I think
17:01:36 8 it's also required -- a required field -- excuse me -- it's
17:01:39 9 a field required to be on the form, but it's not a
17:01:43 10 requirement as far as the minimum standards for someone to
17:01:47 11 be a registered voter.

17:01:50 12 Q. Okay. So is that -- did you mean that the federal
17:01:56 13 government requires that the checkbox be checked or that
17:02:01 14 the federal government requires that the checkbox exists on
17:02:04 15 the form?

17:02:06 16 MS. LANG: Objection. Calls for a legal
17:02:07 17 conclusion.

17:02:09 18 THE WITNESS: The latter, that it be provided
17:02:14 19 on the form.

17:02:15 20 BY MR. WHITAKER:

17:02:18 21 Q. Okay. Do you have a view on whether the
17:02:22 22 federal -- whether HAVA also requires that it be checked,
17:02:25 23 or is that something you would need to research --

17:02:29 24 A. Yeah, I would have to --

17:02:30 25 Q. -- or get legal advice on?

17:02:33 1 MS. LANG: Objection. Calls for a legal
17:02:34 2 conclusion.

17:02:34 3 THE WITNESS: I would have to get legal
17:02:36 4 advice on that.

17:02:38 5 BY MR. WHITAKER:

17:02:45 6 Q. Okay. Let's go a little bit earlier in this same
17:02:49 7 document. Interrogatory Number 6. You were asked about
17:02:54 8 this a little bit ago, but I had some follow-ups.

17:02:58 9 A. Okay.

17:02:58 10 Q. So I'm on page 12. And for context, this is that
17:03:03 11 summary report about the juror questionnaire that we're
17:03:10 12 discussing here.

17:03:11 13 A. Okay.

17:03:12 14 Q. And the interrogatory says in part, starting on
17:03:17 15 line 15, "The Secretary provides that it receives a jury
17:03:21 16 summary report from each county which identifies jurors who
17:03:25 17 have self-identified as 'non-citizens.' Sometimes this
17:03:28 18 information is an accurate representation of their
17:03:31 19 citizenship status, while other times, this is a method
17:03:35 20 commonly suspected to be used by individuals who are in
17:03:39 21 fact citizens, but do not want to report for jury duty."

17:03:43 22 Did I get that -- did I read that right,
17:03:44 23 first of all?

17:03:45 24 A. Yes.

17:03:46 25 Q. Okay. What -- what did the office mean by saying,

17:03:56 1 "Sometimes this information is an accurate representation
17:03:59 2 of their citizenship status"?

17:04:06 3 A. Let me make sure I refresh my memory on the
17:04:16 4 question --

17:04:18 5 Q. Yeah.

17:04:18 6 A. -- and the interrogatory itself.

17:04:21 7 Q. Yeah.

17:04:25 8 A. Okay. So the question was about incidents of
17:04:34 9 voter fraud and if it occurred and whether -- but not
17:04:40 10 discovered.

17:04:40 11 Okay. So I think to your question, it's that
17:04:50 12 the summary report is only as good as the information
17:04:56 13 provided by the juror that may or may not be accurate or --
17:05:05 14 excuse me -- the summoned juror.

17:05:08 15 Q. And as we discussed earlier, a good source of
17:05:12 16 whether someone is a citizen is that person. Would you
17:05:17 17 agree?

17:05:17 18 A. I agree.

17:05:20 19 Q. So do you know how -- can you say something any
17:05:25 20 more specific about how often the jury summary reports
17:05:34 21 represent -- scratch that.

17:05:39 22 How often does the -- does your office
17:05:42 23 receive these summary reports?

17:05:44 24 A. The summary reports are sent to our office and the
17:05:52 25 county recorders, and it's supposed to be on a monthly

17:05:57 1 basis.

17:05:59 2 Q. And do you know whether those reports have been
17:06:02 3 produced?

17:06:05 4 A. Yes, I do know that they have been produced. My
17:06:11 5 understanding is that maybe not all jurisdictions have been
17:06:16 6 providing them, or if they're just -- I remember that
17:06:20 7 question coming up. Perhaps municipal courts weren't all
17:06:26 8 -- all providing them. But to -- to the -- to the best of
17:06:30 9 my knowledge, that's no longer an issue or has not been
17:06:34 10 raised at least.

17:06:36 11 MS. LANG: Josh, can we clarify --

17:06:39 12 MR. MORGAN: Yeah -- can I? Josh, on the
17:06:40 13 jury reports, there's no way she would know -- remember
17:06:42 14 that the way we produced documents in case was with an
17:06:46 15 agreement with the plaintiffs that, because of the onerous
17:06:51 16 amount -- just the vast amount of documents, we weren't
17:06:54 17 going to review them document by document.

17:06:56 18 I will tell you that if they were found in
17:07:01 19 the custodians identified by the plaintiffs and the search
17:07:04 20 terms used, they would have been produced. I don't think
17:07:08 21 anyone sitting here can say unequivocally whether they've
17:07:11 22 been produced.

17:07:12 23 If it's something that you think you want and
17:07:15 24 it hasn't been produced, we can definitely talk offline
17:07:18 25 about getting you what you need. I just want to make sure

17:07:21 1 the record is clear on that. Because Colleen has not
17:07:24 2 reviewed all of the documents that have been produced by
17:07:27 3 agreement.

17:07:28 4 MR. WHITAKER: Nor could -- nor could any
17:07:30 5 human.

17:07:32 6 MR. MORGAN: Right.

17:07:33 7 MR. WHITAKER: What were you going to say?

17:07:35 8 MR. MORGAN: That's where she was headed,
17:07:37 9 so . . .

17:07:37 10 MS. LANG: I wanted to clarify that I think
17:07:39 11 Colleen's answer was about whether or not the counties have
17:07:43 12 been producing the jury summary reports to the secretary
17:07:47 13 and the county recorders, whereas I understood your
17:07:49 14 question to be about whether or not those reports had been
17:07:52 15 produced in this case.

17:07:54 16 THE WITNESS: Oh, okay. I see what you're
17:07:56 17 saying.

17:07:56 18 MS. LANG: And so I wanted to make
17:07:57 19 clarification on the record that Colleen, I think your
17:08:00 20 answer was about whether or not those documents are being
17:08:03 21 produced to you, not whether or not they've been kind of
17:08:07 22 put forward in discovery.

17:08:08 23 THE WITNESS: Yes, that's accurate. I didn't
17:08:10 24 even think of the discovery part of it.

17:08:12 25 MR. MORGAN: Yeah, I figured.

17:08:13 1 And while we're at it, Josh. The official
17:08:16 2 record is we've got about ten minutes left for Colleen.

17:08:20 3 MR. WHITAKER: Thank you.

17:08:22 4 And thank you, Danielle, for clarifying.

17:08:24 5 BY MR. WHITAKER:

17:08:26 6 Q. Do you have a sense for how many individuals have
17:08:32 7 self-identified as noncitizens, say, in the past few months
17:08:38 8 based on those reports?

17:08:42 9 A. I do not.

17:08:47 10 Q. All right. Do you -- have you ever seen those
17:08:58 11 reports when they've come into your office?

17:09:01 12 A. No.

17:09:06 13 Q. All right. Who -- who would be the right person
17:09:09 14 in the office to ask about those reports?

17:09:11 15 A. Yolanda Morales.

17:09:15 16 MR. MORGAN: I'm going to object to scope.

17:09:17 17 BY MR. WHITAKER:

17:09:17 18 Q. Okay. All right. Oh, one question I had: You
17:09:32 19 mentioned that the secretary's office, to the best of your
17:09:37 20 memory, did provide the Attorney General's Office the list
17:09:43 21 that's required by one of the laws about, you know, the
17:09:47 22 people who are on the fed-only list -- people who have
17:09:53 23 provide -- registered but haven't provided proof of
17:09:56 24 citizenship. Do you remember that testimony?

17:09:59 25 A. I do. And that's -- to the best of my knowledge,

17:10:03 1 that was produced. I'll make a note of it and
17:10:06 2 double-check.

17:10:07 3 MR. MORGAN: I'm going to object to form in
17:10:09 4 so much as I'm not entirely sure, Josh, that she said it
17:10:13 5 that way. I feel that -- my recollection -- and this
17:10:15 6 record will say what it says -- is that she testified that
17:10:19 7 she -- her office had been complying with the legislative
17:10:24 8 report requirement and the statute. But I'm not trying to
17:10:28 9 split hairs. I'm just trying to make sure that we don't
17:10:30 10 back her into a corner that she didn't mean to be in.

17:10:32 11 MR. WHITAKER: Yeah. And I'm not trying --
17:10:34 12 this question is purely information seeking. Because --
17:10:40 13 well . . .

17:10:41 14 MR. MORGAN: Aren't they all?

17:10:43 15 MR. WHITAKER: I know.

17:10:44 16 BY MR. WHITAKER:

17:10:45 17 Q. Do you know to whom in the Attorney General's
17:10:50 18 Office that list of voters was given, if it was given?

17:10:53 19 MR. MORGAN: You don't -- don't speculate.

17:10:54 20 THE WITNESS: Yeah, I -- I don't know. It
17:10:56 21 was before I started. It would have been done before I
17:11:00 22 started. But -- and that's to the best of my recollection.
17:11:03 23 But I will, like I said, go back and double-check on that.

17:11:08 24 BY MR. WHITAKER:

17:11:09 25 Q. And that was going to be my follow-up question,

17:11:11 1 which is how -- how positive are you that that list
17:11:14 2 actually was sent?

17:11:17 3 And to be transparent, part of reason I'm
17:11:19 4 asking is I am unaware of that list having been sent. So
17:11:23 5 I'm trying to -- trying to figure that out.

17:11:26 6 A. Okay. Understood.

17:11:27 7 MR. MORGAN: Objection. Asked and answered.
17:11:29 8 To the best of her recollection is what she said.

17:11:35 9 MR. WHITAKER: All right I won't ask any
17:11:41 10 more questions. I think that's it.

17:11:42 11 MR. MORGAN: Deal.

17:11:43 12 MS. LANG: Let's go off the record.

17:11:45 13 MR. MORGAN: Well --

17:11:50 14 MR. WHITAKER: Thank you for your -- -

17:11:50 15 THE WITNESS: Thank you.

17:11:50 16 MR. MORGAN: You can go ahead.

17:11:52 17 THE VIDEOGRAPHER: We are off the record.

17:11:52 18 The time on the video monitor is 5:11 p.m. This ends
17:11:56 19 Media 3.

17:11:58 20 (A recess ensued.)

17:18:07 21 THE VIDEOGRAPHER: We are on the record. The
17:18:16 22 time on the video monitor is 5:18 p.m. This begins
17:18:20 23 Media 4.

17:18:20 24

17:18:21 25 FURTHER EXAMINATION.

17:18:21 1 BY MS. BRAILEY:

17:18:22 2 Q. In your role as a state election director, is
17:18:25 3 birthplace in any way necessary to establishing a
17:18:28 4 registrant's age?

17:18:33 5 Sorry. We're not going to -- I'll look at
17:18:35 6 that in a minute. I'm just going to ask you a few
17:18:37 7 questions and then we'll go -- I'm going to go to that.

17:18:39 8 A. That's okay.

17:18:40 9 So a place of birth to establish someone's
17:18:42 10 age?

17:18:44 11 Q. Let me -- okay.

17:18:45 12 As your role as the state election director,
17:18:46 13 is birthplace in any way necessary to establishing a
17:18:50 14 registrant's age?

17:18:52 15 A. So in my role as state elections director, we do
17:18:58 16 not process voter registration forms. The secretary of
17:19:03 17 state oversees the statewide voter registration database.
17:19:07 18 But if there is any connection between place of birth and
17:19:13 19 someone's age, I'm not familiar with it, but perhaps a
17:19:18 20 county recorder would be.

17:19:19 21 Q. Okay. In -- in your experience working in
17:19:22 22 elections in the counties that you've worked in and at the
17:19:26 23 state level, based on your knowledge and expertise, is
17:19:31 24 birthplace in any way necessary to establishing a
17:19:33 25 registrant's citizenship?

17:19:38 1 MR. WHITAKER: Form.

17:19:42 2 MR. LANGHOFER: Legal conclusion.

17:19:45 3 THE WITNESS: Well, I -- I guess -- well, I
17:19:51 4 guess it -- I'm thinking of the U.S. territories, but I
17:19:55 5 don't know.

17:19:55 6 BY MS. BRAILEY:

17:19:56 7 Q. Why would the U.S. territories?

17:19:57 8 A. Well, if someone is considered -- but I just don't
17:20:01 9 know as far as documentary proof of citizenship. That was
17:20:04 10 just the first thing that came to my mind.

17:20:06 11 Q. And so would -- would birthplace be necessary to
17:20:10 12 establishing a registrant's citizenship?

17:20:14 13 MR. WHITAKER: Form.

17:20:16 14 THE WITNESS: I -- I'm not familiar with how
17:20:22 15 place of birth would be necessary.

17:20:27 16 BY MS. BRAILEY:

17:20:28 17 Q. Is birthplace necessary to establishing a
17:20:31 18 registrant's residence?

17:20:38 19 A. No.

17:20:39 20 Q. Could it be necessary to establishing whether a
17:20:43 21 registrant has committed a certain felony that would
17:20:48 22 disenfranchise them?

17:20:51 23 MR. LANGHOFER: Legal conclusion.

17:20:52 24 THE WITNESS: I don't know how it would be.

17:20:56 25 BY MS. BRAILEY:

17:20:57 1 Q. Could birthplace be necessary to establishing
17:21:00 2 whether an applicant has been adjudicated mentally
17:21:07 3 incompetent or unable to make a mark or sign their name?

17:21:12 4 A. Not that I'm familiar with.

17:21:14 5 Q. Okay. So now if you would pull up the 2023
17:21:16 6 procedures manual. And I believe you're on the correct
17:21:19 7 page.

17:21:21 8 So Mr. Langhofer discussed some portions of
17:21:26 9 this document with you where the document has references to
17:21:32 10 either place of birth or state or country of birth. And
17:21:36 11 the first one was the one in front of you, which is
17:21:39 12 somebody's birth certificate.

17:21:41 13 I believe this portion is -- is describing a
17:21:46 14 way that an applicant can establish citizenship by
17:21:52 15 presenting their birth certificate. Is that your
17:21:55 16 understanding of this portion of the document that you're
17:21:57 17 looking at?

17:21:58 18 A. Let me just take --

17:22:01 19 Q. At the bottom of page 4 where it says, "b. Birth
17:22:05 20 Certificate."

17:22:19 21 A. Yes, I see that.

17:22:20 22 Q. And so a birth certificate is sufficient to
17:22:29 23 establish somebody's citizenship; is that correct?

17:22:32 24 MR. LANGHOFER: Legal conclusion.

17:22:32 25 BY MS. BRAILEY:

17:22:41 1 Q. A U.S -- apologies.

17:22:41 2 A U.S. birth certificate is sufficient to
17:22:44 3 establish that a person is a United States citizen; is that
17:22:49 4 correct?

17:22:49 5 MR. LANGHOFER: Legal conclusion.

17:22:50 6 MR. WHITAKER: Same objection.

17:22:54 7 THE WITNESS: Yeah, I -- I'm not familiar
17:22:57 8 enough with this process as far as it specifically relates
17:23:03 9 to --

17:23:04 10 BY MS. BRAILEY:

17:23:04 11 Q. Okay.

17:23:05 12 A. -- this question.

17:23:06 13 Q. Let's go to the top of next page, page 5, where we
17:23:09 14 see the five things that are listed there in bullet points.

17:23:18 15 A. Okay.

17:23:19 16 Q. So you just read this with Mr. Langhofer, but
17:23:24 17 essentially, my understanding of this is that the only time
17:23:29 18 you might look to one of these five bullet points is if an
17:23:37 19 applicant has presented a U.S. birth certificate but can't
17:23:43 20 prove that the birth certificate is theirs because now they
17:23:47 21 have an a different last name. Is that how -- is that the
17:23:51 22 correct understanding of the utility of those five bullet
17:23:58 23 points?

17:23:59 24 MR. WHITAKER: Form.

17:24:00 25 THE WITNESS: Yeah.

17:24:02 1 BY MS. BRAILEY:

17:24:02 2 Q. Okay. And so specifically, all a person must do

17:24:07 3 to verify their birth certificate is to match at least one

17:24:15 4 of these; correct?

17:24:17 5 MR. LANGHOFER: Legal conclusion.

17:24:19 6 MR. WHITAKER: Form.

17:24:20 7 THE WITNESS: Yes, that's my understanding.

17:24:22 8 BY MS. BRAILEY:

17:24:28 9 Q. The next section, Section "c. U.S. Passport"

17:24:32 10 begins right after that.

17:24:35 11 And Mr. Langhofer spoke to you about the

17:24:39 12 middle paragraph. And there, the middle paragraph

17:24:43 13 essentially says that if somebody is using their passport

17:24:48 14 to prove their U.S. citizenship -- if they're using their

17:24:53 15 U.S. passport to prove their U.S. citizenship, that they

17:24:56 16 must show the page in the passport that has all of their

17:24:58 17 identifying information; is that correct?

17:25:00 18 A. Yes.

17:25:01 19 MR. WHITAKER: Form.

17:25:04 20 BY MS. BRAILEY:

17:25:05 21 Q. And for both of these examples -- so for the birth

17:25:08 22 certificate and for the U.S. passport -- does the EPM

17:25:18 23 advise counties that they must match the place of birth to

17:25:22 24 be able to register the person to vote?

17:25:26 25 A. No.

17:25:26 1 MR. WHITAKER: Form.

17:25:27 2 BY MS. BRAILEY:

17:25:35 3 Q. Apologies.

17:26:21 4 On page 48 of this document, which is page 57

17:26:27 5 in the EPM -- as you go to it, I'll talk to you. This is

17:26:34 6 about the ballot-by-mail request form. And it is

17:26:39 7 instructing the county recorders what must be contained

17:26:42 8 within the ballot-by-mail request form. And it includes

17:26:46 9 the mandate that there must be entry fields for certain

17:26:52 10 information, and one of those is "The voter's state or

17:26:56 11 country of birth or another piece of information" that

17:26:59 12 could confirm their identity.

17:27:01 13 So if somebody presents a different kind of

17:27:04 14 information that proves their identity, have they

17:27:12 15 successfully completed a ballot-by-mail form and they can

17:27:15 16 vote by mail?

17:27:16 17 A. Yes.

17:27:17 18 MR. WHITAKER: Form.

17:27:18 19 BY MS. BRAILEY:

17:27:18 20 Q. In addition, is a ballot-by-mail form used to

17:27:22 21 register a person to vote?

17:27:25 22 A. It can be if it provides all of the necessary

17:27:34 23 information that's required of a voter registration form.

17:27:38 24 Q. And is birthplace a necessary piece of information

17:27:40 25 on a voter registration form?

17:27:43 1 MR. WHITAKER: Form and calls for a legal
17:27:48 2 conclusion.

17:27:48 3 THE WITNESS: Well, I think that's one of the
17:27:50 4 issues in this case. So the legislation will -- does
17:27:57 5 require it.

17:27:59 6 BY MS. BRAILEY:

17:28:00 7 Q. But is it necessary to determining whether
17:28:03 8 somebody's eligible to vote?

17:28:05 9 MR. LANGHOFER: Same objections.

17:28:06 10 MR. WHITAKER: Form.

17:28:06 11 THE WITNESS: Not that I'm aware of.

17:28:09 12 MR. WHITAKER: Yeah, same --

17:28:09 13 BY MS. BRAILEY:

17:28:10 14 Q. And when we're talking about place of birth, we're
17:28:12 15 also talking about state or country of birth; is that
17:28:15 16 correct?

17:28:15 17 A. That's correct.

17:28:16 18 Q. So we're not talking about a smaller jurisdiction
17:28:18 19 like a city or a town; is that correct?

17:28:22 20 A. You know, I think it's open to interpretation.

17:28:26 21 MR. MORGAN: For what it's worth, my clock
17:28:29 22 has us at 10 minutes. We started at 5 -- 5:18.

17:28:36 23 MS. BRAILEY: Okay. One moment. Okay.

17:28:46 24 Thank you so much, Ms. Connor. We appreciate
17:28:48 25 all of your time today and all of the work you've been

17:28:50 1 doing in the state. Thank you so much.

17:28:52 2 Go off the record.

17:28:53 3 THE VIDEOGRAPHER: We are off the record.

17:28:56 4 The time on the video monitor is 5:28 p.m. This ends
17:29:00 5 Volume 1, Media Number 4, in the 30(b)(6) deposition of
17:29:04 6 Arizona Secretary of State, by Colleen Connor.

17:29:11 7 (The proceedings concluded at 5:29 p.m.)

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COLLEEN CONNOR

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1 STATE OF ARIZONA)
2) ss.
3 COUNTY OF MARICOPA)

4 BE IT KNOWN that the foregoing videotaped
5 deposition was taken before me, JODY L. LENSCHOW, RMR,
6 CRR, Certified Reporter No. 50192 for the State of
7 Arizona, and by virtue thereof authorized to administer
8 an oath; that the witness before testifying was duly
9 sworn by me; that the questions propounded by counsel
10 and the answers of the witness thereto were taken down
11 by me in shorthand and thereafter transcribed under my
12 direction; that a review of the transcript by the
13 witness was requested; that the foregoing pages contain
14 a full, true, and accurate transcript of all proceedings
15 and testimony had, all to the best of my skill and
16 ability.

17 I FURTHER CERTIFY that I am not related to nor
18 employed by any of the parties hereto and have no
19 interest in the outcome thereof.

20 DATED at Phoenix, Arizona, this 15th day of
21 September, 2023.

22
23 
24 _____
25 JODY L. LENSCHOW, RMR, CRR
Certified Reporter
Certificate No. 50192

1 STATE OF ARIZONA)
2 COUNTY OF MARICOPA)

3 BE IT KNOWN that the foregoing deposition was taken
4 by me pursuant to stipulation of counsel; that I was then
5 and there a Certified Court Reporter in the State of
6 Arizona, and by virtue hereof authorized to administer an
7 oath; that the witness before testifying was duly sworn by
8 me to testify to the whole truth; pursuant to request,
9 notification was provided that the deposition is available
10 for review and signature; that the questions propounded by
11 counsel and the answers of the witness thereto were taken
12 down by me in shorthand and thereafter transcribed into
13 typewriting under my direction; that the foregoing pages
14 are a full, true and accurate transcript of all the
15 proceedings had upon the taking of deposition, all done to
16 the best of my skill and ability.

17 I FURTHER CERTIFY that I am in no way related
18 to nor employed by any parties hereto; nor am I in any
19 way interested in the outcome thereof.

20 Dated at Phoenix, Arizona, this 20th day of
21 September, 2023.

22 
23 _____

24 CINDY MAHONEY, RPR, RMR NO. 50680
25

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UNITED STATES DISTRICT COURT
DISTRICT OF ARIZONA

Mi Familia Vota, et al.,)	
)	
Plaintiffs,)	Case No.
	)	2:22-cv-00509-PHX-SRB
v.	)	(Lead)
)	
Adrian Fontes, in his	)	No. CV-22-00519-PHX-SRB
official capacity as	)	No. CV-22-01003-PHX-SRB
Arizona Secretary of State,	)	No. CV-22-01124-PHX-SRB
et al.,	)	No. CV-22-01369-PHX-SRB
	)	No. CV-22-01381-PHX-SRB
Defendants.	)	No. CV-22-01602-PHX-SRB
	)	No. CV-22-01901-PHX-SRB

AND CONSOLIDATED CASES.

VIDEO-RECORDED VIDEOCONFERENCE DEPOSITION
OF THE ARIZONA SECRETARY OF STATE, REPRESENTED BY
YOLANDA MORALES AND RUSSELL SMITH

Chandler, Arizona
September 8, 2023

Prepared by:
CINDY MAHONEY, RPR, RMR
Certified Court Reporter
Certificate No. 50680



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REQUESTS

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RETRIEVED FROM DEMOCRACYDOCKET.COM

1 THE VIDEO-RECORDED VIDEOCONFERENCE DEPOSITION
 2 OF THE ARIZONA SECRETARY OF STATE, REPRESENTED BY YOLANDA
 3 MORALES AND RUSSELL SMITH, commenced at 8:03 a.m. on
 4 September 8, 2023, at Chandler, Arizona, before Cindy
 5 Mahoney, RPR, RMR (via videoconference), Arizona Certified
 6 Court Reporter No. 50680.

7

8

* * *

9

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Colleen Connor
Anna Critz
Daniel Rohan, Videographer

1 TRANSCRIPT OF PROCEEDINGS

2
08:03:01 3 THE VIDEOGRAPHER: We are on the record.
08:03:12 4 Time on the video monitor is 8:03 a.m. Here begins
08:03:15 5 Volume 1, Media Number 1, in the 30(b)(6) deposition of
08:03:20 6 Arizona Secretary of State's Office, by Yolanda Morales, in
08:03:24 7 the matter of Mi Familia Vota, et al., versus Adrian
08:03:28 8 Fontes, et al., in the United States District Court,
08:03:31 9 District of Arizona, Case Number is 2:22-cv-00509-PHX-SRB.

08:03:40 10 Today's date is September 8th, 2023. Our
08:03:44 11 court reporter is Cindy Mahoney. I am Daniel Rohan, a
08:03:48 12 certified legal videographer. We both represent Coash
08:03:52 13 Court Reporting & Video.

08:03:54 14 This video deposition is taking place at the
08:03:56 15 residence of Yolanda Morales in Chandler, Arizona.

08:04:01 16 Counsel, would you please identify yourselves
08:04:03 17 and state whom you represent.

08:04:05 18 MS. SHAH: Niyati Shah, Asian Americans
08:04:08 19 Advancing Justice, on behalf of the Equity Coalition
08:04:09 20 plaintiffs.

08:04:10 21 MR. HERRERA: Ernest Herrera, representing
08:04:14 22 Promise Arizona plaintiffs.

08:04:15 23 MS. KANTER COHEN: Michelle Kanter Cohen,
08:04:20 24 from Fair Elections Center, representing the Poder Latinx
08:04:24 25 plaintiffs.

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MS. LANG: Danielle Lang, representing the
LUCHA plaintiffs.
MS. FROST: Elisabeth Frost, representing the
Mi Familia Vota plaintiffs.
MS. YUN: Jennifer Yun on behalf of the
United States.
MS. JHAVERI: Sejal Jhaveri on behalf of the
United States.
MR. DELLHEIM: And this is Richard Dellheim
on behalf of the United States.
THE VIDEOGRAPHER: Would the court reporter
please swear our witness.
MR. MORGAN: Craig Morgan, for Sherman &
Howard, on behalf of the secretary of state.
MR. LANGHOFER: Kory Langhofer for the RNC.
MR. WHITAKER: Josh Whitaker on behalf of the
Arizona attorney general.
MS. STUART: Shayna Stuart, also with Sherman
& Howard, on behalf of the Arizona secretary of state.
MS. FITZGIBBONS: Ashley Fitzgibbons, with
Gallagher & Kennedy, on behalf of President Petersen and
Speaker Toma.
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1 YOLANDA MORALES,
2 the witness herein, being first duly sworn,
3 was examined and testified as follows:
4

08:05:33 5 EXAMINATION

08:05:33 6 BY MS. SHAH:

08:05:34 7 Q. Good morning, Ms. Morales. My name is Niyati
08:05:36 8 Shah, and I'm an attorney with Asian Americans Advancing
08:05:40 9 Justice, AAJC. And as I mentioned, I represent the Equity
08:05:44 10 Coalition plaintiffs, which is short for the Asian American
08:05:47 11 Native Hawaiian Pacific Islander for Equity Coalition in
08:05:48 12 this matter, but I'm going refer to them as Equity
08:05:52 13 Coalition to make it easier and not a mouthful.

08:05:54 14 Could you just please state your name and
08:05:56 15 spell your full name for the record.

08:05:58 16 A. So my legal full name is Yolanda Esther Morales
08:06:05 17 Rios.

08:06:05 18 And do you want me to spell each one?

08:06:07 19 Q. Yes, please.

08:06:08 20 A. Okay. So Yolanda is Y-o-l-a-n-d-a; Esther is
08:06:14 21 E-s-t-h-e-r; Morales, M-o-r-a-l-e-s; Rios, R-i-o-s.

08:06:22 22 Q. And could you please state what your title is?

08:06:25 23 A. I'm the senior elections policy manager for the
08:06:28 24 Secretary of State's Office.

08:06:29 25 Q. And how long have you been in that role?

08:06:31 1 A. I was promoted to this role in October of 2021.

08:06:35 2 Q. And were you -- were you at the Secretary of
08:06:41 3 State's Office before this role?

08:06:41 4 A. Yes.

08:06:42 5 Q. In what role was that?

08:06:44 6 A. I've had multiple roles. I started with the
08:06:46 7 office in 2008 so . . .

08:06:53 8 Q. Okay. That's fine.

08:06:54 9 For today's deposition, I want to make sure
08:06:57 10 that the record is clear on a couple of points.

08:07:00 11 You do understand that you are testifying

08:07:01 12 under oath today; correct?

08:07:03 13 A. Yes, I do.

08:07:04 14 Q. And you know that the court reporter is
08:07:07 15 transcribing this deposition; correct?

08:07:09 16 A. I do.

08:07:10 17 Q. Okay. And so with that in mind, could you please
08:07:13 18 answer questions audibly and clearly. No head shakes,
08:07:17 19 nods, uh-huhs. Will that be okay?

08:07:21 20 A. Absolutely. Yes.

08:07:22 21 Q. Okay. Great.

08:07:23 22 And to allow the court reporter to do their
08:07:24 23 job, I'm going to ask that you let me finish my question
08:07:27 24 completely before you respond. And of course I will do the
08:07:30 25 same with you to finish your answer before asking another

08:07:34 1 question. Does that work?

08:07:35 2 A. Yes, it does.

08:07:36 3 Q. And will you let me know if you do not understand

08:07:39 4 a question or need me to repeat any part of it?

08:07:43 5 A. Yes. I'll do that.

08:07:44 6 Q. Great.

08:07:45 7 And if I ask a question and you answer the

08:07:48 8 question, I will assume that you understood the question.

08:07:50 9 Is that all right?

08:07:51 10 A. Yes.

08:07:53 11 Q. Okay. And is there any reason that you can't give

08:07:55 12 a full, complete, and accurate testimony today?

08:07:57 13 A. No, not that I'm aware of.

08:08:01 14 Q. Are you on any medications or experiencing any

08:08:03 15 conditions that would prevent you from giving full and

08:08:06 16 truthful testimony today?

08:08:07 17 A. No.

08:08:07 18 Q. If at any time you would like to take a break,

08:08:07 19 please let me know. The only thing I will ask is that if I

08:08:18 20 have already asked the question, that you finish answering

08:08:18 21 that question before taking a break. Does that sound fair?

08:08:20 22 A. It does sound fair.

08:08:22 23 Q. Okay. And have you been deposed before?

08:08:24 24 A. I've been deposed before.

08:08:26 25 Q. How many times?

08:08:28 1 A. It was in 2016 or '17. Just once.

08:08:33 2 Q. And under what circumstances was that deposition?

08:08:37 3 A. I was a witness for the Secretary of State's
08:08:40 4 Office.

08:08:40 5 Q. Okay. Do you remember the case?

08:08:43 6 A. I don't remember the case. It had to do with
08:08:47 7 circumstances surrounding the publicity pamphlet.

08:08:52 8 Q. And did you bring any materials with you to this
08:08:56 9 deposition?

08:08:56 10 A. Materials, no. Well, I'm in front of my computer
08:09:00 11 but . . .

08:09:01 12 Q. Are you going to be using the computer to answer
08:09:04 13 any questions other than being on the Zoom?

08:09:07 14 MR. MORGAN: She's going to use the computer
08:09:09 15 to access exhibits you show her.

08:09:11 16 THE WITNESS: Right. Exactly.

08:09:12 17 BY MS. SHAH:

08:09:12 18 Q. Okay. Great.

08:09:13 19 And so there's nothing else that you're going
08:09:16 20 to be using to participate in this deposition?

08:09:18 21 A. No.

08:09:20 22 Q. And because, again, we're on Zoom, I just have to
08:09:22 23 clarify: Is anybody else in the room with you?

08:09:25 24 A. No. This room is only me in it.

08:09:31 25 Q. Wonderful.

08:09:32 1 And then -- so you mentioned that you have
08:09:32 2 some documents that you -- we provided you with. And I'm
08:09:36 3 going to introduce you -- refer you to what has been
08:09:40 4 previously marked as Exhibit 260, which is Document A in
08:09:46 5 that folder. It says, "30(b)(6) SOS Revised Deposition
08:09:51 6 Notice."
08:09:52 7 A. Okay. Tell me the number again.
08:09:54 8 Q. It's -- it should have the letter A and a period
08:09:58 9 after it. It should be in --
08:10:01 10 A. Yes. 30(b)(6), yeah.
08:10:03 11 Q. Exactly. Okay.
08:10:04 12 So have you seen this document before?
08:10:08 13 A. Let me scroll through it. This is the topics to
08:10:18 14 be discussed for this deposition; right?
08:10:20 15 Q. Exactly.
08:10:21 16 A. Yes.
08:10:22 17 Q. Okay. And you understand that you've been
08:10:25 18 designated as a representative to testify on behalf of the
08:10:28 19 Arizona Secretary of State's Office for certain topics
08:10:31 20 listed in this notice?
08:10:32 21 A. Yes. That was made clear.
08:10:34 22 Q. Okay. And can we stipulate that whenever I use
08:10:37 23 the word "you" or "your" or "your office" in a question,
08:10:41 24 that will be the equivalent of saying the Arizona Secretary
08:10:44 25 of State's Office?

08:10:44 1 A. Yes.

08:10:46 2 Q. And then turning to, I think, page 6 of this
08:10:50 3 exhibit, where it says "Topics" and continuing onto
08:10:56 4 page 13, this is a list of 30 topics; correct?

08:11:00 5 A. Yes.

08:11:05 6 Q. And are you prepared to address what are
08:11:10 7 Topic 4(c), (d), (g), and (h), and (i) as they pertain to
08:11:17 8 the AVID databases as well as Topics 5 through 12 and 15?

08:11:23 9 A. I'll do it to the best of my ability.

08:11:26 10 Q. And what did you do to prepare for today's
08:11:28 11 deposition?

08:11:30 12 A. We had some prep sessions with legal counsel.

08:11:35 13 Q. Okay. And other than legal counsel, was there
08:11:39 14 anybody else?

08:11:41 15 A. Colleen Connor was present.

08:11:45 16 Q. Anybody else?

08:11:45 17 A. Any Chan.

08:11:48 18 Q. Anybody else?

08:11:48 19 A. And then it was Shayna and Craig.

08:11:52 20 Q. And anybody else?

08:11:53 21 A. And then Russ joined in the afternoon briefly --
08:11:57 22 Russ Smith.

08:11:58 23 Q. Okay.

08:11:58 24 A. He's with our office. And that's it.

08:12:02 25 Q. And how long did you meet?

08:12:05 1 A. The last time we met for about six hours. And
08:12:11 2 then we -- before that -- that was in person. Before that,
08:12:14 3 we had a brief phone call the day before, maybe like an
08:12:19 4 hour, an hour and a half.

08:12:21 5 Q. Any other times?

08:12:24 6 A. I can't think of any other times.

08:12:26 7 Q. Okay. And did you review any documents in
08:12:29 8 preparation for this deposition today?

08:12:31 9 A. Shayna presented to me some possible exhibits that
08:12:36 10 could be presented to me and then this document that we're
08:12:41 11 referring to right now.

08:12:44 12 Q. Anything else?

08:12:46 13 A. I'm sorry?

08:12:47 14 Q. Anything else?

08:12:48 15 A. No.

08:12:50 16 Q. So can you tell me what is AVID -- or is it AVID?

08:12:55 17 A. It doesn't matter. It's our -- it's our Arizona
08:13:00 18 voter registration --

08:13:01 19 MR. MORGAN: Nayati, Niyati.

08:13:04 20 MS. SHAH: Hey. There is a correct way. It
08:13:07 21 is Niyati.

08:13:07 22 MR. MORGAN: True.

08:13:10 23 THE WITNESS: We do have a member in La Paz
08:13:14 24 County that refuses to say "AVID," so he always makes a
08:13:17 25 point to annoy everyone and say "EVID."

08:13:23 1 BY MS. SHAH:

08:13:23 2 Q. I'm sorry.

08:13:24 3 So did you say -- tell --

08:13:24 4 MR. MORGAN: She asked you, "What is AVID?"

08:13:27 5 "What is AVID?" was the question.

08:13:30 6 THE WITNESS: It's the -- it's the Arizona

08:13:31 7 voter registration database.

08:13:33 8 BY MS. SHAH:

08:13:33 9 Q. Okay. And who created AVID?

08:13:37 10 A. Created? Well, it's a system that we bought from

08:13:43 11 BPro, who is now owned by KNOWiNK. So it's a database

08:13:48 12 created by them that was called TotalVote at one point.

08:13:52 13 And then when we acquired that system, it was customized to

08:13:56 14 fit Arizona's laws. And that was done in conjunction with

08:14:02 15 the counties, our administration.

08:14:05 16 Q. And by --

08:14:07 17 A. It's kind of hard to answer.

08:14:08 18 Q. And by "we," you mean the Secretary of State's

08:14:11 19 Office?

08:14:11 20 A. Our Secretary of State's Office, yes.

08:14:12 21 Q. And who maintains it currently?

08:14:17 22 A. It's maintained by the Secretary of State's

08:14:19 23 Office. And then we have a vendor in Excel that helps us

08:14:23 24 -- the project managers.

08:14:24 25 Q. And can you tell me, how is a record created

08:14:31 1 initially in AVID?

08:14:34 2 A. What record?

08:14:35 3 Q. Am I correct that AVID has records in it?

08:14:38 4 A. It does have records, but it has different types

08:14:40 5 of records. There's ballots. There's street addressing.

08:14:44 6 There's voter registration records. There's many records.

08:14:48 7 Q. Okay. Let's -- let's focus on the voter
08:14:51 8 registration records.

08:14:51 9 Can you tell me how a -- and when I say
08:14:54 10 record in this line of questioning, I'm going to refer to
08:14:56 11 that.

08:14:57 12 Can you tell me how a record for voter
08:15:00 13 registration is created initially?

08:15:02 14 A. Okay. So it all starts in two points. It could
08:15:07 15 be by an applicant mailing a voter registration form that
08:15:11 16 is received by the county, or it could be done initially
08:15:15 17 electronically by an applicant going to ServiceArizona to
08:15:20 18 register to vote.

08:15:21 19 So I'm sorry. I'm going to be very specific
08:15:23 20 as to my answers just to be clear. So I'll address the one
08:15:29 21 that has to do with the paper form.

08:15:31 22 So a paper form is mailed. It's received by
08:15:34 23 the county recorder. And that user will have the form in
08:15:38 24 front of them. And they would go into the "Add Registrant"
08:15:42 25 module of the system, and they would input all the

08:15:45 1 information that's on that paper form into the system.

08:15:50 2 Is that sufficient for that part of it?

08:15:52 3 Q. Yes. Absolutely.

08:15:53 4 A. Okay.

08:15:54 5 Q. But I would like to follow up.

08:15:56 6 Other than mail, there are other ways that a
08:16:00 7 county recorder can get a paper voter registration form; is
08:16:04 8 that correct?

08:16:04 9 A. If it's mail?

08:16:07 10 Q. Other than it being mailed by the applicant
08:16:10 11 directly, the county recorder can get a paper voter
08:16:14 12 registration form; is that correct?

08:16:15 13 A. Well, we don't know who puts it in the mail, but
08:16:20 14 it's a paper form that was signed by the applicant.

08:16:23 15 Q. Could another, let's say a voter registration
08:16:26 16 agency like a public assistance agency, send paper
08:16:30 17 applications to a county recorder?

08:16:31 18 A. Yes.

08:16:32 19 Q. Okay.

08:16:33 20 A. Uh-huh. Yeah.

08:16:34 21 Q. What about through naturalization ceremonies?

08:16:40 22 A. That's possible, yeah.

08:16:41 23 Q. Okay. And when a county recorder gets that voter

08:16:48 24 registration application, you said they add -- what is it

08:16:51 25 that you said they do? They add a registrant or add a

08:16:54 1 record?

08:16:55 2 A. They go into the add -- they go into "Add

08:16:59 3 Registrant" module in the system.

08:16:59 4 Q. Understood. Okay.

08:17:01 5 And are any data fields mandatory for a

08:17:04 6 county recorder to fill in for AVID to create that record

08:17:07 7 in the first instance?

08:17:09 8 A. I'm sure there are. The name, address is

08:17:16 9 critical, date of birth. I would have to look at what the

08:17:21 10 mandatory ones -- it's not a function that the secretary of

08:17:24 11 state does. But I can tell you that, yes, there are going

08:17:26 12 to be mandatory fields that are needed for the record to be

08:17:30 13 complete.

08:17:31 14 Q. Okay. So is there a difference between a complete

08:17:37 15 record and a record that is -- that exists in AVID?

08:17:43 16 MR. MORGAN: Form.

08:17:45 17 THE WITNESS: Can you repeat the question?

08:17:47 18 BY MS. SHAH:

08:17:47 19 Q. Sure.

08:17:47 20 Is there a difference between a complete

08:17:50 21 record versus a record that has just been created or exists

08:17:56 22 in AVID?

08:17:57 23 A. So when the --

08:17:58 24 MR. MORGAN: Form.

08:17:58 25 THE WITNESS: When the county recorder enters

08:18:01 1 the information, they have to assign a status to that
08:18:05 2 information, the status to the voter, which could be
08:18:08 3 "active," "not eligible," "in suspense." So they have to
08:18:15 4 create the record and assign a status.

08:18:19 5 BY MS. SHAH:

08:18:20 6 Q. Okay. So would it be correct to say, if I
08:18:22 7 understood you correctly, that in order for there to be a
08:18:27 8 voter registrant record in AVID, there has to be a status
08:18:30 9 associated with that record?

08:18:33 10 A. Yes. And they'll input all the information that's
08:18:35 11 on that paper form into the system.

08:18:39 12 Q. And when we say "status," that means -- what does
08:18:46 13 it mean by "status"?

08:18:47 14 A. Those are called source codes -- I'm sorry.
08:18:51 15 Statuses are "active," "canceled," "suspense," "inactive,"
08:18:56 16 "not eligible." There's quite a few. They're all outlined
08:19:01 17 in a VRAC document.

08:19:04 18 Q. Okay. And are the mandatory fields different by
08:19:15 19 county, or will they be the same?

08:19:16 20 A. They'll be the same.

08:19:18 21 Q. So is it fair to say that a record in AVID shows
08:19:22 22 information about the current status of an individual's
08:19:25 23 voter registration?

08:19:26 24 A. Yes.

08:19:27 25 Q. And does the secretary of state provide county

08:19:32 1 recorders with access to data from ADOT?

08:19:38 2 A. From MVD?

08:19:39 3 Q. Yes.

08:19:40 4 A. Yes.

08:19:40 5 Q. And just for the clarification of the record, is
08:19:44 6 it okay if we use "MVD" or "ADOT" data interchangeably, or
08:19:50 7 is that different?

08:19:50 8 A. That would be fine now that we've discussed it.

08:19:53 9 Q. Okay.

08:19:53 10 A. "MVD" is more accurate.

08:19:55 11 Q. Okay. Great.

08:19:58 12 So in the first instance -- so I want to go
08:20:03 13 back just to clarify.

08:20:04 14 So it is correct that the Secretary of

08:20:07 15 State's Office provides MVD data to county recorders?

08:20:11 16 A. Yes.

08:20:12 17 Q. And how does the secretary of state get this data
08:20:17 18 from MVD?

08:20:18 19 A. It's an interface with the system.

08:20:21 20 Q. Is this interface called the API?

08:20:25 21 A. It's an API, yes.

08:20:26 22 Q. Okay. And so the API is through which the

08:20:33 23 secretary of state gets this data -- correct? -- from MVD?

08:20:37 24 A. It sends data to them, and it receives data back.

08:20:42 25 MR. WHITAKER: Objection; form.

08:20:44 1 BY MS. SHAH:

08:20:44 2 Q. Can you please clarify what you mean "it sends
08:20:47 3 data and gets data back"?

08:20:48 4 A. So when the county user is entering the registrant
08:20:52 5 in the system, once all that information that's on that
08:20:55 6 paper form has been entered, there's a step called the HAVA
08:21:00 7 check which then utilizes those APIs to send the
08:21:04 8 information to MVD in order to be able to receive a match
08:21:08 9 on the record.

08:21:10 10 Q. Okay. Thank you. I want to come back to that in
08:21:10 11 a minute.

08:21:16 12 But I guess my first question to you is: The
08:21:17 13 secretary of state gets data from MVD through this API, or
08:21:22 14 is it through a different format?

08:21:24 15 A. No. It's through -- it's through the API; it's an
08:21:27 16 API.

08:21:27 17 Q. Okay. So -- so --

08:21:30 18 A. It's not -- I'm sorry. If I can clarify. It's
08:21:33 19 not the secretary of state. It's the system, the AVID
08:21:35 20 system.

08:21:36 21 Q. The AVID system directly receives data from MVD?

08:21:41 22 A. Sends and receives data.

08:21:43 23 Q. Sends and receives data.

08:21:45 24 So how often does MVD provide data to AVID?

08:21:52 25 A. Every time that HAVA check request is made by the

08:21:58 1 county user --

08:21:58 2 Q. Okay. So --

08:22:01 3 A. -- record by record.

08:22:04 4 Q. And every time they do that, is it correct that

08:22:06 5 that is giving -- so this data is current at that point, or

08:22:12 6 has this data been entered at a specific point

08:22:15 7 intermittently?

08:22:17 8 A. It's a live exchange.

08:22:21 9 MR. WHITAKER: Form.

08:22:22 10 BY MS. SHAH:

08:22:22 11 Q. So -- so when you say it's a live -- the AVID

08:22:24 12 database connects directly to a source in MVD?

08:22:30 13 A. It transmits the data to MVD in order to receive

08:22:34 14 data back.

08:22:36 15 Q. Okay. Understood.

08:22:38 16 And MVD, it's going to whatever is their live

08:22:45 17 database? Is that your understanding?

08:22:46 18 A. Yes. It would make what we call a call into their

08:22:51 19 database in order to receive information.

08:22:53 20 Q. Okay. And so it is -- was there ever a -- how

08:22:59 21 long has AVID been doing this function?

08:23:02 22 A. Since -- since we developed it in and went live in

08:23:06 23 late 2019.

08:23:07 24 Q. Okay. And so to confirm, is it a real-time check

08:23:13 25 of whatever is contained in MVD records at that time?

08:23:17 1 A. Yes, that is my understanding.

08:23:19 2 Q. Okay.

08:23:22 3 MR. LANGHOFER: This is Kory. I think we
08:23:24 4 should get on the record our -- I think it's an ongoing
08:23:27 5 stipulation that an objection by one is an objection by all
08:23:30 6 since it's the same 30(b)(6). Is that right?

08:23:31 7 MS. SHAH: Yes.

08:23:32 8 MR. MORGAN: Yep.

08:23:34 9 BY MS. SHAH:

08:23:35 10 Q. So are you aware of any arrangement with MVD
08:23:43 11 providing the secretary of state monthly data extracts?

08:23:48 12 MR. MORGAN: Form.

08:23:50 13 THE WITNESS: So as part of 2243, there was a
08:23:55 14 requirement for them to send us a monthly file that I
08:24:00 15 believe lists people that have -- that have moved to
08:24:03 16 another state.

08:24:06 17 BY MS. SHAH:

08:24:07 18 Q. And anything else?

08:24:09 19 A. That's all I'm aware of that we receive on a
08:24:12 20 monthly basis right now.

08:24:13 21 Q. Okay. And that is different than the process that
08:24:17 22 you just described about checking through AVID?

08:24:20 23 A. Two separate --

08:24:23 24 Q. Two separate?

08:24:23 25 A. -- activities. Uh-huh.

08:24:25 1 Q. Okay. Great.

08:24:28 2 And when there is an entry of information by
08:24:37 3 the county recorders and they send that data to MVD for a
08:24:43 4 match to come back, has there been problems receiving or
08:24:49 5 matching that data?

08:24:53 6 MR. WHITAKER: Form.

08:24:57 7 THE WITNESS: Not that I'm aware of, no. I
08:24:59 8 mean, no. I mean, they get -- they get results back every
08:25:03 9 time a call is made.

08:25:04 10 BY MS. SHAH:

08:25:05 11 Q. Okay. And when they get results back, what
08:25:10 12 happens? Is that information entered automatically onto
08:25:13 13 AVID from MVD, or is it some sort of manual entry by the
08:25:18 14 county recorder?

08:25:18 15 A. So once they get the match from MVD, they are
08:25:23 16 presented a list of soft matches or hard matches. And then
08:25:28 17 they review the list and select a record.

08:25:33 18 Q. Okay. And when they select a record, what
08:25:41 19 happens?

08:25:41 20 A. Then they are accepting that match in order to --
08:25:45 21 because part of the HAVA check, when they make the call to
08:25:48 22 MVD, is to get their authorized presence value, which tells
08:25:53 23 the county user whether that applicant is a naturalized
08:25:59 24 citizen or a citizen in order to be able to register them
08:26:03 25 as a full-ballot voter.

08:26:05 1 Q. And is that information transferred automatically
08:26:11 2 through the HAVA check, or is it something that the county
08:26:15 3 recorder enters manually into the AVID record?

08:26:18 4 A. Once they select the match, then they're accepting
08:26:21 5 that authorized presence value to be associated with that
08:26:25 6 record.

08:26:29 7 Q. So perhaps I'm misunderstanding you.

08:26:33 8 Is it -- once they select a record, that
08:26:39 9 authorized value -- presence value is entered by the county
08:26:46 10 recorders themselves, or is it just automatically filled
08:26:49 11 out?

08:26:49 12 A. It becomes -- it becomes part of the record. It
08:26:51 13 -- every record has multiple tabs. And one of the tabs is
08:26:56 14 called the validation tab. And so that match will go into
08:27:00 15 that validation tab for historical purposes to confirm that
08:27:04 16 there was a match and information received from MVD. That
08:27:08 17 then becomes part of the record.

08:27:09 18 Q. Okay. And so is any field outside the validation
08:27:14 19 tab completed as a result of this HAVA check in AVID?

08:27:21 20 A. No. I mean, the data is made part of the record.

08:27:26 21 Q. Okay. We'll come back to that.

08:27:28 22 A. Yeah, it's an electronic transfer of information.

08:27:31 23 Q. Understood.

08:27:33 24 When -- when you say -- you mentioned earlier
08:27:38 25 that there could be a soft match where there will be

08:27:41 1 multiple options versus a hard match; is that correct?

08:27:44 2 A. Depending on the number of records that MVD was

08:27:48 3 able to find a match, it will present one, two -- three

08:27:53 4 matches. And they'll have a category of soft or hard

08:27:57 5 match.

08:27:58 6 Q. What is -- what is -- what does it mean when

08:28:01 7 there's a soft match?

08:28:02 8 A. A soft match means that only some of the

08:28:05 9 information matched, not all of it. If all the information

08:28:08 10 matched, then it would be a hard match.

08:28:11 11 Q. And the information is -- when you say

08:28:17 12 "information," is that the information that the county

08:28:20 13 recorder has entered into AVID as part of the voter

08:28:24 14 registration application record?

08:28:25 15 A. Yes.

08:28:26 16 Q. And what other information is it checking against

08:28:33 17 with the MVC record?

08:28:34 18 A. It's using the information that was entered by the

08:28:37 19 county user based on the information on the paper form,

08:28:41 20 sending that information over through the API to MVD to

08:28:44 21 produce a match. And then that match can be either soft or

08:28:48 22 hard match.

08:28:50 23 Q. And so a hard match, you said all the fields match

08:28:55 24 up. And would there be multiple hard matches?

08:29:01 25 A. No. There should only be one MVD record that has

08:29:04 1 a hard match.

08:29:05 2 Q. Okay. And can you -- you mentioned multiple

08:29:10 3 fields for discussing authorized presence. What fields are

08:29:14 4 those?

08:29:16 5 A. It's not fields. It's data.

08:29:22 6 Q. Okay. What data?

08:29:24 7 A. Like, what type of authorized presence value we

08:29:27 8 can receive back?

08:29:28 9 Q. Uh-huh. That's correct.

08:29:29 10 A. I would have to refer to a spreadsheet if you

08:29:32 11 allow me to.

08:29:33 12 Q. Please. Please.

08:29:35 13 And can you just tell me what you're

08:29:36 14 referring to when you do that?

08:29:37 15 A. Yeah. You might have it as part of an exhibit.

08:29:40 16 Q. Okay.

08:29:42 17 A. It's a spreadsheet, and it's called "Authorized

08:29:45 18 Presence Values." And then we get -- sorry. MVD assigns a

08:29:52 19 code -- a type ID, they call it -- from 1 through 6.

08:29:57 20 Authorized presence ID 1 stands -- represents

08:29:59 21 a naturalized citizen; 2 represents a resident permanent

08:30:06 22 alien; 3, a temporary visa; 4 represents a U.S. citizen; 5,

08:30:13 23 Canadian; and 6 is U.S. territory or possessions [verbatim]

08:30:19 24 that don't grant citizenship.

08:30:21 25 Q. Okay. And then other than those values for

08:30:26 1 authorized presence, is there any other information from
08:30:29 2 MVD transferred or provided to the county recorder?
08:30:33 3 A. It would -- besides that, it will transfer the
08:30:37 4 name that it found in the system. So everything that hard
08:30:40 5 matched against the voter record would also come with the
08:30:45 6 authorized presence value information.
08:30:47 7 Q. Okay. And what -- what could possibly be provided
08:30:55 8 in addition to the name? What other information would be
08:30:58 9 provided?
08:30:59 10 A. The driver's license and the authorized presence
08:31:01 11 value --
08:31:02 12 Q. Anything else?
08:31:03 13 A. -- and a name.
08:31:05 14 That's all I can -- I can remember right now.
08:31:07 15 It's not a function that I do. It's a county function.
08:31:09 16 But I -- I've had visibility to what it looks like, but
08:31:13 17 it's not something that I do. It's not a function that I
08:31:16 18 carry on to a day-to-day basis so . . .
08:31:18 19 Q. Okay. And you mentioned that that information
08:31:21 20 gets put in what is called a validation tab; is that right?
08:31:24 21 A. Uh-huh. Yeah, that's my recollection.
08:31:26 22 Q. Is that the full record that is obtained from MVD,
08:31:31 23 or is it just -- what is -- what is contained in that
08:31:34 24 validation tab?
08:31:35 25 A. The name that it matched to, the driver's license,

08:31:39 1 and the authorized presence value. It also confirms the
08:31:42 2 day that the match -- that that call was made.

08:31:45 3 Q. Okay. What about any underlying immigration
08:31:50 4 documents?

08:31:50 5 A. No, no.

08:31:52 6 Q. All right. And other than that API interface data
08:32:06 7 during the HAVA checks, can county recorders obtain
08:32:11 8 authorized presence -- authorized presence information from
08:32:15 9 ADOT through any other mechanism?

08:32:18 10 A. No.

08:32:20 11 MR. MORGAN: Foundation.

08:32:21 12 THE WITNESS: Only through the HAVA check.
08:32:25 13 The counties can only do it through the HAVA check.

08:32:29 14 BY MS. SHAH:

08:32:30 15 Q. Okay. So can you tell me, in order for a voter
08:32:50 16 registration application to be considered complete, what
08:32:53 17 information must currently be provided before 2492 was
08:32:58 18 enacted?

08:33:00 19 A. Okay. So it's not a function that I do on a daily
08:33:04 20 basis, so it's -- it's something that is better asked of a
08:33:11 21 county user.

08:33:13 22 But I know that without a doubt, at a
08:33:15 23 minimum, they're going to need the name. They're going to
08:33:18 24 need a date of birth, their address. They must have
08:33:25 25 answered the yes-or-no questions in the bottom of the form

08:33:33 1 attesting to the truthfulness of the document being
08:33:36 2 presented and if they're a citizen or not.

08:33:40 3 Q. Okay. So if you wouldn't mind going to what is in
08:33:53 4 your document -- if you go and you'll see a folder that
08:33:55 5 says, "SOS docs."

08:34:05 6 A. Okay. It's, like, a folder at the bottom. Okay.

08:34:06 7 Q. And then if you open that folder, you should see
08:34:08 8 an exhibit that says -- that says, "06 Petty Exhibit."

08:34:13 9 A. Okay.

08:34:14 10 Q. If you can open that.

08:34:17 11 MR. MORGAN: Niyati, is that Petty 6?

08:34:20 12 MS. SHAH: That's correct. That is correct.

08:34:24 13 MR. MORGAN: I'm just following along with
08:34:27 14 Coash's exhibits, so thank you.

08:34:27 15 MS. SHAH: Exactly.

08:34:28 16 BY MS. SHAH:

08:34:28 17 Q. So now that you have it open, what has been
08:34:31 18 previously marked as Petty Exhibit 6 -- if you see -- at
08:34:33 19 the bottom there are some demarcations which say page or it
08:34:42 20 has, like, MC 0001 at the front. So if you could maybe go
08:34:47 21 down to MC 31 of that.

08:34:47 22 A. Sure. Scrolling.

08:34:59 23 Q. And it's page 17, if that's easier.

08:35:07 24 A. On the MC, you want me to go to 36; right?

08:35:10 25 Q. 31.

08:35:11 1 A. Oh, 31. Okay. 31. Okay. So it's page 31 of the
08:35:15 2 PDF, and it says page 17 in the bottom of the document.

08:35:19 3 Q. Exactly.

08:35:19 4 A. Okay.

08:35:20 5 Q. And do you see where it says, "Minimum Required
08:35:23 6 Information on Voter Registration Forms"?

08:35:25 7 A. Yes.

08:35:26 8 Q. And I'm going to paraphrase what it says there,
08:35:29 9 but it says that, you know, "must contain the following
08:35:32 10 minimum information" of name, residence, date of birth,
08:35:36 11 signature, and citizenship affirmation.

08:35:40 12 A. Yes.

08:35:40 13 Q. Okay. And if -- if that information is provided
08:35:47 14 with nothing else on a voter registration application, do
08:35:50 15 you know how that would be coded as a status in AVID?

08:35:55 16 A. It would be an active status if they provide all
08:36:00 17 the minimum requirements.

08:36:01 18 Q. Okay. And they would -- so in that situation --
08:36:07 19 and what would be the status reason?

08:36:10 20 A. Valid registration.

08:36:12 21 Q. And then how about after HB 2492 is implemented
08:36:22 22 and they're using a state form, what would be the status
08:36:26 23 code in AVID in that situation?

08:36:30 24 MR. WHITAKER: Foundation. I think
08:36:32 25 speculation also.

08:36:34 1 THE WITNESS: I would have to refer to that
08:36:36 2 legislation. It's not something that I have committed to
08:36:39 3 memory.
08:36:41 4 BY MS. SHAH:
08:36:42 5 Q. Okay. Can we go to what is marked as -- in that
08:36:50 6 same folder, it's marked as Document AZSOS 035421?
08:36:59 7 A. Okay.
08:37:03 8 Q. Let me know when you have opened it.
08:37:05 9 MS. SHAH: And can we mark that, I believe,
08:37:08 10 as Exhibit 276.
08:37:08 11 (The document was marked as Exhibit 276
08:37:11 12 for identification.)
08:37:11 13 THE WITNESS: It's titled "2492 notes for
08:37:14 14 VRAC call"?
08:37:17 15 BY MS. SHAH:
08:37:18 16 Q. Yes.
08:37:18 17 A. Okay.
08:37:21 18 Q. Okay. And then would you go to what is -- what
08:37:23 19 would be -- what I'm going to call page AZSOS 42 -- 035422.
08:37:34 20 A. Okay.
08:37:34 21 Q. And then you will see at the bottom it says
08:37:40 22 16-121.01(A) "outlines requirements for what must be on VR
08:37:48 23 form to consider it complete."
08:37:51 24 Do you see that?
08:37:52 25 A. At the very, very bottom? 16-121?

08:37:56 1 Q. Yes.

08:37:56 2 A. Okay.

08:37:57 3 Q. And then if you go -- yeah. Then if you go to the
08:38:00 4 next page, it says -- then there's a paragraph A. And then
08:38:06 5 below it says "what is required to determine a VR form is
08:38:11 6 complete."

08:38:12 7 Do you see that?

08:38:13 8 A. Uh-huh.

08:38:14 9 Q. So do you -- can you -- would you agree based on
08:38:20 10 this that you need for a state form to be considered
08:38:24 11 complete a DPOC?

08:38:28 12 MR. WHITAKER: Foundation.

08:38:31 13 THE WITNESS: It says that for state forms
08:38:33 14 only.

08:38:33 15 BY MS. SHAH:

08:38:34 16 Q. Correct?

08:38:34 17 A. DPOC is needed, yes.

08:38:36 18 Q. So in this circumstance, what would be -- if a
08:38:42 19 voter registration form, straight form, was provided after
08:38:47 20 2492 is implemented, what would be the code in status code
08:38:52 21 in AVID without a DPOC?

08:38:56 22 MR. WHITAKER: Foundation.

08:38:57 23 THE WITNESS: Well, I don't have any
08:38:59 24 discussions to refer to to see what has been agreed to by
08:39:02 25 the counties. But I imagine more than likely it's not

08:39:10 1 going to be active valid registration in that case. I'm
08:39:15 2 just not sure what other status they would designate it at
08:39:18 3 this time.

08:39:19 4 BY MS. SHAH:

08:39:20 5 Q. And so your testimony sitting here today is that
08:39:23 6 that status code has not been decided?

08:39:26 7 A. Not that I'm aware of.

08:39:28 8 Q. And to use that same set of examples of -- in a
08:39:35 9 federal form, would there be any changes in status code if
08:39:39 10 no DPOC was provided?

08:39:42 11 MR. WHITAKER: Foundation.

08:39:44 12 THE WITNESS: I -- I don't have that
08:39:45 13 committed to memory. I'm sorry.

08:39:47 14 BY MS. SHAH:

08:39:57 15 Q. And so going back to that document below. And do
08:40:00 16 you see where it says "What" status code -- "status
08:40:05 17 reason/code to use in AVID if we receive an incomplete
08:40:08 18 form"?

08:40:09 19 A. Uh-huh.

08:40:10 20 Q. Right?

08:40:13 21 Has that -- and you see it says, "including
08:40:16 22 failing to provide DPOC with state form"?

08:40:19 23 A. Let me zoom in a little bit. The font is very
08:40:25 24 small.

08:40:25 25 Q. Sure. Take your time.

08:40:27 1 A. Okay. So now we are right below where it says,
08:40:29 2 "what status/reason code to use in AVID if we receive an
08:40:30 3 incomplete form"?

08:40:31 4 Q. Yes.

08:40:32 5 A. Is that where we're reading?

08:40:34 6 Q. Yes.

08:40:34 7 "Including failing to provide DPOC with state
08:40:37 8 form." It says, "Suspense, registrant waiting
08:40:43 9 verification; then follow the," quote, "not
08:40:47 10 registered/pending expired' procedure."

08:40:50 11 Did I read that correctly?

08:40:51 12 A. Yes.

08:40:52 13 Q. Has -- has that been implemented yet?

08:40:58 14 A. No.

08:40:59 15 Q. Okay.

08:41:00 16 MR. WHITAKER: Foundation.

08:41:01 17 BY MS. SHAH:

08:41:03 18 Q. When will it be implemented?

08:41:06 19 A. I guess it would depend on the outcome of
08:41:09 20 litigation.

08:41:11 21 Q. Anything else?

08:41:12 22 MR. WHITAKER: Same.

08:41:13 23 THE WITNESS: Nothing else that I'm aware of.

08:41:15 24 BY MS. SHAH:

08:41:23 25 Q. So then can we go back to what had been previously

08:41:26 1 marked as Petty Exhibit 6. And then we want to go to

08:41:31 2 page 37 of that.

08:41:43 3 A. Scrolling.

08:41:44 4 Q. And by -- I mean, 37 in the document. It would be

08:41:50 5 page 23 in -- as it's written, but it would be 37 of the

08:41:55 6 document, MC 0037.

08:41:57 7 A. Okay.

08:41:59 8 Q. And?

08:42:01 9 A. I'm not there yet. One second.

08:42:03 10 Q. Sure. When you're ready, you let me know.

08:42:05 11 MR. MORGAN: Sorry, Niyati. What page on

08:42:08 12 the -- of the PDF? Because it's loading.

08:42:11 13 MS. SHAH: Yeah. So in the electronic PDF,

08:42:14 14 it would be page 37. Of the document itself, it will be, I

08:42:19 15 believe, page 23.

08:42:22 16 MR. MORGAN: All right. Thank you.

08:42:24 17 THE WITNESS: Okay. I'm there now.

08:42:25 18 BY MS. SHAH:

08:42:25 19 Q. All right. And do you see at the top it says,

08:42:28 20 "Electronic Verification Procedures"?

08:42:32 21 A. Hang on. It froze and it went black.

08:42:35 22 Q. Totally okay. You let me know when you're ready.

08:42:38 23 A. Oh, and then it jumped somewhere else. Hang on.

08:42:47 24 I had it perfect a second ago. Okay.

08:42:49 25 MC 37. And then at the top -- it keeps

08:42:58 1 jumping. "Electronic Verification Procedures," letter G.

08:43:03 2 Okay. I'm there.

08:43:05 3 Q. All right. So is that what we discussed earlier

08:43:11 4 and you called HAVA checks?

08:43:16 5 A. Let's see. Yes, that is the HAVA check.

08:43:29 6 Q. Okay. Great.

08:43:31 7 Now if I could direct your attention back

08:43:34 8 into that folder to what is called AZSOS-182040.

08:43:48 9 A. Okay. And looks like a screenshot of the system.

08:43:53 10 Q. Okay. So great. Let's --

08:43:56 11 MS. SHAH: And can we mark that as

08:43:58 12 Exhibit 277, I believe.

08:43:58 13 (The document was marked as Exhibit 277

08:44:03 14 for identification.)

08:44:03 15 BY MS. SHAH:

08:44:04 16 Q. And at the top, you will see that it says, "Add

08:44:08 17 Registrant." And that's what you were referring to earlier

08:44:10 18 when you said that's where CR, county recorder, would start

08:44:13 19 when they got a paper voter registration application?

08:44:16 20 A. Yes. That's the screen where they would input

08:44:19 21 everything.

08:44:19 22 Q. Great.

08:44:22 23 What information from -- would a county

08:44:27 24 recorder need to ascertain whether there is a duplicate

08:44:32 25 existing record in AVID?

08:44:35 1 A. They would need to pay attention to the screens
08:44:38 2 that are being presented by the system. If it does find --
08:44:43 3 sorry.

08:44:44 4 If it finds a match to an existing record,
08:44:47 5 they're going to receive a pop-up like the one on the
08:44:50 6 screen letting them know that there's been a hard match
08:44:53 7 and that the system is not going to create a new record.
08:44:55 8 It's going to merge the information into that record.

08:45:00 9 Q. But in order for the system to -- to have that
08:45:05 10 response of a duplicate record, what fields must a county
08:45:09 11 recorder fill in before the system can generate this
08:45:12 12 report?

08:45:15 13 A. As much information as was available on the paper
08:45:18 14 form.

08:45:20 15 Q. Okay. But there's no minimum requirement of
08:45:24 16 information?

08:45:26 17 A. If it's not sufficient, it may not be able to
08:45:29 18 produce a match.

08:45:30 19 Q. Okay.

08:45:31 20 A. So then the system --

08:45:32 21 Q. Oh, no. Please finish. I didn't mean to
08:45:35 22 interrupt you.

08:45:35 23 A. No, I was going to say if -- if it -- if it has
08:45:38 24 enough information to find a hard match, it will let you
08:45:40 25 know that there's a hard match.

08:45:42 1 But if it wasn't sufficient information, then
08:45:44 2 it's potentially possible that a new record will be created
08:45:48 3 because there was not enough information to find an
08:45:50 4 existing match with a record in the system.

08:45:53 5 Q. Okay. Understood.

08:45:54 6 And will the duplicates be limited to the
08:46:00 7 records that exist within a county?

08:46:06 8 A. No.

08:46:07 9 Q. So it would be statewide?

08:46:09 10 A. Correct.

08:46:10 11 Q. And if there is a duplicate record or one that
08:46:15 12 matches, how is that application treated?

08:46:22 13 A. If a match is found?

08:46:23 14 Q. Yes.

08:46:25 15 A. It would override the information on the existing
08:46:28 16 record with the new information provided in the voter
08:46:32 17 registration form.

08:46:33 18 Q. And how would that override be reflected? Would
08:46:38 19 it be as, like, an updated record, or is there some sort of
08:46:42 20 demarcation in AVID that says that this record was --

08:46:46 21 A. Yeah.

08:46:46 22 Q. -- overridden? I'm not sure of the right
08:46:50 23 terminology.

08:46:51 24 A. Yeah, I don't blame you.

08:46:54 25 So every activity -- we call it activity

08:46:56 1 that's done in a record -- has history that assigns a date

08:47:03 2 of when it was done, who made the changes, what changes

08:47:07 3 were made. So that's all existing in the activity tab.

08:47:12 4 I think I mentioned earlier that there --

08:47:14 5 every record has different tabs. So this will go in the

08:47:17 6 activity tab. But also on the main tab, it would update

08:47:21 7 the effective day of the change to match the date of that

08:47:24 8 change.

08:47:25 9 And if, by chance, that person used to be in

08:47:28 10 one county and moved to another county, it would also

08:47:31 11 update the county registration date to reflect that date as

08:47:36 12 well.

08:47:39 13 Q. So would -- other than the date changes of the --

08:47:46 14 from one county to another, would there be any other -- and

08:47:52 15 the activity tab, would there be something that says this

08:47:54 16 is an updated registration or, like, a -- you know, county

08:48:00 17 -- moved from one county to the other outside of that? Is

08:48:03 18 there, like, a specific field, or is it just in the

08:48:05 19 activity tab?

08:48:07 20 A. It's -- yeah, there's no fields in AVID that say

08:48:09 21 this record has been updated. You have to look at the date

08:48:15 22 of registration, which is the very first date that person

08:48:17 23 ever registered to vote in the state.

08:48:20 24 There's another field called the county

08:48:22 25 registration date, which is the date that they became a

08:48:24 1 voter in that county.

08:48:26 2 And then thirdly, there's the date called the

08:48:28 3 effective date of change. And that is the date of the most

08:48:31 4 recent change on the record.

08:48:34 5 Q. And going back to Exhibit 277, which was that
08:48:39 6 screenshot. And you can see it's -- at the -- it's a
08:48:45 7 little faded, but you can see right at the top center, it
08:48:50 8 says "Run HAVA Checks" that we talked about earlier. But
08:48:54 9 do you see that where it says on the document "Run HAVA
08:48:58 10 Check"?

08:48:58 11 A. I want to make sure that we're still on the
08:49:01 12 AZSOS-182040.

08:49:04 13 Q. Yes. Exactly.

08:49:05 14 A. Okay.

08:49:06 15 Q. It is hard to see. But if you see at the very top
08:49:09 16 center, it says, "Add Registrant." Below, it says -- and
08:49:13 17 you see "Run HAVA Checks"? That's the third line.

08:49:16 18 A. I see that, yes.

08:49:17 19 Q. Okay. So does a county recorder affirmatively
08:49:23 20 select or click on that, or is that done automatically?

08:49:27 21 A. The county has to select "Run HAVA Checks" when
08:49:30 22 they're ready.

08:49:33 23 Q. Is there a particular time when they would be
08:49:35 24 ready?

08:49:37 25 A. Well, they need to complete entering all the

08:49:39 1 information on the paper form before they are ready.

08:49:44 2 Q. Okay. And that's when they would --

08:49:47 3 A. Yes.

08:49:48 4 Q. -- click on that?

08:49:49 5 A. That would be the ideal process, yeah.

08:49:51 6 Q. And is a HAVA check always conducted every time a
08:50:01 7 new record is added?

08:50:04 8 A. Yes. The system won't allow them to add the
08:50:08 9 record if the "Run HAVA Check" has not been selected.

08:50:11 10 Q. Okay. What about when we just talked about where
08:50:16 11 -- when a -- when there's an existing record that pops up.
08:50:21 12 Right? But there is a change from one county or some other
08:50:25 13 change. Right? Will they have to -- when there's a record
08:50:29 14 being updated, will they have to run a HAVA check at that
08:50:33 15 point as well?

08:50:33 16 A. Yes. Every time that you are making an update to
08:50:38 17 a record or adding a record for the first time, the system
08:50:43 18 requires the HAVA check to be ran as part of the process.

08:50:46 19 Q. Why does the system need to do that when there is
08:50:50 20 an update?

08:50:52 21 A. It's the way the system was built to run. It
08:50:56 22 doesn't treat an update and a new addition any differently.

08:51:02 23 Q. And so if -- okay.

08:51:06 24 And so when the county recorder selects "Run
08:51:13 25 HAVA Checks," what is the first thing that happens in the

08:51:16 1 system?

08:51:19 2 A. Well, the system is behind the scenes making that

08:51:21 3 call to MVD through the API and waiting to receive the

08:51:25 4 results.

08:51:26 5 Q. Okay. And so the county -- what will the county

08:51:33 6 recorder see?

08:51:36 7 A. When the information has been transmitted and

08:51:38 8 received back, they'll receive a pop-up similar to the one

08:51:41 9 that's on that screen.

08:51:43 10 Q. Okay.

08:51:43 11 A. And it would --

08:51:45 12 Q. Sorry. I didn't mean to cut you off.

08:51:48 13 A. No. Go ahead with your question.

08:51:49 14 Q. No. You said they would get a pop-up, and then

08:51:53 15 they would what?

08:51:53 16 A. Then that's when MVD would tell them what the

08:51:57 17 authorized presence value is for the match.

08:52:03 18 Q. Would they see anything else?

08:52:12 19 A. With the match?

08:52:13 20 Q. With the pop-up, like, other than the authorized

08:52:16 21 presence, is there any other information --

08:52:17 22 A. It will show them the name so that they can be

08:52:20 23 aware that this presence -- authorized presence value is

08:52:23 24 for this name so they can compare it to the record and the

08:52:27 25 driver's license number.

08:52:28 1 Q. If -- and that is in the case of a hard match; am
08:52:35 2 I correct?

08:52:36 3 A. Yes.

08:52:36 4 Q. What would it --

08:52:37 5 A. It's the same. It's the same with a soft match.
08:52:40 6 Because if we back up for a minute, every time they do a
08:52:43 7 "Run HAVA Checks," there's always a possibility that what
08:52:47 8 they get in return from MVD is one match or multiple
08:52:51 9 matches. And like I had mentioned before, some of them can
08:52:55 10 be a soft or it could be a hard match.

08:52:57 11 So at that point, the county user needs to
08:52:59 12 make a selection based on what's been presented to them.
08:53:03 13 Then when that selection is made, then they get a pop-up
08:53:07 14 similar to the one that's on the screen that then presents
08:53:10 15 to them the authorized presence value along with the name
08:53:13 16 and the driver's license.

08:53:14 17 Q. Okay. And where they have soft matches where
08:53:20 18 there's multiple matches, what criteria would a county
08:53:26 19 recorder use to make a choice between the soft matches?

08:53:30 20 MR. MORGAN: Foundation.

08:53:31 21 THE WITNESS: It's a -- it's a county
08:53:32 22 function, so I -- I don't do that function. I would have
08:53:37 23 to refer to the EPM, if it's there, to be able to answer
08:53:41 24 the question.

08:53:43 25 BY MS. SHAH:

08:53:56 1 Q. And is it possible for there to be a hard match
08:54:02 2 but the corresponding information from the MVD record does
08:54:07 3 not match the information provided on the voter
08:54:10 4 registration application?

08:54:14 5 A. These are computer systems, so everything is
08:54:16 6 possible. So the county user has to be very attentive to
08:54:21 7 the information being received.

08:54:22 8 And if there's a mismatch, they -- they are
08:54:25 9 instructed to open a ticket and submit a ticket for us to
08:54:30 10 evaluate the situation.

08:54:33 11 MR. MORGAN: Just noting for the -- noting
08:54:35 12 for the record, by the way, it's 00 it's 8:55, and I know
08:54:37 13 Mr. Langhofer has a 9:00 for a break. So just want to let
08:54:41 14 you know. So if I were you, I would be monitoring the
08:54:44 15 time.

08:54:47 16 MS. SHAH: Okay. We'll assume that Kory will
08:54:49 17 speak up as he needs to.

08:54:53 18 MR. LANGHOFER: I'll drop just, you know,
08:54:56 19 four or five minutes from now. We'll all suspend, not just
08:55:01 20 me drop out.

08:55:03 21 MS. SHAH: Let us know, Kory.

08:55:05 22 BY MS. SHAH:

08:55:06 23 Q. So it is possible for there to be a match with an
08:55:10 24 Arizona driver's license or ID number, but there may not be
08:55:16 25 a match with a name potentially?

08:55:19 1 A. I mean, that's not expected. I mean, the system
08:55:22 2 is matching apple to apples and it should only be returning
08:55:26 3 apples back, to put it in layman's terms.

08:55:28 4 Q. So you said in those circumstances a county
08:55:31 5 recorder is instructed to create a ticket?

08:55:33 6 A. Yeah. That would be the first initial reaction,
08:55:37 7 I'm sure, to let us know that something is not providing
08:55:42 8 the expected results or is providing a mismatch if it were
08:55:46 9 to happen.

08:55:47 10 Q. And what would be the status of that voter
08:55:51 11 registration in that circumstance?

08:55:53 12 A. If they were not able to receive any proper
08:55:57 13 information with MVD, more than likely they would have to
08:56:00 14 put them in suspense, I would imagine, until the -- until
08:56:04 15 it's resolved.

08:56:05 16 Q. So until the -- the lack of matched information is
08:56:12 17 resolved, they would be in suspense?

08:56:13 18 A. So let me think about this. So MVD is used to
08:56:17 19 acquire DPOC. So if for some reason MVD failed to produce
08:56:23 20 the proper match, the system also will move into getting
08:56:31 21 verification from the SSA.

08:56:34 22 But in this case, it's not going to move
08:56:36 23 forward because the system thinks they found a match. So
08:56:38 24 this is like a very tricky question that I would rather --
08:56:43 25 in order for me to answer the question, I would have to run

08:56:45 1 through a real scenario to see the system behavior to
08:56:49 2 evaluate what the county may do in that case. It's a very
08:56:53 3 tricky situation.

08:56:56 4 Q. So if -- if there was a match provided and -- but
08:57:07 5 the county recorder sees some discrepancies in that match,
08:57:12 6 the system -- what would be the status of that record?

08:57:20 7 A. I'm -- well, at that point, DPOC is not proven
08:57:29 8 unless they also provided DPOC outside of relying on the
08:57:32 9 system. So it's a hypothetical that it's very hard to
08:57:35 10 answer without an actual case for us to evaluate in this
08:57:39 11 scenario.

08:57:40 12 Q. I understand that.
08:57:42 13 I'm just trying to get to -- but if it was a
08:57:49 14 -- we discussed earlier what a complete registration would
08:57:54 15 be. And I understand that the DPOC hasn't been provided.
08:57:58 16 But other than that, would they be considered an active
08:58:02 17 voter? Would that be a status at that point?

08:58:05 18 A. Yeah, it -- it should because if the voter --
08:58:08 19 other than the DPOC not being able to be validated
08:58:11 20 accurately at that moment, if they did provide their full
08:58:14 21 name, date of birth, address, signed everything, provided a
08:58:18 22 signature, they should be able to bring that record into an
08:58:22 23 active valid registration.

08:58:24 24 But in that case, more than likely they will
08:58:26 25 need to be -- at least for the moment, for the time being,

08:58:30 1 be considered a federal-only voter.

08:58:34 2 Q. And would that -- would that record be considered

08:58:39 3 as having been provided -- like, that the record has shown

08:58:44 4 and verified their identity as well?

08:58:49 5 MR. WHITAKER: Foundation.

08:58:50 6 THE WITNESS: That's a tricky part because

08:58:52 7 the system only makes a call to SSA if there is no match

08:58:56 8 whatsoever in MVD.

08:58:57 9 So in the scenario that you presented, in the

08:59:00 10 hypothetical that you presented, you asked if there could

08:59:05 11 be a chance that MVD provides a match that doesn't match

08:59:08 12 the record. And so in that case, it's a unique situation

08:59:15 13 where they more than likely might have to be a fed-only

08:59:18 14 voter -- what we call a fed voter and not a fed-I. Fed-I

08:59:22 15 is when there's no DPOC, but we're able to confirm their

08:59:27 16 personhood, their identity, by way of SSA.

08:59:29 17 Q. Okay.

08:59:31 18 MR. LANGHOFER: Apologies for interrupting.

08:59:33 19 I think I need to break for this other call.

08:59:38 20 MR. MORGAN: We'll be back -- what, Kory --

08:59:39 21 9:45?

08:59:41 22 MR. LANGHOFER: That would be great.

08:59:43 23 MS. SHAH: We're going off the record.

08:59:44 24 MR. MORGAN: Yes, please.

08:59:46 25 THE VIDEOGRAPHER: We're off the record.

08:59:52 1 Time on the video monitor is 8:59 a.m.

09:00:18 2 (A recess ensued.)

09:47:03 3 THE VIDEOGRAPHER: We are on the record.

09:47:56 4 Time on the video monitor is 9:47 a.m.

09:48:00 5 BY MS. SHAH:

09:48:02 6 Q. Okay. Ms. Morales, let's pick up where we left.

09:48:05 7 And I want to put this -- just want to get a few more

09:48:09 8 details about the soft and hard matches, and then we can

09:48:12 9 move on.

09:48:12 10 With the soft match, the fields that have

09:48:16 11 been entered in AVID by a county recorder, do they have to

09:48:18 12 match exactly with the corresponding information with MVD?

09:48:29 13 A. In order to get a hard match, everything needs to

09:48:33 14 match.

09:48:34 15 Q. Understood.

09:48:34 16 A. For a soft match, not everything.

09:48:37 17 Q. Okay. So -- and by that, I want to just drill

09:48:39 18 down on this.

09:48:40 19 So if my first name is spelled N-i-y-a-t-i,

09:48:44 20 my last name is spelled S-h-a-h, if there is an exact match

09:48:48 21 with my last name field but my first name is trans- --

09:48:54 22 like, one or two letters are transposed, would that yield a

09:48:58 23 soft match?

09:49:00 24 A. I would have to rely on the technical specs of the

09:49:05 25 match and how it works because in some cases it's just the

09:49:07 1 first three letters of the first name and last name. And

09:49:11 2 it's not my area of expertise to drill it down to that

09:49:14 3 level.

09:49:16 4 Q. So --

09:49:18 5 A. So what I'm trying to say is I'm not sure, without

09:49:21 6 looking further into the technical specs, of how that

09:49:24 7 interface works for me to confirm if it's just looking at

09:49:29 8 the first three letters of the first name and last name in

09:49:32 9 order to produce matches of any kind.

09:49:33 10 Q. All right. Thank you. We may follow up with that

09:49:37 11 afterwards.

09:49:39 12 And then do you know if there is what they're

09:49:43 13 calling a flattening of names when there is a comparison of

09:49:48 14 fields or data between AVID and MVD?

09:49:52 15 MR. MORGAN: Form.

09:49:54 16 THE WITNESS: A flat name of names? Is that

09:49:57 17 the question?

09:49:57 18 BY MS. SHAH:

09:49:57 19 Q. Flattening.

09:49:58 20 So if there's, like, an apostrophe or

09:50:00 21 anything like that, that's removed when AVID and MVD --

09:50:04 22 A. I see.

09:50:05 23 Q. -- engage --

09:50:07 24 A. Sorry. Didn't mean to speak over you.

09:50:10 25 I would have to look at the technical specs

09:50:11 1 to be able to confirm that. It's just not something that I
09:50:13 2 do as a policy manager.

09:50:15 3 Q. Understood.

09:50:16 4 And then when you do get soft matches, do
09:50:21 5 county recorders get any sort of reliability score by any
09:50:24 6 chance?

09:50:26 7 MR. MORGAN: Foundation.

09:50:28 8 THE WITNESS: I don't know. I would have to
09:50:32 9 see an example to see what's presented to them. But I have
09:50:35 10 never heard of a reliability score.

09:50:38 11 BY MS. SHAH:

09:50:38 12 Q. Who would know if not you?

09:50:41 13 A. We would have to go into the technical aspects of
09:50:44 14 the system, so perhaps Russell Smith.

09:50:48 15 Q. Okay. And then am I correct that when there's a
09:50:55 16 hard match, you would only get one match from MVD?

09:50:59 17 A. If it's a hard match?

09:51:01 18 Q. Yes.

09:51:01 19 A. I mean, yeah, it should only be one hard match
09:51:05 20 unless for some reason MVD has two records for the same
09:51:09 21 person.

09:51:11 22 Q. Well, I just want to clarify. The match is being
09:51:14 23 done by what has been entered into AVID by a county
09:51:18 24 recorder; correct?

09:51:18 25 A. Uh-huh.

09:51:18 1 Q. And so if -- if there's limited information, can
09:51:23 2 there be two hard matches based on that information that's
09:51:26 3 entered by the county recorder into AVID?

09:51:32 4 MR. WHITAKER: Form.

09:51:33 5 THE WITNESS: I cannot say that there's not a
09:51:35 6 possibility that MVD may have two separate records with the
09:51:39 7 same name, but that would be a huge exception. Is it
09:51:44 8 possible? I can't tell you with certainty if it could be
09:51:46 9 or not.

09:51:47 10 BY MS. SHAH:

09:51:48 11 Q. And you can get a hard match without putting in a
09:51:52 12 driver's license or ID number into AVID?

09:51:57 13 A. I would have to look at the hard match criteria to
09:52:00 14 tell with certainty.

09:52:02 15 Q. Okay. What about if there is just the last four
09:52:07 16 digits of the Social Security number but not the driver's
09:52:11 17 license? Could you get a match from MVD based on that
09:52:16 18 information?

09:52:19 19 A. Again, I would have to rely on the hard match
09:52:21 20 criteria. I don't know if there's an exhibit that we can
09:52:23 21 go look to --

09:52:25 22 Q. Could you get --

09:52:26 23 A. -- to refer to it but . . .

09:52:29 24 Q. Sorry. Also didn't mean to cut you off. My
09:52:31 25 apologies.

09:52:32 1 Could you get a soft match with just a Social
09:52:37 2 Security entry?

09:52:38 3 MR. MORGAN: Form. Foundation.

09:52:41 4 THE WITNESS: I would have to rely on looking
09:52:42 5 at the hard and soft match criterias to tell with
09:52:46 6 certainty.

09:52:46 7 BY MS. SHAH:

09:52:46 8 Q. Okay. And then you mentioned that when you're
09:52:50 9 doing a HAVA check, the -- would you -- would a county
09:52:55 10 recorder be able to access a Social Security -- the Social
09:53:01 11 Security database if there was a match with MVD?

09:53:06 12 MR. MORGAN: Foundation.

09:53:10 13 THE WITNESS: So this is primarily a county
09:53:14 14 function. I know some aspects of how the system is
09:53:19 15 programmed to work. And to the best of my -- to my best
09:53:23 16 understanding -- and again, I'm a policy manager, not a
09:53:25 17 technical manager.

09:53:26 18 My understanding is that when there is a
09:53:29 19 match with MVD and MVD can confirm a match that includes
09:53:34 20 the Social Security number, there's no additional call to
09:53:38 21 the SSA for further verification of that person's identity.

09:53:42 22 BY MS. SHAH:

09:53:42 23 Q. And do you know if the Social Security database
09:53:46 24 provides information on an individual's citizenship?

09:53:50 25 A. No. Absolutely not. This is strictly to confirm

09:53:54 1 identity.

09:53:55 2 Q. Okay. Then we talked about the -- you know, when

09:54:01 3 the record is updated -- when a registration record is

09:54:04 4 updated and a HAVA check is run, if there was a -- with

09:54:10 5 that record, there was -- if you actually go back to tab --

09:54:14 6 sorry. If we go back to AZSOS-182040.

09:54:25 7 A. I'm there.

09:54:26 8 Q. Yep.

09:54:27 9 And -- and at the bottom, do you see there is

09:54:31 10 a -- a field called "Citizenship Verified"?

09:54:38 11 A. Uh-huh. I see it.

09:54:40 12 Q. When is that field used?

09:54:46 13 A. So when the "Run HAVA Checks" button is selected

09:54:52 14 and the call is made to MVD, depending on the authorized

09:54:56 15 presence value confirmation that is received back from MVD,

09:55:01 16 if it was confirmed that the authorized presence value was

09:55:03 17 a 1 or a 4, then that checkbox would be automatically

09:55:08 18 marked as "yes." If it's not one of those, then it would

09:55:12 19 default to "no." But --

09:55:13 20 Q. What if -- I didn't realize you were not done.

09:55:17 21 Please continue.

09:55:18 22 A. What I was going to point out on this screen, that

09:55:22 23 pop-up that you have in front of you, it's not an MVD

09:55:27 24 pop-up. It's a hard match. It's a duplicate match pop-up,

09:55:31 25 so it's -- this comes after the other one, I'm pretty sure.

09:55:35 1 Q. That I understand. I was just -- just talking

09:55:38 2 about the field generally, not in this specific record.

09:55:40 3 A. Okay.

09:55:41 4 Q. But can this field be selected if there is a

09:55:50 5 documentary proof of citizenship provided with the voter

09:55:55 6 registration application?

09:55:55 7 A. Yes. So if for some reason there was no match

09:55:59 8 with MVD, and it's going to then in that case default to

09:56:02 9 "no" because there was no match, the county still has the

09:56:07 10 overriding factor of that because they could have DPOC that

09:56:11 11 was provided with the voter registration form in terms of a

09:56:17 12 birth certificate or passport, et cetera.

09:56:19 13 So they still have the ability to change it

09:56:21 14 based on what was presented by the applicant.

09:56:24 15 Q. Understood.

09:56:25 16 So when the county recorder does that

09:56:29 17 overriding, would -- what -- do they have to do anything

09:56:34 18 else to do that overriding, like, any other steps that they

09:56:41 19 have to follow or they just click it to "yes"?

09:56:43 20 A. Yeah. I mean, they have the proof in front of

09:56:45 21 them. So they're going to proceed based on the information

09:56:49 22 that was provided.

09:56:50 23 Q. Do they have to document that proof in any way

09:56:53 24 into AVID, like scan the document in or anything like that?

09:56:59 25 A. I don't know what their procedures are. It's a

09:57:02 1 county function.

09:57:04 2 Q. But there's no requirement that AVID will --

09:57:08 3 they'll just let them override it without any additional

09:57:13 4 steps?

09:57:13 5 A. AVID doesn't have any built-in expectations for

09:57:16 6 them to do anything further.

09:57:18 7 Q. Okay. Understood.

09:57:20 8 Then when there's an update to a record where

09:57:23 9 that "Citizenship Verified" field is marked "yes" and that

09:57:30 10 update runs an MVD -- or sorry -- a HAVA check and the MVD

09:57:37 11 match results in a, you know, foreign authorized presence

09:57:42 12 value, will that "Citizenship Verified" field get

09:57:51 13 overridden by the HAVA check at that point?

09:57:55 14 A. I did not follow --

09:57:56 15 Q. Okay.

09:57:57 16 A. -- what you just said. Sorry.

09:57:59 17 MR. MORGAN: Form.

09:57:59 18 BY MS. SHAH:

09:58:00 19 Q. Okay. I -- I -- if you have a existing record

09:58:05 20 that is being updated where the "Citizenship Verified" has

09:58:09 21 been marked as "yes" and then when that record is being

09:58:14 22 updated and a HAVA check is run and matched to a MVD record

09:58:22 23 showing a foreign authorized presence, will the

09:58:28 24 "Citizenship Verified" checkbox automatically turn to "no"

09:58:33 25 in that situation under the update?

09:58:40 1 A. I would have to rely on looking at this -- what we
09:58:43 2 call the specs of how the system is programmed to behave.
09:58:47 3 Going by memory right now, I'm pretty sure
09:58:49 4 that the outcome is it defaults to "no," but the county
09:58:54 5 knows to look at the record further to see if it had been
09:58:58 6 "Citizenship Verified" yes, if they made a note on the
09:59:02 7 record that it already been previously verified so that
09:59:05 8 they can default to what it was before based on other
09:59:10 9 methods of DPOC they may have been provided by the
09:59:14 10 applicant in the past.

09:59:19 11 Q. So can we --

09:59:20 12 A. May I go off record for just one moment so I can
09:59:24 13 blow my nose?

09:59:25 14 Q. Of course. Please.

09:59:28 15 A. Okay. One moment.

09:59:45 16 Okay. Thank you for giving me that, Grace.

09:59:50 17 Q. Of course.

09:59:54 18 I just -- and would any other field get
09:59:59 19 changed automatically during that update?

10:00:03 20 A. During the MVD HAVA check update?

10:00:07 21 Q. Uh-huh.

10:00:12 22 A. If the -- if the return is that the voter is not a
10:00:17 23 naturalized citizen or citizen, my understanding is that
10:00:20 24 both the "Citizenship" box would say "no" and then the fed
10:00:25 25 flag will say "yes."

10:00:27 1 Q. Okay. But that is after the HAVA check overrode
10:00:35 2 the previous information --
10:00:36 3 A. Uh-huh.
10:00:37 4 Q. -- that was entered?
10:00:38 5 So where -- what you said -- and I'm
10:00:41 6 paraphrasing your prior testimony. So if I misrepresent,
10:00:44 7 correct me.
10:00:46 8 But if that has happened, the county recorder
10:00:48 9 is supposed to look and go back and change it. Where would
10:00:52 10 they look to see if the "Citizenship Verified" information
10:00:56 11 -- like what field would that have been recorded
10:00:59 12 previously?
10:01:00 13 A. Well, this is in the -- in the instance that
10:01:03 14 they're doing an update; right? We're still talking about
10:01:06 15 an update?
10:01:06 16 Q. Uh-huh.
10:01:07 17 A. Again, it's a county function. So they should be
10:01:10 18 paying attention to what the record looked like prior to
10:01:13 19 running the HAVA check so that they know what it was before
10:01:17 20 in order to move accordingly.
10:01:20 21 Q. But there's no other tab or field that would have
10:01:28 22 information for the county recorder to go back to after the
10:01:34 23 HAVA check is run?
10:01:37 24 A. Well, there's a tab called the activity tab. But
10:01:41 25 at that point, that activity tab hasn't been updated

10:01:44 1 because they're in the process of making an update.

10:01:50 2 Q. I'm not sure I understand.

10:01:51 3 A. So when they receive a form and if it's an update

10:01:55 4 and they're in the process of making that update, there's

10:01:59 5 nothing in that update that's going to be presented in the

10:02:03 6 activity tab until they're done with that update. It

10:02:06 7 doesn't become a history until the history is completed.

10:02:09 8 So what I'm saying is they should be paying

10:02:12 9 attention to what the current status was of the record

10:02:16 10 before they ran the HAVA check so that they are aware of

10:02:19 11 what it was before the HAVA check was run.

10:02:24 12 But again, I want to go on record and say

10:02:26 13 this is not a function that I do. So I'm --

10:02:31 14 Q. I understand.

10:02:32 15 A. That's the most I can -- I can bring to the

10:02:34 16 conversation.

10:02:35 17 Q. I absolutely understand. And I appreciate that.

10:02:39 18 I guess my question was a little different.

10:02:42 19 A. Okay.

10:02:42 20 Q. I appreciate they were supposed to keep track of

10:02:45 21 it before they did the HAVA check. But for whatever reason

10:02:51 22 they didn't or forgot; right? Because we're all doing

10:02:54 23 multitasking, for whatever reason. And the HAVA check

10:02:57 24 overrides the "Citizenship Verified" field. Would there be

10:03:06 25 any other place in that AVID record or tabs that they could

10:03:11 1 go back to see what the citizenship status was or the
10:03:16 2 immigration status was?
10:03:18 3 A. Well, they can back out and start over. Or they
10:03:22 4 can make the change, look at the activity, and revert it to
10:03:26 5 what it was before.
10:03:27 6 Q. Okay. Thank you. That's helpful.
10:03:30 7 So if -- if there's no match with MVD and --
10:03:50 8 but there is a match with SSA, what -- what would happen to
10:03:54 9 that AVID record at that point?
10:03:57 10 A. And this is a new record?
10:03:59 11 Q. Yes.
10:04:00 12 A. Okay. So --
10:04:02 13 Q. Thank you.
10:04:02 14 A. Yeah. So there was no DPOC acquired from MVD. So
10:04:06 15 the record would -- it will indicate citizenship "no." And
10:04:09 16 if there was a match with SSA, then that person -- we
10:04:14 17 were -- the county recorder was able to confirm the
10:04:16 18 identity, personhood.
10:04:17 19 So it would be in the category of fed-I,
10:04:21 20 meaning it's a federal voter with the identity provided or
10:04:25 21 confirmed as opposed to a fed voter that hasn't provided
10:04:33 22 DPOC nor there's any proof of identity.
10:04:35 23 Q. And is there any source -- well, actually let me
10:04:49 24 back up.
10:04:50 25 Under what circumstances would a county

10:04:53 1 recorder utilize the SAVE database?

10:04:56 2 MR. MORGAN: Foundation.

10:05:02 3 You can answer if you know. You're muted.

10:05:05 4 THE WITNESS: Sorry. I hit that by mistake.

10:05:07 5 So the SAVE system is not part of --

10:05:12 6 MR. MORGAN: You're muted again.

10:05:16 7 THE WITNESS: So the SAVE system is not part

10:05:18 8 of AVID. It's a separate platform -- web-based platform.

10:05:26 9 And it's used in cases where in the application the person

10:05:30 10 has provided an alien registration number or some

10:05:35 11 naturalization papers that they can run through -- through

10:05:39 12 SAVE.

10:05:41 13 BY MS. SHAH:

10:05:43 14 Q. So when you have a new registration and there is

10:05:48 15 an alien number or naturalization or citizenship document

10:05:53 16 presented, at what point in the process would the county

10:06:02 17 recorder run that through SAVE? Would it be during the

10:06:07 18 HAVA check process? Or how would that work?

10:06:10 19 A. I don't know what their steps and procedures are

10:06:14 20 in terms of that. It's a function that they -- they carry.

10:06:17 21 It might vary from county to county. I don't want to

10:06:20 22 speculate.

10:06:21 23 Q. And can you look at what is in the folder Document

10:06:30 24 AZSOS 3- -- 0330610.

10:06:40 25 A. 0330610?

10:06:42 1 Q. 0330610.

10:06:46 2 A. Okay. Email?

10:06:50 3 Q. Yes.

10:06:51 4 A. Okay.

10:06:52 5 MS. SHAH: And I -- can we mark that as an

10:06:54 6 exhibit. I believe we're at 278, Cindy.

10:06:59 7 THE COURT REPORTER: Correct.

10:06:59 8 (The document was marked as Exhibit 278

10:07:01 9 for identification.)

10:07:01 10 BY MS. SHAH:

10:07:02 11 Q. So looking at -- let me know when you've had a

10:07:08 12 chance to look at it.

10:07:13 13 A. Do you want me to read the entire thing or do

10:07:15 14 you --

10:07:15 15 Q. That's okay.

10:07:17 16 A. Okay.

10:07:18 17 MR. MORGAN: You can read the entire thing if

10:07:20 18 it will help you, Yolanda.

10:07:21 19 THE WITNESS: Okay. I guess it would depend

10:07:22 20 on the question.

10:07:24 21 BY MS. SHAH:

10:07:24 22 Q. Yeah. Okay. Why don't we go through it together.

10:07:26 23 A. Okay.

10:07:26 24 Q. Why don't we do that.

10:07:28 25 A. Sure.

10:07:28 1 Q. So is -- do you see the second full paragraph?

10:07:39 2 A. The one starting with "We appreciate your asking
10:07:42 3 yesterday"?

10:07:42 4 Q. Yes.

10:07:43 5 A. Okay.

10:07:44 6 Q. And which provides -- and then you say, "We
10:07:47 7 appreciate your asking yesterday about whether the existing
10:07:50 8 SAVE Memorandum of Agreement (MOA) (attached), which
10:07:54 9 provides for verification of citizenship information by
10:07:58 10 Arizona county recorders at point of registration, would
10:08:01 11 also permit your office to grant the Arizona Attorney
10:08:06 12 General's Office access to SAVE per HB 2492."

10:08:11 13 Did I read that correctly?

10:08:12 14 A. Yes.

10:08:12 15 Q. And then it says -- if you go to the next
10:08:17 16 paragraph, it's the second full sentence, I believe, which
10:08:26 17 says, "In addition, you indicated that the County Recorder
10:08:29 18 Offices may begin using SAVE, also under authority of a
10:08:33 19 recently enacted HB 2492, to verify citizenship information
10:08:38 20 of registered voters who previously registered to vote
10:08:41 21 using the Federal National Voter Registration Form but did
10:08:44 22 not provide documentary proof of citizenship at time of
10:08:47 23 registration. This is also not consistent with the
10:08:50 24 authority currently provided in the SAVE MOA which limits
10:08:53 25 the use of SAVE to verification of citizenship information

10:08:57 1 of registrants," quote, "'when they register to vote,'"
10:09:00 2 unquote.

10:09:02 3 Did I read that correctly?

10:09:02 4 A. Yes.

10:09:04 5 Q. So is it correct that SAVE can only be used
10:09:13 6 when -- when a county recorder is being -- entering a new
10:09:19 7 registration -- voter registration application into AVID?

10:09:21 8 MR. MORGAN: Foundation.

10:09:25 9 MR. LANGHOFER: Legal conclusion.

10:09:26 10 THE WITNESS: I'm not an expert of what the
10:09:27 11 agreement entails.

10:09:31 12 BY MS. SHAH:

10:09:32 13 Q. Based on this email --

10:09:33 14 A. I mean, taking it at face value --

10:09:37 15 MR. LANGHOFER: Same objection.

10:09:38 16 THE WITNESS: -- I would have no reason to
10:09:40 17 disagree.

10:09:41 18 BY MS. SHAH:

10:09:42 19 Q. Okay. And based on this email, would county
10:10:01 20 recorders be able to use SAVE to verify citizenship if they
10:10:09 21 have reason to believe that an individual does not -- like,
10:10:13 22 an already registered voter does not have a DPOC on file?

10:10:16 23 MR. MORGAN: Form.

10:10:20 24 MR. WHITAKER: Legal conclusion.

10:10:21 25 THE WITNESS: My understanding is that SAVE

10:10:23 1 is currently used when the voter provides those numbers
10:10:26 2 without the actual documentation to back it up in order to
10:10:31 3 confirm if the number being provided is valid and matches
10:10:36 4 the voter's record.

10:10:38 5 BY MS. SHAH:

10:10:40 6 Q. But if there was an AVID record of a registered
10:10:43 7 voter who does not have any DPOC information on file but
10:10:52 8 they're actively registered, can SAVE be used to verify
10:10:56 9 that at a later date?

10:10:59 10 A. SAVE requires a combination of the person's name
10:11:06 11 and, I think, the date of birth, along with that number.
10:11:08 12 So you can't run a search without a combination of
10:11:12 13 information being presented.

10:11:15 14 Q. But I'm asking more specifically in light of the
10:11:20 15 memorandum of agreement that the secretary of state has
10:11:23 16 entered into.
10:11:24 17 Can county recorders do that under this as
10:11:27 18 we've just discussed in this email?

10:11:30 19 MR. LANGHOFER: Legal conclusion.

10:11:31 20 MR. MORGAN: Foundation. She's already said
10:11:34 21 she's not familiar with the memo.

10:11:36 22 THE WITNESS: I don't know the details. I've
10:11:37 23 never read the Memorandum of Agreement.

10:11:40 24 BY MS. SHAH:

10:11:41 25 Q. Okay. And then just one other question.

10:11:55 1 Is there -- outside of the three databases
 10:12:00 2 that we've talked about -- the MVD, the secretary of state
 10:12:02 3 -- I mean the Social Security Administration -- goodness --
 10:12:06 4 and the SAVE database -- is there -- along with those
 10:12:14 5 databases, do you know of any other database that can
 10:12:18 6 verify the birthplace of a registrant?

10:12:24 7 MR. LANGHOFER: Asked and answered.

10:12:26 8 MS. SHAH: I didn't ask this question.

10:12:29 9 MR. LANGHOFER: It was yesterday, not this
 10:12:31 10 witness. Same depo, though.

10:12:35 11 MR. WHITAKER: Well, that raises a -- I'm not
 10:12:39 12 sure -- possible scope objection. I can't remember who was
 10:12:42 13 designated for what.

10:12:46 14 MS. SHAH: So my understanding is that
 10:12:49 15 Ms. Morales has been designated for databases here. And
 10:12:53 16 that's why I'm asking her that.

10:12:53 17 BY MS. SHAH:

10:12:57 18 Q. So Ms. Morales?

10:13:00 19 A. Can you repeat the question?

10:13:02 20 Q. Sure.

10:13:02 21 Are there any databases that can verify the
 10:13:08 22 birthplace of a registrant?

10:13:11 23 MR. WHITAKER: Form.

10:13:12 24 THE WITNESS: No, that I'm aware of.

10:13:17 25 BY MS. SHAH:

10:13:17 1 Q. Thank you.

10:13:18 2 Could you please go to Document AZS0S-267015.

10:13:41 3 A. Yes. I'm looking at an email.

10:13:44 4 MS. SHAH: And I believe we are at 278 or --

10:13:50 5 THE COURT REPORTER: 279.

10:13:54 6 MS. SHAH: 279. Thank you.

10:13:54 7 (The document was marked as Exhibit 279

10:13:56 8 for identification.)

10:13:56 9 BY MS. SHAH:

10:13:57 10 Q. And if you go towards the end of that document,

10:14:02 11 which is what I believe is starting at 267017. Let me know

10:14:15 12 when you're there.

10:14:15 13 A. Okay. So you want me to go to the one that says

10:14:18 14 17. Okay.

10:14:19 15 Q. Then going through to the end of that document.

10:14:26 16 When you're done just taking a quick look at it, let me

10:14:31 17 know. Do you -- when you're ready.

10:14:41 18 A. Yeah. Give me one moment. I may have to go up

10:14:50 19 further to understand what they were talking about.

10:14:52 20 Q. Okay. Let's -- let's just -- I think we may not

10:14:55 21 need to do that. But if we do, we can do that.

10:14:58 22 A. Okay.

10:14:58 23 Q. So you're on 267017; right?

10:15:03 24 A. Uh-huh.

10:15:03 25 Q. Do you see towards the bottom where it says,

10:15:11 1 "Monthly OOS Credential Cancellations"?

10:15:15 2 A. Yes. On Number 1?

10:15:17 3 Q. Yes.

10:15:18 4 A. Uh-huh.

10:15:18 5 Q. Okay. And then there's a list of some details
10:15:27 6 like (a) through (r), and then Number 2, "SOS Customer
10:15:32 7 Extract"?

10:15:33 8 A. Yes, I see that.

10:15:34 9 Q. Okay. Are -- just based on this information, are
10:15:39 10 these the two monthly extracts that MVD has been providing
10:15:42 11 the secretary of state?

10:15:45 12 A. I know that there is a file that we receive
10:15:48 13 currently on a monthly basis, only one. I've never looked
10:15:52 14 at the file nor can I corroborate if those fields are in
10:15:56 15 those files. It's not in my scope of work.

10:16:00 16 Q. All right. Thank you.

10:16:02 17 And then I just have one other question.

10:16:06 18 Going back to AZSOS-182040 again.

10:16:19 19 A. Okay.

10:16:19 20 Q. Would it be accurate to say that if the fed or
10:16:37 21 fed-I fields are marked that that, either one, that
10:16:44 22 practice would mean that that person is a federal-only
10:16:49 23 voter currently?

10:16:49 24 A. Yes.

10:16:50 25 MR. MORGAN: Form.

10:16:51 1 THE WITNESS: Yes. If those flags are
10:16:55 2 checked, they're not considered a full-ballot voter.
10:16:58 3 They're a fed-only voter.
10:16:59 4 BY MS. SHAH:
10:17:00 5 Q. Is there any other field or fields that would
10:17:06 6 indicate a federal-only ballot voter in AVID?
10:17:11 7 A. No. It's only by using those flags.
10:17:13 8 Q. Okay. All right. Great.
10:17:14 9 MS. SHAH: Can we take a -- literally a
10:17:18 10 five-minute break, please.
10:17:21 11 MR. MORGAN: Of course.
10:17:23 12 MS. SHAH: Thank you. We'll be back at --
10:17:26 13 when it's, like, 1:22 --
10:17:30 14 THE VIDEOGRAPHER: We are off the record.
10:17:31 15 Time on the video monitor is 10:17 a.m. This ends Media 1.
10:17:39 16 (A recess ensued.)
10:25:12 17 THE VIDEOGRAPHER: We are on the record.
10:25:40 18 Time on the video monitor is 10:25 a.m. This begins
10:25:45 19 Media 2.
10:25:46 20 BY MS. SHAH:
10:25:50 21 Q. Ms. Morales, I want to just go back to that
10:25:53 22 document that was 267015.
10:26:04 23 MR. MORGAN: Do you want to go to that page
10:26:05 24 of it?
10:26:06 25 MS. SHAH: I just -- well, first, I was

10:26:07 1 making sure that she has that document in front of her.

10:26:09 2 Then I will get into the specifics, Craig.

10:26:12 3 THE WITNESS: I'm still in the same email,
10:26:14 4 yes.

10:26:15 5 BY MS. SHAH:

10:26:15 6 Q. Great. Okay.

10:26:16 7 And I -- again, I'm paraphrasing your earlier
10:26:23 8 testimony, but do correct me if I'm wrong?

10:26:25 9 But you said that you were -- you were not
10:26:28 10 aware of getting these two extracts; you were just getting
10:26:31 11 one file from MVD; am I correct?

10:26:34 12 A. I'm aware that we're receiving one file currently
10:26:39 13 per month.

10:26:40 14 Q. Okay. And then if you look at what is marked
10:26:48 15 as -- in that Document AZS0S-267016.

10:26:56 16 A. Okay.

10:26:57 17 Q. And do you see an email from Christy Hood to,
10:27:04 18 among others, yourself?

10:27:08 19 A. I see the email.

10:27:10 20 Q. And that had this chain through it; am I correct?

10:27:17 21 A. Yes.

10:27:18 22 MR. MORGAN: Form.

10:27:19 23 BY MS. SHAH:

10:27:19 24 Q. So were you involved in the creation of these
10:27:25 25 credentials?

10:27:28 1 MR. WHITAKER: Form.

10:27:29 2 MR. MORGAN: Form.

10:27:31 3 THE WITNESS: I don't understand the
10:27:36 4 question.

10:27:36 5 BY MS. SHAH:

10:27:36 6 Q. Exactly. So I will rephrase.

10:27:38 7 So as I said, that -- the email chain that
10:27:41 8 includes you has listed these extracts -- the two extracts
10:27:47 9 that we just went over; that is, the monthly OOS Credential
10:27:50 10 Extract and the SOS Customer Extract.

10:27:55 11 So were you involved in the exchange of these
10:28:02 12 two extract creations?

10:28:05 13 MR. MORGAN: Form.

10:28:06 14 THE WITNESS: No. I was included for
10:28:09 15 awareness in these emails, but I was not directly involved
10:28:12 16 in working with ADOT MVD.

10:28:17 17 BY MS. SHAH:

10:28:17 18 Q. Do you know who was from the Secretary of State's
10:28:20 19 Office?

10:28:20 20 A. I'm pretty sure this conversation was between
10:28:22 21 Russell Smith and ADOT.

10:28:25 22 Q. Okay. Great.

10:28:28 23 And do you know if AVID communicates with the
10:29:07 24 database in Maricopa County?

10:29:09 25 A. We have an interface to receive their data into

10:29:14 1 AVID and API.

10:29:17 2 Q. And what about for Pima?

10:29:19 3 A. Same.

10:29:20 4 Q. And is it -- do you know which fields from Pima

10:29:30 5 and Maricopa come into AVID?

10:29:33 6 A. I couldn't list them all. The majority of them

10:29:38 7 do. There are certain modules that we don't get data for.

10:29:46 8 Q. And what about the DPOC? Does that get

10:29:51 9 transferred?

10:29:53 10 A. What do you mean by DPOC?

10:29:55 11 Q. So if a voter has entered -- or provided DPOC in

10:30:03 12 Pima, would that get reflected into AVID?

10:30:06 13 A. The citizenship box would say "yes" or "no."

10:30:11 14 Q. In AVID from Pima?

10:30:16 15 A. Yes. Correct.

10:30:17 16 Q. And Maricopa as well?

10:30:18 17 A. Yes.

10:30:20 18 Q. Ms. Morales, could I ask you to please go to

10:32:00 19 AZSOS-269052.

10:32:07 20 A. Yes.

10:32:08 21 Q. Okay.

10:32:09 22 MS. SHAH: And can we please mark that as an

10:32:14 23 exhibit.

10:32:14 24 MR. MORGAN: I'm sorry. 06 -- what was the

10:32:16 25 number again?

10:32:16 1 MS. SHAH: Sure. AZSOS-269052. 269052.

10:32:16 2 (The document was marked as Exhibit 280

10:32:24 3 for identification.)

10:32:24 4 MR. MORGAN: Thank you.

10:32:27 5 BY MS. SHAH:

10:32:28 6 Q. And go to -- for example, you will see that this

10:32:42 7 document, on the -- starting at page 269055, starts with

10:32:55 8 "HB 2243." Do you see that heading in the center of the

10:33:00 9 page?

10:33:00 10 A. Yes, I see it.

10:33:03 11 Q. Great.

10:33:03 12 And if we were to go to the following page

10:33:13 13 where at 269058, it says, "Action Items."

10:33:27 14 A. Okay. I'm there.

10:33:28 15 Q. And then it says, "Causes for Cancellation: ADOT

10:33:32 16 Process (Out-of-State license list)."

10:33:35 17 A. Okay. I see that.

10:33:36 18 Q. Then there's another heading that says, "AVID/VR

10:33:40 19 Process."

10:33:42 20 A. Yes.

10:33:43 21 Q. Has that enhancement been completed?

10:33:53 22 A. So you want to know if we're receiving that

10:33:55 23 out-of-state license list from MVD?

10:33:59 24 Q. No. I'm asking if it says AVID and VR process,

10:34:03 25 the subheading. And it says, "We will need an AVID

10:34:08 1 enhancement for this import."

10:34:10 2 Do you see that?

10:34:10 3 A. No. There's been no updates in AVID in order
10:34:14 4 to -- for the counties to do the function using AVID.

10:34:18 5 Q. Okay. And then do you see where it says "Juror
10:34:24 6 Questionnaire" below, if you keep going down?

10:34:26 7 A. Yes.

10:34:26 8 Q. It says again, the "AVID/VR Process." Has that
10:34:31 9 been done, the development as needed?

10:34:34 10 A. That --

10:34:36 11 MR. MORGAN: Form.

10:34:36 12 THE WITNESS: -- development hasn't -- that
10:34:41 13 has not been -- it's not functional.

10:34:43 14 BY MS. SHAH:

10:34:43 15 Q. Okay. And then if you go to the next page, it
10:35:00 16 says -- if you go to 3, it says, "ADOT/VR Database
10:35:05 17 Comparison "

10:35:06 18 Do you see that?

10:35:07 19 A. Yes.

10:35:08 20 Q. And the second sentence, it says, "Their database
10:35:14 21 is too large to do a comparison through the API. (For
10:35:18 22 example, we'd need to break it up and run 1/30th every
10:35:23 23 night, ETA unknown.) "

10:35:27 24 A. I see that.

10:35:27 25 Q. What does that mean?

10:35:32 1 MR. MORGAN: Foundation.

10:35:33 2 THE WITNESS: I can only repeat what's there.

10:35:38 3 I cannot expand on that.

10:35:41 4 BY MS. SHAH:

10:35:42 5 Q. Who would be able?

10:35:43 6 A. It's a technical question that would be --

10:35:45 7 MR. MORGAN: Well, you don't need to -- you
10:35:47 8 don't need to speculate at all, Yolanda.

10:35:49 9 And I'll remind counsel this is a document we
10:35:52 10 went over ad nauseam with Ms. Connor, who, I believe, is
10:35:56 11 the drafter of this document. And I think that question
10:35:58 12 might have been better directed toward her.

10:35:58 13 MR. HERRERA: I'll object to instructing the
10:35:58 14 witness [indiscernible].

10:36:07 15 MR. MORGAN: I'm sorry. I didn't hear that.

10:36:07 16 THE COURT REPORTER: Mr. Herrera, can you
10:36:09 17 repeat that?

10:36:12 18 MR. HERRERA: I'll withdraw it.

10:36:14 19 MS. SHAH: I think, actually, Ms. Connor
10:36:16 20 referred it to Ms. Morales in this situation, Craig.

10:36:18 21 MR. MORGAN: Yeah. I don't remember.

10:36:20 22 MS. SHAH: Exactly. So I'm going to ask my
10:36:22 23 question.

10:36:22 24 BY MS. SHAH:

10:36:22 25 Q. And I don't want to -- you know, so, like, if --

10:36:25 1 and my question is -- Ms. Morales, I appreciate if you
10:36:27 2 don't know, but then I'm asking you who would.

10:36:32 3 A. Within our office, it would be a question better
10:36:35 4 suited for Russell Smith.

10:36:36 5 Q. Okay. Thank you.

10:36:39 6 Okay. Finally, if we can go to page
10:36:56 7 AZSOS-269064. Do you see --

10:37:10 8 A. I don't see a 269064. Maybe it's in a different
10:37:15 9 folder than the one I'm in.

10:37:16 10 Q. I'm sorry. 269064 is not on there?

10:37:20 11 A. No. The next number it jumps to is 329462.

10:37:26 12 Q. Okay. Well --

10:37:34 13 MS. KANTER COHEN: To be clear, it's in the
10:37:35 14 same document we've been looking at.

10:37:35 15 MS. SHAH: Yeah.

10:37:36 16 MS. KANTER COHEN: It's just further down.

10:37:36 17 THE WITNESS: Oh, okay. Tell me the number
10:37:40 18 that I was in.

10:37:40 19 BY MS. SHAH:

10:37:40 20 Q. Sure.

10:37:40 21 A. I moved out of it.

10:37:40 22 Q. That's okay.

10:37:41 23 So the original document is 269052. And then
10:37:49 24 if you go to --

10:37:50 25 A. I'm back in there. Okay.

10:37:51 1 Q. 269064.

10:37:53 2 A. Okay. I'm following. One second.

10:37:56 3 Q. When you're there, let me know.

10:38:06 4 A. Okay. I'm at the section where it says,
10:38:10 5 "Documentary Proof of Citizenship."

10:38:12 6 Q. Yes. But right above that, do you see "Action
10:38:15 7 Items"? And --

10:38:15 8 A. Yes.

10:38:16 9 Q. -- it says, "add DPOR flag in AVID."

10:38:19 10 A. Yes.

10:38:19 11 Q. Has that been done?

10:38:22 12 A. No. That's not functional.

10:38:27 13 MS. SHAH: All right. So with that,
10:38:29 14 Ms. Morales, I am going to stop my questioning. And I'm
10:38:33 15 going to hand it over to my colleague.

10:38:35 16 But if you want to go off the record, folks,
10:38:37 17 let me know.

10:38:39 18 MS. LANG: I don't need to.

10:38:42 19 MS. SHAH: Okay.

10:38:42 20

10:38:43 21 EXAMINATION

10:38:43 22 BY MS. LANG:

10:38:44 23 Q. Thank you so much, Ms. Morales. My name is
10:38:46 24 Danielle Lang, and I represent the LUCHA plaintiffs. I'm
10:38:48 25 just going to have very few questions for you, and then I

10:38:51 1 believe the Department of Justice will have a few questions
10:38:54 2 as well.

10:38:55 3 My questions are going to focus entirely on
10:38:58 4 issues around residency and AVID.

10:39:02 5 So I think you mentioned earlier that, you
10:39:04 6 know, part of AVID's functionality has to do with
10:39:07 7 addressing systems. So what I want to understand is when a
10:39:12 8 county recorder puts in an address into AVID, is there a
10:39:17 9 kind of a system or database or whatnot that -- in AVID
10:39:22 10 that allows that -- that address to be kind of matched to a
10:39:26 11 location that then can precinct that voter?

10:39:31 12 MR. MORGAN: Form.

10:39:32 13 THE WITNESS: Yes, there is.

10:39:33 14 BY MS. LANG:

10:39:33 15 Q. And can you describe to me briefly kind of what --
10:39:36 16 what that system is?

10:39:38 17 MR. MORGAN: Form.

10:39:40 18 THE WITNESS: There is a subsystem on AVID
10:39:47 19 called TotalAddress where it has all the geographical
10:39:53 20 location that's on record and can be confirmed as a valid
10:39:56 21 address.

10:39:57 22 So when the county user is typing the address
10:40:00 23 in the system, it's automatically looking to see that
10:40:04 24 address matches so that it can be validated as a valid
10:40:11 25 address and a precinct assignment completed.

10:40:13 1 BY MS. LANG:

10:40:13 2 Q. Great.

10:40:13 3 [REDACTED] And are there some circumstances where an

10:40:16 4 address that was provided by a voter might not match in

10:40:18 5 TotalAddress?

10:40:20 6 A. Yes, I'm sure that can happen.

10:40:21 7 Q. Okay. Are you aware of kind of the circumstances

10:40:25 8 under which that's most common?

10:40:30 9 A. It's a county function. So they're the ones who

10:40:32 10 will be better -- that deal with that on a daily basis.

10:40:37 11 Q. Fair enough.

10:40:38 12 [REDACTED] Do you know how many voters in the AVID

10:40:40 13 system are currently not registered due to a status related

10:40:44 14 to an invalid address?

10:40:49 15 A. What do you mean by "not registered"?

10:40:51 16 Q. That are not in an active-voter status because

10:40:56 17 their address could not be validated.

10:40:59 18 A. So I can tell you that I know there are some, but

10:41:01 19 I don't know the total.

10:41:03 20 Q. Okay. What are -- what is the kind of status

10:41:07 21 reason that will appear when there's a problem because of

10:41:10 22 an address not matching the TotalAddress?

10:41:15 23 A. Sorry. I didn't mean to speak over.

10:41:18 24 [REDACTED] On memory right now, I would say it would be

10:41:22 25 status, suspense; status reason, waiting verification.

10:41:29 1 Q. And can voters, also in lieu of an address,
10:41:33 2 provide a drawing or some other explanation of their
10:41:37 3 location of residence to register?

10:41:39 4 A. Yes. That is provided as an option.

10:41:42 5 Q. Okay. And under those circumstances, how do
10:41:46 6 county -- how is that recorded in AVID and allowing that
10:41:54 7 voter to become precincted and validated for their
10:41:59 8 residence?

10:41:59 9 MR. MORGAN: Form.

10:41:59 10 THE WITNESS: I don't know the steps the
10:42:00 11 counties follow for that.

10:42:02 12 BY MS. LANG:

10:42:04 13 Q. Do you know how TotalAddress -- the AVID system
10:42:07 14 accounts for nonstandard addresses?

10:42:13 15 A. My understanding is that it doesn't. It can only
10:42:17 16 list what's inputted in the system as a valid address.

10:42:21 17 Q. And so do you know kind of how the AVID system
10:42:24 18 will precinct someone if they are not able to be matched to
10:42:28 19 a standard address in TotalAddressing?

10:42:31 20 MR. MORGAN: Form.

10:42:33 21 THE WITNESS: I don't know the steps. I'm
10:42:35 22 aware that there is a process to be able to do that, but I
10:42:39 23 would not be able to break it down for you.

10:42:39 24 BY MS. LANG:

10:42:41 25 Q. Do you know who in the secretary's office would

10:42:45 1 know about the AVID functionality component of that issue?

10:42:49 2 A. The best person would be Russell Smith.

10:42:53 3 MS. LANG: I don't have any further
10:42:55 4 questions. Thank you so much for your time, Ms. Morales.

10:42:57 5 THE WITNESS: You're welcome.

10:42:58 6

10:42:58 7 EXAMINATION

10:42:58 8 BY MS. YUN:

10:42:58 9 Q. Good morning, Ms. Morales. My name is Jennifer
10:43:04 10 Yun. And as my colleague said, I represent the United
10:43:08 11 States. I'm from the Department of Justice. I just have a
10:43:14 12 few questions about the use of birthplace information
10:43:17 13 provided on the state form.

10:43:21 14 So I'm going to pose a couple of
10:43:23 15 hypotheticals. And let me know if you need any other
10:43:26 16 information or if you don't -- if you need me to clarify,
10:43:30 17 I'll be happy to do that.

10:43:31 18 So let's say that there is a -- that an
10:43:34 19 election official encounters two records with the same name
10:43:41 20 and date of birth on AVID. If those records have a
10:43:46 21 matching place of birth, is that information enough for
10:43:51 22 county officials to determine whether the records are for
10:43:53 23 the same voter?

10:43:56 24 MR. WHITAKER: Form. Foundation.

10:43:57 25 THE WITNESS: We don't have a field in AVID

10:44:00 1 to indicate a place of birth that I'm aware of.

10:44:12 2 BY MS. YUN:

10:44:12 3 Q. Okay. My -- my understanding was that the -- that

10:44:16 4 the date of -- the place of birth information is inputted

10:44:20 5 into AVID. But your testimony today is that you're not

10:44:23 6 aware of that; is that right?

10:44:25 7 MR. MORGAN: Form.

10:44:26 8 THE WITNESS: Yeah, I'm --

10:44:27 9 MR. MORGAN: Wait. Wait. Wait. Form and

10:44:29 10 foundation as to what your understanding may be. You can

10:44:30 11 go ahead and answer, Yolanda.

10:44:36 12 THE WITNESS: I can't confirm right now if

10:44:38 13 that is a field that we receive information from the voter

10:44:42 14 to be able to input in AVID. I would -- I would have to

10:44:49 15 look in AVID to see if there is such a field. If it's a

10:44:56 16 field, it's not one that's commonly used. I just -- I'm

10:44:59 17 not recalling right now.

10:45:00 18 BY MS. YUN:

10:45:01 19 Q. Okay. So it's not something -- it's not something

10:45:04 20 you can answer without checking with the system or other

10:45:08 21 folks in your office; is that right?

10:45:10 22 A. Right. Or better suited for a county user.

10:45:14 23 Q. Understood.

10:45:18 24 Do you have any reason to believe that --

10:45:21 25 that birthplace information is -- sorry. Let me back up.

10:45:29 1 So before HB 2492, county officials were --
10:45:37 2 or AVID users, county users, were able to establish a
10:45:40 3 potential registrant's identity without having to input any
10:45:45 4 birthplace information; is that right?

10:45:49 5 MR. WHITAKER: Form. Foundation.

10:45:54 6 THE WITNESS: Can you repeat the question?

10:45:55 7 BY MS. YUN:

10:45:56 8 Q. Sure.

10:45:56 9 Prior to HB 2492, county officials were able
10:46:00 10 to establish a potential registrant's identity without
10:46:05 11 using their birthplace information; is that right? That's
10:46:08 12 what AVID is used for?

10:46:11 13 MR. LANGHOFER: Same objections.

10:46:12 14 MR. MORGAN: Foundation. And I think this is
10:46:16 15 Topic 16, which I thought was more Ms. Connor.

10:46:19 16 MR. LANGHOFER: And asked and answered.

10:46:23 17 BY MS. YUN:

10:46:24 18 Q. You can answer.

10:46:25 19 A. The place of birthplace is not used for matching a
10:46:29 20 voter or looking for duplicate voters in the system.

10:46:34 21 Q. Okay. And do you have any reason to believe that
10:46:39 22 that statement would change after HB 2492?

10:46:44 23 MR. WHITAKER: Same objections.

10:46:47 24 THE WITNESS: I don't know. I would have to
10:46:54 25 review all the house bill details. I don't have all that

10:46:58 1 information committed to memory right now.

10:47:09 2 BY MS. YUN:

10:47:10 3 Q. And I'm going to ask you a couple more questions
10:47:12 4 about the citizenship checkbox on the state form.

10:47:20 5 So when -- if an applicant, using the state

10:47:24 6 voter registration form, provides either their driver's

10:47:27 7 license number or the last four digits of their social and

10:47:32 8 the MVD database returns a match and says that that person

10:47:36 9 is a citizen, is that -- has that registrant established

10:47:42 10 citizenship?

10:47:44 11 MR. WHITAKER: Same objection.

10:47:44 12 MR. MORGAN: Foundation. Calls for a legal
10:47:47 13 conclusion.

10:47:49 14 BY MS. YUN:

10:47:50 15 Q. You can answer.

10:47:51 16 A. Yes.

10:47:51 17 MR. MORGAN: If you know the answer.

10:47:51 18 THE WITNESS: Sure. So if DPOC is confirmed

10:47:56 19 with the MVD information returning the fact that the

10:48:00 20 authorized presence value is a one or a four, that

10:48:03 21 information is assumed to be correct and the citizenship

10:48:06 22 flag will be marked "yes."

10:48:11 23 BY MS. YUN:

10:48:11 24 Q. And if that same person whose MVD results came
10:48:15 25 back as one or four did not complete the citizenship

10:48:19 1 checkbox, does that mean that the registrant -- registrant
10:48:23 2 is not a citizen?

10:48:25 3 MR. WHITAKER: Same objections.

10:48:27 4 THE WITNESS: Are we talking about the
10:48:29 5 current situation or if the bill was to be implemented?

10:48:33 6 BY MS. YUN:

10:48:35 7 Q. Why don't you just actually answer both the first
10:48:38 8 and the second.

10:48:38 9 A. Okay.

10:48:39 10 MR. MORGAN: Well, why don't you ask -- wait.
10:48:40 11 Wait. Wait.

10:48:41 12 So she has it clear on her answer, why don't
10:48:43 13 you ask her each question so she can answer and we have a
10:48:46 14 clear record.

10:48:47 15 BY MS. YUN:

10:48:47 16 Q. Sure.

10:48:48 17 Prior to HB 2492, if that same person who was
10:48:53 18 -- whose citizenship flag was raised as "yes," if that
10:48:58 19 person checked -- did not complete the citizenship
10:49:01 20 checkbox, does that mean that the registrant is not a
10:49:03 21 citizen?

10:49:05 22 MR. WHITAKER: Same objections.

10:49:09 23 THE WITNESS: Currently, we are allowed to
10:49:10 24 acquire DPOC by way of MVD in order to confirm citizenship,
10:49:15 25 yes.

10:49:17 1 BY MS. YUN:

10:49:19 2 Q. So if there was no checkbox mark, that wouldn't
10:49:25 3 override the fact that the MVD result came back as a
10:49:30 4 citizen; is that right?

10:49:32 5 A. Right.

10:49:32 6 MR. MORGAN: Form.

10:49:33 7 MR. WHITAKER: Same objection. And I think
10:49:34 8 these were asked and answered by the more appropriate
10:49:37 9 designee yesterday, if I recall.

10:49:43 10 BY MS. YUN:

10:49:43 11 Q. And, Ms. Morales, you asked whether my -- my
10:49:48 12 previous question was about before or after HB 2492. Would
10:49:53 13 your answer be different if it was after HB 2492 was
10:49:58 14 implemented?

10:49:59 15 MR. WHITAKER: Same objection.

10:50:00 16 MR. MORGAN: Form. Calls for speculation.

10:50:02 17 THE WITNESS: I would have to consult with
10:50:05 18 our legal team.

10:50:09 19 BY MS. YUN:

10:50:16 20 Q. In your experience, can election officials use the
10:50:19 21 checkbox -- the citizenship checkbox, that is -- to detect
10:50:23 22 whether a noncitizen is attempting to register to vote?

10:50:27 23 MR. MORGAN: Form.

10:50:28 24 MR. LANGHOFER: Same.

10:50:29 25 MR. MORGAN: Foundation. Also, I think this

10:50:31 1 is more -- we're retreading ground we covered with
10:50:35 2 Ms. Connor, who was designated for those issues.

10:50:37 3 But that's just my objection, Yolanda. You
10:50:39 4 can answer the question if you know the answer.

10:50:41 5 THE WITNESS: Okay. Can you ask me again,
10:50:44 6 please?

10:50:46 7 BY MS. YUN:

10:50:46 8 Q. In your experience, can election officials use the
10:50:48 9 citizenship checkbox to detect whether a noncitizen is
10:50:52 10 attempting to register to vote?

10:50:55 11 MR. WHITAKER: Same objections.

10:50:55 12 THE WITNESS: No.

10:50:58 13 BY MS. YUN:

10:51:03 14 Q. So if the MVD database establishes someone's
10:51:07 15 citizenship status, does the checkbox -- checkbox --
10:51:12 16 citizenship checkbox add anything to the election
10:51:18 17 official's knowledge about the applicant's citizenship?

10:51:20 18 MR. MORGAN: Same objection. Also, calls for
10:51:23 19 speculation as it relates to what other election officials
10:51:31 20 know.

10:51:35 21 BY MS. YUN:

10:51:35 22 Q. You can answer.

10:51:36 23 A. Okay. I'll ask you to repeat the question.

10:51:39 24 Q. So if the MVD database establishes someone's
10:51:44 25 citizenship status based on their DPOC information, does

10:51:48 1 the citizenship checkbox add anything to the election
10:51:52 2 official's knowledge about the applicant's citizenship?

10:51:55 3 MR. MORGAN: Same objections.

10:51:57 4 THE WITNESS: It's confirming DPOC in order
10:52:01 5 to be able to indicate on the voter's record that their
10:52:04 6 citizenship has been verified.

10:52:07 7 BY MS. YUN:

10:52:07 8 Q. What is confirming DPOC?

10:52:13 9 MR. WHITAKER: Same objection.

10:52:13 10 THE WITNESS: The information that we get
10:52:15 11 from MVD, if we receive a one or four authorized presence
10:52:18 12 value, is used in order to be able to confirm that DPOC has
10:52:24 13 been confirmed and verified in the system.

10:52:26 14 BY MS. YUN:

10:52:26 15 Q. I see.

10:52:27 16 So in that case, does the citizenship
10:52:31 17 checkbox add anything to someone's citizenship status?

10:52:35 18 MR. MORGAN: Same objections.

10:52:37 19 MR. WHITAKER: Same.

10:52:37 20 BY MS. YUN:

10:52:42 21 Q. Sorry. I didn't catch that, Ms. Morales. I'm
10:52:42 22 sorry.

10:52:46 23 A. The phrasing is confusing, but I can --

10:52:53 24 MR. MORGAN: Don't answer a question you
10:52:55 25 don't understand. And don't speculate, Yolanda. She can

10:52:58 1 ask another question.

10:52:59 2 THE WITNESS: Okay. Fair.

10:53:00 3 BY MS. YUN:

10:53:01 4 Q. Can you explain to me what's confusing?

10:53:04 5 A. I -- the way you're asking the question is --
10:53:10 6 doesn't describe the system behavior or --

10:53:14 7 Q. Okay. So would it be fair to say that the MVD
10:53:18 8 database confirms someone's citizenship status and that's
10:53:21 9 what -- that's the function of the AVID system -- is that
10:53:24 10 right? -- as it interfaces with the MVD data?

10:53:27 11 MR. MORGAN: Form.

10:53:28 12 MR. WHITAKER: Same objection. And leading.

10:53:34 13 THE WITNESS: I don't agree with your
10:53:36 14 phrasing.

10:53:36 15 BY MS. YUN:

10:53:37 16 Q. Okay. Then could you -- could you just repeat
10:53:39 17 that in your own phrasing?

10:53:41 18 MR. MORGAN: No, no. She's not going to ask
10:53:43 19 herself questions. You can ask her questions. She'll give
10:53:45 20 you answers.

10:53:48 21 BY MS. YUN:

10:53:49 22 Q. Do you have -- would you say that the MVD
10:53:54 23 database's information is more accurate than the presence
10:53:59 24 or absence of a checkmark on the registration form in terms
10:54:03 25 of that person's citizenship status?

10:54:05 1 MR. WHITAKER: Same objections.

10:54:09 2 MR. LANGHOFER: Speculation.

10:54:14 3 THE WITNESS: I'm not in a position to draw
10:54:17 4 those kind of conclusions.

10:54:19 5 BY MS. YUN:

10:54:21 6 Q. So under the current EPM, county recorders are
10:54:25 7 supposed to treat the MVD HAVA check results as
10:54:31 8 establishing someone's citizenship eligibility; is that
10:54:34 9 right?

10:54:34 10 MR. MORGAN: Foundation. Also, scope as it
10:54:37 11 relates to she wasn't designated to talk about the EPM.

10:54:42 12 But you can answer, though, Ms. Morales, if
10:54:46 13 you know.

10:54:46 14 THE WITNESS: So when the HAVA checks are ran
10:54:49 15 and we receive information back from MVD, if the authorized
10:54:55 16 presence code that we get back is a one or a four, it is
10:54:59 17 accepted as acceptable DPOC in order to mark citizenship
10:55:04 18 "yes" on the voter record.

10:55:06 19 BY MS. YUN:

10:55:06 20 Q. Okay. And one question. So in -- we're going
10:55:11 21 back to the birthplace information.

10:55:15 22 So do you have any -- does your office have
10:55:23 23 any plans to create any data entry rules for birthplace to
10:55:30 24 be entered into AVID?

10:55:34 25 MR. MORGAN: Form.

10:55:38 1 THE WITNESS: We would -- we would --

10:55:40 2 MR. MORGAN: You can answer to the extent it
10:55:42 3 doesn't call for you to reveal any communications between
10:55:44 4 you and your lawyers.

10:55:46 5 THE WITNESS: Uh-huh. We would -- we would
10:55:49 6 do everything to follow the law.

10:55:55 7 BY MS. YUN:

10:55:56 8 Q. Which law?

10:55:59 9 A. Well, the law right now is in litigation. So
10:56:04 10 depending on the outcome of litigation, we would follow the
10:56:11 11 law.

10:56:12 12 Q. Okay. So if there is no law in -- if there is no
10:56:16 13 provision in HB 2492, for example, that says you need to
10:56:21 14 have uniform entry rules for birthplace, then is -- so if
10:56:26 15 -- if the -- if there is no legal provision providing for
10:56:29 16 that, is your office planning on implementing something
10:56:34 17 like that on its own?

10:56:38 18 MR. MORGAN: Form. Foundation. And again,
10:56:41 19 she was not designated to talk about these issues.

10:56:44 20 But if you have the answer, Yolanda, you can
10:56:48 21 respond.

10:56:48 22 THE WITNESS: These --

10:56:49 23 MS. YUN: These are asking -- just for
10:56:50 24 clarification, these are asking about AVID data entry
10:56:55 25 rules.

10:56:55 1 MR. MORGAN: Well, you need to be clear,
10:56:56 2 then, so she knows that. But my same objection.

10:57:02 3 THE WITNESS: We would implement whatever we
10:57:05 4 receive as guidance or directive in order to move forward
10:57:12 5 with any changes in AVID. I don't make those decisions; I
10:57:16 6 act on decisions. So I don't know where those decisions
10:57:21 7 lie right now.

10:57:22 8 BY MS. YUN:

10:57:22 9 Q. Who -- who would make that kind of decision about
10:57:26 10 data entry rules in your office?

10:57:30 11 MR. MORGAN: Form, Form.

10:57:36 12 THE WITNESS: We would have meetings to
10:57:37 13 receive information, but I don't know exactly where it
10:57:39 14 would all start from, like, who would be the one. It's --
10:57:45 15 your question is outside my scope of work.

10:57:49 16 MR. MORGAN: Form.

10:57:50 17 You don't have to speculate, Ms. Morales.

10:57:50 18 BY MS. YUN:

10:57:53 19 Q. I think that's -- I'm mean, that's a perfectly
10:57:54 20 good answer if you don't know.

10:57:55 21 A. I don't know.

10:57:57 22 MS. YUN: I do not have any further questions
10:57:59 23 at this time. Thank you for your time.

10:58:03 24 THE WITNESS: Thank you.

10:58:08 25 MR. MORGAN: Before -- before we bring up

10:58:12 1 Mr. Smith, does anybody have any questions for Ms. Morales
10:58:14 2 on the plaintiffs' side? Okay.

10:58:20 3 Anybody on the defense or intervenor side?

10:58:27 4 MR. WHITAKER: I did. But, Kory, do you want
10:58:28 5 to go first?

10:58:30 6 MR. LANGHOFER: I've never been happier to
10:58:32 7 say I have no questions for this witness. You did a great
10:58:34 8 job. No reflection on you.

10:58:37 9 THE WITNESS: Okay. Thank you.

10:58:38 10

10:58:41 11 EXAMINATION

10:58:41 12 BY MR. WHITAKER:

10:58:41 13 Q. Very quickly, Ms. Morales. First of all, thank
10:58:44 14 you for your time.

10:58:46 15 A. You're welcome.

10:58:47 16 Q. Yesterday, Ms. Connor indicated that you would be
10:58:51 17 the more appropriate person to ask about the juror
10:58:53 18 questionnaire summary reports the secretary of state
10:58:57 19 receives. Is that something that you had knowledge on?

10:59:01 20 A. Yes.

10:59:03 21 Q. Okay. I'll try to keep this very short.

10:59:10 22 My understanding is that these new laws
10:59:13 23 require the summary reports to be sent to the secretary of
10:59:19 24 state and county recorders. Is that your understanding?

10:59:22 25 A. Yes.

10:59:22 1 Q. Has your office been receiving summary reports

10:59:28 2 pursuant to these laws about the juror questionnaire

10:59:31 3 information?

10:59:32 4 A. Yes.

10:59:33 5 Q. For roughly how long has your office been

10:59:37 6 receiving these reports?

10:59:40 7 A. They have been providing reports that date back to

10:59:45 8 January of 2023.

10:59:48 9 Q. And how are these reports stored in your office?

10:59:52 10 A. So they are transmitted to us via an encrypted

10:59:56 11 email. And then the attachments are saved in a folder in

11:00:02 12 our shares drive for reference.

11:00:06 13 Q. I don't expect you to know whether you -- your

11:00:09 14 office has produced those already. But do you happen to

11:00:12 15 know whether your office has produced those?

11:00:16 16 A. Produced them for this litigation?

11:00:17 17 Q. Yes.

11:00:18 18 A. I don't know.

11:00:22 19 Q. Would it be easy to grab those from that folder

11:00:25 20 and produce those?

11:00:26 21 MR. MORGAN: If you're asking if we'll

11:00:28 22 produce them, Josh, if we have them, the answer is yes.

11:00:32 23 But we can talk about that offline.

11:00:35 24 MR. WHITAKER: Sure. Okay. I'll stop with

11:00:37 25 that line of questions. Actually, I think that's it. I

11:00:40 1 won't ask any further questions.

11:00:42 2 MR. MORGAN: All right. Okay. Any follow-up
11:00:49 3 from the plaintiffs? Good.

11:00:53 4 Yolanda, thank you so very much. You are
11:00:55 5 free to go about your day.

11:00:59 6 Yeah, I think we've got -- we're pulling --
11:01:02 7 we're pulling Russ in now. So let's go off the record for
11:01:05 8 five minutes so we can transition. And then we'll bring
11:01:07 9 him on.

11:01:09 10 THE WITNESS: All right. Thank you.

11:01:10 11 MR. MORGAN: Is that okay with you?

11:01:12 12 MS. SHAH: Yes.

11:01:13 13 THE VIDEOGRAPHER: We're off the record.

11:01:14 14 Time on the video monitor is 11:01 a.m.

11:01:44 15 (A recess ensued.)

11:04:57 16 THE VIDEOGRAPHER: We are on the record.

11:05:10 17 Time on the video monitor is 11:05 a.m.

18

19

RUSSELL SMITH,

20

the witness herein, being first duly sworn,

21

was examined and testified as follows:

22

11:05:26 23

EXAMINATION

11:05:26 24

BY MS. SHAH:

11:05:29 25

Q. Good afternoon, Mr. Smith. My name is Niyati

11:05:31 1 Shah, and I represent the Equity Coalition plaintiffs
11:05:35 2 today.

11:05:36 3 [REDACTED] Could you just please state and spell your
11:05:38 4 name for the record.

11:05:40 5 A. Are you looking for my full name?

11:05:44 6 Q. Yes.

11:05:45 7 A. My full name is Russell Orin Lamont Smith, IV,

11:05:51 8 which is R-u-s-s-e-l-l, O-r-i-n, L-a-m-o-n-t, S-m-i-t-h,

11:06:01 9 IV.

11:06:01 10 Q. And what is your title?

11:06:04 11 A. I am the elections technology manager for the

11:06:06 12 Arizona Secretary of State's Office.

11:06:08 13 Q. And how long have you been in this role?

11:06:11 14 A. I've been in this role since close to

11:06:17 15 December 2021.

11:06:18 16 Q. And how long have you been at the Secretary of
11:06:21 17 State's Office?

11:06:21 18 A. That was when I started as well.

11:06:24 19 Q. Okay. Great.

11:06:25 20 I'm just going to make a few things clear for
11:06:28 21 us as we move along in this deposition.

11:06:31 22 [REDACTED] Do you understand that you are testifying
11:06:32 23 under oath today?

11:06:34 24 A. Yes, I do.

11:06:35 25 Q. And do you understand that a court reporter is

11:06:38 1 transcribing this deposition?

11:06:40 2 A. Yes.

11:06:42 3 Q. And so with that in mind, please answer questions
11:06:46 4 audibly and clearly. No head shakes, nods, uh-huhs. Does
11:06:51 5 that make sense?

11:06:53 6 A. I'll try my best.

11:06:55 7 Q. And to allow the court reporter to do their job,
11:06:59 8 I'm going to ask that you let me finish asking my questions
11:07:02 9 fully before you respond. And I will do the same and let
11:07:06 10 you finish your answers completely before asking another
11:07:09 11 question. Is that all right?

11:07:12 12 A. Yes. Understood.

11:07:14 13 Q. Yes. Just a reminder about the head nodding right
11:07:16 14 there.

11:07:17 15 A. Yeah.

11:07:17 16 Q. And will you let me know if you don't understand a
11:07:20 17 question or need me to repeat it at any point?

11:07:25 18 A. Yes. I'll be sure to let you know.

11:07:27 19 Q. Great.

11:07:28 20 And if I ask a question and you do answer the
11:07:30 21 question, I will assume that you understood the question.

11:07:32 22 Is that all right?

11:07:35 23 A. Yes.

11:07:37 24 Q. Is there any reason that you can't give a full,
11:07:40 25 complete, and accurate testimony today?

11:07:42 1 A. Not that I'm aware of.

11:07:46 2 Q. Are you on any medications or experiencing any
11:07:48 3 conditions that would prevent you from giving a full and
11:07:51 4 truthful testimony today?

11:07:53 5 A. No.

11:07:54 6 Q. Okay. If at any time you would like to take a
11:08:00 7 break, please let me know. The only thing I ask is that if
11:08:03 8 I've already asked a question, that you finish answering
11:08:04 9 the question before we go and take a break. Does that
11:08:07 10 sound fair?

11:08:09 11 A. That sounds fair.

11:08:10 12 Q. Can you tell me what you did to prepare for this
11:08:15 13 deposition?

11:08:17 14 A. I met with my legal counsel earlier in the week as
11:08:23 15 well as my team, who you've spoken with: Colleen and
11:08:27 16 Yolanda.

11:08:29 17 Q. Anybody else?

11:08:31 18 A. No. I -- I spoke with other members of my team
11:08:35 19 just to let them know for scheduling and logistic purposes
11:08:38 20 that I wouldn't be available. But nothing in regards to
11:08:41 21 details.

11:08:42 22 Q. Okay. And can we stipulate that whenever I use
11:08:47 23 the term "you" or "your" or "your office" in a question,
11:08:51 24 that it will be the equivalent of saying the Arizona
11:08:54 25 Secretary of State's Office?

11:08:57 1 A. Yes. I think that's fair.

11:08:59 2 Q. Okay. Great. All right.

11:09:02 3 So I would like to just first draw your
11:09:04 4 attention to what we previously marked an exhibit. But do
11:09:10 5 you have access, first of all, to the list of documents?

11:09:13 6 A. I do have a list of documents that are in a
11:09:17 7 Dropbox. I have not opened any yet, so I don't know if I
11:09:21 8 actually have full access to open them. But I can see a
11:09:25 9 list.

11:09:25 10 Q. Please go ahead and open it. Let me know when
11:09:28 11 you've done that.

11:09:29 12 A. I am at the list.

11:09:31 13 Is there a specific exhibit you would like me
11:09:32 14 to open?

11:09:33 15 Q. Yes. If you could please actually go first to a
11:09:36 16 folder that is called "SOS docs."

11:09:41 17 A. Okay. "SOS docs"; is that correct?

11:09:46 18 Q. Yes.

11:09:48 19 A. Okay. I am there. It's loading.

11:09:50 20 Q. And then in that -- in that folder, there is a
11:09:54 21 document called AZSOS-267015. Do you see that document?

11:10:03 22 A. 267015?

11:10:07 23 Q. 267015. That is correct.

11:10:11 24 A. Yes, I am opening that right now.

11:10:13 25 Q. Great. Let me know when you --

11:10:20 1 A. It is open on my screen.

11:10:21 2 Q. Okay. Could we -- perhaps if you could turn to --

11:10:35 3 towards the second to last page of that document, which is

11:10:40 4 267017. Do you see that?

11:10:46 5 A. 267- -- yes.

11:10:52 6 Q. And towards the -- I guess three-quarters of the

11:11:02 7 way down, you can see Number 1, "Monthly OOS Credential

11:11:02 8 Cancellations." Do you see that?

11:11:10 9 A. Can you repeat that? What am I looking for again?

11:11:12 10 Q. Yeah.

11:11:12 11 It says Number 1, "Monthly OOS Credential

11:11:16 12 Cancellations."

11:11:16 13 A. Yes. I see that, yes.

11:11:20 14 Q. Okay. So if you could just quickly review that

11:11:24 15 through the end of the document and see if you see Number 2

11:11:28 16 on the next page "SOS Customer Extract."

11:11:35 17 A. I do see Number 2, "SOS Customer Extract."

11:11:39 18 Q. Do you know what Number 1 and Number 2 are in this

11:11:47 19 document?

11:11:48 20 MR. MORGAN: Form.

11:11:54 21 THE WITNESS: I do not recall what these are

11:11:58 22 specifically. This appears to be -- by looking at this

11:12:02 23 email again -- a header or field types that are inside the

11:12:14 24 MVD system, I would assume, since this is an email from

11:12:18 25 their MVM operations manager.

11:12:22 1
11:12:22 2
11:12:27 3
11:12:30 4
11:12:32 5
11:12:36 6
11:12:39 7
11:12:39 8
11:12:39 9
11:12:41 10
11:12:44 11
11:12:47 12
11:12:53 13
11:12:56 14
11:12:57 15
11:13:07 16
11:13:11 17
11:13:14 18
11:13:17 19
11:13:19 20
11:13:21 21
11:13:24 22
11:13:25 23
11:13:26 24
11:13:29 25

BY MS. SHAH:

Q. If I told you that these were monthly extracts that MVD sent to the Secretary of State's Office, would that ring a bell?

MR. WHITAKER: Form.

THE WITNESS: I'm sorry. Can you repeat that question?

BY MS. SHAH:

Q. Sure.

10 If I were to say that these two -- Number 1,
11 Number 2 -- are monthly extracts provided by MVD to the
12 secretary of state, would that sound accurate to you?

13 A. This appears that that is what this is in
14 reference to, yes.

Q. Okay. And so have you been involved in -- in obtaining extracts from MVD each month?

MR. MORGAN: Form.

THE WITNESS: I'm sorry. I want to go back to what we had previously stated.

Are you saying have I personally been involved, or are you stating has the SOS been involved in receiving documents?

BY MS. SHAH:

Q. Have you personally been involved?

A. I have not been personally involved as far as I've

11:13:36 1 been included on the emails overseeing the project. So I
11:13:40 2 guess I have an oversight. But this is all work that has
11:13:43 3 been done through our vendor and the MVD.

11:13:43 4 Q. So --

11:13:50 5 A. And the information that is delivered is delivered
11:13:52 6 through an automated process that I don't have visibility
11:13:56 7 of.

11:13:57 8 Q. So -- but the information that is delivered, who
11:14:01 9 decided what that information would be from the Secretary
11:14:05 10 of State's Office?

11:14:07 11 MR. MORGAN: Form.

11:14:09 12 THE WITNESS: I don't recall who had made a
11:14:13 13 decision on what information would be delivered.

11:14:16 14 BY MS. SHAH:

11:14:18 15 Q. But it was not you?

11:14:21 16 A. I don't recall. I may have played a part, but I
11:14:26 17 don't have any recollection.

11:14:28 18 Q. So who -- who would know this information?

11:14:32 19 A. My assumption would be possibly someone from our
11:14:36 20 previous administration, such as maybe Kori Lorick, who I
11:14:42 21 know was working on this project as well.

11:14:47 22 Q. Okay. Once this information is received, though,
11:15:00 23 would you have knowledge of how this information would be
11:15:05 24 used to match with data in AVID?

11:15:15 25 A. I'm sorry. I don't know if I understand your

11:15:16 1 question. Can you can you ask that one more time?

11:15:20 2 Q. Sure. I will paraphrase your earlier testimony.

11:15:24 3 So if I paraphrase it wrong, definitely correct me.

11:15:26 4 But you said that, you know, this information

11:15:28 5 is delivered to the Secretary of State's Office; is that

11:15:34 6 right?

11:15:34 7 A. That is correct, yes.

11:15:35 8 Q. Will this information be matched to information
11:15:41 9 that is in AVID?

11:15:44 10 A. Once -- to my understanding, if I recall properly,
11:15:48 11 is once there is work that needs to be completed for our
11:15:51 12 system to adequately receive this information.

11:15:57 13 Q. So your testimony is, yes, once additional work is
11:16:02 14 done?

11:16:04 15 MR. MORGAN: Form.

11:16:08 16 THE WITNESS: As long as that -- I guess I
11:16:12 17 don't know if I understand that question. Can you rephrase
11:16:14 18 that?

11:16:15 19 BY MS. SHAH:

11:16:15 20 Q. Sure. I'm just trying to understand your response
11:16:17 21 about how this information will be used. I'm trying to
11:16:21 22 understand whether this information will be matched to
11:16:24 23 information in AVID.

11:16:25 24 And your response was? Do you just want to
11:16:30 25 repeat it? I don't want to speak for you.

11:16:32 1 A. Most certainly. I mean, I guess what I would say
11:16:34 2 is that would be its intent. But there has been no
11:16:39 3 development, or the development is not there currently, so
11:16:44 4 those files are not being [indiscernible] --

11:16:46 5 THE COURT REPORTER: "Those files are not"
11:16:49 6 what?

11:16:49 7 THE WITNESS: -- is my understanding.

11:16:49 8 THE COURT REPORTER: You cut out.

11:16:49 9 THE WITNESS: They're not being implemented
11:16:50 10 in -- those files are not being imported into the system,
11:16:54 11 to my recall.

11:16:56 12 BY MS. SHAH:

11:16:58 13 Q. And so there have been no -- has there been --
11:17:02 14 well, let me ask -- I'll strike that. Let me rephrase.

11:17:06 15 What would be the criteria to match the
11:17:13 16 information delivered to information that is currently in
11:17:16 17 AVID?

11:17:20 18 MR. MORGAN: Form.

11:17:22 19 THE WITNESS: I wouldn't have that criteria
11:17:28 20 directly in front of me as far as what development would
11:17:30 21 require, but my understanding would be most likely it would
11:17:34 22 have to be matching the information that is contained in
11:17:36 23 the MVD system as shared in these files to the information
11:17:38 24 that we have stored in AVID to an extent.

11:17:42 25 BY MS. SHAH:

11:17:42 1 Q. So have you provided the -- the draft criteria
11:17:51 2 that you just mentioned in your response?

11:17:53 3 MR. MORGAN: Form.

11:17:58 4 THE WITNESS: I don't know if I understand
11:17:59 5 the question.

11:18:00 6 Are you saying have I personally or has the
11:18:02 7 Secretary of State's Office?

11:18:02 8 BY MS. SHAH:

11:18:03 9 Q. The secretary of state.

11:18:06 10 A. Provided -- I'm sorry.

11:18:08 11 Can you repeat it one more time? Have we
11:18:10 12 provided what?

11:18:11 13 Q. The -- the criteria used to match this information
11:18:13 14 from MVD to the information in AVID.

11:18:18 15 MR. MORGAN: Form.

11:18:19 16 THE WITNESS: Not that I can recall or am
11:18:24 17 aware of. I know that there have been development tickets,
11:18:26 18 I believe, that have been created, but I don't believe
11:18:31 19 anything other than that has been done.

11:18:33 20 BY MS. SHAH:

11:18:34 21 Q. Thank you.

11:18:34 22 MS. SHAH: Craig, we'll follow up on that
11:18:37 23 about what has been -- the tickets that have been
11:18:39 24 developed.

11:18:41 25 BY MS. SHAH:

11:18:41 1 Q. Okay. And do you know who Jason Fountain is?

11:18:48 2 A. Yes. Jason Fountain is my direct report.

11:18:51 3 Q. And do you know if he was involved in determining
11:18:55 4 which information -- what information from MVD would be
11:19:01 5 provided in these extracts to the Secretary of State's
11:19:09 6 Office?

11:19:09 7 A. I don't recall his -- I don't recall his
11:19:13 8 involvement.

11:19:13 9 Q. Okay. Thank you. I appreciate that.

11:19:22 10 I can move us to a different document, if you
11:19:27 11 would, please. It is in that same file. The document will
11:19:32 12 be AZSOS-0330610.

11:19:39 13 A. Give me one second to find it.

11:19:41 14 Q. Absolutely.

11:19:42 15 A. 0330610?

11:19:46 16 Q. Exactly.

11:19:47 17 A. All right. Okay. I have found that document. I
11:19:57 18 have it open.

11:19:57 19 Q. Okay. We'll get to the document specifically.

11:20:02 20 But one preliminary question.

11:20:04 21 Do you know how -- do county recorders access
11:20:09 22 the SAVE database through an interface provided by the
11:20:12 23 Secretary of State's Office?

11:20:14 24 MR. MORGAN: Foundation.

11:20:16 25 THE WITNESS: That I am not sure how they

11:20:20 1 utilize the SAVE information. That's something that my
11:20:25 2 counterpart, Yolanda, manages.
11:20:27 3 BY MS. SHAH:
11:20:28 4 Q. Okay. All right. But -- but do you -- okay. So
11:20:35 5 I guess let me -- my question was a little different, not
11:20:38 6 about how they utilize the information from SAVE but how
11:20:41 7 they actually access that database.
11:20:45 8 Do you -- do you know -- is it through the
11:20:47 9 secretary of state --
11:20:48 10 A. I have no visibility -- I don't know. I'm not the
11:20:52 11 best person to ask that. That's not one of the systems
11:20:55 12 that I oversee.
11:20:56 13 Q. Who would be the person to ask?
11:20:59 14 A. Yolanda Morales.
11:21:01 15 MS. SHAH: All right. Thank you.
11:21:05 16 So I think those are my questions. I don't
11:21:12 17 know if any of my colleagues have any follow-up questions.
11:21:19 18 MR. HERRERA: I might have a couple for
11:21:21 19 Promise Arizona.
11:21:21 20 THE VIDEOGRAPHER: Excuse me one moment,
11:21:21 21 Counsel.
11:21:22 22 Mr. Smith, if you wouldn't mind for the video
11:21:24 23 just pushing your screen back away from you a little bit so
11:21:27 24 you're not cut off at the top. I want you full frame,
11:21:31 25 please.

11:21:31 1 Pardon the interruption.

11:21:31 2

11:21:31 3 EXAMINATION

11:21:33 4 BY MR. HERRERA:

11:21:33 5 Q. Hello, Mr. Smith. My name is Ernest Herrera. I
11:21:38 6 represent plaintiffs in this case known as the Promise
11:21:41 7 Arizona plaintiffs. Thanks for your time today.

11:21:44 8 I have a couple of quick questions. And we
11:21:46 9 can pull up the relevant documents if you need them, but
11:21:50 10 I'll just try to ask you really quickly.

11:21:52 11 In -- well, first of all, I think we
11:21:55 12 established you worked with ADOT on developing the customer
11:21:59 13 extracts that Ms. Shah was just asking you about; right?

11:22:04 14 A. Yes. I was on the project during that time, yes.

11:22:09 15 Q. Okay. And in developing those -- specifically the
11:22:12 16 "NonCitizen" field that is a part of the noncitizen
11:22:16 17 customer extract, did you have anything to do with helping
11:22:21 18 -- or working with ADOT on developing that field?

11:22:27 19 A. Not that I have any recollection, no. That was
11:22:33 20 nothing that I can recall, no.

11:22:35 21 Q. Did you make specific requests to ADOT in
11:22:39 22 developing that noncitizen customer extract in terms of
11:22:43 23 what kinds of data the secretary's office wanted?

11:22:49 24 A. I may have been involved. I would have to take a
11:22:54 25 look at forwarding information, but I did not have any

11:22:58 1 formal drafts or anything that I worked on personally. Not
11:23:03 2 that I recall.

11:23:03 3 Q. Sure. Let me just ask it perhaps more simply or
11:23:07 4 in plainer terms.

11:23:09 5 When working on that noncitizen customer
11:23:13 6 extract with ADOT, did you -- were there certain things
11:23:19 7 that -- that you wanted on behalf of the secretary's
11:23:23 8 office?

11:23:27 9 A. Not that I can recall in the specifics.

11:23:31 10 Q. What would help you recall that?

11:23:35 11 A. I would probably have to go back and take a look
11:23:38 12 at our emails that had gone through at that time. But I
11:23:46 13 don't have those in front of me right now, so I can't
11:23:49 14 recall the specifics of.

11:23:54 15 Q. Did you ever ask -- let me just -- so in the --

11:24:04 16 MR. HERRERA: Is someone talking? Sorry. Or
11:24:08 17 am I getting feedback?

11:24:09 18 MR. WHITAKER: Richard, I think you're
11:24:11 19 unmuted.

11:24:18 20 MR. HERRERA: Are we good? All right.

11:24:19 21 BY MR. HERRERA:

11:24:20 22 Q. Sorry about that, Mr. Smith.

11:24:26 23 So let me just try to pull up one of the
11:24:29 24 exhibits, if I can find it.

11:24:49 25 Are you familiar with the "NonCitizen" field

11:24:51 1 that is in the noncitizen customer extracts from ADOT?

11:24:58 2 A. I am not familiar with that field specifically,

11:25:01 3 no.

11:25:03 4 Q. It's the one that says "N" for -- or it's one that
11:25:09 5 has a value for if someone is supposedly a non-U.S. citizen
11:25:15 6 and then otherwise the field is null. Do you recall that?

11:25:22 7 A. I don't recall that specifically, but that sounds
11:25:26 8 logical.

11:25:27 9 Q. Okay. And do you recall working on developing
11:25:33 10 that field with ADOT?

11:25:40 11 A. Not -- not that I recall. I've had so many
11:25:43 12 projects with ADOT, I can't remember the specifics of them.
11:25:46 13 My apologies.

11:25:46 14 Q. So you'd have to see the actual document in front
11:25:49 15 of you?

11:25:50 16 A. That would be ideal, yes.

11:25:52 17 Q. Bear with me one moment while I try to find this.

11:26:24 18 A. Most certainly.

11:26:24 19 Is it in the exhibits? Should I have that
11:26:27 20 pulled up as well?

11:26:29 21 Q. Yes.

11:26:30 22 MR. HERRERA: Does anyone remember which one
11:26:32 23 was the ADOT -- was it exhibit -- the ADOT extracts?

11:26:41 24 MS. KANTER COHEN: The list of fields or the
11:26:43 25 ADOT exhibit?

11:26:44 1 MR. HERRERA: The list of fields. My
11:26:46 2 apologies. I'm doing this on the fly a little bit.
11:26:49 3 MS. KANTER COHEN: You could use 267.
11:26:52 4 MR. HERRERA: Sorry?
11:26:53 5 MS. KANTER COHEN: You could use 2- -- 267 --
11:26:59 6 sorry.
11:27:02 7 MR. WHITAKER: I think it's Exhibit 279. Is
11:27:05 8 that what you're referring to? The email that listed
11:27:08 9 the --
11:27:08 10 MS. KANTER COHEN: [Indiscernible] Jorgensen
11:27:08 11 113.
11:27:08 12 THE COURT REPORTER: Ms. Kanter Cohen, can
11:27:16 13 you repeat that? I didn't hear what you said.
11:27:16 14 MS. KANTER COHEN: I think Jorgensen 113 in
11:27:19 15 the Dropbox or the one that was already used that, I think,
11:27:24 16 someone was just mentioning the number.
11:27:26 17 MR. HERRERA: Oh, yeah. I'll pull that one
11:27:28 18 up here.
11:27:33 19 MR. MORGAN: Which one are you pulling up,
11:27:35 20 Ernest?
11:27:36 21 MR. HERRERA: Exhibit 113 from the deposition
11:27:40 22 of Mr. Jorgensen.
11:27:43 23 MR. MORGAN: Thank you.
11:27:46 24 MR. HERRERA: One moment.
11:27:46 25 BY MR. HERRERA:

11:27:48 1 Q. Okay. Mr. Smith, I am now showing you on the
11:27:52 2 screen share in Zoom Jorgensen Exhibit 113.

11:28:00 3 And I'm going to scroll down to a portion at
11:28:04 4 the top -- do you see that there's an email from you to
11:28:06 5 various parties on December 19, 2022?

11:28:10 6 A. Yes.

11:28:11 7 Q. Okay. So we went over -- Ms. Shah went over this
11:28:14 8 a little bit with you; right?

11:28:19 9 A. Yes, I believe this was something that we had
11:28:21 10 talked about previous.

11:28:23 11 Q. I'm going to go to the -- I'm going to the fourth
11:28:32 12 page of the exhibit -- of the document. And it's
11:28:35 13 Bates-stamped AZSOS-267127.

11:28:44 14 And do you see that it says that there's an
11:28:47 15 -- it says, "SOS Customer Extract." And then underneath,
11:28:51 16 there's the -- there's a list of fields that begin; right?

11:28:56 17 A. Yes.

11:28:57 18 Q. And then I'm going to continue onto the next page,
11:29:00 19 which is AZSOS-267128. Do you see that?

11:29:08 20 A. Yes. I see this next page, yes.

11:29:13 21 Q. Okay. Do you see Item U?

11:29:17 22 A. Yep.

11:29:18 23 Q. And in Item U in this email, it says "noncitizen,"
11:29:23 24 all one word, and then it has a parenthetical; right?

11:29:31 25 A. Yes. Let me -- I can't read the parenthetical on

11:29:34 1 my screen. Give me one second because I have -- the
11:29:36 2 cameras are covering it.

11:29:39 3 No. Sorry. If you could zoom back out to
11:29:42 4 where it was before. I just had to move my windows around.

11:29:45 5 Q. I see. How about that?

11:29:46 6 A. This is perfect. Thank you.

11:29:51 7 Right. I do see there's a parenthetical,
11:29:54 8 yes, which is referencing that it would be blank.

11:29:58 9 Q. Okay. And so in that parenthetical, it says, "The
11:30:00 10 noncitizen" -- referring to the "NonCitizen" field in the
11:30:03 11 extract, it says "will be marked 'Y'" -- the letter Y --
11:30:11 12 "if ADOT records -- records indicate the person is a
11:30:15 13 noncitizen; this will otherwise be blank"; right?

11:30:21 14 A. Yes. That's what it states, yes. Correct.

11:30:24 15 Q. Do you recall if this is what is reflected in the
11:30:29 16 current customer extract from ADOT that the SOS receives?

11:30:34 17 A. Not that I recall because I don't have visibility
11:30:38 18 of those. So I have not actually seen the extract as they
11:30:44 19 have come into the FTP server.

11:30:47 20 Q. Okay. Do you know who does look at them in the
11:30:51 21 FTP server as they come in every month?

11:30:54 22 A. So who -- who would have visibility of that would
11:30:57 23 be our vendor who maintains those interfaces. But I don't
11:31:02 24 think that the files are actively being looked at, as they
11:31:08 25 are just being received in the system. We don't have any

11:31:11 1 logic to import them.

11:31:13 2 Q. So no one in the secretary's office is looking at
11:31:16 3 those extracts in the FTP server every month?

11:31:22 4 A. That would be through extension of our vendor. So
11:31:25 5 our vendor is the one -- I believe in this email, if you
11:31:30 6 scroll up -- I think it was to the third page -- you can
11:31:33 7 see what they're referring to right here. Sorry. If you
11:31:36 8 scroll back down. Right there.

11:31:38 9 That's -- yeah. So "On behalf of the SOS, I
11:31:41 10 have checked on these files and can confirm that we can
11:31:43 11 access and download them."

11:31:46 12 So that is the file that you're seeing right
11:31:47 13 there. So on behalf of the SOS, that is from Kevin Kumpf
11:31:51 14 from INEXL.

11:31:51 15 Q. And is anyone --

11:31:55 16 THE WITNESS: Give me one moment. I'm sorry.
11:31:57 17 Give me one moment. I just need to grab my chair that's
11:32:01 18 right behind me. So I just need a five-second break. I'm
11:32:04 19 going to step out of frame.

11:32:05 20 MR. HERRERA: No problem.

11:32:13 21 THE WITNESS: All right. I am back. Thank
11:32:14 22 you.

11:32:17 23 MR. HERRERA: No problem.

11:32:17 24 BY MR. HERRERA:

11:32:20 25 Q. So INEXL -- that's spelled I-N-E-X-L. I think it

11:32:24 1 was discussed yesterday -- is the -- is the vendor; right?

11:32:30 2 A. INEXL is our vendor, yes.

11:32:33 3 Q. Now, is anyone from the secretary's office, as far
11:32:37 4 as you know, communicating with INEXL about these monthly
11:32:43 5 customer extracts from ADOT?

11:32:46 6 A. No, not that I'm aware of.

11:32:50 7 Q. Now, going back to the last page of Exhibit 113
11:32:57 8 and looking again at Item U, the "NonCitizen" field or
11:33:00 9 proposed field as it was at that time. Does looking at
11:33:06 10 this help you recall working with ADOT in designing this
11:33:11 11 customer extract?

11:33:15 12 A. I mean, I recall these emails that went on about
11:33:18 13 it, but I didn't have a -- I don't have any recollection of
11:33:24 14 having a personal level of picking these fields. My
11:33:30 15 understanding is that these fields are being provided by
11:33:34 16 ADOT and what's in their system.

11:33:39 17 Q. And did the secretary's office ask for this field
11:33:49 18 to be created?

11:33:53 19 A. That I -- I don't recall. I don't recall how this
11:34:00 20 field came about. It was already there [indiscernible].

21 THE COURT REPORTER: Can you repeat the end
22 of it? "It was already there" what?

23 THE WITNESS: I'm sorry. Are you asking me
24 to repeat my answer?

25 THE COURT REPORTER: You cut out at the end.

1 You said, "It was already there" --

11:34:17 2 THE WITNESS: No. What I had said is -- I
11:34:20 3 said, I don't recall if this was something that had to be
11:34:22 4 created or if this was a field that was already in their
11:34:26 5 system previously.

11:34:30 6 Can you -- did you -- did you hear me better?

11:34:31 7 THE COURT REPORTER: Yes.

11:34:34 8 BY MR. HERRERA:

11:34:39 9 Q. Now, do you know how ADOT fills or comes up with
11:34:49 10 the -- let me start that again.

11:34:51 11 Do you know how ADOT produces the value in
11:34:56 12 this "NonCitizen" field in the customer extract?

11:35:05 13 A. I -- I don't.

11:35:07 14 Q. Do you know if the "NonCitizen" field -- please go
11:35:12 15 ahead.

11:35:12 16 A. I was going to say I don't -- I don't recall --
11:35:19 17 yeah, I -- not at this moment.

11:35:24 18 Q. Okay. And is this something that you -- did you
11:35:28 19 go and review this in preparation for the deposition?

11:35:33 20 A. I did not review this particular list, no. I had
11:35:41 21 discussions with my counsel about these files, but I don't
11:35:48 22 recall going through this particular list.

11:35:53 23 Q. Do you do you know if, in producing this customer
11:36:03 24 extract on a monthly basis, if ADOT cross-references
11:36:09 25 certain data to come up with a value to put in the

11:36:13 1 "NonCitizen" field?

11:36:17 2 A. I don't know. I don't have visibility of how they
11:36:20 3 gather their data in their system.

11:36:23 4 Q. Besides this "NonCitizen" field, did the
11:36:28 5 secretary's office, in developing the customer extract from
11:36:31 6 ADOT for the purpose of implementing 2243, request any
11:36:37 7 other fields or data concerning MVD customers' citizenship
11:36:47 8 or immigration status?

11:36:52 9 MR. LANGHOFER: Asked and answered.

11:36:55 10 THE WITNESS: Can you repeat the question?

11:36:58 11 BY MR. HERRERA:

11:36:59 12 Q. Sure.

11:37:00 13 So besides this "NonCitizen" field that we're
11:37:02 14 looking at in this ADOT customer extract, the one that goes
11:37:07 15 to the secretary's office every month, besides that field,
11:37:13 16 did the secretary's office request any other data or fields
11:37:17 17 concerning citizenship or immigration status?

11:37:22 18 MR. LANGHOFER: Same objection.

11:37:23 19 THE WITNESS: I -- I don't recall. I would
11:37:25 20 have to look at the emails and what may have been
11:37:30 21 requested.

11:37:31 22 BY MR. HERRERA:

11:37:32 23 Q. So you'd have to go back and review your own
11:37:34 24 emails to answer that question?

11:37:36 25 A. To feel confident in answering it, yeah. I don't

11:37:40 1 recall the details about that.

11:37:46 2 Q. Besides -- besides you at the secretary's office,
11:37:52 3 was anyone else involved in working with ADOT on the
11:37:56 4 development of this customer extract?

11:38:01 5 A. Yes. Our previous director was heavily involved.
11:38:06 6 Kori Lorick is who that was.

11:38:10 7 Yolanda, my counterpart, she was also
11:38:14 8 involved as well as my direct report Jason Fountain was
11:38:20 9 involved to an extent, but I don't recall him having --
11:38:24 10 other than just being cc'd in the conversation.

11:38:27 11 And then through extension of the SOS, it was
11:38:30 12 also a direct partnership with our vendor as well helping
11:38:34 13 design that.

11:38:38 14 Q. Do you recall who from the secretary's office made
11:38:44 15 the decision to request certain data from ADOT as a part of
11:38:50 16 the customer extract?

11:38:55 17 A. I don't recall specifically, but my assumption
11:38:59 18 would be that would be something that would be under the
11:39:02 19 director and their initiatives.

11:39:06 20 Q. Would it help you to recall the answer to that if
11:39:09 21 you looked at some certain emails?

11:39:12 22 A. Most certainly, yeah.

11:39:13 23 Q. Is there anything else that you might review in
11:39:16 24 order to help refresh your recollection on -- on that point
11:39:19 25 about who decided what data to request from ADOT for the

11:39:24 1 customer extract?

11:39:26 2 A. I would say email would be the primary form of
11:39:30 3 communication between our two agencies.

11:39:50 4 Q. Now, in -- Ms. Shah asked you a little bit about
11:39:55 5 the matching that perhaps would have to be done in order to
11:40:00 6 implement 2243. Do you recall those questions?

11:40:04 7 A. I'm sorry. Can you can you repeat that? I heard
11:40:09 8 2243.

11:40:10 9 Q. Specifically thinking about implementing House
11:40:15 10 Bill 2243, do you recall questions about having to do
11:40:19 11 certain matching between MVD data and voter registration
11:40:26 12 data in order to comply with that law?

11:40:30 13 A. I don't recall that specifically, but, I mean, it
11:40:35 14 sounds like that would be a conversation that would have to
11:40:38 15 have been had. I don't recall the specifics at this time.

11:40:42 16 Q. You don't recall your testimony from a few minutes
11:40:45 17 ago?

11:40:48 18 MR. MORGAN: Form. Argumentative.

11:40:50 19 THE WITNESS: Which part were you -- I'm
11:40:56 20 sorry. I must not completely understand.

11:40:59 21 BY MR. HERRERA:

11:40:59 22 Q. Are you aware that under -- under one of the new
11:41:02 23 challenged laws -- that the new law requires the Secretary
11:41:10 24 of State's Office to compare MVD driver's license data to
11:41:16 25 voter registration data in order to determine --

11:41:19 1 A. Yes.

11:41:19 2 Q. -- there are certain voters who may not be U.S.

11:41:23 3 citizens?

11:41:23 4 MR. MORGAN: Form. Calls for legal
11:41:29 5 conclusion.

11:41:29 6 THE WITNESS: Yes.

11:41:31 7 BY MR. HERRERA:

11:41:31 8 Q. Okay. And as a part of -- are you aware of that

11:41:41 9 creating the customer extract from ADOT is a part of

11:41:47 10 potentially complying with that law?

11:41:51 11 MR. MORGAN: Form Foundation.

11:41:53 12 MR. LANGHOFER: Legal conclusion.

11:41:55 13 THE WITNESS: Yes.

11:41:56 14 BY MR. HERRERA:

11:41:57 15 Q. Okay. Now, given your background and your work

11:42:03 16 with the secretary's office, what information would you

11:42:07 17 ideally want from ADOT in terms of citizenship or

11:42:11 18 immigration status in order to perform that comparison?

11:42:17 19 A. Well, I would --

11:42:19 20 MR. WHITAKER: Form.

11:42:19 21 THE WITNESS: -- need to have a -- I would

11:42:24 22 assume that we would need to have something similar to what

11:42:27 23 we referred to before, the "NonCitizen" field or a way that

11:42:31 24 we can identify that on the record that is in the MVD

11:42:34 25 system.

11:42:35 1 BY MR. HERRERA:

11:42:35 2 Q. Okay. Besides -- now that you -- you see what the

11:42:40 3 "NonCitizen" field gives you, which is either a Y or

11:42:43 4 nothing, would you want -- --

11:42:45 5 A. Right.

11:42:45 6 Q. -- any other information in order to implement

11:42:48 7 that requirement of the law?

11:42:51 8 MR. LANGHOFER: Mischaracterizes --

11:42:51 9 MR. MORGAN: Form.

11:42:53 10 MR. LANGHOFER: -- prior testimony.

11:42:53 11 MR. MORGAN: Yeah. Form. Mischaracterizes

11:42:55 12 prior testimony.

11:42:58 13 THE WITNESS: I don't know. I would -- I

11:43:02 14 don't know the answer to that.

11:43:03 15 BY MR. HERRERA:

11:43:06 16 Q. Okay.

11:43:07 17 MR. HERRERA: Those are all my questions for

11:43:09 18 now.

11:43:10 19 MR. MORGAN: Anybody else on the plaintiffs'

11:43:14 20 side have any questions?

11:43:29 21 (An off-the-record discussion ensued.)

11:43:29 22

11:43:29 23 EXAMINATION

11:43:29 24 BY MS. KANTER COHEN:

11:43:33 25 Q. Hello, Mr. Smith. My name is Michelle Kanter

11:43:33 1 Cohen. I represent the Poder Latinx plaintiffs in this
11:43:36 2 matter.

11:43:38 3 I wanted to turn to the subject of HAVA
11:43:41 4 checks.

11:43:41 5 Are you familiar with HAVA checks?

11:43:45 6 A. I am familiar with HAVA checks, the systematic
11:43:48 7 process, yes.

11:43:51 8 Q. And generally, can you describe for the record
11:43:53 9 what your understanding is of what a HAVA check is?

11:43:58 10 MR. LANGHOFER: Scope.

11:43:59 11 THE WITNESS: A HAVA check is something
11:44:00 12 that -- a HAVA check is something that's performed inside
11:44:03 13 of our system on every voter record update, voter
11:44:11 14 registration so that -- it goes through a series of steps.

11:44:14 15 And the HAVA process -- or the HAVA check
11:44:17 16 itself identifies different things. So the first thing it
11:44:23 17 does is it will help identify citizenship. So it looks to
11:44:28 18 the MVD to find a record in their system to make a
11:44:33 19 one-on-one match.

11:44:37 20 It will also look for duplicates inside of
11:44:39 21 our system as well to make sure that the record is not
11:44:43 22 already existing in our system and we're -- and that record
11:44:47 23 needs to be updated.

11:44:49 24 And then it also has the ability to reach out
11:44:51 25 to the SSA to identify persons. So it's a series of

11:44:58 1 systematic checks that the record goes through.

11:45:03 2 BY MS. KANTER COHEN:

11:45:03 3 Q. And am I correct that there are hard matches that

11:45:06 4 can be made between the AVID and the MVD data?

11:45:14 5 A. Yes, that's correct. There are hard matches and

11:45:16 6 soft matches.

11:45:17 7 Q. What are the criteria to make a hard match?

11:45:23 8 MR. LANGHOFER: Asked and answered. Scope.

11:45:25 9 THE WITNESS: I don't have the direct

11:45:27 10 criteria right in front of me, but it has to do with

11:45:33 11 meeting a certain number of personal identifying

11:45:35 12 information, such as, like - I'm trying to recall.

11:45:37 13 Like, the first three letters of the first

11:45:41 14 name, last name. The last four of Social Security number

11:45:46 15 is included. Driver's license number is included. Date of

11:45:50 16 birth is included.

11:45:51 17 So as long as the record meets the proper

11:45:55 18 number of those values, it is considered a hard match.

11:45:59 19 BY MS. KANTER COHEN:

11:45:59 20 Q. And what is a soft match?

11:46:04 21 MR. LANGHOFER: Same objection.

11:46:05 22 THE WITNESS: A soft match would mean that it

11:46:07 23 meets some of those but not enough to be identified as

11:46:10 24 hard. So it doesn't quite reach that threshold. And it

11:46:14 25 would require a county user to make a determination on

11:46:21 1 whether or not those records are of the same person.

11:46:30 2 BY MS. KANTER COHEN:

11:46:31 3 Q. Can a county recorder in the system decide that

11:46:34 4 none of the soft matches are the same person as the

11:46:38 5 applicant?

11:46:40 6 A. Yeah. If it's a soft match, they can go on and

11:46:44 7 create a new record, yes. My understanding, they can do

11:46:50 8 that.

11:46:50 9 Q. And what information for a soft match is the user

11:46:55 10 able to view?

11:47:00 11 A. I'm sorry. I didn't quite hear that question.

11:47:03 12 Q. What information -- or I should say what fields

11:47:09 13 are -- can the users see when they're looking at the soft

11:47:15 14 match options in the system?

11:47:18 15 A. I don't recall exactly what fields they can see,

11:47:25 16 but they can see that personal identifying information.

11:47:30 17 I'm sorry. Are you asking what can they see

11:47:33 18 in the -- on the voter registration when it's being

11:47:39 19 processed?

11:47:40 20 Q. Maybe it would be better to do it by example.

11:47:43 21 So if -- if I have a list -- I'm the county

11:47:47 22 recorder using the system. And I have a list of soft

11:47:49 23 matches. Am I seeing the full name for those potential

11:47:56 24 soft matches?

11:47:58 25 A. Yes. It's my understanding that when you're

11:48:00 1 comparing those records, if I recall, you're seeing the

11:48:04 2 full criteria information of what record is in the MVD

11:48:08 3 system and what record is in the AVID system, so yes.

11:48:13 4 Q. When the fields are compared between the MVD
11:48:24 5 system and the AVID system, does -- do -- does either
11:48:33 6 system take -- make changes such as eliminating spaces in a
11:48:41 7 -- in a name, apostrophes, hyphens, things like that?

11:48:50 8 A. Sorry. Can you repeat that one more time?

11:48:53 9 Q. So -- actually, I'll use my last name as an
11:48:57 10 example. My last name is Kanter Cohen.

11:48:58 11 A. Okay.

11:48:58 12 Q. There is no hyphen between Kanter and Cohen. That
11:49:02 13 is my legal last name. If I -- if I were a registered -- a
11:49:07 14 registration applicant and I had a driver's license in
11:49:10 15 Arizona, would my name be Kanter Cohen with the space in
11:49:17 16 the system? Would it be Kanter Cohen with no space
11:49:19 17 condensed? Would it be no -- a hyphen inserted? What
11:49:24 18 would -- what would that look like in the system?

11:49:27 19 A. It -- it would match the -- like, if it was coming
11:49:27 20 from the MVD, like through an EZ Voter transaction, it
11:49:38 21 would match the field on how it was entered in their
11:49:40 22 system. So our system has the ability to -- to process all
11:49:48 23 of those examples.

11:49:50 24 Q. So would the system understand that Kanter Cohen
11:49:53 25 without a space was the same as Kanter Cohen with a space

11:49:56 1 or no?

11:49:58 2 MR. WHITAKER: Form.

11:49:59 3 THE WITNESS: As long as that was entered in
11:50:00 4 when it was submitted in the last name field that way, then
11:50:04 5 yes, the system would be able to identify that there can be
11:50:07 6 multiple names in one field.

11:50:10 7 BY MS. KANTER COHEN:

11:50:12 8 Q. I guess what I'm asking is: When it's being
11:50:14 9 matched between the MVD system and whatever was entered,
11:50:17 10 say, from a paper form in the AVID system, does the system
11:50:23 11 understand -- can the system process variations in the
11:50:29 12 name, such as spacing, misspellings, apostrophes, things
11:50:36 13 like that, or does it have to be exact between the last
11:50:39 14 name entered in AVID and the last name, for example,
11:50:42 15 entered in MVD?

11:50:43 16 MR. MORGAN: Form.

11:50:44 17 THE WITNESS: Thank you for the
11:50:46 18 clarification. I have a better understanding of what
11:50:48 19 you're asking.

11:50:50 20 No, it is looking for identical matches. So
11:50:53 21 if there is a misspelling in the name, that would
11:50:56 22 potentially cause issues --

11:50:58 23 BY MS. KANTER COHEN:

11:50:58 24 Q. So that field --

11:50:59 25 A. -- in identifying a match.

11:51:02 1 Q. I'm sorry.

11:51:02 2 You said it would cause issues identifying

11:51:04 3 the match; right?

11:51:06 4 MR. WHITAKER: Mischaracterizes testimony.

11:51:08 5 THE WITNESS: Yes.

11:51:10 6 BY MS. KANTER COHEN:

11:51:11 7 Q. I'm sorry.

11:51:13 8 I did -- did I -- I hear you incorrectly? I
11:51:14 9 was just trying to make sure that the court reporter was
11:51:17 10 able to hear the end of your response because I didn't
11:51:20 11 realize you were done. Did I get that right, what you
11:51:24 12 said?

11:51:25 13 MR. MORGAN: He said "yes" to your question.

11:51:27 14 THE WITNESS: Are you asking me --

11:51:28 15 MR. MORGAN: Russ, it's okay.

11:51:29 16 He said "yes."

11:51:31 17 MS. KANTER COHEN: Thank you.

11:51:32 18 BY MS. KANTER COHEN:

11:51:35 19 Q. So for that field, in this example name, it

11:51:39 20 wouldn't be a match?

11:51:43 21 A. It would not show as a match, no. Those would be

11:51:48 22 seen as [indiscernible].

11:51:48 23 THE COURT REPORTER: "Those would be seen as"
11:51:48 24 what?

11:51:49 25 THE WITNESS: I'm sorry. To -- to -- I just

11:51:51 1 want to make sure that I'm understanding.

11:51:53 2 Are you talking about if someone misspelled

11:51:54 3 your name, your --

11:51:54 4 BY MS. KANTER COHEN:

11:51:54 5 Q. Right.

11:51:58 6 A. Is that what you're referencing in that example?

11:51:58 7 Q. Yes.

11:52:01 8 A. Yeah, so if there is a misspelling in the name,

11:52:03 9 that's going to be seen as a -- as a different value.

11:52:07 10 Q. So for example -- another example, if I entered --

11:52:11 11 if someone entered Cohen as the last name instead of Kanter

11:52:18 12 Cohen on the registration side but the MVD record has a

11:52:22 13 last name as Kanter Cohen, that would also be a nonmatch

11:52:27 14 for a last name?

11:52:29 15 A. Well, depending on the other criteria, but yes.

11:52:32 16 So -- so sorry. So to answer your question, yes, that

11:52:37 17 would be a nonmatch for that last name. But depending on

11:52:41 18 the other personal identifying information that could go

11:52:46 19 into what we call the soft match; right? So that would be

11:52:49 20 up to the determination of the county recorder's office to

11:52:53 21 investigate further.

11:52:58 22 Q. Understood.

11:52:58 23 So the different set of questions about the

11:53:01 24 HAVA check. If someone provides the last four digits of

11:53:04 25 their Social Security number and no driver's license number

11:53:08 1 is provided on a -- talking about a paper form -- can the

11:53:15 2 system still check driver's license records with MVD?

11:53:21 3 A. Yeah. The HAVA check will still perform its

11:53:23 4 process. It will go back looking at that other personal

11:53:26 5 identifying information using date of birth, first name,

11:53:29 6 last name, last four of the social to try and identify a

11:53:32 7 match.

11:53:35 8 Q. Including potentially an MVD match or no?

11:53:40 9 A. Correct. Yeah, yeah, an MVD match, yes.

11:53:45 10 Q. Just a minute.

11:54:06 11 Do you have a sense of how often people have

11:54:11 12 -- voter registration applicants line up with a hard match

11:54:14 13 during a HAVA check process versus how often they -- the

11:54:19 14 county recorder has to go to the soft match process?

11:54:24 15 A. No, I don't have any direct experience in that.

11:54:33 16 At the state level, we don't actually process any of the

11:54:35 17 actual records. So I don't have any direct knowledge of

11:54:41 18 that.

11:54:58 19 Q. Just to clarify, do you know offhand or would you

11:55:01 20 have to look at the technical specs as far as whether you

11:55:05 21 can use the first few letters of a field, such as last name

11:55:08 22 or first name, as far as that match between the AVID and

11:55:18 23 the MVD records?

11:55:19 24 MR. MORGAN: Form.

11:55:19 25 THE WITNESS: I would have to --

11:55:22 1 MR. MORGAN: Wait. Wait. Wait. Form and
11:55:23 2 calls for speculation with regard to what you mean by
11:55:26 3 "technical specs."

11:55:30 4 BY MS. KANTER COHEN:

11:55:30 5 Q. You can answer if you understand the question.

11:55:33 6 A. Thank you.

11:55:34 7 I would have to take a look at those specs.
11:55:37 8 I was not a part of the secretary of state's team when
11:55:42 9 those were actually developed, so I would have to go back
11:55:45 10 and look at the specs. I have seen the specs, but I
11:55:48 11 haven't committed them to memory.

11:55:51 12 Q. Thank you.

11:55:56 13 I want to switch briefly to a new topic.

11:55:59 14 When new laws are passed in Arizona that
11:56:02 15 affect technological processes for voter registration,
11:56:05 16 what's the process for making changes to AVID?

11:56:10 17 A. So the process for making changes to AVID is it
11:56:14 18 will go through a series of approvals. So mostly what it
11:56:23 19 goes through is it goes through a control access board,
11:56:27 20 which is like what we would call a change access board, a
11:56:32 21 -- which we call our enhancement committee, which is
11:56:35 22 comprised of all of the counties. It's ultimately their
11:56:40 23 system that they're paying for.

11:56:40 24 And they help drive the development and the
11:56:45 25 approval process for any enhancements or future logic

11:56:49 1 that's going to be implemented into the system. And then
11:56:51 2 what we do is we partner with them and our vendor; right?
11:56:55 3 So -- and we work on the details of what needs to be
11:56:59 4 designed and what that will look like.

11:57:00 5 And then given their approval, we then go
11:57:03 6 into the development stages.

11:57:05 7 Q. Who in the Secretary of State's Office gives
11:57:08 8 direction to the vendor when decisions need to be made?

11:57:11 9 A. That would be myself.

11:57:22 10 MS. KANTER COHEN: All right. That's all the
11:57:23 11 questions I have for Mr. Smith.

11:57:24 12 Thank you, Mr. Smith. I appreciate your
11:57:26 13 time.

11:57:28 14 THE WITNESS: I guess, one -- I guess to go
11:57:29 15 back to that last question, Michelle, if we may. I guess
11:57:32 16 it's primarily myself. But any leadership position above
11:57:37 17 me who outranks me can also give direction.

11:57:43 18 There have been instances where things have
11:57:45 19 been directed all the way up from the secretary or the
11:57:49 20 deputy secretary in our office. So it's not just me, but
11:57:53 21 that's my primary -- primary role primarily.

11:57:58 22 MS. KANTER COHEN: Understood.

11:58:00 23 THE WITNESS: Okay.

11:58:01 24 MS. KANTER COHEN: Thank you for the
11:58:03 25 clarification.

11:58:06 1 MR. MORGAN: Any other plaintiffs who have
11:58:08 2 not asked questions that have any questions?

11:58:08 3

11:58:08 4 EXAMINATION

11:58:08 5 BY MS. LANG:

11:58:10 6 Q. I have just a couple for you, Mr. Smith. And I
11:58:13 7 appreciate your patience. My name is Danielle Lang. I
11:58:18 8 represent the LUCHA plaintiffs.

11:58:19 9 Very quickly, there was some mention from
11:58:21 10 both you and Ms. Morales about the kind of technical
11:58:25 11 specifications that go into hard- and soft-match criteria
11:58:29 12 for the HAVA check. Do you remember that?

11:58:34 13 A. Yes.

11:58:34 14 Q. Is that a document that you have in your
11:58:36 15 possession or in the office's possession?

11:58:38 16 A. I'm sorry. Are you referring to the technical
11:58:43 17 specs that how we identify hard and soft matching?

11:58:46 18 Q. Yes.

11:58:47 19 Is there a --

11:58:48 20 A. Yes, that is a document that --

11:58:49 21 Q. -- document that --

11:58:49 22 THE COURT REPORTER: One at a time, please.

11:58:50 23 MR. MORGAN: Yeah, let's let him finish the
11:58:53 24 -- the answer.

11:58:54 25 THE WITNESS: Yes, there -- there is a

11:58:57 1 document that lists those specs from when it was originally
11:59:00 2 developed.

11:59:01 3 BY MS. LANG:

11:59:03 4 Q. Excellent. Thank you.

11:59:05 5 And then my only other questions are a little
11:59:08 6 bit about the addressing system within AVID.

11:59:10 7 So sometimes voters are able to provide, you
11:59:13 8 know, a standard address that matches with the
11:59:18 9 TotalAddressing system, and I'm not talking about that
11:59:19 10 situation.

11:59:20 11 Are you familiar with the fact that some
11:59:23 12 voters don't have kind of standard addresses?

11:59:28 13 A. Yes, I am. I am familiar with that process.

11:59:33 14 Q. And voters have the option of trying to provide
11:59:36 15 some other kind of description of their location of
11:59:39 16 residence or a drawing; is that right?

11:59:43 17 A. They can provide that description to the county
11:59:45 18 recorder's office, yes.

11:59:46 19 Q. Can you describe to me kind of how the AVID
11:59:49 20 functionality allows -- scratch that.

11:59:54 21 Can you describe the process by which someone
11:59:57 22 who provides a nonstandard address, like a description or a
12:00:02 23 drawing, can be assigned a precinct and a location of
12:00:09 24 residence within the AVID system?

12:00:14 25 A. Yes, I can.

12:00:16 1 Q. Please, go ahead.

12:00:18 2 A. Okay. Sorry. It's a little bit of a lengthy

12:00:23 3 answer. So I wanted to make sure that that's where we want

12:00:25 4 to go.

12:00:26 5 So the way that the system works is the best

12:00:29 6 way that I would like to describe it to people who haven't

12:00:31 7 seen the system is it would look something very similar to

12:00:35 8 your other mapping softwares that you may be familiar with,

12:00:37 9 like Google Maps.

12:00:39 10 Are you familiar with Google Maps?

12:00:41 11 Q. I am, yeah.

12:00:43 12 A. Okay. Sorry. I know you're the one asking the

12:00:46 13 questions. So -- but, yeah, Google Maps.

12:00:48 14 So the way that it works is that the counties

12:00:51 15 will receive a list of instructions or directions.

12:00:57 16 Sometimes there's like an actual field. I can't do hand

12:01:00 17 gestures, so I'm going to try and describe this.

12:01:01 18 But in the bottom of the registration form,

12:01:02 19 there's like a little -- looks like a cross -- like a plus.

12:01:05 20 And they can use that to actually draw or notate where they

12:01:09 21 live.

12:01:10 22 And then the county recorders can then use,

12:01:12 23 to their investigative ability, where exactly on a map --

12:01:17 24 like a virtual map, like Google Maps, right, is kind of

12:01:22 25 like what our system would look like -- and they can drop a

12:01:24 1 point; right? Or they can create a point, I guess I should
12:01:27 2 say.
12:01:28 3 And then using what's called a
12:01:30 4 latitude/longitude value, that point can then be set to
12:01:33 5 that geographical location so then that voter lives there
6 [indiscernible] --
7 THE COURT REPORTER: "Geographical location."
8 THE WITNESS: So that's the first part of
9 your question.
10 THE COURT REPORTER: You cut out again.
11 You said "that geographical location so" --
12:01:44 12 THE WITNESS: That's where they can then
12:01:46 13 place a spot on the map, a marker, where that is -- that
12:01:52 14 geographical location -- that latitude and longitude point
12:01:55 15 is where that voter resides.
12:01:59 16 BY MS. LANG:
12:01:59 17 Q. And then that information --
12:01:59 18 A. Now, the --
12:01:59 19 Q. Go ahead.
12:02:04 20 A. Sorry.
12:02:04 21 And then I believe there was a second part of
12:02:06 22 your question which was: Now, how is that information
12:02:08 23 actually assigned a precinct value -- right? -- or a
12:02:12 24 precinct part value?
12:02:15 25 So the way that that works is that on this

12:02:15 1 map, inside this system is what we call TotalAddress. The
12:02:19 2 counties can upload a shapefile, and that shapefile is then
12:02:25 3 consumed. It's not stored. But our system reads that
12:02:28 4 shapefile and will then draw precinct part shapes on the
12:02:35 5 map.

12:02:36 6 And that shape itself, as long as any of
12:02:39 7 those points that we referred to before, as long as they
12:02:43 8 reside inside that shape, our system knows that is the
12:02:48 9 precinct part that those registered voters that are
12:02:51 10 registered to that point belong to that person.

12:02:51 11 MR. LANGHOFER: Danielle, I think you're
12:02:51 12 muted.

12:02:51 13 THE WITNESS: Danielle, I saw --

12:02:51 14 MS. LANG: Yeah. That was enormously
12:03:02 15 helpful.

12:03:02 16 MR. LANGHOFER: I'll point that it's 12:03.
12:03:04 17 I've got to leave in 12 minutes, guys. It's a hard stop
12:03:07 18 and so --

12:03:09 19 MS. LANG: I'm almost done, Kory. And I
12:03:12 20 think that I'm the last one, unless the DOJ has anything.

12:03:15 21 BY MS. LANG:

12:03:16 22 Q. So that was all very helpful. Thank you very
12:03:22 23 much, Mr. Smith.

12:03:24 24 How -- do you have any sense of how common it
12:03:30 25 is that folks need to resort to that kind of mapping system

12:03:33 1 as opposed to a standard address?

12:03:37 2 A. I would say it's varying. So it would be hard to

12:03:43 3 answer that specifically without having data in front of

12:03:48 4 me. But I would say every county in Arizona has some

12:03:53 5 number of, you know, nonstandardized addresses. And

12:03:58 6 depending on that county and their, I guess I should say,

12:04:05 7 their makeup of nonstandardized addresses, it can be

12:04:09 8 varying. Some counties have a lot more in percentage

12:04:13 9 nonstandardized addresses than others.

12:04:16 10 Q. Just two more questions on this, and then I'm

12:04:19 11 done.

12:04:19 12 One is when a voter file is produced, you

12:04:25 13 know, and it has all these various fields for each record

12:04:29 14 and one of those fields is address. Right? How is that

12:04:33 15 going to appear in kind of a spreadsheet voter file in the

12:04:38 16 circumstance where a nonstandard address has been used?

12:04:42 17 A. It's going to be the value that the county

12:04:46 18 recorder has saved in that actual address field in the

12:04:49 19 system. So -- and which I'm -- I'm not 100 percent sure.

12:04:57 20 I guess that's -- as far as my visibility goes, that's --

12:05:00 21 that -- how the county recorder makes that determination, I

12:05:04 22 wouldn't be the best person to ask under the residential

12:05:10 23 values.

12:05:11 24 Q. Fair enough. And then --

12:05:13 25 MS. LANG: Actually, that's my last question.

12:05:18 1
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So thank you very much.

And I'll just pass it off to see if any other plaintiffs have questions.

MR. MORGAN: All right. Any of the defendants have questions?

MR. WHITAKER: I don't.

MR. MORGAN: Okay. Great. Nor do we.

With that, let's go off the record. Thanks, Mr. Smith.

THE VIDEOGRAPHER: We are off the record.

Time on the video monitor is 12:05 p.m. This ends Volume 1, Media Number 2, in the 30(b)(6) depositions of the Secretary of State's Office, by Yolanda Morales and Russ Smith.

(The proceedings concluded at 12:06 p.m.)

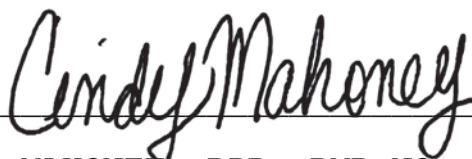
YOLANDA MORALES and RUSSELL SMITH

1 STATE OF ARIZONA)
2 COUNTY OF MARICOPA)

3 BE IT KNOWN that the foregoing deposition was taken
4 by me pursuant to stipulation of counsel; that I was then
5 and there a Certified Court Reporter in the State of
6 Arizona, and by virtue hereof authorized to administer an
7 oath; that the witness before testifying was duly sworn by
8 me to testify to the whole truth; pursuant to request,
9 notification was provided that the deposition is available
10 for review and signature; that the questions propounded by
11 counsel and the answers of the witness thereto were taken
12 down by me in shorthand and thereafter transcribed into
13 typewriting under my direction; that the foregoing pages
14 are a full, true and accurate transcript of all the
15 proceedings had upon the taking of deposition, all done to
16 the best of my skill and ability.

17 I FURTHER CERTIFY that I am in no way related
18 to nor employed by any parties hereto; nor am I in any
19 way interested in the outcome thereof.

20 Dated at Phoenix, Arizona, this 21st day of
21 September, 2023.

22 

23 _____
24 CINDY MAHONEY, RPR, RMR NO. 50680

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Exhibit 7

RETRIEVED FROM DEMOCRACYDOCKET.COM

Mi Familia Vota, et al. v Fontes, et al., No. CV-22-00509-PHX-SRB**Defendant's Counter-Designations and Objections to Plaintiff's Designations**

Janine Petty, Maricopa County Recorder's Office (7/24/2023)			
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¹ Global objection: Except for impeachment purposes, this transcript is inadmissible under Fed. R. Civ. P. 32(a) because the deponent was neither an adverse party within the meaning of subsection (3) nor unavailable within the meaning of subsection (4).

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Plaintiffs	278:25-4, 280:5-19, 281:3-20	279:25-280:4, 281:1-4, 20- 281:2, 21-24	
Plaintiffs	282:1-16		
Plaintiffs	283:6-284:24		
Plaintiffs	287:22-25		
Dana Lewis, Pinal County Recorder (8/4/2023)			
Designating Party	Page Range	Counter-designation	Objection ²
Plaintiffs	11:14-21		
Plaintiffs	13:19-15:5		
Plaintiffs	16:3-17:9		
Plaintiffs	21:7-23:7	21:12-15, 21:21, 22:1,	Legal conclusion Foundation
Plaintiffs	26:20-27:2	26:24-25, 27:4- 12	Legal conclusion Foundation Asked and answered
Plaintiffs	28:13-23	28:19-21	Legal conclusion Foundation
Plaintiffs	29:4-30:5	29:7	Legal conclusion Foundation Leading
Plaintiffs	31:4-25	31:9-10, 31:16- 17, 31:21-23,	Legal conclusion Foundation
Plaintiffs	33:3-34:9	32:3-21	Legal conclusion Foundation
Plaintiffs	34:20-35:11		Foundation Legal conclusion Misstates testimony
Plaintiffs	36:1-37:21	37:10, 37:14-15	Compound Legal conclusion Foundation Ambiguous
Plaintiffs	39:7-11		
Plaintiffs	39:23-40:5	40:6-21	Legal conclusion Foundation Ambiguous

² Global objection: Except for impeachment purposes, this transcript is inadmissible under Fed. R. Civ. P. 32(a) because the deponent was neither an adverse party within the meaning of subsection (3) nor unavailable within the meaning of subsection (4).

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Plaintiffs	41:4-22	41:8-9, 41:19, 41:24-42:10	Legal conclusion Foundation
Plaintiffs	43:18-44:24	44:14-15	Legal conclusion Foundation
Plaintiffs	45:10-48:21	44:25-45:5	Legal conclusion Foundation
Plaintiffs	49:2-50:12	50:6-7	Legal conclusion Foundation
Plaintiffs	52:6-53:3		
Plaintiffs	53:24-54:10		
Plaintiffs	54:20-56:1	56:5-11	
Plaintiffs	59:6-61:8		
Plaintiffs	63:14-16	63:17-64:20	Legal conclusion Foundation
Plaintiffs	66:9-12		
Plaintiffs	69:20-70:13	68:16-69:19	Foundation
Plaintiffs	70:24-72:9	71:6, 72:8, 72:10	Foundation Legal conclusion
Plaintiffs	75:5-7		
Plaintiffs	76:4-14	76:21-25	Foundation Legal conclusion
Plaintiffs	78:5-79:9		
Plaintiffs	82:5-25	82:9	Legal conclusion Ambiguous
Plaintiffs	84:15-85:7		
Plaintiffs	86:10-87:3		
Plaintiffs	88:4-91:18	88:12	Foundation
Plaintiffs	92:4-93:12		
Plaintiffs	96:16-97:8		
Plaintiffs	102:11-25		
Plaintiffs	105:10-107:6		
Plaintiffs	107:18-108:8		Foundation Legal conclusion
Plaintiffs	109:15-110:8	109:9-14, 110:9- 11, 112:21-24	
Plaintiffs	113:11-13	113:7-10	
Plaintiffs	114:3-7		
Anita Moreno, Santa Cruz County Recorder (8/10/2023)			
Designating Party	Page Range	Counter- designation	Objection
Plaintiffs	9:24-10:7		
Plaintiffs	14:16-18		
Plaintiffs	15:21-16:25		
Plaintiffs	18:11-19:6		
Plaintiffs	19:21-20:23		
Plaintiffs	24:1-14		
Plaintiffs	30:7-31:5	30:24	
Plaintiffs	32:4-33:9	32:19-22, 33:5-6	Foundation Legal conclusion
Plaintiffs	43:15-46:1	44:15	Ambiguous

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Plaintiffs	51:12-15		
Plaintiffs	52:10-20		
Plaintiffs	54:2-55:15		
Plaintiffs	55:22-56:22	56:1, 56:7-8, 56:21	Legal conclusion Foundation Misstates testimony Ambiguous
Plaintiffs	57:24-59:14	58:4-5, 58:22, 59:2, 59:6-7	Speculation Legal conclusion Leading Foundation Ambiguous
Plaintiffs	60:2-13	60:10-12	Legal conclusion
Plaintiffs	61:3-62:25	61:9-10, 61:21, 62:2-3, 62:10, 62:18-19, 62:23	Legal conclusion Foundation
Plaintiffs	63:14-64:21	64:22-65:8	
Plaintiffs	65:9-66:9		
Plaintiffs	66:20-68:15	68:14	Legal conclusion
Plaintiffs	70:21-72:22	71:18-19, 72:9, 72:18	Legal conclusion
Plaintiffs	73:9-74:15	73:25-74:1	Legal conclusion
Plaintiffs	75:1-22		
Plaintiffs	77:13-79:1	78:1, 95:22- 106:22	Legal conclusion Speculation Incomplete testimony (see cross designations)
Plaintiffs	80:22-81:17	81:18-82:5	
Plaintiffs	82:6-84:19	83:17, 84:14, 84:20-85:4, 102:11-106:22	Foundation Lack of personal knowledge Hearsay Incomplete testimony (see cross designations)
Plaintiffs	88:2-19		
Plaintiffs	89:2-18		
Plaintiffs	89:25-90:16		
Plaintiffs	112:17-113:1		
Plaintiffs	114:20-117:11	107:2-25	Lack of personal knowledge Calls for speculation
Eric Jorgensen, Ariz. Dept. of Transportation (8/11/2023)			
Designating Party	Page Range	Counter-designation	Objection ³
Plaintiffs	9:11-19		
Plaintiffs	11:9-19		
Plaintiffs	12:14-17		
Plaintiffs	14:10-15:21	15:22-16:2	Outside scope of topics
Plaintiffs	16:18-18:1		
Plaintiffs	18:5-22:22		
Plaintiffs	23:16-25:1		

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Plaintiffs	25:8-26:16		
Plaintiffs	27:2-33:10		
Plaintiffs	34:9-24		
Plaintiffs	35:4-23		
Plaintiffs	36:4-40:16		Legal conclusion Foundation
Plaintiffs	41:5-42:7	47:8-17	
Plaintiffs	42:18-43:18		
Plaintiffs	44:6-14		
Plaintiffs	45:5-14		
Plaintiffs	45:21-23, 45:25-46:8, 46:11-21	45:24	Ambiguous
Plaintiffs	47:25-48:8, 48:11-15, 48:17-51:3	48:10	Misstates record/testimony
Plaintiffs	51:10-53:5	53:6-8, 15-54:1	
Plaintiffs	55:7-13, 16-57:7		
Plaintiffs	57:18-58:14, 18-59:6		
Plaintiffs	60:21-61:25		
Plaintiffs	62:14-65:21		
Plaintiffs	67:12-68:6		Compound
Plaintiffs	68:12-23, 69:1-2	68:24-25	Legal conclusion
Plaintiffs	69:6-10, 12	69:11	Legal conclusion
Plaintiffs	69:20-24		
Plaintiffs	70:4-14, 17-22, 24	70:15-16, 23	Legal conclusion
Plaintiffs	71:1-3, 5	71:4	
Plaintiffs	71:11-20, 25-72:5		
Plaintiffs	72:2-9		
Plaintiffs	72:25-74:2		
Plaintiffs	75:15-25,	76:1-3, 77:2-9	
Plaintiffs	77:24-78:6		
Plaintiffs	79:1-9		
Plaintiffs	79:22-80:15	80:16-18	
Plaintiffs	80:20-31:7	81:8-17	
Plaintiffs	81:18-25		
Plaintiffs	82:5-21		Outside scope of topics
Plaintiffs	83:17-19, 21-84:4 84:6-85:13, 16-19	83:20 85:15	Outside scope of topics Ambiguous Compound
Plaintiffs	85:24-86:19		
Plaintiffs	87:18-88:6	88:7	
Plaintiffs	88:11-14		
Plaintiffs	88:19-89:20		Asked and answered
Plaintiffs	90:1-4, 8-16, 23-91:2	90:17-21	
Plaintiffs	92:23-94:3, 5-9, 23-24, 95:2-9, 11-14, 17-21, 95:23-96:24	91:6-15, 94:3, 25, 95:1, 15-16	Foundation Compound
Plaintiffs	97:23-98:10	97:16-21	Foundation
Plaintiffs	99:11-102:11		
Plaintiffs	102:14-24		

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Plaintiffs	103:18-104:15		
Plaintiffs	105:1-106:15		
Plaintiffs	106:18-107:11, 108:13-24	108:2-12	
Plaintiffs	109:22-110:7		
Plaintiffs	110:12-111:17		Foundation
Plaintiffs	114:3-10		
Plaintiffs	118:20-119:16, 119:18-120:2		
Plaintiffs	120:10-122:12		Ambiguous
Plaintiffs	123:2-9, 11-124:5 124:7-12, 17-25	123:10	Foundation
Plaintiffs	125:4-7		
Plaintiffs	125:21-127:12		
Plaintiffs	128:2-25, 129:2-6 129:8-11, 13-24 130:2-131:3, 5-8	127:22-128:1, 129:1, 12, 25- 130:1	Foundation Legal conclusion Ambiguous Compound
Plaintiffs	131:10-132:16, 19- 134:25		
Plaintiffs	135:10-137:4		
Plaintiffs	137:8-139:3 139:11-20		
Plaintiffs	140:4-15, 20-142:20 143:2-4	140:16-17	
Plaintiffs	145:25-146:19	146:20-22	Foundation
Plaintiffs	147:21-148:7		Misstates record Compound
Plaintiffs	149:6-22		Foundation Ambiguous
Plaintiffs	150:7-151:19		
Plaintiffs	155:25-156:1 156:3-19 157:6-12		Foundation
Plaintiffs	158:12-19, 159:4- 160:1		
Plaintiffs	161:18-162:12		
Plaintiffs	164:16-22		Legal conclusion
Plaintiffs	165:10-13		Foundation Ambiguous
Plaintiffs	167:10-14	166:14-167:9	
Plaintiffs	175:9-176:16	176:17-19	Foundation Hearsay Outside the scope
Plaintiffs	177:25-178:2, 4 178:8-10, 13-179:5	178:3, 11-12	Foundation Hearsay Outside the scope Asked and answered
Plaintiffs	179:10-14, 181:5-8, 10-18		
Plaintiffs	181:24-182:18	182:20-183:1	

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Plaintiffs	185:14-24		Legal conclusion Speculation
Plaintiffs	190:3-191:5	191:7-10, 12-18, 20-192:14, 18- 21	
David Stevens, Cochise County Recorder (8/14/2023)			
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Plaintiffs	10:10-16, 23-25		
Plaintiffs	19:22-20:4, 7-9	20:5-6	Legal conclusion Foundation
Plaintiffs	22:14-25		Legal conclusion
Plaintiffs	23:2-5, 8	23:6-7	Legal conclusion
Plaintiffs	23:10-13, 16	23:14-15	Legal conclusion
Plaintiffs	23:18-21, 24-25	23:22	Legal conclusion Foundation Leading
Plaintiffs	24:10-14, 16-26:12		Legal conclusion Foundation
Plaintiffs	26:16-25		
Plaintiffs	27:2-25, 28:12-29:4, 29:18-30:11	28:1-11, 29:5-17	
Plaintiffs	30:12-18, 31:3-32:7, 32:16-20	30:19-31:2, 32:9-15	
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Plaintiffs	35:13-15, 17, 19-23, 25	35:16, 24	Legal conclusion
Plaintiffs	36:2-20, 37:1-11, 14-15, 20-38:22	36:21-25, 37:12- 13, 16-19	Legal conclusion Speculation Foundation.
Plaintiffs	39:10-41:15	39:1-8, 41:16-18	Global objection to line of questioning as seeking legal conclusion
Plaintiffs	42:5-43:2		
Plaintiffs	43:7-11	43:12-15	Legal conclusion Speculation
Plaintiffs	43:17-44:7, 9, 11-16	44:8, 17-19	Legal conclusion Speculation
Plaintiffs	44:22-25, 45:2	45:1	Legal conclusion Speculation
Plaintiffs	45:4-6, 8-9, 11, 13- 17, 19	45:7, 12, 18	Legal conclusion Speculation Compound Confusing Foundation
Plaintiffs	45:21-46:3	46:4-6	Legal conclusion Speculation
Plaintiffs	46:8-9, 11	46:10	Legal conclusion Speculation
Plaintiffs	47:3-15, 17, 19-25	47:16	Legal conclusion

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			Speculation
Plaintiffs	48:8-23, 25	48:24	Legal conclusion Speculation
Plaintiffs	49:4-6, 8	49:7	Legal conclusion Speculation
Plaintiffs	49:20-50:2, 4, 6, 8-9, 11-15, 17	50:3, 7, 16	Legal conclusion Speculation
Plaintiffs	51:6-8, 10	51:9	Legal conclusion Speculation
Plaintiffs	51:12-25		
Plaintiffs	52:8-56:3, 56:13-19, 21-22	52:1-5, 56:4-5, 20, 57:15-19	Global objection to line of questioning as seeking legal conclusion Speculation
Plaintiffs	58:8-15		Legal conclusion Speculation
Plaintiffs	59:19-60:11	60:12-15	Leading
Plaintiffs	61:3-10, 19-24	61:11-18, 62:5-11, 16-19	Legal conclusion
Plaintiffs	63:10-64:1	63:5-9, 105:3-11	
Plaintiffs	64:11-65:20,	65:22-66:20, 67:3-6,	Foundation
Plaintiffs	67:24-68:8	67:20-23	
Plaintiffs	68:12-17		
Plaintiffs	68:20-69:21		Speculation
Plaintiffs	70:6-10, 15-22	70:10-14	Legal conclusion Speculation
Plaintiffs	70:24-71:4	71:5-6	
Plaintiffs	71:16-23		
Plaintiffs	74:24-75:6	74:17-20	
Plaintiffs	75:22-76:11		
Plaintiffs	76:22-25		
Plaintiffs	77:9-78:6, 9, 11-20	78:7-8, 21	Legal conclusion
Plaintiffs	80:5-81:24, 82:11-17	81:25-82:5	
Plaintiffs	84:4-87:5		
Plaintiffs	88:3-7		
Plaintiffs	89:3-90:6	90:8-91:1	
Plaintiffs	91:3-19		
Plaintiffs	95:14-96:23	95:4-13, 96:24-25, 97:1-17,	
Plaintiffs	98:8-99:4	99:5-10	
Plaintiffs	100:8-11		
Plaintiffs	102:12-17	102:19-103:12	
Plaintiffs	103:24-104:13		
Plaintiffs	118:5-119:7		
Plaintiffs	122:19-124:3	124:4-16	
Plaintiffs	128:3-24	129:8-15, 130:12-131:7	
Charlotte Asrarynezami, Gila County Recorder's Office (8/16/2023)			

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Plaintiffs	12:3-6		
Plaintiffs	13:14-14:18		
Plaintiffs	17:7-18:8		
Plaintiffs	22:21-23:9		
Plaintiffs	24:18-25:21		Legal conclusion
Plaintiffs	26:1-20		
Plaintiffs	28:18-29:5	31:2-15	
Plaintiffs	34:17-35:15		
Plaintiffs	35:20-37:25		
Plaintiffs	38:6-41:2	39:12-16, 40:20-22	Foundation Legal conclusion Speculation
Plaintiffs	43:18-46:4		Foundation
Plaintiffs	46:20-48:8	48:9-15	Foundation
Plaintiffs	54:15-58:17	56:4-5, 56:13, 56:20-21, 57:5, 57:11, 58:18-19	Legal conclusion Speculation
Plaintiffs	59:6-64:9	58:20-59:5, 64:20-22	Legal conclusion Speculation
Plaintiffs	71:6-16		
Plaintiffs	72:6-75:24		Foundation
Plaintiffs	76:4-77:25	77:10-12	
Plaintiffs	86:12-23		
Plaintiffs	87:10-88:3	87:19-20, 88:1-2	Legal conclusion Foundation
Plaintiffs	88:13-90:19	89:22, 90:2, 90:13-14	Leading Foundation Speculation Legal conclusion
Plaintiffs	91:3-23	91:14, 91:24-92:3	Legal conclusion
Plaintiffs	93:11-95:12	93:21, 94:14, 94:21-22, 95:3-4, 95:10	Legal conclusion Speculation Cumulative
Plaintiffs	95:22-99:18	95:13-17	Legal conclusion Speculation Cumulative
Plaintiffs	101:1-3	101:4-9	
Plaintiffs	102:13-25	102:2-12	
Plaintiffs	104:2-105:17	104:22-105:8	
Matt Webber, Yavapai County Recorder's Office (8/16/2023)			

⁴ Global objection: Except for impeachment purposes, this transcript is inadmissible under Fed. R. Civ. P. 32(a) because the deponent was neither an adverse party within the meaning of subsection (3) nor unavailable within the meaning of subsection (4).

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Designating Party	Page Range	Counter-designation	Objection ⁵
Plaintiffs	13:9-12		
Plaintiffs	14:8-10		
Plaintiffs	17:25-19:3		
Plaintiffs	24:15-27:18	24:22, 25:7-9, 25:13-14, 26:5-11, 26:15-16, 26:22-23, 27:2-6, 27:16-17	Legal conclusion
Plaintiffs	28:1-10		
Plaintiffs	31:6-14	31:13	Speculation Legal conclusion
Plaintiffs	33:1-34:13		Hearsay Foundation
Plaintiffs	35:19-38:10		
Plaintiffs	38:17-39:13	38:20, 39:7, 39:12	Legal conclusion
Plaintiffs	39:25-40:19		
Plaintiffs	42:1-46:16	41:15-25, 43:9, 43:11, 43:23-44:5, 46:3-6	Foundation Lack of personal knowledge Speculation Hearsay Legal conclusion
Plaintiffs	47:9-50:19	47:25-48:1, 48:8, 48:16, 50:7-8, 50:18	Legal conclusion Foundation Lack of personal knowledge Speculation
Plaintiffs	51:16-54:15		Legal conclusion Foundation Hearsay Speculation
Plaintiffs	55:10-12		
Plaintiffs	57:2-16		Foundation Lack of personal knowledge Speculation Hearsay
Plaintiffs	58:10-60:8	59:12-13, 60:7	Legal conclusion
Plaintiffs	60:18-68:9	60:10-16, 68:7	Legal conclusion Foundation Hearsay Lack of personal knowledge Speculation
Plaintiffs	70:17-75:4		Foundation Lack of personal knowledge
Plaintiffs	75:25-78:16	78:3-11	Foundation Lack of personal knowledge Speculation

⁵ Global objection: Except for impeachment purposes, this transcript is inadmissible under Fed. R. Civ. P. 32(a) because the deponent was neither an adverse party within the meaning of subsection (3) nor unavailable within the meaning of subsection (4).

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Plaintiffs	79:12-82:13	80:14-21, 81:2-13, 81:19-82:8	
Plaintiffs	82:23-83:16	83:2, 83:17-25, 165:8-22, 175:2-176:12	Argumentative Incomplete testimony (see cross designations)
Plaintiffs	84:1-13	84:6	Assumes facts not in evidence Argumentative Legal conclusion Leading
Plaintiffs	84:25-85:4	85:5-9	
Plaintiffs	85:18-86:4	86:3	Foundation
Plaintiffs	86:15-87:16		
Plaintiffs	88:2-90:13	90:11-12	Legal conclusion
Plaintiffs	91:5-13	91:14-15	Legal conclusion
Plaintiffs	92:4-96:8	94:10, 95:8, 95:16	Hearsay Leading Argumentative Foundation Lack of personal knowledge Speculation
Plaintiffs	97:23-100:20	98:10-13, 99:4-12	Foundation Legal conclusion Speculation
Plaintiffs	101:13-104:17	101:23, 102:8-12, 103:13-21, 164:16-165:7, 170:4-174:11	Argumentative Leading Misstates testimony Legal conclusion Incomplete testimony (see cross designations)
Plaintiffs	105:12-22	105:16, 105:21	Leading
Plaintiffs	106:14-108:24		Legal conclusion Argumentative Leading
Plaintiffs	110:6-24		
Plaintiffs	123:22-125:10		
Plaintiffs	130:17-132:3	160:17-163:14	Incomplete testimony (see cross designations)
Plaintiffs	134:2-135:24		
Plaintiffs	136:16-24	136:21	Argumentative
Plaintiffs	138:21-139:3		Foundation Speculation Legal conclusion Hearsay
Plaintiffs	140:3-23	140:15-16, 140:22	Legal conclusion Hearsay
Plaintiffs	141:1-4		
Plaintiffs	141:16-142:24	142:5, 142:11, 142:18, 142:23	Legal conclusion Hearsay
Plaintiffs	144:9-145:3	144:13, 144:18, 144:20, 145:2	Speculation Foundation Legal conclusion
Plaintiffs	145:22-25		
Plaintiffs	146:23-150:24	150:16, 150:23	Legal conclusion Foundation

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			Hearsay Speculation Misstates testimony Leading Argumentative
Plaintiffs	151:3-152:7	183:6-25	Incomplete testimony (see cross designations)
Plaintiffs	156:8-13	156:5-7, 156:14-158:23	
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Plaintiffs	178:22-179:6		
Plaintiffs	183:6-185:9		
Plaintiffs	186:5-25		
Patty Hansen, Coconino County Recorder (8/23/2023)			
Designating Party	Page Range	Counter-designation	Objection
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Plaintiffs	13:14-14:3		
Plaintiffs	17:5-18:15		
Plaintiffs	20:19-21:23		
Plaintiffs	22:4-25:18		
Plaintiffs	26:13-28:5		
Plaintiffs	28:14-33:15	29:9-11, 30:9, 30:23, 31:7, 31:25	Legal conclusion Speculation
Plaintiffs	33:21-39:8	35:10-11, 36:21-22, 109:10-110:12	Legal conclusion Incomplete testimony (see cross designations) Hearsay
Plaintiffs	40:18-41:18	41:6-7, 41:13	Legal conclusion
Plaintiffs	42:4-45:10		Hearsay Foundation
Plaintiffs	45:19-50:11	45:22,	Speculation Foundation
Plaintiffs	50:17-57:5	55:13-14, 56:1, 56:12, 57:7-58:9	Legal conclusion Hearsay
Plaintiffs	58:11-59:4		
Plaintiffs	59:17-62:22	59:21-22, 61:13, 61:20, 61:25,	Legal conclusion
Plaintiffs	64:13-67:7	64:21, 66:24-25	Legal conclusion Speculation
Plaintiffs	68:23-69:3		
Plaintiffs	72:25-75:5	73:4-5, 73:19, 74:1, 74:9, 74:15, 75:3	Legal conclusion Foundation Misstates testimony Ambiguous Foundation
Plaintiffs	75:14-78:22	75:22, 76:13, 77:3, 78:14, 78:20	Legal conclusion
Plaintiffs	79:8-81:4	80:6-7, 81:2	Legal conclusion
Plaintiffs	82:15-83:19	82:18, 83:14	Legal conclusion
Plaintiffs	84:7-21	84:10, 84:16-17	Speculation

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			Legal conclusion
Plaintiffs	85:8-25		
Plaintiffs	86:18-89:7	86:3-12, 89:8-10	Legal conclusion
Plaintiffs	89:12-90:14	89:16, 89:21, 90:3-4, 90:13	Legal conclusion
Plaintiffs	91:4-22	91:7-8	Legal conclusion
Plaintiffs	93:9-102:19		
Plaintiffs	104:6-106:3		
Plaintiffs	121:21-122:8	122:9-23	
Plaintiffs	133:9-16		
Plaintiffs	133:18-134:4		
Plaintiffs	146:8-20		
Donna Casner, Coconino County Recorder's Office (8/23/2023)			
Designating Party	Page Range	Counter-designation	Objection
Plaintiffs	8:25-12:4		
Plaintiffs	12:6-14	12:13	Legal conclusion
Plaintiffs	13:8-16:5		
Plaintiffs	17:25-18:23		
Plaintiffs	19:3-21:8	19:21, 20:3-15	Legal conclusion Asked and answered
Plaintiffs	22:13-23:25	24:1-17	
Plaintiffs	25:8-28:19		
Plaintiffs	29:11-31:4		
Plaintiffs	40:9-12		
Plaintiffs	42:15-43:8		
Shannon Slattery, Mariah Doolittle, and Russell Filigiera, USCIS (8/25/2023)			
Designating Party	Page Range	Counter-designation	Objection
Plaintiffs	12:5-19		
Plaintiffs	15:4-25		
Plaintiffs	21:19-22:18		
Plaintiffs	25:1-26:22	26:21	
Plaintiffs	27:15-28:14		Misstates the record/testimony Leading
Plaintiffs	29:7-31:25	31:11-13	
Plaintiffs	35:9-38:18	36:6-16, 38:19- 39:1-6, 39:14-18	Speculation Ambiguous
Plaintiffs	42:17-43:1		
Plaintiffs	44:6-17		
Plaintiffs	47:19-23	47:24-48:4	
Plaintiffs	48:6-49:15		
Plaintiffs	50:4-23		Misstates the record/testimony
Plaintiffs	51:5-25		
Plaintiffs	52:1-4		
Plaintiffs	52:8-53:7	52:12-18, 52:21, 53:5	Legal conclusion
Plaintiffs	53:21-54:16	54:4, 54:13	Legal conclusion Foundation
Plaintiffs	55:2-19		
Plaintiffs	56:8-57:19	57:3, 57:16	Legal conclusion

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			Foundation
Plaintiffs	57:25-58:2		
Plaintiffs	58:13-25	58:18, 59:14-23	Legal conclusion Foundation
Plaintiffs	60:6-12		Foundation
Plaintiffs	61:22-65:8	63:11-12, 64:2-8	Foundation Hearsay Legal conclusion Misstates the record/testimony
Plaintiffs	67:4-10	67:7	Foundation Legal conclusion
Plaintiffs	67:22-69:4		Foundation Hearsay
Plaintiffs	70:5-23		
Plaintiffs	71:14-72:4		
Plaintiffs	75:11-19		
Plaintiffs	76:1-4		
Plaintiffs	80:16-81:1		
Plaintiffs	84:5-85:7	85:8-23	
Plaintiffs	86:23-88:10	87:25	Legal conclusion
Plaintiffs	89:1-14	89:15-23	
Plaintiffs	90:11-92:18	91:19-21, 92:7, 92:15	Legal conclusion
Plaintiffs	93:1-6		
Plaintiffs	94:16-95:19	96:9-21	Legal conclusion
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⁶ Global objection: Except for impeachment purposes, this transcript is inadmissible under Fed. R. Civ. P. 32(a) because the deponent was neither an adverse party within the meaning of subsection (3) nor unavailable within the meaning of subsection (4).

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Yolanda Morales and Russell Smith, Arizona Secretary of State's Office (9/8/2023)			
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Plaintiffs	20:20-23, 25-21:4	20:24	Ambiguous

⁷ Global objection: Except for impeachment purposes, this transcript is inadmissible under Fed. R. Civ. P. 32(a) because the deponent was neither an adverse party within the meaning of subsection (3) nor unavailable within the meaning of subsection (4).

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Exhibit 8

RETRIEVED FROM DEMOCRACYDOCKET.COM

Pretrial Disclosure, Defense Exhibit List¹

Legend for Abbreviations: **A** = No Objection; **401/402** = Relevance; **403** = Prejudice, Confusion, Waste of Time, etc.; **701** – Improper Opinion; **702** – Improper Expert; **802** = Hearsay; **901** = Authentication; **F** = Foundation; **NC** = Not Complete; **NP** = Not produced

Expect to use:

Trial Exhibit No.	Beginning Bates No.	End Bates No.	Document Date	Description	Deposition Exhibit No.	Confidential?	Objections	Counter-Objections	Ruling on Objections
1.	n/a	n/a	3/20/2022	Text of H.B. 2492	Petty 19	No	A		
2.	n/a	n/a	7/6/2022	Text of H.B. 2243	Petty 21	No	A		
3.	n/a	n/a	2/07/2022	HOUSE SUMMARY of HB 2492: 02/07/2022 Government & Elections (available at https://www.azleg.gov/legtext/55leg/2R/summary/H.HB2492_020422_GE.pdf)	n/a	No	401/402, 802, F, NP		
4.	n/a	n/a	2/18/2022	HOUSE SUMMARY of HB 2492: 02/18/2022 Caucus & COW (available at https://www.azleg.gov/legtext/55leg/2R/summary/H.HB2492_021722_CAUCUSCOW.pdf)	n/a	No	401/402, 802, F, NP		
5.	n/a	n/a	3/28/2022	HOUSE SUMMARY of HB 2492: 03/28/2022 Transmitted (available at https://www.azleg.gov/legtext/55leg/2R/summary/H.HB2492_032822_TRANSMITTED.pdf)	n/a	No	802, F, NP		
6.	n/a	n/a	3/08/2022	SENATE FACT SHEET for HB 2492: 03/08/2022 JUD (available at https://www.azleg.gov/legtext/55leg/2R/summary/S.2492_JUD.pdf)	n/a	No	802, F, NP		
7.	n/a	n/a	3/30/2022	Governor's Letter regarding HB 2492 (available at https://www.azleg.gov/govletter/55leg/2r/hb2492.pdf)	n/a	No	802, F, NP		
8.	n/a	n/a	1/24/2022	HOUSE SUMMARY of HB 2243: 01/24/2022 Government & Elections (available at https://www.azleg.gov/legtext/55leg/2R/summary/H.HB2243_012022_GE.pdf)	n/a	No	401/402, 802, F, NC, NP		
9.	n/a	n/a	6/29/2022	HOUSE SUMMARY of HB 2243: 06/29/2022 Transmitted (available at https://www.azleg.gov/legtext/55leg/2R/summary/H.HB2243_062922_TRANSMITTED.pdf)	n/a	No	802, F, NC, NP		
10.	n/a	n/a	3/3/2022	SENATE FACT SHEET for HB 2243: 03/03/2022 GOV (available at https://www.azleg.gov/legtext/55leg/2R/summary/S.2243_GOV.pdf)	n/a	No	802, F, NC, NP		
11.	n/a	n/a	6/22/2022	SENATE FACT SHEET for HB 2243: 06/22/2022 GOV As Passed COW (available at https://www.azleg.gov/legtext/55leg/2R/summary/S.2243_GOV_ASPASSED_COW.pdf)	n/a	No	802, F, NC, NP		

¹ Here the term “defense” refers to the State of Arizona and the Arizona Attorney General, the Arizona Secretary of State, Intervenor-Defendants Arizona House Speaker Toma and Arizona Senate President Petersen, and Intervenor-Defendant RNC.

12.	GRAHAM00 0751	GRAHAM001 294	12/2019	2019 Elections Procedures Manual ("EPM") (full)	Merriman 259	No	A		
13.	AZSOS- 563802	AZSOS- 563803	9/30/2023	Secretary letter to Governor and AG re 2023 EPM submission	n/a	No	A		
14.	AZSOS- 563804	AZSOS- 563804	9/30/2023	2023 EPM submission, 09 30 2023	n/a	No	A		
15.	AZSOS- 563805	AZSOS- 563808	9/30/2023	Secretary summary of Key Changes to the 2023 EPM Submission	n/a	No	A		
16.	AZSOS- 563809	AZSOS- 564175	9/29/2023	2023 EPM submission, 09 29 2023	n/a	No	401/402, 802		
17.	n/a	n/a	7/24/2023	Arizona voter registration form	Petty 16	No	A		
18.	n/a	n/a	7/24/2023	Federal voter registration form with state-specific instructions	Petty 17	No	A		
19.	AG000349	AG000356	4/4/2023	List of AG Election Integrity Unit prosecutions (Apr. 2023)	AG 224	No	A		
20.	AG134976	AG134979	1/21/2022	List of AG Election Integrity Unit prosecutions (Jan. 2022)	AG 220	No	A		
21.	AG007958	AG007958	8/29/2023	Redacted spreadsheet of public complaints to AG Election Integrity Unit, part 1	AG 215	No	401/402, 802		
22.	AG011687	AG011687	8/29/2023	Redacted spreadsheet of public complaints to AG Election Integrity Unit, part 2	AG 216	No	401/402, 802		
23.	AG004195	AG004197	7/22/2019	Indictment in Arizona v. Jumper	n/a	No	401/402, 403, 802, F, NC		
24.	AG004198	AG004200	7/23/2020	Minute Entry in Arizona v. Jumper	n/a	No	401/402, 403, 802, F, NC		
25.	AG010245	AG010247	6/11/2019	Indictment in Arizona v. Greenfield	n/a	No	401/402, 403, 802, F, NC		
26.	AG010248	AG010250	10/3/2019	Minute Entry in Arizona v. Greenfield	n/a	No	401/402, 403, 802, F, NC		
27.	AG067357	AG067371	12/14/2020	Investigative records	n/a	Confidential	401/402, 403, 802, F, NC		
28.	AG067379	AG067382	3/16/2021	Investigative records	n/a	Confidential	401/402, 403, 802, F, NC		
29.	AG067388	AG067388	7/13/2021	Investigative records	n/a	Confidential	401/402, 403, 802, F, NC		
30.	AG067399	AG067401	12/13/2022	Investigative records	n/a	Confidential	401/402, 403, 802, F, NC		
31.	AG067402	AG067408	11/9/2021	Investigative records	n/a	Confidential	401/402, 403, 802, F, NC		
32.	AG067409	AG067418	11/23/2021	Investigative records	n/a	Confidential	401/402, 403, 802, F, NC		
33.	AG067424	AG067437	12/2/2021	Investigative records	n/a	Confidential	401/402, 403, 802, F, NC		
34.	AG067442	AG067451	6/29/2022	Investigative records	n/a	Confidential	401/402, 403, 802, F, NC		
35.	AG092032	AG092048	3/24/2021	Investigative records	n/a	Confidential	401/402, 403, 802, F, NC		
36.	AG092076	AG092082	8/5/2021	Investigative records	n/a	Confidential	401/402, 403, 802, F, NC		

37.	AG092098	AG092107	12/2/2021	Investigative records	n/a	Confidential	401/402, 403, 802, F, NC		
38.	AG092114	AG092118	12/28/2021	Investigative records	n/a	Confidential	401/402, 403, 802, F, NC		
39.	AG092119	AG092126	12/28/2021	Investigative records	n/a	Confidential	401/402, 403, 802, F, NC		
40.	AG092127	AG092132	12/28/2021	Investigative records	n/a	Confidential	401/402, 403, 802, F, NC		
41.	AG092133	AG092138	12/28/2021	Investigative records	n/a	Confidential	401/402, 403, 802, F, NC		
42.	AG092145	AG092146	2/25/2022	Investigative records	n/a	Confidential	401/402, 403, 802, F, NC		
43.	AG092154	AG092164	6/24/2022	Investigative records	n/a	Confidential	401/402, 403, 802, F, NC		
44.	AG092168	AG092174	6/27/2022	Investigative records	n/a	Confidential	401/402, 403, 802, F, NC		
45.	AG092180	AG092183	6/27/2022	Investigative records	n/a	Confidential	401/402, 403, 802, F, NC		
46.	AG092184	AG092188	6/29/2022	Investigative records	n/a	Confidential	401/402, 403, 802, F, NC		
47.	AG092189	AG092194	6/28/2022	Investigative records	n/a	Confidential	401/402, 403, 802, F, NC		
48.	AG092205	AG092207	9/6/2022	Investigative records	n/a	Confidential	401/402, 403, 802, F, NC		
49.	AG092212	AG092214	9/22/2022	Investigative records	n/a	Confidential	401/402, 403, 802, F, NC		
50.	AG092231	AG092236	10/13/2022	Investigative records	n/a	Confidential	401/402, 403, 802, F, NC		
51.	AG092237	AG092240	10/13/2022	Investigative records	n/a	Confidential	401/402, 403, 802, F, NC		
52.	AG092241	AG092253	10/13/2022	Investigative records	n/a	Confidential	401/402, 403, 802, F, NC		
53.	AG092284	AG092290	10/17/2022	Investigative records	n/a	Confidential	401/402, 403, 802, F, NC		
54.	AG092291	AG092297	12/6/2022	Investigative records	n/a	Confidential	401/402, 403, 802, F, NC		
55.	AG134939	AG134946	4/4/2023	Summary of Prosecutions	n/a	No	401/402, 802, 901, F, NC		
56.	AG135171	AG135174	9/1/2022	Investigative records	n/a	Confidential	401/402, 403, 802, F, NC		
57.	AG135253	AG135254	1/31/2022	Investigative records	n/a	Confidential	401/402, 403, 802, F, NC		
58.	PIMA COUNTY 0584	PIMA COUNTY 0584	6/29/2022	Email re erroneous registrations submitted to Pima County	Hiser 86	No	401/402, 403, 701, 802		
59.	MC 001927	MC 001928	3/17/2023	Email from Yolanda Morales re jury report transmittals	Petty 25	No	802		
60.	AG136651	AG136664	[produced 9/11/2023]	Screenshots of Maricopa County Superior Court juror screening questionnaire	n/a	No	401/402, NP		
61.	AZSOS-563748	AZSOS-563749	5/2023	Maricopa juror non-resident non-citizen report	n/a	Confidential	401/402, 403, 802, 901, F, NC		

62.	AZSOS-000639	AZSOS-000639	[produced 4/20/2023]	Active voter registration list Maricopa other parties	n/a	Confidential	401/402, F, NC		
63.	AZSOS-313153	AZSOS-313398	[produced 6/6/2023]	VRAZ policies	n/a	Confidential	401/402, 403, 802, F, NC		
64.	MC 002904	MC 002909	[produced 7/13/2023]	J. Petty email re: juror questionnaire	n/a	Confidential	401/402, 403, 701, 802, F		
65.	MC 002984	MC 002985	7/12/2023	Maricopa County letter re different DL or ID number (requests birth place information)	Petty 27	No	A		
66.	MOHAVE-000751	MOHAVE-000753	10/8/2021	Criminal Information in U.S. v. Johnson	Durst 56	No	401/402, 403, 802, NC		
67.	MOHAVE-000754	MOHAVE-000758	2/28/2022	Judgment in U.S. v. Johnson	Durst 57	No	401/402, 403, 802, NC		
68.	PIMA COUNTY 0064	PIMA COUNTY 0155	Rev. 7/28/2021	Pima County Recorder's Office, Voter Registration Form Data Entry Instructions	n/a	No	A		
69.	SCCR001128	SCCR001131	2/2/2021	Email re: Deceased Voter	Moreno 102	No	401/402, 403, 802		
70.	n/a	n/a	6/29/2023	Table of Cancelled Voters	Asrarynezami 136	Confidential	401/402		
				[Because some discovery is ongoing, the defense reserves the right to use exhibits that have not been disclosed or for which discovery is not yet complete, such as rebuttal expert CVs and documents relied on by experts. The defense also reserves the right to use admissible exhibits listed by Plaintiffs.]					

May use:

Trial Exhibit No.	Beginning Bates No.	End Bates No.	Document Date	Description	Deposition Exhibit No.	Confidential?	Objections	Counter-Objections	Ruling on Objections
71.	n/a	n/a	2022	Text of H.B. 2617	Webber 148	No	A		
72.	n/a	n/a	5/27/2022	Governor Ducey's Veto Letter re H.B. 2617 (available at https://www.azleg.gov/govletr/55leg/2r/hb2617.pdf)	n/a	No	401/402, 802		
73.	n/a	n/a	2023	Text of A.R.S. 16-166	AG 214	No	A		
74.	n/a	n/a	2023	Text of A.R.S. § 16-579(A)(1) (available at https://www.azleg.gov/ars/16/00579.htm)	n/a	No	A		
75.	n/a	n/a	2004	2004 Ariz. Legis. Serv. Ch. 184 (S.B. 1250) (Ex. F to State's MSJ)	n/a	No	401/402		
76.	n/a	n/a	2003	2003 Ariz. Legis. Serv. Ch. 260 (S.B. 1075) (Ex. E to State's MSJ)	n/a	No	401/402		
77.	n/a	n/a	1979	1979 Ariz. Sess. Laws, Ch. 209 (Ex. G to State's MSJ)	n/a	No	401/402		

78.	n/a	n/a	9/1/2004	2004 General Election Publicity Pamphlet (contains information about Prop. 200)	n/a	No	401/402, 802, NP		
79.	n/a	n/a	4/18/2008	Gonzalez Stipulation (Ex. 14 to Plaintiffs' MSJ)	n/a	No	A		
80.	n/a	n/a	8/20/2008	Findings of Fact and Conclusions of Law in <i>Gonzalez</i> , 2:06-cv-01268-ROS (D. Ariz.), Doc. 1041	n/a	No	401/402, 403, 802, NP		
81.	n/a	n/a	12/24/2013	EAC's request for comment on AZ's request to include additional proof-of-citizenship instructions on the Federal Form. (EAC-2013-0004-001)	n/a	No	401/402, 802, NC, NP		
82.	n/a	n/a	1/2/2014	AZ's comment in response to the EAC's request, with exhibits. (EAC-2013-0004-0403.)	n/a	No	401/402, 802, NC, NP		
83.	n/a	n/a	2014	State of Arizona EPM, revised 2014 (Ex. 11 to Plaintiffs' MSJ)	n/a	No	A		
84.	n/a	n/a	6/4/2018	LULAC Consent Decree (Ex. 12 to Plaintiffs' MSJ)	n/a	No	A		
85.	n/a	n/a	2019	2019 Addendum to 2014 EPM (Ex. 13 to Plaintiffs' MSJ)	n/a	No	A		
86.	n/a	n/a	2019	Summary of Significant Updates in Final 2019 EPM from 2014 EPM (available at https://azsos.gov/sites/default/files/EPM_updates_changes_from_2014_draft.pdf)	n/a	No	401/402, 802, NC, NP		
87.	n/a	n/a	July 2023	2023 EPM Draft for Public Comment	Connor 274	No	A		
88.	n/a	n/a	July 2023	2023 EPM Draft for Public Comment, Summary of Changes (available at https://azsos.gov/sites/default/files/20230815_EPM_Summary_of_Changes_DRAFT-FINAL.pdf)	n/a	No	401/402, 701, 802, 901, F, NC, NP		
89.	n/a	n/a	August 2023	2023 Public Comments on EPM Draft (available at https://azsos.gov/sites/default/files/EPM_Public_Comments_2023_August.pdf)	n/a	No	401/402, 403, 802, 901, F, NP		
90.	AG136665	AG136699	[produced 10/4/2023]	Screenshots of voter registration webpages at servicearizona.com	n/a	No	401/402, 802, F		
91.	AG038469	AG038480	4/27/2022	Materials for mitigation hearing in <i>State v. McKee</i> (includes chart of public information on voter fraud cases in Arizona)	n/a	No	401/402, 403, 802		
92.	MC 000870	MC 000870	7/24/2023	Maricopa County response to RFP 5 re statistics for suspended registrations	Petty 8	No	802, F		
93.	MC 000879	MC 000887	12/21/2022	Maricopa County VRAS data entry instructions	Petty 12	Confidential	A		
94.	MC 000888	MC 000899	4/26/2023	Maricopa County VRAS data modification instructions	n/a	Confidential	A		
95.	MC 000979	MC 000979	[produced 6/20/2023]	C-Canceled records	n/a	Confidential	NC, F		
96.	MC 000980	MC 000980	[produced 6/20/2023]	SDE-Dead End (not registered) records	n/a	Confidential	NC, F		
97.	MC 000981	MC 000981	[produced 6/20/2023]	S-Suspense records	n/a	Confidential	NC, F		
98.	MC 002986	MC 002987	7/12/2023	Maricopa County letter re missing DPOC	Petty 29	No	A		

99.	MC 002990	MC 002991	7/12/2023	Maricopa County letter re missing last name	n/a	No	401/402, 802, F		
100.	MC 003166	MC 003166	[produced 8/9/2023]	Cancelled records Supplement	n/a	Confidential	401/402, 802; NC; F		
101.	MC 003167	MC 003167	[produced 8/9/2023]	Suspended records Supplement	n/a	Confidential	401/402, 802; NC; F		
102.	PIMA COUNTY 0221	PIMA COUNTY 0226	[produced 2/13/2023]	Pima County voter data	Hiser 85	Confidential	A		
103.	PIMA COUNTY 0219	PIMA COUNTY 0536	[produced 2/13/2023]	Pima County voter data (broader document)	n/a	Confidential	401/402, 403, 802; NC		
104.	PIMA COUNTY 2826	PIMA COUNTY 2919	Rev. 7/28/2021 (redline draft)	Pima County Recorder's Office, Voter Registration Form Data Entry Instructions (redline draft)	Hiser 80	No	A		
105.	PIMA COUNTY 0160	PIMA COUNTY 0188	Rev. 8/25/2021	Pima County Recorder's Office, EZ Voter Data Entry Instructions	n/a	No	401/402, 403, 802; NC		
106.	PIMA COUNTY 0204	PIMA COUNTY 0211	1/9/2019	Pima County instructions for incomplete voter registration forms	Hiser 71	No	A		
107.	PIMA COUNTY 0156	PIMA COUNTY 0157	Rev. 3/26/2019	Pima County letter re DL or ID corresponding to non-citizen	Hiser 76	No	A		
108.	PIMA COUNTY 0062	PIMA COUNTY 0063	Rev. 5/2021	Pima County letter re needing DPOC	Hiser 83	No	A		
109.	PIMA COUNTY 0017	PIMA COUNTY 0031	[produced 2/13/2023]	VRAC Legislative Policy Updates	n/a	No	A		
110.	SCCR000207	SCCR000701	8/10/2023	Spreadsheet of voter registration data in Santa Cruz County	Moreno 101	No	F		
111.	SCCR001309	SCCR001310	8/31/2022	Email showing applicant rejected because MVD marked individual as non-citizen	Moreno 103	No	401/402, 403, 802		
112.	n/a	n/a	9/28/2021	Cochise County spreadsheet of voter registration data	Stevens 126	Confidential	A		
113.	n/a	n/a	9/28/2021	Cochise County spreadsheet of voter registration data	Stevens 127	Confidential	A		
114.	n/a	n/a	9/28/2021	Cochise County spreadsheet of cross-state voters	Stevens 128	Confidential	A		
115.	YC000284	YC000285	5/22/2023	Emails among Recorders re registering naturalized citizens	Webber 152	No	802		
116.	YC000202	YC000212	8/16/2023	Instructions for Yavapai County to enter state form data into AVID	Webber 156	No	A		
117.	YC000216	YC000226	8/16/2023	Instructions for Yavapai County to enter federal form data into AVID	Webber 157	No	A		
118.	n/a	n/a	8/16/2023	Spreadsheet of voter registration data in Yavapai County	Webber 164	Confidential	A		
119.	n/a	n/a	8/23/2023	Spreadsheet of suspended voter registrations in Coconino County	Casner 180	Confidential	A		

120.	n/a	n/a	8/23/2023	Spreadsheet re cancelled voter registrations in Coconino County	Casner 181	Confidential	A		
121.	YUMA-000463	YUMA-000463	8/28/2023	Spreadsheet of Yuma County voter registration database data	Yuma 205	Confidential	A		
122.	YUMA-000490	YUMA-000490	8/28/2023	Spreadsheet of Yuma County canceled and suspense voter lists	Yuma 206	Confidential	A		
123.	YUMA-001187	YUMA-001188	1/6/2022	Email regarding cross state double voting	Yuma 207	Confidential	401/402, 403, 802, 901		
124.	YUMA-001269	YUMA-001271	6/9/2022	Emails regarding cross state double voting	Yuma 208	Confidential	401/402, 403, 802		
125.	YUMA-001272	YUMA-001274	6/7/2022	Email and spreadsheet of suspected fraudulent registrations	Yuma 209	Confidential	401/402, 403, 802, F		
126.	YUMA-001276	YUMA-001277	8/28/2023	List of cross state double voters	Yuma 210	Confidential	401/402, 403, 802, 901		
127.	n/a	n/a	8/31/2023	Excerpted list of Apache County voter registrations	Shreeve 248	No	401/402, 403, 802		
128.	GRAHAM001295	GRAHAM001297	6/14/2023	List of notices sent to Fed-only voters	Merriman 257	Confidential	802		
129.	GRAHAM000375	GRAHAM000375	1/25/2023	Spreadsheet of voter registration data in Graham County	Merriman 258	Confidential	401/402, 403, 802; F; Authenticity		
130.	AZSOS-477808	AZSOS-477809	3/25/2022	VRAC Issue 02 – Adopting Uniform Voter Registration Form “How Registered” and Source Codes	n/a	Confidential	A		
131.	AZSOS-477810	AZSOS-477815	7/29/2021	VRAC Issue 03 – Status & Reason Codes in the Voter Registration Database	n/a	Confidential	A		
132.	AZSOS-477824	AZSOS-477824	2/7/2023	Draft Issue VRAC-2023-001: Uniform procedures for processing the jury report re non-residents	n/a	Confidential	A		
133.	AZSOS-477825	AZSOS-477825	2/7/2023	Draft Issue VRAC-2023-002: Uniform procedures for processing the jury report re non-citizens	n/a	Confidential	A		
134.	AZSOS-182040	AZSOS-182040	9/8/2023	Screenshot showing hard match in AVID	Morales 277	Confidential	A		
135.	AZSOS-564546	AZSOS-564546	[produced 10/2/2023]	MVD/online voter registration and statewide voter registration system Power Point presentation	n/a	No	A		
136.	AZSOS-564547	AZSOS-564548	[produced 10/2/2023]	Matching criteria for duplicate registrations and MVD verification	n/a	No	A		
137.	AZSOS-225773	AZSOS-225787	[produced 6/6/2023]	Draft policy document re: implementation, including as to birth place requirement	n/a	Confidential	A		
138.	AZSOS-226113	AZSOS-226127	[produced 6/6/2023]	Draft policy document re: implementation, including as to birth place requirement	n/a	Confidential	A		
139.	AZSOS-246586	AZSOS-246600	[produced 6/6/2023]	Draft policy document re: implementation, including as to birth place requirement	n/a	Confidential	A		
140.	AZSOS-290315	AZSOS-290316	2/22/2023	Guidance for Processing the ERIC Deceased Report	n/a	Confidential	A		
141.	MC002810	MC002813	3/20/2023	Email re: VRAC Issue Paper 002	Petty 9	No	A		
142.	AG067356	AG067356	12/3/2021	Complaint re suspected non-citizen voting	AG 217	No	802		

143.	AG067438	AG067441	1/19/2022	Complaint, emails, case opening form re complaint of non-citizen voting	AG 218	No	802		
144.	AG002707	AG002713	11/11/2019	Email from Richer re: voter fraud	n/a	No	401/402, 403, 701, 802, F		
145.	AZSOS-563796	AZSOS-563796	2023	2023 Juror NC NR Reports Tracker	n/a	Confidential	401/402, 403, 802, NC, F		
146.	AZSOS-563797	AZSOS-563798	5/8/2023	Q1 Report to Legislature under ARS 16-165.M	n/a	No	401/402, 802, F, 901		
147.	AZSOS-563799	AZSOS-563800	8/1/2023	Q2 Report to Legislature under ARS 16-165.M	n/a	No	401/402, 802, F, 901		
148.	AZSOS-563688-89, 563703-04, 563719-20, 563733-34, 563748-49, 563765-66, 563779-80, 563789-90		1/2023, 2/2023, 3/2023, 4/2023, 5/2023, 6/2023, 7/2023, 8/2023	Maricopa juror non-resident and non-citizen reports	n/a	Confidential	401/402, 403, 802, NC		
149.	AZSOS-563693, 563707, 563723, 563737, 563753		1/2023, 2/2023, 3/2023, 4/2023, 5/2023	Pima juror non-resident and non-citizen reports	n/a	Confidential	401/402, 403, 802, NC		
150.	AZSOS-563680, 563698, 563712, 563728, 563742		1/2023, 2/2023, 3/2023, 4/2023, 5/2023	Apache juror non-resident and non-citizen reports	n/a	Confidential	401/402, 403, 802, NC		
151.	AZSOS-563682, 563713, 563729, 563743, 563759, 563773, 563786		1/2023, 3/2023, 4/2023, 5/2023, 6/2023, 7/2023, 8/2023	Cochise juror non-resident and non-citizen reports	n/a	Confidential	401/402, 403, 802, NC		
152.	AZSOS-563683, 563699, 563714, 563730, 563744, 563760, 563774, 563787		1/2023, 2/2023, 3/2023, 4/2023, 5/2023, 6/2023, 7/2023, 8/2023	Coconino juror non-resident and non-citizen reports	n/a	Confidential	401/402, 403, 802, NC		
153.	AZSOS-563684, 563700, 563715,		1/2023, 2/2023, 3/2023, 4/2023,	Gila juror non-resident and non-citizen reports	n/a	Confidential	401/402, 403, 802, NC		

	563731, 563745, 563761, 563775		5/2023, 6/2023, 7/2023						
154.	AZSOS- 563685, 563701, 563716, 563732, 563746, 563762, 563776		1/2023, 2/2023, 3/2023, 4/2023, 5/2023, 6/2023, 7/2023	Graham juror non-resident and non-citizen reports	n/a	Confidential	401/402, 403, 802, NC		
155.	AZSOS- 563686, 563702, 563717, 563763, 563777, 563788		1/2023, 2/2023, 3/2023, 6/2023, 7/2023, 8/2023	Greenlee juror non-resident and non-citizen reports	n/a	Confidential	401/402, 403, 802, NC		
156.	AZSOS- 563687, 563718, 563747, 563764, 563778		1/2023, 3/2023, 5/2023, 6/2023, 7/2023	La Paz juror non-resident and non-citizen reports	n/a	Confidential	401/402, 403, 802, NC		
157.	AZSOS- 563690, 563705, 563721, 563735, 563750, 563767, 563781, 563791		1/2023, 2/2023, 3/2023, 4/2023, 5/2023, 6/2023, 7/2023, 8/2023	Mohave juror non-resident and non-citizen reports	n/a	Confidential	401/402, 403, 802, NC		
158.	AZSOS- 563691, 563736, 563751, 563768, 563782, 563792		1/2023, 4/2023, 5/2023, 6/2023, 7/2023, 8/2023	Navajo juror non-resident and non-citizen reports	n/a	Confidential	401/402, 403, 802, NC		
159.	AZSOS- 563694, 563708, 563724, 563738, 563754		1/2023, 2/2023, 3/2023, 4/2023, 5/2023	Pinal juror non-resident and non-citizen reports	n/a	Confidential	401/402, 403, 802, NC		
160.	AZSOS- 563695, 563709, 563725, 563739, 563755, 563769		1/2023, 2/2023, 3/2023, 4/2023, 5/2023, 6/2023	Santa Cruz juror non-resident and non-citizen reports	n/a	Confidential	401/402, 403, 802, NC		

161.	AZSOS-563696, 563710, 563726, 563740, 563756, 563770, 563783		1/2023, 2/2023, 3/2023, 4/2023, 5/2023, 6/2023, 7/2023	Yavapai juror non-resident and non-citizen reports	n/a	Confidential	401/402, 403, 802, NC		
162.	AZSOS-563697, 563711, 563727, 563741, 563757, 563771, 563784, 563795		1/2023, 2/2023, 3/2023, 4/2023, 5/2023, 6/2023, 7/2023, 8/2023	Yuma juror non-resident and non-citizen reports	n/a	Confidential	401/402, 403, 802, NC		
163.	AZSOS-000633	AZSOS-000633	[produced 4/20/2023]	Arizona Voter Registration Database, Source of registration list for 13 counties that use AVID	n/a	Confidential	A		
164.	AZSOS-000634	AZSOS-000634	[produced 4/20/2023]	Arizona Voter Registration Database, Source of registration list for Maricopa County	n/a	Confidential	A		
165.	AZSOS-000635	AZSOS-000635	[produced 4/20/2023]	Arizona Voter Registration Database, Source of registration list for Pima County	n/a	Confidential	A		
166.	AZSOS-477722	AZSOS-477732	[produced 8/2/2023]	Arizona Voter Registration Database as of January 5, 2023	n/a	Confidential	401/402		
167.	AZSOS-477733	AZSOS-477744	[produced 8/2/2023]	Arizona Voter Registration Database as of February 3, 2023	n/a	Confidential	401/402		
168.	AZSOS-477745	AZSOS-477756	[produced 8/2/2023]	Arizona Voter Registration Database as of February 28, 2023	n/a	Confidential	401/402		
169.	AZSOS-477757	AZSOS-477768	[produced 8/2/2023]	Arizona Voter Registration Database as of March 31, 2023	n/a	Confidential	401/402		
170.	AZSOS-477769	AZSOS-477780	[produced 8/2/2023]	Arizona Voter Registration Database as of April 28, 2023	n/a	Confidential	401/402		
171.	AZSOS-477781	AZSOS-477792	[produced 8/2/2023]	Arizona Voter Registration Database as of May 31, 2023	n/a	Confidential	401/402		
172.	AZSOS-477793	AZSOS-477804	[produced 8/2/2023]	Arizona Voter Registration Database as of July 3, 2023	n/a	Confidential	401/402		
173.	AZSOS-000637	AZSOS-000642	[produced 4/20/2023]	Arizona Voter Registration Database, Active voter registration lists	n/a	Confidential	A		
174.	AZSOS-000643	AZSOS-000646	[produced 4/20/2023]	Arizona Voter Registration Database, Canceled voter registration lists	n/a	Confidential	A		
175.	AZSOS-000648	AZSOS-000651	[produced 4/20/2023]	Arizona Voter Registration Database, Inactive voter registration lists	n/a	Confidential	A		
176.	AZSOS-000653	AZSOS-000653	[produced 4/20/2023]	Arizona Voter Registration Database, Not registered, not eligible, suspense voter registration list, all counties	n/a	Confidential	A		
177.	USCIS SAVE 001744	USCIS SAVE 001744	8/25/2023	Chart re cases submitted to SAVE by county	USCIS 186	No	A		
178.	USCIS SAVE 001742	USCIS SAVE 001744	8/25/2023	Chart re cases submitted to SAVE by county	USCIS 187	No	A		
179.	USCIS SAVE 000079	USCIS SAVE 000102	7/13/2022	SAVE Program Guide	USCIS 189	No	A		

180.	USCIS SAVE 000013	USCIS SAVE 000016	4/2019	Fact sheet re use of SAVE	USCIS 192	No	A		
181.	USCIS SAVE 000663	USCIS SAVE 000665	6/2019	Guide re how to initiate a SAVE case	USCIS 193	No	A		
182.	USCIS SAVE 000666	USCIS SAVE 000667	6/2019	Guide to initiate a SAVE case involving a potentially fraudulent document	USCIS 199	No	401/402, 403		
183.	USCIS SAVE 000812	USCIS SAVE 000813	2/12/2019	Email re: SAVE case response corrections	Lewis 97	No	A		
184.	ADOT000004	ADOT000013	8/11/2023	Acceptable documents for credentialing	Jorgensen 108	No	A		
185.	ADOT001081	ADOT001130	8/11/2023	Process application for credential	Jorgensen 109	No	A		
186.	ADOT001217	ADOT001219	[produced 7/14/2023]	"Establishing Authorized Presence" policy	n/a	No	A		
187.	ADOT001331	ADOT001332	[produced 7/14/2023]	"Voter Registration" policy	n/a	No	A		
188.	ADOT000102	ADOT000115	8/11/2023	Credential renewal	Jorgensen 110	No	A		
189.	ADOT001400	ADOT001410	8/11/2023	Data extract of fields maintained by MVD	Jorgensen 111	Confidential	A		
190.	n/a	n/a	7/13/2023	SSA Touhy Decision Letter to Plaintiffs' counsel	n/a	No	A		
191.	n/a	n/a	11/9/2022	U.S. State Department's Foreign Affairs Manual, 8 FAM 403.4, "Place of Birth" (Ex. H to State's MSJ)	n/a	No	401/402, 802, NP		
192.	n/a	n/a	2/6/2023	Apache County Responses to AAAHNPI's First Set of Interrogatories	Shreeve 245	No	802		
193.	n/a	n/a	8/22/2023	Apache County Responses to Consolidated Plaintiffs' First Set of Requests for Production	n/a	No	802		
194.	n/a	n/a	8/22/2023	Apache County Responses to Consolidated Plaintiffs' First Set of Interrogatories	Shreeve 246	No	802		
195.	n/a	n/a	1/18/2023	Cochise County Response to AAAHNPI's First Set of Interrogatories	Stevens 121	No	802		
196.	n/a	n/a	7/26/2023	Cochise County Responses to Consolidated Plaintiffs' First Set of Interrogatories	n/a	No	802		
197.	n/a	n/a	8/8/2023	Cochise County Response to Consolidated Plaintiffs' First Set of Requests for Production	Stevens 122	No	802		
198.	n/a	n/a	2/10/2023	Coconino County Responses to AAAHNPI's First Set of Requests for Production	Hansen 167	No	802		
199.	n/a	n/a	2/10/2023	Coconino County Responses to AAAHNPI's First Set of Interrogatories	Hansen 168	No	802		
200.	n/a	n/a	6/29/2023	Coconino County Response to Consolidated Plaintiffs' First Set of Requests for Production	Hansen 169	No	802		
201.	n/a	n/a	6/29/2023	Coconino County Responses to Consolidated Plaintiffs' First Set of Interrogatories	Hansen 170	No	802		
202.	n/a	n/a	6/29/2023	Gila County Responses to Consolidated Plaintiffs' First Set of Interrogatories	Asrarynezami 131	No	802		
203.	n/a	n/a	6/30/2023	Gila County Responses to Consolidated Plaintiffs' First Set of Requests for Production	n/a	No	802		
204.	n/a	n/a	2/13/2023	Graham County Responses to AAAHNPI's First Set of Interrogatories	Merriman 250	No	802		
205.	n/a	n/a	7/13/2023	Graham County Responses to Consolidated Plaintiffs' First Set of Interrogatories	Merriman 251	No	802		

206.	n/a	n/a	2/13/2023	Greenlee County Responses to AAAHNPI's First Set of Requests for Production	Milheiro 239	No	802		
207.	n/a	n/a	6/30/2023	Greenlee County Responses to Consolidated Plaintiffs' First Set of Requests for Production	Milheiro 240	No	802		
208.	n/a	n/a	6/30/2023	Greenlee County Responses to Consolidated Plaintiffs' First Set of Interrogatories	Milheiro 241	No	802		
209.	n/a	n/a	2/13/2023	La Paz County Responses to AAAHNPI's First Set of Requests for Production	Garcia 229	No	802		
210.	n/a	n/a	6/30/2023	La Paz County Responses to Consolidated Plaintiffs' First Set of Requests for Production	Garcia 230	No	802		
211.	n/a	n/a	2/13/2023	La Paz County Responses to AAAHNPI's First Set of Interrogatories	Garcia 231	No	802		
212.	n/a	n/a	6/30/2023	La Paz County Responses to Consolidated Plaintiffs' First Set of Interrogatories	Garcia 232	No	802		
213.	n/a	n/a	8/8/2023	La Paz County First Supplemental Response to Consolidated Plaintiffs' First Set of Interrogatories	Garcia 233	No	802		
214.	n/a	n/a	1/18/2023	Maricopa County Responses to AAAHNPI's First Set of Requests for Production	Petty 2	No	802		
215.	n/a	n/a	6/29/2023	Maricopa County Responses to Consolidated Plaintiffs' First Set of Requests for Production	Petty 3	No	802		
216.	n/a	n/a	1/26/2023	Maricopa County Responses to AAAHNPI's First Set of Interrogatories	Petty 4	No	802		
217.	n/a	n/a	6/30/2023	Maricopa County Responses to Consolidated Plaintiffs' First Set of Interrogatories	Petty 5	No	802		
218.	n/a	n/a	2/13/2023	Mohave County Responses to AAAHNPI's First Set of Requests for Production	Durst 51	No	802		
219.	n/a	n/a	2/10/2023	Mohave County Responses to AAAHNPI's First Set of Interrogatories	Durst 52	No	802		
220.	n/a	n/a	6/29/2023	Mohave County Responses to Consolidated Plaintiffs' First Set of Requests for Production	Durst 55	No	802		
221.	n/a	n/a	6/30/2023	Mohave County Responses to Consolidated Plaintiffs' First Set of Interrogatories	n/a	No	802		
222.	n/a	n/a	6/29/2023	Navajo County Responses to Consolidated Plaintiffs' First Set of Requests for Production	Lerma 40	No	802		
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225.	n/a	n/a	6/30/2023	Pima County Responses to Consolidated Plaintiffs' First Set of Requests for Production	Hiser 64	No	802		
226.	n/a	n/a	2/13/2023	Pima County Responses to AAAHNPI's First Set of Interrogatories	Hiser 65	No	802		
227.	n/a	n/a	6/30/2023	Pima County Responses to Consolidated Plaintiffs' First Set of Interrogatories	Hiser 66	No	802		
228.	n/a	n/a	2/13/2023	Pinal County Responses to AAAHNPI's First Set of Requests for Production	Lewis 88	No	802		
229.	n/a	n/a	3/9/2023	Pinal County First Supplemental Responses to AAAHNPI's First Set of Requests for Production	Lewis 89	No	802		
230.	n/a	n/a	7/14/2023	Pinal County Responses to Consolidated Plaintiffs' First Set of Requests for Production	Lewis 90	No	802		
231.	n/a	n/a	2/13/2023	Pinal County Responses to AAAHNPI's First Set of Interrogatories	Lewis 91	No	802		

232.	n/a	n/a	7/14/2023	Pima County Responses to Consolidated Plaintiffs' First Set of Interrogatories	Lewis 92	No	802		
233.	n/a	n/a	1/27/2023	Santa Cruz County Responses to AAAHNPI's First Set Interrogatories	n/a	No	802		
234.	n/a	n/a	2/13/2023	Santa Cruz County Responses to AAAHNPI's First Set of Requests for Production	Moreno 99	No	802		
235.	n/a	n/a	6/29/2023	Santa Cruz County Responses to Consolidated Plaintiffs' First Set of Interrogatories	n/a	No	802		
236.	n/a	n/a	8/3/2023	Santa Cruz County Amended Responses to Consolidated Plaintiffs' First Set of Requests for Production	n/a	No	802		
237.	n/a	n/a	1/24/2023	Yavapai County Responses to AAAHNPI's First Set Interrogatories	Webber 138	No	802		
238.	n/a	n/a	2/3/2023	Yavapai County First Amended Responses to AAAHNPI's First Set Interrogatories	Webber 139	No	802		
239.	n/a	n/a	7/6/2023	Yavapai County Responses to Consolidated Plaintiffs' First Set of Requests for Production	Webber 142 (not including YC 202 to YC 341)	No	802		
240.	n/a	n/a	6/29/2023	Yavapai County Responses to Consolidated Plaintiffs' First Set of Interrogatories	Webber 143	No	802		
241.	n/a	n/a	2/2/2023	Yuma County Responses to AAAHNPI's First Set of Interrogatories	n/a	No	802		
242.	n/a	n/a	7/5/2023	Yuma County Responses to Consolidated Plaintiffs' First Set of Interrogatories	Yuma 201	No	802		
243.	n/a	n/a	6/19/2023	AG's Response to Consolidated Plaintiffs' First Set of Interrogatories	AG 212	No	802		
244.	n/a	n/a	8/24/2023	AG's First Supplemental Response to Consolidated Plaintiffs' First Set of Interrogatories	n/a	No	802		
245.	n/a	n/a	7/14/2023	ADOT Director Jennifer Toth's Response to Consolidated Plaintiffs' First Set of Interrogatories	Jorgensen 105	No	802		
246.	n/a	n/a	7/14/2023	ADOT Director Jennifer Toth's Responses to Consolidated Plaintiffs' First Set of Requests for Production	Jorgensen 106	No	802		
247.	n/a	n/a	2/1/2023	Secretary of State's Responses to AAAHNPI's First Set of Requests for Production	Connor 261	No	802		
248.	n/a	n/a	6/16/2023	Secretary of State's Responses to Consolidated Plaintiffs' First Set of Interrogatories	Connor 262	No	802		
249.	n/a	n/a	6/16/2023	Secretary of State's Responses to Consolidated Plaintiffs' First Set of Requests for Production	Connor 263	No	802		
250.	n/a	n/a	9/14/2023	Order re Cross-Motions for Partial Summary Judgment, Mi Familia Vota, et al., v. Fontes, et al., No. CV-22-00509-PHX-SRB, ECF 534	n/a	No	401/402		
251.	FEC047	FEC052	6/17/2022	Email re: Juror Questionnaire between G. Blackie and K. Kulik	n/a	No	802; NC; F		
				[Because some discovery is ongoing, the defense reserves the right to use exhibits that have not been disclosed or for which discovery is not yet complete, such as rebuttal expert CVs and documents relied on by experts. The defense also reserves the right to use admissible exhibits listed by Plaintiffs.]					

Exhibit 9

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Mi Familia Vota vs. Adrian Fontes
Janine Petty

July 24, 2023

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UNITED STATES DISTRICT COURT

DISTRICT OF ARIZONA

Mi Familia Vota, et al.,)	
)	Case No:
Plaintiffs,	)	2:22-cv-00509-SRB
	)	(Lead)
vs.)	
	)	CV-22-00519-PHX-SRB
Adrian Fontes, in his official	)	CV-22-01003-PHX-SRB
capacity as Arizona Secretary of	)	CV-22-01124-PHX-SRB
State, et al.,	)	CV-22-01369-PHX-SRB
	)	CV-22-01381-PHX-SRB
Defendants.	)	CV-22-01602-PHX-SRB
	)	CV-22-01901-PHX-SRB

AND CONSOLIDATED CASES.

DEPOSITION OF MARICOPA COUNTY RECORDER

REPRESENTED BY JANINE PETTY

VIDEOTAPED

Phoenix, Arizona

July 24, 2023

Reported by:
Jody L. Lenschow, RMR, CRR
Certified Court Reporter
Certification No. 50192



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Janine Petty

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VIDEOTAPED DEPOSITION OF MARICOPA COUNTY RECORDER

REPRESENTED BY JANINE PETTY

was taken on July 24, 2023, commencing at 9:33 a.m., at the Maricopa County Tabulation and Election Center, 510 S. Third Avenue, Phoenix, Arizona, before Jody L. Lenschow, RMR, CRR, Certified Reporter No. 50192 for the State of Arizona.

* * *

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ALSO PRESENT: Christopher Parkinson, Videographer

38

09:33:07 1 THE VIDEOGRAPHER: We are on the record.
09:33:08 2 The time on the video monitor is 9:33 a.m. Here begins
09:33:12 3 Volume 1, Media No. 1 in the Rule 30(b)(6) deposition of
09:33:17 4 Maricopa County Recorder's Office, represented by
09:33:20 5 Janine Petty, in the matter of Mi Familia Vota, et al.
09:33:25 6 versus Adrian Fontes, in his official capacity as
09:33:29 7 Arizona's Secretary of State, et al., in the United
09:33:32 8 States District Court, District of Arizona, Case
09:33:36 9 No. 2:22-cv-00509-SRB.

09:33:44 10 Today's date is July 24th, 2023. Our
09:33:46 11 court reporter is Jody Lenschow. My name is Christopher
09:33:49 12 Parkinson, certified legal videographer. We both
09:33:52 13 represent Coash Court Reporting & Video. This video
09:33:55 14 deposition is taking place at Maricopa County Tabulation
09:34:00 15 and Election Center.

09:34:00 16 Counsel, please identify yourselves and
09:34:02 17 state whom you represent.

09:34:04 18 MS. LANG: Danielle Lang. I represent the
09:34:07 19 LUCHA plaintiffs.

09:34:11 20 MR. JOHNSON: Hayden Johnson, LUCHA
09:34:12 21 plaintiffs.

09:34:16 22 MR. HUSENY: Sadik Huseny with Latham &
09:34:18 23 Watkins representing the Arizona Asian American Native
09:34:19 24 Hawaiian and Pacific Islander for Equity Coalition.

09:34:23 25 MR. FREEDMAN: John Freedman from Arnold &

09:34:25 1 Porter representing the Poder Latinx plaintiffs.

09:34:27 2 MS. CERVANTES: Erika Cervantes from

09:34:30 3 MALDEF representing Promise Arizona and Southwest Voter

09:34:34 4 Registration Education Project.

09:34:35 5 MR. HERRERA: Ernest Herrera from MALDEF

09:34:37 6 representing Promise Arizona Plaintiffs.

09:34:40 7 MS. FROST: Elisabeth Frost representing

09:34:41 8 the Mi Familia Vota plaintiffs.

09:34:44 9 MR. DODGE: Christopher Dodge, also

09:34:44 10 representing the Mi Familia Vota plaintiffs.

09:34:47 11 MR. VOLCHOK: Daniel Volchok from Wilmer

09:34:49 12 Hale representing the Democratic National Committee and

09:34:51 13 the Arizona Democratic Party.

09:34:52 14 MS. NESWOOD: Allison Neswood with the

09:34:54 15 Native American Rights Fund representing Tohono O'odham

09:34:58 16 Nation, the Gila River Indian Community, and three

09:35:01 17 Native American individuals.

09:35:02 18 MS. BRAILEY: Emily Brailey for the United

09:35:02 19 States.

09:35:05 20 MR. DELLHEIM: Richard Dellheim for the

09:35:06 21 United States.

09:35:07 22 MR. BASILE: Thomas Basile for the

09:35:10 23 Republican National Committee.

09:35:11 24 MR. HORLEY: Tim Horley for the Arizona

09:35:12 25 Attorney General and the State of Arizona.

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09:35:58 25

MR. O'CONNOR: Jack O'Connor for the Maricopa County Attorney's Office.

MS. CRITZ: Anna Critz for the Maricopa County Attorney's Office.

MS. BOUGHTON: Kathryn Boughton for the Arizona Attorney General and State of Arizona.

MS. STUART: Shayna Stuart for the Arizona Secretary of State and Adrian Fontes.

THE VIDEOGRAPHER: Would the court reporter please swear in the witness.

JANINE PETTY,
called as a witness herein, having been first duly sworn by the Certified Court Reporter to speak the truth and nothing but the truth, was examined and testified as follows:

EXAMINATION

BY MS. LANG:

Q. All right. Good morning, Ms. Petty. Could you state your full name for the record and spell your last name?

A. Good morning. Janine Petty, P-E-T-T-Y.

Q. Great. Have you been deposed before, Ms. Petty?

09:35:58 1 A. I have.

09:35:59 2 Q. Okay. So I'm going to go over some ground
09:36:01 3 rules, but they should be pretty familiar for you, but
09:36:03 4 let me know if you have any questions.

09:36:05 5 In order to make sure that the record is clear,
09:36:08 6 I want to ask that when we talk, we'll try not to talk
09:36:14 7 over each other like we might do in kind of normal
09:36:16 8 parlance. You'll wait for me to finish my question.
09:36:20 9 I'll always try to wait until you finish your answer.
09:36:22 10 Try to avoid saying things like huh-huh or uh-uh or
09:36:26 11 nodding your head or shaking your head no, but use yes
09:36:29 12 or no answers as well.

09:36:32 13 Do you understand that you're testifying under
09:36:33 14 oath today?

09:36:34 15 A. I do.

09:36:36 16 Q. And that a court reporter is transcribing this
09:36:39 17 deposition?

09:36:40 18 A. Yes.

09:36:42 19 Q. Okay. Is there any reason you can't testify
09:36:45 20 truthfully today?

09:36:46 21 A. No.

09:36:47 22 Q. Is there any reason that you can't give full,
09:36:49 23 complete and accurate testimony, any medications or
09:36:52 24 conditions that might prevent you from your full memory?

09:36:55 25 A. No.

09:36:58 1 Q. If at any time you'd like to take a break,
09:37:00 2 please let me know. The only thing I ask is that if
09:37:02 3 I've already asked a question, that you answer that
09:37:04 4 question, and then we'll go ahead and take a break.
09:37:06 5 Does that work?

09:37:07 6 A. Yes.

09:37:07 7 Q. Okay. So you mentioned that you have been
09:37:11 8 deposed before. Do you know how many times?

09:37:15 9 A. Two; twice, I believe.

09:37:16 10 Q. Okay. And in what capacity were you deposed in
09:37:20 11 those two instances?

09:37:22 12 A. At the Secretary of State's Office.

09:37:25 13 Q. And what was your role at the Secretary of
09:37:29 14 State's Office?

09:37:29 15 A. I was the Deputy State Elections Director.

09:37:32 16 Q. Okay. And in what cases were you deposed?

09:37:37 17 A. I don't remember the exact case, but it had to
09:37:39 18 do with publicity pamphlets.

09:37:42 19 Q. And both times that you were deposed, were they
09:37:44 20 about that same matter?

09:37:46 21 A. I believe so.

09:37:48 22 Q. Okay. And you've never been deposed in your
09:37:54 23 current role as a Maricopa County Recorder employee; is
09:37:58 24 that correct?

09:37:58 25 A. Correct.

09:38:00 1 Q. Okay. Did you bring any materials with you
09:38:02 2 today to the deposition, documents, things related to --

09:38:05 3 A. No.

09:38:08 4 Q. Okay. And you don't have any documents in
09:38:09 5 front of you today?

09:38:10 6 A. No.

09:38:12 7 Q. Okay. Can you briefly provide me a little bit
09:38:17 8 of information about your educational background?

09:38:19 9 A. Sure. I have, obviously, a high school
09:38:24 10 graduate. I have some college. I have my national
09:38:28 11 election administrative certification through Auburn
09:38:31 12 University and the Election Center.

09:38:34 13 I have most job on-the-job experience. I
09:38:37 14 worked for Yavapai County for over 18 years, mostly in
09:38:40 15 elections and voter registration. I worked for the
09:38:45 16 Secretary of State's Office for almost 6 years, and now
09:38:47 17 I have been here with Maricopa County almost 2 years.

09:38:48 18 Q. You mentioned some college. Where did you
09:38:50 19 attend --

09:38:51 20 MS. STUART: I'm sorry to interrupt. I
09:38:52 21 don't know if it's because of the fan or it's just
09:38:54 22 there's a lot of people on this side. Can you speak up
09:38:56 23 louder when you're answering?

09:38:57 24 THE WITNESS: Sure. Yes.

09:38:57 25 MS. STUART: And the same with you,

09:38:58 1 Danielle, just a little. Thank you.

09:39:00 2 MS. LANG: Okay.

09:39:00 3 THE WITNESS: Yavapai College.

09:39:03 4 BY MS. LANG:

09:39:03 5 Q. And you mentioned a certification from Auburn;

09:39:06 6 is that correct?

09:39:06 7 A. Yes.

09:39:07 8 Q. When did you receive that certification?

09:39:11 9 A. I want to say it was in two thousand and --

09:39:20 10 Q. An approximate is okay.

09:39:22 11 A. Somewhere in 2013.

09:39:25 12 Q. Okay. And what goes into kind of the education

09:39:28 13 for that certification?

09:39:30 14 A. There are a series of educational courses that

09:39:33 15 need to be taken that can take a few years to get

09:39:35 16 through those certifications. You have to fly back East

09:39:39 17 to attend the classes.

09:39:43 18 Q. And you reviewed some of your on-the-job

09:39:47 19 experience. I'm just going to delve into that a little

09:39:48 20 bit deeper. Starting with Yavapai, you mentioned that

09:39:53 21 you worked for Yavapai County for 18 years. Do you know

09:39:58 22 approximately how many of those were in elections?

09:40:02 23 A. From 2006 I did some temporary work, but then

09:40:09 24 in 2009 is when I completely started working for voter

09:40:13 25 registration and elections.

09:40:14 1 Q. And what was your role or roles over time at
09:40:19 2 the Yavapai County office?

09:40:20 3 A. I was a voter registration clerk. Then I
09:40:24 4 became the elections warehouse manager. From there I
09:40:28 5 was promoted to be the ballot programmer, and then from
09:40:31 6 there I was promoted to be the registrar of voters.

09:40:37 7 Q. And did you go from the Yavapai County office
09:40:43 8 to the Secretary of State's Office?

09:40:45 9 A. Yes.

09:40:45 10 Q. Okay. And when did you join the Secretary of
09:40:49 11 State's Office?

09:40:49 12 A. In 2015.

09:40:51 13 Q. Okay. And when you joined the Secretary of
09:40:54 14 State's Office, what was your role?

09:40:54 15 A. I was the Deputy State Elections Director for
09:40:57 16 Arizona.

09:40:58 17 Q. Okay. And did you maintain that role during
09:41:01 18 your entire tenure at the Secretary of State's Office?

09:41:05 19 A. Yes.

09:41:06 20 Q. Okay. And can you describe to me what your job
09:41:08 21 responsibilities were as Deputy Elections Director?

09:41:12 22 A. I oversaw the statewide voter registration
09:41:16 23 database. I also was part of the election equipment
09:41:19 24 advisory committee. I did all of the logic and accuracy
09:41:22 25 tests for every county prior to any large federal/state

09:41:26 1 election.

09:41:29 2 Q. Okay. And when did you join the Maricopa

09:41:34 3 County Recorder's Office?

09:41:36 4 A. 2021.

09:41:39 5 Q. When in 2021?

09:41:40 6 A. May, I believe.

09:41:44 7 Q. And did you join directly from the Secretary of

09:41:47 8 State's Office?

09:41:47 9 A. Yes.

09:41:54 10 Q. Okay. And what is your current role?

09:41:56 11 A. I'm the senior director of voter registration.

09:41:59 12 I oversee the Maricopa County voter registration

09:42:02 13 database for voter rolls.

09:42:05 14 Q. Okay. And can you describe to me in a little

09:42:07 15 bit more detail what that means as far as your job

09:42:09 16 responsibilities within the office?

09:42:12 17 A. So I manage a team of about 20 people that do

09:42:16 18 the actual data entry. I make sure that our policies

09:42:20 19 and procedures are up-to-date, any new litigation or

09:42:24 20 legislation that impacts voter registration, you know,

09:42:27 21 I'm aware of, and then obviously the system that feeds

09:42:34 22 into AVID, which is a statewide voter registration

09:42:36 23 system, I am involved with all of that functionality.

09:42:40 24 Q. Great.

09:42:42 25 MS. LANG: I'm going to mark as Exhibit 1

09:42:45 1 plaintiff's notice of deposition.

09:42:55 2 (Deposition Exhibit 1 was marked for

09:42:57 3 identification.)

09:42:57 4 BY MS. LANG:

09:42:58 5 Q. Have you seen this document before?

09:43:00 6 A. Yes.

09:43:02 7 Q. And who provided it to you?

09:43:05 8 A. Maricopa County Attorney's Office.

09:43:08 9 Q. Okay. And turning to the second page that says

09:43:12 10 Exhibit A and the lengthy list thereafter, starting

09:43:19 11 where I've marked on a blue tab, there's a list of

09:43:22 12 topics. Have you reviewed the topics for this

09:43:24 13 deposition?

09:43:25 14 A. Yes.

09:43:27 15 Q. Okay. And you're prepared, to the best of your

09:43:29 16 ability, to address these topics today?

09:43:31 17 A. Yes.

09:43:34 18 Q. Okay. Did you meet with anyone from your

09:43:36 19 office to prepare for today's deposition?

09:43:39 20 A. From my office?

09:43:40 21 Q. Yes.

09:43:41 22 A. No.

09:43:46 23 Q. Okay. Did you meet -- without going into the

09:43:49 24 substance of your conversations, did you meet with your

09:43:52 25 attorney about this deposition?

09:43:55 1 A. Yes.

09:43:56 2 Q. How many times?

09:43:58 3 A. Once.

09:43:59 4 Q. Okay. And who did you meet with?

09:44:02 5 A. Jack and Anna.

09:44:07 6 Q. Okay. And about how long was that meeting?

09:44:11 7 A. 40 minutes.

09:44:12 8 Q. And when was that?

09:44:14 9 A. Last Friday.

09:44:19 10 Q. Okay. Was anyone else present other than

09:44:24 11 yourself, Jack and Anna?

09:44:25 12 A. No.

09:44:27 13 Q. Okay. Did you meet with anybody else other

09:44:30 14 than your attorneys in preparation for this deposition?

09:44:33 15 A. No.

09:44:39 16 Q. Okay. Did you review any documents to prepare

09:44:42 17 for this deposition?

09:44:46 18 A. No.

09:44:48 19 Q. Anything else that you did to prepare for

09:44:51 20 today's deposition?

09:44:53 21 A. I'm here with coffee.

09:44:56 22 Q. Fair enough.

09:44:59 23 And without getting into too many of the

09:45:01 24 details, what is your broad understanding of what the

09:45:04 25 lawsuit is about that brings us here today?

09:45:09 1 A. Broad understanding, there's two new bills that
09:45:11 2 have been signed into law that are being litigated in
09:45:16 3 reference to voter registration processing.

09:45:25 4 Q. Okay. And, second, I'll mark as Exhibit 2
09:45:37 5 the -- one of your first -- the first supplemental
09:45:41 6 response to the Equity Coalition request for
09:45:43 7 production.

09:45:47 8 (Deposition Exhibit 2 was marked for
09:45:53 9 identification.)

09:45:56 10 BY MS. LANG:

09:45:56 11 Q. Are you aware that your office has been asked
09:45:57 12 for various documents in this case?

09:46:00 13 A. Yes.

09:46:02 14 Q. And I don't know. Have you seen this document
09:46:04 15 before in particular?

09:46:06 16 A. I don't believe so.

09:46:07 17 Q. Okay. And I'll represent to you that this was
09:46:11 18 served on the plaintiffs as one of your responses to
09:46:14 19 those requests for production by your attorneys, and
09:46:19 20 this set of requests was issued in December and you
09:46:24 21 provided documents on a rolling basis.

09:46:28 22 Do you -- can you describe to me the steps that
09:46:34 23 your office has taken to respond to the requests for
09:46:38 24 documents that you've received?

09:46:42 25 MS. STUART: Form.

09:46:47 1 BY MS. LANG:

09:46:47 2 Q. I'll rephrase.

09:46:53 3 What steps has your office taken to search for
09:46:56 4 documents in your possession, custody or control
09:46:59 5 relevant to this lawsuit?

09:47:01 6 A. So our IT department did a search of documents
09:47:07 7 with keywords that were requested and pulled, any
09:47:14 8 documents that were -- that met the criteria for the
09:47:17 9 keyword searches that were done. I know that there was
09:47:20 10 some additional data requests that were made that we
09:47:23 11 were also requested of our IT department to pull the
09:47:27 12 data.

09:47:29 13 Q. Were you involved in the creation or -- of the
09:47:34 14 keywords for the searches?

09:47:35 15 A. Yes.

09:47:37 16 Q. Okay. And what did that process look like?

09:47:43 17 A. So I actually do remember. Some of this
09:47:46 18 document looks slightly different than what I initially
09:47:49 19 saw, but in reviewing the document, we would hit on the
09:47:52 20 key terms that like H.B. 2492, H.B. 2243.

09:48:00 21 Q. Okay. And I'll mark as Exhibit 3 another
09:48:04 22 response to requests for production. These requests
09:48:12 23 were issued by all the consolidated plaintiffs.

09:48:14 24 (Deposition Exhibit 3 was marked for
09:48:14 25 identification.)

09:48:14 1 BY MS. LANG:

09:48:22 2 Q. And does this document look familiar to you?

09:48:24 3 A. Yes.

09:48:28 4 Q. Okay. And was a similar process conducted to

09:48:32 5 find documents responsive to these requests as for the

09:48:36 6 other one that we just discussed?

09:48:38 7 A. Yes.

09:48:39 8 Q. Okay. And do you remember, were you also

09:48:44 9 involved in the keyword search development for this

09:48:48 10 request for production?

09:48:50 11 A. Yes.

09:48:51 12 Q. Okay. And do you recall -- do you recall when

09:49:06 13 your office did an additional search of records for this

09:49:10 14 request for production?

09:49:13 15 A. Can you say that again?

09:49:14 16 Q. Yeah. Do you recall when your office did the

09:49:17 17 keyword search to pull records for -- in response to

09:49:21 18 this request for production?

09:49:23 19 A. I don't remember the actual dates. I know that

09:49:25 20 there have been a couple productions that we've been

09:49:28 21 doing on a rolling basis.

09:49:29 22 Q. Okay. And do you have plans to kind of

09:49:32 23 continue doing rolling productions?

09:49:37 24 A. I believe that we produced everything that was

09:49:40 25 asked.

09:49:42 1 Q. Okay. So as far as you're aware, you're
09:49:44 2 finished with your productions at this point?

09:49:46 3 A. Yes.

09:49:50 4 Q. Okay. I'll mark as Exhibit 4 your office's
09:50:01 5 response to a first set of interrogatories issued by the
09:50:05 6 Equity Coalition.

09:50:10 7 (Deposition Exhibit 4 was marked for
09:50:10 8 identification.)

09:50:10 9 BY MS. LANG:

09:50:17 10 Q. Okay. And after you take a moment to look at
09:50:18 11 it, can you tell me if this is a document you recognize?

09:50:24 12 A. It is.

09:50:26 13 Q. Okay. And were you involved in helping prepare
09:50:29 14 the answers for these interrogatories?

09:50:32 15 A. Yes.

09:50:36 16 Q. Okay. And I believe you verified this document
09:50:38 17 with your signature; is that correct?

09:50:43 18 I'm not sure I have the verification page in
09:50:45 19 this, in this exhibit, but as I recall, you have
09:50:50 20 verified the interrogatories in this case; is that
09:50:53 21 correct?

09:50:53 22 A. Yes.

09:50:57 23 Q. Okay. And what steps did you take to prepare
09:51:00 24 your interrogatory responses here?

09:51:04 25 A. So I read what the interrogatory was asking and

09:51:09 1 I, through my position, did the research necessary. I
09:51:16 2 was already well-aware of H.B. 2492, and so just from my
09:51:26 3 on-the-job experience I was able to answer these
09:51:28 4 questions.

09:51:29 5 Q. Okay. Did you confer with anyone else in your
09:51:32 6 office in preparing the interrogatory responses?

09:51:35 7 A. No.

09:51:41 8 Q. And I'll mark as Exhibit 5 another set of
09:51:45 9 interrogatory responses, these ones from the
09:51:48 10 consolidated plaintiffs.

09:51:56 11 (Deposition Exhibit 5 was marked for
09:52:00 12 identification.)

09:52:00 13 BY MS. LANG:

09:52:00 14 Q. And after you have a moment to review, can you
09:52:02 15 let me know if you recognize this document?

09:52:10 16 A. I do.

09:52:11 17 Q. And my recollection is that you verified these
09:52:15 18 interrogatories as well, and I believe the last page is
09:52:17 19 your verification; is that correct?

09:52:27 20 A. Yes.

09:52:30 21 Q. Okay. And can you review with me the steps you
09:52:33 22 took to prepare these responses, understanding it may be
09:52:37 23 the same answer?

09:52:39 24 A. Yes. Again, I had knowledge of the two new
09:52:43 25 laws and I, through my position, know how we process

09:52:49 1 voter registration.

09:52:51 2 Q. And did you confer with anyone else in
09:52:53 3 preparing these responses other than your attorney?

09:52:56 4 A. No.

09:52:57 5 Q. Okay. Before we delve into some of the
09:53:07 6 specifics about this case I wanted to outline and get a
09:53:09 7 broad understanding of the Recorder's responsibilities
09:53:14 8 with respect to elections. So can you describe to me
09:53:17 9 what responsibilities fall within the County Recorder's
09:53:21 10 Office for helping to run elections for Maricopa County?

09:53:26 11 A. Sure. First and foremost, voter registration
09:53:29 12 falls under the Recorder's responsibilities, as well as
09:53:32 13 early voting.

09:53:37 14 Q. And does early voting include both in person
09:53:41 15 and by mail early voting?

09:53:43 16 A. It does.

09:53:43 17 Q. Okay. Does it include drop boxes?

09:53:48 18 A. Yes.

09:53:51 19 Q. Okay. And for in person early voting, is it
09:53:58 20 staff from the County Recorder's Office that manages
09:54:01 21 those sites?

09:54:03 22 A. So I don't oversee early voting, but it could
09:54:09 23 be County staff or it could be a City Clerk's Office,
09:54:12 24 depending on what the election is.

09:54:14 25 Q. Okay. And does the County Recorder's Office

09:54:18 1 process the early votes as well?

09:54:21 2 A. So we do signature verification on early
09:54:25 3 ballots.

09:54:32 4 Q. So can you help me understand the distinction
09:54:35 5 there? So a mail ballot comes into the office. Your
09:54:41 6 office is responsible for verifying the signature,
09:54:45 7 correct?

09:54:45 8 MS. STUART: Form.

09:54:48 9 THE WITNESS: Yeah, there's an early
09:54:50 10 voting team. The voter registration staff, which I
09:54:54 11 oversee, assists with doing signature verification, but
09:54:57 12 that's really on the early voting side.

09:55:06 13 BY MS. LANG:

09:55:06 14 Q. Okay. Can you describe to the best of your
09:55:09 15 understanding, and I recognize that this is not your
09:55:13 16 direct purview, the division of responsibilities with
09:55:18 17 the elections director and the County Recorder?

09:55:21 18 A. So there's two co-directors. One director does
09:55:27 19 the polling place election day. The other one does the
09:55:31 20 early voting and 90-day notices that get provided to
09:55:37 21 voters ahead of the federal election cycle. And that,
09:55:42 22 again, that falls under the purview of the Recorder,
09:55:45 23 that process. And so then voter registration is under
09:55:50 24 my directive.

09:55:55 25 Q. But just to be clear, the -- there is a

09:56:00 1 separate elections director that runs in person voting,
09:56:03 2 correct?

09:56:03 3 A. Election day voting, yes.

09:56:05 4 Q. Yes.

09:56:07 5 And what is the nature of the coordination
09:56:13 6 between the County Recorder's office and the election
09:56:16 7 director?

09:56:18 8 A. So there's an agreement that the elections
09:56:23 9 director follows with the Board of Supervisors and the
09:56:26 10 Recorder, and they outline in that agreement what the
09:56:29 11 distinctions are and responsibilities of each division.

09:56:35 12 Q. Great. And you mentioned that you manage a
09:56:41 13 staff of about 20. So I want to go into the staff and
09:56:46 14 organizational chart for the County Recorder's Office,
09:56:51 15 specifically for matters related to elections. I
09:56:54 16 understand the County Recorder handles other things, but
09:56:57 17 I'm just going to talk about elections.

09:57:00 18 My understanding is, you know, the person on
09:57:03 19 top of the organizational chart is the County Recorder
09:57:08 20 himself, Stephen Richer, correct?

09:57:09 21 A. Yes.

09:57:09 22 Q. Okay. Who is kind of the next person in the
09:57:14 23 organizational chart under County Recorder Richer?

09:57:18 24 A. So we have a Chief Deputy Recorder, which is
09:57:22 25 Darron Moffatt, and then we have a chief of staff, which

09:57:26 1 is Abby, and then there's me under voter registration.

09:57:34 2 Q. Do you have a counterpart on the early voting

09:57:38 3 side?

09:57:40 4 A. No.

09:57:41 5 Q. Okay. Who is in charge of the early voting

09:57:45 6 side of the responsibilities of the County Recorder?

09:57:49 7 A. The co-elections director, Rey Valenzuela.

09:57:57 8 Q. And does he work for the County Recorder's

09:58:01 9 Office?

09:58:01 10 A. Yes.

09:58:07 11 Q. Okay. And then within your division, can you

09:58:13 12 describe to me that 20 staff, who they are and what they

09:58:17 13 do?

09:58:18 14 A. Sure. I have a VR manager and then I have an

09:58:22 15 IT manager and then I have a compliance officer. Then

09:58:28 16 underneath that are our voter registration clerks and I

09:58:33 17 have two IT specialists.

09:58:39 18 Q. And who is the VR manager?

09:58:43 19 A. Carrie Dykstra.

09:58:44 20 Q. And who is the IT manager?

09:58:47 21 A. David Madsen.

09:58:49 22 Q. And who is the compliance officer?

09:58:50 23 A. William Crist.

09:58:55 24 Q. Next I'd like to discuss a little bit about the

09:58:58 25 relationship between the Secretary of State's Office and

09:59:01 1 the County Recorder's. Who or what entity is
09:59:10 2 responsible for interpreting Arizona's election laws in
09:59:14 3 the first instance?

09:59:17 4 A. Can you say that again?

09:59:19 5 MR. O'CONNOR: Objection, form.

09:59:22 6 MS. STUART: Form.

09:59:22 7 MR. BASILE: I just want to object. I
09:59:26 8 want to just make sure it's reflected on the record that
09:59:29 9 the RNC has agreed to automatically join objections by
09:59:34 10 any of the defense counsel to cut down on the number of
09:59:36 11 objections. I just want to make sure that's on the
09:59:38 12 record.

09:59:39 13 MR. O'CONNOR: Do we want to put that on
09:59:40 14 the record right now?

09:59:41 15 MS. LANG: Yes.

09:59:41 16 MR. O'CONNOR: Okay. Sorry.

09:59:41 17 So there's an agreement between the
09:59:43 18 Defendants Secretary of State, Attorney General's Office
09:59:46 19 State, Maricopa County Attorney, and the intervenors,
09:59:48 20 the Republican National Committee, that any objections
09:59:53 21 made are agreed to or are joined, and then if the State
10:00:02 22 Attorney General's Office and the Republican National
10:00:05 23 Committee can make their own independent objections as
10:00:08 24 well.

10:00:09 25 MS. STUART: For the Secretary of State as

10:00:11 1 well.

10:00:11 2 MR. O'CONNOR: Say that --

10:00:12 3 MS. STUART: You left Secretary of State

10:00:13 4 off. If we have --

10:00:13 5 MR. O'CONNOR: Oh, sorry.

10:00:14 6 MS. STUART: If we have an additional

10:00:14 7 objection, we'll make our own.

10:00:17 8 MS. LANG: Yes. Okay. Sounds good.

10:00:17 9 BY MS. LANG:

10:00:21 10 Q. Who or what entity is responsible for

10:00:24 11 interpreting Arizona's election laws?

10:00:29 12 A. My personal feeling is that it's the job of

10:00:32 13 everybody that's doing elections to understand the law,

10:00:35 14 and if they don't, they should seek legal counsel

10:00:38 15 advice.

10:00:41 16 Q. Okay. What role does the Arizona Secretary of

10:00:44 17 State's Office play in interpreting Arizona's election

10:00:48 18 laws?

10:00:49 19 A. The Secretary of State's Office would provide

10:00:52 20 guidance to the counties in order to maintain uniformity

10:00:57 21 throughout the state.

10:00:59 22 Q. And by what mechanisms or mechanism or

10:01:03 23 mechanisms does the Secretary of State's Office give

10:01:07 24 County Recorders guidance about application of Arizona's

10:01:11 25 election laws?

10:01:13 1 A. So they have regular meetings with the counties
10:01:17 2 and there's the elections procedures manual, which is
10:01:21 3 created in collaboration with the counties, and we also
10:01:24 4 have a VRAC committee, which is a voter registration
10:01:28 5 advisory committee, in which the Secretary of State's
10:01:32 6 Office historically has written papers for guidance to
10:01:38 7 the counties.

10:01:43 8 Q. With the exception of the election procedures
10:01:45 9 manual, which we'll discuss in a moment, are the County
10:01:53 10 Recorders bound by any other guidance or papers given by
10:01:57 11 the Secretary of State's Office about how to apply
10:02:01 12 election law?

10:02:02 13 MS. STUART: Form.

10:02:06 14 THE WITNESS: So the Secretary of State's
10:02:08 15 Office provides guidance. It is not legal binding.
10:02:12 16 It's guidance. I think that if a county had concerns
10:02:16 17 with the guidance, that they would seek their County
10:02:24 18 Attorney.

10:02:24 19 BY MS. LANG:

10:02:24 20 Q. Thank you.

10:02:24 21 So I think what I heard you say is that outside
10:02:27 22 of the elections procedures manual, the Secretary of
10:02:34 23 State's guidance is guidance only and is not legally
10:02:37 24 binding on the County Recorders, correct?

10:02:39 25 A. Correct.

10:02:45 1 Q. So now I do want to talk about the election
10:02:48 2 procedures manual, and so I will mark that as Exhibit 6.

10:02:55 3 The exhibit is only the front page, the
10:02:58 4 table of contents, and the chapter on voter
10:03:10 5 registration?

10:03:10 6 (Deposition Exhibit 6 was marked for
10:03:13 7 identification.)

10:03:13 8 BY MS. LANG:

10:03:13 9 Q. And I'll just note you'll want to keep this one
10:03:16 10 kind of handy throughout the deposition because we'll
10:03:19 11 probably refer back to it a number of times.

10:03:22 12 But, first, can you describe to me what
10:03:29 13 function the election procedures manual plays in
10:03:35 14 governing application of election law procedures?

10:03:39 15 A. The elections procedures manual is created in
10:03:43 16 collaboration with the counties. It offers guidance
10:03:46 17 that it has the force of law for making some statutes
10:03:51 18 that might not be clear. So it fully delineates
10:03:55 19 processes that the counties must follow in the
10:03:58 20 procedures manual.

10:04:00 21 Q. So I think you already said this, but just to
10:04:03 22 make the record crystal clear, unlike other guidance
10:04:06 23 from the Secretary of State's Office, the elections
10:04:09 24 procedure manual is binding on County Recorders; is that
10:04:13 25 correct?

10:04:13 1 A. That is --

10:04:13 2 MS. STUART: Form.

10:04:14 3 THE WITNESS: That's correct.

10:04:17 4 BY MS. LANG:

10:04:17 5 Q. And this is labeled the 2019 elections

10:04:20 6 procedures manual, correct?

10:04:23 7 A. Yes.

10:04:24 8 Q. And is this the operative version of the

10:04:27 9 election procedures manual at this time?

10:04:29 10 A. Yes.

10:04:32 11 Q. How often is the elections procedure manual

10:04:35 12 supposed to be updated?

10:04:37 13 A. Before every general election.

10:04:40 14 Q. Was it updated before the 2022 election?

10:04:44 15 A. No.

10:04:46 16 Q. And do you know why or why not?

10:04:48 17 MS. STUART: Form.

10:04:51 18 MS. BOUGHTON: Form.

10:04:51 19 BY MS. LANG:

10:04:52 20 Q. Do you know why not?

10:04:56 21 A. No.

10:05:06 22 Q. As I mentioned earlier, Chapter 1 of the manual

10:05:09 23 covers voter registration procedures. Is it your

10:05:15 24 understanding that Chapter 1 of the election procedures

10:05:18 25 manual is binding on you and all County Recorders?

10:05:24 1 A. Yes. I will say that there are new laws that
10:05:27 2 have since been implemented that are not in the 2019
10:05:31 3 manual.

10:05:32 4 Q. Okay. Understood.

10:05:39 5 Are you aware of any counties that do not
10:05:42 6 believe that this part of the elections procedures
10:05:46 7 manual, the voter registration chapter, is binding on
10:05:49 8 them?

10:05:51 9 MS. BOUGHTON: Form.

10:05:52 10 MR. O'CONNOR: Form.

10:05:52 11 BY MS. LANG:

10:05:52 12 Q. Are you aware of any counties that believe that
10:05:54 13 Chapter 1 of the elections procedures manual is not
10:05:56 14 legally binding on the County Recorders?

10:06:00 15 MS. STUART: Form.

10:06:01 16 BY MS. LANG:

10:06:01 17 Q. Go ahead.

10:06:02 18 A. I do not know of any counties that feel that
10:06:05 19 way.

10:06:10 20 Q. Are you aware of any counties that do not
10:06:13 21 follow the elections procedures manual Chapter 1
10:06:15 22 procedures on voter registration?

10:06:18 23 MS. BOUGHTON: Form.

10:06:19 24 MR. O'CONNOR: Form.

10:06:21 25 THE WITNESS: I can't speak for other

10:06:22 1 counties.

10:06:27 2 BY MS. LANG:

10:06:28 3 Q. You mentioned that there are new laws that are
10:06:31 4 not reflected in the 2019 manual. How does your office
10:06:37 5 reconcile the elections procedures manual and laws that
10:06:42 6 have been passed since the last elections procedures
10:06:47 7 manual was issued?

10:06:49 8 A. So we are aware of new laws that have been
10:06:54 9 implemented and we follow them. If we have questions,
10:06:56 10 we would seek our County Attorney's guidance. I think
10:07:00 11 most of the new laws that have happened since 2019 there
10:07:04 12 hasn't, until recently, hasn't had too many issues. I
10:07:07 13 mean they're pretty cut and dry.

10:07:09 14 Q. And does the Secretary of State provide
10:07:12 15 guidance on how to apply those new laws outside of the
10:07:19 16 elections procedures manual?

10:07:22 17 A. Yes.

10:07:22 18 MS. STUART: Form.

10:07:27 19 THE COURT REPORTER: You've got to be
10:07:28 20 louder. There's no mike.

10:07:34 21 MS. STUART: I will. Thank you.

10:07:34 22 BY MS. LANG:

10:07:35 23 Q. You mentioned the voter registration advisory
10:07:37 24 committee. Can you describe to me a little bit further
10:07:39 25 what that committee is and what it does?

10:07:43 1 A. Sure. It is made up of every County Recorder
10:07:48 2 or their designee and the Secretary of State or their
10:07:51 3 designee, and they meet and talk about laws that maybe
10:07:58 4 aren't as clear, that we need some guidance on how to
10:08:02 5 implement them uniformly so every county is doing it in
10:08:06 6 the same way.

10:08:10 7 Q. And what is your role on that committee?

10:08:16 8 A. So I would be just a subject matter expert. If
10:08:19 9 the Recorder has me be his proxy, then I would
10:08:23 10 potentially have a voting role in the meeting.

10:08:26 11 Q. Does the County Recorder sometimes send you as
10:08:32 12 his designee to those meetings?

10:08:33 13 A. Yes.

10:08:35 14 Q. Okay. What -- as a subject matter expert, how
10:08:43 15 do you contribute to the work of the voter registration
10:08:47 16 advisory committee?

10:08:50 17 A. So I am very well-versed in voter registration
10:08:53 18 processes and I also understand the functionality of the
10:08:57 19 statewide system, as well as Maricopa's voter
10:09:00 20 registration system, so I offer my input based on that
10:09:02 21 knowledge.

10:09:08 22 Q. I'm going to mark as Exhibit 7 a document
10:09:16 23 Bates-stamped MC 002195.

10:09:26 24 (Deposition Exhibit 7 was marked for
10:09:28 25 identification.)

10:09:28 1 BY MS. LANG:

10:09:28 2 Q. And I'll ask you to flip to the last page,

10:09:30 3 which is MC 002198. Do you see that?

10:09:35 4 A. I do.

10:09:36 5 Q. Are you familiar with this document?

10:09:38 6 A. Yes.

10:09:39 7 Q. And can you describe it to me?

10:09:41 8 A. So this is the mission and process for the

10:09:47 9 voter registration advisory committee.

10:09:50 10 Q. Okay. And under frequency of meetings it says

10:09:55 11 as needed, correct?

10:09:58 12 A. Yes.

10:09:59 13 Q. And in your experience, how frequent are those

10:10:03 14 meetings?

10:10:04 15 A. They're not very frequent.

10:10:07 16 Q. Okay. In a given year, how many times might

10:10:09 17 the committee meet?

10:10:13 18 A. Maybe a handful of times. It just really

10:10:17 19 depends on if there's an issue that needs to be

10:10:18 20 discussed. There may be months where there's no issue.

10:10:28 21 Q. And under the kind of issue papers process

10:10:32 22 here, I see in the fifth bullet point down that it says

10:10:38 23 VRAC must come to a consensus on the final issue paper

10:10:42 24 for it to be adopted; is that correct?

10:10:43 25 A. Yes.

10:10:44 1 Q. And so is it the case that if one county
10:10:48 2 objects to an issue paper, it will not be adopted by the
10:10:51 3 committee?

10:10:55 4 A. Yes.

10:11:04 5 Q. Okay. You mentioned that historically the
10:11:10 6 Secretary of State's office has taken a lead role in
10:11:13 7 drafting these issue papers; did I understand that
10:11:15 8 correctly?

10:11:16 9 A. Yes.

10:11:16 10 Q. Okay. Is that the case now?

10:11:19 11 MS. STUART: Form.

10:11:20 12 BY MS. LANG:

10:11:21 13 Q. Is it the case that currently the Secretary of
10:11:24 14 State is taking the lead role in drafting VRAC issue
10:11:29 15 papers?

10:11:29 16 MS. STUART: Form.

10:11:31 17 MS. LANG: Can you describe?

10:11:32 18 MS. STUART: Foundation. She's not at the
10:11:35 19 State's office anymore, Secretary of State's office, so
10:11:37 20 how would she be able to provide that information?

10:11:41 21 BY MS. LANG:

10:11:41 22 Q. To the best of your understanding --

10:11:46 23 MS. LANG: Well, to respond to your
10:11:47 24 question, she's part of -- she participates in the
10:11:50 25 committee and so would understand who is drafting the

10:11:55 1 issue papers.

10:11:56 2 MS. STUART: I think if -- sorry.

10:11:56 3 MS. LANG: Go ahead.

10:11:58 4 MS. STUART: Oh, I was going to say if you
10:12:00 5 cushion the question that way, I think it would be more
10:12:02 6 appropriate foundation-wise.

10:12:06 7 BY MS. LANG:

10:12:06 8 Q. Okay. Based on your work on the committee, who
10:12:10 9 is currently taking the lead on drafting VRAC issue
10:12:14 10 papers?

10:12:17 11 A. I feel right now that there has been a change
10:12:21 12 to the historical way that they have been drafted, and
10:12:25 13 there's been a push for the members to start drafting
10:12:28 14 papers and facilitating them to the Secretary of State's
10:12:33 15 for review.

10:12:35 16 Q. Okay. And so, for example, my understanding
10:12:37 17 from the review of the documents is that there is
10:12:40 18 currently an issue paper that has been drafted. I'm not
10:12:44 19 sure if it's been adopted yet, and we'll get to that,
10:12:47 20 about the new juror questionnaire process; is that
10:12:52 21 correct?

10:12:52 22 MS. STUART: Form.

10:12:54 23 BY MS. LANG:

10:12:54 24 Q. Is there currently an issue paper in
10:12:58 25 development on the new juror questionnaire process?

10:13:03 1 A. There was a draft that has since been revoked.
10:13:08 2 So there is not a draft any longer available to the
10:13:13 3 counties.

10:13:14 4 Q. Okay. Who produced that draft before it was
10:13:22 5 revoked?

10:13:23 6 MS. STUART: Form.

10:13:26 7 BY MS. LANG:

10:13:27 8 Q. Your understanding.

10:13:27 9 And to be clear, if I don't rephrase after
10:13:30 10 there's a form objection, you can go ahead and answer.

10:13:32 11 A. Okay. Colleen Connor is the state elections
10:13:37 12 director.

10:13:39 13 Q. Do you know, was it communicated to you why
10:13:44 14 that draft paper was being revoked?

10:13:48 15 A. Yes.

10:13:49 16 Q. And what was the reason given for the
10:13:51 17 revocation of the draft?

10:13:53 18 A. That the cases were being litigated and the
10:13:57 19 Secretary of State's Office did not want to provide
10:13:59 20 guidance at that point.

10:14:01 21 Q. Okay. What is the role -- well, what is your
10:14:18 22 understanding of what the Arizona Association of
10:14:21 23 Counties is?

10:14:23 24 A. So the Arizona Association of Counties
10:14:28 25 basically works with the county election directors, as

10:14:34 1 well as the County Recorders. They're an advocate, help
10:14:38 2 especially with new litigation and legislation.

10:14:45 3 Q. And what is Maricopa County -- what is the
10:14:49 4 Maricopa County Recorder's involvement with the Arizona
10:14:55 5 Association of Counties?

10:14:55 6 A. So they have affiliate meetings at conferences,
10:15:00 7 and when the Recorders are thinking about proposing new
10:15:04 8 laws, they work with the Association of Counties to
10:15:09 9 propose those.

10:15:11 10 Q. Would it be fair to say that the Arizona
10:15:14 11 Association of Counties often works as a lobbyist in
10:15:19 12 favor or against various election laws based on the
10:15:24 13 views of the counties?

10:15:24 14 MR. O'CONNOR: Form.

10:15:25 15 MS. STUART: Form.

10:15:25 16 BY MS. LANG:

10:15:26 17 Q. Go ahead.

10:15:26 18 A. Yes.

10:15:30 19 Q. Okay. And my understanding is that Recorder
10:15:33 20 Richer is on the legislative committee for the Arizona
10:15:36 21 Association of Counties; is that correct?

10:15:38 22 A. I don't know.

10:15:42 23 Q. Okay. Do you know what the Arizona Association
10:15:45 24 of Counties' position was on the challenged laws in this
10:15:48 25 case?

10:15:49 1 A. I don't recall.

10:15:54 2 Q. Okay. When the legislature is in session and

10:16:03 3 considering election laws, who within the Arizona

10:16:10 4 Association of Counties works on that legislation in

10:16:19 5 collaboration with the counties?

10:16:20 6 MR. O'CONNOR: Form.

10:16:24 7 THE WITNESS: I can't remember her name

10:16:26 8 off the top of my head right now.

10:16:28 9 BY MS. LANG:

10:16:29 10 Q. Okay. Is there a dedicated person at the

10:16:31 11 Arizona Association of Counties that serves a primary

10:16:35 12 role in communicating about current legislation?

10:16:40 13 A. Yes.

10:16:41 14 Q. Okay. And you just can't recall her name at

10:16:44 15 the moment?

10:16:45 16 A. It just -- it's gone, yeah.

10:16:48 17 Q. Fair enough.

10:16:48 18 And what type of communications do you receive

10:16:51 19 from the Arizona Association of Counties about pending

10:16:55 20 legislation during the legislative session?

10:16:59 21 A. So I don't.

10:17:00 22 Q. Okay. Would that be communication that would

10:17:12 23 go to the County Recorder himself?

10:17:15 24 A. Yes.

10:17:18 25 Q. Okay. Are you ever asked to provide input on

10:17:22 1 pending legislation to help form the Arizona Association
10:17:30 2 of Counties' position?

10:17:31 3 A. Yes.

10:17:34 4 Q. Okay. And what does that process look like?

10:17:38 5 A. So the proposed new legislation would be
10:17:42 6 provided to me for review and input, and I would review
10:17:46 7 it based upon my current knowledge; and, also, if it
10:17:50 8 would change the functionality of the system, how that
10:17:55 9 could potentially impact us.

10:17:58 10 Q. Okay.

10:18:02 11 A. Oh, I remember her name, Jen Marson. There it
10:18:05 12 is.

10:18:05 13 Q. Thank you very much.

10:18:10 14 And what is the AVID enhancement committee?

10:18:14 15 A. It's the access voter information database.
10:18:20 16 It's a committee that is set up by the AVID steering
10:18:23 17 committee, and they discuss any new enhancements to the
10:18:27 18 statewide system.

10:18:28 19 Q. And when you say enhancements, is enhancements
10:18:33 20 a term for any kind of modification or change to the
10:18:36 21 system?

10:18:38 22 A. Yes.

10:18:41 23 Q. Okay. And what is your role on that committee?

10:18:44 24 A. I am the co-chair.

10:18:46 25 Q. Okay. And who is your co-chair?

10:18:49 1 A. Holly Robinson.

10:18:50 2 Q. Okay. And she's with what office?

10:18:53 3 A. Pinal County Recorder.

10:18:57 4 Q. Got it.

10:19:02 5 And who or what is I-N-E-X-L, INEXL?

10:19:08 6 A. INEXL is the vendor for the statewide voter

10:19:14 7 registration system.

10:19:14 8 Q. Okay. So we've gone over a number of different

10:19:21 9 committees and ways in which the County Recorders and

10:19:25 10 the Secretary of State work together. Are there any

10:19:27 11 other means of collaborating and communicating with the

10:19:32 12 Secretary of State and fellow County Recorders about

10:19:36 13 voter registration that we have not discussed?

10:19:39 14 A. There is a superusers meeting every week with

10:19:44 15 the counties, most specifically voter registration

10:19:49 16 geared, just us, issues with the system or any updates

10:19:53 17 that we need to be aware of.

10:19:56 18 Q. Is there a listserv for communication between

10:19:59 19 the County Recorders and their voter registration staff?

10:20:03 20 A. Is there a list?

10:20:04 21 Q. A listserv or e-mail list or -- I'm just trying

10:20:08 22 to get at what other means of communication you all have

10:20:12 23 for sharing information and collaborating.

10:20:16 24 A. Yes, there's an e-mail list that goes out to

10:20:19 25 all the superusers of the system.

10:20:21 1 Q. And who would fall within the category of
10:20:25 2 superusers?

10:20:25 3 A. So these would be Chief Deputy Recorders,
10:20:31 4 people like registrar of voters, voter registration
10:20:35 5 directors.

10:20:43 6 Q. Okay. Next I'd like to walk through kind of
10:20:46 7 the voter registration process generally, how voters can
10:20:48 8 register to vote.

10:20:50 9 So what are the various methods that a
10:20:52 10 potential voter can use to register to vote?

10:20:54 11 A. There's the paper forms, the state form, the
10:20:58 12 national form. We have online registration through MVD.
10:21:02 13 We have the FPCAs for UOCAVA registration.

10:21:10 14 Q. And also federal write-in absentee ballots; is
10:21:15 15 that correct?

10:21:15 16 A. Yes, FWAB, yes.

10:21:19 17 Q. And getting into the online system, my
10:21:26 18 understanding is that there's kind of two different ways
10:21:28 19 that someone can register to vote online; is that
10:21:32 20 correct?

10:21:32 21 A. There's currently two different systems.

10:21:35 22 Q. Okay. Can you describe those two systems to
10:21:36 23 me?

10:21:37 24 A. So the first one would be Service Arizona. The
10:21:41 25 person can just go online specifically for voter

10:21:44 1 registration. And then there's also a program called
10:21:47 2 MVD Now, which would be somebody that's going to have an
10:21:51 3 MVD transaction and then also updates or registers to
10:21:54 4 vote during that process.

10:21:55 5 Q. Okay. And just for the record, MVD refers to
10:22:01 6 the Motor Vehicles Division, correct?

10:22:03 7 A. Yes.

10:22:07 8 Q. Okay. In addition to the methods we've just
10:22:09 9 discussed, can voters register to vote when they have an
10:22:13 10 in person interaction at the Motor Vehicles Division?

10:22:16 11 A. Yes.

10:22:20 12 Q. Okay. And is it the case that other agencies
10:22:24 13 within the state of Arizona also administer voter
10:22:29 14 registration?

10:22:29 15 A. Yes.

10:22:30 16 Q. And what are those agencies?

10:22:32 17 A. It would be our public assistance agencies;
10:22:37 18 DES, also AHCCCS.

10:22:44 19 Q. Okay. And what is the deadline for voter
10:22:48 20 registration in Arizona?

10:22:50 21 A. 29 days before an election.

10:22:55 22 Q. And can you walk me through the overall process
10:23:00 23 when the Recorder's Office receives a voter registration
10:23:04 24 application? And for the purposes of this discussion we
10:23:07 25 can assume that application is a paper form.

10:23:11 1 A. Okay. So the form would be received in our
10:23:13 2 office. It would go through a process to make sure that
10:23:18 3 it's complete. It gets scanned in, and then those scans
10:23:24 4 are processed in the system. The data entry is done.

10:23:29 5 Then it would go through a process of making
10:23:33 6 sure there's not a duplicate match in the current
10:23:37 7 system. If there was, then that voter registration
10:23:40 8 would be used to update. If there was not, then a new
10:23:43 9 record would be created.

10:23:44 10 From there a variety of different checks are
10:23:47 11 done. We check the deceased tables to see if the person
10:23:53 12 has already been listed as deceased. It would then go
10:23:56 13 through MVD for validation, if there was an Arizona
10:23:59 14 driver's license or identification number that was
10:24:01 15 provided or SSN.

10:24:06 16 And then from there, whatever the determination
10:24:07 17 would be. As long as there was no other deficiencies in
10:24:13 18 the form, the voter would be added to the rolls as
10:24:17 19 either a full ballot voter or federal only voter.

10:24:19 20 Q. Okay. Thank you.

10:24:19 21 For the data entry piece, is that done
10:24:22 22 manually?

10:24:23 23 A. Yes.

10:24:23 24 Q. Okay. So somebody looks at the application and
10:24:28 25 types in the name and the date of birth and all that?

10:24:30 1 A. Yes.

10:24:30 2 Q. Okay. And you mentioned the MVD check. What
10:24:43 3 is your understanding of how that MVD check occurs, and
10:24:45 4 what do you kind of see in your interface after that MVD
10:24:51 5 check occurs?

10:24:52 6 MR. O'CONNOR: Form.

10:24:55 7 BY MS. LANG:

10:24:55 8 Q. Go ahead.

10:24:56 9 A. So there's an interface that Maricopa County's
10:25:00 10 voter registration system ties into AVID, which then has
10:25:03 11 the interface with MVD. So when we send a transaction
10:25:06 12 up, we'll get a notification back, either there was a
10:25:08 13 match or there wasn't a match or there could be soft
10:25:13 14 matches.

10:25:13 15 And so from the signature, the date of birth,
10:25:16 16 other information, we would need to determine is this
10:25:19 17 the same person if it did not hard match with somebody
10:25:22 18 or do we not have enough information to make that
10:25:25 19 determination in a match with what MVD has provided.

10:25:29 20 If it is a match, then we would acquire and
10:25:31 21 validate that voter as a full ballot voter. In the case
10:25:34 22 where MVD comes back and says that there isn't a match,
10:25:37 23 then we would -- as long as it's not like a foreign-type
10:25:41 24 license where MVD is telling us that this person is
10:25:43 25 listed as a noncitizen in their database, that person

10:25:48 1 would be added to the rolls as a federal only, but we
10:25:50 2 would send them a notification asking them, like we
10:25:52 3 added you to the rolls, but if you want to be a full
10:25:54 4 ballot voter, you need to provide documentary proof of
10:25:59 5 citizenship.

10:25:59 6 But if we had a hit that said that's not a
10:26:01 7 validation, it's a noncitizen, then we would not add
10:26:04 8 them to the rolls and we would send a letter out
10:26:06 9 asking -- letting them know what we found.

10:26:08 10 Q. Thank you. And we'll get into some of those
10:26:12 11 details in a little bit.

10:26:15 12 If somebody provides a social security number
10:26:18 13 or, rather, the last four digits of their social
10:26:22 14 security number instead of a driver's license or
10:26:25 15 identification number, how is that check done?

10:26:31 16 A. So first it would go to MVD. MVD would try to
10:26:35 17 see if they had any information that they could help
10:26:37 18 provide for that voter. If not, they would send it
10:26:39 19 through to SSN. If the SSN was able to validate the
10:26:43 20 last four, then they will send it back to us and let us
10:26:46 21 know. Now, that only proves your identity. That does
10:26:49 22 not prove your citizenship.

10:26:50 23 Q. Got it.

10:26:52 24 But it is MVD that does that check with the
10:26:56 25 social security database, correct?

10:26:59 1 A. They facilitate it.

10:27:00 2 Q. Okay. And your office is not involved directly
10:27:03 3 with the Social Security Administration or its database?

10:27:07 4 A. No.

10:27:10 5 Q. Okay. Thank you.

10:27:23 6 I apologize. I have most of these in order,
10:27:25 7 but then I added some at the last minute, so...

10:27:54 8 I noticed in some of the records that sometimes
10:28:02 9 a communication will be made to a voter registration
10:28:05 10 application that there was an issue with their
10:28:08 11 signature, that it did not match; is that correct?

10:28:11 12 A. Yes.

10:28:12 13 Q. Okay. Can you explain to me what
10:28:14 14 signature matching is done at the voter registration
10:28:20 15 stage?

10:28:22 16 A. So it's one of the things that we do to help
10:28:26 17 maintain the integrity of a voter's record. So if we
10:28:30 18 have an existing voter in the system and we have
10:28:33 19 multiple registrations where they have a signature that
10:28:37 20 we have seen, we're familiar with, it's in their
10:28:39 21 database, and then all of a sudden we get a new form and
10:28:42 22 potentially the date of birth is transposed and the
10:28:45 23 signature looks nothing like it did in the prior years,
10:28:48 24 it kind of just raises a red flag with us. Then we
10:28:52 25 would contact the voter and make sure that they actually

10:28:55 1 submitted that registration form. We would not reject
10:28:58 2 the form based on that. It's just one of those things
10:29:00 3 that we do as part of best practices.

10:29:06 4 Q. Okay. I think I understand. So, for example,
10:29:12 5 if a voter is registering for the very first time, there
10:29:18 6 is not a signature match process for processing that
10:29:22 7 voter registration application; is that correct?

10:29:23 8 A. That would be correct.

10:29:25 9 Q. Okay. But if you receive an application that
10:29:30 10 has a match to the preexisting database, but there's a
10:29:35 11 signature mismatch, that's when you might elevate that
10:29:37 12 and communicate with the voter; is that correct?

10:29:39 13 A. That would be correct.

10:29:42 14 Q. In that circumstance where you identify a
10:29:44 15 signature mismatch, what are the steps that your office
10:29:48 16 takes?

10:29:49 17 A. It could be a variety. It depends, a
10:29:52 18 case-by-case basis. If we have a phone number, we would
10:29:54 19 call the voter. If we have an e-mail, we may e-mail
10:29:57 20 them. If there's no way to get ahold of them, we would
10:29:59 21 send a letter out requesting information.

10:30:02 22 Q. Okay. I'll mark as Exhibit 8 a document
10:30:12 23 labeled MC 000870.

10:30:20 24 (Deposition Exhibit 8 was marked for
10:30:22 25 identification.)

10:30:22 1 BY MS. LANG:

10:30:22 2 Q. And do you recognize this document?

10:30:24 3 A. Yes.

10:30:26 4 Q. And can you describe to me what this document
10:30:28 5 is?

10:30:29 6 A. So this is a document that was prepared by my
10:30:32 7 office that outlines suspended registrations, the
10:30:38 8 registration method, and then the reasons for suspense.

10:30:42 9 Q. And did your office create this document in
10:30:45 10 order to respond to requests from this litigation?

10:30:49 11 A. Yes.

10:30:52 12 Q. Okay. And referring to the suspended reasons
10:30:57 13 at the bottom here, where it says signature does not
10:31:00 14 match/missing signature, when there is a signature does
10:31:08 15 not match, rather than missing signature, does that
10:31:11 16 voter get put into a suspense category?

10:31:15 17 A. Yes.

10:31:16 18 Q. Okay. And what does that suspense category
10:31:19 19 mean for that voter's ability to participate in an
10:31:23 20 upcoming election?

10:31:25 21 A. It just means that we're waiting for
10:31:27 22 validation. In most cases it's a missing signature.
10:31:31 23 Now, if they provide the information, they will be
10:31:37 24 registered as of the date that they signed the form.

10:31:41 25 Q. Putting aside missing signature, which I

10:31:43 1 understand to be different, for signature does not match
10:31:47 2 suspense, what happens if a voter never responds to your
10:31:53 3 correspondence? What happens to their status?

10:31:57 4 A. They're -- if they're an existing voter, they
10:32:01 5 stay active with their record, and it's just the form
10:32:04 6 itself that is in suspense. So if they changed their
10:32:08 7 party or if they changed their address, that potentially
10:32:11 8 wouldn't be updated until we get validation from them,
10:32:14 9 but they're still an active registered voter.

10:32:18 10 Q. But, for example, if that new form had provided
10:32:20 11 a new address, they will not be -- they will not be
10:32:26 12 registered at that new address; is that correct?

10:32:28 13 A. Yes.

10:32:28 14 Q. Okay. And you mentioned that this category of
10:32:35 15 signature does not match/missing signature, I think you
10:32:41 16 mentioned that a large quantity of the individuals noted
10:32:44 17 here are missing signature; is that right?

10:32:47 18 A. I would say so.

10:32:48 19 Q. Okay. In the database, is there a way of
10:32:52 20 differentiating between signature does not match and
10:32:55 21 missing signature?

10:32:57 22 A. No.

10:33:00 23 Q. Okay.

10:33:00 24 A. It's just signature issue.

10:33:12 25 Q. Okay. While we're looking at this document, I

10:33:15 1 have a few other questions that are a little out of
10:33:17 2 order, but so as to not have to return to it. The top
10:33:21 3 of the document says that statistics in this section
10:33:24 4 include registration forms received between January 1,
10:33:31 5 2004 and January 24, 2023.

10:33:40 6 I guess one thing I'm trying to understand from
10:33:43 7 those numbers is, are these numbers -- hmm. How do I
10:33:51 8 phrase this question?

10:33:53 9 Perhaps I'll start with an example. For total
10:33:59 10 federal forms suspended, is it the case that there are
10:34:04 11 8,509 federal forms that were currently suspended as of
10:34:09 12 January 1-24-2023? Is that what this number indicates?

10:34:15 13 A. Yes.

10:34:17 14 Q. So there may have been other federal forms that
10:34:20 15 were suspended previously, but have been released from
10:34:24 16 suspense, correct?

10:34:25 17 A. Yes.

10:34:25 18 Q. All right. So these are the numbers of kind of
10:34:28 19 how many voters were in these categories as of the date
10:34:32 20 of this data pull; is that correct?

10:34:34 21 A. Yes.

10:34:35 22 Q. All right. Great.

10:34:53 23 You discussed what happens if a voter
10:34:56 24 registration application is approved. Can you describe
10:34:59 25 some of the reasons why a voter registration application

10:35:04 1 would not be approved?

10:35:07 2 A. So we wouldn't use approved. It would just be
10:35:10 3 processed. So we process all registrations. A reason
10:35:15 4 why the form may not be able to be fully processed is
10:35:19 5 there's an invalid address, there's missing information,
10:35:22 6 there's no date of birth, the name is not -- it's not
10:35:25 7 legible, the address maybe isn't legible, there's no
10:35:29 8 signature.

10:35:31 9 Q. Okay. And I saw in some of your responses some
10:35:35 10 language that said that the Maricopa County Recorder's
10:35:38 11 Office does not reject voter registration applications.
10:35:42 12 Can you explain what you mean by that?

10:35:45 13 A. What I mean is that we would not reject a form.
10:35:48 14 We always try to cure the forms. So if there's a
10:35:53 15 deficiency in the form, again, we would let the voter
10:35:56 16 know how they can cure it, but we would not say that we
10:35:59 17 rejected their application.

10:36:01 18 Q. Okay. Is there -- if at some point -- assuming
10:36:09 19 that a registration form could not be fully processed
10:36:12 20 because of one of the issues you identified and you
10:36:15 21 reach out to the voter to cure, is there a time at which
10:36:20 22 your office will not hold open that application any
10:36:29 23 longer?

10:36:31 24 A. There's actually a reference in the existing
10:36:34 25 procedures manual that says that we hold those until

10:36:37 1 after the next general election. If a voter has not
10:36:40 2 cured their registration before the general election,
10:36:45 3 then those would get -- they could not be cured and
10:36:48 4 revived. A voter would need to provide a brand-new
10:36:51 5 registration form.

10:36:52 6 Q. Okay. Okay. And what status -- what status
10:37:06 7 are those voters put into -- or scratch that.

10:37:10 8 What status are those applicants put into in
10:37:14 9 the database at that time when they can no longer cure
10:37:19 10 an error in the voter registration form?

10:37:21 11 A. So we would move them to like a dead end table,
10:37:24 12 and the status would just be dead ended or not eligible.

10:37:36 13 Q. Okay. So my understanding is that unlike some
10:37:47 14 of the other counties, both Maricopa County and Pima
10:37:51 15 County have their own voter registration databases, but
10:37:54 16 then interface with the state voter registration
10:37:57 17 database. Is that correct?

10:37:58 18 A. Yes.

10:38:01 19 Q. Okay. And what do you refer to your internal
10:38:05 20 system as?

10:38:08 21 A. VRAZ.

10:38:09 22 Q. VRAZ?

10:38:16 23 And in reviewing your interrogatory responses,
10:38:19 24 the system that Maricopa County uses was described as,
10:38:24 25 quote, developed and maintained by the county. Who

10:38:31 1 develops and maintains this database?

10:38:34 2 A. So I'm not quite sure who initially developed
10:38:37 3 it. It's very old. But it's overseen and managed by
10:38:41 4 the IT division.

10:38:45 5 Q. Okay. And do you know how old it is?

10:38:51 6 A. Decades.

10:38:59 7 Q. Are there any vendors that you work with in
10:39:03 8 maintaining the system, or is it all done internally?

10:39:06 9 A. Internal.

10:39:43 10 Q. If you can return to the election procedures
10:39:45 11 manual and turn to Page 16 of the manual, which is
10:39:50 12 labeled MC 000030.

10:40:02 13 There's a section labeled statewide voter
10:40:06 14 registration database, and I wanted to look at two
10:40:10 15 sentences here at about halfway down the paragraph that
10:40:14 16 says, "To the extent it is necessary for Maricopa and
10:40:18 17 Pima to use different terms, codes, and classifications,
10:40:21 18 they must correspond to the terms, codes, and
10:40:23 19 classifications in the state system."

10:40:26 20 Do you see that?

10:40:26 21 A. Yes.

10:40:28 22 Q. Are there places where the terms, codes and
10:40:33 23 classifications for VRZ differ from AVID?

10:40:37 24 A. Yes.

10:40:38 25 Q. Okay. Can you provide some examples?

10:40:42 1 A. Sure. In the Maricopa system, when a voter
10:40:46 2 goes inactive, it's referred to as deactive. So it
10:40:51 3 would be coded through the interface to show inactive at
10:40:55 4 the state level.

10:40:58 5 Q. Okay. Any others?

10:41:02 6 A. Some of our status reasons might be slightly
10:41:08 7 different, but they are coded to match with the state's.

10:41:13 8 Q. Okay. And the next sentence here says that
10:41:16 9 Maricopa and Pima County must file a detailed and
10:41:19 10 complete explanation of their voter registration system
10:41:21 11 or program and any subsequent revisions with the
10:41:25 12 Secretary of State.

10:41:26 13 Do you see that?

10:41:26 14 A. Yes.

10:41:27 15 Q. Okay. And have you done that; has your office
10:41:30 16 done that?

10:41:31 17 A. No. It might have been done prior to me, when
10:41:35 18 the systems were initially done, but I have not provided
10:41:41 19 that. We haven't had huge revisions for the system.

10:41:45 20 Q. Okay. Are you aware of the existence of any
10:41:50 21 document that outlines the kind of ways in which codes
10:41:55 22 from VRAZ are matched to codes for AVID; for example,
10:42:05 23 deactive to inactive?

10:42:06 24 A. I do not know of any documentation.

10:42:12 25 Q. And if there were any change or revision to

10:42:18 1 VRAZ and its coding, how would you communicate that to
10:42:23 2 the Secretary of State's Office?

10:42:25 3 A. So we meet with the Secretary of State's
10:42:28 4 representatives, as well as INEXL, the vendor for AVID,
10:42:33 5 on a regular basis to talk about the interfaces and any
10:42:35 6 changes that need to be made to functionality.

10:42:38 7 Q. Okay. So your office provided us a few
10:42:52 8 different spreadsheets for different categories of
10:43:01 9 potential voters that are not active. In particular,
10:43:06 10 there were three spreadsheets provided, one labeled
10:43:10 11 canceled, another labeled dead end, and another labeled
10:43:13 12 suspense.

10:43:14 13 Can you walk me through what each of those
10:43:18 14 categories means, canceled, dead end, and suspense?

10:43:23 15 A. Yes. So canceled would be a voter that was
10:43:28 16 active at some point and now their registration has been
10:43:31 17 canceled, whether that's because of felony conviction,
10:43:34 18 death, through the NVRA process for reg ver process, or
10:43:41 19 they were adjudicated incapacitated and lost their right
10:43:44 20 to vote, they moved, they requested their voter record
10:43:48 21 to be canceled.

10:43:51 22 Suspense, again, that means that there was
10:43:53 23 something lacking in the voter registration form that
10:43:56 24 didn't allow us to fully process it and so they have
10:44:00 25 been put in a suspense status. Could be a variety of

10:44:04 1 different reasons; ineligible form, missing information,
10:44:09 2 we weren't able to pinpoint their address location.

10:44:11 3 And then dead end would be those registrations
10:44:13 4 that could not be revived.

10:44:25 5 Q. And one of the status reasons that I saw in
10:44:27 6 that spreadsheet for canceled, which is MC 979, one of
10:44:35 7 the status reasons said reg verification.

10:44:39 8 Can you tell me when that status reason would
10:44:45 9 be used for a canceled voter?

10:44:47 10 A. So that means that one piece of election mail
10:44:51 11 came back. Then a final notice was sent to either the
10:44:55 12 forwarding address provided by USPS or to the same
10:44:58 13 address that we have on file if a forwarding address was
10:45:01 14 not provided. The person was given 35 days to contact
10:45:04 15 us or re-register, and they didn't, so then they would
10:45:07 16 move to inactive status. They would stay in inactive
10:45:10 17 status for two federal cycles. And if we did not hear
10:45:12 18 from them and they did not vote, then their record would
10:45:16 19 be canceled for reg ver.

10:45:18 20 Q. Okay. And in that spreadsheet I saw 19
10:45:22 21 canceled entries for noncitizenship. Can you describe
10:45:31 22 to me the reasons why someone might be canceled for
10:45:36 23 noncitizenship?

10:45:37 24 A. So we would have received information that the
10:45:40 25 voter was a noncitizen, either by them telling us I'm

10:45:44 1 not a citizen or through notification from a jury duty
10:45:50 2 office questionnaire, where they have self-reported that
10:45:52 3 they are a noncitizen.

10:45:55 4 Q. Are those the only -- putting aside the new
10:45:59 5 laws, are those the only reasons you're aware of that
10:46:04 6 someone might be canceled due to noncitizenship?

10:46:07 7 A. Yes.

10:46:14 8 Q. Okay. So in the dead end spreadsheet there
10:46:38 9 were 266 records where the status reason for dead end
10:46:43 10 was voter must be a citizen, and what would be the
10:46:46 11 reasons why someone would end up in the dead end
10:46:49 12 category with a status reason of voter must be a
10:46:52 13 citizen?

10:46:53 14 A. So this would be the case in which we received
10:46:56 15 information that told us that the voter was a
10:46:58 16 noncitizen. Either a validation from SAVE, Homeland
10:47:03 17 Security, to validate alien registration numbers came
10:47:06 18 back and said that the person was a noncitizen or we got
10:47:08 19 a hit from MVD that indicated that the driver's license
10:47:11 20 was a foreign. And then we've sent them a letter and we
10:47:15 21 waited for a response or some kind of documentary proof
10:47:18 22 of citizenship, and it was never received.

10:47:20 23 Q. Okay. And after the next general election
10:47:23 24 those are moved from suspense to dead end; is that
10:47:25 25 correct?

10:47:25 1 A. Yes.

10:47:26 2 Q. Okay. Putting aside the new laws, are there

10:47:34 3 any other ways in which you would receive information

10:47:39 4 through the voter registration process that someone was

10:47:42 5 not a citizen other than from SAVE or MVD?

10:47:46 6 A. Or through a jury duty questionnaire form from

10:47:48 7 the courts.

10:47:53 8 Q. Okay. And I think that you've kind of answered

10:48:08 9 this at this point in time, but where there is a status

10:48:14 10 reason under suspense for voter must be a citizen, would

10:48:16 11 that be for the same reasons as it ends up in dead end,

10:48:20 12 but at a different point in the voter registration

10:48:22 13 process?

10:48:22 14 A. Yes.

10:48:23 15 Q. Okay. Returning to the document MC 870, which

10:48:43 16 was marked as Exhibit --

10:48:45 17 A. 8?

10:48:47 18 MR. O'CONNOR: 8.

10:48:48 19 BY MS. LANG:

10:48:50 20 Q. -- 8, I see under suspended reasons noncitizen

10:48:55 21 confirmed and a number of 11,730. Can you describe to

10:49:01 22 me kind of what that category of noncitizen confirmed

10:49:07 23 means?

10:49:08 24 A. So just means that we have received

10:49:11 25 information, either from the voter directly or from like

10:49:16 1 SAVE or MVD, that the person's listed as a noncitizen.

10:49:22 2 Q. So these are not people who just simply have

10:49:25 3 not provided documentary proof of citizenship, but,

10:49:29 4 rather, people for whom you've received some information

10:49:31 5 that suggests they are not a citizen; is that correct?

10:49:34 6 A. That is correct.

10:49:36 7 Q. And that information would come from MVD, SAVE,

10:49:39 8 or a jury questionnaire?

10:49:40 9 A. Yes, or from the voter directly themselves.

10:49:49 10 Q. Okay. And so we'll get into this a little bit

10:49:52 11 later, but where you say confirmed, that term is just

10:49:59 12 meant to indicate that you've received some information

10:50:03 13 from one of those sources saying that a person may not

10:50:06 14 be a citizen; is that right?

10:50:09 15 A. Saying that from the information that they're

10:50:12 16 saying -- that we are receiving, they are a noncitizen.

10:50:15 17 Q. Right. But is it the case that sometimes those

10:50:20 18 people are, in fact, citizens and that information is

10:50:28 19 either in error or outdated?

10:50:32 20 MR. O'CONNOR: Form.

10:50:35 21 THE WITNESS: That's a potential, yes.

10:50:35 22 BY MS. LANG:

10:50:38 23 Q. In your experience, are there some people who

10:50:40 24 come back from one of these sources of information

10:50:44 25 reported as a noncitizen that later provide documentary

10:50:47 1 proof of citizenship?

10:50:48 2 A. Yes.

10:50:51 3 Q. How frequently does that occur?

10:50:52 4 A. Not very frequently.

10:51:28 5 Q. So on Page 7 of the elections procedures

10:51:37 6 manual, under procedures for registrants with an F-type

10:51:43 7 license.

10:51:44 8 MR. O'CONNOR: Danielle, can you give us a
10:51:46 9 page number?

10:51:46 10 MS. LANG: Yes. It's Page 7 of the EPM
10:51:49 11 and it's MC 000021.

10:52:01 12 BY MS. LANG:

10:52:01 13 Q. Do you see the section labeled procedures for
10:52:05 14 registrants with F-type licenses?

10:52:05 15 A. Yes.

10:52:06 16 Q. And what does F-type license refer to?

10:52:08 17 A. That means MVD has that particular person
10:52:11 18 registered with a foreign-type driver's license for
10:52:14 19 noncitizen.

10:52:14 20 Q. Indicating -- and does that indicate that at
10:52:18 21 the time the person received their license, they were
10:52:23 22 not a citizen at that time?

10:52:26 23 A. Yes.

10:52:30 24 Q. Okay. And for those individuals the EPM says
10:52:34 25 that you should enter the registrant's information into

10:52:37 1 the voter registration database with a status of not
10:52:40 2 eligible or functional equivalent and a reason code of
10:52:43 3 invalid citizenship proof or functional equivalent.

10:52:46 4 What is your functional equivalent for invalid
10:52:51 5 citizenship proof?

10:52:52 6 A. So we have not eligible and invalid citizenship
10:52:59 7 proof.

10:53:03 8 Q. Okay. And so where I saw voter must be a
10:53:06 9 citizen, is that -- is that the same or is that a
10:53:09 10 different code than invalid citizenship?

10:53:12 11 A. That's the header row for when we pull the
10:53:16 12 data, but it means the same thing. So that's like the
10:53:20 13 back-system code for when the data pulls are made, but
10:53:23 14 if you looked up the voter, it would say not eligible,
10:53:28 15 invalid proof of citizenship.

10:53:29 16 Q. Thank you. That's very helpful.

10:53:56 17 Does your office also track where any voter
10:54:02 18 registration application comes from, its source?

10:54:04 19 A. Yes.

10:54:05 20 Q. Okay. And I'll introduce as Exhibit 9 a
10:54:16 21 document labeled MC 0002810.

10:54:27 22 (Deposition Exhibit 9 was marked for
10:54:33 23 identification.)

10:54:33 24 BY MS. LANG:

10:54:33 25 Q. And the first page of this is an e-mail from

10:54:37 1 yourself that indicates that attached is the latest VRAC
10:54:44 2 paper, and if you'll see, the page labeled MC 002812 is
10:54:51 3 a VRAC issue paper on adopting uniform voter
10:54:56 4 registration form, how registered and source codes; do
10:55:00 5 you see that?

10:55:00 6 A. I do.

10:55:00 7 Q. Okay. And under number 2 there is a list of
10:55:08 8 codes and what they mean. Are these the codes that your
10:55:12 9 office uses for tracking the source of any voter
10:55:17 10 registration application?

10:55:17 11 A. Yes.

10:55:18 12 Q. Okay. So is it fair to say that your office
10:55:22 13 follows this issue paper as to how to track the source
10:55:26 14 and how registered of individuals that register?

10:55:30 15 A. Yes.

10:55:48 16 Q. You mentioned that your homegrown voter
10:55:51 17 registration database links directly with the statewide
10:55:55 18 voter registration database. Does that happen in real
10:55:57 19 time, daily, or by -- does that happen in real time?

10:56:04 20 A. Yes.

10:56:09 21 Q. Okay. And do you have any contract or
10:56:11 22 memorandum of understanding with the Secretary of
10:56:15 23 State's Office about governing how that interaction
10:56:18 24 takes place?

10:56:22 25 A. In the past there was an agreement with the

10:56:27 1 counties. I don't know if there is an existing
10:56:31 2 agreement today.

10:56:32 3 Q. Okay. Are you -- does Maricopa County provide
10:56:39 4 any financial support for the statewide voter
10:56:43 5 registration database?

10:56:44 6 A. Yes.

10:56:48 7 Q. Do you know what agreement governs the kind of
10:56:51 8 financial contribution that the Maricopa County makes to
10:56:53 9 the AVID database?

10:56:56 10 A. I can speak to my time at the Secretary of
10:56:59 11 State's Office, in that there was an AVID steering
10:57:01 12 committee and they would vote what the distribution of
10:57:07 13 cost should be for the statewide system.

10:57:09 14 Q. Okay. And based on your knowledge from your
10:57:13 15 time at the Secretary of State's Office, how are those
10:57:20 16 costs kind of divvied up across the counties?

10:57:22 17 A. By the number of registered voters by a
10:57:25 18 particular deadline.

10:57:28 19 Q. Okay. Are you aware if that's still currently
10:57:30 20 the system for cost distribution?

10:57:33 21 A. It's my belief that it is.

10:57:43 22 Q. Okay. I'm going to keep trucking on here, but
10:57:45 23 if at any point you want to take a break or if anybody
10:57:49 24 else wants to take a break --

10:57:49 25 A. I'm okay.

10:57:51 1 Q. -- please do raise your hand and let me know.
10:57:54 2 I'm cognizant that we've been going for about an hour
10:57:57 3 and a half.

10:57:57 4 A. I'm okay.

10:57:59 5 Q. All right. So getting into some more of the
10:58:01 6 specifics about documentary proof of citizenship,
10:58:07 7 Arizona has a documentary proof of citizenship
10:58:10 8 requirement for new voter registration applications in
10:58:14 9 order to be a full ballot voter, correct?

10:58:17 10 MS. STUART: Form.

10:58:18 11 THE WITNESS: Yes.

10:58:18 12 BY MS. LANG:

10:58:20 13 Q. All right. And I'm going to refer to that as
10:58:21 14 the DPOC requirement. If I say that, will you
10:58:25 15 understand what I mean?

10:58:26 16 A. Yes.

10:58:26 17 Q. Okay. Do you know when the DPOC requirement
10:58:35 18 first went into effect?

10:58:38 19 A. There -- 20 -- 2000.

10:58:43 20 Q. In or around the 2000s?

10:58:45 21 A. 2000s, yeah.

10:58:47 22 Q. Okay. Were you working in voter registration
10:58:50 23 at the time that it went into effect?

10:58:54 24 A. No.

10:59:06 25 Q. Okay. We'll get into the kind of federal only

10:59:08 1 process in a moment, but first I want to just review one
10:59:12 2 of the ways in which folks can satisfy the DPOC
10:59:16 3 requirement in order to become a full ballot voter.

10:59:21 4 My understanding is that the first way is by
10:59:25 5 providing a driver's license or a nondriver
10:59:29 6 identification number from Arizona MVD; is that correct?

10:59:34 7 MS. STUART: Form.

10:59:35 8 THE WITNESS: Yes.

10:59:36 9 BY MS. LANG:

10:59:36 10 Q. Okay. Is that the most common way in which
10:59:39 11 voters satisfy the DPOC requirement?

10:59:42 12 A. Yes.

10:59:44 13 Q. Okay. And how -- you've talked about this a
10:59:47 14 little bit already, but how does that process for DPOC
10:59:53 15 verification work when a voter just provides a driver's
10:59:58 16 license or nondriver's license ID number?

11:00:03 17 A. That driver's license or ID number is entered
11:00:06 18 into the voter registration system, and it is then
11:00:10 19 pushed up the interface to AVID and then to MVD for
11:00:14 20 validation.

11:00:15 21 Q. Okay.

11:00:17 22 MS. LANG: In the future I'm just going to
11:00:18 23 say driver's license number, but can we all understand
11:00:21 24 that that would include any MVD number that is provided?

11:00:21 25 MR. O'CONNOR: That's fine.

11:00:26 1 MS. LANG: Everyone okay with that?

11:00:29 2 MR. O'CONNOR: Yeah.

11:00:30 3 MS. LANG: Okay. Just trying to cut down

11:00:31 4 on the number of words.

11:00:31 5 BY MS. LANG:

11:00:34 6 Q. So if the driver's license number goes up to

11:00:40 7 AVID and then it goes up to MVD, and then you get a

11:00:43 8 return on that verification; is that correct?

11:00:47 9 A. Yes.

11:00:48 10 Q. And what are kind of the options for the

11:00:54 11 responses you might get from MVD as to that

11:00:58 12 verification?

11:00:59 13 A. It's either a valid match or it's not.

11:01:04 14 Q. Okay. And so if it's a valid match, that

11:01:07 15 satisfies the DPOC requirement and the voter is

11:01:10 16 registered, is that -- as a full ballot voter, assuming

11:01:14 17 all other parts of the voter registration application

11:01:17 18 are complete and accurate?

11:01:18 19 MS. STUART: Form.

11:01:19 20 THE WITNESS: And assuming that it doesn't

11:01:20 21 come back as a match with a foreign-issued license.

11:01:25 22 BY MS. LANG:

11:01:25 23 Q. Okay. Thank you.

11:01:26 24 So it comes back as either a match or not a

11:01:28 25 match?

11:01:29 1

A. Yes.

11:01:30 2

11:01:33 3

Q. Okay. And then within the category of match, what are the different pieces of information you might get for those who do match with the MVD database?

11:01:37 4

11:01:41 5

A. It will either say it's verified or it will say like Type F, you know, noncitizen.

11:01:44 6

11:01:49 7

11:01:52 8

11:01:58 9

Q. Okay. And my understanding is that after 2020 it's changed from F-Type to some other indicator; is that correct?

11:01:58 10

11:02:01 11

11:02:05 12

11:02:12 13

11:02:15 14

A. I think -- yes. We still refer to it as the Type F, but there is another, I think -- I forget what the new code is, but it's a Type 4 from MVD is all valid. Anything other than a Type 4 would be nonvalid for citizenship.

11:02:18 15

11:02:20 16

Q. Okay. And as shorthand, do you still tend to use the phrase F-Type?

11:02:22 17

A. Yes.

11:02:22 18

11:02:27 19

11:02:31 20

Q. Okay. I will adopt that as well, and if there's anywhere where we require to dig in any deeper, we can do that.

11:02:32 21

11:02:38 22

11:02:42 23

So if it comes back as a match and it's Type 4, it's not F-Type, the voter becomes a full valid voter; is that correct?

11:02:42 24

A. Assuming there's no other deficiencies, yes.

11:02:44 25

Q. Okay. If the match comes back --

11:02:52 1 MR. O'CONNOR: Hold on one second. The
11:02:54 2 Zoom went down.

11:03:01 3 THE VIDEOGRAPHER: Counsel, would you like
11:03:02 4 to go off the record?

11:03:03 5 MS. LANG: Yes.

11:03:04 6 THE VIDEOGRAPHER: We are off the record.
11:03:05 7 The time on the video monitor is 11:03 a.m. This ends
11:03:08 8 Media 1.

11:12:54 9 (A recess was taken.)

11:14:04 10 THE VIDEOGRAPHER: We are on the record.
11:14:05 11 The time on the video monitor is 11:14 a.m. This begins
11:14:08 12 Media 2.

11:14:10 13 BY MS. LANG:

11:14:10 14 Q. Okay. So when we went off the record, we had
11:14:14 15 kind of discussed what happens if the MVD match comes up
11:14:17 16 back as both a match and one that is verified for
11:14:21 17 citizenship. And so now I want to go on to the other
11:14:24 18 options that might happen from that MVD check.

11:14:29 19 What are the circumstances under which you
11:14:31 20 would get no match?

11:14:34 21 A. So maybe they transposed their driver's
11:14:36 22 license. It wasn't the correct number. It's an expired
11:14:40 23 license. So there wouldn't be a match and we would have
11:14:44 24 no DPOC. So we would add that voter to the rolls as
11:14:49 25 federal only and send them out a letter letting them

11:14:52 1 know they have been added to the rolls as federal only
11:14:55 2 and how they can cure the registration to become a full
11:15:00 3 ballot voter.

11:15:00 4 Q. Okay. Another option is that it comes back as
11:15:10 5 a true match and it comes back as either an F-Type
11:15:16 6 license or some sort of indicator that the person was
11:15:22 7 not a citizen when they received their driver's license,
11:15:26 8 correct?

11:15:26 9 A. Yes.

11:15:30 10 Q. And what happens to those folks?

11:15:36 11 A. So they would be put on a not eligible status
11:15:40 12 and they would get a letter sent out to them saying that
11:15:42 13 we were unable to add them to the rolls, that we need
11:15:46 14 DPOC in order to process the registration.

11:15:50 15 Q. Okay. And is that status of not eligible used
11:15:55 16 for any reason other than invalid citizenship?

11:16:03 17 A. I don't believe so.

11:16:05 18 Q. Okay. Now, as far as the information that
11:16:09 19 you're getting from MVD, the only information that MVD
11:16:13 20 has is the information about the citizenship status of
11:16:18 21 that person at the time that they interacted with MVD;
11:16:22 22 is that correct?

11:16:22 23 MS. STUART: Form.

11:16:24 24 MS. BOUGHTON: Form.

11:16:25 25 THE WITNESS: It's my understanding that's

11:16:28 1 correct, but I don't work for MVD.

11:16:31 2 BY MS. LANG:

11:16:32 3 Q. Okay. Do you know how long Arizona IDs are
11:16:36 4 valid for?

11:16:39 5 A. I want to say over ten years.

11:16:41 6 Q. Okay. And is it possible, based on your
11:16:48 7 experience, that someone will come back as indicating an
11:16:52 8 F-Type license, but they have naturalized and become a
11:17:00 9 citizen after getting their driver's license?

11:17:04 10 A. That's possible.

11:17:06 11 Q. And have you encountered that in cases where
11:17:09 12 you send out a notice to the voter and they come back
11:17:13 13 with documentary proof of citizenship that shows they
11:17:17 14 naturalized after they received their driver's license?

11:17:20 15 A. Yes.

11:17:22 16 Q. And if you know, which you may not, are people
11:17:28 17 required to update their citizenship status with MVD if
11:17:33 18 they change from, say, legal permanent resident to
11:17:37 19 naturalized citizen?

11:17:39 20 A. I do not know if that's a requirement.

11:17:47 21 Q. Okay. I'm going to mark as Exhibit 10 a
11:17:54 22 document that is interrogatory responses from the
11:18:00 23 Arizona Department of Transportation.

11:18:09 24 (Deposition Exhibit 10 was marked for
11:18:22 25 identification.)

11:18:22 1 BY MS. LANG:

11:18:23 2 Q. I've been asked to give a little bit more time
11:18:26 3 after introductions of exhibits for everyone to locate
11:18:29 4 them, so if that explains my pause.

11:18:36 5 Oh, and I'll add, I was also asked if you could
11:18:38 6 raise your voice even a little bit more.

11:18:40 7 A. Okay.

11:18:40 8 Q. Because these fans are loud.

11:18:49 9 Okay, I think it's resolved.

11:18:54 10 Okay. So I wanted -- I don't imagine that you
11:18:57 11 have seen this document before. Have you?

11:18:58 12 A. I have not.

11:18:59 13 Q. Okay. But I will represent to you that these
11:19:01 14 were responses to interrogatories received from the
11:19:04 15 Department of Transportation, and I just wanted to go
11:19:07 16 over with you their response to interrogatory number 4
11:19:11 17 to see if it kind of matches your understanding of the
11:19:15 18 MVD process.

11:19:18 19 So interrogatory number 4 asks them to describe
11:19:24 20 in detail the data fields and underlying documentation
11:19:27 21 that the department retains related to U.S. citizenship
11:19:29 22 or immigration status of individuals in the driver's
11:19:33 23 license database.

11:19:33 24 And they indicate that as of April 20th, 2020,
11:19:37 25 the department's system categorizes credential holders

11:19:40 1 based on the authorized presence documentation provided
11:19:44 2 and that there are two types of authorized presence,
11:19:48 3 non-foreign and foreign, and then broken into five
11:19:51 4 subcategories on the next page.

11:19:53 5 So this looks different to me than the kind of
11:19:58 6 F-Type license language I had seen before. Are these
11:20:03 7 kind of categories, non-foreign and foreign and then the
11:20:07 8 subcategories, familiar to you from how the information
11:20:12 9 comes to you from MVD?

11:20:15 10 A. Yes.

11:20:17 11 Q. Okay. So these first two categories are
11:20:20 12 categories that would be MVD-verified, correct?

11:20:24 13 A. Yes.

11:20:25 14 Q. And these latter three categories would be ones
11:20:28 15 where you would require additional DPOC for the person
11:20:35 16 to be registered to vote at all, correct?

11:20:37 17 A. Yes.

11:20:38 18 Q. All right. You mentioned briefly -- strike
11:20:49 19 that. I want to go back.

11:20:57 20 Do you know when MVD began collecting
11:21:00 21 citizenship documentation or authorized presence
11:21:05 22 documentation in their database?

11:21:08 23 A. October 1, 1996.

11:21:12 24 Q. Okay. So if someone has a driver's license
11:21:17 25 that was issued before 1996, what will happen when you

11:21:24 1 put that through to an MVD match?

11:21:27 2 MS. STUART: Form.

11:21:28 3 THE WITNESS: We would not be able to get
11:21:30 4 validation for DPOC unless they have subsequently come
11:21:34 5 in and revised something with MVD since 1996.

11:21:38 6 BY MS. LANG:

11:21:38 7 Q. Okay. And so how does that appear to you; kind
11:21:41 8 of like what status is given to you back from MVD in
11:21:43 9 those circumstances?

11:21:48 10 A. I actually don't remember what the specific
11:21:50 11 code is, but it would just say no match.

11:21:53 12 Q. Okay. In those circumstances that person, if
11:22:02 13 they have not provided other forms of DPOC, would become
11:22:06 14 federal only voters; is that correct?

11:22:07 15 A. Yes.

11:22:09 16 Q. All right. And how does your office treat
11:22:16 17 expired MVD records?

11:22:21 18 A. We don't get them from MVD.

11:22:25 19 Q. So if an individual put the driver's license
11:22:31 20 number on their voter registration form and that
11:22:36 21 driver's license is expired, when that goes up to MVD
11:22:40 22 for a match, it comes back as no match; is that correct?

11:22:44 23 A. It would say that there's no DPOC on file.
11:22:48 24 They wouldn't be able to validate that driver's license.
11:22:51 25 There would be no hits on it.

11:22:56 1 Q. Is that a different -- let me back up.

11:23:02 2 My understanding of the MVD match is that it

11:23:06 3 serves two purposes. One is to validate identity, and

11:23:11 4 the second is to validate citizenship. Is that correct?

11:23:14 5 A. In some cases, yes.

11:23:20 6 Q. So when someone has a pre-1996 driver's

11:23:26 7 license, for example, when you receive a response from

11:23:32 8 MVD, would that still validate identity, but not DPOC?

11:23:39 9 A. It's my understanding that we wouldn't have a

11:23:41 10 match with MVD because expired licenses aren't included

11:23:44 11 in the search.

11:23:46 12 Q. And are all pre-1996 driver's licenses expired?

11:23:51 13 MR. O'CONNOR: Form.

11:23:52 14 THE WITNESS: I don't know.

11:23:53 15 BY MS. LANG:

11:23:55 16 Q. Okay. Are you aware of circumstances where a

11:23:57 17 pre-1996 driver's license might come back as verified,

11:24:03 18 that there is a driver's license, a non-expired driver's

11:24:07 19 license for this individual, but no DPOC is on file?

11:24:11 20 A. That's a possibility.

11:24:12 21 Q. Okay. And what would that look like on your

11:24:17 22 end?

11:24:17 23 A. It would just tell us that there's not a way to

11:24:20 24 validate their proof of citizenship. So we would add

11:24:23 25 them as a federal only and send a letter out to the

11:24:26 1 voter asking for DPOC.

11:24:40 2 Q. Okay. Other than -- so we've been talking
11:24:42 3 about driver's license numbers as DPOC, but there are
11:24:46 4 other ways in which voters can provide DPOC, correct?

11:24:49 5 A. Yes.

11:24:50 6 Q. And one of those ways is through certain
11:24:55 7 out-of-state driver's licenses; is that correct?

11:24:57 8 A. Yes.

11:24:58 9 Q. And so how do you determine whether or not a
11:25:00 10 copy of an out-of-state -- let me back up.

11:25:04 11 For out-of-state driver's licenses, you don't
11:25:06 12 have any means to kind of check those numbers or those
11:25:11 13 driver's licenses against those other state databases,
11:25:16 14 correct?

11:25:16 15 A. Correct.

11:25:18 16 Q. So how do you determine whether or not a copy
11:25:21 17 of an out-of-state driver's license or ID card is
11:25:26 18 sufficient DPOC?

11:25:29 19 A. So we would follow the guidance in the
11:25:32 20 elections procedures manual related to out-of-state
11:25:35 21 driver's licenses.

11:25:37 22 Q. Okay. And if you could refer to Page 4 of the
11:25:40 23 elections procedures manual.

11:25:45 24 A. Is that the MC 4 or just Page 4?

11:25:47 25 Q. No, just Page 4 of the EPM. It's MC 18.

11:25:54 1 Is this the guidance that you're referring to?

11:25:56 2 A. Yes.

11:25:58 3 Q. Okay. And it indicates that out-of-state
11:26:01 4 driver's licenses can only be accepted if they have some
11:26:03 5 sort of specific citizenship indicator, which is often
11:26:08 6 this kind of United States flag; is that correct?

11:26:11 7 A. Yes.

11:26:14 8 Q. All right.

11:26:14 9 THE VIDEOGRAPHER: Counsel, sorry to
11:26:15 10 interrupt. The video feed on the Zoom -- the Zoom is
11:26:19 11 still live, but the video feed has gone off. Would you
11:26:25 12 mind if Jody --

11:26:26 13 And, Jody, would you mind clicking on the
11:26:34 14 video?

11:26:34 15 Sorry, Jody. There we go, I think.

11:26:35 16 Sorry.

11:26:35 17 MS. LANG: Thank you.

11:26:41 18 BY MS. LANG:

11:26:41 19 Q. Do you know if California driver's licenses
11:26:43 20 sometimes have this indicator of citizenship on them?

11:26:47 21 A. I don't know.

11:26:48 22 Q. Okay. Are you aware of which -- any states
11:26:51 23 that do and any states that do not, specifically?

11:26:56 24 A. I know some do and some don't. I don't have a
11:26:59 25 list.

11:26:59 1 Q. Okay. You don't know any specifics?

11:27:00 2 A. Well, I'm looking at Michigan and New York here

11:27:03 3 as examples, so...

11:27:04 4 Q. Okay. Other than Michigan and New York.

11:27:06 5 A. I don't know.

11:27:16 6 Q. Okay. All right, I'll mark as Exhibit 11 a

11:27:31 7 document labeled MC 002093.

11:27:43 8 (Deposition Exhibit 11 was marked for

11:28:18 9 identification.)

11:28:18 10 BY MS. LANG:

11:28:20 11 Q. Oh.

11:28:20 12 So this is an e-mail with meeting recap notes

11:28:29 13 from the Secretary of State's Office; is that correct?

11:28:34 14 A. Yes.

11:28:34 15 Q. And I see in the subject line that it says

11:28:37 16 "May 11, 2023 Bi-Monthly SOS/Recorders/Elections

11:28:43 17 Meeting." Is that correct?

11:28:43 18 A. Yes.

11:28:43 19 Q. So is this one of the kind of regular meetings

11:28:46 20 you were referring to earlier today between the various

11:28:50 21 actors in the voter registration process?

11:28:52 22 A. Yes.

11:28:54 23 Q. Okay. And on the very -- so there is all these

11:29:00 24 meeting recap notes, and on the last page I just wanted

11:29:03 25 to ask you about this note that says "DPOC: Proof of

11:29:07 1 citizenship and ID's."

11:29:10 2 And there's a question here, I believe, about
11:29:13 3 what you may call enhanced IDs, and community
11:29:20 4 organization -- it says, quote, Community organizations
11:29:23 5 that register voters want to know if the gold star on
11:29:26 6 driver's licenses is enough to prove citizenship."

11:29:29 7 Do you see that?

11:29:30 8 A. Yes.

11:29:30 9 Q. Are you aware -- were you at this meeting, to
11:29:34 10 your recollection?

11:29:34 11 A. I believe I was.

11:29:36 12 Q. Okay. And do you remember this discussion?

11:29:38 13 A. Yes.

11:29:41 14 Q. Okay. And do you know who raised this
11:29:43 15 question?

11:29:45 16 A. I believe it was Pima County.

11:29:50 17 Q. Okay. And is this a question that you have
11:29:51 18 received from community organizations as well or your
11:29:54 19 office?

11:29:54 20 A. I have not.

11:29:59 21 Q. Okay. And the first line of this bullet point
11:30:01 22 says, "The Secretary will compare LULAC litigation to
11:30:04 23 new statute and report back to the group."

11:30:06 24 Do you see that?

11:30:07 25 A. Yes.

11:30:07 1 Q. Have you heard back from the Secretary of
11:30:11 2 State's Office on this question?

11:30:12 3 A. Not that I'm aware of.

11:30:14 4 Q. And so, to your knowledge, do you know if the
11:30:18 5 gold star on driver's licenses is enough to prove
11:30:21 6 citizenship?

11:30:22 7 A. I would say from my position, as what I know
11:30:26 8 now, I would say I would refer again to the procedures
11:30:30 9 manual looking for the American flag as the notation.

11:30:33 10 Q. Okay. So based on your current knowledge, your
11:30:37 11 guidance would be that a gold star, rather than an
11:30:41 12 American flag, would not be sufficient for DPOC; is that
11:30:43 13 correct?

11:30:43 14 A. Yes.

11:30:52 15 Q. Okay. And I don't have any questions about
11:30:54 16 some of these next ones, but birth certificate is an
11:30:57 17 acceptable form of DPOC if it shows that the person was
11:30:59 18 born in the United States; is that correct?

11:31:00 19 A. Yes.

11:31:02 20 Q. Or if there's a consular report of a birth
11:31:07 21 abroad; is that correct?

11:31:08 22 A. Yes.

11:31:10 23 Q. Okay. And a U.S. passport is an acceptable
11:31:13 24 form of DPOC, correct?

11:31:15 25 A. Yes.

11:31:16 1 Q. All right. If someone puts a tribal ID number,
11:31:21 2 is that acceptable form -- an acceptable form of DPOC?

11:31:24 3 A. Yes.

11:31:26 4 Q. And my understanding is that there's no
11:31:29 5 database search; the tribal ID number is accepted on its
11:31:33 6 face. Is that correct?

11:31:34 7 A. Yes.

11:31:42 8 Q. And then the last category of forms of DPOC I
11:31:48 9 wanted to talk about is citizenship and immigration
11:31:52 10 documents.

11:31:53 11 One option that voters have for satisfying DPOC
11:31:57 12 is to just provide what we would call -- what's called
11:32:01 13 an A-Number; is that correct?

11:32:03 14 A. Yes.

11:32:04 15 Q. All right. We'll get -- I'm going to move on
11:32:11 16 in a moment to talk about what you do with those
11:32:13 17 A-Numbers.

11:32:14 18 Putting aside A-Numbers, if somebody provides a
11:32:18 19 naturalization certificate, is that sufficient DPOC?

11:32:22 20 A. Yes.

11:32:23 21 Q. And do you use the SAVE database for those
11:32:26 22 documents?

11:32:28 23 A. No.

11:32:29 24 Q. Okay. So if you have an actual copy of an
11:32:34 25 immigration document showing citizenship, do you accept

11:32:37 1 that on face value without any additional database
11:32:40 2 searches?

11:32:40 3 A. Yes.

11:32:41 4 Q. Okay. And if an A-Number is provided, that's
11:32:50 5 when you would use the SAVE system to verify
11:32:53 6 citizenship; is that correct?

11:32:54 7 A. Yes.

11:32:54 8 Q. Okay. And we'll talk more about that
11:32:57 9 momentarily.

11:33:08 10 One question I just want to clarify is we've
11:33:11 11 been talking about how you verify DPOC. Do you use the
11:33:18 12 same procedures for verifying DPOC regardless of whether
11:33:21 13 the person uses the federal or the state form?

11:33:25 14 A. Yes.

11:33:36 15 Q. Okay. If a voter did not provide a driver's
11:33:39 16 license number or a number or any other form of DPOC,
11:33:51 17 how does your office go about trying to acquire DPOC for
11:33:55 18 those individuals?

11:33:57 19 A. So the record would go to MVD for validation
11:34:00 20 and we would try to see if there's a match in the MVD
11:34:04 21 database with an existing driver's license; and if we
11:34:08 22 found a match with date of birth, address, name, we
11:34:12 23 could acquire the driver's license and have DPOC on file
11:34:17 24 on behalf of the voter.

11:34:18 25 Q. So even if an individual didn't provide their

11:34:21 1 driver's license number, if their other demographic data
11:34:26 2 matches enough to create a true match with the MVD
11:34:31 3 database, that could acquire DPOC for that individual;
11:34:35 4 is that correct?

11:34:35 5 A. Yes.

11:34:36 6 Q. All right. And you do that for all applicants
11:34:40 7 who don't otherwise have DPOC on file; is that correct?

11:34:42 8 A. Yes.

11:34:43 9 Q. All right. Okay. So if none of those options
11:35:22 10 satisfy DPOC, what -- scratch that.

11:35:30 11 If an applicant has no DPOC after all of these
11:35:34 12 efforts and there was no match that suggested
11:35:42 13 noncitizenship, what happens to that voter?

11:35:43 14 A. They are added to the rolls as a federal only
11:35:47 15 voter and are sent a letter letting them know they are
11:35:52 16 federal only voter and what they can do to provide DPOC
11:35:56 17 to become a full ballot voter.

11:35:58 18 Q. Okay. What languages are your notices sent in?

11:36:02 19 A. English and Spanish.

11:36:07 20 Q. And those are the only languages, correct?

11:36:09 21 A. Yes.

11:36:11 22 Q. All right. Is there any information on the
11:36:14 23 notice about kind of language assistance for folks who
11:36:18 24 don't speak English or Spanish?

11:36:20 25 A. We have information on how to contact our

11:36:22 1 office.

11:36:23 2 Q. And does your office use interpretation
11:36:27 3 services for folks who don't speak English or Spanish?

11:36:31 4 A. I have not had that happen, but I believe that
11:36:35 5 there's somebody that could translate, if necessary.

11:36:38 6 Q. And who would that somebody be?

11:36:40 7 A. I don't know.

11:36:42 8 Q. Okay. The notice that you send, is it by
11:36:49 9 forwardable mail or non-forwardable mail?

11:36:52 10 A. Non-forwarding.

11:37:16 11 Q. What circumstances does your office send
11:37:20 12 forwardable mail rather than non-forwardable mail?

11:37:24 13 A. If we have a cancellation letter that needs to
11:37:27 14 be sent, we would send that by forwarding.

11:37:33 15 Q. Are there any other notices that you send by
11:37:36 16 forwarding mail?

11:37:37 17 A. Not that I can think of.

11:37:40 18 Q. Okay. We'll mark as Exhibit 12 a document
11:37:57 19 labeled MC 000879.

11:38:13 20 (Deposition Exhibit 12 was marked for
11:38:20 21 identification.)

11:38:20 22 BY MS. LANG:

11:38:20 23 Q. Do you recognize this document?

11:38:21 24 A. Yes.

11:38:22 25 Q. Okay. What is this document?

11:38:24 1 A. This is Maricopa County's procedures for data
11:38:28 2 entry for new registrations.

11:38:31 3 Q. Okay. And I see on the bottom here that it
11:38:32 4 says "Revised: December 21, 2022." Is this the most
11:38:38 5 recent version of these instructions?

11:38:45 6 A. I think -- I believe so.

11:38:53 7 Q. Okay. And I just wanted to turn to Page 885,
11:39:08 8 and the very end of this has some instructions about
11:39:17 9 federal forms; do you see that?

11:39:21 10 A. Yes.

11:39:23 11 Q. Okay. I'm just going to read it aloud. It
11:39:25 12 says, "Note. When you have entered data for a federal
11:39:28 13 form, there will be a dialogue box that is displayed
11:39:32 14 after clicking save file that says you must suspend a
11:39:36 15 federal registrant. Click okay and then suspend record.
11:39:40 16 Voter will be successfully suspended, and you will hit
11:39:43 17 the enter key to get to the next record."

11:39:44 18 Do you see that?

11:39:45 19 A. Yes.

11:39:46 20 Q. Okay. Can you explain to me what this means
11:39:49 21 and how this affects federal -- voters who register
11:39:54 22 using the federal form?

11:40:05 23 A. I'm actually trying to recall this one. I'm
11:40:21 24 feeling like this is for the cases where we have
11:40:24 25 somebody coming back as a federal only voter and we are

11:40:29 1 putting them -- in the way the system works, like
11:40:36 2 putting them into suspense to try to get the
11:40:38 3 reactivation back to MVD; but there's also the federal
11:40:44 4 form that sometimes reference to the UOCAVA
11:40:48 5 registrations, and my office does not process UOCAVA
11:40:52 6 registration forms. That's done by the early voting
11:40:55 7 team. So I feel like that may have something to do with
11:40:59 8 it as well.

11:41:02 9 Q. Okay. And -- but sitting here today, it seems
11:41:08 10 like you're not quite sure what this refers --

11:41:10 11 A. I'm not quite sure what this is referring to at
11:41:13 12 this moment.

11:41:13 13 Q. Okay. But it should not be the case that
11:41:15 14 anyone who registers using a federal form would be --
11:41:18 15 would have their voter registration suspended, correct?

11:41:22 16 A. No. We --

11:41:22 17 MS. STUART: Form.

11:41:22 18 THE WITNESS: We would treat a federal
11:41:26 19 national registration form and a state registration form
11:41:29 20 exactly the same.

11:41:31 21 BY MS. LANG:

11:41:33 22 Q. Okay. Thank you.

11:41:41 23 And I think we've discussed this, but if you
11:41:43 24 get something back from MVD that indicates that at the
11:41:46 25 time that they received their driver's license that

11:41:48 1 person was not a citizen, those people are not

11:41:52 2 registered and sent a notice, correct?

11:41:53 3 A. Yes.

11:41:54 4 Q. And that notice is only in English and Spanish,
11:41:57 5 correct?

11:41:57 6 A. Yes.

11:41:57 7 Q. And it's sent by non-forwardable mail?

11:42:01 8 A. Yes.

11:42:02 9 Q. Okay. And what do you do if you get a
11:42:06 10 bounce-back for those notices?

11:42:09 11 A. If we receive a forwarding address, we would
11:42:13 12 potentially send to the forwarding address, but
11:42:15 13 otherwise we send one notice out.

11:42:20 14 Q. Okay. You said we would potentially send to
11:42:22 15 the forwarding address. When would you send it to the
11:42:25 16 forwarding address versus not send it to the forwarding
11:42:28 17 address?

11:42:29 18 A. I think it's on a case-by-case basis almost. I
11:42:32 19 would say that if we have time and we're not, you know,
11:42:35 20 at the end of a registration deadline, or if we were at
11:42:39 21 the end of a registration deadline, we would try to send
11:42:41 22 another letter, but in most cases our requirement is to
11:42:45 23 send one notice.

11:42:46 24 Q. Okay. So it's discretionary whether or not
11:42:49 25 another notice is sent to the forwarding address?

11:42:51 1 A. Yes.

11:42:51 2 Q. Okay. I'm going to mark as Exhibit 13

11:43:21 3 AZSOS-004107.

11:43:30 4 (Deposition Exhibit 13 was marked for

11:43:45 5 identification.)

11:43:45 6 BY MS. LANG:

11:43:46 7 Q. And so this is an e-mail chain between yourself

11:43:48 8 and members of the Arizona Secretary of State's Office;

11:43:52 9 is that correct?

11:43:52 10 A. Yes.

11:43:53 11 Q. And if we kind of start from the beginning of

11:43:58 12 this e-mail chain, which is on the last page, and I see

11:44:03 13 this is a Secretary of State employee reaching out to

11:44:07 14 you to say that they had identified someone who was

11:44:12 15 federal only in your system as a Maricopa County voter,

11:44:15 16 but that MVD was now providing a, you know, citizenship

11:44:24 17 status for; is that correct?

11:44:27 18 A. I believe that's what they're telling me.

11:44:31 19 Q. Okay. And there's a reference to a term called

11:44:34 20 Swagger. Do you know what Swagger is?

11:44:37 21 A. I had never heard that term before, so --

11:44:40 22 Q. Okay.

11:44:40 23 A. -- I really don't understand what they meant by

11:44:43 24 Swagger.

11:44:43 25 Q. Got it.

11:44:44 1 So do you under -- do you know why there might
11:44:56 2 be a circumstance where when you initially process
11:44:59 3 someone, they became a federal only voter, but later
11:45:03 4 AVID would indicate that they were a citizen?

11:45:08 5 A. I would not -- I am not familiar with that
11:45:11 6 process.

11:45:11 7 Q. Okay. Do you recall this particular instance?

11:45:18 8 A. Vaguely. I questioned why we would be using
11:45:22 9 Swagger to validate proof of citizenship outside of a
11:45:29 10 voter registration form request.

11:45:30 11 Q. Okay. And did you and -- did this voter become
11:45:38 12 a full ballot voter, to your knowledge?

11:45:40 13 A. I don't know.

11:45:42 14 Q. Okay. But as a general matter -- so as a
11:45:58 15 general matter, there is one time when your office does
11:46:02 16 the MVD check, and it is at the time of registration; is
11:46:06 17 that correct?

11:46:06 18 A. Yes.

11:46:08 19 Q. And your office and the Secretary of State's
11:46:12 20 Office don't do any regular kind of checking of the
11:46:15 21 federal only list against MVD to determine whether or
11:46:18 22 not the citizenship status has changed in the MVD
11:46:22 23 database; is that correct?

11:46:24 24 MS. STUART: Form.

11:46:24 25 MR. O'CONNOR: Form.

11:46:25 1 THE WITNESS: I'm not aware of a system
11:46:26 2 that does that.

11:46:28 3 BY MS. LANG:

11:46:28 4 Q. And you're not aware of any kind of systematic
11:46:30 5 way in which those checks would be done after the point
11:46:33 6 of registration; is that correct?

11:46:36 7 A. That's correct. However, this e-mail indicates
11:46:39 8 Swagger, which I am not familiar with.

11:46:41 9 Q. Okay. Okay. Now I'll mark as Exhibit 14
11:46:59 10 ARIZONASOS-240080.

11:47:08 11 (Deposition Exhibit 14 was marked for
11:47:17 12 identification.)

11:47:17 13 BY MS. LANG:

11:47:18 14 Q. So towards the bottom of this e-mail chain
11:47:23 15 on -- but still on the first page, there's an e-mail
11:47:27 16 from AVID Help to yourself and Stephen Richer discussing
11:47:32 17 an MVD issue that they had been investigating; is that
11:47:38 18 correct?

11:47:38 19 A. Yes.

11:47:40 20 Q. And we'll get into the specifics of this e-mail
11:47:43 21 in a moment, but as a general matter, what is your
11:47:48 22 understanding of the MVD issue that arose in October
11:47:53 23 2022?

11:47:58 24 A. I believe the issue was MVD was incorrectly
11:48:05 25 invalidating driver's licenses and giving us a null

11:48:10 1 value instead of a value of citizen or noncitizen.

11:48:16 2 Q. And do you know how long this issue was going
11:48:22 3 on?

11:48:24 4 A. I don't remember the specific time frame.

11:48:36 5 Q. Okay. And on the second page of this document,
11:48:40 6 2481, the Secretary of State's Office informed you in
11:48:46 7 the second -- the first full paragraph there that your
11:48:50 8 county had 155 records that returned a hard match with
11:48:54 9 an authorized presence, indicating citizenship, and
11:48:59 10 3,550 records that might be a soft match.

11:49:03 11 Do you see that?

11:49:04 12 A. Yes.

11:49:06 13 Q. What was done for those voters prior to the
11:49:11 14 2022 election?

11:49:13 15 A. So we would have rerun those through MVD to get
11:49:19 16 the authorization presence code to upgrade them to a
11:49:25 17 full ballot voter. We would have had to review the
11:49:29 18 3,550 records that were potential soft matches to see if
11:49:33 19 we could validate the voter. And then the 651 records
11:49:40 20 have an active early ballot potentially would have been
11:49:44 21 issued a full ballot if they were previously issued a
11:49:47 22 federal only ballot.

11:49:49 23 Q. Okay. Is it your understanding that your
11:49:53 24 office did complete the review of the 3,550 soft matches
11:49:58 25 prior to the 2022 election?

11:49:59 1
11:50:00 2
11:50:08 3
11:50:12 4
11:50:13 5
11:50:16 6
11:50:31 7
11:50:40 8
11:50:42 9
11:50:43 10
11:50:45 11
11:50:49 12
11:50:50 13
11:50:51 14
11:50:55 15
11:51:04 16
11:51:04 17
11:51:08 18
11:51:09 19
11:51:16 20
11:52:20 21
11:52:27 22
11:52:35 23
11:52:35 24
11:52:35 25

A. Yes.

Q. Okay. And do you know how many voters in your county were affected by this error after reviewing those soft matches?

A. I don't know the number.

Q. Okay. And you're not sure how long this MVD error was ongoing prior to the Secretary of State addressing it in October of 2022; is that correct?

A. I don't know.

Q. Okay. Is it possible that it could have affected prior elections as well?

MS. BOUGHTON: Form.

THE WITNESS: I don't -- I don't know. I feel like MVD and the Secretary of State's Office monitors that, so issues are found and addressed early.

BY MS. LANG:

Q. Do you know how many voters statewide were affected by this issue?

A. I do not know.

Q. Okay. And I'll mark as Exhibit 15 AZSOS-239348.

(Deposition Exhibit 15 was marked for identification.)

BY MS. LANG:

Q. Do you recognize this document?

11:52:38 1 A. Yes.

11:52:39 2 Q. Okay. Can you tell me what this document is?

11:52:42 3 A. So this was a sample notice that was provided

11:52:48 4 to the counties from the Secretary of State's Office as

11:52:52 5 a letter to explain what happened with the MVD issue of

11:52:58 6 not validating valid driver's license for DPOC.

11:53:01 7 Q. And is this the template your office used for

11:53:05 8 sending out such notices in October 2022?

11:53:08 9 A. Yes.

11:53:10 10 Q. Okay. Did you hear back from any of these

11:53:13 11 voters?

11:53:13 12 A. I'm sure that we did. I don't remember how

11:53:21 13 many.

11:53:21 14 Q. Do you know or did you track anywhere the

11:53:24 15 number of people who returned their federal only ballot

11:53:28 16 first that were, in fact, eligible to be full ballot

11:53:33 17 voters?

11:53:33 18 A. That would have been handled on the early

11:53:36 19 voting side because they do early ballots.

11:53:39 20 Q. Okay. And more generally, in your database,

11:53:46 21 how do you track kind of correspondence with a voter

11:53:52 22 about any number of issues in their voter registration?

11:53:57 23 A. So there is a notice module where we can track

11:54:02 24 a notice was sent. So that there is that record, and

11:54:08 25 then additionally, that information is sent through the

11:54:12 1 interface to the statewide system.

11:54:14 2 Q. So that information about notices is
11:54:17 3 transferred to the AVID database as well?

11:54:19 4 A. Yes.

11:54:20 5 Q. Okay.

11:54:31 6 A. To clarify, though, those are notices that are
11:54:33 7 generated within the voter registration system itself.
11:54:36 8 This wouldn't have been generated from the voter
11:54:39 9 registration system, so it wouldn't have been logged in
11:54:41 10 the module.

11:54:42 11 Q. Thank you for that clarification.

11:54:45 12 Do you know if this was logged anywhere in the
11:54:47 13 system for these voters?

11:54:50 14 A. I don't believe so.

11:55:06 15 Q. You have mentioned a couple of times that there
11:55:08 16 are kind of cure procedures for people who have not
11:55:12 17 provided DPOC, correct?

11:55:13 18 A. Yes.

11:55:14 19 Q. They receive a notice, and then they're able to
11:55:16 20 cure that by providing some form of DPOC, correct?

11:55:18 21 A. Yes.

11:55:21 22 Q. Okay. And so I want to talk about those cure
11:55:24 23 procedures; first, talking only about federal only
11:55:26 24 voters, as opposed to those voters that have F-Type
11:55:29 25 licenses or some similar noncitizenship indicator,

11:55:33 1 okay?

11:55:33 2 A. Okay.

11:55:35 3 Q. So speaking about federal only voters, up until

11:55:40 4 when can voters provide DPOC in order to become a full

11:55:46 5 ballot voter and for any given election?

11:55:50 6 A. The Thursday before the election.

11:55:53 7 Q. Okay. And how can they submit that DPOC to

11:55:58 8 you?

11:55:58 9 A. They can mail it. They can scan it and e-mail

11:56:01 10 it. They can come and show us in person.

11:56:14 11 Q. If you look at the election procedures manual

11:56:17 12 on Page 7 of the manual, which is MC 21, there's

11:56:28 13 reference to a DPOC submission form. What is that form?

11:56:33 14 A. It's a letter that lets the voter know that

11:56:37 15 they have been registered as federal only and gives them

11:56:41 16 instructions how they can provide DPOC to become a full

11:56:46 17 ballot voter.

11:56:48 18 Q. Okay. And do you ever have any trouble kind of

11:56:51 19 linking the DPOC that is sent in from an individual

11:56:54 20 applicant to an applicant's record in the database?

11:56:58 21 A. Not usually.

11:57:25 22 Q. How often do federal only voters respond to

11:57:29 23 that notice by providing DPOC and becoming full ballot

11:57:34 24 voters?

11:57:35 25 A. I don't have statistics in front of me, but I

11:57:38 1 would say a lot of them come back and provide DPOC.

11:57:44 2 Q. Okay. Is that something your, like, database
11:57:53 3 would be able to provide statistics on?

11:58:01 4 A. I think if we did a data pull today and then
11:58:06 5 months from now we did another data pull, we could see
11:58:08 6 how many went from federal status to full, but that
11:58:11 7 would be the only way. There's not a tracking
11:58:13 8 mechanism.

11:58:14 9 Q. Thank you.

11:58:21 10 While we're looking at the election procedures
11:58:23 11 manual, on Page 8, MC 22, numeral 5 says "DPOC When
11:58:32 12 Moving Between Counties." I wanted to ask about the
11:58:40 13 second paragraph there, which says that registered
11:58:44 14 voters who submit valid DPOC to the County Recorder in
11:58:48 15 their county of residence need not resubmit evidence of
11:58:51 16 citizenship upon moving and registering to vote in a new
11:58:54 17 county in Arizona so long as the record of their
11:58:56 18 previously-submitted DPOC is accessible by the new
11:59:00 19 County Recorder.

11:59:04 20 How does your office access previously
11:59:07 21 submitted DPOC when a voter moves from another county to
11:59:13 22 Maricopa County?

11:59:14 23 A. So if we can see on the prior other county
11:59:19 24 record that they have a note that says birth certificate
11:59:21 25 was provided, it usually will pop up to us that the DPOC

11:59:26 1 has been validated by the other county. If the other
11:59:29 2 county did not do that, then there would be no way for
11:59:32 3 us to validate the notes.

11:59:35 4 Q. Are you aware of instances where counties do
11:59:39 5 not record DPOC in the voter registration system?

11:59:45 6 A. I don't know of specific instances, but I know
11:59:49 7 it's possible.

11:59:49 8 Q. Okay. Do you know if it happens, without
11:59:52 9 identifying specific instances; like have you heard of
11:59:54 10 it happening?

11:59:55 11 A. Yes.

11:59:56 12 Q. Okay. Have you heard of it being kind of a
12:00:00 13 systemic issue with any counties?

12:00:02 14 A. No.

12:00:14 15 Q. Okay. Do you know how many federal only voters
12:00:17 16 Maricopa currently has?

12:00:19 17 A. Not off the top of my head.

12:00:22 18 Q. Okay. Do you know if it's more or less than
12:00:28 19 10,000?

12:00:30 20 A. I want to say maybe 17,000-ish.

12:00:33 21 Q. Okay.

12:00:33 22 A. I'm not entirely sure.

12:00:47 23 Q. Can federal only voters be on the early voting
12:00:50 24 list?

12:00:51 25 A. Yes.

12:00:53 1 Q. Are many federal only voters on the early
12:00:55 2 voting list?
12:00:57 3 A. Yes.
12:01:02 4 Q. Okay. My understanding is that early voting is
12:01:06 5 very popular in Arizona. Is that correct?
12:01:08 6 A. That's correct.
12:01:10 7 Q. Okay. About what percentage of your voters
12:01:12 8 vote by mail?
12:01:14 9 A. I don't know.
12:01:15 10 MR. O'CONNOR: Form. Yeah.
12:01:17 11 BY MS. LANG:
12:01:27 12 Q. Okay. All right. Now I'm going to talk a
12:01:28 13 little bit about how your office uses the -- I think
12:01:34 14 it's systematic alien verification --
12:01:40 15 A. Say, entitlement?
12:01:44 16 Q. Oh, gosh. The SAVE system. Do you know what
12:01:46 17 I'm talking about when I --
12:01:47 18 A. I do.
12:01:48 19 Q. -- talk about the SAVE system?
12:01:49 20 A. Yes.
12:01:50 21 Q. And it's a system run by USCIS to assist
12:01:54 22 agencies in verifying citizenship information; is that
12:01:56 23 correct.
12:01:56 24 A. Yes.
12:01:58 25 Q. Okay. I apologize for my forgetting the

12:02:01 1 acronym precisely.

12:02:05 2 Do you know how long Maricopa County has been

12:02:08 3 using the SAVE system?

12:02:11 4 A. As long as I can remember.

12:02:13 5 Q. Okay. And my understanding is that originally

12:02:19 6 Maricopa County had an agreement directly with USCIS to

12:02:25 7 use SAVE. Is that correct?

12:02:30 8 A. That's my understanding.

12:02:31 9 Q. Okay. It's also my understanding now that your

12:02:37 10 current usage of the SAVE system is based on the Arizona

12:02:42 11 Secretary of State's agreement with USCIS; is that

12:02:50 12 correct?

12:02:50 13 A. Yes, with the exception that we still have our

12:02:53 14 own umbrella for how we pay for our searches.

12:02:59 15 Q. Okay. Do you have access to the memorandum of

12:03:06 16 understanding or memorandum of agreement between the

12:03:10 17 Secretary of State's Office and USCIS?

12:03:13 18 A. I don't.

12:03:13 19 Q. Have you ever seen that document?

12:03:15 20 A. I have.

12:03:16 21 Q. Okay. And did you see that document in your

12:03:20 22 capacity at the Secretary of State's Office?

12:03:23 23 A. Yes.

12:03:24 24 Q. Okay. Have you ever looked at that document in

12:03:28 25 your capacity as at the Maricopa County Recorder's

12:03:34 1 Office?

12:03:34 2 A. No.

12:03:37 3 Q. Okay. What guidance or training has the
12:03:41 4 Secretary of State provided regarding the SAVE system
12:03:43 5 and the processes the County Recorders need to follow
12:03:48 6 while using it?

12:03:48 7 A. What's in the elections procedures manual.

12:03:54 8 Q. Anything else?

12:03:54 9 A. No, not that I'm aware of.

12:04:09 10 Q. Okay. In order to use the SAVE system, do you
12:04:12 11 need to have a specific identification number for an
12:04:19 12 individual?

12:04:20 13 A. For a user of the system?

12:04:23 14 Q. No. I apologize. I was unclear.
12:04:26 15 If you wanted to try to verify citizenship for
12:04:28 16 an individual and your office was trying to do that, in
12:04:33 17 order to use the SAVE system and kind of identify
12:04:38 18 someone as either a citizen or noncitizen, do you need a
12:04:41 19 unique identification number for that individual?

12:04:44 20 A. Yes.

12:04:45 21 Q. Okay. What kind of number do you need for
12:04:47 22 those individuals in order to use the SAVE system?

12:04:50 23 A. There's a user name and password.

12:04:54 24 Q. I'm sorry, I'm being very unclear. But I
12:04:57 25 appreciate the answer.

12:04:58 1 Assuming you're kind of in the system and using
12:05:02 2 it and, you know, you want to find out if I, Danielle
12:05:07 3 Lang, am a citizen, can you just put in my name and date
12:05:14 4 of birth and get any information from the SAVE system?

12:05:16 5 A. It's my understanding you need to have an
12:05:19 6 A-Number to do the search.

12:05:20 7 Q. So you need to have a specific immigration
12:05:23 8 number --

12:05:23 9 A. Yes.

12:05:24 10 Q. -- in order to use the SAVE system at all?

12:05:26 11 A. That's my understanding.

12:05:27 12 Q. Okay. So for folks for whom you don't have an
12:05:34 13 A-Number, the SAVE system is not a useful system,
12:05:40 14 correct?

12:05:40 15 A. We wouldn't go down the SAVE route if we didn't
12:05:44 16 have an A-Number to validate.

12:05:46 17 Q. Okay.

12:05:46 18 A. We wouldn't know to do that.

12:05:48 19 Q. And one way you could receive an A-Number is
12:05:51 20 when an individual provides it, correct?

12:05:54 21 A. Yes.

12:05:55 22 Q. Are there any other ways in which you receive
12:05:58 23 A-Numbers?

12:06:01 24 A. Only from the voter.

12:06:02 25 Q. Okay. So the only time you use the SAVE system

12:06:06 1 is when a voter provides their A-Number on their voter
12:06:10 2 registration form; is that correct?

12:06:11 3 A. Yes.

12:06:16 4 Q. Okay. And you have no other way to obtain
12:06:18 5 A-Numbers except for from the voter, correct?

12:06:22 6 A. Yes.

12:06:23 7 Q. All right. Does your system track who has
12:06:38 8 provided DPOC through an A-Number in the SAVE system?

12:06:44 9 A. We can record in the voter's record that they
12:06:48 10 have provided DPOC, but there's not a report that
12:06:52 11 delineates that specific category.

12:06:56 12 Q. Okay. So you couldn't find out, for example,
12:07:00 13 how many people in the Maricopa County registration
12:07:05 14 database have provided DPOC in the form of an A-Number
12:07:09 15 that was validated by the SAVE system, correct?

12:07:15 16 A. That would be a special request that IT would
12:07:19 17 have to see if they could do. They would have to look
12:07:21 18 to see how many records have an A-Number in them, and
12:07:24 19 then from there try to break it down how many are, you
12:07:27 20 know, registered or fed or not.

12:07:30 21 Q. Okay. Do you have any sense of the kind of
12:07:40 22 volume of people that provide A-Numbers on their voter
12:07:45 23 registration form as their means of providing DPOC?

12:07:49 24 A. It's not a lot.

12:07:59 25 Q. Are there any records that would show kind of

12:08:02 1 everyone that you have searched for using the SAVE
12:08:09 2 system?

12:08:09 3 A. I am not that familiar with the search
12:08:11 4 functionality for reporting on what we've looked up in
12:08:14 5 SAVE. So if that exists, that's -- I don't know.

12:08:19 6 Q. Okay. And when you indicate in the voter
12:08:22 7 registration database that DPOC has been provided, does
12:08:30 8 that data entry include specifics about what kind of
12:08:34 9 DPOC has been provided or just that DPOC has been
12:08:36 10 provided?

12:08:40 11 A. If it's MVD, it -- there -- you can see that it
12:08:45 12 was validated to their MVD. If it's an A-Number and
12:08:49 13 it's been validated, we know it's SAVE. If the voter
12:08:52 14 provided something as a copy, they'll typically write on
12:08:55 15 the corner of the voter registration form itself like BC
12:08:57 16 for birth certificate or PSS for passport.

12:09:00 17 Q. Okay. But in those cases that would not
12:09:02 18 necessarily be in the database; is that correct?

12:09:04 19 A. Correct.

12:09:14 20 Q. And I think you mentioned this earlier, but
12:09:16 21 your office pays USCIS for use of the SAVE system; is
12:09:23 22 that correct?

12:09:23 23 A. Yes.

12:09:25 24 Q. Do you know what that cost looks like for the
12:09:29 25 Maricopa County Recorder's Office?

12:09:33 1 A. I don't. I think it's \$25 a month as a base,
12:09:36 2 and then depending on how many searches you've done, it
12:09:40 3 could be more.

12:09:43 4 Q. Okay. And how long does the search take?

12:09:46 5 A. Seconds.

12:09:49 6 Q. Okay. And what are the kind of options that
12:09:51 7 could come back after you put in a search, an A-Number
12:09:55 8 and the other demographic information for the voter?
12:09:57 9 You input it into the system, and what kind of responses
12:10:01 10 do you get?

12:10:02 11 A. So I haven't done SAVE search myself in a long
12:10:05 12 time.

12:10:06 13 Q. Okay.

12:10:06 14 A. But I will say that it would either come back
12:10:08 15 as validated citizen or noncitizen, still like an
12:10:14 16 immigration status.

12:10:21 17 Q. Okay. And is another option that there is no
12:10:25 18 match?

12:10:26 19 A. That's a potential, that the A-Number doesn't
12:10:29 20 exist or has been transposed and we can't match it.

12:10:35 21 Q. Okay. And so with respect to DPOC, if it comes
12:10:39 22 back from SAVE as validated as citizen, that's
12:10:43 23 sufficient DPOC, correct?

12:10:44 24 A. Yes.

12:10:45 25 Q. And if the SAVE system comes back and indicates

12:10:49 1 noncitizen, my understanding is that that voter would
12:10:53 2 receive notification that they cannot be registered at
12:10:57 3 all until they provide DPOC; is that correct?

12:10:59 4 A. Yes.

12:11:01 5 Q. Okay. And then in the case where the SAVE
12:11:05 6 system didn't provide -- didn't identify any match
12:11:07 7 because of potentially an error with the A-Number, what
12:11:11 8 would happen to that voter?

12:11:12 9 A. They would become a federal only voter.

12:11:15 10 Q. Okay. And they would receive the same notice
12:11:18 11 that federal only voters receive?

12:11:19 12 A. Yes.

12:11:21 13 Q. Okay. In your experience or to your knowledge,
12:11:38 14 is there ever a lag between when this SAVE system is
12:11:42 15 updated with a voter registration -- or with a
12:11:46 16 citizenship status and when the voter naturalized?

12:11:51 17 A. I have heard there could be lags.

12:11:54 18 Q. Okay. Do you know about how long those lags
12:11:57 19 can be?

12:11:57 20 A. I don't.

12:12:06 21 Q. And on Page 10 of the EPM or it's MC 24, if you
12:12:12 22 could look at the bottom here, there is a section called
12:12:16 23 verifying citizenship near voter registration deadlines,
12:12:20 24 and the first sentence says, "Often there is a delay
12:12:22 25 between when a registrant becomes a U.S. citizen and

12:12:25 1 when that registrant's citizenship status has been

12:12:29 2 updated in SAVE."

12:12:30 3 Do you see that?

12:12:30 4 A. I do.

12:12:30 5 Q. And so the rest of this section kind of puts
12:12:33 6 forward some procedures where you would have to kind of
12:12:36 7 check SAVE a few times prior to a voter registration --
12:12:44 8 prior to an election, rather, to see if SAVE has been
12:12:50 9 updated; is that correct?

12:12:50 10 A. Yes.

12:12:51 11 Q. Okay. And does your office follow those
12:12:54 12 procedures?

12:12:54 13 A. Yes.

12:12:55 14 Q. Okay. And -- okay.

12:13:16 15 And I see above that there's a section about
12:13:19 16 naturalization ceremonies; do you see that?

12:13:22 17 A. Yes.

12:13:23 18 Q. Does Maricopa County send representatives from
12:13:29 19 the Recorder's Office to naturalization ceremonies?

12:13:32 20 A. Yes.

12:13:34 21 Q. How regularly does the county do that?

12:13:38 22 A. I think we go four times a month.

12:13:42 23 Q. Okay. And does your office follow the
12:13:47 24 procedures outlined here for naturalization ceremonies?

12:13:50 25 A. Yes.

12:13:53 1 Q. Okay. And my understanding of this section is
12:13:56 2 that the County Recorders are kind of responsible for
12:14:00 3 making sure that all of those applications are kind of
12:14:03 4 affirming that DPOC is met for all of the individuals
12:14:07 5 who are registering at those naturalization ceremonies;
12:14:11 6 is that correct?

12:14:11 7 A. Yes.

12:14:11 8 Q. Okay. And this kind of cover letter from the
12:14:15 9 County Recorder representative is sufficient DPOC for
12:14:17 10 those individuals, correct?

12:14:18 11 A. Yes.

12:14:29 12 Q. Okay. On Page 11, MC 25, which is number 7,
12:14:35 13 I'd like to look at number 7, which is preservation and
12:14:38 14 protection of citizenship documentation. How and where
12:14:44 15 does your office store, you know, copies of DPOC that
12:14:50 16 you have in your possession?

12:14:52 17 A. We store it outside of the voter registration
12:14:55 18 system, and so then it's maintained. Then after two
12:15:01 19 years we destroy them.

12:15:05 20 Q. Okay. That was my next question, so thank you.
12:15:08 21 I know that it says here that you may destroy
12:15:10 22 citizenship documents after two years, and it is your
12:15:13 23 office's practice to do that; is that correct?

12:15:16 24 A. Yes.

12:15:16 25 Q. All right. Do you know if your office has

12:15:35 1 encountered instances where a voter registration
12:15:38 2 applicant is a U.S. citizen, but was flagged erroneously
12:15:43 3 by the SAVE system as a noncitizen?

12:15:45 4 A. I would not know that.

12:15:51 5 Q. Okay. So I went to a very useful webinar on
12:16:03 6 SAVE recently, and they kind of indicated that if there
12:16:10 7 is not a citizenship verification as that kind of first
12:16:15 8 step of the SAVE system, they can do kind of additional
12:16:18 9 verification steps that are more manual, where an
12:16:21 10 individual from USCIS kind of works to try to ascertain
12:16:27 11 the citizenship status of that individual. Are you
12:16:31 12 aware of those procedures?

12:16:33 13 A. I am not.

12:16:35 14 MS. BOUGHTON: Form.

12:16:36 15 BY MS. LANG:

12:16:37 16 Q. And has your office, to your knowledge, ever
12:16:40 17 used the SAVE system beyond that initial kind of
12:16:45 18 couple-seconds response from the SAVE system as to that
12:16:48 19 individual's status?

12:16:50 20 A. Well, as outlined in the procedures manual, if
12:16:53 21 it is close to an election, we will continually try to
12:16:56 22 run the number again to see if we can get a validation.

12:17:01 23 Q. Thank you.

12:17:04 24 But to your knowledge, the only use of the SAVE
12:17:06 25 system is kind of an input and then an immediate

12:17:10 1 response, and you're not aware of any additional
12:17:13 2 verification procedures that can be done through SAVE?

12:17:15 3 A. I'm not.

12:18:00 4 Q. I'm going to mark as Exhibit 16 a copy of the
12:18:03 5 state voter registration form that I want to refer to.

12:18:22 6 (Deposition Exhibit 16 was marked for
12:18:26 7 identification.)

12:18:26 8 BY MS. LANG:

12:18:29 9 Q. Okay. So does this document look familiar to
12:18:31 10 you?

12:18:31 11 A. Yes.

12:18:33 12 Q. It's a copy of the Arizona voter registration
12:18:37 13 form, what we would call the state form; is that
12:18:38 14 correct?

12:18:38 15 A. Yes.

12:18:39 16 Q. All right. And I see in box 22 there is a
12:18:43 17 separate question that says, "Are you a citizen of the
12:18:46 18 United States," and somebody has to check yes or no; is
12:18:49 19 that correct?

12:18:49 20 A. Yes.

12:18:53 21 Q. If someone fails to check any box on this form,
12:19:00 22 yes or no, but has otherwise completed the form, signed,
12:19:06 23 what does your office -- what impact does the lack of a
12:19:12 24 checkmark on that question have on the application?

12:19:16 25 A. So we would follow the elections procedures

12:19:19 1 manual, and that would not invalidate the form, just a
12:19:26 2 missed checkbox in itself.

12:19:29 3 Q. Okay. And so if a person didn't check that
12:19:34 4 box, but DPOC was provided or acquired, that person
12:19:39 5 would become a full ballot voter, assuming no other
12:19:42 6 issues with the registration?

12:19:43 7 A. Yes.

12:19:44 8 Q. Okay. If someone didn't check that box and
12:19:46 9 DPOC was not acquired or provided, what happens to that
12:19:51 10 voter?

12:19:53 11 A. Well, we would reach out to the voter and ask
12:19:55 12 them for DPOC. In most cases they would still be added
12:20:00 13 as a federal only voter.

12:20:02 14 Q. Thank you.
12:20:03 15 Why do you say in most cases there?

12:20:06 16 A. It depends on what else is in the form. If
12:20:09 17 there's any -- usually when we see things like that,
12:20:12 18 they're from third-party registration drives, and
12:20:15 19 there's more issues than just missing a checkbox. So
12:20:18 20 it's hard to categorize all of them into one box.

12:20:21 21 Q. But if the only issue is a missing checkbox and
12:20:24 22 there's no DPOC, the person would become a federal only
12:20:27 23 voter; is that correct?

12:20:28 24 A. Yes.

12:20:37 25 Q. Okay. I'll mark as Exhibit 17 the federal

12:20:39 1 form.

12:20:45 2 (Deposition Exhibit 17 was marked for
12:20:49 3 identification.)

12:20:49 4 BY MS. LANG:

12:20:50 5 Q. Is this document familiar to you?

12:20:51 6 A. Yes.

12:20:51 7 Q. And this is what we might call the national or
12:20:54 8 federal form, correct?

12:20:55 9 A. Yes.

12:20:55 10 Q. Okay. And I just quickly wanted to look at the
12:21:05 11 actual application itself, which is, I believe, the
12:21:11 12 third page, and at the top here there's a "Are you a
12:21:21 13 citizen of the United States," yes or no checkbox,
12:21:27 14 correct?

12:21:27 15 A. I don't think there's a checkbox.

12:21:30 16 Q. At the very top.

12:21:32 17 A. Oh, up here. Yes. Sorry.

12:21:34 18 Q. Yeah.

12:21:35 19 And then in box 9, once again it says, "I have
12:21:38 20 reviewed my state's instructions and I swear or affirm
12:21:42 21 that I am a United States citizen," and then other
12:21:45 22 criteria, correct?

12:21:45 23 A. Yes.

12:21:45 24 Q. And then the voter signs there, correct?

12:21:48 25 A. Yes.

12:21:48 1 Q. So if a voter has signed, but not marked the
12:21:55 2 checkbox, do you treat that the same as you would for
12:21:57 3 the state form?

12:21:57 4 A. Yes. Again, we follow the procedures manual,
12:22:00 5 and I would not invalidate the form just because of the
12:22:04 6 checkboxes.

12:22:06 7 Q. Okay. And in all of the cases where this
12:22:14 8 person would -- where an applicant would become a full
12:22:17 9 ballot voter, that means that regardless of the
12:22:19 10 checkbox, you have some sort of documentary proof of
12:22:22 11 citizenship or validation from MVD or SAVE; is that
12:22:27 12 correct?

12:22:27 13 A. Yes.

12:22:28 14 Q. Okay. In those circumstances where you have
12:22:31 15 either a verification from SAVE or from MVD or
12:22:37 16 documentary proof of citizenship, what value would that
12:22:42 17 checkbox add to that person's application?

12:22:45 18 MS. BOUGHTON: Form.

12:22:46 19 MR. O'CONNOR: Form.

12:22:48 20 BY MS. LANG:

12:22:48 21 Q. Go ahead.

12:22:49 22 A. It would be considered a fully complete form;
12:22:52 23 but as long as we have DPOC, it's not going to change
12:22:54 24 the voter's eligibility status.

12:22:57 25 Q. Okay. And in your view, would that kind of

12:23:00 1 checkbox really provide any additional information about
12:23:02 2 that person's citizenship status if you already have
12:23:05 3 DPOC for that person?

12:23:07 4 A. No.

12:23:17 5 Q. We'll mark as Exhibit 18 MC 2339.

12:23:36 6 (Deposition Exhibit 18 was marked for
12:23:37 7 identification.)

12:23:37 8 BY MS. LANG:

12:23:37 9 Q. And the first page of this exhibit is an
12:23:40 10 e-mail, and it attaches some VRAC legislative policy
12:23:47 11 updates from 2022; do you see that?

12:23:48 12 A. Yes.

12:23:50 13 Q. And have you seen this legislative policy
12:23:54 14 updates document before?

12:23:54 15 A. Yes.

12:23:56 16 Q. And if you could turn to Page 2349. Here
12:24:08 17 there's a header that talks about H.B. 2492, which is
12:24:11 18 one of the laws that's challenged here, and there's a
12:24:17 19 citizenship checkbox paragraph at the end of the page;
12:24:23 20 do you see that?

12:24:23 21 A. Yes.

12:24:25 22 Q. And here it says, "The checkbox is immaterial
12:24:27 23 and violates the CRA," which stands for the Civil Rights
12:24:31 24 Act, "by denying the right to register to vote to
12:24:34 25 eligible Arizonans who accidentally omit the checkmark

12:24:38 1 from their voter registration application."

12:24:40 2 Do you see that?

12:24:40 3 A. I do.

12:24:41 4 Q. And is that the position of the Maricopa County
12:24:41 5 Recorder's Office?

12:24:46 6 MS. CRITZ: Form.

12:24:46 7 MR. O'CONNOR: Form.

12:24:49 8 THE WITNESS: I would say we're, again,
12:24:51 9 following the elections procedures manual, and we would
12:24:53 10 not reject a registration based solely on missing a
12:24:58 11 checkbox.

12:24:58 12 BY MS. LANG:

12:24:58 13 Q. And who drafted this legislative policy updates
12:25:05 14 document?

12:25:05 15 A. I believe this was Kori Lorick, the prior state
12:25:09 16 elections director.

12:25:10 17 Q. Okay. And does the Maricopa County Recorder's
12:25:20 18 Office have a position on whether or not the checkbox is
12:25:23 19 immaterial?

12:25:27 20 MS. BOUGHTON: Form.

12:25:29 21 THE WITNESS: Again, we are following the
12:25:31 22 procedures manual on how to process registrations that
12:25:34 23 miss a checkbox.

12:25:47 24 BY MS. LANG:

12:25:47 25 Q. I appreciate your answer, and I understand that

12:25:49 1 that's the practice of the Maricopa County Recorder's
12:25:52 2 Office. I do want to ask a slightly different question,
12:25:55 3 which is do you -- you know, what the policy position is
12:25:58 4 of the Maricopa County Recorder's Office as to whether
12:26:02 5 or not the citizenship checkbox is material or
12:26:06 6 immaterial?

12:26:09 7 MS. BOUGHTON: Form.

12:26:10 8 MR. O'CONNOR: Asked and answered.

12:26:12 9 BY MS. LANG:

12:26:12 10 Q. Go ahead.

12:26:14 11 A. So we don't make the law, but we follow the
12:26:17 12 law, and so we are going to follow what's in the
12:26:20 13 procedures manual, and that is incorporated into our
12:26:25 14 policies and procedures.

12:26:31 15 Q. Is it fair to say then that your understanding
12:26:33 16 is that the Maricopa County Recorder's Office doesn't
12:26:36 17 have a -- its own position on the materiality of the
12:26:40 18 checkbox, but, rather, is just going to follow the
12:26:42 19 guidance given to it?

12:26:46 20 MS. CRITZ: Form.

12:26:47 21 THE WITNESS: I would say that we do our
12:26:50 22 job according to the law, federal/state, and policies.
12:26:54 23 So I -- again, I'm just going to stick with the fact
12:26:58 24 that we follow the law and the rules laid out in the
12:27:01 25 procedures manual.

12:27:04 1 BY MS. LANG:

12:27:04 2 Q. Okay. Is it recorded anywhere in the voter

12:27:14 3 registration database if the individual failed to check

12:27:17 4 the box for citizenship?

12:27:20 5 A. No.

12:27:20 6 Q. Okay. So there would be no way to track how

12:27:23 7 often --

12:27:23 8 A. No.

12:27:23 9 Q. -- folks miss that? Okay.

12:27:36 10 MS. LANG: I'm going to move on to a

12:27:38 11 different set of topics. Would folks prefer to take a

12:27:42 12 break now?

12:27:43 13 MR. O'CONNOR: Yes.

12:27:44 14 MS. LANG: Yes. I see yes. So we will

12:27:45 15 take a break. Thank you. We'll break for lunch.

12:27:47 16 THE VIDEOGRAPHER: We are off the record.

12:27:48 17 The time on the video monitor is 12:27 p.m. This ends

12:27:51 18 Media 2.

12:27:54 19 (A recess was taken.)

01:23:53 20 THE VIDEOGRAPHER: We are on the record.

01:23:55 21 The time on the video monitor is 1:23 p.m. This begins

01:23:58 22 Media 3.

01:24:00 23 BY MS. LANG:

01:24:01 24 Q. Good afternoon, Ms. Petty.

01:24:02 25 A. Good afternoon.

01:24:03 1 Q. Okay. I'm going to shift gears to talk more
01:24:09 2 now about the application of these new challenged laws.
01:24:15 3 I do understand, and we'll get into it more in detail,
01:24:18 4 that many of these -- many provisions in here have not
01:24:22 5 yet been implemented because of the pending litigation.
01:24:25 6 So I'll try to be clear about what I'm asking for, kind
01:24:28 7 of what would be the effect or what would be the
01:24:31 8 requirement versus current process. But with that, I'll
01:24:35 9 mark Exhibit 19 is House Bill 2492.

01:24:45 10 (Deposition Exhibit 19 was marked for
01:24:51 11 identification.)

01:24:51 12 BY MS. LANG:

01:24:51 13 Q. And so H.B. 2492, as you know, is one of the
01:24:55 14 laws that is being challenged in this litigation, and if
01:24:59 15 we look at Page 1, the first kind of full page of the
01:25:08 16 document, one of the first changes that the law makes to
01:25:13 17 the Arizona statutes is changing the code section about
01:25:17 18 the qualifications for registrants and adding that a
01:25:23 19 qualification of registration has provided -- is that
01:25:27 20 somebody has provided satisfactory evidence of
01:25:30 21 citizenship.

01:25:31 22 Do you see that there?

01:25:31 23 A. Yes.

01:25:33 24 Q. Have you received any guidance about if and
01:25:37 25 when H.B. 2492 is implemented, whether or not -- what

01:25:42 1 that would mean for individuals who register to vote
01:25:46 2 prior to the DPOC requirements?

01:25:49 3 A. I have not.

01:25:50 4 Q. Okay. And do you have any understanding of how
01:25:55 5 this -- how this provision might affect people who were
01:26:01 6 registered prior to the DPOC requirement?

01:26:04 7 A. No.

01:26:05 8 Q. Okay. Another part of this law is a
01:26:19 9 requirement that the citizen checkbox be marked; is that
01:26:24 10 your understanding?

01:26:25 11 A. Yes.

01:26:27 12 Q. Okay. So is it your understanding that if
01:26:29 13 H.B. 2492 is implemented, that would require changing
01:26:33 14 your current practices?

01:26:35 15 A. Yes.

01:26:36 16 Q. Okay. And what would the nature of that change
01:26:38 17 be?

01:26:40 18 A. That we would now follow this new law that says
01:26:42 19 that it has to be checked.

01:26:44 20 Q. And so that would mean rejecting voter
01:26:48 21 registration applications because of a missing checkmark
01:26:51 22 even if you had documentary proof of their citizenship
01:26:55 23 in your hands?

01:26:57 24 MS. BOUGHTON: Form.

01:26:58 25 THE WITNESS: That's my understanding.

01:27:01 1 BY MS. LANG:

01:27:01 2 Q. And is it your understanding that that
01:27:03 3 requirement would apply to both state and federal law --
01:27:07 4 or state and federal forms?

01:27:08 5 A. Yes.

01:27:10 6 Q. Earlier you testified that the current practice
01:27:24 7 of the state is -- strike that.

01:27:30 8 Earlier you testified that the current practice
01:27:32 9 of the Maricopa County Recorder's Office is that all
01:27:36 10 state and federal forms are processed the same way as it
01:27:39 11 applies to DPOC, correct?

01:27:40 12 A. Yes.

01:27:42 13 Q. What is your understanding of how H.B. 2492
01:27:46 14 would change that if it was implemented?

01:27:51 15 A. I have not received guidance on how we would
01:27:54 16 implement that.

01:27:56 17 Q. And looking at Page 4, the new blue Section C
01:28:05 18 says, "Except for a form produced by the United States
01:28:08 19 Election Assistance Commission, any application for
01:28:10 20 registration shall be accompanied by satisfactory
01:28:14 21 evidence of citizenship as prescribed in Section 16-166,
01:28:21 22 Subsection F, and the County Recorder or other officer
01:28:25 23 in charge of elections shall reject any application for
01:28:29 24 registration that is not accompanied by satisfactory
01:28:31 25 evidence of citizenship."

01:28:34 1 Do you see that?

01:28:34 2 A. I do.

01:28:35 3 Q. Okay. Is it your understanding that that means

01:28:37 4 that except for the federal form, anyone who does not

01:28:46 5 provide DPOC with their registration has to be denied

01:28:49 6 registration?

01:28:51 7 A. That's what it appears to say.

01:28:53 8 Q. Okay. And so would that preclude you from

01:28:56 9 doing the kind of acquiring of DPOC from MVD that you

01:29:01 10 have done in the -- up un -- you know, that you

01:29:04 11 currently do?

01:29:04 12 MS. BOUGHTON: Form.

01:29:06 13 THE WITNESS: I see that it would.

01:29:09 14 BY MS. LANG:

01:29:09 15 Q. Okay. And if someone used a state form to

01:29:15 16 register to vote under this provision and they did not

01:29:21 17 provide DPOC, they would no longer become a federal only

01:29:24 18 voter; is that correct?

01:29:26 19 MS. BOUGHTON: Form.

01:29:32 20 MR. O'CONNOR: Form.

01:29:32 21 THE WITNESS: I'm trying to read this

01:29:33 22 here, yeah.

01:29:39 23 That's what it appears to say.

01:29:40 24 BY MS. LANG:

01:29:41 25 Q. And so my understanding is that the application

01:29:43 1 of this provision would mean that federal and state
01:29:47 2 forms would be treated differently for DPOC; is that
01:29:50 3 fair to say?

01:29:50 4 MS. BOUGHTON: Form.

01:29:51 5 MR. O'CONNOR: Form.

01:29:53 6 BY MS. LANG:

01:29:53 7 Q. Go ahead.

01:29:53 8 A. Yes.

01:29:58 9 Q. And are you aware of any prior practice by the
01:30:03 10 Maricopa County Recorder's Office in which state forms
01:30:07 11 and federal forms were treated differently with respect
01:30:10 12 to DPOC?

01:30:13 13 A. There was a time that state forms and federal
01:30:15 14 forms were treated differently, yes.

01:30:21 15 Q. Okay. And when was that; do you know?

01:30:30 16 A. I don't remember exact time frame.

01:30:34 17 Q. Okay. And what led to the change in which
01:30:41 18 federal and state forms are now treated the same?

01:30:45 19 A. The case was litigated and we had a LULAC
01:30:49 20 agreement, which said that we had to treat the forms the
01:30:51 21 same.

01:30:51 22 Q. Okay. And that was the LULAC consent decree;
01:30:51 23 is that right?

01:30:54 24 A. Yes.

01:30:56 25 Q. Okay. And the LULAC consent decree provisions

01:30:58 1 have been incorporated in the 2019 EPM; is that correct?

01:31:02 2 A. Yes.

01:31:02 3 MR. O'CONNOR: Form.

01:31:02 4 THE WITNESS: Yes.

01:31:16 5 BY MS. LANG:

01:31:17 6 Q. Okay. Are you familiar with how many state
01:31:19 7 form applicants had been denied access to the federal
01:31:23 8 only list prior to the LULAC litigation and consent
01:31:26 9 decree?

01:31:27 10 A. I do not know.

01:31:32 11 MS. STUART: Just as a general reminder,
01:31:34 12 it's hard to hear you because of the fan.

01:31:37 13 THE WITNESS: Oh.

01:31:37 14 MS. STUART: Thank you.

01:31:42 15 BY MS. LANG:

01:31:42 16 Q. Sitting here today, can you think of any reason
01:31:44 17 why a voter submitting a state form versus a federal
01:31:49 18 form would be any less entitled to vote in federal
01:31:54 19 elections?

01:31:54 20 MR. O'CONNOR: Form.

01:31:55 21 MS. BOUGHTON: Form.

01:31:55 22 MS. STUART: Form.

01:31:56 23 THE WITNESS: Again, we follow the law, so
01:31:59 24 if the law says we treat them differently, we would. If
01:32:01 25 the law says we treat them the same, we would.

01:32:05 1
01:32:05 2
01:32:09 3
01:32:14 4
01:32:17 5
01:32:21 6
01:32:24 7
01:32:24 8
01:32:27 9
01:32:30 10
01:32:33 11
01:32:35 12
01:32:37 13
01:32:48 14
01:32:48 15
01:32:58 16
01:33:02 17
01:33:05 18
01:33:09 19
01:33:11 20
01:33:12 21
01:33:12 22
01:33:14 23
01:33:21 24
01:33:27 25

BY MS. LANG:
Q. Is the information that you receive about the voter different from -- depending on whether or not you receive a state or federal form?
A. There's certain optional information included on the state form that would not be included on the national form.
Q. Is there any information you receive on the state form that would have a bearing on your determination of whether or not someone is a citizen or not that's not on the federal form?
MS. BOUGHTON: Form.
THE WITNESS: I don't believe so.
BY MS. LANG:
Q. Based on current practice, what's the breakdown between the average number of kind of state forms you receive versus federal forms?
A. I don't have those statistics in front of me.
Q. Do you receive more state forms than you do federal forms?
A. Yes.
Q. Substantially more?
A. Yes.
Q. Does your office provide voter registration applications to third-party groups that conduct voter

01:33:30 1 registration drives?

01:33:30 2 A. Yes.

01:33:31 3 Q. And when you provide those voter registration
01:33:34 4 applications to third-party groups, is that the state
01:33:36 5 form or the federal form?

01:33:37 6 A. The state form.

01:33:40 7 Q. And, to your knowledge, with respect to the
01:33:42 8 groups that conduct voter registration drives in
01:33:45 9 Maricopa County, do those groups typically use the state
01:33:50 10 form or the federal form?

01:33:52 11 MR. O'CONNOR: Form.

01:33:52 12 THE WITNESS: The state form.

01:34:01 13 BY MS. LANG:

01:34:10 14 Q. So when it comes to H.B. 2492, as we've
01:34:16 15 discussed, if it's a state form, but lacks DPOC, the law
01:34:20 16 requires you to reject that application. Subsection D
01:34:25 17 deals with how to process federal forms that are not
01:34:28 18 accompanied by DPOC; do you see that on Page 4?

01:34:34 19 A. Yes.

01:34:38 20 Q. And for those individuals it instructs that
01:34:41 21 within ten days after receiving the application, quote,
01:34:46 22 the County Recorder or other officer in charge of
01:34:48 23 elections shall use all available resources to verify
01:34:51 24 the citizenship status of the applicant; do you see
01:34:55 25 that?

01:34:55 1 A. Yes.

01:34:56 2 Q. And then says, "At a minimum shall compare the
01:35:00 3 following information available on the application for
01:35:01 4 registration with the following, provided that the
01:35:03 5 county has access." Do you see that?

01:35:04 6 A. Yes.

01:35:13 7 Q. The first item is the Department of
01:35:18 8 Transportation. Is it your understanding that that
01:35:20 9 would be the kind of MVD check that your office already
01:35:24 10 does?

01:35:25 11 A. Yes.

01:35:34 12 Q. Okay. With respect -- so number 2 says, "The
01:35:36 13 Social Security Administration database." I think you
01:35:40 14 already testified about this, but do you have any direct
01:35:42 15 access to the Social Security Administration databases?

01:35:46 16 A. No.

01:35:50 17 Q. And I believe your testimony earlier was that
01:35:52 18 the only kind of social security check that's done is
01:35:55 19 done through MVD; is that correct?

01:35:57 20 A. Yes.

01:35:58 21 Q. Is it your understanding that that social
01:36:00 22 security check through MVD is ever used for purposes of
01:36:08 23 verifying citizenship information?

01:36:10 24 MS. BOUGHTON: Form.

01:36:12 25 THE WITNESS: My understanding is not used

01:36:15 1 for DPOC.

01:36:18 2 BY MS. LANG:

01:36:18 3 Q. So it's your understanding that the SSA check

01:36:20 4 the MVD does is not used for DPOC, correct?

01:36:22 5 A. Correct.

01:36:23 6 Q. Is it your understanding it's only used for

01:36:25 7 kind of verification of identity under the Help America

01:36:30 8 Vote Act?

01:36:30 9 A. Yes.

01:36:32 10 Q. Okay. To your knowledge, would any election

01:36:37 11 official in the state of Arizona have the ability to use

01:36:40 12 an SSA database to verify the citizenship of applicants?

01:36:45 13 MS. BOUGHTON: Form.

01:36:47 14 THE WITNESS: I'm not aware of any access.

01:36:57 15 BY MS. LANG:

01:36:57 16 Q. Other than the MVD check that we've already

01:36:59 17 discussed in great detail, do you have any other access

01:37:04 18 to kind of records from the Department of Transportation

01:37:08 19 for which you could verify citizenship?

01:37:10 20 A. No.

01:37:15 21 Q. For number 3 on the next page it refers to the

01:37:20 22 Systematic Alien Verification for Entitlements program,

01:37:24 23 the SAVE system. Yes?

01:37:26 24 A. Yes.

01:37:27 25 Q. We've already discussed your access to the SAVE

01:37:32 1 system, and I believe your testimony was that the SAVE
01:37:35 2 system is only useful if you have an A-Number for an
01:37:40 3 individual; is that correct?

01:37:41 4 A. Yes.

01:37:43 5 Q. Okay. And if you could look back at
01:37:47 6 Exhibit 17, which is the federal voter registration
01:37:53 7 form, and if you look at the application page itself, is
01:37:57 8 there any space by which an individual could provide an
01:38:00 9 A-Number?

01:38:04 10 A. Under box 6, ID number.

01:38:13 11 Q. Okay. And it says -- under box 6 it says, "See
01:38:16 12 item 6 in the instructions for your state." Is that
01:38:16 13 right?

01:38:20 14 A. Yes.

01:38:22 15 Q. Okay. And so if we could turn to the
01:38:24 16 instructions for Arizona, which I believe are on Page 3,
01:38:35 17 if you could review the instructions for number 6, is
01:38:38 18 there any mention of providing an A-Number?

01:38:45 19 A. No.

01:38:46 20 Q. Okay. The only numbers that are referenced in
01:38:48 21 these instructions are either a driver's license number,
01:38:52 22 a nondriving ID, or a social security number; is that
01:38:56 23 correct?

01:38:56 24 A. Yes.

01:38:59 25 Q. Okay. So there's no reason -- is it correct

01:39:04 1 that there's no reason to believe that federal -- that
01:39:08 2 you would have an A-Number for any individual that
01:39:11 3 provides a federal form to register to vote?

01:39:16 4 MS. STUART: Form.

01:39:17 5 THE WITNESS: I would say in my experience
01:39:20 6 I've seen people put all kinds of numbers in there, but
01:39:23 7 the instructions do say driver's license number.

01:39:26 8 BY MS. LANG:

01:39:59 9 Q. Okay. For number 4, "A National Association
01:40:02 10 for Public Health Statistics and Information Systems
01:40:05 11 Electronic Verification of Vital Events System," is that
01:40:10 12 a system that you have access to?

01:40:12 13 A. No.

01:40:14 14 Q. Are you aware of any Arizona election official
01:40:17 15 that has access to that data?

01:40:19 16 A. I'm not aware of any access to that.

01:40:21 17 Q. Okay. And number 5 says, "Any other state,
01:40:25 18 city, town, county or federal database," and kind of
01:40:33 19 instructs County Recorders to consult any such database
01:40:37 20 as to citizenship information.

01:40:42 21 Outside of SAVE and the MVD checks, are you
01:40:45 22 aware of any data that you would have access to that
01:40:50 23 could assist you in ascertaining the citizenship of
01:40:55 24 federal form applicants?

01:40:55 25 A. No.

01:41:18 1 Q. Backing up for just a moment, if we look back
01:41:21 2 at Page 4 and Section C that instructs you to deny voter
01:41:27 3 registration applications not accompanied by DPOC,
01:41:33 4 except for federal forms, do you see that there is a
01:41:37 5 sentence in here that says, "A County Recorder or other
01:41:40 6 officer in charge of elections who knowingly fails to
01:41:43 7 reject an application for registration as prescribed by
01:41:47 8 this Subsection is guilty of a Class 6 felony"?

01:41:51 9 A. Yes.

01:41:56 10 Q. Has this provision or any of the other felony
01:41:59 11 provisions in these new bills raised concerns among
01:42:03 12 election officials about potential prosecution?

01:42:09 13 MR. O'CONNOR: Form.

01:42:10 14 MS. BOUGHTON: Form.

01:42:12 15 BY MS. LANG:

01:42:12 16 Q. Go ahead.

01:42:13 17 A. I have heard some concerns about that.

01:42:17 18 Q. Who have you heard concerns from?

01:42:20 19 MR. O'CONNOR: Form.

01:42:22 20 THE WITNESS: Just folks that process
01:42:25 21 voter registration forms.

01:42:27 22 BY MS. LANG:

01:42:27 23 Q. Your staff?

01:42:28 24 A. Not necessarily my staff, no.

01:42:31 25 Q. Have any of your staff expressed concerns about

01:42:34 1 the felony provisions in these laws?

01:42:36 2 A. Yes.

01:42:39 3 Q. How many staff members have expressed concerns
01:42:42 4 about these felony provisions?

01:42:46 5 A. One or two.

01:42:48 6 Q. And what has the guidance been from your office
01:42:51 7 to the County Recorders -- or to your staff about these
01:42:58 8 felony provisions?

01:42:59 9 MR. O'CONNOR: Form.

01:43:01 10 THE WITNESS: Well, currently these
01:43:02 11 provisions have not been implemented, but general
01:43:07 12 guidance is that as long as you are doing your job to
01:43:10 13 the best of your ability and you're not knowingly
01:43:13 14 violating any laws, that we are doing a good job.

01:43:20 15 BY MS. LANG:

01:43:20 16 Q. Are you personally worried about the felony
01:43:24 17 provisions in these laws?

01:43:26 18 A. Personally, no.

01:44:01 19 Q. On Page 5, number 5, we talked about kind of
01:44:05 20 any other database language, and then at the end it says
01:44:09 21 "Including an electronic registration information
01:44:13 22 center database." Do you see that?

01:44:14 23 A. I do.

01:44:15 24 Q. Are you familiar with ERIC?

01:44:16 25 A. Yes.

01:44:17 1 Q. Is Arizona a member of ERIC?

01:44:19 2 A. Yes.

01:44:20 3 Q. To your knowledge, does ERIC provide any
01:44:24 4 citizenship information about voter registration
01:44:29 5 applicants?

01:44:29 6 A. No.

01:44:48 7 Q. In number 5 there is language that says the
01:44:52 8 County Recorder should follow -- should apply, quote,
01:44:56 9 any other database relating to voter registration to
01:45:01 10 which the County Recorder Office in charge of elections
01:45:04 11 has access.

01:45:10 12 Do you think that this could broadly be applied
01:45:13 13 to materials that are provided to your office by private
01:45:18 14 citizens?

01:45:18 15 MR. O'CONNOR: Form.

01:45:19 16 MS. BOUGHTON: Form.

01:45:22 17 THE WITNESS: Because it says database, I
01:45:24 18 would say that a form is not a database.

01:45:52 19 BY MS. LANG:

01:45:53 20 Q. I'll mark as Exhibit 20 a document that is
01:45:58 21 labeled NAVAJO 004820.

01:46:10 22 (Deposition Exhibit 20 was marked for
01:46:23 23 identification.)

01:46:23 24 BY MS. LANG:

01:46:23 25 Q. And this is an e-mail from June 15th, 2022 from

01:46:27 1 Stephen Richer of the County Recorder of Maricopa
01:46:31 2 County; is that correct?
01:46:31 3 A. Yes.
01:46:36 4 Q. And the e-mail chain is about kind of revisions
01:46:39 5 to, you know, potential bills along these lines, and
01:46:47 6 Recorder Richer writes, "Does this get rid of the
01:46:49 7 situation whereby any person can submit us lists that we
01:46:54 8 then have to check? E.g. Hi. I used my super secret
01:46:59 9 research program to figure out that these 300,000 people
01:47:02 10 are not citizens. Please check the citizenship of every
01:47:06 11 single one of them right now."
01:47:08 12 Do you see that?
01:47:09 13 A. I do.
01:47:12 14 Q. Is it your understanding that this concern was
01:47:14 15 about the language that is now in H.B. 2492 that would
01:47:19 16 require County Recorders to consult any database or any
01:47:25 17 information they have about citizenship?
01:47:27 18 MR. O'CONNOR: Form.
01:47:28 19 MS. STUART: Form, foundation.
01:47:32 20 THE WITNESS: That was my understanding.
01:47:34 21 BY MS. LANG:
01:47:34 22 Q. Has the County Recorder, Stephen Richer, spoken
01:47:38 23 to you about kind of a concern that this language could
01:47:41 24 be read so broadly as to encompass something like what
01:47:44 25 he wrote in this e-mail?

01:47:47 1 A. We have not had specific conversations about
01:47:50 2 that.

01:47:53 3 Q. Okay. If a private group provided you a
01:48:08 4 database of what they asserted was information about
01:48:11 5 people's citizenship, would you be required to consult
01:48:15 6 that database under number 5 of this law?

01:48:20 7 MS. BOUGHTON: Form.

01:48:20 8 MR. O'CONNOR: Form.

01:48:20 9 THE WITNESS: I don't know.

01:48:22 10 BY MS. LANG:

01:49:22 11 Q. Okay. In Subsection E, the second full
01:49:27 12 sentence on Page 5 of Subsection E says, "If the County
01:49:33 13 Recorder or other officer in charge of elections matches
01:49:36 14 the applicant with information that the applicant is not
01:49:38 15 a United States citizen, the County Recorder or other
01:49:43 16 officer in charge shall reject the application."

01:49:45 17 Do you see that?

01:49:46 18 A. Sorry. Which line?

01:49:50 19 Q. Oh, that's a good point.

01:49:53 20 Line 14.

01:49:57 21 A. Yes.

01:49:59 22 Q. Okay. When it says that the County Recorder,
01:50:03 23 you know, matches the applicant with information that
01:50:06 24 the applicant is not a United States citizen, is it your
01:50:09 25 understanding that that just means that whatever

01:50:11 1 database was consulted provided some indication of
01:50:14 2 noncitizenship?

01:50:15 3 MS. BOUGHTON: Form.

01:50:15 4 MR. O'CONNOR: Form.

01:50:16 5 THE WITNESS: Yes.

01:50:17 6 BY MS. LANG:

01:50:22 7 Q. Okay. Do you know what a County Recorder
01:50:25 8 should do under H.B. 2492 if the information these
01:50:31 9 databases pull up conflicts?

01:50:34 10 MR. O'CONNOR: Form.

01:50:36 11 THE WITNESS: I don't know because we have
01:50:37 12 not been given guidance.

01:51:09 13 BY MS. LANG:

01:51:09 14 Q. Okay. I think you've already testified to
01:51:11 15 this, but as to the implementation of the provisions
01:51:14 16 we've just been discussing, you haven't received any
01:51:17 17 guidance whatsoever on how to implement these; is that
01:51:19 18 correct?

01:51:19 19 A. That's correct.

01:51:25 20 Q. Okay. And your office is not currently
01:51:27 21 implementing these provisions; is that correct?

01:51:29 22 A. That is correct.

01:52:19 23 Q. Another provision in this law indicates that
01:52:22 24 anyone who does become a federal only voter cannot vote
01:52:25 25 by mail; is that correct?

01:52:27 1 A. Yes.

01:52:29 2 Q. Okay. And so I want to refer you to -- I'm

01:52:35 3 going to pull up as an exhibit MC 2195. It's Exhibit 7.

01:52:40 4 I apologize. If your counsel might be able to provide

01:52:45 5 you Exhibit 7 or if you have it.

01:52:47 6 Thank you.

01:52:51 7 MS. STUART: What is the Bates number,

01:52:52 8 again?

01:52:53 9 MS. LANG: MC 2195.

01:53:01 10 BY MS. LANG:

01:53:01 11 Q. And I see at the bottom of this first page and

01:53:07 12 then the second page there's an e-mail from you to

01:53:09 13 Colleen Connor; is that correct, from April 27th, 2023?

01:53:14 14 A. Yes.

01:53:16 15 Q. Okay. And you were raising some questions

01:53:20 16 about the application of H.B. 2492 if it's implemented;

01:53:27 17 is that correct?

01:53:27 18 A. Yes.

01:53:28 19 Q. All right. And I just wanted to ask you, one,

01:53:33 20 generally, has there been any guidance in response to

01:53:37 21 the various issues you raised here?

01:53:41 22 A. There's been no guidance yet.

01:53:43 23 Q. Okay. On the number 1, issue number 2 that you

01:53:49 24 raised, it says, "If a federal only voters -- if a

01:53:56 25 federal only voter initially requests to be on the AEVL

01:54:01 1 but is restricted because of lack of DPOC, if the voter
01:54:06 2 later provides DPOC, do they need to re-request to be on
01:54:09 3 the AEVL, or do we add them based on their initial
01:54:15 4 request?"

01:54:15 5 Do you see that?

01:54:16 6 A. Yes.

01:54:16 7 Q. You haven't gotten any response on that?

01:54:18 8 A. No.

01:54:18 9 Q. And what is your thought on, you know, how that
01:54:20 10 would apply?

01:54:21 11 MR. O'CONNOR: Form.

01:54:23 12 MR. BASILE: Form.

01:54:24 13 BY MS. LANG:

01:54:24 14 Q. If you have one.

01:54:25 15 A. Well, I don't know what the thought would be.
01:54:28 16 That -- system functionality would need to change to
01:54:31 17 accommodate that.

01:55:04 18 Q. Referring back to H.B. 2492 again, on Page 5,
01:55:12 19 Section F instructs that the County Recorder or other
01:55:16 20 officer in charge of elections shall record the efforts
01:55:19 21 made to verify an applicant's citizenship status as
01:55:23 22 described in Subsections D and E of this section.

01:55:27 23 Do you see that?

01:55:27 24 A. Yes.

01:55:28 25 Q. Is there currently functionality in your

01:55:30 1 database or in AVID that would allow the County Recorder
01:55:35 2 to kind of record all of those efforts?

01:55:42 3 A. I think this is an area where we are also
01:55:46 4 requesting guidance, what do they mean by tracking all
01:55:50 5 the efforts.

01:55:52 6 Q. And so as you're sitting here today, you're not
01:55:54 7 sure what that will mean in practice for you or your
01:55:57 8 office?

01:55:58 9 A. Correct.

01:56:18 10 Q. If you look at Page 6, there's the section that
01:56:33 11 addresses the limitations on federal only voters,
01:56:37 12 indicating that federal only voters would not be
01:56:40 13 eligible for presidential elections and not eligible to
01:56:43 14 receive an early ballot by mail.

01:56:45 15 Do you see that?

01:56:45 16 A. Yes.

01:56:46 17 Q. And there's an exclusion in Subsection B that
01:56:50 18 says it does not apply to folks under UOCAVA; is that
01:56:55 19 correct?

01:56:55 20 A. Yes.

01:57:00 21 Q. What is your understanding, if any, of the
01:57:05 22 application of the rest of the parts of this law to
01:57:08 23 UOCAVA voters?

01:57:10 24 MR. O'CONNOR: Form.

01:57:15 25 THE WITNESS: I'm not sure what you mean.

01:57:17 1 BY MS. LANG:

01:57:18 2 Q. So, for example, there are all of these

01:57:21 3 requirements about checking databases that we just went

01:57:24 4 over.

01:57:24 5 A. Yes.

01:57:24 6 Q. Is it your understanding that those

01:57:26 7 requirements would apply to UOCAVA voters as well?

01:57:31 8 MS. BOUGHTON: Form.

01:57:32 9 THE WITNESS: That would be my

01:57:34 10 understanding.

01:57:34 11 BY MS. LANG:

01:57:59 12 Q. Okay. If under H.B. 2492 an application is

01:58:02 13 denied because of lack of DPOC, by when would a voter

01:58:13 14 have to provide DPOC in order to be able to vote in an

01:58:18 15 upcoming election?

01:58:19 16 MR. O'CONNOR: Form.

01:58:22 17 THE WITNESS: I don't know.

01:58:27 18 BY MS. LANG:

01:58:27 19 Q. And you haven't received any guidance on that?

01:58:29 20 A. No.

01:58:31 21 Q. I do apologize. There will probably be a lot

01:58:34 22 of questions about --

01:58:34 23 A. I know.

01:58:35 24 Q. -- what you have not received guidance on, and

01:58:38 25 it is just a matter of getting it clearly on the record.

01:58:38 1 A. That's okay.

01:58:42 2 Q. I understand it's a little repetitive.

01:59:02 3 I'm going to introduce as Exhibit 21 House

01:59:06 4 Bill 2243, which is the other law at issue in this case.

01:59:16 5 (Deposition Exhibit 21 was marked for

01:59:41 6 identification.)

01:59:41 7 BY MS. LANG:

01:59:41 8 Q. So on Page 3 and 4 there are changes to the

01:59:45 9 part of the statute that is Code Section 16-165, causes

01:59:51 10 for cancellation; do you see that?

01:59:53 11 A. Yes.

01:59:53 12 Q. And so this is the part of the election code

01:59:57 13 that delineates the reasons why a County Recorder would

02:00:01 14 cancel a voter registration; is that correct?

02:00:03 15 A. Yes.

02:00:04 16 Q. All right. And I want to look at

02:00:08 17 Subsection 10, which instructs that when the County

02:00:11 18 Recorder obtains information pursuant to this section

02:00:13 19 and confirms that the person registered is not a United

02:00:18 20 States citizen, including when the County Recorder

02:00:21 21 receives a summary report from the jury commissioner or

02:00:24 22 jury manager pursuant to Section 21-314 indicating that

02:00:29 23 a person who is registered to vote has stated that the

02:00:32 24 person is not a United States citizen.

02:00:34 25 So this is stating that one reason would be if

02:00:38 1 the County Recorder obtains information and confirms
02:00:41 2 that the person who's registered is not a United States
02:00:45 3 citizen; is that right?

02:00:45 4 A. Yes.

02:00:48 5 Q. Would County Recorders or would your office
02:01:03 6 have any way of confirming that a person is not a United
02:01:10 7 States citizen beyond the information that's received
02:01:13 8 from one of these sources?

02:01:16 9 A. Not to my knowledge.

02:01:18 10 Q. So when it says "confirms that the person
02:01:21 11 registered is not a United States citizen," to your
02:01:25 12 knowledge, based on the information currently available
02:01:27 13 to County Recorders, that would just be simply that a
02:01:32 14 database indicated that person was a noncitizen?

02:01:38 15 MS. BOUGHTON: Form.

02:01:39 16 THE WITNESS: Yes, or that the voter
02:01:41 17 self-reported themselves as a noncitizen.

02:02:03 18 BY MS. LANG:

02:02:04 19 Q. Have you received any guidance on how -- you
02:02:07 20 know, what level of match you would require between the
02:02:13 21 voter registration information and any of these
02:02:15 22 databases in order to confirm noncitizenship under this
02:02:21 23 section?

02:02:23 24 A. We have not received any guidance related to
02:02:26 25 matching regarding this section.

02:03:14 1 Q. On Page 6 of H.B. 2243, Section H, the law
02:03:21 2 indicates, "To the extent practicable, each month the
02:03:25 3 County Recorder shall compare persons who are registered
02:03:28 4 to vote in that county and who the County Recorder has
02:03:31 5 reason to believe are not United States citizens and
02:03:36 6 persons who are registered to vote without satisfactory
02:03:39 7 evidence of citizenship."

02:03:46 8 Has there been any guidance on what might
02:03:49 9 constitute a reason to believe someone is not a United
02:03:54 10 States citizen?

02:03:54 11 A. No.

02:04:12 12 Q. Are you aware of any restrictions on what a
02:04:16 13 County Recorder might decide is a reason to believe
02:04:22 14 someone is not a United States citizen?

02:04:24 15 MR. O'CONNOR: Form.

02:04:28 16 THE WITNESS: I -- I don't know.

02:04:30 17 BY MS. LANG:

02:04:30 18 Q. There hasn't been any -- well, strike that.

02:04:38 19 Would a County Recorder be permitted to
02:04:43 20 consider a place of birth outside the United States as a
02:04:47 21 reason to believe someone is not a United States
02:04:50 22 citizen?

02:04:50 23 MR. O'CONNOR: Form.

02:04:51 24 MS. STUART: Form.

02:04:53 25 THE WITNESS: And I don't know.

02:05:11 1 BY MS. LANG:

02:05:12 2 Q. Going back to Page 3, Subsection 9 deals with

02:05:25 3 jury information about noncitizenship; is that correct?

02:05:33 4 A. Section -- I'm sorry, what section?

02:05:34 5 Q. Sorry. Page 3 of H.B. 2243, Section 9(b), and

02:05:41 6 it starts at Line 36.

02:05:42 7 A. Okay. Yes.

02:05:44 8 Q. And this addresses kind of reports you might

02:05:47 9 get from jury commissioners or managers about people who

02:05:51 10 have self-reported as either not residents or not

02:05:55 11 citizens; is that correct?

02:05:56 12 A. Yes.

02:05:58 13 Q. Can you walk me through, and you may have

02:06:00 14 already done this a little bit, the current practice as

02:06:04 15 to reports from jury managers?

02:06:09 16 A. So if we receive a list from the jury office

02:06:13 17 indicating somebody has moved out of the county, we

02:06:17 18 would send a notice to the voter's address of record and

02:06:23 19 see if it gets returned undeliverable or if they -- if

02:06:26 20 they get returned undeliverable, then we would send a

02:06:29 21 final notice and we would start the NVRA process. If we

02:06:33 22 didn't get anything back, again, we would start then

02:06:41 23 with the 35 days would still be -- the clock would

02:06:43 24 still be starting to see if we get a response from the

02:06:47 25 voter.

02:06:47 1 Q. And if you don't get a response, does it go
02:06:49 2 into the NVRA process?

02:06:51 3 A. Yes.

02:06:52 4 Q. Okay. And what about if you get information
02:06:54 5 from a jury manager that someone has self-reported as
02:06:58 6 not a citizen?

02:06:59 7 A. So we would review the voter's record, and if
02:07:01 8 we had DPOC on file for the voter, we would do nothing.
02:07:04 9 If they were a federal only voter, then we would send
02:07:07 10 them a letter asking them to provide DPOC.

02:07:11 11 Q. And then what happens kind of after that
02:07:13 12 notice?

02:07:16 13 A. If we don't hear anything, nothing really
02:07:18 14 further happens.

02:07:20 15 Q. Okay. And is it your understanding that this
02:07:25 16 section, if implemented, would make changes to that
02:07:28 17 current practice?

02:07:28 18 A. Yes.

02:07:29 19 Q. Okay. And based on the review of some
02:07:37 20 documents and some of your testimony earlier today, at
02:07:42 21 some point this year election officials were working on
02:07:47 22 guidance to implement this part of the law; is that
02:07:52 23 correct?

02:07:52 24 MS. STUART: Form.

02:07:53 25 THE WITNESS: Yes.

02:07:57 1 BY MS. LANG:

02:07:57 2 Q. Okay. Can you describe for me the efforts and
02:08:02 3 work that went into starting to develop the processes
02:08:08 4 and AVID functionality for the new jury report process?

02:08:13 5 MR. O'CONNOR: Form.

02:08:16 6 THE WITNESS: There was a meeting with
02:08:18 7 VRAC, the voter and registration advisory committee, and
02:08:22 8 some of this was discussed, and then VRAC papers were
02:08:27 9 drafted by the Secretary of State's Office, and I don't
02:08:33 10 recall if they were sent to all counties. I know
02:08:37 11 Colleen sent them specifically to me to review.

02:08:44 12 BY MS. LANG:

02:08:44 13 Q. Under current practice, do you regularly
02:08:47 14 receive information from jury managers?

02:08:50 15 A. Yes.

02:08:53 16 Q. Okay. And is that received on a monthly basis,
02:08:55 17 or how is that information delivered to you?

02:08:58 18 A. Monthly.

02:09:37 19 Q. Okay. You testified earlier that the VRAC
02:09:40 20 draft on the jury report process has been revoked; is
02:09:46 21 that correct?

02:09:46 22 A. Yes.

02:09:47 23 Q. How was that revocation communicated to you?

02:09:53 24 A. I believe it was during a call with the
02:09:57 25 Secretary of State's Office and County Recorders.

02:10:00 1 Q. And when was that?

02:10:01 2 A. A few months ago.

02:10:08 3 Q. Okay. And given that, is it correct that this
02:10:14 4 part of H.B. 2243 is not currently being implemented by
02:10:17 5 your office?

02:10:19 6 A. That's correct.

02:10:33 7 Q. Okay. In addition to kind of drafting a VRAC
02:10:37 8 paper, did you and other county election officials work
02:10:45 9 with INEXL to start to develop the AVID functionality
02:10:50 10 for this new system?

02:10:53 11 A. I believe there was some discussions with INEXL
02:10:56 12 about system functionality, yes.

02:11:00 13 Q. To your knowledge, have those functions been
02:11:02 14 implemented in AVID, or are they on hold because of the
02:11:08 15 revocation of that paper?

02:11:11 16 A. I believe some development work had been done,
02:11:16 17 but has been put on hold.

02:11:18 18 Q. Okay. Have you received any guidance from the
02:11:25 19 Secretary of State's Office on kind of the timeline for
02:11:27 20 how long implementation will be on hold?

02:11:32 21 A. No.

02:12:27 22 Q. Okay. H.B. 2243, on Page 5, Section F, which
02:12:35 23 is at the bottom, Line 41, discusses a kind of monthly
02:12:40 24 comparison of the statewide voter registration database
02:12:44 25 against the MVD database and then reports to your

02:12:49 1 office. Has that been implemented so far?

02:12:53 2 A. Which section?

02:12:55 3 Q. It's Subsection F, Line 41 on Page 5.

02:13:00 4 A. Okay.

02:13:07 5 MS. STUART: Can you restate your

02:13:08 6 question?

02:13:08 7 MS. LANG: Yes.

02:13:08 8 MS. STUART: I'm sorry. Yeah, just repeat

02:13:10 9 it.

02:13:10 10 MS. LANG: Yes.

02:13:12 11 BY MS. LANG:

02:13:12 12 Q. This section discusses a monthly comparison

02:13:17 13 between the statewide voter registration database and

02:13:21 14 the driver's license database and then a report to

02:13:24 15 County Recorders based on -- based on that comparison as

02:13:29 16 to residents and citizenship; is that correct?

02:13:32 17 A. Yes.

02:13:34 18 Q. To the best of your knowledge, has that been

02:13:38 19 implemented thus far?

02:13:39 20 A. No.

02:13:41 21 Q. Have you received any reports based on any

02:13:44 22 monthly comparisons with the MVD database?

02:13:48 23 A. No.

02:14:05 24 Q. On Page 6, Subsection H, which is on Line 6,

02:14:11 25 and we reviewed this already, but envisions that monthly

02:14:16 1 the County Recorder would have to take the population of
02:14:19 2 federal only voters and anyone else they have a reason
02:14:22 3 to believe is not a United States citizen and check
02:14:26 4 those individuals against the SAVE system; is that
02:14:31 5 correct?

02:14:31 6 A. Yes.

02:14:35 7 Q. I think we've already -- we've already covered
02:14:38 8 this, but for many of these individuals you would not be
02:14:40 9 able to use the SAVE system because you don't have an
02:14:42 10 A-Number; is that correct?

02:14:43 11 A. That's my understanding, yes.

02:14:44 12 Q. Okay. What kind of resources would it require
02:14:49 13 for your office to every single month rerun all of these
02:14:53 14 individuals against the SAVE system?

02:14:56 15 MR. O'CONNOR: Form.

02:14:59 16 THE WITNESS: That's hard to answer. I
02:15:11 17 don't know.

02:15:11 18 BY MS. LANG:

02:15:12 19 Q. Is it fair to say that the requirements of
02:15:15 20 these sections that would require these monthly
02:15:17 21 comparisons against various databases would require the
02:15:22 22 County Recorder to expend substantial additional
02:15:24 23 resources?

02:15:25 24 MR. O'CONNOR: Form.

02:15:25 25 MS. BOUGHTON: Form.

02:15:27 1 THE WITNESS: It would definitely require
02:15:30 2 additional work.

02:15:31 3 BY MS. LANG:

02:15:32 4 Q. Do you have a lot of excess man or womanpower
02:15:35 5 in your office at the moment?

02:15:39 6 A. We're fully staffed. I don't -- it -- again, I
02:15:45 7 don't know how to answer that without guidance on what
02:15:48 8 all this fully means.

02:15:50 9 Q. Okay. Are you aware of any funding that came
02:15:53 10 along with H.B. 2243 to help assist County Recorders in
02:15:59 11 all these new requirements?

02:16:02 12 A. I'm not aware of any.

02:16:31 13 Q. I'd like to refer back to Exhibit 18, which was
02:16:34 14 MC 002339, and we've previously reviewed this document,
02:16:47 15 which has an e-mail that then attaches the VRAC
02:16:52 16 legislative policy updates from 2022, and I believe you
02:16:56 17 testified that someone from the Secretary of State's
02:17:02 18 Office authored this document; is that correct?

02:17:03 19 A. Yes.

02:17:07 20 Q. All right. And on Page 2347 I want to refer
02:17:13 21 you to number 4, which is about database comparisons,
02:17:21 22 and the second bullet point says, "SAVE does not permit
02:17:25 23 us to query the database for purposes other than initial
02:17:28 24 registration."

02:17:31 25 Do you see that?

02:17:31 1 A. Yes.

02:17:34 2 Q. Based on your knowledge, is that correct?

02:17:37 3 A. Yes.

02:17:39 4 Q. Okay. So is it your understanding that right

02:17:41 5 now you do not have permission from USCIS to use the

02:17:47 6 SAVE system for the purposes outlined in 2243?

02:17:51 7 MS. BOUGHTON: Form.

02:17:52 8 THE WITNESS: That's my understanding.

02:17:55 9 BY MS. LANG:

02:17:55 10 Q. Okay. And it says that if a county uses it for

02:17:58 11 more than this, meaning initial registration, Arizona's

02:18:02 12 membership may be revoked; is that correct?

02:18:04 13 MR. O'CONNOR: Form.

02:18:05 14 BY MS. LANG:

02:18:05 15 Q. Is that what it says?

02:18:06 16 A. That's what it says.

02:18:07 17 Q. Okay. And is that your understanding as well?

02:18:10 18 A. That is my understanding.

02:18:12 19 Q. Okay. And the next two sentences say, "Please

02:18:19 20 keep in mind that SAVE only contains data for

02:18:22 21 individuals who have become U.S. citizens. It will not

02:18:25 22 contain information on every U.S. citizen, so its

02:18:28 23 utility is extremely limited."

02:18:29 24 Is that what that says?

02:18:30 25 A. Yes.

02:18:31 1 Q. And is that your understanding as well?

02:18:32 2 A. Yes.

02:18:37 3 Q. Okay. You've already testified that the

02:19:21 4 Secretary of State has not given your office any

02:19:23 5 guidance as to what information would constitute a,

02:19:27 6 quote, reason to believe, end quote, someone is not a

02:19:31 7 United States citizen; is that correct?

02:19:33 8 A. Yes.

02:19:35 9 Q. On the flip side of that, has the Secretary of

02:19:39 10 State's Office provided election officials with any

02:19:41 11 information about what would not give you or your staff

02:19:45 12 a reason to believe someone's not a United States

02:19:48 13 citizen?

02:19:49 14 A. No.

02:19:52 15 Q. Okay. Can you describe to me your

02:20:08 16 understanding of the kind of 90-day rule in which your

02:20:12 17 office cannot, under the NVRA, conduct systematic list

02:20:18 18 maintenance prior to a federal election?

02:20:21 19 A. So we cannot do systematic cancellations under

02:20:25 20 the NVRA within 90 days of an election.

02:20:31 21 Q. Okay. Would you consider the various

02:20:33 22 provisions of H.B. 2243 that require you to cancel

02:20:38 23 voters to be systematic list maintenance?

02:20:44 24 MR. O'CONNOR: Form.

02:20:44 25 MS. BOUGHTON: Form.

02:20:46 1 THE WITNESS: I don't know.

02:20:47 2 BY MS. LANG:

02:20:47 3 Q. Does the County Recorder's Office have a
02:20:50 4 position on whether or not H.B. 2243 would require these
02:20:58 5 procedures to be followed in the 90 days before a
02:21:01 6 federal election?

02:21:02 7 MR. O'CONNOR: Form.

02:21:03 8 MS. BOUGHTON: Form.

02:21:04 9 THE WITNESS: I think that we have an
02:21:07 10 understanding that the state law conflicts with federal
02:21:10 11 law, potentially.

02:21:19 12 BY MS. LANG:

02:21:41 13 Q. Okay. In your application of the 90-day rule
02:21:46 14 for systematic list maintenance prior to a federal
02:21:50 15 election, does that mean that you can't begin sending
02:22:01 16 notices within those 90 days, or does it mean that you
02:22:08 17 cannot cancel voters within that 90 days?

02:22:16 18 MR. BASILE: Form.

02:22:17 19 THE WITNESS: It means you cannot cancel a
02:22:19 20 registrant's record.

02:22:21 21 BY MS. LANG:

02:22:21 22 Q. Okay. And so my understanding is that for most
02:22:24 23 forms of kind of cancellation that you might do there's
02:22:27 24 a notice period that comes before the cancellation; is
02:22:30 25 that correct?

02:22:30 1 A. Yes.

02:22:30 2 Q. A 35-day notice period?

02:22:33 3 A. 35 days for inactive status.

02:22:36 4 Q. Okay. And so if there's a notice period that

02:22:42 5 predates a cancellation, any notices would actually have

02:22:45 6 to be sent out approximately 125 days before a federal

02:22:52 7 election; is that correct?

02:22:55 8 A. That sounds correct.

02:23:04 9 Q. Looking at H.B. 2492, which is marked as

02:23:12 10 Exhibit 19, I'll refer you to Page 7. And this

02:23:38 11 Section 16-143, Section A on Line 17 says, "The

02:23:44 12 Secretary of State and each County Recorder shall make

02:23:47 13 available to the Attorney General a list of all

02:23:50 14 individuals who are registered to vote and who have not

02:23:53 15 provided satisfactory evidence of citizenship, dot, dot,

02:24:00 16 dot, the applications of individuals who are registered

02:24:07 17 to vote and who have not provided satisfactory evidence

02:24:10 18 of citizenship pursuant to Section 16-166."

02:24:14 19 Do you see that?

02:24:15 20 A. Yes.

02:24:15 21 Q. Okay. Did you provide that list to the

02:24:18 22 Attorney General?

02:24:19 23 A. No.

02:24:21 24 Q. Okay. Since the deadline for providing that

02:24:39 25 list has kind of come and gone, do you think that this

02:24:44 1 section will kind of require you to provide this list at
02:24:47 2 any future date --

02:24:48 3 MR. O'CONNOR: Form.

02:24:49 4 BY MS. LANG:

02:24:49 5 Q. -- or do you not know?

02:24:50 6 MS. BOUGHTON: Form.

02:24:50 7 MR. O'CONNOR: Form.

02:24:51 8 THE WITNESS: I don't know.

02:24:54 9 BY MS. LANG:

02:24:54 10 Q. Are you aware of any County Recorders that
02:24:57 11 provided this list to the Attorney General by
02:25:00 12 October 31, 2022?

02:25:01 13 MR. O'CONNOR: Form.

02:25:03 14 THE WITNESS: I'm not aware.

02:25:05 15 BY MS. LANG:

02:25:05 16 Q. Okay. Or after October 31, 2022?

02:25:07 17 A. I don't know.

02:25:08 18 Q. Okay. Do you know if the Secretary of State
02:25:10 19 provided this list to the Attorney General?

02:25:12 20 MS. STUART: Form.

02:25:13 21 THE WITNESS: I don't know.

02:25:44 22 BY MS. LANG:

02:25:44 23 Q. I'm going to move on to talk about residential
02:25:50 24 addresses and how your office manages kind of
02:26:00 25 residential addresses in your system, okay.

02:26:04 1 In order to register to vote, applicants are
02:26:08 2 required to provide their residential address, or if
02:26:11 3 they don't have a residential address, a description or
02:26:14 4 drawing of the location of their residence; is that
02:26:14 5 right?

02:26:17 6 A. Yes.

02:26:19 7 Q. Okay. And a P.O. Box cannot be used as your
02:26:23 8 residential address; is that also right?

02:26:24 9 A. Yes.

02:26:26 10 Q. Okay. And, briefly, can you describe why it's
02:26:29 11 important to have either a residential address or a
02:26:32 12 location for purposes of voter registration?

02:26:36 13 A. It's important because we need to properly
02:26:39 14 precinct a voter so they can receive the right ballot
02:26:43 15 style, so they're voting for districts and races that
02:26:46 16 they're eligible to participate in.

02:26:49 17 Q. Great. So first I'm going to ask some
02:26:51 18 questions about kind of how you process voter
02:26:54 19 registration forms when there's an address, and then
02:26:55 20 I'll talk a little bit about kind of the map or location
02:26:58 21 drawing option next.

02:27:02 22 If someone provides a residential address, how
02:27:05 23 does the county kind of use that residential address
02:27:10 24 information to do that precincting that you just
02:27:12 25 described?

02:27:14 1 A. So we have a very robust GIS system that has
02:27:21 2 all of the district boundaries, addressing. So when we
02:27:26 3 enter an address in, it's tied to that GIS system and it
02:27:30 4 can auto-code the address to confirm that it's a valid
02:27:33 5 address.

02:27:35 6 Q. Okay. That's very helpful. I'm going to
02:27:37 7 repeat back what I think is my understanding of your
02:27:41 8 testimony. You tell me if it's correct, which is that
02:27:45 9 your voter registration database is on the back end
02:27:49 10 linked with your GIS system, so that in most cases you
02:27:53 11 put in a voter's residential address and that kind of
02:27:58 12 precinct -- that like location work and precincting all
02:28:05 13 happens automatically?

02:28:06 14 A. Yes.

02:28:07 15 Q. Okay. And who manages the GIS system?

02:28:11 16 A. Gary Bilotta.

02:28:13 17 Q. Okay. And is that somebody within the County
02:28:18 18 Recorder's Office or someone else within the county?

02:28:20 19 A. He's not part of the County Recorder's Office.

02:28:24 20 Q. Okay. And so that's the ordinary case; you put
02:28:26 21 in the residential address and it kind of automatically
02:28:29 22 precincts.

02:28:30 23 Is it ever the case that a residential address
02:28:32 24 that's keyed in doesn't lead to kind of an automatic
02:28:37 25 precincting?

02:28:38 1

A. Yes.

02:28:39 2

Q. Okay. And so what would happen if there's --

02:28:43 3

if the GIS system is not able to kind of match with a

02:28:47 4

residential address in the voter registration database?

02:28:49 5

A. So then our staff would send an e-mail to our

02:28:56 6

GIS division, basically a ticket, saying we weren't able

02:28:59 7

to code, please help us look this address up; or in the

02:29:03 8

case of having a description, they would put the

02:29:05 9

description in, and the GIS team would look to see if

02:29:09 10

they could pinpoint based upon the information that was

02:29:12 11

provided.

02:29:15 12

Q. And what is the typical turnaround for a ticket

02:29:20 13

sent to the GIS system?

02:29:25 14

A. It kind of varies. Usually it's pretty quick;

02:29:28 15

I'd say within that day or the next day.

02:29:33 16

Q. Okay. And is it often the case that when

02:29:35 17

there's an address that doesn't kind of automatically

02:29:40 18

load, that the GIS system is able -- that the GIS folks

02:29:45 19

are able to identify that address?

02:29:47 20

A. In most cases.

02:29:48 21

Q. Okay. Is it the case that sometimes even after

02:29:54 22

the GIS folks look at it, based on the address provided,

02:29:58 23

they cannot locate the residence?

02:30:01 24

A. Yes.

02:30:02 25

Q. Okay. Is that more common in some areas of the

02:30:06 1 state as opposed to others?

02:30:10 2 MR. O'CONNOR: Form.

02:30:12 3 THE WITNESS: I don't have statistics on

02:30:13 4 that. I would -- so I don't know.

02:30:16 5 BY MS. LANG:

02:30:16 6 Q. Based on your understanding and experience, are

02:30:18 7 issues with residential addresses more common in rural

02:30:23 8 versus urban areas?

02:30:25 9 A. In my experience, yes.

02:30:27 10 Q. And in your experience, are residential address

02:30:33 11 issues more common on Native American reservations than

02:30:36 12 elsewhere?

02:30:40 13 A. In my experience there are -- there seem to be

02:30:45 14 more issues with addressing in Native American

02:30:48 15 populations.

02:30:49 16 Q. And are you aware that there are many

02:30:53 17 residences on Native American reservations that don't

02:30:56 18 have kind of traditional street addresses?

02:30:58 19 A. Yes.

02:31:17 20 Q. I'll refer you back to Exhibit 12.

02:31:25 21 MS. STUART: What is that?

02:31:26 22 MS. LANG: MC 879. Apologies.

02:31:41 23 THE WITNESS: It's got to be in here

02:31:44 24 somewhere.

02:31:49 25 MR. O'CONNOR: Here it is. It was just

02:31:51 1 stuck.

02:31:59 2 BY MS. LANG:

02:31:59 3 Q. So on Pages MC 880 and 881 there are some
02:32:06 4 instructions for how folks doing the data entry for
02:32:10 5 voter registration applications should deal with
02:32:12 6 residential addresses; is that correct?

02:32:14 7 A. Yes.

02:32:15 8 Q. Okay. And so on the second page there of those
02:32:20 9 instructions, on Page 881, it says, "when you are
02:32:24 10 alerted that the residential address is not valid, check
02:32:28 11 for errors in keying first."

02:32:30 12 So does that mean kind of check to see if there
02:32:32 13 was a transposed digit or there was like human error in
02:32:36 14 the kind of data entry?

02:32:38 15 A. Yes.

02:32:38 16 Q. Okay. And then it says, "Then check VMO7."
02:32:42 17 What is VMO7?

02:32:44 18 A. It's just one of our screens that has a search
02:32:48 19 functionality for searching for various parts of a
02:32:54 20 voter's record.

02:32:55 21 Q. Okay. And so where it says, "Check VMO7,
02:33:00 22 Assessor's website, USPS ZIP code lookup, Google,
02:33:03 23 et cetera, to see if the address exists and/or can be
02:33:05 24 keyed differently," what do you mean by keyed
02:33:11 25 differently?

02:33:12 1 A. So sometimes it may just be an issue with the
02:33:18 2 name, the street name got misspelled, you know, or the
02:33:21 3 ZIP codes are slightly different; just looking for other
02:33:26 4 avenues to help, you know, auto-code this address.

02:33:31 5 Q. Okay. So my understanding is this is kind of
02:33:35 6 finding obvious errors that wouldn't kind of change the
02:33:39 7 actual address for the voter; is that right?

02:33:41 8 A. Right.

02:33:41 9 Q. And so where you indicate that like if the ZIP
02:33:44 10 code is changed, the city must remain unchanged,
02:33:47 11 unchanged, is that a way to make sure that you're not
02:33:49 12 actually changing the voter's residential address?

02:33:52 13 A. Yes.

02:33:53 14 Q. Okay. And so there's a list of things that
02:33:58 15 cannot be changed. Is that for the same purpose?

02:34:02 16 A. Yes.

02:34:04 17 Q. Okay. And then it goes on to say that if that
02:34:09 18 doesn't work, then you contact GIS for a ticket; is that
02:34:09 19 right?

02:34:14 20 A. Yes.

02:34:14 21 Q. Okay. And so if GIS is unable to assist with a
02:34:22 22 residential address, what's the next step?

02:34:24 23 A. So at that point that voter registration form
02:34:28 24 would be moved to suspense and we would look for a way
02:34:33 25 to contact the voter. In some cases we'd have to send

02:34:37 1 to the address that they gave us if that's the only
02:34:39 2 thing. Sometimes they give us a mailing address and we
02:34:42 3 can send to the mailing address. If there's an e-mail
02:34:45 4 or phone number provided, that's also another way to try
02:34:48 5 to contact the voter.

02:34:49 6 Q. If an e-mail or phone number is provided, is it
02:34:53 7 your office's practice to send an e-mail or make a phone
02:34:58 8 call in these circumstances?

02:34:59 9 A. I would say traditionally we would send a
02:35:02 10 letter, if we could, first. E-mail and phone are
02:35:06 11 backups.

02:35:08 12 Q. Okay. So would e-mail and phone come after the
02:35:13 13 35-day window? When would you kind of turn to phone
02:35:18 14 calls or e-mails?

02:35:19 15 A. If we didn't have a good mailing address.

02:35:27 16 Q. Okay. I'll mark as Exhibit 22 MC 2998.

02:35:40 17 (Deposition Exhibit 22 was marked for
02:35:42 18 identification.)

02:35:42 19 BY MS. LANG:

02:35:42 20 Q. Are you familiar with this document?

02:35:43 21 A. Yes.

02:35:45 22 Q. And can you describe to me what this document
02:35:47 23 is?

02:35:48 24 A. This is a document that is generated out of the
02:35:52 25 voter registration system when we have a residential

02:35:55 1 address that was either incomplete or invalid in some
02:35:58 2 way or was a commercial address.

02:36:05 3 Q. Okay. And I see here that, you know, this
02:36:08 4 template has Mary Test Voter as the recipient and then a
02:36:12 5 date of 7-12-2023; is that right?

02:36:16 6 A. Yes.

02:36:16 7 Q. Is the date on there just the date in which you
02:36:19 8 generated this exemplar?

02:36:21 9 A. Yes.

02:36:22 10 Q. It's not, for example, the date on which you
02:36:25 11 kind of created this template?

02:36:26 12 A. No. It's a date that it was produced.

02:36:28 13 Q. Okay. Great. Thank you.

02:36:45 14 If you don't receive a response to this notice,
02:36:49 15 what happens next?

02:36:51 16 A. The voter registration form will remain in
02:36:53 17 suspense until we do hear from the voter.

02:36:58 18 Q. If it -- is there a point at which you switch
02:37:02 19 that voter from suspense to dead end or not registered?

02:37:06 20 A. That would be in compliance with the elections
02:37:10 21 procedures manual, which says if they don't cure it by
02:37:12 22 the next general election, that they have to basically
02:37:15 23 start all over again.

02:37:16 24 Q. Okay. And I just want to make sure I
02:37:21 25 understand next general election correctly. So if I

02:37:26 1 registered to vote in September 2022 and I did not cure
02:37:32 2 my voter registration application by election day
02:37:37 3 November 2022, is that when my status would be changed
02:37:40 4 from suspense to dead end or not registered?

02:37:51 5 A. I think so.

02:37:53 6 Q. Okay. You understand what I'm saying?

02:37:54 7 A. Yes.

02:37:54 8 Q. I'm wondering, is it the 2022 election that's
02:37:58 9 relevant there or the 2024 election that's relevant
02:38:01 10 there?

02:38:01 11 A. I believe it's the next federal election, but
02:38:05 12 we'd have to verify through the procedures manual on
02:38:08 13 this.

02:38:09 14 Q. Okay. I think the procedures manual just says
02:38:11 15 next general election.

02:38:12 16 A. Okay.

02:38:13 17 Q. Which is why I wanted to clarify.

02:38:17 18 To the best of your knowledge, it's just the
02:38:19 19 following general election --

02:38:19 20 A. Yes.

02:38:20 21 Q. -- even if that's only a couple months out?

02:38:22 22 A. Yes.

02:38:23 23 Q. Okay. And is this notice sent by forwardable
02:38:30 24 or non-forwardable mail?

02:38:32 25 A. Non-forwarding.

02:38:33 1 Q. And it would be sent in English and Spanish; is
02:38:36 2 that correct?

02:38:36 3 A. Yes.

02:38:50 4 Q. Refer you back to Exhibit 8 briefly, and that's
02:38:56 5 MC 870.

02:39:18 6 And so here it indicates that invalid
02:39:25 7 residential address has a total of 82,673 suspense
02:39:32 8 records; is that correct?

02:39:35 9 A. Yes.

02:39:36 10 Q. Okay. So based on at least this data, it seems
02:39:43 11 as though invalid residential address is one of the
02:39:50 12 biggest problems you see with voter registration
02:39:53 13 applications; is that correct?

02:39:55 14 A. That would be my assumption.

02:39:58 15 Q. Okay. And based on your experience as someone
02:40:01 16 who's worked in voter registration for a long time in
02:40:03 17 the state of Arizona, is that also the case based on
02:40:08 18 your experience?

02:40:08 19 A. Yes.

02:40:09 20 Q. Okay. Is it fair to say that it's not
02:40:16 21 infrequent that residential addresses don't match up
02:40:19 22 with the GIS system?

02:40:24 23 MS. STUART: Form, foundation.

02:40:28 24 BY MS. LANG:

02:40:28 25 Q. Based on your experience.

02:40:30 1 A. Can you repeat the question?

02:40:31 2 Q. Yes.

02:40:32 3 Based on your experience, is it not infrequent

02:40:36 4 that a residential address provided by a voter does not

02:40:41 5 neatly match onto the GIS systems available to County

02:40:45 6 Recorders?

02:40:45 7 A. It's not infrequent.

02:40:47 8 Q. Okay. Moving to the other option that voters

02:41:01 9 have available, which is to provide some sort of drawing

02:41:04 10 of the location of their residence, when a voter

02:41:09 11 provides a drawing rather than a residential address,

02:41:13 12 how does your office process those applications?

02:41:16 13 A. We would, again, need the assistance of the GIS

02:41:19 14 team to aid us in trying to pinpoint that location.

02:41:26 15 Q. So unlike the kind of automated system for

02:41:29 16 residential addresses, anytime there's a drawing, does

02:41:32 17 that mean you have to send a ticket to GIS?

02:41:34 18 A. Yes.

02:41:36 19 Q. Okay. And is the turnaround for those tickets

02:41:39 20 similar to the ones with residential addresses?

02:41:44 21 A. Most cases, yes. It just depends on how good

02:41:47 22 the drawing is.

02:41:49 23 Q. That's fair enough.

02:41:56 24 And if GIS comes back and says, yes, we've

02:41:59 25 found this location and provides you the precinct

02:42:02 1 information, then you can register that individual to
02:42:04 2 vote, correct?

02:42:04 3 A. Yes.

02:42:05 4 Q. All right. If GIS comes back and says we can't
02:42:07 5 figure this out, what's the next step?

02:42:11 6 A. So, again, we would go back to the voter
02:42:14 7 registration form, see if there's a mailing address that
02:42:16 8 we can send a letter to. If there's no mailing address,
02:42:20 9 then the next step would be looking for a phone number
02:42:22 10 or an e-mail.

02:42:24 11 Q. Okay. Is it sometimes the case that there's no
02:42:33 12 mailing address, no phone number, and no e-mail?

02:42:36 13 A. Yes.

02:42:38 14 Q. And what happens in that case?

02:42:41 15 A. Unfortunately, there's nothing that we can
02:42:44 16 really do to try to cure that form. It would just sit
02:42:49 17 in suspense.

02:42:50 18 Q. It would sit in suspense, and then after the
02:42:52 19 next general election it would go to dead end --

02:42:54 20 A. Yes.

02:42:55 21 Q. -- or not registered, correct?

02:42:56 22 A. Yes.

02:42:56 23 Q. Okay. Mark as Exhibit 23 MC 3002.

02:43:11 24 (Deposition Exhibit 23 was marked for
02:43:12 25 identification.)

02:43:12 1 BY MS. LANG:

02:43:12 2 Q. And are you familiar with this document?

02:43:21 3 A. I haven't seen this in a very long time.

02:43:24 4 Q. Fair enough.

02:43:27 5 What is this document, to the best of your

02:43:30 6 knowledge?

02:43:30 7 A. So this is in the case where we weren't able to

02:43:33 8 pinpoint. They're asking the voter to try again to help

02:43:39 9 aid us in providing additional information to precinct

02:43:43 10 them.

02:43:45 11 Q. Okay. And so this notice would be sent and

02:43:49 12 then the voter would remain in suspense until they

02:43:53 13 provide additional information; is that correct?

02:43:54 14 A. Yes.

02:43:56 15 Q. Okay. And then if a next general election

02:43:59 16 passes and they have not provided additional

02:44:02 17 information they become not eligible or a dead end,

02:44:08 18 correct?

02:44:08 19 A. Yes.

02:44:08 20 Q. Okay. One question I did have in looking at

02:44:10 21 these two notification -- these two notices side by

02:44:15 22 side, is it the case that if an individual had provided

02:44:20 23 a residential address in the first instance, that

02:44:23 24 they'll get the one that asked them for their

02:44:26 25 residential address, and if the voter had provided a

02:44:28 1 drawing in the first instance, look at the one that asks
02:44:32 2 for a drawing?

02:44:33 3 A. That's my understanding how the system works.

02:44:43 4 Q. Okay. In the years that you have been working
02:44:57 5 in voter registration in Arizona, has it always been an
02:45:00 6 option to draw a location of residence if you don't have
02:45:03 7 a residential address?

02:45:05 8 A. Yes.

02:45:13 9 Q. Okay. Do you believe that option kind of
02:45:22 10 undermines the security of your elections in any way?

02:45:26 11 MS. STUART: Form.

02:45:28 12 MR. O'CONNOR: Form.

02:45:28 13 THE WITNESS: I don't have an opinion.

02:45:36 14 BY MS. LANG:

02:45:36 15 Q. Based on your experience in voter registration
02:45:39 16 over these many years, is it your experience that Native
02:45:46 17 Americans or people living on Native American
02:45:48 18 reservations are more likely to kind of provide a
02:45:51 19 drawing than -- as compared to the rest of the
02:45:54 20 population?

02:45:55 21 A. In my experience, yes.

02:46:04 22 Q. Okay. In your experience looking at voter
02:46:08 23 registration documents and the various driver's license
02:46:11 24 copies and documents that voters provide, have you ever
02:46:16 25 seen a form of identification that includes kind of a

02:46:21 1 drawing of a residence?

02:46:24 2 A. In my experience, yes.

02:46:27 3 Q. And in what circumstances have you seen that?

02:46:30 4 A. On a voter registration form where they drew in

02:46:35 5 the box 23 their location.

02:46:37 6 Q. Other than voter registration applications,

02:46:39 7 have you ever seen kind of a driver's license that has a

02:46:43 8 picture instead of a residential address on it?

02:46:45 9 A. No.

02:46:46 10 Q. Or a utility bill that has a kind of picture of

02:46:49 11 a location of residence rather than a residential street

02:46:56 12 address?

02:46:56 13 A. In my experience, no.

02:46:57 14 Q. Okay. Are you familiar with any kind of

02:46:59 15 traditional identification documents that would have

02:47:02 16 kind of a location of residence drawing in lieu of a

02:47:08 17 residential street address?

02:47:09 18 A. I'm not familiar with that.

02:47:13 19 Q. In your experience, do those documents

02:47:16 20 sometimes have a P.O. Box on them?

02:47:19 21 A. Which documents?

02:47:20 22 Q. Identification documents, such as a driver's

02:47:23 23 license or a utility bill.

02:47:25 24 A. Yes, it can have P.O. Box.

02:47:35 25 Q. For individuals who don't have kind of

02:47:38 1 traditional street addresses and would like to get a
02:47:42 2 traditional street address, do you know if the county
02:47:44 3 provides any services to assist those individuals?

02:47:48 4 A. Yes. We try to work with communities and USPS
02:47:53 5 to help identify and give good addressing options to
02:47:58 6 assist them.

02:47:59 7 Q. Is that something you assist with, or is that
02:48:01 8 something you're just aware that the county works on?

02:48:06 9 A. Representatives from the Recorder's Office, as
02:48:10 10 well as I have been on the phone with USPS a couple of
02:48:12 11 times myself, but -- so yes.

02:48:19 12 Q. Okay. And it sounds like USPS is involved.
02:48:22 13 Kind of who at the county level would be kind of in
02:48:25 14 charge of providing someone with a traditional street
02:48:29 15 address?

02:48:31 16 A. I think it's a partnership. So GIS would be
02:48:35 17 involved. The Recorder's Office would be involved. In
02:48:39 18 some cases the elections division as well.

02:48:45 19 Q. Okay. And what are the circumstances under
02:48:47 20 which your office would kind of take that additional
02:48:50 21 step to kind of try to help provide a residential street
02:48:55 22 address for someone who does not have one?

02:48:59 23 A. I think that's just one of the things that our
02:49:03 24 office does to help facilitate voting opportunities,
02:49:07 25 especially if we see an ongoing issue with people in

02:49:10 1 those rural communities constantly going inactive
02:49:14 2 because of a bad address or location.

02:49:31 3 Q. This is taking us way back to the beginning,
02:49:33 4 but when you put together keyword searches for the
02:49:36 5 requests for documents, do you recall if any of those
02:49:39 6 keyword searches were about kind of these residential
02:49:43 7 address issues?

02:49:44 8 A. I don't recall.

02:49:54 9 Q. You referenced kind of work that you do with
02:49:55 10 the GIS folks and USPS and the Recorder's Office to help
02:50:01 11 with addressing issues; is that right?

02:50:03 12 A. Yes.

02:50:03 13 Q. Does some of that happen over e-mail?

02:50:06 14 A. Yes.

02:50:15 15 Q. Okay. More generally, can you describe some of
02:50:18 16 the efforts that the Maricopa County Recorder's Office
02:50:20 17 makes to conduct outreach to Native American communities
02:50:25 18 and increase their voter registration?

02:50:29 19 A. So voter outreach is under the umbrella of the
02:50:34 20 elections division, so I can't really speak to all the
02:50:38 21 things that they do. I know on the Recorder's side we
02:50:43 22 also have a deputy registrar program where we train
02:50:46 23 people on how to register people to vote.

02:50:53 24 Q. Based on your experience, you know, long
02:50:56 25 experience in voter registration, what are some of the

02:50:58 1 kind of greatest challenges that you see Native voters

02:51:02 2 have when they're trying to register to vote?

02:51:08 3 A. In my experience, again, I would say probably

02:51:10 4 the biggest obstacle are the addressing issues,

02:51:13 5 especially in those very rural areas.

02:51:19 6 Q. Based on your knowledge, is voter registration

02:51:22 7 lower in Native communities than the county average?

02:51:27 8 A. I don't have those figures in front of me.

02:51:30 9 Q. Does your office have those figures available

02:51:34 10 to it?

02:51:37 11 A. If we knew which precincts were part of that

02:51:42 12 community, we could.

02:51:43 13 Q. You could do that search based on kind of

02:51:43 14 the --

02:51:43 15 A. Location.

02:51:46 16 Q. -- location?

02:51:46 17 A. Yes.

02:51:48 18 Q. Okay. So under H.B. 2492 there is a, you know,

02:52:04 19 new requirement for voter registration that would

02:52:07 20 require documentary proof of residence. Is that your

02:52:11 21 understanding generally?

02:52:12 22 A. Yes.

02:52:12 23 Q. Okay. And I'm going to refer to that sometimes

02:52:14 24 as the DPOR requirement. Will you understand what I'm

02:52:17 25 saying if I say that?

02:52:18 1
02:52:24 2
02:52:27 3
02:52:32 4
02:52:37 5
02:52:37 6
02:52:37 7
02:52:42 8
02:52:45 9
02:52:48 10
02:52:49 11
02:53:18 12
02:53:21 13
02:53:23 14
02:53:25 15
02:53:30 16
02:53:31 17
02:53:32 18
02:53:36 19
02:53:36 20
02:53:38 21
02:53:40 22
02:53:42 23
02:53:45 24
02:53:46 25

A. Yes.

Q. Okay. And it's a good idea to be looking at the language.

MR. JOHNSON: It's 19.

MS. LANG: Thank you.

BY MS. LANG:

Q. And it's on Page 3, the DPOR requirement, that says that in addition to other requirements for voter registration, proof of location of residence has to be provided; is that right?

A. Yes.

Q. Have you received any guidance on the implementation of the DPOR requirement?

A. No.

Q. Is the DPOR requirement, to the best of your knowledge, in effect right now and being implemented?

MR. O'CONNOR: Form.

THE WITNESS: No. Sorry.

BY MS. LANG:

Q. That's okay. The form question -- the form was well-taken.

Is the DPOR requirement currently being implemented by the Maricopa County Recorder's Office?

A. No.

Q. Okay. To the best of your knowledge,

02:53:54 1 acknowledging that you have not received guidance, would
02:53:58 2 this DPOR requirement apply to all registrants,
02:54:03 3 regardless of whether or not they use the state or
02:54:05 4 federal form?

02:54:06 5 MR. O'CONNOR: Form.

02:54:07 6 MS. BOUGHTON: Form.

02:54:08 7 MS. STUART: Form.

02:54:08 8 THE WITNESS: That's my understanding.

02:54:16 9 BY MS. LANG:

02:54:17 10 Q. Okay. Based on your knowledge of the work of
02:54:20 11 the VRAC committee and your work with the Secretary of
02:54:26 12 State's Office, do you know if any request has been made
02:54:28 13 to the Election Assistance Commission to add information
02:54:31 14 about the DPOR requirement to the federal form
02:54:34 15 instructions?

02:54:35 16 MS. STUART: Form.

02:54:36 17 MS. BOUGHTON: Form.

02:54:37 18 THE WITNESS: I don't know.

02:54:42 19 BY MS. LANG:

02:54:47 20 Q. Okay. Has the state form been updated to
02:54:49 21 include the DPOR requirement?

02:54:53 22 A. No.

02:54:58 23 Q. Based on your understanding of this statute and
02:55:02 24 understanding that you have not received any guidance,
02:55:08 25 would failure to provide DPOR be treated the same as

02:55:12 1 kind of failure to provide DPOC, in that someone could
02:55:16 2 still become a federal only voter, or would lack of DPOR
02:55:20 3 mean somebody could not be registered at all?

02:55:25 4 MR. BASILE: Form.

02:55:26 5 THE WITNESS: I don't know.

02:56:06 6 MS. BOUGHTON: Counsel, I don't want to
02:56:07 7 interrupt your flow, but I think we've been going for
02:56:10 8 about 90 minutes, so if this is a good spot.

02:56:14 9 MS. LANG: This would be a fine spot to
02:56:15 10 take a break. Thank you.

02:56:16 11 THE VIDEOGRAPHER: We are off the record.
02:56:17 12 The time on the video monitor is 2:56 p.m. This ends
02:56:21 13 Media 3.

02:56:25 14 (A recess was taken.)

03:11:02 15 THE VIDEOGRAPHER: We are on the record.
03:11:03 16 The time on the video monitor is 3:11 p.m. This begins
03:11:08 17 Media 4.

03:11:09 18 BY MS. LANG:

03:11:12 19 Q. So I want to refer you to a document that I
03:11:14 20 have in front of you that we'll mark Exhibit 24, and
03:11:21 21 it's document labeled electronically 2C DPOR Chart.
03:11:25 22 I'll represent to you that this is a document that was
03:11:27 23 submitted by the State in this case, and they indicate
03:11:32 24 it's a chart created by the Secretary of State about
03:11:36 25 documentary proof of residency.

03:11:39 1 Have you ever seen this chart before?

03:11:42 2 A. No.

03:11:44 3 Q. Okay. So the guidance that's in this chart

03:11:46 4 about what would constitute documentary proof of

03:11:49 5 residency is not something that's gone out to the County

03:11:53 6 Recorders?

03:11:53 7 A. Not that I'm aware of.

03:12:07 8 Q. Much of this is self-explanatory, and I won't

03:12:10 9 make you kind of review it.

03:12:16 10 As to tribal identification card, this chart

03:12:19 11 says that pursuant to Gonzalez, a tribal ID does not

03:12:23 12 require an address be listed.

03:12:26 13 Do you know what Gonzalez is referring to

03:12:28 14 there?

03:12:28 15 A. There was a court case with Gonzalez.

03:12:31 16 Q. And in that case, was there a kind of -- a

03:12:34 17 stipulation about how tribal IDs would be used at the

03:12:39 18 voter ID stage?

03:12:41 19 A. Yes.

03:12:46 20 Q. Okay. And if you know, is it the case that the

03:12:48 21 Gonzalez stipulation indicated that while most voter ID

03:12:54 22 does require a residential address, tribal ID does not

03:13:00 23 require a residential address; is that correct?

03:13:03 24 A. I believe that's correct.

03:13:06 25 Q. All right. And so -- well, strike that.

03:13:27 1 The second to last box on this chart says, "Any
03:13:31 2 other document or piece of mail that is issued by a
03:13:34 3 government, educational institution, or place of
03:13:36 4 business that provides the person's name and address."

03:14:01 5 What limitations, if any, would you see in kind
03:14:04 6 of what you could accept as DPOR?

03:14:09 7 MS. STUART: Form.

03:14:09 8 MS. BOUGHTON: Form.

03:14:10 9 MR. O'CONNOR: Form.

03:14:10 10 BY MS. LANG:

03:14:10 11 Q. Based on your experience in voter registration
03:14:12 12 and these instructions.

03:14:14 13 MS. STUART: Form and foundation.

03:14:15 14 THE WITNESS: This is the first time I've
03:14:17 15 seen this guidance. I have not had time to fully digest
03:14:23 16 it all.

03:14:23 17 BY MS. LANG:

03:14:24 18 Q. Fair enough.

03:14:29 19 I understand that no written guidance has been
03:14:32 20 given to County Recorders. Have there been any
03:14:35 21 discussions during your various committee meetings and
03:14:39 22 meetings with the Secretary of State's Office about how
03:14:44 23 the DPOR requirement might be implemented?

03:14:46 24 A. No.

03:14:50 25 Q. Okay. So, to your knowledge, there's been

03:14:51 1 absolutely no discussion amongst the County Recorders or
03:14:54 2 with the Secretary of State about how to implement the
03:14:57 3 DPOR requirement?

03:15:00 4 A. There has been discussions about how -- what
03:15:03 5 the timeline is and how we're going to move forward, but
03:15:07 6 not specifically the implementation of this particular.

03:15:12 7 Q. So there have been discussions about the
03:15:14 8 process for implementation, but not the substance --

03:15:14 9 A. Yes.

03:15:17 10 Q. -- of the implementation?

03:15:18 11 A. Yes.

03:15:19 12 Q. Okay. And this last part of the chart says,
03:15:24 13 "Written confirmation signed by the registrant that they
03:15:27 14 qualify to register pursuant to" a statute code, and,
03:15:33 15 you know, it refers to a statute code that provide an
03:15:36 16 address at a homeless shelter.

03:15:40 17 Are you aware, and I think I know the answer,
03:15:43 18 of any kind of draft or template of what this
03:15:47 19 confirmation would look like?

03:15:48 20 A. No.

03:15:50 21 Q. Okay. Are you familiar with the kind of
03:15:56 22 statutory provision that allows individuals who are
03:15:59 23 experiencing homelessness to use a homeless shelter or a
03:16:04 24 courthouse as their residential address?

03:16:06 25 A. Yes.

03:16:07 1 Q. Okay. And when that's the case, do you use
03:16:12 2 that courthouse or that homeless shelter as the
03:16:16 3 residence for the purposes of precincting?

03:16:19 4 A. Yes.

03:16:19 5 Q. Okay. And a person experiencing homelessness
03:16:21 6 would also have the option of providing a location of
03:16:24 7 residence if, say, they were staying somewhere?

03:16:26 8 A. Yes.

03:16:34 9 Q. Okay. Based on your extensive experience in
03:16:37 10 voter registration, are there certain populations that
03:16:39 11 you believe will have more difficulty than others in
03:16:42 12 kind of providing documentation that has a residential
03:16:46 13 address on it?

03:16:51 14 A. In my experience I think that there would be
03:16:54 15 certain individuals that would have a harder time
03:16:57 16 providing that

03:16:59 17 Q. And would that include Native Americans for the
03:17:02 18 reasons we've discussed before?

03:17:04 19 A. Potentially, yes.

03:17:06 20 Q. What about students?

03:17:07 21 A. Yes.

03:17:10 22 Q. People experiencing homelessness?

03:17:12 23 A. Yes.

03:17:14 24 Q. Other low income people who perhaps move
03:17:19 25 frequently or are transient?

03:17:21 1 A. Yes.

03:17:26 2 Q. Okay. Based on your experience working with
03:17:30 3 groups that conduct voter registration drives, what kind
03:17:34 4 of effect would a documentary proof of residence
03:17:38 5 requirement have on those voter registration drives?

03:17:42 6 MS. BOUGHTON: Form.

03:17:48 7 THE WITNESS: Because this is a potential
03:17:51 8 brand-new law, I don't know what that impact would be
03:17:54 9 for a third-party registration drive.

03:17:59 10 BY MS. LANG:

03:17:59 11 Q. I think I know the answer to this, but do you
03:18:02 12 know how these documents would be submitted; you know,
03:18:06 13 would they be accepted by e-mail, fax, in person,
03:18:10 14 et cetera?

03:18:10 15 MR. O'CONNOR: Form.

03:18:11 16 THE WITNESS: I do not know.

03:18:14 17 MS. LANG: Let's pause. I think we may
03:18:21 18 have --

03:18:21 19 THE VIDEOGRAPHER: Would you like to go
03:18:22 20 off the record?

03:18:23 21 MS. LANG: Yes.

03:18:23 22 THE VIDEOGRAPHER: We are off the record.
03:18:24 23 The time on the video monitor is 3:18 p.m.

03:19:59 24 (A recess was taken.)

03:20:26 25 THE VIDEOGRAPHER: We are on the record.

03:20:27 1 The time on the video monitor is 3:20 p.m.

03:20:29 2 BY MS. LANG:

03:20:30 3 Q. Okay. I want to move on briefly to another
03:20:39 4 part of H.B. 2492. I don't think you have to look at
03:20:44 5 it, but we'll see. Which is the requirement that a
03:20:49 6 place of birth be provided on the voter registration
03:20:52 7 form.

03:20:53 8 Are you familiar generally with that new
03:20:55 9 requirement in H.B. 2492?

03:20:57 10 A. Yes.

03:20:58 11 Q. Okay. Prior to H.B. 2492 the place of birth
03:21:07 12 line on the state form has always been optional; is that
03:21:10 13 correct?

03:21:10 14 A. Yes.

03:21:12 15 Q. Okay. What use, if any, do you make of place
03:21:22 16 of birth?

03:21:22 17 MR. O'CONNOR: Form.

03:21:24 18 THE WITNESS: So we would use that
03:21:25 19 information, if provided, to help validate the identity
03:21:29 20 of a voter should they call our office asking
03:21:32 21 information about their own voter record.

03:21:35 22 BY MS. LANG:

03:21:35 23 Q. Okay. Outside of when an individual calls your
03:21:39 24 office, is there any other use of place of birth?

03:21:44 25 A. Not that I'm aware of.

03:21:47 1 Q. Okay. You don't require that information to
03:21:50 2 validate the identity of the individual through an MVD
03:21:53 3 check, do you?

03:21:53 4 A. No.

03:21:55 5 Q. Do you require that information to validate the
03:21:57 6 identity of an individual through the SSA check that
03:22:02 7 happens through MVD?

03:22:03 8 A. No.

03:22:06 9 Q. Okay. And is there any way in which, outside
03:22:10 10 of a phone call where you're just trying to quickly
03:22:13 11 match a person to the voter registration database, that
03:22:16 12 you use place of birth to kind of verify the legitimacy
03:22:23 13 of a voter registration application?

03:22:25 14 MR. O'CONNOR: Form.

03:22:25 15 THE WITNESS: No.

03:22:33 16 BY MS. LANG:

03:22:33 17 Q. If, under 2492, birthplace becomes a
03:22:37 18 requirement of voter registration, would that change
03:22:40 19 anything about how you actually process voter
03:22:44 20 registration applications?

03:22:44 21 MR. O'CONNOR: Form.

03:22:45 22 MS. BOUGHTON: Form.

03:22:46 23 THE WITNESS: Yes.

03:22:49 24 BY MS. LANG:

03:22:50 25 Q. How so?

03:22:52 1 A. Well, it would now be a required box.

03:22:56 2 Q. Yes. And so I poorly phrased my question,
03:22:59 3 which is, you would have to -- so let me back up.

03:23:02 4 Under H.B. 2492, if it were to be implemented,
03:23:06 5 you would have to reject the voter registration
03:23:08 6 application of any person who doesn't provide a place of
03:23:11 7 birth; is that correct?

03:23:12 8 A. That's my understanding.

03:23:13 9 Q. Okay. But for those who do provide place of
03:23:21 10 birth and you're registering them, under H.B. 2492,
03:23:24 11 would the fact that a place of birth has now become a
03:23:28 12 mandatory field change how you use place of birth in the
03:23:32 13 voter registration process?

03:23:34 14 MS. BOUGHTON: Form.

03:23:35 15 MR. O'CONNOR: Form.

03:23:35 16 THE WITNESS: I don't believe so.

03:23:38 17 BY MS. LANG:

03:23:38 18 Q. Okay. Are you aware of any way, additional
03:23:40 19 way, in which you would be able to use place of birth in
03:23:44 20 the voter registration process?

03:23:46 21 MS. BOUGHTON: Form.

03:23:50 22 THE WITNESS: If we had -- at that time
03:23:56 23 show soft match with a deceased individual and we're
03:23:59 24 trying to determine if that's the same person, if they
03:24:02 25 provided their place of birth and it was also included

03:24:04 1 in whatever obituary notice we found, that would be a
03:24:09 2 helpful tool to help us identify that that was the same
03:24:12 3 person.

03:24:18 4 BY MS. LANG:

03:24:18 5 Q. But the place of someone's birth -- scratch
03:24:24 6 that.

03:24:29 7 That's a useful example; but as a general
03:24:32 8 matter, in your kind of systematic processing of voter
03:24:38 9 registration information and verification of identity
03:24:41 10 through MVD and SSA, would your use of place of birth
03:24:44 11 change in any way?

03:24:46 12 MR. O'CONNOR: Form.

03:24:48 13 THE WITNESS: Not to my knowledge.

03:24:52 14 BY MS. LANG:

03:24:52 15 Q. Okay. To your knowledge, are you aware of any
03:24:54 16 other state that requires place of birth to register to
03:24:57 17 vote?

03:24:57 18 MR. O'CONNOR: Form.

03:24:58 19 MS. BOUGHTON: Form.

03:24:58 20 THE WITNESS: I don't know.

03:25:06 21 BY MS. LANG:

03:25:13 22 Q. Okay. Okay.

03:25:27 23 I'm going to move on to another topic, which is
03:25:29 24 how your office screens for, searches for, and addresses
03:25:36 25 any potential causes of voter fraud.

03:25:45 1 In your request for production responses, which
03:25:48 2 we can look at if we need to, but I don't think we will
03:25:51 3 need to, you were asked for kind of documents about all
03:25:57 4 voter fraud cases in your county since 2010, including,
03:26:01 5 but not limited to, identification of those cases
03:26:04 6 involving allegations of fraud based on a noncitizen
03:26:08 7 voting; and you indicated that you had no responsive
03:26:10 8 documents.

03:26:13 9 To your knowledge, is it correct that you just
03:26:15 10 don't have -- that you don't have any documents about
03:26:18 11 voter fraud cases?

03:26:20 12 A. We do not have any documents about voter fraud
03:26:23 13 cases.

03:26:25 14 Q. And do you have documents about allegations of
03:26:30 15 specific individual voter fraud matters?

03:26:37 16 A. We have information that has been given to us
03:26:44 17 about potential cases of voter fraud.

03:26:53 18 Q. To your knowledge, do you have any kind of
03:26:55 19 documents about potential cases of voter fraud that your
03:26:59 20 office finds credible or warranting additional
03:27:04 21 investigation?

03:27:05 22 MR. O'CONNOR: Form.

03:27:08 23 THE WITNESS: We have some cases that we
03:27:11 24 have referred to the Attorney General's Office for
03:27:14 25 investigation.

03:27:16 1 BY MS. LANG:

03:27:17 2 Q. Do you know about how many?

03:27:20 3 A. Under a hundred.

03:27:24 4 Q. Going back how far in that kind of under a

03:27:28 5 hundred number?

03:27:29 6 A. Since I started with the Recorder's Office.

03:27:33 7 Q. Okay. And, similarly, there was a request for

03:27:41 8 production about documents and communications concerning

03:27:46 9 actual or alleged misconduct, fraud, lack of voter

03:27:49 10 confidence, election security, or other problems related

03:27:53 11 to citizenship, residence location, or proof of

03:27:55 12 citizenship or residential address in voter

03:27:59 13 registration; and you indicated that you have no

03:28:01 14 responsive documents.

03:28:03 15 Can you tell me what, if you know, what kind of

03:28:06 16 searches were done to find documents that were

03:28:09 17 responsive to this request?

03:28:13 18 A. So we -- the voter registration division is not

03:28:16 19 a policing agency. We register voters and we conduct

03:28:20 20 list maintenance. So the cases where things have been

03:28:23 21 brought to our attention as possible voter fraud usually

03:28:27 22 relates to cases of double voting. We don't have

03:28:31 23 noncitizen voter fraud issues brought to our attention

03:28:37 24 in that way, so I don't believe we have responsive

03:28:41 25 documents related to those particular subjects.

03:28:47 1 Q. You're not aware of any documents where there
03:28:53 2 was discussion of alleged noncitizen voting?

03:28:57 3 A. I'm not aware of any.

03:28:59 4 Q. Okay. And understanding that some of this
03:29:08 5 might fall under the elections division, I'm going to
03:29:11 6 ask some more questions about kind of how your office
03:29:14 7 deals with allegations of voter fraud, and answer to the
03:29:17 8 best of your ability, I suppose. Is that okay?

03:29:19 9 A. Yes.

03:29:20 10 Q. All right. So what steps, if any, does your
03:29:25 11 office take to identify any instances of potential voter
03:29:30 12 fraud?

03:29:34 13 A. Our office does not take steps to identify
03:29:38 14 potential voter fraud.

03:29:43 15 Q. Are there a variety of kind of checks and
03:29:46 16 balances within the voter registration system to
03:29:50 17 preclude individuals from engaging in voter fraud?

03:29:56 18 A. I believe there are functionality within the
03:30:01 19 voter registration systems that would prohibit people
03:30:04 20 from registering multiple times or voting multiple
03:30:07 21 times.

03:30:10 22 Q. And is it also the case that things like the
03:30:14 23 MVD check or SSA check help to verify that an applicant
03:30:19 24 is a real person and verify the identity of that
03:30:24 25 applicant?

03:30:24 1

A. Yes.

03:30:33 2

Q. Okay. So I apologize if some of this is going

03:30:35 3

to be repetitive, but for my due diligence, does your

03:30:39 4

office conduct any investigations into potential voter

03:30:42 5

fraud?

03:30:43 6

MR. O'CONNOR: Asked and answered.

03:30:46 7

BY MS. LANG:

03:30:46 8

Q. There. But go ahead.

03:30:48 9

A. No.

03:30:57 10

Q. If your office were to suspect a case of

03:31:00 11

potential voter fraud, what steps would you take?

03:31:04 12

MR. O'CONNOR: Form.

03:31:07 13

THE WITNESS: Can I ask what type of voter

03:31:09 14

fraud, as an example?

03:31:14 15

BY MS. LANG:

03:31:14 16

Q. That's fair.

03:31:17 17

If there was an allegation that appeared

03:31:20 18

credible that a noncitizen had registered and voted,

03:31:25 19

what steps would your office take?

03:31:33 20

A. I can't think of a situation that had happened,

03:31:35 21

and I don't think that there's clear guidance on what

03:31:39 22

credible information is. Again, if we got something

03:31:42 23

from the jury's office that said the person

03:31:45 24

self-reported they're a noncitizen, we would look into

03:31:48 25

that from the information we have from the voter and

03:31:51 1 their database. If the documentation's there that they
03:31:54 2 are a citizen, then we do nothing.

03:31:58 3 Q. And earlier you testified that there have been
03:32:02 4 not many, but some instances of voter fraud or alleged
03:32:05 5 voter fraud, I should say, that you've referred to the
03:32:08 6 Attorney General's Office; is that correct?

03:32:10 7 A. Yes.

03:32:10 8 Q. So would it be fair to say that if your office
03:32:14 9 had some concern about an alleged case of voter fraud,
03:32:17 10 the step you would take is to refer it to the Attorney
03:32:22 11 General's Office?

03:32:22 12 A. I think I would consult with our County
03:32:25 13 Attorney, and then from there the Attorney General's
03:32:30 14 Office.

03:32:30 15 Q. Okay. But beyond referring the matter to
03:32:34 16 either your attorney or the Attorney General or a
03:32:36 17 prosecuting authority, does your office have any kind of
03:32:41 18 investigatory role on the issue of voter fraud?

03:32:45 19 A. We do not.

03:32:45 20 MR. O'CONNOR: Asked and answered.

03:32:45 21 THE WITNESS: We do not.

03:32:48 22 BY MS. LANG:

03:32:49 23 Q. I think you said we do not?

03:32:50 24 A. We do not.

03:32:52 25 Q. Okay. Is it the case that private citizens

03:32:58 1 could submit allegations to your office about what they
03:33:04 2 allege is potential voter fraud?

03:33:08 3 A. Yes.

03:33:08 4 Q. Does your office sometimes receive such
03:33:11 5 communications from private citizens?

03:33:15 6 MR. O'CONNOR: Form.

03:33:17 7 THE WITNESS: I have not seen
03:33:20 8 communications about another person saying a registered
03:33:24 9 voter is a noncitizen. I see other things.

03:33:26 10 BY MS. LANG:

03:33:27 11 Q. What are some other things that you see?

03:33:28 12 A. Like they're not -- they don't live where they
03:33:30 13 actually say they live.

03:33:35 14 Q. Okay. But you are not aware of any time that
03:33:37 15 you've been contacted where someone alleges that another
03:33:40 16 registered voter is a noncitizen?

03:33:42 17 A. Not to my knowledge, no.

03:33:44 18 Q. Okay. When you receive complaints that suggest
03:33:54 19 somebody doesn't live where they say they live, what
03:33:56 20 steps, if any, does your office take to respond to those
03:34:01 21 complaints?

03:34:03 22 MR. O'CONNOR: Form.

03:34:06 23 THE WITNESS: We do not have -- it's my
03:34:08 24 understanding we do not have an obligation to track any
03:34:12 25 of that down. However, depending on the resources

03:34:17 1 available in our office at the time, if we felt that it
03:34:22 2 was from somebody that we do regular, you know, business
03:34:26 3 with, voter registration people, we might take a little
03:34:30 4 bit of a deeper dive into it; but we have -- I guess we
03:34:34 5 all go back to the credible, what's credible.

03:34:38 6 BY MS. LANG:

03:34:39 7 Q. And as of now, you don't have any kind of
03:34:42 8 official guidance within your office about what counts
03:34:45 9 as credible; is that correct?

03:34:46 10 A. That's correct.

03:34:46 11 Q. It would be a judgment call; is that right?

03:34:48 12 A. Yes.

03:34:49 13 Q. Okay. I want to refer you to your responses to
03:35:20 14 the consolidated plaintiffs' rogs, which is Exhibit 5,
03:35:41 15 and on Page 13 I'll refer you to interrogatory number
03:35:51 16 10.

03:35:51 17 Interrogatory 10 asks you to identify all state
03:35:55 18 and county interests that you believe are furthered by
03:35:58 19 the challenged laws and all evidence that either
03:36:01 20 supports or undermines the contention that the
03:36:04 21 challenged laws further those interests.

03:36:05 22 Do you see that?

03:36:06 23 A. Yes.

03:36:07 24 Q. And the substance of your response at the
03:36:11 25 bottom, starting on Line 27, says, "Notwithstanding and

03:36:15 1 without waiving these objections, Maricopa County
03:36:18 2 Recorder's Office is unsure what county interests are
03:36:21 3 furthered by these challenged laws. In fact, Maricopa
03:36:24 4 County Recorder's Office believes that many of the
03:36:27 5 challenged laws' provisions conflict with federal law
03:36:29 6 which puts the county in a position of liability.
03:36:33 7 Additionally, the challenged laws may make access to
03:36:36 8 registration more difficult."

03:36:38 9 Do you see that?

03:36:39 10 A. Yes.

03:36:40 11 Q. Okay. Did you assist with the drafting of this
03:36:43 12 response?

03:36:43 13 A. Yes.

03:36:44 14 Q. And do you agree, sitting here today, you know,
03:36:49 15 this response continues to be an accurate reflection of
03:36:52 16 the Recorder's position?

03:36:53 17 MR. O'CONNOR: Form.

03:36:53 18 MS. BOUGHTON: Form.

03:36:56 19 THE WITNESS: My personal feelings is yes.

03:37:00 20 BY MS. LANG:

03:37:04 21 Q. Okay. And when you say that it puts the county
03:37:07 22 in a position of liability, can you explain what you
03:37:09 23 mean by that?

03:37:10 24 MS. BOUGHTON: Form.

03:37:13 25 THE WITNESS: I believe that some of this

03:37:16 1 challenged laws conflicts with federal law, so in
03:37:19 2 putting the county in a position of liability is which
03:37:21 3 law do you violate.

03:37:28 4 BY MS. LANG:

03:37:28 5 Q. And what are the potential consequences to the
03:37:32 6 County Recorder's Office of being put in that position
03:37:34 7 of liability?

03:37:36 8 A. We will be sued.

03:37:39 9 Q. Are there also concerns within your office
03:37:41 10 about potential prosecutions?

03:37:43 11 MR. O'CONNOR: Form.

03:37:46 12 THE WITNESS: Prosecutions of whom?

03:37:48 13 BY MS. LANG:

03:37:48 14 Q. Election officials, under the new statutes.

03:37:52 15 MR. O'CONNOR: Asked and answered.

03:37:55 16 THE WITNESS: I feel as if my team is
03:37:58 17 well-trained and they would do the job to the best of
03:38:01 18 their ability and not un -- not knowingly violate laws.

03:38:08 19 BY MS. LANG:

03:38:08 20 Q. Okay. And you say that the challenged laws may
03:38:10 21 make access to registration much more difficult; is that
03:38:19 22 correct?

03:38:19 23 A. Yes.

03:38:23 24 Q. In what ways will the challenged laws make
03:38:26 25 access to registration much more difficult?

03:38:28 1 MS. BOUGHTON: Form.

03:38:29 2 MS. LANG: Can you elaborate?

03:38:30 3 MS. BOUGHTON: Calls for speculation.

03:38:38 4 MS. LANG: I mean this is her answer. I'm

03:38:40 5 just asking her to expound on what she means by that.

03:38:43 6 MS. BOUGHTON: Understood.

03:38:44 7 BY MS. LANG:

03:38:45 8 Q. Okay. Go ahead.

03:38:45 9 A. It's my opinion that requiring the checkboxes

03:38:51 10 be checked, that requiring they put a place of birth,

03:38:53 11 and requiring proof of residency is an additional effort

03:38:58 12 that needs to be done by a registrant in order to have

03:39:01 13 them added to the rolls, which is something that's not

03:39:03 14 currently required.

03:39:12 15 Q. Okay. My next set of questions are all about

03:39:18 16 kind of prospective implementation plans, much of which

03:39:22 17 I think we have actually already covered, so I will do

03:39:25 18 my best to be pithy here.

03:39:31 19 My understanding from your testimony thus far

03:39:36 20 is that there have been discussions among County

03:39:41 21 Recorders and the Secretary of State about the potential

03:39:46 22 process for implementation, including timelines for

03:39:51 23 implementation. Is that correct?

03:39:57 24 A. Not timelines.

03:40:03 25 Q. Have people asked for timelines from the

03:40:07 1 Secretary of State's Office?

03:40:08 2 A. Yes.

03:40:09 3 Q. And have those timelines been provided?

03:40:10 4 A. No.

03:40:11 5 MS. STUART: Form.

03:40:18 6 BY MS. LANG:

03:40:18 7 Q. Okay. With respect to the DPOR requirement you

03:40:21 8 already testified that there's been no real discussion

03:40:24 9 about the substance of how that law would be

03:40:27 10 implemented; is that right?

03:40:28 11 A. Yes.

03:40:29 12 Q. Have there been discussions about kind of the

03:40:32 13 substance of how other parts of these laws would be

03:40:36 14 interpreted and implemented?

03:40:39 15 A. Some of them.

03:40:41 16 Q. Which ones?

03:40:43 17 A. The jury duty and the ADOT database.

03:40:47 18 Q. Okay. Outside of the jury duty and ADOT

03:40:51 19 database monthly checks, have there been any substantive

03:40:56 20 discussions about the other parts of the law and how

03:41:00 21 they would be implemented?

03:41:02 22 A. No.

03:41:05 23 Q. Okay. And you've already testified that the

03:41:28 24 voter registration form has not been updated to include

03:41:30 25 the DPOR requirement. Is it also true that it has not

03:41:34 1 been updated to change place of birth from optional to
03:41:37 2 mandatory?

03:41:38 3 A. Correct.

03:41:40 4 Q. Okay. And the voter registration form has also
03:41:43 5 not been updated to kind of change how DPOC will be
03:41:48 6 addressed with respect to state forms; is that correct?

03:41:51 7 A. Correct.

03:41:53 8 Q. All right. Another way of saying that is that
03:41:55 9 the state form just hasn't been changed as to the
03:41:59 10 challenged parts of these laws?

03:42:00 11 A. That's correct.

03:42:01 12 Q. Okay. Do you have any reason to believe, based
03:42:05 13 on your discussions with the Secretary of State, that
03:42:08 14 there are any imminent plans to update the state voter
03:42:13 15 registration form?

03:42:18 16 A. No.

03:42:43 17 Q. Okay. With respect to the jury summary report
03:42:47 18 and questionnaire portions of the law, when you receive
03:42:57 19 a report from the jury manager or commissioner, do you
03:43:03 20 receive each individual questionnaire from an individual
03:43:07 21 who self-reported as a noncitizen or nonresident, or do
03:43:11 22 you just receive a summary report?

03:43:15 23 A. We get a data file.

03:43:18 24 Q. Okay. And what does that data file look like?

03:43:21 25 A. It just lists the voter's name, information,

03:43:25 1 date of birth, address, and whether or not it was
03:43:30 2 self-reporting noncitizen or out of county.

03:43:32 3 Q. Okay. And I think you said that they come
03:43:35 4 monthly; is that right?

03:43:36 5 A. Yes.

03:43:37 6 Q. And is your understanding that that kind of
03:43:41 7 monthly system and that data reporting would stay the
03:43:44 8 same under the new laws?

03:43:47 9 A. That's my --

03:43:47 10 MR. O'CONNOR: Form.

03:43:47 11 THE WITNESS: That's my understanding.

03:43:50 12 BY MS. LANG:

03:43:53 13 Q. Okay. Do you know if the jury questionnaire is
03:43:56 14 answered under kind of penalty of perjury or anything
03:43:59 15 along those lines?

03:44:00 16 A. I don't know.

03:44:03 17 Q. Okay. And so I think you've answered this, but
03:44:08 18 in the jury summary report it sounds like you get name,
03:44:12 19 date of birth, address and, you know, whether or not
03:44:16 20 they self-reported as noncitizen or nonresident.

03:44:19 21 Is there any additional kind of data fields
03:44:22 22 that you get for those individuals?

03:44:27 23 A. I haven't looked at one of those files in a
03:44:29 24 long time, but I think that's the beef of it. I can't
03:44:33 25 remember any other additional fields.

03:44:34 1 Q. Okay. Thank you.

03:45:08 2 I'm going to mark as Exhibit 25 MC 1927.

03:45:21 3 (Deposition Exhibit 25 was marked for
03:45:29 4 identification.)

03:45:29 5 MR. O'CONNOR: Exhibit 25?

03:45:32 6 MS. LANG: 25, yes.

03:45:38 7 BY MS. LANG:

03:45:38 8 Q. And this is an e-mail from somebody at the
03:45:40 9 Arizona Secretary of State's Office to Monique Carter.
03:45:44 10 Who is Monique Carter?

03:45:46 11 A. She is somebody at one of the counties, Pinal
03:45:51 12 County.

03:45:51 13 Q. Okay. But you're copied here as well; is that
03:45:51 14 right?

03:45:53 15 A. Yes.

03:45:53 16 Q. Okay. And somebody -- Yolanda Morales from the
03:46:01 17 Secretary of State's Office says that the courts began
03:46:03 18 transmitting the juror questionnaire report to the
03:46:06 19 counties in February.

03:46:08 20 And I just wanted to ask about that. My
03:46:10 21 understanding is that you were already receiving reports
03:46:14 22 from the courts; is that right?

03:46:17 23 A. Yes.

03:46:17 24 Q. Okay. So was there any change in February of
03:46:20 25 this year as to the reports you were receiving?

03:46:24 1 A. My understanding, the issue here was the
03:46:28 2 NC/RN [sic], which is just a different naming convention
03:46:32 3 to clarify noncitizen/nonresident that the file's
03:46:36 4 supposed to have, but we've always had that information.
03:46:38 5 So I think it was just a terminology.

03:46:41 6 Q. Okay. So there was maybe some coding that was
03:46:43 7 changed, but the substance of the reports has remained
03:46:46 8 the same?

03:46:46 9 A. Yes.

03:46:46 10 Q. Okay. And I think we've already gone over
03:46:50 11 this, but the way in which you are processing those
03:46:53 12 reports has not changed?

03:46:54 13 A. Correct.

03:47:29 14 Q. Okay. I'll mark as Exhibit 26 MC 2981.

03:47:40 15 (Deposition Exhibit 26 was marked for
03:47:45 16 identification.)

03:47:45 17 BY MS. LANG:

03:47:45 18 Q. And are you familiar with this document?

03:47:47 19 A. Yes.

03:47:47 20 Q. And what is this document?

03:47:50 21 A. So this is a letter that we received -- we send
03:47:54 22 out to a voter if they are a federal only voter and they
03:47:59 23 have self-reported they're a noncitizen.

03:48:03 24 Q. And by self-reported, you mean in the jury
03:48:05 25 context; is that correct?

03:48:06 1 A. On the jury duty questionnaire.

03:48:09 2 Q. Okay. So this is the notice you use when

03:48:12 3 you're canceling someone because of noncitizen reporting

03:48:17 4 on the jury questionnaire, correct?

03:48:19 5 A. And they do not have DPOC on their file, yes.

03:48:25 6 Q. Okay. And I think you've already testified

03:48:29 7 about this, but I don't remember the answer. When that

03:48:32 8 happens, is there first a kind of 35-day notice sent and

03:48:35 9 then this notice, or does it go straight to this notice?

03:48:39 10 A. It's this notice.

03:48:43 11 Q. Okay. Are there any circumstances where you

03:48:44 12 would use this notice other than where there's no DPOC

03:48:48 13 on file and there's a jury questionnaire self-reporting

03:48:52 14 noncitizenship?

03:48:53 15 A. Not that I can think of.

03:49:10 16 Q. Okay. You mentioned that there has been some

03:49:12 17 discussion about the substance of how the MVD monthly

03:49:18 18 reports will be implemented; is that right?

03:49:20 19 A. Yes.

03:49:21 20 Q. And what is your understanding of the kind of

03:49:24 21 status of those discussions and any efforts towards

03:49:29 22 implementation on that piece of the challenged laws?

03:49:32 23 A. There have been --

03:49:32 24 MS. STUART: Form.

03:49:32 25 THE WITNESS: There have been no updates,

03:49:35 1 I don't believe. I believe everything's been put on
03:49:38 2 hold.
03:49:38 3 BY MS. LANG:
03:49:38 4 Q. Okay. Do you know if the Secretary of State is
03:49:41 5 receiving monthly reports from MVD?
03:49:42 6 MS. STUART: Form, foundation.
03:49:46 7 BY MS. LANG:
03:49:46 8 Q. If you know.
03:49:46 9 A. I don't know.
03:50:15 10 Q. I'm going to mark as Exhibit 27 MC 2984.
03:50:28 11 (Deposition Exhibit 27 was marked for
03:50:28 12 identification.)
03:50:28 13 BY MS. LANG:
03:50:49 14 Q. Are you familiar with this document?
03:50:50 15 A. Yes.
03:50:51 16 Q. And when would you use this notice, to send
03:50:54 17 this type of notice out to a voter?
03:50:57 18 A. If the driver's license was issued prior to
03:51:02 19 October 1 of 1996, then it did not prove DPOC.
03:51:06 20 Q. Okay. So one question I had about this is I
03:51:12 21 didn't see any mention here of kind of federal only
03:51:16 22 status. So if somebody had an ID that was issued prior
03:51:22 23 to October 1, 1996, are they processed as a federal only
03:51:28 24 voter?
03:51:32 25 A. Yes. But this one is saying that the number

03:51:35 1 that they gave us on the form was not what MVD had as
03:51:39 2 their driver's license number.

03:51:48 3 Q. Okay. I had read this sentence to mean either
03:51:52 4 there was a kind of non-matching number or the driver's
03:51:56 5 license had been issued prior to October 1, 1996. Is
03:52:00 6 that not correct?

03:52:01 7 A. I don't believe so. I think that we're trying
03:52:03 8 to actually figure out what their real driver's license
03:52:06 9 number is, and we are unclear.

03:52:08 10 Q. Okay. So this form is really only meant to be
03:52:11 11 for people who there's some sort of driver's license
03:52:14 12 number mismatch?

03:52:15 13 A. Mixup, yes.

03:52:16 14 Q. Okay. And for people who just have a pre-1996
03:52:21 15 driver's license, that would not count as DPOC, but they
03:52:24 16 could be a federal only voter; is that right?

03:52:27 17 A. As long as it didn't come back as a Type F,
03:52:27 18 yes.

03:52:30 19 Q. Yes. Thank you for that clarification.

03:52:40 20 I'll mark as Exhibit 28 2988.

03:52:51 21 (Deposition Exhibit 28 was marked for
03:53:00 22 identification.)

03:53:00 23 BY MS. LANG:

03:53:00 24 Q. Are you familiar with this document?

03:53:04 25 A. Yes.

03:53:06 1 Q. Okay. And can you describe to me what this
03:53:08 2 notice is for?

03:53:09 3 A. This is actually an older notice, doesn't -- we
03:53:14 4 are looking to update it because harassment residence
03:53:17 5 doesn't make sense.

03:53:18 6 Q. That is why I wanted to ask you about it.

03:53:21 7 A. Right. So we don't -- we don't really use this
03:53:23 8 form at all anymore, but it was still part of the forms
03:53:26 9 that are included in the voter registration database.
03:53:29 10 But, basically, this was to say we need you to provide
03:53:32 11 us a good address.

03:53:34 12 Q. Okay. And we went over the notice that you do
03:53:36 13 actually --

03:53:36 14 A. Yes.

03:53:37 15 Q. -- use in that circumstance?

03:53:38 16 A. Yes.

03:53:38 17 Q. Okay. Thank you. I'm glad I wasn't the only
03:53:46 18 one confused.

03:54:14 19 We've talked extensively about the fact that
03:54:16 20 implementation of these challenged laws are on hold and
03:54:19 21 that your office is not implementing them. To your
03:54:24 22 knowledge, are any counties implementing the challenged
03:54:30 23 portions of the law?

03:54:32 24 MS. BOUGHTON: Form.

03:54:33 25 MR. O'CONNOR: Form.

03:54:33 1 THE WITNESS: I can't speak for the other
03:54:35 2 counties.

03:54:35 3 BY MS. LANG:

03:54:35 4 Q. Okay. Have you received any communications in
03:54:38 5 your role on various committees and communications with
03:54:41 6 other County Recorders that would suggest that other
03:54:44 7 counties have taken a different approach in implementing
03:54:48 8 these laws?

03:54:49 9 A. No.

03:55:19 10 Q. We'll mark as Exhibit 29 MC 2986.

03:55:34 11 (Deposition Exhibit 29 was marked for
03:55:40 12 identification.)

03:55:40 13 BY MS. LANG:

03:55:41 14 Q. Are you familiar with this document?

03:55:42 15 A. Yes.

03:55:43 16 Q. And can you explain to me what this notice is
03:55:45 17 for?

03:55:48 18 A. So this is the letter that a person would get
03:55:52 19 if we -- if they provided an Arizona driver's license
03:55:55 20 and it matched with MVD as being a foreign, noncitizen.

03:56:02 21 Q. Okay. So this is only used when MVD comes back
03:56:06 22 with something that says noncitizen, rather than just no
03:56:12 23 match?

03:56:12 24 A. Right.

03:56:13 25 Q. Okay. Do you know if the Secretary of State's

03:56:41 1 Office is currently working on a revision for the
03:56:45 2 election procedures manual?

03:56:47 3 MS. STUART: Form.

03:56:47 4 THE WITNESS: Yes.

03:56:50 5 BY MS. LANG:

03:56:51 6 Q. Okay. What communications have you received
03:56:52 7 from the Secretary of State's Office about their work on
03:56:58 8 a revised election procedures manual?

03:57:00 9 A. They have sent us drafts of the various
03:57:04 10 chapters, and we have reviewed and then met with their
03:57:07 11 office to go over comments and questions about those
03:57:12 12 drafts.

03:57:13 13 Q. Have they provided a draft of Chapter 1?

03:57:15 14 A. Yes.

03:57:16 15 Q. Okay. And have you met with the Secretary of
03:57:20 16 State's Office to discuss your comments and questions?

03:57:21 17 A. Yes.

03:57:23 18 Q. Okay. Have you provided any written feedback
03:57:26 19 on Chapter 1 to the Secretary of State's Office?

03:57:30 20 A. Yes.

03:57:41 21 Q. Okay. Does the revised Chapter 1 draft
03:57:46 22 currently implement any portions of the challenged laws
03:57:52 23 we have been discussing today?

03:57:54 24 A. Yes.

03:57:56 25 Q. Does it address and implement all of the

03:58:01 1 challenged revisions?

03:58:05 2 A. Yes.

03:58:07 3 Q. Okay. So does the new draft of the EPM, for
03:58:11 4 example, indicate the place of birth will be mandatory?

03:58:14 5 A. Yes.

03:58:16 6 Q. Okay. And does it indicate that federal only
03:58:23 7 voters will not be able to vote in presidential
03:58:26 8 elections?

03:58:26 9 A. Yes.

03:58:26 10 Q. And that federal only voters will not be able
03:58:29 11 to vote by mail?

03:58:31 12 A. I believe so.

03:58:32 13 Q. Okay. So to your understanding, the current
03:58:35 14 revised draft fully implements the challenged laws?

03:58:46 15 A. Yes, but there are some areas that have been
03:58:50 16 potentially modified to mirror the NVRA.

03:58:57 17 Q. And which areas are that?

03:59:00 18 MS. STUART: Form, foundation. To the
03:59:00 19 extent you know.

03:59:03 20 BY MS. LANG:

03:59:03 21 Q. You have seen the elections procedures manual
03:59:05 22 draft; is that correct?

03:59:05 23 A. Yes.

03:59:06 24 Q. Okay. And you say that based on your review of
03:59:10 25 the elections procedures manual, there are areas where

03:59:12 1 the challenged laws have been modified in a way to
03:59:16 2 accord with NVRA; is that right?

03:59:18 3 A. That's my understanding.

03:59:19 4 Q. Okay. And what are those areas?

03:59:21 5 A. In regards to notices and cancellations.

03:59:38 6 Q. So is it fair to say that your testimony has
03:59:43 7 certainly today been that you haven't received any
03:59:45 8 official guidance or substantive guidance on the
03:59:48 9 implementation of these laws right now, but that you
03:59:51 10 have seen a draft of how the Secretary of State might
03:59:58 11 prepare to implement these laws in the form of the
04:00:01 12 election procedures manual?

04:00:02 13 A. Yes.

04:00:04 14 Q. Okay. And what was -- can you outline for me
04:00:07 15 some of the questions or concerns you had when you met
04:00:12 16 with the Secretary of State's Office about Chapter 1 of
04:00:17 17 the EPM?

04:00:19 18 A. We questioned all of the implementation of the
04:00:24 19 new laws, and specifically DPOC, proof of residency, the
04:00:34 20 jury duty questionnaire timing. That's what part of the
04:00:37 21 discussion was about.

04:00:38 22 Q. And what did the Secretary of State's Office
04:00:40 23 tell you about what their plans are with respect to
04:00:44 24 Chapter 1 and the implementation of those provisions?

04:00:48 25 MS. STUART: Form.

04:00:48 1 MR. O'CONNOR: Form.

04:00:51 2 MS. LANG: Can you clarify?

04:00:53 3 MS. STUART: You're asking what the

04:00:54 4 Secretary told them?

04:00:55 5 MS. LANG: Yes.

04:00:56 6 MS. STUART: Well, that's hearsay. You're

04:00:57 7 going to depose a 30(b)(6) witness for the Secretary.

04:01:00 8 You can just ask that person. You don't need to get

04:01:03 9 that information secondhand from her

04:01:05 10 MS. LANG: No.

04:01:06 11 BY MS. LANG:

04:01:07 12 Q. Okay. What information did you receive from

04:01:08 13 the Secretary of State's Office in response to your

04:01:11 14 concerns?

04:01:11 15 MS. STUART: Form.

04:01:16 16 THE WITNESS: During the call that we had

04:01:17 17 to discuss draft Chapter 1 it was noted that these have

04:01:22 18 been included in the draft as a placeholder, and when

04:01:27 19 the litigation is determined, that they will either stay

04:01:30 20 in or be pulled out.

04:01:46 21 BY MS. LANG:

04:01:46 22 Q. Have you had more than one meeting with the

04:01:48 23 Secretary of State's Office about the draft Chapter 1?

04:01:52 24 A. No.

04:01:53 25 Q. Just the one?

04:01:53 1 A. Just the one.

04:01:54 2 Q. And when was that?

04:01:57 3 A. A couple weeks ago.

04:01:58 4 Q. Okay. And who was in that meeting?

04:02:02 5 A. It would have been members of the Secretary of

04:02:05 6 State's Office and the County Recorders' Office and

04:02:07 7 probably a few election directors as well from across

04:02:10 8 the state.

04:02:11 9 Q. And you were in attendance of that meeting?

04:02:13 10 A. Yes.

04:02:14 11 Q. Okay. And it was not -- I understand from your

04:02:18 12 answer it wasn't a meeting with just your office and the

04:02:21 13 Secretary of State's Office, but the Secretary of

04:02:23 14 State's Office and all of the County Recorders; is that

04:02:26 15 right?

04:02:26 16 A. Yes.

04:02:27 17 Q. Okay. Do you recall who from the Secretary of

04:02:30 18 State's Office was present?

04:02:32 19 A. Colleen Connor, I believe Lisa Marra, Yolanda

04:02:37 20 Morales, probably Russ Smith.

04:02:42 21 Q. Was this an in person meeting, Zoom, by phone?

04:02:45 22 A. It was Teams.

04:02:48 23 Q. About how long was the meeting?

04:02:54 24 A. It was probably a couple hours, but we just

04:02:57 25 didn't discuss Chapter 1. There were other chapters as

04:03:03 1

well.

04:03:03 2

Q. Okay. And what is your understanding of what

04:03:06 3

the next steps will be in kind of the election

04:03:09 4

procedures manual process?

04:03:11 5

MS. STUART: Form.

04:03:13 6

THE WITNESS: It's my belief that they

04:03:15 7

will take our comments and questions under advisement

04:03:18 8

and that a new draft would be circulated.

04:03:23 9

BY MS. LANG:

04:03:23 10

Q. Based on your experience with prior iterations

04:03:26 11

of this process, including while you were at the

04:03:29 12

Secretary of State's Office, after that new draft is

04:03:35 13

created, would there be another set of sessions with the

04:03:39 14

County Recorder's Office, or is it just a kind of one

04:03:42 15

feedback session system?

04:03:44 16

MS. STUART: Form.

04:03:45 17

THE WITNESS: In my experience there would

04:03:48 18

be another -- at least another session, if not a couple

04:03:50 19

more, especially if the chapters are particularly long.

04:04:12 20

BY MS. LANG:

04:04:12 21

Q. So I think we've already discussed, but, you

04:04:16 22

know, the 2019 EPM is currently in effect because there

04:04:19 23

was not a 2021 revision; is that right?

04:04:23 24

A. Yes.

04:04:24 25

Q. Okay. If there is no approved 2023 revision,

04:04:32 1 would your office continue to rely on the 2019 EPM?

04:04:35 2 MR. O'CONNOR: Form.

04:04:39 3 THE WITNESS: I believe we would.

04:05:07 4 MS. LANG: Okay. All right. I think now

04:05:08 5 would be a good time for a break.

04:05:10 6 Can we take a break?

04:05:12 7 MS. STUART: Oh, break?

04:05:12 8 MS. LANG: Break.

04:05:13 9 MS. STUART: Yes.

04:05:14 10 MS. LANG: Thank you.

04:05:14 11 THE VIDEOGRAPHER: We are off the record.

04:05:15 12 Time on the video monitor is 4:05 p.m.

04:05:21 13 (A recess was taken.)

04:29:13 14 THE VIDEOGRAPHER: We are on the record.

04:29:15 15 Time on the video monitor is 4:29 p.m.

04:29:18 16 BY MS. LANG:

04:29:18 17 Q. Okay. I have a kind of mishmash of final

04:29:20 18 questions for you at this stage and before we pass it

04:29:24 19 off to the United States for any questions.

04:29:27 20 And earlier today, when we were talking about

04:29:29 21 your use of the SAVE system, if I recall correctly, you

04:29:35 22 referenced that, you know, you were not typically the

04:29:37 23 person who kind of uses the SAVE system; is that right?

04:29:40 24 A. Yes.

04:29:42 25 Q. Okay. Who is kind of the point person within

04:29:45 1 your office that would be most expert on kind of the use
04:29:50 2 of the SAVE system?

04:29:50 3 A. Rodney Yazzie.

04:29:52 4 Q. Okay. And who is that?

04:29:54 5 A. He is one of our IT specialists.

04:30:01 6 Q. Okay. When we -- way at the beginning of
04:30:05 7 today's testimony we talked about the different kind of
04:30:07 8 ways that voter registration forms might come to you,
04:30:10 9 and one of those ways is through public assistance
04:30:15 10 agencies and disability agencies that are required to
04:30:19 11 provide voter registration services under the NVRA; is
04:30:19 12 that right?

04:30:25 13 A. Yes.

04:30:29 14 Q. Okay. When you receive voter registration
04:30:32 15 forms from those agencies, are they state forms or
04:30:39 16 federal forms?

04:30:41 17 A. In most cases they're state forms.

04:30:46 18 Q. Okay. So, to your knowledge, the NVRA agencies
04:30:50 19 that are providing voter registration services use the
04:30:52 20 state form to provide those services; is that right?

04:30:55 21 A. Yes.

04:30:55 22 Q. Okay. Are you aware of any agencies that are
04:30:57 23 using the federal form instead of the state form?

04:31:05 24 A. It's an option. We may occasionally receive a
04:31:09 25 federal form.

04:31:14 1 Q. Fair enough. But your testimony is that
04:31:17 2 generally the NVRA agencies are using the state form --
04:31:20 3 A. Yes.
04:31:20 4 Q. -- for voter registration?
04:31:21 5 A. Yes.
04:31:22 6 Q. Okay. Earlier today we kind of talked about
04:31:28 7 the ways in which we might try to figure out, you know,
04:31:33 8 how many people who are federal only go ahead and cure
04:31:38 9 and become full ballot voters. Do you recall that
04:31:41 10 discussion?
04:31:42 11 A. Yes.
04:31:43 12 Q. And you had referenced that, you know, you
04:31:46 13 could take a snapshot from today and compare it to maybe
04:31:49 14 a snapshot a few months down the line and kind of
04:31:52 15 compare them to see who had, you know, quote/unquote,
04:31:56 16 cured their federal only status and become a full ballot
04:32:01 17 voter, right?
04:32:01 18 A. Yes.
04:32:03 19 Q. Okay. Do you have access to like -- outside of
04:32:09 20 if you were to take a snapshot today and then take a
04:32:11 21 snapshot a few months down the line, does your office
04:32:15 22 have kind of snapshots of what the database has looked
04:32:18 23 like at different points of time?
04:32:26 24 A. Yes; only in reference to public records
04:32:29 25 requests that have been previously provided at a certain

04:32:31 1 time frame in the system.

04:32:33 2 Q. Okay. And do those happen at relatively

04:32:39 3 regular intervals?

04:32:42 4 A. Public records requests? They come in daily.

04:32:46 5 Q. Okay. So how often, in general, is your office

04:32:49 6 kind of creating those snapshots and saving them?

04:32:55 7 A. Multiple times a week.

04:33:01 8 Q. Okay. I'm going to mark as Exhibit 30 MC 2742.

04:33:19 9 (Deposition Exhibit 30 was marked for

04:33:33 10 identification.)

04:33:33 11 BY MS. LANG:

04:33:33 12 Q. And do you recognize this document?

04:33:35 13 A. Yes.

04:33:36 14 Q. And what is it?

04:33:39 15 A. These are discussions about election law reform

04:33:43 16 ideas.

04:33:45 17 Q. Okay. And if I can understand this e-mail

04:33:53 18 chain correctly, this first page is an e-mail from you

04:33:58 19 to Stephen Richer from January 9, 2023, the first page

04:34:03 20 of the document; is that right?

04:34:05 21 A. Yes.

04:34:07 22 Q. Okay. And what's below, you know, there are

04:34:09 23 some questions and then bullet points, and if you look

04:34:13 24 at the last page of this document, it looks like the

04:34:19 25 questions originally came from County Recorder Richer,

04:34:23 1 and then the bullet points were drafted by you; is that
04:34:23 2 right?

04:34:26 3 A. Yes.

04:34:26 4 Q. Okay. I want to talk briefly about the third
04:34:39 5 bullet point under what else on the legislative front
04:34:42 6 for voter registration. And here you write that,
04:34:45 7 lastly, we currently have several new state laws that
04:34:48 8 violate federal law. Do you see that sentence?

04:34:50 9 A. Yes.

04:34:53 10 Q. What new state laws were you referencing here?

04:34:57 11 A. The ones that are -- we've been talking about
04:35:00 12 today.

04:35:01 13 Q. Okay. Any others, or were you specifically
04:35:03 14 talking about the laws at issue in this litigation?

04:35:06 15 A. Specifically the laws at issue here today.

04:35:12 16 Q. Okay. And you say, "I don't know if we need an
04:35:14 17 AG opinion, but I feel like many counties are confused
04:35:18 18 and seeking county legal guidance which makes sense,"
04:35:21 19 period.

04:35:21 20 Is that right?

04:35:22 21 A. Yes.

04:35:23 22 Q. And as you sit here today, does that continue
04:35:26 23 to be kind of your understanding and feeling about how
04:35:28 24 County Recorders are feeling?

04:35:30 25 MR. O'CONNOR: Form.

04:35:32 1 BY MS. LANG:

04:35:33 2 Q. Do you agree that many counties are confused
04:35:36 3 and seeking county legal guidance?

04:35:38 4 A. This was written in January. I feel now that
04:35:41 5 it's been made very clear that we are to be in a holding
04:35:44 6 pattern until guidance is received from the Secretary of
04:35:52 7 State's Office.

04:35:52 8 Q. Okay. That's very helpful. Thank you.

04:35:55 9 And so your next sentence kind of referred to a
04:35:59 10 concern that, you know, different counties would do
04:36:04 11 different things and that would lead to voters being
04:36:06 12 treated differently.

04:36:08 13 Has that concern -- do you continue to have
04:36:10 14 that concern, or has it been resolved by the more clear
04:36:16 15 guidance that you're in a holding pattern?

04:36:21 16 A. I feel that the guidance to hold is --
04:36:26 17 alleviated some of the concern. I think once guidance
04:36:29 18 is provided, then we will reevaluate.

04:36:34 19 Q. And then the next thing you say is, "We should
04:36:37 20 be able to use expired MVD credentials to confirm a
04:36:41 21 voter's citizenship, and we currently do not."

04:36:46 22 Can you explain why it is that you thought we
04:36:49 23 should be able to use expired MVD credentials to confirm
04:36:53 24 a voter's citizenship?

04:36:54 25 A. It's my personal opinion that we are looking to

04:36:57 1 validate DPOC, and regardless if somebody's driver's
04:37:02 2 license is expired, it should still be able to validate
04:37:05 3 the proof of citizenship.

04:37:07 4 Q. And that makes some sense to me, right, like
04:37:10 5 the citizenship status of that individual has not
04:37:13 6 changed just because their driver's license has expired,
04:37:17 7 correct?

04:37:17 8 MS. STUART: Form.

04:37:18 9 THE WITNESS: That's my opinion.

04:37:19 10 BY MS. LANG:

04:37:31 11 Q. Okay. This last section that says, "New law
04:37:34 12 that protects VR/Elections employee's personal
04:37:37 13 information, and party within the voter
04:37:40 14 registration database," why is it that you listed that
04:37:42 15 as a potential legislative item?

04:37:46 16 A. I think the nature of elections has changed
04:37:50 17 significantly, especially in the last couple years, and
04:37:53 18 we have had staff that have been concerned for their
04:37:56 19 safety; and so having something that would protect their
04:38:00 20 information from being released to the public would make
04:38:05 21 them feel better.

04:38:06 22 Q. Yeah. I don't think it will be a surprise to
04:38:09 23 anyone in this room that Maricopa County has been the
04:38:12 24 center of many kind of inflammatory rhetoric when it
04:38:30 25 comes to elections; is that fair to say?

04:38:32 1 A. That's a fair assessment.

04:38:35 2 Q. Okay. And your office -- I should not assume.
04:38:41 3 Let me ask.

04:38:42 4 Has your office kind of felt the impact of that
04:38:47 5 kind of inflammatory rhetoric around the elections
04:38:50 6 process in Maricopa County?

04:38:52 7 A. I feel it has.

04:38:54 8 Q. Okay. And can you expound on that a little
04:38:57 9 bit, like what -- what has the impact on you and your
04:39:00 10 staff been of being at the center of many of these
04:39:04 11 debates?

04:39:05 12 A. I don't want to speak necessarily for my staff,
04:39:08 13 although they have relayed that they feel putting their
04:39:13 14 residential address information out would -- could be
04:39:16 15 potentially harmful. You know, they're scared that
04:39:23 16 somebody's going to show up at their house. But there
04:39:26 17 is a new law now that has allowed, you know, certain
04:39:29 18 election officials that are certified to request their
04:39:33 19 record to be sealed.

04:39:36 20 Q. And do you think that has helped with some of
04:39:39 21 the concerns?

04:39:40 22 A. I think it's still very new, but I think it has
04:39:44 23 helped.

04:39:47 24 Q. Okay. And it's entirely fair that you don't
04:39:50 25 want to speak for your staff; but, you know, as the kind

04:39:52 1 of representative today for the Recorder's Office, I do
04:39:55 2 think you can speak more generally about kind of what
04:39:58 3 the impact has been.

04:40:01 4 And to that effect, you know, earlier today we
04:40:04 5 talked about kind of allegations of voter fraud that
04:40:08 6 your office may have received. And putting aside kind
04:40:13 7 of credibility or whether or not these are real or
04:40:18 8 serious allegations, has your office received a lot of
04:40:23 9 public comment about the elections process in the wake
04:40:28 10 of the 2020 election?

04:40:30 11 A. The Recorder's Office has, yes.

04:40:32 12 Q. Okay. And, you know, earlier today we looked
04:40:35 13 at a document that was an e-mail from County Recorder
04:40:42 14 Richer where he was concerned that an individual might
04:40:46 15 send, you know, a list of many thousands of individuals
04:40:48 16 that they wanted to question their citizenship status.

04:41:01 17 Based on your experience working in the office,
04:41:04 18 is that concern kind of borne out from the public
04:41:09 19 comments the Recorder's Office has received in recent
04:41:12 20 years?

04:41:13 21 MR. O'CONNOR: Form.

04:41:15 22 THE WITNESS: In my experience and my
04:41:17 23 opinion, yes.

04:41:24 24 MS. LANG: I don't have any further
04:41:25 25 questions right now. So we're going to go ahead and

04:41:28 1 take a break, and then the United States will ask some
04:41:32 2 questions.

04:41:33 3 THE WITNESS: Okay.

04:41:33 4 THE VIDEOGRAPHER: We are off the record.
04:41:35 5 The time on the video monitor is 4:41 p.m. This ends
04:41:47 6 Media 4.

04:41:54 7 (A recess was taken.)

04:47:10 8 THE VIDEOGRAPHER: We are on the record.
04:47:11 9 The time on the video monitor is 4:47 p.m. This begins
04:47:14 10 Media 5.

04:47:14 11

04:47:16 12 EXAMINATION

04:47:16 13 BY MS. BRAILEY:

04:47:18 14 Q. Hi, Ms. Petty. I'm Emily Brailey with the
04:47:22 15 United States, and I only have a few questions. It will
04:47:25 16 sort of bounce around some of the subject matter we've
04:47:28 17 covered today, just some follow-up questions to get a
04:47:30 18 few more details. So if you ever feel that you don't
04:47:33 19 understand where the question is going or you need to
04:47:36 20 refresh your memory on what we had spoken about, please
04:47:39 21 stop me and let me know, okay?

04:47:40 22 A. Okay.

04:47:46 23 Q. Does the Maricopa Recorder -- does your office
04:47:49 24 ever need to check voters for any reason against AVID,
04:47:57 25 specifically, before you check them against your own

04:48:00 1 voter system?

04:48:01 2 A. Yes, we do check voter records against AVID.

04:48:04 3 Q. And what fields do you use when you look up
04:48:07 4 those voters in AVID?

04:48:09 5 A. It's actual an automated process to look up
04:48:13 6 duplicates nightly to see if there's a voter registered
04:48:16 7 in Maricopa that is also potentially registered in
04:48:19 8 another county and somehow like their last name changed
04:48:22 9 or something was transposed on their date of birth. So
04:48:25 10 it's an overnight automated process that looks at all
04:48:28 11 the data fields from the form.

04:48:29 12 Q. And which fields must be a match for you to
04:48:32 13 confirm that it's a duplicate?

04:48:34 14 A. So we like to have at least four pieces of data
04:48:38 15 to confirm a hard match and three for a soft, and it
04:48:43 16 would include first name, last name, date of birth,
04:48:46 17 driver's license, SSN4.

04:48:55 18 Q. And in the AVID database there are several
04:48:58 19 columns. There are several columns, and I'm going to
04:49:15 20 ask you about four of those column names based on your
04:49:20 21 experience with AVID.

04:49:23 22 Are you familiar with the columns ID and VRAZ
04:49:28 23 Voter ID, the first two columns in the AVID system?

04:49:33 24 A. ID?

04:49:34 25 Q. Yeah.

04:49:35 1 A. So that's their voter registration identity
04:49:38 2 number.

04:49:38 3 Q. Right. And when or why, I guess, is that
04:49:46 4 number different from the VRAZ ID?

04:49:50 5 A. Because it -- Maricopa has its own voter
04:49:55 6 registration system and so we issue a Maricopa voter ID,
04:50:00 7 but it's also tied to their AVID ID, so you can search
04:50:03 8 the voter by either number in either system.

04:50:06 9 Q. Got it.

04:50:08 10 And then there are two other columns titled
04:50:11 11 Federal-ID Only and Federal-No ID. Can you tell me the
04:50:16 12 difference between those two field names?

04:50:18 13 A. The difference is a federal only voter has not
04:50:22 14 proven that they are at least a person. There's no
04:50:25 15 identity. Fed I means that they have at least provided
04:50:29 16 enough information to prove they are a person.

04:50:33 17 Q. And in the AVID database it doesn't say Fed I.
04:50:37 18 It says Federal-ID Only and Federal-No ID. So if it
04:50:41 19 says Federal-ID Only, those -- that column -- am I
04:50:47 20 correct that that column indicates that the person
04:50:50 21 provided identification; and then No ID means that the
04:50:54 22 person did not provide identification?

04:50:56 23 A. Yes.

04:50:58 24 Q. Okay. Thank you. That's helpful.

04:51:05 25 Has your office encountered duplicate driver

04:51:10 1 license numbers?

04:51:14 2 A. What do you mean?

04:51:16 3 Q. As in have you encountered non-unique driver's
04:51:23 4 license numbers that you -- strike that.

04:51:36 5 Let me ask a different question. I have two
04:51:43 6 sort of hypothetical questions for you about information
04:51:46 7 you might get about a voter and what status you would
04:51:52 8 give that voter.

04:51:53 9 So, for example, if you have two files, both
04:51:56 10 have the same name, both have the same birthday, both
04:52:01 11 have the same social security number, and they both have
04:52:04 12 the same driver's license number, but they have a
04:52:07 13 different birthplace, how would you interpret those two
04:52:09 14 records?

04:52:10 15 A. We would say that there was enough of the valid
04:52:13 16 matching data to say it is a match.

04:52:16 17 Q. So would that mean that the different
04:52:19 18 birthplace might be a mistake?

04:52:22 19 A. It would just become irrelevant.

04:52:38 20 Q. Okay. And then our second scenario, we have
04:52:43 21 two files. We have, again, the same name on each file.
04:52:47 22 We have the same birthday on each file. However, one
04:52:49 23 file provided social security number and a driver's
04:52:52 24 license number. The other did not. And they have the
04:52:55 25 same birthplace. How do you interpret those two files?

04:53:02 1 A. We would -- if we had three points of data, we
04:53:05 2 would say that it's a match.

04:53:20 3 Q. And so is there any reason that you would have
04:53:25 4 two files where it's the same -- sorry.

04:53:33 5 Would you ever have two files with different
04:53:36 6 voters who have the same driver's license number, or is
04:53:41 7 that merely an impossible scenario?

04:53:43 8 A. The only way that would happen is if there was
04:53:46 9 an error at the MVD office and they accidentally
04:53:49 10 assigned somebody the same driver's license or overrode
04:53:52 11 somebody else's driver's license number.

04:53:55 12 Q. That makes sense
04:54:10 13 So we reviewed some of the birthplace
04:54:13 14 information in the AVID database that we received from
04:54:16 15 the Secretary of State, and we noticed that there's not
04:54:19 16 a uniform way that people -- or, rather, there's not a
04:54:23 17 uniform way in which birthplace was displayed. Some
04:54:26 18 people wrote Nogales, and it could have been Arizona or
04:54:30 19 Mexico. Some people wrote AZ versus ARIZ. You know,
04:54:37 20 there were lots of different ways to record this. And
04:54:42 21 so I have some questions about how the birthplace is
04:54:48 22 entered into the voter file.

04:54:49 23 So, first, is there any guidance to voters on
04:54:53 24 how they should complete that field in the state form;
04:54:57 25 that field being the birthplace field?

04:54:59 1 A. I believe it says enter your place or state or
04:55:02 2 country of birth.

04:55:03 3 Q. Right. And so is there any guidance anywhere
04:55:06 4 that tells a voter whether they should indicate that as
04:55:09 5 two letters, for example, versus a full word versus an
04:55:15 6 abbreviation of some kind?

04:55:17 7 A. I don't believe so.

04:55:22 8 Q. And what answers do you accept in that field?

04:55:25 9 A. Whatever the voter puts.

04:55:31 10 Q. And how do you transcribe that, that being what
04:55:34 11 the voter puts, into the Maricopa database and then into
04:55:39 12 AVID?

04:55:40 13 A. So we would take exactly what they put in that
04:55:45 14 form in the voter registration database, Maricopa's
04:55:49 15 voter registration database, just exactly like they
04:55:52 16 provided it, and that automatically replicates up to the
04:55:55 17 state AVID system.

04:55:56 18 Q. And does your office confirm the birthplace of
04:56:00 19 anybody who's entered it into the state form?

04:56:02 20 A. No.

04:56:04 21 Q. Would there be a way to confirm it?

04:56:06 22 A. No.

04:56:07 23 Q. Is there a database that exists that you could
04:56:13 24 check somebody's birthplace against?

04:56:15 25 A. Not that I'm aware of.

04:56:20 1 Q. Are you aware of any guidelines to -- are you
04:56:27 2 aware of any guidelines that might be forthcoming about
04:56:31 3 how they should fill in that field should the counties
04:56:37 4 implement H.B. 2492?

04:56:39 5 A. We haven't received guidance on how to
04:56:41 6 implement that yet.

04:56:41 7 Q. Is that part of the drafting process for the
04:56:44 8 new EPM?

04:56:48 9 A. I don't recall that being called out in the
04:56:52 10 draft.

04:56:53 11 Q. And so I understand you haven't received
04:56:55 12 guidance. Have there been any conversations about this,
04:56:59 13 about how to instruct voters how they should fill out
04:57:03 14 the field of birthplace?

04:57:05 15 A. Not that I'm aware of.

04:57:23 16 Q. So currently my understanding is if a person
04:57:26 17 registers to vote using the state form and they do not
04:57:30 18 provide DPOC, but they have checked the box that they're
04:57:36 19 a citizen, they are registered as a federal only voter.
04:57:41 20 I have that correct?

04:57:42 21 A. That's correct.

04:57:42 22 Q. Okay. And so if they provide DPOC at a later
04:57:45 23 time, you know, up until the Thursday before the
04:57:47 24 election, they can vote a full ballot?

04:57:50 25 A. Yes.

04:57:52 1 Q. And how is that indicated in the system for
04:57:55 2 that voter once they provide a DPOC?

04:57:57 3 A. We process their DPOC and update their status
04:58:01 4 from federal only to active full ballot.

04:58:03 5 Q. And when you say status, that's their
04:58:06 6 registration status?

04:58:07 7 A. Yes.

04:58:08 8 Q. And is that done with the voter registration
04:58:10 9 update or with the admin update?

04:58:12 10 A. It would be a voter registration update.

04:58:14 11 Q. And that's because it's changing the status of
04:58:18 12 the person as registered to vote as a full ballot voter
04:58:22 13 versus a federal only voter?

04:58:24 14 A. It's a voter-initiated change so it would be
04:58:27 15 provided by the voter, so it would be a voter
04:58:30 16 registration update.

04:58:31 17 Q. Got it.

04:58:33 18 Does your office view DPOC then as a voter
04:58:37 19 registration requirement, no matter when it's provided?

04:58:42 20 A. Can you ask that again?

04:58:44 21 Q. Yes, absolutely.

04:58:46 22 So it seems that no matter when a voter
04:58:52 23 provides DPOC -- so it's not provided at the time of
04:58:55 24 registration. It's provided much later in the process.
04:58:57 25 But no matter when it's provided, it seems to be

04:59:00 1 considered part of their voter registration packet
04:59:04 2 application. So does that mean it's -- DPOC is a voter
04:59:09 3 registration requirement?

04:59:12 4 A. I would not say that DPOC is a voter
04:59:15 5 registration requirement. The attestation to the form
04:59:19 6 saying they are a United States citizen is the
04:59:21 7 requirement to get them added to the rolls as a federal
04:59:24 8 only voter. If they want to be a full ballot voter,
04:59:27 9 then, yes, DPOC would be required.

04:59:28 10 Q. So it's a voter registration requirement for
04:59:31 11 somebody to register as a full ballot voter?

04:59:33 12 A. Yes.

04:59:42 13 Q. Is there any other way that you would
04:59:44 14 categorize DPOC other than as a voter registration
04:59:48 15 requirement for full ballot voters?

04:59:52 16 A. I don't think I understand what you're asking
04:59:54 17 me.

05:00:04 18 Q. So in the context that we've been discussing,
05:00:08 19 DPOC is a voter registration requirement, right, for the
05:00:14 20 people who want to be registered as full ballot voters?

05:00:18 21 A. Yes.

05:00:19 22 Q. Is there -- one minute.

05:00:36 23 I think we can move on from that question.

05:00:42 24 Okay. So same question, but slightly
05:00:48 25 different. So somebody registers to vote using a

05:00:51 1 federal form and then they later provide DPOC. They are
05:00:55 2 then treated as a full ballot voter; is that correct?

05:00:58 3 A. Yes.

05:00:58 4 Q. And going forward, they continue to be treated
05:01:01 5 as a full ballot voter?

05:01:02 6 A. Yes.

05:01:05 7 Q. And that's true whether -- that's true even if
05:01:08 8 DPOC is provided the Thursday before the election, even
05:01:11 9 if they registered to vote months and months before
05:01:14 10 this?

05:01:14 11 A. Yes.

05:01:37 12 Q. Okay. And I think you may have answered this
05:01:39 13 in the very beginning. I apologize if you -- I
05:01:41 14 apologize if you have.

05:01:43 15 Have you encountered conflicting information in
05:01:49 16 one of the databases, let's say MVD, SSA, AVID, as
05:01:54 17 compared to a registration application that you receive?

05:01:59 18 A. In what context?

05:02:02 19 Q. So maybe there's conflicting information about
05:02:06 20 the person's -- as simple as everything matches except
05:02:15 21 for a part of a person's name or everything matches
05:02:18 22 except for one of the ID numbers. I guess I'm wondering
05:02:31 23 if it's possible for you to see conflicting information
05:02:34 24 on a voter registration application as compared to
05:02:39 25 something in the database that goes to the person's

05:02:41 1 identity?

05:02:45 2 A. Occasionally. Say somebody, as an example,
05:02:48 3 somebody has registered to vote with a new name, and the
05:02:56 4 prior information that we had, now we don't know that
05:03:01 5 they had actually provided a legal name change to the
05:03:04 6 MVD. So in that case we would go back out to MVD as
05:03:07 7 part of this new registration and confirm with MVD that
05:03:11 8 there was a legal name change for this voter on record
05:03:14 9 with them.

05:03:18 10 Q. And so then you're able to cure the conflicting
05:03:23 11 information by going to MVD, and that information then,
05:03:27 12 however you resolve it with MVD, is then edited into
05:03:32 13 that person's record --

05:03:33 14 A. Yes.

05:03:33 15 Q. -- in the system?

05:03:36 16 But your office cannot do those modifications
05:03:41 17 yourself; there's nobody who can go into the program and
05:03:45 18 edit those -- edit that conflicting information; it has
05:03:50 19 to be done through MVD?

05:03:52 20 A. No, our users -- once we get validation about
05:03:55 21 the conflicting information, our users would change the
05:03:59 22 record to mirror what the voter registration form was,
05:04:03 23 the newly submitted form.

05:04:04 24 Q. And who does that? Would that be the IT group
05:04:07 25 that you spoke about?

05:04:08 1 A. No, our voter registration clerks.

05:04:10 2 Q. The clerks can do it. Okay.

05:04:18 3 MS. BRAILEY: I believe that's all I have
05:04:20 4 for you. Thank you so much.

05:04:23 5 If we can go off the record for a second.

05:04:24 6 THE VIDEOGRAPHER: We are off the record.

05:04:25 7 Time on the video monitor is 5:04 p.m.

05:04:29 8 (A recess was taken.)

05:16:13 9 THE VIDEOGRAPHER: We are on the record.

05:16:14 10 The time on the video monitor is 5:16 p.m.

05:16:17 11

05:16:17 12 EXAMINATION

05:16:17 13 BY MR. HERRERA:

05:16:19 14 Q. Hi. Good afternoon, Ms. Petty. My name is
05:16:22 15 Ernest Herrera and I'm from MALDEF, and I represent
05:16:25 16 Promise Arizona and Southwest Voter Registration
05:16:29 17 Education Project, two of the plaintiffs in this case.
05:16:31 18 I just have a few questions for you.

05:16:34 19 Earlier you looked at Exhibit 21, which was a
05:16:38 20 copy of House Bill 2243, and first I'd like to direct
05:16:45 21 your attention to Page 6 of that.

05:16:55 22 And under Page -- on Page 6 of Exhibit 21 there
05:17:06 23 is the language there under Section H referring to
05:17:11 24 reason to believe, right? Do you recall that?

05:17:14 25 A. Section H?

05:17:15 1 Q. Section H.

05:17:16 2 A. Yes.

05:17:19 3 Q. Now, earlier you said that you don't have
05:17:22 4 guidance on how to decide if there is reason to believe
05:17:26 5 that someone is not a United States citizen for purposes
05:17:30 6 of implementing the new law that calls on County
05:17:35 7 Recorders to use SAVE under this Section H; do you
05:17:37 8 remember that?

05:17:37 9 A. Yes.

05:17:40 10 Q. Why is it that you await guidance on how to
05:17:43 11 implement that Section H about a reason to believe
05:17:47 12 someone is not a United States citizen before
05:17:50 13 implementing it?

05:17:51 14 A. Because I don't feel that it's clear about what
05:17:54 15 reason to believe means.

05:17:57 16 Q. And what about it do you not think is clear?

05:18:02 17 A. I'll give you an example. If somebody walks
05:18:05 18 into my office and says that they believe their
05:18:08 19 next-door neighbor is not a United States citizen, is
05:18:11 20 that credible? I don't know.

05:18:13 21 If there's a list that somebody from anywhere
05:18:18 22 provided that said these list of people are not United
05:18:22 23 States citizens, do I know if that's credible or not?
05:18:26 24 Does that make me believe what they said just because
05:18:28 25 they provided it? I don't know. I need guidance on

05:18:30 1 what makes it credible to make me believe it.

05:18:32 2 Q. Now, earlier you talked about -- I think you
05:18:35 3 said you supervise about 20 staff?

05:18:37 4 A. Yes.

05:18:38 5 Q. How many of those staff work on voter
05:18:43 6 registration database maintenance?

05:18:46 7 A. Everybody's trained on how to do this
05:18:49 8 maintenance.

05:18:50 9 Q. What would you hope that guidance includes
05:18:54 10 regarding how to implement that Section H about reason
05:18:57 11 to believe someone is not a United States citizen before
05:19:01 12 implementing it?

05:19:04 13 MR. O'CONNOR: Form.

05:19:05 14 THE WITNESS: I would just hope that
05:19:07 15 whatever guidance is provided, that it's clear.

05:19:16 16 BY MR. HERRERA:

05:19:17 17 Q. Do you think that a County Recorder employee
05:19:20 18 would need that guidance on how to implement that
05:19:22 19 section about reason to believe someone is not a United
05:19:25 20 States citizen?

05:19:26 21 A. Yes.

05:19:26 22 Q. And why is that?

05:19:29 23 A. Because we would add it to our policies and
05:19:32 24 procedures for them to understand how to implement it.

05:19:38 25 Q. Are you aware of any other state voter

05:19:42 1 registration law or voter registration guidance that
05:19:45 2 requires a County Recorder employee to decide if he or
05:19:49 3 she has reason to believe whether a registered voter
05:19:52 4 meets one of the eligibility requirements for voting?

05:19:55 5 MS. BOUGHTON: Form.

05:19:56 6 THE WITNESS: Are you saying our state or
05:19:58 7 another state?

05:20:00 8 BY MR. HERRERA:

05:20:01 9 Q. Your state.

05:20:03 10 A. If I -- I think I understand what you're
05:20:06 11 asking. We would believe a voter's signed affidavit
05:20:10 12 under penalty of perjury that they meet the eligibility
05:20:13 13 requirements until we get information that says
05:20:15 14 otherwise.

05:20:20 15 Q. Are you aware of any other state law provisions
05:20:22 16 or guidance from the Secretary that has language similar
05:20:27 17 to reason to believe?

05:20:30 18 A. Not off the top of my head.

05:20:33 19 Q. Earlier you testified that the County
05:20:36 20 Recorder's Office is not a policing agency. Would you
05:20:39 21 consider the determination of whether there is reason to
05:20:42 22 believe someone is not a United States citizen more akin
05:20:45 23 to a determination to be made by a policing agency?

05:20:48 24 MS. BOUGHTON: Form.

05:20:53 25 THE WITNESS: I would defer to my County

05:20:56 1 Attorney on that determination.

05:20:57 2 BY MR. HERRERA:

05:20:58 3 Q. Okay. From your understanding, would it be
05:21:00 4 something that you thought that a policing agency should
05:21:02 5 determine?

05:21:05 6 A. I would think that that would be outside the
05:21:08 7 purview of what my division would do.

05:21:12 8 Q. And, now, you testified earlier today that for
05:21:16 9 H.B. 2492 provisions you would not send out any notices
05:21:21 10 yet, right?

05:21:23 11 A. That has not been implemented, correct.

05:21:26 12 Q. With regard to the provisions related to
05:21:29 13 H.B. 2243 as reflected in Exhibit 21, is there anything
05:21:35 14 to prevent you or anyone at the County Recorder's Office
05:21:40 15 from sending out a notice for Section F regarding the
05:21:44 16 comparisons between the voter registration database and
05:21:48 17 the Department of Transportation database?

05:21:55 18 A. To my knowledge, there has not been a
05:21:58 19 comparison, so I would not be able to do that even if
05:22:02 20 the data -- if I -- if I was allowed to do it.

05:22:07 21 Q. Right. Is there a -- are there any rules right
05:22:11 22 now in place from the Secretary or anyone else saying
05:22:14 23 not to send out notices for that with regard to that
05:22:18 24 provision?

05:22:20 25 A. This provision has been put on hold with the

05:22:23 1 rest of the newly -- this new law.

05:22:28 2 Q. Okay. And for that reason you would not send
05:22:30 3 out a notice to someone based on a comparison because
05:22:35 4 it's not been implemented yet?

05:22:37 5 A. Correct.

05:22:38 6 Q. Okay. And to go to the SAVE checks using the
05:22:44 7 SAVE system under Section H of 2243, is there anything
05:22:50 8 to prevent you or anyone else at the County Recorder's
05:22:54 9 Office from sending out a notice after using SAVE in
05:23:01 10 accordance with that provision?

05:23:07 11 A. We haven't implemented this provision, so we
05:23:11 12 are not sending letters in regards to Section H.

05:23:16 13 Q. Are you aware of -- and I'm sorry to go back
05:23:19 14 here, but going back to the questions about reason to
05:23:22 15 believe, you mentioned -- you discussed earlier a
05:23:27 16 meeting that happened recently, a Teams meeting,
05:23:31 17 discussing revisions to the elections procedures manual.
05:23:37 18 Did any of -- did any of that meeting discuss or --
05:23:43 19 during that meeting, did you discuss anything about
05:23:45 20 reason to believe someone is not a United States citizen
05:23:49 21 for purposes of implementing Section H in 2243?

05:23:54 22 A. I do not believe that was specifically
05:23:57 23 discussed.

05:24:00 24 MS. LANG: Can we go off the record for a
05:24:01 25 moment? I'm told that we've lost the streaming.

05:24:04 1 MR. HERRERA: That's fine. I'm done with
05:24:06 2 mine.

05:24:06 3 MS. LANG: Oh, I'm sorry. I didn't mean
05:24:08 4 to cut you off.

05:24:10 5 THE VIDEOGRAPHER: We are off the record.
05:24:11 6 Time on the video monitor is 5:24 p.m.

05:26:29 7 (A recess was taken.)

05:26:41 8 THE VIDEOGRAPHER: We are on the record.
05:26:43 9 Time on the video monitor is 5:26 p.m.

05:26:46 10

05:26:46 11 EXAMINATION

05:26:46 12 BY MR. DODGE:

05:26:47 13 Q. Good afternoon, Ms. Petty, or perhaps good
05:26:50 14 evening at this point. My name is Chris Dodge. I
05:26:52 15 represent the Mi Familia Vota plaintiffs in this matter.

05:26:55 16 I just have a few questions for you about
05:26:58 17 Maricopa County's experiences with allegations of fraud
05:27:02 18 in its recent elections, which I know we've discussed a
05:27:05 19 little bit already tonight.

05:27:06 20 Before that I just have a couple questions for
05:27:08 21 you about provisional ballots. What are the most common
05:27:11 22 reasons why a provisional ballot might be rejected in
05:27:14 23 Maricopa County?

05:27:16 24 A. The person wasn't registered to vote by the
05:27:20 25 29-day deadline; they hadn't updated their address on

05:27:25 1 the roster in time; they -- well, we have vote centers,
05:27:33 2 so it couldn't be wrong precinct. I think those are the
05:27:37 3 big ones.

05:27:37 4 Q. If a person who had their provisional ballot
05:27:39 5 rejected, received a message saying you are not eligible
05:27:42 6 to vote in this election, what would that mean?

05:27:45 7 A. That would most likely mean they were not
05:27:47 8 registered by the deadline, so they're not eligible for
05:27:50 9 that election.

05:27:50 10 Q. And any other reasons why they might receive
05:27:52 11 that message?

05:27:56 12 A. If it was a partisan election and they were an
05:28:01 13 independent.

05:28:02 14 Q. Okay.

05:28:02 15 A. And it was a PPE. So independents are not
05:28:07 16 allowed -- they're not eligible.

05:28:09 17 Q. That makes sense. Any other possible reasons
05:28:11 18 why they would receive that message?

05:28:13 19 A. I can't think of any right now.

05:28:14 20 Q. Okay. In that case I'm going to hand you what
05:28:19 21 I will call Exhibit 31.

05:28:29 22 (Deposition Exhibit 31 was marked for
05:28:34 23 identification.)

05:28:34 24 BY MR. DODGE:

05:28:34 25 Q. Are you familiar with this document?

05:28:35 1 MS. STUART: I'm sorry to interrupt. Are
05:28:37 2 these on the Dropbox?

05:28:38 3 MR. DODGE: Can we go off the record for
05:28:40 4 half a second?

05:28:43 5 THE VIDEOGRAPHER: We are off the record.
05:28:45 6 Time on the video monitor is 5:28 p.m.

05:29:06 7 (An off-the-record discussion ensued.)

05:29:06 8 THE VIDEOGRAPHER: We are on the record.
05:29:07 9 Time on the video monitor is 5:29 p.m.

05:29:11 10 BY MR. DODGE:

05:29:12 11 Q. Returning to Exhibit 31, can you tell me what
05:29:14 12 this document is?

05:29:16 13 A. This is a document that was put together by the
05:29:22 14 elections department for Maricopa County.

05:29:25 15 Q. And can you tell me what the purpose of the
05:29:27 16 document was?

05:29:28 17 A. The purpose, I believe, was to go into an
05:29:33 18 analysis about what happened on election day, as it
05:29:37 19 states here, Correcting the Record.

05:29:39 20 Q. That makes sense.

05:29:40 21 And did you have a role in preparing this
05:29:42 22 document?

05:29:44 23 A. I had -- yes, I was part of creating some of
05:29:48 24 this.

05:29:50 25 Q. Is it fair to say the purpose of this document

05:29:52 1 was to combat misinformation about Maricopa County's

05:29:57 2 2020 general election, right?

05:29:59 3 A. Yes.

05:30:01 4 Q. Okay. If you could turn to Page 2 of this

05:30:05 5 document, about halfway down this page there's a

05:30:17 6 paragraph that reads "Many allegations about the

05:30:20 7 November 2020 general election made their way to court

05:30:24 8 and Maricopa County clearly presented the facts to

05:30:26 9 judges at both the state and federal level. Fourteen

05:30:29 10 different times complaints alleged election fraud,

05:30:31 11 manipulation, or tampering in Maricopa County's 2020

05:30:34 12 general election. No claim succeeded. For a complete

05:30:38 13 listing of all court cases, see Exhibit - Court Cases."

05:30:42 14 Did I read that correctly?

05:30:42 15 A. Yes.

05:30:43 16 Q. Is it accurate to say that every legal

05:30:47 17 challenge concerning election fraud and manipulation or

05:30:50 18 tampering in Maricopa County's 2020 general election

05:30:53 19 failed?

05:30:54 20 A. Yes.

05:30:55 21 Q. Do you see at the end of that paragraph where

05:30:57 22 it says "Exhibit - Court Cases"?

05:30:59 23 A. Yes.

05:31:00 24 Q. Do you know what that's referring to?

05:31:04 25 A. An exhibit. I have not seen it.

05:31:14 1 Q. Producing what I'll call Exhibit 32.

05:31:29 2 (Deposition Exhibit 32 was marked for

05:31:32 3 identification.)

05:31:32 4 BY MR. DODGE:

05:31:32 5 Q. Are you familiar with this document?

05:31:33 6 A. This is the first time I've seen it.

05:31:35 7 Q. Does it appear to be the Exhibit - Court Cases

05:31:39 8 that we previously discussed?

05:31:40 9 A. Yes.

05:31:42 10 Q. And on this document there are some bullets

05:31:45 11 describing various lawsuits against Maricopa County; do

05:31:49 12 you see that?

05:31:49 13 A. Yes.

05:31:51 14 Q. And are you familiar with any of these

05:31:53 15 lawsuits?

05:31:54 16 A. A few of them.

05:31:58 17 Q. And it's fair to say that each of these

05:31:59 18 lawsuits ultimately did not prevail in their challenges

05:32:03 19 to Maricopa County's 2020 election?

05:32:04 20 A. Yes.

05:32:06 21 Q. Just starting at the top, are you familiar with

05:32:10 22 what the subject matter was in the Aguilera v. Fontes

05:32:15 23 litigation?

05:32:15 24 A. No.

05:32:16 25 Q. What about -- well, which ones are you familiar

05:32:19 1

with?

05:32:19 2

A. I'd actually have to see. There's a lot of

05:32:22 3

duplicates here, so I don't -- I don't know. I'd have

05:32:24 4

to see a breakdown. I am not involved in much of these

05:32:28 5

court cases unless it's specifically related to voter

05:32:33 6

registration.

05:32:33 7

Q. Are you aware if any of these lawsuits

05:32:35 8

concerned the use of Sharpies to mark ballots in the

05:32:38 9

2020 general election?

05:32:39 10

A. I understand there was a case regarding

05:32:42 11

Sharpies.

05:32:42 12

Q. And are you aware if any of these cases

05:32:45 13

involved the hand-counting of ballots?

05:32:49 14

A. There's a couple cases with hand-counting of

05:32:52 15

ballots.

05:32:52 16

Q. And several of these were also election

05:32:54 17

challenges, correct?

05:32:55 18

A. Correct.

05:32:57 19

Q. And at least one had to do with private funding

05:33:00 20

of elections, is that also correct?

05:33:03 21

A. I believe so.

05:33:05 22

Q. And at least one also concerns an audit of

05:33:09 23

Dominion voting equipment for the election, correct?

05:33:11 24

A. Yes.

05:33:12 25

Q. And in addition to the Correcting the Record

05:33:20 1 document we were just looking at, is it correct that
05:33:22 2 Maricopa County has also published information about
05:33:24 3 these lawsuits on the County Recorder's website?

05:33:29 4 A. I don't know.

05:33:31 5 Q. Do you know whether or not the Maricopa County
05:33:33 6 Recorder has published anything on its website
05:33:38 7 concerning alleged election myths in either the 2020 or
05:33:42 8 2022 general elections?

05:33:44 9 A. I know that on the election site there are
05:33:49 10 Just the Facts information. When I think of the
05:33:54 11 Recorder's website, I think of more like the voter
05:33:57 12 registration section. So like that's more of on the
05:33:58 13 election side.

05:33:59 14 Q. Fair enough.

05:33:59 15 But you're aware on the public-facing
05:34:02 16 Recorder's website that there's a portion called Just
05:34:04 17 the Facts --

05:34:04 18 A. Yes.

05:34:05 19 Q. -- which discusses election myths?

05:34:06 20 A. Yes.

05:34:07 21 Q. And do you have any familiarity with those
05:34:09 22 election myths and what they are at a high level?

05:34:11 23 A. I will be brought in if there's something that
05:34:13 24 needs to be discussed regarding voter registration and
05:34:17 25 our processes.

05:34:17 1 Q. And suffice to say, the Recorder's website goes
05:34:20 2 through how and why each of those myths is, at the end
05:34:23 3 of the day, false, correct?

05:34:24 4 A. Yes.

05:34:26 5 Q. Okay. If we could go back to Exhibit 31 and
05:34:29 6 turn to Page 5. At the top of that page it says, "Our
05:34:40 7 analysis found 37 instances where a voter may have
05:34:44 8 unlawfully cast multiple ballots. We have forwarded the
05:34:46 9 these instances to the Arizona Attorney General's Office
05:34:49 10 for further investigation. We also found 50 instances
05:34:52 11 in which a ballot was potentially double counted. In
05:34:55 12 total, we found fewer an 100 potentially questionable
05:34:58 13 ballots cast out of 2.1 million. This is the very
05:35:02 14 definition of exceptionally rare."

05:35:04 15 Did I read that correctly?

05:35:05 16 A. Yes.

05:35:09 17 Q. So correct to say that your office, after an
05:35:11 18 extensive review, found fewer than 100 potentially
05:35:14 19 questionable ballots out of 2.1 million in the 2020
05:35:17 20 general election in Maricopa County?

05:35:18 21 A. Yes.

05:35:19 22 Q. And what were those potentially questionable
05:35:22 23 ballots attributable to?

05:35:24 24 A. I don't remember.

05:35:25 25 MR. O'CONNOR: Form. Sorry.

05:35:26 1 BY MR. DODGE:

05:35:26 2 Q. According to Exhibit 31 and the portion we just
05:35:29 3 read, can you say what those fewer than 100 potentially
05:35:34 4 questionable ballots were attributable to?

05:35:39 5 A. I -- I don't know where that -- where the
05:35:43 6 breakdown is. I don't -- I didn't -- I didn't prepare
05:35:46 7 this section.

05:35:47 8 Q. Do you know if any of these allegedly
05:35:49 9 improperly cast ballots led to a criminal conviction?

05:35:51 10 A. I do not know.

05:35:53 11 Q. To your knowledge, how many of those
05:35:55 12 questionable ballots were cast by noncitizens?

05:35:57 13 A. I do not know.

05:36:01 14 Q. So you don't know if a single one of those
05:36:04 15 questionable ballots was allegedly cast by a noncitizen?

05:36:07 16 A. I don't know.

05:36:10 17 Q. Based on your knowledge of the Correcting the
05:36:13 18 Record report, does the report discuss allegations of
05:36:15 19 voting by noncitizens at all?

05:36:19 20 A. It's been a long time since I read this. I
05:36:22 21 don't remember if it does or not.

05:36:33 22 Q. All right. I'm going to hand you what I'll
05:36:35 23 call Exhibit 33.

05:36:45 24 (Deposition Exhibit 33 was marked for
05:36:54 25 identification.)

05:36:54 1 BY MR. DODGE:

05:36:54 2 Q. Are you familiar with this document?

05:36:59 3 A. I have seen it, yes.

05:37:01 4 Q. Can you tell me what the document is?

05:37:05 5 A. It's a write-up by the Recorder regarding

05:37:10 6 elections.

05:37:12 7 Q. Can you tell me what's located in the lower and

05:37:15 8 right-hand corner of the cover page of this document?

05:37:21 9 A. You mean the Recorder's seal and the County

05:37:25 10 seal.

05:37:25 11 Q. That's right.

05:37:26 12 So those are the Recorder's seal and the County

05:37:28 13 seal?

05:37:28 14 A. Yes.

05:37:28 15 Q. So does that suggest that this document is a

05:37:32 16 publication of the Recorder's Office rather than

05:37:34 17 Mr. Richer in his personal capacity?

05:37:37 18 MR. O'CONNOR: Form.

05:37:40 19 THE WITNESS: It would appear that way.

05:37:43 20 BY MR. DODGE:

05:37:44 21 Q. Can you turn to Page 2 of this document? And

05:37:49 22 do you see where it says Section 1 about halfway down

05:37:54 23 the page?

05:37:55 24 A. Yes.

05:37:56 25 Q. And it reads under that, "Nobody stole Maricopa

05:38:00 1 County's election. Elections in Maricopa County aren't
05:38:02 2 rigged. Governor Doug Ducey agrees. Former Republican
05:38:07 3 Governor Jan Brewer agrees. Republican Arizona Attorney
05:38:09 4 General Mark Brnovich agrees, and his office has an
05:38:12 5 election integrity unit that presumably receives all
05:38:14 6 evidence of widespread fraud. Former Republican
05:38:18 7 Recorder Helen Purcell agrees. Election directors in
05:38:21 8 every other Arizona county agree."

05:38:23 9 Did I read that correctly.

05:38:23 10 A. Yes.

05:38:24 11 Q. Do you agree with Recorder Richer's statement
05:38:30 12 here that nobody stole Maricopa County's 2020 election?

05:38:34 13 MR. O'CONNOR: Form.

05:38:36 14 THE WITNESS: I agree that all federal and
05:38:41 15 state laws were adhered to in the conducting of that
05:38:44 16 general election in 2020.

05:38:58 17 BY MR. DODGE:

05:38:58 18 Q. Can you turn to the next page of this? And at
05:39:04 19 the top of the second paragraph it says, "So too did the
05:39:08 20 14 courts who heard eight complaints against Maricopa
05:39:11 21 County's election. All of those complaints failed, even
05:39:14 22 after some appeal to the Arizona Supreme Court. Six
05:39:17 23 complaints lost on their merits, only two lost on
05:39:19 24 standing."

05:39:20 25 Did I read that correctly?

05:39:20 1 A. Yes.

05:39:21 2 Q. And those are the same lawsuits we've

05:39:23 3 previously discussed?

05:39:24 4 A. Yes.

05:39:34 5 Q. Okay. I'm going to hand you what I'll call

05:39:37 6 Exhibit 34.

05:39:56 7 MS. STUART: This has already been marked.

05:40:00 8 MR. DODGE: Oh. Does anyone know what

05:40:02 9 exhibit it is?

05:40:03 10 MS. STUART: Yeah.

05:40:04 11 MR. O'CONNOR: Do you know which one the

05:40:07 12 consolidated -- oh, do you have it, Shayna?

05:40:11 13 MS. FROST: I'm pretty sure it's

05:40:13 14 Exhibit 5.

05:40:13 15 MS. STUART: Yeah.

05:40:16 16 MR. DODGE: You can set that aside,

05:40:18 17 actually. It was the wrong exhibit. I apologize for

05:40:21 18 that. We can mark this Exhibit 34.

05:40:40 19 (Deposition Exhibit 34 was marked for

05:40:42 20 identification.)

05:40:42 21 BY MR. DODGE:

05:40:44 22 Q. Are you familiar with this document?

05:40:53 23 A. I don't think so.

05:40:54 24 Q. Can you turn to the top of Page 1 of this

05:40:59 25 document? In the first paragraph it says, "Pursuant to

05:41:02 1 Arizona Rule of Civil Procedure 7.3 and this Court's
05:41:08 2 May 26th and 27th, 2022 orders, Defendants," it then
05:41:12 3 lists a number of County Recorders, one of whom is
05:41:15 4 Maricopa County Recorder Stephen Richer; do you see
05:41:18 5 that?

05:41:18 6 A. Yes.

05:41:21 7 Q. Is it fair to say that this a legal filing on
05:41:23 8 behalf of Recorder Richer in the case identified on the
05:41:27 9 cover page of the document?

05:41:29 10 A. Yes.

05:41:34 11 Q. Could you turn to the bottom of Page 2 of this
05:41:37 12 document?

05:41:37 13 A. Yes.

05:41:38 14 Q. At Line 15 it says, "This system of no-excuse
05:41:43 15 early voting is incredibly popular. Beginning in 2007,
05:41:46 16 the state implemented the permanent early voting list,
05:41:49 17 through which voters may sign up to receive an early
05:41:52 18 ballot in the mail for every election in which the voter
05:41:54 19 is entitled to vote. Use of early voting has grown
05:41:59 20 steadily, especially since implementation of the
05:42:00 21 permanent early voting option. For the 2020 general
05:42:01 22 election, more than three million Arizona voters,
05:42:05 23 88 percent of those who voted, voted by early ballot.
05:42:07 24 No county had fewer than 60 percent of its voters vote
05:42:12 25 early, and more than half of the counties had 80 percent

05:42:15 1 or more of their voters use early ballots."

05:42:18 2 Did I read that correctly?

05:42:18 3 A. Yes.

05:42:19 4 Q. Do those numbers look accurate to you?

05:42:22 5 A. Yes.

05:42:23 6 MR. O'CONNOR: Form.

05:42:24 7 BY MR. DODGE:

05:42:25 8 Q. Do you agree that no excuse early voting is
05:42:28 9 incredibly popular in Maricopa County?

05:42:30 10 A. Yes.

05:42:31 11 Q. Is it the case that no excuse early voting
05:42:33 12 generally accounts for a substantial majority of ballots
05:42:38 13 cast in most Maricopa County elections --

05:42:41 14 MR. O'CONNOR: Form.

05:42:42 15 BY MR. DODGE:

05:42:42 16 Q. -- in the past few years?

05:42:44 17 A. Yes.

05:42:47 18 Q. The next paragraph on Page 3 reads, "These
05:42:49 19 numbers are important not simply because they show the
05:42:52 20 overwhelming popularity of early voting, but because
05:42:54 21 they form the basis of county election officials'
05:42:57 22 election planning," and then cites to a section of
05:43:01 23 Arizona law and the elections procedures manual.

05:43:06 24 Can you tell me why these numbers are important
05:43:10 25 for forming the basis of county election officials'

05:43:13 1 election planning?

05:43:17 2 A. I am not the elections director, so I can't
05:43:20 3 speak to what they do. However, from my experience, it
05:43:25 4 would be important because you want to predict how many
05:43:28 5 early ballots are going to need to be sent, how many
05:43:33 6 people might show up to vote early in person, how many
05:43:36 7 locations you need, how many poll workers you're going
05:43:39 8 to need. It's an essential part of the planning.

05:43:41 9 Q. So it's essential because it informs election
05:43:44 10 officials what sort of logistical needs they'll have to
05:43:47 11 meet both before and on election day?

05:43:49 12 A. Yes.

05:43:53 13 Q. You can set that aside. Last exhibit. Can we
05:43:56 14 go back to Exhibit 5, which I reintroduced need be,
05:44:08 15 but...

05:44:09 16 And if it helps, this is the Maricopa County
05:44:12 17 Recorder's response to plaintiff's consolidated
05:44:14 18 interrogatories.

05:44:16 19 A. Got it.

05:44:19 20 Q. If you could turn to Page 12 of this document,
05:44:23 21 specifically to interrogatory number 9.

05:44:30 22 Interrogatory number 9 reads "Identify and
05:44:32 23 describe each instance" -- strike that.

05:44:35 24 "Identify and describe each instance in which
05:44:37 25 you have established that a non-U.S. citizen or

05:44:39 1 non-county resident has registered to vote or has voted
05:44:43 2 in your county from January 1st, 2013, to present,
05:44:46 3 including but not limited to any supporting evidence
05:44:48 4 thereof."

05:44:49 5 Did I read that portion of the interrogatory
05:44:52 6 correctly?

05:44:52 7 A. Yes.

05:44:52 8 Q. Can you just take a minute to review the County
05:44:56 9 Recorder's response to that interrogatory?

05:45:09 10 A. Yes.

05:45:11 11 Q. Is it accurate to say that your office's
05:45:13 12 response did not identify a single instance of
05:45:16 13 noncitizen voting between 2013 and the present?

05:45:19 14 A. Yes.

05:45:23 15 MR. DODGE: Thank you very much for your
05:45:24 16 service to Maricopa County. I have no more questions.

05:45:28 17 THE WITNESS: Thank you.

05:45:31 18 THE VIDEOGRAPHER: Would you like to
05:45:32 19 conclude the deposition?

05:45:33 20 MS. LANG: No. We'd like to go off the
05:45:35 21 record, though.

05:45:35 22 THE VIDEOGRAPHER: We are going off the
05:45:37 23 record. The time is 5:45 p.m.

05:45:41 24 (A recess was taken.)

05:51:37 25 THE VIDEOGRAPHER: We are on the record.

05:51:38 1 The time on the video monitor is 5:51 p.m.

05:51:43 2

05:51:44 3

RE-EXAMINATION

05:51:44 4 BY MS. LANG:

05:51:44 5 Q. Thank you so much, Ms. Petty, for your patience
05:51:46 6 today, and I'm just going to go back over some
05:51:52 7 additional questions I have about the draft 2023
05:51:57 8 elections procedures manual.

05:51:59 9 So during one of the breaks a copy of the draft
05:52:05 10 2023 elections procedures manual was produced, and it is
05:52:12 11 the version that is marked Arizona Secretary of State
05:52:17 12 2023 Elections Procedures Manual - June 2023 Draft.

05:52:21 13 Do you have that document in front of you?

05:52:28 14 A. AZS0S-477022, what's in front of me?

05:52:33 15 Q. Yes.

05:52:34 16 A. Okay. Yes.

05:52:37 17 Q. And this is the version of the manual, as I
05:52:42 18 understand it, that includes your comments that you
05:52:46 19 provided to the Secretary of State's Office; is that
05:52:51 20 correct? You can see, for example, it's on --

05:52:53 21 A. Yes.

05:52:53 22 Q. Yea. Okay.

05:52:55 23 And so did you -- you mentioned earlier that
05:53:00 24 you had a meeting with the Secretary of State's Office
05:53:03 25 and other County Recorders about this draft; is that

05:53:08 1 right?

05:53:08 2 A. Yes.

05:53:08 3 Q. And that meeting happened sometime recently,
05:53:11 4 although you couldn't recall the date; is that right?

05:53:13 5 A. Yes. It was July 11th, 12th, somewhere in
05:53:18 6 there.

05:53:18 7 Q. Okay. Did you send these comments to the
05:53:21 8 Secretary of State's Office prior to that meeting or
05:53:25 9 after that meeting?

05:53:26 10 A. Prior.

05:53:27 11 Q. Okay. Have you seen any other comments,
05:53:33 12 written comments, that were provided to the Secretary of
05:53:35 13 State from other County Recordors?

05:53:37 14 A. No.

05:53:39 15 Q. Do you know if other County Recordors have sent
05:53:42 16 written comments to the Secretary of State's Office?

05:53:46 17 A. I know other County Recordors have submitted
05:53:50 18 feedback. I don't know in what capacity it was.

05:53:51 19 Q. And which County Recordors in particular do you
05:53:54 20 know have provided feedback?

05:53:58 21 A. I don't actually know which specific ones.
05:54:01 22 Just from the call it was said, oh, this was submitted
05:54:05 23 by another county.

05:54:06 24 Q. Got it.
05:54:08 25 And I think we covered this before I added my

05:54:13 1 earlier questioning, but I know you testified that you
05:54:17 2 expect there to be a kind of new draft that will
05:54:20 3 incorporate some feedback and then you'll receive
05:54:22 4 another draft; is that right?

05:54:23 5 A. That's my understanding.

05:54:25 6 Q. And were you given any kind of timeline for
05:54:28 7 when that might occur?

05:54:30 8 A. I believe there is a timeline about when
05:54:35 9 certain things are going to happen as far as public
05:54:38 10 comment period, but I don't know about if it was
05:54:41 11 specific to when the revised draft would come back out.

05:54:45 12 Q. Okay. Do you know when the Secretary of
05:54:49 13 State's current timeline is for seeking public comment?

05:54:53 14 A. I felt like it was sometime in August.

05:54:58 15 Q. Was that timeline communicated to you in
05:55:01 16 writing or --

05:55:01 17 A. Yes.

05:55:02 18 Q. Okay. Do you know who would have communicated
05:55:12 19 that timeline to you?

05:55:14 20 A. I believe it was included in a Secretary of
05:55:19 21 State's Office bulletin.

05:55:23 22 Q. And what is a Secretary of State's bulletin?

05:55:27 23 A. So it's an e-mail that gets sent out that
05:55:31 24 highlights current events, issues that happen. It could
05:55:35 25 be anything from elections to voter registration to

05:55:37 1 educational opportunities, jobs opening up. It's just a
05:55:41 2 big bulletin.

05:55:41 3 Q. Got it.

05:55:47 4 Okay. So what I'm going to try to do here is
05:55:49 5 largely just run through some of the comments that you
05:55:51 6 provided on the draft EPM and hear your kind of feedback
05:55:57 7 in your own words and also any responses you received
05:55:59 8 from the Secretary.

05:56:01 9 So the first comment that I see is on
05:56:10 10 AZSOS-477026, which is Page 6 of the manual.

05:56:15 11 A. Yes.

05:56:16 12 Q. So this is the section that discussed voter
05:56:19 13 registration requirements, and language has been added
05:56:23 14 that says, "Is a United States citizen," and this is the
05:56:27 15 added language, "and has provided satisfactory evidence
05:56:31 16 of citizenship as prescribed by ARS Section 16-166."

05:56:37 17 Do you see that?

05:56:37 18 A. Yes.

05:56:37 19 Q. Okay. And you provided a comment that said the
05:56:43 20 individuals can register without DPOC; is that right?

05:56:47 21 A. Yes.

05:56:49 22 Q. Okay. Was this one of the comments that was
05:56:53 23 discussed during your meeting with the Secretary of
05:56:56 24 State's Office?

05:56:56 25 A. Yes.

05:56:56 1 Q. And what was the kind of response to your
05:56:59 2 comment?

05:57:01 3 MS. STUART: Form.

05:57:01 4 THE WITNESS: The discussion was that the
05:57:03 5 new laws that we're discussing today have been
05:57:07 6 incorporated into this draft, and they will be there as
05:57:11 7 a hold until these court cases are decided, and at that
05:57:15 8 point the procedures manual will be updated according to
05:57:19 9 whatever the outcome is.

05:57:21 10 BY MS. LANG:

05:57:22 11 Q. Okay. Was there any discussion about how this
05:57:25 12 addition would affect individuals who had registered
05:57:30 13 prior to the DPOC requirement?

05:57:32 14 A. No.

05:57:33 15 Q. Is there anything in the manual that addresses
05:57:35 16 kind of the impact of this addition to the EPM?

05:57:40 17 A. I don't think so.

05:57:47 18 Q. Okay. Under the citizenship requirement
05:57:52 19 section on the same page you have another comment that
05:57:55 20 asks the reason for -- what is the reason to eliminate
05:57:59 21 the reference to court cases. And I assume that that
05:58:04 22 means that there used to be kind of more court case
05:58:08 23 references in this section that had been removed; is
05:58:10 24 that correct?

05:58:10 25 A. Yes.

05:58:11 1 Q. And did you discuss that comment with the
05:58:15 2 Secretary of State's Office?

05:58:16 3 A. We touched on it.

05:58:17 4 Q. And what was the response?

05:58:20 5 MS. STUART: Form.

05:58:20 6 MS. LANG: Is it the same hearsay
05:58:23 7 objection? Hearsay is not a proper objection for a
05:58:26 8 deposition.

05:58:28 9 MS. STUART: I'm just preserving the
05:58:29 10 objection. You can -- she's answering your question.

05:58:29 11 MS. LANG: No, I understand.

05:58:32 12 MS. STUART: I'm just going to continue to
05:58:33 13 have a running objection to this line of questioning.
05:58:36 14 You have a 30(b)(6) witness from the Secretary of
05:58:38 15 State's Office coming here. So she's answering the
05:58:40 16 question.

05:58:41 17 MS. LANG: Okay.

05:58:45 18 THE WITNESS: I believe that it was stated
05:58:46 19 to give the specific court references that were
05:58:48 20 eliminated later and they would look at putting them
05:58:55 21 back in, potentially.

05:59:03 22 BY MS. LANG:

05:59:03 23 Q. Okay. On Page 7, your comment number 4 is
05:59:08 24 referring to the use of a driver's license or non-driver
05:59:13 25 ID number for DPOC, and you have this question that

05:59:16 1 we've touched on earlier about whether or not that can
05:59:20 2 be an expired license.

05:59:24 3 Did you discuss that comment with the Secretary
05:59:25 4 of State's Office?

05:59:28 5 A. Yes.

05:59:28 6 Q. And what was the response?

05:59:30 7 MS. STUART: Form.

05:59:30 8 THE WITNESS: They would look into that.

05:59:33 9 BY MS. LANG:

05:59:34 10 Q. Okay. Have you heard anything further on that
05:59:35 11 question?

05:59:35 12 A. No.

05:59:59 13 Q. Okay. On Page 9 of the EPM, towards the bottom
06:00:07 14 of that page there's a section labeled DPOC requirement
06:00:11 15 for full ballot voter designation; do you see that?

06:00:13 16 A. Yes.

06:00:16 17 Q. And it says, "Regardless of the type of voter
06:00:21 18 registration form submitted, a County Recorder must make
06:00:24 19 a registrant a full ballot voter for the next election
06:00:27 20 if:"

06:00:28 21 The first bullet point is the registrant
06:00:31 22 provides DPOC, and the second bullet point is if the
06:00:34 23 County Recorder acquires DPOC on the registrant's
06:00:37 24 behalf.

06:00:38 25 Do you see that?

06:00:39 1
06:00:40 2
06:00:45 3
06:00:49 4
06:00:53 5
06:00:53 6
06:00:55 7
06:00:58 8
06:01:02 9
06:01:07 10
06:01:08 11
06:01:19 12
06:01:23 13
06:01:31 14
06:01:37 15
06:01:42 16
06:01:47 17
06:01:50 18
06:01:54 19
06:01:58 20
06:02:00 21
06:02:02 22
06:02:02 23
06:02:04 24
06:02:06 25

A. Yes.

Q. Okay. Are there other places in the EPM where it suggests that this would -- this second option of acquiring DPOC would not be an option for state form applicants?

A. I don't remember seeing that.

Q. Okay. So is it your understanding that at least this draft of the EPM would indicate that your office can continue to, quote, acquire DPOC for all applicants?

A. That would be my understanding.

Q. Okay. On Page 11, I want to go to your comment JP(5), and it's under the section labeled procedures for registrants with a noncitizen AZDL/ID number. And under number 3 there's an instruction that says, you know, that this information -- that these types of individuals will remain in the database with a status of not eligible until the voter provides valid DPOC.

And then the next sentence says, "The statewide voter registration system automatically archives these records after five years."

Do you see that?

A. Yes.

Q. And I see that you have a question now about whether or not this might change the kind of time period

06:02:10 1 during which DPOC issues can be cured; is that right?

06:02:13 2 A. Yes.

06:02:15 3 Q. Okay. And so previously we've talked about the
06:02:18 4 guidance being after the next general election; is that
06:02:21 5 right?

06:02:21 6 A. Yes.

06:02:22 7 Q. And now there's this guidance about archiving
06:02:25 8 after five years that raised a question for you; is that
06:02:25 9 right?

06:02:27 10 A. Yes.

06:02:28 11 Q. And did you discuss that question with the
06:02:31 12 Secretary of State's Office?

06:02:32 13 A. Yes.

06:02:32 14 Q. And what was the response from the Secretary of
06:02:35 15 State?

06:02:35 16 MS. STUART: Form.

06:02:37 17 THE WITNESS: She, Colleen Connor, would
06:02:42 18 take a look at that and see if there was a way to
06:02:44 19 clarify that to be more consistent to the current
06:02:47 20 practice.

06:02:48 21 BY MS. LANG:

06:02:48 22 Q. Okay. And what does it mean for records to be
06:02:53 23 archived in the voter registration system?

06:02:56 24 A. So it's in statute that after a record is
06:03:00 25 canceled after five years it should be archived and

06:03:03 1 moved out of the table.

06:03:05 2 Q. Okay. And then your next comment, JP(6), is to
06:03:22 3 the same paragraph, and it says, "Making them registered
06:03:25 4 as of the date of the original registration."

06:03:30 5 What is that comment in reference to?

06:03:32 6 A. So I am looking for clarification on if that
06:03:37 7 voter is in a not eligible status for up to five years,
06:03:42 8 if at year four they come in and cure it, are they
06:03:45 9 registered to vote as of the date of that original
06:03:48 10 registration form.

06:03:48 11 Q. And the current status of that question is that
06:03:52 12 Colleen Connor is going to look into these questions and
06:03:55 13 get back to you, right?

06:03:56 14 A. Yes. Yes.

06:03:56 15 Q. And you haven't heard anything back further
06:03:58 16 since then?

06:03:59 17 A. No.

06:04:08 18 Q. On the bottom of Page 11, that same page, I
06:04:10 19 want to look at comment JP(8), and that is in reference
06:04:16 20 to the last sentence on that page that says, "A
06:04:21 21 registrant may become a federal only voter regardless of
06:04:25 22 the type of voter registration form."

06:04:26 23 Do you see that?

06:04:26 24 A. Yes.

06:04:27 25 Q. And your comment is that this is conflicting

06:04:29 1 with other parts of the section, this section; is that
06:04:29 2 right?

06:04:32 3 A. Yeah, I felt like there was an area that it was
06:04:35 4 conflicting with when they were breaking it down between
06:04:39 5 state and the federal form.

06:04:43 6 Q. And if you want to go all the way down to
06:04:51 7 Page 24. Let me know when you get there.

06:05:02 8 A. Okay.

06:05:04 9 Q. Here there is a section that's about minimum
06:05:09 10 information required on voter registration forms, and
06:05:14 11 the very last paragraph of that section says that except
06:05:17 12 for a form produced by the United States Election
06:05:20 13 Commission -- or Assistance Commission, any application
06:05:24 14 for registration shall be accompanied by satisfactory
06:05:27 15 evidence of DPOC, and the County Recorder shall reject
06:05:31 16 any application for registration that is not accompanied
06:05:34 17 by DPOC.

06:05:37 18 Do you see that?

06:05:37 19 A. Yes.

06:05:37 20 Q. And is this one of the areas that you thought
06:05:40 21 conflicted with the language we just discussed above?

06:05:42 22 A. Yes.

06:05:43 23 Q. Okay. Did you discuss that kind of conflict
06:05:47 24 with the Secretary of State's Office during that
06:05:48 25 meeting?

06:05:49 1 A. Yes.

06:05:50 2 Q. And what was their response?

06:05:51 3 MS. STUART: Form.

06:05:52 4 THE WITNESS: She was going to look into

06:05:54 5 that.

06:05:56 6 BY MS. LANG:

06:05:57 7 Q. Okay. And you have -- have you heard anything

06:05:58 8 since then?

06:05:59 9 A. No, but this was like last week.

06:06:01 10 Q. Right. In no way is it suggesting any delay.

06:06:04 11 I just want to make sure we have all the information.

06:06:06 12 And you also noted that this requirement that

06:06:15 13 any application for registration other than a federal

06:06:18 14 form shall be accompanied by satisfactory evidence of

06:06:21 15 DPOC appears to be in conflict with the LULAC agreement;

06:06:21 16 is that right?

06:06:26 17 A. Yes.

06:06:26 18 Q. Okay. And did you discuss that comment as

06:06:28 19 well?

06:06:28 20 A. Yes.

06:06:29 21 Q. And what was the response from the Secretary's

06:06:32 22 Office?

06:06:32 23 MS. STUART: Form.

06:06:32 24 THE WITNESS: Again, taking it under

06:06:34 25 advisement.

06:06:37 1 BY MS. LANG:

06:06:38 2 Q. Okay. Is it -- well, yeah.

06:06:39 3 And then later on -- well, let me go back.

06:06:53 4 Let's go all the way back to Page 11.

06:06:56 5 A. 11?

06:06:56 6 Q. Yes. That's where we left off.

06:07:14 7 A. Okay.

06:07:44 8 Q. Actually, I'll have you go ahead down to

06:07:47 9 Page 16, in the Section labeled residency requirements

06:07:52 10 for registration.

06:07:57 11 A. Yes.

06:07:59 12 Q. And your comment there is to note that the

06:08:02 13 residency requirements are currently being litigated; is

06:08:05 14 that correct?

06:08:05 15 A. Yes.

06:08:06 16 Q. Okay. And so I did want to kind of review what

06:08:11 17 guidance was provided here. And I think the new

06:08:19 18 additional guidance about documentary proof of residence

06:08:25 19 is that second paragraph that starts with "Except for

06:08:28 20 UOCAVA registrants." Do you see that?

06:08:30 21 A. Yes.

06:08:31 22 Q. Okay. So it says, "Except for UOCAVA

06:08:34 23 registrants, a person who registers to vote shall

06:08:36 24 provide an identifying document that establishes proof

06:08:39 25 of location of residence," and has the citation to the

06:08:41 1 relevant law. And then it says, "Any of the identifying
06:08:44 2 documents prescribed in ARS Section 16-579(A)(1)
06:08:51 3 constitute satisfactory proof of location of residence."

06:08:54 4 Is that right?

06:08:54 5 A. Yes.

06:08:57 6 Q. Okay. Earlier today we looked at a chart that
06:09:00 7 provided potential additional guidance about what would
06:09:05 8 count as documentary proof of residence, and none of
06:09:10 9 that guidance is included in this manual; is that right?

06:09:13 10 A. Correct.

06:09:15 11 Q. Okay. And no guidance is given about what
06:09:19 12 documents establish proof of location of residence
06:09:21 13 except for the reference to ARS 16-579(A)(1)?

06:09:27 14 A. Yes.

06:09:31 15 Q. Do you think that -- what kind of guidance
06:09:37 16 would you hope to receive from the Secretary of State's
06:09:40 17 Office about what documents establish proof of location
06:09:44 18 of residence?

06:09:45 19 MR. O'CONNOR: I believe asked and answer.

06:09:49 20 BY MS. LANG:

06:09:49 21 Q. Okay.

06:09:49 22 A. Clear and concise guidance about what is
06:09:52 23 acceptable.

06:09:53 24 Q. Okay. And would you consider this current
06:09:56 25 guidance to be sufficient?

06:09:59 1 A. No.

06:10:01 2 Q. Okay. And why not?

06:10:04 3 A. I think there's a lot of questions still.

06:10:07 4 Q. What are some of your outstanding questions?

06:10:11 5 A. I think while the statute makes a blanket

06:10:16 6 statement of what's allowed, I think we would need to go

06:10:18 7 into greater detail, because right now it's just

06:10:20 8 referencing what you would need to provide as proof of

06:10:23 9 identification when you go to the polls.

06:10:25 10 Q. Okay. And it kind of says that those IDs are

06:10:29 11 sufficient, but it doesn't include the entire universe

06:10:32 12 of documents that would be sufficient; is that correct?

06:10:34 13 A. Yes.

06:10:35 14 Q. Okay. And nothing in the manual kind of

06:10:37 15 elaborates on that; is that right?

06:10:39 16 A. Not in its current state.

06:10:42 17 Q. Okay. The draft manual, I should say.

06:10:52 18 And nothing in this section indicates any kind

06:10:56 19 of delineation between state and federal forms or state

06:10:59 20 and federal elections when it comes to application of

06:11:02 21 the residency -- or of the DPOR requirement; is that

06:11:02 22 right?

06:11:07 23 A. I feel like there was some sections that were

06:11:09 24 specific to state form and some that were specific to

06:11:14 25 the national form, but I don't know if it was specific

06:11:18 1 to the DPOC requirement.

06:11:22 2 Q. DPOR, right, we're talking about?

06:11:25 3 A. Or -- yes. Yes. Sorry.

06:11:27 4 Q. I just want to clarify for the record.

06:11:34 5 This is mostly for my own edification, but on

06:11:52 6 Page 21 there's a reference to the Arizona voter

06:11:58 7 information database, AVID, and you indicate a comment

06:12:00 8 that asks about formally changing the name.

06:12:04 9 Is there a discussion of changing the AVID

06:12:06 10 name?

06:12:07 11 A. No. I think they inadvertently just called it

06:12:10 12 Arizona, but on the contract it is Access.

06:12:13 13 Q. Got it. Thank you.

06:12:20 14 And on the next page, Page 22, your comment

06:12:25 15 JP(14) talks about -- is in reference to the six

06:12:28 16 recognized status codes in the statewide database, and

06:12:34 17 those six statuses are listed as active, inactive,

06:12:38 18 suspense, canceled, not eligible, and not registered; is

06:12:38 19 that right?

06:12:43 20 A. Yes.

06:12:43 21 Q. And you asked if we should add merged or

06:12:45 22 archived; is that right?

06:12:47 23 A. Yes.

06:12:47 24 Q. I think we've talked about what archived means,

06:12:49 25 and can you say something about what the merged status

06:12:53 1 means?

06:12:53 2 A. It's basically the two voter records that have
06:12:57 3 been merged, so a surviving record is now active and the
06:13:01 4 old record is listed as merged.

06:13:03 5 Q. Got it.

06:13:16 6 And then -- and this may be the section
06:13:18 7 you're referring to. If you go to Page 23, there is a
06:13:21 8 section that says specifically the minimum required
06:13:23 9 information on state voter registration forms; do you
06:13:27 10 see that?

06:13:27 11 A. Yes.

06:13:28 12 Q. Okay. And so does this refresh your
06:13:30 13 recollection that this was the section that kind of was
06:13:32 14 state form specific?

06:13:33 15 A. Yes.

06:13:36 16 Q. Okay. And one of the requirements that's
06:13:38 17 listed here is proof of location of residence; is that
06:13:38 18 right?

06:13:41 19 A. Yes.

06:13:42 20 Q. And you indicate that this is not something
06:13:44 21 that's currently being implemented, correct?

06:13:46 22 A. Yes.

06:13:47 23 Q. I assume that the discussion during the
06:13:51 24 Secretary of State meeting was similar as to this issue,
06:13:54 25 in that the Secretary of State's Office said that this

06:13:57 1 was kind of a placeholder guidance that will kind of be
06:14:02 2 updated depending on the outcome of this litigation; is
06:14:04 3 that correct?

06:14:04 4 A. Yes.

06:14:07 5 Q. Was anything else kind of discussed about the
06:14:10 6 addition of the proof of location of residence
06:14:14 7 requirement?

06:14:14 8 A. No.

06:14:18 9 Q. Okay. And is your testimony the same as to
06:14:21 10 kind of the addition of the place of birth requirement
06:14:23 11 here?

06:14:24 12 A. Yes.

06:14:29 13 Q. And the next comment is that there's an
06:14:32 14 addition that a signature or other statement of the
06:14:35 15 registrant is required, and you note that this is a
06:14:39 16 confusing statement?

06:14:40 17 A. Yes.

06:14:41 18 Q. I would agree.
06:14:43 19 Was that comment discussed during your meeting
06:14:45 20 with the Secretary of State's Office?

06:14:47 21 A. Yes.

06:14:48 22 Q. And what was the response?

06:14:49 23 MS. STUART: Form.

06:14:50 24 THE WITNESS: That she would take another
06:14:52 25 look at it to try to make it less confusing.

06:14:56 1 BY MS. LANG:

06:14:56 2 Q. Okay. Do you know what they might be trying to
06:14:59 3 get at with that or other statement of the registrant?

06:15:03 4 MR. O'CONNOR: Form.

06:15:04 5 MS. STUART: Form.

06:15:04 6 THE WITNESS: I don't know.

06:15:08 7 BY MS. LANG:

06:15:08 8 Q. Okay. There's also an addition of the
06:15:11 9 checkmark requirement here under signature; is that
06:15:11 10 right?

06:15:15 11 A. Yes.

06:15:17 12 Q. I noticed, just because you did such a diligent
06:15:20 13 job of noting, that you don't have a comment there; but
06:15:23 14 this is another place where that is not currently being
06:15:26 15 implemented, correct?

06:15:27 16 A. Correct.

06:15:28 17 Q. All right.

06:15:34 18 A. I highlighted it in the next one, though.

06:15:36 19 Q. Fair enough. You got it. You're right.

06:15:45 20 And just to follow up on that, so, yes, the
06:15:51 21 following paragraph says that any application for a
06:15:54 22 registration must contain a checkmark or other
06:15:57 23 appropriate mark in the yes box next to the question
06:16:00 24 regarding citizenship, correct?

06:16:00 25 A. Yes.

06:16:01 1 Q. And you note that this an area that's being
06:16:04 2 litigated and is not being implemented, correct?

06:16:06 3 A. Correct.

06:16:06 4 Q. And then you added an additional comment that
06:16:12 5 asked "Confirming that even if we have DPOC verified but
06:16:15 6 the box is not checked we are to reject."

06:16:18 7 I think we talked about this a little bit
06:16:20 8 earlier, but is it fair to say that this comment
06:16:24 9 reflects your concern that where you have documentary
06:16:28 10 proof of citizenship, the checkmark cannot add any
06:16:33 11 additional value to knowing whether or not that person
06:16:35 12 is a citizen?

06:16:36 13 MR. O'CONNOR: Form.

06:16:38 14 THE WITNESS: Yes.

06:16:39 15 BY MS. LANG:

06:16:39 16 Q. Okay. And did you discuss that comment during
06:16:43 17 the conversation with the Secretary of State's Office?

06:16:48 18 A. I think it was still just under the whole we
06:16:50 19 kind of skipped through that because we know that this
06:16:53 20 is being litigated still.

06:16:54 21 Q. Got it.

06:17:04 22 And on Page 24, you know, there's a note that
06:17:09 23 any registration that does not include the required
06:17:12 24 information, including the information we just
06:17:16 25 discussed, you know, that the County Recorder shall not

06:17:20 1 register the voter until all the information is
06:17:22 2 provided. And you have a comment that asks "Does this
06:17:24 3 mean they move to nonregistered status or just
06:17:27 4 suspense."

06:17:27 5 Was this a comment you discussed during the
06:17:30 6 meeting?

06:17:31 7 A. Yes.

06:17:31 8 Q. And what was the response there?

06:17:33 9 MS. STUART: Form.

06:17:34 10 THE WITNESS: That it would be reviewed to
06:17:37 11 see if there needed to be a new status updated in the
06:17:41 12 system or if we would use an existing status.

06:17:44 13 BY MS. LANG:

06:17:48 14 Q. Okay. And there's been no follow-up on that
06:17:50 15 yet, right?

06:17:50 16 A. Not yet.

06:17:57 17 Q. Okay. And we've already gone over this
06:18:01 18 section, but on Page 24 is that language that says that
06:18:04 19 anything but a federal form has to be rejected with
06:18:09 20 respect to DPOC. Your testimony as to that is the same
06:18:13 21 as the other litigated portions; is that right?

06:18:15 22 A. Yes.

06:18:20 23 Q. Under Subsection D you have a question about
06:18:24 24 whether or not like the documentary proof of residence
06:18:28 25 requirement, if upheld, would apply to federal voter

06:18:36 1 registrations --

06:18:36 2 A. Yes.

06:18:37 3 Q. -- is that correct?

06:18:37 4 And was that a comment that you all discussed?

06:18:45 5 A. I think it was another one of just holding off

06:18:47 6 until we see.

06:19:04 7 MR. O'CONNOR: Don't take that as a sign,

06:19:06 8 Danielle, that you have to wrap it up.

06:19:10 9 MS. LANG: It's a sign we're all being too

06:19:12 10 still.

06:19:14 11 MR. O'CONNOR: If you say so.

06:19:27 12 BY MS. LANG:

06:19:27 13 Q. On Page 26, your comment JP(28) is in reference

06:19:35 14 to a section that discusses what a County Recorder

06:19:39 15 should do if they have information that an applicant is

06:19:41 16 not a citizen. It says it should reject the

06:19:45 17 application and then further says that there should be

06:19:47 18 a notification sent. And you ask if this would mean

06:19:53 19 putting them in a kind of not registered status or

06:19:56 20 suspense status; is that right?

06:19:57 21 A. Yes.

06:19:57 22 Q. And was that comment discussed during your

06:20:00 23 meeting?

06:20:00 24 A. Yes. They would review and get back.

06:20:04 25 Q. And that review is still ongoing, as far as you

06:20:07 1 know?

06:20:07 2 A. Yes.

06:20:11 3 Q. And then there is -- so there's language here
06:20:18 4 that says that if the County Recorder is unable to match
06:20:21 5 the applicant with DPOC -- let me back up.

06:20:28 6 This is under a subsection titled (a),
06:20:31 7 information that applicant is not a U.S. citizen. So
06:20:33 8 this section is about not just people where you don't
06:20:36 9 have a DPOC, but that you actually have some reason to
06:20:40 10 believe the person's not a citizen; is that right?

06:20:43 11 A. Yes.

06:20:43 12 Q. And then there's this last paragraph that says
06:20:45 13 that if the County Recorder is unable to match the
06:20:48 14 applicant with DPOC, the County Recorder shall notify
06:20:51 15 the applicant that the County Recorder could not verify
06:20:54 16 that the applicant is a United States citizen and that
06:20:57 17 the applicant will not be qualified to vote in a
06:21:00 18 presidential election or by mail with an early ballot in
06:21:02 19 any election until satisfactory evidence of citizenship
06:21:05 20 is provided.

06:21:07 21 Do you see that?

06:21:08 22 A. Yes.

06:21:09 23 Q. So I'll confess I was a little confused in
06:21:12 24 reading this, because my understanding is that for
06:21:16 25 people for whom you have, you know, affirmative

06:21:19 1 information that someone is not a citizen, those are not
06:21:22 2 people who go on the federal only list; is that correct?

06:21:24 3 MS. STUART: Form.

06:21:26 4 THE WITNESS: Yes.

06:21:30 5 BY MS. LANG:

06:21:33 6 Q. Okay. And my understanding of 2492 and our
06:21:37 7 discussion of 2492 earlier is that this restriction on
06:21:40 8 mail voting and presidential elections is meant to apply
06:21:44 9 to federal only voters, not to the category of voters
06:21:49 10 where the applicant is not a -- where there's
06:21:52 11 affirmative information that the applicant is not a U.S.
06:21:56 12 citizen; is that right?

06:21:57 13 A. Yes. So that section was confusing to me as
06:21:59 14 well, so that's why I was saying that it's not
06:22:02 15 registered or is this suspense, like it wasn't clear to
06:22:05 16 me.

06:22:06 17 Q. Okay. And do you recall if there was any
06:22:07 18 discussion about this particular section during the
06:22:10 19 meeting?

06:22:12 20 A. I don't remember.

06:22:17 21 Q. Okay. Would it make more sense to you if this
06:22:20 22 section was under, you know, a discussion about federal
06:22:24 23 only voters, the restriction on presidential and mail
06:22:29 24 voting?

06:22:29 25 A. Yes.

06:22:36 1 Q. Okay. And I think we touched on this a little
06:22:38 2 bit earlier in your testimony, but on Page 26 you have a
06:22:41 3 comment at the end about the instruction of the Recorder
06:22:46 4 shall record the efforts made to verify an applicant's
06:22:49 5 citizenship status as prescribed. And you ask "What
06:22:52 6 does this mean exactly? Does the VR system attempting
06:22:57 7 to confirm with MVD meet the requirement? What about
06:23:00 8 SAVE - does this require a note?"

06:23:04 9 Is that right?

06:23:05 10 A. Yes.

06:23:05 11 Q. Okay. And do you recall having any discussions
06:23:07 12 about that during your meeting?

06:23:10 13 A. I think that she was going to go back and
06:23:14 14 review.

06:23:15 15 Q. But there was nothing in this draft that kind
06:23:19 16 of provided any explanation of what this recording
06:23:23 17 requirement would be besides saying that you shall
06:23:26 18 record the efforts; is that right?

06:23:28 19 A. Right.

06:23:28 20 MS. STUART: Form.

06:23:29 21 BY MS. LANG:

06:23:29 22 Q. And it was your hope that there would be
06:23:31 23 additional information provided about how that recording
06:23:35 24 should take place; is that right?

06:23:39 25 A. Yes.

06:23:57 1 Q. Okay.

06:23:57 2 MS. STUART: What's the time?

06:24:00 3 THE VIDEOGRAPHER: 6 hours and 37 minutes.

06:24:02 4 MS. STUART: Thank you.

06:24:43 5 BY MS. LANG:

06:24:43 6 Q. On Page 43 I want to look at comment JP(40).

06:25:03 7 A. Yes.

06:25:03 8 Q. And the instructions here are that if the

06:25:09 9 registrant has no DPOC on file, then there will be a

06:25:12 10 letter sent if there is information from the juror

06:25:18 11 report that someone self-reported as a noncitizen; is

06:25:21 12 that right?

06:25:21 13 A. Yes.

06:25:22 14 Q. And a notice will go out, and then if they do

06:25:29 15 not submit DPOC within 35 days, the registrant's record

06:25:33 16 will be canceled; is that right?

06:25:34 17 A. Yes.

06:25:35 18 Q. And how does that differ from the current

06:25:38 19 practice?

06:25:42 20 A. If -- if -- the current practice is if we -- if

06:25:48 21 they're -- again, if they say they're a noncitizen, but

06:25:51 22 we have DPOC on file, we do nothing. If they are a

06:25:58 23 federal only voter, we would send a notice. I don't --

06:26:03 24 I'm getting tired. I don't remember.

06:26:05 25 Q. I understand.

06:26:07 1 A. The 35-day requirement is usually tied to the
06:26:11 2 NVRA process, so I think that's why I flagged it.

06:26:15 3 Q. Okay. Very well. I don't have any more
06:26:48 4 specific questions about this document.

06:26:50 5 I guess one kind of overarching question I had
06:26:53 6 for you is that over the course of today's testimony we
06:26:57 7 identified a lot of gray areas about how these laws
06:27:00 8 would be applied; is that right?

06:27:01 9 A. Yes.

06:27:02 10 Q. And a lot of open questions that you were still
06:27:05 11 looking for guidance on; is that right?

06:27:06 12 A. Yes.

06:27:07 13 Q. What would the reason to believe standard be is
06:27:11 14 one example?

06:27:13 15 A. Say that again?

06:27:15 16 Q. Is how the reason to believe standard would
06:27:18 17 apply one of those gray areas?

06:27:20 18 A. Yes.

06:27:20 19 Q. What documents might satisfy the DPOR
06:27:24 20 requirement is another one of those gray areas?

06:27:26 21 A. Yes.

06:27:27 22 Q. Okay. In reviewing this draft EPM, was there
06:27:34 23 much guidance in the draft that would help you fill in
06:27:39 24 those gray areas?

06:27:41 25 A. Not in this draft, no.

06:27:44 1 Q. Okay. And is that something that you're hoping
06:27:45 2 to get out of future drafts of the EPM if these laws
06:27:50 3 need to be implemented?

06:27:50 4 A. Yes.

06:27:52 5 Q. Okay. Would this EPM on its own provide you
06:27:55 6 enough guidance to go forward and implement these parts
06:27:58 7 of the law?

06:27:59 8 MR. O'CONNOR: Form.

06:28:01 9 THE WITNESS: I don't believe so.

06:28:04 10 MS. LANG: Let's take a quick break and
06:28:05 11 make sure nobody has any further questions and then I
06:28:09 12 can wrap, but let's just take a very brief break.

06:28:12 13 THE VIDEOGRAPHER: We are off the record.
06:28:13 14 The time on the video monitor is 6:28 p.m.

06:28:16 15 (A recess was taken.)

06:31:45 16 THE VIDEOGRAPHER: We are on the record.
06:31:46 17 The time on the video monitor is 6:31 p.m.

06:31:50 18 MS. LANG: One last cleanup item, doesn't
06:31:52 19 involve a question for you at all, is that we've been
06:31:55 20 discussing at length the Arizona Secretary of State 2023
06:32:00 21 Elections Procedures Manual - June 2023 draft, that I
06:32:04 22 will note is marked confidential for the record, and we
06:32:09 23 will mark that exhibit as Exhibit 35.

06:32:12 24 And with that, I have no further
06:32:15 25 questions, and thank you so much, Ms. Petty, for all

06:32:17 1 your patience and testimony.

06:32:21 2 THE VIDEOGRAPHER: We are off the record.

06:32:22 3 The time on the --

06:32:26 4 MS. LANG: Defendants will have a few
06:32:29 5 follow-ups, I believe.

06:32:29 6 MS. BOUGHTON: Can you hear me?

06:32:29 7 THE WITNESS: No.

06:32:29 8

06:32:43 9 EXAMINATION

06:32:43 10 BY MS. BOUGHTON:

06:32:54 11 Q. Hello. A little hard to get on. Apologies.

06:32:56 12 Good afternoon, Ms. Petty. My name is Kathryn
06:32:58 13 Boughton. I'm an attorney representing the Arizona
06:33:00 14 Attorney General, State of Arizona in this matter.

06:33:03 15 Thank you again for all your time and patience today. I
06:33:06 16 will be very brief, just a few issues that I wanted to
06:33:10 17 circle back to regarding plaintiffs' questions.

06:33:13 18 One of them, you talked at length with
06:33:16 19 plaintiff about the databases that the Recorder's Office
06:33:21 20 uses to verify citizenship, and the plaintiffs' counsel
06:33:24 21 asked you about instances where that information may not
06:33:26 22 be accurate.

06:33:27 23 I did want to ask, based on your experience,
06:33:30 24 does the Recorder's Office consider the MVD database to
06:33:34 25 be generally reliable as to citizenship information?

06:33:37 1 A. Yes.

06:33:37 2 Q. And does the Recorder's Office consider SAVE

06:33:42 3 data when an A-Number is available to be generally

06:33:44 4 reliable as to citizenship information?

06:33:46 5 A. Yes.

06:33:48 6 Q. Okay. Thank you.

06:33:53 7 Regarding -- we talked about what reason to

06:33:55 8 believe might be and some of your concerns about that

06:33:59 9 language in the law. I wanted to ask you, if the county

06:34:04 10 had conducted its normal citizenship verification checks

06:34:08 11 and it received no match on MVD data and no response

06:34:13 12 from a voter after outreach, would you consider that

06:34:17 13 that voter -- that you had a reason to believe that

06:34:20 14 voter was not a U.S. citizen?

06:34:22 15 A. No.

06:34:24 16 Q. Okay. And why not?

06:34:25 17 A. Because we did not get an affirmation back that

06:34:31 18 they were a noncitizen, and we are taking the voter's

06:34:35 19 signed affidavit that they are eligible and that they

06:34:38 20 are a U.S. citizen.

06:34:39 21 Q. Okay. Would you consider a -- if the county

06:34:42 22 received an affirmative no match from AVID or SAVE,

06:34:46 23 would you consider that a reason to believe that the

06:34:48 24 individual was not a citizen?

06:34:50 25 A. Well, AVID wouldn't give us information about

06:34:54 1 citizenship.

06:34:55 2 Q. Pardon me. I misspoke. MVD or SAVE.

06:34:58 3 A. If they gave us information that it was a
06:35:01 4 foreign license, yes, we would have reason to believe
06:35:03 5 that person was a noncitizen.

06:35:06 6 Q. Okay. Thank you.

06:35:09 7 Turning briefly to Exhibit 27, which is
06:35:20 8 MC 002984. We looked at this earlier. This is the form
06:35:24 9 that's sent out to individuals who had a different
06:35:28 10 driver's license from the one listed on the voter
06:35:31 11 registration that was issued prior to 1996.

06:35:34 12 I'd like to draw your attention to the bottom
06:35:37 13 half of the form, and it reads, quote, Help us uniquely
06:35:43 14 identify your registration. Please complete the
06:35:45 15 following information, end quote. And one of the
06:35:47 16 requested fields is place of birth; is that right?

06:35:51 17 A. Yes.

06:35:52 18 Q. So is this an example of the county proactively
06:35:54 19 seeking out birthplace information to, quote, uniquely
06:35:58 20 identify a voter registration?

06:36:01 21 A. I think this is the county's way of trying to
06:36:05 22 identify the voter, and that is just one piece of
06:36:08 23 optional information that could be provided by the voter
06:36:11 24 to help in doing so.

06:36:14 25 Q. Okay. Thank you.

06:36:19 1 If a court or the Secretary of State issued
06:36:22 2 guidance that the county should change how it uses
06:36:25 3 birthplace information, would the Recorder follow that
06:36:28 4 instruction?

06:36:28 5 A. Yes.

06:36:30 6 Q. Thank you.

06:36:42 7 MS. BOUGHTON: That's all I have for you
06:36:43 8 today. Thank you very much.

06:36:45 9 MS. LANG: I do have just a couple
06:36:47 10 follow-ups. I apologize.

06:36:48 11

06:36:49 12 FURTHER EXAMINATION

06:36:49 13 BY MS. LANG:

06:36:50 14 Q. Following up on that very last question that
06:36:51 15 you had, which was if there was new instructions from
06:36:56 16 the Secretary of State's Office on how to use place of
06:36:59 17 birth in the voter registration process, you would
06:37:01 18 follow it; is that correct?

06:37:03 19 A. I would imagine our County Attorneys would be
06:37:06 20 involved in that, but as long as they were in approval,
06:37:10 21 yes, we would follow guidance from the Secretary of
06:37:13 22 State's Office.

06:37:13 23 Q. Was there any guidance in this draft EPM that
06:37:16 24 would suggest that the Secretary of State is suggesting
06:37:18 25 a change in how place of birth is used in the voter

06:37:22 1 registration process?

06:37:24 2 MR. O'CONNOR: Form.

06:37:27 3 THE WITNESS: I go back to my previous
06:37:28 4 answer, that they have incorporated the new laws into
06:37:31 5 the draft in the event that they will be added in after
06:37:36 6 the litigation is concluded.

06:37:38 7 BY MS. LANG:

06:37:38 8 Q. Yes. So my question is just the EPM draft says
06:37:44 9 that place of birth will be required, but does anything
06:37:47 10 in the draft suggest that other than requiring it, that
06:37:52 11 your usage of that information would change?

06:37:56 12 A. I don't think that was clear.

06:37:59 13 Q. Okay. And Ms. Boughton referred you to a
06:38:04 14 document that kind of asked for place of birth as a
06:38:08 15 piece of data could help you identify who the person was
06:38:12 16 in the voter registration database; is that right?

06:38:14 17 A. Yes.

06:38:16 18 Q. And I just want to clarify what you mean by
06:38:18 19 identify there. So you mean there that that information
06:38:21 20 would help you find which record is the relevant record
06:38:26 21 in the voter registration database; is that right?

06:38:28 22 A. Yes.

06:38:29 23 Q. And it's one piece of optional information that
06:38:34 24 could be of assistance; is that right?

06:38:36 25 A. Yes.

06:38:37 1 Q. Is it often the case that you can identify
06:38:40 2 individuals based on other uniquely identifying
06:38:43 3 information, such as date of birth and --

06:38:47 4 A. Yes.

06:38:48 5 Q. Okay. And that does not mean that you use
06:38:55 6 place of birth in any way to validate the identity of a
06:39:00 7 voter registration application; is that right?

06:39:05 8 MS. BOUGHTON: Form.

06:39:08 9 THE WITNESS: We -- no, not for identity.

06:39:13 10 BY MS. LANG:

06:39:14 11 Q. Okay. And, finally, you testified that you
06:39:16 12 consider SAVE information generally reliable, but
06:39:22 13 earlier today we discussed a portion of the EPM that
06:39:25 14 specifically states that there is a lag in time between
06:39:29 15 when someone naturalizes and when that information is
06:39:34 16 entered into the SAVE system; is that correct?

06:39:36 17 A. Yes.

06:39:38 18 Q. So your understanding is that there is a
06:39:41 19 well-known lag time between naturalization and the SAVE
06:39:46 20 system's information?

06:39:48 21 A. There's a potential for a lag time.

06:39:50 22 Q. Okay. So you are aware of the possibility that
06:39:55 23 that information is not up-to-date?

06:39:59 24 A. Yes.

06:39:59 25 Q. Okay. And you also testified that the driver's

06:40:05 1 license information only reflects the information
06:40:08 2 provided by the individual at the time that they
06:40:11 3 interacted with the driver's license agency, correct?

06:40:15 4 A. Correct.

06:40:17 5 Q. And that driver's licenses in Arizona can be
06:40:22 6 valid for a very long time; is that right?

06:40:24 7 A. Yes.

06:40:26 8 Q. And is it your understanding that people
06:40:29 9 naturalize in the state of Arizona very regularly?

06:40:32 10 MR. O'CONNOR: Form.

06:40:33 11 BY MS. LANG:

06:40:34 12 Q. There are new naturalized citizens that are
06:40:37 13 residents and citizens of the state of Arizona being
06:40:39 14 created very regularly?

06:40:42 15 A. Yes.

06:40:42 16 MS. BOUGHTON: Form.

06:40:44 17 BY MS. LANG:

06:40:44 18 Q. In fact, your office regularly visits
06:40:46 19 naturalization ceremonies to register voters; is that
06:40:49 20 correct?

06:40:49 21 A. Yes.

06:40:50 22 Q. Okay. And your experience is that sometimes
06:40:56 23 when you get an F-Type license match, you'll send that
06:41:01 24 notice out and you will get DPOC in return; is that
06:41:05 25 correct?

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06:41:11 5
06:41:14 6
06:41:14 7
06:41:15 8
06:41:19 9
06:41:20 10
06:41:20 11
06:41:23 12
06:41:24 13
06:41:26 14
06:41:27 15
06:41:28 16
06:41:30 17
06:41:30 18
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06:41:43 24
06:41:45 25

A. Yes.

Q. Does that happen frequently?

A. Yes.

Q. So does that suggest to you that that information is not always reliable?

A. I'd say --

MR. O'CONNOR: Form.

THE WITNESS: The majority of the time it is reliable.

BY MS. LANG:

Q. But very frequently you send out notices and you receive DPOC back; is that correct?

A. Yes.

MS. LANG: All right. I have no further questions.

MS. STUART: I just have a couple. I'll be quick.

EXAMINATION

BY MS. STUART:

Q. So they're all going to deal with this Exhibit 35.

Exhibit 35 that we've just been looking at, that's a draft of the EPM, correct?

A. Correct.

06:41:46 1 Q. And the Secretary of State is taking feedback
06:41:49 2 from the counties with regards to this draft?

06:41:52 3 A. Correct.

06:41:54 4 Q. And you also testified today, I think, that the
06:41:59 5 Secretary of State is also planing on taking -- or
06:42:02 6 getting feedback from the public with regards to this
06:42:04 7 draft of the EPM; is that correct?

06:42:05 8 A. Correct.

06:42:07 9 Q. Okay. So Exhibit 35, fair to say -- oops. I'm
06:42:12 10 not going to hand it to you.

06:42:13 11 Exhibit 35, fair to say, is not the final form
06:42:15 12 of the EPM?

06:42:16 13 A. That's correct.

06:42:17 14 Q. Okay. So the language in this draft could
06:42:19 15 change?

06:42:20 16 A. Yes.

06:42:20 17 Q. And ultimately the final EPM could look
06:42:23 18 different than Exhibit 35 that we reviewed today, right?

06:42:25 19 A. Yes.

06:42:26 20 Q. Okay. And it can change by either adding
06:42:29 21 information, moving information, or taking information
06:42:32 22 out, right?

06:42:32 23 A. Yes.

06:42:35 24 Q. Could the EPM also have exhibits attached to
06:42:38 25 it?

06:42:39 1 A. Yes.

06:42:40 2 Q. Could it also reference other materials?

06:42:42 3 A. Yes.

06:42:42 4 Q. Could it also reference other laws or guidance?

06:42:46 5 A. Yes.

06:42:52 6 Q. And, lastly, just to clarify something that

06:42:57 7 maybe I was confused on, but none of the provisions at

06:43:00 8 issue in this litigation have been implemented by

06:43:03 9 Maricopa County?

06:43:03 10 A. That's correct.

06:43:05 11 Q. Okay. And Maricopa County has not received any

06:43:09 12 communications from the Secretary of State's Office to

06:43:13 13 start implementing the laws at issue in this case,

06:43:16 14 right?

06:43:16 15 A. Correct.

06:43:16 16 Q. And to the best of your knowledge, has the

06:43:20 17 Secretary told any of the other counties to start

06:43:22 18 implementing the laws at issue in this case?

06:43:24 19 A. Not to my knowledge.

06:43:26 20 MS. STUART: Thank you. I have no further

06:43:28 21 questions.

06:43:30 22 THE VIDEOGRAPHER: Counsel, do you have

06:43:31 23 any further questions?

06:43:33 24 MS. LANG: No further questions. Thank

06:43:35 25 you so much, Ms. Petty.

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THE VIDEOGRAPHER: We are off the record.
The time on the video monitor is 6:43 p.m. This ends
Volume 1, Media No. 5 in the Rule 30(b)(6) deposition of
the Maricopa County Recorder's Office, represented by
Janine Petty.

(The videotaped deposition concluded at
6:43 p.m.)

(Deposition Exhibit 24 and Deposition
Exhibit 35 were digitally marked for identification.)

(Signature not requested.)

JANINE PETTY

1 STATE OF ARIZONA)
2) ss.
3 COUNTY OF MARICOPA)

4 BE IT KNOWN that the foregoing videotaped
5 deposition was taken before me, JODY L. LENSCHOW, RMR,
6 CRR, Certified Reporter No. 50192 for the State of
7 Arizona, and by virtue thereof authorized to administer
8 an oath; that the witness before testifying was duly
9 sworn by me; that the questions propounded by counsel
10 and the answers of the witness thereto were taken down
11 by me in shorthand and thereafter transcribed under my
12 direction; that a review of the transcript by the
13 witness was not requested; that the foregoing pages
14 contain a full, true, and accurate transcript of all
15 proceedings and testimony had, all to the best of my
16 skill and ability.

17 I FURTHER CERTIFY that I am not related to nor
18 employed by any of the parties hereto and have no
19 interest in the outcome thereof.

20 DATED at Phoenix, Arizona, this 5th day of
21 August, 2023.

22
23 

24 _____
25 JODY L. LENSCHOW, RMR, CRR
Certified Reporter
Certificate No. 50192

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IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ARIZONA

Mi Familia Vota, et al.,)	
)	
Plaintiffs,)	
)	
vs.	)	No. 2:22-cv-00509-PHX-SRB
	)	(Lead)
Adrian Fontes, in his)	
official capacity as Arizona)	
Secretary of State, et al.,)	
)	
Defendants.)	
)	
<hr/> AND CONSOLIDATED CASES	)	No. CV-22-00519-PHX-SRB
	)	No. CV-22-01003-PHX-SRB
	)	No. CV-22-01124-PHX-SRB
	)	No. CV-22-01369-PHX-SRB
	)	No. CV-22-01381-PHX-SRB
	)	No. CV-22-01602-PHX-SRB
	)	No. CV-22-01901-PHX-SRB
)	

VIDEOTAPED 30(b)(6) DEPOSITION OF NAVAJO COUNTY RECORDER
BY AND THROUGH JOSE LERMA

CONTAINS CONFIDENTIAL INFORMATION

Holbrook, Arizona

July 27, 2023

Prepared By:
Karen L. Locker, RPR
Certified Reporter #50821



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1 VIDEOTAPED DEPOSITION OF JOSE LERMA
2 was taken on July 27, 2023, commencing at 9:13 a.m., at
3 Holbrook, Arizona, before Karen L. Locker, a Certified
4 Reporter in the State of Arizona, reported via Zoom
5 Videoconference.

6
7

8 * * *

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11 Dennis Woods, Videographer
12 Aidan Calvelli
13 Daxon Ernyei
14 Victoria Maras
15 Scott Johnson
16 C. Williams

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09:13:01 1 THE VIDEOGRAPHER: We are on the record. The
09:13:02 2 time on the video monitor is 9:13 a.m.

09:13:06 3 Here begins Volume 1, Media No. 1 in the
09:13:09 4 30(b)(6) deposition of Navajo County Recorder by Jose
09:13:18 5 Lerma, in the matter of Mi Familia Vota, et al. v. Adrian
09:13:22 6 Fontes, et al., in the United States District Court for
09:13:22 7 the District of Arizona, Case No. 2:22-cv-00509 --
09:13:22 8 Phoenix -- PHX-SRB.

09:13:40 9 Today's date is July 27th, 2023.

09:13:42 10 Our court reporter is Karen Locker. I am Dennis
09:13:46 11 Woods, certified legal videographer specialist, and we
09:13:50 12 both represent Coash Court Reporting and Video.

09:13:50 13 Would our counsel please identify themselves and
09:13:55 14 state whom they represent.

09:13:55 15 MR. ROSENBAUM: This is David Rosenbaum. I
09:13:59 16 represent the Tohono O'odham Nation, Gila River Indian
09:14:04 17 Community, and three individual plaintiffs.

09:14:12 18 MR. ATKINS: Good morning. Alex Atkins for
09:14:16 19 Elias Law Group. I represent Plaintiffs Mi Familia Vota
09:14:20 20 and Voto Latino.

09:14:22 21 MR. MOORE: This is Jason Moore, counsel for the
09:14:25 22 Navajo County Recorder. I'm here today representing Jose
09:14:31 23 Lerma who is the Navajo County Recorder, Mike Samples',
09:14:33 24 designated representative for purposes of this deposition.

09:14:38 25 MS. BOUGHTON: Kathryn Boughton for the State of

09:14:40 1 Arizona and Arizona Attorney General's Office.

09:14:45 2 MR. HINDLEY: John Hindley for Poder Latinx,
09:14:50 3 Chicanos Por La Causa, and Chicanos Por La Causa Action
09:14:51 4 Fund.

09:14:52 5 MR. MORGAN: Craig Morgan for the Secretary of
09:14:55 6 State's Office.

09:14:58 7 MR. HERRERA: Ernest Herrera representing
09:15:02 8 Promise Arizona and Southwest Voter plaintiffs, and my
09:15:04 9 colleague here is Erika Cervantes.

09:15:09 10 MR. LANGHOFER: Kory Langhofer for the
09:15:11 11 Republican Intervenors.

09:15:11 12 MS. RIZZONI: Cat Rizzoni on behalf of Plaintiff
09:15:11 13 Equity Coalition.

09:15:20 14 MR. KEREKES: Bill Kerekes on behalf of Yuma
09:15:20 15 County Recorder, Richard Colwell.

09:15:29 16 MR. HORLEY: Tim Horley on behalf of the State
09:15:32 17 of Arizona and the Arizona Attorney General.

09:15:40 18 THE VIDEOGRAPHER: If that is all, if everyone
09:15:42 19 has identified themselves, then we will move to our court
09:15:46 20 reporter where she can swear in the witness.

09:15:46 21 (Jose Lerma was duly sworn by the Certified
09:16:01 22 Reporter.)

09:16:01 23 THE VIDEOGRAPHER: Please proceed.

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JOSE LERMA,

a witness herein, having been first duly sworn by the
Certified Reporter to speak the truth and nothing but the
truth, was examined and testified as follows:

EXAMINATION

BY MR. ROSENBAUM:

Q. Good morning, Mr. Lerma.

A. Good morning.

Q. I'm David Rosenbaum, as I mentioned off the
record. I represent the Tohono O'odham Nation, Gila River
Indian Community, and three individual plaintiffs,
including LaDonna Jacket, who happens to be a member of
the Hopi Tribe, which, obviously, the Reservation includes
some parts of Navajo County.

I'm going to begin with the questioning today.
I don't anticipate going more than a couple of hours.
That's not a promise, it's just a guess. And then, when
I'm finished, counsel for some of the other parties will,
I believe, likely have additional questions for you as
well.

Let me put on the record the discussion that
counsel had a few minutes earlier, and that is an
objection stated by one defendant need not be repeated by
the others. They will all be deemed to have made that

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09:18:14 25

objection.

Would you please state your full name for the record, Mr. Lerma?

A. My name is Jose Lerma.

Q. And you are the designee for this 30(b)(6) deposition that was noticed for the Navajo County Recorder, correct?

A. Correct.

Q. I did a little Googling. Are you, are you also an assistant county attorney for Navajo County?

A. No. I, I -- prior to this I worked for the Navajo County child support, which is under the county attorney's office.

Q. Okay.

A. But, no --

Q. So are you, are you an attorney, I guess is --

A. No. No, no.

Q. All right. Well, that would have made the introduction a little bit simpler. That's why I was asking.

So let me just go over some basic ground rules. And, first, as you know, we're all separated. We're all conducting this deposition by Zoom. And I understand that your attorney is not in the room with you. Is that right?

09:18:17 1 A. Correct.

09:18:18 2 Q. All right. So a standard instruction that
09:18:26 3 witnesses always receive in a deposition is to pause
09:18:29 4 before they answer to make sure people aren't talking over
09:18:32 5 one another so we can have a clear record. That's
09:18:36 6 especially important when we're conducting a deposition
09:18:39 7 over the internet by Zoom because often there's a delay.
09:18:44 8 So if you would try and wait till you perceive I have
09:18:49 9 finished my question, and I'll try and do the same for
09:18:52 10 you. I'll wait until it's clear that you provide an
09:18:55 11 answer. Okay?

09:18:56 12 A. Okay.

09:18:57 13 Q. If you don't understand one of my questions,
09:19:07 14 please let me know. I want to make sure you're not
09:19:07 15 confused. And if you don't tell me, I'll assume you
09:19:10 16 understood the question. Is that fair?

09:19:12 17 A. Sounds good.

09:19:14 18 Q. Good. If at any time you need a break, let me
09:19:22 19 know. It's not an endurance contest. I probably won't
09:19:26 20 allow a break if we're in the middle of a line of
09:19:29 21 questioning or question, but, in general, if you need a
09:19:34 22 break, just ask and, and I'll try and accommodate.

09:19:39 23 The oath that you just took is the same oath
09:19:43 24 that you would give in a courtroom, should be treated as
09:19:47 25 seriously as you would an oath given in open court.

09:19:54 1 Do you understand that?

09:19:55 2 A. Yes, I do.

09:19:57 3 Q. Another introductory point. Because this is a
09:20:02 4 Zoom deposition, we need to make sure that the answers are
09:20:05 5 your own. And so I just want to make sure -- I'm not
09:20:09 6 suspicious of anything, but just for the record -- that
09:20:12 7 you're not receiving texts or emails from anybody
09:20:16 8 suggesting, you know, what the right answer ought to be.
09:20:20 9 Is that, is that correct?

09:20:21 10 A. That's correct.

09:20:22 11 Q. Great.

09:20:26 12 If, if when I'm asking you a question you need
09:20:30 13 to review some document, let me know, and I may say yes,
09:20:37 14 please do, but, since we don't know what's on your screen,
09:20:42 15 please don't rely on some document without at least
09:20:46 16 letting us know that we're no longer getting your memory
09:20:51 17 but we're getting testimony based on something you're
09:20:54 18 looking at. Okay?

09:20:56 19 A. Okay.

09:20:57 20 Q. Great. Thanks.

09:21:00 21 So we mentioned that you're here as a 30(b)(6)
09:21:09 22 designee. Let me ask you to take a look at what we
09:21:18 23 designated in advance as Document E.

09:21:27 24 Can you pull that up?

09:21:30 25 A. Document E.

09:21:33 1 Q. Yes. It's the notice of deposition.

09:21:36 2 A. Yes.

09:21:36 3 Q. All right. And I think we're at deposition
09:21:46 4 Exhibit 36.

09:21:47 5 One thing we didn't discuss amongst counsel
09:21:50 6 ahead of time is how we are going to mark deposition
09:21:53 7 exhibits, but my proposal is, to the extent possible, I
09:21:56 8 know we may have some double tracking, but let's try and
09:21:59 9 do it sequentially.

09:22:01 10 So, unless anyone objects, I suggest we, we mark
09:22:05 11 this document as Exhibit 36.

09:22:12 12 All right. So hearing no objection, what you're
09:22:17 13 looking at we've, we've marked as Exhibit 36 to your
09:22:21 14 deposition.

09:22:21 15 Do you recognize that document as the 30(b)(6)
09:22:29 16 deposition notice for your deposition?

09:22:31 17 A. Yes, I do.

09:22:36 18 Q. And you understand that you've been designated
09:22:39 19 to testify on all of the 28 topics that are listed there?

09:22:45 20 A. Yes.

09:22:46 21 Q. All right. Topic No. 27 is the first thing that
09:22:55 22 I want to touch on, which has to do with discovery
09:23:00 23 responses produced by the Navajo County Recorder's Office
09:23:09 24 in this case. So let me ask you to open up Document A.

09:23:23 25 A. Okay.

09:23:25 1 Q. Do you recognize that -- and, actually, you're
09:23:29 2 faster than I am; I'm opening up Document A now -- as the
09:23:42 3 Navajo County Recorder's response to discovery requests
09:23:45 4 that were served by the Equity Coalition plaintiffs in
09:23:52 5 this case?

09:23:53 6 A. Yes.

09:23:53 7 Q. All right. Let me ask you to turn to request
09:23:59 8 No. 7, and that request asks for documents and
09:24:11 9 communications regarding the actual, or potential
09:24:15 10 implementation of House Bill 2492 and/or House Bill 2243.

09:24:25 11 Do you see that?

09:24:26 12 A. Yes, I do.

09:24:27 13 Q. All right. And there's a two paragraph response
09:24:34 14 provided below that by the Navajo County Recorder's
09:24:45 15 Office, and I want to ask you specifically about the last
09:24:51 16 two sentences in the second paragraph. It reads as
09:24:56 17 follows, quote:

09:24:58 18 The most substantive guidance the Secretary's
09:25:01 19 Office has provided to date regarding implementation was
09:25:05 20 in an email from Kori Lorick dated December 30, 2022. It
09:25:13 21 and the attachment thereto are hereby disclosed to
09:25:19 22 plaintiff with these responses. Navajo County intends to
09:25:24 23 follow this guidance until more substantive and final
09:25:28 24 procedures are memorialized in a new procedures manual.

09:25:35 25 Is that response still accurate, still the

09:25:42 1 position of the Navajo County Recorder's Office?

09:25:46 2 A. That's correct.

09:25:47 3 Q. And so there has been no more substantive
09:25:56 4 guidance received since the Kori Lorick communication of
09:26:02 5 December 30, 2022?

09:26:03 6 A. Not as of yet.

09:26:05 7 Q. Okay. I hope I found that communication. So I
09:26:14 8 have got to ask you whether I succeeded.

09:26:17 9 If you would open up documents S and T. T is an
09:26:31 10 email, and, and I, I believe S may be the attachment, but
09:26:40 11 that's the question I have for you.

09:26:42 12 A. S and T. I don't -- okay. Okay.

09:26:56 13 Okay. Yes, I see it.

09:26:58 14 Q. Is T the email referenced in Response No. 7 to
09:27:07 15 the Equity Coalition request for production?

09:27:12 16 A. Yes. It is.

09:27:14 17 Q. Okay. I'll mark that as Exhibit 38. Is that
09:27:22 18 what we are up to? I think so.

09:27:30 19 And then is T the attachment to the email?

09:27:33 20 A. No.

09:27:36 21 Q. It is not?

09:27:37 22 A. Give me one --

09:27:40 23 Q. Sure.

09:27:54 24 A. Yes. T is the -- or T is the email, I believe.

09:27:58 25 Correct? And S is the attachment.

09:27:59 1 Q. S is the attachment. Thank you.

09:28:02 2 A. Yes.

09:28:04 3 Q. Yes. And so let's mark S as Exhibit 39.

09:28:11 4 All right. I and others who examine you may ask

09:28:15 5 you about those exhibits in more detail later. I just

09:28:19 6 wanted to make sure we knew the documents that were

09:28:22 7 referenced in that request for production response.

8 MR. MORGAN: Hey, David.

9 MR. ROSENBAUM: Yes.

10 MR. MORGAN: So we're on the same page, S is the

11 VRAC that was attached to --

12 (The Reporter requested clarification.)

13 MR. MORGAN. This is Craig Morgan.

14 MR. ROSENBAUM: State your name, Craig.

15 MR. MORGAN: Yeah, sorry. Craig Morgan.

09:28:36 16 David, S is the VRAC paper that was attached to

09:28:41 17 the email?

09:28:42 18 MR. ROSENBAUM: Yes. Correct. Yes, the first

09:28:45 19 line is entitled VRAC Legislative Policy Updates.

09:28:51 20 BY MR. ROSENBAUM:

09:28:53 21 Q. All right. If you could now open what was

09:29:02 22 labeled as Document C. Do you --

09:29:15 23 Let me know when you're there.

09:29:17 24 A. I have to download it.

09:29:23 25 Q. Sure.

09:29:24 1 A. Okay. I'm there.

09:29:26 2 Q. Do you recognize that as the Navajo County
09:29:35 3 Recorder response to another set of requests for
09:29:37 4 production? This was served by the consolidated
09:29:40 5 plaintiffs.

09:29:41 6 A. Yes.

09:29:41 7 Q. All right. And I want to ask you about the
09:29:46 8 request No. 1, the response to request No. 1.

09:29:55 9 And that -- you can read the question to
09:29:59 10 yourself. I'm not going to read the whole thing. But it
09:30:03 11 relates to communications and documents concerning to use
09:30:09 12 of birthplace and the citizenship, citizenship checkbox on
09:30:17 13 the state form.

09:30:22 14 If you look at the response, Subpart 1 reads,
09:30:30 15 quote:

09:30:31 16 If an applicant was using a state form to
09:30:35 17 register, he or she would have been required to provide a
09:30:41 18 birthplace or complete the citizenship checkbox in order
09:30:44 19 to be registered to vote in state and federal
09:30:50 20 reelections -- elections.

09:30:52 21 Is that response still accurate to this date?

09:30:54 22 A. It is.

09:30:55 23 Q. All right. In other words, one, one could be
09:31:01 24 registered by either checking the, the citizen checkbox
09:31:07 25 without providing a, a document, or could provide

09:31:16 1 documentation and not complete the citizenship checkbox.

09:31:29 2 Let me back up. Completion of the citizenship
09:31:34 3 checkbox was not, and is not to this date, a requirement
09:31:39 4 so long as there's documentation provided.

09:31:43 5 A. So you're asking if I would accept a proof of
09:31:50 6 citizenship with a registration form not checked?

09:31:55 7 Q. Yes.

09:31:56 8 A. Correct.

09:31:56 9 Q. Okay. And then Subpart II to the question
09:32:01 10 reads, quote:

09:32:03 11 The majority of voter registration applicants
09:32:07 12 would have provided a birthplace or check the citizenship
09:32:12 13 box, but the voter registration database is unable to
09:32:19 14 provide any kind of report on how many applicants provided
09:32:22 15 such information.

09:32:24 16 Is that still true to this date?

09:32:26 17 A. That's correct.

09:32:27 18 Q. You don't have information in a database that
09:32:33 19 would be able to break out who --

09:32:37 20 A. No. Voter regis -- oh, sorry.

09:32:39 21 Q. Yeah, go ahead.

09:32:40 22 A. The voter registration system doesn't track who
09:32:46 23 checked what box.

09:32:47 24 Q. And Subpart III stated, quote:

09:32:52 25 The County Recorder is unable to state how many

09:32:57 1 applicants provided a correct or incorrect birth --
09:33:00 2 provided a correct or incorrect birthplaces because the
09:33:05 3 County Recorder and his staff do not have personal
09:33:07 4 knowledge of where any particular applicant was born and
09:33:12 5 the voter registration database has no information about
09:33:16 6 either.

09:33:16 7 Is that still the case today?

09:33:18 8 A. That is.

09:33:20 9 Q. All right. Let me ask you to go down to the
09:33:23 10 response to request for production No. 6. And, again, you
09:33:35 11 can read the request to yourself, but it deals with the
09:33:42 12 use of a map in Box 3 of the registration form in order to
09:33:52 13 describe where an individual resided.

09:33:55 14 Do you see that?

09:33:56 15 A. I do.

09:33:58 16 Q. And the response to that request reads, quote:
09:34:09 17 The Recorder has received 20,664 new voter
09:34:14 18 registration forms since January 1, 2020 to the present
09:34:18 19 day. There's no automated system in place to identify
09:34:22 20 voter registration forms where a voter drew a map in
09:34:27 21 Box 23 as opposed to providing a standard address.

09:34:32 22 Is that still the case today?

09:34:34 23 A. That still is the case.

09:34:36 24 Q. All right. And if you look at the last sentence
09:34:41 25 of the response, it reads, quote:

09:34:45 1 We can state that Navajo County probably
09:34:48 2 receives a higher portion of voter registration forms
09:34:53 3 utilizing Box 23 than other counties in Arizona due to the
09:34:58 4 prevalence of a greater amount of tribal lands and
09:35:04 5 peoples.

09:35:05 6 Do you agree with that?

09:35:05 7 A. Yes.

09:35:06 8 Q. And can you extrapolate? Can you explain in a
09:35:10 9 little more detail why, in your experience, the prevalence
09:35:17 10 of tribal lands and tribal peoples, as that states, would
09:35:22 11 lead to a higher portion of voter registration forms that
09:35:28 12 use Box 23?

09:35:29 13 A. Well, on the Navajo reservation there's no
09:35:35 14 addressing system, so a lot of them would need to give us
09:35:39 15 directions. And by filling out Box 23 with a map, that
09:35:44 16 helps us perceive them correctly.

09:35:49 17 Q. And are there not existing documents, drivers
09:35:58 18 licenses, utility bills, anything that would provide that
09:36:04 19 information? Or does one need to draw a map?

09:36:08 20 A. There's not. They would need to draw a map or
09:36:14 21 give a description.

09:36:15 22 Q. And you mentioned the Navajo Reservation, the
09:36:22 23 Navajo Nation. Are there other federally recognized
09:36:27 24 Indian tribes who also are located within the borders of
09:36:36 25 Navajo County?

09:36:37 1 A. There are two others. There is the Hopi
09:36:44 2 Reservation and the White Mountain Apache Tribe.

09:36:44 3 Q. And you described the lack of street addresses
09:36:48 4 for many members of the Navajo Nation. How about for the
09:36:54 5 other two tribes that are located within Navajo County?

09:36:58 6 A. It's pretty much the same. The Hopi land is in
09:37:04 7 the Navajo Nation, and the White Mountain Apache Tribe is
09:37:16 8 the same.

09:37:17 9 Q. Let me ask you to open --
09:37:22 10 Oh, by the way, did I, did I mark -- I don't
09:37:26 11 think I did -- what would have been premarked as document
09:37:32 12 C, let's mark that as deposition Exhibit 40.

09:37:43 13 So the document marked in advance as B we will
09:37:55 14 mark as deposition Exhibit 41.

09:38:05 15 And do you recognize this document as the Navajo
09:38:14 16 County Recorder's response to the interrogatories served
09:38:18 17 by the Equity Coalition?

09:38:27 18 A. Yes, it is.

09:38:28 19 Q. All right. And, by the way, the interrogatories
09:38:36 20 were verified by your boss, by Michael Sample.

09:38:44 21 Did you have any, any role in preparing the
09:38:51 22 responses?

09:38:52 23 A. I did help.

09:38:53 24 Q. Okay. Interrogatory 1 asks about plans for the
09:39:07 25 actual or prospective implementation of H.B. 2492. And I

09:39:16 1 think we touched on this when we looked at the Lorick
09:39:21 2 email document, but if you would read the response to that
09:39:24 3 interrogatory -- I'm not going to take the time to read it
09:39:28 4 out loud -- and let me know if that's still true.

09:39:47 5 A. Yes.

09:39:47 6 Q. All right. And the reference there to the
09:39:50 7 response to plaintiffs' request for production No. 7,
09:39:54 8 that's what we looked at earlier, right? That was the
09:39:57 9 Lorick letter, or email? Yeah.

09:40:00 10 A. Yes.

09:40:09 11 Q. And let's, now if you could, if you could look
09:40:16 12 at what was marked as Document D in advance, and we'll
09:40:22 13 mark that as deposition Exhibit 42.

09:40:29 14 Let me know when you have that open.

09:40:31 15 A. Okay. Okay.

09:40:37 16 Q. All right. Do you recognize that Navajo
09:40:44 17 County's response to the consolidated plaintiffs' first
09:40:47 18 set of interrogatories?

09:40:48 19 A. Yes.

09:40:48 20 Q. And let me ask you to scroll down to
09:40:57 21 interrogatory No. 7.

09:41:04 22 And this relates to the types of documents that
09:41:21 23 A.R.S. 16-123 -- which is part of the new law that you
09:41:29 24 have yet to implement, right -- types of documents that
09:41:35 25 are permitted to prove the location of residents.

09:41:46 1 Do you see that?

09:41:47 2 A. I do.

09:41:48 3 Q. All right. Why don't you read through your
09:41:58 4 answer and then I'll ask you some questions about it.

09:43:16 5 A. Okay.

09:43:16 6 Q. About four, five paragraphs from the end of the
09:43:26 7 answer, at lines, between lines 9 and 10, it states,
09:43:35 8 quote:

09:43:35 9 The Navajo County Recorder has never expressed a
09:43:39 10 belief that all individuals with nonstandard addresses who
09:43:44 11 submit applications for registration for vote will
09:43:47 12 necessarily have documents that sufficiently establish
09:43:53 13 DPOR, documentary proof of residence, as required by
09:43:57 14 16-123 and the upcoming EPM --

09:44:00 15 That's elections procedures manual, correct?

09:44:04 16 A. Correct.

09:44:04 17 Q. It is possible some will not.

09:44:11 18 Is that your current personal belief -- well, is
09:44:20 19 that, forget about personal for the moment, is that still
09:44:22 20 the belief of the County Recorder's Office that some
09:44:29 21 individuals with nonstandard addresses may lack
09:44:35 22 documentary proof of residence as required under 16-123
09:44:43 23 should that law be implemented?

09:44:45 24 A. That's correct.

09:44:47 25 Q. And we touched on this a little earlier, but can

09:44:51 1 you elaborate, explain why that is the County Recorder's
09:44:59 2 belief?

09:44:59 3 MR. LANGHOFER: This is Kori Langhofer for
09:45:01 4 the -- object to form.

09:45:06 5 BY MR. ROSENBAUM:

09:45:07 6 Q. Go ahead. You can answer. If a lawyer objects,
09:45:10 7 that's for the record, but unless your lawyer tells you
09:45:13 8 not to answer, you should still answer the question.

09:45:17 9 A. Sounds good.

09:45:19 10 Yes that is still the belief, yeah.

09:45:21 11 Q. And, and then I asked you to elaborate. What --

09:45:26 12 A. Oh, okay.

09:45:26 13 Q. -- what forms the basis of, of that belief?

09:45:31 14 A. Because they do not have an addressing system.

09:45:44 15 Q. And I think the next paragraph explains historic
09:45:49 16 and current practices. Does it not? Where it talks about
09:45:54 17 prior to the adoption of H.B. 2492?

09:45:58 18 A. Correct.

09:45:58 19 Q. And it reads, quote:

09:46:00 20 Prior to the adoption of H.B. 2492, the County
09:46:06 21 Recorder could simply rely upon the description provided
09:46:08 22 by the voter of where he or she lives and the map provided
09:46:12 23 in Box 23 of the Arizona Voter Registration Form.

09:46:19 24 Right?

09:46:19 25 A. Yes.

09:46:20 1 Q. And in, in your personal experience -- and we'll
09:46:31 2 need to back up and talk about exactly what you do; we
09:46:36 3 haven't done that yet -- but has there ever been an
09:46:40 4 instance where the residence of a registrant to vote, as
09:46:49 5 drawn on the map in Box 23, proved to be fraudulent?

09:46:56 6 A. No. Not for the --

09:47:01 7 Q. And any instance where it proved to be
09:47:04 8 inaccurate, even if not intentionally so, but that it
09:47:09 9 depicted a residence that was inaccurate such that the
09:47:18 10 person was registered in the wrong precinct and would have
09:47:25 11 received the wrong ballot at an upcoming election?

09:47:31 12 DEFENSE COUNSEL: Form.

09:47:33 13 THE WITNESS: No. I don't see any, no.

09:47:36 14 BY MR. ROSENBAUM:

09:47:37 15 Q. Who were the individuals who, in your office,
09:47:42 16 who review the Box 23s? Who is responsible in the County
09:47:52 17 Recorder's office for that?

09:47:53 18 A. On a daily?

09:47:55 19 Q. Yes.

09:47:55 20 A. Myself, and I have an assistant. Her name is
09:48:01 21 Karen Hobert.

09:48:02 22 Q. And how long have you been involved in that
09:48:07 23 review process?

09:48:08 24 A. Myself, over five years.

09:48:11 25 Q. And how about Ms. Hobert?

09:48:14 1 A. Almost four years.

09:48:16 2 Q. I may be showing my Maricopa County bias here,
09:48:26 3 but Navajo County is relatively small compared to
09:48:32 4 Maricopa, right?

09:48:33 5 A. Correct.

09:48:34 6 Q. Do you and Ms. Hobert often know, personally,
09:48:39 7 these individuals who are drawing maps in Box 23?

09:48:42 8 A. No.

09:48:43 9 Q. Okay. Is there anyone else in the office who is
09:48:50 10 involved in this process that is reviewing the Box 23s?

09:48:56 11 A. Not on a daily, no.

09:48:57 12 Q. And what does your office, then, do? Somebody
09:49:02 13 draws a map that, you know, has certain descriptions,
09:49:08 14 where geographically the person is resided. How do you
09:49:13 15 then go about assigning a, a place of residence so that
09:49:19 16 ultimately the correct ballot is issued to that
09:49:23 17 individual?

09:49:25 18 A. We use maps, and our voter registration system
09:49:29 19 has a mapping program, and then we dot them, and that's
09:49:33 20 how we get the precinct part.

09:49:43 21 Q. How many precincts, if you know off the top of
09:49:47 22 your head, are in Navajo County?

09:49:49 23 A. 14 precincts.

09:49:51 24 Q. And what's the name of the mapping system?

09:49:53 25 A. It's called Total Address.

09:50:00 1 Q. Do you know if that's used by other counties?

09:50:03 2 A. It's through the Secretary of State's Office's
09:50:13 3 system. So, yes, other counties do use it.

09:50:21 4 Q. All right. Let me back up and go a little more
09:50:24 5 detail into your personal roles and responsibilities at
09:50:24 6 the County Recorder's Office.

09:50:31 7 What is your job title?

09:50:32 8 A. Voter registration coordinator.

09:50:35 9 Q. And to whom do you reporter?

09:50:37 10 A. The County Recorder.

09:50:39 11 Q. Nobody has the title elections director in
09:50:45 12 Navajo County?

09:50:45 13 A. There is an elections director. She is under
09:50:49 14 the board of supervisors, though.

09:50:51 15 Q. I see. So she doesn't -- what are, what are --
09:50:53 16 what's her name and what are her responsibilities?

09:50:58 17 A. I can give you her name, it's Rayleen Richards,
09:51:01 18 but I can't give you, I wouldn't know her
09:51:03 19 responsibilities.

09:51:03 20 Q. Does she and her, and the persons who report to
09:51:12 21 her have any role in the registration of new voters?

09:51:18 22 A. No.

09:51:19 23 Q. If you still have it in front of you, the
09:51:28 24 interrogatory response No. 7, there's some names listed
09:51:32 25 there.

09:51:34 1 A. Hmm hmm.

09:51:34 2 Q. If you could run through those names and
09:51:37 3 identify their titles and/or responsibilities. We've
09:51:41 4 covered Michael Sample. He is the County Recorder.

09:51:45 5 What about Donna Hurstrom?

09:51:47 6 A. Donna Hurstrom? Yeah, she is the chief deputy.
09:51:51 7 And then you have myself. You have Isaura Nez, and she is
09:51:55 8 our voter outreach.

09:51:56 9 Q. And then, for the court reporter, Isaura is
09:52:00 10 I-S-A-U-R-A?

09:52:01 11 A. Yes.

09:52:02 12 Q. Right? Okay.

09:52:04 13 A. And then you have Karen Hobert, which she is my
09:52:09 14 assistant. And then you have Sabrina James who works
09:52:20 15 under the Recorders; Nanette Donahue, who also works under
09:52:22 16 the Recorders; and Hanna Yazzie who works under the
09:52:26 17 Recorders.

09:52:27 18 Q. And, in general, how do you receive voter
09:52:37 19 registration applications? How do they come into your
09:52:39 20 office?

09:52:39 21 A. We get them two different ways. We get them
09:52:42 22 through EZ Voter, which is through MVD, through our voter
09:52:47 23 registration system, and those are done daily. And then
09:52:50 24 we also get them in the mail and over the counter, here in
09:52:54 25 the office.

09:52:55 1 Q. And, and when, when voter registrations are
09:53:01 2 processed and approved, how do you then -- I assume you
09:53:08 3 add them to a database so you have those records. Tell me
09:53:12 4 about that process.

09:53:13 5 A. The Secretary of State's Office has a program
09:53:17 6 called AVID, and that is where we register new
09:53:24 7 registrants. And then we scan in the voter registration
09:53:27 8 form to that system as well.

09:53:29 9 Q. And then when it comes to actual voting, either
09:53:33 10 in person or early voting and by mail, do you personally
09:53:38 11 have any responsibility for that activity?

09:53:41 12 A. Voting by mail, yes. Not on election day,
09:53:47 13 though.

09:53:47 14 Q. Okay. So tell me, first of all, the process.
09:53:50 15 What types of early voting are available in
09:53:58 16 Navajo County?

09:54:02 17 A. So we have early ballots that go out, and those
09:54:05 18 are sent out through the post. We also have in-person
09:54:09 19 early voting here at the Recorder's Office where they can
09:54:13 20 come in and actually vote a ballot, a paper ballot or on
09:54:17 21 the machine. And then our voter outreach, Isaura Nez, she
09:54:21 22 is in charge of early voting out on the Reservation, out
09:54:25 23 in different cities and towns.

09:54:28 24 Q. Okay. So in terms of in-person early voting
09:54:31 25 location, besides the County Recorder's Office, there are

09:54:36 1 also locations out, further out on the reservations?

09:54:41 2 A. Yes. And they differ every election.

09:54:44 3 Q. Are there drop boxes, as well, in Navajo County?

09:54:49 4 A. We do have drop boxes.

09:54:52 5 Q. And where are those located?

09:54:55 6 A. They are everywhere. I believe we have 16 drop

09:54:59 7 boxes and they're throughout the county.

09:55:01 8 Q. And the people within your office, who is

09:55:10 9 responsible for administering the early voting?

09:55:14 10 A. Our office.

09:55:16 11 Q. Okay. And you have a role in that?

09:55:18 12 A. Correct.

09:55:19 13 Q. And election day, you say you don't have any

09:55:24 14 role.

09:55:24 15 Who, who is responsible for staffing and

09:55:27 16 organizing that?

09:55:28 17 A. The elections director.

09:55:31 18 Q. And the County Recorder's Office is not involved

09:55:38 19 in that?

09:55:38 20 A. Not on election day. We work here in the office

09:55:41 21 answering questions, but we don't have any dealing with

09:55:44 22 the election.

09:55:45 23 Q. Okay. Let me ask you to open what was

09:55:59 24 identified to you as Petty 6, and that's the previously

09:56:04 25 marked deposition Exhibit 6 from the Petty deposition.

09:56:08 1 A. Okay. I'm sorry. Give me one second. I'm
09:56:39 2 trying to -- it looks like my -- okay. I have a lot of
09:56:50 3 Pettys.

09:56:50 4 Q. Right. You should have 1 through 34.

09:56:53 5 A. Okay.

09:56:54 6 Q. And this is No. 6.

09:56:56 7 A. Okay. Okay. All right.

09:57:04 8 Q. Do you recognize this as the first chapter of
09:57:09 9 the 2019 elections procedures manual?

09:57:11 10 A. Yes.

09:57:12 11 Q. We saw reference to the EPM in prior discovery
09:57:18 12 responses that we looked at.

09:57:19 13 Is this the EPM, or at least Chapter 1 of it?

09:57:24 14 A. This is the one, yes.

09:57:25 15 Q. Okay. It's dated 2019. Is this the operative
09:57:31 16 version?

09:57:32 17 A. This is the current one, yes.

09:57:33 18 Q. And I take it from your prior testimony this is
09:57:38 19 the version that you were following.

09:57:40 20 A. This is the version.

09:57:44 21 Q. Okay. And do you know, or is your office
09:57:46 22 legally required to follow at least Chapter 1 of the EPM?

09:57:52 23 A. Are we legal -- yes.

09:57:58 24 Q. Yes.

09:57:58 25 A. I do believe so.

09:58:01 1 Q. All right. Are you, are you aware of any other,
09:58:05 2 any counties that aren't following EPM Chapter 1?

09:58:10 3 A. I do not know.

09:58:11 4 Q. Okay. Do you know what is the Voter
09:58:19 5 Registration Advisory Committee?

09:58:24 6 A. Yes. VRAC.

09:58:29 7 Q. Yeah. And we looked at the attachment to the
09:58:32 8 Lorick, December 30 email. That, that's the same entity,
09:58:36 9 right? VRAC?

09:58:36 10 A. Right. Correct.

09:58:40 11 Q. Do you personally have any role in VRAC?

09:58:43 12 A. I attend the meetings, yes.

09:58:46 13 Q. All right. And are you, are you the designee
09:58:49 14 from Navajo County, or do other of your colleagues also
09:58:54 15 attend?

09:58:54 16 A. That would be the County Recorder.

09:58:58 17 Q. Okay. So sometimes Mr. Sample also attends?

09:59:01 18 A. Yes. He has to be present for a vote.

09:59:05 19 Q. I see. And how often does VRAC meet?

09:59:09 20 A. It's not set. It changes. It's been a few
09:59:17 21 weeks since the last VRAC meeting.

09:59:20 22 Q. Can you give an estimate, in general, what's the
09:59:26 23 frequency? Every week? Every couple weeks? Every month?

09:59:31 24 A. Maybe, maybe every month, but it could change.

09:59:37 25 Q. Are you familiar with the AVID Enhancement

09:59:46 1 Committee? Maybe --

09:59:46 2 A. I am.

09:59:47 3 Q. -- you pronounce it AVID. Yes?

09:59:49 4 Is it AVID or AVID?

09:59:50 5 A. I say AVID.

09:59:52 6 Q. Okay. And what is that committee?

09:59:54 7 A. We create enhancements for the AVID voter
10:00:01 8 registration system.

10:00:01 9 Q. And that's the database that you were referring
10:00:04 10 to earlier.

10:00:05 11 A. Correct.

10:00:05 12 Q. And so are, are you the Navajo County designee
10:00:14 13 to that committee?

10:00:15 14 A. I am.

10:00:16 15 Q. And do you have any roles at the committee,
10:00:21 16 other than as a member, subcommittees or that sort of
10:00:27 17 thing?

10:00:27 18 A. Yeah, I don't have any roles.

10:00:29 19 Q. So I want to now turn to a subject we have
10:00:42 20 already touched on which is implementation of the, the new
10:00:50 21 laws. And I want to focus on H.B. 2492 at first.

10:00:59 22 Have you been involved at all, has your office,
10:01:06 23 I should ask, in efforts to interpret the provisions of
10:01:16 24 2492?

10:01:16 25 A. No. We have not.

10:01:18 1 Q. And how about 2243? Has your office been
10:01:22 2 involved in efforts to interpret that --
10:01:27 3 A. No.
10:01:28 4 Q. -- legislation?
10:01:32 5 A. No. We have not.
10:01:33 6 Q. I think we've covered this already, but are
10:01:39 7 there any portions of H.B. 2492 or H.B. 2243 that Navajo
10:01:48 8 County is currently enforcing?
10:01:51 9 A. Not at the moment.
10:01:53 10 Q. We discussed before the, you know, potential for
10:02:22 11 a new election procedures manual that might create new
10:02:27 12 requirements that you would need to start to follow.
10:02:29 13 Do you know the status of potential revisions to
10:02:35 14 the election procedures manual?
10:02:37 15 A. I do not.
10:02:38 16 Q. Has your office received any drafts of proposed,
10:02:48 17 a proposed new election procedures manual?
10:02:51 18 A. New drafts, no.
10:02:54 19 Q. At least you personally have not seen any
10:03:01 20 communications, for example, from the Secretary of State's
10:03:04 21 Office circulating a, you know, potential new election
10:03:11 22 procedures manual or new portions of an election
10:03:15 23 procedures manual?
10:03:15 24 A. New portions, no.
10:03:19 25 Q. And do you know, unless and until there's a new

10:03:30 1 election procedures manual, what you are supposed to
10:03:34 2 follow?

10:03:34 3 A. Not as of yet, no.

10:03:37 4 Q. Okay. Well, bad question. I think I was
10:03:41 5 repeating a prior question. I want to make sure now that
10:03:46 6 it's, that what you said before still holds.

10:03:49 7 Unless and until there's a new election
10:03:54 8 procedures manual, what election procedures manual do you
10:03:58 9 follow?

10:03:58 10 A. The 2019 elections procedure manual.

10:04:03 11 Q. So we talked earlier about the voter
10:04:22 12 registration process, that you receive voter registrations
10:04:29 13 from the MVD. And, in fact, there are two ways to
10:04:33 14 register through MVD, right?

10:04:36 15 A. Correct.

10:04:36 16 Q. What are those?

10:04:37 17 A. You can go in in person in MVD, or you can go on
10:04:43 18 to Servicearizona.com, and that is also through MVD.

10:04:45 19 Q. And how about MVD now, are you familiar with
10:04:49 20 that?

10:04:49 21 A. I am. It's not up and running yet, but it's
10:04:53 22 going to take place of ServiceArizona.

10:04:56 23 Q. Good. I'm not talking about voter registration.
10:05:03 24 I'm talking about my own experience trying to get new
10:05:06 25 licenses and pay bills through ServiceArizona.

10:05:11 1 And then, in terms of paper methods, we talked
10:05:18 2 about the Box 23. That's on the state form, right?
10:05:25 3 A. That is.
10:05:26 4 Q. Are there other paper forms that individuals can
10:05:31 5 use?
10:05:31 6 A. There is, there's a federal registration form,
10:05:36 7 and there is also a federal postcard application.
10:05:48 8 Q. Does your office provide forms, either state
10:05:54 9 form, federal form, to any third party groups to assist in
10:06:00 10 registration efforts?
10:06:01 11 A. We do.
10:06:02 12 Q. Describe that effort, if you would.
10:06:05 13 A. We have a certain form that's coded differently
10:06:09 14 than normal, and we give those out to voter registration
10:06:09 15 drives.
10:06:13 16 Q. What do you mean it's coded differently?
10:06:18 17 A. The form has a code that, when I receive it, I
10:06:22 18 know it's received by a third party voter registration
10:06:26 19 drive.
10:06:26 20 Q. I see. So if you would, if you would open Petty
10:06:30 21 Exhibit 16.
10:06:43 22 A. Okay.
10:06:44 23 Q. Do you recognize that document?
10:06:46 24 A. I see these, yes.
10:06:47 25 Q. Okay. Is that the state form?

10:06:48 1 A. That one is the state form, correct.

10:06:50 2 Q. All right. So what -- I apologize. I'm not
10:06:54 3 sure I have seen the, the coded form that you're talking
10:06:57 4 about.

10:06:58 5 Would it be the, the form that contains the
10:07:03 6 same, you know, 24 boxes but had some additional
10:07:08 7 information added somewhere to it?

10:07:10 8 A. It is the same.

10:07:11 9 Q. Okay. So where is the code added that let's you
10:07:15 10 know that this came through a third party drive?

10:07:18 11 A. Yeah. So if you see question No. 1, to the
10:07:21 12 right, there is a box that says, box for office use only.

10:07:21 13 Q. Yes.

10:07:25 14 A. That is where the code would go.

10:07:27 15 Q. I see. Okay. And is it coded by particular
10:07:31 16 third party organization?

10:07:35 17 A. No.

10:07:36 18 Q. Or -- so whoever the organization is they're
10:07:42 19 going to get the same code?

10:07:43 20 A. Everybody gets -- for Navajo County, everybody
10:07:46 21 gets the same code.

10:07:47 22 Q. Okay. If you would open Document K.

10:08:04 23 A. Okay.

10:08:04 24 Q. And let's mark that as the next deposition
10:08:04 25 exhibit --

10:08:12 1 Is that 43? Karen, is 43 the right number?

10:08:33 2 THE REPORTER: Yes.

10:08:33 3 MR. ROSENBAUM: Great.

10:08:33 4 BY MR. ROSENBAUM:

10:08:35 5 Q. All right. This is, this is not a document
10:08:36 6 produced by Navajo County. I found it online, so it
10:08:42 7 doesn't have a production number.

10:08:43 8 But are you familiar with this document?

10:08:45 9 A. I am not.

10:08:47 10 Q. It appears to be a Navajo Nation voter
10:08:57 11 registration document, and it seems to list various places
10:09:08 12 where folks could go to try and register to vote. And
10:09:13 13 among the locations listed is the Navajo County Recorder's
10:09:24 14 Office, and your name is listed there.

10:09:26 15 Do you see that?

10:09:27 16 A. I do.

10:09:28 17 Q. All right. Who is Karen Lerma? Is she related
10:09:30 18 to you?

10:09:30 19 A. No.

10:09:31 20 Q. Anyway, the reason I flagged this document is it
10:09:37 21 suggested to me that there is some cooperation,
10:09:41 22 coordination, at least with the Navajo Nation in terms of
10:09:46 23 voter registration efforts, but maybe I'm wrong.

10:09:49 24 Is there any such efforts that your office is
10:09:55 25 engaged in with the Navajo Nation?

10:09:57 1 A. We do register Navajo Nation voters, but that's
10:10:05 2 all we do.

10:10:05 3 Q. Okay. And in terms of internal Navajo Nation
10:10:10 4 elections for their counsel, for their leaders, your
10:10:14 5 office has no role. Is that right?

10:10:15 6 A. Yes. Correct.

10:10:17 7 Q. Correct. Okay.

10:10:20 8 Are their election days coordinated with yours,
10:10:24 9 or do they schedule separately?

10:10:28 10 A. They have the same dates.

10:10:30 11 Q. If somebody was voting in person in your office
10:10:38 12 in Holbrook, would they, would they be able to also vote a
10:10:43 13 Navajo Nation ballot?

10:10:47 14 A. No.

10:10:48 15 Q. How about with the White Mountain Apache? Any,
10:10:52 16 do you have any outreach and coordination in terms of
10:10:56 17 voter registration with that tribe?

10:11:00 18 A. No, we don't.

10:11:02 19 Q. And how about the Hopi Tribe? Any coordination
10:11:04 20 with the Hopi Tribe?

10:11:06 21 A. No.

10:11:07 22 Q. Does your office distribute the federal form if
10:11:17 23 voters ask for it?

10:11:18 24 A. No. We do not.

10:11:20 25 Q. Are there any NVR agencies from whom you receive

10:11:32 1 forms?

10:11:32 2 A. We do. We receive them from DES. That's all
10:11:44 3 the ones, the only ones I have seen come through.

10:11:47 4 Q. So when a new application comes in -- let's
10:11:57 5 assume it's a state form for purposes of these
10:11:59 6 questions -- you mentioned you make an entry into the AVID
10:12:04 7 database. Is there any other processing, checking
10:12:11 8 verification, that your office would undertake before
10:12:19 9 confirming that this registrant, in fact, is a valid
10:12:24 10 Arizona voter?

10:12:24 11 A. Arizona voter?

10:12:28 12 Q. Well, for example, checking signatures, checking
10:12:35 13 with the Motor Vehicle Department. Tell us what processes
10:12:42 14 you go through in order to --

10:12:44 15 A. Okay. Yeah.

10:12:44 16 Q. -- verify the new voter.

10:12:46 17 A. Right. The system has a thing called HAVA
10:12:50 18 checks, and it runs them through the MVD to verify
10:12:56 19 citizenship. We also, you have to check signatures, make
10:13:00 20 sure they match. We check date of birth, social, make
10:13:06 21 sure they match.

10:13:08 22 Q. And what if your office finds that there's
10:13:13 23 something that didn't match? What is the next step?

10:13:18 24 A. I mean, it depends on what didn't match, but we
10:13:21 25 would contact the voter. And then give them ways to

10:13:31 1 correct it.

10:13:32 2 Q. And if you would look at, in Document C, which
10:14:02 3 we have marked as a deposition exhibit. These were
10:14:07 4 responses to the consolidated plaintiffs' request for
10:14:11 5 production, response No. 5. It says:

10:14:17 6 If we cannot verify an address on a voter
10:14:22 7 registration form we send out the attached letter -- which
10:14:25 8 is described as RFP.A.

10:14:34 9 I thought I had that premarked. Let's see. Ah,
10:14:46 10 yes. So Exhibit R, Document R, could you open that?

10:14:58 11 A. Yep. That's it.

10:14:59 12 Q. Is that the letter that is referenced in the RFP
10:15:06 13 response that we just looked at?

10:15:08 14 A. Yes.

10:15:08 15 Q. Okay. And then so when, when the recipient of
10:15:25 16 that letter responds, what do you next?

10:15:30 17 A. For this one, specifically, we correct their
10:15:34 18 residential address, get them precincted correctly, and
10:15:38 19 then update their registration to active. And then they
10:15:46 20 also get a voter ID card sent to them.

10:15:50 21 Q. And we talked earlier about what happens if a
10:15:53 22 voter lacks a standard residential address. I want to, I
10:16:00 23 want to ask you to open up Document I.

10:16:17 24 And, while you're doing that, let's mark the
10:16:22 25 prior document as Exhibit --

10:16:25 1 Karen, now, I'm sorry, I lost track. Help me.

10:16:36 2 THE REPORTER: The next one would be 44.

10:16:36 3 BY MR. ROSENBAUM:

10:16:37 4 Q. Okay. So that will be 44, the letter that we
10:16:38 5 marked, and then this document will be 45.

10:16:49 6 And do you recognize this document, Exhibit 45,
10:16:53 7 which is, is I --

10:16:53 8 A. I do.

10:16:57 9 Q. -- to you.

10:16:59 10 What is it?

10:17:00 11 A. These are the -- gosh, I'm wearing a blank --
10:17:09 12 the rosters for election day.

10:17:11 13 Q. And, by the way, I don't see a confidentiality
10:17:23 14 stamp on this, but I assume that you and everybody else
10:17:29 15 believe this should be marked as confidential, because you
10:17:35 16 see it gives individual voter names and other information
10:17:39 17 about them.

10:17:42 18 MR. MORGAN: Yeah, Craig Morgan for the
10:17:44 19 Secretary of State. I agree, David.

10:17:49 20 MR. MOORE: And, counsel, I think that this is
10:17:50 21 covered by the terms and conditions of the protective
10:17:53 22 order that's been entered for the protection of voter
10:17:54 23 registration data, so, yes.

10:17:57 24 MR. ROSENBAUM: Yeah. I'm just, I'm noting for
10:17:59 25 the record, and I appreciate that. I think we all agree.

10:18:04 1 So, Karen, this document is confidential, and I
10:18:09 2 think our discussion about it is confidential, at least to
10:18:14 3 the extent we talk, discuss some of the details.

10:18:20 4 BY MR. ROSENBAUM:

10:18:22 5 Q. So is this a complete roster of all voters?
10:18:29 6 It's about 814 pages and -- let me just ask you.

10:18:35 7 What voters are depicted in, in this exhibit --

10:18:35 8 A. All voters --

10:18:42 9 Q. -- Exhibit 45?

10:18:44 10 A. Yeah. All voters in Precinct 1 in the area of
10:18:44 11 Chilchinbeto.

10:18:53 12 You see the polling place at the top.

10:18:56 13 Q. Yes. And where is Chilchinbeto located?

10:19:07 14 A. It is up near towards the top of the Navajo
10:19:13 15 County, closer to Utah. It's on the Navajo Reservation.

10:19:18 16 Q. The entirety of it is on the Reservation?

10:19:22 17 A. Yes. Yes. The whole, hundred percent.

10:19:27 18 Q. So under residential address, slash, mailing
10:19:35 19 address, do you see that column?

10:19:37 20 A. Yes.

10:19:37 21 Q. I want to ask you just some examples and see how
10:19:52 22 this relates to our discussion of drawing a map on Box 23.

10:19:57 23 So if you look at the voter No. 2.

10:19:59 24 A. Okay.

10:20:00 25 Q. For purposes of this examination I won't mention

10:20:03 1 the name, but the address says, 7 M SW Pinon Chapter,
10:20:14 2 Pinon 86510.

10:20:17 3 What does 7 M SW mean?

10:20:20 4 A. So that would be seven miles southwest of the
10:20:23 5 Pinon Chapter house.

10:20:26 6 Q. The Pinon Chapter house?

10:20:28 7 A. Yes. Yes. Right.

10:20:28 8 Q. So I take it there's no street address?

10:20:37 9 A. There is no street --

10:20:39 10 Q. This is a location that would have been
10:20:43 11 geolocated in order to determine what precinct that voter
10:20:48 12 should vote at?

10:20:49 13 A. Right.

10:20:51 14 Q. There is a PO box noted, PO Box 1171.

10:20:59 15 A. Hmm hmm.

10:21:00 16 Q. Who who owns that PO box, or who, what, what
10:21:06 17 person or entity is affiliated with that PO box?

10:21:10 18 A. The United States Postal Service, I believe.

10:21:14 19 Q. Well, I guess, here's what I meant.

10:21:17 20 Is this the Pinon Chapter's --

10:21:17 21 A. No.

10:21:19 22 Q. -- Chapter House PO box? Or is this the
10:21:22 23 individual's PO box?

10:21:23 24 A. This is the individual's PO box.

10:21:25 25 Q. And is that at their residence address, or at

10:21:31 1 some post office location elsewhere?

10:21:33 2 A. That's a post office.

10:21:35 3 Q. And if -- skip down to voter 4, because voter 3

10:21:44 4 appears to be related to voter 2, same location, right?

10:21:49 5 A. Yeah.

10:21:49 6 Q. This is Coral Court Kayenta.

10:21:59 7 What is Coral Court? Is that an actual street

10:22:02 8 address?

10:22:02 9 A. It's just the street. They don't have -- a lot

10:22:06 10 of the houses out there aren't numbered.

10:22:09 11 Q. And the PO box there, would that be at their

10:22:13 12 residence or at a post office somewhere?

10:22:15 13 A. That would be at a post office.

10:22:17 14 Q. Okay. And let's jump down to voter 10.

10:22:24 15 Is that voter's location 18 miles north of

10:22:29 16 Highways 160/163?

10:22:32 17 A. Correct.

10:22:32 18 Q. And that, again that's, that's a location you

10:22:40 19 would have geolocated in order to determine the precinct?

10:22:44 20 A. Correct.

10:22:45 21 Q. And the PO box there, is that at the resident's

10:22:49 22 address, or is that a separate post office location?

10:22:52 23 A. It's at a post office.

10:22:54 24 Q. Using voter No. 10 as an example, are you aware

10:23:05 25 of any documentary proof of residence that would identify

10:23:13 1 a location for that voter at 18 miles north of
10:23:18 2 Highway 160/163?

10:23:21 3 DEFENSE COUNSEL: Foundation.

10:23:24 4 THE WITNESS: I wouldn't know of any.

10:23:26 5 BY MR. ROSENBAUM:

10:23:34 6 Q. No voter, when registering to vote, where you
10:23:42 7 were personally involved, has ever presented documentary
10:23:46 8 proof of that kind of location. Is that right?

10:23:51 9 A. Correct.

10:23:52 10 DEFENSE COUNSEL: Form.

10:23:52 11 MR. ROSENBAUM: Karen, did you get the answer?

10:23:52 12 THE REPORTER: I did.

10:23:53 13 Correct.

10:23:53 14 BY MR. ROSENBAUM:

10:23:58 15 Q. And the answer was -- yes, so you were agreeing
10:24:02 16 with me that no voter had ever presented documentary proof
10:24:08 17 at that kind of residence, correct?

10:24:09 18 A. Right.

10:24:10 19 Q. And I take it the county does not assign an
10:24:27 20 address for voters such as the ones we've looked at. Is
10:24:34 21 that right?

10:24:34 22 A. Correct. Yes.

10:24:38 23 Q. Is there any outreach effort that Navajo County
10:24:55 24 is involved in to attempt to increase registration of
10:25:04 25 Native American voters?

10:25:07 1 A. We have a voter outreach person in our office,
10:25:11 2 Isaura Nez, and she goes out and does voter registration
10:25:14 3 drives weekly.

10:25:15 4 Q. And -- go ahead.

10:25:18 5 A. On the Reservation and off.

10:25:21 6 Q. And can you describe what that entails?

10:25:27 7 A. We have a trailer and a truck that we take out,
10:25:32 8 and it's, it says voter registration on it. And we go out
10:25:38 9 to the flea markets. We go out -- or pick a spot
10:25:43 10 somewhere out on res -- the community it tends to a lot,
10:25:46 11 and then we try to get some registrations.

10:25:50 12 Q. And why do that outreach, outreach, targeted to
10:26:02 13 Native Americans?

10:26:02 14 A. Why?

10:26:03 15 Q. Yes.

10:26:04 16 A. We just know it's a long drive from all the way
10:26:08 17 at the top of the Reservation to come into Holbrook to
10:26:12 18 fill out a form. We know a lot of the people out there
10:26:15 19 don't have vehicles, so we try to help.

10:26:19 20 Q. And just so it's clear on the record, Holbrook
10:26:23 21 is the county seat, that's where your office is?

10:26:25 22 A. It is.

10:26:26 23 Q. In your knowledge and experience, is the voter
10:26:37 24 registration rate lower for the Native communities in your
10:26:40 25 county than non-Native voters?

10:26:45 1 A. Yeah, I would say so.

10:26:49 2 Q. And you mentioned Holbrook. What are the other
10:26:56 3 towns and communities within Navajo County where one might
10:27:01 4 find the congregation of non-Native voters?

10:27:10 5 A. Off the Reservation, you mean?

10:27:12 6 Q. Yeah. Off reservation, you know, towns.

10:27:18 7 A. I don't understand the question.

10:27:20 8 DEFENSE COUNSEL: Foundation.

10:27:22 9 BY MR. ROSENBAUM:

10:27:23 10 Q. Yeah, so what are the, what are the towns within
10:27:25 11 Navajo County that, you know, Arizonans might recognize,
10:27:30 12 those who like to vacation, for example, in the mountains?

10:27:33 13 A. Oh, I see. So we have Show Low, Arizona;
10:27:37 14 Pinetop, Arizona; here; Winslow, Arizona. And then we
10:27:45 15 also have Heber and Overgaard.

10:27:52 16 Q. Do you run registration drives or efforts in,
10:27:57 17 for example, Show Low as well?

10:27:58 18 A. We do. We do.

10:28:00 19 Q. Okay. Do you know if H.B. 2492, the documentary
10:28:17 20 proof of residence requirement, becomes effective whether
10:28:24 21 it will also apply to voters who use the federal form?

10:28:30 22 DEFENSE COUNSEL: Form.

10:28:30 23 THE WITNESS: I don't know off the top of my
10:28:33 24 head.

10:28:33 25 BY MR. ROSENBAUM:

10:28:33 1 Q. Okay. Let me ask you to open Petty Exhibit 24.

10:28:55 2 A. Okay.

10:28:56 3 Q. This is a document -- it's not a Navajo County
10:29:02 4 document, but the question at the top is, what constitutes
10:29:07 5 documentary proof of residency.

10:29:13 6 Have you seen this before?

10:29:17 7 A. I have not seen this, no.

10:29:20 8 Q. And do any of the documents listed here include
10:29:39 9 geolocation information on them, the sort we were talking
10:29:43 10 about, that somebody lives, you know, X number of miles
10:29:47 11 southwest of some feature?

10:29:50 12 A. You said Petty --
10:29:57 13 (Simultaneous speakers.)

10:29:57 14 BY MR. ROSENBAUM:

10:29:57 15 Q. Petty 24.

10:29:57 16 A. Oh, I'm sorry.

10:29:57 17 Q. Okay.

10:30:01 18 (The Reporter requested clarification.)

10:30:01 19 MS. BOUGHTON: There was a form and foundation
10:30:03 20 objection.

10:30:04 21 BY MR. ROSENBAUM:

10:30:05 22 Q. And I'm withdrawing the question because the
10:30:07 23 witness didn't have the right document open, so...

10:30:13 24 A. All right. Now I have it open.

10:30:15 25 Q. All right. So let me start where I was before.

10:30:19 1 Is this a document that you've seen before?

10:30:22 2 A. I have.

10:30:24 3 Q. And do you recall in what context you saw this?

10:30:30 4 A. I -- no. I can't tell you how I saw it. I

10:30:40 5 don't...

10:30:41 6 Q. So, and I can tell you, based on, you know,

10:30:44 7 other information, it appears to be an effort to delineate

10:30:48 8 the types of documents that are described under the

10:30:58 9 statutes, if and when the documentary proof of residency

10:31:04 10 requirement becomes effective.

10:31:06 11 A. Okay.

10:31:07 12 Q. And so let me just go through these -- but the

10:31:10 13 question is, to your knowledge and experience, do these

10:31:14 14 documents include the kind of nonstandard address

10:31:20 15 geolocation information that we've been talking about?

10:31:25 16 Okay?

10:31:25 17 A. No. No, I don't think it would.

10:31:28 18 Q. All right. And that's true for every one of the

10:31:31 19 categories of documents on this, on this chart, right?

10:31:35 20 A. Yes. I was going through them all.

10:31:45 21 MR. ROSENBAUM: All right. We've gone an hour

10:31:49 22 and a half. I think I am about done. So why don't we

10:31:54 23 take a break. I will confirm whether I am done, and then

10:31:58 24 we'll hand the questioning off to, I think, Alex, you

10:32:04 25 wanted to go next.

10:32:10 1 THE VIDEOGRAPHER: Standby please.

10:32:12 2 We are off the record. Time on the video
10:32:15 3 monitor is 10:32. This ends Media 1.

10:32:20 4 (Recess taken from 10:32 a.m. 10:47 a.m.)

10:47:07 5 THE VIDEOGRAPHER: We are on the record. The
10:47:21 6 time on the video monitor is 10:47. This begins Media
10:47:25 7 No. 2.

10:47:25 8 BY MR. ROSENBAUM:

10:47:29 9 Q. Mr. Lerma, there's one more document I wanted
10:47:31 10 you to identify if you would. If you could open what was
10:47:36 11 previously identified as Document Q, which we will then
10:47:40 12 mark as deposition Exhibit 45.

10:47:52 13 A. Okay.

10:47:53 14 Q. Can you identify this document for us?

10:48:00 15 A. That is the notice we send out to voters when
10:48:08 16 they need to provide more citizenship.

10:48:11 17 Q. And the letter starts out saying:

10:48:16 18 Based on a recent court decision, we have
10:48:20 19 reviewed your latest voter registration application and
10:48:24 20 determined that you are eligible to vote for federal
10:48:28 21 offices only.

10:48:31 22 Do you see that?

10:48:31 23 A. Yes.

10:48:32 24 Q. All right. And is it -- would, would this
10:48:40 25 letter go to somebody who applied on, using the state

10:48:48 1 form, but failed to prove documentary, to submit
10:48:56 2 documentary proof of citizenship? Or would this only go
10:48:59 3 to people who applied on the federal form? Or would it go
10:49:02 4 to both?

10:49:02 5 A. We used it for both.

10:49:04 6 Q. Okay. And this is the form letter that's still
10:49:08 7 in use?

10:49:09 8 A. Correct.

10:49:09 9 Q. And if you, if you open up, again, what was
10:49:19 10 Document C, responses to the consolidated plaintiffs'
10:49:23 11 request for production, and look at request for production
10:49:30 12 No. 4, the answer that's provided there.

10:49:36 13 Do you see that?

10:49:37 14 A. I do.

10:49:37 15 Q. Is Document Q, Exhibit 46, the form letter that
10:49:48 16 is referenced in response to that request for production?

10:49:52 17 A. It is.

10:49:54 18 MR. ROSENBAUM: All right. Well, thank you very
10:49:57 19 much. I appreciate your time and attention. Those are
10:50:00 20 all of my questions. And I'll turn it over to Mr. Atkins.

10:50:06 21 MR. ATKINS: Thanks, David.

10:50:06 22

10:50:09 23 EXAMINATION

10:50:09 24 BY MR. ATKINS:

10:50:11 25 Q. Hello, Mr. Lerma. Again, my name is Alex

10:50:14 1 Atkins, and I represent Plaintiffs Mi Familia Vota and
10:50:19 2 Voto Latino.

10:50:20 3 I mostly have questions about various parts of
10:50:24 4 the voter registration applications and requirements of
10:50:28 5 those forms.

10:50:30 6 A. Okay.

10:50:31 7 Q. So I understand that your office hasn't really
10:50:38 8 begun interpreting or enforcing any aspects of H.B. 2492,
10:50:44 9 but could you just tell me, to the best of your knowledge,
10:50:49 10 any additional requirements that that new law includes
10:50:55 11 when it comes to voter registration forms.

10:50:58 12 DEFENSE COUNSEL: Form.

10:50:59 13 THE WITNESS: I can't think of any at the
10:51:07 14 moment.

10:51:17 15 BY MR. ATKINS:

10:51:18 16 Q. That's fine.

10:51:19 17 So one piece of information that's requested on
10:51:22 18 the state form that David spoke with you about is
10:51:26 19 birthplace, and I just wanted to confirm.

10:51:31 20 When it comes to the state form, state form
10:51:36 21 applicants are required to provide documentary proof of
10:51:40 22 citizenship, right?

10:51:41 23 A. Yes.

10:51:42 24 Q. And so if a state form applicant provides DPOC,
10:51:52 25 but they do not provide their birthplace, your office will

10:51:59 1 still register them to vote, correct?

10:52:01 2 A. Correct.

10:52:01 3 Q. And does your office have any way of
10:52:05 4 independently confirming whether birthplace information is
10:52:10 5 correct or incorrect?

10:52:11 6 A. No, we do not.

10:52:13 7 Q. What use, if any, does your office make of an
10:52:22 8 applicant's birthplace information?

10:52:25 9 A. What use?

10:52:27 10 Q. Correct.

10:52:28 11 A. Is that what you said?

10:52:30 12 It's just another way to help us verify that
10:52:33 13 that's the correct voter when registering.

10:52:41 14 Q. But, to confirm, you don't have a means of
10:52:44 15 determining whether the birthplace provided is correct or
10:52:48 16 incorrect, right?

10:52:49 17 A. No, we don't.

10:52:51 18 Q. So if, under the new laws, birthplace became a
10:52:59 19 mandatory piece of information provided on the state form,
10:53:06 20 do you have any insights into how your office's use of
10:53:11 21 that information would change?

10:53:17 22 DEFENSE COUNSEL: Form.

10:53:17 23 THE WITNESS: At the moment, no.

10:53:19 24 BY MR. ATKINS:

10:53:19 25 Q. Are you aware of any state, other than Arizona,

10:53:22 1 that requires voter registration applicants to provide
10:53:29 2 their birthplace?

10:53:30 3 DEFENSE COUNSEL: Foundation.

10:53:33 4 THE WITNESS: I do not.

10:53:34 5 BY MR. ATKINS:

10:53:38 6 Q. If we could please pull up what's already been
10:53:42 7 marked as Exhibit 40, Mr. Lerma. I think for you this
10:53:49 8 might be labeled as Document C. This is the county's
10:53:57 9 responses to consolidated plaintiffs' requests for
10:54:01 10 production.

10:54:01 11 A. Okay.

10:54:02 12 Q. And if I can direct you to the first request for
10:54:12 13 production.

10:54:12 14 Do you see that?

10:54:16 15 A. Yes, I do.

10:54:19 16 Q. All right. So just to make sure we are on the
10:54:23 17 same page, request for production No. 1 asks for:

10:54:26 18 All documents and communications from January 1,
10:54:30 19 2017 to the present relating to the use of birthplace and
10:54:36 20 citizenship checkbox on the state form, including but not
10:54:39 21 limited to whether voter registration applicants were
10:54:42 22 required to provide birthplace or complete the citizenship
10:54:47 23 checkbox to be registered to vote, whether voter
10:54:51 24 registration applicants actually did provide such
10:54:53 25 information, how frequently voter registration applicants

10:54:57 1 provided correct birthplace, failed to provide birthplace,
10:55:01 2 complete or failed to complete the citizenship checkbox,
10:55:04 3 or make errors in completing the citizenship checkbox, and
10:55:09 4 whether voter registration applicants were rejected for
10:55:12 5 failing to provide this information and/or the number of
10:55:14 6 voter registration applicants who cured their applications
10:55:17 7 for these errors or omissions pertaining to birthplace
10:55:21 8 and/or the citizenship checkbox?

10:55:25 9 If I can just direct you to Subpart I of the
10:55:30 10 county's response. That says, Subpart I, quote:

10:55:36 11 If an applicant was using a state form to
10:55:40 12 register, he or she would have been required to provide a
10:55:43 13 birthplace or complete the citizen checkbox in order to be
10:55:48 14 registered to vote in state and local elections.

10:55:52 15 And I believe you confirmed earlier that that
10:55:55 16 statement is still accurate?

10:55:58 17 A. Yes.

10:55:59 18 Q. And am I correct that this statement is speaking
10:56:04 19 to what the new law, H.B. 2492, would require, as opposed
10:56:12 20 to what is currently required?

10:56:16 21 DEFENSE COUNSEL: Form.

10:56:17 22 THE WITNESS: No. This is what we currently do.

10:56:21 23 BY MR. ATKINS:

10:56:25 24 Q. So it's currently the case that any state form
10:56:30 25 registrant is required to provide either their birthplace

10:56:34 1 or complete the citizenship checkbox?

10:56:38 2 A. That is what we do, yes, currently.

10:56:41 3 Q. Are you aware of a provision of the election
10:56:50 4 procedures manual that imposes that requirement?

10:56:54 5 A. Not, no, not off the top of my head.

10:57:06 6 Q. So switching gears to the checkbox specifically.

10:57:11 7 A. Okay.

10:57:12 8 Q. Similarly, if an applicant submits a state
10:57:18 9 registration form and provides documentary proof of
10:57:23 10 citizenship, you wouldn't reject the application if the
10:57:30 11 applicant failed to check the citizenship checkbox. Is
10:57:34 12 that correct?

10:57:34 13 A. That's correct.

10:57:35 14 Q. And is it fair to say that that's because you're
10:57:41 15 able to confirm that the applicant is a citizen due to
10:57:45 16 their having provided DPOC?

10:57:48 17 A. Correct.

10:57:49 18 DEFENSE COUNSEL: Form.

10:57:51 19 BY MR. ATKINS:

10:57:51 20 Q. If an applicant, if an applicant submits a
10:57:55 21 federal registration form, and completes the federal
10:58:00 22 form's affirmation of citizenship at the bottom of the
10:58:04 23 form, is it correct that you don't reject the application
10:58:09 24 if the applicant fails to complete the checkbox on the
10:58:13 25 federal form?

10:58:14 1 A. Correct.

10:58:14 2 Q. On either the state or federal form, what use,
10:58:24 3 if any, does your office make of an applicant having
10:58:28 4 checked the box indicating that they are a citizen?

10:58:34 5 A. What use?

10:58:35 6 Q. Correct.

10:58:36 7 A. Is that what you said?

10:58:38 8 I, I, I don't know -- in our office, what use it
10:58:57 9 is for, seeing as though we use the HAVA checks to verify
10:59:02 10 citizenship.

10:59:14 11 Q. I'm sorry. Was that your complete answer?

10:59:16 12 A. Yeah. Hmm hmm.

10:59:17 13 Q. Okay. If I can change gears a bit.

10:59:29 14 In general, are there laws or policies or
10:59:33 15 guidelines, that you're aware of, that currently prohibit
10:59:39 16 individuals who are not eligible to vote from registering?

10:59:44 17 A. No.

10:59:45 18 Q. If I can direct you to what's been marked as
10:59:54 19 Exhibit 42. This may be labeled as Document D. These are
11:00:03 20 the county's responses to consolidated plaintiffs'
11:00:09 21 interrogatories that we looked at previously.

11:00:11 22 A. Okay.

11:00:12 23 Q. Do you have that document in front of you?

11:00:15 24 A. I do.

11:00:16 25 Q. If I can please ask you to scroll down to

11:00:22 1 interrogatory No. 9.

11:00:28 2 A. Okay.

11:00:29 3 Q. So interrogatory No. 9 asks the county to:

11:00:35 4 Identify and describe each instance in which you
11:00:40 5 have established that a non-U.S. citizen or non-county
11:00:43 6 resident has registered to vote or has voted in your
11:00:47 7 county from January 1st, 2013 to the present, including
11:00:52 8 but not limited to any supporting evidence thereof and any
11:00:55 9 documents and communications related to such instance,
11:00:59 10 whether such instance involved misconduct, fraud, or
11:01:04 11 mistake, and in any instances in which your office
11:01:07 12 informed such non-U.S. citizen they were eligible to vote
11:01:11 13 in the county and later determined they were actually
11:01:14 14 ineligible. Your answer should identify by name any
11:01:20 15 witness -- any witnesses who have or are likely to have
11:01:24 16 knowledge or information related to any such instances of
11:01:27 17 a non-U.S. citizen or non-county resident registering or
11:01:31 18 voting in your county.

11:01:33 19 If I can just ask you to read over your
11:01:41 20 response.

11:01:46 21 A. Correct. I did.

11:01:48 22 Q. So is it correct that in Navajo County there
11:01:53 23 have been no reported instances of misconduct, fraud, lack
11:01:57 24 of voter confidence, election security, or any other
11:02:01 25 problem related to citizenship, resident's location, proof

11:02:06 1 of citizenship, or residential address?

11:02:09 2 DEFENSE COUNSEL: Form.

11:02:10 3 THE WITNESS: That's correct for Navajo County.

11:02:15 4 BY MR. ATKINS:

11:02:24 5 Q. What does your -- sorry. Strike that.

11:02:28 6 And did Navajo County identify any

11:02:37 7 non-U.S. citizens or non-county residents that registered

11:02:41 8 or voted during the period of time asked about in the

11:02:45 9 interrogatory?

11:02:55 10 DEFENSE COUNSEL: Object to form. Form.

11:02:59 11 THE WITNESS: I don't understand that question.

11:03:02 12 BY MR. ATKINS:

11:03:02 13 Q. So interrogatory No. 9 asked you to identify and

11:03:05 14 describe instances where the county established that a

11:03:08 15 non-citizen or a non-resident had registered or voted.

11:03:14 16 So my question is, is it correct that Navajo

11:03:19 17 County did not identify any non-citizens or non-residents

11:03:24 18 who registered or voted during this period of time?

11:03:27 19 A. That's correct.

11:03:28 20 DEFENSE COUNSEL: Form.

11:03:29 21 BY MR. ATKINS:

11:03:43 22 Q. What does your office do, if anything, to

11:03:47 23 identify instances of voter fraud?

11:03:52 24 DEFENSE COUNSEL: Form, foundation.

11:03:54 25 THE WITNESS: What do we -- to verify instances?

11:03:58 1 BY MR. ATKINS:

11:03:58 2 Q. To identify instances of voter fraud.

11:04:02 3 A. Nothing, nothing as of yet. We have not seen it

11:04:11 4 come across us.

11:04:12 5 Q. Are citizens able to submit allegations of

11:04:17 6 potential voter fraud to your office?

11:04:20 7 A. They are.

11:04:21 8 Q. And has this happened, in your experience?

11:04:25 9 A. It has not.

11:04:26 10 Q. Do you agree that these new laws will make voter

11:04:46 11 registration more difficult for voters?

11:04:49 12 DEFENSE COUNSEL: Form.

11:04:53 13 THE WITNESS: I don't have any position.

11:04:56 14 BY MR. ATKINS:

11:04:56 15 Q. Do you have a position on whether the new laws

11:04:59 16 will make facilitating voter registration more difficult

11:05:04 17 for election officials?

11:05:06 18 A. I don't have any --

11:05:07 19 DEFENSES COUNSEL: Form.

11:05:08 20 THE WITNESS: -- any position.

11:05:15 21 MR. ATKINS: All right. That's, that's all the

11:05:16 22 questions I have, so happy to hand it over to Mr. Hindley.

11:05:23 23 MR. HINDLEY: Thank you, Alex.

11:05:23 24 ///

11:05:23 25 ///

EXAMINATION

11:05:26 1
11:05:26 2 BY MR. HINDLEY:

11:05:26 3 Q. Mr. Lerma, my name is John Hindley. I'm one of
11:05:30 4 the attorneys for Plaintiffs Poder Latinx, Chicanos Por La
11:05:40 5 Causa, and Chicanos Por La Causa Action Fund. I'm just
11:05:40 6 going to ask you a couple of questions about election
11:05:43 7 procedure manual --

11:05:43 8 A. Okay.

11:05:44 9 Q. -- some of the databases you might be utilizing,
11:05:48 10 and then some of your views on H.B. 2243 and H.B. 2492.

11:05:57 11 So, with that, I believe, so earlier
11:06:00 12 Mr. Rosenbaum showed you the 2019 elections procedure
11:06:05 13 manual.

11:06:05 14 Do you remember that?

11:06:06 15 A. I do.

11:06:07 16 Q. And do you mind pulling that up. That was Petty
11:06:12 17 6?

11:06:20 18 MR. HINDLEY: Madam Court Reporter, do you
11:06:24 19 remember what Exhibit that was?

11:06:25 20 THE REPORTER: I do not know which one.

11:06:25 21 BY MR. HINDLEY:

11:06:26 22 Q. Okay. So if you go to Petty 6, do you mind
11:06:29 23 scrolling down to page i on the document, page six of the
11:06:34 24 PDF, the first page of the table of contents.

11:06:40 25 A. Okay.

11:06:41 1 Q. Let me know.

11:06:42 2 And what is the subject of Chapter 1?

11:06:46 3 A. Voter registration.

11:06:49 4 Q. Thank you.

11:06:50 5 And so you might have addressed this with
11:06:54 6 Mr. Rosenbaum, but is the election procedures manual
11:06:57 7 legally binding on the Navajo County Recorder's Office?

11:07:06 8 A. It is.

11:07:08 9 Q. So, in other words, you're legally bound to
11:07:10 10 follow what is in the election procedures manual?

11:07:12 11 A. We do.

11:07:13 12 Q. And that includes all chapters and parts of the
11:07:16 13 EPM?

11:07:16 14 A. Yes.

11:07:17 15 Q. So now I'm going to -- could you turn your
11:07:23 16 attention to Document U? And I will represent to you this
11:07:34 17 is a filing in this case from former attorney general,
11:07:43 18 Mark Brnovich.

11:07:46 19 Have you seen this before?

11:07:47 20 A. I do not believe so.

11:07:49 21 Q. I'd like to introduce this as Exhibit 47, I
11:07:57 22 believe.

11:08:01 23 And could you please turn to page 24, per the
11:08:06 24 top of the page. It's page 11 on the bottom of the page.

11:08:12 25 A. Okay.

11:08:19 1 MR. MOORE: Counselor, what document are we
11:08:21 2 looking at?

11:08:23 3 MR. HINDLEY: Document U.

11:08:25 4 MR. MOORE: Got it. Thank you.

11:08:25 5 MR. HINDLEY: You're welcome.

11:08:26 6 BY MR. HINDLEY:

11:08:26 7 Q. And do you mind taking a look at the last
11:08:31 8 paragraph of that page, starting with Mecinas v. Hobbs.

11:08:37 9 A. Okay.

11:08:37 10 Q. And I'll read two of the sentences into the
11:08:54 11 record. It states that:

11:08:58 12 The Secretary promulgates the election procedure
11:09:02 13 manual, which County Recorders are bound to follow. But
11:09:07 14 unlike ballot order, registration procedures are not a
11:09:11 15 proper subject for the EPM, and their inclusion in such
11:09:15 16 would be improper and not bind the County Recorders.

11:09:20 17 Mr. Lerma, did I read that correctly?

11:09:23 18 A. Yes.

11:09:24 19 Q. And, specifically the second sentence, starting
11:09:29 20 with, unlike ballot order.

11:09:33 21 Do you agree with the attorney general's
11:09:36 22 position?

11:09:36 23 DEFENSE COUNSEL: Form objection.

11:09:39 24 MR. MOORE: Form.

11:09:42 25 And, Mr. Lerma, this involves a legal

11:09:44 1 conclusion, and I'm going to instruct you not to answer
11:09:47 2 the question. You're not an attorney, and you're not
11:09:49 3 qualified to answer the question.

11:09:53 4 MR. HINDLEY: I'm not asking legal conclusion.
11:09:56 5 I'm asking his views on whether he agrees with that
11:09:56 6 statement.

11:09:57 7 MR. MOORE: Which requires a legal conclusion.

11:10:00 8 MR. HINDLEY: I would disagree with that. It's
11:10:02 9 not a legal conclusion. It's whether he believes that is
11:10:05 10 true.

11:10:13 11 MR. MOORE: You're looking at a legal brief,
11:10:16 12 counsel, and a position previously taken by the attorney
11:10:19 13 general, by the previous attorney general, and asking his
11:10:22 14 personal opinion, whether or not he agrees with the legal
11:10:24 15 position of the prior attorney general. I mean, what is
11:10:28 16 it?

11:10:29 17 MR. HINDLEY: It's a question on his view on the
11:10:32 18 position, and I'm not asking for anything privileged, so I
11:10:36 19 believe it's --

11:10:37 20 MR. MOORE: All right.

11:10:38 21 MR. HINDLEY: -- appropriate for Mr. Lerma to
11:10:40 22 answer that.

11:10:42 23 MR. MOORE: Mr. Lerma, we have noted the
11:10:43 24 objection for the record. Go ahead and provide any answer
11:10:45 25 if you happen to have one.

11:10:48 1 THE WITNESS: I don't have any.

11:10:49 2 BY MR. HINDLEY:

11:10:50 3 Q. And has the Secretary of State's office ever
11:10:53 4 communicated to you whether it believes that the voter
11:10:57 5 registration rules and procedures in the EPM are legally
11:11:02 6 binding?

11:11:03 7 DEFENSE COUNSEL: Form. Form.

11:11:05 8 THE WITNESS: Not that I know.

11:11:06 9 BY MR. HINDLEY:

11:11:07 10 Q. Okay. So, Mr. Lerma, I'm going to discuss with
11:11:13 11 you some questions about the, from the databases that you
11:11:18 12 might be interacting with in your role.

11:11:23 13 So do you have access to the Arizona Department
11:11:26 14 of Transportation databases?

11:11:30 15 A. No.

11:11:30 16 Q. Does your office have access to those databases?

11:11:35 17 A. No.

11:11:35 18 Q. Does it have access to the, now -- scratch that.

11:11:43 19 When I say ADOT, is that the proper acronym for
11:11:48 20 the Arizona Department of Transportation?

11:11:50 21 A. Yes.

11:11:51 22 Q. Okay. So do you have access, or does your
11:11:55 23 office have access to ADOT's Motor Vehicle Division driver
11:12:01 24 license or non-operating license databases?

11:12:04 25 A. No.

11:12:04 1 Q. And do you -- I think you mentioned this
11:12:13 2 before -- but can you describe what AVID is?

11:12:17 3 A. AVID is the Arizona Voter Registration System.

11:12:22 4 Q. And, now, do you use AVID to perform citizenship
11:12:28 5 checks?

11:12:29 6 A. We do.

11:12:30 7 Q. And can you describe how your office uses AVID
11:12:33 8 to perform those citizenship checks?

11:12:35 9 A. We run, it's called HAVA checks, and the system
11:12:42 10 runs that through the Motor Vehicle Department.

11:12:47 11 Q. And does the Navajo County have an agreement
11:12:51 12 with -- scratch that.

11:13:01 13 And who runs AVID?

11:13:13 14 A. Secretary of State.

11:13:14 15 Q. And do you have an agreement with the Secretary
11:13:19 16 of State's office to use AVID?

11:13:21 17 A. That I would not know.

11:13:25 18 Q. In other words, do you know whether there's like
11:13:29 19 a memorandum of understanding or memorandum of agreement
11:13:33 20 concerning the use of AVID?

11:13:35 21 A. That I do not know.

11:13:39 22 Q. And do you -- is it your understanding that the
11:13:50 23 use of AVID is covered for the uses to implement
11:13:58 24 A.B. 2492?

11:14:00 25 DEFENSE COUNSEL: Form.

11:14:01 1 THE WITNESS: I don't understand your question.

11:14:03 2 BY MR. HINDLEY:

11:14:05 3 Q. I will retract that.

11:14:07 4 Do you find that AVID is an accurate tool to
11:14:17 5 check citizenship?

11:14:19 6 A. I believe so.

11:14:20 7 Q. And why is that the case?

11:14:24 8 A. Because it runs it through, like I said, again,
11:14:30 9 the HAVA checks through MVD.

11:14:32 10 Q. And do you recall any issue, incident with the
11:14:39 11 database matching -- scratch that.

11:14:44 12 Do you recall any incident of database matching
11:14:47 13 for citizenship verification that produced erroneous
11:14:53 14 results?

11:14:54 15 A. No.

11:14:55 16 Q. So I'm going to show you another document.

11:15:02 17 First I want to show you Document Y. It's an
11:15:12 18 email from AVID Help, then to multiple people to, that
11:15:20 19 work for the Navajo County Recorder's Office. It looks
11:15:27 20 like you're part of this email.

11:15:30 21 Can you state for the record what date this
11:15:32 22 email was sent?

11:15:34 23 A. Looks like October 17th, 2022.

11:15:37 24 Q. And do you recognize this email?

11:15:41 25 A. I don't remember it, no.

11:15:48 1 Q. Do you recall anyone -- so I want to give you an
11:15:58 2 opportunity to first review the document. Let me know
11:17:10 3 when you've reviewed the document.

11:17:22 4 A. Okay.

11:17:23 5 Q. I'd like to introduce this as Exhibit 48.

11:17:32 6 Now, do you recall an incident from October 2022
11:17:36 7 concerning the Motor Vehicle Division database matching
11:17:40 8 problem?

11:17:40 9 A. I don't.

11:17:41 10 Q. And has your office encountered instances where
11:17:47 11 a voter registration applicant who was a U.S. citizen was
11:17:52 12 flagged erroneously as a non-citizen by way of search of
11:17:58 13 the Motor Vehicle database?

11:17:59 14 A. No.

11:18:00 15 Q. And has your office encountered instances where
11:18:06 16 a currently registered naturalized citizen was flagged
11:18:13 17 erroneously as a non-citizen by way of a search of a Motor
11:18:16 18 Vehicle Division database?

11:18:21 19 A. No.

11:18:21 20 Q. And what would your office do in the event you
11:18:31 21 cannot match the voter registration applicant to any
11:18:35 22 record in the Motor Vehicle Division database?

11:18:38 23 A. They would be sent a notice of citizenship, to
11:18:42 24 provide citizenship.

11:18:43 25 Q. And what would you do in the instance where your

11:18:50 1 office cannot match a registered voter to any record in
11:18:57 2 the Motor Vehicle database?

11:18:59 3 A. The same thing. They would be sent a notice to
11:19:02 4 provide citizenship.

11:19:03 5 Q. And has your office communicated with the
11:19:08 6 Arizona Department of Transportation concerning H.B. 2492?

11:19:14 7 A. No, we have not.

11:19:15 8 DEFENSE COUNSEL: Form.

11:19:16 9 BY MR. HINDLEY:

11:19:16 10 Q. And, similarly, has your office ever
11:19:20 11 communicated with the Arizona Department of Transportation
11:19:23 12 concerning H.B. 2243?

11:19:24 13 A. No, we have --

11:19:24 14 DEFENSE COUNSEL: Form.

11:19:25 15 THE WITNESS: -- not.

11:19:26 16 BY MR. HINDLEY:

11:19:33 17 Q. And is it feasible to use the ADOT, or the Motor
11:19:39 18 Vehicle Division's databases to determine a voter
11:19:43 19 registration applicant's current U.S. citizenship status?

11:19:51 20 MR. LANGHOFER: I'm sorry. Could you repeat the
11:19:53 21 question?

11:19:54 22 MR. HINDLEY: Sure.

11:19:55 23 BY MR. HINDLEY:

11:19:56 24 Q. Now, is it feasible to use the ADOT or the Motor
11:19:59 25 Vehicle Division's databases to determine a voter

11:20:02 1 registration applicant's current U.S. citizenship status?

11:20:05 2 A. I don't understand.

11:20:10 3 Q. So if you were to use the Motor Vehicle
11:20:14 4 Division's databases, could you use that to determine
11:20:17 5 whether an individual is a U.S. citizenship -- citizen or
11:20:21 6 not?

11:20:21 7 A. That I would not know.

11:20:25 8 Q. And, similarly, could you use the Motor Vehicle
11:20:31 9 Division's database to determine whether a registered
11:20:36 10 voter is a U.S. citizen?

11:20:38 11 A. That I would not know.

11:20:40 12 Q. And to kind of take into consideration like your
11:20:51 13 office's resources and access and training, do you believe
11:20:54 14 it's practical to use either the ADOT or the Motor Vehicle
11:20:59 15 Division's databases for citizenship verification?

11:21:06 16 DEFENSE COUNSEL: Form.

11:21:06 17 THE WITNESS: I couldn't speak on that. I don't
11:21:09 18 know.

11:21:09 19 BY MR. HINDLEY:

11:21:10 20 Q. And, just very quickly, I'd like to turn to
11:21:14 21 Document Z.

11:21:20 22 A. Okay.

11:21:20 23 Q. And if you could see, these are, is the email
11:21:24 24 chain following the email that you saw in Document Y,
11:21:30 25 which is Exhibit 48.

11:21:34 1 If you could, could you go to the bottom of page
11:21:38 2 one. I believe this is an email from you.

11:21:41 3 A. Okay.

11:21:42 4 Q. It's sent October 19th. If you could review
11:21:51 5 that email you sent at 11:07 a.m.

11:21:56 6 A. Okay.

11:21:57 7 Q. So when you say, so you say:

11:21:59 8 For years here it was a practice that no FED
11:22:03 9 voter received a ballot in the mail and were told to go
11:22:07 10 vote in person. I now know that's incorrect, but for this
11:22:11 11 matter no FED voter was sent a ballot.

11:22:15 12 Did I read that correctly?

11:22:17 13 A. That's correct.

11:22:18 14 Q. Just the clarification, when you say, you now
11:22:22 15 know now, did you realize that independent and before the
11:22:28 16 email that was sent by AVID Help, or did you find that out
11:22:36 17 as a result of the email from AVID Help?

11:22:44 18 A. I don't even know what this pertains to. I
11:22:48 19 would need to know more.

11:22:50 20 Q. So when you -- about the practice concerning
11:22:55 21 requiring a FED voter to go in person to vote, and you
11:23:02 22 figured that out that they could be, that they could be
11:23:07 23 sent a ballot.

11:23:08 24 A. Okay.

11:23:09 25 Q. Do you find -- knowing that, your error in the

11:23:14 1 Navajo County's policy, did you find out that was an error
11:23:18 2 as a result of the initial email that was sent from AVID
11:23:23 3 Help, or did you find that out before that email?

11:23:27 4 A. I do not know.

11:23:28 5 Q. Okay. Now I want to kind of turn to the, one of
11:23:43 6 the statutes, particularly 2492. I believe that is
11:23:54 7 Petty 19.

11:23:59 8 A. Okay.

11:24:00 9 Q. And now under subsection D on page four, it
11:24:13 10 says: The County Recorder shall use all available
11:24:16 11 resources to verify the citizenship of an applicant.

11:24:22 12 And so my question is if a law tells your office
11:24:25 13 to use all available resources to perform MVD database
11:24:32 14 searches, what do you think that means?

11:24:33 15 DEFENSE COUNSEL: Form.

11:24:34 16 THE WITNESS: It's on Petty, Petty 19, section
11:24:37 17 D?

11:24:37 18 BY MR. HINDLEY:

11:24:38 19 Q. Yes. On page four of the document.

11:24:40 20 A. I'm getting about homeless, page four. The
11:24:56 21 actual page four?

11:24:57 22 Q. The actual page four.

11:24:59 23 A. Oh, okay.

11:25:00 24 Q. At the bottom.

11:25:01 25 A. Section D.

11:25:12 1 And what was your question again? I'm sorry.

11:25:14 2 Q. No, not a problem.

11:25:15 3 So when the, when H.B. 2492 says that your
11:25:21 4 office has to use all available resources to perform MVD
11:25:31 5 database searches, what do you think, use all available
11:25:34 6 resources, means?

11:25:34 7 DEFENSE COUNSEL: Form.

11:25:35 8 THE WITNESS: Run through the HAVA checks.

11:25:37 9 BY MR. HINDLEY:

11:25:38 10 Q. And when you see all available resources, do you
11:25:41 11 think that encompasses human financial and technological
11:25:46 12 resources?

11:25:47 13 A. I would not know.

11:25:49 14 Q. And so when you do a HAVA check, can you just
11:26:08 15 explain how that works?

11:26:09 16 A. It's done through the AVID system when we
11:26:13 17 register somebody. It's a button that we press, and it
11:26:17 18 searches through Motor Vehicle to verify citizenship.

11:26:22 19 Q. And looking at -- I'll probably be going back
11:26:44 20 and forth a little bit, but Petty 21.

11:26:50 21 A. Okay.

11:26:51 22 Q. And if you go to page four at the bottom.

11:27:02 23 A. Okay.

11:27:05 24 Q. And Section 10, if you want to review that.

11:27:15 25 A. Okay. You said D?

11:27:21 1 Q. No. Section 10.

11:27:23 2 A. Okay.

11:27:42 3 Q. So in the Section 10, the first sentence says:
11:27:45 4 When the County Recorder obtains information
11:27:48 5 pursuant to this section and confirms that the person
11:27:50 6 registered is not a United States citizen.

11:27:54 7 My question is can you use the Motor Vehicle
11:28:00 8 Division database to confirm that a registered voter is
11:28:05 9 not a U.S. citizen?

11:28:07 10 A. Hmm hmm.

11:28:08 11 Q. And how do you do that?

11:28:10 12 A. We run the HAVA checks.

11:28:17 13 Q. So now I want to turn to the SAVE system run by
11:28:28 14 the United States Citizenship and Immigration Services, or
11:28:32 15 USCIS.

11:28:33 16 Are you familiar with the SAVE system?

11:28:36 17 A. Yes. I have heard of it.

11:28:38 18 Q. And have you used it before?

11:28:40 19 A. I don't believe so.

11:28:42 20 Q. Does your office have access to the SAVE system?

11:28:48 21 A. I don't believe so.

11:28:49 22 Q. So at no, at no point anyone in the Navajo
11:29:03 23 County Recorder's office has used the SAVE system to, to
11:29:07 24 verify citizenship?

11:29:11 25 DEFENSE COUNSEL: Foundation, form.

11:29:17 1 THE WITNESS: I don't believe so.

11:29:19 2 BY MR. HINDLEY:

11:29:19 3 Q. Have you discussed the use of the SAVE system in
11:29:29 4 your office?

11:29:30 5 A. Off the top of my head, no.

11:29:38 6 Q. And is there a particular reason why the Navajo
11:29:42 7 County Recorder is not using the SAVE system?

11:29:46 8 DEFENSE COUNSEL: Form.

11:29:47 9 THE WITNESS: There is no reason, that I'm aware
11:29:54 10 of.

11:29:54 11 BY MR. HINDLEY:

11:30:10 12 Q. But do you know whether the use of the SAVE
11:30:15 13 system can be used to verify U.S. citizenship of a voter
11:30:20 14 applicant?

11:30:21 15 A. I do not.

11:30:22 16 DEFENSE COUNSEL: Foundation.

11:30:23 17 BY MR. HINDLEY:

11:30:25 18 Q. And do you know if you can use, your office can
11:30:28 19 use the SAVE system to verify citizenship of a registered
11:30:34 20 voter?

11:30:34 21 A. I do not.

11:30:35 22 DEFENSE COUNSEL: Foundation.

11:30:37 23 BY MR. HINDLEY:

11:30:38 24 Q. Are you familiar with the Social Security
11:30:44 25 Administration database?

11:30:46 1 A. I am not.

11:30:47 2 Q. Do you know whether your office has access to
11:30:50 3 the Social Security Administration database?

11:30:53 4 A. We do not.

11:30:54 5 Q. I say -- just to clarify.

11:30:59 6 Your office does not have access to the SSA
11:31:02 7 database?

11:31:03 8 A. Not the database, no.

11:31:05 9 Q. Okay. Now, have you ever heard of NAPHSIS?
11:31:14 10 It's an acronym for the National Association For Public
11:31:18 11 Health Statistics and Information Systems? Have you heard
11:31:21 12 of that before?

11:31:22 13 A. I have never heard of it.

11:31:23 14 Q. So you don't have any familiarity with NAPHSIS's
11:31:30 15 databases?

11:31:31 16 A. No. Not, not off the top of my head, no.

11:31:36 17 Q. Do you know if anyone at the, at your, at the
11:31:42 18 Navajo County Recorder's Office has used the NAPHSIS
11:31:46 19 database?

11:31:47 20 A. No, we have not.

11:31:48 21 Q. Have you ever heard of ERIC, the Electronic
11:32:00 22 Registration Information Center?

11:32:01 23 A. I have.

11:32:02 24 Q. Have you, has you or anyone in your office
11:32:08 25 communicated with ERIC about H.B. 2492?

11:32:11 1 A. No, we have not.

11:32:13 2 Q. How about 24 -- H.B. 2243?

11:32:20 3 A. No, we have not.

11:32:20 4 Q. Have you, has the Secretary of State's Office

11:32:31 5 communicated with the County Recorder's office about ERIC?

11:32:35 6 A. Yes.

11:32:36 7 Q. And when was that?

11:32:37 8 A. It's done monthly.

11:32:40 9 Q. Okay.

11:32:41 10 A. I believe.

11:32:42 11 Q. And could you describe those discussions?

11:32:45 12 A. We receive emails in regards to ERIC.

11:32:53 13 Q. And could you -- oh, sorry.

11:32:55 14 A. And they usually just include a list of, of

11:33:00 15 voters.

11:33:02 16 Q. Was there any like substantive discussions about

11:33:09 17 ERIC?

11:33:09 18 A. What do you mean?

11:33:12 19 Q. About like the actual, like the actual

11:33:21 20 organization. Or is it just they send you a list of

11:33:25 21 voters from ERIC?

11:33:26 22 A. No, we have spoken about the actual ERIC.

11:33:31 23 Q. And what was the nature of those discussions?

11:33:36 24 A. Just explaining what ERIC was and how they

11:33:40 25 function.

11:33:41 1 Q. And what did they, what did the Secretary of
11:33:45 2 State's Office, how did they describe that?

11:33:47 3 A. They just let us know what states are --

11:33:53 4 DEFENSE COUNSEL: Form.

11:33:54 5 THE WITNESS: -- included in there and how we
11:33:55 6 send information to ERIC and how we get the information
11:33:58 7 back.

11:33:59 8 BY MR. HINDLEY:

11:33:59 9 Q. Okay. And have you discussed ERIC among other
11:34:08 10 County Recorder's offices?

11:34:08 11 A. Yes.

11:34:08 12 Q. And what are the nature of those discussions?

11:34:15 13 A. Pretty much the same, same stuff I explained
11:34:18 14 earlier.

11:34:18 15 Q. Thank you. Just to be clear, what was --

11:34:21 16 A. Just how it works, how it works and who is
11:34:25 17 included in ERIC, what states.

11:34:27 18 Q. Hmm hmm. And do you remember who, specifically,
11:34:31 19 like which County Recorder's Office you spoke with about
11:34:35 20 ERIC?

11:34:35 21 A. No. I don't know specifically.

11:34:37 22 Q. Okay. And is it feasible to use ERIC to conduct
11:34:43 23 citizenship verification?

11:34:46 24 A. That I would not know.

11:34:52 25 Q. Do you know if there's anyone in your office

11:34:56 1
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11:35:30 12
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11:35:36 15
11:35:44 16
11:35:46 17
11:35:47 18
11:36:03 19
11:36:06 20
11:36:08 21
11:36:19 22
11:36:34 23
11:36:35 24
11:36:39 25

that would know?

A. Not in our office.

Q. Okay. So have, have you used ERIC to conduct citizenship verification?

A. No.

Q. And do you know whether ERIC can be used to confirm that a registered voter is a U.S. -- is not a U.S. citizen?

DEFENSE COUNSEL: Foundation.

THE WITNESS: Not that I know of.

BY MR. HINDLEY:

Q. So do you have access to any other government databases with U.S. citizenship data?

A. No, we don't.

Q. And, just to be clear, do you exclusively use HAVA to conduct citizenship checks?

A. That's correct.

Q. And has your office communicated with any other persons or entities regarding the use of other databases to verify citizenship?

A. Not that I'm aware of.

Q. And can you describe the process of verifying citizenship?

A. Through, verify through --

Q. Through HAVA.

11:36:41 1 A. Yeah. So we use the AVID system when
11:36:49 2 registering a person. It's a check, it's box that we
11:36:53 3 check, and it runs through the MVD records.

11:37:02 4 Q. And --

11:37:04 5 A. And --

11:37:04 6 Q. Oh, sorry. You continue.

11:37:06 7 A. No, and it will find citizenship or not.

11:37:08 8 Q. And who makes the, the preliminary judgment of
11:37:14 9 whether an individual is a citizen or not?

11:37:17 10 A. The system.

11:37:18 11 Q. Does the County Recorder make any sort of
11:37:26 12 judgment on whether an individual is a citizen?

11:37:29 13 A. Did you say third judgment, or first judgment?

11:37:30 14 Q. Any sort of judgment.

11:37:32 15 A. No, we don't.

11:37:38 16 Q. And how, in determining whether an individual is
11:37:41 17 how do you ensure accuracy?

11:37:47 18 A. We depend on the AVID system --

11:37:47 19 Q. Okay.

11:37:50 20 A. -- and the HAVA checks.

11:37:53 21 Q. Is there any sort of like criteria to determine
11:37:56 22 whether the determination by HAVA is accurate?

11:38:02 23 A. That is something I would not know.

11:38:04 24 Q. Okay. So I want to turn back to Petty 19. If
11:38:33 25 you go to page five.

11:38:38 1 A. Okay.

11:38:38 2 Q. And can you just review the first sentence of

11:39:10 3 section E?

11:39:12 4 A. Okay. First sentence.

11:39:27 5 Q. Yep. And so can you explain how you could

11:39:31 6 ascertain from the database you can use that an applicant

11:39:35 7 is not currently a U.S. citizen?

11:39:39 8 DEFENSE COUNSEL: Form.

11:39:40 9 THE WITNESS: Can you rephrase that?

11:39:48 10 BY MR. HINDLEY:

11:39:48 11 Q. Sure. So based on your review of the databases,

11:39:52 12 how is it determined whether an individual is not a

11:39:56 13 U.S. citizen?

11:39:57 14 A. How do we determine?

11:40:00 15 Q. Yeah.

11:40:01 16 A. They don't provide proof of citizenship.

11:40:04 17 Q. So when you like use like the AVID system --

11:40:12 18 A. Hmm hmm.

11:40:12 19 Q. -- subsequent to that, how do you determine

11:40:15 20 whether someone is not a U.S. citizen?

11:40:18 21 A. The system will tell us.

11:40:23 22 Q. And what does it specifically tell you on the

11:40:29 23 system?

11:40:29 24 A. That they did not find citizenship and it will

11:40:35 25 not, it will not allow us to register them.

11:40:38 1 Q. Okay. And has your office ever been given a
11:40:51 2 specific list of means by which a voter registration
11:40:55 3 applicant can be deemed or proven a noncitizen?

11:41:00 4 A. The election procedures manual.

11:41:04 5 Q. And do you recall what that says?

11:41:06 6 A. I don't off the top of my head.

11:41:09 7 Q. Okay. And looking back at 224 -- 2492, if you
11:41:22 8 can review section F.

11:41:49 9 A. Okay.

11:41:51 10 Q. And so, as you can see, the statute said that
11:41:58 11 the County Recorder will have to record their efforts to
11:42:03 12 verify citizenship.

11:42:03 13 A. Hmm hmm.

11:42:05 14 Q. How would you describe, how would you record the
11:42:08 15 efforts?

11:42:09 16 DEFENSE COUNSEL: Form.

11:42:10 17 THE WITNESS: How would we?

11:42:14 18 BY MR. HINDLEY:

11:42:14 19 Q. Yes.

11:42:14 20 A. I wouldn't know.

11:42:16 21 Q. Has your office determined like a process for
11:42:23 22 recording efforts?

11:42:24 23 A. No. We would follow the procedures manual.

11:42:30 24 Q. And do you recall what the procedures manual
11:42:32 25 says about recording efforts?

11:42:33 1 A. I do not.

11:42:37 2 Q. What steps do you take to record your efforts to
11:42:42 3 verify citizenship?

11:42:43 4 A. Well, we do not record them.

11:42:46 5 Q. So you don't record your efforts at all?

11:42:52 6 A. No, we do not.

11:42:53 7 Q. Okay. And what are the impact of the criminal
11:43:03 8 provisions of this section?

11:43:05 9 DEFENSE COUNSEL: Form.

11:43:06 10 BY MR. HINDLEY:

11:43:06 11 Q. You see the last letter, the letter that says,
11:43:07 12 the County Recorder or other officer in charge of
11:43:11 13 elections could be guilty of, you know, a class 6 felony
11:43:14 14 if they don't follow it.

11:43:16 15 Has that had any effect on your office?

11:43:20 16 DEFENSE COUNSEL: Form.

11:43:20 17 THE WITNESS: I would not know.

11:43:21 18 BY MR. HINDLEY:

11:43:21 19 Q. Okay. And going back to some of my previous
11:43:25 20 questions.

11:43:26 21 Now, you said the HAVA system will let you know
11:43:30 22 if someone is not a citizen.

11:43:32 23 Is there any other steps following that initial
11:43:37 24 data point from the HAVA system?

11:43:45 25 A. No.

11:43:45 1 Q. There is no other steps to verify whether or not
11:43:47 2 the individual is a citizen?

11:43:49 3 A. No.

11:43:53 4 Q. Okay. And on the same document, if you could
11:44:01 5 turn to page seven.

11:44:08 6 A. Okay.

11:44:08 7 Q. If you can review section A.

11:44:24 8 A. Okay.

11:44:25 9 Q. So the statute basically says that on or before
11:44:30 10 October 31st, 2022 you have to provide a list of
11:44:34 11 individuals who did not provide satisfactory evidence of
11:44:39 12 citizenship.

11:44:40 13 A. Hmm hmm.

11:44:40 14 Q. Did you provide that report?

11:44:42 15 A. No. We provide a number to the Secretary of
11:44:44 16 State, but we don't provide a list of individuals.

11:44:48 17 Q. And so when you reviewed that section, what do
11:45:00 18 you think it means to provide the applications of these
11:45:04 19 individuals?

11:45:05 20 DEFENSE COUNSEL: Form, foundation.

11:45:06 21 THE WITNESS: I do not know.

11:45:16 22 BY MR. HINDLEY:

11:45:20 23 Q. And because the, the deadline has passed, the
11:45:27 24 October 31, '22 deadline, is your office no longer
11:45:30 25 required to submit to the attorney general a list of

11:45:34 1 registered voters who have not shown satisfactory DPOC?

11:45:39 2 DEFENSE COUNSEL: Form.

11:45:40 3 THE WITNESS: I would not know.

11:45:41 4 BY MR. HINDLEY:

11:45:41 5 Q. Okay. So I have a couple of other questions
11:45:53 6 concerning the statute.

11:45:57 7 Looking at both 2492 and 2243. If you look at,
11:46:07 8 oh, section D, which you previously looked at.

11:46:13 9 MS. BOUGHTON: Sorry, counsel, which bill?

11:46:16 10 MR. HINDLEY: First 2492, section D, on page,
11:46:24 11 between pages four and five. And then if you look at
11:46:29 12 2243, page four, it's section A, A(10).

11:46:38 13 THE WITNESS: Pages four and five, you said?

11:46:41 14 BY MR. HINDLEY:

11:46:41 15 Q. Hmm hmm.

11:46:42 16 A. And then I need -- oh, man. I would need to
11:46:54 17 know what --

11:46:57 18 Q. Petty 21.

11:47:01 19 A. Okay. 21.

11:47:05 20 Q. So the, so on section D on page four to five for
11:47:13 21 2492. And then section A(10) on page 4 of 2243, it refers
11:47:20 22 to information.

11:47:22 23 What do you think information constitutes?

11:47:26 24 DEFENSE COUNSEL: Form.

11:47:26 25 THE WITNESS: I, I don't -- I'm still not

11:47:44 1 finding what you're talking about. You said section D,
11:47:48 2 right, for 2492?

11:47:51 3 BY MR. HINDLEY:

11:47:52 4 Q. Yes. On page, between pages four and five.

11:47:54 5 A. Hmm hmm. And where are you reading the
11:48:01 6 information?

11:48:08 7 I guess I'm not understanding what you're
11:48:10 8 asking.

11:48:11 9 Q. So let's look at 2243 on page four --

11:48:11 10 A. Okay.

11:48:19 11 Q. -- section 10. It says, when the County
11:48:20 12 Recorder obtains information pursuant to this section,
11:48:26 13 information --

11:48:26 14 A. Okay.

11:48:26 15 Q. -- concerning whether an individual is a U.S.
11:48:30 16 citizen.

11:48:30 17 A. Okay.

11:48:30 18 Q. I just -- my question is what do you believe
11:48:33 19 constitutes information?

11:48:35 20 DEFENSE COUNSEL: Form.

11:48:36 21 THE WITNESS: Proof of citizenship, which --

11:48:42 22 BY MR. HINDLEY:

11:48:43 23 Q. Continue. Sorry.

11:48:44 24 A. Which there's a list of proof of citizenships.

11:48:47 25 Q. Is -- would that constitute any other

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11:49:21 9
11:49:26 10
11:49:31 11
11:49:35 12
11:49:36 13
11:49:37 14
11:49:41 15
11:49:44 16
11:49:53 17
11:49:57 18
11:50:01 19
11:50:01 20
11:50:07 21
11:50:10 22
11:50:11 23
11:50:11 24
11:50:13 25

information?
A. As far as our office goes, no.
Q. Okay. So my question is, is data in a government database showing non-citizenship 30 years ago information that someone is not a U.S. citizen in the year 2023? So in other words --
DEFENSE COUNSEL: Form.
BY MR. HINDLEY:
Q. -- information that an individual is not a citizen 30 years ago, could that, would that be used to determine whether someone is a U.S. citizen in 2023?
A. That I would not know.
DEFENSE COUNSEL: Form.
BY MR. HINDLEY:
Q. And do you know who would know in your office?
A. No. I would not know.
Q. What about data from 20 years ago? Could that be used to determine whether someone is a U.S. citizen in 2023?
DEFENSE COUNSEL: Form. Form and foundation.
THE WITNESS: A database from 20 years ago, I would not know.
BY MR. HINDLEY:
Q. No. Data from 20 years ago.
A. Data from 20 years ago?

11:50:15 1 Q. Hmm hmm.

11:50:16 2 A. I would not know.

11:50:20 3 DEFENSE COUNSEL: Form.

11:50:25 4 MR. HINDLEY: If you don't mind, could we go off

11:50:28 5 the record and take about a 10-minute break?

11:50:28 6 MR. ROSENBAUM: Fine with me.

11:50:36 7 MR. HINDLEY: Great.

11:50:36 8 THE VIDEOGRAPHER: We are off the record. Time

11:50:38 9 on the video monitor is 10:50. This ends Media 2.

11:50:46 10 (Recess taken from 11:50 a.m. to 12:03 p.m.)

12:03:51 11 THE VIDEOGRAPHER: We are on the record. Time

12:03:58 12 on the video monitor is 12:03. This begins Media No. 3.

12:04:05 13 Correction on the read-off of the last media

12:04:08 14 clip. It was actually 11:50.

12:04:11 15 Please continue.

12:04:13 16 MR. HINDLEY: Great. Thank you very much.

12:04:15 17 BY MR. HINDLEY:

12:04:16 18 Q. So, Mr. Lerma, before we went off the record, we

12:04:21 19 were talking about information as described in the

12:04:25 20 statute. Before I get to that -- I don't think this has

12:04:29 21 been done yet, but I would like to offer Petty 19 as

12:04:35 22 Exhibit 49 and Petty 21 as Exhibit 50.

12:04:44 23 Also, if you can, Mr. Lerma, if you can go to

12:04:47 24 Petty 19, page five.

12:04:48 25 MR. ROSENBAUM: Hey, John, may I interrupt for a

12:04:51 1 second, because I thought that this is what we agreed at
12:04:55 2 the outset, that we are just going to use the same exhibit
12:04:58 3 numbers. There's no need to reintroduce -- those Petty
12:05:04 4 exhibits are the exhibits that were used and introduced in
12:05:10 5 the Maricopa County --

12:05:10 6 MR. HINDLEY: Okay.

12:05:11 7 MR. ROSENBAUM: -- deposition.

12:05:13 8 I don't mean to interfere, but I thought those
12:05:15 9 were the suggestions, at least I articulated and nobody
12:05:20 10 disagreed with it at the outset.

12:05:23 11 MR. HINDLEY: That all makes sense.

12:05:32 12 BY MR. HINDLEY:

12:05:33 13 Q. So going to Petty 19, page five, section E. If
12:05:35 14 you can read lines 14 through 16.

12:05:57 15 A. Okay.

12:05:58 16 Q. So, so before -- just to reiterate. What do you
12:06:04 17 believe, when you read that, what do you believe
12:06:06 18 information means, match up an applicant with information
12:06:12 19 that they're not a U.S. citizen?

12:06:15 20 DEFENSE COUNSEL: Form.

12:06:22 21 THE WITNESS: All the information we get back
12:06:23 22 from the HAVA checks.

12:06:25 23 BY MR. HINDLEY:

12:06:25 24 Q. Is it only the HAVA check, or is there any other
12:06:29 25 information that could be used to determine whether

12:06:32 1 someone is a U.S. citizen?

12:06:34 2 DEFENSE COUNSEL: Form. Form.

12:06:36 3 THE WITNESS: Not at the moment, no.

12:06:35 4 BY MR. HINDLEY:

12:06:40 5 Q. So if you found out that someone had an F type
12:06:45 6 license 20 years ago, would that be evidence that that
12:06:50 7 individual is not a citizen in 2023?

12:06:53 8 DEFENSE COUNSEL: Form.

12:06:55 9 THE WITNESS: That I don't, I do not know.

12:06:57 10 BY MR. HINDLEY:

12:07:04 11 Q. Do you know who would know?

12:07:05 12 A. I do not.

12:07:07 13 Q. Do you know -- so you don't know anyone in your
12:07:11 14 office who would be able to answer that question?

12:07:14 15 A. Nobody in our office would be able.

12:07:17 16 Q. Okay. So I want to know -- can I ask you a
12:07:24 17 question about kind of sources of information.

12:07:27 18 What if you get a phone call and someone says
12:07:30 19 that an individual is not a U.S. citizen, would that be
12:07:33 20 considered information?

12:07:34 21 A. No.

12:07:35 22 Q. What if you received an email that someone was
12:07:40 23 not a U.S. citizen, would that be information?

12:07:44 24 A. When you say someone, it's just a third party?

12:07:44 25 Q. Yeah. A third, a third -- yeah, exactly. Yeah,

12:07:50 1 if a third party emails your office and says someone is
12:07:53 2 not a U.S. citizen, would that be information?

12:07:56 3 A. No.

12:07:57 4 Q. What if your office received a signed letter
12:08:02 5 from a third party saying someone is not a U.S. citizen,
12:08:05 6 would that be information?

12:08:06 7 A. No.

12:08:09 8 DEFENSE COUNSEL: Form, foundation.

12:08:13 9 BY MR. HINDLEY:

12:08:13 10 Q. What if your office received a phone call from a
12:08:17 11 third party saying someone was not a U.S. citizen, would
12:08:21 12 that be information?

12:08:23 13 A. No.

12:08:26 14 DEFENSE COUNSEL: Form and foundation.

12:08:29 15 BY MR. HINDLEY:

12:08:29 16 Q. If your office received a phone call from law
12:08:32 17 enforcement in Arizona that someone is not a U.S. citizen,
12:08:34 18 would that be considered information?

12:08:37 19 A. No.

12:08:37 20 DEFENSE COUNSEL: Form and foundation.

12:08:40 21 BY MR. HINDLEY:

12:08:41 22 Q. And what if you received a phone call from law
12:08:46 23 enforcement, from outside, from law enforcement in a state
12:08:50 24 outside of Arizona, would that be considered information?

12:08:55 25 A. No.

12:08:57 1 DEFENSE COUNSEL: Form and foundation.

12:08:58 2 BY MR. HINDLEY:

12:08:59 3 Q. Say that again, Mr. Lerma. I didn't hear you.

12:09:01 4 A. No.

12:09:06 5 DEFENSE COUNSEL: Form and foundation.

12:09:08 6 BY MR. HINDLEY:

12:09:08 7 Q. What if a third party organization provided you

12:09:11 8 information that someone is not a U.S. citizen, would that

12:09:14 9 be information?

12:09:23 10 DEFENSE COUNSEL: Form and foundation.

12:09:24 11 THE WITNESS: No.

12:09:24 12 BY MR. HINDLEY:

12:09:24 13 Q. Has the Secretary of State's office ever given

12:09:27 14 you, given your office a list of information that would

12:09:30 15 constitute evidence of a lack of citizenship?

12:09:35 16 DEFENSE COUNSEL: Form, foundation.

12:09:38 17 THE WITNESS: Possibly. In the procedures

12:09:42 18 manual.

12:09:44 19 BY MR. HINDLEY:

12:09:45 20 Q. Do you recall what the information might be?

12:09:47 21 A. Not off the top of my head, no.

12:09:50 22 Q. And do you know how your office would confirm

12:09:57 23 the authenticity of information?

12:10:02 24 DEFENSE COUNSEL: Form.

12:10:03 25 THE WITNESS: How would we confirm it?

12:10:07 1 BY MR. HINDLEY:

12:10:09 2 Q. Yes.

12:10:09 3 A. Through the HAVA checks.

12:10:12 4 Q. So, Mr. Lerma, if you can go to Petty 21.

12:10:44 5 A. Okay.

12:10:45 6 Q. Page six. You can look at section J, lines 20

12:10:51 7 to 23.

12:10:52 8 A. Okay. Okay.

12:11:05 9 Q. So how would, so is the only way to confirm

12:11:12 10 information concerning cancelation, does it have to be

12:11:16 11 from a database?

12:11:18 12 DEFENSE COUNSEL: Form. Form, foundation.

12:11:20 13 THE WITNESS: I don't know.

12:11:22 14 BY MR. HINDLEY:

12:11:26 15 Q. How else would you confirm citizenship prior to

12:11:32 16 cancelation?

12:11:33 17 DEFENSE COUNSEL: Form and foundation.

12:11:38 18 THE WITNESS: Through HAVA checks.

12:11:40 19 BY MR. HINDLEY:

12:11:42 20 Q. Okay. So if you could turn to Petty 19 again.

12:12:39 21 I apologize. Turn back to Petty 21, page six --

12:12:44 22 A. Okay.

12:12:44 23 Q. -- section H. If you can review that.

12:13:13 24 A. Okay.

12:13:14 25 Q. So my question is what would give your office a

12:13:21 1 reason to believe a person is not a U.S. citizen?

12:13:27 2 DEFENSE COUNSEL: Form.

12:13:28 3 THE WITNESS: They aren't cleared to the HAVA
12:13:37 4 checks.

12:13:38 5 BY MR. HINDLEY:

12:13:38 6 Q. Would anything else, besides a HAVA check, would
12:13:42 7 anything else give your office a reason to believe a
12:13:45 8 person is not a U.S. citizen?

12:13:48 9 A. Not that I know of.

12:13:49 10 DEFENSE COUNSEL: Form and foundation.

12:13:56 11 BY MR. HINDLEY:

12:13:57 12 Q. Has the Secretary of State's office provided
12:13:59 13 your office with a list of what would give you a valid
12:14:03 14 reason to believe someone is not a U.S. citizen?

12:14:08 15 DEFENSE COUNSEL: Form.

12:14:09 16 THE WITNESS: If they have, it would be in the
12:14:11 17 procedures manual.

12:14:12 18 BY MR. HINDLEY:

12:14:12 19 Q. Do you recall what that is, what the procedure
12:14:17 20 manual says?

12:14:17 21 A. Not off the top of my head.

12:14:19 22 Q. So is your testimony that the only way you can
12:14:25 23 figure out -- the only way your office would have a reason
12:14:28 24 to believe someone is not a U.S. citizen is through a HAVA
12:14:32 25 check?

12:14:34 1 DEFENSE COUNSEL: Form. Form.

12:14:35 2 THE WITNESS: At the moment, yes.

12:14:37 3 BY MR. HINDLEY:

12:14:40 4 Q. So what if someone's birthplace was outside of

12:14:45 5 the United States, would that give you reason to believe

12:14:49 6 someone is not a U.S. citizen?

12:14:53 7 DEFENSE COUNSEL: Form and foundation.

12:14:55 8 THE WITNESS: No.

12:14:57 9 BY MR. HINDLEY:

12:15:01 10 Q. If someone had, at one point, had an F type

12:15:08 11 license at some point, would that give you a reason to

12:15:14 12 believe someone is not a U.S. citizen?

12:15:18 13 A. No.

12:15:18 14 Q. Has the Secretary of State's Office given you a

12:15:28 15 list of things that would not give you a reason to believe

12:15:31 16 someone is not a U.S. citizen?

12:15:34 17 DEFENSE COUNSEL: Form.

12:15:36 18 THE WITNESS: I, I don't believe so.

12:15:37 19 BY MR. HINDLEY:

12:15:42 20 Q. Are there, so -- scratch that.

12:15:46 21 What would you say should never give a person a

12:15:50 22 reason to believe someone is not a U.S. citizen?

12:15:54 23 DEFENSE COUNSEL: Form, foundation.

12:15:56 24 THE WITNESS: I, I don't understand the question

12:16:02 25 you're asking.

12:16:02 1
12:16:03 2
12:16:05 3
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12:16:33 7
12:16:39 8
12:17:31 9
12:17:32 10
12:17:43 11
12:17:46 12
12:17:53 13
12:18:17 14
12:18:22 15
12:18:22 16
12:18:26 17
12:18:33 18
12:18:38 19
12:18:42 20
12:18:44 21
12:18:45 22
12:18:57 23
12:19:01 24
12:19:03 25

BY MR. HINDLEY:

Q. So is there certain forms of information that would never give you a reason to believe someone is not a U.S. citizen?

A. No. I don't know.

Q. So if a registered voter is removed from the rolls under -- actually, scratch that.

Mr. Lerma, if you can go back to Petty 21.

A. Okay.

Q. Page four, section A(10).

A. You said page four, section A(10)?

Q. Yeah, 10. So lines 5 through 19.

A. Page four. Okay.

Q. So a couple more questions and I think we'll be wrapped up.

But if a registered voter is removed under this section, 165(A)(10), based on an erroneous determination that they're not a U.S. citizen, can that voter be added back to the rolls if the registration deadline has already passed?

DEFENSE COUNSEL: Form, foundation.

THE WITNESS: I'm sorry. I thought I had the right spot on Petty 19, but apparently not.

You said page, section --

BY MR. HINDLEY:

12:19:03 1 Q. Oh, sorry. Petty 21.

12:19:06 2 A. Oh. That makes more sense.

12:19:09 3 Q. Page four, Petty 21.

12:19:26 4 A. And now you're asking can they reregister?

12:19:30 5 Q. So if they were erroneously taken off the roll

12:19:34 6 by erroneous determination that they were not a

12:19:40 7 U.S. citizen, could they be added back to the rolls if the

12:19:44 8 registration, if the registration deadline has passed?

12:19:48 9 A. I believe so.

12:19:50 10 DEFENSE COUNSEL: Form and foundation.

12:19:51 11 BY MR. HINDLEY:

12:19:51 12 Q. Can you repeat that?

12:19:53 13 A. I believe so.

12:19:54 14 Q. And how would the county do this?

12:19:59 15 A. They would need a --

12:20:01 16 DEFENSE COUNSEL: Form and foundation.

12:20:04 17 THE WITNESS: They would need to provide proof

12:20:07 18 of citizenship.

12:20:08 19 BY MR. HINDLEY:

12:20:12 20 Q. And what would the -- so they provide the proof

12:20:15 21 of citizenship.

12:20:16 22 What would be the next steps after that?

12:20:18 23 A. Then we would reactivate them.

12:20:28 24 MR. HINDLEY: Okay. Mr. Lerma, that's all the

12:20:31 25 questions I have, and I really appreciate it and thank you

12:20:34 1 for your time.

12:20:36 2 THE WITNESS: Thank you.

12:20:40 3 MR. HERRERA: I do have -- I don't know if any
12:20:42 4 other plaintiffs do, but I do have a couple of follow-up
12:20:46 5 questions there. I don't know if you can hear me.

12:20:49 6 THE WITNESS: Yeah.

12:20:49 7

12:20:49 8 EXAMINATION

12:20:49 9 BY MR. HERRERA:

12:20:53 10 Q. So my name is Ernest Herrera, and I represent
12:20:54 11 two of the plaintiffs in this organiz -- in this lawsuit.
12:20:57 12 So I just have a couple of questions for you. One
12:21:01 13 question is along the lines of what Mr. Hindley was asking
12:21:05 14 you.

12:21:06 15 Has it ever been the case that when you do a
12:21:09 16 HAVA check and then find information that makes you think
12:21:16 17 that someone is not a U.S. citizen, that that person later
12:21:20 18 provides documentary proof of citizenship?

12:21:24 19 DEFENSE COUNSEL: Form.

12:21:25 20 THE WITNESS: Was that a question?

12:21:27 21 BY MR. HERRERA:

12:21:27 22 Q. Yeah. So have you ever had a -- so you've had
12:21:33 23 instances where you do a HAVA check and it shows that that
12:21:35 24 person is not a citizen, right?

12:21:37 25 A. Okay.

12:21:37 1 Q. Okay. Have you ever had an instance in one of
12:21:40 2 those cases where someone later provides documentary proof
12:21:44 3 of citizenship?

12:21:44 4 A. Yes.

12:21:45 5 DEFENSE COUNSEL: Form.

12:21:47 6 BY MR. HERRERA:

12:21:47 7 Q. That's a yes?

12:21:48 8 A. That's a yes. I'm sorry.

12:21:49 9 Q. Okay. And do you know, approximately, in how
12:21:54 10 many instances that's happened in the last five years?

12:21:57 11 A. I would not know.

12:22:06 12 Q. And what happens once you get that documentary
12:22:10 13 proof of citizenship from someone who initially showed up
12:22:14 14 in a HAVA check as not being a U.S. citizen?

12:22:18 15 A. We would activate them, make them active, and a
12:22:23 16 regular voter, a full voter.

12:22:25 17 Q. Okay. And have, in those instances where that's
12:22:32 18 happened, did the person show up in the HAVA check as
12:22:36 19 having an F type license or a foreign type license?

12:22:41 20 A. I couldn't tell you --

12:22:42 21 DEFENSE COUNSEL: Form.

12:22:42 22 THE WITNESS: -- off the top of my head.

12:22:44 23 BY MR. HERRERA:

12:22:50 24 Q. Do you recall, in those instances, typically,
12:22:53 25 what was the information that made you think that that

12:22:56 1 person was not a U.S. citizen?

12:22:59 2 A. The HAVA check.

12:23:00 3 Q. Right. But what piece of evidence? What does
12:23:03 4 it say when you look in the HAVA check?

12:23:06 5 DEFENSE COUNSEL: Form.

12:23:07 6 THE WITNESS: That they could not find any, it
12:23:10 7 didn't come back with any information.

12:23:13 8 MR. HERRERA: Okay. Those are all my questions.
12:23:26 9 Thank you.

12:23:26 10 MS. BOUGHTON: Do any other plaintiffs have
12:23:28 11 questions? Okay.

12:23:33 12 I have a few, if you're all right, Mr. Lerma.
12:23:38 13 Do you need a break or -

12:23:39 14 THE WITNESS: No, I'm good.

12:23:41 15 MS. BOUGHTON: Okay. Great.

12:23:41 16

12:23:44 17 EXAMINATION

12:23:44 18 BY MS. BOUGHTON:

12:23:46 19 Q. So my name is Kathryn Boughton. I know there's
12:23:47 20 a lot of people on the call. I represent the state and
12:23:49 21 attorney general in this matter. And I just have a couple
12:23:51 22 of clarification questions.

12:23:53 23 A. Okay.

12:23:54 24 Q. So first, I'd like to go back to Exhibit 42,
12:23:57 25 which is marked D in your packet. And I just want to

12:24:03 1 clarify something.

12:24:04 2 So plaintiffs' counsel asked you some questions
12:24:06 3 about interrogatory No. 9, which is on page eight and nine
12:24:10 4 of the PDF.

12:24:12 5 A. Okay.

12:24:14 6 Q. And this is the interrogatory that asks about
12:24:16 7 instances of establishing non-U.S. citizen or non-county
12:24:21 8 residents registering to vote or voting. And I note that
12:24:26 9 the request asks from January 1st, 2013 to present, but I
12:24:29 10 read the response, quote, the Navajo County Recorder's
12:24:34 11 Office has not had any situation arise since January 1st,
12:24:38 12 2023 in which it established that a non-U.S. citizen or
12:24:44 13 non-county resident has registered to vote, end quote.

12:24:47 14 Do you know if the information was pulled from
12:24:49 15 January 23, 2023 or January 2013?

12:24:54 16 A. Let me reread it really quick.

12:25:00 17 Q. Yeah. Sorry. That was a mouth of a question,
12:25:03 18 so...

12:25:05 19 A. It's not tracked in our system, so it would just
12:25:13 20 have to be in memory. And it's never happened since we
12:25:18 21 have been here.

12:25:20 22 Q. Okay. So you think that the answer could have
12:25:25 23 been for, it could have been a typo, and this maybe should
12:25:29 24 say since January 1st, 2013?

12:25:31 25 A. Yes. Yes.

12:25:50 1 Q. Okay. And can you remind me, when did you start
12:25:55 2 at the Recorder's Office?

12:25:57 3 A. It's been -- in 2017.

12:26:02 4 Q. Okay. Thank you.

12:26:08 5 A. Hmm hmm.

12:26:08 6 Q. I'd like to talk briefly about some of the
12:26:19 7 documentary proof of residency questions that you were
12:26:22 8 asked, some of the kind of nonstandard address questions
12:26:24 9 that we talked about way back at the beginning of the
12:26:28 10 depo.

12:26:29 11 And I was just wondering, generally, you know,
12:26:32 12 based on your experience and, at the Recorder's Office,
12:26:36 13 what kind of documents, generally, do people have that
12:26:40 14 show where they live in your county.

12:26:42 15 A. The only one I have seen is an, maybe an ID. I
12:26:50 16 have seen some IDs come across that are, they have a
12:26:55 17 direction for their address, had the directional address
12:27:07 18 on it.

12:27:08 19 Q. Would that be a tribal ID?

12:27:13 20 A. An Arizona ID.

12:27:15 21 Q. An Arizona ID. Okay.

12:27:46 22 Switching gears slightly to documentary proof of
12:27:50 23 citizenship, just to clarify your process for me.

12:27:54 24 So if a voter submits a form, a state form with
12:28:00 25 DPOC, do you scan that DPOC into the AVID system?

12:28:06 1 A. We do, yes.

12:28:07 2 Q. Do you at the Recorder's Office do anything

12:28:11 3 independently to verify the document?

12:28:13 4 A. No.

12:28:15 5 Q. No. Okay.

12:28:17 6 Still on citizenship, but on the federal form.

12:28:32 7 Do you think the citizenship checkbox provides you

12:28:35 8 information about whether a voter is a citizen?

12:28:39 9 A. Does it provide me information?

12:28:43 10 Q. Hmm hmm.

12:28:44 11 A. No, it doesn't provide. They just check it.

12:28:48 12 Q. And same answer -- same question for the state

12:28:53 13 form.

12:28:53 14 Do you think the checkbox provides you

12:28:55 15 information about whether the voter is a citizen?

12:28:58 16 A. No. They just check the box.

12:29:00 17 Q. Okay. So if they check no, does that raise a

12:29:04 18 red flag for you at all?

12:29:07 19 A. If they check no, yes.

12:29:09 20 Q. So if they check no that they're not a

12:29:15 21 U.S. citizen, but they come back in the AVID system with

12:29:20 22 no hits, would that -- how would your office handle that

12:29:22 23 kind of a situation?

12:29:23 24 A. We would send them a letter.

12:29:28 25 Q. Send them a letter.

12:29:28 1 I think you said send them a letter. Is that
12:29:31 2 right?
12:29:31 3 A. Yeah. Yes.
12:29:32 4 Q. Okay. If they checked no on a citizenship box
12:29:43 5 on the state form but they did attach, say, a birth
12:29:46 6 certificate, would you still send them a letter?
12:29:49 7 A. No.
12:29:50 8 Q. No. Okay.
12:29:56 9 Has your office ever had situations in which
12:29:59 10 someone submitted a proof of citizenship, so a birth
12:30:04 11 certificate or a copy of a passport, and the document was
12:30:10 12 defective in some way or blurry? Have you ever had
12:30:15 13 situations like that?
12:30:16 14 A. Off the top of my head, no.
12:30:18 15 Q. Okay. So normally you don't have issues with
12:30:23 16 the photocopies that are provided?
12:30:24 17 A. No. Yeah, they're usually clear.
12:30:27 18 Q. Okay. If, theoretically, if you were presented
12:30:33 19 with an application that had a bad photocopy, say of a
12:30:37 20 birth certificate, would you find it helpful to look and
12:30:41 21 see if they have checked the citizenship box yes?
12:30:46 22 A. Yes.
12:30:46 23 Q. A few more questions.
12:31:03 24 So this is on what's been marked as Exhibit 40,
12:31:10 25 it's Document C, and you were asked about this a little

12:31:13 1 bit earlier. It's your responses to the request for
12:31:18 2 document production.

12:31:20 3 And so I'm looking at request No. 1, and your
12:31:25 4 response, Subpart I. Let me know when you're there.

12:31:29 5 A. I'm there.

12:31:29 6 Q. Okay. So I just wanted to clarify your meaning,
12:31:35 7 my understanding of this response.

12:31:37 8 So I see that you respond that:

12:31:41 9 If an applicant was using a state form to
12:31:43 10 register, he or she would have been required to provide a
12:31:46 11 birthplace or complete the citizenship checkbox in order
12:31:50 12 to be registered to vote in state or local elections.

12:31:55 13 So do I understand this, that if an applicant
12:32:00 14 provides a birthplace in the United States that that's
12:32:03 15 accepted as proof of citizenship by itself?

12:32:06 16 A. No.

12:32:06 17 Q. No. Okay.

12:32:08 18 And I understand that there's no easy way to
12:32:15 19 determine if someone did provide birthplace on the state
12:32:18 20 form, but generally, in your experience, is it common for
12:32:23 21 an applicant to list birthplace on a state form?

12:32:27 22 A. Yes, it's common.

12:32:29 23 Q. Okay. So I have a hypothetical for you, a quick
12:33:05 24 one, and then I'll let you go.

12:33:07 25 So if a registrant were to write on their form

12:33:11 1 that they were born in New York, for example, but they
12:33:15 2 provided a birth certificate from Florida, what would your
12:33:19 3 office do in that situation?

12:33:21 4 A. Ooh. We would verify that stuff matches, their
12:33:34 5 name and date of birth. It hasn't happened yet, that I
12:33:42 6 know of, so I would get the guidance from the County
12:33:50 7 Recorder.

12:33:50 8 Q. Okay. But, generally, it would give you guys
12:33:54 9 pause and you would do some additional investigation?

12:33:58 10 A. Correct.

12:34:11 11 MS. BOUGHTON: All right. Just one moment. I'm
12:34:13 12 just checking all my notes.

12:34:36 13 All right. That is all I have for you today.
12:34:38 14 Thank you so much for your time. I really appreciate it.

12:34:41 15 I don't know if any of the other representatives
12:34:43 16 have questions.

12:34:46 17 MR. LANGHOFER: I do, but I'll defer to Craig if
12:34:49 18 he would like to go first.

12:34:52 19 MR. MORGAN: I have no questions. Thanks. At
12:34:54 20 least not right now.

12:34:54 21

12:34:54 22 EXAMINATION

12:34:57 23 BY MR. LANGHOFER:

12:35:01 24 Q. Mr. Lerma, thank you for your time. I'll be
12:35:01 25 relatively quick here.

12:35:02 1 I represent the Republican Intervenors, so we're
12:35:06 2 generally defending the laws. I just had a few follow-up
12:35:11 3 questions, mostly in the way of clarification.

12:35:14 4 Why don't we start with location of birth, which
12:35:16 5 is what Ms. Boughton was just asking you about.

12:35:23 6 If you have, if someone tries to register with a
12:35:25 7 very common name, let's say, you know, Joe Smith, or
12:35:27 8 something like that -- maybe there's a more common name in
12:35:29 9 your county -- and there is already someone registered
12:35:35 10 with that name, and, let's even say, with that date of
12:35:38 11 birth, what do you do in that circumstance to determine
12:35:42 12 whether they're already registered?

12:35:52 13 A. What do we do?

12:35:56 14 There is a verification system in AVID that
12:36:01 15 looks for duplicates. And if the date of birth matches,
12:36:03 16 social matches, and the name matches, then we link it.

12:36:13 17 Q. And, if you don't have a social, could you use
12:36:15 18 the location of birth or birthplace in order to confirm
12:36:20 19 or, confirm or disprove that it's a duplicate?

12:36:25 20 A. We do use it sometimes.

12:36:27 21 Q. Okay. In order to avoid duplicate
12:36:32 22 registrations, you mean?

12:36:33 23 A. Correct.

12:36:34 24 Q. And is that information in the AVID system?

12:36:38 25 A. It is.

12:36:39 1 Q. The -- in your experience, when you send out a
12:36:48 2 notification telling a voter that they're not qualified to
12:36:52 3 register to vote, for whatever reason, how often do they
12:36:57 4 respond and, you know, sort of correct the record and
12:36:59 5 provide the information you need to conclude that they
12:37:02 6 are, in fact, qualified to register?

12:37:04 7 A. In my experience, not often.

12:37:08 8 Q. Can you give us a rough percentage?

12:37:11 9 A. I'd say maybe one out of 20.

12:37:23 10 Q. And, in those cases, I take it that you do, in
12:37:30 11 fact, update the registration or give them a proper
12:37:34 12 registration?

12:37:34 13 A. Correct.

12:37:35 14 Q. Final question.

12:37:41 15 Mr. Rosenbaum had asked you whether you had seen
12:37:44 16 any fraudulent or incorrect applications come through your
12:37:49 17 office. And, if your office hasn't concluded that any
12:37:54 18 registrations were fraudulent or had inaccurate
12:37:57 19 information, am I correct in assuming that you guys
12:38:01 20 haven't gone out and sort of personally checked each of
12:38:03 21 the addresses that come through because it would just be
12:38:07 22 too much work for your office?

12:38:08 23 A. Yeah. It's also not required.

12:38:10 24 Q. Right. Yeah. I didn't mean to suggest that it
12:38:13 25 would be required.

12:38:14 1 So when you say that you haven't seen a
12:38:17 2 fraudulent or inaccurate registration come through, do you
12:38:21 3 mean that you haven't been able to conclude it's
12:38:24 4 fraudulent or inaccurate based on the face of the
12:38:27 5 documents, or based on any, you know, sort of
12:38:28 6 extracurricular research you guys have done?

12:38:31 7 A. Yeah. Just based off the document.

12:38:37 8 MR. LANGHOFER: Okay. I don't have any other
12:38:40 9 questions. Thank you.

12:38:56 10 MR. ATKINS: If no one else for defendants has
12:38:58 11 questions, I have just one follow-up question, I think.

12:38:58 12

12:39:01 13 FURTHER EXAMINATION

12:39:01 14 BY MR. ATKINS:

12:39:02 15 Q. Just to clarify something. I had thought that
12:39:05 16 earlier in today's deposition you had told us that
12:39:11 17 birthplace information isn't a piece of data that's
12:39:16 18 reported in AVID, and I'm just wondering is birthplace
12:39:23 19 reported in AVID?

12:39:23 20 A. Birthplace? Is that what you said? Is
12:39:29 21 birthplace recorded?

12:39:32 22 Q. Yeah. Place of birth or birthplace information.

12:39:40 23 A. Place of birth is recorded.

12:39:49 24 MR. ATKINS: Okay. That's my remaining
12:39:51 25 question.

12:39:51 1 The only other, I guess, point of clarification
12:40:00 2 is Ms. Boughton had brought up the lack of clarity as to
12:40:05 3 the interrogatory response regarding instances of
12:40:13 4 non-citizen or non-resident voter fraud.

12:40:22 5 Mr. Moore, I assume you're the one to ask about
12:40:24 6 this, but I think it would be helpful if you or your
12:40:28 7 client could provide us all with a clear statement of
12:40:32 8 whether those response was referring to the time in
12:40:36 9 question starting in January of 2013.

12:40:41 10 DEFENSE COUNSEL: Form.

12:40:52 11 MR. ATKINS: You're on mute.

12:41:01 12 MR. ROSENBAUM: Jason, we can't hear you.

12:41:02 13 You're muted.

12:41:02 14 MR. MOORE: I apologize.

12:41:03 15 Mr. Atkins, I'm sorry. Yeah, that was a
12:41:07 16 typographical in that document. It should have said 2013
12:41:09 17 rather than 2023.

12:41:12 18 MR. ATKINS: Okay. Great. Appreciate that.

12:41:16 19 That's all I have. Thanks again, Mr. Lerma.

12:41:19 20 THE WITNESS: Thank you.

12:41:27 21 MR. ROSENBAUM: Well, I have nothing further.

12:41:32 22 John, I don't know if you do, but, if not, I
12:41:37 23 think this concludes.

12:41:38 24 MR. HINDLEY: I don't have any further
12:41:40 25 questions.

12:41:41 1
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MR. ROSENBAUM: Thank you, again, Mr. Lerma,
really appreciate your time.

THE VIDEOGRAPHER: We are off the record. The
time on the video monitor is 12:41 p.m. This ends
Volume 1, Media No. 3 in the 30(b)(6) Navajo County
Recorder by Jose Lerma.

We are off the record.

(The deposition concluded at 12:42 p.m.)

(Exhibit 36, Exhibit 38, Exhibit 39, Exhibit 40,
Exhibit 41, Exhibit 42, Exhibit 43, Exhibit 44,
Exhibit 45, Exhibit 46, Exhibit 47, and Exhibit 48 were
marked for identification.)

(Signature not requested.)

JOSE LERMA

1 STATE OF ARIZONA)
) ss.
2 COUNTY OF MARICOPA)

3
4 BE IT KNOWN that the foregoing deposition was
5 taken before me, KAREN L. LOCKER, RPR, Certified Reporter
6 No. 50821 for the State of Arizona, and by virtue thereof
7 authorized to administer an oath; that the witness before
8 testifying was duly sworn by me to testify to the whole
9 truth; deposition review and signature was not requested;
10 that the questions propounded by counsel and the answers
11 of the witness thereto were taken down by me in shorthand
12 and thereafter transcribed into typewriting under my
13 direction; that the foregoing pages contain a full, true,
14 and accurate transcript of all proceedings and testimony
15 had, all to the best of my skill and ability.

16 I FURTHER CERTIFY that I am not related to nor
17 employed by any of the parties hereto and have no interest
18 in the outcome thereof.

19 DATED at Phoenix, Arizona, this 8th day of
20 August, 2023.

21
22
23
24
25



KAREN L. LOCKER, RPR
Certified Court Reporter No. 50821

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IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ARIZONA

Mi Familia Vota, et al.,)	
)	
Plaintiffs,)	
)	
vs.	)	No. 2:22-cv-00509-PHX-SRB
	)	(Lead)
Adrian Fontes, in his)	
official capacity as Arizona)	
Secretary of State, et al.,)	
)	
Defendants.)	
)	
AND CONSOLIDATED CASES	)	No. CV-22-00519-PHX-SRB
	)	No. CV-22-01003-PHX-SRB
	)	No. CV-22-01124-PHX-SRB
	)	No. CV-22-01369-PHX-SRB
	)	No. CV-22-01381-PHX-SRB
	)	No. CV-22-01602-PHX-SRB
	)	No. CV-22-01901-PHX-SRB
)	

VIDEOTAPED 30(b)(6) DEPOSITION OF MOHAVE COUNTY RECORDER
BY AND THROUGH LYDIA DURST

Kingman, Arizona

August 2, 2023

Prepared By:
Karen L. Locker, RPR
Certified Reporter #50821



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VIDEOTAPED DEPOSITION OF LYDIA DURST

was taken on August 2nd, 2023, commencing at 10:09 a.m.,
at 700 Beale Street, Kingman, Arizona, before Karen L.
Locker, a Certified Reporter in the State of Arizona,
reported via Zoom Videoconference.

* * *

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(All parties appeared via Zoom Videoconference)

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4 Dennis Woods, Videographer
5 Leslie Mansfield
6 Matt Webber
7 Daxon Ernyei
8 Sarah Johnston
9 Emma Schlenker

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10:09:31 1 THE VIDEOGRAPHER: We are on the record. Time
10:09:32 2 on the video monitor is 10:09 a.m.

10:09:35 3 Here begins Volume 1, Media No. 1 in the
10:09:39 4 30(b)(6) deposition of Chief Deputy Mohave County Recorder
10:09:46 5 by Lydia Durst, in the matter of Mi Familia Vota, et al.
10:09:53 6 v. Adrian Fontes, in the United States District Court,
10:09:57 7 District of Arizona, case No. 2:22-cv-00509-SRB.

10:10:07 8 Today's date is August 2nd, 2023.

10:10:10 9 Our court reporter is Karen Locker. My name is
10:10:15 10 Dennis Woods, certified legal videographer, and we both
10:10:19 11 represent Coash Court Reporting & Video.

10:10:22 12 This video deposition is taking place at 700
10:10:25 13 Beale Street, Kingman, Arizona.

10:10:26 14 Would all attendees please identify themselves
10:10:29 15 and state whom you represent.

10:10:36 16 MR. DAVIS: William Davis representing Mohave
10:10:36 17 County Recorder Kristi Blair.

10:10:36 18 MS. DIBRELL: Mollie DiBrell from Elias Law
10:10:49 19 Group representing Mi Familia Vota and Voto Latino.

10:10:49 20 MS. BOUGHTON: Kathryn Boughton representing the
10:10:49 21 State of Arizona and Arizona Attorney General.

10:10:49 22 MR. LANGHOFER: Kory Langhofer --

10:10:57 23 MR. HORLEY: Tim Horley representing -- oh,
24 sorry.

25 MR. LANGHOFER: Kory Langhofer representing --

1 MR. HORLEY: I was just going to add, Tim -- I'm
2 sorry.

3 MR. LANGHOFER: Go ahead, Tim.

4 MR. HORLEY: Just get this stated real quick.

10:11:06 5 Tim Horley representing the State of Arizona and
10:11:08 6 the Arizona Attorney General.

10:11:13 7 MR. LANGHOFER: Kory Langhofer for the RNC
10:11:13 8 intervenors.

10:11:13 9 MS. STUART: Shayna Stuart for Secretary,
10:11:18 10 Arizona Secretary of State Adrian Fontes.

10:11:22 11 MR. KEREKES: Bill Kerekes for the Yuma County
10:11:24 12 Recorder Richard Colwell.

10:11:27 13 MR. GORDON: Mike Gordon for the Yavapai County
10:11:27 14 Recorder.

10:11:27 15 MS. ESTES-WERTHER: Christina Estes-Werther for
10:11:37 16 Santa Cruz County Recorder.

10:11:41 17 THE VIDEOGRAPHER: Have all parties identified
10:11:43 18 themselves?

10:11:45 19 MR. MAKKER: Amit Makker from Latham & Watkins
10:11:45 20 for the Arizona Asian American Native Hawaiian and Pacific
10:11:51 21 Islander for Equity Coalition plaintiff.

10:11:51 22 MR. HERRERA: Ernest Herrera for Promise Arizona
10:11:51 23 plaintiffs.

10:11:58 24 MR. VOLCHOK: Daniel Volchok from Wilmer Cutler
10:12:00 25 Pickering Hale & Dorr for the Democratic National

1 LYDIA DURST,
2 a witness herein, having been first duly sworn by the
3 Certified Reporter to speak the truth and nothing but the
4 truth, was examined and testified as follows:

5

6

EXAMINATION

7

BY MS. DIBRELL:

10:13:15

8

Q. Good morning, Ms. Durst. As you just heard, I'm

10:13:18

9

Mollie DiBrell. I'm from Elias Law Group, and I represent

10:13:18

10

the Plaintiffs Mi Familia Vota and Voto Latino in this

10:13:21

11

lawsuit.

10:13:22

12

As I'm sure you know, there are various

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13

plaintiff groups who have brought legal challenges against

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14

a series of new laws who were enacted by the legislature

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under H.B. 2492 and 2243. Those cases have been

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16

consolidated into one lawsuit.

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17

I am going to begin the questioning today, but

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18

when I'm done, some of the counsel for the other

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19

plaintiffs may have questions for you as well.

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20

Does that make sense?

10:13:45

21

A. Yes.

10:13:45

22

Q. Could you please state your full name for the

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23

record and spell your last name?

10:13:50

24

A. Lydia Durst, D-U-R-S-T.

10:13:54

25

Q. And have you been deposed before?

10:13:58 1 A. No.

10:13:58 2 Q. Okay. So I just want to go over some ground
10:14:02 3 rules so that we are on the same page.

10:14:04 4 So you understand that Ms. Locker is the court
10:14:06 5 reporter and that she is typing down everything that we
10:14:09 6 say today so that we have a complete and accurate record
10:14:12 7 of what is being said, right?

10:14:14 8 A. Correct.

10:14:14 9 Q. And so she can get a complete and accurate
10:14:18 10 record, if you could please just answer questions audibly
10:14:21 11 and clearly.

10:14:22 12 A. Okay.

10:14:22 13 Q. Does that -- perfect.

10:14:25 14 And then, as we agreed off the record, but I'll
10:14:27 15 just state it for the record, the defendants are going to
10:14:31 16 have one objection, so you may hear your counsel object.
10:14:34 17 Let your counsel object so it can be on the record, and
10:14:37 18 then, once they're done, you may answer my question unless
10:14:41 19 they have instructed you otherwise.

10:14:42 20 Does that make sense?

10:14:43 21 A. Yes.

10:14:44 22 Q. And then if you could also agree to wait and let
10:14:49 23 me finish my question before answering so we don't talk
10:14:53 24 over each other. I know it's a bit difficult with Zoom.

10:14:55 25 So does that sound good?

10:14:59 1 A. Yes.

10:14:59 2 Q. If any of my questions are unclear, will you
10:15:05 3 please let me know that you don't understand the question
10:15:07 4 or that you need me to repeat any part of it?

10:15:10 5 A. Yes.

10:15:10 6 Q. And if you do answer my question I will assume
10:15:15 7 that you understood the question.

10:15:15 8 Does that make sense?

10:15:22 9 A. Yes.

10:15:22 10 Q. If at any time you need a break, please let me
10:15:25 11 know. The only thing I ask is if there is a question
10:15:28 12 pending that you finish answering and then we can take a
10:15:31 13 break.

10:15:32 14 Do you understand?

10:15:32 15 A. Yes.

10:15:33 16 Q. And you just took an oath, correct?

10:15:38 17 A. Correct.

10:15:38 18 Q. And do you agreed to provide truthful and
10:15:42 19 complete testimony to the best of your ability today?

10:15:44 20 A. I do.

10:15:45 21 Q. And is there any reason you can't fully and
10:15:48 22 truthfully testify today?

10:15:49 23 A. No.

10:15:50 24 Q. And did you bring any materials into the
10:15:59 25 deposition with you?

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A. Yes.

Q. And what are they?

A. Just the notice of the deposition, our responses, and our discovery, as well as, when we submitted to our board of supervisors, our agreement for our SAVE program.

MR. DAVIS: Counsel, that's the discovery from February.

MS. DIBRELL: I see. And when you say discovery, do you mean the discovery responses or the actual production?

MR. DAVIS: These were the requests for productions from the February discovery.

BY MS. DIBRELL:

Q. And you have the answers to the requests and the actual productions in front of you?

MR. DAVIS: We have the answers to the ones that are narrative in nature. Some of them were sent over as Excel sheets, so we don't have those. But this one is narrative, so I have it for her to reference if necessary.

MS. DIBRELL: Thank you for clarifying.

BY MS. DIBRELL:

Q. And do you have any other notes in front of you or any notes on the documents?

A. No.

10:17:18 1 Q. Okay. So I just want to talk a little bit about
10:17:23 2 your background.

10:17:25 3 So that you are currently employed by the Mohave
10:17:31 4 County Recorder's Office, correct?

10:17:31 5 A. Correct.

10:17:31 6 Q. And you are the Chief Deputy County Recorder?
10:17:35 7 I'm sorry. I can't hear your audio. Would you say that
10:17:38 8 again?

10:17:41 9 A. I am the Chief Deputy Recorder for Mohave
10:17:41 10 County.

10:17:51 11 Q. How long have you been the Chief Deputy County
10:17:54 12 Recorder for Mohave County?

10:17:55 13 A. Three years.

10:17:56 14 Q. And what are your responsibilities as the Chief
10:18:00 15 Deputy County Recorder?

10:18:01 16 A. I act on behalf of our County Recorder. I
10:18:04 17 complete tasks in the voter registration department, as
10:18:08 18 well as the Recorder's office.

10:18:09 19 Q. And what are those tasks you complete in the
10:18:13 20 voter, with respect to voter registration?

10:18:15 21 A. It could be hiring, permanent employee,
10:18:20 22 employer -- employees, early voting temps, setting up
10:18:24 23 early voting sites, registering people to vote, any duty
10:18:29 24 as assigned.

10:18:30 25 Q. And have you held any other positions in the

10:18:37 1 Mohave County Recorder's Office?

10:18:37 2 A. I have.

10:18:38 3 Q. What were those positions?

10:18:40 4 A. I was the administrative assistant to the County

10:18:46 5 Recorder.

10:18:46 6 Q. And when were you the administrative assistant

10:18:49 7 to the County Recorder?

10:18:51 8 A. From October of 2017 to February of 2020. I'm

10:18:57 9 sorry. I misspoke that.

10:19:02 10 Q. So what years were you the administrative

10:19:07 11 assistant?

10:19:07 12 A. October of 2018 to February of 2020.

10:19:09 13 Q. Perfect. And can you please briefly describe

10:19:14 14 what your responsibilities were in that role?

10:19:16 15 A. I completed all deposits; I recorded documents

10:19:25 16 to be made of public record; I did memos for the County

10:19:30 17 Recorder; and did mild assistance with the voter

10:19:30 18 registration.

10:19:36 19 Q. Based on your time with the Mohave County

10:19:39 20 Recorder's Office, is it fair to say you're familiar with

10:19:42 21 Arizona's election administration?

10:19:44 22 A. Yes.

10:19:45 23 Q. And is it fair to say that, based on your

10:19:46 24 experience, you're familiar with Arizona's voter

10:19:50 25 registration processes?

10:19:51 1 A. Yes.

10:19:52 2 Q. And do you understand that you are here today as
10:19:56 3 a representative to testify on behalf of the Mohave County
10:19:59 4 Recorder?

10:19:59 5 A. Yes.

10:19:59 6 Q. Do you understand that your answers may be
10:20:04 7 based, not only on your personal knowledge, but also
10:20:06 8 information known or available to the Mohave County
10:20:10 9 Recorder?

10:20:10 10 A. Yes.

10:20:10 11 Q. And so, I want to clarify, this is not a memory
10:20:14 12 test. So if I ask a question and you don't know the
10:20:17 13 answer, can you agree to tell me if you think someone else
10:20:20 14 in the office may know the answer?

10:20:22 15 A. Yes.

10:20:23 16 Q. So I would like to show you a document that will
10:20:30 17 be marked as Exhibit 49, and it's actually the deposition
10:20:33 18 notice that you already have in front of you, but I can
10:20:36 19 pull it up to share it with all of the groups.

10:21:30 20 Can you see my screen?

10:21:31 21 A. Yes.

10:21:33 22 Q. And do you recognize this document?

10:21:34 23 A. I do.

10:21:35 24 Q. And this is the 30(b)(6) deposition notice for
10:21:40 25 your deposition, correct?

10:21:41 1 A. Yes.

10:21:42 2 Q. I'm going to scroll to Schedule A, and I'm going
10:21:48 3 to represent to you that this is a list of the topics that
10:21:52 4 we may discuss today, in today's deposition.

10:21:55 5 Have you reviewed Schedule A previously?

10:21:58 6 A. Just briefly, prior to.

10:22:02 7 Q. Have you reviewed all 20 topics that are listed
10:22:06 8 in Schedule A?

10:22:21 9 I'm sorry. Could you state that again? I can't
10:22:23 10 hear you.

10:22:23 11 A. I didn't go through all the topics, no.

10:22:25 12 Q. Are there any topics in Exhibit A of your
10:22:33 13 deposition notice that you are not prepared to answer
10:22:35 14 questions about today?

10:22:37 15 A. Not that I'm aware of.

10:22:54 16 Q. Would it be helpful to go through each topic?
10:23:05 17 Or are you prepared to speak to all 28 topics today in
10:23:09 18 your deposition notice?

10:23:13 19 A. I believe I can speak to them.

10:23:17 20 Q. And what did you do to prepare for today's
10:23:23 21 deposition?

10:23:23 22 A. I didn't prepare anything from this necessarily.

10:23:36 23 Q. Did you meet with anyone in your office to
10:23:39 24 prepare for today's deposition?

10:23:41 25 A. I spoke with County Recorder Kristi Blair

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10:25:01 20
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briefly.

Q. And what did you speak about?

A. She's the one that received this, and we just discussed the data that was provided in response.

Q. What do you mean by the data that was provided in response?

A. Where, like from the discovery that we provided, that she provided.

Q. And how many times did you speak with County Recorder Kristi Blair?

A. Just once.

Q. And when was this?

A. Yesterday.

Q. And how long did you meet with County Recorder Kristi Blair?

A. Less than 15 minutes.

Q. Was anyone else present at that meeting with Kristi Blair?

A. No.

Q. Without going into the substance of any of the conversations, did you meet with your counsel to prepare for today's deposition?

A. Yes.

Q. How many times?

A. Twice.

10:25:19 1 Q. And did you meet with Mr. Davis?

10:25:23 2 A. Yes.

10:25:25 3 Q. When?

10:25:30 4 A. This morning and yesterday.

10:25:32 5 Q. And about how long were those meetings with

10:25:36 6 Mr. Davis?

10:25:36 7 A. Yesterday was very brief, and this morning,

10:25:45 8 30 minutes.

10:25:46 9 Q. And for yesterday's meeting with Mr. Davis, if

10:25:54 10 you had to ballpark it, how long was that meeting?

10:25:58 11 A. Less than 15 minutes.

10:26:02 12 Q. And did you review any documents to prepare for

10:26:07 13 today's deposition?

10:26:08 14 A. Just the documents I have this morning.

10:26:10 15 Q. And, to be clear, the documents that you have

10:26:17 16 this morning are the Mohave County's responses to Equity's

10:26:28 17 RFPs?

10:26:29 18 A. Yes.

10:26:30 19 Q. What other documents did you look at in

10:26:32 20 preparation for this deposition?

10:26:34 21 A. Briefly reviewed the Rule 30(b)(6).

10:26:42 22 Q. By the Rule 30(b)(6), you mean the Rule 30(b)(6)

10:26:48 23 deposition notice that I'm sharing on my screen?

10:26:52 24 A. Yes.

10:26:52 25 Q. Did you review anything else in preparation for

10:26:55 1 today's deposition?

10:26:56 2 A. No.

10:26:58 3 Q. So, to clarify, you reviewed the Mohave's RFP
10:27:08 4 responses to Equity's requests for production that were
10:27:12 5 served in February of 2023, correct?

10:27:16 6 A. Yes. And the most recent.

10:27:22 7 Q. And, can you clarify the most recent, were in
10:27:26 8 response to the consolidated plaintiff's request for
10:27:30 9 production?

10:27:30 10 A. Yes.

10:27:35 11 MS. DIBRELL: And, just to make it clear for the
10:27:38 12 record, I'm marking the Mohave amended 30(b)(6) deposition
10:27:44 13 notice as Exhibit 49.

10:27:56 14 BY MS. DIBRELL:

10:28:10 15 Q. So I would like to discuss the Mohave County
10:28:18 16 Recorder's responsibilities with respect to elections with
10:28:18 17 you.

10:28:18 18 A. Okay.

10:28:19 19 Q. So what are the Mohave County Recorder's
10:28:22 20 Office's responsibilities when it comes to elections?

10:28:24 21 A. We receive voter registration forms to register
10:28:29 22 people to vote. We complete, complete those. We set up
10:28:36 23 early voting sites, hire temporary employees, work early
10:28:40 24 voting sites 27 days before an election. We mail ballots
10:28:45 25 to registered voters that request them. We signature

10:28:49 1 verify returned early ballots, and we provide them to the
10:28:54 2 elections department.

10:28:56 3 Q. You said that you receive voter registration
10:29:01 4 forms?

10:29:01 5 A. Yes.

10:29:01 6 Q. And you said that you complete those.

10:29:03 7 Could you explain what you mean by you complete
10:29:06 8 those?

10:29:07 9 A. So if a voter registration form is paper, we
10:29:10 10 would do the data entry on that, complete a HAVA check,
10:29:14 11 run them through the HAVA program, and they would then
10:29:18 12 either be, come up with their status for voter
10:29:23 13 registration. We also receive them from the Motor Vehicle
10:29:27 14 Division as an EZ Voter, and we process those as well.

10:29:34 15 Q. So let's take each one of those in turn.

10:29:37 16 So you said for paper registrations you enter
10:29:41 17 the data from the voter registration forms, correct?

10:29:45 18 A. Yes.

10:29:45 19 Q. What do you enter that data from paper voter
10:29:50 20 registration forms into?

10:29:51 21 A. The Arizona voter information database, known as
10:29:57 22 AVID.

10:29:57 23 Q. And what does that entail?

10:29:59 24 A. That is the entire voter database, or what
10:30:05 25 does -- I'm sorry. I may not understand your question.

10:30:09 1 Q. Thanks for telling me. That's perfect.

10:30:12 2 What does it entail when you say you enter that

10:30:15 3 data into AVID? What do you do?

10:30:18 4 A. So we scan the image. From the image we would

10:30:21 5 type in their last name, their first name, and then any

10:30:24 6 identifying information, their Arizona driver's license,

10:30:27 7 their date of birth, and their social, last four of their

10:30:30 8 social security number. That would then pop up if they

10:30:34 9 already have a record in Arizona, most likely Mohave

10:30:37 10 County. And if it's a hard match, depending on what

10:30:41 11 information is already on our record, we would match them,

10:30:45 12 and then we would update the record from the paper into

10:30:47 13 that database. So if they change their party, if they

10:30:52 14 change their address, their mailing information, or be

10:30:55 15 removed or added from the active early voting list.

10:30:59 16 Q. What do you mean when you say if it's a hard

10:31:02 17 match? What is that?

10:31:03 18 A. So if the voter's name and their date of birth

10:31:09 19 or social security or Arizona driver's license match them

10:31:12 20 to an already registered voter.

10:31:15 21 Q. And if it matches an already registered voter,

10:31:19 22 you update their registration?

10:31:21 23 A. Yes.

10:31:22 24 Q. What if it doesn't match an already registered

10:31:28 25 voter? Then what do you do?

10:31:30 1 A. They would become a new registered voter.

10:31:34 2 Q. And who in the office is responsible for this
10:31:37 3 process?

10:31:37 4 A. All voter registration specialists.

10:31:40 5 Q. Who are the voter registration specialists?

10:31:43 6 A. We have currently three, Monique, Jamie, and
10:31:48 7 Erma.

10:31:49 8 Q. Do you know those three voter registration
10:31:54 9 specialists' full names, first and last?

10:31:57 10 A. I do. It's -- I'm sorry -- Monique Martinez,
10:32:03 11 Jamie Risher, and Erma Allen.

10:32:07 12 Q. Thank you.

10:32:13 13 You also said that for the paper voter
10:32:16 14 registration forms, after you enter the data there's a
10:32:20 15 HAVA check, correct?

10:32:22 16 A. Correct.

10:32:22 17 Q. Can you explain what that entails? What is the
10:32:26 18 HAVA check?

10:32:26 19 A. The HAVA check is on top of the voter -- it's a
10:32:31 20 large button on the top of the screen in the Arizona voter
10:32:35 21 information database, and that runs them through the HAVA
10:32:39 22 program for their, with their Arizona driver's license
10:32:43 23 information, to come back for a status of valid or if they
10:32:51 24 need to be a federal and provide further information.

10:32:55 25 Q. What is the HAVA check checking against?

10:32:58 1 A. My belief it would be the Motor Vehicle Division
10:33:05 2 information.

10:33:07 3 Q. And under what circumstances would a HAVA check
10:33:27 4 come back not a match?

10:33:29 5 A. If the voter didn't provide any information to
10:33:38 6 the MVD showing that they are a U.S. citizen.

10:33:42 7 Q. So before we get into the specifics of what the
10:34:01 8 voter can show for their citizenship, I also wanted to
10:34:06 9 briefly talk, or touch on, the other ways that voters can
10:34:10 10 register to vote. So you also mentioned they can register
10:34:13 11 to vote using the Motor Vehicle's database, an EZ form?

10:34:17 12 A. It's called EZ Voter. It's electronic.

10:34:23 13 Q. And how does that work?

10:34:24 14 A. So it's through, either in person at the MVD
10:34:27 15 and, or you can do it online through the Motor Vehicle
10:34:33 16 Division, ServiceArizona. It would take the information
10:34:37 17 from your driver's license, your signature. You can
10:34:41 18 update your registration, pick your political party, and
10:34:45 19 it would take all of that data, it puts it on to an
10:34:49 20 electronic form that then comes to us.

10:34:51 21 Q. What do you do once that electronic data comes
10:34:56 22 to you?

10:34:57 23 A. It's on the dashboard in AVID, our voter
10:35:01 24 registration database, and then we select the first
10:35:06 25 person, work in order that they're received. We verify

10:35:09 1 that what is on the form is inputted, so it's like two
10:35:15 2 screens. What's on the form is what's showing in the
10:35:19 3 voter information record and then you would need to click
10:35:24 4 on their address for it to verify the address, do a HAVA
10:35:28 5 check, and it would then marry that, if they are already
10:35:33 6 registered, to their file or make them a new registered
10:35:43 7 voter.

10:35:44 8 Q. Do the three voter registration specialists that
10:35:46 9 you mentioned previously, are they also responsible for
10:35:49 10 processing these EZ Voter application forms?

10:35:54 11 A. Yes. But not all of them complete it on a daily
10:35:58 12 basis.

10:35:58 13 Q. Does anyone else process any voter registration
10:36:02 14 applications?

10:36:02 15 A. I do typically when it's a deadline to register
10:36:07 16 to vote and there's a lot of them.

10:36:09 17 Q. Does anyone else help process voter registration
10:36:15 18 forms?

10:36:15 19 A. No.

10:36:16 20 Q. Is it also part of your responsibilities to
10:36:26 21 conduct list maintenance processes?

10:36:29 22 A. It is.

10:36:30 23 Q. Do you -- are you responsible for this in the
10:36:34 24 office, or is someone else responsible for maintaining
10:36:38 25 voter registration lists?

10:36:42 1 A. Could I ask for clarification on that?

10:36:48 2 Q. Of course.

10:36:49 3 So when it comes to maintaining the voter
10:36:52 4 registration rolls, who in your office is responsible for
10:36:55 5 doing that?

10:36:56 6 A. So if we received mail back and we need to mark
10:37:00 7 that as a returned, it's the three gals in the office that
10:37:04 8 do that. Or if we receive notice that someone has moved,
10:37:11 9 it would just be the office staff. All of them can
10:37:16 10 complete any mail returned or provide a correspondence to
10:37:21 11 the voter to clean up the rolls.

10:37:23 12 Q. And when you refer to the three gals, you're
10:37:27 13 referring to the three voter registration specialists,
10:37:30 14 right?

10:37:31 15 A. Yes. Sorry.

10:37:32 16 Q. That's fine.

10:37:33 17 And then who else, who are the other staff, the
10:37:36 18 office staff?

10:37:37 19 A. The three main voter registration specialists
10:37:42 20 are just Monique, Jamie, and Erma. I do assist in voter
10:37:48 21 registration as well, but not on a daily basis.

10:37:51 22 Q. You also mentioned administering early voting.
10:37:58 23 So who in the office is responsible for that?

10:38:01 24 A. All staff members will take ballot requests from
10:38:10 25 voters, by mail or over the phone, for a one-time mailing,

10:38:15 1 but it would be the chief deputy, myself, or the County
10:38:22 2 Recorder to run the report to send to the vendor for
10:38:26 3 mailings.

10:38:27 4 Q. You've refer to all the staff. Could you just
10:38:33 5 clarify for me, who are the staff in the Mohave County
10:38:39 6 Recorder's Office?

10:38:39 7 A. So for voter registration, it would be Jamie,
10:38:42 8 Monique, and Erma.

10:38:44 9 Q. And so when you say all the staff, that's, those
10:38:46 10 are the only people you're referring to?

10:38:49 11 A. Yes.

10:38:49 12 Q. For Mohave voters who vote early, how can they
10:38:58 13 submit their ballots?

10:38:59 14 A. They can place it back in the mail by USPS, or
10:39:04 15 they can bring it to our office at 700 West Beale Street,
10:39:08 16 or take it to an early voting site that is open Monday
10:39:12 17 through Friday, 10:00 a.m. to 4:00 p.m., for 27 days.

10:39:15 18 Q. Are those early voting sites the same as the
10:39:19 19 drop boxes?

10:39:20 20 A. Inside the early voting site there is a ballot
10:39:24 21 box, but we do not necessarily have drop box locations.

10:39:28 22 Q. How do you process submitted early votes?

10:39:36 23 A. Like when it is received to our office?

10:39:41 24 Q. Yes. So once a Mohave voter submits an early
10:39:45 25 ballot, how do you process that?

10:39:47 1 A. If they're coming from the post office they come
10:39:51 2 in mail trains. We then go through and count them into
10:39:55 3 batches of 50, removing any affidavit envelope that is not
10:40:01 4 signed. Then once they're placed into batches of 50, the
10:40:05 5 signature verified personnel in the office would then beep
10:40:10 6 those ballots, essentially accepting them, but if they
10:40:13 7 don't, are not able to verify the signature, they would
10:40:16 8 place it into, what we call, a second-look bin, which then
10:40:21 9 goes to another person for them to review the signature.

10:40:25 10 After that, you complete a ballot of 50, or I'm
10:40:29 11 sorry, a batch of 50, and then it would go into a tote for
10:40:33 12 the elections department.

10:40:35 13 Q. Who manages that process?

10:40:40 14 A. The County Recorder.

10:40:43 15 Q. The County Recorder also is not the same person
10:40:49 16 as the county elections director, correct?

10:40:52 17 A. Correct.

10:40:52 18 Q. So -- and who is the current County Recorder?

10:40:56 19 A. Kristi Blair.

10:40:58 20 Q. Did Ms. Blair recently submit her resignation?

10:41:07 21 A. She did.

10:41:08 22 Q. Do you know why Ms. Blair has resigned?

10:41:11 23 A. Due to medical issues.

10:41:13 24 Q. Do you know who will replace Ms. Blair as the
10:41:18 25 Mohave County Recorder?

10:41:18 1 A. Not at this time.

10:41:19 2 Q. And who is the current county elections
10:41:24 3 director?

10:41:24 4 A. Allen Tempert.

10:41:31 5 Q. How are the election-related responsibilities
10:41:35 6 divided between the Mohave County Recorder and the
10:41:38 7 elections director?

10:41:39 8 A. So the Mohave County Recorder does early voting,
10:41:46 9 by mail and in person, and then the elections director
10:41:50 10 does election day in-person voting and tabulation.

10:41:56 11 Q. Do the Mohave County Recorder and elections
10:42:01 12 director work together at all?

10:42:03 13 A. Yes.

10:42:03 14 Q. So how do they work together?

10:42:06 15 A. By ballot design -- the elections department
10:42:13 16 does our ballot design. We then use those ballots for our
10:42:17 17 early voting, in person and by mail, and we work together
10:42:22 18 in the chain of command -- or chain of custody for the
10:42:29 19 voted ballots to them.

10:42:31 20 Q. When you say, the chain of custody of the voted
10:42:36 21 ballots to them, who is the them in that answer?

10:42:39 22 A. So from the voter registration department, when
10:42:42 23 we package the voted accepted ballots from signature
10:42:48 24 verification, we then provide them to the elections
10:42:50 25 department for their duties.

10:42:53 1 Q. And, just to clarify, you provide the ballots to
10:42:58 2 the elections director to tabulate the votes?

10:43:01 3 A. So we provide them to the elections department.
10:43:04 4 They would then have to have an early board that takes the
10:43:09 5 ballot and affidavit to separate ends of the tables, and
10:43:14 6 then they would tabulate.

10:43:16 7 Q. As the chief deputy County Recorder, who do you
10:43:29 8 report to?

10:43:29 9 A. The County Recorder herself, Kristi Blair.

10:43:33 10 Q. Do you supervise anyone as the chief deputy
10:43:37 11 County Recorder?

10:43:37 12 A. I do.

10:43:38 13 Q. Who reports to you?

10:43:39 14 A. All Recorder and voter registration staff.

10:43:43 15 Q. And all Recorder and voter registration staff,
10:43:48 16 who is that?

10:43:49 17 A. Do you want everyone's first and last name?

10:43:53 18 Q. If we could just run through a list of --

10:43:57 19 How many people are there?

10:43:59 20 A. I believe 17.

10:44:04 21 Q. Of those 17 people, could you just give a brief
10:44:16 22 description of what their job titles are?

10:44:19 23 A. Yes. So we have the administrative assistant.
10:44:24 24 She is the executive assistant to the Recorder but also
10:44:28 25 assists me in duties.

10:44:30 1 Then on the Recorder side, we have Liz. She's a
10:44:35 2 senior office assistant. She records documents, makes
10:44:41 3 them of public record. We have Linda, senior. She does
10:44:45 4 the same duties as Liz. Then we have two Kimberlys.
10:44:49 5 Everyone on the Recorder side records documents to make
10:44:53 6 them of public record on a separate floor than ours. And
10:44:58 7 then we also have, with that, Ryan, Meg, and Sidney.

10:45:06 8 And then we have two satellite offices of staff
10:45:10 9 members. They work for the assessor and the Recorder.
10:45:15 10 They, for the Recorder's office, record documents as well.
10:45:19 11 We also have a records manager and a micrographics
10:45:23 12 technician.

10:45:24 13 And then we have the voter registration division
10:45:27 14 of the three staff members, Monique, Erma, and Jamie.

10:45:35 15 Q. Do all 17 staff members that you just mentioned,
10:45:39 16 do they, in the Mohave County Recorder's Office, work in
10:45:43 17 elections?

10:45:43 18 A. No, they do not.

10:45:46 19 Q. Beyond the duties we already discussed, and
10:45:50 20 you've already mentioned this a bit, but, broadly, what
10:45:53 21 are their duties that you have not yet mentioned?

10:45:57 22 A. For the Recorder's office staff that don't work
10:46:01 23 in voter registration?

10:46:02 24 Q. Correct.

10:46:02 25 A. So we record documents by mail or over the

10:46:05 1 counter. We scan them, make them of record, index them,
10:46:10 2 microfilm them, return them to the person that recorded
10:46:14 3 the document, and then make it of public record to be
10:46:18 4 searched in office or online by anyone in the United
10:46:22 5 States.

10:46:22 6 Q. Are you responsible for interpreting Arizona
10:46:35 7 election law?

10:46:36 8 A. Yes.

10:46:37 9 Q. Could you please explain?

10:46:39 10 A. We follow Arizona Revised State Statutes for
10:46:45 11 recording documents and for voter registration needs.

10:46:48 12 Q. The Mohave County Recorder's Office interprets
10:47:01 13 those state statutes to perform its election
10:47:08 14 administration duties?

10:47:09 15 A. Yes.

10:47:10 16 DEFENSE COUNSEL: Form.

10:47:10 17 BY MS. DIBRELL:

10:47:11 18 Q. Does the Arizona Secretary of State's Office
10:47:13 19 give the County Recorders guidance on the election laws?

10:47:19 20 A. Yes.

10:47:19 21 Q. How?

10:47:21 22 A. They provide the EPM, election procedures
10:47:26 23 manual.

10:47:28 24 Q. Do they provide guidance in any other form
10:47:32 25 related to the interpretation of Arizona's election laws?

10:47:38 1 A. No.

10:47:40 2 Q. Do they provide -- does the Arizona Secretary of
10:47:45 3 State's Office provide guidance in emails to the County
10:47:51 4 Recorders?

10:47:51 5 A. Not that I'm aware of.

10:47:59 6 Q. Does the Secretary of State's Office provide
10:48:10 7 guidance on the implementation of election laws?

10:48:16 8 A. Well, like following the EPM.

10:48:28 9 Q. So the guidance that you rely on from the
10:48:30 10 Arizona Secretary of State's Office is solely the EPM?

10:48:34 11 A. Yes.

10:48:38 12 Q. So I would actually like to introduce my next
10:48:46 13 exhibit, which is the 2019 EPM, an excerpt of it.

10:49:17 14 MR. LANGHOFER: This is Kory Langhofer for the
10:49:17 15 RNC.

10:49:19 16 We object to using partial exhibits at trial. I
10:49:22 17 think it's fine for purposes of the deposition, though.

10:49:30 18 BY MS. DIBRELL:

10:49:32 19 Q. Ms. Durst, do you recognize this document?

10:49:33 20 A. I do.

10:49:34 21 Q. What is it?

10:49:35 22 A. It's the front page of the 2019 elections
10:49:39 23 procedure manual.

10:49:40 24 Q. And, as you'll see, there's a sticker on the
10:49:43 25 bottom left corner. Can you see that?

10:49:45 1 A. I do.

10:49:46 2 Q. And it says, Petty Exhibit No. 6. So this was,
10:49:51 3 I'll represent to you, it was introduced as an exhibit
10:49:54 4 during the Maricopa 30(b)(6) deposition.

10:50:05 5 Could you explain to me what the EPM is?

10:50:08 6 A. The EPM is a manual that's put together from the
10:50:14 7 elected Secretary of State to provide procedures to each
10:50:18 8 state statute or function of the voter registration
10:50:24 9 department.

10:50:25 10 Q. How does your office rely on the EPMs?

10:50:29 11 A. To be sure that we complete all tasks aligned
10:50:33 12 with the secretary -- or I'm sorry -- with state statute
10:50:40 13 for the State of Arizona.

10:50:42 14 Q. How do you rely on it? Do you read the EPM?

10:50:45 15 A. We do.

10:50:45 16 Q. And you follow what's in the EPM?

10:50:48 17 A. For procedures of things, yes.

10:50:51 18 Q. What do you mean by for procedures of things?

10:50:56 19 A. So if we needed guidance on a procedure for
10:51:04 20 voter registration, we could go to the EPM and see what is
10:51:10 21 outlined of what we should follow.

10:51:14 22 Q. Is the 2009 EPM the operative version?

10:51:22 23 A. The 2019 is the operative version.

10:51:26 24 Q. And Exhibit 6 that we're looking at right now,
10:51:30 25 is this the operative version of the EPM?

10:51:33 1 A. Yes, that is.

10:51:34 2 Q. Does this mean there was no revised or updated

10:51:39 3 EPM -- there was not an updated EPM in 2021?

10:51:43 4 A. That's correct.

10:51:43 5 Q. Do you recall why there was no revised EPM in

10:51:48 6 2021?

10:51:50 7 A. I believe it wasn't accepted from the governor

10:51:55 8 or attorney general's office.

10:51:57 9 Q. Do you know why?

10:51:58 10 A. Not exactly.

10:52:00 11 Q. Do you have, do you have any idea or -- sorry.

10:52:10 12 Strike that.

10:52:10 13 When you say, not exactly, do you have any idea

10:52:13 14 why it might not have you been --

10:52:13 15 DEFENSE COUNSEL: Form.

10:52:13 16 BY MS. DIBRELL:

10:52:15 17 Q. -- approved?

10:52:19 18 DEFENSE COUNSEL: Form and foundation.

10:52:22 19 THE WITNESS: No.

10:52:31 20 MR. DAVIS: Mohave County moves to object for

10:52:33 21 speculation.

10:52:33 22 BY MS. DIBRELL:

10:52:34 23 Q. Is your office legally required to follow the

10:52:39 24 elections procedure manual?

10:52:41 25 A. Yes.

10:52:42 1 Q. Is your office legally required to follow all
10:52:46 2 parts of the Elections Procedures Manual?

10:52:50 3 DEFENSE COUNSEL: Form and foundation.

10:52:53 4 THE WITNESS: Yes.

10:52:53 5 BY MS. DIBRELL:

10:53:04 6 Q. Turning to the table of contents.

10:53:07 7 Chapter 1 is on voter registration, correct?

10:53:11 8 A. Correct.

10:53:12 9 Q. Is your office legally required to follow
10:53:16 10 Chapter 1 on voter registration?

10:53:19 11 A. Yes.

10:53:19 12 DEFENSE COUNSEL: Form and foundation.

10:53:21 13 BY MS. DIBRELL:

10:53:30 14 Q. Has the Secretary of State's Office ever
10:53:34 15 communicated to you whether it believes the voter
10:53:37 16 registration rules, the procedures in the EPM are legally
10:53:41 17 binding?

10:53:43 18 DEFENSE COUNSEL: Form.

10:53:51 19 THE WITNESS: Can I have clarification, please?

10:53:53 20 BY MS. DIBRELL:

10:53:53 21 Q. Has the Secretary of State's Office ever told
10:53:56 22 the Mohave County Recorder's Office that the EPM is
10:54:01 23 legally binding?

10:54:03 24 A. I don't know.

10:54:16 25 Q. Are you aware of any Arizona counties that do

10:54:19 1 not follow the EPM, Chapter 1, on voter registration?

10:54:25 2 A. No.

10:54:25 3 Q. What is the Voter Registration Advisory
10:54:46 4 Committee?

10:54:46 5 A. I am not sure.

10:54:47 6 Q. Have you ever heard of the Voter Registration
10:54:56 7 Advisory Committee?

10:54:56 8 A. No.

10:54:57 9 Q. Do you know anything about the Voter
10:55:04 10 Registration Advisory Committee?

10:55:07 11 A. No.

10:55:09 12 Q. Is there someone else in the Mohave County
10:55:15 13 Recorder's Office who may know the answer to this?

10:55:18 14 A. County Recorder Kristi Blair.

10:55:26 15 Q. Why do you think that Ms. Blair would know the
10:55:30 16 answer to what the Voter Registration Advisory Committee
10:55:33 17 is?

10:55:33 18 A. As the elected official, she attends meetings
10:55:36 19 that I do not attend.

10:55:44 20 Q. Are there documents that you could review to
10:55:51 21 learn about the Voter Registration Advisory Committee?

10:55:58 22 A. Not in front of me.

10:55:59 23 Q. Are there documents that you don't have today
10:56:06 24 that you could review to learn about the Voter
10:56:12 25 Registration Advisory Committee?

10:56:12 1 A. Not that I'm aware of. There are documents I
10:56:29 2 could review.

10:56:29 3 Q. Do you know who has those documents?

10:56:32 4 A. No, I don't know.

10:56:43 5 Q. Do you know what the AVID Enhancement Committee
10:56:57 6 is?

10:56:57 7 A. Yes, I do.

10:56:58 8 Q. What is that?

10:56:59 9 A. That is a cog that goes over any tickets in,
10:57:05 10 placed for the AVID database that could be enhanced for
10:57:10 11 county use.

10:57:11 12 Q. What's your role on the AVID Enhancement
10:57:18 13 Committee?

10:57:19 14 A. I recently just started attending them.

10:57:22 15 Q. When did you start attending the AVID
10:57:27 16 Enhancement Committee meetings?

10:57:28 17 A. In the past two months.

10:57:30 18 Q. Who attended the AVID Enhancement Committee
10:57:35 19 meetings before you?

10:57:37 20 A. A prior staff member.

10:57:39 21 Q. Who is that prior staff member?

10:57:43 22 A. The voter registration supervisor, Natalie.

10:57:46 23 Q. Do you know Natalie's last name?

10:57:50 24 A. Natalie Collings.

10:57:53 25 Q. What's your role on the AVID Enhancement

10:57:59 1
10:57:59 2
10:58:07 3
10:58:08 4
10:58:11 5
10:58:16 6
10:58:24 7
10:58:27 8
10:58:31 9
10:58:42 10
10:58:44 11
10:58:51 12
10:58:55 13
10:58:58 14
10:59:06 15
10:59:10 16
10:59:14 17
10:59:17 18
10:59:19 19
10:59:32 20
10:59:37 21
10:59:41 22
10:59:44 23
10:59:47 24
10:59:50 25

Committee?

A. I listen, take note of what could potentially change in the AVID system.

Q. How often does it meet?

A. At minimum, once a month.

Q. At most, how much does -- how many times a month does the AVID Enhancement Committee meet?

A. Could be twice, biweekly.

Q. Are there any key projects that the AVID Enhancement Committee works on?

A. Not currently, to my knowledge.

Q. To your knowledge, were there any previous projects that the AVID Enhancement Committee worked on?

A. Do you have any clarification on an enhancement?

Q. I guess, I'm just trying to get a better sense of what the AVID Enhancement Committee does.

So do you know any working groups or projects that it has had in the past?

A. I believe it was through the Enhancement Committee when we changed just verbiage from like permanent early voting list to the active early voting list, anything that would need to be changed in AVID.

Q. So any time there are changes in AVID, does the AVID Enhancement Committee work on those changes?

A. I believe so.

10:59:51 1 Q. And what do they work on? Do they create
10:59:56 2 guidance for those changes?

11:00:00 3 A. Guidance and, eventually, implementation.

11:00:04 4 Q. And who do they give that guidance to for
11:00:07 5 changes to the AVID system?

11:00:10 6 A. Are you asking who would be on the call?

11:00:21 7 Q. I guess, let's take a step back.

11:00:24 8 So who maintains the AVID system?

11:00:28 9 A. The Secretary of State with -- I don't know who
11:00:35 10 he works for, but his name is "Ashish".

11:00:40 11 Q. And when there, when there need to be changes to
11:00:45 12 the AVID system, the AVID Enhancement Committee meets.

11:00:50 13 A. Correct.

11:00:51 14 Q. And during those meetings, the AVID Enhancement
11:00:55 15 Committee comes up with ideas for how to push through
11:00:58 16 those changes in the AVID system?

11:01:00 17 A. Per implementation, yeah.

11:01:03 18 Q. And per implementation, does the AVID
11:01:09 19 Enhancement Committee draft papers? How does it record
11:01:10 20 what needs to be changed?

11:01:15 21 A. I'm not sure.

11:01:17 22 Q. Does the AVID Enhancement Committee put together
11:01:24 23 emails about what needs to change in AVID?

11:01:27 24 A. I believe there's an Excel sheet for what is,
11:01:34 25 like topics of things that would need to be changed or

11:01:37 1 requested.

11:01:38 2 Q. Once the AVID Enhancement Committee identifies
11:01:41 3 what needs to be changed in AVID, do they send what they
11:01:47 4 have identified to the Secretary of State?

11:01:50 5 A. I don't know.

11:01:56 6 Q. Does the AVID Enhancement Committee send any
11:02:03 7 changes in AVID it identifies need to be implemented to
11:02:03 8 "Ashish"?

11:02:13 9 DEFENSE COUNSEL: Form, foundation.

11:02:19 10 THE WITNESS: I don't know.

11:02:19 11 BY MS. DIBRELL:

11:02:21 12 Q. Is there someone else at the Mohave County
11:02:24 13 Recorder's Office who may know the answer?

11:02:26 14 A. If anyone, the County Recorder.

11:02:33 15 Q. Why do you think that the County Recorder,
11:02:39 16 Ms. Blair, would know the answer to what the AVID
11:02:44 17 Enhancement Committee does?

11:02:44 18 A. As she's the elected official and may attend
11:02:55 19 other meetings.

11:02:56 20 Q. Do you know what the weekly super users meeting
11:03:05 21 is?

11:03:05 22 A. I have heard of it.

11:03:06 23 Q. What is it, based on what you've heard?

11:03:09 24 A. My understanding is it's for someone that is a
11:03:15 25 super user, uses AVID excessively, and they meet on that,

11:03:22 1 on those topics.

11:03:23 2 Q. So we have discussed voter registration a bit
11:03:38 3 already, and I just want to walk through the process and
11:03:41 4 make sure that I understand how it works.

11:03:44 5 So you mentioned that voters can register to
11:03:48 6 vote online?

11:03:50 7 A. Hmm hmm.

11:03:50 8 Q. They can also register to vote through the Motor
11:03:54 9 Vehicle Department?

11:03:56 10 A. Well, that would be online. Well, it's through
11:03:59 11 in person at the Motor Vehicle or online through Motor
11:04:06 12 Vehicle.

11:04:06 13 Q. And voters can register to vote filling out the
11:04:14 14 state form that is prescribed by the Arizona Secretary of
11:04:17 15 State?

11:04:17 16 A. Correct.

11:04:18 17 Q. Does your office provide those state forms to
11:04:23 18 third party groups through registered voters?

11:04:26 19 A. Yes, we do.

11:04:27 20 Q. Are there any special markings on those state
11:04:30 21 forms?

11:04:31 22 A. There's like a coding, letter and numbers.

11:04:40 23 Q. What are those coding letters and numbers for?

11:04:44 24 A. Where those forms could be found, political,
11:04:49 25 like political parties, or it could be in our office, the

11:04:57 1 post office, DES.

11:04:59 2 Q. Voters can also register to vote using the
11:05:03 3 federal forms, correct?

11:05:07 4 A. Hmm hmm.

11:05:09 5 Q. And do you understand the federal form to mean
11:05:10 6 the voter registration form that's issued by the U.S.
11:05:10 7 Elections Assistance Commission pursuant to the National
11:05:17 8 Voter Registration Act of 1993?

11:05:18 9 A. Correct.

11:05:25 10 Q. Can voters also register through NVRA agencies?

11:05:38 11 A. An NVRA agency?

11:05:41 12 Q. At agencies -- can voters also register to vote
11:05:44 13 through agencies that Arizona has designated?

11:05:50 14 A. Would that be like DES? Yes.

11:05:56 15 Q. And then voters can also register to vote using
11:06:00 16 the UOCAVA Federal Post Card and Federal Write-in Absentee
11:06:07 17 Ballot?

11:06:08 18 A. Correct.

11:06:09 19 Q. When is the deadline for registration?

11:06:11 20 A. 29 days before an election.

11:06:13 21 Q. So we walked through some of the processes
11:06:22 22 already. And, just to clarify, so after -- first you said
11:06:27 23 you enter an application into the AVID database, correct?

11:06:31 24 A. Correct.

11:06:32 25 Q. And then you run the HAVA check, right?

11:06:36 1 A. Correct.

11:06:37 2 Q. And that's a check against the Arizona
11:06:41 3 Department of Motor Vehicle database?

11:06:43 4 A. Correct.

11:06:44 5 Q. Do you also conduct signature matching when you
11:06:49 6 receive voter applications?

11:06:51 7 A. Not typically.

11:06:53 8 Q. Once -- what are the reasons for denying a voter
11:07:05 9 registration application?

11:07:06 10 A. If it is like not legible or incomplete, they
11:07:18 11 would receive a notice.

11:07:21 12 Q. What is the notice that the voter registrant
11:07:26 13 would receive if their application is denied?

11:07:30 14 A. The reason for. Like if we put it as an invalid
11:07:37 15 address if what is listed isn't verified or they don't
11:07:41 16 have a date of birth, saying it's incomplete with a new
11:07:45 17 form.

11:07:46 18 Q. For the notice letters, what language is in the
11:07:51 19 notice letters? Is that based on the examples in the 2019
11:07:56 20 EPM?

11:08:03 21 A. Most likely, but I can't currently picture the
11:08:07 22 exact notice.

11:08:08 23 Q. Do you know if Mohave County produced the notice
11:08:11 24 letters for denials of voter registration applications?

11:08:17 25 A. We have created correspondence in the AVID

11:08:28 1 system to be sent.

11:08:28 2 Q. So, to clarify, in this litigation, do you know,
11:08:31 3 in the documents that you sent to the plaintiffs in
11:08:33 4 response to our requests for productions, if you produced
11:08:36 5 any of these notice letters that you sent to registrants
11:08:41 6 whose applications are denied?

11:08:48 7 A. I, I don't know.

11:08:56 8 MS. DIBRELL: Mr. Davis, perhaps we could just
11:08:59 9 check during a break if we've received those notice
11:09:02 10 letters, as they would be responsive to the RFPs.

11:09:06 11 MR. DAVIS: That sounds good. And, if not, we
11:09:09 12 can send a supplemental.

11:09:11 13 MS. DIBRELL: Perfect. Thank you.

11:09:12 14 BY MS. DIBRELL:

11:09:13 15 Q. There's a voter registration -- excuse me -- if
11:09:16 16 a voter registrant's application is denied, how do they
11:09:22 17 cure their denied application?

11:09:24 18 A. Typically by resubmitting a completed
11:09:29 19 application.

11:09:30 20 Q. And how do they know to resubmit a completed
11:09:37 21 application?

11:09:38 22 A. So if a paper form is submitted to our office
11:09:44 23 and it doesn't have the required information on it, we
11:09:48 24 would send it back to them saying what is missing. They
11:09:52 25 would receive notice of that.

11:09:54 1 Q. And who sends out those notice letters?

11:09:59 2 A. Voter registration staff.

11:10:03 3 MS. DIBRELL: So before we move to our next
11:10:05 4 topic, I think this would be a good time for a 10 to 15
11:10:10 5 minute break, if that works for you, Ms. Durst.

11:10:13 6 THE WITNESS: Yes.

11:10:13 7 MS. DIBRELL: Perfect. So if we could go off
11:10:15 8 the record, please.

11:10:17 9 THE VIDEOGRAPHER: We are off the record. Time
11:10:19 10 on the video monitor is 11:10 a.m.

11:15:57 11 (Recess taken from 11:10 a.m. to 11:33 a.m.)

11:33:02 12 THE VIDEOGRAPHER: We are on the record. Time
11:33:09 13 on the video monitor is 11:33 a.m.

11:33:13 14 Please continue.

11:33:14 15 BY MS. DIBRELL:

11:33:17 16 Q. Ms. Durst, I want to turn to H.B. 2492 and H.B.
11:33:24 17 2243. But, first, I was just going to establish a few
11:33:26 18 terms to make sure that we are on the same page.

11:33:29 19 Let's see, are you aware that H.B. 2492 requires
11:33:34 20 that to be a qualified elector and to vote in all
11:33:37 21 elections and by mail a person must provide satisfactory
11:33:41 22 evidence of citizenship as prescribed by A.R.S. 16-166?

11:33:47 23 DEFENSE COUNSEL: Form and foundation.

11:33:51 24 THE WITNESS: Yes.

11:33:52 25 BY MS. DIBRELL:

11:33:52 1 Q. If I refer to that as the documentary proof of
11:33:56 2 citizenship, or documentary proof of citizenship
11:34:00 3 requirement, can we agree to, or can you agree to
11:34:03 4 understand me to be asking about this new requirement
11:34:08 5 under H.B. 2492?

11:34:11 6 A. Yes.

11:34:11 7 Q. H.B. 2492 also requires that voter registrants
11:34:19 8 provide proof of location of residence as prescribed by
11:34:23 9 A.R.S. 16-123 to be properly registered.

11:34:28 10 Are you familiar with that requirement?

11:34:29 11 A. Yes.

11:34:30 12 Q. If I refer to that as the documentary proof of
11:34:35 13 residency requirement, or DPOR requirement, can we agree
11:34:39 14 to understand me to be asking about this new requirement
11:34:39 15 from H.B. 2492?

11:34:41 16 A. Yes.

11:34:42 17 Q. H.B. 2492 requires that voter registrants
11:34:50 18 provide their place of birth when they register to vote
11:34:56 19 using the state form.

11:34:57 20 Are you familiar with that requirement?

11:34:57 21 A. Yes.

11:34:57 22 Q. If I refer to that as the birthplace
11:35:00 23 requirement, can we agree to understand me to be asking
11:35:03 24 about this new requirement from H.B. 2492?

11:35:05 25 A. Yes.

11:35:05 1 Q. H.B. 2492 also requires that voter registrants
11:35:12 2 submitting either the federal form or the state form mark
11:35:14 3 yes in the box indicating that they are a citizen.
11:35:17 4 Are you familiar with that requirement?
11:35:18 5 A. Yes.
11:35:21 6 Q. If I refer to it as the citizenship, citizenship
11:35:27 7 checkbox requirement, or the checkbox requirement, can we
11:35:30 8 agree to understand me to be asking about this new
11:35:32 9 requirement from H.B. 2492?
11:35:34 10 A. Yes.
11:35:34 11 Q. Has your office discussed how to interpret any
11:35:40 12 of the provisions of H.B. 2492 with anyone?
11:35:44 13 A. Yes.
11:35:47 14 Q. Who did you discuss this with?
11:35:50 15 A. I believe the County Recorder has discussed it
11:35:59 16 with our counsel.
11:36:06 17 Q. Has the County Recorder discussed how to
11:36:10 18 interpret any of the provisions of H.B. 2492 with anyone
11:36:13 19 else?
11:36:14 20 A. Our, our internal staff.
11:36:21 21 Q. Has the County Recorder, or anyone else in
11:36:29 22 Mohave County Recorder's Office, discussed how to
11:36:31 23 interpret any of the provisions of H.B. 2492 with the
11:36:35 24 Secretary of State?
11:36:35 25 A. I believe so.

11:36:38 1 Q. What was discussed in those meetings with the
11:36:45 2 Secretary of State?

11:36:47 3 DEFENSE COUNSEL: Form, foundation.

11:36:53 4 THE WITNESS: Well, at this time we are not
11:36:59 5 requiring those things for the litigation.

11:37:02 6 BY MS. DIBRELL:

11:37:04 7 Q. What do you mean by you're not requiring those
11:37:06 8 things for the litigation?

11:37:07 9 A. The DPOR, the residency, and the additional
11:37:15 10 proof of citizenship, and it's not currently on the voter
11:37:21 11 registration form for the citizenship box.

11:37:27 12 Q. Taking a step back.

11:37:31 13 When did your office discuss how to interpret
11:37:37 14 any of these provisions of H.B. 2492 with the Secretary of
11:37:40 15 State?

11:37:40 16 A. I'm sorry. Did you ask when?

11:37:43 17 Q. Yes.

11:37:44 18 A. I'm not sure of a certain date. I would say
11:37:54 19 early in the year.

11:37:55 20 Q. And by early in the year, you mean early in
11:38:02 21 2023?

11:38:03 22 A. Correct.

11:38:03 23 Q. Has your office had ongoing discussions with the
11:38:07 24 Secretary of State's Office regarding how to interpret the
11:38:11 25 provisions of H.B. 2492?

11:38:15 1 A. Not to my current knowledge.

11:38:19 2 Q. Has your office only had one discussion with the
11:38:20 3 Secretary of State's Office regarding how to interpret
11:38:26 4 H.B. 2492?

11:38:29 5 A. I'm not sure how many.

11:38:32 6 Q. I am going to show you a document produced by
11:38:40 7 Mohave.

11:38:52 8 Can you see my screen?

11:38:54 9 A. Yes.

11:38:55 10 Q. And do you see here in the bottom right-hand
11:39:01 11 corner, it says, MOHAVE-000336?

11:39:05 12 A. Correct.

11:39:06 13 Q. And I'll represent to you that this was produced
11:39:10 14 by Mohave County in this litigation.

11:39:14 15 And is this an email from former Secretary of
11:39:20 16 State Kori Lorick?

11:39:23 17 A. Yes.

11:39:24 18 Q. And it's dated December 30th, 2022, correct?

11:39:28 19 A. Correct.

11:39:29 20 Q. And the subject is 2492/2243 Reminders, correct?

11:39:39 21 A. Correct.

11:39:40 22 Q. Did the County Recorder's Office -- excuse me.
11:39:44 23 Strike that.

11:39:45 24 Did the Mohave County Recorder's Office receive
11:39:48 25 this email from Kori Lorick?

11:39:53 1 A. I, I, I can't confirm that.

11:40:02 2 Q. Do you know if the documents that Mohave County
11:40:11 3 produced in this litigation were emails that, that are in
11:40:17 4 Mohave County, Mohave County Recorder's email system?

11:40:27 5 A. I, I don't know.

11:40:32 6 Q. Do you know, does the Mohave County Recorder's
11:40:39 7 Office receive emails like this from the Secretary of
11:40:44 8 State's Office?

11:40:44 9 A. Yes.

11:40:45 10 Q. So is it fair to say since Mohave County
11:40:49 11 produced this document, that it was a recipient of this
11:40:52 12 email from the Secretary of State?

11:40:54 13 DEFENSE COUNSEL: Form; asked and answered.

11:40:59 14 THE WITNESS: Yes.

11:41:01 15 BY MS. DIBRELL:

11:41:03 16 Q. So I'm going to zoom in a bit so you can read
11:41:07 17 this. If you could please just review this section. You
11:41:13 18 can just read it to yourself.

11:41:26 19 A. Okay.

11:41:30 20 Q. In this email from Ms. Lorick, she wrote:

11:41:34 21 I have noted which provisions we interpret as
11:41:37 22 conflicting with federal law.

11:41:39 23 Correct?

11:41:39 24 A. Correct.

11:41:40 25 Q. And she is referring to the provisions of

11:41:44 1 H.B. 2492 and H.B. 2243, correct?

11:41:48 2 A. Yes.

11:41:49 3 DEFENSE COUNSEL: Form.

11:41:50 4 BY MS. DIBRELL:

11:41:52 5 Q. And this email from Ms. Lorick states:

11:41:55 6 I have noted which provisions we interpret as
11:41:58 7 conflicting with federal law, including documentary proof
11:42:01 8 of residency for the federal form, place of birth
11:42:05 9 requirement, citizenship checkbox requirement, if an
11:42:08 10 applicant otherwise provides DPOC, or DPOC can be acquired
11:42:13 11 based on the provided information, documentary proof of
11:42:17 12 citizenship for federal elections.

11:42:20 13 Correct?

11:42:20 14 A. Yes.

11:42:21 15 Q. Does your office agree with Ms. Lorick's
11:42:21 16 interpretation that these provisions --

11:42:24 17 DEFENSE COUNSEL: Form.

11:42:25 18 BY MS. DIBRELL:

11:42:25 19 Q. -- of H.B. 2492 and H.B. 2243 violate federal
11:42:29 20 law?

11:42:30 21 DEFENSE COUNSEL: Form and foundation.

11:42:32 22 THE WITNESS: Yes.

11:42:33 23 BY MS. DIBRELL:

11:42:35 24 Q. Has your office consulted with an attorney, and
11:42:38 25 without disclosing the substance of those communications,

11:42:41 1 about whether these provisions listed here violate federal
11:42:45 2 law?

11:42:46 3 A. Yes.

11:42:47 4 Q. I am going to show you Mohave County responses,
11:43:11 5 RFP responses, to Equity's RFPs that we've discussed
11:43:18 6 previously.

11:43:44 7 Oh, and I'm sorry. For the record, I would like
11:43:46 8 to mark the previous document, MOHAVE-000336, as
11:43:52 9 Exhibit 50.

11:43:57 10 DEFENSE COUNSEL: Object on hearsay grounds.

11:44:03 11 BY MS. DIBRELL:

11:44:04 12 Q. Ms. Durst, can you see my screen?

11:44:06 13 A. Yes.

11:44:07 14 Q. And do you see where it says, Mohave County
11:44:12 15 Recorder's Response to Plaintiff's First Request For
11:44:14 16 Production of Documents?

11:44:15 17 A. Yes.

11:44:16 18 Q. Do you recognize this as the request that the
11:44:20 19 Mohave County Recorder's Office sent to plaintiffs in this
11:44:22 20 litigation?

11:44:23 21 A. Yes.

11:44:32 22 MS. DIBRELL: I would like to mark this as
11:44:35 23 Exhibit 51.

11:44:35 24 BY MS. DIBRELL:

11:44:42 25 Q. I'm going to scroll to Mohave County's response

11:44:46 1 to request for production No. 10.

11:45:03 2 Can you see request for production No. 10?

11:45:06 3 A. Yes.

11:45:06 4 Q. And request for production No. 10 requests all

11:45:14 5 documents and communications regarding A.R.S.

11:45:18 6 Section 16-165 as amended by H.B. 2243, correct?

11:45:24 7 A. Yes.

11:45:27 8 Q. And Mohave County responded:

11:45:28 9 The Mohave County Recorder has no documents

11:45:31 10 responsive to this request.

11:45:32 11 Correct?

11:45:32 12 A. Correct.

11:45:33 13 Q. Is it still true that you have no documents

11:45:37 14 responsive to this request?

11:45:41 15 A. Yes.

11:45:42 16 Q. Is it still true that you have no documents

11:46:00 17 related to how you will determine persons who are

11:46:03 18 registered to vote in your county for whom you have reason

11:46:07 19 to believe are not United States citizens, or the

11:46:10 20 information that you consider sufficient to confirm that

11:46:14 21 the person registered is not a United States citizen? Do

11:46:18 22 you have any documents related to that request?

11:46:23 23 A. We send a notice if they didn't provide like an

11:46:28 24 Arizona driver's license, and we would send them a notice

11:46:33 25 for how their status came back in the AVID system.

11:46:36 1 Q. And those are the documents that your counsel
11:46:41 2 just sent to plaintiffs, correct?

11:46:43 3 A. Yes.

11:46:44 4 Q. So is it still true you have no other documents,
11:46:49 5 other than those notice letters, that are responsive to
11:46:53 6 request for production No. 10?

11:46:56 7 A. Other than those, correct, to my knowledge.

11:47:02 8 Q. I'm going to turn to request for production No.
11:47:06 9 12 that was sent to Mohave County by Equity Coalition.
11:47:13 10 Can you see request for production No. 12?

11:47:15 11 A. Yes.

11:47:16 12 Q. And request for production No. 12 requests:
11:47:22 13 All documents and communications regarding how
11:47:24 14 you determine or will determine whether the information
11:47:28 15 acquired through A.R.S. Section 16-121.01 is sufficient to
11:47:35 16 match the applicant with information that verifies the
11:47:37 17 applicant is a United States citizen, pursuant to A.R.S.
11:47:42 18 Section 16-121.01, as amended by H.B. 2492.

11:47:49 19 Correct?

11:47:50 20 A. Correct.

11:47:50 21 Q. And the Mohave County Recorder's response was:
11:47:55 22 The Mohave County Recorder has no documents
11:47:58 23 responsive to this request.

11:47:59 24 Right?

11:48:01 25 A. Yes.

11:48:01 1 Q. Is it still true that you have no responsive
11:48:05 2 documents in response to this request for production
11:48:07 3 No. 12?

11:48:08 4 A. Could I have clarification, please?

11:48:27 5 Q. Sure. Request for production No. 12 requests:
11:48:33 6 All documents and communication regarding how
11:48:36 7 you determine or will determine whether the information
11:48:39 8 acquired through A.R.S. Section 16-121.01 is sufficient to
11:48:46 9 match the application -- the applicant -- excuse me --
11:48:48 10 with information that verifies the applicant is a United
11:48:56 11 States citizen, pursuant to A.R.S. 16-121.01, as amended
11:48:57 12 by H.B. 2492.

11:49:01 13 Right?

11:49:02 14 A. Correct.

11:49:03 15 Q. And previously you responded:

11:49:04 16 The Mohave County Recorder has no documents
11:49:06 17 responsive to this request.

11:49:08 18 Right?

11:49:08 19 A. Yes.

11:49:09 20 Q. Sitting here today, is it still true that Mohave
11:49:16 21 County has no documents or communications that are
11:49:19 22 responsive to this request?

11:49:21 23 A. I believe it could be the same notice that we
11:49:34 24 uploaded.

11:49:36 25 Q. Other than the notice that you uploaded, does

11:49:40 1 Mohave County have any other documents today that are
11:49:43 2 responsive to this request?

11:49:44 3 A. Not to my knowledge.

11:49:52 4 Q. Previously you mentioned that the state form has
11:50:07 5 not been updated to include DPOC, DPOR, or birthplace,
11:50:13 6 correct?

11:50:13 7 A. Correct.

11:50:13 8 Q. Do you have any reason to believe that the state
11:50:16 9 form will be updated to include these elements any time
11:50:23 10 soon?

11:50:24 11 DEFENSE COUNSEL: Objection; calls for
11:50:26 12 speculation.

11:50:27 13 THE WITNESS: I don't know if we have had a
11:50:37 14 discussion when we will have new forms.

11:50:42 15 BY MS. DIBRELL:

11:50:43 16 Q. The instructions for the federal form have also
11:50:46 17 not been updated to include the new requirements regarding
11:50:50 18 documentary proof of citizenship, correct?

11:50:52 19 A. Correct.

11:50:56 20 Q. Do you have any reason to believe that those
11:50:58 21 federal form instructions will be updated anytime soon?

11:51:02 22 A. I don't know.

11:51:03 23 Q. Is the Mohave County Recorder's Office currently
11:51:11 24 enforcing H.B. 2492's documentary proof of citizenship
11:51:16 25 requirement?

11:51:16 1 A. No.

11:51:17 2 Q. Is the Mohave County Recorder's Office currently

11:51:23 3 enforcing H.B. 2492's documentary proof of residency

11:51:28 4 requirement?

11:51:29 5 A. No.

11:51:29 6 Q. Is the Mohave County Recorder's Office currently

11:51:33 7 enforcing H.B. 2492's birthplace requirement?

11:51:40 8 A. Could I have clarification on that, please?

11:51:48 9 Q. Which part do you need clarification for?

11:51:53 10 A. The text of the bill for the birthplace.

11:52:05 11 Q. So when I refer to the birthplace requirement,

11:52:12 12 I'm referring to the requirement that voter registrants

11:52:20 13 provide their place of birth when they register to vote

11:52:22 14 using the state form, and that's codified as A.R.S.

11:52:24 15 Section 16-121.01, as amended by H.B. 2492.

11:52:32 16 A. I don't believe at this time we are requiring

11:52:37 17 that.

11:52:40 18 Q. So at this time you are not enforcing the

11:52:44 19 birthplace requirement?

11:52:46 20 A. Not to my knowledge.

11:52:49 21 Q. Are you currently enforcing H.B. 2492's

11:52:55 22 citizenship checkbox requirements?

11:52:56 23 A. No. It's not on the form.

11:52:58 24 Q. The citizenship -- is there a checkbox on the

11:53:07 25 form to mark that you are a citizen?

11:53:09 1
11:53:15 2
11:53:33 3
11:53:37 4
11:53:38 5
11:53:41 6
11:53:46 7
11:53:50 8
11:53:51 9
11:54:45 10
11:54:46 11
11:55:02 12
11:55:03 13
11:55:04 14
11:55:14 15
11:55:16 16
11:55:17 17
11:55:17 18
11:55:23 19
11:55:25 20
11:55:28 21
11:55:31 22
11:55:31 23
11:55:45 24
11:55:49 25

A. Yes.

Q. Is your office requiring voter registrants to mark yes in that form in order to process their voter registration application?

A. Yes. It's a required field.

Q. The checkbox indicating that you are a citizen is a required field to be registered as a voter?

A. On the form, yes.

Q. Ms. Durst, I am going to show you Mohave County's responses to consolidated plaintiff's interrogatories.

Can you see my screen?

A. Yes.

Q. And do you see this caption titled, Mohave County Recorder's Answers to Consolidated Plaintiff's First Set of Interrogatories?

A. Yes.

Q. Are these -- and you are familiar with these interrogatory responses?

A. Yes.

MS. DIBRELL: I would like to mark this as Exhibit 52.

BY MS. DIBRELL:

Q. Interrogatory No. 3 asks Mohave County to:
Identify and describe each way in which a voter

11:55:54 1 registration applicant's failure to check the citizenship
11:55:59 2 box on the state form affects or would affect your ability
11:56:02 3 to determine whether that person is eligible to register
11:56:05 4 and vote in Arizona, including but not limited to cases
11:56:08 5 where you have DPOC for the voter registration applicant.

11:56:11 6 Correct?

11:56:12 7 A. Correct.

11:56:13 8 Q. And Mohave County responded:

11:56:15 9 Failure to check the citizenship box is not
11:56:19 10 grounds for our office to reject a voter registration
11:56:23 11 application unless we are unable to prove citizenship
11:56:26 12 through the methods mentioned above.

11:56:29 13 Correct?

11:56:29 14 A. Yes.

11:56:30 15 Q. Is it still true that your office does not
11:56:34 16 reject voter registration application forms if the
11:56:41 17 citizenship checkbox is not marked if you are able to
11:56:44 18 prove citizenship through other methods?

11:56:48 19 A. Could you ask that again, please?

11:56:53 20 Q. Does your office reject state voter registration
11:57:04 21 forms if the citizenship box is not checked if you are
11:57:07 22 able to prove the citizenship of the voter registrant
11:57:12 23 through other methods?

11:57:20 24 Sorry. I couldn't hear your response.

11:57:23 25 A. I -- can I have a moment?

11:57:31 1 Q. Sure.

11:57:36 2 MR. DAVIS: Can I have a minute to confer with

11:57:40 3 my client, counsel?

11:57:42 4 MS. DIBRELL: Well, there's a question pending.

11:57:52 5 THE WITNESS: So if a form is completed in

11:57:54 6 office, if someone comes to the voter registration

11:57:59 7 department and asks to register to vote, we would provide

11:58:03 8 them the Arizona voter registration form. It's listed on

11:58:07 9 the form that it is required to be completed. So when

11:58:12 10 they're in front of us, we ask them to check yes or no on

11:58:17 11 that box, whichever applies to them, above their

11:58:23 12 signature.

11:58:23 13 If we received that form by mail, and they were

11:58:28 14 still able to clear the HAVA check, I don't believe that

11:58:31 15 form would be rejected.

11:58:37 16 BY MS. DIBRELL:

11:58:37 17 Q. If they clear the HAVA check is that because

11:58:49 18 they have confirmed, you have confirmed that they are a

11:58:51 19 citizen?

11:58:52 20 A. Yes. On the form they would also have,

11:58:59 21 typically, their Arizona driver's license, their date of

11:59:03 22 birth, and the last four of their social for the HAVA

11:59:06 23 check.

11:59:07 24 Q. So if a registrant forgets to check that box,

11:59:12 25 but they pass the HAVA check, which confirms their

11:59:16 1 citizenship, currently you do not reject their voter
11:59:20 2 registration application form?

11:59:21 3 A. Correct. To my knowledge.

11:59:24 4 Q. If an applicant submits a federal form,
11:59:44 5 registration form, and they forget to mark the citizenship
11:59:52 6 checkbox, you don't reject the application, right?

11:59:57 7 A. I don't have much knowledge with the federal
12:00:04 8 voter registration form.

12:00:05 9 Q. Do you know who in your office would know the
12:00:10 10 answer to that?

12:00:11 11 A. I believe any voter registration specialist, but
12:00:22 12 I don't believe they're very common.

12:00:28 13 Q. For voter applicants who submit a state voter
12:00:57 14 registration form, are you rejecting applications that
12:01:00 15 fail to list their place of birth?

12:01:04 16 A. No.

12:01:05 17 Q. Your office is still waiting for guidance from
12:01:18 18 the Secretary of State on how to implement H.B. 2492?

12:01:22 19 A. Yes.

12:01:23 20 Q. Are you still processing voter registration
12:01:28 21 applications and adding registered voters to the rolls
12:01:32 22 while you wait for that guidance?

12:01:34 23 A. Yes.

12:01:35 24 Q. Are you currently enforcing any part of
12:01:41 25 H.B. 2243?

12:01:43 1 A. No.

12:01:45 2 Q. Are you checking citizenship status against any

12:01:57 3 databases for purposes of removing voters from the rolls?

12:02:01 4 A. Could you please explain?

12:02:09 5 Q. H.B. 2243 outlines various database checks to

12:02:15 6 remove voters from the rolls.

12:02:17 7 Are you familiar with that?

12:02:18 8 A. Yes.

12:02:19 9 Q. Are you enforcing any of those database checks

12:02:24 10 as outlined in H.B. 2243?

12:02:28 11 A. Would that be like the HAVA check and the SAVE

12:02:35 12 program?

12:02:43 13 Q. Are those checks that are mandated by H.B. 2243?

12:02:51 14 A. I'm not sure. I don't have that in front of me.

12:02:58 15 Q. Are you currently receiving information from the

12:03:04 16 Secretary of State about purported noncitizens for

12:03:09 17 purposes of removing those voters from the rolls?

12:03:16 18 A. Not to my knowledge.

12:03:18 19 Q. Are you currently checking the citizenship

12:03:23 20 status against summary reports from jury commissioners or

12:03:27 21 the jury manager for purposes of removing voters from the

12:03:31 22 rolls as required by H.B. 2243?

12:03:33 23 A. No.

12:03:34 24 Q. Are you still waiting for guidance from the

12:03:40 25 Secretary of State regarding how to interpret H.B. 2243?

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12:03:46 2
12:03:54 3
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12:04:21 8
12:04:31 9
12:04:32 10
12:04:36 11
12:04:43 12
12:04:44 13
12:04:46 14
12:04:48 15
12:04:53 16
12:04:58 17
12:05:00 18
12:05:12 19
12:05:15 20
12:05:19 21
12:05:23 22
12:05:24 23
12:05:32 24
12:05:40 25

A. Yes.

Q. If you don't receive guidance from the Secretary of State regarding how to interpret H.B. 2492 or H.B. 2243, who at the county, at the Mohave County Recorder's Office would be responsible for interpreting how to enforce those laws?

A. The County Recorder with counsel.

Q. Would the County Recorder, Mohave County Recorder -- excuse me. Strike that.

Would the County Recorder draft guidance on how to implement H.B. 2243 and H.B. 2492 for your office?

DEFENSE COUNSEL: Form.

THE WITNESS: Yes.

BY MS. DIBRELL:

Q. Has the Mohave County Recorder drafted guidance regarding how to interpret other laws and issued them to your office in the past?

A. Do you have an example?

Q. Has the Mohave County Recorder ever sent an email to your office explaining how to interpret an Arizona law that pertains to elections?

A. I believe so.

Q. Would the County Recorder provide email guidance to your office regarding how to interpret H.B. 2492 or H.B. 2243 if you don't have guidance from the Secretary of

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12:06:30 14
12:06:34 15
12:06:38 16
12:06:43 17
12:06:45 18
12:06:48 19
12:06:53 20
12:06:56 21
12:06:59 22
12:07:09 23
12:07:14 24
12:07:18 25

State?

A. I don't know that it would be written guidance, but I believe she would give us guidance.

Q. How would she give you that guidance?

A. Could be verbal.

Q. Would you have a meeting with all of the staff in the County Recorder's Office to receive this guidance?

A. Most likely an informal voter registration meeting.

Q. You mentioned that the County Recorder would work with the county attorney regarding how to interpret these laws, right?

A. Yes.

Q. So without disclosing the substance of those conversations, do you know whether the County Recorder has worked with the county attorney regarding how to interpret H.B. 2492 to date?

A. Not that I'm fully aware of.

Q. Again, without disclosing the substance of those conversations, do you know if the county, the Mohave County Recorder has worked with the county attorney regarding how to interpret and enforce H.B. 2243?

A. I'm sorry. Are you asking if she's worked with them already to interpret it?

Q. Yes.

12:07:19 1 A. I'm not sure.

12:07:19 2 Q. Who would know the answer to that question?

12:07:29 3 A. Kristi Blair, if she has had that conversation.

12:07:47 4 Q. I would like to show you another document

12:07:50 5 produced by the Mohave County Recorder in this litigation.

12:08:13 6 This document, as you'll see, in the bottom right-hand

12:08:17 7 corner is Bates stamped MOHAVE-000119 on the first page.

12:08:23 8 Do you see that?

12:08:24 9 A. Yes.

12:08:24 10 Q. And this is an email from Kristi Blair to

12:08:32 11 Natalie Collings, correct?

12:08:34 12 A. Yes.

12:08:35 13 Q. And this email is dated September 21st, 2022,

12:08:40 14 right?

12:08:41 15 A. Yes.

12:08:41 16 MS. DIBRELL: So I would like to mark this email

12:08:43 17 as Exhibit 53.

12:08:43 18 BY MS. DIBRELL:

12:08:52 19 Q. On the first page of this email there is a

12:08:54 20 bullet for H.B. 2243, correct?

12:08:58 21 A. Yes.

12:08:59 22 Q. The third bullet, related to H.B. 2243, states:

12:09:15 23 The SOS recommends we get our county attorney's

12:09:20 24 opinion on phrasing in the new law regarding citizenship

12:09:23 25 we must have "on file" since the retention period for DPOC

12:09:27 1 is only two years.

12:09:33 2 Do you see that?

12:09:44 3 MR. LANGHOFER: I'm sorry. Did you say the
12:09:47 4 third bullet point?

12:09:49 5 MS. DIBRELL: Yes. I can zoom in.

12:09:49 6 BY MS. DIBRELL:

12:09:50 7 Q. Can you see that, Ms. Durst?

12:09:52 8 A. Yes.

12:09:54 9 Q. I can highlight the third bullet for you.

12:09:58 10 This third bullet and email from the County
12:10:00 11 Recorder for Mohave County, refers to H.B. 2243, right?

12:10:04 12 A. I believe it's from Natalie -- is it from
12:10:09 13 Natalie to Kristi?

12:10:16 14 Q. Oh, you're correct. It's from Natalie to
12:10:19 15 Kristi. Thank you.

12:10:21 16 And you're copied on this email, correct,
12:10:24 17 Ms. Durst?

12:10:24 18 A. Yes.

12:10:24 19 Q. And who is Natalie Collings again?

12:10:31 20 A. She no longer works for our office. She was the
12:10:35 21 voter registration supervisor.

12:10:40 22 Q. And Ms. Collings wrote to the County Recorder,
12:10:43 23 referring to H.B. 2243:

12:10:45 24 The SOS recommends we get our county attorney's
12:10:50 25 opinion on phrasing in the new law regarding citizenship

12:10:53 1 we must have "on file" since the retention period for DPOC
12:10:57 2 is only two years.

12:10:59 3 Do you see that?

12:11:01 4 A. Yes.

12:11:01 5 Q. Do you know what the "on file" language is
12:11:13 6 referring to?

12:11:14 7 A. Not fully.

12:11:22 8 Q. Are you aware that you must retain documentary
12:11:39 9 proof of citizenship information for two years, per the
12:11:47 10 EPM?

12:11:48 11 A. Yes.

12:11:48 12 Q. Is the "on file" language that this is referring
12:11:52 13 to, that citizenship, documentary proof of citizenship
12:11:54 14 that you must retain for two years?

12:12:00 15 DEFENSE COUNSEL: Form.

12:12:02 16 THE WITNESS: I believe so.

12:12:03 17 BY MS. DIBRELL:

12:12:05 18 Q. Did anyone in your office ever seek the county
12:12:09 19 attorney's opinion on this issue on what citizenship you
12:12:13 20 must have on file when the documentary proof of
12:12:16 21 citizenship retention period is only two years?

12:12:21 22 A. I'm not sure.

12:12:22 23 Q. Do you know who would know if those
12:12:28 24 conversations occurred?

12:12:30 25 A. County Recorder Kristi Blair.

12:12:34 1 Q. All right. Do you know if the county attorney
12:12:42 2 ever provided an opinion on this issue regarding retaining
12:12:46 3 citizenship, documentary proof of citizenship for two
12:12:49 4 years as it pertains to H.B. 2243?

12:12:53 5 A. I'm not aware.

12:12:59 6 Q. I understand that you have not yet implemented
12:13:36 7 H.B. 2492, but I just want to discuss what your
12:13:40 8 understanding of what, of what implementing H.B. 2492
12:13:45 9 would require you to do.

12:13:47 10 A. Okay.

12:13:47 11 Q. H.B. 2492 revised A.R.S. 16-101 to include
12:14:03 12 documentary proof of citizenship as a voter qualification
12:14:06 13 for voting, right?

12:14:09 14 DEFENSE COUNSEL: Form.

12:14:09 15 (The Reporter indicated an inability to hear the
12:14:11 16 answer.)

12:14:11 17 THE WITNESS: I said yes. Sorry.

12:14:24 18 BY MS. DIBRELL:

12:14:27 19 Q. Under H.B. 2492, documentary proof of
12:14:31 20 citizenship is required as a qualification for voting,
12:14:37 21 correct?

12:14:38 22 A. Yes.

12:14:40 23 DEFENSE COUNSEL: Form.

12:14:41 24 BY MS. DIBRELL:

12:14:43 25 Q. Under H.B. 2492, to be a qualified elector, does

12:14:48 1 the voter have to provide documentary proof of
12:14:51 2 citizenship?

12:14:52 3 DEFENSE COUNSEL: Form.

12:14:53 4 THE WITNESS: Regarding that, yes, but we
12:15:03 5 haven't implemented that.

12:15:04 6 BY MS. DIBRELL:

12:15:06 7 Q. When you do implement the documentary proof of
12:15:10 8 citizenship requirement, will it apply retroactively for
12:15:18 9 voters who registered without providing documentary proof
12:15:22 10 of citizenship?

12:15:24 11 DEFENSE COUNSEL: Calls for speculation.

12:15:30 12 THE WITNESS: I don't know.

12:15:30 13 BY MS. DIBRELL:

12:15:36 14 Q. Do you know who would, do you know who would
12:15:40 15 provide guidance regarding whether the documentary proof
12:15:43 16 of citizenship requirement applies retroactively?

12:15:50 17 A. The county attorney.

12:15:52 18 Q. And the county attorney would work with Mohave
12:16:00 19 County's County Recorder to provide that guidance?

12:16:03 20 A. Correct.

12:16:04 21 Q. Currently, when you register voters who do not
12:16:22 22 provide documentary proof of citizenship, you acquire
12:16:26 23 documentary proof of citizenship from the Motor Vehicle
12:16:31 24 Department, right?

12:16:32 25 A. Through HAVA check, yes.

12:16:35 1 Q. Would that process be impacted by implementation
12:16:42 2 of H.B. 2492?

12:16:45 3 DEFENSE COUNSEL: Calls for speculation.

12:16:53 4 THE WITNESS: I'm not sure. I'm sorry. Could
12:16:58 5 you repeat the question?

12:16:59 6 BY MS. DIBRELL:

12:17:01 7 Q. Would you still acquire documentary proof of
12:17:05 8 citizenship for the Motor Vehicle Department for
12:17:09 9 applicants who do not submit it with their voter
12:17:12 10 registration forms under H.B. 2492?

12:17:19 11 DEFENSE COUNSEL: Speculation.

12:17:22 12 THE WITNESS: Would that -- for clarification --
12:17:23 13 would that be if they registered like through the Motor
12:17:27 14 Vehicle, if we would then still ask for citizenship proof?

12:17:31 15 BY MS. DIBRELL:

12:17:32 16 Q. If they submit a registration form and they
12:17:35 17 don't provide documentary proof of citizenship, under
12:17:38 18 H.B. 2492 would you still try to acquire the documentary
12:17:44 19 proof of citizenship through the Motor Vehicle database?

12:17:48 20 DEFENSE COUNSEL: Form.

12:17:48 21 THE WITNESS: I believe so.

12:17:49 22 BY MS. DIBRELL:

12:18:22 23 Q. For state form applicants who do not submit
12:18:28 24 documentary proof of citizenship with their registration,
12:18:32 25 for who you do acquire, or you can acquire documentary

12:18:37 1 proof of citizenship through the Motor Vehicle database,
12:18:40 2 under H.B. 2492, would you register that as federal only
12:18:45 3 voters, as that's defined by H.B. 2492?

12:18:49 4 DEFENSE COUNSEL: Form; speculation.

12:18:55 5 THE WITNESS: I don't know.

12:19:04 6 BY MS. DIBRELL:

12:19:48 7 Q. So I'm going to show you, again, Mohave County
12:19:52 8 Recorder's response to the consolidated plaintiff's
12:19:57 9 interrogatories, which I previously marked as Exhibit 52.

12:20:12 10 Can you see my screen, Ms. Durst?

12:20:16 11 A. Yes.

12:20:16 12 Q. And, again, this is Mohave County Recorder's
12:20:21 13 answers to consolidated plaintiff's first set of
12:20:24 14 interrogatories, correct?

12:20:25 15 A. Correct.

12:20:25 16 Q. Currently, if a voter applicant submits a state
12:20:48 17 registration form and provides documentary proof of
12:20:48 18 citizenship but does not provide their birthplace
12:20:51 19 information, do you still register them to vote?

12:20:54 20 A. Yes.

12:20:55 21 Q. Do you have any way of independently confirming
12:21:07 22 birthplace information provided on the state form?

12:21:11 23 A. No.

12:21:12 24 Q. Turning to interrogatory 1, plaintiffs requested
12:21:30 25 that you:

12:21:31 1 Identify and describe each way that your office
12:21:35 2 uses or would use information related to the birthplace of
12:21:39 3 a voter registration applicant -- including applicants for
12:21:42 4 whom you already have DPOC -- to verify such person's
12:21:47 5 eligibility to vote, including but not limited to each way
12:21:50 6 in which a voter registration applicant's failure to
12:21:53 7 provide their birthplace affects or would affect your
12:21:56 8 ability to confirm the voter registration applicant's
12:22:00 9 identity or determine whether that person is eligible to
12:22:03 10 register and vote in Arizona.

12:22:04 11 Correct?

12:22:05 12 A. Correct.

12:22:07 13 Q. You responded that:

12:22:13 14 The Mohave County Recorder understands that this
12:22:17 15 is part of the current lawsuit and following guidance from
12:22:21 16 the Secretary of State, we currently are using a voter's
12:22:23 17 place of birth as a method to identify the voter over the
12:22:28 18 phone if we lack other information. We current --

12:22:32 19 Correct?

12:22:33 20 A. Yes.

12:22:35 21 Q. And then you go on to say:

12:22:37 22 We currently do not use it to verify citizenship
12:22:40 23 or identity for a person registering to vote.

12:22:43 24 Right?

12:22:43 25 A. Yes.

12:22:44 1 Q. So you use a voter's place of birth to identify
12:22:59 2 them over the phone if you lack other information, but you
12:23:03 3 do not use birthplace to verify citizenship or identity
12:23:08 4 for a person registering to vote.

12:23:10 5 A. Correct.

12:23:11 6 Q. That's just to confirm that the person on the
12:23:16 7 phone is the person who completed the registration form,
12:23:19 8 right?

12:23:19 9 A. Yes.

12:23:20 10 Q. So do you use birthplace similar to a security
12:23:26 11 code question?

12:23:27 12 A. Yes.

12:23:27 13 Q. Do you actually confirm that the birthplace that
12:23:33 14 the voter on the phone tells you is where that person was
12:23:37 15 actually born?

12:23:38 16 A. No.

12:23:40 17 Q. And you don't use the birthplace listed on the
12:23:48 18 firm -- on the form, excuse me, to determine if the person
12:23:50 19 is qualified to vote?

12:23:52 20 A. Correct.

12:23:53 21 Q. So, really, you're just concerned that you want
12:24:02 22 to make sure the person you're talking to is the person
12:24:05 23 who filled out the form?

12:24:06 24 A. Yes.

12:24:07 25 Q. Could you use other personal identifying

12:24:12 1 information to confirm that the person you're talking to
12:24:15 2 is the person who filled out the form?

12:24:17 3 A. Yes.

12:24:18 4 Q. What other information could you use?

12:24:21 5 A. Their registered residence address, their date
12:24:30 6 of birth, the last four of their social, mother's maiden
12:24:35 7 name.

12:24:41 8 Q. If the person who submitted the application form
12:24:45 9 did not provide their birthplace on the form, do you use
12:24:48 10 that other information to identify who they are on the
12:24:51 11 phone?

12:24:51 12 A. Yes.

12:24:52 13 Q. If birthplace becomes mandatory for state form
12:25:28 14 registrants under H.B. 2492, if that goes into effect, do
12:25:32 15 you have any planned changes for how you would use the
12:25:36 16 birthplace?

12:25:37 17 A. Not to my knowledge.

12:26:13 18 MS. DIBRELL: Ms. Durst, if it's okay with you,
12:26:15 19 we can take another 15-minute break.

12:26:19 20 THE WITNESS: Sure.

12:26:22 21 THE VIDEOGRAPHER: We are off the record. Time
12:26:26 22 on the video monitor is 12:26 p.m.

12:26:31 23 (Recess taken from 12:26 p.m. to 12:48 p.m.)

12:48:01 24 THE VIDEOGRAPHER: We are on the record. Time
12:48:03 25 on the video monitor is 12:48 p.m. This begins Media 2.

12:48:10 1 Please continue.

12:48:11 2 BY MS. DIBRELL:

12:48:20 3 Q. Ms. Durst, during this deposition your counsel

12:48:24 4 sent us some notice letters, right?

12:48:27 5 A. Yes.

12:48:27 6 Q. I just wanted to confirm, there are no other

12:48:33 7 notice letters.

12:48:40 8 A. For anything?

12:48:42 9 Q. Are there any other notice letters on these

12:48:49 10 topics?

12:48:50 11 A. These topics, I don't believe so.

12:48:55 12 Q. Do you have these notice letters in other

12:49:01 13 languages?

12:49:01 14 A. No.

12:49:03 15 Q. In implementing the challenge provisions, would

12:49:22 16 you keep the same practice of sending similar notice

12:49:26 17 letters to voter applicants?

12:49:32 18 DEFENSE COUNSEL: Speculation.

12:49:35 19 THE WITNESS: I'm not sure.

12:49:38 20 BY MS. DIBRELL:

12:49:52 21 Q. So are you aware that under H.B. 2492 and 2243,

12:50:01 22 you have to confirm information, excuse me, that the

12:50:06 23 applicant is not a United States citizen?

12:50:13 24 A. I need to confirm?

12:50:16 25 Q. Oh, information indicating that the applicant is

12:50:19 1 not a United States citizen.

12:50:21 2 A. Yes.

12:50:25 3 Q. If, in confirming this information, if the data
12:50:54 4 in the government database shows that the applicant was a
12:50:58 5 non-citizen 25 years ago, is that information that that
12:51:02 6 person is not a citizen today?

12:51:05 7 DEFENSE COUNSEL: Form.

12:51:14 8 THE WITNESS: Could you ask that again? I'm
12:51:18 9 sorry.

12:51:18 10 BY MS. DIBRELL:

12:51:19 11 Q. When you're confirming information that the
12:51:22 12 voter applicant is not a U.S. citizen, if a government
12:51:26 13 database has information that they weren't a citizen
12:51:30 14 25 years ago would that be information that they are not a
12:51:33 15 U.S. citizen today?

12:51:36 16 DEFENSE COUNSEL: Form.

12:51:37 17 THE WITNESS: I don't know.

12:51:37 18 BY MS. DIBRELL:

12:51:41 19 Q. When you run your HAVA checks, if that reflects
12:51:46 20 that the voter applicant was issued an F-type license
12:51:50 21 20 years ago, is that information showing that they are
12:51:53 22 not a U.S. citizen today?

12:51:55 23 DEFENSE COUNSEL: Form.

12:51:56 24 THE WITNESS: The HAVA check is current
12:52:04 25 information. Well, as current as it could be.

12:52:17 1 BY MS. DIBRELL:

12:52:17 2 Q. What do you mean by as current as it could be?

12:52:20 3 A. You're asking if it was 25 years ago. So if a
12:52:27 4 voter is registering now and they got that license 25
12:52:30 5 years ago and that's all that's in the database, that's
12:52:33 6 all we would have to go off of.

12:52:36 7 Q. What is an F-type license?

12:52:38 8 A. I can't currently think of the exact definition
12:52:50 9 of an F-type license.

12:52:52 10 Q. Generally, do you know what an F-type license
12:52:55 11 is?

12:52:55 12 A. Usually they need to show proof of citizenship a
12:53:00 13 federal license.

12:53:03 14 Q. Would it refresh your recollection of what an
12:53:23 15 F-type license is to look at the 2019 EPM?

12:53:28 16 A. Yes.

12:53:28 17 Q. So, Ms. Durst, I'm showing you, again, what was
12:53:43 18 previously marked as Petty Exhibit 9, and this is page
12:53:48 19 four of the 2019 EPM.

12:53:51 20 A. Hmm hmm.

12:53:54 21 Q. And I have zoomed in here so you can see, if you
12:53:59 22 just want to review this document.

12:54:13 23 Tell me when you're done.

12:54:15 24 A. I'm done.

12:54:16 25 Q. So what is an F-type license?

12:54:18 1 A. When a registrant needs to prove their
12:54:23 2 citizenship, when they are non-citizen.

12:54:31 3 Q. And, to be clear, they were a non-citizen at the
12:54:36 4 time they received their F-type license?

12:54:39 5 A. Correct.

12:54:41 6 DEFENSE COUNSEL: Form.

12:54:43 7 BY MS. DIBRELL:

12:54:49 8 Q. So if an applicant received an F-type license
12:54:53 9 20 years ago, that means 20 years ago they weren't a
12:54:57 10 citizen.

12:54:57 11 A. Correct.

12:54:59 12 Q. When you run the HAVA checks, if it comes back
12:55:07 13 and says that the applicant received an F-type license
12:55:11 14 20 years ago, do you use that as information that present
12:55:16 15 day they are not citizens?

12:55:18 16 A. Yes.

12:55:20 17 Q. What procedures do you follow after seeing that?

12:55:26 18 A. I believe it's in the EPM, and they would
12:55:37 19 receive a notice that they would need to provide
12:55:40 20 documentation.

12:55:42 21 Q. And documentation of what?

12:55:45 22 A. Of citizenship to vote a full ballot.

12:55:50 23 Q. When confirming information that a voter
12:56:07 24 registrant is not an applicant, if you use another
12:56:10 25 database, if that information was from 20 years ago, would

12:56:15 1 you use that to show that they presently are not a
12:56:20 2 U.S. citizen?

12:56:21 3 DEFENSE COUNSEL: Form.

12:56:22 4 THE WITNESS: I'm sorry. Can you repeat that?

12:56:26 5 BY MS. DIBRELL:

12:56:28 6 Q. So under the challenge provisions, if you're
12:56:31 7 using another database to confirm the citizenship of the
12:56:37 8 voter registrant, and it shows that they weren't a citizen
12:56:40 9 20 years ago, is that information showing that presently,
12:56:46 10 present day, they are not a U.S. citizen for voter
12:56:50 11 registration purposes?

12:56:53 12 DEFENSE COUNSEL: Form?

12:56:56 13 THE WITNESS: Correct.

12:56:57 14 BY MS. DIBRELL:

12:57:02 15 Q. What are valid sources of information that
12:57:04 16 someone is not a U.S. citizen under the challenge
12:57:08 17 provisions?

12:57:12 18 DEFENSE COUNSEL: Form.

12:57:13 19 THE WITNESS: Could you clarify which challenge?

12:57:23 20 BY MS. DIBRELL:

12:57:21 21 Q. Under H.B. 2243, what information would you,
12:57:28 22 would be valid to show that the person is not a citizen?

12:57:37 23 DEFENSE COUNSEL: Form.

12:57:38 24 THE WITNESS: I'm sorry. Which information
12:57:39 25 would be value if --

12:57:40 1 Could you repeat that?

12:57:41 2 BY MS. DIBRELL:

12:57:41 3 Q. Sure. Under H.B. 2243, what are valid sources
12:57:47 4 of information that you can use to determine that the
12:57:51 5 voter applicant, or that the person is not a U.S. citizen?

12:57:56 6 DEFENSE COUNSEL: Form.

12:57:57 7 THE WITNESS: I'm sorry. I don't know that I
12:58:04 8 fully understand. If it would come back that they're not
12:58:08 9 a citizen, what form do they provide to be?

12:58:12 10 BY MS. DIBRELL:

12:58:12 11 Q. I can provide, I can provide some examples.
12:58:14 12 Maybe that will clarify.

12:58:15 13 A. Thank you.

12:58:16 14 Q. So if your office received, for example, an
12:58:20 15 email about a voter, an anonymous email, and the email
12:58:25 16 said that that voter was not a U.S. citizen, would that be
12:58:29 17 information that you would use to confirm that they are
12:58:34 18 not a U.S. citizen?

12:58:36 19 A. Not at this time.

12:58:39 20 Q. Under H.B. 2243?

12:58:45 21 A. Well, with the current litigation, we're not
12:59:05 22 following that H.B. 2243.

12:59:10 23 Q. If H.B. 2243 goes into effect, do you know what
12:59:17 24 you would do if you received an email stating that someone
12:59:21 25 was not a citizen?

12:59:23 1 DEFENSE COUNSEL: Speculation.

12:59:25 2 THE WITNESS: I have an idea of what we could

12:59:29 3 do, but I'm not sure if that's what we would do.

12:59:32 4 BY MS. DIBRELL:

12:59:32 5 Q. What is your idea of what you could do?

12:59:35 6 A. If it came like from the voter themselves, if

12:59:46 7 they were reregistering, you would be a HAVA check again,

12:59:51 8 going through the same procedure as registering someone to

12:59:56 9 vote.

12:59:57 10 Q. Would you use any other databases to confirm the

01:00:02 11 voter's citizenship?

01:00:08 12 DEFENSE COUNSEL: Speculation, form.

01:00:11 13 THE WITNESS: I'm not sure.

01:00:14 14 BY MS. DIBRELL:

01:00:52 15 Q. Under H.B. 2243, what would give your office a

01:00:57 16 reason to believe that a person is not a United States

01:01:05 17 citizen?

01:01:05 18 DEFENSE COUNSEL: Form, foundation.

01:01:10 19 THE WITNESS: If they were not passing a HAVA

01:01:15 20 check.

01:01:15 21 BY MS. DIBRELL:

01:01:16 22 Q. Would it be helpful to review the statute?

01:01:38 23 A. Sure.

01:01:39 24 Q. Can you see my screen, Ms. Durst?

01:02:25 25 A. Yes.

01:02:25 1 Q. Let me scroll to the top so you can see the
01:02:29 2 document.

01:02:30 3 So this says that it's A.R.S. Section 16-165,
01:02:37 4 correct?

01:02:37 5 A. Yes.

01:02:38 6 Q. And that's titled, Causes For Cancellation?

01:02:42 7 A. Yes.

01:02:48 8 MS. DIBRELL: And I'd like to mark this copy of
01:02:51 9 the statute as Exhibit 54.

01:02:51 10 BY MS. DIBRELL:

01:02:59 11 Q. So turn to provision subsection I of 16-165.
01:03:14 12 16-165(I) says:

01:03:16 13 To the extent practical, each month the County
01:03:20 14 Recorder shall compare persons who are registered to vote
01:03:23 15 in that county and who the County Recorder has reason to
01:03:25 16 believe are not United States citizens and persons who are
01:03:30 17 registered to vote without satisfactory evidence of
01:03:33 18 citizenship as prescribed by section 16-166 with the
01:03:38 19 systematic alien verification for entitlements program
01:03:38 20 maintained by the United States Citizenship and
01:03:44 21 Immigration Services to verify the citizenship status of
01:03:46 22 the persons registered.

01:03:48 23 Is that correct?

01:03:48 24 A. Yes.

01:03:49 25 Q. So this language here:

01:03:55 1 Voters who the County Recorder has reason to
01:03:57 2 believe are not United States citizens and who are
01:04:02 3 registered to vote.

01:04:05 4 What would give you a reason to believe that
01:04:07 5 that voter is not a United States citizen?

01:04:11 6 DEFENSE COUNSEL: Form and foundation.

01:04:19 7 THE WITNESS: Their status of the registration.

01:04:22 8 BY MS. DIBRELL:

01:04:30 9 Q. Is there anything else that would give you a
01:04:32 10 reason to believe that they are not a United States
01:04:35 11 citizen? \

01:04:38 12 DEFENSE COUNSEL: Form and foundation. Calls
01:04:41 13 for legal conclusion.

01:04:46 14 THE WITNESS: Not that I'm currently aware of.

01:04:48 15 BY MS. DIBRELL:

01:04:51 16 Q. And so I'm not asking for a legal interpretation
01:04:54 17 of H.B. 2243. I'm just wondering what would give your
01:04:59 18 office a reason to believe that someone wasn't a citizen.

01:05:02 19 A. Well, the status of their voter registration.
01:05:12 20 If they needed to provide something for full ballot, we
01:05:18 21 could review that, but nothing -- I'm not sure.

01:05:44 22 Q. Has the Secretary of State's Office provided you
01:05:47 23 with any guidance of what would give your staff a valid
01:05:52 24 reason to believe that someone was not a United States
01:05:55 25 citizen?

01:05:56 1 A. That could be in the EPM, but I'm not sure.

01:06:05 2 Q. If the Secretary of State's Office does not give
01:06:11 3 you guidance on what is a valid reason to believe that
01:06:16 4 someone is not a United States citizen, how would you know
01:06:19 5 how to implement this?

01:06:23 6 DEFENSE COUNSEL: Form.

01:06:33 7 THE WITNESS: I would seek assistance from our
01:06:35 8 county attorney.

01:06:45 9 BY MS. DIBRELL:

01:06:45 10 Q. Do you have -- or how would you implement this
01:06:51 11 reason to believe requirement if you are required to do
01:06:56 12 so?

01:06:56 13 DEFENSE COUNSEL: Speculation; form.

01:07:05 14 THE WITNESS: I don't know.

01:07:07 15 BY MS. DIBRELL:

01:07:35 16 Q. What if the registered voter made a mistake on
01:07:41 17 their application form and they mixed up their first and
01:07:44 18 last name, would that give you a reason to believe that
01:07:46 19 they're not a U.S. citizen?

01:07:48 20 DEFENSE COUNSEL: Form.

01:07:50 21 THE WITNESS: I don't believe so.

01:07:55 22 BY MS. DIBRELL:

01:08:09 23 Q. If you identify a registered voter who has
01:08:13 24 already satisfied the documentary proof of citizenship
01:08:17 25 requirement, but they still hold an F-type license, as

01:08:22 1 reflected in the ADOT Motor Vehicle Division's records,
01:08:30 2 would -- do you consider that information that the
01:08:34 3 registered voter is not a U.S. citizen?

01:08:36 4 DEFENSE COUNSEL: Form.

01:08:37 5 THE WITNESS: Could you repeat the beginning of
01:08:39 6 that, please?

01:08:40 7 BY MS. DIBRELL:

01:08:40 8 Q. If you have a registered voter, who gave you
01:08:43 9 documentary proof of citizenship, but they have an F-type
01:08:47 10 license, as reflect in the DMV's database, do you consider
01:08:54 11 that information that that voter is not a U.S. citizen?

01:08:57 12 A. No.

01:08:58 13 Q. Why not?

01:09:03 14 A. If they provided their own citizenship
01:09:08 15 paperwork.

01:09:08 16 Q. What about for voters who registered without
01:09:37 17 documentary proof of citizenship, but were covered by
01:09:42 18 section 16-166(G), safe harbor?

01:09:49 19 A. I'm sorry?

01:09:50 20 Q. Sure. So you're aware that there are voters who
01:09:55 21 registered to vote before documentary proof of citizenship
01:09:58 22 was a requirement, right?

01:10:00 23 A. Correct.

01:10:01 24 Q. And that there is a safe harbor provision,
01:10:08 25 16-166(G), for those voters.

01:10:14 1 Are you aware of that?

01:10:16 2 A. Could we review that?

01:10:19 3 Q. Sure. It's so that they can -- they're still
01:10:24 4 registered to vote without providing their documentary
01:10:28 5 proof of citizenship. I'm happy to pull it up.

01:10:32 6 Really, my question is if they initially
01:10:35 7 registered without documentary proof of citizenship and
01:10:38 8 they have been registered this whole time, is that
01:10:41 9 information that you would consider reason to believe that
01:10:44 10 they are not a U.S. citizen?

01:10:49 11 DEFENSE COUNSEL: Form.

01:10:50 12 THE WITNESS: So someone has, for clarification,
01:10:56 13 they've been registered to vote but they haven't proven, I
01:11:01 14 would still -- you're asking if I would still accept them
01:11:05 15 as a full valid voter.

01:11:08 16 BY MS. DIBRELL:

01:11:09 17 Q. They are already a registered voter. So we
01:11:11 18 could take a step back.

01:11:13 19 So if you have a registered voter, who
01:11:15 20 registered without documentary proof of citizenship,
01:11:18 21 because at the time it was not required, right?

01:11:22 22 A. Hmm hmm.

01:11:23 23 Q. Okay. So if you have that registered voter who
01:11:26 24 registered without documentary proof of citizenship, they
01:11:30 25 never had to do that, they were currently a registered

01:11:33 1 voter, but they never provided that documentary proof of
01:11:39 2 citizenship, is that reason to believe that they are not a
01:11:43 3 U.S. citizen?

01:11:45 4 A. I don't know.

01:11:48 5 DEFENSE COUNSEL: Form.

01:11:52 6 BY MS. DIBRELL:

01:11:52 7 Q. How would you know? I guess -- strike that.

01:11:56 8 Who, who would you seek guidance from on how to
01:12:01 9 implement that?

01:12:02 10 A. My county attorney.

01:12:04 11 Q. And your county attorney would work with you on
01:12:11 12 the guidance?

01:12:13 13 A. The County Recorder and the county attorney
01:12:17 14 would work together.

01:12:19 15 Q. Has the Secretary of State's Office provided
01:12:28 16 your office with a list of what will not give your staff a
01:12:33 17 valid reason to believe that someone is not a United
01:12:37 18 States citizen?

01:12:38 19 DEFENSE COUNSEL: Form. Calls for privileged
01:12:45 20 communications.

01:12:46 21 MS. DIBRELL: From the Secretary of State's
01:12:52 22 Office?

01:12:52 23 MR. LANGHOFER: I'm sorry. I misunderstood the
01:12:52 24 question. I'll withdraw that latter half of the objection
01:12:52 25 then.

01:12:56 1 THE WITNESS: Could you ask that again, please?

01:12:58 2 BY MS. DIBRELL:

01:12:58 3 Q. Has the Secretary of State's Office provided
01:13:01 4 your office with a list of what will not give you or your
01:13:01 5 staff a valid reason to believe someone is not a United
01:13:05 6 States citizen?

01:13:07 7 A. Not that I'm aware of.

01:13:09 8 Q. Are you aware of any guidance from the Secretary
01:13:13 9 of State's Office on this reason to believe language?

01:13:17 10 A. Not that I recall, no.

01:13:19 11 Q. Do you know if anyone else in your office would
01:13:23 12 know if they received guidance from the Secretary of State
01:13:26 13 on this language?

01:13:28 14 A. The County Recorder, Kristi Blair.

01:13:31 15 Q. So we have talked about citizenship for a while,
01:13:43 16 and I'd like to switch gears to residency, if that sounds
01:13:48 17 good to you.

01:13:50 18 A. Awesome.

01:13:52 19 Q. So under your current practices, in order to
01:13:57 20 register to vote, applicants also are required to provide
01:14:00 21 their residential address, or, if they don't have an
01:14:03 22 address, a description or drawing of the location of their
01:14:07 23 residence, right?

01:14:08 24 A. Correct.

01:14:09 25 Q. Okay. And a PO box can be used to meet that

01:14:12 1 requirement?

01:14:13 2 A. That is correct.

01:14:16 3 Q. How do you use a residence address, or location
01:14:21 4 information for voter registration?

01:14:24 5 A. We use our Mohave County Assessor's website, and
01:14:31 6 we have a GIS mapping within the AVID system.

01:14:39 7 Q. And who checks that information, or who uses
01:14:48 8 that information?

01:14:51 9 A. The voter registration specialists.

01:14:54 10 Q. So, just to better understand the process, when
01:15:02 11 someone provides a residential address, how does your
01:15:06 12 county use that information to locate the residence?

01:15:09 13 A. When someone registers to vote and they write
01:15:18 14 their residence address on the form, we type it into the
01:15:22 15 database. If it doesn't autopopulate with that specific
01:15:27 16 address, we would go to the county assessor's website. If
01:15:31 17 it's a new build you might have to then pin that address
01:15:35 18 from their location into our database.

01:15:39 19 Q. And when you say, when you type it into the
01:15:42 20 database, you're referring to AVID?

01:15:45 21 A. Yes.

01:15:45 22 Q. And what do you mean when you say that you would
01:15:49 23 pin the location to your database?

01:15:52 24 A. So with current growth in our community, if
01:15:59 25 there is a new subdivision, they may not have each house

01:16:03 1 in our total address in AVID. You may need to place a
01:16:09 2 pin, dropping a pin at that location for that residential
01:16:13 3 address.

01:16:16 4 Q. Based on the process you just described, is it
01:16:19 5 ever the case that a residential address, that you're not
01:16:23 6 able to locate it using the database?

01:16:26 7 A. There can be times, yes.

01:16:34 8 Q. Can you please explain?

01:16:38 9 A. If it's a brand new address to that house and
01:16:48 10 it's not online, we wouldn't know exactly where that
01:16:54 11 residence is.

01:16:56 12 Q. Are there any other cases where you would not be
01:17:00 13 able to locate someone's residential address through this
01:17:04 14 process that you've discussed?

01:17:06 15 A. Do you have like an example?

01:17:17 16 Q. No. I'm just wondering if there are other cases
01:17:22 17 where this has come up.

01:17:28 18 A. I think that could go as -- if we can locate it
01:17:32 19 but it's not a named place, like they give us their
01:17:37 20 longitude and latitude location, we can pin it with a plus
01:17:42 21 code. So it's not a -- it doesn't appear to be an actual
01:17:47 22 residential address, but it can be verified. It is
01:17:53 23 residential for them to live there, reside there, but it
01:17:57 24 would be a plus code.

01:17:59 25 Q. And this plus code, you would be adding them to

01:18:03 1 the database?

01:18:03 2 A. Yes.

01:18:04 3 Q. So, to clarify, so one reason, an example, is if
01:18:14 4 someone lives in new residential area, that's one example
01:18:19 5 of where their address might not show up in AVID?

01:18:24 6 A. Correct.

01:18:25 7 Q. Are there other examples, are there -- where
01:18:29 8 their address would not show up in AVID?

01:18:31 9 A. Addresses do change through planning and zoning.
01:18:37 10 If they're registering at a new address and the number had
01:18:42 11 changed, it may need to be researched to then be modified
01:18:46 12 in the AVID system.

01:18:47 13 Q. Are there any other instances where this occurs?

01:18:53 14 A. Not that I can think of.

01:18:56 15 Q. How common is it for someone to provide a
01:19:03 16 residential address that isn't in AVID?

01:19:06 17 A. Are you looking for a percentage, or --

01:19:11 18 Q. Just based on your general experience. Does
01:19:15 19 this happen a lot, not at all?

01:19:17 20 A. Not too often, but Mohave County is rural. So I
01:19:33 21 don't know how to necessarily give an exact percentage,
01:19:36 22 but maybe two a day, maybe.

01:19:41 23 Q. Two a day out of how many applications?

01:19:51 24 A. I could say an average of 80 applications a day.

01:19:55 25 Q. And you mentioned that Mohave County is rural.

01:20:00 1 How does that affect the ability to identify applicants'
01:20:07 2 address in the, in AVID?

01:20:10 3 A. We would most likely do the same process as
01:20:27 4 looking on the Mohave County Assessor website to find it
01:20:32 5 by owner name, the parcel number, or address that they're
01:20:37 6 giving, giving us, to then put that in longitude,
01:20:43 7 latitude, or find it in the AVID Total Address system.

01:20:48 8 Q. Because Mohave County is rural, do you run into
01:20:53 9 this issue more often?

01:20:57 10 I'm just trying understand the relevance when
01:21:00 11 you said Mohave County is a rural county. So how does
01:21:04 12 that play into identifying residential addresses in AVID?

01:21:08 13 A. We have tribal land which is not, their land is
01:21:14 14 not on the Mohave County Assessor's website by address
01:21:20 15 because of the way the tax bill is paid. And we also
01:21:23 16 have, our northern part of the county, it's known as
01:21:27 17 Colorado City, most of them don't own their property.
01:21:32 18 It's owned by the UEP. So to find their exact address
01:21:38 19 without street signs that they're provided can be
01:21:41 20 difficult.

01:21:45 21 Q. Is it more common for residential addresses used
01:21:50 22 on tribal land to not be located in AVID?

01:21:53 23 A. I'm sorry. Can you say that again?

01:21:59 24 Q. Sure. So you mentioned that there's a
01:22:04 25 significant amount of tribal land in Mohave County.

01:22:07 1 Is it common for residential addresses on Native
01:22:16 2 American Reservations to not be located in AVID?

01:22:20 3 A. Yes.

01:22:20 4 Q. And you also mentioned an area called Colorado
01:22:27 5 City?

01:22:28 6 A. Yes.

01:22:28 7 Q. And is it more common for residential addresses
01:22:30 8 in Colorado City to not be located in AVID?

01:22:43 9 A. I would say the address they're giving may not
01:22:52 10 match that address we have. Addresses in Colorado City
01:22:55 11 are just typically a standard four or five digit number
01:23:01 12 with a street name. It would be, for an example, like
01:23:06 13 2800 North, 3200 South Arizona. So it's not a typical
01:23:13 14 address.

01:23:15 15 Q. So you describe the process you used to locate
01:23:19 16 these addresses.

01:23:20 17 What does the county do when the residential
01:23:24 18 address can't be located?

01:23:27 19 A. Would send a notice to the voter that we need
01:23:30 20 additional information from them.

01:23:32 21 Q. If you can't locate the voter applicant's
01:23:40 22 address, do you register the voter?

01:23:42 23 A. They go into a suspend status awaiting
01:23:49 24 information.

01:23:49 25 Q. So it's my understanding there's also a process

01:23:52 1 where the voter registration applicant can provide a
01:23:57 2 residence location description or drawing. Is that right?
01:24:02 3 A. Yes.
01:24:02 4 Q. This is what applicants are asked to do if they
01:24:06 5 live in a residence that doesn't have a residential
01:24:10 6 address, or if their residential address can't be located?
01:24:13 7 A. Yes. It's a very small portion on the Arizona
01:24:18 8 voter registration form that they could draw their home
01:24:24 9 on.
01:24:26 10 Q. How does your office use residence location
01:24:32 11 descriptions or drawings to locate a residence?
01:24:38 12 A. We don't receive a lot of them that way. We
01:24:49 13 would typically try to contact the voter to get a better
01:24:56 14 understanding of their surroundings from using the
01:25:01 15 assessor's website as a map.
01:25:06 16 Q. Other than using the assessor's website or
01:25:10 17 calling the voter, do you try to look up the information
01:25:13 18 in any database?
01:25:15 19 A. From where they drew on the map for their
01:25:26 20 location?
01:25:27 21 Q. Hmm hmm.
01:25:31 22 A. Not that I'm aware of.
01:25:33 23 Q. Are applicants who live on a Native American
01:25:42 24 Reservation in Mohave County more likely to provide a
01:25:48 25 residence location description or drawing as opposed to

01:25:49 1 residential address?

01:25:52 2 A. I don't believe so.

01:25:54 3 Q. Which voters submit applications with a
01:26:02 4 residence location description or drawing, in your
01:26:04 5 experience?

01:26:05 6 A. I would think an off-grid voter or someone that
01:26:30 7 doesn't have a residential address.

01:26:36 8 Q. What do you mean by an off-grid voter?

01:26:38 9 A. They, that they wouldn't own the residence
01:26:49 10 address. They may live on state land. They may live in a
01:26:54 11 motorhome type of location.

01:26:59 12 Q. Can you provide a few examples of what a
01:27:07 13 residence location description sounds like?

01:27:11 14 A. Like if they live -- I'm sorry.

01:27:43 15 You're asking what they would write on their
01:27:46 16 voter registration form of describing their home?

01:27:48 17 Q. Yes. I'm just trying to get a better
01:27:51 18 understanding of what a residence location description
01:27:55 19 would be.

01:27:55 20 A. Well, if someone was homeless they could write
01:27:59 21 that they live under the I-40 underpass.

01:28:11 22 Q. What is an example of -- you mentioned people
01:28:14 23 who live on state land -- what would they, what's an
01:28:17 24 example of what their location description might be?

01:28:20 25 A. They could give you a milepost. They live

01:28:24 1 20 miles from milepost 68 on, off of 68.

01:28:31 2 Q. How often do these kinds of location
01:28:42 3 descriptions appear on identification documents?

01:28:46 4 A. I don't think very often.

01:28:48 5 Q. In your experience do any Mohave County voters
01:28:55 6 have a map to their residence on their identification
01:28:59 7 documents?

01:28:59 8 A. No.

01:29:01 9 Q. Does your county provide addresses for homes in
01:29:07 10 the county?

01:29:07 11 A. Yes.

01:29:11 12 Q. What department provides those addresses?

01:29:16 13 A. Development services through planning and
01:29:29 14 zoning, then it would go to the assessor's office.

01:29:38 15 Q. So it goes to the assessor's office -- I guess,
01:29:43 16 could you describe in more detail what the process is for
01:29:46 17 providing addresses within your county?

01:29:48 18 A. I'm not a hundred percent sure of that process.
01:30:04 19 But if someone came to voter registration and they needed
01:30:08 20 the address, we would refer them to that process through
01:30:13 21 development services.

01:30:14 22 Q. Do you know who would know more about this
01:30:18 23 process for providing an address in your county?

01:30:22 24 A. The County Recorder might.

01:30:49 25 Q. Why do you think the County Recorder would know

01:30:51 1 more about this process?

01:30:53 2 A. She has worked for the county longer than I
01:31:22 3 have.

01:31:22 4 Q. Do you know if your county provides addresses
01:31:24 5 for homes in Mohave County that are located on a Native
01:31:30 6 American Reservation?

01:31:30 7 A. If they provide addresses to homes? Not to my
01:31:38 8 knowledge.

01:31:38 9 Q. So, to your knowledge, the county does not
01:31:42 10 provide addresses for homes on Native American
01:31:45 11 Reservations located within Mohave County?

01:31:49 12 A. Correct.

01:31:49 13 Q. What does your office do to increase
01:31:56 14 registration of Native voters?

01:32:05 15 A. Specific to Native voters?

01:32:08 16 Q. Yes.

01:32:13 17 A. I don't, I don't know anything specific to them,
01:32:16 18 but we do voter registration and register anyone eligible
01:32:20 19 to vote.

01:32:20 20 Q. When you say you do voter registration, do you
01:32:26 21 hold voter registration drives?

01:32:30 22 A. During some times of the year, yes.

01:32:33 23 Q. Do you hold any of those voter registration
01:32:40 24 drives on Native American Reservations?

01:32:43 25 A. Not to my knowledge.

01:32:46 1 Q. What challenges do Native voters face when
01:32:56 2 trying to register to vote?
01:32:58 3 DEFENSE COUNSEL: Foundation; speculation.
01:33:09 4 THE WITNESS: Typically, it would just be able
01:33:11 5 to know where their residential address is located for
01:33:21 6 precincting.
01:33:23 7 BY MS. DIBRELL:
01:33:23 8 Q. Based on your experience in the Mohave County
01:33:29 9 Recorder's Office, are there any other challenges Native
01:33:33 10 voters face when trying to register to vote?
01:33:36 11 DEFENSE COUNSEL: Form and foundation.
01:33:38 12 THE WITNESS: Not to my knowledge.
01:33:39 13 BY MS. DIBRELL:
01:33:39 14 Q. Is voter registration lower in Native
01:33:42 15 communities than the county average?
01:33:45 16 A. I'm not sure.
01:33:46 17 Q. Do you know who would know that?
01:33:48 18 A. The, it could be pulled from the database,
01:34:00 19 registered voters by precinct.
01:34:05 20 Q. And the database you're referring to is AVID?
01:34:13 21 A. Correct.
01:34:14 22 Q. Is that information that you would be able to
01:34:21 23 pull from AVID?
01:34:23 24 A. Yes.
01:34:26 25 Q. What does your office do to accommodate Native

01:34:33 1 voters who live at a residence without an address?

01:34:49 2 A. We provide all voters the notice to provide
01:34:52 3 additional information for residential address, and if we
01:34:55 4 needed to, if we couldn't pin it according to the address
01:35:03 5 they're giving, we would give them a plus code in the AVID
01:35:03 6 system.

01:35:07 7 Q. And, just so I'm clear, what happens when you
01:35:10 8 give them a plus code?

01:35:12 9 A. You're pinning the address, you're pinning an
01:35:18 10 address at a specific location that you've determined is
01:35:21 11 where they live but it doesn't have a given address, or
01:35:25 12 they may call it their own address. A plus code is
01:35:34 13 through the USPS.

01:35:36 14 Q. And why does your office accommodate Native
01:35:41 15 voters who live at a residence without an address in this
01:35:44 16 way?

01:35:44 17 A. It would be for any voter.

01:35:48 18 Q. Does this happen more often with Native voter
01:35:57 19 applicants, this process?

01:36:00 20 DEFENSE COUNSEL: Form and foundation.

01:36:09 21 THE WITNESS: Not, not to my knowledge.

01:36:10 22 BY MS. DIBRELL:

01:36:51 23 Q. So, turning to H.B. 2492's requirements that
01:36:57 24 applicants provide documentary proof of residency with the
01:37:04 25 registration, I'd like to discuss A.R.S. Section 16-123.

01:37:12 1 Are you familiar with this statutory provision?

01:37:17 2 A. 123?

01:37:21 3 Q. Yes. 16-123.

01:37:25 4 A. I can briefly review it to refresh.

01:37:30 5 Q. Sure. Would it be helpful -- I can pull it up

01:37:34 6 on my screen.

01:37:35 7 A. I have it here.

01:37:50 8 Q. Let me know when you're done.

01:37:51 9 A. Okay. I'm ready.

01:37:53 10 Q. 16-123 requires that a person who registers to

01:38:05 11 vote must provide an identifying document that establishes

01:38:10 12 proof of location of residence, right?

01:38:14 13 A. Yes.

01:38:14 14 Q. Will this apply to voters registering using the

01:38:20 15 federal form?

01:38:23 16 DEFENSE COUNSEL: Form. Calls for a legal

01:38:25 17 conclusion

01:38:29 18 THE WITNESS: I'm not sure.

01:38:30 19 BY MS. DIBRELL:

01:38:34 20 Q. Has your office received any guidance from the

01:38:36 21 Secretary of State on whether this provision would apply

01:38:40 22 to voters registering using the federal form?

01:38:50 23 A. For H.B. 2492, I'm not sure.

01:38:54 24 Q. Are you aware of any requests to update the

01:39:01 25 election systems commission's instructions for the federal

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01:40:14 17
01:40:21 18
01:40:21 19
01:40:25 20
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01:40:41 25

form?

A. I'm sorry?

Q. So the federal form comes with instructions for the voter when they're filling it out, right? Are you aware of any requests to update those instructions that come with the federal form?

A. Not at this time.

Q. The current instructions for the federal form do not ask for documentary proof of residency, correct?

A. Right. Correct.

Q. Would your office reject federal form voters who do not provide documentary proof of residency?

DEFENSE COUNSEL: Speculation.

THE WITNESS: We currently don't follow H.B. 2492 with the litigation.

BY MS. DIBRELL:

Q. If H.B. 2492, if you do enforce H.B. -- excuse me. Strike that.

If you do enforce H.B. 2492's documentary proof of residency requirement, who would provide guidance on whether you would reject federal forms that do not include proof of residency?

A. I believe our county attorney.

Q. And that would be your county attorney would work with the County Recorder?

01:40:42 1 A. Yes.

01:40:43 2 Q. Have you begun drafting any guidance to that
01:40:50 3 effect about how to treat federal forms that do not
01:40:53 4 include proof of residency?

01:40:54 5 A. Not to my knowledge.

01:40:56 6 Q. Have you received any guidance from the
01:40:59 7 Secretary of State on how you would treat federal forms
01:41:03 8 that do not include proof of residency?

01:41:06 9 A. I don't believe so.

01:41:07 10 Q. Do you know if there would be a two track system
01:41:13 11 for this requirement, similar to the dual track system for
01:41:18 12 documentary proof of citizenship?

01:41:21 13 DEFENSE COUNSEL: Form.

01:41:22 14 THE WITNESS: I don't know.

01:41:22 15 BY MS. DIBRELL:

01:41:25 16 Q. Do you know if anyone else would know this in
01:41:28 17 your office?

01:41:30 18 A. The County Recorder.

01:41:33 19 Q. What types of documents qualify for proof of
01:41:40 20 residency?

01:41:43 21 DEFENSE COUNSEL: Form. Calls for legal
01:41:43 22 conclusion.

01:41:51 23 THE WITNESS: We currently don't require proof
01:41:54 24 of residency.

01:41:55 25 BY MS. DIBRELL:

01:41:55 1 Q. Ms. Durst, I'm going show you a document that
01:42:16 2 was previously marked as Exhibit 24 during the Maricopa
01:42:24 3 deposition.

01:42:32 4 Can you see my screen, Ms. Durst?

01:42:34 5 A. Yes.

01:42:34 6 Q. And you see the sticker here that says Exhibit
01:42:39 7 24, Petty July 24, 2023?

01:42:43 8 A. Yes.

01:42:43 9 Q. Have you ever seen this document? You can take
01:42:47 10 a moment to review it.

01:42:56 11 A. I don't believe so.

01:42:58 12 Q. Has the Secretary shared any guidance with you
01:43:08 13 about what documents would be acceptable under the
01:43:11 14 documentary proof of residency requirement?

01:43:15 15 A. Not to my knowledge.

01:43:17 16 Q. Has the Secretary shared any draft guidance with
01:43:26 17 your office regarding what documents would be acceptable
01:43:30 18 under the documentary proof of residency requirement?

01:43:33 19 A. Not to my knowledge.

01:43:34 20 Q. Are you familiar with the Gonzalez stipulation?

01:43:51 21 A. No.

01:43:55 22 Q. So walking through this document, it's titled,
01:45:01 23 What Constitutes Documentary Proof of Residency, correct?

01:45:06 24 A. Hmm hmm. Correct.

01:45:07 25 Q. So previously you discussed individuals who are

01:45:17 1 homeless proving residency. Is there any, is there --
01:45:33 2 strike that.

01:45:33 3 Can someone who is homeless provide a
01:45:41 4 declaration as proof of their residency?

01:45:50 5 A. Typically it's just written on the registration
01:45:55 6 form.

01:45:59 7 Q. Is that, is that how your office would treat
01:46:09 8 applications under H.B. 2492 for individuals who are
01:46:15 9 homeless?

01:46:18 10 DEFENSE COUNSEL: Speculation.

01:46:20 11 THE WITNESS: I don't, I don't know.

01:46:23 12 BY MS. DIBRELL:

01:46:31 13 Q. At the bottom of this chart, do you see it says:
01:46:34 14 Written confirmation signed by the registrant.
01:46:37 15 They qualify to register pursuant 16-166(B) providing an
01:46:44 16 address for the homeless center.

01:46:47 17 Correct? Do you see that?

01:46:50 18 A. Yes.

01:46:53 19 Q. Are you aware of any versions of this written
01:47:01 20 confirmation that have been drafted?

01:47:03 21 A. No.

01:47:04 22 Q. Will a template be provided?

01:47:09 23 A. I'm not sure.

01:47:11 24 Q. Do you know how this will be communicated?

01:47:19 25 A. Could you please clarify? Who would communicate

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01:49:09 15
01:49:17 16
01:49:20 17
01:49:25 18
01:49:26 19
01:49:27 20
01:49:28 21
01:49:32 22
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01:49:40 24
01:49:43 25

that?

Q. How would your office communicate to individuals who are homeless how they can prove their residency?

A. We haven't developed a plan for the 2492.

Q. Who would develop that plan?

A. I believe the Secretary of State, county attorney, and Recorders.

Q. You said you are not familiar with the Gonzalez stipulation?

A. Correct.

Q. Do you know who would be familiar with this, with the Gonzalez stipulation?

A. It could be the County Recorder, Kristi Blair.

Q. So walking through the types of proof of residency in this chart, do you see the first, the first box at the top?

A. Yes. Valid/unexpired Arizona driver's license. That one?

Q. Yes.

A. Hmm hmm.

Q. And based on this chart, it says that:

A valid and unexpired Arizona driver license or nonoperating identification number that is properly verified by the County Recorder satisfies the requirements of this section.

01:49:44 1 Right?

01:49:44 2 A. Yes.

01:49:45 3 Q. And then the next row down provides another

01:50:00 4 example. It says:

01:50:04 5 A copy of valid/unexpired Arizona driver license

01:50:08 6 or identification.

01:50:10 7 Correct?

01:50:10 8 A. Yes.

01:50:11 9 Q. And that driver's license may list a PO box as

01:50:17 10 the address?

01:50:22 11 A. Correct.

01:50:23 12 Q. And the residential address, according to this,

01:50:33 13 does not need to match the address listed on the voter

01:50:37 14 registration form, right?

01:50:42 15 A. Yes. It states that.

01:50:44 16 Q. Then the next type of proof of residency listed

01:50:52 17 is tribal identification card, which includes a census

01:50:58 18 card, tribal ID card, tribal enrollment card, right?

01:51:03 19 A. Hmm hmm. Yes.

01:51:04 20 Q. And based on this chart, pursuant to 16-123:

01:51:09 21 Any of the identifying documents prescribed in

01:51:12 22 section 16-579, subsection a, paragraph 1 constitutes

01:51:18 23 satisfactory proof of location and residence.

01:51:20 24 Right?

01:51:20 25 A. Yes.

01:51:21 1 Q. And that corresponds to the tribal
01:51:23 2 identification card.

01:51:24 3 A. Yes.

01:51:25 4 Q. And then the next row says:

01:51:28 5 Pursuant to Gonzalez, the tribal ID does not
01:51:32 6 require an address be listed.

01:51:36 7 A. Correct.

01:51:37 8 Q. So -- but you are unfamiliar with this Gonzalez
01:51:44 9 stipulation?

01:51:44 10 A. That's correct.

01:51:45 11 Q. The next row lists, a utility bill, bank
01:51:58 12 statement, Arizona insurance card, Arizona vehicle
01:52:03 13 registration, property tax statement, Recorder's
01:52:05 14 certification, voter ID card, federal or state issued ID
01:52:10 15 card as proof of residency, correct?

01:52:12 16 A. Yes.

01:52:13 17 Q. And that row sites to A.R.S. 16-123, correct?

01:52:22 18 A. Yes.

01:52:30 19 MR. LANGHOFER: Ms. DiBrell, if I might. I
01:52:32 20 don't want to step on toes here. It's your deposition.
01:52:34 21 You can, obviously, ask the questions you want. But, as I
01:52:35 22 understand it, the authenticity of this document is not
01:52:39 23 really at issue. It was attached to the motions for
01:52:42 24 summary judgment. I think there was actually a
01:52:45 25 stipulation or agreement that judgment should be entered

01:52:49 1 as concerns this document. Moreover, the document says
01:52:51 2 what it says.

01:52:54 3 So you can spend your deposition time anyway you
01:52:57 4 want, but I think there's really nothing in dispute here,
01:53:01 5 so...

01:53:04 6 MS. DIBRELL: That's fair.

01:53:04 7 BY MS. DIBRELL:

01:53:05 8 Q. I just want to, Ms. Durst, based on your
01:53:09 9 experience, the documents that are listed here, that are
01:53:12 10 not in dispute, are there certain populations that will
01:53:16 11 struggle to provide this document?

01:53:19 12 DEFENSE COUNSEL: Speculation.

01:53:26 13 THE WITNESS: I'm not sure.

01:53:27 14 BY MS. DIBRELL:

01:53:32 15 Q. Do you know how the documents can be submitted?

01:53:42 16 A. How a document of proof of residency can be
01:53:47 17 submitted to our office?

01:53:49 18 Q. Yes.

01:53:50 19 A. At this time it's not being required, but I
01:53:52 20 believe it could come from the voter in person, via USPS,
01:53:56 21 or email or faxed.

01:54:01 22 Q. Thank you, Ms. Durst.

01:54:22 23 Are you aware, excuse me, of laws, policies or
01:54:27 24 guidelines that currently prohibit a person, who is not
01:54:30 25 eligible, from registering to vote in Arizona?

01:54:33 1 A. That prohibit them?

01:54:38 2 Q. Hmm hmm.

01:54:39 3 A. If they have a felony charge, that would
01:54:47 4 prohibit someone from registering to vote.

01:54:51 5 Q. So there are laws in place already in Arizona
01:54:54 6 that prohibit a person, who is not eligible, from
01:54:58 7 registering to vote?

01:54:59 8 A. Correct.

01:54:59 9 Q. So, in addition to the law that you just
01:55:07 10 mentioned, related, those with a felony, are you aware of
01:55:13 11 any others?

01:55:15 12 A. Not that I can think of.

01:55:19 13 Q. Are you aware that A.R.S. 16-183 makes it a
01:55:34 14 class 6 felony to knowingly register more than once?

01:55:39 15 A. Yes. Yes, if you are registering in multiple
01:55:47 16 states, or voting.

01:55:48 17 Q. And so generally you are aware that it's a crime
01:55:57 18 to register as an elector if you are unqualified.

01:56:01 19 A. Yes.

01:56:01 20 Q. So I'm going to return to the interrogatory
01:56:12 21 responses that you provided to consolidated plaintiffs.

01:56:51 22 Can you see my screen, Ms. Durst?

01:56:54 23 A. I can.

01:56:55 24 Q. And, again, I will show you the front page. So
01:56:59 25 this first page says it's Mohave County Recorder's Answers

01:57:01 1 to Consolidated Plaintiff's First Set of Interrogatories,
01:57:05 2 correct?

01:57:05 3 A. Yes.

01:57:06 4 Q. So turning to interrogatory No. 9.

01:57:20 5 Interrogatory No. 9 requested that you: Identify and
01:57:25 6 describe each instance in which you have established that
01:57:30 7 a non-U.S. citizen or non-county resident has registered
01:57:30 8 to vote or has voted in your county from January 1st, 2013
01:57:34 9 to present.

01:57:37 10 Correct?

01:57:37 11 A. Yes.

01:57:38 12 Q. And Mohave County, your response was:

01:57:49 13 The Mohave County Recorder does not have an
01:57:51 14 applicable answer relating to the above interrogatory.

01:57:56 15 Right?

01:57:56 16 A. Correct.

01:57:57 17 Q. You did not identify any instances in which any
01:58:02 18 non-U.S. citizen or non-county resident registered to vote
01:58:09 19 or voted in Mohave County since January 1st, 2013?

01:58:12 20 A. Can you clarify your question? I'm sorry.

01:58:32 21 Q. I just want to confirm that, in responding to
01:58:35 22 this interrogatory, you did not identify any instances in
01:58:39 23 which a non-citizen or non-county residence registered to
01:58:44 24 vote or voted in Mohave County since January 1st, 2013.

01:58:49 25 A. Correct. I'm not sure how that would be

01:59:01 1 tracked.

01:59:01 2 Q. What do you mean by you're not sure how it would
01:59:07 3 be tracked?

01:59:07 4 A. I'm not sure which data would be pulled from the
01:59:12 5 system for that date range if they were a non-U.S. citizen
01:59:17 6 or non-county resident.

01:59:23 7 Q. In responding to the interrogatory, you're not
01:59:33 8 sure how the data would have been pulled?

01:59:36 9 A. We -- like the AVID system is a live system. So
01:59:56 10 if you search for someone from 2013 to current, would we
02:00:03 11 be looking for someone that wasn't eligible but they
02:00:23 12 voted? Is that correct?

02:00:27 13 Q. So let's take a step back. So can you con -- or
02:00:37 14 are you aware, or -- sorry. Strike that.

02:00:42 15 Your office, in responding to these
02:00:44 16 interrogatories, which were verified, did not identify
02:00:47 17 anyone who committed non-citizen, who registered to vote
02:00:53 18 as a non-citizen or voted in Mohave County since 2013,
02:01:00 19 right?

02:01:00 20 A. Correct.

02:01:00 21 Q. And you can confirm that, in responding to these
02:01:06 22 interrogatories, your county did not identify anyone, any
02:01:12 23 non-residents who registered to vote or voted in Mohave
02:01:17 24 County since 2013.

02:01:28 25 A. Correct. Kristi Blair did that.

02:01:30 1 Q. So turning to your, the Mohave County Recorder's
02:02:01 2 responses to consolidated plaintiff's RFPs. I will share
02:02:13 3 my screen with you.

02:02:16 4 Are you familiar with this document?

02:02:16 5 A. Yes.

02:02:25 6 Q. I'm sorry. I couldn't hear you.

02:02:26 7 A. Yes.

02:02:27 8 Q. And the title is, it's called the Mohave County
02:02:31 9 Recorder's Response to Consolidated Plaintiff's First
02:02:34 10 Request For Production of Documents, correct?

02:02:36 11 A. Yes.

02:02:36 12 Q. And I'd like to mark this as the next exhibit.

02:02:47 13 All right. So turning to your response to
02:02:51 14 RFP 7. Request for production No. 7 asks for:

02:03:08 15 All documents and communications concerning
02:03:10 16 actual or alleged misconduct, fraud, a lack of voter
02:03:13 17 confidence, election security, or other problems related
02:03:16 18 to citizenship, residence location, or proof of
02:03:20 19 citizenship or residential addresses in voter
02:03:23 20 registration, including but not limited to bulletins,
02:03:27 21 memoranda, training manuals, policies and procedures, and
02:03:31 22 complaints or reports received from citizens and the
02:03:32 23 county's response or other documents (including internal
02:03:35 24 and external communications) evidencing the investigation
02:03:38 25 and resolution of each communication or complaint?

02:03:40 1 Right?

02:03:41 2 A. Yes.

02:03:42 3 Q. And the Mohave County Recorder's response was:

02:03:46 4 The Mohave County Recorder does not have any

02:03:48 5 documents responsive to this request.

02:03:51 6 Correct?

02:03:51 7 A. Correct.

02:03:51 8 Q. Is it still true that you have no responsive

02:03:56 9 documents in response to this request for production

02:04:00 10 No. 7?

02:04:01 11 A. To my knowledge, yes.

02:04:03 12 Q. What does your office do to identify any

02:04:12 13 instances of voter fraud?

02:04:14 14 A. If -- could I have an example of that, please?

02:04:31 15 Q. What does your office do -- I guess, I don't

02:04:39 16 have an example. I'm wondering what do you do to identify

02:04:43 17 voter fraud.

02:04:44 18 A. We, Mohave County, well, Arizona uses the ERIC

02:04:56 19 database as well so for like cross-state voters, if that's

02:05:03 20 reported to us that we have a voter and they have the same

02:05:06 21 voter, we would meet with them, but then that would be

02:05:09 22 turned over to the attorney general's office.

02:05:13 23 Q. Do you do anything else to identify instances of

02:05:16 24 voter fraud?

02:05:17 25 A. Not to my knowledge.

02:05:22 1 Q. And when you identify instances of voter fraud,
02:05:27 2 do you report them to the attorney general?

02:05:29 3 A. Yes.

02:05:30 4 Q. Are you legally required to do anything to
02:05:37 5 identify voter fraud?

02:05:43 6 A. Not that I'm aware of.

02:05:45 7 Q. What does your office do if you suspect that
02:05:48 8 voter fraud has been committed?

02:05:51 9 A. Seek legal advice from our county attorney.

02:05:56 10 Q. Other than seeking legal advice, do you conduct
02:06:03 11 any investigations into the suspected fraud?

02:06:07 12 A. If it were to be during the verification process
02:06:18 13 of signatures for an election it could also be provided to
02:06:22 14 our local law enforcement.

02:06:27 15 Q. So if you identify any suspected voter fraud,
02:06:32 16 you report it to who?

02:06:36 17 A. Typically Mohave County Sheriff's Office, and
02:06:40 18 then we would seek assistance from our county attorney.

02:06:43 19 Q. And that's in addition to, excuse me, reporting
02:06:48 20 it to the attorney general?

02:06:49 21 A. I haven't been involved in the whole process of
02:07:00 22 that. I believe it would eventually go to the Attorney
02:07:03 23 General, but I'm not sure if the findings from the
02:07:07 24 sheriff's office, where that would go if they didn't find
02:07:13 25 anything.

02:07:13 1 Q. Regardless, you report the suspected voter fraud
02:07:20 2 to someone outside of the county, the Mohave County
02:07:24 3 Recorder's Office?

02:07:25 4 A. Correct.

02:07:25 5 Q. Can citizens submit allegations about potential
02:07:33 6 voter fraud to your office?

02:07:34 7 A. Yes.

02:07:35 8 Q. How do they do that?

02:07:37 9 A. Citizens will call or send an email or a letter
02:07:44 10 by USPS.

02:07:49 11 Q. Has this happened before?

02:07:51 12 A. A time I can think of is someone received a
02:08:08 13 piece of mail to their PO box by mistake on a voter's
02:08:16 14 registration form.

02:08:19 15 Q. In that instance that you can think of, they
02:08:23 16 received -- I'm sorry.

02:08:25 17 What did they receive by mistake?

02:08:27 18 A. So a voter registered to vote at their
02:08:32 19 residential address with a mailing address of a PO box,
02:08:35 20 and they put their PO box number wrong. It then went to
02:08:42 21 someone else's PO box, and that voter then thought the
02:08:45 22 person was registering in the same location as them with
02:08:50 23 their PO box. But it was an error on the voter by making
02:08:56 24 the wrong post office number.

02:09:01 25 Q. And that error was uncovered because the person

02:09:05 1 who mistakenly received the application sent, or reported
02:09:10 2 it to your office?

02:09:12 3 A. Correct.

02:09:13 4 Q. On average, how many complaints about potential
02:09:22 5 voter fraud does your office receive per election?

02:09:25 6 A. I don't think many. Do you need a number?

02:09:45 7 Maybe ten reports per election. But that could vary of
02:09:52 8 their reasoning.

02:09:56 9 Q. What do you do when you receive these reports?

02:09:59 10 A. Typically, it depends on what it is. If they
02:10:05 11 received mail to their house for someone else, they -- if
02:10:24 12 there's found to be any wrong activity it would be turned
02:10:31 13 over to the Attorney General. But we look into it in our
02:10:35 14 office as well.

02:10:36 15 Q. And who in your office reviews these complaints
02:10:41 16 of potential voter fraud?

02:10:42 17 A. The County Recorder.

02:10:44 18 Q. Does anyone else review the complaints?

02:10:47 19 A. Not typically.

02:10:48 20 Q. Are you legally required to do anything when you
02:10:53 21 receive these complaints about potential voter fraud from
02:10:58 22 citizens?

02:10:59 23 A. I'm not sure.

02:11:02 24 Q. In addition to reporting any credible
02:11:15 25 allegations of voter fraud to the sheriff, do you report

02:11:18 1 it to the county attorney?

02:11:20 2 A. Yes.

02:11:20 3 Q. Why?

02:11:22 4 A. So they are aware of the voter information we
02:11:34 5 could be providing to the sheriff's office.

02:11:40 6 Q. What steps do you do to prevent -- or excuse
02:11:50 7 me -- what steps do you take to prevent voter fraud?

02:11:58 8 DEFENSE COUNSEL: Asked and answered.

02:12:00 9 THE WITNESS: We, well we send 90 day notices
02:12:08 10 90 days before an election. So if that mail comes back to
02:12:12 11 us, the person could eventually go inactive and not
02:12:15 12 receive the ballot by mail for an election. We also do
02:12:23 13 additional mailings, and we'll see if that mail is
02:12:28 14 returned to us from USPS or residents at the address that
02:12:32 15 that voter doesn't live there.

02:12:34 16 BY MS. DIBRELL:

02:12:35 17 Q. Are you legally required to take these steps to
02:12:39 18 prevent voter fraud?

02:12:40 19 A. Per a 90-day notice, yes.

02:12:43 20 Q. Are there any other steps you take to prevent
02:12:46 21 voter fraud?

02:12:47 22 A. Not that I'm aware of.

02:12:49 23 Q. Who is responsible for implementing these steps
02:12:54 24 to prevent voter fraud?

02:12:56 25 A. The County Recorder.

02:12:59 1 Q. Is there anything else your office does to
02:13:02 2 prevent voter fraud?

02:13:04 3 A. We do a HAVA check to be sure they're eligible,
02:13:11 4 and then on early ballots, ballots by mail we do signature
02:13:18 5 verification.

02:13:21 6 Q. And does your office do anything else to prevent
02:13:25 7 voter fraud in addition to those steps?

02:13:27 8 A. We encourage any voters to return mail to our
02:13:33 9 office if it's not addressed to them.

02:13:45 10 Q. Is there anything else that your office does to
02:13:48 11 prevent voter fraud?

02:13:49 12 A. Not that I can think of.

02:13:51 13 Q. So I'm going to show you a document that the
02:13:57 14 county produced to plaintiffs.

02:14:31 15 Can you see my screen, Ms. Durst?

02:14:33 16 A. Yes.

02:14:34 17 Q. And do you see this criminal indictment?

02:14:42 18 A. I do.

02:14:43 19 Q. Are you familiar with this document?

02:14:50 20 A. Not recently, no.

02:14:53 21 Q. Well, I'll represent to you that it was produced
02:14:57 22 to us in the production, and the first page of the
02:14:59 23 document is MOHAVE-000751.

02:15:11 24 If you would like to take a few minutes to
02:15:14 25 review this first page.

02:15:19 1 A. I've reviewed that.

02:15:21 2 Q. Is this a criminal indictment concerning a
02:15:28 3 Mohave resident who voted more than once?

02:15:31 4 A. Yes.

02:15:32 5 Q. And it's dated December 9th, 2021, correct?

02:15:34 6 A. Correct.

02:15:35 7 MS. DIBRELL: I would like to mark this as
02:15:38 8 Exhibit 56.

02:15:38 9 BY MS. DIBRELL:

02:15:44 10 Q. And, Ms. Durst, I'm going to show you another
02:15:47 11 related document. This was also produced to plaintiffs by
02:15:52 12 Mohave County, and it is Bates stamped, the first page, as
02:15:56 13 MOHAVE-000754.

02:15:58 14 Do you see that?

02:15:59 15 A. I do.

02:16:00 16 Q. And I'll scroll down so you can see the
02:16:05 17 document. If you could just please take a moment to
02:16:08 18 review that.

02:16:09 19 A. I have reviewed that.

02:16:24 20 Q. And this is a court judgment for, for the
02:16:27 21 criminal indictment that you just reviewed, correct?

02:16:30 22 A. Yes.

02:16:31 23 Q. And it notes that the defendant entered a guilty
02:16:38 24 plea, right?

02:16:38 25 A. Yes.

02:16:39 1 Q. And it is -- they entered a guilty plea on
02:16:47 2 December 9th, 2021, correct?

02:16:48 3 A. That's correct.

02:16:50 4 MS. DIBRELL: I'd like to mark this exhibit as
02:16:53 5 Exhibit 57.

02:16:56 6 BY MS. DIBRELL:

02:16:56 7 Q. Do you know how this voter fraud was discovered?

02:16:58 8 A. I believe this is during signature verification.

02:17:03 9 Q. Do you know who discovered it?

02:17:05 10 A. I believe this was discovered by 90-day notices
02:17:16 11 for signature verification, and it was provided to me from
02:17:19 12 a staff member.

02:17:20 13 Q. Ms. Durst, I'm going show you another, an email
02:17:37 14 that's related to this indictment that was also produced
02:17:40 15 to plaintiffs.

02:17:46 16 Do you see this email?

02:17:48 17 A. I do.

02:17:49 18 Q. And it is Bates stamped at the bottom right,
02:17:54 19 MOHAVE-000759, correct?

02:17:56 20 A. Correct.

02:17:57 21 Q. And this is an email from Lydia Glentz to Kristi
02:18:04 22 Blair, right?

02:18:05 23 A. Yes. That's me.

02:18:13 24 Q. Oh, it's, your previous last name was Glentz?

02:18:18 25 A. Previous last name was Glentz, correct.

02:18:21 1 Q. Okay. Thank you for the clarification.

02:18:23 2 And this email from you to Ms. Blair is dated
02:18:28 3 June 8th, 2020, right?

02:18:29 4 A. Yes.

02:18:30 5 Q. And, based on this email, you received an email
02:18:47 6 from an FBI special agent with the Phoenix field office?

02:18:53 7 A. That's correct.

02:18:54 8 Q. And they had received an information regarding
02:18:56 9 an allegation of voting fraud.

02:18:59 10 A. Yes.

02:18:59 11 Q. And he was the one who requested the records at
02:19:05 12 issue in this criminal indictment and charges that we have
02:19:09 13 been discussing, correct?

02:19:10 14 A. That is correct.

02:19:11 15 Q. And, again, this was discovered based on a
02:19:18 16 90-day check?

02:19:20 17 A. I believe they were 90-day notices that we
02:19:25 18 mailed to the residence.

02:19:29 19 Q. I see.

02:19:29 20 And so do you know who submitted the complaint
02:19:31 21 to the FBI agent?

02:19:33 22 A. I don't recall.

02:19:37 23 Q. So I better understand what happened, can you
02:19:45 24 describe how the FBI, FBI agent would have received the
02:19:49 25 complaint?

02:19:50 1 A. I don't recall if I contacted the FBI agent for
02:20:02 2 this, or if they contacted us. I don't recall.

02:20:14 3 Q. But the current 90-day notice process that your
02:20:24 4 office use, uses caught this instance of voter fraud.

02:20:28 5 A. I believe so.

02:20:29 6 Q. Is there anything to suggest that this person
02:20:34 7 was a non-citizen?

02:20:36 8 A. I don't believe so.

02:20:38 9 Q. Is there any -- do you have any reason to
02:20:45 10 believe that anything in H.B. 2492 or H.B. 2243 would have
02:20:51 11 prohibited this conduct?

02:20:53 12 A. Not to my knowledge.

02:21:01 13 Q. And this individual, this instance of voter
02:21:11 14 fraud that your county identified, she had voted on behalf
02:21:14 15 of her deceased father?

02:21:16 16 A. Yes.

02:21:17 17 Q. Is there anything in H.B. 2492 or H.B. 2243
02:21:24 18 which would have made it easier to detect this type of
02:21:28 19 voter fraud?

02:21:29 20 A. Not that I'm aware of.

02:21:39 21 Q. Have you received any other requests from an FBI
02:21:47 22 special agent concerning other complaints about potential
02:21:51 23 voter fraud?

02:21:52 24 A. Not that I can recall at this moment.

02:22:00 25 Q. You can't recall any other instances in which

02:22:08 1 you received a request from the FBI special, FBI special
02:22:13 2 agent about potential voter fraud?

02:22:16 3 A. I spoke with the special agent numerous times.
02:22:20 4 I don't recall if it was always for the same voter or if
02:22:24 5 there were additional.

02:22:26 6 Q. Has this happened on other occasions?

02:22:29 7 A. Not that I recall.

02:22:33 8 Q. Is this something that happens often?

02:22:38 9 A. It wouldn't specify as often, but we will reach
02:23:00 10 out to local law enforcement or the FBI for signatures at
02:23:07 11 times. If the voter is not able to say that they did sign
02:23:11 12 that or, when you contact the phone number listed, if the
02:23:16 13 voter is never available to come to the phone, we have
02:23:20 14 contacted them for those kinds of situations.

02:23:23 15 Q. And in those situations you reach out about the
02:23:26 16 suspected voter fraud?

02:23:28 17 A. Yes.

02:23:29 18 Q. Is there anything in H.B. 2492 or H.B. 2243 that
02:23:35 19 would make those instances of suspected voter fraud easier
02:23:42 20 to detect?

02:23:46 21 A. I don't -- not to my knowledge.

02:23:47 22 Q. Has your office received any other inquiries
02:23:51 23 from other government officials concerning complaints
02:23:55 24 about voter fraud?

02:23:56 25 A. Not that I can currently recall.

02:23:58 1 Q. Has your office received any other requests on
02:24:02 2 behalf of the federal government about suspected voter
02:24:06 3 fraud?

02:24:09 4 A. Not that I can currently recall. They would
02:24:15 5 typically contact the County Recorder.

02:24:17 6 Q. Are there any documents that you could look at
02:24:19 7 to determine whether you received any inquiries from other
02:24:22 8 government officials or the federal government about
02:24:26 9 suspected voter fraud?

02:24:28 10 A. Not that I can think of.

02:24:33 11 Q. Has your office received any inquiries from the
02:24:42 12 State of Arizona about potential voter fraud in Mohave --
02:24:47 13 voter fraud in Mohave County?

02:24:47 14 A. Not that I can think of.

02:24:52 15 Q. So I'll represent to you that these documents
02:25:11 16 were produced in response to Equity RFP No. 15.

02:25:41 17 THE VIDEOGRAPHER: Excuse me, counsel. This is
02:25:44 18 Dennis Woods, the videographer. We are getting,
02:25:47 19 approaching the end of our media. Is this a good time to
02:25:50 20 swap media?

02:25:51 21 MS. DIBRELL: I just have a few more questions
02:25:53 22 on this topic and then it would be a good time for a
02:25:56 23 break.

02:25:56 24 THE VIDEOGRAPHER: Okay. Thank you.

02:25:58 25 BY MS. DIBRELL:

02:25:59 1 Q. So, Ms. Durst, I'm going show you request for
02:26:03 2 production 15. And request for production No. 15
02:26:03 3 requests:

02:26:18 4 Documents sufficient to identify all voter fraud
02:26:20 5 cases in your county since 2010, including but not limited
02:26:23 6 to identification of those cases involving allegations of
02:26:27 7 fraud based on a non-citizen voting.

02:26:31 8 Correct?

02:26:31 9 A. Yes.

02:26:32 10 Q. And the criminal indictment that we just
02:26:38 11 discussed and the guilty plea, that is the only criminal
02:26:46 12 charge of voter fraud, that is the only instance, rather,
02:26:49 13 of voter fraud that you were able to identify in your
02:26:51 14 county since 2010.

02:26:56 15 A. To my knowledge, yes.

02:26:57 16 Q. So, to your knowledge, from 2010 to present,
02:27:04 17 you've identified only one case involving voter fraud?

02:27:08 18 A. Yes.

02:27:14 19 Q. And that one case of voter fraud since 2010 did
02:27:21 20 not involve a non-citizen voting, or a non-resident
02:27:27 21 voting.

02:27:27 22 A. To my knowledge, correct.

02:27:29 23 Q. So I quickly -- and this will be my last
02:27:33 24 question on this topic -- want to turn to your response to
02:27:41 25 consolidated plaintiff's interrogatory No. 9. And

02:27:50 1 interrogatory No. 9 requested that you:

02:27:52 2 Identify and describe each instance in which you
02:27:53 3 have established that a non-U.S. citizen or non-county
02:27:56 4 resident has registered to vote or has voted in your
02:27:58 5 county from January 1, 2013 to present, including but not
02:28:01 6 limited to any supporting evidence thereof, any documents
02:28:04 7 and communications related to such instance, whether such
02:28:08 8 instance involved misconduct, fraud, or mistake, and any
02:28:11 9 instance in which your office informed such non-U.S.
02:28:11 10 citizen or non-county resident that they were eligible to
02:28:18 11 vote in the county and later determined they were actually
02:28:20 12 ineligible.

02:28:21 13 Correct?

02:28:22 14 A. Correct.

02:28:23 15 Q. And you answered that:

02:28:23 16 The Mohave County Recorder does not have an
02:28:27 17 applicable answer relating to the above interrogatory.

02:28:30 18 Right?

02:28:30 19 A. Yes.

02:28:31 20 Q. You are not aware of any other instances of
02:28:33 21 voter fraud that have occurred in Mohave County since
02:28:39 22 2013?

02:28:39 23 DEFENSE COUNSEL: Form.

02:28:40 24 THE WITNESS: Not that I can recall, besides
02:28:47 25 what we just discussed, that have been found.

02:28:47 1
02:28:54 2
02:28:56 3
02:29:00 4
02:29:08 5
02:29:10 6
02:29:11 7
02:29:12 8
02:29:14 9
02:29:20 10
02:45:05 11
02:45:11 12
02:45:17 13
02:45:20 14
02:45:22 15
02:45:25 16
02:45:26 17
02:45:31 18
02:45:36 19
02:45:39 20
02:45:41 21
02:45:49 22
02:45:50 23
02:46:00 24
02:46:01 25

BY MS. DIBRELL:

Q. Do you have any reason to believe there are other instances of voter fraud that have not been found?

A. No.

MS. DIBRELL: All right. We can take a break. I think this is a good time.

THE WITNESS: Okay.

THE VIDEOGRAPHER: We are off the record. Time on the video monitor is 2:29 p.m. This ends Media No. 2. (Recess taken from 2:29 p.m. to 2:45 p.m.)

THE VIDEOGRAPHER: We are on the record. Time on the video monitor is 2:45 p.m. This begins Media No. 3.

BY MS. DIBRELL:

Q. Ms. Durst, I just have a few more questions for you. What is your understanding for how H.B. 2492 and 2243, how it will make voter registration more difficult for election officials.

DEFENSE OBJECTION: Form. Speculation -- strike that. Withdraw objection.

THE WITNESS: I don't believe we currently have a process, but it will make voters provide more information.

BY MS. DIBRELL:

02:46:01 1 Q. Your office will have to process that additional
02:46:05 2 information?
02:46:06 3 A. Yes.
02:46:09 4 Q. Will that -- I'm sorry. Go on.
02:46:11 5 A. Or have to send notification to the voters to
02:46:16 6 get the additional information.
02:46:18 7 Q. So that will be more work for your office when
02:46:22 8 you enforce H.B. 2492 and H.B. 2243?
02:46:31 9 A. That would be correct.
02:46:32 10 Q. And voter registrants themselves will have to
02:46:35 11 submit more information with their forms?
02:46:37 12 A. Yes.
02:46:37 13 Q. Will that make it harder for them to register to
02:46:42 14 vote since they have to provide more information?
02:46:45 15 A. I believe it could be difficult.
02:46:46 16 Q. Do you know if Mohave County provided any
02:46:55 17 feedback on either one of the challenge provisions?
02:47:01 18 A. I'm not sure.
02:47:02 19 Q. Ms. Durst, I'm going show you another document
02:47:06 20 that was produced to us.
02:47:15 21 Can you see my screen?
02:47:17 22 A. Yes.
02:47:17 23 Q. This was produced as MOHAVE-000358.
02:47:24 24 Do you see that?
02:47:25 25 A. Yes.

02:47:26 1 Q. And please take a moment to review this
02:47:29 2 document. And let me know when you're ready.

02:47:41 3 A. I have reviewed it.

02:47:48 4 Q. And is this an email confirmation from the
02:47:54 5 Arizona Association of Counties regarding a comment from
02:47:59 6 Mohave County Recorder Kristi Blair on H.B. 2492?

02:48:03 7 A. It is.

02:48:04 8 Q. And what is the Arizona Association of Counties?

02:48:07 9 A. It's an association for all 15 counties to
02:48:15 10 assist them in the legislative process.

02:48:21 11 Q. What do they do?

02:48:23 12 A. They will be lobbyists for the County Recorders
02:48:26 13 and speak on their behalf to the legislation.

02:48:32 14 Q. So, as lobbyists for the County Recorders, do
02:48:35 15 they solicit feedback on legislative bills?

02:48:38 16 A. Typically, yes.

02:48:39 17 Q. Does Mohave County typically provide feedback on
02:48:43 18 legislative bills?

02:48:44 19 A. That's sent to the County Recorder, and it would
02:48:49 20 be to her discretion.

02:48:51 21 Q. And the County Recorder did provide feedback on
02:48:58 22 H.B. 2492, correct?

02:49:01 23 A. Yes.

02:49:02 24 Q. And, based on the date of the document, she
02:49:05 25 submitted this feedback on January 18, 2022, right?

02:49:09 1
02:49:10 2
02:49:23 3
02:49:27 4
02:49:28 5
02:49:35 6
02:49:38 7
02:49:39 8
02:49:39 9
02:49:45 10
02:49:49 11
02:49:52 12
02:49:53 13
02:49:53 14
02:49:59 15
02:50:03 16
02:50:06 17
02:50:07 18
02:50:11 19
02:50:12 20
02:50:12 21
02:50:14 22
02:50:14 23
02:50:42 24
02:50:46 25

A. Yes.

Q. And Ms. Blair's feedback on 2492, she suggested opposing H.B. 2492. Is that correct?

A. Yes.

Q. And Ms. Blair submitted a comment regarding the projected impact of H.B. 2492.

Do you see that?

A. I do.

Q. And Ms. Blair stated, regarding H.B. 2492: It's difficult to get past the part where we are charged with a felony if an error is made.

Correct?

A. Yes.

Q. Can you explain to me how H.B. 2492 puts election officials for registering voters at risk of facing criminal charges?

DEFENSE COUNSEL: Form.

THE WITNESS: Could we review the House Bill 2492?

BY MS. DIBRELL:

Q. Well, do you just have a general understanding of the criminal charges that you face in implementing 2492?

Yes, refresh your recollection. Feel free to take a moment to look at it.

02:50:47 1 A. Okay.

02:50:48 2 Q. And let me know when you're ready.

02:51:44 3 DEFENSE COUNSEL: I'll object because it calls
02:51:46 4 for a legal conclusion.

02:51:57 5 THE WITNESS: I don't know that I'm able to
02:51:59 6 locate it in the printout I have of H.B. 2492. And I
02:52:06 7 don't recall a specific language that says we would be
02:52:09 8 charged with a felony.

02:52:10 9 BY MS. DIBRELL:

02:52:11 10 Q. That's okay.

02:52:12 11 Do you know why Ms. Blair was concerned that she
02:52:17 12 could face felony charges if an error was made under
02:52:22 13 H.B. 2492?

02:52:22 14 A. I'm not sure why.

02:52:28 15 Q. Has this issue been discussed at all in the
02:52:35 16 Mohave County Recorder's Office?

02:52:36 17 A. Not that I recall.

02:52:37 18 Q. Did the Mohave County Recorder's Office oppose
02:52:46 19 H.B. 2492 for any other reasons?

02:52:49 20 A. Not that I'm aware of.

02:52:51 21 Q. Who would know if the County Recorder opposed
02:52:58 22 H.B. 2492 for other reasons?

02:53:03 23 A. The County Recorder herself, Kristi Blair.

02:53:06 24 Q. Do you know if the Mohave County Recorder
02:53:09 25 submitted any other comments or feedback to the Arizona

02:53:12 1 Association of Counties on H.B. 2492?

02:53:16 2 A. I don't know.

02:53:16 3 Q. And would Ms. Blair know if she submitted any
02:53:21 4 other comments to the Arizona Association of Counties on
02:53:24 5 H.B. 2492?

02:53:25 6 A. Yes.

02:53:26 7 Q. And do you know if the County Recorder provided
02:53:35 8 feedback on H.B. 2492 to anyone else?

02:53:38 9 A. Not that I'm aware of.

02:53:39 10 Q. Ms. Durst, I'm going show you another
02:53:48 11 document -- oh, I'm sorry.

02:53:49 12 And I would like to mark MOHAVE-000358 as
02:53:55 13 Exhibit 59.

02:54:01 14 And, then, Ms. Durst, I'm going to show you
02:54:04 15 another document that was produced to plaintiffs. It's
02:54:10 16 MOHAVE-000709. Do you see that? That's the first page of
02:54:14 17 the document.

02:54:15 18 A. I do.

02:54:22 19 Q. And please take a moment to review it.

02:54:48 20 A. Okay. I have reviewed that.

02:54:49 21 Q. Okay. And is this a weekly update from the
02:54:54 22 Arizona Association of Counties to the County Recorders?

02:54:58 23 A. Yes.

02:54:59 24 Q. And this weekly update is dated February 18th,
02:55:04 25 2022, correct?

02:55:04 1
02:55:09 2
02:55:11 3
02:55:11 4
02:55:15 5
02:55:18 6
02:55:20 7
02:55:25 8
02:55:25 9
02:55:28 10
02:55:29 11
02:55:30 12
02:55:41 13
02:55:42 14
02:55:47 15
02:55:50 16
02:55:53 17
02:55:53 18
02:55:54 19
02:55:56 20
02:56:00 21
02:56:02 22
02:56:10 23
02:56:14 24
02:56:15 25

A. Yes.

MS. DIBRELL: I would like to mark this as Exhibit 60.

BY MS. DIBRELL:

Q. And this weekly update from the Arizona Association of Counties to the County Recorders includes a bullet on H.B. 2492. Is that correct?

A. Yes.

Q. And here, I can zoom in for you. Can you see that bullet?

A. Yes.

Q. And it states, regarding H.B. 2492 Registration Verification Steps: (Jen): This bill has many of the same issues as 2617 and how we would access the database as the bill requires. This bill was heard late Wednesday night and the committee passed it along party lines. Is that correct?

A. Yes.

Q. What issues concerning how County Recorders would access databases is this email referring to?

A. I'm sorry?

Q. The issues -- the email says that there would be issues accessing the databases that the bill requires, correct?

A. Yes.

02:56:15 1 Q. What issues accessing databases is this
02:56:18 2 referring to?

02:56:19 3 A. I'm not sure.

02:56:21 4 Q. Do you know who would know that?

02:56:24 5 A. Kristi Blair.

02:56:26 6 Q. And, Ms. Durst, I have one last document to show
02:56:38 7 you that was produced to plaintiffs. That, it is Bates
02:56:43 8 stamped MOHAVE-000132.

02:56:48 9 Do you see that in the bottom right-hand corner?

02:56:50 10 A. Yes.

02:56:51 11 Q. Please take a moment to review the document.

02:57:03 12 A. Okay.

02:57:04 13 Q. And is this an email from Kristi Blair to
02:57:17 14 Natalie Collings?

02:57:17 15 A. With a forwarded email, yes.

02:57:19 16 Q. And the email thread pertains to H.B. 2243,
02:57:28 17 correct?

02:57:28 18 A. Yes.

02:57:28 19 Q. And it's dated January 14th, 2022.

02:57:32 20 A. Correct.

02:57:34 21 MS. DIBRELL: I'd like to mark this as
02:57:36 22 Exhibit 61.

02:57:36 23 BY MS. DIBRELL:

02:57:39 24 Q. Now, in this email Ms. Blair asked Natalie
02:57:43 25 Collings to give her feedback on the bill, correct?

02:57:46 1 A. Yes.

02:57:47 2 Q. And Ms. Blair states, quote, I'll share with you
02:57:50 3 that there are some real crazy ones. I've been keeping up
02:57:54 4 with them, end quote. Is that correct?

02:57:55 5 A. Yes.

02:57:56 6 Q. Do you know which real crazy bills she was
02:58:01 7 referring to?

02:58:02 8 A. I don't.

02:58:03 9 Q. Did you ever have any conversations with
02:58:07 10 Ms. Blair about the bills that she was keeping track of?

02:58:11 11 A. Not that I recall.

02:58:13 12 Q. And would -- who in your office would know what
02:58:19 13 Ms. Blair was referring to here?

02:58:22 14 A. I would think just her.

02:58:33 15 MS. DIBRELL: Ms. Durst, that is the end of my
02:58:35 16 questions. I think some of my colleagues would also have
02:58:41 17 a few follow-up questions as well. But thank you for your
02:58:45 18 time.

02:58:46 19 THE WITNESS: Thank you.

02:58:46 20

02:58:46 21 EXAMINATION

02:58:46 22 BY MS. McCABE:

02:58:51 23 Q. Hi, Ms. Durst. My name is Erica McCabe. I
02:58:51 24 represent Poder Latinx and Chicanos Por La Causa.

02:58:51 25 (Audio difficulty.)

02:58:51 1 (A brief off-the-record discussion with the
02:58:51 2 Reporter ensued.)

02:59:22 3 BY MS. McCABE:

02:59:22 4 Q. Let me know, Ms. Durst, if there's ever any
02:59:22 5 problem hearing me and I will repeat my question.

02:59:23 6 I'd like to briefly circle back to the DPOC
02:59:27 7 requirements for new voter registration applicants?

02:59:30 8 Has your office ever been given a specific list
02:59:33 9 of means by which a voter registration applicant can be
02:59:37 10 deemed or proven a non-citizen?

02:59:41 11 A. To clarify, if we have been given a list that
02:59:49 12 they have been deemed a non-citizen?

02:59:51 13 Q. A list of ways by which your office might deem
02:59:55 14 someone a non-citizen.

02:59:57 15 A. Not to my knowledge.

03:00:01 16 Q. Has your office ever been given a specific list
03:00:04 17 of means by which a currently registered Arizona voter
03:00:09 18 could be deemed or proven a non-citizen?

03:00:12 19 A. Not to my knowledge.

03:00:14 20 Q. If implemented, the A.R.S. 16-121.01(E) requires
03:00:27 21 the County Recorder to, sorry, the County Recorder to
03:00:35 22 reject a voter registration application if it matches that
03:00:37 23 applicant with information that the applicant is not a
03:00:41 24 United States citizen, correct?

03:00:42 25 A. Yes.

03:00:43 1 Q. If information from a government or voter
03:00:48 2 registration database suggested that a voter registration
03:00:51 3 applicant was not a U.S. citizen, would you consider that
03:00:56 4 information valid?

03:00:57 5 A. I'm sorry. Can you say that again?

03:00:59 6 Q. Sure.

03:01:00 7 If information from a government, or a voter
03:01:04 8 registration database suggested that a voter registration
03:01:07 9 applicant was not a U.S. citizen, would you consider that
03:01:11 10 information valid?

03:01:13 11 A. If that would be known as like a HAVA check,
03:01:19 12 yes.

03:01:20 13 Q. Are there any -- well, let me get to that in a
03:01:31 14 second.

03:01:31 15 Would you -- is data from a government database,
03:01:34 16 showing non-citizenship from two decades ago, information
03:01:40 17 that a person is not a citizen today?

03:01:43 18 DEFENSE COUNSEL: Objection; calls for a legal
03:01:48 19 conclusion. Form.

03:01:48 20 BY MS. McCABE:

03:01:48 21 Q. I'll restate that question.

03:01:54 22 A. Okay.

03:01:54 23 Q. Is data or information that you received from a
03:01:57 24 government database that shows a voter registration
03:02:00 25 applicant is a non-citizen, but that information is two

03:02:03 1 decades old, would your office, when determining whether
03:02:07 2 or not to accept or reject the application, deem that two
03:02:12 3 decades old information as proof or evidence that the
03:02:16 4 applicant is not a U.S. citizen today?

03:02:19 5 DEFENSE COUNSEL: Speculative. Speculation.

03:02:26 6 THE WITNESS: I believe we would notify the
03:02:29 7 voter asking for more information by a notice.

03:02:39 8 BY MS. McCABE:

03:02:40 9 Q. Would that notice reject the application or put
03:02:42 10 it in a pending status?

03:02:44 11 A. It would be in a suspense status, awaiting
03:02:49 12 verification.

03:02:49 13 Q. And what does that process entail, sending the
03:02:53 14 notice?

03:02:55 15 A. You would input all the data into the voter
03:02:59 16 registration database, and then when that would come back
03:03:02 17 you would put them into suspense reason for awaiting
03:03:10 18 verification. And then a notice to them would be mailed
03:03:14 19 within ten days stating the status of their voter
03:03:19 20 registration and what we need from them, in order to be
03:03:21 21 eligible to vote.

03:03:23 22 Q. Is there ever a period in which that application
03:03:26 23 would then be rejected?

03:03:29 24 A. For a voter to go from a suspense status to a
03:03:36 25 canceled status, we follow Arizona State statute, but it's

03:03:43 1 a very long time.

03:03:45 2 Q. Do you know how --

03:03:45 3 A. I want to say it's two federal election cycles.

03:03:51 4 Q. Okay. So, aside from those government
03:03:53 5 databases, what are other sources of information that you
03:03:58 6 would consider valid for the purposes of determining that
03:04:01 7 a voter registration applicant was not a U.S. citizen?

03:04:09 8 DEFENSE COUNSEL: Calls for a legal conclusion.

03:04:14 9 THE WITNESS: I don't -- I'm not sure.

03:04:14 10 BY MS. McCABE:

03:04:17 11 Q. Would you accept a phone call from a law
03:04:25 12 enforcement agency in a different state suggesting that an
03:04:28 13 applicant is not a U.S. citizen as information valid for
03:04:32 14 showing a lack of citizenship?

03:04:43 15 A. I don't know.

03:04:51 16 Q. Would you accept an anonymous letter to your
03:04:59 17 office suggesting that a voter registration applicant was
03:05:02 18 not a U.S. citizen as valid information for the purposes
03:05:05 19 of determining that registrant, or that applicant's
03:05:09 20 citizenship?

03:05:10 21 A. I don't know.

03:05:18 22 Q. What about a list provided by a third party
03:05:24 23 organization like True the Vote? If you received
03:05:33 24 information from a third party organization suggesting
03:05:36 25 that a voter registration applicant was not actually a

03:05:39 1 U.S. citizen, would your office consider that information
03:05:42 2 valid for determining if that applicant was or was not a
03:05:46 3 U.S. citizen?

03:05:47 4 A. I don't believe so at this time.

03:05:49 5 Q. By what means can you confirm the authenticity
03:05:57 6 of such information that a voter registration applicant is
03:06:01 7 not a U.S. citizen?

03:06:03 8 A. When someone registers to vote and it's inputted
03:06:17 9 into the database and the HAVA check is completed, it
03:06:21 10 typically doesn't revert back to them not being a citizen
03:06:25 11 after they're already a valid registrant.

03:06:29 12 Q. What about, what, what if a person called in
03:06:51 13 saying they're the voter in question, identifying
03:06:54 14 themselves and suggesting, and providing information about
03:06:56 15 their citizenship status one way or the other? Would you
03:07:01 16 consider that valid information under the statute?

03:07:05 17 DEFENSE COUNSEL: Speculation.

03:07:07 18 THE WITNESS: If a voter was calling to provide
03:07:10 19 their DPOC, we would have to have a form of that. We
03:07:13 20 could not take it over the phone.

03:07:24 21 BY MS. McCABE:

03:07:24 22 Q. What if they called to tell you they were not a
03:07:28 23 citizen? Is it the same? That you would need to --

03:07:31 24 DEFENSE COUNSEL: Speculation.

03:07:32 25 THE WITNESS: If a voter called saying they were

03:07:35 1 not eligible to be a voter any longer for any reason, we
03:07:38 2 would need their signature and identifying information to
03:07:42 3 cancel their voter registration.

03:07:42 4 BY MS. McCABE:

03:07:50 5 Q. Under House Bill 2243 by what means can you
03:07:54 6 confirm the accuracy of information that a registered
03:07:57 7 voter is not a U.S. citizen?

03:08:03 8 DEFENSE COUNSEL: Calls for a legal conclusion.

03:08:05 9 THE WITNESS: We don't currently follow the
03:08:07 10 House Bill.

03:08:09 11 BY MS. McCABE:

03:08:10 12 Q. Okay. If implemented, by what means would your
03:08:14 13 office use to confirm the accuracy of information that a
03:08:18 14 registered voter is not a U.S. citizen?

03:08:23 15 DEFENSE COUNSEL: Form.

03:08:24 16 THE WITNESS: If it's implemented, they would
03:08:35 17 need to provide the DPOC.

03:08:41 18 BY MS. McCABE:

03:08:42 19 Q. For already registered voters.

03:08:45 20 A. I'm sorry, then, could you ask the question
03:08:47 21 again?

03:08:49 22 Q. Sure. If implemented, House Bill 2243 requires
03:08:56 23 a County Recorder to confirm whether registered voters are
03:09:03 24 citizens.

03:09:04 25 By what means would you confirm the accuracy of

03:09:08 1 information that a registered voter is not a citizen?

03:09:15 2 A. I don't know.

03:09:15 3 Q. What is the database relating to voter
03:09:20 4 registration?

03:09:20 5 A. Could you clarify that?

03:09:26 6 Q. Sure. Under A.R.S. 16-121.01, section D(5), the
03:09:37 7 statute provides that, any other state, town, county, or
03:09:40 8 federal database and any other database relating to voter
03:09:45 9 registration which the County Recorder or officer in
03:09:49 10 charge of the election has access, including an electronic
03:09:52 11 registration information center or a database.

03:09:55 12 DEFENSE COUNSEL: Calls for legal conclusion.

03:10:00 13 BY MS. McCABE:

03:10:00 14 Q. How does your office define a database relating
03:10:04 15 to voter registration?

03:10:06 16 DEFENSE COUNSEL: Same objection.

03:10:08 17 THE WITNESS: Well, we use the Arizona voter
03:10:11 18 information database provided by the Secretary of State.

03:10:16 19 BY MS. McCABE:

03:10:18 20 Q. Are there any other databases that you would
03:10:21 21 consider in your capacity -- sorry -- that your office
03:10:24 22 would consider as a database relating to voter
03:10:31 23 registration?

03:10:31 24 A. I don't know that they would be considered a
03:10:45 25 database.

03:10:48 1 Q. What do you mean?

03:10:49 2 A. Like the Motor Vehicle Division, how people can
03:10:53 3 submit an online registration form, but then that comes,
03:11:00 4 essentially, to our database.

03:11:02 5 Q. Would you consider, or would your office
03:11:10 6 consider information received from another state's
03:11:13 7 government agency, say California county sheriff's office,
03:11:18 8 as valid information for determining U.S. citizenship of
03:11:24 9 Arizona voter registration applicants?

03:11:27 10 DEFENSE COUNSEL: Asked and answered and
03:11:29 11 speculative.

03:11:34 12 THE WITNESS: I don't believe so.

03:11:36 13 BY MS. McCABE:

03:11:36 14 Q. I'm going to ask some questions now about the
03:11:40 15 Motor Vehicle Division that we were just speaking of.

03:11:43 16 Is your office able to interface with the
03:11:45 17 Arizona Department of Transportation's Motor Vehicle
03:11:50 18 Division's driver license or nonoperating license
03:11:54 19 database?

03:11:56 20 A. Could you explain that, please?

03:11:58 21 Q. Do you have access to the, let's just call it
03:12:01 22 the MVD's driver license or nonoperating license database?

03:12:07 23 A. Their database, no.

03:12:10 24 Q. How do you use the MVD, then, for the purposes
03:12:14 25 of U.S. citizenship verification?

03:12:19 1 A. We would use it through a HAVA check, the Help
03:12:26 2 America Vote Act, and that would then pop-up the voter's
03:12:31 3 name, address, their driver's license number, date of
03:12:34 4 birth, last four of their social, in compared to what
03:12:38 5 we've entered from the form received.

03:12:44 6 Q. You don't have access to look within the MVD
03:12:49 7 driver license or non-operating license databases,
03:12:52 8 independent of a HAVA check?

03:12:55 9 A. Correct.

03:12:55 10 Q. Okay. Do you also use that process for
03:13:03 11 investigating the citizenship status of already registered
03:13:07 12 voters?

03:13:08 13 A. We don't currently check the citizen status of
03:13:16 14 this House Bill.

03:13:17 15 Q. If this law is implemented, how will you, or
03:13:28 16 will you, use these same protocols to investigate the
03:13:31 17 citizenship status of already registered voters?

03:13:42 18 DEFENSE COUNSEL: Speculative.

03:13:46 19 THE WITNESS: We don't currently have procedures
03:13:47 20 to follow for this.

03:13:57 21 BY MS. McCABE:

03:13:57 22 Q. You also testified that you use the Access Voter
03:14:01 23 Information Database to investigate citizenship, correct,
03:14:04 24 the AVID database?

03:14:07 25 A. We use -- yes. HAVA is within AVID.

03:14:13 1 Q. How do you perform citizen checks using AVID?

03:14:20 2 A. Well, AVID is the voter registration database
03:14:24 3 that has HAVA check within it. We input the data into
03:14:29 4 AVID and then it's ran against HAVA.

03:14:32 5 Q. Understood.

03:14:32 6 Do you use AVID for any reason other than the
03:14:35 7 HAVA check?

03:14:37 8 A. It's the voter registration database.

03:14:41 9 Q. I apologize. That question wasn't clear.

03:14:45 10 For the purposes of investigating citizenship,
03:14:48 11 are there any other tools within AVID, beyond the HAVA
03:14:53 12 check, that you use to investigate citizenship of voter
03:14:56 13 registration applicants or -- well, let's leave it there.

03:14:58 14 A. Not within AVID, but we, we can also use the
03:15:03 15 SAVE program.

03:15:04 16 Q. Okay. Before we jump into the SAVE program.

03:15:13 17 Does your county have a memoranda of
03:15:15 18 understanding, or a memorandum of agreement with the MVD
03:15:20 19 to govern the sharing of data?

03:15:25 20 A. I'm not sure.

03:15:26 21 Q. Is there someone who would know?

03:15:32 22 A. The County Recorder may know that or the
03:15:38 23 Secretary of State.

03:15:39 24 Q. Has your office encountered any instances where
03:15:44 25 a voter registration applicant who is a U.S. citizen was

03:15:48 1 flagged erroneously as a non-citizen by way of search
03:15:52 2 through the MVD databases or through a HAVA check?

03:15:56 3 A. There was a time that was an error.

03:16:05 4 Q. When was that?

03:16:06 5 A. I don't know a specific date. It was alerted to
03:16:20 6 us from the Secretary of State.

03:16:24 7 Q. What, what did your office do in that situation?

03:16:27 8 A. We did not provide, we didn't -- we stopped
03:16:33 9 doing voter registration forms until it was fixed.

03:16:40 10 Q. You stopped accepting voter registrations?

03:16:43 11 A. We held off until, yes, the HAVA was fixed
03:16:50 12 through the MVD for the citizenship verification.

03:16:54 13 Q. How long of a period was that?

03:16:56 14 A. Less than a week.

03:17:04 15 Q. Would this have been in October of 2022?

03:17:09 16 A. I believe it was prior to 2022.

03:17:13 17 Q. Okay. Do you recall an incident from October of

03:17:20 18 '22 of a database matching, or when database matching

03:17:25 19 produced erroneous results and caused a downgrading of

03:17:30 20 thousands of voters to a federal only voting status?

03:17:36 21 A. Not that comes to the forefront of my mind.

03:17:41 22 Q. So I want to go back to the time when the

03:17:54 23 Secretary of State alerted you to an erroneous citizenship

03:17:59 24 determination.

03:18:00 25 A. Hmm hmm.

03:18:01 1 Q. Can you give me any more detail on that
03:18:04 2 particular incident?

03:18:06 3 A. In the voter registration database you, you can
03:18:16 4 place a ticket to them for any errors that are happening,
03:18:22 5 and it was alerted to the Secretary of State by many
03:18:25 6 counties, and then they had sent out an email notifying
03:18:29 7 us, and it was that we would hold off on voter
03:18:33 8 registration forms until it was completed.

03:18:36 9 Q. What circumstances alerted the multiple counties
03:18:41 10 to this issue?

03:18:42 11 A. It's typically when someone is a valid
03:18:47 12 registered voter and you've already matched their new
03:18:50 13 registration form that they are submitting to their
03:18:53 14 current form, you're marrying those. You don't go from an
03:18:58 15 active valid registered voter to a not eligible, or you
03:19:03 16 need to provide citizenship.

03:19:04 17 Q. About how many voters were impacted during this
03:19:08 18 incident?

03:19:08 19 A. I'm not sure.

03:19:10 20 Q. Do you have any, an estimation?

03:19:17 21 A. I don't.

03:19:18 22 Q. Would it have been five voters?

03:19:22 23 A. I believe when we received the notice we hadn't
03:19:28 24 processed many, so we could say less than ten.

03:19:31 25 Q. Less than ten.

03:19:34 1 And I know you mentioned this was before 2022.

03:19:38 2 Do you recall how many years before 2022?

03:19:41 3 A. I would, I would say it happened in the past

03:19:59 4 three years, in that time frame, from 2020 to current.

03:20:06 5 Q. When you said less than ten, was that less than

03:20:09 6 ten in Mohave County, or less than ten statewide?

03:20:12 7 A. Mohave County.

03:20:13 8 Q. Do you know how many voters were impacted across

03:20:17 9 the state?

03:20:17 10 A. I don't.

03:20:18 11 Q. And -- well, I guess I should ask.

03:20:19 12 Was this is a statewide problem, or was it only

03:20:22 13 certain counties?

03:20:23 14 A. 13 out of the 15 counties use AVID directly, so

03:20:32 15 I believe it would be for us 13 counties directly it was

03:20:37 16 an error.

03:20:43 17 Q. So with this error, it's possible that if people

03:20:47 18 are erroneously identified as not having shown DPOC,

03:20:52 19 including up to shortly before an election, that they

03:20:56 20 could be erroneously identified as non-citizens under the

03:21:00 21 new House Bills 2492 and 2243, right?

03:21:05 22 DEFENSE COUNSEL: Form.

03:21:08 23 THE WITNESS: Could you say that one more time?

03:21:12 24 I'm sorry.

03:21:14 25 BY MS. McCABE:

03:21:15 1 Q. Well, I'll say that a different way.

03:21:17 2 Does this error, that you have identified, give

03:21:22 3 you any pause about the accuracy of these systems in use

03:21:29 4 for identifying the voter's citizenship status?

03:21:37 5 DEFENSE COUNSEL: Form.

03:21:39 6 THE WITNESS: No.

03:21:41 7 BY MS. McCABE:

03:21:42 8 Q. What does your office do in the event that you

03:21:45 9 can't match the voter registration applicant or the

03:21:49 10 registered voter to any record in the MVD database or the

03:21:53 11 HAVA database?

03:21:54 12 A. They would receive a notice. But it depends how

03:21:59 13 the form is received. If they register to vote through

03:22:03 14 the MVD they would already have an Arizona driver's

03:22:06 15 license. If they registered on the form and they didn't

03:22:09 16 list that, they would receive a notification that we need

03:22:12 17 additional information for their voter registration

03:22:16 18 record.

03:22:16 19 Q. Are there any alternative verification processes

03:22:21 20 beyond the HAVA check or the MVD database?

03:22:24 21 A. Not that I'm aware of.

03:22:26 22 Q. If you identify a registration applicant who

03:22:31 23 still holds an F-type license and that person is -- I'm

03:22:34 24 sorry. Let me restate that.

03:22:35 25 If you identify a registration applicant who

03:22:38 1 still holds an F-type license, that person is required to
03:22:41 2 present their naturalization certificate or naturalization
03:22:46 3 certificate number or other form of DPOC. Is that
03:22:48 4 correct?

03:22:48 5 A. Yes.

03:22:48 6 Q. And do you check that naturalization certificate
03:22:52 7 number against a database?

03:22:54 8 A. I'm not sure.

03:22:58 9 Q. Is there someone who would know?

03:23:01 10 A. The County Recorder, Kristi Blair.

03:23:05 11 Q. What do you do if you cannot match a
03:23:29 12 naturalization certificate number, or an alien
03:23:37 13 registration number?

03:23:40 14 A. We would provide their information to the County
03:23:44 15 Recorder, and, I believe, she would go to the SAVE
03:23:47 16 program.

03:23:54 17 Q. If you identify a registered voter who has
03:23:59 18 already satisfied the DPOC requirement but still holds an
03:24:02 19 F-type license, is that information that the registered
03:24:06 20 voter is not, in fact, a U.S. citizen?

03:24:08 21 A. I'm sorry. Could you say that one more time?

03:24:10 22 Q. Sure.

03:24:12 23 If you identify a registered voter who already
03:24:14 24 satisfied the DPOC requirement but still holds an F-type
03:24:18 25 license, so this is a registered voter, is that

03:24:21 1 information that the registered voter is not, in fact, a
03:24:23 2 U.S. citizen?

03:24:26 3 DEFENSE COUNSEL: Calls for legal conclusion.

03:24:29 4 BY MS. McCABE:

03:24:31 5 Q. For the purposes of their voter registration
03:24:35 6 status.

03:24:36 7 A. I don't believe so.

03:24:38 8 Q. Okay. Let's get into the SAVE system.

03:24:45 9 What is the SAVE database, or the SAVE system?

03:24:49 10 A. It's the Systematic Alien Verification for
03:25:05 11 Entitlements.

03:25:05 12 Q. Do you have access to the SAVE system?

03:25:08 13 A. I personally do not.

03:25:10 14 Q. Does your office have access?

03:25:12 15 A. The County Recorder does.

03:25:14 16 Q. And, just to confirm, as the 30(b)(6)
03:25:22 17 deposition, or deponent, you are speaking on behalf of
03:25:25 18 your whole office. So these questions will be directed to
03:25:28 19 the office of the County Recorder and not just you in your
03:25:31 20 personal capacity. Okay?

03:25:33 21 A. Okay.

03:25:33 22 Q. Do you currently, you as in the County
03:25:37 23 Recorder's Office, currently use the SAVE system for the
03:25:39 24 purposes of U.S. citizenship verification?

03:25:43 25 A. Yes.

03:25:43 1 Q. In what circumstances do you use the SAVE
03:25:47 2 system?

03:25:49 3 A. I'm not sure on all circumstances.

03:25:52 4 Q. Are you -- could you identify some circumstances
03:25:56 5 in which you use the SAVE system?

03:25:58 6 A. We just give the information we receive or find
03:26:05 7 to the Recorder and she makes that determination.

03:26:11 8 Q. Who is we?

03:26:12 9 A. Anyone processing the voter registration form,
03:26:14 10 the office specialist, voter registration specialists or
03:26:14 11 myself.

03:26:20 12 Q. What kind of information would you pass out to
03:26:23 13 the County Recorder?

03:26:30 14 A. The voters, if they're already registered, they
03:26:30 15 would have an AVID ID number, their name, typically
03:26:35 16 provide their form to her.

03:26:36 17 Q. And sitting here today, you do not know what
03:26:38 18 circumstances then she would use the SAVE system, under
03:26:42 19 which she would use the SAVE system?

03:26:44 20 A. Correct.

03:26:45 21 Q. Do you know how frequently your office uses the
03:26:51 22 SAVE system?

03:26:52 23 A. I don't know.

03:26:52 24 Q. Do you know how long Mohave County has been
03:26:57 25 using the SAVE system?

03:26:58 1 A. I believe since at least 2018.

03:27:27 2 Q. When you pass information on to the County
03:27:40 3 Recorder, do you include the A number, or the certificate
03:27:45 4 of naturalization number?

03:27:48 5 A. It would typically be on the voter registration
03:27:51 6 form completed by the citizen.

03:27:58 7 Q. Is it, is it feasible to use the SAVE system to
03:28:11 8 determine a voter registration applicant's current U.S.
03:28:17 9 citizenship status?

03:28:18 10 A. I'm not sure.

03:28:19 11 Q. Is it feasible to use a SAVE system to determine
03:28:27 12 a registered voter's current -- oh, no, I'm so sorry.

03:28:30 13 Is it feasible to use the SAVE system to
03:28:33 14 conclusively determine a lack of U.S. citizenship?

03:28:37 15 DEFENSE COUNSEL: Form and foundation.

03:28:40 16 THE WITNESS: I'm not sure.

03:28:41 17 BY MS. McCABE:

03:28:48 18 Q. Can the SAVE system be used to confirm that a
03:28:51 19 registered voter is not a U.S. citizen?

03:28:55 20 DEFENSE COUNSEL: Form and foundation.

03:28:56 21 THE WITNESS: Could you say that one more time?
03:28:58 22 I'm sorry.

03:28:58 23 BY MS. McCABE:

03:28:59 24 Q. Can the SAVE system be used to confirm that a
03:29:03 25 registered voter is not a U.S. citizen?

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03:30:02 12
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03:30:37 25

A. Yes.

Q. What's your basis for that? What is your basis for saying that?

A. My understanding is you would be putting in information and it would come back to you if that, if they're a citizen or not.

Q. Your office would use SAVE as like the conclusive evidence of citizenship then?

A. Yes.

Q. What -- does that UCIS have an alternate verification process -- USCIS have an alternate verification process?

DEFENSE COUNSEL: Form and foundation.

THE WITNESS: I'm sorry. Who?

BY MS. McCABE:

Q. The United States Citizenship and Immigration Services.

A. Hmm hmm.

Q. Do they have any alternate verification processes aside from the SAVE?

A. I don't know.

Q. Has your office ever communicated with the USCIS about H.B. 29 -- oh, sorry -- 2492 or 2243?

A. Not that I'm aware of.

Q. In terms of resources and access and training,

03:30:40 1 is it practical for your office to use the SAVE system for
03:30:45 2 citizenship verification?

03:30:51 3 A. I'm not sure.

03:31:01 4 Q. House Bill 2492 instructs your office to use all
03:31:04 5 available resource to perform these MVD database searches.
03:31:08 6 Is that possible?

03:31:09 7 A. Is it possible?

03:31:14 8 Q. Hmm hmm. Yes.

03:31:17 9 A. Well, we don't currently have a process for
03:31:26 10 that.

03:31:33 11 Q. I will ask it another way.

03:31:39 12 What would be the cost of using all of your
03:31:43 13 office's available resources for citizenship verification?

03:31:48 14 A. I'm not sure.

03:31:56 15 Q. Does your office have capacity to dedicate all
03:32:01 16 of its resources to citizenship verification and still
03:32:05 17 complete the other tasks required of it?

03:32:08 18 DEFENSE COUNSEL: Form.

03:32:09 19 THE WITNESS: I'm not sure.

03:32:17 20 BY MS. McCABE:

03:32:29 21 Q. Jumping back up.

03:32:29 22 Does your office have A numbers or certificates
03:32:33 23 of naturalization for all registered voters in Mohave
03:32:33 24 County?

03:32:44 25 A. I'm sorry. Do they have --

03:32:46 1 Q. A numbers or naturalization certificate numbers
03:32:50 2 for all registered voters in Mohave County?

03:32:53 3 A. I'm not sure.

03:33:03 4 Q. Who would know?

03:33:05 5 A. The County Recorder or data from the database.

03:33:22 6 Q. House Bill 2243 requires you to compare the
03:33:41 7 county's voters to the SAVE system monthly.

03:33:44 8 Is that a practical requirement for your office?

03:33:47 9 A. I'm not sure.

03:34:00 10 Q. What would you need to know to be sure?

03:34:03 11 A. Well, for like personnel time, how long that
03:34:17 12 would take, the reports we would run to get the data to
03:34:22 13 then input into the SAVE program. We would need more
03:34:28 14 access to the SAVE program for our staff.

03:34:31 15 Q. You currently use the Social Security
03:34:36 16 Administration databases for U.S. citizenship
03:34:42 17 verification?

03:34:43 18 A. I'm not sure.

03:34:46 19 Q. Who in your office would know whether you use
03:34:56 20 the social security database as a tool to verify
03:35:04 21 citizenship for applicants?

03:35:11 22 A. The County Recorder herself.

03:35:13 23 Q. Do you know whether the Social Security
03:35:16 24 Administration database can be use for U.S. citizenship
03:35:21 25 verification?

03:35:21 1 A. I don't know.

03:35:21 2 Q. Do you know whether it's feasible to use a
03:35:29 3 Social Security Administration database for the
03:35:33 4 citizenship verification?

03:35:35 5 A. I'm not sure.

03:35:36 6 Q. Have you ever heard of the NAPHSIS, or the
03:35:40 7 National Association for Public Health Statistics and
03:35:43 8 Information Systems?

03:35:44 9 A. I have not.

03:35:45 10 Q. Do you have any familiarity with a database --
03:35:56 11 well, do you have any familiarity with the NAPHSIS
03:36:01 12 database?

03:36:02 13 A. I do not.

03:36:03 14 Q. Or a database call the Electronic Verification
03:36:07 15 of Vital Events, or the EVVE database?

03:36:17 16 A. I don't think so.

03:36:18 17 Q. Are you familiar with the Electronic
03:36:20 18 Registration Information Center, or ERIC?

03:36:24 19 A. Yes.

03:36:24 20 Q. What is that?

03:36:25 21 A. We receive information from the Secretary of
03:36:29 22 State from the ERIC program for deceased voters and
03:36:40 23 cross-state match voters.

03:36:41 24 Q. Do you currently use ERIC for U.S. citizenship
03:36:45 25 verification?

03:36:45 1 A. Not to my knowledge.

03:36:46 2 Q. Can ERIC be used for U.S. citizenship
03:36:46 3 verification?

03:36:53 4 DEFENSE COUNSEL: Form.

03:36:54 5 THE WITNESS: I don't know.

03:36:54 6 BY MS. McCABE:

03:36:54 7 Q. Has your office had any conversations about
03:37:07 8 which databases it could use for citizenship verification
03:37:13 9 beyond the MVD and SAVE databases?

03:37:17 10 A. Not to my knowledge.

03:37:20 11 Q. Would you be involved in those conversations
03:37:23 12 within the Mohave County Recorder's Office?

03:37:26 13 A. Potentially, yes.

03:37:30 14 Q. And have there been any conversations about
03:37:35 15 additional databases to use for citizenship verification?

03:37:39 16 A. No.

03:37:39 17 Q. Do you have the ability to search or interface
03:37:46 18 with any other government databases or U.S. citizenship
03:37:51 19 data? And by you, I mean the Mohave County Recorder's
03:37:58 20 Office.

03:37:58 21 A. Not that I'm aware of.

03:38:00 22 Q. Has your office been communicating with any
03:38:05 23 other person or entity regarding the use of any other
03:38:09 24 database for citizenship verification?

03:38:12 25 A. I don't think so.

03:38:13 1 Q. Can any of the databases we have discussed be
03:38:32 2 used to confirm that a registered voter is not a U.S.
03:38:37 3 citizen?

03:38:38 4 DEFENSE COUNSEL: Form.

03:38:39 5 THE WITNESS: I'm sorry?

03:38:40 6 BY MS. McCABE:

03:38:40 7 Q. Can any of the databases that we just discussed
03:38:44 8 be used to confirm that a registered voter is not a U.S.
03:38:49 9 citizen?

03:38:56 10 DEFENSE COUNSEL: Form.

03:38:57 11 THE WITNESS: I'm not sure.

03:38:58 12 BY MS. McCABE:

03:38:59 13 Q. What happens if you receive conflicting data
03:39:01 14 from, say, the Motor Vehicle Division and the SAVE
03:39:05 15 databases?

03:39:07 16 DEFENSE COUNSEL: Speculation.

03:39:10 17 THE WITNESS: I don't know what we would do.

03:39:12 18 BY MS. McCABE:

03:39:14 19 Q. Has that ever happened before?

03:39:17 20 A. Not to my knowledge.

03:39:18 21 Q. Does the County Recorder's Office have a system
03:39:23 22 in place by which it would resolve conflicts in
03:39:27 23 information received from different government databases?

03:39:31 24 A. Potentially the EPM, but I'm not sure.

03:39:42 25 Q. Is the verification process, or the steps that

03:39:47 1 have to be followed, described in detail anywhere for your
03:39:52 2 office, the citizenship verification -- I'll restate that.

03:39:56 3 Is Mohave County's, County Recorder's Office
03:40:00 4 citizenship verification process, or the steps that you
03:40:02 5 follow to verify citizenship, are those described in
03:40:05 6 detail anywhere?

03:40:06 7 A. Most likely in the EPM.

03:40:13 8 Q. Does the County Recorder's Office have its own
03:40:15 9 internal policies described anywhere?

03:40:17 10 A. Not that I can think of.

03:40:19 11 Q. If a voter registration application filed before
03:40:39 12 the registration deadline is denied under A.R.S.

03:40:45 13 16-121.01, subsections D and E, based on erroneous
03:40:51 14 determination that the applicant was not a U.S. citizen,
03:40:54 15 can that applicant still be added to the rolls if the
03:40:58 16 registration deadline has passed?

03:41:01 17 DEFENSE COUNSEL: Form. Calls for legal
03:41:02 18 conclusion and speculation.

03:41:06 19 THE WITNESS: Could you say that one more time?
03:41:09 20 BY MS. McCABE:

03:41:09 21 Q. Based on your office's policies, if a voter
03:41:16 22 registration applicant who filed before the registration
03:41:20 23 deadline is denied registration, based on an erroneous
03:41:24 24 determination that they were not a U.S. citizen, can that
03:41:28 25 applicant still be added to the voter rolls if the

03:41:33 1 registration deadline has passed?

03:41:37 2 DEFENSE COUNSEL: Same objection.

03:41:38 3 THE WITNESS: If the voter registered to vote
03:41:43 4 prior to the deadline, they would be in the database. If
03:41:48 5 they needed to provide DPOC, they would have time to do so
03:41:54 6 during the election time frame. We follow that by state
03:42:01 7 statute and the EPM.

03:42:06 8 BY MS. McCABE:

03:42:07 9 Q. How much time do they have? I'll strike the
03:42:07 10 question.

03:42:18 11 If a registered voter is removed from the rolls
03:42:20 12 under A.R.S. Section 16-165, subsection A(10), based upon
03:42:26 13 erroneous determination that they are not a U.S. citizen,
03:42:29 14 can that voter be added back to the rolls if the
03:42:34 15 registration deadline has already passed?

03:42:38 16 DEFENSE COUNSEL: Same objection.

03:42:41 17 THE WITNESS: Well, if someone was registered to
03:42:50 18 vote, they can't be canceled 90 days prior to an election.

03:43:12 19 Maybe I didn't understand your question.

03:43:15 20 BY MS. McCABE:

03:43:16 21 Q. Yeah. Let me, let me ask it another way.

03:43:22 22 In a federal election, specifically, if a
03:43:26 23 registered voter were moved from the rolls, based upon an
03:43:29 24 erroneous determination they are not a U.S. citizen, can
03:43:32 25 that voter be added a back to the rolls if the

03:43:36 1 registration deadline has already passed?

03:43:40 2 DEFENSE COUNSEL: Same objection.

03:43:45 3 THE WITNESS: I'm not sure.

03:43:48 4 BY MS. McCABE:

03:43:49 5 Q. If House Bill 2243 were to take effect, would
03:43:55 6 that impact whether or not an erroneously removed voter
03:44:00 7 could be put back onto the voter rolls after the
03:44:02 8 registration deadline?

03:44:05 9 DEFENSE COUNSEL: Same objection. Form.

03:44:08 10 THE WITNESS: We haven't begun any procedures
03:44:11 11 for that House Bill.

03:44:14 12 MS. McCABE: If we can take a quick five-minute
03:44:19 13 break, I think I can be done, but I just want to check
03:44:22 14 with some colleagues first.

03:44:24 15 THE VIDEOGRAPHER: We are off the record. Time
03:44:29 16 on the video monitor 3:44 p.m. This ends Media No. 3.

03:44:32 17 (Recess taken from 3:44 p.m. to 3:49 p.m.)

03:49:25 18 THE VIDEOGRAPHER: We are on the record. Time
03:49:36 19 on the video monitor is 3:49 p.m. This begins Media
03:49:42 20 No. 4.

03:49:46 21 MS. McCABE: Ms. Durst, I don't have any
03:49:49 22 additional questions. Thank you so much for your time
03:49:51 23 today.

03:49:51 24 THE WITNESS: Thank you.

03:49:59 25 MS. McCABE: I'll defer to any other plaintiff

03:50:01 1 groups who have questions.

03:50:07 2 Hearing none, I think we are, I think we are

03:50:11 3 done.

03:50:12 4 THE WITNESS: Okay.

03:50:12 5 THE VIDEOGRAPHER: We are off the record. Time

03:50:16 6 on the video monitor --

03:50:16 7 MS. McCABE: I'm sorry. We have -- Hop back on

03:50:21 8 the record. I just heard --

03:50:21 9 THE VIDEOGRAPHER: Go right ahead.

03:50:23 10 MS. BOUGHTON: If we can go back on the record.

03:50:25 11 THE VIDEOGRAPHER: We are on the record.

03:50:26 12 MS. BOUGHTON: Okay. Thank you.

03:50:26 13

03:50:27 14 EXAMINATION

03:50:27 15 BY MS. BOUGHTON:

03:50:29 16 Q. Hi, Ms. Durst. My name is Kathryn Boughton, and

03:50:31 17 I'm representing the State of Arizona and Attorney General

03:50:33 18 in this case. I just have a few questions for you, and

03:50:36 19 thank you so much for all your time today. I know it's

03:50:39 20 been a long day.

03:50:41 21 I just wanted to touch base on some of the areas

03:50:45 22 that plaintiffs' counsel had asked you about.

03:50:48 23 So awhile back we talked about, or you talked

03:50:50 24 about the citizen checkbox on the state form.

03:50:54 25 A. Yes.

03:50:55 1 Q. And I wanted to ask you, on the state form, do
03:50:59 2 you think that the citizen checkbox provides you
03:51:03 3 information about whether the voter is a citizen?
03:51:05 4 A. No.
03:51:11 5 Q. No.
03:51:14 6 So in your view the box doesn't provide any
03:51:17 7 information?
03:51:18 8 A. Well, most voters mark all boxes.
03:51:30 9 Q. Including the citizenship checkbox?
03:51:32 10 A. Well, we don't currently have the --- well, do
03:51:39 11 you mean the question like are you a citizen of the United
03:51:42 12 States that's on all current forms, all old forms?
03:51:45 13 Q. Yes. Yes.
03:51:46 14 A. Then I'm sorry. What is the question again?
03:51:49 15 Q. If that box provides your office information
03:51:56 16 about whether the voter is a citizen?
03:51:57 17 A. Yes.
03:51:57 18 Q. And did I understand your testimony correctly
03:52:01 19 that if somebody is in the office and filling it out in
03:52:05 20 person and they miss it, you would ask them to fill it
03:52:07 21 out, or point it out to them in person?
03:52:10 22 A. Correct. And the question below it as well,
03:52:14 23 will you be 18 by election day.
03:52:18 24 Q. Great. Thank you.
03:52:19 25 If somebody, if you received a form via mail,

03:52:23 1 the state form via mail, and someone had marked no in that
03:52:28 2 citizen checkbox but they also provided a copy of their
03:52:33 3 passport, for example, what would your office do in that
03:52:36 4 situation?

03:52:37 5 A. We would input all the data from the voter
03:52:41 6 registration form into AVID and run their HAVA check if
03:52:47 7 that then came back with an Arizona license, if that was
03:52:51 8 provided. If not, we would then review the DPOC of the
03:52:56 9 passport provided.

03:52:57 10 Q. So you would first rely on the HAVA check?

03:53:02 11 A. Yes.

03:53:02 12 Q. Okay. If that box was marked no -- withdraw
03:53:12 13 that.

03:53:12 14 If a voter provided a photocopy of their birth
03:53:22 15 certificate with their state form but the photocopy was
03:53:26 16 really blurry and hard to read, would it be helpful for
03:53:30 17 your office to know how they marked the citizenship
03:53:36 18 checkbox?

03:53:36 19 A. Can you say that one more time?

03:53:39 20 Q. Sure.

03:53:40 21 So if a voter submitted their state form and
03:53:45 22 they attached a photocopy of their birth certificate as
03:53:49 23 proof of citizenship but that photocopy was blurry and
03:53:52 24 hard to read and you couldn't tell what it said, in that
03:53:56 25 situation, would it help your office to know whether or

03:53:59 1 not the individual marked yes in the citizenship checkbox?

03:54:03 2 A. I don't believe so.

03:54:07 3 Q. Okay. And is that because you would look to the
03:54:11 4 HAVA check?

03:54:12 5 A. We always run HAVA check first when you regis --
03:54:16 6 placing the registrant's information in the database, but
03:54:19 7 if it's not legible, the DPOC provided, or if they didn't,
03:54:27 8 if they're married and they're registering under a married
03:54:31 9 name but they are supplying their birth certificate that
03:54:34 10 has a different name, but it's not legible, we would ask
03:54:38 11 for further information from the voter.

03:54:40 12 Q. Thank you.

03:54:45 13 You also talked earlier today with plaintiffs'
03:54:52 14 counsel about an instance in which the Secretary of State
03:54:54 15 flagged that there was an error in completing HAVA checks,
03:54:59 16 and you indicated that you suspended processing voter
03:55:02 17 registrations for a week.

03:55:04 18 Did I understand that right?

03:55:05 19 A. Less than a week, yes.

03:55:07 20 Q. Less than a week. Thank you.

03:55:10 21 And I just wanted to confirm, did I understand
03:55:12 22 your testimony correctly that, despite that instance, you
03:55:16 23 still believe that the HAVA citizenship checks generally
03:55:21 24 provide accurate information regarding citizenship to your
03:55:24 25 office?

03:55:24 1 A. Yes.

03:55:25 2 Q. Thank you.

03:55:27 3 Generally -- switching topics to discuss

03:55:43 4 birthplace now. I know the birthplace isn't currently

03:55:47 5 required on the state form, but I wanted to ask, in your

03:55:50 6 experience processing voter registrations, is that form

03:55:55 7 normally completed by applicants?

03:55:58 8 A. It can be.

03:56:04 9 Q. Would you say more often than not it's

03:56:07 10 completed?

03:56:07 11 A. Typically it's completed, yes.

03:56:10 12 Q. And is that information, if it is on the form,

03:56:15 13 do you input it into AVID?

03:56:17 14 A. We do.

03:56:43 15 MS. BOUGHTON: One moment.

03:56:43 16 That's all I have for today, Ms. Durst. Thank

03:56:46 17 you so much for your time.

03:56:46 18 THE WITNESS: Thank you.

03:56:46 19 MS. BOUGHTON: There may be one more counsel

03:56:48 20 with questions for you.

03:56:48 21

03:56:50 22 EXAMINATION

03:56:50 23 BY MR. LANGHOFER:

03:56:51 24 Q. Good afternoon, Ms. Durst. My name is Kory

03:56:55 25 Langhofer, and I represent the Republican National

03:56:56 1 Committee. I don't have a whole lot of questions for you.
03:56:58 2 Everything has been covered in excruciating detail.

03:57:02 3 I do have a few questions for you. Most of the,
03:57:06 4 many of the questions stayed focused on three databases,
03:57:08 5 the HAVA check database, AVID, and SAVE. And one of the
03:57:16 6 things I wanted to know from you is do you all have access
03:57:19 7 to better databases than those that you guys are not
03:57:23 8 using?

03:57:24 9 A. We receive data, as well, from ERIC, but there's
03:57:31 10 no others besides those, that I'm aware of.

03:57:33 11 Q. So it's not -- do you have, for example, more
03:57:36 12 accurate databases, or set of databases that you're
03:57:40 13 failing to use?

03:57:41 14 A. Not to my knowledge.

03:57:43 15 Q. Do you have access to a more current or up to
03:57:46 16 date databases or set of databases that you're failing to
03:57:52 17 use?

03:57:52 18 A. Not to my knowledge.

03:57:54 19 Q. If someone, if it appears they have an F-type
03:58:05 20 driver's license, and there's no DPOC in the system for
03:58:10 21 them, is that an instance where you guys would use the
03:58:13 22 SAVE database to determine whether the person is
03:58:17 23 naturalized?

03:58:18 24 A. Yes.

03:58:18 25 Q. You were asked a question awhile ago, this has

03:58:28 1 been a couple hours now so I may be missing something
03:58:32 2 here, but I think the question was whether you were
03:58:34 3 getting any information from the Secretary of State about
03:58:39 4 voter fraud or the qualifications of voters, and I think
03:58:44 5 you said no. But this has been, again, a couple of hours
03:58:47 6 and my memory may be failing.

03:58:48 7 So I guess my question is, are you still getting
03:58:51 8 ERIC reports from the Secretary of State?

03:58:53 9 A. We do receive ERIC reports.

03:58:56 10 Q. And you guys process those in a sort of a
03:58:59 11 customary manner?

03:59:01 12 A. Yes.

03:59:02 13 Q. Okay. And what about information on responses
03:59:10 14 to jury questionnaires or adjudications of, you know,
03:59:14 15 felony status or incompetency? I think those are subsumed
03:59:18 16 in the ERIC reports, but I'm not quite sure about that.
03:59:21 17 So do you all still get that information through ERIC or
03:59:25 18 otherwise?

03:59:25 19 A. We receive that information, yes.

03:59:26 20 Q. And you're still processing that as it comes in?

03:59:30 21 A. So we receive different reports now from the
03:59:39 22 jury questionnaires. We receive the report if they had
03:59:42 23 returned mail or forwardable mail, we receive that from
03:59:46 24 the courts, and we act on that behalf of mailing them a
03:59:50 25 notice if they're out of jurisdiction or have moved, to

03:59:53 1 update their registration.

03:59:56 2 The other report we get are for these House
04:00:00 3 Bills, and we currently don't activate, do anything with
04:00:06 4 those.

04:00:07 5 Q. Gotcha.

04:00:08 6 So the ERIC report you do receive directly from
04:00:10 7 the Secretary of State, though, right?

04:00:13 8 A. Correct.

04:00:13 9 Q. You were asked a question awhile ago about the
04:00:28 10 usefulness of birthplace information. And I think you had
04:00:32 11 said that you can use that on phone calls to confirm
04:00:35 12 identity.

04:00:37 13 Am I remembering that correctly?

04:00:39 14 A. Yes.

04:00:39 15 Q. And she had asked you what other information you
04:00:44 16 might use to confirm identity. I think you said, for
04:00:49 17 example, the voter's address.

04:00:50 18 The voter's address, though, is a publicly
04:00:53 19 available information, correct?

04:00:54 20 A. Yes. So typically that is a last resort, but if
04:00:59 21 they -- so usually it's your date of birth, the last four
04:01:03 22 of your social, mother's maiden name, it can be your place
04:01:09 23 of birth, as those questions. And then --

04:01:13 24 Q. Go ahead.

04:01:14 25 A. I was going to say, on the address, that would

04:01:17 1 be like a second to also know if they're still residing
04:01:23 2 where they're registered.

04:01:25 3 Q. And on these telephone calls we need to confirm
04:01:31 4 identity, you're trying to use information that's not
04:01:34 5 publicly available, right?

04:01:36 6 A. Correct.

04:01:36 7 Q. And the birthplace is one of the fields that is
04:01:42 8 not publicly available?

04:01:44 9 A. I'm not sure.

04:01:48 10 Q. Is it in the voter file?

04:01:50 11 A. Yes.

04:01:51 12 Q. The birthplace is?

04:01:55 13 A. It's -- if someone places that on their form it
04:01:59 14 is implemented into the database.

04:02:02 15 Q. Okay. You were asked a long series of questions
04:02:15 16 about all the evidence that your office had voter fraud or
04:02:19 17 voter registration fraud happening in Mohave County, and I
04:02:23 18 want to make sure that your testimony in that was clear.

04:02:27 19 As I understood it, you all had reported, or
04:02:30 20 produced documents, showing that there was an instance of
04:02:35 21 voter fraud in Mohave County that was eventually
04:02:38 22 prosecuted. But you were saying -- I don't want to, I
04:02:40 23 don't want to mischaracterize you here, but I think you
04:02:44 24 were saying there is not a database you can check to
04:02:46 25 answer this question about voter fraud.

04:02:49 1 What did you mean by that exactly?

04:02:51 2 A. With that FBI agent, we would like speak over
04:03:01 3 the phone on things.

04:03:08 4 Q. Do you guys maintain a list of all the
04:03:10 5 fraudulent voters in Mohave County?

04:03:13 6 A. It would, he would only receive anything from me
04:03:17 7 via email if he did believe it was, it could be
04:03:23 8 fraudulent.

04:03:25 9 Q. So the, I guess the -- maybe another way of
04:03:34 10 thinking about this problem would be, when you guys run
04:03:38 11 checks on voter registration applications -- so I think
04:03:44 12 you talked about running the GIS search on addresses to
04:03:57 13 make sure they are real residential addresses. Am I
04:04:01 14 getting that correct?

04:04:02 15 A. Yes.

04:04:03 16 Q. And you look for DPOC or HAVA checks. Is that
04:04:10 17 right?

04:04:10 18 A. We run the GIS if the address isn't pined in
04:04:16 19 AVID for them to be a registered voter at that address.

04:04:21 20 Q. Gotcha.

04:04:23 21 And you routinely check, you run the HAVA check
04:04:26 22 to make sure that there is some proof in Arizona databases
04:04:29 23 of citizenship, right?

04:04:31 24 A. In order to update a record you have to run HAVA
04:04:36 25 check.

04:04:36 1 Q. So, is it fair to say, then, that, that these
04:04:46 2 fraud checks are sort of baked into the county's voter
04:04:50 3 file? Like a person wouldn't be in the voter file if they
04:04:55 4 failed those checks.

04:04:57 5 A. Correct.

04:04:58 6 Q. The instance that you were asked about, the
04:05:08 7 woman, or the gentleman, I'm not sure which it was, was
04:05:12 8 prosecuted for voter fraud. What were the facts? Like
04:05:17 9 what actually happened?

04:05:18 10 A. If I recall correctly, it was 90-day notices
04:05:27 11 that were mailed from a third party to that address to be
04:05:32 12 added to the active early voting list, and that same
04:05:36 13 person signed numerous of them for her father. We
04:05:40 14 received them in office, noticing that they were in
04:05:45 15 different colored markers and they didn't appear to be the
04:05:48 16 same signature on signature verification, and then that
04:05:56 17 was given to the FBI.

04:05:58 18 Q. Okay. So was it multiple registrations or
04:06:05 19 multiple ballots that was the problem there?

04:06:07 20 A. So the, both voters were already registered to
04:06:11 21 vote. A third party had mailed a mailing for them to be
04:06:14 22 on the active -- at the time it was called a permanent
04:06:17 23 early voting list, receive ballots by mail.

04:06:21 24 Q. Okay. So the, the prob -- so there were two
04:06:28 25 people -- in fact there were two people, or there just

04:06:31 1 appeared to be two people on paper? Which one?

04:06:36 2 A. So it was, it ended up being the daughter
04:06:39 3 signing the father's, but they were all returned together
04:06:43 4 from that same residence address.

04:06:47 5 Q. I see. So she was trying to sign him up for the
04:06:49 6 permanent early voting list, but he didn't sign it
04:06:53 7 himself?

04:06:53 8 A. Correct.

04:06:54 9 Q. So this, this instance, this prosecution doesn't
04:07:03 10 really have anything to do with proof of residency or
04:07:06 11 citizenship. It's just a different issue entirely.

04:07:09 12 A. Yes.

04:07:09 13 Q. Bear with me one second. I just want to check
04:07:16 14 my notes to make sure I'm not missing anything. That
04:07:20 15 might be everything.

04:07:21 16 A. Okay.

04:07:25 17 Q. I have one more.

04:07:26 18 You were shown an email -- and this is my last
04:07:28 19 one -- you were shown an email from Kori Lorick where she
04:07:33 20 had commented that they thought certain of the challenge
04:07:37 21 provisions were inconsistent with federal law. And I
04:07:40 22 think the question you were asked was whether you agree
04:07:42 23 with Kori Lorick, that these challenge provisions are
04:07:47 24 inconsistent with federal law.

04:07:48 25 If I recall correctly, you said yes, but I'm not

04:07:52 1 sure that there wasn't some miscommunication there. I
04:07:54 2 just want to make sure that we're clear.

04:07:55 3 Does your office take the position that Kori
04:07:59 4 Lorick was right, that some of these challenge provisions
04:08:04 5 are inconsistent with federal law?

04:08:06 6 A. In regards to the current House Bills that are
04:08:11 7 in litigation, yes.

04:08:14 8 Q. Okay. And are you guys taking the position that
04:08:17 9 she's, you agree with her on -- I think she had three or
04:08:21 10 four points there where she thought it was inconsistent --
04:08:26 11 you're agreeing with her on each of those points?

04:08:28 12 A. I don't recall all three points.

04:08:32 13 MR. LANGHOFER: All right. Those are my
04:08:34 14 questions. Thanks again for your time, Ms. Durst.

04:08:47 15 Anything else from the plaintiffs' side?

04:08:52 16 MS. DIBRELL: Nothing from me, Ms. Durst, but I
04:08:55 17 just want to thank you again for your time today. I know
04:08:57 18 it was very long, and I do appreciate it.

04:08:59 19 THE VIDEOGRAPHER: One moment please.

04:09:00 20 We are off the record. Time on the video
04:09:00 21 monitor is 4:08 -- I'm sorry, 4:09 p.m.

04:09:06 22 This ends the deposition of the 30(b)(6) Chief
04:09:11 23 Deputy of Mohave County Recorder by Lydia Durst.

04:09:11 24 (The deposition concluded at 4:09 p.m.)

04:09:11 25 (Exhibit 49, Exhibit 50, Exhibit 51, Exhibit 52,

1 Exhibit 53, Exhibit 54, Exhibit 55, Exhibit 56, Exhibit
2 57, Exhibit 59, Exhibit 60, and Exhibit 61 were marked for
3 identification.)

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(Signature Not Requested.)

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LYDIA DURST

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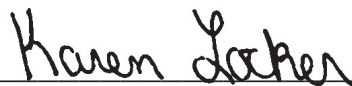
1 STATE OF ARIZONA)
) ss.
2 COUNTY OF MARICOPA)

3
4 BE IT KNOWN that the foregoing deposition was
5 taken before me, KAREN L. LOCKER, RPR, Certified Reporter
6 No. 50821 for the State of Arizona, and by virtue thereof
7 authorized to administer an oath; that the witness before
8 testifying was duly sworn by me to testify to the whole
9 truth; deposition review and signature was not requested;
10 that the questions propounded by counsel and the answers
11 of the witness thereto were taken down by me in shorthand
12 and thereafter transcribed into typewriting under my
13 direction; that the foregoing pages contain a full, true,
14 and accurate transcript of all proceedings and testimony
15 had, all to the best of my skill and ability.

16 I FURTHER CERTIFY that I am not related to nor
17 employed by any of the parties hereto and have no interest
18 in the outcome thereof.

19 DATED at Phoenix, Arizona, this 1th day of
20 August, 2023.

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KAREN L. LOCKER, RPR
Certified Court Reporter No. 50821

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Mi Familia Vota vs. Adrian Fontes
Hilary Hiser

August 3, 2023

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UNITED STATES DISTRICT COURT

DISTRICT OF ARIZONA

Mi Familia Vota, et al.,)	
)	Case No:
Plaintiffs,	)	2:22-cv-00509-SRB
	)	(Lead)
vs.)	
	)	CV-22-00519-PHX-SRB
Adrian Fontes, in his official	)	CV-22-01003-PHX-SRB
capacity as Arizona Secretary of	)	CV-22-01124-PHX-SRB
State, et al.,	)	CV-22-01369-PHX-SRB
	)	CV-22-01381-PHX-SRB
Defendants.	)	CV-22-01602-PHX-SRB
	)	CV-22-01901-PHX-SRB
_____)	
AND CONSOLIDATED CASES.)	
_____)	

DEPOSITION OF PIMA COUNTY RECORDER
REPRESENTED BY HILARY HISER
VIDEOTAPED

Tucson, Arizona
August 3, 2023

Reported by:
Jody L. Lenschow, RMR, CRR
Certified Court Reporter
Certification No. 50192



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Hilary Hiser

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VIDEOTAPED DEPOSITION OF PIMA COUNTY RECORDER

REPRESENTED BY HILARY HISER

was taken on August 3, 2023, commencing at 9:08 a.m., at the Pima County Attorney's Office, 32 N. Stone Avenue, Suite 2100, Tucson, Arizona, before Jody L. Lenschow, RMR, CRR, Certified Reporter No. 50192 for the State of Arizona, reported via Zoom Videoconferencing.

* * *

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RETRIEVED FROM DEMOCRACYDOCKET.COM

09:08:00 1 THE VIDEOGRAPHER: We are on the record.
09:08:01 2 The time on the video monitor is 9:08 a.m. Here begins
09:08:07 3 Volume 1, Media No. 1 in the 30(b)(6) deposition of Pima
09:08:11 4 County Recorder, represented by Hilary Hiser, in the
09:08:14 5 matter of Mi Familia Vota, et al. versus Adrian Fontes,
09:08:20 6 in his official capacity as Arizona Secretary of State,
09:08:23 7 et al., in the United States District Court for the
09:08:26 8 District of Arizona, Case No. 2:22-cv-00509-PHX-SRB.

09:08:39 9 Today's date is August 3rd, 2023. Our
09:08:42 10 court reporter is Jody Lenschow. My name is Christopher
09:08:44 11 Parkinson, certified legal videographer. We both
09:08:47 12 represent Coash Court Reporting & Video. This video
09:08:51 13 deposition is taking place at 32 North Stone Avenue,
09:08:55 14 Tucson, Arizona, 85701.

09:08:59 15 Counsel, please identify yourselves and
09:09:01 16 state whom you represent.

09:09:03 17 MR. SNOW: Good morning. My name is Ryan
09:09:04 18 Snow, counsel with the Voting Rights Project of the
09:09:08 19 Lawyers Committee for Civil Rights Under Law, and we
09:09:10 20 represent the Tohono O'odham plaintiffs.

09:09:15 21 MR. SHERMAN: Good morning. My name is
09:09:15 22 Jon Sherman with Fair Elections Center. I represent the
09:09:20 23 Poder Latinx plaintiffs. Thanks very much.

09:09:23 24 MR. DODGE: Good morning. I'm
09:09:24 25 Christopher D. Dodge, joined by Elizabeth Frost, on

09:09:27 1 behalf of the Mi Familia Vota plaintiffs.

09:09:31 2 MR. JOHNSON: Good morning. Hayden

09:09:36 3 Johnson on behalf of the LUCHA plaintiffs.

09:09:39 4 MR. HERRERA: Ernest Herrera on behalf of

09:09:42 5 the Promise Arizona Plaintiffs, joined by Erika

09:09:45 6 Cervantes today.

09:09:47 7 MS. BRAILEY: Emily Brailey on behalf of

09:09:49 8 the United States.

09:09:50 9 MR. MAKKER: Amit Makker from Latham &

09:09:55 10 Watkins on behalf of the Arizona Asian American Native

09:09:57 11 Hawaiian and Pacific Islander for Equity Coalition

09:10:00 12 plaintiff. I'm joined by Neethu Putta and Scott

09:10:04 13 Kanchuger of Latham & Watkins as well.

09:10:05 14 MR. VOLCHOK: Daniel Volchok from Wilmer

09:10:07 15 Hale for the Democratic National Committee and the

09:10:09 16 Arizona Democratic Party.

09:10:15 17 MR. HORLEY: Hi.

09:10:15 18 MR. JURKOWITZ: Dan --

09:10:15 19 MR. HORLEY: I'm Tim Horley. I --

09:10:18 20 Oh, I'm sorry. Go ahead.

09:10:18 21 MR. JURKOWITZ: Go ahead, Tim.

09:10:20 22 MR. HORLEY: Hi. Tim Horley. I'm for the

09:10:22 23 State of Arizona and the Arizona Attorney General, and

09:10:24 24 I'm joined by my colleague, Kathryn Boughton, as well.

09:10:28 25 MR. JURKOWITZ: Daniel Jurkowitz on behalf

09:10:30 1 of the Pima County Recorder, and with me today is the
09:10:32 2 Chief Deputy Recorder, Hilary Hiser.

09:10:38 3 MR. LANGHOFER: Kory Langhofer for the
09:10:39 4 Republican National Committee.

09:10:42 5 MS. STUART: Shayna Stuart from Sherman &
09:10:45 6 Howard for the Arizona Secretary of State, Adrian
09:10:49 7 Fontes, and I'm joined by Emma Schlenker, who is a
09:10:53 8 summer intern with the Secretary's Office.

09:11:03 9 THE VIDEOGRAPHER: Would the court
09:11:04 10 reporter please swear in the witness.

11

12

13 HILARY HISER,
14 called as a witness herein, having been first duly sworn
15 by the Certified Court Reporter to speak the truth and
16 nothing but the truth, was examined and testified as
17 follows:

17

09:11:15 18

EXAMINATION

09:11:15 19

BY MR. SNOW:

09:11:25 20

Q. Good morning, Ms. Hiser. So as I stated, my
09:11:30 21 name is Ryan Snow, counsel for the Voting Rights Project
09:11:36 22 of the Lawyers Committee for Civil Rights Under Law,
09:11:37 23 representing the Tohono O'odham plaintiffs. Appreciate
09:11:39 24 you speaking with us today.

09:11:40 25

Would you please state your full name for the

09:11:44 1 record, spelling your last name?

09:11:45 2 A. Hilary Hiser, H-I-L-A-R-Y, Hiser, H-I-S-E-R.

09:11:51 3 Q. Thank you.

09:11:52 4 And do you understand that you're testifying

09:11:53 5 under oath today?

09:11:54 6 A. I do.

09:11:57 7 Q. Do you understand that the court reporter is

09:11:58 8 transcribing this deposition?

09:11:59 9 A. I do.

09:12:01 10 Q. So with that in mind, please answer questions

09:12:04 11 audibly and clearly. Please let me know if you do not

09:12:06 12 understand a question or need me to repeat any part of

09:12:08 13 it. And if I ask a question and you answer the

09:12:11 14 question, I will assume that you understood the

09:12:13 15 question. Is that fair?

09:12:14 16 A. That's fair.

09:12:16 17 Q. Thank you.

09:12:17 18 Is there any reason that you can't testify

09:12:18 19 truthfully today?

09:12:20 20 A. No, there is no reason.

09:12:22 21 Q. Is there any reason why you can't give full,

09:12:25 22 complete, or accurate testimony today?

09:12:25 23 A. No, there is no reason.

09:12:27 24 Q. Are you on any medications or experiencing any

09:12:30 25 condition that would prevent you from giving full and

09:12:32 1 truthful testimony today?

09:12:32 2 A. I am not.

09:12:34 3 Q. And since this deposition is being taken

09:12:37 4 remotely, can you please confirm who all is in the room

09:12:41 5 with you?

09:12:41 6 A. Daniel Jurkowitz, chief --

09:12:45 7 MR. JURKOWITZ: Assistant chief.

09:12:45 8 THE WITNESS: -- Assistant chief civil

09:12:46 9 deputy for the Pima County Attorney's Office, and

09:12:49 10 represents the Pima County Recorder.

09:12:51 11 BY MR. SNOW:

09:12:51 12 Q. And so that's your counsel, correct?

09:12:53 13 A. Correct.

09:12:54 14 Q. And to your knowledge, is anyone else in your

09:12:58 15 office listening in to this deposition?

09:12:59 16 A. Not that I know of.

09:13:02 17 MR. JURKOWITZ: There are.

09:13:02 18 THE WITNESS: There are?

09:13:02 19 MR. JURKOWITZ: Yes.

09:13:03 20 THE WITNESS: Apparently there are.

09:13:03 21 MR. SNOW: And who are those?

09:13:09 22 MR. JURKOWITZ: Well, I can't see

09:13:11 23 everybody on the call right now.

09:13:13 24 MS. DICKINSON: My name is Pamela

09:13:14 25 Dickinson, and I'm paralegal to Dan Jurkowitz.

09:13:21 1 BY MR. SNOW:

09:13:21 2 Q. And anyone else?

09:13:28 3 A. I don't think so.

09:13:32 4 MR. SNOW: Mr. Jurkowitz, is that -- can
09:13:34 5 you confirm that?

09:13:35 6 MS. SORENSON: I'm sorry. Regina Sorenson
09:13:37 7 for Pima County Attorney's Office. I'm listening as
09:13:37 8 well.

09:13:43 9 MR. SNOW: Thank you.

09:13:43 10 BY MR. SNOW:

09:13:43 11 Q. And since this testimony must be yours and
09:13:45 12 yours alone and the record must be clear as to the
09:13:47 13 source of your testimony, do you agree not to refer to
09:13:50 14 any e-mails or communications or documents or other
09:13:52 15 sources of information except those that have been
09:13:54 16 entered into the record?

09:13:55 17 A. Yes, I agree to that.

09:13:58 18 Q. Thank you. And if you do at any time need to
09:14:01 19 refer to something and want to refer to something, just
09:14:04 20 let us know, and we can enter it in the record, okay?

09:14:08 21 A. Okay.

09:14:09 22 Q. And if at any time you would like to take a
09:14:10 23 break, please let us know. The only thing I ask is that
09:14:13 24 if I've already asked a question, that you finish
09:14:16 25 answering that pending question before taking a break.

09:14:18 1 Does that sound good?

09:14:19 2 A. That's fine.

09:14:20 3 Q. Great.

09:14:22 4 Have you ever been deposed before?

09:14:23 5 A. No.

09:14:27 6 I've testified in a court setting, but I've

09:14:29 7 never been deposed.

09:14:30 8 Q. And what was the -- what was the nature of that

09:14:32 9 matter?

09:14:34 10 A. I testified in two election-related cases.

09:14:34 11 Q. And what was it?

09:14:40 12 A. A candidate challenge case for candidate

09:14:47 13 petitions and then a criminal election case through the

09:14:51 14 Arizona Attorney General's Office.

09:14:53 15 Q. Thank you.

09:14:55 16 And when were those?

09:15:04 17 A. Fall of '22 and spring of '23. I don't quite

09:15:12 18 remember the exact dates.

09:15:16 19 Q. Thank you.

09:15:19 20 Did you bring any materials with you today?

09:15:22 21 A. To today's meeting?

09:15:24 22 Q. Today's deposition.

09:15:24 23 A. No.

09:15:27 24 Q. And do you have any documents in front of you?

09:15:30 25 A. I have the statutes up and the Dropbox with all

09:15:37 1 of the exhibits and copies of the House Bills and what
09:15:50 2 we provided to you guys through the interrogatories.

09:15:53 3 Q. Thank you.

09:15:54 4 And then just as a reminder, if you need to
09:15:56 5 refer to those, just make sure that you state clearly
09:15:59 6 for the record that you're referring to a document, and
09:16:02 7 we can enter it in the record.

09:16:03 8 A. Okay.

09:16:04 9 Q. Thank you.

09:16:08 10 So can you please briefly describe your
09:16:11 11 professional and educational background?

09:16:12 12 A. So I have a Bachelor's in political science and
09:16:16 13 sociology. I have a Master's in public administration.
09:16:21 14 I am a certified election -- Arizona election officer.
09:16:25 15 I am a certified Arizona municipal election official,
09:16:30 16 and I am a certified municipal court -- municipal clerk.

09:16:35 17 I have worked as a deputy town clerk and
09:16:41 18 filing -- election filing officer for the town of Marana
09:16:44 19 for a little over nine years. And I have been with the
09:16:49 20 Pima County Recorder's Office since September of 2021,
09:16:53 21 where I was originally hired as the assistant chief
09:16:57 22 deputy recorder and then was promoted to chief deputy
09:17:03 23 recorder in June of 2022. I have been in this position
09:17:07 24 for a year.

09:17:09 25 Q. Thank you.

09:17:10 1 And where, again, were you before Pima?

09:17:12 2 A. The town of Marana, Arizona.

09:17:15 3 Q. For nine years?

09:17:16 4 A. Yes.

09:17:17 5 Q. And that was also in an election administration

09:17:21 6 capacity?

09:17:21 7 A. Yes.

09:17:21 8 Q. Thank you.

09:17:23 9 And, briefly, why do you -- why do you like to

09:17:27 10 work in your profession?

09:17:32 11 A. Why do I like to work in my profession. Well,

09:17:34 12 it's always changing. It's interesting. Elections are

09:17:40 13 where democracy hits the ground running. So we provide

09:17:44 14 services to allow people to exercise their voice to

09:17:49 15 determine who they want to represent them, what, you

09:17:55 16 know, initiatives they want to see put forward.

09:18:01 17 At the local level it's really focused

09:18:03 18 specifically on what we're doing for our community, so

09:18:08 19 friends, neighbors. As a municipal clerk, you're

09:18:11 20 oftentimes looking at what are the things that the

09:18:17 21 jurisdiction is doing to provide services for the people

09:18:19 22 that it serves. And as an election, particularly for

09:18:23 23 like ballot measures or candidates, that's the

09:18:26 24 opportunity for the community to tell a jurisdiction

09:18:29 25 what it wants.

09:18:31 1 So I take that job very seriously to make sure
09:18:35 2 that what I'm doing is providing a clear, transparent
09:18:40 3 process so people have faith in the result that they
09:18:42 4 get.

09:18:45 5 Q. Thank you for --

09:18:46 6 A. Does that -- does that answer your question?

09:18:47 7 Q. That it does, and thank you very much for your
09:18:50 8 work.

09:18:52 9 A. Okay.

09:18:52 10 Q. And would you please give a brief description
09:18:55 11 of your core responsibilities in your current position?

09:18:59 12 A. As the chief deputy recorder, I am responsible
09:19:03 13 for the operations of the department. So the Pima
09:19:08 14 County Recorder is an elected position. The Recorder
09:19:12 15 creates and designates the overall scope, mission,
09:19:16 16 vision, and policies for the department, and I take
09:19:20 17 those and implement them at an operational level.

09:19:23 18 So I have -- the voter registration unit
09:19:31 19 ultimately reports up to me through our chain of
09:19:34 20 command. Our recording division ultimately reports up
09:19:37 21 to me, as does our IT unit and our community and
09:19:45 22 outreach and development unit.

09:19:47 23 So we have four main functions in the office.
09:19:51 24 The recording function is our consistent function. It's
09:19:57 25 the one that provides revenue to the department for

09:20:00 1 recording land transactions and other legal instruments
09:20:03 2 as it relates to real property here in Pima County.

09:20:08 3 And then we have the voter registration unit,
09:20:10 4 which is responsible for doing voter registration,
09:20:17 5 registering new voters, and maintaining the voter
09:20:21 6 registration roll, and then during an election cycle
09:20:23 7 that unit is also responsible for early voting services,
09:20:27 8 so identifying early voting locations that will be
09:20:31 9 operational before election day and providing the early
09:20:38 10 ballot packets that are sent to every voter that's
09:20:42 11 registered on the active early voting list, otherwise
09:20:47 12 known as AEVL. So that's the bulk of what that unit
09:20:50 13 does.

09:20:50 14 In addition to the voter registration and
09:20:52 15 maintaining the voter registration roll, that unit also
09:20:56 16 goes out into the community for outreach, trying to make
09:21:01 17 connections with community organizations. We provide
09:21:05 18 training to organizations that are looking to register
09:21:08 19 voters. So we provide voter registration training, how
09:21:11 20 to fill out the forms correctly, what's the information
09:21:14 21 that we need to be able to successfully process those
09:21:17 22 forms.

09:21:19 23 And then we're constantly reviewing the voter
09:21:22 24 registration roll, making sure that every voter is
09:21:25 25 active. We will receive updates on a daily basis from

09:21:29 1 various sources, from the Secretary of State's Office to
09:21:34 2 ERIC reports to EZ Voter, which comes from the
09:21:38 3 Department of Motor Vehicle. It can be new
09:21:41 4 registrations, changes of registrations, updates to
09:21:44 5 registrations. It's an ongoing daily process.

09:21:47 6 And then on our IT side of the house, they
09:21:50 7 provide support to our recording functions, so we have
09:21:55 8 specific applications as it relates to recording, and
09:21:58 9 then they provide the bulk of support to our voter
09:22:03 10 registration application.

09:22:04 11 Our voter registration application is built
09:22:06 12 uniquely for Pima County. It is built in-house, and we
09:22:10 13 maintain a developer and additional support to maintain
09:22:15 14 the voter registration roll for Pima County. So we're
09:22:18 15 constantly making sure that that application is
09:22:21 16 functional and it reflects the true and correct
09:22:24 17 information of the voters at that time.

09:22:30 18 Do you need more information or less
09:22:32 19 information?

09:22:34 20 I think you're on mute, sir.

09:22:37 21 Q. Yeah, that's very helpful.

09:22:40 22 A couple follow-up questions. So you
09:22:42 23 mentioned -- so, first, how often do you interact with
09:22:44 24 voters directly?

09:22:45 25 A. How does our office interact with voters

09:22:47 1 directly?

09:22:48 2 Q. You personally and then your office.

09:22:50 3 A. I do not interact with the voters very often
09:22:53 4 directly. Sometimes during an election I will be
09:22:56 5 stationed at our ballot processing facility, which is
09:23:01 6 where we do the signature verification of early ballots
09:23:05 7 returned by mail, and I will oftentimes be there to have
09:23:10 8 conversations and assist political observers who are
09:23:14 9 there.

09:23:15 10 I have occasionally taken phone calls from
09:23:17 11 voters who have been transferred up to me, who have
09:23:21 12 questions regarding a voter registration that a line
09:23:26 13 staff or supervisor doesn't feel comfortable asking --
09:23:30 14 or answering, so they will transfer them to me and we'll
09:23:32 15 discuss the issue.

09:23:35 16 And then I will also on election days,
09:23:38 17 depending on where I'm located, I am sometimes at a --
09:23:43 18 at our downtown location ushering people into our office
09:23:48 19 so they can drop off their ballots, and I have also been
09:23:52 20 stationed at our early voting locations, and I've also
09:23:55 21 issued ballots, and I've done signature verification of
09:24:01 22 ballots, so -- but I don't speak to voters on a daily
09:24:05 23 basis.

09:24:08 24 Q. You said your office goes out into the
09:24:12 25 community to speak to voters and -- a little bit more.

09:24:20 1 A. I'm sorry, could you repeat the question?

09:24:23 2 THE COURT REPORTER: Yeah, Ryan, you're

09:24:23 3 not coming through very clearly.

09:24:25 4 BY MR. SNOW:

09:24:25 5 Q. Sorry. Can you hear me?

09:24:25 6 A. Yes.

09:24:26 7 Q. Okay. You mentioned that your office -- excuse

09:24:26 8 me.

09:24:28 9 You mentioned that your office at times will go

09:24:29 10 out into the community to speak with voters. Can you

09:24:33 11 describe that a little bit more?

09:24:34 12 A. Sure.

09:24:35 13 We have two designated voter outreach

09:24:39 14 coordinators, one for the Tohono O'odham Nation and one

09:24:43 15 for the Pascua Yaqui Tribe. Each of those coordinators

09:24:48 16 do outreach efforts both on the Nation and at the Tribe,

09:24:52 17 but they also do outreach efforts at community events

09:24:56 18 throughout Pima County.

09:24:59 19 Outreach efforts entail we will set up -- they

09:25:02 20 also -- I'm sorry. Let me backtrack just a moment.

09:25:05 21 In addition to outreach efforts for each of

09:25:07 22 those communities, we also do outreach efforts at the

09:25:13 23 naturalization ceremonies. So our two voter outreach

09:25:17 24 coordinators will go to the District Court and provide

09:25:21 25 voter registration packets and information to newly

09:25:26 1 naturalized citizens, to be there to answer questions.

09:25:29 2 And then for the just general community
09:25:33 3 outreach, if there are particular community events
09:25:38 4 occurring around Pima County, they will go out and have
09:25:42 5 a table to set up with our voter registration
09:25:45 6 information, to teach people about voter registration
09:25:51 7 and provide information for the public to be able to
09:25:55 8 research voter registration and perhaps also turn in
09:26:01 9 voter registration applications.

09:26:03 10 Q. Thank you.

09:26:04 11 And you mentioned that you have someone who's
09:26:07 12 dedicated to coordinating with the Tohono O'odham
09:26:10 13 Nation?

09:26:10 14 A. Yes. We have a specific voter outreach clerk
09:26:14 15 for that.

09:26:16 16 Q. And is that their sole responsibility?

09:26:19 17 A. That is one of their primary responsibilities,
09:26:22 18 but one of their additional responsibilities is general
09:26:25 19 voter outreach. So they do focus on the Tohono O'odham
09:26:30 20 Nation, but they also provide outreach to the community
09:26:32 21 at large and to particular rural areas that surround the
09:26:37 22 Nation.

09:26:39 23 Q. And can you discuss a little bit more what that
09:26:42 24 entails?

09:26:43 25 A. For that particular voter outreach clerk one of

09:26:47 1 her consistent monthly tasks is, is that she does meet
09:26:50 2 on a monthly basis with all of the districts in the
09:26:53 3 Tohono O'odham Nation.

09:26:56 4 As you might understand, the Nation has
09:26:58 5 different districts within the Nation as a whole. She
09:27:02 6 does visit those districts and provide outreach services
09:27:07 7 at their monthly meetings, in addition to also working
09:27:10 8 with the Tribal Nation's government as well, providing
09:27:16 9 outreach services at any meetings that impact the Nation
09:27:20 10 as a whole.

09:27:23 11 Q. And what was the title, again, of this
09:27:25 12 position?

09:27:25 13 A. She's a voter outreach clerk, or I guess
09:27:29 14 that's -- we're going through some -- a class and
09:27:34 15 compensation change here at Pima County, so we're all
09:27:35 16 getting a bunch of new titles in September. So the
09:27:41 17 title that she will be getting will be voter outreach, I
09:27:45 18 think we're going to go with voter outreach clerk or
09:27:48 19 voter outreach specialist. I'm not entirely sure.

09:27:51 20 Q. What is her name?

09:27:53 21 A. Stephanie Homewytewa. She recently got married
09:27:58 22 and changed her last name, and it escapes me at the
09:28:01 23 moment as to what it is.

09:28:03 24 Q. Again, how long has she been working in that
09:28:05 25 position?

09:28:07 1 A. I think she's been with Pima County Recorder's
09:28:12 2 Office since -- I think she's been there since 2020.

09:28:17 3 Q. And has she always been in that position?

09:28:19 4 A. As far as I know, yes.

09:28:22 5 Q. And how long has that position --

09:28:25 6 A. How -- I'm sorry. One more time?

09:28:27 7 Q. How long has that position existed?

09:28:29 8 A. I'm sorry, I don't quite understand your
09:28:31 9 question.

09:28:31 10 Q. How long have you had somebody who's dedicated
09:28:34 11 to coordinating with the Tohono O'odham Nation?

09:28:37 12 A. Since 2020, so..
09:28:43 13 You cut out again.

09:28:46 14 MR. JURKOWITZ: Mr. Snow, if you could
09:28:47 15 move closer to your microphone. It's really difficult
09:28:50 16 for us to hear.

09:28:51 17 BY MR. SNOW:

09:28:51 18 Q. Thank you, and apologies. I am on a laptop.
09:28:54 19 And please let me know if you can't understand
09:28:57 20 something, and I'll repeat myself.

09:28:59 21 It sounded like you were going to add on to
09:29:01 22 your last answer, and I didn't want to interrupt. But
09:29:04 23 my question was who did -- was there somebody
09:29:11 24 responsible for coordinating with the Tohono O'odham
09:29:14 25 Nation prior to the position being created in 2020?

09:29:16 1 A. I don't know, sir.

09:29:19 2 Q. And then you also mentioned coordination with
09:29:21 3 the Pascua Yaqui Tribe; is that correct?

09:29:24 4 A. Yes.

09:29:25 5 Q. And can you describe the nature of that?

09:29:27 6 A. It's almost exactly the same as Stephanie's
09:29:30 7 position, only that's a different voter outreach clerk,
09:29:34 8 Reyes. And so he works specifically with the Pascua
09:29:39 9 Yaqui Tribe, and then he does the exact same thing as
09:29:42 10 she does, only on the Pascua Yaqui Tribal lands. And
09:29:47 11 then, again, they both go out into the community as a
09:29:50 12 whole and do voter registration education.

09:29:55 13 Q. And then what is his name?

09:29:57 14 A. Reyes. You're putting me on the spot to know
09:30:01 15 everyone's first and last names in my office. I'm
09:30:03 16 sorry. It is Reyes. I'd have to get you his full name
09:30:09 17 at a later date. I apologize. I don't know his last
09:30:11 18 name off the top of my head.

09:30:14 19 Q. Okay. And then are either of the voter
09:30:18 20 outreach clerks a Tribal member?

09:30:19 21 A. They are.

09:30:24 22 Q. Corresponding with the Tribe that they're
09:30:25 23 working with?

09:30:26 24 A. They are.

09:30:26 25 Q. Thank you.

09:30:27 1 And what are some of the challenges that you've
09:30:31 2 heard from either of them?

09:30:37 3 A. Challenges in what respect?

09:30:40 4 Q. Challenges facing voters.

09:30:47 5 A. Well, they're -- I don't think that they
09:30:51 6 discussed challenges facing the voters that they've
09:30:54 7 interacted with, as their position is providing voter
09:30:58 8 education opportunities to the communities that they
09:31:03 9 serve.

09:31:03 10 So they go out and they provide -- they
09:31:09 11 describe the services that our office provide. They,
09:31:13 12 you know, remind the districts or the Tribe as to when
09:31:16 13 elections are. They provide, you know, voter
09:31:20 14 registration forms for people to complete should they
09:31:24 15 choose to do so. I don't know what other challenges
09:31:30 16 that you might be intimating.

09:31:32 17 Q. Well, I guess I'm curious on what kinds of
09:31:36 18 issues, specifically with voter registration, what kinds
09:31:38 19 of issues that you're aware of with Tribal members --

09:31:38 20 A. I'm sorry, you cut out again.

09:31:50 21 THE COURT REPORTER: I'm sorry, we're
09:31:50 22 going to need to take a little break. Ryan, do you mind
09:31:53 23 if we go off the record?

09:31:54 24 MR. SNOW: Sure.

09:31:56 25 THE VIDEOGRAPHER: We are off the record.

09:31:57 1 The time on the video monitor is 9:31 a.m.

09:33:11 2 (A recess was taken.)

09:34:36 3 THE VIDEOGRAPHER: We are on the record.

09:34:38 4 The time on the video monitor is 9:34 a.m.

09:34:43 5 MR. SNOW: Thank you.

09:34:43 6 And, Jody, would you mind reading back the
09:34:45 7 last question?

09:34:58 8 (The record was read by the court
09:34:58 9 reporter as follows:

09:31:33 10 QUESTION: Well, I guess I'm curious on
09:31:35 11 what kinds of issues, specifically with voter
09:31:37 12 registration, what kinds of issues that you're
09:31:43 13 aware of with Tribal members --)

09:34:59 14 THE COURT REPORTER: And that's when you
09:35:00 15 cut out.

09:35:01 16 BY MR. SNOW:

09:35:01 17 Q. Now, so just to -- thank you.

09:35:03 18 Just to redirect that question, what kind of
09:35:05 19 issues are you aware of or is your office aware of or
09:35:10 20 that has been reported to you in terms of Tribal members
09:35:17 21 attempting --

09:35:18 22 THE COURT REPORTER: You cut out again.

09:35:20 23 BY MR. SNOW:

09:35:20 24 Q. What kinds of issues are you aware of that have

09:35:22 25 been expressed to you or your office in terms of Tribal

09:35:24 1 members attempting to register to vote?

09:35:27 2 A. I have not had anybody express any issues as it

09:35:30 3 relates to that to me.

09:35:34 4 Q. Thank you.

09:35:34 5 And other than those two Tribal Nations, the

09:35:42 6 Tohono O'odham Nation and Pascua Yaqui, what other

09:35:45 7 federally recognized Indian Tribes are located within

09:35:48 8 Pima County?

09:35:48 9 A. I believe those are the only two Tribes that

09:35:50 10 are federally recognized within Pima County, but we do

09:35:53 11 have Tribal members from other Tribes that do reside

09:35:57 12 within Pima County.

09:35:59 13 Q. And do you do any coordination with other

09:36:02 14 Tribal Nations?

09:36:02 15 A. No. Just the two aforementioned ones.

09:36:06 16 Q. Thank you.

09:36:08 17 So let's go ahead and introduce our first

09:36:11 18 exhibit, which I believe is going to be Exhibit 62.

09:36:18 19 It's labeled A. It's the deposition notice.

09:36:30 20 A. Okay, I have it on the screen.

09:36:32 21 Q. Thank you.

09:36:35 22 And are you familiar with this document?

09:36:38 23 A. Yes, I am.

09:36:41 24 Q. And what is it?

09:36:43 25 A. It's the deposition notice provided to our

09:36:46 1 office, and it's a fairly long document, a lot of
09:36:56 2 definitions, a lot of topics.

09:36:58 3 Q. And who provided that to you?

09:37:00 4 A. That was provided by our counsel, Dan
09:37:06 5 Jurkowitz.

09:37:06 6 Q. Do you understand that you have been designated
09:37:08 7 as the representative to testify on behalf of the County
09:37:12 8 Recorder?

09:37:12 9 A. I do.

09:37:14 10 Q. So turning to Page 5.

09:37:14 11 A. Okay.

09:37:20 12 Q. There's some topics, and continuing down to
09:37:25 13 Page 10, this lists 28 topics, correct?

09:37:29 14 A. Yes.

09:37:30 15 Q. And are you prepared to address each of these
09:37:33 16 today?

09:37:33 17 A. To the best of my ability.

09:37:37 18 Q. What did you do to prepare for today's
09:37:40 19 deposition?

09:37:43 20 A. I did not prepare as well as I probably should
09:37:46 21 have.

09:37:46 22 Q. How do you mean?

09:37:48 23 A. We're right in the middle of an election for
09:37:50 24 the City of Tucson. It's a primary. So my -- I have
09:37:57 25 been working on election items. And it's the end of the

09:38:02 1 fiscal year, so I've been working on the end of the
09:38:05 2 budget and wrapping up our fiscal year expenditures and
09:38:09 3 revenues.

09:38:10 4 So, no, I have not taken the time to review the
09:38:14 5 information that we've provided.

09:38:18 6 Q. So just briefly, what all did you do to prepare
09:38:21 7 for today's deposition?

09:38:25 8 A. I looked at the Dropbox that was sent out and
09:38:30 9 quickly looked through the items in the Dropbox.

09:38:37 10 Q. Did you meet with anyone from your office to
09:38:39 11 prepare for today's deposition?

09:38:40 12 A. No, I did not.

09:38:45 13 Q. Did you discuss today's deposition with anyone
09:38:47 14 else outside your office?

09:38:49 15 A. Not outside the office, no. I did remind the
09:38:53 16 Recorder that I would be doing a deposition today in
09:38:56 17 regards to this lawsuit, and I did remind my team that I
09:38:59 18 would be doing a deposition today in regards to this
09:39:02 19 lawsuit.

09:39:07 20 Q. From -- I'm sorry.

09:39:09 21 What were the nature of those discussions?

09:39:11 22 A. I would be out of the office today doing a
09:39:14 23 deposition. I will be back in the office on Friday.
09:39:17 24 Please let me know if you need me for anything in
09:39:20 25 particular.

09:39:21 1 Q. Thank you.

09:39:22 2 A. You're welcome.

09:39:23 3 Q. And apart from the Dropbox potential exhibits,
09:39:27 4 did you review any other documents to prepare for this
09:39:29 5 deposition?

09:39:30 6 A. I did not.

09:39:35 7 Q. What is your understanding, briefly, of this
09:39:36 8 lawsuit?

09:39:38 9 A. I'm sorry, you are breaking up again.

09:39:40 10 Q. What is your understanding, briefly, of this
09:39:42 11 lawsuit?

09:39:44 12 A. My understanding of this lawsuit is, is that it
09:39:48 13 is maintaining that two particular bills passed in a
09:39:51 14 previous legislative session create an issue as it
09:39:54 15 relates to the constitutionality of voter registration,
09:39:59 16 and there's a conflict of laws between the state of
09:40:03 17 Arizona's passage of these bills and federal law as
09:40:07 18 well.

09:40:11 19 Q. Thank you.

09:40:11 20 Turning now to what will be marked as
09:40:14 21 Exhibit 63. It's labeled Exhibit B in the folder.

09:40:25 22 A. Yes. I have that up on the screen.

09:40:27 23 Q. Thank you.

09:40:28 24 And do you recognize this document?

09:40:29 25 A. I do.

09:40:30 1 Q. And what is it?

09:40:32 2 A. It is the requests for documentation from our
09:40:36 3 office.

09:40:41 4 Q. So this is your office's response to
09:40:44 5 plaintiffs' first set of requests for document
09:40:46 6 production, correct?

09:40:47 7 A. Correct.

09:40:53 8 Q. And going down all the way to the bottom, this
09:40:55 9 is dated February 13th, 2023, correct?

09:40:58 10 A. Yes.

09:41:03 11 Q. Now, did you participate in the creation of
09:41:05 12 this document?

09:41:06 13 A. Yes, I did.

09:41:08 14 Q. And what was your role?

09:41:10 15 A. I managed the review and identified the team
09:41:17 16 members who would be able to assist me in getting the
09:41:19 17 documents that were responsive to it.

09:41:25 18 Q. And in conferring with colleagues in producing
09:41:30 19 this -- sorry. Scratch that.

09:41:34 20 Let's put that aside. Let's mark as Exhibit 64
09:41:42 21 the document labeled Exhibit C in the Dropbox.

09:41:52 22 A. I have that up on my screen.

09:41:55 23 Q. Thank you.

09:41:55 24 And are you familiar with this document?

09:41:57 25 A. I am.

09:41:58 1 Q. And what is this document?

09:42:00 2 A. Again, it is requests for additional
09:42:03 3 information from our office.

09:42:07 4 Q. So this is your office's response to
09:42:10 5 plaintiffs' consolidated first set of requests for
09:42:13 6 production?

09:42:17 7 A. Yes.

09:42:18 8 Q. And turning down to the bottom, it's dated
09:42:21 9 June 30th, 2023, correct?

09:42:27 10 A. Yes.

09:42:30 11 Q. Thank you.

09:42:33 12 Turning to Page 5, request for production
09:42:38 13 number 3, please briefly review the request for
09:42:46 14 production.

09:42:56 15 So this request for production concerns
09:43:00 16 registered voters whose registrations were canceled,
09:43:03 17 suspended, removed, or placed on congressional only or
09:43:06 18 federal only status, or restricted in any manner for any
09:43:09 19 reason and voter registration applicants whose
09:43:12 20 registration applications were denied, challenged,
09:43:15 21 placed on congressional only or federal only status, or
09:43:15 22 otherwise not granted in any manner for any reason; is
09:43:20 23 that correct?

09:43:20 24 A. Yes.

09:43:20 25 Q. From January 1st, 2022; is that correct?

09:43:23 1 A. Yes.

09:43:23 2 Q. And then turning down to Page 6, the second

09:43:29 3 paragraph of your office's response states that, in

09:43:33 4 part, the Pima County Recorder's Office does not

09:43:36 5 actively track this information; is that correct?

09:43:38 6 A. That is correct.

09:43:39 7 Q. And is that still -- is that still true?

09:43:41 8 A. Yes.

09:43:45 9 Q. Do you have -- do you have any sense of the

09:43:49 10 numbers of voters who would fall into either of the

09:43:53 11 categories described in the request for production?

09:43:57 12 A. I do not.

09:44:03 13 Q. Does your office have any plans to track that

09:44:06 14 information?

09:44:09 15 A. Our office will track whatever information is

09:44:13 16 deemed appropriate to track once the litigation

09:44:16 17 regarding these two bills have been settled.

09:44:27 18 Q. Are you aware of any other counties that track

09:44:31 19 this information?

09:44:31 20 A. I do not know.

09:44:41 21 Q. Okay. Let's move on to what I believe will be

09:44:47 22 Exhibit 65, and that will be -- it's labeled D in the

09:44:54 23 folder.

09:45:06 24 A. Okay. It's up on my screen.

09:45:08 25 Q. Thanks.

09:45:08 1 And are you familiar with this document?

09:45:09 2 A. I am.

09:45:11 3 Q. And what is this document?

09:45:13 4 A. It is our responses to your questions.

09:45:25 5 Q. Thank you.

09:45:26 6 So this is your office's response to

09:45:28 7 plaintiffs' first set of interrogatories dated

09:45:31 8 February 13th, 2023, correct?

09:45:32 9 A. It is.

09:45:33 10 Q. And were you involved in putting this document

09:45:36 11 together?

09:45:36 12 A. Yes, I was.

09:45:41 13 Q. Thank you.

09:45:45 14 Turning to Page 2, which asks you to describe

09:45:55 15 your plans for prospective implementation of H.B. 2492,

09:46:03 16 and the response states that -- Kelly is in the planning

09:46:03 17 stages of determining how to best implement --

09:46:03 18 THE COURT REPORTER: Sorry, you cut out.

09:46:03 19 BY MR. SNOW:

09:46:11 20 Q. Your response on Page 2, your office's response

09:46:13 21 on Page 2, states that the County Recorder is in the

09:46:19 22 planning stages of determining how to best implement

09:46:23 23 H.B. 2492; is that correct?

09:46:25 24 A. That is correct.

09:46:25 25 Q. And is that -- is that still the case?

09:46:27 1 A. It is.

09:46:32 2 Q. And what would you describe as the planning
09:46:35 3 stages?

09:46:36 4 A. We are waiting on information and direction
09:46:40 5 from the Secretary of State's Office, and we are also
09:46:43 6 waiting on a finalization of this litigation.

09:46:47 7 Q. Have you received -- previously, have you
09:46:50 8 received guidance from the Secretary of State's Office?

09:46:54 9 A. We have requested guidance from the Secretary
09:46:58 10 of State's Office. The guidance that has been provided
09:47:00 11 to us is the Secretary of State's Office is also waiting
09:47:03 12 for conclusion of litigation to this.

09:47:09 13 Q. Thank you.

09:47:10 14 And it also states, also on Page 2, that
09:47:13 15 Recorder Cázares-Kelly has begun drafting initial system
09:47:16 16 changes to modify the current voter record system to
09:47:20 17 meet H.B. 2492's requirements; is that correct?

09:47:24 18 A. That's correct.

09:47:24 19 Q. And is that still the case today?

09:47:26 20 A. It is.

09:47:28 21 Q. So, briefly, what would be -- what would be
09:47:30 22 those system changes?

09:47:32 23 A. At the resolution of this litigation we would
09:47:37 24 change our system to either create a -- there was draft
09:47:44 25 guidance provided by the Secretary of State's Office as

09:47:46 1 it relates to these two particular bills; and should
09:47:49 2 these bills be found constitutional by the court, we
09:47:54 3 would implement the changes through that draft guidance
09:47:57 4 from the Secretary of State's Office, which would create
09:48:00 5 programming changes on our end for the voter
09:48:02 6 registration system.

09:48:05 7 Q. Thank you.

09:48:06 8 And it also states on Page 2 that these draft
09:48:14 9 changes are in their infancy stages and have not been
09:48:19 10 approved. What would -- what would approval consist of?

09:48:22 11 A. An approval would consist of a final resolution
09:48:26 12 and adjudication of this case.

09:48:30 13 Q. What would be necessary -- thank you.

09:48:32 14 What would be necessary for system changes to
09:48:35 15 be approved? Does that refer to your office or the
09:48:39 16 Secretary of State granting approval?

09:48:43 17 A. Because the Pima County voter registration
09:48:45 18 database is built and maintained by Pima County, we
09:48:48 19 would have to make programming changes to the system to
09:48:51 20 comply with the requirements of these bills and the
09:48:58 21 changes that the Secretary of State's Office would
09:49:00 22 have to make with the AVID system, which is the
09:49:03 23 Arizona voter information database. I think that's the
09:49:07 24 acronym. That's the statewide voter registration
09:49:12 25 information.

09:49:12 1 We have to make changes to our system to be
09:49:16 2 able to interface with the AVID system, so it's
09:49:20 3 programming changes to be able to have information
09:49:24 4 upload and download between our two systems.

09:49:30 5 Q. And so who would be providing the approval of
09:49:32 6 the system changes?

09:49:33 7 A. Ultimately, I would.

09:49:38 8 Q. What would -- what would -- what would be the
09:49:41 9 basis of your decision to approve or not approve a
09:49:43 10 system change?

09:49:46 11 A. What the statute says I'm supposed to do, and
09:49:51 12 as this is currently under litigation, what a court
09:49:53 13 would tell me I'm supposed to do.

09:49:57 14 Q. So your role in approving would be determining
09:50:00 15 whether the system change comports with a directive from
09:50:03 16 a court or another authority?

09:50:06 17 A. Correct.

09:50:09 18 Q. Do you seek -- do you seek legal guidance in
09:50:13 19 terms of interpreting a directive or another source of
09:50:18 20 authority?

09:50:18 21 A. Absolutely.

09:50:19 22 Q. And who would that -- who would you seek
09:50:21 23 guidance from?

09:50:22 24 A. Daniel Jurkowitz.

09:50:23 25 Q. Thank you.

09:50:28 1 Turning to what I believe will be marked
09:50:29 2 Exhibit 66. It's labeled E in the folder.
09:50:36 3 A. Did you say E, as in echo?
09:50:38 4 Q. Edward, yeah, or echo.
09:50:47 5 A. Yes, I have that up on the screen.
09:50:47 6 Q. Are you -- this document?
09:51:10 7 A. I believe your question is are you familiar
09:51:12 8 with the document?
09:51:14 9 THE COURT REPORTER: Yeah, I didn't -- you
09:51:16 10 cut out.
09:51:16 11 BY MR. SNOW:
09:51:16 12 Q. I'm sorry. I don't know what's going on with
09:51:18 13 my equipment.
09:51:19 14 Are you familiar with this document?
09:51:19 15 A. I am.
09:51:21 16 Q. And what is this document?
09:51:22 17 A. These are, again, responses from our office
09:51:25 18 regarding the interrog -- I can't say that word
09:51:28 19 correctly. So our responses to your questions, okay.
09:51:30 20 Q. And this is -- this is dated June 30th, 2023,
09:51:37 21 correct?
09:51:37 22 A. It is.
09:51:39 23 Q. And that's your signature on Page 12?
09:51:49 24 That's your signature on Page 12?
09:51:51 25 A. I'm getting it.

09:51:54 1 Yes, it is.

09:51:58 2 Q. Thank you.

09:52:00 3 So you had a role in putting this together?

09:52:02 4 A. I did.

09:52:05 5 Q. And just briefly, what was your process in
09:52:10 6 responding to these interrogatories?

09:52:11 7 A. The same as our process previously. So we
09:52:14 8 reviewed the questions. I reached out to the
09:52:18 9 appropriate team members to be able to gather the
09:52:20 10 information for the responses, and then we provided them
09:52:26 11 to counsel.

09:52:28 12 Q. Thank you.

09:52:35 13 Let's see. Turning to Page 6, and you see
09:52:52 14 interrogatory number 7?

09:52:56 15 A. Yes.

09:53:03 16 Q. I'm sorry. Scratch that.

09:53:04 17 Turning to Page 3, interrogatory number 4.

09:53:15 18 A. Okay.

09:53:27 19 Q. And so this interrogatory refers to -- or asks
09:53:45 20 you to identify sources, documents, communications, or
09:53:50 21 agreements pertaining to the process to confirm DPOC,
09:53:55 22 documentary proof of citizenship, or DPOR, documentary
09:54:00 23 proof of residence.

09:54:01 24 And then in your response, the Recorder's
09:54:06 25 Office uses the United States Immigration SAVE database,

09:54:10 1 also relies on the Arizona Department of Motor Vehicle
09:54:14 2 Motor Vehicle Recorders Request System, and has access
09:54:16 3 to the AVID voter registration system.

09:54:21 4 Is that all correct?

09:54:22 5 A. That is.

09:54:23 6 Q. Are there any other sources of information that
09:54:25 7 you use to confirm DPOC or DPOR?

09:54:31 8 A. Should a voter choose to provide us
09:54:35 9 documentation, copies of birth certificates, passports,
09:54:39 10 we will accept those as well, but that's provided by
09:54:42 11 the -- if it's provided by the voter.

09:54:51 12 Q. Okay. Turning to Page 6, interrogatory
09:55:00 13 number 7 refers to types of documents a person who
09:55:06 14 resides in a location with only a nonstandard address
09:55:08 15 can use to prove the location of their residence.

09:55:12 16 And the response is to review to the Pima
09:55:19 17 County Recorder's Office internal voter registration
09:55:22 18 instructions; is that correct?

09:55:24 19 A. That is correct.

09:55:27 20 Q. Briefly, can you describe your familiarity with
09:55:30 21 those instructions?

09:55:33 22 A. Those instructions are an outline to our voter
09:55:38 23 registration clerks as they process through our voter
09:55:40 24 registration forms. We try to provide as much detail as
09:55:42 25 possible to answer their questions so they can

09:55:45 1 successfully process forms.

09:55:47 2 So it's fairly detailed, the voter
09:55:52 3 registration. It's basically standard operating
09:55:54 4 procedures is what we use both as a training tool and as
09:55:57 5 a reference tool for our experienced staff.

09:56:04 6 Q. Thanks. All right, we can put aside that
09:56:16 7 exhibit. Moving on.

09:56:23 8 Discussing the Recorder's Office operations and
09:56:27 9 specifically responsibilities with respect to elections,
09:56:31 10 the Recorder's Office processes voter registration
09:56:34 11 applications; is that correct?

09:56:35 12 A. That is correct.

09:56:38 13 Q. And conducts list maintenance processes; is
09:56:43 14 that correct?

09:56:43 15 A. Correct.

09:56:44 16 Q. Administers early voting in person, by mail,
09:56:49 17 via drop boxes, or processing early votes, correct?

09:56:52 18 A. We do early voting. We do not have drop boxes
09:56:56 19 here in Pima County. We have early voting locations
09:57:00 20 that are staffed by our Recorder's staff that also have
09:57:05 21 drop boxes there available to voters to drop off their
09:57:10 22 ballots should they choose not to mail it.

09:57:13 23 But they are not -- when you say drop box, I
09:57:16 24 instinctively think of the fixed drop boxes that do not
09:57:20 25 have staff associated with them that are used in other

09:57:23 1 counties, such as Maricopa. We do not have those types
09:57:26 2 of drop boxes in Pima County.

09:57:30 3 Q. Thank you.

09:57:31 4 And how do you divide responsibilities and
09:57:34 5 coordinate with the elections director?

09:57:36 6 A. So here in Pima County the Recorder is
09:57:41 7 responsible for all of the items that you indicated,
09:57:45 8 voter registration, list maintenance, early voting. And
09:57:48 9 the elections director is responsible for same, like,
09:57:52 10 election day voting and the tabulation of ballots.

09:57:59 11 And so I guess the best example would be we
09:58:01 12 will mail out the ballot packet to the voter. The
09:58:06 13 returned ballot packet will come back to us. We will
09:58:09 14 signature verify that and then determine whether or not
09:58:13 15 we believe that signature was written by the voter, and
09:58:16 16 then we will turn all of those verified early ballots
09:58:20 17 over to the elections department.

09:58:24 18 The elections department will then have their
09:58:25 19 early wards open up those ballots, remove those ballots,
09:58:28 20 and then take those ballots over to tabulation. And
09:58:32 21 then the elections department will man I think it's like
09:58:38 22 130 vote centers in Pima County on election day. And
09:58:43 23 during early voting we will operate 15 -- we operated 15
09:58:49 24 early voting centers in the '22 cycle. We will be
09:58:53 25 operating 18 early voting locations in the '24 cycle.

09:58:59 1 Q. Thank you.

09:59:00 2 And specific to voter registration and list
09:59:04 3 maintenance activities, can you describe the staff and
09:59:10 4 the organizational staff who are responsible for voter
09:59:17 5 registration and list maintenance?

09:59:19 6 A. So as I previously mentioned, we have a voter
09:59:22 7 registration unit. We have a voter registration manager
09:59:27 8 and we have -- we now have three voter registration
09:59:30 9 supervisors, who report to the manager; and we have
09:59:33 10 three voter registration specialists, who act as leads;
09:59:37 11 and then we have voter clerk positions.

09:59:42 12 We've had several internal promotions recently,
09:59:44 13 so our voter clerk positions, I believe we have five
09:59:51 14 vacancies right now for voter clerks. The voter clerks
09:59:55 15 would be the individuals who would be doing the daily
09:59:58 16 processing of voter registration forms and general list
10:00:03 17 maintenance.

10:00:05 18 The voter registration specialists would be
10:00:08 19 leads so they would be -- they could do the more complex
10:00:13 20 things. There's some, you know, unique -- sometimes we
10:00:16 21 come across unique voter registration issues. The
10:00:19 22 specialist would be the person that would be -- would
10:00:21 23 take the lead on resolving those issues. The voter
10:00:26 24 registration specialists would also take the lead during
10:00:28 25 an early voting period working at our -- working at our

10:00:39 1 ballot processing center.

10:00:41 2 So we have two sides of the house, the
10:00:44 3 signature verification side and then the ballot
10:00:47 4 processing side and then the early voting side. So each
10:00:51 5 supervisor would be assigned during an election. So we
10:00:54 6 would have a supervisor and a specialist assigned to the
10:00:58 7 signature verification side of the house. We would have
10:01:01 8 a supervisor and specialist assigned to the ballot
10:01:04 9 processing side of the house, and then we would have a
10:01:06 10 supervisor and specialist at our downtown location
10:01:12 11 managing daily operations and early voting site
10:01:16 12 operations.

10:01:17 13 And then the voter manager is the individual
10:01:19 14 who makes sure that all the pieces are in place and is
10:01:24 15 providing support and resources to the team.

10:01:28 16 Q. Thank you.

10:01:33 17 Let us turn to an exhibit that's already marked
10:01:37 18 as Exhibit 6. It's labeled F in the Dropbox.

10:01:48 19 A. Okay, it's up on the screen.

10:01:51 20 Q. Thanks.

10:01:55 21 Are you familiar with this document?

10:01:56 22 A. Yes, I am.

10:01:58 23 Q. And what is it?

10:01:59 24 A. It's the 2019 Arizona elections procedures
10:02:02 25 manual.

10:02:02 1 Q. -- important about this document?

10:02:12 2 THE COURT REPORTER: Your mouth was moving

10:02:13 3 an extensive amount of time and nothing was coming out.

10:02:15 4 BY MR. SNOW:

10:02:15 5 Q. What is important about this document?

10:02:19 6 A. The elections procedures manual or the EPM is

10:02:23 7 one of our foundational documents on how we do our job.

10:02:26 8 So we refer to this on a daily basis for any particular

10:02:32 9 task of our office.

10:02:34 10 In this particular version of the EPM the very

10:02:38 11 first chapter is related to voter registration, so we're

10:02:41 12 constantly referring back to that, in addition to the

10:02:45 13 statutes, as support for our daily operations. So the

10:02:52 14 information contained in this document is what creates

10:02:55 15 the foundational support to our internal operations.

10:03:02 16 Q. And who provides you with this document?

10:03:05 17 A. The Arizona Secretary of State.

10:03:10 18 Q. And so you say that you refer to this document

10:03:15 19 directly when making decisions about how to administer

10:03:19 20 elections?

10:03:21 21 A. This does have outlines on how to administer

10:03:24 22 elections in general, in broad terms. So the

10:03:27 23 information contained in this document ensures that all

10:03:30 24 15 counties are -- have the same end result, so we're

10:03:36 25 all following the same rules.

10:03:38 1 The particularities of how we do it in a county
10:03:41 2 may be a little different from county to county. A lot
10:03:45 3 of that has to do with our size and number of staff.
10:03:50 4 But this is the foundational document that ensures that
10:03:52 5 we all come out with the same results because we're all
10:03:55 6 following the same rules.

10:03:58 7 Q. And you said you also refer to -- directly to
10:04:01 8 statutes?

10:04:03 9 A. Correct.

10:04:03 10 Q. So when would you refer to the EPM versus the
10:04:06 11 statute?

10:04:07 12 A. We would refer to them both simultaneously.

10:04:17 13 Q. In referring to the election procedures manual,
10:04:20 14 does your office create, you know, versions of the
10:04:25 15 election procedures manual or some, you know, pared-down
10:04:28 16 version or guidance document based on the election
10:04:30 17 procedures manual, but not the election procedures
10:04:32 18 manual itself?

10:04:33 19 A. No.

10:04:37 20 We have a lot of people who have highlighted
10:04:39 21 and dog-eared it and put a lot of tabs on it, but we do
10:04:45 22 not pare it down.

10:04:46 23 Q. And do you provide training in your office on
10:04:51 24 the EPM?

10:04:53 25 A. Not on the EPM, no. We are all required to go

10:04:56 1 to the Arizona elections officers training. So if you
10:05:02 2 have not been certified, you go to the initial training.
10:05:05 3 All of our staff who has not done their initial training
10:05:08 4 will be doing that next week. If you are certified,
10:05:10 5 like I am, and your certification is coming up for
10:05:14 6 renewal, then you go to the renewal training, and --

10:05:18 7 Q. Who con --

10:05:18 8 Sorry. Go ahead.

10:05:19 9 A. I was going to say that everybody who works in
10:05:21 10 elections in our office and that is designated as one of
10:05:24 11 their primary responsibilities, they all undergo that
10:05:27 12 training.

10:05:29 13 Q. Who conducts that training?

10:05:30 14 A. The Secretary of State.

10:05:34 15 Q. How often does the training occur?

10:05:37 16 A. It is supposed to occur odd-numbered years. So
10:05:42 17 we don't do them during a federal elections cycle, but
10:05:46 18 we will do it on an odd-numbered year. So we will have
10:05:49 19 it -- the initial training has been going on piecemeal
10:05:53 20 across the state for the past month and a half. Pima
10:05:57 21 County is going to have our training, and I believe
10:06:02 22 Santa Cruz and Greenlee are going to be with Pima County
10:06:07 23 starting next week.

10:06:11 24 Q. Thank you.

10:06:12 25 And so this version of the election procedures

10:06:16 1 manual is dated 2019, correct?

10:06:18 2 A. Correct.

10:06:20 3 Q. And how often is the election procedures manual
10:06:23 4 updated?

10:06:25 5 A. It is supposed to be updated before every
10:06:28 6 federal election cycle.

10:06:31 7 Q. Was it updated in 2021?

10:06:34 8 A. It was not.

10:06:36 9 Q. So this is still the operative version, the
10:06:39 10 2029 version?

10:06:40 11 A. It is.

10:06:41 12 Q. And have there been changes in law since
10:06:44 13 2029 -- or, sorry, 2019?

10:06:46 14 A. Yes.

10:06:48 15 Q. And so what do you do when you are concerned or
10:06:54 16 confused about a change in law that might not be
10:06:56 17 reflected in the election procedures manual?

10:06:59 18 A. The Secretary of State provided us -- in 2021
10:07:06 19 the Secretary of State provided us an annotated version
10:07:09 20 of the EPM reflecting changes in law up to that point.

10:07:17 21 So we will reference the annotated and the full
10:07:21 22 version depending on, you know, which one supersedes the
10:07:28 23 other. So not all aspects of the 2019 EPM were changed
10:07:34 24 due to statutory changes, but some aspects were, and so
10:07:37 25 we do have that annotated version for reference

10:07:39 1 purposes. If there are changes in law, again, we always
10:07:45 2 defer to the Secretary of State's Office for guidance as
10:07:49 3 to what are the next steps that we need to do to be
10:07:53 4 compliant.

10:07:59 5 Q. And what would be -- what would be the source
10:08:02 6 of information or guidance on the next steps you need to
10:08:05 7 take to be compliant?

10:08:08 8 A. I don't quite understand your question.

10:08:10 9 Q. So in determining what you would need to do to
10:08:13 10 comply with the change in law, you would refer to the
10:08:17 11 annotated version of the election procedures manual; is
10:08:17 12 that right?

10:08:21 13 A. If it is referenced in there, yes.

10:08:24 14 Q. And if it's not referenced, how would you --
10:08:26 15 how would you deal with that?

10:08:28 16 A. Well, if it's not referenced and it's --
10:08:31 17 obviously we would speak with our attorney first, but we
10:08:33 18 also reach out to the Secretary of State's Office and
10:08:36 19 ask them for their guidance.

10:08:39 20 Q. So is the election procedures manual legally
10:08:42 21 binding?

10:08:45 22 A. It does have the -- it does have the force of
10:08:49 23 law, I believe.

10:08:54 24 Q. Would the annotated version of the election
10:08:58 25 procedures manual also have the force of law?

10:09:00 1 A. I don't believe it does.

10:09:04 2 Q. When receiving guidance directly from the
10:09:07 3 Secretary of State, would that have the force of law?

10:09:11 4 A. It is only guidance.

10:09:14 5 MR. LANGHOFER: Objection, calls for a
10:09:15 6 legal conclusion.

10:09:15 7 And I'm sorry for the interruption here.
10:09:17 8 Ryan, this is Kory Langhofer with the RNC. Maybe this
10:09:21 9 is a good time to put on the record our agreement that
10:09:23 10 objections by defendants will be good for all the
10:09:26 11 defendants, we don't all have to repeat each other's
10:09:29 12 objections, if that's all right.

10:09:32 13 I'm not sure I heard you.

10:09:37 14 Still no audio.

10:09:40 15 MR. SNOW: Thank you.

10:09:43 16 MR. LANGHOFER: Is that -- have I
10:09:45 17 correctly stated the stipulation about objections for
10:09:47 18 one defendant being objections for all?

10:09:50 19 MR. SNOW: Yes.

10:09:55 20 MR. LANGHOFER: Jody, did you get that?

10:09:56 21 All right, she's nodding yes. Thanks.

10:09:58 22 I'll stop now.

10:10:01 23 BY MR. SNOW:

10:10:01 24 Q. Would there ever be a circumstance under which
10:10:03 25 you would not follow a guidance that you received from

10:10:07 1 the Secretary of State's Office?

10:10:20 2 A. I don't -- I don't know. I'm sure there might
10:10:23 3 be, particularly if it puts Pima County in a position of
10:10:28 4 liability or would put the Recorder in a precarious
10:10:32 5 legal position. We would follow the guidance of our
10:10:35 6 attorney.

10:10:45 7 Q. So the Chapter 1 of the election procedures
10:10:55 8 manual follows that, that chapter?

10:10:58 9 A. Yes.

10:11:06 10 Q. -- follow that chapter?

10:11:08 11 A. I'm sorry, I didn't catch that.

10:11:09 12 Q. Are you aware of any counties that don't follow
10:11:11 13 that chapter?

10:11:13 14 A. Not that I'm aware of, no.

10:11:18 15 Q. Let's turn to the next exhibit, which is
10:11:20 16 labeled G.

10:11:25 17 MR. SNOW: And are we up to 68?

10:11:34 18 THE COURT REPORTER: 67.

10:11:36 19 MR. SNOW: 67. Okay. Thank you.

10:11:38 20 BY MR. SNOW:

10:11:38 21 Q. What is this document?

10:11:39 22 A. It's the draft EPM for this year.

10:11:39 23 Q. -- document?

10:12:07 24 MS. STUART: Ryan, if you said a question,
10:12:08 25 we couldn't hear you.

10:12:09 1 BY MR. SNOW:

10:12:09 2 Q. Oh, I'm sorry.

10:12:10 3 Are you familiar with this document?

10:12:11 4 A. Yes.

10:12:15 5 Q. Did your office provide comments on this
10:12:18 6 document?

10:12:20 7 A. We've provided mostly verbal comments on this
10:12:22 8 document during our meetings. I think we provided --
10:12:27 9 for the very first meeting we provided some comments as
10:12:30 10 it related to Chapter -- I think we provided comments
10:12:40 11 for Chapter 2, but it was the comments of why was this
10:12:47 12 removed? This was in the 2019 EPM. Is there a way to
10:12:52 13 put this back that makes sense to us? Those types of
10:12:55 14 comments.

10:12:58 15 Q. And so, briefly, what is your understanding of
10:13:00 16 how Chapter 1, voter registration, of the draft EPM
10:13:06 17 differs from Chapter 1, voter registration, from the
10:13:08 18 2019 EPM?

10:13:12 19 A. There weren't anything of substantive issues
10:13:17 20 that we had issues with. There were some issues that
10:13:22 21 were brought up during our meeting with the Secretary of
10:13:26 22 State's Office, but when we discussed that, Maricopa
10:13:31 23 County had some points that we agreed with, but we did
10:13:37 24 not have any particular -- we didn't provide a lot of
10:13:41 25 feedback verbally on that particular section.

10:13:47 1 The Recorder, Gabriella Cázares-Kelly,
10:13:52 2 participated in that meeting and she also noted some
10:13:55 3 things that she had some concerns with. The Secretary
10:13:59 4 of State's Office made note of those for clarification
10:14:04 5 on the report.

10:14:06 6 So we were all just kind of waiting for the
10:14:08 7 version, the full version, to be released so we could
10:14:13 8 all review it again.

10:14:22 9 Q. And, to your knowledge, does this -- does this
10:14:25 10 draft EPM reflect the challenged laws in this case?

10:14:34 11 MR. LANGHOFER: Calls for a legal
10:14:36 12 conclusion.

10:14:36 13 BY MR. SNOW:

10:14:36 14 Q. You may answer.

10:14:40 15 A. I believe that we have had the Secretary of
10:14:44 16 State indicate that there is language in there should
10:14:48 17 litigation -- should these particular bills be found
10:14:53 18 constitutional, there is language in there to
10:14:56 19 incorporate them into our processes.

10:15:07 20 Q. So you mentioned receiving guidance outside of
10:15:11 21 the EPM from the Secretary of State's Office, and how
10:15:15 22 was that communicated?

10:15:18 23 A. We will often e-mail the Secretary of State's
10:15:21 24 Office with particular questions, get their
10:15:25 25 interpretations on things. We usually reach out to the

10:15:27 1 state election director or the assistant state election
10:15:32 2 director on that, and it's e-mail or phone calls.

10:15:36 3 Q. Does it ever include some kind of official
10:15:40 4 document?

10:15:41 5 A. No.

10:15:42 6 Q. It's always the body of an e-mail?

10:15:46 7 A. Usually, yes, or a phone call.

10:15:49 8 Q. What is the voter registration advisory
10:15:52 9 committee?

10:15:55 10 A. Voter registration advisory committee, or VRAC,
10:15:59 11 that is the committee of all 15 counties get together
10:16:03 12 where we identify uniformed processes for inputting
10:16:13 13 voter registration forms. So VRAC papers are forms that
10:16:19 14 kind of take specific aspects of the voter registration
10:16:23 15 process, break them down on how to do them, so we can
10:16:26 16 kind of create uniformity, so if you were
10:16:32 17 notification -- like jury notifications, cancellations
10:16:37 18 due to death notices, things like that.

10:16:39 19 So they're usually short papers that are put
10:16:45 20 out by the Secretary of State's Office, but are written
10:16:50 21 in kind of a group setting with input from all of the
10:16:59 22 County Recorders, and then they reflect operations.

10:17:03 23 It's mostly dependent upon how the 13 other
10:17:08 24 counties use the AVID system; and then Maricopa and
10:17:13 25 Pima, because we have our own systems, we will use the

10:17:16 1 VRAC papers as guidance to make changes in our system to
10:17:20 2 conform so our information will be able to be processed
10:17:25 3 the same way and received by the AVID system. So it's
10:17:29 4 another way to try to create uniformity among all of us.

10:17:36 5 Q. What is your role in the VRAC?

10:17:40 6 A. So I provide participation for the VRAC papers,
10:17:46 7 input questions, but I am also -- when the Recorder
10:17:52 8 chooses to designate me as a proxy, I can provide voting
10:17:58 9 on behalf of the Recorder to approve or not approve a
10:18:02 10 VRAC paper.

10:18:06 11 Q. And what is needed for approval of a VRAC
10:18:10 12 paper?

10:18:12 13 A. Well, we would get together in a committee. We
10:18:16 14 would discuss the pros and cons. We would put together
10:18:20 15 the final recommendations, and then usually the County
10:18:27 16 Recorders would approve those recommendations, and then
10:18:29 17 the Secretary of State would finalize them and we would
10:18:33 18 send a VRAC paper. It's by consensus.

10:18:41 19 Q. And are those papers binding?

10:18:48 20 MR. LANGHOFER: Calls for a legal
10:18:49 21 conclusion.

10:18:51 22 THE WITNESS: They're --

10:18:54 23 BY MR. SNOW:

10:18:54 24 Q. You can answer.

10:18:54 25 A. They're advisory, so they're another way for us

10:18:58 1 to create uniformity, so we do use them as -- they do
10:19:03 2 inform our processes.

10:19:08 3 Q. Would there ever be a circumstance where you
10:19:11 4 wouldn't follow a VRAC paper?

10:19:13 5 A. I cannot think of one.

10:19:17 6 Q. And how often does VRAC convene?

10:19:24 7 A. During '21 and '22 it wasn't very often, but
10:19:28 8 the VRAC committee is convening a little bit more
10:19:35 9 frequently. I think we've had three VRAC meetings where
10:19:40 10 we've reviewed drafts of certain VRAC papers as a group,
10:19:45 11 but none of them have been finalized.

10:19:54 12 Q. And under what circumstances -- scratch that.
10:20:00 13 Who decides when VRAC issues -- who decides
10:20:11 14 when VRAC should issue a paper?

10:20:16 15 A. When we, as a committee, come together and find
10:20:19 16 that there's some sort of -- not a disagreement, but an
10:20:25 17 unknown, and we need clarification. So if one county
10:20:33 18 does something in a process and another county does
10:20:35 19 something different in a process, that usually means
10:20:38 20 that we need to come together to create a VRAC paper so
10:20:43 21 we can create sort of uniformity within the actual
10:20:47 22 processing of that particular issue.

10:20:49 23 The EPM -- excuse me. The EPM provides the
10:20:57 24 foundation and kind of like the structure that we
10:21:02 25 operate in. The VRAC paper provides us more detail and

10:21:08 1 gives us more uniformity within those operations. Like
10:21:16 2 the EPM is the house and the VRAC paper is the drywall.

10:21:27 3 Q. And does the Secretary of State approve VRAC
10:21:32 4 papers?

10:21:35 5 A. That's a little -- it's a little unclear about
10:21:40 6 that at the moment. The Secretary of State puts the
10:21:44 7 VRAC paper together, and then we, as the County
10:21:49 8 Recorders, come and review it and we make changes; and
10:21:52 9 then the County Recorders, once the VRAC paper is set
10:21:57 10 the way we think it's going to be most efficient
10:22:02 11 operational and we agree on it, then the Secretary of
10:22:05 12 State finalizes the VRAC paper.

10:22:14 13 Q. And then the VRAC paper is sent out to all the
10:22:16 14 counties?

10:22:16 15 A. It is.

10:22:20 16 Q. What is the Arizona Association of Counties?

10:22:24 17 A. The Arizona Association of Counties is the
10:22:28 18 lobbying organization that all the counties pay
10:22:33 19 membership to to be able to advocate for our needs at
10:22:43 20 the State Capitol.

10:22:48 21 Q. What is -- what is Pima County's involvement?

10:22:53 22 A. We're a member.

10:22:55 23 Q. Do you recall what the Arizona Association of
10:22:59 24 Counties' position was on the challenged laws in this
10:23:00 25 case?

10:23:03 1 A. I do not.

10:23:10 2 Q. Do you recall what your office's position was
10:23:14 3 on the challenged laws?

10:23:18 4 A. We're opposed to the bills as written when they
10:23:23 5 were first introduced because it would make our job
10:23:25 6 difficult.

10:23:33 7 Q. How would they make your job difficult?

10:23:36 8 A. The bills are very vague and they provide a lot
10:23:41 9 of conflicting requirements for us as it relates to
10:23:44 10 certain aspects of voter registration. Without clear
10:23:50 11 guidance, we're not entirely sure how to implement them.

10:23:58 12 Q. Thank you.

10:23:59 13 What is the AVID enhancement committee?

10:24:03 14 A. The AVID enhancement committee is the statewide
10:24:08 15 voter registration database committee. So AVID is used
10:24:15 16 by the 13 counties other than Maricopa and Pima, and
10:24:18 17 that is where they -- it is a statewide voter
10:24:24 18 registration program that is the responsibility of the
10:24:26 19 Secretary of State's Office.

10:24:28 20 The AVID enhancement committee is where the
10:24:31 21 13 counties that use AVID work with the Secretary of
10:24:36 22 State's Office and the Secretary of State's Office
10:24:38 23 vendor to make the program more functional for their
10:24:42 24 needs. So it's -- they put in tickets if something
10:24:47 25 doesn't quite work or if there is some sort of issue,

10:24:50 1 and then they talk about changes that they'll make to
10:24:52 2 the AVID to meet their functional needs; and then they
10:24:58 3 also discuss changes that AVID needs to make to conform
10:25:02 4 to any new changes in the laws that have occurred.

10:25:12 5 Q. And what is your role?

10:25:15 6 A. As a -- I participate in the enhancement
10:25:18 7 committees only from the perspective of hearing what the
10:25:23 8 other counties are putting forward as changes, because
10:25:27 9 those changes will have an impact on our system.

10:25:32 10 So both Maricopa and Pima County, we
10:25:35 11 participate in those meetings and discuss how those
10:25:40 12 changes can impact our systems or what our understanding
10:25:48 13 is of that. Maricopa really is a lot more active in
10:25:53 14 those meetings than Pima County is.

10:25:56 15 We have -- there are -- there are four AVID
10:26:00 16 committees. There is the AVID enhancement committee,
10:26:07 17 which you've just asked me about. There's the AVID
10:26:10 18 superuser committee, which is just a review of all the
10:26:12 19 things that the AVID enhancement committee has done and
10:26:15 20 is kind of like a this is what's coming up and here's
10:26:18 21 what we've accomplished.

10:26:20 22 There is the AVID -- it is the AVID -- it's
10:26:28 23 like the advisory committee, and that's made up of all
10:26:31 24 the County Recorders. So that committee will discuss
10:26:38 25 policy and policy implications.

10:26:41 1 And then there is the AVID Maricopa/Pima
10:26:46 2 interface committee. The AVID Maricopa/Pima interface
10:26:51 3 committee is the one that our office is active in, for
10:26:54 4 the most part, because it is a special meeting between
10:26:58 5 Pima, Maricopa, the Secretary of State's Office, and the
10:27:02 6 vendor for AVID, where we discuss each of our voter
10:27:07 7 registration systems, what changes we need to make to
10:27:10 8 them to be able to put information into AVID and to
10:27:17 9 have -- be able to extract information from AVID. So we
10:27:20 10 work directly with the SOS and the vendor, because it
10:27:25 11 involves a lot of programming.

10:27:30 12 Q. So Pima County has its own separate voter
10:27:33 13 registration system or database?

10:27:34 14 A. We do.

10:27:36 15 Q. And that interfaces with AVID, correct?

10:27:39 16 A. It does.

10:27:40 17 Q. So how would you describe how your system
10:27:44 18 interfaces with AVID?

10:27:46 19 A. Kind of like a link. We upload information and
10:27:50 20 we download information, so any changes that we make on
10:27:52 21 a daily basis, we will upload those changes through the
10:27:56 22 AVID system so it populates the statewide, because a
10:28:00 23 voter can review their voter registration information
10:28:04 24 specifically at the local level with us or they can also
10:28:07 25 go through the Secretary of State. Then if AVID has

10:28:11 1 received any updates and changes, we will download
10:28:15 2 information from AVID to update our voter registration
10:28:17 3 files.

10:28:19 4 Q. And does this happen in real-time; when an
10:28:23 5 update is made, it updates to both systems?

10:28:26 6 A. Not real real-time, but very close to it. So
10:28:30 7 once information is updated in our voter registration
10:28:33 8 system, we run a script, and that script is running in
10:28:38 9 the background pulling information through the interface
10:28:43 10 or -- we are either pushing information through the
10:28:46 11 interface or we are pulling information down from the
10:28:48 12 interface.

10:28:51 13 Q. And how often do you run that script?

10:28:53 14 A. It is running continuously.

10:28:56 15 Q. So what would you say is the lag time?

10:29:03 16 A. I don't know. That's a technical question
10:29:05 17 that's kind of outside the scope of my knowledge.

10:29:08 18 Q. And what do you call your county system?

10:29:11 19 A. Voter.

10:29:14 20 Q. Just Voter?

10:29:15 21 A. Yep.

10:29:17 22 Q. How do the database fields differ in Voter from
10:29:23 23 AVID, if at all?

10:29:24 24 A. They don't. We actually track a little bit
10:29:27 25 more information than AVID tracks, but because we're

10:29:32 1 pushing information up into AVID, we have to have the
10:29:36 2 same fields so they can be mapped to AVID, otherwise
10:29:41 3 AVID wouldn't be able to read the information and we
10:29:43 4 wouldn't be able to read AVID's information if it came
10:29:47 5 down.

10:29:47 6 Q. So what information does your system track that
10:29:50 7 AVID doesn't?

10:29:52 8 A. Well, we have a change history log, every time
10:29:55 9 we've changed something on the voter registration form.
10:30:02 10 We have images of all of the voter registration
10:30:05 11 documents we've ever received. We have the ability
10:30:12 12 to -- we have a breakdown of the voting history based
10:30:17 13 off of whether or not the voter got voting credit for
10:30:24 14 voting at a polling place or an early ballot.

10:30:27 15 If they have voted early ballots, we have the
10:30:31 16 log of who verified the ballot, what batch it was in,
10:30:37 17 when it was turned over to elections for tabulation. We
10:30:40 18 have images of the voter -- the early ballot affidavit.

10:30:49 19 We have just a -- we have the ability to look
10:30:54 20 at the -- so we have a voter that has multiple voters at
10:31:02 21 a house, right. So, you know, we can bring one voter up
10:31:06 22 on our screen, and then we have a household button where
10:31:08 23 we can click and see the other voters at that address.

10:31:15 24 So it just -- it has a lot of information in it
10:31:20 25 that we have designed and developed to meet the needs of

10:31:27 1 Pima County.

10:31:28 2 Q. Is there any difference in the status or the

10:31:31 3 reason codes between the two systems?

10:31:32 4 A. No.

10:31:35 5 Q. Do you have a specific reason code for

10:31:38 6 documentary proof of citizenship issues?

10:31:41 7 A. For DPOC? We --

10:31:42 8 Q. Yes.

10:31:43 9 A. It's just DPOC.

10:31:46 10 Q. And do you have a specific reason code for

10:31:49 11 documentary proof of residency?

10:31:51 12 A. That would be something that would require

10:31:55 13 change, and we are waiting on the conclusion of this

10:31:57 14 litigation to create those changes, if necessary.

10:32:02 15 Q. So for DPOC, under what circumstances would you

10:32:07 16 assign the DPOC reason code to a voter?

10:32:14 17 A. So we would assign it if we didn't have proof

10:32:18 18 of citizenship. So as our current operations are, we

10:32:22 19 would get a voter registration form. Everything that's

10:32:27 20 on it we would put it into the system. If there is a

10:32:32 21 Arizona driver's license, you know, we would, you know,

10:32:35 22 go through the MVD. MVD has -- can show us if

10:32:41 23 citizenship has been provided to them, so we would

10:32:43 24 accept it. If a naturalization number is on there, we

10:32:47 25 would use the SAVE database to determine citizenship.

10:32:50 1 If we don't have any of those particular pieces
10:32:54 2 of information on the form and we're not able to use
10:32:58 3 those particular databases, we would register the voter
10:33:01 4 as a federal only voter and we would send them a letter
10:33:06 5 indicating that they need to provide us documentary
10:33:09 6 proof of citizenship.

10:33:15 7 Q. Thank you.

10:33:19 8 And does your system track the method by which
10:33:24 9 a voter provides documentary proof of citizenship?

10:33:30 10 A. It's a dropdown screen that the Voter clerk
10:33:35 11 would pick what that dropdown screen is. Without having
10:33:42 12 Voter open right now, I can't tell you specifically what
10:33:45 13 that is, but it is a dropdown screen and it has a list
10:33:49 14 of things, like passport, birth certificate, things like
10:33:53 15 that.

10:33:55 16 Q. Thank you.

10:33:57 17 Are you aware of any issues that your office
10:34:03 18 has experienced in terms of reconciling AVID with Voter?

10:34:09 19 A. What kind of issues would --

10:34:12 20 Q. Any issues that would -- that would affect your
10:34:17 21 office's ability to use your system or that would --
10:34:21 22 that would cause the system to not be reflecting the
10:34:25 23 same information.

10:34:28 24 A. Not to my knowledge; but we do have a dedicated
10:34:31 25 developer, who's constantly working with the Secretary

10:34:38 1 of State's Office and the AVID development team. So
10:34:40 2 they're constantly monitoring those issues.

10:34:44 3 So we do make changes and tweaks to our system
10:34:47 4 to be able to ensure that the interface is functional.
10:34:54 5 We make changes to our system based off of what changes
10:34:58 6 AVID is going to have.

10:35:03 7 Q. Thank you.

10:35:07 8 So has your office discussed how to implement
10:35:10 9 the provisions of H.B. 2492?

10:35:14 10 A. No. We had a discussion back in January with
10:35:19 11 the guidance provided by the Secretary of State's
10:35:25 12 Office. It was kind of like their -- it was a flowchart
10:35:28 13 provided to them about each of the bills and what that
10:35:31 14 meant. We reviewed that. We had some internal
10:35:37 15 discussion that to be able to do -- comply with that
10:35:40 16 would require quite a lot of development changes to our
10:35:45 17 Voter system to be able to do the things that it was
10:35:47 18 requesting.

10:35:52 19 Q. And has your office received any guidance on
10:35:55 20 how to interpret the provisions of H.B. 2492?

10:36:06 21 A. We've just had discussions with our attorney on
10:36:08 22 that.

10:36:14 23 Q. All right. Let's pull up another exhibit.
10:36:17 24 This is marked H from the Dropbox.

10:36:22 25 MS. STUART: Ryan, I don't want to

10:36:24 1 interrupt your flow, but we've been going for like an

10:36:26 2 hour and a half, a little over.

10:36:28 3 MR. SNOW: Sure.

10:36:29 4 MS. STUART: You don't have to take a
10:36:30 5 break right now, but if we could just keep in mind maybe
10:36:34 6 a break sometime soon.

10:36:53 7 MR. SNOW: Sure. So I think maybe go for
10:36:54 8 another half an hour or so. Is that good for everyone,
10:36:59 9 and then take a break?

10:37:04 10 Another half an hour before break?

10:37:07 11 THE WITNESS: Sure.

10:37:10 12 MR. SNOW: Okay. So let's mark -- we're
10:37:12 13 marking this as 68, correct, Exhibit 68?

10:37:21 14 THE COURT REPORTER: Right.

10:37:22 15 BY MR. SNOW:

10:37:22 16 Q. So please take a moment to review Exhibit 68.

10:37:26 17 A. And you said it was H, hotel?

10:37:28 18 Q. H, yeah.

10:37:36 19 So turning down to the second e-mail, that's an
10:37:43 20 e-mail from Kori Lorick at AZSOS.gov. Who is Kori
10:37:50 21 Lorick?

10:37:50 22 A. Kori Lorick was the former elections director
10:37:53 23 under the previous Secretary of State.

10:38:01 24 Q. And this e-mail is dated December 30th, 2022,
10:38:08 25 and it lists a couple of people in the cc, but who

10:38:12 1 received this e-mail?

10:38:14 2 A. All the County Recordors.

10:38:19 3 Q. And just looking at the body of the e-mail,

10:38:22 4 which is subject 2492/2243 reminders, the e-mail is

10:38:31 5 discussing implementation of 2492 and 2243, both of

10:38:36 6 which go into effect January 1st, 2023.

10:38:40 7 It says, "If you'll recall, we met several

10:38:42 8 times throughout the year to review implementation and

10:38:44 9 the resulting impacts to the VR system as well as voter

10:38:48 10 registration procedures."

10:38:52 11 Correct?

10:38:52 12 A. Yes.

10:38:55 13 Q. And then the second paragraph states, "Having

10:38:57 14 thoroughly analyzed the changes that both bills require,

10:39:00 15 the Secretary of State's Office believes that there is

10:39:02 16 no way to implement certain requirements without

10:39:05 17 conflicting with federal law. So our office will not be

10:39:09 18 implementing those provisions."

10:39:12 19 Correct?

10:39:12 20 A. Correct.

10:39:15 21 Q. And then it says, you know, "For your

10:39:20 22 reference, I'm including the policy document that we

10:39:22 23 discussed at prior meetings."

10:39:23 24 And then it notes the provisions that they

10:39:25 25 interpret as conflicting with federal law, including the

10:39:27 1 documentary proof of residence for the federal form,
10:39:30 2 place of birth requirement, citizenship checkbox
10:39:34 3 requirement if an applicant otherwise provides DPOC or
10:39:38 4 if DPOC can be acquired, then DPOC for federal
10:39:43 5 elections.

10:39:43 6 Is that correct?

10:39:44 7 A. Correct.

10:39:46 8 Q. And then it says, "I'm including detailed notes
10:39:48 9 in the attached document that we have previously
10:39:50 10 reviewed together."

10:39:51 11 So do you recall receiving this e-mail?

10:39:53 12 A. Yes.

10:39:55 13 Q. And do you recall the meetings that are
10:39:57 14 referenced in the e-mail?

10:39:58 15 A. Yes.

10:40:00 16 Q. And do you recall reviewing the document that's
10:40:03 17 referred to in the e-mail?

10:40:04 18 A. Yes. It's that flowchart that I mentioned
10:40:07 19 earlier.

10:40:07 20 Q. Okay, great.

10:40:10 21 And then looking to the top of the e-mail, it
10:40:14 22 looks like you forwarded this e-mail to several
10:40:20 23 individuals or lists; Voter-Supervisors, Jane Carter,
10:40:25 24 and Alexa Venegas.

10:40:27 25 And so who are those people that you forwarded

10:40:29 1 this to?

10:40:30 2 A. The Voter-Supervisors are all of our Voter
10:40:35 3 supervisors who -- the chain of authority that I
10:40:39 4 described, the Voter supervisors, the specialists. At
10:40:46 5 this time the Voter supervisors included two
10:40:49 6 individuals. Jane Carter is the assistant chief deputy
10:40:54 7 recorder; and Alexa Venegas has been the acting Voter
10:40:58 8 manager, appointed into that position by Recorder
10:41:05 9 Cázares-Kelly.

10:41:10 10 Q. And why did you forward this e-mail?

10:41:12 11 A. I wanted them to be aware of all of the
10:41:16 12 conversations as it related to those two pieces of
10:41:18 13 legislation. We have been tracking them pretty
10:41:21 14 consistently throughout the legislative process.

10:41:24 15 We had a lot of questions about what their
10:41:27 16 implementation was, and we have constantly been looking
10:41:29 17 for guidance from the Secretary of State's Office. So
10:41:33 18 this was my attempt to keep my team in the loop about
10:41:37 19 all of the information that I was receiving.

10:41:42 20 Q. And do you recall discussing this e-mail or the
10:41:47 21 substance with anyone else in your office?

10:41:49 22 A. The Recorder.

10:41:52 23 Q. And what was the substance of that, those
10:41:58 24 discussions?

10:41:59 25 A. We had discussed that it didn't provide us the

10:42:02 1 guidance that we had hoped. And I believe that we also
10:42:06 2 had conversations with our attorney, Dan Jurkowitz.

10:42:13 3 Q. And in what way did this not provide the
10:42:16 4 guidance that you had hoped?

10:42:19 5 A. So as the County Recorder and as the Recorder's
10:42:24 6 Office, we're responsible for complying with the
10:42:28 7 statutes for voter registration.

10:42:32 8 So this was telling us not to comply with the
10:42:35 9 statutes based off the Secretary of State -- the
10:42:40 10 previous Secretary of State's understanding of it. So
10:42:46 11 it was -- it's been a difficult situation for us to try
10:42:55 12 to navigate. The best that we've been able to do is
10:43:00 13 just continue to do the job that we've been doing in the
10:43:05 14 same respect. So we haven't changed any of our
10:43:09 15 operations because we're just simply waiting for some
10:43:11 16 sort of resolution.

10:43:25 17 Q. And so you said you also discussed this with
10:43:29 18 your legal counsel?

10:43:31 19 A. Correct.

10:43:34 20 Q. And without divulging anything privileged, what
10:43:39 21 was the nature of those conversations?

10:43:46 22 A. Well, I think if I talked about the nature of
10:43:49 23 the conversations, it would be divulging privileged
10:43:53 24 information.

10:43:53 25 Q. Well, you can divulge the substance, general

10:43:59 1 substance. I'll ask the question a different way.

10:44:01 2 So you sought guidance from your counsel on the

10:44:07 3 e-mail that's in Exhibit 68?

10:44:10 4 A. Yes, as we do with anything as it relates to

10:44:13 5 these two bills.

10:44:16 6 Q. And did that include guidance as to whether to

10:44:19 7 follow the directive in this e-mail?

10:44:29 8 MR. LANGHOFER: Objection, calls for --

10:44:34 9 BY MR. SNOW:

10:44:34 10 Q. You can answer.

10:44:38 11 A. We are always eager to know the advice of our

10:44:42 12 counsel, so we are always -- our default blanket

10:44:49 13 question to him is always what do you think, what's your

10:44:52 14 advice?

10:44:56 15 Q. So did you view this, this e-mail, as legally

10:45:02 16 binding?

10:45:02 17 MS. STUART: Form.

10:45:06 18 MR. LANGHOFER: Objection.

10:45:08 19 BY MR. SNOW:

10:45:08 20 Q. You may answer.

10:45:12 21 A. I think we viewed it as guidance.

10:45:22 22 Q. And did you follow this guidance?

10:45:27 23 A. Because we didn't have any particular guidance

10:45:30 24 as to what to do, we just continued, like I said, to

10:45:33 25 maintain our operations as is.

10:45:36 1 Q. Thank you.

10:45:42 2 So the voter registration form has not been
10:45:44 3 updated to include the new requirements from H.B. 2492
10:45:49 4 or 2243, correct?

10:45:51 5 A. Correct.

10:45:54 6 Q. Do you have any reason to believe that the form
10:45:56 7 will be updated to include these elements anytime soon?

10:46:00 8 A. I do not.

10:46:03 9 Q. And so are you currently enforcing any aspect
10:46:06 10 of H.B. 2492 or H.B. 2243?

10:46:09 11 A. As I've previously stated, without exact
10:46:13 12 guidance as to what to do, we have just continued to
10:46:15 13 operate as normal.

10:46:19 14 Q. Okay. Let's turn to what will be marked
10:46:23 15 Exhibit 69, and it's labeled J.

10:46:37 16 So this is an e-mail thread dated February 1st,
10:46:42 17 2023, and it involves -- includes yourself, Alexa
10:46:52 18 Venegas, Mali Manjarrez-Bautista, David Greenwood, and
10:46:57 19 Voter-Supervisors, correct?

10:47:00 20 A. Correct.

10:47:03 21 Q. And scrolling down to the second page, where
10:47:14 22 it's an e-mail from you in response to another e-mail,
10:47:18 23 you state, "These are great questions. Unfortunately,
10:47:21 24 since the SOS has not provided us the updated voter reg
10:47:25 25 form that complies with the new laws (that are currently

10:47:27 1 under litigation but not enjoined) we still have a duty
10:47:30 2 to register voters. Please use the forms we have on
10:47:32 3 hand and explain to voters at the counter that they need
10:47:35 4 to provide DPOC and DPOR."

10:47:37 5 Is that correct?

10:47:39 6 A. Yes, that is what's written; but that's not
10:47:43 7 quite what the conversation I had, so -- but, yes,
10:47:48 8 that's what's in the e-mail.

10:47:49 9 Q. What was the conversation you had?

10:47:52 10 A. This conversation occurred specifically when an
10:47:56 11 individual came picking up forms from one of the voter
10:47:59 12 registration groups at the counter.

10:48:04 13 We have all been discussing these bills.
10:48:07 14 Everyone on our staff was aware of their implementation.
10:48:10 15 There has been a lot of questions as to what does that
10:48:13 16 mean for day-to-day operations. So the Voter
10:48:20 17 supervisors had been asking for clear guidance on what
10:48:23 18 to do. Because we have not been receiving clear --
10:48:27 19 we've not received clear guidance, we have just simply
10:48:31 20 said continue to operate as normal.

10:48:35 21 In this particular instance an individual had
10:48:38 22 come to the counter. They had requested voter
10:48:40 23 registration forms. The person assisting them had
10:48:44 24 discussed the implementation of this law and what that
10:48:50 25 meant. The conversation occurred with one of our line

10:48:55 1 staff, who then requested support from one of the Voter
10:48:59 2 supervisors, who ultimately requested support from me.

10:49:02 3 So I came out and spoke with that particular
10:49:07 4 representative from one of the groups, and I said that
10:49:10 5 there was legislation that was passed, that is correct;
10:49:13 6 that that legislation was under litigation. We were not
10:49:16 7 aware as to when the litigation would be resolved and
10:49:19 8 what impact that would be. And so I said if you're
10:49:24 9 doing voter registration and people ask and they are
10:49:27 10 aware of this legislation, you can say -- you can
10:49:31 11 recommend to them that they can also provide some sort
10:49:33 12 of proof of residency should they want to.

10:49:36 13 We provided that person the list that we would
10:49:39 14 have at our early voting locations, which is a list of
10:49:43 15 documentary proof of residency that we would use to
10:49:48 16 determine identity at a polling location to issue a
10:49:53 17 provisional ballot, which happens to be the same list of
10:49:57 18 information that is covered under this bill when it says
10:50:01 19 documentary proof of residency.

10:50:03 20 We did explain to the representative from the
10:50:08 21 voter group that the bill as is doesn't discuss what to
10:50:13 22 do with people who do not have a fixed residential
10:50:16 23 address or a houseless individual or -- and that was
10:50:20 24 very confusing. So that is the full context of that
10:50:26 25 particular e-mail.

10:50:28 1 Q. Thank you.

10:50:29 2 And so just to confirm, your office was not
10:50:33 3 instructing voters that they need to provide DPOC or
10:50:37 4 DPOR?

10:50:38 5 A. No. They can -- the D -- for DPOC, if it's
10:50:44 6 not -- as I previously stated, if we can't look you up
10:50:47 7 through the MVD and you've provided a driver's license,
10:50:50 8 where it shows that MVD has received DPOC on a voter,
10:50:56 9 and if you've not provided us a naturalization number
10:50:58 10 that we can use through the SAVE database, then we will
10:51:02 11 send out a notice saying we still need documentary proof
10:51:06 12 of citizenship and give them a list of documents that
10:51:09 13 they can provide to our office to do that.

10:51:11 14 We do not have any instructions to staff or to
10:51:14 15 voters on the need to provide us documentary proof of
10:51:17 16 residency. That is what we have been waiting for the
10:51:22 17 conclusion of this litigation and specifically what it
10:51:27 18 is that we're -- how do we change that going forward.

10:51:31 19 So people have asked do I need to provide
10:51:34 20 documentary proof of residency, and we've said if you
10:51:37 21 want to provide it to us, we'll be happy to take it, if
10:51:40 22 that is going to be helpful, if that's going to make you
10:51:44 23 feel better about the processing of your voter
10:51:47 24 registration. But we don't ask people for it. Some
10:51:51 25 people do provide it to us, just as another form of

10:51:54 1 ensuring that their registration is successfully
10:51:57 2 registered. But we do not ask.

10:52:00 3 Q. And what do you do with that information when
10:52:02 4 it's provided to you?

10:52:04 5 A. Usually we'll just make a note of it on the
10:52:07 6 voter registration file, you know, voter provided a copy
10:52:10 7 of a utility bill with an address on it or something.
10:52:13 8 We don't -- that's not a consistent. That's really kind
10:52:17 9 of a discretion of the person who's receiving that
10:52:19 10 information.

10:52:23 11 Q. Thank you.

10:52:24 12 And then turning back to --

10:52:26 13 A. And I would just want to clarify that, to my
10:52:30 14 knowledge, I don't believe anybody has actually provided
10:52:32 15 that to our voter registration clerks, but I do not see
10:52:36 16 our daily work, so I don't exactly know for sure that
10:52:40 17 they have or have not received that.

10:52:42 18 Q. Thank you.

10:52:48 19 But as far as the information provided by your
10:52:49 20 office to voters, you're not -- you're not asking for
10:52:59 21 or -- or stating that there's a need to provide DPOR?

10:53:03 22 A. No.

10:53:04 23 Q. Okay. And then turning up to Page 1 of this
10:53:09 24 same exhibit, Alexa Venegas refers to -- it says, "Did
10:53:16 25 Dan have a response to any of the questions we gave

10:53:18 1 you?" And you say, "Not a clear response. I will
10:53:21 2 forward you the last detail email."

10:53:21 3 So what were those questions?

10:53:24 4 A. They had asked questions on the implementation
10:53:26 5 of these bills.

10:53:28 6 Q. And for the record, who is Alexa referring to
10:53:32 7 when they say Dan?

10:53:33 8 A. Dan Jurkowitz, our attorney.

10:53:35 9 Q. Okay. And when you say "Not a clear response,"
10:53:50 10 what do you -- what do you mean by that?

10:53:53 11 A. I think that would cover attorney-client
10:53:55 12 privilege, the scope of that interaction.

10:54:03 13 Q. Well, so when you -- when you provided the
10:54:08 14 questions to Dan, you could say those are about
10:54:12 15 implementation of these two laws?

10:54:16 16 A. Implementation and interpretation, probably.

10:54:22 17 Q. Would that include, you know, whether to
10:54:25 18 implement the two laws?

10:54:27 19 A. Again, I think that would cover attorney-client
10:54:29 20 privilege.

10:54:36 21 Q. Okay. That's fine.

10:54:47 22 Let's look at what's going to be marked as
10:54:49 23 Exhibit 70, and it's labeled K.

10:54:59 24 So this is an e-mail dated January 10, 2023,
10:55:04 25 and it's between Mali Manjarrez-Bautista and Alexa

10:55:13 1 Venegas and Voter emails.

10:55:19 2 And looking at the lower e-mail, it states --
10:55:24 3 the subject is new registrations and states, "Staff, All
10:55:27 4 registration forms dated on or after January 1, 2023,
10:55:30 5 should not be processed. We have labeled a basket new
10:55:35 6 registrations and placed it on the very top, above the
10:55:38 7 entry basket. So, for all voters who will be processed
10:55:40 8 with a new registration date before or after January 1,
10:55:43 9 2023, please place these in this basket until instructed
10:55:47 10 otherwise. This includes voters new to our system and
10:55:51 11 voters currently in a cancellation status."

10:55:54 12 So what is Alexa referring to in that e-mail?

10:55:56 13 A. So January 1 was when the bills went into
10:55:58 14 effect. So we weren't quite sure what we were supposed
10:56:00 15 to do with them, so rather than register them, we held
10:56:03 16 off on them until we could determine our best course of
10:56:06 17 action.

10:56:08 18 That would have been discussions with our
10:56:12 19 attorney regarding how to go about it, and then we made
10:56:15 20 an internal decision to go ahead and process those voter
10:56:19 21 registrations as is, following our standard processes.

10:56:24 22 Q. And do you recall -- excuse me.

10:56:27 23 Do you recall when the internal decision was
10:56:29 24 made to process those forms?

10:56:33 25 A. Probably within a week or two of this e-mail

10:56:37 1 chain.

10:56:39 2 Q. And then moving forward, you didn't continue to

10:56:44 3 set aside those voter registration forms?

10:56:46 4 A. We did not. We just continued as is.

10:56:52 5 Q. Did you communicate anything publicly about

10:56:54 6 your decision to process the forms as is?

10:57:00 7 A. Publicly to the residents of Pima County?

10:57:03 8 Q. Yes.

10:57:04 9 A. No, we did not.

10:57:09 10 Q. Did you -- who all did you communicate with in

10:57:12 11 making your decision to process the forms as is?

10:57:17 12 A. Our attorney and our voter registration

10:57:19 13 leadership team and the County Recorder.

10:57:23 14 Q. And did you communicate with the Secretary of

10:57:27 15 State's Office?

10:57:27 16 A. We had reached out to the Secretary of State's

10:57:29 17 Office regarding their interpretations and guidance and

10:57:35 18 we -- that flowchart that we had previously discussed,

10:57:38 19 we used that and reviewed it as not particularly -- we

10:57:48 20 couldn't figure out how to operationalize it, and so the

10:57:53 21 decision was made internally among Pima County staff.

10:57:57 22 Q. Did you communicate about that decision with

10:58:00 23 other County Recorders' Offices?

10:58:04 24 A. Yes. Other counties, specifically, we reach

10:58:09 25 out and work with Maricopa County frequently, given that

10:58:13 1 we're both the two largest jurisdictions in the state.
10:58:16 2 We did ask Maricopa what they were doing. Maricopa was
10:58:21 3 also still moving forward with their same procedures, so
10:58:25 4 we followed suit.

10:58:29 5 Q. Are you aware of any other counties that did
10:58:33 6 not come to the same decision?

10:58:34 7 A. Not that I'm aware of, no.

10:58:53 8 Q. So to your knowledge, neither Pima County's
10:58:57 9 system nor Maricopa County's system nor AVID have been
10:59:06 10 updated to accommodate the new requirements in the new
10:59:09 11 laws?

10:59:12 12 A. That is my understanding, yes.

10:59:25 13 Q. And to your knowledge, did any of the other
10:59:29 14 counties similarly hold new voter registration forms
10:59:35 15 without processing for any period of time?

10:59:38 16 A. I do not know what the other counties did.

10:59:48 17 MR. SNOW: Okay. So I've got some more
10:59:51 18 questions, not that many, and I believe there was a
10:59:53 19 request for a break, so maybe now is a good time to take
10:59:55 20 a break.

11:00:03 21 MR. JURKOWITZ: How long do you want to
11:00:03 22 break for?

11:00:07 23 THE COURT REPORTER: Chris, can you take
11:00:08 24 us off?

11:00:09 25 THE VIDEOGRAPHER: We are off the record.

11:00:10 1 The time on the video monitor is 11:00 a.m. This ends
11:00:13 2 Media 1.

11:14:34 3 (A recess was taken.)

11:19:04 4 THE VIDEOGRAPHER: We are on the record.
11:19:05 5 The time on the video monitor is 11:19 a.m. This begins
11:19:09 6 Media 2.

11:19:12 7 BY MR. SNOW:

11:19:12 8 Q. Thank you.

11:19:13 9 So let's just walk through the voter
11:19:18 10 registration process generally. What are the methods
11:19:21 11 that a potential voter can use to register to vote?

11:19:25 12 A. Well, there's the traditional paper form that
11:19:28 13 the voter can use to come into our office, drop it off,
11:19:32 14 mail it to us. There's through Service Arizona. That's
11:19:38 15 the online voter registration portal operated by the
11:19:42 16 Department of Motor Vehicles.

11:19:44 17 And then we can register someone to vote from a
11:19:50 18 provisional ballot if the provisional -- here in Pima
11:19:56 19 County our provisionals have a voter registration form
11:20:00 20 as part of the provisional envelope, so we can use that
11:20:03 21 to update people's voter registration, and then we
11:20:09 22 can -- if they were not registered at the time of the
11:20:12 23 election, then we can use that provisional to register
11:20:15 24 them after the close of the election. And I would just
11:20:20 25 want to point out that those provisionals, if they were

11:20:23 1 not registered at the time of an election, those
11:20:25 2 provisionals do not count and are not tabulated, but we
11:20:29 3 do use that form to register voters after the election.
11:20:32 4 Q. And as far as the paper form, you're referring
11:20:36 5 to both the state form and the federal form?
11:20:38 6 A. Correct.
11:20:40 7 Q. Does your office provide forms to third-party
11:20:46 8 voter registration groups?
11:20:47 9 A. We do.
11:20:47 10 Q. And would that be the state form or the federal
11:20:49 11 form or both?
11:20:49 12 A. We provide the state form.
11:20:52 13 Q. Are there any special markings on the forms you
11:20:55 14 provide?
11:20:57 15 A. No. Each form has a code on it to identify
11:21:02 16 where the form came from. So there's a coded list for
11:21:07 17 forms and a letter that corresponds with the type of --
11:21:11 18 where the form came from, so like a public assistance
11:21:14 19 agency, a voter registration group. So we will look at
11:21:19 20 those, that code, and track the form that way when we're
11:21:24 21 doing the input into the system.
11:21:28 22 Q. And can you run through the various codes?
11:21:30 23 A. Not off the top of my head, no. They're -- I
11:21:41 24 think we have at least five to nine. They correspond
11:21:47 25 with the way that -- after the end of every federal

11:21:51 1 election we have to provide what's called an EAVS
11:21:54 2 report, which documents all of the voter registration,
11:21:57 3 all of the election information. And the EAVS report
11:22:01 4 identifies the voter registration, where voter
11:22:07 5 registration information comes from, and that's based
11:22:09 6 off of that, those forms.

11:22:11 7 I can tell you right off the top, though, that
11:22:14 8 G is the form that we give out to the voter registration
11:22:18 9 groups.

11:22:23 10 Q. And you mentioned that there are -- there's
11:22:26 11 another -- scratch that.

11:22:26 12 So your office can track -- when the voter
11:22:29 13 returns the form, your office can track where they
11:22:32 14 received it from or how they received the form?

11:22:34 15 A. Based off the code that's on the form.

11:22:39 16 Q. And you mentioned public assistance agencies.
11:22:45 17 What are the NVRA, National Voter Registration Act,
11:22:49 18 agencies in Arizona?

11:22:51 19 A. People like DES. We provide -- well, we --
11:22:59 20 locally DES has never requested forms of us, but they
11:23:02 21 would have forms; libraries, Department of Motor
11:23:10 22 Vehicles. Those are the ones that come to mind right
11:23:12 23 now.

11:23:16 24 Q. And what is DES?

11:23:18 25 A. Department of Economic Security.

11:23:24 1 Q. Do you know, do -- does your office work with
11:23:28 2 schools in providing voter registration opportunities?

11:23:33 3 A. Not in the past. I think we are tentatively
11:23:36 4 seeking a relationship with the Pima County
11:23:39 5 Superintendent's Office to try to pilot a voter
11:23:44 6 registration outreach to high school students.

11:23:47 7 In Arizona you can register to vote a little
11:23:51 8 before your 18th birthday, as long as the -- as long as
11:23:55 9 you will be 18 at the time of the election. But that is
11:24:00 10 a pilot program that's currently in -- we have -- I mean
11:24:06 11 we're talking like we're discussing it. We don't even
11:24:09 12 have a plan for it yet.

11:24:12 13 Q. And we touched on this earlier, but how do
11:24:15 14 you -- how does your office work with the Tribal Nations
11:24:19 15 in providing voter registration services?

11:24:20 16 A. Through our voter outreach clerks.

11:24:23 17 Q. And so they provide forms?

11:24:26 18 A. They can. They do drop off forms to various
11:24:31 19 district offices.

11:24:35 20 Q. And do they do public education on Tribal land?

11:24:38 21 A. They do.

11:24:40 22 Q. And that would be through the monthly meetings
11:24:42 23 that you mentioned earlier?

11:24:43 24 A. Uh-huh. Yes.

11:24:44 25 Q. Are there any other forms of public education

11:24:48 1 of voter registration on Tribal land?

11:24:51 2 A. If there -- you know, if there's community
11:24:54 3 events that they've signed up for to table at, they
11:24:57 4 would do that as well.

11:24:58 5 Q. And at those tabling events they would be
11:25:01 6 assisting voters with filling out and submitting their
11:25:04 7 voter registration forms?

11:25:06 8 A. They would be answering questions about the
11:25:08 9 voter registration forms, and then should a voter choose
11:25:13 10 to return the voter registration form to our outreach
11:25:18 11 folks, they would accept that; but normally, from my
11:25:22 12 understanding from the -- they usually provide the forms
11:25:27 13 and tell them how to return them. I don't think that
11:25:30 14 they're bringing forms back, completed forms back.

11:25:36 15 Q. Thanks.
11:25:37 16 And what is the deadline for voter
11:25:40 17 registration?

11:25:40 18 A. It is 29 days before an election.

11:25:45 19 Q. And if -- if a voter registration form is
11:25:50 20 returned by the deadline, but is somehow incomplete,
11:25:58 21 does the voter have an opportunity to complete the voter
11:26:00 22 registration form to comply with the deadline and vote
11:26:02 23 in that election?

11:26:04 24 A. When you say incomplete, what do you mean?

11:26:06 25 Q. Missing some information.

11:26:10 1 A. Well, if it's missing information and can't be
11:26:13 2 fully registered, we'll contact the voter, usually with
11:26:19 3 a mailing, to say we received a voter registration form
11:26:21 4 from you and we're missing X, Y or Z, please contact our
11:26:26 5 office.

11:26:27 6 If there's a phone number, we will usually make
11:26:30 7 contact with the voter and say, hey, we've received a
11:26:32 8 voter registration form from you and are missing
11:26:35 9 something or we can't -- so we do make contact with the
11:26:38 10 voter in those instances.

11:26:41 11 If there's no contact ways for us to make
11:26:43 12 contact with them, like phone or e-mail, then we will
11:26:47 13 send a letter; and then that form would be considered --
11:26:51 14 because we can't fully -- depending on what the issue
11:26:54 15 is, we can't necessarily fully process it. It can go in
11:26:57 16 a suspended status, which internally we call the trouble
11:27:01 17 file. Not that the form itself is a trouble. It's just
11:27:04 18 it requires additional follow-up.

11:27:07 19 Q. So if you have enough information to create an
11:27:10 20 entry for a voter and they go in the trouble file before
11:27:16 21 the deadline, and then they're later able to provide
11:27:20 22 information sufficient to resolve whatever issue there
11:27:23 23 was, will they be permitted to vote in that election?

11:27:26 24 A. Yes. And then we also -- when we're processing
11:27:32 25 the provisional ballots that are cast on election day,

11:27:35 1 one of the processes that we do when we're going through
11:27:37 2 is we review our trouble file.

11:27:42 3 That's what we call it internally. I have to
11:27:46 4 emphasize that the Recorder does not like the name of
11:27:49 5 that internal file, so we are workshopping some new ways
11:27:55 6 to discuss it; but for the purposes of this deposition,
11:27:58 7 it is the trouble file.

11:28:01 8 We review the trouble file if we have a
11:28:04 9 provisional and say, hey, we don't know if this person
11:28:08 10 registered or didn't register. So if we can match a
11:28:11 11 provisional up with a trouble file voter registration
11:28:15 12 form, then we can make the necessary resolutions there
11:28:19 13 to be able to ensure that the voter is up-to-date and
11:28:25 14 that they're able to cast their ballot.

11:28:29 15 However, it's really dependent upon us being
11:28:33 16 able to reach out to the voter. So, like I said, our
11:28:36 17 preferred is a phone call. Our second preferred is an
11:28:40 18 e-mail, and then we always send a letter. The letters
11:28:43 19 do not always result in contact to the voter.

11:28:49 20 Q. Thank you.

11:28:54 21 So when your office receives a voter
11:28:57 22 registration application, you would first enter that
11:29:00 23 into the database?

11:29:04 24 A. Yeah. So the process is we have a first
11:29:10 25 check/second check. So a voter registration clerk would

11:29:12 1 do the first check entry, put the information in there;
11:29:16 2 and then a second voter registration clerk would do the
11:29:20 3 second check entry, basically seeing if anything was
11:29:25 4 missed. And then once both our -- you know, both clerks
11:29:31 5 are good with the information provided, then the voter
11:29:34 6 registration is activated.

11:29:37 7 Q. And that would be unless there was an issue, in
11:29:40 8 which case it would go to the trouble file?

11:29:43 9 A. If there is an ultimate issue that couldn't be
11:29:46 10 resolved and needs further follow-up, yes, it would go
11:29:48 11 to the trouble file. But if there is an issue in that
11:29:51 12 process between first and second check, the voter clerk
11:29:55 13 would contact the voter registration specialist or the
11:29:58 14 voter supervisor to discuss how to address the issue.

11:30:03 15 Q. And the first check/second check process, that
11:30:08 16 just refers to internal to your office checking to make
11:30:11 17 sure the information was entered correctly?

11:30:13 18 A. Correct.

11:30:13 19 Q. What other kind of checks happen for a new
11:30:18 20 entry for a new voter that's not in the trouble file?

11:30:21 21 A. The first check/second check process.

11:30:25 22 Q. Do you interface with MVD database as part of
11:30:30 23 entering a new voter registration?

11:30:32 24 A. If they provide us a driver's license, yes, we
11:30:36 25 can. We will have an interface that will give us

11:30:40 1 information on that. If they provide us a
11:30:43 2 naturalization number, we'll use the SAVE database. The
11:30:46 3 SAVE database is only used upon an initial voter
11:30:53 4 registration application. So it's the very first time
11:30:54 5 someone is registering to vote, if they provide a
11:30:57 6 naturalization number, that's the only time we can use
11:30:59 7 the SAVE database for cross-checking on citizenship.

11:31:06 8 For voter registration forms that provide
11:31:09 9 driver's license numbers we can access the Motor Vehicle
11:31:14 10 database. It's part of the -- it's part of the program.

11:31:18 11 Q. Does your process involve any kind of signature
11:31:21 12 match?

11:31:22 13 A. For an initial?

11:31:24 14 Q. Yeah.

11:31:24 15 A. No. No, because it would be the very first
11:31:28 16 form that we would have from a voter. We wouldn't have
11:31:30 17 anything to match it with.

11:31:32 18 Q. And what about when a voter updates their
11:31:35 19 registration?

11:31:36 20 A. Yeah, the signature verification is just a
11:31:39 21 standard process for any time that we have mailings to
11:31:43 22 voters. So every voter registration form that comes
11:31:47 23 back to us or every piece of voter mail that has the
11:31:51 24 voter's signature on it that creates sort of a change,
11:31:54 25 whether it's a 90-day notice or something like that, we

11:31:57 1 capture those signatures as exemplar signatures for the
11:32:01 2 voter. Should they choose to do voter -- should they
11:32:04 3 choose to vote by mail and cast an early ballot, we will
11:32:07 4 use those exemplar signatures for verification purposes.

11:32:13 5 Q. And you mentioned if there's an issue with
11:32:16 6 someone's form or registration such that it's
11:32:21 7 incomplete, they're then contacted. What options then
11:32:24 8 do they have to complete their application?

11:32:27 9 A. It depends on why we're making the contact, but
11:32:29 10 usually it's to provide an updated form or provide
11:32:33 11 additional materials.

11:32:36 12 Q. And how would they be able to provide that
11:32:39 13 information and materials?

11:32:40 14 A. For anything changing the voter record we need
11:32:42 15 to have something in writing. So usually it's an
11:32:45 16 updated voter registration form. If it's for
11:32:49 17 documentary proof of citizenship, we'll take copies of,
11:32:54 18 you know, birth certificates. They can also come into
11:32:56 19 us in person at our office and do everything in person
11:33:00 20 and provide that information if they don't want to mail
11:33:04 21 copies, things like that.

11:33:05 22 Q. Can they e-mail you a scanned copy of a form?

11:33:10 23 A. I suppose they could. I don't see why we
11:33:14 24 wouldn't accept that, as long as we -- as long as there
11:33:17 25 was some sort of information on there that would

11:33:20 1 correspond.

11:33:27 2 Q. So in order to register to vote, applicants are
11:33:30 3 required to provide their residential address, or if
11:33:32 4 they don't have a residential address, a description or
11:33:35 5 drawing of the location of their residence, correct?

11:33:37 6 A. Correct.

11:33:38 7 Q. And a P.O. Box can't be used to meet that
11:33:41 8 requirement?

11:33:41 9 A. Not as a residential address. That can be used
11:33:44 10 as a mailing address.

11:33:47 11 Q. And why is residence address or location
11:33:51 12 information important for your office in voter
11:33:53 13 registration?

11:33:53 14 A. It determines the ballot style that a voter
11:33:57 15 gets. So if you, say, live -- say you live at the --
11:34:03 16 you're a houseless individual and your particular area
11:34:07 17 of Pima County is I-10 and Grant. You're still eligible
11:34:17 18 to vote. So let's say you want to find a -- you want to
11:34:22 19 vote. We need to know what is the area of town that
11:34:25 20 you're normally in so we can get the correct ballot
11:34:29 21 style, so you can vote for the correct representatives
11:34:31 22 for where you are.

11:34:34 23 Specifically, this oftentimes for the Tohono
11:34:41 24 O'odham Nation, as I stated earlier, they live in
11:34:43 25 districts, but all of the Nation just has a general

11:34:47 1 address of cells, but within each of the districts. So
11:34:52 2 when we are registering people in those areas, we tell
11:34:55 3 them to put the district that they live in and even, you
11:35:00 4 know, the village that they live in, so we can determine
11:35:03 5 which precinct they are, because we have it set up in
11:35:07 6 the voter registration database for what we would
11:35:10 7 consider non-standardized addresses. So we can map it
11:35:15 8 out as to where they -- would be the appropriate area.

11:35:19 9 So a lot of times you can have a mailing
11:35:21 10 address that's different from where you physically are
11:35:25 11 located, particularly if you do not have a fixed
11:35:28 12 residence. You might have a mailing address that is
11:35:30 13 just a general delivery address at your nearest Post
11:35:34 14 Office.

11:35:35 15 We have people who are RVers, and they have a
11:35:39 16 particular area of town that they park their RV in and
11:35:42 17 then they get their mail at a UPS store. So they can
11:35:48 18 say, you know, maybe they have -- they are parked at the
11:35:53 19 parking lot of Walmart at Grant and Alvernon. That
11:35:58 20 descriptive address would be a commercial address, but
11:36:02 21 because they're an RVer, that's where they park their
11:36:07 22 vehicle, so that's where we consider their voting area.

11:36:12 23 Q. And so how do that get represented in your
11:36:14 24 database?

11:36:16 25 A. For areas like that it would be -- if it's a

11:36:21 1 commercial area, like someone parking their RV in
11:36:25 2 something, they would normally give us the address of
11:36:27 3 where they're at and we would put that in there.

11:36:29 4 That requires an override by a supervisor
11:36:31 5 because the system recognizes commercial addresses, so
11:36:36 6 it will default not want to register because it's a
11:36:40 7 commercial address. So we would override it from a
11:36:42 8 supervisor and then indicate that it's a nonstandard
11:36:49 9 address.

11:36:57 10 Q. And so that but it's still represented in the
11:36:59 11 system as a street address?

11:37:00 12 A. For some areas it could also just be
11:37:04 13 represented as cross streets.

11:37:08 14 Q. How about a geolocation or a set of
11:37:12 15 coordinates?

11:37:12 16 A. For the system to be able to get the correct
11:37:16 17 ballot style we'd have to have those translated into
11:37:19 18 cross streets.

11:37:21 19 Q. And you mentioned for registrants who live on
11:37:28 20 Tohono O'odham Nation land, those are coordinated via
11:37:32 21 Tohono O'odham Nation districts?

11:37:35 22 A. Correct.

11:37:42 23 So most of the districts fall within Pima
11:37:46 24 County, but there is one district that straddles Pima
11:37:51 25 County, Maricopa County, and Pinal. So that particular

11:37:56 1 area, it really depends on which side of the county line
11:38:02 2 the person's house is in on the district to determine if
11:38:05 3 they're a Pima County voter or a Pinal voter or a
11:38:10 4 Maricopa voter.

11:38:14 5 Q. Do you ever have an issue where you can't
11:38:17 6 locate a residential address through that process?

11:38:25 7 A. We have a pretty robust investigative arm that
11:38:29 8 we, you know, we will use. The Pima County has the GIS
11:38:34 9 mapping so we can cross-reference with the GIS layers,
11:38:41 10 and then we also have the ability to use the county's
11:38:46 11 mapping system.

11:38:47 12 We've also been known to Google addresses and
11:38:51 13 take a look at street views to see if there's buildings
11:38:54 14 and things like that. So we do a substantial amount of
11:38:57 15 investigation for what we consider nonstandard addresses
11:39:02 16 to ensure that we're getting the most accurate
11:39:05 17 information.

11:39:11 18 Q. And so through that process and through that
11:39:16 19 investigative process, are you aware of instances where
11:39:21 20 a voter's address that they provided simply couldn't be
11:39:24 21 located?

11:39:28 22 A. Not to my knowledge, no.

11:39:33 23 Q. Do you ever -- as part of that location
11:39:37 24 process, do you ever follow up with the voter to get
11:39:39 25 more information?

11:39:41 1 A. That's one of our standards, should we ever
11:39:44 2 have any issues with the voter registration form, if
11:39:47 3 there is a way to follow up with the voter, make
11:39:50 4 contact. The voter registration form has many different
11:39:56 5 boxes on it. Not all of them are required to be filled
11:39:59 6 out by the voter.

11:40:00 7 One of the things that's not required to be
11:40:02 8 filled out is an e-mail and phone number. We would love
11:40:06 9 it if everyone filled those out, because it would make
11:40:09 10 it very easy for us to contact people. So we try to
11:40:13 11 provide as much contact to the voter as possible, but
11:40:18 12 always we will mail them a letter, given the address
11:40:22 13 that has been provided.

11:40:23 14 Now, we have had occasion where the address
11:40:28 15 that has been provided to us has been returned as
11:40:31 16 non-deliverable, address not known by the Post Office.
11:40:38 17 So that would start the NVRA process on that particular
11:40:43 18 voter registration record.

11:40:46 19 Q. And what was that process you just referred to?

11:40:50 20 A. I'm sorry. The NVRA process. It's the process
11:40:52 21 where when we get notification of a possible address
11:40:56 22 change, we will kind of put the voter in an inactive
11:41:01 23 status and reach out to them again saying we have
11:41:07 24 received notice that you may or may not be at this
11:41:09 25 address, please contact our office.

11:41:11 1 So we will start to do the mailing to say
11:41:13 2 please update your voter registration or please make
11:41:15 3 contact with us to let us know where you're at.

11:41:18 4 If we get multiples of those back, then that
11:41:21 5 creates -- we'll put the voter as a cancellation. But
11:41:27 6 for the most part, when someone is in a NVRA process,
11:41:30 7 they've gone from an active to an inactive status.

11:41:36 8 Q. And so for somebody who resides at an address
11:41:39 9 that can't receive mail, how does that process work for
11:41:44 10 them?

11:41:45 11 A. So for anybody who can't receive mail, they are
11:41:48 12 instructed to provide a mailing address, So whether that
11:41:50 13 is a general delivery address to the closest Post Office
11:41:53 14 of where they receive mail, whether it's a P.O. Box of
11:41:57 15 someone else who can receive mail on their behalf, or an
11:42:00 16 agency who receives mail on their behalf, but we need to
11:42:04 17 have a mailing address to be able to mail things.

11:42:14 18 Q. So for somebody who submits location of
11:42:17 19 residence via a description or a drawing, without an
11:42:20 20 address, how does that process differ for someone who
11:42:22 21 registers using that method?

11:42:25 22 A. It doesn't really differ in terms of the
11:42:28 23 registration process.

11:42:30 24 Q. So specifically with respect to determining --
11:42:35 25 your office determining the location of residence, how

11:42:38 1 do they go about doing that with a description or a
11:42:42 2 drawing?

11:42:42 3 A. Again, depending on the description and
11:42:44 4 drawing, we would try to locate the closest cross
11:42:48 5 streets to determine precinct.

11:42:51 6 Q. And then --

11:42:52 7 A. So --

11:42:53 8 Q. And then how is that represented in the system?

11:42:57 9 A. Via cross streets and a description.

11:43:01 10 Q. So it always has to be cross streets or an
11:43:04 11 address?

11:43:05 12 A. For the system to be able to assign a precinct,
11:43:05 13 yes.

11:43:10 14 Q. And then I think you stated earlier that copies
11:43:15 15 of the voter registration form are then attached to the
11:43:18 16 voter's file?

11:43:19 17 A. Yes. Every single voter registration form that
11:43:22 18 has been submitted to the office is attached to the
11:43:26 19 voter record as a digital image.

11:43:29 20 Q. And that's persistent with the voter's record?

11:43:33 21 A. Correct.

11:43:35 22 Q. And that would include a -- that would include
11:43:37 23 the drawing or description that's provided by the voter?

11:43:40 24 A. Uh-huh. The whole form is scanned if it's a
11:43:47 25 paper form, and so we have a digital image of the entire

11:43:50 1 form.

11:43:52 2 Q. Do you have a sense of how common it is for
11:43:54 3 your office to receive a voter registration form with
11:43:56 4 either a nonstandard address or a description or
11:44:00 5 depiction of an address?

11:44:01 6 A. It's not very common, but we have encountered
11:44:04 7 it. That's why we have specific guidance on how to
11:44:07 8 process those.

11:44:09 9 Q. To your knowledge, is it more common for
11:44:12 10 residential addresses used on Native American
11:44:15 11 reservations to be nonstandard?

11:44:20 12 A. It is for the Tohono O'odham Nation, for those
11:44:25 13 addresses to be nonstandard. It is not the same for the
11:44:28 14 Pascua Yaqui Tribe.

11:44:31 15 Q. And how would you describe the difference?

11:44:33 16 A. The Pascua Yaqui Tribe has a grid system on
11:44:37 17 Tribal land with actual addresses and street names. The
11:44:42 18 Tohono O'odham, as I stated earlier, they live in
11:44:45 19 districts and then they have just single routes, you
11:44:52 20 know, you take Ajo and take the left exit after -- so
11:44:56 21 they will describe that, and then we will then ask them
11:44:59 22 which district that is within, and then we will identify
11:45:02 23 the closest. That's how we determine precincting for
11:45:07 24 them.

11:45:07 25 Q. And so that would still go into the system as a

11:45:10 1 cross-street or a street address of some kind?

11:45:13 2 A. For the Tohono O'odham Nation it would be
11:45:17 3 districts. We have in the system the district names.

11:45:25 4 Q. And if the voter doesn't provide the district
11:45:28 5 name, but they provide some other description, then your
11:45:30 6 office would use that description to find which district
11:45:33 7 they're in?

11:45:33 8 A. We would do our best to investigate, and then
11:45:35 9 we would probably also follow up with the voter and ask
11:45:37 10 them some key questions as to which districts do you
11:45:40 11 live in and what are some of the key landmarks that
11:45:44 12 you're near, you know, how far away are you from this
11:45:48 13 area, so we can kind of pinpoint on which district
11:45:51 14 they're in.

11:45:53 15 Q. Would you ever follow up with the Tribal
11:45:55 16 government itself?

11:45:59 17 A. I mean I suppose we could, but because voter
11:46:02 18 registration is specific to an individual, we would
11:46:05 19 specifically speak with the voter.

11:46:13 20 Q. Let's pull up an exhibit briefly. It's labeled
11:46:16 21 M, as in Mary, and I believe this is Exhibit 71.

11:46:26 22 So looking at that first page, what is this
11:46:30 23 document?

11:46:30 24 A. This is our internal instructions regarding
11:46:33 25 incomplete voter registrations or what we internally

11:46:36 1 call the trouble file.

11:46:38 2 Q. So this is internal guidance provided by your
11:46:41 3 office to its staff?

11:46:42 4 A. Correct.

11:46:44 5 Q. And what is the source of this guidance?

11:46:50 6 A. Statute is always the foundational source, any
11:46:56 7 sort of information that we can glean from the EPM, and
11:47:00 8 then the rest of this is based off of how we internally
11:47:04 9 process forms and how our voter registration system
11:47:11 10 takes information in.

11:47:15 11 Q. So this is something -- this is guidance that
11:47:17 12 your office puts together from a number of sources. Is
11:47:23 13 it -- is it approved by anyone outside your office or
11:47:26 14 reviewed by anyone outside your office?

11:47:27 15 A. No, it's not.

11:47:32 16 Q. Turning to Page 4 of this document, where it
11:47:43 17 says "Send a trouble letter to the voter," this is the
11:47:49 18 section dealing with a letter that is sent to a voter
11:47:55 19 after your office has already investigated and attempted
11:47:58 20 to resolve whatever issue there is with the form; is
11:48:02 21 that correct?

11:48:02 22 A. That is correct.

11:48:05 23 Q. And then turning to the next page, 5, there's a
11:48:08 24 series of checkboxes, and this would be for a voter
11:48:15 25 registration form that is incomplete in some way?

11:48:17 1 A. Correct.

11:48:20 2 Q. And turning down to the last checkbox, which is
11:48:26 3 labeled include community or district as your
11:48:29 4 residential address to identify your precinct, for
11:48:31 5 residents of Tohono O'odham Nation only.

11:48:34 6 So this is what you're referring to when -- if
11:48:37 7 a Tohono O'odham Nation voter submits their voter
11:48:43 8 registration form and does not indicate their community
11:48:45 9 or district name, they would receive a form with this
11:48:50 10 box checked; is that correct?

11:48:51 11 A. Yes.

11:48:59 12 Q. How would a Tohono O'odham Nation resident know
11:49:04 13 to provide that information on their initial voter
11:49:08 14 registration form?

11:49:11 15 A. Well, I would -- if they had met one of our
11:49:16 16 voter outreach clerks at a tabling event, I would hope
11:49:20 17 that we would have provided them that information.

11:49:24 18 We do provide that information to the Nation,
11:49:30 19 their government, so we would hope that maybe that
11:49:32 20 information is also trickled down. But that is why we
11:49:35 21 go to these district meetings to talk about the
11:49:38 22 information that we need to be able to successfully
11:49:42 23 process voter registration forms. So we make an active
11:49:45 24 effort to try to get that information out there as much
11:49:47 25 as possible.

11:49:53 1 Q. And -- but, again, if somebody doesn't provide
11:50:02 2 that information, the district name, but they do provide
11:50:05 3 a description of their address, your office is typically
11:50:08 4 able to use that description to determine their district
11:50:11 5 name without having to contact the voter; is that
11:50:14 6 correct?

11:50:14 7 A. We would investigate it first. We would be --
11:50:17 8 if our investigation is unsuccessful, then we would send
11:50:19 9 this form out.

11:50:26 10 Q. Thank you.

11:50:35 11 So are you aware of any kind of nonstandard
11:50:39 12 address or description of a residence appearing on any
11:50:45 13 kind of documentation or identification documents?

11:50:50 14 A. Not that I'm aware of, no.

11:50:58 15 Q. But your office is able to determine the
11:51:01 16 location of residence for registrants who don't
11:51:06 17 provide -- or who have a nonstandard address and don't
11:51:09 18 provide any documentation of that; is that correct?

11:51:13 19 A. I don't know if I understand your question.

11:51:15 20 Q. Sorry. I'll rephrase it.

11:51:17 21 And, you know, is it -- is it correct that
11:51:22 22 you've stated that you -- scratch this.

11:51:27 23 Are you aware of any incidents where an
11:51:29 24 individual's location of residence was not -- is not
11:51:33 25 able to be determined by your office upon providing a

11:51:37 1 nonstandard address or a description of their residence?

11:51:42 2 A. Yes. That would be considered a trouble.

11:51:46 3 Q. But so somebody gets in the trouble file and
11:51:49 4 then that triggers an investigation or the investigation
11:51:53 5 happens prior to them going to the trouble file?

11:51:54 6 A. Well, it's all part of the same process. So if
11:51:58 7 we are -- excuse me for a moment.

11:52:08 8 So if we are processing a voter registration
11:52:13 9 form and we encounter an issue with the voter
11:52:16 10 registration form, the previously mentioned process,
11:52:20 11 first check/second check, you have a question, go to the
11:52:23 12 supervisor, and if the supervisor doesn't have the
11:52:26 13 answer, the form goes to the trouble file, an individual
11:52:29 14 is assigned to the trouble file for follow-up. So it's
11:52:33 15 during that first check/second check process that we
11:52:37 16 will try to investigate where that address is.

11:52:41 17 Q. And are you aware of any incidents where that
11:52:45 18 address was not able to be determined in the
11:52:47 19 investigation process?

11:52:50 20 A. Personally, I am not; but I do know that we
11:52:53 21 have -- the trouble file is an ongoing -- it's the
11:52:59 22 normal part of the process for voter registration clerks
11:53:01 23 and we do reference the trouble file for -- at an
11:53:07 24 election time for reviewing provisional ballots.

11:53:12 25 Q. Do you have any idea of the numbers of folks

11:53:15 1 who are in the trouble file for reason of an inability
11:53:20 2 to determine their location of residence?

11:53:22 3 A. I do not.

11:53:36 4 Q. Do you know -- are you aware of the process by
11:53:39 5 which your county assigns addresses?

11:53:46 6 A. I'm -- by which my county assigns addresses,
11:53:50 7 like how addressing works in Pima County, is that the
11:53:52 8 question?

11:53:52 9 Q. Yes.

11:53:54 10 A. I have a rudimentary understanding of the
11:53:57 11 addressing process.

11:54:00 12 Q. What is that understanding?

11:54:03 13 A. Addressing is based off of development. So
11:54:07 14 development is identified by parcels, and then parcels
11:54:12 15 then have a -- kind of like a working address until they
11:54:17 16 have a permanent address. Once a street has been named,
11:54:22 17 depending on the jurisdiction, there's -- you know, you
11:54:27 18 can have ordinances defining the names of streets.

11:54:32 19 All that information is then provided to Pima
11:54:36 20 County. We put that in the GIS system. That's how we
11:54:39 21 get the addressing. So you could have -- addressing can
11:54:45 22 certainly change, particularly if you have parcel
11:54:49 23 splits. So vacant land obviously doesn't have an
11:54:54 24 address. It just has a parcel number until it becomes
11:54:57 25 developed and then it has an address related to it. But

11:55:00 1 it's part of the development process.

11:55:01 2 Q. And does that process take place in the same
11:55:06 3 manner on Native American land, reservation?

11:55:08 4 A. To my knowledge, it does not take place like
11:55:10 5 that on the Tohono O'odham Nation. I do believe it has
11:55:15 6 a similar process to that on the Pascua Yaqui Tribe.

11:55:22 7 Q. Generally speaking, how would you describe your
11:55:24 8 office's efforts to increase voter registration for
11:55:28 9 Native voters?

11:55:31 10 A. I think we're actively trying to register all
11:55:37 11 voters and people -- all eligible individuals in Pima
11:55:40 12 County, and we provide additional support and outreach
11:55:44 13 to each of the -- each of the Tribal Nations here in
11:55:50 14 Pima County.

11:55:53 15 Q. Do you know whether voter registration rates
11:55:54 16 are lower in Native communities than throughout the rest
11:55:57 17 of the county?

11:56:04 18 A. Anecdotally, I believe that they are lower, but
11:56:07 19 we do track them and they have been increasing.

11:56:18 20 Q. To your knowledge, if the DPOR requirement were
11:56:21 21 to be implemented, what effect do you expect it will
11:56:25 22 have on Native voters attempting to register to vote?

11:56:29 23 A. I don't know.

11:56:33 24 Q. Let's look at what will be marked as
11:56:40 25 Exhibit 72. That's labeled N, as in Nancy.

11:56:50 1 A. I have it on the screen.

11:56:52 2 Q. Great.

11:56:54 3 So this is an e-mail chain of e-mails taking
11:56:58 4 place on March 29, 2022 within your office; is that
11:57:06 5 correct?

11:57:06 6 A. It is.

11:57:10 7 Q. And the subject of the e-mail is veto letter.
11:57:14 8 Do you recall the substance of these communications?

11:57:24 9 A. Yeah. I mean not in great detail, but I do
11:57:26 10 recall that time frame.

11:57:29 11 Q. So what was the veto letter that the e-mails
11:57:35 12 refer to?

11:57:36 13 A. The Recorders Association had discussed this
11:57:41 14 particular bill. The Recorders were not in favor of
11:57:46 15 this particular bill, so some of the Recorders were
11:57:54 16 sending letters to the Governor's Office as a -- to ask
11:57:59 17 for veto. The implications of the bill would make it
11:58:04 18 difficult for us to do our job because of the vague
11:58:07 19 nature of the bill.

11:58:10 20 I believe this particular one was spearheaded
11:58:17 21 by Pima County Recorder Cázares-Kelly and Maricopa
11:58:24 22 County Recorder Steve Richer. So the -- pretty well
11:58:31 23 everyone -- from my recollections of that time frame, we
11:58:33 24 were all -- found this particular piece of legislation
11:58:37 25 difficult to implement and were opposed to it for

11:58:41 1 varying reasons. Each Recorder had their own reason as
11:58:44 2 to why they were opposed to it, but for the most part,
11:58:48 3 most of the Recorders were opposed to it.

11:58:51 4 Q. And so these e-mails refer to a public
11:58:56 5 statement that's going to accompany the veto letter; is
11:58:59 6 that correct?

11:58:59 7 A. Yes.

11:59:00 8 Q. And so just looking at the top there, this is
11:59:03 9 an e-mail from County Recorder Cázares-Kelly. She
11:59:10 10 writes "How about this: Recorder Cázares-Kelly has
11:59:14 11 asked Arizona Governor Doug Ducey to veto H.B. 2492. In
11:59:19 12 addition to this bill being particularly harmful to
11:59:21 13 Native American voters and the possibility of
11:59:24 14 criminalizing our staff due to errors, this bill also
11:59:27 15 violates federal law."

11:59:28 16 Is that correct?

11:59:28 17 A. That is correct.

11:59:30 18 Q. And so why did County Recorder Cázares-Kelly
11:59:36 19 believe that H.B. 2492 would be particularly harmful to
11:59:41 20 Native American voters?

11:59:44 21 MR. LANGHOFER: Calls for speculation.

11:59:47 22 BY MR. SNOW:

11:59:48 23 Q. To your knowledge, you may answer.

11:59:53 24 A. As I previously stated, our office is
11:59:58 25 particularly -- our office is making great strides to

12:00:05 1 try to ensure that every eligible individual within Pima
12:00:10 2 County who wants to be able to register to vote can be
12:00:14 3 able to register to vote.

12:00:16 4 We have a particular internal goal to be more
12:00:23 5 open and accessible to communities that have
12:00:28 6 historically seen -- have been not represented or have
12:00:35 7 not had the same outreach efforts for them. That is
12:00:43 8 Recorder Cázares-Kelly's personal and political and
12:00:47 9 policy decision for the office. That is what her
12:00:51 10 commitment is to the residents of Pima County.

12:00:58 11 Q. So this is a public position of your office; is
12:01:03 12 that correct?

12:01:03 13 A. It is the public position of the County
12:01:12 14 Recorder.

12:01:12 15 Q. Is that statement about the bill being
12:01:14 16 particularly harmful to Native American voters, does
12:01:17 17 that refer to the documentary proof of residence
12:01:21 18 provision?

12:01:21 19 A. I do not recall specifically which provision
12:01:23 20 the Recorder was referring to. Our office, upon
12:01:28 21 reviewing that particular bill, deemed the entire bill
12:01:32 22 to be very difficult to enforce and difficult in terms
12:01:36 23 of to operationalize. The County Recorder is an elected
12:01:42 24 individual and has particular positions. This would be
12:01:45 25 one of those. From an operational standpoint we cannot

12:01:50 1 operationalize this bill without more clarification.

12:01:56 2 Q. So turning to the next exhibit, which will be

12:02:01 3 marked 73, and it's labeled O.

12:02:13 4 A. Can I take a brief moment to -- just a moment,

12:02:19 5 please, five minutes?

12:02:21 6 MR. SNOW: Sure.

12:02:22 7 THE WITNESS: Thanks.

12:02:22 8 THE VIDEOGRAPHER: Counsel, would you like

12:02:30 9 to go off the record?

12:02:33 10 MR. SNOW: May as well.

12:02:37 11 THE VIDEOGRAPHER: We are off the record.

12:02:38 12 The time on the video monitor is 12:02 p.m.

12:02:44 13 (A recess was taken.)

12:04:58 14 THE VIDEOGRAPHER: We are on the record.

12:04:59 15 The time on the video monitor is 12:04 p.m.

12:05:03 16 BY MR. SNOW:

12:05:04 17 Q. Thank you.

12:05:05 18 So turning back to Exhibit 73. Do you have

12:05:11 19 that in front of you?

12:05:11 20 A. Yes, I do.

12:05:13 21 Q. So this is an e-mail dated March 25, 2022 from

12:05:23 22 Cinthia Garcia to a number of individuals, and in the

12:05:31 23 body of the e-mail is a letter dated March 24, 2022,

12:05:35 24 addressed to the Governor, signed by County Recorder

12:05:45 25 Cázares-Kelly; is that correct?

12:05:46 1 A. That is correct.

12:05:46 2 Q. And so this is the veto letter that we were
12:05:50 3 discussing, correct?

12:05:51 4 A. It is.

12:05:53 5 Q. So just turning down to the bottom of the first
12:05:59 6 page, the fourth bullet, where it says, "Proof of
12:06:03 7 residence when registering is also now included in the
12:06:06 8 bill. This is unnecessary. Applicants have provided
12:06:08 9 their address and residence is determined when they
12:06:11 10 vote."

12:06:12 11 What is that referring to?

12:06:19 12 A. I can't speak for Recorder Cázares-Kelly
12:06:22 13 specifically, but I would -- as I previously stated, our
12:06:28 14 current operations are is that the information is
12:06:31 15 already provided on the voter registration form, and
12:06:34 16 based off of our processes of -- our robust ability to
12:06:40 17 connect with the county GIS system and our ability to
12:06:44 18 investigate nonstandard addresses, we do this already.

12:06:52 19 Q. So you would agree that it's unnecessary to
12:06:54 20 provide documentary proof of residence when registering?

12:06:59 21 MR. LANGHOFER: Objection to the extent it
12:07:01 22 calls for a legal conclusion.

12:07:04 23 BY MR. SNOW:

12:07:04 24 Q. Well, let me rephrase.

12:07:06 25 You would agree from an elections

12:07:08 1 administration standpoint that it's unnecessary for a
12:07:10 2 voter to provide documentary proof of residence for your
12:07:13 3 office to complete their registration; is that correct?

12:07:17 4 A. The way the form is currently written and our
12:07:20 5 current procedures, I am confident in our ability to be
12:07:24 6 able to identify the appropriate precinct for a newly
12:07:29 7 registered voter.

12:07:30 8 Q. Thank you.

12:07:45 9 So if you were required to implement the DPOR
12:07:51 10 provision, is it your understanding that this would
12:07:57 11 apply to both the federal and the state form?

12:08:03 12 A. That is what we've tentatively understood,
12:08:06 13 based off of the information we were provided by the
12:08:08 14 Secretary of State's Office.

12:08:11 15 Q. So would there be a two-track system for this
12:08:14 16 requirement, like there is for DPOC currently?

12:08:20 17 MR. LANGHOFER: Objection.

12:08:21 18 MS. STUART: Form.

12:08:24 19 BY MR. SNOW:

12:08:24 20 Q. I can ask a different question.

12:08:28 21 So what types of documents, to your knowledge,
12:08:30 22 would qualify to satisfy the DPOR requirement?

12:08:35 23 A. Well, the --

12:08:35 24 MR. LANGHOFER: Calls for a legal
12:08:36 25 conclusion.

12:08:39 1 BY MR. SNOW:

12:08:40 2 Q. You can go ahead.

12:08:45 3 A. The statute that the bill references has a list
12:08:49 4 of forms that would be -- that we use for proof of
12:08:55 5 residency for what we're doing when a voter comes to an
12:09:02 6 early ballot location or to a vote center to verify who
12:09:07 7 they are. So we would use that particular statute and
12:09:13 8 that list.

12:09:18 9 Without referring to the specific statute and
12:09:19 10 seeing what it says, I can't say whether or not that's
12:09:22 11 exhaustive or not.

12:09:26 12 Q. So let's take a look at what will be marked
12:09:29 13 Exhibit 74, and that's labeled P.

12:09:45 14 A. I have it on the screen.

12:09:48 15 Q. Great.

12:09:48 16 And so what is this document?

12:09:50 17 A. That is the Secretary of State's flowchart and
12:09:55 18 information that we discussed earlier.

12:09:58 19 Q. So when it says "VRAC Legislative Policy
12:10:02 20 Updates" at the top, that refers to the voter
12:10:09 21 registration advisory committee?

12:10:10 22 A. It refers to the voter registration advisory
12:10:14 23 committee that would update the VRAC papers that we
12:10:17 24 would use. So this was a policy update paper provided
12:10:20 25 to us by the SOS discussing the bills and their impacts

12:10:28 1 to certain aspects of voter registration.

12:10:33 2 Q. So turning down to Page 11.

12:10:49 3 MS. STUART: What's the Bates number,

12:10:51 4 Ryan?

12:10:52 5 MR. SNOW: Sorry. The Bates number is 27.

12:10:53 6 MS. STUART: Thank you.

12:10:57 7 BY MR. SNOW:

12:10:58 8 Q. The section titled Documentary Proof of

12:11:02 9 Residency, where it says, "DPOR must accompany the state

12:11:05 10 form but does not need to accompany the federal form.

12:11:09 11 Requiring DPOR conflicts with the National Voter

12:11:12 12 Registration Act and Arizona v. Inter Tribal Council of

12:11:15 13 Arizona."

12:11:18 14 So this is the Secretary's interpretation of

12:11:22 15 the law?

12:11:23 16 MS. STUART: Form, foundation.

12:11:27 17 BY MR. SNOW:

12:11:27 18 Q. So this was provided to you by the Secretary's

12:11:31 19 Office; is that correct?

12:11:31 20 A. It is correct.

12:11:32 21 Q. Okay. And you would treat this as guidance

12:11:37 22 from the Secretary's Office, correct?

12:11:39 23 A. We would.

12:11:41 24 Q. So you would follow this, this guidance?

12:11:46 25 A. I believe we also provided this to our counsel

12:11:50 1 for review as well.

12:12:02 2 Q. So but just, you know -- just confirming that
12:12:05 3 this is the only guidance you've received about
12:12:09 4 implementing this provision?

12:12:10 5 A. That is correct.

12:12:12 6 Q. From the Secretary and then from your legal
12:12:14 7 counsel?

12:12:14 8 A. Correct.

12:12:15 9 Q. Okay. So looking at the list of documents in
12:12:31 10 that table.

12:12:43 11 A. Okay.

12:12:44 12 Q. Are you familiar with -- are you familiar with
12:12:49 13 these forms of documentation?

12:12:52 14 A. Yes, I am.

12:12:54 15 Q. And do you know, to your knowledge, which, if
12:13:00 16 any, of these documents -- scratch that.

12:13:10 17 Looking at the third, the third row, Tribal
12:13:14 18 identification card, are you familiar with Tribal
12:13:17 19 identification cards from -- submitted with voter
12:13:21 20 registration forms currently?

12:13:23 21 A. I don't believe that they have submitted them
12:13:26 22 with the voter registration forms. We usually encounter
12:13:28 23 the Tribal identification cards at early voting sites
12:13:31 24 and vote centers as a form of secondary ID to have a
12:13:35 25 ballot issued.

12:13:36 1 Q. And so you're familiar with -- you've seen them
12:13:40 2 before?

12:13:40 3 A. Yes.

12:13:42 4 Q. Do they typically contain an address or other
12:13:45 5 description of location of residence?

12:13:47 6 A. Not normally, no.

12:14:01 7 Q. And looking at the last row, written
12:14:06 8 confirmation signed by the registrant, this would --
12:14:09 9 this would be -- this would refer to folks who don't
12:14:12 10 have a -- don't have a fixed home location; is that
12:14:18 11 correct?

12:14:18 12 A. That would be correct.

12:14:23 13 Q. Do those individuals currently need to sign
12:14:25 14 anything when they submit the form containing a
12:14:29 15 depiction or description of their -- of their location
12:14:33 16 of residence?

12:14:33 17 MR. LANGHOFER: Objection. Sorry.
12:14:36 18 form.

12:14:40 19 BY MR. SNOW:

12:14:41 20 Q. You can go ahead and answer.

12:14:42 21 A. The voter registration application itself is
12:14:47 22 when a voter is signing to it, they're -- it's a --
12:14:51 23 they're attesting to the information being correct. So
12:14:57 24 once they sign it, that's -- they're attesting to their
12:15:02 25 correct information.

12:15:05 1 Q. So for individuals registering and having to
12:15:12 2 comply with the documentary proof of residence
12:15:19 3 provision, how can those individuals submit their
12:15:22 4 documents?

12:15:31 5 A. I would -- I don't quite understand your
12:15:32 6 question.

12:15:33 7 Q. So do they need to submit an original document
12:15:35 8 or would they be able to submit a copy, would they be
12:15:38 9 able to submit it -- well, we'll just leave that
12:15:41 10 question first.

12:15:42 11 Would they be able to submit a copy or would
12:15:44 12 they need to submit an original?

12:15:46 13 A. Well, I mean if we were implementing this, we
12:15:50 14 would probably just have them, you know, provide us --
12:15:52 15 if they were in person, they could just show it to us,
12:15:55 16 and that would be enough. If they were doing this
12:15:57 17 responding to us via mailing, then they could send us a
12:16:01 18 copy.

12:16:04 19 Q. And would this information become part of the
12:16:08 20 voter's file, a scanned version of it, similar to the --

12:16:18 21 A. I don't know. That would be a programming
12:16:20 22 change.

12:16:32 23 Q. So what does it add to your knowledge about a
12:16:37 24 voter's location of residence for them to submit a
12:16:40 25 document proving that?

12:16:48 1 A. I don't understand what you mean by --

12:16:50 2 Q. Does it assist you to have a document, a
12:16:52 3 physical document, containing their location of
12:16:55 4 residence in determining their location of residence for
12:16:58 5 the purposes of voter registration?

12:17:02 6 A. Again, as I previously stated, we have a very
12:17:05 7 robust system that relies on the county GIS system, and
12:17:12 8 we have a very established way to investigate addresses.
12:17:16 9 So I mean it would neither hurt nor help, I guess. It's
12:17:20 10 just a neutral thing.

12:17:29 11 Q. Thanks.

12:17:37 12 MR. SNOW: All right. I think I'm good,
12:17:42 13 and I think my colleagues have questions that they would
12:17:45 14 like to ask, so I think I'm going to turn it over to Jon
12:17:49 15 Sherman next.

12:17:50 16 And thanks so much, Ms. Hiser. I really
12:17:52 17 appreciate your work and your time.

12:17:54 18 THE WITNESS: You're welcome.

12:18:01 19 MR. SHERMAN: So do we want to consider
12:18:01 20 taking a -- I know it's noon, afternoon in Arizona.
12:18:05 21 Ms. Hiser, do you want to take a lunch break now? Do
12:18:07 22 you want to go for a bit more before we do a lunch
12:18:11 23 break?

12:18:14 24 THE WITNESS: Let's break for lunch, Jon.
12:18:16 25 It seems like that would be a nice thing.

12:18:19 1 MR. SHERMAN: Okay. How long? Does a
12:18:21 2 half hour, 30 minutes, 45 minutes? What seems --
12:18:25 3 THE WITNESS: Let's do 45, please.
12:18:27 4 MR. SHERMAN: Okay. Is that fine with all
12:18:30 5 parties, we break for 45 and come back? I'm just
12:18:33 6 mindful that we on the East Coast, it's 3:18, and folks
12:18:37 7 in Arizona are hitting lunchtime.
12:18:40 8 MR. LANGHOFER: How long are you planning
12:18:41 9 on going this afternoon, Jon?
12:18:44 10 MR. SHERMAN: We are just getting started
12:18:46 11 on many other sections involving the citizenship-related
12:18:49 12 questions, so this could, you know, take, you know, the
12:18:53 13 full seven hours, just to be frank.
12:18:53 14 MS. STUART: Do you want to get off the
12:18:53 15 record?
12:18:58 16 MR. SHERMAN: Not just with me, but --
12:18:59 17 excuse me?
12:18:59 18 MS. STUART: Do we want to get off the
12:19:01 19 record to continue this conversation?
12:19:02 20 MR. SHERMAN: Oh, for sure. Yeah.
12:19:04 21 THE VIDEOGRAPHER: We are off the record.
12:19:06 22 The time on the video monitor is 12:19 p.m.
01:02:07 23 (A recess was taken.)
01:04:42 24 THE VIDEOGRAPHER: We are on the record.
01:04:43 25 The time on the video monitor is 1:04 p.m.

01:04:49 1 EXAMINATION

01:04:49 2 BY MR. SHERMAN:

01:04:50 3 Q. Good afternoon, Ms. Hiser. My name is Jon

01:04:53 4 Sherman. I'm with Fair Elections Center, and I

01:04:56 5 represent the Poder Latinx plaintiffs in Mi Familia

01:05:02 6 Vota v. Fontes, this consolidated litigation.

01:05:04 7 I wanted to begin by just rehearsing a 30(b)(6)

01:05:09 8 deposition. Because this is a 30(b)(6) deposition under

01:05:12 9 the Federal Rules, you understand that you're testifying

01:05:16 10 on behalf of the whole County Recorder's Office,

01:05:21 11 including the County Recorder herself, correct?

01:05:22 12 A. I do.

01:05:23 13 Q. Okay, great.

01:05:27 14 And can we just reiterate the stipulation I

01:05:30 15 think that was agreed to earlier, where if I say you, I

01:05:33 16 mean your office; can we agree to that?

01:05:34 17 A. Yes.

01:05:35 18 Q. Okay, great.

01:05:38 19 Earlier this morning you were talking about the

01:05:42 20 election procedures manual, specifically the 2019

01:05:45 21 election procedures manual. I just wanted to clear up

01:05:48 22 the record on a few points.

01:05:52 23 Is your office legally required to follow the

01:05:55 24 election procedures manual?

01:05:55 25 MR. LANGHOFER: Calls for a legal

01:05:56 1 conclusion.

01:06:00 2 BY MR. SHERMAN:

01:06:00 3 Q. I'm sorry, I didn't hear the response.

01:06:03 4 A. I believe someone objected.

01:06:08 5 Q. You can -- you can answer after they object,

01:06:09 6 unless someone -- unless someone instructs you not to

01:06:12 7 answer.

01:06:14 8 A. Yes, we are required to follow the EPM.

01:06:19 9 Q. Great. And all parts of the EPM?

01:06:22 10 A. Yes.

01:06:26 11 Q. Has the Secretary of State's Office ever

01:06:28 12 communicated to you whether it believes the voter

01:06:31 13 registration rules and procedures in the EPM are legally

01:06:35 14 binding?

01:06:35 15 MS. STUART: Form.

01:06:36 16 THE WITNESS: I don't think they've ever

01:06:37 17 communicated that to us. That has been our

01:06:39 18 understanding of the EPM.

01:06:42 19 BY MR. SHERMAN:

01:06:42 20 Q. Has any County Recorder ever suggested to you,

01:06:45 21 any County Recorder's Office, ever suggested to you that

01:06:47 22 the voter registration guidance in the EPM is not

01:06:51 23 legally binding?

01:06:52 24 A. Not to my knowledge, no.

01:06:57 25 Q. Can legally binding guidance be conveyed by the

01:07:00 1 Secretary of State's Office to your office by any other
01:07:03 2 means outside of the EPM?

01:07:05 3 MR. LANGHOFER: Calls for a legal
01:07:08 4 conclusion.

01:07:08 5 MS. STUART: Form.

01:07:09 6 THE WITNESS: I don't really understand
01:07:10 7 your question.

01:07:13 8 BY MR. SHERMAN:

01:07:13 9 Q. Sure. I can give some other examples.

01:07:17 10 Can you be legally -- are you legally required
01:07:20 11 to follow a memorandum issued by the Secretary of
01:07:23 12 State's Office to your office?

01:07:25 13 MR. LANGHOFER: Same objection.

01:07:28 14 THE WITNESS: No. We would just -- the
01:07:31 15 EPM is a guide, as it's stated in statute, that the
01:07:37 16 Secretary of State's Office produces that we follow. It
01:07:40 17 defines election administration and voting task
01:07:47 18 responsibilities for County Recorders and election
01:07:49 19 directors.

01:07:49 20 BY MR. SHERMAN:

01:07:49 21 Q. So the EPM is binding, but not a separate
01:07:51 22 memorandum that the Secretary of State's Office issues?

01:07:55 23 MS. STUART: Form.

01:07:56 24 MR. LANGHOFER: Same objection.

01:07:57 25 THE WITNESS: I would say that we would

01:08:00 1 consider separate memorandums from the Secretary of
01:08:03 2 State's Office as guidance, not binding.

01:08:05 3 BY MR. SHERMAN:

01:08:06 4 Q. Okay. That's just what I wanted to clarify.

01:08:07 5 If the Secretary of State's Office's lawyers
01:08:10 6 write a legal brief and send it to your office, is that
01:08:14 7 legally binding guidance?

01:08:15 8 MS. STUART: Form.

01:08:17 9 MR. LANGHOFER: Calls for a legal
01:08:19 10 conclusion.

01:08:19 11 THE WITNESS: If the SOS's attorneys were
01:08:21 12 to send us a legal brief, I would give it to my attorney
01:08:24 13 and wait for direction from my attorney.

01:08:26 14 BY MR. SHERMAN:

01:08:27 15 Q. Okay. And if your attorney said this is
01:08:30 16 legally binding, then you would follow it, you would
01:08:33 17 believe it's legally binding?

01:08:34 18 MR. LANGHOFER: Same objection.

01:08:35 19 THE WITNESS: I always follow the advice
01:08:36 20 of my attorney.

01:08:38 21 BY MR. SHERMAN:

01:08:40 22 Q. All right. If someone, a staff member of the
01:08:42 23 Secretary of State's Office, sends your office an
01:08:43 24 e-mail, is that -- would you be legally required to
01:08:46 25 follow that?

01:08:46 1 MS. STUART: Form.

01:08:48 2 THE WITNESS: Again, I would consider that

01:08:50 3 to be guidance, and if it were something of in question,

01:08:56 4 again, we would provide that information to our attorney

01:08:58 5 and seek input from counsel.

01:09:01 6 BY MR. SHERMAN:

01:09:01 7 Q. Okay. So anything that comes to your office

01:09:04 8 outside of the EPM, whether it's a letter, an e-mail, a

01:09:08 9 phone call, text message, any other means, that would be

01:09:14 10 subject to further review by your attorney, but not

01:09:16 11 per se legally binding on your office?

01:09:18 12 MR. LANGHOFFER: Form.

01:09:19 13 MS. STUART: Form.

01:09:22 14 THE WITNESS: Yes. I would consider that

01:09:23 15 to be guidance.

01:09:26 16 BY MR. SHERMAN:

01:09:26 17 Q. Okay. And just to clarify, earlier we were

01:09:28 18 talking about the VRAC papers. Are those legally

01:09:32 19 binding on your office?

01:09:32 20 MS. STUART: Form.

01:09:35 21 THE WITNESS: They are not legally

01:09:36 22 binding, but it is a way for us to create uniformity

01:09:40 23 among procedures across all 15 counties.

01:09:43 24 BY MR. SHERMAN:

01:09:43 25 Q. But a VRAC paper, right, can't contradict the

01:09:48 1 EPM or statutes, right?

01:09:50 2 MS. STUART: Form.

01:09:50 3 MR. LANGHOFER: Same.

01:09:51 4 MS. STUART: And, also, I don't want to

01:09:52 5 interrupt you, so if you could just give me a bit more

01:09:55 6 of a pause before you answer his questions. Thank you.

01:10:03 7 BY MR. SHERMAN:

01:10:03 8 Q. I can re -- I can repeat.

01:10:05 9 A. So the VRAC paper would be considered

01:10:09 10 supplementary guidance to information from the EPM or

01:10:13 11 statute. The VRAC papers are -- the foundation for them

01:10:19 12 is the EPM and the statute. They are just further

01:10:25 13 discussing operations as it relates to certain tasks as

01:10:28 14 already outlined in the EPM.

01:10:31 15 Q. Okay. But just to clarify it, VRAC papers

01:10:34 16 can't contradict statutes?

01:10:37 17 MR. LANGHOFER: Form.

01:10:40 18 THE WITNESS: Correct. The VRAC papers

01:10:42 19 are based on statute and statutory interpretation from

01:10:50 20 the Secretary of State's Office.

01:10:51 21 BY MR. SHERMAN:

01:10:51 22 Q. And VRAC papers can't contradict the EPM,

01:10:55 23 correct?

01:10:55 24 MR. LANGHOFER: Form.

01:10:55 25 MS. STUART: Form.

01:10:58 1 THE WITNESS: They do not contradict the
01:11:02 2 EPM. They supplement the EPM and provide the EPM with
01:11:07 3 more clarity.

01:11:08 4 BY MR. SHERMAN:

01:11:08 5 Q. Okay. Thanks very much.

01:11:10 6 So earlier you testified that you consult the
01:11:12 7 EPM and statutes simultaneously; is that correct?

01:11:14 8 A. Correct.

01:11:16 9 Q. What if there's a conflict between the EPM and
01:11:18 10 the statutes; what do you do?

01:11:21 11 MS. STUART: Form.

01:11:21 12 THE WITNESS: I talk to my attorney.

01:11:25 13 BY MR. SHERMAN:

01:11:25 14 Q. Okay. So there might be circumstances where
01:11:28 15 you're not bound to follow the EPM and would follow the
01:11:31 16 statutes if there is a conflict between the two?

01:11:34 17 MR. LANGHOFER: Form.

01:11:39 18 THE WITNESS: If we've identified a
01:11:40 19 conflict, we would discuss with our legal counsel how
01:11:43 20 best to proceed.

01:11:45 21 BY MR. SHERMAN:

01:11:45 22 Q. And the statutes supersede the EPM, right?

01:11:48 23 MS. STUART: Form.

01:11:48 24 MR. LANGHOFER: Form.

01:11:50 25 THE WITNESS: Our understanding is, is

01:11:53 1 that the statute's in effect, so the statute is the
01:11:56 2 foundation. The EPM supports the operation of the
01:12:02 3 statute. The VRAC papers further detail specifics about
01:12:06 4 operations.

01:12:08 5 BY MR. SHERMAN:

01:12:08 6 Q. All right. Maybe I'll ask it a different way.
01:12:10 7 Can the EPM contradict what's in the statute?

01:12:13 8 MS. STUART: Form.

01:12:14 9 MR. LANGHOFER: Form.

01:12:16 10 THE WITNESS: As the current EPM that is
01:12:19 11 currently still in effect is the 2019 EPM, there are
01:12:22 12 several contradictions in its current form to what has
01:12:26 13 passed the Arizona state legislature in previous
01:12:30 14 legislative sessions.

01:12:32 15 BY MR. SHERMAN:

01:12:32 16 Q. So leaving aside updates between the two
01:12:36 17 revisions of the EPM between, say, 2019 and the next
01:12:40 18 revision, whenever that happens, the EPM has to be
01:12:45 19 consistent with statutes, right?

01:12:46 20 MS. STUART: Form.

01:12:46 21 MR. LANGHOFER: Form.

01:12:47 22 THE WITNESS: Correct.

01:12:53 23 MR. SHERMAN: Okay.

01:12:53 24 MR. LANGHOFER: Mr. Sherman, is there some
01:12:55 25 dispute about the hierarchy of legal authorities in

01:12:57 1 Arizona? I mean don't we all agree on what trumps what?

01:13:04 2 MR. SHERMAN: Is there -- I mean are you
01:13:06 3 disputing the relevance of the question? I'm just not
01:13:07 4 sure what the objection is.

01:13:09 5 MR. LANGHOFER: Yeah. I mean it's your
01:13:10 6 deposition. You can spend your time the way you want,
01:13:12 7 but I don't think there's any question about which legal
01:13:16 8 authorities are more authoritative in Arizona.

01:13:19 9 MR. SHERMAN: Okay. Is there an
01:13:20 10 objection?

01:13:21 11 MR. LANGHOFER: I'll object on the grounds
01:13:22 12 of relevance.

01:13:25 13 MR. SHERMAN: Okay. Thanks.

01:13:31 14 BY MR. SHERMAN:

01:13:31 15 Q. So just to revisit, you reviewed the statutes
01:13:34 16 and EPM simultaneously, and have there been instances in
01:13:38 17 the past where you've been -- in consultation with your
01:13:42 18 legal counsel, you've had to follow the statute over
01:13:47 19 what's in the EPM?

01:13:55 20 A. I don't believe so. But the statutes
01:13:59 21 themselves, depending on which particular statute would
01:14:03 22 be considered in conflict, some of the statutes are very
01:14:06 23 short and vague, and the procedures in the elections
01:14:09 24 procedures manual can be very detailed, taking a -- the
01:14:16 25 statute that lacks some detail and some clarity and

01:14:20 1 providing more detail to operations.

01:14:22 2 Q. Is it your testimony that you consult the
01:14:25 3 statute to fill in gaps in the EPM?

01:14:30 4 A. No. I consult the statute in conjunction with
01:14:33 5 the EPM because that's best practice.

01:14:37 6 Q. And why is that best practice, just to be
01:14:39 7 clear?

01:14:39 8 A. Because as an elections officer, I'm bound to
01:14:42 9 follow the statutes of the state of Arizona when
01:14:45 10 enforcing election administration.

01:14:46 11 Q. Okay. Thanks very much.

01:14:48 12 You mentioned, also, the annotated version of
01:14:52 13 the EPM. The annotation in that version of the EPM is
01:14:55 14 not legally binding on your office, correct?

01:14:58 15 MS. STUART: Form.

01:14:59 16 MR. LANGHOFER: Form.

01:15:00 17 THE WITNESS: Our understanding is, no, it
01:15:02 18 is not legally binding. It is an annotated version
01:15:05 19 referencing changes in statute for a particular
01:15:08 20 legislative session.

01:15:10 21 BY MR. SHERMAN:

01:15:14 22 Q. Okay. Is that all the annotation contains is
01:15:17 23 legal changes?

01:15:19 24 A. Yes.

01:15:21 25 Q. Okay. I just wanted to clarify. Thanks very

01:15:24 1

much.

01:15:24 2

01:15:38 3

So just to confirm, earlier you had testified that you're not enforcing any part of H.B. 2492; is that correct?

01:15:44 4

01:15:44 5

01:15:47 6

01:15:50 7

01:15:54 8

01:15:58 9

A. That is correct. We are currently waiting on a decision regarding this litigation to be able to move forward. The guidance that we have been provided has not been as clear as we would like, so we are continuing operations as normal.

01:16:02 10

01:16:04 11

Q. And just to confirm, you're not enforcing any part of H.B. 2243 at the moment, correct?

01:16:08 12

01:16:12 13

01:16:14 14

01:16:17 15

01:16:18 16

MR. LANGHOFFER: Asked and answered.

THE WITNESS: That is correct. We are still waiting on the outcome of litigation in regards to these bills.

BY MR. SHERMAN:

01:16:18 17

01:16:19 18

01:16:25 19

01:16:29 20

Q. Great. Thank you.
And to your knowledge, are all counties following suit, following the same protocol that your office is?

01:16:30 21

A. As far as I know, yes.

01:16:45 22

01:16:48 23

Q. And you have reviewed the draft 2023 EPM?

A. I have.

01:16:49 24

01:16:52 25

Q. Have you offered comments yet? I forget if you testified as to that.

01:16:53 1 A. We offered some preliminary comments in the
01:16:55 2 very first meeting as it related to Chapter 2. We had
01:17:00 3 requested why some things had been removed that were
01:17:02 4 previously referenced in the 2019 EPM. We felt that
01:17:06 5 some of those guidances were -- provided some detail and
01:17:12 6 clarity, so we asked for them to be put back in.

01:17:16 7 And the majority of our input going forward has
01:17:19 8 been verbal through our meetings with the Recorder and
01:17:23 9 the Secretary's Office as we discussed each section of
01:17:27 10 the EPM.

01:17:27 11 Q. Great.

01:17:28 12 I just want to be clear on how many meetings
01:17:31 13 there have been with the Secretary of State's Office
01:17:33 14 about the challenged laws. Could you speak to that?
01:17:37 15 How many meetings have there been since they were
01:17:39 16 enacted, essentially?

01:17:41 17 A. About the challenged laws themselves?

01:17:43 18 Q. Yes, about H.B. 2492 and H.B. 2243.

01:17:50 19 A. Well, we've had many meetings with the
01:17:52 20 Secretary of State's Office, from discussion of VRAC
01:17:56 21 papers to AVID enhancement to the EPM draft, and these
01:18:05 22 challenged laws play a factor in those conversations
01:18:08 23 always. So too many -- too numerous to count.

01:18:14 24 Q. Understood.

01:18:14 25 So in each of these meetings you've shared

01:18:17 1 feedback on your office's concerns with the challenged
01:18:22 2 laws?

01:18:22 3 A. Not at each of these meetings. Some of them
01:18:25 4 has just -- some of the meetings are updates as to where
01:18:30 5 we stand on litigation. Some of them can be what are
01:18:36 6 the next steps in terms of updating systems. It's not a
01:18:41 7 discussion of the legality of the laws. It's a
01:18:44 8 discussion of these laws are under litigation and here
01:18:49 9 would be next steps and here's what we're waiting for.

01:18:52 10 Q. Understood.

01:18:54 11 Could I ask you to take a look at what's
01:18:56 12 Exhibit Q? It's Bates stamp number AZSOS-21416.

01:19:09 13 Just let me know when you have the document
01:19:11 14 open.

01:19:17 15 A. And which tab would that be? Is that the
01:19:22 16 Mi Familia Vota?

01:19:23 17 Q. It's Pima County Recorder 30(b)(6) deposition
01:19:29 18 potential exhibits.

01:19:31 19 MS. STUART: I don't think there's an
01:19:32 20 Exhibit Q. What was the Bates number, again?

01:19:36 21 MR. SHERMAN: AZSOS-21416.

01:19:43 22 MS. STUART: Thank you.

01:19:55 23 MR. SHERMAN: I modified it in the
01:19:57 24 Dropbox, but perhaps it doesn't update for everyone, I
01:20:00 25 guess, if it was separately sent to you.

01:20:09 1 THE WITNESS: I'll try refreshing and see
01:20:11 2 if it --
01:20:15 3 I refreshed so I'm able to --
01:20:20 4 Yes, I have it.
01:20:20 5 BY MR. SHERMAN:
01:20:20 6 Q. Do you see it now, Exhibit Q?
01:20:21 7 A. I do.
01:20:22 8 Q. Okay, great.
01:20:23 9 And you can see -- what is this document?
01:20:28 10 A. That's an e-mail from the previous chief
01:20:31 11 deputy, Pamela Franklin, to Kori Lorick, who was the
01:20:37 12 previous elections director for the Secretary of State
01:20:40 13 under Secretary Hobbs.
01:20:41 14 Q. And who is cc'd on this e-mail?
01:20:45 15 A. Just the County Recorder.
01:20:48 16 Q. And could you just read for the record -- it's
01:20:52 17 a short e-mail. Could you just read for the record what
01:20:54 18 it says?
01:20:55 19 A. "Hi, Kori. I'd like to chat with you about
01:20:57 20 some of the problems/issues we see in implementing and
01:21:01 21 interpreting H.B. 2492. Is there a time that would be
01:21:05 22 good for you to talk?"
01:21:08 23 Q. And was there a meeting that took place with
01:21:12 24 the Secretary of State's Office in response to this
01:21:14 25 e-mail?

01:21:15 1 A. I do not know.

01:21:16 2 Q. Okay. You were with the County Recorder's

01:21:21 3 Office at the time, correct?

01:21:22 4 A. I was. I was the assistant chief deputy at the

01:21:26 5 time.

01:21:26 6 Q. Right. And was there a meeting -- whether or

01:21:29 7 not this meeting ultimately occurred, was there a

01:21:32 8 meeting with the County Recorder and Pamela Franklin

01:21:34 9 where you discussed the problems and issues that the

01:21:39 10 County Recorder's Office saw in implementing and

01:21:41 11 interpreting H.B. 2492?

01:21:43 12 A. We would have had a standing meeting on a

01:21:48 13 weekly basis reviewing legislation and the impact of

01:21:52 14 legislation, so we would most likely have discussed it

01:21:55 15 during that meeting.

01:21:57 16 Q. Was there a lawyer present during that meeting?

01:21:59 17 A. No. That would have been an internal meeting

01:22:02 18 of County Recorder staff only.

01:22:08 19 Q. Okay. Could you recount -- in a minute I'm

01:22:10 20 going to ask you to take a look at H.B. 2492, but for

01:22:14 21 now, could I have you just recount the substance of what

01:22:16 22 was discussed at that meeting?

01:22:20 23 A. I'm sorry. That was over a year ago. I don't

01:22:23 24 remember the substance.

01:22:24 25 I do recall that we would discuss bills that we

01:22:27 1 had concerns about because we were internally tracking
01:22:30 2 them and discuss what the implications of that would be.
01:22:36 3 At the time of this particular legislative session we
01:22:41 4 had two legislative liaisons that we had hired in our
01:22:44 5 department, two second-year law students, who were
01:22:49 6 assisting us as we were reviewing the legislation kind
01:22:55 7 of impacting.

01:22:58 8 Those legislative liaisons were assigned to me.
01:23:00 9 They were my direct reports. I did have them follow
01:23:05 10 bills that would have an operational impact, including
01:23:09 11 this one, on our office, and to identify issues with the
01:23:15 12 bill and kind of discuss if there were any conflicts of
01:23:19 13 laws, that should the bill be passed, what that would
01:23:23 14 implicate, what that would -- what that would mean for
01:23:26 15 our office, just so we could get kind of a full
01:23:30 16 understanding of the bills.

01:23:35 17 Q. Okay. So to refresh your memory of the
01:23:37 18 conversation, I do understand it was more than a year
01:23:39 19 ago, could we take a look at H.B. 2492. This is Petty
01:23:46 20 Exhibit 19.

01:23:48 21 MR. LANGHOFER: And, Jon?

01:23:48 22 MR. SHERMAN: Yes.

01:23:50 23 MR. LANGHOFER: Just before you move on,
01:23:51 24 maybe I missed it, but it may make sense to make sure we
01:23:51 25 have a --

01:23:51 1 MR. SHERMAN: Oh, yeah.

01:23:54 2 MR. LANGHOFER: -- exhibit number

01:23:55 3 associated with the last one.

01:23:57 4 MR. SHERMAN: I apologize. We should mark

01:23:59 5 Exhibit Q, and I forget sequentially where we're at.

01:24:08 6 THE COURT REPORTER: 75.

01:24:10 7 MR. SHERMAN: 75? Thanks very much.

01:24:17 8 BY MR. SHERMAN:

01:24:18 9 Q. So if you have -- do you have H.B. 2492, Petty

01:24:22 10 Exhibit 19, up before you?

01:24:23 11 A. I do have a copy of the bill, yes, the

01:24:25 12 chaptered version.

01:24:26 13 Q. The chapter version, Chapter 99?

01:24:30 14 A. Yes.

01:24:30 15 Q. Great.

01:24:31 16 So the e-mail we were just looking at described

01:24:35 17 problems and issues with interpreting and implementing

01:24:41 18 H.B. 2492. I'd like to ask you to take a minute to -- a

01:24:45 19 couple minutes even, as long as you need, to walk

01:24:47 20 through H.B. 2492, and for the record, talk through what

01:24:55 21 your office sees as the problems and issues with

01:25:00 22 interpreting -- let's start with just interpreting

01:25:03 23 H.B. 2492. Well, we'll do it together, problems and

01:25:08 24 issues interpreting and implementing H.B. 2492.

01:25:11 25 A. Sure. Give me a moment. I have it on the

01:25:13 1 screen, and I'd like to take a moment just to refresh

01:25:16 2 my --

01:25:16 3 Q. Yes, for sure. Take as long as you need.

01:26:26 4 And you don't have to give them to us all at

01:26:28 5 once. We can go page by page here. That might be

01:26:31 6 easier to do.

01:26:32 7 A. Sure.

01:26:33 8 Q. And maybe to do this most efficiently, because

01:26:36 9 I want to be as efficient as possible, let me sort of

01:26:39 10 combine this with another question. You can answer them

01:26:42 11 simultaneously.

01:26:43 12 Earlier you testified that there are vague,

01:26:48 13 quote, vague provisions in both of the challenged laws

01:26:53 14 that would -- that your office cannot implement until

01:26:57 15 you have clear guidance from the Secretary of State's

01:27:00 16 Office; is that correct?

01:27:01 17 A. That is correct.

01:27:03 18 Q. While we're going through H.B. 2492, if you

01:27:07 19 could simultaneously point to the provisions or language

01:27:09 20 or phrases in the Act that your office sees as vague and

01:27:17 21 could not implement without clear guidance from the

01:27:20 22 Secretary of State's Office. So why don't we start just

01:27:24 23 with Page 1 of H.B. 2492.

01:27:30 24 A. Are you asking about Section 1 or --

01:27:34 25 Q. I'm asking just anything on Page 1, anything on

01:27:37 1 Page 1 of -- we could do it by section. That might be
01:27:43 2 easier. Let's start with Section 1.

01:27:45 3 A. So for Section 1, 16-101, we didn't have any
01:27:53 4 particular issues, other than with the additional
01:27:58 5 language, and has provided satisfactory evidence of
01:28:00 6 citizenship as prescribed. I believe we considered that
01:28:05 7 to be a redundancy.

01:28:10 8 But the information specifically, the included
01:28:16 9 language was and has provided satisfactory evidence of
01:28:20 10 citizenship as prescribed in Section 16-166. That
01:28:24 11 section, 16-166, was the section that underwent the
01:28:31 12 extensive amount of rewrite by the legislature at the
01:28:41 13 time.

01:28:41 14 So the references to proof of residency and
01:28:44 15 then the references to which statutes it's prescribing,
01:28:50 16 16-123, we felt that those were -- the inclusion of that
01:29:00 17 information was not as clear as it could have been for
01:29:02 18 us. And the reference to 16-123 we felt was a vague
01:29:09 19 statute as well.

01:29:11 20 Q. Okay.

01:29:15 21 A. We also identified that that could be some
01:29:17 22 issues with when receiving federal only ballots. The
01:29:28 23 notification requirements --

01:29:34 24 Q. Are you still just on Section 1, just to --

01:29:36 25 A. I'm sorry. I've moved to Section 16-166.

01:29:51 1 And then for Section 4 of 16-121.01, the
01:30:10 2 included language in Section A, I think we had some
01:30:15 3 issues with that.

01:30:17 4 Q. What were your issues with the language in
01:30:20 5 Subsection A under 16-121.01?

01:30:31 6 A. The language as it related to the federal
01:30:34 7 ballot and federal voters, eligibility to vote federal
01:30:39 8 voters and federal ballots.

01:30:41 9 Q. Are you referring to vagueness, a problem of
01:30:44 10 interpretation, or problem of implementation?

01:30:47 11 A. All three.

01:30:53 12 Q. Anything else in Subsection A?

01:31:14 13 A. Not at the moment, no.

01:31:18 14 Q. Okay. My colleagues may have additional
01:31:20 15 questions about that.

01:31:21 16 Moving to Page 4 and the other sections that
01:31:26 17 were added, other subsections that were added to
01:31:31 18 16-121.01, let's stick with just problems, problems of
01:31:36 19 interpretation and implementation that your office saw
01:31:40 20 in this section.

01:31:49 21 A. Well, I believe we had issues with C, "Except
01:32:13 22 for a form produced by the United States Elections
01:32:17 23 Assistance Commission, any application for registration
01:32:19 24 shall be accompanied by satisfactory evidence of
01:32:21 25 citizenship as prescribed in Section 16-166,

01:32:25 1 Subsection F, and the County Recorder or other officer
01:32:29 2 in charge of elections shall reject any application for
01:32:33 3 registration that is not accompanied by satisfactory
01:32:35 4 evidence of citizenship."

01:32:38 5 Our current practice is, when a registration
01:32:43 6 comes and lacks proof of citizenship, we register that
01:32:47 7 individual as a federal only voter, meaning they are
01:32:50 8 only eligible to vote a federal ballot. We reach out to
01:32:53 9 them and let them know that they need to provide us
01:32:56 10 proof of citizenship; and once we have that proof of
01:32:59 11 citizenship, we move their status to a full ballot
01:33:03 12 voter.

01:33:03 13 With this particular section our interpretation
01:33:06 14 was, is that we wouldn't even be able to do that. We
01:33:09 15 would just simply have to reject a voter. Then we
01:33:17 16 would -- by the -- by having to reject a voter, rather
01:33:20 17 than being able to say, like, put the voter -- continue
01:33:23 18 to register the voter as a federal only or to suspend
01:33:26 19 the voter registration until we received additional
01:33:30 20 forms, it was just -- operationally it makes -- it makes
01:33:33 21 it difficult for us. We would basically be duplicating
01:33:36 22 work over and over again.

01:33:44 23 Q. Any other problems with interpretation or --

01:33:48 24 A. Well, we had some --

01:33:48 25 Q. -- implementation you see?

01:33:48 1 A. It would be safe to say that we had some
01:33:56 2 heartburn with the language of "A County Recorder or
01:34:00 3 other officer in charge of elections who knowingly fails
01:34:04 4 to reject an application for registration as prescribed
01:34:06 5 by this subsection is guilty of a Class 6 felony."

01:34:11 6 That made our -- gave us pause, as our standard
01:34:20 7 is we are registering people to vote, and this is
01:34:27 8 telling us that if we did not reject people to vote, we
01:34:30 9 would be charged with a felony, was our interpretation
01:34:32 10 with it. We did not feel that -- we were concerned that
01:34:42 11 our staff might feel that their job was criminalized if
01:34:47 12 they made a mistake.

01:34:55 13 Q. If there's nothing else on Subsection C, I
01:34:58 14 wanted to direct your attention to Subsection D and
01:35:00 15 stick with that for a bit.

01:35:02 16 What were the problems with interpretation and
01:35:06 17 implementation that your office saw in Subsection D?
01:35:12 18 And we can include the vagueness issues under problems
01:35:15 19 of interpretation.

01:35:33 20 A. So under D there are five access database, you
01:35:46 21 know. Some of those -- so number 5 in particular, "Any
01:35:48 22 other state, city, town, county or federal database or
01:35:52 23 any other database relating to the voter registration to
01:35:55 24 which the County Recorder or officer in charge of
01:35:58 25 elections has access, including an electronic

01:36:01 1 registration information center database," we don't
01:36:04 2 really know what that means.

01:36:08 3 That's, you know -- you know, is that a permit
01:36:10 4 for a building permit, which doesn't provide
01:36:14 5 citizenship. We just -- I don't -- I don't know what
01:36:16 6 that means. I don't know how to access that should
01:36:21 7 we --

01:36:21 8 A National Association for Public Health
01:36:25 9 Statistics and Information Systems Electronic
01:36:29 10 Verification of Vital Events, here in the state of
01:36:32 11 Arizona health records and vital statistics are not
01:36:35 12 accessible to anybody other than the Health Department.
01:36:39 13 So even if I wanted to get confirmation of a death
01:36:44 14 notification of a Pima County resident, I could not go
01:36:47 15 to the Pima County Health Department and have them
01:36:49 16 confirm that for me. They have to provide that
01:36:51 17 information up through the Social Security
01:36:54 18 Administration, who then provides a master death file to
01:36:57 19 the Secretary of State's Office, who then provides it
01:36:59 20 back to me. So that's just not doable. There's no way
01:37:03 21 for us to be able -- it's not a possibility.

01:37:11 22 You know, the -- I've already discussed the
01:37:13 23 SAVE program, and we do use that to -- for first-time
01:37:17 24 registrants to verify a naturalization number.

01:37:21 25 Q. I'll get into the SAVE system later.

01:37:21 1 A. Okay.

01:37:24 2 Q. Maybe I can identify some specific language in
01:37:26 3 here and just ask you about it.

01:37:29 4 A. Sure.

01:37:29 5 Q. So the phrase shall use all available
01:37:33 6 resources, do you under -- does your office understand
01:37:35 7 what that means?

01:37:36 8 A. We consider that to be vague.

01:37:40 9 Q. Okay. Do you understand the phrase provided
01:37:42 10 the county has access?

01:37:47 11 A. Yes, we understand that provided the county has
01:37:51 12 access; but, again, as I previously stated, the things
01:37:55 13 that they are having as examples are not things the
01:38:00 14 county would have access to.

01:38:02 15 Q. Understood.

01:38:06 16 Under Subsection C, where it references the
01:38:08 17 SAVE system, you see at the end there it says "if
01:38:11 18 practicable"? Do you understand the phrase if
01:38:15 19 practicable?

01:38:15 20 A. I do.

01:38:16 21 Q. And what does it mean in context here?

01:38:19 22 A. If we have access to the SAVE system, we have a
01:38:25 23 registration with them, and so we are able to run it;
01:38:27 24 and if we have a naturalization number, we can run it
01:38:33 25 through the SAVE system or an INS number.

01:38:36 1 Q. Does the term practicable here include your
01:38:42 2 office's resources, time, staff resources, et cetera?

01:38:48 3 A. I guess in one interpretation you could say
01:38:52 4 that. It's simply part of our daily process, so we
01:38:56 5 would be doing it anyway. So, yes, time, staff and
01:38:59 6 resources would cover that.

01:39:04 7 Q. Do you understand Subsection 5 here, "Any other
01:39:06 8 state, city, town, county or federal database and any
01:39:10 9 other database relating to voter registration to which
01:39:13 10 the County Recorder or officer in charge of elections
01:39:16 11 has access"?

01:39:17 12 A. Yeah, I -- yes, I understand it. It's very
01:39:21 13 vague and it's not --

01:39:24 14 Q. How can you -- how can you understand it if
01:39:26 15 it's vague?

01:39:27 16 A. I can understand the words specifically of what
01:39:30 17 they mean. I can read the sentence. But the
01:39:35 18 implication of any other databases that would be held,
01:39:39 19 what are those databases?

01:39:42 20 Q. Is the state legislature telling your office to
01:39:45 21 spend all of its hours consulting every government
01:39:48 22 database under the sun?

01:39:50 23 A. Certainly seems that way with that wording.

01:39:55 24 Q. I want to direct -- there's a lot in
01:39:57 25 Subsection E here, so I want to direct your attention

01:40:00 1 just to the second sentence, which reads, "If the County
01:40:06 2 Recorder or other officer in charge of elections matches
01:40:09 3 the applicant with information that the applicant is not
01:40:12 4 a United States citizen, the County Recorder or other
01:40:16 5 officer in charge of elections shall reject the
01:40:19 6 application, notify the applicant that the application
01:40:22 7 was rejected because the applicant is not a United
01:40:29 8 States citizen and forward the application to the County
01:40:32 9 Attorney and Attorney General for investigation."

01:40:34 10 Does your office understand what is meant by
01:40:36 11 information that the applicant is not a United States
01:40:38 12 citizen?

01:40:39 13 A. Yes.

01:40:40 14 Q. And what does it mean to your office?

01:40:42 15 A. It means that we have run them through our
01:40:44 16 systems and they have not returned -- we have had a
01:40:48 17 notice returned that they are not a citizen from either
01:40:51 18 the SAVE database or the MVD or...

01:40:56 19 Q. So when you do a HAVA check, right, that's
01:40:59 20 through the AVID system, correct?

01:41:00 21 A. Correct.

01:41:01 22 Q. And you'll -- the user will see on the screen
01:41:06 23 whether or not -- what does the user see on the screen?

01:41:09 24 A. I have not run a HAVA check through the AVID
01:41:12 25 system and I do not have access to AVID, so I don't

01:41:17 1 exactly know what it is that they see on the screen.

01:41:19 2 So --

01:41:19 3 Q. Is your understand -- sorry. Go ahead.

01:41:21 4 A. The system, the AVID system, has keys, and
01:41:26 5 those keys are assigned to staff members. So only a
01:41:29 6 certain number of staff members have a key to be able to
01:41:32 7 use that system.

01:41:35 8 Q. Understood.

01:41:42 9 If you -- when you run the AVID -- when you run
01:41:44 10 the HAVA check and if the HAVA check reflects that the
01:41:50 11 applicant was issued an F-Type license, what do you do?

01:41:53 12 A. If it's an F-Type license, well, we would -- if
01:42:05 13 they've already been registered, we would inactivate
01:42:09 14 them and send them a letter.

01:42:12 15 Some of the F-Type licenses, it just means that
01:42:18 16 an individual may have already gone through the
01:42:20 17 naturalization ceremony and that information has not
01:42:23 18 updated through MVD, and so their license would change
01:42:28 19 once they were -- showed proof of citizenship through
01:42:34 20 the MVD as well.

01:42:41 21 Q. These laws concern database matching separate
01:42:46 22 and apart from the DPOC process, correct?

01:42:50 23 A. Yes.

01:42:51 24 Q. So using information in the HAVA check, which
01:42:57 25 interfaces with the MVD database, does that tell you how

01:43:02 1 old that information is; do you see that on the screen?

01:43:05 2 A. Again, I don't do this and I have not
01:43:07 3 personally seen that screen. The information is -- I
01:43:14 4 don't think it does, but I don't know that for sure.

01:43:17 5 Q. Okay, well, leaving aside how the HAVA check
01:43:21 6 interface looks, if your office learned that someone was
01:43:25 7 issued an F-Type license 25 years ago, would that be
01:43:28 8 information that they are not a United States citizen?

01:43:32 9 MR. LANGHOFER: Calls for a legal
01:43:36 10 conclusion.

01:43:36 11 BY MR. SHERMAN:

01:43:36 12 Q. And I'm not calling for, you know, you to
01:43:39 13 interpret the statute. Just what would your office
01:43:41 14 think of that information? Would that be information
01:43:43 15 that they're not a United States citizen in the present
01:43:46 16 day?

01:43:46 17 A. I think in that instance they would probably
01:43:49 18 speak to a supervisor and we would do an investigation.
01:43:53 19 We would kind of ask for more information.

01:43:58 20 Q. What if they were issued an F-Type license one
01:44:02 21 week ago?

01:44:05 22 A. Again, we would send them notice.

01:44:13 23 Q. Okay. I'm just trying to assess out how old --
01:44:18 24 how old information would be treated by your office. So
01:44:20 25 if information is 10 years old, 15 years old, if someone

01:44:24 1 was issued an F-Type license back in the year 2000 or
01:44:31 2 2005, how would that be construed as information that
01:44:35 3 they're not a United States citizen in the present day?

01:44:40 4 A. I don't know. I think that would be one of
01:44:44 5 those issues that we would have concerns with on how to
01:44:49 6 operationalize this.

01:44:50 7 Q. And does that lead you to -- does that lead
01:44:52 8 your office to believe that this phrase information that
01:44:55 9 the applicant is not a United States citizen in
01:44:59 10 H.B. 2492 is vague?

01:45:01 11 A. Yes.

01:45:02 12 Q. Okay. Thank you
01:45:12 13 What are -- what are some valid sources of
01:45:15 14 information that someone is not a United States citizen?
01:45:18 15 Anything beyond the government or voter registration
01:45:21 16 database?

01:45:22 17 MR. LANGHOFER: Object to the extent it
01:45:25 18 calls for a legal conclusion.

01:45:29 19 THE WITNESS: Those are the primary
01:45:31 20 sources. We do receive jury notifications. It's
01:45:36 21 surprising, quite a number of people, to get out of jury
01:45:39 22 duty, say they're not U.S. citizens. And we get those
01:45:42 23 notifications and then we have to call them and say
01:45:45 24 we've been notified that you're not a U.S. citizen, and
01:45:49 25 then they tell us that they are.

01:45:51 1 So I don't know if that's the source that
01:45:53 2 you're referring to, but that is another source we get
01:45:56 3 regarding if someone is a citizen or not.

01:45:59 4 BY MR. SHERMAN:

01:45:59 5 Q. Okay. So that would be information that
01:46:01 6 someone's not a United States citizen?

01:46:03 7 A. It would. It would be coming from another
01:46:06 8 government agency, so we would con -- we would do
01:46:09 9 follow-up with the voter on that.

01:46:12 10 Q. What about a phone call or an e-mail from the
01:46:15 11 voter saying I was registered somehow, I'm not a United
01:46:21 12 States citizen?

01:46:21 13 A. If it was a phone call or e-mail, we would have
01:46:24 14 to do -- we cannot change a voter registration form or
01:46:29 15 cancel a voter registration form without some sort of
01:46:31 16 written consent from the voter or some other indication,
01:46:35 17 like a death notice.

01:46:37 18 So if someone were to call us and say, hey, I
01:46:40 19 was reg -- I got registered to vote, but I'm not
01:46:42 20 actually a U.S. citizen, we would verify that person's
01:46:46 21 identity and then we would cancel their voter
01:46:51 22 registration upon voter request.

01:46:54 23 Q. So on its own, that contact is not
01:46:56 24 information that a person is not a United States
01:46:59 25 citizen, correct?

01:47:02 1 A. In and of itself, no; but if you were to call
01:47:05 2 me right now and say I got registered to vote and I'm
01:47:08 3 not a United States citizen, it would work -- we would
01:47:13 4 do some -- I would determine you are who you say you are
01:47:16 5 by asking you some security questions, and then I would
01:47:19 6 do a cancellation of your voter registration at your
01:47:25 7 request. So the notation in the system would say voter
01:47:28 8 cancellation by request.

01:47:31 9 Q. And you can do this over the phone?

01:47:33 10 A. For certain ones, yes.

01:47:36 11 Q. What kind of security questions do you ask?

01:47:40 12 A. The information that is on the voter
01:47:42 13 registration record. We will ask the last four digits
01:47:45 14 of a social security number. We will ask about your
01:47:52 15 mother's maiden name. The voter registration form has
01:47:57 16 many fields on it. Some of those fields are what we use
01:48:02 17 for security purposes, particularly the last four of a
01:48:05 18 social security number, maiden name, any change of name,
01:48:13 19 confirmation of a mailing address if there's a mailing
01:48:15 20 address and a residential address.

01:48:18 21 Q. And if the person on the other end of the line
01:48:21 22 can answer those security questions correctly, then your
01:48:24 23 office can take that as information that they're not a
01:48:28 24 United States citizen and they should be removed from
01:48:30 25 the rolls?

01:48:32 1 A. We can use that. We will make a notation in
01:48:34 2 it, and then we will send them out an official form for
01:48:38 3 them to sign and return back to us.

01:48:39 4 Q. Got it.

01:48:40 5 A. It still has to be done -- we still have to
01:48:43 6 have written confirmation, but if we can verify, we'll
01:48:46 7 say, hey, thank you for the information, and we'll make
01:48:49 8 note in the system and send out what we consider to be a
01:48:52 9 note code.

01:48:54 10 Q. Okay. And so for purposes of -- I just want to
01:48:57 11 be clear. For purposes of like removal under H.B. 2243,
01:49:04 12 which also references the term information, right, you
01:49:06 13 need written confirmation from the registered voter
01:49:09 14 before you could remove that person from the rolls,
01:49:12 15 correct?

01:49:12 16 A. Correct.

01:49:13 17 MR. LANGHOFER: Object to form, calls for
01:49:13 18 a legal conclusion.

01:49:13 19 BY MR. SHERMAN:

01:49:26 20 Q. How about a phone call from a member of the
01:49:28 21 voter's family saying this member of my family is not a
01:49:32 22 United States citizen; is that information that the
01:49:33 23 person is not a U.S. citizen?

01:49:36 24 A. No.

01:49:37 25 MR. LANGHOFER: Same objection.

01:49:37 1 BY MR. SHERMAN:

01:49:38 2 Q. A letter from a neighbor?

01:49:39 3 A. No.

01:49:40 4 Q. A phone call from law --

01:49:42 5 MR. LANGHOFER: Same objection.

01:49:42 6 BY MR. SHERMAN:

01:49:42 7 Q. A phone call from law enforcement in Arizona?

01:49:45 8 MR. LANGHOFER: Same.

01:49:50 9 THE WITNESS: No, but we might -- we might

01:49:56 10 speak to counsel on that one.

01:49:59 11 BY MR. SHERMAN:

01:49:59 12 Q. And why is that different?

01:50:02 13 A. Law enforcement has access to certain records

01:50:05 14 that we do not, so we would discuss with our counsel if

01:50:13 15 we needed to do something additional with this

01:50:15 16 information.

01:50:17 17 Q. So that phone call from law enforcement might

01:50:21 18 on its own be information that the person is not a U.S.

01:50:25 19 citizen?

01:50:25 20 A. It certainly might be information that we would

01:50:28 21 follow up on with our legal counsel.

01:50:32 22 Q. Okay. What additional steps would you take to

01:50:36 23 confirm that information, beyond what you've just said?

01:50:44 24 A. I don't know. I would have to confer with my

01:50:47 25 legal counsel and take the advice of my attorney.

01:50:50 1 Q. Fair enough.

01:50:51 2 A phone call from law enforcement in another

01:50:54 3 state?

01:50:58 4 A. Again, I would have to speak with my attorney

01:51:00 5 on that one.

01:51:02 6 Q. Okay. So you're not sure?

01:51:06 7 A. I'm not, no.

01:51:07 8 Q. Okay. And the same would be true for any kind

01:51:13 9 of written correspondence, e-mail or letter, from law

01:51:16 10 enforcement in Arizona or law enforcement in another

01:51:17 11 state?

01:51:19 12 A. Again, I --

01:51:19 13 MR. LANGHOFER: Form.

01:51:20 14 THE WITNESS: Again, I would say I would

01:51:24 15 need to speak with my attorney.

01:51:25 16 BY MR. SHERMAN:

01:51:26 17 Q. Okay. But on your own you're not sure whether

01:51:28 18 that would constitute information that someone's not a

01:51:32 19 United States citizen, right?

01:51:35 20 A. I -- I don't know if that would constitute

01:51:37 21 information.

01:51:39 22 Q. What about an anonymous call or an anonymous

01:51:42 23 e-mail?

01:51:42 24 A. No.

01:51:44 25 MR. LANGHOFER: Same objection.

01:51:48 1 BY MR. SHERMAN:

01:51:48 2 Q. And, lastly, what about lists provided by
01:51:50 3 third-party organizations? You get a list from True the
01:51:53 4 Vote or Arizona Border Recon saying this is a list of
01:51:57 5 people who are not United States citizens. Would that
01:52:00 6 be information that those folks are not U.S. citizens?

01:52:04 7 A. No.

01:52:04 8 MR. LANGHOFER: Same objection.

01:52:16 9 BY MR. SHERMAN:

01:52:16 10 Q. Okay. Is the -- are you limited to database
01:52:19 11 checks in confirming citizenship?

01:52:22 12 A. We are.

01:52:27 13 Q. There's no other means to confirm the
01:52:31 14 authenticity of such information beyond the database
01:52:34 15 check, correct?

01:52:34 16 MR. LANGHOFER: Same objection.

01:52:37 17 THE WITNESS: Unless the voter wants to
01:52:38 18 provide us copies of birth certificates or passports or
01:52:44 19 naturalization certificates.

01:52:50 20 BY MR. SHERMAN:

01:52:50 21 Q. And that's -- and your response there is true
01:52:53 22 for both voter registration on the front end and also
01:52:56 23 for evaluating the citizenship of anyone already on the
01:53:00 24 rolls under H.B. 2243, correct?

01:53:06 25 MR. LANGHOFER: Same objection.

01:53:07 1 THE WITNESS: I'm sorry. Are you
01:53:07 2 asking -- are we going retroactively back and looking at
01:53:12 3 everyone's citizenship status on our voter registration
01:53:14 4 roll?

01:53:15 5 BY MR. SHERMAN:

01:53:15 6 Q. Well, we'll get -- I guess we'll -- we'll get
01:53:16 7 to 2243.

01:53:17 8 I guess I'm just asking generally for both of
01:53:18 9 these challenged laws, the only way you can confirm the
01:53:22 10 authenticity of information that someone is not a U.S.
01:53:27 11 citizen is through database checks; is that correct?

01:53:29 12 MR. LANGHOFER: Same objection.

01:53:30 13 THE WITNESS: Correct, at the initial
01:53:31 14 registration.

01:53:39 15 BY MR. SHERMAN:

01:53:39 16 Q. We'll get -- okay.

01:53:40 17 Has the Secretary of State's Office ever given
01:53:41 18 your office a list of information that constitutes
01:53:44 19 evidence of a lack of U.S. citizenship?

01:53:47 20 A. Not to my knowledge, no.

01:53:54 21 Q. Have you ever discussed with the Secretary of
01:53:57 22 State's Office the means by which you would conclusively
01:54:01 23 establish that someone is not a U.S. citizen?

01:54:04 24 A. Not to my knowledge, no.

01:54:18 25 Q. Okay. Going back to H.B. 2492, while we have

01:54:25 1 it open. I'm trying to be efficient here, and I'm going
01:54:28 2 out of order. So thanks for bearing with me.

01:54:32 3 Down in Section 7, do you see Page -- it's on
01:54:39 4 Page 7 as well; do you see that?

01:54:41 5 A. Could you reference the section number or
01:54:45 6 statute number?

01:54:45 7 Q. Section 7 on Page 7. It's, I believe, newly
01:54:50 8 created Section 16-143. Do you see that?

01:54:52 9 A. Yes.

01:54:55 10 Q. Okay, great.

01:54:56 11 Maybe just take a second to refresh your memory
01:54:59 12 as to what this section is.

01:55:24 13 Now that the deadlines listed in Subsection A
01:55:28 14 have passed, does your office still believe it has to
01:55:34 15 comply with this section?

01:55:37 16 MS. STUART: Form.

01:55:38 17 MR. LANGHOFER: Calls for a legal
01:55:42 18 conclusion.

01:55:42 19 THE WITNESS: As this particular bill is
01:55:43 20 still under litigation, we are waiting on a court's
01:55:46 21 decision as to whether or not this bill will stand.

01:55:52 22 BY MR. SHERMAN:

01:55:55 23 Q. Okay. It's unclear, yes?

01:55:58 24 MS. STUART: Form.

01:55:58 25 MR. LANGHOFER: Same.

01:56:01 1 THE WITNESS: I would say that we're
01:56:03 2 unsure of what to do in this instance.

01:56:06 3 BY MR. SHERMAN:

01:56:07 4 Q. Okay. That's all I wanted to know.

01:56:08 5 I forgot one other phrase. Bear with me. Back
01:56:15 6 on Page -- we were talking about this provision before,
01:56:21 7 back on Page 5. This is Subsection D5. We read this
01:56:27 8 section before, but I forgot to ask you about it. This
01:56:32 9 is, again, any other state, city, town, county or
01:56:36 10 federal database --

01:56:37 11 MR. SHERMAN: Sorry. Was there an
01:56:40 12 objection?

01:56:40 13 BY MR. SHERMAN:

01:56:42 14 Q. Any other state, city, town, county or federal
01:56:45 15 database and any other database relating to voter
01:56:50 16 registration.

01:56:50 17 Does your office understand the phrase any
01:56:52 18 other database relating to voter registration?

01:56:55 19 MR. LANGHOFER: Calls for a legal
01:56:56 20 conclusion.

01:56:56 21 THE WITNESS: We do.

01:56:57 22 BY MR. SHERMAN:

01:56:57 23 Q. And what does it mean?

01:56:58 24 A. We believe that they're referring to the AVID
01:57:01 25 system.

01:57:07 1 Q. Isn't the AVID system referenced in Sub 1, the
01:57:10 2 Department of Transportation databases of Arizona driver
01:57:13 3 licenses or nonoperating identification licenses?

01:57:16 4 A. No, the AVID --

01:57:17 5 Q. I see.

01:57:18 6 A. -- system is the Arizona voter registration
01:57:21 7 database maintained by the Secretary of State's Office.

01:57:24 8 Q. Right. I'm sorry. I apologize. I thought you
01:57:26 9 were referring to the HAVA check. My bad.

01:57:29 10 Could this phrase refer to a list of voters you
01:57:36 11 receive from another Arizona agency?

01:57:38 12 MR. LANGHOFFER: Calls for a legal
01:57:46 13 conclusion.

01:57:46 14 THE WITNESS: I mean what agency, what
01:57:49 15 would be the context of receiving them?

01:57:53 16 BY MR. SHERMAN:

01:57:53 17 Q. Let me ask it this way. Could a list of
01:57:55 18 registered voters provided to your office by anyone
01:58:01 19 constitute a database relating to voter registration?

01:58:04 20 MR. LANGHOFFER: Same.

01:58:06 21 THE WITNESS: No.

01:58:10 22 BY MR. SHERMAN:

01:58:10 23 Q. And if it's from a private citizen or a group,
01:58:13 24 then would it constitute a database relating to voter
01:58:19 25 registration?

01:58:19 1 A. No.

01:58:19 2 MR. LANGHOFER: Calls for a legal
01:58:51 3 conclusion.

01:58:51 4 BY MR. SHERMAN:

01:58:51 5 Q. Let me back up a sec. I want to just clarify a
01:58:54 6 few points on citizenship verification before we
01:58:57 7 continue.

01:59:04 8 The DPOC requirement lists out specific means
01:59:07 9 by which a new voter registration applicant can prove
01:59:10 10 their U.S. citizenship, correct?

01:59:12 11 A. Yes.

01:59:12 12 Q. I just want to review the acceptable forms of
01:59:15 13 DPOC with you and just make sure we have the mechanics
01:59:20 14 down. I'm not going to go into a great detail here
01:59:23 15 because we've covered some of this. But a driver's
01:59:25 16 license number or non-driver state ID number, that can
01:59:28 17 be valid if it's from October 1st, 1996 or after,
01:59:32 18 correct?

01:59:32 19 A. Correct.

01:59:36 20 Q. If you can't verify that number, what happens?

01:59:44 21 A. If that's the only information provided to us
01:59:46 22 and we can't verify it, we would send out a letter
01:59:49 23 saying that we needed verification of citizenship.

01:59:54 24 Q. Maybe for purposes of this I'll ask you to look
01:59:57 25 at Exhibit I believe it's T, Pima County Bates number

02:00:05 1 156. Just let me know when you've got that open.

02:00:09 2 A. I have it open.

02:00:10 3 Q. Great.

02:00:12 4 And what is this document?

02:00:13 5 A. It's one of our note code letters.

02:00:17 6 Q. Could we mark this as Exhibit 76, I want to

02:00:25 7 say.

02:00:26 8 Great.

02:00:27 9 Could you describe this document in a bit more

02:00:30 10 detail?

02:00:33 11 A. The system is designed to auto-generate letters

02:00:37 12 based on particular codes we put into the system when

02:00:41 13 creating a -- inputting a voter registration. Those

02:00:46 14 codes are called note codes.

02:00:49 15 This would have been system-generated when we

02:00:54 16 were not able to verify proof of citizenship. So the

02:00:57 17 system generates these and then we send them out in

02:01:02 18 batches based off of the note code.

02:01:05 19 Q. Understood.

02:01:07 20 And this particular notice letter -- I know

02:01:10 21 there's a variety of these, but this particular one,

02:01:12 22 this would go out when?

02:01:14 23 A. It would most likely go out within a day or

02:01:19 24 possibly two of trying to put the information into the

02:01:23 25 system.

02:01:23 1 Q. Sorry. Let me rephrase.

02:01:24 2 Under what circumstances would this particular

02:01:27 3 notice letter be sent out?

02:01:28 4 A. It would be sent out if we didn't have

02:01:31 5 documentary proof of citizenship.

02:01:33 6 Q. Okay. And then at the bottom there's a list of

02:01:36 7 potential DPOC, acceptable DPOC, that the applicant can

02:01:40 8 provide, correct?

02:01:41 9 A. Correct.

02:01:42 10 Q. Okay. So just backing up a bit, if during the

02:01:50 11 HAVA check in the AVID system you see that it returns

02:01:56 12 information that the person was not a citizen at the

02:02:00 13 time they acquired their Arizona driver's license or ID,

02:02:03 14 that's an F-Type license, correct; that's what's meant

02:02:06 15 by an F-Type license?

02:02:07 16 A. Yes.

02:02:08 17 Q. Okay. And that only tells you the citizenship

02:02:13 18 of the individual at the time they obtained their

02:02:15 19 driver's license or ID, correct?

02:02:17 20 A. Yes, that's correct.

02:02:19 21 Q. How long are Arizona driver's licenses valid

02:02:22 22 for, if you know offhand?

02:02:26 23 A. I'm sorry. Our licenses are valid for a very

02:02:31 24 long time. I think it's 40 years. It's an insanely

02:02:38 25 long period of time our licenses are valid for.

02:02:42 1 Q. How often during this process does your office
02:02:45 2 encounter people who have an F-Type license, but who
02:02:50 3 subsequently naturalized as U.S. citizens?

02:02:53 4 A. That's not something that we track. I'm sure
02:02:55 5 that we have encountered voters like that, but that's
02:02:59 6 not something that we've tracked.

02:03:02 7 Q. But you're aware that it happens?

02:03:04 8 A. Yes.

02:03:05 9 Q. Could you say ballpark; frequently,
02:03:07 10 infrequently?

02:03:09 11 A. I wouldn't even know where to begin on that
02:03:11 12 one.

02:03:12 13 Q. Fair enough.
02:03:13 14 Who in your office would know?

02:03:15 15 A. As it's something we don't track, I don't know
02:03:17 16 if anyone would know that.

02:03:21 17 Q. Ballpark, though, front-line -- people who are
02:03:24 18 doing front-line voter registration processing would
02:03:27 19 probably have some sense?

02:03:28 20 A. I'm sure they could give you an anecdotal
02:03:31 21 number, yes.

02:03:36 22 Q. Okay. And those individuals can then provide
02:03:38 23 one of the acceptable forms of DPOC listed in
02:03:43 24 Exhibit 76, correct, and become registered?

02:03:45 25 A. Yes.

02:03:46 1 Q. Okay. What if a driver's license or ID is
02:03:58 2 expired?

02:04:02 3 A. That's not valid for proof of citizenship.

02:04:07 4 Q. Has there been any discussion with the
02:04:09 5 Secretary of State's Office on how to deal with expired
02:04:13 6 driver's licenses or IDs?

02:04:16 7 A. Not to my knowledge, no.

02:04:18 8 Q. It's not valid proof of citizenship. How would
02:04:21 9 it be -- would it be -- strike that. I'll just ask a --

02:04:28 10 A. It would also not be valid proof of identity at
02:04:31 11 a poll.

02:04:35 12 Q. If H.B. 2492 and -- if H.B. 2492 and H.B. 2243
02:04:44 13 go into effect, if they're implemented, would an F-Type
02:04:50 14 license -- excuse me. Sorry. Let me back up.
02:04:52 15 A driver's license -- oh, strike that.
02:04:54 16 An Arizona driver's license or state ID that's
02:04:57 17 issued on or after October 1st, 1996, but has
02:05:01 18 subsequently expired and is associated with DPOC,
02:05:09 19 documentary proof of citizenship, in the MVD database,
02:05:13 20 would that constitute -- would that still be valid for
02:05:18 21 purposes of the new challenged laws?

02:05:21 22 MR. LANGHOFER: Form, calls for a legal
02:05:23 23 conclusion.

02:05:23 24 MS. STUART: Form.

02:05:33 25 THE WITNESS: I don't -- I don't know.

02:05:37 1 BY MR. SHERMAN:

02:05:37 2 Q. It's unclear?

02:05:39 3 MR. LANGHOFER: Same.

02:05:41 4 THE WITNESS: I mean the voter
02:05:45 5 registration form, as it is right now, has a space for
02:05:49 6 the driver's license number. It does not have a space
02:05:52 7 for the expiration of the driver's license number. And
02:05:57 8 if we were processing a voter registration form and it
02:06:02 9 was a new voter registration form, they've never
02:06:03 10 registered to vote, we would input all of that
02:06:07 11 information into the system. Whether or not that
02:06:10 12 driver's license was expired on the form, that wouldn't
02:06:14 13 have an impact on us registering someone to vote.

02:06:17 14 They would not be able to use that expired
02:06:20 15 driver's license to prove identification at a polling
02:06:23 16 location on election day, but I don't know how --
02:06:34 17 whether or not the driver's license or state ID being
02:06:37 18 expired or not expired would impact the ability for us
02:06:39 19 to process a voter registration form.

02:06:43 20 BY MR. SHERMAN:

02:06:43 21 Q. All right. So that's on the front end with
02:06:47 22 H.B. 2492.

02:06:48 23 With respect to H.B. 2243, which requires --
02:06:51 24 would require your office to do these monthly
02:06:53 25 comparisons against databases like ADOT's MVD database,

02:06:59 1 would an expired license that nevertheless was
02:07:03 2 associated with DPOC, would that be an indication that
02:07:08 3 the person was not a citizen?

02:07:11 4 MR. LANGHOFER: Form.

02:07:13 5 THE WITNESS: I don't know. I'd need --
02:07:16 6 that's one of those questions up in the air.

02:07:21 7 BY MR. SHERMAN:

02:07:22 8 Q. Out-of-state driver's licenses can satisfy the
02:07:24 9 DPOC requirement, right?

02:07:26 10 A. No. Certain out-of-state driver's license can
02:07:29 11 if they have a certificate of endorsement for U.S.
02:07:34 12 citizenship. I only -- I believe only two states in the
02:07:37 13 United States have that. It's a little American flag on
02:07:42 14 the driver's license showing that they have provided
02:07:45 15 citizenship as verification.

02:07:48 16 Other U.S. driver's licenses may have the
02:07:50 17 little star on it. That means that they have been --
02:07:56 18 they've presented enough information to be able to get
02:07:58 19 through travel requirements through TSA and enter
02:08:03 20 federal buildings, but we would not consider a star
02:08:06 21 driver's license to be proof of citizenship.

02:08:08 22 We would only use a driver's license that has
02:08:11 23 the American flag on it as documentary proof of
02:08:16 24 citizenship from another state. Again, to the best of
02:08:19 25 my knowledge, there are only two states that currently

02:08:20 1 do that.

02:08:21 2 Q. Which states?

02:08:25 3 A. I think it's the state of Washington and I
02:08:29 4 think New York, or it might be Wisconsin. I believe
02:08:34 5 it's states that border the Canadian border to be able
02:08:39 6 to allow residents to go through the border at those
02:08:44 7 points of entry.

02:08:46 8 Q. Understood.

02:08:47 9 Does the county voter registration system,
02:08:49 10 which I think you testified is just called Voter, have a
02:08:52 11 log of what DPOC the applicant submitted and images of
02:08:56 12 it?

02:08:57 13 A. We do not have images. We have a dropdown menu
02:09:00 14 that we pick from to show what has been provided for
02:09:03 15 DPOC.

02:09:06 16 Q. If the citizenship proof is invalid, is the
02:09:11 17 status code called invalid citizenship proof?

02:09:18 18 A. Would you explain what you mean by an invalid
02:09:20 19 citizenship?

02:09:23 20 Q. If your -- yeah. I'll rephrase.

02:09:26 21 If the DPOC that the applicant provides is
02:09:29 22 deemed to be invalid DPOC, for whatever reason, what's
02:09:33 23 the status code that you assign to it?

02:09:44 24 A. I think we just simply say it's missing DPOC.

02:09:47 25 Q. Just missing DPOC?

02:09:48 1 A. Uh-huh.

02:09:48 2 Q. Are there any other related status or reason
02:09:51 3 codes?

02:09:52 4 A. Oh, there's many.

02:09:55 5 Q. Right. On that particular issue.

02:09:59 6 A. Like I said, it's a dropdown menu, and it would
02:10:03 7 have things like MVD-verified or SAVE, naturalization
02:10:08 8 certificate, birth certificate, passport presented.
02:10:15 9 Those are the status reasons; those are the internal
02:10:17 10 status reasons we use.

02:10:19 11 Q. Got it.

02:10:20 12 So you can also show a birth certificate to
02:10:25 13 show DPOC, right?

02:10:25 14 A. Correct.

02:10:26 15 Q. And a U.S. passport?

02:10:30 16 A. Correct.

02:10:30 17 Q. And Tribal ID, a Tribal ID number?

02:10:34 18 A. Yes.

02:10:35 19 Q. And so this form that we've marked as
02:10:37 20 Exhibit 76 also allows someone to supply a copy of their
02:10:42 21 naturalization certificate or provide certificate number
02:10:46 22 which begins with the letter A. I read that correctly,
02:10:49 23 yes?

02:10:49 24 A. Yes.

02:10:50 25 Q. Okay. And so in -- a person can supply a copy

02:10:55 1 of their naturalization certificate. They can also
02:10:58 2 supply a number from the certificate. Aren't there two
02:11:03 3 numbers on a naturalization certificate?

02:11:05 4 A. You know, I don't know the answer to that
02:11:07 5 question. I've never seen one.

02:11:09 6 Q. Okay. And the letter A, are you familiar with
02:11:14 7 an alien registration number?

02:11:17 8 A. I am.

02:11:19 9 Q. Okay. And that's what known as an A-Number?

02:11:24 10 A. I haven't heard it referred to as that, but it
02:11:26 11 may very well be.

02:11:27 12 Q. Fair enough. I'll refer to it as the alien
02:11:31 13 registration number.

02:11:31 14 Is that -- and, to your knowledge, do you know
02:11:34 15 if that's different from the naturalization certificate
02:11:36 16 number?

02:11:37 17 A. Again, I don't know.

02:11:38 18 Q. Okay. So when someone returns this form and
02:11:44 19 supplies the alien registration number on it, what do
02:11:47 20 you do with that A-Number; excuse me, alien registration
02:11:52 21 number?

02:11:52 22 A. For this instance we would run it through SAVE.

02:11:55 23 Q. And what does SAVE tell you when you do that?

02:11:58 24 A. I have not run a number through SAVE, but it
02:12:01 25 would bring back citizenship status from the federal

02:12:05 1 government.

02:12:05 2 Q. And is that conclusive?

02:12:09 3 A. We treat it as conclusive, as it's from the

02:12:13 4 Department of Homeland Security.

02:12:18 5 Q. I'll ask a few more questions about that later.

02:12:20 6 But just sticking with the mechanics here, is it common

02:12:23 7 for people to put down their alien registration number

02:12:26 8 on the state voter registration form?

02:12:30 9 A. I don't know.

02:12:31 10 Q. You don't know? Okay.

02:12:33 11 A. I don't process the voter registration forms

02:12:35 12 personally, so I don't know how common that would be.

02:12:38 13 Q. And you don't have data on that?

02:12:42 14 A. I'm sure we could query the system, but that

02:12:45 15 would take some programming.

02:12:54 16 Q. Just to ask -- back up one question and ask

02:12:56 17 about HAVA checks more broadly, the HAVA check is to

02:12:59 18 check identity, right, not citizenship, correct?

02:13:02 19 A. That's my understanding, yes.

02:13:06 20 Q. Okay. And in the course of running that HAVA

02:13:09 21 check for the MVD, right, if you have an Arizona

02:13:13 22 driver's license or ID number, then you can check -- you

02:13:18 23 can run a citizenship check, correct?

02:13:20 24 A. Yes, that's my understanding of our process.

02:13:23 25 Q. If the person doesn't put down an Arizona

02:13:26 1 driver's license or ID number, but instead puts the last
02:13:28 2 four of their social security number, what do you do
02:13:32 3 with the last four of that social security number?
02:13:34 4 A. That would be used as a security question only.
02:13:37 5 Q. You don't try to match that against the Social
02:13:42 6 Security Administration databases?
02:13:42 7 A. We have no access to the Social Security
02:13:45 8 Administration databases.
02:13:45 9 Q. Okay.
02:13:49 10 A. And people -- a social security number can be
02:13:52 11 issued to noncitizens as well as citizens, so it is not
02:13:56 12 a determination of citizenship.
02:13:58 13 Q. Right. But for purposes of just the HAVA
02:14:01 14 identity check, what do you do with someone who just
02:14:03 15 puts down the last four of their social?
02:14:05 16 A. Again, we would use that as a security code --
02:14:09 17 Q. Okay. Fair enough.
02:14:10 18 A. -- security check with the voter.
02:14:12 19 Q. Okay. So no -- you're not able to perform a
02:14:16 20 HAVA check with someone who puts down just the last four
02:14:18 21 of their social?
02:14:20 22 A. To my knowledge, no.
02:14:26 23 Q. And do you know when -- back on the SAVE
02:14:29 24 system, do you know if your office is checking both an
02:14:36 25 alien registration number and a naturalization

02:14:38 1 certificate number against the SAVE system?

02:14:42 2 A. I think it's one or the other, whichever one is
02:14:44 3 provided. The naturalization number we will not check
02:14:48 4 if we were at the naturalization ceremony and they've
02:14:53 5 completed their voter registration form and then
02:14:56 6 returned it to us. So we will just simply review their
02:15:00 7 form at that point in time and make a note on it that we
02:15:03 8 have verified.

02:15:05 9 Q. Right, and that's a particular case; but if
02:15:08 10 you're not at the naturalization ceremony and someone's
02:15:12 11 providing it through this form that we're looking at,
02:15:14 12 Exhibit 76, then you're comparing the A-Number and/or
02:15:19 13 the naturalization certificate number to the -- in a
02:15:24 14 SAVE query, correct?

02:15:25 15 A. That's correct.

02:15:25 16 Q. And if you use both numbers, does that have an
02:15:27 17 impact on the accuracy of the query?

02:15:29 18 A. I don't know.

02:15:31 19 Q. Okay. Do you know if it as an impact on the
02:15:33 20 likelihood of finding a match in the SAVE system?

02:15:36 21 A. I don't know.

02:15:42 22 Q. And if the voter truly provides no DPOC
02:15:45 23 whatsoever, what do you do; do you send a notice letter
02:15:50 24 like this?

02:15:50 25 A. We would register them as a federal only voter,

02:15:53 1 meaning that they would only be eligible for federal
02:15:55 2 offices. We would send them a notice saying that we
02:16:00 3 needed documentary proof of citizenship; and once we
02:16:04 4 receive the documentary proof of citizenship, we would
02:16:06 5 move them to a full ballot status voter.

02:16:16 6 Q. And all of these procedures apply regardless of
02:16:19 7 the type of registration submitted, state or federal
02:16:22 8 form?

02:16:22 9 A. Correct.

02:16:31 10 Q. And how frequently do -- do you have any data
02:16:35 11 showing how frequently people cure a registration form
02:16:39 12 that comes in without DPOC?

02:16:44 13 A. What do you -- what do you mean, cure the
02:16:46 14 registration form?

02:16:47 15 Q. By cure I just mean complete the registration
02:16:51 16 by supplying valid DPOC.

02:16:55 17 A. That's not something that we track.

02:16:58 18 Q. Okay.

02:16:58 19 A. So I mean we, again, would have to query the
02:17:02 20 system to see any changes of voter -- any change to a
02:17:06 21 voter registration. So if we previously registered you
02:17:08 22 as a federal only voter and then we received the
02:17:11 23 necessary DPOC and we moved you to a full ballot voter,
02:17:18 24 the system makes a note of that. It's part of the
02:17:21 25 change histories. But, again, we could query the

02:17:25 1 system. It would take some development to do that,

02:17:28 2 though. It's not a readily available report.

02:17:34 3 Q. And have you ever had trouble linking the DPOC

02:17:37 4 to the right voter?

02:17:39 5 A. Not to my knowledge, no.

02:17:50 6 Q. Are there any processes to cure after a federal

02:17:53 7 only ballot is sent to the voter?

02:17:57 8 A. Again, what do you mean by cure a federal

02:18:00 9 ballot?

02:18:01 10 Q. Not cure the federal ballot. Complete their

02:18:03 11 voter registration so they can become a full ballot

02:18:06 12 voter.

02:18:07 13 A. Oh, that's just the standard. Anybody who we

02:18:10 14 register as a federal only voter, we send them a

02:18:13 15 notification saying that you're a federal only voter.

02:18:15 16 Here's what we're missing. Please provide this

02:18:18 17 information so you can vote a full ballot.

02:18:22 18 Some people choose just to stay federal only

02:18:25 19 and they don't respond back to us, and some people do.

02:18:27 20 It's really dependent on the voter.

02:18:30 21 Q. Understood.

02:18:36 22 Is there something separate and apart from the

02:18:39 23 2023 election procedures manual draft that the County

02:18:44 24 Recorders have been sent as sort of draft guidance to

02:18:48 25 implement 2492 and 2243?

02:18:54 1 A. Well, your colleague previously discussed the
02:18:59 2 guidance given to us by the Secretary of State's Office
02:19:02 3 in that legislative review and flowchart. That's the
02:19:06 4 guidance that we refer back to.

02:19:07 5 Q. Anything since then?

02:19:09 6 A. No.

02:19:18 7 Q. It's possible that there will be no revised and
02:19:20 8 updated EPM this year, correct?

02:19:28 9 MS. STUART: Form and foundation.

02:19:29 10 THE WITNESS: Do you know something I
02:19:30 11 don't know? I thought we were doing a pretty good job.

02:19:33 12 BY MR. SHERMAN:

02:19:33 13 Q. Let me rephrase.

02:19:35 14 Back in 2021, right, there was a proposed draft
02:19:37 15 by the Secretary -- by then Secretary of State Hobbs,
02:19:41 16 and that wasn't adopted, correct?

02:19:43 17 A. That is correct.

02:19:43 18 Q. So it's at least possible that there won't be
02:19:47 19 agreement on a new revised EPM, correct?

02:19:49 20 A. Yes, that is always possible.

02:19:52 21 Q. If there's no approved revised EPM by this time
02:19:55 22 next year, will your office nevertheless be obligated to
02:19:59 23 enforce the portions of H.B. 2492 and H.B. 2243 that are
02:20:04 24 directed at County Recorders?

02:20:06 25 MS. STUART: Form.

02:20:08 1 MR. LANGHOFER: Form.

02:20:10 2 THE WITNESS: We will wait until

02:20:11 3 litigation has concluded and do what the court has

02:20:16 4 determined is necessary.

02:20:19 5 BY MR. SHERMAN:

02:20:19 6 Q. So as a matter of federal law, right, the

02:20:22 7 Federal Courts will say what in these two challenged

02:20:27 8 laws violates the U.S. Constitution or federal law; but

02:20:31 9 as far as interpretation of the state law, right, there

02:20:34 10 needs to be an EPM, right?

02:20:36 11 MS. STUART: Form.

02:20:37 12 MR. LANGHOFER: Form.

02:20:38 13 THE WITNESS: Correct.

02:20:40 14 BY MR. SHERMAN:

02:20:40 15 Q. Okay. So notwithstanding what the Federal

02:20:43 16 Courts decide, if there's no EPM that's adopted this

02:20:49 17 year and into next year, your office will be obligated

02:20:53 18 to enforce -- interpret and implement the statute

02:20:57 19 directly, correct?

02:20:58 20 MR. LANGHOFER: Form.

02:20:58 21 MS. STUART: Form.

02:21:01 22 THE WITNESS: Our office will follow the

02:21:03 23 2019 EPM and seek any additional guidance from the

02:21:10 24 Secretary of State's Office and legal counsel as it

02:21:12 25 relates to these bills and their implementation should

02:21:16 1 litigation not have concluded by then.

02:21:20 2 BY MR. SHERMAN:

02:21:21 3 Q. Okay. Just to rehearse your testimony from
02:21:24 4 earlier, right, there's no way for the Secretary of
02:21:27 5 State's Office to issue legally binding guidance on your
02:21:30 6 office outside the EPM, correct?

02:21:32 7 MR. LANGHOFER: Asked and answered.

02:21:33 8 MS. STUART: Form, misstates testimony.

02:21:37 9 THE WITNESS: Yes, that is correct.

02:21:40 10 BY MR. SHERMAN:

02:21:40 11 Q. Thank you.

02:21:51 12 If you could pull up the -- if I could trouble
02:21:54 13 you to pull up I think it's Petty Exhibit 21. This is
02:21:58 14 H.B. 2243.

02:22:09 15 A. My left or your left? This left? Sorry.

02:22:20 16 2243 House Bill, Chapter Version 370, is that
02:22:23 17 what we're talking about?

02:22:25 18 Q. Yes.

02:22:25 19 A. Okay. Great then.

02:22:27 20 Q. Yeah, it's Petty Exhibit 21 if you have the
02:22:29 21 Petty exhibits in front of you.

02:22:34 22 So there's a lot here, but I wanted to ask
02:22:37 23 which pieces of -- and if we could -- I could direct
02:22:43 24 your attention to Page 4, starting at the top of Page 4.

02:22:52 25 A. Could you cite the section, please?

02:22:56 1 Q. Yeah. This is Section -- Bill Section 2,
02:23:02 2 Arizona Revised Statute Section 16-165, and I'd like to
02:23:08 3 direct your attention just to the statutory language for
02:23:14 4 A10 that starts at the top of Page 4.

02:23:20 5 If you could take a minute to just review this
02:23:24 6 language, and as we were doing before with H.B. 2492, I
02:23:32 7 understand the previous e-mail we were rehearsing was
02:23:35 8 only talking about 2492, but what problems or issues
02:23:40 9 with interpretation and implementation has your office
02:23:44 10 identified in H.B. 2243, starting with the section I've
02:23:50 11 pointed you to?

02:24:23 12 A. Sorry. What was your question?

02:24:24 13 Q. So let's -- let me ask it this way. What --
02:24:29 14 let's start with problems of interpretation. And you've
02:24:34 15 testified previously that there were vagueness issues in
02:24:38 16 this statute as well, correct?

02:24:40 17 A. Yes.

02:24:41 18 Q. Could you identify which parts of H.B. 2243,
02:24:48 19 starting at the top of Page 4, your office has seen as
02:24:52 20 so vague you can't implement them without clear guidance
02:24:56 21 from the Secretary of State?

02:25:29 22 A. I don't necessarily think that this particular
02:25:31 23 section of this bill was something that we considered to
02:25:33 24 be vague. I think that our original issues with this
02:25:39 25 particular bill were specifically the -- I think our

02:25:52 1 original issues with this bill were specifically that a
02:25:56 2 requirement that we notify the County Attorney and the
02:25:59 3 Attorney General for possible investigation after
02:26:01 4 cancellation of a voter registration as a noncitizen.

02:26:09 5 Q. Well, let's take this language at the top of
02:26:11 6 Page 4, "When the County Recorder obtains information
02:26:13 7 pursuant to this section and confirms that the person
02:26:17 8 registered is not a United States citizen."

02:26:23 9 Do you understand what's meant by confirms that
02:26:25 10 the person registered is not a United States citizen?

02:26:30 11 MR. LANGHOFER: Calls for a legal
02:26:31 12 conclusion.

02:26:31 13 BY MR. SHERMAN:

02:26:32 14 Q. I didn't hear the response. Sorry.

02:26:33 15 A. Yes, I understand what the wording says.

02:26:36 16 Q. What does confirms that the person registered
02:26:39 17 is not a United States citizen mean?

02:26:43 18 A. I think for us that we would be taking the
02:26:47 19 notice from the jury commissioner and then sending out
02:26:53 20 information to the voter and waiting for a response
02:26:56 21 back.

02:26:59 22 Q. Okay. Does this part of A10 refer to the
02:27:04 23 database matching requirements below, beginning with F
02:27:09 24 and ending with J at the bottom of Page 5 and onto
02:27:16 25 Page 6?

02:27:26 1 A. I guess it might.

02:27:29 2 Q. It's unclear, right?

02:27:31 3 A. Yeah, I wouldn't...

02:27:33 4 Q. Are you supposed to -- do you think you're

02:27:35 5 supposed to obtain the information or confirm the

02:27:37 6 information using these database matching requirements

02:27:41 7 in Subsections F through J?

02:27:44 8 MS. STUART: Form.

02:27:47 9 THE WITNESS: I don't -- I don't know what

02:27:48 10 the legislators' intent was. I think we -- our

02:27:53 11 understanding is that we would be trying to use those

02:27:56 12 resources to confirm what the jury commission report had

02:28:00 13 stated.

02:28:03 14 BY MR. SHERMAN:

02:28:03 15 Q. So your view of the statute is the only way you

02:28:05 16 obtain information that someone's not a United States

02:28:09 17 citizen is through the jury questionnaire, and then

02:28:11 18 these are the means in Subsection F through J by which

02:28:15 19 one confirms that information?

02:28:16 20 MR. LANGHOFER: Form.

02:28:18 21 THE WITNESS: I would say that that's

02:28:20 22 probably how we would initially interpret it, unless we

02:28:23 23 were directed otherwise.

02:28:25 24 BY MR. SHERMAN:

02:28:25 25 Q. But you'd agree that this is unclear and vague,

02:28:25 1 correct?

02:28:29 2 A. Oh, yes.

02:28:29 3 MS. STUART: Form.

02:28:29 4 MR. LANGHOFER: Form.

02:28:30 5 THE WITNESS: I agree, it's vague.

02:28:44 6 BY MR. SHERMAN:

02:28:45 7 Q. A number of these provisions, like

02:28:48 8 Subsection G, Subsection H, and Subsection J, all have

02:28:51 9 the phrase to the extent practicable.

02:28:57 10 Do you understand those terms to be giving your

02:29:00 11 office clear direction as to when to apply them?

02:29:03 12 MR. LANGHOFER: Form.

02:29:05 13 THE WITNESS: I do not. I don't know what

02:29:07 14 they understand practicable to mean to us. As we do not

02:29:17 15 have access to most of the information that they are

02:29:19 16 telling us to check, I would say that that is the extent

02:29:21 17 practicable, but I don't think that's what they

02:29:23 18 intended.

02:29:25 19 BY MR. SHERMAN:

02:29:26 20 Q. And I'll say just for the record, so the record

02:29:28 21 is clear, that F through J are all codified one up as --

02:29:35 22 in this Arizona Revised Statute as G through K, for

02:29:39 23 whatever that's worth.

02:29:40 24 But in this H.B. 2243 I want to direct your

02:29:45 25 attention, Ms. Hiser, to Subsection H, which says, "To

02:29:49 1 the extent practicable, each month the County Recorder
02:29:52 2 shall compare persons who are registered to vote in that
02:29:55 3 county and who the County Recorder has reason to believe
02:29:58 4 are not United States citizens."

02:30:03 5 Do you understand this phrase reason to believe
02:30:05 6 are not United States citizens?

02:30:07 7 MR. LANGHOFER: Form.

02:30:10 8 THE WITNESS: I do not. This particular
02:30:14 9 section, we viewed it as are we supposed to run on a
02:30:18 10 monthly basis everyone on the voter roll back through to
02:30:22 11 determine that no one has skipped out on providing us
02:30:27 12 citizenship. I -- this particular portion of the bill
02:30:33 13 is operationally difficult to implement.

02:30:39 14 BY MR. SHERMAN:

02:30:39 15 Q. Do you even have alien registration numbers for
02:30:42 16 every voter in your county?

02:30:43 17 A. I do not.

02:30:46 18 Q. Sticking just specifically with the phrase
02:30:49 19 reason to believe are not United States citizens, do you
02:30:55 20 understand what that particular phrase means?

02:30:57 21 MR. LANGHOFER: Form.

02:30:57 22 THE WITNESS: I do not.

02:30:59 23 BY MR. SHERMAN:

02:30:59 24 Q. What would give your office -- leaving the
02:31:01 25 statute aside, what would give your office a reason to

02:31:03 1 believe a person is not a United States citizen?

02:31:06 2 MR. LANGHOFER: Form.

02:31:08 3 THE WITNESS: I would have no -- no idea
02:31:11 4 what would give us reason to believe. We're not in the
02:31:14 5 habit of investigating people further than the
02:31:17 6 information provided to us.

02:31:19 7 BY MR. SHERMAN:

02:31:19 8 Q. And when you say information provided to you,
02:31:21 9 you mean in -- what do you mean by that?

02:31:23 10 A. The voter registration form.

02:31:26 11 Q. So outside of the voter registration form, your
02:31:30 12 office's view is nothing should give your office a
02:31:33 13 reason to believe that someone's not a United States
02:31:37 14 citizen; is that correct?

02:31:38 15 A. Again --

02:31:39 16 MR. LANGHOFER: Form.

02:31:39 17 THE WITNESS: -- as the voter registration
02:31:41 18 form has an attestation on it and the voter is declaring
02:31:46 19 that they are presenting true and accurate information,
02:31:49 20 we believe that it is on the voter. If they are not
02:31:52 21 eligible to register to vote and they choose to register
02:31:56 22 to vote, that that's on them. We are not an enforcement
02:31:59 23 agency.

02:32:08 24 BY MR. SHERMAN:

02:32:08 25 Q. Has the Secretary of State's Office provided

02:32:10 1 your office with a list of what would give you and your
02:32:13 2 staff a valid reason to believe someone is not a United
02:32:16 3 States citizen?

02:32:17 4 A. They have not.

02:32:24 5 Q. You would agree, though, that this provision
02:32:26 6 seems to command your office to perform an extra
02:32:32 7 citizenship check against the SAVE system if you have a
02:32:35 8 reason to believe someone is not a United States
02:32:39 9 citizen, correct?

02:32:39 10 MR. LANGHOFER: Form.

02:32:39 11 MS. STUART: Form.

02:32:40 12 THE WITNESS: Yes, I can see that reading
02:32:42 13 of the statute.

02:32:58 14 BY MR. SHERMAN:

02:32:59 15 Q. In the -- just to rehearse some of these
02:33:00 16 again, would a phone call from a voter or an e-mail
02:33:02 17 from the voter in question, would that give you reason
02:33:06 18 to believe that the person's not a United States
02:33:08 19 citizen?

02:33:09 20 MR. LANGHOFER: Asked and answered and
02:33:09 21 form.

02:33:12 22 THE WITNESS: Again, if they -- if we
02:33:17 23 determined through our security questions that we were
02:33:19 24 speaking to the voter in question, we would send them
02:33:21 25 information.

02:33:22 1 BY MR. SHERMAN:

02:33:22 2 Q. Are all of your responses -- well, let me --
02:33:26 3 I'll strike that.

02:33:27 4 These are -- I asked these previously with
02:33:29 5 respect to the language information. I'm going to ask
02:33:31 6 the same questions now with respect to the reason to
02:33:33 7 believe provision.

02:33:34 8 Would a signed letter from the voter, written
02:33:41 9 confirmation, would that constitute reason to believe
02:33:45 10 they're not a United States citizen?

02:33:47 11 MR. LANGHOFER: Calls for a legal
02:33:48 12 conclusion.

02:33:48 13 THE WITNESS: Yes.

02:33:49 14 MR. LANGHOFER: Asked and answered.

02:33:51 15 BY MR. SHERMAN:

02:33:51 16 Q. A phone call from a member of the voter's
02:33:54 17 family?

02:33:54 18 A. No.

02:33:56 19 Q. Someone in your county tells your office that a
02:34:00 20 registered voter is not a citizen?

02:34:02 21 MR. LANGHOFER: Same objection.

02:34:03 22 THE WITNESS: No.

02:34:06 23 BY MR. SHERMAN:

02:34:06 24 Q. Can it be a letter from a neighbor of the voter
02:34:09 25 in question?

02:34:10 1 MR. LANGHOFER: Same objection.

02:34:11 2 THE WITNESS: No.

02:34:13 3 BY MR. SHERMAN:

02:34:13 4 Q. What about a phone call from law enforcement in

02:34:16 5 Arizona, would that give your office reason to believe

02:34:18 6 the person was not a U.S. citizen?

02:34:21 7 MR. LANGHOFER: Same objection.

02:34:21 8 THE WITNESS: It might.

02:34:22 9 BY MR. SHERMAN:

02:34:22 10 Q. Would a phone call from law enforcement in

02:34:24 11 another state?

02:34:27 12 MR. LANGHOFER: Same objection.

02:34:28 13 THE WITNESS: It might.

02:34:30 14 BY MR. SHERMAN:

02:34:30 15 Q. Unclear, though?

02:34:32 16 A. We would have to speak to our counsel.

02:34:35 17 Q. An e-mail or letter from law enforcement in

02:34:38 18 Arizona or any state?

02:34:40 19 MR. LANGHOFER: Same objection.

02:34:42 20 THE WITNESS: Again, we would have to

02:34:43 21 speak to our counsel, but we -- it might.

02:34:46 22 BY MR. SHERMAN:

02:34:46 23 Q. But it's unclear?

02:34:48 24 MR. LANGHOFER: Same objection.

02:34:50 25 THE WITNESS: Again, it might.

02:34:53 1 BY MR. SHERMAN:

02:34:53 2 Q. Unclear, okay.

02:34:54 3 How about an anonymous call?

02:34:56 4 MR. LANGHOFER: Mischaracterizes the

02:34:58 5 testimony.

02:34:59 6 THE WITNESS: No.

02:35:04 7 BY MR. SHERMAN:

02:35:04 8 Q. An anonymous e-mail?

02:35:06 9 MR. LANGHOFER: Same objection.

02:35:08 10 THE WITNESS: No.

02:35:10 11 BY MR. SHERMAN:

02:35:11 12 Q. Lists provided by third-party organizations,

02:35:12 13 like True the Vote?

02:35:14 14 MR. LANGHOFER: Same objection.

02:35:15 15 THE WITNESS: No.

02:35:17 16 BY MR. SHERMAN:

02:35:17 17 Q. If I could ask you to look at -- this is -- may

02:35:24 18 only be listed in yours as Bates stamp YC 136-137. I

02:35:32 19 have it as Exhibit V.

02:35:46 20 A. Okay.

02:35:46 21 Q. And what is this document?

02:35:55 22 A. It looks like an e-mail chain from one of the

02:35:57 23 other counties.

02:36:01 24 Q. And I know you've not seen this, you weren't

02:36:04 25 cc'd, but does this appear to be authentic to you?

02:36:08 1 MR. LANGHOFER: Foundation.

02:36:16 2 BY MR. SHERMAN:

02:36:16 3 Q. I'll strike that.

02:36:17 4 You can see -- you can see the Bates stamp

02:36:19 5 number in the bottom right?

02:36:22 6 A. Yes.

02:36:24 7 Q. Okay. Can we mark this as Exhibit 77, I

02:36:30 8 believe.

02:36:30 9 Thank you.

02:36:30 10 And if you could scroll down to Page 2, under

02:36:34 11 Item 10(H), do you see that, where the chief deputy

02:36:41 12 recorder, I believe your counterpart in Yavapai County,

02:36:45 13 wrote "What would give us reason to believe they were

02:36:47 14 not a U.S. --" excuse me, I misread.

02:36:50 15 "What would give us reason to believe they are

02:36:51 16 not a citizen? An anonymous tip? Also how are we to

02:36:56 17 compare all of our registered voters to a federal

02:36:59 18 database of millions upon millions?"

02:37:02 19 Do you see -- did I read that correctly?

02:37:03 20 A. You did.

02:37:04 21 Q. Do you share your counterpart's reaction to

02:37:08 22 this provision, the reason to believe provision?

02:37:14 23 A. I do.

02:37:14 24 Q. Thank you.

02:37:16 25 What if the registered voter transposed the

02:37:18 1 first and last names on the registration application
02:37:21 2 form, would that give your office reason to believe they
02:37:24 3 are not a U.S. citizen?

02:37:25 4 MR. LANGHOFER: Form, speculation.

02:37:28 5 THE WITNESS: Are you asking if they put
02:37:30 6 their last name first and first name last?

02:37:32 7 BY MR. SHERMAN:

02:37:33 8 Q. Yes, yes.

02:37:34 9 A. Oh. No, that wouldn't give us any cause.

02:37:38 10 Q. What if the registered voter recorded a foreign
02:37:42 11 place of birth on their form?

02:37:42 12 MR. LANGHOFER: Form.

02:37:47 13 THE WITNESS: No, because you can be a
02:37:48 14 U.S. citizen and born abroad.

02:37:50 15 BY MR. SHERMAN:

02:37:50 16 Q. What if the registered voter has an F-Type
02:37:55 17 license, driver's license, as reflected in the MVD's
02:37:58 18 databases?

02:37:58 19 MR. LANGHOFER: Form.

02:38:02 20 THE WITNESS: Again, in that instance we
02:38:03 21 probably would send a letter for follow-up.

02:38:09 22 BY MR. SHERMAN:

02:38:09 23 Q. Would it give you reason to believe, under this
02:38:11 24 provision of H.B. 2243, that would justify putting them
02:38:16 25 through an extra SAVE system verification?

02:38:19 1 MR. LANGHOFER: Form.

02:38:21 2 THE WITNESS: No.

02:38:24 3 BY MR. SHERMAN:

02:38:24 4 Q. Has the Secretary of State's Office provided

02:38:27 5 your office with a list of what will not give you or

02:38:31 6 your staff a valid reason to believe someone is not a

02:38:34 7 U.S. citizen?

02:38:34 8 A. No, they have not.

02:38:36 9 Q. And is there anything you think should be on

02:38:39 10 such a list?

02:38:42 11 A. No, I do not.

02:38:46 12 Q. If I could ask you to take a look at, this is

02:38:49 13 Petty Exhibit 20. It's between the two statutes.

02:39:07 14 Just let me know when you have that up.

02:39:23 15 A. It's up.

02:39:26 16 Are you referencing an e-mail for Petty

02:39:30 17 Exhibit 20?

02:39:31 18 Q. Yeah, this -- well, tell me what you're seeing,

02:39:34 19 if we're looking at the same thing.

02:39:35 20 A. I'm seeing an e-mail from Recorder Richer dated

02:39:39 21 Wednesday June 15th, 2022.

02:39:42 22 Q. Yes. And if you could just read -- so what

02:39:44 23 does this appear to be?

02:39:46 24 A. This looks like one of our e-mail chains for

02:39:49 25 the Recorders Association with our lobbyist, Jennifer

02:39:57 1 Marson with AACo.

02:40:01 2 Q. And could I trouble you to read -- this is a

02:40:04 3 pretty short e-mail. Could I trouble you to read it?

02:40:06 4 A. Sure.

02:40:08 5 Do you want the chain --

02:40:14 6 Q. You can leave off the "Caution: This e-mail

02:40:17 7 originated from outside of Navajo County."

02:40:20 8 A. Okay. So it appears that Steve -- it appears

02:40:23 9 that Recorder Richer says, "Does this get rid of the

02:40:26 10 situation whereby any person can submit us lists that we

02:40:29 11 then have to check? E.g., quote, Hi. I used my super

02:40:34 12 secret research program to figure out that these 300,000

02:40:38 13 people are not citizens. Please check the citizenship

02:40:41 14 of every single one of them right now, end quote."

02:40:48 15 Q. This was about H.B. 2617, correct?

02:40:52 16 A. Yes.

02:40:52 17 Q. Which was vetoed, correct?

02:40:54 18 A. Yes.

02:40:56 19 Q. Do you believe H.B. 2243's reason to believe

02:41:00 20 provision keeps the possibility that Stephen Richer is

02:41:05 21 worried about open --

02:41:06 22 MR. LANGHOFER: Form.

02:41:07 23 BY MR. SHERMAN:

02:41:08 24 Q. -- in 2243?

02:41:11 25 A. I think it certainly could be a possibility,

02:41:15 1 but the language in the bills themselves specifically
02:41:20 2 reference government agencies.

02:41:29 3 Q. Well, if we could just look back, perhaps, at
02:41:32 4 Exhibit 21, excuse me, Petty Exhibit 21, and the reason
02:41:38 5 to believe provision, which I believe is on Page 5.

02:41:47 6 A. Just so I'm following, we're back on House
02:41:50 7 Bill 2243?

02:41:51 8 Q. Correct. Yeah.

02:41:52 9 A. Okay.

02:41:53 10 Q. Petty Exhibit 21, H.B. 2243, what was enacted
02:41:58 11 as Subsection H, and I'll read it for the record.

02:42:01 12 "To the extent practicable, each month the
02:42:04 13 County Recorder shall compare persons who are registered
02:42:06 14 to vote in that county and who the County Recorder has
02:42:09 15 reason to believe are not United States citizens."

02:42:13 16 Could a third-party group supply a list of
02:42:16 17 hundreds of thousands of registered voters to your
02:42:19 18 office, and could that be construed by a County
02:42:25 19 Recorder's Office as a reason to believe that those
02:42:29 20 folks are not U.S. citizens?

02:42:31 21 MR. LANGHOFER: Form.

02:42:32 22 THE WITNESS: I suppose it could.

02:42:34 23 BY MR. SHERMAN:

02:42:34 24 Q. But it's un -- it's vague and it's unclear,
02:42:34 25 correct?

02:42:37 1 A. I --

02:42:37 2 MR. LANGHOFER: Form.

02:42:39 3 THE WITNESS: I would say that I would be

02:42:41 4 unclear. I would not know what to do with this.

02:42:46 5 BY MR. SHERMAN:

02:42:46 6 Q. So even in H.B. 22 -- H.B. 220 -- excuse me.

02:42:51 7 Strike that.

02:42:51 8 This language in H.B. 2243 creates the same

02:42:59 9 risk that Stephen Richer was worried about in that

02:43:02 10 e-mail we just discussed, correct?

02:43:03 11 MR. LANGHOFER: Form.

02:43:07 12 THE WITNESS: I think that's certainly a

02:43:10 13 possibility.

02:43:13 14 MR. SHERMAN: Thank you.

02:43:15 15 We've been going for some time. Should we

02:43:16 16 take a five or ten-minute break?

02:43:16 17 THE WITNESS: Yes, please.

02:43:19 18 MR. SHERMAN: I'll do my best to de-dup

02:43:22 19 this outline.

02:43:23 20 THE WITNESS: Thank you. Ten minutes

02:43:24 21 sounds great.

02:43:25 22 MR. SHERMAN: All right. Thanks very

02:43:27 23 much.

02:43:27 24 THE VIDEOGRAPHER: We are off the record.

02:43:28 25 The time on the video monitor is 2:43 p.m. This ends

02:43:31 1 Media 2.

02:43:33 2 (A recess was taken.)

02:56:45 3 THE VIDEOGRAPHER: We are on the record.

02:56:48 4 The time on the video monitor is 2:56 p.m. This begins
02:56:50 5 Media 3.

02:56:54 6 BY MR. SHERMAN:

02:56:54 7 Q. Ms. Hiser, I just have a handful of questions
02:56:56 8 to follow up on the MVD searches, the HAVA checks, and
02:57:01 9 then we can move to the SAVE system, and then I'll try
02:57:04 10 to wrap up as quickly as possible.

02:57:06 11 Does your existing agreement with MVD cover the
02:57:11 12 uses outlined in H.B. 2492 and H.B. 2243?

02:57:20 13 A. It's a template agreement that we have with
02:57:22 14 them to provide -- they give us certain categories of
02:57:29 15 access and we request certain categories of access, so
02:57:32 16 it's sort of limited.

02:57:35 17 Q. So you're not sure whether it covers the
02:57:38 18 requirements under the new -- the required operations
02:57:41 19 under the new laws?

02:57:44 20 A. I don't -- I don't know if it does.

02:57:46 21 Q. Okay. Do you know what's meant by an ADOT
02:57:50 22 customer number, quote/unquote? Is that different from
02:57:55 23 a driver's license number or a state ID number?

02:57:59 24 A. I have not heard that term before, so I don't
02:58:03 25 know.

02:58:03 1 Q. Has your office encountered instances where a
02:58:07 2 voter registration applicant who is a United States
02:58:10 3 citizen was flagged erroneously as a noncitizen by way
02:58:15 4 of a search of MVD databases?

02:58:20 5 A. I don't think so, but I'm sure that is a
02:58:23 6 possibility that can exist.

02:58:26 7 Q. If the applicant subsequently naturalizes, but
02:58:30 8 doesn't update MVD of that fact, then they will show as
02:58:34 9 still having an F-Type license, correct?

02:58:38 10 A. That would be correct.

02:58:41 11 MR. SHERMAN: Can I ask the court
02:58:42 12 reporter, because I just did not catch, what was the
02:58:45 13 responses to interrogatories propounded by plaintiffs,
02:58:50 14 plaintiffs' consolidated first set of interrogatories,
02:58:52 15 what did we mark that as?

02:59:00 16 THE COURT REPORTER: I haven't had time to
02:59:01 17 do any kind of descriptions of these exhibits. I'm
02:59:04 18 sorry.

02:59:04 19 BY MR. SHERMAN:

02:59:05 20 Q. I know we marked this, so if you could just
02:59:06 21 call up what's Exhibit E in the Pima County. I know
02:59:09 22 this has been marked, so I won't mark it again.

02:59:12 23 If you could scroll down to the response to
02:59:15 24 interrogatory number 5. And I'll just read the response
02:59:29 25 on -- this is Page 5 in response to interrogatory

02:59:32 1 number 5.

02:59:33 2 "The Pima County Recorder's Office does not

02:59:36 3 actively track this information; however, voter

02:59:39 4 registration staff occasionally encounter situations

02:59:41 5 when a naturalized citizen has not yet updated their

02:59:44 6 citizenship status with the Motor Vehicle Division

02:59:48 7 (MVD). Their record will be listed in the Pima County

02:59:52 8 Recorder's AVID system as a noncitizen with MVD."

02:59:56 9 Did I read that correctly?

02:59:56 10 A. You did.

02:59:59 11 Q. And what do you do in such situations?

03:00:08 12 A. Well, if the voter has provided us their

03:00:11 13 naturalization information, but the record isn't updated

03:00:16 14 in MVD, we'll take the naturalization information. That

03:00:20 15 trumps it. So we would process the voter and use that

03:00:25 16 for a DPOC.

03:00:27 17 Q. And if they did not give -- if they do not

03:00:30 18 provide their naturalization documentation to the Pima

03:00:35 19 County Recorder's Office, right, the last sentence here

03:00:37 20 reflects, quote, they are canceled and sent a notice

03:00:40 21 letting them know how to update and provide DPOC; is

03:00:45 22 that correct?

03:00:45 23 A. That is correct.

03:00:47 24 Q. Okay. How often does this happen?

03:00:52 25 A. Not very frequently, to the best of my

03:00:57 1 knowledge.

03:00:57 2 Q. H.B. 2243, though, would require more checks
03:01:00 3 like this and could potentially lead to more instances
03:01:04 4 where a citizen is required to provide DPOC a second
03:01:07 5 time?

03:01:07 6 MR. LANGHOFER: Form.

03:01:10 7 THE WITNESS: Yes, that's our
03:01:11 8 understanding of it.

03:01:12 9 BY MR. SHERMAN:

03:01:12 10 Q. And it could lead to instances where a citizen
03:01:15 11 is referred to the Attorney General's Office or County
03:01:19 12 Attorney for prosecution, correct?

03:01:20 13 MR. LANGHOFER: Form.

03:01:21 14 THE WITNESS: Yes, it could.

03:01:27 15 BY MR. SHERMAN:

03:01:28 16 Q. Do you recall an incident in October 2022
03:01:33 17 concerning the downgrading of several thousand voters to
03:01:38 18 federal only status?

03:01:42 19 A. In Pima County?

03:01:45 20 Q. Why don't we look at a document I'll refer to
03:01:49 21 to refresh. This hasn't been marked yet. It's
03:01:56 22 Exhibit R, Bates stamp AZSOS-338826. I believe we're
03:02:09 23 marking this as Exhibit -- well, let me -- I'll ask the
03:02:12 24 witness about it first.

03:02:12 25 What does this document appear to be?

03:02:16 1 A. This is an e-mail from the AVID support team at
03:02:22 2 the SOS's office to our office.

03:02:26 3 Q. And you were sent this e-mail, correct?

03:02:30 4 A. Yes, I am on the to line.

03:02:34 5 Q. And you can take a minute to refresh yourself
03:02:41 6 on this e-mail, and I'll ask you a few questions on it.

03:02:45 7 But could the court reporter please mark it as
03:02:50 8 Exhibit 78.

03:03:45 9 Do you recall the incident that's described in
03:03:48 10 this e-mail?

03:03:48 11 A. Yes, I do.

03:03:49 12 Q. And what happened?

03:03:53 13 A. We were notified that the MVD's records, there
03:03:56 14 was a technical issue, causing our checks so a number of
03:04:03 15 records were incorrectly -- were incorrectly identified
03:04:08 16 for federal only when they were indeed citizens.

03:04:13 17 Q. And these were registered voters who had
03:04:16 18 already shown DPOC, correct?

03:04:17 19 A. That is correct.

03:04:19 20 Q. And they were downgraded to federal only status
03:04:21 21 and sent federal only ballots?

03:04:24 22 A. That is correct.

03:04:25 23 Q. Do you know on a technical level how this
03:04:28 24 happened?

03:04:29 25 A. I do not understand the technical aspects

03:04:32 1 behind the issue. It was something to do with the
03:04:35 2 database on MVD's side with the way the AVID system
03:04:44 3 and queries -- my IT staff would be better able to
03:04:52 4 explain the technical details of this. I would refer
03:04:57 5 to them.

03:04:58 6 Q. Understood.

03:04:59 7 Do you know how many registered voters in Pima
03:05:01 8 County were affected by this incident?

03:05:05 9 A. It looks like we had -- looks like we had at
03:05:12 10 least 558 hard matches and possibly up to 1,336 soft
03:05:22 11 matches.

03:05:23 12 Q. And those over 600 people were all sent federal
03:05:28 13 only ballots in the mail before this issue was
03:05:30 14 corrected?

03:05:30 15 A. They were.

03:05:32 16 Q. And what did you have -- what did your office
03:05:35 17 have to do after that point in time?

03:05:37 18 A. We contacted those voters, let them know that
03:05:40 19 there was an error in the information we had received.
03:05:47 20 And for those that we could, we sent them full ballots
03:05:50 21 so they could vote an early ballot; and for those that
03:05:53 22 we could not, we instructed them to go to a polling
03:05:56 23 location or an early voting location so they could vote
03:05:59 24 a full ballot. We did adjust their voter registration
03:06:02 25 records to reflect that so they would get the full

03:06:05 1 ballot at those voting centers.

03:06:07 2 Q. Do you know how many voters were affected
03:06:09 3 statewide by this incident?

03:06:12 4 A. I believe Maricopa and Pima were the largest
03:06:17 5 affected ones, but there were others in some of the
03:06:21 6 smaller counties as well.

03:06:23 7 Q. In light of this incident, what does this say
03:06:25 8 to you about the reliability of database matching to
03:06:27 9 assess a person's current U.S. citizenship status?

03:06:30 10 MR. LANGHOFER: Form.

03:06:31 11 MS. STUART: Form.

03:06:36 12 THE WITNESS: I trust the information in
03:06:38 13 the database that we maintain here in Pima County, and I
03:06:44 14 would hope that the other jurisdictions that maintain
03:06:46 15 databases did as much work as we did to make sure that
03:06:49 16 the information in there was accurate and correct.

03:06:52 17 BY MR. SHERMAN:

03:06:53 18 Q. Well, leaving aside AVID and what's in AVID and
03:06:56 19 leaving aside what's in Voter, the Pima County voter
03:07:00 20 registration system, what does this say to you about the
03:07:03 21 reliability of using MVD data to assess a person's
03:07:07 22 current U.S. citizenship status?

03:07:09 23 MR. LANGHOFER: Form, foundation.

03:07:15 24 THE WITNESS: It is not as reliable as we
03:07:16 25 had thought it was.

03:07:35 1 BY MR. SHERMAN:

03:07:35 2 Q. So for voters who are grandfathered in by the
03:07:39 3 safe harbor provision in the -- let me back up a step.

03:07:42 4 Do you recall the safe harbor provision from
03:07:47 5 the DPOC requirement?

03:07:51 6 A. I believe that's the provision for people who
03:07:55 7 registered previously, to just assume that their
03:08:01 8 information was correct and not go back and do rechecks
03:08:05 9 on them.

03:08:08 10 It also -- I think it has a relationship to one
03:08:12 11 of the previously passed propositions. Governor Ducey
03:08:18 12 signed a letter explaining why older registrations would
03:08:24 13 not be impacted by this law.

03:08:28 14 Q. So, essentially, registered voters who had
03:08:32 15 registered prior to the implementation of DPOC, they
03:08:35 16 didn't -- they were exempt from the DPOC requirement; is
03:08:38 17 that your testimony?

03:08:39 18 MR. LANGHOFER: Form.

03:08:44 19 THE WITNESS: Yes, that's my
03:08:45 20 understanding. Yes.

03:08:45 21 BY MR. SHERMAN:

03:08:47 22 Q. So such voters who were subject to that safe
03:08:51 23 harbor in the DPOC law, if they never subsequently
03:08:53 24 obtained an Arizona driver's license or state ID after
03:08:56 25 October 1st, 1996, is the fact that they've never shown

03:09:00 1 DPOC information showing that they're not U.S. citizens?

03:09:05 2 MR. LANGHOFER: Form.

03:09:09 3 THE WITNESS: Sorry. Your question was a
03:09:10 4 little complex. Could you restate it?

03:09:12 5 BY MR. SHERMAN:

03:09:12 6 Q. Well, sure.

03:09:12 7 For those voters who have been grandfathered
03:09:15 8 into DPOC, right, they've -- for those voters who are
03:09:19 9 exempt from the DPOC requirement because they registered
03:09:21 10 to vote prior to 2005, when it took effect, is the fact
03:09:27 11 that they've never shown DPOC information or reason to
03:09:31 12 believe that they're not U.S. citizens?

03:09:35 13 MR. LANGHOFER: Form.

03:09:39 14 THE WITNESS: No.

03:09:52 15 BY MR. SHERMAN:

03:09:52 16 Q. In terms of resources, access, and training, is
03:09:55 17 it practicable for your office to use MVD driver's
03:09:57 18 license and nonoperating ID databases for citizenship
03:10:01 19 verification?

03:10:05 20 A. It's certainly another resource that if we
03:10:09 21 didn't have, it would -- we would be limited, again, to
03:10:15 22 the voter simply providing us proof themselves, at least
03:10:22 23 for the MVD, and it gives us some opportunities to kind
03:10:27 24 of make the process of registering people faster and
03:10:29 25 more efficient if those individuals have already proven

03:10:34 1 citizenship with DMV.

03:10:36 2 Q. You testified earlier this morning that there
03:10:38 3 would be quite a lot of developmental changes in
03:10:41 4 response to these laws if they took -- if they were
03:10:44 5 implemented, correct?

03:10:45 6 A. Correct.

03:10:46 7 Q. How long do you think that would take?

03:10:53 8 A. Programming development changes to the Voter
03:10:56 9 system can take months.

03:11:01 10 Q. Years?

03:11:04 11 A. I don't know about years, but it certainly
03:11:06 12 would take months. We have one full-time dedicated
03:11:10 13 developer and then we have a backup developer, and
03:11:15 14 because this is an -- because this is a proprietary
03:11:19 15 system specific to Pima County, it takes some time for
03:11:24 16 us to do development changes on it. You have to go
03:11:27 17 through our testing environment. We have to make sure
03:11:31 18 that it can speak to AVID. It's not a -- it's certainly
03:11:36 19 not an easy lift.

03:11:39 20 Q. Under 2243 you'd be required to compare the
03:11:42 21 county's voters to the MVD databases every month. Is
03:11:45 22 that practicable?

03:11:46 23 A. No.

03:11:48 24 Q. Is it practicable to use all available
03:11:51 25 resources to engage in monthly MVD database comparisons?

03:11:57 1 MR. LANGHOFER: Form.

03:11:59 2 THE WITNESS: No. Pima County has over

03:12:03 3 630 active registered voters, and we have just shy of

03:12:08 4 700,000 voters total on the voter registration roll.

03:12:14 5 BY MR. SHERMAN:

03:12:14 6 Q. Understood.

03:12:19 7 ADOT currently provides a database of customers

03:12:22 8 to the Secretary of State each month; is that correct?

03:12:28 9 MS. STUART: Form, foundation.

03:12:31 10 THE WITNESS: When you say a customer -- a

03:12:34 11 database of customers to the SOS, I don't know what

03:12:37 12 you're referring to.

03:12:40 13 BY MR. SHERMAN:

03:12:40 14 Q. I'll strike this question.

03:12:41 15 Is it possible for more than one ADOT record to

03:12:47 16 match a voter file record; do you know?

03:12:53 17 A. I guess it's possible if the information is in

03:12:57 18 the database twice.

03:13:01 19 Q. Do you have any idea how that would happen?

03:13:06 20 A. Human error, I would assume. I mean you can

03:13:11 21 maybe -- are you talking about on the voter -- on Pima

03:13:15 22 County's side or the State's side?

03:13:18 23 Q. On the ADOT side, more than one ADOT record

03:13:22 24 associated with a registered voter.

03:13:25 25 MS. STUART: Form, foundation.

03:13:28 1 THE WITNESS: Yeah, I -- I would -- I
03:13:30 2 guess it could happen.

03:13:31 3 BY MR. SHERMAN:

03:13:32 4 Q. But you don't know the circumstances in which
03:13:33 5 it would happen?

03:13:35 6 MS. STUART: Form, foundation.

03:13:41 7 BY MR. SHERMAN:

03:13:41 8 Q. Okay. I'll strike -- I'll strike this
03:13:43 9 question. We can move on.

03:13:44 10 So we were speaking earlier about USCIS's SAVE
03:13:55 11 system, and your office currently uses the SAVE system
03:13:58 12 for purposes of U.S. citizenship verification, correct?

03:14:01 13 A. Correct.

03:14:03 14 Q. And you use the SAVE system either when you get
03:14:08 15 an alien registration number on the voter registration
03:14:12 16 form or in response to that notice letter, correct?

03:14:15 17 A. Correct.

03:14:16 18 Q. And you could also use a naturalization
03:14:18 19 certificate number?

03:14:20 20 A. That is correct.

03:14:21 21 Q. How frequently do you use the SAVE system for
03:14:25 22 citizenship verification?

03:14:28 23 A. Maybe a handful of times a month.

03:14:33 24 Q. What's a handful, ballpark? Like less than 50
03:14:36 25 or less than a hundred or --

03:14:38 1 A. So the SAVE database is a -- we pay them a
03:14:43 2 monthly flat fee. On the invoice it shows how many
03:14:47 3 times we've accessed the system. I think the last
03:14:49 4 invoice I saw said nine.

03:14:53 5 Q. And if you don't have an alien registration
03:14:57 6 number or a naturalization certificate number, you can't
03:14:59 7 use the SAVE system for citizenship verification
03:15:02 8 purposes, correct?

03:15:02 9 A. That's my understanding, yes.

03:15:04 10 Q. Is there any other number that your office
03:15:07 11 routinely obtains from applicants or registered voters
03:15:10 12 that you could use with the SAVE system?

03:15:12 13 A. Not that I know of.

03:15:17 14 Q. Does your office directly have an agreement
03:15:19 15 with USCIS?

03:15:21 16 A. We do.

03:15:23 17 Q. Is that through the SOS or is that directly for
03:15:26 18 Pima County and the Pima County Recorder's Office?

03:15:29 19 A. It's directly with Pima County.

03:15:31 20 Q. Okay. How long have you had that agreement?

03:15:35 21 A. We renew it on a yearly basis.

03:15:37 22 Q. Does it cover the uses of SAVE outlined in
03:15:40 23 H.B. 2492?

03:15:44 24 A. I don't -- I don't know.

03:15:46 25 Q. All right. Do you know if it covers the uses

03:15:48 1 of SAVE outlined in H.B. 2243?

03:15:52 2 A. I don't know.

03:15:54 3 Q. For voter registration applicants not born in
03:15:57 4 the U.S., is it feasible to use the SAVE system to
03:16:00 5 determine their current U.S. citizenship status?

03:16:05 6 A. Without any additional information, like a
03:16:09 7 naturalization number or --

03:16:12 8 Q. Sorry. I'll rephrase the question.

03:16:14 9 If you query the SAVE system using an alien
03:16:19 10 registration number or a naturalization certificate
03:16:21 11 number, is it feasible to use that SAVE query to
03:16:25 12 determine the person's current U.S. citizenship status?

03:16:29 13 A. Yes.

03:16:33 14 Q. What's your basis for saying that?

03:16:36 15 A. That's the purpose of the SAVE system, is you
03:16:39 16 put the information in there and they return back to us
03:16:42 17 as to whether or not they are a citizen.

03:16:46 18 Q. So it can confirm citizenship, you've
03:16:49 19 testified, correct?

03:16:49 20 A. Correct.

03:16:51 21 Q. If you get a nonmatch or if it returns
03:16:57 22 information saying that this person's not a U.S.
03:17:00 23 citizen, what's the next step?

03:17:05 24 A. Well, we would send out a letter to the
03:17:09 25 registrant saying --

03:17:10 1 Q. And what does the letter say?

03:17:12 2 A. It would be that note code letter requiring

03:17:15 3 them to provide DPOC.

03:17:22 4 Q. Does USCIS have an alternative verification

03:17:25 5 process?

03:17:28 6 A. Not that I'm aware of.

03:17:32 7 Q. Has your office ever used an alternative

03:17:35 8 verification process for voter registration applicants?

03:17:39 9 A. Not that I'm aware of.

03:17:42 10 Q. Who in your office would know whether the Pima

03:17:47 11 County Recorder's Office has ever used USCIS's

03:17:51 12 alternative verification process?

03:17:56 13 A. The prior Recorder, the prior -- the former

03:18:02 14 chief deputy under the prior Recorder.

03:18:07 15 Q. And sorry to make you repeat this, but how long

03:18:10 16 have you been with the office, again?

03:18:11 17 A. Since September of 2021.

03:18:18 18 Q. If the SAVE system search returns no match, is

03:18:21 19 that treated as evidence that the person is not a U.S.

03:18:24 20 citizen?

03:18:25 21 A. No, it's not. It's just, again, it would

03:18:29 22 require a note code, so we would send out a letter.

03:18:44 23 Q. So would you say that while the SAVE system can

03:18:47 24 be used to confirm that someone is a U.S. citizen, it

03:18:50 25 cannot be used to confirm a lack of U.S. citizenship?

03:18:55 1
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03:19:32 10
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03:20:21 25

MR. LANGHOFER: Form.

THE WITNESS: Yeah, I would say that's true. We would -- we only use the SAVE system for the initial registration if a number is provided to us, so like a naturalization number or an alien ID.

If we get -- if a hit does not come back that's saying that they are a citizen, we wouldn't -- that registration we wouldn't continue with the registration. We would send the letter saying you need to provide us citizenship, documentary proof, DPOC.

BY MR. SHERMAN:

Q. So it's a basis, in your view, to deny someone a complete voter registration and deny them -- to reject them, to reject that application; but it's not a basis to remove them from the rolls?

MR. LANGHOFER: Form.

THE WITNESS: That is correct.

BY MR. SHERMAN:

Q. Has your office been communicating with USCIS about the challenged laws in this case?

A. No, we have not.

Q. Do you know whether the Secretary of State's Office has?

MS. STUART: Form, foundation.

THE WITNESS: I do not.

03:20:23 1 BY MR. SHERMAN:

03:20:23 2 Q. In terms of resources, access, training, is it
03:20:27 3 practicable for your office to use the SAVE system for
03:20:31 4 all Pima County registered voters?

03:20:35 5 A. No, it is not.

03:20:44 6 Q. H.B. 2492 instructs your office to use all
03:20:47 7 available resources to perform SAVE system checks. Is
03:20:51 8 that possible?

03:20:53 9 MR. LANGHOFER: Form.

03:20:56 10 THE WITNESS: No, we would only provide --
03:20:59 11 use the SAVE system on initial registration. We would
03:21:02 12 not retroactively go back and run registrations through
03:21:05 13 the SAVE system.

03:21:12 14 BY MR. SHERMAN:

03:21:13 15 Q. So in terms of the Social Security
03:21:16 16 Administration databases, you testified earlier today
03:21:19 17 that your office isn't comparing any voter registration
03:21:23 18 data against SSA databases; isn't that correct?

03:21:27 19 A. We have no access to those databases.

03:21:29 20 Q. Do you interface in any way with their
03:21:33 21 databases?

03:21:33 22 A. We do not.

03:21:34 23 Q. Okay. Do you have any knowledge of whether SSA
03:21:38 24 databases contain citizenship information?

03:21:41 25 A. I do not.

03:21:43 1 Q. And so, therefore, no knowledge of whether that
03:21:46 2 citizenship information is reliable for purposes of
03:21:49 3 citizenship verification?

03:21:51 4 A. That is correct.

03:21:54 5 Q. And I believe you testified earlier that your
03:21:58 6 office doesn't have any familiarity with the National
03:22:01 7 Association Public Health -- for Public Health
03:22:07 8 Statistics and Information Systems Electronic
03:22:10 9 Verification of Vital Events database, does it?

03:22:11 10 A. Again, that's not something that we have access
03:22:13 11 to.

03:22:14 12 Q. Okay. Do you have any familiarity with it?

03:22:17 13 A. I know that they exist, and I know that the
03:22:22 14 Pima County Health Department can provide information to
03:22:24 15 it.

03:22:26 16 Q. Do you know what their databases contain or
03:22:28 17 what people use it for?

03:22:32 18 A. Birth and death notices.

03:22:35 19 Q. Do you know what state agencies around the
03:22:39 20 country might use it for?

03:22:42 21 A. I think it just depends on the state agency.

03:22:45 22 Q. Have you ever heard of any voter registration
03:22:50 23 officials using it for any purpose?

03:22:52 24 A. Not in the state of Arizona.

03:22:56 25 Q. Are you familiar with the Electronic

03:22:59 1 Registration Information Center or ERIC?

03:23:00 2 A. Yes, I am.

03:23:01 3 Q. And what is it?

03:23:02 4 A. It is a group of participating states who
03:23:08 5 provide information to the ERIC system to keep their
03:23:15 6 rolls up-to-date within their states, to provide
03:23:20 7 cross-state mover reports and double voting reports.

03:23:25 8 It's a way for us to be able to get information
03:23:29 9 from other states in a centralized method. That
03:23:37 10 information is fed through the Secretary of State's
03:23:41 11 Office of those participating states and then is
03:23:43 12 received by the Secretary of State's Office and then
03:23:46 13 pushed down to the counties.

03:23:48 14 Q. Do you use ERIC for U.S. citizenship
03:23:52 15 verification purposes?

03:23:52 16 A. I do not.

03:23:52 17 Q. Does ERIC even contain U.S. citizenship data?

03:23:56 18 A. Not that I'm aware of.

03:23:58 19 Q. Has your office been communicating with ERIC at
03:24:01 20 all about the challenged laws in this lawsuit?

03:24:03 21 A. We do not communicate with ERIC. We
03:24:06 22 communicate with the Secretary of State's Office, and
03:24:07 23 the Secretary of State's Office communicates with ERIC.

03:24:13 24 Q. Lastly, in both -- in this -- I'm almost done.

03:24:17 25 Do you have the ability to search or interface

03:24:21 1 with any other government databases with U.S.

03:24:24 2 citizenship data?

03:24:25 3 A. I do not.

03:24:26 4 Q. And just to be clear, when you say you, you
03:24:29 5 mean your office, correct?

03:24:30 6 A. I mean our office, that is correct.

03:24:33 7 Q. Okay. And has your office been communicating
03:24:34 8 with any other person or entity regarding the use of any
03:24:36 9 other database for citizenship verification?

03:24:40 10 A. No, we have not.

03:24:42 11 Q. If I could trouble you to just look quickly at
03:24:45 12 what's marked as Exhibit U, This has not been
03:24:47 13 introduced yet. It's YC 135.

03:25:00 14 What is this document?

03:25:04 15 A. Looks like it is an e-mail from Former Recorder
03:25:09 16 Hoffman.

03:25:14 17 Q. Does it appear to be authentic?

03:25:18 18 MR. LANGHOFER: Foundation.

03:25:19 19 THE WITNESS: It does.

03:25:20 20 BY MR. SHERMAN:

03:25:20 21 Q. Could we mark this as Exhibit 79, I believe.

03:25:27 22 If I could just ask you to take a look at the
03:25:30 23 last bullet, and I'll just read it for the record.

03:25:32 24 "What city, town and federal databases are they talking
03:25:34 25 about that we are supposed to run our voter rolls

03:25:37 1 against? Do they know something about people keeping
03:25:40 2 track of us and citizenship status that we don't?"
03:25:44 3 Do you share the sentiment expressed in this
03:25:47 4 last bullet point?
03:25:48 5 MR. LANGHOFER: Form.
03:25:50 6 THE WITNESS: I do.
03:25:52 7 BY MR. SHERMAN:
03:25:52 8 Q. Thank you.
03:26:04 9 To the extent you're checking multiple
03:26:07 10 databases, how do you think you would deal with
03:26:10 11 conflicting data if one database showed a person was a
03:26:14 12 citizen and another showed they were not a citizen at
03:26:16 13 some point in the past?
03:26:19 14 A. We would reach out to the voter and confirm.
03:26:20 15 MR. LANGHOFER: Foundation.
03:26:26 16 BY MR. SHERMAN:
03:26:26 17 Q. Is that process currently laid down in the
03:26:30 18 draft EPM or anywhere else?
03:26:33 19 A. Not that I know of. That would just be an
03:26:36 20 internal best practice.
03:26:39 21 Q. Okay. But it might vary from county to
03:26:41 22 county?
03:26:41 23 A. It might.
03:26:46 24 Q. How do you ensure an accurate match is made?
03:26:52 25 I'll strike that. I'll just skip it.

03:26:54 1 So last question I think I have is just about
03:26:59 2 curing. So if a registered voter is removed from the
03:27:02 3 rolls under H.B. 2243, which we've been discussing,
03:27:08 4 based upon an erroneous determination that they are not
03:27:10 5 a U.S. citizen, can that voter be added back to the
03:27:13 6 rolls after the registration deadline has already
03:27:17 7 passed?

03:27:17 8 MR. LANGHOFER: Form.

03:27:25 9 THE WITNESS: Yes, I mean if they provided
03:27:26 10 us the documentary proof of citizenship. If it's
03:27:32 11 something that we made a mistake on, we can certainly,
03:27:36 12 you know, fix our issues if it's brought to our
03:27:39 13 attention by the voter.

03:27:40 14 BY MR. SHERMAN:

03:27:40 15 Q. Even after vote closing?

03:27:46 16 MR. LANGHOFER: Form.

03:27:52 17 THE WITNESS: I think we would be able to
03:27:54 18 do that from a pragmatic perspective, yes.

03:27:59 19 BY MR. SHERMAN:

03:27:59 20 Q. Is that clearly set forth in the currently
03:28:02 21 operative EPM?

03:28:03 22 MR. LANGHOFER: Form.

03:28:06 23 THE WITNESS: No. I think that would be
03:28:07 24 something that we would determine internally after
03:28:09 25 speaking with our counsel.

03:28:10 1 BY MR. SHERMAN:

03:28:11 2 Q. Okay. And it might vary from county to county?

03:28:12 3 A. It might.

03:28:13 4 MR. LANGHOFER: Foundation.

03:28:16 5 MR. SHERMAN: Thank you very much for your
03:28:17 6 time, Ms. Hiser. Thank you for your service.

03:28:23 7 I believe one of my colleagues is going to
03:28:24 8 take over and ask questions.

03:28:27 9 MR. DODGE: Would it be nice for Ms. Hiser
03:28:28 10 to take maybe a five-minute break before we continue?

03:28:33 11 THE WITNESS: Sure. Thank you.

03:28:35 12 MR. LANGHOFER: Jon, when you say one of
03:28:36 13 your colleagues is taking over, do you mean --

03:28:38 14 MR. DODGE: This is Mr. Dodge. I'll be
03:28:39 15 asking questions after the break, and I think we can go
03:28:41 16 off the record now.

03:28:42 17 THE VIDEOGRAPHER: We are off the record.
03:28:44 18 The time on the video monitor is 3:28 p.m.

03:28:56 19 (A recess was taken.)

03:37:37 20 THE VIDEOGRAPHER: We are on the record.
03:37:38 21 The time on the video monitor is 3:37 p.m.

03:37:42 22

03:37:42 23 EXAMINATION

03:37:42 24 BY MR. DODGE:

03:37:43 25 Q. Good afternoon, Ms. Hiser. My name is Chris

03:37:45 1 Dodge. I represent the Mi Familia Vota plaintiffs in
03:37:47 2 this case. Thank you for your time this afternoon. I
03:37:50 3 know it's a long day.

03:37:52 4 I'd like to start by asking you some additional
03:37:54 5 questions about requirements imposed by H.B. 2492. And
03:38:00 6 you understand that under H.B. 2492 a state registration
03:38:05 7 form applicant must include their place of birth on the
03:38:08 8 application form or it cannot be accepted by a Recorder,
03:38:14 9 right?

03:38:14 10 A. Yes, that's what the guidance was indicated
03:38:17 11 from the Secretary of State's Office.

03:38:18 12 Q. Okay. I'm going to ask some questions about
03:38:21 13 that; but before, I'd like to ask about your office's
03:38:24 14 current practices with respect to birthplace
03:38:29 15 information.

03:38:29 16 If an applicant submits a state registration
03:38:31 17 form and provides adequate documentary proof of
03:38:35 18 citizenship, but no birthplace information, at present
03:38:38 19 you would still register that voter, correct?

03:38:40 20 A. Correct.

03:38:42 21 Q. If we could please pull up Exhibit 73, which
03:38:47 22 was previously in the Dropbox folder as Exhibit 0.

03:38:53 23 Let me know when you have that in front of you,
03:39:02 24 Ms. Hiser.

03:39:02 25 A. The letter from the Recorder to Governor Ducey?

03:39:06 1 Q. That's correct.

03:39:07 2 A. Okay.

03:39:07 3 Q. And you looked at this a bit earlier today,
03:39:09 4 right?

03:39:09 5 A. Yes.

03:39:09 6 Q. Okay. I'm not going to ask questions about
03:39:11 7 what's already been discussed on this letter, but if I
03:39:15 8 could direct your attention to the final bullet on the
03:39:17 9 first page of this letter; do you see that?

03:39:21 10 A. "Requiring a birthplace when registering
03:39:27 11 (16-121.01) is irrelevant. There is no way to verify
03:39:32 12 the information and it has no bearing on the ability to
03:39:36 13 vote nor does it verify identity."

03:39:39 14 Q. Yeah, exactly that. And as you said, this is
03:39:41 15 an e-mail that was signed by the Pima County Recorder
03:39:44 16 and sent to the Governor, correct?

03:39:46 17 A. Correct.

03:39:47 18 Q. And the bullet that you just read out loud,
03:39:51 19 that lays out the position of the Pima County Recorder
03:39:54 20 with respect to H.B. 2492's birthplace requirement?

03:39:58 21 A. Yes, it does.

03:39:59 22 Q. And what use, if any, does your office
03:40:02 23 currently make of birthplace information supplied on a
03:40:05 24 state registration form?

03:40:06 25 A. We would use that as a security question.

03:40:11 1 Q. And for no other purpose?

03:40:13 2 A. No, for no other purpose.

03:40:16 3 Q. So you don't actually use that information to

03:40:19 4 confirm where a person is born, right?

03:40:23 5 A. That is correct.

03:40:25 6 Q. And you also don't use birthplace information

03:40:28 7 on a state registration form to determine if the person

03:40:30 8 is qualified to vote under Arizona law, right?

03:40:33 9 A. That is also correct.

03:40:39 10 Q. And I think you said earlier as well that there

03:40:41 11 is all sorts of other information on the state

03:40:44 12 registration form that you could also use as a security

03:40:46 13 question on the phone with the voter, right?

03:40:48 14 A. Yes.

03:40:49 15 Q. And could you just list a few of those?

03:40:54 16 A. Mother's maiden name, father's name, the place

03:40:59 17 of birth, last four digits of a social security number.

03:41:05 18 We could use an e-mail address if they provided that,

03:41:08 19 although we also like to use the e-mail address as a way

03:41:11 20 to contact the voter.

03:41:15 21 Q. And I think you said earlier that you typically

03:41:17 22 start by asking for the last four digits of the social

03:41:21 23 security number; is that right?

03:41:21 24 A. If that has been provided, that's our first

03:41:24 25 preferred security check.

03:41:27 1 Q. Got it. Thank you.

03:41:33 2 And I know you've testified a couple times

03:41:36 3 today that the Pima County Recorder is not currently

03:41:39 4 implementing H.B. 2492, right?

03:41:41 5 A. Correct.

03:41:41 6 Q. And so specifically with regards to the bill's

03:41:45 7 birthplace requirement, your office is not

03:41:49 8 implementing -- sorry. Strike that.

03:41:50 9 So with respect to the birthplace requirement,

03:41:53 10 the fact that you are not implementing H.B. 2492 means

03:41:57 11 that the Pima County Recorder's Office is still

03:41:59 12 accepting voter registration forms that omit place of

03:42:04 13 birth information, correct?

03:42:05 14 A. We are.

03:42:05 15 Q. But if Pima County were to implement the law,

03:42:07 16 it would mean that it would have to reject voter

03:42:10 17 registration forms that omit birthplace, right?

03:42:12 18 A. As we understand the implementation of that

03:42:15 19 law, yes.

03:42:20 20 Q. And the Recorder explained in her veto request

03:42:24 21 to Governor Ducey that place of birth has no bearing on

03:42:28 22 qualification to vote, right?

03:42:29 23 A. She did.

03:42:30 24 Q. And the Recorder also said in her veto

03:42:33 25 request to Governor Ducey that your office has no

03:42:35 1 way of actually verifying place of birth information,
03:42:39 2 correct?

03:42:39 3 A. That is correct.

03:42:41 4 Q. So if H.B. 2492 were to go into effect, your
03:42:44 5 office would not actually use required birthplace
03:42:47 6 information to verify a person's identity or their
03:42:49 7 qualification to vote, right?

03:42:52 8 A. Correct. I think as I've stated previously, a
03:42:55 9 U.S. citizen can be born abroad, and the place of birth
03:43:01 10 doesn't say -- doesn't control as to whether or not they
03:43:05 11 are or are not a U.S. citizen.

03:43:08 12 Q. That's right. And it's also the case that you
03:43:11 13 have no reliable way to check that the birthplace
03:43:14 14 information is accurate to begin with, right?

03:43:15 15 A. Correct.

03:43:16 16 Q. So it can't be used by your office to verify
03:43:19 17 the identity of a person as they claim it on their
03:43:22 18 registration form, right?

03:43:23 19 A. Correct.

03:43:27 20 Q. So is it correct to say that you would not use
03:43:30 21 birthplace information in any new manner if H.B. 2492
03:43:34 22 went into effect?

03:43:36 23 MR. LANGHOFER: Objection, calls for
03:43:39 24 speculation.

03:43:39 25 THE WITNESS: Yeah, I'm sorry, I don't

03:43:40 1 quite understand what your question is.

03:43:44 2 BY MR. DODGE:

03:43:44 3 Q. Let me try it again.

03:43:51 4 Can you think of any new manner in which you
03:43:54 5 would use birthplace information if H.B. 2492 were to go
03:43:56 6 into effect?

03:43:58 7 A. No, I can think of no additional ways we would
03:44:01 8 use that information.

03:44:02 9 Q. Have you received any guidance from the
03:44:05 10 Secretary of State's Office about how to implement the
03:44:09 11 birthplace requirement if it were to go into effect?

03:44:12 12 A. Only the information from the legislative
03:44:14 13 updates and flowchart that they provided our office at
03:44:16 14 the start of the -- January.

03:44:20 15 Q. So if H.B. 2492 were to go into effect, the
03:44:23 16 only use for birthplace information on the state
03:44:26 17 registration form would be as a basis for rejecting an
03:44:29 18 application, right?

03:44:32 19 MR. LANGHOFER: Form. Objection, calls
03:44:36 20 for speculation.

03:44:36 21 THE WITNESS: I think it would. I would
03:44:39 22 have to go back and see what the -- I'd have to look at
03:44:42 23 the guidance of the legislative updates to see if that
03:44:47 24 was what the Secretary of State's Office interpreted it
03:44:49 25 to be.

03:44:54 1 BY MR. DODGE:

03:44:54 2 Q. Are you aware of any other state that requires
03:44:56 3 birthplace information to register to vote?

03:44:59 4 MR. LANGHOFER: Form.

03:45:02 5 THE WITNESS: I don't know. There's
03:45:04 6 50 states. There's 50 different sets of laws.

03:45:06 7 BY MR. DODGE:

03:45:07 8 Q. But to the best of your knowledge, you're not
03:45:08 9 aware of one?

03:45:09 10 MR. LANGHOFER: Form.

03:45:10 11 THE WITNESS: To the best of my knowledge,
03:45:11 12 I'm not aware.

03:45:14 13 BY MR. DODGE:

03:45:15 14 Q. Okay, I'd like to move on to some questions
03:45:16 15 about the citizen checkbox form that appears on both the
03:45:21 16 state registration form and the federal form.

03:45:24 17 The citizenship checkbox is not new on either
03:45:29 18 of those forms, right?

03:45:31 19 A. That is correct.

03:45:32 20 Q. It's been on both of them for at least about a
03:45:35 21 couple decades, right?

03:45:37 22 A. It's been on both of them for at least ten
03:45:39 23 years, if not longer.

03:45:42 24 Q. And the Pima County Recorder's Office has not
03:45:44 25 historically rejected a voter application form simply

03:45:49 1 because a person failed to check a citizen checkbox,
03:45:53 2 right?

03:45:53 3 A. To the best of my knowledge, that is
03:45:57 4 correct.

03:45:57 5 Q. But you understand that under H.B. 2492 an
03:46:02 6 applicant using either the state form or the federal
03:46:04 7 form must affirmatively check the box confirming that
03:46:06 8 they are a citizen or it cannot be accepted by a
03:46:09 9 Recorder's Office, right?

03:46:11 10 A. That is correct.

03:46:12 11 Q. And I think you testified previously that
03:46:14 12 that's another part of H.B. 2492 that Pima County is not
03:46:19 13 currently implementing, right?

03:46:21 14 A. That is correct.

03:46:21 15 Q. And so at present, if an applicant submits a
03:46:24 16 state registration form and provides documentary proof
03:46:27 17 of citizenship, Pima County does not reject the
03:46:29 18 application if the applicant fails to complete the
03:46:32 19 checkbox, right?

03:46:33 20 A. That is correct.

03:46:36 21 Q. And state form applicants are required to
03:46:38 22 provide documentary proof of citizenship under Arizona
03:46:41 23 law, right?

03:46:45 24 MR. LANGHOFER: Calls for a legal
03:46:46 25 conclusion.

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03:47:45 18
03:47:45 19
03:47:47 20
03:47:49 21
03:47:55 22
03:47:57 23
03:47:58 24
03:47:59 25

BY MR. DODGE:

Q. To be fully registered.

A. So, yes, we need to have DPOC to have someone be fully registered for a full ballot; but as I've stated previously, we can determine that based off of the MVD or the SAVE, and if an individual provides us documentary proof of citizenship, we will take that as well.

Q. Got it.

But it's fair to say that completing the checkbox is not necessary to confirm that a state form registrant is a citizen, right?

A. Correct. Yes, that is correct.

Q. And if we could pull up a document labeled PIMA COUNTY 2826 in the Dropbox.

MR. DODGE: And, Madame Reporter, could you tell me what exhibit we're up to now?

THE COURT REPORTER: 80.

BY MR. DODGE:

Q. Okay. I'll introduce PIMA COUNTY 2826 as Exhibit 80.

Do you have that up in front of you, Ms. Hiser?

A. Yes, I do.

Q. Are you familiar with this document?

A. I am.

03:48:03 1 Q. And if you could turn to Page -- well, first,
03:48:06 2 could you tell me what this document is?

03:48:08 3 A. This is our internal instructions for voter
03:48:12 4 registration data entry.

03:48:14 5 Q. What's this document used for?

03:48:16 6 A. This is used to train our Voter technicians,
03:48:22 7 our Voter clerks, on how to enter information into our
03:48:25 8 database. So it's a fairly comprehensive training
03:48:29 9 manual and procedures, data entry instructions. So it's
03:48:36 10 a standard operating procedures. It's an SOP.

03:48:40 11 Q. Got it.

03:48:41 12 Could you turn to Page 15 of this document,
03:48:41 13 please?

03:48:47 14 And just let me know when you get there.

03:48:52 15 A. Sure.

03:49:02 16 Okay, I'm there.

03:49:03 17 Q. Do you see the bottom paragraph, which reads,
03:49:07 18 "However, if an applicant provides a date of birth that
03:49:09 19 confirms that they will be at least 18 years old on or
03:49:12 20 before election day, accept the form. Similarly, if an
03:49:15 21 applicant provides documentary proof of citizenship, or
03:49:18 22 DPOC can be acquired based on the provided information,
03:49:21 23 you should accept the form. We do not deny the right to
03:49:24 24 register to vote eligible Arizonans who accidentally
03:49:29 25 omit these checkmarks from their voter registration

03:49:33 1 application."

03:49:33 2 Did I read that correctly?

03:49:34 3 A. You did.

03:49:34 4 Q. Is that an accurate summary of your office's

03:49:37 5 current policy with respect to state form registrants

03:49:39 6 who provide DPOC, but did not complete a citizenship

03:49:43 7 checkbox?

03:49:43 8 A. It is.

03:49:46 9 Q. Okay. You can set that document aside. I'm

03:49:49 10 going to ask some questions about the federal form now.

03:49:52 11 Could you turn back to Exhibit 73, which we

03:50:00 12 just had up, which is the County Recorder's veto request

03:50:05 13 to Governor Ducey?

03:50:10 14 In the middle of that page --

03:50:11 15 A. Could you reference the exhibit one more time,

03:50:15 16 please?

03:50:15 17 Q. I believe it's 73.

03:50:24 18 A. Does it have a letter associated with it?

03:50:26 19 Q. Yes. O, as in Oscar.

03:50:31 20 A. All right. Thank you.

03:50:32 21 Q. And if you look in the middle of the first

03:50:34 22 page, there are a few paragraphs that begin "The bill's

03:50:38 23 unconstitutionality is clear in that it conflicts with

03:50:41 24 the 2013 Supreme Court ruling that determined that an

03:50:43 25 affirmation of citizenship meets the standards of

03:50:46 1 federal law. In Arizona v. Inter Tribal Council of
03:50:49 2 Arizona, the court ruled that an Arizona law requiring
03:50:52 3 voters to provide a document for proof of citizenship,"
03:50:55 4 and it lists some, "violated federal law. Because the
03:50:58 5 National Voter Registration Act only requires an
03:51:01 6 affirmation of citizenship under the penalty of perjury,
03:51:04 7 federal law prevails."

03:51:05 8 Did I read that correctly?

03:51:07 9 A. You did.

03:51:08 10 Q. So is it correct that in the Pima County
03:51:10 11 Recorder's Office an applicant completing the federal
03:51:14 12 registration form adequately establishes their
03:51:16 13 citizenship if they affirm their citizenship under
03:51:19 14 penalty of perjury on the form?

03:51:22 15 MR. LANGHOFER: Calls for a legal
03:51:24 16 conclusion.

03:51:24 17 THE WITNESS: In that instance we would
03:51:26 18 register them as a federal only voter, and we would
03:51:29 19 still send them a letter requesting documentary proof of
03:51:34 20 citizenship, with an explanation that they have been
03:51:36 21 registered as a federal only and are not eligible to
03:51:40 22 vote a full ballot at that time.

03:51:41 23 BY MR. DODGE:

03:51:42 24 Q. But for purposes of voting in federal elections
03:51:45 25 only, their affirmation suffices for establishing their

03:51:50 1 qualification to vote in those elections, right?

03:51:53 2 A. For federal elections, yes.

03:51:58 3 Q. So Pima County's practice has been that if an
03:52:01 4 applicant submits a federal registration form, to accept
03:52:04 5 that application if the applicant signs the citizenship
03:52:07 6 affirmation, even if they do not complete the checkbox,
03:52:12 7 right?

03:52:12 8 A. We do.

03:52:13 9 Q. And that's because they've sworn under penalty
03:52:15 10 of perjury and the threat of deportation that they're
03:52:19 11 citizens, correct?

03:52:20 12 A. Correct.

03:52:25 13 Q. So what use, if any, does your office make on
03:52:28 14 either the state or federal form of an applicant having
03:52:32 15 checked the box that they're a citizen?

03:52:38 16 A. It doesn't play an impact in the way that we
03:52:41 17 register voters.

03:52:46 18 Q. If Pima County were to implement H.B. 2492,
03:52:51 19 however, it would mean that it would have to reject both
03:52:54 20 state form and federal form registrations where a voter
03:52:57 21 forgot to check the citizenship box, correct?

03:52:59 22 A. That is our understanding, yes.

03:53:03 23 Q. And that's the case even though Pima County's
03:53:06 24 current policy is to not deny any eligible Arizona
03:53:09 25 voter's registration for failure to check the box where

03:53:12 1 the applicant provides DPOC or where DPOC can be
03:53:15 2 acquired, right?

03:53:16 3 A. Correct.

03:53:17 4 Q. And that's also the case even though Pima
03:53:21 5 County Recorder's current policy for federal form
03:53:24 6 registrants is that their affirmation of citizenship
03:53:26 7 satisfies showing they are a citizen for purposes of
03:53:29 8 federal elections, right?

03:53:30 9 A. That is correct.

03:53:34 10 Q. So if H.B. 2492 were to go into effect, the
03:53:38 11 only purpose served by the citizenship checkbox would be
03:53:40 12 as a basis for rejecting a registration form, right?

03:53:43 13 A. That is correct.

03:53:49 14 Q. And if the checkbox were to become mandatory,
03:53:53 15 you have no planned additional uses for how your office
03:53:56 16 would use the checkbox?

03:53:58 17 A. Not at this time, no.

03:54:05 18 Q. Okay. I'd like if you could pull up
03:54:08 19 Exhibit 72, which is labeled Exhibit N in the Dropbox.

03:54:17 20 And I know you discussed this document
03:54:19 21 previously with counsel as well, so I'm going to only
03:54:23 22 ask one or two more questions about it.

03:54:25 23 You testified earlier that in these e-mails the
03:54:31 24 Pima County Recorder made clear her view that H.B. 2492
03:54:35 25 violated federal law, right?

03:54:37 1 A. That is correct. These do reflect the
03:54:41 2 Recorder's view on this bill.

03:54:42 3 Q. And that e-mail was sent on March 29th, 2022?

03:54:47 4 A. It was, yes.

03:54:48 5 Q. And to your knowledge, were any changes made to
03:54:52 6 H.B. 2492 between the time this e-mail was sent and the
03:54:56 7 law was signed into effect by Governor Ducey?

03:54:59 8 MR. LANGHOFER: Form.

03:55:02 9 THE WITNESS: I'm not aware of any
03:55:03 10 changes.

03:55:07 11 BY MR. DODGE:

03:55:08 12 Q. Could you scroll down to the top of the second
03:55:09 13 page of this document?

03:55:15 14 And do you see where the County Recorder in an
03:55:17 15 e-mail says, "A small group of Recorders, Elections
03:55:21 16 Directors, and an AACO representative just met with a
03:55:24 17 representative from the Governor's Office and he's
03:55:26 18 shared our letters with the Governor, but the clock is
03:55:29 19 ticking and there's no commitment that the Governor will
03:55:33 20 veto the bill"? Do you see that?

03:55:35 21 A. I do.

03:55:36 22 Q. Beyond the Pima County Recorder, do you know
03:55:38 23 who attended that meeting with the Governor's
03:55:40 24 representative?

03:55:44 25 A. I don't know. I could hazard a guess, but I

03:55:49 1 might be incorrect.

03:55:51 2 Q. What's your best recollection, understanding
03:55:54 3 that this occurred over a year ago?

03:56:01 4 A. I would -- I think Recorder Richer of Maricopa
03:56:06 5 was most likely there, Recorder Hoffman, Recorder
03:56:18 6 Hansen, probably the election directors from some of
03:56:20 7 those smaller counties. The AACo representative most
03:56:28 8 likely was Jennifer Marson, our lobbyist.

03:56:36 9 Q. Great. Thank you. I appreciate that. You can
03:56:37 10 set that aside now. I'm going to change gears a little
03:56:42 11 bit.

03:56:43 12 You would agree that prior to H.B. 2492 and
03:56:47 13 H.B. 2243 it was not legal for a person who was not a
03:56:49 14 U.S. citizen to register to vote in Arizona, correct?

03:56:54 15 A. Yes. Correct.

03:56:56 16 Q. And would you agree, also, that there were
03:56:58 17 policies, laws, and procedures in place in Arizona and
03:57:01 18 in Pima County to prevent noncitizens from registering
03:57:05 19 to vote?

03:57:05 20 A. Yes.

03:57:08 21 Q. And in Arizona it's a felony for a person to
03:57:11 22 register as an elector when they know they're not
03:57:14 23 entitled to register as one, correct?

03:57:15 24 A. That is correct.

03:57:19 25 Q. What does the Pima County Recorder's Office do

03:57:21 1 to identify any instances of voter fraud?

03:57:30 2 A. Instances of voter fraud or instances of false
03:57:34 3 registration? We consider those to be slightly
03:57:37 4 different.

03:57:38 5 Q. Why don't you give me your answer as to both.

03:57:44 6 A. For registration, if we deemed that the
03:57:46 7 registration is absolutely fraudulent, we would refer to
03:57:54 8 the County Attorney's Office for investigation or the
03:57:57 9 Attorney General's Office. We would not register that
03:58:02 10 voter. That would certainly be something that we would
03:58:06 11 not put into the system.

03:58:10 12 Voter fraud is something different. Voter
03:58:12 13 fraud is someone who, you know, might vote twice, you
03:58:19 14 know, vote across multiple jurisdictions. Those are
03:58:24 15 instances of what we would consider voter fraud.

03:58:28 16 Q. Got it.

03:58:28 17 So you see those as different acts happening at
03:58:31 18 different stages of the voting process, right?

03:58:33 19 A. Correct.

03:58:33 20 Q. And if you suspect someone's trying to register
03:58:40 21 fraudulently, you refer that to the County Attorney?

03:58:43 22 A. If we believe that to be the case, yes.

03:58:46 23 Q. Can citizens submit allegations of potential
03:58:50 24 registration fraud to your office?

03:58:58 25 A. I suppose they could. We wouldn't personally

03:59:01 1 do anything about it. We would direct them to the
03:59:03 2 Arizona Attorney General's Office or the County
03:59:06 3 Attorney's Office for those allegations. Fraud is a
03:59:09 4 criminal allegation, so we would refer them to
03:59:13 5 prosecuting agencies.

03:59:15 6 Q. In practice, do citizens ever refer those sorts
03:59:18 7 of allegations to your office?

03:59:32 8 A. Sometimes.

03:59:33 9 Q. Can you tell me what sometimes means there?

03:59:40 10 A. There is an individual who is known to several
03:59:42 11 of the Recorders here in the state of Arizona, who is an
03:59:46 12 out-of-state individual who investigates our rolls and
03:59:50 13 identifies people on our rolls who he suspects should be
03:59:56 14 removed, for whatever reason, and alerts us to those
04:00:04 15 individuals, requesting that we do follow-up.

04:00:09 16 Q. Could you tell me that individual's name?

04:00:11 17 A. His name is Ian Camacho.

04:00:15 18 Q. And in your experience, are his allegations
04:00:18 19 typically credible or based in fact?

04:00:24 20 A. Sometimes he peppers us with so many we -- we
04:00:29 21 don't -- well, we don't really investigate them. And a
04:00:32 22 lot of the times is he provides us Facebook posts
04:00:35 23 showing that people have moved or property sale
04:00:42 24 notices from the County Assessor's Office or a LinkedIn
04:00:48 25 thing, so I mean...

04:00:52 1 He also will list a number of voters and say
04:00:54 2 that the addresses do not -- are invalid and that we
04:01:00 3 should remove them. For those we can do a little bit
04:01:02 4 more investigation. For the ones where people are
04:01:04 5 sending us things like Facebook posts and LinkedIn
04:01:09 6 profiles, that's not anything that I can do, so we
04:01:12 7 let...

04:01:14 8 If he chooses to think that that's something
04:01:15 9 that we should investigate, we always refer them. We've
04:01:21 10 told Mr. Camacho and his associates that those should be
04:01:26 11 referred to the Attorney General's Office.

04:01:29 12 Q. And do you refer those sorts of allegations to
04:01:33 13 the Attorney General's Office when they're just based on
04:01:36 14 a Facebook post or a LinkedIn update?

04:01:39 15 A. No.

04:01:39 16 Q. And that's because they don't really give you a
04:01:41 17 sufficiently credible basis to follow up, right?

04:01:45 18 A. We would not consider that to be credible. If
04:01:49 19 we had a -- if another county in another state were to
04:01:54 20 contact us and say, you know, we have a voter that's
04:01:58 21 registered here, we would take that with more
04:02:01 22 credibility and work with that county because it's
04:02:04 23 another government agency, to be able to follow up and
04:02:07 24 do what we would need to do, whether it's removing them
04:02:12 25 from our roll or confirming that they should be on their

04:02:15 1 roll; but that would be between another election

04:02:20 2 official.

04:02:22 3 Q. So it wouldn't become a criminal matter?

04:02:24 4 A. No, not unless it was determined that the voter
04:02:29 5 in question had voted across two states.

04:02:33 6 Q. Understood.

04:02:34 7 Beyond Mr. Camacho, does your office sometimes
04:02:41 8 receive allegations of improper voter registration from
04:02:44 9 citizens?

04:02:48 10 A. Not consistently, no.

04:02:50 11 Q. Maybe just a handful of times a year or a
04:02:53 12 month?

04:02:55 13 A. Few and far between. It's probably more of a
04:03:01 14 call of I think this person shouldn't be registered to
04:03:05 15 vote, you know, what are you going to do about it type
04:03:09 16 of thing. We don't get direct referrals.

04:03:16 17 There are several people who like to go in
04:03:18 18 front of the Board of Supervisors and do calls to the
04:03:21 19 public regarding our maintenance of the voter
04:03:27 20 registration rolls, but I wouldn't consider that a -- I
04:03:31 21 wouldn't consider them contacting our office.

04:03:35 22 Q. Understood.

04:03:36 23 And beyond just your office's ordinary
04:03:40 24 registration processes, are there any steps that your
04:03:42 25 office takes to prevent voter registration fraud?

04:03:51 1 A. Other than what we've already outlined, no.

04:04:00 2 Q. And beyond those steps you take to prevent
04:04:04 3 voter registration fraud, are there any actions that we
04:04:07 4 haven't discussed today that your office takes to
04:04:09 5 prevent what you've described as voter fraud itself?

04:04:15 6 A. Other than referring things to the County
04:04:22 7 Attorney or to the Attorney General's for investigation,
04:04:22 8 no.

04:04:32 9 Q. What determines whether something's referred to
04:04:34 10 the County Attorney or the Attorney General's Office?

04:04:37 11 A. It would have to be, from our instance, a
04:04:41 12 fairly clear and compelling view. For the last election
04:04:49 13 cycle we had a handful of people who cast both a
04:04:53 14 provisional ballot and a ballot by mail. We would
04:04:57 15 consider that to be an instance of double voting, so we
04:05:01 16 would -- we had referred that to the County Attorney's
04:05:04 17 Office for additional investigation and follow-up for
04:05:07 18 the County Attorney to be able to make a determination
04:05:11 19 as to whether or not to prosecute.

04:05:15 20 Q. To your knowledge -- sorry. Finish.

04:05:18 21 A. And then we've had some instances of double
04:05:21 22 voting across state lines that where we've noticed from
04:05:26 23 the ERIC cross-state voter match reports, and in those
04:05:30 24 instances we would work with the other state, determine
04:05:32 25 who had jurisdiction, and then refer to either our

04:05:36 1 County Attorney or the state would refer to their -- I'm
04:05:39 2 sorry, our Attorney General's Office, and they would
04:05:41 3 refer to their Attorney General's Office.

04:05:43 4 Q. I see. So you tend to elevate it to the
04:05:46 5 Attorney General when there's an interstate component?

04:05:49 6 A. Correct.

04:05:50 7 Q. Got it.

04:05:51 8 You mentioned some instances of people
04:05:53 9 potentially double voting in the 2020 general election.
04:05:57 10 To your knowledge, were any of those individuals
04:05:59 11 noncitizens?

04:06:00 12 A. It was during the '22 election that I was
04:06:03 13 making that reference to And, no, those were all
04:06:06 14 registered voters.

04:06:07 15 Q. And to your knowledge, they were all actual
04:06:12 16 residents of Pima County as well, right?

04:06:13 17 A. They were.

04:06:21 18 Q. Does your office believe that there's a problem
04:06:23 19 of voting by noncitizens in Pima County?

04:06:26 20 MR. LANGHOFER: Form.

04:06:31 21 THE WITNESS: I think that our office does
04:06:33 22 an exceptional job of maintaining the voter registration
04:06:37 23 rolls, and we have very talented and dedicated staff who
04:06:42 24 do that on a daily basis. I trust in their -- I trust
04:06:48 25 in their work.

04:06:50 1 BY MR. DODGE:

04:06:50 2 Q. So, in other words, just by following your
04:06:54 3 Recorder's Office's current protocols for registering
04:06:58 4 voters, that mitigates any concern about a problem of
04:07:01 5 noncitizen voting in Pima County, right?

04:07:04 6 A. Correct.

04:07:08 7 Q. And is the same true for voting by nonresidents
04:07:13 8 in Pima County?

04:07:16 9 A. Again, I trust the work of our team. They have
04:07:24 10 a wonderful attention to detail. Our first check/second
04:07:29 11 check/supervisor review structure provides necessary
04:07:32 12 oversight. So, again, I trust their work.

04:07:37 13 Q. And to be clear, all those procedures you just
04:07:40 14 described existed prior to H.B. 2492 and H.B. 2243,
04:07:44 15 right?

04:07:44 16 A. They do.

04:07:48 17 Q. Is it plausible to you that tens of thousands
04:07:52 18 of noncitizens vote in Arizona's elections?

04:07:56 19 MR. LANGHOFER: Form, foundation.

04:08:02 20 THE WITNESS: No, I don't think that's
04:08:21 21 plausible.

04:08:21 22 BY MR. DODGE:

04:08:21 23 Q. Do you agree that H.B. 2492 and H.B. 2243 will
04:08:25 24 make voter registration more difficult for voters in
04:08:28 25 Pima County?

04:08:32 1 A. I don't know if it will make it more difficult
04:08:34 2 for voters to register. It will make it more difficult
04:08:37 3 for us to process voter registration forms.

04:08:45 4 Q. If you could pull up -- I promise I'm getting
04:08:48 5 near the end. If you could pull up what's been marked
04:08:51 6 Exhibit 63, which I believe was B, as in boy, in the
04:09:00 7 Dropbox. Then if you could turn to Page 16 of that
04:09:05 8 document.

04:09:09 9 A. Is it the requests for production that you're
04:09:13 10 referring to?

04:09:13 11 Q. That's right.

04:09:18 12 And let me know when you get to Page 16.

04:09:30 13 A. Okay.

04:09:31 14 Q. So looking at request for production number 15,
04:09:35 15 it asks for documents sufficient to identify all voter
04:09:39 16 fraud cases in your county since 2010, including but not
04:09:42 17 limited to identification of those cases involving
04:09:45 18 allegations of fraud based on noncitizen voting,
04:09:48 19 correct?

04:09:50 20 A. Yes.

04:09:52 21 Q. And if you go to the next page and sort of
04:09:56 22 skirt past the legalese and just go to the last
04:09:59 23 sentence, your office's response was, "Pima County
04:10:02 24 Recorder has nothing responsive as this data is not
04:10:07 25 currently tracked."

04:10:08 1 Did I get that right?

04:10:09 2 A. That is correct.

04:10:11 3 Q. And what does it mean that this data is not
04:10:13 4 currently tracked?

04:10:15 5 A. It's just we don't track that. I wouldn't even
04:10:19 6 begin to know how we would track that.

04:10:23 7 Q. Is it fair to say that if your office did have
04:10:25 8 documents regarding noncitizens voting during this time
04:10:28 9 period from 2010 to the present, it would have produced
04:10:31 10 them in response to this request, right?

04:10:33 11 A. If we had them, yes.

04:10:35 12 Q. And so sitting here today, it's still the case
04:10:37 13 that your office has no documents regarding any
04:10:40 14 noncitizen voting in Pima County since 2010, correct?

04:10:43 15 A. That is correct.

04:10:45 16 Q. If we could pull up Exhibit 66, which was
04:10:48 17 marked as E as in excellent, in the Dropbox. And if we
04:10:59 18 could then look at interrogatory number 9, which begins
04:11:02 19 on Page 8.

04:11:06 20 Let me know when you have that.

04:11:14 21 A. Okay.

04:11:14 22 Q. So this interrogatory asks for you to identify
04:11:18 23 and describe each instance in which you have established
04:11:20 24 that a non-U.S. citizen or non-county resident has
04:11:24 25 registered to vote or has voted in your county from

04:11:27 1 January 1, 2013 to the present, right?

04:11:29 2 A. Yes.

04:11:31 3 Q. And sitting here today, it's still correct that

04:11:33 4 your office has no information regarding any instance in

04:11:37 5 which a noncitizen has registered to vote or voted in

04:11:40 6 Pima County over the past decade?

04:11:41 7 A. That is correct. It's just not something we

04:11:43 8 track.

04:11:45 9 Q. Okay. You can set that aside.

04:11:54 10 And if you could pull up I believe it's

04:11:57 11 Exhibit 64, which is C, as in Charlie, in the Dropbox.

04:12:05 12 And then look at RFP number 7, which begins on Page 10.

04:12:19 13 Do you see that?

04:12:22 14 A. One second.

04:12:22 15 Q. Sure. Take your time.

04:12:29 16 A. Okay.

04:12:30 17 Q. And so that request for production asks for all

04:12:34 18 documents and communications concerning actual or

04:12:36 19 alleged misconduct, fraud, a lack of voter confidence,

04:12:40 20 election security, or other problems related to

04:12:42 21 citizenship, residence location, or proof of citizenship

04:12:46 22 or residential addresses in voter registration, right?

04:12:49 23 A. Yes.

04:12:51 24 Q. And your response was, "Pima County Recorder's

04:12:53 25 Office does not have any such records," correct?

04:12:57 1 A. Correct.

04:12:58 2 Q. And so sitting here today, you still have no
04:13:01 3 documents or information regarding any of the topics
04:13:04 4 called for in this request for production, correct?

04:13:06 5 A. Correct.

04:13:09 6 Q. Okay. You can set that aside.
04:13:10 7 I just have a few more questions on voting by
04:13:13 8 mail in Arizona.
04:13:14 9 In Arizona absentee ballots are called early
04:13:22 10 ballots, right?

04:13:22 11 A. That is correct.

04:13:23 12 Q. And Arizona presently allows all registered
04:13:26 13 voters to vote by early ballot, correct?

04:13:29 14 A. We do. You can request to vote an early ballot
04:13:31 15 or you can request to be on the active early voting
04:13:35 16 list, or AEVL, and that is -- it was previously called
04:13:37 17 the permanent early voting list, PEVL if you're down in
04:13:41 18 Pima County, PEVL if you're any other county.

04:13:44 19 Q. For not the first time today you've anticipated
04:13:47 20 some of our questions.
04:13:49 21 How long has it been the case, to your
04:13:52 22 recollection, that any registered voter in Arizona can
04:13:55 23 request an early ballot?

04:13:59 24 A. At least 20 years, if not more.

04:14:06 25 Q. And a person can request an early ballot

04:14:08 1 regardless of the form they use to register, right?

04:14:11 2 A. Yes.

04:14:14 3 Q. And a person who's on the active early voting
04:14:16 4 list that you just mentioned, that means that they're
04:14:19 5 automatically sent a ballot for each election and don't
04:14:21 6 have to request it each time, right?

04:14:23 7 A. That is correct.

04:14:24 8 Q. And they stay on that list unless they don't
04:14:26 9 vote in two subsequent elections, right?

04:14:31 10 A. That's new legislation. Prior to that it
04:14:35 11 didn't matter whether or not you would -- as long as you
04:14:38 12 were on AEVL, we would send you a ballot. Whether or
04:14:42 13 not you returned it, that was on the voter.

04:14:46 14 If we sent a ballot and it came back to us,
04:14:49 15 that would start the NVRA process. But now there's
04:14:57 16 legislation that says after two federal election cycles,
04:15:02 17 if they have not used the early ballot that is sent to
04:15:07 18 them, then they are removed from AEVL.

04:15:09 19 Q. I appreciate that clarification. Thank you.

04:15:13 20 Is it fair to say that voting an early ballot
04:15:17 21 by mail is popular in Arizona?

04:15:19 22 A. Yes, it's extremely popular in Arizona.

04:15:24 23 Q. And so most Arizona voters vote an early ballot
04:15:29 24 by mail, right?

04:15:29 25 A. I would say that the predominant number do.

04:15:32 1 Here in Pima County we have -- the majority of our
04:15:37 2 voters are on AEVL and the majority of our voters return
04:15:40 3 an AEVL ballot, an early ballot.

04:15:42 4 Q. Do you have a rough guess as to what percentage
04:15:45 5 of Pima County voters voted by early ballot in the 2022
04:15:49 6 general election?

04:15:50 7 A. I believe it was about 80 percent.

04:15:54 8 Q. And is that typical for an election in Pima
04:16:01 9 County?

04:16:01 10 A. For people to return an early ballot?

04:16:01 11 Q. Yes.

04:16:04 12 A. Yes, that is typical. It has increased as the
04:16:07 13 years have gone up, but that is typical.

04:16:10 14 Q. And I'm going to introduce my final exhibit.
04:16:14 15 It's in the Dropbox. It begins with the word release.
04:16:17 16 I believe it's at the bottom of the Dropbox. And I'll
04:16:21 17 mark this as Exhibit 81.

04:16:30 18 Do you recognize this document?

04:16:31 19 A. I do.

04:16:33 20 Q. And can you tell me what it is?

04:16:35 21 A. It's one of our media releases as it related to
04:16:41 22 the '22 election.

04:16:42 23 Q. And it reflects that in the 2022 primary
04:16:46 24 election early voting accounted for 86 percent of
04:16:51 25 ballots cast, right?

04:16:51 1 A. Correct.

04:16:52 2 Q. And that's basically in line with sort of the
04:16:54 3 estimate you gave for the general election as well,
04:16:57 4 right?

04:16:57 5 A. Yes.

04:16:58 6 Q. What benefits are there for a voter in casting
04:17:01 7 an early ballot?

04:17:04 8 A. There's many. You don't have to stand in line
04:17:12 9 at a vote center. You don't have to take time off of
04:17:15 10 work to go vote on a single day. For a lot of people
04:17:19 11 they like to do research on their ballot and make an
04:17:25 12 informed decision, so they can do that in the comfort of
04:17:27 13 their home. They can take the time to do that. They
04:17:33 14 can return it to us and we can, you know, verify the
04:17:38 15 signature and get it over to tabulation, so we can
04:17:42 16 actually start tabulating ballots before election day.

04:17:53 17 There's a myriad of reasons as to why an early
04:17:56 18 ballot is a very easy, functional, and preferred method
04:18:02 19 of Arizona voters as to why they choose to do that.

04:18:06 20 Q. Got it. Thank you.

04:18:07 21 And the return envelopes for those ballots have
04:18:11 22 prepaid postage, correct?

04:18:13 23 A. They do.

04:18:14 24 Q. So a voter can just drop it in the mail and
04:18:16 25 it's taken care of?

04:18:17 1 A. Uh-huh, or they can drop it off at any of our
04:18:19 2 early voting locations that are open in the 27 days
04:18:24 3 before election or they can drop it off at any of our
04:18:27 4 emergency voting locations on the Saturday and Monday
04:18:30 5 before election day, and they can also drop it off at a
04:18:34 6 vote center on election day.

04:18:37 7 Q. You just gave me a very comprehensive answer,
04:18:40 8 but if I could just ask a couple more possible benefits.

04:18:43 9 It's also the case that somebody who casts an
04:18:45 10 early ballot does not have to arrange transportation to
04:18:47 11 a voting center, right?

04:18:48 12 A. Yes, absolutely.

04:18:53 13 Q. They also don't have to figure out where their
04:18:56 14 voting center is, right?

04:18:57 15 A. That is correct. But here in Pima County we
04:19:01 16 have a vote center model, which is different than a
04:19:03 17 precinct-based model. So voters can actually go to any
04:19:07 18 vote center within Pima County and cast a ballot. They
04:19:10 19 don't have to be within their precinct to do that.

04:19:13 20 Q. Got it.

04:19:16 21 But with an early ballot, they don't even have
04:19:17 22 to figure out where any vote centers are, right?

04:19:20 23 A. That is correct.

04:19:20 24 Q. And they also don't have to figure out what the
04:19:23 25 voting hours for a vote center are, right?

04:19:24 1 A. That is also correct.

04:19:26 2 Q. There are also probably some voters in Arizona,
04:19:29 3 in Pima County, who might have mobility issues that make
04:19:33 4 getting to a voting center inconvenient, right?

04:19:35 5 A. It does assist people with mobility issues to
04:19:38 6 be able to cast an early ballot. We also provide on
04:19:43 7 election day and during early voting time team voting,
04:19:49 8 where we send two staff members of opposite parties out
04:19:54 9 to locations to help voters who are housebound or in a
04:19:58 10 facility that they are not able to leave to be able to
04:20:02 11 cast a ballot.

04:20:03 12 Q. Just a couple more.

04:20:06 13 When your office prepares election
04:20:09 14 infrastructure for election day, does it account for the
04:20:11 15 fact that most voters will have likely voted an early
04:20:15 16 ballot by mail?

04:20:16 17 A. So we do not prepare for election day here in
04:20:19 18 Pima County. The Recorder's Office is responsible for
04:20:23 19 early voting services and mailing out the early ballots.
04:20:28 20 It is the elections department's responsibility to
04:20:30 21 prepare for election day voting specifically.

04:20:35 22 Q. Does the fact that most Arizona voters cast an
04:20:38 23 early ballot by mail impact any of the infrastructure
04:20:41 24 you prepare for early in person voting at vote centers?

04:20:46 25 A. Yes, it does.

04:20:47 1 Q. And how so?

04:20:48 2 A. To be able to accommodate the large volume, as
04:20:54 3 I think I previously stated, our voter registration --
04:20:57 4 our active voter registration roll is somewhere north
04:21:00 5 of 630,000 registered voters. Of those registered
04:21:06 6 voters I believe maybe 490,000 of them are on AEVL.
04:21:13 7 so we will send out just shy of half a million
04:21:17 8 ballots to voters, and then we will have to -- as
04:21:20 9 those ballots come back, we need to signature verify
04:21:23 10 them. So we will have an extensive staffing for
04:21:28 11 signature verification.

04:21:30 12 We have extensive staffing for the ballot
04:21:33 13 processing center, getting the ballot, when the ballots
04:21:36 14 are returned to our office, scanned into our system,
04:21:40 15 basically checked in, back into our custody.

04:21:46 16 Then we have -- in the '22 election cycle we
04:21:49 17 had 15 early voting locations. In the '24 election
04:21:52 18 cycle we will have 18 early voting locations. Those all
04:21:56 19 have to be staffed. We keep those open -- three
04:22:01 20 locations will be open for the entire 27 days of
04:22:05 21 early voting. One location will be open for two weeks.
04:22:09 22 The rest of them will be open for a week. So people
04:22:11 23 have to be there for a week to be able to accommodate
04:22:16 24 voters. It's a huge lift. I mean the amount of
04:22:20 25 staffing that we increase just to be able to do that is

04:22:25 1 extremely large.

04:22:27 2 Q. Is it fair to say that because of the
04:22:28 3 popularity of mail voting, you tend to allocate your
04:22:32 4 resources towards mail voting and away from, you know,
04:22:37 5 additional in person options?

04:22:39 6 A. Again, we at the -- Pima County is separate in
04:22:43 7 terms of election day operations. That is the
04:22:46 8 responsibility of the elections director, who reports to
04:22:48 9 the county administrator.

04:22:52 10 The Pima County Recorder is an independent
04:22:55 11 elected office, and we just do early voting.

04:22:59 12 Q. Okay. Got it. Thank you.

04:23:02 13 You understand that under H.B. 2492 voters who
04:23:04 14 do not supply documentary proof of citizenship will not
04:23:07 15 be permitted to vote by mail with an early ballot,
04:23:11 16 correct?

04:23:11 17 A. Correct.

04:23:12 18 Q. And so you'd agree that those voters would lose
04:23:15 19 the benefits that you've just described with respect to
04:23:18 20 voting an early ballot by mail?

04:23:21 21 A. They would.

04:23:26 22 MR. DODGE: Okay. I have no further
04:23:27 23 questions.

04:23:27 24 Thank you for your time and for all the
04:23:29 25 hard work you do for people in Pima County.

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EXAMINATION

BY MR. JOHNSON:

Q. Hi, Ms. Hiser. Would you like to take a break or are you good to go? I don't have that many questions, probably like 15 minutes, if you'd like to power through.

A. Sure.

Q. Okay. Thanks. And I'll echo the thanks for giving us your time today, especially during the busy part of the year for you all.

I just wanted to go back. And to enter my appearance, Hayden Johnson for the LUCHA plaintiffs.

So I wanted to go back to some questions you were asked earlier about state forms versus federal forms. Can you give me a sense, like what is the relative breakdown between the number of state form applications and federal form applications that your office receives?

A. I don't think that we actually track the differences between those forms. I think we would -- we receive state forms more frequently than we do federal forms, but we have seen federal forms. Federal forms will increase during voter registration peak periods before election cycles from the groups if they cannot get a state form.

04:24:51 1 We will provide state forms. The Secretary of
04:24:52 2 State's Office can provide state forms. You can print
04:24:55 3 off a state form. It just depends. Like I said, we'll
04:25:01 4 see an influx of them during voter registration time
04:25:05 5 frames before a major election.

04:25:08 6 Q. Okay. And so I guess you said more state forms
04:25:12 7 than federal forms. Would you say like substantially
04:25:15 8 more --

04:25:15 9 A. Yes.

04:25:15 10 Q. -- state forms than federal forms?

04:25:16 11 A. Yes.

04:25:19 12 Q. Okay. And you spoke earlier with Mr. Snow
04:25:21 13 about some of the NVRA agencies, designated agencies in
04:25:27 14 Pima County. Are you aware of any of those NVRA
04:25:31 15 agencies that use a federal form to provide their voter
04:25:35 16 registration services?

04:25:36 17 A. I don't know what they provide. We will
04:25:38 18 provide forms to any agency that contacts us. So should
04:25:42 19 a local office of DES want forms, we would provide them
04:25:47 20 the appropriate state form that would have the -- it's
04:25:53 21 an identifying -- it's an A or a B or a C or a D. So it
04:25:57 22 would have that on there, so we would know what type --
04:26:00 23 where the form came from.

04:26:04 24 Q. Okay.

04:26:04 25 A. But I don't know if other agencies are just

04:26:07 1 printing out the federal forms.

04:26:09 2 Q. But in all cases when you provide the form,
04:26:12 3 it's a state form to the state agencies, right?

04:26:15 4 A. Correct.

04:26:17 5 Q. And you just mentioned, you know, third-party
04:26:19 6 groups. Is that the same case with third-party groups;
04:26:22 7 that any time you provide voter registration forms, it's
04:26:25 8 the state forms?

04:26:27 9 A. We do, yes.

04:26:30 10 Q. To your knowledge, do you know of any Pima
04:26:34 11 County voter registration organizations that use the
04:26:37 12 federal form over the state form?

04:26:39 13 A. I don't. I'm sorry.

04:26:44 14 Q. I'd like to talk a little bit about just once
04:26:46 15 the form's returned, any differences between state form
04:26:50 16 and federal form.

04:26:51 17 So under current practice, does your office
04:26:54 18 process state form applications any differently in any
04:26:58 19 way from federal form applications?

04:27:00 20 A. No.

04:27:03 21 Q. And so to clarify, under current procedures,
04:27:07 22 when you're verifying documentary proof of citizenship,
04:27:09 23 that's the same regardless of whether the applicant uses
04:27:12 24 a federal form or a state form, right?

04:27:14 25 A. That is correct.

04:27:16 1 Q. Is there any information that you receive on a
04:27:20 2 state form that would have a bearing on your
04:27:22 3 determination of someone's citizenship that is not on
04:27:25 4 the federal form?

04:27:29 5 A. No, I don't think so. I think both forms -- I
04:27:36 6 think the federal form has a spot on it for like a
04:27:40 7 driver's license number, just like the state form
04:27:43 8 does. So there's a lot of similarities between the two
04:27:48 9 forms.

04:27:49 10 The state form has more information that it
04:27:54 11 requests, like occupation, e-mail, phone number, last
04:28:01 12 four digits of a social security number, you know,
04:28:05 13 mother's maiden name, father's name, place of birth.
04:28:11 14 All of those particular pieces of information we would
04:28:16 15 use as security questions. Those are not all reflected
04:28:19 16 on the federal form.

04:28:20 17 Q. But those are for security questions, not for
04:28:24 18 determining citizenship, right?

04:28:26 19 A. That is correct.

04:28:29 20 Q. Can you think of any reason why a voter
04:28:31 21 submitting a state form instead of a federal form would
04:28:34 22 be any less qualified to vote in federal elections in
04:28:38 23 Pima County?

04:28:39 24 MR. LANGHOFER: Form.

04:28:44 25 THE WITNESS: No.

04:28:48 1 BY MR. JOHNSON:

04:28:50 2 Q. Okay. We've talked about this document several
04:28:52 3 times. It's marked as Exhibit 73. It's Doc 0 from
04:28:59 4 the -- it's the veto letter that we've talked about a
04:29:01 5 few times. Do you mind pulling that up again?

04:29:09 6 And just let me know once you have that up.

04:29:11 7 A. I have it up.

04:29:13 8 Q. Okay. Thanks.

04:29:14 9 If you scroll down to about halfway down the
04:29:17 10 first page, the second bullet, do you see that line?

04:29:23 11 And this is the part of the veto letter that
04:29:26 12 says, "The bill creates again the situation where the
04:29:31 13 form a person uses to register will determine whether
04:29:35 14 that person is actually registered. It allows the
04:29:37 15 Recorder to obtain proof of citizenship only for those
04:29:40 16 who use the federal form to register. Anyone submitting
04:29:42 17 a state form without proof of citizenship is
04:29:45 18 automatically not registered. This had been eliminated
04:29:47 19 by the consent decree in the LULAC case so that
04:29:51 20 currently all voters are treated the same."

04:29:53 21 Did I read that correctly?

04:29:55 22 A. You did.

04:29:55 23 Q. Can you elaborate a little bit from your
04:29:57 24 understanding what that bullet point means?

04:30:00 25 A. Our understanding of the bill was, is that we

04:30:04 1 could reach out for the federal form for DPOC, but if
04:30:12 2 the state form didn't have DPOC, we would just have to
04:30:15 3 reject it out of hand, just immediately. So there
04:30:19 4 wouldn't be the ability for us to do the follow-up that
04:30:23 5 we're currently doing.

04:30:26 6 Q. And what do you think the effect of that would
04:30:28 7 be?

04:30:34 8 A. Well, it would definitely make registering --
04:30:44 9 an individual who wants to register to vote, if we had
04:30:48 10 to reject them because of this and we couldn't register
04:30:51 11 them as a federal only voter and then have them provide
04:30:53 12 us additional information, they would just have to
04:30:56 13 re-register again, so they'd have to go through the
04:30:59 14 entire process again.

04:31:01 15 That seems onerous on the voter and an
04:31:06 16 unnecessary amount of red tape and bureaucracy, where we
04:31:10 17 can easily just register them and then do the necessary
04:31:15 18 follow-up, rather than have to have them register again
04:31:19 19 or have to have them provide a registration application
04:31:22 20 a second time, because there really wasn't anything
04:31:26 21 wrong with their first registration application, they
04:31:28 22 just simply needed to provide some additional
04:31:31 23 supplemental information.

04:31:35 24 Q. If you scroll up a little bit in the same
04:31:37 25 letter, the first full paragraph. And once you're

04:31:41 1 there, let me know.

04:31:42 2 Do you see that paragraph?

04:31:45 3 A. Are you referring to paragraph -- "The bill
04:31:49 4 creates unnecessary barriers" paragraph?

04:31:51 5 Q. Yes. So that says, "The bill creates
04:31:53 6 unnecessary barriers for voters."

04:31:55 7 Is what we just discussed about the different
04:31:58 8 treatment of federal and state form voters, would you
04:32:01 9 say that's one of the unnecessary barriers?

04:32:03 10 A. Yes.

04:32:08 11 Q. All right. And then you spoke a little bit
04:32:11 12 about the burden that might be imposed on voters. I'm
04:32:15 13 wondering what that differential treatment of state form
04:32:19 14 and federal form applicants, what would be the burdens
04:32:22 15 on your office?

04:32:27 16 A. Well, I mean it would require programming
04:32:30 17 changes to the voter application. We would have to
04:32:36 18 provide, you know, rewrites of our internal procedures.
04:32:42 19 Just the mere fact of organizing the -- operationally it
04:32:50 20 would take a big lift.

04:32:54 21 Q. Understood.

04:32:55 22 I'd like to pull up one other document. It's a
04:32:59 23 new document here. This is Exhibit Z on the Dropbox,
04:33:03 24 but we'll mark it as Exhibit 81 here. The Bates number
04:33:08 25 is PIMA 0610. If you don't mind letting me know when

04:33:16 1 you have that up.

04:33:16 2 THE COURT REPORTER: It's 82.

04:33:17 3 BY MR. JOHNSON:

04:33:17 4 Q. Oh, 82. My apologies. 82. Now I've got to

04:33:21 5 renumber everything.

04:33:34 6 Do you have that up?

04:33:38 7 A. Yes, I do.

04:33:39 8 Q. All right. What is this document?

04:33:44 9 A. This is internal communications between the

04:33:52 10 County Recorder, the former chief deputy, Pamela

04:33:55 11 Franklin, myself, my two legislative liaisons, the

04:34:05 12 County Recorder's executive assistant, and our

04:34:09 13 communications person.

04:34:14 14 Q. Okay. And the first e-mail originates from Jen

04:34:21 15 Marson, right, who we know is the lobbyist for the

04:34:24 16 Association of Counties; is that right?

04:34:26 17 A. That is correct.

04:34:26 18 Q. Okay. And there it's urging a veto letter like

04:34:30 19 the one we've been discussing; is that right?

04:34:33 20 A. Correct.

04:34:33 21 Q. And so if you look at Page 1 there, that

04:34:36 22 appears to be an e-mail from you; is that right? The

04:34:42 23 bottom of Page 1.

04:34:43 24 A. Yes, it is.

04:34:44 25 Q. And what does that e-mail say?

04:34:47 1 A. "Hello Mike, We need to craft a statement in
04:34:49 2 opposition to this bill to ensure it is vetoed. Please
04:34:53 3 see below."

04:34:54 4 Q. And then up above your e-mail there's a
04:34:57 5 response; do you see that, from someone in your office
04:35:00 6 named Andrea?

04:35:01 7 A. Yes. She was the -- my legislative liaison.

04:35:05 8 Q. And what does that e-mail say?

04:35:08 9 A. "Hi Team, Another not so great aspect of this
04:35:11 10 bill is that it makes it a class 6 felony against the
04:35:14 11 recorder or elections director if anyone registers a
04:35:17 12 voter who was not a citizen at the time of registration.
04:35:22 13 This is regardless of intent, so a mistake would also be
04:35:25 14 a felony. Thanks, Andrea."

04:35:28 15 Q. And so was your office concerned about this
04:35:32 16 differential treatment of state forms and federal forms
04:35:35 17 regarding this Class 6 felony that Andrea references?

04:35:38 18 A. Absolutely.

04:35:40 19 Q. And other provisions of the laws we've been
04:35:43 20 talking about today, also concerned about criminal
04:35:46 21 prosecution?

04:35:47 22 A. Yes.

04:35:54 23 Q. From your experience, will the instructions
04:35:58 24 that have different processing for state form
04:36:01 25 applications versus federal form applications increase

04:36:04 1 the likelihood that eligible applicants will be
04:36:08 2 rejected?

04:36:09 3 MR. LANGHOFER: Form.

04:36:11 4 THE WITNESS: I think that's certainly a
04:36:13 5 possibility.

04:36:18 6 BY MR. JOHNSON:

04:36:18 7 Q. So voters under the current system that you
04:36:22 8 could obtain DPOC if they don't provide it on the state
04:36:25 9 form, you won't be able to do that if the challenged
04:36:28 10 laws are implemented; is that right?

04:36:31 11 A. That is correct.

04:36:31 12 MR. LANGHOFER: Calls for a legal
04:36:32 13 conclusion.

04:36:32 14 THE WITNESS: That's correct. We would
04:36:35 15 just have to reject the voter registration.

04:36:40 16 BY MR. JOHNSON:

04:36:41 17 Q. Okay. Thank you.

04:36:45 18 I have another document that we'll mark as
04:36:48 19 exhibit eighty -- what did we just do? We did 82. Now
04:36:54 20 this is 83, and it's titled 2A on the Dropbox. The
04:37:00 21 Bates number are PIMA 0062.

04:37:02 22 Do you see that document?

04:37:10 23 A. Are you referring to one of our form letters?

04:37:13 24 Q. Yeah.

04:37:14 25 What is this letter?

04:37:16 1 A. This would be one of our note code letters
04:37:20 2 regarding DPOC.

04:37:22 3 Q. And the bottom of Page 62, or Bates 62, it says
04:37:28 4 "Revised 5-2021," right?

04:37:32 5 A. Yes, that is correct.

04:37:33 6 Q. That just means that it was -- it's active
04:37:35 7 since May 2021; is that right?

04:37:38 8 A. That is correct.

04:37:40 9 Q. And what is this form doing? What's the
04:37:43 10 purpose of this form?

04:37:44 11 A. We would send this out to a voter that we had
04:37:48 12 registered as a federal only, asking them to provide us
04:37:52 13 proof of citizenship so they would be eligible to vote a
04:37:55 14 full ballot.

04:37:56 15 Q. If you scroll down to the next page,
04:38:02 16 Bates 0063, is that the same letter, but in Spanish?

04:38:05 17 A. It is.

04:38:06 18 Q. Okay. Are there copies of this letter in any
04:38:07 19 other languages that you use?

04:38:10 20 A. No. We use Spanish because we have a high
04:38:16 21 Spanish-speaking population in Pima County. We do not
04:38:23 22 translate into other languages unless specifically
04:38:28 23 asked, but no one has asked us to translate into another
04:38:31 24 specific language. So we do always translate to
04:38:34 25 Spanish.

04:38:35 1 Q. Is that the case for all the form letters that
04:38:37 2 your office sends?

04:38:39 3 A. Yes. They will always go out in English and
04:38:42 4 Spanish.

04:38:43 5 Q. And no other language, right, unless requested?

04:38:45 6 A. Correct.

04:38:49 7 Q. Would your office have to change its practices
04:38:51 8 outlined in this notice letter if H.B. 2492 is
04:38:57 9 implemented?

04:39:01 10 A. Well, if it were implemented, this letter
04:39:04 11 wouldn't go out to people who had registered with a
04:39:08 12 state form.

04:39:10 13 Q. Okay. You just wouldn't send this notice
04:39:12 14 letter for a state form applicant without DPOC, right?

04:39:16 15 A. Yes. We would continue to send this letter to
04:39:19 16 people who register with the federal only form.

04:39:24 17 Q. Okay. But as you said, that's fewer applicants
04:39:26 18 in Pima County, right?

04:39:28 19 A. Correct. It's more likely that we would
04:39:34 20 have -- it's more likely that we would receive a state
04:39:36 21 form that didn't have information on it for us to be
04:39:40 22 able to check citizenship. And so the default right now
04:39:44 23 is, is we register them as federal only. We send them
04:39:48 24 this letter. We let them know that they've been
04:39:51 25 registered as federal only. Please provide us this

04:39:54 1 additional documentation so you can vote a full ballot
04:39:58 2 at the next election.

04:40:03 3 Q. Okay. And then the last document and last
04:40:06 4 question here. It's -- we'll mark it as Exhibit 83.
04:40:14 5 It's titled 2C on the Dropbox, Bates number PIMA 1704.

04:40:20 6 Do you see that document?

04:40:20 7 THE COURT REPORTER: It's 84.

04:40:20 8 BY MR. JOHNSON:

04:40:31 9 Q. 84.

04:40:36 10 A. I'm sorry. One more time on what it's --

04:40:40 11 Q. Yeah. I had to recycle the numbers back. So
04:40:43 12 it's 2C. PIMA 1704 is the Bates number. You may have
04:40:49 13 to refresh.

04:40:57 14 A. Yes, I know this document.

04:40:59 15 Q. All right. What is this document?

04:41:00 16 A. This is the annotated version of the 2019
04:41:08 17 elections procedures manual reflecting the --

04:41:11 18 Q. Is this the -- oh, sorry to cut you off.

04:41:13 19 A. It's reflecting the legislative changes.

04:41:16 20 Q. Okay. And this is the same annotated manual
04:41:22 21 that you were speaking to Mr. Snow about earlier; is
04:41:24 22 that right?

04:41:24 23 A. That is correct.

04:41:30 24 MR. JOHNSON: Okay. No further questions.

04:41:31 25 Thank you.

04:41:38 1 MS. BRAILEY: Would you like a break or
04:41:39 2 would you like to power through? I probably have max
04:41:42 3 ten minutes.

04:41:46 4 THE WITNESS: Could we take just a
04:41:47 5 five-minute break?

04:41:52 6 MS. BRAILEY: Yes. Let's go off the
04:41:52 7 record.

04:41:55 8 THE WITNESS: Thank you.

04:41:55 9 THE VIDEOGRAPHER: We are off the record.
04:41:56 10 The time on the video monitor is 4:41 p.m.

04:42:00 11 (A recess was taken.)

04:50:29 12 THE VIDEOGRAPHER: We are on the record.
04:50:30 13 The time on the video monitor is 4:50 p.m.

04:50:36 14

04:50:37 15 EXAMINATION

04:50:37 16 BY MS. BRAILEY:

04:50:37 17 Q. Hi, Ms. Hiser. My name is Emily Brailey, and I
04:50:40 18 am here on behalf of the United States.

04:50:42 19 I'm going to bounce around just a few topics
04:50:44 20 that we've already discussed, just to get a little bit
04:50:46 21 more clarity.

04:50:51 22 So I have a couple questions about the trouble
04:50:53 23 file. If H.B. 2492 goes into effect, that would mean
04:51:00 24 that applicants would be required to provide their
04:51:04 25 birthplace and check the citizenship box; that's your

04:51:07 1 understanding, right?

04:51:08 2 A. That is my understanding, yes.

04:51:09 3 Q. And so if H.B. 2492 were implemented and you
04:51:13 4 received applications without that information, so
04:51:15 5 without the birthplace or missing the checkbox, would
04:51:19 6 those applications go into the trouble file or would
04:51:21 7 they be rejected outright?

04:51:24 8 A. From our understanding of the bill, they would
04:51:27 9 be rejected outright.

04:51:30 10 Q. Okay. And in the beginning of this deposition
04:51:32 11 I believe you described there were several different
04:51:35 12 units in your office. Will you remind me, which is the
04:51:39 13 unit that is responsible for handling the early ballots?

04:51:43 14 A. So our voter registration unit does voter
04:51:48 15 registration and early voting services. So we have a
04:51:55 16 voter manager. We have three voter registration
04:51:59 17 supervisors. One would be responsible for a signature
04:52:03 18 verification team, one would be responsible for the
04:52:06 19 ballot processing team, and one supervisor would be
04:52:09 20 responsible for the daily operations at our downtown
04:52:13 21 location and the operations of our early voting sites.

04:52:18 22 Q. And how did it come to be that the registration
04:52:21 23 unit handles the early ballots and not the elections
04:52:24 24 director or the unit that would handle, you know,
04:52:28 25 post-registration and election issues?

04:52:31 1 A. In the state of Arizona the Pima County
04:52:35 2 Recorder is responsible for the maintenance of the voter
04:52:38 3 registration roll, the voter registration database.
04:52:44 4 Because Pima County and the rest of the state of
04:52:48 5 Arizona, we have AVID, the ability to vote early by
04:52:50 6 mail, the Pima County Recorder's Office is the one that
04:52:54 7 sends out early ballots. So that's the differentiation
04:52:57 8 between our functions.

04:52:59 9 Because we are the entity responsible for
04:53:02 10 putting together the ballot packets and sending them out
04:53:05 11 to people on AEVL or sending them out to voters who are
04:53:08 12 requesting to vote early, that's why it's our
04:53:10 13 responsibility to take care of that. And we do not do
04:53:14 14 day of election voting and we do not do tabulation.

04:53:22 15 Q. And who is Mary Martinson?

04:53:24 16 A. Mary Martinson was an employee with the Pima
04:53:30 17 County elections department, but she has since retired.

04:53:32 18 Q. And was she at any of the -- any of the
04:53:37 19 meetings where -- you had discussed earlier in this
04:53:42 20 deposition that there had been several meetings where
04:53:44 21 people from your office would come together, also, with
04:53:48 22 the Secretary's Office and potentially others to discuss
04:53:52 23 concerns about the new laws, H.B. 2492 being one of
04:53:56 24 them. Was Mary ever at those meetings to express her
04:53:59 25 concerns, or was she ever at those meetings, I should

04:54:04 1 say?

04:54:06 2 A. She might have been part of the -- so Mary was

04:54:15 3 the interim elections director for Pima County. Our

04:54:24 4 previous elections director retired. Mary was interim

04:54:28 5 for a while, until we hired a permanent replacement.

04:54:32 6 Mary would have attended meetings with the

04:54:35 7 Secretary of State's Office. The Secretary of State's

04:54:38 8 Office has meetings with the Recorders and elections

04:54:42 9 directors with the state of Arizona, so she would have

04:54:44 10 attended in her capacity as the interim election

04:54:46 11 director.

04:54:47 12 Q. Okay. And do you remember -- so do you have

04:54:50 13 any memory of her at those meetings and what she would

04:54:55 14 have said about the new laws?

04:55:00 15 A. No. I'm sorry.

04:55:02 16 Q. No, that's okay.

04:55:05 17 Okay. We've also previously talked about the

04:55:12 18 2023 draft EPM, and for ease we could pull it up. It's

04:55:19 19 Petty Exhibit 6. It's F in the list here.

04:55:31 20 A. The draft or the 2019?

04:55:34 21 Q. Oh, I'm sorry, that's the wrong one. The

04:55:37 22 draft, which was G. I apologize. Not Petty Exhibit 6.

04:55:42 23 G, which I think was maybe Exhibit 67. I'm not sure.

04:55:47 24 A. Yes, I have that on the screen.

04:55:49 25 Q. Okay, great.

04:55:50 1 And I believe that you previously told us that
04:55:52 2 you were offering comments on Chapter 2; is that
04:55:59 3 correct?

04:55:59 4 A. Correct.

04:56:01 5 Q. And what's the subject matter of Chapter 2?

04:56:05 6 A. Subject matter for Chapter 2 is early voting.

04:56:09 7 Q. Okay. And did anyone else -- I guess,
04:56:13 8 specifically, did the elections director also comment on
04:56:17 9 Chapter 2 or just the registration, the election
04:56:24 10 director that was --

04:56:24 11 A. Because us being the Recorder's Office, we
04:56:27 12 would be responsible for early voting.

04:56:38 13 Q. Okay. And I understand your -- what you've
04:56:41 14 said about the use of birthplace in the office; but if a
04:56:46 15 voter does provide the information of place of birth, do
04:56:52 16 you input that into Voter?

04:56:55 17 A. Yes, that's a field that we could fill out in
04:56:59 18 Voter if the information is provided.

04:57:01 19 Q. And is there a uniform procedure in place in
04:57:04 20 the office on how that's -- how that information is put
04:57:08 21 into Voter?

04:57:11 22 A. If a -- if any box on the voter registration
04:57:15 23 form has information, that information is translated
04:57:18 24 into the voter registration data input. So whatever is
04:57:23 25 on the paper form that we receive, whether it's the

04:57:27 1 paper form through the mail or whether it is the form
04:57:30 2 through EZ Voter, whatever information is on those forms
04:57:35 3 in those boxes, they will correspond to the information
04:57:39 4 in Voter.

04:57:41 5 Q. And so it's translated exactly; it's not like
04:57:44 6 somebody puts ARIZ for Arizona as their place of birth
04:57:48 7 and then you translate it to AZ, or somebody puts
04:57:52 8 Nogales and you translate it to something else; it goes
04:57:57 9 exactly -- whatever they put in that box, it goes
04:57:59 10 exactly into Voter?

04:58:02 11 A. For boxes that don't have dropdown menus, yes.
04:58:07 12 So the Voter application, as I stated, you know, it's a
04:58:11 13 database, so we can create the fields and define the
04:58:14 14 fields. So some of them are dropdown menus.

04:58:19 15 So, you know, obviously a state, we would use
04:58:22 16 the abbreviation. That's easier to program in that
04:58:26 17 dropdown menu. But for fields where we have to input
04:58:29 18 information that is unique, that would be a field that
04:58:32 19 would have a parameter of how many characters could go
04:58:35 20 in there. So like you would set it to say you can have,
04:58:42 21 you know, 15 characters in this field if you were -- or
04:58:45 22 this field can only have numbers in it if it's related
04:58:48 23 to a date or a phone number or something like that.

04:58:51 24 Q. And how is it currently programmed, the field
04:58:54 25 in Voter for place of birth?

04:58:57 1 A. I believe it's a character field, so you can
04:59:00 2 type in there.

04:59:02 3 Q. Got it.

04:59:04 4 And does that mean that if applicants were
04:59:09 5 required to provide place of birth, would that field
04:59:12 6 have to be reprogrammed to make a more uniform way of
04:59:19 7 entering that information?

04:59:22 8 A. For consistency purposes we probably would do
04:59:25 9 some program changes to make it more uniform. We might
04:59:32 10 input -- you know, much like what we have for addresses
04:59:38 11 in Pima County, where we have the GIS layers and we
04:59:43 12 basically pull the addressing information into the
04:59:46 13 system so what's in our system will reflect what's on
04:59:50 14 the GIS, we would probably have to have a particular
04:59:53 15 standard of information that we would pull in, like a
04:59:57 16 world directory of the names of countries and proper
05:00:02 17 spellings and, you know, agreed-upon abbreviations,
05:00:05 18 things like that. We would have to program it for that
05:00:07 19 if we needed to provide that information.

05:00:13 20 Q. Thank you. That's very helpful to understand
05:00:15 21 that.

05:00:19 22 MS. BRAILEY: Okay, I think that is all I
05:00:20 23 needed to ask. So if anybody else has questions, I will
05:00:25 24 leave this on the record, since it's only been a few
05:00:27 25 minutes, but if nobody does -- oh, okay.

05:00:29 1 Thank you so much.

05:00:34 2 MR. LANGHOFER: All right. This is Kory
05:00:36 3 Langhofer. Tim, I'm happy to defer to you since you're
05:00:39 4 with the State and a little more higher on the totem
05:00:42 5 pole than me.

05:00:42 6

05:00:42 7 EXAMINATION

05:00:59 8 BY MR. HORLEY:

05:00:59 9 Q. I don't know about higher on the totem pole,
05:00:45 10 but, yes, I did have a few questions for you, Ms. Hiser.
05:00:48 11 So thank you again for your time. I really appreciate.
05:00:50 12 I know it's been a long day, so hopefully this part will
05:00:53 13 go quickly. Again, just a few things.

05:00:59 14 So to start out with, I wanted to touch on some
05:01:03 15 of what you talked about about guidance and, you know,
05:01:07 16 wishing to receive more guidance from the Secretary of
05:01:10 17 State and things like that before having to implement
05:01:15 18 these laws.

05:01:18 19 So the first thing I was curious about is, in
05:01:26 20 essence, you mentioned that like you generally, when
05:01:28 21 you're implementing voter laws, you have guidance from
05:01:31 22 the Secretary of State to do so, correct?

05:01:38 23 A. Yes, we would often -- we'll often refer to the
05:01:41 24 Secretary of State's Office for guidance; just as we
05:01:44 25 will have within the VRAC committees the intention of

05:01:52 1 Recorders across the state is to ensure that our
05:01:56 2 operations are as uniform as possible to make sure that
05:01:58 3 we're not doing things that are different from our peers
05:02:03 4 and to try to make it as uniform and seamless across
05:02:07 5 every state. It helps us to avoid voter confusion.

05:02:12 6 Q. Right. Okay. And that's true for voting laws
05:02:15 7 generally, not just the laws that are challenged here,
05:02:18 8 correct?

05:02:18 9 A. That is correct.

05:02:22 10 Q. And so, so far you mentioned a few times that,
05:02:26 11 you know, you lack good guidance on this; is that right,
05:02:30 12 on the laws that are being challenged here?

05:02:32 13 A. Correct.

05:02:36 14 Q. So, you know, if the laws are eventually
05:02:39 15 implemented, right, would further guidance that you
05:02:42 16 receive be helpful to implementing these laws?

05:02:46 17 A. Yes.

05:02:50 18 Q. Okay. Great. Thank you.

05:02:52 19 And then I wanted to turn to the topic of
05:02:57 20 confirming citizenship. So the first question is -- and
05:03:02 21 we may have covered this partially, but I think there's
05:03:05 22 still a few things I just wanted to clear up. So does
05:03:08 23 your office do anything to verify DPOC when it is
05:03:11 24 received?

05:03:14 25 A. What do you mean by verify the DPOC when it's

05:03:16 1 received?

05:03:18 2 Q. So, for example, if someone does provide you a
05:03:22 3 birth certificate or a passport, is there any step you
05:03:26 4 take to verify that document?

05:03:29 5 A. No. The presentation of the information is
05:03:33 6 sufficient for us to be able to confirm citizenship.

05:03:41 7 Q. Okay. All right. And then I was curious about
05:03:44 8 federal forms. So we talked about the checkbox a little
05:03:48 9 bit, and I wanted to circle back to that. So do you
05:03:50 10 think the citizenship checkbox provides you with
05:03:53 11 information about whether a voter is a citizen?

05:04:02 12 A. I guess it does. I've also seen people --

05:04:09 13 Q. Why is that?

05:04:11 14 A. Well, I mean it's a form, and so people are --
05:04:17 15 they, you know, have the possibility of creating an
05:04:20 16 error, and the absence of a checkbox not being completed
05:04:30 17 doesn't -- it provides us no more information than -- it
05:04:37 18 just -- it is what it is.

05:04:38 19 I'm sorry. That doesn't really answer your
05:04:40 20 question, I don't think, but that's my answer.

05:04:44 21 Q. Okay. Well, I'll ask you the same question for
05:04:47 22 state forms. So do you think the citizenship checkbox
05:04:50 23 provides any information about whether they're a citizen
05:04:53 24 when it's on a state form?

05:04:55 25 A. No, I don't. The state form has the

05:04:59 1 affirmation. They're attesting to the information that
05:05:01 2 they're providing. And because the state form is
05:05:05 3 specifically saying that the responsibility is on the
05:05:09 4 person signing that they have met the requirements for
05:05:12 5 voter registration, we take them at the face value.

05:05:17 6 So a checkbox being checked or not checked
05:05:21 7 wouldn't prevent us from being able to start the process
05:05:25 8 of starting the data entry for the voter registration
05:05:30 9 form.

05:05:33 10 The absence of something to do with
05:05:38 11 citizenship, so like a driver's license number that we
05:05:40 12 could run through DMV or a naturalization number or an
05:05:44 13 alien ID number, the absence of that type of information
05:05:48 14 would prevent us from registering them as a full ballot
05:05:52 15 voter, but we wouldn't reject them just because of a
05:05:56 16 lack of a check.

05:06:02 17 Q. Okay. Understood.

05:06:04 18 And then so continuing with state forms, so if
05:06:07 19 a registrant were to mark no in the citizenship
05:06:10 20 checkbox, but also provided a copy of a citizenship
05:06:14 21 document, like a birth certificate, how would your
05:06:17 22 office handle that?

05:06:22 23 A. So is your hypothetical that someone filled out
05:06:27 24 a form, they checked no on citizenship, but they also
05:06:29 25 provided us a copy of their U.S. birth certificate?

05:06:33 1 Q. Yes, or other DPOC.

05:06:39 2 A. Well, the copy of the DPOC would be the
05:06:42 3 controlling document, so we would take the DPOC and
05:06:46 4 register them as a full ballot voter.

05:06:51 5 Q. Could that raise like a red flag that maybe
05:06:54 6 that DPOC they've provided is inaccurate, given that
05:07:00 7 they checked no on the checkbox?

05:07:08 8 A. I mean -- I don't know.

05:07:18 9 Q. Okay. And one other question about how people
05:07:23 10 submit DPOC. So is it possible for a registered voter
05:07:27 11 to submit a purported copy of a citizenship document,
05:07:30 12 like, again, like a birth certificate, that is defective
05:07:33 13 in some way; like, for example, it's blurry, hard to
05:07:36 14 read, seems like it may have been photo-shopped?

05:07:44 15 A. I mean I suppose someone could do that.

05:07:52 16 Q. And in those situations, would it be helpful to
05:07:55 17 know how someone checked the checkbox, whether they said
05:07:58 18 yes or no on the checkbox?

05:08:00 19 A. I think if the copy of the DPOC was -- if we
05:08:04 20 had a -- if the copy provided to us on DPOC was not in a
05:08:10 21 form or format that we could easily identify, we would
05:08:15 22 just reach back out to the voter and inform them that
05:08:18 23 the supplementary information that they have provided to
05:08:22 24 us we really couldn't read, can they provide us a
05:08:25 25 cleaner copy of it.

05:08:28 1 Q. Okay. So you wouldn't consult the checkbox
05:08:31 2 before making that determination, or --

05:08:35 3 A. No, that wouldn't be the -- that would not be
05:08:38 4 the first thing that we would look at.

05:08:41 5 Q. Okay. And then, now I wanted to turn again
05:08:44 6 about confirming citizenship, but sort of more looking
05:08:47 7 at the databases that you all use. I know you've talked
05:08:51 8 about this quite a bit. So I just wanted to confirm
05:08:53 9 that, you know, when you're checking for citizenship
05:08:57 10 now, do you use the HAVA system to do that?

05:09:02 11 A. We do.

05:09:07 12 Q. Okay. And then the MVD system, do you use that
05:09:10 13 database?

05:09:11 14 A. We do.

05:09:14 15 Q. And you use the SAVE system as well?

05:09:17 16 A. We do.

05:09:21 17 Q. And do you consider the MVD data to be
05:09:25 18 generally reliable?

05:09:30 19 A. Generally, yes.

05:09:38 20 Q. Okay. And if a naturalized citizen's status
05:09:42 21 has not yet been updated with the MVD, they can easily
05:09:46 22 reconcile the matter by providing your office with
05:09:51 23 documentation of the naturalization, correct?

05:09:53 24 MR. HERRERA: Objection, form, for Promise
05:09:55 25 Arizona Plaintiffs.

05:09:56 1 THE WITNESS: If it is not updated with
05:09:58 2 MVD or DMV, we would accept their documentary proof from
05:10:03 3 their naturalization forms, yes.

05:10:03 4 BY MR. HORLEY:

05:10:07 5 Q. Right. And that's -- as you mentioned, you
05:10:09 6 would send them a notice. Then they could send you
05:10:12 7 those materials; is that right?

05:10:12 8 A. Yes.

05:10:12 9 MR. HERRERA: Objection, form, Promise
05:10:12 10 Arizona.

05:10:18 11 THE WITNESS: Yes, we would send them a
05:10:20 12 notice.

05:10:22 13 BY MR. HORLEY:

05:10:22 14 Q. Okay. And then does the Recorder's Office
05:10:25 15 consider the SAVE data to be generally reliable?

05:10:28 16 A. We do.

05:10:34 17 Q. So just to clarify, if an individual fails to
05:10:37 18 provide DPOC, but does check the citizenship box, are
05:10:41 19 they registered as a full ballot voter?

05:10:44 20 A. If they've failed to provide DPOC, they are
05:10:48 21 registered as federal only.

05:10:49 22 Q. Okay. And then your office would send them a
05:10:54 23 notice?

05:10:55 24 A. Correct.

05:11:03 25 Q. Okay. Now I just wanted to ask you a few

05:11:05 1 questions about birthplace. So for the state form your
05:11:10 2 office does not actively track whether voters provide
05:11:13 3 correct or incorrect birthplaces, right?

05:11:15 4 A. That's correct.

05:11:19 5 Q. And I understand that there's no easy way to
05:11:21 6 determine how many individuals noted birthplace on the
05:11:25 7 state form; but generally, in your experience, do voters
05:11:28 8 commonly include birthplace on their state forms?

05:11:36 9 A. It's really -- it's really up to the discretion
05:11:40 10 of the voter. Some people prefer not to pro -- the
05:11:46 11 voter registration form has specific areas that do say
05:11:49 12 required. Those forms have to be filled out. There
05:11:55 13 needs to be information in those minimum fields for us
05:11:59 14 to be able to successfully input the voter registration
05:12:02 15 system into the -- input the voter registration
05:12:07 16 application into the system. Because the other boxes on
05:12:12 17 the form are voluntary, it just depends on the comfort
05:12:16 18 of the voter filling that information out.

05:12:24 19 Q. Okay. So it's -- you know, would you say most
05:12:27 20 voters do include the information or not?

05:12:33 21 A. I really -- I couldn't -- I couldn't tell you.
05:12:36 22 That's a very -- for 630,000-plus voters, I have no
05:12:43 23 idea.

05:12:45 24 Q. Okay. Understood.

05:12:46 25 And then so you did mention that you use

05:12:51 1 birthplace sometimes as like a security question to
05:12:54 2 confirm people's identity over the phone --

05:12:56 3 A. Correct.

05:12:57 4 Q. -- is that right?

05:12:58 5 And so suppose that there was a discrepancy
05:13:04 6 between two applicants, two applications, who have the
05:13:07 7 same name, same address, but they listed two different
05:13:10 8 places of birth. How would the county address that?

05:13:16 9 A. Well, I think we would probably -- if
05:13:23 10 there's -- the first thing to do would be we would
05:13:26 11 contact the voter, the person on the registration form,
05:13:30 12 and call them and ask them some questions and get some
05:13:34 13 information.

05:13:37 14 That would be considered a unique situation.
05:13:40 15 We would put that in the troubles for additional
05:13:44 16 follow-up and review by a supervisor to determine next
05:13:50 17 steps. That's an out of the ordinary process, so we
05:13:54 18 would treat it a little differently than just a normal
05:13:58 19 data entry.

05:14:02 20 Q. Okay. Understood.

05:14:04 21 And if the Secretary of State issued guidance
05:14:07 22 that the county should change how it uses its birthplace
05:14:11 23 information, would you follow that guidance?

05:14:16 24 A. We would probably take it under advisement and
05:14:20 25 review it with our attorney, and if we didn't have any

05:14:25 1 issues, we would probably follow that advisement and
05:14:27 2 guidance.

05:14:32 3 Q. Okay. And if a registrant were to write on his
05:14:35 4 or her form that he or she was born in state one, say,
05:14:40 5 for example, New York, but also provided a copy of a
05:14:42 6 birth certificate from state two, for example, Florida,
05:14:45 7 right, so DPOC says one thing, place of birth says
05:14:48 8 something else, what would your office do in that
05:14:50 9 situation?

05:14:54 10 A. I think that's an unusual hypothetical. Again,
05:14:57 11 that would be something that we would probably put to
05:15:00 12 our troubles and do follow-up with a supervisor. It's
05:15:05 13 something out of the ordinary as to what we do.

05:15:08 14 Obviously we would contact -- our default is
05:15:13 15 always to start with contact with the voter on the form.
05:15:21 16 So, you know, maybe the voter says that they're from New
05:15:27 17 York or maybe they interpret it as from, rather than,
05:15:30 18 you know, born. I don't know. We would first start off
05:15:34 19 with contacts with the voter, and then we would take it
05:15:36 20 from there. That would be a case-by-case basis.

05:15:41 21 Q. Okay. But it would raise a question of needing
05:15:44 22 to resolve that somehow and verify that information?

05:15:50 23 A. Yes. We would -- we would do some sort of
05:15:54 24 follow-up with it.

05:15:57 25 Q. Okay, great.

05:15:58 1 Last question on the birthplace issue. So
05:16:04 2 suppose a dispute arises about whether a registered
05:16:08 3 voter is a citizen; for example, suppose the voter
05:16:11 4 claims she was born in the United States, but the
05:16:14 5 voter's sister claims she was born in another country
05:16:17 6 and is not a citizen, right.

05:16:18 7 Could it be useful to know which state the
05:16:20 8 voter claims she was born in?

05:16:24 9 A. No, not really, not unless they have a birth
05:16:29 10 certificate from the state.

05:16:34 11 Q. Right. Okay. So if the voter claims that she
05:16:37 12 was born in New York, it might be useful if there was
05:16:42 13 like records that you could perhaps call New York and
05:16:44 14 ask them do you have records of this person?

05:16:47 15 A. We would not call another state and request
05:16:50 16 records on that.

05:16:53 17 Q. Okay. Understood.

05:16:55 18 All right, I had one question. I actually
05:16:58 19 wanted to introduce another exhibit here and a document
05:17:01 20 that we haven't looked at yet.

05:17:03 21 MR. HORLEY: I don't believe that I have
05:17:04 22 access to the Dropbox to upload things. So I'm not sure
05:17:10 23 what people feel is the easiest way. I think perhaps
05:17:13 24 just screen sharing, and then we can e-mail it to
05:17:15 25 everybody after this; but if anybody has a problem with

05:17:18 1 that, let me know.

05:17:23 2 MR. LANGHOFER: I'm good.

05:17:29 3 BY MR. HORLEY:

05:17:29 4 Q. Okay. All right. I'm going to try and screen
05:17:31 5 share this here.

05:17:36 6 Okay, Ms. Hiser, do you see this document that
05:17:42 7 I've put up on the screen share?

05:17:45 8 A. I have, yes. Could you enlarge it just a
05:17:48 9 little bit, please?

05:17:50 10 Q. Yes. Let me see if I can zoom in a bit here.
05:17:55 11 Does that help?

05:17:56 12 A. Yes. Thank you.

05:17:59 13 Q. Okay, great. Thank you.

05:18:00 14 So this document, do you see this number here
05:18:06 15 down in the right-hand corner?

05:18:08 16 A. Uh-huh.

05:18:11 17 Q. Yeah. So Pima County produced this document in
05:18:16 18 response to requests for productions?

05:18:18 19 A. We did.

05:18:22 20 Q. Yes. Okay.

05:18:22 21 And can you tell me, based on what you see
05:18:25 22 here, what we're looking at?

05:18:29 23 A. This is a query of the voter registration
05:18:34 24 database for involuntary cancellation as a status
05:18:40 25 reason, and it's showing the MVD record check time and

05:18:46 1 date. That's the voter registration county number.

05:18:53 2 I'm sorry. If you go start from left, the

05:18:57 3 first column, MVD record check, there is a date and

05:19:01 4 time.

05:19:01 5 Q. Yes.

05:19:01 6 A. That would have been the date and time that we

05:19:04 7 used the system. Then there's the Pima County ID number

05:19:08 8 right there.

05:19:10 9 Yep.

05:19:11 10 And then there is the registration date.

05:19:19 11 Q. Okay.

05:19:19 12 A. And then the effective date of the

05:19:23 13 registration.

05:19:26 14 Q. Okay.

05:19:27 15 A. And the last name, first name, middle name, if

05:19:32 16 provided, and additional suffix of what the voter

05:19:38 17 provided on their voter registration form. And then the

05:19:45 18 status is canceled. That's the second to last column.

05:19:49 19 And then the final column is the status reason for the

05:19:54 20 cancellation, so involuntary cancellation.

05:20:00 21 Q. Okay. So are these people -- I'm sorry.

05:20:02 22 Is this a list of people who have had their

05:20:05 23 voter registration involuntarily canceled?

05:20:08 24 A. It is.

05:20:12 25 Q. And can -- is there a way to tell why their

05:20:16 1 registration was involuntarily canceled?

05:20:19 2 A. We would have to go back into every single

05:20:22 3 record and look at the change history. This is just

05:20:25 4 simply a query.

05:20:28 5 Q. Got it. Understood.

05:20:30 6 And so, you know, I understand there may be no

05:20:33 7 way to tell, certainly not from this document, why

05:20:36 8 someone was involuntarily canceled; but based on your

05:20:40 9 experience with the Recorder's Office, what is the most

05:20:43 10 common reason that someone would be involuntarily

05:20:46 11 canceled?

05:20:48 12 A. They could be involuntarily canceled based off

05:20:52 13 of information provided by the jury report. They can be

05:20:57 14 involuntarily canceled based off of a cross-state mover

05:21:04 15 report from ERIC. They could be notification from

05:21:10 16 another county that the cancellation is moved, that the

05:21:14 17 voter has moved, so to cancel the record.

05:21:18 18 It can be from the NVRA process. They went

05:21:25 19 inactive. We didn't hear back from them to update their

05:21:28 20 voter registration information. They received another

05:21:31 21 notification. They met the time frame for inactivity

05:21:35 22 and then, therefore, we canceled them.

05:21:38 23 It could be a variety of different reasons.

05:21:42 24 Without opening the voter record and looking at the

05:21:45 25 exact change history as to why the -- every activity

05:21:54 1 that's done in the voter registration database, any
05:21:57 2 change done to it is tracked by the operator who is
05:22:01 3 making any changes or modifications, and that is part of
05:22:05 4 the change history.

05:22:06 5 So a Voter clerk or a supervisor had to have
05:22:11 6 gone in to make the change to this to cancel the record,
05:22:18 7 and the change history would provide additional
05:22:21 8 information to that.

05:22:25 9 Q. Okay. So that information exists somewhere,
05:22:27 10 but it's just not on this document?

05:22:31 11 A. Correct.

05:22:33 12 Q. Okay. And so -- sorry. One moment.

05:22:41 13 So could it be the case that someone was
05:22:44 14 canceled after going through the process of having their
05:22:48 15 registration put into what you've been calling the
05:22:51 16 trouble file, and then, like you said, they don't
05:22:53 17 respond to notices, so after the time period they get
05:22:57 18 removed?

05:22:58 19 A. No. So these are voter registrations that were
05:23:01 20 active. So the trouble is to -- the way to think about
05:23:05 21 the trouble file is kind of like a suspended status. So
05:23:10 22 they have never been active voter registrations. These
05:23:13 23 were all active voter registrations that we've canceled
05:23:18 24 based off of this MVD check, based off of these time
05:23:25 25 frames.

05:23:27 1 So I'm moving a mouse that you cannot see on
05:23:31 2 the screen. So column one of the -- column one on your
05:23:39 3 left-hand side of the page, where it says "MVD Record
05:23:42 4 Check," that indicates --

05:23:46 5 Q. Yeah.

05:23:46 6 A. -- that that record went through the MVD
05:23:51 7 process for a check. The reason for that check I don't
05:23:54 8 know, but it went and went through that MVD check, and
05:23:59 9 then for whatever reason it came back as requiring a
05:24:02 10 cancellation.

05:24:06 11 Q. Okay. Understood.

05:24:07 12 Is it possible that that cancellation could
05:24:10 13 happen as a result of lack of DPOC?

05:24:27 14 A. I mean that's kind of a technical question
05:24:30 15 between the two databases. I don't know if it could
05:24:38 16 result in a DPOC because it -- we would register people
05:24:45 17 who do not provide DPOC as federal only. So without
05:24:53 18 pulling up one of these voter registration numbers to
05:24:55 19 see if they were a federal only voter, I don't know. I
05:24:58 20 can't answer that question.

05:25:03 21 Q. Okay. Understood. I think let's move on.

05:25:08 22 MR. HORLEY: And, oh, before I move on,
05:25:09 23 I'm not sure. Did I mark that as an exhibit? I believe
05:25:12 24 it should be number 85?

05:25:22 25 THE COURT REPORTER: Right.

05:25:23 1 MR. HORLEY: Okay, great. Thank you. All
05:25:28 2 right, so...

05:25:28 3 THE COURT REPORTER: Can you take the
05:25:29 4 screen down if you're done?

05:25:31 5 BY MR. HORLEY:

05:25:32 6 Q. Oh, yes. I have one more document that I would
05:25:33 7 like to discuss quickly, and then I will be done. So
05:25:38 8 one more screen share. I believe if I just click here,
05:25:42 9 we should be able to see it.

05:25:44 10 Ms. Hiser, can you see this document?

05:25:47 11 A. I can.

05:25:49 12 Q. Okay. Let's see. And do you see here this
05:25:56 13 number PIMA COUNTY 0584?

05:26:02 14 A. I do.

05:26:02 15 Q. So Pima County produced this document in
05:26:04 16 response to a request for production?

05:26:06 17 A. Yes.

05:26:09 18 Q. Yes. Okay.

05:26:10 19 And then I see here at the top it is addressed
05:26:15 20 from Stephanie, and I'm trying to recall. I know you
05:26:18 21 pronounced her name at the beginning. It was
05:26:21 22 Homewytewa, I believe?

05:26:22 23 A. Homewytewa, yes.

05:26:26 24 Q. Homewytewa, okay.

05:26:28 25 And so this e-mail is from Mrs. Homewytewa to

05:26:32 1 Recorder-admin; is that right?

05:26:34 2 A. It is.

05:26:39 3 Q. And do you know who would receive an e-mail

05:26:40 4 that was addressed to Recorder-admin?

05:26:43 5 A. Myself, the Pima County Recorder, the assistant

05:26:48 6 chief deputy, one of our program managers who is a --

05:27:00 7 does our outreach for the department, our communications

05:27:06 8 point of contact, our special staff assistant, who is

05:27:17 9 currently acting as the voter manager, and the

05:27:24 10 Recorder's personal assistant.

05:27:29 11 Q. Okay. So I would like to mark this as

05:27:33 12 Exhibit No. 85, or I'm sorry, 86. Should be Exhibit 86.

05:27:42 13 So have you -- do you recognize this document?

05:27:44 14 A. Would you give me a minute to read it to

05:27:47 15 refresh my memory?

05:27:50 16 Q. Yes, absolutely.

05:28:10 17 A. Thank you.

05:28:42 18 Q. Yes, and just let me know when you're ready,

05:28:47 19 Ms. Hiser.

05:29:31 20 A. Okay, I'm ready.

05:29:33 21 Q. All right. Thank you.

05:29:34 22 So I just wanted to confirm. So the first

05:29:37 23 sentence here -- well, actually, stepping back. So we

05:29:41 24 talked before about how Mrs. Homewytewa is an outreach

05:29:47 25 specialist for the Tohono O'odham Nation; is that

05:29:50 1 correct?

05:29:50 2 A. That is correct.

05:29:54 3 Q. Okay. And she works for your office, correct?

05:29:56 4 A. She does.

05:29:59 5 Q. Okay. And so she notes here -- I'll just read

05:30:04 6 directly from it. Quote, I have a VR training tomorrow

05:30:07 7 with Mi Familia Vota.

05:30:08 8 Have I read that correctly?

05:30:09 9 A. You have.

05:30:11 10 Q. Yes. So, and does VR stand for voter

05:30:15 11 registration?

05:30:15 12 A. It does.

05:30:17 13 Q. Okay. Great.

05:30:19 14 And is Mi Familia Vota, is that a voter

05:30:22 15 outreach group?

05:30:23 16 A. It is one of the voter outreach groups.

05:30:26 17 Q. And they do voter registration drives?

05:30:29 18 A. They do.

05:30:32 19 Q. Okay. Great.

05:30:33 20 And to your knowledge, are they a party to this

05:30:35 21 litigation?

05:30:37 22 A. They are.

05:30:40 23 Q. Yes. Okay.

05:30:41 24 So then turning to the next sentence, here

05:30:45 25 Mrs. Homewytewa says, "I am finding --" I'm sorry. So

05:30:51 1 she's saying that, quote, I was planning to also mention
05:30:54 2 some housekeeping items, and one of them is a reminder
05:30:57 3 to make sure that people are writing down their actual
05:31:00 4 driver's license numbers, as I am finding many that are
05:31:03 5 fake numbers or numbers that belong to someone else.

05:31:05 6 Did I read that correctly?

05:31:06 7 A. You did.

05:31:09 8 Q. Okay. So can you describe what this issue is
05:31:14 9 that she's encountering here?

05:31:18 10 A. This is in reference to the voter registration
05:31:21 11 forms that we received from many of the groups during
05:31:25 12 the last federal election cycle. We were receiving
05:31:31 13 large numbers of voter registration forms that as we
05:31:34 14 were processing them, we encountered a variety of
05:31:42 15 issues. We were not able to process the forms because
05:31:44 16 the information on there we determined to be invalid or
05:31:50 17 fake, as Stephanie's e-mail identifies.

05:32:00 18 So we encountered several forms that would
05:32:06 19 be -- some voters would have 14, 15 forms submitted on a
05:32:11 20 weekly basis for them, and there would be just single
05:32:14 21 changes to the forms, like a -- one number changed to
05:32:23 22 a -- a date of birth or a phone number, a driver's
05:32:26 23 license that had, you know, too many numbers or numbers
05:32:29 24 that belonged to somebody else, signatures that did not
05:32:35 25 match the signatures that we had on file for the voter.

05:32:41 1 So they would come in large -- they would
05:32:46 2 just -- there was just hundreds of these forms that were
05:32:54 3 very difficult to process, and most of them we would
05:33:00 4 enter them in the troubles as having received something
05:33:03 5 and they are not registered. They were not registered.
05:33:08 6 We would send letters out to addresses that we could.
05:33:12 7 Oftentimes we'd get letters back for addresses that
05:33:15 8 didn't exist.

05:33:16 9 Our voter registration system has the ability
05:33:19 10 to -- we have a very robust system that works with the
05:33:25 11 county's GIS, so we have -- we pretty much know every
05:33:28 12 single address within Pima County. So addresses would
05:33:33 13 come as not a valid address because it wouldn't -- it
05:33:39 14 literally would be an address this doesn't exist.

05:33:43 15 So she's referring to those issues that we were
05:33:46 16 having with the voter outreach groups.

05:33:53 17 Q. Okay. Great.

05:33:53 18 And then just scrolling back up to the top of
05:33:56 19 this, so this was sent on June 29th, 2022; is that
05:34:01 20 correct?

05:34:01 21 A. That is correct.

05:34:05 22 Q. And do you know when the effective date of
05:34:13 23 H.B. 2492 was?

05:34:15 24 A. It was January 1 of '23.

05:34:19 25 Q. Okay. And at this stage your office hadn't

05:34:25 1 been implementing H.B. 2492, correct?

05:34:27 2 A. No. It was not effective yet.

05:34:31 3 Q. Okay. Right.

05:34:32 4 And as you've said many times before, you're

05:34:34 5 not implementing it now, correct?

05:34:36 6 A. Correct.

05:34:38 7 Q. Yes.

05:34:38 8 So I just wanted to draw your attention to this

05:34:41 9 last sentence of this paragraph. She notes that, quote,

05:34:45 10 It occurred to me that maybe they are doing this in

05:34:47 11 response to H.B. 2492, where proof of citizenship needs

05:34:53 12 to be presented or the form cannot be accepted or

05:34:56 13 processed.

05:34:58 14 I'm sorry about that. My light just went off.

05:35:00 15 Okay, here we go.

05:35:02 16 So let me start over again. So let me just

05:35:06 17 read this out to you again. So she says, "It occurred

05:35:09 18 to me that maybe they're doing this in response to

05:35:12 19 H.B. 2492, where proof of citizenship needs to be

05:35:15 20 presented or the form cannot be accepted or processed."

05:35:18 21 Do you understand why she would think that they

05:35:22 22 might be doing this in response to H.B. 2492?

05:35:30 23 A. At -- so the -- at the time that the

05:35:33 24 legislation was signed into law there was a lot of

05:35:40 25 misunderstanding as to what it means and the

05:35:42 1 implications of it, more so out in the general public
05:35:49 2 than even with the Recorders and how we would
05:35:57 3 operationalize it.
05:35:57 4 So the information that the voter registration
05:36:04 5 groups rely on may sometimes present particular bills in
05:36:12 6 a particular way. So I think that Stephanie was -- I
05:36:18 7 think she was making an assumption. I don't know if her
05:36:22 8 assumption was correct. It simply appears to be that --
05:36:27 9 I think we were trying to understand the issues that we
05:36:29 10 were experiencing with the groups and seeing if maybe
05:36:33 11 there was a causal relationship. I don't know
05:36:36 12 specifically what she was referring -- what her thought
05:36:40 13 process was, but I could see that she was making --
05:36:43 14 trying to put two and two together.
05:36:50 15 Q. Okay. And you mentioned before kind of how
05:36:52 16 your office handled this issue. So I just want to be
05:36:56 17 clear. So if someone is providing something that is a
05:37:00 18 fake number, they wouldn't be registered to vote, right;
05:37:04 19 they would go into the trouble file?
05:37:06 20 A. Correct.
05:37:09 21 Q. And the same thing if they provided a driver's
05:37:11 22 license number that belonged to someone else?
05:37:14 23 A. Yes. We would -- particularly if there's --
05:37:20 24 particularly if the driver's license number is attached
05:37:23 25 to a voter that is already registered. You know, we

05:37:29 1 would not register that form that we received, and we
05:37:35 2 would contact the other voter and ask if they were
05:37:41 3 making changes to their voter registration form and
05:37:45 4 things like that. It just depends.
05:37:51 5 During this time frame that this was occurring,
05:37:54 6 this is June of '22, we started receiving -- the influx
05:38:03 7 of voter registration forms that our office started to
05:38:07 8 receive steadily picked up starting from April of '22 up
05:38:14 9 until the general election of '22.
05:38:22 10 There -- at this point in time I think we were
05:38:24 11 on a daily basis providing 500 preprinted forms or more
05:38:32 12 to the groups coming in asking for voter registration
05:38:35 13 forms, and they would, you know, drop off, you know,
05:38:39 14 three or 400 a day to us. It's just the volume was
05:38:46 15 absolutely intense.
05:38:54 16 Q. So in response to that heavy volume of
05:38:56 17 documents, some of which, as you pointed out, were
05:38:59 18 having this issue with fake numbers or other, you know,
05:39:02 19 incorrectly filled out forms, basically your response
05:39:06 20 was still the same that you would do for any other voter
05:39:11 21 registration form; you would go through the double-check
05:39:13 22 that you have, and if something is amiss, it goes into
05:39:16 23 the trouble file?
05:39:20 24 A. Yes.
05:39:20 25 Q. Yes. Okay.

05:39:21 1 And so apart from this sort of time period, is
05:39:24 2 this a common thing for people to put down someone
05:39:26 3 else's driver's license number or a fake number?
05:39:33 4 A. Fake numbers, yes. That happens more
05:39:37 5 frequently than we'd like to see.
05:39:40 6 Q. Why do you think people do that?
05:39:44 7 A. I don't know.
05:39:49 8 Q. And the fake number is something you can detect
05:39:51 9 through checks that you run, like a HAVA check, for
05:39:56 10 example?
05:39:56 11 A. Correct.
05:39:56 12 Q. Okay.
05:40:02 13 MR. HORLEY: Well, I don't think I will
05:40:03 14 have any more questions. If it's all right, Ms. Hiser,
05:40:05 15 I'd like to take just a maybe quick five-minute break
05:40:08 16 and just check my notes and --
05:40:13 17 MR. JURKOWITZ: Can we get a time
05:40:15 18 check?
05:40:16 19 How much time do we have left?
05:40:20 20 THE VIDEOGRAPHER: One moment.
05:40:34 21 We're at 6 hours and 53 minutes.
05:40:38 22 MR. JURKOWITZ: Okay.
05:40:38 23 MR. LANGHOFER: I'm going to have a couple
05:40:42 24 of questions, and so why don't I go through mine while
05:40:46 25 he's still looking, Tim's still looking at his.

05:40:46 1 EXAMINATION

05:40:46 2 BY MR. LANGHOFER:

05:40:50 3 Q. All right, let's just dive in here, in the

05:40:54 4 interest of time.

05:40:55 5 Your organization -- I'm with the Republican

05:40:58 6 National Committee. Kory Langhofer is my name.

05:41:00 7 Your office and the other County Recorders'

05:41:04 8 Offices lobbied against these bills, correct?

05:41:06 9 A. Correct.

05:41:06 10 Q. So it's fair to say that you didn't want to see

05:41:08 11 them passed or implemented?

05:41:10 12 A. They were certainly difficult for operational

05:41:13 13 purposes, yes.

05:41:14 14 Q. You, in fact, opposed their passage?

05:41:16 15 A. We did.

05:41:17 16 Q. And you opposed their implementation?

05:41:20 17 A. We did.

05:41:22 18 Q. You do; you haven't implemented them, correct?

05:41:24 19 A. That is correct.

05:41:25 20 Q. And you've done that without a court order

05:41:27 21 authorizing it?

05:41:30 22 A. We are either in violation of state law or we

05:41:33 23 are in violation of federal law.

05:41:36 24 Q. So that's yes?

05:41:39 25 A. We have continued to operate as is, so we have

05:41:42 1 not enforced these, no.

05:41:44 2 Q. So you have no court order authorizing a
05:41:49 3 nonenforcement or nonimplementation?

05:41:51 4 A. I do not have a court order, that is correct.

05:41:53 5 Q. One of your concerns with these laws was that
05:41:55 6 it would duplicate work at your office. Did you ever
05:41:58 7 raise that concern with the legislature?

05:41:59 8 A. We did.

05:42:00 9 Q. Did a majority of legislators agree with you?

05:42:03 10 A. They did not.

05:42:04 11 Q. Another one of your concerns was that there
05:42:06 12 might be liability for your office registering people to
05:42:10 13 vote who weren't qualified. Did you raise that concern
05:42:12 14 with the legislature?

05:42:13 15 A. We did.

05:42:14 16 Q. Did a majority of the legislators agree with
05:42:17 17 you?

05:42:17 18 A. They did not.

05:42:18 19 Q. You were concerned that some of these
05:42:20 20 provisions weren't clear. Are there any other state
05:42:25 21 statutes that are clarified by the EPM?

05:42:32 22 A. Some, yes. Off the top of my head, which ones
05:42:35 23 they are, I don't know, but --

05:42:38 24 Q. The process, though, of a statute that's
05:42:41 25 facially unclear, but clarified by the EPM, is something

05:42:43 1 that has worked for your office before?

05:42:45 2 A. That is correct.

05:42:51 3 Q. You had said earlier that it was possible that
05:42:53 4 the statute requiring you to put all of your resources
05:42:56 5 into confirming voter eligibility might require, I think
05:42:59 6 the quote was, you to put all hours under the sun
05:43:05 7 searching databases.

05:43:07 8 Do you believe that's actually the way this
05:43:09 9 statute would affect your office?

05:43:11 10 A. I think that is certainly an extreme
05:43:14 11 possibility, yes.

05:43:15 12 Q. Can you think of any other statute that has
05:43:18 13 been interpreted to require the truly all of the
05:43:21 14 resources of an office to go towards one purpose like
05:43:24 15 that?

05:43:26 16 A. Off the top of my head, I cannot.

05:43:28 17 Q. Do you think it's likely that it's going to be
05:43:30 18 interpreted that way?

05:43:32 19 A. I think it is possible, yes.

05:43:38 20 Q. The question was whether you thought it was
05:43:39 21 likely.

05:43:40 22 A. I think possibilities and likely are the same
05:43:43 23 thing. So I would say that, yes, I think the
05:43:46 24 possibility is yes.

05:43:48 25 Q. Do you think a 1 percent chance is likely to

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05:44:16 19
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happen?

A. I think that is within the realm of possibility, yes.

Q. So you do appreciate the difference in likelihood between a 1 percent and a 99 percent chance, don't you?

A. I do.

Q. Okay. I was asking you whether you thought it was likely to be interpreted that way, by that I meant more than 50 percent. Does that help understand the question?

A. Sure.

Q. Do you think it's likely to be interpreted that way?

A. I do.

Q. Do you think it's more than --

MR. HERERRA: Objection to form and foundation.

BY MR. LANGHOFER:

Q. Do you think it's more than 50 percent likely that the statute be interpreted to require literally every resource in your office?

MR. MAKKER: Objection, asked and answered.

THE WITNESS: Yes, I do.

05:44:34 1 BY MR. LANGHOFER:

05:44:34 2 Q. Okay. If there are two -- if there's someone
05:44:40 3 registered with a common name, let's say John Smith, and
05:44:43 4 his birthday is, let's say, January 1st, 1950, and then
05:44:48 5 someone else named John Smith with the same birthday
05:44:51 6 registers to vote, could you use additional information,
05:44:56 7 like a birthplace, to determine whether it's the same
05:44:58 8 John Smith?

05:44:59 9 A. If we received the voter registration forms at
05:45:03 10 the same time, yes, that would be a way that we could
05:45:06 11 identify. That wouldn't be the only way, though.

05:45:10 12 Q. So what if you received them at different
05:45:13 13 times; let's say they were years apart, and the first
05:45:15 14 one had a birthplace of Chicago and the second one had a
05:45:20 15 birthplace of, say, Miami. Could you use that
05:45:22 16 information to determine whether those were duplicate
05:45:25 17 registrations?

05:45:26 18 A. I mean we could, sure. We could. But for
05:45:31 19 fully common names we would do additional investigation,
05:45:37 20 particularly because we have found that here even in
05:45:41 21 Pima County people who have the same name and very close
05:45:48 22 dates of birth and they're still two separate people, we
05:45:52 23 still reach out to both of them.

05:45:58 24 Q. Is that true even when both of them have a
05:46:00 25 place of birth in the database?

05:46:03 1 A. Yes.

05:46:04 2 Q. Okay. And what's the -- what function does the

05:46:08 3 phone call serve if they have different places of birth

05:46:10 4 in your records?

05:46:13 5 A. I guess it depends on why we were reaching out

05:46:15 6 to them. Is your question would we -- if I receive a

05:46:20 7 voter registration form from John Smith Chicago and then

05:46:23 8 I receive a voter registration form John Smith Miami and

05:46:28 9 then they have the exact same address, date of birth,

05:46:34 10 and signature?

05:46:36 11 Q. No. Address is changed, naturally.

05:46:39 12 A. Okay.

05:46:39 13 Q. And the signatures can -- there can be some

05:46:41 14 variability in there.

05:46:42 15 But your birthday and your name -- or your name

05:46:45 16 changes very little. Your birthday doesn't change. And

05:46:49 17 your birthplace doesn't change at all. You're kind of,

05:46:52 18 like your birthday, relying on what people told you for

05:46:56 19 that.

05:46:56 20 A. Sure.

05:46:56 21 Q. But my point is that some of these pieces of

05:46:58 22 information are more static and reliable than others.

05:47:01 23 Let's say you've got a John Smith with a

05:47:03 24 certain birthday from Chicago in your system. You get a

05:47:06 25 voter registration form from John Smith with a birthday

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05:47:10 1 from Miami. You're trying to determine are we updating
05:47:13 2 registration or are we creating a new registration.
05:47:16 3 Can't you use the date of birth information to
05:47:18 4 answer that question?
05:47:21 5 MR. MAKKER: Objection, incomplete
05:47:23 6 hypothetical. It's Amit Makker.
05:47:25 7 THE WITNESS: Yeah, I don't -- I don't
05:47:25 8 really understand what you're trying to get at, because
05:47:27 9 you're giving me the -- you're stating I'm looking at a
05:47:33 10 name and a date, and the name and the date are -- date
05:47:36 11 of birth are the same, and you're asking me for whether
05:47:40 12 or not I would treat the two of them as a duplicate.
05:47:44 13 BY MR. LANGHOFER:
05:47:44 14 Q. Right. If you know that they have different --
05:47:46 15 MR. HERRERA: Objection. Or not
05:47:48 16 objection. Sorry. This is Ernest Herrera for the
05:47:51 17 Promise Arizona Plaintiffs. I'll note for the record
05:47:53 18 that we're just at about seven hours, judging by the
05:47:55 19 last time count.
05:47:59 20 BY MR. LANGHOFER:
05:47:59 21 Q. So the question is whether they're duplicates,
05:48:01 22 right. The name and the date of birth are the same.
05:48:03 23 My question is, can't you use the location of
05:48:06 24 birth to determine whether they're, in fact, duplicates?
05:48:10 25 MR. MAKKER: Objection, calls for

05:48:13 1 speculation. Objection, incomplete hypothetical. It's

05:48:15 2 Amit Makker.

05:48:17 3 BY MR. LANGHOFER:

05:48:17 4 Q. You can answer the question.

05:48:17 5 A. Yeah, I suppose we could use it. We would

05:48:20 6 contact the voter first, though.

05:48:22 7 Q. Last question. This -- I guess, sorry, two

05:48:28 8 more questions.

05:48:28 9 You had mentioned earlier you testified in

05:48:30 10 connection with a criminal trial. What was that

05:48:32 11 criminal trial?

05:48:40 12 MR. JURKOWITZ: Yeah, Kory, that's beyond

05:48:43 13 the scope.

05:48:44 14 MR. LANGHOFER: It came up in her

05:48:48 15 questions from the plaintiffs, and I want to understand

05:48:52 16 the answer to the question she gave to the plaintiffs.

05:48:56 17 THE WITNESS: I testified in a criminal

05:48:57 18 trial for the Arizona Attorney General's Office for an

05:49:01 19 individual who was incarcerated and was a convicted

05:49:08 20 felon who voted after having a conviction. So he was on

05:49:12 21 trial for voting as a registered felon and then voting

05:49:16 22 in the election as a convicted felon.

05:49:18 23 BY MR. LANGHOFER:

05:49:18 24 Q. Was it for the act of voting or the act of

05:49:23 25 registering as a felon?

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05:49:24 1 A. It was for both.

05:49:27 2 Q. So the last question is, these Mi Familia Vota
05:49:31 3 forms that you were having trouble with, am I to
05:49:34 4 understand that the information on those forms was
05:49:36 5 false?

05:49:38 6 A. Some of the forms, yes.

05:49:43 7 MR. LANGHOFER: That's all. Thanks very
05:49:50 8 much.

05:49:50 9 MR. JURKOWITZ: Thanks, folks.

05:49:53 10 THE VIDEOGRAPHER: Counsel, do you have
05:49:54 11 any further questions?

05:49:55 12 MS. BRAILEY: Can I just ask --

05:50:00 13 MR. HORLEY: No further questions.

05:50:01 14 MS. BRAILEY: Oh. Can I ask just a quick
05:50:03 15 follow-up on some of these?

05:50:04 16 MR. JURKOWITZ: I don't think so. I think
05:50:05 17 we're beyond our time and --

05:50:05 18 MS. BRAILEY: Okay.

05:50:07 19 MR. JURKOWITZ: -- my witness has to go
05:50:08 20 home. So I'm sorry.

05:50:09 21 MS. BRAILEY: Okay.

05:50:11 22 MR. JURKOWITZ: Have a good evening.

05:50:12 23 THE VIDEOGRAPHER: We are off the record.
05:50:13 24 The time on the video monitor is 5:50 p.m. This ends
05:50:17 25 Volume 1, Media No. 3 in the 30(b)(6) deposition of Pima

05:50:21

1 County Recorder, represented by Hilary Hiser.

2 (The videotaped deposition concluded at
3 5:50 p.m.)

4 (Deposition Exhibits 62 through 86,
5 inclusive, were digitally marked for identification.)

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(Signature not requested.)

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HILARY HISER

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1 STATE OF ARIZONA)
2) ss.
3 COUNTY OF MARICOPA)

4 BE IT KNOWN that the foregoing videotaped
5 deposition was taken before me, JODY L. LENSCHOW, RMR,
6 CRR, Certified Reporter No. 50192 for the State of
7 Arizona, and by virtue thereof authorized to administer
8 an oath; that the witness before testifying was duly
9 sworn by me; that the questions propounded by counsel
10 and the answers of the witness thereto were taken down
11 by me in shorthand and thereafter transcribed under my
12 direction; that a review of the transcript by the
13 witness was not requested; that the foregoing pages
14 contain a full, true, and accurate transcript of all
15 proceedings and testimony had, all to the best of my
16 skill and ability.

17 I FURTHER CERTIFY that I am not related to nor
18 employed by any of the parties hereto and have no
19 interest in the outcome thereof.

20 DATED at Phoenix, Arizona, this 13th day of
21 August, 2023.

22
23 
24 _____
25 JODY L. LENSCHOW, RMR, CRR
Certified Reporter
Certificate No. 50192

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UNITED STATES DISTRICT COURT
DISTRICT OF ARIZONA

Mi Familia Vota, et al.,)	
)	
Plaintiffs,)	Case No.
	)	2:22-cv-00509-SRB
v.	)	(Lead)
)	
Adrian Fontes, in his	)	No. CV-22-00519-PHX-SRB
official capacity as	)	No. CV-22-01003-PHX-SRB
Arizona Secretary of State,	)	No. CV-22-01124-PHX-SRB
et al.,	)	No. CV-22-01369-PHX-SRB
	)	No. CV-22-01381-PHX-SRB
Defendants.	)	No. CV-22-01602-PHX-SRB
	)	No. CV-22-01901-PHX-SRB
_____)	
AND CONSOLIDATED CASES.)	
_____)	

VIDEO-RECORDED VIDEOCONFERENCE 30(b)(6) DEPOSITION OF PINAL
COUNTY RECORDER'S OFFICE, REPRESENTED BY DANA LEWIS

Florence, Arizona

August 4, 2023

Prepared by:
CINDY MAHONEY, RPR, RMR
Certified Court Reporter
Certificate No. 50680



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REQUESTS

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1 THE VIDEO-RECORDED VIDEOCONFERENCE 30(b)(6)
 2 DEPOSITION OF PINAL COUNTY RECORDER'S OFFICE, REPRESENTED
 3 BY DANA LEWIS, commenced at 9:37 a.m. on August 4, 2023, at
 4 Florence, Arizona, before Cindy Mahoney, RPR, RMR (via
 5 videoconference), Arizona Certified Court Reporter No.
 6 50680.

7

8

* * *

9

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3 Anna Critz
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5 Laurie Stirling
6 Victoria Maras
7 Paul Correa
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9 Jimmie Sullivan, Videographer
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1 TRANSCRIPT OF PROCEEDINGS

2
3
09:37:14 4 THE VIDEOGRAPHER: Good morning. We are on
09:37:15 5 the record. The time on the video monitor is 9:37 a.m.
09:37:22 6 And here begins Volume 1, Media Number 1 in the 30(b)(6)
09:37:32 7 deposition of Pinal County Recorder by Dana Lewis, in the
09:37:37 8 matter of Mi Familia Vota, et al., versus Adrian Fontes, in
09:37:43 9 his official capacity as Arizona Secretary of State, et
09:37:48 10 al., in the United States District Court, District of
09:37:52 11 Arizona, Case Number 2:22-cv-00509-SRB -- -SRB.

09:38:04 12 Today's date is August 4th, 2023. Our court
09:38:09 13 reporter is Cindy Mahoney. I am Jimmie Sullivan, a
09:38:17 14 certified legal videographer. We both represent Coash
09:38:21 15 Court Reporting & Video.

09:38:21 16 This video deposition is taking place at 25
09:38:27 17 North Florence Street, Florence, Arizona 85132.

09:38:32 18 Counsel, could you please identify yourselves
09:38:36 19 and state whom you represent.

09:38:42 20 MR. SHERMAN: Good morning. Jon Sherman from
09:38:44 21 Fair Elections Center. I represent the Poder Latinx
09:38:47 22 plaintiffs.

09:38:49 23 MR. CAMERON: Craig Cameron. I represent the
09:38:52 24 Pinal County Recorder and Pinal County.

09:39:01 25 MS. YUN: Jennifer Yun on behalf of the

09:39:02 1 United States.

09:39:06 2 MR. MORGAN: Craig Morgan for Sherman &
09:39:09 3 Howard, on behalf of the Secretary of State.

09:39:13 4 MR. HERRERA: Ernest Herrera -- that's
09:39:16 5 H-e-r-r-e-r-a -- for Promise Arizona plaintiffs. And with
09:39:19 6 me is my colleague Erika Cervantes.

09:39:19 7 MS. LORENZO: Daniela Lorenzo representing Mi
09:39:29 8 Familia Vota plaintiffs. With me today is my colleague Liz
09:39:31 9 Frost..

09:39:32 10 MS. RIZZONI: Cat Rizzoni on behalf of Equity
09:39:37 11 Coalition plaintiffs from Latham & Watkins.

09:39:40 12 MS. KELTY: Samantha Kelty with the Native
09:39:44 13 American Rights Fund, on behalf of the Tohono O'odham and
09:39:46 14 Gila River plaintiffs.

09:39:47 15 MS. BOUGHTON: Kathryn Boughton on behalf of
09:39:54 16 the State of Arizona and Arizona Attorney General Kris
09:39:57 17 Mayes.

09:39:57 18 MR. LANGHOFER: Kory Langhofer on behalf of
09:40:00 19 the Republican National Committee.

09:40:03 20 MR. FERGUSON: And I'm Brent Ferguson of
09:40:06 21 Campaign Legal Center, on behalf of the LUCHA plaintiffs.

09:40:08 22 MR. LANGHOFER: I'll just note that Daniel
09:40:13 23 Volchok appears to be having trouble with his microphone
09:40:16 24 but he's announced his presence in the comments.

09:40:18 25 THE VIDEOGRAPHER: Is that everyone? Okay.

09:40:29 1 Would the court reporter please swear in the
09:40:31 2 witness.

09:40:31 3
09:40:31 4 DANA LEWIS,
09:40:31 5 the witness herein, being first duly sworn,
09:40:31 6 was examined and testified as follows:

09:40:46 7
09:40:46 8 THE VIDEOGRAPHER: You may continue.

09:40:46 9
09:40:48 10 EXAMINATION

09:40:48 11 BY MR. SHERMAN:

09:40:49 12 Q. Good morning, Ms. Lewis. Thank you for taking
09:40:51 13 time out of your busy schedule to be with us today.

09:40:55 14 Could you please state your full name for the
09:40:58 15 record and your full title.

09:41:01 16 A. Dana Lee Lewis, Pinal County Recorder.

09:41:07 17 Q. Thank you. For today's deposition, I want to make
09:41:10 18 sure the record is clear on a couple of points.

09:41:12 19 Do you understand you are testifying under
09:41:14 20 oath today?

09:41:15 21 A. I do.

09:41:16 22 Q. Do you understand the court reporter is
09:41:19 23 transcribing this deposition?

09:41:21 24 A. I do.

09:41:22 25 Q. With that in mind, please answer questions audibly

09:41:26 1 and clearly. Please let me know if you do not understand a
09:41:30 2 question or need me to repeat any part of it. And if I ask
09:41:34 3 a question and you answer the question, I will assume that
09:41:38 4 you understood the question.

09:41:39 5 Do you understand all three of those points?

09:41:41 6 A. I do.

09:41:42 7 Q. Great. Thank you.

09:41:44 8 Any reason you can't testify truthfully
09:41:48 9 today?

09:41:49 10 A. No.

09:41:50 11 Q. Is there any reason that you can't give full,
09:41:53 12 complete, and accurate testimony today?

09:41:56 13 A. No.

09:41:57 14 Q. Are you on any medications or experiencing any
09:42:00 15 condition that would prevent you from giving full and
09:42:04 16 truthful testimony today?

09:42:06 17 A. No.

09:42:06 18 Q. If at any time you would like to take a break,
09:42:08 19 just please let me know. The only thing I ask is that if I
09:42:12 20 have already asked a question that's pending, that you
09:42:15 21 please answer the question before we -- we take a break.
09:42:18 22 Is that okay?

09:42:19 23 A. Absolutely.

09:42:21 24 Q. Great.

09:42:23 25 Have you ever been deposed before?

09:42:24 1 A. No, sir.

09:42:25 2 Q. Okay. For today's deposition, where are you

09:42:30 3 physically located?

09:42:32 4 A. 31 North Pinal Street, Building E, my office.

09:42:39 5 Q. Okay. Great.

09:42:40 6 And what city and state, just for the record?

09:42:43 7 A. Florence, Arizona 85130.

09:42:46 8 Q. Okay. Great. And who else -- I can see your

09:42:50 9 counsel, I think, is in the room with you.

09:42:51 10 Who else is in the room?

09:42:53 11 A. Co-counsel, Scott M. Johnson and James Mitchell.

09:43:01 12 Q. Great. Thank you.

09:43:01 13 Did you bring any materials with you to the

09:43:03 14 deposition?

09:43:05 15 A. Just the ones you provided for me to review.

09:43:09 16 Q. Okay. Do you have any documents in front of you?

09:43:13 17 A. The ones you provided for me to review.

09:43:17 18 Q. Okay. Just checking. All standard questions.

09:43:21 19 So could you take a look at the first

09:43:26 20 document, Exhibit A, in what we provided. And just let me

09:43:34 21 know when you've got that up.

09:43:39 22 A. It's up.

09:43:41 23 Q. Great.

09:43:43 24 What is this document?

09:43:45 25 A. Plaintiffs' Second Amended Notice of Deposition of

09:43:49 1 Pinal County Recorder's Office Pursuant to Rule 30(b)(6).

09:43:57 2 MR. SHERMAN: Great. And could we mark this
09:43:59 3 as -- Exhibit 87 I believe is what we're up to.

09:43:59 4 (The document was marked as Exhibit 87
09:43:59 5 for identification.)

09:44:09 6 BY MR. SHERMAN:

09:44:09 7 Q. Have you seen this before today, Ms. Lewis?

09:44:11 8 A. Yes, sir.

09:44:12 9 Q. Great.

09:44:13 10 And do you understand you have been
09:44:14 11 designated as a representative to testify on behalf of the
09:44:18 12 Pinal County Recorder's Office, not in your individual
09:44:22 13 capacity?

09:44:22 14 A. I do.

09:44:25 15 Q. Great. Thank you.

09:44:26 16 And can we stipulate that whenever I say
09:44:27 17 "you" or "your," that would be the equivalent of saying
09:44:31 18 "your office" or "your offices"?

09:44:33 19 A. Yes, sir.

09:44:33 20 Q. Great. Thank you.

09:44:36 21 If you could just scroll down to the list of
09:44:39 22 topics. I believe it starts on page -- page 4 is where it
09:44:51 23 starts.

09:44:52 24 Have you reviewed these topics in preparation
09:44:54 25 for today?

09:44:55 1 A. Yes, sir.

09:44:56 2 Q. Great.

09:44:57 3 And are you prepared to address each of these
09:44:59 4 28 topics today?

09:45:01 5 A. Yes, sir.

09:45:03 6 Q. Great. Thank you.

09:45:05 7 What did you do to prepare for today's
09:45:08 8 deposition?

09:45:09 9 A. Read these documents.

09:45:15 10 Q. Anything else?

09:45:18 11 A. Do you --

09:45:21 12 MR. CAMERON: For the purpose of the
09:45:22 13 deposition, the attorneys did sit down with her to discuss
09:45:26 14 it, but that would be privilege.

09:45:31 15 MR. SHERMAN: Definitely not -- yeah,
09:45:31 16 definitely not asking for the substance of those
09:45:34 17 communications.

09:45:34 18 BY MR. SHERMAN:

09:45:34 19 Q. Just wanted to know what else -- what else you did
09:45:36 20 to prepare. Did you -- and so you answered that one.

09:45:42 21 Did you discuss today's deposition with
09:45:44 22 anyone else outside your office besides your counsel in
09:45:44 23 this case?

09:45:44 24 A. No.

09:45:50 25 Q. Okay. Did you review any doc- -- did you review

09:45:55 1 any documents beyond the ones we provided?

09:45:58 2 A. No, sir.

09:46:00 3 Q. Okay. And -- all right.

09:46:04 4 Could we look at Exhibit -- Exhibit C. What

09:46:22 5 is this document?

09:46:24 6 A. Defendant's response to plaintiffs' first request

09:46:41 7 for production.

09:46:45 8 Q. And this was in the Equity Coalition's case;

09:46:49 9 right? Equity Coalition is the plaintiff that propounded

09:46:57 10 this discovery?

09:46:59 11 A. This right here? It's freezing. Oh, there?

09:47:06 12 That is correct, sir. Apologies.

09:47:08 13 Q. No worries. Thank you very much.

09:47:11 14 MR. SHERMAN: Can we mark this as Exhibit 90.

09:47:11 15 THE COURT REPORTER: You want 90? You don't

09:47:11 16 want the next in order?

09:47:11 17 MR. SHERMAN: Yes. Yeah. If we could mark

09:47:26 18 this as Exhibit 90, please. Thank you.

09:47:26 19 MR. CAMERON: Wait. Wait. Wait.

09:47:28 20 It's -- I'm sorry. Ms. Mahoney, is 90 -- is 90 the next

09:47:28 21 number?

09:47:31 22 THE COURT REPORTER: No.

09:47:31 23 MR. SHERMAN: I'm sorry. Exhibit -- Exhibit

09:47:34 24 88. I apologize.

09:47:39 25 MR. CAMERON: No problem.

09:47:39 1 (The document was marked as Exhibit 88
09:47:39 2 for identification.)

09:47:39 3 BY MR. SHERMAN:

09:47:42 4 Q. Do you recognize this document, Ms. Lewis?

09:47:46 5 A. Yes, sir.

09:47:47 6 Q. Did you review it before this deposition?

09:47:51 7 A. Yes, sir.

09:47:52 8 Q. Any update to your responses here?

09:47:56 9 A. No, sir.

09:47:58 10 Q. Okay. Can we take a look at Exhibit -- Exhibit D.

09:48:17 11 And what is this document?

09:48:22 12 A. Supplemental Response to Plaintiff's First Request
09:48:28 13 for Production.

09:48:29 14 Q. And this was propounded by the Equity Coalition
09:48:33 15 plaintiffs; correct?

09:48:33 16 A. That is correct.

09:48:35 17 MR. SHERMAN: Could we mark this as
09:48:37 18 Exhibit 89. Thank you.

09:48:37 19 (The document was marked as Exhibit 89
09:48:37 20 for identification.)

09:48:37 21 BY MR. SHERMAN:

09:48:44 22 Q. And you've seen this document before?

09:48:45 23 A. Yes, sir.

09:48:45 24 Q. And you reviewed it before this deposition?

09:48:48 25 A. Yes, sir.

09:48:49 1 Q. Any update to your responses?

09:48:52 2 A. No, sir.

09:48:54 3 Q. Okay. Could we look at Exhibit F.

09:49:17 4 And do you recognize this document?

09:49:19 5 A. Yes, sir.

09:49:23 6 Q. And what is it?

09:49:25 7 A. It is the consolidated request for RFP and

09:49:31 8 documents from Mi Familia Vota.

09:49:36 9 Q. Is it your county -- the County Recorder Office's

09:49:40 10 responses to those consolidated plaintiffs' RFPs?

09:49:43 11 A. That is correct, sir.

09:49:44 12 Q. And did you review it before this deposition?

09:49:46 13 A. I did.

09:49:49 14 MR. SHERMAN: Can we mark this as Exhibit 90.

09:49:49 15 (The document was marked as Exhibit 90

09:49:55 16 for identification.)

09:49:55 17 BY MR. SHERMAN:

09:49:55 18 Q. Any update to your responses?

09:49:58 19 A. No, sir.

09:50:00 20 Q. And other than what's privileged or listed on a

09:50:05 21 privilege log, are you withholding any responses or

09:50:09 22 responsive documents on the basis of your objections?

09:50:11 23 A. No, sir.

09:50:12 24 Q. Okay. Thank you.

09:50:21 25 Let's take a look at Exhibit B. Once you

09:50:33 1 have Exhibit B up, just let me know what -- what it is.

09:50:39 2 A. My response to the plaintiffs' first set of
09:50:44 3 interrogatories.

09:50:46 4 Q. Great. Thank you.

09:50:49 5 MR. SHERMAN: Can we mark this as Exhibit 91.

09:50:49 6 (The document was marked as Exhibit 91
09:50:55 7 for identification.)

09:50:55 8 BY MR. SHERMAN:

09:50:56 9 Q. And you verified this document when you served it;
09:51:03 10 correct?

09:51:03 11 A. Yes, sir.

09:51:04 12 Q. And what steps did you take to prepare these
09:51:09 13 responses?

09:51:12 14 A. Please elaborate.

09:51:16 15 Q. Did you confer with counsel?

09:51:21 16 Did you -- what -- what steps did you take in
09:51:23 17 drafting the responses?

09:51:24 18 A. I did meet with counsel.

09:51:26 19 Q. Okay. So your counsel and you drafted it
09:51:29 20 together?

09:51:30 21 A. That is correct.

09:51:31 22 Q. Okay. Did any -- did you review it before this
09:51:34 23 deposition?

09:51:35 24 A. Yes, sir.

09:51:36 25 Q. Any update to your responses?

09:51:40 1 A. No, sir.

09:51:42 2 MR. SHERMAN: Okay. And then lastly -- and
09:51:49 3 if I didn't say this before -- I think I did, but could we
09:51:53 4 mark that as Exhibit 91.

09:51:57 5 BY MR. SHERMAN:

09:51:58 6 Q. Lastly, Exhibit E. Do you recognize this
09:52:08 7 document?

09:52:09 8 A. This is a response -- my response -- Consolidated
09:52:16 9 Plaintiff's First Set of Requests For Production of
09:52:19 10 Documents to Mi Familia Vota.

09:52:30 11 MR. SHERMAN: Thank you. Can we mark this as
09:52:32 12 Exhibit 92.

09:52:32 13 (The document was marked as Exhibit 92
09:52:33 14 for identification.)

09:52:33 15 BY MR. SHERMAN:

09:52:34 16 Q. And you verified this document when it was served?

09:52:38 17 A. Yes, sir.

09:52:38 18 Q. And what steps did you take to prepare these
09:52:44 19 responses? Same answer as before?

09:52:46 20 A. That is correct, sir.

09:52:47 21 Q. Okay. And beyond your counsel, did you confer
09:52:49 22 with anyone else in drafting them?

09:52:53 23 A. No, sir.

09:52:59 24 Q. Okay. Did you review it before this deposition?

09:53:01 25 A. Yes, sir.

09:53:03 1 Q. Any update to your responses?

09:53:05 2 A. No, sir.

09:53:07 3 Q. Okay. All right. So I want to ask you a few
09:53:12 4 questions about the Election Procedures Manual. You're
09:53:17 5 familiar with the 2019 Election Procedures Manual. I don't
09:53:20 6 think I need to show it to you.

09:53:22 7 Is the 2019 Election Procedures Manual still
09:53:26 8 the -- kind of the operative version of the EPM?

09:53:30 9 A. Yes, sir.

09:53:31 10 Q. Is your office legally required to follow the EPM?

09:53:35 11 A. Yes, sir.

09:53:35 12 Q. Are all parts of the EPM legally binding on your
09:53:39 13 office?

09:53:41 14 MR. LANGHOFER: Form. This is Kory
09:53:44 15 Langhofer for the RNC.

09:53:50 16 THE WITNESS: Can you repeat the question?

09:53:53 17 BY MR. SHERMAN:

09:53:54 18 Q. Sure.

09:53:55 19 Are you legally required to follow all parts
09:53:59 20 of the EPM?

09:54:02 21 MR. LANGHOFER: Form.

09:54:03 22 THE WITNESS: Yes, sir.

09:54:05 23 BY MR. SHERMAN:

09:54:06 24 Q. Including -- including Chapter 1 on voter
09:54:10 25 registration procedures?

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09:54:12 2
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09:54:15 4
09:54:19 5
09:54:21 6
09:54:24 7
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09:55:01 21
09:55:04 22
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09:55:10 24
09:55:13 25

MR. LANGHOFER: Form.

THE WITNESS: Yes, sir.

BY MR. SHERMAN:

Q. Can legally binding guidance be conveyed to -- by the Secretary of State's Office to your office by any other means outside of the EPM?

MR. LANGHOFER: Form.

THE WITNESS: I don't think I understand that question. Say it one more time.

BY MR. SHERMAN:

Q. Sure.

Can legally binding guidance be conveyed by the Secretary of State's Office to your office by any other means outside of the EPM?

A. No, sir.

Q. Okay. Are you aware of any counties that do not believe Chapter 1 on voter registration procedures is binding?

A. Sir, I will not speak on another person's opinions about anything.

Q. I was just asking if you were aware, not --

A. I'm not aware of other people's opinions.

Q. Okay. Thank you.

Are you currently enforcing any part of HB 2492?

09:55:15 1 A. No, sir.

09:55:16 2 Q. Are you currently enforcing any part of HB 2243?

09:55:21 3 A. No, sir.

09:55:22 4 Q. Is your office holding voter registration

09:55:27 5 applications in an indefinite pending status while you're

09:55:31 6 awaiting guidance from the Secretary of State's Office?

09:55:33 7 A. No, sir.

09:55:33 8 Q. To your knowledge, are all counties holding off

09:55:39 9 on -- are -- excuse me. Strike that.

09:55:41 10 To your knowledge, are all counties holding

09:55:43 11 off on implementing HB 2492 and HB 2243?

09:55:50 12 MR. LANGHOFER: Foundation.

09:55:50 13 MR. MORGAN: Foundation.

09:55:53 14 Go ahead.

09:55:54 15 BY MR. SHERMAN:

09:55:55 16 Q. I'll -- I'll strike that and -- I'll withdraw it

09:55:56 17 and ask it a different way.

09:55:58 18 To your knowledge, Ms. Lewis, are any

09:56:00 19 counties enforcing any part of HB 2492 or HB 2243?

09:56:06 20 A. Mr. Sherman, I will not speak to my knowledge of

09:56:10 21 what other counties are doing.

09:56:16 22 Q. Because you don't know or because --

09:56:19 23 A. How am I supposed to know what someone else is

09:56:22 24 going to do or intending?

09:56:24 25 Q. Fair enough.

09:56:24 1 It sounds -- so your testimony is that you
09:56:27 2 don't know; correct?

09:56:28 3 A. Yes, sir.

09:56:29 4 Q. Okay. Just wanted to clarify.

09:56:32 5 Has your office seen the draft 2023 EPM?

09:56:36 6 A. Yes, sir.

09:56:38 7 Q. Have you provided comments on it to the SOS's
09:56:42 8 office?

09:56:44 9 A. I've been part of the conversations.

09:56:49 10 Q. Have you provided any written feedback?

09:56:51 11 A. No, sir.

09:56:53 12 Q. Okay. How many times have you met with the
09:56:57 13 Arizona Secretary of State's Office about the challenged
09:57:01 14 laws in this lawsuit?

09:57:05 15 A. I don't know.

09:57:05 16 Q. Okay. A number of times, though?

09:57:16 17 MR. MORGAN: Foundation. Craig Morgan.
09:57:20 18 Sorry.

09:57:20 19 BY MR. SHERMAN:

09:57:20 20 Q. I'll withdraw the question for now.

09:57:20 21 A. Thank you.

09:57:25 22 Q. Has your office -- has your office been provided
09:57:27 23 any other draft guidance or document beyond the draft 2023
09:57:32 24 EPM that elaborates on interpretation or implementation of
09:57:36 25 HB 2492 and HB 2243?

09:57:39 1 A. No, sir.

09:57:41 2 Q. Has your office been a part of -- has your office
09:57:48 3 been a part of any communications with the Secretary of
09:57:51 4 State's Office regarding interpretation or implementation
09:57:54 5 of HB 2492?

09:57:59 6 MR. MORGAN: Form.

09:58:00 7 THE WITNESS: No, sir.

09:58:01 8 BY MR. SHERMAN:

09:58:01 9 Q. Has your office been a part of any communications
09:58:03 10 with the Arizona Secretary of State's Office regarding
09:58:06 11 interpretation or implementation of HB 2243?

09:58:11 12 MR. MORGAN: Form.

09:58:12 13 THE WITNESS: No, sir.

09:58:13 14 BY MR. SHERMAN:

09:58:14 15 Q. In 2021, was the draft Election Procedures Manual
09:58:18 16 adopted?

09:58:20 17 A. No, sir.

09:58:21 18 Q. So it's possible there will be no agreement on a
09:58:24 19 revised and updated EPM this year; correct?

09:58:29 20 MR. LANGHOFER: Calls for speculation.

09:58:34 21 MR. MORGAN: Foundation.

09:58:35 22 THE WITNESS: I don't know.

09:58:37 23 BY MR. SHERMAN:

09:58:38 24 Q. So it's at least possible; right?

09:58:39 25 It happened in 2021? Is it possible it will

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09:59:02 11
09:59:05 12
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09:59:47 25

happen again?

A. I don't have an opinion.

MR. MORGAN: Foundation.

BY MR. SHERMAN:

Q. Fair enough.

If there's no approved revised EPM by this time next year, will you nevertheless be obligated to enforce the portions of HB 2492 and HB 2243 that are directed at county recorders?

MR. LANGHOFER: Form. Calls for a legal conclusion.

THE WITNESS: Can I --

BY MR. SHERMAN:

Q. I see you nodding, but I didn't hear --

A. Can I concur with that statement, whoever just said that? We have not implemented nor do we intend to implement any part of HB 2492 or 2243.

Q. Let me -- let me ask it again just so the record -- the question is clear.

If there's no approved revised Election Procedures Manual by this time next year, will you nevertheless be obligated to enforce the portions of HB 2492 and HB 2243 that are directed at county recorders?

MR. LANGHOFER: Same objection.

MR. CAMERON: Form, foundation.

09:59:47 1 THE WITNESS: I'm -- I will be required to
09:59:50 2 follow the EPM of 2019.
09:59:53 3 BY MR. SHERMAN:
09:59:54 4 Q. So if that -- so is your testimony if the 2019 EPM
09:59:59 5 contains -- and it does -- so your testimony is that you
10:00:05 6 can't follow and can't enforce HB 2492 and HB 2243 until
10:00:11 7 there's a revised EPM, including implementation guidance on
10:00:15 8 those two challenged laws; correct?
10:00:19 9 MR. LANGHOFER: Calls for a legal conclusion.
10:00:24 10 MR. MORGAN: Objection.
10:00:25 11 THE WITNESS: I don't have an answer for that
10:00:27 12 question, sir.
10:00:28 13 BY MR. SHERMAN:
10:00:34 14 Q. Okay. So you don't know?
10:00:37 15 A. Yeah, we'll say I don't know.
10:00:39 16 Q. Okay. So I want to direct your attention to the
10:00:43 17 two statutes. I just want to focus on a few provisions in
10:00:47 18 the two statutes. These have been previously marked as
10:00:51 19 Exhibits 19 and 21 in the Petty exhibits, so Petty
10:00:57 20 Exhibit 19 and 21.
10:01:00 21 A. Do I have those?
10:01:04 22 Q. We circulated them.
10:01:08 23 MR. CAMERON: G and H for this deposition?
10:01:10 24 MR. SHERMAN: No. We circulated an
10:01:13 25 additional link for all of the marked -- previously marked

10:01:13 1 exhibits. If you don't have that up, why don't we go off
10:01:17 2 the record for a minute and you can pull them up.

10:01:20 3 Let's do that. Let's go off the record for a
10:01:23 4 minute, and we can make sure you have those in front of
10:01:25 5 you.

10:01:29 6 THE VIDEOGRAPHER: We are off the record at
10:01:39 7 10:01.

10:01:42 8 (A recess ensued.)

10:14:01 9 THE VIDEOGRAPHER: We are back on the record.
10:14:11 10 Time on the video monitor is 10:14

10:14:16 11 BY MR. SHERMAN:

10:14:19 12 Q. Okay. Thank you, Ms. Lewis.

10:14:21 13 I want to ask you about HB 2492 and HB 2243.
10:14:26 14 The phrase -- the term "information" is used repeatedly in
10:14:31 15 both statutes, information that a person is not a U.S.
10:14:35 16 citizen.

10:14:36 17 What is information that a person is not a
10:14:38 18 United States citizen?

10:14:41 19 MR. CAMERON: Form.

10:14:41 20 MR. LANGHOFER: Object; form. Calls for a
10:14:43 21 legal conclusion.

10:14:48 22 MR. CAMERON: You can answer.

10:14:48 23 THE WITNESS: I don't know.

10:14:50 24 BY MR. SHERMAN:

10:14:51 25 Q. Okay. Just so we're clear, you can answer unless

10:14:55 1 your counsel instructs you not to answer. People are going
10:14:57 2 to object repeatedly, but you can answer after those
10:15:01 3 objections.

10:15:01 4 Is data in a current database showing
10:15:05 5 noncitizenship 20 years ago information that the person is
10:15:09 6 not a U.S. citizen today?

10:15:11 7 MR. LANGHOFER: Same objection.

10:15:12 8 THE WITNESS: I wouldn't make that
10:15:14 9 conclusion.

10:15:14 10 BY MR. SHERMAN:

10:15:15 11 Q. You run HAVA checks through the AVID system;
10:15:15 12 correct?

10:15:21 13 A. Yes, sir.

10:15:23 14 Q. And when you run that HAVA check, if it reflects
10:15:25 15 that the applicant was issued an F-type license 20 years
10:15:28 16 ago, that just means they weren't a citizen 20 years ago;
10:15:32 17 right?

10:15:32 18 A. Correct.

10:15:33 19 Q. What procedure does your office follow after
10:15:36 20 seeing that that person still holds an F-type license in
10:15:41 21 the MVD database?

10:15:44 22 A. I don't know. I legitimately don't know, because
10:15:53 23 we run the HAVA check.

10:15:56 24 Q. Is that just conclusive that they're not a U.S.
10:15:59 25 citizen?

10:16:00 1 A. I would not say that, sir.

10:16:03 2 Q. Do you follow up with the voter?

10:16:05 3 A. Absolutely.

10:16:06 4 Q. What do you do?

10:16:08 5 A. We send a letter.

10:16:09 6 Q. Okay.

10:16:11 7 A. It's in my attachment.

10:16:13 8 Q. Right. We'll -- we'll get back to that letter a

10:16:17 9 little bit later on.

10:16:18 10 If some other database -- not the MVD

10:16:22 11 database -- contains data showing that the person was not a

10:16:24 12 U.S. citizen 20 years ago, same answer as you gave before?

10:16:34 13 MS. BOUGHTON: Form.

10:16:35 14 THE WITNESS: Yes. "Some database" doesn't

10:16:37 15 tell me much, sir. Sorry.

10:16:39 16 BY MR. SHERMAN:

10:16:40 17 Q. Okay. Thanks.

10:16:41 18 When would you consider information too old

10:16:45 19 to be information that someone is not a United States

10:16:48 20 citizen in the present day? Is there a line?

10:16:51 21 A. I don't have an answer for that.

10:16:54 22 Q. If the information is somewhat more recent,

10:17:00 23 though, say a month ago, is that information that the

10:17:02 24 person is not a United States citizen?

10:17:06 25 MR. MORGAN: Form, foundation.

10:17:07 1 MR. LANGHOFER: Objection; legal conclusion.

10:17:08 2 THE WITNESS: Please repeat the question.

10:17:10 3 BY MR. SHERMAN:

10:17:11 4 Q. If your office encounters information that's
10:17:15 5 somewhat more recent, like a government transaction showing
10:17:18 6 the person was not a U.S. citizen two months ago, is that
10:17:23 7 information that the person is not a U.S. citizen
10:17:25 8 currently?

10:17:26 9 MR. LANGHOFER: Same objection.

10:17:28 10 MR. MORGAN: Form, foundation.

10:17:30 11 THE WITNESS: I can't answer that question.

10:17:32 12 I don't know.

10:17:33 13 BY MR. SHERMAN:

10:17:35 14 Q. Okay. You're not sure?

10:17:39 15 A. I don't know.

10:17:42 16 Q. Okay. I'm going to ask you what -- about valid
10:17:46 17 sources of information that someone is not a U.S. citizen.

10:17:50 18 Would your office consider anything beyond a
10:17:53 19 government or voter registration database information that
10:17:55 20 someone is not a U.S. citizen?

10:17:59 21 MR. MORGAN: Form.

10:18:00 22 MR. LANGHOFER: Form. Calls for legal
10:18:02 23 conclusion.

10:18:02 24 THE WITNESS: I'm not an attorney, and I
10:18:04 25 don't know how to answer that question.

10:18:07 1 BY MR. SHERMAN:

10:18:07 2 Q. Okay.

10:18:12 3 MR. SHERMAN: Craig and Kory, do you want to
10:18:13 4 enter -- I have 13 questions that are all scenarios here.

10:18:16 5 Do you want to enter a global form and calls
10:18:19 6 for a legal conclusion objection to each of them?

10:18:22 7 MR. LANGHOFER: That -- that sounds good. I
10:18:24 8 don't -- I don't like interrupting with objections, so as
10:18:26 9 long as you're good with that, let's do it.

10:18:28 10 MR. MORGAN: Yeah. I'm sorry. Are we doing
10:18:30 11 this for the rest of the deposition -- which is fine with
10:18:32 12 me -- or just for the next, like, 18 questions? I don't
10:18:36 13 know -- I need a little more precision.

10:18:38 14 MR. SHERMAN: Just -- just for this series of
10:18:39 15 questions where I'm asking different scenarios about what
10:18:42 16 constitutes a valid source of information.

10:18:45 17 MR. MORGAN: I'll tell you what -- I'm okay
10:18:45 18 with it. Do me a solid, Jon; when you get to the point
10:18:49 19 where you no longer want the global objection to be
10:18:54 20 automatically applied, let us know.

10:18:55 21 MR. SHERMAN: Yep.

10:18:57 22 MR. MORGAN: Thank you.

10:18:57 23 MR. SHERMAN: Okay.

10:18:57 24 MR. LANGHOFER: Thank you.

10:18:58 25 MR. SHERMAN: Just trying to make things more

10:18:58 1
10:19:01 2
10:19:01 3
10:19:07 4
10:19:10 5
10:19:11 6
10:19:16 7
10:19:18 8
10:19:19 9
10:19:21 10
10:19:25 11
10:19:28 12
10:19:28 13
10:19:34 14
10:19:35 15
10:19:35 16
10:19:39 17
10:19:40 18
10:19:47 19
10:19:50 20
10:19:52 21
10:19:53 22
10:19:56 23
10:19:57 24
10:19:58 25

efficient.

BY MR. SHERMAN:

Q. Can a phone call from the voter constitute a --
information that someone is not a U.S. citizen?

A. No.

Q. Can an email or call from the voter in question
constitute information that that person is not a U.S.
citizen?

A. No.

Q. How about a phone call from a member of the voter
or voter registration applicant's family?

A. No.

Q. Can it be a letter from a neighbor of the voter or
voter registration applicant?

A. No.

Q. What about a phone call from law enforcement in
Arizona?

A. No. No.

Q. Okay. An email or letter from law enforcement in
Arizona?

A. No.

Q. An email or letter from law enforcement in another
state?

A. No.

Q. How about an anonymous call?

10:20:04 1

A. No.

10:20:06 2

Q. An anonymous email address -- excuse me -- an

10:20:09 3

anonymous email?

10:20:10 4

A. No.

10:20:12 5

Q. What about lists provided by third-party

10:20:16 6

organizations like True the Vote, would that constitute a

10:20:19 7

valid source of information that someone is not a U.S.

10:20:21 8

citizen?

10:20:21 9

A. No.

10:20:22 10

Q. Okay.

10:20:25 11

MR. SHERMAN: So that's the end of the

10:20:28 12

stipulated global objection. So we're just returning to

10:20:32 13

normal.

10:20:33 14

BY MR. SHERMAN:

10:20:34 15

Q. By what means can you confirm the authenticity of

10:20:37 16

such information that a voter registration applicant or a

10:20:41 17

registered voter is not a U.S. citizen?

10:20:48 18

A. Say that one more time, please.

10:20:50 19

Q. Sure.

10:20:51 20

By what means can you confirm the

10:20:53 21

authenticity of information that a voter or voter

10:20:58 22

registration applicant is not a U.S. citizen?

10:21:01 23

A. We don't have the ability to confirm authenticity.

10:21:06 24

Like, are you talking about the authenticity of a document?

10:21:08 25

We don't have that ability in the registration department.

10:21:14 1 We run HAVA checks. That's done above us.

10:21:19 2 Q. So if you obtain information or data from any
10:21:23 3 source other than the HAVA check that suggests a person was
10:21:28 4 not a U.S. citizen at some point in the past, you have no
10:21:32 5 ability to confirm the authenticity of that information.
10:21:36 6 Is that your testimony?

10:21:38 7 A. Yes.

10:21:40 8 Q. Okay. Has the Secretary of State's Office ever
10:21:44 9 given you a list of information that constitutes evidence
10:21:46 10 of a lack of U.S. citizenship?

10:21:48 11 A. No, I don't believe so.

10:21:55 12 Q. What if you identify a registered voter who has
10:21:58 13 already satisfied the DPOC requirement -- and when I say
10:22:02 14 "DPOC requirement," I mean the documentary proof of
10:22:03 15 citizenship --

10:22:03 16 A. Proof of citizenship. I know what DPOC is.

10:22:05 17 Q. Right.

10:22:06 18 -- but still holds an F-type license, is that
10:22:09 19 information that the registered voter is not, in fact, a
10:22:13 20 U.S. citizen?

10:22:16 21 I'll strike this. I think you've already
10:22:17 22 answered this. You've already answered this.

10:22:19 23 A. Thank you, sir.

10:22:20 24 Q. What if you had -- of course. I'm not -- I'm not
10:22:24 25 here to ask it twice, to be duplicative.

10:22:27 1 What if you identify a registered voter who
10:22:29 2 is exempt from the DPOC requirement and has never shown
10:22:32 3 DPOC because they registered prior to when DPOC went into
10:22:37 4 effect, is the fact that they've never shown DPOC
10:22:41 5 information showing that they're not a U.S. citizen?

10:22:43 6 A. I don't know how to answer that question. I don't
10:22:45 7 know.

10:22:47 8 Q. But your office wouldn't draw a -- wouldn't draw
10:22:53 9 the conclusion that someone who was grandfathered into the
10:22:58 10 DPOC requirement -- they were exempt from the DPOC
10:23:01 11 requirement is per se suspect as a noncitizen?

10:23:08 12 A. We can go with that.

10:23:11 13 Q. I want to direct your attention to Exhibit 19,
10:23:19 14 which you pulled up, Petty Exhibit 19. If you scroll down
10:23:24 15 to -- this is top of page 5. This is in Subpart D, which
10:23:39 16 lists out a few of the databases your office would have to
10:23:43 17 consult.

10:23:52 18 You're at the top of page 5?

10:23:59 19 A. Starting with number 3, "The United States
10:24:01 20 Citizenship and Immigration" --

10:24:03 21 Q. Correct.

10:24:03 22 A. Okay.

10:24:04 23 Q. Correct. So under Number 5, it says -- and I'll
10:24:07 24 just read it -- "Any other state, city, town, county or
10:24:10 25 federal database and any other database relating to voter

10:24:14 1 registration to which the county recorder or officer in
10:24:16 2 charge of elections has access."

10:24:19 3 Do you have any idea what a database relating
10:24:21 4 to voter registration could be beyond the AVID system? Can
10:24:27 5 it be anything beyond the AVID system?

10:24:29 6 A. I don't know.

10:24:30 7 Q. Could it be a list of registered voters you
10:24:33 8 received from another Arizona agency?

10:24:36 9 A. I don't know.

10:24:38 10 MS. BOUGHTON: Form.

10:24:40 11 BY MR. SHERMAN:

10:24:40 12 Q. Could it be a list provided by a private group or
10:24:43 13 private citizen?

10:24:47 14 MR. LANGHOFER: Form. Calls for a legal
10:24:48 15 conclusion.

10:24:55 16 THE WITNESS: No.

10:24:56 17 BY MR. SHERMAN:

10:24:56 18 Q. You can -- you can answer.

10:24:56 19 A. No.

10:24:59 20 Q. Okay. Your response was "no"?

10:25:01 21 A. Correct.

10:25:02 22 Q. Okay. If we could just switch gears for one
10:25:08 23 moment to look at Exhibit G, also in the folder of
10:25:15 24 potential exhibits.

10:25:17 25 This is KEY -- Bates-stamped KEY 043. What

10:25:28 1 is this document?

10:25:30 2 A. This appears to be an email between a previous
10:25:34 3 recorder, Virginia Ross, and Jen Marson.

10:25:38 4 Q. And it appears to be authentic; yes?

10:25:42 5 MR. LANGHOFER: Form, foundation.

10:25:46 6 THE WITNESS: Sure. I don't know.

10:25:52 7 MR. SHERMAN: Can we mark this as Exhibit 93.

10:25:52 8 (The document was marked as Exhibit 93
10:25:52 9 for identification.)

10:25:59 10 BY MR. SHERMAN:

10:25:59 11 Q. And what's -- what's the substance of this email
10:26:02 12 exchange?

10:26:03 13 A. Question regards to an amendment change to HB 2617
10:26:13 14 if the amendment would change position.

10:26:16 15 Q. And do you recall HB 2617?

10:26:21 16 A. There's a lot of numbers in my world.

10:26:27 17 Q. Fair enough.

10:26:28 18 We could call this up, but do you recall that
10:26:36 19 Governor Ducey vetoed this bill prior to HB 2243 being
10:26:39 20 enacted?

10:26:40 21 A. I do not recall that.

10:26:42 22 Q. Okay. And I assume, then, you don't -- you don't
10:26:45 23 recall why Virginia Ross opposed HB 2617?

10:26:51 24 A. That would be BD, Before Dana. I do not know.

10:26:55 25 Q. Got it.

10:26:57 1 Were you -- you weren't in the office at that
10:27:00 2 time?

10:27:00 3 A. I was.

10:27:02 4 Q. But you weren't part of meetings about HB 2617?

10:27:06 5 A. I do not recall this.

10:27:08 6 Q. Okay. Fair enough.

10:27:10 7 If we could go back to -- actually, if we
10:27:14 8 could go to Exhibit -- Petty Exhibit 21, which we've
10:27:19 9 dropped in the Dropbox.

10:27:23 10 And you'll recognize this as HB -- the
10:27:25 11 chaptered version of the HB 2243?

10:27:28 12 A. You've just got to give me a second because now
10:27:31 13 I'm --

10:27:31 14 Q. Oh, yeah, yeah. I'll give you -- just let me know
10:27:35 15 when you're -- when you're there.

10:27:35 16 A. Okay.

10:27:46 17 Q. And if you could scroll up -- scroll down to the
10:27:48 18 top of page 4.

10:27:48 19 A. Page again, sir?

10:28:04 20 Q. Page 4 -- top of page 4. This is
10:28:09 21 Subsection 16-165(A)(10).

10:28:11 22 A. Proceed.

10:28:14 23 Q. So Subsection (A)(10) -- and I'll just read it for
10:28:14 24 the record.

10:28:17 25 It says, "When the county recorder obtains

10:28:20 1 information pursuant to this section and confirms that the
10:28:24 2 person registered is not a United States citizen."

10:28:28 3 Do you understand that phrase in HB 2243?

10:28:34 4 A. I'm not sure that we would be able to confirm. I
10:28:47 5 don't know.

10:28:50 6 Q. Down below in Subsections F through J -- I'll
10:28:58 7 stipulate for the record these were actually codified one
10:29:02 8 letter up, but here in the chaptered version it's F through
10:29:05 9 J. These are the database matching provisions in HB 2243;
10:29:16 10 correct?

10:29:16 11 MR. CAMERON: Objection; foundation. If you
10:29:20 12 know.

10:29:20 13 THE WITNESS: I don't know.

10:29:22 14 BY MR. SHERMAN:

10:29:23 15 Q. Do you want to take a second to review them?
10:29:24 16 It's --

10:29:24 17 A. Would you please? Because it's been a really long
10:29:28 18 time since we've been through any of these since we weren't
10:29:30 19 going to do anything with them. So to go back to this now
10:29:34 20 is -- you're going to have to give me a second to read
10:29:37 21 through this.

10:29:37 22 Q. Yeah. If you could just look through the bottom
10:29:40 23 of page 5, which is subsection -- Subpart F through J,
10:29:45 24 because I have a few questions on these. Thank you.

10:30:23 25 Just let me know when you're done with F

10:30:25 1
10:30:41 2
10:30:43 3
10:30:44 4
10:30:51 5
10:30:55 6
10:30:57 7
10:31:00 8
10:31:05 9
10:31:05 10
10:31:07 11
10:31:10 12
10:31:12 13
10:31:13 14
10:31:14 15
10:31:19 16
10:31:23 17
10:31:25 18
10:31:27 19
10:31:29 20
10:31:30 21
10:31:34 22
10:31:38 23
10:31:39 24
10:31:42 25

through J.

A. Please proceed.

Q. Okay. Thank you.

Do you think the provision we read before on obtaining information requires you to use these database matching procedures to obtain information of noncitizenship?

MR. LANGHOFER: Form. Calls for a legal conclusion.

THE WITNESS: That's correct. I don't know how to answer that, so I don't know.

BY MR. SHERMAN:

Q. Is it unclear?

A. It is unclear.

Q. Do you think that you're supposed to use these database matching provisions in Subparts F through J in the statute to confirm information that you obtained through other means?

MR. LANGHOFER: Same objection.

THE WITNESS: That's leading, because I don't have the ability to review other databases. I only have the ability to review what is put into the AVID dashboard.

BY MR. SHERMAN:

Q. Assuming these laws were -- went into effect and were implemented, would you understand the statute to be

10:31:46 1 requiring you to use Subparts F through J, those database
10:31:50 2 matching procedures, to confirm information of
10:31:54 3 noncitizenship that you would obtain through other sources,
10:31:58 4 other means?

10:32:00 5 MR. LANGHOFER: Same objection.

10:32:01 6 THE WITNESS: Well, I won't assume. But I
10:32:03 7 could say that, again, I don't have the ability to post
10:32:07 8 anything into the voter registration database. That is all
10:32:09 9 done by the Secretary of State's Office from their ability
10:32:12 10 from other databases, I believe.

10:32:18 11 BY MR. SHERMAN:

10:32:19 12 Q. Okay. Do -- do you understand that each of these
10:32:21 13 provisions in F through J would require your office to do a
10:32:25 14 monthly comparison of the voter registration database to
10:32:29 15 the enumerated databases in these provisions?

10:32:35 16 MR. LANGHOFER: Objection; foundation.

10:32:36 17 THE WITNESS: I -- I can't answer that
10:32:38 18 because you're asking me to say something that I wasn't
10:32:41 19 intending to do so . . .

10:32:44 20 BY MR. SHERMAN:

10:32:44 21 Q. Okay. Do you under -- in -- in Subparts G, H, and
10:32:49 22 J, they each begin with the phrase "To the extent
10:32:53 23 practicable." Do you understand what the Arizona
10:32:59 24 legislature meant by that phrase?

10:33:01 25 MR. CAMERON: Objection. Legal conclusion.

10:33:03 1 MR. LANGHOFER: Same objection.

10:33:04 2 THE WITNESS: How am I to assume what someone
10:33:07 3 else is trying to accomplish?

10:33:09 4 BY MR. SHERMAN:

10:33:09 5 Q. Would it be practicable to engage in a monthly
10:33:14 6 comparison of all of your county's voters against all of
10:33:18 7 the databases listed here?

10:33:20 8 MR. MORGAN: Form.

10:33:22 9 THE WITNESS: I can't answer that. I don't
10:33:24 10 know.

10:33:24 11 BY MR. SHERMAN:

10:33:30 12 Q. Would you struggle with that? Would your office
10:33:33 13 struggle with that?

10:33:34 14 MR. LANGHOFER: Relevance.

10:33:35 15 THE WITNESS: I don't know.

10:33:36 16 MR. MORGAN: Form.

10:33:37 17 BY MR. SHERMAN:

10:33:38 18 Q. Okay. So in Subpart H here, it says, "To the
10:33:42 19 extent practicable, each month the county recorder shall
10:33:46 20 compare persons who are registered to vote in that county
10:33:49 21 and who the county recorder has reason to believe are not
10:33:53 22 United States citizens . . . as prescribed" with -- "with
10:34:03 23 the Systematic Alien Verification For Entitlements program
10:34:06 24 maintained by the United States Citizenship and Immigration
10:34:09 25 Services to verify the citizenship status of the persons

10:34:14 1 registered."

10:34:15 2 What would give your office a reason to
10:34:16 3 believe a person is not a United States citizen?

10:34:22 4 A. The only ability we have right now is the HAVA
10:34:26 5 check.

10:34:27 6 Q. Right.

10:34:28 7 But going forward, if these laws were to be
10:34:32 8 implemented, what would give --

10:34:32 9 A. Again, I had no intention to implement 2492 or
10:34:36 10 2243. So to speak about what might happen in the future
10:34:41 11 seems neglectful on my part.

10:34:44 12 Q. Do you understand this phrase: "reason to believe
10:34:47 13 are not United States citizens"?

10:34:50 14 MR. LANGHOFER: Form. Calls for legal
10:34:51 15 conclusion.

10:34:51 16 THE WITNESS: I do not.

10:34:51 17 BY MR. SHERMAN:

10:34:51 18 Q. Okay. Is it unclear?

10:34:52 19 A. It is unclear.

10:34:54 20 Q. Has the Secretary of State's Office provided your
10:34:58 21 office with a list of what would give you and your staff a
10:35:01 22 valid reason to believe someone is not a United States
10:35:04 23 citizen?

10:35:04 24 A. No.

10:35:08 25 MR. SHERMAN: I'm going to ask the same

10:35:10 1 series of scenarios that I asked before.

10:35:12 2 Kory and Craig, do you want to enter the same
10:35:18 3 objection -- calls for a legal conclusion and form -- for
10:35:20 4 all of these 13 scenarios?

10:35:23 5 MR. LANGHOFER: Yes. Thanks, Jon.

10:35:24 6 MR. MORGAN: Yeah. Just let us know when
10:35:27 7 you're done so we know when to start objecting.

10:35:30 8 MR. SHERMAN: For sure.

10:35:31 9 BY MR. SHERMAN:

10:35:34 10 Q. Could anything beyond a government or voter
10:35:37 11 registration database give your office reason to believe
10:35:39 12 that someone is not a United States citizen?

10:35:45 13 A. I don't know.

10:35:48 14 Q. Could a phone call from the voter themselves
10:35:53 15 constitute reason to believe that that voter is not a
10:35:56 16 United States citizen?

10:35:57 17 A. No.

10:35:58 18 Q. Could an email from that voter in question
10:36:02 19 constitute a reason to believe that that voter is not a
10:36:06 20 United States citizen?

10:36:07 21 A. No.

10:36:07 22 Q. Could a signed letter from the voter give you
10:36:12 23 reason to believe that that voter is not a U.S. citizen?

10:36:15 24 A. Depends on the letter.

10:36:24 25 Q. How do you mean?

10:36:28 1 A. Well, anytime you're doing anything with voter
10:36:31 2 registration, what -- signatures are required. So it
10:36:33 3 depends on the format of the letter and if it meets current
10:36:36 4 statutes in 6166. So as far as your question, I would say
10:36:45 5 no.

10:36:47 6 Q. Okay. Is it possible that a signed formal letter
10:36:54 7 from the voter in question could give you reason to believe
10:36:57 8 that they're not a U.S. citizen if they're saying, "I'm not
10:37:00 9 a U.S. citizen," in that letter?

10:37:04 10 A. I don't know.

10:37:06 11 Q. Okay.

10:37:06 12 A. I would defer --

10:37:06 13 Q. Okay. It's --

10:37:06 14 THE COURT REPORTER: I'm sorry. What was the
10:37:06 15 end of that?

10:37:07 16 THE WITNESS: I would defer to my counsel on
10:37:12 17 that.

10:37:13 18 BY MR. SHERMAN:

10:37:13 19 Q. Is it unclear?

10:37:16 20 A. It is unclear.

10:37:18 21 Q. How about a phone call from a member of the
10:37:22 22 voter's family --

10:37:22 23 A. No.

10:37:22 24 Q. -- would that give you reason to believe --

10:37:25 25 Okay. How about a letter from a -- a

10:37:26 1 neighbor of the voter?

10:37:27 2 A. No.

10:37:28 3 Q. Would a phone call from law enforcement in Arizona
10:37:32 4 give your office reason to believe that someone's not a
10:37:35 5 U.S. citizen?

10:37:36 6 A. No.

10:37:37 7 Q. Would a phone call from law enforcement in another
10:37:40 8 state?

10:37:42 9 A. No.

10:37:43 10 Q. Would an email or letter from law enforcement in
10:37:46 11 Arizona give your office reason to believe that a
10:37:49 12 registered voter is not a U.S. citizen?

10:37:50 13 A. No.

10:37:51 14 Q. Would any email or letter from law enforcement in
10:37:55 15 another state?

10:37:57 16 A. No.

10:37:59 17 Q. How about an anonymous call?

10:38:01 18 A. No.

10:38:02 19 Q. An anonymous email?

10:38:04 20 A. No.

10:38:07 21 Q. What about lists provided by third-party
10:38:09 22 organizations like True the Vote, would that give your
10:38:12 23 office reason to believe that a registered voter was not a
10:38:15 24 U.S. citizen?

10:38:15 25 A. No.

10:38:16 1 Q. What if the registered voter transposed the first
10:38:20 2 and last name on the registration application so that their
10:38:23 3 first name was in the last-name field and the last name was
10:38:26 4 in the first-name field, would that give your office reason
10:38:29 5 to believe that they were not a U.S. citizen?

10:38:30 6 A. No.

10:38:32 7 Q. What if the registered voter recorded a foreign
10:38:35 8 place of birth on their form?

10:38:40 9 A. No.

10:38:42 10 Q. What if you identify a registered voter who has
10:38:48 11 already satisfied the DPOC requirement but still holds an
10:38:49 12 F-type license in the MVD database, is that reason to
10:38:53 13 believe they're not in fact a U.S. citizen?

10:38:56 14 A. No.

10:38:57 15 Q. And registered voters who are exempt from the DPOC
10:39:03 16 requirement because they registered before it took effect,
10:39:06 17 would that failure to show DPOC under this exemption give
10:39:10 18 your office a reason to believe they are not U.S. citizens?

10:39:20 19 A. I don't know the answer to that.

10:39:23 20 Q. It's unclear?

10:39:25 21 A. Yes.

10:39:26 22 Q. Okay.

10:39:29 23 MR. SHERMAN: Okay. That -- that should
10:39:30 24 conclude the end of our stipulated global objections, so
10:39:33 25 back to normal now.

10:39:36 1 BY MR. SHERMAN:

10:39:37 2 Q. Has the Secretary of State's Office provided your
10:39:40 3 office with a list of what will not give you or your staff
10:39:43 4 a valid reason to believe someone is not a U.S. citizen?

10:39:47 5 A. No.

10:39:49 6 Q. Thank you, Ms. Lewis.

10:39:51 7 If we could go back just to Exhibit 19 for
10:39:56 8 one minute. This is, again, HB 2492, for the record.

10:40:11 9 If you could scroll down to 16-143. This is
10:40:21 10 on page -- page 7.

10:40:27 11 A. Okay.

10:40:28 12 Q. Section -- you've got it already? Oh, great.

10:40:33 13 If you want to take a second just to refresh
10:40:36 14 your memory on what this section says, particularly in
10:40:38 15 Subpart A of 16-143.

10:40:58 16 And the list of registered voters that's
10:41:01 17 described in Subpart A, you didn't provide this list on or
10:41:05 18 before October 31st of 2022, did you?

10:41:09 19 A. You cut out as you were asking that question, sir.

10:41:09 20 Q. Oh.

10:41:13 21 A. Please repeat it.

10:41:13 22 Q. I apologize. I apologize.

10:41:14 23 Did you provide the list of registered voters
10:41:19 24 described in Subpart A on or before October 31st, 2022?

10:41:23 25 A. No.

10:41:24 1 Q. Okay. Because the deadlines of October 31st,
10:41:30 2 2022, and March 31st, 2023, noted in this provision have
10:41:34 3 come and gone, is your office no longer required by this
10:41:38 4 provision to submit to the attorney general a list of
10:41:40 5 registered voters who have not shown satisfactory DPOC?

10:41:45 6 MR. LANGHOFER: Objection.

10:41:47 7 MS. BOUGHTON: Calls for a legal conclusion.

10:41:51 8 MR. LANGHOFER: If you know.

10:41:51 9 THE WITNESS: I don't know.

10:41:52 10 BY MR. SHERMAN:

10:41:53 11 Q. Is it unclear?

10:41:54 12 A. It is unclear.

10:41:55 13 Q. Okay. Thank you, Ms. Lewis.

10:42:01 14 I'm -- go back now. I'm going to ask you
10:42:02 15 about each of the databases that these laws require --
10:42:05 16 would require your office to consult, starting with ADOT's
10:42:11 17 MVD driver license or nonoperating ID li- -- databases.

10:42:16 18 A. Where are we at now?

10:42:18 19 Q. Oh, we're not on any document. I was just --

10:42:20 20 A. Okay.

10:42:21 21 Q. And I don't have many documents left. I
10:42:26 22 appreciate it.

10:42:27 23 Currently, how do you use the MVD databases?

10:42:35 24 A. We don't use the MVD database.

10:42:41 25 Q. You perform HAVA checks, though; right?

10:42:44 1 A. We do, but that's built into our AVID system.

10:42:48 2 Q. Okay. And the HAVA check built into the AVID
10:42:50 3 system interfaces with the MVD driver license or ID
10:42:54 4 databases for purposes of identity and U.S. citizenship
10:42:58 5 verification; is that right?

10:43:01 6 A. I believe that's an accurate statement.

10:43:02 7 Q. Okay. Do you know what the user sees on screen
10:43:05 8 when they perform a HAVA check? Do you know what it --
10:43:08 9 what -- how it appears to them when they run the HAVA
10:43:11 10 check?

10:43:12 11 A. It's been a while since I've had to personally
10:43:16 12 accomplish this task, but yes.

10:43:18 13 Q. What does it show you if the person is a U.S.
10:43:22 14 citizen -- confirmed as a U.S. citizen?

10:43:28 15 A. It just gives us a checkmark, I believe. I want
10:43:32 16 to say I don't know because it has been that long since
10:43:35 17 I've --

10:43:35 18 Q. Fair enough.

10:43:35 19 A. -- actually administered that -- that part.

10:43:40 20 Q. Fair enough.

10:43:41 21 If you -- if you're not able to verify the
10:43:44 22 person as a U.S. citizen using the HAVA check, what do you
10:43:49 23 do at that point?

10:43:52 24 A. I don't know.

10:43:55 25 Q. I think we talked about this before; right?

10:43:58 1 Do you send them a notice letter?

10:44:00 2 A. We do.

10:44:02 3 Q. Okay. Can I direct you --

10:44:03 4 A. I had to think back to what the next proc- -- part

10:44:05 5 of that process is, and that is exactly what happens.

10:44:09 6 Q. Could I direct you to Exhibit I. This is PINAL 3.

10:44:15 7 It's just Bates-stamped 000003.

10:44:19 8 A. One moment as I toggle.

10:44:22 9 Q. Of course.

10:44:27 10 A. Did you say "I"?

10:44:29 11 Q. Exhibit I, yes.

10:44:36 12 A. Yes, sir, I recognize this form.

10:44:38 13 Q. What -- what is this form?

10:44:41 14 A. This would be the one that we were just previously

10:44:43 15 discussing.

10:44:45 16 Q. Could you -- could you just give a bit more

10:44:48 17 description as to what it -- what it is?

10:44:52 18 A. When there is -- when it comes up with a HAVA

10:44:54 19 check that it cannot be matched, this is the letter that is

10:44:57 20 then submitted to the registrant.

10:45:01 21 MR. SHERMAN: Could we mark this as, I

10:45:02 22 believe, Exhibit 93.

10:45:02 23 THE COURT REPORTER: 94.

10:45:04 24 MR. SHERMAN: Do I have that correct?

10:45:04 25 THE COURT REPORTER: 94.

10:45:07 1 MR. SHERMAN: 94. My apologies.

10:45:07 2 (The document was marked as Exhibit 94
10:45:20 3 for identification.)

10:45:20 4 BY MR. SHERMAN:

10:45:20 5 Q. How often do you encounter folks with F-type
10:45:24 6 licenses in the MVD database?

10:45:27 7 A. I don't know.

10:45:30 8 Q. Okay. Do you know how often your office receives
10:45:34 9 DPOC, confirming that that person has subsequently
10:45:38 10 naturalized?

10:45:40 11 A. Can you please repeat the question?

10:45:42 12 Q. Sure.

10:45:43 13 So for a person -- a voter registration
10:45:47 14 applicant who -- whose HAVA check shows that they had an
10:45:52 15 F-type license at some point and still has an F-type
10:45:54 16 license in the system, do you know how many of those folks
10:45:56 17 later submit DPOC, completing their registration and
10:46:02 18 becoming full-ballot voters?

10:46:04 19 A. I do not know and cannot give you numbers on that.

10:46:06 20 Q. Okay. Is there any effect if the driver's license
10:46:11 21 or ID is expired? Does that have any effect on the
10:46:15 22 process?

10:46:17 23 A. I don't know.

10:46:18 24 Q. What do you do if there's no match whatsoever in
10:46:22 25 the HAVA check? Do they also get a notice letter like

10:46:26 1
10:46:27 2
10:46:28 3
10:46:31 4
10:46:33 5
10:46:35 6
10:46:38 7
10:46:43 8
10:46:44 9
10:46:45 10
10:46:47 11
10:46:51 12
10:46:55 13
10:46:59 14
10:47:03 15
10:47:08 16
10:47:11 17
10:47:12 18
10:47:12 19
10:47:13 20
10:47:17 21
10:47:21 22
10:47:25 23
10:47:28 24
10:47:32 25

this?

A. Yes.

Q. So even if you can't identify the person
whatsoever, they get a notice letter like this?

A. That is correct.

Q. Okay. There's not a separate notice letter for
that scenario?

A. I don't believe so.

Q. Okay.

A. This covers everything.

Q. Got it.

Down below where -- under "Documentary Proof
of Citizenship Form," do you see where it lists as one of
the options "Legible Copy of Naturalization or Citizenship
Certificate or Certificate number"?

A. I don't know -- when you read in, I lose some of
your words

Can you say that again?

Q. Sorry.

In Exhibit I -- excuse me -- Exhibit 94,
which we've been talking about, the notice letter that you
sent out after the unverified HAVA check, do you see down
below under "Acceptable Documentary Proof of Citizenship"
where it says, "Legible Copy of Naturalization or
Citizenship Certificate or Certificate number"?

10:47:35 1 A. Yes, sir.

10:47:36 2 Q. What do you do with the -- is this calling for an
10:47:42 3 alien registration number or a naturalization certificate
10:47:46 4 number or both?

10:47:50 5 A. I don't know. I know we can use natural- -- I
10:47:59 6 don't know.

10:48:00 7 Q. So for nat- -- what do you do with naturalization
10:48:03 8 certificate numbers?

10:48:05 9 A. It goes in -- is it Box 19 of the form?

10:48:10 10 Q. Leaving -- leaving aside the state -- leaving
10:48:12 11 aside the state voter registration form for a second, what
10:48:15 12 do you -- what do you do when someone puts down their
10:48:17 13 naturalization certificate number on this notice letter and
10:48:20 14 returns it to your office?

10:48:25 15 A. We update it.

10:48:28 16 Q. Update -- update what?

10:48:30 17 A. AVID.

10:48:32 18 Q. You put the naturalization certificate number into
10:48:35 19 AVID?

10:48:35 20 A. Yes.

10:48:36 21 Q. Do you do anything else with the naturalization
10:48:38 22 certificate number?

10:48:39 23 A. I don't know.

10:48:41 24 Q. So does a naturalization certificate number
10:48:48 25 constitute valid DPOC?

10:48:59 1 A. Yes.

10:48:59 2 Q. Did your counsel give you the answer to that one?

10:49:05 3 A. No. Actually, I don't even know what he's
10:49:07 4 writing.

10:49:07 5 Q. Okay. The -- so what -- do you -- do you accept
10:49:16 6 that -- does the naturalization certificate number just on
10:49:19 7 its own constitute DPOC, or do you have to verify it in
10:49:22 8 some way?

10:49:26 9 A. There's a process that occurs that I cannot speak
10:49:29 10 through effectively because I don't do that process on a
10:49:32 11 daily basis.

10:49:34 12 Q. Who -- who does that process for your office?

10:49:37 13 A. Staff.

10:49:42 14 Q. Who in particular? Could you give us a name?

10:49:46 15 Just because this is a 30(b)(6) deposition,
10:49:48 16 we were expecting that someone -- the designees would be
10:49:51 17 able to testify to this process.

10:49:59 18 A. My registrars.

10:50:04 19 Q. Okay. So all -- all of the registrars engaged in
10:50:05 20 this -- in this process?

10:50:06 21 A. Yes.

10:50:08 22 Q. Okay. And all of your registrars have access to
10:50:14 23 USCIS's SAVE system?

10:50:14 24 A. No.

10:50:15 25 Q. Who -- who in your office has access to USCIS's

10:50:21 1 SAVE system?

10:50:24 2 A. Nicole Gillespie, Holly Robinson, and I'm sure a
10:50:38 3 few other staff that I -- I don't know exactly who all has
10:50:41 4 access to that.

10:50:43 5 Q. Okay. But you -- but you don't have access to the
10:50:45 6 USCIS SAVE system?

10:50:48 7 A. No.

10:50:49 8 Q. Okay. And you've not actually engaged in the SAVE
10:50:56 9 system verification process?

10:50:56 10 A. I have not.

10:50:57 11 MR. SHERMAN: Okay. We'll just note that for
10:51:03 12 the record as something that was relevant to the 30(b)(6)
10:51:07 13 deposition topics but the designee can't speak to. But
10:51:11 14 we'll move on.

10:51:11 15 BY MR. SHERMAN:

10:51:13 16 Q. Does your existing agreement --

10:51:13 17 MR. MORGAN: Jon, which topic? Which topic?

10:51:17 18 MR. SHERMAN: At least Topic 1 on
10:51:20 19 interpretation and implementation of HB 2492 and 2243 but
10:51:28 20 likely others, but I don't have it in front of me at the
10:51:31 21 moment.

10:51:31 22 BY MR. SHERMAN:

10:51:31 23 Q. Does your existing agreement with ADOT's Motor
10:51:37 24 Vehicle Division cover the uses outlined in HB 2492 and HB
10:51:40 25 2243?

10:51:41 1 A. Say it one more time, please, sir.

10:51:43 2 Q. Does -- does your existing agreement with the MVD
10:51:47 3 cover the uses outlined in HB 2492 and HB 2243?

10:51:54 4 A. Can you rephrase?

10:51:56 5 Q. Sure.

10:51:58 6 Do you -- do you have an agreement with MVD
10:52:01 7 to use their data for purposes of HAVA checks?

10:52:05 8 A. I do not.

10:52:05 9 Q. I mean your office. When you're testifying,
10:52:08 10 you're testifying on behalf of your office?

10:52:10 11 A. Right. But our office doesn't. It goes through
10:52:12 12 the AVID system --

10:52:13 13 Q. Okay.

10:52:14 14 A. -- and the Secretary of State's Office.

10:52:17 15 Q. And do you know whether that agreement between the
10:52:19 16 Secretary of State's Office and MVD covers the uses
10:52:23 17 outlined in HB 2492 and HB 2243?

10:52:26 18 A. I do not.

10:52:29 19 MR. MORGAN: Form.

10:52:30 20 BY MR. SHERMAN:

10:52:30 21 Q. Has your office encountered instances where a
10:52:33 22 voter registration applicant who is a United States citizen
10:52:36 23 was flagged erroneously as a noncitizen by way of a
10:52:42 24 search -- by way of a HAVA check?

10:52:43 25 A. I do not know.

10:52:44 1 Q. Okay. Do you recall an incident from last year
10:52:48 2 where database matching produced erroneous results and
10:52:52 3 caused the downgrading of thousands of voters to
10:52:56 4 federal-only voting status?

10:52:59 5 A. Say that one more time.

10:53:01 6 Q. Do you recall an incident from last year where
10:53:05 7 database matching produced errors and caused the
10:53:09 8 downgrading of thousands of voters to federal-only voting
10:53:13 9 status?

10:53:13 10 A. I do recall that.

10:53:15 11 Q. What happened?

10:53:17 12 A. There was a systematic issue with the --

10:53:25 13 Q. Sorry. Could you just -- could you just repeat
10:53:27 14 your answer? Someone wasn't on mute.

10:53:30 15 A. Oh. The question was about -- repeat it.

10:53:36 16 Q. Sure.
10:53:38 17 What happened in that incident we were just
10:53:40 18 talking about?

10:53:43 19 A. Are we talking about the incident where this was a
10:53:45 20 systematic error with the AVID system that downgraded --
10:53:48 21 downgraded people to fed-only ballots?

10:53:51 22 Q. That's correct.

10:53:53 23 A. We were notified by the Secretary of State's
10:53:55 24 Office that this situation had occurred. We were given
10:53:59 25 direction as to how to proceed and contacted the voters,

10:54:06 1 canceled ballots that were erroneously issued, and then
10:54:11 2 reissued a correct ballot.

10:54:13 3 Q. And how many voters in your county did this
10:54:16 4 affect?

10:54:17 5 A. I do not remember.

10:54:19 6 Q. Do you know how many voters statewide it affected?

10:54:24 7 A. I do not remember.

10:54:26 8 Q. Can we take a look quickly at Exhibit K. This is
10:54:34 9 marked -- Bates-stamped AZSOS-239148.

10:54:44 10 A. Yes.

10:54:44 11 Q. Do you recognize this document?

10:54:47 12 A. I do.

10:54:49 13 Q. And this was sent to you; right? You're in
10:54:53 14 the "to" line?

10:54:54 15 A. That's me.

10:54:55 16 Q. Great. Thank you.

10:54:57 17 MR. SHERMAN: And could we mark this as
10:55:00 18 Exhibit 95.

10:55:00 19 (The document was marked as Exhibit 95
10:55:03 20 for identification.)

10:55:03 21 BY MR. SHERMAN:

10:55:04 22 Q. Do you want to take a minute just to refresh your
10:55:08 23 memory, and particularly paragraph 3, which has some data?

10:55:10 24 A. Which would say that our county had 27 records
10:55:13 25 that returned a hard match, and 230 separate records might

10:55:19 1 be a soft match, out of which 19 received an early ballot
10:55:24 2 associated with them.

10:55:27 3 Q. Could you just say in layman's terms what all of
10:55:31 4 that means?

10:55:33 5 A. That about 237 people were potentially put into a
10:55:39 6 fed status that should not have been, so we had to reach
10:55:41 7 out to those voters. We had to cancel the incorrect ballot
10:55:47 8 style and then reissue ballots.

10:55:49 9 Q. Do you -- do you understand on a technical level
10:55:52 10 how this happened?

10:55:54 11 A. I do not understand the intricacies of the
10:56:01 12 development of their database system, no, sir.

10:56:03 13 Q. In light of this incident, what does this say to
10:56:08 14 you about the reliability of using database matching to
10:56:10 15 assess a person's current U.S. citizenship status?

10:56:14 16 MR. MORGAN: Form.

10:56:15 17 MR. LANGHOFER: Join.

10:56:19 18 THE WITNESS: I don't have an opinion.

10:56:21 19 BY MR. SHERMAN:

10:56:29 20 Q. Almost 250 voters in your county were affected by
10:56:33 21 this incident and almost lost their ability to vote in
10:56:37 22 state and local elections.

10:56:40 23 Would you say that that gives you pause about
10:56:43 24 using the MVD database and the HAVA check system as a
10:56:48 25 reliable indicator of current U.S. citizenship status?

10:56:52 1 A. I would not concur with that statement.

10:56:54 2 MR. LANGHOFER: Form and foundation.

10:56:55 3 BY MR. SHERMAN:

10:56:56 4 Q. Would you say that it makes you question the

10:56:58 5 reliability of using these databases to conclusively

10:57:04 6 determine whether they -- these registered voters have

10:57:07 7 previously shown DPOC?

10:57:10 8 MR. LANGHOFER: Asked and answered. Form.

10:57:15 9 THE WITNESS: I don't know.

10:57:17 10 BY MR. SHERMAN:

10:57:21 11 Q. Is it possible that if people could be erroneously

10:57:24 12 identified as not having shown DPOC and shortly before an

10:57:28 13 election, that they could be erroneously identified as

10:57:31 14 noncitizens under the laws challenged in this lawsuit?

10:57:35 15 MR. LANGHOFER: Form.

10:57:37 16 MS. BOUGHTON: Form.

10:57:37 17 MR. MORGAN: Form and foundation.

10:57:39 18 THE WITNESS: I don't know.

10:57:39 19 BY MR. SHERMAN:

10:57:40 20 Q. Is it possible?

10:57:42 21 MR. LANGHOFER: Same objection.

10:57:44 22 MR. MORGAN: Foundation.

10:57:55 23 BY MR. SHERMAN:

10:57:56 24 Q. This incident occurred shortly before the November

10:57:58 25 election last year; correct?

10:58:00 1 A. It occurred during early voting, that is correct.

10:58:02 2 Q. Okay. What does your office do -- strike that.

10:58:08 3 Can you use MVD databases to confirm that a
10:58:20 4 registered voter is not a U.S. citizen?

10:58:23 5 MR. LANGHOFER: Foundation.

10:58:25 6 THE WITNESS: I don't have the ability to use
10:58:26 7 the MVD database. We have the access to the AVID system.

10:58:31 8 BY MR. SHERMAN:

10:58:31 9 Q. Right. Can you -- can you use -- so I'll rephrase
10:58:34 10 it.

10:58:34 11 Can you use HAVA checks to confirm that
10:58:38 12 someone is not a United States citizen?

10:58:39 13 A. We do perform HAVA checks.

10:58:41 14 Q. Can you use HAVA checks to confirm they are not a
10:58:45 15 United States citizen?

10:58:46 16 A. I don't know.

10:58:47 17 Q. You have a process -- right? -- where you send out
10:58:50 18 a notice letter that we were discussing before; right?

10:58:53 19 So --

10:58:53 20 A. Yes, sir.

10:58:53 21 Q. -- you have to follow up with the voter if they
10:58:57 22 have some indication in the MVD system that they're not a
10:59:00 23 U.S. citizen and that they were not a U.S. citizen in the
10:59:03 24 past. Doesn't that mean that you can't use HAVA checks to
10:59:07 25 conclusively determine that someone is not a U.S. citizen

10:59:10 1 in the present day?

10:59:13 2 A. That is --

10:59:14 3 MS. BOUGHTON: Form.

10:59:15 4 BY MR. SHERMAN:

10:59:15 5 Q. What was -- what was the answer?

10:59:17 6 A. Would you please ask the question again?

10:59:20 7 Q. Sure.

10:59:22 8 Because you have a process to follow up with
10:59:24 9 the voter after the HAVA check indicates that they were not
10:59:29 10 a U.S. citizen at some point in the past, doesn't that mean
10:59:32 11 that you can't use HAVA checks to establish conclusively
10:59:37 12 that the person is not a U.S. United States citizen
10:59:40 13 currently?

10:59:40 14 MR. LANGHOFER: Form.

10:59:42 15 MR. MORGAN: Form, foundation.

10:59:44 16 MS. BOUGHTON: Form.

10:59:50 17 BY MR. SHERMAN:

10:59:50 18 Q. I'll withdraw the question. We can move on.

10:59:52 19 A. I was going to say I don't think I believe I
10:59:54 20 understand the question to be able to answer effectively.

10:59:57 21 Q. That's okay. I think we've covered it already.

11:00:00 22 In terms of resources, access, and training,
11:00:03 23 is it practicable for your office to use MVD driver license
11:00:08 24 or state ID databases for citizenship verification?

11:00:12 25 A. We use AVID.

11:00:14 1 MR. MORGAN: Form.

11:00:15 2 BY MR. SHERMAN:

11:00:16 3 Q. I'm sorry. I didn't hear the response.

11:00:17 4 A. We use AVID.

11:00:20 5 Q. Okay. In terms of resources, access, and
11:00:24 6 training, is it practicable for your office to run HAVA
11:00:28 7 checks every month on all of your county's voters?

11:00:31 8 MR. LANGHOFER: Form.

11:00:37 9 THE WITNESS: You're asking if we do it
11:00:38 10 monthly. We do it every time we do a voter registration.

11:00:42 11 BY MR. SHERMAN:

11:00:42 12 Q. Right.

11:00:42 13 So under -- under HB 2243, you'd be forced to
11:00:47 14 compare all of your county's registered voters to MVD
11:00:52 15 databases on a monthly basis. Is it practicable for your
11:00:55 16 office to do that?

11:00:56 17 A. I don't know.

11:00:58 18 Q. Okay. Have you had any discussions with your
11:01:04 19 staff about whether it would be practicable to do that?

11:01:06 20 A. No.

11:01:07 21 Q. HB 2492 instructs your office to use -- quote,
11:01:17 22 "Use all available resources to perform these MVD database
11:01:22 23 searches." Is that possible?

11:01:24 24 MR. LANGHOFER: Form.

11:01:26 25 THE WITNESS: I cannot speak to that because

11:01:29 1 we have not had the intention to implement any part of 2492
11:01:32 2 or 2243 so . . .

11:01:36 3 BY MR. SHERMAN:

11:01:36 4 Q. Fair enough.

11:01:37 5 Has your office ever been given a specific
11:01:40 6 list of means by which a voter registration applicant can
11:01:44 7 be deemed or proven a noncitizen?

11:01:47 8 A. I don't know.

11:01:49 9 Q. Has your office ever been given a specific list of
11:01:52 10 means by which a currently registered Arizona voter can be
11:01:56 11 deemed or proven a noncitizen?

11:01:58 12 A. No.

11:02:00 13 Q. Do you know what the SAVE system is?

11:02:05 14 I know we were talking about it before. Do
11:02:07 15 you know what it is?

11:02:10 16 A. I know it's something that exists.

11:02:16 17 Q. And you know it's something that your staff is
11:02:18 18 using?

11:02:19 19 A. That is correct.

11:02:20 20 Q. And do you know what they're using it for?

11:02:23 21 A. Yes.

11:02:33 22 Q. What are they using it for?

11:02:36 23 A. I thought a "yes" was going to be good enough.

11:02:42 24 They use it when they have to identify alien registration
11:02:46 25 numbers.

11:02:49 1 Q. And can they also use the naturalization
11:02:53 2 certificate number?

11:02:55 3 A. I don't know.

11:02:58 4 Q. The form we were looking at before called for a
11:03:04 5 naturalization certificate number, didn't it?

11:03:05 6 A. Yes it did, sir.

11:03:07 7 Q. Okay. Did -- did the form we were looking at
11:03:09 8 before, Exhibit 94 -- did it -- it's Exhibit I or
11:03:17 9 Exhibit 94 -- did it call for alien registration numbers?

11:03:21 10 A. Ask the question one more time.

11:03:43 11 Q. Does this form -- this notice letter, does it ask
11:03:46 12 the voter registration applicant for an alien registration
11:03:50 13 number?

11:03:54 14 A. No.

11:03:56 15 Q. Does your office know that a certificate of
11:04:01 16 naturalization number is different from an alien
11:04:04 17 registration number?

11:04:07 18 A. Yes.

11:04:09 19 Q. If you searched both an alien registration number
11:04:13 20 and a naturalization certificate number, do you know
11:04:16 21 anything about whether that increases the accuracy or
11:04:20 22 likelihood of a match in the SAVE system?

11:04:23 23 A. I don't know.

11:04:24 24 Q. Okay. Do you have -- how common is it for someone
11:04:33 25 to put down an alien registration number or a

11:04:36 1 naturalization certificate number on the Arizona voter
11:04:40 2 registration form?

11:04:40 3 A. I can't answer that.

11:04:42 4 MR. MORGAN: Foundation.

11:04:44 5 BY MR. SHERMAN:

11:04:46 6 Q. Okay. But there's a field on the Arizona voter
11:04:49 7 registration form for an alien registration number or
11:04:51 8 naturalization certificate number; correct?

11:04:53 9 A. Yes.

11:04:54 10 Q. Okay.

11:04:55 11 A. But you asked me --

11:04:57 12 Q. You just don't have --

11:04:58 13 A. Well, but you asked me to quantify that, and I
11:05:00 14 can't.

11:05:00 15 Q. Okay. Just wanted to clarify. I understand.

11:05:03 16 Could we look at what is marked as Exhibit L
11:05:12 17 in the folder.

11:05:22 18 Just let me know when you have it up.

11:05:26 19 A. Proceed.

11:05:27 20 Q. What is this document?

11:05:31 21 A. It appears to be an email from Leslie Hoffman to
11:05:38 22 Jen Marson.

11:05:39 23 Q. And those are both staff members in the Yavapai
11:05:45 24 County Recorder's Office?

11:05:45 25 A. That is not correct, sir.

11:05:48 1 Q. Who are they?

11:05:51 2 A. Leslie Hoffman was the previous recorder for
11:05:54 3 Yavapai, and Jen Marson works for HO. And I don't know who
11:05:54 4 Mike Gordon is.

11:05:54 5 MR. SHERMAN: Okay. Thank you.

11:06:03 6 Could we mark this email as Exhibit 96.

11:06:03 7 (The document was marked as Exhibit 96
11:06:10 8 for identification.)

11:06:10 9 BY MR. SHERMAN:

11:06:11 10 Q. Could you take a look at the fourth bullet down.

11:06:18 11 The fourth bullet down in this email reads,
11:06:20 12 "When we check alien registration numbers for
11:06:22 13 naturalization through DHS, we supply the number to check
11:06:26 14 against their database. They don't just provide their
11:06:29 15 whole database to us and I highly doubt that they would."
11:06:32 16 Do you have any way to speak to the veracity
11:06:36 17 or accuracy of this claim?

11:06:38 18 A. I'm not going to speak to somebody else's
11:06:40 19 statement, no.

11:06:41 20 Q. Okay. But you don't have access to the entire
11:06:44 21 contents of the SAVE system that USCIS administers; right?

11:06:49 22 A. I don't believe so.

11:06:50 23 Q. Okay. You -- all you can do is just -- if you
11:06:55 24 have an alien registration number, your office can query
11:06:58 25 that in the USCIS SAVE system; right?

11:07:02 1 A. That is correct.

11:07:02 2 Q. Do you have alien registration numbers for all
11:07:06 3 registered voters in Pima County?

11:07:10 4 A. I don't have anything in Pima County.

11:07:12 5 Q. Oh, I'm sorry. My bad. We're doing a lot of
11:07:17 6 these depositions. That is one edit that did not make it.
11:07:20 7 I will ask the question again.

11:07:21 8 Do you have alien registration numbers for
11:07:23 9 all registered voters in Pinal County?

11:07:26 10 A. That would be no.

11:07:28 11 Q. Do you have naturalization certificate numbers for
11:07:31 12 all registered voters in Pinal County?

11:07:34 13 A. No.

11:07:35 14 Q. Does the existing agreement with US -- do you
11:07:40 15 have an agreement directly with USCIS?

11:07:47 16 A. I don't believe so. I believe that we work with
11:07:50 17 the Secretary of State on that.

11:07:52 18 Q. Does the agreement between the USCIS and the
11:07:57 19 Arizona Secretary of State's Office cover the uses of the
11:08:01 20 SAVE system outlined in HB 2492 and HB 2243?

11:08:05 21 MR. MORGAN: Form, foundation.

11:08:07 22 THE WITNESS: I don't know.

11:08:09 23 BY MR. SHERMAN:

11:08:11 24 Q. Okay. Do you know if it's feasible to use the
11:08:13 25 SAVE system to determine a voter registration applicant's

11:08:17 1 current U.S. citizenship status?

11:08:19 2 A. I don't know.

11:08:20 3 Q. Same answer for registered voters' current U.S.
11:08:26 4 citizenship status?

11:08:26 5 A. Yes.

11:08:26 6 MR. MORGAN: Form.

11:08:29 7 BY MR. SHERMAN:

11:08:30 8 Q. Is it feasible to use the SAVE system to
11:08:33 9 conclusively determine a lack of U.S. citizenship?

11:08:38 10 A. I don't know.

11:08:42 11 Q. Can the SAVE system be used to confirm that a
11:08:44 12 registered voter is not a U.S. citizen?

11:08:48 13 A. I don't know.

11:08:48 14 Q. What does your office do if the SAVE system search
11:08:52 15 returns no match?

11:08:56 16 A. We would send them a letter.

11:09:02 17 Q. Okay. Do you engage in any follow-up process with
11:09:08 18 USCIS?

11:09:11 19 A. I don't know.

11:09:13 20 Q. Has your office ever engaged in an alternative
11:09:17 21 verification process with USCIS?

11:09:21 22 A. Repeat the question.

11:09:22 23 Q. Has -- surely.

11:09:24 24 Has your office ever engaged in an
11:09:27 25 alternative verification process with USCIS when you either

11:09:31 1 can't match someone or they are returned -- the information
11:09:37 2 shows that they're not a citizen?

11:09:40 3 A. No.

11:09:43 4 Q. Okay. Do you know if the memorandum of agreement
11:09:47 5 between the Arizona Secretary of State's Office and USCIS
11:09:52 6 requires county recorders to engage in an alternative
11:09:57 7 verification process?

11:09:59 8 MR. LANGHOFER: Form.

11:10:00 9 THE WITNESS: I don't know.

11:10:03 10 MR. LANGHOFER: Calls for a legal conclusion.

11:10:03 11 BY MR. SHERMAN:

11:10:04 12 Q. Could I have you look at --

11:10:10 13 THE COURT REPORTER: I'm sorry. If you could
11:10:10 14 just pause, Ms. Lewis, so I can hear the objections, that
11:10:11 15 would be great.

11:10:11 16 THE WITNESS: Apologies.

11:10:14 17 BY MR. SHERMAN:

11:10:15 18 Q. Could I have you look at Exhibit J in the folder.
11:10:27 19 The main thing I want to ask you about is the first email
11:10:30 20 in this series, which is, of course, sequential -- the
11:10:32 21 sequentially first email, which is at the bottom of page 2.

11:10:35 22 But if you could just take a look at the
11:10:37 23 chain and tell me what this document appears to be.

11:10:45 24 A. It appears to be an email between Kevin Fisher and
11:10:56 25 Janine Petty.

11:10:58 1 Q. And what is the subject matter of this?
11:11:04 2 Generally, what's the subject matter of this email chain?

11:11:08 3 A. "SAVE case response corrections."

11:11:13 4 MR. SHERMAN: Could we mark this as
11:11:15 5 Exhibit 97.

11:11:15 6 (The document was marked as Exhibit 97
11:11:19 7 for identification.)

11:11:19 8 BY MR. SHERMAN:

11:11:20 9 Q. If you could read through the chain -- scan
11:11:23 10 through the chain. But the main thing I'd ask you to read
11:11:26 11 is the bottom of this chain that was written by Kevin
11:11:29 12 Fisher at the SAVE program at USCIS to Janine Petty.

11:11:36 13 A. And Janine Petty is not an employee of mine.

11:11:41 14 Q. I understand. I just -- I'm going to ask you a
11:11:43 15 question about -- about this.

11:11:45 16 A. Okay.

11:11:47 17 Q. So the email at the bottom of this email chain
11:11:53 18 says, "Hi Janine, I left you a voicemail but wanted to
11:11:56 19 follow up by email. SAVE recently updated the way we
11:11:58 20 process cases. During that update we noticed that between
11:12:02 21 December 19, 2018 and January 10, 2019, we may have
11:12:07 22 inadvertently returned some inaccurate responses for some
11:12:10 23 of your cases. We can send you a list of those cases for
11:12:13 24 your review. If you would like to create a new case based
11:12:16 25 on this new information to ensure that your records are

11:12:18 1 accurate, I encourage you to do so. We are sorry for any
11:12:22 2 inconvenience."

11:12:23 3 Does this email indicate that the USCIS SAVE
11:12:29 4 system was returning inaccurate data for some queries for
11:12:34 5 the period of about a month?

11:12:36 6 MR. MORGAN: Form, foundation.

11:12:43 7 THE WITNESS: So you're asking me to respond
11:12:45 8 on an email that was sent to the Secretary of State's
11:12:49 9 Office from somebody from Department of Homeland Security
11:12:52 10 about what he wrote?

11:12:56 11 BY MR. SHERMAN:

11:12:56 12 Q. Just asking, yeah, for the subject matter of what
11:12:58 13 I just read.

11:13:00 14 Does it indicate -- does it indicate that
11:13:01 15 SAVE was returning erroneous data between December 19,
11:13:07 16 2018, and January 10, 2019?

11:13:09 17 MR. LANGHOFER: Same objection.

11:13:13 18 THE WITNESS: It says "may."

11:13:19 19 BY MR. SHERMAN:

11:13:19 20 Q. Okay. Do you recall -- were you -- were you with
11:13:23 21 the office back in February 12th, 2019?

11:13:26 22 A. That was BD, Before Dana.

11:13:28 23 Q. Okay. That's also B -- BD.

11:13:30 24 So you're not familiar with the user Sandra
11:13:37 25 Tapia in Pinal County?

11:13:37 1 A. May her memory be a blessing, and she is no longer
11:13:40 2 with us.

11:13:42 3 Q. Sorry to hear.

11:13:44 4 Okay. We can -- we can move on.

11:13:55 5 So just to confirm, you're not familiar with
11:13:58 6 USCIS's alternative verification process?

11:14:00 7 A. I am not.

11:14:02 8 Q. Okay. Would you agree that SAVE can be used to
11:14:10 9 confirm U.S. citizenship but cannot be used to confirm a
11:14:13 10 lack of U.S. citizenship?

11:14:14 11 MR. LANGHOFER: Form.

11:14:15 12 THE WITNESS: I don't know.

11:14:16 13 BY MR. SHERMAN:

11:14:17 14 Q. Has your office been communicating with USCIS
11:14:19 15 about HB 2492 or HB 2243?

11:14:24 16 A. No.

11:14:25 17 Q. Do you know whether the secretary -- Secretary of
11:14:28 18 State's Office has?

11:14:32 19 A. I don't know.

11:14:34 20 Q. Okay. HB 2243 requires you to compare the
11:14:40 21 county's voters. I think we've covered this already.

11:14:41 22 So on the Social Security Administration
11:14:47 23 databases, which are also referenced in both of the
11:14:49 24 challenged laws, do you have any knowledge of the Social
11:14:53 25 Security Administration's databases?

11:14:56 1 A. Are you asking me if I know that it exists?

11:15:00 2 Q. I'll ask a more specific question. I'll retract
11:15:03 3 that.

11:15:03 4 Do you have any knowledge of whether the
11:15:05 5 Social Security Administration's databases can be used for
11:15:09 6 U.S. citizenship verification?

11:15:11 7 A. I don't know.

11:15:12 8 Q. Can SSA databases be used to confirm a lack of
11:15:16 9 U.S. citizenship?

11:15:17 10 A. I don't know.

11:15:20 11 Q. You don't know any -- do you know anything about
11:15:22 12 the reliability of citizenship information in the SSA's
11:15:26 13 databases?

11:15:26 14 A. I do not know.

11:15:30 15 Q. Do you use SSA databases or interface with them
11:15:32 16 for any other purpose?

11:15:34 17 A. We interface with AVID.

11:15:37 18 Q. Does the HAVA check, through AVID, interface with
11:15:41 19 SSA databases in any way?

11:15:43 20 A. I do not know.

11:15:46 21 Q. Okay. Do you know who in your office would know?

11:15:51 22 A. Anything from outside databases would be pushed to
11:15:55 23 the AVID system through the Secretary of State's Office,
11:15:58 24 and we would have access to it through our dashboard in
11:16:01 25 AVID.

11:16:02 1 Q. Understood.

11:16:04 2 So I have only a little bit left on my
11:16:07 3 outline. I know we've been going for a bit. And I have
11:16:09 4 some other questions on documentary proof of residence,
11:16:14 5 which is relatively short, that I was going to ask.

11:16:17 6 Can I finish just these last -- this last
11:16:19 7 page and a half, take a break for 10, 15 minutes, and then
11:16:23 8 I'll do the DPOR questions and then turn it over to one my
11:16:27 9 colleagues? Does that sound like a plan?

11:16:31 10 A. Let's rock and roll.

11:16:32 11 Q. All right. Would it be practicable to compare all
11:16:35 12 of your county's voters to Social Security Administration
11:16:40 13 databases on a monthly basis if you had access?

11:16:47 14 A. I don't know.

11:16:49 15 Q. Have you ever heard of the National Association
11:16:52 16 for Public Health Statistics and Information Systems?

11:17:00 17 A. Department of Public Health and Human Services?

11:17:06 18 Q. No. This is a different entity.

11:17:10 19 The National Association for Public Health
11:17:15 20 Statistics and Information Systems, have you ever heard of
11:17:17 21 them?

11:17:17 22 A. Doesn't ring a bell.

11:17:19 23 Q. Do you have any familiarity with their database:
11:17:21 24 the Electronic Verification of Vital Events database?

11:17:28 25 A. Not by that name.

11:17:30 1 Q. Okay. And so no knowledge of whether it contains
11:17:36 2 U.S. citizenship data or not?

11:17:38 3 A. That would be an accurate statement.

11:17:41 4 Q. Okay. We can skip the rest of this then.

11:17:44 5 You're familiar with the Electronic
11:17:50 6 Registration Information Center, or ERIC?

11:17:52 7 A. Yes.

11:17:52 8 Q. And what is it?

11:17:55 9 A. It is a system that is subscribed to by the
11:18:00 10 Arizona Secretary of State's Office.

11:18:03 11 Q. And what's its purpose -- sorry. Go ahead.

11:18:08 12 A. To -- sorry. Apologies. To identify cross-state
11:18:13 13 voter matches.

11:18:17 14 Q. Do you use it for U.S. citizenship verification?

11:18:22 15 A. No.

11:18:23 16 Q. Can it be used for U.S. citizenship verification?

11:18:26 17 A. I don't know.

11:18:28 18 Q. Do you know if ERIC contains any U.S. citizenship
11:18:32 19 data whatsoever?

11:18:35 20 A. I don't know.

11:18:36 21 Q. Okay. Do you have the ability to search or
11:18:40 22 interface with any other government databases with U.S.
11:18:44 23 citizenship data?

11:18:46 24 A. Other than the ones we've previously addressed?

11:18:48 25 Q. Correct.

11:18:49 1 A. No, I don't.

11:18:51 2 Q. Other than the HAVA check, is there anything --

11:18:54 3 A. Other than the HAVA check or the SAVE system,
11:18:58 4 there are no other -- no others that we interface with.

11:18:58 5 Q. Understood.

11:19:00 6 Has your office been communicating with any
11:19:02 7 other person or entity regarding the use of any other
11:19:04 8 database for citizenship verification?

11:19:08 9 A. No.

11:19:08 10 Q. If you were compelled by one of these new laws --
11:19:27 11 if you were required to use multiple databases at once to
11:19:33 12 conduct citizenship verification, what would your office do
11:19:36 13 with conflicting information between those databases?

11:19:43 14 MR. LANGHOFER: Form. Calls for speculation.

11:19:44 15 MR. MORGAN: Form.

11:19:49 16 THE WITNESS: I can't answer that.

11:19:52 17 BY MR. SHERMAN:

11:19:52 18 Q. Okay. There's no guidance yet on that; right?

11:19:55 19 A. Correct.

11:20:02 20 Q. Just one last question on this out- -- on this
11:20:04 21 outline, then we can take a break.

11:20:07 22 If a registered voter is removed from the
11:20:10 23 rolls under HB 2243 based on an erroneous determination
11:20:15 24 that they are not a U.S. citizen, can that voter be added
11:20:19 25 back to the rolls if the registration deadline has already

11:20:22 1 passed?

11:20:25 2 MR. LANDHOFER: Form, foundation

11:20:26 3 MS. BOUGHTON: Form.

11:20:32 4 THE WITNESS: I'm trying, Cindy.

11:20:32 5 Well, since we have not had the intention to
11:20:38 6 implement anything with 2492 or 2243, I can't answer that.

11:20:41 7 BY MR. SHERMAN:

11:20:41 8 Q. All right. So I'll ask it separate and apart from
11:20:44 9 HB 2243.

11:20:46 10 Currently, if you determined after the book
11:20:51 11 closing -- after the registration deadline that someone was
11:20:54 12 erroneously removed from the rolls, can you add that person
11:20:57 13 back to the rolls?

11:21:00 14 MR. LANGHOFER: Form.

11:21:01 15 THE WITNESS: I guess I can't answer that.

11:21:02 16 Because how would we erroneously remove somebody from the
11:21:05 17 rolls?

11:21:07 18 BY MR. SHERMAN:

11:21:09 19 Q. Say you relied on incorrect information that they
11:21:13 20 had been convicted of a felony and removed them from the
11:21:18 21 rolls on that basis but then a government agency --
11:21:23 22 Department of Corrections, et cetera -- contacted you and
11:21:25 23 said, "Actually, that was a mistake. We had the wrong
11:21:28 24 person," and this all happened and that came to light after
11:21:32 25 the registration deadline, what would happen with that

11:21:35 1 registered voter?

11:21:36 2 MR. MORGAN: Form.

11:21:40 3 THE WITNESS: I can't answer that. I can't
11:21:47 4 imagine in a million years that -- I don't know.

11:21:50 5 BY MR. SHERMAN:

11:21:51 6 Q. Is it laid out clearly anywhere in the currently
11:21:54 7 operative Election Procedures Manual?

11:21:57 8 MR. LANGHOFER: Form.

11:22:02 9 THE WITNESS: You had several questions in
11:22:04 10 there that were conflicting to each other. So if you would
11:22:06 11 ask those again one at a time, I might be able to address
11:22:09 12 them.

11:22:10 13 BY MR. SHERMAN:

11:22:11 14 Q. Sure.

11:22:12 15 I just want to know what your current
11:22:14 16 practice is if your office learns that someone was removed
11:22:18 17 in error and you don't learn of that until after the book
11:22:22 18 closing, after the registration deadline. What do you do
11:22:25 19 with that erroneously removed registered voter?

11:22:40 20 A. I can't answer that because you're asking for a
11:22:44 21 process. That's dual-faceted. You're putting a word in
11:22:50 22 there that is a bit confusing, because when you're talking
11:22:52 23 about books closing and our ability to deal with live data,
11:22:56 24 that's conflicting.

11:22:58 25 Q. Okay. I -- I'll restate it just one more time

11:23:02 1 without "book closing" if that's --

11:23:05 2 A. That would be better.

11:23:05 3 Q. -- confusing.

11:23:06 4 A. Thank you.

11:23:06 5 Q. Okay. If you learned that a registered voter was
11:23:09 6 removed in error and you learn of that information after
11:23:14 7 the registration deadline, what do you do next? Can you
11:23:21 8 reinstate that registered voter?

11:23:24 9 MR. LANGHOFER: Form.

11:23:29 10 THE WITNESS: It all depends where we're at
11:23:34 11 with stuff. And they just changed AVID, so I -- I'm not
11:23:40 12 comfortable answering that question because there's --

11:23:40 13 BY MR. SHERMAN:

11:23:40 14 Q. Fair enough.

11:23:40 15 A. -- complications there.

11:23:40 16 THE COURT REPORTER: "Because there's" what?

11:23:47 17 THE WITNESS: There's complications to the
11:23:47 18 question in which -- the way it's being stated and the
11:23:49 19 processes that are currently in place.

11:23:52 20 BY MR. SHERMAN:

11:23:52 21 Q. It may depend on the circumstances or timing --

11:23:55 22 A. Absolutely. Absolutely.

11:23:57 23 Q. Okay. And so it might vary from circumstance to
11:24:00 24 circumstance?

11:24:01 25 A. That is correct.

11:24:02 1 Q. Is it laid out in the EPM anywhere?

11:24:06 2 MR. LANGHOFER: Form.

11:24:09 3 THE WITNESS: I can't answer that. I
11:24:12 4 don't -- I don't --

11:24:14 5 BY MR. SHERMAN:

11:24:14 6 Q. Fair enough.

11:24:15 7 MR. SHERMAN: Thank you, Ms. Lewis. I have
11:24:18 8 some additional questions, not too many, on documentary
11:24:20 9 proof of residence, but would now be a good time for a
11:24:25 10 break? Would 10 or 15 minutes work?

11:24:28 11 THE WITNESS: Sure.

11:24:30 12 MR. SHERMAN: Can we take 15 minutes and come
11:24:32 13 back at what should be 11:39 a.m. Arizona time?

11:24:40 14 THE WITNESS: Works for me.

11:24:42 15 MR. SHERMAN: Okay. All right. Thank you so
11:24:43 16 much.

11:24:47 17 THE VIDEOGRAPHER: This has ended and we're
11:24:53 18 off the record. Time on monitor is 11:24. This will end
11:24:59 19 Media 1.

11:25:16 20 (A recess ensued.)

11:40:37 21 THE VIDEOGRAPHER: Okay. We are on -- we are
11:40:44 22 back on record. Time on the monitor is 11:40. And we
11:40:52 23 are -- this begins Media 2.

11:40:57 24 MR. SHERMAN: So, Ms. Lewis, thank you for
11:40:59 25 your time today. I'm done. I'm going to turn it over to

11:41:03 1 my colleagues to ask you further questions.

11:41:05 2 Again, thank you for your time.

11:41:06 3 THE WITNESS: Thank you, sir.

11:41:09 4

11:41:09 5 EXAMINATION

11:41:09 6 BY MS. KELTY:

11:41:09 7 Q. Hi, Ms. Lewis.

11:41:13 8 A. Hello, Ms. Kelty.

11:41:14 9 Q. I'm Samantha Kelty. I'm an attorney with the
11:41:17 10 Native American Rights Fund in D.C., and I represent two
11:41:21 11 tribes -- the Tohono O'odham and Gila River -- as well as
11:41:24 12 three individual plaintiffs. So I'll have a few questions
11:41:27 13 for you about the DPOR requirement. So let's start by
11:41:32 14 talking about the current residential address provisions.

11:41:37 15 In order to register to vote, applicants are
11:41:39 16 required to provide their residential address, or if they
11:41:43 17 don't have a residential address, a description or a
11:41:47 18 drawing of the location of their address -- location of
11:41:50 19 their residence; is that right?

11:41:53 20 A. Yes, ma'am.

11:41:53 21 Q. And a post office box cannot be used to meet that
11:41:59 22 requirement; correct?

11:42:00 23 A. Correct.

11:42:03 24 Q. Okay. You sound like you're questioning your
11:42:09 25 answer.

11:42:09 1 Did you have a follow-up there?

11:42:10 2 A. With nonstandard addresses, there are other tasks
11:42:15 3 that are accomplished. So if they do not have a standard
11:42:20 4 address, we are able to use the P.O. box, understanding it
11:42:30 5 is not a residential address.

11:42:32 6 Q. And how would you do that?

11:42:34 7 A. Guidelines from the Gila River Indian Community.

11:42:42 8 Q. Okay. Yeah, I definitely want to talk about those
11:42:45 9 guidelines here in a second.

11:42:47 10 How do you use residence address or location
11:42:53 11 information for voter registration?

11:42:57 12 A. Can you explain the question, please?

11:42:59 13 Q. So when applicants provide their residential
11:43:06 14 address or a description or a drawing of the location of
11:43:09 15 their residence, how do you use that information to then
11:43:13 16 register them to vote?

11:43:18 17 A. We use it.

11:43:23 18 Q. What is the information used for?

11:43:31 19 A. I don't understand.

11:43:34 20 Q. Why is it important that you have a residence
11:43:38 21 address or location information for voter registration?

11:43:42 22 A. To send them documentation.

11:43:45 23 Q. What documentation?

11:43:47 24 A. Early ballots, if they're signed up for the active
11:43:52 25 early voting or request a ballot by mail, voter ID cards.

11:43:56 1 Q. Is that it?

11:44:02 2 A. That I can recall at this point.

11:44:05 3 Q. Okay. Well, let's talk about those two different
11:44:08 4 options -- a residential address or a description or a
11:44:12 5 drawing -- in turn. So first I'll ask you about the
11:44:15 6 process when someone provides a residential address, and
11:44:17 7 then I'll ask you about the process when some- -- about the
11:44:21 8 process when someone provides a residence location
11:44:24 9 description or a drawing.

11:44:26 10 So if someone provides an address, a
11:44:29 11 residential address, how does the county use the
11:44:32 12 information to locate the residence?

11:44:32 13 A. They're --

11:44:42 14 Q. Does the county --

11:44:43 15 A. Please proceed, Samantha.

11:44:44 16 Q. No, you go ahead. Sorry.

11:44:46 17 A. We enter it into the AVID system.

11:44:52 18 Q. And is it ever the case that a residential address
11:44:58 19 is not able to be located using AVID?

11:45:02 20 A. Yes.

11:45:02 21 Q. When does that happen?

11:45:06 22 A. Usually with new developments.

11:45:10 23 Q. And what would you do then?

11:45:15 24 A. We send them a letter stating that we have not
11:45:21 25 been able to verify the address. Typically, there's

11:45:28 1 difficulties with the assessor's office or community
11:45:32 2 development being behind, and we wait for that process to
11:45:35 3 catch up.

11:45:38 4 Q. How long does that typically take?

11:45:41 5 A. I don't know.

11:45:44 6 Q. If you have to guess a range, would it be more
11:45:48 7 than six months?

11:45:49 8 A. I'm not comfortable guessing.

11:45:52 9 Q. How common is that that someone would have a
11:45:57 10 residential address that you're not able to locate, for
11:46:01 11 example, because of a new development?

11:46:02 12 A. I don't know.

11:46:05 13 Q. Did you encounter that in the last election?

11:46:09 14 A. I don't know.

11:46:11 15 Q. Who would know in your office?

11:46:19 16 A. I don't believe that that's an answer that could
11:46:21 17 be provided. You're asking for a summation and I'm -- I
11:46:30 18 can't provide that.

11:46:33 19 Q. Okay. Fair enough.

11:46:34 20 Is it more common for residential addresses
11:46:38 21 used on Native American reservations to not be located in
11:46:42 22 the database?

11:46:47 23 A. I wouldn't say that.

11:47:03 24 Q. [Indiscernible] reservations intersect with Pinal
11:47:03 25 County?

11:47:03 1 THE COURT REPORTER: I think we missed the
11:47:03 2 beginning.

11:47:03 3 BY MS. KELTY:

11:47:06 4 Q. What reservations intersect with Pinal County?

11:47:06 5 A. We have Gila -- we have Gila River, Tohono
11:47:16 6 O'odham. What other reservations do we have? Those are
11:47:20 7 the two that come to mind right now.

11:47:22 8 Q. Does Ak-Chin also interact with Pinal County?

11:47:26 9 A. That is correct.

11:47:27 10 Q. What does the county do when a residential address
11:47:30 11 can't be located?

11:47:35 12 MR. MORGAN: Form.

11:47:38 13 THE WITNESS: You asked: What does the
11:47:39 14 county do when a residential address cannot be located?

11:47:45 15 BY MS. KELTY:

11:47:45 16 Q. Yes.

11:47:47 17 A. I don't know what the county does.

11:47:50 18 Q. Your office.

11:47:52 19 A. Okay. Our office -- when a residential address
11:47:55 20 does not pop with the checks in HA- -- in AVID, we are able
11:48:00 21 to run the situs check through our GIS system. Total
11:48:08 22 Address -- Total Address is a process used in AVID. And
11:48:11 23 when we can't confirm due to various reasons, we send a
11:48:15 24 letter.

11:48:20 25 Q. Okay. And you mentioned earlier that Gila River

11:48:24 1 has guidelines that your office uses as a reference as
11:48:36 2 well?

11:48:36 3 A. Correct.

11:48:37 4 Q. What are those guidelines?

11:48:38 5 A. I don't have access to those right now. It's --
11:48:43 6 it's for addressing. So if somebody has a nonstandard
11:48:48 7 address for their ability to be able to receive mail, such
11:48:51 8 as their voter registration card, they're given -- if they
11:48:56 9 live in this section, then they use this -- this district
11:49:00 10 service center address to be able to get their mail.

11:49:05 11 Q. So does your office keep a copy of those
11:49:09 12 guidelines?

11:49:11 13 A. I do believe so.

11:49:13 14 Q. Okay. Were they produced in the discovery?

11:49:17 15 A. I don't know.

11:49:23 16 Q. Okay.

11:49:27 17 MS. KELTY: That is something I believe may
11:49:29 18 be responsive. If I could ask your attorney just to follow
11:49:32 19 up on that.

11:49:32 20 BY MS. KELTY:

11:49:33 21 Q. And then, Ms. Lewis, you mentioned the situs
11:49:34 22 check. What is that?

11:49:35 23 A. Situs is a check that we use with our GIS
11:49:40 24 department.

11:49:44 25 Q. How does it work?

11:49:46 1 A. We type the address into the system. If the
11:49:50 2 address does not populate, my experience has been that it
11:49:56 3 hasn't been marked yet with community development, so it's
11:49:58 4 one of those addresses that we're waiting to play catch-up
11:50:02 5 with.

11:50:03 6 Q. Unless it's on Gila River, for example; correct?

11:50:07 7 A. Yes.

11:50:10 8 Q. Okay. So can situs check be used for addresses on
11:50:15 9 Gila River?

11:50:16 10 A. It's used for all addresses.

11:50:18 11 Q. And then what is Total Address?

11:50:22 12 A. It's a system in the AVID system.

11:50:26 13 Q. How does it work?

11:50:28 14 A. The same way.

11:50:30 15 Q. And could you type in a nonstandard address into
11:50:40 16 Total Address and situs check?

11:50:45 17 A. I believe that they -- I don't know.

11:50:56 18 Q. And the Gila River guidelines, is that something
11:51:08 19 that the tribe produces and then sends to your office to
11:51:14 20 assist with locating voters?

11:51:16 21 A. It's a document that they provided to us in the
11:51:19 22 past.

11:51:21 23 Q. And how long is the document?

11:51:24 24 A. It's in a binder about this thick [indicating].

11:51:30 25 Q. Okay. Maybe a couple hundred pages?

11:51:34 1 A. I don't know that it's quite that many. It's in
11:51:37 2 document protectors. But I would say it's, you know, more
11:51:40 3 than 25 pages.

11:51:45 4 Q. And is it updated periodically?

11:51:49 5 A. I don't believe that it has been updated in the
11:51:51 6 last eight years.

11:51:54 7 Q. Is it useful when your office refers to it?

11:51:58 8 A. My staff has told me that it is.

11:52:03 9 Q. Will your office register a voter whose address
11:52:08 10 can't be located?

11:52:08 11 A. Yes.

11:52:10 12 Q. How would it do that?

11:52:20 13 A. They would be in a suspense. And then we would
11:52:29 14 send them documentation explaining that we need the
11:52:31 15 validation for the address.

11:52:35 16 Q. And how would you deliver the documentation?

11:52:40 17 A. To whatever mailing address that they had
11:52:42 18 provided.

11:52:45 19 Q. Are those typically returned?

11:52:47 20 A. I don't know.

11:52:50 21 Q. Okay. So now let's talk about when a voter
11:52:54 22 registration applicant provides a residence location
11:52:57 23 description or a drawing.

11:52:59 24 And this is what applicants are asked to do
11:53:01 25 if they live at a residence that doesn't have a residential

11:53:04 1 address or if the residential address they provide can't be
11:53:08 2 located; is that right?

11:53:09 3 A. Correct.

11:53:10 4 Q. How does your office use residence location
11:53:15 5 descriptions or drawings to locate a residence?

11:53:22 6 A. We scan them into the system. They're there. And
11:53:30 7 then we use the GRIC book to compare to see if we can
11:53:36 8 identify which district that person resides in.

11:53:40 9 Q. And I'm sorry. The what book?

11:53:42 10 A. The GRIC, the Gila River -- Gila River Indian
11:53:45 11 Community book. We call it the GRIC book.

11:53:52 12 Q. Okay. So the GRIC book is your primary go-to in
11:53:59 13 that situation?

11:53:59 14 A. Yes.

11:54:02 15 Q. And do you -- have you used the GRIC book to
11:54:10 16 locate a residence?

11:54:11 17 A. I have not personally.

11:54:14 18 Q. Do you know -- can you give me an example of what
11:54:18 19 might happen when your staff members look in the GRIC book
11:54:21 20 to find a residence?

11:54:28 21 A. I don't know. I have not -- I've watched them
11:54:39 22 run -- so they do the voter registration in AVID. They run
11:54:42 23 the HAVA check. They will then try to map with -- or look
11:54:47 24 at the address using situs or Total Address. If they don't
11:54:51 25 find it that way and it appears to be a nonstandard

11:54:54 1 address, then they will refer, then, to the GRIC guideline
11:54:58 2 book. If they find somewhere to point the -- to drop the
11:55:03 3 point there, then they're able to get a supervisor to what
11:55:10 4 we call dropping a point, and then they can send mail to
11:55:16 5 the voter.

11:55:18 6 Did that answer the question?

11:55:20 7 Q. That's helpful. Thank you.

11:55:23 8 Is there a contact at Gila River that your
11:55:30 9 office could get a hold of if they don't understand how to
11:55:34 10 translate the -- where the residence may be located and how
11:55:39 11 to drop the point?

11:55:43 12 A. Yes.

11:55:44 13 Q. Who is that?

11:55:48 14 A. I don't know.

11:55:50 15 Q. Do you know what the --

11:55:52 16 A. My AVID department, voter registration department
11:55:55 17 have communications with all of the nations actively
11:56:00 18 because we also accomplish voter outreach and education.

11:56:15 19 Q. Are applicants on Gila River, Ak-Chin, Tohono
11:56:21 20 O'odham in Pinal County more likely to provide a
11:56:25 21 description or a drawing as opposed to a residential
11:56:28 22 address?

11:56:31 23 A. You're asking for an opinion, and I won't -- I
11:56:34 24 don't have an opinion about that.

11:56:38 25 Q. Could you provide us an example of a residence

11:56:46 1 location description that you have seen on a voter
11:56:51 2 registration form?

11:56:54 3 A. No.

11:56:57 4 Q. What do they typically look like?

11:57:02 5 A. They will have landmarks describing locations.

11:57:23 6 Q. So how often does this kind of location
11:57:32 7 description -- for example, a landmark describing a
11:57:35 8 location --

11:57:36 9 A. I don't know.

11:57:38 10 Q. Let me finish my question

11:57:40 11 A. Sorry.

11:57:41 12 Q. How often -- that's okay. Thank you for being
11:57:45 13 eager to answer.

11:57:46 14 How often do these kinds of location
11:57:49 15 descriptions, such as landmarks, appear on identification
11:57:52 16 documents in Arizona?

11:57:57 17 A. On identification documents?

11:58:02 18 Q. Correct.

11:58:04 19 A. I don't know.

11:58:07 20 Q. Are you aware of any identification documents --
11:58:13 21 driver's license, IDs, utility statements -- that contain
11:58:17 22 landmarks describing locations?

11:58:21 23 A. I don't know.

11:58:22 24 Q. Are you aware of any identification documents that
11:58:37 25 have a map, for example, to a residence located on the

11:58:42 1
11:58:43 2
11:58:46 3
11:58:49 4
11:58:51 5
11:58:53 6
11:58:56 7
11:59:01 8
11:59:03 9
11:59:08 10
11:59:11 11
11:59:16 12
11:59:19 13
11:59:23 14
11:59:25 15
11:59:25 16
11:59:28 17
11:59:35 18
11:59:44 19
11:59:46 20
11:59:49 21
11:59:52 22
11:59:55 23
11:59:58 24
12:00:02 25

document?
A. I have heard about it. I've never seen it.
Q. What types of identification documents contain maps to a residence?
A. I don't know.
Q. What have you heard of?
A. You hear all kinds of stories.
Q. What are you referring to there?
A. You know what? I take that back. When you are coming up in this world, you hear all kinds of things. Have I seen anything firsthand? Absolutely not.
Q. Does Pinal County provide addresses for homes in the county?
A. Can you please clarify the question?
Q. Sure.
Is there a department in the county that's responsible for addressing residences in the county?
A. I don't know. I'm assuming that there is.
Q. Like, earlier, you were talking about new developments and sometimes the assessor is behind. So I assumed there was assessor's department that --
A. I don't know who I -- I don't know who in the department -- I know there's a department. I know it's a multifaceted process. But I don't know whose responsibility it is to actually assign the address.

12:00:07 1 Q. What do you know about that process?

12:00:11 2 A. Little.

12:00:14 3 Q. When you say it's multifaceted, what do you mean?

12:00:17 4 A. There's the assessor's office; there's community
12:00:21 5 development; facility -- there's several departments that I
12:00:31 6 know have a part in that process.

12:00:35 7 Q. Do you know how long it takes approximately?

12:00:38 8 A. I do not.

12:00:40 9 Q. Do you know if those various offices are involved
12:00:46 10 in providing addresses for homes on Gila River?

12:00:51 11 A. I don't know.

12:00:53 12 Q. Does your office take any type of extra steps to
12:01:06 13 increase voter registration for native voters in the
12:01:09 14 county?

12:01:11 15 A. Can you please explain your question?

12:01:14 16 Q. You mentioned earlier that you were in constant
12:01:17 17 communication with -- with the tribal nations.

12:01:21 18 And is -- is one of those communication
12:01:25 19 pieces to increase voter registration for tribal members?

12:01:34 20 A. Absolutely.

12:01:34 21 Q. What do -- what does the county do? What does
12:01:37 22 your office do?

12:01:38 23 A. We have a voter outreach program coordinator and
12:01:42 24 communications team that works -- we have identified all of
12:01:45 25 their annual events and we do our best to make sure we have

12:01:50 1 a presence at those events for voter registration,
12:01:53 2 education, and outreach.

12:01:56 3 Q. And those are events on Gila River?

12:02:00 4 A. Yes, ma'am.

12:02:00 5 Q. And on Tohono O'odham?

12:02:03 6 A. Yes, ma'am.

12:02:03 7 Q. And on Ak-Chin?

12:02:06 8 A. Yes, ma'am.

12:02:08 9 Q. And in your experience, what challenges do native
12:02:14 10 voters in Pinal County face when trying to register to
12:02:17 11 vote?

12:02:20 12 MR. LANGHOFER: Form.

12:02:21 13 THE WITNESS: I -- I'm not comfortable
12:02:22 14 answering that question because you're asking me to express
12:02:27 15 somebody else's views.

12:02:29 16 BY MS. KELTY:

12:02:31 17 Q. When your office saw that there was a need to do
12:02:36 18 voter outreach on the three tribal nations intersecting
12:02:40 19 with the county, what -- what was -- what is your
12:02:46 20 understanding of that need?

12:02:48 21 A. I did not say that we --

12:02:50 22 MR. MORGAN: Form.

12:02:51 23 THE WITNESS: I apologize, Cindy.

12:02:54 24 I did not say that we identified that there
12:02:59 25 was a need. They have reached out to us for active

12:03:02 1 participation, and we have met them halfway.

12:03:05 2 BY MS. KELTY:

12:03:07 3 Q. Understood.

12:03:08 4 Do native voters in your county face extra
12:03:14 5 challenges when trying to register to vote?

12:03:17 6 A. I don't know.

12:03:19 7 Q. Is voter registration lower in native communities
12:03:24 8 in Pinal County than the county average?

12:03:27 9 A. I don't know.

12:03:34 10 Q. In addition to using the GRIC book and the AVID
12:03:44 11 situs check and Total Address, does your office do anything
12:03:48 12 else to accommodate native voters who live at a residence
12:03:51 13 without an address?

12:03:55 14 A. I don't know.

12:03:57 15 Q. Okay. Let's talk about HB 2492 and its
12:04:11 16 requirement that documentary proof of residence be provided
12:04:15 17 with voter registration.

12:04:16 18 It is your -- is it your understanding that
12:04:18 19 this requirement will apply to voters registering using the
12:04:22 20 federal form?

12:04:25 21 A. Can you repeat the question?

12:04:27 22 Q. Sure.

12:04:28 23 The requirement to provide DPOR, is it your
12:04:31 24 understanding that it will apply to registrants using the
12:04:37 25 federal form?

12:04:37 1 A. I don't know.

12:04:38 2 MR. LANGHOFER: Asks for a legal conclusion.

12:04:40 3 BY MS. KELTY:

12:04:42 4 Q. Are you aware of any request to update the EAC

12:04:46 5 instructions?

12:04:47 6 A. I don't know.

12:04:49 7 Q. The current instructions do not ask for DPOR; is

12:04:57 8 that correct?

12:04:57 9 A. Correct.

12:04:58 10 Q. Would there be, in your understanding, a two-track

12:05:09 11 system for this requirement, like documentary proof of

12:05:15 12 citizenship; for example, not applying to federal

12:05:18 13 elections?

12:05:20 14 A. I don't understand the question.

12:05:22 15 Q. Well, actually, I'll strike that. Let's move to

12:05:27 16 the next question.

12:05:28 17 What types of documents do you understand

12:05:32 18 would qualify as documentary proof of residence?

12:05:36 19 A. I don't know.

12:05:42 20 Q. Were you able to open the currently marked

12:05:44 21 exhibits -- previously marked exhibits? Do you have those?

12:05:50 22 I wanted to pull up Exhibit 24.

12:05:55 23 A. I don't have those. He was able to drop 21 and

12:05:59 24 19.

12:06:00 25 Q. Okay. Let's see. I'm going to share my screen if

12:06:04 1 I can.

12:06:07 2 MR. SHERMAN: I did drop that in the Pinal

12:06:09 3 County deposition exhibits, Samantha, so she should --

12:06:14 4 Ms. Lewis should have that.

12:06:16 5 MS. KELTY: Oh, great. Thank you, Jon.

12:06:22 6 MR. SHERMAN: Are you not seeing it there?

12:06:24 7 THE WITNESS: I'm working it.

12:07:00 8 MR. CAMERON: Jon, it's not a lettered

12:07:01 9 exhibit, is it?

12:07:05 10 MS. KELTY: Ms. Lewis, let's do this. I'll

12:07:06 11 just share my screen.

12:07:09 12 BY MS. KELTY:

12:07:14 13 Q. Okay. Can you see this, Ms. Lewis?

12:07:15 14 A. Yes, ma'am.

12:07:17 15 Q. Okay. This is Petty Exhibit 24.

12:07:20 16 A. Okay.

12:07:26 17 Q. Have you ever seen this document?

12:07:27 18 A. No.

12:07:29 19 Q. Okay. Are you familiar -- about halfway down, it

12:07:35 20 refers to Gonzalez.

12:07:37 21 Are you familiar with the Gonzalez

12:07:38 22 stipulation?

12:07:40 23 A. No, ma'am.

12:07:44 24 Q. Okay.

12:07:50 25 A. I do know that, though [indicating].

12:07:52 1 Q. What's that?

12:07:52 2 A. That a tribal ID does not require an address be

12:07:55 3 listed.

12:07:57 4 Q. Okay. What is your understanding of that?

12:08:00 5 A. What it says: A tribal ID does not require an

12:08:03 6 address be listed.

12:08:05 7 Q. And did you understand that that was part of the

12:08:09 8 Gonzalez stipulation, or you just understood that as a

12:08:12 9 requirement?

12:08:12 10 A. I just understood that as a requirement.

12:08:14 11 Q. So you are currently implementing that in that

12:08:17 12 manner; correct?

12:08:21 13 A. Implementing what?

12:08:23 14 Q. You are currently not requiring tribal IDs to have

12:08:26 15 an address listed?

12:08:28 16 A. I don't have any authority over that whatsoever.

12:08:32 17 Q. Okay. So if a --

12:08:38 18 A. I don't -- Samantha, I don't make tribal IDs.

12:08:42 19 Q. And so -- I'm sorry. Yes. No, you don't.

12:08:45 20 In order to register to vote --

12:08:51 21 A. Okay. Can you clarify your question?

12:08:59 22 MR. MORGAN: Form. I'm lost.

12:09:02 23 MS. KELTY: I'm sorry. Craig, can you repeat

12:09:04 24 that?

12:09:05 25 MR. MORGAN: Yeah. I object to form. I'm

12:09:07 1 totally lost at this point. I don't even know what
12:09:11 2 question is pending.

12:09:13 3 BY MS. KELTY:

12:09:14 4 Q. Ms. Lewis, what do you use tribal IDs for in your
12:09:18 5 office?

12:09:20 6 A. They may utilize it as a proof when they're
12:09:27 7 registering to vote.

12:09:31 8 Q. Okay. And do you commonly see tribal IDs as proof
12:09:35 9 when registering to vote?

12:09:40 10 A. I don't know.

12:09:41 11 Q. Do you know if the tribes that intersect with your
12:09:50 12 county have tribal IDs that their members use as proof when
12:09:55 13 registering to vote?

12:09:58 14 A. Yes.

12:09:59 15 Q. Okay. And is that -- are those acceptable IDs
12:10:07 16 even if they don't list a residential address?

12:10:10 17 A. Yes.

12:10:10 18 Q. Are you familiar with a declaration that the
12:10:24 19 homeless population can use as proof when registering to
12:10:29 20 vote?

12:10:32 21 A. That's vague. Can you clarify?

12:10:37 22 Q. For individuals that lack an address, are you --
12:10:43 23 are they able to use a declaration as proof that they are
12:10:51 24 qualified?

12:10:54 25 A. Yes.

12:10:56 1 Q. Is there a version of that declaration that has
12:11:02 2 been drafted?

12:11:06 3 A. I don't know.

12:11:08 4 Q. Okay.

12:11:20 5 MS. KELTY: I don't think I have any more
12:11:22 6 questions for you. I'm going to stop my share here. But
12:11:25 7 hang tight because Ms. Yun may have questions for you.

12:11:31 8 THE WITNESS: Okay.

12:11:31 9

12:11:31 10

EXAMINATION

12:11:32 11 BY MS. YUN:

12:11:32 12 Q. Hi, Ms. Lewis. My name is Jennifer Yun, and I
12:11:38 13 represent the United States in this case.

12:11:40 14 I have just a -- are you having trouble
12:11:43 15 hearing my voice?

12:11:45 16 A. Yes. There is a delay.

12:11:50 17 Q. Okay. I will try to speak somewhat slowly. And
12:11:57 18 just let me know if you're having trouble understanding my
12:12:00 19 questions or hearing me. Okay?

12:12:01 20 A. Thank you.

12:12:03 21 Q. So I just have a few more questions, and hopefully
12:12:08 22 we can let you go and have lunch soon.

12:12:12 23 So I just wanted to follow up on something
12:12:14 24 that you spoke to Mr. Sherman about earlier today.

12:12:18 25 So you stated that your office is not

12:12:22 1 indefinitely holding registration forms currently. Do you
12:12:27 2 remember saying that?

12:12:28 3 A. Yes.

12:12:29 4 Q. What is your office doing with the registration
12:12:34 5 forms right now if you're not holding them?

12:12:39 6 You said you're not holding them. So what
12:12:41 7 are you doing with them right now? Are you just processing
12:12:43 8 them?

12:12:45 9 A. I think I need you to clarify the question, ma'am.

12:12:52 10 Q. Sure.

12:12:53 11 Earlier, Mr. Sherman asked -- and this is not
12:12:57 12 verbatim -- whether -- I think it was in the context of
12:13:01 13 implementing HB 2492's requirements, and you said you're
12:13:07 14 not implementing. Do you remember that?

12:13:09 15 A. I do.

12:13:10 16 Q. And I think after that, Mr. Sherman asked, "Is
12:13:15 17 your office indefinitely holding the registration forms
12:13:18 18 that are coming into your office right now?" And I believe
12:13:22 19 your answer was "No."

12:13:27 20 Do you remember that?

12:13:28 21 A. I do. But the way in which you're asking and how
12:13:31 22 it pertains to the question, I think maybe I am confused
12:13:35 23 about because as far as how long we hold voter registration
12:13:39 24 forms for retention versus processing for this situation,
12:13:45 25 there could be confusion there that --

12:13:50 1 Q. I see.

12:13:50 2 So was your answer earlier about retention?

12:13:54 3 A. We do hold registration forms for retention. I

12:13:59 4 believe it is indefinitely.

12:14:01 5 Q. Okay. And are you processing registration forms

12:14:06 6 as they are coming in right now without regards to

12:14:10 7 HB 2492's requirements?

12:14:11 8 A. Absolutely.

12:14:13 9 Q. Understood. Thank you.

12:14:15 10 I want to now ask about birthplace

12:14:23 11 information on Arizona's voter registration form. So we

12:14:25 12 are switching topics.

12:14:26 13 A. Okay.

12:14:26 14 Q. So birthplace has been an optional field on the

12:14:33 15 state voter registration form; is that right?

12:14:36 16 A. Correct.

12:14:38 17 Q. And has your office used a voter's birth --

12:14:45 18 birthplace information for any purpose when you're

12:14:47 19 processing the registration applications?

12:14:52 20 A. I don't know. I don't believe so.

12:14:58 21 Q. So you enter it into the AVID system; is that

12:15:01 22 right?

12:15:01 23 A. Yes, ma'am.

12:15:02 24 Q. But you don't -- you don't believe that you --

12:15:05 25 your office uses it for --

12:15:08 1 A. Correct.

12:15:09 2 Q. -- any other purpose? Okay. Thank you.

12:15:11 3 And do you -- and we talked about -- you
12:15:16 4 talked about some databases and -- or databases that you
12:15:19 5 don't have access to or have access to earlier.

12:15:23 6 Do you have any access to any databases that
12:15:26 7 would allow you to verify someone's birthplace?

12:15:33 8 A. No.

12:15:35 9 Q. Do you have any other ways to verify someone's
12:15:39 10 birthplace information?

12:15:40 11 A. No.

12:15:41 12 Q. And I'm now asking about not just about birthplace
12:15:48 13 but about looking up a voter in general in the AVID system.

12:15:52 14 When you -- when you are trying to look up a
12:15:55 15 voter in the AVID system, what fields on the registration
12:16:00 16 form do you use to look up a -- look up a voter?

12:16:04 17 A. Can you clarify your question, ma'am?

12:16:13 18 Q. Sure.

12:16:14 19 So when you get a -- when you get an
12:16:18 20 application and you want to make sure that this voter
12:16:21 21 doesn't already exist, you know, there is already a file on
12:16:24 22 the -- on the database -- on the registration voter file.
12:16:29 23 What -- which information from that registration form do
12:16:32 24 you input into the AVID system to look up -- look -- to see
12:16:36 25 if that person already exists?

12:16:38 1 A. Are you referring -- are you referring to a search
12:16:42 2 query?

12:16:43 3 Q. Yes.

12:16:45 4 A. We can utilize several aspects found on the form:
12:16:49 5 first name, middle name, last name, date of birth, address.
12:16:59 6 Those are the ones that I'm aware of.

12:17:01 7 Q. Okay. Thank you.

12:17:05 8 I want to move on to ask you about the
12:17:10 9 citizenship checkbox. Do you know what I'm referring to
12:17:13 10 when I say that?

12:17:14 11 A. Yes, ma'am.

12:17:15 12 Q. On the -- on the state's registration form?

12:17:19 13 A. Yes, ma'am.

12:17:19 14 Q. And -- sorry. Let me back up.

12:17:33 15 And -- and I'm actually asking about
12:17:34 16 something slightly different, which is documentary proof of
12:17:37 17 citizenship.

12:17:38 18 Are you aware of any instance in your county
12:17:41 19 where a voter submits documentary proof of citizenship and
12:17:45 20 the copy is illegible?

12:17:48 21 A. Yes.

12:17:49 22 Q. What do you do when that is the case? What does
12:17:54 23 your office do?

12:17:55 24 A. We send them a letter that says the documentation
12:17:59 25 that they have provided is illegible.

12:18:03 1 Q. And it req- -- it asks them to provide a legible
12:18:09 2 copy?

12:18:10 3 A. That is correct.

12:18:11 4 Q. Would you ever use the fact that some -- someone
12:18:17 5 checked the citizenship checkbox as proof of citizenship
12:18:23 6 when the -- when they didn't provide legible documentary
12:18:27 7 proof of citizenship?

12:18:28 8 A. No.

12:18:33 9 MS. YUN: Okay. I do not have any further
12:18:35 10 questions. I believe some defense attorneys might have
12:18:39 11 questions for you, though.

12:18:43 12 THE WITNESS: Thank you.

12:18:45 13 MR. LANGHOFER: I've got a few questions, but
12:18:47 14 I'll defer to Kathryn and Craig first.

12:18:47 15 MS. BOUGHTON: Craig, why don't you go first.
12:18:54 16 That's fine.

12:18:54 17 MR. MORGAN: At this point, I don't have any
12:18:55 18 questions. I'll let you know if that changes.

12:19:03 19 MR. LANGHOFER: Sounds good. So, Kathryn,
12:19:04 20 did you say you're okay with me going first? I don't want
12:19:07 21 to step on toes.

12:19:08 22 MS. BOUGHTON: No, that's fine. Go ahead.

23 ///

24 ///

25 ///

1 EXAMINATION

2 BY MR. LANGHOFER:

12:19:11 3 Q. Good afternoon, I guess it is. I don't have a
12:19:14 4 whole lot of -- my name is Kory Langhofer. I work for the
12:19:16 5 Republican National Committee. And I don't have a whole
12:19:18 6 lot of questions for you, but there are some things that I
12:19:21 7 wanted to just walk through and make sure that we're, you
12:19:24 8 know, understanding it all properly.

12:19:27 9 So let's start with the birthplace, which was
12:19:31 10 something that the United States was just asking you about.

12:19:35 11 If someone puts the birth -- birthplace on
12:19:39 12 the forms currently, the registration forms, does your
12:19:43 13 office enter that information into the voter file?

12:19:48 14 A. Yes.

12:19:49 15 Q. And imagine a situation where you have two people
12:19:56 16 with the same name and, coincidentally, the same birthday,
12:20:01 17 so something common like John Smith. And then, you know,
12:20:05 18 the birthdays, I guess, are equally common; let's say
12:20:08 19 January 1st, 1950.

12:20:11 20 If you had a new registration form -- so, you
12:20:15 21 know, John Smith Number 1 from, let's say, Chicago,
12:20:18 22 Illinois, was in the database. He's already registered.
12:20:21 23 Then you get a new registration form for John Smith
12:20:24 24 Number 2, same birthday.

12:20:26 25 In that sort of situation, could you use the

12:20:29 1 birthplace to help determine whether this is a duplicate
12:20:33 2 registrant or a new registrant?

12:20:37 3 A. I don't know, sir.

12:20:40 4 Q. And do you mean that you haven't done it before,
12:20:46 5 or you don't know whether that would be permissible?

12:20:48 6 A. Exactly. I've never run into that scenario before
12:20:51 7 where I would have needed direction as I'm learning. So I
12:20:55 8 can't speak to that process effectively.

12:20:58 9 Q. Okay. You do agree that birthplace is a way of
12:21:02 10 distinguishing between people, though?

12:21:04 11 A. Yes.

12:21:04 12 Q. All right. Does your office have access to any
12:21:14 13 databases other than AVID and SAVE and the HAVA checks that
12:21:19 14 are more accurate than the databases you're currently
12:21:22 15 using?

12:21:24 16 A. Not that I know of.

12:21:25 17 Q. Does it have access to any databases other than
12:21:27 18 those that are more current or up to date?

12:21:34 19 A. No. We have AVID.

12:21:37 20 Q. There was a question earlier -- I'm not -- I'm
12:21:42 21 just not sure I heard the answer to this. You may have
12:21:45 22 answered already.

12:21:46 23 But if you send out letters to registrants
12:21:50 24 saying, "Hey, we -- we need your DPOC because you didn't
12:21:53 25 attach it to the state form," roughly what percentage of

12:21:56 1 those folks do you hear back from with the DPOC?

12:22:00 2 A. I don't know.

12:22:03 3 Q. The October 2022 incident where the MVD database
12:22:14 4 was providing wrong information, did you follow the steps
12:22:18 5 that the secretary of state told you guys to follow to make
12:22:22 6 sure that voters weren't prejudiced?

12:22:24 7 A. Absolutely.

12:22:26 8 Q. Do you know whether anyone was unable to vote as a
12:22:30 9 result of this?

12:22:31 10 A. I do not.

12:22:33 11 Q. Have you ever received registration forms with
12:22:43 12 false information?

12:22:44 13 A. Yes.

12:22:46 14 Q. Could you tell me about those?

12:22:49 15 A. We had an issue where we received information
12:22:54 16 creating a duplicate. We sent a letter explaining to the
12:23:00 17 registrant that it appeared we had received a duplicate
12:23:05 18 registration, asking them to confirm information. They
12:23:08 19 then got back in touch with our office. They filed a
12:23:12 20 police report. And then it went to the AG's office.

12:23:17 21 Q. Is that the only time you can think of where you
12:23:20 22 received a registration form with false information?

12:23:31 23 A. We had a few of them. Yeah, we had a few of them
12:23:36 24 prior to the general election in 2022 where we sent out
12:23:41 25 information to registrants that it appeared that some of

12:23:45 1 their information had been transposed and we needed them to
12:23:49 2 clarify the information with us. Come to find out that
12:23:53 3 they had not filled out that voter registration form, and
12:23:58 4 then they were instructed to contact law enforcement and --
12:24:01 5 and then they take it from there.

12:24:03 6 Q. So how -- you said their information was
12:24:09 7 transposed. Just walk me through that. I want to
12:24:09 8 understand that a little bit better.

12:24:13 9 A. The -- they were lacking information on the form,
12:24:15 10 hadn't provided, you know, the full date of birth, or
12:24:19 11 instead of the address being 2005 South Clubhouse Drive, it
12:24:24 12 was 5002 South Clubhouse Drive and same name. So it
12:24:31 13 creates a situation where we have to send a letter in the
12:24:35 14 system.

12:24:35 15 So we notify the voter that it appears that
12:24:38 16 maybe they made a mistake on their form. They then
12:24:41 17 followed up with us and said that they had not updated
12:24:43 18 their voter registration. And then they asked what they do
12:24:47 19 next. We asked them to please contact law enforcement, and
12:24:50 20 then it's out of our hands.

12:24:52 21 Q. How long have you been with the Pinal County
12:24:57 22 Recorder's Office or -- yeah, Pinal County recorder?

12:24:57 23 A. I was appointed August 5th of 2022. Just over a
12:25:01 24 year now -- or just about at a year.

12:25:03 25 Q. So are you familiar with the case of Roberto

12:25:09 1 Garcia, who was criminally prosecuted for registering and
12:25:13 2 voting in your county?

12:25:16 3 A. There are some of the words that you are saying
12:25:18 4 I'm losing on your mic. So can you say that again?

12:25:21 5 Q. Yeah. I'm sorry. I'm going to speak up just a
12:25:23 6 little bit.

12:25:24 7 I asked whether you're familiar with the case
12:25:25 8 of Roberto Garcia, who was criminally prosecuted in your
12:25:29 9 county for registering and voting?

12:25:33 10 A. It does not ring a bell, sir.

12:25:35 11 Q. Okay. Are you aware of criminal prosecutions in
12:25:39 12 your county generally for voter fraud?

12:25:41 13 A. I am not.

12:25:43 14 Q. Okay. Bear with me one second here. I just want
12:25:48 15 to check my notes to make sure I'm not missing something.

12:26:00 16 MR. LANGHOFER: All right. I think -- I
12:26:02 17 think that's all the questions I have, but there might be
12:26:02 18 some other questions from the secretary of state or from
12:26:04 19 the Attorney General's Office. Thanks for your time.

12:26:06 20 THE WITNESS: Thank you, sir.

12:26:07 21

12:26:08 22 EXAMINATION

12:26:08 23 BY MS. BOUGHTON:

12:26:08 24 Q. Hi. Good afternoon, Ms. Lewis. I just have a few
12:26:11 25 quick questions for you. My name, again, is Kathryn

12:26:14 1 Boughton. I represent the state and attorney general in
12:26:16 2 this. Thanks for your time today.

12:26:18 3 First, I just wanted to ask if you know
12:26:22 4 generally -- when processing the state form, we've talked
12:26:26 5 about how birthplace is an optional field. Do you know if
12:26:29 6 voter applicants usually fill out that field?

12:26:32 7 A. I do not know.

12:26:34 8 Q. Okay. And then I just wanted to draw your
12:26:39 9 attention to one quick thing. It's going to be exhibit --
12:26:42 10 it's labeled as C in your folder, the RFP responses. We
12:26:53 11 are going to go to RFP 15, which is at the bottom of --
12:27:01 12 looks like page 10, the very last one.

12:27:09 13 Let me know when you get there.

12:27:11 14 A. What page -- okay. RFP Number 15, ma'am?

12:27:22 15 Q. Yes.

12:27:22 16 A. Yes, ma'am.

12:27:23 17 Q. Okay. So this request asks for documents
12:27:27 18 regarding voter fraud cases in your county.

12:27:30 19 And your response reads in part, "Defendant
12:27:32 20 Lewis is neither a law enforcement nor prosecutorial agency
12:27:36 21 and does not determine who commits 'voter fraud,' and such
12:27:39 22 request is better suited for the Arizona Attorney General's
12:27:42 23 Office, which investigates and prosecutes allegations of
12:27:46 24 voter fraud."

12:27:47 25 Is that response still accurate today?

12:27:49 1

A. Yes, ma'am.

12:27:52 2

12:27:54 3

12:27:56 4

MS. BOUGHTON: Thank you so much. That's all the questions I have for you. I'm not sure if Mr. Morgan has anything.

12:27:57 5

12:28:00 6

MR. MORGAN: As much as I'd love to talk with you, Dana, I've got nothing.

12:28:03 7

12:28:06 8

12:28:12 9

THE WITNESS: Thank you, Mr. Morgan.

MR. MORGAN: You bet.

Are we done?

12:28:12 10

12:28:14 11

12:28:17 12

12:28:20 13

12:28:23 14

MS. BOUGHTON: Before we go off the record -- sorry. I just want to clarify, Cindy, was the defendants' counsels' agreement that an objection by one be deemed an objection joined by all defense counsel ever? Did that make it on the record?

12:28:29 15

12:28:29 16

THE COURT REPORTER: You may have said it at the beginning.

12:28:29 17

12:28:29 18

12:28:29 19

MR. MORGAN: It did now.

THE COURT REPORTER: Do you want to repeat it? Or you just did.

12:28:31 20

12:28:31 21

12:28:32 22

12:28:35 23

MS. BOUGHTON: I want to --

MR. MORGAN: Yeah, I think that's the agreement, Kathryn. Everyone agree or -- let's put it this way: Does anyone disagree?

12:28:38 24

12:28:40 25

MR. SHERMAN: We -- we agreed to that at the beginning of the deposition today.

12:28:42 1 MS. BOUGHTON: Oh, thanks. I just wanted to
12:28:44 2 confirm it was on the record.

12:28:50 3 MR. CAMERON: Okay. I have a few questions
12:28:51 4 with Pinal County. And I'm going to move forward here,
12:28:56 5 maybe a little closer.

12:28:56 6

12:28:56 7 EXAMINATION

12:28:56 8 BY MR. CAMERON:

12:28:58 9 Q. Dana, did you answer all the questions the best
12:29:01 10 you could?

12:29:02 11 A. Yes, sir.

12:29:02 12 Q. Or were there any questions that you found
12:29:04 13 confusing?

12:29:05 14 A. In my ability to answer?

12:29:09 15 Q. In the way they were asked?

12:29:13 16 A. Some.

12:29:14 17 Q. Do you rely not only on the audible stimulus or
12:29:21 18 audible questions but you also look at the person's face to
12:29:26 19 try to track the questions?

12:29:27 20 A. That is correct.

12:29:28 21 MR. MORGAN: Form.

12:29:28 22 BY MR. CAMERON:

12:29:32 23 Q. And did you have trouble tracking some of the
12:29:34 24 people's faces in those questions at times?

12:29:40 25 A. Yes.

12:29:41 1 Q. Okay.

12:29:43 2 MR. CAMERON: Nothing further.

12:29:55 3 THE WITNESS: Are they going to ask me more
12:29:57 4 questions about that, being deaf?

12:29:58 5 MR. CAMERON: No.

12:29:58 6 Okay. Anybody else?

12:30:01 7 MR. MORGAN: I'm sorry. Ms. Lewis, did you
12:30:04 8 just say you were deaf?

12:30:05 9 THE WITNESS: In my -- partially in my one
12:30:11 10 ear.

12:30:11 11 MR. MORGAN: Okay. Which ear?

12:30:12 12 THE WITNESS: This ear [indicating].

12:30:13 13 MR. MORGAN: Can you tell us -- I think
12:30:14 14 you're pointing to your left ear, but I'm looking at the
12:30:16 15 screen. I don't know which ear you're pointing at.

12:30:18 16 THE WITNESS: It's my left ear. So that's
12:30:20 17 why I had to turn in several times when they were doing the
12:30:22 18 objections because then, what happens is I can't hear the
12:30:26 19 information coming, so I had to turn. So that's why I
12:30:30 20 apologized to Cindy. I jumped in to answer before the
12:30:34 21 objections were happening. So yeah, sometimes it can be
12:30:37 22 difficult.

12:30:39 23 MR. MORGAN: Okay. Well, thank you.

12:30:47 24 And do the plaintiffs have any more
12:30:48 25 questions, or can we go off the record?

12:30:53 1 MR. SHERMAN: We can go off the record.
12:30:55 2 Thank you very much.
12:30:56 3 MR. MORGAN: Fantastic.
12:30:57 4 THE VIDEOGRAPHER: Okay. We are off the
12:30:59 5 record. Time on the video monitor is 12:31. This ends
12:31:07 6 Volume 1, Media Number 2 of 30(b)(6) deposition of Pinal
12:31:16 7 County Recorder by Dana Lewis.
12:31:20 8 (The following occurred off the video
12:31:20 9 record.)
12:31:20 10 THE COURT REPORTER: Could I get the orders
12:31:20 11 for any defendants who would like to order a copy or a
12:31:28 12 rough draft?
12:31:28 13 MR. MORGAN: This is Craig Morgan. I'll
12:31:30 14 order a copy of the transcript, please.
15 (The proceedings concluded at 12:31 p.m.)
16
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25

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DANA LEWIS

1 STATE OF ARIZONA)
COUNTY OF MARICOPA)

2

3 BE IT KNOWN that the foregoing deposition was taken
4 by me pursuant to stipulation of counsel; that I was then
5 and there a Certified Court Reporter in the State of
6 Arizona, and by virtue hereof authorized to administer an
7 oath; that the witness before testifying was duly sworn by
8 me to testify to the whole truth; pursuant to request,
9 notification was provided that the deposition is available
10 for review and signature; that the questions propounded by
11 counsel and the answers of the witness thereto were taken
12 down by me in shorthand and thereafter transcribed into
13 typewriting under my direction; that the foregoing pages
14 are a full, true and accurate transcript of all the
15 proceedings had upon the taking of deposition, all done to
16 the best of my skill and ability.

17 I FURTHER CERTIFY that I am in no way related
18 to nor employed by any parties hereto; nor am I in any
19 way interested in the outcome thereof.

20 Dated at Phoenix, Arizona, this 18th day of
21 August, 2023.

22

23

24

25


CINDY MAHONEY, RPR, RMR NO. 50680

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UNITED STATES DISTRICT COURT
DISTRICT OF ARIZONA

Mi Familia Vota, et al.,)	
)	
Plaintiffs,)	Case No.
	)	2:22-cv-00509-PHX-SRB
v.	)	(Lead)
)	
Adrian Fontes, in his	)	No. CV-22-00519-PHX-SRB
official capacity as	)	No. CV-22-01003-PHX-SRB
Arizona Secretary of State,	)	No. CV-22-01124-PHX-SRB
et al.,	)	No. CV-22-01369-PHX-SRB
	)	No. CV-22-01381-PHX-SRB
Defendants.	)	No. CV-22-01602-PHX-SRB
	)	No. CV-22-01901-PHX-SRB

AND CONSOLIDATED CASES.

VIDEO-RECORDED VIDEOCONFERENCE 30(b)(6) DEPOSITION OF
SANTA CRUZ COUNTY RECORDER, REPRESENTED BY ANA MORENO

Nogales, Arizona

August 10, 2023

Prepared by:
CINDY MAHONEY, RPR, RMR
Certified Court Reporter
Certificate No. 50680



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1 THE VIDEO-RECORDED VIDEOCONFERENCE 30(b)(6)
 2 DEPOSITION OF SANTA CRUZ COUNTY RECORDER, REPRESENTED BY
 3 ANA MORENO, commenced at 9:11 a.m. on August 10, 2023, at
 4 Nogales, Arizona, before Cindy Mahoney, RPR, RMR (via
 5 videoconference), Arizona Certified Court Reporter
 6 No. 50680.

7
8 * * *

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ALSO PRESENT (all via videoconference):

Sarah Johnston
Daxon Ernyei
Gareth Fowler
Daniel Rohan, Videographer

1 TRANSCRIPT OF PROCEEDINGS

2

3 THE VIDEOGRAPHER: We are on the record.

4 Time on the video monitor is 9:11 a.m. Here begins

09:11:06

5 Volume 1, Media Number 1, in the deposition of Santa Cruz
6 County Recorder 30(b)(6) designee, by Anita Moreno, in the
7 matter of Mi Familia Vota, et al., v. Adrian Fontes, et
8 al., in the United States District Court, District of
9 Arizona, Case Number 2:22-cv-00509-SRB.

09:11:37

10 Today's date is August 10th, 2023. Our court
11 reporter is Cindy Mahoney. I am Daniel Rohan, certified
12 legal videographer. We both represent Coash Court
13 Reporting & Video.

09:11:55

14 This video deposition is taking place at 2150
15 North Congress Drive, Suite 101, in Nogales, Arizona 85621.

16 Counsel, please identify yourselves and state
17 whom you represent.

09:12:10

18 MR. HERRERA: Good morning. Ernest Herrera
19 for Promise Arizona plaintiffs. And I have my colleague
20 Erika Cervantes with me.

21 MR. FERGUSON: This is Brent Ferguson of
22 Campaign Legal Center, representing the LUCHA plaintiffs.

23 MS. LORENZO: This is Daniela Lorenzo of
24 Elias Law Group, representing the MFV plaintiffs.

09:12:30

25 MS. RIZZONI: This is Cat Rizzoni from Latham

1 & Watkins on behalf of the Equity Coalition plaintiffs.

2 MR. BABBITT: This is Christopher Babbitt,
3 Wilmer Hale, representing the Democratic National Committee
4 and Arizona Democratic Party.

09:12:53

5 MR. HORLEY: Hi. This is Tim Horley. I'm
6 with the Arizona Attorney General's Office, representing
7 the State of Arizona and the Arizona Attorney General.

8 MS. ESTES-WERTHER: Christina Estes-Werther
9 for Santa Cruz County Recorder.

09:13:15

10 MR. PIERCE: And Justin Pierce, also for the
11 Santa Cruz County.

12 MR. LANGHOFER: Kory Langhofer for the RNC.

13 MS. STUART: Shayna Stuart from Sherman &
14 Howard for the Arizona Secretary of State, Adrian Fontes.

09:13:51

15 MR. HERRERA: Is that everybody? All right.

16 THE VIDEOGRAPHER: Will the court reporter
17 please swear in the witness.

18

19 ANA MORENO,

09:13:55

20 the witness herein, being first duly sworn,
21 was examined and testified as follows:

22

23 EXAMINATION

24 BY MR. HERRERA:

09:14:06

25 Q. Hi. Good morning, Ms. Moreno. My name is Ernest

1 Herrera, and I'm an attorney at the Mexican American Legal
2 Defense and Educational Fund. I represent plaintiffs
3 Promise Arizona and Southwest Voter Registration Education
4 Project in this litigation.

09:14:23

5 Can you please state and spell your name?

6 A. My legal name is Ana, A-n-a. I go by Anita,
7 A-n-i-t-a, Moreno, M-o-r-e-n-o.

8 Q. Thank you.

09:14:40

9 And before we go further, I have -- our
10 building, we have, like, window units -- old window units
11 for AC. And I know we're on Zoom, so please let me know if
12 you can't hear me or if I'm not coming through clearly and
13 I'll make some adjustments here.

14 A. I understand. Thank you.

09:14:56

15 Q. Have you been known by any other names?

16 A. No. Just Anita.

17 Q. Are you represented by an attorney today?

18 A. Christina and -- and Justin introduced themselves.

09:15:21

19 Q. And for today's deposition, where are you
20 physically located?

21 A. The Santa Cruz County Complex, 2150 North Congress
22 Drive, Suite 101, Nogales, Arizona 85621.

23 Q. Have you ever had your deposition taken before?

24 A. Yes, I have.

09:15:38

25 Q. Okay. And what was the -- what kind of case was

1 that?

2 A. I was a real estate agent and the seller -- there
3 was a -- the seller was an LLC. And what the seller did,
4 prior to closing made changes on his LLC that wasn't
09:16:05 5 approved by his son and we all got in. We all were called
6 in to -- as part of the case of his son suing his father.

7 Q. Was it just the deposition in that case?

8 A. Right. Yes.

9 Q. Okay. Have you had your deposition taken at any
09:16:26 10 other times?

11 A. Prior to that, it might have been seven years ago.

12 Q. And what was the nature of that case?

13 A. I was the escrow agent for a local title company,
14 and there was some disbursement of funds that I made a
09:16:53 15 decision on which brought in a dissatisfied contractor.
16 And, you know, it all worked out at the end just like the
17 most recent one, but we all -- again, the title, escrow
18 agents, we were all brought into a lawsuit.

19 Q. Thank you. And let me go over a few ground rules.

09:17:30 20 First, I should ask: Were there any other
21 depositions that you've had taken of you before besides
22 those two cases?

23 A. Prior to the one about 7 years ago, there was --
24 there was one 20 years, possibly 22 years, prior to the one
09:18:01 25 that was seven 7 ago.

1 Q. Okay. Let me go over a few ground rules.

2 Before I go further, I don't need to know too
3 many details about the case, but was that also a real
4 estate case?

09:18:15 5 A. It had to do, yes, with a real estate transaction.

6 Q. Okay. Let me go over a few ground rules here so
7 that we're on the same page about how we're going to
8 conduct this deposition.

9 The court reporter has put you under oath,
09:18:30 10 which means that you are obligated to tell the truth.

11 Do you understand that?

12 A. I do.

13 Q. And although we are conducting this deposition via
14 Zoom, that oath has the same force and effect as if you
09:18:41 15 were testifying in a court of law in front of a judge or
16 jury.

17 Do you understand that?

18 A. I do.

19 Q. During this deposition, I'm going to ask you some
09:18:51 20 questions and you will be answering my questions. Because
21 the court reporter is taking down everything we're saying,
22 it is important that you provide audible answers to my
23 questions; for example, no uh-huhs or shaking your head.

24 Do you understand?

09:19:05 25 A. I do.

1 Q. If you do not understand a question, please tell
2 me that you don't understand and I will rephrase the
3 question. Also feel free to ask me to repeat the question.
4 Okay?

09:19:15 5 A. I understand.

6 (An off-the-record discussion ensued.)

7 BY MR. HERRERA:

8 Q. Are we on the same page as to not speaking over
9 each other?

09:19:43 10 Please let me know that the court reporter --
11 well, please know that the court reporter can only write
12 what one person is saying at a time, so let's try to
13 help -- help her out. Okay?

14 A. I understand.

09:19:54 15 Q. Okay. If I ask a question and you answer a
16 question -- let me -- oh, during this deposition, attorneys
17 may make objections. Even if they make objections, unless
18 your attorney specifically instructs you not to answer the
19 question, you must still answer the question.

09:20:11 20 Do you understand?

21 A. Yes.

22 Q. And sometime after we complete your deposition,
23 you will receive a typed transcript of this deposition.

24 And unless you waive that, you'll have an opportunity to
09:20:24 25 review the transcript and correct any errors that you see

1 and then you will sign it under penalty of perjury.

2 However, I will warn you that if you make
3 anything more than clerical changes, like correcting typos,
4 attorneys in this case will be able to comment on those
09:20:41 5 changes at trial, which could affect your credibility
6 before the judge in the future. So please try to give your
7 best test- -- the best testimony you can here today.

8 Do you understand that?

9 A. Yes.

09:20:51 10 Q. If you need to take a break for any reason, please
11 let me know and we can take a break. However, if there is
12 a question pending that you have not finished answering, I
13 will ask you to answer the question first and then we can
14 take a break. Okay?

09:21:04 15 A. Yes.

16 Q. Okay. Now, is there any reason that you cannot
17 give your best testimony here today?

18 A. No.

19 Q. Have you -- have you consumed any substances in
09:21:31 20 the last 24 hours that would prevent you from giving your
21 best testimony here today?

22 A. No.

23 Q. And I sensed a little bit of hesitation about the
24 best testimony question.

09:21:48 25 Is there -- is -- was there any reason for

1 that?

2 A. So for the past three days and the weekend, I was
3 preparing for the election officers -- I mean, the election
4 certification training for Monday, Tuesday, and yesterday.
09:22:11 5 So that's where my mind was.

6 But no, I'm fine. I'm fine.

7 Q. Okay. And -- so my next question is related to
8 that.

9 So what, if anything, did you do to prepare
09:22:23 10 for this deposition?

11 A. I think that -- my conversation with Justin and
12 Christina to -- to prepare me for the deposition. And I
13 wish I had more time to have gotten all the details of --
14 of the --

09:22:51 15 Q. And I should add -- sorry -- you don't need to
16 give me any details about the details of what you've talked
17 about with the attorneys.

18 But anything else, please?

19 A. Just the preparation that I had in a conversation
09:23:06 20 with Christina and Justin.

21 Q. And you were saying, I think, you -- that you
22 wished you had more time and I interrupted you.

23 A. I need a -- I'm so new to what I'm doing with
24 this -- my new position here with the county, that -- time
09:23:31 25 is -- more time is always good for me.

1 Q. Okay. And you mentioned your new position at the
2 County.

3 Can you -- can you tell me about that a
4 little bit?

09:23:42 5 A. So I was appointed December 20th and I took office
6 January 3rd. So it's -- what? A little over seven --
7 eight months that I've been here. And I -- like I said,
8 time would -- more time possibly would have been better, I
9 suppose.

09:24:14 10 Q. And by "position," is that -- what is the title?

11 A. County recorder.

12 Q. Okay. And -- well, congratulations first, by the
13 way.

14 A. Thank you.

09:24:30 15 Q. A little bit late, but congratulations.

16 Before that, did you work in the county?

17 A. No.

18 Q. Okay. All right. Well, in preparation for your
19 deposition today, did you review any documents besides
09:24:50 20 communications from your attorneys?

21 A. Not being -- not being familiar with the questions
22 but based on the information of the topics of that -- that
23 notice of deposition, I was going through and reading up on
24 the house bills and those areas that you might be asking
09:25:22 25 about.

1 Q. And in terms of documents related to those topics,
2 did you happen to look at any documents related to
3 elections, voting, or Santa Cruz's voting -- voting
4 administration?

09:25:51

5 A. Yes.

6 Q. Okay. And what -- what were those documents?

09:26:12

7 A. The process, the -- the reason why I'm here. So
8 it's -- it's the main -- the maintenance of the voter
9 registration list, the -- the -- you know, to facilitate
10 early voting and ballot mail, signature affidavit. So this
11 is -- I'm training myself for this position or educating
12 myself.

13 Q. Did you review, for example, for -- for voter
14 registration, what -- what kinds of documents did you
15 review there?

09:26:39

16 A. Items that are required to -- for the voter
17 registration.

18 Q. The documents someone would need to submit if they
19 were registering to vote?

09:27:00

20 A. Yes.

21 Q. Okay. Well, we'll get to some of those documents,
22 but what I wanted to ask was: Did you happen to review any
23 election procedure manuals?

24 A. Yes.

09:27:20

25 Q. Okay. Did you review any documents having to do

1 with -- internal documents for Santa Cruz County having to
2 do with elections?

3 A. Yes.

4 Q. Okay. And what were those documents?

09:27:57

5 A. Excuse me. As -- as the days go and there's
6 matters or issues that come up, I look at the documents,
7 whether it's a registration form that was not completely
8 signed, then the process of what is done to -- to advise
9 the voter of what is missing. So there's a schedule of
10 events with --

09:28:33

11 Q. Did you -- did you speak with anyone from the
12 Santa Cruz Recorder's Office in preparation for your
13 deposition today besides the attorneys?

09:29:08

14 A. The staff is fairly new, but I do have one staff
15 member that's been here possibly -- a little over a year.
16 So as I just -- if I have a concern even with the -- with
17 how I'm not understanding the question or I -- I -- I have
18 asked him, you know, twice, as a matter of fact, to clarify
19 some -- some questions that I wasn't -- or potential
20 question that I may have.

09:29:40

21 Q. And that person who's been there over a year,
22 what's his name?

23 A. Angel Aguilar.

24 Q. And what is his job title there?

09:29:53

25 A. He is a recorder clerk, and he's also an election

1 clerk.

2 And just to mention that the other gal,
3 Saibet Gastelum, who was very new -- I think she -- she
4 might have been here maybe eight months. And through the
09:30:23 5 2022 election, they sort of caught on, but three months
6 ago, she moved on to the county attorney's office.

7 Q. Now, besides reviewing the documents that you
8 mentioned and then speaking with Mr. Aguilar, did you do
9 anything else to prepare for your deposition today?

09:31:07 10 Is that a no?

11 A. I'm thinking. So prepared -- having the
12 opportunity again when I received the notification that I
13 was going to be deposed, I -- I tried my best to -- to
14 familiarize myself with -- with the case. But it's just --
09:31:39 15 again, I'll just say no.

16 Q. And do you know what this litigation is about?

17 You don't have to know the claims. Just
18 generally what it's about.

19 A. I just -- I'm -- it is about the voting procedures
09:32:16 20 and the assumption of failure within the process.

21 Q. Now, I'm going to ask you a few questions about
22 your -- your background or your work background, training.

23 Can you tell me about your educational
24 background a little bit?

09:32:38 25 A. So I graduated from Nogales High School, and I

1 went to Pima College for two years. So it was just general
2 studies. But I did not -- I was short two -- two or four
3 credits to get an associate's.

4 Q. Do you have any certifications or licenses?

09:33:01

5 A. So throughout -- I retired from the title and
6 escrow industry in December of 2019. So for 30-some years,
7 there was always trainings; there was always certificates
8 being -- being issued.

09:33:37

9 Q. And I -- I think I asked you already, but have you
10 ever worked anywhere within Santa Cruz County before?

11 A. No.

12 Q. Okay. So before becoming county recorder, you did
13 not have any other role at Santa Cruz -- at the Santa Cruz
14 County Recorder's Office?

09:34:01

15 A. That's correct.

16 Q. Okay. What is your prior experience with
17 elections; have you ever run for office or anything like
18 that?

09:34:21

19 A. So when I retired in 2019, that same January I
20 decided to go to real estate school and get my real estate
21 license. At the same time, I decided to run for county
22 recorder. So for -- for the 2020 election, I didn't go
23 through -- past the primary.

09:34:47

24 Q. And when you worked on that campaign, did you ever
25 have to do anything having to do with helping people

1 register to vote?

2 A. The world was shut down at the time, so everything
3 was so limited -- so limited that I want to say yes, but
4 I'll say no --

09:35:12 5 Q. Okay.

6 A. -- because it was so limited.

7 Q. Sure.

8 And what was the -- the result of that --
9 what was the result of that election in 2020?

09:35:25 10 A. So I was short by, I believe, 80-some votes.

11 Q. Every -- every vote counts; right?

12 A. Correct.

13 Q. Okay. And so you -- you didn't -- well, before --
14 before that run for office, had you ever been involved in
09:35:55 15 elections or county politics or anything like that?

16 A. For a brief three, four years in my young life,
17 when I came back home from living in Tucson, I started -- I
18 worked for the City of Nogales for about ten months when
19 the city attorneys offered me a job with them. And the
09:36:28 20 city attorneys were very, very, very, very close to the
21 Democratic party. And with that, I -- I was very, very
22 young but I knew how involved they were and -- with the
23 state, not -- not -- of course with local government, but
24 they were very, very well into it with the state government
09:36:55 25 too.

1 So did I get familiar? No. Was I living
2 in -- in the campaign process? Yes. But I didn't run any
3 particular -- basically, what I was doing was picking up
4 donation checks.

09:37:17

5 Q. I see. Okay.

6 So you were -- you weren't doing any, say,
7 voter registration drives, for example?

8 A. No. No.

9 Q. All right.

09:37:26

10 MR. HERRERA: Well, I'm going to ask our --
11 Mr. Rohan if we can pull up the -- or I don't know who
12 handles the exhibits, but if we could pull up the first
13 exhibit. I believe it's Exhibit A in our folder.

09:37:59

14 THE COURT REPORTER: Do you want to mark this
15 Exhibit 89 -- I mean 98?

16 MR. HERRERA: I was going to say 98. Thank
17 you. Yes, please.

18 (The document was marked as Exhibit 98
19 for identification.)

09:38:09

20 BY MR. HERRERA:

21 Q. So this is an exhibit we've marked as Exhibit 98.

22 And do you recognize this document,

23 Ms. Moreno?

24 A. Yes.

09:38:22

25 Q. Okay. And do you -- I should say before we go

1 further, do you have any documents with you right now on
2 your desk?

3 A. I've got that document.

09:38:38

4 Q. Okay. Is that the only document you have in front
5 of you?

6 A. I've got my -- my 2019 EPM annotated notebook.

7 Q. Okay. And is that -- is that open in front of
8 you -- the annotated 2019 EPM?

9 A. Yes, it is.

09:39:02

10 Q. And when you say "annotated," is that -- are those
11 your annotations or -- or it has annotations on it?

12 A. What I understood, it was never approved. It
13 never went past -- or the governor never approved it, so
14 we're using the -- it was for 2022 but it's for the 2019
15 annotated form. I guess in 2022 it did not -- it was not
16 approved.

09:39:24

17 Q. I see. Well, let's -- looking at this exhibit
18 that's up on the screen here, this is not the only page.
19 I'll represent that to you. But if we can go to the second
20 page, please.

09:39:58

21 Do you recognize these -- I'm sorry. Can we
22 go to the fifth page.

23 And do you recognize the topics here -- that
24 begin here?

09:40:25

25 A. Yes.

1 Q. And do you understand that you, Ms. Moreno, have
2 been designated as the representative to testify -- to
3 testify on behalf of the Santa Cruz County Recorder's
4 Office?

09:40:42

5 A. Yes.

6 Q. Okay. And you -- you have not been -- you are not
7 testifying in your individual capacity but as an -- as a
8 representative of the recorder's office?

9 A. Correct.

09:40:55

10 Q. Okay. And can we stipulate that whenever I say
11 "you" or "your," that -- for the most part, unless I
12 specify, that will be the equivalent of me saying "your
13 office" or "your offices"?

14 A. I understand.

09:41:14

15 Q. Now, looking at this topic list, I believe you
16 mentioned this earlier but you reviewed these topics;
17 correct?

18 A. Yes.

09:41:33

19 Q. And are you prepared to address each of these
20 topics today?

21 A. I can try.

22 Q. Okay. Let me ask it this way: Were there any
23 topics, as you read through them, that you feel as though
24 you do not have much knowledge about?

09:42:03

25 A. Yes.

1 Q. Okay. And which ones would those be?

2 And we can -- we can -- you can refer to your
3 paper copy, or we can scroll through if we -- if we need
4 to.

09:43:09 5 A. Number 1.

6 Q. Okay. And what part of Number 1 might you not be
7 able to be prepared to address?

8 A. What -- with -- with the house bills and senate
9 bills, that's what we work -- on the election end of it,
09:43:37 10 that's what we work a lot with. And I just don't have them
11 down pat, so every time there's a senate bill or a house
12 bill, I have to go back and read on it because I just --
13 there's just so many of them that I just don't know them.

14 Q. Sure. I understand. And I don't expect that of
09:43:56 15 you. I have to go look at them every time too.

16 So what I'm asking is: In terms of the
17 County's interpretation and implementation of those bills
18 listed there, would you be able to testify about that?

19 A. You know, I can certainly try.

09:44:29 20 Q. Okay. Are there any other topics that stick out
21 to you as ones that you may not be prepared to testify
22 about today?

23 A. 19 really sticks out only because -- well, 19.

24 Q. Can we go to page 8, please.

09:45:40 25 So Topic 19 is about your county voter

1 registration system -- your county's voter registration
2 system and how your personnel interacts with these systems;
3 right?

4 A. Yes.

09:45:57

5 Q. Okay. And you mentioned Mr. Aguilar earlier.

6 Would he be more familiar with these topics
7 for Santa Cruz --

8 MR. PIERCE: Object -- object to foundation.

9 BY MR. HERRERA:

09:46:17

10 Q. Okay. Is there anyone in your office more
11 knowledgeable than Mr. Aguilar about these things, if you
12 know?

13 A. It would be -- it would be Angel.

14 Q. And who is Angel?

09:46:34

15 A. Aguilar.

16 Q. Okay. Sorry. I missed his first name earlier.

17 Does -- does Mr. Aguilar -- if you know, does
18 Mr. Aguilar train other voter clerks and election workers
19 in your office?

09:47:09

20 A. It would be me. And I just hired my new -- or I
21 just hired my chief deputy recorder.

22 Q. Okay. And does -- who is your chief deputy
23 recorder?

24 A. Yolanda Kory.

09:47:36

25 Q. What was the last name again? I'm sorry.

1 A. Kory, K-o-r-y.

2 Q. And does Ms. Kory have -- if you know, have
3 experience with election procedures and voter registration?

4 A. No, she doesn't.

09:47:54 5 Q. Okay. How many people work in the election side
6 of the Santa Cruz County Recorder's Office?

7 A. Three.

8 Q. And does Santa Cruz County or -- or does the --
9 does your office contract with any outside companies or --
09:48:19 10 or agencies to do the work of election administration or
11 voter registration?

12 A. No.

13 Q. Okay. So it's just you and the three people you
14 mentioned who do the voter registration; right?

09:48:38 15 A. Yes.

16 Q. Have you attended any -- you personally, have you
17 attended any trainings on voter registration put on by the
18 state or anyone else?

19 A. Yes.

09:48:59 20 Q. Okay. And when was that?

21 A. This past Monday, Tuesday, and Wednesday.

22 Q. Okay. And before that, had you attended any
23 trainings for voter registration put on by the Secretary of
24 State's Office or anyone else?

09:49:17 25 A. There was an election officers' conference in June

1 that I went to and, of course, the training of this past
2 week.

3 Q. And who put on the training this past week?

4 A. The secretary of state.

09:50:04 5 Q. And did anyone -- did anyone else from your office
6 accompany you to that training?

7 A. Yes. The five of us went.

8 Q. So you, the three people who work on elections,
9 and then who else went?

09:50:22 10 A. It was Monica Gutierrez. She was a temp from last
11 fall, and she just -- we just turned her to permanent
12 employee. And Rosa Anna Fajardo. She's been in this
13 department for maybe 18 months, maybe a little bit longer.
14 And she is also a recurring clerk/election clerk.

09:50:55 15 Q. All right. Well, let's -- let's see how far we
16 can get on some of these questions. And if you don't know,
17 you know, please explain that.

18 Now, let's go to -- if we can please go to,
19 in the folder, Exhibit C -- I'm sorry, Exhibit B. Sorry
09:51:49 20 about that.

21 And do you recognize this first page of this
22 document, Ms. Moreno?

23 A. I might have come across it. I can't say for
24 sure.

09:52:22 25 Q. Okay. And from the title, as you can see, it

1 says, "Defendant's Responses to Plaintiff's First Set of
2 Requests for Production."

3 And well, you can see there on the first
4 sentence of -- in the body of the document that these are
09:52:42 5 the requests for production of the Santa Cruz County
6 Recorder's Office in this case.

7 Did you help in gathering documents to answer
8 these requests for production?

9 A. With the help of Saibet Gastelum and Angel
09:53:01 10 Aguilar, we were able to produce those documents.

11 Q. Okay. Can we go to Request For Production
12 Number 10 on page 6.

13 THE COURT REPORTER: Do you want to mark this
14 as Exhibit 99?

09:53:13 15 MR. HERRERA: Yes, please.

16 (The document was marked as Exhibit 99
17 for identification.)

18 BY MR. HERRERA:

19 Q. Okay. And this RFP Number 10 in Exhibit 99 asks
09:53:33 20 for "All documents and communications regarding A.R.S.
21 Section 16-165, as amended by H.B. 2243"; right?

22 A. Yes.

23 Q. Okay. And based on your response, your office had
24 no responsive documents to this request; is that right?

09:53:57 25 MR. PIERCE: Object to the form and

1 foundation.

2 BY MR. HERRERA:

09:54:16

3 Q. Okay. Is that still the case that you don't have
4 any -- is that still the case that you don't have any
5 responsive documents to that request?

6 A. Correct.

7 MR. HERRERA: Now, can we go to Exhibit C in
8 the folder. And can we mark this as Exhibit 100, please.

9 BY MR. HERRERA:

09:55:03

10 Q. Now, Ms. Moreno, we're showing you on the screen
11 here another exhibit that has been marked as Exhibit 100.
12 And -- or actually, I'm sorry.

09:55:21

13 MR. HERRERA: Let's not mark -- can we strike
14 that and not do this Exhibit 100. This has been previously
15 marked as Exhibit 6 in a prior deposition.

16 BY MR. HERRERA:

17 Q. Do you recognize this document from its first
18 page, Ms. Moreno?

19 A. Yes.

09:55:41

20 Q. Okay. And what is it, based on the first page?

21 A. It's a 2019 Elections Procedures Manual.

22 Q. And what is the purpose of the Elections
23 Procedures Manual?

24 MR. PIERCE: Object; foundation.

09:56:00

25 THE WITNESS: It's -- it's our bible per se

1 as to -- to follow policies and procedures.

2 BY MR. HERRERA:

3 Q. And by "policies and procedures," is that with
4 regard to election administration?

09:56:22 5 A. Yes.

6 Q. Okay. Is this version -- or rather, is the 2019
7 Elections Procedures Manual still currently the one that
8 you use to guide your office in administering elections?

9 A. As I mentioned to you, what I have is the -- is
09:56:54 10 the 2019 EPM manual, parentheses, 22 -- 2022 annotated.

11 Q. And so do you use the 2022 annotated?

12 A. Yes.

13 Q. Okay. And is that something that your office uses
14 as well to guide you in administering elections?

09:57:16 15 A. Yes.

16 Q. Do you know what month that 2022 Election
17 Procedures Manual was created?

18 A. No.

19 MR. HERRERA: And I'll ask counsel, since
09:57:31 20 Ms. Moreno has that in front of her, if we can get a copy
21 of that later.

22 MR. PIERCE: That shouldn't be a problem.

23 MR. HERRERA: Thank you, Mr. Pierce.

24 BY MR. HERRERA:

09:57:49 25 Q. And in the annotated version, what does -- what

1 does the annotated version have in it that's different from
2 this 2019 version?

3 A. I don't know.

09:58:21

4 Q. And when you say that it's annotated, are -- are
5 the annotations in line or kind of in comment bubbles on
6 the side? How does that look?

09:59:01

7 A. It -- since -- I could see, for example, there are
8 some line items, like, drawn with a -- like, not slashed
9 out but with just a line across them, and then there could
10 be a word inserted. Some other items could be in a
11 different color. But I can't compare it to the 2019
12 because I don't have -- I haven't worked with the 2019.

09:59:29

13 Q. Okay. So have you reviewed the 2019 Elections
14 Procedures Manual, the one that's in front of you -- or
15 rather, on the screen?

16 A. Yes.

17 Q. Okay. And is your office, if you know, legally
18 required to follow the 2019 Elections Procedures Manual?

09:59:46

19 MR. PIERCE: Object; foundation.

20 MR. LANGHOFER: Object to form.

21 MR. PIERCE: Form.

22 MR. LANGHOFER: Calls for a legal conclusion.

10:00:16

23 THE WITNESS: All I've worked with since I
24 came in was with the 2022 annotated version. And when I
25 make reference to the staff, it's based on -- on this EPM.

1 BY MR. HERRERA:

2 Q. And so you don't know if there is a version of the
3 Elections Procedures Manual that's legally binding on your
4 office?

10:00:45

5 MR. LANGHOFER: Object to form. Calls for a
6 legal conclusion.

7 THE WITNESS: I'm sure -- I'm sure there is.
8 I just -- like I said, I -- this is what I have and this is
9 what I've been using.

10:01:00

10 BY MR. HERRERA:

11 Q. Can legally binding guidance be conveyed by the
12 Secretary of State's Office to your office by any other
13 means outside of the Elections Procedures Manual, if you
14 know?

10:01:18

15 MR. LANGHOFER: Same objection.

16 MS. STUART: Form.

17 THE WITNESS: I don't know.

18 BY MR. HERRERA:

10:01:29

19 Q. Do you ever get -- and without telling me the
20 contents, do you ever get any memoranda from the Secretary
21 of State's Office about election procedures?

22 A. Not that I can recall.

10:02:21

23 MR. HERRERA: Now, let's go to another
24 exhibit that has been marked in a previous deposition. And
25 for the court reporter, that's Exhibit D in our folder.

1 Now this -- this exhibit was marked as Exhibit 35 in a
2 prior deposition.

3 BY MR. HERRERA:

4 Q. It says -- down there, it says "Petty," Ms. Moreno
10:02:37 5 because Ms. Petty is -- was the designee for Maricopa
6 County.

7 So this -- I'll represent to you -- and you
8 can kind of see at the very top -- it's a little small --
9 that it says, "2023 Elections Procedures Manual, June 2023
10:02:55 10 Draft."

11 Have you ever reviewed this document before,
12 a 20 -- a 2023 draft of the Elections Procedures Manual?

13 A. We've been involved in -- in changes that may
14 occur, deletion of certain items. And so I have been
10:03:31 15 involved with that. I have seen it. I have read it.

16 Q. Okay. And you mentioned changes and deletions
17 that your office may have been involved in. Can you tell
18 me about the changes that your office has been involved in
19 with regard to the draft 2023 Elections Procedures Manual?

10:03:47 20 A. Nothing in specific. There's just -- there could
21 be a comment or a suggestion and that involves all the
22 county recorders.

23 Q. Are there any comments that you or your office has
24 submitted to the secretary of state on this June 2023
10:04:13 25 draft?

1 A. No.

2 Q. Have you communicated any suggestions verbally to
3 the Secretary of State's Office about the June 2023 draft
4 Elections Procedures Manual?

10:04:28

5 A. No.

6 Q. You mentioned deletions.

7 What are the deletions that you're referring
8 to with regard to the June 2023 draft of the Elections
9 Procedures Manual?

10:04:48

10 A. I couldn't say precisely what they -- what they
11 might be. You know, just at the end of the day, I don't
12 know what the end result is or will be. I'd have to go
13 back to maybe some notes or past meetings, but I couldn't
14 tell you.

10:05:16

15 Q. Now, have you -- have you actually read some of
16 the changes that are shown in this June 2023 draft of the
17 Elections Procedures Manual?

10:05:42

18 A. At the time that we had meetings, you know, we --
19 we -- I had read as to what the comments may be or
20 suggestions may be, but like I said, I haven't seen the
21 final version if -- no, I just don't know what the final
22 version will be.

10:06:09

23 Q. Are -- are there any thoughts that you had or
24 opinions that you had about some of the changes suggested
25 to the June 2023 draft of the Elections Procedures Manual?

1 A. No.

2 Q. Now I want to -- you've mentioned the training
3 that you attended put on by the secretary of state
4 recently, and I think you said it was on -- it started on
5 Monday?

10:06:28

6 A. Yes.

7 Q. So it would be Monday, the 7th?

8 A. Yes.

9 Q. August 7, 2023?

10:06:41

10 A. Yes.

11 Q. Okay. And what was the training about?

12 A. It -- elections, voter registration, early voting,
13 the early ballot.

14 Q. How much of the training was about voter
15 registration, in terms of the portion of it?

10:07:05

16 A. Probably 45 minutes.

17 Q. 45 minutes of the whole three days was about voter
18 registration?

19 A. Well, the process of voter registration, but you
20 also have the early ballots, the mail-out ballots, the --
21 you know, different steps, and, you know, like, what they
22 try to do is they would take a topic and -- and there's
23 discussion -- there's presentation, discussion within those
24 45 minutes.

10:07:28

10:08:11

25 Q. And was -- were there any presentations or

1 discussions of maintaining the list of voters who are
2 registered to vote?

3 A. Yes.

4 Q. Okay. And do -- what do you recall about that?

10:08:37

5 A. That would be the -- the AVID program where
6 there's a list of voter registration.

7 Q. Okay. And as far as -- as far as you understand,
8 what is the AVID program?

10:09:03

9 A. It's the access voter registration or Arizona
10 voters' registration -- I'm sorry. I need to see it.

11 Q. You don't have to -- you don't have to tell me the
12 acronym, but what's -- what is your understanding of what
13 it is?

10:09:18

14 A. Well, it's just -- it's access to the voters'
15 information database where -- our office has the
16 information on the voter, all the information pertinent to
17 providing that voter with, you know, voting information in
18 the future, and for us to also verify that we have a
19 legitimate registrant.

10:09:53

20 Q. And when you say "legitimate registrant," do you
21 mean someone eligible to vote?

22 A. That's correct.

23 Q. Is there anything else you meant by that?

24 A. No.

10:10:30

25 MR. HERRERA: For the court reporter, can we

1 pull up Exhibit I in the folder.

2 BY MR. HERRERA:

3 Q. Ms. Moreno, this was an exhibit marked in a prior
4 deposition as Exhibit 19.

10:10:56

5 And as you can see from the bold letters
6 there, this is a copy of House Bill 2492 from 2022 from the
7 Arizona legislature.

8 Are you familiar with this house bill at all?

10:11:18

9 A. So when it first came up, again, I went to visit
10 and read up on it but . . .

11 Q. When you say "it first came up," when did it first
12 come up?

10:11:47

13 A. I don't remember. I know that prior to the topics
14 that were outlined on this deposition notice, I had -- I
15 had -- I needed to go and see that house bill or at least
16 read up on it, but I couldn't -- I couldn't tell you what
17 it is.

18 Q. Do you know generally what kinds of changes that
19 this bill made -- makes to the law?

10:12:29

20 And can we go to --

21 THE COURT REPORTER: I didn't hear an answer.
22 I'm sorry.

23 THE WITNESS: No.

24 BY MR. HERRERA:

10:12:36

25 Q. Can we go to Exhibit G in the -- in our folder.

1 Ms. Moreno, I'm showing you an exhibit that
2 was marked in a prior deposition as Exhibit 21. And as you
3 can see from the first page here, it says, "House
4 Bill 2243."

10:12:58

5 Are you familiar with House Bill 2243 from
6 2022?

7 A. No.

8 Q. Okay. Have you ever reviewed that bill?

9 A. I might have. I might have.

10:13:21

10 Q. Do you -- do you happen to recall what that bill
11 is about?

12 A. No.

13 Q. Okay. Would it -- would it ring a bell if I said
14 that it has to do with the cancellation of voter
15 registration?

10:13:57

16 A. Yes.

17 Q. Okay. And what do you recall -- what does that
18 help you remember?

10:14:08

19 A. We had discussed it. We had discussed it with --
20 with the Association of County Recorders. So there's house
21 bills that -- that are presented to us for suggestions or
22 comments. So --

23 Q. And --

10:14:30

24 A. -- so depending on the structure of the bill or
25 what is changing, what's omitted, there are suggestions,

1 comments from the association.

2 Q. And what do you recall about those comments at the
3 association or with the association regarding this House
4 Bill 2243?

10:14:55 5 A. Well, because you did mention it has to do with
6 cancellation of voters, I do know that we've had several
7 discussions about that, but I can't pinpoint exactly what
8 was talked about.

9 Q. And is that something -- is that something that --
10:15:23 10 would anything help you remember what those discussions
11 were about?

12 A. No. I'd have to go back to . . .

13 Q. Do -- do you -- do you recall any discussions with
14 the association you mentioned regarding implementing House
10:16:00 15 Bills 2243 and 2492?

16 A. I'm -- I'm sure -- I don't recall, but I'm sure
17 there was discussions.

18 Q. Okay. And when you say you don't recall, is
19 that -- do you just not recall the substance of them?

10:16:23 20 A. The discussion -- the substance and the
21 discussion.

22 Q. Okay. Do you know generally what these bills mean
23 for how Santa Cruz County runs voter registration?

24 A. They would affect or change the implementation
10:16:59 25 of -- of the process.

1 Q. Okay. And I'm not trying to do an exam here.
2 I've -- I'm just trying to ask, what do you -- what do you
3 know about what these bills do to change how Santa Cruz
4 runs elections?

10:17:20

5 A. Can you repeat that, please?

6 Q. Sure.

7 So what do you know about these bills or how
8 these bills change how Santa Cruz County does voter
9 registration?

10:17:34

10 A. How -- I -- I'm here to make sure that any change
11 with regards to the process that is -- that passes -- that
12 the house bill passes, that we have to implement and we
13 have to go with that process. We have to go with that
14 procedure.

10:18:06

15 Q. And do you know what some of those -- those
16 changes are?

17 A. I can't remember.

18 Q. Would someone else in your office -- who works in
19 your office know about those changes in terms of the
20 everyday application of them?

10:18:21

21 A. I don't know.

22 Q. Would -- would Mr. Aguilar know, perhaps, how
23 these bills have changed -- how your office runs voter
24 registration?

10:18:45

25 A. I don't know.

1 Q. And why -- would it help if you spoke with
2 Mr. Aguilar to determine that?

3 A. I can, yes.

4 Q. Have you ever actually handled a voter
10:19:21 5 registration application that comes into Santa Cruz County
6 Recorder's Office?

7 A. No. In a sense where I have looked over the
8 shoulder of Saibet or Angel to see what they're doing, but
9 I myself have not done it. Whatever is coming in, whatever
10:19:46 10 is -- they're doing on the voters' end, I'm looking over
11 their shoulder so that I can get to know the process.

12 Q. And what have you learned by doing that?

13 A. Well, the information that is required by the
14 registrant in order for him to be -- or for that person to
10:20:08 15 be part of the registration list.

16 Q. Okay. And are you familiar with the requirements
17 of your office in processing that voter registration
18 application when it comes in?

19 A. We're a small office, so if there is a
10:20:41 20 conversation, I can just leave my office and inquire about
21 what's going on. So I try to do my best to be aware of --
22 if there's no conversation, the process is moot.

23 Q. Well, I'm about to go into -- oh, go ahead. I'm
24 sorry.

10:21:06 25 A. So for me to be aware of -- of the process, I

1 believe I -- I'm getting there, yes.

2 Q. Okay.

3 MR. HERRERA: And I think I'm at a good point
4 where I'm going to move on to a new topic here. And I
10:21:25 5 think we can take maybe a ten-minute break so that everyone
6 can get some water and get some rest.

7 Is that okay? Is that okay with everybody?

8 We're off the record -- or can we go off the
9 record, please.

10:21:41 10 THE VIDEOGRAPHER: We are off the record.
11 Time on the video monitor is 10:21 a.m.

12 (A recess ensued.)

13 THE VIDEOGRAPHER: We are on the record.
14 Time on the video monitor is 10:33 a.m.

10:33:29 15 BY MR. HERRERA:

16 Q. Ms. Moreno, Arizona has a documentary proof of
17 citizenship requirement for new voter registration
18 applications; correct?

19 A. Yes.

10:33:45 20 Q. Okay. And I'll refer to the requirement as the
21 "DPOC requirement."

22 Is that -- will you understand that if I say
23 "DPOC"?

24 A. Yes.

10:33:56 25 Q. Okay. Are you familiar with the documents or

1 materials that would constitute -- or that would be
2 satisfactory DPOC in Arizona?

3 A. Yes.

4 Q. Okay. So if I -- you know, if I said Arizona
10:34:22 5 driver's license and ID cards, out-of-state driver's
6 licenses or ID cards, birth certificate, U.S. passport,
7 citizenship and immigration documents, and tribal
8 identification numbers and documents, those things would --
9 would be familiar to you as documentary proof of
10:34:42 10 citizenship?

11 A. Yes.

12 Q. Okay. Now, what can happen if a person registers
13 to vote and they do not supply their voter registration
14 form with DPOC?

10:34:54 15 MR. LANGHOFER: Form.

16 THE WITNESS: A letter is sent to them
17 requesting proof.

18 BY MR. HERRERA:

19 Q. Okay. And so Santa Cruz County would send that
10:35:12 20 person a letter asking for proof of citizenship?

21 A. Correct.

22 Q. And what happens after you send that letter?

23 A. I believe they need to respond within 30 days or
24 that registrant goes to suspense.

10:35:41 25 Q. Suspense. Okay.

1 A. Go ahead.

2 Q. And by "suspense," can you explain what you mean
3 by that?

10:35:56

4 A. They're put on hold. It's just like a -- they're
5 they are put on hold until proof of citizenship -- or proof
6 of -- the proper document is provided.

7 Q. Now, do you know what happens if someone submits a
8 federal voter registration form but does not submit
9 documentary proof of citizenship?

10:36:23

10 A. He's a fed-only voter.

11 Q. And what is a fed-only voter?

12 A. That person can only vote on federal elections.

10:36:43

13 Q. Okay. And if someone submits an Arizona state
14 voter registration application and does submit the
15 documentary proof of citizenship, what -- what kind of
16 voter is that person going to be?

17 A. My god --

18 Q. Would it be full-ballot -- full-ballot voter?

19 A. Full ballot. Correct.

10:37:11

20 Q. Now, do you -- what is the difference between a
21 fed-only and a full-ballot voter?

22 A. Well, the full ballot is you have the candidates,
23 whether it be local, statewide, or nationwide, the federal
24 candidates. You'd have that for the full -- full

10:37:44

25 registrant, while the federal will only be limited to those

1 federal candidates who are running for office.

2 Q. Now, I want to get a sense of the databases that
3 your office has access to in term -- and this is in the
4 context of voter registration.

10:38:07

5 Does your office use the Arizona Motor
6 Vehicles Division databases at all?

7 A. I do know that we do receive registration forms
8 from -- from MVD.

10:38:37

9 Q. And what do you do with those voter registration
10 forms from MVD?

11 A. We go ahead and input all that information in a
12 voter registration list.

10:39:09

13 Q. Okay. And do you use the -- do you have any
14 access to Arizona MVD -- that's Motor Vehicle Division, MVD
15 -- data in your office?

16 A. I don't believe so. That -- what we receive is
17 just the registrant's form completed, and that is uploaded
18 to his profile once that -- the voter's -- registrant's
19 information is inputted.

10:39:41

20 Q. Do you ever use the Arizona MVD database for
21 verification of a voter when they submit a registration
22 application?

23 A. I don't know.

24 Q. Let me ask it a little bit more broadly.

10:40:09

25 When you get a voter registration

1 application, do you do anything in your office to verify
2 that person's identity or eligibility?

3 A. I don't know.

4 Q. Okay. What -- just walk me through -- when you
10:40:46 5 get a voter registration application in your office, you
6 look at the form and then you look at what that person
7 submitted; right? We've talked about documentary proof of
8 citizenship.

9 Is there anything else you do after receiving
10:41:05 10 those materials from the voter?

11 A. If the voter registration form is complete and the
12 profile is -- is produced or -- or -- I'm trying to find
13 that word. If there's anything missing, there is a --
14 there is a letter that is sent to that registrant to
10:41:56 15 provide us with that information.

16 Q. Okay. Do you go -- does your office go look up
17 someone's name or -- using their name or numbers associated
18 with that person and go look them up in any state or
19 federal databases?

10:42:14 20 A. Based on my experience -- and while I'm answering
21 you, for instance, there was one that the address did not
22 make sense, but since I know the County -- not very well,
23 but to know what he might have meant as the address, that
24 we -- I had Angel look at the county records to see if that
10:42:46 25 particular voter owned that particular residence and just

1 to confirm the address. If there is no confirmation, it's
2 hard to provide them with a notice because the address is
3 wrong anyway.

10:43:16 4 Q. So you used your -- your title skills for that --
5 for that one?

6 A. Yes.

7 Q. Are there -- do you go -- have you ever used
8 any -- gone and looked someone up in the Motor Vehicle
9 Division data to verify anything about someone who's
10:43:37 10 applying to vote?

11 A. No.

12 Q. Okay. Do you know if your office -- anyone at
13 your office does that ever?

14 A. No.

10:43:45 15 Q. You don't know?

16 A. I don't know.

17 Q. Okay. Is it possible that they do?

18 A. It's possible.

19 Q. Do you recall anything from that secretary of
10:43:57 20 state training that began on August 7th, this week, that
21 would have explained how to verify someone -- someone's
22 information using the Motor Vehicle Division's data?

23 A. Yes.

24 Q. What do you -- what do you recall about that?

10:44:20 25 A. I don't remember.

1 Q. But people -- people from your office were there
2 at that training; right?

3 A. Yes. Uh-huh.

4 Q. Okay.

10:44:31 5 A. Yes.

6 Q. So they -- they might have remembered that?

7 A. Yes.

8 MR. PIERCE: Objection; form.

9 BY MR. HERRERA:

10:44:39 10 Q. Okay. Yeah.

11 MR. HERRERA: Sorry, Justin. I'm just trying
12 to figure out who might know this information.

13 BY MR. HERRERA:

14 Q. So has your office ever used -- have you heard of
10:45:01 15 the Systematic Alien Verification for Entitlements program?

16 A. Yes. I mean, I -- yes.

17 Q. Okay. And what do you know about it?

18 A. I know that -- that -- I'm -- that it has to do
19 with the registration number that's provided to that
10:45:40 20 individual. I don't know.

21 Q. Does -- does your office use the Systematic Alien
22 Verification for Entitlements program at all for voter
23 purposes?

24 A. I don't know.

10:46:11 25 Q. You might also have seen it as SAVE, S-A-V-E?

1 A. I've seen that, SAVE. I -- I know -- when you
2 mentioned that -- I know the acronym for it, but I don't
3 know.

10:46:29

4 Q. You don't know if your office uses that for voter
5 registration purposes?

6 A. No, I don't.

7 Q. Okay. Have you ever heard of a HAVA check,
8 H-A-V-E -- I'm sorry, H-A-V-A?

9 A. Yes.

10:46:40

10 Q. Okay. And what is that?

11 A. It's the Help -- Help America Vote Act.

12 Q. Okay. And what is a -- what is a HAVA check?

13 A. Can you repeat the question.

14 Q. Sure.

10:47:35

15 So what is -- just what is a HAVA check?
16 Because you seem to have heard of it. But do you know what
17 it is?

18 A. I think it's -- it's helping America vote, exactly
19 what it stands for.

10:47:57

20 Q. Does anyone in your office perform HAVA checks on
21 people registering to vote or trying to register to vote?

22 A. It's my understanding that there is a connection
23 with the AVID, the Active Early Voting List that is
24 connected to HAVA.

10:48:33

25 Q. And what do you mean by that, to the extent

1 it's --

2 A. There is -- I mean, there is some connection.
3 Maybe not intertwined with each other, but there's
4 something -- one has to do with the other.

10:48:54 5 Q. Okay. Is it that someone might not get to be on
6 the early voting list if they don't have a HAVA check,
7 something like that?

8 A. No, I don't think so. I don't think that's
9 affected.

10:49:11 10 Q. Okay.

11 A. I'm not sure.

12 Q. Is it -- do you know if it's something that any of
13 the people who work at your office use -- a HAVA -- the
14 HAVA check?

10:49:23 15 A. I'm sure.

16 Q. Okay. Do you -- are you familiar with what they
17 do to perform a HAVA check?

18 A. No.

19 Q. Okay. And do you -- do you know -- if you -- is
10:49:44 20 that because you don't recall or you just -- you just don't
21 know?

22 A. I just don't recall.

23 Q. Okay. Would it help if you talked to someone who
24 performs -- who might perform HAVA checks or someone who
10:50:03 25 works in the office?

1 A. So as I am -- yes. Yes, yes.

2 Q. And who -- who might know about that, about HAVA
3 checks, at your office?

4 A. Angel.

10:50:21 5 Q. Okay. Angel Aguilar?

6 A. Correct.

7 Q. Is it possible that he knows what your office does
8 with regard to SAVE, if -- if anything?

9 A. Yes.

10:50:38 10 Q. Is there anything that your office does when they
11 get a voter registration -- when you get a voter
12 registration application to make sure you know that that
13 person's a U.S. citizen?

14 A. The -- with the use of the Arizona driver's
10:51:09 15 license.

16 Q. Okay. And how -- how does that tell you that
17 someone's a U.S. citizen?

18 A. If the voter registration is coming from MVD, MVD
19 has already made that determination.

10:51:26 20 Q. I see.

21 So you're -- so you're just talking about
22 when you get a -- an application through the MVD?

23 A. Yes.

24 Q. Okay. Does -- do you use -- do you ever use MVD
10:51:42 25 to tell you or to confirm that someone is a -- or is a U.S.

1 citizen besides from when you get a -- an application from
2 them?

3 A. I don't know.

4 Q. And just to clarify, to your knowledge, someone
10:52:06 5 can have a -- an Arizona driver's license and not be a U.S.
6 citizen; right?

7 MR. LANGHOFER: Form. Calls for a legal
8 conclusion.

9 BY MR. HERRERA:

10:52:19 10 Q. If you know.

11 A. Yes.

12 Q. Okay. And I'm asking you -- I mean, you're in
13 Nogales. I'm from a place closer to the border too. There
14 are -- you might know. I'm just asking if you know if
10:52:34 15 people might have a driver's license and they're not a U.S.
16 citizen.

17 It's possible; right?

18 A. It is possible.

19 Q. Okay.

10:53:09 20 MR. HERRERA: Can we go back -- could we
21 bring up the folder that's Petty Exhibit 19 from the
22 folder, or -- I think we labeled it Exhibit I in the
23 folder. Could we go to page -- bear with me one moment.
24 I'm kind of moving my questions around here.

10:54:50 25 Can we go to page 5, please. One more page

1 down, page 6.

2 BY MR. HERRERA:

3 Q. And, Ms. Moreno, I'm showing you -- this is a few
4 pages down in the House Bill 2492 that I was showing you
10:55:13 5 earlier. And it -- that was marked as an exhibit in a
6 prior deposition, Exhibit 19. And on the sixth page of
7 this document -- or it's page 5 of the bill -- there is a
8 section here that starts with E.

9 Do you see that, the letter E?

10:55:39 10 MR. HERRERA: You can zoom in a little bit,
11 maybe.

12 THE WITNESS: I see it. I see it. I'm
13 sorry, yes.

14 BY MR. HERRERA:

10:55:43 15 Q. And it says, "After complying with Subsection D of
16 this section, if the county recorder or other officer in
17 charge of elections matches the applicant with information
18 that verifies the applicant is a United States citizen" --
19 and do you see -- have you reviewed this section before?

10:56:04 20 A. I'm sure I have, yes.

21 Q. Okay. Well, I want to zoom in a little bit or go
22 farther -- not zoom in, sorry. I want to look farther down
23 in this -- in this paragraph here.

24 And in the middle, it says -- I believe it's
10:56:27 25 the second sentence -- "If the county recorder or other

1 officer in charge of elections matches the applicant with
2 information that the applicant is not a United States
3 citizen, the county recorder or other officer in charge of
4 elections shall reject the application."

10:56:49

5 And then it continues. Do you see that?

6 Do you know, Ms. Moreno --

7 THE COURT REPORTER: I didn't hear an answer.

8 BY MR. HERRERA:

9 Q. Do you see what I -- what I was reading?

10:57:06

10 A. You said it was the second sentence?

11 Q. Yes. I think it starts on line 14.

12 A. Okay. Yes.

13 Q. Okay. Now you -- now you can see what I was
14 reading; right?

10:57:30

15 A. Yes. Uh-huh.

16 Q. And I want you to think about that part that
17 says "matches the applicant with information that the
18 applicant is not a United States citizen."

19 Now, what is information that a voter is
10:57:50 20 not -- or that an applicant is not a United States citizen?

21 A. Can you repeat that, please?

22 Q. Yeah. Sure.

23 So as far as you -- as far as you know, what
24 is information that the applicant is not a United States
10:58:07 25 citizen?

1 MR. LANGHOFER: Calls for a legal conclusion.

2 THE WITNESS: I don't know.

3 BY MR. HERRERA:

10:58:31

4 Q. Do you -- does anyone in your office know what
5 that -- what information would indicate someone is not a
6 United States citizen?

7 MR. LANGHOFER: Foundation.

8 MR. PIERCE: Form.

10:58:55

9 THE WITNESS: It's the lack of providing
10 evidence that they are a United States citizen.

11 BY MR. HERRERA:

12 Q. So you're saying -- so one thing might be the
13 lack -- so by "lack" -- what do you mean by "lack of
14 information"?

10:59:13

15 A. By not providing evidence that they are a U.S.
16 citizen.

17 Q. Okay. Is there some -- would there ever be
18 something -- to you, do you read this at all to mean that
19 there is some piece of information that will tell you that
20 they are not a United States citizen?

10:59:31

21 MS. STUART: Form.

22 THE WITNESS: I don't know.

23 BY MR. HERRERA:

10:59:53

24 Q. Okay. Now, as you are the designee for Santa Cruz
25 County Recorder's Office and you are the county recorder,

1 do you have any idea of how your office will apply this
2 part of the law?

3 MR. LANGHOFER: Form.

11:00:20

4 THE WITNESS: It is my understanding that if
5 you are not able to provide with proof of citizenship or
6 you have not provided proof of citizenship, then you are
7 placed in the federal-only list.

8 BY MR. HERRERA:

11:00:43

9 Q. And it says, "If the county recorder or other
10 officer in charge of elections matches the applicant with
11 information that the applicant is not a United States
12 citizen, the county recorder or other officer in charge of
13 elections shall reject the application."

11:01:00

14 Is -- is there anything that would make you
15 reject the application if you -- if you saw information --
16 let me ask this again.

11:01:20

17 Is there anything that you -- that you would
18 see -- not lack of something, but is there anything -- does
19 this law make sense to you in terms of something you can
20 see that tells you that that person is not a U.S. citizen?

21 MR. PIERCE: Form.

22 MR. LANGHOFER: Form.

23 THE WITNESS: I don't know.

24 BY MR. HERRERA:

11:01:49

25 Q. Now, if you -- if you saw information in, say, a

1 database that showed you that someone 20 years ago was not
2 a U.S. citizen, would that indicate to you that that person
3 is still not a U.S. citizen today?

4 MR. LANGHOFER: Form.

11:02:18 5 MR. HORLEY: Objection.

6 THE WITNESS: No.

7 BY MR. HERRERA:

8 Q. And why not?

9 A. You're looking at 20 years ago, not now.

11:02:33 10 Q. Okay. So it -- someone could have become a
11 citizen in the last 20 years; right?

12 A. Yes.

13 Q. So if some -- if some database like the MVD
14 database showed you that someone was a citizen -- sorry --
11:02:53 15 let me start again

16 If some database like the Motor Vehicles
17 Division database showed you that someone was not a U.S.
18 citizen 20 years ago, then it's possible that that
19 information does not tell you whether someone's a U.S.
11:03:12 20 citizen today; right?

21 A. Right.

22 MR. HORLEY: Form, foundation.

23 BY MR. HERRERA:

24 Q. Now, what about if you saw information in a
11:03:30 25 database that shows you someone was a U.S. citizen -- or

1 rather was not a U.S. citizen in 2010 -- the year 2010 --

2 MR. LANGHOFER: Form.

3 BY MR. HERRERA:

11:03:43

4 Q. -- would that -- would that tell you or constitute
5 information that someone is not a U.S. citizen today?

6 MR. LANGHOFER: Form.

7 MR. HORLEY: Form.

8 THE WITNESS: No.

9 BY MR. HERRERA:

11:03:57

10 Q. And why not?

11 A. It applies to that individual with -- with not
12 being a U.S. citizen 20 years ago. It would apply to the
13 person that, you know, came across on the database that was
14 not a U.S. citizen 10 years ago.

11:04:29

15 Q. Okay. And for you, what would -- what would the
16 line be in terms of the age of the information to show you
17 that someone's not a U.S. citizen --

18 MR. LANGHOFER: Form. Calls for a legal
19 conclusion.

11:04:42

20 BY MR. HERRERA:

21 Q. -- in order to approve their voter registration
22 application under this law?

23 MR. LANGHOFER: Same objection.

11:04:57

24 THE WITNESS: Given the opportunity, you
25 would reach out via mail for that individual to provide you

1 with proof of citizenship.

2 BY MR. HERRERA:

3 Q. Right.

4 But is there -- well, to you -- or as -- as
11:05:19 5 you understand it, what would be a valid source of
6 information as the law here -- it says, "information in the
7 law."

8 What would be a valid source of information
9 that someone is not a U.S. citizen?

11:05:34 10 MR. LANGHOFER: Form Calls for a legal
11 conclusion.

12 MR. PIERCE: Form.

13 THE WITNESS: I don't know.

14 BY MR. HERRERA:

11:05:48 15 Q. Is there anything -- did -- now, with this piece
16 of the law in mind about information that someone is not a
17 United States citizen, do you recall anything from the
18 secretary of state's training this week that would explain
19 to you how to -- to determine if something is information
11:06:13 20 that someone is not a U.S. citizen?

21 A. I don't remember.

22 MR. LANGHOFER: Form.

23 BY MR. HERRERA:

24 Q. Would -- do you think someone in your office might
11:06:24 25 remember?

1 MR. PIERCE: Foundation.

2 THE WITNESS: I don't know.

3 BY MR. HERRERA:

11:06:52

4 Q. Would -- if -- if some -- if some voter called or
5 some person in the county called and said, "My neighbor is
6 not a United States citizen," would you take that as
7 information that someone is not a United States citizen for
8 purposes of rejecting their voter application?

9 MR. LANGHOFER: Form.

11:07:10

10 MR. HORLEY: Foundation.

11 THE WITNESS: I think I would look to my
12 county attorney to advise me as to what I need to do.

13 BY MR. HERRERA:

11:07:38

14 Q. Now, if -- if some outside organization or group,
15 not a state agency, emails you information saying, "This
16 person and that person, they're not United States
17 citizens," would that be information in your mind that
18 would allow you to reject that person -- those people's
19 voter registration applications on the basis of not being
20 U.S. citizens?

11:08:02

21 MR. HORLEY: Objection; form, foundation.

22 THE WITNESS: Again, I would have to go
23 through -- to legal counsel for that.

24 BY MR. HERRERA:

11:08:21

25 Q. And why would you have to go to legal counsel for

1 those -- for those questions?

2 MR. LANGHOFER: Form.

3 MR. PIERCE: Form.

4 THE WITNESS: Because right now, I don't know
11:08:33 5 what I should do.

6 BY MR. HERRERA:

7 Q. And is that because the law does not -- the law,
8 as written here, does not explain to you what information
9 of someone not being a United States citizen is?

11:08:56 10 MR. PIERCE: Calls for a legal conclusion.

11 THE WITNESS: I don't know.

12 BY MR. HERRERA:

13 Q. Would an anonymous phone call from somebody saying
14 that a particular person who was applying to register to
11:09:38 15 vote was not a United citizen -- States citizen -- would
16 that constitute, in your mind, information that someone is
17 not a U.S. citizen?

18 MR. LANGHOFER: Form. Calls for a legal
19 conclusion.

11:10:02 20 THE WITNESS: I don't know.

21 BY MR. HERRERA:

22 Q. I mean, you don't -- why don't you know?

23 MR. PIERCE: Form.

24 THE WITNESS: I just don't -- I just don't
11:10:26 25 know what I should do.

1 BY MR. HERRERA:

2 Q. Okay. Has the Secretary of State's Office ever
3 given your office a list of information that constitutes
4 evidence that someone is not a U.S. citizen for the
11:10:49 5 purposes of this law?

6 A. What I -- what I do recall is to check the status
7 of a voter -- of a registrant's citizenship due to the --
8 the inquiry in the jur- -- juror's questionnaire where they
9 may have answered "noncitizen" when their actual voter
11:11:39 10 registration, they answered that they were. That, I have
11 come across from the Secretary of State's Office. But the
12 experience of -- of an individual not being a U.S. citizen,
13 I haven't -- I haven't experienced that. I can't recall.

14 Q. Okay. So in -- do you recall an instance where
11:12:09 15 you saw evidence that a registrant for voter registration
16 was not a U.S. citizen?

17 A. Yes. That's something that -- that we have talked
18 about within the staff, yes.

19 Q. Okay. So you -- you've talked about with the
11:12:34 20 staff that you got a -- an application and someone was not
21 a U.S. citizen?

22 A. Correct. That -- yes.

23 Q. Okay. And what was the -- without disclosing the
24 names of anyone, what did you do in that situation or what
11:12:53 25 did your staff do?

1 A. If my memory serves me correctly, I think that --
2 let me rephrase that.

3 If my memory serves me correct, there was a
4 request, a written request, that was mailed to that
5 registrant to provide us with proof of citizenship.

11:13:15

6 Q. And then did the person provide proof of
7 citizenship?

8 A. In the instance with regards to that person
9 answering "no" on the juror's questionnaire to -- to him
10 having information that he was a U.S. citizen, if my memory
11 serves me right, there was proof of citizenship that was
12 provided to us.

11:13:43

13 Q. Okay. So that person did provide -- so in this
14 case, there was a specific person who said "I'm not a U.S.
15 citizen" on the jury questionnaire, but then you sent a
16 notice and that person provided proof of citizenship?

11:14:00

17 A. That's correct.

18 Q. Do you know about how long ago that was or when
19 that was?

11:14:13

20 A. I want to say it was in March -- March, April of
21 this year.

22 Q. Okay. And, again, without disclosing that
23 person's name, was this -- do you know how recent the jury
24 questionnaire had been?

11:14:35

25 A. No, I don't.

1 Q. Do you know if the jury questionnaires where the
2 person that you're talking about from March said "no" -- do
3 you know when they said "no" on the jury questionnaire?

4 A. No, I don't.

11:14:50

5 Q. Okay. Did the person offer an explanation as to
6 why they did not -- or why they had marked "no" on the jury
7 questionnaire as to U.S. citizenship?

8 A. I don't know.

11:15:21

9 Q. And did you or your staff determine that that
10 person from March who said "no" on the jury
11 questionnaire -- did you determine that what they sent in
12 later for proof of citizenship was valid proof of
13 citizenship?

14 A. When I followed up with Angel, he had told me that
15 he did --

11:15:35

16 Q. Okay. And so --

17 A. -- provided --

18 Q. -- was that person someone who was registering to
19 vote or had already been registered to vote?

11:15:46

20 A. Had already been registered to vote.

21 Q. I see.

22 So that person remained registered to vote
23 after you asked for the proof of citizenship?

24 A. I believe so.

11:16:01

25 Q. Okay. Now, could we go to another exhibit. It's

1 Exhibit G in our folder.

2 And, Ms. Moreno, I'm showing you again
3 something I showed you earlier. It's a prior marked
4 Deposition Exhibit 21 and -- from a prior deposition. And
11:16:30 5 it is, again, House Bill 2243. And if we can go to the
6 page 4 of the document?

7 Do you see under the Number 9, the small
8 letter (b), lowercase (b) at line 36?

9 A. Yes.

11:17:12 10 Q. Okay. And do you see where it says, "Receives a
11 summary report from the jury commissioner or jury manager
12 pursuant to Section 22-314 [sic] indicating" that that
13 person -- "that the person has stated that the person is
14 not a resident of the county"?

11:17:32 15 Do you see that?

16 A. Yes.

17 Q. And are you -- have you ever reviewed this -- this
18 part of the law?

19 A. Yes.

11:17:56 20 Q. Okay. And now let's go to page 5 of the document,
21 so the next page down, please.

22 And do you see the Subsection 10, which
23 starts on line 5?

24 A. Yes.

11:18:31 25 Q. And it says, "When the county recorder obtains

1 information pursuant to this section and confirms that the
2 person registered is not a United States citizen, including
3 when the county recorder receives a summary report from the
4 jury commissioner or jury manager pursuant to

11:18:49

5 Section 21-314 indicating that a person who is registered
6 to vote has stated that the person is not a United States
7 citizen."

8 And is that kind of what you were referring
9 to that your office did for someone?

11:19:04

10 A. Yes.

11 Q. Okay. Then the -- this section continues, "Before
12 the county recorder cancels a registration pursuant to this
13 paragraph, the county recorder shall send the person notice
14 by forwardable mail that the person's registration will be
15 cancelled in thirty five days unless the person provides
16 satisfactory evidence of United States citizenship pursuant
17 to Section 16-166."

11:19:22

18 Do you see that?

19 A. Yes.

11:19:35

20 Q. Okay. And in the -- in the case that you
21 mentioned from March of this year where someone had marked
22 "no" on their -- on the jury questionnaire as to U.S.
23 citizenship, is it this section that you were
24 implementing -- that your office was implementing in terms
11:19:49 25 of sending them a notice and asking for proof of

1 citizenship?

2 A. Yes.

3 Q. And now, I'm going to continue here.

4 It says -- or rather, I'm going to go back to
5 the top.

11:20:09

6 "When the county recorder obtains information
7 pursuant to this section and confirms that the person
8 registered is not a United States citizen, including
9 when" -- and then it goes into the jury part.

11:20:22

10 So what would be other types of information
11 that would lead you to be able to confirm that the person
12 is not a United States citizen, putting aside the jury
13 questionnaire instance?

14 MR. LANGHOFER: Calls for a legal conclusion.

11:20:52

15 THE WITNESS: I don't know.

16 BY MR. HERRERA:

17 Q. Okay. And let's -- I'm going to go down -- I want
18 to look at a different section here. Could we go to page 6
19 of the document but it's page 5 of the bill. And then go
20 down to line 41. Okay. And we're looking at Subsection F
21 of this HB 2243.

11:21:38

22 And it says, "Each month the secretary of
23 state shall compare the statewide voter registration
24 database to the driver license database maintained by the
25 Department of Transportation."

11:22:00

1 And then it says, "The secretary of state
2 shall notify the appropriate county recorder if a person
3 who is registered -- registered to vote in that county has
4 changed the person's residence address or is not a United
5 States citizen."

11:22:14

6 Do you see that?

7 A. Yes.

8 Q. Okay. Have you ever received information from the
9 secretary of state that a person is not a United States
10 citizen based on their comparison of the statewide voter
11 registration database to the driver license database?

11:22:29

12 A. I'm sure I have.

13 Q. What makes you sure that you have received that?

14 A. It's just information -- there's some information
15 that's periodically sent to us besides that one example I
16 gave you with regards to the citizenship --

11:23:01

17 Q. Okay.

18 A. -- of that potential juror, so -- and I know Angel
19 handles --

11:23:23

20 Q. Do you know when your office -- how long your
21 office has been receiving that other information besides
22 the jury questionnaire?

23 A. As I mentioned, there is -- there are periodically
24 requests for information provided by the SOS with regards
25 to a -- a reg- -- voter registrant.

11:23:47

1 Q. And does that information that you get from the
2 secretary of state say that certain people are not United
3 States citizens or may not be United States citizens?

4 A. I'm not sure.

11:24:17 5 Q. Would -- would Mr. Aguilar know the answer to that
6 question?

7 MR. PIERCE: Foundation.

8 THE WITNESS: Possibly, yes.

9 BY MR. HERRERA:

11:24:27 10 Q. Okay. But -- because you said -- you said he --
11 that he handles that information that comes in from the
12 Secretary of State's Office, right?

13 A. Correct.

14 Q. Okay. So it's possible that he knows based on --
11:24:42 15 based on that?

16 A. Correct.

17 Q. Now I want to go back to -- well, let's see here.

18 Would anyone else in your office know whether
19 your office uses SAVE for any reason?

11:25:21 20 A. Angel. Angel Aguilar would probably know.

21 Q. Okay. Now, still, I want to look at a part --
22 another part of this bill that we have in front of us in
23 Exhibit 21.

24 MR. HERRERA: And can we go to page 7 of the
11:25:57 25 document but the sixth page of the bill. It's Section H.

1 You can zoom in to that. It starts on line 6.

2 BY MR. HERRERA:

3 Q. So, "To the extent practicable, each month the
4 county recorder shall compare persons who are registered to
11:26:17 5 vote in that county and who the county recorder has reason
6 to believe are not United States citizens and persons who
7 are registered to vote without satisfactory evidence of
8 citizenship as prescribed by Section 16-166 with the
9 Systematic Alien Verification for Entitlements program."

11:26:38 10 And then it says later "to verify the
11 citizenship status of the person registered."

12 Now, do you see that section?

13 A. I do.

14 Q. Okay. Now, looking at this Section H that -- that
11:26:58 15 we just looked at in Exhibit 21, what would be -- what
16 would give your office a reason to believe that a person is
17 not a United States citizen?

18 MR. HORLEY: Objection. Calls for a legal
19 conclusion.

11:27:19 20 THE WITNESS: The -- the notification that we
21 had talked previously that we received from the SOS in this
22 case when I first started back in February or March, April,
23 whatever -- when -- those months where we -- I first came
24 across a list for a registrant's name that he had indicated
11:27:54 25 in the juror's questionnaire that he was not a U.S.

1 citizen. So that would alert us if that person is -- is
2 not a U.S. citizen.

3 BY MR. HERRERA:

4 Q. That's -- that's one example.

11:28:18

5 Besides that example, is there anything else
6 that would give you reason to believe that someone is not a
7 U.S. citizen, someone who is -- and that person is already
8 registered to vote in your county?

9 MR. LANGHOFER: Same objection.

11:28:36

10 THE WITNESS: By information provided by the
11 neighbor, like you said, the information provided by an
12 anonymous call, the information that we might receive
13 through the mail.

14 BY MR. HERRERA:

11:28:53

15 Q. So those -- those examples you just listed, those
16 would give you reason to believe that someone's not a
17 United States citizen?

18 MR. LANGHOFER: Same objection.

11:29:08

19 THE WITNESS: It would give me -- it's
20 something that I have to act upon. But as I mentioned
21 before, I don't know how to act upon it at this point right
22 now at this minute.

23 BY MR. HERRERA:

24 Q. So --

11:29:25

25 A. So --

1 Q. -- when you say "act upon it," do you mean what to
2 do once you receive something like a phone call or an email
3 about someone [overlapping]?

4 A. That's correct. That's correct.

11:29:42 5 Q. And what --

6 THE COURT REPORTER: Can you finish the end?
7 I didn't hear the end. "Like a phone call or an email
8 about" --

9 MR. HERRERA: Sure. So let me -- let me
11:29:50 10 just -- let me just ask the question again.

11 BY MR. HERRERA:

12 Q. So if you received a phone call or an email saying
13 that someone is not a United States citizen, you may not
14 know how to -- to -- what to do with that information; is
11:30:11 15 that right?

16 A. That's correct.

17 Q. And why is that?

18 A. At this -- at this minute, I don't know what I
19 would do if -- if I can't find it for myself here, I would
11:30:25 20 go to legal counsel.

21 Q. Okay. So if you -- you are the county recorder
22 and you're working with your staff.

23 How do you all interpret this "reason to
24 believe" language in Section H in Exhibit 21?

11:30:43 25 MR. LANGHOFER: Same objection.

1 MR. PIERCE: Calls for a legal conclusion.

2 THE WITNESS: For me personally, I -- I, at
3 this point -- I wouldn't -- I need to do something. I need
4 to do something with this information, so it is something
11:31:10 5 that I need to look into as to what the law is telling me
6 to do.

7 BY MR. HERRERA:

8 Q. And why would you -- why would you need to seek
9 legal counsel for --

11:31:25 10 A. Well, what I'm saying is if I can't find it
11 here -- here with the tools that I have, then I would have
12 to go elsewhere.

13 Q. Okay. And by tools that you have here, what are
14 you referring to?

11:31:49 15 A. The EPM.

16 Q. Does your office have any access to the Social
17 Security Administration database for purposes of voter
18 registrations?

19 A. I don't think so.

11:32:15 20 Q. What makes you say that you don't think so?

21 A. I don't think this has ever come up in
22 conversation with my staff.

23 Q. Okay. Might someone in your -- in your office
24 know the answer to that question?

11:32:35 25 A. Possibly.

1 Q. Are you familiar with the Electronic Registration
2 Information Center, or ERIC?

3 A. Yes.

4 Q. Okay. And what is that?

11:33:23

5 A. I understand that that would be a nationwide
6 information center that was established for the intention
7 of cross-referencing voters if -- that's what I understand
8 it to be.

11:33:58

9 Q. Okay. And do you know if your office uses ERIC
10 for U.S. citizenship verification?

11 A. I don't know.

12 Q. Have you ever heard of the National Association
13 for Public Health Statistics and Information Systems?

11:34:29

14 A. I don't -- I don't think I've come across that
15 name. National -- can you repeat that, please?

16 Q. Sure.

17 National Association for Public Health
18 Statistics and Information Systems.

19 A. No.

11:34:45

20 Q. Have you ever heard of the Electronic Verification
21 of Vital Events system?

22 A. Huh-uh.

11:35:22

23 MR. HERRERA: I think we've been going for
24 another hour. I think it might be time for another --
25 another break.

1 Do we want to take maybe a five-minute break
2 and go off the record?

3 THE WITNESS: I'm fine with that.

4 MR. PIERCE: That's fine with me.

11:35:35

5 What's our -- I mean, from a lunch
6 standpoint, what's your plan?

7 MR. HERRERA: I think we could probably
8 finish before lunch, but I'd have to confer with the other
9 plaintiffs here. So if we -- let's -- let's come back in
10 five minutes and before we go back on the record -- we're
11 off the record; right?

11:35:48

12 THE VIDEOGRAPHER: Not yet.

13 MR. HERRERA: Oh, could we go off the
14 record, please.

11:35:56

15 THE VIDEOGRAPHER: We're off the record.

16 Time on the video monitor is 11:35 a.m.

17 (A recess ensued.)

18 THE VIDEOGRAPHER: We are on the record.

19 Time on the video monitor is 11:45 a.m. This begins

11:45:58

20 Media 2.

21 BY MR. HERRERA:

22 Q. Ms. Moreno, earlier you -- I asked you about the
23 word -- the word "information" in one of the laws, in 2492.
24 And then I asked you about reason to believe in the law

11:46:17

25 22 -- 2243. And I asked about some examples -- potential

1 examples of information about someone not being a U.S.
2 citizen. And I asked about the example of, say, an
3 anonymous phone call or an email from someone saying, "That
4 person is not a U.S. citizen."

11:46:43

5 Would it -- would it be fair to say that that
6 kind of information from an email or a phone call might
7 be -- might be a reason to believe someone is not a U.S.
8 citizen but not information?

9 MR. LANGHOFER: Same objection.

11:47:05

10 MR. HORLEY: Objection; form.

11 THE WITNESS: I'm sorry. You're going to
12 have to repeat that question.

13 BY MR. HERRERA:

11:47:24

14 Q. Okay. So earlier, you did say that if someone
15 made an anonymous phone call or sent an email saying that a
16 registered voter was not a U.S. citizen, that that might
17 give you a reason to believe that that person is not a U.S.
18 citizen.

19 That's what you testified earlier; right?

11:47:40

20 A. Yes.

21 Q. Okay. Would that same kind of phone call or email
22 saying that someone's not a U.S. citizen who was registered
23 to vote -- would that also say to you -- or give you --
24 would that be information that says that that person is not
11:47:58 25 a U.S. citizen?

1 MR. HORLEY: Same objection.

2 THE WITNESS: I would suppose so. It's
3 something that -- that -- I'm not going to put it to one
4 side, but it's an inquiry. I need to find out what it is
11:48:27 5 that I need to do.

6 BY MR. HERRERA:

7 Q. Okay. Now, I think this may seem like a dumb
8 question, but there are laws or statutes that currently
9 prohibit a person who is not eligible from registering to
11:48:45 10 vote; right?

11 A. Yes.

12 Q. Okay. And you are aware that -- you are aware of
13 those laws, of when someone's not eligible to vote, they
14 can't register to vote; right?

11:49:06 15 A. When someone is not allowable to vote?

16 Q. When someone is not eligible.

17 A. Oh, eligible to vote. That's correct.

18 Q. Okay. So what does your office do to identify any
19 instances of voter fraud?

11:49:26 20 A. I haven't had any experience with that. I would
21 think that the office would be in communication with the
22 secretary of state and our county attorney.

23 Q. Since you've been in office as the county
24 recorder, have you come across any instances of voter
11:49:59 25 fraud?

1 A. No. No.

2 Q. Has your office dealt with any instances of
3 non-U.S. citizens actually casting a vote?

4 MR. LANGHOFER: Objection; form, foundation.

11:50:31

5 THE WITNESS: I don't know. I don't know.
6 I -- I don't know.

7 BY MR. HERRERA:

8 Q. Has your office ever -- did your office come
9 across any instances of non-U.S. citizens voting in the
10 November 2022 federal elections?

11:50:48

11 MR. LANGHOFER: Form, foundation.

12 THE WITNESS: I don't know.

13 BY MR. HERRERA:

14 Q. And why -- why is it that you don't know?

11:51:04

15 A. I have not experienced -- or I did not work in the
16 '22 elections, and I don't recall a conversation in my
17 office with regards to that in the '22 election.

18 Q. Are you aware of the National Voter Registration
19 Act?

11:51:59

20 A. Yes.

21 Q. Okay. And are you aware of its requirements?

22 A. I'm getting familiar with that.

23 Q. Okay. And what -- what do you -- what do you know
24 about the National Voter Registration Act's requirements?

11:52:21

25 MR. PIERCE: Form.

1 THE WITNESS: Can you refresh my memory?

2 BY MR. HERRERA:

3 Q. Sure.

11:52:49

4 So there are provisions in the NVRA about --
5 that mention the words "non-" -- that mention the words
6 "uniform" and "nondiscriminatory."

7 Does that ring any bells?

8 A. No.

11:53:15

9 Q. Are you aware of any restrictions around the
10 90-day time frame -- 90 days before a federal election?

11 A. The 90-day is establishing, I believe, residency
12 prior to the 90-day election -- I mean, the -- the 90-day
13 time frame before election.

11:53:43

14 Q. Right. Well, it's a provision in the NVRA that
15 applies to systematic removals from the voter registration
16 lists within 90 days before a federal election.

17 Are you familiar with that provision?

18 A. I've heard about it.

11:54:06

19 Q. Okay. And -- but do you know what the
20 requirements are around that provision?

21 A. No.

22 MR. HERRERA: Could we pull up Exhibit K from
23 our folder. And this is -- this is a new exhibit. So
24 could we mark this as Exhibit 100. Thank you.

11:54:40

25 (The document was marked as Exhibit 100

1 for identification.)

2 BY MR. HERRERA:

11:54:57

3 Q. And, Ms. Moreno, I'm showing you a document. It's
4 a -- it is a couple of pages long. And at the top, as you
5 can see, it's an email thread. Now, it's possible that
6 you've never reviewed this.

7 So I'll ask you: Have you ever seen an email
8 from June 16, 2021, from Bob Christie to Alma Schultz?

9 A. No.

11:55:17

10 Q. Okay. Do you know who Suzie Sainz is?

11 A. She was the county recorder. She -- she's the one
12 that retired in this -- in my position.

13 Q. Do you know who Alma Schultz is?

11:55:43

14 A. She's the election director here in Santa Cruz
15 County.

16 Q. Is she still the election director?

17 A. She is.

18 Q. How long has Alma Schultz been the election
19 director in Santa Cruz County?

11:55:53

20 A. I don't know.

21 Q. Does -- does Alma Schultz deal with voter
22 registration at all?

23 A. No.

11:56:12

24 Q. What -- what part of elections does Alma Schultz
25 work on?

1 A. She -- she does the -- the tallying of the
2 ballots. The intake of the ballots, once we receive them,
3 they are -- she takes over. She also is the clerk of the
4 board with the board of supervisors, but on the election
11:56:40 5 end of it, she takes care of the candidates' packages.

6 Q. Okay. Now, below this top email, there -- well,
7 let's go down to the very bottom of the -- of this
8 document. Not the very bottom of the document but the --
9 let's see -- second page at the bottom, please.

11:57:16 10 And do you see an email, Ms. Moreno, that is
11 June 15, 2021, at 2:03 p.m.?

12 A. Yes.

13 Q. Okay. And that's from Bob Christie?

14 A. Yes.

11:57:28 15 Q. Email address Bchristie@ap.org to --

16 A. Yes.

17 Q. -- Suzie Sainz and Alma Schultz.

18 Do you see that?

19 A. Yes.

11:57:37 20 Q. Okay. And the subject is "Records request from
21 The Associated Press."

22 Do you see that?

23 A. Yes.

24 Q. And then it says, in the body of the email after
11:57:48 25 addressing Ms. Sainz and Ms. Schultz, "The Associated Press

1 is collecting information on instances that have been
2 identified or flagged by the county election officials as
3 potential voter fraud stemming from the Nov. 3, 2020,
4 general election."

11:58:05 5 Do you see that?

6 A. Yes.

7 Q. Okay. And then if we look at the third page of
8 the email -- if we go to that page, do you see that there
9 is a signature at the bottom of this paragraph for
10 Mr. Christie -- or Bob Christie, and it has a signature,
11 Bob Christie, under the letters "AP"?

11:58:26 10 Mr. Christie -- or Bob Christie, and it has a signature,
11 Bob Christie, under the letters "AP"?

12 A. Yes.

13 Q. Okay. And so do you -- do you -- would it be fair
14 to gather from this that Mr. Christie was a reporter for
15 The Associated Press?

11:58:46 15 The Associated Press?

16 A. Yes.

17 MR. LANGHOFER: Foundation.

18 BY MR. HERRERA:

19 Q. Do you have any reason to doubt that that would --
20 at that time, that that person is a member of The
21 Associated Press?

11:58:53 20 at that time, that that person is a member of The
21 Associated Press?

22 A. I don't believe so.

23 Q. Okay. Let's go up to the first page of this
24 document, please.

11:59:16 25 And do you see that Ms. Schultz is -- in the

1 second email on the thread, Ms. Schultz writes to Bob
2 Christie on June 16th, 2021, at 2:00 p.m. an email.

3 Do you see that?

4 A. I do.

11:59:34

5 Q. Okay. And do you see in the body of the email
6 that it says, "Mr. Christie, The Santa Cruz County
7 Elections Department has not had cases identified/flagged
8 as possible voter fraud in connections with the
9 November 3rd, election."

11:59:54

10 Do you see that?

11 A. I do.

12 Q. Okay. Do you know if that statement by
13 Ms. Schultz is accurate?

14 MR. LANGHOFER: Form, foundation.

12:00:13

15 THE WITNESS: I would think so.

16 BY MR. HERRERA:

17 Q. Okay. Do you have any reason to doubt the
18 accuracy of Ms. Schultz's email here?

19 A. No.

12:00:24

20 Q. Okay. And since you've come into office, have
21 there been any -- has Santa Cruz County Elections
22 Department had any cases identified or flagged as possible
23 voter fraud in connection with the -- with any election?

24 A. I don't know.

12:00:58

25 Q. Do you know -- I think you mentioned that -- the

1 position of elections director, you mentioned that earlier.

2 Is that under the county recorder, or is that
3 a separate office?

4 A. It's a separate office.

12:01:13 5 Q. Okay. So -- all right.

6 MR. HERRERA: I think those are all my
7 questions for you today, Ms. Moreno. Thank you very much
8 for your time.

9 I'm going to pass it over to one of my
12:01:36 10 colleagues here.

11 THE WITNESS: Thank you.

12 MR. FERGUSON: Thanks very much.

13
14 EXAMINATION

15 BY MR. FERGUSON:

16 Q. Good morning, Ms. Moreno. My name is Brent
17 Ferguson, and I'm an attorney representing the LUCHA
18 plaintiffs. I'll just have a short set of questions for
19 you today.

12:01:59 20 So we talked -- you talked some earlier today
21 about the new laws, including HB 2492.

22 Are you aware of the provision in HB 2492
23 that requires registration applicants to list their place
24 of birth on the voter registration application form?

12:02:28 25 A. In the previous question with regards to 2492, I

1 had mentioned that I need to familiarize myself with these
2 bills and -- and, you know, to -- to direct your question
3 to -- to answer your question -- I'm sorry -- in speaking
4 with Mr. -- or answering Mr. Herrera's question, there
12:02:59 5 is -- there's some more information that's coming to me
6 with regards to that bill.

7 Q. Okay. So do you recall that -- that specific
8 provision of the bill that I mentioned requiring applicants
9 to list their place of birth?

12:03:20 10 A. Yes.

11 Q. Okay. And we've talked about some -- about which
12 parts of HB 2492 have been implemented.

13 Do you know whether your office is requiring
14 that right now, requiring that provision that applicants
12:03:42 15 list their place of birth?

16 A. I have not come across the new registration form,
17 but I believe -- I believe we -- I believe my office is
18 implementing it.

19 Q. Okay. So if your office receives an application
12:04:05 20 form that does not list a place of birth, it rejects that
21 application?

22 A. I -- I don't know. I don't know.

23 Q. Okay. And who in your office would know the
24 answer to that question?

12:04:30 25 A. Angel Aguilar.

1 Q. Okay. Do you know whether your office has access
2 to any database that would be able to confirm a person's
3 identity by using their birthplace?

4 A. The only one that I can think of right now would
5 be ERIC.

12:05:07

6 Q. You think that ERIC might have the ability to do
7 that?

8 A. Possibly.

9 Q. Okay. Do you have a -- so you said "possibly."

12:05:15

10 Is there -- what's the reason for believing
11 that ERIC might have the ability to do that?

12 A. Because what I understand it to be, it's a
13 nationwide database. It's not mandatory that all states
14 use it. So therefore, if -- if that information is in one
15 of our partnered states, we may be able to access.

12:05:44

16 But again, I'm not -- I've never done it.
17 I've never looked for it. But it's -- it's a possibility
18 that another state might have the date -- or the place of
19 birth that their database might have through the ERIC
20 program that we may be able to use.

12:06:05

21 Q. Are you aware of your office ever accessing the
22 ERIC database?

23 A. I am not aware of it.

24 Q. Okay. Have you ever yourself accessed the ERIC
25 database?

12:06:27

1 A. I have not.

2 Q. Okay. Okay. I'd like to continue with some
3 questions about the use of the state voter registration
4 form and the federal voter registration form.

12:06:51

5 You're aware of those two different forms
6 that people can use in Arizona to register?

7 A. Yes.

12:07:09

8 Q. Okay. And do you know the relative breakdown
9 between the number of state form applications you receive
10 versus the number of federal form applications that you
11 receive at your office?

12 A. I know that the federal forms are a lot less, but
13 I have no idea about -- about statistics or numbers. I
14 don't.

12:07:27

15 Q. Sure. That's fine. Just trying to get a general
16 ballpark.

17 So you would say that there are substantially
18 more state forms that come in than federal forms?

19 A. Yes.

12:07:38

20 Q. Okay. And you spoke a little bit earlier about
21 the National Voter Registration Act, the NVRA.

22 And are you aware of any NVRA agencies in
23 Santa Cruz County that provide voter registration services?

24 MR. HORLEY: Objection; foundation.

12:08:04

25 THE WITNESS: No. The -- the ones that I

1 know that are active are just the parties.

2 BY MR. FERGUSON:

3 Q. Okay. Okay. Do you know if there are any public
4 assistance agencies or things like that that provide voter
12:08:26 5 registration forms?

6 A. I know that the Arizona Department of Economic
7 Security, I believe, is one of the agencies that could
8 provide, but I haven't seen -- or that I know of that have
9 come through our office.

12:08:47 10 Q. Okay. So do you know whether that agency or any
11 others provides the state registration form or the federal
12 registration form in its office?

13 A. Arizona Department of Economic Security,
14 ServiceArizona, Motor Vehicle Division.

12:09:13 15 Q. So for those -- for those agencies that you just
16 mentioned, do you know whether they provide the state
17 registration form or the federal registration form?

18 A. It would be the state.

19 Q. And do you -- does your office give those forms to
12:09:31 20 those agencies?

21 A. I believe that the individual goes online to
22 register, or I have seen the forms come from those
23 agency -- or Motor Vehicle -- the ServiceArizona, a
24 handwritten -- a handwritten form.

12:09:58 25 Q. Okay. And then you mentioned earlier, I believe,

1 your office provides registration forms to political
2 parties; is that correct?

3 A. That's correct.

4 Q. And do you also provide them to third-party groups
12:10:16 5 that -- you know, that are not political parties but
6 they're organizations that assist with voter registration?

7 A. And individuals, yes.

8 Q. And individuals.

9 And when you provide those forms, do you
12:10:32 10 provide the state registration form or the federal
11 registration form?

12 A. The state.

13 Q. Okay. Are you aware of any -- any of those groups
14 or parties that use the federal registration form when they
12:10:48 15 provide voter registration services?

16 A. I'm not aware.

17 Q. Okay. And then I'd like to move on to one final
18 provision of HB 2492, which we've been discussing.

19 Are you aware of the requirement in HB 2492
12:11:08 20 that requires voter registration applicants to provide
21 documentary proof of residency, or DPOR it's often referred
22 to?

23 A. Yeah, I believe that -- yes, I think it could be
24 in the form of a utility bill.

12:11:37 25 Q. Okay. So your office -- is your office currently

1 requiring applicants to provide that documentary proof of
2 residence when they register to vote?

3 A. I don't know.

4 Q. Okay.

12:12:02 5 A. I don't know.

6 Q. Are you aware of the requirement in the law that
7 currently people need to require their -- sorry -- include
8 their residential address? And you mentioned that earlier
9 I think with -- with the case of one specific applicant who
10 didn't provide a correct address. So separately from the
11 documentary proof of residency, but just providing their
12 address on the form?

13 A. Yeah, it was -- it was all misspelled. That's
14 what it was.

12:12:44 15 Q. Sure. Okay.

16 Have you ever encountered a situation where
17 someone doesn't have a numbered street address and so they
18 provide a description of where they live or a drawing of
19 that?

12:13:04 20 A. No.

21 Q. Are you aware of the option to do that in the
22 current law even if you --

23 A. Yes.

24 Q. -- even if you haven't seen it?

12:13:20 25 A. Yes.

1 Q. Is there someone in your office who has -- who you
2 think is familiar with that requirement?

3 A. Yes.

4 Q. And who would that be?

12:13:41 5 A. Angel Aguilar.

6 Q. Okay. And are you aware of Mr. -- if Mr. Aguilar
7 has received voter registration applications that fit that
8 description, that don't have a numbered address but have
9 some kind of description or drawing of where they live?

12:14:04 10 A. I don't know.

11 Q. Okay. And if someone were required to provide
12 documentary proof of residence and they did not have a
13 numbered street address -- let's say, for example, someone
14 who lived in a rural community without a numbered address
15 on their home -- do you know how they would provide
16 documentary proof of residence?

12:14:26 17 A. Well, the --

18 MR. LANGHOFER: Form. Calls for a legal
19 conclusion.

12:14:48 20 THE WITNESS: If -- if it came across me
21 personally, I would go to the tax rolls and confirm the
22 address.

23 BY MR. FERGUSON:

24 Q. Okay. So aside from confirming the address that
12:15:11 25 they gave, if they didn't have a numbered street address at

1 all and so they provided a description on the registration
2 form, are you aware of any way they could provide
3 documentary proof?

12:15:31

4 You mentioned a utility bill before that
5 could be used presumably for a home with a numbered street
6 address. Are you aware of any kind of documentation or way
7 that they would show their proof of residence?

8 MR. HORLEY: Form.

9 MR. LANGHOFER: Form.

12:15:58

10 THE WITNESS: I would -- I -- they would have
11 an internet bill. They would have a -- an electrical bill,
12 a water bill.

13 BY MR. FERGUSON:

14 Q. Okay. Thank you.

12:16:17

15 And just one final question, going back on --
16 on what we covered at the beginning. You mentioned the
17 ERIC database.

18 I'd just like to confirm that you don't have
19 personal experience with the ERIC database or in entering
20 anyone's birthplace in the ERIC database; is that correct?

12:16:35

21 A. That's correct.

22 MR. FERGUSON: Okay. Those are all the
23 questions I have. Thank you very much.

24 THE WITNESS: Thank you, sir.

12:16:55

25 MR. HERRERA: Before we -- before we pass --

1 I think before plaintiffs pass the witness, I think I'd
2 like to put on the record that we want to keep this
3 deposition potentially -- or keep it open for a potential
4 later date based on the witness's knowledge.

12:17:23

5 MR. LANGHOFER: Tim, do you want to go first?
6 Unless there's anyone else on the plaintiffs' side.

7 MR. HORLEY: Yeah, I'm happy -- happy to
8 defer to you, Kory. If you prefer going first, you can go
9 first. I'm happy to go first.

12:17:36

10 MR. LANGHOFER: Why don't you go ahead. I'll
11 make sure my notes are in order to start up as soon as you
12 wrap up.

12:17:47

13 MR. HORLEY: Okay. Very good. And then
14 also, I know we had a conversation about taking a break for
15 lunch. Do you folks want to go off the record for a minute
16 just to touch base on that, make sure we're all good there?

12:18:04

17 MR. PIERCE: Unless we're -- I mean, I don't
18 mind staying on the record unless there's a lot -- I'd
19 prefer just to go through and -- unless you're going for a
20 really long time, I'd rather just get through it.

21 MR. LANGHOFER: That's my preference as well.
22 I don't -- probably don't have more than ten minutes of
23 questions.

12:18:15

24 MR. HORLEY: Okay. Very good. I will try to
25 get through quickly. I do have some documents that I plan

1 to introduce that have not been shared yet.

2 So, Cindy, just let me know what the best way
3 is to do that. I can attach them in the chat, or I could
4 just share -- screen-share them and we can enter them in
5 later once they're marked.

12:18:33

6

7

EXAMINATION

8 BY MR. HORLEY:

9 Q. Good afternoon, Ms. Moreno. My name is Tim
10 Horley.

12:18:41

11 A. Hello.

12 Q. I represent the Arizona attorney general and the
13 State of Arizona in this case. So thank you for your time
14 and patience for answering the questions so far.

12:18:54

15 So I'm just going to ask a few questions on
16 the topics that you discussed today.

17 A. Yes.

18 Q. So I want to turn to the topic of verifying
19 citizenship. And I would like to bring up a document that
20 I have, and I can do it over my screen share, if that works
21 for everybody.

12:19:26

22 Okay. Assuming everybody can see this at
23 this point. So this is a document with Bates Number
24 SCCR000207 and it runs through number 000701.

12:20:04

25 Do you see the number at the lower left of

1 this document, Ms. Moreno -- or lower right? Excuse me.

2 A. The SCC number?

3 Q. Yes.

4 A. Yes.

12:20:20 5 Q. Okay. And so this document was produced by your
6 office in response to the plaintiffs' request for
7 production?

8 A. I believe so.

9 THE COURT REPORTER: Mr. Horley, do you want
12:20:35 10 to mark this Exhibit 101?

11 MR. HORLEY: Yes, I would like to mark this
12 as Exhibit 101.

13 (The document was marked as Exhibit 101
14 for identification.)

12:20:40 15 BY MR. HORLEY:

16 Q. So, Ms. Moreno, can you explain -- let me zoom us
17 in here a little bit more.

18 Do you recognize this document?

19 A. Yes.

12:20:59 20 Q. Okay. And could you explain to me what
21 information this document contains?

22 A. There is a voter registrant. There was a change
23 in their status. And you have to briefly state the reason
24 for the change.

12:21:30 25 Q. Okay. Very good.

1 So this -- this column here on the left where
2 it says "Status," that shows what the voter's status is?

3 A. Yes.

4 Q. And then this second column here that says "Status
12:21:45 5 Reason," that shows why their status was listed as that?

6 A. Yes.

7 Q. Okay. Great.

8 And then I see over on these columns over on
9 the right here, we have three different dates. There's one
12:22:00 10 that says "Registration Date," another that says "County
11 Registration Date."

12 Am I reading that correctly?

13 A. Yes.

14 Q. So those dates show when a person registered to
12:22:10 15 vote?

16 A. Yes.

17 Q. And then this last column, it says, "Effective
18 Date of Change"; is that right?

19 A. Yes.

12:22:18 20 Q. So that shows the date that someone was moved to
21 the status that they currently have; is that right?

22 A. Yes.

23 Q. Okay. Great.

24 So now I would like to draw your attention to
12:22:37 25 page 222 here. So I'm going to scroll. Okay. Here we

1 are.

2 And so I'm going to draw your attention to
3 the fifth row. And there in the first column, it says that
4 the person's status is "Canceled"; correct?

12:23:03

5 A. Yes.

6 Q. So that shows that this person's registration was
7 canceled?

8 A. Yes.

12:23:14

9 Q. And then in the second column, it says, "Invalid
10 Citizenship Proof"; correct?

11 A. Yes.

12 Q. And so does that suggest that they were canceled
13 because they didn't have valid proof of citizenship?

14 MR. HERRERA: Foundation.

12:23:29

15 THE WITNESS: Yes.

16 BY MR. HORLEY:

17 Q. Okay. So does this mean that the person's status
18 was canceled because they did not have proof of
19 citizenship?

12:23:43

20 MR. HERRERA: Objection; foundation, form.

21 THE WITNESS: So for me, never have worked on
22 this list and looking at it, that's what it's saying.

23 BY MR. HORLEY:

24 Q. Okay. Okay. Thanks.

12:24:14

25 So could it suggest that the person's

1 provided some proof but it just wasn't valid proof?

2 MR. HERRERA: Objection; foundation.

3 THE WITNESS: Yes.

4 BY MR. HORLEY:

12:24:37 5 Q. Okay. And could it suggest that this person was
6 not a U.S. citizen?

7 MR. HERRERA: Objection; form.

8 THE WITNESS: Yes.

9 BY MR. HORLEY:

12:24:56 10 Q. Okay. So I will just represent to you, I've gone
11 through this document and I have identified several other
12 rows like this that has something that says someone was --
13 you know, their registration was canceled and then it says
14 "Invalid Citizenship Proof." So I'm not going to make you
12:25:15 15 go through each one of those, so -- because that would be
16 very tedious, would take a long time.

17 So just want to ask you: Is it fair to say
18 that if it says in this form someone's registration was
19 canceled and then it says reason "Invalid Citizenship

12:25:32 20 Proof," that means their registration was canceled because
21 of invalid citizenship proof?

22 MR. HERRERA: Objection; form, foundation.

23 THE WITNESS: Yes.

24 BY MR. HORLEY:

12:25:56 25 Q. Okay. Thanks.

1 So now I want to draw your attention to one
2 other page here down on page 572. So about halfway down, I
3 see an entry that says "NOT ELIGIBLE" under the status
4 column.

12:26:43 5 Am I reading that right?

6 A. Yes.

7 Q. Okay. And then once again, it says that the
8 reason that they're not eligible is "Invalid Citizenship
9 Proof"?

12:26:56 10 A. Yes.

11 Q. Okay. And then, you know, it's -- in some of
12 these other entries -- the one we looked at before, for
13 example -- it says that the person's status was "Canceled"
14 and this one says it's "NOT ELIGIBLE."

12:27:11 15 Do you know if there's a difference between
16 canceled and not eligible?

17 A. No, I don't.

18 Q. Okay. But does noneligible mean that that person
19 is not eligible to vote?

12:27:40 20 MR. HERRERA: Objection; foundation.

21 THE WITNESS: Yes.

22 BY MR. HORLEY:

23 Q. I'm sorry. I didn't catch your answer.

24 Did you -- did you have an answer,

12:27:50 25 Ms. Moreno?

1 A. Yes.

2 Q. Okay. Thank you. Now I want to draw your
3 attention -- looking over to these date columns here. So
4 in the first two columns, there's a date of September 13th,
5 2018.

12:28:05

6 Am I reading that right?

7 A. Yes.

8 Q. Okay. And as we talked about before, these dates
9 show when a person registered; correct?

12:28:13

10 A. Yes.

11 Q. Okay. And then in the last column, we have a date
12 of 2022. And as we talked about before, that's the date
13 that the person's status was changed to not eligible;
14 correct?

12:28:27

15 A. Yes.

16 Q. Okay. So for about four years, from 2018 to 2022,
17 it appears that this person was registered, and then their
18 registration was ruled not eligible in 2022; is that right?

19 A. Yes.

12:28:46

20 Q. Okay. So is there a way to tell whether that
21 person voted in that time period while not being eligible?

22 MR. HERRERA: Objection; foundation.

23 THE WITNESS: I think there -- I believe so.

24 BY MR. HORLEY:

12:29:09

25 Q. Okay. And is it -- is it possible that this

1 person voted while not being a citizen?

2 MR. HERRERA: Objection; foundation.

3 THE WITNESS: I guess it's possible.

4 BY MR. HORLEY:

12:29:33 5 Q. Okay. Thank you. All right. That is all I have
6 for that document.

7 So there's one other document -- well,
8 actually, there's a few more documents I'd like you to look
9 at. So do let me know if you would like to take a break at
10 any time.

11 The next one I would like to look at is Bates
12 Number SCCR 1128. So I'm going to pull that up now on the
13 screen share.

14 Can you see this document?

12:30:05 15 A. I can.

16 Q. Okay. And so you see the number down here in the
17 lower right-hand corner?

18 A. Yes.

19 Q. So was this produced by your office in response to
12:30:16 20 plaintiffs' request for production?

21 A. Yes.

22 Q. Okay. Great.

23 MR. HORLEY: I would like to mark this as
24 Exhibit 102, I believe. Okay.

12:30:27 25 (The document was marked as Exhibit 102

1 for identification.)

2 BY MR. HORLEY:

3 Q. Now I would like to draw your attention to
4 page 1130.

12:30:44

5 So you -- you mentioned before that Ms. Sainz
6 was the former Santa Cruz County recorder; is that right?

7 A. Yes.

8 Q. And is this an email dated February 2, 2021, from
9 Ms. Sainz?

12:30:58

10 A. Yes.

11 Q. And it's to someone named Dakota Bixler; correct?

12 A. Yes.

13 Q. And do you know who Dakota Bixler is?

14 A. No.

12:31:12

15 Q. Okay. So you're not aware if she has any
16 connection to Santa Cruz County government or your office?

17 A. No.

18 Q. Okay. So I want to just give you a moment to just
19 review this email very quickly, and you can just let me
20 know once you've read it.

12:31:32

21 A. Okay.

22 Q. So is Ms. Sainz describing a situation where a
23 voter's ballot should have been canceled but the ballot,
24 quote, had already been opened and tabulated?

12:32:10

25 A. Yes.

1 Q. Okay. And the matter was under -- under
2 investigation by the county sheriff's office; is that
3 right?

4 A. Yes.

12:32:18

5 Q. And then Ms. Sainz asked Dakota Bixler to explain
6 the situation; yes?

7 A. Yes.

8 Q. Okay. So now turning to page 1129, is this a
9 February 2nd email from Dakota Bixler back to Ms. Sainz?

12:32:45

10 A. Yes.

11 Q. Okay. And then same thing with this one, if you
12 want to just take a moment to review it and let me know
13 when you're finished.

14 A. I'm finished.

12:33:18

15 Q. Okay. Thank you.

16 So in this email, does Ms. Bixler state that
17 the voter in question, whose name is redacted, died on
18 September 13th, 2020?

19 A. Yes.

12:33:36

20 Q. And the voter's registration was then canceled
21 because the voter was deceased?

22 A. Yes.

23 Q. And then the voter's -- that voter's mail-in
24 ballot was nonetheless returned after the date of death, on
25 October 21st, 2020; is that right?

12:33:56

1 A. Yes.

2 Q. Okay. And then does Ms. Bixler state, quote,
3 "There was no glitch in the AVID system"?

4 A. Yes.

12:34:09

5 Q. So based on this email, it appears there was no
6 clerical error here; correct?

7 A. Correct.

8 Q. So this didn't happen because someone in your
9 office did anything wrong; correct?

12:34:29

10 A. Correct.

11 Q. Okay. Now I'm going to turn your attention back
12 to page 1130 at the top of the page. And this is
13 continuing from Ms. Bixler, and she wrote, quote, "I hope
14 the County Sheriff's Office is able to get to the bottom of
15 the matter of who voted" -- redacted -- "ballot."

12:34:46

16 Did I read that right?

17 A. Yes.

18 Q. So based on the information in this email, does it
19 seem like there was a possible instance of voter fraud
20 here?

12:35:01

21 A. Yes.

22 Q. It was someone sending in the ballot of someone
23 who had decea- -- who had died?

24 A. Yes.

12:35:10

25 Q. And based on the dates given, this would have been

1 in the 2020 election; correct?

2 A. Yes.

3 Q. Okay. Great.

4 I wanted to go back and quickly look at
12:35:29 5 Exhibit 100, which was already entered. And this was an
6 email from -- that you looked at before that was sent by
7 Ms. Schultz, the Santa Cruz elections director.

8 That's right; right?

9 A. Correct.

12:35:41 10 Q. And in that email, she said that the elections
11 department has not had cases identified or flagged as
12 possible voter fraud in connection with the November 3rd
13 election; right?

14 A. Correct.

12:35:55 15 Q. And she was referring to the 2020 election?

16 A. That's correct.

17 Q. But as you mentioned before, Ms. Schultz does not
18 work for your office; correct?

19 A. That's correct.

12:36:09 20 Q. Right. It's a -- the elections department is a
21 separate entity?

22 A. It is.

23 Q. Okay. Great. All right. One more document --
24 well, let me see here. I want to look at just one more
12:36:35 25 document. Thank you again for your patience as we go

1 through all this.

2 So this is document with Bates Number 001309.

3 Do you see the numbers in the lower

4 right-hand corner of this document?

12:36:54 5 A. I do.

6 Q. And your office produced this in response to

7 plaintiffs' request for production; correct?

8 A. Correct.

9 Q. And then turning to this next page, page 1310, is

12:37:11 10 this an email from Saibet Gastelum?

11 A. Yes.

12 Q. And she used to work in your office; correct?

13 A. Yes.

14 Q. And she is emailing Russ Smith at the Arizona

12:37:26 15 Secretary of State's Office; correct?

16 A. Yes.

17 Q. And that email is dated August 30th, 2022?

18 A. Yes.

19 Q. And the email says that Ms. Gastelum, quote, "ran

12:37:45 20 the HAVA check on this particular voter (image is

21 attached), and it was verified as a hard match but its

22 status appears as not eligible. The voter registration

23 form was completed with the SSN, or Social Security number,

24 and the driver license number. Please advise."

12:38:01 25 Did I read that right?

1 A. Yes.

2 Q. Okay. Now looking at page 1309, this is an
3 August 31, 2022, response to Ms. Gastelum's email; correct?

4 A. Yes.

12:38:21 5 Q. Okay. And Russ Smith states that he looked
6 through the MVD information on this voter; correct?

7 A. Correct.

8 Q. And the MVD, quote, "has this person listed as a
9 Non-US Citizen"; right?

12:38:33 10 A. Correct. Yes.

11 Q. And this person is instead a green card holder;
12 correct?

13 A. Yes.

14 Q. Okay. And then looking lower in the email, Russ
12:38:49 15 Smith notes that the person, quote, "is not a US Citizen";
16 correct?

17 A. Yes.

18 Q. And thus, "they do not qualify to participate in
19 the elections"; correct?

12:39:02 20 A. Yes.

21 Q. And then he says, "So AVID is behaving as expected
22 by marking the voter as Not Eligible"; correct?

23 A. Correct.

24 Q. So is it fair to say this email describes a
12:39:15 25 situation where someone who was not a U.S. citizen tried to

1 register and was not able to?

2 MR. HERRERA: Objection; foundation.

3 THE WITNESS: Yes.

4 BY MR. HORLEY:

12:39:35 5 Q. Do you think this suggests that the MVD database
6 works properly?

7 MR. HERRERA: Objection; form.

8 Sorry, go ahead.

9 BY MR. HORLEY:

12:39:44 10 Q. I'm sorry. I'll repeat the question.

11 So does this email suggest that the MVD
12 database works properly to check people's citizenship?

13 MR. HERRERA: Objection; form.

14 THE WITNESS: I don't know.

12:40:00 15 BY MR. HORLEY:

16 Q. Okay. But do you agree with Russ Smith that if
17 the MVD database shows that someone is a green card holder
18 rather than a citizen, that that shows that person is not a
19 U.S. citizen?

12:40:13 20 MR. HERRERA: Objection; form and foundation.

21 THE WITNESS: Yes.

22 BY MR. HORLEY:

23 Q. Okay. So just a final question here.

12:40:27 24 So is it fair to say we've looked at several
25 documents suggesting that people registering to vote in

1 Santa Cruz County were not eligible because they lacked
2 proof of citizenship?

3 MR. HERRERA: Objection; form, foundation.

4 THE WITNESS: Yes.

12:40:52

5 MR. HORLEY: Okay. Thank you very much,
6 Ms. Moreno. I really appreciate your time. That's all I
7 have.

8 THE COURT REPORTER: You did want to mark
9 that as Exhibit 103; correct?

12:41:02

10 MR. HORLEY: I'm sorry. Yes, please mark
11 that as Exhibit 103. Thank you.

12 (The document was marked as Exhibit 103
13 for identification.)

14

15 EXAMINATION

16 BY MR. LANGHOFER:

17 Q. Good afternoon, ma'am. My name is Kory Langhofer,
18 and I'm a lawyer for the Republican National Committee.
19 I've just got a handful of questions for you here, mostly
20 in the way of clarification of things that you've been
21 asked already.

12:41:17

22 You were asked some questions on direct about
23 the usefulness of the birthplace information. And if
24 someone puts their birthplace on a voter registration form
25 currently, that information makes its way into the voter

12:41:38

1 file, doesn't it?

2 A. Yes.

3 Q. And so I want to imagine a situation where you've
4 got a new voter registration form that comes in and it has
12:41:56 5 a common name. Let's say it's John Smith. And there's a
6 birthday -- it doesn't matter what the day is, but we'll
7 just say it's January 1st, 1950. And you -- that -- and
8 that person is already in the voter file and you receive a
9 new voter registration form also for a John Smith, also
12:42:19 10 born January 1st, 1950.

11 In this situation, if the John Smith who's
12 already in the voter file has his birthplace in the voter
13 file, could you use the birthplace information on the new
14 voter registration form to determine whether this is the
12:42:41 15 same John Smith or a different John Smith?

16 A. Yes. Because the -- the -- if I'm -- if my memory
17 serves me right, the registration would have the last four
18 digits of the Social Security number. And that's one way
19 of determining that we're not talking about the same
12:43:10 20 person.

21 Q. And wouldn't birthplace be another way of
22 determining whether you're talking about the same person?

23 A. That's correct.

24 Q. Does your office have access to any more accurate
12:43:26 25 databases to confirm eligibility to vote that you're not

1 currently using?

2 A. Not that I'm aware of.

3 Q. Does your office have access to any more
4 up-to-date or current databases to confirm eligibility to
12:43:44 5 vote that you're not currently using?

6 A. Not that I'm aware of.

7 Q. When a voter gives a -- submits a voter
8 registration form but they don't attach documentary proof
9 of citizenship and you can't confirm their citizenship
12:44:09 10 through the HAVA checks so your office sends them a letter
11 saying that you're missing the DPOC, do you know what
12 percentage of those voters write back and send in their
13 DPOC?

14 A. I don't know.

12:44:26 15 Q. Do you know whether it's more or less than half?

16 A. I don't know.

17 Q. When a statute in -- concerning elections is
18 ambiguous, does the -- has the EPM been helpful to your
19 office in understanding that statute?

12:44:58 20 A. Yes. Yes. Again, I have to familiarize myself
21 with -- with the -- with the EPM and also with statutes
22 that change, that are changing, or that when you -- that --
23 I just have to familiarize myself with the statutes.

24 Q. And when -- in order to understand the statutes
12:45:41 25 and interpret them, does your office rely on EPM?

1 A. Yes.

2 Q. When -- does your office receive voter
3 registration forms that contain false information?

4 MR. HERRERA: Objection to the form.

12:46:16

5 BY MR. LANGHOFER:

6 Q. I can give you an example if you'd like.

7 A. I'm sure -- I'm sure we have. As I mentioned
8 before, what I -- my experience has been with -- with an
9 incorrect address, a misspelling of an address. But I'm
10 sure it's possible, yes.

12:46:41

11 Q. Do you have a sense to the frequency with which
12 you get voter registration forms with false information?

13 A. I have no -- no, I don't. I have no idea.

12:46:59

14 MR. LANGHOFER: And I appreciate your time
15 and attention today in letting us go, you know, well after
16 the normal lunch hour here. That's all the questions I
17 have.

18 THE WITNESS: Thank you.

19 MR. HERRERA: If no one else has any from the
20 defendants' side, I do have a couple of follow-ups.

12:47:10

21 No one else? Okay.

22

23 FURTHER EXAMINATION

24 BY MR. HERRERA:

12:47:18

25 Q. So sorry, Ms. Moreno. A couple more questions.

1 MR. HERRERA: Can we pull up what was marked
2 as Exhibit 103.

3 THE VIDEOGRAPHER: Is there a specific
4 document you're asking me to pull up?

12:47:37 5 MR. HERRERA: Yes. It was an email -- a Russ
6 Smith email, I think. It's Exhibit 1-0-3. 103. That's
7 what it was.

8 MR. HORLEY: Sorry. This is --

9 MR. HERRERA: It's not one of mine.

12:47:54 10 MR. HORLEY: Yeah. I'm sorry. This is Tim
11 Horley. I can send that over the chat. I don't think it's
12 in the Dropbox.

13 MR. HERRERA: Oh, okay.

14 MR. HORLEY: Give me one second and I will
12:48:02 15 send that so that the reporter can pull it up.

16 MR. HERRERA: I can pull it up too and share
17 it if you put it in the chat.

18 MR. HORLEY: Yeah, I will send it right now.

19 Okay. That should be the one.

12:48:56 20 BY MR. HERRERA:

21 Q. Ms. Moreno, I'm doing a screen share of a document
22 that Mr. Horley showed you earlier. And it was marked as
23 Exhibit 103 -- 103.

24 A. Yes.

12:49:08 25 Q. So do you recall this document we were looking at

1 just a few moments ago?

2 A. Yes.

3 Q. Okay. And you recall the line in the email -- the
4 lines in the email that say, "As this person is not a US
12:49:20 5 Citizen they do not qualify to participate in the
6 elections"?

7 Do you see that?

8 A. Yes.

9 Q. Okay. So this is -- earlier you said that you
12:49:34 10 don't -- you aren't familiar with HAVA checks; right?

11 A. I need to -- to learn how to maneuver it better,
12 familiar to the function or -- or how to retrieve or how to
13 get into AVID, yes. But it's a little bit more complex
14 than -- than I thought it would be.

12:50:10 15 Q. Okay. Are you familiar -- it says -- in the
16 email, it says this person is "Authorized Presence of 2,"
17 and then it has an em dash. And then it says, "Green Card
18 Holder."

19 Do you know what a green card is?

12:50:25 20 A. It's -- it's the resident alien -- resident alien
21 card. I guess that's what you call it.

22 Q. Okay. Are you familiar with the process of
23 naturalization to become a U.S. citizen?

24 A. Not -- not really, but I do know that the -- that
12:51:02 25 the fact that we -- to become a U.S. citizen, the -- it's

1 not an overnight process. And I know there's classes to be
2 taken and a test to be taken and a graduation -- I guess,
3 that's what you call it -- or a ceremony.

4 Q. And are you aware of what kind of immigration
12:51:30 5 status green card indicates for somebody?

6 A. It is the -- it gives you authority to -- to work
7 in the -- to live -- to work in the United States.

8 Q. Do you know if it's possible that someone who has
9 a green card can become a U.S. citizen?

12:51:56 10 A. Yes.

11 Q. Okay. Now, if we look at this -- this information
12 is coming from the MVD; right? Do you understand that to
13 be the Motor Vehicle Division?

14 A. That's correct, yes.

12:52:08 15 Q. Do you see where it says, "MVD Record Date"?

16 A. Yes.

17 Q. Do you see that it says January 24th, 2019?

18 A. Yes.

19 Q. However, the email from Mr. Smith to Saibet
12:52:26 20 Gastelum is August 31st; right?

21 A. Yes.

22 Q. Is it possible that someone can become a U.S.
23 citizen within -- is it possible that this person here,
24 since January 2019 -- between January 2019 and August 2022,
12:52:47 25 became a U.S. citizen?

1 A. It's possible.

2 Q. Okay. Do you know if that -- if your office asked
3 or sent a notice to see if this person had documentary
4 proof of citizenship?

12:53:06 5 A. I don't know.

6 Q. So it's possible that your office confirmed that
7 this person was a U.S. citizen later; right?

8 A. Yes.

9 Q. And it's possible that this person in Exhibit 103
10 is actually a U.S. citizen?

11 A. It's possible.

12 Q. Okay.

13 MR. HERRERA: Thank you. Those are all my
14 questions. Thank you.

12:53:41 15 MR. LANGHOFER: Shayna, do you have anything?

16 MS. STUART: No, I don't. Thank you.

17 MR. LANGHOFER: Okay. Justin?

18 MR. PIERCE: No. We'll read and sign. We're
19 done.

12:53:54 20 MR. LANGHOFER: Ernest, you guys are done for
21 the plaintiffs?

22 MR. HERRERA: Yes. I -- Brent? Yeah, I
23 think so. I am.

24 MR. FERGUSON: I'm done. Thanks.

12:54:04 25 MR. LANGHOFER: All right. Dan, I guess

1 that's a wrap.

2 THE VIDEOGRAPHER: We are off the record.

3 Time on the video monitor is 12:54 p.m. This ends

4 Volume 1, Media Number 2, in the 30(b)(6) deposition of

12:54:17

5 Santa Cruz County Recorder, designed by Anita Moreno.

6 (The following occurred off the video
7 record.)

8 THE COURT REPORTER: Can I get any defendant
9 orders on the record, please?

12:54:28

10 MS. STUART: Yes. Cindy, this is Shayna.
11 We'd like to order a copy. Thank you.

12 (The proceedings concluded at 12:54 p.m.)

13

14

ANA MORENO

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1 STATE OF ARIZONA)
COUNTY OF MARICOPA)

2

3 BE IT KNOWN that the foregoing deposition was taken
4 by me pursuant to stipulation of counsel; that I was then
5 and there a Certified Court Reporter in the State of
6 Arizona, and by virtue hereof authorized to administer an
7 oath; that the witness before testifying was duly sworn by
8 me to testify to the whole truth; pursuant to request,
9 notification was provided that the deposition is available
10 for review and signature; that the questions propounded by
11 counsel and the answers of the witness thereto were taken
12 down by me in shorthand and thereafter transcribed into
13 typewriting under my direction; that the foregoing pages
14 are a full, true and accurate transcript of all the
15 proceedings had upon the taking of deposition, all done to
16 the best of my skill and ability.

17 I FURTHER CERTIFY that I am in no way related
18 to nor employed by any parties hereto; nor am I in any
19 way interested in the outcome thereof.

20 Dated at Phoenix, Arizona, this 24th day of
21 August, 2023.

22

23

24

25


CINDY MAHONEY, RPR, RMR NO. 50680

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UNITED STATES DISTRICT COURT
DISTRICT OF ARIZONA

Mi Familia Vota, et al.,)	
)	
Plaintiffs,)	Case No.
	)	2:22-cv-00509-PHX-SRB
v.	)	(Lead)
)	
Adrian Fontes, in his	)	No. CV-22-00519-PHX-SRB
official capacity as	)	No. CV-22-01003-PHX-SRB
Arizona Secretary of State,	)	No. CV-22-01124-PHX-SRB
et al.,	)	No. CV-22-01369-PHX-SRB
	)	No. CV-22-01381-PHX-SRB
Defendants.	)	No. CV-22-01602-PHX-SRB
	)	No. CV-22-01901-PHX-SRB

AND CONSOLIDATED CASES.

30(b)(6) DEPOSITION OF ARIZONA DEPARTMENT OF
TRANSPORTATION, REPRESENTED BY ERIC RUSSELL JORGENSEN

Phoenix, Arizona

August 11, 2023

Prepared by:
CINDY MAHONEY, RPR, RMR
Certified Court Reporter
Certificate No. 50680



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1 THE 30(b)(6) DEPOSITION OF ARIZONA DEPARTMENT
 2 OF TRANSPORTATION, REPRESENTED BY ERIC RUSSELL JORGENSEN,
 3 commenced at 9:15 a.m. on August 11, 2023, at the Arizona
 4 Attorney General's Office, 2005 North Central Avenue,
 5 Phoenix, Arizona, before Cindy Mahoney, RPR, RMR, Arizona
 6 Certified Court Reporter No. 50680.

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22 ALSO PRESENT (via videoconference):

23 Anna Critz
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TRANSCRIPT OF PROCEEDINGS

ERIC RUSSELL JORGENSEN,
the witness herein, being first duly sworn,
was examined and testified as follows:

EXAMINATION

BY MR. HERRERA:

Q. Good morning. Is it Mr. Jorgensen or Jorgensen?

A. Jorgensen.

Q. Good morning, Mr. Jorgensen. My name is Ernest
Herrera, and I'm an attorney at the Mexican American Legal
Defense and Educational Fund. I represent plaintiffs
Promise Arizona and Southwest Voter Registration Education
Project in this litigation.

Can you please state and spell your name for
the record

A. Eric, E-r-i-c; Russell, R-u-s-s-e-l-l; Jorgensen,
J-o-r-g-e-n-s-e-n.

Q. And have you been known by any other names?

A. No.

Q. Is that a no?

A. No.

Q. What other names -- sorry. You already said no.

Are you represented by an attorney today?

1 A. Yes.

2 Q. And who is your attorney?

3 A. Josh Whitaker of the Attorney General's Office.

4 Q. Have you ever had your deposition taken before?

09:15:54 5 A. Yes.

6 Q. How many times?

7 A. I think once.

8 Q. Okay. And when was that?

9 A. Several years ago. Probably '19, '18 -- 2019,
09:16:14 10 2018.

11 Q. And what was the -- the nature of the case?

12 A. It was an authorized presence case for ability to
13 receive state benefits.

14 MR. MORGAN: Mr. Herrera.

09:16:34 15 MR. HERRERA: Yes.

16 MR. MORGAN: Just since there was a lull
17 there because the court reporter asked him to slow down,
18 can we get on the record -- I don't think we have -- the
19 same agreement we've had throughout this deposition, which
09:16:45 20 is that an objection for one party -- an objection for one
21 defendant constitutes an objection joined by all
22 defendants? That way, we're not all objecting today.

23 Is that -- is that okay with everyone?

24 MR. HERRERA: That's okay with me.

09:17:01 25 MR. WHITAKER: Good idea.

1 MR. MORGAN: Any objections? All right.

2 Hearing none, that is the stipulation on the
3 record. Thank you.

4 BY MR. HERRERA:

09:17:11

5 Q. And in that case about driver licenses -- or
6 benefits, would it be fair to say that you were a witness
7 for the defendant or on the -- a party as a defendant?

8 A. Yes.

09:17:27

9 Q. Okay. Let me go over a few ground rules so that
10 we're on the same page about how to conduct this
11 deposition. The court reporter has put you under oath,
12 which means that you are under an obligation to tell the
13 truth. Do you understand that?

14 A. Yes.

09:17:36

15 Q. Although we are in a somewhat informal
16 environment, that oath has the same force and effect as if
17 you were testifying in a court of law in front of a judge
18 or jury. Do you understand that?

19 A. Yes.

09:17:49

20 Q. The court reporter will take down everything you
21 say and anything that anyone else says unless we go off the
22 record. Do you understand that?

23 A. Yes.

09:18:01

24 Q. During the course of this deposition, I am going
25 to ask you some questions and you are going to give me your

1 answers to those questions. Because the court reporter
2 will be typing everything that we say here today, it is
3 important that you give audible answers to my questions, no
4 "uh-huhs" or shaking your head. Okay?

09:18:17

5 A. Okay.

09:18:32

6 Q. And I'll try not to talk too fast. It is also
7 very important that we do not talk over each other. It
8 happens all the time in normal conversation because we
9 can't anticipate when the other person is going to be
10 finished. But in this situation, the court reporter can
11 only write what one person is saying at a time. So let's
12 try to help her out. Okay?

13 A. Yes.

09:18:45

14 Q. If you do not understand a question, please tell
15 me that you don't understand and I'll rephrase the
16 question. Okay?

17 A. Okay.

09:18:58

18 Q. I don't want you to guess. If you don't know the
19 answer to a question, simply state that you don't know.
20 However, I am entitled to your best estimate. So for
21 example, if I ask you if you know the date that something
22 happened, you may not know the exact date, but if you can
23 estimate that it happened after Christmas but before
24 Valentine's Day, I'm entitled to know your estimate. Do
25 you understand?

09:19:14

1 A. Yes.

2 Q. Throughout the course of the deposition, your
3 attorney may make objections. Even if your attorney
4 objects, unless he specifically instructs you not to answer
09:19:27 5 the question, you still must answer that question. He is
6 simply preserving his right to object to the question. Do
7 you understand?

8 A. Yes.

9 Q. Sometime after we complete your deposition, unless
09:19:40 10 you waive this, you will receive a typed transcript of this
11 deposition. You'll have an opportunity to review the
12 transcript and correct any errors you see, and then you
13 will sign it under penalty of perjury. However, I will
14 warn you that if you make anything more than clerical
09:19:57 15 changes like correcting typos, attorneys in this case will
16 be able to comment on those changes at trial, which could
17 affect your credibility before the judge or jury in the
18 future. So please try to give the best testimony you can
19 here today. Do you understand that?

09:20:12 20 A. Yes.

21 Q. If you need to take a break for any reason, please
22 let me know and we can take a break. However, if there is
23 a question pending that you have not answered, I will ask
24 you to answer the question first and then we can take a
09:20:26 25 break. Okay?

1 A. [Nodded up and down.]

2 Q. Is there any reason that you cannot give your best
3 testimony here today?

4 A. No.

09:20:33

5 Q. Have you consumed any substances in the past
6 24 hours or medications that would prevent you from giving
7 your best testimony here today?

8 A. No.

09:20:50

9 Q. What, if anything, did you do to prepare for this
10 deposition?

11 A. I reviewed some of the information that we
12 provided in the past, the interrogatories and some of the
13 emails.

09:21:07

14 Q. I'd like to open up one exhibit. This is the --
15 I'm going to share it in the Zoom -- or a document. And on
16 the Zoom on the screen in front of you -- I'm going to send
17 it to the court reporter. We're going to share it in the
18 chat as well.

09:21:58

19 MR. HERRERA: I'd like to mark this as
20 Exhibit 104, please.

21 (The document was marked as Exhibit 104 for
22 identification.)

23 BY MR. HERRERA:

09:22:07

24 Q. And do you recognize this document from the title
25 there?

1 A. Yes.

2 Q. Okay. And what is this document?

3 A. I'm not sure I know how to describe it legally.

09:22:29

4 Q. Sure. Is this the -- is this the notice to appear
5 today for a deposition?

6 A. Yes.

7 Q. Okay. So I'm going to go down to the third page
8 of this document. And it starts with Exhibit A. And then
9 I'm going to go down a little further to page 3 where it

09:22:47

10 says "Topics."

11 Mr. Jorgensen, have you reviewed these
12 topics?

13 A. Yes.

14 Q. Are you familiar with these topics listed here?

09:22:58

15 A. Yes.

16 Q. Are you prepared to testify about these topics
17 today?

18 A. Yes.

09:23:09

19 Q. Okay. Are there any that you would not be able to
20 testify to?

21 A. No.

09:23:33

22 MR. WHITAKER: Objection on that last
23 question. Possible overbreadth. To the extent that it
24 talks about, for example, all communications -- for
25 example, Number 7 is -- is, as worded, rather broad. So I

1 just wanted to lodge the possible overbroad objection. I
2 think reasonable efforts is the standard.

3 MR. HERRERA: Okay.

4 BY MR. HERRERA:

09:23:55 5 Q. So earlier you mentioned, Mr. Jorgensen, that you
6 reviewed some documents in -- that you produced in response
7 to plaintiffs' requests; is that right?

8 A. Correct.

09:24:11 9 Q. Okay. What -- so you reviewed -- did you review
10 any particular set of them, or did you look through all of
11 them?

12 A. I looked through what we had produced as part of
13 both interrogatories and the -- and the request for
14 production. So I at least leafed back through them.

09:24:28 15 Q. Outside of those documents, did you review any
16 other documents in preparation?

17 A. No.

18 Q. Besides reviewing documents, what did you do to
19 prepare for your deposition today?

09:24:47 20 A. I asked staff to walk me back through the process
21 of obtaining the license with authorized presence so that I
22 was once again familiar with some of the details on that.

23 Q. And when you say "obtaining a license with
24 authorized presence," can you say what you mean by that?

09:25:06 25 A. So if -- what exactly we need to do to show that a

1 person has authorized presence so we can issue the license,
2 whether that's because they are a citizen or not a citizen
3 but with authorized presence.

4 Q. And without disclosing any conversations with
09:25:25 5 attorneys, can you tell me with whom you spoke to walk you
6 through that process?

7 A. Madelene Carbajal.

8 Q. And who is Madelene Carbajal?

9 A. She is our policy specialist for drivers.

09:25:46 10 Q. And what are Ms. Carbajal's duties?

11 A. She is in charge of making sure that we all
12 understand what the policies, laws, and requirements are
13 around things related to drivers.

14 Q. Okay. And so besides speaking with Ms. Carbajal,
09:26:15 15 did you do anything else to prepare for your deposition?

16 A. No.

17 Q. Besides Ms. Carbajal, did you speak with anyone
18 else who works for ADOT besides any attorneys?

19 A. I did have a conversation with another Madeline
09:26:43 20 Kinder, who helps with some of the technical aspects of the
21 system, to specifically refresh on how some of the system
22 pieces work, actually.

23 Q. And, I'm sorry, I should have said this earlier,
24 but I said "ADOT." I meant Arizona Department of
09:27:02 25 Transportation. Is -- how do people usually abbreviate --

1 A. ADOT.

2 Q. Okay. Besides Ms. Kinder and Ms. Carbajal, anyone
3 else with ADOT with whom you spoke to prepare?

4 A. No.

09:27:23 5 Q. The court reporter is going to hand you a document
6 which we'll mark as Exhibit 105.

7 (The document was marked as Exhibit 105
8 for identification.)

9 BY MR. HERRERA:

09:28:18 10 Q. And, Mr. Jorgensen, do you recognize this
11 document?

12 A. Yes.

13 Q. And what is this document?

14 A. This was the interrogatory request with our
09:28:32 15 response.

16 Q. Okay. So you could take a second to review it,
17 but to confirm, this does contain the responses of ADOT;
18 right?

19 A. It does.

09:28:44 20 Q. And did you prepare the answers to these
21 interrogatories?

22 A. Yes.

23 Q. Did anyone else assist you in preparing the
24 answers to these interrogatories?

09:29:04 25 A. Yes.

1 Q. And besides any attorneys, who assisted you in
2 preparing these answers?

3 A. That would be Madelene Carbajal, who I mentioned
4 before, and Madeline Kinder, who I mentioned before.

09:29:19 5 Q. Did you review all of the answers to these
6 interrogatories?

7 A. Yes.

8 Q. And now we're going to hand you an exhibit that I
9 would like to mark as Exhibit 106.

09:29:52 10 (The document was marked as Exhibit 106
11 for identification.)

12 BY MR. HERRERA:

13 Q. And do you recognize this document, Mr. Jorgensen?

14 A. Yes.

09:30:15 15 Q. And what is this document?

16 A. This is the request for production in this case
17 with our responses.

18 Q. Okay. Would that be plaintiffs' requests for
19 production to ADOT and ADOT's responses?

09:30:31 20 A. Yes.

21 Q. Okay. And did you prepare the responses to these
22 requests for production?

23 A. Yes.

24 Q. Okay. Did anyone assist you in preparing these
09:30:41 25 responses?

1 A. Yes.

2 Q. Okay. And who were those people?

3 A. It would be Madelene Carbajal, Madeline Kinder,
4 and Amanda Kindle.

09:30:50

5 Q. And who is Amanda Kindle?

6 A. Amanda Kindle leads our change control process and
7 helps -- helped gathering the documents.

8 Q. What is -- what does "change control
9 process" mean?

09:31:08

10 A. Every time we make a change to process, procedure,
11 system, we go through a change control, and she manages
12 that process, the documents, what the change is.

13 Q. Is that -- when you say a "change in process" and
14 "procedure," is that an -- is she more on the technical
09:31:30 15 side or more on the regulatory side or both or something?

16 A. She would coordinate both the business and
17 technical aspects of the change -- of the recording of the
18 change.

09:31:46

19 Q. Okay. And does she do that just for -- or across
20 the board for ADOT?

21 A. For the Motor Vehicle Division of the Arizona
22 Department of Transportation, yes.

23 Q. And did you review the responses and the documents
24 produced in response to these requests for production?

09:32:04

25 A. Yes.

1 Q. Okay. So I'm going to ask you a little bit about
2 your current employment.

3 Where are you employed?

09:32:24

4 A. I am employed at the Motor Vehicle Division of the
5 Arizona Department of Transportation.

6 Q. And what is your position?

7 A. I'm the director of the Motor Vehicle Division.

8 Q. And how long have you held your position at the
9 Arizona Department of Transportation?

09:32:39

10 A. Just over eight years.

11 Q. What does your role as director of Motor Vehicle
12 Division entail?

09:33:02

13 A. I guide the policies, strategy, and operations of
14 the Motor Vehicle Division in its functions of providing
15 customer service at our offices as well as the back-office
16 things that are associated with that provision of service.

17 Q. I'm going to hand you what is marked as -- what
18 has been marked as Exhibit 107.

09:33:48

19 (The document was marked as Exhibit 107
20 for identification.)

21 BY MR. HERRERA:

22 Q. And do you recognize this document?

23 A. Yes.

24 Q. And what is this document?

09:33:59

25 A. This is an organizational chart of ADOT.

1 Q. And to your knowledge, is this -- you could take a
2 minute to review it, but is this document accurate or
3 current?

4 A. Yes.

09:34:12

5 Q. And so the Motor Vehicle Division falls under the
6 deputy director of MVD and compliance Wayde Webb? Is that
7 right?

8 A. Correct.

09:34:42

9 Q. And who else -- under the Motor Vehicle Division,
10 who else -- who else leads the Motor Vehicle Division
11 besides you as director?

12 A. So I would report directly to Wayde Webb, the
13 deputy director. So I'm not sure if that's what you're
14 asking.

09:35:05

15 Q. Yes. Do you have an executive team within the
16 Motor Vehicles Division?

17 A. I do.

18 Q. Okay. And who are they?

09:35:20

19 A. That would be two deputy directors, one -- two
20 people who oversee internal support, and one person who
21 does our customer service -- customer experience
22 coordination.

23 MR. HERRERA: Could we take a minute -- could
24 we go off the record for a minute.

09:35:51

25 MR. WHITAKER: Sure.

1 (An off-the-record discussion ensued.)

2 BY MR. HERRERA:

3 Q. We're back on the record.

4 And, Mr. Jorgensen, sorry for that
09:39:40 5 interruption. We are -- you were telling me about the
6 people who work in the Motor Vehicle Division as part of
7 the leadership of the Motor Vehicle Division. How many
8 people are employed at the Motor Vehicle Division?

9 A. I don't have an exact number. It's about 860.

09:40:11 10 Q. And what is the Enforcement and Compliance
11 Division?

12 A. That is a separate division of ADOT that does
13 investigation of -- internal investigations, fraud
14 investigations, external fraud investigations, and handles
09:40:29 15 things like ports of entry, some of those items.

16 Q. Do any of the other departments listed on this org
17 chart deal with driver license and driver license data?

18 A. Yes.

19 Q. Okay. And which ones would those be?

09:40:45 20 A. You would have it under the Law and Policy segment
21 here. So the Executive Hearing Office, for example, hears
22 cases -- disputed cases and would have access to that
23 information. In a broader -- not to -- to the information
24 as part of the system, but as a -- engaged in the topic,
09:41:16 25 you would see our government relations as well.

1 Q. Okay. And I should have clarified this earlier,
2 but which part of this organizational chart manages driver
3 license data for ADOT?

4 A. The Motor Vehicle Division does.

09:41:37

5 Q. Okay. Now, you said that the Motor Vehicle
6 Division -- you mentioned that the -- you just said that
7 the Motor Vehicle Division manages driver license data;
8 right?

9 A. Yes.

09:42:04

10 Q. Who -- who manages other identification data for
11 Arizona state identifications?

12 A. I'm sorry. I don't understand.

13 Q. Are there other kinds of credentials or
14 identifications besides driver licenses?

09:42:20

15 A. So, yes, there are state-issued IDs as well.
16 Broadly, we call them all credentials, and they're managed
17 by the Motor Vehicle Division.

18 Q. And what data does MVD manage pertaining to driver
19 licenses?

09:42:43

20 A. MVD manages the motor vehicle record, including
21 the applications that are made, the dispositions of those
22 applications, and the status of what those records are, the
23 maintenance and upkeep of those records.

09:43:09

24 Q. What is the system called that MVD uses to manage
25 driver license data?

1 A. Broadly, we'll call that system MAX.

2 Q. And does MAX stand for anything?

3 A. No.

09:43:24

4 Q. And how many employees at MVD work on managing the
5 MAX system?

6 A. I'm not sure I understand what you mean
7 by "managing."

8 Q. Are there -- well, can you describe more about
9 what the MAX system is?

09:43:43

10 A. Sure. MAX system is -- it's actually a
11 conglomeration of many systems together, many different
12 databases and functionality that allow the division to
13 provide services to the public. So at the front line -- at
14 the -- in one of our offices or in one of our third
09:44:04 15 parties, it's -- it's the front end of that is the system
16 that the customer service representative would use to issue
17 licenses to a customer. At the same time, it is the system
18 that is behind the portal that we have in our -- for
19 self-service by customers from their home, which we call
09:44:24 20 Azmvdnow.gov.

21 And it also manages the record more broadly.
22 So any enforcement actions or court actions or anything
23 that's taken against it, a driver is managed through that
24 system as well. And we broadly refer to all of those
09:44:42 25 things as our MAX system because there's one way to access

1 that.

2 Q. I see.

3 So would it be inaccurate to say that MAX
4 system is a database?

09:44:57 5 A. I think that's the common way people would refer
6 to the system, but structurally it is much more than a
7 database. There are -- there are thousands of databases,
8 tables, and pieces that make up different aspects of the
9 system.

09:45:17 10 Q. Okay. So when we're talking about -- we've been
11 talking about driver licenses. How does the MAX system --
12 or rather, how is data about individuals' driver licenses
13 stored in the MAX system?

09:45:41 14 A. There are multiple tables within the MAX system in
15 SQL databases for most of those records that would be where
16 the data is stored, depending on database structure.

17 Q. And so are there -- are there multiple tables for
18 different types of driver licenses? Or why are there
19 different tables for driver licenses?

09:46:11 20 MR. WHITAKER: Objection. Compound.

21 BY MR. HERRERA:

22 Q. Why are there multiple tables for driver licenses?

23 A. We will -- we'll quickly get beyond my technical
24 depth on that question. It has to do with the choices of
09:46:24 25 how we organize data for efficient retrieval of the

1 information.

2 Q. Is there a set of fields and values that are
3 uniform across all driver license holders in -- in MAX?

4 A. Yes.

09:46:48

5 Q. Okay. And what is -- when did ADOT begin using
6 the MAX system?

7 A. We went into production April 20th, 2020.

8 Q. When was production completed?

9 A. That was -- that was our go-live.

09:47:10

10 Q. And what is the difference between the MAX system
11 and the legacy ADOT data system for driver license and
12 identification customer information?

13 A. The legacy system was a mainframe system and used
14 mainframe technologies; did not use, for example,
15 relational databases to maintain data integrity and those
16 kinds of things. It was a 40-year-old -- in some pieces
17 40-year-old, 30-year-old system as compared to MAX, which
18 is a modern SQL back end for most pieces of it with .NET
19 architecture, cloud-based in the Azure Google cloud -- or
20 Azure government cloud.

09:47:36

09:48:13

21 Q. And what are all of the different kinds of
22 credentials that MVD manages?

23 A. Broadly there are two types of credentials: There
24 are driver's licenses and IDs. There are differences and
25 limitations, subclassifications of each of those.

09:48:38

1 Q. So the nondriver identification credentials, those
2 are also managed using the MAX system?

3 A. Correct.

4 Q. When information is stored for a customer in MAX,
09:49:03 5 is there a customer ID or number?

6 A. There is.

7 Q. Okay. And what is the proper name for that
8 number?

9 A. Customer number.

09:49:13 10 Q. And this may -- I'm not trying to be esoteric, but
11 what is -- what is a customer for MVD?

12 A. So it can mean several things. It could be
13 somebody who comes in and requests a driver's license. So
14 every person that comes in and goes through a driver's
09:49:37 15 license process and creates a record that way would be a
16 customer. But in our database we'll also have things where
17 the customer didn't directly request something. So, for
18 example, getting a ticket and having the court send us a
19 notice of the -- of penalty of some sort or another can
09:49:58 20 also create a customer record in our database with whatever
21 information the court sends to us. So that would also --
22 and if we can match them, then they would be one record,
23 but if we can't, then they might -- that might create
24 another record, either because they don't exist in the
09:50:12 25 database or they exist somewhere else.

1 So it's -- a customer for us is any -- any
2 individual or organization with whom we have some needed
3 business that we report their -- some aspect of a record in
4 our system.

09:50:29 5 Q. Can there be more than one customer number in the
6 MVD MAX system for the same individual person?

7 A. Yes.

8 Q. Okay. And how can that happen?

9 A. So it shouldn't happen because we should be able
09:50:48 10 to find the same customer, match them up, but sometimes we
11 don't always have matching data between two different
12 sources. If something comes in from the courts and they
13 didn't have much enough information to match it with
14 another record that we already had, that might create a
09:51:05 15 duplicate record which we might find and correct or we
16 might not find.

17 Q. And when someone is issued a driver license in
18 Arizona, is there a number associated with that driver
19 license?

09:51:18 20 A. There is.

21 Q. And what is that number called in the MAX system?

22 A. That's called the driver license number, or DLN.

23 Q. Is the driver license number different than a
24 customer ID number for a single individual?

09:51:33 25 A. It is.

1 Q. Okay. So can there be a single individual who has
2 a customer number that is different than their current
3 valid driver license number?

09:51:49

4 A. Every customer number will be different than their
5 driver license number. They are not the same.

6 Q. And what is the purpose of the customer number?

09:52:08

7 A. The customer number is to identify a -- supposed
8 to be to identify a unique customer. This is a common
9 number across all the records that we have and know about
10 that unique customer.

11 Q. And so you mentioned that someone could be
12 assigned a customer number if they perhaps have a run-in
13 with the law or if they have a driver license. Will they
14 also be assigned -- will someone who just has a Arizona
15 non-driver license identification credential also have a
16 customer number?

09:52:34

17 A. Yes.

18 Q. So let's first talk about -- in terms of who can
19 get these credentials that we're talking about, for a
20 driver license, broadly speaking, can -- I assume U.S.
21 citizens can receive a driver license in Arizona?

09:52:58

22 A. If they meet all of the proper requirements.

23 Q. Okay. Can a naturalized U.S. citizen receive a
24 driver license in Arizona?

09:53:21

25 A. With the same stipulation, yes.

1 Q. Okay. Can a non-U.S. citizen get a driver license
2 in Arizona?

3 A. Yes, depending on whether they can show authorized
4 presence.

09:53:36 5 Q. Okay. And what is "authorized presence"?

6 A. My understanding is it's not defined anywhere
7 other than to say that it's something that shows that they
8 have a legal right to be in the country.

09:53:57 9 Q. Okay. And how does MVD determine that someone has
10 authorized presence for the purpose of getting a driver
11 license?

12 A. We review the documents they bring in to support
13 that claim.

09:54:26 14 Q. So would someone with a green card -- so,
15 therefore, someone who is a lawful permanent resident -- be
16 able to get a driver license in Arizona?

17 A. Assuming they met all the other requirements and
18 the card was not expired, valid, ready to go, yes.

09:54:46 19 Q. Can someone who has deferred action for childhood
20 arrivals get a driver license in Arizona?

21 A. With the same stipulations, yes.

22 Q. Can someone on different types of visas get a
23 driver license in Arizona?

09:55:07 24 A. Yes. There are many different types of visas that
25 are allowed to have presence as long as their -- and that

1 would get very complex very quickly. But, yes, for the
2 most part, I believe so.

3 Q. And we're going to hand you an exhibit that has
4 been marked as 108. Exhibit 108.

09:55:44 5 (The document was marked as Exhibit 108
6 for identification.)

7 BY MR. HERRERA:

8 Q. And, Mr. Jorgensen, do you recognize this
9 document?

09:56:08 10 A. Yes.

11 Q. And what is this document?

12 A. This is what we would call our One Source
13 document, which is a detail of -- it's basically the
14 instructions for a CSR to -- customer service
09:56:27 15 representative to process.

16 Q. And what would a CSR be processing?

17 A. A driver's license application or other credential
18 application.

19 Q. What is a -- what is an Arizona "credential
09:56:48 20 number"?

21 A. That is the same thing that I referred to earlier
22 as a driver license number, but it's broad enough to
23 include both driver license and a nondriving ID.

24 Q. Can a single customer -- can someone with the same
09:57:05 25 customer -- under one customer ID number have more than one

1 Arizona credential number?

2 A. Only in one specific case they can. Most cases,
3 no.

4 Q. What's that case?

09:57:22

5 A. Law allows for someone who has what we would call
6 a travel ID -- or in other words, something that is
7 compliant with the REAL ID Act of 2005 -- can have both a
8 driver's license and ID card where one is compliant and the
9 other is not with the REAL ID Act. It's the only place in
10 which they should have two credential numbers.

09:57:48

11 Q. Now, what happens -- what happens if someone under
12 one customer ID -- so one customer -- for some reason can
13 no longer have a driver license but they can have an
14 Arizona nondriver ID? What happens in terms of their
15 credential number?

09:58:15

16 A. I'm not sure.

17 Q. Okay.

18 MR. WHITAKER: Could you repeat that
19 question?

09:58:24

20 MR. HERRERA: Sure.

21 BY MR. HERRERA:

22 Q. So I guess maybe I'll ask it in a more leading
23 way.

24 If someone changes from having a valid driver
25 license to having a valid Arizona ID that's not a driver

09:58:33

1 license, does that same customer now still only have one
2 credential number that's active?

3 A. They would only have one active credential number.
4 I don't know that they would be the same number.

09:58:54 5 Q. Okay. So the credential number might stay the
6 same but it's a different credential?

7 A. And that's the part I'm not sure about. I don't
8 know if the number will change or not.

9 Q. Okay. All right. Well, let's look at the
09:59:11 10 document I put in front of you and forgot to ask you more
11 about.

12 Exhibit 108 is -- you said it's part of MVD
13 One Source. What overall is -- MVD One Source, you said,
14 is something that CSRs use to give them instructions?

09:59:32 15 A. It's part of the MAX system and it contains
16 policies, procedures, additional information, help files.
17 It's -- by its name, it's the one source they're supposed
18 to go to to answer questions about how to process any work
19 that they're doing.

09:59:54 20 Q. And who can access the MVD One Source?

21 A. Any of our CSRs, our customer service
22 representatives, and any third-party customer service
23 representatives can access that, as well as their
24 management.

10:00:13 25 Q. And I imagine based on the requests for production

1 responses that -- what I have handed you is not the entire
2 MVD One Source; right?

3 A. Correct.

4 Q. Okay. And which portion did I -- did I hand you?

10:00:27 5 And you can take a second to review it.

6 A. So this is a section entitled "Acceptable
7 Documents for Non-Commercial Credentials."

8 Q. And have you reviewed this section of MVD One
9 Source before?

10:00:41 10 A. Yes.

11 Q. So at the top of this document, it says,
12 "Acceptable Documents"; right?

13 A. Yes. "Acceptable Documentation."

14 Oh, yes, "Acceptable Documents" in the
10:00:56 15 subheader, yes.

16 Q. And what does "Acceptable Documents" refer to?

17 A. These are the documents that we can accept to
18 prove different requirements, including authorized
19 presence, name, address, Social Security number.

10:01:18 20 Q. And what is an "original credential"?

21 A. When we refer to an original credential, we mean
22 the first issuance of a credential and not a subsequent
23 renewal or reinstatement of the same credential.

24 Q. Are there credentials other than original?

10:01:49 25 MR. WHITAKER: Objection. Ambiguous. I'm

1 not sure whether you are referring to a distinction other
2 than what the witness just used to --

3 BY MR. HERRERA:

10:02:02

4 Q. So are there -- if someone renewed -- if someone
5 got a driver license for the first time, is that what an
6 original credential would be?

7 A. That would be an example of an original
8 credential.

10:02:14

9 Q. Okay. And what if that same person got -- renewed
10 their driver license? Would that still be an original
11 credential?

12 A. If they are renewing the same credential, no.
13 Then that is no longer what we would call an original
14 credential.

10:02:25

15 Q. Okay. So in the first sentence in the first
16 paragraph on ADCT00004, it mentions that primary forms of
17 identification are used to establish various things about a
18 customer, including authorized presence in the U.S.

10:02:54

19 And we went over what authorized presence
20 means for MVD purposes; right?

21 A. [Nodded up and down.]

22 Q. Is that correct?

23 A. Yes.

10:03:07

24 Q. Later in that same paragraph, on ADOT00004, it
25 says that in addition to a form of primary identification,

1 "the customer must provide their full social security
2 number."

3 Are there any numbers that can be used
4 instead of a Social Security number?

10:03:21 5 A. I'm sorry. I don't see where you were reading.

6 Q. It says in the first paragraph at the last -- in
7 the last clause of the last sentence, "the customer must
8 provide their full social security number for verification
9 purposes."

10:03:55 10 A. In the case that they -- that a person has a
11 status that doesn't allow a Social Security number --
12 doesn't allow them to have one, yes, then a separate
13 number.

14 Q. Okay. And what -- what other numbers can be used
10:04:08 15 there?

16 A. In that case, we'd rely on the document that
17 provided the authorized presence to be the identifier.

18 Q. Okay. And how does MVD use a Social Security
19 number for identification verification?

10:04:36 20 A. The Social Security number is collected and it is
21 run against a federal system called Social Security Online
22 Verification, or SSOLV, to make sure that it is the correct
23 number and it is associated with that individual.

24 Q. Okay. And what information does -- what happens
10:04:56 25 when that verification is done by MVD?

1 A. I'm not sure I understand.

2 Q. What is -- what is the response that MVD gets back
3 from that verification service?

10:05:09

4 A. It's a positive or negative response. Did it
5 match or did it not match?

6 Q. Does it give MVD any other information about a
7 person other than the yes or the no?

8 A. No. It's a yes or no.

10:05:39

9 Q. Let's go to ADOT000006, so page 3 of this document
10 we're looking at, of Exhibit 108.

11 Do you see the heading that says "Acceptable
12 Primary Documents"?

13 A. Yes.

10:05:54

14 Q. Okay. Is this list under "Acceptable Primary
15 Documents" on page 3 of Exhibit 108 a complete list of
16 acceptable primary documents that can show authorized
17 presence in the United States?

18 A. No.

10:06:08

19 Q. Okay. What are -- what are some other documents
20 that you can show?

21 A. They would be very specific edge case-type
22 authorized presence documents issued by the federal
23 government. So different -- different types of visas or
24 something along those lines that don't fall into the norm,
10:06:30 25 and somebody may present those and then they would be

1 reviewed more on a case-by-case basis.

2 Q. Okay. So if one -- but someone can present a U.S.
3 certificate of naturalization as an acceptable primary
4 document to get a -- an Arizona driver license?

10:06:46

5 A. Correct.

6 Q. And someone can present a U.S. citizen -- a
7 certificate of citizenship as primary -- as a primary
8 document to receive an Arizona driver license; right?

9 A. Correct.

10:07:03

10 Q. Someone can present an I-94 form with an unexpired
11 foreign passport and an unexpired U.S. visa as acceptable
12 primary documents to establish authorized presence to get
13 an acceptable -- or to get an Arizona driver license;
14 right?

10:07:23

15 A. Correct.

16 Q. And someone can present a permanent resident card
17 as an acceptable primary document in order to get a Arizona
18 driver license?

19 A. Correct.

10:07:48

20 Q. Do identifications showing authorized presence in
21 the U.S. have to be nonexpired other than if you're using
22 an expired U.S. passport?

23 A. In most cases, yes.

10:08:06

24 Q. Okay. Do you know of any cases where that's not
25 the case?

10:08:26 1 A. So, for example, a permanent resident card will be
2 good for ten years now. And if you come in and have an
3 expired permanent resident card and we've issued on that
4 before, we can do, for example, a one-year extension while
5 you're renewing your card, but it then turns it into a
6 limited term -- a reduced term of what we would issue.

7 Q. And you mentioned this a little bit earlier, but
8 what is a REAL ID?

10:08:46 9 A. The REAL ID Act of 2005 is a federal act that
10 required certain documents to be provided in the licensing
11 process if that license was going to be used for the
12 purpose of federal identification, such as at TSA in the
13 airports or federal buildings or nuclear power plants.

10:09:03 14 Q. And I rather gather from your earlier testimony
15 that Arizona MVD does issue REAL IDs?

16 A. We issue REAL IDs as well noncompliant IDs.

17 Q. Does the list of acceptable primary documents
18 change if someone is applying for a REAL ID versus a
19 non-REAL ID?

10:09:46 20 A. I'm trying to remember if there are any exceptions
21 to it in a legacy. There -- it is possible that there are
22 some legacy -- when I say "legacy," I mean a
23 noncompliant -- noncompliant with REAL ID. There may be a
24 couple other documents that we might be able to use because
10:10:06 25 they're not regulated by the federal government. But

1 again, they would be edge cases and reviewed on a kind of a
2 one-off. If somebody doesn't have one of these and they
3 have something else that they could produce, we might be
4 able to accept something else.

10:10:22

5 Q. Can someone who presents a U.S. certificate of
6 naturalization use that as an acceptable primary document
7 to get a REAL ID?

8 A. Yes.

10:10:39

9 Q. Can someone who has a permanent resident card use
10 that as an acceptable primary document to get an Arizona
11 REAL ID?

12 A. Yes.

10:10:58

13 Q. Can someone present an I-94 form with an unexpired
14 foreign passport and an unexpired U.S. visa to get a REAL
15 ID in Arizona?

16 A. Yes.

10:11:20

17 Q. Are you familiar with the Systematic Alien
18 Verification for Entitlements program run by the United
19 States Citizenship and Immigration Services?

20 A. Yes.

21 Q. Okay. And do you know this program as SAVE,
22 S-A-V-E, if I refer to it with that acronym?

23 A. Yes.

10:11:34

24 Q. Does ADOT use SAVE for verification of authorized
25 presence when someone applies for an Arizona credential

1 such as a driver license?

2 A. Yes.

3 Q. For which types of customers or applicants does
4 ADOT use SAVE?

10:11:49 5 A. We will use it for any noncitizen authorized
6 presence category if it's REAL ID-compliant, and we may use
7 it if it's not REAL ID-compliant.

8 Q. And what would be a case where you don't use it if
9 it's non-REAL ID-compliant?

10:12:15 10 A. We might not use it -- we more likely -- in
11 practice, many CSRs will always use SAVE because they've
12 just gotten used to using it. It's not required for a
13 non-REAL ID license. If there's any question about the
14 document, if anything is illegible on the document or hard
10:12:39 15 to read, it would be verified in the -- in the SAVE system.
16 If there's any suspicion of the document, it would be -- it
17 would be verified through the SAVE system.

18 Q. Does ADOT have an agreement with USCIS for use of
19 SAVE?

10:12:53 20 A. Yes.

21 Q. And does ADOT use SAVE for anyone who comes into
22 or who presents a United States birth certificate as their
23 primary document?

24 A. No.

10:13:08 25 Q. Why not?

1 A. It's not verifiable in SAVE, as far as I know.

2 Q. When you say "it's not verifiable in SAVE," a U.S.
3 birth certificate, what do you mean by that?

10:13:23

4 A. The purpose of SAVE is to verify documents issued
5 by the federal government to say whether or not they are
6 here -- whether it's a foreign national coming in or a
7 foreign person coming in with -- and then having an
8 authorized presence in the United States. And the birth
9 certificate would be a natural-born citizen, so they
10 don't -- they don't report back on birth certificates.

10:13:41

11 Q. And just to be clear -- I think you said this
12 earlier -- but what is a CSR?

13 A. Customer service representative.

10:13:53

14 Q. Okay. And a customer service representative would
15 be someone who works in an MVD office anywhere in the
16 state; right?

17 A. Correct. Whether that is our office or a
18 third-party -- authorized third-party office.

10:14:07

19 Q. Are there authorized third-party offices where you
20 can go get a driver license?

21 A. There are.

22 Q. And there would be a -- CSRs who work there too?

23 A. Correct.

10:14:19

24 Q. So a CSR is someone to whom you would show one of
25 these primary documents; right?

1 A. Correct.

2 MR. WHITAKER: Can you clarify that last
3 question? The word "you," do you mean the applicant?

4 MR. HERRERA: Oh, sure.

10:14:31 5 BY MR. HERRERA:

6 Q. So an applicant for a -- an Arizona credential
7 would present their primary document to a CSR; right?

8 A. Correct.

9 Q. Okay. Does ADOT ever use SAVE for anyone who is a
10:14:50 10 natural-born U.S. citizen?

11 A. We should not.

12 Q. Why not?

13 A. Because it wouldn't show any information for that
14 natural-born U.S. citizen.

10:15:04 15 Q. What are the restrictions in place for ADOT's use
16 of SAVE, if any?

17 A. It's to be used for the licensing application
18 process.

19 Q. Okay. And does that mean that you can't use it
10:15:24 20 for any purpose other than licensing?

21 A. By "licensing" I'm going to include
22 identification. So it's for the issuing and maintenance of
23 credential records. So . . .

24 Q. What are the requirements in place for ADOT's use
10:15:47 25 of SAVE in terms of the verification process?

1 A. I'm not sure I understand.

2 Q. So an ADOT use -- you mentioned that CSRs and
3 perhaps others at ADOT will use SAVE; right?

4 A. [Nodded up and down.]

10:16:03

5 Q. What are the guidelines in place for those
6 individuals to use SAVE?

7 A. Are you talking about what guidelines we put in
8 place for our employees?

9 Q. That's right.

10:16:18

10 A. Okay. Like anything in the system, they're only
11 allowed to use it for official purposes, and their official
12 purposes would, therefore, be limited in that moment to
13 processing an application or validating some documentation
14 for the customer to be able to process their transaction.

10:16:35

15 Q. And is a -- is a CSR supposed to accept the first
16 response that they get back from SAVE?

17 MR. WHITAKER: Objection. Incomplete
18 hypothetical.

19 MR. HERRERA: Sure.

10:16:56

20 BY MR. HERRERA:

21 Q. Well, is a CSR supposed to do any further
22 verification beyond the initial results given to them
23 through the use of SAVE?

24 MR. WHITAKER: Same objection.

10:17:10

25 THE WITNESS: If we're presented a document

1 and we run it through SAVE and it comes back with a final
2 response on it, then that would be it. That would be the
3 end of it. Sometimes it does come back and it says further
4 research needed and we have to wait for the federal
10:17:29 5 government to operate SAVE to do further research to give
6 us an answer and we'll have to go back in and check on it.
7 But from a standpoint of what SAVE says, we take and we
8 don't do further research on it.

9 BY MR. HERRERA:

10:17:43 10 Q. That helps.

11 What is a "final result"? Or will it -- how
12 is that indicated in SAVE that it's a final result?

13 A. It will no longer be a pending. It will not have
14 a pending status. It has the ability to go to an
10:18:01 15 enhanced -- or I forget what the actual term in SAVE is,
16 but there is a -- "additional review" I think is what it's
17 called, and it will go through. And it's not something
18 that we do. It's something that the feds do, and then we
19 have to go back and check it. And when it says it's final,
10:18:15 20 that's when we will accept it, whether it was on the first
21 one or after it went through additional review.

22 Q. Is -- does ADOT ever use SAVE in order to verify
23 someone when that person is applying to register to vote
24 through MVD?

10:18:39 25 A. I'm not sure I understand what you mean by

1 "applying to register to vote."

2 MR. WHITAKER: I think we might be straying
3 outside of the 30(b)(6) topics. I'm not sure. I guess for
4 now I'll lodge an objection that I'm questioning whether
10:18:59 5 that particular question is within the 30(b)(6) notice.

6 BY MR. HERRERA:

7 Q. Do -- does -- can someone register to vote at MVD?

8 A. We accept -- part of our driver's license and
9 credential application process, we do accept applications
10:19:23 10 for registering to vote, and we forward those applications
11 to the secretary of state. We also allow those
12 applications to be submitted via our website, our customer
13 website. It can go to the secretary of state. Motor
14 Vehicle Division does not actually register them to vote.
10:19:41 15 We transmit the application to the secretary of state.

16 Q. Okay. What if a credential shows -- excuse me.
17 So if someone's credential -- Arizona
18 credential shows one type of authorized presence and then
19 SAVE shows a different result, what does MVD do?

10:20:28 20 MR. WHITAKER: Objection. May assume facts
21 not in evidence.

22 THE WITNESS: I'm not sure I understand the
23 scenario.

24 BY MR. HERRERA:

10:20:38 25 Q. So when does -- is SAVE used only upon application

1 for an original credential?

2 A. No. It's also used for renewal. But, yes, it's
3 only used upon an application.

4 Q. Okay. And when -- so if someone does it in the
10:21:00 5 case of renewal, what happens if the existing credential
6 prior to the renewal credential has one -- is based on one
7 authorized status type but then SAVE shows a different
8 authorized status type?

9 A. SAVE --

10:21:18 10 MR. WHITAKER: Same objection. Go ahead.

11 THE WITNESS: SAVE would -- we use SAVE to
12 validate the document that they present. So if they're
13 presenting a document and SAVE cannot validate that
14 document because it's no longer valid, then we wouldn't
10:21:31 15 issue.

16 BY MR. HERRERA:

17 Q. So earlier you mentioned that sometimes the result
18 you get back from SAVE is that additional information is
19 needed or investigation -- I forgot what you said exactly.
10:21:53 20 What was it?

21 A. I don't remember.

22 Q. Is it additional verification, perhaps?

23 A. Something along those lines, yes.

24 Q. So how much time does ADOT give for SAVE to do
10:22:05 25 additional verification before making a decision about

1 someone's credential issuance?

2 A. We will wait until we have that final -- or until
3 the person decides that they no longer want the credential.
4 So if it -- as long as it takes the federal government to
10:22:27 5 respond, we'll keep that open and pending.

6 Q. Does that ever -- does that additional
7 verification ever take longer than 30 days?

8 A. Yes.

9 Q. Does it ever take longer than 60 days?

10:22:40 10 A. I'm not sure. I know that it can take a very long
11 time.

12 Q. Okay. So let's go back to Exhibit 105. And
13 Exhibit 105, that was the exhibit marked which was ADOT's
14 responses to the plaintiffs' first set of interrogatories;
10:23:20 15 right?

16 A. Correct.

17 Q. Let's look on page 4 of the answers to the
18 interrogatories. And do you see Interrogatory Number 4?

19 A. Yes.

10:23:37 20 Q. And once someone is issued an original credential
21 by MVD, is that customer categorized as one of the
22 categories listed in response to Interrogatory Number 4?

23 A. Yes.

24 Q. I'm not going to make you read them all, but there
10:24:12 25 are two non-foreign -- sorry -- the two non-foreign

1 subcategories that MVD currently uses are U.S.
2 citizen/non-foreign and naturalized citizen; right?

3 A. Correct.

4 Q. So a naturalized citizen is someone who is -- who
10:24:32 5 naturalized as a U.S. citizen; right?

6 A. It's someone who presented a certificate of -- of
7 naturalization as their proof of authorized presence.

8 Q. And so a naturalized citizen as -- categorized as
9 non-foreign in -- for MVD; right?

10:24:52 10 A. Correct.

11 Q. Then U.S. citizen/non-foreign means citizens who
12 are born in the U.S., U.S. territories, or U.S.
13 possessions; right?

14 A. Correct.

10:25:13 15 Q. Now, the three foreign subcategories -- strike
16 that.

17 The three foreign subcategories for MVD
18 customers are resident/permanent alien, temporary INS, and
19 Canada; right?

10:25:31 20 A. Correct.

21 Q. Is there such a thing as an F-type license in
22 the -- for MVD?

23 A. Not anymore. Not in the new system. We don't
24 classify things that way.

10:25:47 25 Q. Okay. What happened to F-type license?

1 A. F-type was pre-MAX, so before April 20th of 2020
2 in the legacy system. That was -- that was how we would
3 categorize what is now listed in the foreign.

4 Q. And how did customers who had credentials
5 qualified as an F-type license get recategorized when ADOT
6 made that transition?

7 A. I'm -- they all became part of the foreign
8 category. I'm not sure how we would have categorized them
9 between the three subcategories. Not positive.

10 Q. Would -- would anyone who is an F-type -- rather,
11 I'll ask it this way.

12 Everyone who had an F-type license prior to
13 April 20, 2020, was recategorized, assuming it was still
14 valid, as one of the three now foreign types or foreign
15 subcategories?

16 A. They would have been categorized into the -- the
17 foreign category.

18 Q. Okay. So anyone who had an F-type, assuming they
19 didn't change status or their license didn't expire, was
20 changed to either resident/permanent alien, temporary INS,
21 or Canada; right?

22 A. Correct.

23 Q. And when you look -- what is the field that you
24 would look at in the MAX system to find these -- these
25 subcategories?

1 So for authorized -- for the different
2 authorized presence types, where would you find that
3 information in -- in MAX?

4 A. So that would be part of our application process.
10:28:34 5 As you're going through and presenting a document, you
6 would tell us what kind of document you're presenting, and
7 that would allow you to designate what -- which, you know,
8 pop-up box would appear to allow you to designate which
9 category that that belonged to.

10:28:51 10 Q. Is there a field in the MAX system where you --
11 where you can find that info about somebody or about a
12 customer?

13 A. Yes.

14 Q. Okay. And what is that -- do you know what that
10:29:01 15 field is called?

16 A. Offhand, I can't remember what the name is, but it
17 is in the interrogatories -- or in the request for
18 production, there would be the name of it.

19 Q. And is it -- is there a single field that would
10:29:28 20 show the person's authorized presence subcategory?

21 A. Yes.

22 Q. Okay. And what are -- what do the actual values
23 in the MAX system say for these different subcategories?

24 A. They are numerical.

10:29:43 25 Q. Okay. Do you know what -- I'm not trying to test

1 you, but what are the different numbers assigned for the
2 different subcategories for authorized presence?

3 A. Naturalized citizen is 1; U.S. citizen/
4 non-foreign is 4; and the other three are -- the other
5 three, I don't remember what order they are in.

6 MR. WHITAKER: I want to make a general
7 observation. I think we marked parts of this information
8 as confidential when we were producing documents. So I
9 think I'll designate, under the supplemental protective
10 order, parts of the transcript that relate to specific
11 fields in systems as confidential. I wanted to note that
12 on the record.

13 MR. HERRERA: Is that for individual
14 customers or . . .

15 MR. WHITAKER: I believe it has to do with --
16 part of the concern is not wanting to make public all the
17 details of how the system works for security purposes, not
18 just individual information. So we would like to designate
19 parts of the transcript -- I understand the supplemental
20 protective order will allow us to go back and specify which
21 parts. But I'm noting on the record that we're getting
22 into territory that we will want to mark confidential under
23 the supplemental protective order because it talks about
24 specific parts of ADOT's system and there are, as I
25 understand, some security concerns about publicizing a lot

1 of the internal ADOT system.

2 MR. HERRERA: Is that security concern
3 different than the Driver Privacy Protection Act concerns?

10:31:38

4 MR. WHITAKER: Yes. Yes. You will notice
5 that when we produce some documents, we mark them
6 confidential, and that was part of the reason. I don't
7 want to -- I'm just noting that now. Feel free to proceed.

8 MR. HERRERA: Okay. I ask because --

10:32:00

9 MR. MORGAN: Counsel -- Mr. Whitaker, I don't
10 know about others; I cannot hear you very well at all.

11 MR. WHITAKER: Okay. Sorry.

12 MR. MORGAN: You're soft-spoken even in front
13 of the microphone, brother, so if you could --

14 MR. HERRERA: Can we go off the record?

10:32:11

15 Let's go off the record.

16 (An off-the-record discussion ensued,
17 followed by a recess.)

18 MR. HERRERA: I wanted to put on the record
19 earlier about the driver license voter registration
20 objection. That is -- driver license voter registration
21 Section 16-112 is amended by HB 2492.

10:54:57

22 MR. WHITAKER: Oh.

23 MR. HERRERA: I believe our Topic 1 touches
24 on 2492 -- or deals with 2492 broadly.

10:55:43

25 MR. WHITAKER: I'm not sure that HB 2492

1 amends 16-112 in a substantive way along the lines of
2 this -- in a substantive way along the lines of your
3 question, but, I mean, we'll just state the objection and
4 keep going. I'm not instructing the witness not to answer.

10:56:05

5 MR. HERRERA: Okay. Yeah. Okay.

6 BY MR. HERRERA:

7 Q. All right. Let's -- can we look, Mr. Jorgensen,
8 at Exhibit 106, which were the requests for production
9 responses. Please turn to RFP Number 8, which is on
10 page 6.

10:56:39

11 And do you see that the response to RFP
12 Number 8 in Exhibit 106 goes on to the next page?

13 A. Yes.

14 Q. Or begins on the next page, page 7; right?

10:57:03

15 A. Yes.

16 Q. Okay. And in the response, you gave some figures;
17 correct?

18 A. Correct.

19 Q. Were those the numbers that were current as of
20 your response to these requests for production?

10:57:17

21 A. Correct.

22 Q. And that was on July 14th, 2023; right?

23 A. Correct.

24 Q. Okay. So under D it says: "The Department no
25 longer uses F-type credentials (see Response to

10:57:38

1 Interrogatory Number 4). The number of credential holders
2 with a foreign authorized presence status who will be 18 or
3 older by renewal is 339,505." Right?

4 A. Correct.

10:57:56

5 Q. And then if you look at F, it says: "The
6 Department no longer uses F-type credentials. The number
7 of credential holders with a foreign authorized presence
8 status over the age of 18 is 336,766." Right?

9 A. Correct.

10:58:26

10 Q. And the reason that the D number is larger is that
11 it includes people who, by the time of their renewal, will
12 be 18 or older?

13 A. Correct.

10:59:04

14 Q. Okay. How does MVD, if at all, retain information
15 about the types of documents or identification shown when
16 that person applies for an Arizona credential originally?

17 A. Of the authorized presence documentation?

18 Q. Yes.

10:59:22

19 A. It is recorded in the MAX system as to what
20 document was presented, and then all documents that were
21 used in support of that are scanned into the system and
22 attached to the record.

10:59:38

23 Q. How long are the documents that are scanned into
24 the system regarding authorized presence retained in the
25 MAX system?

1 A. I believe it is ten years, but I can't quite -- I
2 can't remember if that's correct or not.

3 Q. So where might we be able to find that answer?

4 A. That would be in our retention policy.

10:59:59 5 Q. Okay. But it might -- might be ten years?

6 A. Yeah. I don't want to guess on that one. It
7 would be consistent with our retention policy.

8 Q. What types of -- and to clarify, when you said the
9 documents presented for authorized presence that are
10 scanned in, what types of documents would be scanned in to
11 show authorized presence?

12 A. It would be whatever the customer presented. So
13 whether it was a birth certificate, certificate of
14 naturalization, employment authorization card, EAC, EAD --
11:00:55 15 whatever they were showing, that -- that would be scanned
16 into the system.

17 Q. All right.

18 MR. HERRERA: So we're going to move to
19 another document here. And this is -- this one we're going
11:01:24 20 to mark as Exhibit 109. Exhibit 109 for those listening.

21 (The document was marked as Exhibit 109
22 for identification.)

23 MR. HERRERA: For the record, this exhibit is
24 Bates-stamped ADOT001081 through ADOT001130.

11:02:26 25 BY MR. HERRERA:

1 Q. Do you recognize this document?

2 A. Yes.

3 Q. Okay. And what is this document?

4 A. This is another One Source document regarding the
5 process for processing an application for credential.

6 Q. Okay. And let's go to 1088. So the ADOT numbers
7 on the bottom have -- they're called Bates stamps. So
8 let's go to the one that says ADOT001088. It would be
9 page 8 of this One Source.

10 Do you see where it says "Names Section"?

11 A. Yes.

12 Q. Does this describe how a customer's name is
13 entered when processing a credential?

14 A. Yes.

15 Q. This section on 1088 provides some requirements
16 for names in MAX; right?

17 A. Correct.

18 Q. Do you see in the first gray box on 1088 that
19 "Names with an accent mark"? And then it lists some in a
20 parentheses. Then it says "above letters like ñ are not
21 permitted in MAX."

22 A. Yes.

23 Q. What does MVD do when processing someone with an
24 accent mark letter or something like an "ñ" in their name?

25 A. It processes it excluding the accent mark so that

1 it is one of the 26 letters of the English alphabet.

2 Q. Okay. And what does MVD do when processing a
3 customer with other types of characters in their names
4 besides Latin?

11:04:17 5 A. They're converted -- they have to be converted to
6 Latin characters.

7 Q. And still looking at this ADOT001088 page, what
8 does MVD do when processing someone with a hyphenated last
9 name?

11:04:58 10 A. A hyphen is -- is an allowed character.

11 Q. Okay. Does the hyphen in a last name that is
12 hyphenated ever get changed to a space in MVD?

13 A. The instruction is that it should always appear as
14 it is in the document that is showing the name; so it
11:05:17 15 should not.

16 Q. So if someone's name is hyphenated in their last
17 name, it won't get also combined into one name; right?

18 A. I'm not --

19 Q. As in -- as in if it's -- if the name is
11:05:39 20 Johnson-Smith, it won't get turned into all one word:
21 Johnsonsmith?

22 A. It should not.

23 Q. Okay. What does MVD do when processing someone
24 with two last names that are not hyphenated?

11:05:58 25 A. It includes both last names.

1 Q. And are those two last names included in the --
2 in -- both in the last name field?

3 A. They should be, yes.

4 Q. Okay. Does -- I see that you said "should be" for
5 several of these.

11:06:15

6 Does MVD ever do any kind of audit to make
7 sure that the names reflect what is in the documents?

8 A. We do.

9 Q. Okay. And how often does that happen?

11:06:27

10 A. We do a sampling on a weekly basis of transactions
11 processed.

12 Q. So I think from your earlier -- from your earlier
13 answer, I gather that a space is an allowed character in a
14 name?

11:07:02

15 A. It is, yes.

16 Q. Okay. When do Arizona driver licenses expire?

17 A. It depends on several factors from the type of the
18 license that it is to the documents that were used to prove
19 authorized presence or meet other requirements. So it
20 varies.

11:07:32

21 Q. Do REAL IDs expire?

22 A. They do. They have a maximum term of eight years
23 but might be at a smaller term based on the underlying
24 documentation or other limitations.

11:07:53

25 Q. Outside of REAL IDs, are there any non-REAL

1 Arizona driver licenses that can be valid for longer than
2 eight years without needing renewal?

3 A. Yes.

4 Q. Are there any non-REAL ID Arizona credentials that
11:08:14 5 can be valid for longer than ten years?

6 A. Yes.

7 Q. We're going to look at another document here. And
8 this document begins -- we're going to mark this as 110,
9 Exhibit 110.

11:08:35 10 (The document was marked as Exhibit 110
11 for identification.)

12 BY MR. HERRERA:

13 Q. The Bates stamp on this document is -- the Bates
14 stamp on this document is ADOT000102.

11:09:13 15 And what is this document?

16 A. This is another One Source document, this one on
17 the subject of credential renewal.

18 Q. And what is a renewal of a license?

19 A. An original credential is issued for a specific
11:09:36 20 period of time, and then it must be renewed, which means
21 that we have to reprocess it, although it requires less
22 things to reprocess that application. And then every --
23 they're all limited in term, so each time that it expires,
24 it's the process of going through and updating it once
11:09:57 25 again.

1 Q. And does this document shown in Exhibit 110, this
2 MVD One Source, show some of the requirements and rules for
3 renewals?

4 A. Yes, it does.

11:10:25

5 Q. Do you know if this document in Exhibit 110
6 reflects the law around driver license and ID renewals as
7 amended by the challenged laws HB 2492 and 2243?

8 MR. WHITAKER: Objection. Calls for a legal
9 conclusion.

11:10:52

10 THE WITNESS: We did not change any of the
11 process around doing the renewal, so it's the same before
12 and after.

13 BY MR. HERRERA:

11:11:07

14 Q. Okay. Do you see on the first page of ADOT000102
15 that there's a heading that says "Credential Renewal
16 Requirements"?

17 A. Yes.

18 Q. One of the requirements of credential renewal is
19 primary identification; right?

11:11:21

20 A. Correct.

21 Q. Also a customer, upon renewal, will get a new
22 expiration date for the credential; right?

23 A. Correct.

11:11:32

24 Q. For foreign authorized presence customers renewing
25 a credential, they get an expiration date based on their

1 provided foreign authorized presence documents; right?

2 A. Correct. Up to the maximum time allowed by the
3 license itself.

11:11:49

4 Q. And would a person who showed a permanent resident
5 identification originally have to show proof of permanent
6 residence again upon renewal?

7 A. Yes.

8 Q. Okay. And why is that?

11:12:06

9 A. The permanent residence card expires after ten
10 years.

11 Q. Is that all permanent resident cards?

12 A. My understanding is they didn't use to, but all
13 the ones that are being issued now are, to the best of my
14 knowledge.

11:12:17

15 Q. Okay. Let's go to page 2 of this exhibit, or
16 Bates stamp ADOT000103.

17 What does the information under the section
18 titled "Renewal Time Frames" describe?

11:12:39

19 A. This is how long a license can be renewed for, so
20 what the time period following the renewal would be.

21 Q. So the one -- the head- -- under that, there's a
22 heading that says "The following are renewable for 55 years
23 at a time." What does that part mean?

11:12:58

24 A. So in the sub-bullets you'll see who that applies
25 to. For example, after a customer's 60th birthday, instead

1 of having -- so a nonlegacy license today -- or a legacy
2 license today would be good for -- until you were 65 in its
3 most -- in its broadest use; right? So after your 60th
4 birthday, we don't allow you to go beyond that. And then
11:13:21 5 every time you renew after your 60th birthday, it's only
6 good for a five-year period in the renewal.

7 Q. I see.

8 And so is that the same for a person who's an
9 out-of-state student?

11:13:32 10 A. Yes.

11 Q. Do these categories of people listed under
12 "renewable for five years at a time" have to renew at least
13 every five years?

14 A. If they want to maintain their license, yes.

11:13:52 15 Q. When must someone who does not fall within one of
16 these categories renew their driver license?

17 A. Again, depends on the driver license type that
18 we're talking about. For a REAL ID-compliant driver's
19 license, that would be eight years. For a legacy driver's
11:14:13 20 license, a noncompliant driver's license, that would be the
21 -- in most cases, up to the 65-year time frame, and then
22 every five years thereafter.

23 Q. Is there any reason someone younger than 60 and
24 not within one of the categories under renewable for five
11:14:31 25 years at a time on page 2 of Exhibit 110 would have to

1 renew their license?

2 A. Yes.

3 Q. Okay. What would that reason --

4 A. For example, authorized presence. If the document

11:14:44

5 is not valid for a time period longer than that -- longer
6 than the -- that's less than this time frame, then it would
7 only be issued for the time period where it was valid. Sex

8 offenders are another one. Someone who's categorized as a
9 sex offender can only register for one year. So those are

11:15:04

10 some examples of . . .

11 Q. And then you already said the REAL ID requirement
12 is eight years?

13 A. Eight years.

14 Q. So if someone did not fall into one of the

11:15:24

15 "renewable for five years at a time" category and had a
16 REAL ID, then their license could be good -- could be good
17 for up to eight years, assuming it's not one of the
18 authorized presences that expires sooner?

19 A. As long as there's not some underlying factor that
11:15:40 20 says it's only valid for this, such as expiring authorized
21 presence, yes.

22 Q. Earlier -- I'm -- I forgot to ask this one.

23 On the names -- "allowable names in MAX,"

24 someone who has in their last name an apostrophe, is

11:16:00

25 that -- does that also go into the system, or is that

1 changed in any way?

2 A. I do not remember whether -- whether an apostrophe
3 is allowed or not.

4 Q. Would that also be somewhere in the One Sources?

11:16:47 5 A. It's possible, or it might just be rejected by the
6 system to say it's not allowed. So it might not -- if it's
7 not allowed, it might be entirely controlled by the system
8 and it might not be in the One Source documentation.

9 Q. Okay. So -- sorry. To go back to the exhibit we
11:17:08 10 were looking at, 110, can we look at Bates stamp
11 ADOT000105. And that would be page 4 of the exhibit.

12 Do you see that section with the heading
13 "Authorized Presence Credential Renewal"?

14 A. Yes.

11:17:31 15 Q. And please review the paragraph -- the first
16 paragraph under "Authorized Presence Credential Renewal."

17 Now, that paragraph says that "The Foreign
18 credential expiration date shall coincide with the
19 customer's assigned authorized presence expiration date."

11:18:04 20 And then it says, "unless an indefinite status or duration
21 of status has been granted." And I paraphrased a little
22 bit there. But I wanted to ask: What is an "indefinite
23 status"?

24 A. So one example that -- might be the prior
11:18:25 25 permanent resident that did not expire, so if they had that

1 originally, that would be a case where . . .

2 Q. Are you referring to perhaps an -- an older
3 permanent residence card?

4 A. Correct. Yeah.

11:18:47 5 Q. Okay.

6 A. Or any case where there's not an expiration date
7 on the documentation.

8 Q. Okay. Sorry.

9 MR. HERRERA: Just to check with everyone
11:19:15 10 online . . .

11 BY MR. HERRERA:

12 Q. Are permanent residents categorized as customers
13 with indefinite status?

14 A. Because the card expires at ten years, it's --
11:19:33 15 it's for a maximum of ten years.

16 Q. Okay. Does someone who has a foreign authorized
17 presence credential and has indefinite status -- so it
18 would have to be one of the older types of permanent
19 residence -- not have to renew if they do not fall into one
11:19:50 20 of the categories on page 2 that we reviewed a bit ago with
21 regard to every five years?

22 A. They would renew whenever the license expired. So
23 if it was a legacy credential, it would renew at 65.

24 Q. Now, if someone has a foreign authorized
11:20:12 25 precedence -- presence Arizona credential and has

1 indefinite status or another foreign authorized presence
2 status in the MVD MAX system, what happens if that customer
3 seeks to get a renewed license and shows documentation
4 establishing that they have naturalized as a U.S. citizen?

11:20:32

5 A. Then we would change their status to naturalized
6 and record the naturalization.

7 Q. And what happens to a foreign authorized presence
8 credential customer's categorization in MAX once that
9 customer renews and shows proof of naturalization as a U.S.
10 citizen?

11:20:47

11 A. I'm sorry?

12 Q. What happens in MAX when someone shows that
13 they've naturalized?

11:21:01

14 A. It's recorded as naturalized, so it will now be a
15 Category 1 under the non-foreign.

16 Q. And does that happen instantaneously or whenever
17 it's entered?

18 A. Correct.

11:21:25

19 Q. Okay. And for customers -- for customers who are
20 currently categorized under a foreign authorized presence
21 subcategory, what does Arizona law require of that person
22 with regard to his or her driver license if he or she
23 naturalizes as a U.S. citizen?

11:21:42

24 MR. WHITAKER: Objection. Calls for a legal
25 conclusion.

1 THE WITNESS: To my knowledge, there is no
2 requirement for them to do anything.

3 BY MR. HERRERA:

4 Q. Okay. Does MVD law or the MVD -- I'm sorry.
5 Strike that.

11:21:57

6 Does Arizona law, to your understanding, or
7 the MVD require someone who is naturalized as a U.S.
8 citizen to do anything relating to their driver license if
9 his or her driver license is unexpired and valid but was
10 obtained prior to naturalization?

11:22:14

11 MR. WHITAKER: Calls for a legal conclusion.

12 THE WITNESS: No.

13 BY MR. HERRERA:

14 Q. That's a "no"; right?

11:22:22

15 A. No.

16 Q. Does the MVD or ADOT track whether customers with
17 valid credentials based on foreign authorized presence have
18 naturalized -- as a U.S. citizens upon -- excuse me. Let
19 me start that again.

11:22:37

20 Does MVD or ADOT track whether customers with
21 valid credentials based on foreign authorized presence
22 whether they have naturalized as U.S. citizens upon the
23 point of their naturalization?

24 A. No, we do not.

11:23:02

25 Q. Okay. Does the MVD or ADOT notify customers who

1 naturalize as U.S. citizens but still have an unexpired
2 valid credential based on foreign authorized presence?

3 A. I'm not sure I understand.

4 Q. Does MVD or ADOT send any kind of notification to
11:23:21 5 someone who has naturalized or once they have naturalized
6 but they still have a -- an unexpired valid credential
7 based on foreign authorized presence?

8 A. We wouldn't know that they had naturalized.

9 Q. So you don't send any --

11:23:34 10 A. So we wouldn't send anything, no.

11 Q. Okay. Is there any requirement that someone with
12 an unexpired foreign authorized presence driver license or
13 credential renew his or her license upon naturalization as
14 a U.S. citizen?

11:23:53 15 MR. WHITAKER: Possibly calls for a legal
16 conclusion, depending on how the question is interpreted.

17 THE WITNESS: Not that I'm aware of.

18 BY MR. HERRERA:

19 Q. Okay. Is there any requirement that someone with
11:24:01 20 an unexpired foreign authorized presence driver license or
21 credential renew his or her license soon after
22 naturalization as a U.S. citizen?

23 MR. WHITAKER: Same objection.

24 THE WITNESS: Not that I'm aware of.

11:24:16 25 BY MR. HERRERA:

1 Q. How many people update their driver licenses or
2 credentials immediately after naturalization as a U.S.
3 citizen besides when renewal is required?

4 MR. WHITAKER: Foundation.

11:24:30 5 THE WITNESS: I wouldn't know.

6 BY MR. HERRERA:

7 Q. How many people update their driver licenses or
8 credentials upon naturalization as a U.S. citizen as part
9 of their renewal process?

11:24:51 10 A. I -- I don't know that offhand.

11 Q. If someone who -- if someone who is naturalized as
12 a U.S. citizen does not show proof of naturalization but
13 must renew his or her license due to expiration, does that
14 person have to update their categorization from foreign
15 authorized presence to non-foreign authorized presence?

11:25:14 16 A. The person would have to demonstrate authorized
17 presence somehow. So if their existing one was expired and
18 that's why they -- the license was expiring, they would
19 have to show something that -- to prove authorized
11:25:31 20 presence.

21 Q. What license type does a naturalized citizen have
22 if that person does not renew the license and show evidence
23 of naturalization?

24 A. I don't understand the question.

11:25:43 25 Q. So if someone -- what license type would someone

1 with a foreign authorized presence driver license have if
2 that person does not renew the license and show evidence of
3 naturalization?

4 A. They would continue to have a foreign-type
11:26:01 5 license.

6 Q. If you obtained a license before -- excuse me.
7 Does anyone at ADOT track how many people
8 update driver's licenses upon naturalization?

9 A. That is not a report that we run, no.

11:26:16 10 Q. If you obtained a license before naturalization,
11 therefore as -- likely as a foreign authorized presence
12 customer, is it easier to renew your license without
13 updating your status than to renew it and update your
14 status?

11:26:42 15 MR. WHITAKER: Objection. Incomplete
16 hypothetical.

17 THE WITNESS: It would -- it would -- it goes
18 back to the same point that I made before. If their
19 license is expiring because their proof of authorized
11:27:00 20 presence is expiring, they're going to have to show
21 something, and if they don't have another piece, then the
22 only thing you could do was show they naturalized, the
23 proof of naturalization.

24 BY MR. HERRERA:

11:27:12 25 Q. And what is required to show -- to prove that

1 someone's a naturalized citizen, can they show a copy of
2 their naturalization certificate?

3 A. No. We need an original document.

4 Q. Okay. Can it be a -- can someone who is trying to
11:27:29 5 establish that they are a naturalized U.S. citizen for
6 Arizona driver's license purposes show a replacement copy
7 of their naturalization certificate?

8 A. They would need to show an official copy of it.
9 As long as it's still an official copy and can be validated
11:27:48 10 through SAVE, then it would be fine.

11 Q. How many customers in the MVD MAX system currently
12 have an unexpired foreign authorized presence credential
13 but are now naturalized U.S. citizens?

14 A. We have no way of knowing that.

11:28:10 15 Q. How does the MVD change practices when there is a
16 new law affecting MVD operations?

17 A. We begin with establishing a change control team
18 that will review the law, understand what the implications
19 would be, decide who needs to be involved. It goes through
11:28:45 20 our change process board -- change control board where we
21 discuss how this is going to change it. If the system and
22 things that need to be done, those get assigned an IT
23 ticket to go in and do an update. Then it's all brought
24 back and tested -- the process is tested through, One
11:29:07 25 Source is updated, policy is updated as needed. And then

1 it's -- as we approach the deadline for the implementation,
2 that whole change process is approved and implemented.

3 Q. And how does the MVD change practices when there
4 is a new law affecting voting?

11:29:27 5 A. That's part of the same process.

6 MR. MORGAN: Form.

7 BY MR. HERRERA:

8 Q. Who is involved in examining changing the MVD's
9 practices when there is a new law affecting MVD operations?

11:29:46 10 A. It would be -- it would depend upon what the
11 operation -- the operational effect is, but it would be our
12 policy experts, the people who are impacted, the business
13 people that are impacted, the product owners for the
14 different systems, and IT resources.

11:30:08 15 Q. You mentioned something about the change board.
16 Where in ADOT does the -- is the change board?

17 A. That is within the Motor Vehicle Division.

18 Q. And who is -- who are the members of the change
19 board?

11:30:27 20 A. That would be permanently the members of the
21 executive team. Amanda Kindle, who I mentioned before, is
22 the head of -- she's the organizational lead to make sure
23 that happens. Then it would depend on specifically who --
24 what the change was to see who else would be on the -- on
11:30:50 25 the change review team.

1 Q. Does -- does the MVD have legislative liaisons or
2 other legislative advocates?

3 A. Yes.

4 Q. And who are they?

11:31:09 5 A. Our current legislative liaison is Anthony
6 Casselman.

7 Q. Anyone else?

8 A. I think he's the only one.

9 Q. All right.

11:31:30 10 MR. HERRERA: I don't have a copy of it, but
11 I am going to pull up on the screen here and share a copy
12 of the -- what has previously been marked as an exhibit,
13 but it's House Bill 2492. So I'm going to pull that up.
14 Someone is going to put it in the chat. Sorry about that.

11:33:39 15 So I'm showing on the big screen here in
16 front of -- in front of the witness what has been
17 previously marked in a prior deposition as Exhibit 19.

18 BY MR. HERRERA:

19 Q. And it is -- do you recognize this document?

11:33:56 20 A. Yes.

21 Q. And what is this document?

22 A. That is the chaptered version of House Bill 2492.

23 Q. And have you -- you have reviewed House Bill 2492?

24 A. I have.

11:34:07 25 Q. Okay. What changes, if any, has ADOT made to --

1 to its operations after the passage of HB 2492?

2 A. Sometimes it's a little hard to separate the two
3 bills.

4 Q. Okay. Well, let's -- let me walk you through some
11:34:28 5 of them. I'm going to the second page of Exhibit 19. And
6 one of them amends A.R.S. 16-101.

7 And do you see that there is a change that
8 says: "Is a citizen of the United States," and then the
9 language is added, "AND HAS PROVIDED SATISFACTORY EVIDENCE
11:35:00 10 OF CITIZENSHIP AS PRESCRIBED IN SECTION 16-166"?

11 A. Yes.

12 Q. And then do you -- I'm trying to go to another
13 part that might -- there's also a section that talks about
14 a proof of location of residence. Do you see that?

11:35:40 15 A. Yes.

16 Q. And then do you see in Section E, I've highlighted
17 there at the end: "THE COUNTY RECORDER OR OTHER OFFICER IN
18 CHARGE OF ELECTIONS SHALL NOTIFY THE APPLICANT THAT THE
19 COUNTY RECORDER OR OTHER OFFICER IN CHARGE OF ELECTIONS
11:36:13 20 COULD NOT VERIFY THAT THE APPLICANT IS A UNITED STATES
21 CITIZEN AND THAT THE APPLICANT WILL NOT BE QUALIFIED TO
22 VOTE IN A PRESIDENTIAL ELECTION OR BY MAIL WITH AN EARLY
23 BALLOT."

24 Do you -- does that help refresh your memory
11:36:26 25 as to which bill this is?

1 A. It -- it does.

2 Q. Okay. So what changes, if any, has ADOT made to
3 its operations after the passage of HB 2492?

11:36:48

4 A. So I believe this bill required us to provide --
5 in that it required the secretary of state to consult with
6 the -- I think it -- what it termed in here was the MVD --
7 or ADOT database, driver license database, which meant that
8 we had to implement a way for them to review the records
9 that we had.

11:37:08

10 Q. And by -- what do you mean by allow the secretary
11 of state to access the data?

12 A. I don't remember which section it is in here,
13 but . . .

14 Q. Let's see. I'll try to search.

11:37:36

15 A. Or I may be thinking of the other bill still.

16 Q. Let's look at the -- let's look at the other bill.
17 So I'm going to pull up what was marked in a
18 prior deposition as Exhibit G. And -- I'm sorry,
19 Exhibit 21.

11:38:14

20 So Exhibit 21, do you see that it says at the
21 top House Bill 2243?

22 A. I don't.

23 Q. Oh. I'm not sharing it.

24 All right. So now I'm showing -- do you see
11:38:28 25 there at the bottom there's a sticker that says "Petty

1 Exhibit Number 21"?

2 A. Yes.

3 Q. Okay. So this was marked in a prior deposition as
4 Exhibit 21. And do you recognize that this is House
11:38:41 5 Bill 2243?

6 A. Yes.

7 Q. Okay. And I'm going to go down to -- at the top
8 here, there's one section that amends of the -- the Arizona
9 Revised Statutes, and then I'm going to go down to page 3
11:38:59 10 of the bill. And do you see that there's some changes to
11 Arizona Revised Statute 16-165?

12 A. Yes.

13 Q. Okay. And then I'm going to go down to
14 Section F -- Subsection F of 16-165 as shown in this bill.

11:39:23 15 Do you see the Section F there?

16 A. Yes.

17 Q. Okay. So "EACH MONTH THE SECRETARY OF STATE SHALL
18 COMPARE THE STATEWIDE VOTER REGISTRATION DATABASE TO THE
19 DRIVER LICENSE DATABASE MAINTAINED BY THE DEPARTMENT OF
11:39:37 20 TRANSPORTATION. THE SECRETARY OF STATE SHALL NOTIFY THE
21 APPROPRIATE COUNTY RECORDER IF A PERSON WHO IS REGISTERED
22 TO VOTE IN THAT COUNTY HAS CHANGED THE PERSON'S RESIDENCE
23 ADDRESS OR IS NOT A UNITED STATES CITIZEN."

24 Do you see that?

11:39:50 25 A. Yes.

1 Q. Okay. Now, now that we've seen the two bills,
2 let's go back to 2492. Has ADOT changed its operations at
3 all to comply with the changes made by HB 2492?

4 A. So to the best of my recollection, we -- we
11:40:12 5 handled these two bills in parallel, so there was some
6 crossover, but I don't -- my recollection is that the other
7 bill didn't have anything that we needed to change in our
8 processes. And everything -- all the changes we made I
9 believe were consistent with the second bill.

11:40:30 10 MR. WHITAKER: And I'll just note for the
11 record that the witness doesn't have a hard copy of 2492 in
12 front of him which may help if he flips through it to
13 remind him or refresh his memory. I -- you identified
14 specific parts of it, but . . .

11:40:50 15 MR. HERRERA: I don't know if I have one.

16 MR. WHITAKER: I'm not trying to be
17 difficult; it's just they're complex bills. So far, he's
18 only seen parts of HB 2492 right now.

19 MR. HERRERA: Well, let's -- let's come back
11:41:05 20 to it, then.

21 BY MR. HERRERA:

22 Q. After the passage of these two bills, has ADOT
23 given the county recorders any new access to data after the
24 passage of these two laws?

11:41:17 25 A. To county recorders? Not directly.

1 Q. And when you say "directly," what do you mean?

2 A. Historically, all of our access to county
3 recorders comes through the Secretary of State's Office,
4 not directly to the counties.

11:41:35 5 Q. And so is there any other access that counties
6 have that is new as of the passage of these bills?

7 A. No.

8 Q. Okay. Is there any access to data that county
9 recorders had -- any access to ADOT data that county
11:41:56 10 recorders had prior to the passage of these bills?

11 A. My understanding and best of my knowledge, the --
12 all of the voter registration data access goes through the
13 Secretary of State's Office. We connect to the Secretary
14 of State's Office. The county connects to the secretary of
11:42:14 15 state. And that's where all the interchange happens.

16 MR. WHITAKER: I'm not sure that question
17 falls within the 30(b)(6) topics. I'm not instructing the
18 witness not to answer but noting that observation.

19 BY MR. HERRERA:

11:42:29 20 Q. Has ADOT given the secretary of state any new
21 access to ADOT's data after HB 2492 or 2243's passage?

22 A. Yes.

23 Q. Okay. And what is that new access the secretary
24 of state has?

11:42:42 25 A. We created two files that would assist them in

1 doing the necessary comparisons; one file being a complete
2 customer extract, including the current authorized presence
3 status and address information; the other being a -- and
4 this might be from the other -- from the first bill -- a
11:43:09 5 list of any credential that we received that is -- that has
6 been canceled due to a credential being issued in another
7 jurisdiction.

8 Q. Besides the two files you said -- send to the
9 secretary of state, is there any new access that the
11:43:29 10 secretary of state has to ADOT's data besides those two
11 extracts?

12 A. Not in response to implementing this bill, no.

13 Q. In response to implementing the two bills, did
14 ADOT modify any access to ADOT's data that the secretary of
11:43:48 15 state has?

16 A. Not beyond the provision of those two, no. I
17 don't believe.

18 Q. So the two -- has ADOT given the attorney general
19 any new access to data after the passage of these two
11:44:19 20 bills?

21 A. No.

22 Q. Has the Attorney General's Office requested access
23 to ADOT's MVD data at all?

24 A. There's been no request for any new access to our
11:44:37 25 data.

1 Q. Okay. Has the Attorney General's Office requested
2 access to any of ADOT's data?

3 A. Can you clarify?

4 Q. Sorry about that. I'll strike that one.

11:45:00

5 Now, I'm going to come back to the two files
6 you mentioned that are sent to the secretary of state.

7 What was ADOT's role in voter registration
8 before the passage of the two challenged laws?

11:45:25

9 A. ADOT has a responsibility that during a qualified
10 transaction, we allow a voter to register, submit an
11 application for registration through MVD. So whether
12 that's a driver's license application or an ID application
13 or an address change, something along those lines, we'll
14 ask questions of the voter if they want to register or
15 update their voter registration.

11:45:53

16 Additionally, we operate the ServiceArizona
17 website, which has a standalone application on it that
18 allows a voter to go online to submit a voter registration
19 application. We pass that through to the secretary of
20 state. In all cases we pass the data through to the
21 secretary of state.

11:46:15

22 Q. And since the passage of House Bills 2492 and
23 2243, has ADOT changed how it processes or passes on those
24 applications for voter registration to the secretary of
25 state?

11:46:36

1 A. Not as a result of implementing these laws, and
2 beyond that, unless there are minor technical changes. And
3 I don't remember if we've done some minor tweaks or
4 adjustments to it, but . . .

11:46:54 5 Q. Okay. Do you know if there are recent technical
6 tweaks or changes to processing of voter registration
7 applications through MVD?

8 MR. WHITAKER: I'm going to object. I think
9 that does fall outside of the 30(b)(6) topics, but I'm not
11:47:09 10 going to instruct the witness not to answer.

11 You can answer if you understand the
12 question.

13 THE WITNESS: I don't believe so, but I
14 didn't specifically review to make sure that that wasn't
11:47:16 15 the case.

16 BY MR. HERRERA:

17 Q. Okay. What existing access does the secretary of
18 state have to Arizona Department of Transportation data
19 prior to the passage of House Bills 2492 and 2243?

11:47:34 20 MR. WHITAKER: Same objection.

21 THE WITNESS: Those are listed in the
22 interrogatories, and -- or I think it was in the
23 interrogatories, request for production. So there is a
24 list of them there. But offhand, there are -- I don't have
11:47:47 25 that in front of me to make sure I catch everything, but

1 there are -- there are several interfaces that we use. As
2 I mentioned, we pass through all the data for new voter
3 registration or updates. There's a file that goes over for
4 that. There is a --

11:48:12

5 BY MR. HERRERA:

6 Q. Actually, can you pull up Exhibit 105. It's the
7 responses to plaintiffs' interrogatories.

8 A. Yeah.

11:48:31

9 Q. And do you see on page 4 the answer to
10 Interrogatory Number 3?

11 A. Sorry. Were you asking about county recorders?

12 Q. I was not, but I would like to look at this
13 interrogatory. I asked about the secretary of state.

14 A. Okay.

11:48:50

15 Q. But here in Interrogatory Number 3, it says,
16 "Describe in detail the processes by which County recorders
17 will access the driver license data maintained by the
18 Department and use those data to verify an Arizona voter's
19 U.S. citizenship under A.R.S. 16-165(K) as amended by
20 HB 2243, or under A.R.S. Section 16-121.01(D) (1) as amended
21 by HB 2492."

11:49:10

22 Do you see that?

23 A. Yes.

11:49:28

24 Q. And then your response was: "County recorders
25 access customer data provided to the Secretary of State via

1 the Secretary of State's Office."

2 A. Correct.

3 Q. Okay. So what is the nature of that access that
4 is provided to the secretary of state and therefore also
11:49:44 5 provided to the county recorders?

6 A. Right. So that -- that would be the files that we
7 put on, the new files that we discussed earlier that were
8 created for the responsiveness. So those go onto a secure
9 FTP server for the secretary of state to receive. And then
11:50:06 10 I don't know how they process beyond that.

11 Q. Okay. Is there any kind of lookup ability that
12 county recorders or the secretary of state have in ADOT's
13 data?

14 A. The secretary of state --

11:50:22 15 MR. MORGAN: Form.

16 THE WITNESS: The secretary of state does
17 have a lookup capability. We call it the "HAVA check."
18 And its parameters are outlined in one of the requests for
19 response.

11:50:40 20 BY MR. HERRERA:

21 Q. In the -- would that be in the request for
22 production responses?

23 A. Yeah.

24 Q. Okay. So let's look at the Request for Production
11:51:23 25 Number 7. And this is in Exhibit 106.

1 Okay. And do you see Request for Production
2 Number 7?

3 A. I do.

4 Q. Yeah. I'm not going to reread it all.

11:51:45 5 But the response is on page 6 of Exhibit 106.

6 And do you see that it says: "Data is stored and shared
7 with the Secretary of State via various files and API
8 connections. File layouts and API interface specifications
9 are being included to show all information that is stored
10 and shared with the Secretary of State. These
11 specifications have been gathered and are in the process of
12 being produced"?

11:52:07

13 What is an API interface?

11:52:22

14 A. That is a -- basically, it would be the lookup
15 tool. It's a way for their system to connect to ours
16 directly to request a specific set of data within a
17 specific set of parameters that they provide, and we return
18 to them over that same connection the data that they were
19 requesting.

11:52:38

20 Q. What does API stand for?

21 A. I can't remember off the top of my head. It's a
22 technical -- IT technical term.

23 Q. It's -- it's a common -- I can't remember it
24 either, but is it not a common term for -- in data access?

11:52:57

25 A. Correct. It's a -- it's a -- describing a

1 protocol of making a connection.

2 Q. Okay. So what is -- in the API interface that is
3 referenced here for the secretary of state, what -- how
4 does that work?

11:53:17

5 A. The secretary of state provides a -- via this
6 connection, which is established between their system and
7 MAX -- they formulate a request, send us a -- tell us what
8 request they're making and send certain data parameters to
9 us. We process the request and return records based on
10 their -- on their input value of whatever they sent to us.

11:53:43

11 Q. Okay. And is the -- are the data requests by the
12 secretary of state through this API interface always the
13 same in terms of fields, or is it always a different
14 request?

11:54:08

15 A. I -- I don't understand.

16 MR. WHITAKER: Objection. Ambiguous.

17 BY MR. HERRERA:

18 Q. Yeah. So you're saying that you give data to the
19 secretary of state.

11:54:14

20 A. Uh-huh.

21 Q. What is the data that the secretary of state can
22 get through the API interface?

23 A. So that is detailed in the specification, and that
24 would probably be the best place to look at that to --
25 which I believe we provided.

11:54:26

1 Q. Okay. Does the secretary of state -- can the
2 secretary of state access citizenship data through the API
3 interface?

4 A. I'd want to verify in the specification. I
11:54:45 5 believe it's there, but I would want to verify in the
6 specification.

7 MR. MORGAN: Form.

8 BY MR. HERRERA:

9 Q. Go ahead. Were you finished?

11:54:53 10 A. Yeah.

11 Q. Okay. Can the secretary of state look up
12 authorized presence information about a customer using the
13 API interface?

14 A. We'd have to consult the specification.

11:55:09 15 Q. You don't -- you don't recall right now?

16 A. I don't recall off the top of my head. There's a
17 lot of fields in there. I think it's in there, but I'd
18 want to -- I'd want to consult the specification.

19 Q. And earlier you mentioned the HAVA checks. What
11:55:30 20 is a HAVA check?

21 A. That's the same thing.

22 Q. That's the same thing. Okay.

23 And what is HAVA?

24 A. Helping America Vote Act.

11:55:38 25 Q. Okay. And what is a HAVA check?

1 A. It's a lookup of a customer. So it's using this
2 check to make sure that the customer -- which is why I said
3 I think that it's in the specification, but we'd want to
4 check to make sure. It's something to verify that the
11:55:54 5 customer is -- that the information that we have meets
6 their needs.

7 Q. Did -- did the HAVA checks exist prior to the
8 passage of HB 2492 and 2243?

9 A. Yes.

11:56:13 10 Q. And did this -- did ADOT change the HAVA check or
11 API interface at all to comply with those bills?

12 A. Not to my knowledge. The only thing we did to
13 comply with the two files.

14 Q. The only thing you've done to comply with the laws
11:56:32 15 are produce the two files --

16 A. Correct.

17 Q. -- or customer extracts?

18 A. [Nodded up and down.]

19 Q. Is that a "yes"?

11:56:50 20 A. Yes.

21 MR. HERRERA: I think we can take a break
22 now.

23 (A recess ensued.)

24 BY MR. HERRERA:

12:19:36 25 Q. Okay. Mr. Jorgensen, we're going to --

1 All right. Mr. Jorgensen, I'm going to hand
2 you what we'll mark as Exhibit 111.

3 (The document was marked as Exhibit 111
4 for identification.)

5 MR. HERRERA: Bear with me. I'm finding a
6 copy for Josh here.

7 BY MR. HERRERA:

8 Q. All right. Mr. Jorgensen, I'm showing you a
9 document that's been marked as Exhibit 111. And the first
10 page, as you can see at the very bottom -- it's a little
11 blurry, but it has -- it says ADOT001400.

12:21:02

12 Do you see that?

13 A. Yes.

14 Q. Okay. What is this document?

12:21:13

15 A. This is the technical specifications for the
16 answer to the request for production.

17 MR. WHITAKER: I'll quickly note this, as
18 well as other documents, have been marked confidential
19 according to the protective order. So noting that on the
20 record.

12:21:30

21 MR. HERRERA: Understood.

22 BY MR. HERRERA:

23 Q. And what -- what do we see on the first page of
24 this document?

12:21:45

25 A. This is the fields layout for the new customer

1 extract file and the new canceled out-of-state file that we
2 provided in response to implementing these bills.

3 Q. Now let's go to page 3, which here the Bates stamp
4 would be ADOT001402. Do you see that?

12:22:15 5 A. Yes.

6 Q. And what is "File: ERIC 60-day"?

7 A. There is a -- Arizona participates in the ERIC
8 program, and every 60 days we send a file to the Secretary
9 of State's Office that is used to participate in that
10 program.

12:22:41

11 Q. That's a file sent to the secretary of state?

12 A. Correct.

13 Q. And is that something that existed prior to the HB
14 2492 and 2243?

12:22:54 15 A. It is, yes.

16 Q. Okay. And has ADOT's sending of that file,
17 processing of that file changed since the passage of those
18 two laws?

19 A. No.

12:23:07 20 Q. To go back one page, look at ADOT001401. Do you
21 see that, that it says, "File: Nightly Full Voter
22 Registration/Update"?

23 A. Yes.

24 Q. What is that?

12:23:32 25 A. That is the file description for the file that we

1 produced each night that would have all new voter
2 registration and update information that we collected from
3 customers.

12:23:53 4 Q. And so that is -- that reflects all of the -- does
5 that only reflect people who registered to vote through
6 DMV -- or MVD? Sorry.

7 A. It would reflect any customer who said that they
8 wanted to update or register to vote. So it would be the
9 information from their application.

12:24:10 10 Q. Is this Nightly Full Voter Registration/Update
11 something that was provided to the secretary of state by
12 ADOT prior to House Bills 2492 and 2243?

13 A. Yes, it was.

14 Q. Has any part of this layout of this file changed
12:24:33 15 since the passage of HB 2243 or 2492?

16 A. I do not believe so.

17 Q. You said -- do you -- is that because you don't
18 know for sure?

19 A. It's -- it certainly wasn't part of the
12:24:51 20 implementation of those bills. And I'm not positive that
21 we haven't made any change to it, but I don't recall any
22 changes being made to it.

23 Q. Now, on -- also on 1402, ADOT001402, underneath
24 the "ERIC 60-day," there's a different heading that says
12:25:41 25 "API specifications." What is that?

1 A. So this is the -- basically the instructions of
2 how to form a request via the API process.

3 Q. And who would -- who would make a request?

4 A. That would be the Secretary of State's Office.

12:26:01

5 Q. Okay. So this is -- these are instructions for
6 the secretary of state to make any request about ADOT data?

7 A. So these would be very specific. So under the --
8 under that, you see what the request has to look like, and
9 then you see what our response would look like.

12:26:24

10 Q. Is this -- under the "API Specifications" heading,
11 it says "API:" -- and then I'm just going to read the words
12 and not all of the code stuff. But it says:

14 EligibilityLookup." And then there's an em dash, and it
15 says "returns a single customer."

12:26:50

16 Do you see that?

17 A. Yes.

18 Q. And what -- what is that?

19 A. So this is a single customer lookup that the
12:27:00 20 secretary of state can perform. They provide the data
21 that's shown under the "Request," and we return the data
22 that's shown under the "Return." And it's one single
23 customer. It's a full match.

24 Q. So under the "Return" part, are those all of the
12:27:17 25 different -- does the secretary of state actually get data

1 from all of these data fields for the single lookup person?

2 A. They do.

3 MR. MORGAN: Foundation.

4 BY MR. HERRERA:

12:27:34

5 Q. Now, when the secretary of state makes a request
6 through this API that we've just looked at, the "returns a
7 single customer" API, what is -- do you know what the
8 interface actually looks like for the secretary of state?

9 A. I do not.

12:27:52

10 Q. Okay. Is that something that the Secretary of
11 State's Office has available to it through a single
12 computer? Multiple computers?

13 MR. WHITAKER: Foundation.

14 MR. MORGAN: Foundation.

12:28:10

15 THE WITNESS: I don't know.

16 BY MR. HERRERA:

17 Q. How does the secretary of state access this API
18 "returns a single customer"?

19 MR. MORGAN: Foundation.

12:28:25

20 THE WITNESS: I'm not sure I understand.
21 What do you mean?

22 BY MR. HERRERA:

23 Q. How does the secretary of state do this? Is it
24 like a browser search bar or something, or what is it?

12:28:35

25 MR. WHITAKER: Foundation.

1 MR. MORGAN: Foundation.

2 THE WITNESS: This would be something that
3 they -- that they in their own computer system --

4 BY MR. HERRERA:

12:28:39

5 Q. Yeah.

6 A. -- would put in code to run this -- this search.

7 Q. I see.

8 A. That's why from our side we don't know what it
9 looks like on their side.

12:28:52

10 Q. I see.

11 Is there an overall system that the secretary
12 of state has either in the form of a program or a cloud
13 access to all of these APIs and data files that we're
14 looking at in this exhibit?

12:29:15

15 MR. WHITAKER: Foundation.

16 MR. MORGAN: Foundation, form.

17 THE WITNESS: I'm not aware of how they -- I
18 know they have a program called AVID, and I know that we
19 make connections -- like these connections exist through
20 it. I don't know how they implement any of the other files
21 that they use.

12:29:27

22 BY MR. HERRERA:

23 Q. Okay. So if these exist, how -- how does the
24 secretary of state -- how -- rather, how does ADOT work
25 with the secretary of state, if at all, to set up the

12:29:45

1 access to these?

2 A. So for the APIs?

3 Q. For the -- let's focus on the APIs, yeah.

4 A. So we would provide the -- the access to our side

12:30:03 5 to be able to make the calls. We describe to them --

6 that's what this information is here is --

7 Q. You're pointing at which page?

8 A. -- is the API -- so this is the -- ADOT001402,

9 under "API Specifications" where it says "API:" and then

12:30:23 10 it's got some text, that is the location that their system

11 would point to. It is -- and then it -- using standard API

12 protocol language, the request -- you see where it's got

13 the curly brackets and the -- that would describe to them

14 how they make that call. So they would insert this as code

12:30:52 15 in their system, and that would send the request to us.

16 And we would have to have -- basically what we do is we

17 white-list their address that they're coming from and allow

18 them to make that connection to us.

19 Q. What does that mean to say that you "white-list

12:31:14 20 the address that they're coming from"?

21 A. It's the security between the servers to say

22 what -- what connections can be allowed into our system.

23 And so we have a secure connection between the secretary of

24 state and our servers.

12:31:30 25 Q. And how, on the secretary of state's end, does the

1 secretary of state enter a request for a -- for this API
2 "returns a single customer" on 1402?

3 MR. WHITAKER: Foundation.

4 MR. MORGAN: Foundation.

12:31:58

5 THE WITNESS: I'm not familiar with their
6 system, so I don't know what it looks like on their side to
7 do the actual data entry for it.

8 BY MR. HERRERA:

12:32:13

9 Q. Does anyone at -- at ADOT know what the secretary
10 of state's interface looks like on their end for accessing
11 this API "returns a single customer"?

12 A. I couldn't say if anybody's ever been over and
13 seen it and would know that, but it's not part of what we
14 would generally know or do as part of -- of how we do the
15 implementation.

12:32:33

16 Q. On page -- on ADOT001402, for the single customer
17 API, does the secretary of state have to put in every
18 single piece of that info to make a request?

12:33:10

19 MR. WHITAKER: Just to clarify -- note my
20 objection. Do you mean going on to the next page too?

21 MR. HERRERA: Well, sorry. So yes.

22 BY MR. HERRERA:

12:33:24

23 Q. Beginning on page ADOT001402, under "returns a
24 single customer" and then "Request," there are a list of
25 items there before the word "Return."

1 Do you see those?

2 A. Yes.

3 Q. What -- what are those lines?

12:33:37

4 A. Those are the items that you can send as part of
5 the request.

6 Q. Does the secretary of state have to enter
7 something in every one of those fields or pieces of
8 information in order to get a return?

12:34:12

9 A. I do not believe that they have to do all of them.
10 But I cannot say for sure.

11 Q. Does ADOT do any testing of this API "returns a
12 single customer" on its end to see whether you would need
13 to input some combination of these request fields in order
14 to get a return?

12:34:39

15 A. Yes. That would be something that we'd define as
16 part of our system.

17 Q. Okay. Do you know where that would be defined?

18 A. I'd have to ask somebody. I don't -- I don't know
19 precisely.

12:34:51

20 Q. And who would -- do you know who you would ask for
21 that?

22 A. I'd ask Madeline Kinder.

23 Q. Madeline Kinder.

12:35:08

24 Does -- does -- when you're actually making
25 the request here with these fields under "returns a single

1 customer," do -- do all of these -- do all of the values
2 that you put into these fields have to actually match for
3 the same customer in order to get a -- a return on
4 somebody?

12:35:30

5 A. To clarify, you mean the request -- do the request
6 values have to all be for the same customer? I'm sorry.

7 Q. Yeah. Yeah.

8 A. I don't understand.

12:35:48

9 Q. Yeah. Well, first of all, let me back up a
10 second.

11 Under "Request" -- under "returns a single
12 customer," one of these request lines says
13 "customerNumberId," and it's all one word; right?

14 A. Uh-huh.

12:36:00

15 Q. What would you -- what would you call this
16 generally?

17 A. That's the field name.

18 Q. That's the field name. Okay. I'm not too far off
19 when I say "field"?

12:36:09

20 A. Right.

21 Q. So what would be something that you put into the
22 field in this request form? What would you call that?

23 A. The data element.

24 Q. Okay. So if -- does the secretary of state -- I
25 know you already answered this, but I'm going to ask it

1 with the correct words.

2 Does the secretary of state have to enter the
3 correct combination of data elements in these fields under
4 "Request" on 1402 in order to get a return?

12:36:45

5 MR. WHITAKER: To clarify, you mean 1402 and
6 1403?

7 MR. HERRERA: 1402 and 1403, yeah.

12:37:04

8 THE WITNESS: If I enter data into these
9 fields, yes, it has to match what is in the system to be
10 able to produce a record back. If we can't find a record
11 that matches the data elements entered into the system,
12 then we would not return a record.

13 BY MR. HERRERA:

12:37:33

14 Q. And under this "returns a single customer" API,
15 does the secretary of state have to enter someone's last
16 four -- last four digits of their Social Security number in
17 order to get a return?

18 A. That was the part that I'm not sure if all pieces
19 of information have to be entered or not.

12:37:49

20 Q. And so there we would ask Madeline Kinder?

21 A. Uh-huh.

12:38:26

22 Q. Okay. So before I move on to the -- to the next
23 API, I just want to make sure I understand what -- what the
24 secretary of state sees in terms of return, if they do
25 indeed get a valid return, among all of these fields listed

1 under "Return" that begins on 1403 but continues all the
2 way to 1406.

3 So what -- what does the secretary of state
4 see in a valid response to a -- or a return to a request
12:38:52 5 among the fields listed beginning on 1403 and continuing to
6 1406?

7 A. So they would see the field name, and they'd also
8 see the value that we returned from that field in a
9 format -- this format's called the JSON file.

12:39:06 10 Q. Okay.

11 A. And -- and that is what they would get back.
12 The -- the -- if you see on 1403, under "Return," you see
13 "result." It says "customer ID" in quotes, colon, then
14 it's a number, a zero, indicating that the return value
12:39:30 15 will be a number; whereas the next one is "firstName,"
16 colon, and you see a value that says "string," indicating
17 it will be a string as the return value for that field.

18 Q. And so one of the values -- or one of the -- the
19 secretary of state, if they received a valid return to a
12:40:00 20 single customer API request, they would get -- or the
21 secretary of state would get, for example, information
22 about that person's authorized presence?

23 A. That is correct. That's shown several fields down
24 from the top. Maybe it's ten fields down from the top,
12:40:18 25 "authorizedPresenceTypeId" with the number. So it would

1 give a number. Those are the -- the numbers that we
2 discussed before; 1 for naturalized, 4 for citizen, and I
3 don't remember offhand what the -- each one of the foreign
4 ones was.

12:40:32 5 Q. Also in response to an API single customer request
6 by the secretary of state in this API, the secretary of
7 state could get -- would get in a -- in a return the voter
8 registration purpose; right?

9 A. Yes. It would get a field entitled
12:40:57 10 "voterRegistrationPurpose," and it's a Boolean, so it would
11 be either true or false.

12 Q. And what is "voterRegistrationPurpose"?

13 A. I do not know.

14 Q. Under the "Return" fields for this API we're
12:41:19 15 looking at between 1403 and 1406, the secretary of state
16 would also receive the "credentialIssueDate" and
17 "credentialExpirationDate"; right?

18 A. Correct.

19 Q. What is the "credentialIssueDate"?

12:41:39 20 A. That is the date that the record is updated in our
21 system as having become the new current active credential.

22 Q. And then "credentialExpirationDate," that field is
23 when the credential expires?

24 A. Correct.

12:41:54 25 Q. And still looking at this single customer API that

1 the secretary of state has available to it, what, if
2 anything, involved in this API formats the return in the
3 way of an evaluation of the data besides a presentation of
4 the data itself?

12:42:34

5 A. I'm not sure I understand.

6 Q. So let's look at 14 -- ADOT001406.

7 A. Okay.

8 Q. And if you refer from 1403 to 1406, you can see
9 that this is still the "Return" portion or specifications
10 of the API lookup "returns a single customer"; right?

12:43:01

11 A. [Nodded up and down.]

12 Q. Under -- is that correct?

13 A. Yes.

14 MR. WHITAKER: Do you mean list of customers?

12:43:14

15 I missed the question.

16 MR. HERRERA: No.

17 BY MR. HERRERA:

18 Q. So under "returns a single customer" API, the
19 "Return" fields begin on 1403 and continue to 1406. And
20 then on 1406, there is something called
21 "validationResults."

12:43:29

22 Do you see that?

23 A. Yes.

24 Q. Okay. What -- what is that?

12:43:38

25 A. These are -- are codes used to make sure that

1 the -- the connection -- the return data went through the
2 system properly and there weren't any errors in the pulling
3 of -- in the connection in the reading of the data. So
4 it's to validate back to secretary of state you sent a
12:44:04 5 request and we're sending this request in response to it
6 and everything connected and you got everything the way it
7 was supposed to come back.

8 Q. Okay. And then right above "validationResults" on
9 1406, it says, "matchCriteria." What does that mean?

12:44:20 10 A. I'm not sure.

11 Q. Then one more question on this API.

12 On ADOT001402, under "Request," one of the
13 fields, as you can see, says, "customerNumberId."

14 Do you see that?

12:44:47 15 A. Yes.

16 Q. Okay. Does the secretary of state, in order to
17 use the "returns a single customer" API, have to have the
18 ADOT customer ID to look someone up?

19 A. I don't know.

12:45:09 20 Q. And who would know that?

21 A. That's Maddie.

22 Q. Maddie Kinder?

23 A. Kinder. Yes.

24 Q. Is that Maddie Kinder?

12:45:17 25 A. Yes.

1 Q. So let's look at ADOT001406. And do you see the
2 bold heading that says "API:"? And then in the brackets
4 "/Customer/Voter/EligibilityDetailLookup"?

12:45:46

5 A. Yes.

6 Q. Then em dash, "returns a list of customers"?

7 A. Yes.

8 Q. What is that?

12:45:56

9 A. So this is a very similar one, but instead of
10 returning a single customer, it will return anybody who
11 matches to the criteria.

12 Q. Now, did -- did these APIs exist before 2492 and
13 2243?

14 A. Yes.

12:46:12

15 Q. Okay. Is either one of these -- well, both you
16 can tell me, but is either one of these what is used by the
17 secretary of state for HAVA checks?

18 A. Yes.

19 Q. Okay. Did -- are both used for HAVA checks?

12:46:26

20 A. Yes.

21 Q. Have these APIs, the one that begins on 1402 --
22 ADOT001402 and the one that begins on ADOT001406 -- has
23 either of these changed since the passage of House
24 Bills 2492 and 2243?

12:46:53

25 A. I do not believe so.

1 Q. Okay. So focusing on the API "returns a list of
2 customers" that begins on ADOT001406, under the "Request"
3 portion, again we have a list of fields; right?

4 A. [Nodded up and down.]

12:47:11 5 Q. So for the "returns a list of customers" request
6 on the API, what minimum number of these fields does the
7 secretary of state have to input in order to -- to make a
8 valid request that would get a return?

12:47:32 9 A. I know that they don't have to do all of them for
10 the list of customers, but I don't know if there is a
11 minimum they have to do for it.

12 Q. It sounds like for a "returns a list of
13 customers," they don't have to have a value for all of the
14 fields; is that right?

12:47:48 15 A. Correct.

16 Q. That's correct.

17 A. Yes.

18 Q. Sorry. I'm going to jump back to the API "returns
19 a single customer."

12:48:00 20 Are you familiar with the matching -- how
21 ADOT -- how the match is actually made to the data that is
22 being looked up by the secretary of state?

23 A. I'm not sure I understand the question.

12:48:27 24 Q. Is there an algorithm that guides the matching
25 between the values that -- or the data elements that the

1 secretary of state puts in a request and the return values
2 that ADOT produces?

3 A. Right. Yeah. So some of them are full match. So
4 for example, customer number ID would -- if you put in a
12:48:49 5 value, it's going to do an exact match to it. Same thing
6 with the last four of Social Security number and driver's
7 license number. I am not sure if the date of birth has to
8 be exact or not. And then we would -- we always have some
9 sort of matching first name, last name, but I -- I'm not
12:49:11 10 exactly sure which -- which criteria we would use in this
11 particular check.

12 Q. Can the secretary of state use a Boolean search
13 language in order to get a "return to a single customer"
14 API request?

12:49:33 15 A. I don't believe so.

16 MR. MORGAN: Form.

17 THE WITNESS: And to clarify that, meaning
18 it's not accepted criteria on the API call. What their
19 system does to accept a Boolean and make multiple requests,
12:49:57 20 I couldn't say.

21 BY MR. HERRERA:

22 Q. So is it possible that there is additional --
23 there are additional specifications that the secretary of
24 state puts onto their use of this API?

12:50:11 25 A. Certainly there would be -- however they implement

1 it would have its own parameters.

2 Q. Earlier, a second ago, you were -- you were
3 talking about an exact match on the last four of Social
4 Security number. What do you mean by "an exact match"?

12:50:30

5 A. The last four numbers of the Social Security
6 number would have to match the exact same order as the --
7 same value and order as the -- what we have on file for
8 them.

12:50:55

9 Q. Are you -- do you know for a fact that for -- that
10 for all Social Security number holders, the last four
11 digits of the Social Security number are unique?

12 A. I'm not sure I understand.

12:51:13

13 Q. So is it possible that if you looked up in this
14 API the last four digits of a Social Security number, that
15 you would get more than one person?

12:51:30

16 A. So that's -- that's -- that comes down to that
17 question of that's why I don't know if all of these are
18 required on a single customer lookup versus the multiple
19 customer lookup where we know that you can have multiple
20 returns. So I don't know if there's a -- if that's
21 required or not, but obviously there's more than 10,000
22 Social Security numbers out there, which means the last
23 four are always -- there are multiple customers with the
24 same last four.

12:51:45

25 Q. Right. Because we're working off the idea that if

1 you just go by the last four, there's only so many
2 combinations of the last four digits; right?

3 A. Correct.

12:51:58

4 Q. And there's way more Social Security numbers than
5 there are last four digits of Social Security numbers?

6 A. Correct.

12:52:20

7 Q. Do you know if -- or -- or can this API for a
8 single customer on the secretary of state's end be
9 automated, or does it -- do you have to make a manual
10 search every time?

11 A. It's automated.

12 Q. And how do you know that?

12:52:35

13 A. That's the way the API functions is it's a call
14 into the system, and the call automatically generates a
15 response. It does its own lookup. There's no manual
16 intervention on any of our APIs.

12:52:54

17 Q. And I think I the know answer because of your
18 earlier answers, but how does this API "returns a single
19 customer" look in terms of the interface? How does it look
20 for the county recorders?

21 A. I have no idea.

22 Q. So let's go back to the API "returns a list of
23 customers," which begins on ADOT001406.

12:53:28

24 So do you know if the -- or rather, are the
25 fields that come up in the "Results" for the "returns a

1 list of customers" API the same fields that are available
2 in the "returns a single customer" API?

3 A. They are.

4 Q. And then for the "returns a list of customers"
12:53:55 5 API, is there a matching algorithm that ADOT created in
6 order to produce the returns to a request?

7 A. Yes.

8 Q. Okay. Are you familiar with that algorithm?

9 A. Not in detail.

12:54:13 10 Q. Okay. And who would know that?

11 A. That would be Maddie - Maddie Kinder, yes.

12 Q. And so does the secretary of state -- I think you
13 said earlier -- you confirmed that the secretary of state
14 uses the "returns a list of customers" API in order to
12:54:49 15 conduct HAVA checks?

16 A. They can, yes.

17 Q. Do you know if they do?

18 A. We know that both of them are used. That's the
19 purpose for them. So I don't -- I guess couldn't speak to
12:55:08 20 the purpose every time that they run the check, but that's
21 why we give it to them. That's why they have the API.

22 Q. Does ADOT ever offer assistance to the Secretary
23 of State's Office upon request for clarification of any of
24 the return data in response to the -- either of these two
12:55:46 25 APIs?

1 A. Yes.

2 Q. Okay. How often does that happen?

3 A. I don't know.

4 Q. Okay. And what is the kind of assistance that

12:55:54 5 ADOT offers in terms of clarification of return data in --

6 in this API?

7 A. Generally it would be technical, making sure that

8 they understand why they're seeing something. So it would

9 be a technical "can you validate that this record returned

12:56:11 10 properly" type of request.

11 Q. And what does that clarification look like from --

12 on ADOT's end when sending to -- when doing something like

13 that for the secretary of state?

14 A. We would review the record, make sure that, you

12:56:31 15 know -- kind of pull it ourselves, make sure it matches to

16 what's actually in the record, and we could tell them, you

17 know, what we found.

18 Q. Now, are any of -- were any of the fields listed

19 in the response -- or, rather, the "Return" portions of

12:57:24 20 either of these APIs in this document created for the

21 purpose of these APIs rather than something that's just for

22 ADOT's internal use?

23 MR. WHITAKER: Outside the scope of 30(b)(6)

24 topics, but I'm not going to instruct the witness not to

12:57:47 25 answer.

1 THE WITNESS: Could you repeat the question
2 for me?

3 BY MR. HERRERA:

12:58:09

4 Q. So were any of these -- any of the fields in
5 either of these APIs in this document created just for the
6 purposes of these APIs rather than something that ADOT uses
7 just for its own -- its own purposes?

8 MR. WHITAKER: Same objection.

12:58:27

9 THE WITNESS: I'm -- I'm sorry, I'm afraid I
10 don't understand the question.

11 BY MR. HERRERA:

12:58:40

12 Q. So under "customerNumberId," which is part of the
13 return that comes through these -- through the API
14 requests -- "customerNumberId," that's something that ADOT
15 uses as -- every day -- right? -- for its own data
16 purposes?

17 A. Correct.

12:58:54

18 Q. Okay. Same thing for "credentialIssueDate,"
19 that's something that ADOT uses for its own purposes;
20 right?

21 A. Correct.

22 Q. Are any of these other fields things that were
23 just created for these APIs?

24 MR. WHITAKER: Same objection.

12:59:01

25 THE WITNESS: I'm sure the validation fields

1 would be created for the purpose of this and not for
2 regular use by ADOT. All the error messaging that occurs
3 down below is specifically for the API.

4 MR. HERRERA: And I just want to put on the
12:59:37 5 record our response to the objections about the scope. So
6 we did -- one of the topics asks for -- asks about the
7 responses to the discovery requests. And this document
8 was, as you said, part of the discovery responses. The
9 other part is that I think it's clear from the county
13:00:03 10 recorder depositions, Josh, that these things are being
11 used by the counties and may be part of implementation of
12 the two challenged laws, including 2243. So we do think
13 that they are within the scope of our topics here today.

14 MR. WHITAKER: Understood.

13:00:26 15 BY MR. HERRERA:

16 Q. Besides -- so looking at these -- all of these
17 fields, under "authorizedPresenceType," do you know why
18 authorized presence is a piece of data that is needed for a
19 HAVA check?

13:01:09 20 A. I do not. I'm not -- I'm not familiar with what
21 the HAVA check on the actual voter's side is. We're just
22 the provision of the information.

23 Q. So don't know what -- so you -- is there a --
24 strike that.

13:01:24 25 When were these APIs set up in the first

1 place?

2 A. I'm not sure but it's been many, many years.

3 Q. Sorry. Just to clarify, these APIs that are on
4 pages ADOT 1402 and ADOT 1406, these were set up many years
13:01:48 5 ago?

6 A. Let me clarify. These specific implementations
7 were set up as part of the new system, so they went live
8 with the system. There were ways to do that prior to going
9 live with our new system. So these specific APIs would
13:02:03 10 have been 4/20 of 2020.

11 Q. So on April 20th of 2020, were there any new
12 fields available through these APIs that were not available
13 when the legacy system was in place?

14 A. Because the -- because fields changed, yes. Most
13:02:21 15 certainly there were changes to what the fields would be.
16 I'm not sure what those details would be, though.

17 Q. Was any authorized presence or citizenship data
18 available before April 20 of 2020 through the analogs to
19 these APIs for the secretary of state?

13:02:44 20 A. Because it's here, it is likely, but I can't speak
21 for sure. I don't have the specifications of how that
22 worked before.

23 Q. Did ADOT go through any kind of process with the
24 secretary of state in terms of approving which types of
13:03:03 25 data to give the secretary of state in response -- or as

1 part of these APIs?

2 A. Yes.

3 Q. And do you know when that process happened?

4 A. It would have been prior to our go-live at some
13:03:17 5 point. It would have been prior to 4/20 of 2020,
6 significantly -- because I know they had to do their own
7 upgrades as well.

8 Q. Were you involved in that process?

9 A. Not directly.

10 13:03:27 Q. Do you know who was involved?

11 A. I don't at this point. I don't know exactly which
12 staff would have been involved in doing it.

13 Q. Are you aware of any discussion of authorized
14 presence or citizenship data being discussed as part of the
15 13:03:53 approval of which data to give the secretary of state
16 through these APIs?

17 A. Can you repeat the question?

18 Q. Sure.

19 So through these APIs -- and you mentioned
13:04:05 20 there was a process for setting them up; right?

21 A. Correct.

22 Q. And was there any discussion of whether or not to
23 provide -- let me strike that.

24 So in setting up these APIs, in that process
13:04:20 25 with the Secretary of State's Office, was there any

1 discussion of the reasoning of why they needed the
2 authorized presence or citizenship information as part of
3 the returns?

13:04:35 4 A. I don't know if there was any discussion about
5 reason for using different pieces of data.

6 Q. Are you aware that -- are you -- are you aware of
7 whether the county recorders used these APIs to determine
8 if a voter registrant is a citizen -- U.S. citizen or not?

13:05:01 9 A. To the best of my knowledge, the county recorders
10 don't have direct access to this. So if they're accessing
11 it, it would be through the secretary of state system. And
12 I don't know how they use that information once they have
13 it.

14 Q. So you don't know whether the secretary of state
13:05:15 15 uses the information returned through these APIs -- whether
16 they actually look at the citizenship or authorized
17 presence data?

18 A. I'm unfamiliar with what use they make of this
19 data, correct.

13:05:39 20 MR. HERRERA: I think I'm at a good stopping
21 point for lunch.

22 Let's go off the record, please. Thank you.

23 (An off-the-record discussion ensued.)

24 MR. HERRERA: So I just want to put on the
13:06:39 25 record that it appears that Madeline Kinder is someone who

1 may be more knowledgeable about some of these topics asked
2 about this morning. Is it possible to make her available?
3 That would be my request to you. I know that you can't
4 necessarily answer that now, but . . .

13:06:56

5 MR. WHITAKER: So one -- I would need to talk
6 with the witness, but one thought I had during those
7 questions is whether it would be possible to try to contact
8 her on a break because we don't -- under 30(b)(6), you just
9 need to prepare whoever is the designee. It doesn't need
10 to be the person who's most knowledgeable. Do you have any
11 reaction to that thought to try to educate the current
12 designee?

13:07:16

13 MR. HERRERA: My -- my initial reaction is
14 that based on the responses, because it seems pretty
15 technical, that it may require her. That's my only -- my
16 only reaction.

13:07:32

17 MR. WHITAKER: Yeah. We'll think about it.
18 Because I hear what you're saying. There were several
19 questions about it.

13:07:44

20 MR. HERRERA: Yeah. And with all respect to
21 Mr. Jorgensen, it's very technical-sounding stuff, so --
22 yeah. Because I know that people are specialized in
23 certain things.

24 We can go off the record.

13:07:55

25 (A recess ensued.)

1 MR. WHITAKER: During the break,
2 Mr. Jorgensen had an opportunity to talk with Maddie
3 Kinder --

4 MR. HERRERA: Yes.

14:12:40

5 MR. WHITAKER: -- about some of the questions
6 that were asked earlier to try to fill in his knowledge. I
7 think it would be an efficient use of time for him to try
8 to answer those questions now. So I'm thinking of just
9 having the witness say what he learned over break.

14:12:59

10 MR. HERRERA: Okay.

11 MR. WHITAKER: Is that all right?

12 MR. HERRERA: Yes. If you want to just --
13 okay. That's fine.

14:13:06

14 MR. WHITAKER: Okay. It was about the API
15 interfaces.

16 THE WITNESS: Correct.

17 MR. HERRERA: Okay.

18 MR. WHITAKER: So I'm not sure we need to do
19 question by question.

14:13:29

20 I think, Eric, if you don't mind, if you
21 could just sort of explain what you learned about the API
22 interface.

23 THE WITNESS: All right. So we had some
24 question about what the lookup criteria was, how the

14:13:48

25 matching criteria was, and what was required. So for the

1 single customer or the list, it responds -- the lookup
2 criteria is the same. If it has a customer number ID, if
3 that's in there, it will look up on that. So if that is
4 provided, it will go and it will find that customer number
14:14:09 5 regardless of what else is provided. It will find that
6 customer and return that match.
7 If a customer number is not provided, then it
8 will be -- it will go to the driver's license number and
9 to -- see if it can find a match on the driver's license
14:14:25 10 number. If it cannot, it will then kick out to last name
11 and date of birth.
12 And if not, then it will try last name and
13 first name. The code is not currently configured to use
14 the last four of SSN, so even while it's an -- it's an
14:14:51 15 allowed input, it's not looked up.
16 Everything is an exact match.
17 BY MR. HERRERA:
18 Q. Did Ms. Kinder refer to any documents when she was
19 providing you this information?
14:15:05 20 A. She actually had a conversation with one of the
21 developers to -- who explained.
22 Q. Who is the developer?
23 A. I'm not sure who she talked to.
24 Q. Is it an outside party or a developer who works
14:15:19 25 for ADOT?

1 A. It's a developer who works for ADOT but would be a
2 contractor.

3 Q. Has ADOT done -- this is in case you were able to
4 talk to Ms. Kinder about it.

14:15:38

5 With regard to the APIs that we were
6 discussing that the secretary of state has access to, has
7 ADOT done any analysis of -- with regard to how reliable
8 the match is when someone -- when a search is made?

9 A. How --

14:15:59

10 Q. How reliable a match is when you put in
11 information for people.

12 A. So there -- there -- it requires an exact match on
13 them -- on the -- on the lookup. So I'm not sure if that
14 answers the question or not.

14:16:17

15 Q. Does -- does ADOT do any analysis of the
16 reliability of the matches -- well, let me -- let me strike
17 that.

18 Has ADOT done -- with regards to the APIs,
19 has ADOT done any analysis of how accurate authorized
20 presence data are in the data that the APIs return?

14:16:50

21 A. So the API returns -- it returns whatever the
22 current recorded authorized presence is for that record.

23 Q. Okay.

24 A. There's actually a little bit more if you would
25 like me to continue.

14:17:08

1 Q. Oh, please, please.

2 A. The other -- another piece that we -- that we had
3 talked about was the difference between what got returned
4 on the -- on the single customer versus the multiple
14:17:21 5 customer. And to clarify, the API that returns a single
6 customer will only return one customer. So if you put in
7 data that would identify more than one customer, it will
8 tell you you've got too many results. And so it will only
9 return the value when you get down to one single
14:17:42 10 identifiable customer.

11 On the other hand, the -- the other one will
12 return multiple. So it will return everything that we can
13 find, but it is limited at 50. So if there are more than
14 50 records that would match, it will say, "You need to
14:17:55 15 provide more data to shrink the results," so that we're
16 only providing 50 of those.

17 There is also a question about voter
18 registration purpose and what that meant. To clarify that,
19 there are certain criteria that were established by the
14:18:17 20 secretary of state for us to return true versus false as to
21 whether this could be used for voter registration purposes.
22 So some flags that would be associated with that is are
23 they over 16? Do we have a valid county code? Is there a
24 residential address? Do we have authorized presence data
14:18:38 25 for them? So if something is there that would keep them

1 from being -- from this being able to be used for voter
2 registration purposes, that flag would return a false;
3 otherwise, it returns a true.

4 These -- I think you asked about these
14:18:58 5 validation result fields. That is for the program itself
6 to determine whether or not a valid request was made. So
7 it's a validation of the request being made.

8 And the match criteria is -- as I described,
9 there was a hierarchy to the matching, so the matching
14:19:26 10 criteria describes what was used to do the actual matching.
11 And it's a numerical value, and each one has its own --
12 each number tells you what kind of match was made.

13 Q. All right. What are the different kinds of
14 matches?

14:19:42 15 A. For example, was it done off the customer number
16 versus last name and date of birth versus DLN, those
17 combinations.

18 Q. Will the match criteria at all tell you if there
19 is more than one person returned?

14:20:02 20 A. So that would be in the -- in the results
21 themselves. For -- for the single customer, that would
22 return in the error message from it that there are too many
23 results. That's how you would tell. And then if it was --
24 on the other one -- on the multiple returns, they would --
14:20:25 25 actually, all the results would show up in the same JSON

1 file.

2 Q. When you -- when you are using the single-use
3 API -- or the single return API, does the API ask you --
4 or, rather, does the API tell you what additional criteria
14:20:48 5 would be needed for an exact match?

6 A. No. No. It just tells you that you -- that you
7 had too many pieces -- too many returns.

8 Q. Okay. And then for -- and why wouldn't the API
9 have something like that that tells you what to put in?

14:21:12 10 MR. WHITAKER: Objection; foundation.

11 THE WITNESS: So, I mean, there could be
12 multiple different things that would resolve that; right?
13 So if you -- for example, I mean, if you only put in a
14 first name, you're going to get, you know, millions of --
14:21:34 15 well, hundreds of thousands of errors. And there are
16 multiple things that would allow to you put in different
17 pieces. So -- and because the call identifies what the
18 potential inputs are, the user knows what they could put
19 in -- right? -- what could be there to be put in to reduce
14:21:57 20 it.

21 So it's never going back. Like, if you put
22 in a last name and date of birth and it might return 5 or 6
23 of those -- right? -- with somebody that has the same last
24 name, same date of birth. There might be multiple ways to
14:22:16 25 resolve that. So it's not like the program goes back out

1 and tries to figure out what are all the differences. It
2 just tells you try something -- add some data. What data
3 do you have? And that allows the operator on the other
4 side to be able to look at what data they actually have
14:22:33 5 that might be useful and try that.

6 BY MR. HERRERA:

7 Q. Is there any feature of the -- of the multiple
8 customer returned API, if you get a match -- if you get
9 more than 50 matches, does it tell you what -- which
14:22:53 10 criteria to add to try to get a better match?

11 A. No. It wouldn't know what to -- how to do that.
12 It wouldn't know how to do that.

13 Q. So is there any data available through the --
14 either of the APIs that allows the secretary of state or
14:23:27 15 county recorders to compare the date documentation of
16 authorized presence -- sorry.

17 Okay. So for -- for -- is there any data
18 available through the API that allows the secretary or
19 county recorder to compare the date of the documentation of
14:24:09 20 authorized presence aside from U.S. citizenship with the
21 date of the voter registration application?

22 A. Because we only collect documentation as part of a
23 credentialing event, that date of the issuance would be the
24 date that we collected the authorized presence
14:24:39 25 documentation.

1 Q. I see. So the -- you don't have a different date
2 for the collection of the authorized presence document --
3 that date is not different -- strike that.

4 The collection date of the authorized
14:24:56 5 presence document is not a different one than the
6 credential issuance date?

7 A. Correct.

8 Q. Okay. And there is no other data field in MVD's
9 data that would show collection of a document proving --
14:25:19 10 proving authorized presence?

11 A. It would show --

12 Q. The date of collection of the authorized presence
13 document.

14 A. There is likely metadata -- like whenever we do a
14:25:31 15 scan, there's metadata associated with the scan of when the
16 scan was created, but it's always created as part of that
17 credentialing piece, so we don't track it separately. So
18 there's no -- there's no data field for it of when this was
19 necessarily captured. It's -- it's the same as the -- as
14:25:52 20 the issuance.

21 Q. Okay. Are there instances where a person can be
22 reissued a credential without providing proof of authorized
23 presence?

24 A. Are you speaking like of a duplicate credential or
14:26:43 25 a replacement credential?

1 Q. Yes. Well, replacement or perhaps a photo change.

2 A. For a REAL ID-compliant card, it requires -- it
3 requires someone to reverify their information every time.
4 For a non-REAL ID-compliant card, it does not. So you can
14:27:13 5 do this if you're -- if it's not a REAL ID-compliant, we
6 don't require you to every time come in and re-prove if
7 it's still within the time period. So you could issue a
8 replacement license or something along those lines.

9 Q. So if you lose your REAL ID after having presented
14:27:29 10 your authorized presence document for the original REAL ID
11 or the one you lost, then to get a replacement REAL ID, you
12 have to show your authorized presence document again?

13 A. Correct.

14 Q. For a non-REAL ID, if you're replacing a lost
14:27:46 15 credential that is a non-REAL ID, then you don't have to
16 show the authorized presence document again?

17 A. If it's not expired, correct.

18 Q. If the authorized presence is not expired?

19 A. Correct.

14:27:59 20 Q. Now, I know that you can update your photograph on
21 your Arizona credential; is that right?

22 A. Yes.

23 Q. Okay. When you update your photograph, assuming
24 you're not doing a renewal of your credential, do you have
14:28:21 25 to show your -- prove your authorized presence again?

1 A. When you -- when you're doing a photo, it's
2 typically done as part of something else; Right? So I --
3 and anytime you come into the office to request a new
4 credential, whether it's a duplicate or anything like that,
14:28:45 5 that's like when we would ask for a photo to be redone
6 because you're there and it will keep your photo fresh.

7 So REAL ID requires, whenever we issue a new
8 credential, that we check -- we check the -- the authorized
9 presence documentation, if it's still good or not. So in
14:29:09 10 all of those cases, yes, we'd have to check the
11 documentation. But if it's not REAL ID-compliant, then we
12 wouldn't check the documentation.

13 Q. In terms of the loss of a -- or, rather, when
14 someone wants to change the address -- change their address
14:29:35 15 and have that reflected on a credential, does that person
16 have to show their authorized -- prove their authorized
17 presence again with a new document or with a document?

18 A. I believe the answer is the same on all these
19 questions. The REAL ID requires, every time we issue a new
14:29:58 20 one, to re-prove it, and non-REAL ID-compliant does not.

21 Q. One second. Sorry.

22 I'm going to show you what we looked at
23 earlier, which is Exhibit I from a previous -- I'm sorry --
24 Exhibit 19 from a previous deposition. And it is -- I'm
14:31:24 25 going to go to the top. It's House Bill 2492. So it's

1 showing -- showing up on the screen there.

2 So as you can see, that's Exhibit 19 on the
3 first page. I'm going to go down to one of the sections
4 here. And on page 4 -- so this is a subsection to
14:31:51 5 amended -- or how the bill amends A.R.S. 16-121.01,
6 "Requirements for proper registration; violation;
7 classification." If we go down to Subsection D, there is a
8 paragraph here that says: "WITHIN TEN DAYS AFTER RECEIVING
9 AN APPLICATION FOR REGISTRATION ON A FORM PRODUCED BY THE
14:32:20 10 UNITED STATES ELECTION ASSISTANCE COMMISSION THAT IS NOT
11 ACCOMPANIED BY SATISFACTORY EVIDENCE OF CITIZENSHIP, THE
12 COUNTY RECORDER OR OTHER OFFICER IN CHARGE OF ELECTIONS
13 SHALL USE ALL AVAILABLE" -- "AVAILABLE RESOURCES TO VERIFY
14 THE CITIZENSHIP STATUS OF THE APPLICANT AND AT A MINIMUM
14:32:42 15 SHALL COMPARE THE INFORMATION AVAILABLE ON THE APPLICATION
16 FOR REGISTRATION WITH THE FOLLOWING, PROVIDED THE COUNTY
17 HAS ACCESS." And there's a colon there.

18 And then if we go on to the next page, one of
19 these numbers -- well, the first one is "THE DEPARTMENT OF
14:33:00 20 TRANSPORTATION DATABASES OF ARIZONA DRIVER LICENSES OR
21 NONOPERATING IDENTIFICATION LICENSES."

22 Do the APIs that are available -- do county
23 recorders use the APIs that are available to the secretary
24 of state in order to comply with the section that I just
14:33:25 25 read?

1 MR. WHITAKER: Foundation.

2 THE WITNESS: I don't know how county
3 recorders use that. My understanding is that it's the
4 secretary of state that we actually connect to. The county
14:33:36 5 recorders would connect through the secretary of state to
6 use any of those resources.

7 BY MR. HERRERA:

8 Q. Do you know if the county recorder -- in that
9 case, do you know if the county recorder could do what this
14:33:47 10 part of the law says by using those APIs available to the
11 secretary of state?

12 MR. WHITAKER: Calls for a legal conclusion.

13 THE WITNESS: The return from that does
14 include authorized presence, the authorized presence
14:34:07 15 number. So if that -- if the county recorder felt that
16 that was sufficient to do what they needed to, then I
17 suppose that they could.

18 BY MR. HERRERA:

19 Q. This paragraph here says -- okay.

14:34:22 20 So would something -- would the authorized
21 presence value in a driver license customer's record
22 establish under this statute -- or this part of the
23 statute, or -- or would it verify the citizenship status of
24 the applicant?

14:34:46 25 MR. WHITAKER: Calls for a legal conclusion

1 and compound.

2 THE WITNESS: What it provides is what
3 document they used when they applied for services with us,
4 driver's license or ID. So it would tell them at that
14:34:59 5 point in time what document was used and the validity
6 period, potentially, because it can't extend beyond the
7 date of the license.

8 BY MR. HERRERA:

9 Q. So it would not verify the citizenship; it would
14:35:15 10 just -- the API would be able to confirm what data ADOT has
11 on authorized presence; right?

12 A. That would be correct.

13 Q. Now, I'm going to go down to also this
14 subsection -- of 16-121.01, Subsection E, which in the
14:35:42 15 middle of this paragraph here, I've kind of highlighted it.

16 There's Subsection E: "IF THE COUNTY
17 RECORDER OR OTHER OFFICER IN CHARGE OF ELECTIONS MATCHES
18 THE APPLICANT WITH INFORMATION THAT THE APPLICANT IS NOT A
19 UNITED STATES CITIZEN, THE COUNTY RECORDER OR OTHER OFFICER
14:35:58 20 IN CHARGE OF ELECTION SHALL REJECT THE APPLICATION, NOTIFY
21 THE APPLICANT THAT THE APPLICATION WAS REJECTED BECAUSE THE
22 APPLICANT IS NOT A UNITED STATES CITIZEN AND FORWARD THE
23 APPLICATION TO THE COUNTY ATTORNEY AND ATTORNEY GENERAL FOR
24 INVESTIGATION."

14:36:14 25 Do you know if the county recorders used the

1 APIs available to the secretary of state through -- from
2 ADOT to look up this kind of information mentioned here in
3 the part that I just read?

4 MR. MORGAN: Form.

14:36:40

5 THE WITNESS: We know that the county
6 recorders, through the secretary of state, use the
7 information accessed through the API. I -- I don't have
8 information as to what they do with that information.

9 BY MR. HERRERA:

14:37:04

10 Q. Okay. Now let's go back to the exhibit that had
11 the extracts, which are -- and the APIs, which is the
12 ADOT001400, Exhibit -- I forget the exhibit number. Oh,
13 111. Exhibit 111.

14 A. Okay.

14:37:32

15 Q. All right. And so on the first page there is
16 something that says a "Customer Extract." Do you see that?

17 A. Yes.

18 Q. Okay. So on page ADOT001400, under "File:
19 Customer Extract," what is this?

14:37:57

20 A. This is the file that we created to give to the
21 secretary of state on a monthly basis so that they could
22 implement the legislative changes.

23 Q. And by legislative changes that -- so that they
24 could implement them, is that in reference to the monthly
14:38:18 25 comparison of the voter registration database and Arizona

1 Department of Transportation driver license database?

2 A. Yes.

3 Q. And then underneath that, there is a different
4 "File: Credentials Canceled Out of State." What is that?

14:38:38

5 A. That is another file that was created at the same
6 time. It is a listing of every credential, driver license,
7 or ID that we canceled because we received notice from
8 another state that they issued something in another state.
9 Again, it was created for the purpose of implementing this
10 legislation.

14:38:56

11 Q. And when did ADOT begin sending those -- when did
12 ADOT create these two extracts?

13 A. It was in the fall of 2022.

14:39:18

14 Q. If you know, when did the secretary of state begin
15 to receive those two file extracts referenced on
16 ADOT001400?

17 A. We began placing --

18 MR. MORGAN: Form.

14:39:35

19 THE WITNESS: We began placing it on the FTP
20 site on -- in end of November, and I believe the first time
21 the secretary of state picked it up was in December.

22 BY MR. HERRERA:

23 Q. What is the FTP site?

14:39:53

24 A. It's a secure site that -- File Transfer Protocol
25 site to allow us to exchange very large files between us.

1 Q. And how long has the -- this FTP been set up
2 between ADOT and the secretary of state?

3 A. Several years.

4 Q. What was the purpose that this FTP site was
14:40:19 5 created?

6 A. To exchange large files. So prior to these large
7 files, we also have the nightly voter file and the ERIC
8 file. That's where those files are placed.

9 Q. Now, looking at -- let's focus on ADOT001400.
14:40:47 10 Under the "Customer Extract," the last field here says --
11 it's all one word: "NonCitizen." Do you see that?

12 A. Yes.

13 Q. In parenthesis it says: "(Will be marked 'Y' if
14 ADOT records indicate the person is a noncitizen; this will
14:41:15 15 otherwise be blank)"; right?

16 A. Correct.

17 Q. How is -- under this file extract on the
18 "NonCitizen" field, what will cause a -- what will cause
19 the value Y to be entered in that field?

14:41:38 20 A. If the authorized presence value is anything other
21 than 1 or 4, which would be naturalized or citizen, not
22 foreign.

23 Q. And are there other values for that field besides
24 "Y" for the "NonCitizen" field?

14:42:02 25 A. No.

1 Q. For someone who does have an authorized presence
2 value of 1 or 4, meaning that in ADOT's data they're shown
3 as a U.S. citizen, what is the value that will be put in
4 the "NonCitizen" field?

14:42:30 5 A. It will be empty.

6 Q. "Empty" as in nothing will be there?

7 A. Correct.

8 Q. Now, this customer extract that is -- that ADOT
9 created in the fall of 2022 to send to the Secretary of
10 State's Office, how many customers does that include?

11 A. It's about 7.3 million customers.

12 Q. And what are the parameters of who is included in
13 that customer extract?

14 A. It would be any customer with the driver's license
15 or identification card that we would have.

16 Q. So this customer extract that you send to the --
17 that ADOT sends to the Secretary of State's Office, it
18 includes persons who do not have a value entered under the
19 "NonCitizen" field?

14:43:40 20 A. Yes.

21 Q. Okay. Now, every month when ADOT sends this
22 customer extract to the Secretary of State's Office, is it
23 always the full set of customers with a credential in the
24 ADOT system?

14:44:10 25 A. Yes.

1 Q. Therefore, the secretary of state receives --
2 well, is there anything -- and you may have answered this
3 question just now, but is there anything that prevents ADOT
4 from sending some subset of customers that it has sent in a
14:44:32 5 previous month in the next month's extract -- customer
6 extract?

7 MR. WHITAKER: Ambiguous.

8 THE WITNESS: I'm not sure I understand.

9 BY MR. HERRERA:

14:44:43 10 Q. I guess I'm trying to figure out the timing here.

11 Do you -- you're always -- is -- is the
12 customer extract all of the active credential holders in
13 ADOT's system as of the date of the creation of the
14 extract?

14:45:03 15 A. So, yeah, it's always a full extract of our
16 customer database of those credential holders. So it's
17 going to pull all the credential holders at that given
18 time. It's always a full extract, not just an update.

19 Q. If someone has updated their authorized presence
14:45:25 20 from one of the foreign authorized presence values to
21 non-foreign, will that be reflected in a -- in the next
22 month's extract?

23 A. Yes.

24 Q. Is there any lag time that you know of in updating
14:45:44 25 the authorized presence field between extracts?

1 A. No. That's the real-time change to the file. As
2 soon as it's -- as soon as that credential is issued with
3 the new authorized presence, that's how it will be
4 reflected in the system.

14:46:03 5 Q. Does the customer extract include any expired --
6 customers with expired credentials?

7 A. Yes.

8 Q. Okay. Does the customer extract that the -- that
9 we're looking at here on ADOT001400 include -- and I'm
10 hoping this is the right word -- revoked credentials?

11 A. Yes.

12 Q. What is the -- in terms of the "NonCitizen" field
13 in the customer extract that we're looking at in
14 ADOT001400, what will the "NonCitizen" field be marked if
15 SAVE -- if a SAVE check being run by ADOT on a customer is
16 awaiting verification from SAVE?

17 A. It will depend on what the customer already had in
18 the database. So until there's an issuance, until we have
19 a SAVE return, we don't do a new issuance. So it won't
20 show any new data. It will show whatever was there prior
21 to us running the SAVE check.

22 Q. Okay. So if someone is -- if someone has applied
23 for a credential and they are -- and it's their original
24 credential, meaning they have not had a credential before,
14:47:42 25 and you are awaiting verification from SAVE, will that

1 person be reported in this customer extract --

2 A. No.

3 Q. -- at all?

4 A. They will not.

14:47:57

5 Q. So it does not -- the customer extract does not
6 include any -- anyone who is awaiting a decision -- well,
7 let me strike that.

8 Would it be fair to say that the customer
9 extract that ADOT sends to the secretary of state does not
10 include anyone who has not yet been issued an original
11 credential?

14:48:18

12 A. Yes. Correct.

13 Q. So if there's someone who is attempting -- a
14 customer who is attempting to renew a credential and they
15 are presenting an authorized presence document that is for
16 a foreign subtype and they're awaiting verification from
17 SAVE, what -- what will it show in the "NonCitizen" field?

14:48:36

18 A. On the renewal of credential, it will show the
19 existing credential as it exists.

14:49:08

20 Q. Now, if someone -- let's take another example
21 or -- well, if someone who is a -- who had a foreign
22 subtype authorized presence credential and is attempting to
23 get a new credential that would reflect that they have
24 naturalized as a U.S. citizen but there is a pending SAVE
14:49:44 25 verification being done by ADOT of that naturalization

1 proof, how would that person appear in the "NonCitizen"
2 field in the customer extract?

3 A. Because it would be pending, we wouldn't have
4 issued a new authorization type. So they would still
14:50:02 5 appear as one of the foreign subtypes.

6 Q. So if someone's credential has expired due to
7 their authorized -- their foreign authorized presence
8 document expiring itself but the customer has presented a
9 document that shows naturalized -- naturalization but you
14:51:29 10 are awaiting a SAVE verification there, how would that
11 person show up in the "NonCitizen" field of the customer
12 extract?

13 A. In the same way that -- since the SAVE hasn't
14 completed, we haven't issued a new license, so it will
14:51:45 15 still show as foreign.

16 Q. Okay. And so even though they're expired, they'll
17 still show up in the customer extract?

18 A. Yes.

19 Q. Was the -- now I can't remember if I asked this.
14:52:17 20 Was the "NonCitizen" field in the customer
21 extract on ADOT001400 created specifically for this
22 customer extract?

23 A. Yes.

24 Q. And so that would have been created in summer or
14:52:42 25 fall of 2022?

1 A. Because it's part of the -- the report itself, so
2 it's just a derived field from other sources, yes. So it
3 was created at the same time this report was created.

14:53:01 4 Q. Does the -- does ADOT query any outside sources of
5 information in order to answer the NonCitizen -- put a
6 value in the "NonCitizen" field in the customer extract
7 that we're talking about?

14:53:19 8 A. The only time we will query an outside source is
9 at the time of issuance, we'll query SAVE, as we've been
10 discussing. Outside of that, no.

11 Q. Therefore, ADOT does not search records of any
12 naturalization ceremonies, for example, before filling out
13 the "NonCitizen" value in the customer extract that we're
14 looking at?

14:53:41 15 A. We do not.

16 Q. Does the -- does ADOT send -- along with the
17 customer extract on ADOT001400, does ADOT send any
18 documents or data about the authorized presence documents
19 presented by the customer to the secretary of state?

14:54:47 20 A. No.

21 Q. Sorry about that. I'm trying to see what still
22 might or might not be necessary to ask you.

23 MR. WHITAKER: Do you want to go off the
24 record for a few minutes?

14:56:11 25 MR. HERRERA: Yeah. Let me -- can we go off

1 the record.

2 (A recess ensued.)

3 BY MR. HERRERA:

4 Q. Mr. Jorgensen, I'm going to show you another
15:08:45 5 document that I would like to mark as Exhibit 112.

6 (The document was marked as Exhibit 112
7 for identification.)

8 BY MR. HERRERA:

9 Q. Mr. Jorgensen, you've been handed what's been
15:09:31 10 marked as Exhibit 112. And the Bates stamp from the
11 production is ADOT001464. Do you recognize this document?

12 A. Yes.

13 Q. Okay. What is this document?

14 A. This is an email discussing the implementation of
15:09:52 15 the files that we've been discussing.

16 MR. WHITAKER: Noting for the record that it
17 is marked confidential.

18 MR. HERRERA: Noted.

19 BY MR. HERRERA:

15:10:04 20 Q. Who is Anthony Previte?

21 A. Anthony is one of our contractors that is a
22 developer on our team.

23 Q. And what is he a contractor for?

24 A. He does development in the MAX system.

15:10:20 25 Q. Who is Bronco Briggs?

1 A. He is another contractor that works on the MAX
2 system.

3 Q. What is the MAX Operations Support?

4 A. That is the team that does the daily operations
15:10:46 5 for the whole MAX system to make sure that everything is
6 running correctly. Also in charge of -- like when a new
7 job like these would begin to occur, it makes sure that it
8 happens properly.

9 Q. Now, this -- in this document, do you see that on
15:11:05 10 November 15, 2022, Mr. Previte says to Mr. Briggs and MAX
11 Operations Support that, quote: "This job is switched on
12 now along with the related batch job for sending monthly
13 driver license cancellations."

14 Do you see that?

15:11:21 15 A. Yes.

16 Q. What is the "this job" referring to?

17 A. That would be the file created to do the
18 comparisons. So the big customer extract file.

19 Q. Okay. If we could go to the last -- well, let's
15:11:37 20 go to the second page of this email thread. Do you see an
21 email that's kind of buried in there from Anthony Previte
22 on August 15th at 2:18 p.m.?

23 A. August 15?

24 Q. August 15, 2022, at 2:18 p.m. It's in the middle
15:12:05 25 of the page.

1 A. Okay. Yes.

2 Q. And this is on ADOT001465. And what is in that
3 email from Mr. Previte there?

15:12:25

4 A. This is -- this is the plans to implement the
5 customer extract file.

6 Q. And by "customer extract file," you're talking
7 about the one ADOT sends to the secretary of state monthly
8 with the "NonCitizen" fields?

9 A. Correct.

15:12:38

10 Q. Now, from August 15th, 2022, to today, has the
11 customer extract with the "NonCitizen" fields changed at
12 all?

15:13:11

13 A. I'm not sure. We could easily compare the -- the
14 file elements that were in this document with -- with
15 what's in there. But it looks at first blush to be the
16 same.

17 Q. Now, if the job was switched on on November 15th,
18 2022, when would the first customer extract have been sent
19 to the secretary of state?

15:13:28

20 A. It would have been at the beginning of December.

21 Q. And I think you might have said this earlier, but
22 how is the customer extract sent to the secretary of state?

23 A. It is placed on a secure FTP server, and the
24 secretary of state has access to it.

15:13:48

25 Q. Has -- has ADOT sent a customer -- the same

1 customer -- not the same -- well, strike that.

2 Has ADOT sent a customer extract with the
3 same specifications every month since December 2022?

4 A. Yes.

15:14:06 5 Q. Do you know what the MVM report database is?

6 A. MVM stands for Motor Vehicle Modernization. It's
7 our project that does all of the MAX implementation. And
8 the report database is a -- it's just a collection of
9 different reports that are produced and can be run on -- on
10 request.

15:14:47

11 Q. Do you know what a -- what an LECU designation is?

12 A. I do.

13 Q. What is that?

14 MR. WHITAKER: We're going to designate this
15 part of the deposition for counsel only. So I think it's
16 just counsel on the line.

15:15:11

17 MR. HERRERA: Well, our expert --

18 MR. MORGAN: Wait. Wait. Why are we
19 designating it for counsel only?

15:15:30

20 MR. WHITAKER: Well, I take it that the
21 answer may be highly confidential. I guess I defer to you.

22 MR. MORGAN: I say that because my client
23 representative may be on the line. I don't remember.
24 But -- so let's follow through.

15:15:46

25 MR. WHITAKER: Do you consider the answer to

1 his question highly confidential?

2 THE WITNESS: Yes.

3 MR. WHITAKER: Then I think we should
4 designate this particular part of the deposition for
15:15:55 5 counsel only. So is it possible for those who are not
6 counsel to hop off and hop back on? It's a short answer.

7 MR. HERRERA: Okay. Yeah, I think we can ask
8 our expert to get off.

9 Dr. McDonald, we can text you in a second.

15:16:20 10 MR. MORGAN: I'm going to reserve the right
11 to challenge that designation. I don't understand why
12 we're designating it that, but . . .

13 MR. HERRERA: We're reserving the right to
14 challenge it too.

15:16:28 15 MR. MORGAN: I hear you. I hear you. I --
16 I -- it's highly unusual in the middle of a deposition to
17 require a party to leave. But to the extent Ms. Connor is
18 on the line, I'm going to ask her to hang up and I'll let
19 her know when it's okay to hop back on. I don't know if
15:16:48 20 she's on the line or not.

21 MR. HERRERA: Our person is off.

22 BY MR. HERRERA:

23 Q. Okay. Go ahead. So if you remember the question.

24 A. LECU refers to undercover law enforcement.

15:17:03 25 Q. I see. Okay.

1 MR. WHITAKER: That's it. We don't need to
2 designate the rest of it.

3 MR. HERRERA: I don't have any other
4 questions about that.

15:17:12 5 MR. WHITAKER: Okay. Yeah, people can come
6 back on. It's just that particular -- that particular
7 piece of information was highly confidential. People can
8 come back on.

9 MR. LANGHOFER: This is Kory for RNC. We'd
15:17:44 10 be fine with the redaction. I don't think it's relevant,
11 and if it reduces risk to anyone to a marginal degree --

12 MR. WHITAKER: That's a fair point. Sure.

13 MR. HERRERA: I think we can discuss after.
14 I don't know that we'd have a different answer. We'd have
15:17:56 15 to confer after, but yeah.

16 MR. MORGAN: Yeah, I'm okay with the
17 redaction too.

18 MR. WHITAKER: Should we -- should I -- I
19 don't want to use your guys' time while we're waiting for
15:18:30 20 your expert to come back on. Should we go off the record
21 for, like --

22 MR. HERRERA: I think we can just keep going.

23 MR. WHITAKER: Okay.

24 BY MR. HERRERA:

15:18:38 25 Q. So I did -- to jump back to a different subject

1 outside of the extract, earlier I may have asked you what
2 Help America Vote Act is; right?

3 A. Yes.

4 Q. Do you know what Help America Vote Verification
15:18:54 5 is?

6 A. That is the HAVV check, the H-A-V-V check, and
7 that's what we use the APIs for.

8 Q. And does -- so MVD -- Arizona MVD participates in
9 or uses HAVV?

15:19:15 10 A. Yeah. We are the conduit for it.

11 Q. What information does ADOT receive from HAVV?

12 A. I'm not sure because we simply pass it through to
13 the secretary of state.

14 Q. Do you know if there is any authorized presence or
15:19:31 15 citizenship data that comes from HAVV?

16 A. I do not. I couldn't say for sure.

17 Q. Do you know if any information about someone's
18 social security comes through HAVV?

19 A. It does.

15:19:46 20 Q. Okay. And do you know what information that is?

21 A. It's a verification of their Social Security
22 number.

23 Q. Okay. Did -- did ADOT conduct any testing of the
24 customer extract before beginning to send it to the
15:20:35 25 Secretary of State's Office?

1 A. Yes.

2 Q. And what was that -- what did that testing consist
3 of?

4 A. We would actually run test files. So we -- we'd
15:20:45 5 start in a limited environment, run small files, and then
6 build up to running full files in our preproduction
7 environment, which is basically a copy of our regular,
8 normal production environment.

9 Q. What was the purpose of that testing?

15:20:59 10 A. It was to make sure that all the records pulled
11 properly and formatted properly and then the file would
12 then be readable by the secretary of state.

13 Q. Were -- were there any changes made because of
14 testing to the customer extract?

15:21:20 15 A. I couldn't say for sure. There's often a change
16 that will occur to match the actual specification to make
17 sure that it comes out correct. We didn't change the -- I
18 would say we wouldn't -- we didn't change the format that
19 we were producing, but we may have changed something to
15:21:38 20 make sure that it worked and came out.

21 Q. Has ADOT discussed with the secretary of state any
22 safeguards to prevent any data mismatches in the customer
23 extract or the -- either of the customer extracts being
24 sent to the secretary of state?

15:22:05 25 A. Can you clarify "data mismatch"?

1 Q. Any mismatches regarding the identity of a person.

2 A. So our -- our discussions have been limited to
3 here is -- here's the information that you will need to do
4 a check, but we haven't discussed how they actually use it
15:22:28 5 on their side to do that or what -- what they would be
6 looking at to compare to make sure that they got the right
7 customer.

8 Q. So in those discussions, did the secretary of
9 state make certain requests for certain types of
15:22:43 10 information?

11 A. Yes.

12 Q. And what were those requests?

13 MR. MORGAN: Form.

14 THE WITNESS: So the -- the entire outline of
15:22:52 15 the file would be what was necessary to make the change --
16 or to make the matches in our -- in our discussions between
17 us and the secretary of state. And whether -- you know, I
18 can't tell you that one came up from us versus them. We've
19 done matching for a very long time, so we know what to
15:23:11 20 start with from a basis. But all of it was -- was subject
21 to the discussion of what would be needed to do some sort
22 of match.

23 BY MR. HERRERA:

24 Q. You said that matching has been done for some
15:23:25 25 amount of time by ADOT. What kind of matching are you

1 talking about?

2 A. So when I refer to that is like -- like the
3 existing APIs, like the files that we already send over to
4 them for ERIC, for example, all of those were created in
15:23:41 5 concert to make sure that they could match to our system.

6 Q. What, if anything, does ADOT have to do with the
7 comparison that the secretary of state is supposed to
8 conduct under HB 2243 between the voter registration
9 database and the MVD's data for noncitizen identification
15:24:04 10 purposes other than sending the data extracts?

11 A. Nothing.

12 Q. Does ADOT participate at all in helping the
13 secretary of state conduct database comparisons for
14 purposes of HB 2243 compliance other than sending the data
15:24:21 15 extracts?

16 A. Only to the extent that if they had a question and
17 needed us to answer something, then we could answer
18 questions. We'd always be available to do that.

19 Q. And has the secretary of state had any questions
15:24:34 20 about the customer extract?

21 A. Not to my knowledge, but I wouldn't know all of
22 the questions.

23 Q. Is there someone who is in contact with the
24 secretary of state who might have received such questions?

15:24:47 25 A. It could come in through a variety of places. I

1 assume that our technical teams would probably talk to each
2 other.

3 Q. And who are the -- who is the technical team at
4 MVD who talks to the secretary of state?

15:25:00 5 A. Could be a variety of people depending on what the
6 issue was.

7 Q. But you are not aware of any questions the
8 secretary of state has had for ADOT about the customer
9 extracts?

15:25:15 10 A. I am not. We do meet regularly with the secretary
11 of state. Nothing has come up in that regard.

12 Q. Has ADOT offered any technical assistance to the
13 secretary of state for conducting database comparisons for
14 purposes of HB 2243 compliance other than sending the data
15 extracts?

15:25:31 16 A. Again, other than answering an -- if this was a
17 specific question, we always have that as an open offer,
18 but we did not -- we're not helping to design any of the
19 match, no.

15:25:45 20 Q. Well, this may be related to your answer, but has
21 ADOT given any matching criteria to the secretary of state
22 for conducting database comparisons for purposes of HB 2243
23 compliance other than sending the data extracts?

24 A. No.

15:26:00 25 Q. Has ADOT given any algorithms to the secretary of

1 state for conducting database comparisons for purposes of
2 HB 2243 compliance other than sending the data extracts?

3 A. Not to my knowledge.

4 Q. Who is Russ Smith?

15:26:37 5 A. He is an employee of secretary of state -- or at
6 least was.

7 Q. So I'm going to show you another document. I
8 don't think I have the paper version, but I'll put it in
9 the chat here.

15:27:03 10 (The document was marked as Exhibit 113
11 for identification.)

12 BY MR. HERRERA:

13 Q. And we're going to open up this file here.
14 Do you recognize -- sorry.

15:27:57 15 Now I'm sharing my screen to show you
16 Exhibit 113, which are -- which is -- begins with
17 AZSOS-267124 and then it goes through all the way to
18 AZSOS-267128. Do you see that?

19 A. Yes.

15:28:29 20 Q. Okay. So I'm going to go to the top here.

21 And I will say for the record I think this
22 does mention LECU, so I don't know if we want to --

23 MR. WHITAKER: Let's just not say what that
24 means.

15:28:45 25 MR. HERRERA: Right. Okay.

1 BY MR. HERRERA:

2 Q. And I'm not asking about it. It's just that I
3 think it's in here.

4 And so have you ever seen this email before?

15:28:59 5 A. I am not familiar with this specific email.

6 Q. And this is an email from Russ Smith to various
7 ADOT people on December 19, 2022; right?

8 A. Correct.

9 Q. And the email says: "Hi Bronco. Thank you for
10 the clarification. I know that we would be looking at
11 running close to 50,000 checks once a month."

12 Do you know what Mr. Smith is referring to in
13 this email?

14 A. I do not.

15:29:41 15 Q. If we go down to the email below that from Bronco
16 Briggs to Russ Smith and others, it says: "Good Afternoon
17 Russ, I have assigned the research to a developer for this
18 Sprint to review the end point and determine the effort to
19 return additional status values. I should have a response
15:30:06 20 ready for you at the beginning of the New Year. Question
21 for you - what do you anticipate the number of 'peak'
22 validations to be performed per day/hour/minute?"

23 Do you know what Mr. Briggs is referring to
24 there?

15:30:22 25 A. I -- I do not. Looks like an API call, though, of

1 some sort.

2 Q. An API what?

3 A. It appears to be an API call, but I don't know
4 what call it is. But when he says "end point," that's
15:30:32 5 usually what we mean.

6 Q. It's API call -- what --

7 A. Yeah, an API. So like we've talked about the
8 different APIs before. End point is the location --
9 that's -- that's the terminology for the location that we
15:30:45 10 would use to connect. But I'm not sure what API we would
11 be talking about here.

12 Q. Do you know if ADOT has talked to the Secretary of
13 State's Office about setting -- setting up any new APIs
14 besides the two APIs that we were discussing earlier?

15:31:01 15 A. Yes.

16 Q. Okay. And what are those new APIs that are being
17 discussed with the Secretary of State's Office?

18 A. Currently? We are talking --

19 MR. WHITAKER: That's -- that's, I think,
15:31:12 20 outside the scope of the 30(b)(6) topics. I'm not going to
21 instruct him not to answer.

22 You can answer in your personal capacity.

23 MR. HERRERA: Okay. I can -- maybe this will
24 help.

15:31:20 25 BY MR. HERRERA:

1 Q. Are any of the new APIs being discussed with the
2 Secretary of State's Office part of complying with either
3 HB 2492 or 2243?

4 A. No.

15:31:31

5 Q. Okay. Obviously subject to the objection, what
6 are the purposes of the new APIs being discussed?

7 A. To give voters more information about the current
8 registration status when they go in to do an update of
9 their information.

15:32:18

10 Q. Actually, I'm going to pull it up again, that
11 document we were just looking at, Exhibit 113. I want to
12 go down to an email further down. It's on the second page
13 of this document. So on the second page. And it's an
14 email from Russ Smith, also on December 19, 2022, to
15 Christy Hood at ADOT and Kevin Kumpf, and then other people
16 are copied there.

15:32:43

17 And do you see that it says in the middle
18 sentence: "I know Bronco was going to check with his team
19 on what it would be" -- "what it would look to increase the
20 bandwidth to the amount of Authorized Presence validations
21 that can be run through our End-Point at the same time. He
22 was also going to verify what DL/ID Statuses other than
23 Active we can request visibility to through our End-Point."

15:33:01

24 And why -- why is authorized presence being
25 discussed here?

15:33:23

1 MR. WHITAKER: Foundation.

2 THE WITNESS: So that looks like a discussion
3 about the APIs that we discussed earlier because that's the
4 ones that would have that information. But I don't have
15:33:41 5 any context for that discussion, the date being after the
6 time that we put in the file. So I don't -- I don't know
7 what the impetus of that discussion was.

8 MR. WHITAKER: Ernest, I printed -- this was
9 among the exhibits you had put in the Dropbox late last
15:34:09 10 night.

11 MR. HERRERA: Yeah.

12 MR. WHITAKER: I printed a copy. Would it
13 help if I just gave this to the witness so he can read --

14 MR. HERRERA: Oh, yeah. I'm sorry. I
15:34:16 15 thought he had a copy. That's my fault.

16 MR. WHITAKER: Oh, do you already have one?
17 I think you mentioned this was one you were
18 just going to share.

19 Why don't you read that from the beginning
15:34:26 20 and then you can get some context.

21 If that's all right with you.

22 MR. MORGAN: While -- you know what? Can
23 someone tell me, while he's doing that, where we are in the
24 email, what page?

15:34:36 25 MR. HERRERA: We were looking at page 2,

1 which is AZSOS-267125.

2 MR. MORGAN: Thanks.

3 BY MR. HERRERA:

4 Q. Let's scroll down further. Do you see on -- I'm
15:35:17 5 going to go down to AZSOS-267127, so the last -- or the
6 second to last page of this exhibit. And it says on
7 "Tuesday, December 6, 2022, at 12:17 p.m., Bronco Briggs
8 wrote: Two new batch jobs were developed by the" capital D
9 "Driver's team in early fall for the new legislation. The
15:35:48 10 two requested files are available now for SOS to download
11 from the DMZ SFTP server. We will review the API endpoint
12 for the third request. Please advise if there are any
13 questions. The jobs are currently scheduled to run on the
14 first Monday of each month. The data here is from
15:36:05 15 November."

16 Is there any new API, having seen this, that
17 ADOT is developing for the secretary of state in relation
18 to HB 2492 or 2243?

19 A. No.

15:36:33 20 Q. Then do you know why there would be a question
21 about bandwidth to address the amount of authorized
22 presence validations that can be run through SOS's end
23 point?

24 A. So this looks like it's discussing the existing
15:36:49 25 end point that we have, the one that we have -- that we

1 talked about earlier.

2 Q. So the -- perhaps the -- well, so you're talking
3 about it might have to do with one of the two existing
4 APIs?

15:36:59 5 A. Correct.

6 Q. Do you know what Swagger is?

7 A. I don't.

8 Q. Okay. That's not something that ADOT has? Or is
9 it?

15:37:11 10 A. No. Not to my knowledge. I won't make a joke.

11 I will -- Swagger is a -- it's an IT program,
12 but I don't think it's an ADOT IT program.

13 MR. HERRERA: Okay. Maybe we could get some
14 clarification or confirmation of that after of it -- if
15:37:49 15 Swagger is an ADOT program or software?

16 MR. WHITAKER: I'll take that back. I don't
17 know enough about it to know whether it is fairly within
18 the 30(b)(6) topics, but, you know, we're trying to --

19 MR. HERRERA: Okay. I don't either.

15:38:17 20 BY MR. HERRERA:

21 Q. I'm going to hand you what -- you're being handed
22 what has been marked as Exhibit 114.

23 (The document was marked as Exhibit 114
24 for identification.)

15:39:08 25 MR. HERRERA: And for the record, Exhibit 114

1 are ADOT001493 through 1494.

2 MR. WHITAKER: Also noting on the record it's
3 marked confidential.

4 BY MR. HERRERA:

15:39:36 5 Q. Do you know -- have you seen this document before?

6 A. I'm not sure. I don't remember seeing this
7 before.

8 Q. And who is Chelsie Padilla?

9 A. Chelsie works for the -- she's a contractor, works
10 on the MAX development team. She's an administrative
11 project manager-type person.

12 Q. I'm going to mark another exhibit, but I'm pretty
13 sure I don't have a paper copy of this one, unless Josh
14 does, for to you look at. But this is -- we're going to
15:41:07 15 mark as Exhibit 115 AZSOS-255142.

16 (The document was marked as Exhibit 115
17 for identification.)

18 MR. HERRERA: And I'm going to show it on the
19 screen here.

15:41:35 20 MR. WHITAKER: Was that one that was in the
21 Dropbox?

22 MR. HERRERA: It was, but it might have been
23 a bit late for you to print it.

24 MR. WHITAKER: Okay. I'm not seeing it among
15:41:44 25 the stuff I printed.

1 MR. HERRERA: You might have -- it might have
2 been too late.

3 BY MR. HERRERA:

15:41:57

4 Q. Okay. So this is a document. It's about three
5 pages. And it appears to be a printout from Microsoft
6 Viva, which I'm not -- I don't know how to use. I don't
7 know what that is. But it appears to be from Microsoft
8 Viva to Russ Smith.

9 Do you see that?

15:42:13

10 A. Yes.

11 Q. And do you see underneath it says: "Subject:
12 Your daily briefing"?

13 A. Yes. I can't quite see it. Yes.

15:42:32

14 Q. And do you see underneath: "Prepare for today's
15 meeting, 3:00 to 4:00 PM MVD/SOS 2243 Meeting"?

16 And then it says "Organizer" and then "2
17 emails may be related."

18 And under that is an email ostensibly from
19 you, Eric Jorgensen. And then it has an out-of-office
20 reply.

15:42:54

21 Did you attend a meeting on December 5th,
22 2022, with the Secretary of State's Office? On
23 December 5th, 2022?

15:43:12

24 A. I would have to check my calendar. I don't -- I
25 don't remember. It's possible. We meet regularly. I'm

1 not sure.

2 Q. Okay.

3 MR. WHITAKER: Oh, I do have a hard copy of
4 this.

15:43:22 5 MR. HERRERA: Oh, okay.

6 MR. WHITAKER: It's 255142?

7 MR. HERRERA: Yes.

8 BY MR. HERRERA:

9 Q. If you go to the second page of this exhibit,
10 Mr. Jorgensen, there is another note here. And of course I
11 can't speak to the layouts here or the -- who's saying
12 what. But it says: "Yesterday, 'Hi Bronco and Madelene, A
13 few months ago we had a meeting where we started to discuss
14 the proposed upcoming changes in 2243 that the courts are
15 working on. I wanted to set up a time on Monday (possibly
16 3:00pm) to continue our conversation on the . . ." And
17 then it cuts off.

18 Do you recall what you might have discussed
19 in December of 2022 with Russ Smith about HB 2243?

15:44:16 20 A. No.

21 Q. Who is Mali Manjarrez-Bautista?

22 A. I do not know.

23 Q. Do you know who Alex Trinh is?

24 A. Yes. Alex Trinh works for us. He's on the MAX
15:44:41 25 operations team.

1 Q. All right. What was -- what was the policy of
2 ADOT toward HB 2492 during the legislative session in 2022
3 during which the bill was being considered?

4 MR. WHITAKER: Objection. Broad.

15:45:11 5 You can answer.

6 THE WITNESS: Of which bill?

7 BY MR. HERRERA:

8 Q. HB 2492, the earlier of the two bills.

15:45:24 9 A. That's the one that requires us to do the
10 out-of-state credential list.

11 Q. That would be the later bill, yeah.

12 A. Okay. The one that does the comparison. The
13 department --

15:45:35 14 Q. Well, 2243 has both the database comparisons and
15 the out-of-state, so . . .

16 A. Okay. The department was neutral -- took a
17 neutral position on both those bills.

18 Q. Okay. And did ADOT give any input to the
19 legislature on HB 2243?

15:45:51 20 A. I know that we gave input on some of the bills
21 about it not -- yes, we did on some of them.

22 Q. Okay. And do you know what the input was to the
23 legislature?

15:46:10 24 A. We had some concerns about how we could actually
25 implement it and what information was actually available

1 and what -- you know, what practically we could provide.

2 And so we made those concerns clear.

3 Q. And what were -- what were those concerns about
4 what you could provide?

15:46:27

5 A. Some of it was limitations in what we actually
6 record when a credential is canceled out of state. There
7 was some -- there was -- I believe early on there was a
8 requirement about we needed to provide the new address that
9 the person -- out of state, which we don't have information
10 on that. So it was that type of -- of feedback of if we
11 don't have that information or, you know, it's -- it's
12 limited in its availability.

15:46:48

13 Q. Did you give any input to the legislature during
14 the consideration of either of these bills about ADOT's
15 limitations in terms of data related to authorized presence
16 or citizenship?

15:47:10

17 A. Meaning the validity of -- of that or --

18 Q. Anything about citizenship or authorized presence.

19 A. I don't remember us giving any -- any feedback on
20 that specifically.

15:47:39

21 MR. HERRERA: I'm going to mark another
22 exhibit, this one as Exhibit 116. I don't have a printout,
23 but it is ADOT001594.

24 (The document was marked as Exhibit 116

15:48:02

25 for identification.)

1 BY MR. HERRERA:

2 Q. So can you see that this is a three-page document?
3 I'm going to scroll through it really quickly. It's
4 consecutively marked ADOT 1594 to 1596. Do you see that?

15:48:39

5 A. Yes.

6 Q. I'm going to go back to the top.

7 And at the top is an email from Jessica Byrd
8 to Madelene Carbajal on July 7, 2022, and the subject is
9 "Re" -- regarding -- "HB2243." Do you see that?

15:48:56

10 A. Yes.

11 Q. Okay. Who is Jessica Byrd?

12 A. She is a business analyst with MVD.

13 Q. I'm going to go down here in the emails. And
14 there is an email on July 7, 2022, at 8:13 a.m. from

15:49:24

15 Madelene Carbajal. And she wrote: "Just a heads up that
16 this was just signed. Page 5. Ugh."

17 Do you know why that would have been the
18 reaction of Ms. Carbajal to this bill passing, 2243?

19 A. I don't.

15:49:54

20 Q. Did you ever have discussions during the
21 legislative session with Ms. Carbajal about 2243?

22 A. Yes.

23 Q. And what were -- what did you discuss with her?

24 A. It would have been how we would do the

15:50:10

25 implementation were it to -- were it to come to pass. If

1 there was any concerns, she would have been one of the
2 people that would help us identify if there were things
3 that we couldn't do that were required in the bill.

4 Q. I think we can take -- well, one more -- several
15:50:29 5 more questions.

6 What is ADOT's position today on continued
7 compliance with HB 2492 and 2243?

8 MR. WHITAKER: Objection. Overbroad,
9 ambiguous.

10 THE WITNESS: Currently it's the law as
11 written --

12 MR. MORGAN: Form.

13 THE WITNESS: -- and that's -- and that's
14 what we're implementing.

15:50:54 15 BY MR. HERRERA:

16 Q. Are there any new -- is there any new access that
17 ADOT is going to give or has given to the Attorney
18 General's Office to ADOT's data in order to comply with HB
19 2492 and 2243?

15:51:20 20 A. We would -- we will give access to the Attorney
21 General's Office if they decide that they need something
22 different than what they might be able to get today.

23 Q. And what is it that the attorney general has
24 access to today from ADOT's data for purposes of voter
15:51:39 25 registration?

1 A. Many government agencies can request MVRs, motor
2 vehicle records, things of that nature through a portal
3 process. And I don't know if that's sufficient for what
4 they would need or not. And, of course, they always have
15:51:58 5 the ability to call directly to us and ask for specifics
6 about a specific customer if they needed to.

7 Q. Is there anything -- we discussed earlier the HAVA
8 checks; right?

9 A. Uh-huh.

15:52:31 10 Q. Okay. Is there anything -- is there such a thing
11 as a soft match in a HAVA check?

12 A. I've heard that term used before, but I'm not sure
13 exactly what it refers to.

14 Q. Okay.

15:52:56 15 MR. HERRERA: I think -- could we take a
16 break and confer with the plaintiffs and see what other
17 questions we might have?

18 MR. WHITAKER: Yeah.

19 (A recess ensued.)

16:09:19 20 BY MR. HERRERA:

21 Q. Mr. Jorgensen, I'd like to go back to an exhibit
22 we looked at earlier, Exhibit 112, which is ADOT001464.
23 And if you could please turn to the third page of that
24 document, and it says ADOT001466.

16:09:49 25 And do you see in the middle paragraph with

1 the text -- but after Number 1, it says: "To comply with
2 Subsection F, a new report titled 'SOS Customer Extract':
3 a monthly extract of all customers with an active DL or ID
4 that contains Address Last-Change dates and
16:10:11 5 Non-Citizen-Status information"?

6 Earlier you testified that the extract being
7 sent to the Secretary of State's Office every month with
8 the noncitizenship data contains expired and revoked
9 licenses. Why does it say "active DL or ID" here?

16:10:50 10 A. I'm not sure. That may be a change. This was
11 from August to the point that we actually implemented it.
12 So we may have gone on to implement not just active, and it
13 also might be what we consider active, meaning --

14 Q. I see. So active -- is it possible that active
16:11:14 15 includes expired and revoked?

16 A. It could be active record with it. I would have
17 to go back and check on that.

18 Q. So you would have to check that?

19 A. Yeah.

16:11:23 20 Q. Okay. But you're not sure right now?

21 A. Yeah, I'm not -- I'm not -- the thing that makes
22 me think about it is it has 7.3 million records in it,
23 which is more than the active number of driver's licenses
24 that we have. So driver's licenses and IDs. So, I mean,
16:11:41 25 that's almost our entire population.

1 Q. Right. So that's what makes you think that the
2 extract includes revoked and expired licenses and the IDs?

3 A. So a revoked license or a suspended license,
4 something that has some sort of -- of prohibition on it
5 would still be an active license. Even an expired could
6 potentially be an active license, whereas like a canceled
7 out of jurisdiction would be an inactivated record. So I'd
8 have to clarify exactly what they meant by "active" on
9 that.

16:12:01

10 Q. Okay. But to confirm, the current extract that
11 ADOT sends to the Secretary of State's Office does contain
12 IDs and driver's licenses records that have expired,
13 revoked, and suspended licenses?

16:12:18

14 A. That is my understanding and I can confirm that.

16:12:43

15 MR. HERRERA: Well, we'd like a confirmation
16 for -- I'll just put that on the record.

17 Okay. Those are all of my questions for you
18 today. However, I think one of the other plaintiffs -- a
19 couple of the other plaintiffs might have questions for you
20 now via Zoom.

16:12:58

21

22

EXAMINATION

23 BY MS. COHEN:

24 Q. Hi, Mr. Jorgensen. This is Michelle Kanter Cohen.
25 I am with Fair Elections Center, and I represent the Poder

16:13:12

1 Latinx plaintiffs in this matter.

2 Can you hear me okay?

3 A. Yes.

4 Q. Great.

16:13:22

5 MS. COHEN: I want to -- Darrell, if you
6 could pull up the document that is Bates-labeled Pima
7 County 0032. I'd like to mark this -- I think we're at
8 Exhibit 117; is that right?

9 THE COURT REPORTER: Yes

16:13:50

10 (The document was marked as Exhibit 117
11 for identification.)

12 BY MS. COHEN:

13 Q. I'm not sure if your counsel has a paper copy of
14 this one for you or not, so . . .

16:13:52

15 MR. HERRERA: Michelle, Niyati is pulling up
16 the -- the file. There you go.

17 MS. COHEN: Okay.

18 BY MS. COHEN:

16:14:17

19 Q. So, Mr. Jorgensen, are you able to see this on the
20 screen?

21 A. Yes.

22 Q. Okay. Do you recognize this document?

23 A. That is a -- one of our standard government data
24 access agreements.

16:14:33

25 Q. And this is an access agreement with the Pima

1 County Recorder's Office VR; correct?

2 A. That's what it is showing, yes.

3 Q. Okay. And "VR" is voter registration; is that
4 right?

16:14:48

5 A. I mean, that's a good assumption. I don't -- I
6 don't have any way of confirming that, but that's what it
7 looks like.

16:15:37

8 Q. Okay. If we could scroll down to Bates
9 Number 0045, please. Okay. Go down to the signature on
10 this document.

11 Okay. So you see the signature of the Pima
12 County Recorder --

13 A. Yes.

16:15:52

14 Q. -- Gabriella Cazares-Kelly? And Robert Smith,
15 administrator for the Motor Vehicle Division?

16 A. Correct.

17 Q. Okay. And if we scroll down to the director's
18 authorization, is that -- is that your signature down at
19 the bottom --

16:16:04

20 A. Yes.

21 Q. -- there on -- was it June 25 -- sorry -- 2022?

22 A. Yes, it is.

23 Q. Okay. And so why did ADOT establish this
24 agreement with the Pima County Recorder's Office?

16:16:21

25 A. Would it be okay if we scrolled up to the top of

1 that?

2 Q. Sure. Take your time. Yeah.

3 A. Top of the previous page. Right there. Down just
4 a little bit. Okay. This is an agreement to allow access

16:16:45

5 to a government agency, in this case the Pima County
6 Recorder's Office, to request through the MVRRS

7 application, which is a -- it is a portal hosted by the
8 Department of Administration that is used for records

9 requests. And they actually pull the records from us at

16:17:10

10 ADOT. And this was to allow them the ability to get a

11 39-month driving -- driver record and a 5-year certified
12 driver record. So they can request those and have those.

13 Q. Do you know why they requested access to those?

14 A. I'm not aware of what their -- their use of that
15 is or how they're using it.

16:17:39

16 Q. When they are being authorized to access the ADOT
17 data through MVRRS, is that also using an API?

18 A. So that's actually going directly to a portal that
19 is used by -- or -- or maintained by the Department of
20 Administration. And it produces, actually, a PDF of a
21 driver -- of an official driver record.

16:18:10

22 Q. So this would allow them to access records one at
23 a time; is that right?

24 A. Correct. An interactive version like that would
25 be one record at a time.

16:18:30

1 Q. How would Pima County search for a particular
2 record in this portal?

3 A. They would need some information around a driver
4 license number, date of birth, just a couple different
16:18:53 5 record pieces that they can use to try to find something
6 around the driver record.

7 Q. Do you know what else other than driver's license
8 and date of birth they could use?

9 A. Not offhand. I don't remember what DOA's search
16:19:11 10 criteria are for that.

11 Q. Would anyone else at ADOT know?

12 A. I mean, we could go back and find the answer.

13 MR. WHITAKER: I would note for the record
14 that -- my objection that this appears to be outside the
16:19:28 15 scope of the 30(b)(6) topics, or at least I don't see how
16 it falls within the 30(b)(6) topics.

17 MS. COHEN: Well, let's take a look at the Bates
18 page labeled 0056. It's in the same document. I'm sorry.
19 The Pima County 0056. Sorry about that.

16:20:01 20 BY MS. COHEN:

21 Q. Okay. And let's scroll up so we can see the
22 heading on that page.

23 And this is headed -- this is all part of the
24 same document that's -- was produced as the ADOT Government
16:20:28 25 Agency Electronic Data Access Agreement. Is this -- this

1 is labeled "SAVE Quick Start Guide for New Super Users."

2 Did I read that right?

3 A. That's what I see the title as.

4 Q. Do you recall whether this is an attachment to the
16:20:46 5 agreement that starts on 0032 we were just discussing?

6 A. I do not believe so. I don't recognize this as
7 being something that we provided.

8 Q. Okay.

9 MR. WHITAKER: Can I just quickly ask was
16:21:06 10 this in the Dropbox last night?

11 MS. COHEN: Yes. There was an initial error
12 in terms of the way I saved the document. I did make a
13 mistake with it, so the Bates number was there and then I
14 had to swap out the correct PDF. So it's possible that --
16:21:24 15 I'm not sure when you -- when you looked at it. It's
16 possible that the incorrect PDF was up there.

17 MR. WHITAKER: Okay. I was going to say I
18 recall a Pima County document that looked identical to the
19 secretary of state document. So that may have been when I
16:21:39 20 looked at it.

21 MS. COHEN: Okay. Yeah. That was the --
22 that was the PDF in error.

23 MR. WHITAKER: Okay.

24 MS. COHEN: Okay. Let's -- let's go ahead
16:21:53 25 and take down this exhibit. I'll move on. Darrell, if you

1 could pull up AZSOS-102956, please. It's also in the
2 Dropbox.

3 MR. WHITAKER: Okay. This one I do have a
4 copy of.

16:22:17 5 MS. COHEN: Great.

6 (The document was marked as Exhibit 118
7 for identification.)

8 BY MS. COHEN:

9 Q. So this is an email from Christy Hood at ADOT to
16:22:39 10 Yolanda Morales at SOS, to other folks, and copied to
11 Madelene Carbajal and Lisa Moore at ADOT as well; correct?

12 A. Correct.

13 Q. And looking at the email, Christy says: "Happy
14 Monday! I was able to confirm that the Secretary of State
16:23:02 15 has an existing AZ MVD Now account and MVRRS account. AZ
16 MVD Now user access is managed by the Secretary of State
17 account administrator."

18 Did I read at that right?

19 A. Yes.

16:23:19 20 Q. What is "AZ MVD Now"?

21 A. That is our customer portal. So it is a website
22 that -- in this case, it would be what the secretary of
23 state could access as a customer of MVD, and it would give
24 them services specific to them as a user.

16:23:43 25 Q. And what would the secretary of state be able to

1 access through AZ MVD Now?

2 A. It looks like in this they're specifically looking
3 at what we call the "Application Viewer," which is a
4 special service we provide to the secretary of state that
5 allows them to look up what the actual scanned paper
6 application of an applicant for a credential looks like so
7 they could see what exactly was marked on the application
8 of "Do you wish to register to vote or update your address
9 or update your information with the secretary of state?"

10 So they can actually read that by using this site.

11 Q. And the MVRRS account referenced in the same
12 sentence is the system we were just speaking about with the
13 previous document; correct?

14 A. That's correct.

15 Q. What other counties that you know of have access
16 to -- other than Pima, to the MVRRS directly?

17 MR. WHITAKER: I'll just quickly interject.
18 I think this is also outside the scope of the 30(b)(6)
19 topics, but the witness is free to answer.

20 THE WITNESS: I believe most counties have
21 access to it, but I would have to check to make sure.

22 BY MS. COHEN:

23 Q. Is that a tool that counties use or can use to
24 access citizenship information or authorized presence
25 information?

1 A. The -- I don't believe that the driver license
2 record has anything about citizenship information on it.
3 It would have things like address or current license
4 status, the license number, things more broadly about it --
16:25:49 5 I believe verification of age and residential address and
6 location.

7 Q. Thank you.

8 MS. COHEN: We can take this one down.
9 Darrell, could you pull up AZSOS-017979. We're going to
16:26:21 10 mark this as Exhibit 119, please.

11 This was in the Dropbox, so hopefully you
12 have a paper copy.

13 (The document was marked as Exhibit 119
14 for identification.)

15 BY MS. COHEN:

16 Q. And this is a 2022 -- sorry -- March 30th, 2022,
17 email from Yolanda Morales at the Secretary of State's
18 Office to Russ Smith and some other folks at the Secretary
19 of State's Office; correct?

16:27:03 20 A. Yes. That's what it appears to be.

21 Q. Okay. And what I want to do is -- if we can go to
22 the second -- I'm sorry -- the first paragraph, the third
23 sentence starting "The reason why." I'm not going to
24 mention the person's name, but "The reason why" this person
16:27:24 25 voter "is not able to use ServiceArizona is because his

1 'Authorized Presence Value' with MVD is Resident/Permanent
2 Alien, 'Green Card' holder. He should be advised to make
3 an appointment with MVD to update his citizenship status.
4 He is currently registered with Maricopa and provided DPOC
16:27:55 5 in 2018. Until MVD has proof of citizenship on file he
6 will not be able to use SAZ."

7 Just to clarify, "DPOC," to your
8 understanding, would be documentary proof of citizenship;
9 correct?

16:28:10 10 A. Yes.

11 Q. And "SAZ" is ServiceArizona?

12 A. Correct.

13 Q. So this is an example of a citizen whose
14 information in MVD is still resident/permanent alien;
16:28:27 15 correct?

16 A. It would appear so, yes.

17 MR. WHITAKER: Again I'll interject. I think
18 this is beyond the scope of the 30(b)(6) topics, but I'm
19 not instructing the witness not to answer.

16:28:36 20 BY MS. COHEN:

21 Q. How frequently do you think this situation of a
22 citizen whose information is out of date as to their status
23 in MVD occurs?

24 MR. MORGAN: Form.

16:28:55 25 MR. WHITAKER: Foundation also.

1 THE WITNESS: We really would have no way of
2 knowing that.

3 BY MS. COHEN:

16:29:08

4 Q. I want to take you to the next paragraph, last
5 sentence. This says: "As we get closer to the Primary and
6 General election this type of situation will be a daily
7 occurrence requiring the use of Swagger and MVD tools to
8 figure out the situation."

9 Do you see where it says that?

16:29:26

10 A. Yes.

11 Q. Is it your understanding that the Secretary of
12 State's Office personnel here, Ms. Morales, was indicating
13 that this type of out-of-date information would be a daily
14 occurrence?

16:29:45

15 MR. WHITAKER: Same objection about --

16 MR. MORGAN: Object to form, foundation.

17 MR. WHITAKER: Same objection to the 30(b)(6)
18 scope and foundation.

19 BY MS. COHEN:

16:29:58

20 Q. You can answer.

21 A. To be honest, I'm not sure what exactly she's
22 referring to because she also refers to a link being out of
23 date. And so I'm not -- I'm not sure which -- which
24 concern she has. So I don't know.

16:30:18

25 Q. Okay. But just to clarify, this is a person who

1 provided documentary proof of citizenship in 2018, and this
2 email is dated 2022; correct?

3 MR. MORGAN: Asked and answered.

4 THE WITNESS: That's what I'm reading.

16:30:38 5 BY MS. COHEN:

6 Q. I'm sorry, I didn't hear the response.

7 A. That's what I'm reading here as well.

8 Q. And it says there: "He should be advised to make
9 an appointment with MVD to update his citizenship status."

16:30:50 10 Would you agree with that advice?

11 MR. MORGAN: Object to form.

12 MR. WHITAKER: Outside the scope.

13 THE WITNESS: So the -- the only way you can
14 use ServiceArizona to do that, to register online, is to

16:31:04 15 have the correct authorized presence status, either a 1 or
16 a 4 with us. So if he wants to register using

17 ServiceArizona, he would have to get a new license that now
18 uses the new citizenship status and he'd have to prove

19 that. That's the only way he'll be able to use that. That
16:31:27 20 is a correct interpretation of why it was not working.

21 BY MS. COHEN:

22 Q. And that's an in-person appointment; correct?

23 A. Yes. That would need to be to be done in person,
24 meaning providing --

16:31:43 25 Q. He would have to bring -- I'm sorry.

1 A. Sorry. Meaning providing the documentation and
2 getting a new license, that is an in-person, yes.

3 Q. And he would have to bring his documentary proof
4 of citizenship to that appointment; right?

16:31:56 5 A. Correct. Correct.

6 MS. COHEN: I'm just going to take a minute
7 to check my notes. Let's take five minutes. Go off the
8 record, please.

9 (A recess ensued.)

16:38:38 10 MR. WHITAKER: Michelle, Eric -- the witness
11 got an answer from a question that he couldn't answer in
12 Ernest's questioning. If you don't have more questions, I
13 was thinking of returning to that to try to supplement the
14 record, but I leave that to your judgment.

16:39:04 15 MS. COHEN: That's fine. I don't have more
16 questions, so we can return to that.

17 MR. WHITAKER: Okay. I believe the --

18 MR. LANGHOFER: Before we --

19 MR. WHITAKER: Sorry. Kory?

16:39:15 20 MR. LANGHOFER: This is Kory for the RNC. I
21 want to -- I think this has been the third break we've
22 taken in the last hour. I think this has been the third
23 break we've taken in the last hour, and we're rounding
24 third on eight hours of, you know, clock time. That's not
16:39:38 25 all questioning time. And I appreciate people need time to

1 questioning figure out their questions and such, but I
2 don't think by taking serial breaks it's okay to sort of
3 extend almost indefinitely the seven-hour clock here. So
4 we're not going to make a motion right now, but it's been
16:39:53 5 kind of a running issue at these depositions. I want to mention
6 it so we're aware of it going forward.

7 MS. COHEN: I think it is important for us to
8 be able to, you know, streamline here and actually in the
9 end conserve our witnesses' time and our co-counsel. So I
16:40:12 10 think we're endeavoring to coordinate and make sure that --
11 that we're doing that.

12 MR. LANGHOFER: Our position is that it's
13 certainly not conserving co-counsel's time; right? Like,
14 we're all sitting here waiting on these breaks; seems like
16:40:26 15 every ten minutes we take another break. And your position
16 is, of course, it doesn't come out of the witness's time,
17 but I don't think that by potentially shifting what should
18 have been depo prep time to break time in the middle of a
19 deposition that's an appropriate use of the seven-hour
16:40:41 20 allotment. So we don't need to draw swords about this.
21 I'm just -- I mentioned the issue, and I've sort of said my
22 piece. We'll see what happens in the future.

23 MR. MORGAN: Well -- this is Craig Morgan for
24 the secretary of state. I tend to appreciate -- I
16:40:53 25 appreciate Mr. Langhofer's point, and I do think it's

1 something that I'm going to ask everyone to think about and
2 address before my client's representative is deposed
3 because I am not okay with the way time has been running
4 today.

16:41:13

5 MR. WHITAKER: Thank you both.

6 So I believe Ernest's question was about a --
7 was it Exhibit 112, ADOT001464, about what "active" meant;
8 is that right?

9 THE WITNESS: Correct.

16:41:34

10 MR. WHITAKER: So go ahead, Eric, with what
11 you've learned since.

12 THE WITNESS: So it is just confirming what I
13 said before. When it says "active," it doesn't necessarily
14 mean it means an active record with us. So it can be an
15 expired or canceled or revoked or suspended state. So
16 it's -- it's not necessarily that the credential itself has
17 to be totally pristine. It's just that -- that the record
18 is active with us.

16:41:47

19 MR. HERRERA: Understood. No follow-up
20 there.

16:42:07

21 MR. WHITAKER: Okay. Who's next for
22 questioning? Is there another plaintiffs' counsel?

23 MS. BRAILEY: Yes.

24 EXAMINATION

16:42:13

25 BY MS. BRAILEY:

1 Q. Hi, Mr. Jorgensen. I'm Emily Brailey. I
2 represent the United States here. I have only a few
3 follow-up questions for you.

4 If we could go back to Exhibit 111, which I
16:42:28 5 believe was ADOT 1400. And if you could go to 1406, which
6 is the page that has the "API" and ends in "returns a list
7 of customers." Are you with me?

8 A. Yes.

9 Q. Great. So you mentioned that it is possible under
16:42:54 10 one circumstance for a customer to have two customer IDs.
11 And I'm wondering what does that look like if you look that
12 customer up in -- using this API, would you have a result
13 of both customer IDs or what would that look like?

14 A. So it would depend on how you look the customer
16:43:18 15 up. If you go by customer number, then yes, it would
16 return -- it would be -- you would be able to see both IDs.
17 If you look it up by the ID number, then you'd only see the
18 ID that was -- that you had queried on.

19 Q. Got it.

16:43:37 20 And so you mentioned there's a circumstance
21 where one customer could have multiple IDs. Is there --
22 has there ever been a situation where -- where two
23 customers can have the same ID or multiple customers can
24 have the same ID?

16:43:55 25 A. There should never be a scenario where multiple

1 customers have the same ID.

2 Q. And to the extent you know the answer to this, if
3 we're talking about driver license numbers and not customer
4 IDs -- I'm wondering about the scenarios with driver
16:44:13 5 license numbers. Has there ever been a situation where
6 multiple customers could be given the same driver license
7 number?

8 A. The system is set up to prevent that. So there
9 should not be a case where multiple customers have the same
16:44:29 10 DL or ID number generally.

11 Q. I see. Okay. So back to the scenario when we're
12 looking people up using the API. And if there are multiple
13 records that are produced as a result of the query, how
14 would -- I guess, does ADOT have a procedure in place
16:44:52 15 that -- to determine whether these are the same individuals
16 or different individuals if the information you put into
17 the query comes back with multiple hits?

18 A. So if they have different customer ID number -- or
19 customer number IDs, then the system considers them to be a
16:45:13 20 different individual. So that's -- that's how we identify
21 what we believe to be a unique individual.

22 Q. So there would never be a situation where in the
23 hierarchy, for example, you don't have customer ID, you
24 don't have -- you know, you're going down the hierarchy and
16:45:35 25 you're down to maybe the name and birth date, or, you know,

1 one of the names and the birth date or something, in -- in
2 that situation when -- if you have a hit, is it possible
3 for those hits not to be associated with customer IDs?

16:45:57 4 A. So every record that we have will return a
5 customer ID. So each one, you'll be able to see it. That
6 will be able to tell you whether or not we believe that's a
7 separate individual or the same person.

8 Q. Okay. Got it.

16:46:15 9 And I noticed in the request there are six --
10 six criteria that you can use to find a record. Do you
11 know why those were the six criteria chosen to be able to
12 identify records in MAX?

13 A. That would have been done in consultation with the
14 secretary of state to say what -- what would be a viable
16:46:37 15 search methodology.

16 MR. WHITAKER: And I will note that question,
17 I think, is outside the scope of the 30(b)(6) topics, but
18 the witness can and has answered it.

19 BY MS. BRAILEY:

16:46:53 20 Q. Do you know when that consultation would have
21 happened?

22 A. So these -- these APIs, as they exist today, were
23 created in 2020. And I -- as I've said before, I don't
24 know what the prior ones looked like. And so I imagine
16:47:12 25 that they're built off of those prior ones. I can't tell

1 you exactly when that consultation would have occurred.

2 Q. Got it.

3 So just so that I'm clear, it would have been
4 some kind of communication with the secretary and the
16:47:24 5 secretary would have said something to the effect of these
6 are the types of criteria that would be the best to be able
7 to identify a record in the system. Is that my
8 understanding of how this would have happened?

9 A. Typically, we would work it by saying here's the
16:47:43 10 information that we have and here's the information that
11 you have and let's work together to see what would work for
12 a match.

13 Q. Got it.

14 And you told us multiple times that other
16:47:55 15 than the two files that are indicated -- excerpt files, I
16 guess, indicated in this exhibit, there are no other
17 programming changes as a result of HB 2492 or 2243. So
18 does that also mean that there are no programmatic updates
19 coming to the types of information that would be requested?
16:48:19 20 Like, you're not going to add, for example, place of birth
21 as a criteria?

22 A. Well, correct. We don't have any other
23 discussion. Place of birth isn't something that we store,
24 so we would never have that as a criteria.

16:48:34 25 Q. Got it. That's helpful.

1 Okay. So just a couple really, really small
2 questions. So MAX, if -- if my understanding is correct,
3 it's behind tons and tons of other portals. So is it -- so
4 it's also behind ServiceArizona?

16:48:54

5 A. Correct.

6 Q. Okay. So any information that's in ServiceArizona
7 would be -- strike that. I'm going to move on.

16:49:20

8 Okay. And you spoke a little bit about the
9 kind of information that the counties have access to with
10 MVRRS. Other than MVRRS and other than information that
11 comes in the purely PDF type of record, is there any other
12 data that counties have access to from ADOT?

13 MR. WHITAKER: Outside the scope. The
14 witness is free to answer if he has knowledge.

16:49:41

15 THE WITNESS: I'm not aware of anything else
16 that's a direct connect to us.

17 BY MS. BRAILEY:

18 Q. What information is shared between other states
19 and ADOT?

16:49:56

20 MR. WHITAKER: Same objection.

21 THE WITNESS: For -- can you clarify that?
22 I'm not sure what you mean by . . .

23 BY MS. BRAILEY:

24 Q. Yes.

16:50:07

25 So my understanding from what you said today

1 is there's an interaction between ADOT and other states
2 through maybe ERIC and -- is that correct?

3 A. That's correct. We do participate in the ERIC
4 program.

16:50:22 5 Q. Okay. And so if we go to -- I believe what has
6 been marked as Exhibit -- I believe this was 115. It's the
7 exhibit that begins with AZSOS-255142. And if you go to
8 the page that ends in AZSOS-255143.

9 Do you have that in front of you?

16:50:56 10 A. Yes.

11 Q. And so there's a message on here that says "3 days
12 ago they asked, 'Could you please provide me with the
13 contact information for the following states?'" And then
14 there are three state names. Do you see that --

16:51:11 15 A. Yes.

16 Q. -- on the page?

17 What is that in reference to?

18 MR. WHITAKER: Again, outside the scope.

19 He's free to answer if he has knowledge.

16:51:21 20 THE WITNESS: I don't know. That wasn't
21 between any of us.

22 BY MS. BRAILEY:

23 Q. Got it.

24 Do you have any idea, to the extent of your
16:51:30 25 experience and your knowledge, whether there would be, I

1 guess, any other information shared between states and ADOT
2 that is not related to ERIC?

3 MR. WHITAKER: Same objection.

4 THE WITNESS: Could you clarify what you mean
16:51:44 5 by -- states share a lot of information for all of the
6 driver license and vehicle services that we do. I'm not
7 sure what you're referring to.

8 BY MS. BRAILEY:

9 Q. I guess I'm just wondering if there's any kind of
16:52:01 10 system or portal or way that states are sending
11 identification information on individuals who, you know,
12 maybe they had an Arizona license and they canceled it in
13 that state or whatnot, if there's just an interchange of
14 information that's outside of ERIC between other states'
16:52:23 15 departments of transportation and ADOT.

16 A. Sure. Yes, there are -- there are a couple
17 systems that we use that help us know where a license is
18 and that can be used to electronically provide us with a,
19 you know, notification that -- that they have now
16:52:40 20 registered a license in another state. Not all states
21 participate in those systems, but there is some ability to
22 do that.

23 Q. And -- and so whatever information you would get
24 from those states, I guess, would that be part of MAX?

16:52:58 25 A. So if we get a record through, for example, the

1 State-to-State system to say, "Hey, I've now moved" --
2 that's the official name of the -- of that program is
3 State-to-State -- "I've now moved to New Mexico, and I've
4 gotten a New Mexico license," and they send us a
16:53:17 5 State-to-State message, yes, then we would cancel it in MAX
6 and that would become part of the record of MAX.

7 Q. That's helpful.

8 MS. BRAILEY: Okay. Those are the -- and
9 that is end of my questioning. Thank you so much,
16:53:39 10 Mr. Jorgensen.

11 And I will pass this along to anybody else,
12 if there is somebody else.

13 MR. WHITAKER: This is -- this is Josh. I
14 don't plan to ask any questions. So I guess I'll ask
16:53:53 15 whether -- I take it that no other plaintiff wants to ask
16 questions. Does anyone on the defense side want to ask
17 questions to ADOT's 30(b)(6) witness?

18 MR. WOODFIN: I have a few, if you don't
19 mind.

16:54:09 20 MR. WHITAKER: Well, my preferences aren't
21 what governs here. Go ahead.

22 MR. WOODFIN: Thank you.

23

24 EXAMINATION

16:54:11 25 BY MR. WOODFIN:

1 Q. Mr. Jorgensen, can you hear me okay?

2 A. Yes, I can.

3 Q. Okay. My name is Conor Woodfin. I represent the
4 Republican National Committee. And this should only take a
16:54:27 5 few minutes.

6 Let's start with the MAX system. Earlier

7 this morning, Mr. Herrera asked you whether you do any

8 audits of the MAX databases. And if you recall, you

9 mentioned you do weekly sampling. What do you check for

10 during that sampling process?

11 A. So that would be a review to make sure that we go

12 back through whatever was provided by the applicant and

13 make sure that all of that matches what was entered into

14 the system and that it was all done correctly and then the

15 product itself, whether driver's license or whatever, was

16 issued properly.

17 Q. Do you find errors when you do that process?

18 A. Yes, there are errors that we will find in that

19 process.

20 Q. Do you have any idea what the error rate is?

21 A. Right now, it runs -- we -- the error rate runs in

22 the high 80s -- well, the correct rate runs in the high

23 80s, so . . .

24 Q. Can you explain what that means?

25 A. 80 percent -- high 80 percent, so 85 to 89 percent

1 range is where we're typically at with the driver's license
2 error rate.

3 Q. Does -- does that mean that of the sample that you
4 pulled, 80 percent of those within the sample are errors?

16:55:52

5 A. Are error-free.

6 Q. Are error-free. Thank you.

7 And then I assume you correct the errors?

8 A. Correct.

16:56:03

9 Q. Would you characterize the databases in the MAX
10 system as accurate?

11 MR. WHITAKER: Objection. Overbroad.

12 THE WITNESS: When we -- when we look at the
13 MAX system itself and the errors, typically the types of
14 errors that we find is that something wasn't properly

16:56:20

15 scanned in or something along those lines. Typically, it's
16 not something that would be -- that -- that would
17 invalidate the data that is in the system. Largely, yes,
18 the system is accurate.

19 BY MR. WOODFIN:

16:56:35

20 Q. Is the MAX system more accurate than the legacy
21 system?

22 A. I would say that the MAX system has more checks
23 and balances into it, making it harder to do certain
24 errors. It's certainly -- certainly makes it harder to

16:56:58

25 enter. The old system was fairly free-form in the way that

1 you would enter it. So there was a lot more in the way of
2 typos and those kind of things that could occur in the old
3 system, which would lead the new system to be more accurate
4 from that respect.

16:57:17 5 Q. Is the customer extract data that you provide to
6 the secretary of state accurate?

7 A. It is an accurate reflection of what we have in
8 the system.

16:57:31 9 Q. Do you know of any practical steps you could take
10 to make that extract data more accurate?

11 A. No.

12 Q. No. So then are you confident that the data you
13 share with the secretary of state is as reasonably accurate
14 as possible?

16:57:46 15 A. It is --

16 MR. WHITAKER: I'm going to object.

17 Ambiguous. Go ahead.

18 THE WITNESS: It is -- again, like I said,
19 it's an accurate reflection of whatever is in the database.

16:57:56 20 Yes, I am very confident that it accurately reflects what
21 we have recorded.

22 BY MR. WOODFIN:

23 Q. Do you know when Arizona began requiring
24 documentary proof of citizenship to obtain a driver's
16:58:09 25 license?

1 MR. WHITAKER: Objection outside the scope,
2 and I think calls for a legal conclusion.

3 MR. HERRERA: Objection. Misstates the
4 testimony, I think, too.

16:58:17 5 BY MR. WOODFIN:

6 Q. I'll ask it this way: Do you know when ADOT began
7 requiring documentary proof of citizenship?

8 MR. WHITAKER: Same objection.

9 MR. HERRERA: Same objection. Misstates the
16:58:26 10 testimony.

11 THE WITNESS: I -- I do not offhand know when
12 that happened.

13 BY MR. WOODFIN:

14 Q. Does ADOT have access to any database that
16:58:38 15 contains a record of every United States citizen?

16 MR. MORGAN: Form.

17 MR. WHITAKER: And outside the scope.

18 THE WITNESS: I'm not aware of a database
19 that contains every United States citizen.

16:58:56 20 BY MR. WOODFIN:

21 Q. Not aware of any database?

22 A. No.

23 Q. If someone is unable to show authorized presence
24 documents, would you conclude that that person is not a
16:59:08 25 U.S. citizen?

1 MR. WHITAKER: Objection. Incomplete
2 hypothetical.

3 THE WITNESS: If a person doesn't show
4 authorized presence documentation, then we would not issue
16:59:22 5 a license for them. So we would -- based on the fact that
6 you have to provide documentation to get a license. I'm
7 not sure if that answers your question.

8 BY MR. WOODFIN:

9 Q. Maybe a different way of asking this is do you
16:59:37 10 have access to any other information that would
11 affirmatively prove that someone who is unable to provide
12 authorized presence documents is not a U.S. citizen?

13 MR. MORGAN: Form.

14 MR. WHITAKER: Join.

16:59:52 15 MR. MORGAN: And vague as to what "any other
16 information" means.

17 THE WITNESS: Yeah. I'm not sure I
18 understand the question.

19 BY MR. WOODFIN:

16:59:59 20 Q. All right. I'll try one more time, and then we
21 can move on.

22 Other than the absence of evidence that
23 someone is a U.S. citizen, what other information do you
24 have within the databases that would show that someone is
17:00:15 25 not a U.S. citizen?

1 MR. MORGAN: Form. Vague as to

2 "information."

3 THE WITNESS: So I'll put it this way: From

4 our perspective, what is important is that the customer

17:00:31 5 provide proof that they are. And outside of that, we --

6 there's nothing else that we do other than receive the

7 documentation from the customer and validate it. That's

8 the only thing that we do.

9 MR. WOODFIN: Okay. That's all I have.

17:00:45 10 Thank you.

11 MR. WHITAKER: Okay. I think that is

12 everyone, but I'll -- I'll give one last chance. It's

13 5:00 p.m. on a Friday. Anyone want to extend their Friday

14 longer?

17:00:58 15 MR. HERRERA: No questions from Promise

16 Arizona.

17 MR. MORGAN: Nothing from me other than

18 thanks a lot for being patient and considerate in all of

19 your time today. Really appreciate it.

17:01:18 20 MR. WHITAKER: Thank you very much.

21 We will read and sign.

22 MR. HERRERA: Before we close the record,

23 plaintiffs just wanted to -- I think we can go off the

24 record for this.

17:01:27 25 THE COURT REPORTER: Can I get any defense

1 orders, if you'd like a copy?

2 MR. WHITAKER: We would like a copy.

3 MR. WOODFIN: We would like a copy as well.

4 (The proceedings concluded at 5:01 p.m.)

5

6

ERIC RUSSELL JORGENSEN

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2

3 BE IT KNOWN that the foregoing deposition was taken
4 by me pursuant to stipulation of counsel; that I was then
5 and there a Certified Court Reporter in the State of
6 Arizona, and by virtue hereof authorized to administer an
7 oath; that the witness before testifying was duly sworn by
8 me to testify to the whole truth; pursuant to request,
9 notification was provided that the deposition is available
10 for review and signature; that the questions propounded by
11 counsel and the answers of the witness thereto were taken
12 down by me in shorthand and thereafter transcribed into
13 typewriting under my direction; that the foregoing pages
14 are a full, true and accurate transcript of all the
15 proceedings had upon the taking of deposition, all done to
16 the best of my skill and ability.

17 I FURTHER CERTIFY that I am in no way related
18 to nor employed by any parties hereto; nor am I in any
19 way interested in the outcome thereof.


20 Dated at Phoenix, Arizona, this 28th day of
21 August, 2023.

22

23

24

25


CINDY MAHONEY, RPR, RMR NO. 50680

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UNITED STATES DISTRICT COURT
DISTRICT OF ARIZONA

Mi Familia Vota, et al.,)	
)	Case No:
Plaintiffs,	)	2:22-cv-00509-SRB
	)	(Lead)
vs.)	
	)	CV-22-00519-PHX-SRB
Adrian Fontes, in his official	)	CV-22-01003-PHX-SRB
capacity as Arizona Secretary of	)	CV-22-01124-PHX-SRB
State, et al.,	)	CV-22-01369-PHX-SRB
	)	CV-22-01381-PHX-SRB
Defendants.	)	CV-22-01602-PHX-SRB
	)	CV-22-01901-PHX-SRB
_____)	
AND CONSOLIDATED CASES.)	
_____)	

DEPOSITION OF COCHISE COUNTY RECORDER
REPRESENTED BY DAVID W. STEVENS
VIDEOTAPED

Bisbee, Arizona
August 14, 2023

Reported by:
Jody L. Lenschow, RMR, CRR
Certified Court Reporter
Certification No. 50192



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1 VIDEOTAPED DEPOSITION OF COCHISE COUNTY RECORDER
 2 REPRESENTED BY DAVID W. STEVENS
 3 was taken on August 14, 2023, commencing at 9:35 a.m.,
 4 at the offices of the Cochise County Recorder,
 5 1416 Melody Lane, Bisbee, Arizona, before Jody L.
 6 Lenschow, RMR, CRR, Certified Reporter No. 50192 for the
 7 State of Arizona, reported via Zoom Videoconferencing.

8 * * *

9
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24 Mr. Jimmie Sullivan, Videographer
25 Mr. Daxon Ernyei, RNC

09:32:11 1 THE VIDEOGRAPHER: Okay. We are on the
09:32:12 2 record. Time on the video monitor is 9:32. Here begins
09:32:21 3 Volume 1, Media No. 1 in the deposition of 30(b)(6)
09:32:28 4 Defendant Cochise County Recorder David W. Stevens in
09:32:34 5 the matter of Mi Familia Vota, et al. versus Adrian
09:32:40 6 Fontes in the United States District Court, District of
09:32:45 7 Arizona, Case No. 2:22-cv-00509-SRB. Today's date is
09:33:02 8 August 14th, 2023. Our court reporter is Jody Lenschow.
09:33:08 9 I am Jimmie Sullivan, a certified legal videographer.
09:33:13 10 We both represent Coash Reporting & Video. The
09:33:19 11 deposition is taking place at 1415 Melody Lane, Bisbee,
09:33:27 12 Arizona. And, Counsels, would you please identify
09:33:30 13 yourselves.

09:33:32 14 MR. SHERMAN: Jon Sherman at Fair
09:33:35 15 Elections Center. I'm representing the Poder Latinx
09:33:39 16 plaintiffs.

09:33:40 17 MR. CORREA: I am Paul Correa for the
09:33:42 18 Cochise County Attorney. I'm representing our County
09:33:45 19 Recorder, David Stevens.

09:33:51 20 THE VIDEOGRAPHER: Is that everyone?

09:33:52 21 MS. DIBRELL: This is Mollie DiBrell from
09:33:55 22 Elias Law Group on behalf of Plaintiffs Mi Familia Vota
09:33:58 23 and Voto Latino.

09:34:00 24 MS. BRAILEY: Emily Brailey on behalf of
09:34:01 25 the United States.

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MS. CERVANTEZ: Erika Cervantez
representing Promise Arizona Plaintiffs.
MS. RILEY-SWANBECK: Britany
Riley-Swanbeck from Wilmer Hale representing the
Democratic National Committee and the Arizona Democratic
Party.
MR. JOHNSON: Hayden Johnson for the LUCHA
plaintiffs.
MR. HORLEY: Tim Horley for the State of
Arizona and the Arizona Attorney General.
MR. LANGHOFER: Kory Langhofer for the
RNC.
MS. PORTER: Hannah Porter for Intervenor
Speaker Toma and President Petersen.
MS. STUART: Shayna Stuart for the Arizona
Secretary of State, Adrian Fontes.
THE VIDEOGRAPHER: Is that everyone?
All right. Would the court reporter
please swear in the witness.
DAVID W. STEVENS,
called as a witness herein, having been first duly sworn
by the Certified Court Reporter to speak the truth and
nothing but the truth, was examined and testified as
follows:

09:35:10 1 THE VIDEOGRAPHER: And you may proceed.

09:35:10 2

09:35:13 3 EXAMINATION

09:35:13 4 BY MR. SHERMAN:

09:35:14 5 Q. Thank you. Good morning, Mr. Stevens. Thanks
09:35:17 6 for making time for this deposition today. My name is
09:35:20 7 Jon Sherman. I'm with Fair Elections Center. I
09:35:23 8 represent the Poder Latinx plaintiffs in this
09:35:27 9 consolidated litigation.

09:35:29 10 Could you please state your full name for the
09:35:33 11 record?

09:35:34 12 A. Sure. David Wayne Stevens, Cochise County
09:35:37 13 Recorder.

09:35:38 14 Q. And how long have you been the County Recorder
09:35:41 15 in Cochise County?

09:35:42 16 A. Six and a half years, roughly.

09:35:44 17 Q. And are you represented by an attorney today?

09:35:47 18 A. I am.

09:35:47 19 Q. And who is that?

09:35:49 20 A. Paul Correa.

09:35:51 21 Q. For today's deposition I want to make sure the
09:35:54 22 record is clear on a couple of points.

09:35:56 23 Do you understand you are testifying under oath
09:35:58 24 today?

09:35:58 25 A. I do.

09:35:59 1 Q. Do you understand a court reporter is
09:36:02 2 transcribing this deposition?

09:36:03 3 A. I do.

09:36:05 4 Q. With that in mind I'd ask, you know, please
09:36:08 5 answer questions audibly and clearly. Please let me
09:36:11 6 know if you do not understand a question or need me to
09:36:13 7 repeat any part of it. If I ask a question and you
09:36:16 8 answer the question, I will assume that you understood
09:36:18 9 the question. If you do not understand a question,
09:36:22 10 however, please tell me so. Do you understand?

09:36:24 11 A. Yes.

09:36:25 12 Q. Great.

09:36:26 13 During this deposition attorneys may make same
09:36:29 14 objections. Even if they make objections, unless your
09:36:31 15 attorney specifically instructs you not to answer the
09:36:33 16 question, you must still answer the question. Do you
09:36:37 17 understand?

09:36:37 18 A. Okay.

09:36:39 19 Q. Any reason you can't testify truthfully today?

09:36:43 20 A. No.

09:36:44 21 Q. Is there any reason that you can't give full,
09:36:46 22 complete and accurate testimony today?

09:36:48 23 A. No.

09:36:49 24 Q. Are you on any medications or experiencing any
09:36:52 25 condition that would prevent you from giving full and

09:36:54 1 truthful testimony today?

09:36:56 2 A. No.

09:36:57 3 Q. If at any time you need to take a break, just
09:37:00 4 please let me know. The only thing I ask is, if I've
09:37:03 5 already asked a question that's pending, that you finish
09:37:06 6 answering that question before asking to take a break.

09:37:10 7 Do you understand?

09:37:10 8 A. I do.

09:37:13 9 Q. Great.

09:37:14 10 Have you ever been deposed before?

09:37:15 11 A. No.

09:37:16 12 Q. For today's deposition you are physically
09:37:19 13 located in the County Recorder's Office in Bisbee?

09:37:22 14 A. Yes.

09:37:25 15 Q. Great.

09:37:25 16 And who else is in the room with you?

09:37:27 17 A. My attorney, Paul Correa.

09:37:28 18 Q. Anyone else?

09:37:30 19 A. No.

09:37:32 20 Q. Did you bring any materials with you to the
09:37:34 21 deposition?

09:37:35 22 A. Well, I'm in my office, so yes.

09:37:40 23 Q. Do you have any of the exhibits before you?

09:37:45 24 A. We have them all.

09:37:46 25 Q. Okay, great.

09:37:52 1 I'll be referring to some of the previously
09:37:54 2 marked exhibits, not too many of those, and then we have
09:37:56 3 the six potential deposition exhibits in the Cochise
09:38:01 4 County Recorder folder, but sounds like you have those
09:38:05 5 in front of you.

09:38:06 6 Do you have any other documents in front of you
09:38:08 7 beyond the exhibits?

09:38:12 8 A. I've got some printouts of some notes, a blank
09:38:18 9 voter registration form.

09:38:18 10 Q. Okay. All right. Thanks very much.

09:38:21 11 So I want to direct your attention just to the
09:38:24 12 first exhibit in the folder, which was marked as
09:38:27 13 Exhibit A.

09:38:34 14 A. Coming my way.

09:38:36 15 Oh, okay.

09:38:37 16 Q. And what is this document?

09:38:40 17 A. It looks like it's the lawsuit, 00509.

09:38:46 18 Q. And if you scroll down to the -- or if you look
09:38:48 19 down to the title, what is the title of this document?

09:38:54 20 A. This here?

09:38:55 21 Plaintiffs' Second Amended Notice of Deposition
09:38:59 22 of Cochise County Recorder's Office Pursuant to Rule
09:39:01 23 30(b)(6).

09:39:03 24 Q. Great. Thank you.

09:39:07 25 And you've seen this before today?

09:39:08 1 A. I believe I have, yes.

09:39:09 2 Q. Could we mark this as Exhibit 120? I believe
09:39:13 3 that's the next number.

09:39:14 4 Great.

09:39:18 5 Do you understand you have been designated as a
09:39:20 6 representative to testify on behalf of the Cochise
09:39:23 7 County Recorder's Office, not in your individual
09:39:25 8 capacity?

09:39:25 9 A. Correct.

09:39:26 10 Q. Can we stipulate that whenever I say you or
09:39:29 11 your, that will be the equivalent of saying your office
09:39:32 12 or your offices?

09:39:35 13 A. Yes.

09:39:36 14 Q. Great.

09:39:37 15 Can we also stipulate that unless you specify
09:39:40 16 otherwise, your use of the words I or me shall refer to
09:39:44 17 the Cochise County Recorder's Office as a whole?

09:39:46 18 A. Yes.

09:39:48 19 Q. Great.

09:39:48 20 If you could just flip to the topics, which
09:39:53 21 begin at the bottom of Page 4 and run through Page 9.

09:40:03 22 A. Got it.

09:40:03 23 Q. Did you review this list of deposition topics
09:40:06 24 prior to this deposition?

09:40:08 25 A. I believe I have, yes.

09:40:11 1 Q. And are you prepared to address each of these
09:40:13 2 today?

09:40:14 3 A. I believe so.

09:40:15 4 Q. Great.

09:40:15 5 What did you do to prepare for today's
09:40:19 6 deposition?

09:40:23 7 A. Went through the lawsuits, printouts, went back
09:40:30 8 through the two bills in question, and looked for any
09:40:35 9 correspondence going back to when they became law.

09:40:40 10 Q. Did you meet with anyone from your office to
09:40:42 11 prepare for today's deposition?

09:40:45 12 A. Just my lawyer.

09:40:46 13 Q. Okay. Did you discuss today's deposition with
09:40:51 14 anyone else beyond your counsel?

09:40:54 15 A. Other than I have one, no.

09:41:01 16 Q. Okay. Did you review any documents to prepare
09:41:03 17 for this deposition beyond what you've already stated?

09:41:06 18 A. Not that I recall, no.

09:41:08 19 Q. Okay. And anything else you did to prepare?

09:41:14 20 A. I don't understand.

09:41:15 21 Q. Anything else beyond what you've discussed that
09:41:17 22 you did to prepare for today's deposition?

09:41:19 23 A. No, I don't believe so.

09:41:22 24 Q. Okay. If we could look at Exhibit B.

09:41:30 25 A. Oh, B. Okay.

09:41:31 1 Q. I think I've got these in order here.
09:41:34 2 And what is this document?
09:41:36 3 A. It is the Objections and Response to
09:41:38 4 Plaintiff's Requests for Production.
09:41:41 5 Q. And you prepared this response in consultation
09:41:44 6 with your lawyers; is that correct?
09:41:48 7 A. I did.
09:41:49 8 Q. And could we mark this as Exhibit 121?
09:41:58 9 Did review this document before today's
09:42:00 10 deposition?
09:42:01 11 A. When we created it, I did.
09:42:02 12 Q. Okay. But you didn't read it again for this
09:42:06 13 deposition, did you?
09:42:06 14 A. No.
09:42:08 15 Q. Okay. Do you want to take a quick look and
09:42:10 16 just see if -- do you have any updates to your responses
09:42:13 17 to this document, any responses for the Equity
09:42:20 18 Coalition's first request for production of documents?
09:42:23 19 A. I believe no, I have no updates.
09:42:26 20 Q. Okay. Then if we could take a look at
09:42:32 21 Exhibit C.
09:42:37 22 A. That would be the Cochise County Recorder's
09:42:40 23 Response to the Consolidated Plaintiff's First Request
09:42:42 24 for Production of Documents.
09:42:45 25 Q. Great. Thank you.

09:42:46 1 Could we mark this as Exhibit 122?

09:42:53 2 And did you create this document along with
09:42:56 3 your -- in consultation with your counsel?

09:42:58 4 A. Yes.

09:42:59 5 Q. And did you review it before today's
09:43:01 6 deposition?

09:43:02 7 A. No.

09:43:04 8 Q. Okay. Do you want to take a quick look and see
09:43:07 9 if you have any updates to your responses in this
09:43:10 10 document?

09:43:30 11 A. Yeah, there's just one to number 5.

09:43:34 12 Q. Okay. And what is that?

09:43:35 13 A. We don't use Google Codes. We have a process
09:43:39 14 with our IT department to determine nonstandard
09:43:43 15 addressing.

09:43:45 16 Q. Okay. Any other updates to your --

09:43:47 17 A. No.

09:43:47 18 Q. -- responses?

09:43:49 19 A. No.

09:43:51 20 Q. Okay. Other than those withheld for privilege
09:43:54 21 and listed on any privilege log, are you withholding any
09:43:57 22 responses or responsive documents on the basis of your
09:44:00 23 objections?

09:44:03 24 A. I don't believe so.

09:44:07 25 Q. Okay. Can we take a look at Exhibit D in the

09:44:17 1 folder.

09:44:17 2 A. That would be the -- my responses to
09:44:22 3 plaintiff's first set of interrogatories.

09:44:23 4 Q. Great.

09:44:24 5 Could we mark this document as Exhibit 123?

09:44:27 6 And you have seen this before, right; you
09:44:33 7 created this in consultation with your counsel; is that
09:44:36 8 correct?

09:44:36 9 A. Yes.

09:44:37 10 Q. And you verified this document at the time it
09:44:41 11 was -- you responded to these interrogatories?

09:44:45 12 A. I'm not sure what you mean by verified.

09:44:48 13 Q. You signed and -- you signed the verification
09:44:51 14 at the bottom, you approved them, correct?

09:44:53 15 A. Yes.

09:44:55 16 Q. Okay. Did you review these responses to the
09:45:01 17 Equity Coalition interrogatories before this deposition?

09:45:05 18 A. No.

09:45:06 19 Q. Okay. Do you want to take a quick look and see
09:45:08 20 if there's any updates to your responses?

09:45:15 21 A. I didn't see any. I was flipping through it.
09:45:21 22 I think I'm good.

09:45:23 23 Q. Okay. No updates? All right.

09:45:25 24 And, lastly, if we could look at Exhibit E,
09:45:32 25 what is this document?

09:45:35 1 A. My responses in the official capacity to first
09:45:38 2 set of interrogatories propounded consolidated
09:45:43 3 plaintiffs.

09:45:45 4 Q. Great.

09:45:45 5 Could we mark this as Exhibit 124?

09:45:49 6 And you approved this document, correct?

09:45:52 7 A. Yes.

09:45:53 8 Q. You created this in consultation with your
09:45:56 9 counsel?

09:45:56 10 A. Yes.

09:46:00 11 Q. And did you confer with anyone besides your
09:46:03 12 counsel in preparing this document?

09:46:10 13 A. I don't recall. I may have spoken to my chief
09:46:13 14 deputy, but I don't recall.

09:46:14 15 Q. Got it.

09:46:16 16 Did you review it before today's deposition?

09:46:18 17 A. No, not today, no.

09:46:20 18 Q. Okay. Any updates to your responses? If you
09:46:24 19 want, you can take a minute to look through.

09:46:26 20 A. No, I'm not aware of any updates on this one.

09:46:28 21 Q. Okay. All right, great. Thanks very much.

09:46:31 22 I want to pivot and ask you a couple questions
09:46:34 23 about the election procedures manual. Is the version of
09:46:40 24 the election procedures manual from 2019 still the
09:46:43 25 currently operative version of the EPM that your office

09:46:46 1 uses?

09:46:46 2 A. Yes, it is.

09:46:48 3 Q. Is your office legally required to follow the
09:46:51 4 election procedures manual?

09:46:54 5 MR. LANGHOFER: Form, calls for a legal
09:46:57 6 conclusion.

09:46:58 7 BY MR. SHERMAN:

09:46:58 8 Q. You can answer.

09:47:01 9 A. Along with statute and constitution, yes.

09:47:09 10 Q. Can I direct you to -- this is one of the
09:47:13 11 marked exhibits previously. It should be numbered 47,
09:47:21 12 Lerma 47.

09:47:22 13 A. We're getting it.

09:47:35 14 Q. If it helps to find it, this was previously
09:47:38 15 entered in the case. It's Document 127 from the case,
09:47:46 16 State's Consolidated Motion to Dismiss Plaintiffs'
09:47:49 17 Complaints Under Rules 12(B)(1) and (B)(6).

09:47:52 18 A. I've got it.

09:47:53 19 Q. Great.

09:47:55 20 If you could flip to Page 24, and that's
09:48:01 21 Page 24 at the bottom, not the blue pagination up top.

09:48:07 22 Oh, I apologize. That's incorrect. I did mean
09:48:10 23 the blue pagination at the top.

09:48:13 24 A. Oh, Page 24 at the top?

09:48:16 25 Q. Yeah, the blue pagination at the top, yeah, 24

09:48:18 1 of 46. I apologize.

09:48:20 2 And I'll just read what's in this bottom
09:48:23 3 paragraph that I'm looking at.

09:48:25 4 You see the paragraph beginning Line 19?

09:48:29 5 A. Yes.

09:48:30 6 Q. Okay. It says, "Mecinas v. Hobbs is not to the
09:48:33 7 contrary. There, the Ninth Circuit held that a claim
09:48:36 8 asserted solely against the Secretary was redressable
09:48:40 9 because the Secretary promulgates the election procedure
09:48:43 10 manual, which the County Recorders are bound to follow.
09:48:46 11 But unlike ballot order, registration procedures are not
09:48:49 12 a proper subject for the EPM, and their inclusion in
09:48:53 13 such would be improper and not bind the County
09:48:57 14 Recorders."

09:48:57 15 Do you see that statement?

09:48:58 16 A. I do.

09:49:00 17 Q. Does your office agree with the Former Attorney
09:49:04 18 General's position in this brief, that the EPM's
09:49:06 19 instructions on voter registration are merely
09:49:08 20 suggestions, but not legally binding?

09:49:10 21 MR. CORREA: Object to form.

09:49:10 22 MR. LANGHOFER: Object to form, calls for
09:49:10 23 a legal conclusion.

09:49:21 24 This is Kory Langhofer. This might be a
09:49:23 25 good time to clarify that we have a standing stipulation

09:49:27 1 that an objection by one defendant will be treated as an
09:49:29 2 objection by all so we're not repeating each others'
09:49:32 3 objections.

09:49:33 4 Jon, is that accurate?

09:49:34 5 MR. SHERMAN: That's accurate.

09:49:38 6 MR. CORREA: And feel free to jump in.

09:49:43 7 BY MR. SHERMAN:

09:49:43 8 Q. I could repeat the question, Mr. Stevens, if
09:49:46 9 you --

09:49:46 10 A. Yeah, I'm a little confused as to what's going
09:49:48 11 on, but this might --

09:49:50 12 Q. Okay. I'll repeat the question. The
09:49:52 13 objections I think have been noted.

09:49:53 14 Does your office agree with the Former Attorney
09:49:56 15 General's position that the EPM's instructions on voter
09:50:00 16 registration are merely suggestions, but not legally
09:50:03 17 binding?

09:50:06 18 A. I think you're asking for an opinion of my
09:50:09 19 point. But we have to follow the EPM as written.

09:50:13 20 Q. So are all parts of the EPM legally binding
09:50:16 21 on your office, including Chapter 1 on voter
09:50:20 22 registration?

09:50:20 23 MS. STUART: Form.

09:50:20 24 MR. LANGHOFER: Form.

09:50:22 25 THE WITNESS: Yes.

09:50:23 1 BY MR. SHERMAN:

09:50:24 2 Q. Great.

09:50:25 3 Can legally binding guidance be conveyed by the

09:50:28 4 Secretary of State's Office to your office by any other

09:50:31 5 means outside the EPM?

09:50:33 6 MR. LANGHOFER: Form, calls for a legal

09:50:37 7 conclusion.

09:50:37 8 THE WITNESS: I don't know.

09:50:39 9 BY MR. SHERMAN:

09:50:40 10 Q. So if a staff member at the Secretary of

09:50:44 11 State's Office were to send your office an e-mail, would

09:50:47 12 that be legally binding; would you be legally required

09:50:51 13 to follow the instructions in that e-mail?

09:50:53 14 MS. STUART: Form.

09:50:54 15 MR. LANGHOFER: Same objection.

09:50:57 16 THE WITNESS: I don't know.

09:51:00 17 BY MR. SHERMAN:

09:51:00 18 Q. Okay. Is that true for -- so you're unsure, as

09:51:03 19 the Cochise County Recorder, whether you're legally

09:51:06 20 required to follow instructions from the Secretary of

09:51:10 21 State's Office that come to you outside of the EPM?

09:51:14 22 MS. STUART: Form.

09:51:16 23 BY MR. SHERMAN:

09:51:16 24 Q. Is that correct?

09:51:18 25 A. I don't know.

09:51:21 1 Q. Okay. Are you aware of any other counties that
09:51:29 2 are un -- any other County Recorders that are unsure
09:51:31 3 whether they need to follow instructions that are given
09:51:35 4 to them by the Secretary of State's Office outside of
09:51:38 5 the EPM?

09:51:39 6 MR. LANGHOFER: Form.

09:51:41 7 THE WITNESS: I'm unaware what other
09:51:45 8 counties do.

09:51:45 9 BY MR. SHERMAN:

09:51:46 10 Q. Okay. Are you aware of any counties that do
09:51:47 11 not believe Chapter 1 on voter registration procedures
09:51:50 12 is legally binding?

09:51:51 13 MR. LANGHOFER: Form.

09:51:53 14 THE WITNESS: No.

09:51:54 15 BY MR. SHERMAN:

09:51:56 16 Q. Okay. All right. So pivoting to the two
09:52:02 17 challenged laws in this case, are you currently
09:52:04 18 enforcing any part of H.B. 2492?

09:52:14 19 And when I refer to H.B. 2492, I mean, of
09:52:17 20 course, the chaptered version that was enacted and
09:52:19 21 signed.

09:52:24 22 And for your reference, yeah, as I ask
09:52:26 23 questions about them, these are Petty Exhibits 19 and
09:52:29 24 21.

09:52:31 25 A. Yeah. Is there a specific area of this bill

09:52:34 1 you're looking at?

09:52:37 2 Q. No. For the purposes of this question I'm

09:52:39 3 really just asking globally, are you currently enforcing

09:52:43 4 any part of H.B. 2492?

09:52:48 5 A. I don't know. I'll have to check.

09:52:50 6 Q. Okay. If you could take a minute to look

09:52:54 7 through.

09:53:29 8 A. I did not provide either of the two reports.

09:53:35 9 Q. Okay.

09:53:35 10 A. One was --

09:53:36 11 Q. For purposes of this question I'm just asking

09:53:38 12 not what you're not doing, but what you are. Are you

09:53:42 13 enforcing any piece of this legislation?

09:53:54 14 A. Yes.

09:53:55 15 Q. Which part?

09:53:57 16 A. People that register to vote without

09:54:00 17 satisfactory evidence of citizenship.

09:54:04 18 Q. Okay. Are you referring to something new in

09:54:07 19 this law or are you referring to the preexisting

09:54:10 20 documentary proof of citizenship requirement, which has

09:54:14 21 been around since 2005?

09:54:17 22 A. To the best of my knowledge, they're both the

09:54:18 23 same.

09:54:23 24 Q. Are you enforcing any of the new citizenship

09:54:26 25 investigation procedures in this -- in H.B. 2492 or any

09:54:30 1 of the database matching requirements?

09:54:36 2 A. To my knowledge, we always have on databases we

09:54:39 3 have access to.

09:54:41 4 Q. And what do you mean by that in particular?

09:54:45 5 A. Well, I'm not aware of having access to social

09:54:49 6 security database.

09:54:55 7 Q. All right. Well, maybe I'll ask some more

09:54:57 8 specific questions as we go along about the particular

09:55:00 9 database matching requirements; but are you -- are you

09:55:04 10 currently enforcing, for instance, the documentary proof

09:55:07 11 of residence requirement?

09:55:09 12 A. Yes, we are.

09:55:11 13 Q. And who are you enforcing it as to?

09:55:16 14 A. I don't understand that question.

09:55:17 15 Q. I'll rephrase.

09:55:18 16 Are you enforcing the documentary proof of

09:55:21 17 residence requirement for both state form applicants and

09:55:24 18 federal form applicants?

09:55:26 19 A. I've only received state form applicants, so I

09:55:30 20 would say yes on that.

09:55:31 21 Q. Okay. So your office is currently rejecting

09:55:34 22 state form applications unless they comply with the

09:55:38 23 documentary proof of residence requirement?

09:55:40 24 A. We process them in and they're put in a

09:55:43 25 suspended state.

09:55:45 1 Q. Understood.

09:55:46 2 So all forms that are coming in without

09:55:50 3 documentary proof of residence are being held in an

09:55:52 4 indefinite suspended status until they satisfy, can we

09:55:57 5 just stipulate DPOR as shorthand for that?

09:56:00 6 A. Well, they have a 35-day window. We send them

09:56:03 7 a letter.

09:56:05 8 Q. Okay.

09:56:05 9 A. So if they answer within that window, then the

09:56:09 10 registration's changed to active.

09:56:12 11 Q. Okay. And did the Secretary of State's

09:56:14 12 Office -- does the Secretary of State's Office know that

09:56:16 13 you're currently enforcing the DPOR requirement?

09:56:20 14 A. I don't know.

09:56:22 15 Q. Did they instruct you not to enforce the DPOR

09:56:25 16 requirement until the conclusion of this litigation?

09:56:28 17 A. I don't recall that, no.

09:56:29 18 Q. Okay. On the citizenship investigation

09:56:35 19 procedures throughout H.B. 2492, are there any database

09:56:42 20 matching -- are you engaging in any database matching

09:56:45 21 for federal form applications that come in without

09:56:51 22 documentary proof of citizenship? And we'll stipulate

09:56:54 23 that DPOC will be shorthand for that.

09:56:59 24 A. My understanding is we're using what's

09:57:01 25 available to us.

09:57:07 1 Q. Have you been referring any federal form
09:57:09 2 applicants to law enforcement if they don't submit DPOC?
09:57:15 3 A. No.
09:57:17 4 Q. Okay. Have you been performing any database
09:57:21 5 matching checks beyond the HAVA check and SAVE system
09:57:26 6 checks?
09:57:29 7 A. There could be a match with the MVD; but other
09:57:33 8 than that, no.
09:57:34 9 Q. Okay. The MVD database is the HAVA check,
09:57:37 10 correct?
09:57:37 11 A. Correct.
09:57:37 12 Q. Okay. All right. Could we -- also, the same
09:57:43 13 question with 2243; are you enforcing any part of
09:57:47 14 H.B. 2243 at this time?
09:57:49 15 A. Yes.
09:57:50 16 Q. Which parts?
09:57:55 17 A. If they -- if they register without DPOC,
09:57:59 18 they're sent a letter, and for 35 days they're put in
09:58:03 19 suspense mode.
09:58:06 20 Q. Do you want to take a quick look through
09:58:10 21 H.B. 2243?
09:58:13 22 A. Which part?
09:58:14 23 Q. Take a look down at Page 4. This is
09:58:24 24 16-165(A)(10). If you could just read that paragraph to
09:58:28 25 yourself. And then I'd also take a look at the database

09:58:38 1 matching requirements that begin at the bottom of Page 5
09:58:42 2 and go onto Page 6. Those are the pieces I'm
09:58:49 3 particularly interested in and want to know whether
09:58:52 4 you're currently enforcing those pieces.

09:59:11 5 A. On Page 4 (A) (10), yes.
09:59:20 6 You wanted Page 5 (E)?

09:59:22 7 Q. And then at the bottom of Page 5,
09:59:27 8 Subsection (F) through (J).

09:59:28 9 A. (F), okay.

09:59:31 10 Q. Those are the database matching requirements.
09:59:34 11 Are you engaging in those database matching
09:59:38 12 procedures?

10:00:05 13 A. You said (F) through the bottom of Page 6?
10:00:09 14 Q. No, (F) through (J). So if you've read through
10:00:12 15 (J) --

10:00:12 16 A. Oh, okay.

10:00:13 17 Q. Yeah.
10:00:14 18 Are you currently enforcing those database
10:00:17 19 matching procedures?

10:00:21 20 A. I don't know. I'll have to check. I believe
10:00:25 21 so, though.

10:00:28 22 Q. And is the Secretary of State's Office aware
10:00:31 23 that you are enforcing --

10:00:35 24 A. I don't know --

10:00:35 25 Q. -- these provisions?

10:00:36 1 A. -- what they're aware of.

10:00:38 2 Q. Okay. Did the Secretary of State's Office

10:00:40 3 instruct you not to enforce any part of H.B. 2243 until

10:00:43 4 the conclusion of this litigation?

10:00:46 5 A. I don't recall.

10:00:48 6 Q. Okay. All right. I'll have some additional

10:00:55 7 questions on this as we move along, but for now --

10:01:00 8 So your testimony is that you believe you are

10:01:02 9 enforcing these provisions or that you're unsure?

10:01:08 10 A. Yes, we are -- we are doing the procedures of

10:01:16 11 these two bills as best we can.

10:01:19 12 Q. All right. Understood. Okay.

10:01:21 13 So your office's position has been to implement

10:01:25 14 these laws because their technical effective date was

10:01:29 15 January 1st of this year and not to wait until the

10:01:32 16 conclusion of this litigation; is that correct?

10:01:35 17 A. They're held in suspense waiting the conclusion

10:01:37 18 of this.

10:01:42 19 Q. All right. So that's for H.B. 2492, where you

10:01:47 20 get a new registration.

10:01:49 21 Under H.B. 2243 you're dealing with already

10:01:52 22 existing registered voters, so what are -- are you

10:01:56 23 removing people from the rolls --

10:01:57 24 A. No.

10:01:58 25 Q. -- based on these citizenship investigation

10:02:00 1 procedures?

10:02:01 2 A. No.

10:02:06 3 Q. All right. I just want to clarify this before

10:02:07 4 we move on. So the provision you read at the top of

10:02:12 5 Page 4 says, "When the County Recorder --" the full text

10:02:17 6 actually says, "Causes for cancellation. The County

10:02:21 7 Recorder shall cancel a registration." That's up in (A)

10:02:24 8 on Page 3. And then Subpart (A)(10) says, "When the

10:02:28 9 County Recorder obtains information pursuant to this

10:02:31 10 section and confirms that the person registered is not a

10:02:34 11 United States citizen."

10:02:35 12 Are you removing registered voters from the

10:02:38 13 rolls based on the operation of Subpart (A)(10) here?

10:02:43 14 A. In respect to people already registered, no.

10:02:46 15 Q. Okay. All right. I'm glad we clarified that.

10:02:51 16 And you're holding off until the conclusion of

10:02:53 17 this litigation?

10:02:55 18 A. To fulfill, yes. The statute requires

10:02:59 19 cancellation, and we're holding off on that.

10:03:08 20 Q. Okay. Has your office seen the draft 2023 EPM?

10:03:14 21 A. What do you mean by seen?

10:03:16 22 Q. Have you reviewed it?

10:03:18 23 A. I have not reviewed it.

10:03:20 24 Q. Okay. Have you been provided with a copy of

10:03:21 25 it?

10:03:23 1 A. I have by chapter over the last four or five
10:03:27 2 months.

10:03:30 3 Q. Okay. So you've been able to provide feedback
10:03:33 4 to the Secretary of State's Office on a chapter by
10:03:37 5 chapter basis?

10:03:38 6 A. I've had that ability, yes. I have not
10:03:41 7 provided any feedback.

10:03:42 8 Q. Okay. Got it.

10:03:46 9 Have you been part of any communications with
10:03:50 10 the Secretary of State's Office regarding interpretation
10:03:52 11 or implementation of H.B. 2492?

10:03:56 12 A. I'm not aware of any, no.

10:03:59 13 Q. Okay. Have you been part of any communications
10:04:02 14 with the Secretary of State's Office over H.B. 2243?

10:04:07 15 A. I don't recall, no.

10:04:10 16 Q. Okay. Has your office been provided any other
10:04:13 17 draft guidance or document beyond the draft 2023 EPM
10:04:17 18 that elaborates on interpretation or implementation of
10:04:22 19 H.B. 2492 and H.B. 2243?

10:04:25 20 A. I don't recall any, no.

10:04:27 21 Q. Okay. In 2021, was the draft EPM adopted?

10:04:37 22 A. By whom?

10:04:39 23 Q. So there was a draft EPM proposed by the
10:04:47 24 then-Secretary of State Katie Hobbs' Office,
10:04:49 25 correct?

10:04:49 1 A. Correct.

10:04:49 2 Q. But that ultimately wasn't jointly approved by
10:04:53 3 the Governor and the Attorney General, correct?

10:04:54 4 A. That is my understanding. They have to sign
10:04:56 5 off on it by the end of the year, and I believe they did
10:05:01 6 not.

10:05:01 7 Q. Is it possible there will be no agreement on a
10:05:04 8 revised and updated EPM this year?

10:05:07 9 A. I have no idea.

10:05:10 10 Q. Is it possible?

10:05:15 11 MR. CORREA: Form.

10:05:15 12 MR. LANGHOFER: Asked and answered.

10:05:17 13 BY MR. SHERMAN:

10:05:18 14 Q. All right. We can move on.
10:05:18 15 If there's no approved revised EPM by, say,
10:05:21 16 this time next year, will you nevertheless be obligated
10:05:25 17 to enforce all of the portions of H.B. 2492 and
10:05:29 18 H.B. 2243 that are directed at County Recorders?

10:05:32 19 MS. STUART: Form.

10:05:33 20 MR. LANGHOFER: Form, calls for a legal
10:05:39 21 conclusion.

10:05:39 22 THE WITNESS: I don't know.

10:05:39 23 BY MR. SHERMAN:

10:05:40 24 Q. Well, earlier you testified that you are
10:05:42 25 charged with and legally bound to implement the EPM, you

10:05:48 1 said along with the Arizona statutes and the Arizona
10:05:53 2 Constitution. So in the absence of an EPM, doesn't that
10:05:56 3 mean that you'll be obligated to enforce the statutes as
10:06:00 4 you -- as you have them?

10:06:03 5 MR. LANGHOFER: Same objection.

10:06:04 6 MS. STUART: Form.

10:06:06 7 THE WITNESS: Do I still answer this?

10:06:08 8 MR. CORREA: Yes.

10:06:09 9 THE WITNESS: Okay. In 2020 the U.S.
10:06:11 10 District Court came in and changed our voter
10:06:13 11 registration rules. So I don't know what the courts are
10:06:15 12 going to do. I don't know if you remember that. They
10:06:19 13 extended voter registration into the closed period. So
10:06:24 14 I have no way of knowing what's going to happen in the
10:06:27 15 future.

10:06:28 16 BY MR. SHERMAN:

10:06:29 17 Q. Well, let's just stipulate, assume for the
10:06:30 18 moment there's no court order. Assuming there's no
10:06:34 19 litigation whatsoever, if there's no -- no EPM that's
10:06:40 20 adopted by this time next year, wouldn't your office be
10:06:43 21 obligated to enforce H.B. 2492 and H.B. 2243?

10:06:50 22 MR. LANGHOFER: Objection.

10:06:51 23 MS. STUART: Form.

10:06:54 24 THE WITNESS: Without litigation or court
10:06:57 25 interference, yes.

10:07:00 1 BY MR. SHERMAN:

10:07:00 2 Q. Okay. Thank you.

10:07:04 3 If you need to refer to the two statutes as we
10:07:06 4 move along through this section, those are, again, Petty
10:07:09 5 Exhibits 19 and 21. But I want to ask you just
10:07:15 6 basically, what is information that a person is not a
10:07:18 7 United States citizen?

10:07:24 8 MR. LANGHOFER: Objection, calls for a
10:07:25 9 legal conclusion.

10:07:27 10 THE WITNESS: I'm not sure how to even
10:07:29 11 answer that.

10:07:29 12 BY MR. SHERMAN:

10:07:30 13 Q. Well, currently, leaving aside these two laws,
10:07:34 14 what does your office consider information that someone
10:07:38 15 is not a U.S. citizen?

10:07:41 16 MR. LANGHOFER: Same objection.

10:07:46 17 THE WITNESS: I still -- I don't know.

10:07:49 18 BY MR. SHERMAN:

10:07:49 19 Q. All right. Maybe it's too broad.

10:07:50 20 So just to give a concrete example, is data in
10:07:53 21 a government database showing noncitizenship 20 years
10:07:57 22 ago information that a person is not a U.S. citizen
10:08:00 23 today in 2023?

10:08:03 24 MR. LANGHOFER: Same objection.

10:08:06 25 THE WITNESS: I have no idea.

10:08:10 1 BY MR. SHERMAN:

10:08:10 2 Q. Okay. Do you know what your office would
10:08:12 3 currently do with such information that's 20 years old?

10:08:17 4 A. No.

10:08:19 5 Q. Okay. If you do a HAVA check, for instance,
10:08:23 6 and you see that an (F)-Type license was issued to
10:08:26 7 someone 20 years ago, what does your office -- what
10:08:32 8 conclusions does your office draw from that data?

10:08:39 9 A. I don't know. 20 years is a lot of time.

10:08:42 10 Q. Okay. And an (F)-Type license issued 20 years
10:08:48 11 ago, right, only indicates that that person who holds
10:08:50 12 that license was not a U.S. citizen 20 years ago,
10:08:55 13 correct?

10:08:55 14 A. Correct.

10:08:56 15 Q. And what procedure does your office follow
10:08:59 16 after seeing that the person was issued a license when
10:09:03 17 they were not a U.S. citizen?

10:09:09 18 A. I would have to check. I don't know.

10:09:14 19 Q. Do you treat that as conclusive evidence that
10:09:16 20 they're not a U.S. citizen today in 2023?

10:09:21 21 MR. LANGHOFER: Form.

10:09:23 22 THE WITNESS: Are you still referring to a
10:09:26 23 20-year-old license?

10:09:27 24 BY MR. SHERMAN:

10:09:27 25 Q. Correct. Yeah.

10:09:29 1 A. I would assume that MVD would have current
10:09:34 2 data.

10:09:36 3 Q. Are you aware that some people don't update
10:09:39 4 their (F)-Type license after they naturalize as U.S.
10:09:44 5 citizens?

10:09:47 6 A. I have no idea how they do it.

10:09:57 7 Q. Okay. What I'm trying to assess is, when would
10:09:59 8 information be too old for your office to rely on it as
10:10:03 9 information of a lack of U.S. citizenship in the present
10:10:06 10 day; 10 years, 15 years, 20 years? Where is, roughly,
10:10:12 11 the line?

10:10:13 12 MR. LANGHOFER: Same objection.

10:10:16 13 MR. CORREA: Form.

10:10:16 14 THE WITNESS: There really isn't a line.
10:10:19 15 Anything could be corrected in a day.

10:10:20 16 BY MR. SHERMAN:

10:10:21 17 Q. And what do you mean by that?

10:10:23 18 A. Well, they could have gone out and gotten a
10:10:28 19 U.S. passport.

10:10:31 20 Q. So when you see old information in a database
10:10:35 21 showing that the person was not a U.S. citizen some 10,
10:10:38 22 15 years ago, do you follow up with that applicant or
10:10:42 23 voter?

10:10:45 24 A. In what respect?

10:10:47 25 Q. Do you send them a notice letter?

10:10:50 1 A. Not if it's that old, no.

10:10:53 2 Q. If it's that old, what do you do?

10:10:58 3 A. It depends on what the circumstance is.

10:11:03 4 Q. So let me make this concrete. You get an

10:11:06 5 application in. You run a HAVA check. The HAVA check

10:11:09 6 shows that they were issued a foreign-type license

10:11:13 7 10 years ago.

10:11:13 8 A. Okay.

10:11:14 9 Q. And they didn't update it, though they're

10:11:16 10 claiming, right, that they're a U.S. citizen on this

10:11:19 11 voter registration form.

10:11:20 12 So you can't register them at that point as

10:11:26 13 full ballot voters, correct?

10:11:27 14 A. Right. We would send a letter.

10:11:29 15 Q. Okay. And what does that letter ask for?

10:11:34 16 A. Proof of citizenship, with a list of what they

10:11:38 17 could bring in.

10:11:39 18 Q. Okay. I just wanted to clarify that.

10:11:42 19 So you're not treating that old (F)-Type

10:11:45 20 license as conclusive evidence that they're not U.S.

10:11:48 21 citizens in the present day; is that correct?

10:11:52 22 A. I believe so, that would be correct.

10:11:54 23 Q. Okay, great.

10:11:56 24 I have a few questions just about what does

10:11:59 25 your office consider a valid source of information.

10:12:05 1 MR. SHERMAN: Kory, do you want to enter
10:12:06 2 the usual sort of objection here globally to the next
10:12:09 3 13 questions?

10:12:11 4 MR. LANGHOFER: That sounds good. Maybe
10:12:12 5 just let us know when you're done with that series.

10:12:15 6 MR. SHERMAN: Okay. And this is to the
10:12:16 7 form and calls for a legal conclusion?

10:12:18 8 MR. LANGHOFER: Yes. Thanks, Jon.

10:12:20 9 BY MR. SHERMAN:

10:12:20 10 Q. Okay. So would your office consider anything
10:12:23 11 beyond a government or voter registration database to be
10:12:28 12 valid information that someone is not a U.S. citizen?

10:12:32 13 A. The valid information is listed in the EPM.
10:12:37 14 That's what we would use.

10:12:38 15 Q. The EPM contains a list, right, of valid
10:12:41 16 sources -- excuse me, valid proof of U.S. citizenship.
10:12:45 17 I'm asking the opposite.

10:12:47 18 What are valid sources of information that
10:12:50 19 someone lacks U.S. citizenship? So anything beyond the
10:12:56 20 government or voter registration database, would
10:12:59 21 anything qualify as valid proof of a lack of
10:13:03 22 U.S. citizenship or valid information that someone lacks
10:13:06 23 U.S. citizenship?

10:13:08 24 A. I don't understand the question. To me it
10:13:10 25 sounds like you're trying to prove a negative.

10:13:14 1 There's a list of valid things that would
10:13:17 2 provide citizenship, and that's what we go by.

10:13:19 3 Q. Is there any way to prove that negative, that
10:13:22 4 someone is not a U.S. citizen?

10:13:25 5 A. I'm not aware of one, no.

10:13:27 6 Q. Okay. Would a phone call from a voter be valid
10:13:34 7 information that someone is not a U.S. citizen?

10:13:36 8 A. No.

10:13:37 9 Q. How about an e-mail from the voter in question;
10:13:40 10 would that be information that that voter is not a
10:13:43 11 U.S. citizen?

10:13:44 12 A. No.

10:13:45 13 Q. A signed letter from that voter?

10:13:49 14 A. No.

10:13:50 15 Q. How about a phone call from a member of the
10:13:53 16 voter's family would that be valid information that
10:13:55 17 that voter is not a U.S. citizen?

10:13:58 18 A. No.

10:14:00 19 Q. What about a letter from a neighbor?

10:14:02 20 A. No.

10:14:03 21 Q. What about a phone call from law enforcement in
10:14:06 22 Arizona?

10:14:08 23 A. No.

10:14:09 24 Q. A phone call from law enforcement in another
10:14:12 25 state?

10:14:13 1
10:14:15 2
10:14:18 3
10:14:20 4
10:14:23 5
10:14:25 6
10:14:28 7
10:14:30 8
10:14:32 9
10:14:36 10
10:14:37 11
10:14:41 12
10:14:44 13
10:14:45 14
10:14:46 15
10:14:49 16
10:14:53 17
10:14:57 18
10:14:59 19
10:15:00 20
10:15:03 21
10:15:06 22
10:15:11 23
10:15:16 24
10:15:20 25

A. No.

Q. What about an e-mail or letter from law enforcement in Arizona, would that be valid information that the voter is not a U.S. citizen?

A. No.

Q. An e-mail or letter from law enforcement in another state?

A. No.

Q. What about an anonymous call or e-mail?

A. No.

Q. And what about lists provided by third-party organizations like True the Vote, would those be valid sources of information that --

A. No.

Q. -- an applicant -- okay. All right.

MR. SHERMAN: So we'll end the global objection there. We'll return to sort of normal operating procedure now.

BY MR. SHERMAN:

Q. By what means can you confirm the authenticity of such information that a voter registration applicant is not a U.S. citizen?

A. I don't confer authenticity.

Q. By what means -- sorry. Did I -- I may have heard you incorrectly.

10:15:21 1 Is there any way you can confirm, not confer,
10:15:24 2 but can you confirm the authenticity of information that
10:15:27 3 a voter registration applicant is not a U.S. citizen?

10:15:31 4 A. I'm not sure what your question is.

10:15:34 5 Q. Sure.

10:15:35 6 If your office is provided with some kind of
10:15:39 7 information beyond a government database that you have,
10:15:45 8 that you routinely check, is there any way for your
10:15:48 9 office to confirm the authenticity of that source of
10:15:52 10 information?

10:15:53 11 A. Yeah, we don't determine authenticity.

10:16:00 12 Q. Okay. And by what means can you confirm the
10:16:03 13 accuracy of information provided to your office that
10:16:06 14 someone is not a U.S. citizen?

10:16:10 15 A. Say that one more time?

10:16:11 16 Q. By what means can you confirm the accuracy of
10:16:14 17 any information provided to your office that someone is
10:16:18 18 not a U.S. citizen?

10:16:22 19 A. Who's providing the data?

10:16:25 20 Q. Well, let's just stipulate that it comes to
10:16:27 21 your office beyond a government -- outside of a
10:16:31 22 government database.

10:16:33 23 A. Oh, I'm -- no.

10:16:36 24 Q. Okay. Has the Secretary of State's Office ever
10:16:42 25 given your office a list of information that constitutes

10:16:45 1 evidence of a lack of U.S. citizenship?

10:16:48 2 A. I don't recall seeing one, no.

10:16:53 3 Q. What if you identify a registered voter who has
10:16:55 4 already satisfied the DPOC requirement, but still holds
10:16:58 5 an (F)-Type -- well, we already covered that. Excuse
10:17:01 6 me. I'll withdraw that.

10:17:02 7 What if you identify a registered voter who is
10:17:05 8 exempt from the DPOC requirement and has never shown
10:17:09 9 DPOC because they registered prior to when DPOC took
10:17:12 10 effect in 2005; is that information that would tend to
10:17:15 11 show they are not a U.S. citizen?

10:17:20 12 MR. CORREA: Form.

10:17:21 13 MR. LANGHOFER: Same objection.

10:17:21 14 THE WITNESS: I'm not sure what you're
10:17:22 15 asking.

10:17:24 16 BY MR. SHERMAN:

10:17:24 17 Q. These are folks who fall within the safe harbor
10:17:28 18 of the DPOC requirement. They were essentially
10:17:30 19 grandfathered into the law because they registered prior
10:17:33 20 to when DPOC took effect in 2005.

10:17:37 21 Is the fact that they never showed DPOC and
10:17:40 22 satisfied that requirement information that establishes
10:17:43 23 that they're not U.S. citizens?

10:17:46 24 A. I would not review those records, no.

10:17:49 25 Q. Okay. So you would have no cause to be

10:17:53 1 reviewing the records of those folks who were exempt
10:17:57 2 from the DPOC requirement?

10:17:59 3 A. Correct.

10:18:01 4 Q. Okay. What is a, quote/unquote, database
10:18:05 5 relating to voter registration, end quote? Can it be
10:18:12 6 something beyond AVID? Anything beyond AVID, could that
10:18:16 7 constitute a database relating to voter registration?

10:18:20 8 MR. LANGHOFER: Same objection.

10:18:22 9 THE WITNESS: Not that I'm aware of.

10:18:25 10 BY MR. SHERMAN:

10:18:26 11 Q. Okay. H.B. 2492 refers to -- it has a phrase
10:18:30 12 any other state, city, town, county or federal database
10:18:34 13 and any other database relating to voter registration.

10:18:37 14 Could a list of voters you receive from another
10:18:41 15 Arizona agency constitute a, quote, database relating to
10:18:44 16 voter registration?

10:18:50 17 MR. LANGHOFER: Same objection.

10:18:52 18 THE WITNESS: I don't understand your
10:18:54 19 question.

10:18:56 20 BY MR. SHERMAN:

10:18:56 21 Q. Could a -- I'll just re -- I'll rephrase it.

10:18:58 22 Could a list of voters, a list of registered
10:19:02 23 voters, provided to your office by another Arizona
10:19:05 24 agency, could that constitute a database relating to
10:19:10 25 voter registration?

10:19:11 1 MR. LANGHOFER: Same objection.

10:19:14 2 THE WITNESS: As of now, no.

10:19:16 3 BY MR. SHERMAN:

10:19:16 4 Q. Okay. How about if you receive that same list
10:19:18 5 of registered voters from another state's government
10:19:21 6 agency?

10:19:22 7 MR. LANGHOFER: Same objection.

10:19:25 8 THE WITNESS: I'd have to see what the
10:19:26 9 data looks like. I don't know.

10:19:28 10 BY MR. SHERMAN:

10:19:28 11 Q. But maybe it could, maybe it wouldn't?

10:19:31 12 MR. LANGHOFER: Same.

10:19:35 13 THE WITNESS: We do interstate transfer of
10:19:37 14 data through the ERIC system.

10:19:40 15 BY MR. SHERMAN:

10:19:43 16 Q. Okay. Beyond -- so ERIC could constitute a
10:19:46 17 database relating to voter registration?

10:19:49 18 MR. LANGHOFER: Same objection.

10:19:52 19 THE WITNESS: My understanding is yeah.

10:19:52 20 BY MR. SHERMAN:

10:19:54 21 Q. Anything beyond the statewide voter
10:19:58 22 registration database in AVID or ERIC that could
10:20:01 23 constitute a database relating to voter registration?

10:20:06 24 A. I'm not aware of one, no.

10:20:08 25 Q. If you were provided with a list of registered

10:20:11 1 voters by a private group or private citizen, could that
10:20:16 2 constitute a database relating to voter registration?

10:20:21 3 A. I don't know.

10:20:22 4 Q. Maybe it could, maybe it couldn't?

10:20:25 5 MR. LANGHOFER: Same objection.

10:20:27 6 THE WITNESS: I don't know.

10:20:28 7 BY MR. SHERMAN:

10:20:31 8 Q. Okay. Is it clear or unclear in H.B. 2492 what
10:20:36 9 constitutes a database relating to voter registration?

10:20:40 10 MR. LANGHOFER: Same objection.

10:20:43 11 THE WITNESS: It's unclear.

10:20:45 12 BY MR. SHERMAN:

10:20:46 13 Q. Thank you.

10:20:47 14 So please take a moment to look at the same
10:20:51 15 section of H.B. 2243 that we were looking at. This is
10:20:57 16 Petty Exhibit 21. And I'll direct your attention
10:21:03 17 again -- we were just looking at this before. -- to the
10:21:05 18 top of Page 4. This is 16-165(A)(10). And this directs
10:21:14 19 County Recorders to cancel a registration, quote, when
10:21:18 20 the County Recorder obtains information pursuant to this
10:21:22 21 section and confirms that the person registered is not a
10:21:26 22 United States citizen.

10:21:28 23 And after that language -- you can see that
10:21:36 24 language I'm referring to, correct?

10:21:37 25 A. Yeah. The first two lines of Page 4?

10:21:39 1 Q. Page 4, Lines 5 through 7.

10:21:42 2 A. Okay, Section 10.

10:21:45 3 Q. Yeah, Section 10.

10:21:47 4 So after that language, right, H.B. 2243 down

10:21:51 5 below -- we were reading this before. -- on Pages 5 and

10:21:54 6 6, lists a number of database matching procedures,

10:21:57 7 correct, in Subparts (F) through (J)? Is that correct?

10:22:05 8 A. We looked at that, yes.

10:22:09 9 Q. How does one -- under this provision, how does

10:22:12 10 one obtain information that a person registered is not a

10:22:15 11 United States citizen?

10:22:20 12 A. I don't know.

10:22:22 13 Q. Are the listed database matching procedures

10:22:26 14 in (F) through (J) the means by which one would obtain

10:22:30 15 information on a lack of U.S. citizenship?

10:22:33 16 MR. LANGHOFER: Same objection.

10:22:43 17 THE WITNESS: I don't know.

10:22:47 18 BY MR. SHERMAN:

10:22:47 19 Q. Is it clear or unclear?

10:22:54 20 A. It would be unclear.

10:22:56 21 Q. Has your office received any guidance on how

10:22:59 22 one obtains information that a person registered is not

10:23:02 23 a United States citizen under this provision?

10:23:04 24 A. Not to my knowledge. Yeah, not to my

10:23:08 25 knowledge, no.

10:23:09 1 Q. Okay. Thank you.

10:23:11 2 And, similarly, (A)(10) refers to confirming
10:23:14 3 the information that has been previously obtained. How
10:23:18 4 would your office confirm that a person registered is
10:23:22 5 not a United States citizen under 16-165(A)(10)?

10:23:31 6 A. Ask that question one more time.

10:23:33 7 Q. Sure.

10:23:34 8 How would your office confirm the information
10:23:37 9 it receives that someone is not a U.S. citizen under
10:23:41 10 this provision?

10:23:45 11 A. We have a couple of databases that we do use.
10:23:49 12 That would be the MVD or the SAVE.

10:23:54 13 Q. Okay. And those are listed below as well,
10:23:57 14 right, in (F) through -- databases (F) -- excuse me, in
10:24:02 15 provisions (F) through (J) below, correct, MVD in
10:24:09 16 Sub (F), SAVE system in Sub (H); is that correct?

10:24:15 17 A. Yes.

10:24:16 18 Q. And so are these database matching procedures
10:24:20 19 in Subsections (F) through (J), are these the means by
10:24:24 20 which you confirm information that's separately
10:24:28 21 obtained?

10:24:31 22 A. I don't know.

10:24:33 23 Q. Is it clear or unclear?

10:24:36 24 MR. LANGHOFER: Same objection.

10:24:37 25 THE WITNESS: Unclear.

10:24:38 1 BY MR. SHERMAN:

10:24:38 2 Q. What was the response? Sorry.

10:24:40 3 A. Oh. It was unclear.

10:24:41 4 Q. Unclear, okay.

10:24:43 5 Would you need guidance from the Secretary of
10:24:48 6 State's Office to be able to implement this provision?

10:24:52 7 MR. LANGHOFER: Same objection.

10:24:55 8 THE WITNESS: I would expect some, yes.

10:24:55 9 BY MR. SHERMAN:

10:24:58 10 Q. Would you need it?

10:25:00 11 MR. LANGHOFER: Same objection, asked and
10:25:05 12 answered.

10:25:05 13 BY MR. SHERMAN:

10:25:06 14 Q. All right, we can move on.

10:25:08 15 I want to direct your attention in particular
10:25:11 16 to Subsection (H) here. This is on Page 6. It says,
10:25:18 17 "To the extent practicable." Do you see this at Line 6
10:25:22 18 on Page 6?

10:25:23 19 A. Yes.

10:25:23 20 Q. "To the extent practicable, each month the
10:25:26 21 County Recorder shall compare persons who are registered
10:25:29 22 to vote in that county and who the County Recorder has
10:25:32 23 reason to believe are not United States citizens," and
10:25:37 24 then it goes on to say you'll perform a check against
10:25:45 25 the SAVE system.

10:25:46 1 What would give your office a reason to believe
10:25:49 2 a person is not a U.S. citizen?

10:25:52 3 MR. LANGHOFER: Same objection.

10:25:54 4 THE WITNESS: I don't know.

10:25:59 5 BY MR. SHERMAN:

10:26:00 6 Q. Is that language clear or unclear?

10:26:05 7 MR. LANGHOFER: Same objection.

10:26:08 8 THE WITNESS: It would be unclear to the
10:26:10 9 extent practicable.

10:26:13 10 BY MR. SHERMAN:

10:26:14 11 Q. Well, what do you mean by that? I'm -- well,
10:26:17 12 let me rephrase the question.

10:26:19 13 Is the phrase reason to believe are not United
10:26:23 14 States citizens, is that particular phrase clear or
10:26:26 15 unclear?

10:26:26 16 MR. LANGHOFER: Same objection.

10:26:32 17 THE WITNESS: I don't know.

10:26:36 18 BY MR. SHERMAN:

10:26:36 19 Q. You don't know whether it's clear or unclear to
10:26:40 20 you?

10:26:40 21 MR. LANGHOFER: Asked and answered, same
10:26:49 22 objection.

10:26:49 23 BY MR. SHERMAN:

10:26:49 24 Q. I'm not asking for you to interpret this.

10:26:49 25 A. Yeah.

10:26:51 1 Q. But I'm just asking, Mr. Stevens, if it's clear
10:26:54 2 or unclear to you?

10:26:56 3 MR. LANGHOFER: Same objection.

10:26:59 4 THE WITNESS: It's -- I don't know.

10:27:05 5 BY MR. SHERMAN:

10:27:05 6 Q. Okay. The phrase to the extent practicable
10:27:08 7 appears in a few of these different provisions, (G), (H)
10:27:10 8 and (J). Is that phrase clear or unclear to you?

10:27:12 9 MR. LANGHOFER: Same objection.

10:27:15 10 THE WITNESS: It's unclear.

10:27:22 11 BY MR. SHERMAN:

10:27:22 12 Q. Okay. Has the Secretary of State's Office
10:27:23 13 provided your office with a list of what would give you
10:27:25 14 or your staff a valid reason to believe someone is not a
10:27:29 15 U.S. citizen?

10:27:31 16 A. I don't recall ever seeing a list, no.

10:27:34 17 Q. Has the Secretary of State's Office provided
10:27:36 18 your office with a list of what will not give you or
10:27:39 19 your staff a valid reason to believe someone is not a
10:27:42 20 U.S. citizen?

10:27:43 21 A. Not to my knowledge, no.

10:27:45 22 Q. I'm going to provide you with the same
10:27:48 23 scenarios as before, but here the operative language is
10:27:51 24 this phrase the County Recorder has reason to believe
10:27:54 25 are not U.S. citizens.

10:27:57 1 MR. SHERMAN: Kory, for the next handful
10:27:59 2 of questions, until I take us off, do you want to enter
10:28:02 3 the same form and calls for a legal conclusion
10:28:05 4 objection?

10:28:05 5 MR. LANGHOFER: Yes, please. Thanks.

10:28:07 6 MR. SHERMAN: All right.

10:28:08 7 BY MR. SHERMAN:

10:28:08 8 Q. So would anything beyond a government or voter
10:28:13 9 registration database give your office reason to believe
10:28:15 10 that a registered voter is not a U.S. citizen?

10:28:23 11 A. I'm not sure what you mean by government. Are
10:28:27 12 you talking about just state or federal?

10:28:29 13 Q. Any government database.

10:28:31 14 Would anything beyond a government database of
10:28:33 15 any level of government or a voter registration
10:28:37 16 database, anything beyond those categories, give your
10:28:40 17 office reason to believe that a registered voter is not
10:28:42 18 a U.S. citizen?

10:28:43 19 A. I don't believe so, no.

10:28:44 20 Q. Okay. Would a phone call or e-mail from the
10:28:48 21 voter in question give your office reason to believe
10:28:51 22 that voter is not a U.S. citizen?

10:28:52 23 A. No.

10:28:54 24 Q. How about a signed letter from that voter?

10:28:56 25 A. No.

10:28:58 1 Q. A phone call from a member of the voter's
10:29:01 2 family?
10:29:01 3 A. No.
10:29:03 4 Q. Would a letter from a neighbor give you reason
10:29:05 5 to believe that the voter in question is not a U.S.
10:29:07 6 citizen?
10:29:08 7 A. No.
10:29:09 8 Q. What about a phone call from law enforcement in
10:29:12 9 Arizona?
10:29:13 10 A. No.
10:29:14 11 Q. A phone call from law enforcement in another
10:29:17 12 state?
10:29:18 13 A. No.
10:29:19 14 Q. Would an e-mail or letter from law enforcement
10:29:22 15 in Arizona give your office reason to believe that a
10:29:25 16 particular registered voter is not a U.S. citizen?
10:29:30 17 A. Possible.
10:29:32 18 Q. How about an e-mail or letter from law
10:29:34 19 enforcement in another state?
10:29:36 20 A. No.
10:29:40 21 Q. How about an anonymous call or anonymous
10:29:43 22 e-mail?
10:29:43 23 A. No.
10:29:44 24 Q. And, finally, what about lists provided by
10:29:48 25 third-party organizations like True the Vote?

10:29:50 1
10:29:53 2
10:29:56 3
10:29:57 4
10:30:01 5
10:30:04 6
10:30:07 7
10:30:12 8
10:30:14 9
10:30:16 10
10:30:19 11
10:30:23 12
10:30:26 13
10:30:28 14
10:30:31 15
10:30:34 16
10:30:39 17
10:30:41 18
10:30:43 19
10:30:45 20
10:30:48 21
10:30:53 22
10:30:57 23
10:31:01 24
10:31:03 25

A. No.

Q. A few more questions on this series before we go out of the objection.

What if the registered voter transposed the first and last name on their registration application form, just switched the two, put their first name in the last name and the last name in the first name; would that give you reason -- would that give you reason to believe they were not a U.S. citizen?

A. No.

Q. What if the registered voter recorded a foreign place of birth on their form?

A. No.

Q. What if you identify a registered voter who has already satisfied the DPOC requirement, but still appears to hold an (F)-Type license in the MVD database; is that reason to believe that they are not, in fact, a U.S. citizen?

A. Possibly.

Q. And what about registered voters who are exempt from the DPOC requirement because they registered prior to when it took effect in 2005; would that failure to show DPOC under this exemption give your office a reason to believe they are not U.S. citizens?

A. No.

10:31:04 1 Q. Okay. And has your office received any
10:31:06 2 guidance on when your office would have reason to
10:31:08 3 believe that a registered voter is not a U.S. citizen?

10:31:12 4 A. No.

10:31:16 5 Q. Lastly, on H.B. -- actually, this is in
10:31:21 6 H.B. 2492, so Petty Exhibit 19. Just give me a sec to
10:31:29 7 go over there.

10:31:31 8 If you scroll down to I believe this is
10:31:35 9 Section 7, ARS 16-143. Yeah. It's on Page 7, Section 7
10:31:44 10 of the law.

10:31:45 11 A. Okay.

10:31:47 12 Q. And this begins at Line 15. I don't know if
10:31:50 13 you want to take a second to just refresh your memory on
10:31:52 14 this section. It's called federal only voters; attorney
10:31:56 15 general; investigation report. I'm really just
10:31:58 16 interested in Subsection (A), but you can take -- you
10:32:02 17 can glance at the section really quickly.

10:32:05 18 A. Okay, I'm good.

10:32:06 19 Q. Great.

10:32:07 20 You didn't provide this list on or before
10:32:12 21 October 31st, right?

10:32:14 22 A. No.

10:32:16 23 Q. Okay. And since the October 31st, 2022 and
10:32:19 24 March 31st, 2023 deadlines noted in Subsection (A) of
10:32:24 25 this provision have come and gone, is your office no

10:32:27 1 longer required by this provision to submit to the AG a
10:32:30 2 list of registered voters who have not shown
10:32:33 3 satisfactory DPOC?

10:32:37 4 MR. CORREA: Objection, calls for a legal
10:32:44 5 conclusion.

10:32:44 6 THE WITNESS: Maybe I missed something,
10:32:46 7 but I don't see the March date in Paragraph (A).

10:32:58 8 MR. CORREA: Is that down below?

10:32:59 9 THE WITNESS: Oh, it's --

10:32:59 10 BY MR. SHERMAN:

10:32:59 11 Q. Sorry. That's down below.

10:33:00 12 A. Next page, okay.

10:33:02 13 Q. Subsection (E) is the -- right, is the report,
10:33:06 14 yeah. These deadlines, you agree, have come and gone,
10:33:08 15 right?

10:33:08 16 A. Yes.

10:33:09 17 Q. Is this provision still binding on your office?
10:33:14 18 Will you need to provide these, a list of these
10:33:17 19 individuals in the future?

10:33:20 20 MR. CORREA: Same objection.

10:33:22 21 THE WITNESS: My understanding of the
10:33:24 22 statute as it sits right now, no.

10:33:27 23 BY MR. SHERMAN:

10:33:27 24 Q. Okay. Thank you.

10:33:30 25 So I want to go back to ask you a few questions

10:33:32 1 about the HAVA check process and, really, a few
10:33:39 2 questions about all of the databases. But before we
10:33:41 3 proceed, do you want to take a break, or are you okay to
10:33:44 4 keep going for now?

10:33:45 5 A. Yeah, I would take five or ten.

10:33:48 6 MR. SHERMAN: Okay. Why don't we say ten
10:33:50 7 minutes. We can go off the record, come back at 10:43
10:33:56 8 your time.

10:33:58 9 THE WITNESS: 10:43? Sounds great.

10:33:59 10 THE VIDEOGRAPHER: Okay. We are off the
10:34:03 11 record. Time on monitor is 10:34.

10:34:09 12 (A recess was taken.)

10:43:39 13 THE VIDEOGRAPHER: We are back on the
10:43:51 14 record. Time on monitor is 10:43, and you may proceed.

10:44:01 15 MR. SHERMAN: Thank you. I just want to
10:44:04 16 note for the record, before we proceed, that we're back
10:44:08 17 on standard operating procedure, no longer subject to
10:44:12 18 that agreed-upon objection that we entered before or
10:44:18 19 lodged before.

10:44:18 20 MR. LANGHOFER: Noted. Thanks.

10:44:21 21 MR. SHERMAN: Thanks.

10:44:22 22 BY MR. SHERMAN:

10:44:23 23 Q. So I want to ask you, Mr. Stevens, about some
10:44:24 24 of the databases your office currently accesses, and
10:44:28 25 both about their current and potential future use if

10:44:32 1 these laws were to be implemented.

10:44:34 2 So could you just walk us through the mechanics
10:44:37 3 of a HAVA check?

10:44:41 4 A. Yeah. We have a little button that says HAVA
10:44:45 5 and we click it, and then the return data comes back to
10:44:48 6 us. That sounds kind of simplistic, but that's all we
10:44:53 7 do.

10:44:53 8 Q. Why does your office have to run Arizona
10:44:56 9 driver's licenses and IDs against the Arizona MVD
10:44:59 10 database?

10:45:02 11 A. You're asking why we have to do it?

10:45:05 12 Q. Right. Yeah, what's the purpose of it?

10:45:08 13 A. My understanding is, typically, the proof of
10:45:14 14 citizenship is provided when they get their driver's
10:45:15 15 license and is passed through from them to us.

10:45:22 16 Q. So it's not just for purposes of -- is it for
10:45:25 17 purposes of identity, identification, or is it also for
10:45:28 18 purposes of citizenship verification?

10:45:32 19 A. For identity.

10:45:35 20 Q. Okay. Not for U.S. citizenship verification?

10:45:38 21 A. No, but that information is provided, and if
10:45:42 22 provided, it is passed through to us in our AVID system.

10:45:46 23 Q. Got it.

10:45:47 24 And so in AVID, when you run the HAVA check,
10:45:50 25 what sort of results are returned; what do you see on

10:45:53 1 the screen?

10:45:56 2 A. Well, it populates the registrant's information
10:46:00 3 of what's there. I can't give you a list of exactly
10:46:04 4 everything.

10:46:06 5 Q. Okay. If the HAVA check returns information
10:46:09 6 indicating that the person was not a U.S. citizen at the
10:46:12 7 time they obtained their Arizona driver's license or
10:46:15 8 state ID, could you just reiterate what steps you take
10:46:19 9 after that point?

10:46:20 10 A. We would send a letter.

10:46:22 11 Q. Okay. And is the (F)-Type license the only MVD
10:46:31 12 credential that requires additional proof of
10:46:34 13 citizenship?

10:46:36 14 A. I don't recall.

10:46:38 15 Q. Okay. Is there such a thing as a foreign
10:46:51 16 authorized presence license or ID card? Is that the
10:46:58 17 same thing as an (F)-Type license or is that different?

10:47:01 18 A. I don't know. I don't issue those.

10:47:06 19 Q. Okay. And, again, that can only tell you --
10:47:08 20 the HAVA check can only tell you that the applicant or
10:47:11 21 voter was not a U.S. citizen at some time in the past,
10:47:16 22 correct?

10:47:16 23 A. My understanding, that it gives us the current
10:47:18 24 data that's in the system.

10:47:21 25 Q. Right. But if you -- or if it shows you that

10:47:24 1 someone still holds an (F)-Type license that was issued
10:47:29 2 some number of months or years ago, that only indicates
10:47:32 3 to you, right, that they were -- that only proves that
10:47:36 4 they were not a U.S. citizen at that point in the past,
10:47:39 5 correct?

10:47:39 6 A. That would be my understanding, yes.

10:47:42 7 Q. Okay. And so when you follow -- how often do
10:47:45 8 you encounter registrants with (F)-Type or foreign
10:47:49 9 authorized presence licenses?

10:47:50 10 A. I don't know, but I don't think it's very
10:47:54 11 often.

10:47:54 12 Q. Okay. And do you know how often those
10:47:56 13 individuals provide DPOC in response to the notice
10:48:00 14 letter?

10:48:02 15 A. No, I don't.

10:48:05 16 Q. And the notice letter, we don't have a copy
10:48:07 17 before us, but could you tell me, does it ask whether --
10:48:11 18 does it ask the applicant for a naturalization
10:48:15 19 certificate number, an alien registration number, both?

10:48:20 20 A. I thought I had one. I think there's a list of
10:48:23 21 valid things that could be provided. I believe they are
10:48:29 22 on it.

10:48:33 23 Q. Do you check both the naturalization
10:48:36 24 certificate number and the alien registration number
10:48:39 25 against a particular database?

10:48:44 1 A. I don't know. I'm not aware of a database that
10:48:46 2 would have that.

10:48:49 3 Q. Okay. So let me ask this. Let me break this
10:48:51 4 down a few different ways. If someone provides a copy
10:48:54 5 of a naturalization certificate to your office, do you
10:48:58 6 have to do anything to verify that naturalization
10:49:01 7 certificate, or is that in and of itself documentary
10:49:07 8 proof of citizenship?

10:49:08 9 A. I don't know. I think I'd need a certified
10:49:11 10 copy, but I don't know.

10:49:13 11 Q. Okay. And then let's say no copy of the
10:49:15 12 naturalization certificate is provided, but you're given
10:49:18 13 a naturalization certificate number on that returned
10:49:23 14 notice letter and/or an alien registration number. Do
10:49:27 15 you have to do something to verify the naturalization
10:49:29 16 certificate number and/or the alien registration number?

10:49:34 17 A. I don't recall off the top of my head. I don't
10:49:36 18 do that daily work.

10:49:39 19 Q. Okay. So you're not certain -- as the County
10:49:42 20 Recorder, you're not certain if staff members are doing
10:49:44 21 anything to verify naturalization certificate or alien
10:49:50 22 registration numbers?

10:49:52 23 A. I'll have to check on exactly what we're doing,
10:49:52 24 yes.

10:49:56 25 Q. Who in your office would know the answer to

10:49:57 1 that?

10:50:00 2 A. My chief deputy would.

10:50:04 3 Q. Okay. What's that person's name?

10:50:08 4 A. It's Heather Lopez.

10:50:12 5 Q. Do you know -- do you have any familiarity with

10:50:15 6 the SAVE system that's administered by the Department of

10:50:21 7 Homeland Security?

10:50:21 8 A. I know we have access to it. We have one

10:50:23 9 person that has an account.

10:50:25 10 Q. Okay. But that person is not you, I take it?

10:50:27 11 A. It is not me, correct.

10:50:29 12 Q. Got it.

10:50:30 13 So you don't have much familiarity with the

10:50:31 14 SAVE system interface and --

10:50:34 15 A. No, I do not.

10:50:35 16 Q. Okay. Do you know what your office is doing

10:50:37 17 with the SAVE system?

10:50:40 18 A. On a day-to-day basis they access when they

10:50:44 19 need to; but, no, I don't.

10:50:46 20 Q. Okay. You're not sure when they need to,

10:50:49 21 correct?

10:50:49 22 A. No.

10:50:52 23 Q. Okay. Does your existing agreement with ADOT's

10:50:58 24 Motor Vehicle Division cover the uses outlined in

10:51:01 25 H.B. 2492 and H.B. 2243?

10:51:07 1 A. I would have to assume so. I don't know.

10:51:11 2 Q. Have you been in communication with ADOT about
10:51:15 3 modifying that agreement in any way?

10:51:17 4 A. No.

10:51:18 5 Q. Has your office encountered instances where a
10:51:21 6 voter registration applicant who is a U.S. citizen was
10:51:25 7 flagged erroneously as a noncitizen by way of a search
10:51:28 8 of the MVD databases?

10:51:30 9 A. No, I don't have any knowledge of that problem.

10:51:34 10 Q. Okay. Do you recall an incident from last year
10:51:37 11 where database matching produced erroneous results and
10:51:40 12 caused the downgrading of thousands of voters to federal
10:51:44 13 only voting status?

10:51:47 14 A. Off the top of my head, no, I don't remember
10:51:48 15 that.

10:51:50 16 Q. Could we take a look at -- this is the last
10:51:52 17 document in the potential exhibits folder, Exhibit (F).
10:51:55 18 It's Bates-stamped AZSOS-239070.

10:51:55 19 A. Got it.

10:52:04 20 Q. Do you want to take a moment just to review
10:52:06 21 this e-mail, and let me know if you recognize this
10:52:12 22 document?

10:52:54 23 Reviewing the first page should be sufficient.
10:52:58 24 When you have a chance to get through the first page,
10:53:00 25 just let me know. That's all there is.

10:53:32 1 So do you recognize this document, Mr. Stevens?

10:53:36 2 You're on mute.

10:53:40 3 A. Sorry, I hit that...

10:53:43 4 Q. Oh, you're on mute again. I don't know what
10:53:45 5 happened.

10:53:48 6 A. I think I have things on my keyboard. Let me
10:53:52 7 move them.

10:53:52 8 Q. Now you're good.

10:53:54 9 A. We're good.

10:53:55 10 Okay. Well, I'm on the e-mail.

10:53:56 11 Q. Do you rec -- you're on the e-mail. Do you
10:53:58 12 recognize this e-mail that was sent to you?

10:54:00 13 A. Off the top of my head, no. I kind of vaguely
10:54:04 14 remember the issue, now that I'm going through the
10:54:06 15 e-mail. This said we had 67 that had an issue.

10:54:14 16 Q. Okay. Before I ask you questions about this
10:54:17 17 e-mail, can we just confirm this was an e-mail that was
10:54:21 18 sent to you on October 17th, 2022 by the Arizona
10:54:25 19 Secretary of State's Office; is that correct?

10:54:26 20 A. Yes.

10:54:27 21 Q. All right. Can we mark this as Exhibit 125?

10:54:32 22 And do you recall this incident from October of
10:54:35 23 last year?

10:54:37 24 A. It's starting to come back.

10:54:39 25 Q. What happened?

10:54:42 1 A. That some people were put into a fed only
10:54:48 2 system that should not have been there, I guess. We
10:54:53 3 were -- it looks like we were provided a list of names
10:54:55 4 to check.

10:55:00 5 Q. And how did this happen?

10:55:05 6 A. My understanding was it was an issue with the
10:55:07 7 AVID system.

10:55:11 8 Q. Was it an issue of how the AVID system's HAVA
10:55:15 9 checks were interacting with MVD records?

10:55:18 10 A. I don't know. I didn't design it.

10:55:22 11 Q. Okay. So you're not sure on a technical level
10:55:24 12 how this happened, but -- correct?

10:55:28 13 A. For this, correct.

10:55:32 14 Q. But do you recall how many voters were affected
10:55:35 15 statewide by this incident?

10:55:38 16 A. No. We would have only been notified for our
10:55:42 17 county.

10:55:42 18 Q. And how many voters were affected in Cochise
10:55:46 19 County?

10:55:46 20 A. If I add them up, it's 71.

10:55:49 21 Q. In light of this, what does this say to you
10:55:52 22 about the reliability of using the MVD databases to
10:55:56 23 assess a person's current U.S. citizenship status?

10:56:00 24 A. I can't --

10:56:00 25 MR. LANGHOFER: Form.

10:56:02 1 THE WITNESS: I can't answer that until I
10:56:03 2 know exactly what caused the problem. The data could
10:56:08 3 have been correct and the software could have been
10:56:10 4 incorrect.

10:56:16 5 BY MR. SHERMAN:

10:56:16 6 Q. Do you think it's problematic to be relying on
10:56:22 7 database matching technology like this to assess
10:56:25 8 citizenship status or whether documentary proof of
10:56:29 9 citizenship has been provided?

10:56:30 10 MR. LANGHOFER: Form.

10:56:33 11 THE WITNESS: We have to rely on
10:56:35 12 something.

10:56:39 13 BY MR. SHERMAN:

10:56:39 14 Q. If 71 voters were accidentally downgraded in
10:56:43 15 your county, would you say that that's an accurate or
10:56:49 16 inaccurate system?

10:56:51 17 MR. LANGHOFER: Form.

10:56:55 18 THE WITNESS: Well, out of the amount of
10:56:57 19 data that goes through that system on a daily basis,
10:57:00 20 it's a very small percentage.

10:57:07 21 Is that me?

10:57:08 22 BY MR. SHERMAN:

10:57:08 23 Q. What does your office do in the event that you
10:57:10 24 cannot match a voter registration applicant or
10:57:13 25 registered voter at all to any record in the MVD driver

10:57:16 1 license or state ID databases?

10:57:20 2 A. I'm sorry. Say that one more time?

10:57:22 3 Q. If you can't get a match at all using a HAVA
10:57:25 4 check, what do you do in that circumstance?

10:57:29 5 A. I would have to consult with staff. They're
10:57:31 6 the ones that actually handle this.

10:57:33 7 Q. Do you send a notice letter to that voter
10:57:35 8 registration applicant?

10:57:36 9 A. Typically, that's what they do, is they send a
10:57:38 10 letter. We have a large selection of letters that we
10:57:43 11 can send out.

10:57:44 12 Q. Got it.

10:57:46 13 So it would just be a different form of
10:57:49 14 the similar letter?

10:57:49 15 A. A different form letter, correct.

10:57:51 16 Q. Got it.

10:57:52 17 Is it feasible to use the MVD databases to
10:57:58 18 determine a present day lack of U.S. citizenship?

10:58:04 19 A. I have no knowledge of the MVD system.

10:58:09 20 Q. Can you rely on HAVA checks to determine a
10:58:13 21 present day lack of U.S. citizenship?

10:58:20 22 A. I think the HAVA check provides citizenship,
10:58:22 23 not lack of it.

10:58:25 24 Q. So you can -- is your testimony that you use a
10:58:28 25 HAVA check to confirm U.S. citizenship, but you can't

10:58:31 1 use it to confirm a lack of U.S. citizenship; is that
10:58:37 2 correct?

10:58:37 3 A. We use it to confirm citizenship.

10:58:44 4 Q. Can you use it to confirm a lack of U.S.
10:58:48 5 citizenship, or do you need to take other steps to
10:58:50 6 figure that out?

10:58:50 7 A. I'm not aware of us ever trying to do that, so
10:58:53 8 I would guess extra steps would be needed.

10:59:01 9 Q. Okay. Do you agree that the laws that are the
10:59:04 10 subject of this litigation are -- well, strike that
10:59:11 11 question.

10:59:11 12 H.B. 2492 and H.B. 2243 use the phrase -- the
10:59:20 13 word practicable a number of times. In terms of
10:59:23 14 resources, access, training, is it practicable for your
10:59:27 15 office to use MVD driver license and nonoperating ID
10:59:31 16 databases for citizenship verification?

10:59:34 17 A. Yes, it is.

10:59:35 18 MR. CORREA: Form.

10:59:36 19 BY MR. SHERMAN:

10:59:36 20 Q. Is it practicable for your office to do monthly
10:59:39 21 MVD checks of all registered voters in Cochise County?

10:59:47 22 A. I don't know. We've never done that.

10:59:50 23 Q. If these laws were implemented, you'd be
10:59:53 24 required to under H.B. 2243. Would that be practicable?

11:00:01 25 A. Probably, since it's IT-based; but it would be

11:00:05 1 dependent on the time. There are a lot of restrictions
11:00:13 2 around election times for doing this type of work that
11:00:16 3 would prevent us from doing it at that time.

11:00:19 4 Q. How many registered voters are there in Cochise
11:00:23 5 County, roughly?

11:00:24 6 A. Active or inactive, or both?

11:00:27 7 Q. Let's say active.

11:00:29 8 A. 76,000.

11:00:33 9 Q. Could your current-size staff, your staff at
11:00:36 10 its current size and level of resources, check about
11:00:39 11 76,000 people against the MVD database every month;
11:00:45 12 would that be practicable?

11:00:46 13 A. Well, it wouldn't be one at a time. You would
11:00:49 14 have to develop some system that -- to do that. If we
11:00:55 15 had to do it one at a time, it would not be practicable,
11:00:55 16 no.

11:00:58 17 Q. Got it.

11:00:59 18 Does such a system exist currently to
11:01:01 19 automatically compare all of your county's registered
11:01:06 20 voters against the MVD database?

11:01:07 21 A. Not to my knowledge, no.

11:01:09 22 Q. Do you know how long it would take to create
11:01:10 23 such a system?

11:01:14 24 MR. LANGHOFER: Form.

11:01:17 25 THE WITNESS: I have no idea.

11:01:20 1 BY MR. SHERMAN:

11:01:20 2 Q. Have you had any conversations with the Arizona
11:01:23 3 Secretary of State's Office about creating such a
11:01:25 4 system?

11:01:27 5 A. No.

11:01:29 6 Q. H.B. 2492 instructs your office to, quote, use
11:01:33 7 all available resources, end quote, to perform these
11:01:36 8 database searches using MVD data.

11:01:38 9 Is that possible?

11:01:40 10 MR. LANGHOFER: Form.

11:01:41 11 THE WITNESS: Were you talking about 43 or
11:01:43 12 92?

11:01:45 13 BY MR. SHERMAN:

11:01:46 14 Q. 2492.

11:01:47 15 It says you have to use all -- quote, use all
11:01:50 16 available resources, end quote, to perform these MVD
11:01:54 17 database searches.

11:01:55 18 Is that possible?

11:01:55 19 MR. CORREA: Form.

11:02:00 20 THE WITNESS: It depends on the term
11:02:01 21 available, because most of these are not available to
11:02:01 22 us.

11:02:05 23 BY MR. SHERMAN:

11:02:05 24 Q. When you say most of these, what are you
11:02:07 25 referring to?

11:02:07 1 A. Well, like the Social Security Administration.

11:02:10 2 Q. Okay.

11:02:10 3 A. We don't have access. But we may, we may have
11:02:14 4 access in the future.

11:02:15 5 Q. Okay.

11:02:15 6 A. If we do, then we will use it.

11:02:19 7 Q. So for HAVA checks, when someone puts down the
11:02:22 8 last four of their social in lieu of Arizona driver
11:02:24 9 license or ID number, you don't do anything to verify
11:02:27 10 the last four of their social?

11:02:29 11 A. That's part of the verification process to make
11:02:33 12 them either a hard match or a soft match.

11:02:36 13 Q. But you don't compare the last four of their
11:02:38 14 social against any SSA database?

11:02:40 15 A. No.

11:02:42 16 Q. Okay. Has your office ever been given a
11:02:45 17 specific list of means by which a voter registration
11:02:48 18 applicant can be deemed or proven a noncitizen?

11:02:51 19 A. I don't recall one, no.

11:02:52 20 Q. Has your office ever been given a specific list
11:02:55 21 of means by which a currently registered Arizona voter
11:02:58 22 can be deemed or proven a noncitizen?

11:03:01 23 A. I don't recall any, no.

11:03:04 24 Q. In the USCIS's SAVE system, are you familiar
11:03:08 25 with what the SAVE system is?

11:03:09 1 A. No, I am not.

11:03:11 2 Q. Okay. You testified earlier you don't have
11:03:13 3 access to it, and you don't -- correct?

11:03:17 4 A. I have one staff member with access.

11:03:20 5 Q. Got it. Sorry.

11:03:21 6 But you personally don't have access, correct?

11:03:23 7 A. Correct, I do not.

11:03:24 8 Q. Okay. And do you -- does your office currently
11:03:27 9 use the SAVE system for purposes of U.S. citizenship
11:03:30 10 verification, or you're not sure?

11:03:32 11 A. I'm not sure.

11:03:32 12 Q. Okay.

11:03:35 13 MR. SHERMAN: Well, I will say the SAVE
11:03:36 14 system is a big part of both of these laws and it is a
11:03:39 15 part of the litigation, and we expected that a
11:03:43 16 representative designee from the Cochise County
11:03:47 17 Recorder's Office would have relevant knowledge of the
11:03:51 18 SAVE system. So I'll note just here for the record that
11:03:54 19 we may have to hold the deposition open to speak with
11:03:58 20 someone else who could testify as to the SAVE system.

11:03:58 21 BY MR. SHERMAN:

11:04:02 22 Q. You're not aware, though, yourself,
11:04:06 23 Mr. Stevens, whether you engage in any alternative
11:04:08 24 citizenship verification process or any alternative
11:04:12 25 verification process with USCIS?

11:04:14 1 A. No, I'm not.

11:04:16 2 Q. Okay. Have you personally spoken with USCIS
11:04:20 3 ever about citizenship verification for voter
11:04:24 4 registration?

11:04:24 5 A. I don't recall ever speaking to anybody about
11:04:26 6 it, no.

11:04:31 7 Q. Okay. Just give me one moment.
11:04:36 8 Have you talked with anyone whatsoever about
11:04:38 9 the uses of the SAVE system identified in H.B. 2492 and
11:04:45 10 H.B. 2243?

11:04:49 11 A. Not to my knowledge, no.

11:04:55 12 Q. Do you know if it's possible to use the SAVE
11:04:57 13 system if you don't have a naturalization certificate
11:05:00 14 number or an alien registration number?

11:05:03 15 A. No, I don't know.

11:05:06 16 Q. Okay. And you've testified that you have no
11:05:09 17 knowledge of -- well, excuse me. Let me strike that.

11:05:11 18 Do you have any experience with accessing or
11:05:17 19 interfacing with Social Security Administration
11:05:19 20 databases?

11:05:21 21 A. No.

11:05:24 22 Q. Can we go back just to Exhibit 124? This is
11:05:28 23 your responses to the consolidated plaintiffs'
11:05:36 24 interrogatories. Should have been Exhibit E as it was
11:05:40 25 in the database.

11:05:40 1 A. E, okay.

11:05:42 2 Q. Excuse me, in the Dropbox.

11:05:47 3 A. Okay.

11:05:47 4 Q. And on Page 5, top of Page 5, your answer to

11:05:56 5 interrogatory number 4 said, "Cochise County Recorder

11:06:02 6 uses --" do you see this, top of Page 5?

11:06:04 7 A. Yes.

11:06:05 8 Q. Okay. "Cochise County Recorder uses the

11:06:06 9 statewide voter registration system (AVID) which checks

11:06:09 10 the registrant's information against AZMVD records and

11:06:13 11 if necessary, the Social Security Administration."

11:06:16 12 In light of your testimony before, could you

11:06:18 13 just explain what you -- what your office meant by this

11:06:21 14 sentence in response to interrogatory number 4?

11:06:25 15 A. I would have to confer with staff. I don't

11:06:31 16 know.

11:06:31 17 Q. Okay. So you're unsure sitting here today

11:06:34 18 whether your staff are using Social Security

11:06:39 19 Administration data for any purpose?

11:06:43 20 A. I am unsure, correct.

11:06:46 21 Q. Do you have any knowledge of the U.S.

11:06:49 22 citizenship status data in SSA's databases?

11:06:56 23 A. I don't know that terminology.

11:06:59 24 Q. Do you know if the Social Security

11:07:03 25 Administration databases have information on U.S.

11:07:06 1 citizenship status?

11:07:07 2 A. I don't know.

11:07:09 3 Q. Okay. And as far as you know, your office is
11:07:13 4 not using SSA databases for purposes of citizenship
11:07:18 5 verification; is that correct?

11:07:20 6 A. Correct.

11:07:34 7 Q. Okay. H.B. 2243 would require you to compare
11:07:37 8 all of your county's registered voters to SSA databases
11:07:42 9 on a monthly basis. Is that practicable, given your
11:07:47 10 current access or lack thereof?

11:07:49 11 A. As of right now, no, it's not.

11:07:51 12 Q. Okay. Would some kind of system or interface
11:07:53 13 have to be developed for you to automatically compare
11:07:57 14 all 76,000 or so registered voters against SSA
11:08:02 15 databases?

11:08:03 16 A. My understanding would be yes.

11:08:06 17 Q. Because, again, just to be -- so the record's
11:08:10 18 clear, it would be infeasible, right, to individually
11:08:13 19 compare every single registered voter in your county to
11:08:16 20 SSA databases on a monthly basis; is that correct?

11:08:19 21 A. Individually, that is correct.

11:08:23 22 Q. Have you ever heard of the National Association
11:08:28 23 for Public Health Statistics and Information Systems?

11:08:28 24 A. No.

11:08:30 25 Q. Are you familiar with any of NAPHSIS's

11:08:34 1 databases, such as the Electronic Verification of Vital
11:08:38 2 Events database?
11:08:39 3 A. Doesn't sound familiar, no.
11:08:41 4 Q. Okay. And so I take it that you don't
11:08:43 5 currently use any of NAPHSIS's databases for any purpose
11:08:47 6 whatsoever, correct?
11:08:48 7 A. That would be correct.
11:08:49 8 Q. Have you been talking to any Arizona Secretary
11:08:56 9 of State staff about potentially using the NAPHSIS
11:09:00 10 databases?
11:09:00 11 A. No.
11:09:01 12 Q. Okay. Are you familiar with the Electronic
11:09:05 13 Registration Information Center, or ERIC?
11:09:05 14 A. Yes.
11:09:07 15 Q. Do you currently use ERIC for U.S. citizenship
11:09:10 16 verification?
11:09:12 17 A. I don't recall. We use it for a couple of
11:09:16 18 things. I don't recall if that's one of them.
11:09:19 19 Q. Do you know if ERIC even contains U.S.
11:09:22 20 citizenship status data?
11:09:24 21 A. No, I don't know.
11:09:32 22 Q. Do you have the ability to search or interface
11:09:34 23 with any other government databases with U.S.
11:09:38 24 citizenship database -- with U.S. citizenship data?
11:09:40 25 A. Not to my knowledge, no.

11:09:45 1 Q. Are there any other databases whatsoever that
11:09:49 2 your office has access to or is trying to gain access to
11:09:53 3 to perform citizenship checks?

11:09:58 4 A. Not to my knowledge, no.

11:10:01 5 Q. Has your office been communicating with any
11:10:02 6 other person or entity regarding the use of any database
11:10:06 7 for citizenship verification?

11:10:07 8 A. No.

11:10:13 9 Q. Has your office been instructed as to how to
11:10:16 10 use multiple databases simultaneously for citizenship
11:10:21 11 verification?

11:10:25 12 A. Other than what we already use? No.

11:10:27 13 Q. Okay. So no one's given your office
11:10:30 14 instructions on how to, say, reconcile conflicting
11:10:33 15 citizenship status information from different databases?

11:10:36 16 A. Not to my knowledge, correct.

11:10:39 17 Q. Okay. And have you been given any instruction
11:10:44 18 or guidance on how to ensure an accurate match is made
11:10:47 19 when using a government database or other database for
11:10:52 20 citizenship verification purposes?

11:10:55 21 A. Yes. I believe that's all in the EPM.

11:10:59 22 Q. Okay. So that's baked into current guidance
11:11:04 23 for HAVA checks?

11:11:07 24 A. My understanding, yes.

11:11:10 25 Q. Okay. All right, just one other area I wanted

11:11:13 1 to ask you about.

11:11:16 2 If a registered voter is removed from the rolls
11:11:19 3 under H.B. 2243 based upon an erroneous determination
11:11:25 4 that they are not a U.S. citizen, can that voter be
11:11:29 5 added back to the rolls if the registration deadline has
11:11:32 6 already passed?

11:11:34 7 MR. LANGHOFER: Calls for a legal
11:11:39 8 conclusion.

11:11:39 9 THE WITNESS: Currently, no.

11:11:41 10 BY MR. SHERMAN:

11:11:41 11 Q. No, they can't?

11:11:41 12 A. No.

11:11:43 13 Q. Okay. Even if it's in -- I just want to be
11:11:46 14 clear for the record.

11:11:47 15 So even if you later determine that someone was
11:11:50 16 erroneous -- found in error to be a noncitizen, they
11:11:53 17 are, in fact, a citizen, once the registration deadline
11:11:57 18 passes, that person can't be added back to the rolls; is
11:12:01 19 that correct?

11:12:01 20 A. My understanding is that's correct.

11:12:03 21 MR. LANGHOFER: Same objection.

11:12:06 22 MR. SHERMAN: Thank you very much for your
11:12:07 23 time, Mr. Stevens. One of my -- some of my other
11:12:10 24 colleagues on the plaintiffs' side of the v. might have
11:12:13 25 questions for you, but I am done.

11:12:16 1 THE WITNESS: Okay.

11:12:16 2 MR. SHERMAN: I don't know if folks want
11:12:17 3 to take a break or if someone else is prepared to jump
11:12:20 4 in.

11:12:27 5 MR. LANGHOFER: Jon, did you say some
11:12:28 6 other plaintiffs are going to go?

11:12:29 7 MR. SHERMAN: I'm unclear on whether
11:12:31 8 that's the case, but I see Hayden's come off camera. So
11:12:35 9 I am done now.

11:12:37 10 MR. JOHNSON: Yeah, Jon, I think just a
11:12:38 11 quick break, if you all don't mind. Can we take like a
11:12:42 12 ten-minute break here?

11:12:44 13 MR. SHERMAN: That sounds great.

11:12:47 14 MR. JOHNSON: Thanks.

11:13:02 15 THE VIDEOGRAPHER: I'm so sorry. I forgot
11:13:04 16 to unmute. That is my fault. We are off the record at
11:13:08 17 11:13, and this will conclude Media 1.

11:13:14 18 (A recess was taken.)

11:26:01 19 THE VIDEOGRAPHER: Okay. We are on the
11:26:03 20 record. Time on the monitor is 11:26 and this begins
11:26:10 21 Media No. 2. You may proceed.

11:26:10 22

11:26:10 23 EXAMINATION

11:26:17 24 BY MR. JOHNSON:

11:26:17 25 Q. Thank you.

11:26:17 1 And thank you, Recorder Stevens. I'm Hayden
11:26:20 2 Johnson. I represent the LUCHA plaintiffs in this
11:26:22 3 matter. I just wanted to follow up on a couple of
11:26:24 4 things.

11:26:25 5 What are you doing differently in terms of
11:26:29 6 processing voter registration applications now that you
11:26:32 7 weren't doing before these laws passed?

11:26:38 8 A. Well, for the fed onlys they're being held in
11:26:41 9 suspense mode, but everything else is the same. They
11:26:46 10 get a letter asking them to provide more documentation.

11:26:51 11 Q. So when you say the fed only are held in
11:26:54 12 suspense mode, can you elaborate on that?

11:26:56 13 A. It's just a status in the database; you know,
11:26:59 14 your active, inactive, merged, canceled, suspended,
11:27:05 15 suspense mode. It's just there so we don't lose you in
11:27:07 16 the paperwork shuffle.

11:27:09 17 Q. So if someone applies now without giving
11:27:13 18 documentary proof of citizenship, they're put in
11:27:16 19 suspense mode, is that what you're saying, for fed only?

11:27:19 20 A. Correct. Since the first of the year I've got
11:27:21 21 six that are in suspense and three that are still in the
11:27:26 22 35-day window after we mailed their letter.

11:27:30 23 Q. Okay. So make sure I got this right. Six
11:27:34 24 voters have applied since these laws became effective
11:27:38 25 that did not give documentary proof of citizenship; is

11:27:38 1 that right?

11:27:42 2 A. Correct.

11:27:42 3 Q. And those voters are just being held in a

11:27:47 4 suspense field at the moment; is that correct?

11:27:48 5 A. Right.

11:27:49 6 Q. And they're not being registered to vote?

11:27:51 7 A. Right.

11:27:52 8 Q. And that's for either a full ballot voter or a

11:27:59 9 federal only voter; is that right?

11:28:00 10 A. These are fed only.

11:28:01 11 Q. But they're not being registered as a federal

11:28:04 12 only voter?

11:28:05 13 A. Correct. Suspense mode does not allow them to

11:28:07 14 vote.

11:28:11 15 Q. Okay. And how long are they held in suspense

11:28:13 16 mode?

11:28:13 17 A. I'll have to get back to you. We're --

11:28:18 18 probably till the end of this litigation, because the

11:28:22 19 litigation requires them to be canceled.

11:28:25 20 Q. Okay. So you haven't rejected the

11:28:28 21 applications, right?

11:28:28 22 A. Correct.

11:28:29 23 Q. But they're not registered, right?

11:28:31 24 A. Correct.

11:28:34 25 Q. Okay. You mentioned earlier, you know, when we

11:28:39 1 were -- when I'm talking about DPOR, do you know what I
11:28:41 2 mean by that?
11:28:42 3 A. Proof of residence?
11:28:44 4 Q. Right.
11:28:44 5 A. Yeah.
11:28:45 6 Q. And that's also a new provision in the new law,
11:28:48 7 right?
11:28:48 8 A. In 43?
11:28:52 9 Q. 2492.
11:28:53 10 A. Yes.
11:28:56 11 Q. Okay. And of the six applications that you
11:28:58 12 said are in suspense, are all of those voters that
11:29:02 13 lacked DPOC?
11:29:04 14 A. Yes.
11:29:06 15 Q. And so are there any voters that are held in
11:29:09 16 suspense that lack providing DPOR?
11:29:12 17 A. Not to my knowledge, no.
11:29:14 18 Q. Okay.
11:29:22 19 MR. JOHNSON: Jody, if we can, and for the
11:29:23 20 witness, if we could look up Petty Exhibit 24.
11:29:33 21 THE COURT REPORTER: I'm not doing exhibit
11:29:35 22 sharing. I don't know if somebody else is.
11:29:37 23 THE WITNESS: We've got them here.
11:29:37 24 BY MR. JOHNSON:
11:29:37 25 Q. Do you have Petty Exhibit 24? If not, I can do

11:29:41 1 a screen share for you.

11:29:43 2 MR. CORREA: We've got it.

11:29:43 3 THE WITNESS: We have it. We went old
11:29:45 4 school.

11:29:45 5 BY MR. JOHNSON:

11:29:47 6 Q. All right. That's quite all right. Sometimes
11:29:47 7 that's better.

11:29:51 8 So do you see on the first page there it says
11:29:53 9 Exhibit (J) and the second page there's a table; is that
11:29:57 10 correct?

11:29:57 11 A. I'm not there yet.

11:29:58 12 Q. Okay.

11:30:01 13 A. It's a big binder.

11:30:03 14 Q. Yeah, understandable.

11:30:14 15 A. Okay, I think I've got it.

11:30:15 16 "What constitutes Proof of Residency," correct?

11:30:19 17 Q. Correct.

11:30:19 18 Have you seen this document before?

11:30:21 19 A. It looks like it came out of the procedure
11:30:23 20 manual.

11:30:27 21 Q. Okay. This is a document that's been created
11:30:32 22 during the course of this litigation, and it talks about
11:30:35 23 some of the documentary proof of residency requirements
11:30:39 24 at the top; but you haven't -- you haven't seen this
11:30:43 25 specific document before; is that right?

11:30:44 1 A. I don't recall it, no.

11:30:46 2 Q. Okay. I'd like to ask you a couple of

11:30:50 3 questions about what the document contains anyway.

11:30:53 4 The first is on the left there. So at the top,

11:30:58 5 as you said, it says, "What constitutes Documentary

11:31:02 6 Proof of Residence," is that right?

11:31:03 7 A. Yes.

11:31:03 8 Q. And on the left there it says a

11:31:05 9 "Valid/unexpired AZDL/ID number that the county verifies

11:31:10 10 via MVD check."

11:31:11 11 Do you understand that to mean Arizona driver's

11:31:14 12 license or ID number?

11:31:15 13 A. Yes.

11:31:17 14 Q. And MVD check is the Motor Vehicle check,

11:31:20 15 right?

11:31:20 16 A. Correct.

11:31:21 17 Q. So if you received a voter registration

11:31:24 18 application that had that information, would you accept

11:31:27 19 that for registration on this basis?

11:31:32 20 A. For residency, I believe we would.

11:31:35 21 Q. Okay. And then the next one, "Copy of a

11:31:39 22 valid/unexpired AZDL/ID," which, again, is Arizona

11:31:46 23 driver's license/ID. Do you see that?

11:31:47 24 A. I do see that.

11:31:48 25 Q. So if a voter registration application -- if

11:31:51 1 you received either a state or federal voter
11:31:53 2 registration application that included a copy of a
11:31:55 3 valid/unexpired Arizona driver's license/ID, would you
11:31:58 4 process that application?

11:32:00 5 A. I believe we would, yes.

11:32:03 6 Q. Okay. And then same question for "Tribal
11:32:06 7 identification card." If you received Tribal ID, would
11:32:08 8 you use that -- would you process an application for
11:32:12 9 DPOR with that?

11:32:13 10 A. I believe we would, yes.

11:32:19 11 Q. And then if you look on the second column,
11:32:27 12 fourth row here, it says, "Pursuant to Gonzalez, Tribal
11:32:30 13 ID does not require an address to be listed."

11:32:34 14 So if you received a Tribal ID without a
11:32:37 15 residential address, would you still process that voter
11:32:41 16 registration application?

11:32:41 17 A. I believe we would.

11:32:44 18 Q. Okay. And then down to the next field, column
11:32:50 19 one, row five, where it says, "Utility bill, bank
11:32:52 20 statement, Arizona insurance card, Arizona vehicle
11:32:55 21 registration, property tax statement, recorder's
11:32:58 22 certification, voter ID card, federal or state issued ID
11:33:01 23 card."

11:33:02 24 Do you see that?

11:33:02 25 A. Yes.

11:33:04 1 Q. If you received a voter application, state or
11:33:07 2 federal form, that included one of those documents,
11:33:10 3 would you count that as satisfying the DPOR requirement?

11:33:14 4 A. I believe we would.

11:33:15 5 Q. Okay. And then the same question for the next
11:33:18 6 row down, "Any other document or piece of mail that is
11:33:22 7 issued by a government, educational institution, or
11:33:24 8 place of business that provides the person's name and
11:33:26 9 address."

11:33:27 10 If the application included that information,
11:33:30 11 would you count the DPOR requirement satisfied?

11:33:33 12 A. I believe we would.

11:33:34 13 Q. Okay. And then, last, the voter provides
11:33:38 14 "Written confirmation signed by the registrant that they
11:33:40 15 qualify to register pursuant to 16-166(B) (providing an
11:33:47 16 address at a homeless center; USPS General Delivery;
11:33:51 17 Courthouse)."

11:33:52 18 If a voter provided that information in their
11:33:54 19 voter registration application, would you count the DPOR
11:33:57 20 requirement satisfied?

11:33:57 21 A. I believe we would.

11:33:58 22 Q. Okay. Then I believe you mentioned earlier
11:34:04 23 that you've only received state form applications in the
11:34:07 24 last year; is that -- was that your testimony?

11:34:09 25 A. Since the first of the year I'm not aware of

11:34:12 1 any federal forms, correct.

11:34:13 2 Q. Okay. So would you -- is it fair to say that
11:34:16 3 the substantial majority of forms that your office
11:34:19 4 receives are state form applications?

11:34:20 5 A. That would be fair to say, yes.

11:34:24 6 Q. Do you know of any third-party voter
11:34:27 7 registration groups that are active in Cochise County
11:34:29 8 using federal form applications?

11:34:33 9 A. No. I know there are third-party groups out
11:34:35 10 there, but I don't know them; and I don't know which
11:34:39 11 forms they're using, no.

11:34:40 12 Q. Okay. But you don't receive federal form
11:34:44 13 applications from third-party groups, to your knowledge;
11:34:44 14 is that right?

11:34:48 15 A. We receive them from third-party groups. I'm
11:34:52 16 not sure which ones they are, because they tend to come
11:34:55 17 in large bundles.

11:34:57 18 Q. Okay. So you're not sure whether they're
11:34:59 19 federal forms or state forms?

11:35:00 20 A. Yeah.

11:35:01 21 Q. Okay. And are there any -- when I refer to an
11:35:06 22 NVRA designated agency, do you know what I'm talking
11:35:08 23 about there?

11:35:09 24 A. Yes.

11:35:09 25 Q. And are there NVRA designated agencies active

11:35:13 1 in Cochise County?

11:35:15 2 A. Not to my knowledge.

11:35:18 3 Q. Okay. When voters apply to vote at a Motor
11:35:23 4 Vehicle Division in Cochise County, do they use a state
11:35:27 5 form?

11:35:27 6 A. To my knowledge, yes, or they use the form
11:35:29 7 online.

11:35:37 8 Q. Okay. Your indulgence, one moment.

11:35:40 9 A. Sure.

11:35:50 10 Q. If you were to receive a voter registration
11:35:52 11 application that just provided a Tribal ID number, not a
11:35:56 12 copy of a Tribal ID, would you also count that satisfied
11:35:59 13 for DPOR purposes?

11:36:01 14 A. Yeah, I don't know. I'd have to check.

11:36:04 15 Q. Okay.

11:36:10 16 MR. JOHNSON: I think that's it for my
11:36:11 17 questions. Thank you, Recorder Stevens.

11:36:15 18 THE WITNESS: Oh. Thank you.

11:36:16 19 MR. JOHNSON: I'll pass the witness.
11:36:17 20 There might be other plaintiff groups on here.

11:36:17 21

11:36:17 22 EXAMINATION

11:36:17 23 BY MS. BRAILEY:

11:36:21 24 Q. Hi, Mr. Stevens. My name is Emily Brailey. I

11:36:24 25 represent the United States. I only have a few

11:36:26 1 follow-up questions, just to clarify some answers you
11:36:29 2 gave.

11:36:31 3 The first is something you just discussed with
11:36:33 4 Mr. Johnson. You said that -- or I think I heard you
11:36:36 5 say that there are six federal only forms that are
11:36:40 6 currently held in suspense. Does this mean that there
11:36:44 7 are six state forms where the applicant did not provide
11:36:53 8 DPOC?

11:36:55 9 A. They did not provide proof of citizenship, but
11:36:59 10 I can't verify that they're only state forms.

11:37:02 11 Q. Ah. So some of them could have been done on
11:37:05 12 the -- on the federal form --

11:37:08 13 A. They could have been. I --

11:37:08 14 Q. -- and --

11:37:11 15 A. I was only looking for the fed only, not the
11:37:13 16 type of form they used.

11:37:14 17 Q. Got it.

11:37:15 18 And if any of those in suspense were done on
11:37:19 19 the federal only form, will -- is your understanding
11:37:24 20 that the laws at issue in this lawsuit would require
11:37:27 21 your office to reject those forms, or would those voters
11:37:31 22 only vote in certain elections?

11:37:38 23 A. Say that one more time?

11:37:41 24 Q. So if any of those forms are federal forms and
11:37:46 25 not state forms, is your understanding that the laws

11:37:51 1 that are at issue here, specifically 2492, would that
11:37:56 2 require you to reject the form because it does not have
11:37:58 3 DPOC, or would you register the voter and just limit
11:38:03 4 which elections they vote in?

11:38:05 5 A. My understanding of 2492 is they would be
11:38:09 6 canceled.

11:38:10 7 Q. Got it.

11:38:12 8 And how would your -- so, again, at the
11:38:16 9 beginning of the deposition my understanding is that you
11:38:18 10 said your office is implementing the laws as best you
11:38:21 11 can. So what happens if you receive a state form and
11:38:25 12 the person has not put their place of birth; how is that
11:38:30 13 form processed?

11:38:32 14 A. I don't know, because we don't have place of
11:38:36 15 birth. We have state or county of birth.

11:38:41 16 Q. Right. So if you have state or -- if you have
11:38:45 17 an area where the person can put their state or county
11:38:48 18 or state or country of birth and they have not -- and
11:38:52 19 they have not filled that area -- they have not put
11:38:55 20 anything in that field, how would you process that form?

11:38:59 21 A. I don't know. I'll have to ask.

11:39:02 22 Q. Do you know how your office uses that
11:39:06 23 information generally?

11:39:09 24 A. I don't know what you mean by use that
11:39:11 25 information. We take everything they put in on the form

11:39:16 1 and put it in the database.

11:39:23 2 Q. What kind of -- strike that.

11:39:30 3 What do you learn about somebody from their
11:39:32 4 place of -- from their state or county or state or
11:39:35 5 country of birth?

11:39:40 6 A. I'm not sure I understand the question.

11:39:42 7 Q. Do you use it to confirm their identity?

11:39:48 8 A. It depends on what else was filled out.

11:39:53 9 Q. In what situation would you use that
11:39:55 10 information to confirm identity?

11:39:57 11 A. I don't know.

11:39:57 12 Q. Okay.

11:39:59 13 A. I'm not sure I would.

11:39:59 14 Q. You're not sure you would use it to confirm
11:40:04 15 identity?

11:40:04 16 A. I'm sorry, what was that?

11:40:06 17 Q. I'm just clarifying what you just said.

11:40:09 18 A. Oh. Yeah, I'm not sure how we would use that
11:40:12 19 to identify identity.

11:40:16 20 Q. Okay.

11:40:16 21 MS. BRAILEY: Thank you so much for your
11:40:18 22 time. Those are my only questions.

11:40:23 23 THE WITNESS: Thank you.

11:40:23 24 MS. BRAILEY: I'll pass the witness.

11:40:30 25 THE WITNESS: I feel like a potato.

11:40:33 1 MR. LANGHOFER: Anyone else on the
11:40:34 2 plaintiff side?

11:40:39 3 All right. Seeing none, I guess it's my
11:40:41 4 turn.

11:40:37 5

11:40:37 6 EXAMINATION

11:40:37 7 BY MR. LANGHOFER:

11:40:38 8 Q. Recorder Stevens, thanks for your time today.
11:40:45 9 I'm Kory Langhofer, and I represent the RNC, Republican
11:40:49 10 National Committee. We're intervenors in this case.

11:40:51 11 I don't have a whole lot of questions for you,
11:40:53 12 but I've got just a few of them.

11:40:55 13 Are you aware of any criminal prosecutions for
11:41:02 14 voting fraud in your county?

11:41:05 15 A. Yes.

11:41:08 16 Q. Can you -- how many are you aware of?

11:41:11 17 A. There potentially were nine. I know one has
11:41:16 18 been processed through the Attorney General's Office,
11:41:21 19 and I do not know the status of the other eight.

11:41:28 20 Q. Why don't we start with the one that you're
11:41:29 21 familiar with that was processed through the AG's
11:41:32 22 office. What do you remember about that case?

11:41:33 23 A. What had happened was the individual had passed
11:41:36 24 away a week before early ballots went out, and a ballot
11:41:40 25 was voted, signed and sent back in, and it was

11:41:43 1 determined it was their daughter who did it. And I
11:41:47 2 don't know the penalty, but there was some -- it went to
11:41:50 3 court, I believe, and there was some resolution to that.

11:41:54 4 The other case was the same thing, where
11:41:57 5 someone passed away just days before early ballots went
11:42:00 6 out and somebody else signed and mailed it back in, but
11:42:05 7 I do not know the status of that one.

11:42:08 8 Q. The one that went to court, was that Krista
11:42:10 9 Michelle Connor; does that sound right?

11:42:12 10 A. That sounds very familiar.

11:42:14 11 Q. And you said the other one was the same thing.
11:42:16 12 Do you mean all eight of the other ones, or was it
11:42:18 13 one --

11:42:18 14 A. No. No, those are the two I found through our
11:42:24 15 citizenship verification process. The other seven came
11:42:26 16 from a report from ERIC; that they had voted in Cochise
11:42:29 17 County and in another state.

11:42:34 18 Q. And what did you do with those cases?

11:42:36 19 A. We had contact with those states. We contacted
11:42:39 20 primarily the Secretary of State's Office. We exchanged
11:42:42 21 records, their voting records, and then the information
11:42:45 22 was processed up to the Attorney General's Office. I do
11:42:49 23 not know the status now.

11:42:53 24 Q. Do you recall, of those seven cases, whether
11:42:56 25 they voted in Arizona first or second?

11:42:59 1 A. I do not know. I do know that they voted here
11:43:04 2 and by mail in the other six states. There was a
11:43:09 3 husband and wife together that voted here and in
11:43:12 4 Illinois.

11:43:15 5 Q. Okay. When -- let's start with the two where
11:43:21 6 the -- someone voted for the decedent.

11:43:27 7 Were both of those ballots cast by mail?

11:43:29 8 A. Yes.

11:43:32 9 Q. And when you submit a mail in ballot in
11:43:36 10 Arizona, is there some sort of declaration or oath that
11:43:39 11 you have to take on the envelope?

11:43:41 12 A. I believe so. It's been a while since I've
11:43:44 13 read it.

11:43:45 14 Q. Do you recall the content of that, generally?

11:43:49 15 A. They're affirming by signing that they are the
11:43:53 16 proper recipient of that ballot, I believe is the way
11:43:55 17 it's phrased, or something to that effect.

11:43:58 18 Q. So when those ballots were submitted, was there
11:44:00 19 a false statement made under penalty of perjury?

11:44:02 20 A. I believe so, by them signing somebody else's
11:44:05 21 name.

11:44:07 22 Q. And does it also say that they have not voted
11:44:14 23 before; so, basically, would that same principle,
11:44:17 24 someone made a false statement, would that also apply to
11:44:20 25 the other seven cases you had mentioned?

11:44:23 1 A. I believe so. I don't know what the other -- I
11:44:27 2 don't remember what the other states had, but they -- I
11:44:33 3 believe they knew they were illegally voting.

11:44:40 4 Q. I'd like to follow up a little bit on the
11:44:45 5 birthplace issue that the Department of Justice was just
11:44:46 6 asking you about.

11:44:48 7 I think you said, in answering her questions,
11:44:50 8 if someone puts their birthplace on a voter registration
11:44:54 9 form, your staff will put that into the voter file
11:44:59 10 database; did I hear that correctly?

11:45:01 11 A. Yes. Anything that's on the form gets
11:45:03 12 transposed into the AVID database. We make a scan of
11:45:08 13 the form and attach it to the record also.

11:45:12 14 Q. And one question that we've been asking of
11:45:19 15 County Recorders whose staff does that is whether the
11:45:22 16 birthplace information going forward would, in some
11:45:25 17 cases, be useful to your office in determining whether a
11:45:30 18 new voter registration form would be duplicative of an
11:45:33 19 already existing voter registration.

11:45:35 20 So, for example, you've got a person with a
11:45:40 21 common name, say it's John Smith, and a given birth
11:45:44 22 date, say January 1st, 1950. You get a new voter
11:45:48 23 registration form for a person named John Smith born on
11:45:50 24 January 1st, 1950. If you've got a birthplace in the
11:45:55 25 database and you've got a birthplace on the registration

11:45:57 1 form, would that information on the registration form
11:46:01 2 help you determine whether it's a duplicate voter
11:46:05 3 registration?

11:46:05 4 A. Well, there would have to be other information
11:46:07 5 that we would use that would supersede that. There's
11:46:15 6 driver's license if they're a valid driver in Arizona,
11:46:18 7 social security number.

11:46:19 8 But, yeah, something like that would come up as
11:46:21 9 a soft match, but I'm not sure -- I don't recall ever
11:46:25 10 seeing one just with a country of birth and the other
11:46:29 11 information not being there.

11:46:31 12 Q. So usually in this case when -- the birthplace
11:46:37 13 wouldn't be a country. It would be usually a city. I
11:46:41 14 believe that's the way the statute contemplates it,
11:46:45 15 although don't take my word for it. So country of birth
11:46:48 16 would be very general; but if you were given cities,
11:46:50 17 would that change your answer at all?

11:46:52 18 A. No. Actually, the form says state or country.
11:46:56 19 So you'll see Illinois or Morocco. I used Morocco
11:47:01 20 because my sister-in-law was born there, but her father
11:47:04 21 was in the Air Force. So those -- and we are a very
11:47:09 22 heavy military community, so the chances of seeing that
11:47:12 23 is greater here, I would think.

11:47:16 24 Q. So are there circumstances in which the
11:47:18 25 birthplace would be useful to de-duplicate

11:47:22 1 registrations?

11:47:23 2 A. To de-duplicate, yes. Any information we can
11:47:26 3 use to separate the concern that two records are
11:47:33 4 actually the same person or different people, yes, I
11:47:38 5 believe so.

11:47:38 6 Q. Does your office have access to any databases
11:47:42 7 that are more accurate or more reliable for purposes of
11:47:48 8 determining proof of citizenship that you're not
11:47:51 9 currently using?

11:47:53 10 A. No. My understanding is we have the AVID and
11:47:55 11 then the -- we have access to the SAVE, and that is it.

11:47:59 12 Q. Do you have access to any other databases that
11:48:02 13 are more accurate than those?

11:48:04 14 A. Not to my knowledge, no.

11:48:06 15 Q. Do you have access to any databases that are
11:48:08 16 more up-to-date or current than those databases?

11:48:12 17 A. Not to my knowledge, no.

11:48:19 18 Q. When you get a -- when your letter -- excuse
11:48:23 19 me.

11:48:23 20 When your office sends out notification letters
11:48:27 21 to registrants who don't provide DPOC, do you know what
11:48:33 22 percentage of those you receive back with supporting
11:48:37 23 DPOC?

11:48:38 24 A. No, I don't have a percentage number, no.

11:48:41 25 Q. Do you have a rough order of magnitude, idea of

11:48:44 1 how many that would be?

11:48:45 2 A. No. No, I don't.

11:48:51 3 Q. Okay. The October 2022 incident where there
11:48:54 4 was a problem with an AVID database that affected, I
11:48:58 5 want to say it was about 67 folks in your county, does
11:49:01 6 that sound right?

11:49:02 7 A. Yeah, they listed 67 and 4 others, so 67 or 71.

11:49:06 8 Q. Did your office follow the instructions you got
11:49:08 9 from the Secretary of State about how to deal with that
11:49:11 10 issue?

11:49:11 11 A. I'm sure we did.

11:49:13 12 Q. To your knowledge, was anyone disenfranchised
11:49:17 13 as a result of that issue?

11:49:18 14 A. To my knowledge, I don't know.

11:49:26 15 Q. Does your office ever receive voter
11:49:28 16 registration forms with false information?

11:49:33 17 A. I'm not sure what you mean by false. We
11:49:36 18 generally don't have the ability to determine truth or
11:49:40 19 false. There are a lot of mistakes on there, addressing
11:49:46 20 mistakes. Sometimes they live in areas that don't have
11:49:54 21 an address they can identify to, so they have to draw a
11:49:58 22 little map, and they could be wrong. I don't think it's
11:50:01 23 false. They're just incorrect.

11:50:04 24 Q. So, for example, have you ever received large
11:50:11 25 batches of voter registration forms from outside groups

11:50:15 1 where the addresses don't exist or the voters appear to
11:50:21 2 not exist?

11:50:23 3 A. Not to my knowledge. The worst case is we get
11:50:28 4 multiple copies of the same registration.

11:50:33 5 Q. For the same person, you mean?

11:50:35 6 A. For the same person.

11:50:36 7 Q. When you say the same registration, are they
11:50:38 8 like photocopies of literally the same form or just --

11:50:41 9 A. They're handwritten, but there are three and
11:50:44 10 four different copies and the same person.

11:50:49 11 Q. Do those forms indicate whether that person has
11:50:52 12 previously submitted a registration form?

11:50:58 13 A. Their record in the database will identify
11:51:01 14 everything. Every piece of paper we get in our office
11:51:05 15 we scan and tie it to their record.

11:51:11 16 Q. So the -- I guess I'm trying to nail down
11:51:16 17 whether we could say like the second, third and fourth
11:51:18 18 form that's handwritten, like you've described, contains
11:51:21 19 any false information. Is there anything on those forms
11:51:24 20 indicating that it's their, you know, initial
11:51:26 21 registration or that they're trying to update an
11:51:28 22 existing registration?

11:51:32 23 A. I don't recall. If the data's identical,
11:51:35 24 there's no way of knowing, other than the date they put
11:51:38 25 on the bottom, which one came in first; and sometimes

11:51:41 1 they have the same date, so -- and then we're restricted
11:51:46 2 by when they bring them into the office or when they
11:51:48 3 mail them in.

11:51:49 4 Q. Have you received, to your knowledge, voter
11:51:52 5 registration forms from convicted felons?

11:51:55 6 A. To my knowledge, I don't know.

11:52:00 7 Q. And presumably -- well, let me not presume.

11:52:03 8 Do you have any knowledge of voter registration
11:52:06 9 forms being submitted by people who have been confirmed
11:52:08 10 to be noncitizens?

11:52:11 11 A. To my knowledge, no.

11:52:15 12 MR. LANGHOFER: I really appreciate your
11:52:17 13 time today. That's all the questions I have. I believe
11:52:20 14 the AG's office --

11:52:20 15 THE WITNESS: Okay.

11:52:22 16 MR. LANGHOFER: -- and potentially the
11:52:23 17 legislature have questions as well.

11:52:25 18

11:52:25 19 EXAMINATION

11:52:26 20 BY MR. HORLEY:

11:52:26 21 Q. Yes, Mr. Stevens. My name is Tim Horley. I'm
11:52:30 22 from the State of Arizona, the State AG. I wanted to
11:52:33 23 check, before we dive in, if you needed a break or
11:52:35 24 anything. I don't anticipate too many questions, but
11:52:38 25 could be, you know, 15 minutes, half hour or so. Up to

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1 you.

2 THE WITNESS: Are you okay?

3 MR. CORREA: I'm good.

4 THE WITNESS: I'm good, I'm good.

5 BY MR. HORLEY:

6 Q. All right, very good.

7 Okay. So thank you for your time today. So I

8 wanted to clear up one thing that you mentioned earlier

9 in this deposition. You mentioned that some of the

10 phrases in H.B. 2492 and 2243 are unclear, correct?

11 A. Yes.

12 Q. But would guidance from the Secretary of State

13 be useful to clear that up?

14 A. Yes, any guidance would be useful from the

15 state-level elected officials.

16 Q. And could that come in the form of an updated

17 EPM?

18 A. Sure.

19 Q. And do you generally rely on the EPM to help

20 implement other voting laws?

21 A. That is a document we do use frequently, yes.

22 Q. Is it fair to say that other voting laws would

23 also be difficult to implement without further guidance

24 from the Secretary of State?

25 A. I can't say that without knowing which laws

11:53:52 1 you're asking about.

11:53:55 2 Q. But you rely on the EPM to implement other
11:53:58 3 laws, so that guidance helps you implement those laws,
11:54:03 4 right?

11:54:03 5 A. That's correct, but we don't rely on it for
11:54:05 6 every law.

11:54:06 7 Q. Okay. But you do rely on it for --

11:54:09 8 A. Yes.

11:54:09 9 Q. -- other voting law?

11:54:10 10 A. Yeah.

11:54:11 11 Q. Yeah. Okay.

11:54:12 12 So same thing is true for these laws that is
11:54:16 13 true for other voting laws, you know, you need --
11:54:18 14 sometimes you need guidance from the Secretary of State
11:54:20 15 to know how to implement them, right?

11:54:22 16 A. Sometimes, yes. The legislators and the laws
11:54:27 17 can be a little ambiguous.

11:54:29 18 Q. Yes, okay. Thank you.

11:54:31 19 And then I also wanted to follow up quickly
11:54:34 20 about the proof of residence requirement. So has anyone
11:54:39 21 been placed in suspense status because of a lack of
11:54:42 22 proof of residence?

11:54:43 23 A. Not to my knowledge, no.

11:54:46 24 Q. Okay. And has anybody been not registered to
11:54:50 25 vote because of a lack of proof of residence?

11:54:52 1 A. Not to my knowledge, no.

11:54:56 2 Q. Okay. Or received notice because they failed

11:54:58 3 to provide proof of residence?

11:55:01 4 A. That's probably happened.

11:55:02 5 Q. Okay.

11:55:02 6 A. The reason for residency is to know which

11:55:05 7 ballot they're going to get. So it's very critical that

11:55:09 8 we have the correct address and give them the correct

11:55:12 9 ballot when they do go to vote.

11:55:15 10 Q. Right. So they can be placed in the right

11:55:17 11 precinct, for example?

11:55:18 12 A. The precinct parts, yes.

11:55:22 13 Q. Okay. Very good.

11:55:23 14 All right. Now, I wanted to turn to the topic

11:55:26 15 of checking citizenship. So for federal forms, are you

11:55:37 16 aware there's a citizen checkbox on that form where

11:55:41 17 someone says, yes, I am a citizen; are you aware of

11:55:44 18 that?

11:55:44 19 A. I believe I am, yes.

11:55:48 20 Q. Do you think that checkbox provides information

11:55:50 21 about whether a voter is a citizen?

11:55:56 22 A. Well, I believe -- I don't know what they

11:56:03 23 believe.

11:56:03 24 Q. So to your -- for your office, if you see that

11:56:07 25 checkbox is checked yes, does that indicate that that

11:56:11 1 person is a U.S. citizen?

11:56:13 2 A. That indicates that they checked that box yes.

11:56:15 3 We still have other checks that we have to provide.

11:56:21 4 Q. Okay. And so for state forms, suppose a
11:56:25 5 registrant were to mark no in the citizen checkbox, but
11:56:28 6 also provided a purported copy of a citizenship
11:56:32 7 document, like a birth certificate. What would your
11:56:34 8 office do in that situation?

11:56:36 9 A. I would have to check with my chief. I'm sure
11:56:39 10 we would just send a letter.

11:56:43 11 Q. Yeah. So could that suggest that either the
11:56:48 12 birth certificate is wrong or the checkbox is wrong?

11:56:53 13 A. Logically, I believe one of them would be, yes.

11:56:58 14 Q. Yes.
11:56:58 15 And is it possible for a registered voter to
11:57:02 16 submit a copy of a citizenship document, like, again,
11:57:05 17 birth certificate or passport, that is defective in some
11:57:08 18 way?

11:57:11 19 A. I don't understand your term defective.

11:57:14 20 Q. Like, for example, if it was blurry, the
11:57:17 21 photocopy was hard to read?

11:57:19 22 A. We would send a letter asking for clarity.

11:57:23 23 Q. Okay. And then in those situations where it
11:57:28 24 was hard to read the proof of citizenship, would it be
11:57:33 25 helpful to know how the voter answered the citizen

11:57:36 1 checkbox?

11:57:39 2 A. We view our work based off the data we have.

11:57:43 3 Q. Okay. I wanted to ask one quick question about

11:57:50 4 the MVD data that you rely on for the HAVA checks. Do

11:57:55 5 you consider that MVD data to be generally reliable?

11:57:59 6 A. Yes.

11:58:01 7 Q. Okay. And if a naturalized citizen's status

11:58:07 8 has not yet been updated with the MVD, they can easily

11:58:10 9 reconcile that by providing your office with

11:58:12 10 documentation of their naturalization, correct?

11:58:15 11 A. That is correct.

11:58:22 12 Q. Okay. Now, I do want to look at one document

11:58:25 13 that your office produced. I don't believe it's in the

11:58:27 14 Dropbox. So what I would do in this situation, if

11:58:31 15 everybody is okay with it, I will just share it on my

11:58:34 16 screen and we'll just look at it together, if

11:58:36 17 everybody's okay with that.

11:58:38 18 MR. CORREA: Yeah, we're okay with that.

11:58:40 19 BY MR. HORLEY:

11:58:40 20 Q. Okay. And then I will send it over so that we

11:58:42 21 can get it entered when appropriate.

11:59:00 22 Okay. Can you see this document, Mr. Stevens?

11:59:02 23 A. Yes.

11:59:03 24 Q. Yes.

11:59:03 25 And do you recognize this document?

11:59:12 1 A. I don't believe it's anything we made, but the
11:59:16 2 data looks familiar. But, no, I don't recognize it.
11:59:20 3 Q. Okay. So you're not --
11:59:24 4 A. Is it ours?
11:59:25 5 Q. You're not aware that your office produced this
11:59:27 6 in response to plaintiffs' requests for production?
11:59:29 7 A. Could have been. If it came from us, then it
11:59:33 8 is our document. I don't recall seeing it in this
11:59:35 9 format.
11:59:37 10 Q. Okay. Do you see in this column here under --
11:59:41 11 A. Cochise.
11:59:41 12 Q. -- county it says Cochise?
11:59:42 13 A. Yeah.
11:59:42 14 Q. Yeah.
11:59:43 15 A. Yes.
11:59:44 16 Q. Yeah.
11:59:44 17 So fair to say this is a Cochise County
11:59:47 18 Recorder document?
11:59:48 19 A. If you got it from my office, it is.
11:59:52 20 Q. Okay. I would like to enter this as Exhibit --
11:59:55 21 I believe we're at number 126.
12:00:07 22 So have you seen this kind of data before?
12:00:15 23 A. Not in this format, but I've seen this data,
12:00:15 24 yes.
12:00:19 25 Q. Not in this format? Okay.

12:00:22 1 So I'm just going to walk you through this
12:00:24 2 document to the extent you can help explain it to me a
12:00:27 3 little bit.
12:00:28 4 So on this first column I see a column that's
12:00:33 5 labeled registration date?
12:00:35 6 A. Yep.
12:00:35 7 Q. Is that right?
12:00:36 8 A. Correct.
12:00:37 9 Q. Yes.
12:00:37 10 And so that shows the date that someone was
12:00:39 11 registered to vote in Cochise County?
12:00:41 12 A. Correct.
12:00:42 13 Q. Okay. And then the second column, it shows the
12:00:46 14 effective date of change; is that right?
12:00:49 15 A. That's what it says, correct.
12:00:50 16 Q. So that means that this date is when someone's
12:00:54 17 status was updated?
12:00:57 18 A. Not necessarily just the status.
12:01:02 19 Q. Okay. What else might it show?
12:01:04 20 A. Well, they may have changed their P.O. Box or
12:01:06 21 mailing address. They may change their party.
12:01:10 22 Q. Understood. Okay.
12:01:11 23 So that brings me to this next column, which is
12:01:15 24 this status column here. So that shows someone's voter
12:01:20 25 registration status, correct?

12:01:20 1 A. Yes.

12:01:22 2 Q. In Cochise County?

12:01:25 3 A. Yep.

12:01:26 4 Q. Okay. And so if we just look at row three

12:01:32 5 right here, it shows that this person's status was

12:01:36 6 canceled, correct?

12:01:37 7 A. Yes.

12:01:38 8 Q. So that means that voter's registration was

12:01:41 9 canceled?

12:01:41 10 A. Yes.

12:01:43 11 Q. Okay. And then in this column it shows status

12:01:48 12 reason, right, this fourth column here?

12:01:50 13 A. Correct.

12:01:52 14 Q. So this reason tells us why that their status

12:01:57 15 is canceled, correct?

12:02:00 16 A. Correct.

12:02:02 17 Q. Okay. Great.

12:02:04 18 Now, if you'll bear with me, I'm going to take

12:02:07 19 us very far down this document to row 16510.

12:02:38 20 Okay. So if you could see where my cursor is

12:02:41 21 here, it's at row 16510; is that right?

12:02:44 22 A. Correct.

12:02:46 23 Q. Okay. And so this row shows a voter whose

12:02:52 24 registration was canceled, correct?

12:02:54 25 A. Yes.

12:02:55 1 Q. And then it shows the date is March 24th, 2020.
12:03:01 2 Is that when their registration was canceled?

12:03:03 3 A. Most likely. I'd have to look up their record.

12:03:06 4 Q. Okay. But most likely. Okay.

12:03:09 5 And then it shows that the reason for the
12:03:12 6 cancellation is NVRA, correct?

12:03:15 7 A. Yes.

12:03:16 8 Q. What does NVRA refer to here?

12:03:18 9 A. That is the process as defined in the National
12:03:25 10 Voter Registration Act on canceling voter registrations.

12:03:29 11 Q. Okay. So what does that mean for a voter to
12:03:33 12 have his or her registration canceled for NVRA?

12:03:36 13 A. They have -- they have not been able -- or they
12:03:39 14 have not responded to our inquiries to update their
12:03:42 15 record. It requires two mailings, unless we get the
12:03:49 16 information from the NCOA, which is National Change of
12:03:55 17 Address. That's considered the first mailing. We mail
12:03:57 18 them a letter to tell them they have 35 days to update
12:04:00 19 their record. If they don't, they'll be inactive.

12:04:03 20 They'll sit inactive for four federal
12:04:05 21 elections, pending other issues. Maybe they could come
12:04:09 22 back in and cancel the record themselves. But if they
12:04:15 23 go and they don't do anything, primarily vote, for four
12:04:19 24 federal elections, then they're canceled.

12:04:23 25 Q. Okay. Understood. That's a helpful

12:04:26 1 explanation.

12:04:26 2 So you mentioned something in their record
12:04:27 3 might be in need of an update, right?

12:04:29 4 A. Correct. What happens is we got something back
12:04:33 5 undeliverable, whether it be a ballot, a 90-day notice,
12:04:37 6 an ID card, some of these things. That initiates the
12:04:42 7 first mailing. Then we send a letter stating that your
12:04:47 8 information was undeliverable and you need to update
12:04:51 9 your record and you have 35 days or you'll become
12:04:54 10 inactive.

12:04:54 11 Q. Okay. So could that indicate that this person
12:04:58 12 is no longer a resident of Cochise County?

12:05:01 13 A. Sure.

12:05:03 14 Q. Yeah. Or no longer a resident of Arizona?

12:05:06 15 A. Correct.

12:05:11 16 Q. All right. Now I'm going to move us down a bit
12:05:18 17 more to row 23682. Just one moment while I get there.

12:05:38 18 Okay. So do you see this row on this
12:05:40 19 spreadsheet that I've got my cursor on?

12:05:43 20 A. I do.

12:05:43 21 Q. Okay. So this shows that a voter was not
12:05:46 22 eligible as their status; is that correct?

12:05:48 23 A. Correct.

12:05:50 24 Q. And then so what's the difference between not
12:05:53 25 eligible and canceled?

12:05:56 1 A. Well, canceled means they were eligible at one
12:05:59 2 time.

12:06:01 3 Q. Okay. And so here the reason for not eligible
12:06:05 4 is listed as invalid citizenship proof, correct?

12:06:09 5 A. Yes.

12:06:12 6 Q. Okay. And then, you know, if I'm looking over
12:06:14 7 here at this leftmost column, it shows their
12:06:17 8 registration date was in September 2016; is that right?

12:06:20 9 A. That is correct.

12:06:21 10 Q. And then this date of change is July 16th,
12:06:28 11 2022; is that right?

12:06:28 12 A. Correct.

12:06:30 13 Q. So does that indicate that this person was
12:06:33 14 registered to vote for a little under six years?

12:06:36 15 A. No.

12:06:39 16 Q. Okay. What would --

12:06:40 17 A. It indicates they were in our system for six
12:06:42 18 years.

12:06:45 19 Q. Okay. So it's possible that they were never
12:06:48 20 deemed eligible?

12:06:50 21 A. Correct.

12:06:52 22 Q. Okay. So it doesn't necessarily show they were
12:06:55 23 registered and now they're not anymore?

12:06:57 24 A. Correct.

12:07:01 25 Q. Okay. And so but if someone is not eligible

12:07:02 1 because of invalid citizenship proof, does that mean

12:07:06 2 that the person did not provide proof of citizenship?

12:07:14 3 A. Are you talking about this person specifically

12:07:16 4 or in general?

12:07:18 5 Q. Yeah, just if we see this in this form where it

12:07:21 6 says invalid citizenship proof, does that mean they

12:07:24 7 didn't provide DPOC?

12:07:28 8 A. That could be one response or what they

12:07:30 9 provided wasn't right.

12:07:34 10 Q. Okay. Right. So maybe it was somehow

12:07:37 11 defective proof?

12:07:40 12 A. Correct. I'm not sure --

12:07:40 13 Q. Now --

12:07:43 14 A. I'm not sure of your term defective, but it

12:07:47 15 didn't validate through our system.

12:07:51 16 Q. Yeah. So maybe it was false information?

12:07:54 17 A. Potentially.

12:07:55 18 Q. Potentially?

12:07:56 19 Could it show that that person is not a U.S.

12:08:00 20 citizen?

12:08:01 21 A. Could it show what?

12:08:03 22 Q. That someone is -- that person is not a U.S.

12:08:06 23 citizen?

12:08:07 24 A. Without looking at the record, I don't know.

12:08:10 25 Q. Don't know? But it's possible that that person

12:08:12 1 is not a U.S. citizen?

12:08:14 2 A. With invalid proof, that's -- I -- that's
12:08:17 3 possible.

12:08:21 4 Q. Okay. Thank you.

12:08:21 5 And so then just to confirm here, when it says
12:08:24 6 that the voter is not eligible, that means they're not a
12:08:27 7 registered voter at all, correct?

12:08:30 8 A. Correct, and that is their current status at
12:08:40 9 that time.

12:08:40 10 Q. Okay. Understood.

12:08:40 11 But it doesn't mean that they just receive a
12:08:43 12 federal ballot?

12:08:47 13 A. Well, those statuses are all we can use when we
12:08:52 14 process forms. So it's -- I'd have to look at that one
12:08:59 15 to determine which form they used. This one doesn't
12:09:02 16 state it.

12:09:04 17 Q. Okay. Understood. Thanks.

12:09:09 18 I think that's all I've got for that particular
12:09:11 19 document. I do want to look at one other -- or,
12:09:16 20 actually, I've got a couple more for you. So we'll try
12:09:19 21 to get through it quickly, but I appreciate your
12:09:22 22 patience.

12:09:24 23 A. As long as I don't have to squint anymore.

12:09:27 24 Q. Sorry. Yes, you might have to squint a little
12:09:29 25 bit more.

12:09:30 1 A. All right.

12:09:31 2 Q. This next one is also a pretty big one, but

12:09:36 3 then I think after that it will get a little bit better.

12:09:48 4 Okay. Do you see this document that I've

12:09:50 5 pulled up?

12:09:51 6 A. I do.

12:09:53 7 Q. And do you recognize this one?

12:09:54 8 A. I do.

12:09:56 9 Q. Okay. And so this document is called no voter

12:10:00 10 identifying information voting history, correct?

12:10:03 11 A. Correct.

12:10:05 12 Q. And your office produced this in response to

12:10:07 13 plaintiffs' requests for production; is that right?

12:10:10 14 A. Yep.

12:10:14 15 Q. Okay. So could you just explain sort of in a

12:10:16 16 nutshell what this document shows us?

12:10:20 17 A. Well, without the -- usually it comes with a

12:10:25 18 voter ID on this or an AVID ID number.

12:10:30 19 Q. Got it.

12:10:30 20 A. But it shows an individual that's either active

12:10:34 21 or inactive, valid registration or not, and then their

12:10:37 22 voting history over the last -- I'm not sure how big we

12:10:40 23 made it. The last six years?

12:10:43 24 No, 2008, '6, '4. I'm not sure what the time

12:10:49 25 frame was on that.

12:10:50 1 Q. Yeah, and I can scroll to the right here. It
12:10:54 2 goes on a little ways, I believe all the way to --

12:11:00 3 A. Oh, the general of '22. Okay.

12:11:04 4 The codes have changed. The formatting has
12:11:06 5 changed over time. We've changed systems. We used to
12:11:12 6 use PowerProfile and now we use AVID. But it shows
12:11:20 7 where and how they voted in a specific election.

12:11:25 8 Q. Got it. Okay.

12:11:31 9 MR. LANGHOFER: Tim, can you tell us what
12:11:32 10 the Bates number is for this one?

12:11:36 11 MR. HORLEY: I'm not sure that there were
12:11:37 12 Bates numbers produced for these spreadsheets. Perhaps
12:11:41 13 Paul Correa could correct me if I'm wrong on that.

12:11:44 14 MR. CORREA: There are not.

12:11:44 15 MR. HORLEY: Okay.

12:11:46 16 MR. CORREA: There are not.

12:11:46 17 BY MR. HORLEY:

12:11:46 18 Q. Okay. But I would like to enter this as
12:11:48 19 Exhibit No. 127, please.

12:11:54 20 Okay. So then -- so kind of similar to the
12:11:58 21 last one, this column on the left here shows the date of
12:12:01 22 registration, correct?

12:12:02 23 A. Yes.

12:12:04 24 Q. And then here we have the effective date of
12:12:07 25 change, so that means that's the last time their record

12:12:10 1 was updated, correct?

12:12:13 2 A. In most cases, that's correct.

12:12:17 3 Q. Okay. And then here I have this list of
12:12:20 4 status, and I see that some are active and some are
12:12:23 5 inactive.

12:12:24 6 A. Correct.

12:12:24 7 Q. And I think those are the only two options
12:12:27 8 here, correct?

12:12:29 9 A. Probably because of how the -- how the report
12:12:33 10 was selected, but that's probably the only two.

12:12:36 11 Q. Yeah. Can you explain why that is?

12:12:42 12 A. Why there's only two?

12:12:44 13 Q. Yes.

12:12:49 14 A. That's probably all we selected to print.

12:12:52 15 Q. Okay. So what is it that makes someone an
12:12:58 16 inactive voter? How do you become labeled as an
12:13:02 17 inactive voter?

12:13:02 18 A. That's the NVRA process of you not responding
12:13:05 19 to our letter and updating your record.

12:13:05 20 Q. Okay.

12:13:09 21 A. You go inactive for four federal elections, and
12:13:13 22 then after that, if nothing's happened, you get removed.

12:13:18 23 Q. Okay. So these would be folks who are in that
12:13:22 24 inactive stage, but haven't been canceled yet?

12:13:25 25 A. Correct.

12:13:26 1 Q. Okay. Got it.

12:13:27 2 And so how does a voter become inactive?

12:13:33 3 A. I just said that. They don't respond to our

12:13:36 4 letters. We get undeliverable mail back to our office.

12:13:40 5 We mail out a letter. They don't respond to that

12:13:43 6 letter, and after 35 days we make them inactive for up

12:13:46 7 to four years, four federal elections, and if they still

12:13:49 8 don't respond, they get canceled.

12:13:54 9 Q. Okay. Got it. Understood. All right.

12:13:57 10 So now I would like to draw your attention to

12:14:00 11 row 20 here, and this is someone who was listed as

12:14:04 12 inactive, correct?

12:14:04 13 A. Yes.

12:14:06 14 Q. And then the reason given is NVRA inactive

12:14:11 15 address; is that right?

12:14:11 16 A. Yes.

12:14:13 17 Q. So, and that, as you just explained, that means

12:14:17 18 something came back. It seems like they're not at that

12:14:21 19 address anymore, and now it seems like they've moved; is

12:14:27 20 that right?

12:14:27 21 A. Correct. Some mailing, some first-class

12:14:29 22 mailing from our office, or a list from the USPS, the

12:14:33 23 NCOA list, would have initiated that letter from our

12:14:36 24 office to go out back to them, and they still did not

12:14:38 25 respond to it.

12:14:40 1 Q. Okay. Understood.

12:14:46 2 All right. I think that's all I have on that
12:14:49 3 document. So I'm going to go ahead and close out of
12:14:52 4 that one.

12:14:57 5 And then I wanted to ask you just a couple more
12:14:59 6 questions now about some of the challenged laws. So are
12:15:04 7 you aware that in H.B. 2243 it talks about receiving a
12:15:09 8 report from the jury commission?

12:15:12 9 A. Yes.

12:15:15 10 Q. So does your office receive reports from the
12:15:19 11 jury commission?

12:15:22 12 A. Are you talking about -- we get monthly reports
12:15:26 13 of people who did not respond or responded unfavorably
12:15:31 14 to the jury questionnaire.

12:15:33 15 Q. That's right. So you receive those?

12:15:38 16 A. We do.

12:15:40 17 Q. And what is the question on that jury
12:15:42 18 questionnaire?

12:15:45 19 A. Well, the one in question is are you a U.S.
12:15:48 20 citizen.

12:15:49 21 Q. Yeah. And so if someone says, no, I'm not, you
12:15:53 22 get a report that says that, right?

12:15:55 23 A. Correct.

12:15:57 24 Q. And if you got that kind of report, would that
12:15:59 25 be reason to believe that someone is not a U.S. citizen?

12:16:03 1 A. That would be a reason to investigate.

12:16:07 2 Q. Okay. So in that case you would follow the

12:16:10 3 usual process of sending a notice, asking for more

12:16:13 4 information?

12:16:13 5 A. Well, we'd start by looking at the record and

12:16:16 6 then send a notice of what the discrepancy is. We have

12:16:20 7 a specific jury letter we would send them.

12:16:26 8 Q. Okay. Okay. Thank you.

12:16:28 9 All right. Last document, last set of

12:16:34 10 questions. So we're almost there.

12:16:36 11 A. I'm going to hold you to that.

12:16:38 12 Q. Yes, you're allowed to. I'm pretty sure,

12:16:41 13 anyway. All right. No, but you can hold me to that.

12:16:44 14 Okay.

12:16:50 15 Okay. Do you see this document, sir?

12:16:51 16 A. I do.

12:16:52 17 Q. All right. And do you recognize this document?

12:16:55 18 A. I do.

12:16:58 19 Q. And is it called the cross voter participation

12:17:02 20 report?

12:17:03 21 A. Yes. This is a report we got from ERIC. I had

12:17:07 22 mentioned the seven people that had voted in multiple

12:17:11 23 states. This looks like that list.

12:17:15 24 Q. Okay, great. Yeah, that's -- you predicted my

12:17:18 25 question.

12:17:19 1 So this is a list of people who voted in
12:17:20 2 multiple states, as you just said?
12:17:22 3 A. Correct.
12:17:26 4 Q. Okay. I would like to enter this in as
12:17:28 5 Exhibit No. 128.
12:17:33 6 So I just want to ask you just a couple, couple
12:17:37 7 quick questions here.
12:17:38 8 So here where it says state code AZ in the
12:17:40 9 first column, then the second column cross state NV,
12:17:45 10 does that mean that this person voted in both Arizona
12:17:48 11 and Nevada?
12:17:49 12 A. Yes.
12:17:51 13 Q. Okay. And I see that the election date for all
12:17:55 14 of these is from the 2020 election; is that right?
12:17:59 15 A. Correct.
12:18:01 16 Q. And then I see here there's this column for
12:18:06 17 match score, with different numbers. Can you explain
12:18:09 18 what that means?
12:18:12 19 A. Not without guessing.
12:18:16 20 Q. Okay.
12:18:16 21 A. Yeah. There was other documents that came with
12:18:20 22 this spreadsheet that would -- that is their confidence
12:18:26 23 rate that it's actually the right person they think it
12:18:29 24 is of a match.
12:18:29 25 Q. Okay. Understood.

12:18:32 1 A. Does that make sense?

12:18:34 2 Q. Yes. So a higher number would be a higher
12:18:37 3 confidence rate?

12:18:37 4 A. Yes. That is my recollection of that. This
12:18:41 5 was three years ago.

12:18:42 6 Q. Understood.

12:18:44 7 Do you have spreadsheets like this from other
12:18:46 8 elections?

12:18:48 9 A. I have not seen any, no.

12:18:51 10 Q. Okay. So are you aware of any cross-state
12:18:53 11 voters in the 2022 election?

12:18:55 12 A. I'm not aware of any, no.

12:19:00 13 Q. Okay. Do you think these entries show voter
12:19:03 14 fraud?

12:19:06 15 A. I think you're asking me to come to a
12:19:08 16 conclusion; but the other states have indicated they
12:19:13 17 voted in those states and we have received a ballot
12:19:16 18 here, so, yes, they voted in two states, and I think
12:19:20 19 that's the definition of voter fraud.

12:19:23 20 Q. Okay.

12:19:25 21 MR. HORLEY: Well, thank you very much,
12:19:27 22 Mr. Stevens. That's all I have for you.

12:19:29 23 THE WITNESS: Excellent. And you did keep
12:19:31 24 it to one question. Good job.

12:19:34 25 MR. HORLEY: Thank you, thank you. I'm

12:19:35 1 not sure if anyone else has further questions at this
12:19:37 2 point.

12:19:43 3 MS. STUART: This is Shayna. I don't have
12:19:44 4 any questions. Thank you.

12:19:47 5 MS. PORTER: This is Hannah. I do not
12:19:49 6 have any questions. Thank you.

12:19:51 7 MS. DIBRELL: This is Mollie DiBrell. I
12:19:58 8 do have a couple of follow-up questions.

12:19:58 9

12:20:03 10 EXAMINATION

12:20:03 11 BY MS. DIBRELL:

12:20:03 12 Q. Mr. Stevens, do you need a quick break? I
12:20:05 13 know, we've been going for a while.

12:20:07 14 A. No, we're fine. We're fine. We were on a
12:20:10 15 roll. You could have just went.

12:20:10 16 Q. Might as well continue that roll, so...

12:20:12 17 Like I said, my name is Mollie DiBrell, and I
12:20:16 18 represent Plaintiffs Mi Familia Vota and Voto Latino.

12:20:19 19 So we'll keep this quick and easy. Earlier you were
12:20:22 20 asked a few questions about how you identified duplicate
12:20:27 21 registration forms, correct?

12:20:27 22 A. Seems familiar, yes.

12:20:29 23 Q. And you testified that your office uses an
12:20:32 24 applicant's driver's license number to identify
12:20:34 25 duplicate registrations?

12:20:36 1 A. That's one of them, yes.

12:20:38 2 Q. What other items do you use to identify
12:20:41 3 duplicate registrations?

12:20:43 4 A. Well, address, the last four of the social
12:20:44 5 security number. They're the best indicators of
12:20:49 6 duplication.

12:20:52 7 Q. So to confirm, driver's license number,
12:20:55 8 address, and you said the last four of the social
12:20:58 9 security number are the best ways to identify duplicate
12:21:01 10 registrations?

12:21:02 11 A. Yes.

12:21:03 12 Q. And can you also use an applicant's first and
12:21:07 13 last name?

12:21:08 14 A. Sure. Without that --

12:21:08 15 Q. And can you --

12:21:10 16 A. Yeah, without that you wouldn't know they're
12:21:12 17 duplicates.

12:21:13 18 Q. And can you use an applicant's birth date to
12:21:16 19 identify a duplicate registration?

12:21:17 20 A. You can use birth dates too, correct.

12:21:21 21 Q. Can you also use an applicant's address?

12:21:24 22 A. Yes.

12:21:28 23 Q. So just to be clear, your office and you
12:21:31 24 currently use driver's license, social security
12:21:34 25 number -- excuse me, the last four of the social

12:21:37 1 security number, an applicant's name, birth date, and
12:21:39 2 their address to identify duplicate registrations?

12:21:44 3 A. Correct.

12:21:46 4 You're -- by duplicate registration you're
12:21:47 5 talking that they're registered more than once or --

12:21:51 6 Q. Yes.

12:21:51 7 A. -- they're multiple people and we're trying to
12:21:54 8 determine which one's which?

12:21:58 9 Q. Either. Both. So either --

12:21:59 10 A. Okay.

12:21:59 11 Q. -- they've already registered and there's a
12:22:02 12 duplicate in the system or you're trying to confirm
12:22:04 13 whether it's two different people.

12:22:05 14 A. Right. Yeah, we use as much as we can to make
12:22:08 15 a hard match on identifying the duplicated or the
12:22:14 16 updated registration.

12:22:18 17 MS. DIBRELL: Well, thank you. Those are
12:22:20 18 all the questions I have for you.

12:22:20 19 THE WITNESS: Okay.

12:22:21 20 MS. DIBRELL: Quick and easy.

12:22:22 21 THE WITNESS: It is. Good job.

12:22:22 22

12:22:22 23 RE-EXAMINATION

12:22:31 24 BY MR. JOHNSON:

12:22:31 25 Q. I've got a handful of follow-up questions as

12:22:33 1 well. This is, again, Hayden Johnson for the LUCHA
12:22:37 2 plaintiffs.

12:22:37 3 So in -- if we could pull up again Exhibit 126,
12:22:41 4 and I'll share my screen. That's the one that you were
12:22:44 5 just talking with Mr. Horley about.

12:22:48 6 Do you see that on your screen?

12:22:50 7 A. Barely, but yes.

12:22:51 8 Q. All right. I'll try to zoom in a little bit.
12:22:53 9 This is the spreadsheet that you were looking at where
12:22:57 10 it says effective -- oh, gosh.

12:23:00 11 A. No, that's good. I can go with it.

12:23:03 12 Q. All right. It's a big spreadsheet.

12:23:05 13 A. Yeah.

12:23:06 14 Q. So you remember this document we were just
12:23:07 15 talking about, Exhibit --

12:23:09 16 A. Yes.

12:23:10 17 Q. And does this document include any fields for
12:23:13 18 2023 status changes?

12:23:19 19 A. I would have to search the document. Off the
12:23:22 20 top of my head, I don't know.

12:23:22 21 Q. Okay. Do you know if this document reflects
12:23:24 22 those six voters we were speaking about earlier that are
12:23:27 23 held in suspense for DPOC?

12:23:31 24 A. I -- I don't know.

12:23:32 25 Q. Okay.

12:23:35 1 A. Is it -- yeah, there's no voter -- there's no
12:23:38 2 AVID ID number.

12:23:40 3 Q. Okay. Understood.

12:23:45 4 You were also talking to Mr. Horley a second
12:23:48 5 ago about notices that you've sent out to voters that --

12:23:50 6 A. Uh-huh.

12:23:50 7 Q. -- for address purposes.

12:23:53 8 And just to clarify, was that because you
12:23:55 9 couldn't verify the address on the application or
12:23:57 10 because they lacked DPOR?

12:24:03 11 A. I don't know what your question is. I remember
12:24:06 12 saying that we needed the residency to know which ballot
12:24:09 13 to give them.

12:24:09 14 Q. Right.

12:24:10 15 A. Sometimes the information's not complete.

12:24:14 16 Q. Uh-huh.

12:24:16 17 A. But the goal is to have as complete data as
12:24:20 18 possible.

12:24:20 19 Q. Okay. And so you'll send out a notice letter
12:24:24 20 if the address on the face of the form you can't verify;
12:24:24 21 is that right?

12:24:30 22 A. Yes.

12:24:31 23 Q. Okay. But not -- you don't send a notice
12:24:34 24 letter currently if the application lacks a separate
12:24:39 25 document providing DPOR; is that right?

12:24:42 1 A. No, we do. We have -- we have letters for
12:24:45 2 those also.

12:24:46 3 Q. Okay. So if an applicant currently applies
12:24:50 4 without submitting any documentary proof of residence,
12:24:53 5 what happens?

12:24:55 6 A. Then we have a problem, because we can't mail a
12:24:57 7 letter.

12:24:58 8 Q. So I guess what I'm asking is, they've put on
12:25:03 9 the application -- they've written down an address,
12:25:07 10 right, but they didn't separately submit another
12:25:11 11 document that would, you know, purport to further show
12:25:16 12 their address. Have you received applications like
12:25:19 13 that?

12:25:21 14 A. I'm having a hard time following your
12:25:23 15 hypothetical, so no.

12:25:32 16 Q. Okay. If an applicant right now applies and
12:25:33 17 just provides their -- just lists their residence on
12:25:36 18 their application, will they be registered to vote if
12:25:39 19 you can confirm that residence?

12:25:43 20 A. Well, there's other -- there's other things. I
12:25:45 21 have to confirm citizenship too.

12:25:47 22 Q. All right. And will you consider residence
12:25:51 23 satisfied if they put their -- if they just list their
12:25:53 24 residence on their application right now?

12:25:56 25 A. My understanding would be, yes, that the

12:25:59 1 residency would be okay.

12:26:08 2 Q. Okay. That's fine.

12:26:08 3 And then you were speaking with Mr. Langhofer
12:26:11 4 earlier about receiving, you know, two or three
12:26:13 5 applications from the same -- handwritten applications
12:26:16 6 from the same applicant, in your view; is that right?

12:26:19 7 A. Yes.

12:26:22 8 Q. And in that situation that applicant's only
12:26:24 9 registered one time, right?

12:26:25 10 A. No, they were multiply filled out.

12:26:30 11 Q. Right. But on your system that person,
12:26:32 12 regardless of how many applications they submit, they
12:26:35 13 will be registered a single time?

12:26:36 14 A. A single time, but all of those applications
12:26:39 15 would be tied to their file.

12:26:41 16 Q. Okay. But it would result in one voter profile
12:26:47 17 in your --

12:26:48 18 A. Yes. Yes.

12:26:48 19 Q. And that person would get one ballot, right?

12:26:50 20 A. Correct.

12:26:51 21 Q. And are there sufficient safeguards in place in
12:26:55 22 your system that ensure that only one voter is
12:26:58 23 registered, despite submitting multiple applications?

12:27:00 24 A. Yes.

12:27:04 25 Q. Okay.

12:27:04 1 MR. JOHNSON: No other questions for me.
12:27:06 2 Thank you.

12:27:19 3 MR. LANGHOFER: I have a brief
12:27:20 4 clarification on that.

12:27:22 5

12:27:23 6 RE-EXAMINATION

12:27:23 7 BY MR. LANGHOFER:

12:27:23 8 Q. You had mentioned that you use -- when we were
12:27:25 9 talking about de-duplicating registrations and I had
12:27:28 10 initially asked you about birthplace being a basis for
12:27:30 11 de-duplicating, and you said you could use address and
12:27:35 12 driver's license number and social security number. I
12:27:37 13 assume you could also use alien number too, correct, or
12:27:41 14 a naturalization number?

12:27:42 15 A. We can use anything that's on the form, yes.

12:27:47 16 Q. But the driver's license and social security
12:27:49 17 number and the alien registration number are not
12:27:56 18 mandatory fields, are they?

12:28:02 19 A. I'm looking at our form. We don't indicate
12:28:05 20 mandatory on there, but without it you're not going to
12:28:09 21 be registered. You'll end up getting a letter from us
12:28:12 22 if we can't --

12:28:13 23 Q. So if someone doesn't have their driver's
12:28:15 24 license number or they leave it blank and they leave
12:28:21 25 their social security field blank, you will not register

12:28:24 1 them?

12:28:25 2 A. We'll put them in the system, but they won't be
12:28:28 3 registered. We'll have to mail them a letter asking for
12:28:30 4 further documentation.

12:28:35 5 Q. And so some people don't have driver's
12:28:38 6 licenses?

12:28:38 7 A. Correct.

12:28:39 8 Q. So what happens with them?

12:28:40 9 A. Well, it's not a requirement, but we need other
12:28:45 10 fields filled out to fulfill the match criteria to make
12:28:52 11 them a voter.

12:28:56 12 Q. What -- walk me through that. What's the
12:28:59 13 minimum amount of documentation they could provide that
12:29:02 14 would satisfy your match requirements?

12:29:04 15 A. Well, they're listed in there. I mean they
12:29:06 16 could come in with a passport. I don't want to go
12:29:10 17 through the whole -- I don't have it memorized in the
12:29:13 18 procedure manual. It's in statute, also, I believe.
12:29:16 19 But the more information we have, the better it is for
12:29:20 20 us to do our job.

12:29:23 21 Q. So a passport has birthplace on it, correct?

12:29:26 22 A. Yes.

12:29:28 23 Q. But if you came in with a passport, but didn't
12:29:32 24 give a driver's license number, an alien registration
12:29:36 25 number, or a social security number, you could register?

12:29:39 1 A. Have a U.S.-issued passport, I believe we
12:29:43 2 would, yes.

12:29:44 3 Q. So in that case the only thing you would have
12:29:46 4 to de-duplicate another registration, potentially, from
12:29:49 5 the same person would be a passport number or a
12:29:52 6 birthplace?

12:29:52 7 A. I believe so.

12:29:56 8 MR. LANGHOFER: Thank you very much.
12:29:58 9 Nothing else.

12:30:08 10 THE VIDEOGRAPHER: Is there any
12:30:08 11 other?

12:30:13 12 MR. SHERMAN: No more -- this is Jon
12:30:14 13 Sherman. No more questions from me.

12:30:15 14 I just wanted to flag again that we'll
12:30:18 15 follow up. We didn't use the full seven hours here. We
12:30:20 16 may have to hold open this deposition, given the
12:30:25 17 deponent wasn't able to speak to the SAVE system, and
12:30:29 18 this was a 30(b)(6) deposition for the whole County
12:30:34 19 Recorder's Office. I'm just noting that for the record,
12:30:35 20 but we'll follow up separately on that.

12:30:43 21 Nothing further from me.

12:30:45 22 THE VIDEOGRAPHER: Okay. If that is the
12:30:47 23 case, then we're going to go off the record. The time
12:30:49 24 on the monitor is 12:30. This ends Volume 1, Media
12:31:00 25 No. 2 of the deposition, 30(b)(6) Defendant County

12:31:06

1 Recorder David W. Stevens.

2 (Deposition Exhibits 120 through 128,
3 inclusive, were marked for identification.)

4 (The videotaped deposition concluded at
5 12:31 p.m.)

6

7

8 (Signature not requested.)

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DAVID W. STEVENS

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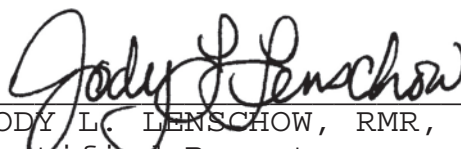
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1 STATE OF ARIZONA)
2) ss.
3 COUNTY OF MARICOPA)

4 BE IT KNOWN that the foregoing videotaped
5 deposition was taken before me, JODY L. LENSCHOW, RMR,
6 CRR, Certified Reporter No. 50192 for the State of
7 Arizona, and by virtue thereof authorized to administer
8 an oath; that the witness before testifying was duly
9 sworn by me; that the questions propounded by counsel
10 and the answers of the witness thereto were taken down
11 by me in shorthand and thereafter transcribed under my
12 direction; that a review of the transcript by the
13 witness was not requested; that the foregoing pages
14 contain a full, true, and accurate transcript of all
15 proceedings and testimony had, all to the best of my
16 skill and ability.

17 I FURTHER CERTIFY that I am not related to nor
18 employed by any of the parties hereto and have no
19 interest in the outcome thereof.

20 DATED at Phoenix, Arizona, this 21st day of
21 August, 2023.

22
23 

24 _____
JODY L. LENSCHOW, RMR, CRR
25 Certified Reporter
Certificate No. 50192

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UNITED STATES DISTRICT COURT
DISTRICT OF ARIZONA

Mi Familia Vota, et al.,)	
)	
Plaintiffs,)	Case No.
	)	2:22-cv-00509-PHX-SRB
v.	)	(Lead)
)	
Adrian Fontes, in his	)	No. CV-22-00519-PHX-SRB
official capacity as	)	No. CV-22-01003-PHX-SRB
Arizona Secretary of State,	)	No. CV-22-01124-PHX-SRB
et al.,	)	No. CV-22-01369-PHX-SRB
	)	No. CV-22-01381-PHX-SRB
Defendants.	)	No. CV-22-01602-PHX-SRB
	)	No. CV-22-01901-PHX-SRB

AND CONSOLIDATED CASES.

VIDEO-RECORDED VIDEOCONFERENCE 30(b)(6) DEPOSITION OF GILA
COUNTY RECORDER, REPRESENTED BY CHARLOTTE ASRARYNEZAMI

Globe, Arizona

August 16, 2023

Prepared by:
CINDY MAHONEY, RPR, RMR
Certified Court Reporter
Certificate No. 50680



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1 VIDEO-RECORDED VIDEOCONFERENCE 30(b)(6)
 2 DEPOSITION OF GILA COUNTY RECORDER, REPRESENTED BY
 3 CHARLOTTE ASRARYNEZAMI, commenced at 9:03 a.m. on
 4 August 16, 2023, at Globe, Arizona, before Cindy Mahoney,
 5 RPR, RMR (via videoconference), Arizona Certified Court
 6 Reporter No. 50680.

7 * * *

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34 ALSO PRESENT (all via videoconference):
35 Daxon Ernyei
36 Gareth Fowler
37 Daniel Rohan, Videographer

TRANSCRIPT OF PROCEEDINGS

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THE VIDEOGRAPHER: We are on the record.
Time on the video monitor is 9:03 a.m. Here begins
Volume 1, Media Number 1, in the 30(b)(6) deposition of
Gila County Recorder, designed by Charlotte Asrarynezami,
in the United States District Court, District of Arizona,
Case Number 2:22-cv-00509-PHX.

Today's date is August 16th, 2023. Our court
reporter is Cindy Mahoney. I am Daniel Rohan, a certified
legal videographer. We both represent Coash Court
Reporting & Video.

This video deposition is taking place at 1400
East Ash Street, Globe, Arizona 85501.

Counsel, please identify yourselves and state
whom you represent.

MR. FERGUSON: I'm Brent Ferguson with the
Campaign Legal Center, representing the LUCHA plaintiffs.

MR. DALTON: Jeff Dalton representing the
Gila County Chief Deputy Recorder Charlotte Asrarynezami

MR. HIRSCHHEL: My name is Andrew Hirschel.
I'm from Arnold & Porter, representing Poder Latinx.

MS. LORENZO: My name is Daniela Lorenzo.
I'm from Elias Law Group, representing MFV plaintiffs.

MS. CERVANTES: My name is Erika Cervantes,

09:05:33 1 and I am representing Promise Arizona plaintiffs.

09:05:34 2 MR. MAKKER: Amit Makker from Latham &
09:05:34 3 Watkins, representing the Arizona Asian American Native
09:05:42 4 Hawaiian and Pacific Islander for Equity Coalition
09:05:42 5 plaintiff.

09:05:43 6 MR. VOLCHOK: Daniel Volchok from Wilmer
09:05:47 7 Cutler Pickering Hale and Dorr for the Democratic National
09:05:48 8 Committee and the Arizona Democratic Party.

09:05:53 9 MS. BOUGHTON: Kathryn Boughton for the State
09:05:53 10 of Arizona and Arizona Attorney General Kris Mayes.

09:05:53 11 MR. LANGHOFER: Kory Langhofer --

09:06:03 12 MR. MORGAN: Craig Morgan. Sorry. Craig
09:06:05 13 Morgan. I represent the secretary of state.

09:06:07 14 MR. LANGHOFER: In case it wasn't clear, Kory
09:06:09 15 Langhofer for the RNC.

09:06:12 16 MS. PORTER: Hannah Porter from Gallagher &
09:06:13 17 Kennedy on behalf of intervenor defendants Speaker Toma and
09:06:17 18 President Petersen.

09:06:28 19 THE VIDEOGRAPHER: Okay. Will the court
09:06:29 20 reporter please swear in the witness.

21 ///

22 ///

23 ///

24 ///

25 ///

1 CHARLOTTE ASRARYNEZAMI,
2 the witness herein, being first duly sworn,
3 was examined and testified as follows:
4

09:06:47 5 MR. FERGUSON: Thank you.

09:06:47 6

09:06:48 7 EXAMINATION

09:06:48 8 BY MR. FERGUSON:

09:06:48 9 Q. Good morning, Ms. Asrarynezami. Please let me
09:06:52 10 know if I'm not getting your name right. Thanks so much
09:06:55 11 for being here today.

09:06:56 12 We're just going to start off by talking
09:06:59 13 about a few basics about you and the background of this
09:07:04 14 deposition.

09:07:05 15 So could you start by just stating your name
09:07:08 16 for the record and spelling it.

09:07:09 17 I know you did that before we were on the
09:07:12 18 record, but if you would just do it one more time, that
09:07:14 19 would be helpful.

09:07:15 20 A. Charlotte Asrarynezami, A-s-r-a-r-y-n-e-z-a-m-i.

09:07:23 21 Q. Thanks so much. So a little bit about how the
09:07:25 22 deposition will work, do you understand that you're
09:07:29 23 testifying under oath today?

09:07:31 24 A. Yes.

09:07:31 25 Q. Excellent.

09:07:33 1 And you understand that a court reporter is
09:07:35 2 transcribing the deposition?

09:07:37 3 A. Yes.

09:07:37 4 Q. Okay. Great.

09:07:40 5 So just to make it easier for the court
09:07:44 6 reporter, if every time you answer a question, if you could
09:07:47 7 answer it audibly rather than nodding or shaking your head
09:07:51 8 and say things like "yes" or "no" rather than saying
09:07:53 9 "uh-huh." Does that work?

09:07:54 10 A. Okay. Yes.

09:07:55 11 Q. Great.

09:07:56 12 And if you don't understand a question that I
09:07:58 13 ask, please let me know. And I can repeat it, or I can
09:08:02 14 rephrase it.

09:08:03 15 So if you do answer the question, I'll assume
09:08:06 16 you did understand it. Do you understand that?

09:08:08 17 A. Yes.

09:08:09 18 Q. Okay. Great.

09:08:11 19 So as I'm asking questions, you might hear
09:08:14 20 your attorney or other attorneys object to a question I
09:08:18 21 ask. So if that happens, then please let them finish the
09:08:21 22 objection. Then after they finish, you can still answer
09:08:25 23 the question.

09:08:26 24 You should still answer it unless they --
09:08:28 25 unless your attorney directs you not to answer it. Do you

09:08:32 1 understand that?

09:08:32 2 A. Yes.

09:08:33 3 Q. Okay. Great.

09:08:34 4 Is there any reason that you can't give full,
09:08:39 5 complete, and truthful testimony today?

09:08:41 6 A. No.

09:08:44 7 Q. Great.

09:08:45 8 Have you taken any medications in the last
09:08:47 9 24 hours that would affect your ability to testify today?

09:08:50 10 A. No.

09:08:52 11 Q. Great. So I'll probably take a couple breaks
09:08:56 12 throughout this deposition. If you would like to take a
09:08:58 13 break, just let me know.

09:08:59 14 The only thing I would ask is that if I've
09:09:02 15 already asked a question and you want to take a break,
09:09:05 16 please answer that question first before we take the break.

09:09:11 17 Do you understand that?

09:09:11 18 A. Yes.

09:09:12 19 Q. Great.

09:09:16 20 Have you ever been deposed before?

09:09:17 21 A. No.

09:09:17 22 Q. Okay. And once again for the record -- I know you
09:09:21 23 mentioned this -- could you tell us where you're physically
09:09:25 24 located today?

09:09:26 25 A. I'm at 1400 East Ash Street in Globe, Arizona

09:09:29 1 85501.

09:09:32 2 Q. Excellent.

09:09:33 3 Did you bring any materials with you to the

09:09:36 4 deposition?

09:09:37 5 A. No. I have -- I have the deposition folder

09:09:46 6 Dropbox.

09:09:47 7 Q. Excellent. Yeah. The one that I sent?

09:09:50 8 A. Yes.

09:09:50 9 Q. Okay. Great.

09:09:52 10 Do you have any -- so all those documents

09:09:56 11 we'll look at later. Do you have any other documents in

09:09:58 12 front of you right now?

09:10:00 13 A. No.

09:10:00 14 Q. Okay. Great.

09:10:03 15 So now we'll just talk briefly some about

09:10:06 16 your background. And we can start with your educational

09:10:10 17 background.

09:10:11 18 Can you tell me about any school or degrees

09:10:14 19 you've completed after high school?

09:10:17 20 A. I have an AA in general science.

09:10:20 21 Q. Okay. And where is that from?

09:10:22 22 A. The Gila Pueblo Community College.

09:10:26 23 Q. Excellent.

09:10:28 24 And a little bit about your professional

09:10:31 25 background. Can you tell me your current title at the

09:10:36 1 County Recorder's Office?

09:10:37 2 A. I'm a chief deputy recorder.

09:10:39 3 Q. And how long have you been in that position?

09:10:42 4 A. Since 2016.

09:10:43 5 Q. Okay. And did you have any other job within the

09:10:49 6 County Recorder's Office before you were chief deputy?

09:10:52 7 A. Yes.

09:10:52 8 Q. Okay. What position was that?

09:10:55 9 A. As -- I've been a clerk, a recorder clerk senior,

09:10:59 10 the office supervisor, and a voter registration

09:11:02 11 coordinator.

09:11:02 12 Q. Okay. A lot of positions.

09:11:05 13 So when did you join the County Recorder's

09:11:08 14 Office?

09:11:08 15 A. In 2010.

09:11:11 16 Q. Okay. So you've been working there about

09:11:14 17 13 years?

09:11:15 18 A. Yes.

09:11:15 19 Q. Okay. Excellent.

09:11:18 20 And so before 2010, can you tell me what jobs

09:11:25 21 you held?

09:11:26 22 A. Oh, gosh, I had a job as a janitor for a really

09:11:33 23 long time. I've worked for the Globe justice court.

09:11:40 24 Q. Okay.

09:11:43 25 A. Yeah.

09:11:43 1 Q. And did you have any jobs before you were at the
09:11:50 2 County Recorder's Office that involved any kind of voter
09:11:53 3 registration or voting or anything similar to that?

09:11:56 4 A. No.

09:11:56 5 Q. Okay. And have you previously used any names
09:12:04 6 other than your current one?

09:12:06 7 A. My maiden name, which is Williams.

09:12:09 8 Q. Okay. And when did you change your name from
09:12:11 9 Williams?

09:12:12 10 A. 2018.

09:12:14 11 Q. Okay. So you were known as Charlotte Williams,
09:12:20 12 after you became chief -- chief deputy recorder, for a
09:12:23 13 couple years --

09:12:24 14 A. Yes.

09:12:25 15 Q. -- is that correct?

09:12:25 16 A. Yes.

09:12:28 17 Q. Okay. Excellent.

09:12:31 18 Now we're going to move on to just what
09:12:32 19 you've done to prepare for the deposition today. So I'm
09:12:35 20 going to pull up Document A in the Dropbox.

09:12:40 21 And what I'm going to try to do is share my
09:12:43 22 screen just to make sure we're all looking at the same
09:12:46 23 thing. So I'm going to -- I know you have it too. But I'm
09:12:55 24 going to do that and make sure.

09:12:56 25 Can you see that?

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A. Yes.

Q. Okay. Excellent. Let me pull it up right now.

Okay.

So do you recognize this document?

A. Yes.

Q. Okay. Can you tell me what it is?

A. The notice of -- the plaintiffs' notice of deposition.

THE COURT REPORTER: Do you want to mark this?

MR. FERGUSON: Yes, please. I think we're on 128; is that correct?

THE COURT REPORTER: 129.

MR. FERGUSON: 129. Okay. Can we please mark it as Exhibit 129.

(The document was marked as Exhibit 129 for identification.)

MR. FERGUSON: Thanks very much.

MR. MAKKER: Hey, Brent, just to jump in, I think -- don't we have, like, two going today? I don't know if --

MR. FERGUSON: We do.

MR. MAKKER: Okay. I don't know if you guys coordinated that, so just wanted to make sure.

MR. FERGUSON: Yeah, the other one going on

09:13:42 1 today is starting in a few hours. And we're --

09:13:47 2 MR. MAKKER: Okay. Got it.

09:13:47 3 MR. FERGUSON: -- making an effort --

09:13:47 4 MR. MAKKER: Got it. Yep.

09:13:50 5 MR. FERGUSON: Thanks for inquiring on that,

09:13:51 6 though. Appreciate it.

09:13:56 7 BY MR. FERGUSON:

09:13:57 8 Q. Let's go down -- I'm going to scroll down on this

09:14:05 9 to the top of page 5.

09:14:06 10 Do you see where it says "Topics" on the top

09:14:10 11 of page 5 of that document?

09:14:12 12 A. Yes.

09:14:12 13 Q. Great.

09:14:13 14 And have you reviewed the topics that are

09:14:17 15 listed here?

09:14:18 16 A. Yes.

09:14:19 17 Q. And are you prepared to discuss all the topics

09:14:26 18 listed here today?

09:14:27 19 A. Yes.

09:14:28 20 Q. Excellent. Okay. Thanks very much.

09:14:33 21 Are there any topics that you don't feel

09:14:36 22 prepared to address?

09:14:39 23 A. No.

09:14:40 24 Q. Okay. Excellent.

09:14:43 25 Do you understand that you have been

09:14:48 1 designated to be the deponent for -- on behalf of the Gila
09:14:55 2 County Recorder's Office today?

09:14:55 3 A. Yes.

09:14:56 4 Q. And so as part of that, I may sometimes use the
09:15:00 5 word "you" or "your." And unless I say otherwise, I'm
09:15:04 6 referring to the County Recorder's Office generally.

09:15:10 7 Do you understand that?

09:15:11 8 A. Yes.

09:15:12 9 Q. Okay. Excellent.

09:15:17 10 Okay. So let's talk a little bit more about
09:15:19 11 your preparation for the deposition.

09:15:23 12 First of all, if you discussed anything with
09:15:25 13 your attorney about this deposition, please don't tell me
09:15:27 14 the substance of what you discussed. But it's okay to say
09:15:31 15 that you did meet with your attorney.

09:15:35 16 So can you tell me if you met with anyone in
09:15:38 17 your office to prepare for the deposition?

09:15:42 18 A. Does that include my county attorney?

09:15:46 19 Q. Yes.

09:15:47 20 You can tell me just that you -- if you had a
09:15:49 21 meeting. But please don't tell me what you discussed.

09:15:52 22 A. Yes.

09:15:52 23 Q. Okay. Great.

09:15:54 24 And how many meetings did you have with the
09:15:56 25 county attorney?

09:15:57 1 A. We've had maybe two meetings and a couple phone
09:16:04 2 calls.

09:16:06 3 Q. Okay. Excellent.

09:16:09 4 And how long were those meetings?

09:16:11 5 A. Oh, gosh, I couldn't -- I couldn't say.

09:16:16 6 Q. Yeah, nothing exact. But if you give me, you
09:16:18 7 know, a rough idea --

09:16:19 8 A. Anywhere from 2 minutes to 40 minutes.

09:16:23 9 Q. Okay. That was two meetings, you said anywhere
09:16:28 10 between 2 and 40 minutes -- anywhere between 2 and 40
09:16:34 11 minutes?

09:16:34 12 A. Yes. Yes.

09:16:35 13 Q. Okay. And did you meet with anyone else other
09:16:40 14 than your attorney about the deposition?

09:16:42 15 A. I had met with the recorder.

09:16:44 16 Q. Okay. And was that just one meeting?

09:16:48 17 A. Two.

09:16:50 18 Q. Two meetings.

09:16:51 19 Can you tell me what you talked about with
09:16:55 20 the county recorder to prepare for the deposition in those
09:16:57 21 meetings?

09:16:58 22 A. We went over these topics.

09:17:02 23 Q. The topics listed on the document we're looking
09:17:04 24 at?

09:17:05 25 A. Yes.

09:17:06 1 Q. Okay. Excellent.

09:17:07 2 Is there any particular topic that you
09:17:14 3 recall, from those meetings, discussing?

09:17:20 4 A. Nothing in particular.

09:17:21 5 Q. Okay. And did you review any other documents in
09:17:30 6 preparation for the deposition?

09:17:32 7 A. I have reviewed the Election Procedures Manual and
09:17:38 8 the -- the Election Procedures Manual.

09:17:41 9 Q. Okay. And is that the 2019 version of the EPM --

09:17:45 10 A. Yes.

09:17:45 11 Q. -- that you're referring to?

09:17:47 12 A. Yes.

09:17:47 13 Q. Great.

09:17:49 14 And then do you have an idea of what this
09:17:53 15 lawsuit is about?

09:17:55 16 A. I have an idea, yes.

09:17:58 17 Q. Okay. Can -- of course, you don't need to know
09:18:02 18 exactly or talk about specific claims. But can you just
09:18:05 19 give me your general understanding of what it's about?

09:18:10 20 A. I believe it is about requiring people to put
09:18:20 21 their place of birth as a requirement for the voter
09:18:25 22 registration and kind of what -- that's one part of it --
09:18:28 23 and what that would look like for voter registration.

09:18:35 24 Q. Okay. Excellent. So I'm going to pull up a
09:18:39 25 different document now, if you'll bear with me one moment.

09:19:00 1 Can you see the document that's on the screen
09:19:01 2 now?
09:19:02 3 A. Yes.
09:19:02 4 Q. And do you recognize this document?
09:19:06 5 A. Yes.
09:19:06 6 Q. Okay. Can you tell me what it is?
09:19:10 7 A. It's the interrogatories.
09:19:14 8 Q. Okay. And those are -- and you've seen this
09:19:18 9 document before --
09:19:18 10 A. Yes.
09:19:21 11 Q. -- and read those interrogatories; is that
09:19:22 12 correct?
09:19:22 13 A. Yes.
09:19:22 14 Q. Okay. Excellent.
09:19:23 15 Now I'll just quickly go to one more just to
09:19:29 16 make sure you've seen that.
09:19:35 17 THE COURT REPORTER: Sorry. While you're
09:19:36 18 doing that, do you want to mark that?
09:19:39 19 MR. FERGUSON: Yes. Thank you for that. We
09:19:39 20 were on 129; is that correct? So this is Exhibit 130.
09:19:49 21 THE COURT REPORTER: Yes, this is 130.
09:19:49 22 (The document was marked as Exhibit 130
09:19:49 23 for identification.)
09:19:50 24 (An off-the-record discussion ensued.)
09:19:50 25 MR. FERGUSON: I'm going to pull up right now

09:19:58 1 Document C. So if we could mark that as 131, that would be
09:20:02 2 great.

09:20:05 3 (The document was marked as Exhibit 131
09:20:09 4 for identification.)

09:20:09 5 BY MR. FERGUSON:

09:20:10 6 Q. Can you see the document that I just pulled up
09:20:12 7 now?

09:20:13 8 A. Yes.

09:20:14 9 Q. Okay. And can you tell me what that document is?

09:20:16 10 A. Those are our responses to the interrogatories.

09:20:20 11 Q. And were you involved in preparing those
09:20:22 12 responses?

09:20:23 13 A. Yes.

09:20:23 14 Q. Okay. Can you tell me what you did to prepare
09:20:27 15 those responses?

09:20:30 16 A. I consulted with my legal counsel and the recorder
09:20:35 17 and our Election Procedures Manual.

09:20:37 18 Q. Okay. And can you tell me about how much time you
09:20:43 19 spent on preparing those responses?

09:20:46 20 A. Oh, gosh, several days.

09:20:48 21 Q. Okay. All right. For now, I'm going to pull that
09:20:55 22 down off the screen.

09:20:57 23 And I just want to move on to just generally
09:21:01 24 a few things about what your office does and
09:21:05 25 responsibilities.

09:21:06 1 So can you just describe for me generally
09:21:09 2 what the County Recorder's Office does with respect to --
09:21:14 3 with respect to elections in the county?

09:21:17 4 A. So we take the voter registration forms that are
09:21:22 5 given to us by voters throughout the county. We enter them
09:21:25 6 into our system. And we process them. We maintain those
09:21:30 7 rolls. And we are responsible for mailing out early
09:21:33 8 ballots and the signature verification of those early
09:21:37 9 ballots.

09:21:38 10 Q. Okay. And is there anyone else within your office
09:21:43 11 that works on the election side performing those -- those
09:21:47 12 duties that you just described besides you and the county
09:21:50 13 recorder?

09:21:50 14 A. Yes.

09:21:53 15 Q. How many people is that?

09:21:57 16 A. We try to cross-train. So a lot of the employees
09:22:01 17 have a little bit of experience. But I would say maybe one
09:22:04 18 other employee who does the majority of voter registration.

09:22:10 19 Q. Okay. And what's that person's name?

09:22:12 20 A. Katie Judd.

09:22:14 21 Q. Katie Judd.

09:22:15 22 Okay. You said there are a few other people
09:22:17 23 that might do a little bit. Could you tell me their names
09:22:22 24 too, please?

09:22:23 25 A. Taylor Holland and Stephanie Johnson.

09:22:27 1 Q. Okay. And you mentioned Katie Judd. Can we go
09:22:35 2 over her responsibilities a little bit more?

09:22:38 3 You might have started to mention it, but can
09:22:41 4 you tell me what she does in the office?

09:22:42 5 A. She processes the daily mail that comes through
09:22:48 6 and the EZ voters. So she does a lot of the day-to-day
09:22:52 7 transactions.

09:22:52 8 Q. Okay. So is she the main person who is receiving
09:22:57 9 and reviewing voter registration forms that come in?

09:23:00 10 A. Yes.

09:23:00 11 Q. And do you do that yourself also?

09:23:04 12 A. Yes.

09:23:05 13 Q. Okay. So you share that responsibility. Is that
09:23:11 14 shared about 50-50, or does -- do either one of you do the
09:23:14 15 primary amount of that?

09:23:16 16 A. Katie does the primary -- the primary amount of
09:23:21 17 it.

09:23:21 18 Q. Okay. Excellent.

09:23:23 19 Okay. I'd like to move on now to the
09:23:29 20 Election Procedures Manual that you mentioned a few moments
09:23:33 21 ago. So I will -- I'm going to pull up that document as
09:23:37 22 well. Give me just a moment.

09:23:51 23 So scrolling to the top, this is Document F,
09:23:55 24 and it's already been marked as -- sorry for that. It's
09:24:01 25 already been marked as Petty Exhibit 6.

09:24:07 1 Do you recognize this as the 2019 Election
09:24:11 2 Procedures Manual?

09:24:11 3 A. Yes.

09:24:12 4 Q. Great. And I'll refer to that as the "EPM."

09:24:17 5 Can you tell me just how your office uses the
09:24:20 6 EPM?

09:24:24 7 A. We use it as a reference guide.

09:24:33 8 Q. Sure. And do you refer to it when you're
09:24:36 9 implementing voter registration rules, things like that?

09:24:41 10 A. Yes.

09:24:41 11 Q. And I think we mentioned this before.

09:24:46 12 Is the 2019 version still the operative
09:24:50 13 version?

09:24:53 14 A. Yes, I believe.

09:24:54 15 Q. So that's the one that -- is this the only one you
09:24:57 16 refer to --

09:24:58 17 A. Yes.

09:24:58 18 Q. -- in your job today? Okay.

09:25:03 19 And is -- is the EPM binding on your office,
09:25:05 20 meaning you're required to follow it?

09:25:08 21 A. I believe so.

09:25:15 22 MR. FERGUSON: Okay.

09:25:19 23 MR. LANGHOFER: Form. Calls for a legal
09:25:21 24 conclusion.

09:25:21 25 BY MR. FERGUSON:

09:25:22 1 Q. Okay. Now we'll move on to one more document
09:25:30 2 here. So just one moment.

09:25:44 3 Okay. And this is Document G, which has
09:25:47 4 already been marked Exhibit 35. Do you recognize this
09:25:51 5 document?

09:25:51 6 A. Yes.

09:25:54 7 Q. Okay. Can you tell me what it is?

09:25:54 8 A. It's the draft of the -- of the procedures manual
09:25:59 9 for the -- for June 2023.

09:26:03 10 Q. Okay. Excellent.

09:26:04 11 So you've seen this document before; is that
09:26:06 12 correct?

09:26:06 13 A. Yes.

09:26:07 14 Q. Okay. And have you provided any comments on this
09:26:14 15 draft or previous drafts to the Secretary of State's Office
09:26:18 16 or anyone else?

09:26:20 17 A. No.

09:26:20 18 Q. Okay. Have you attended any meetings or trainings
09:26:31 19 with the secretary of state about this document?

09:26:38 20 A. Yes.

09:26:39 21 Q. Okay. Can you tell me about that meeting?

09:26:44 22 A. We've had a couple of Teams meetings to go over
09:26:48 23 comments and go over their draft of the procedures manual.

09:26:56 24 Q. Okay. And were those -- can you tell me roughly
09:26:59 25 when those meetings were?

09:27:02 1 A. Oh, I think -- I think we have one -- I want to
09:27:06 2 say once a month --

09:27:07 3 Q. Okay.

09:27:08 4 A. -- if not twice a month.

09:27:11 5 Q. And so that's been for the last six months or the
09:27:17 6 last year that you've had once-a-month meetings?

09:27:20 7 A. I don't -- I don't remember. I don't recall.

09:27:22 8 Q. And you said that your office hasn't provided
09:27:25 9 input on this draft or previous drafts though; is that
09:27:30 10 right?

09:27:30 11 A. No.

09:27:30 12 Q. Okay. But have -- in those meetings, have other
09:27:38 13 county recorders or other people in those meetings provided
09:27:42 14 comments? Is that what was happening at those meetings?

09:27:47 15 A. Other counties have provided comments, yes.

09:27:49 16 Q. Okay. Great.

09:27:51 17 And are you -- just to the extent that you
09:27:54 18 know or remember, can you tell me what those comments were
09:27:58 19 about, which subjects of the EPM those were about?

09:28:05 20 MR. MORGAN: Form.

09:28:05 21 THE WITNESS: I couldn't tell you. I don't
09:28:07 22 remember. It's a lot of detail.

09:28:08 23 BY MR. FERGUSON:

09:28:10 24 Q. Okay. Do you have any recollection of topics that
09:28:16 25 were covered in these meetings or changes to the EPM that

09:28:21 1 were covered in these meetings?

09:28:24 2 A. No.

09:28:25 3 Q. Do you remember discussing, for example, a
09:28:32 4 provision in newly enacted law that requires a registration
09:28:38 5 applicant to list their place of birth on an application?

09:28:44 6 MR. MORGAN: Form.

09:28:46 7 THE WITNESS: I don't -- I don't recall
09:28:48 8 specifically.

09:28:49 9 BY MR. FERGUSON:

09:28:49 10 Q. Okay. Is there anyone else in your office that's
09:28:54 11 been attending these meetings?

09:28:57 12 A. Yes.

09:28:57 13 Q. Okay. Can you tell me who that is?

09:29:00 14 A. All of the ones I've listed before.

09:29:02 15 Q. Okay. So the county recorder attends them, and I
09:29:09 16 believe it was -- Ms. Judd attends them as well?

09:29:12 17 A. Yes.

09:29:12 18 Q. Okay. Okay. I'd like to just move on to the laws
09:29:23 19 that are being challenged in this lawsuit.

09:29:29 20 So are you aware of the two laws that are
09:29:32 21 being challenged here: That's HB 2492 and HB 2243?

09:29:39 22 A. Yes.

09:29:40 23 Q. Okay. And have you received any guidance from the
09:29:47 24 secretary of state or anyone else within the state about
09:29:51 25 implementation of those laws?

09:29:52 1
09:29:53 2
09:30:04 3
09:30:12 4
09:30:13 5
09:30:14 6
09:30:23 7
09:30:26 8
09:30:34 9
09:30:34 10
09:30:34 11
09:30:34 12
09:30:40 13
09:30:40 14
09:30:40 15
09:30:43 16
09:30:45 17
09:30:47 18
09:30:51 19
09:30:54 20
09:30:54 21
09:31:01 22
09:31:01 23
09:31:05 24
09:31:08 25

A. No.

Q. Okay. The meetings that you mentioned a moment ago, those have not involved any -- any kind of guidance about implementation?

A. No.

Q. I'm going to pull up one more document right now. And this is Document I in the folder, which I believe we do need to mark as a new exhibit. I think -- is that 131 or 132?

THE COURT REPORTER: 132.

(The document was marked as Exhibit 132 for identification.)

MR. FERGUSON: Okay. Thanks very much.

BY MR. FERGUSON:

Q. Do you recognize this document?

A. Yes.

Q. Okay. Can you tell me what it is?

A. It's an email from Kori.

Q. An email from Kori Lorick?

A. Yes.

Q. And is Kori Lorick from the Secretary of State's Office?

A. Yes.

Q. Did you receive this email, or have you seen it before?

09:31:08 1
09:31:09 2
09:31:13 3
09:31:14 4
09:31:28 5
09:31:31 6
09:31:36 7
09:31:40 8
09:31:46 9
09:31:46 10
09:31:49 11
09:31:52 12
09:31:53 13
09:32:00 14
09:32:06 15
09:32:12 16
09:32:13 17
09:32:14 18
09:32:15 19
09:32:15 20
09:32:17 21
09:32:26 22
09:32:31 23
09:32:32 24
09:32:34 25

A. Yes.

Q. Okay. Can you tell me what it's referring to or what it's about?

A. I believe it's about a call we had. And we discussed the implementation of the house bills and the effective date of those.

Q. Okay. And so this document refers to a training that was on August 25th, 2022; is that correct?

A. Yes.

Q. And do you remember if you or anyone from your office attended that?

A. I don't remember.

Q. Okay. Do you remember if this training or other ones contained material about implementation of -- of those two laws that we just mentioned: 2492 and 2243?

MR. MORGAN: Form.

THE WITNESS: Can you repeat that?

BY MR. FERGUSON:

Q. Sure.

Do you remember if this training or any others contained material about implementing the challenged laws, which are HB 2243 and 2492?

MR. MORGAN: Form.

THE WITNESS: I -- I don't remember. I don't recall.

09:32:34 1 BY MR. FERGUSON:

09:32:34 2 Q. Okay. Has the Secretary of State's Office

09:32:45 3 directed you to implement any parts of HB 2492?

09:32:53 4 A. No.

09:32:53 5 Q. Okay. And has the Secretary of State's Office

09:32:58 6 directed you to implement any parts of HB 2243?

09:33:02 7 A. No.

09:33:02 8 Q. Okay. Are you implementing any part of HB 2492?

09:33:15 9 A. I don't believe so.

09:33:23 10 Q. Okay. Give me just a moment. I'm going to pull

09:33:34 11 up one more document here.

09:34:10 12 Okay. And we just talked about 2492.

09:34:15 13 Is your office implementing any portion of

09:34:18 14 HB 2243?

09:34:20 15 A. No.

09:34:21 16 Q. Okay. I'm going to pull up what we had before as

09:34:28 17 Document B.

09:34:31 18 MR. FERGUSON: I think we marked that as

09:34:33 19 Exhibit 130; is that correct?

09:34:37 20 THE COURT REPORTER: Yes.

09:34:43 21 BY MR. FERGUSON:

09:34:45 22 Q. Okay. And this is the set of interrogatories that

09:34:49 23 you saw a few moments ago. I'm going to go to the top of

09:34:54 24 page 10 of this document, which is Interrogatory Number 8.

09:35:03 25 Okay. So do you see that right there on the

09:35:09 1 screen --

09:35:09 2 A. Yes.

09:35:09 3 Q. -- Interrogatory Number 8?

09:35:12 4 Okay. I'm going to read for the record just

09:35:14 5 the beginning of that interrogatory.

09:35:16 6 "Identify and describe each method by which

09:35:21 7 Registered Voters or Voter Registration Applicants can

09:35:22 8 appeal, contest, or cure decisions by Your office based on

09:35:26 9 a finding of non- -- noncitizenship or absence of DPOC or

09:35:30 10 failure to check the Citizenship Checkbox."

09:35:37 11 Is that what it says right there?

09:35:39 12 A. Yes.

09:35:39 13 Q. Okay. And do you remember this interrogatory from

09:35:46 14 -- from answering it?

09:35:46 15 A. Yes.

09:35:49 16 Q. Okay. Excellent. Now I'm going to once again

09:35:51 17 share the -- your office's answers to those

09:35:58 18 interrogatories.

09:36:08 19 So can you see that on the screen now?

09:36:11 20 A. Yes.

09:36:12 21 Q. So I'm going to go down to the answer to

09:36:17 22 Interrogatory Number 8. Can you see that there? I'm

09:36:23 23 highlighting it.

09:36:23 24 A. Yes.

09:36:24 25 Q. Okay. Could you just read for me the -- what's

09:36:28 1 highlighted there that's the beginning of the answer to
09:36:32 2 Interrogatory Number 8?

09:36:33 3 A. I can't see the first part.

09:36:39 4 Q. I'm sorry about that. Okay. Can you see it now?

09:36:41 5 A. Yes.

09:36:43 6 Q. Okay. Sorry. I'll just let you read the first
09:36:48 7 sentence without highlighting it.

09:36:48 8 A. "They either provide their DPOC or provide a voter
09:36:51 9 registration with a box checked."

09:36:53 10 Q. Okay. Excellent.

09:36:54 11 So does this answer indicate that if someone
09:36:58 12 submits a voter registration form without the citizenship
09:37:02 13 box checked, then you will contact them and ask them to
09:37:07 14 resubmit the form with the box checked?

09:37:11 15 A. If they haven't provided DPOC; if -- if they've
09:37:21 16 answered "no" as well.

09:37:25 17 Q. If they've -- so that's if they've entered "no"
09:37:31 18 in -- where would they have entered "no"?

09:37:35 19 A. On the voter registration form.

09:37:43 20 Q. If they've answered "no" to the question that they
09:37:46 21 are -- asking whether they're a U.S. citizen?

09:37:47 22 A. Correct.

09:37:48 23 Q. Okay. Under -- so under your current practice, if
09:37:53 24 they have -- if they've had -- have answered "yes" to that
09:37:57 25 question or if they've signed -- if they've signed the box

09:38:03 1 saying that they are a U.S. citizen but they have not
09:38:08 2 checked the checkbox that asks whether the person is a U.S.
09:38:14 3 citizen, how does your office handle those applications
09:38:19 4 currently?

09:38:21 5 A. Can you repeat that?

09:38:22 6 Q. Sure.

09:38:22 7 If someone submits a voter registration form
09:38:27 8 and they have answered "yes" that they are a U.S. citizen
09:38:32 9 or they have indicated that they are by signing the form at
09:38:35 10 the bottom under penalty of perjury but separately they
09:38:40 11 have failed to check the box saying "I am a U.S. citizen,"
09:38:45 12 how does your office treat those applications?

09:38:51 13 A. Well, they -- they would have -- they would -- in
09:39:00 14 order for them to indicate they were -- in order to -- that
09:39:04 15 box says that they are a citizen if they check it.

09:39:10 16 I'm not sure I understand the question.

09:39:12 17 Q. Okay. Sure. Let me -- let me try that one more
09:39:16 18 time.

09:39:17 19 If someone submits a voter registration
09:39:22 20 form -- let's use the federal form, for example. Are you
09:39:26 21 familiar with the federal voter registration form?

09:39:29 22 A. Yes.

09:39:29 23 Q. Okay. So if someone fills out the federal voter
09:39:37 24 registration form and they've completed the form in its
09:39:40 25 entirety with everything that's required except they have

09:39:46 1 not checked the box that asks if they are a U.S. citizen,
09:39:52 2 how does your office treat that application?

09:39:57 3 A. We would enter it. And we would run it through
09:40:01 4 the HAVA checks. And it may provide a proof of citizenship
09:40:06 5 that way. If not, we would send them a letter.

09:40:11 6 Q. Okay. So you would run a HAVA check. And would
09:40:17 7 you treat that form the same way if it had that -- that
09:40:24 8 checkmark next to the citizenship checkbox -- you would run
09:40:26 9 those same checks that you mentioned?

09:40:28 10 A. Yes.

09:40:28 11 Q. Okay. Okay. So do you treat the form any
09:40:35 12 differently if it has the citizenship checkbox checked or
09:40:40 13 if it doesn't have it checked?

09:40:43 14 A. We send a letter if the box is not checked and we
09:40:53 15 can't provide proof of citizenship through the HAVA checks.

09:40:58 16 Q. Okay. And do you also send that letter if the box
09:41:03 17 is checked but you can't find proof of citizenship through
09:41:08 18 the HAVA checks that you mentioned?

09:41:13 19 A. Can you repeat that?

09:41:14 20 Q. Sure.

09:41:15 21 If the box is checked and then you can't find
09:41:21 22 proof of citizenship through those HAVA checks that you
09:41:24 23 mentioned, do you also send that letter?

09:41:27 24 A. Yes.

09:41:28 25 Q. Okay. So if I'm understanding correctly, you go

09:41:33 1 through the same process currently regardless of whether
09:41:37 2 that box is checked?

09:41:41 3 A. Yes.

09:41:46 4 Q. Okay. Thank you very much. Give me just a
09:41:54 5 moment.

09:42:03 6 If you do receive an application without the
09:42:07 7 citizenship box checked either on the federal form or the
09:42:11 8 state voter registration form and you find through HAVA
09:42:19 9 checks or elsewhere an indication that the person is a U.S.
09:42:24 10 citizen, do you accept that form or do you reject that
09:42:28 11 form?

09:42:29 12 A. We accept that.

09:42:31 13 Q. Okay. Excellent. Okay. I'm going to move on to
09:42:41 14 your office's use of databases in performing your job.

09:42:47 15 Does your office use the Arizona Motor
09:42:52 16 Vehicles Division, or MVD, database?

09:42:56 17 A. Yes. I believe it interfaces with our voter
09:42:59 18 registration system.

09:42:59 19 Q. Okay. And what is that system called?

09:43:02 20 A. AVID.

09:43:02 21 Q. Okay. So you use the AVID system which interfaces
09:43:07 22 with the MVD database; is that correct?

09:43:09 23 A. Correct.

09:43:11 24 Q. And what do you use that system for?

09:43:15 25 A. It -- it -- it's the one that checks for

09:43:20 1 citizenship.

09:43:20 2 Q. Okay. Can you just walk me through how that
09:43:24 3 process goes in your office using someone's application and
09:43:29 4 running it through that AVID check system?

09:43:32 5 A. We would enter a voter registration form, enter
09:43:36 6 all the data, and then we would hit the HAVA check button.
09:43:39 7 It runs it through the motor vehicle database. It also
09:43:42 8 runs it through, I believe, the vital statistics database
09:43:47 9 as well.

09:43:48 10 Q. Okay.

09:43:50 11 A. And then update it and --

09:43:50 12 Q. Okay.

09:43:54 13 A. -- based on those results.

09:43:55 14 Q. And in talking about those results, can you tell
09:43:58 15 me what are the possible results that your office could get
09:44:03 16 once you run that?

09:44:04 17 A. You would have a full registered voter who's a
09:44:10 18 citizen, or you could have the fed ID or the fed no ID
09:44:16 19 statuses.

09:44:18 20 Q. Okay. Is one possibility that it would show that
09:44:21 21 the applicant has an F-type driver's license?

09:44:24 22 A. Correct.

09:44:25 23 Q. Okay. And can you tell me what an F-type license
09:44:29 24 is?

09:44:29 25 A. I can't.

09:44:36 1 Q. Okay. Is it -- does it refresh your recollection
09:44:43 2 that an F-type license is one that tells you whether the
09:44:48 3 person was a U.S. citizen at the time they received a
09:44:52 4 driver's license?

09:44:53 5 A. Can you say that again?

09:45:00 6 Q. Sure. Let's -- let me withdraw that question for
09:45:04 7 now. And I want to pull up the EPM again, so I'm going to
09:45:09 8 share my screen once more.

09:45:19 9 Okay. Can you see the EPM -- the 2019 EPM up
09:45:24 10 here again?

09:45:25 11 A. Yes.

09:45:26 12 Q. It's been marked as Exhibit 6. Okay. I'm going
09:45:29 13 to scroll down to page 3 of the EPM. Bear with me for a
09:45:43 14 moment.

09:45:44 15 Okay. Could you -- if you can -- can you see
09:45:46 16 the bottom of page 3 there?

09:45:48 17 A. Yes.

09:45:49 18 Q. Okay. And I'm highlighting it. Hopefully --
09:45:53 19 well, it's going to block your view again.

09:45:55 20 If you could just take a moment to look at
09:45:59 21 that second to last paragraph that begins with "an Arizona
09:46:05 22 driver's license."

09:46:06 23 Do you see the paragraph I'm talking about?

09:46:07 24 A. Yes.

09:46:11 25 Q. I'll just give you a moment to look at that.

09:46:21 1 Okay. Do you see the part of that paragraph
09:46:24 2 where it refers to -- it says, "The verification must not
09:46:27 3 return a result that indicates noncitizenship" or an
09:46:30 4 "'F-type' license"?

09:46:31 5 A. Yes.

09:46:32 6 Q. Okay. Does that help you recall what an F-type
09:46:36 7 license is?

09:46:36 8 A. Yes.

09:46:37 9 Q. Okay. Can you tell me your understanding of it
09:46:40 10 now?

09:46:41 11 A. That they -- yes, that they're not a citizen.

09:46:45 12 Q. Okay. And to your knowledge, if someone has an
09:46:50 13 F-type license, does that indicate that they were not a
09:46:56 14 U.S. citizen only when they received that driver's license?

09:47:08 15 A. Can you repeat that?

09:47:11 16 MS. BOUGHTON: Foundation.

09:47:11 17 BY MR. FERGUSON:

09:47:12 18 Q. Sure.

09:47:13 19 To your knowledge, does the fact that someone
09:47:17 20 has an F-type license indicate that they were not a U.S.
09:47:22 21 citizen when they received that driver's license?

09:47:29 22 MR. LANGHOFER: Form.

09:47:30 23 THE WITNESS: Yes.

09:47:31 24 BY MR. FERGUSON:

09:47:35 25 Q. And so is it -- when you're processing voter

09:47:40 1 registration applications and you use the AVID database,
09:47:45 2 have you seen a result come up that someone has an F-type
09:47:48 3 license?

09:47:49 4 A. I have.

09:47:50 5 Q. Okay. And do you know whether it happens that
09:47:56 6 someone receives an F-type license and later is naturalized
09:48:04 7 and becomes a U.S. citizen?

09:48:13 8 A. Can that happen? Is that what --

09:48:15 9 Q. Yeah, that's the question.

09:48:17 10 A. Yes --

09:48:18 11 Q. Okay.

09:48:20 12 A. -- I would think.

09:48:23 13 Q. Okay. And if someone is -- when you're running
09:48:28 14 that AVID check through the MVD, do you send a notice
09:48:31 15 letter to people who are deemed ineligible by that check?

09:48:37 16 A. Yes.

09:48:37 17 Q. Okay. And do people sometimes provide their proof
09:48:44 18 of citizenship after receiving such a letter?

09:48:53 19 A. I'm sure they have.

09:48:55 20 Q. Okay. Is there someone in your office that would
09:49:00 21 handle those situations other than you?

09:49:04 22 A. The recorder.

09:49:07 23 Q. Okay. If someone provides proof of citizenship
09:49:14 24 after receiving one of those letters, would it be Ms. Judd
09:49:20 25 who normally would -- would receive and handle those

09:49:26 1
09:49:27 2
09:49:32 3
09:49:37 4
09:49:47 5
09:49:53 6
09:49:59 7
09:50:01 8
09:50:01 9
09:50:03 10
09:50:03 11
09:50:06 12
09:50:09 13
09:50:10 14
09:50:13 15
09:50:13 16
09:50:20 17
09:50:26 18
09:50:32 19
09:50:36 20
09:50:40 21
09:50:46 22
09:50:51 23
09:50:56 24
09:51:00 25

documents?

A. She could, yes.

MR. FERGUSON: Okay. Okay. So I'd like to move on to one more document right now. And I'll share my screen once more. I'm going to pull up Document L.

This one does need to be marked, I believe. I think that will be Exhibit 133?

THE COURT REPORTER: Yes.

(The document was marked as Exhibit 133 for identification.)

BY MR. FERGUSON:

Q. Can you see the document on the screen there?

A. Yes.

Q. Okay. And do you recognize the document?

A. Yes.

Q. Okay. And starting at that middle of the page where it says "Press Release," could you describe what that press release is?

A. There was a data -- there was an error that affected some of the federal-only voters --

Q. Okay.

A. Or full-ballot voters, I guess it affected them.

Q. Okay. Great. I will read for the record just one part of that press release from the Secretary of State's Office.

09:51:01 1 "My office found and corrected a database
09:51:05 2 error in concert with the Motor Vehicle Division which led
09:51:08 3 to less than a quarter of 1 percent of voters to be
09:51:11 4 registered as federal-only voters when they should have
09:51:15 5 been registered as full-ballot voters."

09:51:17 6 Do you remember this incident?

09:51:23 7 A. I do.

09:51:24 8 Q. Okay. And can you tell me how it affected voters
09:51:32 9 in Gila County?

09:51:33 10 A. I don't recall. I don't recall how many we had
09:51:39 11 affected by this --

09:51:39 12 Q. Okay.

09:51:41 13 A. -- if any.

09:51:44 14 Q. You do remember that some voters were affected by
09:51:47 15 it?

09:51:47 16 A. Correct.

09:51:49 17 Q. And do you remember the steps your office took to
09:51:56 18 try to correct that error?

09:52:00 19 A. I -- I -- I don't recall if we had any voters
09:52:06 20 affected by this.

09:52:06 21 Q. Okay. You don't recall for sure?

09:52:08 22 A. Yeah.

09:52:09 23 Q. Do you remember receiving the -- or did -- sorry.
09:52:16 24 Withdrawn.

09:52:16 25 Did you receive this email that's on top of

09:52:20 1 the press relief -- release on the first page of this
09:52:23 2 document?

09:52:36 3 A. I'm sorry. Can you repeat that?

09:52:37 4 Q. Sure.

09:52:38 5 I'm just asking if you received this email
09:52:42 6 that's at the top of the document we're looking at,
09:52:47 7 Document L, that I think is marked 133 right now.

09:52:53 8 A. Yes.

09:52:53 9 Q. Okay. And did you correspond with the Secretary
09:53:01 10 of State's Office at all in response to this email or about
09:53:06 11 this incident?

09:53:08 12 A. I -- I don't know.

09:53:23 13 Q. You don't remember?

09:53:25 14 A. I don't recall.

09:53:26 15 Q. Okay. Do you think anyone else in your office
09:53:33 16 would recall?

09:53:35 17 A. No.

09:53:36 18 Q. Okay. I'm going to take that document off the
09:53:53 19 screen.

09:53:53 20 So we talked a little bit about AVID and the
09:53:57 21 MVD database. I want to talk about the Systematic Alien
09:54:04 22 Verification for Entitlements, which I'll call "SAVE."

09:54:07 23 Are you familiar with the SAVE program?

09:54:09 24 A. Yes.

09:54:12 25 Q. And can you tell me what it is?

09:54:14 1 A. We -- we use it to verify citizenship.

09:54:21 2 Q. Okay. And can you describe the process of how you
09:54:25 3 use it to verify citizenship?

09:54:28 4 A. We enter information, and it runs it against --
09:54:32 5 I'm not really 100 percent sure on the logistics of it.
09:54:36 6 But we enter the, like, alien registration number and the
09:54:40 7 name. And it runs it and tells us if we have results or
09:54:44 8 not.

09:54:44 9 Q. Okay. And you mentioned the alien registration
09:54:47 10 number. Is it correct that you can only use SAVE if you
09:54:54 11 have an alien registration number or a citizenship
09:54:58 12 certificate number or a naturalization certificate number?

09:55:04 13 A. I believe so, but I am not sure.

09:55:09 14 Q. Okay. Have you -- have you personally used the
09:55:14 15 SAVE system?

09:55:14 16 A. I have, but not a lot.

09:55:17 17 Q. Sure.

09:55:19 18 Just to your -- to your memory, does it
09:55:21 19 require putting in one of those numbers that I mentioned?

09:55:28 20 A. I don't recall if it requires it.

09:55:30 21 Q. Okay. But you don't know of any other way to use
09:55:35 22 SAVE other than putting in one of those numbers; is that
09:55:40 23 correct?

09:55:40 24 A. I have put those numbers in before.

09:55:45 25 Q. Okay. So is the only situation in which your

09:55:57 1 office uses SAVE a situation in which someone who's
09:56:04 2 applying to register to vote provides one of -- an A-number
09:56:09 3 or one of those numbers that we've been talking about?

09:56:12 4 A. I believe so.

09:56:13 5 Q. Okay. You can't think of any other situations in
09:56:19 6 which your office would use the SAVE system; is that
09:56:24 7 correct?

09:56:24 8 A. No.

09:56:27 9 Q. Okay. So if you enter someone's A-number into
09:56:35 10 SAVE, what are the potential results you could get back
09:56:41 11 from the SAVE system?

09:56:44 12 A. It would just verify whether or not they were a
09:56:47 13 citizen or not.

09:56:49 14 Q. Okay. And let's say you enter that information
09:56:56 15 and you got a result saying that the person is not a U.S.
09:56:59 16 citizen. You know, maybe it identifies them as a legal
09:57:03 17 permanent resident. What do you do with regard to that
09:57:08 18 application?

09:57:10 19 A. If it comes back as a -- I think it is -- I think
09:57:29 20 it's not eligible, invalid citizenship.

09:57:34 21 Q. Okay. And so if you do get that -- if you get
09:57:38 22 that answer, that they're not a citizen, do you take any
09:57:45 23 other steps within the SAVE database to determine whether
09:57:51 24 they're a citizen?

09:57:53 25 A. No.

09:57:54 1 Q. And do you use any other kind of database to
09:58:00 2 determine whether they're a citizen after you get that --
09:58:03 3 that result?

09:58:05 4 A. No.

09:58:09 5 Q. Okay. Do you send them -- if you get that
09:58:13 6 negative result saying that they're not a U.S. citizen, do
09:58:16 7 you send them a letter?

09:58:18 8 A. Yes.

09:58:18 9 Q. And let's say you're using the SAVE system and it
09:58:24 10 returns no match so it can't tell you whether they're --
09:58:30 11 whether they're a citizen or not. How do you process those
09:58:33 12 applications?

09:58:35 13 A. We would ask for more information.

09:58:37 14 Q. Okay. You ask for more information from the
09:58:41 15 voter?

09:58:42 16 A. Correct.

09:58:43 17 Q. Okay. If you ask for more information and don't
09:58:48 18 hear back, do you register them as a federal-only voter?

09:58:55 19 A. I believe so.

09:59:01 20 Q. Okay. And then I'll ask the same question I asked
09:59:08 21 a moment ago.

09:59:08 22 If you -- if you get that initial response
09:59:13 23 from -- from SAVE saying that there's no match, are there
09:59:17 24 any other steps that you take within the SAVE database to
09:59:22 25 try to determine if they're a citizen or not?

09:59:25 1 A. I don't believe so within the SAVE -- SAVE
09:59:31 2 database.

09:59:31 3 Q. Okay. And -- and then you mentioned sending a
09:59:33 4 letter.

09:59:36 5 Are there any other databases that you would
09:59:38 6 look at to try to determine if they're a U.S. citizen?

09:59:45 7 A. You would use AVID as well.

09:59:47 8 Q. Okay. Okay. Now I'd like to move on to talk a
09:59:58 9 little bit about the two challenged laws we've been talking
10:00:02 10 about already.

10:00:04 11 The first one we'll talk about is HB 2492.

10:00:10 12 And I will pull that up onto the screen one more time.

10:00:26 13 Okay. And this is Document J, which is marked as
10:00:31 14 Exhibit 19.

10:00:33 15 Do you recognize that as HB 2492?

10:00:35 16 A. Yes.

10:00:36 17 Q. Okay. And I believe you mentioned this before,
10:00:40 18 but are you aware of the provision in 2492 that requires
10:00:46 19 registration applicants to list their place of birth on the
10:00:49 20 application form?

10:00:51 21 A. Am I aware of it?

10:01:01 22 Q. Right. Sorry. You don't need to look at it yet
10:01:05 23 for -- for that. I'm just asking generally if you're aware
10:01:08 24 of --

10:01:09 25 A. Yes.

10:01:09 1 Q. -- the provision. Okay. Great.

10:01:12 2 And is your office implementing that
10:01:15 3 requirement right now?

10:01:16 4 A. No.

10:01:17 5 Q. Okay. Does your office have access to any kind of
10:01:21 6 database that would confirm a person's identity by using
10:01:26 7 their place of birth?

10:01:29 8 A. No.

10:01:30 9 Q. Okay. So separately from the birthplace
10:01:38 10 requirement, are you aware of the provision in 2492 that
10:01:43 11 requires voter registration applicants to provide
10:01:47 12 documentary proof of their residence?

10:01:53 13 A. Yes.

10:01:53 14 Q. Okay. And are you implementing that requirement?

10:01:56 15 A. No.

10:01:56 16 Q. Okay. So as it is right now before implementing
10:02:02 17 that requirement, is it correct that applicants have to
10:02:06 18 provide on their application either a residential address
10:02:11 19 or some kind of description or drawing of their residence?

10:02:15 20 A. Yes.

10:02:17 21 Q. Okay. And if -- so if that happens within your
10:02:22 22 office, if you receive an application that has either a
10:02:26 23 description of someone's residence or a drawing, how do you
10:02:32 24 locate where that residence is?

10:02:35 25 A. We work with our GSI [sic] department, and then

10:02:42 1 we -- that typically happens for our reservation addresses
10:02:49 2 so we kind of just have an idea of where those places are.

10:02:56 3 Q. Okay. Excellent.

10:02:58 4 And are you normally able to locate the
10:03:03 5 residence using that method?

10:03:07 6 A. Normally.

10:03:08 7 Q. Okay. Great.

10:03:12 8 So you mentioned -- I think you just
10:03:14 9 mentioned this about reservations. But there are some
10:03:19 10 people in Gila County that lack a standard residential
10:03:23 11 street address; is that correct?

10:03:25 12 A. Correct.

10:03:26 13 Q. And you said that typically happens on Native
10:03:30 14 American reservations?

10:03:31 15 A. Yes.

10:03:32 16 Q. Okay. Which reservations are in the county?

10:03:40 17 A. We have the White Mountain Apache reservation. We
10:03:45 18 have the Tonto -- Tonto Apache, and we also have the San
10:03:52 19 Carlos Apache reservation.

10:03:54 20 Q. Okay. And do you ever get -- withdrawn.

10:04:06 21 So from your experience, applicants from one
10:04:10 22 of those reservations are less likely to have a standard
10:04:14 23 residential street address?

10:04:16 24 A. Correct.

10:04:16 25 Q. Okay. And are -- do you ever get applications

10:04:20 1 from people outside reservations that are -- also lack a
10:04:26 2 residential street address?

10:04:31 3 A. Not typically.

10:04:32 4 Q. Okay. Okay. So talking more about that
10:04:39 5 documentary proof of residence requirement -- I'll call
10:04:43 6 that "DPOR." We also spoke a little bit previously about
10:04:50 7 the federal voter registration form. To your -- sorry.

10:04:57 8 To your knowledge, will that new DPOR
10:05:00 9 requirement apply to the federal registration form?

10:05:07 10 MS. BOUGHTON: Form. Calls for a legal
10:05:08 11 conclusion.

10:05:11 12 THE WITNESS: Would it apply to the federal
10:05:13 13 form --

10:05:14 14 BY MR. FERGUSON:

10:05:14 15 Q. Right.

10:05:14 16 A. -- DPOR -- providing DPOR?

10:05:18 17 Q. Yeah.

10:05:18 18 A. I would assume.

10:05:21 19 Q. Okay. And you're aware that on the federal form,
10:05:27 20 each state has an individual set of instructions that helps
10:05:32 21 people complete the federal form?

10:05:36 22 A. I am not aware.

10:05:38 23 Q. Okay. Are you aware of any requests that the
10:05:43 24 state has made to -- regarding instructions on the federal
10:05:50 25 form?

10:05:53 1 MR. MORGAN: Form.

10:05:54 2 THE WITNESS: I am not aware.

10:05:55 3 BY MR. FERGUSON:

10:05:55 4 Q. Okay. If the DPOR requirement is applied to the
10:06:06 5 federal form -- sorry. Strike that, please.

10:06:12 6 Do you know whether the federal registration
10:06:15 7 form currently requires someone to provide DPOR when they
10:06:22 8 submit it?

10:06:23 9 A. Do I know if it's required?

10:06:27 10 Q. Correct.

10:06:28 11 A. I do not -- I do not believe it is required.

10:06:31 12 Q. Okay. So if it were required, would that result
10:06:35 13 in the federal form being rejected?

10:06:42 14 MS. BOUGHTON: Form.

10:06:43 15 THE WITNESS: I -- I wouldn't know.

10:06:46 16 BY MR. FERGUSON:

10:06:47 17 Q. Okay. We talked a moment ago about people who are
10:06:51 18 unable to provide a street address because they lack a
10:07:00 19 standard residential address.

10:07:03 20 How would someone who lacks a standard
10:07:06 21 residential address be able to provide DPOR?

10:07:14 22 A. I don't know.

10:07:17 23 Q. Okay. Is it unclear to you?

10:07:21 24 A. Yes.

10:07:23 25 Q. And what -- what types of documents would be

10:07:29 1 acceptable as DPOR?

10:07:34 2 MR. LANGHOFER: Form. Calls for a legal

10:07:35 3 conclusion.

10:07:37 4 THE WITNESS: I wouldn't know.

10:07:40 5 MR. FERGUSON: Okay. I'm going to pull up

10:07:43 6 one more document here. And this is Document R, which has

10:07:51 7 been marked as Exhibit 24 already.

10:07:51 8 BY MR. FERGUSON:

10:08:05 9 Q. Can you see that document on the screen?

10:08:07 10 A. Yes.

10:08:07 11 Q. Okay. Great.

10:08:09 12 Have you seen this document before?

10:08:10 13 A. Yes.

10:08:10 14 Q. Can you describe to me what it is?

10:08:13 15 A. It would be what constitutes the document -- what

10:08:17 16 constitutes the DPOR.

10:08:19 17 Q. Okay. Great.

10:08:21 18 Where did you get this document?

10:08:24 19 A. It was in an email.

10:08:29 20 Q. Okay. Do you know who the email was from?

10:08:33 21 A. I don't recall.

10:08:34 22 Q. Okay. Do you recall if it was from the Secretary

10:08:40 23 of State's Office?

10:08:40 24 A. I don't recall.

10:08:42 25 Q. Okay. Do you know if the -- this chart was made

10:08:47 1 by the Secretary of State's Office?

10:08:50 2 A. I can't say for certain. I don't recall.

10:08:57 3 Q. Okay. Do you recall whether you've -- whether you
10:09:05 4 received this document from someone within the County
10:09:12 5 Recorder's Office?

10:09:12 6 A. I -- I did not receive it from someone within the
10:09:15 7 County Recorder's Office.

10:09:17 8 Q. Okay. Do you recall if it was from someone --
10:09:23 9 strike that.

10:09:24 10 So if you could look at the document. And if
10:09:32 11 you could look at the third box down on the left where it
10:09:35 12 says, "Tribal identification card."

10:09:44 13 Would you accept a tribal identification card
10:09:45 14 as documentary proof of residence?

10:09:49 15 A. I would.

10:09:50 16 Q. Okay. And is the answer the same for a utility
10:09:56 17 bill? You can see that on the fifth box down on the left.

10:10:00 18 A. I would, yes.

10:10:01 19 Q. Okay. And then if you look at the last box down
10:10:05 20 on the bottom left that says, "Written confirmation signed
10:10:08 21 by the registrant that they qualify to register," would you
10:10:15 22 accept that as documentary proof of residence?

10:10:18 23 A. Yes.

10:10:18 24 Q. Okay. Great.

10:10:21 25 Are there -- I'll pull that off the screen

10:10:25 1
10:10:25 2
10:10:31 3
10:10:36 4
10:10:38 5
10:10:41 6
10:10:48 7
10:10:51 8
10:10:54 9
10:10:54 10
10:10:55 11
10:11:04 12
10:11:09 13
10:11:13 14
10:11:14 15
10:11:19 16
10:11:25 17
10:11:38 18
10:11:38 19
10:11:41 20
10:11:41 21
10:11:46 22
10:11:53 23
10:12:03 24
10:12:05 25

for now.

Are there agencies in the county that provide voter registration services pursuant to the National Voter Registration Act that you're aware of?

A. Are there what?

Q. Are there agencies within the county that provide voter registration services other than the County Recorder's Office but -- public assistance agencies, for example?

A. Yes.

Q. And to your knowledge, has there -- has anyone helped educate those agencies on the DPOR requirement that we've been discussing?

A. I have no idea.

Q. Okay. Great.

I'm going to take us back to HB 2492, so I'll pull that document up one more time and share my screen.

Okay.

Can you see 2492 up here again?

A. Yes.

Q. Great. And that's Exhibit 19 once more.

Okay. I want to look at a provision on page 5 of this document. I'm going to read this for the record off of page 5.

It says, "If the county recorder or other

10:12:08 1 officer in charge of elections matches the applicant with
10:12:12 2 information that the applicant is not a United States
10:12:15 3 citizen, the county recorder or other officer in charge of
10:12:19 4 elections shall reject the application."

10:12:24 5 Do you see that -- that part that I just
10:12:28 6 read?

10:12:28 7 A. Yes.

10:12:29 8 Q. Okay. Let's focus on the word "information" in
10:12:34 9 that sentence I read.

10:12:35 10 Have you received any guidance about what
10:12:39 11 constitutes information that a person is not yet --
10:12:42 12 sorry -- that the applicant is not a U.S. citizen?

10:12:48 13 A. Have I received any guidance -- can you repeat
10:12:51 14 that?

10:12:52 15 Q. Sure.

10:12:53 16 Have you received any guidance about what
10:12:59 17 qualifies as information that the applicant is not a U.S.
10:13:03 18 citizen?

10:13:07 19 A. No.

10:13:15 20 Q. Okay. And is it -- is that clear to you right now
10:13:23 21 what qualifies as information that someone is not a U.S.
10:13:27 22 citizen?

10:13:27 23 A. No.

10:13:28 24 Q. Okay. If you were to run an AVID check, that we
10:13:36 25 mentioned, through the MVD database and it shows that the

10:13:42 1 person was issued an F-type license 20 years ago and
10:13:49 2 therefore were not a citizen 20 years ago, would that
10:13:55 3 constitute information that someone is not a U.S. citizen?

10:14:01 4 MS. BOUGHTON: Form.

10:14:03 5 THE COURT REPORTER: What was the answer?

10:14:04 6 THE WITNESS: Yes.

10:14:06 7 BY MR. FERGUSON:

10:14:06 8 Q. It would? Okay.

10:14:08 9 So using that same example, if -- if someone
10:14:22 10 received that license 20 years ago and they were not a
10:14:27 11 citizen at that time, could that person have naturalized
10:14:32 12 and become a U.S. citizen since they --

10:14:32 13 MS. BOUGHTON: Form.

10:14:32 14 BY MR. FERGUSON:

10:14:36 15 Q. -- received that license 20 years ago?

10:14:43 16 A. I guess it's possible.

10:14:47 17 Q. What are some other sources of information that a
10:14:53 18 person is not a U.S. citizen that your office could use in
10:14:58 19 making that determination?

10:15:01 20 MR. LANGHOFER: Form. Calls for a legal
10:15:06 21 conclusion.

10:15:06 22 THE WITNESS: We would just -- I think we
10:15:09 23 would just have the MVD database to use.

10:15:15 24 BY MR. FERGUSON:

10:15:16 25 Q. Okay. So for example, if your office received a

10:15:20 1 letter from the neighbor of a voter registration applicant
10:15:25 2 and that letter claimed that the person is not a U.S.
10:15:29 3 citizen, would that qualify as information that a person is
10:15:34 4 not a U.S. citizen?

10:15:37 5 MR. LANGHOFER: Same objection.

10:15:38 6 THE WITNESS: No.

10:15:40 7 BY MR. FERGUSON:

10:15:42 8 Q. What about if you received an email with a list of
10:15:46 9 people who are allegedly not U.S. citizens and that email
10:15:50 10 was sent to you by an individual or a private organization?

10:15:56 11 MR. LANGHOFER: Same objection.

10:16:00 12 THE WITNESS: No.

10:16:03 13 MR. FERGUSON: Okay. Okay. I'd like to move
10:16:06 14 on now to HB 2243. I'll pull that up on the screen in a
10:16:14 15 moment.

10:16:14 16 BY MR. FERGUSON:

10:16:33 17 Q. Okay. Do you see HB 2243 on the screen?

10:16:33 18 A. Yes.

10:16:37 19 Q. Okay. And that's been marked as Exhibit 21.

10:16:43 20 I'd like to go to the top of page 3 here.

10:16:51 21 And I'd like to look at Section 165.

10:16:55 22 So do you see on line 6, the highlighted
10:16:58 23 portion that says, "The county recorder shall cancel
10:17:02 24 registration"?

10:17:06 25 A. Yes.

10:17:06 1 Q. And then there's a list of numbers below that.
10:17:09 2 And I'm going to scroll down to page 4 until we get to
10:17:13 3 Number 10.

10:17:16 4 Do you see Number 10 there that's
10:17:17 5 highlighted?

10:17:18 6 A. Yes.

10:17:20 7 Q. If you can just take a moment to read that. I'll
10:17:23 8 give you a second.

10:17:37 9 Okay. And I'll -- I'll read the first part
10:17:39 10 of that into the record here.

10:17:41 11 "When the county recorder obtains information
10:17:44 12 pursuant to this section and confirms that the person
10:17:48 13 registered is not a U.S. citizen" -- so as we did with the
10:17:57 14 last provision, let's focus on the phrase "obtains
10:18:01 15 information."

10:18:04 16 Do you have a clear idea of what it means to
10:18:06 17 obtain information that someone is not a U.S. citizen?

10:18:13 18 MR. LANGHOFER: Form. Calls for a legal
10:18:14 19 conclusion.

10:18:15 20 MR. FERGUSON: Counsel. Sorry. Counsel, if
10:18:17 21 you want to -- I'll be asking a few questions on these
10:18:19 22 topics. If you want to stipulate that same objection for
10:18:23 23 the next few minutes, that's fine.

10:18:24 24 MR. LANGHOFER: That would be great. Thank
10:18:26 25 you.

10:18:27 1 MR. MORGAN: Let us know, please, when you're
10:18:29 2 done asking these questions when the stipulation ends.

10:18:33 3 MR. FERGUSON: Will do.

10:18:34 4 Sorry about that interruption. I will repeat
10:18:37 5 that question.

10:18:37 6 BY MR. FERGUSON:

10:18:38 7 Q. Do you have a clear idea of what it means to
10:18:41 8 obtain information that someone is not a U.S. citizen?

10:18:48 9 A. I believe so.

10:18:49 10 Q. Okay. Can you tell me what -- what that is?

10:18:56 11 A. Well, in this example, it would be information
10:19:00 12 from the jury commissioner.

10:19:02 13 Q. Okay. And that's the -- the lines of
10:19:09 14 Subsection 10 there that refer to the jury commissioner, is
10:19:12 15 that what you're referring to here?

10:19:14 16 A. Yes.

10:19:15 17 Q. Okay. Are there any other methods that you would
10:19:20 18 use to obtain information that someone is not a U.S.
10:19:23 19 citizen?

10:19:28 20 A. The AVID database and the SAVE database.

10:19:33 21 Q. Okay. Are those -- are those the only methods
10:19:40 22 that you know of right now?

10:19:43 23 A. I believe so, yes.

10:19:44 24 Q. Okay. And has your office received any guidance
10:19:51 25 about what it means to obtain information that someone is

10:19:55 1 not a U.S. citizen?

10:19:57 2 A. I don't believe so.

10:19:59 3 Q. Okay. Now I'd like to just scroll down to the top
10:20:05 4 of page 6 of 2243.

10:20:08 5 Do you see Subsections G through J
10:20:14 6 highlighted there?

10:20:16 7 A. Yes.

10:20:16 8 Q. I'll give you, once again, just a few minutes --
10:20:20 9 sorry -- a few moments to look. You don't have to read the
10:20:24 10 whole thing in detail but just -- you can take a second to
10:20:27 11 look and get a sense of what it's saying there.

10:20:47 12 Okay. Is it correct that the Subsections G
10:20:50 13 through J, these describe monthly checks against different
10:20:55 14 databases that the county recorder is required to perform;
10:20:59 15 is that correct?

10:21:00 16 A. Correct.

10:21:01 17 Q. And those databases listed here include the Social
10:21:08 18 Security Administration, or SSA, database and the SAVE
10:21:11 19 program that we discussed before; is that correct?

10:21:13 20 A. Yes.

10:21:14 21 Q. Okay. So going back to that phrase "obtains
10:21:21 22 information" that we've just been talking about, would
10:21:26 23 these databases listed here, such as the Social Security
10:21:31 24 Administration database, the SAVE program -- would they be
10:21:35 25 methods used to obtain information that someone is not a

10:21:38 1 U.S. citizen?

10:21:41 2 A. Yes.

10:21:42 3 Q. Okay. Once again, if a person's neighbor sent you
10:21:53 4 -- sent your office a letter saying that they were not a
10:21:58 5 U.S. citizen, would that be obtaining information that
10:22:04 6 someone is not a U.S. citizen?

10:22:07 7 A. No.

10:22:08 8 Q. Okay. And then the question I asked before about
10:22:12 9 receiving an email from an individual or private
10:22:17 10 organization with a list of people who are allegedly not
10:22:21 11 U.S. citizens, would that be obtaining information?

10:22:24 12 A. No.

10:22:25 13 Q. Okay. And if you could look down again at
10:22:38 14 Subsection J that's on the screen. I'll read it for the
10:22:44 15 record.

10:22:44 16 "To the extent practicable, the county
10:22:47 17 recorder shall review relevant city, town, county, state
10:22:51 18 and federal databases to which the county recorder has
10:22:56 19 access to confirm information obtained . . ."

10:23:03 20 Are there any other relevant city, town,
10:23:08 21 county, state, or federal databases that you could use to
10:23:11 22 obtain information that someone is not a U.S. citizen?

10:23:16 23 A. Not that I have access to.

10:23:18 24 Q. Okay. Can you think of databases that you don't
10:23:23 25 have access to that could be used for that?

10:23:30 1 A. I -- I can't.

10:23:31 2 Q. Okay. And then finally on the same section we've
10:23:37 3 been talking about, we talked about the phrase "obtains
10:23:40 4 information." I'm going to read Subsection 10 again, the
10:23:48 5 first sentence.

10:23:49 6 "When the county recorder obtains information
10:23:53 7 pursuant to this section and confirms that the person
10:23:55 8 registered is not a U.S. citizen" -- do you have a clear
10:24:03 9 idea of how you confirm that the person is not a U.S.
10:24:06 10 citizen?

10:24:07 11 A. Yes.

10:24:08 12 Q. Okay. Can you tell me how to do that?

10:24:12 13 A. Either through the MVD database or the SAVE
10:24:14 14 database.

10:24:14 15 Q. Okay. And so a few moments ago, we talked about
10:24:20 16 obtaining information. And I think you mentioned those
10:24:25 17 same databases you could use: MVD or SAVE.

10:24:29 18 And so if you referred to those databases,
10:24:35 19 that would constitute both obtaining information and
10:24:39 20 confirming that the person registered is not a U.S.
10:24:42 21 citizen; is that correct?

10:24:44 22 A. Yes.

10:24:45 23 Q. Okay. Now let's go to page 6 once more. Okay.
10:25:04 24 I'd like to look in particular at Subsection H near the
10:25:11 25 top. If you could just take a moment to look at that, and

10:25:16 1 then I'll read it.

10:25:34 2 Okay. So I'll read the subsection.

10:25:38 3 "To the extent practicable, each month the
10:25:42 4 county recorder shall compare persons who are registered to
10:25:44 5 vote in that county and who the county recorder has reason
10:25:49 6 to believe are not United States citizens."

10:25:54 7 Do you have a clear idea of what it means to
10:25:58 8 have "reason to believe" that someone is not a U.S.
10:26:01 9 citizen?

10:26:03 10 A. Yes.

10:26:04 11 Q. Can you describe to me your understanding of that?

10:26:08 12 A. If the recorder was presented with information to
10:26:19 13 suspect that this person wasn't a citizen, we would
10:26:22 14 research that.

10:26:23 15 Q. Okay. And can you tell me what kind of
10:26:32 16 information might lead you to do that research?

10:26:37 17 A. For example, like you were saying, if we got an
10:26:41 18 email, we could research that. But we wouldn't --

10:26:45 19 Q. Sure.

10:26:47 20 So under your understanding, if you received
10:26:50 21 the email that I mentioned before from a private
10:26:56 22 organization or individual claiming that a certain person
10:27:01 23 or people were not U.S. citizens, that would give you
10:27:06 24 reason to believe that someone is not a U.S. citizen?

10:27:09 25 A. We would research it.

10:27:10 1 Q. Okay. And would that lead you to check the SAVE
10:27:18 2 database to see if that person was a U.S. citizen?

10:27:22 3 A. We could use that tool, yes.

10:27:24 4 Q. Okay. If someone is on the list of federal-only
10:27:38 5 voters in Gila County, is that a reason to believe that
10:27:41 6 they're not a U.S. citizen?

10:27:54 7 A. I'm not sure.

10:27:56 8 Q. Okay. That's unclear to you?

10:27:59 9 A. Yes.

10:27:59 10 Q. Okay. Okay. Let's move on to discuss a couple of
10:28:09 11 these databases in more detail.

10:28:15 12 And I want to go back to the SSA database
10:28:20 13 that's mentioned in Subsection G here at the top of the
10:28:23 14 screen.

10:28:24 15 Does your office currently use the SSA
10:28:28 16 database for anything?

10:28:30 17 A. I believe it's part of the HAVA checks.

10:28:36 18 MR. FERGUSON: Okay. Just one moment.

10:28:39 19 Sorry.

10:28:39 20 I think we're at the point where we can stop
10:28:47 21 that stipulation about objections probably. Is that good
10:28:47 22 with everyone?

10:28:52 23 BY MR. FERGUSON:

10:28:52 24 Q. Okay. Sorry to interrupt.

10:28:54 25 You think the SSA database comes up as part

10:28:57 1 of the HAVA checks? Is that what you said?

10:29:01 2 A. Yes.

10:29:02 3 Q. Okay. And does your office use the SSA database
10:29:09 4 directly?

10:29:10 5 A. If you're asking if we log in to the Social
10:29:18 6 Security database on our own, no, we do not.

10:29:21 7 Q. Yeah, that is what I was asking. Thank you.

10:29:24 8 But you believe that the Social Security
10:29:31 9 database is somehow incorporated into the HAVA check
10:29:39 10 system? Is that what you meant by your previous answer?

10:29:41 11 A. Yes.

10:29:43 12 Q. Do you know exactly how that works?

10:29:47 13 A. Not exactly, no.

10:29:48 14 Q. Okay. And do you have any plans to gain access
10:29:56 15 directly to the SSA database so your office could log in
10:30:00 16 directly and do that?

10:30:02 17 A. No.

10:30:02 18 Q. Okay. And are you aware of how the SSA database
10:30:09 19 can be used -- sorry. Strike that.

10:30:12 20 Are you aware of whether it can be used to
10:30:16 21 verify citizenship?

10:30:19 22 A. AVID interfaces with it, so it can be used to --

10:30:32 23 Q. Okay. I'd like to also look at the database
10:30:39 24 mentioned in Subsection I, which is now at the top of the
10:30:43 25 screen in HB 2243 on page 6. I'll give you just a moment

10:30:50 1 to look at that.

10:31:01 2 And I'll read into the record part of
10:31:08 3 Subsection I.

10:31:09 4 "The county recorder shall compare the
10:31:12 5 Electronic Verification of Vital Events system maintained
10:31:17 6 by a National Association for Public Health Statistics and
10:31:21 7 Information Systems."

10:31:24 8 Are you aware of that database mentioned
10:31:27 9 there, the Electronic Verification of Vital Events
10:31:30 10 database?

10:31:33 11 A. I believe it also interfaces with AVID.

10:31:36 12 Q. Okay. But once again, your office doesn't have
10:31:42 13 direct access to the database?

10:31:50 14 A. No.

10:31:50 15 Q. And do you know -- and you don't have any plans to
10:31:53 16 gain direct access to it?

10:31:55 17 A. No.

10:31:55 18 Q. Okay. And do you know if it can be used to verify
10:32:04 19 citizenship?

10:32:10 20 A. Yes.

10:32:10 21 Q. It can be used for that purpose?

10:32:14 22 A. Yes.

10:32:15 23 Q. Okay. And is that belief based on your belief
10:32:23 24 that it interfaces with the AVID system?

10:32:26 25 A. Yes.

10:32:27 1 Q. Okay. But you don't know directly how that works?

10:32:33 2 A. Correct.

10:32:34 3 Q. Okay. Both for this database, the EVVE database,
10:32:42 4 and the SSA database, are you directly aware of instances
10:32:46 5 in which those databases have been used to verify an
10:32:52 6 applicant's citizenship?

10:32:54 7 A. What was the first one?

10:32:55 8 Q. The two that we've just been talking about, so the
10:33:01 9 Electronic Verification of Vital Events and the SSA.

10:33:05 10 A. And I'm sorry. What was the question?

10:33:07 11 Q. No problem.

10:33:08 12 Are you aware of any specific instance in
10:33:13 13 which these databases have been used to verify someone's
10:33:17 14 citizenship?

10:33:19 15 A. Yes.

10:33:20 16 Q. Okay. Can you tell me about those specific
10:33:23 17 instances?

10:33:25 18 A. I am not sure.

10:33:36 19 Q. And when I say "specific instances," I mean an
10:33:40 20 application coming into the office in which one of those
10:33:45 21 databases was used to verify citizenship. Are you
10:33:50 22 recalling a specific one?

10:33:54 23 A. Well, I recall the motor vehicle one.

10:33:57 24 Q. Okay. Okay. So you're aware that -- of specific
10:34:03 25 instances in which the MVD database has been used to verify

10:34:07 1 citizenship; is that correct?

10:34:09 2 A. Yes.

10:34:09 3 Q. But you're not aware of how the SSA database would
10:34:15 4 have been used as part of that process?

10:34:17 5 A. No. I am aware.

10:34:19 6 Q. Okay. Can you tell me how it was used as part of
10:34:23 7 that process?

10:34:24 8 A. It will -- it's part of the HAVA checks. It's
10:34:27 9 ran, and it will obtain the -- the last four of the Social
10:34:30 10 Security number or not.

10:34:33 11 Q. Okay. And let's go back to specific instances.

10:34:40 12 You're aware of a specific applicant whose
10:34:45 13 citizenship was checked in that manner that you just
10:34:48 14 described?

10:34:51 15 A. I'm not -- I'm not aware of a specific one, no.

10:34:54 16 Q. Okay. And then same question with regard to the
10:35:00 17 Electronic Verification of Vital Events system. Are you
10:35:04 18 aware of a specific applicant in which -- for which that's
10:35:09 19 happened?

10:35:09 20 A. No.

10:35:10 21 MR. FERGUSON: Okay. I'd like to move on to
10:35:21 22 something called the Electronic Registration Information
10:35:27 23 Center. And that's not mentioned right here on this text,
10:35:30 24 so I'm going to stop sharing the screen.

10:35:30 25 BY MR. FERGUSON:

10:35:36 1 Q. Are you aware of the Electronic Registration
10:35:40 2 Information Center that's called ERIC sometimes?

10:35:42 3 A. Yes.

10:35:43 4 Q. Okay. And can you describe to me what ERIC is?

10:35:50 5 A. It is information that we get from other states
10:35:57 6 that we use to -- we use it as a list maintenance tool.

10:36:03 7 Q. Okay. And does your office in particular use
10:36:10 8 ERIC --

10:36:11 9 A. Yes.

10:36:11 10 Q. -- or is it just used statewide? You're -- sorry
10:36:14 11 to cut you off.

10:36:15 12 Your office in particular uses it?

10:36:17 13 A. Well, it is statewide.

10:36:19 14 Q. Right.

10:36:19 15 But -- but your office accesses ERIC
10:36:25 16 directly?

10:36:26 17 A. We receive a spreadsheet.

10:36:30 18 Q. Okay. And who do you receive that spreadsheet
10:36:34 19 from?

10:36:35 20 A. The secretary of state.

10:36:37 21 Q. Okay. And you said that that information is used
10:36:44 22 to update the voter rolls?

10:36:48 23 A. It's -- yes. It can be used to maintain the list,
10:36:52 24 yes.

10:36:55 25 Q. And what would that spreadsheet indicate on it?

10:36:58 1 What does it contain?

10:37:04 2 A. Names and number of -- their voter registration
10:37:10 3 number. It contains a match score. And then depending on
10:37:15 4 what report we request or what it -- it depends on what
10:37:19 5 kind of a process we'll use for it.

10:37:22 6 Q. Okay. And when you say "match score," can you
10:37:27 7 tell me what you mean by that?

10:37:31 8 A. So my understanding is that there's a score that
10:37:40 9 is given to the data based on a program that ERIC has so
10:37:46 10 that there's really no personal identifying information
10:37:48 11 that gets released. And so they make matches based on
10:37:54 12 that.

10:37:55 13 Q. Okay. And is that often related to if someone has
10:38:01 14 registered to vote in a different state?

10:38:04 15 A. It can be, yes.

10:38:06 16 Q. Okay. Are there any other things that it contains
10:38:11 17 other than someone who's registered in a different state?

10:38:15 18 A. There is a deceased record or deceased report that
10:38:21 19 we could receive as well, I believe.

10:38:25 20 Q. Okay. And does it ever contain information on
10:38:29 21 whether people are U.S. citizens?

10:38:33 22 A. I don't believe so.

10:38:34 23 Q. Okay. Do you know of any way to use ERIC to
10:38:39 24 verify whether someone's a U.S. citizen?

10:38:43 25 A. No, I don't.

10:38:47 1 Q. Okay. Now I'd like to talk a little bit about the
10:38:53 2 state registration form and the federal form that we've
10:38:57 3 talked about a few times. You're aware of the difference
10:39:06 4 between those two types of forms; is that correct?

10:39:09 5 A. Yes.

10:39:10 6 Q. Can you give me the relative breakdown between the
10:39:13 7 number of state form applications your office receives
10:39:16 8 versus federal form applications you receive?

10:39:20 9 A. I cannot.

10:39:21 10 Q. Okay. And I'm not asking for exact numbers. But
10:39:25 11 can you tell me, like, whether the -- the majority are
10:39:29 12 state forms?

10:39:32 13 A. The majority would be state forms, yes.

10:39:35 14 Q. Okay. Would you say it's substantially more state
10:39:41 15 forms than federal forms?

10:39:44 16 A. Yes.

10:39:44 17 Q. Okay. And we -- we talked a little bit ago about
10:39:52 18 those -- those agencies, such as public assistance
10:39:56 19 agencies, that are designated to provide voter registration
10:40:00 20 services.

10:40:03 21 Are you aware of any of those agencies that
10:40:08 22 use the federal form?

10:40:15 23 A. I am not aware.

10:40:16 24 Q. Okay. Do you know whether they use the state form
10:40:21 25 or federal form?

10:40:23 1 A. I do not.

10:40:25 2 MR. MORGAN: Foundation.

10:40:27 3 BY MR. FERGUSON:

10:40:28 4 Q. Sorry. I didn't get your answer.

10:40:29 5 A. I do not.

10:40:30 6 Q. Okay. And your office provides registration forms
10:40:38 7 to -- to third-party voter registration groups; is that
10:40:44 8 correct?

10:40:44 9 A. Yes.

10:40:45 10 Q. Okay. And when you provide those forms, do you
10:40:49 11 provide the state form?

10:40:52 12 A. Yes.

10:40:53 13 Q. Okay. Do you know whether those groups normally
10:40:59 14 use the state form?

10:41:05 15 A. I believe that they normally use the state form.

10:41:07 16 Q. Okay. And are you aware of any -- any such groups
10:41:12 17 that use the federal form?

10:41:14 18 A. I am not aware.

10:41:17 19 Q. Okay. Does your office process state form
10:41:24 20 applications any differently from federal form
10:41:28 21 applications?

10:41:29 22 A. No.

10:41:30 23 Q. Okay. So you use the same verification procedures
10:41:38 24 for documentary proof of citizenship regardless of whether
10:41:42 25 the applicant uses the state form or federal form?

10:41:45 1 A. Correct.

10:41:54 2 Q. Okay. I'd like to talk a little bit about
10:41:57 3 instances of voter fraud in the county or -- and how your
10:42:02 4 office handles it.

10:42:04 5 Can you just tell me in general what your
10:42:07 6 office does to identify instances of voter fraud?

10:42:16 7 A. We use the ERIC report.

10:42:21 8 Q. Okay. Can you describe in a little more detail
10:42:27 9 how that works?

10:42:28 10 A. There's a report we can request that will give us
10:42:33 11 information on people who may have voted in other states.

10:42:37 12 Q. Okay. And is that -- I suppose is that the only
10:42:43 13 way that you identify instances of fraud?

10:42:49 14 A. We -- it's -- I guess if they were brought to our
10:42:52 15 attention, we could research them.

10:42:54 16 Q. Okay. And so you perform investigations -- if --
10:43:01 17 if you receive information about potential fraud, you
10:43:05 18 perform an investigation?

10:43:08 19 A. I believe it has to be a formal challenge. I'm
10:43:11 20 sorry.

10:43:12 21 Q. No problem.

10:43:15 22 It needs to be a formal challenge. Can you
10:43:19 23 describe what you mean by "formal challenge"?

10:43:22 24 A. Like an early ballot challenge. There's a
10:43:28 25 process, I believe, and we would have to start that.

10:43:31 1 Q. So if someone wants your office to initiate an
10:43:35 2 investigation, they would have to file a formal challenge;
10:43:39 3 is that correct?

10:43:40 4 A. I believe so, yes.

10:43:42 5 Q. Okay. And if you were to receive any type of
10:43:49 6 challenge and perform an investigation, who would lead that
10:43:54 7 investigation within your office?

10:43:57 8 A. Myself or the recorder.

10:43:59 9 Q. Okay. And has that happened recently?

10:44:05 10 A. We have had an instance of a double voter -- a
10:44:10 11 potential double voter that we did research, yes.

10:44:14 12 Q. And can you tell me the outcome of that research?

10:44:17 13 A. I don't -- I don't know the outcome. I did
10:44:22 14 consult with the other state. So I don't know the outcome,
10:44:26 15 though.

10:44:27 16 Q. Okay. So this is an instance in which you
10:44:32 17 believed it was possible that someone had voted both in
10:44:36 18 Gila County and in another state in the same election?

10:44:40 19 A. We had received notification, yes, that that was
10:44:43 20 possible.

10:44:47 21 Q. And what was the source of that notification that
10:44:50 22 you received?

10:44:52 23 A. I believe it was the ERIC report.

10:44:54 24 Q. Okay. And is that the only investigation that you
10:45:03 25 are aware of that you performed since you became deputy

10:45:08 1 recorder?

10:45:10 2 A. I'm -- I will -- I guess I should say there are
10:45:17 3 two results. But one indicated that it wasn't an actual --
10:45:24 4 there was no -- it was a -- someone who was claimed to be
10:45:29 5 deceased when they voted, but that -- that wasn't true.

10:45:32 6 Q. So this was a separate -- a second investigation?

10:45:35 7 A. Yes.

10:45:36 8 Q. And you received information that they were
10:45:40 9 deceased; you investigated and found that it was not
10:45:46 10 correct?

10:45:46 11 A. Yeah, I believe they had died. They had voted and
10:45:49 12 then passed away. And so, therefore, they were valid.

10:45:52 13 Q. Okay. So those are the two -- are there any other
10:45:59 14 investigations that you performed into voter fraud or
10:46:05 15 similar incidents like that?

10:46:06 16 A. No.

10:46:11 17 Q. Are you aware of instances of noncitizens voting
10:46:15 18 in Gila County?

10:46:18 19 A. I am not aware --

10:46:21 20 Q. Okay.

10:46:22 21 A. -- of any.

10:46:23 22 Q. And are you aware of instances of noncitizens
10:46:27 23 registering to vote in Gila County?

10:46:31 24 A. I am not aware of any.

10:46:33 25 Q. Okay. Give me just a moment. I'm going to pull

10:46:53 1 up one additional document here. Okay. Can you see that
10:47:23 2 document up here?

10:47:24 3 A. Yes.

10:47:25 4 MR. FERGUSON: This is Document N -- the PDF
10:47:28 5 of Document N from the Dropbox. And this one, I believe,
10:47:32 6 does need to be marked as an exhibit. I think we're at
10:47:36 7 134?

10:47:37 8 THE COURT REPORTER: Yes.

10:47:37 9 (The document was marked as Exhibit 134
10:47:38 10 for identification.)

10:47:38 11 BY MR. FERGUSON:

10:47:42 12 Q. Do you recognize this email?

10:47:43 13 A. Yes.

10:47:44 14 Q. And this was sent to you; is that correct?

10:47:46 15 A. Yes.

10:47:47 16 Q. Okay. And can you describe to me what this email
10:47:53 17 is?

10:47:54 18 A. It's an email from Ian Camacho, who was letting us
10:48:00 19 know that he'd found several voters that appeared to be
10:48:04 20 illegally registered at addresses.

10:48:09 21 Q. And did you do any follow-up on this email?

10:48:13 22 A. We did.

10:48:14 23 Q. Okay. Can you tell me what follow-up you did?

10:48:21 24 A. We sent them letters.

10:48:23 25 Q. Okay.

10:48:25 1 A. A lot of them were -- a lot of them ended up to be
10:48:28 2 people who were registering at like a PostNets. And so we
10:48:33 3 let them know that they needed to provide a residential
10:48:35 4 address.

10:48:36 5 Q. Okay. So it appeared that the problem was they --
10:48:41 6 by "PostNets," do you mean they registered at a post office
10:48:44 7 box?

10:48:44 8 A. Right. Well --

10:48:47 9 Q. Sorry. Go ahead.

10:48:49 10 A. -- it's not really a post office box per se. I
10:48:52 11 guess it's like a place that you could -- I guess -- I
10:48:56 12 guess so, yes.

10:48:57 13 Q. Okay. Something -- something similar to a P.O.
10:49:01 14 box?

10:49:01 15 A. Yes.

10:49:01 16 Q. Okay. And you followed up with them to inform
10:49:09 17 them that they needed to register at -- using their home
10:49:15 18 residential address; is that correct?

10:49:17 19 A. Correct.

10:49:18 20 Q. Okay. And did you identify any instances of fraud
10:49:26 21 when you did the follow-up to this email?

10:49:28 22 A. No.

10:49:29 23 Q. Okay. Do you think your office's work in
10:49:40 24 preventing voter fraud in Gila County is effective?

10:49:47 25 A. I believe so.

10:49:48 1 MR. FERGUSON: Okay. Okay. I'm going to
10:49:52 2 stop sharing that document. I think it's probably a good
10:49:58 3 time for a break. Are you ready for a break?

10:50:02 4 THE WITNESS: Sure.

10:50:04 5 MR. FERGUSON: Okay. Does ten minutes work
10:50:07 6 for everyone? And we can restart at 11:00 Arizona time.

10:50:16 7 MR. LANGHOFER: Sounds good.

10:50:18 8 MR. FERGUSON: We can go off the record.

10:50:20 9 THE VIDEOGRAPHER: We are off the record.
10:50:22 10 Time on the video monitor is 10:50 a.m.

10:50:27 11 (A recess ensued.)

11:00:59 12 THE VIDEOGRAPHER: We are on the record.
11:01:15 13 Time on the video monitor is 11:01 a.m.

11:01:19 14 MR. FERGUSON: Okay. Thanks very much.
11:01:25 15 I'm just going to continue for a little bit
11:01:28 16 more and then pass it off to one of my colleagues.
11:01:32 17 So I'd like to bring up Document D from the
11:01:37 18 folder. And I'll share my screen so everyone can see that.

11:01:37 19 BY MR. FERGUSON:

11:01:59 20 Q. Okay. Can you see that document on the screen?

11:02:01 21 A. Yes.

11:02:02 22 Q. And have you seen this one before?

11:02:04 23 A. Yes.

11:02:05 24 Q. And can you tell me what that is?

11:02:10 25 A. Our responses to the request for productions.

11:02:16 1 Q. Great. And so you did send documents in response
11:02:24 2 to this request for production; is that correct?

11:02:27 3 A. Yes.

11:02:28 4 Q. Okay. Can you, I guess, describe to me your
11:02:34 5 process for locating documents that would be responsive to
11:02:42 6 these requests for production?

11:02:45 7 A. So we did some searching of our emails. We used,
11:02:56 8 I believe, the procedures manual. We did -- we used AVID
11:03:07 9 for some searching results.

11:03:13 10 Q. Okay. And did you search through your office's
11:03:18 11 computer files?

11:03:22 12 A. Computer -- what do you mean by "computer files"?

11:03:29 13 Q. Files that are on your computer or the computer of
11:03:36 14 any other employee in the office.

11:03:39 15 A. I searched my emails.

11:03:41 16 Q. Okay. Do you have a shared drive on your -- on
11:03:51 17 the county recorder's computer system --

11:03:54 18 A. Yes.

11:03:55 19 Q. -- that all the employees have access to?

11:03:59 20 Did you perform any search on that drive?

11:04:02 21 A. I did not.

11:04:03 22 Q. Okay. And did you perform any search on the files
11:04:08 23 of your -- just your own computer or that of anyone else?

11:04:12 24 A. The recorder did hers as well.

11:04:15 25 Q. Okay. And what -- do you know if that was her

11:04:18 1 emails or just her computer itself?

11:04:21 2 A. Her emails.

11:04:22 3 Q. Okay. What search terms did you use when
11:04:32 4 performing those searches?

11:04:33 5 A. I used birthplace, citizenship checkbox, and the
11:04:39 6 house bill numbers.

11:04:41 7 Q. Okay. Birthplace, citizenship box, and the house
11:04:45 8 bill numbers?

11:04:45 9 A. Yes.

11:04:46 10 Q. Okay. And only those four things?

11:04:48 11 A. Yes.

11:04:49 12 MR. FERGUSON: Okay. I'm going to pull up
11:04:58 13 Document C right now.

11:05:00 14 THE COURT REPORTER: Would you like to mark
11:05:03 15 that one as 135?

11:05:04 16 MR. FERGUSON: Yep. Sorry about that.

11:05:04 17 (The document was marked as Exhibit 135
11:05:04 18 for identification.)

11:05:25 19 MR. FERGUSON: I apologize. I'm going to
11:05:26 20 pull up Document B first and then C. So give me just one
11:05:34 21 moment. Okay.

11:05:34 22 BY MR. FERGUSON:

11:05:50 23 Q. Can you see that Document B once again on the
11:05:54 24 screen?

11:05:54 25 A. Yes.

11:05:55 1 Q. And do you see Interrogatory Number 11 there?

11:06:03 2 A. Yes.

11:06:03 3 Q. Okay. And I'll read it into the record.

11:06:06 4 "For every Request for Production served on
11:06:08 5 You in this matter, please describe the methodology for
11:06:11 6 your search for responsive documents and productions,
11:06:15 7 including but not limited to identifying the individuals
11:06:19 8 who assisted in the search, custodians, search terms, date
11:06:23 9 ranges."

11:06:29 10 Did I read that correctly?

11:06:29 11 A. Yes.

11:06:30 12 Q. Okay. Great. Now I'll switch back to Document C.
11:06:47 13 Okay.

11:06:47 14 Now do you see Document C up here?

11:06:50 15 A. Yes.

11:06:51 16 Q. Okay. So do you see Answer to Interrogatory 11?

11:06:57 17 A. Yes.

11:06:57 18 Q. Could you read that to me?

11:06:59 19 A. "The knowledge of the Recorder's chief deputy."

11:07:03 20 Q. Okay. Is it true that you also performed searches
11:07:09 21 for files in this case?

11:07:11 22 A. Yes.

11:07:12 23 Q. Do you still think that that answer is correct?

11:07:16 24 A. No.

11:07:17 25 Q. Okay. Do you want to give a new answer to that

11:07:25 1 interrogatory?

11:07:26 2 A. Sure. Yeah, we used the search terms that I spoke

11:07:32 3 about before, and we searched the emails --

11:07:34 4 Q. Okay.

11:07:35 5 A. -- of both the chief deputy recorder and the

11:07:40 6 recorder.

11:07:40 7 Q. Okay. Thank you. I'm going to take that document

11:07:47 8 off the screen and introduce one more. I'm going to pull

11:08:02 9 up Document E on the screen.

11:08:16 10 Did that come up for you?

11:08:17 11 A. Yes.

11:08:18 12 Q. Okay. Great.

11:08:19 13 Do you recognize this document?

11:08:21 14 A. I -- I don't recognize it.

11:08:32 15 MR. FERGUSON: Okay. And I do think we need

11:08:33 16 to mark this one as Exhibit -- I think it's 136.

11:08:38 17 THE COURT REPORTER: Yes.

11:08:38 18 (The document was marked as Exhibit 136

11:08:43 19 for identification.)

11:08:43 20 BY MR. FERGUSON:

11:08:45 21 Q. You said you don't recognize this document?

11:08:47 22 A. I -- I do.

11:08:50 23 Q. You do?

11:08:51 24 A. Yes.

11:08:51 25 Q. Okay. Can you tell me what it is?

11:08:53 1 A. I believe it is the -- it is a response to one of
11:09:09 2 the interrogatories.

11:09:12 3 Q. Okay. But you're not sure which one?

11:09:16 4 A. No.

11:09:17 5 MR. FERGUSON: Okay. Let me -- maybe I'll
11:09:21 6 just pull up that document requesting production one more
11:09:27 7 time to make it more clear.

11:09:27 8 BY MR. FERGUSON:

11:09:57 9 Q. Okay. Did that document come up for you?

11:10:01 10 A. Yes.

11:10:02 11 Q. Okay. So do you see where it says Answer for --
11:10:05 12 to Request for Production 3?

11:10:08 13 A. Yes.

11:10:10 14 MR. FERGUSON: Great. And for the record,
11:10:11 15 this is Document D, the answers to requests for production.

11:10:19 16 BY MR. FERGUSON:

11:10:20 17 Q. Could you just take a moment to read after it
11:10:27 18 says "Request for Production 3."

11:10:37 19 And so I'll read the first part of that into
11:10:43 20 the record.

11:10:44 21 "Any and all Documents and Communications
11:10:46 22 relating to -- including but not limited to a complete list
11:10:50 23 of -- Registered Voters whose registrations were canceled,
11:10:54 24 suspended, removed, placed on Congressional-only or
11:10:58 25 federal-only status."

11:11:00 1 Is that what it says at the beginning of
11:11:03 2 that?

11:11:03 3 A. Yes.

11:11:03 4 Q. Okay. And then I believe these are your answers
11:11:10 5 closer to the bottom of page 4 in bold; is that correct?

11:11:14 6 A. Yes.

11:11:14 7 Q. Okay. I'll give you a moment to read those.

11:11:27 8 A. Okay.

11:11:28 9 Q. Okay. Great.

11:11:29 10 And so the first answer says, "As to
11:11:32 11 Documents and Communications regarding cancellation,
11:11:35 12 suspension, placement on Congressional-only or
11:11:38 13 federal-only" -- it continues to say -- "see the Google
11:11:41 14 Drive link."

11:11:42 15 A. Yes.

11:11:42 16 Q. Did I read that correctly? Okay.

11:11:46 17 Does that refresh your memory about what that
11:11:49 18 spreadsheet we looked at is?

11:11:51 19 A. Yes.

11:11:51 20 Q. Okay. I'll pull that up as we're talking so we
11:11:57 21 can look at it again.

11:12:00 22 But can you tell me now what that spreadsheet
11:12:04 23 is that's Document E that I think we marked as 136?

11:12:09 24 A. Anyone who was -- their status changed from -- I
11:12:16 25 believe it was January 2022.

11:12:27 1 Q. You said anyone who -- sorry. Were you -- were
11:12:29 2 you still talking?

11:12:30 3 A. No.

11:12:30 4 Q. Okay. You said anyone whose status changed
11:12:35 5 starting with January 1st, 2022?

11:12:42 6 A. Whatever the date was provided on the --

11:12:44 7 Q. Sure. Sure. But it's a listed -- a list of
11:12:47 8 voters whose status changed?

11:12:50 9 A. Correct.

11:12:50 10 Q. Okay. And that -- so that's a total of five
11:12:55 11 voters in that time period?

11:13:00 12 A. Yes.

11:13:01 13 Q. Okay. And --

11:13:03 14 A. I think it was -- I think this list is actually
11:13:06 15 only people who were federal-only is who's changed.

11:13:12 16 Q. Okay. So it's a list of people who were
11:13:16 17 federal-only voters and then their status changed after
11:13:20 18 that?

11:13:21 19 A. Correct.

11:13:21 20 Q. Okay. Do you have a list of all federal-only
11:13:31 21 voters in Gila County?

11:13:33 22 A. Yes.

11:13:33 23 Q. Okay. Do you know if -- sorry. Go ahead.

11:13:38 24 A. Sorry. I could have one.

11:13:41 25 Q. Okay. Do you know if you produced that list in

11:13:47 1 response to this question that we read?

11:13:50 2 A. No, I don't think --

11:14:03 3 Q. Okay.

11:14:04 4 A. -- provided that separately, no.

11:14:06 5 Q. Do you know if there would have been a reason not
11:14:08 6 to provide that?

11:14:09 7 A. No. Other than I guess I didn't understand the
11:14:14 8 question -- the request.

11:14:14 9 MR. FERGUSON: Sure.

11:14:19 10 Counsel, if you are able to access that list,
11:14:21 11 we'd appreciate seeing it.

11:14:25 12 BY MR. FERGUSON:

11:14:25 13 Q. Do you know about how many people in Gila County
11:14:28 14 are registered as federal-only voters?

11:14:32 15 A. About -- about -- less than 70, I believe.

11:14:36 16 Q. Less than 70. Okay.

11:14:39 17 And do you know how many total are
11:14:44 18 registered, not just federal-only, but everyone?

11:14:47 19 A. About 36,000.

11:14:49 20 Q. Okay. So about 70 out of 36,000?

11:14:52 21 A. Uh-huh.

11:14:53 22 Q. Okay.

11:14:54 23 A. Yes.

11:14:58 24 MR. FERGUSON: I'm going to stop sharing my
11:15:00 25 screen. Okay. That concludes my questions for now.

11:15:03 1 Thanks very much for your time. I appreciate
11:15:05 2 it.

11:15:06 3 We're going to move on to some questions by
11:15:08 4 Mr. Hirschel.

11:15:10 5

11:15:19 6 EXAMINATION

11:15:19 7 BY MR. HIRSCHEL:

11:15:20 8 Q. Hi. Good afternoon.

11:15:22 9 A. Hello.

11:15:22 10 Q. I suppose good morning in Arizona. As
11:15:26 11 Mr. Ferguson said, my name is Andrew Hirschel. I'm with
11:15:30 12 Arnold & Porter. I represent Poder Latinx. I'm going to
11:15:33 13 try my best to make this take very little of your time.
11:15:36 14 Just a few questions.

11:15:37 15 So my first question is about the EPM.
11:15:43 16 Mr. Ferguson asked if the EPM is legally binding, and you
11:15:47 17 said you believe so. Does that apply to the -- to the
11:15:50 18 entire EPM?

11:15:53 19 MR. LANGHOFER: Form. Calls for a legal
11:15:54 20 conclusion.

11:15:56 21 THE WITNESS: I would assume so, yes.

11:15:59 22 BY MR. HIRSCHEL:

11:16:01 23 Q. Can legally binding guidance be conveyed by the
11:16:05 24 Secretary of State's Office to the County Recorder's Office
11:16:09 25 in any other way besides the EPM?

11:16:14 1 MR. LANGHOFER: Form; foundation.

11:16:15 2 MR. MORGAN: Calls for a legal conclusion.

11:16:17 3 THE WITNESS: I am not aware of that.

11:16:20 4 BY MR. HIRSCHTEL:

11:16:21 5 Q. You're not aware of any other way that legally

11:16:23 6 binding guidance could be conveyed by the secretary of

11:16:26 7 state?

11:16:26 8 A. I don't know --

11:16:27 9 MR. MORGAN: Asked and answered.

11:16:29 10 THE COURT REPORTER: Can you repeat your

11:16:30 11 answer?

11:16:31 12 THE WITNESS: I don't know.

11:16:34 13 BY MR. HIRSCHTEL:

11:16:34 14 Q. Okay. I'm going to move on. I have a couple

11:16:36 15 questions about the MVD.

11:16:40 16 You can use the MVD to confirm that someone

11:16:43 17 is a citizen; right?

11:16:45 18 A. Correct.

11:16:46 19 Q. And I just want to clarify. Can you use the MVD

11:16:53 20 to confirm that someone is not a citizen?

11:16:57 21 A. Correct.

11:16:58 22 Q. How would you use the MVD to confirm that someone

11:17:02 23 is not a citizen?

11:17:04 24 A. The results would come back, and they would say

11:17:07 25 they were an F-type license.

11:17:08 1 Q. When -- when you discussed F-type licenses with
11:17:12 2 Mr. Ferguson earlier, I believe you discussed how an F-type
11:17:21 3 license reflects a person's citizenship status at a certain
11:17:26 4 point in time but not necessarily their current citizenship
11:17:30 5 status.

11:17:31 6 Do you recall testifying to that?

11:17:33 7 A. Yes.

11:17:34 8 Q. So if you do a check in MVD and it comes back that
11:17:41 9 the person has an F-type license, isn't it possible that a
11:17:47 10 person could have naturalized between the time that they
11:17:50 11 got their F-type license and now?

11:17:55 12 A. I guess it could be true.

11:17:57 13 Q. So you can't -- you can't use the MVD to
11:18:03 14 conclusively determine that someone is not a citizen right
11:18:07 15 now; isn't that right?

11:18:11 16 A. Can you repeat that?

11:18:13 17 Q. Because of the possibility that someone could
11:18:17 18 naturalize between the time they obtained an F-type license
11:18:20 19 and today, wouldn't it be the case that you cannot use the
11:18:26 20 MVD to conclusively determine that someone is not a citizen
11:18:31 21 today?

11:18:33 22 MS. PORTER: Form.

11:18:36 23 THE WITNESS: I think that could be true.

11:18:36 24 BY MR. HIRSCHER:

11:18:39 25 Q. So you cannot use the MVD to confirm that someone

11:18:41 1 is not a citizen?

11:18:46 2 MS. BOUGHTON: Form.

11:18:49 3 THE WITNESS: If -- I guess if they had
11:18:51 4 naturalized between the two times, no.

11:18:57 5 BY MR. HIRSCHER:

11:19:01 6 Q. A number of the provisions in the two laws we've
11:19:04 7 been talking about require the county recorder to do things
11:19:08 8 -- it uses the language "to the extent practicable."

11:19:12 9 You looked at this, some of these sections,
11:19:14 10 before. And we could pull them up if you want to.

11:19:18 11 Do you understand what "to the extent
11:19:20 12 practicable" means?

11:19:25 13 MR. LANGHOFER: Form. Calls for a legal
11:19:27 14 conclusion.

11:19:27 15 THE WITNESS: I don't.

11:19:33 16 BY MR. HIRSCHER:

11:19:34 17 Q. Do you know who in your office would decide
11:19:36 18 whether something is practicable?

11:19:41 19 A. I would assume my county attorney would.

11:19:50 20 Q. In your opinion, is it practicable for the County
11:19:53 21 Recorder's Office to use MVD driver license and
11:19:57 22 nonoperating ID license information -- or nonoperating ID
11:20:02 23 -- excuse me -- information to verify voter citizenship?

11:20:07 24 MR. MORGAN: Form.

11:20:07 25 MR. LANGHOFER: Same objection.

11:20:10 1 THE WITNESS: I don't have an opinion on
11:20:12 2 that.

11:20:12 3 BY MR. HIRSCHTEL:

11:20:13 4 Q. Okay. I've got a couple questions about the SAVE
11:20:15 5 database.

11:20:15 6 You talked previously about A-numbers and
11:20:18 7 naturalization certificate numbers. How do you obtain
11:20:22 8 those numbers?

11:20:24 9 A. They're provided by the voter.

11:20:27 10 Q. In what form are they provided by the voter?

11:20:30 11 A. The voter registration form.

11:20:33 12 Q. If someone provides a naturalization certificate,
11:20:36 13 does that satisfy the DPCC requirement?

11:20:39 14 MR. LANGHOFER: Same objection.

11:20:42 15 THE WITNESS: I believe it would.

11:20:43 16 BY MR. HIRSCHTEL:

11:20:44 17 Q. So if someone provides a naturalization
11:20:47 18 certificate, do you have to check the number in the SAVE
11:20:50 19 system or are they set?

11:20:53 20 A. We check it.

11:20:55 21 Q. When you check a naturalization certificate number
11:20:58 22 in the SAVE system, do you also check A-numbers?

11:21:05 23 A. If it's provided.

11:21:07 24 Q. Is that to say that sometimes you only check one
11:21:11 25 of those numbers but not both?

11:21:15 1 A. To be -- to be honest, I don't -- I haven't used
11:21:18 2 the SAVE program that often so I -- I can't -- I can't
11:21:27 3 recall what it actually requires.

11:21:29 4 Q. Can you use the -- moving on to the Social
11:21:37 5 Security database, can you use that database to confirm
11:21:40 6 that someone is a citizen?

11:21:44 7 A. We can confirm that they have a Social Security
11:21:46 8 number or not.

11:21:51 9 Q. And can you use the Social Security database to
11:21:54 10 confirm that someone is not a citizen?

11:21:58 11 A. We can confirm that they have a Social Security
11:22:02 12 number.

11:22:04 13 Q. But that's all?

11:22:06 14 A. Correct.

11:22:07 15 Q. Do you know if USCIS has an alternative
11:22:14 16 verification citizen -- system -- excuse me -- for
11:22:17 17 citizenship?

11:22:17 18 A. I have no idea.

11:22:18 19 Q. So you've never used a USCIS alternative
11:22:22 20 verification system for citizenship?

11:22:25 21 A. I don't believe -- I don't know what that is, so I
11:22:31 22 don't know.

11:22:32 23 Q. Okay. In HB 2243, there are a couple places where
11:22:46 24 the county recorder is supposed to compare voter rolls to
11:22:49 25 other databases each month. Are you familiar with that

11:22:52 1 language?

11:22:53 2 A. Yes.

11:22:54 3 Q. Is it practicable to compare the voter rolls to
11:22:59 4 other databases each month?

11:23:02 5 MR. LANGHOFER: Same objection.

11:23:06 6 THE WITNESS: I don't know.

11:23:06 7 BY MR. HIRSCHL:

11:23:15 8 Q. Do you think it would be possible to do that?

11:23:18 9 A. I'm sure it might be possible. I don't know how
11:23:21 10 long it would take.

11:23:24 11 Q. Thinking about how long it would take, there's a
11:23:27 12 point in HB 2492 where it says that the attorney general
11:23:33 13 should use, quote, "all available resources to verify the
11:23:38 14 citizenship status" of each applicant.

11:23:42 15 Would it be possible to use all of your
11:23:44 16 office's available resources to -- to perform those checks?

11:23:55 17 A. I guess it could be possible.

11:23:56 18 Q. Would there be any downsides that you can think of
11:23:59 19 to doing that?

11:24:01 20 A. Time.

11:24:02 21 MR. MORGAN: Form.

11:24:04 22 BY MR. FERGUSON:

11:24:04 23 Q. Anything else?

11:24:07 24 A. Staff.

11:24:09 25 Q. What do you mean by "staff"?

11:24:11 1 A. Having enough staff to do that.

11:24:17 2 Q. Okay. Just a few more questions.

11:24:22 3 You spoke with Mr. Ferguson previously about
11:24:27 4 what the language in HB 2492 and 2243 -- scratch that.
11:24:36 5 Strike that.

11:24:36 6 You spoke previously about information that
11:24:40 7 someone is not a U.S. citizen. The -- these laws use the
11:24:45 8 word "information." I want to just identify a few
11:24:49 9 examples. And my question for you is whether this would
11:24:55 10 constitute information that someone is not a U.S. citizen?

11:25:01 11 So my first example is anything besides a
11:25:05 12 government database, could anything else be information
11:25:10 13 that someone is not a U.S. citizen?

11:25:20 14 MS. BOUGHTON: Form.

11:25:20 15 THE WITNESS: I guess it could be. I'm
11:25:22 16 not --

11:25:22 17 BY MR. HIRSCHER:

11:25:23 18 Q. What about if a voter called your office and said
11:25:26 19 they're not a citizen? Would that be information that
11:25:29 20 they're not a citizen?

11:25:32 21 MR. LANGHOFER: Same objection. Asked and
11:25:33 22 answered.

11:25:37 23 THE WITNESS: I suppose we could look into
11:25:39 24 that.

11:25:40 25 ///

11:25:40 1 BY MR. HIRSCHTEL:

11:25:40 2 Q. What if they emailed your office?

11:25:42 3 MR. LANGHOFER: Same objection. Asked and
11:25:44 4 answered.

11:25:44 5 THE WITNESS: We could look into that.

11:25:46 6 BY MR. HIRSCHTEL:

11:25:47 7 Q. What about if a voter's family member called the
11:25:50 8 office and said that someone else is not a citizen? Would
11:25:53 9 that be valid information that they're not a citizen?

11:25:56 10 MR. LANGHOFER: Same objection.

11:26:00 11 THE WITNESS: We would look into it. We
11:26:01 12 wouldn't take anything at face value.

11:26:06 13 MR. HIRSCHTEL: Counsel, should we stipulate
11:26:07 14 the objection to -- I'm going to just do a few more of
11:26:10 15 these.

11:26:12 16 MR. LANGHOFER: Yeah. I think that is good.
11:26:14 17 The objection's form and calls for a legal conclusion.

11:26:17 18 Go ahead.

11:26:18 19 MR. MORGAN: Can you just let us know when
11:26:19 20 you're done asking questions subject to the stipulation.

11:26:23 21 MR. HIRSCHTEL: Happy to.

11:26:24 22 BY MR. HIRSCHTEL:

11:26:25 23 Q. What about a phone call from a law enforcement in
11:26:28 24 Arizona? Would that provide information that someone is
11:26:31 25 not a citizen?

11:26:35 1 A. Not -- not that we would act on alone, no.

11:26:39 2 Q. How about a phone call from law enforcement in

11:26:42 3 another state?

11:26:46 4 A. That would be the same answer.

11:26:49 5 Q. What about an email or a letter from law

11:26:52 6 enforcement in Arizona?

11:26:59 7 A. Same answer.

11:27:00 8 Q. Email or letter from law enforcement in another

11:27:02 9 state?

11:27:03 10 A. We would definitely -- we would look into things.

11:27:10 11 Q. What do you mean you would look into things?

11:27:13 12 A. I guess we would, you know, run their -- run their

11:27:14 13 information through the HAVA check again to see if that's

11:27:19 14 -- if they're a citizen or not, if we got any different

11:27:23 15 results from the first time.

11:27:25 16 Q. So an email or letter from law enforcement in

11:27:26 17 another state, is your answer that that would constitute

11:27:29 18 information that someone's not a citizen?

11:27:31 19 A. We would look into it.

11:27:34 20 Q. So is that -- is that information, then?

11:27:38 21 A. It could be considered -- if it -- sure.

11:27:43 22 Q. What if you received an anonymous call, someone

11:27:47 23 said, "I know this other person is not a citizen"? Would

11:27:50 24 that be information that that other person is not a

11:27:53 25 citizen?

11:27:56 1 A. It could be considered that.

11:27:59 2 Q. Would your office act on that?

11:28:02 3 A. We would -- I don't -- we wouldn't act on it. We
11:28:12 4 wouldn't cancel someone based on that.

11:28:13 5 Q. What about if you received an anonymous email?

11:28:18 6 A. We wouldn't cancel someone based on that.

11:28:21 7 Q. Okay. I'm going to ask you many of those same
11:28:25 8 examples now. So the stipulation continues as to the
11:28:29 9 objection.

11:28:31 10 But this time, instead of information, I want
11:28:34 11 to ask whether it would give you reason to believe that
11:28:37 12 someone is not a citizen since the laws also use that
11:28:40 13 language.

11:28:42 14 Could anything besides a government or voter
11:28:45 15 registration database give you a reason to believe that
11:28:48 16 someone is not a citizen?

11:28:51 17 A. We wouldn't cancel based on that.

11:29:09 18 Q. How about a phone call from a voter? Could that
11:29:24 19 give you reason to believe that someone is not a citizen?

11:29:30 20 A. No.

11:29:35 21 Q. What about an email from a voter?

11:29:38 22 A. We would -- we wouldn't -- we wouldn't cancel
11:29:44 23 based on that.

11:29:45 24 Q. Could a signed letter from a voter give you reason
11:29:50 25 to believe that someone is not a citizen?

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A. No.

Q. What about a phone call from a voter's family member?

A. We -- we would research all of these things.

Q. So is that to say that they would give you a reason to believe that these people are not citizens?

A. No.

Q. What about a phone call from law enforcement in Arizona?

A. No.

Q. Or an email or letter from law enforcement in Arizona?

A. No.

Q. A phone call, email, or letter from law enforcement outside of Arizona?

A. No.

Q. How about an anonymous phone call?

A. No.

Q. Or an anonymous email address?

A. No.

Q. If a voter put their first name in the last name box, put their last name in the first name box on their registration form, would that give you reason to believe that they're not a citizen?

A. No.

11:31:11 1 Q. What if they put a foreign place of birth on their
11:31:16 2 registration form? Is that a reason to believe they're not
11:31:19 3 a citizen?

11:31:20 4 A. No.

11:31:24 5 Q. If you identify a registered voter who has
11:31:28 6 satisfied the DPOC requirement but has an F-type license,
11:31:33 7 is there a reason to believe they're not a U.S. citizen?

11:31:39 8 A. No.

11:31:42 9 Q. What about registered voters who are exempt from
11:31:46 10 the DPOC requirement because they registered prior to the
11:31:49 11 DPOC requirement going into effect? Would there be reason
11:31:52 12 to believe that they're not U.S. citizens?

11:31:55 13 A. No.

11:31:56 14 Q. Has your office received any guidance from the
11:32:00 15 secretary of state on what would constitute a reason to
11:32:04 16 believe or would give you a reason to believe that a voter
11:32:07 17 is not a citizen?

11:32:08 18 A. I don't believe so.

11:32:16 19 MR. HIRSCHER: Can we go off the record.

11:32:18 20 THE VIDEOGRAPHER: We are off the record.

11:32:26 21 Time on the video monitor is 11:32 a.m.

11:32:32 22 (An off-the-record discussion ensued.)

11:33:27 23 THE VIDEOGRAPHER: We're on the record. Time
11:33:37 24 on the video monitor is 11:33 a.m.

11:33:42 25 MR. HIRSCHER: That's all my questions.

11:33:44 1 Thank you very much for your time.

11:33:50 2 MR. LANGHOFER: Craig and Kathryn, I'll defer
11:33:52 3 to you guys, being representatives of the government.

11:33:54 4 MR. MORGAN: Yeah. Craig Morgan for the
11:33:56 5 secretary of state. I don't have any questions.

11:33:57 6 I just want to say thank you. You were very
11:33:59 7 brave and very honest. We appreciate your time.

11:34:02 8 THE WITNESS: No problem. Thank you.

11:34:02 9

11:34:02 10 EXAMINATION

11:34:02 11 BY MS. BOUGHTON:

11:34:05 12 Q. Good afternoon. I do have a few quick questions.
11:34:08 13 And I echo Craig. Thanks for your time today.

11:34:12 14 Again, my name is Kathryn Boughton. I
11:34:15 15 represent the state and attorney general in this case.

11:34:18 16 So I wanted to talk to you about the
11:34:23 17 citizenship checkbox. You may recall plaintiffs' counsel
11:34:27 18 -- Mr. Ferguson asked you some questions about what your
11:34:29 19 office does when the box is or isn't checked.

11:34:33 20 Do you recall that?

11:34:34 21 A. Yes.

11:34:35 22 Q. Do you think that the citizenship checkbox
11:34:42 23 provides your office with information about whether the
11:34:45 24 voter is a citizen?

11:34:48 25 A. That I -- I don't have an opinion on that.

11:34:56 1 Q. If the citizenship checkbox is not marked, your
11:35:08 2 office runs the HAVA check; correct?

11:35:10 3 A. We run HAVA checks regardless.

11:35:14 4 Q. And on the HAVA check, we discussed how the AVID
11:35:30 5 system interfaces with MVD data; correct?

11:35:33 6 A. Yes.

11:35:34 7 Q. And is it your opinion, the office's opinion, that
11:35:40 8 that data is generally reliable?

11:35:42 9 A. Yes.

11:35:45 10 MR. FERGUSON: Objection. Calls for
11:35:48 11 speculation.

11:35:48 12 BY MS. BOUGHTON:

11:35:48 13 Q. Are you aware of any instances in which HAVA
11:35:51 14 returned inaccurate data regarding whether a voter -- or an
11:35:54 15 applicant was a noncitizen?

11:35:57 16 A. I guess we could say that's -- the email regarding
11:36:00 17 the press release would say that, yes.

11:36:05 18 Q. And did I -- was I -- do I recall your testimony
11:36:09 19 correctly that you were not sure if Gila County had any
11:36:13 20 voters affected by that?

11:36:14 21 A. I don't recall if we did.

11:36:16 22 Q. Okay. But generally is it a common occurrence
11:36:22 23 that the MVD's data -- do you have frequent instances where
11:36:25 24 the data is -- returns inaccurate information to your
11:36:29 25 knowledge?

11:36:29 1 A. Not to my knowledge.

11:36:30 2 Q. And similarly, with the SAVE database, do you find

11:36:37 3 that information to be generally reliable?

11:36:41 4 A. Yes.

11:36:41 5 Q. The state form has a place for voters --

11:36:49 6 applicants to put their birthplace; correct?

11:36:52 7 A. Yes.

11:36:52 8 Q. Do voters generally submit that information?

11:37:00 9 A. Generally.

11:37:04 10 Q. And if a voter submits -- lists their birthplace,

11:37:08 11 is that entered into AVID?

11:37:09 12 A. Yes.

11:37:10 13 Q. If at some point there were two applications

11:37:17 14 submitted to your office and they had the same name, the

11:37:20 15 same address, but they listed two different places of

11:37:24 16 birth, how would your office handle that?

11:37:29 17 MR. MAKKER: Objection. Incomplete

11:37:32 18 hypothetical.

11:37:32 19 THE WITNESS: We would just enter the

11:37:33 20 information as it came in.

11:37:36 21 BY MS. BOUGHTON:

11:37:39 22 Q. Would you do any -- contact the voter who

11:37:42 23 submitted the application?

11:37:45 24 MR. MAKKER: Same objection.

11:37:46 25 THE WITNESS: No.

11:37:48 1 MR. LANGHOFER: This "incomplete
11:37:49 2 hypothetical" objection is not recognized under the Federal
11:37:53 3 Rules of Procedure, so I just want to flag it as potential
11:37:57 4 witness coaching.

11:38:14 5 MR. MAKKER: Okay.

11:38:14 6 BY MS. BOUGHTON:

11:38:15 7 Q. One thing I wanted to loop back on just to
11:38:18 8 clarify -- one of plaintiffs' counsels was asking you some
11:38:23 9 questions about what might give the office a reason to
11:38:26 10 believe that the voter was not a U.S. citizen.

11:38:29 11 And I think that you testified that if
11:38:31 12 somebody was listed as a federal-only voter, that you
11:38:35 13 weren't sure if that might be a reason to believe they were
11:38:39 14 not a U.S. citizen.

11:38:40 15 Did I hear that correctly?

11:38:42 16 A. Can you say it again, please?

11:38:48 17 Q. Sure. So I guess I'll rephrase my question.

11:38:53 18 If a voter submits a federal application,
11:38:59 19 voter registration form, they attest that they're a U.S.
11:39:02 20 citizen; correct?

11:39:03 21 A. Yes.

11:39:25 22 MS. BOUGHTON: That's all I have for you
11:39:27 23 today. Thank you so much. I really appreciate your time.

11:39:29 24 THE WITNESS: You're welcome.

11:39:29 25

11:39:29 1

EXAMINATION

11:39:29 2

BY MR. LANGHOFER:

11:39:34 3

Q. Good morning, ma'am. My name is Kory Langhofer, and I represent the RNC. I have really just a handful of questions that haven't been touched on yet.

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When your office receives a state registration form without DPOC and you can't find evidence of citizenship in the MVD system so you send out a notice to the voter saying that you need this DPOC, do you know roughly how many of those -- what percentage of those end up responding with DPOC?

11:40:07 12

A. I don't know exact numbers, no.

11:40:08 13

11:40:11 14

Q. Do you have a rough order of magnitude, you know, like generally what we're talking about?

11:40:13 15

11:40:17 16

A. I -- we have very few federal voters, so the majority of them probably.

11:40:19 17

11:40:26 18

11:40:27 19

11:40:29 20

Q. Okay. So you -- do you mean -- just want to make sure we're clear on this -- a majority of the folks who get the notification letter are able to respond and give you the DPOC?

11:40:30 21

A. Correct.

11:40:30 22

11:40:41 23

11:40:47 24

Q. Okay. And does your office have access to any databases that are more reliable than the MVD database and SAVE database that you guys use currently?

11:40:50 25

A. No.

11:40:51 1 Q. And do you have any access to any databases that
 11:40:55 2 for purposes of checking citizenship are more up to date
 11:40:59 3 than those two databases?

11:41:01 4 A. Not that I'm aware of.

11:41:05 5 Q. If you're required, then, to perform some sort of
 11:41:08 6 citizenship check, do you have any better tools than what
 11:41:12 7 you're currently using?

11:41:14 8 A. Not that I'm aware of.

11:41:15 9 Q. Does your office receive voter registration forms
 11:41:24 10 with false information?

11:41:31 11 MR. MAKKER: Objection. Lacks foundation.

11:41:35 12 THE WITNESS: I don't know.

11:41:37 13 BY MR. LANGHOFER:

11:41:38 14 Q. Why do you say that?

11:41:40 15 A. For -- I guess, for instance, I can't verify a
 11:41:46 16 place of birth. So I wouldn't know if they were -- if that
 11:41:51 17 was false information or not.

11:41:53 18 Q. Have you received voter registration forms from
 11:41:56 19 convicted felons, for example?

11:42:05 20 A. I'm sure we have, but they -- we do get -- there
 11:42:14 21 is a felony check that's run as well so . . .

11:42:18 22 Q. And do you ever identify, as part of that check,
 11:42:21 23 people who have already been convicted of felonies?

11:42:26 24 A. I haven't seen one personally.

11:42:29 25 Q. Do you know them to have happened inside the

11:42:33 1 office?

11:42:33 2 A. I can't -- I couldn't tell you.

11:42:36 3 Q. Bear with me just one second here. I want to make
11:42:45 4 sure that -- I don't want to ask any questions that have
11:42:48 5 already been done, but I don't want to skip anything
11:42:50 6 either.

11:42:50 7 The October 2022 incident where the MVD
11:42:53 8 database, the AVID system had a problem with the
11:42:57 9 citizenship checks, are you aware of anyone in your county
11:42:59 10 who was disenfranchised as a result of that?

11:43:04 11 A. I am not aware.

11:43:07 12 MR. LANGHOFER: All right. Ma'am, I
11:43:08 13 appreciate your time. Those are all the questions that I
11:43:10 14 have.

11:43:12 15 THE WITNESS: Thank you.

11:43:12 16

11:43:12 17 EXAMINATION

11:43:12 18 BY MR. MAKKER:

11:43:12 19 Q. I had one follow-up.

11:43:14 20 Do you know how many of the letters that you
11:43:16 21 send out when somebody had not provided DPOC are not
11:43:21 22 responded to?

11:43:24 23 A. I am not aware of that number offhand.

11:43:29 24 MR. MAKKER: Okay. Thank you.

11:43:40 25 THE COURT REPORTER: Would you like to go off

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the record?

MR. LANGHOFER: I think we're done. Does anyone else have anything further?

MR. MORGAN: I don't think we need to go off the record yet. If there's nobody else, we can just end the deposition.

I assume counsel for the witness is going to read and sign; right?

MR. DALTON: Yes.

THE VIDEOGRAPHER: We're off the record. Time on the video monitor is 11:44 a.m. This ends Volume 1, Media Number 2, of the 30(b)(6) deposition of Gila County Recorder, designed by Charlotte Asrarynezami.

(The proceedings concluded at 11:44 a.m.)

CHARLOTTE ASRARYNEZAMI

1 STATE OF ARIZONA)
COUNTY OF MARICOPA)

2

3 BE IT KNOWN that the foregoing deposition was taken
4 by me pursuant to stipulation of counsel; that I was then
5 and there a Certified Court Reporter in the State of
6 Arizona, and by virtue hereof authorized to administer an
7 oath; that the witness before testifying was duly sworn by
8 me to testify to the whole truth; pursuant to request,
9 notification was provided that the deposition is available
10 for review and signature; that the questions propounded by
11 counsel and the answers of the witness thereto were taken
12 down by me in shorthand and thereafter transcribed into
13 typewriting under my direction; that the foregoing pages
14 are a full, true and accurate transcript of all the
15 proceedings had upon the taking of deposition, all done to
16 the best of my skill and ability.

17 I FURTHER CERTIFY that I am in no way related
18 to nor employed by any parties hereto; nor am I in any
19 way interested in the outcome thereof.


20 Dated at Phoenix, Arizona, this 30th day of
21 August, 2023.

22

23

24

25


CINDY MAHONEY, RPR, RMR NO. 50680

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UNITED STATES DISTRICT COURT
DISTRICT OF ARIZONA

Mi Familia Vota, et al.,)	
)	
Plaintiffs,)	Case No.
	)	2:22-cv-00509-PHX-SRB
v.	)	(Lead)
)	
Adrian Fontes, in his	)	No. CV-22-00519-PHX-SRB
official capacity as	)	No. CV-22-01003-PHX-SRB
Arizona Secretary of State,	)	No. CV-22-01124-PHX-SRB
et al.,	)	No. CV-22-01369-PHX-SRB
	)	No. CV-22-01381-PHX-SRB
Defendants.	)	No. CV-22-01602-PHX-SRB
	)	No. CV-22-01901-PHX-SRB
_____)	
AND CONSOLIDATED CASES.)	
_____)	

VIDEO-RECORDED VIDEOCONFERENCE 30(b)(6) DEPOSITION OF
YAVAPAI COUNTY RECORDER, REPRESENTED BY MATT JACKSON WEBBER

Prescott, Arizona

August 16, 2023

Prepared by:
CINDY MAHONEY, RPR, RMR
Certified Court Reporter
Certificate No. 50680



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VIDEO-RECORDED VIDEOCONFERENCE 30 (b) (6)

DEPOSITION OF YAVAPAI COUNTY RECORDER, REPRESENTED BY MATT JACKSON WEBBER, commenced at 1:02 p.m. on August 16, 2023, at Prescott, Arizona, before Cindy Mahoney, RPR, RMR (via videoconference), Arizona Certified Court Reporter No. 50680.

* * *

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Karen McCracken
Leslie Mansfield
Daxon Ernyei
Colleen Connor
Daniel Rohan, Videographer

1 TRANSCRIPT OF PROCEEDINGS

2
13:02:46 3 THE VIDEOGRAPHER: We are on the record.
13:02:49 4 Time on the video monitor is 1:02 p.m. Here begins
13:02:54 5 Volume 1, Media Number 1 in the 30(b)(6) deposition of
13:03:01 6 Yavapai County Recorder, by Matt Webber, in the matter of
13:03:06 7 Mi Familia Vota, et al., v. Adrian Fontes, et al., in the
13:03:10 8 United States District Court, District of Arizona, Case
13:03:15 9 Number 2:22-cv-00509-SRB.

13:03:20 10 Today's date is August 16th, 2023. Our court
13:03:24 11 reporter is Cindy Mahoney. I am Daniel Rohan, a certified
13:03:31 12 legal videographer. We both represent Coash Court
13:03:36 13 Reporting & Video. This video deposition is taking place
13:03:37 14 at 1015 Fair Street, Prescott, Arizona 86305.

13:03:43 15 Counsel, please identify yourselves and state
13:03:46 16 whom you represent.

13:03:47 17 MR. SHERMAN: Jon Sherman from Fair Elections
13:03:50 18 Center. I represent the Poder Latinx plaintiffs in this
13:03:54 19 case.

13:03:58 20 MR. ATKINS: Alexander Atkins with Elias Law
13:04:01 21 Group. I represent Mi Familia Vota and Voto Latino.

13:04:08 22 MR. MESSER: Joshua Messer from Osborn
13:04:11 23 Maledon. I represent the Tohono O'odham Nation, Gila River
13:04:15 24 Indian Community, Keanu Stevens, Alanna Siquieros, and
13:04:20 25 LaDonna Jacket.

13:04:20 1 MR. GORDON: Mike Gordon, Yavapai County.

13:04:23 2 MR. JOHNSON: Hayden Johnson from Campaign

13:04:27 3 Legal Center. I represent the LUCHA plaintiffs.

13:04:29 4 MS. CERVANTES: Erika Cervantes representing

13:04:33 5 the Promise Arizona plaintiffs.

13:04:41 6 MR. HORLEY: Tim Horley representing the

13:04:43 7 State of Arizona and the Arizona Attorney General.

13:04:46 8 MR. VOLCHOK: Daniel Volchok from Wilmer

13:04:49 9 Cutler Pickering Hale & Dorr for the Democratic National

13:04:50 10 Committee and the Arizona Democratic Party.

13:04:54 11 MS. SHAH: Niyati Shah for the AZANHPI for

13:04:58 12 Equity Coalition plaintiffs.

13:05:01 13 MR. LANGHOFER: Kory Langhofer for the RNC.

13:05:05 14 MS. STUART: Shayna Stuart for the Arizona

13:05:09 15 Secretary of State Adrian Fontes.

13:05:11 16 MS. PORTER: Hannah Porter from Gallagher &

13:05:15 17 Kennedy for intervenor defendants Speaker Toma and

13:05:17 18 President Petersen.

13:05:19 19 THE VIDEOGRAPHER: Will the court reporter

20 please swear in the witness.

21 ///

22 ///

23 ///

24 ///

25 ///

1 MATT JACKSON WEBBER,
 2 the witness herein, being first duly sworn,
 3 was examined and testified as follows:
 4

EXAMINATION

BY MR. SHERMAN:

13:05:37 5
 13:05:37 6
 13:05:42 7 Q. Good afternoon, Mr. Webber. Thank you for being
 13:05:45 8 with us and taking the time for this deposition.

13:05:48 9 Could I ask that you please state your full
 13:05:50 10 name for the record and your full title.

13:05:53 11 A. Matt Jackson Webber. And my full title is program
 13:06:01 12 manager for voter registration and early voting.

13:06:06 13 Q. How long have you been in that position?

13:06:07 14 A. Since December.

13:06:09 15 Q. And how long have you been with the Yavapai County
 13:06:13 16 Recorder's Office?

13:06:13 17 A. Since 2017.

13:06:15 18 Q. And what are the different positions you've held
 13:06:18 19 since 2017?

13:06:20 20 A. I started as -- I'm trying to remember the exact
 13:06:28 21 job title, but it was dealing with the mailing and early
 13:06:33 22 voting. And then I became a voter registration specialist
 13:06:40 23 II and then moved up into what we now call the registrar of
 13:06:47 24 voters, but you have my official title.

13:06:49 25 Q. Thank you.

13:06:50 1 Are you represented by an attorney today?

13:06:52 2 A. Yes.

13:06:53 3 Q. And who is that?

13:06:54 4 A. Michael Gordon.

13:06:57 5 Q. Thank you.

13:06:57 6 For today's deposition, I want to make sure
13:06:59 7 the record is clear on a couple of points.

13:07:02 8 Do you understand you are testifying under
13:07:03 9 oath today?

13:07:04 10 A. Yes.

13:07:06 11 Q. Do you understand the court reporter is
13:07:07 12 transcribing this deposition?

13:07:09 13 A. Yes.

13:07:09 14 Q. With that in mind, please answer questions audibly
13:07:12 15 and clearly. Please let me know if you do not understand a
13:07:15 16 question or need me to repeat any part of it. If I ask the
13:07:19 17 question and you answer the question, I will assume that
13:07:22 18 you understood the question. If you do not understand a
13:07:24 19 question, please tell me so. Is that all okay?

13:07:29 20 A. Yes.

13:07:29 21 Q. Great.

13:07:30 22 During this deposition, attorneys may make
13:07:33 23 objections. Even if they make objections, unless your
13:07:36 24 attorney specifically instructs you not to answer a
13:07:39 25 question, you must still answer the question. Do you

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understand?

A. Yes.

Q. Any reason you can't testify truthfully today?

A. No.

Q. Is there any reason that you can't give full, complete, and accurate testimony today?

A. No.

Q. Are you on any medications or experiencing any condition that would prevent you from giving full and truthful testimony today?

A. No.

Q. If at any time you need to take a break, please let me know. The only thing I ask is that if I've already asked a question and that question is pending, please finish answering that question before taking the break. Do you understand?

A. Yes.

Q. Great.

Have you ever been deposed before?

A. No.

Q. For today's deposition, where are you physically located?

A. I am at 1015 Fair Street in Prescott, Arizona.

Q. And who else is in the room with you?

A. Michael Gordon.

13:08:27 1 Q. Did you bring any materials with you to the
13:08:29 2 deposition?

13:08:30 3 A. I have hard copies of the production materials
13:08:36 4 that we produced.

13:08:38 5 Q. Great.
13:08:39 6 Anything else?

13:08:42 7 A. I -- well, I have a notepad that's blank and my
13:08:48 8 phone.

13:08:48 9 Q. Great.
13:08:49 10 Do you have any documents in front of you?

13:08:51 11 A. The documents, again, it was the documents we
13:08:55 12 produced at the request, but there's no other documents
13:09:01 13 than that.

13:09:02 14 Q. Great.
13:09:03 15 Could I ask you to take a look at Exhibit A
13:09:05 16 of the Yavapai County recorder deposition exhibits?

13:09:11 17 A. I will have to find it. That's not organized
13:09:13 18 so . . .

13:09:15 19 THE COURT REPORTER: Do you want to mark this
13:09:15 20 as Exhibit 137?

13:09:21 21 MR. SHERMAN: Yes, I do want to mark it as
13:09:23 22 Exhibit 137.

13:09:23 23 BY MR. SHERMAN:

13:09:24 24 Q. I just want to clarify. This is in the SharePoint
13:09:27 25 folder that you're using for the potential deposition

13:09:31 1 exhibits, so if --

13:09:32 2 A. That may be easier to find there. Let me pull
13:09:34 3 that up.

13:09:35 4 Q. Yeah. I think pulling it up on your laptop screen
13:09:39 5 might be just easier.

13:09:39 6 (The document was marked as Exhibit 137
13:10:08 7 for identification.)

13:10:08 8 THE WITNESS: So I want to make sure I'm
13:10:09 9 looking at -- this was Exhibit A from the -- not the one --
13:10:15 10 we produced an Exhibit A, I think, in our first request for
13:10:19 11 production.

13:10:19 12 BY MR. SHERMAN:

13:10:19 13 Q. Yeah. Those -- those numbers -- those -- that
13:10:22 14 lettering from the -- what you produced is not what I'm
13:10:24 15 using. I'm just --

13:10:24 16 A. Okay.

13:10:25 17 Q. --referring to --

13:10:25 18 A. That -- I think we're in the right place.

13:10:28 19 THE COURT REPORTER: I need one at a time,
13:10:29 20 please, so I can get you all on the record.

13:10:29 21 MR. SHERMAN: Yeah. Sorry, Cindy.

13:10:33 22 THE WITNESS: So it's -- it's a court
13:10:35 23 document.

13:10:37 24 BY MR. SHERMAN:

13:10:37 25 Q. Okay. So what is this document?

13:10:38 1 A. It's Plaintiffs' Second Amended Notice of
13:10:42 2 Deposition of Yavapai County Recorder's Office Pursuant to
13:10:46 3 Rule 30(b)(6).

13:10:49 4 Q. Great. We've marked this as Exhibit 137.
13:10:53 5 Have you seen this before today?

13:10:54 6 A. Yes.

13:10:54 7 Q. Do you understand you've been designated as a
13:10:57 8 representative to testify on behalf of the Yavapai County
13:11:02 9 Recorder's Office, not in your individual capacity?

13:11:04 10 A. Yes.

13:11:04 11 Q. Can we stipulate that whenever I say "you" or
13:11:06 12 "your," that will be the equivalent of saying "your office"
13:11:09 13 or "your office's"?

13:11:11 14 A. Yes.

13:11:12 15 Q. Can we also stipulate that unless it is otherwise
13:11:14 16 specified, your use of the words "I" or "me" shall refer to
13:11:18 17 the Yavapai County Recorder's Office?

13:11:20 18 A. Yes.

13:11:21 19 Q. Can we turn to Schedule A in this -- this is
13:11:25 20 basically the list of "Topics" starting at the bottom of
13:11:29 21 page 4.

13:11:32 22 A. Okay.

13:11:33 23 Q. Have you had a chance to review this list of the
13:11:37 24 28 topics?

13:11:37 25 A. Yes.

13:11:38 1 Q. And are you prepared to address each of these
13:11:41 2 today?

13:11:42 3 A. Yes.

13:11:42 4 Q. Great.

13:11:43 5 What did you do to prepare for today's
13:11:47 6 deposition?

13:11:48 7 A. I printed out the documents. I read them. I did
13:11:53 8 go back over the documents that we had given in production
13:12:00 9 and the -- and the answers to the interrogatories and just
13:12:04 10 reviewed those.

13:12:06 11 Q. Great.

13:12:07 12 Let's take a look at Exhibit B in your folder
13:12:15 13 -- the SharePoint folder.

13:12:18 14 What is this document?

13:12:19 15 A. It's, again, another legal document that just
13:12:29 16 says, "To plaintiff." I don't see an actual title on it --
13:12:34 17 or interrogatories.

13:12:38 18 Q. Do you see the title to the right on the first
13:12:40 19 page in bold?

13:12:44 20 A. Oh, okay. Defendant Yavapai County Recorder's
13:12:47 21 Answers to Plaintiffs' First Set of Interrogatories.

13:12:50 22 Q. Great.

13:12:53 23 And you prepared this document in
13:12:55 24 consultation with your counsel?

13:12:57 25 A. Yes.

13:13:00 1 MR. SHERMAN: Can we mark this as

13:13:05 2 Exhibit 138.

13:13:05 3 (The document was marked as Exhibit 138

13:13:05 4 for identification.)

13:13:06 5 BY MR. SHERMAN:

13:13:06 6 Q. And you verified this document at the time it was
13:13:08 7 served; correct?

13:13:09 8 A. Yes.

13:13:09 9 Q. Did you confer with anyone else in the office in
13:13:15 10 preparing this document?

13:13:17 11 A. Yes. I conferred with the Yavapai County Recorder
13:13:22 12 Michelle Burchill and the Chief Deputy Karen McCracken.

13:13:27 13 Q. And any update to your responses since this was
13:13:31 14 served?

13:13:40 15 A. Not to my knowledge.

13:13:42 16 Q. Okay. Can we take a look at Exhibit C.

13:13:52 17 And what is this document?

13:13:54 18 A. Defendant Yavapai County Recorder's First Amended
13:14:00 19 Answers to Plaintiffs' First Set of Interrogatories.

13:14:04 20 Q. And you prepared this document in consultation
13:14:06 21 with your counsel?

13:14:07 22 A. Yes.

13:14:09 23 MR. SHERMAN: Can we mark this as

13:14:11 24 Exhibit 139.

13:14:11 25 (The document was marked as Exhibit 139

13:14:15 1 for identification.)

13:14:15 2 BY MR. SHERMAN:

13:14:15 3 Q. You verified this document at the time it was
13:14:17 4 served; correct?

13:14:17 5 A. Yes.

13:14:18 6 Q. And you consulted the same people in preparing
13:14:22 7 this document?

13:14:24 8 A. Yes.

13:14:24 9 Q. And upon review of this before the deposition, did
13:14:31 10 you see any updates to your responses that you want to
13:14:34 11 inform us of?

13:14:36 12 A. No.

13:14:38 13 Q. Okay. Can we take a look at Exhibit D. What is
13:14:50 14 Exhibit D?

13:14:52 15 A. Defendant Yavapai County Recorder's First
13:14:55 16 Supplemental Response to Plaintiffs' First Set of Requests
13:14:59 17 for Production of Documents.

13:15:02 18 MR. SHERMAN: Can we mark this as
13:15:04 19 Exhibit 140.

13:15:04 20 (The document was marked as Exhibit 140
13:15:04 21 for identification.)

13:15:04 22 BY MR. SHERMAN:

13:15:06 23 Q. Did you review this document before this
13:15:09 24 deposition?

13:15:11 25 A. Yes.

13:15:11 1 Q. And any update to your responses?

13:15:14 2 A. No.

13:15:16 3 Q. Can we take a look at Exhibit E. What is Exhibit

13:15:27 4 E?

13:15:28 5 A. Defendant Yavapai County Recorder's Second

13:15:30 6 Supplemental Response to Plaintiffs' First Set of Requests

13:15:34 7 for Production of Documents.

13:15:37 8 Q. And you worked on this document in consultation

13:15:41 9 with your counsel?

13:15:42 10 A. Yes.

13:15:43 11 Q. Great.

13:15:45 12 MR. SHERMAN: Can we mark this as

13:15:48 13 Exhibit 141.

13:15:48 14 (The document was marked as Exhibit 141

13:15:49 15 for identification.)

13:15:49 16 BY MR. SHERMAN:

13:15:51 17 Q. And did you review this before today's deposition?

13:15:55 18 A. Yes.

13:15:55 19 Q. Any update to your responses?

13:15:58 20 A. No.

13:15:59 21 Q. Can we take a look at Exhibit F. Just two more of

13:16:06 22 these.

13:16:06 23 A. Okay.

13:16:07 24 Q. What is Exhibit F?

13:16:11 25 A. Yavapai County Recorder's Response to Consolidated

13:16:14 1 Plaintiffs' First Set of Requests for Production of
13:16:17 2 Documents.

13:16:18 3 Q. And did you review this -- excuse me. Strike
13:16:21 4 that.

13:16:22 5 You prepared this in consultation with your
13:16:24 6 counsel?

13:16:25 7 A. Yes.

13:16:26 8 MR. SHERMAN: Can we mark this as
13:16:31 9 Exhibit 142?

13:16:31 10 (The document was marked as Exhibit 142
13:16:32 11 for identification.)

13:16:32 12 BY MR. SHERMAN:

13:16:32 13 Q. Any update to your responses?

13:16:34 14 A. No.

13:16:35 15 Q. Okay. And lastly, can we take a look at Exhibit
13:16:40 16 G. What is Exhibit G?

13:16:46 17 A. Yavapai County Recorder's Answers to Consolidated
13:16:49 18 Plaintiffs' First Set of Interrogatories.

13:16:51 19 Q. And you prepared this document -- these answers in
13:16:55 20 consultation with your counsel?

13:16:57 21 A. Yes.

13:16:59 22 MR. SHERMAN: And can we mark this as
13:17:00 23 Exhibit 143.

13:17:00 24 (The document was marked as Exhibit 143
13:17:02 25 for identification.)

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BY MR. SHERMAN:

Q. And you verified this document at the time it was served?

A. Yes.

Q. And you prepared it in consultation with the county recorder and -- in consultation with the county recorder?

A. Yes.

Q. Anyone else?

A. The chief deputy county recorder.

Q. Any updates to your responses in these answers to the consolidated plaintiffs' interrogatories?

A. No.

Q. Okay. Thanks very much.

So I want to ask you a few questions about the Election Procedures Manual. Is this -- is the version of the -- the 2019 version of the Election Procedures Manual, is that still the currently operative version of the EPM that your office follows?

A. Yes.

Q. Is your office legally required to follow the EPM?

MS. STUART: Form.

THE WITNESS: We follow the EPM as it is backed by statute. I think there are some issues with -- it's part of the new EPM. Part of it was not actually

13:18:15 1 authorized by statute, but we -- we follow it as guidance
13:18:20 2 if it's not in statute.

13:18:22 3 BY MR. SHERMAN:

13:18:22 4 Q. So to the extent there's no conflict with the
13:18:25 5 statute, are you legally required to follow the EPM?

13:18:28 6 A. Yes.

13:18:29 7 MS. STUART: Form.

13:18:30 8 MR. LANGHOFER: Calls for a legal conclusion.

13:18:30 9 BY MR. SHERMAN:

13:18:33 10 Q. To the extent you perceive -- strike that.

13:18:36 11 Are all parts of the EPM legally binding on
13:18:40 12 your office?

13:18:43 13 MS. STUART: Form.

13:18:43 14 MR. LANGHOFER: Same objection.

13:18:46 15 BY MR. SHERMAN:

13:18:46 16 Q. You can answer. They're just --

13:18:47 17 A. No.

13:18:48 18 Q. -- objecting for the record.

13:18:48 19 Which parts of the EPM are not legally
13:18:50 20 binding on your office?

13:18:51 21 A. The forms particularly would not be binding. We
13:18:55 22 do not have to use the forms that they have. There may be
13:19:01 23 other things that are recommended but not required.

13:19:08 24 Q. And how do you know if those parts of the EPM are
13:19:12 25 not required?

13:19:13 1 A. The only way we would know is, if we had a
13:19:17 2 question, we would ask that question to someone -- maybe
13:19:22 3 the Secretary of State's Office, maybe our legal counsel --
13:19:25 4 and get guidance on that.

13:19:28 5 Q. Okay. And your legal counsel might advise in some
13:19:32 6 places that a particular part of the EPM conflicts with
13:19:36 7 Arizona statutes or the Arizona Constitution, and in that
13:19:39 8 case, you wouldn't need to follow that part of the EPM?

13:19:42 9 A. That would probably be the recommendation that
13:19:46 10 would be given to the county recorder. And then it would
13:19:50 11 be the county recorder's decision what path to take.

13:19:56 12 Q. Understood.

13:19:56 13 Is Chapter 1 on "Voter Registration" legally
13:20:01 14 binding on your office?

13:20:03 15 MR. LANGHOFER: Same objection.

13:20:05 16 MR. HORLEY: Objection.

13:20:06 17 THE WITNESS: Yes.

13:20:06 18 BY MR. SHERMAN:

13:20:07 19 Q. Can legally binding guidance be conveyed by the
13:20:09 20 Secretary of State's Office to your office by any means
13:20:12 21 outside of the EPM?

13:20:15 22 MS. STUART: Form.

13:20:16 23 MR. LANGHOFER: Same objection.

13:20:17 24 THE WITNESS: Not to my knowledge.

13:20:19 25 BY MR. SHERMAN:

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Q. Okay.

MR. LANGHOFER: Jon, is this a good time to put on the record our stipulation that an objection by one defendant will be treated as an objection by all?

MR. SHERMAN: Of course.

MR. LANGHOFER: Thanks.

BY MR. SHERMAN:

Q. So before, you testified that you may need to consult the Arizona Secretary of State's Office where there's a perceived conflict between Arizona statutes or the Arizona Constitution and parts of the EPM. Would an Arizona Secretary of State's -- would a response from the Secretary of State's Office by way of a memorandum or an email, would that be binding -- legally binding guidance to your office?

MS. STUART: Form.

MR. LANGHOFER: Same objection.

THE WITNESS: I don't believe so.

BY MR. SHERMAN:

Q. Okay. Are you aware of any counties that do not believe Chapter 1 on voter registration procedures is binding know?

A. Not to my knowledge.

MR. LANGHOFER: Foundation.

BY MR. SHERMAN:

13:21:19 1 Q. Okay. Are you currently enforcing any part of HB

13:21:26 2 2492?

13:21:26 3 A. No.

13:21:27 4 Q. Is your office holding voter registration

13:21:29 5 applications in an indefinite pending status while you're

13:21:33 6 awaiting guidance from the Secretary of State's Office on

13:21:36 7 HB 2492?

13:21:37 8 A. No.

13:21:38 9 Q. Are you currently enforcing any part of HB 2243?

13:21:42 10 A. No.

13:21:43 11 Q. Has your office seen the draft 2023 EPM?

13:21:47 12 A. Yes.

13:21:48 13 Q. Have you provided comments on it to the Secretary
13:21:53 14 of State's Office?

13:21:53 15 A. Yes.

13:21:53 16 Q. Did that 2023 EPM, in your view, contain guidance
13:22:03 17 -- sufficient guidance on HB 22 -- 24 -- 2492 and 2243?

13:22:12 18 MR. LANGHOFER: Same objection.

13:22:13 19 THE WITNESS: I can't answer the question. I
13:22:16 20 did not evaluate that part on the sufficiency of the
13:22:18 21 guidance. I knew it was there, but knowing everything
13:22:22 22 else, it's in the air.

13:22:26 23 BY MR. SHERMAN:

13:22:27 24 Q. Understood.

13:22:27 25 Has your office been provided any other draft

13:22:32 1 guidance or document beyond the draft 2023 EPM that
13:22:36 2 elaborates on interpretation or implementation of HB 2492
13:22:41 3 or HB 2243?

13:22:42 4 A. There have been some documents -- I believe we
13:22:46 5 provided them in production -- where there was discussion
13:22:50 6 with the Secretary of State's Office on what their
13:22:54 7 interpretation of that statute was. And then we actually
13:23:01 8 did some work in our AVID system that if we have to
13:23:06 9 implement it, how that would be done.

13:23:10 10 Q. Have most of those documents focused on the juror
13:23:14 11 questionnaire piece of HB 2492 or HB 2243?

13:23:20 12 A. There -- most of it was on the juror
13:23:23 13 questionnaire. There is some of the work that we --
13:23:26 14 preliminary work we did in the AVID system dealing with how
13:23:30 15 we would deal with the MVD portion of it. So there's both.

13:23:37 16 Q. Has your office been part of any communications
13:23:40 17 with the Secretary of State's Office regarding
13:23:42 18 interpretation or implementation of HB 2492?

13:23:47 19 A. Yes.

13:23:49 20 Q. How many would you say?

13:23:51 21 A. I -- I don't know. There have been many threads
13:23:58 22 going back and forth at different times. And even before I
13:24:03 23 was in my position, I think I've seen some of those threads
13:24:07 24 in what we produced.

13:24:08 25 Q. Beyond the email traffic, have you had in-person

13:24:12 1 meetings or meetings by Zoom that aren't recorded in the
13:24:17 2 email?

13:24:18 3 A. No. The only meetings that I have had that deal
13:24:23 4 with these issues would be in our AVID enhancement
13:24:27 5 committee and dealing with the software application of how
13:24:31 6 to implement those statutes if they get implemented.

13:24:36 7 Q. Do you know if Ms. Burchill has had such meetings
13:24:40 8 about the implementation of HB 2492?

13:24:44 9 A. Not to my knowledge.

13:24:45 10 Q. Has your office been a part of any communications
13:24:47 11 or meetings with the Arizona Secretary of State's Office
13:24:49 12 regarding interpretation or implementation of HB 2243?

13:24:53 13 A. Yes.

13:24:54 14 Q. And how many discussions have there been?

13:24:58 15 A. Again, several. You would see, again, in the
13:25:02 16 threads that we -- that we provided. And then also we
13:25:09 17 would have some -- it would be discussed from time to time,
13:25:13 18 I believe, on the secretary of state calls. And then,
13:25:20 19 again, we did have some things, I believe, in the AVID
13:25:23 20 enhancement about implementing those into the software
13:25:27 21 system.

13:25:28 22 Q. Gotcha.

13:25:30 23 Have there been additional -- has your office
13:25:35 24 provided feedback on HB 2243 in some of these in-person
13:25:41 25 meetings or telephone calls or Zoom meetings?

13:25:44 1 A. I know we have provided input into some of the
13:25:50 2 AVID software things. I don't recall a time when we've
13:25:58 3 given input in those calls.

13:26:01 4 Q. Okay. In 2021, was the draft EPM adopted?

13:26:07 5 A. No.

13:26:08 6 Q. Is it possible there will be no agreement on a
13:26:11 7 revised and updated EPM this year?

13:26:13 8 A. Yes.

13:26:15 9 Q. If there's no approved revised EPM by this time
13:26:18 10 next year, will your office nevertheless be obligated to
13:26:22 11 enforce the portions of HB 2492 and HB 2243 that are
13:26:26 12 directed at county recorders?

13:26:28 13 MR. LANGHOFER: Same objection.

13:26:31 14 THE WITNESS: Yes.

13:26:31 15 BY MR. SHERMAN:

13:26:31 16 Q. And your office opposed the enactment of HB 2492
13:26:36 17 and HB 2243 last year; correct?

13:26:38 18 A. Yes.

13:26:39 19 Q. Do you recall what the basis of your office's
13:26:45 20 opposition to HB 2492 was?

13:26:48 21 A. I get them messed up. I know the -- the past
13:26:56 22 county recorder, Leslie Hoffman, was opposed to -- I
13:27:01 23 believe -- is that the one with the documenting proof of
13:27:03 24 residency? Is that -- am I thinking of the right number?

13:27:07 25 Q. So 2492 has a variety of provisions sort of on the

13:27:12 1 front end of voter registration.

13:27:15 2 A. Okay.

13:27:15 3 Q. And HB 2243 is sort of the back end with currently
13:27:22 4 registered voters. But we'll take a look at both, and you
13:27:24 5 can refer to both. Might be good to pull those -- pull
13:27:27 6 those out, if you have them printed out. It's Petty
13:27:30 7 Exhibits 19 and 21.

13:27:33 8 A. Okay. I will pull those up.

13:27:35 9 Q. Actually, we're going to look quickly at one other
13:27:37 10 document. If you're pulling it up on your computer, why
13:27:41 11 don't we direct you first to Exhibit R in the potential
13:27:46 12 exhibits folder.

13:27:52 13 A. Okay.

13:27:56 14 Q. What is -- sorry?

13:27:57 15 A. I -- it may be in a different folder here. It may
13:28:00 16 be in the new folder. I don't have an R. I have looked in
13:28:20 17 here because I have two different folders that I was sent.

13:28:57 18 Q. Do you see the full list of exhibits in that
13:28:59 19 folder? Should go through Z and A, AA, BB --

13:29:04 20 A. Yes. Yes, I'm in --

13:29:04 21 Q. Okay.

13:29:06 22 A. I had a previous folder.

13:29:07 23 Q. Okay. So if you could go to Exhibit R, please.

13:29:11 24 A. Sure.

13:29:12 25 Q. Thank you.

13:29:15 1 And what is this document?

13:29:20 2 A. Let me see if I can make it a little bigger.

13:29:27 3 It says, "Voter Registration; verification;
13:29:31 4 citizenship," HB 2492.

13:29:35 5 Q. Do you recognize this document, what this is?

13:29:39 6 A. I have seen this -- I reviewed this document the
13:29:47 7 other day. I don't know the origin of this. I -- I would
13:29:56 8 just have to be guessing as to the origin of the document
13:30:01 9 itself.

13:30:02 10 Q. What does it appear to be?

13:30:04 11 A. It appears to be comments given to maybe the
13:30:12 12 recorders association or the county's association on -- on
13:30:20 13 that bill so . . .

13:30:22 14 MR. SHERMAN: Can we mark this as
13:30:23 15 Exhibit 144.

13:30:23 16 (The document was marked as Exhibit 144
13:30:23 17 for identification.)

13:30:28 18 BY MR. SHERMAN:

13:30:28 19 Q. And if you scroll down to the bottom of page 2, I
13:30:36 20 believe this is where Leslie Hoffman of Yavapai County is.
13:30:39 21 Do you see that?

13:30:40 22 A. Yes.

13:30:40 23 Q. And do you see where it shows the "Suggested
13:30:44 24 Position"?

13:30:46 25 A. Yes.

13:30:46 1 Q. And that was opposed; correct?

13:30:49 2 A. Yes.

13:30:49 3 Q. And above that it says, "Programmatic Impact."

13:30:54 4 "Significant" was what was recorded; correct?

13:30:56 5 A. Yes.

13:30:57 6 Q. Can you elaborate on why your office recorded the
13:31:03 7 programmatic impact of HB 2492 as significant?

13:31:08 8 A. It would change a lot of the things that we would
13:31:10 9 do and make it difficult in some cases to -- to get people
13:31:19 10 registered to vote. And, again, I believe from what I know
13:31:32 11 of speaking with the past county recorder that it seemed to
13:31:41 12 be a lot of work for very little gain, I guess, would be
13:31:46 13 the way I would phrase it.

13:31:49 14 Q. Could you elaborate on that? Why did your office
13:31:53 15 believe that it would -- HB 2492 would provide very little
13:31:59 16 gain?

13:32:00 17 A. Well, it's -- we just didn't see how -- and again,
13:32:04 18 I'm thinking of 2492. And again, I get -- I get the two
13:32:08 19 confused sometimes -- was the --

13:32:11 20 Q. Before you answer then, why don't we take a look
13:32:14 21 at the statute so you can refresh --

13:32:17 22 A. Yes.

13:32:17 23 Q. And it would be good if on a break maybe your
13:32:20 24 counsel could print those two out so you have those
13:32:23 25 separate and apart from your laptop exhibits.

13:32:26 1 A. Yeah. I have them. I need to pull them out so --
13:32:28 2 but we will do that. And I pulled them out, but I keep
13:32:32 3 confusing which one is which. I look at the clauses and
13:32:37 4 not the actual numbers.

13:32:38 5 Q. Gotcha. You know what? Why don't we do that.
13:32:40 6 Can we take a two- or three-minute break and go off the
13:32:44 7 record so you can have those handy, printed out in front of
13:32:47 8 you?

13:32:47 9 A. Sure.

13:32:49 10 Q. I have a number of questions about that.

13:32:51 11 A. Yeah.

13:32:57 12 THE VIDEOGRAPHER: We are off the record.

13:33:00 13 Time on the video monitor is 1:33 p.m.

13:33:11 14 (A recess ensued.)

13:35:39 15 THE VIDEOGRAPHER: We're on the record. Time
13:35:53 16 on the video monitor is 1:35 p.m.

13:35:57 17 MR. SHERMAN: Thanks.

13:35:57 18 BY MR. SHERMAN:

13:35:59 19 Q. Mr. Webber, you were testifying a moment ago that
13:36:06 20 your office didn't believe that HB 2492 would provide very
13:36:11 21 much gain; that it would provide very little gain and
13:36:15 22 wasn't worth the burden it would impose on your office.
13:36:19 23 Did I capture that correctly?

13:36:21 24 A. Yes.

13:36:21 25 Q. And can you elaborate on that? With -- now that

13:36:25 1 you have HB 2492 in front of you, can you elaborate on what
13:36:28 2 your office's thinking was there?

13:36:30 3 A. There were a number of parts in that bill and
13:36:38 4 statute now that asked for us to check different databases
13:36:44 5 that we had no access to and could not get access to.
13:36:51 6 They're not our databases.

13:36:55 7 And I think then really probably the biggest
13:36:58 8 issue that I remember us having with that was the
13:37:06 9 documentary proof of residence. We do have some people
13:37:10 10 living in rural places. We have people who live in places
13:37:16 11 maybe, let's say, with their parents that may have a great
13:37:20 12 deal of difficulty producing that proof.

13:37:24 13 Q. Any other issues of interpretation or
13:37:31 14 implementation that your office foresaw reviewing HB 2492?

13:37:37 15 A. I believe there were questions on whether -- with
13:37:46 16 the citizenship where we had had people grandfathered in
13:37:50 17 with their driver's license from before, would they now not
13:37:56 18 be considered to have proven citizenship and then have to
13:38:00 19 go back and do that? And would we have to put them in
13:38:06 20 suspense or some other category if they did not do that.

13:38:09 21 Q. Understood.

13:38:11 22 So back on Exhibit 144, which we just marked,
13:38:17 23 Leslie Hoffman reported her opposition to -- your office's
13:38:17 24 opposition to HB 2492.

13:38:22 25 And the "Description of Provisions" said,

13:38:24 1 "Agree with all. There is so much wrong with this
13:38:27 2 including that he's obviously unaware of the LULAC case and
13:38:30 3 federal laws. Once again trying to impose felonies on us."

13:38:33 4 Do you recall what federal law violations
13:38:36 5 your office saw in HB 2492?

13:38:43 6 MR. LANGHOFER: Same objection.

13:38:45 7 THE WITNESS: I don't recall specifically.

13:38:49 8 BY MR. SHERMAN:

13:38:50 9 Q. Okay. Can we look briefly at Exhibit X.

13:39:03 10 Once you have that up, if you could tell me
13:39:05 11 what -- what does this document appear to be?

13:39:07 12 A. It appears to be a list of bills of -- with a
13:39:14 13 title -- what position the Arizona Association of Counties
13:39:20 14 had and sponsored, the status, and looks like responses --
13:39:29 15 and it looks like it -- I would see people's first name
13:39:34 16 there. I would imagine "Leslie" would be -- have been
13:39:39 17 Leslie Hoffman, but I cannot be positive on that.

13:39:42 18 Q. And you produced this document to us --
13:39:44 19 correct? -- your office?

13:39:46 20 A. Yes.

13:39:46 21 Q. And do you see on -- I think it's page 8 of 12 --
13:39:50 22 here where HB 2492 is mentioned?

13:40:02 23 MR. SHERMAN: While you're looking for that,
13:40:03 24 can we mark this as Exhibit 145.

13:40:03 25 (The document was marked as Exhibit 145

13:40:09 1 for identification.)

13:40:09 2 THE WITNESS: Yes, I can see that now.

13:40:11 3 BY MR. SHERMAN:

13:40:11 4 Q. Great.

13:40:12 5 And do you see that there was -- opposition

13:40:16 6 was recorded; correct?

13:40:17 7 A. Yes.

13:40:18 8 Q. And you see Leslie's comment "Agree with all.

13:40:21 9 There is so much wrong with this including that he's

13:40:23 10 obviously unaware of the LULAC case and federal laws"?

13:40:29 11 This is the same comment as in the other

13:40:31 12 document we were just looking at; is that correct?

13:40:34 13 A. Yes. Although I think -- well, there's Lynn right

13:40:41 14 behind it that says "opposed," but -- and I don't think

13:40:43 15 that was in the original comment.

13:40:44 16 Q. Understood. Thanks for that clarification.

13:40:47 17 So in both HB 2492 and HB 2243, the term

13:40:53 18 "information" is used. What is information that a person

13:40:57 19 is not a United States citizen?

13:41:04 20 MR. LANGHOFER: Same objection.

13:41:07 21 THE WITNESS: We would have no access to

13:41:10 22 information that someone is not a U.S. citizen unless we

13:41:16 23 actually went in and -- during our checks with the Motor

13:41:24 24 Vehicle Division, that -- and it showed up that they had --

13:41:28 25 they were a foreign national. That would be the only

13:41:30 1 information we would have.

13:41:32 2 BY MR. SHERMAN:

13:41:32 3 Q. When you run a HAVA check and ascertain that
13:41:35 4 someone was issued an F-type license, say, 15 years ago, is
13:41:40 5 that information that the person is not a U.S. citizen in
13:41:43 6 the present day?

13:41:46 7 MR. LANGHOFER: Same objection.

13:41:47 8 THE WITNESS: No.

13:41:48 9 BY MR. SHERMAN:

13:41:48 10 Q. It's -- it's -- is it conclusive evidence of a
13:41:51 11 lack of U.S. citizenship?

13:41:54 12 MR. LANGHOFER: Same objection.

13:41:56 13 THE WITNESS: No.

13:41:56 14 BY MR. SHERMAN:

13:41:56 15 Q. So what does your office do when the HAVA check
13:42:00 16 reflects that the applicant was issued an F-type license at
13:42:03 17 some point in the past?

13:42:04 18 A. We ask them to produce some proof of citizenship
13:42:10 19 to register them.

13:42:12 20 Q. And do you ask for alien registration numbers?

13:42:17 21 A. We -- it is one of the things we could ask for,
13:42:20 22 yes.

13:42:21 23 Q. Is it one of the things you do ask for?

13:42:23 24 A. Yes.

13:42:23 25 Q. Do you also ask for naturalization certificates,

13:42:28 1 either a copy of it or the number on the certificate, the
13:42:33 2 naturalization certificate number?

13:42:35 3 A. Actually, we look for a copy of it. We cannot
13:42:40 4 check a number on a naturalization certificate.

13:42:42 5 Q. There are two numbers on a naturalization
13:42:45 6 certificate; correct?

13:42:46 7 A. I believe so.

13:42:47 8 Q. And that's -- and what are those two numbers?

13:42:50 9 A. I believe there's the alien registration number,
13:42:53 10 and then there is the certificate number.

13:42:55 11 Q. And you -- why can't you check the naturalization
13:42:59 12 certificate number?

13:43:03 13 A. In our SAVE system that we are provided, there is
13:43:06 14 no place to actually enter that. And we do have people
13:43:11 15 provide it, and we ask them to give us the other number
13:43:14 16 that is on that certificate.

13:43:16 17 Q. And by "the other number," you mean the alien
13:43:20 18 registration number or A-number; correct?

13:43:21 19 A. Yes.

13:43:22 20 Q. Can we take a look -- just backtracking a little
13:43:25 21 bit, can we look at Exhibit H here in your folder.

13:43:38 22 A. Okay.

13:43:39 23 Q. What is this document?

13:43:41 24 A. It's an email with the subject "Forward HB 2492."

13:43:41 25 MR. SHERMAN: Could we mark this --

13:43:41 1 BY MR. SHERMAN:

13:43:52 2 Q. Who's it from?

13:43:54 3 A. It is from Leslie Hoffman.

13:43:58 4 MR. SHERMAN: And can we mark this as
13:44:00 5 Exhibit 146.

13:44:00 6 (The document was marked as Exhibit 146
13:44:06 7 for identification.)

13:44:06 8 BY MR. SHERMAN:

13:44:06 9 Q. If I could have you look at -- before we switch
13:44:11 10 away from this document, this document at the top right has
13:44:15 11 Leslie Hoffman saying, quote, "We decided rather than try
13:44:19 12 to hash our concerns with HB 2492 over the phone, we would
13:44:22 13 compile our notes and send to the SOS"; is that correct?

13:44:25 14 A. Yes.

13:44:26 15 Q. And if we could look at Exhibit K in your folder,
13:44:37 16 what does this document appear to be?

13:44:39 17 A. It's an email from Leslie Hoffman on the subject
13:44:46 18 of HB 2492.

13:44:51 19 Q. If you need to toggle between the two, that's
13:44:53 20 fine.

13:44:53 21 Is this the same -- part of the same chain
13:44:55 22 that we were just looking at?

13:44:58 23 A. Yes, I believe so.

13:45:03 24 MR. SHERMAN: Could we mark this as
13:45:05 25 Exhibit 147.

13:45:05 1 (The document was marked as Exhibit 147
13:45:08 2 for identification.)

13:45:08 3 BY MR. SHERMAN:

13:45:09 4 Q. So sticking with this part of the chain,
13:45:12 5 Exhibit 147, do you see on this page under the comments on
13:45:16 6 page 5 it reads, "The only time we know or presume a
13:45:22 7 registrant is not a foreign citizen it would show as an
13:45:25 8 F-type DL. However in our experience, these people have
13:45:30 9 been naturalized and just forgot to change their DL."

13:45:34 10 Did I read that correctly?

13:45:34 11 A. Yes.

13:45:35 12 Q. Could you elaborate on what your -- what Leslie
13:45:37 13 Hoffman was expressing in that sentence -- in those two
13:45:42 14 sentences?

13:45:43 15 A. It is not uncommon when we have an F-type license
13:45:48 16 that the person had not updated their driver's license and
13:45:53 17 they had become a naturalized citizen. And because they
13:45:58 18 had not updated their driver's license, when we run the
13:46:02 19 HAVA checks, they still come back up with the foreign
13:46:06 20 national designation.

13:46:08 21 Q. And is that why you have to take further steps
13:46:10 22 with the SAVE system?

13:46:13 23 A. Yes. If -- if we get an alien registration
13:46:17 24 number, we -- we would do that. They may provide an
13:46:22 25 updated driver's license or a passport that could -- or

13:46:27 1 give us an actual -- show us the certificate. And we could
13:46:32 2 then process that.

13:46:34 3 Q. Understood.

13:46:34 4 So leaving aside the MVD databases, if some
13:46:38 5 other government database contained data showing that a
13:46:42 6 person in question was not a citizen some 20 years in the
13:46:47 7 past, that wouldn't be information that the person has a --
13:46:52 8 is -- in the present day, lacks citizenship; correct?

13:46:55 9 MR. LANGHOFER: Objection.

13:46:58 10 THE WITNESS: Yes, that's correct.

13:47:00 11 MR. HORLEY: Calls for a legal conclusion.

13:47:01 12 BY MR. SHERMAN:

13:47:01 13 Q. Would you need to follow similar follow-up
13:47:04 14 procedures to confirm or deny whether that person is a U.S.
13:47:09 15 citizen in the present day?

13:47:10 16 A. Yes.

13:47:12 17 Q. So government databases that contain old
13:47:22 18 information on transactions completed with a voter
13:47:28 19 registration applicant or a particular registered voter,
13:47:31 20 can they ever be conclusive as to present day U.S.
13:47:35 21 citizenship?

13:47:37 22 A. No.

13:47:43 23 Q. What are valid -- I'm going to ask about what --
13:47:46 24 you know, sort of valid sources of information.

13:47:49 25 MR. SHERMAN: And, Kory, do you want to enter

13:47:51 1 our usual standing agreed-upon objection for form and calls
13:47:56 2 for a legal conclusion here?

13:47:57 3 MR. LANGHOFER: Yes. Thanks, Jon.

13:48:00 4 MR. SHERMAN: All right. I'll tell -- I'll
13:48:01 5 note when we're coming out of that.

13:48:01 6 BY MR. SHERMAN:

13:48:01 7 Q. So what are -- what are some valid sources of
13:48:03 8 information that someone is not a U.S. citizen? Could it
13:48:06 9 be anything beyond a government or voter registration
13:48:10 10 database?

13:48:10 11 A. Not -- not to my knowledge.

13:48:14 12 Q. Could a phone call from the voter in question
13:48:18 13 constitute information that they are not a U.S. citizen?

13:48:24 14 A. Not that we would use, no.

13:48:26 15 Q. Could an email from that voter in question or
13:48:30 16 voter registration applicant constitute information that
13:48:33 17 they are not U.S. citizens?

13:48:35 18 A. No. Same -- same. We would not use that.

13:48:39 19 Q. How about a signed letter from that voter or voter
13:48:42 20 registration applicant?

13:48:42 21 A. No.

13:48:44 22 Q. How about a phone call from a member of the voter
13:48:47 23 or voter registration applicant's family?

13:48:50 24 A. No.

13:48:51 25 Q. What about a letter from a neighbor of the voter

13:48:54 1 or voter registration applicant?

13:48:56 2 A. No.

13:48:57 3 Q. Would a phone call from law enforcement in Arizona
13:49:02 4 or any state constitute information that the voter or voter
13:49:08 5 registration applicant is not a U.S. citizen?

13:49:13 6 A. In that situation, I believe we would ask for --
13:49:15 7 if they could produce evidence of that if it was from a
13:49:21 8 governmental agency.

13:49:22 9 Q. And what sort of evidence could law enforcement in
13:49:27 10 Arizona or another state provide that would constitute
13:49:30 11 evidence of a lack of U.S. citizenship?

13:49:35 12 A. That I do not know specifically.

13:49:37 13 Q. Okay. Have you ever been provided with guidance
13:49:43 14 from the U.S. -- from the Arizona Secretary of State's
13:49:46 15 Office as to what would constitute evidence of a lack of
13:49:49 16 U.S. citizenship in such circumstances?

13:49:53 17 A. I don't believe so. Not to my recollection.

13:49:57 18 Q. Would an email or letter from law enforcement in
13:50:01 19 Arizona or in another state constitute information that the
13:50:05 20 voter or voter registration applicant was not a U.S.
13:50:09 21 citizen?

13:50:10 22 A. No.

13:50:12 23 Q. How about an anonymous call or an anonymous email?

13:50:16 24 A. No.

13:50:17 25 Q. And what about lists provided by third-party

13:50:21 1 organizations like True the Vote?

13:50:23 2 A. No.

13:50:27 3 MR. SHERMAN: So that will end the
13:50:30 4 agreed-upon objection. We'll just be on standard operating
13:50:33 5 procedure now.

13:50:35 6 MR. LANGHOFER: Noted. Thanks.

13:50:36 7 BY MR. SHERMAN:

13:50:36 8 Q. So for HB 2492, by what means could you -- could
13:50:41 9 your office confirm the authenticity of information that a
13:50:46 10 voter registration applicant is not a U.S. citizen?

13:50:51 11 A. I don't believe -- beside what's in here in 2492,
13:50:57 12 I don't think there's anything we could use to confirm they
13:51:02 13 were not a citizen. Just --

13:51:07 14 Q. Sorry. Go ahead. I didn't mean to interrupt.

13:51:08 15 A. Again, just our HAVA checks, you know, as we spoke
13:51:11 16 about before, is the only thing we have.

13:51:17 17 Q. By -- under HB 2243, by what means can you confirm
13:51:22 18 the accuracy -- excuse me. Let me strike that.

13:51:26 19 Under HB 2243, by what means can you confirm
13:51:30 20 the authenticity of information that a registered voter is
13:51:34 21 not a U.S. citizen?

13:51:37 22 A. It would -- I believe that is the one where they
13:51:56 23 may put that they're not a citizen on a juror form. I'm
13:52:08 24 looking through the --

13:52:09 25 Q. Let me -- let me withdraw this question. We'll

13:52:11 1 come back to this. I'll talk more about this more
13:52:11 2 specifically in a second.

13:52:15 3 Has the Secretary of State's Office ever
13:52:17 4 given you -- your office a list of information that
13:52:19 5 constitutes evidence of a lack of U.S. citizenship?

13:52:26 6 A. Only in the Elections Procedures Manual with
13:52:33 7 finding the HAVA check with the -- what used to be called
13:52:36 8 F-type license.

13:52:38 9 Q. Okay. Has he given -- has the Secretary of
13:52:42 10 State's Office given a more comprehensive list of
13:52:45 11 everything that would constitute evidence of a lack of U.S.
13:52:48 12 citizenship?

13:52:49 13 A. Not to my knowledge.

13:52:51 14 Q. What if you identify a registered voter who has
13:52:54 15 already satisfied the DPOC requirement -- withdraw that
13:52:59 16 question.

13:53:00 17 What if you identify a registered voter who
13:53:03 18 is exempt from the DPOC requirement because they were
13:53:05 19 grandfathered in under that provision in the DPOC law
13:53:09 20 because they registered prior to 2005 when DPOC went into
13:53:14 21 effect, would their lack of having shown DPOC at any point,
13:53:18 22 would that be information tending to show that they're not
13:53:21 23 a U.S. citizen?

13:53:22 24 A. No.

13:53:29 25 MR. HORLEY: Same objection. Calls for

13:53:36 1 legal conclusion.

13:53:36 2 BY MR. SHERMAN:

13:53:36 3 Q. HB 2492 uses the phrase "any other state, city,
13:53:43 4 town, county, or federal database and any other database
13:53:47 5 relating to voter registration."

13:53:50 6 What is a database relating to voter
13:53:53 7 registration?

13:53:54 8 MR. LANGHOFER: Same objection.

13:53:57 9 THE WITNESS: The only one I know of is our
13:53:59 10 actual database we use, the AVID system.

13:54:02 11 BY MR. SHERMAN:

13:54:02 12 Q. And beyond AVID, could a list of voters received
13:54:06 13 from an Arizona agency, another state's government agency,
13:54:10 14 a private group or a private citizen -- could that
13:54:13 15 constitute a database relating to voter registration?

13:54:18 16 MR. LANGHOFER: Same objection.

13:54:21 17 THE WITNESS: I don't know how to answer that
13:54:22 18 question. I don't know if it does or does not.

13:54:23 19 BY MR. SHERMAN:

13:54:24 20 Q. Is it clear or unclear?

13:54:26 21 A. It's unclear.

13:54:31 22 Q. Let's take a look at HB 2492 -- excuse me -- HB
13:54:39 23 2243. I apologize.

13:54:42 24 And if you could scroll down to
13:54:48 25 Subpart A(10) -- 16-165 A(10), which is on page -- my

13:54:58 1 apologies -- top of page 4.

13:54:58 2 A. Yes.

13:55:02 3 Q. And you see that it says, "When the county
13:55:03 4 recorder obtains information pursuant to this section and
13:55:07 5 confirms that the person registered is not a United States
13:55:10 6 citizen."

13:55:13 7 Do you see that section?

13:55:15 8 A. Yes.

13:55:15 9 Q. And I read that language correctly?

13:55:17 10 A. Yes.

13:55:18 11 Q. And do you see at the bottom of page 5 through --
13:55:23 12 onto page 6 Subparts F through J? If you could take a
13:55:34 13 moment just to review Subparts F through J.

13:55:37 14 A. Okay.

13:56:09 15 Q. Just let me know when you're done.

13:56:11 16 A. I've -- I've looked it over.

13:56:13 17 Q. Great.

13:56:14 18 So this Section A(10) that we were just
13:56:18 19 looking at before requires cancellation when the county
13:56:22 20 recorder obtains information pursuant to the section and
13:56:24 21 confirms that the person registered is not a United States
13:56:27 22 citizen.

13:56:28 23 Do you understand how you would obtain that
13:56:32 24 information that a person registered is not a United States
13:56:34 25 citizen?

13:56:37 1 A. No, I don't know how we would actually ascertain
13:56:40 2 that.

13:56:41 3 Q. Are the enumerated database matching requirements
13:56:45 4 or procedures in F through J, are those -- are those the
13:56:49 5 means by which your office would be required to obtain
13:56:53 6 information of a lack of citizenship?

13:56:56 7 MR. LANGHOFER: Same objections.

13:56:57 8 MR. HORLEY: Same objection.

13:56:58 9 THE WITNESS: I believe -- if we had access
13:57:00 10 to those and it would provide us that information, I
13:57:06 11 believe we would have to do it.

13:57:08 12 BY MR. SHERMAN:

13:57:13 13 Q. So how would your office then confirm the
13:57:16 14 information that it had separately obtained?

13:57:20 15 Are -- are these provisions in F through J --
13:57:23 16 these database matching provisions, are they intended for
13:57:27 17 confirmation of information that is separately obtained?

13:57:33 18 MR. LANGHOFER: Foundation.

13:57:34 19 THE WITNESS: I believe so.

13:57:34 20 BY MR. SHERMAN:

13:57:35 21 Q. So are you supposed to obtain information of a
13:57:37 22 lack of citizenship using F through J or confirm
13:57:44 23 information of a lack of citizenship using F through J?

13:57:47 24 MR. LANGHOFER: Form. Calls for a legal
13:57:51 25 conclusion.

13:57:51 1 THE WITNESS: I would say that what they're
13:57:58 2 asking for is to probably confirm it because it's already
13:58:05 3 in our database to confirm that citizenship.

13:58:08 4 BY MR. SHERMAN:

13:58:12 5 Q. Is it clear or unclear whether you're supposed to
13:58:14 6 use Subparts F through J to obtain information of a lack of
13:58:18 7 citizenship or to confirm information of a lack of U.S.
13:58:22 8 citizenship?

13:58:22 9 MR. LANGHOFER: Same objection.

13:58:26 10 THE WITNESS: I -- I believe it's to confirm
13:58:31 11 those who are already registered who -- by -- I believe are
13:58:40 12 either citizens, that have proven citizenship or, as we
13:58:43 13 would say, are fed-only voters. They have attested that
13:58:47 14 they are citizens.

13:58:48 15 BY MR. SHERMAN:

13:58:49 16 Q. Well, let's look back at A -- A and A(10). And
13:58:53 17 maybe we should just start at the top of the statute on --
13:58:59 18 16-165 begins at the top of page 3.

13:59:03 19 A. Okay.

13:59:04 20 Q. And this says, "A, The county recorder shall
13:59:08 21 cancel a registration"; correct?

13:59:11 22 A. Yes.

13:59:12 23 Q. In line 6.

13:59:12 24 So this statute only applies to removal or
13:59:17 25 cancellation of a registration of an existing registered

13:59:21 1 voter; correct?

13:59:21 2 A. Yes.

13:59:22 3 Q. All right. So in Subpart A(10) on page 4, the
13:59:28 4 circumstance in which the county recorder is to remove or
13:59:30 5 cancel that registration is when the county recorder
13:59:34 6 obtains information pursuant to the section and confirms
13:59:38 7 that the person registered is not a United States citizen;
13:59:41 8 is that correct?

13:59:42 9 A. Yes.

13:59:42 10 Q. And the -- do you understand how this provision
13:59:48 11 interrelates and operates in conjunction with F through J
13:59:54 12 below?

13:59:55 13 A. I -- I'm not particularly clear on that, to be
14:00:01 14 quite honest with you.

14:00:03 15 Q. All right. Could we take a look at Exhibit I.

14:00:17 16 What is Exhibit I?

14:00:18 17 A. House Bill 2617.

14:00:24 18 MR. SHERMAN: Can we mark this as -- I
14:00:26 19 believe this is Exhibit 148.

14:00:26 20 (The document was marked as Exhibit 148
14:00:29 21 for identification.)

14:00:29 22 BY MR. SHERMAN:

14:00:29 23 Q. And this is the "Senate Engrossed" version of that
14:00:33 24 House Bill; correct?

14:00:33 25 A. Yes.

14:00:34 1 Q. Was this the -- was this bill the precursor to HB
14:00:38 2 2243?
14:00:39 3 A. I believe so.
14:00:40 4 Q. Did you have conversations about HB 2617 as well?
14:00:45 5 A. I -- I don't remember if it was specifically this
14:00:50 6 bill or the items in the bill that got carried over to the
14:00:58 7 surviving bill, I guess I would put it.
14:01:02 8 Q. Understood.
14:01:05 9 A. Yeah.
14:01:05 10 Q. And was this bill vetoed?
14:01:07 11 A. I believe so, yes.
14:01:07 12 Q. And was that -- was it vetoed in May 2022? Do you
14:01:12 13 recall?
14:01:12 14 A. I do not recall when it was vetoed.
14:01:14 15 Q. Fair enough.
14:01:17 16 Could we take a look at Exhibit Q.
14:01:28 17 What is Exhibit Q?
14:01:30 18 A. Went back to -- there we go. Exhibit Q, it says,
14:01:42 19 "HB 2617 - Voter registration; cancellation; causes."
14:01:48 20 Q. And could you scroll down -- oh, sorry.
14:01:51 21 MR. SHERMAN: I should mark this as
14:01:52 22 Exhibit 149.
14:01:52 23 (The document was marked as Exhibit 149
14:01:53 24 for identification.)
14:01:53 25 BY MR. SHERMAN:

14:01:54 1 Q. Could you scroll down to Yavapai County, bottom of
14:01:59 2 page 2, Leslie Hoffman of Yavapai County.

14:02:01 3 A. Yes.

14:02:02 4 Q. And do you see that it listed under "Programmatic
14:02:05 5 Impact" "Significant"?

14:02:07 6 A. Yes.

14:02:09 7 Q. And why did your office believe this would have a
14:02:11 8 significant programmatic impact?

14:02:14 9 A. Well, from, I believe, our standpoint, how we
14:02:20 10 would get the data from the MVD and whether they could
14:02:24 11 actually get the data. And then how do we match it up with
14:02:28 12 what we have in ours.

14:02:32 13 And then there were questions about --
14:02:35 14 they're talking about databases, and we had no idea which
14:02:38 15 actually ones those would be. So . . .

14:02:41 16 Q. And you see -- and so that was the basis for the
14:02:44 17 opposition to this bill?

14:02:46 18 A. I believe so, yes.

14:02:47 19 Q. And do you see under "Description of Provisions"
14:02:51 20 where Leslie Hoffman recorded "What city, town, and federal
14:02:56 21 databases are they talking about? I could go on and on"?

14:02:57 22 A. Yes.

14:03:06 23 Q. If you could flip back to HB 2617, which we marked
14:03:09 24 as Exhibit 148, but it's Exhibit I in your folder. If you
14:03:23 25 could flip down to page -- I think it's bill page number 3.

14:03:30 1 Yeah. Page number 4 of the -- at the bottom of the bill,
14:03:36 2 it's page number 3.

14:03:37 3 A. Okay. I'm there.

14:03:38 4 Q. And F through J, provisions Subpart F through J
14:03:44 5 are somewhat similar; right? Or quite similar to what was
14:03:48 6 included in HB 2243; is that correct?

14:03:51 7 If you want to take a moment to review,
14:03:53 8 that's fine.

14:03:53 9 A. I will take a moment. Yes, they appear similar.

14:04:15 10 Q. If we could take a look at Exhibit 77. This was
14:04:20 11 previously marked in Hilary Hiser's deposition. So Hiser
14:04:25 12 Exhibit 77.

14:04:35 13 A. Okay. Different folder.

14:04:53 14 Q. Just let me know when you're there.

14:04:58 15 A. Okay. I'm there.

14:04:59 16 Q. And this is a series of emails from Karen
14:05:06 17 McCracken; correct?

14:05:07 18 A. Yes.

14:05:08 19 Q. And if you can scroll down to where she's talking
14:05:11 20 about 10 (F) .

14:05:16 21 A. Yes.

14:05:16 22 Q. On -- at the bottom of page 1 -- let's do that
14:05:19 23 first.

14:05:19 24 Bottom of page 1, this email from Karen
14:05:22 25 McCracken, the Subject is "Forward: ASAP - Need feedback

14:05:25 1 on revised 2617."

14:05:28 2 What is Karen referring to by using the
14:05:32 3 phrase "revised 2617"?

14:05:37 4 A. I don't know.

14:05:38 5 Q. Is that the bill that became 2243?

14:05:43 6 A. Again, I don't know. I --

14:05:46 7 Q. Okay.

14:05:46 8 A. I wouldn't doubt it, but I do not know.

14:05:49 9 Q. But 2617 is the bill we were just looking at that
14:05:55 10 was vetoed; correct?

14:05:57 11 A. Yes.

14:05:58 12 Q. And you see under Item 10(F), she wrote, "What are
14:06:01 13 we supposed to do with this information? Send a notice?
14:06:04 14 We certainly cannot change their voter registration."

14:06:08 15 Do you recall what Karen -- Karen's thinking
14:06:12 16 was in writing that?

14:06:14 17 A. No, I do not recall what her thinking was.

14:06:17 18 Q. Do you know what idea she was expressing here?

14:06:23 19 A. I'd have to look back at 10(F). If 10(F) is --

14:06:27 20 Q. That's fine. It's Exhibit I again.

14:06:32 21 A. Okay.

14:07:09 22 Q. Do you see 10(F)?

14:07:10 23 A. Yes.

14:07:10 24 Q. Okay. So this is the provision that deals with
14:07:13 25 the MVD; correct?

14:07:14 1 A. Yes.

14:07:14 2 Q. And so when Karen said, "We certainly cannot
14:07:18 3 change their voter registration," what was she expressing?

14:07:23 4 A. I believe that it's -- was that if they say
14:07:29 5 someone has changed their residence address, that we -- we
14:07:36 6 can't just go change their voter registration because of
14:07:38 7 that; or is not a United States citizen, we can't just go
14:07:47 8 change that voter registration.

14:07:51 9 Q. That would not be a base -- if the MVD database
14:07:55 10 contained information showing they had an F-type license at
14:07:58 11 some point in the past, your testimony is that Karen was
14:08:02 12 expressing that you couldn't just remove someone from the
14:08:05 13 rolls based on that old information; is that correct?

14:08:08 14 A. That was -- that would be correct, because we
14:08:11 15 would have updated information of the proof that they had
14:08:15 16 given us.

14:08:17 17 THE COURT REPORTER: I'm sorry. Kory, did
14:08:18 18 you object?

14:08:21 19 MR. LANGHOFER: I did.

14:08:24 20 THE COURT REPORTER: If you could just pause
14:08:26 21 a moment to make sure I get the objections, that would be
14:08:29 22 great.

14:08:31 23 BY MR. SHERMAN:

14:08:31 24 Q. If you could just take a quick look at 10(G).

14:08:33 25 "To the extent practicable, each month the

14:08:38 1 county recorder shall compare the county's registration
14:08:38 2 database to the Social Security Administration database."

14:08:42 3 Back on the Hiser Exhibit 77 -- if you could
14:08:46 4 go back to that, please.

14:08:47 5 A. Okay.

14:08:49 6 Q. Do you see on page 2 where Karen McCracken wrote,
14:08:56 7 "What are we supposed to do with this information? What
14:08:58 8 are we looking for?"

14:09:01 9 A. Yes.

14:09:02 10 Q. Do you understand how Social Security databases
14:09:05 11 could be used for citizenship verification?

14:09:08 12 A. I do not. I don't know that -- I know noncitizens
14:09:17 13 can have a Social Security number. I don't know if there's
14:09:22 14 a way to use that.

14:09:24 15 Q. Do you know anything about what citizenship data
14:09:28 16 is included in SSA's databases?

14:09:33 17 A. No.

14:09:34 18 Q. And I take it you don't know of -- I'll strike
14:09:37 19 that.

14:09:40 20 Okay. If we could look back at HB 2243,
14:09:43 21 which I believe you have in front of you.

14:09:45 22 A. Yes.

14:09:46 23 Q. If you look down at 16-165(A)(H) -- excuse me --
14:09:56 24 just H -- 16-165(H). Just let me know when you're there.
14:10:15 25 Should be on page 6.

14:10:17 1 A. Yes. I'm there.

14:10:18 2 Q. "To the extent practicable, each month the county
14:10:21 3 recorder shall compare persons who are registered to vote
14:10:24 4 in that county and who the county recorder has reason to
14:10:26 5 believe are not United States citizens . . . with the
14:10:31 6 Systematic Alien Verification for Entitlements program
14:10:34 7 maintained by the U.S. Citizenship and Immigration Services
14:10:38 8 to verify the citizenship status of the persons
14:10:41 9 registered."

14:10:43 10 What would give your office a reason to
14:10:45 11 believe a person is not a United States citizen?

14:10:48 12 MR. LANGHOFER: Same objection.

14:10:49 13 MR. HORLEY: Calls for a legal conclusion.

14:10:52 14 THE WITNESS: We -- I don't know of anything
14:10:56 15 that would as far as the checks and things that we have
14:11:00 16 that would give us a notion that someone is not a U.S.
14:11:05 17 citizen.

14:11:05 18 BY MR. SHERMAN:

14:11:05 19 Q. Has the Secretary of State's Office provided your
14:11:08 20 office with a list of what would give you or your staff a
14:11:12 21 valid reason to believe someone is not a United States
14:11:14 22 citizen?

14:11:17 23 A. Only in the Election Procedures Manual with a
14:11:22 24 F-type license.

14:11:23 25 Q. Okay. Has the Secretary of State's Office ever

14:11:25 1 provided your office with a list of what will not give you
14:11:29 2 or your staff a valid reason to believe someone is not a
14:11:32 3 United States citizen?

14:11:32 4 A. I don't believe so.

14:11:35 5 Q. Is this language "has reason to believe are not
14:11:40 6 United States citizens" -- is that clear or unclear?

14:11:46 7 MR. LANGHOFER: Same objection.

14:11:49 8 THE WITNESS: It is unclear.

14:11:50 9 BY MR. SHERMAN:

14:11:51 10 Q. I'm going to provide you with the same scenarios
14:11:53 11 as before. We're just going to focus on this language in
14:11:56 12 Subpart H.

14:11:57 13 MR. SHERMAN: Kory, do you want to enter the
14:11:59 14 form and calls for a legal conclusion objections for this
14:12:02 15 series?

14:12:03 16 MR. LANGHOFER: Yes. Thanks, Jon.

14:12:05 17 BY MR. SHERMAN:

14:12:06 18 Q. Would anything beyond a government or voter
14:12:09 19 registration database give your office reason to believe
14:12:11 20 that a registered voter is not a United States citizen?

14:12:16 21 A. No.

14:12:17 22 Q. Can a phone call from the voter in question give
14:12:21 23 you reason to believe that that voter is not a United
14:12:24 24 States citizen?

14:12:26 25 A. No.

14:12:27 1 Q. How about an email from the voter in question?

14:12:29 2 A. No.

14:12:29 3 Q. A signed letter from the voter in question?

14:12:32 4 A. No.

14:12:32 5 Q. How about a phone call from a member of that

14:12:35 6 voter's family?

14:12:36 7 A. No.

14:12:37 8 Q. A letter from a neighbor of that voter?

14:12:40 9 A. No.

14:12:40 10 Q. Would a phone call from law enforcement in Arizona

14:12:45 11 give your office reason to believe that a voter, a

14:12:49 12 particular voter, is not a United States citizen?

14:12:52 13 A. Again, I would ask for them to produce some

14:12:55 14 evidence of that before we could do anything with that.

14:12:59 15 Q. Understood.

14:13:00 16 But would it give your office reason to

14:13:02 17 believe that they're not a United States citizen such that

14:13:06 18 you would perform this SAVE system check outlined in

14:13:09 19 Subpart H?

14:13:10 20 A. No.

14:13:12 21 Q. Would a email or letter from -- excuse me. Let me

14:13:21 22 back up one.

14:13:21 23 Would a phone call from law enforcement in

14:13:23 24 another state give you or your office reason to believe

14:13:27 25 that someone is not -- a registered voter is not a U.S.

14:13:31 1 citizen?

14:13:34 2 A. Again, we would ask for evidence, but the SAVE
14:13:37 3 system would not -- we would not check the SAVE system. It
14:13:41 4 wouldn't do us any good, so . . .

14:13:44 5 Q. So this -- this statutory provision that we just
14:13:49 6 read -- right? -- would require your office to conduct a
14:13:52 7 SAVE system check if you had reason to believe a registered
14:13:56 8 voter is not a U.S. citizen; is that correct?

14:13:58 9 A. Yes.

14:13:59 10 Q. Would a phone call from law enforcement in Arizona
14:14:03 11 or another state give you reason to believe that someone is
14:14:06 12 not a U.S. citizen such that you would have to perform that
14:14:09 13 SAVE system check?

14:14:13 14 A. Quite possibly, yes.

14:14:16 15 Q. Would an email or letter from law enforcement in
14:14:19 16 Arizona or another state give your office reason to believe
14:14:23 17 that that registered voter is not a U.S. citizen such that
14:14:26 18 you would have to perform this SAVE system check?

14:14:30 19 A. Again, quite possibly, yes.

14:14:32 20 Q. How about an anonymous call or an anonymous email?

14:14:35 21 A. No.

14:14:36 22 Q. What about lists provided by third-party
14:14:40 23 organizations like True the Vote?

14:14:41 24 A. No.

14:14:41 25 Q. What if the registered voter transposed their

14:14:45 1 first and last name on the registration form such that
14:14:47 2 their first name was in the last name field and the last
14:14:50 3 name was in the first name field? Would that give you
14:14:54 4 reason to believe that that registered voter was not a U.S.
14:14:56 5 citizen?

14:14:58 6 A. No.

14:15:01 7 Q. What if the registered voter recorded a foreign
14:15:04 8 place of birth on their form?

14:15:06 9 A. No.

14:15:06 10 Q. What if you identify a registered voter who has
14:15:11 11 already satisfied the DPOC requirement but still holds an
14:15:13 12 F-type license in the MVD database? Is that reason to
14:15:17 13 believe they are not, in fact, U.S. citizens?

14:15:19 14 A. No.

14:15:19 15 Q. What about voters who are exempt from the DPOC
14:15:24 16 requirement under that safe harbor provision of the DPOC
14:15:28 17 law, would that failure or exemption from the DP- --
14:15:31 18 failure to show DPOC -- would that give your office a
14:15:34 19 reason to believe they're not U.S. citizens?

14:15:35 20 A. No.

14:15:36 21 Q. Has your office received any guidance on when your
14:15:40 22 office -- strike that. Covered that already.

14:15:45 23 If we could look back at Hiser Exhibit 77.
14:15:49 24 You may still have that up on your screen.

14:15:51 25 A. Yes, I have it.

14:15:52 1 Q. Okay. Great. Let me scroll back to that real
14:15:56 2 quick.

14:15:56 3 Do you see under 10(H) -- Item 10(H) on
14:16:00 4 page 2?

14:16:01 5 A. Yes.

14:16:01 6 Q. Karen McCracken wrote, "What would give us reason
14:16:04 7 to believe they are not a citizen? An anonymous tip?"

14:16:10 8 Do you know -- do you share her skeptical
14:16:15 9 view of this provision?

14:16:17 10 A. Yes.

14:16:19 11 Q. If we could look at Petty Exhibit 20. Goes back a
14:16:36 12 little ways.

14:16:39 13 Do you want to take a moment to review this
14:16:41 14 email from Stephen Richer?

14:16:45 15 A. Petty Exhibit 20?

14:16:50 16 Q. And what's -- and just take a look first at the
14:16:53 17 Subject line here "Re: ASAP - need feedback on revised
14:17:00 18 2617."

14:17:01 19 So Stephen Richer was responding to the same
14:17:04 20 legislative proposal; correct?

14:17:06 21 A. I believe so.

14:17:07 22 Q. And he wrote: "Does this get rid of the situation
14:17:11 23 whereby any person can submit us lists that we" have --
14:17:14 24 "then have to check. E.g.," quote, "Hi, I used my super
14:17:18 25 secret research program to figure out that these 300,000

14:17:21 1 people are not citizens. Please check the citizenship of
14:17:24 2 every single one of them right now."

14:17:27 3 Do you think that HB 2243's reason-to-believe
14:17:34 4 provision still leaves open this risk or threat that a
14:17:39 5 third-party group could provide your office with a list of
14:17:43 6 people they suspect are not citizens and thereby obligate
14:17:47 7 your office to check all of them?

14:17:53 8 A. I don't know.

14:17:56 9 Q. Is it clear or unclear?

14:17:58 10 A. It is unclear what is reason to believe. What is
14:18:05 11 the standard of that? I -- I don't know what the standard
14:18:08 12 is.

14:18:09 13 Q. It's possible that it could be interpreted to
14:18:14 14 allow third-party groups to give your office a list of
14:18:19 15 registered voters that you would then have to run through
14:18:21 16 the SAVE system?

14:18:23 17 A. It is possible.

14:18:25 18 Q. Thank you.

14:18:27 19 A number of these provisions in HB 2243, such
14:18:32 20 as, I believe, F -- let me just go back to it.

14:18:43 21 A number of these provisions, like G, H, and
14:18:46 22 J on page 6, use the phrase "to the extent practicable."
14:18:54 23 Do you see that language?

14:18:55 24 A. Yes.

14:18:55 25 Q. Do you understand who would make the call as to

14:18:59 1 whether it's practicable or not?

14:19:02 2 A. No.

14:19:04 3 Q. Could it be your office?

14:19:06 4 A. It certainly could be.

14:19:08 5 Q. Could it be the Arizona Secretary of State's

14:19:11 6 Office?

14:19:11 7 A. That's a possibility.

14:19:13 8 Q. Could it be some other agency or entity?

14:19:17 9 A. Again, I don't know how broad that can be

14:19:22 10 interpreted.

14:19:24 11 Q. Is this language "to the extent practicable" clear

14:19:27 12 or unclear?

14:19:30 13 A. It is unclear.

14:19:31 14 Q. If we could look quickly at Exhibit J. And what

14:19:44 15 does this appear to be?

14:19:46 16 A. It -- it's an email from Leslie Hoffman to

14:19:51 17 Jennifer Marson on -- re: "HB 2617 - Does the Amendment

14:19:57 18 Change Your Position?"

14:20:00 19 MR. SHERMAN: Could we mark this as

14:20:01 20 Exhibit 150.

14:20:01 21 (The document was marked as Exhibit 150

14:20:01 22 for identification.)

14:20:01 23 BY MR. SHERMAN:

14:20:03 24 Q. And if you scroll down -- so up top, you can see

14:20:07 25 Leslie Hoffman wrote, "Still oppose. Agree with Robyn and

14:20:11 1 Patty"; correct?

14:20:11 2 A. Yes.

14:20:11 3 Q. And down below, the email that preceded it asks --
14:20:19 4 asked your office to review whether the phrases "if
14:20:23 5 practicable" or "if the county has access" changed anything
14:20:28 6 for them in terms of their opposition to 2617; is that
14:20:31 7 correct?

14:20:31 8 A. Yes.

14:20:32 9 Q. And do you recall the thinking at the office -- at
14:20:37 10 your office as to why those -- the addition of those
14:20:41 11 phrases didn't change the office's opposition to 2617?

14:20:46 12 A. I believe, if my recollection is correct, that it
14:20:51 13 was still unclear. And it would have been a lot if we had
14:20:58 14 to do these things. Many of them would be a complete waste
14:21:01 15 of time because those databases aren't going to give us the
14:21:05 16 information that it seems someone thought they would.

14:21:09 17 Q. If we could look at HB 2492 again. And I just
14:21:17 18 want to direct your attention to provision on page 7. This
14:21:29 19 is A.R.S. 16-143. You see that? If you can just take a
14:21:37 20 moment to review that language.

14:21:57 21 So this -- this provision, 16-143, required
14:22:03 22 the secretary of state and each county recorder to make
14:22:07 23 available to the general attorney a list of all individuals
14:22:10 24 who are registered to vote and who have not provided DPOC;
14:22:13 25 is that correct?

14:22:13 1 A. Yes.

14:22:14 2 Q. And there was a deadline of October 31st, 2022;
14:22:18 3 correct?

14:22:18 4 A. Yes.

14:22:18 5 Q. Now that that deadline has come and gone, is your
14:22:23 6 office no longer obligated to provide these lists?

14:22:31 7 MR. LANGHOFER: Same objection.

14:22:32 8 THE WITNESS: I don't see a requirement that
14:22:34 9 we need to provide the list.

14:22:36 10 BY MR. SHERMAN:

14:22:38 11 Q. If we could take a look quickly at Exhibit K. Oh,
14:22:53 12 I'm sorry. We've introduced this before.

14:22:54 13 Just for the record, this is -- it will be
14:22:57 14 Exhibit K in your folder. It's the correct exhibit. But
14:23:02 15 for others' reference, this is 147.

14:23:07 16 And do you see at the bottom here under
14:23:14 17 "Comments" on page 7 where it says, "But: 16-143A - if we
14:23:21 18 read this right, this is a one-time report as a specific
14:23:25 19 date was given. If this entire law was extended to
14:23:29 20 12-31-22," we will -- "will we never have to provide the
14:23:33 21 report?"

14:23:34 22 Do you see that language?

14:23:35 23 A. Yes.

14:23:35 24 Q. Did your office ever get an answer or resolution
14:23:40 25 to this question?

14:23:45 1 A. Not to my knowledge.

14:23:46 2 Q. Is it clear or unclear whether you need to provide
14:23:49 3 that list to the AG?

14:23:51 4 MR. LANGHOFER: Same objection.

14:23:52 5 THE WITNESS: I -- I don't understand the
14:23:58 6 question as to the timing of providing that, that list.

14:24:04 7 BY MR. SHERMAN:

14:24:04 8 Q. Okay. I'll withdraw the question.

14:24:06 9 MR. SHERMAN: We've been going for a fair
14:24:09 10 amount of time. Would now be a good time to take a 10- or
14:24:13 11 15-minute break before we move onto the next session?

14:24:16 12 THE WITNESS: Sure.

14:24:17 13 MR. SHERMAN: Why don't we take 15 and come
14:24:18 14 back at what, I believe, will be 2:39 your time.

14:24:24 15 Okay. We can go off the record.

14:24:26 16 THE VIDEOGRAPHER: We're off the record.
14:24:27 17 Time on the video monitor is 2:24 p.m.

14:24:32 18 (A recess ensued.)

14:39:51 19 THE VIDEOGRAPHER: We are on the record.
14:40:11 20 Time on the video monitor is 2:40 p.m.

14:40:15 21 MR. SHERMAN: Thank you.

14:40:15 22 BY MR. SHERMAN:

14:40:17 23 Q. Mr. Webber, earlier we were talking about HAVA
14:40:20 24 checks that are conducted against the MVD database;
14:40:25 25 correct?

14:40:25 1 A. Yes.

14:40:26 2 Q. Besides F-type licenses, are there any other
14:40:32 3 license types that would require your office to follow up
14:40:34 4 and seek additional documentary proof of citizenship?

14:40:38 5 A. Not to my knowledge.

14:40:40 6 Q. Is there any other kind of result from the HAVA
14:40:44 7 check that could prompt your office to seek additional
14:40:49 8 valid DPOC?

14:40:51 9 A. No. And what happens now -- I don't believe
14:40:55 10 they're actually still called F-type licenses, because they
14:41:00 11 all used to start with an F. We will get -- when -- in
14:41:03 12 that HAVA check, it will come back -- either it will say
14:41:07 13 "U.S. citizen" or "naturalized citizen," or I believe it
14:41:10 14 says "foreign national" or something of that sort. And
14:41:14 15 that's what it -- when it comes back as foreign, that's
14:41:18 16 what will flag it for us as not having citizenship.

14:41:22 17 Q. Do you know what the name of the new type of
14:41:25 18 F-type license is? Is it called a foreign authorized
14:41:29 19 presence license or something else?

14:41:31 20 A. Yeah, it may be. I know we do get, I believe, in
14:41:37 21 -- when we check the verification, I believe it does say
14:41:40 22 foreign authorized presence, but it may say something
14:41:44 23 slightly different than that.

14:41:46 24 Q. Understood.

14:41:46 25 And that will only tell you that that person

14:41:49 1 was not a citizen at some point in the past; correct?

14:41:53 2 A. Yes.

14:41:55 3 Q. And that's why you follow up with a notice letter
14:41:59 4 and asking for DPOC; is that correct?

14:42:02 5 A. Yes.

14:42:02 6 Q. How often do you encounter registrants with F-type
14:42:06 7 or foreign authorized presence licenses?

14:42:10 8 A. Not too often. I don't have any statistics on it.
14:42:16 9 Most of the time when we -- we are sending our DPOC
14:42:20 10 letters, it's because they didn't provide a license number
14:42:24 11 at all. But again, I do not have data on how many are
14:42:29 12 actually the foreign presence license.

14:42:32 13 Q. And earlier, we were talking about exhibit that
14:42:35 14 showed -- right? -- that your office tends to think those
14:42:37 15 are people who just didn't update MVD after they
14:42:42 16 naturalized; is that correct?

14:42:43 17 A. That's what we found in most cases, yes.

14:42:45 18 Q. And how often do applicants provide DPOC in
14:42:50 19 response to the notice letter you send out after you see
14:42:54 20 they have an F-type or foreign authorized presence license?

14:42:57 21 A. Again, it's not something we track. It's
14:43:02 22 anecdotal, I believe, almost all the time. I cannot say
14:43:09 23 all the time.

14:43:11 24 Q. But almost all the time?

14:43:12 25 A. Yes, I believe so.

14:43:14 1 Q. So in asking for DPOC, the applicant can present a
14:43:21 2 naturalization certificate; correct?

14:43:22 3 A. Yes.

14:43:24 4 Q. And they can also present a alien registration
14:43:27 5 number; correct?

14:43:28 6 A. Yes.

14:43:28 7 Q. Why don't we take a look quickly at some of the
14:43:33 8 form letters that you, your office, produced. This is
14:43:35 9 Exhibit AA in your folder down towards the bottom.

14:43:45 10 A. Okay.

14:43:52 11 Q. And I believe -- so what is -- what is this --
14:43:53 12 this is a few different documents all combined into one, 12
14:43:58 13 pages. What are these documents?

14:44:01 14 A. I'm still pulling it up. I have a couple folders
14:44:06 15 here.

14:44:06 16 Q. My apologies.

14:44:08 17 A. And I have to find the right one. Okay.

14:44:13 18 So, yes, these are all one -- this one, the
14:44:14 19 first one in AA is actually -- it's an address letter. We
14:44:20 20 can't confirm the address of -- of the person.

14:44:24 21 This person would have had probably DPOC
14:44:30 22 already so -- but this is -- would be an address letter if
14:44:35 23 we can't confirm where they live to precinct them
14:44:40 24 correctly.

14:44:40 25 Q. More generally, if you could just scroll down

14:44:43 1 through all 12 pages and just tell me generally what --

14:44:48 2 A. Okay.

14:44:49 3 Q. -- what these are.

14:44:50 4 A. The second one is an ID card for someone who has
14:44:55 5 not provided citizenship, but they are on the active early
14:44:58 6 voting list.

14:45:00 7 Third one is they haven't proven citizenship,
14:45:07 8 and they are on -- they are not on the active early voting
14:45:08 9 list.

14:45:11 10 The fourth one is what we would call fed, no
14:45:15 11 ID. They haven't provided citizenship and nor do we have a
14:45:19 12 Social Security number to prove -- prove that they're
14:45:22 13 actually a human being, which is what we use Social
14:45:25 14 Security numbers for.

14:45:29 15 So then the next one, "Voter Registration
14:45:32 16 Form Box 22." It's -- didn't respond to the questions in
14:45:40 17 Box 22. And this would be if we do not have either the --
14:45:48 18 well, if they didn't put a birth date. But mostly if they
14:45:52 19 didn't put anything in the citizenship checkbox, and they
14:45:55 20 did not -- we couldn't find -- couldn't find -- verify
14:46:01 21 their citizenship through HAVA checks, they would get that
14:46:03 22 letter.

14:46:03 23 And here's what we would send to federal-only
14:46:09 24 voters. That, again, this is not people who would have a
14:46:14 25 -- come back as a foreign national. But again, they would

14:46:17 1 be federal voters. We would send this out explaining to
14:46:23 2 them what they need to do to become eligible.

14:46:27 3 Q. Which one of these do you send when you see an
14:46:30 4 F-type license? Is that the one all the way at the bottom?

14:46:36 5 A. Let me find it. Yes. Yeah, the "Not Eligible."

14:46:46 6 Q. Okay. And this -- the portion of this notice
14:46:52 7 letter -- sorry. Let me back up one sec.

14:46:54 8 MR. SHERMAN: Can we mark this as
14:46:56 9 Exhibit 151.

14:46:56 10 (The document was marked as Exhibit 151
14:46:57 11 for identification.)

14:46:57 12 BY MR. SHERMAN:

14:46:58 13 Q. This last notice letter in the series calls for an
14:47:01 14 alien registration number; correct?

14:47:03 15 A. Yes.

14:47:04 16 Q. That's one of the forms of DPOC that can be
14:47:07 17 provided?

14:47:08 18 A. Yes.

14:47:09 19 Q. Does it ask for or suggest to the applicant that
14:47:16 20 they can provide a naturalization -- a copy of their
14:47:19 21 naturalization certificate?

14:47:20 22 A. No, it does not.

14:47:22 23 Q. And why not?

14:47:24 24 A. Probably because we just forgot it.

14:47:27 25 Q. And it doesn't ask for a naturalization

14:47:30 1 certificate number. Is that -- earlier, you testified
14:47:34 2 that's because you can't search -- query for that in the
14:47:38 3 SAVE system; is that correct?

14:47:39 4 A. Yes.

14:47:39 5 Q. If you were to be provided with a copy of a
14:47:44 6 naturalization certificate and you verified it as DPOC,
14:47:50 7 that trumps the record of an F-type license in the MVD
14:47:54 8 database; correct?

14:47:55 9 A. Yes.

14:47:56 10 Q. I just wanted to confirm that.

14:47:59 11 But if you get a naturalization certificate
14:48:03 12 number -- well, that you can't search -- strike that.

14:48:07 13 If you get an alien registration number, that
14:48:10 14 you have to take a further step to verify; correct?

14:48:13 15 A. Yes.

14:48:13 16 Q. And that's -- and what do you do with the alien
14:48:16 17 registration number?

14:48:17 18 A. That -- that's in the SAVE system.

14:48:20 19 Q. And do you ever -- there's -- there's no place for
14:48:24 20 you to input a naturalization certificate number
14:48:27 21 whatsoever?

14:48:27 22 A. No.

14:48:28 23 Q. If I could have you take a look at Exhibit P in
14:48:37 24 your folder. Okay.

14:48:41 25 And what is this document? You might want to

14:48:43 1 read it from bottom to top just so it's clear.

14:48:47 2 A. Okay. So it is a -- it's an email chain. And

14:48:59 3 I -- I remember this email chain so . . .

14:49:03 4 Q. You were on this email chain; yes?

14:49:05 5 A. Yes. Yes, I do remember this. And this is
14:49:08 6 something that happens when people are -- they register to
14:49:14 7 vote at a naturalization ceremony. And there are actually
14:49:20 8 specially marked forms for those ceremonies. And they will
14:49:23 9 -- the people there who are doing the naturalization
14:49:28 10 ceremony will actually mark those paper forms "citizenship
14:49:34 11 checked" because they will not come back in the SAVE
14:49:38 12 system, even with an alien registration number, very
14:49:42 13 quickly because they haven't been put into the system yet.

14:49:47 14 MR. SHERMAN: Can we mark this as

14:49:49 15 Exhibit 152.

14:49:49 16 (The document was marked as Exhibit 152
14:49:50 17 for identification.)

14:49:50 18 BY MR. SHERMAN:

14:49:51 19 Q. And so a couple questions on this.

14:49:53 20 When a registration's occurring at the
14:49:57 21 naturalization ceremony, your office is reviewing a copy of
14:50:01 22 the naturalization certificate at the ceremony?

14:50:05 23 A. No. No. It's --

14:50:07 24 Q. What is it based on?

14:50:09 25 A. It is based on a registration form, a paper

14:50:14 1 registration form. There are specially coded registration
14:50:18 2 forms that come from naturalization ceremonies.

14:50:23 3 And again, it's common practice. They will
14:50:26 4 have the people fill them out after the ceremony, and they
14:50:32 5 will mark them "citizenship checked," you know, the people
14:50:37 6 at the ceremony themselves that are performing the
14:50:41 7 ceremony. And then we will get those registration forms.

14:50:44 8 Q. Is it a special Arizona registration form or a
14:50:48 9 copy -- a special Arizona voter registration form?

14:50:51 10 A. It is an Arizona voter registration form. There
14:50:54 11 are codes on them that tell us where that registration form
14:50:59 12 originated, and there's a special code for naturalization
14:51:03 13 ceremonies.

14:51:04 14 Q. Understood.

14:51:05 15 And in this circumstance, you're saying a
14:51:09 16 variety of the county recorder staff on this email are all
14:51:13 17 chiming in to say, "You can override the HAVA check in this
14:51:19 18 circumstance"; correct?

14:51:20 19 A. Yes.

14:51:21 20 Q. Because -- and why is that?

14:51:24 21 A. Because they have had their citizenship checked
14:51:28 22 and -- at the -- and filled out the form at the
14:51:32 23 naturalization ceremony.

14:51:33 24 Q. And you were testifying earlier that there's a bit
14:51:42 25 of a lag between when a naturalization occurs and when

14:51:47 1 that's updated in the SAVE system; is that correct?

14:51:49 2 A. Yes.

14:51:50 3 Q. Do you know what kind -- what -- how long that lag
14:51:53 4 can be?

14:51:53 5 A. I really do not.

14:51:56 6 Q. Have any -- has -- anyone in your office have some
14:52:04 7 familiarity with that?

14:52:05 8 A. We may have one person who may have a sense of it.
14:52:12 9 I -- I can't say that she knows exactly how long the lag
14:52:17 10 might be. We don't get a lot of these, so it's not a --
14:52:21 11 it's not common.

14:52:23 12 Q. Suffice it to say, though, if you were to check
14:52:26 13 the SAVE system right after a naturalization ceremony, the
14:52:29 14 person would still not -- their citizenship -- U.S.
14:52:33 15 citizenship would not be reflected in that?

14:52:36 16 A. I would believe it's safe to say that, yes.

14:52:37 17 Q. Does your existing agreement with ADOT's Motor
14:52:42 18 Vehicle Division cover the uses outlined in HB 2492 and
14:52:46 19 HB 2243 that we've been discussing?

14:52:49 20 A. I don't believe Yavapai County has an agreement
14:52:53 21 with the MVD.

14:52:54 22 Q. Okay.

14:52:55 23 A. I believe that's through the Secretary of State's
14:52:58 24 Office.

14:52:58 25 Q. Understood.

14:52:59 1 Do you know whether that agreement with the
14:53:01 2 Secretary of State's Office covers the uses mandated in
14:53:07 3 2492 and 2243?

14:53:07 4 A. I do not know.

14:53:09 5 Q. Have you -- has your office ever encountered
14:53:13 6 instances where a voter registration applicant who is a
14:53:16 7 U.S. citizen was flagged erroneously as a noncitizen in the
14:53:20 8 MVD database?

14:53:22 9 A. We assume that there -- it was erroneous to
14:53:28 10 provide DPOC and they had had an F-type license, or the
14:53:32 11 foreign presence license, yes.

14:53:35 12 Q. Do you recall an incident from last year where
14:53:37 13 database matching produced erroneous results and caused the
14:53:41 14 downgrading of thousands of voters to federal-only voting
14:53:44 15 status?

14:53:48 16 A. I remember hearing about that, yes.

14:53:49 17 Q. Can we take a look at Exhibit L.

14:53:58 18 What is this document?

14:54:02 19 A. It's from AVID Help on MVD, HAVA checks,
14:54:12 20 follow-up.

14:54:14 21 MR. SHERMAN: Can we mark this as
14:54:16 22 Exhibit 153.

14:54:16 23 (The document was marked as Exhibit 153
14:54:16 24 for identification.)

14:54:16 25 BY MR. SHERMAN:

14:54:20 1 Q. And did you receive a copy of this last October?

14:54:25 2 A. I'm not sure if I received a copy of it or the
14:54:30 3 current registrar received a copy of it. I was aware of
14:54:35 4 the issues.

14:54:37 5 Q. What -- what happened in this incident?

14:54:48 6 A. I think there were records coming over from the
14:54:50 7 MVD that didn't have an authorized presence value or
14:54:57 8 citizenship that would say that they were citizens. And so
14:55:04 9 it would -- if it doesn't come back as that, I believe it
14:55:08 10 would say that the citizenship was not proven.

14:55:12 11 Q. But these turned out to actually be folks who had
14:55:15 12 shown DPOC in the past; correct?

14:55:17 13 A. Yes, I believe so.

14:55:19 14 Q. And so they were erroneously downgraded to
14:55:23 15 fed-only voting status; correct?

14:55:26 16 A. I don't know if -- how many were downgraded. If
14:55:32 17 they had already proven citizenship prior to that, we would
14:55:38 18 not have done it. I don't believe it was -- it did it
14:55:42 19 immediately through the system. And I know we had people
14:55:48 20 check. And I don't even know if we had any that that had
14:55:52 21 happened to. But I know it did happen in the system.

14:55:55 22 Q. Can you take a look at paragraph 3 of this letter.

14:55:58 23 A. Yes.

14:55:59 24 Q. Just review that, and I'll ask you about it once
14:56:03 25 you're done.

14:56:03 1 A. Okay. Okay.

14:56:18 2 Q. How many voters in your county were erroneously
14:56:21 3 flagged as fed-only?

14:56:24 4 A. I don't recall the number.

14:56:28 5 Q. Based on this, you can't -- you can't say?

14:56:33 6 A. Based on this, no, I cannot say.

14:56:37 7 Q. Okay. It says, "Your county has 4 records that
14:56:40 8 returned a hard-match with unauthorized presence indicating
14:56:43 9 citizenship in 25 records that might be a soft-match."
14:56:48 10 Do you see that?

14:56:48 11 A. I think I may have been looking at the wrong
14:56:50 12 paragraph.

14:56:53 13 Q. Third full paragraph after "Dear Yavapai."

14:56:58 14 A. Okay. Yeah, I was looking at the wrong paragraph.

14:57:01 15 Q. Sorry.

14:57:01 16 A. Okay.

14:57:03 17 Q. Take a look at that.

14:57:12 18 A. Okay. All right. Yeah, I see that four.

14:57:21 19 Q. So how many voters in your county were erroneously
14:57:24 20 flagged as fed-only due to this incident?

14:57:28 21 A. I'm trying to interpret it. It's actually not
14:57:51 22 very clear.

14:57:51 23 Q. Okay.

14:57:52 24 A. Said we had four records that "returned a
14:57:55 25 hard-match with the authorized presence indicating

14:57:57 1 citizenship in 25 records that might be a soft-match."

14:58:01 2 Q. We can move on.

14:58:02 3 In the last sentence, though, it says "6
14:58:05 4 records in your county have an active early ballot
14:58:08 5 associated with them."

14:58:09 6 Does that mean six ballots -- six fed-only
14:58:12 7 early ballots went out prior to you receiving this notice?

14:58:17 8 A. It is possible.

14:58:21 9 Q. Okay. In light of this incident, this database
14:58:24 10 error, what does this say to you about the reliability of
14:58:28 11 database matching to assess a person's current U.S.
14:58:32 12 citizenship status?

14:58:33 13 A. It's possible it could be problematic.

14:58:37 14 Q. What does it say to you about the reliability of
14:58:39 15 database matching for determining whether someone has
14:58:43 16 previously shown DPOC?

14:58:46 17 MR. LANGHOFER: Form.

14:58:50 18 THE WITNESS: I really don't understand about
14:58:53 19 the -- the question. I don't understand the database and
14:59:00 20 the previous provided DPOC.

14:59:02 21 BY MR. SHERMAN:

14:59:02 22 Q. I'll rephrase.

14:59:03 23 In light of this incident, what does it say
14:59:06 24 to you about the reliability of relying on the MVD database
14:59:10 25 to determine whether voters have previously shown

14:59:14 1 documentary proof of citizenship?

14:59:17 2 MR. LANGHOFER: Form.

14:59:18 3 THE WITNESS: I -- it shows me that the MVD,
14:59:22 4 again, can be problematic as far as if they previous --
14:59:27 5 previously showed a county or us that DPOC. I don't think
14:59:33 6 -- that's not a matching issue that -- we have that in our
14:59:37 7 records.

14:59:37 8 So again, I'd have to look at this more
14:59:42 9 closely to determine exactly what happened. And -- but it
14:59:47 10 does show that it is -- can be problematic with the MVD.

14:59:51 11 BY MR. SHERMAN:

14:59:57 12 Q. Is it feasible to use MVD data to conclusively
15:00:02 13 determine a lack of U.S. citizenship?

15:00:06 14 A. I wouldn't say "conclusively." That's why we
15:00:10 15 would send a letter to allow them to provide us other
15:00:17 16 documentation.

15:00:18 17 Q. In terms of resources, access, and training, is it
15:00:21 18 practicable for your office to use MVD databases for
15:00:25 19 citizenship verification?

15:00:29 20 A. I believe it's really the only database we have
15:00:35 21 that contains that unless we get an A-number and can use
15:00:39 22 the SAVE can be.

15:00:40 23 THE COURT REPORTER: Did someone object in
15:00:44 24 the middle?

15:00:45 25 MR. LANGHOFER: I did.

15:00:46 1 BY MR. SHERMAN:

15:00:47 2 Q. HB 2243 requires you to compare your county's
15:00:50 3 voters to the MVD databases on a monthly basis; is that
15:00:54 4 practicable?

15:00:55 5 A. No.

15:00:56 6 MR. LANGHOFER: Form.

15:00:57 7 BY MR. SHERMAN:

15:00:58 8 Q. Has your office ever been given a specific list of
15:01:01 9 means by which a voter registration applicant can be deemed
15:01:04 10 or proven a noncitizen?

15:01:06 11 A. No.

15:01:07 12 Q. Same question for registered voters.

15:01:11 13 A. No.

15:01:12 14 Q. We've already talked some about the SAVE system.
15:01:17 15 And you use that for purposes of following up with voter
15:01:23 16 registration applicants who have come back as holding an
15:01:26 17 F-type license in the MVD database; is that correct?

15:01:30 18 A. Only if we have an A-number.

15:01:33 19 Q. So if they -- if the applicant provides an
15:01:35 20 A-number, then you can use the SAVE system; correct?

15:01:39 21 A. Yes.

15:01:40 22 Q. Do you currently have A-numbers for all -- you
15:01:49 23 don't have A-numbers for all -- let me strike that
15:01:51 24 question.

15:01:52 25 How frequently do you use the SAVE system?

15:01:58 1 A. I imagine it may be used weekly. I don't actually
15:02:06 2 enter them in. Another person does that. It's not
15:02:11 3 infrequent, but it's neither really frequent. It's just as
15:02:16 4 needed.

15:02:17 5 Q. Who in your office actually conducts the SAVE
15:02:21 6 verification checks?

15:02:22 7 A. Usually it's Celeste Audis.

15:02:25 8 Q. What was her last name again?

15:02:27 9 A. Audis, A-u-d-i-s.

15:02:32 10 Q. Is it common for people -- registrants to put down
15:02:36 11 A-numbers or naturalization certificate numbers on their
15:02:39 12 Arizona voter registration form themselves?

15:02:43 13 A. It's not common unless, I believe, if they -- if
15:02:50 14 they have one, they'll put it on, and sometimes, not
15:02:55 15 always, if they have an A-number.

15:02:58 16 Q. And there's just one field for that; right?

15:03:01 17 A. Yes.

15:03:02 18 Q. So if a person puts down their naturalization
15:03:05 19 certificate number instead of their A-number, you can't do
15:03:08 20 anything with the naturalization certificate number;
15:03:10 21 correct?

15:03:10 22 A. Yes. That's -- we contact them to ask them for
15:03:15 23 their A-number.

15:03:16 24 Q. Do you know if the Arizona Secretary of State's
15:03:19 25 Office has ever communicated to county recorders that

15:03:26 1 naturalization certificate numbers are unusable in the SAVE
15:03:30 2 system?

15:03:30 3 MR. LANGHOFER: Form, foundation.

15:03:33 4 THE WITNESS: Not to my knowledge.

15:03:35 5 BY MR. SHERMAN:

15:03:36 6 Q. Do you know if that's conveyed to registration
15:03:41 7 applicants using the Arizona voter registration form?

15:03:45 8 A. I would have to actually look at the form and see
15:03:48 9 what is in the form, if it said -- I believe it says
15:03:53 10 actually alien registration number, but it may say also
15:03:57 11 something else, and I just can't recall.

15:04:00 12 Q. Got it.

15:04:01 13 Could we take a quick look at Exhibit M.

15:04:16 14 A. Okay.

15:04:17 15 Q. And what is this document?

15:04:19 16 A. This is the 2023 Election Procedures Manual. This
15:04:25 17 is the draft from June 2023.

15:04:29 18 Q. And is this the version you annotated with your
15:04:32 19 comments?

15:04:32 20 A. Yes.

15:04:33 21 Q. Okay.

15:04:35 22 MR. SHERMAN: Could we mark this as
15:04:38 23 Exhibit 154.

15:04:38 24 (The document was marked as Exhibit 154
15:04:39 25 for identification.)

15:04:39 1 BY MR. SHERMAN:

15:04:40 2 Q. And if you scroll down to page 9, bottom right,
15:04:51 3 page 9, do you see your comment there where you wrote,
15:04:56 4 "Does SAVE allow you to check the Citizenship Certificate
15:04:58 5 Number or Naturalization Certificate Number? Our person
15:05:01 6 who does our SAVE check say these do not work, only the
15:05:06 7 Alien Registration Number works"?

15:05:07 8 A. Yes.

15:05:08 9 Q. And you wrote that; correct?

15:05:09 10 A. Yes.

15:05:10 11 Q. And that reflects what Celeste Audis told you?

15:05:14 12 A. Yes.

15:05:21 13 Q. Just to be clear, you don't have alien
15:05:25 14 registration numbers for all naturalized citizens in your
15:05:29 15 county; correct?

15:05:30 16 A. Correct.

15:05:36 17 Q. What is -- what does your office do if the SAVE
15:05:40 18 system search matches to a record reflecting a lack of U.S.
15:05:43 19 citizenship?

15:05:47 20 A. I -- I don't believe we've seen that. We -- we
15:05:51 21 may get a nonmatch if the person's name does not match with
15:05:55 22 the number. I don't believe we've ever seen it come up
15:06:01 23 saying, you know, this is a foreign national or -- or --
15:06:04 24 you know, or anything like that. It's -- if the -- if the
15:06:08 25 A-number doesn't match that person's name and date of

15:06:11 1 birth, I think it just comes up not a match.

15:06:15 2 Q. What do you do in those circumstances where you
15:06:17 3 get a nonmatch?

15:06:19 4 A. Well, then we would contact that registrant and
15:06:23 5 say, "You know, this didn't match." You know, they can
15:06:29 6 transpose numbers and things such as that.

15:06:32 7 And we try to find a different way or a good
15:06:35 8 alien registration number to see if we can verify their --
15:06:41 9 their citizenship.

15:06:44 10 Q. And do such individuals typically complete the
15:06:48 11 registration process ultimately? Are you able to work
15:06:50 12 through those issues?

15:06:51 13 A. Again, I believe so. We do not track how many
15:06:55 14 have or have not. You know, we can look at and see how
15:06:59 15 many people have not, you know, or listed as not
15:07:02 16 registered. But we have no way of tracking how many people
15:07:04 17 have actually fixed that registration form and become a
15:07:09 18 full-registered voter.

15:07:11 19 Q. To the best of your knowledge, when your office
15:07:13 20 has used SAVE system queries, you've either confirmed the
15:07:19 21 applicant's naturalization or just gotten no match at all?

15:07:23 22 A. Yes.

15:07:23 23 Q. Okay. And have you ever had to use USCIS's
15:07:28 24 alternative verification process?

15:07:31 25 A. I'm not even aware of the alternative verification

15:07:36 1 process.

15:07:37 2 Q. So you're not sure what steps you would need to
15:07:40 3 follow if the SAVE query returned information showing the
15:07:46 4 person was not a citizen at some point in the past?

15:07:50 5 A. No.

15:07:53 6 Q. Does the -- does your office have an agreement
15:07:57 7 directly with USCIS?

15:08:00 8 A. With the SAVE system, yes.

15:08:02 9 Q. Okay. Let's take a look at Exhibit O. You can
15:08:12 10 ignore the -- we could have removed, I guess, the Exhibit C
15:08:16 11 at the top here. That was your Exhibit C. But here it's
15:08:18 12 in your folder as Exhibit O.

15:08:20 13 A. Okay. Yes.

15:08:22 14 Q. Okay. What is this document?

15:08:24 15 A. That is the agreement between Yavapai County, the
15:08:29 16 secretary of state for reimbursing for SAVE usage.

15:08:34 17 MR. SHERMAN: Can we mark this as
15:08:38 18 Exhibit 155.

15:08:38 19 (The document was marked as Exhibit 155
15:08:38 20 for identification.)

15:08:38 21 BY MR. SHERMAN:

15:08:42 22 Q. And do you see under the "Recitals," Recital C
15:08:42 23 says, "The Parties desire for the County Recorders to have
15:08:46 24 access to the SAVE program for the purpose of verifying the
15:08:49 25 citizenship and immigration status information of

15:08:52 1 non-citizen and naturalized or derived U.S. citizen

15:08:56 2 registrants when they register to vote"?

15:08:58 3 Did I read that correctly?

15:08:58 4 A. Yes.

15:08:59 5 Q. Does this agreement only cover SAVE system usage
15:09:04 6 at the point of registration?

15:09:08 7 A. It covers it at the point where we are registering
15:09:14 8 them in our office.

15:09:16 9 Q. Does it cover the uses outlined in HB 2243 to
15:09:21 10 compare registered voters against the SAVE system?

15:09:25 11 MR. LANGHOFER: Form. Calls for a legal
15:09:28 12 conclusion.

15:09:28 13 THE WITNESS: No. It does not seem to.

15:09:32 14 BY MR. SHERMAN:

15:09:42 15 Q. If you return information in the SAVE system
15:09:44 16 showing that the person was not a U.S. citizen at some
15:09:47 17 point in the past, would you determine that that was
15:09:50 18 conclusive evidence that the person is not a U.S. citizen
15:09:54 19 in the present?

15:09:55 20 A. I don't believe the SAVE system would return that.
15:10:01 21 It tells us -- either it matches with their alien
15:10:05 22 registration number or it doesn't. That's -- it's A or B.

15:10:11 23 Q. That's been your experience. But hypothetically,
15:10:13 24 if an alien registration -- if querying a particular
15:10:17 25 A-number returned information that the person was a foreign

15:10:20 1 national, what would you do with that information?

15:10:26 2 A. I -- I would probably be talking to a lot of
15:10:28 3 people and wondering what exactly that was because it would
15:10:33 4 be incredibly unusual.

15:10:38 5 Q. Would you agree that SAVE can be used to confirm
15:10:41 6 naturalization but cannot be used to confirm a lack of
15:10:44 7 naturalization?

15:10:45 8 A. The way we use it, yes.

15:10:48 9 Q. HB 2243 would require you to compare all of your
15:10:58 10 county's voters whom you had reason to believe are not U.S.
15:11:00 11 citizens to the SAVE system on a monthly basis. Is that
15:11:04 12 practicable?

15:11:06 13 A. No.

15:11:07 14 MR. LANGHOFER: Form. Calls for a legal
15:11:13 15 conclusion.

15:11:13 16 THE WITNESS: And I did answer "no."

15:11:14 17 BY MR. SHERMAN:

15:11:15 18 Q. If we could take a look at Hiser Exhibit 77 again.
15:11:30 19 I don't have too much more.

15:11:32 20 A. Okay. We're doing fine.

15:11:36 21 Q. So we've looked at this before. If you could
15:11:38 22 scroll down to item 10(H) again.

15:11:42 23 Karen McCracken wrote -- additionally, on
15:11:45 24 Item 10(H), she wrote, "Also, how are we to compare all of
15:11:48 25 our registered voters to a federal database of millions

15:11:51 1 upon millions?"

15:11:54 2 Do you see that sentence?

15:11:55 3 A. Yes.

15:11:55 4 Q. And would it be possible to compare all of the
15:12:06 5 county's registered voters against the SAVE system?

15:12:11 6 A. Not without a lot more employees and, well, alien
15:12:15 7 registration numbers. So practicably, no.

15:12:19 8 Q. Thank you.

15:12:22 9 Could we take a quick look at Exhibit 79.

15:12:26 10 This is also from the Hiser deposition.

15:12:33 11 And do you see under the fourth bullet point
15:12:36 12 where Leslie Hoffman wrote: "When we check alien
15:12:39 13 registration numbers for naturalization through DHS,
15:12:42 14 we supply the number to check against their database. They
15:12:45 15 don't just provide their whole database to us and I highly
15:12:49 16 doubt that they would"?

15:12:50 17 A. Yes, I see that.

15:12:51 18 Q. Do you agree with that statement?

15:12:53 19 A. Yes.

15:12:54 20 Q. Both of these challenged laws refer to the
15:13:01 21 National Association for Public Health Statistics and
15:13:04 22 Information Systems. Do you have any familiarity with
15:13:06 23 them?

15:13:06 24 A. No.

15:13:08 25 Q. Have you ever heard of the Electronic Verification

15:13:13 1 of Vital Events database?

15:13:14 2 A. No.

15:13:15 3 Q. Have you ever used that database, or has your
15:13:19 4 office ever used that database?

15:13:20 5 A. No.

15:13:21 6 Q. Do you know if it can be used for U.S. citizenship
15:13:26 7 verification?

15:13:27 8 A. I do not know.

15:13:28 9 Q. Okay. Are you familiar with the Electronic
15:13:33 10 Registration Information Center?

15:13:33 11 A. Yes.

15:13:34 12 Q. Do you know if ERIC's data contains any U.S.
15:13:40 13 citizenship data?

15:13:41 14 A. Not that I know of.

15:13:43 15 Q. Is it possible to use ERIC for U.S. citizenship
15:13:47 16 verification?

15:13:47 17 A. I do not believe so.

15:13:49 18 Q. Do you have the ability to search or interface
15:13:53 19 with any other government databases with U.S. citizenship
15:13:56 20 data?

15:13:58 21 A. Only the MVD and then the SAVE system.

15:14:02 22 Q. Has your office been communicating with any other
15:14:05 23 person or entity regarding the use of any other database
15:14:07 24 for citizenship verification?

15:14:09 25 A. No.

15:14:10 1 Q. Do you see in the last bullet still on Exhibit 79
15:14:21 2 Leslie Hoffman wrote: "What city, town and federal
15:14:24 3 databases are they talking about that we are supposed to
15:14:27 4 run our voter rolls against? Do they know something about
15:14:30 5 people keeping track of us in citizenship status that we
15:14:33 6 don't?"

15:14:34 7 Do you share the -- does your office still
15:14:37 8 share the sentiment expressed in this bullet point?

15:14:41 9 A. Yes.

15:14:41 10 MR. LANGHOFER: Form

15:14:43 11 BY MR. SHERMAN:

15:14:44 12 Q. Has your office -- if these laws were to go into
15:14:48 13 effect, they would require comparing of voter registration
15:14:51 14 applicant or registered voters' information against many
15:14:56 15 different databases.

15:14:57 16 Has your office been provided any guidance
15:15:00 17 whatsoever on how you would resolve conflicting information
15:15:03 18 on citizenship from those different databases?

15:15:06 19 A. No.

15:15:08 20 Q. Just one other area I wanted to ask you about and
15:15:13 21 then I'll finish. My colleagues may have additional
15:15:16 22 questions.

15:15:18 23 If a registered voter is removed from the
15:15:21 24 rolls under HB 2243, based upon an erroneous determination
15:15:26 25 that they're not a U.S. citizen, can that voter be added

15:15:30 1 back to the rolls if the registration deadline has already
15:15:33 2 passed?

15:15:34 3 A. I don't know.

15:15:38 4 Q. Is that laid out anywhere in the EPM or elsewhere?

15:15:42 5 A. Not that I know of.

15:15:45 6 Q. So it could potentially vary from county to county
15:15:48 7 based on what folks are doing with that individual?

15:15:52 8 MR. LANGHOFER: Form.

15:15:53 9 THE WITNESS: It -- yes, it could. And I
15:15:58 10 believe it becomes, in the end, a judgment call from the
15:16:03 11 county recorder if someone was erroneously canceled, what
15:16:07 12 should happen with that.

15:16:08 13 BY MR. SHERMAN:

15:16:09 14 Q. So it would be a judgment call is your testimony?

15:16:11 15 A. I -- I believe so.

15:16:12 16 MR. LANGHOFER: Form.

15:16:13 17 BY MR. SHERMAN:

15:16:15 18 Q. Currently, if someone were erroneously identified
15:16:18 19 as having committed a felony -- excuse me. Let me rephrase
15:16:25 20 this.

15:16:25 21 If someone were erroneously identified as
15:16:28 22 having been convicted of a felony and therefor
15:16:30 23 disenfranchised under Arizona law, but the information
15:16:33 24 about the error didn't come out until after the
15:16:36 25 registration deadline, how would your office currently deal

15:16:39 1 with that situation?

15:16:42 2 A. Again, it would be a judgment call. I would
15:16:46 3 imagine the person would be restored to full-voting rights
15:16:52 4 if it was erroneous on our part that we -- we canceled a
15:16:58 5 voter who shouldn't have been canceled.

15:17:01 6 Q. But it would be a judgment call of each county
15:17:05 7 recorder's office?

15:17:05 8 A. I -- I believe it would be.

15:17:06 9 Q. Okay.

15:17:08 10 MR. SHERMAN: All right. Thank you very much
15:17:08 11 for your time, Mr. Webber. Other plaintiffs' counsel may
15:17:13 12 have questions for you, but I'm done. Thank you.

15:17:17 13 THE WITNESS: Thank you.

15:17:17 14

15:17:17 15 EXAMINATION

15:17:17 16 BY MR. ATKINS:

15:17:22 17 Q. Hi, Mr. Webber. My name is Alex Atkins, and I
15:17:24 18 represent plaintiffs Mi Familia and Voto Latino. I don't
15:17:30 19 have many questions for you, but I do have a few.

15:17:35 20 First of all, am I correct that in Arizona,
15:17:39 21 voters can register both using the state registration form
15:17:43 22 and the federal registration form?

15:17:46 23 A. Yes.

15:17:47 24 Q. And the federal form is the registration form that
15:17:55 25 states are required to accept and use to register voters

15:18:00 1 for federal elections under the NVRA; right?

15:18:03 2 A. Yes.

15:18:03 3 Q. And in Arizona, voters can be registered either as
15:18:14 4 federal-only voters or as full-ballot voters; is that
15:18:19 5 right?

15:18:19 6 A. Yes.

15:18:29 7 (An off-the-record discussion ensued.)

15:18:29 8 BY MR. ATKINS:

15:18:48 9 Q. What's the difference between a federal-only voter
15:18:51 10 and a full-ballot voter?

15:18:53 11 A. The difference, as far as registering goes, is a
15:18:59 12 proof of citizenship. Have they given us documentary proof
15:19:04 13 of citizenship? In the election, they would vote only for
15:19:08 14 those federal offices. They would not vote for state or
15:19:11 15 local offices or questions.

15:19:14 16 Q. Understood.

15:19:17 17 So is it fair to say that Arizona then has a
15:19:27 18 dual-registration system?

15:19:30 19 A. Yes.

15:19:33 20 Q. Now, and the dual-registration system hasn't
15:19:41 21 always been in place; correct?

15:19:43 22 A. That's correct.

15:19:45 23 Q. So when the dual-registration system was adopted
15:19:51 24 in Arizona, is it correct that there were already many
15:19:57 25 people who were registered to vote in Arizona who had not

15:20:00 1 shown any DPOC?

15:20:04 2 A. I believe so.

15:20:06 3 Q. And those voters would have been registered to
15:20:11 4 vote both in state and federal elections; correct?

15:20:13 5 A. Again, I believe so.

15:20:16 6 Q. And do you know -- when the dual-registration
15:20:21 7 system was adopted, those already-registered voters, were
15:20:25 8 they required to provide DPOC after the fact?

15:20:31 9 A. I do not believe so.

15:20:33 10 Q. But since the adoption of the dual-registration
15:20:40 11 system, if a registrant wants to be able to vote in all
15:20:45 12 elections, they must provide DPOC; correct?

15:20:50 13 A. Yes.

15:20:50 14 Q. Do you know if it is the case today in your county
15:20:57 15 that there are registered voters who are permitted to vote
15:21:02 16 a full ballot who have never provided any DPOC?

15:21:07 17 A. I don't know any specific examples, but I believe
15:21:10 18 we probably have many.

15:21:12 19 Q. And do you know approximately how many of those
15:21:18 20 voters are in Yavapai County?

15:21:21 21 A. No, I do not have a number.

15:21:23 22 Q. But you said you believe there's many?

15:21:26 23 A. Yes. I do believe we do have many.

15:21:30 24 Q. Do you know how many voters in your county are
15:21:34 25 currently registered as federal-only voters?

15:21:39 1 A. We had our last quarterly report on July 1st. We
15:21:47 2 had about 340. But that would be active and inactive
15:21:52 3 federal voters.

15:21:53 4 Q. And approximately how many registrants does the
15:21:58 5 county have in total?

15:22:00 6 A. We have about 187,000 active and inactive
15:22:06 7 registrants.

15:22:07 8 Q. Understood.

15:22:09 9 So it sounds like it's fair to say that the
15:22:12 10 federal-only voters make up a very small percentage of your
15:22:17 11 registrants?

15:22:17 12 A. Yes.

15:22:18 13 Q. So I'd like to talk a bit about your office's
15:22:35 14 current practices for handling registrations who use the
15:22:41 15 state form. And I understand that you've already testified
15:22:46 16 that your office has not implemented any aspect of HB 2492
15:22:55 17 or 2243. I'm only asking about what the office is
15:22:59 18 currently doing, not taking into account those laws.

15:23:05 19 So first of all, if an applicant submits a
15:23:14 20 state registration form and they provide adequate DPOC, but
15:23:19 21 they don't provide their place of birth, is it correct that
15:23:24 22 your office would still register that applicant to vote?

15:23:27 23 A. Yes.

15:23:28 24 Q. And that's because birthplace is not currently,
15:23:37 25 absent 2492, required to register to vote; correct?

15:23:42 1 A. Correct.

15:23:42 2 Q. And you understand that under HB 2492, a state
15:24:00 3 form applicant must include their place of birth or the
15:24:05 4 form cannot be accepted for registration; right?

15:24:07 5 A. Yes.

15:24:08 6 Q. Does your office have any means of accurately
15:24:14 7 confirming that the place of birth that a registrant
15:24:19 8 provides is correct?

15:24:21 9 A. No.

15:24:23 10 Q. Would your office be able to verify a person's
15:24:29 11 citizenship using their place of birth?

15:24:31 12 A. No.

15:24:32 13 Q. So is it fair to say that Yavapai County cannot
15:24:39 14 use birthplace information to determine whether an
15:24:43 15 applicant is qualified to vote?

15:24:46 16 A. Yes.

15:24:47 17 Q. And just to confirm, your office hasn't received
15:24:56 18 any guidance from the secretary of state about how to
15:25:01 19 implement the birthplace requirement; right?

15:25:03 20 A. Yeah. Not to my knowledge, no.

15:25:07 21 Q. Are you aware of any other state that requires
15:25:10 22 birthplace information in order to register a voter?

15:25:14 23 MR. LANGHOFER: Form; foundation.

15:25:18 24 THE COURT REPORTER: What was the answer?

15:25:18 25 THE WITNESS: No.

15:25:21 1
15:25:22 2
15:25:23 3
15:25:26 4
15:25:32 5
15:25:36 6
15:25:40 7
15:25:47 8
15:25:48 9
15:25:54 10
15:25:58 11
15:26:04 12
15:26:30 13
15:26:36 14
15:26:41 15
15:26:46 16
15:26:51 17
15:26:55 18
15:26:56 19
15:26:57 20
15:27:02 21
15:27:07 22
15:27:10 23
15:27:12 24
15:27:18 25

BY MR. ATKINS:

Q. Okay. Shifting gears a little bit, I'd like to talk about the citizenship checkbox that appears on both the state form and the federal form.

So first of all, the citizenship checkbox on both forms has been in existence for a while; correct?

It's not a new --

A. Yes.

Q. And is it correct that your office follows the 2019 EPM when it comes to the citizenship checkbox?

A. Yes.

Q. If an applicant submits a state registration form and they don't provide DPOC and they don't mark the citizenship checkbox, but you're able to confirm their citizenship via their driver's license number or an A-number, for example, would you still register them to vote?

A. Yes.

Q. So is it fair to say that completing the citizenship checkbox is not necessary for your office to confirm that an applicant is a citizen?

MR. LANGHOFER: Form.

THE WITNESS: In cases where we can have evidence of citizenship through driver's license or alien

15:27:22 1 registration number, we would not need that to be checked.

15:27:25 2 BY MR. ATKINS:

15:27:26 3 Q. And to be clear, if a state form applicant
15:27:30 4 provided DPOC, you would not reject their application
15:27:36 5 simply for them failing to check the citizenship checkbox;
15:27:41 6 right?

15:27:41 7 A. No. No.

15:27:46 8 Q. Turning to federal form applicants, applicants who
15:27:53 9 complete the federal registration form establish their
15:27:58 10 citizenship by affirming their citizenship under penalty of
15:28:03 11 perjury on the federal form; correct?

15:28:06 12 A. Yes.

15:28:07 13 Q. And accordingly, if an applicant submits a federal
15:28:15 14 form and signs that citizenship affirmation, your office
15:28:21 15 has accepted such applications even if they fail to mark
15:28:26 16 the citizenship checkbox; right?

15:28:27 17 A. Yes.

15:28:28 18 Q. On either form -- state or federal -- what use, if
15:28:43 19 any, does your office make an applicant having checked the
15:28:51 20 citizenship checkbox?

15:28:53 21 A. The only use would be if we could not find
15:28:58 22 citizenship or weren't provided documentary proof of
15:29:02 23 citizenship on the state form. Because there's not the
15:29:05 24 attestation on the state form, we would need to have that
15:29:09 25 checked for them to attest that they are a citizen.

15:29:13 1 Q. And so if someone submitted a state form without
15:29:22 2 DPOC and without checking the checkbox, what would be your
15:29:27 3 protocol for handling that application?

15:29:30 4 A. We would send them the letter that said they need
15:29:34 5 to fill out that checkbox to make that attestation.

15:29:39 6 Q. Understood.

15:29:41 7 And you understand that under HB 2492, your
15:30:03 8 office would be required to reject both state and federal
15:30:07 9 forms if the applicant failed to check the citizenship
15:30:11 10 checkbox regardless of what other information they might
15:30:17 11 provide; right?

15:30:18 12 A. Yes.

15:30:18 13 Q. So if the citizenship checkbox becomes mandatory
15:30:25 14 under HB 2492, do you know if your office has any plans for
15:30:32 15 how they would change the processing of applications or the
15:30:37 16 review of the citizenship checkbox?

15:30:40 17 A. We don't have plans for that at this moment. But
15:30:44 18 we would have to, obviously, design some if that becomes
15:30:50 19 what we have to do.

15:30:52 20 Q. So shifting -- shifting away from the registration
15:31:01 21 applications, I just have a few more general questions.

15:31:07 22 First of all, you would agree with me --
15:31:10 23 right? -- that even prior to HB 2492 and 2243, it has been
15:31:18 24 illegal for a person who is not a U.S. citizen to register
15:31:21 25 to vote in Arizona?

15:31:23 1
15:31:24 2
15:31:29 3
15:31:33 4
15:31:35 5
15:31:37 6
15:31:45 7
15:31:49 8
15:31:50 9
15:31:53 10
15:32:07 11
15:32:14 12
15:32:14 13
15:32:18 14
15:32:23 15
15:32:29 16
15:32:33 17
15:32:36 18
15:32:43 19
15:32:48 20
15:32:53 21
15:32:55 22
15:32:56 23
15:33:02 24
15:33:05 25

A. Yes.

Q. And would you also agree that there are existing policies, laws, or procedures in place to prevent noncitizens from voting?

A. Yes.

Q. And isn't it a felony in Arizona for a person to register when they know they're not entitled or qualified to register?

A. Yes.

Q. Is it correct that you are not aware of any instances of noncitizens registering or voting in Yavapai County?

A. Yes, I am not aware of any.

Q. And you're not aware of any documents or communications in your office's possession that pertain to alleged instances of noncitizen registration or voting?

A. Yeah, I am not aware of any.

Q. All right. Finally, I just have a few questions about voting by mail in Arizona.

So first of all, in Arizona, absentee ballots are referred to as early ballots; right?

A. Yes.

Q. And currently, Arizona allows all registered voters to vote by early ballot; right?

A. No. A federal-only voter who has not proven their

15:33:10 1 identity will have to vote the first time at a polling
15:33:15 2 place to prove their identity.

15:33:19 3 Q. Understood.

15:33:20 4 But with the exception of that kind of
15:33:26 5 limited pool of first-time voters, aside from that
15:33:34 6 exception, all registered voters are permitted to vote
15:33:37 7 early by mail; correct?

15:33:38 8 A. Yes.

15:33:40 9 Q. And do you know how long that's been the case?

15:33:45 10 A. No, I don't actually have the number of years that
15:33:51 11 it's been in place. I know it's been quite a long time.

15:33:58 12 Q. And the right to vote by an early ballot has not
15:34:05 13 historically depended on which registration form an
15:34:10 14 applicant used; right?

15:34:11 15 A. Correct.

15:34:13 16 MR. LANGHOFER: Form.

15:34:18 17 BY MR. ATKINS:

15:34:19 18 Q. And -- and, you know, similarly, any registered
15:34:26 19 voter can request to be put on the early active voting list
15:34:31 20 regardless of which form they use to register; right?

15:34:35 21 MR. LANGHOFER: Form.

15:34:36 22 THE WITNESS: Yes.

15:34:38 23 BY MR. ATKINS:

15:34:40 24 Q. And if a voter is on the active early voting list,
15:34:45 25 does that mean that they're automatically sent a ballot by

15:34:48 1 mail for each election for which they're eligible without
15:34:53 2 having to request it each time?

15:34:54 3 A. Yes.

15:34:55 4 MR. LANGHOFER: Form.

15:34:56 5 BY MR. ATKINS:

15:34:58 6 Q. And those voters stay on the active early voting
15:35:02 7 list unless they fail to vote in two subsequent elections;
15:35:07 8 right?

15:35:08 9 MR. LANGHOFER: Form. Calls for a legal
15:35:09 10 conclusion.

15:35:09 11 THE WITNESS: Yes. Unless they remove
15:35:13 12 themselves.

15:35:14 13 BY MR. ATKINS:

15:35:17 14 Q. Is it fair to say that voting by early ballot by
15:35:21 15 mail is commonly used in Arizona?

15:35:26 16 A. Yes.

15:35:28 17 Q. Most Arizonans vote via mail; right?

15:35:33 18 A. I can't speak to all Arizonans. The vast majority
15:35:37 19 of Yavapai County voters vote by mail.

15:35:41 20 Q. Do you happen to know roughly what percentage of
15:35:45 21 Yavapai County voters voted by early ballot in 2022?

15:35:51 22 A. I -- I believe it was over 80 percent. I don't
15:35:56 23 have the exact number, but it was a high number.

15:36:01 24 Q. Based on your experience as a Yavapai County
15:36:08 25 election official, are there benefits to voters being able

15:36:13 1 to vote early by mail?

15:36:16 2 A. I believe so, yes.

15:36:18 3 Q. Can you elaborate on what those benefits are?

15:36:24 4 A. They get to have their ballot at home and can look
15:36:28 5 at all the things on the ballot and study them, research
15:36:32 6 them, and then fill it out and -- at their leisure instead
15:36:39 7 of trying to -- especially our longer ballots -- trying to
15:36:42 8 get through it all, you know, at a vote center where it may
15:36:46 9 be quite busy and they might feel pressure to do that.

15:36:50 10 It's also convenience for them. And some
15:36:55 11 people don't want to go and stand in line and do those
15:36:59 12 things or -- and may not be capable of doing so. So those
15:37:03 13 are some of the major benefits of voting by mail.

15:37:09 14 Q. So someone who votes early by mail, they don't
15:37:14 15 even need to figure out where their polling place is;
15:37:20 16 right?

15:37:20 17 A. No. Yeah, they don't need that.

15:37:22 18 Q. And early ballots in Yavapai County have prepaid
15:37:28 19 return postage; right?

15:37:29 20 A. Yes.

15:37:30 21 Q. So an early voter can simply fill out their ballot
15:37:36 22 and drop it in the mail, and their ballot's effectively
15:37:42 23 been cast; right?

15:37:42 24 A. Yes. Once we've received it.

15:37:46 25 Q. You mentioned that some voters might not have the

15:37:49 1 ability to vote at a polling place. Why would someone be
15:37:56 2 unable to vote in person at a polling place?

15:37:59 3 A. Well, I think it would be -- it's easier for some
15:38:02 4 people not to go to the voting place. I -- I can't say
15:38:06 5 that they could not vote at the voting place. But I think
15:38:10 6 it would be much easier on them if they have mobility
15:38:14 7 issues and things that they may choose to vote by mail
15:38:17 8 instead.

15:38:20 9 Q. And it's the case that sometimes voters are out of
15:38:23 10 the county or out of the state when it's election day;
15:38:28 11 correct?

15:38:28 12 A. Correct.

15:38:31 13 Q. So is it fair to say that another advantage of
15:38:33 14 voting early by mail is not having to be physically in the
15:38:38 15 county on election day?

15:38:40 16 A. Yes.

15:38:47 17 Q. Do you understand that under HB 2492, voters who
15:38:51 18 fail to provide DPOC will not be permitted to vote early by
15:38:58 19 mail?

15:38:59 20 A. Yes.

15:39:00 21 Q. And so under 2492, a voter who fails to provide
15:39:09 22 DPOC, they would lose all the benefits we've discussed of
15:39:14 23 voting early by mail; correct?

15:39:16 24 A. Yes.

15:39:22 25 MR. ATKINS: Thank you very much. That's all

15:39:23 1 the questions I have.

15:39:29 2 MR. MESSER: I think I'm up next, Mr. Webber.

15:39:31 3 But before I dive in -- we've been going another hour or
15:39:33 4 so. Do you need a break, or are you okay pressing forward?

15:39:33 5 THE WITNESS: I'm doing okay, surprisingly.

15:39:39 6 MR. MESSER: Okay. If that changes at any
15:39:40 7 point, just let me know. I'm happy to let you take a break
15:39:43 8 for a drink of water or something.

15:39:43 9

15:39:43 10 EXAMINATION

15:39:45 11 BY MR. MESSER:

15:39:45 12 Q. It's been a long time now, but I mentioned earlier
15:39:48 13 my name is Josh Messer. I represent the Tohono O'odham
15:39:51 14 Nation, the Gila River Indian Community, and several
15:39:54 15 individuals. It's nice to meet you this afternoon. Thank
15:39:56 16 you for taking the time.

15:39:58 17 Can you hear me okay?

15:39:59 18 A. Yes.

15:40:00 19 Q. Okay.

15:40:03 20 MR. MESSER: And, Cindy, can you hear me
15:40:04 21 okay?

15:40:04 22 THE COURT REPORTER: Yes.

15:40:04 23 MR. MESSER: Perfect.

15:40:07 24 BY MR. MESSER:

15:40:07 25 Q. I have a fairly discrete set of questions about

15:40:12 1 someone who's a registrant -- or applying to register to
15:40:14 2 vote's residential address and the documentary proof of
15:40:18 3 location of residence requirement that you -- that you
15:40:20 4 mentioned earlier. So I'll -- we'll start at the beginning
15:40:23 5 of the process.

15:40:25 6 Does an applicant need to provide their
15:40:27 7 residential address in order to register to vote?

15:40:30 8 A. The registrant needs to give us information on
15:40:34 9 where they reside, whether it's an actual standardized
15:40:41 10 address or something else where we can put them in the
15:40:43 11 right precinct and split so we can get them the right
15:40:47 12 ballot.

15:40:47 13 Q. What is something else if it's not a standardized
15:40:51 14 residential address?

15:40:52 15 A. It may -- it may be a parcel number. It may be a
15:40:57 16 latitude, longitude. It could be a Google Plus code. You
15:41:03 17 know, and we will take any of those where we can actually
15:41:07 18 locate where the person is and get them registered.

15:41:14 19 Q. Could a -- could an applicant provide, like, a
15:41:19 20 description of where their residence is on their
15:41:22 21 application form?

15:41:23 22 A. There is a place on the paper form to do that.
15:41:28 23 And we accept that if, again, given that map or
15:41:33 24 description, we can actually locate where they're at.

15:41:36 25 Q. All right. So we'll take the next set of

15:41:44 1 questions in sort of two -- two phases: one, if they
15:41:46 2 provide a standardized residential address or just
15:41:49 3 residential address, and then if they provide a
15:41:52 4 description.

15:41:53 5 On the residential address, does a P.O. box
15:41:58 6 satisfy the residential address requirement?

15:41:59 7 A. No.

15:42:01 8 Q. How does the county recorder's office use the
15:42:06 9 residential address as part of this voter registration
15:42:09 10 application?

15:42:10 11 A. We take the voter -- the address and it -- it goes
15:42:14 12 into our system, which we have all the standardized county
15:42:23 13 addresses in our system. And if it matches up to one, then
15:42:26 14 that will automatically put them in the precinct and split,
15:42:29 15 and those various districts they get to vote in. And so we
15:42:32 16 assign them that for their balloting purposes.

15:42:37 17 Q. What if it doesn't match something in the
15:42:40 18 database?

15:42:41 19 A. Well, there's a number of things that we will do.
15:42:45 20 We will look into our GIS system and see if there's a
15:42:50 21 person of that name. And, you know, did they transpose a
15:42:54 22 number? Did they do something? And -- and look and see if
15:42:59 23 we can actually locate them.

15:43:01 24 We'll also look if -- if it just doesn't
15:43:03 25 match our -- you know, matches a road in a direction and

15:43:08 1 everything but the number is off, we may look in the USPS
15:43:13 2 to see do they have a -- that mailing address is something
15:43:16 3 that might be the same location but not match what we have
15:43:21 4 in our county database. And that does happen from time to
15:43:24 5 time.

15:43:26 6 If it's -- again, if it's a more rural area,
15:43:32 7 you know, then -- then we have to look at descriptions and
15:43:36 8 those types of things. It could be -- in our situation, we
15:43:41 9 have a very large rural area that has phases and then lots
15:43:47 10 and, you know, what phase, what lot, and those types of
15:43:50 11 things. And we can locate people that way.

15:43:53 12 And again, sometimes they'll put a latitude
15:43:56 13 and longitude or a Google Plus code and, you know, those
15:44:00 14 types of things. As long as we determine where they're at,
15:44:03 15 we will register them.

15:44:05 16 Q. How often does it come up that someone's
15:44:12 17 residence -- the address they provide on the application
15:44:15 18 form doesn't match something in the database and you have
15:44:17 19 to take these extra steps?

15:44:19 20 A. It happens several times a day.

15:44:23 21 Q. Can you quantify that as a percentage of
15:44:29 22 applications?

15:44:30 23 A. I don't have hard enough numbers on it to do a --
15:44:35 24 do the math on it to give you a percentage. But we do get
15:44:39 25 some every day. Probably out of -- out of 100, we'll get a

15:44:44 1 couple that we have to do a little extra work on.

15:44:48 2 Q. And how much is a little extra work? Or in other
15:44:56 3 words, how much effort do you put in to trying to find
15:45:00 4 someone if their address doesn't match up with something
15:45:03 5 that's already in the database?

15:45:05 6 A. Again, it depends. Sometimes they're easy to
15:45:09 7 match up, and it doesn't take very long at all, and we
15:45:12 8 stop.

15:45:13 9 But we will go through the entire process of
15:45:15 10 looking them up in our GIS, looking up the USPS. I mean,
15:45:19 11 we will look at Google Street View. We will, you know, do
15:45:24 12 all the things that we have and we can do. And if we can't
15:45:29 13 finally match them, that's when we will send them the
15:45:33 14 letter that says we have no idea where you actually live.

15:45:36 15 Q. And I think you jumped to my next question.

15:45:39 16 So once you've gone through all these --
15:45:41 17 these extra efforts, you send the applicant a letter
15:45:45 18 saying, "We can't locate your residence address"?

15:45:48 19 A. Yes.

15:45:48 20 Q. And where do you send that letter?

15:45:50 21 A. To their mailing address.

15:45:53 22 Q. And is that -- or can that be different from their
15:45:57 23 residential address?

15:45:57 24 A. Yes.

15:45:58 25 Q. Do you have a sense of how often those follow-up

15:46:05 1 letters are returned as undeliverable or returned to your
15:46:09 2 office for some other reason?

15:46:11 3 A. I -- I don't have a percentage. I know that there
15:46:16 4 are some, not too many. But there will be some that will
15:46:20 5 be returned undeliverable. We get -- if we have --
15:46:25 6 sometimes someone will put an address down in a rural area
15:46:31 7 that we know does not give residential service from the
15:46:35 8 USPS, and they won't put down a P.O. box. And we pretty
15:46:40 9 much know that letter will -- will be coming back. We'll
15:46:44 10 send it anyway. And hopefully, maybe it will get there.
15:46:48 11 But -- but we do see that. But not too often.

15:46:53 12 Q. On these circumstances where they're in a more
15:46:56 13 rural area where you know or are pretty sure that the
15:46:59 14 letter is not going to get to them because there's not USPS
15:47:04 15 service or -- for whatever reason, are there any other
15:47:05 16 steps that your office takes to notify the voter that their
15:47:10 17 residence address isn't matching up with your databases?

15:47:12 18 A. Well, if they have a phone number or an email
15:47:15 19 address, we'll use that to try to contact them.

15:47:18 20 Q. Do you do that in addition to sending the letter,
15:47:23 21 or only if the letter doesn't work in the first --

15:47:26 22 A. Basically if the letter doesn't work.

15:47:31 23 Q. And if after all this process you've gone through
15:47:41 24 searching through the database, you sent the letter, you
15:47:44 25 followed up through other means, if those are available, if

15:47:47 1 you still don't hear from the voter or the voter doesn't
15:47:50 2 provide information confirming where their residence
15:47:54 3 address is, will that voter ultimately be registered?

15:47:57 4 A. No. They -- at the time when have -- we do the
15:48:01 5 initial processing and if we can't find them, they're
15:48:07 6 placed in suspense. And waiting verification is the
15:48:09 7 reason. And they will remain in that status until that
15:48:14 8 issue is cleared up.

15:48:16 9 Q. And if they do get back in touch with you and
15:48:18 10 they're able to confirm, "Yes, this is where I live," does
15:48:24 11 your office update a database? Or how does at that play
15:48:28 12 into the broader system?

15:48:29 13 A. Well, we -- we would take the -- the registrant
15:48:33 14 and make them an active, valid registrant. And if you --
15:48:39 15 and in our county, most of the time it's a parcel number
15:48:42 16 just because of the way our county is. But we would
15:48:45 17 actually put -- drop a pin on our map where they're at and
15:48:52 18 mark that as in some way where -- again, usually it's the
15:48:57 19 parcel number where we know we can go right back to it.

15:49:01 20 Q. And is the map your GIS system or is it a --

15:49:04 21 A. No. The map is -- is called TotalAddress. It's
15:49:09 22 part of our AVID voter registration system. The address
15:49:13 23 points do come from our GIS and are imported into it.

15:49:18 24 Q. Thank you.

15:49:19 25 So now we'll shift gears a little bit to sort

15:49:38 1 of the other method of figuring out where someone lives.

15:49:41 2 We were talking about them providing an address.

15:49:43 3 You also -- we also earlier discussed them
15:49:45 4 providing a description of their location. So how does
15:49:48 5 your office make use of a description of the location of
15:49:52 6 someone's residence?

15:49:54 7 A. Well, again, it's the more descriptive, the easier
15:49:58 8 it is. It may be coming to looking at a map and going,
15:50:03 9 okay, you know, three miles down this road. And, you
15:50:07 10 know -- and if there's landmarks and those types of things,
15:50:12 11 we -- we will try to do that.

15:50:16 12 And it's actually sometimes, when we call
15:50:18 13 people or they call us, we will go through on a map. You
15:50:23 14 know, have a -- like a satellite map and go: "All right.
15:50:27 15 You're down over by here. All right. Let's -- you're on
15:50:29 16 this road. Which way do you go?" And we go find actually
15:50:32 17 the place where they live.

15:50:34 18 So sometimes it does take actually talking to
15:50:38 19 people. And we will sometimes send them a satellite map of
15:50:41 20 an area if we think it's -- you know, it's somewhere in
15:50:45 21 here, but we have no idea which one it is and let them
15:50:49 22 maybe mark a parcel.

15:50:51 23 Q. And when you say send them -- send them a map -- a
15:50:53 24 satellite map, are you sending that through mail?

15:50:57 25 A. Usually it's mail. But we can -- if we have an

15:51:01 1 email, we can email it too.

15:51:02 2 Q. And is that -- I think you gave an example of sort
15:51:06 3 of what a description would look like. "It's three miles
15:51:09 4 down this road but past this landmark."

15:51:11 5 Are there other descriptions that your office
15:51:13 6 has seen when people provide a description rather than an
15:51:17 7 address?

15:51:17 8 A. Sometimes they will draw a -- sometimes a very
15:51:24 9 poor map that doesn't work very well for us.

15:51:28 10 They will go, you know, "Up Highway 89 six
15:51:31 11 miles, and then you're going to just take this road." And
15:51:35 12 they kind of just do a squiggly line and put an X. And
15:51:41 13 that's -- that's difficult unless their name is on the
15:51:44 14 property and we can figure that out.

15:51:47 15 Q. In the circumstances where some -- an applicant
15:51:53 16 provides a description of where they live, how often are
15:51:57 17 you able to ultimately, you know, identify where they live
15:52:00 18 and register that -- move that voter into the active voter
15:52:04 19 list?

15:52:05 20 A. Again, it just depends on the description. If
15:52:09 21 they provide -- obviously, if they provide you something
15:52:13 22 very specific, we have a very good shot at doing it. The
15:52:17 23 less specific it is, the less chance we have of finding
15:52:23 24 that in that initial pass.

15:52:25 25 We don't have statistics on it, you know, but

15:52:30 1 again, it's very reliant on what information we get.

15:52:38 2 Q. Does it also turn on how rural that particular
15:52:44 3 applicant is? In other words, are there parts of the
15:52:48 4 county where it's harder to be specific with a description
15:52:50 5 of where somebody lives?

15:52:53 6 A. I don't think so. The roads generally have names.
15:52:59 7 And again, we get into an area and -- and all of our
15:53:04 8 nongovernmental land has -- has individual parcel numbers.
15:53:11 9 And then governmental land, like forest service land stuff,
15:53:16 10 will generally be larger parcels.

15:53:19 11 We actually have one registrant on a -- we --
15:53:23 12 we put the baseline and meridian, you know, what -- what
15:53:29 13 township and all that kind of stuff in -- as their address.
15:53:31 14 So -- but most of the time, it's a parcel number for us.
15:53:35 15 We're fortunate in that way in Arizona for -- for our part
15:53:38 16 of Arizona that we have that.

15:53:40 17 Q. And when you get an application that uses a
15:53:45 18 description of location of residence rather than an
15:53:48 19 address, how often does that description match what that
15:53:53 20 person might have on their driver's license or whatever
15:53:56 21 other identifying documentation they're registering with?

15:54:00 22 A. Many times it's -- actually, if it comes out of
15:54:05 23 the electronic system from ServiceArizona, it will be
15:54:08 24 exactly what's on their driver's license.

15:54:11 25 But sometimes it's close. And again,

15:54:19 1 sometimes we may have something completely different. They
15:54:23 2 maybe have not changed their driver's license yet if they
15:54:26 3 moved from one location to another and submitted the paper
15:54:32 4 form. So it's, again, very dependent on that application.

15:54:39 5 Q. Excuse me. But in some cases, do you see examples
15:54:42 6 where someone provides a description of their residence,
15:54:47 7 "the third house past the second right on this road," and
15:54:50 8 that's also how they define their address on their driver's
15:54:54 9 license?

15:54:54 10 A. Usually not in that detail on the driver's
15:54:59 11 license. I think it's space. I mean, but you will have
15:55:04 12 some that's like, you know, five miles down this road on
15:55:08 13 the right, you know. So that's -- you can see --

15:55:15 14 And again, if we can locate it, we'll drop
15:55:19 15 our point. And a lot of times, we will tell the person,
15:55:22 16 "It's this parcel," and we'll tell them what parcel number
15:55:25 17 it is so they have that for future reference.

15:55:29 18 Q. And this is not just your office but your
15:55:34 19 knowledge about the broader county apparatus. Do you know
15:55:38 20 if there's a county department that provides addresses for
15:55:43 21 residences that don't already have them?

15:55:46 22 A. Yes. And so in cities and towns, the city and
15:55:50 23 towns take care of that.

15:55:52 24 If it's outside of a city and town, our
15:55:54 25 county development services can provide people addresses.

15:55:58 1 They generally -- I believe they apply for an address.

15:56:03 2 They would like to have a road named. Some roads aren't

15:56:07 3 named. But they'll want to have a road named or address

15:56:09 4 number assigned, and they will do that.

15:56:12 5 Q. Do you have a sense of how long it takes to get an
15:56:17 6 address assigned after someone applies?

15:56:20 7 A. I do not.

15:56:23 8 Q. And does your office have any role in that process
15:56:32 9 in assigning an address to somebody?

15:56:34 10 A. No.

15:56:35 11 Q. Do you know whether voter registration is lower in
15:56:51 12 the native communities -- Native American communities in
15:56:53 13 Yavapai County versus the rest of the county?

15:56:56 14 A. I do not know.

15:56:58 15 Q. Does your office do -- have any particular efforts
15:57:03 16 focused or aimed at increasing voter registration in the
15:57:07 17 Native American community?

15:57:08 18 A. Not specifically, no.

15:57:11 19 Q. And I -- by "not specifically," do you mean you
15:57:14 20 have more general voter registration campaigns that
15:57:17 21 target --

15:57:18 22 A. We -- we have -- you know, we put out information
15:57:22 23 for people to register and when elections are and those
15:57:27 24 types of things.

15:57:29 25 Both of our native communities -- well, one

15:57:33 1 is just -- it's about a mile here from where I'm sitting.
15:57:38 2 So it's in Prescott itself. And the other one is right in
15:57:42 3 the middle of the Verde Valley.

15:57:44 4 We don't have the big rural areas of
15:57:48 5 reservation land that some counties have. That's not what
15:57:53 6 we have in Yavapai County.

15:57:55 7 Q. And I -- corollary to that, do you have a sense of
15:57:59 8 how many native voters have nonstandard addresses or would
15:58:06 9 provide a description of their location of residence versus
15:58:10 10 an actual residential address?

15:58:13 11 A. We have on both the -- here in Prescott and over
15:58:19 12 by Camp Verde, they have assigned street addresses in those
15:58:23 13 areas. So it's not really an issue. Every once in a
15:58:27 14 while, you may have someone moving onto a place that --
15:58:31 15 that doesn't have -- they haven't assigned an address yet.
15:58:35 16 And then we will have -- you know, we will find where
15:58:38 17 that's at and drop our point.

15:58:41 18 Q. I think those are my background questions.

15:58:46 19 I'd like to shift to talking about HB 2492,
15:58:51 20 which I know you've answered a lot of questions about
15:58:53 21 today. So you should be very familiar with it by now.

15:58:57 22 A. Okay.

15:58:57 23 Q. For the record, this was also Petty Exhibit 19.

15:59:03 24 And, Mr. Webber, if I could have you turn to
15:59:07 25 page 5 -- well, it's page 5 in my version. I hope it's

15:59:11 1 page 5 in your version.

15:59:13 2 A. The 16-123?

15:59:16 3 Q. Exactly, yes.

15:59:18 4 A. Okay.

15:59:23 5 Q. Mr. Atkins was asking you about the distinction
15:59:27 6 between federal and state form voters. Do you remember
15:59:28 7 that?

15:59:29 8 A. Yes.

15:59:30 9 Q. Do you have an understanding of whether this
15:59:33 10 specific Section 16-123 would apply to both federal form
15:59:39 11 and state form voters?

15:59:42 12 MR. LANGHOFER: Form. Calls for a legal
15:59:43 13 conclusion.

15:59:50 14 THE WITNESS: I don't -- it doesn't seem to
15:59:58 15 vary upon what form, so not -- not to my knowledge. I
16:00:05 16 don't think they're -- they would treat forms any
16:00:07 17 differently.

16:00:10 18 BY MR. MESSER:

16:00:10 19 Q. So to your knowledge then, based on that, would it
16:00:14 20 -- earlier, when you were discussing with Mr. Atkins, you
16:00:17 21 discussed the sort of two-track approach: Those who
16:00:21 22 completed the federal form without documentary proof of
16:00:24 23 citizenship were able to vote in federal elections only;
16:00:28 24 those who did provide documentary proof of citizenship
16:00:32 25 could vote in all elections. Do you remember that?

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A. Yes.

Q. Is it your understanding then that 16-123 would create a similar sort of two-tracking where those who registered but didn't provide documentary proof of residence would be eligible to vote in federal elections but not state elections?

MR. LANGHOFER: Same objection.

THE WITNESS: I do not know if -- because we haven't applied this -- would we actually register that person or put them in suspense where they would not be registered to vote without that documentary proof.

BY MR. MESSER:

Q. Okay.

A. It seems to be independent of citizenship in my reading of it, although, again, we haven't applied it and dug deep so . . .

Q. And I realize now that I've done this a little bit out of order.

I was talking about documentary proof of residence. Do you know what I mean when I say that?

A. Yes.

Q. And what's your understanding of documentary proof of residence?

A. That they would have to provide some documentation that they actually live, you know, where they have put --

16:01:46 1 placed on their registration form.

16:01:51 2 And we -- I think when we looked at it, we
16:01:55 3 felt that, like, if they have their Arizona driver's
16:01:58 4 license, they would be fine. Or an Arizona identification
16:02:01 5 card, they would be fine. You know, they may have to
16:02:05 6 provide some type of bill or something like that to show,
16:02:11 7 you know, where they live.

16:02:14 8 We had a list of documents. I can't quote
16:02:16 9 them off the top of my head. But things that would be
16:02:19 10 proof. And I believe it's in part of the statute.

16:02:23 11 Q. And when you say "when we looked at it," who do
16:02:27 12 you mean?

16:02:27 13 A. Myself, the county recorder, and the deputy county
16:02:36 14 recorder.

16:02:36 15 Q. And I think you also mentioned a "they" in terms
16:02:42 16 of providing guidance or feedback. Do you know who
16:02:46 17 "they" was, or can you tell me who "they" is?

16:02:50 18 A. If we're looking for guidance, I mean, it could
16:02:54 19 come from -- from a court. It could come from the
16:03:00 20 Secretary of State's Office, you know, about what would be
16:03:05 21 and wouldn't be, you know, in their opinion what is
16:03:11 22 acceptable documentary proof of citizenship.

16:03:14 23 We started off -- and we didn't get very far
16:03:17 24 with it because we just stopped because we weren't going to
16:03:21 25 put it into effect. But we started with actually part of

16:03:25 1 our ID requirements for -- for going to a vote center and
16:03:31 2 what -- what's a good idea and a good ID to go and vote and
16:03:37 3 started to base it off of that.

16:03:39 4 Q. And what were some of those examples?

16:03:42 5 A. Well, it may be, you know, you could have a
16:03:52 6 different government issued ID that had the address on it.
16:03:54 7 Or you had an ID and some type of utility bill or something
16:04:00 8 addressed to that house from voter registration.

16:04:05 9 Or again, there were a number of different
16:04:07 10 things. Off the top of my head, I -- I couldn't get them
16:04:10 11 to you. I think they're probably in some of our production
16:04:12 12 documents somewhere. But yeah.

16:04:16 13 Q. Have you received guidance from the Secretary of
16:04:19 14 State's Office on what some of the documents that would
16:04:22 15 satisfy 16-123 are?

16:04:25 16 A. I believe there was one document that came out and
16:04:31 17 discussing it quite early after it had passed. It wasn't
16:04:37 18 really a guidance document. I think it was more of "let's
16:04:41 19 look at this to see whether this" -- you know, to begin
16:04:45 20 maybe providing something that make a guidance document.
16:04:50 21 And again, I believe it's in the production somewhere.

16:04:53 22 Q. And I think you're right. So if I could have you
16:04:56 23 look at Petty Exhibit -- oh, gosh -- 24.

16:05:05 24 A. Let me find that. Petty 24.

16:05:22 25 Q. It should have a cover page that says "Exhibit J."

16:05:25 1 A. Yes. Yes.

16:05:26 2 Q. Then the second page is a chart. Do you see that?

16:05:30 3 A. Yes.

16:05:31 4 Q. Is that the document you remember?

16:05:31 5 A. Yeah, I believe it was part of a larger document.

16:05:37 6 And it actually went over two pages, if I remember when I

16:05:40 7 saw it, but I could be wrong on that. But that's -- I

16:05:44 8 think it was part of a larger discussion of a number of

16:05:49 9 different things for different bills that had passed.

16:05:52 10 Q. But is this the -- oh, I'm sorry. I didn't mean

16:05:54 11 to cut you off.

16:05:55 12 A. No. But this was the chart that was in that

16:05:58 13 document.

16:05:59 14 Q. Okay. Thank you.

16:06:00 15 So I think we've touched on a few of these,

16:06:05 16 but I just want to walk through some of them quickly.

16:06:09 17 Both you and the chart mention that an

16:06:12 18 Arizona driver's license would work to satisfy the

16:06:15 19 documentary proof of residence requirement; correct?

16:06:17 20 A. Yes.

16:06:17 21 Q. Do you know whether driver's licenses can list

16:06:22 22 P.O. boxes rather than a residence address?

16:06:25 23 A. Yes, they can list P.O. boxes.

16:06:28 24 Q. So would a driver's license that lists a P.O. box

16:06:33 25 still work to satisfy 16-123?

16:06:38 1 A. That I would have to look at more specifically.
16:06:42 2 It would seem like it should not because -- well, for the
16:06:46 3 obvious reason, because it's not a residence address. But
16:06:50 4 I'd have to look specifically at the language whether it
16:06:54 5 actually required it to have a residential address. And I
16:06:58 6 don't remember off the top of my head.

16:07:02 7 Q. There's also the -- from the "Copy of valid,
16:07:08 8 unexpired AZDL" cell down, it also lists "Tribal
16:07:12 9 identification card, census card, tribal ID card, tribal
16:07:17 10 enrollment card." Do you see that?

16:07:18 11 A. Yes.

16:07:18 12 Q. If you go to the right, in the bottom of that box,
16:07:21 13 it says, "Pursuant to Gonzalez, a tribal ID does not
16:07:25 14 require an address be listed." Do you see that?

16:07:27 15 A. Yes.

16:07:29 16 Q. Do you -- are you familiar with the Gonzalez
16:07:33 17 stipulation?

16:07:33 18 A. Yes, I am.

16:07:34 19 Q. And under that stipulation, do tribal IDs have to
16:07:40 20 list residential address to be accepted valid forms of ID
16:07:45 21 to register to vote?

16:07:47 22 MR. LANGHOFER: Form. Calls for a legal
16:07:49 23 conclusion.

16:07:49 24 THE WITNESS: No, they do not.

16:07:49 25 BY MR. MESSER:

16:07:56 1 Q. So would a -- in your opinion, does a tribal ID
16:07:58 2 card that doesn't list a residence address satisfy 16-123?

16:08:04 3 MR. LANGHOFER: Same objection.

16:08:06 4 THE WITNESS: I don't know. I don't know.

16:08:09 5 BY MR. MESSER:

16:08:30 6 Q. And if -- the very bottom cell says, "Written
16:08:34 7 confirmation signed by the registrant that they qualify to
16:08:37 8 register" -- "that they qualify to register pursuant to
16:08:40 9 16-166(B) (providing an address at a homeless center; USPS
16:08:45 10 General Delivery; Courthouse."

16:08:47 11 Do you see that?

16:08:48 12 A. Yes.

16:08:48 13 Q. Is that essentially someone signing a declaration
16:08:51 14 that they reside in the county and are able to vote; they
16:08:56 15 just might be experiencing homelessness?

16:08:59 16 A. I believe so, yes.

16:09:00 17 Q. And has your office drafted a version of that
16:09:04 18 declaration?

16:09:05 19 A. No.

16:09:06 20 Q. Is that something your office would draft?

16:09:10 21 A. Quite possibly, yes.

16:09:12 22 Q. Is it something that might come from the secretary
16:09:16 23 of state?

16:09:16 24 A. Again, it -- it might.

16:09:18 25 Q. And do you know -- excuse me.

16:09:20 1 Do you know whether the secretary of state
16:09:22 2 has drafted a version of that declaration?

16:09:25 3 A. Not to my knowledge.

16:09:34 4 Q. And then if I could also have you look real quick
16:09:43 5 at what I think is Exhibit G in your -- in your files and
16:09:48 6 was earlier marked as Exhibit 143.

16:10:01 7 A. The other file folder.

16:10:02 8 Q. You're going to be a pro at this by the end of the
16:10:02 9 day.

16:10:05 10 A. Well, if I'd have known how this was going to
16:10:07 11 work, I would have organized these files a little
16:10:09 12 differently. But live and learn.

16:10:15 13 Q. These should be "Yavapai County Recorder's Answers
16:10:20 14 to Consolidated Plaintiffs' First Set of Interrogatories."

16:10:22 15 A. Yes.

16:10:23 16 Q. All right. If I could have you turn to page 6 of
16:10:27 17 that document.

16:10:33 18 A. Okay.

16:10:33 19 Q. That should be Interrogatory 7. Do you see that?

16:10:36 20 A. Yes.

16:10:37 21 Q. All right. I'll just -- rather than read through
16:10:42 22 it, I'll just ask you to read through what Interrogatory
16:10:44 23 Number 7 is. And let me know when you've done that.

16:10:53 24 A. Okay.

16:11:05 25 Q. And then your office's response was that "Yavapai

16:11:10 1 County has not implemented any of the challenged laws.
16:11:12 2 However, pursuant to A.R.S. Section 16-123, the items
16:11:17 3 identified in A.R.S. Section 16-579(A)(1) are considered
16:11:22 4 satisfactory proof of residency."

16:11:24 5 Did I read that correctly?

16:11:25 6 A. Yes.

16:11:26 7 Q. Do you know what sort of documents 16-579(A)(1)
16:11:32 8 identifies or lists?

16:11:34 9 A. Not -- not off the top of my head. I believe it
16:11:37 10 may be some of the ID requirements for in-person voting.

16:11:44 11 Q. And are there other documents that 16-578 --
16:11:52 12 579(A)(1) doesn't list that would be acceptable to prove
16:11:56 13 location of residence?

16:11:58 14 A. Not to my knowledge.

16:12:02 15 Q. All right. I think I'm very close to done. I
16:12:08 16 just have one thing to -- to loop back to.

16:12:10 17 Earlier when you were speaking with
16:12:13 18 Mr. Sherman, you were discussing some of your -- your
16:12:18 19 office's opposition to 2492 as it was working its way
16:12:23 20 through the legislature. And I believe I heard you say
16:12:27 21 that part of the opposition was that providing proof,
16:12:30 22 documentary proof, of location of residence would be very
16:12:33 23 hard for some voters. Do you remember that?

16:12:35 24 A. Yes.

16:12:35 25 Q. And you listed students as one of those -- one of

16:12:40 1 those groups of people; correct?

16:12:42 2 A. Yes.

16:12:42 3 Q. Very rural voters, do I have that correct?

16:12:46 4 A. Yes.

16:12:46 5 Q. What about voters who may be experiencing
16:12:50 6 homelessness?

16:12:52 7 A. Again, that could be an issue, although, again, I
16:12:59 8 believe that we would have to have some type of attestation
16:13:01 9 or something to basically waive that requirement and
16:13:11 10 that -- it would be difficult maybe for some of them to get
16:13:16 11 ahold of and fill out. But, yeah, homelessness could be an
16:13:21 12 issue.

16:13:22 13 Q. Are there any other groups of people that you
16:13:25 14 haven't talked about and I haven't talked about that you
16:13:27 15 think this documentary proof of location of residence
16:13:30 16 requirement would be particularly onerous for?

16:13:33 17 A. Well, it could be any person who may live at a
16:13:37 18 residence but have nothing in their name at that residence.
16:13:41 19 Maybe they are, you know -- they're just living in a room
16:13:46 20 there, and they're not related to the people. You know,
16:13:49 21 how do they now prove that they're at that -- that place?

16:13:56 22 And you can look at a lot of different
16:13:59 23 situations like that where the person doesn't own the
16:14:02 24 property, doesn't get mail in their name, you know, like a
16:14:08 25 utility bill or something like that that's listed in their

16:14:11 1 name at that address. How -- how do they prove that they
16:14:16 2 are -- you know, that they reside there? It could be
16:14:19 3 difficult for all kinds of people.

16:14:23 4 MR. MESSER: Thank you. I appreciate that.
16:14:25 5 I think that is my last question. So thank you so much for
16:14:27 6 your time this afternoon. I appreciate it.

16:14:30 7 You've got -- soon your first deposition will
16:14:33 8 be over. Others might have questions for you. But
16:14:35 9 otherwise, it was nice to meet you. Thank you so much.

16:14:39 10 THE WITNESS: Thank you.

16:14:39 11

16:14:39 12 EXAMINATION

16:14:40 13 BY MR. JOHNSON:

16:14:41 14 Q. Mr. Webber, my name is Hayden Johnson. I
16:14:42 15 represent the LUCHA plaintiffs. I have a couple, you know,
16:14:46 16 minutes of questions.

16:14:46 17 Would you like to take a quick break before
16:14:49 18 we dive into those?

16:14:50 19 A. No. I'm actually doing well.

16:14:51 20 Q. Okay. Great.

16:14:52 21 And I was wondering: Would it be helpful if
16:14:55 22 I screen share the documents that we're talking about so
16:14:57 23 you have them up right away and don't have to search? I'm
16:15:02 24 happy to do that.

16:15:02 25 A. Either way is fine with me. I can -- I can read

16:15:05 1 it on my screen if you provide it or if I have to go find
16:15:08 2 it, so . . .

16:15:09 3 Q. That sounds good. Well, let's start with you
16:15:12 4 searching for it. And if that proves to be difficult, then
16:15:14 5 we can pull them up.

16:15:15 6 A. Okay.

16:15:16 7 Q. So I would like to talk a little bit about --
16:15:20 8 follow up a little bit about how your -- how Yavapai County
16:15:22 9 treats state forms versus federal forms and the LULAC
16:15:27 10 settlement.

16:15:28 11 So I guess first, can you give me a sense of
16:15:30 12 what is the relative breakdown between the number of state
16:15:34 13 form applications versus federal form applications that
16:15:37 14 your office receives?

16:15:39 15 A. I don't have that data right in front of me, but
16:15:42 16 it is -- the vast, vast majority are state forms, either
16:15:46 17 the paper form or electronic. You know, it's not -- we
16:15:51 18 don't get that many federal forms, but we definitely do get
16:15:54 19 some.

16:15:55 20 Q. Okay. Thank you.

16:15:57 21 And does your office currently process state
16:16:02 22 form voter registration applications different in any way
16:16:05 23 from federal form applications?

16:16:08 24 A. No.

16:16:10 25 Q. Okay. So I'd like to turn to one of the

16:16:14 1 documents. It's marked as Exhibit T in the folder.

16:16:19 2 MR. JOHNSON: And we'll mark it. I think
16:16:20 3 we're at 156 at this point. This is a new document.

16:16:20 4 (The document was marked as Exhibit 156
16:16:20 5 for identification.)

16:16:34 6 THE WITNESS: Okay. I have it open.

16:16:34 7 BY MR. JOHNSON:

16:16:35 8 Q. All right. What is this document?

16:16:36 9 A. These are instructions that we have for our people
16:16:42 10 who enter our forms, so especially newer people we're
16:16:49 11 training to enter our forms.

16:16:51 12 Q. Okay. And this is for -- am I right? This is for
16:16:56 13 Arizona state registration forms?

16:16:58 14 A. This is for an Arizona registration form -- state
16:17:01 15 registration form.

16:17:02 16 Q. Okay. And if you don't mind scrolling down to
16:17:06 17 page 4 for me. Do you see item number 9 on page 4?

16:17:10 18 A. Yes.

16:17:12 19 Q. And that says, Click on "Run HAVA Checks"; is that
16:17:15 20 right?

16:17:15 21 A. Yes.

16:17:16 22 Q. So is that currently used for state form
16:17:20 23 applicants to do a HAVA check for potential U.S.
16:17:23 24 citizenship information?

16:17:24 25 A. It's used for every registrant.

16:17:29 1 Q. But it -- one purpose of that is checking for U.S.
16:17:31 2 citizenship information; is that right?

16:17:32 3 A. Yes. Yes.

16:17:33 4 Q. And that's for a state form?

16:17:35 5 A. Yes.

16:17:37 6 Q. Okay. And then if you go to -- if you don't mind
16:17:41 7 pulling up Exhibit V, which we'll now mark as 157.

16:17:41 8 (The document was marked as Exhibit 157
16:17:41 9 for identification.)

16:17:41 10 BY MR. JOHNSON:

16:17:41 11 Q. When you have that up, would you mind letting me
16:17:57 12 know what that document is?

16:18:02 13 A. "National Registration Forms."

16:18:05 14 Q. Is this basically the same instruction set but for
16:18:08 15 national registration -- the federal form?

16:18:12 16 A. Yes. I believe so. I believe it covers the exact
16:18:17 17 same thing. It's put into the system the exact same way.

16:18:20 18 Q. Okay. If we scroll down again to page 4, item
16:18:25 19 number 9, do you see where it says, "Click on 'Run HAVA
16:18:28 20 Checks' "?

16:18:28 21 A. Yeah.

16:18:29 22 Q. And so does that function the same way currently
16:18:33 23 as for your processing state forms?

16:18:35 24 A. Yes.

16:18:36 25 Q. So is there -- is there any information you

16:18:42 1 receive on the state form that is not on the federal form
16:18:46 2 that have a bearing on your determination of whether the
16:18:49 3 applicant is a U.S. citizen?

16:18:52 4 MR. LANGHOFER: Form.

16:18:54 5 THE WITNESS: It -- there may be -- if they
16:18:58 6 put their driver's license number on a state form, it --
16:19:01 7 it's much more likely to come up as a match with something
16:19:07 8 existing with the MVD.

16:19:10 9 If they don't have it on the federal form,
16:19:12 10 then it's looking at, you know, their name, date of birth
16:19:17 11 to try to see if we can come up with a match. So I believe
16:19:22 12 that just with a driver's license number, it's easier to
16:19:25 13 get an MVD match, which is where we have the citizenship
16:19:31 14 information.

16:19:31 15 BY MR. JOHNSON:

16:19:32 16 Q. So from your perspective, can you think of any
16:19:36 17 reason why a voter submitting a state form instead of a
16:19:38 18 federal form would be any less qualified to vote in federal
16:19:42 19 elections?

16:19:43 20 A. No.

16:19:44 21 MR. LANGHOFER: Form.

16:19:45 22 BY MR. JOHNSON:

16:19:49 23 Q. Let's pull up now what's listed as Exhibit K in
16:19:54 24 your folder, but it's been marked as Exhibit 147.

16:20:08 25 A. 147. I don't -- oh, Exhibit K?

16:20:10 1 Q. Yeah. In your folder, it's K.

16:20:13 2 A. Okay. All right. Too many numbers rolling around

16:20:15 3 here.

16:20:15 4 Q. We've already talked about this document a little

16:20:17 5 bit --

16:20:19 6 A. Okay.

16:20:19 7 Q. -- with my colleague, Mr. Sherman.

16:20:21 8 A. Okay. I have it up.

16:20:25 9 Q. Do you remember talking about this document a

16:20:27 10 minute ago?

16:20:28 11 A. Yes.

16:20:28 12 Q. So on page 1 in the header where it says "Page 4,"

16:20:37 13 do you see that paragraph?

16:20:38 14 A. Yes.

16:20:38 15 Q. What is that paragraph talking about?

16:20:42 16 A. It's talking about entering a person with an

16:20:51 17 incomplete state form into our system, because we have to

16:20:55 18 do that to generate them their notice.

16:21:00 19 And then what do we do with -- you know, what

16:21:06 20 status do we put them in?

16:21:09 21 You know, tracking it, again, our system

16:21:12 22 doesn't track this very well. And, you know, it's -- so

16:21:21 23 it's not -- we're not rejecting an application. We're just

16:21:26 24 marking it as something maybe in suspense or could be not

16:21:31 25 registered, not eligible, depending on the reasoning, and

16:21:36 1 that we do run HAVA checks on every applicant regardless.

16:21:42 2 And we still do that.

16:21:44 3 Q. And is that one you're referring to -- you see the
16:21:48 4 second to last sentence "We're required by LULAC to run a
16:21:52 5 HAVA check on every application even if DO- -- DPOC is not
16:21:57 6 included"? Is that what you're referring to?

16:21:58 7 A. Yes.

16:21:59 8 Q. And that just -- what's -- what's "required by
16:22:01 9 LULAC" mean?

16:22:02 10 A. Well, it was an -- I believe a settlement in
16:22:09 11 court.

16:22:09 12 Again, I've never seen the actual document of
16:22:14 13 the settlement. But it was something where we would run --
16:22:19 14 I think the results were we would run citizenship checks on
16:22:23 15 all of our applicants. And if they came up with proof of
16:22:29 16 citizenship, then we would make them full voters.

16:22:32 17 Q. And what you mean by "all of our applicants" is
16:22:35 18 state form applicant, federal form applicant, anybody who
16:22:38 19 applies, you do the same process?

16:22:40 20 A. Yes.

16:22:41 21 Q. Okay. And do you see the final sentence of that
16:22:44 22 paragraph where it says, "But now if do this, we are guilty
16:22:48 23 of a class 6 felony"? Do you see that?

16:22:50 24 A. Yes.

16:22:51 25 Q. Is that your office's understanding that if you

16:22:54 1 follow that LULAC process, you may have committed a Class 6
16:22:59 2 felony under this law?

16:23:00 3 A. That -- that could certainly be a possibility.

16:23:04 4 Q. All right. Next is another document you've
16:23:12 5 already seen. It's listed as Exhibit M under your -- in
16:23:16 6 your folder, but it's been marked as Exhibit 154.

16:23:20 7 Let me know if you have that up.

16:23:23 8 A. I have it up.

16:23:28 9 Q. All right. And if you don't mind scrolling down
16:23:31 10 to page 24.

16:23:56 11 A. Okay. I'm on page 24.

16:23:58 12 Q. And just to remind us, what is this document?

16:24:01 13 A. This is the draft Election Procedures Manual from
16:24:05 14 this year.

16:24:06 15 Q. This has your comments on it; right?

16:24:09 16 A. I believe so.

16:24:11 17 Q. Okay. And this comment on page 24, do you see
16:24:14 18 that on the right side?

16:24:16 19 A. We should put the page numbers on the -- 24 -- I
16:24:26 20 don't see the comment bubble. I remember making a comment
16:24:31 21 on it, though.

16:24:34 22 Q. Let's see. I'll share my screen quickly here and
16:24:37 23 then --

16:24:37 24 A. Okay.

16:24:38 25 Q. -- you can see that.

16:24:41 1 Do you see that up now?

16:24:42 2 A. Yes.

16:24:42 3 Q. Do you see the comment bubble here on the --

16:24:45 4 A. Yes.

16:24:45 5 Q. -- right side?

16:24:48 6 And I'll say -- the comment says, "Doesn't

16:24:50 7 the LULAC consent decree preclude this?" Do you see that?

16:24:54 8 A. Yes.

16:24:54 9 Q. Okay. And that's the same LULAC case we've been

16:24:57 10 talking about; right?

16:24:58 11 A. Yes.

16:24:59 12 Q. You're saying that the LULAC consent decree

16:25:03 13 precludes treating different types of applications -- state

16:25:06 14 form versus federal form -- differently; right?

16:25:06 15 MR. LANGHOFER: Form. Calls for legal

16:25:06 16 conclusion.

16:25:12 17 THE WITNESS: Yes.

16:25:14 18 BY MR. JOHNSON:

16:25:14 19 Q. Great. Thank you.

16:25:15 20 And that's the position of your office;

16:25:18 21 right?

16:25:19 22 MR. LANGHOFER: Same.

16:25:20 23 THE WITNESS: Yes.

16:25:20 24 BY MR. JOHNSON:

16:25:28 25 Q. So next, we have Exhibit N in your folder.

16:25:32 1 MR. JOHNSON: I don't think this one has been
16:25:34 2 marked. So it can be 158.

16:25:34 3 (The document was marked as Exhibit 158
16:25:43 4 for identification.)

16:25:43 5 BY MR. JOHNSON:

16:25:43 6 Q. Do you have that one pulled up, Mr. Webber?

16:25:46 7 A. I am pulling it up right this second.

16:25:50 8 Okay. I have it pulled up.

16:25:52 9 Q. What is this document?

16:25:56 10 A. I am not actually sure what this document is.

16:26:07 11 Q. This is one of the documents that your office
16:26:10 12 produced in response to a request in this litigation;
16:26:12 13 right?

16:26:13 14 A. Yes. We did produce this document. I'm not sure
16:26:18 15 exactly where it came from.

16:26:21 16 Q. What, in a general sense, does it appear to be?

16:26:24 17 A. It appears to be a questioning on the -- the
16:26:35 18 legality or the -- I don't know the -- the -- how wise
16:26:42 19 certain bills are. And it may be that that bill that we're
16:26:49 20 talking about -- what -- 2492, but it doesn't state that.

16:26:57 21 I'd have to go back and look at the line
16:26:59 22 numbers and try to compare it, but that's what I believe it
16:27:02 23 is.

16:27:03 24 Q. Okay. Does this appear to be just discussing some
16:27:05 25 of the -- your office's perceived defects in the law?

16:27:09 1 A. Yes. Yes.

16:27:11 2 Q. And does that include some references to the LULAC
16:27:15 3 consent decree that you can see on the page?

16:27:18 4 A. Yes.

16:27:18 5 MR. LANGHOFER: Same objection.

16:27:21 6 THE WITNESS: Yes, I can see that. I can see
16:27:25 7 on the page -- under the page 3 and then C.

16:27:31 8 BY MR. JOHNSON:

16:27:31 9 Q. Do you see under where it says page 6, "Again, we
16:27:34 10 are not in compliance with LULAC"? Do you see that?

16:27:39 11 MR. LANGHOFER: Same objection.

16:27:40 12 THE WITNESS: Yes, I do see that.

16:27:43 13 BY MR. JOHNSON:

16:27:45 14 Q. And do you see just above page 6 where it says:
16:27:47 15 "People using different forms are being treated
16:27:49 16 differently. This is what LULAC was preventing?" Do you
16:27:54 17 see that?

16:27:54 18 MR. LANGHOFER: Same objection.

16:27:55 19 THE WITNESS: Yes, I do see that.

16:27:57 20 BY MR. JOHNSON:

16:27:58 21 Q. And is that still your office's position that
16:28:01 22 these are defects in the bill?

16:28:03 23 MR. LANGHOFER: Same objection.

16:28:05 24 THE WITNESS: Yes.

16:28:10 25 MR. JOHNSON: All right. Next, let's pull up

16:28:17 1 Exhibit CC, which has not been marked yet. So we can mark
16:28:22 2 that as 159, please.

16:28:22 3 (The document was marked as Exhibit 159
16:28:30 4 for identification.)

16:28:30 5 THE WITNESS: I have it up.

16:28:34 6 BY MR. JOHNSON:

16:28:35 7 Q. What is this document?

16:28:36 8 A. It looks like it's meeting notes from a secretary
16:28:44 9 of state and county meeting from May 11th of 2023.

16:28:52 10 Q. Do you see your email on the CC line there?

16:28:56 11 A. No. It's very small. I -- I do not doubt it
16:29:03 12 whatsoever. I see it now.

16:29:05 13 Q. Do you recall attending this meeting on May 11?

16:29:09 14 A. After I looked at the meeting notes. I might not
16:29:15 15 specifically remember what I did on May 11th.

16:29:18 16 Q. Okay. Do you want to just take a quick look at
16:29:23 17 the meeting notes to refresh your recollection here?

16:29:25 18 A. Yeah. Yes. I remember the meeting.

16:29:42 19 Q. Okay. I'd like to direct your attention down to,
16:29:48 20 let's see, page 4. It starts at the top "Recorder
16:30:15 21 Cazares-Kelly." Do you see that?

16:30:16 22 A. Yes.

16:30:16 23 Q. Do you see the bullet point that says, "DPOC:
16:30:19 24 Proof of citizenship and ID's"?

16:30:20 25 A. Yes.

16:30:21 1 Q. What does the next bullet point say, just in
16:30:24 2 general terms?

16:30:25 3 A. The secretary will compare LULAC litigation to new
16:30:30 4 statute and report back to the group.

16:30:33 5 Q. Okay. And what -- did you ever get a report back?

16:30:37 6 A. I don't believe so.

16:30:38 7 Q. Okay. So from your experience, will the different
16:30:51 8 processing -- strike that.

16:30:53 9 From your experience, will the different
16:30:58 10 processing of state form applications versus federal form
16:31:02 11 applications -- if HB 2492 goes into effect, will that
16:31:06 12 increase the burdens on your office?

16:31:09 13 MR. LANGHOFER: Form.

16:31:10 14 THE WITNESS: Yes.

16:31:13 15 BY MR. JOHNSON:

16:31:13 16 Q. Does that include the risk of criminal penalties
16:31:15 17 like we just discussed?

16:31:18 18 MR. LANGHOFER: Form --

16:31:20 19 THE WITNESS: Yes.

16:31:21 20 MR. LANGHOFER: -- and foundation.

16:31:21 21 BY MR. JOHNSON:

16:31:22 22 Q. From your experience, will the different
16:31:24 23 processing of state form applications versus federal form
16:31:27 24 applications under this law increase the likelihood that
16:31:31 25 your office may reject registrations from eligible

16:31:33 1 applicants?

16:31:36 2 MR. LANGHOFER: Form.

16:31:38 3 THE WITNESS: Yes.

16:31:38 4 BY MR. JOHNSON:

16:31:41 5 Q. All right. I'd like to talk about another
16:31:45 6 document here, Exhibit W in your folder.

16:31:53 7 MS. STUART: Hayden, I'm so sorry to
16:31:53 8 interrupt. I know you guys want to keep going, but I do
16:31:55 9 need to use the restroom. So if we're going to look at a
16:31:58 10 new document, would now be a good time to do that, a little
16:32:01 11 break?

16:32:02 12 MR. JOHNSON: Thank you, Cindy. I'm so sorry
16:32:03 13 I wasn't thinking about that. Let's go off the record
16:32:05 14 here.

16:32:07 15 THE VIDEOGRAPHER: We're off the record.
16:32:10 16 Time on the video monitor is 4:32 p.m.

16:32:25 17 (A recess ensued.)

16:36:57 18 THE VIDEOGRAPHER: We're on the record. Time
16:37:21 19 on the video monitor is 4:37 p.m.

16:37:21 20 BY MR. JOHNSON:

16:37:25 21 Q. All right. Mr. Webber, thank you again.

16:37:28 22 We were just about to talk about another
16:37:30 23 document. It's Exhibit W in your folder, and we just
16:37:34 24 marked it as Exhibit 160.

16:37:34 25 (The document was marked as Exhibit 160

16:37:34 1 for identification.)

16:37:41 2 BY MR. JOHNSON:

16:37:41 3 Q. When you see Exhibit W, can you let me know?

16:37:43 4 A. I have it open.

16:37:45 5 Q. Great.

16:37:45 6 And does this document appear to be an email
16:37:50 7 exchange between different Yavapai County officials --
16:37:54 8 Yavapai County recorder officials?

16:37:56 9 A. It's Yavapai County officials, I believe. It's
16:37:59 10 not just recorder.

16:38:01 11 Q. So that would include county board of supervisors
16:38:04 12 officials; is that right?

16:38:05 13 A. We have county -- assistant county attorney. We
16:38:13 14 have some people from the courts, from the schools, looks
16:38:19 15 like assessor and treasurer and sheriffs. So, yeah, it
16:38:26 16 looks like -- like a leadership group from the county.

16:38:28 17 Q. Okay. And if we scroll down to page 2, do you see
16:38:34 18 where the header says, "Legislative Update"?

16:38:37 19 A. Yes.

16:38:38 20 Q. And the second paragraph there, do you see where
16:38:41 21 it references HB 2492?

16:38:46 22 A. Yes.

16:38:53 23 Q. Do you see the reference describing HB 2492 to --
16:39:01 24 this will -- I'm quoting now -- "in part will relitigate
16:39:05 25 the 2013 Arizona v. Inter Tribal Council of Arizona

16:39:09 1 decision by the U.S. Supreme Court under a new court"? Do
16:39:13 2 you see that passage?

16:39:16 3 MR. LANGHOFER: Form. Calls for legal
16:39:19 4 conclusion.

16:39:19 5 THE WITNESS: Yes.

16:39:19 6 BY MR. JOHNSON:

16:39:19 7 Q. What do you understand that passage to mean?

16:39:23 8 MR. LANGHOFER: Same.

16:39:24 9 THE WITNESS: It appears that this is
16:39:27 10 bringing up subjects that have already been litigated and
16:39:32 11 would seem to be relit- -- have to be relitigated under the
16:39:38 12 new statute.

16:39:41 13 MR. JOHNSON: Okay. Thank you.

16:39:42 14 Let's pull up Exhibit S, which I don't think
16:39:53 15 has been marked yet. If so, that's 161.

16:39:53 16 (The document was marked as Exhibit 161
16:39:53 17 for identification.)

16:40:11 18 THE WITNESS: I have it open.

16:40:13 19 BY MR. JOHNSON:

16:40:13 20 Q. All right. We're going back to some of the
16:40:16 21 questions my colleague, Mr. Messer, was asking.

16:40:19 22 Do you see a couple paragraphs down where it
16:40:22 23 starts "HB 2492 would require proof of residence location"?
16:40:26 24 Do you see that?

16:40:26 25 A. Yes.

16:40:27 1 Q. I guess I should back up.

16:40:30 2 What is this document?

16:40:31 3 A. It is a letter from our past county recorder to
16:40:38 4 the governor of Arizona.

16:40:39 5 Q. What kind of letter is it?

16:40:42 6 A. It's a letter commenting upon HB 2492, and it's
16:40:49 7 asking that it be vetoed.

16:40:54 8 Q. And so that passage I just referenced requires
16:40:57 9 proof of residence location. Is that the DPOR requirement
16:41:01 10 you discussed with Mr. Messer?

16:41:04 11 A. Yes.

16:41:04 12 Q. And do you see the line where it says, "This is
16:41:08 13 another burden on potential qualified voters who wish to
16:41:11 14 have their voices heard"? Do you see that?

16:41:14 15 A. Yes.

16:41:15 16 Q. So do you think that DPOR will make it more
16:41:18 17 difficult for qualified voters to get registered?

16:41:22 18 A. Yes.

16:41:24 19 MR. LANGHOFER: Form; foundation.

16:41:26 20 BY MR. JOHNSON:

16:41:27 21 Q. And the next paragraph there, do you see that
16:41:30 22 paragraph?

16:41:31 23 A. Yes.

16:41:33 24 Q. Where it says, "HB 2492 criminalizes election
16:41:37 25 officials for completing our job duties"?

16:41:41 1 A. Yes.

16:41:42 2 Q. Is that, again, referencing the potential criminal
16:41:47 3 risks that Yavapai election officials might face
16:41:47 4 [indiscernible]?

16:41:47 5 A. Yes.

16:41:47 6 THE COURT REPORTER: I'm sorry. Can you
16:41:47 7 repeat the end? "Election officials might face . . ."

16:41:58 8 MR. JOHNSON: -- under this law.

16:42:05 9 THE WITNESS: And the answer was "yes."

16:42:05 10 BY MR. JOHNSON:

16:42:10 11 Q. All right. Just two more documents, Mr. Webber.
16:42:13 12 I'm sorry I'm making you shuffle around here.

16:42:16 13 Let's pull up Exhibit U in your folder. And
16:42:19 14 that's going to be marked as 162.

16:42:19 15 (The document was marked as Exhibit 162
16:42:30 16 for identification.)

16:42:30 17 THE WITNESS: I have it up.

16:42:32 18 BY MR. JOHNSON:

16:42:32 19 Q. What is this document?

16:42:34 20 A. That's a -- that's an instruction document for
16:42:37 21 people who are learning or doing our registration forms and
16:42:43 22 our -- for our paper forms.

16:42:45 23 Q. And is this sort of similar to the instructions
16:42:50 24 from Exhibit T and Exhibit V that we looked at a minute
16:42:53 25 ago?

16:42:54 1
16:42:55 2
16:42:59 3
16:43:06 4
16:43:11 5
16:43:12 6
16:43:15 7
16:43:22 8
16:43:23 9
16:43:29 10
16:43:34 11
16:43:42 12
16:43:46 13
16:43:51 14
16:43:55 15
16:43:59 16
16:43:59 17
16:44:02 18
16:44:03 19
16:44:06 20
16:44:09 21
16:44:13 22
16:44:14 23
16:44:15 24
16:44:15 25

A. Yes.

Q. Okay. And what is "Box 22"?

A. Box 22 is where the checkboxes for being a citizen and being of at least 18 years of age on the registration form.

Q. Okay. So when processing an application regarding Box 22, what happens if someone leaves the citizenship box blank?

A. Currently, if we find through the HAVA check citizenship or if there's an alien registration number, the SAVE system, and they have a date of birth that makes them 18, we -- we basically ignore if they're not checked.

Q. So if you do a HAVA check or a citizenship check and find proof of U.S. citizenship, that checkbox doesn't add anything to your processing of the registration right?

MR. LANGHOFER: Form.

THE WITNESS: Yeah. Correct.

BY MR. JOHNSON:

Q. And in cases where the voter has submitted documentary proof of citizenship with their application, does the checkbox there add anything to your processing of the registration?

MR. LANGHOFER: Form.

THE WITNESS: No.

BY MR. JOHNSON:

16:44:21 1 Q. All right. I did -- I did promise this would be
16:44:23 2 the last document.

16:44:24 3 So we have Exhibit Z in your folder, which
16:44:29 4 will be marked as 163.

16:44:29 5 (The document was marked as Exhibit 163
16:44:37 6 for identification.)

16:44:37 7 THE WITNESS: Okay. I do have it open.

16:44:43 8 BY MR. JOHNSON:

16:44:43 9 Q. All right. And what is this document?

16:44:45 10 A. This is another instruction sheet for adding a
16:44:50 11 registrant that would be a new registrant or if we don't
16:44:55 12 know they're already a current registrant. It depends on
16:44:58 13 how it turns out but --

16:45:00 14 Q. Was part of the processing for a new registrant
16:45:03 15 determining if they are already on the rolls?

16:45:06 16 A. Yes.

16:45:07 17 Q. Okay. And if you go to page 2, do you see the
16:45:11 18 search field there?

16:45:13 19 A. Yes.

16:45:13 20 Q. What are the search fields there to search if
16:45:18 21 someone's already in the system?

16:45:19 22 A. Last name, first name, the last four of their
16:45:23 23 Social Security number, their date of birth, and their
16:45:26 24 Arizona driver's license or ID number.

16:45:29 25 Q. Is birthplace one of those fields?

16:45:32 1 A. No.

16:45:33 2 Q. Do you use birthplace to determine if someone's
16:45:36 3 already on the voter registration rolls?

16:45:39 4 A. No.

16:45:40 5 Q. Do you use birthplace to determine a voter's
16:45:43 6 identity in this way?

16:45:45 7 A. No.

16:45:49 8 MR. JOHNSON: All right. That's all my
16:45:50 9 questions, Mr. Webber. I don't know if other plaintiff
16:45:53 10 groups will be asking questions, but I really appreciate
16:45:55 11 your time. Thank you.

16:45:57 12 THE WITNESS: Thank you.

16:46:12 13 MR. LANGHOFER: Anything else from the
16:46:12 14 plaintiffs, or should the defense go?

16:46:16 15 MR. JOHNSON: I think that's it for us.
16:46:18 16 Thank you.

16:46:21 17 MR. LANGHOFER: Tim and Shayna, I'm happy to
16:46:24 18 defer to you guys if you want to go first.

16:46:27 19 MR. HORLEY: Likewise. Shayna, did you have
16:46:29 20 anything you wanted to ask?

16:46:31 21 MS. STUART: Not at this time, but I'll let
16:46:34 22 you guys go ahead. And if I have any follow-up, I'll go
16:46:37 23 after you or Kory. Thank you.

16:46:42 24 MR. HORLEY: Okay. Kory, I'm happy to have
16:46:43 25 you take the first go.

16:46:45 1 MR. LANGHOFER: Yeah.

16:46:46 2

16:46:47 3 EXAMINATION

16:46:47 4 BY MR. LANGHOFER:

16:46:47 5 Q. All right. Mr. Webber, my name is Kory Langhofer,
16:46:49 6 and I'm counsel for the RNC. And thank you for your time
16:46:55 7 today.

16:46:56 8 Let me -- bear with me. I'm going to try to
16:47:01 9 pull up a different program to have my questions in front
16:47:03 10 of me.

16:47:06 11 All right. So let's start with this. Your
16:47:11 12 office lobbied against the two bills in question, did it
16:47:15 13 not?

16:47:15 14 A. Yes.

16:47:17 15 Q. And you have also failed to implement both of the
16:47:25 16 bills; correct?

16:47:26 17 A. Yes.

16:47:26 18 Q. Which court authorized you to not implement these
16:47:31 19 bills?

16:47:32 20 A. We did not have an opinion of the court. We did
16:47:37 21 seek our own legal counsel.

16:47:39 22 Q. So you -- you've chosen to not implement a statute
16:47:44 23 without a court order authorizing that?

16:47:45 24 A. Yes.

16:47:48 25 Q. And you testified that you think this -- these

16:47:53 1 bills are illegal?

16:47:55 2 A. I believe so.

16:47:57 3 Q. Is it fair to say then that you're on the

16:48:01 4 plaintiffs' side in this litigation?

16:48:04 5 A. We have not taken a side, but we do look at

16:48:10 6 difficulties that it will give us in some legal aspects

16:48:14 7 with implementing these laws.

16:48:16 8 Q. Well, you say you're not taking a side. Let's

16:48:19 9 just pause a minute.

16:48:20 10 You lobbied against the bill. You failed to

16:48:21 11 implement it. You've said on the record under oath you

16:48:23 12 think it's illegal. In what way have you not taken a side

16:48:29 13 with the plaintiffs in this litigation?

16:48:33 14 MR. ATKINS: Objection. Asked and answered.

16:48:33 15 BY MR. LANGHOFER:

16:48:36 16 Q. No, I'm asking for clarification.

16:48:37 17 In which way have you not taken a side?

16:48:39 18 A. Well, we have not filed any documents, I

16:48:42 19 believe -- and this may be more of a question for my legal

16:48:47 20 counsel -- any documents saying that we want, you know, to

16:48:53 21 -- to file on the side of the plaintiffs.

16:48:57 22 Q. Okay. So in the sense that you've not filed

16:48:59 23 something, that's how you failed to take a side on -- in

16:49:02 24 support of the plaintiffs?

16:49:03 25 A. Yeah.

16:49:04 1 Q. Okay. You're also -- you also expressed some
16:49:09 2 concerns that the -- about the substance of the bill. I
16:49:12 3 think one of your concerns was that there were criminal
16:49:14 4 penalties potentially for county recorders who violate it.
16:49:18 5 Did I get that right?
16:49:19 6 A. Yes.
16:49:20 7 Q. And did you say -- I don't remember this from your
16:49:23 8 direct.
16:49:24 9 Did you say you think it violates the
16:49:26 10 Gonzalez settlement?
16:49:27 11 A. I'm trying to remember what is -- what we're
16:49:31 12 looking at the Gonzalez settlement. And I'm trying to
16:49:37 13 recollect exactly what area it was. And I think it was
16:49:44 14 documentary proof of residency, but I can't remember
16:49:48 15 exactly what that was.
16:49:49 16 Q. If you didn't testify to that, then it doesn't
16:49:52 17 matter, I suppose.
16:49:52 18 You disagree with what the bill is doing
16:49:54 19 substantively on DPOC; correct?
16:49:58 20 A. Yeah, I disagree because I believe we already have
16:50:04 21 a -- have a court case on that. And it puts us in the
16:50:07 22 middle. That's really -- a lot of the stuff puts us in the
16:50:11 23 middle of current -- already-issued rulings and state
16:50:16 24 statute, and we'd really rather not be in the middle.
16:50:20 25 Q. And you disagree [indiscernible] substantively on

16:50:24 1 DPOR?

16:50:24 2 THE COURT REPORTER: Can you repeat that,

16:50:25 3 Kory?

16:50:25 4 BY MR. LANGHOFER:

16:50:26 5 Q. You disagree substantively with what the bill is

16:50:28 6 doing -- the bills are doing with respect to DPOR?

16:50:32 7 A. Yes.

16:50:32 8 Q. And you don't like the countywide list maintenance

16:50:38 9 requirements?

16:50:38 10 A. We don't feel that the countywide list maintenance

16:50:42 11 processes are even possible the way they're written. We

16:50:47 12 don't have access to the databases. We do not -- you know,

16:50:53 13 they're asking us to do things that we actually cannot do.

16:50:57 14 Q. So you don't like what the bill requires with

16:51:01 15 respect to countywide list maintenance?

16:51:02 16 A. Yes.

16:51:04 17 Q. When you say it's not possible, don't you mean

16:51:06 18 it's not possible with the current systems you have?

16:51:10 19 A. It's not possible with any of the databases that

16:51:14 20 we have access to.

16:51:16 21 Q. But if you were given additional resources, like

16:51:20 22 an API, for example, to check this stuff with automation

16:51:24 23 rather than manually, it may then be possible?

16:51:27 24 MR. ATKINS: Objection. Calls for

16:51:31 25 speculation.

16:51:31 1 THE WITNESS: If we had access to the actual
16:51:33 2 databases and what databases those were. You know, if it
16:51:40 3 says a local database, we don't know what that is.
16:51:44 4 BY MR. LANGHOFER:
16:51:46 5 Q. Do you -- is your position that you need more
16:51:49 6 monetary resources to implement this bill?
16:51:51 7 A. I think we would need monetary resources and a lot
16:51:56 8 of clarification and cooperation from a lot of other
16:52:01 9 governmental agencies in state, local, federal to be able
16:52:08 10 to implement this.
16:52:09 11 Q. Okay. Now, these -- all these concerns you have
16:52:15 12 with the bill, you were represented at the Capitol by a
16:52:18 13 lobbyist; correct?
16:52:19 14 A. I believe so.
16:52:20 15 Q. Jen Marson?
16:52:22 16 A. I believe she's with the Arizona Association of
16:52:26 17 Counties, yes.
16:52:27 18 Q. So she represented you indirectly there?
16:52:30 19 A. Yes.
16:52:30 20 Q. She does a good job; right? Jen's good at her
16:52:33 21 job?
16:52:33 22 A. I believe so.
16:52:34 23 Q. She expressed all these concerns to the Senate
16:52:37 24 while she was there?
16:52:39 25 A. I would imagine so.

16:52:41 1 Q. Did she persuade a majority of the Senate to vote
16:52:44 2 against this bill?

16:52:45 3 A. No.

16:52:46 4 Q. Did she express these concerns to the House while
16:52:49 5 she was there?

16:52:50 6 A. I, again, would imagine so.

16:52:52 7 Q. Did she persuade a majority of the House that
16:52:55 8 these substantive concerns should result in the bill being
16:52:59 9 rejected?

16:53:00 10 A. Does not appear so.

16:53:01 11 Q. And you all communicated with the governor's
16:53:04 12 office?

16:53:04 13 A. Yes. The county recorder did send a letter to the
16:53:09 14 governor's office.

16:53:10 15 Q. And the concerns you wanted to raise were
16:53:12 16 contained in that letter?

16:53:14 17 A. Yes.

16:53:14 18 Q. Did the governor veto the bill?

16:53:18 19 A. The governor, I believe, signed the bill.

16:53:21 20 Q. So no -- your substantive concerns were raised in
16:53:25 21 the House, the Senate, and at the governor's office, and
16:53:28 22 none of the political branches agreed with your assessment?

16:53:31 23 A. Yes.

16:53:31 24 Q. You said a few minutes ago that you think this
16:53:33 25 bill is going to increase the likelihood of you rejecting

16:53:37 1 eligible applicants. I want to be clear about that because
16:53:42 2 I don't think you mean those words literally.

16:53:45 3 If I understand it correctly, what you mean
16:53:46 4 is increase the likelihood that you would reject someone
16:53:50 5 who, if they followed the correct procedures, could, in
16:53:54 6 fact, successfully register to vote but not -- you don't
16:53:56 7 mean rejecting people who actually comply with the laws as
16:53:59 8 written; am I correct?

16:54:03 9 MR. JOHNSON: Objection. Misstates.

16:54:04 10 THE WITNESS: I believe -- to state it
16:54:05 11 correctly, I believe we will be rejecting voters who, under
16:54:10 12 past laws, would be currently eligible, especially with the
16:54:13 13 documentary proof of residency. I think that would be an
16:54:16 14 accurate statement.

16:54:18 15 BY MR. LANGHOFER:

16:54:18 16 Q. Okay. So it's not that you're going to violate
16:54:20 17 the statute that's written; it's just that you'll be
16:54:21 18 rejecting applications that might have been accepted under
16:54:25 19 different statutes?

16:54:28 20 MR. JOHNSON: Objection. Misstates
16:54:29 21 testimony.

16:54:29 22 And, Cindy, it might be a good opportunity
16:54:31 23 for us to just clarify for the record that if plaintiffs
16:54:35 24 make an objection, that is an objection for all the
16:54:37 25 plaintiffs.

16:54:39 1 MR. LANGHOFER: The stipulation as to
16:54:40 2 objections is fine with us.

16:54:40 3 MR. JOHNSON: Thank you.

16:54:43 4 BY MR. LANGHOFER:

16:54:43 5 Q. Sir, do you remember the question?

16:54:44 6 A. Could you repeat it, please?

16:54:46 7 Q. Yeah. I don't want to put words in your mouth,
16:54:50 8 and I don't want to mischaracterize your testimony. I
16:54:51 9 really want to get what you're saying precisely here.

16:54:54 10 I think what you're saying is the new law
16:54:57 11 would require you to reject applications that may have been
16:55:00 12 accepted before, but you're not saying that you're just
16:55:03 13 going to misapply the new laws and reject people who comply
16:55:07 14 with the new registration requirements?

16:55:10 15 A. No. We would not misapply the new law to reject
16:55:15 16 anyone.

16:55:16 17 Q. You mentioned a moment ago problems with DPOR.
16:55:20 18 You think that's, you know, particularly likely to result
16:55:22 19 in rejected applications. Homeless people will be able to
16:55:28 20 register under the new statute, won't they?

16:55:31 21 A. To submit a registration form or --

16:55:33 22 Q. To successfully register.

16:55:36 23 A. If they provide documentary proof of residency.

16:55:41 24 Q. So that could include, for example, proof that
16:55:46 25 they're staying at a homeless shelter; correct?

16:55:50 1 A. It could.

16:55:52 2 MR. MESSER: Assumes facts.

16:55:53 3 BY MR. LANGHOFER:

16:55:53 4 Q. Or if -- failing all else, they could do a
16:55:57 5 declaration that they live at a particular intersection;
16:56:00 6 correct?

16:56:00 7 A. Yes, they could.

16:56:01 8 Q. Okay. So even where someone has no traditional
16:56:04 9 address and no home, the DPOR requirement would not bar
16:56:10 10 voter registration?

16:56:10 11 MR. MESSER: Assumes facts. Calls for
16:56:11 12 speculation.

16:56:15 13 THE WITNESS: Again, from what I looked at --
16:56:17 14 and I believe that the part of having the declaration for
16:56:23 15 people who were homeless and -- were -- was more referring
16:56:25 16 to as people who may be in a very rural area and don't own
16:56:30 17 the property, don't have utility bills. They may not have
16:56:34 18 any of the documents that's required of them, and they're
16:56:39 19 not homeless. They just live in a place that it is very
16:56:45 20 difficult for them to get documentation.

16:56:47 21 BY MR. LANGHOFER:

16:56:48 22 Q. Okay. So let's think precisely about who that
16:56:51 23 would include. That would include someone who doesn't have
16:56:54 24 a driver's license with their residential address on it,
16:56:57 25 doesn't have a lease, doesn't have mail at that address,

16:57:01 1 doesn't have utilities at that address, and can't sign a
16:57:05 2 declaration about where they live, also can't draw a map.
16:57:08 3 Am I getting that right?
16:57:10 4 A. No. I -- again, from my interpretation, the
16:57:13 5 declaration is for people who are homeless and, you know,
16:57:20 6 have a general delivery address. I'd have to look
16:57:24 7 specifically at it, but we have people in here -- and
16:57:27 8 again, as I look at it, I look at someone who has a P.O.
16:57:33 9 box and lives in a rural area -- let's say by Ash Fork and
16:57:37 10 Seligman -- they don't own the property; some of them don't
16:57:41 11 even have utilities -- I think it would be very difficult
16:57:44 12 for them to comply with that law.
16:57:47 13 And I may be misapplying the law about the
16:57:50 14 declaration, but it was my thought that it was only for
16:57:55 15 people who basically did not have a residence. These
16:57:58 16 people have a residence, but they have a -- would have a
16:58:02 17 very hard time proving it.
16:58:04 18 Q. It sounds like we agree then that what's doing a
16:58:07 19 lot of work in your analysis is the idea that if you have a
16:58:10 20 residence, the declaration option is not available to you?
16:58:14 21 A. That's -- that was my interpretation of it.
16:58:17 22 Q. Okay. So if that's available to everyone, do you
16:58:22 23 still think the DPOR requirement is going to be a
16:58:24 24 significant problem for people in this situation?
16:58:26 25 A. If it was available to all people who just say "I

16:58:31 1 can't provide it" or what -- I mean, I don't know how --
16:58:33 2 what format would be. But that would certainly alleviate
16:58:38 3 much of the burden.

16:58:39 4 Q. Okay. So at that point, you'd be left with people
16:58:42 5 who don't have a driver's license with their residential
16:58:44 6 address, don't have a lease, don't have utilities, don't
16:58:46 7 have mail, and can't file a declaration?

16:58:49 8 A. Yes. And if -- with a declaration, if we could
16:58:53 9 accept that, then that would be probably the only people
16:58:57 10 who would then be disenfranchised from what we do
16:59:03 11 currently.

16:59:04 12 Q. Can you think of anyone who would fit in that
16:59:06 13 category?

16:59:07 14 A. No.

16:59:08 15 Q. You said that someone who fills out the federal
16:59:15 16 form is no more or less qualified than one who fills out
16:59:20 17 the state form. And I want to put that to you slightly
16:59:24 18 differently.

16:59:25 19 What if there are two people sitting next to
16:59:29 20 each other -- and I guess the sort of hypothetical you were
16:59:30 21 thinking of is one's got a federal form, one's got a state
16:59:34 22 form; otherwise, they're identical. And they -- they may
16:59:35 23 have a different outcome to filling out those forms.

16:59:38 24 What if two people are filling out the forms
16:59:40 25 next to each other; one of them has a pen that works, and

16:59:41 1 one of them has a pen that doesn't. We agree there would
16:59:44 2 be a different outcome for the registration forms if they
16:59:47 3 submitted them; correct?

16:59:48 4 A. Sure.

16:59:48 5 Q. What's your reaction to that problem?

16:59:52 6 A. If they have a -- if one can't fill out the form
16:59:58 7 because their pen is -- doesn't work?

17:00:00 8 Q. That's right.

17:00:01 9 A. We wouldn't accept the form because it would be
17:00:01 10 incomplete.

17:00:07 11 Q. Oh, okay. So we do agree that filling out forms
17:00:10 12 completely and properly is important legally?

17:00:13 13 A. Yes.

17:00:20 14 Q. Bear with me. I'm going to check through my notes
17:00:24 15 here.

17:00:24 16 You also said that you're unaware of any
17:00:28 17 foreign national who has tried to register in your county.

17:00:34 18 But I think you also said you're unaware of how many people
17:00:38 19 receive the notification that are saying they failed to
17:00:41 20 submit DPOC and then never get back to the county and
17:00:47 21 provide that DPOC. Am I remembering your testimony
17:00:48 22 correctly?

17:00:48 23 A. Yes.

17:00:49 24 Q. Do you know whether people who don't respond to
17:00:52 25 that were or were not U.S. citizens?

17:00:55 1 A. We do not know that.

17:00:58 2 Q. So it's not that you know that no foreign

17:01:02 3 nationals have tried to register in your county; it's just

17:01:04 4 that it's an unknown?

17:01:06 5 A. Yeah. I -- I have no knowledge of any doing it,

17:01:09 6 so -- of any foreign nationals trying to register in the

17:01:14 7 county.

17:01:14 8 Q. This October 2022 incident where there was a

17:01:17 9 problem with the AVID system, was anyone in your county

17:01:22 10 disenfranchised as a result of that?

17:01:24 11 A. I do not believe so.

17:01:26 12 Q. Okay. And I think you were asked a question that

17:01:30 13 I objected to about whether this tells you anything about

17:01:33 14 the reliability of these systems. And I believe you were

17:01:40 15 -- you offered your opinion on that. I want to sort of

17:01:44 16 turn that around.

17:01:44 17 If you believe that the AVID system is

17:01:50 18 unreliable and you use AVID partly to confirm citizenship,

17:01:54 19 wouldn't you then have some value in someone checking a box

17:01:57 20 and swearing under penalty of perjury that they are a U.S.

17:02:01 21 citizen?

17:02:03 22 A. Yes.

17:02:17 23 MR. LANGHOFER: Mr. Webber, that's all the

17:02:18 24 questions I have for you. Thanks very much.

17:02:21 25 THE WITNESS: Thank you.

17:02:21 1

17:02:21 2

EXAMINATION

17:02:21 3

BY MR. HORLEY:

17:02:27 4

Q. Hi, Mr. Webber. My name is Tim Horley. I am with

17:02:31 5

the State of Arizona and the Arizona Attorney General's

17:02:34 6

Office. I do have a few questions for you. And I'm

17:02:38 7

probably going to introduce a few documents. I'm going to

17:02:41 8

try not to go too long here because I know we're getting

17:02:42 9

late in the day.

17:02:43 10

I wanted to see -- before we do that, would

17:02:44 11

you like a short break before we dive in?

17:02:46 12

A. No. I'm doing okay.

17:02:49 13

Q. Okay. Fantastic.

17:02:50 14

All right. So there's been a lot of

17:02:54 15

discussion so far about your office's position on these

17:02:57 16

laws. I just wanted to clarify one thing.

17:03:00 17

Will your office adhere to whatever a court

17:03:03 18

orders regarding the implementation of these laws?

17:03:06 19

A. Yes.

17:03:07 20

Q. Okay. Right.

17:03:09 21

And then you mentioned that some of the

17:03:12 22

phrases in HB 2492 and 2243 are unclear; correct?

17:03:19 23

A. Yes.

17:03:20 24

Q. But guidance from the secretary of state could be

17:03:23 25

useful to clarify that?

17:03:26 1 A. Yes, it could be.

17:03:28 2 Q. And then perhaps that could come in the form of an

17:03:31 3 updated EPM?

17:03:33 4 A. Yes.

17:03:35 5 Q. And the EPM generally provides guidance on a lot

17:03:39 6 of different voting laws -- right? -- including ones on

17:03:41 7 topics that aren't even relevant to the ones we've talked

17:03:44 8 about today; yes?

17:03:46 9 A. Yes.

17:03:46 10 Q. And do you generally rely on the EPM to help

17:03:50 11 implement those other voting laws?

17:03:52 12 A. Yes, we do.

17:03:53 13 Q. And so would it be easy to implement other voting

17:03:57 14 laws without the EPM?

17:04:00 15 A. It -- it would probably make it more difficult.

17:04:05 16 We could do it, but it would make it more difficult.

17:04:09 17 Q. So there are other voting laws that are difficult

17:04:11 18 to implement without guidance from the secretary of state;

17:04:15 19 correct?

17:04:15 20 A. Yes.

17:04:16 21 Q. So the same thing is true for these laws that is

17:04:20 22 true for those other laws; correct?

17:04:22 23 A. Yes.

17:04:24 24 Q. Okay. Thank you.

17:04:25 25 I wanted to ask you a few questions about

17:04:28 1 verifying or checking citizenship.

17:04:31 2 So does your office do anything to verify
17:04:34 3 DPOC when it is received; so, for example, when someone
17:04:37 4 sends you a birth certificate or a passport, like a
17:04:40 5 photocopy?

17:04:41 6 A. No.

17:04:44 7 Q. Okay. So you don't take any steps to verify the
17:04:47 8 authenticity of those?

17:04:48 9 A. No. We -- we accept it at face value.

17:04:51 10 Q. Okay. All right. I want to ask about the
17:04:58 11 checkbox. So for state forms, if a registrant were to mark
17:05:02 12 "no" in the citizenship checkbox but also provide a copy of
17:05:08 13 a citizenship document, like a birth certificate, what
17:05:10 14 would your office do in that situation?

17:05:12 15 A. If they checked "no," we would actually probably
17:05:17 16 return the form to them to -- to fix it. If it's an actual
17:05:22 17 check "no," if they -- you know, could very well be a
17:05:26 18 mistake, but they would have to correct that.

17:05:29 19 Q. Okay. Understood.

17:05:30 20 Could it suggest that there might be some
17:05:32 21 problem with the proof of citizenship that they provided?

17:05:37 22 A. It could.

17:05:39 23 Q. Okay. And then is it possible for a registered
17:05:43 24 voter to submit a copy of a citizenship document, like a
17:05:46 25 birth certificate, that is defective in some way, for

17:05:50 1 example, it's blurry or it's difficult to read?

17:05:52 2 A. If -- if we could not, you know, determine what it

17:05:57 3 was, if it was -- we would not accept it. We would require

17:06:01 4 something that was legible.

17:06:04 5 Q. Okay. So, yeah, if there was a problem with

17:06:08 6 legibility or if it belonged to someone who has a similar

17:06:12 7 name or birth date, could that raise issues?

17:06:15 8 A. Yes. Yeah. If it doesn't match up, it would

17:06:19 9 raise issues.

17:06:19 10 Q. So in those situations, would it be helpful to

17:06:22 11 know how the voter answered the citizenship checkbox?

17:06:27 12 A. Yes. Yes.

17:06:28 13 Q. Okay. All right. So now I do want to look at one

17:06:33 14 of the documents that your office shared in response to

17:06:37 15 plaintiffs' request for production. I didn't see it in the

17:06:40 16 Dropbox.

17:06:40 17 So if it's all right with you and with

17:06:42 18 everybody else, I'm just going to screen share it, and we

17:06:45 19 can just look at it together.

17:06:46 20 A. Sure.

17:06:47 21 Q. Okay. One moment.

17:06:53 22 MR. JOHNSON: What Bates number, Tim?

17:06:56 23 MR. HORLEY: There is no Bates number for

17:06:57 24 this. This is Exhibit B from the Equity Coalition's

17:07:02 25 Request for Production. I believe it was responsive to

17:07:05 1 Request for Production 4 and 5. But it's just a -- it's a
17:07:09 2 spreadsheet, as you'll see.

17:07:09 3 MR. JOHNSON: Thanks.

17:07:19 4 MR. HORLEY. This one is not previously
17:07:19 5 marked. So once we've got it authenticated, I'd like to
17:07:21 6 mark it as Exhibit 164, I believe.

17:07:21 7 (The document was marked as Exhibit 164
17:07:21 8 for identification.)

17:07:21 9 (An off-the-record discussion ensued.)

17:07:21 10 BY MR. HORLEY:

17:07:38 11 Q. Okay. Mr. Webber, can you see this?

17:07:41 12 A. Yes.

17:07:42 13 Q. Okay. Excellent. One moment. Okay.

17:07:51 14 Can you still see the spreadsheet here?

17:07:53 15 A. Yes.

17:07:54 16 Q. Okay. So do you recognize this document?

17:07:59 17 A. Yes, I do.

17:08:00 18 Q. And could you describe what this document shows?

17:08:06 19 A. It was a document we produced for production. And
17:08:12 20 it was -- I can't remember exactly which one it was, but we
17:08:21 21 removed the personally identifiable information out of it.

17:08:29 22 And I would have to go back and look to see exactly, but it
17:08:35 23 looks like we have all kinds of different registrants.

17:08:39 24 So it may be the entire list, but I'm not
17:08:41 25 sure. I'd have to go back and look at their production

17:08:45 1 request and see if we did pare it down any, so . . .

17:08:51 2 Q. Yeah. Understood.

17:08:53 3 Just -- if you could just describe in a

17:08:55 4 nutshell what this document shows us?

17:08:58 5 A. Okay.

17:08:58 6 So the first column is the "Status," what the

17:09:02 7 registration status is.

17:09:03 8 Second column is "Status Reason." Third

17:09:07 9 column is how they registered.

17:09:11 10 The fourth column is "Source of

17:09:15 11 Registration," where that registration came from.

17:09:19 12 Citizenship is -- is -- I believe it's the "Citizenship

17:09:25 13 Verified." Yes. And then federal -- probably there's

17:09:31 14 "Federal-ID" and "Federal-no ID," I would believe. And

17:09:36 15 then "PEVL," which is now AEVL.

17:09:39 16 And then there's a -- their original

17:09:43 17 registration date in the state, their county registration

17:09:45 18 date, and then the effective date of change, which is the

17:09:49 19 last change in their record.

17:09:53 20 Q. Okay. Very good. Thank you. That's very, very

17:09:54 21 helpful.

17:09:55 22 So in the first column, it says "Status," and

17:09:57 23 that refers to their current registration status; correct?

17:10:00 24 A. Yes.

17:10:01 25 Q. So if, for example -- like here on Row 4, it says

17:10:05 1 "canceled," that means that person's registration has been
17:10:08 2 canceled; is that right?

17:10:09 3 A. Yes.

17:10:10 4 Q. Okay. And then this in the "Status Reason" column
17:10:14 5 here, it says why that status exists; correct?

17:10:17 6 A. Yes.

17:10:17 7 Q. Okay. So in this example, it says "NVRA is the
17:10:24 8 status reason. Can you explain what that means?

17:10:26 9 A. That's National Voter Registration Act. This
17:10:31 10 person would have been canceled. We would have -- we've
17:10:34 11 gotten return mail, and it had gone the two federal
17:10:38 12 election cycles without them correcting their address. And
17:10:41 13 then they would be canceled after that.

17:10:43 14 Q. Thank you. That is helpful.

17:10:48 15 Now I'm going to take us down to Row 3963.

17:10:52 16 So just a moment while I get us there.

17:11:17 17 Okay. Here we are. So do you see this row
17:11:20 18 this I'm highlighting here?

17:11:21 19 A. Yes.

17:11:22 20 Q. And this person's status is listed as "not
17:11:26 21 eligible"; correct?

17:11:27 22 A. Yes, it is.

17:11:28 23 Q. So what is the difference between determining that
17:11:31 24 someone is not eligible and then rejecting their
17:11:35 25 application?

17:11:37 1 A. A "not eligible" would be a rejected application
17:11:45 2 because -- and again, with this one it's -- there was
17:11:48 3 invalid citizenship proof or -- invalid citizen- -- I don't
17:11:52 4 think proof. I think it -- they probably showed up with
17:11:54 5 the F-type license, the foreign national, you know,
17:12:03 6 designation on their MVD.

17:12:05 7 Again, with different -- I'd have to look at
17:12:09 8 a specific record, but that's usually what it is. They
17:12:12 9 come up as not being a U.S. citizen in the HAVA checks.
17:12:16 10 And this is how they are put, at least until they provide
17:12:22 11 citizenship proof.

17:12:25 12 Q. Okay. So in this case, someone's -- their
17:12:31 13 registration was rejected because they didn't have
17:12:34 14 citizenship proof?

17:12:34 15 A. Yes.

17:12:35 16 Q. And is it possible that there -- you mentioned the
17:12:41 17 F-type license. Is it possible that there could be some
17:12:43 18 other reason that they would be rejected on this basis?

17:12:46 19 A. I -- I don't believe so. I believe that is the
17:12:49 20 only time we go to "not eligible" is if they come up in our
17:12:55 21 HAVA checks as a foreign national. And that's from the
17:12:58 22 F-type license in the MVD.

17:13:00 23 Q. Okay. So if someone just failed to submit proof
17:13:04 24 of citizenship, what would their status be?

17:13:08 25 A. They would be active and valid if that was the

17:13:13 1 only issue, but they would be a federal voter.

17:13:16 2 Q. Okay. And then in those cases, you would send

17:13:19 3 them a notice, as you mentioned?

17:13:21 4 A. Yes.

17:13:22 5 Q. Okay. And then is it possible that this person or

17:13:26 6 someone with these similar status and reason would be a

17:13:31 7 non-U.S. citizen?

17:13:33 8 A. It is possible.

17:13:34 9 Q. Okay. But there's no way to tell just from

17:13:36 10 looking at this spreadsheet?

17:13:38 11 A. No.

17:13:40 12 Q. Okay. Then I wanted to clarify a couple more

17:13:46 13 things about this spreadsheet.

17:13:49 14 So we talked about before in Column E, there

17:13:52 15 is an entry for whether their citizenship was verified?

17:13:56 16 A. Yes.

17:13:56 17 Q. Is that right? Okay.

17:13:58 18 And then these three columns -- I could

17:14:01 19 scroll back up to the top, but I just wanted to confirm

17:14:03 20 those are for the dates of registration and then the date

17:14:06 21 that their status was updated?

17:14:07 22 A. Yes.

17:14:10 23 Q. Thank you very much. That is all I have for that

17:14:12 24 document. So I'm going to stop that screen share.

17:14:20 25 Okay. So I did want to ask you a few more

17:14:23 1 questions about the database issue and the MVD database.

17:14:27 2 So earlier, you were asked about some errors

17:14:30 3 in the MVD system. And that was at Exhibit 153, which in

17:14:35 4 your Dropbox is Exhibit L.

17:14:55 5 A. Okay. I have it open.

17:14:57 6 Q. Okay. Fantastic.

17:14:58 7 So do you recall this document? Was this

17:15:02 8 issue with the MVD database voters getting downgraded in

17:15:07 9 the database?

17:15:07 10 A. Yes.

17:15:09 11 Q. So you told my colleague, Mr. Langhofer, that

17:15:12 12 nobody was disenfranchised based on this; correct?

17:15:14 13 A. To my knowledge, no one was disenfranchised.

17:15:18 14 Q. Then as we talked about before, it was a little

17:15:20 15 unclear, but you thought maybe six voters were affected by

17:15:25 16 this issue; is that right?

17:15:27 17 A. It looks like from their analysis that they came

17:15:33 18 up with six records that did. Again, whether we had caught

17:15:40 19 it before or not, I don't know. But it looks like six

17:15:45 20 records were affected by this.

17:15:49 21 Q. Okay. And then you said that there are about

17:15:52 22 187,000 registered voters in Yavapai County; is that right?

17:15:56 23 A. Yes.

17:15:57 24 Q. So this affected a very small proportion of

17:16:01 25 Yavapai County voters; is that right?

17:16:02 1 A. Yes.

17:16:04 2 Q. And then are the type of problems that arose here

17:16:08 3 common?

17:16:09 4 A. Not common. They're not unknown. And it's not

17:16:14 5 necessarily authorized presence. It's -- we had -- we've

17:16:19 6 had issues with the MVD having not cleared mailing

17:16:26 7 addresses and things. So we have had problems with the MVD

17:16:31 8 database from time to time, not common. But generally,

17:16:36 9 they have an impact.

17:16:39 10 Q. Okay. So would you say that overall, the MVD

17:16:43 11 database is reliable?

17:16:44 12 A. Overall, yes.

17:16:46 13 Q. Okay. Great.

17:16:48 14 Then would you say the same for the SAVE

17:16:51 15 database?

17:16:52 16 A. As far as I know, the SAVE database works quite

17:16:57 17 well.

17:16:58 18 Q. Yes. And you mentioned before that if a

17:17:03 19 naturalized citizen status hasn't been updated with the

17:17:06 20 MVD, for example, if they had what was called an F-type

17:17:09 21 license -- now it's called something else. I forget what

17:17:12 22 it's called -- but if -- in that situation, they can

17:17:15 23 reconcile that matter by just providing your office with

17:17:18 24 documentation of the naturalization; is that right?

17:17:21 25 A. Or any other type of thing. Let's say a passport

17:17:26 1 they have. Anything that will prove citizenship would do
17:17:30 2 it.

17:17:30 3 Q. Okay. Great.

17:17:33 4 And then I wanted to ask one question about
17:17:36 5 Social Security. You mentioned before that, you know,
17:17:39 6 someone having a Social Security number wouldn't be proof
17:17:42 7 of citizenship. If someone did not have a Social Security
17:17:47 8 number, could that suggest the person is not a U.S.
17:17:49 9 citizen?

17:17:51 10 A. If they didn't put it on their -- their form, no.
17:17:58 11 We have a lot of people that won't put them on their forms.
17:18:02 12 They don't like them out there so . . .

17:18:05 13 Q. But if you were to look at a Social Security
17:18:08 14 check, for example, and you found there is no Social
17:18:11 15 Security number associated with that person, might that
17:18:13 16 suggest that person is not a U.S. citizen?

17:18:16 17 A. It -- it might suggest that that person isn't who
17:18:19 18 they're claiming to be. And that would -- that actually
17:18:23 19 comes up as -- in our system that we couldn't verify their
17:18:28 20 identity. And that's another thing where they get a
17:18:33 21 letter.

17:18:33 22 So -- and we do get those that don't match
17:18:37 23 from time to time. I don't know if any of them were issues
17:18:44 24 besides people, you know, just writing down the wrong
17:18:47 25 number. But we do get those, and we do send them the

17:18:50 1 letters that they haven't provided proof of identity.

17:18:54 2 Q. Okay. Understood.

17:18:58 3 And then I wanted to clarify, if an
17:19:00 4 individual fails to provide DPOC but checks the
17:19:05 5 "citizenship" box on the form, are they registered as a
17:19:08 6 full-ballot voter?

17:19:11 7 A. If -- if we cannot discover DPOC and they didn't
17:19:19 8 provide it, but they checked it, they would still be a --
17:19:22 9 they would it be a federal voter. It's only if we have the
17:19:25 10 documentary proof that they become the full voter.

17:19:30 11 Q. Okay. Thank you. Thanks for clarifying that.

17:19:32 12 Now I wanted to ask you a bit about jury
17:19:36 13 questionnaires. This came up a little bit earlier in your
17:19:39 14 testimony.

17:19:39 15 A. Yes.

17:19:39 16 Q. So you're aware of these questionnaires that
17:19:43 17 report whether someone says they were a citizen or a
17:19:46 18 noncitizen?

17:19:46 19 A. Yes.

17:19:47 20 Q. And your office receives those reports?

17:19:50 21 A. Yes.

17:19:53 22 Q. And if you received information from a jury report
17:19:55 23 that someone was not a U.S. citizen, would you consider
17:19:59 24 that reason to believe that the applicant was not a U.S.
17:20:01 25 citizen?

17:20:03 1 A. I believe it's something that we should check on
17:20:08 2 to make sure, you know, that -- because they did tell a
17:20:14 3 court that they're not a U.S. citizen.

17:20:16 4 Q. So that could be a reason to believe that they are
17:20:19 5 not a U.S. citizen?

17:20:20 6 A. Yes. Yes.

17:20:21 7 Q. Great.

17:20:23 8 And then I did want to have you take a look
17:20:27 9 at one more document, which I don't think is in the Dropbox
17:20:30 10 and, I believe, has not been shared yet. So I am going to
17:20:35 11 go ahead and do another screen share on that one.

17:20:54 12 Do you see this document, Mr. Webber?

17:20:57 13 A. Yes.

17:21:00 14 Q. Okay. And do you see the numbers here in the
17:21:03 15 lower right-hand corner?

17:21:05 16 A. Yes.

17:21:05 17 Q. So is this something that your office produced in
17:21:09 18 response to plaintiffs' request for production?

17:21:13 19 A. Yes.

17:21:16 20 Q. Okay. Great.

17:21:17 21 MR. HORLEY: So I would like to mark this as
17:21:20 22 Exhibit Number 165. And I will share this in the chat at
17:21:25 23 the end of the deposition or at the end of my questions.

17:21:25 24 (The document was marked as Exhibit 165
17:21:25 25 for identification.)

17:21:25 1 BY MR. HORLEY:

17:21:25 2 Q. I'm going to turn to pages 289 and 290 here.

17:21:40 3 Do you see this email from Ashish Puri?

17:21:45 4 A. Yes.

17:21:46 5 Q. Do you recognize who that is?

17:21:48 6 A. Yes. I know who that is.

17:21:50 7 Q. Who is Mr. Puri?

17:21:54 8 A. He is -- he works with the company who programs

17:21:59 9 our database, the AVID database.

17:22:05 10 Q. Okay. Great. Thank you.

17:22:07 11 And then do you see your name here in the

17:22:11 12 middle of this?

17:22:13 13 A. I'm sure it's there. There we go, yes. There I

17:22:19 14 am.

17:22:20 15 Q. Okay. So that's your name and email address.

17:22:24 16 Okay.

17:22:24 17 So I'm just -- it's kind of on two pages

17:22:32 18 here. But would you just take a quick moment to review

17:22:35 19 this email from Ashish Puri.

17:22:42 20 A. Okay.

17:22:43 21 Q. Okay. So -- and is Mr. Puri asking for feedback

17:22:49 22 about the juror questionnaire process?

17:22:52 23 A. Yes. In particular, how we would implement it in

17:22:58 24 the software system with -- if the state got the

17:23:03 25 questionnaire data, how they would roll it out to the

17:23:07 1 counties.

17:23:09 2 Q. Okay. Thank you.

17:23:10 3 And then moving up here. Again, we're kind
17:23:13 4 of on two pages here. But is this an email that you wrote
17:23:18 5 in response to that?

17:23:19 6 A. I believe so, yes. Yes, it is.

17:23:27 7 Q. Okay. Yes. Thank you.

17:23:28 8 And then if you wouldn't mind taking a moment
17:23:30 9 to review -- I'll try to get all of the text here. Just
17:23:34 10 let me know when you're finished reading over this.

17:23:42 11 A. Okay. Yes. And I do remember this.

17:23:45 12 Q. Okay. So could you explain what concerns you were
17:23:49 13 discussing in this email?

17:23:50 14 A. Well, it was if, let's say, we had a situation
17:23:56 15 where someone with -- who had put on their jury form they
17:24:01 16 were not longer a resident of the county.

17:24:04 17 And the way the system works is that it gets
17:24:08 18 put on a clock. You mark it. You send them -- you would
17:24:12 19 send them a notice they would have so many days to reply,
17:24:15 20 again, from the statute. And you -- but what -- you know,
17:24:21 21 the question here is: "What if they were already in the
17:24:26 22 NVRA process; they had already had other returned mail?"
17:24:30 23 We couldn't have two clocks going and require us to do two
17:24:34 24 different things with the record.

17:24:37 25 And that would be you -- how do we settle

17:24:42 1 this conflict, you know, because they're already in a -- in
17:24:49 2 the NVRA process from the National Voter Registration Act.
17:24:52 3 Well, now if they get into the juror process for saying
17:24:57 4 they're not a resident, you know, we -- we have -- we have
17:25:02 5 a problem. The system won't be able to do both.

17:25:10 6 And so it's -- you know, how do we -- how do
17:25:15 7 we deal with that in the system? What is the process to
17:25:18 8 make sure that we just don't muck everything up and things
17:25:23 9 can't get processed at all?

17:25:25 10 Q. Okay. Thank you for explaining that. Appreciate
17:25:27 11 that.

17:25:28 12 So I'm going to move us up here a little bit.

17:25:32 13 So here, this is Mr. Puri responding to your
17:25:36 14 email; is that right?

17:25:36 15 A. Yes.

17:25:37 16 Q. Okay. And then Mr. Puri says, "In my view,
17:25:41 17 someone claiming to not be a citizen on a Jury call is more
17:25:45 18 serious than just undeliverable mail NVRA process"; is that
17:25:49 19 right?

17:25:49 20 A. Yes.

17:25:50 21 Q. And do you agree that that kind of concern is more
17:25:54 22 serious than the NVRA process?

17:25:57 23 A. I don't know if it is being that if the NVRA
17:26:05 24 process is something called by federal law and, obviously,
17:26:09 25 the jury one is something in state law, this would be

17:26:14 1 something that would have to be -- I don't know if it would
17:26:18 2 be litigated or not. But we would have to get some
17:26:21 3 opinions on would one trump the other so . . .

17:26:29 4 Q. Okay. Understood. All right. I think that is
17:26:31 5 all I have on that particular document.

17:26:34 6 Now I wanted to just circle back to the
17:26:42 7 birthplace issue really quickly.

17:26:44 8 So for the state form, your office does not
17:26:47 9 actively track whether a voter provides a correct or
17:26:51 10 incorrect birthplace on their form; is that right?

17:26:54 11 A. Yes.

17:26:55 12 Q. And I understand there's probably no tracking of
17:26:59 13 this. But generally, do most voters include their
17:27:06 14 birthplace when they're filling out the form?

17:27:10 15 A. I don't know a percentage. A lot of them do. We
17:27:14 16 can actually pull that data, but I don't think I've ever
17:27:17 17 pulled it and examined it. But I know it's -- it's common
17:27:21 18 to find it, but I don't know how common.

17:27:25 19 Q. Okay. And then does your office ever use
17:27:29 20 birthplace as part of a voter's personal identifying
17:27:32 21 information? So, for example, if a voter called you over
17:27:35 22 the phone and you needed to identify them, could you use
17:27:38 23 that?

17:27:38 24 A. Yes. Yes, that is -- that is the purpose that we
17:27:41 25 really use it for, to identify them.

17:27:45 1 Q. Okay. I'm sorry.

17:27:50 2 So if there was a discrepancy between two
17:27:53 3 applications -- so let's suppose they had the same name,
17:27:55 4 same address, but listed two different places of birth, how
17:27:59 5 would the County address that situation?

17:28:02 6 A. Well, we would take -- if everything else matched
17:28:06 7 up, I mean, the same date of birth -- you know, a lot of
17:28:11 8 times you'll have the same Social Security, same driver's
17:28:14 9 license, and they'll put something different. We -- we
17:28:17 10 take the latest one because there's not -- there's not a
17:28:21 11 procedure to use if they decided to change what they wrote
17:28:26 12 down on their place of birth.

17:28:30 13 Q. Okay. Understood.

17:28:31 14 And if a court or the secretary of state
17:28:34 15 issued guidance that your office should change how it uses
17:28:38 16 birthplace information, would -- would your office follow
17:28:41 17 that instruction?

17:28:42 18 A. Yes.

17:28:43 19 Q. Okay. And so if a registrant were to write on his
17:28:48 20 or her form that she was born in State 1 -- let's say New
17:28:54 21 York, for example -- but also provided a copy of a birth
17:28:57 22 certificate that was from a different state -- let's say
17:29:00 23 Florida -- what would your office do?

17:29:06 24 A. You know, I don't know if we would actually
17:29:12 25 compare that. We don't look at the place of birth

17:29:16 1 generally. We enter it into the database, but it's not one
17:29:20 2 of those things that we look at to compare with anything
17:29:23 3 else. So I -- I believe it would probably just go right on
17:29:27 4 through.

17:29:29 5 Q. Okay. So it wouldn't raise a red flag that, you
17:29:32 6 know, either their form is wrong or the birth certificate
17:29:36 7 is wrong?

17:29:37 8 A. No. I believe if the birth certificate looks on
17:29:41 9 its face to be valid, we would accept it.

17:29:46 10 Q. Okay. Let me just take one quick look at my notes
17:29:53 11 if you don't mind.

17:30:01 12 MR. HORLEY: All right. I believe that is
17:30:01 13 all I have for you, Mr. Webber. Thank you very much for
17:30:04 14 your time. Really appreciate it.

17:30:07 15 THE WITNESS: Thank you.

17:30:23 16 THE VIDEOGRAPHER: Is that everything from
17:30:25 17 everybody?

17:30:25 18 MR. LANGHOFER: Shayna, do you have
17:30:30 19 questions?

17:30:31 20 MS. STUART: No, I do not. Thanks.

17:30:33 21 MS. PORTER: I also don't have any questions.
17:30:35 22 Thank you for your time today, Mr. Webber.

17:30:38 23 THE WITNESS: Thank you.

17:30:38 24 MR. ATKINS: I just have a few additional
17:30:41 25 questions. This is Alex Atkins again, representing Mi

17:30:42 1 Familia Vota and Voto Latino.

17:30:42 2

17:30:43 3

FURTHER EXAMINATION

17:30:43 4

BY MR. ATKINS:

17:30:43 5

Q. Mr. Horley was just asking you about the

17:30:54 6

birthplace information provided on applications. And is it

17:30:59 7

correct that you said that it's sometimes used to confirm a

17:31:05 8

voter's identity when they call in to your office?

17:31:07 9

A. Yes.

17:31:08 10

Q. But to be clear, it's not a piece of information

17:31:14 11

that's used to determine whether they are qualified to

17:31:18 12

vote; correct?

17:31:19 13

A. Yes.

17:31:21 14

Q. And are there other pieces of information that

17:31:25 15

your office uses to confirm a voter's identity over the

17:31:31 16

phone?

17:31:31 17

A. We would -- may use -- there's a "parent name"

17:31:35 18

box. We can actually look and, you know, do other things.

17:31:41 19

I mean, I'll ask the last four of their Social Security

17:31:44 20

number, you know, confirm your date of birth, confirm --

17:31:47 21

you know, any of the pieces of information that aren't

17:31:50 22

generally available to the public, we could use any of that

17:31:55 23

information to confirm who they are.

17:32:00 24

MR. ATKINS: Thanks. That's all my

17:32:02 25

questions.

17:32:11 1
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MR. JOHNSON: Read and sign, Mike?
MR. GORDON: Yeah, we'll read and sign.
MR. LANGHOFER: Great. I think we're done then.

THE VIDEOGRAPHER: We are off the record. The time on the video monitor is 5:32 p.m. This ends Volume 1, Media Number 3, of the 30(b)(6) deposition of Yavapai County Recorder, by Matt Webber.

(The following occurred off the video record.)

THE COURT REPORTER: Who would like a copy of this transcript?

MS. PORTER: Cindy, I will order it.
(The proceedings concluded at 5:32 p.m.)

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MATT JACKSON WEBBER

1 STATE OF ARIZONA)
COUNTY OF MARICOPA)

2

3 BE IT KNOWN that the foregoing deposition was taken
4 by me pursuant to stipulation of counsel; that I was then
5 and there a Certified Court Reporter in the State of
6 Arizona, and by virtue hereof authorized to administer an
7 oath; that the witness before testifying was duly sworn by
8 me to testify to the whole truth; pursuant to request,
9 notification was provided that the deposition is available
10 for review and signature; that the questions propounded by
11 counsel and the answers of the witness thereto were taken
12 down by me in shorthand and thereafter transcribed into
13 typewriting under my direction; that the foregoing pages
14 are a full, true and accurate transcript of all the
15 proceedings had upon the taking of deposition, all done to
16 the best of my skill and ability.

17 I FURTHER CERTIFY that I am in no way related
18 to nor employed by any parties hereto; nor am I in any
19 way interested in the outcome thereof.

20 Dated at Phoenix, Arizona, this 31st day of
21 August, 2023.

22

23

24

25


CINDY MAHONEY, RPR, RMR NO. 50680

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UNITED STATES DISTRICT COURT
DISTRICT OF ARIZONA

Mi Familia Vota, et al.,)	
)	
Plaintiffs,)	Case No.
	)	2:22-cv-00509-PHX-SRB
v.	)	(Lead)
)	
Adrian Fontes, in his	)	No. CV-22-00519-PHX-SRB
official capacity as	)	No. CV-22-01003-PHX-SRB
Arizona Secretary of State,	)	No. CV-22-01124-PHX-SRB
et al.,	)	No. CV-22-01369-PHX-SRB
	)	No. CV-22-01381-PHX-SRB
Defendants.	)	No. CV-22-01602-PHX-SRB
	)	No. CV-22-01901-PHX-SRB

AND CONSOLIDATED CASES.

VIDEO-RECORDED VIDEOCONFERENCE 30(b)(6) DEPOSITION OF
COCONINO COUNTY RECORDER, REPRESENTED BY DONNA CASNER

Flagstaff, Arizona

August 23, 2023

Prepared by:
CINDY MAHONEY, RPR, RMR
Certified Court Reporter
Certificate No. 50680



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I N D E X

WITNESS		PAGE
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EXAMINATION BY MR. HORLEY		29
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EXHIBITS MARKED

EXHIBITS	DESCRIPTION	PAGE
Exhibit 180	Spreadsheet - list of registrants in suspense status	31
Exhibit 181	Spreadsheet - list of records in canceled status	37

REQUESTS

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PREVIOUSLY MARKED EXHIBITS

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1 VIDEO-RECORDED VIDEOCONFERENCE 30(b)(6)
 2 DEPOSITION OF COCONINO COUNTY RECORDER, REPRESENTED BY
 3 DONNA CASNER, commenced at 2:33 p.m. on August 23, 2023, at
 4 Flagstaff, Arizona, before Cindy Mahoney, RPR, RMR (via
 5 videoconference), Arizona Certified Court Reporter No.
 6 50680.

8 * * *

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ALSO PRESENT:

Patty Hansen

ALSO PRESENT (all via videoconference)

Jean Roof
Gareth Fowler
Daniel Rohan, Videographer

14:33:42 1 THE VIDEOGRAPHER: We are on the record.
14:33:42 2 Time on the video monitor is 2:33 p.m. Here begins
14:33:49 3 Volume 1, Media Number 1, in the 30(b)(6) deposition of
14:33:53 4 Coconino County Recorder, by Donna Casner, in the matter of
14:33:59 5 Mi Familia Vota, et al., v. Adrian Fontes, et al., in the
14:34:04 6 United States District Court, District of Arizona, Case
14:34:08 7 Number 2:22-cv-00509-SRB.

14:34:13 8 Today's date is August 23rd, 2023. Our court
14:34:17 9 reporter is Cindy Mahoney. I am Daniel Rohan, a certified
14:34:22 10 legal videographer. We both represent Coash Court
14:34:24 11 Reporting & Video.

14:34:25 12 This video deposition is taking place at
14:34:27 13 Coconino County Recorder's Office, 110 East Cherry Avenue,
14:34:31 14 Flagstaff, Arizona 86001.

14:34:33 15 Council, please identify yourselves and state
14:34:36 16 whom you represent.

14:34:37 17 MR. ATKINS: Alexander Atkins. I represent
14:34:40 18 Mi Familia Vota and Voto Latino.

14:34:44 19 MS. WINKELER: Rose Winkeler, Flagstaff Law
14:34:47 20 Group, representing Coconino County Recorder's Office.

14:34:49 21 MR. BABBITT: Christopher Babbitt --

14:35:00 22 MR. HORLEY: Tim Horley, representing -- oh,
14:35:00 23 I'm sorry.

14:35:01 24 MR. BABBITT: Go ahead.

14:35:02 25 MR. MORGAN: Okay. Thanks. Tim Horley,

14:35:04 1 representing the State of Arizona and the Arizona attorney
14:35:06 2 general.

14:35:09 3 MR. BABBITT: Christopher Babbitt for the
14:35:10 4 Democratic National Committee and the Arizona Democratic
14:35:10 5 Party.

14:35:13 6 MR. MORGAN: Craig Morgan for Sherman &
14:35:15 7 Howard on behalf of the Secretary of State Adrian Fontes.

14:35:19 8 MR. LANGHOFER: Kory Langhofer for the RNC.

14:35:23 9 MR. HERRERA: Ernest Herrera for Promise
14:35:28 10 Arizona.

14:35:28 11 MS. LANG: Danielle Lang for the LUCHA
14:35:31 12 plaintiffs.

14:35:33 13 MR. PATTERSON: Beauregard Patterson for
14:35:33 14 Poder Latinx, Chicanos Por La Causa, and Chicanos Por La
14:35:49 15 Causa Action Fund.

14:35:49 16
14:35:49 17 DONNA CASNER,
14:35:49 18 the witness herein, being first duly sworn,
14:35:49 19 was examined and testified as follows:

14:35:49 20
14:35:56 21 EXAMINATION

14:35:56 22 BY MR. ATKINS:

14:36:00 23 Q. Good afternoon, Ms. Casner. Thank you for your
14:36:04 24 patience.

14:36:07 25 Just to start, could you state your full name

14:36:10 1 for the record.

14:36:11 2 A. Donna Casner.

14:36:13 3 Q. What's your full title?

14:36:16 4 A. Coconino County chief deputy recorder.

14:36:19 5 Q. And how long have you been the chief deputy
14:36:22 6 recorder?

14:36:24 7 A. Since January 2013.

14:36:28 8 Q. And have you held any other roles with the
14:36:31 9 Coconino -- Coconino County Recorder's Office?

14:36:34 10 A. Yes. I've been employed with the recorder's
14:36:37 11 office since June of 2004 in various roles, mostly with
14:36:42 12 voter registration.

14:36:52 13 Q. And I won't go through all the kind of prefatory
14:36:55 14 questions that you already heard with Ms. Hansen, but just
14:36:58 15 to confirm, you understand that you're testifying under
14:37:01 16 oath?

14:37:02 17 A. Yes.

14:37:02 18 Q. And is there anything that would prevent you from
14:37:08 19 giving full, complete, and accurate testimony today?

14:37:12 20 A. No.

14:37:13 21 Q. Have you ever been deposed previously regarding
14:37:19 22 voter registration in Coconino County?

14:37:21 23 A. No.

14:37:22 24 Q. Can you please describe your responsibilities in
14:37:37 25 your role?

14:37:39 1 A. Yes. I oversee the voter registration and early
14:37:43 2 voting division, so basically everything to do with any
14:37:50 3 kind of voter registration, list maintenance. We also
14:37:55 4 process petitions related to elections and conduct all
14:38:01 5 aspects of early voting.

14:38:03 6 Q. So one question that I think we haven't been able
14:38:11 7 to get a complete answer to yet is: Do you -- are you able
14:38:17 8 to give us a sense of the proportion of state form voter
14:38:23 9 registration applicants versus federal form applicants?

14:38:27 10 A. As far as applicants, not -- no. But I can tell
14:38:34 11 you that -- I can tell you the approximate number of actual
14:38:41 12 federal-only voters versus -- is that what you're looking
14:38:43 13 for?

14:38:44 14 Q. That would be helpful.

14:38:46 15 A. So since July of this -- July 1st of 2023, this
14:38:53 16 year, we had 591 active federal-only voters and 1,167
14:39:01 17 inactive federal-only voters. And I think we have
14:39:06 18 approximately 89,000 total active voters right now. So
14:39:12 19 it's -- it's a small number, but it's still -- it's in the
14:39:16 20 hundreds.

14:39:18 21 Q. So the vast majority of active registrants in
14:39:22 22 Coconino County are full-ballot voters?

14:39:25 23 A. Correct.

14:39:27 24 Q. Ms. Hansen and I spoke briefly about VRAC, and I'm
14:39:41 25 wondering if you have any insights into whether VRAC has

14:39:46 1 done any work or made any proposals regarding HB 2492 or
14:39:54 2 2243.

14:39:54 3 A. I believe that for 2243, there were two VRAC
14:40:01 4 papers proposed, but nothing has been finalized yet on how
14:40:09 5 we would go forward with processing the jury
14:40:13 6 questionnaires, the nonresident and the noncitizen jury
14:40:16 7 questionnaires. So there were two issues: one for
14:40:21 8 nonresident and one for noncitizen.

14:40:22 9 Q. Understood.

14:40:24 10 And so jury questionnaire matters are the
14:40:31 11 only issue or only component of the challenged laws that
14:40:35 12 VRAC has taken up at this point?

14:40:38 13 A. To my knowledge, yes.

14:40:39 14 Q. And do you know what the basic substance of VRAC's
14:40:47 15 proposal was regarding citizenship vis-a-vis the jury
14:40:55 16 questionnaire?

14:40:57 17 A. I know that the VRAC papers were based off of if
14:41:04 18 the new laws are followed, so basically the same as what's
14:41:11 19 going to be put in the new EPM if the laws are upheld.

14:41:17 20 Q. Understood.

14:41:18 21 Separately, are you aware if either the state
14:41:24 22 or federal registration forms have been revised at all as a
14:41:30 23 result of HB 2492 or 2243?

14:41:35 24 A. I am not aware. I know that I -- I have the most
14:41:42 25 recent copy of the registration form and it was revised on

14:41:52 1 the bottom -- it was provided by the secretary of state,
14:41:55 2 revised September of 2022. So that's the most recent form
14:42:00 3 we are using, and I believe that is the most recent form
14:42:04 4 available.

14:42:06 5 Q. Understood. One moment.

14:42:23 6 Is it correct that voter registration
14:42:27 7 applicants who complete the federal registration form must
14:42:34 8 affirm their citizenship under the penalty of perjury?

14:42:42 9 A. Yes.

14:42:45 10 Q. And under federal law, does that affirmation of
14:42:54 11 citizenship -- is that sufficient to confirm the
14:43:00 12 applicant's citizenship?

14:43:02 13 MR. LANGHOFER: Calls for a legal conclusion.

14:43:05 14 THE WITNESS: For the federal form, yes.

14:43:06 15 BY MR. ATKINS:

14:43:13 16 Q. So if a federal form applicant completes the
14:43:16 17 citizenship affirmation but does not respond to the
14:43:21 18 citizenship checkbox, does your office register that voter
14:43:27 19 for federal elections?

14:43:30 20 A. For federal elections, yes. If -- if they did not
14:43:35 21 provide DPOC but they checked "yes" to the citizenship box,
14:43:40 22 they will be a federal-only voter.

14:43:44 23 Q. And -- and what if they did not provide DPOC and
14:43:52 24 did not check "yes" or "no" but did complete the
14:43:55 25 citizenship affirmation that comes along with them signing

14:43:59 1 the federal form?

14:44:02 2 A. So we follow the EPM. So we would put them in
14:44:05 3 suspense -- a suspense status and send them a letter to
14:44:10 4 confirm that they are a U.S. citizen.

14:44:14 5 Q. Give me just one moment, please.

14:44:42 6 Some questions about the various databases
14:44:48 7 that have been discussed today thus far.

14:44:52 8 First, AVID. At a high level, could you just
14:44:58 9 describe how AVID is utilized in the voter registration
14:45:02 10 process?

14:45:06 11 A. Yes. So AVID is our voter registration database.
14:45:09 12 It holds all of the information about our voters. It also
14:45:14 13 holds all of their voting history and early ballots being
14:45:21 14 issued, things like that. When we enter a registration, it
14:45:26 15 also runs what we call the HAVA checks to check against
14:45:31 16 the -- the other databases that are connected to it for
14:45:36 17 things like citizenship proof and identity.

14:45:41 18 Q. And when the AVID database runs the HAVA check, is
14:45:51 19 it querying databases other than the MVD ADOT database?

14:45:57 20 A. Yes. It queries the MVD database and also the
14:46:03 21 Social Security Administration, the -- the state health
14:46:08 22 department for death records, and any -- I'm not sure
14:46:15 23 exactly which courts, but it checks for felony records
14:46:21 24 through the courts as well.

14:46:24 25 Q. And am I correct that Ms. Hansen testified

14:46:30 1 earlier -- and maybe you can confirm -- that the HAVA check
14:46:37 2 utilizing the Social Security database is confirming
14:46:44 3 identity as opposed to confirming citizenship; is that
14:46:51 4 right?

14:46:51 5 A. That's correct.

14:46:51 6 Q. So is it correct that the MVD data is the only
14:46:56 7 data that HAVA is querying that provides information on
14:47:01 8 citizenship?

14:47:03 9 A. That is correct.

14:47:04 10 Q. What is the AVID Enhancement Committee?

14:47:11 11 A. It is a group of AVID users from the county that
14:47:19 12 are very well versed in AVID and also the secretary of
14:47:25 13 state and the actual AVID, like, software developers. And
14:47:32 14 what we do is we -- we bring ideas for enhancing the
14:47:38 15 system, making it either easier for us to use or if there's
14:47:44 16 a bug or -- or a new law that we have to implement, we
14:47:51 17 would go through that committee to make decisions on what
14:47:56 18 needs to be done.

14:48:02 19 Q. And to your knowledge, has the AVID Enhancement
14:48:05 20 Committee had any meetings or done any work relating to
14:48:09 21 implementation of HB 2492 or 2243?

14:48:15 22 A. I know that they have started plans on
14:48:18 23 implementing the jury one, not 2492 -- the other one, the
14:48:26 24 jury questionnaire -- to go along with the VRAC papers that
14:48:31 25 I had mentioned before. So there is some preliminary,

14:48:36 1 like, just brainstorming on how AVID would have to change
14:48:41 2 with that but nothing has been implemented yet or accepted
14:48:48 3 by the VRAC steering committee, which is -- which has to
14:48:51 4 accept all of our enhancements.

14:48:55 5 Q. When you use the AVID system to run the HAVA check
14:49:05 6 and -- and it queries MVD's data, what are the different
14:49:15 7 possible results you can get back from that inquiry to --
14:49:19 8 into MVD data? Like, what are the possible outcomes?

14:49:26 9 A. There's U.S. citizen and then I believe it's
14:49:31 10 something like resident alien or -- it's whatever we use
14:49:38 11 that we know they're not a citizen. I'd have to look it up
14:49:41 12 for the exact wording. It has something to do with
14:49:49 13 resident: legal resident, something like that. And that's
14:49:54 14 how we know that they were not -- they did not show
14:49:59 15 citizenship proof when they got their driver's license.

14:50:02 16 Q. Understood.

14:50:07 17 And am I correct that the inquiry into the
14:50:15 18 MVD data takes place whether the applicant provides a
14:50:20 19 driver's license number or not?

14:50:23 20 A. Right. We have to run a HAVA check every time we
14:50:28 21 enter a registration or do an update to a registration.

14:50:35 22 Q. So if they happen to provide a driver's license
14:50:38 23 number, that's an additional piece of data that's used
14:50:43 24 to -- to query the MVD database; but if not, the other
14:50:49 25 information about themselves that they provided is -- is

14:50:52 1 what's used to get a result from MVD?

14:50:59 2 A. Right. Even if they don't put a driver's license
14:51:02 3 down on their form, it will still do a query and let us
14:51:06 4 know if something is found in MVD based on the other --
14:51:10 5 like the date of birth, the name.

14:51:14 6 Q. Can you describe how your office uses ERIC with
14:51:30 7 regard to voter registration?

14:51:35 8 A. Yes. So we will receive -- and this comes from --
14:51:39 9 organized by the Secretary of State's Office. But we
14:51:43 10 receive lists from other states on possible matches. And
14:51:50 11 then we have to compare things like the effective date of
14:51:55 12 change. Did the voter register at the other state later
14:52:02 13 than us and -- to determine if we need to cancel them here.

14:52:09 14 Q. Is ERIC used at all in determining or verifying
14:52:15 15 whether a voter is a U.S. citizen?

14:52:19 16 A. Not that I know offhand. We use it for list
14:52:24 17 maintenance in regards to if they move to another state,
14:52:30 18 and we also compare if they voted in more than one state.

14:52:35 19 Q. Do you know if ERIC even hypothetically could be
14:52:39 20 used with regard to citizenship inquiries?

14:52:44 21 A. I do not.

14:52:45 22 Q. Switching over to talk a bit about the SAVE
14:52:56 23 database.

14:52:58 24 First, do you know how long the Coconino
14:53:05 25 County Recorder's Office has been using SAVE?

14:53:11 1 A. I would say at least five or six years. It's
14:53:14 2 whenever they had agreement that all the states could use
14:53:23 3 it. Prior to that, I believe it was only Maricopa County
14:53:26 4 that had a separate agreement to use it. So we fell under
14:53:33 5 the blanket of the secretary of state's agreement is my
14:53:39 6 understanding.

14:53:39 7 Q. And under -- under that agreement, are there
14:53:43 8 certain processes that you're required to follow when using
14:53:49 9 the SAVE database?

14:53:51 10 A. I mean, it's -- it's fairly straightforward. It
14:53:55 11 does mention in the EPM that we are to use it to verify
14:54:02 12 citizenship if they provided a naturalization number.
14:54:06 13 That's the reason that we would use SAVE -- is to confirm
14:54:11 14 that that natural -- well, to use that naturalization
14:54:14 15 number to confirm that they are a U.S. citizen.

14:54:19 16 Q. And the same goes for if they provide an alien
14:54:24 17 registration number?

14:54:26 18 A. Right. I guess, I -- but -- yes.

14:54:31 19 Q. Do you know if the secretary's existing agreement
14:54:41 20 regarding SAVE would cover the contemplated uses of SAVE
14:54:46 21 under HB 2492 and 2243?

14:54:51 22 A. I don't know. I don't -- I don't know if I
14:54:56 23 understand the question.

14:55:01 24 Q. That's fine. We can -- we can move past it.

14:55:04 25 Is it correct that SAVE can only be utilized

14:55:16 1 in conjunction with a naturalization number or an A-number?

14:55:23 2 A. That's my understanding, yes.

14:55:27 3 Q. And so SAVE can only be utilized to confirm
14:55:31 4 whether someone has become a U.S. citizen as opposed to
14:55:38 5 confirming a natural-born U.S. citizen; right?

14:55:41 6 A. Correct.

14:55:42 7 Q. What is your office's policy if the SAVE search
14:55:53 8 returns no match?

14:55:59 9 A. We follow up with the voter and we ask them for
14:56:04 10 further documentation. A lot of times, they can show us
14:56:09 11 their actual naturalization papers because my understanding
14:56:15 12 is there is a lag time that SAVE will update their
14:56:22 13 information.

14:56:25 14 Q. And so if you ask an applicant for additional
14:56:30 15 documentation, do you then provide that documentation to
14:56:38 16 USCIS through SAVE so that they can look into it further,
14:56:42 17 or do you look into it further independently?

14:56:47 18 A. If they show us their naturalization document, we
14:56:51 19 take it at face value.

14:56:55 20 Q. And what if, for example -- well, strike that.

14:57:05 21 Are you familiar with USCIS's alternative
14:57:11 22 verification procedures through SAVE?

14:57:16 23 A. No, I am not.

14:57:18 24 Q. Are you aware of any circumstances where SAVE did
14:57:25 25 not return a match and you were never ultimately able to

14:57:33 1 confirm the applicant's citizenship status?

14:57:38 2 A. I am not aware of that situation.

14:57:49 3 Q. Is SAVE used by your office only at the point of
14:57:53 4 voter registration, or is it also used for any sort of
14:57:58 5 ongoing maintenance or -- or, I guess, post hoc checks into
14:58:03 6 a person's citizenship status?

14:58:07 7 A. It's only used at initial registration when we
14:58:12 8 need to check that number to get proof of citizenship.

14:58:25 9 Q. Other than the MVD database through AVID --
14:58:30 10 through AVID and the HAVA check process and the SAVE
14:58:34 11 database, are there any other databases that your office
14:58:37 12 uses to inquire into a registrant's citizenship status?

14:58:44 13 A. No.

14:58:46 14 Q. Are you aware that HB 2492 would require your
14:58:51 15 office to also utilize, quote, "any other state, city,
14:58:57 16 town, county, or federal database and any other database
14:59:01 17 relating to voter registration"?

14:59:05 18 A. I did read that, yes.

14:59:07 19 Q. Do you have any idea what databases that language
14:59:11 20 is referring to?

14:59:13 21 MR. LANGHOFER: Calls for legal conclusion.

14:59:17 22 THE WITNESS: No.

14:59:18 23 BY MR. ATKINS:

14:59:18 24 Q. Are you aware of any other databases that you're
14:59:21 25 not currently using that would be useful to your office's

14:59:26 1 voter registration efforts?

14:59:29 2 A. No.

14:59:30 3 MR. LANGHOFER: Asked and answered.

14:59:34 4 Alexander, she isn't a representative for the
14:59:37 5 whole office. So I think we've already asked these
14:59:38 6 questions of someone else from the same office; right? I
14:59:42 7 mean -- I mean, to the extent --

14:59:47 8 MR. ATKINS: I don't -- you know, she --
14:59:48 9 she's been designated as the witness that is most
14:59:51 10 knowledgeable on these questions. So to the extent
14:59:55 11 Ms. Hansen spoke to them, I don't think that precludes me
14:59:57 12 from ensuring that we have full and complete answers from
15:00:00 13 the office.

15:00:01 14 MR. LANGHOFER: Yeah, it's your depo time.

15:00:04 15 MR. ATKINS: It is.

15:00:05 16 BY MR. ATKINS:

15:00:14 17 Q. We talked briefly about how the Social Security
15:00:18 18 Administration data is utilized as part of the HAVA check
15:00:21 19 for confirming an applicant's identity.

15:00:26 20 Aside from that use, have you ever utilized
15:00:31 21 the Social Security data in any other context in your
15:00:36 22 position?

15:00:38 23 A. No.

15:00:40 24 Q. Do you know if Social Security Administration data
15:00:44 25 could be used to verify citizen -- citizenship status?

15:00:48 1 A. I am not aware of that.

15:00:53 2 Q. Are you familiar with the National Association for
15:01:00 3 Public Health Statistics and Information Systems, or
15:01:01 4 NAPHSIS?

15:01:02 5 A. I've never heard of that.

15:01:06 6 Q. So you're not familiar with any of its databases,
15:01:10 7 then?

15:01:11 8 A. Correct. I am not.

15:01:17 9 MR. ATKINS: I don't have any further
15:01:19 10 questions for you, but I'm sure some of my colleagues do.
15:01:22 11 Thank you very much for your time.

15:01:25 12 THE WITNESS: Thank you.

15:01:31 13 MS. LANG: Should we take a short break?

15:01:34 14 MR. ATKINS: Yeah. Can we -- can we take a
15:01:37 15 ten-minute break to see what else we have for Ms. Casner?

15:01:48 16 MR. MORGAN: Sounds good. Do you think it's
15:01:50 17 possible, at least for the plaintiffs -- we're going to --
15:01:52 18 I have -- I have obligations to my children at 5:30. I
15:01:57 19 just want to make sure we're on track to be done.

15:02:06 20 THE COURT REPORTER: Do you want to --

15:02:08 21 MR. ATKINS: Are we off the record?

15:02:08 22 MR. MORGAN: Sure.

15:02:20 23 (An off-the-record discussion ensued.)

15:02:20 24 THE VIDEOGRAPHER: We're off the record.

15:02:26 25 Time on the video monitor is 3:02 p.m.

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(A recess ensued.)

THE VIDEOGRAPHER: We are on the record.
Time on the video monitor is 3:12 p.m.

EXAMINATION

BY MR. PATTERSON:

Q. Thank you for your time today again, Ms. Casner. Hopefully we'll be able to wrap this up shortly and have you on your way.

I have a few follow-up questions regarding the MVD database and the USCIS's SAVE system. So I'd like to begin with the MVD databases.

Do you recall an incident from last year that was flagged by the Arizona Secretary of State's Office where database matching produced erroneous results and caused the downgrading of thousands of voters to federal-only voting status?

A. Yes, I do.

Q. What happened?

A. So basically, the secretary of state notified us that the MVD was erroneously not letting us know that the voter was a citizen, so they were being put as fed-only voters for a period of time.

And then we received instructions from the secretary of state on how to rectify them. We got a list

15:14:07 1 to review and then a letter that we sent out -- a template
15:14:13 2 letter that we sent out to those voters letting them know.
15:14:17 3 Q. Do you recall what was the cause of the error that
15:14:23 4 downgraded these voters to federal-only status?
15:14:29 5 A. I do not.
15:14:31 6 Q. And how many voters were affected in Coconino
15:14:37 7 County?
15:14:37 8 A. I do have a copy of the email that I sent to the
15:14:45 9 secretary of state with our findings. And I can just read
15:14:50 10 that off if --
15:14:55 11 Q. Yes.
15:14:57 12 A. So two records had already been sent a fed-only
15:15:05 13 ballot. We changed them from fed-only to full-ballot
15:15:08 14 status and we reissued a full ballot with a letter. So
15:15:12 15 that was two voters.
15:15:13 16 Five records were determined to not be a
15:15:16 17 match with the MVD record, the list, so they remained in
15:15:21 18 their original fed-only status.
15:15:26 19 16 records were changed from fed-only to
15:15:28 20 full-ballot status. And by doing so, they were added to
15:15:32 21 the AEVL and are now being sent a full ballot. They were
15:15:36 22 previously not sent a ballot.
15:15:40 23 86 records were changed from fed only to full
15:15:42 24 ballot, but they were not on AEVL, so they were not sent a
15:15:47 25 ballot.

15:15:53 1 Q. In your professional capacity, what does this
15:16:01 2 error say to you about the reliability of database matching
15:16:04 3 to assess a person's current U.S. citizenship status?

15:16:08 4 A. Databases may sometimes have an error. But in my
15:16:19 5 experience, it's been quickly caught and rectified, as it
15:16:23 6 was with this.

15:16:25 7 Q. And what does it say to you about the reliability
15:16:30 8 of database matching to assess whether voters have
15:16:34 9 previously satisfied the DPOC requirement?

15:16:41 10 A. I'm comfortable with the databases performing the
15:16:47 11 function that they need to.

15:16:50 12 Q. Is it feasible to use MGB -- MVD driver's license
15:16:59 13 and nonoperating ID databases to conclusively determine a
15:17:04 14 lack of U.S. citizenship?

15:17:10 15 A. I'm confident that if the driver's license is
15:17:22 16 flagged as non-U.S. citizen, then the database will let me
15:17:27 17 know that.

15:17:30 18 Q. Okay. And is it practicable -- scratch that.
15:17:42 19 By statute, your office is required to check
15:17:54 20 MVD databases for citizenship verification on a monthly
15:17:58 21 basis. Is this practicable?

15:18:03 22 MR. LANGHOFER: Calls for a legal conclusion.

15:18:06 23 THE WITNESS: I don't have an opinion on
15:18:11 24 that. I follow the procedures.

15:18:15 25 BY MR. PATTERSON:

15:18:22 1 Q. But in -- with regard to the resources of your
15:18:29 2 office, are you capable of checking against the MVD
15:18:37 3 database for citizenship verification on a monthly basis?

15:18:43 4 A. It depends on how it's done. If it's an
15:18:47 5 automatic -- which I assume it would be an automatic
15:18:52 6 function of AVID, then yes, it would be capable.

15:18:58 7 Q. Okay. Thank you.

15:18:59 8 Moving on to the SAVE system, is it common
15:19:07 9 for people to put down an alien registration number or a
15:19:12 10 naturalization certificate number on their Arizona voter
15:19:16 11 registration form?

15:19:18 12 A. It's not common. We see very few in the
15:19:26 13 percentage of overall registrations.

15:19:28 14 Q. Are you able to provide a ballpark percentage?

15:19:33 15 A. I -- I don't see every form that comes through our
15:19:39 16 office, but I would say, if I had to ballpark, maybe one or
15:19:44 17 two a month.

15:19:46 18 Q. Okay. Thank you.

15:19:49 19 If just an alien registration number or a
15:19:53 20 naturalization certificate number is provided, does your
15:19:56 21 office check that using the SAVE system?

15:20:00 22 A. If there are no other -- if there is no other DPOC
15:20:07 23 provided, then yes. If we are able to -- from, like, a
15:20:11 24 driver's license or something like that, then we don't need
15:20:17 25 to. But if that's the only DPOC, then we run it through.

15:20:25 1 Q. Can you check both the alien registration number
15:20:29 2 and naturalization certificate number at the same time in
15:20:33 3 the same -- in the SAVE system?

15:20:36 4 A. My understanding is the SAVE system will take
15:20:39 5 either one.

15:20:42 6 Q. By "either one," does that mean that you -- in
15:20:46 7 order to check those numbers, you'd have to do either/or,
15:20:51 8 or would you be able to put in both of those numbers
15:20:55 9 simultaneously?

15:20:55 10 A. Either/or.

15:20:57 11 Q. Okay. Do you have alien registration numbers or
15:21:03 12 naturalization certificate numbers for all naturalized
15:21:06 13 registered voters in Coconino County?

15:21:07 14 A. No. Only if they actually provide that on their
15:21:11 15 form.

15:21:12 16 Q. And what does your office do if the SAVE system
15:21:17 17 search matches to a record reflecting a lack of U.S.
15:21:21 18 citizenship?

15:21:23 19 A. We will follow up with the voter and ask for proof
15:21:27 20 of citizenship.

15:21:29 21 Q. And how frequently does this occur?

15:21:34 22 A. Very seldom. I would have to actually do some
15:21:39 23 research to even find any of those situations.

15:21:44 24 Q. When you run a SAVE system search and in the case
15:21:51 25 where it indicates a record reflecting a lack of U.S.

15:21:57 1 citizenship, is that conclusive? Is that the end of the
15:22:02 2 road for that voter registration applicant or registered
15:22:08 3 voter?

15:22:09 4 A. No. That's when we would follow up with them and
15:22:12 5 ask either to see their naturalization documents or let us
15:22:19 6 know, you know -- give us a different form of citizenship
15:22:23 7 proof.

15:22:25 8 Q. Do you take -- in addition to that, do you take
15:22:29 9 any other steps to verify that individual citizenship
15:22:34 10 status if initial verification fails to verify U.S.
15:22:39 11 citizenship?

15:22:41 12 A. Well, we -- we do all of our checks, MVD, you
15:22:45 13 know, everything through AVID. And then if that comes back
15:22:51 14 with nothing and the SAVE program comes back as noncitizen,
15:22:55 15 that's when we would reach out to them and let them know
15:22:58 16 that we need another form of citizenship proof.

15:23:03 17 Q. Do you have any familiarity with USCIS's
15:23:06 18 additional verification procedures --

15:23:08 19 A. I do not.

15:23:09 20 Q. -- following the initial search?

15:23:12 21 A. No.

15:23:16 22 Q. Okay. And -- and in the case where you contact
15:23:30 23 individuals following a search which indicates a lack of
15:23:35 24 citizenship, do these individuals typically complete the
15:23:40 25 registration process by providing DPOC after receiving your

15:23:43 1 notice letter?

15:23:45 2 A. I -- I couldn't say how many, but I do recall at
15:23:53 3 least a few instances of them saying that they were very
15:23:58 4 recently naturalized. I would have to do some research to
15:24:01 5 actually find those scenarios, though. But it's -- the
15:24:07 6 amount that we have to follow up on is so small that it
15:24:13 7 doesn't happen very often.

15:24:14 8 Q. Okay. Thank you. I only have two more questions.

15:24:19 9 Would you agree that SAVE can be used to
15:24:22 10 confirm U.S. citizenship but cannot be used to confirm a
15:24:25 11 lack of U.S. citizenship?

15:24:28 12 A. Yes. Because if it -- if it is -- if there is a
15:24:39 13 lapse in when they became a citizen and it's still showing
15:24:44 14 that they are not, then -- then I can't 100 percent use
15:24:53 15 that as they are not a citizen.

15:24:57 16 Q. Thank you.

15:24:58 17 And has your office been communicating with
15:25:01 18 the USCIS about HB 2492 and HB 2243?

15:25:09 19 A. Not that I'm aware of.

15:25:12 20 Q. Okay.

15:25:13 21 MR. PATTERSON: Thank you very much. That
15:25:14 22 completes my questions.

15:25:17 23 THE WITNESS: Thank you.

15:25:23 24 MR. LANGHOFER: Tim, do you have some
15:25:25 25 questions?

15:25:26 1 MR. HORLEY: Yes, I do have a few questions,
15:25:30 2 hopefully not too many.

15:25:30 3

15:25:30 4 EXAMINATION

15:25:30 5 BY MR. HORLEY:

15:25:33 6 Q. But I do have a few documents I wanted to look at
15:25:36 7 with you, Ms. Casner, if that's all right.

15:25:42 8 So yes, Ms. Casner, I'm -- my name is Tim
15:25:43 9 Horley. I'm with the Arizona Attorney General's Office.
15:25:46 10 Thanks for sticking with us through the afternoon today.

15:25:49 11 So I just have a few questions I wanted to
15:25:53 12 follow up on. If a registrant were to mark "no" in the
15:26:00 13 citizenship checkbox but also provide a purported copy of a
15:26:04 14 citizenship document, like a birth certificate, what would
15:26:07 15 your office do in that situation?

15:26:10 16 A. According to our current procedures manual, we
15:26:14 17 would take the DPOC as proof of citizenship and register
15:26:19 18 them.

15:26:21 19 Q. Okay. So even if they say "No, I'm not a citizen"
15:26:26 20 on the form, as long as there's DPOC, you accept DPOC at
15:26:30 21 face value?

15:26:31 22 A. Right. We will follow up with them as well, but
15:26:37 23 the EPM does specifically say that even if they checked
15:26:42 24 "no," we will still register them as long as DPOC says
15:26:46 25 otherwise.

15:26:48 1 Q. Okay. And so you say you would follow up with
15:26:51 2 them.

15:26:51 3 Is that like a set procedure or just
15:26:54 4 something you might --

15:26:56 5 A. You know, it -- it happens so seldom I can't even
15:27:01 6 think of a time when it has, but I would have to look into
15:27:06 7 it to see. I think we have -- may have a letter that we
15:27:10 8 send them about that.

15:27:13 9 Q. Okay. And one other thing that Ms. Hansen
15:27:18 10 mentioned you might know more about is whether it's
15:27:21 11 possible for a registrant to submit a purported copy of a
15:27:26 12 citizenship document like a birth certificate or a passport
15:27:29 13 that was somehow defective; for example, it was blurry or
15:27:32 14 difficult to read.

15:27:34 15 What would you do in that situation?

15:27:37 16 A. If we couldn't make out enough to match it to the
15:27:43 17 voter's form, the information on their form, then we would
15:27:47 18 ask for a clarifying copy. I cannot recall a time when
15:27:54 19 that has happened.

15:27:56 20 Q. Okay. What about if it looked like the document
15:28:02 21 maybe belonged to someone else who was registered who had a
15:28:04 22 similar name, like if it was someone named John Smith, for
15:28:10 23 example?

15:28:10 24 A. We would also match other identifying information
15:28:15 25 like date of birth to make sure.

15:28:20 1 Q. Okay. And so in those situations, would it be
15:28:25 2 helpful to know how the voter answered the citizenship
15:28:28 3 checkbox?

15:28:31 4 A. I don't see that as helping.

15:28:38 5 Q. All right. I now want to ask you about one of the
15:28:42 6 documents that your office produced. It is a spreadsheet.
15:28:45 7 So I'm going to do what I did before and just screen-share,
15:28:49 8 and then I will send it around to everybody in the chat.

15:29:07 9 Okay. Can you see this document, Ms. Casner?

15:29:10 10 A. Yes.

15:29:11 11 Q. And do you recognize this document?

15:29:15 12 A. I do.

15:29:17 13 Q. And did your office produce this in response to
15:29:21 14 plaintiffs' request for production?

15:29:23 15 A. Yes.

15:29:24 16 Q. Okay.

15:29:26 17 MR. HORLEY: I would like to mark this as
15:29:30 18 Exhibit -- I believe we're at 180.

15:29:32 19 THE COURT REPORTER: Yes.

15:29:33 20 MR. HORLEY: Okay. Thank you.

15:29:33 21 (The document was marked as Exhibit 180
15:29:38 22 for identification.)

15:29:38 23 BY MR. HORLEY:

15:29:39 24 Q. So could you tell me sort of in a nutshell what
15:29:43 25 does this document show us?

15:29:44 1 A. This is a list from our AVID database for any
15:29:52 2 registrant in a suspense status, a not-eligible status, or
15:29:57 3 a not-registered status as of the time that it was
15:30:01 4 produced.

15:30:03 5 Q. Okay. Thank you. And then I'm going to ask you a
15:30:09 6 little bit about just these columns.

15:30:11 7 So I see this first column says "Status," so
15:30:13 8 that shows someone's voter registration status; is that
15:30:17 9 right?

15:30:17 10 A. Correct.

15:30:18 11 Q. And then the "Status Reason," that gives the
15:30:22 12 reason for their current registration status; is that
15:30:28 13 right?

15:30:28 14 A. Right.

15:30:29 15 Q. Okay. Great. I'm just going to expand these so
15:30:31 16 they're a little easier to read.

15:30:33 17 And then this next column shows the date of
15:30:36 18 registration?

15:30:38 19 A. Correct.

15:30:39 20 Q. And then this column here, Column E, shows the
15:30:44 21 date that -- of change, so that would show the date that
15:30:47 22 this current status was listed?

15:30:53 23 A. Usually the -- the effective date of change is the
15:30:59 24 last time something significant happened with the record.
15:31:03 25 So I couldn't say that it's always just when the status was

15:31:09 1 changed, but when the status changed, it does affect that
15:31:17 2 effective date, if that makes sense.

15:31:21 3 Q. Okay. Yes, I think so. Just trying to get an
15:31:23 4 idea of what we're looking at here.

15:31:27 5 So -- okay. And then I want to draw your
15:31:28 6 attention to Row Number 25. And it says this person's
15:31:32 7 status is "Not Registered." And then it says the status
15:31:34 8 reason is "Purged."

15:31:35 9 Am I reading that right?

15:31:36 10 A. Yes.

15:31:37 11 Q. Can you explain what "purged" means in this
15:31:43 12 context?

15:31:46 13 A. Those are from a very long time ago. We don't use
15:31:51 14 that status anymore, but if -- if I were to say -- I mean,
15:32:01 15 the only time they are purged is if they were in a
15:32:07 16 not-registered status for so long -- or a canceled status,
15:32:12 17 I should say, for so long that they became not registered.
15:32:19 18 I would have to look into it to see exactly what happened
15:32:23 19 with those records.

15:32:27 20 But one way or another, "purged" means that
15:32:33 21 they were removed, essentially, from the list of -- of
15:32:40 22 voters into a not-registered state because they were either
15:32:44 23 in suspense for so long or in rejected status for so long.
15:32:51 24 That -- that's my best thought. But I would have to look
15:32:57 25 back. That status has not been used for a very long time.

15:33:01 1 Q. Okay. Understood. Thank you.

15:33:03 2 Now I want to draw your attention to Row 44

15:33:07 3 here.

15:33:12 4 A. Yes.

15:33:12 5 Q. I'll move it up a little bit.

15:33:12 6 So here it says that the status is "Not

15:33:14 7 Eligible"; right?

15:33:16 8 A. Correct.

15:33:16 9 Q. And then the reason is "Invalid Citizenship

15:33:20 10 Proof"; correct?

15:33:20 11 A. Yes.

15:33:22 12 Q. Okay. So what does this status reason mean?

15:33:27 13 A. This could mean either that they marked "no" on
15:33:34 14 the -- on the box and we did not have DPOC or we received
15:33:43 15 notification from the MVD that they were not a citizen or
15:33:51 16 we received information from the SAVE program that they
15:33:55 17 weren't a citizen and we were not able to receive any DPOC.

15:34:02 18 Q. Okay. So in this situation, would you follow up
15:34:06 19 with a voter before you determined they were not eligible,
15:34:09 20 or does -- does that process happen without giving notice
15:34:14 21 first?

15:34:16 22 A. For these specific ones where we are getting that
15:34:21 23 information from the database that they are not a citizen,
15:34:26 24 we change them to not eligible and then follow up.

15:34:31 25 Q. Okay. And is there a reason why it's listed as

15:34:33 1 not eligible rather than, for example, suspense?

15:34:38 2 A. Yes. The suspense are for federal -- federal form

15:34:49 3 voters that did not answer the checkbox -- checkbox

15:34:56 4 question and did not provide DPOC.

15:35:02 5 Q. Okay. I think you're sort of getting at my next

15:35:04 6 question, which is: Why would someone in this situation

15:35:07 7 not be listed as a fed-only voter? Why would they be

15:35:12 8 considered not eligible?

15:35:14 9 A. If they used the state form and they said "no" and

15:35:23 10 they didn't have DPOC.

15:35:27 11 Q. Okay. So is this -- does this suggest that this

15:35:32 12 person may not be a U.S. citizen when they attempted to

15:35:36 13 register to vote?

15:35:39 14 A. Without any other proof, yes.

15:35:48 15 Q. Okay. I know Ms. Hansen mentioned there have been

15:35:50 16 some situations like at voter registration drives, for

15:35:54 17 example, when someone may have filled out a form trying to

15:35:59 18 enter someone else's information or otherwise falsely

15:36:03 19 filling out a form.

15:36:04 20 Could this be that kind of situation?

15:36:09 21 A. No. No.

15:36:09 22 THE COURT REPORTER: I'm sorry. Did someone

15:36:21 23 object?

15:36:21 24 MS. LANG: I did. I had an objection for

15:36:22 25 calls for speculation and lack of foundation.

15:36:22 1 (An off-the-record discussion ensued.)

15:36:22 2 BY MR. HORLEY:

15:36:22 3 Q. Okay. Thank you.

15:36:37 4 Now I want to look to a row that is much
15:36:39 5 lower down, so just one moment while I get us there.

15:36:53 6 Okay. Actually, I think I'm done asking
15:37:06 7 questions about this document. I just wanted to ask you
15:37:12 8 about one other thing that Ms. Hansen mentioned.

15:37:15 9 She said that you have someone who checks the
15:37:19 10 voter list to determine whether people have moved to a
15:37:21 11 different jurisdiction; is that right?

15:37:26 12 A. Someone who checks?

15:37:29 13 Q. Yes. Someone in your office whose responsibility
15:37:33 14 is to look at current voter lists and see whether that
15:37:36 15 person has moved out of Arizona or moved to a different
15:37:40 16 county.

15:37:41 17 A. I -- I don't recall that. I don't -- we don't
15:37:46 18 have anyone who does that.

15:37:50 19 Q. Oh, okay. Maybe I --

15:37:51 20 A. It may have been -- you may have misunderstood,
15:37:53 21 maybe.

15:37:55 22 Q. Okay. It's possible. I thought she mentioned
15:37:58 23 something about that.

15:37:58 24 Okay. I have another document I would like
15:38:02 25 to look at. This one, it will just be a quick one. Okay.

15:38:25 1 Can you see this document, Ms. Casner?

15:38:27 2 A. Yes.

15:38:28 3 Q. And do you recognize this document?

15:38:31 4 A. Yes.

15:38:31 5 Q. And did your office produce this in response to

15:38:35 6 plaintiffs' request for production?

15:38:37 7 A. Yes.

15:38:40 8 MR. HORLEY: All right. I'd like to mark

15:38:42 9 this as Exhibit 181.

15:38:42 10 (The document was marked as Exhibit 181

15:38:47 11 for identification.)

15:38:47 12 BY MR. HORLEY:

15:38:49 13 Q. Okay. Could you please explain in a nutshell what

15:38:52 14 this spreadsheet shows?

15:38:54 15 A. Yes. This is a voter list out of our AVID

15:39:01 16 database of records in canceled status, anything other than

15:39:09 17 moved out of jurisdiction. I believe I separated those out

15:39:13 18 and there's a different spreadsheet for those.

15:39:18 19 Q. Got it. All right.

15:39:20 20 So similar to before, we have this "Status"

15:39:23 21 column and a "Status Reason" column, and same thing applies

15:39:26 22 here, shows their current status and why?

15:39:30 23 A. Yes.

15:39:31 24 Q. Okay. Thank you. All right. I'm going to go

15:39:34 25 down -- I'm going to go to this row here, which is

15:39:50 1 Row 15409.

15:39:53 2 Do you see that, Ms. Casner?

15:39:54 3 A. Yes.

15:39:56 4 Q. And here it says that the person's status is

15:39:59 5 "Canceled"; correct?

15:40:01 6 A. Correct.

15:40:01 7 Q. And the reason that their registration was

15:40:04 8 canceled was "Involuntary Cancellation"; is that right?

15:40:06 9 A. Yes.

15:40:08 10 Q. Can you explain what that means?

15:40:11 11 A. Yes. Involuntary cancellation is when they stated

15:40:18 12 on a jury questionnaire that they were -- I believe it is

15:40:23 13 that they were not a citizen. I know it has to do with the

15:40:28 14 jury questionnaire. And I don't know if that status reason

15:40:33 15 is even used anymore or if it's something else in the

15:40:38 16 system now, but that's what we used to use as perjury

15:40:44 17 questionnaires.

15:40:46 18 Q. Got it. Okay.

15:40:47 19 Then I see here in Column E it says May 18,

15:40:52 20 2022; is that right?

15:40:53 21 A. Yes.

15:40:53 22 Q. So --

15:40:54 23 A. So likely, it is still -- yeah, it is still the

15:40:57 24 status that we use, then.

15:40:59 25 Q. Okay. Understood.

15:41:00 1 So -- so your testimony, just for -- to be
15:41:03 2 clear, is that if it says "Involuntary Cancellation,"
15:41:06 3 that's because it came from a jury report or someone --
15:41:06 4 A. Yes.
15:41:10 5 Q. -- reported they were not a citizen?
15:41:14 6 Okay. Thank you. That is all I have on that
15:41:15 7 one.
15:41:19 8 Okay. Another quick document that I
15:41:24 9 discussed briefly with Ms. Hansen -- and she mentioned that
15:41:27 10 you might be the person to ask about, so I'm going to pull
15:41:30 11 that up really fast.
15:41:41 12 Okay. Do you see this document, Ms. Casner?
15:41:44 13 A. I do.
15:41:45 14 Q. Okay. And this was previously marked as
15:41:50 15 Exhibit 178.
15:41:53 16 And so do you recognize this document?
15:41:57 17 A. I do.
15:41:58 18 Q. And Ms. Hansen mentioned that your office
15:42:02 19 participated in a SAVE tutorial.
15:42:06 20 Did you participate in that tutorial?
15:42:08 21 A. Yes.
15:42:09 22 Q. Okay. Was this guidance part of that tutorial?
15:42:15 23 A. I cannot say for certain. What I recall about the
15:42:22 24 tutorial was they went through how to look up a voter's
15:42:29 25 citizenship status. I don't recall them talking about

15:42:35 1 initiating a case involving a fraudulent document. They
15:42:40 2 provided this information separate from the actual
15:42:46 3 tutorial.

15:42:50 4 Q. Okay. So does this document address what to do if
15:42:57 5 you receive a document that might be a fraudulent
15:43:02 6 immigration document?

15:43:08 7 A. Yes, I would say that, just looking at it, that's
15:43:15 8 what it does.

15:43:18 9 Q. And so is -- have you ever encountered people
15:43:21 10 submitting fraudulent naturalization documents or other
15:43:25 11 immigration-related documents?

15:43:27 12 A. No.

15:43:34 13 Q. Okay. And then Ms. Hansen mentioned that -- and I
15:43:38 14 think you mentioned as well that your office takes
15:43:41 15 naturalization documents at face value; is that right?

15:43:44 16 A. Yes.

15:43:45 17 Q. And in your view, is that consistent with this
15:43:48 18 guidance?

15:43:51 19 MS. LANG: Objection. Lack of foundation.

15:43:57 20 THE WITNESS: I -- I don't have -- I don't
15:43:59 21 know.

15:44:00 22 BY MR. HORLEY:

15:44:01 23 Q. Okay. But there is a possibility that someone
15:44:04 24 could submit a fraudulent naturalization document?

15:44:09 25 MS. LANG: Objection. Lack of foundation.

15:44:11 1 Calls for speculation.

15:44:14 2 THE WITNESS: I don't know.

15:44:15 3 BY MR. HORLEY:

15:44:18 4 Q. Okay. That is all I have on that one. Just a few
15:44:21 5 more questions for you. Thank you for your patience.

15:44:25 6 So I just want to ask a few more questions
15:44:28 7 here.

15:44:29 8 If you received information from MVD that
15:44:31 9 someone was not a U.S. citizen, would you consider that a
15:44:34 10 reason to believe that the person was not a U.S. citizen?

15:44:37 11 A. It's -- it's a reason to follow up with the voter
15:44:46 12 and make sure we get proof of citizenship.

15:44:51 13 Q. And same question for SAVE.

15:44:54 14 If you -- if the SAVE check showed that
15:44:56 15 someone was not a citizen, would that be a reason to
15:44:58 16 believe that someone was not a U.S. citizen?

15:45:02 17 A. It would be a reason to follow up with the voter
15:45:06 18 and get proof of citizenship.

15:45:09 19 Q. And you mentioned -- and Ms. Hansen also discussed
15:45:15 20 the jury questionnaire process. And -- that, you know, you
15:45:21 21 received these reports that -- where someone says they were
15:45:24 22 not a U.S. citizen. And Ms. Hansen indicated that you
15:45:27 23 might have more information on what happens next in your
15:45:30 24 office when you get those reports.

15:45:32 25 Could you just walk me through that process?

15:45:38 1 A. We have only started receiving those lists
15:45:45 2 recently. And then we -- we used to receive notifications
15:45:53 3 a long time ago and that's where the involuntary
15:45:57 4 cancellations come from. I don't see them every day, but
15:46:02 5 what we do is we send them a letter letting them know that
15:46:09 6 they need to confirm with us whether or not they're a
15:46:13 7 citizen and that's when they go into involuntary
15:46:18 8 cancellation status.

15:46:21 9 Q. Understood. So if they -- if they get back to you
15:46:25 10 and say, "Yes, I am a U.S. citizen," is them saying that
15:46:29 11 enough or do you require some DPOC or other proof?

15:46:35 12 A. We -- we will -- I believe we will require DPOC in
15:46:46 13 that situation.

15:46:52 14 Q. Okay. I think I am at my last question.

15:47:00 15 So last question is on the topic of
15:47:03 16 birthplace. So Ms. Hansen mentioned you might know a
15:47:08 17 little bit about this.

15:47:09 18 If someone called into your office and you
15:47:13 19 needed to verify their identity, could you use their
15:47:16 20 birthplace listed on the form as a way to verify that
15:47:19 21 identity?

15:47:23 22 A. We could use it to verify we're pulling up the
15:47:28 23 correct person, but that's after we ask for their name and
15:47:31 24 their date of birth at least. If it's a common name, we
15:47:38 25 could ask them that, but it's not specifically in any

15:47:42 1 instructions for our staff to ask for that.

15:47:45 2 Q. Okay. Could you use it as, like, a sort of
15:47:48 3 security question to make sure that the person on the other
15:47:50 4 end of the line is who they say they are?

15:47:53 5 A. We could.

15:47:54 6 Q. Does your office ever do that?

15:47:57 7 A. No, not that I'm aware of.

15:48:00 8 Q. Okay.

15:48:01 9 MR. HORLEY: That is all my questions. Thank
15:48:03 10 you very much.

15:48:05 11 THE WITNESS: Thank you.

15:48:05 12

15:48:05 13 EXAMINATION

15:48:05 14 BY MR. LANGHOFER:

15:48:10 15 Q. Hi, Donna My name is Kory Langhofer, and I'm --
15:48:12 16 I represent the RNC in this. I think I've only got two
15:48:15 17 questions for you because we got to almost everything else
15:48:18 18 before.

15:48:18 19 So the first question was: When you all send
15:48:22 20 out the notices to someone who has submitted a state form
15:48:26 21 and doesn't have DPOC saying, "Hey, we still need your
15:48:31 22 DPOC," what percentage of them respond and provide the
15:48:37 23 DPOC?

15:48:40 24 A. I -- I could not say offhand. I would have to
15:48:47 25 compare the voter list that -- I mean, we have provided the

15:48:53 1 federal-only voter list. I would have to go through and
15:48:58 2 see, like, a period of time from one period to the next.
15:49:07 3 But I -- I don't even want to speculate on how many without
15:49:13 4 actually looking at our database and giving a concrete
15:49:17 5 answer.

15:49:17 6 Q. Do you know whether it would be more or less than
15:49:19 7 half?

15:49:20 8 A. I -- if I had to say, I would say less than half.

15:49:25 9 Q. Well, if it's not too much trouble, if that's the
15:49:30 10 sort of data that you can pull easily, it would be nice to
15:49:33 11 get that and follow up. I don't think we need to reconvene
15:49:37 12 everyone for that, obviously, though.

15:49:38 13 The second question -- let me find it in my
15:49:42 14 notes here. I think that Ms. Hansen suggested we ask this
15:49:45 15 of you.

15:50:04 16 MR. LANGHOFER: In fact, it looks to me like
15:50:10 17 Tim already asked my second question. So you get off easy
15:50:14 18 today. Thanks very much.

15:50:15 19 Are there any other questions on the defense
15:50:18 20 side?

15:50:23 21 MR. MORGAN: Nothing from the secretary of
15:50:27 22 state.

15:50:27 23 MR. LANGHOFER: All right. Any redirect from
15:50:29 24 the plaintiffs?

15:50:31 25 MR. ATKINS: I have just one follow-up

15:50:33 1 question.

15:50:33 2

15:50:34 3

FURTHER EXAMINATION

15:50:38 4 BY MR. ATKINS:

15:50:39 5 Q. Just to clarify, the checkbox requirement on the
15:50:48 6 federal form, isn't it the case that the EPM provides that
15:50:58 7 failure to answer the checkbox or providing a "no" answer
15:51:03 8 does not invalidate the form so long as they swear or
15:51:07 9 affirm their citizenship in Box 9 of the federal form?

15:51:16 10 A. I would have to look at the actual wording. My
15:51:21 11 understanding, without looking at that, is that it's
15:51:25 12 specifically about the checkbox. If it -- if it was not
15:51:32 13 checked but DPOC was provided, then that's enough to make
15:51:39 14 them a full voter.

15:51:41 15 Q. Can we please look at Petty Exhibit 6, which is
15:51:45 16 the 2019 EPM.

15:51:55 17 A. Okay. I am looking at the "Failure to Properly
15:51:59 18 Answer Citizenship Question" section.

15:52:03 19 Q. If you could just read that -- that first
15:52:06 20 paragraph.

15:52:09 21 A. "A registrant's failure to answer the citizenship
15:52:12 22 question or 'no' answer to the citizenship question on the
15:52:16 23 State or Federal Form does not invalidate the form so long
15:52:21 24 as there is some other appropriate indicator that the
15:52:23 25 registrant is a U.S. citizen."

15:52:27 1 Do you want me to go on?

15:52:28 2 Q. I guess, the part that's of interest to me is down
15:52:34 3 below.

15:52:34 4 It says, quote, "Other appropriate indicators
15:52:37 5 of U.S. citizenship include providing valid DPOC," which is
15:52:42 6 consistent with your answers, "or a signature
15:52:46 7 swearing/affirming that the registrant is a U.S. citizen
15:52:50 8 (e.g., Box 9 on the Federal Form)."

15:52:53 9 So I guess that's what I'm referring to where
15:52:58 10 it seems that the EPA is -- or the EPM is instructing your
15:53:03 11 office to not reject a form for failure to complete the
15:53:08 12 checkbox so long as they swear or affirm their citizenship
15:53:13 13 in Box 9.

15:53:16 14 A. Okay. That makes sense to me now that you said
15:53:19 15 that.

15:53:22 16 Q. So is it perhaps the case that your office has
15:53:27 17 been placing federal form applicants into suspense for
15:53:36 18 failure to complete the checkbox unnecessarily?

15:53:42 19 A. That is possible, yes.

15:53:44 20 Q. But you would agree with me that, pursuant to this
15:53:48 21 paragraph of the EPM, it would appear that so long as they
15:53:52 22 complete the citizenship affirmation in Box 9, their
15:53:57 23 failure to complete the checkbox or to mark "no" is not
15:54:01 24 grounds for invalidation?

15:54:03 25 A. Yes, that makes sense.

15:54:08 1 MR. ATKINS: Okay. Thank you. I don't have
15:54:09 2 any other questions.

15:54:16 3 MR. LANGHOFER: Rose, read and sign?

15:54:19 4 MS. WINKELER: What's that?

15:54:20 5 MR. LANGHOFER: Are you guys going --

15:54:20 6 MS. WINKELER: Oh, read and sign, yes.

15:54:22 7 Sorry.

15:54:22 8 THE VIDEOGRAPHER: We are off the record.
15:54:23 9 Time on the video monitor is 3:54 p.m. This ends Volume 1,
15:54:29 10 Media Number 1, in the 30(b)(6) deposition of Coconino
15:54:34 11 County Recorder, by Donna Casner.

12 (The proceedings concluded at 3:54 p.m.)

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DONNA CASNER

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1 STATE OF ARIZONA)
COUNTY OF MARICOPA)

2

3 BE IT KNOWN that the foregoing deposition was taken
4 by me pursuant to stipulation of counsel; that I was then
5 and there a Certified Court Reporter in the State of
6 Arizona, and by virtue hereof authorized to administer an
7 oath; that the witness before testifying was duly sworn by
8 me to testify to the whole truth; pursuant to request,
9 notification was provided that the deposition is available
10 for review and signature; that the questions propounded by
11 counsel and the answers of the witness thereto were taken
12 down by me in shorthand and thereafter transcribed into
13 typewriting under my direction; that the foregoing pages
14 are a full, true and accurate transcript of all the
15 proceedings had upon the taking of deposition, all done to
16 the best of my skill and ability.

17 I FURTHER CERTIFY that I am in no way related
18 to nor employed by any parties hereto; nor am I in any
19 way interested in the outcome thereof.


20 Dated at Phoenix, Arizona, this 8th day of
21 September, 2023.

22

23

24

25


CINDY MAHONEY, RPR, RMR NO. 50680

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UNITED STATES DISTRICT COURT
DISTRICT OF ARIZONA

Mi Familia Vota, et al.,)	
)	
Plaintiffs,)	Case No.
	)	2:22-cv-00509-PHX-SRB
v.	)	(Lead)
)	
Adrian Fontes, in his	)	No. CV-22-00519-PHX-SRB
official capacity as	)	No. CV-22-01003-PHX-SRB
Arizona Secretary of State,	)	No. CV-22-01124-PHX-SRB
et al.,	)	No. CV-22-01369-PHX-SRB
	)	No. CV-22-01381-PHX-SRB
Defendants.	)	No. CV-22-01602-PHX-SRB
	)	No. CV-22-01901-PHX-SRB

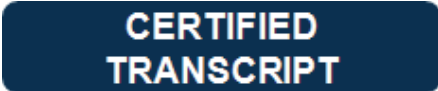
AND CONSOLIDATED CASES.

VIDEO-RECORDED VIDEOCONFERENCE 30(b)(6) DEPOSITION OF
COCONINO COUNTY RECORDER, REPRESENTED BY PATTY HANSEN

Flagstaff, Arizona

August 23, 2023

Prepared by:
CINDY MAHONEY, RPR, RMR
Certified Court Reporter
Certificate No. 50680



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1 VIDEO-RECORDED VIDEOCONFERENCE 30(b)(6)
 2 DEPOSITION OF COCONINO COUNTY RECORDER, REPRESENTED BY
 3 PATTY HANSEN, commenced at 9:15 a.m. on August 23, 2023, at
 4 Flagstaff, Arizona, before Cindy Mahoney, RPR, RMR (via
 5 videoconference), Arizona Certified Court Reporter No.
 6 50680.

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24 ALSO PRESENT:

25 Donna Casner; Jean Roof; Joann Munoz; Richard Colwell;
Colleen Connor; Gareth Fowler; Daniel Rohan, Videographer

1 TRANSCRIPT OF PROCEEDINGS

2
09:15:09 3 THE VIDEOGRAPHER: We are on the record.
09:15:10 4 Time on the video monitor is 9:15 a.m. Here begins
09:15:16 5 Volume 1, Media Number 1, in the 30(b)(6) deposition of
09:15:20 6 Coconino County Recorder, by Patty Hansen and Donna Casner,
09:15:26 7 in the matter of Mi Familia Vota, et al., v. Adrian Fontes,
09:15:31 8 et al., in the United States District Court, District of
09:15:36 9 Arizona, Case Number 2:22-cv-00509-SRB.

09:15:44 10 Today's date is August 23rd, 2023. Our court
09:15:48 11 reporter is Cindy Mahoney. I am Daniel Rohan, a certified
09:15:53 12 legal videographer. We both represent Coash Court
09:15:57 13 Reporting & Video.

09:15:57 14 This video deposition is taking place at
09:16:00 15 Coconino County Recorder's Office, 110 East Cherry Avenue,
09:16:05 16 Flagstaff, Arizona 86001.

09:16:08 17 Counsel, please identify yourselves and state
09:16:10 18 whom you represent.

09:16:12 19 MR. ATKINS: Good morning. My name is
09:16:14 20 Alexander Atkins. I'm with Elias Law Group, and I
09:16:18 21 represent Mi Familia Vota and Voto Latino, plaintiffs in
09:16:22 22 the case.

09:16:24 23 MS. WINKELER: Rose Winkeler, Flagstaff Law
09:16:32 24 Group. I represent Coconino County recorder Patty Hansen.

09:16:36 25 MR. HERRERA: Ernest Herrera, one of the

09:16:44 1 counsel for plaintiffs -- Promise Arizona plaintiffs.

09:16:48 2 MR. HORLEY: Tim Horley with the State of
09:16:53 3 Arizona and the Arizona Attorney General's Office.

09:16:57 4 MR. BABBITT: Christopher Babbitt for the
09:16:59 5 Democratic National Committee and the Arizona Democratic
09:17:01 6 Party.

09:17:04 7 MS. CERVANTES: Erika Cervantes for Promise
09:17:06 8 Arizona plaintiffs.

09:17:07 9 MR. PATTERSON: Beauregard Patterson for
09:17:13 10 Poder Latinx, Chicanos Por La Causa, and Chicanos Por La
09:17:18 11 Causa Action Fund.

09:17:19 12 MR. MORGAN: Craig Morgan for Sherman &
09:17:22 13 Howard, on behalf of the Secretary of State. With me is
09:17:25 14 the state elections director, Colleen Connor.

09:17:28 15 MR. BASILE: And Thomas Basile for the
09:17:37 16 Intervenor-Defendant Republican National Committee.

09:17:49 17 THE VIDEOGRAPHER: It looks like everybody.
09:17:50 18 Can the -- sorry. Was there anyone else?

09:17:55 19 Will the court reporter please swear in the
09:18:00 20 witness.

21 ///

22 ///

23 ///

24 ///

25 ///

09:19:26 1 Q. Okay. So as I'm sure you know, there's various
09:19:32 2 plaintiff groups that have brought legal challenges against
09:19:37 3 HB 2492 and HB 2243, and those cases have all been
09:19:42 4 consolidated together into this lawsuit. So I'm going to
09:19:47 5 be doing the initial questioning today, and then when I'm
09:19:49 6 done, counsel for some of the other plaintiff groups and
09:19:54 7 potentially defendants and intervenors will likely have
09:19:58 8 additional questions for you as well.

09:20:00 9 A. Okay.

09:20:01 10 Q. Could you please state your full name for the
09:20:04 11 record.

09:20:04 12 A. Patty Hansen.

09:20:07 13 Q. And what is your current title?

09:20:10 14 A. I'm the Coconino County recorder.

09:20:14 15 Q. And how long have you been the county recorder in
09:20:18 16 Coconino County?

09:20:18 17 A. Since January 2013.

09:20:23 18 Q. Have you held any other roles with the county
09:20:27 19 recorder's office?

09:20:27 20 A. Yes. In 2003 until I became recorder, I was the
09:20:32 21 election administrator in the recorder's office.

09:20:38 22 Q. So you have 20 years of election administration
09:20:41 23 experience in Coconino County; is that correct?

09:20:46 24 A. That is correct.

09:20:46 25 Q. And could you just describe at a high level what

09:20:49 1 your responsibilities are as recorder?

09:20:54 2 A. As recorder, I'm responsible for voter
09:20:58 3 registration, early voting, petition signature
09:21:04 4 verification, also overseeing the official record of
09:21:09 5 property records in the county.

09:21:13 6 Q. Understood.

09:21:14 7 And are you represented by an attorney here
09:21:16 8 today?

09:21:17 9 A. Yes, I am. Rose Winkeler.

09:21:20 10 Q. And she's in the room with you?

09:21:22 11 A. Yes.

09:21:23 12 Q. So before we jump into questions, just a couple of
09:21:30 13 points I want to make sure we're all clear on.

09:21:34 14 You understand that you're testifying under
09:21:36 15 oath today?

09:21:37 16 A. Yes, I do.

09:21:38 17 Q. And do you understand that the court reporter is
09:21:42 18 transcribing this deposition?

09:21:44 19 A. Yes.

09:21:46 20 Q. So with that in mind, and especially because we're
09:21:48 21 here on Zoom, please make sure you answer questions audibly
09:21:53 22 and clearly. Please let me know if you don't understand a
09:21:58 23 question or need me to rephrase or repeat any part of it.

09:22:03 24 A. Okay.

09:22:04 25 Q. If -- if I ask you a question and you answer it,

09:22:08 1 I'll assume that you understood it. So if you don't
09:22:11 2 understand, just please let me know.

09:22:13 3 A. Okay.

09:22:14 4 Q. And so throughout the deposition, attorneys may
09:22:21 5 make objections to questions that are asked of you. So it
09:22:25 6 will help if you just give a short pause after the question
09:22:28 7 is asked before you answer so that any attorneys have an
09:22:32 8 opportunity to object, but you're still able to answer the
09:22:39 9 question despite the objections unless your attorney
09:22:41 10 instructs you not to answer.

09:22:43 11 Does that make sense?

09:22:44 12 A. Yes, it does.

09:22:45 13 Q. Is there any reason today that you aren't able to
09:22:51 14 give full, complete, and accurate testimony?

09:22:55 15 A. No.

09:22:59 16 Q. If at any point during the deposition you need to
09:23:02 17 take a break for any reason, please just let me know. The
09:23:06 18 only thing I ask is that if there's a question pending,
09:23:10 19 we'll finish answering that question and then we can take a
09:23:14 20 break.

09:23:16 21 A. Okay.

09:23:17 22 Q. Have you ever been deposed before?

09:23:21 23 A. Yes.

09:23:22 24 Q. Approximately how many times?

09:23:25 25 A. That, I can't remember. I'm sorry.

09:23:31 1 Q. I take it it's -- it's a significant number,
09:23:34 2 though?

09:23:35 3 A. Yes. I also worked in another -- in two other
09:23:40 4 states and have been involved in lawsuits there.

09:23:45 5 Q. So in terms of depositions having to do with the
09:23:51 6 Coconino County Recorder's Office and specifically voter
09:23:59 7 registration or -- or list maintenance activities, have you
09:24:03 8 been deposed in that capacity on those subjects?

09:24:07 9 A. I believe so. There's been cases like the
09:24:13 10 Gonzalez case and things like that. But I -- I guess I
09:24:19 11 can't say for sure -- remember exactly what the depositions
09:24:23 12 were about.

09:24:24 13 Q. Sure.

09:24:25 14 But you were deposed in the Gonzalez case?

09:24:28 15 A. I believe so.

09:24:33 16 Q. Okay. And just for the record, where are you
09:24:37 17 physically located today?

09:24:39 18 A. In the county recorder's office.

09:24:43 19 Q. And who else is in the room with you?

09:24:46 20 A. My Chief Deputy, Donna Casner, and my legal
09:24:52 21 counsel, Rose Winkeler.

09:24:55 22 Q. And did you bring any materials with you to the
09:24:59 23 deposition?

09:25:00 24 A. Yes.

09:25:01 25 Q. And what are those materials?

09:25:06 1 A. Some notes, copies of the interrogatories, my
09:25:11 2 letter to the governor, and then responses that we sent
09:25:22 3 to -- in regards to the court cases, the discovery request,
09:25:28 4 the responses -- not the actual materials for the
09:25:32 5 discovery, but the responses that we sent along with it.

09:25:36 6 Q. I understand.

09:25:38 7 So I believe you said you have some notes
09:25:40 8 with you. Are you able to describe what those notes are or
09:25:46 9 where they came from?

09:25:46 10 A. Yeah. They were notes that Donna and I had made
09:25:51 11 on who would probably have the most knowledge about the
09:25:56 12 questions that you had sent for the deposition.

09:26:04 13 Q. Okay. All right. Thank you very much.

09:26:06 14 I'd like to introduce as our first exhibit
09:26:12 15 what is labeled in the folder as Exhibit A.

09:26:21 16 You can let me know when you have that
09:26:26 17 document in front of you, Ms. Hansen.

09:26:29 18 A. Yes, I do.

09:26:31 19 Q. Okay.

09:26:31 20 MR. ATKINS: And I'd like to mark this as
09:26:33 21 Exhibit 166.

09:26:36 22 (The document was marked as Exhibit 166
09:26:38 23 for identification.)

09:26:38 24 BY MR. ATKINS:

09:26:38 25 Q. Have you seen this document before today?

09:26:41 1
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A. Yes.

Q. And what do you understand this document to be?

A. Let me see. This is our -- let me see, the notice of deposition for the recorder's office today.

Q. And do you understand that you've been designated as a representative to testify on behalf of the Coconino County Recorder's Office as opposed to in your individual capacity?

A. Yes.

Q. And can we stipulate, therefore, that whenever I say "you" or "your," that that will be the equivalent of saying "your office"?

A. Yes, that's fine.

Q. And can we also stipulate that unless you specify otherwise, if you use the word "I" or "me," that shall refer to the Coconino County Recorder's Office?

A. Okay. Yes.

Q. All right. If you can please turn to page 4 of Exhibit 166, the deposition notice.

A. Okay.

Q. So starting at the bottom of page 4 is a list of 28 topics for today's deposition.

Did you review this list prior to the deposition today?

A. Yes, I did.

09:28:17 1 Q. Now, I understand that there may be topics that
09:28:22 2 Ms. Casner is prepared to address as opposed to you.

09:28:27 3 Are -- are you aware of specific topics that
09:28:30 4 you are not prepared to address today?

09:28:34 5 A. Yes. When it talks about the AVID voter
09:28:38 6 registration system and the specifics for the procedures
09:28:43 7 for the staff in the office, Donna is much more
09:28:49 8 knowledgeable of the forms and she's the one who does the
09:28:53 9 day-to-day supervision of those staff and uses those
09:28:58 10 materials.

09:29:00 11 Q. Understood.

09:29:01 12 So with the exception of those topics, are
09:29:07 13 you prepared to address the remaining topics on the
09:29:10 14 deposition notice?

09:29:11 15 A. Yes, I am.

09:29:14 16 Q. And did you discuss today's deposition with anyone
09:29:20 17 else outside of your office, besides Ms. Winkeler?

09:29:25 18 A. No.

09:29:29 19 Q. And other than the documents that you have with
09:29:32 20 you there, did you review any other documents in
09:29:34 21 preparation for the deposition?

09:29:37 22 A. Yes. I looked over some emails that I had
09:29:45 23 received and I think were part of the discovery.

09:29:49 24 Q. Understood.

09:29:50 25 Okay. I'd like to pull up our next exhibit,

09:29:56 1 which is marked as Exhibit B in the folder. Please let me
09:30:05 2 know when you have that document in front of you.

09:30:12 3 A. It's in front of me.

09:30:14 4 Q. And do you recognize this document?

09:30:17 5 A. Yes, I do.

09:30:18 6 Q. And what do you recognize it to be?

09:30:22 7 A. It's the request for production of documents that
09:30:27 8 we had in our office in relation to the Asian American
09:30:36 9 Native Hawaiian and Pacific Islanders for Equity
09:30:41 10 Coalition's case.

09:30:43 11 Q. Thank you.

09:30:44 12 I know that plaintiff, their name is a bit of
09:30:48 13 a mouthful. We tend to -- to refer to them as simply "the
09:30:52 14 Equity Coalition," so feel free to -- if you need to use
09:30:56 15 their name again.

09:30:58 16 So just to be clear for the record, these are
09:31:02 17 your responses to Equity Coalition's first requests for
09:31:08 18 production, which you submitted on February 10th, 2023; is
09:31:16 19 that correct?

09:31:16 20 A. That is correct.

09:31:17 21 Q. And were you involved in preparing these
09:31:23 22 responses?

09:31:23 23 A. Somewhat. Donna Casner pulled the list and things
09:31:32 24 like that and pulled the materials together.

09:31:37 25 Q. Did you review this response before today's

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deposition?
A. Yes.
Q. Are there any updates to the responses contained in this document that you would like to make at this time?
A. No.
Q. Okay. If we can next pull up what's marked as Exhibit C in the folder.
THE COURT REPORTER: And just for the record, you wanted to mark the previous one as Exhibit 167?
MR. ATKINS: Yes. Apologies.
THE COURT REPORTER: No problem.
MR. ATKINS: Thank you.
(The document was marked as Exhibit 167 for identification.)
THE WITNESS: It's -- I have it in front of me.
MR. ATKINS: Okay. Let's please mark this as Exhibit 168.
(The document was marked as Exhibit 168 for identification.)
BY MR. ATKINS:
Q. And what do you recognize this document to be?
A. This is our response to the first set of interrogatories for the Mi Familia Vota, et al., case.
Q. Understood.

09:32:50 1 And so for the record, this is Coconino
09:32:54 2 County recorder's answers to Equity Coalition's
09:32:57 3 interrogatories, which you submitted in this case, again,
09:33:01 4 on February 10th, 2023; correct?

09:33:04 5 A. Yes. Correct.

09:33:09 6 Q. Did you verify the responses to the
09:33:12 7 interrogatories in this document?

09:33:15 8 A. Yes, I did.

09:33:18 9 Q. I just want to note for the record that the -- I
09:33:21 10 noticed last night that the verification page for this
09:33:25 11 document has your name but doesn't actually have your
09:33:28 12 signature.

09:33:30 13 So I just want to confirm that you did, in
09:33:34 14 fact, verify these responses and intended to sign the
09:33:38 15 verification page?

09:33:39 16 A. Yes.

09:33:40 17 Q. And were you involved in preparing these
09:33:46 18 responses?

09:33:51 19 A. Yes, working with my legal counsel, Rose Winkeler,
09:33:56 20 and with Donna.

09:33:58 21 Q. And are there any updates or changes that you
09:33:59 22 would like to make to these responses?

09:34:02 23 A. No.

09:34:08 24 Q. All right. Let's please pull up what's marked as
09:34:11 25 Exhibit D in the folder.

09:34:21 1 A. Okay. It's in front of me.

09:34:25 2 MR. ATKINS: Let's please mark this as

09:34:26 3 Exhibit 169.

09:34:26 4 (The document was marked as Exhibit 169

09:34:29 5 for identification.)

09:34:29 6 BY MR. ATKINS:

09:34:31 7 Q. And what do you recognize this document to be?

09:34:35 8 A. This is our response for the request of production
09:34:41 9 of documents that was -- let me see. I don't see a date on
09:34:49 10 here. But I think it was our second request for documents
09:34:56 11 so --

09:34:58 12 Q. So --

09:34:59 13 A. June 29th of 2023.

09:35:03 14 Q. Great.

09:35:05 15 So this is your office's responses to
09:35:08 16 consolidated plaintiffs' request for production submitted
09:35:12 17 June 29, 2023?

09:35:14 18 A. That's correct.

09:35:15 19 Q. And were you involved in preparing these
09:35:19 20 responses?

09:35:23 21 A. Yes.

09:35:23 22 Q. And are there any updates that you would like to
09:35:26 23 make to these responses?

09:35:27 24 A. No.

09:35:28 25 Q. All right.

09:35:33 1 A. We did send supplemental because we found Donna
09:35:38 2 was able to find my comments that I had made to the Arizona
09:35:46 3 Association of Counties in their ALTO system. And I'm
09:35:49 4 sorry. I don't remember which discovery request that would
09:35:51 5 go to. But I know that Rose Winkeler sent those to you.

09:35:58 6 Q. Yes. Confirmed. We received several supplemental
09:36:04 7 documents produced by your office, I believe, on Monday of
09:36:10 8 this week.

09:36:10 9 A. Okay.

09:36:11 10 Q. So other than supplementing the production in
09:36:14 11 conjunction with this response, you don't have any updates
09:36:17 12 or changes to make to the responses in this document?

09:36:23 13 A. No.

09:36:24 14 Q. All right. Just one more of these. If we can
09:36:26 15 please pull up what's marked as Exhibit E.

09:36:34 16 A. Okay. And this is response to interrogatories --
09:36:42 17 the first set of interrogatories that was sent to us.

09:36:48 18 MR. ATKINS: Let's please mark this as
09:36:49 19 Exhibit 170.

09:36:49 20 (The document was marked as Exhibit 170
09:36:54 21 for identification.)

09:36:54 22 BY MR. ATKINS:

09:36:54 23 Q. These are your office's responses to consolidated
09:36:56 24 plaintiffs' interrogatories dated June 29, 2023?

09:37:03 25 A. Yes.

09:37:03 1 Q. And did you verify these responses?

09:37:08 2 A. Yes, I did.

09:37:09 3 Q. Note for the record that the verification is
09:37:13 4 signed on this document by Ms. Hansen.

09:37:17 5 And you were involved in preparing these
09:37:20 6 responses as well?

09:37:24 7 A. Yes. Along with Donna Casner and Rose Winkeler.

09:37:26 8 Q. And do you have any updates or changes to make to
09:37:29 9 these responses?

09:37:30 10 A. No.

09:37:30 11 Q. Okay. Thank you.

09:37:36 12 Switching gears a bit, just want to discuss
09:37:39 13 the responsibilities of your office with respect to voter
09:37:45 14 registration and elections.

09:37:47 15 A. Okay.

09:37:48 16 Q. Can you just say again what your responsibilities
09:37:53 17 are with regard to voter registration and elections?

09:37:59 18 A. Okay. Our office is responsible for processing
09:38:04 19 and maintaining the list of registered voters and also
09:38:10 20 conducting early voting and signature verification for
09:38:18 21 petitions. And that's in regards to elections.

09:38:22 22 Q. And who in your office specifically is responsible
09:38:26 23 for processing voter registration applications?

09:38:30 24 A. The person responsible for supervising the staff
09:38:36 25 and overseeing our voter registration division is Donna

09:38:39 1 Casner.

09:38:41 2 Q. And who is responsible for maintaining the list of
09:38:47 3 registered voters?

09:38:48 4 A. Legally responsible is me.

09:38:51 5 Q. And is there someone else who actually performs
09:38:55 6 that function underneath you?

09:38:57 7 A. Yes. That would be Donna Casner.

09:39:03 8 Q. And who is responsible for and who administers the
09:39:09 9 early voting tasks that you described?

09:39:13 10 A. Donna Casner also does that.

09:39:16 11 Q. And for early voters in Coconino County, am I
09:39:22 12 correct that they can submit their ballots in person?

09:39:27 13 A. Yes, they can.

09:39:29 14 Q. And they can also submit them by mail?

09:39:36 15 A. Yes.

09:39:36 16 Q. Is it also possible for them to submit them
09:39:39 17 through dropboxes?

09:39:40 18 A. Yes. We do have dropboxes in areas of the county.

09:39:45 19 Q. And is Ms. Casner responsible for processing those
09:39:48 20 early ballots?

09:39:51 21 A. Yes, she is.

09:39:52 22 Q. Approximately how many staff members in your
09:40:04 23 office work on voter registration and list maintenance?

09:40:15 24 A. I think five or six.

09:40:16 25 Q. And are those individuals supervised by you and

09:40:21 1 Ms. Casner?

09:40:23 2 A. Yes. And also, our voter registration manager --
09:40:28 3 or supervisor, Sedona Stone.

09:40:31 4 Q. And can you describe that individual's role and
09:40:39 5 how it differs from your own?

09:40:40 6 A. I think Donna would probably be able to give you
09:40:45 7 more information since she directly supervises Sedona, but
09:40:50 8 they, I know, divide duties and that. And Donna -- or
09:40:56 9 Sedona is more working directly with the -- our
09:41:01 10 administrative specialist I's that are actually doing the
09:41:05 11 data entry. She's checking their work. She oversees the
09:41:10 12 function of our Flagstaff Mall office.

09:41:13 13 Q. Are you familiar with the Voter Registry Advisory
09:41:13 14 Committee?

09:41:13 15 A. Voter Registry?

09:41:22 16 Q. Or VRAC?

09:41:25 17 A. Oh, VRAC. I am, yes.

09:41:25 18 Q. And can you just, at a high level, explain what
09:41:28 19 that committee is?

09:41:29 20 A. That committee discusses procedures and also how
09:41:37 21 AVID, the state voter registration system, should function.
09:41:44 22 VRAC was first created to create uniform procedures across
09:41:50 23 the state when we went on the statewide system back in the
09:41:56 24 early 2000s after the Help America Vote Act went into
09:42:01 25 effect.

09:42:05 1 Q. And do you have a role on the VRAC committee?

09:42:08 2 A. I'm a member.

09:42:09 3 Q. And am I correct that VRAC puts out issue papers?

09:42:19 4 A. Yes.

09:42:19 5 Q. And what is the purpose of those issue papers?

09:42:25 6 A. I think the main purpose is to provide uniformity
09:42:28 7 across the counties; that we're doing things in the same
09:42:34 8 manner.

09:42:37 9 Q. And -- and who drafts VRAC issue papers?

09:42:44 10 A. In the past, it was -- the Secretary of State's
09:42:48 11 Office would draft them and then bring them to the
09:42:50 12 committee, and then the committee would vote on them.

09:42:52 13 It seems to me right now that there's some
09:42:56 14 change that the secretary of state would prefer that the
09:42:59 15 VRAC committee come up with the issue papers that they
09:43:03 16 bring forward. But from my recollection, that has not been
09:43:08 17 finalized if that change is going to come about.

09:43:12 18 Q. Understood.

09:43:15 19 So is it fair to say that VRAC works with the
09:43:22 20 secretary's office to try and create uniformity across the
09:43:25 21 county recorders' offices?

09:43:27 22 A. Yes. And it's in how we process registrations and
09:43:35 23 also in how the AVID system works.

09:43:41 24 Q. So I'd like to discuss one of the laws being
09:43:46 25 challenged in this litigation, HB 2492.

09:43:50 1 Are you familiar with that law?

09:43:52 2 A. Yes.

09:43:53 3 Q. And am I correct that your office opposed HB 2492
09:43:59 4 last year?

09:44:01 5 A. Yes.

09:44:03 6 Q. If I can ask you to look at what's marked as
09:44:10 7 Exhibit F in the folder.

09:44:21 8 A. Maybe just a sec. The computer went to sleep.

09:44:27 9 Q. Take your time.

09:44:39 10 A. Okay.

09:44:39 11 Q. So let's mark --

09:44:42 12 A. It's in front of me.

09:44:44 13 Q. Great.

09:44:44 14 And what is this document?

09:44:45 15 A. This is the letter that I sent to Governor Ducey's
09:44:50 16 office asking him to veto 2492.

09:44:55 17 MR. ATKINS: So let's mark this as
09:44:57 18 Exhibit 171.

09:44:57 19 (The document was marked as Exhibit 171
09:45:00 20 for identification.)

09:45:00 21 BY MR. ATKINS:

09:45:01 22 Q. And did you write this letter?

09:45:03 23 A. Yes, I did.

09:45:04 24 Q. If I can direct you to the second paragraph of the
09:45:11 25 letter. You wrote, quote, "I am concerned that the

09:45:15 1 legislation runs afoul of some provisions of the National
09:45:21 2 Voter Registration Act of 1993 (NVRA) and the U.S. Supreme
09:45:25 3 Court decision in the Arizona v. Inter Tribal Council of
09:45:29 4 Arizona . . . Case," with a citation.

09:45:31 5 Did I read that correctly?

09:45:33 6 A. Yes, you did.

09:45:34 7 Q. And does this continue to be your view of 2492
09:45:40 8 today?

09:45:42 9 MR. HORLEY: Objection. Calls for a legal
09:45:45 10 conclusion.

09:45:46 11 MR. BASILE: Objection.

09:45:47 12 BY MR. ATKINS:

09:45:48 13 Q. You can answer.

09:45:48 14 A. Yes.

09:45:50 15 Q. If I can next direct you to paragraph 4 at the
09:45:56 16 bottom of the page.

09:45:59 17 You wrote, quote, "The bill also requires
09:46:02 18 proof of residence location. This would be very difficult
09:46:05 19 for Native American voters that reside on the Hopi and
09:46:10 20 Navajo reservations. Many of the citizens that live on the
09:46:11 21 reservation do not have a street address. When they
09:46:13 22 register to vote they put a narrative description of the
09:46:15 23 location of their residence. This allows us to determine
09:46:18 24 their voting precinct, school district and hospital
09:46:22 25 district. They do not have a deed or rental agreement for

09:46:24 1 their residence. Sadly, some of the Native American
09:46:27 2 citizens do not have access to public utilities so they do
09:46:31 3 not have utility bills that they could use to prove the
09:46:34 4 location of their residence. This requirement would make
09:46:37 5 it extremely difficult for them to register to vote."

09:46:41 6 Did I read that correctly?

09:46:42 7 A. Yes, you did.

09:46:45 8 Q. And does this also continue to be your view today?

09:46:50 9 MR. HORLEY: Same objection.

09:46:55 10 MS. WINKELER: You can go ahead and answer.

09:46:56 11 THE WITNESS: Yes.

09:46:57 12 BY MR. ATKINS:

09:46:57 13 Q. And finally, if I can direct you to the fifth
09:47:00 14 paragraph on the next page, you wrote, quote, "I have
09:47:05 15 worked in the field of voter registration and election
09:47:08 16 administration for 35 years, and this bill is trying to
09:47:11 17 address problems that just do not exist. It will create
09:47:15 18 barriers for our citizens to have to overcome to exercise
09:47:19 19 their right to vote," end quote.

09:47:22 20 Did I read that correctly?

09:47:24 21 A. Yes.

09:47:24 22 Q. And does that also continue to be your view today?

09:47:30 23 MR. HORLEY: Same objection.

09:47:32 24 THE WITNESS: Yes, it is.

09:47:33 25 BY MR. ATKINS:

09:47:35 1 Q. What did you mean when you referred to, quote,
09:47:39 2 "problems that just do not exist"?

09:47:43 3 A. I just don't see that we are having people
09:47:47 4 register to vote that don't have a residence in our county.

09:47:56 5 Q. What -- what problems, if any, do you think that
09:48:06 6 HB 2492 is trying to address?

09:48:11 7 MR. HORLEY: Same objection.

09:48:12 8 THE WITNESS: That, I don't know for sure.
09:48:20 9 It -- citizenship questions and also residence. But I
09:48:35 10 can't say what the legislators were trying to accomplish
09:48:41 11 with this.

09:48:42 12 BY MR. ATKINS:

09:48:42 13 Q. And in the final quote of yours from the letter
09:48:44 14 that I read you, you referred to HB 2492 creating barriers
09:48:52 15 for your citizens that they will have to overcome to
09:48:55 16 exercise the right to vote.

09:48:57 17 Can you elaborate at all on what barriers you
09:49:02 18 believe HB 2492 creates for your citizens?

09:49:07 19 A. It's requiring additional activities, producing
09:49:11 20 documents that are not required now, and I don't think
09:49:18 21 really serves a purpose in voter registration.

09:49:24 22 Q. And how does the requirement that voters produce
09:49:29 23 additional documents create a barrier that they have to
09:49:33 24 overcome?

09:49:35 25 MR. HORLEY: Same objection.

09:49:38 1 THE WITNESS: If they don't have an Arizona
09:49:40 2 driver's license or state ID, they're going to have to
09:49:45 3 somehow make copies of the utility bill or a bank statement
09:49:51 4 or certificate of Indian blood or tribal ID, and it's just
09:50:00 5 an additional requirement that is -- they're going to have
09:50:06 6 to meet to be able to register to vote.

09:50:11 7 BY MR. ATKINS:

09:50:12 8 Q. If I can finally direct you to the last paragraph
09:50:14 9 of your letter, you wrote, quote, "These are just a few of
09:50:20 10 the concerns that I have with HB2492."

09:50:28 11 Did I read that correctly?

09:50:28 12 A. Yes.

09:50:31 13 Q. Are there additional concerns that you have with
09:50:37 14 2492 that you did not address in this letter?

09:50:40 15 A. Yes, in regards to citizenship. And I -- I do
09:50:49 16 apologize. I get 2492 and 2243 mixed up, but --

09:50:56 17 Q. I'll admit that I do as well sometimes, so no need
09:51:00 18 to apologize.

09:51:02 19 A. So requiring a box to be met on citizenship, which
09:51:08 20 is -- I believe is in 2492, it -- that we would reject a
09:51:14 21 form because it's not marked is contrary to -- if you
09:51:20 22 provided proof of citizenship, it seems to be that it's
09:51:24 23 just an error in filling out the form. It's not an
09:51:29 24 error -- or it's not proving that you're not a U.S. citizen
09:51:33 25 to vote.

09:51:35 1 So there's things like that that
09:51:39 2 procedurally -- and having to cancel registrations that --
09:51:44 3 within a certain time period goes against some of the NVRA
09:51:52 4 requirements. Because the information is secondhand
09:51:54 5 information, they should be made inactive and kept on the
09:51:58 6 rolls for two federal general elections and then canceled.

09:52:02 7 Q. Understood.

09:52:03 8 So in addition to the concerns you raised in
09:52:07 9 your letter, you also have concerns about the citizenship
09:52:12 10 checkbox requirement; correct?

09:52:16 11 A. Yes.

09:52:16 12 Q. And you also have concerns about the requirement
09:52:21 13 that certain registrations are canceled within a period of
09:52:27 14 time?

09:52:27 15 A. Yes.

09:52:30 16 Q. We'll likely discuss both of those issues further
09:52:33 17 a little later in the deposition, but before we move on,
09:52:36 18 are there any additional concerns other than those two and
09:52:41 19 the ones in the letter that you have with either law?

09:52:49 20 A. Not that I can think of it right now.

09:52:51 21 Q. Okay. So let's talk a little bit about the other
09:52:53 22 law being challenged, HB 2243. If we can please look at
09:53:02 23 what's marked as Exhibit G.

09:53:18 24 A. Okay.

09:53:19 25 Q. And do you recognize this document?

09:53:22 1 A. Yes, I do.

09:53:23 2 Q. And can you describe what it is?

09:53:26 3 A. It's the comments that I put into the AACo ALTO
09:53:32 4 system in regards to what position -- or in regards to the
09:53:40 5 Bill 2243.

09:53:45 6 MR. ATKINS: So let's please mark this
09:53:47 7 document as Exhibit 172.

09:53:47 8 (The document was marked as Exhibit 172
09:53:50 9 for identification.)

09:53:50 10 BY MR. ATKINS:

09:53:57 11 Q. And AACo refers to the Arizona Association of
09:54:02 12 Counties; correct?

09:54:03 13 A. That is correct.

09:54:04 14 Q. And can you just briefly describe what AACo is?

09:54:10 15 A. AACo is an organization made up of elected county
09:54:17 16 officials across the state. And they do the majority of
09:54:23 17 our lobbying at the legislature for each of the affiliates.
09:54:31 18 The recorders' association is an affiliate of AACo.

09:54:41 19 Q. Thank you.

09:54:42 20 So at the bottom of the page of this
09:54:44 21 document, there's a box that starts on the first page and
09:54:48 22 continues onto the second page. This box contains your
09:54:54 23 analysis and comments on HB 2243; right?

09:54:58 24 A. That is correct.

09:54:59 25 Q. So at the top of the second page under "Projected

09:55:05 1 Impact," your comment reads, quote, "I don't think this
09:55:09 2 accomplishes anything. We follow list maintenance
09:55:12 3 requirements which identify people that have moved out of
09:55:15 4 state. We end up canceling them through the list
09:55:18 5 maintenance procedures. Adding a sentence to the voter
09:55:22 6 registration form isn't going to do anything."

09:55:27 7 Did I read that correctly?

09:55:28 8 A. Yes, you did.

09:55:29 9 Q. And does that continue to be your view today?

09:55:35 10 MR. HORLEY: Objection to the extent it calls
09:55:37 11 for a legal conclusion.

09:55:40 12 THE WITNESS: Yes.

09:55:40 13 BY MR. ATKINS:

09:55:44 14 Q. All right. If we can now look at what's marked as
09:55:48 15 Exhibit H.

09:55:48 16 A. It's in front of me.

09:55:48 17 (The document was marked as Exhibit 173
09:55:48 18 for identification.)

09:55:48 19 BY MR. ATKINS:

09:56:10 20 Q. And am I correct that this is -- also comments
09:56:13 21 that you've provided to AACo, but this time on HB 2617?

09:56:20 22 A. Yes.

09:56:23 23 Q. And am I correct that HB 2617 was a predecessor
09:56:28 24 bill to HB 2243?

09:56:31 25 A. Yes, I believe so.

09:56:34 1 Q. So again, the box at the bottom of the page
09:56:39 2 contains your comments and analysis on HB 2617; right?

09:56:45 3 A. Yes, it does.

09:56:46 4 Q. So under "Projected Impact," your comment reads,
09:56:51 5 quote, "It appears that this legislator thinks we do not
09:56:58 6 verify U.S. citizenship. We already have a process in
09:57:00 7 place that checks a registrant's citizenship. Checking if
09:57:04 8 someone has a driver's license in another state should not
09:57:07 9 trigger a cancellation in our state. This would cause
09:57:11 10 major problems for military voters. This also goes against
09:57:15 11 the NVRA and will result in us being tied up in a court
09:57:19 12 case. This is another example of a solution to a problem
09:57:22 13 that does not exist. It is too bad the legislator doesn't
09:57:27 14 take the time to read the elections procedures manual,
09:57:30 15 state statutes and federal laws to understand what is
09:57:33 16 already required and in place."

09:57:37 17 Did I read that correctly?

09:57:38 18 A. Yes, you did.

09:57:40 19 Q. And does that statement continue to represent your
09:57:45 20 perspective today?

09:57:46 21 MR. HORLEY: Same objection.

09:57:48 22 MR. BASILE: Objection.

09:57:48 23 THE WITNESS: Yes, it does.

09:57:50 24 BY MR. ATKINS:

09:57:52 25 Q. Can you briefly explain how your office already

09:57:56 1 verifies U.S. citizenship?

09:57:59 2 A. U.S. citizenship is verified through the AVID
09:58:04 3 system, which runs it against the Motor Vehicle Division's
09:58:10 4 database. And we also will verify if they have included
09:58:19 5 documentation, such as a photocopy of their passport, or if
09:58:27 6 they have a state driver's license that has -- indicates
09:58:32 7 that they have proven citizenship in that state and also
09:58:37 8 through the state program.

09:58:41 9 Q. Understood.

09:58:42 10 So to summarize, there are a number of
09:58:46 11 different documents or pieces of information that a
09:58:51 12 registrant can provide to your office that you then use to
09:58:55 13 verify their citizenship; is that right?

09:58:58 14 A. Yes, that is correct. I forgot to mention also
09:59:02 15 birth certificate.

09:59:04 16 Q. And based on your comments in the document we're
09:59:10 17 looking at, is it your position that those existing methods
09:59:15 18 for verifying citizenship are already sufficient?

09:59:22 19 A. Yes, it is.

09:59:24 20 Q. And so is it your position that the additional
09:59:31 21 requirements for citizenship verification proposed in
09:59:37 22 HB 2617 are unnecessary?

09:59:43 23 A. Yes.

09:59:44 24 Q. In your statement, you referred to this bill being
09:59:52 25 "another example of a solution to a problem that does not

09:59:55 1 exist."

09:59:57 2 Can you explain what you meant by that
10:00:00 3 statement?

10:00:03 4 A. In my now 36 years of doing voter registration, I
10:00:10 5 have not seen any proof that non-U.S. citizens are
10:00:14 6 registering and voting.

10:00:23 7 Q. Returning to HB 2492, has your office discussed
10:00:29 8 how to interpret that law with anyone?

10:00:33 9 A. Just with each other a little bit. Mainly what
10:00:39 10 we're doing is waiting for guidance from the Secretary of
10:00:45 11 State's Office.

10:00:45 12 Q. So when you discussed it amongst yourselves in the
10:00:51 13 office, what specifically did you discuss?

10:00:56 14 A. Questions about federal-only voters, as I recall,
10:01:05 15 versus congressional-only voters. Also, we don't -- none
10:01:15 16 of us seem to know the additional database they talk about
10:01:19 17 running the information against. I think it's something
10:01:23 18 with public health.

10:01:25 19 And that's about it. The main thing is that
10:01:28 20 we find the legislation confusing, and we're waiting for
10:01:32 21 guidance from the Secretary of State's Office.

10:01:36 22 Q. And is your office currently enforcing any
10:01:40 23 provisions of HB 2492?

10:01:43 24 A. No.

10:01:44 25 Q. And is your office handling voter registration

10:01:51 1 applications differently as a result of HB 2492?

10:01:57 2 A. No.

10:01:58 3 Q. Similarly, has your office discussed how to
10:02:06 4 interpret HB 2243?

10:02:13 5 A. Just like I said with -- previously for 2492.

10:02:21 6 Q. And is it the case that you are also not currently
10:02:24 7 enforcing any provisions of 2243?

10:02:27 8 A. That is correct.

10:02:28 9 Q. To your knowledge, are all the counties in Arizona
10:02:36 10 adhering to the secretary of state's advice on what to
10:02:41 11 implement and what not to implement from those laws at this
10:02:44 12 time?

10:02:45 13 MR. HORLEY: Objection; foundation.

10:02:47 14 THE WITNESS: That, I cannot say.

10:02:51 15 BY MR. ATKINS:

10:02:52 16 Q. Are you aware of any counties that are currently
10:02:55 17 implementing any provisions of 2492?

10:03:00 18 MR. HORLEY: Same objection.

10:03:00 19 THE WITNESS: I have not discussed it with
10:03:03 20 any of the counties.

10:03:07 21 BY MR. ATKINS:

10:03:15 22 Q. All right. I'd like to have you look at an
10:03:19 23 existing exhibit from a previous deposition. This is Petty
10:03:24 24 Exhibit 6.

10:03:38 25 A. Which letter is it?

10:03:39 1 Q. So --

10:03:41 2 A. I'm sorry.

10:03:41 3 Q. So this exhibit is not in the folder that I

10:03:45 4 emailed. It's underneath -- it's within the -- the Dropbox

10:03:50 5 link that was also in my email.

10:03:50 6 A. Oh.

10:04:39 7 Q. Are you all able to pull that up, or should we

10:04:42 8 take a short break?

10:04:43 9 A. I think we should take a short break.

10:04:46 10 MR. ATKINS: All right. Can we please go off

10:04:48 11 the record.

10:04:49 12 THE VIDEOGRAPHER: Of course. We are off the

10:04:55 13 record. Time on the video monitor is 10:04 a.m.

10:05:09 14 (A recess ensued.)

10:12:29 15 THE VIDEOGRAPHER: We are on the record.

10:12:44 16 Time on the video monitor is 10:12 a.m.

10:12:48 17 BY MR. ATKINS:

10:12:52 18 Q. Ms. Hansen, do you now have Petty Exhibit 6 in

10:12:56 19 front of you?

10:12:58 20 A. Yes.

10:12:59 21 Q. And can you tell me what this document is?

10:13:03 22 A. It's the 2019 Elections Procedures Manual.

10:13:08 23 Q. And is that also referred to as the EPM?

10:13:13 24 A. Yes, it is.

10:13:15 25 Q. Is the 2019 EPM still the operative version of the

10:13:21 1 Elections Procedures Manual?

10:13:23 2 A. Yes.

10:13:26 3 Q. Is your office required to follow the EPM?

10:13:32 4 A. Yes, we are.

10:13:34 5 Q. Are all parts of the EPM binding on your office?

10:13:40 6 MR. MORGAN: Objection. Calls for a legal
10:13:44 7 conclusion.

10:13:44 8 THE WITNESS: Yes.

10:13:45 9 BY MR. ATKINS:

10:14:00 10 Q. Can binding guidance be conveyed to your office by
10:14:05 11 the Secretary of State's Office by any other means other
10:14:08 12 than the EPM?

10:14:10 13 MR. HORLEY: Same objection.

10:14:14 14 THE WITNESS: Not that I'm aware of. They
10:14:17 15 will share with us best practices and guidances. Like, if
10:14:24 16 there's a court decision, they will also provide an
10:14:26 17 addendum to the EPM if it's needed, but that would be
10:14:33 18 binding.

10:14:34 19 BY MR. ATKINS:

10:14:36 20 Q. Has -- has your office seen the draft 2023 EPM?

10:14:43 21 A. Yes, we have.

10:14:44 22 Q. And have you provided comments on the 2023 EPM?

10:14:50 23 A. Yes. The only comment I think we provided was in
10:14:55 24 regards to including forms -- if we were going to include
10:15:01 25 all the forms in the appendix.

10:15:09 1 Q. Did you provide any comments on the 2023 EPM
10:15:14 2 concerning HB 2492 or HB 2243?

10:15:20 3 A. No, not that I recall.

10:15:23 4 Q. If we can please look at what's marked as I in the
10:15:35 5 potential exhibits folder.

10:15:41 6 A. Okay.

10:15:41 7 (The document was marked as Exhibit 174
10:15:41 8 for identification.)

10:15:42 9 BY MR. ATKINS:

10:15:42 10 Q. Do you recognize this document?

10:15:46 11 A. Not as a document.

10:15:51 12 Q. What do you recognize it as?

10:15:53 13 A. It says it's part of the Teams chat with the
10:15:59 14 discussion -- I guess, a discussion with Secretary of
10:16:07 15 State's Office. I don't know if it's from the Hobbs
10:16:12 16 administration or the Fontes administration.

10:16:16 17 Q. Would you like to take a moment to -- to look at
10:16:20 18 the document and see if it's familiar to you?

10:16:22 19 A. Sure.

10:16:29 20 Oh, it must be from July 18th of this year.
10:16:33 21 So it's the Fontes.

10:16:40 22 Q. So am I -- am I correct that this is a chat log
10:16:44 23 from a Microsoft Teams meeting with the secretary's office
10:16:49 24 to discuss the 2023 EPM?

10:16:54 25 A. I assume so, yes.

10:16:59 1 Q. Did your office participate in this meeting?

10:17:01 2 A. Yes, we did.

10:17:02 3 Q. Did you participate in the meeting?

10:17:06 4 A. I think so.

10:17:08 5 Q. Do you have any recollection of what was discussed

10:17:12 6 during this meeting?

10:17:15 7 A. Not specific to this. We've had several Teams

10:17:19 8 meetings.

10:17:21 9 Q. If you can turn to the fourth page of the

10:17:28 10 document. At the top of the page, it says, "Pinal agrees!"

10:17:37 11 A. Okay.

10:17:38 12 Q. So just underneath that, do you see a message with

10:17:46 13 your name from July 18th at 1:50 p.m.?

10:17:51 14 A. Yes.

10:17:52 15 Q. So the message says, quote, "If we have DPOC we

10:18:02 16 should not reject for the box not being checked."

10:18:05 17 Did I read that correctly?

10:18:07 18 A. Yes, you did.

10:18:09 19 Q. And "DPOC" stands for documentary proof of

10:18:14 20 citizenship; right?

10:18:16 21 A. Yes.

10:18:18 22 Q. And do you typically refer to it as DPOC?

10:18:25 23 A. Sometimes. Usually I say "proof of citizenship,"

10:18:31 24 but yeah, DPOC is a common use among the counties.

10:18:37 25 Q. So if I refer to it as DPOC, you'll understand

10:18:39 1 what I'm referring to?

10:18:40 2 A. Yes.

10:18:41 3 Q. Did you write that message that we just read?

10:18:52 4 A. Yes.

10:18:55 5 Q. Can you explain what was being discussed and what
10:18:59 6 you meant by your message?

10:19:03 7 A. I'm assuming that it was in response to talking
10:19:08 8 about if the citizenship box is not checked on the
10:19:15 9 registration form, that we would have to reject the
10:19:21 10 document. But I believe, as I stated earlier, that proof
10:19:25 11 of citizenship should be enough. You shouldn't have to
10:19:31 12 check the box too on the registration form.

10:19:39 13 Q. And do you see underneath your message it says,
10:19:46 14 quote, "like 4"?

10:19:50 15 A. Yes.

10:19:50 16 Q. Do you know what that means?

10:19:54 17 A. I'm thinking that probably is four people liked my
10:19:58 18 comment.

10:20:01 19 Q. Do you know who on this meeting liked your
10:20:05 20 comment?

10:20:05 21 A. No, I don't.

10:20:07 22 Q. Has the Fontes administration provided your office
10:20:22 23 with any other draft guidance or documents beyond the 2023
10:20:29 24 EPM that elaborate on interpretation or implementation of
10:20:36 25 HB 2492 or 2243?

10:20:40 1 A. I don't believe so. I know we had the written
10:20:47 2 document from the Hobbs administration, Kori Lorick, but I
10:20:53 3 don't recall receiving anything else from the Fontes
10:20:57 4 administration so far than what we have in the EPM -- or
10:21:02 5 draft EPM.

10:21:03 6 Q. And the document that you're referring to from the
10:21:07 7 Hobbs administration, am I correct that that's the
10:21:13 8 December 2022 communication that advised the counties not
10:21:19 9 to implement certain provisions of the laws?

10:21:28 10 A. Yes.

10:21:29 11 Q. Have there been any VRAC proposals made regarding
10:21:35 12 HB 2492 or 2243?

10:21:39 13 A. I'm sorry, I don't remember. Donna may be able to
10:21:46 14 remember that better.

10:21:49 15 I have had to miss some meetings in the past
10:21:52 16 couple months, so I'm not as up to date on what's been
10:21:59 17 discussed at the meetings.

10:22:02 18 Q. That's fine.

10:22:06 19 Is it possible that there will not be
10:22:10 20 agreement on a revised EPM and there, thus, will not be a
10:22:16 21 new operative EPM this year?

10:22:22 22 MR. MORGAN: Form, foundation.

10:22:25 23 THE WITNESS: I -- I don't know. It has to
10:22:30 24 have agreement between the governor's office, the Attorney
10:22:34 25 General's Office, and the secretary of state's, from my

10:22:37 1 understanding, but I don't know what kind of discussions of
10:22:40 2 that are going on. It has happened in the past with not
10:22:48 3 having an approved new EPM, but I'm hopeful that we will
10:22:55 4 have a new one.

10:22:56 5 BY MR. ATKINS:

10:22:58 6 Q. If there's not an approved new EPM by this time
10:23:02 7 next year in 2024, will your office nonetheless be
10:23:09 8 obligated to enforce HB 2492 and HB 2243?

10:23:17 9 MR. HORLEY: Objection. Calls for legal
10:23:19 10 conclusion.

10:23:19 11 THE WITNESS: I would need to ask my legal
10:23:21 12 counsel on that.

10:23:23 13 BY MR. ATKINS:

10:23:27 14 Q. So let's change gears a little bit and talk about
10:23:29 15 the voter registration process.

10:23:33 16 So in Arizona, voters can register using
10:23:36 17 either the state voter registration form or what's known as
10:23:40 18 the federal form; correct?

10:23:43 19 A. Yes.

10:23:44 20 Q. And the state form is prepared by the Secretary of
10:23:50 21 State's Office; right?

10:23:50 22 A. Yes.

10:23:51 23 Q. Whereas, the federal form is the registration form
10:23:57 24 that states are required to accept and use to register
10:24:01 25 voters for federal elections; right?

10:24:05 1
10:24:06 2
10:24:12 3
10:24:16 4
10:24:17 5
10:24:21 6
10:24:25 7
10:24:32 8
10:24:36 9
10:24:41 10
10:24:46 11
10:24:52 12
10:24:56 13
10:25:00 14
10:25:02 15
10:25:08 16
10:25:12 17
10:25:17 18
10:25:18 19
10:25:29 20
10:25:35 21
10:25:36 22
10:25:49 23
10:25:53 24
10:25:54 25

A. Yes.

Q. And that requirement comes from the National Voter Registration Act, or NVRA?

A. Yes.

Q. Am I correct that neither the state form nor the federal form has been updated to reflect any of the new requirements under 2492 or 2243?

A. That, I'm not sure on. There was the additional language that if you register to vote in another state, your registration would be canceled in Arizona, as I recall. And I don't know if that's on the new form or not.

Q. When you're referring to that new language, is there somewhere where you are aware that that new language is present?

A. No. I haven't looked at the registration forms and we have not -- as I recall, we have not ordered new ones yet. Donna Casner would be able to answer that better than me.

Q. Is it the case that Arizona voters are registered as either federal-only voters or full-ballot voters?

A. Yes.

Q. And full-ballot voters can vote in state and local elections in addition to federal elections; correct?

A. That is correct.

Q. Is whether someone is registered as a federal-only

10:26:05 1 or full-ballot voter dependent on whether the registrant
10:26:08 2 provides DPOC when they register?

10:26:11 3 A. Yes.

10:26:12 4 Q. If I use the term "dual-registration system," can
10:26:22 5 we agree that I'm referring to this system that
10:26:27 6 distinguishes between federal-only and full-ballot voters?

10:26:31 7 A. Yes.

10:26:37 8 Q. Do you know how long the dual-registration system
10:26:40 9 in Arizona has been in place?

10:26:47 10 A. No. It came out of the court -- a court case, and
10:26:51 11 I think it was the ITCA case. I can't re- -- I get the
10:26:55 12 cases mixed up, so I'm sorry.

10:26:59 13 Q. Not a problem.

10:27:00 14 Is it fair to say that the dual-registration
10:27:02 15 system has been in place for multiple presidential election
10:27:08 16 cycles?

10:27:09 17 A. I would say at least two, maybe three.

10:27:15 18 Q. And is it the case that Arizona voters were not
10:27:18 19 always required to provide DPOC when they registered to
10:27:22 20 vote?

10:27:25 21 A. That is correct.

10:27:26 22 Q. And so prior to DPOC being required, voters were
10:27:35 23 registered to vote in state, local, and federal elections
10:27:41 24 regardless of whether they provided DPOC; right?

10:27:44 25 A. That is correct.

10:27:47 1 Q. The dual-registration system doesn't require those
10:27:56 2 voters who had previously registered without DPOC to come
10:28:01 3 back and provide DPOC in order to maintain their
10:28:04 4 full-ballot status, does it?

10:28:08 5 A. No, it does not.

10:28:09 6 Q. But under the dual-registration system, every
10:28:16 7 applicant now has to provide DPOC if they want to vote in
10:28:20 8 state, local elections; right?

10:28:22 9 A. That is correct.

10:28:23 10 Q. Today, there are voters who remain registered as
10:28:29 11 full-ballot voters who never provided DPOC; correct?

10:28:34 12 A. Yes.

10:28:35 13 Q. Do you know approximately how many of those voters
10:28:38 14 there are in Coconino County?

10:28:40 15 A. No, I do not.

10:28:42 16 Q. Do you know approximately how many voters in
10:28:45 17 Coconino County are currently registered as federal-only
10:28:50 18 voters?

10:28:50 19 A. Donna could tell you that. She runs our
10:28:55 20 statistics.

10:29:06 21 Q. What does your office currently do if a voter
10:29:11 22 registration applicant fails to provide DPOC when they
10:29:14 23 register?

10:29:14 24 A. We try to contact them to tell them they need to
10:29:23 25 send us the DPOC to be able to vote for a full ballot, and

10:29:31 1 that's done with a letter. If it's close to the voter
10:29:38 2 registration deadline, we may try to reach them by phone.
10:29:46 3 And we do that prior to every election that we're going to
10:29:51 4 be conducting so they're aware that if they wanted to vote
10:29:54 5 a full ballot, that they will need to supply that DPOC.

10:30:00 6 Q. And to be clear, is a voter in that situation
10:30:05 7 registered to vote in federal elections?

10:30:10 8 A. Yes. Not in the presidential preference election.

10:30:17 9 Q. But all other federal elections other than the
10:30:20 10 presidential preference?

10:30:22 11 A. That's correct.

10:30:25 12 THE WITNESS: Is that correct, Donna? Sorry.

10:30:28 13 BY MR. ATKINS:

10:30:28 14 Q. We can -- we can double-check with her when we
10:30:30 15 switch.

10:30:31 16 A. Yeah, check with her.

10:30:32 17 Q. If we can please look at the document marked J.

10:31:12 18 A. Okay.

10:31:13 19 MR. ATKINS: Let's mark this as Exhibit 175.

10:31:13 20 (The document was marked as Exhibit 175
10:31:16 21 for identification.)

10:31:16 22 BY MR. ATKINS:

10:31:17 23 Q. Is this the letter that you were just referencing
10:31:19 24 that you send to voters who failed to provide DPOC when
10:31:23 25 they register?

10:31:24 1
10:31:26 2
10:31:31 3
10:31:34 4
10:31:35 5
10:31:41 6
10:31:57 7
10:32:03 8
10:32:05 9
10:32:05 10
10:32:07 11
10:32:07 12
10:32:13 13
10:32:14 14
10:32:21 15
10:32:25 16
10:32:29 17
10:32:32 18
10:32:35 19
10:32:39 20
10:32:42 21
10:32:42 22
10:33:06 23
10:33:11 24
10:33:13 25

A. Yes.

Q. And this letter has bullet points listing different forms of DPOC that the applicant can provide; right?

A. Yes.

Q. Let's please look at Document K.

A. Okay.

MR. ATKINS: Let's please mark this as Exhibit 176.

(The document was marked as Exhibit 176 for identification.)

BY MR. ATKINS:

Q. What is this document?

A. This, I'll have you refer to Donna. This is part of the letter that she sends out -- or our office sends out, and she's much more familiar with how we deal with that.

Q. Sure.

But can I just ask you: Is this a form that accompanies the letter we were just looking at?

A. Yes.

Q. So I'd like to talk now a bit about your office's current practices for applicants who register using the state form.

A. Okay.

10:33:14 1 Q. If we could please turn back to Exhibit 169. This
10:33:27 2 is your office's June 29th responses to consolidated
10:33:36 3 plaintiffs' requests for production.

10:33:42 4 A. Okay.

10:33:42 5 Q. If I can please have you look at Request for
10:33:45 6 Production Number 1, which is on the second page.

10:33:51 7 A. Okay.

10:33:52 8 Q. So RFP 1 asks for "All documents and
10:33:58 9 communications from January 1, 2017, to the present
10:34:03 10 relating to the use of birthplace and Citizenship Checkbox
10:34:06 11 on the State Form, including but not limited to whether
10:34:11 12 Voter Registration Applicants were required to provide
10:34:13 13 birthplace or complete the Citizenship Checkbox to be
10:34:17 14 registered to vote, whether Voter Registration Applicants
10:34:21 15 actually did provide such information, how frequently Voter
10:34:26 16 Registration Applicants actually did provide a correct or
10:34:31 17 incorrect birthplace, fail to provide a birthplace,
10:34:35 18 complete or fail to complete the Citizenship Checkbox, or
10:34:38 19 make errors in completing the Citizenship Checkbox, and
10:34:42 20 whether Voter Registration Applicants were rejected for
10:34:45 21 failing to provide this information."

10:34:49 22 The request goes on, but we can stop there.

10:34:51 23 Did I read that correctly?

10:34:53 24 A. Yes.

10:34:57 25 Q. And if I can direct you to your response to RFP 1,

10:35:05 1 it reads, quote, "The Recorder follows the processes and
10:35:08 2 procedures regarding a voter registration applicant's
10:35:11 3 failure to check the citizenship checkbox on a state form
10:35:15 4 set forth in the 2019" EPM "Chapter 1, Section IV(C)(4) and
10:35:24 5 does not use information related to the birthplace of a
10:35:28 6 voter registration applicant to verify such person's
10:35:31 7 eligibility to vote. Further, the Recorder does not
10:35:36 8 maintain a distinct record as to whether Applicants check
10:35:38 9 the Citizenship" checkbox "or provide birthplace
10:35:42 10 information and do not have a way to obtain that
10:35:45 11 information other than reviewing every Application."

10:35:50 12 And the response goes on.

10:35:52 13 But did I read that part correctly?

10:35:53 14 A. Yes, you did.

10:35:57 15 Q. So currently, if an applicant submits a state
10:36:00 16 registration form and provides adequate DPOC but no
10:36:06 17 birthplace information, your office still registers the
10:36:10 18 applicant to vote; correct?

10:36:12 19 A. Yes, that is correct.

10:36:19 20 Q. And is that because birthplace is not currently
10:36:22 21 required to register applicants to vote?

10:36:25 22 A. It's an optional field.

10:36:28 23 Q. So if the applicant does include birthplace
10:36:32 24 information, your office doesn't keep track of that
10:36:38 25 information; correct?

10:36:40 1 A. That's correct.

10:36:42 2 Q. So now, if we can turn to Exhibit 170, which is
10:36:57 3 your office's June 29th, 2023, responses to consolidated
10:37:02 4 plaintiffs' interrogatories.

10:37:08 5 A. Okay.

10:37:09 6 Q. And if we can look at Interrogatory Number 1.

10:37:17 7 So this interrogatory asks you to "Identify
10:37:20 8 and describe each way that Your office uses or would use
10:37:24 9 information related to the birthplace of a Voter
10:37:27 10 Registration Applicant -- including Applicants for whom you
10:37:30 11 already have DPOC -- to verify such person's eligibility to
10:37:34 12 vote, including but not limited to each way in which a
10:37:39 13 Voter Registration Applicant's failure to provide their
10:37:41 14 birthplace affects or would affect Your ability to confirm
10:37:46 15 the Voter Registration Applicant's identity or determine
10:37:49 16 whether that person is eligible to register and vote in
10:37:53 17 Arizona."

10:37:54 18 Did I read that part of the interrogatory
10:37:58 19 correctly?

10:37:58 20 A. Yes, you did.

10:37:59 21 Q. And your response to Interrogatory 1 reads, quote,
10:38:06 22 "The Coconino County Recorder does not currently and does
10:38:10 23 not anticipate using birthplace information to verify or
10:38:14 24 confirm Voter Registration Applicant's identity or
10:38:17 25 eligibility to register and vote in Arizona. Further, the

10:38:21 1 Coconino County Recorder believes this requirement to be in
10:38:24 2 violation of the Civil Rights Act of 1964," 52 U.S. Code
10:38:30 3 Section 10101(a)(2)(B), "consistent with guidance provided
10:38:35 4 by the Arizona Secretary of State's Office in December
10:38:39 5 of 2022, and unless and until it receives contradictory
10:38:42 6 guidance from the Secretary of State or a court order
10:38:45 7 saying otherwise, it does not intend to require provision
10:38:49 8 of this information to complete voter registration
10:38:52 9 applications."

10:38:53 10 Did I read that correctly?

10:38:54 11 A. Yes, you did.

10:38:56 12 Q. And is that still your position today?

10:39:00 13 MR. HORLEY: Objection to the extent it calls
10:39:04 14 for a legal conclusion.

10:39:04 15 THE WITNESS: Yes, I'll still follow the
10:39:07 16 guidance from Secretary of State's Office.

10:39:10 17 BY MR. ATKINS:

10:39:13 18 Q. So you don't use birthplace information to verify
10:39:18 19 or confirm voter identity or eligibility; correct?

10:39:23 20 A. That's correct.

10:39:24 21 Q. And you believe that requiring a citizen to
10:39:31 22 provide birthplace information in order for their
10:39:35 23 application to be accepted violates the Civil Rights Act;
10:39:40 24 correct?

10:39:40 25 A. According --

10:39:41 1 MR. HORLEY: Same objection.

10:39:43 2 THE WITNESS: According to what we received
10:39:45 3 from the Secretary of State's Office. I think it was Kori
10:39:52 4 Lorick's memo that she sent out to us.

10:39:52 5 BY MR. ATKINS:

10:39:56 6 Q. So you agree with Kori Lorick's memo in that
10:40:00 7 regard?

10:40:03 8 A. Yes.

10:40:04 9 Q. Do you understand that under HB 2492, a state form
10:40:07 10 applicant must include their place of birth on the form or
10:40:11 11 it cannot be accepted by your office?

10:40:14 12 BY MR. HORLEY: Same objection.

10:40:18 13 THE WITNESS: Yes, I believe that's in there.

10:40:21 14 BY MR. ATKINS:

10:40:22 15 Q. Does your office have any means of accurately
10:40:25 16 confirming that a voter's stated place of birth is
10:40:30 17 accurate?

10:40:33 18 A. No, we do not.

10:40:36 19 Q. Would your office be able to verify a registrant's
10:40:41 20 citizenship using their place of birth?

10:40:45 21 A. Not necessarily. I worked in a state where we
10:40:49 22 were -- where people had to supply birthplace not for proof
10:40:55 23 of citizenship, but we had -- we would have people that
10:40:59 24 would be born in Germany, they were children of military
10:41:05 25 personnel. And just because you're born in another

10:41:09 1 country, it doesn't mean that you are not a U.S. citizen if
10:41:13 2 your parents are U.S. citizens.

10:41:17 3 Q. So is it fair to say that Coconino County cannot
10:41:20 4 use birthplace information to verify whether an applicant
10:41:24 5 is qualified to vote?

10:41:27 6 A. That is correct.

10:41:29 7 Q. And other than the communication from Ms. Lorick
10:41:42 8 in December 2022 and the draft EPM, have you received any
10:41:49 9 guidance from the secretary of state about how to implement
10:41:53 10 the birthplace requirement if the law goes into effect?

10:41:58 11 A. No.

10:42:00 12 Q. Are you aware of any other state that requires
10:42:03 13 birthplace information in order to register to vote?

10:42:09 14 MR. LANGHOFER: Calls for a legal conclusion.

10:42:12 15 THE WITNESS: When I worked in Nebraska,
10:42:14 16 birthplace was one of the info -- pieces of information
10:42:17 17 that was asked for. So I know Nebraska required it. I
10:42:24 18 don't know that they still do or not.

10:42:26 19 BY MR. ATKINS:

10:42:26 20 Q. Do you know if Nebraska would reject voter
10:42:31 21 registration applications that failed to provide birthplace
10:42:33 22 information?

10:42:33 23 MR. LANGHOFER: Same objection.

10:42:39 24 THE WITNESS: That, I cannot remember. I do
10:42:40 25 know we had to follow up with the registrants if they would

10:42:46 1 list another country to find out if their parents were U.S.
10:42:49 2 citizens or if they were naturalized citizens. They did
10:42:54 3 not have to provide proof of that. We would just -- we
10:42:58 4 could verify it either through a letter or over the phone.

10:43:04 5 BY MR. ATKINS:

10:43:04 6 Q. Did Nebraska at that time have a DPOC requirement
10:43:08 7 like Arizona does?

10:43:09 8 MR. LANGHOFER: Same objection.

10:43:12 9 THE WITNESS: No, it did not.

10:43:14 10 BY MR. ATKINS:

10:43:15 11 Q. I'd like to shift gears and speak again about the
10:43:19 12 citizenship checkbox, which appears on both the state form
10:43:25 13 and the federal form; right?

10:43:28 14 A. Yes.

10:43:28 15 Q. And I'm correct that the citizenship checkbox on
10:43:36 16 both forms is -- is not new. It's been there for a while;
10:43:43 17 right?

10:43:43 18 A. Yes, that is correct.

10:43:45 19 Q. But your office hasn't historically rejected voter
10:43:51 20 application forms simply because a person failed to check
10:43:55 21 the checkbox; correct?

10:43:59 22 A. That is correct. If they provided DPOC or if it
10:44:07 23 was a federal-only voter and we could confirm identity for
10:44:15 24 being able to vote by mail or in person. You have to mark
10:44:23 25 the box -- if you did not -- on a federal form if you

10:44:27 1 didn't provide DPOC.

10:44:32 2 Q. Your office follows the 2019 EPM when it comes to
10:44:38 3 the citizenship checkbox; right?

10:44:40 4 A. Yes, we do.

10:44:42 5 Q. And the 2019 EPM provides that failure to answer
10:44:48 6 the checkbox or a "no" answer doesn't invalidate the form
10:44:55 7 if there is some other appropriate indicator of
10:44:59 8 citizenship; is that right?

10:45:01 9 MR. LANGHOFER: Same objection.

10:45:04 10 THE WITNESS: If the person marked "no" on
10:45:05 11 the form that they're not a U.S. citizen but they provided
10:45:09 12 proof of -- or provided DPOC, we would go ahead and
10:45:14 13 register them.

10:45:14 14 Now, if they marked "no" and they did not
10:45:18 15 provide DPOC, then we would not be able to.

10:45:27 16 BY MR. ATKINS:

10:45:27 17 Q. And you understand that under HB 2492, an
10:45:30 18 applicant using either the state form or the federal form
10:45:34 19 must affirmatively check the box confirming that they are a
10:45:37 20 citizen or their registration will be rejected; right?

10:45:41 21 MR. LANGHOFER: Same objection.

10:45:43 22 MR. HORLEY: Objection.

10:45:45 23 THE WITNESS: I believe that's how it reads.

10:45:48 24 BY MR. ATKINS:

10:45:48 25 Q. And to confirm, your office is not currently

10:45:52 1 implementing that requirement; right?

10:45:55 2 A. That is correct.

10:45:58 3 Q. So right now, if an applicant submits the state
10:46:01 4 form and provides DPOC but does not mark the citizenship
10:46:05 5 checkbox, your office accepts the application; correct?

10:46:10 6 A. Yes.

10:46:11 7 Q. So is it fair to say that completing the
10:46:29 8 citizenship checkbox is not necessary to your office
10:46:36 9 confirming that a state form applicant is a citizen?

10:46:44 10 MR. LANGHOFER: [Indiscernible.]

10:46:44 11 THE COURT REPORTER: Kory, I couldn't hear
10:46:46 12 you.

10:46:47 13 MR. LANGHOFER: Same objection.

10:46:51 14 THE WITNESS: Could you repeat that?

10:46:55 15 BY MR. ATKINS:

10:46:56 16 Q. Yeah. Let me -- let me back up a little bit.

10:46:58 17 It's the case -- right? -- that state form
10:47:03 18 applicants have to provide DPOC with their registration;
10:47:07 19 right?

10:47:09 20 A. Yes.

10:47:09 21 Q. So if a state form applicant submits their form
10:47:17 22 with DPOC, their completing the citizenship checkbox is not
10:47:22 23 necessary for your office to confirm that they're a
10:47:25 24 citizen; right?

10:47:27 25 A. Yes, that is correct.

10:47:28 1 Q. Now, turning back to federal form applicants, am I
10:47:38 2 correct that the federal form contains an affirmation of
10:47:44 3 citizenship under the penalty of perjury at the bottom of
10:47:49 4 the form?

10:47:52 5 A. I don't remember. I'm sorry. I believe Donna
10:48:08 6 could answer that better than me.

10:48:23 7 Q. Let's shift gears away from voter registration.
10:48:31 8 And I just have a few more questions about the challenged
10:48:36 9 laws.

10:48:38 10 Am I correct that prior to HB 2492 and 2243,
10:48:42 11 it was illegal for a person who was not a U.S. citizen to
10:48:48 12 register to vote in Arizona?

10:48:50 13 MR. LANGHOFER: Same objection.

10:48:53 14 THE WITNESS: Yes.

10:48:54 15 BY MR. ATKINS:

10:48:56 16 Q. And would you also agree that prior to 2492 and
10:49:01 17 2243, Arizona had policies, laws, or procedures in place to
10:49:08 18 prevent noncitizens from voting?

10:49:13 19 A. Yes.

10:49:14 20 MR. LANGHOFER: Same objection.

10:49:15 21 BY MR. ATKINS:

10:49:19 22 Q. In fact, isn't it a felony for a person to
10:49:23 23 register when they know that they're not entitled to
10:49:26 24 register?

10:49:27 25 MR. LANGHOFER: Same objection.

10:49:29 1 THE WITNESS: I believe it is a felony, yes.

10:49:31 2 BY MR. ATKINS:

10:49:38 3 Q. So if we can continue looking at Exhibit 170, your
10:49:44 4 office's responses to consolidated plaintiffs'
10:49:48 5 interrogatories. If I can have you look at Interrogatory
10:49:55 6 No. 9, which starts on the bottom of page 7.

10:50:15 7 A. Okay.

10:50:18 8 Q. So I won't go through reading out the requests and
10:50:23 9 your response with this one, but looking it over, do you
10:50:26 10 see that this interrogatory concerns instances of voter
10:50:33 11 fraud having to do with whether or not the person is a U.S.
10:50:39 12 citizen or a resident of the county?

10:50:45 13 A. Yes.

10:50:46 14 Q. And your response on page 8 provides that your
10:50:53 15 office isn't aware of any instances or any records
10:50:59 16 providing evidence of such instances of noncitizens or
10:51:05 17 nonresidents registering or voting; is that right?

10:51:10 18 A. That is correct.

10:51:11 19 Q. And is that still the case today, that your office
10:51:13 20 is not aware of any instances of noncitizens registering or
10:51:18 21 voting in the county?

10:51:21 22 A. Yes.

10:51:23 23 Q. Almost done. Just want to ask a few questions
10:51:30 24 about voting by mail.

10:51:37 25 Arizona currently allows all registered

10:51:39 1 voters to vote by early ballot; correct?

10:51:45 2 A. Not by mail. Federal-only voters that have not
10:51:49 3 provided an identity have to vote the first time in person.

10:51:55 4 Q. But other than first-time federal form voters, all
10:52:02 5 other registered voters are entitled to vote early by mail;
10:52:07 6 right?

10:52:07 7 A. That is correct.

10:52:09 8 Q. And do you know how long that's --

10:52:13 9 MR. LANGHOFER: [Indiscernible.]

10:52:13 10 THE COURT REPORTER: I didn't hear you, Kory.

10:52:17 11 MR. LANGHOFER: I just said, "Same

10:52:19 12 objection."

10:52:20 13 BY MR. ATKINS:

10:52:22 14 Q. And do you know how long it's been the case
10:52:24 15 that -- aside from that one exception, that all Arizona
10:52:28 16 registered voters have been able to vote early by mail?

10:52:33 17 MR. LANGHOFER: Same objection.

10:52:35 18 THE WITNESS: I know it's been at least the
10:52:37 19 20 years I have been here. I don't know when "no-excuse"
10:52:43 20 early voting went into effect.

10:52:46 21 BY MR. ATKINS:

10:52:46 22 Q. So during your time as an election administrator,
10:52:51 23 the -- the right to request an early ballot has not
10:52:59 24 depended on which form a voter uses to register, noting the
10:53:03 25 exception that you raised about first-time federal-only

10:53:03 1 voters?

10:53:07 2 MR. LANGHOFER: Same objection.

10:53:07 3 THE WITNESS: That is correct.

10:53:11 4 BY MR. ATKINS:

10:53:20 5 Q. So if a voter is on the active early voting list,
10:53:25 6 that means that they're automatically sent a ballot by mail
10:53:28 7 for each election without them having to request it each
10:53:32 8 time; right?

10:53:34 9 A. Not for unaffiliated voters in the partisan
10:53:42 10 primary election. They need to tell us which party ballot
10:53:45 11 they want -- wish to vote. Otherwise, it won't be mailed
10:53:49 12 to them.

10:53:51 13 Q. But for affiliated voters and for all voters in
10:53:55 14 general elections, if they're on the active early voting
10:53:59 15 list, they're automatically sent their ballot by mail;
10:54:03 16 correct?

10:54:03 17 A. Yes, that is correct.

10:54:04 18 Q. And those voters stay on the active early voting
10:54:11 19 list unless they fail to vote in two subsequent elections;
10:54:14 20 right?

10:54:17 21 MR. LANGHOFER: Same objection.

10:54:18 22 THE WITNESS: I believe it's two state
10:54:22 23 elections, like, two election cycles right now.

10:54:27 24 BY MR. ATKINS:

10:54:28 25 Q. Understood.

10:54:29 1 Is it fair to say that voting by early ballot
10:54:34 2 by mail is commonly used in Arizona?

10:54:39 3 A. Yes, it is.

10:54:41 4 Q. Most Arizona voters vote by mail; right?

10:54:46 5 A. A large percentage do.

10:54:49 6 Q. And is that true in your county?

10:54:52 7 A. Yes.

10:54:53 8 Q. Do you happen to know roughly what percentage of
10:54:57 9 Coconino County voters voted by early ballot by mail in the
10:55:04 10 2022 general election?

10:55:06 11 A. I can't remember. I'd have to look the
10:55:11 12 information up. I know that it was over 80 percent, as I
10:55:17 13 recall, that voted early, but some of those early voters
10:55:21 14 voted in person early.

10:55:24 15 Q. Understood.

10:55:25 16 Based on your significant experience as an
10:55:31 17 election official, are there benefits to voters being able
10:55:37 18 to vote using an early ballot?

10:55:43 19 A. As an election administrator, you know, it's up to
10:55:52 20 the voter whether they want to or not.

10:55:56 21 Q. Do you -- do you think that the ability to vote
10:56:00 22 early by mail provides benefits to the voter?

10:56:06 23 A. I think to some voters, they definitely believe
10:56:11 24 that.

10:56:11 25 Q. The early ballots that your office sends out have

10:56:15 1 prepaid return postage; right?

10:56:19 2 A. That is correct.

10:56:21 3 Q. So a voter can simply complete their ballot and
10:56:25 4 drop it in the mail; right?

10:56:27 5 A. That is correct.

10:56:30 6 Q. And voters who cast early ballots by mail don't
10:56:35 7 need to visit a polling location or arrange time off or
10:56:41 8 transportation to get there; right?

10:56:45 9 A. That -- that is correct -- majority. You may, if
10:56:49 10 you live in the rural parts of the area, have to -- and you
10:56:53 11 don't have a car, make arrangements to get to the postal
10:56:57 12 areas because they're not delivered to their home. But the
10:57:00 13 majority of the voters, yes.

10:57:02 14 Q. Do you agree that some voters face obstacles to
10:57:06 15 voting in person on election day?

10:57:13 16 A. I would say some voters do.

10:57:18 17 Q. And do you agree that those voters benefit from
10:57:24 18 the flexibility of an early ballot and being able to vote
10:57:28 19 by mail?

10:57:31 20 A. Yes.

10:57:35 21 Q. Do you understand that under HB 2492, voters who
10:57:41 22 fail to provide DPOC will not be permitted to vote by mail
10:57:47 23 with an early ballot?

10:57:50 24 MR. HORLEY: Objection. Calls for a legal
10:57:52 25 conclusion.

10:57:52 1 THE WITNESS: Yes, that's how I believe it
10:57:54 2 reads.

10:57:55 3 BY MR. ATKINS:

10:57:57 4 Q. And so do you agree that those voters would then
10:58:02 5 lose the benefits of early voting by mail that we've
10:58:06 6 discussed?

10:58:10 7 A. Yes.

10:58:13 8 Q. All right.

10:58:17 9 MR. ATKINS: I believe that's all the
10:58:19 10 questions I have for you, Ms. Hansen. So we can switch
10:58:26 11 over to speaking with Ms. Casner.

10:58:33 12 Would you -- would you or anyone like to take
10:58:35 13 a short break before we switch over?

10:58:40 14 THE WITNESS: Yes, please.

10:58:41 15 MR. ATKINS: All right. Does ten minutes
10:58:46 16 work or -- or would longer be helpful?

10:58:50 17 THE WITNESS: I think ten minutes is fine.
10:58:52 18 Thank you.

10:58:53 19 MR. MORGAN: Real quick, I don't have any
10:58:55 20 questions for Ms. Hansen. And thank you, by the way,
10:58:57 21 Ms. Hansen, very much. But to the extent others do, does
10:59:00 22 it make sense to let that happen before we switch to the
10:59:03 23 next witness?

10:59:10 24 MR. LANGHOFER: That's customary.

10:59:13 25 MR. MORGAN: Yeah, I think that's customary.

10:59:14 1 Yeah.

10:59:14 2 MR. ATKINS: Okay. That's -- that's fine
10:59:16 3 with me.

10:59:18 4 MR. MORGAN: After the break.

10:59:21 5 MR. ATKINS: Yeah. So why don't we take our
10:59:22 6 ten-minute break and reconvene at ten past the hour again.
10:59:25 7 And, at that time, if other plaintiffs and then other
10:59:31 8 parties have questions, they can address them with
10:59:34 9 Ms. Hansen.

10:59:35 10 MR. MORGAN: Thank you.

10:59:36 11 THE VIDEOGRAPHER: We are off the record.
10:59:38 12 Time on the video monitor is 10:59 a.m. This ends Media 1.

11:13:10 13 (A recess ensued.)

11:13:10 14 THE VIDEOGRAPHER: We are on the record.

11:13:20 15 Time on the video monitor is 11:13 a.m. This begins
11:13:25 16 Media 2.

11:13:25 17

11:13:25 18 EXAMINATION

11:13:25 19 BY MR. PATTERSON:

11:13:28 20 Q. Thank you again for your time, Ms. Hansen. I just
11:13:32 21 have some questions for you related to the provisions in
11:13:39 22 HB 2492 and 2243.

11:13:44 23 Earlier, you stated that your office opposed
11:13:47 24 the enactment of HB 2492; is that correct?

11:13:54 25 A. Yes.

11:13:54 1 Q. And what was the basis of that opposition?

11:13:58 2 A. The main was con- -- conflicting on requirements
11:14:05 3 with the NVRA and also the proof of residency.

11:14:12 4 Q. And --

11:14:19 5 (Video disturbance.)

11:14:19 6 THE COURT REPORTER: I didn't hear the end of
11:14:21 7 answer. "Proof of residency" and -- I'm sorry. I thought
11:14:24 8 you said something.

11:14:26 9 THE WITNESS: No. The NVRA and proof of
11:14:30 10 residency requirement.

11:14:34 11 BY MR. PATTERSON:

11:14:34 12 Q. And can you tell me -- within HB 2492 and 2243,
11:14:45 13 what is information that a person is not a United States
11:14:50 14 citizen?

11:14:52 15 MR. HORLEY: Objection. Calls for a legal
11:14:55 16 conclusion.

11:14:55 17 BY MR. PATTERSON:

11:14:55 18 Q. You can answer the question.

11:14:57 19 A. Okay. I'm sorry. Would you repeat that?

11:15:01 20 Q. What would be information that would indicate that
11:15:05 21 a person is not a United States citizen under HB 2492 and
11:15:11 22 HB 2243?

11:15:13 23 MR. HORLEY: Same objection.

11:15:18 24 THE WITNESS: Well, if you mark the box "no,"
11:15:23 25 that's real clear you're not a U.S. citizen. I guess --

11:15:30 1 BY MR. PATTERSON:

11:15:31 2 Q. Has your -- oh, sorry.

11:15:34 3 A. Yeah, that's -- I don't know -- I don't really
11:15:38 4 understand what you're asking, I guess.

11:15:41 5 Q. Has your office ever been given a specific list of
11:15:49 6 means or criteria in which a voter registration applicant
11:15:55 7 can be deemed or proven to be a noncitizen?

11:16:00 8 A. Well, if it comes back through the AVID check with
11:16:09 9 Motor Vehicles and they've been issued a F-license, then
11:16:14 10 that indicates that they're not a U.S. citizen. That would
11:16:17 11 be one way we knew we needed to follow up with the person.

11:16:21 12 And I think the "F" stands for foreign or --
11:16:26 13 non-U.S. citizens could get a driver's license, so it
11:16:29 14 indicates to us -- if their records show they're not a U.S.
11:16:34 15 citizen, then it would alert us.

11:16:37 16 Q. And besides, if someone were to check that they
11:16:44 17 are not a U.S. citizen on -- on the form or the
11:16:50 18 information -- information coming up in the AVID check that
11:16:53 19 would indicate that they're a noncitizen, is there any
11:16:56 20 other types of information that your office would consider
11:17:03 21 or find to be indicative that a person is not a U.S.
11:17:10 22 citizen?

11:17:11 23 MR. HORLEY: Objection; form. Calls for a
11:17:13 24 legal conclusion.

11:17:14 25 THE WITNESS: If they mark on their jury

11:17:16 1 questionnaire that they're not a U.S. citizen, that would
11:17:20 2 alert us. So my experience has been that people that do
11:17:25 3 that mark it because they don't want to serve on the jury,
11:17:28 4 not because they're in the U.S. citizens.

11:17:28 5 BY MR. PATTERSON:

11:17:35 6 Q. Thank you.

11:17:40 7 Is the data in a government database showing
11:17:43 8 noncitizenship 20 years ago information that the person is
11:17:49 9 not a U.S. citizen today?

11:17:52 10 MR. HORLEY: Same objection.

11:17:58 11 THE WITNESS: We wouldn't have a database
11:18:01 12 that's 20 years old that I know of.

11:18:07 13 Are you asking if you registered to vote
11:18:09 14 prior to the proof of U.S. citizenship requirement, would
11:18:15 15 we know if they were a U.S. citizen or not?

11:18:19 16 BY MR. PATTERSON:

11:18:19 17 Q. Sorry. Let me restate.

11:18:20 18 If -- if there was information showing that
11:18:24 19 an individual was a noncitizen, say, many years ago -- so
11:18:32 20 not that the database itself is 20 years old, but that a
11:18:36 21 doc- -- a document within the database was indicative that
11:18:39 22 an individual had not been a citizen 20 years ago -- would
11:18:44 23 that information be valid in demonstrating that a person is
11:18:50 24 not a U.S. citizen today?

11:18:52 25 MR. HORLEY: Form. Calls for a legal

11:18:55 1 conclusion.

11:18:56 2 THE WITNESS: I don't know that we would have
11:18:58 3 a document in our database that would show somebody's not a
11:19:02 4 U.S. citizen because we only -- from 20 years ago, anybody
11:19:13 5 who was not registered is not in our database right now.

11:19:27 6 BY MR. PATTERSON:

11:19:28 7 Q. How recent does a document -- scratch that.

11:19:41 8 Where's the line? When is information too
11:19:44 9 old to be information that is relevant to the consideration
11:19:50 10 of whether someone is not a U.S. citizen in the present
11:19:54 11 day?

11:19:55 12 MR. HORLEY: Same objection.

11:19:58 13 THE WITNESS: I don't know.

11:20:02 14 BY MR. PATTERSON:

11:20:02 15 Q. Okay. Thank you.

11:20:06 16 And moving on, what are valid sources of
11:20:09 17 information that someone is not a U.S. citizen?

11:20:14 18 MR. HORLEY: Same objection.

11:20:17 19 THE WITNESS: They tell us they're not a U.S.
11:20:20 20 citizen or they mark it on the form. I don't know any
11:20:27 21 other documents out there that would show you're not a U.S.
11:20:34 22 citizen that anybody would present to us or that we would
11:20:38 23 have.

11:20:39 24 BY MR. PATTERSON:

11:20:40 25 Q. Would -- would anything beyond a government or

11:20:48 1 voter registration date -- registration database be able to
11:20:54 2 be a source of information that could indicate that someone
11:20:59 3 is not a U.S. citizen?

11:21:00 4 MR. HORLEY: Same objection. Also
11:21:02 5 foundation.

11:21:10 6 THE WITNESS: We check -- I guess it is with
11:21:11 7 governmental databases -- is what we would check against
11:21:18 8 and information the registrant would provide. That's all
11:21:26 9 I --

11:21:26 10 BY MR. PATTERSON:

11:21:26 11 Q. Would --

11:21:27 12 A. I -- I haven't had people come to me and say, you
11:21:30 13 know, that registrants are not a U.S. citizen, you know,
11:21:36 14 and they should not be registered as specific registrant.
11:21:41 15 So yeah, I don't know.

11:21:42 16 Q. So a phone call from another voter would not be
11:21:47 17 information that would be a valid source for whether or not
11:21:52 18 someone is a U.S. citizen, then?

11:21:56 19 MR. HORLEY: Same objection. Form.

11:21:59 20 THE WITNESS: The DPOC, if they've proven
11:22:03 21 citizenship. We're not going to go on secondhand
11:22:05 22 information on somebody's citizenship status.

11:22:10 23 BY MR. PATTERSON:

11:22:10 24 Q. And -- and that would include an email or signed
11:22:15 25 letter from another voter; correct?

11:22:19 1 MR. LANGHOFER: Form.

11:22:21 2 THE WITNESS: I haven't received those that I
11:22:23 3 know of. We have a gentleman that is checking our
11:22:29 4 databases, but as I recall, most of those are people he
11:22:34 5 thinks has moved or do not live in Arizona.

11:22:40 6 BY MR. PATTERSON:

11:22:40 7 Q. What about a phone call from a law enforcement
11:22:47 8 officer in Arizona?

11:22:51 9 MR. HORLEY: Same objection.

11:22:53 10 THE WITNESS: I would probably talk to my
11:22:55 11 legal counsel and say, "What's up on this?"

11:23:00 12 BY MR. PATTERSON:

11:23:00 13 Q. And what about a phone call from law enforcement
11:23:03 14 in another state?

11:23:07 15 MR. HORLEY: Same objection.

11:23:07 16 THE WITNESS: Same thing. I would check with
11:23:09 17 my legal counsel.

11:23:12 18 BY MR. PATTERSON:

11:23:16 19 Q. And what about information or lists provided by
11:23:21 20 third-party organizations, like True the Vote or Look Ahead
11:23:26 21 America?

11:23:26 22 MR. HORLEY: Same objection.

11:23:28 23 THE WITNESS: Those are not acceptable
11:23:30 24 sources under the NVRA to start list maintenance
11:23:38 25 procedures, so no.

11:23:41 1
11:23:48 2
11:23:54 3
11:23:58 4
11:24:01 5
11:24:02 6
11:24:09 7
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11:24:16 9
11:24:25 10
11:24:28 11
11:24:34 12
11:24:44 13
11:24:44 14
11:24:47 15
11:24:50 16
11:24:55 17
11:25:01 18
11:25:05 19
11:25:09 20
11:25:14 21
11:25:17 22
11:25:19 23
11:25:21 24
11:25:27 25

BY MR. PATTERSON:
Q. And what about an anonymous call or email?
MR. HORLEY: Same objection.
THE WITNESS: No. I don't take anonymous requests.
BY MR. PATTERSON:
Q. By what means can you confirm the authenticity of such information that a voter registration applicant is not a United States citizen?
A. If they mark "no" on the registration form or if it comes back through our citizenship checks that indicate that they're not a U.S. citizen and the procedures manual, those checks.
Q. And has the Secretary of State's Office ever given your office a list of information that constitutes as evidence of a lack of U.S. citizenship?
A. No. Not that I'm aware of, no.
Q. What if you identify a registered voter who has already satisfied the DPOC requirement but still holds an F-type license? Is that information that the registered voter is not, in fact, a U.S. citizen?
MR. HORLEY: Same objection.
THE WITNESS: No. In fact, I know of a case where a county employee had become a naturalized citizen and it kept coming back through Motor Vehicles that he was

11:25:32 1 not a U.S. citizen. And so he provided us copies of our --
11:25:39 2 or showed us that he was a naturalized citizen.

11:25:41 3 So there was a lag there, but we follow up
11:25:45 4 with people registering to make sure that they have not --
11:25:52 5 that they are, indeed, not a U.S. citizen and they have not
11:25:56 6 become a naturalized citizen.

11:25:59 7 BY MR. PATTERSON:

11:26:06 8 Q. And what if you identify a registered voter who is
11:26:09 9 exempt from the DPOC requirement and has never shown DPOC
11:26:13 10 because they registered prior to when DPOC went into
11:26:17 11 effect? Is that information showing that they are not a
11:26:20 12 U.S. citizen?

11:26:22 13 MR. HORLEY: Same objection.

11:26:25 14 THE WITNESS: No. Because we weren't asking
11:26:30 15 at the time they registered.

11:26:33 16 BY MR. PATTERSON:

11:26:37 17 Q. Thank you.

11:26:38 18 Moving on, what is a database related to
11:26:44 19 voter registration?

11:26:50 20 A. Our system is AVID. It is our statewide voter
11:26:55 21 registration system.

11:27:02 22 Q. And for clarification, this comes from A.R.S.
11:27:10 23 16-121.01(D)(5), "Any other state, city, town, county, or
11:27:15 24 federal database, and any other database relating to voter
11:27:18 25 registration."

11:27:20 1 Could it be a list of voters you received
11:27:22 2 from another Arizona agency?

11:27:26 3 MR. HORLEY: Same objection.

11:27:32 4 THE WITNESS: Not to register to vote. If
11:27:36 5 you're one of the NVRA agencies that have to do
11:27:40 6 registration, like Motor Vehicles or Department of Economic
11:27:46 7 Security programs or programs that assist voters with
11:27:52 8 disabilities, it comes through our AVID system.

11:27:56 9 BY MR. PATTERSON:

11:27:57 10 Q. Outside of AVID, are there other databases that
11:28:03 11 relate to voter registration under the statute?

11:28:10 12 A. We're part of the ERIC, Electronic Registration
11:28:16 13 Information Center, I think. It -- it's a group of states
11:28:20 14 that have gotten together where they compare voter
11:28:26 15 registration databases to see if there has been people who
11:28:30 16 have moved to another state after they were registered in
11:28:36 17 our state so we know to follow up with them to make sure if
11:28:41 18 they have -- if that is indeed them; that we cancel them
11:28:46 19 here in our state.

11:28:50 20 Is that what you mean by databases? I mean,
11:28:52 21 we check -- there's also -- we can check through the SAVE
11:28:57 22 program U.S. citizenship or, like, Motor Vehicles
11:29:04 23 Department. But we don't deal with any other agencies or
11:29:08 24 that -- well, Social Security, I think the AVID system does
11:29:12 25 run a check against in regards to identity, looking for the

11:29:18 1 last four digits of the Social Security and the name and
11:29:22 2 birth date.

11:29:23 3 But they're all governmental except for ERIC,
11:29:26 4 which is quasi-governmental, in that it's -- states are
11:29:32 5 working together to try to keep their list clean. And
11:29:32 6 also --

11:29:39 7 Q. I'm sorry.

11:29:40 8 A. They also check to make sure people don't vote in
11:29:43 9 two states in the same election -- ERIC does.

11:29:49 10 Q. What about a list of registered voters provided by
11:29:53 11 a private group, would that be a database related to voter
11:29:59 12 registration?

11:29:59 13 A. No, I would not use that.

11:30:05 14 MR. HORLEY: Form.

11:30:06 15 BY MR. PATTERSON:

11:30:06 16 Q. And what about data provided from another state
11:30:15 17 government agency, say, a California county sheriff's
11:30:21 18 office? Would that be a database related to voter
11:30:27 19 registration?

11:30:27 20 MR. HORLEY: Same objection.

11:30:30 21 THE WITNESS: No. I don't know why they
11:30:32 22 would contact us.

11:30:33 23 BY MR. PATTERSON:

11:30:52 24 Q. Please take a moment -- if we could take a moment
11:30:54 25 to look at -- if we can take a moment to look at 16-165(A).

11:31:06 1 The statute states, "The county recorder
11:31:08 2 shall cancel registration"; is that correct?

11:31:18 3 MS. WINKELER: Can you give us a minute to
11:31:20 4 pull up the statute?

11:31:21 5 MR. PATTERSON: Absolutely.

11:31:25 6 THE WITNESS: Would you please restate the --

11:31:25 7 BY MR. PATTERSON:

11:31:28 8 Q. Yes. It's 61-165 Sub A. It's in HB 2243. Oh,
11:31:51 9 and (A) (10). Sorry. A Sub 10.

11:32:54 10 A. Okay. So it's in regards to canceling the
11:32:57 11 registration from information from the jury commissioner.

11:33:04 12 Q. Yes.

11:33:04 13 A. Yeah.

11:33:05 14 Q. So at the beginning of 16-165(A), it states, "The
11:33:10 15 county recorder shall cancel a registration"; correct?

11:33:18 16 A. Yes.

11:33:19 17 Q. And after that language, HB 2243 lists the number
11:33:23 18 of ways a voter registration can be canceled; true?

11:33:27 19 A. That's correct.

11:33:28 20 Q. And now if we can skip to 16-165(A) (10), on
11:33:36 21 page 4.

11:33:37 22 Read together, this provision reads, the
11:33:41 23 county recorder shall cancel a registration "when the
11:33:46 24 county recorder obtains information pursuant to the section
11:33:50 25 and confirms that the person registered is not a United

11:33:53 1 States citizen"; is that correct?

11:33:57 2 A. Yes.

11:33:58 3 Q. Under this provision, how does one obtain
11:34:02 4 information that a person registered is not a United States
11:34:06 5 citizen?

11:34:08 6 MR. LANGHOFER: Same objection.

11:34:09 7 MR. HORLEY: Calls for a legal conclusion.

11:34:11 8 THE WITNESS: The jury commissioner sends out
11:34:16 9 questionnaires. And one of the questions is: "Are you a
11:34:20 10 U.S. citizen?" And if they marked "no," then we get a
11:34:24 11 report from them. We used to get, as I recall, the actual
11:34:30 12 questionnaire, but now it's a report that lists who's
11:34:37 13 responded. And if they say they're not a U.S. citizen,
11:34:41 14 then we would know that.

11:34:43 15 Now, our experience has been the majority of
11:34:47 16 those that mark "no," they're not a U.S. citizen are not
11:34:51 17 registered to vote, but we have come across instances when
11:34:55 18 we've followed up with people where they marked "no,"
11:34:59 19 they're not a U.S. citizen, and they are registered when we
11:35:02 20 contact them, we find out that they marked "no" to get out
11:35:06 21 of jury duty.

11:35:09 22 BY MR. PATTERSON:

11:35:09 23 Q. And outside of the -- besides the jury
11:35:17 24 questionnaire, are there any other ways that your office
11:35:23 25 obtains information that a person is -- that is registered

11:35:29 1 is not a U.S. citizen?

11:35:32 2 MR. HORLEY: Same objection.

11:35:32 3 THE WITNESS: Not that I can think of right

11:35:34 4 now.

11:35:35 5 BY MR. PATTERSON:

11:35:37 6 Q. Thank you.

11:35:37 7 May you please take a moment to review 16-165

11:36:06 8 Sub G through J. We can take a moment while you review

11:36:12 9 that. Sorry. F through J.

11:36:59 10 A. Okay.

11:37:00 11 Q. Are the listed databases outlined in Subsections F

11:37:05 12 through J the means on how one obtains information of

11:37:11 13 noncitizenship?

11:37:12 14 A. I don't believe J is implemented right now. I

11:37:18 15 think that's listed in 2492 maybe and in 2243, Public

11:37:30 16 Health Statistics and Information System.

11:37:30 17 Q. If J were implemented, would that be a database in

11:37:38 18 which one would obtain information of noncitizenship?

11:37:43 19 MR. HORLEY: Objection. Calls for a legal

11:37:44 20 conclusion. Calls for speculation.

11:37:48 21 THE WITNESS: These databases are set up

11:37:50 22 through the Secretary of State's Office, how they run them

11:37:53 23 through, except for the jury commission. So even that, I

11:37:58 24 believe -- that, I'll have to ask Donna if that does come

11:38:01 25 through the Secretary of State's Office or directly to us

11:38:04 1 from the jury commissioner.

11:38:07 2 But it's set up through the AVID system, the
11:38:12 3 checks. So if it's part of the EPM and that's one of the
11:38:17 4 things that we -- that the secretary of state is required
11:38:21 5 to set up, we would use that.

11:38:25 6 BY MR. PATTERSON:

11:38:34 7 Q. But is it -- are these databases that are outlined
11:39:01 8 in the statute in -- the intended means for how one obtains
11:39:07 9 information of noncitizenship?

11:39:13 10 MR. LANGHOFER: Calls for a legal conclusion.
11:39:14 11 Calls for speculation.

11:39:19 12 THE WITNESS: It's how our state is set up to
11:39:22 13 check for citizenship.

11:39:24 14 BY MR. PATTERSON:

11:39:27 15 Q. Can the Arizona MVD driver's license and
11:39:32 16 nonoperating ID database be used to obtain information that
11:39:37 17 a registered voter is not a U.S. citizen?

11:39:41 18 MR. HORLEY: Same objection.

11:39:44 19 THE WITNESS: It's being used now.

11:39:56 20 BY MR. PATTERSON:

11:39:57 21 Q. It's being used to obtain information that a
11:40:02 22 registered voter is not a U.S. citizen? That's what you're
11:40:05 23 saying?

11:40:05 24 A. Yes. If it comes back that it indicates a foreign
11:40:11 25 national has the driver's license and the person would be

11:40:16 1 registered, we would need to follow up with that person to
11:40:19 2 see if the information is current.

11:40:23 3 You don't have to update your driver's
11:40:26 4 license, I don't believe -- I'm not an expert on driver's
11:40:30 5 licenses -- when you become a U.S. citizen. But you can't
11:40:32 6 register to vote until you become a naturalized citizen.
11:40:37 7 So there is -- could be a discrepancy between the driver's
11:40:42 8 license and registration, which is why we follow up to make
11:40:46 9 sure the information is accurate and up to date.

11:40:50 10 BY MR. PATTERSON:

11:40:52 11 Q. Is there anything beyond a database -- can your
11:40:58 12 office obtain information that a person registered is not a
11:41:02 13 United States citizen through any other means?

11:41:05 14 MR. HORLEY: Same objection.

11:41:08 15 THE WITNESS: No. I've never seen anything
11:41:13 16 that would be another way of showing a person's not a U.S.
11:41:17 17 citizen. I've never come across that and I don't -- I
11:41:23 18 can't think of anything, but I'm not an expert on
11:41:28 19 citizenship.

11:41:29 20 BY MR. PATTERSON:

11:41:29 21 Q. Has your office received any guidance on how one
11:41:32 22 obtains information that a person registered is not a U.S.
11:41:35 23 citizen under 16-165(A)(10)?

11:41:40 24 A. We do through the EPM.

11:41:44 25 Q. And has your office received any guidance on how

11:41:50 1 to order -- checking these databases?

11:42:01 2 A. Well, we got a tutorial for how to use the SAVE
11:42:06 3 program. That's all I'm aware of.

11:42:09 4 Q. What happens if there is conflicting data between
11:42:14 5 databases?

11:42:17 6 A. I have not come across that.

11:42:20 7 Q. Okay. So now, how would your office confirm that
11:42:28 8 a person registered is not a United States citizen under
11:42:31 9 16-165 (A) (10)?

11:42:36 10 MR. HORLEY: Calls for a legal conclusion.

11:42:39 11 THE WITNESS: We confirm citizenship. We
11:42:41 12 don't confirm noncitizenship.

11:42:44 13 BY MR. PATTERSON:

11:42:59 14 Q. What would give your office a reason to believe
11:43:00 15 that a person is not a U.S. citizen?

11:43:06 16 MR. HORLEY: Same objection.

11:43:07 17 MR. LANGHOFER: Same objection.

11:43:10 18 THE WITNESS: They mark "no" on the voter
11:43:12 19 registration form, or we would get an indication from Motor
11:43:20 20 Vehicles that they have an F-license, or from the jury
11:43:25 21 commissioner that they marked "no" on the questionnaire.

11:43:30 22 BY MR. PATTERSON:

11:43:36 23 Q. And if -- if we could take a moment to look at
11:43:45 24 A.R.S. 16-165 Sub I.

11:44:07 25 A. Okay.

11:44:08 1 Q. Based on 16-165 Sub I, is there anything else that
11:44:23 2 would give your office a reason to believe that a person is
11:44:26 3 not a U.S. citizen?

11:44:28 4 MR. HORLEY: Same objection.

11:44:33 5 THE WITNESS: I think I stated what we would
11:44:37 6 consider an indication of non-U.S. citizenship.

11:44:43 7 BY MR. PATTERSON:

11:44:47 8 Q. Has the Secretary of State's Office provided your
11:44:51 9 office with a list of what would give you or your staff a
11:44:55 10 valid reason to believe someone is not a U.S. citizen?

11:45:00 11 A. The only guidance we received from the secretary
11:45:05 12 of state's in the EPM.

11:45:07 13 Q. And in the EPM, has the secretary of state
11:45:13 14 provided any guidance on what your office should consider a
11:45:19 15 valid reason to believe that someone is not a U.S. citizen?

11:45:25 16 A. Not that I recall. We confirm citizenship. We
11:45:31 17 don't confirm noncitizenship.

11:45:35 18 Q. Has the Secretary of State's Office provided your
11:45:40 19 office with a list of what will not give you or your staff
11:45:44 20 a valid reason to believe someone is not a U.S. citizen?

11:45:50 21 A. Not that I'm aware of, except through if it's
11:45:53 22 mentioned in the EPM. And I don't recall anything in the
11:45:57 23 EPM that specifically talks about confirming people being
11:46:05 24 noncitizens, except what I've already mentioned for
11:46:08 25 confirming citizenship.

11:46:11 1 Q. I'm going to provide you with the same scenario
11:46:15 2 that we went over earlier.

11:46:18 3 MR. PATTERSON: But before doing so, I would
11:46:22 4 like to stipulate to -- I'm assuming that there's going to
11:46:28 5 be an objection to this as there was before. I'm willing
11:46:31 6 to stipulate to a global objection to these following
11:46:34 7 questions, if that is all right with defense counsel.

11:46:40 8 MR. LANGHOFER: Sounds good.

11:46:40 9 MR. MORGAN: That's fine with me.

11:46:41 10 MR. LANGHOFER: The objections, I suppose,
11:46:43 11 are calls for a legal conclusion and form?

11:46:47 12 MR. PATTERSON: Yes.

11:46:50 13 BY MR. PATTERSON:

11:46:51 14 Q. So would anything beyond a government or voter
11:46:59 15 registration database?

11:47:12 16 A. Prove noncitizenship? Is that what you're asking?

11:47:20 17 Q. Is there -- sorry. Is -- let's take a step back.

11:47:22 18 So is there anything beyond a government or
11:47:30 19 voter registration database that would give your office a
11:47:34 20 reason to believe that a person is not a U.S. citizen?

11:47:38 21 A. Just if they marked "no" on the registration form.

11:47:44 22 Q. Can a phone call from a voter -- would a phone
11:47:54 23 call from a voter be a reason to believe a person is not a
11:48:02 24 U.S. citizen?

11:48:03 25 A. No.

11:48:05 1 Q. How about an email from the voter?

11:48:11 2 A. From a -- another voter than the person?

11:48:15 3 Q. I'm sorry. Yes.

11:48:16 4 An email from --

11:48:19 5 A. No.

11:48:20 6 Q. Sorry. No. The same. From the same voter. My

11:48:27 7 apologies. So an email from the voter saying that they are

11:48:36 8 not a citizen.

11:48:39 9 A. The voter themselves saying they're not a citizen?

11:48:41 10 Q. Yes. The voter themselves, yes.

11:48:43 11 A. Yes.

11:48:45 12 Q. And --

11:48:45 13 A. We would want to make sure it is the voter asking

11:48:49 14 questions and stuff.

11:48:52 15 I've had instances where a spouse tried to

11:48:54 16 kill off another spouse with a registration, and so I do

11:49:00 17 know that you can't go by secondhand information. You need

11:49:04 18 to talk to the actual person.

11:49:10 19 Q. And for the sake of clarity, I wanted to ask the

11:49:22 20 previous question again, because now that we have -- are of

11:49:22 21 the same understanding.

11:49:30 22 So if you received a phone call from the

11:49:32 23 voter that they are not a citizen, would that give your

11:49:36 24 office reason to believe that they are not?

11:49:39 25 A. Yes. We ask them to confirm some information so

11:49:43 1 we verify that they are the actual registrant. But yes,
11:49:48 2 that would be enough.

11:49:49 3 Q. And what about a signed letter from the voter?

11:49:53 4 A. Yes.

11:49:54 5 Q. How about a phone call from a member of the
11:50:00 6 voter's family?

11:50:02 7 A. No.

11:50:03 8 Q. Would a letter from a neighbor provide your office
11:50:12 9 a reason to believe that the voter is a noncitizen?

11:50:16 10 A. No.

11:50:17 11 Q. What about a phone call from law enforcement in
11:50:23 12 Arizona?

11:50:26 13 A. That, I'd have to ask legal counsel. I haven't
11:50:30 14 had that situation come up.

11:50:34 15 Q. And what about a phone call from a law enforcement
11:50:42 16 in another state?

11:50:44 17 A. I'd ask legal counsel for guidance.

11:50:48 18 Q. Would an email or letter from law enforcement in
11:50:53 19 Arizona provide your office reason to believe that a voter
11:50:58 20 is a noncitizen?

11:50:59 21 A. I would, again, ask legal counsel.

11:51:02 22 Q. And what about an email or letter from law
11:51:06 23 enforcement in another state?

11:51:08 24 A. Same thing. I'd ask legal counsel for guidance.

11:51:12 25 Q. How about an anonymous call?

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11:51:43 10
11:51:44 11
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11:52:06 17
11:52:06 18
11:52:08 19
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A. No.

Q. And -- or an anonymous email?

A. No.

Q. What about lists provided by third-party organizations, like True the Vote?

A. No.

Q. Okay. Thank you.

MR. PATTERSON: We will be moving on to other questions, so at this point the global objection can end.

MR. LANGHOFER: Thanks.

BY MR. PATTERSON:

Q. What if the registered voter transposed the first and last name of their registration application form? Would that give your office reason to believe that they were a noncitizen?

MR. HORLEY: Same objection.

THE WITNESS: No.

BY MR. PATTERSON:

Q. What if the registered voter recorded a foreign place of birth on their form?

MR. HORLEY: Same objection.

THE WITNESS: No.

BY MR. PATTERSON:

Q. What if you identify a registered voter who has already satisfied the DPOC requirement but still holds an

11:52:24 1 F-type license? Is that a reason to believe they are not,
11:52:29 2 in fact, a U.S. citizen?

11:52:31 3 MR. HORLEY: Same objection. Calls for a
11:52:33 4 legal conclusion.

11:52:34 5 THE WITNESS: No.

11:52:34 6 BY MR. PATTERSON:

11:52:37 7 Q. What about registered voters who are exempt from
11:52:41 8 DPOC under the safe harbor provision because they
11:52:44 9 registered prior to the DPOC requirement going into effect
11:52:48 10 in 2005? Would that failure to show DPOC under this
11:52:53 11 exemption give your office a reason to believe they are not
11:52:56 12 U.S. citizens?

11:52:59 13 MR. HORLEY: Same objection.

11:52:59 14 THE WITNESS: No.

11:53:01 15 BY MR. PATTERSON:

11:53:01 16 Q. Has your office received any guidance on when your
11:53:05 17 office would have reason to believe that a registered voter
11:53:07 18 is not a U.S. citizen?

11:53:12 19 A. Only through the EPM.

11:53:15 20 Q. Thank you.

11:53:16 21 Moving on, a number of provisions in both
11:53:21 22 laws only obligate your office to the extent they are
11:53:26 23 practical -- practicable. Who makes that call?

11:53:33 24 MR. HORLEY: Same objection.

11:53:36 25 THE WITNESS: I would believe that if it's

11:53:38 1 procedures in regards to voter registration, the Secretary
11:53:47 2 of State's Office.

11:53:47 3 BY MR. PATTERSON:

11:53:47 4 Q. And do you meant -- do you understand what is
11:53:51 5 meant by "practicable" within these laws? Is it clear or
11:54:01 6 unclear?

11:54:01 7 MR. LANGHOFER: Same objection.

11:54:03 8 MR. HORLEY: Same objection.

11:54:06 9 THE WITNESS: No, not really. It's a -- a
11:54:11 10 vague term.

11:54:13 11 BY MR. PATTERSON:

11:54:16 12 Q. In terms of resources access -- scratch that.

11:54:23 13 Moving on, if a registered voter is removed
11:54:29 14 from the rolls under HB 2243 based upon an erroneous
11:54:34 15 determination that they are not a U.S. citizen, can that
11:54:37 16 voter be added back to the rolls if the registration
11:54:40 17 deadline has already passed?

11:54:47 18 A. If it's our mistake, yes.

11:54:51 19 Q. And what are the mechanics of adding the voter
11:54:57 20 back to the rolls?

11:55:01 21 A. That, I'd have to ask the legal counsel on the
11:55:06 22 best approach.

11:55:11 23 MR. PATTERSON: Thank you, Ms. Hansen. That
11:55:14 24 completes my questions for you on behalf of Poder.

11:55:20 25 THE WITNESS: Okay. Thank you.

11:55:24 1 MR. PATTERSON: At this point, do we want to
11:55:26 2 take another break or --

11:55:33 3 MR. LANGHOFER: Do you think there will be
11:55:34 4 more questions from the plaintiffs?

11:55:35 5 MR. PATTERSON: Yes. I believe there's one
11:55:37 6 other party that has about 10 to 15 minutes of questions, I
11:55:41 7 believe, but I don't want to speak for them.

11:55:46 8 MS. LANG: That's me. I'm happy -- it is
11:55:46 9 going to be short. And I'm happy to go if Ms. Hansen is
11:55:49 10 ready to go. And I'm also happy for us to take a short
11:55:52 11 break. It's entirely up to you, Ms. Hansen.

11:55:57 12 THE WITNESS: I'm fine.

11:55:58 13 MS. LANG: And everybody else okay with that?

11:56:02 14 THE WITNESS: And I -- I've seen your name
11:56:04 15 many times so . . .

11:56:07 16 MS. LANG: Likewise, actually. So very good
11:56:08 17 to see you.

11:56:09 18 Is that okay with everybody else? All right.

11:56:09 19

11:56:09 20 EXAMINATION

11:56:14 21 BY MS. LANG:

11:56:14 22 Q. Well, with that, thank you so much for your time
11:56:16 23 today, Ms. Hansen. My name is Danielle Lang, and I
11:56:18 24 represent the LUCHA plaintiffs in this matter.

11:56:21 25 And as was represented earlier, I really have

11:56:24 1 a very brief set of questions that I want to go through
11:56:27 2 with you, and then we will hopefully wrap -- wrap up your
11:56:33 3 testimony soon.

11:56:34 4 I want to talk a little bit about kind of
11:56:38 5 state versus federal forms and their usage. And most
11:56:44 6 importantly, I'd like to get to an understanding of kind of
11:56:48 7 the relative breakdown of usage between state and federal
11:56:52 8 forms.

11:56:53 9 Would you say that the majority of voter
11:56:56 10 registration forms that you receive in your office are the
11:56:59 11 state form rather than the federal form?

11:57:02 12 A. Yes, I would.

11:57:05 13 Q. Like by a substantial margin? Is that fair to
11:57:11 14 say?

11:57:11 15 A. It depends on the election time. I know that
11:57:17 16 there's been organizations that registered voters on the
11:57:21 17 college campus that use the federal form more and some were
11:57:28 18 -- it's -- they're usually out-of-state organizations that
11:57:31 19 come in. And also, if they're going to be registering
11:57:36 20 voters where it may be several counties at the event. But
11:57:43 21 most of the organizations locally use the state form.

11:57:47 22 Q. Okay. And sometimes your office would provide
11:57:53 23 voter registration forms to groups that are doing voter
11:57:56 24 registration drives; is that right?

11:57:57 25 A. Yes.

11:57:58 1 Q. And in that case, does your office provide state
11:58:01 2 forms rather than federal forms?

11:58:03 3 A. Yes.

11:58:04 4 Q. Okay. And your office also receives voter
11:58:12 5 registration forms from agencies that are required to
11:58:15 6 conduct voter registration under the NVRA; is that right?

11:58:18 7 A. Yes.

11:58:21 8 Q. Not talking about the MVD but the other agencies
11:58:24 9 that are required to do voter registration, do they use the
11:58:27 10 state form in helping individuals register to vote at the
11:58:31 11 agencies?

11:58:32 12 A. Yes, they do. But as I recall, they need to have
11:58:35 13 the federal form available too. But I --

11:58:40 14 Q. Okay.

11:58:40 15 A. What we receive mostly is state forms.

11:58:44 16 Q. Got it.

11:58:45 17 And I understand from your testimony earlier
11:58:55 18 that right now, your office kind of processes forms
11:59:00 19 identically, whether they're state form or federal form; is
11:59:04 20 that right?

11:59:04 21 A. That's correct.

11:59:05 22 Q. Okay. It's also my understanding that it's -- if
11:59:09 23 the provisions of HB 2492 were to go into effect and be
11:59:14 24 implemented, that it would require you to treat state and
11:59:18 25 federal forms differently.

11:59:20 1 Is that your understanding?

11:59:21 2 A. That is my understanding.

11:59:23 3 Q. Okay. And is that one of the objections you had
11:59:27 4 to this bill when it was pending?

11:59:30 5 A. Yes, it is.

11:59:33 6 Q. And based on your experience, is there any kind of
11:59:39 7 reason why you would process a voter registration form
11:59:42 8 differently simply because of whether it's on a federal
11:59:47 9 form or a state form?

11:59:50 10 A. No. It's -- has the same information. I don't
11:59:57 11 see it -- it being filled out on a different type of paper,
12:00:00 12 why that would matter how you would be treated.

12:00:04 13 Q. Thank you.

12:00:11 14 And so from your experience, if you had to
12:00:15 15 treat state forms versus federal forms differently and
12:00:18 16 reject fed- -- state forms in their entirety if they did
12:00:23 17 not include DPOC, would that likely lead to you rejecting
12:00:27 18 more applications?

12:00:29 19 A. Yes.

12:00:30 20 Q. And then my next set of questions are briefly
12:00:39 21 about the documentary proof of residence requirements in
12:00:44 22 the law.

12:00:46 23 And you already testified earlier about your
12:00:49 24 veto letter where you specifically identified your concerns
12:00:53 25 about documentary proof of residence; is that right?

12:00:56 1 A. Yes.

12:00:57 2 Q. And can you just elaborate a little bit about what
12:01:00 3 your concern was with respect to that requirement and
12:01:04 4 especially as it applies to native voters?

12:01:08 5 A. Well, on the reservations, they don't have -- not
12:01:14 6 everybody has street addresses and not everybody has
12:01:19 7 utilities. We have people that live in -- have living
12:01:25 8 situations where they haul their water. They may have
12:01:27 9 solar, if they do have electricity, and they're not going
12:01:32 10 to have utility bills. I don't know if everybody, you
12:01:38 11 know, would have a bank statement. Internet is not
12:01:46 12 available throughout the reservation or even cell phone
12:01:49 13 service.

12:01:51 14 So I do know several of the people I've
12:01:54 15 talked to on the reservation have TracFones, so that
12:02:00 16 wouldn't have a bill coming to them. So it's difficult for
12:02:03 17 them to get the necessary ID, possibly, to be able to even
12:02:12 18 submit when they register.

12:02:15 19 And also, you need a photocopier if you're
12:02:19 20 sending copies. And so it would be an additional
12:02:23 21 requirement they would have to do if they didn't have an
12:02:28 22 Arizona driver's license or state ID.

12:02:33 23 Q. Thank you.

12:02:34 24 And, you know, one of the concerns you
12:02:37 25 raised, there is, obviously, issues with residential

12:02:40 1 addressing. But you also mentioned the kind of practical
12:02:43 2 difficulties even for someone who does have a residential
12:02:47 3 address to kind of obtain the documentation of that
12:02:50 4 address.

12:02:51 5 Is that what I understand your testimony to
12:02:53 6 be about? Is that right?

12:02:54 7 A. Some people, yeah.

12:02:54 8 Q. Yeah.

12:02:56 9 A. I think there's a problem.

12:02:58 10 Q. And would -- would those concerns potentially
12:03:01 11 extend not only to native voters but also some other rural
12:03:05 12 or low-income voters in your county?

12:03:09 13 A. Yes, I think so. We have people that we say live
12:03:13 14 off the grid. They may be living in a fifth wheel kind of,
12:03:20 15 you know, RV-type unit in the forest or something. And
12:03:25 16 they're eligible to register to vote if that's where
12:03:28 17 they're residing. But again, they don't have the access to
12:03:37 18 a lot of these IDs that other -- those of us that live in
12:03:41 19 the city or more urban areas would have.

12:03:45 20 Q. And in your experience, is it possible that
12:03:49 21 students might also have difficulty obtaining this type of
12:03:52 22 documentation and then getting copies of that type of
12:03:55 23 documentation?

12:03:56 24 A. Yes. If you live in the dormitory, unfortunately,
12:04:02 25 a student ID does not work because it doesn't have your

12:04:06 1 residence on it. And the -- they don't pay utilities.
12:04:15 2 It's included in the dorms or whatever. That's why I know
12:04:19 3 a lot of the college students end up voting early instead
12:04:24 4 of going to a polling place because it's -- they don't have
12:04:28 5 the necessary ID to show to either vote early in person or
12:04:33 6 to vote at the polling place on election day.

12:04:39 7 Q. Thank you.

12:04:42 8 And just talking a little bit about kind of
12:04:45 9 how you process residential addresses, and it -- my
12:04:50 10 understanding is that on a voter registration form, folks
12:04:53 11 have two options as far as providing their residence. They
12:04:56 12 can either provide a traditional street address or they can
12:05:01 13 draw a location or kind of provide other information about
12:05:05 14 their location of residence if they don't have a tradition
12:05:07 15 street address; is that right?

12:05:09 16 A. That is correct.

12:05:11 17 Q. Okay. So starting with that first option, if --
12:05:15 18 if a street address is provided and you input that address
12:05:21 19 into your system, is it sometimes the case that that
12:05:24 20 address is not recognized by your system?

12:05:29 21 A. Yes. Especially, like, in new housing
12:05:32 22 developments or that, we would have to add the street and
12:05:36 23 the address to the system.

12:05:39 24 Q. And can you just talk through a little bit how
12:05:42 25 that's done?

12:05:44 1 A. It's a GIS-type-based system. So we would put a
12:05:50 2 dot to indicate where the residence is at, and then we go
12:05:56 3 in and add it to the system by putting in the address and
12:06:01 4 what districts they were in. Though, since it's GIS-based,
12:06:06 5 a lot of that districting automatically comes in because of
12:06:10 6 the layer with the -- the layers within the GIS system.

12:06:15 7 Q. And so sometimes if that address comes in as kind
12:06:19 8 of not recognized within your system, does that require
12:06:21 9 additional follow-up to the voter?

12:06:24 10 A. Sometimes if it's not -- like, if it's a -- not a
12:06:30 11 street address at all, we will try to contact the voter to
12:06:36 12 see if they could give us more information if we cannot
12:06:40 13 determine where on the map they would be located. Because
12:06:44 14 the residence determines what's going to be on your ballot,
12:06:48 15 what districts you live in. And so that's why our
12:06:54 16 nonstandard addressing a lot of times will not be a street
12:07:00 17 address; we give it an artificial address.

12:07:04 18 So let's say that we could determine that
12:07:08 19 your -- you live in the Leupp precinct and you're in the
12:07:13 20 Flagstaff school district, and then we would give you a
12:07:18 21 0-Leupp-0, which tells us what ballot style you would get.
12:07:23 22 And we know the general area where you reside. And if --
12:07:29 23 Leupp is also in the Tuba City school district, so if
12:07:35 24 you're on the other side of the line in the school
12:07:37 25 district, we would give you 0-Leupp-1.

12:07:41 1 But sometimes if it's on -- really close to
12:07:44 2 the dividing line from their description, we have to call
12:07:47 3 them and try to locate them on exactly where they're at to
12:07:53 4 know which address to give them.

12:07:58 5 That's probably a -- more detail than you
12:08:01 6 wanted.

12:08:01 7 Q. No. It was actually perfect.

12:08:03 8 If we could open up the document in the
12:08:06 9 potential exhibits folder that is labeled L and mark that
12:08:11 10 as the next exhibit.

12:08:11 11 (The document was marked as Exhibit 177
12:08:23 12 for identification.)

12:08:23 13 BY MS. LANG:

12:08:28 14 Q. When you have it open, just let me know if you
12:08:30 15 recognize the document.

12:08:31 16 A. Yes.

12:08:34 17 Q. And can you just identify for me what that
12:08:37 18 document is?

12:08:38 19 A. This is the letter we send when we have questions
12:08:43 20 in regards to registrations.

12:08:43 21 Q. And --

12:08:51 22 A. If it was damaged or the residence is missing or
12:08:53 23 we can't find it.

12:08:54 24 Q. And so I see here that one of the options is the
12:09:00 25 information regarding your residence is missing or unclear;

12:09:03 1 is that right?

12:09:04 2 A. Yes.

12:09:05 3 Q. And so is this the form you would use if your --
12:09:10 4 if the address provided is, you know, not coming up in your
12:09:14 5 system or that you otherwise are unable to kind of pinpoint
12:09:17 6 the location of residence for a voter?

12:09:20 7 A. Yes.

12:09:21 8 Q. Okay. And what kind of -- kind of response from a
12:09:28 9 voter is sufficient to kind of resolve these types of
12:09:32 10 issues?

12:09:34 11 A. Usually they would give us a call or -- and help
12:09:39 12 us find where they're located, or they could respond by
12:09:45 13 giving us a -- like, if they're not on the reservation,
12:09:50 14 their parcel number and lot number, longitude or latitude.
12:09:55 15 So a lot of people don't have that. And sometimes, we're
12:10:00 16 now getting some of the Google codes that also help us
12:10:05 17 locate them.

12:10:09 18 Q. Sounds like there's a lot of different kind of
12:10:11 19 options. Is that fair to say?

12:10:12 20 A. Yes, there is.

12:10:13 21 Q. And you don't provide -- and you don't require
12:10:16 22 those voters to provide any documentation, but rather they
12:10:21 23 can provide this information for -- by the phone for
12:10:24 24 example; is that right?

12:10:24 25 A. Yes. Yeah, they wouldn't have any documentation

12:10:29 1 really that would show it. I mean, if they were the
12:10:32 2 property owner, maybe they could, you know -- we could
12:10:37 3 check with the assessor's office, but otherwise, no. If
12:10:42 4 you're renting, you're not going to know that information.

12:10:46 5 Q. And -- and I think you've already testified to
12:10:49 6 this. But is it more likely that native voters living on
12:10:53 7 reservations in your county are more likely to encounter
12:10:57 8 kind of non- -- have nonstandard addresses?

12:11:00 9 A. Yes, that's correct. It's been left up to each
12:11:03 10 chapter whether they're going to be implementing 911
12:11:07 11 addresses, and it's been a very slow process. And
12:11:14 12 unfortunately, they just don't have street addresses.

12:11:19 13 Q. And in your experience, is it common for these
12:11:26 14 kind of nonstandard addressing markers, like a longitude or
12:11:32 15 latitude or Google codes and these other forms of
12:11:36 16 nonstandard addressing, to a full -- to appear on
12:11:40 17 identification documents, like your driver's license or
12:11:45 18 tribal ID?

12:11:47 19 A. No.

12:11:48 20 Q. Okay.

12:11:50 21 A. I know for tribal ID, it would be more their
12:11:53 22 chapter. And we do try to make our precincts follow
12:11:58 23 chapter lines, but they're not necessarily consistent or
12:12:04 24 set in stone. Like, we can't get a map of the exact ones
12:12:08 25 because people can change their chapters and things like

12:12:12 1 that.

12:12:15 2 Q. And I notice in your interrogatory responses that
12:12:18 3 you mentioned that sometimes your office might help to
12:12:22 4 assign an address.

12:12:25 5 By that, did you mean the kind of, like,
12:12:28 6 assignment that you make might make internally just for
12:12:30 7 your own purposes, or does your office actually help folks
12:12:34 8 get a 911 address, for example?

12:12:36 9 A. No. It's the artificial address that we give
12:12:41 10 internally, which tells us the ballot style. So we know
12:12:44 11 what ballot either to be issued to them at a polling place
12:12:48 12 or what ballot for early voting.

12:12:52 13 Q. Do you know what office within the county is
12:12:55 14 responsible for helping individuals get a standard address
12:12:58 15 if they want one?

12:13:00 16 A. If they're not on the reservation, it would be
12:13:05 17 through our GIS department right now, as I recall. And on
12:13:11 18 the reservation, it's like Navajo Nation. From what I
12:13:16 19 understand, it's left up to each of the chapters. And
12:13:18 20 chapters are kind of how they divide the reservation and --
12:13:22 21 for their governing.

12:13:24 22 And I'm not sure what the Hopi Tribe -- how
12:13:30 23 they do their addressing, but it would be through the
12:13:35 24 reservation. The county does not assign addresses on
12:13:40 25 reservation land or also in the national parks, so . . .

12:13:53 1 Q. In Coconino County, do you know, is the voter
12:13:57 2 registration rate among native voters lower than the rate
12:14:01 3 overall of voter registration in the county?

12:14:05 4 A. I have not checked that against the census
12:14:10 5 numbers. So no, I can't say.

12:14:13 6 Q. I'd like to look at the exhibit that's been marked
12:14:30 7 Exhibit 24.

12:14:38 8 MS. LANG: Do you have access to that, Rose?

12:14:40 9 MS. WINKELER: Yeah, if you could just give
12:14:41 10 me a minute.

12:14:42 11 MS. LANG: Yes, of course.

12:15:14 12 THE WITNESS: Okay.

12:15:15 13 BY MS. LANG:

12:15:16 14 Q. And if you can look at the second page in this
12:15:20 15 document.

12:15:21 16 Have you seen this document before?

12:15:23 17 A. Yes. I think it was included in the information
12:15:27 18 that Kori Lorick sent out.

12:15:32 19 Q. And do you know when that was?

12:15:33 20 A. When that was?

12:15:35 21 Q. Yes.

12:15:37 22 A. I'm thinking, well, it must have been at the end
12:15:39 23 of 2022 because it was prior to the Fontes administration.

12:15:45 24 Q. Okay. And is it your understanding that if the
12:15:54 25 DPOR requirement were to be implemented, that this chart

12:15:57 1 would help you determine what forms of documentation could
12:16:01 2 be accepted under that requirement?

12:16:04 3 A. Yes. I would assume that it would be included in
12:16:09 4 the EPM.

12:16:11 5 Q. Okay. So -- but right now, your office has not
12:16:16 6 implemented the DPOR requirement at all; is that correct?

12:16:19 7 A. That is correct.

12:16:19 8 Q. Okay. I just wanted to ask briefly about the
12:16:28 9 document listed, kind of -- the very last document on this
12:16:32 10 chart, written confirmation signed by the registrant that
12:16:35 11 they qualify to register. And then in the parenthesis, it
12:16:40 12 explains, like, for -- for folks who are at a homeless
12:16:43 13 center or are using the courthouse as their kind of
12:16:49 14 residence.

12:16:52 15 Do you know if there is currently a kind of
12:16:56 16 document available that such voters could use as written
12:16:59 17 confirmation of their residence?

12:17:03 18 A. No, I'm not familiar with any document like that.

12:17:09 19 Q. Okay. Are you familiar with any kind of document
12:17:19 20 promulgated by the secretary of state or otherwise that
12:17:22 21 would allow voters to kind of affirm their residence as a
12:17:27 22 way to provide documentary proof of residence?

12:17:31 23 A. Not now, no.

12:17:33 24 Q. Okay. Outside of this chart, have you received
12:17:37 25 any additional guidance about how you would implement the

12:17:41 1 DPOR -- how you should implement the DPOR requirements if
12:17:45 2 they are implemented?

12:17:46 3 A. No.

12:18:00 4 MS. LANG: I don't have any further questions
12:18:01 5 for you, Ms. Hansen. Thank you so much for your time.

12:18:05 6 THE WITNESS: Thank you.

12:18:15 7 BY MR. HORLEY: Hi, Ms. Hansen. I am Tim
12:18:15 8 Horley with the State of Arizona and the Arizona Attorney
12:18:18 9 General's Office. I don't know if any other plaintiffs
12:18:21 10 have any other questions. Also, I'm not sure if folks
12:18:27 11 would like to take a short break. Up to you, Ms. Hansen,
12:18:27 12 on that.

12:18:28 13 Cindy, I see a hand.

12:18:28 14 THE COURT REPORTER: Please.

12:18:34 15 Okay. Is everybody okay with a short break
12:18:36 16 here?

12:18:37 17 MR. MORGAN: At this hour, I think we ought
12:18:39 18 to have lunch.

12:18:44 19 MR. HORLEY: I have no problem with a lunch
12:18:45 20 break, but up to you, Ms. Hansen and Rose, what your
12:18:52 21 thoughts are about that.

12:18:55 22 THE COURT REPORTER: Do you want to go off
12:18:58 23 the record for this?

12:18:58 24 MR. HORLEY: Sure.

12:18:59 25 THE VIDEOGRAPHER: We are off the record.

12:19:00 1 Time on the video monitor is 12:18 p.m.

12:19:04 2 (A recess ensued.)

13:24:51 3 THE VIDEOGRAPHER: We are on the record.

13:25:08 4 Time on the video monitor is 1:25 p.m.

13:25:12 5

13:25:14 6 EXAMINATION

13:25:14 7 BY MR. HORLEY:

13:25:14 8 Q. All right. Hello, Ms. Hansen. Thanks for your
13:25:17 9 time.

13:25:17 10 As I mentioned before, my name is Tim Horley.
13:25:21 11 I'm with the state attorney general's office.

13:25:23 12 So I do have a few questions that I wanted to
13:25:25 13 follow up -- follow up on, a few topics. And I may
13:25:28 14 introduce a couple different documents that haven't been
13:25:32 15 introduced yet. And if there are any that you think would
13:25:35 16 be better addressed to Ms. Casner, just let me know and I
13:25:40 17 will plan to ask those questions of her at that time.

13:25:43 18 A. Okay.

13:25:43 19 Q. So you mentioned that your office was opposed to
13:25:49 20 the passage of these laws and sent Governor Ducey a letter
13:25:53 21 asking him to veto them; is that correct?

13:25:55 22 A. I sent a letter to -- asking him to veto 2492.

13:26:02 23 Q. Okay. Great.

13:26:03 24 And then -- but I just wanted to confirm that
13:26:07 25 -- will you adhere to whatever a court orders regarding the

13:26:10 1 implementation of these laws?

13:26:12 2 A. Oh, Yes.

13:26:14 3 Q. And you mentioned that some phrases in HB 2492 and
13:26:20 4 2243 are unclear; correct?

13:26:23 5 A. Yes.

13:26:23 6 Q. And guidance from the secretary of state on those
13:26:28 7 unclear provisions would be helpful?

13:26:30 8 A. That's correct.

13:26:31 9 Q. And that could come in the form of an updated EPM,
13:26:36 10 for example?

13:26:37 11 A. Yes.

13:26:38 12 Q. And the EPM provides guidance on a lot of
13:26:41 13 different voting laws, including laws on topics that aren't
13:26:45 14 relevant to the laws we're talking about here; correct?

13:26:49 15 A. Yes.

13:26:50 16 Q. And do you generally rely on the EPM to help
13:26:55 17 implement those other voting laws?

13:26:57 18 A. Yes, I do.

13:26:58 19 Q. And would it be easy to implement those other
13:27:02 20 voting laws without the EPM?

13:27:06 21 A. Not necessarily. I refer to it quite often to
13:27:13 22 make sure that we're doing things correctly.

13:27:16 23 Q. Okay. So it's fair to say that there are
13:27:19 24 different voting laws that are also difficult to implement
13:27:22 25 without further guidance from the secretary of state; is

13:27:26 1 that right?

13:27:26 2 MR. MORGAN: Form.

13:27:27 3 THE WITNESS: That's correct. Especially in

13:27:29 4 regards to court decisions.

13:27:31 5 BY MR. HORLEY:

13:27:32 6 Q. Okay. So same thing is true for these laws that

13:27:35 7 is true for those other laws; correct?

13:27:38 8 A. That's correct.

13:27:40 9 Q. Okay. Great.

13:27:41 10 And then I wanted to look once again at the

13:27:44 11 exhibit that's been marked number 172. I believe it's

13:27:48 12 noted as Exhibit G in the zip file.

13:28:00 13 A. Okay.

13:28:01 14 Q. Okay. And then if you look down at the bottom of

13:28:04 15 page 1, top of page 2, there's a part where it says,

13:28:09 16 "Suggested position"; is that right?

13:28:12 17 A. Yes.

13:28:13 18 Q. And then there it says, "Take no position"; is

13:28:17 19 that right?

13:28:17 20 A. Yes.

13:28:18 21 Q. So does that mean that you wanted the AACo not to

13:28:23 22 take a position on these laws?

13:28:25 23 A. At -- on this specific bill as it was introduced,

13:28:30 24 yes.

13:28:31 25 Q. Okay. So that is different than saying you

13:28:34 1 opposed the law; correct?

13:28:37 2 A. Yes.

13:28:38 3 Q. Okay.

13:28:40 4 A. At that time, I thought it was asking for things

13:28:45 5 that we already -- that were covered with other procedures.

13:28:50 6 But as I recall, another bill was -- amendments

13:28:57 7 incorporated in, but I may be wrong on that because there's

13:29:01 8 so many pieces of legislation.

13:29:03 9 Q. Okay. Understood.

13:29:03 10 But just in this document, you did not oppose

13:29:07 11 HB 2243; is that right?

13:29:08 12 A. That's correct.

13:29:10 13 Q. Okay. Great. Thank you.

13:29:11 14 And then I wanted to touch base on the topic

13:29:16 15 of verifying or checking citizenship.

13:29:19 16 So do the recorders -- does your office do

13:29:22 17 anything to verify DPOC when it is received?

13:29:28 18 A. No.

13:29:30 19 Q. Okay. So it's just taken at face value?

13:29:34 20 A. Yes, it is.

13:29:35 21 Q. Okay. And is DPC -- DPOC normally provided as a

13:29:42 22 photocopy?

13:29:42 23 A. For the documents like the -- a birth certificate

13:29:48 24 or pages out of the passport, yes. Or sometimes, they'll

13:29:52 25 take a picture of it on their phone and then send it to us.

13:29:57 1 Q. Okay. And then you noted in your testimony that
13:30:04 2 the citizenship checkbox is not relevant if the recorder
13:30:08 3 has DPOC from the applicant already; is that right?

13:30:12 4 A. That's correct.

13:30:13 5 Q. Okay. What if the recorder does not have DPOC?

13:30:20 6 A. Then it would not meet the requirements under the
13:30:23 7 current state law.

13:30:25 8 Q. Okay. Would the citizenship checkbox be relevant
13:30:27 9 in that case?

13:30:30 10 A. It depends -- there's the affirmation at the
13:30:34 11 bottom of the form where they're saying, you know, that
13:30:38 12 they meet the qualifications.

13:30:41 13 Prior to Prop 200, which had put in the proof
13:30:45 14 of citizenship, the affirmation was enough. But currently,
13:30:50 15 with us now, we would make them a federal-only voter if
13:30:53 16 they -- well, hold it. No. If they marked the federal --
13:30:59 17 if they did not mark the box -- I'll have to defer to Donna
13:31:02 18 on that. I'm sorry. I'm getting my stuff confused.

13:31:05 19 Q. Okay. No worries. I'll just make a note of that
13:31:08 20 to follow up with Ms. Casner.

13:31:10 21 And so maybe this will be helpful, a more
13:31:16 22 specific question.

13:31:17 23 If the registrant were to mark "no" in the
13:31:21 24 citizenship checkbox but provided a purported copy of a
13:31:26 25 citizenship document, like a copy of a birth certificate,

13:31:28 1 for example, what would your office do in that situation?

13:31:33 2 A. We would follow up with the registrant to see what

13:31:36 3 the issue is.

13:31:41 4 Q. Okay. And would that issue possibly raise a red

13:31:44 5 flag about either the checkbox being marked wrong or

13:31:48 6 perhaps the proof of citizenship document being faulty?

13:31:52 7 A. My guess is it's the checkbox would probably be

13:31:57 8 what it is. But I think people can become citizens of

13:32:03 9 other countries and give up their U.S. citizenship. But,

13:32:08 10 you know, since it conflicts, we would want some kind of

13:32:11 11 verification from the registrant on why there's a

13:32:18 12 discrepancy there.

13:32:19 13 Q. Okay. Understood.

13:32:23 14 And another question on this. Is it possible

13:32:25 15 for a registered voter to submit a copy of a citizenship

13:32:29 16 document -- again, like a birth certificate or a passport

13:32:31 17 -- that is defective in some way; for example, maybe it's

13:32:35 18 blurry or hard to read?

13:32:38 19 A. We would ask them to send one that is clear.

13:32:43 20 Q. Okay. So does that -- in your experience, does

13:32:46 21 that happen frequently that there's something wrong with

13:32:50 22 the -- the document that they submit?

13:32:52 23 A. I'd have to defer to Donna on that. I don't

13:32:55 24 handle the citizenship paperwork that comes in very often.

13:33:00 25 Q. Okay. Understood.

13:33:02 1 But in those situations, if there was an
13:33:04 2 issue with the document, would it be helpful to know how
13:33:07 3 the citizen or the -- excuse me -- how the voter answered
13:33:10 4 the citizenship checkbox?

13:33:14 5 A. Yes. Because if they mark "no," we'd have to
13:33:17 6 definitely follow up with them.

13:33:20 7 Q. Okay. Understood.

13:33:22 8 And then I had some more specific questions
13:33:25 9 on this that refer to some spreadsheets with voter --
13:33:31 10 registered voter data that your office produced. And my
13:33:34 11 guess is that might be better directed toward Ms. Casner.

13:33:39 12 Do you think that's right?

13:33:39 13 A. Yes.

13:33:40 14 Q. Okay. Okay. Very good. So I'll just skip over
13:33:44 15 those for now.

13:33:45 16 I did want to ask you a few questions about
13:33:52 17 the databases that your office uses to verify citizenship.

13:33:56 18 So does your office use the HAVA check system
13:34:01 19 across the AVID database?

13:34:02 20 A. Yes, we do.

13:34:03 21 Q. And then that uses the MVD's data; correct?

13:34:11 22 A. Yes.

13:34:12 23 Q. Okay. And then you said that your office does use
13:34:15 24 the SAVE system as well?

13:34:18 25 A. Yes.

13:34:18 1 Q. And does the recorder's office consider the MVD
13:34:23 2 data to be generally reliable?
13:34:26 3 A. Yes. Generally. There was a glitch, as I recall,
13:34:35 4 that was found in October maybe of 2022 that the secretary
13:34:43 5 of state notified us about. And we had to go back and
13:34:47 6 double-check on those. And I know Donna can tell you, you
13:34:52 7 know, what we found during that time period where there was
13:34:58 8 some problems with the citizenship match with the MVD.
13:35:04 9 Q. Okay. Understood.
13:35:07 10 And in your experience, are those kinds of
13:35:10 11 incidents common?
13:35:11 12 A. No.
13:35:12 13 Q. Okay. And if a naturalized citizen status has not
13:35:18 14 yet been updated with the MVD -- like we talked about
13:35:22 15 before, if someone has an F-type license from a long time
13:35:25 16 ago, for example, they can easily reconcile that matter by
13:35:28 17 providing your office with documentation of their
13:35:31 18 naturalization; correct?
13:35:32 19 A. Yes.
13:35:35 20 Q. And does the recorder's office generally consider
13:35:38 21 the SAVE data to be reliable?
13:35:42 22 A. Yes.
13:35:42 23 Q. Okay. I did want to take a look at one document
13:35:47 24 that hasn't been marked as an exhibit yet. So I think
13:35:51 25 probably the easiest way for me to do this -- but anybody

13:35:54 1 who disagrees can chime in -- is just to share it on my
13:35:57 2 screen, and then I will send it in the Zoom chat or by
13:36:02 3 email so that we can have it entered in for everybody else.

13:36:05 4 Does that sound okay to you, Ms. Hansen?

13:36:08 5 A. Yes, it does.

13:36:09 6 Q. Okay. Can you see this document that I have
13:36:34 7 shared, Ms. Hansen?

13:36:34 8 A. Yes.

13:36:38 9 Q. And you mentioned before that your office was
13:36:41 10 involved in some tutorials on how to use the SAVE system;
13:36:46 11 is that right?

13:36:46 12 A. Yes.

13:36:46 13 Q. And did you participate in those tutorials?

13:36:50 14 A. No, I did not.

13:36:52 15 Q. Okay. And do you recognize this document?

13:37:02 16 A. I saw it in the -- what we sent to you. Donna was
13:37:04 17 the one that supplied this. Donna and Sedona were the two
13:37:10 18 that I know that had -- went through the tutorial.

13:37:10 19 Q. Okay. Very good.

13:37:10 20 But you recognize this as a document that
13:37:19 21 your office produced in response to the plaintiffs'
13:37:21 22 requests for production?

13:37:22 23 A. Yes.

13:37:23 24 Q. Okay. Very good.

13:37:25 25 MR. HORLEY: Then I would like to mark this

13:37:26 1 as exhibit -- I believe we're at 178 now. Is that right?

13:37:29 2 THE COURT REPORTER: Yes.

13:37:29 3 MR. HORLEY: Okay. I'd like to mark it as
13:37:32 4 that exhibit. I may have more questions on that for
13:37:36 5 Ms. Casner as well.

13:37:36 6 (The document was marked as Exhibit 178
13:37:36 7 for identification.)

13:37:36 8 BY MR. HORLEY:

13:37:39 9 Q. And just to take a quick look, if you don't mind
13:37:44 10 reviewing it really quickly. I see here at the top, it
13:37:46 11 says, "How to Initiate a Case Involving a Potentially
13:37:49 12 Fraudulent Document"; is that right?

13:37:54 13 A. Yes, that's what it says.

13:37:55 14 Q. Do you know if your office has had to use this
13:37:57 15 guidance because they've received potentially fraudulent
13:38:00 16 documents?

13:38:02 17 A. That, I'll have to ask Donna -- respond. I'm not
13:38:06 18 aware that we have. It wasn't brought to my attention.
13:38:10 19 But Donna is the one that works with it.

13:38:13 20 Q. Okay. Thank you. I will stop that screen share.

13:38:22 21 Another question on the topic of databases.
13:38:25 22 You mentioned sometimes using Social Security information
13:38:30 23 or that -- that's part of what the MVD database checks; is
13:38:34 24 that right?

13:38:34 25 A. Yes. Well, it's -- it's through the HAVA system.

13:38:40 1 And I -- that's to match for the federal-only voters' proof
13:38:46 2 of identity.

13:38:49 3 Q. Okay. Understood. So that's HAVA system and it's
13:38:54 4 used to show identity. Okay.

13:38:55 5 So if a voter does not have a Social Security
13:38:59 6 number when one of the checks is run, could that suggest
13:39:02 7 that that person is not a U.S. citizen?

13:39:05 8 A. No. It means they didn't fill out the
13:39:08 9 information, didn't have an Arizona driver's license, and
13:39:14 10 they didn't provide any of the DPOC.

13:39:19 11 Q. Understood.

13:39:20 12 So they wouldn't have provided their Social
13:39:22 13 Security number when they applied for a driver's license?

13:39:26 14 A. No. Driver's license would show up if there's a
13:39:30 15 match. But there's some people that are not -- don't have
13:39:37 16 Arizona driver's license. They use the federal-only -- the
13:39:41 17 federal form or national form to register.

13:39:46 18 And the Social Security number would -- if it
13:39:50 19 had a match in the Social Security system, would prove
13:39:53 20 their identity essentially. The NVRA has it in there about
13:40:00 21 identity on what -- if you -- if we accept it or they've
13:40:06 22 proven identity, they can vote an early ballot, from what I
13:40:09 23 understand, and they don't have to show up in person to
13:40:13 24 vote. But if they have not, they will have to show up in
13:40:16 25 person to vote for the first time. And then after the

13:40:21 1 first time, it's -- they could vote by mail.

13:40:26 2 Q. Okay. So I -- just to be clear, if that check was
13:40:30 3 run and there just was no Social Security number, what
13:40:34 4 would happen then?

13:40:36 5 A. They would be put as a federal-only voter and ID
13:40:42 6 required. I think we call it "fed ID." And they would not
13:40:49 7 be mailed an early ballot if they had requested one.

13:40:55 8 Q. Okay. Understood.

13:40:58 9 And then just one point of clarification. If
13:41:01 10 an individual fails to provide DPOC but does check the
13:41:06 11 citizenship box "yes," are they registered as a full-ballot
13:41:10 12 voter?

13:41:10 13 A. No. They would be a federal-only voter.

13:41:17 14 Q. Okay. Understood.

13:41:19 15 I wanted to ask you a little bit more about
13:41:22 16 the jury questionnaire reports that your office receives.

13:41:25 17 A. Okay.

13:41:26 18 Q. You mentioned that most people submitted -- you
13:41:30 19 know, said on their questionnaire that they're not a U.S.
13:41:33 20 citizen just to get out of jury duty; is that right?

13:41:36 21 A. Some -- yeah, some people. That's where I -- it's
13:41:41 22 not a large number of people, but when we've followed up
13:41:46 23 with them, that's what they have been -- they say. So I
13:41:52 24 have verified recently that there is an oath now -- I don't
13:41:56 25 know if it wasn't on in the past -- that they're swearing

13:42:02 1 or affirming that the information on the jury questionnaire
13:42:06 2 is truthful.

13:42:09 3 Q. Yes. So if they -- you mentioned that they -- you
13:42:14 4 think that in most cases, they're just, for lack of a
13:42:19 5 better term, lying on the form to try to get out of jury
13:42:21 6 duty. Does your office confirm that? Like, what's the
13:42:25 7 process for making sure that it was just a
13:42:29 8 misrepresentation?

13:42:30 9 A. We would send a letter or try to call them and see
13:42:36 10 why they marked -- are they indeed not a U.S. citizen.
13:42:41 11 Because some people that are not U.S. citizens have a
13:42:45 12 driver's license and they may be in the jury pool -- to
13:42:51 13 have the jury pool. And so those cases, they can't serve
13:42:57 14 on a jury either.

13:43:00 15 Q. So there are some cases where that -- that answer
13:43:04 16 they gave on the questionnaire is truthful and they are not
13:43:06 17 U.S. citizens?

13:43:08 18 A. Not if they're registrants. I'm not aware of --
13:43:13 19 and that's what -- when we get the list -- Donna is more
13:43:18 20 familiar with this.

13:43:20 21 From what I understand, when it says "not
13:43:22 22 U.S. citizen" on the jury list, when they check it, they
13:43:26 23 find out they're not registered voters. But Donna is much
13:43:31 24 more familiar with the jury list processing than I am.

13:43:35 25 Q. Okay. I just had one more question on that.

13:43:40 1 You mentioned that when you -- when you get
13:43:46 2 this information, you reach out to the -- to the voter and
13:43:49 3 you -- or the person who put this on there, the registrant,
13:43:52 4 and you confirm with them. At that point, do you just take
13:43:56 5 their word for it at face value -- if they say, "Oh, no --
13:44:00 6 yes, I'm a citizen. I just put that down on the jury
13:44:04 7 form," is that the end of the inquiry, or do you ask for
13:44:07 8 some kind of verification?

13:44:08 9 A. It would be the end of the inquiry if they had
13:44:11 10 supplied DPOC.

13:44:13 11 Q. Okay. And if they hadn't supplied DPOC --

13:44:17 12 A. Then they would have to submit something.

13:44:21 13 Q. Okay. Thank you.

13:44:22 14 A. I don't know if we've had that situation ever come
13:44:25 15 up, though.

13:44:26 16 Q. Understood. Okay.

13:44:28 17 And now, I wanted to talk a little bit about
13:44:32 18 birthplace.

13:44:33 19 You mentioned that you used to work as an
13:44:35 20 elections official in the state of Nebraska; is that right?

13:44:38 21 A. Yes.

13:44:39 22 Q. And you mentioned that their voters were required
13:44:43 23 to list birthplace on their applications?

13:44:46 24 A. Yes.

13:44:46 25 Q. And so if they -- if they didn't -- if they listed

13:44:52 1 a birthplace that was outside of the United States, your
13:44:55 2 office would have to follow up with them to confirm that
13:44:59 3 they were eligible to vote?

13:45:01 4 A. Yes.

13:45:02 5 Q. Okay. Did you find that process to be burdensome
13:45:08 6 on voters?

13:45:10 7 A. No. Because we would take their word for it if
13:45:14 8 they said they were naturalized.

13:45:16 9 Now, if they were naturalized citizens, we
13:45:19 10 did ask for the date of their nat- -- naturalization. And
13:45:24 11 if they said that a parent was a U.S. citizen, they didn't
13:45:28 12 have to provide any additional proof or anything.

13:45:33 13 Q. Okay. And did you -- in your view, was that
13:45:35 14 process discriminatory toward any group of voters?

13:45:39 15 A. No. Not in Nebraska, no.

13:45:44 16 Q. Okay. Thank you.

13:45:45 17 And I just wanted to confirm, your office
13:45:50 18 doesn't track whether voters provide correct or incorrect
13:45:54 19 birthplaces on the form as it exists now; correct?

13:45:56 20 A. That is correct.

13:45:57 21 Q. And I understand there's probably no easy way to
13:46:01 22 determine this, but generally, in your experience, do
13:46:05 23 voters commonly list their birthplace even though it's not
13:46:08 24 required?

13:46:10 25 A. They will put a lot of times -- I'll have to look

13:46:14 1 at the form, but I think it says "county," and sometimes
13:46:19 2 they'll put country, like USA on it, or instead of a state
13:46:25 3 or, you know, where they were registered -- I mean where
13:46:31 4 they were born.

13:46:32 5 Q. Okay. So it's fairly common for people to include
13:46:36 6 that on their form?

13:46:37 7 A. Yeah. The forms I have processed, I see that
13:46:41 8 filled out.

13:46:42 9 Q. Okay. And then does the county ever use that as a
13:46:49 10 way to help identify a voter over phone? For example, if
13:46:51 11 they call and they say, "I'm so and so," and you can ask,
13:46:53 12 "Are you the so and so who was born in this place?"

13:46:57 13 A. That, I would have to ask Donna. I don't ask for
13:47:05 14 birthplace when I ask for confirmation, but I'm not
13:47:11 15 positive what our current written procedures are for our
13:47:16 16 staff in the office. Since it's not required, my guess is
13:47:21 17 they don't, but Donna could answer that better.

13:47:24 18 Q. Okay. Thank you.

13:47:25 19 And if a court or the secretary of state
13:47:28 20 issued guidance that a county should change how it uses
13:47:33 21 birthplace information, would the recorder follow that
13:47:35 22 instruction?

13:47:35 23 A. Yes.

13:47:42 24 Q. And let's -- let's imagine a scenario where a
13:47:44 25 registrant were to write on his or her form that she was

13:47:48 1 born in one state -- for example, New York -- but then
13:47:51 2 provided a copy of the birth certificate that was from a
13:47:54 3 different state -- let's say Florida -- what would your
13:47:57 4 office do in that situation?

13:48:02 5 MS. LANG: Form.

13:48:02 6 THE WITNESS: That, I don't know. I'm not
13:48:03 7 aware we've ever had that situation come up.

13:48:03 8 BY MR. HORLEY:

13:48:07 9 Q. Could that situation potentially raise a red flag
13:48:10 10 about that voter's identity?

13:48:16 11 A. Yeah, I guess. I'd probably want to ask legal
13:48:20 12 counsel on, you know, that because I don't know if it would
13:48:24 13 indicate the type of fraud or what. But, yeah, I'm not
13:48:31 14 aware that the -- a lot of times, they will put Arizona --
13:48:36 15 they -- like, if they put Arizona as their birthplace for
13:48:40 16 one and then the birth certificate was somewhere else --
13:48:44 17 people don't fill out forms very well, and they're like,
13:48:48 18 "I'm in Arizona," and they just write the state they're in.

13:48:53 19 Q. Understood.

13:48:54 20 A. That would be, I think, more common than if it was
13:48:57 21 like a New York or Florida situation.

13:49:02 22 Q. Okay. Thank you.

13:49:04 23 I wanted to quickly go over some documents
13:49:08 24 that haven't been entered yet. These are emails and
13:49:12 25 attachments that you were involved in. So I'm going to do

13:49:14 1 the same screen sharing thing.

13:49:17 2 A. Okay.

13:49:17 3 Q. So just one moment while I pull those up.

13:49:43 4 Okay. Can you see this document?

13:49:45 5 A. Yes. But I can't really read it.

13:49:50 6 There, that's good.

13:49:51 7 Q. Better. Okay.

13:49:53 8 And then I am going to -- well, first, let me

13:49:57 9 ask: So -- so you -- do you recognize this -- this

13:49:59 10 document?

13:50:00 11 A. Yes.

13:50:02 12 Q. And did your office produce this in response to

13:50:06 13 plaintiffs' request for production?

13:50:08 14 A. Yes.

13:50:08 15 Q. Okay.

13:50:10 16 MR. HORLEY: Okay. I would like to mark this

13:50:11 17 as Exhibit 178.

13:50:21 18 THE COURT REPORTER: 179.

13:50:26 19 MR. HORLEY: I'm sorry. 179.

13:50:26 20 (The document was marked as Exhibit 179

13:50:31 21 for identification.)

13:50:31 22 BY MR. HORLEY:

13:50:32 23 Q. Okay. So I'm going to scroll down here toward the

13:50:37 24 bottom of page 1, top of page 2.

13:50:40 25 Do you recognize this email from Ian Camacho?

13:50:45 1 A. Yes.

13:50:45 2 Q. And I'll give you just a quick second to review
13:50:49 3 the text of that email.

13:50:55 4 A. Okay.

13:50:56 5 Q. Okay. And then scrolling up here, I see in your
13:51:01 6 response that you said, "Mr. Camacho, we looked into the
13:51:05 7 list registrants you sent to us and have taken the
13:51:08 8 necessary actions under law to address the issues that we
13:51:10 9 found"; is that right?

13:51:11 10 A. Yes.

13:51:11 11 Q. So could you just tell me a little bit more about
13:51:16 12 what happened with this email?

13:51:21 13 A. We checked what he -- what's -- what he sent and
13:51:25 14 we found that he didn't have all the information, as I
13:51:33 15 recall. Most of the registrants had either moved out of
13:51:37 16 state and had already been canceled or were -- I'll have to
13:51:44 17 ask Donna more. Donna and Sedona are the two that checked
13:51:49 18 that. But I don't take his information for cancellation.

13:51:56 19 What we would do if we did have a question is
13:51:59 20 we would send probably a voter ID card -- so Donna will
13:52:03 21 confirm this -- to an address where we think somebody may
13:52:08 22 have moved and see if it comes back to us with a different
13:52:11 23 address or undeliverable.

13:52:14 24 Q. Okay. Understood.

13:52:17 25 And has your office received a lot of these

13:52:21 1 kinds of emails and things like this from -- from

13:52:25 2 Mr. Camacho?

13:52:26 3 A. Yes. He seems to be quite regular at sending it.

13:52:31 4 Q. And from other voters as well?

13:52:35 5 A. I can't recall from other voters, no.

13:52:37 6 Q. Okay. Do you think that having more sort of

13:52:43 7 robust authentication procedures in the registration

13:52:48 8 process might help to cut down on these sorts of inquiries

13:52:51 9 from -- from folks like Mr. Camacho?

13:52:55 10 A. No. I think he doesn't understand all of the

13:53:04 11 laws. Like, you can stay registered to vote in Arizona,

13:53:08 12 and if you're working, you know, in Washington, D.C. --

13:53:13 13 people have two residences. So they can kind of decide on

13:53:17 14 their own. And he doesn't have that information.

13:53:20 15 And he looks at stuff like it's zoned

13:53:24 16 commercial property, and it turns out there is an apartment

13:53:29 17 or a living space at the commercial property. He's kind of

13:53:33 18 a -- I don't know. He wants to -- he wants to do our job,

13:53:39 19 I guess, for us. So that's why I never respond what we

13:53:45 20 find out to him.

13:53:49 21 Q. Understood. All right. Thank you. That's all I

13:53:52 22 have on that document.

13:53:55 23 MR. HORLEY: And I believe those are all the

13:53:57 24 questions I have for you. Thank you, Ms. Hansen.

13:53:58 25 I think maybe some of my colleagues on the

13:54:00 1 defense side might have further questions.

13:54:03 2 THE WITNESS: Okay. Thank you.

13:54:06 3 MR. LANGHOFER: Thanks, Tim. I'm happy to go
13:54:07 4 unless another one of the defense counsel wants to go
13:54:11 5 first.

13:54:11 6

13:54:11 7 EXAMINATION

13:54:11 8 BY MR. LANGHOFER:

13:54:11 9 Q. All right. Hearing none, Ms. Hansen, I'm Kory
13:54:14 10 Langhofer. I -- I don't know that we've ever talked --

13:54:19 11 A. Yeah, we've met. I recognize your name too.

13:54:21 12 Q. Yeah. Yeah, I think we've communicated a lot in
13:54:24 13 writing. Nice -- nice to connect, even if it's virtually
13:54:27 14 here.

13:54:28 15 A. Nice to see you.

13:54:28 16 Q. I represent the RNC in this case. And, you know,
13:54:34 17 you've, obviously, endured hours of questions here. I
13:54:36 18 don't have much to add to that, but I have just a couple --
13:54:39 19 a handful, I should say.

13:54:40 20 So has your office ever referred anything to
13:54:46 21 law enforcement that arose out of voter registration
13:54:51 22 issues?

13:54:51 23 A. Yes, we have.

13:54:53 24 Q. Can you tell me about those?

13:54:56 25 A. You're asking me to remember details.

13:54:58 1 It seems to me it was in regards to the town
13:55:04 2 of Tusayan and a person who voted twice -- or attempted to
13:55:13 3 vote twice. Those are the ones that I remember that we
13:55:19 4 would refer to.

13:55:21 5 Q. Did they have issues with folks in Tusayan
13:55:25 6 registering or attempting to register to vote there even
13:55:27 7 though they didn't live there?

13:55:29 8 A. Well, Tusayan is an interesting community in that
13:55:33 9 the -- most of the property is owned by businesses and
13:55:40 10 that, and so there's not a lot of private ownership of
13:55:44 11 property. And so the people who work there live in housing
13:55:46 12 provided by their employer or in a campground there. And
13:55:53 13 it's, unfortunately, a community that there has been a lot
13:55:58 14 of disagreement with different groups and there's been a
13:56:02 15 lot of accusations about people not residing there and
13:56:06 16 being ineligible to vote and -- from the two sides up there
13:56:12 17 that are in disagreement.

13:56:15 18 Q. And have you been able to definitively resolve
13:56:18 19 whether those folks actually reside where they came to
13:56:21 20 reside?

13:56:22 21 A. Well, it's been my experience people -- if there's
13:56:26 22 a question on residency, we have them -- we read them the
13:56:31 23 statute or have them read the statute and say where
13:56:36 24 you're -- you know, saying is your residence, do you meet
13:56:41 25 it. And we take their word for it.

13:56:41 1 Q. So --

13:56:43 2 A. And it's hard in that case because, like I said,

13:56:47 3 it's tied -- some people tie it to their employment. So if

13:56:52 4 they lose their job, they may move into the campground.

13:56:56 5 And it's -- it's a unique community.

13:57:03 6 Q. Those disputes in Tusayan have been going on for

13:57:06 7 quite a few years; am I right?

13:57:08 8 A. Yes, they have.

13:57:09 9 Q. At least -- at least eight years? Am I right

13:57:13 10 about that?

13:57:14 11 A. At least eight, yeah.

13:57:16 12 Q. Okay. Does your office have access to any

13:57:22 13 databases that you could use to check citizenship that are

13:57:28 14 more accurate than the MVD database and the SAVE database?

13:57:37 15 A. Not right now that I'm aware of, no. The one I

13:57:42 16 think is -- I have the most trust in is the SAVE database,

13:57:47 17 but that's not if you're born in the U.S. type things.

13:57:53 18 It's more -- from what I understand, that would be more

13:57:56 19 naturalization or things like that.

13:58:00 20 I don't know how it works. I know some

13:58:03 21 businesses check for -- if they're documented, I guess.

13:58:10 22 But those kind of databases, it is whether you're -- you've

13:58:14 23 entered the country with the correct documentation or if

13:58:19 24 you have not, so . . .

13:58:23 25 Q. Do you have -- apart from the MVD database and the

13:58:27 1 SAVE database, do you have access to anything that is more
13:58:32 2 current and reflects on citizenship status, any more up to
13:58:38 3 date?

13:58:38 4 A. No.

13:58:39 5 Q. Okay. When your office gets a state voter
13:58:49 6 registration form and there's no DPOC in the system -- so
13:58:53 7 you send out a notice to the voter saying, "You're missing
13:58:58 8 the DPOC," do you know what percentage of them respond and
13:59:01 9 provide the DPOC?

13:59:03 10 A. No, I don't. Donna may have a better idea of that
13:59:07 11 since she's the one that sends out the letters --

13:59:10 12 Q. Yeah.

13:59:11 13 A. -- or her staff does.

13:59:13 14 Q. I'll probably ask her about it.

13:59:14 15 Do you have a rough order of magnitude sense?
13:59:17 16 Are we talking like -- you know, do you have any even "wet
13:59:20 17 finger in the air" idea?

13:59:22 18 A. No. It depends on how many, like, federal-only
13:59:31 19 register -- or the federal forms we can get in, that's what
13:59:34 20 -- those forms -- we have that missing a lot more, I think,
13:59:38 21 than we do on the state forms.

13:59:40 22 Q. Yeah. The -- I want to talk about the checkbox,
13:59:49 23 because I think I've got a couple questions about the
13:59:51 24 checkbox briefly.

13:59:54 25 You had said that there were some problems

13:59:56 1 with the MVD database. I think in October of 2022 is when
14:00:00 2 they had that glitch, so -- but you'd also said that you
14:00:05 3 think, generally, it's a reliable system. Am I remembering
14:00:07 4 that right?

14:00:09 5 A. Yes.

14:00:09 6 Q. So it's reliable but imperfect. And you'd also
14:00:15 7 mentioned something -- I don't think I'd even thought of it
14:00:18 8 before, but the process of renouncing your citizenship.

14:00:20 9 You could provide DPOC and then the next day
14:00:23 10 or years later renounce your citizenship, theoretically.
14:00:28 11 So if we know that there are sometimes errors in the MVD
14:00:31 12 database or someone could lose their citizenship status, in
14:00:35 13 those sorts of circumstances, wouldn't there be at least
14:00:38 14 some value in having someone check a citizenship box and
14:00:41 15 say, like, "No, whatever your database says, whatever I put
14:00:44 16 in the database years ago through the MVD process, I am
14:00:48 17 currently a citizen"?

14:00:50 18 A. Well, one of my problems with the citizenship box
14:00:55 19 is it's buried in a small area. My personal opinion, if
14:01:00 20 they would put it really big in a giant box at the top --
14:01:04 21 "Are you a U.S. citizen, yes or no?" -- you wouldn't have
14:01:08 22 people missing it.

14:01:10 23 Q. So --

14:01:11 24 A. So that's -- it's -- the design of the form, I
14:01:19 25 think, leads to people missing things. It's right above,

14:01:24 1 as I recall, the signature box. It's a little bitty print.
14:01:28 2 And people -- I don't know. Since I've been doing this
14:01:34 3 36 years now, people used to fill out forms better than
14:01:38 4 they do now.

14:01:40 5 Q. I guess I'm not surprised to hear that. You know,
14:01:44 6 having employed some people younger than me, I'm not
14:01:46 7 shocked to hear you say that.

14:01:49 8 Well -- okay. So that's an interesting
14:01:53 9 point. Maybe there's a formatting issue there. What if we
14:01:56 10 could -- what if we could, you know, spend some hours and
14:01:58 11 reformat that document so that it was really prominent and
14:02:03 12 very clear, the citizenship answer is necessary and it was
14:02:10 13 very -- the wording was very simple so people can
14:02:12 14 understand it?

14:02:14 15 So basically, I'm imagining a world where we
14:02:17 16 could take out your formatting concerns. If we could do
14:02:21 17 that, would you agree that there would be some
14:02:23 18 informational value in having the answer from people, like
14:02:26 19 having them say that they are still citizens?

14:02:30 20 MS. LANG: Objection. Calls for speculation.

14:02:33 21 THE WITNESS: If they supply the proof of
14:02:37 22 citizenship, you've met the requirement. The point of both
14:02:42 23 of those -- the box and the DPOC -- is we're trying to find
14:02:47 24 out: Are you a U.S. citizen? Yes or no?

14:02:50 25 And I think both things -- you know, if we

14:02:55 1 could take it that the box is checked "yes" and you don't
14:02:59 2 have to supply the DPOC, you know, it would be, we take you
14:03:04 3 at your word in signing the affirmation. If you supply the
14:03:10 4 DPOC, you've supplied proof of citizenship. So why do you
14:03:13 5 have to check a box too, I guess. That's what -- it seems
14:03:19 6 kind of redundant.

14:03:20 7 BY MR. LANGHOFER:

14:03:20 8 Q. Let's walk through that.

14:03:21 9 So if someone provides you a DPOC, let's say
14:03:30 10 they attach a copy of their birth certificate but they
14:03:34 11 don't check the box, it would be possible, wouldn't it,
14:03:37 12 that they have renounced their citizenship since they were
14:03:41 13 born; right? So even if they've got a -- they've got DPOC,
14:03:46 14 they -- in order to really know whether they're a citizen,
14:03:49 15 you need them to currently indicate whether they're a
14:03:52 16 citizen. Do you agree with that?

14:03:53 17 MS. LANG: Objection. Calls for speculation.

14:03:59 18 THE WITNESS: I don't know how many people
14:04:01 19 renounce citizenship.

14:04:06 20 BY MR. LANGHOFER:

14:04:06 21 Q. Not many.

14:04:07 22 A. I mean, you know, it's -- I've never seen it
14:04:10 23 happen personally but . . .

14:04:13 24 Q. Yeah, I think that's a fair point.

14:04:14 25 A. I mean, I don't like -- I don't think it's good to

14:04:18 1 have a procedure in place where you may put a block for any
14:04:27 2 what-if scenario, no matter how minute the reason it's
14:04:33 3 there, that may keep eligible people from being able to
14:04:37 4 exercise their right to vote.

14:04:39 5 Q. Well, so I understand what you're saying. And
14:04:45 6 the -- I think what you're saying is, this is why you would
14:04:48 7 vote against the bill. And I think you've articulated that
14:04:52 8 really well, and I think you -- I think you articulated
14:04:54 9 that to the governor as well as anyone. So I understand
14:04:59 10 why you think it's a bad idea.

14:05:01 11 I'm asking a little bit different question,
14:05:03 12 though, which is: You know, it is theoretically possible
14:05:09 13 that someone could obtain DPOC at some point? They have a
14:05:13 14 naturalization certificate; they have a birth certificate;
14:05:13 15 a passport. And after getting that, they're either
14:05:18 16 forcibly denaturalized -- there is a process for that -- or
14:05:21 17 they renounced their citizenship.

14:05:23 18 And so if we're not requiring them to say, "I
14:05:27 19 am currently a U.S. citizen," isn't there some chance
14:05:30 20 you're letting someone register who's, in fact, not a
14:05:33 21 citizen?

14:05:33 22 MS. LANG: Objection. Calls for speculation.
14:05:36 23 Asked and answered.

14:05:39 24 THE WITNESS: It could be a possibility but
14:05:44 25 not a probability.

14:05:46 1 BY MR. LANGHOFER:

14:05:47 2 Q. So --

14:05:47 3 A. In my opinion. And this is my opinion.

14:05:51 4 Q. Yeah, I -- I totally understand that.

14:05:54 5 So similarly, if the MVD system has had
14:05:58 6 problems -- you know, in October of 2022, there was a
14:06:01 7 problem. I think it lasted only a week or so. But if it
14:06:05 8 has had problems -- and for many of these voters, the DPOC
14:06:10 9 that you're relying on is just in the system, which
14:06:13 10 apparently has some problems. For those folks, isn't it
14:06:17 11 also valuable to have a current avowal from the registrant
14:06:23 12 that they are a U.S. citizen?

14:06:25 13 MS. LANG: Objection. Lack of foundation.
14:06:28 14 The problem that was identified in the MVD database is
14:06:34 15 not --

14:06:34 16 MR. LANGHOFER: Speaking objections are not
14:06:34 17 allowed. You don't get to coach the witness. You've made
14:06:34 18 your objection.

14:06:38 19 THE WITNESS: Well, at the time there was the
14:06:41 20 problem, there were new databases being created. AVID was
14:06:47 21 new or, you know, updated -- well, AVID essentially was new
14:06:51 22 because it was PowerProfile before and that -- that's my
14:06:55 23 problem with databases. Any database is possible to get a
14:07:01 24 glitch in, no matter which ones you look at.

14:07:01 25 BY MR. LANGHOFER:

14:07:06 1 Q. Those glitches -- those glitches don't all go one
14:07:09 2 way; they don't all indicate that someone is not a citizen
14:07:12 3 when they actually are; they could also indicate that
14:07:13 4 someone is a citizen when there's not evidence of that;
14:07:16 5 fair?

14:07:16 6 MS. LANG: Objection. Lack of foundation.
14:07:17 7 Calls for speculation.

14:07:20 8 THE WITNESS: I guess if there's a glitch.
14:07:22 9 BY MR. LANGHOFER:

14:07:23 10 Q. Yeah. And so because you're partially worried
14:07:26 11 about glitches, wouldn't the requirement that a proposed
14:07:32 12 registrant has to say, "I currently am a citizen" add some
14:07:37 13 informational value?

14:07:38 14 MS. LANG: Objection. Calls for speculation.
14:07:42 15 Asked and answered

14:07:43 16 THE WITNESS: Yeah, they provided it if they
14:07:46 17 provided DPOC.

14:07:47 18 BY MR. LANGHOFER:

14:07:49 19 Q. But -- but the evidence of DPOC in [indiscernible]
14:07:49 20 database --

14:07:49 21 THE COURT REPORTER: I'm sorry. You cut out.
14:07:49 22 You cut out. "The evidence of DPOC" --

14:07:49 23 BY MR. LANGHOFER:

14:07:58 24 Q. -- is, for some people, just what's in the
14:08:00 25 database, which we're acknowledging here could be

14:08:03 1 unreliable?

14:08:04 2 MS. LANG: Objection. Argumentative.

14:08:06 3 Objection. Asked and answered. Calls for speculation.

14:08:13 4 THE WITNESS: We've had the instance, as I
14:08:17 5 mentioned, the county employee that I know who got
14:08:21 6 naturalized, but the Motor Vehicles still did not have him
14:08:26 7 in as a citizen.

14:08:31 8 BY MR. LANGHOFER:

14:08:31 9 Q. So in that case, would there have been some
14:08:35 10 informational value in him saying on the form that he's a
14:08:38 11 citizen?

14:08:38 12 A. I think he did.

14:08:40 13 Q. Okay. And there was informational value in that?

14:08:45 14 A. We couldn't take it as proof of citizenship.

14:08:49 15 Q. That's not what I asked.

14:08:51 16 A. Yeah. And our procedures in the EPM was to --
14:08:57 17 that -- as I recall, is that if it was a -- indicated in an
14:09:04 18 MVD, we could not take that "Yes, I'm a U.S. citizen" as
14:09:09 19 proof of citizenship and we had to follow up with him.

14:09:14 20 Q. We -- we definitely understand that you oppose
14:09:18 21 these laws. I mean, that's a matter of public record.
14:09:20 22 You've testified to it already. I'm not asking whether you
14:09:23 23 think it's right.

14:09:23 24 A. Yeah.

14:09:24 25 Q. What I'm saying is, if you know that these

14:09:27 1 databases can have errors and the errors could say that
14:09:30 2 someone has provided DPOC when, in fact, they haven't,
14:09:33 3 isn't there informational value in asking them to swear
14:09:37 4 that they are, in fact, citizens?

14:09:39 5 MS. LANG: Objection. Asked and answered.
14:09:42 6 Argumentative. Speculative.

14:09:43 7 Mr. Langhofer, you've asked this question at
14:09:45 8 least four times now and you've gotten an answer.

14:09:48 9 MR. LANGHOFER: Danielle, she's dodged it.
14:09:52 10 No, she -- she has not -- I have not gotten an answer.
14:09:52 11 She's answered a different question, which is basically
14:09:53 12 whether she thinks it's a good policy. And she definitely
14:09:56 13 doesn't think it's a good policy.

14:09:58 14 But she does have an answer for this
14:09:59 15 question, which I will get before we're done here.

14:10:03 16 THE WITNESS: Well, you're asking my opinion
14:10:05 17 and I don't -- I don't think --

14:10:08 18 BY MR. LANGHOFER:

14:10:09 19 Q. Is it your position that there is no informational
14:10:11 20 value in this checkbox even when you know that for some
14:10:15 21 people, their DPOC indication in the database could be
14:10:19 22 wrong?

14:10:19 23 MS. LANG: Objection. Lack of foundation.
14:10:22 24 Asked and answered. Argumentative. Calls for speculation.

14:10:26 25 THE WITNESS: I think it's informational if

14:10:29 1 they mark "no." For me, that's information that I would
14:10:35 2 find useful.

14:10:36 3 BY MR. LANGHOFER:

14:10:37 4 Q. And if someone marks "yes," you don't think that
14:10:39 5 has any informational value?

14:10:40 6 A. Not if they provided DPOC.

14:10:42 7 Q. And what if they refused to answer it? Wouldn't
14:10:44 8 that --

14:10:45 9 A. Then they're a federal-only voter because of the
14:10:49 10 decision in the court case.

14:10:51 11 Q. If someone refuses to answer a question, couldn't
14:10:54 12 it imply that the answer is not advantageous to them?

14:10:58 13 MS. LANG: Objection. Calls for speculation.
14:11:00 14 Lack of foundation.

14:11:02 15 THE WITNESS: Can I ask my legal counsel a
14:11:06 16 question?

14:11:08 17 BY MR. LANGHOFER:

14:11:08 18 Q. Yeah, you can. I mean, I think the custom which
14:11:11 19 they --

14:11:15 20 A. I -- you know, you're asking me if I have an
14:11:18 21 opinion on whether that information would be useful to us
14:11:25 22 to process registrations; right?

14:11:27 23 Q. No. I'm asking whether there's information value
14:11:30 24 there. Whether -- whether it's useful to you is kind of
14:11:32 25 something that the Court will be looking at eventually.

14:11:39 1 A. I'm not seeing the difference, I guess, is my
14:11:41 2 problem.

14:11:43 3 Q. I think the question -- the last question I asked
14:11:46 4 was: Is it your position that there is no informational
14:11:49 5 value when someone says -- refuses to say whether they're a
14:11:54 6 citizen?

14:11:55 7 MS. LANG: Objection. Lack of foundation.
14:11:57 8 Calls for speculation. Asked and answered. Argumentative.

14:12:03 9 THE WITNESS: I guess not.

14:12:07 10 BY MR. LANGHOFER:

14:12:09 11 Q. I'm sorry.

14:12:09 12 Are you saying that's not your position or
14:12:11 13 it's not informational value?

14:12:13 14 A. It's -- information -- you've signed an oath that
14:12:17 15 says an affirmation that the information is -- you meet the
14:12:22 16 qualifications to register to vote, which is listed on the
14:12:25 17 registration form. You've provided DPOC. So I -- yeah.

14:12:32 18 Q. So --

14:12:32 19 A. I'm sorry.

14:12:33 20 Q. I'm sorry. You're getting confused.

14:12:35 21 You just said -- I was about to take your
14:12:38 22 answer as your final position, but then you said, "You've
14:12:40 23 provided DPOC." And I was trying to limit this to people
14:12:43 24 for whom the database says they provided DPOC, but we have
14:12:48 25 already discussed the database could be wrong.

14:12:50 1 So you've got the database. Could be right,
14:12:54 2 could be wrong -- probably right -- and they refuse to
14:12:58 3 check the box saying they're a citizen. Are you saying the
14:13:01 4 absence of that information has no informational value?

14:13:06 5 MS. LANG: Objection. Lack of foundation.
14:13:08 6 Calls for speculation. Asked and answered. Argumentative.

14:13:14 7 THE WITNESS: Like I said, if you mark "no,"
14:13:22 8 we're going to assume you're not. So I -- if you mark
14:13:28 9 "yes," it's the same as providing the DPOC or not providing
14:13:32 10 it. You're a fed-only voter.

14:13:32 11 BY MR. LANGHOFER:

14:13:35 12 Q. And if someone refuses to mark the box --

14:13:38 13 A. You don't know if they're refusing or if they
14:13:41 14 missed it while filling it out. Unless the person is in
14:13:47 15 front of me and I'm asking them, "Are you a U.S. citizen?"
14:13:50 16 The only way I would know they refused is they tell me, "I
14:13:55 17 refuse to answer that."

14:13:59 18 So I guess that's where I'm coming from.

14:14:03 19 Q. If I understand it correctly then, you would
14:14:06 20 attribute nonresponsiveness to voter error and overlook it?

14:14:14 21 A. That's how I would look at it, yes.

14:14:16 22 Q. What if a voter put their name but nothing else on
14:14:20 23 the form, would you attribute that silence to voter error
14:14:23 24 and register them?

14:14:23 25 A. No. We --

14:14:24 1 MS. LANG: Objection. Lack of -- objection;
14:14:29 2 form.

14:14:30 3 THE WITNESS: In the EPM, it spells out what
14:14:33 4 is needed, and also in the statute, what is required to
14:14:37 5 register. So if you don't have an address, you don't have
14:14:40 6 your birth date, you don't have a signature, we can't
14:14:45 7 register you.

14:14:45 8 BY MR. LANGHOFER:

14:14:46 9 Q. Okay. And if the statute says you've got to have
14:14:49 10 a check in that box, you would ignore that part of the
14:14:52 11 statute?

14:14:53 12 MS. LANG: Objection. Lack of foundation.
14:14:55 13 Misstates testimony.

14:14:57 14 THE WITNESS: We would follow what the Court
14:15:01 15 rules in this case

14:15:03 16 BY MR. LANGHOFER:

14:15:03 17 Q. Okay. Let's move on, mostly to save Ms. Lang's
14:15:10 18 vocal cords from further objections.

14:15:13 19 MS. LANG: Thank you.

14:15:15 20 MR. LANGHOFER: Yeah.

14:15:23 21 MR. MORGAN: I think we've also learned when
14:15:23 22 Kory says he has a handful of questions, he has huge hands.

14:15:28 23 BY MR. LANGHOFER:

14:15:28 24 Q. All right. So I think this is my last question.

14:15:32 25 So we've heard from some other counties that

14:15:34 1 sometimes there's these voter registration drives and
14:15:38 2 they'll get a whole bunch of forms in. And then
14:15:40 3 occasionally, on -- they'll have -- it appears to be some
14:15:44 4 bad apples, folks who are filling out voter registration
14:15:47 5 forms with the same information multiple times, maybe
14:15:49 6 handwriting is all the same, kind of suspicious patterns in
14:15:53 7 these voter registration forms.

14:15:54 8 Have you had anything like that in Coconino
14:16:03 9 County?

14:16:03 10 MS. LANG: Objection. Lack of foundation.

14:16:04 11 THE WITNESS: Yeah, we've had registrations
14:16:05 12 where it's obvious that somebody was trying to register
14:16:10 13 someone else; that it was not filled out by the
14:16:13 14 registrants.

14:16:17 15 BY MR. LANGHOFER:

14:16:17 16 Q. How is it obvious?

14:16:19 17 A. Well, a lot of it is the -- if there -- if it's a
14:16:22 18 reregistration, they'll have wrong information, like birth
14:16:26 19 dates. And the best way for us to check these things is
14:16:30 20 when we put it in the system and they run the HAVA check
14:16:35 21 against Motor Vehicles, it comes back and it's -- there's
14:16:39 22 no match or it's, like, somebody else's. Usually it's no
14:16:45 23 match because they don't know what the driver's license
14:16:48 24 number would be and such.

14:16:56 25 That's -- but Donna is much more familiar

14:16:58 1 with this since she does the majority -- or oversees the

14:17:01 2 majority of voter registrations processing.

14:17:03 3 Q. All right.

14:17:04 4 A. But it's -- we haven't seen a lot of it, but we've

14:17:08 5 seen some. I know some counties have had more problems

14:17:13 6 than we have had here, thank goodness.

14:17:15 7 Q. Do you have any sense of how many we're talking

14:17:17 8 about in your county?

14:17:19 9 A. I'd have to ask Donna on that.

14:17:23 10 MR. LANGHOFER: Thank you, ma'am. That's all

14:17:24 11 the questions I have.

14:17:25 12 Are we going to ask questions of Donna now?

14:17:48 13 MR. MORGAN: Yeah, I don't -- I don't pretend

14:17:50 14 that I'm in charge or anything, but, I guess, does anybody

14:17:54 15 else have questions for the recorder?

14:17:58 16 MS. LANG: I have just a couple follow-up

14:18:00 17 questions for Ms. Hansen, but I don't have big hands like

14:18:02 18 Kory, so I do mean just a couple of questions, if that's

14:18:02 19 all right.

14:18:10 20 I don't know if any of the other plaintiffs

14:18:11 21 have any follow-up. Alex very well may.

14:18:15 22 Is it okay with you, Alex, if I just go

14:18:18 23 ahead?

14:18:20 24 MR. ATKINS: Yeah, that's just fine.

14:18:20 25 MS. LANG: Great.

14:18:20 1 FURTHER EXAMINATION

14:18:20 2 BY MS. LANG:

14:18:20 3 Q. Thanks, Ms. Hansen.

14:18:23 4 I just -- you'll have to forgive me. I'm not

14:18:26 5 familiar with the place. But you were talking about a town

14:18:30 6 with Mr. Langhofer -- Tusayan?

14:18:33 7 A. Tusayan.

14:18:34 8 Q. Tusayan. Okay.

14:18:36 9 And I think you testified that there maybe

14:18:40 10 have been one or two referrals there related to double

14:18:44 11 voting; is that right?

14:18:45 12 A. Yes.

14:18:48 13 Q. And you had -- you had agreed with Mr. Langhofer

14:18:51 14 that there had been some disagreements about residents

14:18:56 15 there about the residency status of some of those

14:18:59 16 individuals.

14:19:01 17 Have you actually had any referrals for

14:19:03 18 anyone who was actually found to not reside there that was

14:19:09 19 claiming to reside there?

14:19:12 20 A. Well, we turned it over to the county attorney's

14:19:14 21 office for investigation, so they would be the ones to

14:19:20 22 check with on it -- or the sheriff. I think the sheriff

14:19:25 23 would be -- do follow-up on that.

14:19:27 24 Q. Okay. And you mentioned that a number of the

14:19:30 25 people in this town live on campgrounds; is that right?

14:19:34 1 A. Well, they live in either a campground -- but the
14:19:37 2 campground would be the private area, where they're living
14:19:41 3 actually in something, you know, like a tent or an RV that
14:19:47 4 they own. Or they live in company housing. Like,
14:19:52 5 McDonald's has a -- there has a dormitory, and it's a lot
14:19:57 6 of motels. So the motels would have living situations for
14:20:03 7 their employees.

14:20:05 8 Q. And many of those folks that reside on campgrounds
14:20:08 9 or in dormitories are legitimate residents that are
14:20:12 10 eligible to vote in the state of Arizona; correct?

14:20:15 11 A. Yes.

14:20:16 12 Q. And would those folks, based on your experience,
14:20:19 13 have easy access to any documentation of their residence if
14:20:24 14 they're living on a campground or an RV?

14:20:28 15 A. Well, they, I would think, would have a more
14:20:31 16 difficult time. So now there would be -- I guess I'm
14:20:40 17 trying to think for utilities and that. I don't -- I'd
14:20:45 18 have to ask Donna if she -- how many she would see that was
14:20:49 19 coming from that area that may not have the proof of
14:20:58 20 citizenship or -- but residency, I think, would be harder.

14:21:02 21 I do know Tusayan, as I recall, has an
14:21:06 22 awfully high number of people on the active early voting
14:21:09 23 list. And so they don't have to show ID to vote. So if
14:21:19 24 you're voting by mail, we check your signature. So since
14:21:24 25 we don't do the document -- the proof of residency yet, I

14:21:31 1 don't know.

14:21:33 2 MS. LANG: Thank you. I don't have any
14:21:34 3 further questions.

14:21:35 4 MR. ATKINS: I think I have just two.

14:21:35 5

14:21:40 6 FURTHER EXAMINATION

14:21:40 7 BY MR. ATKINS:

14:21:40 8 Q. Ms. Hansen, how long has it been since you worked
14:21:45 9 in election administration in the state of Nebraska?

14:21:49 10 A. I worked in the state of Nebraska starting in
14:21:52 11 April 1st, 1987, through 1999.

14:21:57 12 Q. And are you up to date on Nebraska's requirements
14:22:02 13 for voter registration?

14:22:05 14 A. No.

14:22:07 15 MR. ATKINS: I don't have any other
14:22:08 16 questions. Thank you. Thanks so much.

14:22:13 17 MR. MORGAN: All right. If there are no more
14:22:15 18 questions, I -- unlike Kory's hands, I have a relatively
14:22:19 19 small bladder. Can we take five minutes as we transition
14:22:22 20 to the next witness?

14:22:26 21 MS. WINKELER: That's good for us.

14:22:27 22 THE WITNESS: That's good.

14:22:28 23 MR. MORGAN: Thank you.

14:22:28 24 THE VIDEOGRAPHER: We are off the record.

14:22:29 25 Time on the video monitor is 2:22 p.m.

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(The proceedings concluded at 2:22 p.m.)

PATTY HANSEN

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1 STATE OF ARIZONA)
COUNTY OF MARICOPA)

2

3 BE IT KNOWN that the foregoing deposition was taken
4 by me pursuant to stipulation of counsel; that I was then
5 and there a Certified Court Reporter in the State of
6 Arizona, and by virtue hereof authorized to administer an
7 oath; that the witness before testifying was duly sworn by
8 me to testify to the whole truth; pursuant to request,
9 notification was provided that the deposition is available
10 for review and signature; that the questions propounded by
11 counsel and the answers of the witness thereto were taken
12 down by me in shorthand and thereafter transcribed into
13 typewriting under my direction; that the foregoing pages
14 are a full, true and accurate transcript of all the
15 proceedings had upon the taking of deposition, all done to
16 the best of my skill and ability.

17 I FURTHER CERTIFY that I am in no way related
18 to nor employed by any parties hereto; nor am I in any
19 way interested in the outcome thereof.


20 Dated at Phoenix, Arizona, this 8th day of
21 September, 2023.

22

23

24

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CINDY MAHONEY, RPR, RMR NO. 50680

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UNITED STATES DISTRICT COURT
DISTRICT OF ARIZONA

Mi Familia Vota, et al.,)	
)	
Plaintiffs,)	Case No.
	)	2:22-cv-00509-PHX-SRB
v.	)	(Lead)
)	
Adrian Fontes, in his	)	No. CV-22-00519-PHX-SRB
official capacity as	)	No. CV-22-01003-PHX-SRB
Arizona Secretary of State,	)	No. CV-22-01124-PHX-SRB
et al.,	)	No. CV-22-01369-PHX-SRB
	)	No. CV-22-01381-PHX-SRB
Defendants.	)	No. CV-22-01602-PHX-SRB
	)	No. CV-22-01901-PHX-SRB

AND CONSOLIDATED CASES.

VIDEO-RECORDED VIDEOCONFERENCE 30(b)(6) DEPOSITION OF U.S. CITIZENSHIP AND IMMIGRATION SERVICES (USCIS), REPRESENTED BY SHANNON SLATTERY, MARIAH DOOLITTLE, RUSSELL FILIGHERA

Camp Springs, Maryland

August 25, 2023

Prepared by:
CINDY MAHONEY, RPR, RMR
Certified Court Reporter
Certificate No. 50680



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VIDEO-RECORDED VIDEOCONFERENCE 30(b)(6)
DEPOSITION OF U.S. CITIZENSHIP AND IMMIGRATION SERVICES
(USCIS), REPRESENTED BY SHANNON SLATTERY, MARIAH DOOLITTLE,
RUSSELL FILIGHERA, at 12:07 p.m. EDT on August 25, 2023, at
Camp Springs, Maryland, before Cindy Mahoney, RPR, RMR (via
videoconference), Arizona Certified Court Reporter No.
50680.

* * *

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17 ALSO PRESENT (all via videoconference):

18 Shalaka Phadnis

19 Daniel Rohan, Videographer

20

21

22

23

24

25

1 TRANSCRIPT OF PROCEEDINGS

2
3 THE VIDEOGRAPHER: We are on the record.

4 Time on the video monitor is 12:07 p.m. Here begins

12:07:52 5 Volume 1, Media Number 1, in the 30(b)(6) deposition of

12:08:01 6 U.S. Citizenship and Immigration Services, witnesses by

12:07:57 7 Russell Filighera, Mariah Doolittle, and Shannon Slattery,

12:08:08 8 in the matter of Mi Familia Vota, et al., v. Adrian Fontes,

12:08:13 9 et al., in the United States District Court, District of

12:08:16 10 Arizona, Case Number 2:22-cv-00509-SRB.

12:08:24 11 Today's date is August 25th, 2023. Our court

12:08:28 12 reporter is Cindy Mahoney. My name is Dan Rohan, certified

12:08:35 13 legal videographer. We both represent Coash Court

12:08:39 14 Reporting & Video. This video deposition is taking place

12:08:41 15 at 5900 Capital Gateway Drive, Camp Springs, Maryland

12:08:46 16 20588.

12:08:48 17 Counsel, please identify yourselves and state

12:08:50 18 whom you represent.

12:08:52 19 MR. SHERMAN: Jon Sherman at Fair Elections

12:08:55 20 Center. I represent the Poder Latinx plaintiffs in this

12:08:59 21 case.

12:09:00 22 MR. ATKINS: Alexander Atkins for Elias Law

12:09:07 23 Group, representing plaintiffs Mi Familia Vota and Voto

12:09:11 24 Latino.

12:09:11 25 MR. HERRERA: Ernest Herrera, representing

12:09:20 1 Promise Arizona plaintiffs.

12:09:21 2 MS. SHAH: Niyati Shah, representing the
12:09:27 3 Equity Coalition plaintiffs.

12:09:28 4 MS. LANG: Danielle Lang, representing the
12:09:31 5 LUCHA plaintiffs.

12:09:35 6 MR. MORGAN: Craig Morgan for Sherman &
12:09:40 7 Howard, on behalf of Adrian Fontes, the Arizona secretary
12:09:44 8 of state.

12:09:45 9 MR. WHITAKER: Josh Whitaker on behalf of the
12:09:49 10 Arizona attorney general.

12:09:52 11 MR. LANGHOFER: Kory Langhofer for the RNC.

12:09:56 12 MR. BURKLEY: On our side, Bruce Burkley for
12:10:12 13 U.S. Citizenship and Immigration Services.

12:10:15 14 MR. BUSCH: And Philip Busch, U.S.
12:10:17 15 Citizenship and Immigration Services.

12:10:19 16
12:10:19 17 SHANNON SLATTERY, MARIAH DOOLITTLE, RUSSELL FILIGHERA,
18 the witnesses herein, being first duly sworn,
19 were examined and testified as follows:

20
21 EXAMINATION

22 BY MR. SHERMAN:

12:10:39 23 Q. Good morning. I should say "good afternoon."
12:10:42 24 Good morning to folks in Arizona, but good afternoon to
12:10:45 25 Ms. Slattery, Ms. Doolittle, and Mr. Filighera. Thank you

12:10:48 1 for being with us.

12:10:50 2 Again, my name is Jon Sherman. I'm with Fair
12:10:54 3 Elections Center. I represent the Poder Latinx plaintiffs
12:10:56 4 in this consolidated case.

12:10:58 5 I have some basic questions at the beginning
12:11:00 6 of this deposition. And I think it -- given that we have
12:11:05 7 three designees all testifying at once, I think we should
12:11:10 8 just establish an order of response. So if we could just
12:11:12 9 go Ms. Slattery, Ms. Doolittle, Mr. Filighera for these
12:11:16 10 intro questions, I think that would be most efficient.

12:11:20 11 Could you each please state your full name
12:11:21 12 and title for the record.

12:11:24 13 MS. SLATTERY: Good afternoon, everyone. My
12:11:26 14 name is Shannon Slattery. I am currently the acting chief
12:11:30 15 of the SAVE program.

12:11:35 16 MS. DOOLITTLE: My name is Mariah Doolittle.
12:11:35 17 I am the chief of product management and delivery.

12:11:40 18 MR. FILIGHERA: I am Russell Filighera. I am
12:11:43 19 the status verification operations branch chief.

12:11:43 20 BY MR. SHERMAN:

12:11:48 21 Q. Thank you.

12:11:48 22 How long have you been in these roles?

12:11:48 23 MS. SLATTERY: I've currently been in the
12:11:55 24 role since June 20th, 2023.

12:11:57 25 MS. DOOLITTLE: I have been officially in

12:12:00 1 this role since last September of -- 27th, so almost a year
12:12:07 2 know.

12:12:08 3 MR. FILIGHERA: I've been in this current
12:12:10 4 role since October 2022.

12:12:12 5 BY MR. SHERMAN:

12:12:13 6 Q. What positions did you hold before your current
12:12:16 7 ones?

12:12:17 8 MS. SLATTERY: I've held a variety of
12:12:19 9 positions within USCIS, including immigration services
12:12:22 10 officer, chief of the intergovernmental affairs team, chief
12:12:28 11 of the adjustment of status branch in USCIS field
12:12:34 12 operations, chief of staff in field operations, acting
12:12:37 13 assistant associate -- deputy assistant associate director
12:12:41 14 in field operations, and prior to coming to SAVE was a
12:12:43 15 senior advisor in the immigration records and identity
12:12:48 16 services front office.

12:12:51 17 MS. DOOLITTLE: Prior to this role, I was a
12:12:57 18 product owner in another division, IRIS IIMD. Before that,
12:12:58 19 I was in the verification division as an MPA, working on
12:13:01 20 the E-Verify and the SAVE program.

12:13:07 21 MR. FILIGHERA: Prior to the current
12:13:08 22 position, I was a supervisory management and program
12:13:12 23 analyst starting in 2009 with USCIS in a section called
12:13:17 24 case resolution. It was later renamed in a reorganization
12:13:21 25 as resolutions and products, where I maintained that same

12:13:24 1 position title, supervisory management program analyst,
12:13:28 2 until the current position that I am now.

12:13:32 3 BY MR. SHERMAN:

12:13:32 4 Q. Beyond what you three have just stated, could you
12:13:35 5 give a short description of your professional background?

12:13:39 6 MS. SLATTERY: I have been with USCIS for
12:13:41 7 15 years in the positions as described. Prior to joining
12:13:45 8 USCIS, I was an attorney in practice in the public
12:13:48 9 defender's office in Maricopa County, Arizona.

12:13:53 10 MS. DOOLITTLE: I've been with USCIS for
12:13:55 11 about 12 years in the MPA role, in the product owner role,
12:13:59 12 and now a supervisor role. Prior to that, I was a
12:14:03 13 government contractor for the Army, and prior to that, U.S.
12:14:09 14 Army reserve.

12:14:13 15 MR. FILIGHERA: With USCIS, as mentioned
12:14:14 16 prior, I started in 2009. Previous to the 2009 start with
12:14:19 17 USCIS, since 1994 up to 2009, I was with the Internal
12:14:26 18 Revenue Service.

12:14:26 19 BY MR. SHERMAN:

12:14:26 20 Q. Thank you.

12:14:27 21 Are you represented by an attorney today?
12:14:30 22 And who is that?

12:14:33 23 MS. SLATTERY: We are represented by USCIS
12:14:38 24 Office of Chief Counsel. Persons present in the room are
12:14:40 25 Bruce Burkley and Philip Busch.

12:14:42 1 BY MR. SHERMAN:

12:14:42 2 Q. Great. Thank you. For today's deposition, I want
12:14:44 3 to make sure the record is clear on a couple of points.

12:14:47 4 Do you each understand you are testifying
12:14:49 5 under oath today?

12:14:51 6 MS. SLATTERY: Yes.

12:14:52 7 MS. DOOLITTLE: Yes.

12:14:53 8 MR. FILIGHERA: Yes.

12:14:55 9 BY MR. SHERMAN:

12:14:55 10 Q. Do you understand a court reporter is transcribing
12:14:57 11 this deposition?

12:14:59 12 MS. SLATTERY: Yes.

12:15:00 13 MS. DOOLITTLE: Yes.

12:15:01 14 MR. FILIGHERA: Yes.

12:15:01 15 BY MR. SHERMAN:

12:15:01 16 Q. With that in mind, please answer questions audibly
12:15:04 17 and clearly. Please let me know if you do not understand a
12:15:07 18 question or need me to repeat any part of it.

12:15:09 19 If I ask a question and you answer the
12:15:12 20 question, I will assume that you understood the question.

12:15:15 21 If you did not understand the question, though, just please
12:15:17 22 tell me. Do you understand?

12:15:19 23 MS. SLATTERY: Yes.

12:15:20 24 MS. DOOLITTLE: Yes.

12:15:21 25 MR. FILIGHERA: Yes.

12:15:22 1 BY MR. SHERMAN:

12:15:23 2 Q. During this deposition, attorneys may make
12:15:25 3 objections. Even if they make objections, unless your
12:15:28 4 attorneys specifically instruct you not to answer the
12:15:31 5 question, you must still answer the question. Do you
12:15:31 6 understand?

12:15:33 7 MS. SLATTERY: Yes.

12:15:33 8 MS. DOOLITTLE: Yes.

12:15:33 9 MR. FILIGHERA: Yes.

12:15:37 10 BY MR. SHERMAN:

12:15:37 11 Q. Any reason you can't testify truthfully today?

12:15:42 12 MS. SLATTERY: No.

12:15:43 13 MS. DOOLITTLE: No.

12:15:43 14 MR. FILIGHERA: No.

12:15:44 15 BY MR. SHERMAN:

12:15:44 16 Q. Is there any reason that you can't give full,
12:15:47 17 complete, and accurate testimony today?

12:15:49 18 MS. SLATTERY: No.

12:15:51 19 MS. DOOLITTLE: No.

12:15:51 20 MR. FILIGHERA: No.

12:15:52 21 BY MR. SHERMAN:

12:15:53 22 Q. Are you on any medications or experiencing any
12:15:56 23 condition that would prevent you from giving full and
12:15:58 24 truthful testimony today?

12:15:59 25 MS. SLATTERY: No.

12:16:00 1 MS. DOOLITTLE: No.

12:16:01 2 MR. FILIGHERA: No.

12:16:01 3 BY MR. SHERMAN:

12:16:03 4 Q. If at any time you need to take a break, please
12:16:05 5 let me know. The only thing I ask is if there's a pending
12:16:08 6 question, that you answer the question before we take the
12:16:10 7 break. Do you understand?

12:16:12 8 MS. SLATTERY: Yes.

12:16:13 9 MS. DOOLITTLE: Yes.

12:16:13 10 MR. FILIGHERA: Yes.

12:16:14 11 BY MR. SHERMAN:

12:16:15 12 Q. Have you ever been deposed before? And how many
12:16:18 13 times, if so?

12:16:19 14 MS. SLATTERY: No.

12:16:20 15 MS. DOOLITTLE: Never.

12:16:21 16 MR. FILIGHERA: Not -- never.

12:16:24 17 BY MR. SHERMAN:

12:16:26 18 Q. For today's deposition, where are each of you
12:16:29 19 physically located?

12:16:30 20 MS. SLATTERY: I am located at 5900 Capital
12:16:34 21 Gateway Drive in Camp Springs, Maryland.

12:16:38 22 MS. DOOLITTLE: I'm located at home in West
12:16:41 23 Des Moines, Iowa.

12:16:43 24 MR. FILIGHERA: Located at my home in Orchard
12:16:47 25 Park, New York.

12:16:49 1 BY MR. SHERMAN:

12:16:49 2 Q. And who else is in the room with each of you?

12:16:52 3 MS. SLATTERY: As stated before, I'm joined
12:16:54 4 in the room by Bruce Burkley and Philip Busch, with USCIS
12:17:00 5 OCC.

12:17:00 6 MS. DOOLITTLE: I have no one in the room
12:17:01 7 with me.

12:17:02 8 MR. FILIGHERA: I have nobody in the room
12:17:03 9 with me.

12:17:04 10 BY MR. SHERMAN:

12:17:05 11 Q. Did you bring any materials with you to the
12:17:07 12 deposition? And if so, what?

12:17:10 13 MS. SLATTERY: I have printouts of the
12:17:12 14 materials that were provided by counsel in this case as the
12:17:16 15 materials for discussion today. I have blank paper and
12:17:19 16 pens, my cell phones, and a snack.

12:17:24 17 MS. DOOLITTLE: I have what was provided
12:17:28 18 previously on my computer. And my cell phones are in the
12:17:34 19 room with me as well.

12:17:36 20 MR. FILIGHERA: I have what was provided
12:17:40 21 previously on my computer and a notepad and pen.

12:17:40 22 (In the Q/A format, Ms. Slattery is.
12:17:40 23 answering the questions; Ms. Doolittle and
12:17:40 24 Mr. Filighera will be represented as
12:17:44 25 "MS. DOOLITTLE" and "MR. FILIGHERA.")

12:17:44 1 BY MR. SHERMAN:

12:17:45 2 Q. Great. Thank you.

12:17:46 3 I want to turn to -- for the Dropbox and the
12:17:51 4 depo- -- and the deposition exhibits that were provided,
12:17:53 5 everything is a document that USCIS provided to us except
12:17:58 6 for these first two that I'm going to ask you about. If
12:18:02 7 you could just refer to, either on your computers or if you
12:18:05 8 have it printed, the subpoena that appeared first in the
12:18:11 9 Dropbox.

12:18:14 10 And I'll ask -- for each of the deposition
12:18:17 11 exhibits, because, Ms. Slattery, you'll be speaking first,
12:18:21 12 I'll ask you first if you can authenticate it, and we can
12:18:25 13 introduce it as an exhibit. If you want to pass that off
12:18:28 14 to Ms. Doolittle or Mr. Filighera at any point, just let me
12:18:32 15 know.

12:18:33 16 So, Ms. Slattery, what is this document?

12:18:39 17 A. The first exhibit is labeled "Subpoena to Testify
12:18:41 18 at a Deposition in a Civil Action." In the "to" line, it
12:18:46 19 lists U.S. Citizenship and Immigration Services. The top
12:18:48 20 header is that it is a document of the United States
12:18:51 21 District Court for the District of Arizona.

12:18:53 22 Q. Thank you.

12:18:54 23 MR. SHERMAN: Can we mark this as
12:18:55 24 Exhibit 182.

12:18:55 25 (The document was marked as Exhibit 182

12:18:55 1 for identification.)

12:18:55 2 BY MR. SHERMAN:

12:19:04 3 Q. And, Ms. Slattery, if you could also look at the
12:19:05 4 second exhibit that was in the Dropbox. What is that
12:19:09 5 document?

12:19:12 6 A. The next document I have, unless this was an
12:19:14 7 attachment to the subpoena itself, is an extract of the
12:19:17 8 Federal Rules of Civil Procedure, Rule 45(c), (d), (e), and
12:19:25 9 (g).

12:19:25 10 MR. MORGAN: Hey, Jon, before we get too
12:19:26 11 deep, can we go ahead and put on the record our stipulation
12:19:30 12 with respect to the objections?

12:19:31 13 MR. SHERMAN: For sure. Do you want to
12:19:33 14 restate that?

12:19:34 15 MR. MORGAN: Yeah, I got it. Thanks.

12:19:36 16 The parties -- the defendants agree that an
12:19:39 17 objection by one defendant will constitute an objection on
12:19:43 18 behalf of all defendants. And similarly, the plaintiffs
12:19:46 19 agree that an objection by one plaintiff will constitute an
12:19:49 20 objection on behalf of all plaintiffs so that everyone is
12:19:54 21 able to reserve objections without inundating the court
12:19:58 22 reporter with tons of objections to claim on the record.

12:20:00 23 Is everybody -- does anyone disagree with my
12:20:02 24 statement?

12:20:05 25 MR. SHERMAN: No.

12:20:07 1 MR. MORGAN: Excellent. Thanks, Jon. I'm
12:20:09 2 sorry about that.

12:20:09 3 MR. SHERMAN: No, it's all good.

12:20:10 4 BY MR. SHERMAN:

12:20:11 5 Q. So, Ms. Slattery, just to rehearse, the document
12:20:15 6 you're looking at, again, if you could just restate it for
12:20:20 7 the record.

12:20:20 8 A. Sure. The previous document is an extract from
12:20:22 9 the Federal Rule of Civil Procedure. It appears to be a
12:20:26 10 Rule 45, Subset (c), (d), (e), and (g), effective date
12:20:31 11 12/1/13.

12:20:32 12 Q. I think that might just be part of the subpoena --
12:20:34 13 the form subpoena. If you could look at the attachment
12:20:38 14 that we provided, Exhibit A.

12:20:40 15 A. Sure. The next item is a pleading in the United
12:20:45 16 States District Court, District of Arizona as -- listed as
12:20:47 17 Exhibit A for USCIS A0888a Subpoena.

12:20:54 18 Q. Great.

12:20:55 19 MR. SHERMAN: Can we mark this as
12:20:57 20 Exhibit 183.

12:20:57 21 (The document was marked as Exhibit 183
12:20:57 22 for identification.)

12:20:57 23 BY MR. SHERMAN:

12:21:01 24 Q. Do you understand that you have been designated as
12:21:03 25 representatives to testify on behalf of USCIS, not in your

12:21:06 1 individual capacities?

12:21:09 2 MS. SLATTERY: I do.

12:21:10 3 MS. DOOLITTLE: I do.

12:21:11 4 MR. FILIGHERA: I do.

12:21:12 5 BY MR. SHERMAN:

12:21:12 6 Q. Can we stipulate that whenever I say "you" or
12:21:15 7 "your," that will be the equivalent of saying "USCIS" or
12:21:18 8 "USCIS's"?

12:21:22 9 MS. SLATTERY: Yes.

12:21:23 10 MS. DOOLITTLE: Yes.

12:21:23 11 MR. FILIGHERA: Yes.

12:21:24 12 BY MR. SHERMAN:

12:21:24 13 Q. Can we also stipulate that unless it is otherwise
12:21:27 14 specified, your use of the words "I" or "me" shall refer to
12:21:30 15 USCIS?

12:21:32 16 MS. SLATTERY: Yes.

12:21:33 17 MS. DOOLITTLE: Yes.

12:21:34 18 MR. FILIGHERA: Yes.

12:21:34 19 BY MR. SHERMAN:

12:21:35 20 Q. Great.

12:21:35 21 And if we could look on pages -- effectively,
12:21:40 22 I guess it's page 2, but it's labeled 1. 1 and 2, as
12:21:45 23 recorded on the bottom of this document, those are the 10
12:21:48 24 topics for this 30(b)(6) deposition.

12:21:52 25 Did you -- did each of you review this list

12:21:54 1 prior to this deposition?

12:21:56 2 MS. SLATTERY: Yes.

12:21:57 3 MS. DOOLITTLE: Yes.

12:21:58 4 MR. FILIGHERA: Yes.

12:21:59 5 BY MR. SHERMAN:

12:22:00 6 Q. And are you collectively prepared to address each
12:22:02 7 of these today?

12:22:04 8 MS. SLATTERY: Yes.

12:22:04 9 MS. DOOLITTLE: Yes.

12:22:05 10 MR. FILIGHERA: Yes.

12:22:06 11 BY MR. SHERMAN:

12:22:07 12 Q. Great.

12:22:08 13 What did each of you do to prepare for
12:22:11 14 today's deposition?

12:22:12 15 MS. SLATTERY: I reviewed the documents
12:22:14 16 provided, and we also looked at USCIS historical
12:22:20 17 information related to the questions asked and outlined in
12:22:23 18 the subpoena and reviewed that information as well as
12:22:26 19 looked at and provided a briefing for the group that is
12:22:30 20 present on this call regarding the SAVE system and the
12:22:33 21 initial questions that were asked.

12:22:35 22 MS. DOOLITTLE: I looked at the document as
12:22:40 23 well. I saw what questions may be applicable to me and my
12:22:44 24 scope. And I then talked to some of the subject matter
12:22:49 25 experts at USCIS to confirm some of my knowledge for today

12:22:59 1 for the questions.

12:22:59 2 MR. FILIGHERA: Similar. I looked at the
12:23:02 3 documents that were presented for today, reviewed the
12:23:06 4 questions, and -- and reviewed materials and background
12:23:11 5 based on those questions for our policy and procedures.

12:23:15 6 BY MR. SHERMAN:

12:23:15 7 Q. And did each of you meet with your counsel to
12:23:19 8 prepare for today's deposition?

12:23:22 9 MS. SLATTERY: Yes.

12:23:23 10 MS. DOOLITTLE: Yes.

12:23:24 11 MR. FILIGHERA: Yes.

12:23:26 12 BY MR. SHERMAN:

12:23:28 13 Q. So for the balance of the deposition, I think the
12:23:31 14 most efficient way to do this is Ms. Slattery will respond
12:23:36 15 first to the question, and then if she decides to designate
12:23:42 16 one of the other two designees, Ms. Doolittle or
12:23:45 17 Mr. Filighera, she can pass it off after she answers
12:23:49 18 substantively or in lieu of her answering the question
12:23:54 19 substantively.

12:23:55 20 There's no need to have all three people
12:23:58 21 testify on all questions. Ms. Slattery, if you -- if
12:24:04 22 the -- if USCIS's answer is complete with your response,
12:24:07 23 that can be the end. But otherwise, please -- if it's
12:24:13 24 incomplete, please pass it off to Ms. Doolittle or
12:24:14 25 Mr. Filighera to complete the agency's response.

12:24:19 1 So the most basic question, what -- what is
12:24:21 2 the SAVE system?

12:24:23 3 A. The SAVE system is an online system that is
12:24:26 4 available for use by federal, state, and local
12:24:29 5 benefit-granting agencies. The purpose of the system is to
12:24:34 6 provide immigration status information that will enable
12:24:36 7 those agencies to make a benefits determination about the
12:24:39 8 particular benefits that they administer.

12:24:43 9 Q. And is it also to verify citizenship status?

12:24:47 10 A. Among the statuses that SAVE can provide is
12:24:51 11 confirmation of citizenship status, either naturalized or
12:24:55 12 acquired, or those citizens through -- who have a
12:24:59 13 DHS-issued record. So those are citizens that have gone
12:25:02 14 through a naturalization ceremony or have acquired
12:25:06 15 citizenship through operation of law and they have a record
12:25:08 16 with DHS systems.

12:25:10 17 Q. Thank you.

12:25:11 18 And I will keep moving, in the interest of
12:25:13 19 time, but just please cut me off if you had intended -- or
12:25:17 20 if, Ms. Doolittle or Mr. Filighera, you had more to say,
12:25:20 21 just cut me off and let me know I'm moving too quickly to
12:25:24 22 the next question.

12:25:25 23 Is SAVE a system, a database, or a program?
12:25:29 24 And what are the differences in any implications to
12:25:33 25 those -- the differences in those labels, if so?

12:25:36 1 A. SAVE is a system. It is not a database or a
12:25:39 2 system of record origin. While SAVE does maintain
12:25:43 3 transactional data for the information that is put into the
12:25:46 4 SAVE system and the record of a transaction being
12:25:49 5 completed, SAVE does rely on source record systems that are
12:25:53 6 maintained by different DHS agencies, including USCIS.

12:25:58 7 Those are the systems of record that are
12:26:01 8 housing the immigration information that SAVE bounces
12:26:04 9 against in order to make an information match based against
12:26:08 10 information that is provided by the user agency.

12:26:12 11 Q. Does the SAVE system draw upon many databases at
12:26:15 12 once, or is all the data stored in one unified database?

12:26:15 13 A. I actually will defer to Mariah on this question
12:26:24 14 regarding the organization of the data systems.

12:26:24 15 MS. DOOLITTLE: Sure. So SAVE primarily will
12:26:29 16 go against one database, but there are two that we
12:26:34 17 traditionally pull from. The other systems that we rely
12:26:38 18 on, a lot of those are transactional records as well, so a
12:26:41 19 lot of that information is pooled towards indexes.

12:26:51 20 THE COURT REPORTER: "Towards" what?

12:26:51 21 MS. DOOLITTLE: It's pooled within indexes.
12:26:51 22 We refer to them as data links.

12:26:54 23 BY MR. SHERMAN:

12:26:55 24 Q. Who owns the database or the information contained
12:26:59 25 therein?

12:27:01 1 MS. DOOLITTLE: The owner of it depends on
12:27:02 2 the division, what their mission is, because it is
12:27:07 3 collected over a lot of encounters. So if somebody has an
12:27:11 4 encounter with USCIS, it depends on how they have that
12:27:14 5 encounter, or with DHS, what system might have a record of
12:27:19 6 that person, such as a pending application.

12:27:19 7 BY MR. SHERMAN:

12:27:25 8 Q. Are all the owners subunits of DHS?

12:27:31 9 MS. DOOLITTLE: Yes. All owners are subunits
12:27:34 10 of DHS, outside of -- potentially, when we go into manual
12:27:42 11 for reviews, there could be an instance where it could be
12:27:46 12 Department of State.

12:27:48 13 BY MR. SHERMAN:

12:27:48 14 Q. Understood.

12:27:49 15 What forms of U.S. citizenship is it possible
12:27:53 16 for SAVE to verify? Alternatively, what can the SAVE
12:27:57 17 system be used for?

12:27:59 18 A. Within the SAVE system, as it comes to citizenship
12:28:02 19 again, it is either a naturalized citizen or a person who
12:28:06 20 has acquired citizenship by operation of law firm and that
12:28:09 21 person has a record within DHS systems.

12:28:11 22 We do not verify U.S.-born citizens. We do
12:28:14 23 not use Social Security systems for verification, and we do
12:28:18 24 not use U.S. passports for verification. It is dependent
12:28:21 25 on those DHS records.

12:28:24 1 Q. Understood.

12:28:24 2 So it's impossible for the SAVE system to
12:28:27 3 verify citizenship based on state department documents;
12:28:34 4 correct?

12:28:34 5 A. SAVE system does not currently verify based on
12:28:37 6 state department documentation, no. It is DHS-issued
12:28:41 7 documentation.

12:28:41 8 Q. And it can't verify U.S.-born citizenship based on
12:28:45 9 U.S. birth certificates; correct?

12:28:46 10 A. Correct. USCIS does not have a record of those --
12:28:51 11 those documents.

12:28:52 12 Q. So as you stated, the SAVE system can only be used
12:28:59 13 to verify naturalized or derived U.S. citizenship; correct?

12:29:02 14 A. Correct.

12:29:03 15 Q. Okay. Beyond verification for public benefits or
12:29:06 16 assistance, what are some of the other contexts in which
12:29:09 17 SAVE is used?

12:29:11 18 A. SAVE can also be used for licensure verification.
12:29:15 19 Department of Motor Vehicles does use it for REAL ID
12:29:19 20 purposes related to driver's licenses. FAA also has an
12:29:22 21 agreement with us to do licensure for persons who are
12:29:25 22 having unescorted access to secure areas in federal
12:29:30 23 facilities that are aviation-based.

12:29:33 24 Q. Are those -- is that for security clearances?

12:29:35 25 A. It can be, yes.

12:29:37 1 Q. Okay. Is -- is there any other context in which
12:29:40 2 it's used for security clearances?

12:29:42 3 A. For federal employment purposes, it is often used
12:29:45 4 for background security clearances.

12:29:47 5 Q. Any other contexts we haven't gone over?

12:29:52 6 A. Not to my recollection, no.

12:29:56 7 Q. Is it used in the voter registration context?

12:30:01 8 A. Yes. It can be used under circumstances where an
12:30:05 9 agency is doing voter verification and they have signed a
12:30:10 10 memorandum of agreement with USCIS that is based on legal
12:30:15 11 authority to conduct the verification and that we have a
12:30:18 12 grounding purpose for the verification being conducted.

12:30:22 13 Q. How many states and/or counties are using -- let's
12:30:28 14 start with states.

12:30:28 15 How many states are using it nationwide for
12:30:29 16 voter registration?

12:30:30 17 A. I believe we have less than ten states total, and
12:30:34 18 only a handful of those are actively using it for voter
12:30:38 19 verification at this time.

12:30:40 20 Q. Do you know which are using it actively?

12:30:43 21 A. I don't have the list in front of me currently,
12:30:45 22 no. I know Arizona, which is the subject of this
12:30:49 23 conversation, is one of the states that does use the
12:30:52 24 system. And under their MOA, they have -- the secretary of
12:30:57 25 state is the principal authority there, and there are five

12:30:59 1 counties with whom we have reimbursable agreements as well.

12:31:02 2 Q. Understood.

12:31:03 3 MR. MORGAN: For the record, "MOA," does that

12:31:06 4 mean memorandum of understanding, ma'am?

12:31:08 5 MS. SLATTERY: It is a memorandum of

12:31:09 6 agreement.

12:31:11 7 MR. MORGAN: Okay. Thank you.

12:31:13 8 BY MR. SHERMAN:

12:31:13 9 Q. What is a "user agency" in the SAVE system's
12:31:17 10 terminology?

12:31:17 11 A. A user agency is an agency, as I indicated just a
12:31:21 12 moment ago, that has approached SAVE to request use of the
12:31:25 13 system. They have provided the legal authorities under
12:31:29 14 which they would be authorized to verify immigration status
12:31:32 15 and the purpose for that verification. They have entered
12:31:36 16 into an agreement, our memorandum of understanding, with
12:31:40 17 USCIS, and they have entered into a reimbursable agreement
12:31:44 18 that discusses how payment for use of the system will be
12:31:48 19 made.

12:31:49 20 Q. What is an "applicant" in the SAVE program's
12:31:52 21 terminology?

12:31:52 22 A. An applicant in this case would be an individual
12:31:55 23 who is seeking a state, federal, or local benefit and has
12:32:00 24 applied to an agency who is a user of the SAVE system in
12:32:03 25 order to achieve that benefit.

12:32:05 1 Q. So just so the record is clear, how do the terms
12:32:07 2 "user agency" and "applicant" translate or map onto the
12:32:13 3 voter registration context?

12:32:13 4 A. The agency would be the organization that has the
12:32:17 5 agreement with SAVE. The user would be a member of the
12:32:21 6 organization who is accessing the SAVE system in order to
12:32:24 7 run a verification case. The benefit applicant in this
12:32:28 8 case would be the individual about whom the verification is
12:32:30 9 being conducted.

12:32:33 10 Q. Does --

12:32:34 11 A. If I may, in some cases, depending on how a system
12:32:38 12 is set up, a benefit applicant may be entering information
12:32:42 13 directly.

12:32:43 14 Q. How many user agencies are there currently for the
12:32:47 15 SAVE system nationwide?

12:32:48 16 A. There are about 1,200 organizations nationwide.
12:32:52 17 We do have principal organizations. Out of the 1,200,
12:32:56 18 there are also some organizations that have subagencies
12:32:59 19 through which -- which work through them, but we count them
12:33:02 20 as 1,200 agencies at present.

12:33:04 21 Q. Understood.

12:33:05 22 And only six of those are using it -- using
12:33:07 23 the SAVE system for any kind of election administration
12:33:10 24 purpose; right?

12:33:11 25 A. Yes.

12:33:12 1 Q. Is there anything in federal law that requires
12:33:18 2 USCIS to enter into MOAs with particular user agencies?

12:33:28 3 MR. BURKLEY: I'll say that, you know, this
12:33:29 4 is a legal question. I don't know if you want to answer a
12:33:34 5 legal question or --

12:33:34 6 MS. SLATTERY: It's a legal question. There
12:33:36 7 are a number of different laws that were put in place that
12:33:38 8 authorize the use of SAVE and the purposes for which SAVE
12:33:41 9 can be used. They are outlined in our MOAs and in the
12:33:46 10 documentation, the user guide that relates to the program.

12:33:50 11 BY MR. SHERMAN:

12:33:50 12 Q. Maybe stated another way, does USCIS have some
12:33:53 13 discretion as to -- let me rephrase the question.

12:33:57 14 Does USCIS have discretion as to which user
12:34:00 15 agencies to enter into MOAs with?

12:34:03 16 A. When USCIS is approached by a user agency, as I
12:34:07 17 indicated, we will look at the legal authorities under
12:34:09 18 which they're authorized to use the program and the purpose
12:34:12 19 for the verification. If, after legal review, those things
12:34:16 20 are present, USCIS will be in the memorandum of agreement
12:34:20 21 process.

12:34:22 22 Q. Could you list all the sources of data that the
12:34:25 23 SAVE system can draw upon when a user agency attempts to
12:34:29 24 verify a particular individual applicant's naturalized or
12:34:31 25 derived U.S. citizenship?

12:34:34 1 A. As indicated, those are DHS-related systems.

12:34:36 2 MS. SLATTERY: I'll ask Mariah, please, to
12:34:39 3 speak about those.

12:34:40 4 MS. DOOLITTLE: Are you asking for the
12:34:42 5 systems, or are you asking for the data points we use to
12:34:46 6 pull information from our data sources?

12:34:46 7 BY MR. SHERMAN:

12:34:49 8 Q. The data points. What -- what sources of data,
12:34:52 9 you know, are accessed by SAVE?

12:34:54 10 MS. DOOLITTLE: For a case creation, which is
12:34:57 11 the information that we would care about, it's first name,
12:35:00 12 last name, middle name if they have, their date of birth,
12:35:04 13 and then the enumerators. The enumerators are DHS
12:35:09 14 enumerators, such as an E-number, a USCIS number, a
12:35:13 15 naturalization number.

12:35:13 16 BY MR. SHERMAN:

12:35:15 17 Q. Sorry. I accidentally jumped ahead.

12:35:17 18 I meant to -- I meant to ask you what -- what
12:35:20 19 are the various sources of data that the SAVE system can
12:35:24 20 draw upon when a query is made? Sorry about that.

12:35:27 21 MS. DOOLITTLE: So at a high level, when a
12:35:30 22 case is entered with the -- with the fields that I just
12:35:34 23 spoke about for case creation, the systems will go out and
12:35:38 24 they will check the -- if they have records and find record
12:35:43 25 of somebody's inputted information. So they'll take that

12:35:46 1 total package of what is in that case and they'll go out to
12:35:51 2 the systems to say can we find the last name, first name,
12:35:54 3 date of birth, and enumerator associated with that person?

12:35:58 4 At some point, there could be a photo that
12:36:00 5 needs to be brought back as well for that review, or it
12:36:05 6 could be applications -- either approved applications or
12:36:08 7 pending applications and also removal orders; however, that
12:36:17 8 usually happens during manual review for that last one.

12:36:17 9 BY MR. SHERMAN:

12:36:22 10 Q. Earlier you testified that the SAVE system's data
12:36:26 11 is limited to just DHS databases. Are there any other
12:36:29 12 federal government databases included within the SAVE
12:36:32 13 system?

12:36:34 14 MS. DOOLITTLE: Not --

12:36:37 15 MS. SLATTERY: Go ahead, Mariah.

12:36:38 16 MS. DOOLITTLE: Shannon, you can go ahead.

12:36:43 17 MS. SLATTERY: I would say that we also do on
12:36:46 18 occasion check Executive Office of Immigration Review data.
12:36:50 19 I would defer to Mariah on whether that's a direct feed of
12:36:53 20 data or whether that's something that we verify during
12:36:56 21 manual review.

12:36:59 22 MS. DOOLITTLE: That is -- I'll actually ask
12:37:02 23 Russ: Is that something that we verify on manual review?

12:37:05 24 MR. FILIGHERA: We have access to those
12:37:07 25 records in manual review, but in the context of derived

12:37:12 1 citizen or naturalized citizen, I'm not sure if that would
12:37:15 2 even be an occurrence. No recollection for that.

12:37:15 3 BY MR. SHERMAN:

12:37:20 4 Q. Fair enough.

12:37:20 5 Any other data sources ingested and available
12:37:23 6 to the SAVE system?

12:37:29 7 A. Unless Russ has additional data sources he'd like
12:37:31 8 to mention for manual review, no.

12:37:36 9 Q. Okay. Is the SAVE system's data fixed or
12:37:38 10 continuously updated?

12:37:44 11 MS. DOOLITTLE: Shannon, I can answer that
12:37:46 12 one if you want.

12:37:46 13 MS. SLATTERY: Please.

12:37:47 14 MS. DOOLITTLE: It's continuously updated
12:37:58 15 [video disturbance].

12:37:58 16 THE COURT REPORTER: I'm sorry. You're
12:37:58 17 cutting out for me. I'm sorry. Ms. Doolittle, you're
12:37:58 18 cutting out.

12:38:00 19 I heard "It's continuously updated."

12:38:03 20 MS. DOOLITTLE: Yes. It's continuously
12:38:05 21 updated, so if an application goes from pending to
12:38:09 22 approved, that would be updated within the systems. If
12:38:13 23 somebody's status had changed, that would be updated in the
12:38:16 24 systems. If an applicant went to update their own
12:38:20 25 information, that would also be updated within the systems.

12:38:23 1 It is not stagnant. It is not a solid record
12:38:28 2 where the applicant only has one chance at it. There's
12:38:32 3 multiple ways within an immigration journey that someone's
12:38:37 4 information gets updated.

12:38:37 5 BY MR. SHERMAN:

12:38:40 6 Q. Is SAVE a data retrieval system or something else?
12:38:44 7 And what does that mean?

12:38:47 8 A. SAVE is a system that, again, intakes data and
12:38:50 9 matches that data against other record systems. So again,
12:38:54 10 the applicant or the agency would enter information into
12:38:57 11 SAVE. As Mariah described earlier, SAVE would bounce that
12:39:00 12 data against the data sources that we use as an agency, and
12:39:03 13 those are the sources that are outlined in our system of
12:39:06 14 record notices that are publicly available. And then that
12:39:09 15 information would result in a response being given back to
12:39:13 16 the user agency.

12:39:15 17 Q. What, if any, are the limitations of such a data
12:39:19 18 retrieval system?

12:39:21 19 A. The limitations are, I would say, first and
12:39:24 20 foremost, the quality of the data entered into the system.
12:39:26 21 In order to match against a record, the quality of the data
12:39:30 22 needs to be sufficient in order to allow that match to take
12:39:34 23 place. The SAVE system does have processes in place where
12:39:36 24 if that initial automated match is not capable of being
12:39:41 25 achieved, that we will go in and do manual review

12:39:44 1 processes, but really it's the quality of the data.

12:39:46 2 And I think there are certain circumstances
12:39:49 3 where we've had issues with data feeds happening. That is
12:39:54 4 a common situation -- where you have system-to-system
12:39:57 5 interactions, there can be times where something in that
12:39:59 6 connection doesn't work properly. However, those things
12:40:02 7 are generally quickly identified and rectified such that we
12:40:05 8 could get the information and we would not return a
12:40:08 9 response until we were confident that we had done the
12:40:10 10 search properly.

12:40:13 11 Q. And when you say "a data feed problem," what --
12:40:16 12 what does that actually cause?

12:40:17 13 A. So it can -- and I'll defer to Mariah here in just
12:40:20 14 a moment, but it can cause either us not to be able to
12:40:23 15 retrieve data or that we are looking at data that perhaps
12:40:25 16 is incomplete for a response.

12:40:28 17 MS. SLATTERY: Mariah, would you like to add
12:40:29 18 to that?

12:40:30 19 MS. DOOLITTLE: There also could be the
12:40:35 20 implication of lag time between systems when the data gets
12:40:39 21 entered by an agency -- either an outside agency or USCIS,
12:40:45 22 such as if somebody went through a naturalization process,
12:40:49 23 and that can cause discrepancies between the systems
12:40:54 24 because the records have to be updated over time for SAVE
12:41:00 25 to be able to pull that as that person's status. But that

12:41:05 1 is actually why we have the manual review in place for
12:41:07 2 agencies. So if it does not come back of what the external
12:41:13 3 agency is expecting, we have manual reviewers that can
12:41:16 4 retrieve that information.

12:41:20 5 BY MR. SHERMAN:

12:41:20 6 Q. Understood. Yeah, I have a number of questions
12:41:21 7 about additional verification later.

12:41:22 8 Just so I understand, for the data field
12:41:25 9 errors, it might cause certain data not to be updated;
12:41:32 10 correct?

12:41:32 11 A. We could see situations where we see a latency lag
12:41:34 12 in data systems. Again, SAVE is a point-in-time
12:41:38 13 verification system. But if we are aware that the latency
12:41:41 14 exists or we become aware that it exists, there are steps
12:41:44 15 taken to rectify that. And again, if at any time an agency
12:41:46 16 does not see a result they are expecting, they can push the
12:41:49 17 case for additional verification and ask us to review that
12:41:52 18 information.

12:41:52 19 Q. How long does it usually take to identify these
12:41:56 20 data feed errors?

12:41:57 21 A. Often, we're seeing them quickly because someone
12:41:59 22 will report it to us. We also monitor data on a regular
12:42:02 23 basis and are able to identify with our OIT teams when
12:42:07 24 there are latency issues with systems.

12:42:09 25 Q. Understood.

12:42:10 1 But just so I under- -- the record is clear,
12:42:12 2 is it a day, a week, several weeks, a month, two months,
12:42:15 3 three months?

12:42:15 4 A. Typically, it's hours to days. Unless there's a
12:42:19 5 complex issue with a problem, it's generally very quickly
12:42:21 6 identified and rectified.

12:42:22 7 Q. Okay. How frequently is SAVE system data updated?
12:42:28 8 Is it just dynamic and continuously updated?

12:42:31 9 A. Again, SAVE does not maintain an independent data
12:42:35 10 record of systems. We are moving and working against data
12:42:38 11 systems that are monitored and managed by other components.
12:42:41 12 So we are drawing data that is updated as those systems are
12:42:45 13 updated.

12:42:47 14 MS. SLATTERY: And, Mariah, you can correct
12:42:48 15 me if I'm wrong, but we do generally receive feeds from
12:42:50 16 those systems, and we're doing verifications, I think, most
12:42:54 17 of the time on a 24-hour basis?

12:42:56 18 MS. DOOLITTLE: Correct.

12:42:59 19 BY MR. SHERMAN:

12:42:59 20 Q. Following naturalization, how long does it take
12:43:02 21 for that record or data on naturalization to be available
12:43:05 22 and accessible within the SAVE system?

12:43:08 23 A. Once the record has been entered into the system,
12:43:11 24 it's typically within 24 hours. Where we can see
12:43:16 25 point-of-time lags is if there are -- let me back up a

12:43:20 1 step.

12:43:21 2 There are two types of ceremonies that take
12:43:23 3 place within the naturalization arena: One is an
12:43:26 4 administrative ceremony that is under the control of USCIS;
12:43:28 5 the other is a judicial ceremony where we are working with
12:43:31 6 the courts to conduct naturalization. Depending on the
12:43:34 7 time of the ceremony, the size of the ceremony, and how
12:43:37 8 quickly records can get updated, we can see some delays in
12:43:42 9 getting information into systems.

12:43:43 10 We do not want to complete those record
12:43:45 11 updates until the ceremony is completed because we do have
12:43:48 12 instances where someone doesn't appear for a ceremony or we
12:43:51 13 have a just-in-time check that indicates the ceremony
12:43:54 14 should not go forward, so those persons would not have gone
12:43:56 15 through final naturalization.

12:43:58 16 And just to give you a sense of scope, we
12:44:00 17 have small ceremonies that take place with one or two
12:44:02 18 people in an office up to ceremonies of thousands that take
12:44:05 19 place in arenas, and it just depends on the jurisdiction
12:44:07 20 that we're in. We do make every effort to get that
12:44:10 21 information into the systems and updated as quickly as
12:44:13 22 possible.

12:44:14 23 Q. So for ceremonies with naturalized citizens in the
12:44:20 24 thousands, how long does it generally take to get all of
12:44:22 25 that data into usable format for the SAVE system?

12:44:28 1 A. Typically, again, it happens very quickly.

12:44:30 2 Offices are well trained to do this and they're very

12:44:34 3 systematic in how the work gets completed. So generally we

12:44:37 4 would not expect more than a day or two delay.

12:44:40 5 Q. Have you seen delays in that input before?

12:44:44 6 A. I have not personally experienced that, no.

12:44:46 7 Q. Have any of the witnesses?

12:44:52 8 MS. DOOLITTLE: I have not experienced that

12:44:53 9 delay, but I know that some of our applicants think there's

12:44:57 10 a delay because they go to a different agency, create a

12:45:00 11 case before it gets updated, so there could be things like

12:45:04 12 a federal working day -- might have been that the ceremony

12:45:08 13 was on Friday, that Monday is a federal working day, a

12:45:12 14 national holiday -- anytime that the federal government

12:45:15 15 would be closed during that time, the applicant might get

12:45:20 16 ahead of the process by going to an external agency,

12:45:23 17 creating that SAVE case, and the information is not there.

12:45:27 18 That's not a data latency issue. That's a time issue that

12:45:30 19 Shannon described.

12:45:32 20 BY MR. SHERMAN:

12:45:32 21 Q. Understood.

12:45:33 22 So have -- have any of you seen a lag of

12:45:36 23 weeks or months to upload naturalization data -- input

12:45:43 24 naturalization data?

12:45:46 25 A. No.

12:45:46 1 MS. DOOLITTLE: We would also not be privy to
12:45:49 2 that because that is not under our purview, adjudication.
12:45:51 3 The verification division does not adjudicate. The SAVE
12:45:55 4 system does not adjudicate, so those timelines aren't
12:45:58 5 something that we would be aware of.

12:45:58 6 BY MR. SHERMAN:

12:46:01 7 Q. Okay. So just so I'm clear, you're not able to --
12:46:02 8 the three -- the three of you are not able to testify to
12:46:06 9 that question; correct?

12:46:11 10 MS. DOOLITTLE: I am not able to.

12:46:14 11 MS. SLATTERY: Based on my former position
12:46:15 12 with field operations, I can -- and having had experience
12:46:20 13 in a field office that conducted naturalization ceremonies,
12:46:22 14 I can tell you, as a representative of USCIS in that
12:46:25 15 capacity, that was not an experience that I had.

12:46:25 16 BY MR. SHERMAN:

12:46:31 17 Q. Have you ever had to create any work-arounds for
12:46:35 18 particular individuals whose data is not -- naturalization
12:46:37 19 data is not showing up in the system?

12:46:40 20 And let's put it this way: If an election is
12:46:43 21 fast approaching and they need to be verified so they can
12:46:46 22 vote, has there ever been an instance where USCIS has had
12:46:50 23 to develop some kind of other work-around to confirm that
12:46:55 24 naturalization data?

12:46:59 25 A. For purposes of the SAVE system, I am not aware

12:47:02 1 that we have created a work-around for that purpose.

12:47:07 2 Q. It's basically the -- the applicant would just
12:47:09 3 have to submit their naturalization certificate in that
12:47:12 4 circumstance?

12:47:14 5 A. I'm not sure I understand the circumstance that
12:47:16 6 you're describing. So this is a person who -- who is
12:47:19 7 seeking to register to vote, has a naturalization
12:47:23 8 certificate, and you're indicating that there is some sort
12:47:27 9 of delay in the system whereby that person was not able to
12:47:31 10 be verified?

12:47:32 11 Q. Correct. Correct.

12:47:33 12 A. So again, in that circumstance -- and I'll ask
12:47:37 13 Russ to chime in here in just a moment -- SAVE has the
12:47:40 14 manual verification process. So we have the automated
12:47:42 15 process at first step, at which we would match the data and
12:47:45 16 seek to match the data.

12:47:47 17 If that returned an unexpected result, the
12:47:50 18 agency would have the option of providing and requesting
12:47:53 19 additional verification. At that second step of the
12:47:56 20 process, they can submit a document.

12:48:00 21 If they -- if we were still not able to match
12:48:03 22 at that the second step and the agency failed to submit a
12:48:05 23 document and they went to third step in the process, we
12:48:08 24 would require them to submit a copy of the document. And
12:48:10 25 that document would allow us to do a deeper records search.

12:48:14 1 And with that, I'll turn it over to Russ to
12:48:16 2 talk about what that processing is.

12:48:19 3 Q. I -- we could hold off on that for now. I have a
12:48:21 4 bunch of questions on additional verification, so we can --
12:48:24 5 we can defer on those for the moment, but thank you.

12:48:26 6 Could I ask you to take a look at USCIS SAVE
12:48:30 7 Bates Stamp 1. The rest of the documents I'll refer to --
12:48:37 8 the rest of the exhibits are all Bates-stamped by your
12:48:40 9 office. So I'll just refer to the Bates stamp number.

12:48:46 10 What is this document?

12:48:49 11 A. Per the item Bates Stamp marked USCIS SAVE 00001,
12:48:53 12 it is the Memorandum of Agreement Between USCIS and the
12:48:56 13 Office of the Arizona Secretary of State.

12:49:00 14 MR. SHERMAN: Can we mark this as
12:49:01 15 Exhibit 184, please.

12:49:01 16 (The document was marked as Exhibit 184
12:49:01 17 for identification.)

12:49:06 18 BY MR. SHERMAN:

12:49:06 19 Q. When was this MOA executed?

12:49:08 20 A. The final signature of execution on this MOA took
12:49:09 21 place on October 31st, 2018.

12:49:12 22 Q. And this is still currently operative?

12:49:13 23 A. It is.

12:49:14 24 Q. And is this a voter registration MOA, also known
12:49:18 25 by the acronym VRMOA?

12:49:20 1 A. It is.

12:49:21 2 Q. Currently, does USCIS have an MOA with each of the
12:49:24 3 county recorders in Arizona or just with the Arizona
12:49:28 4 Secretary of State's Office?

12:49:28 5 A. Currently, there is a VRMOA with the Arizona
12:49:32 6 secretary of state. We do have RMOAs, which are
12:49:34 7 reimbursement MOAs, with five counties that are for billing
12:49:40 8 purposes.

12:49:41 9 Q. Is the Arizona Secretary of State's Office the
12:49:43 10 super user that grants access to the user agencies or are
12:49:47 11 county recorder's offices and users -- i.e. staff -- in
12:49:51 12 those offices?

12:49:52 13 A. My understanding is that it is the Arizona
12:49:55 14 secretary of state that is the super user that would enroll
12:49:59 15 sub-users.

12:50:00 16 Q. So there's -- there's not a designated super user
12:50:03 17 for each of the county recorder offices?

12:50:06 18 A. I would have to confirm records on that. I don't
12:50:07 19 have that information in front of me at this moment.

12:50:10 20 Q. If we could just take a look at -- look at another
12:50:14 21 exhibit, maybe this will clarify it. 755. Once you're
12:50:45 22 there, just let me know.

12:50:46 23 A. So you're looking at 755, which is an email
12:50:50 24 exchange between SAVE registration and Hilary Hiser?

12:50:53 25 Q. Correct. Yes.

12:50:54 1 MR. SHERMAN: Could we mark this as
12:50:55 2 Exhibit 185.

12:50:55 3 (The document was marked as Exhibit 185
12:50:59 4 for identification.)

12:50:59 5 BY MR. SHERMAN:

12:51:00 6 Q. If you can take a moment just to review this and
12:51:02 7 see if this clarifies whether county recorders have super
12:51:06 8 users within them.

12:51:11 9 A. This is a request from Ms. Hiser to be established
12:51:22 10 as a super user for the Pima County Recorder's Office.

12:51:26 11 Q. Okay. So you don't know if this was granted or
12:51:29 12 not; correct?

12:51:34 13 A. I believe the following page 756 indicates that
12:51:47 14 the request was not granted to participate separately in
12:51:51 15 the SAVE program and no agency super user.

12:51:55 16 Q. I think that email might precede, but it's fine.
12:51:58 17 If it's unclear, we can move on. I think that email
12:52:01 18 precedes the one at top.

12:52:03 19 But in any event, according to USCIS's
12:52:07 20 terminology, what are the "departments," quote/unquote, in
12:52:10 21 Arizona?

12:52:13 22 A. The department in Arizona would be the Arizona
12:52:16 23 secretary of state, I believe.

12:52:18 24 Q. And are the county recorder's offices also
12:52:22 25 departments?

12:52:27 1 A. I don't know the answer to that question in this
12:52:29 2 moment. I can confirm as needed.

12:52:32 3 Q. All right. What -- what are the "groups" in --
12:52:39 4 using USCIS's terminology?

12:52:43 5 A. Within the SAVE system, there are super users;
12:52:47 6 there are departments; there are agencies; and then there
12:52:50 7 are groups within the agencies which, my understanding,
12:52:53 8 represents the users within that agency.

12:52:56 9 Q. Okay. So the users are the sort of end of the
12:53:02 10 line -- the actual staff at the county recorder's offices
12:53:04 11 that are doing SAVE verif- -- inputting data in the SAVE
12:53:09 12 system; correct?

12:53:10 13 A. Correct.

12:53:11 14 Q. Okay. And then groups -- "groups" are groups of
12:53:14 15 those users?

12:53:20 16 A. Again, I don't have the definitions in front of me
12:53:22 17 at that moment, so I would like to confirm that.

12:53:25 18 Q. Okay. All right. We'll just skip this one.

12:53:36 19 Can the Arizona Secretary of State's Office
12:53:39 20 make verification requests itself through the SAVE system?

12:53:43 21 A. My understanding is that the Arizona secretary of
12:53:46 22 state does not make requests through the system itself. It
12:53:49 23 is the recorder's offices that do so.

12:53:52 24 Q. Okay. And do the -- Maricopa and Pima County, do
12:54:00 25 they have independent access to the SAVE system?

12:54:05 1 A. My understanding, again, is that the way this is
12:54:08 2 structured is that the access is through the secretary of
12:54:10 3 state system and that Maricopa and the other counties that
12:54:13 4 have a separate MOA, that that is a reimbursable MOA.

12:54:17 5 Q. Understood.

12:54:17 6 So all -- all counties are accessing SAVE
12:54:21 7 through the Arizona secretary of state's account; is that
12:54:25 8 correct?

12:54:25 9 A. That is my understanding, yes.

12:54:27 10 Q. Okay. If I could have you look at 1744. It
12:54:52 11 should be the last -- last document in the production.

12:54:54 12 A. Got it.

12:54:55 13 Q. Great.

12:54:56 14 What is this document?

12:54:58 15 A. These documents are data table charts labeled "Inq
12:55:04 16 9," relating to Subpoena Inquiry 9, and "Inq 10."

12:55:10 17 Q. And how were they produced?

12:55:13 18 A. These were produced based on information compiled
12:55:16 19 by the SAVE data team.

12:55:22 20 Q. And that was in response to the subpoena issued to
12:55:26 21 USCIS?

12:55:26 22 A. Correct.

12:55:28 23 MR. SHERMAN: So could we mark USCIS SAVE
12:55:32 24 Bates Stamp 1744 as Exhibit 186.

12:55:32 25 (The document was marked as Exhibit 186

12:55:35 1 for identification.)

12:55:35 2 BY MR. SHERMAN:

12:55:39 3 Q. And could you also please look, Ms. Slattery, at
12:55:42 4 1743.

12:55:47 5 A. Yes.

12:55:48 6 Q. What is -- what is recorded in 1743? What is this
12:55:52 7 document?

12:55:53 8 A. This, again, is a data table labeled "Inq 10,"
12:55:58 9 referencing Item 10 of the subpoena list. It is a data
12:56:02 10 table that indicates the year and data information relating
12:56:07 11 to the Arizona office's use of SAVE.

12:56:12 12 MR. SHERMAN: Could we mark that as
12:56:12 13 Exhibit 187.

12:56:12 14 (The document was marked as Exhibit 187
12:56:14 15 for identification.)

12:56:14 16 BY MR. SHERMAN:

12:56:15 17 Q. So for both of these tables that we were just
12:56:19 18 looking at -- Maricopa County, Pima County, and Yavapai
12:56:24 19 County -- the recorder's offices for each of them have
12:56:27 20 separate entries, and then there is an entry for the office
12:56:30 21 of the secretary of state.

12:56:33 22 What -- what -- does this mean that the other
12:56:36 23 12 county recorders' offices' data is what's reflected in
12:56:40 24 those record entries for the office of the secretary of
12:56:43 25 state?

12:56:44 1 MR. MORGAN: Form.

12:56:51 2 BY MR. SHERMAN:

12:56:51 3 Q. I can ask -- I'll ask it a different way.

12:56:52 4 What's -- what is the activity reflected in
12:56:57 5 the record entries for Arizona Office of the Secretary of
12:57:01 6 State if the secretary of state doesn't have the authority
12:57:04 7 to perform verifications in SAVE?

12:57:08 8 A. My understanding is that there are smaller
12:57:10 9 counties in Arizona that are coming through the secretary
12:57:13 10 of state in order to conduct the verification, so then it
12:57:15 11 shows up under the secretary of state's user ID.

12:57:18 12 Q. Understood.

12:57:19 13 So Maricopa and Yavapai and Pima County
12:57:23 14 recorders' data, that's reflected in separate entries, and
12:57:26 15 then the other 12 entries -- the other 12 counties are
12:57:29 16 reflected in the Office of the Secretary of State lines;
12:57:32 17 correct?

12:57:32 18 A. I think -- yes. And that's due to the -- the
12:57:35 19 manner in which we are tracking the billing for purposes so
12:57:38 20 that the counties that are being billed separately and have
12:57:41 21 RMOAs are identified based on their user traffic versus the
12:57:45 22 secretary of state's MOA, which for billing purposes is
12:57:47 23 treated as a separate entity.

12:57:50 24 Q. Understood. If you could take a look -- going
12:57:52 25 back to the MOA, if you could look -- take a look at

12:57:57 1 page 2. Sorry in advance for making you flip back and
12:58:03 2 forth. I have lots of questions on the MOA --

12:58:03 3 A. Okay.

12:58:05 4 Q. -- the SAVE Program Guide.

12:58:08 5 Do you see on page 2 of the MOA where it says
12:58:11 6 the purpose of this MOA's granting SAVE access to the
12:58:15 7 Arizona secretary of state and the county recorders is for
12:58:18 8 citizenship verification, quote, "when applicants" -- I'm
12:58:27 9 subbing in -- "when applicants register to vote"?

12:58:29 10 A. Yes. It's in paragraph 1

12:58:31 11 Q. Right.

12:58:32 12 "When they register to vote," meaning the
12:58:34 13 applicants; correct?

12:58:34 14 A. Correct.

12:58:36 15 Q. Do you also see on page 4 of the MOA where it says
12:58:42 16 the purpose of this MOA is granting SAVE access to --
12:58:42 17 excuse me.

12:58:49 18 Do you see Subpart (g) where it says, "Use
12:58:54 19 any information provided by DHS-USCIS under this MOA solely
12:59:00 20 for the purpose of determining the eligibility of persons
12:59:03 21 applying for the benefit"?

12:59:04 22 Did I read that correctly?

12:59:04 23 A. You did.

12:59:07 24 Q. Is a currently registered Arizona voter applying
12:59:10 25 for any benefit?

12:59:13 1 A. I'm not sure I understand your question.

12:59:16 2 Q. If --

12:59:20 3 MR. WHITAKER: Objection. Arguably calls for
12:59:22 4 a legal conclusion.

12:59:23 5 BY MR. SHERMAN:

12:59:24 6 Q. Is a currently registered Arizona -- not -- excuse
12:59:24 7 me.

12:59:28 8 Is a currently registered Arizona voter, not
12:59:30 9 a voter registration applicant who's first applying to
12:59:35 10 register to vote -- is a currently registered Arizona voter
12:59:39 11 applying for a benefit?

12:59:42 12 MR. LANGHOFER: Same objection.

12:59:44 13 MR. BURKLEY: I'm going to object also
12:59:49 14 because I think maybe the definition of what a benefit is
12:59:51 15 is in play here. So I don't know if that's the same thing
12:59:58 16 that we're thinking about or that you're thinking about at
13:00:01 17 this point. So I would object. Calls for a legal
13:00:02 18 conclusion.

13:00:03 19 BY MR. SHERMAN:

13:00:03 20 Q. What is -- what is a benefit under this VRMOA?

13:00:07 21 MR. LANGHOFER: Same objection.

13:00:15 22 MS. SLATTERY: For purposes as defined in the
13:00:18 23 MOA, as outlined in the first paragraph under Section 3,
13:00:20 24 "Purpose," this would be the benefit that -- for which SAVE
13:00:24 25 is to be used is for confirming the status information of

13:00:28 1 individuals who are registering to vote.

13:00:32 2 BY MR. SHERMAN:

13:00:32 3 Q. Okay. So the benefit issued by the user agency
13:00:35 4 under Subpart (g) is voter registration; correct?

13:00:40 5 MR. LANGHOFER: Same objection.

13:00:43 6 MS. SLATTERY: That is the way the MOA is
13:00:48 7 drafted and as stated in the "Purpose" section.

13:00:51 8 BY MR. SHERMAN:

13:00:52 9 Q. Okay. Thank you.

13:00:52 10 And so if someone is already registered to
13:00:55 11 vote in Arizona, they're not applying for voter
13:01:00 12 registration; i.e., the benefit under this MOA; correct?

13:01:03 13 A. I would defer that question to the Arizona
13:01:08 14 secretary of state in terms of how they define registering
13:01:10 15 to vote.

13:01:11 16 For purposes of SAVE, we have authorized the
13:01:14 17 secretary of states in related counties to use SAVE for the
13:01:18 18 purpose of verifying individuals who are registering to
13:01:20 19 vote.

13:01:21 20 Q. Understood.

13:01:22 21 Are -- is USCIS the ultimate authority on
13:01:27 22 interpreting this MOA?

13:01:30 23 A. USCIS has entered into this MOA, and for purposes
13:01:34 24 of its use, it would be the authority on the MOA.

13:01:38 25 Q. Okay. So if there's a dispute between USCIS and

13:01:41 1 the Arizona Secretary of State's Office as to the meaning
13:01:45 2 of terms in this MOA, who decides -- who resolves that
13:01:49 3 dispute?

13:01:50 4 MR. LANGHOFER: Same objection.

13:01:51 5 MS. SLATTERY: USCIS would work with the
13:01:59 6 agency to ensure common understanding of the terminology
13:02:01 7 and would be, as the owner of the SAVE system, determining
13:02:05 8 whether the system is being used for its intended purpose
13:02:08 9 as defined in the MOA.

13:02:08 10 BY MR. SHERMAN:

13:02:10 11 Q. And if there's an ultimate disagreement, who would
13:02:12 12 be the final word on the meaning of the MOA?

13:02:16 13 MR. LANGHOFER: Same objection.

13:02:17 14 MS. SLATTERY: It's USCIS's system and use,
13:02:23 15 and we would make a determination of whether the terms of
13:02:26 16 the MOA are being followed or being violated.

13:02:29 17 BY MR. SHERMAN:

13:02:29 18 Q. Thank you.

13:02:30 19 Can we take a look at SAVE 655 -- USCIS SAVE
13:02:35 20 655.

13:02:50 21 And when you're there, what is this document?

13:03:31 22 A. Can you give us a minute? I don't have a printed
13:03:33 23 document.

13:03:33 24 Q. Yes. For sure. You could -- you could pull it up
13:03:35 25 on your laptop, too, in the Dropbox folder if you don't

13:03:39 1 have it printed out. Again, this is 655.

13:03:48 2 A. So the document marked with the Bates Number 655
13:03:52 3 is labeled as the "Reimbursement Memorandum of Agreement
13:03:55 4 Between the Department of Homeland Security, USCIS, and the
13:03:59 5 Pima County Recorder's Office."

13:04:00 6 Q. Thank you.

13:04:01 7 MR. SHERMAN: And if we could please mark
13:04:02 8 this as 188, Exhibit 188.

13:04:02 9 (The document was marked as Exhibit 188
13:04:02 10 for identification.)

13:04:02 11 BY MR. SHERMAN:

13:04:05 12 Q. So do you see under II(A) on the first page here
13:04:08 13 that it says, "The Arizona MOA governs the provision of
13:04:11 14 SAVE verification services to the User Agency for the
13:04:14 15 purpose of verifying citizenship and immigration status
13:04:17 16 information of non-citizen and naturalized or derived U.S.
13:04:22 17 citizen registrants (registrants) when they register to
13:04:25 18 vote (benefit)"?

13:04:31 19 A. I do.

13:04:32 20 Q. Thank you.

13:04:34 21 And these RMOAs have been signed with which
13:04:39 22 Arizona counties?

13:04:40 23 A. There are five counties. I believe they are
13:04:43 24 Maricopa, Pima, Yavapai -- I don't remember the last two.

13:04:56 25 Q. That's fine. We can -- we can move on.

13:04:58 1 If you could take a look at the SAVE Program
13:05:02 2 Guide as well. I'm looking specifically at page -- Bates
13:05:07 3 stamp page -- Bates Stamp 87.

13:05:18 4 First, when you're there, I'll ask you what
13:05:20 5 this is.

13:05:28 6 A. You said page 87 -- or Bates Stamp 87?

13:05:31 7 Q. Right.

13:05:31 8 Before you flip there, what is this document?

13:05:34 9 A. So the document marked as Bates Stamp
13:05:37 10 USCIS SAVE 79 is the SAVE Program Guide.

13:05:42 11 Q. Great.

13:05:43 12 MR. SHERMAN: Could we mark this as
13:05:44 13 Exhibit 189.

13:05:44 14 (Reporter clarification.)

13:05:44 15 (The document was marked as Exhibit 189
13:05:54 16 for identification.)

13:05:54 17 BY MR. SHERMAN:

13:05:56 18 Q. If you could flip to page 87 or -- excuse me --
13:05:58 19 Bates Stamp 87 here.

13:06:00 20 A. Yes.

13:06:00 21 Q. Do you see where it says -- this is under 3.4.1 --
13:06:09 22 "Users may run SAVE verification only on benefit
13:06:14 23 applicants"? Do you see that in paragraph --

13:06:17 24 A. Yes. It's paragraph 2, Section 3.4.1.

13:06:20 25 Q. In USCIS's view, is an existing registered voter a

13:06:24 1 benefit applicant, given what we've reviewed in the SAVE
13:06:29 2 Program Guide and the MOA and the RMOA?

13:06:32 3 MR. WHITAKER: Same objections.

13:06:38 4 MS. SLATTERY: Can you tell me what your
13:06:38 5 definition of "existing" is in this question?

13:06:42 6 BY MR. SHERMAN:

13:06:42 7 Q. A currently -- currently registered voter.

13:06:45 8 A. A currently registered voter would be past the
13:06:48 9 point of registering to vote, so it would appear to be
13:06:50 10 outside the terms of the MOA.

13:06:52 11 Q. Okay. Does the language we reviewed in the MOA,
13:07:00 12 the RMOA, and the SAVE Program Guide mean that once a
13:07:04 13 person is registered to vote, the user agency cannot use
13:07:07 14 the SAVE system as a tool to call into question and
13:07:11 15 investigate the citizenship of currently registered voters?

13:07:14 16 MR. WHITAKER: Same objection.

13:07:17 17 MS. SLATTERY: The activity as you outlined
13:07:23 18 in your question would be outside the terms of the MOA as
13:07:23 19 written.

13:07:24 20 BY MR. SHERMAN:

13:07:25 21 Q. Does the Arizona attorney general -- sorry.
13:07:29 22 Withdraw that question.

13:07:29 23 One other question on the SAVE Program Guide
13:07:33 24 before I move on.

13:07:41 25 Is the SAVE Program Guide incorporated by

13:07:44 1 reference into the MOA?

13:07:47 2 A. It is.

13:07:49 3 Q. Anything else incorporated by reference into the
13:07:53 4 MOA such that it's binding on the signatories?

13:07:57 5 MR. LANGHOFER: Same objection.

13:08:11 6 MR. BURKLEY: You want her to take time to go
13:08:13 7 through the entire MOA and --

13:08:16 8 MR. SHERMAN: Well --

13:08:17 9 MR. BURKLEY: -- look at references?

13:08:18 10 MR. SHERMAN: I'll ask some more specific
13:08:20 11 questions about that later. We can move on for now.

13:08:22 12 BY MR. SHERMAN:

13:08:23 13 Q. Does the Arizona Attorney General's Office have an
13:08:26 14 existing MOA with USCIS?

13:08:28 15 A. Not at this time.

13:08:30 16 Q. Does it need one, or can the Arizona Secretary of
13:08:34 17 State's Office give the AG access to the SAVE system?

13:08:34 18 MR. LANGHOFER: Same objection.

13:08:41 19 MS. SLATTERY: Agencies cannot independently
13:08:42 20 give agencies access to SAVE for purposes other than as
13:08:47 21 outlined in the MOA. If the Arizona attorney general
13:08:51 22 wished to use SAVE for a specific purpose, they would need
13:08:53 23 to approach SAVE to register as a user and provide the
13:08:57 24 legal authorities and purpose for the verification and sign
13:09:00 25 an MOA with the SAVE program.

13:09:03 1 BY MR. SHERMAN:

13:09:03 2 Q. So the existing MOA with the Arizona Secretary of
13:09:07 3 State's Office can't just be updated to include the Arizona
13:09:09 4 attorney general; it has to be a new MOA with the AG's
13:09:15 5 office; correct?

13:09:15 6 MR. LANGHOFER: Same objection.

13:09:17 7 MS. SLATTERY: If the Arizona secretary of
13:09:20 8 state approached USCIS to make a bilateral modification to
13:09:24 9 the MOA with the appropriate legal authorities, that is
13:09:27 10 allowable under the terms of the MOA, but the MOA, as it is
13:09:32 11 drafted, applies to the agency for which it was drafted.

13:09:34 12 BY MR. SHERMAN:

13:09:35 13 Q. Okay. Understood.

13:09:35 14 Has USCIS discussed extending access to the
13:09:40 15 Arizona Attorney General's Office?

13:09:42 16 A. There was an exchange of emails, and my
13:09:45 17 understanding is a conversation with regard to the
13:09:48 18 potential for extending use of SAVE to the -- to the
13:09:52 19 Arizona Attorney General's Office -- as outlined in my
13:09:55 20 previous response, the information conveyed was that there
13:09:58 21 would either have to be a bilateral modification of the
13:10:00 22 existing MOA or the Attorney General's Office would need to
13:10:04 23 pursue an independent MOA.

13:10:06 24 Q. When was this conversation?

13:10:11 25 A. I believe it was in 2018 or 20- -- I would have to

13:10:14 1 look at the email references.

13:10:17 2 Q. Was it after the challenged laws in this case were
13:10:21 3 enacted?

13:10:24 4 A. I don't know the answer to that question. We'd
13:10:27 5 have to look at the date.

13:10:28 6 Q. Do you know the outcome of those discussions?

13:10:32 7 A. Can you be more specific about what you mean as
13:10:35 8 "the outcome of those discussions"?

13:10:36 9 Are you asking me if the Attorney General's
13:10:39 10 Office has applied for an MOA?

13:10:40 11 Q. Yes.

13:10:41 12 A. To my knowledge, they have not.

13:10:46 13 Q. Can we take a look at USCIS SAVE 001524. Just let
13:11:05 14 me know when you're -- when you've found it.

13:11:07 15 You can also it pull up on your laptop if
13:11:09 16 that's easier. For some documents, I thought it would be
13:11:12 17 easier to have in front of you. That's why I suggested
13:11:15 18 printing them off. But if it's more efficient to pull them
13:11:18 19 up on your laptop, by all means.

13:11:25 20 And what is this document?

13:11:26 21 A. 1524 is an email. It is from Kori Lorick to
13:11:33 22 Walter Russell and others regarding the Arizona Office of
13:11:40 23 the Secretary of State SAVE agreement. The email is dated
13:11:43 24 June 28th, 2022.

13:11:46 25 MR. SHERMAN: Can we mark this as

13:11:46 1 Exhibit 190.

13:11:46 2 (The document was marked as Exhibit 190
13:11:48 3 for identification.)

13:11:48 4 BY MR. SHERMAN:

13:11:49 5 Q. If you want to take a moment just to review this
13:11:53 6 exchange, particularly Thursday, June 9th, 2022,
13:12:00 7 12:24 p.m., at the bottom of 1525.

13:12:14 8 What does that email from George Sauter
13:12:17 9 reflect?

13:12:18 10 A. The information reflects that the contact is with
13:12:23 11 the Arizona secretary of state and has asked for voter
13:12:28 12 registration. They seem to be asking if the Arizona
13:12:30 13 attorney general can access SAVE for the investigation of
13:12:33 14 voter registration eligibility per their stated law,
13:12:36 15 HB 2492. Will they need their own separate account or use
13:12:41 16 the secretary of state's account?

13:12:43 17 Q. Thank you.

13:12:43 18 So there were email exchanges and
13:12:45 19 conversations about Arizona attorney general access after
13:12:50 20 HB 2492 was enacted; correct?

13:12:53 21 A. That is what the email reflects.

13:12:55 22 Q. Okay. Could we take a look at USCIS SAVE 632.
13:13:18 23 And what is this document?

13:13:20 24 A. This document marked 632 is also an email. In
13:13:25 25 this case, it is from Jon Mills to "Klorick" at the

13:13:31 1 Secretary of State's Office and "Achan" at the Secretary of
13:13:34 2 State's Office. It is titled "SAVE Voter Registration
13:13:37 3 Agreement with Secretary of State's Office," dated
13:13:40 4 Wednesday, July 13, 2022.

13:13:43 5 Q. Great. Thank you.

13:13:43 6 And there's a second email in this chain
13:13:48 7 preceding it; correct?

13:13:52 8 A. Yes. It is -- it is an earlier email. It is
13:13:55 9 marked as 633. That email is dated July 12. It is from
13:14:01 10 Grenville Harrop to "Klorick" and "Achan" at the azsos.gov
13:14:08 11 email address. The subject is "SAVE Addendum Request."

13:14:11 12 MR. SHERMAN: Could we mark this as
13:14:12 13 Exhibit 191.

13:14:12 14 (The document was marked as Exhibit 191
13:14:13 15 for identification.)

13:14:13 16 BY MR. SHERMAN:

13:14:15 17 Q. So in the first -- in the Jonathan Mills email up
13:14:19 18 top, what was Jon Mills telling the Arizona Secretary of
13:14:29 19 State's Office regarding the AG's use of SAVE?

13:14:34 20 A. This email reflects that the information -- SAVE
13:14:44 21 use can only be conducted by the Arizona county recorders,
13:14:46 22 according to the MOA; that in the event that the Arizona
13:14:50 23 Attorney General's Office, which is not currently an
13:14:51 24 authorized user, wishes to use SAVE for an investigative
13:14:54 25 purpose, it is not authorized under the current MOA; and

13:14:58 1 that the attorney general would -- we would need to add a
13:15:04 2 bilateral modification as described previously, or that
13:15:08 3 there would need to be an independent MOA for the Arizona
13:15:12 4 Attorney General's Office. There is a recommendation at a
13:15:15 5 minimum that they be separated for purposes of billing and
13:15:17 6 to make tracking usage easier in the event the Arizona
13:15:24 7 Attorney General's Office wishes to pursue an MOA.

13:15:24 8 Q. And an investigative purpose is not one of the
13:15:26 9 authorized purposes under the current MOA with the Arizona
13:15:31 10 Secretary of State's Office; is that correct?

13:15:32 11 MR. LANGHOFER: Same objection.

13:15:33 12 MR. WHITAKER: Same objection.

13:15:36 13 MS. SLATTERY: That is not currently
13:15:37 14 reflected in the secretary of state's MOA. Correct.

13:15:40 15 BY MR. SHERMAN:

13:15:41 16 Q. So in the -- and then in the earlier --
13:15:45 17 sequentially earlier email, 633 -- I should say
13:15:49 18 chronologically earlier email -- this was sent by Grenville
13:15:56 19 Harrop; correct?

13:15:56 20 A. Correct.

13:15:57 21 Q. And this -- this email says there are -- does this
13:16:00 22 email say that there are no agencies anywhere in the
13:16:03 23 country with SAVE MOAs and access to SAVE for what can be
13:16:08 24 construed as, quote, "law enforcement purposes"?

13:16:13 25 A. That is what paragraph 1 of the email reflects,

13:16:15 1 yes.

13:16:16 2 Q. Is that accurate?

13:16:19 3 A. I think I'd like to make sure that we're being
13:16:30 4 clear about what we're describing as law enforcement
13:16:32 5 purposes and whether or not it includes security and
13:16:35 6 background checks because, again, there are circumstances
13:16:37 7 where we do have agencies that are conducting it for
13:16:40 8 background checks and security purposes.

13:16:44 9 Q. Do you want to take a look at paragraph 3 of this
13:16:47 10 email?

13:16:48 11 This says, "SAVE does have agreements for
13:16:50 12 background investigation agencies" --

13:16:52 13 A. Correct.

13:16:52 14 Q. -- "but based on the narrow context of granting an
13:16:55 15 individual a security clearance after verification of their
13:16:58 16 immigration status. The clearance would be granted either
13:17:01 17 for on-boarding for employment or to grant access to secure
13:17:04 18 information or facility."

13:17:06 19 Beyond those contexts, are there any other
13:17:10 20 user agencies out there that have a SAVE MOA for "law
13:17:14 21 enforcement purposes," quote/unquote?

13:17:15 22 A. I did not have an opportunity to review every MOA,
13:17:18 23 but to my knowledge, they are not --

13:17:20 24 Q. Understood.

13:17:21 25 A. -- being used for that purpose at this time.

13:17:24 1 Q. So if the Arizona Attorney General's Office was
13:17:28 2 granted access for the purposes outlined in the challenged
13:17:33 3 laws in this case, they would be the first agency in the
13:17:37 4 country to secure a SAVE MOA for a, quote, "law enforcement
13:17:40 5 purpose"?

13:17:46 6 A. As they have not either approached us or provided
13:17:48 7 legal authority for that purpose, if they were to be
13:17:52 8 granted an MOA, they would potentially be the first, yes.

13:17:57 9 Q. Why is it that to date no user agencies anywhere
13:18:01 10 in the country have been granted access to SAVE for, quote,
13:18:04 11 "law enforcement purposes"?

13:18:06 12 MR. WHITAKER: Objection. Calls for
13:18:08 13 speculation.

13:18:16 14 MR. SHERMAN: Agree to disagree, but we'll
13:18:19 15 let the witness answer.

13:18:29 16 MS. SLATTERY: Can you restate the question,
13:18:30 17 please?

13:18:31 18 BY MR. SHERMAN:

13:18:31 19 Q. Of course.

13:18:32 20 Why is it that to date no user agencies have
13:18:35 21 been granted access to SAVE for law enforcement purposes,
13:18:38 22 as used in this email?

13:18:41 23 MR. WHITAKER: Same objection.

13:18:43 24 MS. SLATTERY: I'm afraid I can't answer why
13:18:44 25 agencies would have not requested access to SAVE.

13:18:48 1 And again, I would need to review all of our
13:18:51 2 MOAs to confirm the question that you're asking with regard
13:18:53 3 to whether we have any agencies that are using it for law
13:18:56 4 enforcement purposes.

13:18:57 5 BY MR. SHERMAN:

13:18:58 6 Q. Have any agencies -- state or local agencies
13:19:02 7 approached USCIS to enter into an MOA and be granted SAVE
13:19:08 8 access for a law enforcement purpose before these recent
13:19:12 9 conversations with the Arizona Attorney General's Office?

13:19:16 10 MR. LANGHOFER: I think this is outside the
13:19:18 11 scope of the noticed deposition.

13:19:23 12 MS. SLATTERY: I do not have any information
13:19:24 13 to confirm or answer that question in front of me. And I
13:19:28 14 have only been with the program for 45 days, so I can state
13:19:31 15 conclusively that during my tenure, I have not received a
13:19:33 16 request. And I would need to conduct additional research
13:19:36 17 if that is something you'd like us to reply to.

13:19:39 18 BY MR. SHERMAN:

13:19:39 19 Q. Understood.

13:19:39 20 Does federal law authorize using SAVE for law
13:19:49 21 enforcement purposes?

13:19:51 22 MR. LANGHOFER: Calls for a legal conclusion.

13:19:56 23 MR. BURKLEY: We object. Calls for a legal
13:19:58 24 conclusion.

13:20:02 25 MR. SHERMAN: Are you instructing her not to

13:20:03 1 answer, or can she proceed?

13:20:10 2 MR. BURKLEY: Can you rephrase the question?

13:20:12 3 BY MR. SHERMAN:

13:20:12 4 Q. Are there any federal statutes that explicitly
13:20:15 5 authorize using the SAVE system for law enforcement
13:20:18 6 purposes?

13:20:20 7 MR. LANGHOFER: Same objection.

13:20:24 8 MR. BURKLEY: Answer as best you can.

13:20:27 9 MS. SLATTERY: I am not aware of one at this
13:20:28 10 time, no.

13:20:29 11 BY MR. SHERMAN:

13:20:31 12 Q. Okay. And what are the specific federal statutes
13:20:35 13 that authorize the use of the SAVE system for citizenship
13:20:40 14 verification purposes in the voter registration context?

13:20:44 15 MR. LANGHOFER: Same objection.

13:20:48 16 MS. SLATTERY: I would refer back to the
13:20:49 17 terms of the MOA which outline the specific legal
13:20:53 18 authorities under which the MOA is agreed to and that
13:20:56 19 support the use of the SAVE system in the voter
13:21:01 20 verification context. They're outlined on page 1 of the
13:21:03 21 MOA.

13:21:04 22 BY MR. SHERMAN:

13:21:11 23 Q. Document that -- the document that we were just
13:21:12 24 discussing, Exhibit 191, Bates Stamp 633, this email
13:21:17 25 reflects that the Arizona Attorney General's Office has

13:21:19 1 been referred to ICE's Law Enforcement Support Center; is
13:21:25 2 that correct?

13:21:25 3 A. Correct. The information provided was that
13:21:28 4 agencies who -- who seek immigration information for law
13:21:33 5 enforcement purposes can coordinate with ICE's LESC, the
13:21:36 6 Law Enforcement Support Center, for that purpose.

13:21:39 7 Q. And do you see the line in bold at the top of that
13:21:42 8 paragraph that reads, "Previous requests for SAVE access
13:21:45 9 from law enforcement agencies have been referred to the Law
13:21:50 10 Enforcement Support Center"? Do you see that?

13:21:52 11 A. I apologize. I shifted documents, so I'm trying
13:21:54 12 to --

13:21:54 13 Q. No worries. I'll give you a second to get back
13:21:54 14 there.

13:21:57 15 A. Yes, I do see the line in bold in the email.

13:21:59 16 Q. And so does that mean that previous applicants for
13:22:04 17 SAVE access for law enforcement purposes have all been
13:22:07 18 denied?

13:22:10 19 A. I would say that the statement in the email is the
13:22:15 20 statement that it is. I do not have information to suggest
13:22:18 21 that all requests have been routed this way. As I
13:22:21 22 indicated, though, I can say that I am not aware currently
13:22:24 23 of SAVE being used for law enforcement purposes or --

13:22:24 24 Q. I see.

13:22:29 25 A. -- or that we have an agency for that purpose.

13:22:34 1 Q. Okay. And is the Arizona Attorney General's
13:22:37 2 Office separately pursuing an MOA at this time with your
13:22:38 3 office?

13:22:39 4 A. I am not aware that they have requested one, no.

13:22:42 5 Q. Have you been having conversations with the
13:22:45 6 Arizona Attorney General's Office about this?

13:22:48 7 A. I have not, no.

13:22:50 8 Q. And when -- when I say "you," I mean USCIS.

13:22:54 9 A. Correct. And as the SAVE program chief, I would
13:22:57 10 be aware of conversations to that -- to that nature.

13:23:00 11 Q. Understood. I just wanted to confirm so the
13:23:02 12 record is clear.

13:23:03 13 A. Sure.

13:23:03 14 Q. Is the Arizona Secretary of State's Office
13:23:08 15 negotiating with your office on the AG's behalf?

13:23:13 16 A. I am not aware that they are at this time. I
13:23:16 17 think the last engagement we had on that was back in '22.

13:23:20 18 Q. Understood.

13:23:22 19 Has USCIS discussed revising the existing MOA
13:23:27 20 with their office -- with the Arizona Secretary of State's
13:23:30 21 Office since the challenged laws in this litigation were
13:23:32 22 enacted?

13:23:34 23 A. To my knowledge, the last engagement with the
13:23:36 24 Arizona Secretary of State's Office is what's represented
13:23:39 25 in the 22 emails and the related phone call where the

13:23:43 1 requirements about the use of the program by the Arizona --
13:23:47 2 the U.S. Attorney General and the secretary of state were
13:23:50 3 outlined regarding the current MOA and its use for voter
13:23:56 4 registration verification.

13:23:57 5 Q. Can I ask you to take a look at 632 again, the
13:24:01 6 previous email in that document.

13:24:06 7 A. Yes.

13:24:07 8 Q. Before -- the second to last sentence in Jon
13:24:11 9 Mills' email says, "We could also discuss, if necessary,
13:24:14 10 expansion of the existing SAVE MOA to include voter list
13:24:18 11 maintenance activities by Arizona County Recorders, as long
13:24:21 12 as those activities are consistent with law, rules,
13:24:24 13 regulations and DHS guidance."

13:24:26 14 Did I read that correctly?

13:24:28 15 A. Yes.

13:24:30 16 Q. What has been the outcome, if any -- have you --
13:24:35 17 excuse me. Let me withdraw that question.

13:24:37 18 Have you had those conversations about
13:24:39 19 modifying the SAVE MOA in the way described in this email?

13:24:43 20 A. To my knowledge, the exchange that is represented
13:24:45 21 in this email and the related conversation which reflected
13:24:51 22 the same contents as the email is the last engagement that
13:24:54 23 has been had on this subject.

13:24:56 24 Q. Understood.

13:24:57 25 Who would decide whether the proposed use of

13:25:05 1 the SAVE system is, quote, "consistent with laws, rules,
13:25:08 2 regulations and DHS guidance"?

13:25:10 3 A. Again, as part of the request to join the SAVE
13:25:14 4 system as a registered agency, the -- the requesting agency
13:25:18 5 would have to submit documentation of the legal authorities
13:25:20 6 that would be required -- that would allow them to conduct
13:25:24 7 the verifications and the proposed use of the system. That
13:25:27 8 would be reviewed within USCIS by the Office of Chief
13:25:32 9 Counsel as well as the SAVE personnel. And after that
13:25:35 10 review, we would make the determination whether the agency
13:25:39 11 could register for SAVE purposes. So USCIS, the components
13:25:44 12 of it collectively, would make that determination.

13:25:46 13 Q. Understood.

13:25:47 14 And if a proposed purpose, pursuant to a new
13:25:52 15 state law, is the subject of litigation such as this
13:25:55 16 litigation, does USCIS have a policy of holding off on a
13:26:00 17 new MOA or granting or expanding access to the SAVE system
13:26:04 18 until the resolution of that litigation?

13:26:08 19 A. I think anytime we would be approaching a
13:26:12 20 registration where there was a question of law that was
13:26:13 21 unsettled, we would take a look at what was happening at
13:26:18 22 the time. It would be a case-by-case determination.

13:26:22 23 Q. So USCIS has the discretion to hold off on
13:26:26 24 granting SAVE access until the litigation over the proposed
13:26:33 25 uses of the SAVE system has been resolved?

13:26:38 1 A. I think it's fair to say that, again, we would
13:26:40 2 look at a situation, then make a determination about
13:26:42 3 whether the authority to use the system was clear and
13:26:47 4 whether it supported use for the purpose requested.

13:26:51 5 Q. The MOA refers to compliance with -- well, strike
13:27:00 6 that. I'll get -- I'll get to that in a minute.

13:27:02 7 So going back to the MOA with the Arizona
13:27:06 8 Secretary of State's Office, what is the Verification
13:27:10 9 Information System, or VIS?

13:27:12 10 A. That is the system that SAVE uses in order to do
13:27:15 11 the data logic and matching for the information that's
13:27:18 12 input into the SAVE system.

13:27:20 13 MS. SLATTERY: And I can ask Mariah to add on
13:27:23 14 to that if I misstated -- or can correct anything.

13:27:25 15 MS. DOOLITTLE: You stated that correctly,
13:27:28 16 Shannon.

13:27:28 17 BY MR. SHERMAN:

13:27:29 18 Q. Is it the application program interface, or API,
13:27:32 19 that Arizona county recorders use?

13:27:36 20 MS. DOOLITTLE: In layman's terms, they go
13:27:38 21 through the browser. So somebody that has access would be
13:27:40 22 going through the browser to access SAVE versus our web
13:27:45 23 service agencies that have to build out to.

13:27:45 24 BY MR. SHERMAN:

13:27:49 25 Q. Understood.

13:27:49 1 Is VIS just the system itself that makes all
13:27:53 2 naturalized or derived citizenship status data available,
13:27:55 3 or it's just the API?

13:27:58 4 MS. DOOLITTLE: It's a -- I would call it a
13:28:02 5 suite of systems, SAVE, which is -- within part of VIS,
13:28:08 6 doesn't have that information, so we go out to do the data
13:28:12 7 calls. When an agency enters a case and what they're using
13:28:17 8 to enter, then it will go out to bring back that
13:28:21 9 information in a payload to give to the verification system
13:28:26 10 and then match it to a response that the agency would
13:28:31 11 receive on that applicant.

13:28:31 12 BY MR. SHERMAN:

13:28:31 13 Q. Thank you.

13:28:34 14 How do user agencies such as county
13:28:37 15 recorder's offices in Arizona query the SAVE system for a
13:28:40 16 benefit applicant's naturalized or derived citizenship?

13:28:43 17 And I'm referring here to page 2 of the MOA
13:28:46 18 if that's helpful.

13:28:46 19 A. Can you restate your question, please?

13:28:46 20 Q. Sure.

13:28:58 21 How do user agencies such as county
13:29:01 22 recorder's offices in Arizona query the SAVE system for a
13:29:03 23 benefit applicant's naturalized or derived citizenship?

13:29:07 24 A. So the state agency, as Mariah said, typically
13:29:11 25 would come into the verification system one of two ways.

13:29:12 1 There is the online system that USCIS maintains, which is
13:29:17 2 our browser system. In that case, the user would come in
13:29:20 3 directly onto the -- the website and enter the agency
13:29:24 4 information for the applicant after going through and
13:29:27 5 providing the user's password and user ID. That
13:29:32 6 information would then be entered into the system, and then
13:29:35 7 they would click "submit," and the data would move into the
13:29:38 8 SAVE system.

13:29:40 9 Q. And there's an additional verification process as
13:29:42 10 well; correct?

13:29:43 11 A. Correct. If -- so the first stage of the
13:29:47 12 verification process is automated. Once that data is
13:29:50 13 entered into SAVE, it goes through an automatic matching
13:29:53 14 process.

13:29:53 15 If, for some reason, we are unable to provide
13:29:55 16 a status match at first step, the automated level, or if
13:30:01 17 the agency determines that the response received at the
13:30:04 18 automated level is not answering their need for an
13:30:08 19 eligibility determination, then a case can be pushed for
13:30:10 20 additional verification.

13:30:12 21 Q. What are --

13:30:12 22 A. There are also -- there are also some instances
13:30:14 23 where SAVE will identify to the agency that the case needs
13:30:17 24 to go to additional verification because there may have
13:30:20 25 been information missing in the initial data submission.

13:30:23 1 Q. Thank you.

13:30:24 2 What information do user agencies have to
13:30:27 3 input for the SAVE system's initial verification?

13:30:30 4 A. They have to input a first name, a last name, a
13:30:34 5 date of birth, an immigration enumerator. At least one --
13:30:39 6 these are typically unique identifier numbers that are
13:30:42 7 associated with a USCIS-issued document, such as an alien
13:30:46 8 registration number, an A-number; an I-94 number, which is
13:30:51 9 the arrival/departure document; a receipt issued by USCIS;
13:30:56 10 or a related document.

13:30:58 11 Q. If we could take a look at USCIS SAVE 13.

13:31:13 12 When you're there, what is this document?

13:31:16 13 A. This document is titled "Fact Sheet, Information
13:31:20 14 for Voter Registration Agencies: Conducting Verifications
13:31:22 15 Through SAVE."

13:31:24 16 MR. SHERMAN: Can we mark this, please, as
13:31:25 17 Exhibit 192.

13:31:25 18 (The document was marked as Exhibit 192
13:31:27 19 for identification.)

13:31:27 20 BY MR. SHERMAN:

13:31:29 21 Q. And -- and the information you were just
13:31:31 22 describing about what needs to be input into SAVE to start
13:31:35 23 an initial verification, that's reflected at the bottom of
13:31:37 24 page 1 onto page 2; correct?

13:31:39 25 A. Correct.

13:31:40 1 Q. Can SAVE match applicants without a numeric
13:31:40 2 identifier?

13:31:49 3 A. No. SAVE is unable to do a verification with just
13:31:51 4 name and date of birth information.

13:31:53 5 Q. Could I have you also look at USCIS 663. You
13:32:09 6 might want to keep the MOA out, the SAVE Program Guide. At
13:32:10 7 this point, I would pull out the MOA. To make your life
13:32:11 8 easier, I would pull out the MOA, the SAVE Program Guide,
13:32:14 9 and 663. A lot of the other documents you could keep --
13:32:22 10 we've probably gone through already, and those are the main
13:32:24 11 ones I'll focus on, at least for this section. Thank you.

13:32:34 12 So what is 663, when you're there?

13:33:12 13 If it's easier to pull it up on Dropbox to,
13:33:16 14 you --

13:33:16 15 A. We're going to have to.

13:33:18 16 Q. Sorry about that.

13:33:19 17 A. No, it's all good.

13:33:22 18 Document 663 is a one-page document titled
13:33:23 19 "How to Initiate a Case." I'm sorry. Three pages,
13:33:27 20 three-page document.

13:33:27 21 Q. Great.

13:33:28 22 MR. SHERMAN: Could we mark this as
13:33:29 23 Exhibit 193.

13:33:29 24 (The document was marked as Exhibit 193
13:33:32 25 for identification.)

13:33:32 1 BY MR. SHERMAN:

13:33:33 2 Q. And the information you were just describing that
13:33:35 3 you need to enter into the SAVE system as a user agency is
13:33:38 4 reflected in Step 2; correct? First name, last name, date
13:33:41 5 of birth, and at least one enumerator; correct?

13:33:43 6 A. Correct.

13:33:43 7 Q. And what does it mean that SAVE is now, quote,
13:33:48 8 "enumerator-based rather than document-based," end quote?

13:33:52 9 A. So when we made some updates to SAVE in the 2017,
13:34:01 10 2016, 2018 time period, we moved away from having
13:34:04 11 individuals submit documents solely and started across the
13:34:10 12 agency using the enumerators of the documents.

13:34:13 13 So each document within DHS bears certain
13:34:17 14 identifying information. It can be an A-number; it can be
13:34:20 15 a particular type of document number; it could be a receipt
13:34:23 16 number. But what we have found is tracking the information
13:34:27 17 to the enumerator makes searching the records more
13:34:31 18 efficient. And so having the name and date of birth
13:34:34 19 information as well as the enumerator allows us to match
13:34:37 20 the information in the most effective way possible.

13:34:39 21 Q. So for the, quote, "current immigration document
13:34:42 22 number," end quote, what document numbers can be used to
13:34:45 23 initiate initial verification?

13:34:48 24 A. There's a whole variety of documents that can be
13:34:51 25 used. They are outlined in our SAVE user guide information

13:34:56 1 as well as information available on our commonly used
13:34:59 2 immigration documents pages.

13:35:01 3 The most common for U.S. citizens would be
13:35:04 4 the certificate of naturalization or the certificate of
13:35:06 5 citizenship.

13:35:09 6 Q. And only an America identifier issued by DHS or
13:35:13 7 INS before it can work; correct?

13:35:15 8 A. Correct. We would not be verifying information
13:35:17 9 such as a Social Security number or a U.S. passport number
13:35:21 10 issued by an outside agency.

13:35:26 11 Q. For purposes of identifying naturalized or derived
13:35:33 12 citizenship status, what are all the viable options the
13:35:36 13 user agency can input?

13:35:37 14 A. I'm sorry. Can you repeat your question?

13:35:39 15 Q. For sure.

13:35:40 16 For purposes of verifying naturalized or
13:35:43 17 derived citizenship status, what are all the viable options
13:35:46 18 the user agency can input?

13:35:49 19 A. The most common will obviously be the certificate
13:35:52 20 of naturalization, the certificate of citizenship.

13:35:54 21 I'll ask Russ to chime in at this stage,
13:35:57 22 because there are other documents that we can use in the
13:35:59 23 immigration history that we can track information with.
13:36:01 24 Russ.

13:36:04 25 MR. FILIGHERA: In some instances there could

13:36:10 1 be older documents, I want to say, besides the certificate
13:36:14 2 of naturalizat- -- certificate of naturalization,
13:36:17 3 certificate of citizenship. In the past, there was old
13:36:21 4 form numbers previous to -- I want to say there was a form
13:36:26 5 for identification cards for residents. There's also
13:36:31 6 another document about birth abroad -- I mean birth
13:36:34 7 within the -- abroad that -- for a U.S. citizen.

13:36:38 8 So on those form numbers, if I recollect, one
13:36:41 9 of them was a 179 identification card. The other form,
13:36:46 10 though, can only be used -- it's an older-age document --
13:36:50 11 if the person was not a born U.S. citizen, of course, and
13:36:55 12 they have to have a collaborating D- -- record in our DHS
13:37:01 13 databases, the databases we access.

13:37:02 14 So again, it's just the -- the document
13:37:04 15 itself might lead to identifying information: name, date
13:37:08 16 of birth, that numeric ID that could be found in a record.
13:37:11 17 BY MR. SHERMAN:

13:37:11 18 Q. Thank you.

13:37:12 19 Can a SAVE system query be performed with
13:37:15 20 just a single document number or numeric identifier?

13:37:19 21 A. At least one enumerator must be input into the
13:37:22 22 system; however, we do recommend to agencies that they
13:37:25 23 input as many enumerators as they have available because it
13:37:28 24 does assist with identifying the records.

13:37:30 25 Q. Can naturalized or derived citizenship be verified

13:37:33 1 through SAVE without any of the following: an A-number,
13:37:36 2 naturalization certificate number, or citizenship
13:37:38 3 certificate number?

13:37:39 4 Mr. Filighera, was that what you were
13:37:41 5 describing? Those were some of the alternatives you were
13:37:45 6 just listing?

13:37:45 7 MR. FILIGHERA: So we base manual
13:37:48 8 verification or additional verification on name, date of
13:37:49 9 birth, and numeric ID, that numeric identifier. In some
13:37:53 10 cases, when we request a document to be provided, that
13:37:57 11 document would also have to be something that -- you know,
13:37:59 12 that can be found in the DHS records. So over the history
13:38:03 13 of time, there's some older documents beyond the most
13:38:06 14 current certificates that you would see issued today.

13:38:09 15 BY MR. SHERMAN:

13:38:09 16 Q. And naturalization certificates contain both an
13:38:12 17 A-number and a naturalization certificate number; correct?

13:38:17 18 A. Current versions of them do. There are some, I
13:38:20 19 believe, older versions that may have one or the other but
13:38:22 20 not necessarily both.

13:38:24 21 Q. Understood.

13:38:26 22 And the user agency is able to plug in both
13:38:27 23 of those numbers into the SAVE system API to initiate
13:38:33 24 verification; correct?

13:38:34 25 A. The enumerators that are available can be entered

13:38:37 1 into the system, and the system will accept more than one.

13:38:40 2 Q. Does the likelihood of matching and verifying the
13:38:43 3 applicant increase if the user agency plugs in more than
13:38:47 4 one identifying number from a DHS document?

13:38:49 5 A. Yes. As I stated, the minimum practice is to
13:38:51 6 include one unique enumerator. We do recommend that as
13:38:56 7 many as the agency has available be entered for purposes of
13:39:00 8 making the automated verification as easily as possible and
13:39:02 9 also to assist with tracking records if we need to move to
13:39:04 10 a manual verification.

13:39:06 11 Q. And back on 663, which we marked as Exhibit 193,
13:39:12 12 close to the bottom of that document, it says, "This means
13:39:16 13 you may send as many enumerators as are available,
13:39:19 14 regardless of document type, which increases the chance of
13:39:22 15 receiving an affirmative response at initial verification";
13:39:26 16 is that correct?

13:39:26 17 A. Yes.

13:39:27 18 Q. And that's what we were just talking about?

13:39:30 19 A. Yes.

13:39:30 20 Q. And does that obviate the need or minimize the
13:39:37 21 need for additional documentation?

13:39:41 22 A. It can make it easier. Again, the more
13:39:43 23 enumerators we're able to have access to and can support
13:39:47 24 automated verification, it reduces the need to request a
13:39:50 25 document if we have to move to manual verification.

13:39:54 1 Q. The Yavapai County Recorder's Office has testified
13:39:58 2 in this case that it cannot query the naturalization
13:40:00 3 certificate number. Any reason why they say that?

13:40:06 4 MR. MORGAN: Foundation.

13:40:12 5 BY MR. SHERMAN:

13:40:12 6 Q. Assume for purposes of this question that I'm
13:40:14 7 repeating their transcript -- deposition transcript
13:40:18 8 accurately.

13:40:26 9 A. I would have to confirm on the naturalization
13:40:27 10 certificate.

13:40:30 11 MS. SLATTERY: Mariah, are you aware of a
13:40:30 12 reason that wouldn't be available?

13:40:32 13 MS. DOOLITTLE: If they had a number
13:40:35 14 available to them on it -- an older certificate that you
13:40:37 15 spoke to before that wouldn't have one, then they, of
13:40:42 16 course, can't enter something that has nothing on it. But
13:40:45 17 outside of that, they should be able to enter it.

13:40:50 18 BY MR. SHERMAN:

13:40:50 19 Q. There's -- the user interface they're looking at
13:40:52 20 in the Yavapai County Recorder's Office should have a field
13:40:55 21 to put in the naturalization certificate number; correct?

13:41:09 22 A. I would -- I would like to go back and confirm
13:41:12 23 with specificity that the naturalization certificate
13:41:15 24 number, which I believe can be entered but I will confirm,
13:41:19 25 is an available data field. I'm unable to see it on the

13:41:22 1 document at the moment.

13:41:23 2 Q. Okay. If you want to take a moment just to
13:41:26 3 confirm that if it will take just a minute to look.

13:41:30 4 MS. DOOLITTLE: [Indiscernible] of that can
13:41:30 5 be added.

13:41:30 6 THE COURT REPORTER: I'm sorry. Say that
13:41:30 7 again.

13:41:34 8 MS. DOOLITTLE: It's correct that
13:41:35 9 naturalization numbers and citizenship numbers can be added
13:41:40 10 within the SAVE system.

13:41:51 11 MR. MORGAN: Jon, if that's the answer, I
13:41:53 12 guess you could move on. But if it's not the answer and
13:41:55 13 Ms. Slattery's still looking, I propose we take a
13:41:58 14 five-minute break so some of us can maybe use the services.

13:42:03 15 MS. SLATTERY: No, I can just confirm that
13:42:04 16 the alien number and the naturalization citizenship number
13:42:06 17 are separate fields.

13:42:06 18 BY MR. SHERMAN:

13:42:08 19 Q. Okay. But both are available to the county
13:42:08 20 recorders?

13:42:12 21 A. We would need to check their account specifically
13:42:14 22 to determine that it was available, but it is a standard
13:42:16 23 field.

13:42:17 24 MR. SHERMAN: Okay. Ms. Slattery,
13:42:20 25 Ms. Doolittle, Mr. Filighera, is it okay if we keep going

13:42:24 1 for another 15, 20 before taking a break, or should we take
13:42:28 2 a break now?

13:42:35 3 MS. SLATTERY: We can keep going.

13:42:36 4 BY MR. SHERMAN:

13:42:37 5 Q. Okay. What are the possible results of the
13:42:39 6 initial verification for naturalized or derived
13:42:42 7 citizenship? What does the user see on screen?

13:42:48 8 And you can refer to 665, if helpful, in the
13:42:55 9 document we've been looking at I think on your laptop.

13:43:08 10 What does -- what does the user agency see if
13:43:10 11 naturalized or derived citizenship is confirmed?

13:43:20 12 A. They would see the confirmed response indicating
13:43:23 13 U.S. citizenship.

13:43:27 14 Q. Is that a light green box at the top of the screen
13:43:30 15 as shown in the top of 665?

13:43:39 16 A. Yes. This -- in the case of the document, this
13:43:47 17 does reflect a lawful permanent resident status, but that
13:43:52 18 is how the -- how a response would be returned.

13:43:53 19 And then underneath that, you'll see the
13:43:55 20 response details, including the case verification number
13:43:58 21 and the related information, along with the country code, a
13:44:02 22 class of admission code, and date information as
13:44:07 23 appropriate.

13:44:08 24 Q. And if additional verification is needed, what
13:44:10 25 does the user see on screen?

13:44:12 1 A. There would be a button at the bottom of the
13:44:16 2 screen which -- there's first a button -- a box at the top
13:44:23 3 of the screen with a yellow triangle that says, "Institute
13:44:25 4 Additional Verification."

13:44:26 5 At the bottom of the screen, there is a green
13:44:29 6 button that allows the user to click to institute that
13:44:31 7 additional verification.

13:44:33 8 Q. So the user agency gets a notice saying
13:44:37 9 additional -- additional verification is required and all
13:44:39 10 they need to do to initiate additional verification is
13:44:42 11 click that yellow button at the bottom of the screen --
13:44:46 12 excuse me -- green button at the bottom of the screen?

13:44:48 13 A. They can also add additional comments. You'll see
13:44:52 14 a "Special Comments" field where they can provide
13:44:55 15 information to USCIS regarding information they may be
13:44:58 16 seeking.

13:44:59 17 There are also "Additional Request
13:45:00 18 Information" where they may be looking for information
13:45:04 19 related to specific status information that they can also
13:45:08 20 click that would indicate to us additional information that
13:45:11 21 they may be seeking. And then they can upload a document
13:45:14 22 at this stage or a file, and then they could click
13:45:17 23 additional -- "Institute Additional Verification."

13:45:21 24 Q. So those are the steps that are required to
13:45:24 25 initiate additional verification; correct?

13:45:26 1 A. Those are the data fields that are available for
13:45:29 2 the agency to provide additional information, yes.

13:45:31 3 Q. They don't need to fill those out; those are just
13:45:34 4 helpful for manual review; correct?

13:45:38 5 A. They are helpful for manual review, and we would
13:45:45 6 encourage states to fill them out -- or agencies to fill
13:45:47 7 them out as much as possible.

13:45:49 8 Q. And then clicking the green button at the bottom,
13:45:51 9 that initiates additional verification regardless of
13:45:55 10 whether the comments and the other information have been
13:45:57 11 provided; correct?

13:46:01 12 MS. SLATTERY: Mariah, can you confirm that?
13:46:01 13 I believe it does.

13:46:02 14 MS. DOOLITTLE: I believe it does as well.
13:46:05 15 I'm more on the back end of the system than the front-end
13:46:09 16 portion.

13:46:11 17 Potentially, Russ might be able to verify,
13:46:13 18 but . . .

13:46:16 19 MR. FILIGHERA: Will you repeat that
13:46:18 20 question.

13:46:19 21 BY MR. SHERMAN:

13:46:20 22 Q. Does clicking -- yes.
13:46:21 23 Does clicking the green button marked
13:46:24 24 "Initiate Additional Verification" -- does that start the
13:46:28 25 additional verification process?

13:46:30 1 MR. FILIGHERA: I'm under the impression,
13:46:31 2 based on my recollection, that upon hitting that button, it
13:46:35 3 would then go on to additional verification and get placed
13:46:38 4 into our queue of cases to work.

13:46:43 5 BY MR. SHERMAN:

13:46:43 6 Q. Understood.

13:46:44 7 And IAV -- or initial additional
13:46:44 8 verification, or IAV, response upon initial verification,
13:46:54 9 that -- excuse me. Let me back up. I misstated one word.

13:46:56 10 An initiate additional verification, or IAV,
13:47:00 11 response, that isn't -- that doesn't necessarily mean that
13:47:04 12 the applicant is ineligible to receive the benefit;
13:47:07 13 correct?

13:47:07 14 A. Correct. In fact, we would say to agencies that
13:47:11 15 if they have any reason to question the result that was
13:47:14 16 received, that they should initiate additional verification
13:47:18 17 and that it, you know, again, should not be determined to
13:47:22 18 be an indication of eligibility if it does not provide the
13:47:25 19 information that the agency needs to do that eligibility
13:47:28 20 determination.

13:47:29 21 Q. If we could look back at page 4 of the MOA. These
13:47:35 22 are the user agency obligations.

13:47:46 23 Is the user agency bound to comply with the
13:47:48 24 MOA?

13:47:51 25 MR. MORGAN: Calls for a legal conclusion.

13:47:56 1 MS. SLATTERY: Yes. This is the contract
13:47:58 2 between the agency and USCIS, the terms of which we would
13:48:01 3 expect them to follow.

13:48:02 4 BY MR. SHERMAN:

13:48:02 5 Q. And SAVE system access is contingent upon
13:48:06 6 following the terms of the MOA; correct?

13:48:08 7 A. Correct.

13:48:09 8 Q. Is the user agency bound to comply with the SAVE
13:48:14 9 Program Guide?

13:48:14 10 A. Yes.

13:48:16 11 Q. The SAVE voter registration fact sheet?

13:48:20 12 A. That's a fact sheet for informational purposes.
13:48:22 13 It does reflect the requirements that are consistent with
13:48:26 14 the SAVE system as well as the user guide.

13:48:29 15 Q. How about the template notice letters to
13:48:32 16 applicants on correcting, updating, renewing, or obtaining
13:48:35 17 a record?

13:48:38 18 A. The expectation of an agency is that they would
13:48:40 19 provide information to a benefit applicant if they needed
13:48:43 20 to correct the record, yes.

13:48:45 21 Q. Are they bound by the terms in those fact sheets
13:48:50 22 on correcting, updating, renewing, or obtaining records?

13:48:54 23 MR. LANGHOFER: Same objection.

13:48:56 24 MS. SLATTERY: To which fact sheet are you
13:48:58 25 specifically referring? I'd like to look at the language.

13:49:00 1 BY MR. SHERMAN:

13:49:01 2 Q. For sure.

13:49:13 3 Oh, I know what this is. This is 11/12 at
13:49:17 4 the end of the MOA: "Information for Registrants:
13:49:22 5 Verification of Citizenship Status and How to Obtain Your
13:49:26 6 Document or Correct Your Record with USCIS."

13:49:28 7 This is part of Exhibit 184, the MOA. So
13:49:32 8 it's just appended to the end of the MOA.

13:49:45 9 A. This is an information worksheet for a benefit
13:49:47 10 applicant that explains how to obtain correction of
13:49:51 11 documents with USCIS. As part of the terms of the MOA, the
13:49:55 12 agency would be required to provide information to the
13:49:59 13 benefit applicant about how to go about correcting the
13:50:01 14 record.

13:50:02 15 Q. And would they provide this sheet?

13:50:06 16 A. This sheet is one of the options an agency would
13:50:08 17 have to provide information. This one is the one that is
13:50:11 18 attached to this MOA as part of this package.

13:50:14 19 There is additional information available at
13:50:17 20 uscis.gov. And we also have benefit applicant fact sheets
13:50:20 21 that are available within the SAVE system to user agencies.
13:50:23 22 So there are multiple resources that can provide
13:50:25 23 information about records correction updates.

13:50:29 24 Q. Is this effectively incorporated into the terms
13:50:32 25 and conditions of the MOA?

13:50:32 1 MR. LANGHOFER: Same objection.

13:50:46 2 MS. SLATTERY: It is provided as part of this
13:50:49 3 MOA and can be provided to benefit applicants.

13:50:52 4 BY MR. SHERMAN:

13:50:52 5 Q. Is the web-based tutorial that USCIS provides --
13:50:56 6 is that binding on the user agency?

13:50:59 7 A. The tutorial is training and guidance information
13:51:02 8 about how to use the system. It reflects information
13:51:04 9 that's outlined in the MOA regarding the terms and
13:51:07 10 conditions of use.

13:51:09 11 Q. Can I have you look at B(1)(d) on page 4 of the
13:51:18 12 MOA.

13:51:18 13 A. Yes.

13:51:19 14 Q. Do you see that it says, "User agency agrees
13:51:22 15 to:"?

13:51:23 16 Subpart (d) says, "Ensure all users
13:51:25 17 performing verification procedures comply with all
13:51:28 18 requirements contained in the SAVE Program Guide, SAVE
13:51:31 19 Voter Registration Fact Sheet, web-based tutorial, and this
13:51:34 20 MOA, and updates to these requirements"?

13:51:37 21 A. Yes.

13:51:37 22 Q. Does that mean the user agency is bound by all
13:51:40 23 sources?

13:51:41 24 A. Yes. And as updates are made to them, they would
13:51:44 25 be required to stay aware of those updates and incorporate

13:51:48 1 them into their user practices.

13:51:50 2 Q. Great. Thank you.

13:51:51 3 Below that, if I could direct your attention
13:51:53 4 to Subpart 1(f), which says, "Ensure all Users perform any
13:51:59 5 additional verification procedures the SAVE program
13:52:03 6 requires and/or the registrant requests after the User
13:52:07 7 Agency initiates a request for verification. For voter
13:52:11 8 registration verification, User Agency must institute
13:52:15 9 additional verification for any registrant that does not
13:52:18 10 verify as a naturalized or derived citizen on initial
13:52:21 11 verification, including in all cases where the User Agency
13:52:25 12 receives any SAVE response other than that of naturalized
13:52:29 13 or derived citizen."

13:52:30 14 This -- this paragraph obligates the user
13:52:35 15 agency to initiate additional verification procedures that
13:52:39 16 the SAVE program requires and/or the registrant requests
13:52:44 17 after initial verification fails to confirm naturalized or
13:52:48 18 derived citizenship; correct?

13:52:50 19 MR. LANGHOFER: Same objection.

13:52:53 20 MS. SLATTERY: That is what is stated in
13:52:55 21 subparagraph (f).

13:52:56 22 BY MR. SHERMAN:

13:52:56 23 Q. How would you characterize the obligation in
13:52:58 24 Subpart (f)?

13:53:00 25 A. Unless a user agency has an alternative means to

13:53:03 1 verify citizenship as outlined in the SAVE user guide, we
13:53:07 2 would expect agencies to complete the verification process
13:53:10 3 through all steps as necessary.

13:53:12 4 Q. This paragraph is binding on the Arizona Secretary
13:53:17 5 of State's Office and Arizona county recorders?

13:53:19 6 A. As a term of the --

13:53:21 7 MR. MORGAN: Calls for a legal conclusion.

13:53:23 8 THE COURT REPORTER: Can you repeat the
13:53:25 9 answer?

13:53:25 10 MS. SLATTERY: It is a term of the MOA that
13:53:27 11 is signed by that agency, yes.

13:53:30 12 BY MR. SHERMAN:

13:53:33 13 Q. Is -- is there some alternative process in Arizona
13:53:36 14 that exempts them from Subpart (f)?

13:53:40 15 MR. MORGAN: Calls for a legal conclusion.

13:53:43 16 MS. SLATTERY: I am not aware of an
13:53:45 17 alternative process and would defer to Arizona to be
13:53:48 18 responsive to their process.

13:53:53 19 MR. WHITAKER: Jon, if you could find a
13:53:55 20 moment for a break, that would be great.

13:53:57 21 MR. MORGAN: Same here.

13:53:58 22 MR. SHERMAN: For sure. Let me just ask one
13:54:02 23 follow-up question to this. Well, we were going to move on
13:54:07 24 to another document, so . . .

13:54:09 25 BY MR. SHERMAN:

13:54:09 1 Q. But I just want to -- I want to be just clear on
13:54:10 2 this point.

13:54:11 3 Has the Arizona Secretary of State's Office
13:54:13 4 ever sought an exemption from USCIS based on some
13:54:18 5 alternative process in Arizona law procedures?

13:54:25 6 A. I am not aware of one.

13:54:27 7 MR. SHERMAN: Okay. Thanks.

13:54:28 8 Why don't we take -- is a 15-minute break
13:54:32 9 appropriate at this point?

13:54:36 10 MR. LANGHOFER: I'm fine with that. Let's go
13:54:38 11 off the record. Let's talk about time after we're off the
13:54:40 12 record.

13:54:40 13 MR. SHERMAN: Okay. We can talk off the
13:54:40 14 record, yeah.

13:54:42 15 THE VIDEOGRAPHER: We're off the record.
13:54:43 16 Time on the video monitor is 1:54 p.m. This ends Volume 1,
13:54:48 17 Media 1.

13:54:51 18 (A recess ensued.)

14:13:17 19 THE VIDEOGRAPHER: We are on the record.
14:13:29 20 Time on the video monitor is 2:13 p.m. This begins media
14:13:34 21 number -- Volume Number 1, Media Number 2.

14:13:43 22 MR. SHERMAN: Mr. Morgan, did you want to
14:13:45 23 just state something --

14:13:46 24 MR. MORGAN: Sure. We have attempted to
14:13:50 25 reach Mr. Langhofer, counsel for the RNC, who is not

14:13:55 1 present. I placed a telephone call to Mr. Langhofer.
14:14:02 2 Something has unexpectedly required him to step away for a
14:14:05 3 moment. He did tell me that we should proceed without him,
14:14:08 4 so we're just putting that on the record. Thanks.

14:14:14 5 MR. SHERMAN: Thank you.

14:14:14 6 BY MR. SHERMAN:

14:14:18 7 Q. So I want to revisit the requirement for
14:14:23 8 additional verification. If we can turn to the SAVE
14:14:23 9 Program Guide.

14:14:31 10 And, Ms. Slattery -- actually, all the
14:14:32 11 witnesses, for a -- most of the questions for the next
14:14:35 12 handful -- many pages in my outline are about the MOA, the
14:14:37 13 SAVE Program Guide, and Bates Stamp Number 13 through 16.
14:14:44 14 So if you want to take a moment to pull those three
14:14:47 15 documents out, I think that might help speed things along.

14:14:53 16 The next question is on the SAVE Program
14:14:58 17 Guide at USCIS SAVE 87. Just let me know when you're
14:15:05 18 there.

14:15:15 19 A. I have it.

14:15:15 20 Q. Excellent. Thank you.

14:15:20 21 So you see the bottom paragraph -- I'll just
14:15:23 22 read it. This is at the bottom of 87.

14:15:25 23 "Users must perform any and all additional
14:15:27 24 verification procedures SAVE requires and/or the applicant
14:15:31 25 requests when SAVE returns a response of 'Institute

14:15:36 1 Additional Verification, 'Resubmit Doc' or otherwise
14:15:40 2 indicates that additional verification is required, or the
14:15:43 3 benefit applicant requests additional verification, the
14:15:46 4 user must continue the verification process to ensure that
14:15:49 5 SAVE can conduct the necessary research on behalf of the
14:15:53 6 benefit applicant. This is necessary because user agencies
14:15:56 7 may not rely on a SAVE response to deny an application for
14:16:00 8 benefits unless the agency has followed all SAVE
14:16:04 9 verification procedures. Following SAVE verification
14:16:08 10 procedures requires user agencies to respond to a request
14:16:11 11 for additional review when prompted by SAVE or requested by
14:16:14 12 the applicant by submitting any additional information or
14:16:18 13 documents and receiving SAVE's final response regarding the
14:16:22 14 applicant's immigration status or records. Otherwise, the
14:16:25 15 user agency may deny eligible persons benefits that they
14:16:30 16 are lawfully entitled to receive. Accordingly, SAVE
14:16:33 17 requires the agency to have instituted additional
14:16:36 18 verification and followed all verification steps before it
14:16:39 19 can deny a benefit based on the SAVE response."

14:16:43 20 Did I read that correctly?

14:16:44 21 A. All but the last sentence.

14:16:49 22 Q. I'll try one more time.

14:16:51 23 "Accordingly, SAVE requires the agency to
14:16:53 24 have instituted additional verification and followed all
14:16:56 25 verification steps before it can deny a benefit based on

14:17:01 1 the SAVE response."

14:17:01 2 The last sentence I'll return -- of this
14:17:03 3 paragraph I will return to in a moment. I won't leave that
14:17:06 4 out.

14:17:07 5 But did I read -- did I read everything there
14:17:10 6 just correctly?

14:17:12 7 A. Yes. The words you read are what is represented
14:17:16 8 in the program guide.

14:17:17 9 Q. Is this binding on SAVE user agencies?

14:17:21 10 A. As outlined in the MOA, it is one of the items we
14:17:29 11 require users to follow.

14:17:29 12 Q. So additional verifications are mandatory and not
14:17:36 13 discretionary for user agencies; correct?

14:17:38 14 A. Yes. Unless they have an alternative procedure,
14:17:41 15 as outlined in the last sentence of that paragraph.

14:17:43 16 Q. So turning to that last sentence at the top of 88
14:17:47 17 of the SAVE -- USCIS SAVE 88, top of the page, bottom final
14:17:54 18 sentence of that paragraph I was reading, "If an agency has
14:17:57 19 alternative processes upon which to base its decision to
14:18:00 20 grant or deny a benefit, additional verification in SAVE is
14:18:05 21 not required."

14:18:05 22 What does that mean in the context of Arizona
14:18:08 23 voter registration procedures?

14:18:11 24 A. I'm not sure I understand the question you're
14:18:13 25 asking me.

14:18:13 1 Q. What is the -- what is the alternative process in
14:18:21 2 Arizona voter registration procedures that -- well, let
14:18:24 3 me -- let me phrase it a different way.

14:18:26 4 What is a type of alternative process that
14:18:28 5 would exempt a user agency from the requirement to engage
14:18:35 6 in additional verification?

14:18:38 7 MR. MORGAN: Calls for a legal conclusion.

14:18:44 8 MS. SLATTERY: The specifics of the
14:18:47 9 alternative process would be within the realm of the agency
14:18:49 10 to answer. Certainly, there are documents that an agency
14:18:53 11 could look at, such as a certificate of naturalization.

14:18:56 12 For acquired citizens, there are some who
14:18:58 13 don't have a DHS document or who might have a DHS document
14:19:02 14 but who would also have a U.S. passport. So there are
14:19:04 15 alternative document verifications that an agency could do
14:19:07 16 with the documents in front of them should they choose to
14:19:10 17 do so.

14:19:11 18 BY MR. SHERMAN:

14:19:11 19 Q. Assuming that the applicant hasn't provided some
14:19:14 20 other form of valid documentary proof of citizenship to the
14:19:18 21 user agency and the user agency is really relying on the
14:19:22 22 SAVE system for verification of naturalized or derived
14:19:27 23 citizenship, there is no alternative; correct? There is no
14:19:31 24 alternative process; correct?

14:19:36 25 MR. WHITAKER: Form.

14:19:38 1 MR. LANGHOFER: Same objection.

14:19:39 2 MS. SLATTERY: I think in the question as you
14:19:41 3 have constructed it, because of the innate assumption,
14:19:42 4 there would not be. However, I would say in return, that a
14:19:47 5 state would have the opportunity and ability to request
14:19:50 6 information as needed. And they would also have the
14:19:53 7 opportunity and ability to do that when pursuing SAVE
14:19:56 8 additional verification in order to acquire documentation,
14:19:59 9 should it be necessary.

14:19:59 10 BY MR. SHERMAN:

14:20:00 11 Q. Has any user agency ever been exempted from the
14:20:03 12 requirement for additional verification?

14:20:08 13 A. Not to my knowledge.

14:20:10 14 Q. Has USCIS ever had a conversation or email
14:20:15 15 exchange, ever formalized an agreement to exempt a user
14:20:19 16 agency from additional verification?

14:20:23 17 A. I am not individually aware of one, but I
14:20:38 18 understand, based on historical information, we may have an
14:20:41 19 agency that is exempt. I don't have further details at
14:20:44 20 this time.

14:20:44 21 Q. But that isn't the Arizona Secretary of State's
14:20:48 22 Office or any Arizona county recorder's office, is it?

14:20:51 23 A. It is not.

14:20:52 24 Q. So just so the record is clear here, is additional
14:20:57 25 verification required of Arizona county recorders pursuant

14:21:00 1 to their -- the MOA with the Arizona Secretary of State's
14:21:05 2 Office?

14:21:05 3 A. Under the terms of the SAVE MOA, additional
14:21:07 4 verification is required if the agency does not get the
14:21:11 5 information it needs from the SAVE verification process and
14:21:14 6 if they are not instituting alternative procedures.

14:21:17 7 Q. Do you do any monitoring or compliance to check if
14:21:23 8 they have alternative procedures?

14:21:26 9 A. We do have monitoring and compliance capabilities.
14:21:28 10 I am not aware that we've spoken specifically to that
14:21:33 11 issue.

14:21:33 12 Q. How do you enforce this requirement to pursue
14:21:36 13 additional verification procedures?

14:21:38 14 A. Typically, we would look at the data available in
14:21:42 15 the agency's transactional history. And we have agency
14:21:45 16 relationship managers who are responsible for coordinating
14:21:48 17 with agencies to look at and ask questions about use if we
14:21:52 18 notice patterns that indicate terms of the MOA are not
14:21:56 19 being followed.

14:21:59 20 Q. What are the consequences for noncompliance with
14:22:01 21 terms of the MOA compliance?

14:22:04 22 A. Typically, there's an escalation process where we
14:22:06 23 would first look to engage with the agency and encourage
14:22:09 24 compliant behavior, including continuing training,
14:22:13 25 providing additional information.

14:22:14 1 We could escalate to meeting with
14:22:16 2 administrative officials of the agencies to talk about what
14:22:18 3 we're seeing as current issues. At the ultimate step of
14:22:23 4 escalation, we could remove an agency from SAVE use.

14:22:28 5 Q. Is there any documentation of compliance with the
14:22:31 6 additional verification requirement, or is it just data
14:22:33 7 stored in the -- metadata stored in the SAVE system?

14:22:37 8 A. I'm not sure I understand your question.

14:22:41 9 Q. How do you keep track of compliance with the
14:22:46 10 additional verification requirement?

14:22:48 11 A. We would look typically at the data.

14:22:49 12 Q. If we look back at page 87 -- Bates Stamp 87, just
14:23:00 13 the page before. Right above the paragraph I read before,
14:23:03 14 there's the sentence "Failure to follow this requirement
14:23:06 15 violates the MOA and may result in the individual user of
14:23:10 16 the entire agency losing access to SAVE."

14:23:13 17 I understand that's referring to a different
14:23:15 18 term of the MOA.

14:23:16 19 Does that also apply to noncompliance with
14:23:20 20 the additional verification requirement?

14:23:23 21 MR. MORGAN: Calls for a legal conclusion.

14:23:25 22 MS. SLATTERY: SAVE may terminate a user
14:23:31 23 agency for behavioral violations of the MOA. As I
14:23:33 24 indicated, it is an escalation process, and that would be a
14:23:37 25 course of last resort if we could not achieve compliant

14:23:40 1 behavior.

14:23:41 2 BY MR. SHERMAN:

14:23:41 3 Q. Can I direct your attention back to page 4 of the
14:23:44 4 MOA. This is again within the user agency obligations.

14:23:57 5 Do you see Subpart (g) on page 4?

14:24:02 6 A. Yes.

14:24:02 7 Q. This obligates the user agency to, quote, "Use any
14:24:05 8 information provided by DHS-USCIS under this MOA solely for
14:24:09 9 the purpose of determining the eligibility of persons
14:24:12 10 applying for the benefit issued by the user agency and
14:24:15 11 limit use of such information in accordance with this and
14:24:19 12 all other provisions of this MOA"; is that correct?

14:24:23 13 A. That is what the term states, yes.

14:24:25 14 Q. Am I right to read that language to mean that this
14:24:27 15 MOA binds user agencies to use SAVE just at the point of
14:24:32 16 processing a new voter registration application and not for
14:24:36 17 checking registered voters en masse?

14:24:40 18 MR. MORGAN: Calls for a legal conclusion.

14:24:41 19 MS. SLATTERY: As outlined in paragraph 1 on
14:24:47 20 page 2, the purpose of this MOA does authorize use of SAVE
14:24:53 21 for the purpose of verifying citizenship and immigration of
14:24:56 22 status information of noncitizens -- noncitizen and
14:24:59 23 naturalized or derived U.S. citizen registrants when they
14:25:03 24 registered to vote.

14:25:04 25 MR. MORGAN: Jon, so I don't have to keep

14:25:06 1 interrupting you, because I don't like to, can we stipulate
14:25:08 2 that with respect to any question where you ask the witness
14:25:12 3 to determine or state what the contract means or requires,
14:25:16 4 that I have a standing legal conclusion objection?

14:25:21 5 MR. SHERMAN: With respect to any question
14:25:25 6 regarding the meaning of the MOA --

14:25:27 7 MR. MORGAN: Yes.

14:25:28 8 MR. SHERMAN: -- I think we can stipulate to
14:25:30 9 that, yes.

14:25:31 10 MR. MORGAN: Great. Thank you.

14:25:32 11 BY MR. SHERMAN:

14:25:34 12 Q. Just more generally, Ms. Slattery, is conduct
14:25:37 13 out -- is user agency conduct outside the scope of the MOA
14:25:42 14 or for a purpose not authorized by the MOA -- is that
14:25:46 15 permissible or not under the MOA?

14:25:49 16 A. The terms of the MOA define the permissible use of
14:25:52 17 SAVE. So if -- if it is not defined in terms of the MOA,
14:25:55 18 it would be outside of the MOA.

14:25:57 19 Q. And if it's outside the scope of the MOA's
14:26:00 20 purposes, then it's a violation of the MOA, just to be
14:26:02 21 clear?

14:26:03 22 A. It's not a permissible use of SAVE.

14:26:07 23 Q. Consistent with the MOA's defined user agency
14:26:11 24 obligations, could the SAVE system be used just against
14:26:14 25 individuals that county recorders have reason to believe

14:26:18 1 lack U.S. citizenship?

14:26:23 2 MR. WHITAKER: Calls for a legal conclusion.

14:26:26 3 MS. SLATTERY: I'm sorry. I don't understand
14:26:26 4 the question.

14:26:26 5 BY MR. SHERMAN:

14:26:27 6 Q. Let's assume for argument sake -- and I'm not --
14:26:30 7 I'm not asking you to interpret any of the challenged state
14:26:34 8 laws in this case. We're just focused on the MOA.

14:26:36 9 Let's assume for argument sake that a state
14:26:38 10 law directs election officials to verify the citizenship
14:26:42 11 status of any registered voter anytime they suspect a
14:26:46 12 particular registered voter lacks U.S. citizenship. Is
14:26:50 13 acting on the basis of mere suspicion consistent with
14:26:54 14 USCIS's standard VRMOA that the Arizona Secretary of
14:27:00 15 State's Office signed?

14:27:00 16 MR. LANGHOFER: Calls for a legal conclusion.

14:27:04 17 MR. BURKLEY: I agree, but if you're
14:27:05 18 comfortable trying to answer with the knowledge you have,
14:27:08 19 go ahead.

14:27:10 20 MS. SLATTERY: As part of SAVE's MOA and as
14:27:14 21 through the intent and purpose of the program, SAVE should
14:27:15 22 not be used for any purpose other than as authorized,
14:27:18 23 including discrimination or any other type of use.

14:27:26 24 BY MR. SHERMAN:

14:27:30 25 Q. Let's -- let's take the focus off Arizona, which

14:27:33 1 just has the authorized use of using the SAVE system at the
14:27:40 2 point of voter registration.

14:27:42 3 You have other states that are using the SAVE
14:27:44 4 system for voter list maintenance purposes. Could one of
14:27:48 5 those states use the SAVE system for voter list
14:27:51 6 maintenance -- i.e., voter removal -- based on a reason to
14:27:57 7 believe that certain registered voters are not U.S.
14:28:01 8 citizens?

14:28:02 9 MR. LANGHOFER: Same objection and scope.

14:28:12 10 MS. SLATTERY: For voter list maintenance
14:28:13 11 purposes, the terms of use would be defined in the MOA and
14:28:17 12 would allow agencies to verify registered and enrolled
14:28:21 13 voters that are currently on the list.

14:28:25 14 BY MR. SHERMAN:

14:28:25 15 Q. Can those states act on mere suspicion of a lack
14:28:28 16 of citizenship?

14:28:30 17 MR. LANGHOFER: Same objections.

14:28:32 18 MS. SLATTERY: I don't -- I don't understand
14:28:34 19 what you mean by "mere suspicion." I don't know what would
14:28:37 20 prompt the state to take that action.

14:28:39 21 BY MR. SHERMAN:

14:28:41 22 Q. So we don't have this in front of us, but you have
14:28:45 23 separate MOAs for voter list maintenance; correct?

14:28:48 24 A. Correct.

14:28:49 25 Q. Under those voter list maintenance MOAs, what is

14:28:54 1 the defined scope of using the SAVE system?

14:29:01 2 A. I don't have that MOA in front of me at this time.

14:29:04 3 Q. Okay.

14:29:05 4 MR. BURKLEY: I'm going to -- I think we're
14:29:06 5 getting outside of the 30(b)(6) topics a bit, but I'll let
14:29:10 6 the witness answer.

14:29:10 7 MR. SHERMAN: I mean, it's related -- it's
14:29:15 8 related to HB 2243 in this case and whether or not
14:29:19 9 Arizona's permissions will be extended to cover HB 2243,
14:29:24 10 which is a voter list maintenance purpose.

14:29:24 11 BY MR. SHERMAN:

14:29:27 12 Q. But let me -- let me bring -- let me bring the
14:29:28 13 focus back. And I just want to ask this in a way that
14:29:31 14 hopefully clarifies it.

14:29:33 15 Could -- if -- if HB 2243 were implemented
14:29:37 16 and Arizona were to seek expansion of their existing MOA to
14:29:45 17 include the provisions in HB 2243, which has been
14:29:49 18 challenged in this case, would it be permissible,
14:29:53 19 consistent with that MOA's terms, to act on a mere reason
14:29:58 20 to believe and use the SAVE system to investigate the
14:30:02 21 citizenship of individual registered voters that they have
14:30:07 22 reason to believe are not U.S. citizens?

14:30:11 23 MR. MORGAN: Objection to form.

14:30:13 24 MR. BURKLEY: Objection to the extent it
14:30:14 25 calls for speculation.

14:30:14 1 MR. WHITAKER: And legal conclusion.

14:30:26 2 MR. MORGAN: Yeah, that too.

14:30:26 3 MS. SLATTERY: I have not studied the terms
14:30:28 4 of the law that you are referencing and would not be able
14:30:32 5 to answer that question in the manner it was posed.

14:30:37 6 BY MR. SHERMAN:

14:30:37 7 Q. Fair enough.

14:30:38 8 Can I direct your attention to Subpart (k) on
14:30:43 9 page 5 of the MOA.

14:30:49 10 This reads that the user agency, quote,
14:30:52 11 must -- must, quote, "Comply with federal laws prohibiting
14:30:56 12 discrimination against registrants and discriminatory use
14:30:59 13 of the SAVE Program based upon the national origin, color,
14:31:03 14 race, gender, religion, or disability of the registrant,
14:31:06 15 including but not limited to the National Voter
14:31:10 16 Registration Act, 52 U.S.C. 20501, as amended, the Help
14:31:14 17 America Vote Act, 52 U.S.C. 20901, as amended, the Voting
14:31:19 18 Rights Act, as amended, and the Civil Rights Act of 1960,
14:31:22 19 as amended."

14:31:24 20 Does USCIS do any independent evaluation as
14:31:30 21 to whether or not a proposed use of the SAVE system would
14:31:35 22 violate these federal laws, or are you waiting essentially
14:31:37 23 on federal courts to find a violation of these federal
14:31:41 24 laws?

14:31:42 25 A. I'm not sure I understand the question. We do do

14:31:47 1 an evaluation of the legal authorities under which system
14:31:51 2 use is requested both for the authority to view and request
14:31:58 3 immigration status as well as to use the SAVE system.

14:32:02 4 Q. Do you evaluate federal election-related statutes,
14:32:06 5 federal voting-related statutes?

14:32:11 6 A. In looking at the agency's authorities, that would
14:32:15 7 be one of the statutes that would be considered when it
14:32:17 8 comes to voter registration questions and registration.

14:32:17 9 (Reporter clarification.)

14:32:17 10 BY MR. SHERMAN:

14:32:29 11 Q. So if a user agency -- just to take an easy one,
14:32:32 12 the -- the National Voter Registration Act -- let's just --
14:32:35 13 for argument sake, it does -- it prohibits removing voters
14:32:41 14 90 days before -- within 90 days of a federal election. So
14:32:44 15 if a user agency came -- approached USCIS and said, "We
14:32:49 16 wanted to remove voters from the rolls every month,
14:32:53 17 including in the months leading up to a federal election,"
14:32:57 18 would your office identify that as a violation and exclude
14:33:02 19 that as a permissible use under the MOA?

14:33:06 20 MR. LANGHOFER: Form. Calls for legal
14:33:07 21 conclusion. Compound.

14:33:09 22 MS. SLATTERY: As outlined in the MOA, the
14:33:15 23 applicable provisions of the law would be incorporated into
14:33:18 24 the MOA by reference, so those provisions would be
14:33:23 25 considered in determining the agency's use.

14:33:23 1 BY MR. SHERMAN:

14:33:26 2 Q. Okay. So you're not just waiting on judicial
14:33:29 3 determinations finding a violation of federal law; you do
14:33:32 4 an independent evaluation of federal statutes, federal
14:33:36 5 civil rights and voting rights statutes; is that correct?

14:33:39 6 A. Again, as we look at an agency's eligibility to
14:33:43 7 use SAVE, we would look at all of the relevant legal
14:33:46 8 provisions under which the use is requested and the intent
14:33:49 9 and purpose of the request.

14:33:53 10 Q. Lastly, for the MOA, at least for now,
14:33:57 11 Subparts (l) and (m) under -- on page 5, these read --
14:34:06 12 well, I'll just ask you: What are the user agency's
14:34:08 13 obligations under these two provisions: (l) and (m)?

14:34:13 14 A. Under Subsection (l), the user agencies are
14:34:16 15 required to -- and I quote -- "provide all registrants who
14:34:20 16 do not verify as a citizen under the terms of the MOA with
14:34:25 17 adequate written notice that their citizenship could not be
14:34:28 18 verified and the information necessary to contact DHS-USCIS
14:34:34 19 (see attachment 1: Fact Sheet 'Information for
14:34:37 20 Registrants,' which is subject to revision and reposting on
14:34:40 21 the SAVE Website and Online Resources) so that individuals
14:34:43 22 may obtain a copy of their Naturalization Certificate or
14:34:46 23 Certificate of Citizenship, or correct their records in a
14:34:49 24 timely manner, if necessary."

14:34:54 25 Q. Does an Arizona documentary proof of citizenship

14:34:58 1 deficiency notice letter satisfy this requirement, or do
14:35:02 2 the counties have to send the SAVE fact sheet that USCIS
14:35:06 3 provides?

14:35:06 4 MR. LANGHOFER: Same objection.

14:35:16 5 MS. SLATTERY: The term of the MOA calls for
14:35:17 6 adequate written notice. Certainly, we would like to see
14:35:20 7 the SAVE information in USCIS records correction and
14:35:24 8 information explicitly included as part of that; however,
14:35:27 9 should an agency separately reference that, the information
14:35:31 10 is publicly available and could be -- both that fact sheet
14:35:34 11 or reference to the uscis.gov website with regard to record
14:35:40 12 correction information.

14:35:40 13 BY MR. SHERMAN:

14:35:40 14 Q. So an Arizona county recorder could satisfy this
14:35:44 15 requirement as long as they make reference to the document
14:35:47 16 on how to correct and update one's records even if that
14:35:52 17 particular document wasn't included?

14:35:57 18 MR. WHITAKER: Same objections.

14:36:06 19 MS. SLATTERY: The preference -- and strong
14:36:08 20 preference I think would be to include the fact sheet
14:36:11 21 information for registrants. The terms, as written, do
14:36:13 22 indicate that the information necessary to contact
14:36:17 23 DHS-USCIS be included in the notice letter.

14:36:17 24 BY MR. SHERMAN:

14:36:19 25 Q. But beyond a strong preference, would they be

14:36:22 1 violating the terms of the MOA if they didn't provide the
14:36:25 2 SAVE fact sheet on how to correct and update one's records?

14:36:29 3 MR. LANGHOFER: Same objection.

14:36:43 4 MS. SLATTERY: Sorry. I'm looking at the
14:36:52 5 language.

14:36:52 6 BY MR. SHERMAN:

14:36:53 7 Q. For sure. We could also bring in -- for the
14:36:55 8 purpose of this -- answering this question, you could take
14:36:57 9 a look at page 8 -- Bates stamp page 88 of the SAVE Program
14:37:05 10 Guide.

14:37:05 11 Under 3.4.3, "Due process," it reads, "All
14:37:09 12 applicants who are denied benefits based solely or in part
14:37:13 13 on the SAVE response must be provided with adequate written
14:37:16 14 notice and the information necessary to contact DHS so that
14:37:20 15 they may correct their records in a timely manner. SAVE
14:37:23 16 has Fact Sheets that user agencies should give to all of
14:37:26 17 their applicants who they deny a benefit based on SAVE's
14:37:30 18 response regarding their immigration status."

14:37:32 19 Earlier, you testified that the SAVE Program
14:37:35 20 Guide is incorporated by reference into the MOA and
14:37:38 21 therefore binding.

14:37:39 22 So I'll ask again: Are the SAVE fact sheets
14:37:44 23 on how to correct and update one's records binding on the
14:37:48 24 user agencies?

14:37:58 25 MR. LANGHOFER: Same objection.

14:37:58 1 MS. SLATTERY: In reviewing the language of
14:38:00 2 both documents, the fact sheets that agencies should give
14:38:03 3 to all of their applicants -- again, all of these fact
14:38:06 4 sheets are currently available in forms that can be
14:38:11 5 accessed by user agencies. And in addition, we also have
14:38:14 6 information available on the USCIS website. So the
14:38:18 7 information -- this information should be provided to users
14:38:22 8 so that they can -- I'm sorry -- to benefit applicants so
14:38:25 9 that they can update their records correction information.

14:38:25 10 BY MR. SHERMAN:

14:38:28 11 Q. And would it violate the terms of the MOA to fail
14:38:31 12 to do so?

14:38:33 13 MR. LANGHOFER: Same objection.

14:38:34 14 MS. SLATTERY: Are you asking about failure
14:38:35 15 to provide a specific document or failure to provide
14:38:38 16 information -- failure to provide information?

14:38:40 17 BY MR. SHERMAN:

14:38:43 18 Q. Failure to provide the information contained in
14:38:46 19 the document on how to correct and update one's records.

14:38:46 20 MR. LANGHOFER: Same objection.

14:38:53 21 MS. SLATTERY: Failure to provide access to
14:38:54 22 information regarding how to correct records would prove to
14:38:59 23 be outside the terms of the MOA. It would be a violation
14:39:01 24 of the MOA.

14:39:02 25 BY MR. SHERMAN:

14:39:02 1 Q. Okay. Thank you.

14:39:03 2 I'm going to shift for a couple minutes --
14:39:06 3 and maybe this will give you a break, Ms. Slattery. This
14:39:10 4 section is all on the data issues that SAVE has seen.

14:39:15 5 So what are some of the data integrity issues
14:39:17 6 that SAVE has encountered over the years that can lead to
14:39:20 7 failures to verify applicants as naturalized or derived
14:39:23 8 citizens?

14:39:27 9 A. Principally, data integrity issues stem largely
14:39:31 10 from the way data is entered into a system. Oftentimes we
14:39:37 11 find users transpose data; numbers and letters may be out
14:39:42 12 of sequence. There are a lot of typographical errors.

14:39:46 13 So with that information, we do allow -- we
14:39:50 14 do include steps in the process whereby an agency can and
14:39:54 15 is actually prompted to review the information to ensure
14:39:57 16 that it is being entered into the system accurately.

14:40:00 17 We also provide guidance information,
14:40:03 18 recommending strongly to agencies that they enter
14:40:05 19 information exactly as it appears on immigration document
14:40:09 20 information. And again, that's because that allows us to
14:40:10 21 make the most accurate records match within DHS systems.

14:40:15 22 Q. USCIS records are not fully electronic yet; right?

14:40:19 23 A. No. We are in process of moving towards
14:40:23 24 electronic records. We do have a significant number of our
14:40:26 25 records that have already been moved to electronic data

14:40:28 1 systems.

14:40:30 2 Q. And so there is still -- at this time, there is
14:40:33 3 still human error in input of DHS records; correct?

14:40:40 4 A. Can you restate your question?

14:40:41 5 Are you asking me: Are we data entering by
14:40:43 6 hand USCIS historic records?

14:40:46 7 Q. Any USCIS records.

14:40:49 8 A. So there is always a potential for data entry to
14:40:52 9 be a factor when you're dealing with transposition of data
14:40:55 10 from hard copy to systems.

14:40:58 11 Q. Okay. So is the answer that there -- yes, that
14:41:01 12 there is some human error when it comes to inputting --

14:41:05 13 A. There can be.

14:41:06 14 Q. Okay. Any computer errors?

14:41:12 15 MS. SLATTERY: Mariah, do you want to talk
14:41:12 16 about computer matching?

14:41:19 17 THE COURT REPORTER: You're muted.

14:41:22 18 MS. DOOLITTLE: We're only as good as our
14:41:24 19 records. So if somebody sends us an immigration record, we
14:41:30 20 will try to match that with the records that we have
14:41:33 21 available to us. If we cannot make a match based on what
14:41:38 22 they've sent, which, to what Shannon alluded to, could be a
14:41:43 23 typo on their side, transposed numbers, not putting in
14:41:48 24 enumerators, that's where we then can fall back onto our
14:41:50 25 manual verification of the records that we have on hand.

14:41:54 1 At that point, there is a number of systems that could be
14:41:58 2 searched, depending on that person's initial record or what
14:42:03 3 we have at USCIS for them.

14:42:06 4 BY MR. SHERMAN:

14:42:06 5 Q. Could you speak to some of the data errors you see
14:42:09 6 with respect to name discrepancies?

14:42:13 7 MS. DOOLITTLE: Sure. So some of the data
14:42:16 8 errors for name discrepancies could be that the name is too
14:42:19 9 long; the string of characters could be too long for the
14:42:24 10 system. Because of that, with older system records, it
14:42:28 11 could have been truncated, or if there was a hyphenated
14:42:31 12 name, that would have caused issues in the past.

14:42:34 13 We are now modernizing. And as Shannon
14:42:37 14 stated, we are trying to bring all of our records either
14:42:40 15 digitized or electronically captured to try to stop some of
14:42:46 16 those related issues to our records.

14:42:46 17 BY MR. SHERMAN:

14:42:49 18 Q. Are there issues with similar -- similar names
14:42:53 19 leading to a false match?

14:42:56 20 MS. DOOLITTLE: There could be related to
14:43:01 21 that false match. However, that would be low based on last
14:43:04 22 name, first name -- middle initial could be added, their
14:43:09 23 date of birth, and the enumerators that are there for them.
14:43:13 24 It could happen, but it does not -- there's not a high rate
14:43:18 25 of that happening, I should say.

14:43:20 1 BY MR. SHERMAN:

14:43:21 2 Q. What about first and last name transpositions?

14:43:25 3 MS. DOOLITTLE: Our algorithms actually

14:43:27 4 account for that. So we have what we call fuzzy matching.

14:43:31 5 So if somebody puts a last name in the place of the first

14:43:33 6 name, a first name in place of the last name, and also of a

14:43:37 7 date of birth as well, we have the ability to go out and

14:43:41 8 search those records in a myriad of combinations based on

14:43:46 9 what's entered.

14:43:47 10 If it goes above a certain threshold, we will

14:43:50 11 bring that information back. And again, if it can't

14:43:53 12 because there's conflicting info, it would then go for that

14:43:57 13 manual review where people would go out to search the

14:44:00 14 systems to try to match, or we will contact the agency to

14:44:03 15 ask them to give us more information on their applicant.

14:44:03 16 BY MR. SHERMAN:

14:44:08 17 Q. What about compound, unhyphenated last names?

14:44:15 18 MS. DOOLITTLE: That is very dependent on our

14:44:16 19 source systems. As Shannon stated before, SAVE is not a

14:44:21 20 data repository, and so if their systems -- that I can't

14:44:23 21 attest to -- have issues with that, that could cause

14:44:26 22 issues.

14:44:28 23 BY MR. SHERMAN:

14:44:28 24 Q. What about name changes subsequent to when

14:44:33 25 immigration or citizenship documentation was issued; so for

14:44:37 1 instance, marriage and a change of a maiden name subsequent
14:44:40 2 to naturalization?

14:44:40 3 A. In the event --

14:44:45 4 MS. SLATTERY: I'm sorry. Go ahead, Mariah.

14:44:46 5 MS. DOOLITTLE: No, you can go. I think
14:44:47 6 we're probably going to say the same thing.

14:44:49 7 MS. SLATTERY: In the event there's a name
14:44:51 8 change that hasn't been reported to USCIS, we would not
14:44:53 9 have a record of the name change.

14:44:56 10 MS. DOOLITTLE: Exactly. And it could be the
14:44:59 11 external agency that would have to ask that person to
14:45:01 12 update their records.

14:45:04 13 BY MR. SHERMAN:

14:45:04 14 Q. I would imagine the situation is fairly common.
14:45:08 15 Has that been your experience?

14:45:11 16 MR. WHITAKER: Objection. Leading.

14:45:15 17 BY MR. SHERMAN:

14:45:15 18 Q. How common is this experience?

14:45:19 19 A. Certainly when you deal with, you know, nearly a
14:45:21 20 million naturalizations every year, there's an opportunity
14:45:24 21 for changes to occur between the time a person is
14:45:27 22 naturalized and the next opportunity they have to encounter
14:45:31 23 USCIS. I don't have a percentage of frequency, but I can
14:45:35 24 tell you we are communicating to benefit applicants
14:45:39 25 regularly that when changes occur, they should update their

14:45:42 1 information with us.

14:45:44 2 Q. Are there any particular vulnerabilities for data
14:45:47 3 integrity that pop up on the SAVE system's end?

14:45:53 4 A. I'm sorry. Can you give me an example of what
14:45:55 5 you're asking about?

14:45:56 6 Q. I'm not -- I'm not sure of all the possibilities
14:46:00 7 that you might confront. A number of -- a number of the
14:46:03 8 data integrity issues we've been discussing have been on
14:46:07 9 DHS agency ends, human error and input. Are there any
14:46:11 10 other vulnerabilities for data integrity that we haven't
14:46:17 11 discussed?

14:46:19 12 MS. SLATTERY: Mariah?

14:46:21 13 MS. DOOLITTLE: Let me think on that one for
14:46:23 14 a while. I'm unsure if there is if we haven't gone over
14:46:27 15 them because we're only as good as our records. So for the
14:46:29 16 SAVE program, we have to match on what gets sent to us for
14:46:34 17 that agency. So I think we've covered all of them. If I
14:46:40 18 think of one, though, I will . . .

14:46:43 19 BY MR. SHERMAN:

14:46:44 20 Q. Okay. Have you experienced any temporary glitches
14:46:46 21 that resulted in feeding inaccurate data for a short -- you
14:46:53 22 know, any amount of time?

14:46:56 23 MS. DOOLITTLE: Yes. There's been times
14:46:58 24 where somebody's class of admission has changed due to a
14:47:02 25 pending application or a group -- a population gets

14:47:08 1 temporary protective status. And so if SAVE doesn't have
14:47:12 2 access to those records or those changes in a timely manner
14:47:16 3 when that person filed with an agency, that could result in
14:47:21 4 a mismatch of information.

14:47:22 5 And at that point, that is when the agency
14:47:26 6 that submitted the case is to work with that benefit
14:47:29 7 applicant to ensure that their information is correct with
14:47:33 8 USCIS and that they've submitted their most recent
14:47:36 9 immigration documents and given us all relevant
14:47:39 10 information.

14:47:40 11 BY MR. SHERMAN:

14:47:41 12 Q. What are some data integrity issues that you have
14:47:43 13 observed on the user agency's end?

14:47:51 14 MS. DOOLITTLE: Again, we're only as good as
14:47:53 15 what is entered into the system. So if any agencies happen
14:47:57 16 to enter in any information that doesn't apply directly to
14:48:05 17 that applicant, that could definitely cause issues with
14:48:09 18 getting the proper response back for that person.

14:48:13 19 BY MR. SHERMAN:

14:48:13 20 Q. Any systematic computer errors that you've
14:48:16 21 observed on user agencies' end?

14:48:21 22 MS. DOOLITTLE: If there are errors that
14:48:23 23 occur, we work with the agency; we test with the agency to
14:48:26 24 ensure that -- that they're able to use our system. If we
14:48:32 25 do have anything such as outages, we do let our systems

14:48:36 1 know, but our systems are queueing systems, so cases could
14:48:39 2 still go in without being impacted. It would just not be
14:48:43 3 the three seconds to get that automated response back for
14:48:47 4 that person.

14:48:49 5 BY MR. SHERMAN:

14:48:50 6 Q. Any other data integrity issues that we haven't
14:48:53 7 discussed?

14:49:00 8 A. I can't think of any at this time.

14:49:02 9 Q. Okay. So I want to shift back to USCIS's
14:49:05 10 additional or -- or alternative verification procedures
14:49:08 11 that we've been discussing periodically and just drill down
14:49:11 12 into this.

14:49:13 13 So USCIS does have this additional
14:49:16 14 verification process if SAVE cannot verify the voter
14:49:20 15 registration applicant as a naturalized or derived citizen
14:49:23 16 upon the initial query; is that right?

14:49:27 17 A. That is correct. If the automated first response
14:49:30 18 returns anything unexpected or is unable to return a
14:49:33 19 response, it would shift to a manual verification process.

14:49:36 20 Q. Got it.

14:49:36 21 So that -- that's the same additional
14:49:39 22 verification process if there's no match whatsoever; right?

14:49:45 23 A. Correct.

14:49:46 24 Q. Is it more appropriate to call this "additional
14:49:49 25 verification" or "alternative verification"?

14:49:53 1 A. The term we use to describe this is "institute
14:49:56 2 additional verification."

14:49:58 3 Q. How is additional verification triggered?

14:50:03 4 A. Again, as we covered earlier, it can be done where
14:50:06 5 SAVE sends a response to the user agency asking them to
14:50:10 6 institute additional verification. Similarly, if an agency
14:50:14 7 receives a response that is unexpected or doesn't comport
14:50:17 8 with the information they believe to be accurate, they can
14:50:21 9 request additional verification through the system.

14:50:25 10 MS. DOOLITTLE: I would add to that if the
14:50:29 11 applicant is denaturalized, deceased, or deported or has a
14:50:32 12 removal order that we are able to potentially access on
14:50:38 13 them at that time of the -- and just for when that case is
14:50:42 14 created, that could then trigger institute additional
14:50:45 15 verification.

14:50:49 16 BY MR. SHERMAN:

14:50:49 17 Q. So that's -- if you've verified someone is a
14:50:52 18 citizen, you may still have to put them into an additional
14:50:58 19 verification process in those circumstances?

14:51:00 20 MS. DOOLITTLE: Not verify them as a citizen.
14:51:03 21 Just an applicant's information moving through, if it came
14:51:07 22 back that they were deceased, institute additional
14:51:11 23 verification would happen or denaturalized or deported.

14:51:11 24 BY MR. SHERMAN:

14:51:11 25 Q. Understood.

14:51:17 1 And would you also initiate additional
14:51:20 2 verification if there was a resubmit response -- a resubmit
14:51:23 3 doc response?

14:51:26 4 MS. SLATTERY: Russ, do you want to talk
14:51:27 5 about when resubmit docs comes into play and what that
14:51:28 6 looks like?

14:51:31 7 MR. FILIGHERA: Yeah. So additional
14:51:33 8 verification comes in two forms; it could be with
14:51:37 9 documentation or without. So we call additional
14:51:40 10 verification without documentation almost like a
14:51:43 11 second-step process where when it comes into the system,
14:51:46 12 we'll have the same data the agency entered originally on
14:51:50 13 the applicant. In some instances, they may actually add
14:51:53 14 additional comments, such as maybe they'll add another
14:51:57 15 identifying number, or if they caught something, they can
14:51:59 16 add a comment that.

14:52:01 17 That information is taken. We go into core
14:52:04 18 database systems similar to what you heard today, some of
14:52:07 19 them direct access, some through a query into a system that
14:52:13 20 queries multiple at the same time. If we're able to match
14:52:15 21 name, date of birth, numeric ID, they could receive at that
14:52:21 22 second step, without the documentation, a United States
14:52:23 23 citizenship response, USC response.

14:52:26 24 If by some chance that information we cannot
14:52:29 25 match or in an instance where somebody indicates the

14:52:33 1 document certificate and we're not finding that information
14:52:37 2 to match, we will go back with a response that -- as you
14:52:40 3 just indicated in your question, of resubmit with
14:52:43 4 documentation, which is a way to notify the agency through
14:52:47 5 the SAVE program that we are requesting a document. And at
14:52:50 6 that point, that goes onto the additional third step with
14:52:52 7 the document for matching from there.

14:52:55 8 BY MR. SHERMAN:

14:52:55 9 Q. Thank you.

14:52:57 10 And you would also initiate additional
14:53:01 11 verification if the applicant is concerned about the
14:53:03 12 response and requests additional verification; is that
14:53:10 13 right?

14:53:10 14 MR. FILIGHERA: I'm sorry. Shannon, do you
14:53:13 15 want me to take this?

14:53:13 16 MS. SLATTERY: Actually, I was going to ask
14:53:14 17 to repeat the question. I missed the last half of it.

14:53:16 18 BY MR. SHERMAN:

14:53:17 19 Q. Would you also initiate additional verification if
14:53:19 20 the applicant is concerned about the response and requests
14:53:22 21 additional verification?

14:53:23 22 A. Yes. An applicant can ask the agency to institute
14:53:27 23 additional verification if the response is unexpected or if
14:53:29 24 there's another reason they would want additional
14:53:31 25 verification.

14:53:32 1 Q. Okay. In the document Bates-stamped 13 -- it's
14:53:39 2 actually on the second page, which is Bates-stamped 14.
14:53:51 3 The first full paragraph after that quote from the MOA
14:53:55 4 says, "To comply with the VRMOA, a user agency cannot
14:54:01 5 terminate the SAVE verification process after initial
14:54:04 6 verification when an individual does not verify as a U.S.
14:54:06 7 citizen."

14:54:09 8 And later on it says, "It is not appropriate
14:54:13 9 to conduct" -- this is -- two paragraphs below that, it
14:54:18 10 says, "It is not appropriate for a user agency to conduct
14:54:21 11 verifications if it does not intend to complete the
14:54:24 12 verification process."

14:54:26 13 Why does this document say that?

14:54:41 14 Sorry. You're muted.

14:54:44 15 A. Sorry. Our expectations for SAVE users is that
14:54:47 16 when they use the SAVE system, that they will follow the
14:54:49 17 additional verification processes when necessary or when
14:54:52 18 information is returned that is unexpected.

14:54:56 19 Q. And it's a requirement of the MOA to initiate
14:55:01 20 additional verification in the circumstances we were just
14:55:04 21 discussing; correct?

14:55:05 22 A. The SAVE process is a three-step process, and if
14:55:08 23 institutional ver- -- additional verification is
14:55:10 24 recommended or warranted, we would ask agencies to follow
14:55:13 25 through with that per the terms of the MOA.

14:55:15 1 Q. Is the responsibility for the initiating
14:55:19 2 additional verification on the user agency or USCIS?

14:55:23 3 A. Typically, it's on the user agency. USCIS can
14:55:26 4 indicate to the agency that additional verification is
14:55:30 5 recommended, and so they'll receive the "institute
14:55:33 6 additional verification" response as part of certain
14:55:35 7 responses.

14:55:37 8 Q. And is the responsibility for carrying out
14:55:39 9 additional verification on the user agency or USCIS?

14:55:43 10 A. It's not an either/or. The responsibility of the
14:55:48 11 user agency is to initiate the additional verification.
14:55:51 12 The responsibility for executing the additional
14:55:54 13 verification is on the USCIS.

14:55:56 14 Q. Thank you.

14:55:57 15 And I'm referring in this question to the
14:55:58 16 bottom of the page we were just looking at, USCIS SAVE 14.

14:56:03 17 When, if ever, is it permissible for the user
14:56:06 18 agency to not pursue additional verification?

14:56:11 19 A. Again, as a general course, we would expect
14:56:13 20 agencies to pursue through all of the SAVE steps unless, as
14:56:17 21 outlined in the user guide, there is an alternative
14:56:19 22 verification procedure available that satisfies the state's
14:56:22 23 benefit eligibility determination.

14:56:25 24 Q. Do those alternatives include the three bullet
14:56:29 25 points listed at the bottom of page 2, which is USCIS SAVE

14:56:33 1 Bates Stamp 14?

14:56:34 2 A. Yes.

14:56:35 3 Q. Great.

14:56:36 4 What does second-level verification entail?

14:56:43 5 MS. SLATTERY: Russ, do you want to talk
14:56:45 6 about second-step verification?

14:56:45 7 MR. FILIGHERA: Sure. So second-step
14:56:49 8 verification is additional verification where the -- we
14:56:52 9 take a look at the data the agency entered on the
14:56:55 10 applicant -- name, date of birth, numeric identifier -- in
14:57:00 11 addition to any comments that they added when they
14:57:04 12 escalated it to additional verification.

14:57:07 13 The process entails taking that data and
14:57:10 14 going into source systems and outside of the SAVE program,
14:57:14 15 as mentioned, depending on the records from USCIS, to see
14:57:18 16 if we can make a match based on that information to the
14:57:22 17 most current status.

14:57:24 18 In the case for these questions, if it's a
14:57:27 19 derived or naturalized U.S. citizen and we can find the
14:57:31 20 records, we will provide that response. As I mentioned in
14:57:35 21 a previous question, if they indicate at second step that
14:57:39 22 the document is a certificate number and we're not coming
14:57:41 23 up with a derived U.S. citizen, we will actually ask for
14:57:45 24 the document to see what they're having -- to see if there
14:57:47 25 was a data discrepancy of some sort or another data entry.

14:57:51 1 Or in cases where we cannot find a matching record to
14:57:55 2 provide based on the information entered, data alone, we go
14:57:59 3 back with resubmit, and that's where the document comes in
14:58:02 4 and we go into the third-step process.

14:58:05 5 BY MR. SHERMAN:

14:58:05 6 Q. I'll ask separately about, yeah, third level, but
14:58:07 7 just to stick with second level for a second, just so I'm
14:58:10 8 clear, what information and/or documents does the user
14:58:13 9 agency need to provide to USCIS at the second level?

14:58:17 10 MR. FILIGHERA: So the document -- the
14:58:20 11 information doesn't change from the basics of name, date of
14:58:24 12 birth, numeric IDs. The information that carried over from
14:58:29 13 the SAVE program through our cases that we're working on at
14:58:30 14 manual is the same with the exception that there is a
14:58:35 15 "Agency Comment" field that can be used in the SAVE program
14:58:37 16 where you can provide additional information. So for
14:58:40 17 example, maybe an agency realizes that they forgot an ID or
14:58:44 18 made a mistake or added a name, they can pass a message
14:58:47 19 along that we could take into consideration, and we will
14:58:50 20 take that information into consideration.

14:58:53 21 BY MR. SHERMAN:

14:58:54 22 Q. What information does the user agency need to
14:58:56 23 provide to the applicant at second-level verification?

14:59:00 24 MR. FILIGHERA: So from this standpoint, the
14:59:04 25 user agency has already submitted the original, so -- I

14:59:09 1 believe in previous questions you showed in one of your
14:59:11 2 documents how they can institute additional verification.
14:59:15 3 So at that point, I can only speak to the data entry point,
14:59:18 4 and that would be they would -- the agency submits it for
14:59:22 5 additional verification. What they advise their applicant
14:59:25 6 I couldn't speak to.

14:59:26 7 BY MR. SHERMAN:

14:59:29 8 Q. Ms. Slattery, are you able to speak to that?

14:59:32 9 A. Typically, again, the verification process at this
14:59:34 10 stage isn't complete on -- for purposes of SAVE. Often, we
14:59:39 11 find that benefit applicant -- benefit agencies are sharing
14:59:42 12 with applicants that their case is still in progress. And
14:59:45 13 benefit applicants also have the opportunity to use the
14:59:48 14 SAVE CaseCheck system. So they can actually see their
14:59:52 15 system -- their case as it moves through the process and
14:59:53 16 through the system.

14:59:55 17 Q. Do you contact the registrant to obtain
15:00:00 18 documentary proof of citizenship at the second-level
15:00:03 19 verification?

15:00:03 20 A. We do not contact the benefit applicant during the
15:00:06 21 process. That is done by the user agency.

15:00:09 22 Q. Does the --

15:00:10 23 A. So they would contact the applicant and then
15:00:12 24 submit and upload the document or direct the applicant to
15:00:15 25 do so.

15:00:15 1 Q. And do they contact the registration applicant to
15:00:21 2 obtain documentary proof of citizenship before or after
15:00:26 3 second-level verification fails?

15:00:28 4 A. That would depend on the agency process. They can
15:00:33 5 contact at any point in time for SAVE purposes, and the
15:00:38 6 document may be uploaded at second step, although it is not
15:00:42 7 required. It would be required for third-level
15:00:44 8 verification.

15:00:44 9 Q. And this is -- this is not an automated process;
15:00:48 10 right? This is conducted by USCIS employees?

15:00:52 11 A. Which process are you speaking of?

15:00:55 12 Q. Is second-level verification conducted by USCIS
15:00:58 13 employees?

15:01:00 14 A. It is.

15:01:00 15 Q. Do you contact the -- does the user agency contact
15:01:04 16 the registration applicant to correct or update their
15:01:08 17 records or obtain a copy of the records prior to
15:01:11 18 second-level verification?

15:01:15 19 A. I would have -- we would have to defer to the
15:01:16 20 agency regarding their specific procedures.

15:01:20 21 Q. Does the MOA speak -- or any of the fact sheets
15:01:22 22 speak to this?

15:01:28 23 If you could take a look, actually, at page 5
15:01:30 24 of the MOA, Subpart (1), which we were looking at before.
15:01:50 25 I'm not sure that makes it clear.

15:01:52 1 Fact sheet -- the fact sheet that's at USCIS
15:01:56 2 SAVE page 15 -- at the top of page 15, it says, "Every user
15:02:08 3 agency that enters into a VRMOA must prepare standard
15:02:14 4 notification correspondence and provide it for DHS
15:02:16 5 approval. This provision becomes significant after a
15:02:19 6 second-step additional verification is conducted; the
15:02:22 7 individual does not verify as a U.S. citizen; and the user
15:02:26 8 agency does not have a copy of the necessary immigration
15:02:29 9 document."

15:02:29 10 A. Correct. And that's because the document is
15:02:32 11 required for third-level verification. It is an optional
15:02:35 12 capability for second-level verification.

15:02:37 13 Q. Understood.

15:02:38 14 So typically the user agency won't contact
15:02:40 15 the registrant -- registration applicant for these
15:02:45 16 documents or to correct or update the records until after
15:02:48 17 second- -- second-level verification fails; is that
15:02:51 18 correct?

15:02:51 19 A. The requirement for SAVE purposes would be to have
15:02:54 20 that document for third-level verification. What the
15:02:58 21 agency typically does would be for the agency to answer.

15:03:01 22 Q. If I could have Ms. Slattery and Mr. Filighera --
15:03:06 23 if you could both look at the SAVE Program Guide again on
15:03:10 24 page 93.

15:03:12 25 This is describing second-level verification.

15:03:15 1 I'm not going to read all of this, but if you could just
15:03:19 2 take a look at the additional information that the user may
15:03:25 3 submit. It's at the top of Bates Stamp USCIS SAVE 93.

15:03:30 4 A. Uh-huh. We have it.

15:03:34 5 Q. Are all of these just guidelines for the user
15:03:38 6 agency? Are they recommendations, or are they obligated to
15:03:41 7 send any and all of that following information if they have
15:03:44 8 it available?

15:03:47 9 A. It's additional information. They may submit that
15:03:52 10 information. They can also put the "Initiate Additional
15:03:58 11 Verification" button without that additional information,
15:04:00 12 but it will make us -- we will move this case to third step
15:04:04 13 or send back to the agency for additional information.

15:04:07 14 Q. So if you don't have the additional information
15:04:09 15 listed here on page Bates Stamp 93, it will make it harder
15:04:14 16 to complete -- successfully complete the second-level
15:04:20 17 verification; is that right?

15:04:20 18 A. Since we would be working with the same set of
15:04:23 19 information with which we ran the automated verification,
15:04:26 20 you know, the -- the verifiers would be dependent on that
15:04:30 21 information.

15:04:31 22 I'll defer to Russ regarding situations where
15:04:35 23 it becomes -- where the difference is the manual
15:04:38 24 verification and the fact that we can search systems
15:04:40 25 differently.

15:04:41 1 MR. FILIGHERA: So in -- to go back to your
15:04:44 2 original question, the failure to add these -- this
15:04:47 3 additional information leaves us with the same data for
15:04:51 4 information that was run initially.

15:04:53 5 Now, we do go into core systems and do a
15:04:56 6 thorough research still, even if they do not add the
15:05:00 7 comments, to see if there's anything that is be able to
15:05:05 8 found in our core systems. There could be a transposed
15:05:08 9 digit or other examples such as that that -- for -- in the
15:05:12 10 core system we're able to find the records, and we would
15:05:15 11 provide them. But again, it -- it is much greater and
15:05:19 12 easier for us to match at second step with the additional
15:05:23 13 information versus trying to go with what was run
15:05:25 14 initially.

15:05:26 15 BY MR. SHERMAN:

15:05:26 16 Q. Understood.

15:05:27 17 Now maybe is as good a time as any to direct
15:05:31 18 you to USCIS SAVE 381, which was in the Dropbox. I just
15:05:41 19 have a quick question about this document once we
15:05:44 20 authenticate it.

15:05:50 21 Mr. Filighera, it may be a question for you.
15:05:52 22 Do you have it up?

15:05:55 23 MR. FILIGHERA: It's coming up right now.
15:05:56 24 Sorry. I'm downloading it.

15:05:58 25 BY MR. SHERMAN:

15:05:58 1 Q. No, no, it's all good.

15:05:58 2 MR. FILIGHERA: I am looking at the document,
15:05:58 3 yes.

15:05:58 4 BY MR. SHERMAN:

15:06:03 5 Q. What is this document?

15:06:07 6 MR. FILIGHERA: I believe -- and Shannon can
15:06:09 7 also add to this -- this is a document provided on -- a
15:06:11 8 guide on how you can institute additional verification with
15:06:15 9 a document And a -- I'm sorry -- and a response received
15:06:23 10 with the document. I'm sorry.

15:06:28 11 MR. SHERMAN: Can we mark this as
15:06:29 12 Exhibit 194.

15:06:29 13 (The document was marked as Exhibit 194
15:06:31 14 for identification.)

15:06:31 15 BY MR. SHERMAN:

15:06:31 16 Q. Ms. Slattery or Mr. Filighera, what -- what is
15:06:33 17 this additional response: "Institute Additional
15:06:37 18 Verification with Document"?

15:06:40 19 How does this differ, if at all, from the
15:06:42 20 regular institute additional verification?

15:06:45 21 A. So again, when this is issued to an agency, the
15:06:50 22 purpose of this -- of this notification is to ask the
15:06:53 23 agency to submit a document, meaning the data that's been
15:06:56 24 provided isn't sufficient to make the match and we would
15:07:00 25 like to see the documentation that's been provided or could

15:07:02 1 be provided by the benefit applicant in order to match that
15:07:05 2 against available systems.

15:07:08 3 Q. So this is essentially skipping straight to the
15:07:10 4 third-level verification?

15:07:12 5 A. Yes.

15:07:14 6 Q. And in what circumstances would you just skip the
15:07:16 7 second-level verification and go to third level?

15:07:20 8 A. Again, it would be a situation where we are unable
15:07:23 9 to match the data and have -- for purposes of verification,
15:07:27 10 would require the document to make any further research.

15:07:32 11 Q. I guess I'm just a little bit confused as to when
15:07:34 12 you do simple IAV versus skip to the third level. How do
15:07:40 13 you make that determination? Or how does the system --

15:07:45 14 MS. SLATTERY: Mariah, are you able to talk
15:07:46 15 about that from a system standpoint?

15:07:50 16 MS. DOOLITTLE: I'm not. I know the
15:07:52 17 intention of it is to ensure you have a document because
15:07:56 18 you're -- you're reviewing that information on second
15:07:59 19 stop -- or second step and you may or may not have a
15:08:02 20 document there. For third-step, the document is required.

15:08:02 21 BY MR. SHERMAN:

15:08:12 22 Q. Okay. I'm not sure I totally understand, but we
15:08:14 23 can move on.

15:08:18 24 If we could take a look at USCIS SAVE 562.
15:08:28 25 This might take a minute. It's a lengthy document. You

15:08:31 1 may want to -- if you don't have it printed, you could just
15:08:34 2 pull it up on the screen. 562 is down a ways in this
15:08:37 3 PowerPoint.

15:08:55 4 A. The current tutorial slide "SAVE Training
15:08:59 5 Opportunities"?

15:09:00 6 Q. Yes.

15:09:01 7 Could we -- so this is -- is this the SAVE
15:09:02 8 User Forum PowerPoint?

15:09:04 9 A. It is. The 2018 Forum PowerPoint.

15:09:08 10 MR. SHERMAN: Could we mark this as
15:09:09 11 Exhibit 195.

15:09:09 12 (The document was marked as Exhibit 195
15:09:12 13 for identification.)

15:09:12 14 BY MR. SHERMAN:

15:09:12 15 Q. And is this -- on page 5 -- Bates stamp page 562,
15:09:17 16 is this the screen that a user agency will see at the
15:09:21 17 second step?

15:09:26 18 A. The item marked Bates Stamp 562 is -- in my deck
15:09:31 19 is a current tutorial on SAVE training opportunities. I'm
15:09:41 20 looking at 552. My apologies.

15:09:43 21 Yes, this -- this -- for the 2018 version of
15:09:49 22 the screen, this is the sample second-step response for
15:09:51 23 instituting additional verification.

15:09:52 24 Q. Great.

15:09:53 25 A. It hasn't changed substantially since this time.

15:09:56 1 Q. And on the next page, 563, what is that screen?

15:10:01 2 Is that for third-level verification?

15:10:03 3 A. It is.

15:10:05 4 Q. How long does second-level verification take?

15:10:11 5 A. Typically, in a normal business year where we
15:10:14 6 don't have a backlog, second- and third-step response will
15:10:19 7 take about three to five days. At present, SAVE has a
15:10:24 8 backlog that we are currently at about 20 days for each
15:10:27 9 step of the ver- -- the manual verification process.

15:10:31 10 Q. You said 20 days?

15:10:32 11 A. Yes. Approximately. It can be more for complex
15:10:37 12 cases or cases that require additional research.

15:10:40 13 Q. How much longer?

15:10:41 14 A. Depends on the complexity of the case and how much
15:10:44 15 research we have to do.

15:10:46 16 Q. How many cases are in the queue; like, just real
15:10:51 17 number?

15:10:54 18 A. I don't remember the precise number. I want to
15:10:57 19 say we're in the 120,000 range in the backlog presently.

15:11:01 20 Q. How long has this backlog existed?

15:11:07 21 A. Since about midyear 2021.

15:11:10 22 Q. And cases for all different types of user agencies
15:11:17 23 are in the queue; right?

15:11:18 24 A. Correct. We operate on a first in, first out
15:11:22 25 system, so the cases, as they are moved through the

15:11:24 1 process, will be in the order that they were received at
15:11:27 2 each step.

15:11:29 3 Q. Is there any priority given to specific user
15:11:33 4 agencies like voter registration agencies?

15:11:39 5 A. At this time, it is not. We are again working to
15:11:43 6 queue on a first in, first out basis.

15:11:45 7 MS. SLATTERY: Russ, is there anything you'd
15:11:46 8 like to add on that one?

15:11:48 9 MR. FILIGHERA: No. I agree. Right now,
15:11:51 10 there is no current practice on agencywide priority of
15:11:56 11 caseload.

15:11:56 12 BY MR. SHERMAN:

15:11:56 13 Q. So just to be -- so the record is clear, a voter
15:11:59 14 registration applicant who's sent to second-level
15:12:03 15 verification, the backlog means they're at the back of the
15:12:05 16 queue; correct?

15:12:08 17 MR. FILIGHERA: Correct.

15:12:09 18 MS. SLATTERY: No. Actually, I would -- I
15:12:11 19 would -- go ahead, Russ.

15:12:12 20 MR. FILIGHERA: So if it goes to institute
15:12:14 21 additional verification, it would go into the SVS queue
15:12:20 22 and -- Status Verification System is our case management
15:12:22 23 system with SAVE that we are assigned the case for. So
15:12:26 24 when Shannon mentioned the queue of cases, it goes into
15:12:30 25 that queue and gets assigned first in, first out, as cases

15:12:34 1 are constantly coming in from all our user agencies.

15:12:38 2 BY MR. SHERMAN:

15:12:38 3 Q. Understood.

15:12:39 4 At any given moment, how many are in that
15:12:42 5 particular queue?

15:12:46 6 MR. FILIGHERA: When you say "particular,"
15:12:47 7 you mean to -- to clarify, you're saying just the
15:12:51 8 second-step additional versus third step?

15:12:54 9 BY MR. SHERMAN:

15:12:54 10 Q. Yeah, just for second step right now.

15:12:56 11 MR. FILIGHERA: It's a combined queue total,
15:12:59 12 so I don't have that amount on hand.

15:13:03 13 BY MR. SHERMAN:

15:13:03 14 Q. Ballpark?

15:13:05 15 MR. FILIGHERA: I actually don't know offhand
15:13:11 16 the actual exact amount, but I could actually give you a
15:13:14 17 ballpark in a second. It's roughly right now around
15:13:26 18 100,000 additional verification cases in our queue right
15:13:30 19 now at second step that you requested.

15:13:34 20 BY MR. SHERMAN:

15:13:35 21 Q. At second step. And that's first in, first out?

15:13:38 22 MR. FILIGHERA: Correct.

15:13:40 23 BY MR. SHERMAN:

15:13:40 24 Q. Has USCIS ever had a backlog like this?

15:13:45 25 A. This is an unprecedented backlog for USCIS. As I

15:13:48 1 said, typically our -- our normal course of business for
15:13:51 2 second- and third-step verifications is in the three- to
15:13:54 3 five-day range.

15:13:55 4 Q. And what's the trend line here? Is it getting
15:13:58 5 better, worse, or staying about the same?

15:14:00 6 A. It's getting much better. We actually reduced the
15:14:03 7 backlog by more than half and continue to make reductions.
15:14:06 8 And the time to service has dropped from a high of about
15:14:12 9 36 days to right about 20 days right now. And we continue
15:14:15 10 to make improvements on a regular basis.

15:14:18 11 Q. So if a registration applicant registers, though,
15:14:22 12 under current circumstances, just before the deadline in
15:14:26 13 Arizona about, say, 35 days before the election and then
15:14:31 14 they do not verify as a naturalized or derived citizen and
15:14:34 15 are forced to go through second-level verification, it's
15:14:38 16 possible that that additional verification procedure won't
15:14:41 17 be complete by the registration deadline; correct?

15:14:47 18 A. Again, the current process is taking about
15:14:50 19 20 days. So depending on where that queue falls in the
15:14:54 20 time frame that you are identifying, there is the potential
15:14:56 21 to go outside of it. And certainly, we are trying to work
15:15:00 22 as efficiently as possible to get all cases through as
15:15:03 23 quickly as we can.

15:15:05 24 Q. What does third-level verification entail if
15:15:09 25 you -- if USCIS cannot verify the applicant at second-level

15:15:18 1 verification?

15:15:18 2 MR. FILIGHERA: Shannon, I could take that if
15:15:19 3 you would like.

15:15:21 4 For third-level verification, it's institute
15:15:24 5 additional verification with document. Or third level,
15:15:26 6 that means, again, the case will come over into our case
15:15:30 7 management system to -- with the same information that was
15:15:34 8 entered by the agency when they instituted that additional
15:15:38 9 verification with document; so in other words, name, date
15:15:42 10 of birth, numeric identifier, additional comments, and then
15:15:46 11 they will also have a document attached.

15:15:49 12 So the process at that point, then, now that
15:15:53 13 we have a document in addition to the data or comments that
15:15:57 14 they've made where we can look at the document and go into
15:15:59 15 systems to see if we find other discrepancies -- maybe that
15:16:02 16 the agency made a data entry -- and the information in the
15:16:06 17 document should be more exact to the actual record as long
15:16:11 18 as nothing has changed in the applicant's record that they
15:16:13 19 did not update USCIS databases with.

15:16:17 20 BY MR. SHERMAN:

15:16:17 21 Q. In addition to scanning and uploading -- right? --
15:16:19 22 there's also something called Form G-845. Could you
15:16:23 23 explain what that is?

15:16:25 24 MR. FILIGHERA: G-845 process was a paper
15:16:29 25 form that -- SAVE actually went under some modernization

15:16:34 1 efforts to try to go paperless. So for the most part,
15:16:40 2 cases to date that I can recollect, we haven't actually had
15:16:43 3 a physical G-845 case in some time -- I would even say a
15:16:48 4 year. It is still in the -- the guidance, but for the most
15:16:52 5 part, the quickest way an agency will always get responses
15:16:56 6 is to follow the electronic process and upload the
15:16:58 7 document.

15:16:59 8 BY MR. SHERMAN:

15:17:00 9 Q. Is there anything -- I'm sorry.

15:17:02 10 A. No, I was going to say, just to add on to that,
15:17:05 11 currently, agencies need to contact SAVE in order to be --
15:17:09 12 to be allowed to submit a paper G-845; otherwise, we do
15:17:13 13 require agencies to go through the system process.

15:17:15 14 Q. Understood.

15:17:16 15 Is there anything the registration applicant
15:17:18 16 needs to do at third-level verification?

15:17:21 17 A. Not with regard to SAVE. They would be
15:17:24 18 interacting with the agency to ensure the agency has the
15:17:27 19 information or to receive instruction from the agency on
15:17:30 20 how to upload the document.

15:17:31 21 Q. And what information does the user agency need to
15:17:34 22 provide to the applicant at third-level verification?

15:17:37 23 A. Similar to second step, they would be able to
15:17:40 24 provide the applicant information about the fact that their
15:17:43 25 case is still being processed and refer the case to the

15:17:46 1 SAVE CaseCheck system in order for the applicant to
15:17:48 2 directly take a look at how their case is moving through
15:17:50 3 the process.

15:17:52 4 Q. And third-level verification is also conducted by
15:17:55 5 USCIS employees; right?

15:17:58 6 A. Correct.

15:17:58 7 Q. How long does third-level verification take?

15:18:06 8 A. As we just discussed in the previous response
15:18:10 9 regarding the backlog, right now we're averaging about 20
15:18:14 10 days for each of the manual verification steps. We do
15:18:15 11 do -- make every effort to make the cases go through the
15:18:19 12 system as efficiently as possible.

15:18:20 13 Q. So is the backlog identical for second- and third-
15:18:24 14 verificat- -- third-level verification?

15:18:26 15 A. I think the volume levels are slightly different
15:18:29 16 in that we have perhaps more cases at second-step than at
15:18:32 17 third because, again, we're doing those verifications
15:18:35 18 first. And I don't mean first in terms of order, but
15:18:38 19 second step comes before third, so they're being worked in
15:18:41 20 parallel.

15:18:41 21 MS. SLATTERY: Russ, do you want to speak
15:18:42 22 more about how the second- and third-step distribution
15:18:45 23 works?

15:18:46 24 MR. FILIGHERA: Sure. Second- and third-step
15:18:47 25 cases technically have a separate queue within our case

15:18:50 1 management system, but as Shannon mentioned, historically
15:18:54 2 we'll see more second-step cases than third-step cases.
15:18:57 3 It's earlier in the process.

15:18:58 4 The case queues, though, allow our verifiers
15:19:02 5 or examiners to process manual cases to go into the system
15:19:08 6 and request workload. That workload gets assigned to them
15:19:13 7 first come, first served. So you can get a mix of these
15:19:16 8 cases based on how long they've been in the queue, based on
15:19:21 9 their receipt date.

15:19:22 10 Some staff can be profiled in the system
15:19:26 11 based on you, you know, experience or -- or levels where
15:19:30 12 they might only be working on the second-step queue or
15:19:34 13 many -- the most experienced people could be working
15:19:36 14 simultaneously on both the second and third step at the
15:19:38 15 same time. It is two separate queues in a way, but users
15:19:44 16 in case management can pull down the oldest cases out of
15:19:48 17 both in some instances.

15:19:49 18 MS. SLATTERY: And just to add an additional
15:19:51 19 factor as we're talking about the backlog and the process,
15:19:54 20 we are not only having our employees who are currently
15:19:58 21 assigned to permanent positions that are working in our
15:20:02 22 manual verification work group -- the legal instrument
15:20:05 23 examiners -- but we also have a volunteer core from across
15:20:08 24 the verification division who are trained personnel that
15:20:12 25 are working cases on overtime.

15:20:12 1 BY MR. SHERMAN:

15:20:12 2 Q. Understood.

15:20:14 3 How many total people are on the teams that
15:20:17 4 are working on second- and third-level verification?

15:20:22 5 MS. SLATTERY: Russ, do you want to talk
15:20:23 6 about permanent staff and then I can add on top?

15:20:25 7 MR. FILIGHERA: Sure. Right now, currently
15:20:27 8 on last check, our staff that's dedicated to the queues in
15:20:32 9 our status verification operations are called legal
15:20:35 10 instrument examiners. Roughly, right now it's at 113
15:20:38 11 people that are working out of three main operation centers
15:20:42 12 we have.

15:20:43 13 In addition to that, there's roughly 17
15:20:46 14 supervisory examiners that can actually also assist in
15:20:49 15 processing cases. And we do have some part-time workload
15:20:54 16 that could be done from management program analysts at our
15:20:57 17 headquarters SVO branch, or status verification operations
15:21:01 18 branch, but they're not 100 percent dedicated. That group
15:21:04 19 roughly reports directly to me or their supervisors. It's
15:21:08 20 roughly, like, 23 currently or so.

15:21:10 21 And then Shannon mentioned that due to the
15:21:13 22 current queues, we went out and received a series of
15:21:16 23 volunteers, formerly trained people, that are in other
15:21:20 24 parts of the organization right now as well as others that
15:21:23 25 took on training to work second-step cases. That's roughly

15:21:27 1 30 people that have been doing that portion. Some of them
15:21:30 2 can do it on regular time if workload permits, but we've
15:21:33 3 been offering overtime to maximize as much as we can to try
15:21:38 4 to alleviate the queues.

15:21:39 5 BY MR. SHERMAN:

15:21:39 6 Q. And so given the backlog, total time for
15:21:42 7 additional verification can exceed 40 days; is that
15:21:49 8 correct?

15:21:49 9 MR. FILIGHERA: Each step of the process,
15:21:51 10 both at the second step without document and then
15:21:53 11 additional with document, correct, they are separate -- you
15:21:57 12 know, at least around 20 days or so, and it can fluctuate,
15:22:01 13 as Shannon mentioned, on incoming workload.

15:22:01 14 BY MR. SHERMAN:

15:22:04 15 Q. 20 days is an average, you said; correct?

15:22:06 16 MR. FILIGHERA: Yes. So technically, we've
15:22:09 17 seen a trend that's going down, but -- and again, in this
15:22:11 18 example -- and I believe that's what your question is --
15:22:14 19 for second step, it could be 20 days or so, depending on
15:22:17 20 the situation of the incoming and outgoing. And then if
15:22:22 21 you were asked to provide document, you would go back in
15:22:26 22 the queue and it could take another additional, on top of
15:22:27 23 that, 20 days.

15:22:28 24 BY MR. SHERMAN:

15:22:28 25 Q. And both second- and third-level verification

15:22:31 1 could be more than 20 days each? That's just an average
15:22:34 2 number?

15:22:34 3 A. Currently, it's an -- it's not necessarily an
15:22:39 4 average number, but as we have applied more researches and
15:22:44 5 with the overtime and with the staffing -- and what we're
15:22:46 6 trying to do from a staffing perspective then is the more
15:22:49 7 cases you work more than are coming in, of course, you can
15:22:54 8 see a trend, and sometimes that it goes down. So the
15:22:55 9 reason why we say that, it -- we have, as mentioned, 1,200
15:22:58 10 agencies loading cases in, so we're -- we're working as
15:23:02 11 much staffing as we can. So to give you an exact date at
15:23:06 12 any moment in time, it could fluctuate.

15:23:08 13 BY MR. SHERMAN:

15:23:08 14 Q. What happens if USCIS cannot verify the applicant
15:23:11 15 at third-level verification?

15:23:15 16 MR. FILIGHERA: Shannon, if you're okay, I'm
15:23:16 17 going to take this.

15:23:18 18 So at third-level verification, now that we
15:23:21 19 have a document, we go through a very thorough research.
15:23:23 20 And after we go through that research, we do not present a
15:23:29 21 response that says that they're not a United States
15:23:32 22 citizen, for example.

15:23:33 23 What -- we would go back where -- is an
15:23:36 24 unable to verify that document or that information. And
15:23:40 25 then we apply comments to the agency that refers that

15:23:44 1 applicant that says, "Please refer the applicant to the
15:23:48 2 USCIS website," or "Contact our national contact operations
15:23:54 3 center," in that regards to hopefully go in and update the
15:23:58 4 records if need be.

15:23:59 5 BY MR. SHERMAN:

15:24:00 6 Q. Is there a message that appears for the user
15:24:03 7 agency that says, "Unable to verify; advise applicant to
15:24:08 8 visit local USCIS office to inquire"?

15:24:13 9 MR. FILIGHERA: They receive an "unable to
15:24:14 10 verify" response from our system. How it shows exactly, I
15:24:17 11 think on the front end -- I might need Shannon to add to
15:24:21 12 it, but we put a comment -- a standard comment that we
15:24:22 13 advise our -- our processors, our verifiers to state,
15:24:27 14 "Please refer applicants to USCIS contact center" number,
15:24:32 15 and we provide the 800 number, or "Go to the USCIS
15:24:34 16 website."

15:24:34 17 BY MR. SHERMAN:

15:24:38 18 Q. I was just quoting from the bottom of
15:24:40 19 USCIS SAVE 000093. This is in the SAVE Program Guide.

15:24:45 20 It says instructions -- "Examples of such
15:24:47 21 responses and instructions include 'Unable to Verify,
15:24:51 22 Advise Applicant to visit local USCIS office to inquire.'"

15:24:54 23 I understand that's just an example.

15:24:56 24 Do you know what the current language is?

15:25:01 25 MR. FILIGHERA: I believe it's along the

15:25:02 1 lines of "Please refer the applicant to" -- and it's the
15:25:07 2 call number, the 800 number, and -- or the USCIS website.
15:25:12 3 And it's -- it's a standard what we call comment that we
15:25:15 4 add, so they'll see "unable to verify" is the major
15:25:18 5 response we provide. And that is in the comments.

15:25:21 6 BY MR. SHERMAN:

15:25:23 7 Q. So I understand your testimony, USCIS is not able
15:25:26 8 to resolve all cases where additional verification is
15:25:30 9 initiated; correct?

15:25:33 10 MR. FILIGHERA: We will come across cases
15:25:34 11 that, after thorough research, including all electronic
15:25:38 12 records as well as physical records, if need be, if we are
15:25:41 13 unable to verify matching to the information on the
15:25:45 14 documents presented, we will provide an "unable to verify"
15:25:49 15 response in some cases.

15:25:50 16 BY MR. SHERMAN:

15:25:51 17 Q. And for cases that you -- for additional
15:25:54 18 verifications that you are able to resolve, what has USCIS
15:25:59 19 discovered are the typical reasons that prevented a
15:26:04 20 nonmatch or caused an erroneous match to -- upon initial
15:26:11 21 verification?

15:26:13 22 MR. FILIGHERA: Statistically, I wouldn't
15:26:14 23 have that figure at my fingertips, but as mentioned
15:26:17 24 multiple times, we are really reliant on two things: the
15:26:20 25 data that the agency enters and what the record shows.

15:26:23 1 So when you go to additional verification,
15:26:26 2 it's the same process as initial and second and third. It
15:26:29 3 is as good as the data that they're entering and what the
15:26:32 4 records show.

15:26:32 5 In the manual process, the only -- third
15:26:35 6 step, the only addition is the document. That document
15:26:38 7 does help show us in some cases where an agency maybe did
15:26:42 8 not touch the error of their data entry compared to what
15:26:46 9 the record actually shows. So that -- that's one example.

15:26:48 10 BY MR. SHERMAN:

15:26:51 11 Q. Understood.

15:26:51 12 For cases that are never resolved, are they
15:26:53 13 left open indefinitely, like unsolved cases, or do they
15:26:59 14 time out at some point?

15:27:01 15 MR. FILIGHERA: Once a case has gone to
15:27:03 16 additional verification in our application, it -- it must
15:27:06 17 be worked. It doesn't go to a queue where it never gets
15:27:06 18 resolved.

15:27:11 19 It could mean a positive response like
15:27:12 20 "United States citizen" or a response "unable to verify"
15:27:15 21 where it -- that will close the case out on our manual
15:27:19 22 third-step level. Then it's up to the applicant at that
15:27:23 23 point. They get the instructions, as well as the agency,
15:27:25 24 on that response on how to handle next steps from there in
15:27:28 25 regards to my part of the procedure.

15:27:30 1 BY MR. SHERMAN:

15:27:30 2 Q. Understood.

15:27:31 3 So I guess the question more specifically is:
15:27:34 4 Do you work under a deadline to resolve the additional
15:27:39 5 verification case, or can it be kept open for years and
15:27:42 6 years and years?

15:27:45 7 MR. FILIGHERA: We always try to maximize our
15:27:48 8 turnaround times on cases that -- even if you're taking
15:27:50 9 longer to research or for record purposes, we're constantly
15:27:54 10 monitoring those queues of cases. So we do not keep cases
15:27:58 11 open for years.

15:28:00 12 It -- now, that time frame depends on the
15:28:02 13 downstream partners or partners we deal with in the
15:28:05 14 records, if there's an inquiry or something we're trying to
15:28:08 15 determine. But I would not say that it would be years.
15:28:12 16 You can have cases that are a little bit extended beyond
15:28:15 17 the time frame due to the complexity or the records that
15:28:18 18 we're researching.

15:28:19 19 BY MR. SHERMAN:

15:28:20 20 Q. Understood.

15:28:20 21 How do you know when to give up?

15:28:33 22 MR. FILIGHERA: It's not necessarily that we
15:28:37 23 give up. It's a situation where we do thorough research in
15:28:42 24 electronic databases, and if we're able to find it, we, of
15:28:46 25 course, resolve.

15:28:47 1 If somebody provides us a naturalization
15:28:49 2 or -- or a certificate of citizenship, that information, if
15:28:55 3 not found in electronic database, we will even go further
15:28:58 4 to pull physical files if need to be. That's where the
15:29:02 5 complexity comes in.

15:29:04 6 We'll reach out to the file holder, which can
15:29:08 7 include field offices at USCIS that have the current file,
15:29:09 8 or it could be with our national records center, or it can
15:29:13 9 actually be retired files based on the age of the
15:29:15 10 naturalization or certificate application. And we will go
15:29:18 11 to that extent to pull those records.

15:29:21 12 We will, in addition, based on that
15:29:23 13 information, even reach out to jurisdictions. If they
15:29:26 14 naturalize through the courts and we see CIS records but
15:29:29 15 maybe not updated -- so we -- we turn over every
15:29:32 16 possibility. We will reach out to our office of records
15:29:36 17 management with additional resources even on historical
15:29:39 18 records. But at that point, once we cannot confirm in
15:29:44 19 electronic databases or physical file information, then we
15:29:52 20 would be resolved to unable to verify.

15:29:52 21 BY MR. SHERMAN:

15:29:52 22 Q. How many currently open cases do you have in the
15:29:57 23 additional verification queue?

15:30:00 24 So you told us how large the backlog is, but
15:30:01 25 I assume not all of those are open cases.

15:30:04 1 MR. FILIGHERA: When you say "open" --

15:30:06 2 BY MR. SHERMAN:

15:30:06 3 Q. Currently being worked.

15:30:09 4 MR. FILIGHERA: So at any moment, if we have
15:30:10 5 113 people processing cases, barring, you know, leave and
15:30:15 6 things and all the additional numbers I gave you -- they're
15:30:20 7 actually first come, first served, so they're working that
15:30:23 8 case as the assignment.

15:30:24 9 If they have to look further, we will send
15:30:29 10 information out behind the scenes to our records centers by
15:30:34 11 sending messages over so they can place that case in what
15:30:38 12 we call case continue to process. Those cases -- continue
15:30:43 13 to process will allow the person working cases to see that
15:30:46 14 they have continued cases while they work on the more
15:30:49 15 active cases while they're waiting for messages to come
15:30:52 16 back.

15:30:52 17 So you can have active cases that you work
15:30:54 18 right away, first in, first out. You can pause some cases
15:30:58 19 and continue to process while you're reaching out for
15:31:01 20 further information.

15:31:02 21 But I know Shannon's already mentioned when
15:31:04 22 it's in that continue-to-process stage, the agency is, on
15:31:08 23 their end, seeing that there's a verification still in
15:31:11 24 process. It's not a completed answer; just means it's
15:31:14 25 still with us and we're working on it.

15:31:14 1 BY MR. SHERMAN:

15:31:16 2 Q. And you don't have statistics on, like, how -- how
15:31:18 3 many cases any one of those 130 people has open at any one
15:31:24 4 time, do you?

15:31:24 5 MR. FILIGHERA: No. Usually -- what we do in
15:31:26 6 our case management system currently is they can pull down
15:31:30 7 anywhere from 10 to 20 cases at a time just to put into the
15:31:34 8 queue to work. But we don't hold them overnight.

15:31:36 9 Our case management systems allow for them to
15:31:38 10 put them back in the queue or something like that to make
15:31:40 11 sure they're getting picked up so no case gets stuck behind
15:31:44 12 or throughout the day.

15:31:45 13 So at any point, you would just have to
15:31:50 14 extrapolate based on the amount of users -- people are
15:31:52 15 pulling on -- on cases out of the queue and resolving them
15:31:53 16 right away.

15:31:55 17 BY MR. SHERMAN:

15:31:55 18 Q. Thank you.

15:31:55 19 So earlier I asked -- I think it was
15:31:57 20 Ms. Slattery -- whether the SAVE system can only be used to
15:32:01 21 verify naturalized or derived U.S. citizenship. And the --
15:32:07 22 she answered in the affirmative. So now I'm going to ask
15:32:11 23 just a mirror image of that question.

15:32:12 24 Can the SAVE system be used to verify a lack
15:32:16 25 of naturalized or derived citizenship?

15:32:20 1 A. SAVE doesn't verify the absence of information.
15:32:23 2 What we would do is, as Russ has described, through our
15:32:27 3 case verification process, we would exhaust all avenues to
15:32:30 4 determine if there is a USCIS record that could be
15:32:34 5 confirmed. If there is not, we would return the "unable to
15:32:37 6 confirm" response.

15:32:39 7 Q. Understood.

15:32:41 8 MR. SHERMAN: So I want to switch gears to --
15:32:45 9 and just for purposes of planning, I have about --
15:32:48 10 something like six and a half pages left. So at some point
15:32:52 11 in these six and a half pages of outline, we can stop for
15:33:00 12 lunch, the 20-minute lunch for Arizona folks. Does that
15:33:05 13 make sense?

15:33:10 14 MR. WHITAKER: I think that's fine.

15:33:14 15 MR. BURKLEY: We object.

15:33:14 16 MR. BUSCH: Yeah, we're not interested in
15:33:15 17 lunch here in Maryland. We want to get this done as soon
15:33:19 18 as possible.

15:33:20 19 MR. SHERMAN: Right. I know.

15:33:21 20 MR. MORGAN: Yeah, I don't need lunch. Maybe
15:33:24 21 a five-minute bathroom break at some point. Beyond that,
15:33:28 22 I'm fine.

15:33:28 23 MR. SHERMAN: Should we do -- should we do a
15:33:30 24 10- or 15-minute break now and just power through to the
15:33:33 25 end?

15:33:35 1 MR. MORGAN: I'm okay with that.

15:33:37 2 MR. SHERMAN: I mean, that would be the end

15:33:38 3 of my questions. Then --

15:33:40 4 MR. MORGAN: Oh, we're well aware, Jon.

15:33:43 5 MR. SHERMAN: Well, I want to just make the

15:33:45 6 witness --

15:33:47 7 MR. MORGAN: Okay. Let the record reflect

15:33:51 8 everybody was smiling.

15:33:54 9 MR. SHERMAN: So we can go off the record.

15:33:56 10 Why don't we do a ten-minute break now.

15:34:00 11 THE VIDEOGRAPHER: We're off the record.

15:34:01 12 Time on the video monitor is 3:34 p.m. This ends Media 2.

15:50:00 13 (A recess ensued.)

15:50:00 14 THE VIDEOGRAPHER: We are on the record.

15:50:16 15 Time on the video monitor is 3:50 p.m. This begins Volume

15:50:25 16 1, Media 3.

15:50:25 17 MR. SHERMAN: Thank you.

15:50:25 18 BY MR. SHERMAN:

15:50:26 19 Q. Ms. Slattery, earlier we were talking about this

15:50:29 20 document USCIS SAVE 11. This is attached to the MOA that

15:50:36 21 your office provided. This is Information for Registrants:

15:50:41 22 Verification of Citizenship Status and How to Obtain Your

15:50:45 23 Document or Correct Your Record with USCIS.

15:50:48 24 I'd ask that you keep that document in front

15:50:51 25 of you. This series of questions is all about correcting,

15:50:53 1 updating, renewing, obtaining, or replacing records.

15:50:58 2 And the other one that I wanted to introduce
15:51:00 3 is 18 -- USCIS SAVE 18. What is this document?

15:51:17 4 A. Document 18 bears the SAVE logo in the upper left
15:51:22 5 corner. The title of the document is "Records: Fast Facts
15:51:24 6 for Benefit Applicants."

15:51:26 7 MR. SHERMAN: Can we mark this as
15:51:27 8 Exhibit 196.

15:51:27 9 (The document was marked as Exhibit 196
15:51:31 10 for identification.)

15:51:31 11 BY MR. SHERMAN:

15:51:32 12 Q. What -- when are these two documents provided to
15:51:35 13 benefit applicants?

15:51:38 14 A. So these are documents that agencies can share
15:51:40 15 with benefit applicants with regard to next steps if SAVE
15:51:47 16 cannot verify status, particularly the fast facts for
15:51:50 17 benefit sheet. This provides the applicants information --
15:51:54 18 and both documents do provide the applicants with
15:51:56 19 information about steps they can take to correct records
15:51:58 20 with USCIS.

15:52:00 21 Q. Are applicants who fail to verify as naturalized
15:52:03 22 or derived citizens also sent a notice letter asking for
15:52:06 23 additional documents to establish their citizenship?

15:52:10 24 A. Sent by whom?

15:52:11 25 Q. Sent by the --

15:52:12 1 A. USCIS sends a document?

15:52:14 2 Q. Sent by the user agency. Sorry.

15:52:16 3 A. The user agency should be communicating with the
15:52:19 4 benefit applicant under the terms of the MOA to advise them
15:52:22 5 that their citizenship was unable to be confirmed by SAVE
15:52:27 6 and what the next steps are that they can take to correct
15:52:30 7 their record with USCIS if they believe that status -- that
15:52:33 8 response to be an error.

15:52:35 9 Q. Should the user agency also be sending a notice
15:52:39 10 letter to the applicant telling them "Here are some other
15:52:43 11 ways you can establish your U.S. citizenship with a -- with
15:52:47 12 documentary proof"?

15:52:50 13 A. You mean outside of the information that's already
15:52:53 14 provided as part of these sets of information?

15:52:56 15 Q. Correct.

15:53:01 16 Maybe let's take a look at 1586 and 1588. I
15:53:10 17 don't have a ton of exhibits left, if that's any
15:53:13 18 consolation.

15:53:23 19 What is -- when you have it out, what is
15:53:25 20 USCIS SAVE 1586?

15:53:29 21 A. 1586 is a document titled "Citizenship Proof
15:53:44 22 Needed -- State Voter Registration Form."

15:53:48 23 MR. SHERMAN: Can we mark this as
15:53:49 24 Exhibit 197.

15:53:49 25 (The document was marked as Exhibit 197

15:53:49 1
15:53:54 2
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15:54:22 13
15:54:27 14
15:54:28 15
15:54:32 16
15:54:34 17
15:54:40 18
15:54:44 19
15:54:50 20
15:54:54 21
15:54:55 22
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15:55:03 24
15:55:05 25

for identification.)

BY MR. SHERMAN:

Q. And when -- when is this -- did your office create this?

A. This is not a USCIS document, no.

Q. Okay. Is this something that Arizona -- the Arizona Secretary of State's Office provided to USCIS?

MR. MORGAN: Foundation, form.

MS. SLATTERY: I don't have the ability to answer that question as this occurred before I became part of the SAVE program.

BY MR. SHERMAN:

Q. So you're not sure of the origin of this document?

A. I am not.

Q. Okay. And you're not sure how it's used?

A. Based on the content of the document, it appears to serve as notification to a voter registrant applicant that they -- that their information was not able to be verified or that they have not yet received documentation for U.S. citizenship -- of U.S. citizen status for the purpose of voter verif- -- voter registration.

Q. And you're not sure if USCIS has approved this document in any way?

A. I am not aware that we have approved the document. My understanding is, at the time Arizona was in

15:55:09 1 conversation with USCIS about the MOA, that members of the
15:55:13 2 SAVE staff may have reviewed documents. I am uncertain if
15:55:17 3 these are those documents or that these are final copies of
15:55:20 4 what was produced.

15:55:22 5 Q. If you could take a look at 1588, please.

15:55:29 6 A. Okay.

15:55:30 7 Q. What is this document?

15:55:31 8 A. 2nd Notice That Citizenship Documentation
15:55:33 9 Needed -- State Voter Registration Form.

15:55:36 10 MR. SHERMAN: Can we mark this as
15:55:37 11 Exhibit 198.

15:55:37 12 (The document was marked as Exhibit 198
15:55:37 13 for identification.)

15:55:37 14 BY MR. SHERMAN:

15:55:41 15 Q. Do you know the origin of this document?

15:55:45 16 A. I do not.

15:55:46 17 Q. What does it appear to be? Strike that. You
15:55:52 18 already answered that.

15:55:53 19 Are you -- do you know when it's used?

15:55:59 20 A. As directed, it would be a notice to a voter
15:56:04 21 registration applicant that the agency requesting
15:56:07 22 information has not yet received documentation from that
15:56:10 23 applicant of their United States citizenship status.

15:56:14 24 Q. Under the MOA, does USCIS have to approve
15:56:16 25 Arizona's documentary proof of citizenship deficiency

15:56:19 1 notice letters?

15:56:24 2 A. We do not have to approve them.

15:56:26 3 Q. How would an applicant learn of an issue with the
15:56:30 4 SAVE -- their SAVE query such that they would need to
15:56:32 5 correct, update, renew, obtain, or replace the records in
15:56:36 6 the SAVE system to obtain the benefit they're seeking from
15:56:39 7 the user agency?

15:56:42 8 A. The benefit applicants typically can communicate
15:56:44 9 with the user agency. They also would have access to the
15:56:48 10 SAVE CaseCheck system, which does provide information about
15:56:52 11 where the case is in the process.

15:56:54 12 Q. Back on USCIS SAVE 00011, which is appended to the
15:57:05 13 MOA, I just want to ask a few questions about this
15:57:09 14 document.

15:57:12 15 Is this a template that can be modified, or
15:57:15 16 is this what county recorders are actually required to
15:57:22 17 send?

15:57:23 18 A. This document is not a template.

15:57:26 19 Q. And what does this document notify voter
15:57:30 20 registration applicants of?

15:57:31 21 A. This document is titled "How to Obtain Your
15:57:35 22 Document or Correct Your Record with USCIS." So it
15:57:36 23 contains information as of its revision date of
15:57:41 24 October 2018 as to how an individual could request records
15:57:45 25 correction from USCIS.

15:57:46 1 Q. Can the SAVE system be used to correct, update,
15:57:49 2 renew, or replace records in USCIS?

15:57:52 3 A. No. SAVE does not do any records correction
15:57:55 4 activity. That would be through the USCIS systems of
15:57:58 5 record or the DHS system of record, depending on the
15:58:01 6 document.

15:58:01 7 Q. So how does an applicant go about correcting or
15:58:03 8 updating their records with DHS?

15:58:06 9 A. The applicant would need to make contact with the
15:58:09 10 agency that issued the record. So for purposes of USCIS
15:58:12 11 records, they would contact us typically through -- they
15:58:17 12 have a couple different channels, depending on the nature
15:58:19 13 of the correction that's needed.

15:58:20 14 So if they're not sure where to start, they
15:58:22 15 can call the national customer service center, which is our
15:58:24 16 800 number. At that point, they will be either directed to
15:58:28 17 complete a form -- such as if they need a replacement
15:58:31 18 certificate, you'll see that the form ends -- 565 is listed
15:58:34 19 on the fact sheet.

15:58:35 20 If it's a different type of record
15:58:37 21 correction, they may be referred to a USCIS field office in
15:58:41 22 order for that office to verify identity and to take the
15:58:45 23 record correction request.

15:58:47 24 At that point, they also would have an
15:58:48 25 opportunity to file a request through FOIA. And then the

15:58:52 1 FOIA process, in order to request records correction, this
15:58:56 2 document does reflect that they could directly schedule an
15:58:58 3 appointment for in-person interview at local USCIS. That
15:59:02 4 is no longer -- InfoPass is no longer in use. That's a
15:59:06 5 modified process now, so they would contact the national
15:59:09 6 customer service center in order to schedule an
15:59:12 7 appointment.

15:59:12 8 Q. Understood.

15:59:13 9 A. Or as the last item states, they can just send us
15:59:16 10 a letter directly and then that letter will be routed
15:59:18 11 appropriately for a records correction request.

15:59:21 12 Q. Okay. So I want to make sure I understand all of
15:59:23 13 the different avenues.

15:59:24 14 So they can file a form to obtain a
15:59:26 15 replacement naturalization certificate; that's one option
15:59:29 16 that's listed here; correct?

15:59:31 17 A. Correct.

15:59:31 18 Q. How much does that generally cost?

15:59:34 19 A. It depends on the nature of the correction. If
15:59:37 20 it's a USCIS error, I believe the form can be submitted
15:59:40 21 without a fee.

15:59:40 22 If it's an update or a change or it's a lost
15:59:43 23 or destroyed certificate, there would be a fee associated
15:59:46 24 with the form. And the most recent fee is published with
15:59:49 25 the form along with instructions on when the fee is

15:59:52 1 required on our website.

15:59:54 2 Q. How long does that process take?

15:59:56 3 A. It depends again on the nature of the correction.

15:59:59 4 Right now, the 565 processing times are posted on the USCIS
16:00:03 5 website under the processing times information page.

16:00:07 6 Q. And so you said before you can't schedule an
16:00:11 7 appointment anymore for an in-person --

16:00:13 8 A. You can no longer directly schedule an
16:00:15 9 appointment.

16:00:15 10 Q. Okay.

16:00:16 11 A. There was a period of time where we had a system
16:00:18 12 called InfoPass that applicants could go into to request a
16:00:21 13 specific appointment at a field office. That system was
16:00:24 14 phased out a couple of years ago. Now individuals would
16:00:30 15 call the USCIS customer contact center that will do an
16:00:31 16 intake process with the applicant and then schedule an
16:00:34 17 appointment as necessary.

16:00:35 18 Q. How quickly can an applicant get an appointment?

16:00:39 19 A. It depends on the field office and the
16:00:41 20 availability of the appointments. If there's an urgency --
16:00:44 21 urgent need for an appointment, that can be relayed to the
16:00:47 22 customer contact center and they can contact the field
16:00:49 23 office to see if a more recent appointment can be made
16:00:52 24 available.

16:00:52 25 Q. Does getting registered to vote in time for an

16:00:55 1 election qualify as an urgent need?

16:00:58 2 A. I don't know if that is a specifically labeled
16:01:00 3 item in the call center scripts.

16:01:03 4 Q. Okay. How quickly can the USCIS office act to
16:01:06 5 correct or update the person's record?

16:01:09 6 A. It depends on the nature of the correction.

16:01:12 7 Q. Ballpark?

16:01:15 8 A. It -- again, it would depend on the nature of the
16:01:17 9 correction, whether retrieval of the physical file is
16:01:20 10 required, whether there is data matching that has to be
16:01:22 11 done to look at different files and different records.
16:01:26 12 Again, it depends on the type of correction that's being
16:01:29 13 requested.

16:01:29 14 Q. For some corrections, could it take weeks or
16:01:32 15 months?

16:01:33 16 A. Depending on the complexity of the correction,
16:01:35 17 potentially, but that would be, I think, more unusual than
16:01:38 18 not.

16:01:41 19 Q. So another option is they could submit a
16:01:43 20 request -- the request in writing to correct the record.
16:01:46 21 How long does that method take to correct or update the
16:01:49 22 record?

16:01:50 23 A. Again, it would vary depending on the time for
16:01:53 24 intake of the request, the nature of the request, and how
16:01:55 25 the request would need to be routed to get to the

16:01:58 1 appropriate office for action.

16:01:59 2 Q. Are there any other means to correct or update a
16:02:03 3 record in the SAVE system?

16:02:04 4 I'll ask about the FOIA in a second.

16:02:06 5 A. Well, again, you would not be updating records in
16:02:09 6 the SAVE system. The record would be updated in the USCIS
16:02:11 7 system of record, and then SAVE would be able to access
16:02:15 8 that record when additional verification was performed.

16:02:20 9 Q. So if the applicant doesn't know the information
16:02:22 10 they need to correct, they first need to submit a FOIA
16:02:25 11 request; is that correct?

16:02:26 12 A. That is correct. That is the records process
16:02:28 13 through which applicants can access their immigration
16:02:31 14 record.

16:02:32 15 Q. How long do those FOIA requests generally take?

16:02:34 16 A. FOIA has a multitiered process for requests. They
16:02:38 17 would be able to submit a request for expedited. I don't
16:02:41 18 recall off the top of my head what the time period is for
16:02:44 19 the expedite request, but all of the information is
16:02:46 20 published on the FOIA pages on the USCIS website.

16:02:48 21 Q. Would they expedite a request for voter
16:02:53 22 registration purposes if there's an upcoming election?

16:02:55 23 A. Expedite is case-by-case determination. So it
16:02:58 24 would be reviewed in context and based on the factors and
16:03:01 25 justifications submitted.

16:03:03 1 Q. How easy or hard would you say that FOIA process
16:03:06 2 is for an applicant who isn't represented by counsel?

16:03:14 3 MR. MORGAN: Speculation.

16:03:19 4 BY MR. SHERMAN:

16:03:19 5 Q. You can answer.

16:03:20 6 A. As with all processes, it would depend on the
16:03:23 7 person's ability to navigate the process. Certainly, there
16:03:26 8 are barriers that could occur like language issues and
16:03:28 9 understanding, but our role is always to put processes
16:03:31 10 together that can be navigated by people who are
16:03:35 11 unrepresented; in fact, the majority of our processes are
16:03:37 12 designed to be used for people who are unrepresented. So
16:03:40 13 everything is publicly available; information is available
16:03:44 14 and the process is outlined online.

16:03:46 15 Q. How easy or hard would you say the correction or
16:03:49 16 updating process is for someone with a high school
16:03:52 17 education and high school literacy level?

16:03:55 18 MR. MORGAN: Calls for speculation.

16:03:58 19 MS. SLATTERY: Again, USCIS designs
16:04:01 20 communication materials to be readily understood by the
16:04:04 21 public accessing our systems.

16:04:06 22 BY MR. SHERMAN:

16:04:07 23 Q. Is this document USCIS SAVE 11 and also 12, the
16:04:13 24 back or reverse side -- is this available in translation?

16:04:17 25 A. It is not.

16:04:21 1 Q. Do you ensure that user agencies provide the same
16:04:25 2 information in translation?

16:04:27 3 A. That is not a requirement of the MOU.

16:04:31 4 Q. Are there any documents, fact sheets, notice
16:04:35 5 letters that the SAVE program requires that are available
16:04:40 6 in translation?

16:04:44 7 A. I am not aware of any at this time. I will say
16:04:48 8 that USCIS does have a Spanish-language website and that we
16:04:53 9 do have a multilingual web page that offers a variety of
16:04:58 10 resources. I do not recall whether any of the SAVE
16:05:01 11 resources are published to that site.

16:05:02 12 Q. So as far as you're aware, are there any
16:05:07 13 SAVE-related materials that are available in translation?

16:05:13 14 A. We do not currently have any published on the SAVE
16:05:16 15 system resources that agencies have access to.

16:05:21 16 Q. Do user agencies have any SAVE-related materials
16:05:25 17 that are available in translation?

16:05:28 18 A. I am not aware of any. That does not mean they
16:05:31 19 don't exist. I'm just not aware of them.

16:05:35 20 Q. Are any of the other witnesses aware of any such
16:05:41 21 materials?

16:05:47 22 MS. DOOLITTLE: I am not.

16:05:48 23 MR. FILIGHERA: I am not aware.

16:05:51 24 BY MR. SHERMAN:

16:05:52 25 Q. I think we've been over this before, the maiden

16:05:55 1 name issue, but the SAVE Program Guide, on page 93, if I
16:06:07 2 could ask you to just look back at that under second-level
16:06:23 3 verification, top of USCIS SAVE 93.

16:06:25 4 A. I have it.

16:06:26 5 Q. These instructions on second-level verification
16:06:29 6 explicitly call for unverified applicants' maiden names; is
16:06:34 7 that correct?

16:06:34 8 A. It indicates that it is one option that can be
16:06:36 9 added in the comments field in order to provide additional
16:06:39 10 information that would be able to be researched in -- in
16:06:42 11 DHS systems.

16:06:43 12 Q. Does that suggest that it is a common problem that
16:06:47 13 user agencies face or that the SAVE system faces?

16:06:52 14 A. I think it's reasonable to say that a change of
16:06:55 15 name particularly due to marriage is something that we
16:06:58 16 would encounter on a regular basis. And so being that that
16:07:02 17 would be one of the more common types of name change or
16:07:05 18 documentary changes that people would need to notify USCIS
16:07:08 19 of, that that's the reason it's included here.

16:07:11 20 Q. Just to make this concrete, can you just walk me
16:07:15 21 through again the steps an applicant would need to take to
16:07:18 22 create or update a DHS record that still has their maiden
16:07:23 23 or premarital name?

16:07:23 24 A. So I don't think we walked through the specific
16:07:25 25 steps. However, the steps that they would take was they

16:07:27 1 would need to contact the agency through one of the
16:07:30 2 appropriate channels; they would need to advise us of the
16:07:33 3 need of correction; and they would need to provide
16:07:35 4 documentary evidence showing the correction to be made. So
16:07:38 5 in the case of marriage, it would be a copy of a marriage
16:07:40 6 certificate indicating the change of name, or if they had
16:07:44 7 gone through a court procedure to change name, the order
16:07:48 8 documenting the change of name.

16:07:51 9 Q. How long does the process take once the voter
16:07:55 10 registration applicant submits the request and
16:07:57 11 documentation, like a marriage certificate?

16:07:58 12 A. Again, it would depend on the -- how the
16:08:02 13 information was submitted, the nature of the change, and
16:08:04 14 the process required in order to execute the change. So
16:08:07 15 again, if we have to pull a hard file in order to verify
16:08:11 16 information, that could take longer than something we're
16:08:13 17 able to do just through a systems check.

16:08:17 18 Q. How long does it take to renew a record that is
16:08:21 19 accessed within the SAVE system?

16:08:25 20 A. Do you mean a record that's been updated?

16:08:30 21 Q. Correct.

16:08:32 22 A. So I'll ask Mariah to jump in here as well.

16:08:36 23 Typically, I think once the record correction is updated
16:08:38 24 and it's available in the source systems, we would
16:08:42 25 generally expect -- have access to that record within about

16:08:45 1 24 hours of the system update based on how we connect to
16:08:49 2 that system.

16:08:51 3 MS. SLATTERY: Mariah, could you add?

16:08:52 4 MS. DOOLITTLE: Correct. Within 24 hours is
16:08:55 5 when we do -- we do multiple data refreshes, but that is
16:08:59 6 the basic timeline for us to get information from our data
16:09:02 7 links, which compose the information coming out from those
16:09:07 8 source systems.

16:09:07 9 BY MR. SHERMAN:

16:09:09 10 Q. How long does it take a benefit applicant to
16:09:11 11 obtain or replace a record that is accessed within the SAVE
16:09:16 12 system?

16:09:16 13 A. Can you repeat the question, please?

16:09:18 14 Q. How long does it take a benefit applicant to
16:09:20 15 obtain or replace a record that is accessed within the SAVE
16:09:25 16 system?

16:09:25 17 A. A USCIS record?

16:09:27 18 Q. Yes.

16:09:28 19 A. A DHS record? Again, it would depend on the
16:09:32 20 applicant making the record request for USCIS records.
16:09:34 21 That would be -- for a FOIA process, the processing
16:09:36 22 guidelines are published on the web page. I can't speak
16:09:39 23 for other agencies and their FOIA processes. However, they
16:09:44 24 usually publish their information to the web as well. I
16:09:48 25 don't know what their FOIA processing timelines are.

16:09:51 1 Q. Is one able to correct a name associated with an
16:09:54 2 alien registration number?

16:09:58 3 A. Can you say more about the question you're asking?
16:10:01 4 So if you have a record that contains an A-number and a
16:10:05 5 name and there's a name correction to be made?

16:10:08 6 Q. Correct.

16:10:09 7 A. Typically, that would be within a record confine.
16:10:13 8 So the information as it relates to the individual or the
16:10:17 9 form that is being updated or the output from that form --
16:10:22 10 so a receipt notice, a certificate -- those records would
16:10:25 11 all be related. And so the information update would be
16:10:28 12 made in the record.

16:10:30 13 Q. Okay. Last section. Just have a handful more
16:10:36 14 questions.

16:10:36 15 How long have Arizona election officials been
16:10:39 16 using the SAVE system for purposes of citizenship
16:10:42 17 verification upon receipt of a new voter registration
16:10:45 18 application?

16:10:47 19 A. The current MOA was signed in 2018.

16:10:51 20 Q. And before that point?

16:10:54 21 A. I don't know the original date. Was it 2016? It
16:11:01 22 would have been the counties, not the state. The state
16:11:03 23 would have been 2018.

16:11:05 24 Q. Okay. How many other states are using the SAVE
16:11:08 25 system for this purpose? I think you said earlier.

16:11:10 1 A. We've covered that already. Yeah, it was less
16:11:13 2 than ten. I think we determined that there were six total.

16:11:17 3 Q. Are any other state or county election authorities
16:11:20 4 anywhere in the nation using the SAVE system to investigate
16:11:23 5 currently registered voter citizenship status?

16:11:29 6 A. We do have, I believe, at least one state that is
16:11:46 7 using SAVE for voter list maintenance.

16:11:50 8 Q. In your view, is that the same as investigating
16:11:54 9 currently registered voter citizenship status?

16:12:03 10 A. What is your definition of "investigation" for
16:12:05 11 purposes of your question?

16:12:07 12 Q. That they would be plugging in registered voters'
16:12:12 13 information -- name, numeric identifiers -- into the SAVE
16:12:17 14 system to investigate their citizenship status.

16:12:21 15 A. Well, again, SAVE would not be providing anything
16:12:25 16 back but the citizenship information, so for purposes of
16:12:28 17 SAVE for -- and depending on the terms of the MOA, which I
16:12:32 18 don't have in front of me, SAVE would allow submission of
16:12:37 19 data for purposes of verifying information in association
16:12:42 20 with the terms of the MOA.

16:12:44 21 Q. Is it advisable to run the same person through the
16:12:48 22 SAVE system multiple times a year?

16:12:55 23 MR. WHITAKER: Objection. Ambiguous. Go
16:12:56 24 ahead.

16:12:59 25 MS. SLATTERY: We can have situations where

16:13:02 1 someone is run through SAVE's -- SAVE for different
16:13:05 2 purposes in a year. Again, we have applicants who may be
16:13:09 3 going to multiple benefit agencies for different purposes,
16:13:13 4 so we may in fact have information for those applicants
16:13:15 5 being submitted to SAVE.

16:13:18 6 BY MR. SHERMAN:

16:13:28 7 Q. Is USCIS able to monitor compliance with
16:13:31 8 requirements to send notices to the voter registration
16:13:33 9 applicants?

16:13:35 10 A. That's not a component of the SAVE system, no. We
16:13:40 11 don't currently monitor that through our system.

16:13:42 12 Q. How does USCIS enforce the additional verification
16:13:46 13 requirements?

16:13:48 14 A. We, again, have an escalating process where we
16:13:52 15 work with agencies to point out deficits in compliant
16:13:57 16 behavior and then to work with them to bring behavior into
16:14:00 17 compliance through our escalation process.

16:14:05 18 Q. Well, maybe I'll ask this concretely for Arizona.
16:14:07 19 Have you done monitoring and -- engaged in any monitoring
16:14:09 20 or reviewing of records on county recorders' usage of SAVE?

16:14:14 21 A. We have not done any since I joined the SAVE
16:14:19 22 program. I understand that in 2018 there was a proposed
16:14:24 23 opportunity to go out and do a desk audit. That was
16:14:28 24 suspended at the time while the negotiations about the MOA
16:14:30 25 were under way.

16:14:31 1 Q. Have there been any desk audits or site visits for
16:14:36 2 Arizona county recorders' offices?

16:14:39 3 A. I am not personally aware of any.

16:14:41 4 Q. Have there been any other audits of any Arizona
16:14:47 5 county recorder's activity regarding SAVE under the MOA?

16:14:51 6 A. Again, we have agency account relationship
16:14:53 7 managers that are in regular contact with agencies when
16:14:57 8 they have questions or issues or if we see an issue that we
16:15:00 9 need to reach out to the agency about, but specifically to
16:15:02 10 desk audits or site visits, I am not aware of any.

16:15:06 11 Q. Have there been any other systemic monitoring and
16:15:11 12 compliance activities focused on Arizona's use of the SAVE
16:15:14 13 system for purposes of voter registration?

16:15:20 14 A. I am not aware of any.

16:15:22 15 Q. Have you identified any noncompliance on the part
16:15:24 16 of the Arizona Secretary of State's Office or Arizona
16:15:28 17 county recorders?

16:15:37 18 I'll come back to this question in a minute.

16:15:39 19 We can -- we can pass on this for now.

16:15:40 20 What are the consequences for a user agency
16:15:43 21 if it does not comply with the MOA or other requirements?

16:15:46 22 A. As previously discussed, there's an escalating
16:15:49 23 process that we work through with agencies where we can and
16:15:52 24 often do require no -- revisiting training, completing
16:15:57 25 tutorials. We may talk with administrators of the agency

16:16:00 1 to ensure compliant behavior up to and including
16:16:04 2 terminating an agency from SAVE if the behavior is not
16:16:07 3 corrected.

16:16:08 4 Q. Have you ever suspended a user agency temporarily?

16:16:12 5 A. I am not aware individually of that occurring, but
16:16:18 6 I believe we have done so historically.

16:16:20 7 Q. Have you ever terminated a user agency's MOA and
16:16:24 8 access to SAVE?

16:16:25 9 A. Yes.

16:16:25 10 Q. How many?

16:16:27 11 A. I don't know the answer to that question.

16:16:29 12 Q. Why did you terminate them, if you remember some
16:16:36 13 of the reasons?

16:16:37 14 A. I don't know the answer to that question at this
16:16:39 15 time.

16:16:40 16 Q. Okay. Do you know if it was generally for
16:16:43 17 violation of the terms of their MOAs?

16:16:46 18 A. I don't know the answer to that question.

16:16:49 19 Q. I think you basically covered this, but just to
16:16:53 20 ensure: Have you ever engaged with any Arizona county
16:16:57 21 recorders directly about noncompliance with any part of the
16:16:59 22 MOAs?

16:17:01 23 A. Again, in 2018 there was the beginnings of a desk
16:17:04 24 audit process with the organization -- I believe it was --
16:17:09 25 I don't recall which county it was. We do have emails

16:17:12 1 showing that there was plans in the works to conduct a desk
16:17:16 2 audit. That was tabled pending completion of the MOA
16:17:19 3 negotiations.

16:17:21 4 Q. What triggered that conversation, exploring a desk
16:17:26 5 audit?

16:17:26 6 A. I don't have that information.

16:17:29 7 Q. If would could take a look at 1744 and 1743.
16:17:33 8 These were previously marked as Exhibit 186 and
16:17:36 9 Exhibit 187.

16:17:59 10 Just to rehearse, what are these two
16:18:02 11 spreadsheets again? And how were they created?

16:18:05 12 A. So 1744 is labeled "Inq 9," which relates to
16:18:12 13 Inquiry 9 of the subpoena in this proceeding. 1743 is
16:18:17 14 labeled "Inquiry 10" and relates to Inquiry 10 of the
16:18:20 15 subpoena. These documents are data tables showing
16:18:26 16 information about the use of the Arizona recorders' offices
16:18:30 17 and secretary of state and their SAVE cases.

16:18:34 18 Q. And you're attesting to the accuracy of this data;
16:18:37 19 correct?

16:18:37 20 A. Yes.

16:18:38 21 Q. And again, the Arizona Secretary of State's Office
16:18:43 22 is listed here because it's a stand-in for the other 12
16:18:49 23 counties that are using the SAVE system through its
16:18:51 24 account?

16:18:52 25 A. Correct.

16:18:54 1 Q. Did the data contained in these spreadsheets come
16:18:59 2 to USCIS's attention in preparing these documents in
16:19:02 3 response to the subpoena, or has this history been
16:19:06 4 documented previously and brought to your attention?

16:19:09 5 A. These tables were consolidated for purposes of
16:19:12 6 this proceeding.

16:19:18 7 Q. Have the -- well, if I could just clarify the
16:19:19 8 question.

16:19:20 9 So you were -- were you aware of the
16:19:22 10 information that's contained in these tables -- these
16:19:25 11 spreadsheets before they were compiled?

16:19:31 12 A. The first time I had access to this data was when
16:19:35 13 these spreadsheets were put together.

16:19:36 14 Q. Having now reviewed the data in 1744 and 1743 --
16:19:41 15 and you could take a minute or two to look back through
16:19:44 16 it -- would you say that Arizona's county recorders have
16:19:47 17 been complying with the additional verification procedure
16:19:49 18 requirements?

16:19:52 19 A. The data indicates that for purposes of using the
16:19:56 20 SAVE system for additional verification, for second step,
16:19:58 21 and third step, that cases have not been routinely
16:20:01 22 submitted and completed through those steps.

16:20:08 23 Where we do see consistent use -- and this is
16:20:12 24 on Table 9 for the Pima County Recorder's Office -- the
16:20:18 25 cases that were submitted for additional verification, we

16:20:22 1 do have completed responses either confirming or showing a
16:20:24 2 lack of additional -- a lack of verification for all cases
16:20:28 3 submitted.

16:20:28 4 Q. I want to drill down into this some.

16:20:33 5 For Maricopa, Pima, Yavapai, would you agree
16:20:38 6 that these entries show very, very low compliance with the
16:20:41 7 additional verification requirement and in some cases zero
16:20:45 8 compliance with that requirement?

16:20:47 9 A. The data indicates that cases were not submitted
16:20:49 10 to second step or third step in the SAVE system.

16:20:53 11 Q. For example, in 2020, there were over 1,000 cases
16:20:59 12 out of Maricopa that could not be verified upon initial
16:21:02 13 verification; is that correct?

16:21:03 14 A. That is correct.

16:21:05 15 Q. And the Maricopa County Recorder's Office
16:21:08 16 submitted just three of those to SAVE for additional
16:21:12 17 verification; correct?

16:21:13 18 A. Which document are you looking at?

16:21:15 19 Q. Sorry. 1744. If you look at line 2020 -- year --
16:21:20 20 the year is 2020 for Maricopa County Recorder's Office.

16:21:24 21 A. Yes. It indicates three cases were submitted for
16:21:27 22 additional verification. All three were determined to be
16:21:32 23 confirmed citizens after the additional information was
16:21:35 24 provided.

16:21:36 25 Q. And that's 3 out of over 1,000 cases that were

16:21:40 1 submitted for additional -- 3 out of -- 3 out of 1,000
16:21:45 2 cases that were not verified upon initial verification; is
16:21:50 3 that correct?

16:21:50 4 A. The 1,800 cases in Column 2 represents those
16:21:56 5 records that were confirmed at initial verification.

16:21:59 6 Q. So subtracting that --

16:22:01 7 A. So that would be the remainder, yes.

16:22:03 8 Q. Subtracting that from the total cases submitted to
16:22:05 9 SAVE by Arizona agencies, you agree that there were about
16:22:09 10 1,000 -- over 1,000 cases that did not verify upon initial
16:22:14 11 verification; correct?

16:22:16 12 A. Numerically, that's the difference between the two
16:22:18 13 numbers, yes.

16:22:18 14 Q. And only 3 of those 1,000-plus cases were
16:22:22 15 forwarded to additional verification; correct?

16:22:24 16 A. Through the SAVE system, yes.

16:22:26 17 Q. And then in 1743, in the same year, 2020, for the
16:22:37 18 Maricopa County Recorder's Office, there were 1,037 cases
16:22:43 19 where SAVE requested Arizona to provide additional
16:22:46 20 information but none was provided. Do you see that?

16:22:50 21 A. I do.

16:22:51 22 Q. And then of those, two cases were submitted to
16:22:56 23 additional verification?

16:23:00 24 A. That's what's indicated in the data, yes.

16:23:01 25 Q. And back on 1744, is it correct that for the

16:23:07 1 current year, 2023, that Maricopa, Pima, and all the other
16:23:14 2 counties represented in the last line, the Office of the
16:23:17 3 Secretary of State, no county has submitted any case for
16:23:20 4 additional verification this year?

16:23:23 5 A. That's what the data indicates, yes.

16:23:25 6 Q. Is there a lag in when this data is recorded, or
16:23:28 7 is what I just said accurate?

16:23:32 8 A. The data is accurate as of the date it was run,
16:23:35 9 which was in July of this year. If there were additional
16:23:38 10 submissions after that date, they would not be reflected in
16:23:40 11 the data that's in front of us today.

16:23:42 12 Q. Understood.

16:23:44 13 So in the best-case scenario in this chart,
16:23:47 14 in 1744, in 2020, Pima submitted a little under half of its
16:23:51 15 cases for additional verification where USCIS requested
16:23:55 16 additional verification; is that correct?

16:23:58 17 A. And you're looking at the 1744 for 2020 for Pima
16:24:05 18 County?

16:24:05 19 Q. Correct.

16:24:06 20 A. Yes. Indicates there were 107 cases submitted for
16:24:12 21 additional verification.

16:24:14 22 Q. So even in the best case, Pima County -- Pima
16:24:18 23 County Recorder's Office failed to initiate additional
16:24:20 24 verification in over half of the cases where your agency
16:24:23 25 requested it; correct?

16:24:24 1 A. The data indicates only 107 cases were submitted.

16:24:29 2 Q. Do you agree that these spreadsheets we've been
16:24:31 3 looking at show this noncompliance with additional
16:24:35 4 verification procedures has been ongoing from 2016
16:24:38 5 through 2023?

16:24:41 6 MR. WHITAKER: Objection. Ambiguous and
16:24:43 7 calls for a legal conclusion.

16:24:50 8 BY MR. SHERMAN:

16:24:50 9 Q. Let me back up one step.

16:24:52 10 Do you agree that these spreadsheets we've
16:24:55 11 been looking at show a history of noncompliance?

16:25:00 12 MR. WHITAKER: Same objection.

16:25:03 13 MR. LANGHOFER: Legal conclusion.

16:25:07 14 MS. SLATTERY: Again, I think we would
16:25:08 15 need -- the data, as it is laid out, indicates what it
16:25:12 16 indicates. We would need to look more deeply at the data
16:25:15 17 and take a look at the agency's history and do a compliance
16:25:20 18 consultation with them to understand fully what the data
16:25:23 19 indicates and whether there were any actions taken outside
16:25:25 20 of SAVE.

16:25:26 21 BY MR. SHERMAN:

16:25:27 22 Q. What do you mean when you say "actions taken
16:25:29 23 outside of SAVE"?

16:25:31 24 A. Again, per the SAVE user guide, agencies may not
16:25:35 25 need to continue with second or third step if they have

16:25:37 1 used alternate verification procedures.

16:25:40 2 Q. And so you have -- USCIS doesn't have knowledge or
16:25:45 3 data on whether these alternative procedures have been
16:25:48 4 used; correct?

16:25:49 5 A. We would not.

16:25:50 6 Q. So in some instances, perhaps if you -- if you
16:26:04 7 generate an additional verification, an IAV notice,
16:26:11 8 institute additional verification notice, or response
16:26:13 9 through the SAVE system, the county recorder's office is
16:26:19 10 obligated to take that step -- correct? -- at that time?

16:26:22 11 A. They would be --

16:26:23 12 MR. WHITAKER: Objection. Calls for legal
16:26:25 13 conclusion.

16:26:26 14 MS. SLATTERY: The user would be prompted by
16:26:32 15 the system to complete that next step in the process and
16:26:35 16 would receive the institute additional verification
16:26:39 17 notification.

16:26:39 18 BY MR. SHERMAN:

16:26:46 19 Q. Over this -- so in 1744, this goes back to 2018;
16:26:53 20 in 1743, this goes back to 2016. In all this time, has
16:26:58 21 USCIS taken steps to investigate whether there were
16:27:03 22 alternative procedures that were -- that were used by
16:27:07 23 Arizona county recorder offices in lieu of initiating
16:27:11 24 additional verification?

16:27:13 25 A. As previously mentioned, in 2018 the organization

16:27:17 1 was in the process of putting together a desk audit and a
16:27:20 2 site visit with some of the agencies. That audit was
16:27:24 3 terminated -- or postponed, I would say, due to the MOA
16:27:28 4 negotiations that were undergoing -- under way.

16:27:31 5 Q. And then after 2018, there's been noncompliance --
16:27:37 6 at least on paper, it looks like noncompliance with the
16:27:41 7 additional verification requirement.

16:27:43 8 Did USCIS take any steps over the last five
16:27:46 9 years to investigate whether the county recorders' offices
16:27:49 10 were instituting additional verification procedures or
16:27:55 11 using alternative means --

16:27:56 12 MR. WHITAKER: Objection.

16:27:57 13 BY MR. SHERMAN:

16:27:57 14 Q. -- in lieu of them?

16:28:01 15 MR. WHITAKER: Sorry. Objection.
16:28:02 16 Argumentative to the first part of the question.

16:28:04 17 MR. SHERMAN: I didn't mean to be
16:28:06 18 argumentative at all. I can restate it if necessary.

16:28:13 19 MR. BURKLEY: Can you answer it?

16:28:14 20 MS. SLATTERY: I'm not aware of specific
16:28:16 21 actions that have been taken to follow up on whether
16:28:19 22 additional alternative procedures are being used.

16:28:21 23 BY MR. SHERMAN:

16:28:22 24 Q. Thank you. I appreciate that. That's all I was
16:28:24 25 trying to figure out.

16:28:25 1 Have there been any warnings or notices
16:28:31 2 issued to Arizona county recorders based on the data
16:28:34 3 reflected in these spreadsheets?

16:28:37 4 A. I am not aware of any at this time.

16:28:39 5 Q. Any corrective measures?

16:28:45 6 A. I'm not aware of any at this time.

16:28:47 7 Q. Any suspensions or terminations?

16:28:51 8 A. I am not aware if there have been any suspensions
16:28:55 9 or terminations at this time.

16:28:55 10 Q. Would this past apparent noncompliance with the
16:29:00 11 additional verification requirement factor into USCIS's
16:29:02 12 willingness to modify or expand the MOA to cover new uses
16:29:06 13 required by Arizona law, such as using SAVE to investigate
16:29:10 14 the current citizenship status of currently registered
16:29:13 15 voters?

16:29:15 16 MR. WHITAKER: Objection to the phrase
16:29:17 17 "apparent noncompliance." It's argumentative.

16:29:23 18 MS. SLATTERY: We would look at the new MOA
16:29:26 19 negotiations. We would, of course, be looking at the legal
16:29:29 20 authorities and the purpose for which the verification is
16:29:31 21 being proposed and would be looking at whether those
16:29:36 22 purposes are clearly outlined in the legislation.

16:29:40 23 BY MR. SHERMAN:

16:29:40 24 Q. Would USCIS need to assure itself that alternative
16:29:45 25 processes account for the shortfall in additional

16:29:49 1 verification reflected in 1744 and 1743?

16:29:55 2 A. I'm not sure I understand the question. Can you
16:29:58 3 restate, please?

16:29:58 4 Q. Before -- I'll restate it.

16:29:59 5 Before engage- -- before modifying or
16:30:02 6 expanding Arizona's existing MOA to use the SAVE system,
16:30:08 7 would USCIS need to investigate whether or not there have
16:30:15 8 been alternative processes that explain the shortfall in
16:30:22 9 additional verification procedures that have been -- that
16:30:24 10 are reflected in 1744 and 1743?

16:30:30 11 MS. PORTER: Form

16:30:37 12 MS. SLATTERY: As I don't have a current
16:30:39 13 request from -- for expansion in front of me and this data
16:30:42 14 is data I learned about through the course of this
16:30:45 15 proceeding, we would be evaluating any new requests on a
16:30:48 16 case-by-case basis, considering all the factors in front of
16:30:51 17 us at the time.

16:30:51 18 BY MR. SHERMAN:

16:30:53 19 Q. And what would those factors be?

16:30:54 20 A. Again, we would be looking at the legal
16:30:56 21 authorities and the proposed use of the system.

16:31:01 22 Q. Would some of the factors include this history
16:31:04 23 reflected in 1744 and 1743?

16:31:26 24 A. Sorry. I'm thinking.

16:31:27 25 Q. Take your time.

16:31:30 1 A. Potentially.

16:31:32 2 Q. In this circumstance, the SAVE system and USCIS's
16:31:37 3 additional verification procedures are gatekeepers not for
16:31:42 4 public assistance but for applicants to exercise their
16:31:44 5 right to vote.

16:31:46 6 Given the history and the data reflected here
16:31:49 7 in 1744 and 1743, is USCIS comfortable with expanding
16:31:54 8 the -- the use of the SAVE system by Arizona election
16:31:58 9 officials to encompass the removal of voters from the
16:32:02 10 rolls?

16:32:02 11 A. We do not have --

16:32:12 12 (Reporter clarification.)

16:32:12 13 MS. PORTER: Form.

16:32:15 14 MS. SLATTERY: We don't currently have a
16:32:16 15 request in front of us proposing expanded use of the
16:32:19 16 Arizona MOA. We're proposing a new MOA by another Arizona
16:32:24 17 user.

16:32:25 18 BY MR. SHERMAN:

16:32:25 19 Q. Right. I understand you don't currently, but if
16:32:27 20 Arizona laws have changed -- if you were to have such a
16:32:32 21 proposal in the future? Same question.

16:32:39 22 MS. PORTER: Form.

16:32:40 23 MR. LANGHOFER: Form. Scope. Speculation.

16:32:43 24 MS. SLATTERY: Again, we would take into
16:32:44 25 consideration the facts present before us at the time a

16:32:47 1 request would come to us. We do not currently have a
16:32:50 2 request in front of us asking for changes to the MOA or for
16:32:54 3 a new user to be added to SAVE for the purposes you
16:32:58 4 described.

16:32:58 5 BY MR. SHERMAN:

16:33:01 6 Q. So are you aware that HB 2243, as enacted in
16:33:05 7 Arizona, requires the use of the SAVE system to check any
16:33:12 8 person that county recorders or their staff have reason to
16:33:16 9 believe is not a U.S. citizen?

16:33:20 10 A. I'm aware that the legislation exists. Again, we
16:33:23 11 do not have a request in front of us to use SAVE for that
16:33:26 12 purpose.

16:33:27 13 Q. Is USCIS required by federal law to expand the
16:33:38 14 Arizona MOA to include such voter removal or voter list
16:33:44 15 maintenance activities?

16:33:47 16 MR. LANGHOFER: Calls for a legal conclusion.

16:33:51 17 MR. BURKLEY: Objection. Calls for a legal
16:33:51 18 conclusion.

16:33:53 19 I'll let you answer if you're comfortable
16:33:56 20 with it.

16:34:07 21 (Inaudible conversation.)

16:34:07 22 MR. MORGAN: I don't know that we're picking
16:34:09 23 her up, Counselor.

16:34:12 24 MS. SLATTERY: Can you repeat the question,
16:34:15 25 please?

16:34:15 1 BY MR. SHERMAN:

16:34:16 2 Q. Sure.

16:34:16 3 Is USCIS required by federal law to expand
16:34:22 4 Arizona's MOA to include the purpose -- the activity I just
16:34:27 5 described from HB 2243?

16:34:30 6 MR. LANGHOFER: Same objection.

16:34:31 7 MR. WHITAKER: Another objection I'll add is
16:34:32 8 I think we're pretty far beyond the scope of the
16:34:35 9 30(b)(6) -- I mean the -- yeah, the deposition topics,
16:34:37 10 unless I'm mistaken.

16:34:41 11 MR. BURKLEY: If you don't know --

16:34:41 12 MR. BUSCH: Yeah, I mean, are you asking her
16:34:41 13 to basically testify as -- like an expert witness about
16:34:49 14 what federal law requires in a future hypothetical
16:34:51 15 situation?

16:34:51 16 MR. SHERMAN: Well, the law has been passed.
16:34:53 17 It's enacted. It's not been implemented yet. Inevitably,
16:34:57 18 the SAVE system is going to get this request. I'm just
16:35:03 19 trying to ascertain how you would evaluate that request
16:35:06 20 when inevitably it comes to you, barring some court --
16:35:09 21 barring some injunction against the law.

16:35:13 22 MR. BUSCH: She answered that at least three
16:35:16 23 or four times.

16:35:18 24 MR. SHERMAN: Okay. Fair enough.

16:35:18 25 BY MR. SHERMAN:

16:35:21 1 Q. Does USCIS -- when a -- when a state enacts a new
16:35:28 2 law, how do you evaluate requests for an MOA from that
16:35:33 3 state to fulfill the purposes of that new law?

16:35:37 4 A. Again, as I've already outlined, we would ask --
16:35:41 5 A, the state would have to come to us for purposes of
16:35:43 6 registering for SAVE. As part of that, they would be
16:35:46 7 required to submit the legal authorities under which they
16:35:51 8 are able to verify immigration status as well as -- sorry.
16:35:57 9 There are two factors. I lost the second one.

16:36:00 10 The purpose for using SAVE and the legal
16:36:03 11 authority to verify immigration status, they would need to
16:36:06 12 provide documentation of those requirements to us. That
16:36:10 13 information would go through a legal review with the Office
16:36:13 14 of Chief Counsel and with SAVE personnel, and then we
16:36:17 15 would -- if both of those things prove to be true and the
16:36:19 16 authorization is there, we would move into MOA discussions.

16:36:24 17 Q. Do you think that given -- given SAVE is sort of
16:36:28 18 the ultimate arbitrator of whether certain people can
16:36:33 19 register to vote in Arizona, do you think that calls for
16:36:37 20 greater enforcement of the additional verification
16:36:40 21 requirement as -- as presented in the MOA?

16:36:44 22 A. First, I'd like to clarify your statement that
16:36:46 23 SAVE is an arbitrator.

16:36:48 24 MR. WHITAKER: Yeah, I was going to object.
16:36:50 25 I was going to object as argumentative to that part of it.

16:36:53 1 MR. LANGHOFER: And scope.

16:36:54 2 BY MR. SHERMAN:

16:36:54 3 Q. I can -- I can rephrase the question.

16:36:56 4 Given -- given the SAVE system ultimately
16:37:02 5 will dictate whether certain individuals can register and
16:37:07 6 vote in Arizona, does that, to your mind, call for greater
16:37:11 7 enforcement of the additional verification requirement in
16:37:14 8 the MOA?

16:37:15 9 MR. LANGHOFER: Scope.

16:37:18 10 MS. PORTER: Form.

16:37:20 11 MS. SLATTERY: Again, SAVE does not make
16:37:23 12 eligibility determinations. SAVE provides information that
16:37:27 13 the benefit agency may use in making an eligibility
16:37:30 14 determination.

16:37:32 15 BY MR. SHERMAN:

16:37:33 16 Q. Understood.

16:37:34 17 Given that Arizona county recorders are
16:37:36 18 relying on the SAVE system to determine whether or not
16:37:40 19 registration applicants -- and if HB 2243 goes into effect,
16:37:45 20 registered voters can continue to vote in Arizona -- does
16:37:49 21 that call for greater enforcement of the additional
16:37:52 22 verification requirement?

16:37:54 23 MR. LANGHOFER: Scope.

16:37:56 24 MR. MORGAN: Calls for a legal conclusion.

16:38:02 25 MS. SLATTERY: Again, SAVE provides

16:38:04 1 information that is used by state agencies in eligibility
16:38:08 2 benefit determinations. SAVE will follow through with the
16:38:11 3 terms of the MOA and will execute our compliance activities
16:38:16 4 as outlined.

16:38:18 5 BY MR. SHERMAN:

16:38:19 6 Q. Do you know if a third-party benefit applicant can
16:38:25 7 sue to enforce the terms of the MOA?

16:38:28 8 MR. LANGHOFER: Calls for legal conclusion.
16:38:29 9 Scope.

16:38:34 10 BY MR. SHERMAN:

16:38:35 11 Q. If you want to refer to the MOA, page 8,
16:38:38 12 Section VI(D). This is my last question.

16:38:48 13 Page 8, there's a section on third-party
16:38:52 14 liability. It says, "Each party of this MOA shall be
16:38:53 15 solely responsible for its own defense against any claim or
16:38:57 16 action by third parties arising out of or related to the
16:39:00 17 execution and/or performance of this MOA, whether civil or
16:39:04 18 criminal, and retain responsibility for the payment of any
16:39:06 19 corresponding liability."

16:39:13 20 Do you know if -- do you know if third-party
16:39:17 21 benefit applicants can sue to enforce the terms of the MOA?
16:39:23 22 Have they done so?

16:39:25 23 MR. LANGHOFER: Same objections. Plus
16:39:26 24 compound.

16:39:29 25 MS. SLATTERY: I am not aware of any suits in

16:39:32 1 that regard. And the document, as you outlined, speaks for
16:39:34 2 itself.

16:39:35 3 BY MR. SHERMAN:

16:39:36 4 Q. Okay.

16:39:36 5 MR. SHERMAN: Thank you very much,
16:39:38 6 Ms. Slattery, Ms. Doolittle, and Mr. Filighera. Those are
16:39:44 7 all the questions I have.

16:39:47 8 I think other plaintiffs' counsel might have
16:39:50 9 an additional question or two, and then we can move on to
16:39:53 10 the defendants' counsel. Thank you again for your time
16:39:56 11 today.

16:40:07 12 MR. HERRERA: Would it be possible to take a
16:40:09 13 five-minute break to confer with counsel -- with counsel?
16:40:15 14 It's just -- I may not have any questions, but just to
16:40:18 15 verify.

16:40:19 16 MR. MORGAN: The answer from my perspective
16:40:20 17 is of course. Of course, you can have five minutes to
16:40:27 18 talk.

16:40:27 19 MR. HERRERA: All right. Thanks.

16:40:27 20 Can we go off the record.

16:40:28 21 THE VIDEOGRAPHER: We are off the record.

16:40:29 22 Time on the video monitor is 4:40 p.m.

16:49:31 23 (A recess ensued.)

16:49:31 24 THE VIDEOGRAPHER: We are on the record.

16:49:52 25 Time on the video monitor is 4:50 p.m.

16:49:58 1 MR. HERRERA: Ernest Herrera for Promise
16:50:00 2 Arizona's plaintiffs. Good afternoon. I don't -- I don't
16:50:02 3 have any questions for you. So I'm going to pass the
16:50:05 4 witness.

16:50:05 5 Sorry. That was a little anticlimactic, but
16:50:08 6 thank you.

16:50:15 7 MR. MORGAN: Are there any questions from any
16:50:18 8 other plaintiffs?

16:50:20 9 MS. LANG: No, there are not any further
16:50:22 10 questions from other plaintiff groups. So this can be
16:50:25 11 passed to the defendants at this point.

16:50:26 12 MR. MORGAN: Good deal. Anybody on the
16:50:28 13 defense side have any questions for these folks?

16:50:30 14 MR. WHITAKER: I do. Sorry. On a -- late on
16:50:33 15 a Friday. But it will be a lot shorter, I promise. I'm a
16:50:38 16 very short person.

16:50:40 17 MR. MORGAN: I swear if you say "handful,"
16:50:41 18 I'm going to throw my monitor at a window.

16:50:47 19 MR. WHITAKER: I won't use that word.

16:50:47 20

16:50:47 21 EXAMINATION

16:50:47 22 BY MR. WHITAKER:

16:50:49 23 Q. I did want to ask about -- first of all, thank you
16:50:54 24 very much for your time. And I'll try to be as sensitive
16:50:56 25 to your time as possible.

16:50:59 1 I did want to ask about -- and this is -- I
16:51:03 2 did want to ask about a document USCIS SAVE 000666. I
16:51:10 3 don't know whether that's one you printed or not or whether
16:51:12 4 I need to pull it up and share my screen.
16:51:17 5 A. It's not currently printed, but we have it up on
16:51:19 6 the computer.
16:51:20 7 Q. Okay.
16:51:23 8 MR. WHITAKER: And then the court reporter,
16:51:24 9 do you have it? Or will you be able to have access to it?
16:51:36 10 (An off-the-record discussion ensued.)
16:51:36 11 MR. WHITAKER: I think -- well, let me
16:51:39 12 authenticate it first.
16:51:46 13 THE COURT REPORTER: And we'll mark this
16:51:46 14 Exhibit 199?
16:51:48 15 MR. WHITAKER: Yeah.
16:51:48 16 (The document was marked as Exhibit 199
16:51:49 17 for identification.)
16:51:49 18 BY MR. WHITAKER:
16:51:50 19 Q. So this document is titled "How to Initiate a Case
16:51:54 20 Involving a Potentially Fraudulent Document"; is that
16:51:58 21 right?
16:51:58 22 A. That is the document I'm looking at, yes.
16:52:00 23 Q. And can you explain a little bit about the purpose
16:52:04 24 of this document?
16:52:06 25 A. So this is an information sheet that SAVE produced

16:52:10 1 in order to advise agencies of a new capability within the
16:52:14 2 SAVE system that would allow them to identify documents
16:52:19 3 that they believe may be of a questionable nature.

16:52:22 4 Q. And what do you mean by "questionable nature"?

16:52:26 5 A. If there's something about the document that the
16:52:28 6 agency doesn't think looks legitimate.

16:52:31 7 Q. What would be the example of that?

16:52:34 8 A. It could be anything, I suppose. There's a
16:52:39 9 watermark that doesn't look right; there's a photograph
16:52:41 10 that appears to have been altered; there is information on
16:52:45 11 the document that appears to have been altered; it doesn't
16:52:48 12 appear to be legitimate based on what they know to be a
16:52:52 13 legitimate document issued by the agency.

16:52:54 14 Q. And this is an update in 2019.

16:52:57 15 Was there a process before 2019 by which a
16:53:00 16 user agency could alert USCIS to this sort of document?

16:53:07 17 A. USCIS has a variety of different capabilities
16:53:10 18 where people can report information to us. There are tip
16:53:16 19 lines that work through our FDNS teams. They can send
16:53:16 20 letters to the agency. As with all communication,
16:53:21 21 applicants can always send us something or agencies can
16:53:23 22 send us something if they're concerned about information.

16:53:26 23 Q. I see the first sentence of this document says,
16:53:32 24 "The 2019 update of the SAVE interface has made it possible
16:53:37 25 to flag potentially fraudulent documents at initial

16:53:40 1 verification."

16:53:40 2 So was the idea here that before there wasn't

16:53:45 3 an easy way to do that at the initial verification through

16:53:48 4 SAVE and after 2019 there is?

16:53:51 5 A. It's a system capability that was added in the

16:53:54 6 SAVE system so there's a way to do it as part of submitting

16:53:57 7 data into the system.

16:53:59 8 Q. And why was that update made in 2019?

16:54:05 9 A. I wasn't present when that information was added

16:54:09 10 to the system. Based on the information in the document in

16:54:14 11 front of me today, it was an additional capability that we

16:54:16 12 either probably had received requests from user agencies,

16:54:19 13 because we do modify the system in response to feedback, or

16:54:24 14 it was an identified need that the agency identified.

16:54:27 15 Q. Okay. So to the best of your knowledge anyway, it

16:54:32 16 was probably based on either agency users asking for this

16:54:35 17 sort of system or someone within USCIS asking for this sort

16:54:44 18 of mechanism; is that fair?

16:54:46 19 A. Those are two of the primary ways through which we

16:54:49 20 would begin the process for making system updates. There

16:54:52 21 are other avenues through which we can receive information

16:54:54 22 or recommended updates.

16:54:58 23 Q. Do you know whether the secretary of state or

16:55:10 24 recorders in Arizona have access to this mechanism?

16:55:14 25 A. I do not know specifically. This is a feature

16:55:16 1 that is available in the online browser system, though, so
16:55:20 2 if they're using it through the USCIS SAVE browser system,
16:55:23 3 it is a feature that's available.

16:55:26 4 Q. Is it a standard feature?

16:55:29 5 MS. SLATTERY: Mariah, can you chime in on
16:55:31 6 that?

16:55:31 7 MS. DOOLITTLE: Yes. So when somebody is
16:55:34 8 accessing SAVE through the web browser, that means any
16:55:37 9 agency that accesses it that way, any of their users that
16:55:41 10 access it that way, any of their groups that access it that
16:55:44 11 way, it's the same package. So it -- it's no different
16:55:48 12 than if you go to any website, you're going to see the same
16:55:52 13 thing as somebody else.

16:55:54 14 We don't have a subscriber service or
16:55:57 15 anything like that where you get better features or not.
16:55:59 16 It's just the same for users or web browser users. They
16:56:06 17 would have access to it.

16:56:06 18 BY MR. WHITAKER:

16:56:08 19 Q. Have any agency users used this mechanism since
16:56:11 20 2019?

16:56:14 21 MR. MORGAN: Foundation.

16:56:17 22 MS. SLATTERY: I don't have any --

16:56:17 23 (Reporter clarification.)

16:56:21 24 MS. SLATTERY: I don't have any data
16:56:25 25 responsive to that question in front of me. I'm not able

16:56:27 1 to answer.

16:56:28 2 BY MR. WHITAKER:

16:56:32 3 Q. Does any other witness know whether an agency user

16:56:35 4 has used this mechanism since it was implemented in 2019?

16:56:46 5 MS. SLATTERY: Russ or Mariah, do you have

16:56:47 6 any responsive information?

16:56:49 7 MR. FILIGHERA: I don't have statistics, but

16:56:50 8 I have seen the flag on a case before. But to what extent,

16:57:00 9 how often, and who, I could not answer.

16:57:07 10 BY MR. WHITAKER:

16:57:07 11 Q. And then just to close the loop on that, Mariah,

16:57:09 12 is it fair to say you don't -- you know you know?

16:57:11 13 MS. DOOLITTLE: Yes. That feature predates

16:57:13 14 me. I wouldn't be tracking it as to how often somebody

16:57:16 15 would be using it.

16:57:16 16 But to Russ, when cases do go to manual

16:57:19 17 verification, which that would -- as he indicated, he has

16:57:24 18 seen the flag when that happens. But without any data in

16:57:27 19 front of any of us, it would be hard to say if there's an

16:57:31 20 upward trend, downward trend, if it's never used, always

16:57:34 21 used. It would just be hard to say.

16:57:37 22 BY MR. WHITAKER:

16:57:37 23 Q. I see that on that first page there's a Step 2

16:57:41 24 that says, "Request Fraud & Continue."

16:57:47 25 I'll read the second sentence in that

16:57:48 1 paragraph. It says, "You must have a document to proceed
16:57:51 2 with initial verification for all cases you suspect are
16:57:55 3 fraudulent."

16:57:58 4 Does -- does the SAVE system offer guidance
16:58:01 5 as to what counts as a case that is suspected to be
16:58:05 6 fraudulent?

16:58:08 7 A. I am not aware at this time of specific guidance
16:58:21 8 regarding fraudulent information. As an agency, USCIS does
16:58:25 9 share information about fraud that can occur, and we do
16:58:29 10 have outreach efforts to benefit applicants to talk to them
16:58:33 11 about not engaging with persons who would give them
16:58:36 12 fraudulent information or assist them in filing fraudulent
16:58:39 13 documents. I'll stop there.

16:58:49 14 Q. If I wanted to see that guidance, where would I go
16:58:52 15 to look for it?

16:58:57 16 A. For the agency?

16:58:58 17 Q. Yeah.

16:58:58 18 A. Typically, it would be on our USCIS website.

16:59:05 19 Q. Do you know whether the agency lists all
16:59:09 20 circumstances that could count as a case suspected to be
16:59:13 21 fraudulent?

16:59:17 22 A. No. I think that there's likely to be more
16:59:22 23 exemplar information. An exhaustive list could be
16:59:28 24 extensive.

16:59:29 25 Q. Do you think it would be practical to try to

16:59:31 1 create an exhaustive list of all situations that could
16:59:35 2 count as cases suspected to be fraudulent?

16:59:47 3 A. Again, "exhaustive" by its mere definition
16:59:51 4 suggests that it would be an enormous effort. And given
16:59:53 5 the variety of ways that things can be changed or altered,
16:59:58 6 I would hesitate to say that we could complete an
17:00:00 7 exhaustive list from that.

17:00:04 8 Q. I'll go to the next page, Step 4: "Case escalated
17:00:10 9 to third-level verification."

17:00:11 10 It says, "When a fraud case is initiated, it
17:00:14 11 bypasses initial verification and is escalated for manual
17:00:18 12 verification."

17:00:20 13 I think earlier the testimony was along the
17:00:22 14 lines that manual verification is thorough; it refers -- it
17:00:26 15 involves potentially electronic and physical document
17:00:30 16 review. Is that right?

17:00:33 17 A. Yes, it does.

17:00:34 18 And Russ can provide detailed information
17:00:37 19 about the process that's undertaken.

17:00:40 20 MR. FILIGHERA: Yes. So when we say
17:00:43 21 "physical document," it's not physical document of what's
17:00:48 22 been uploaded into the manual case. The case, when it gets
17:00:54 23 escalated to additional with document, is a scanned image.

17:00:58 24 Earlier, I believe what you were referencing
17:01:00 25 is our thorough research we do in regard to the databases;

17:01:05 1 that if we're still not finding the information and it
17:01:09 2 appears that document has information where it could show
17:01:13 3 that the physical file -- like, what we call an A-file or
17:01:18 4 certificate file -- exists in our records department,
17:01:21 5 that's what's meant by "physical review."
17:01:23 6 We're not in personal contact of an
17:01:27 7 applicant's documents. It's, rather, an image of what they
17:01:30 8 provided through the agency, but then we will use that in a
17:01:33 9 way to reach out to physical file office locations to that
17:01:37 10 way make sure that the electronic databases for some reason
17:01:42 11 were not reflecting to match the actual physical record
17:01:45 12 that we have.
17:01:46 13 BY MR. WHITAKER:
17:01:48 14 Q. And I -- I recall Mariah saying near the beginning
17:01:51 15 that sometimes the state department is a source consulted
17:01:56 16 in manual review; is that right?
17:01:59 17 MR. FILIGHERA: The databases that we
17:02:01 18 research in the manual process are all within the USCIS for
17:02:07 19 naturalization or certificate of naturalization. What
17:02:09 20 records might feed into those records, I wouldn't know, you
17:02:13 21 know, all the possibilities.
17:02:15 22 But from a USCIS standpoint, if a person
17:02:20 23 becomes a naturalized citizen either through the courts or
17:02:22 24 through USCIS application processes or certificate of
17:02:27 25 citizenship application, we -- we rely on those DHS

17:02:33 1 records. So we do not -- so Department of State, we do
17:02:37 2 not, as I mentioned earlier, verify U.S. passports. We do
17:02:43 3 not verify born U.S. citizens. It is derived citizens or
17:02:49 4 naturalized citizens that have an immigration record or DHS
17:02:52 5 record that we can rely on to confirm based on the
17:02:55 6 information the agency provides or the document provided.

17:03:00 7 BY MR. WHITAKER:

17:03:01 8 Q. Mariah, was I right earlier that you mentioned the
17:03:03 9 state department as part of the manual review? And if so,
17:03:06 10 can you explain what you meant by that?

17:03:09 11 MS. DOOLITTLE: Yes. Within our data
17:03:11 12 repositories that we have, sometimes we can get access to
17:03:18 13 visas and other elements of -- Department of State,
17:03:21 14 sometimes we have to work with them for instances like
17:03:25 15 United for Ukraine, for instance. That was a -- outside of
17:03:30 16 DHS -- DHS was not the only runner of that. It was also
17:03:34 17 Department of State. So in instances like that, sometimes
17:03:36 18 we do have to work with other agencies in processing people
17:03:41 19 for immigration.

17:03:41 20 BY MR. WHITAKER:

17:03:46 21 Q. Step 5 on this document says, "Case is Resolved."
17:03:50 22 What are the possible resolutions that --
17:03:54 23 that would show when a case is resolved after this process?

17:03:59 24 MS. SLATTERY: Russ, you want to take that?

17:04:02 25 MR. FILIGHERA: So in the manual process, if

17:04:04 1 somebody indicated that -- the counterfeit that you're
17:04:09 2 talking about and the possible response, in the manual
17:04:12 3 process, it doesn't change what we do. We process as
17:04:15 4 normal the case.

17:04:17 5 So if it came in at third step, additional
17:04:20 6 verification with a scanned image, the possible responses
17:04:23 7 would include everything matches, United States citizen or
17:04:27 8 derived United States citizen or naturalized citizen. It
17:04:30 9 could result in unable to verify, extending an applicant
17:04:37 10 into -- based on comments to the agency, stating to contact
17:04:41 11 our -- our customer service line or go to the website to
17:04:44 12 update their record.

17:04:45 13 In rare cases, there is a response where
17:04:51 14 something can go back in our response side that says
17:04:54 15 "appears counterfeit," but again, we're looking at an image
17:04:58 16 of a document. So with a certificate or naturalization
17:05:03 17 certificate, the absence of information does not mean
17:05:07 18 necessarily counterfeit. It would be unable to verify in
17:05:12 19 that instance. So that way the applicant has a chance to
17:05:18 20 go and update their records.

17:05:21 21 BY MR. WHITAKER:

17:05:21 22 Q. Understood.

17:05:22 23 Do you have a sense for -- I guess you
17:05:25 24 haven't been at the agency as long as some others, Russ,
17:05:28 25 but do you have a sense for how often the "appears

17:05:31 1 counterfeit" comment gets returned?

17:05:34 2 MR. FILIGHERA: I do not have the statistic

17:05:36 3 how often at my fingertips, no.

17:05:42 4 BY MR. WHITAKER:

17:05:45 5 Q. There's two other documents. They should be even

17:05:49 6 faster. One is -- I think it was Exhibit 184. This is the

17:05:56 7 MOA.

17:06:08 8 So there were some questions about the last

17:06:10 9 two pages of the MOA. It's a -- well, it's actually, I

17:06:13 10 guess, a document appended to the MOA on USCIS SAVE 11 and

17:06:19 11 12. Those are the page numbers.

17:06:25 12 Do you see that document I'm referring to?

17:06:31 13 A. Yes, we have it.

17:06:35 14 Q. Okay. And remind me just generally -- I

17:06:40 15 understood the testimony to be along the lines that if --

17:06:44 16 this is a document that could be given to an applicant if

17:06:47 17 they want to try to correct their -- their records as a

17:06:54 18 result of what happens in SAVE. Is that right?

17:06:57 19 A. Correct. If SAVE returns a response indicating

17:07:00 20 they're unable to verify as part of the process, the user

17:07:04 21 agency should be providing the benefit applicant

17:07:07 22 information about how to correct their records. This is

17:07:10 23 one form that that records correction information could

17:07:14 24 take.

17:07:15 25 Q. Got it.

17:07:16 1 And the last page, there's a list of bullets.

17:07:20 2 And above it says, "We recommend that you include the

17:07:23 3 following information in your submission, if available."

17:07:26 4 Do you see that?

17:07:28 5 A. Yes.

17:07:28 6 Q. And is that "we" being USCIS and "you" being the

17:07:35 7 applicant?

17:07:36 8 A. Yes.

17:07:38 9 Q. And the fourth bullet point there says, "Date and

17:07:41 10 place of birth." Do you see that?

17:07:44 11 A. Yes.

17:07:45 12 Q. Why does USCIS recommend that the applicant

17:07:50 13 include place of birth in their submission?

17:07:57 14 A. I don't know why that was included in this

17:08:01 15 particular document.

17:08:02 16 Q. Is it -- is it fair to infer that whoever created

17:08:09 17 this document thought that place of birth would be a useful

17:08:15 18 piece of information?

17:08:19 19 MR. ATKINS: Objection; foundation.

17:08:22 20 Speculation.

17:08:22 21 MS. LANG: Same objections.

17:08:28 22 MS. SLATTERY: Based on its inclusion in the

17:08:29 23 document, I would say it was considered to be a factor that

17:08:33 24 could be of use in making a records correction update or

17:08:37 25 additional information available to the agency that would

17:08:39 1 assist us in confirming a record or making an update.

17:08:42 2 BY MR. WHITAKER:

17:08:51 3 Q. All right. I'll turn to one more document. This
17:08:59 4 is the fact sheet. I believe it was Exhibit 192. Starts
17:09:08 5 on USCIS SAVE 13.

17:09:19 6 A. Got it.

17:09:23 7 Q. Now I'm on page 2 of that document. The last full
17:09:29 8 paragraph, I think there were some questions about this,
17:09:34 9 but I wanted to drill down just a little bit more.

17:09:37 10 The last sentence says, "The following are
17:09:41 11 examples of when a user agency may not need to conduct
17:09:45 12 additional verification after contacting the individual
17:09:48 13 being verified."

17:09:49 14 Do you see that?

17:09:50 15 A. I do.

17:09:52 16 Q. Now, are the bullet points that follow meant to be
17:09:56 17 an exhaustive list or just illustrations of when the user
17:10:00 18 agency may not need to conduct additional verification?

17:10:05 19 A. They're primarily illustrative. Another bullet
17:10:09 20 that could have been added is when an individual withdraws
17:10:12 21 a request for voter registration and so the verification
17:10:15 22 would no longer be needed.

17:10:18 23 Q. Are these sorts of examples things that could
17:10:22 24 explain why, say, a county recorder makes an initial
17:10:29 25 request to SAVE but then doesn't request additional

17:10:32 1 verification?

17:10:34 2 A. As the document indicates, if an agency has one of
17:10:38 3 these things and is satisfied with that for purposes of
17:10:40 4 eligibility, the additional verification step is not
17:10:44 5 required.

17:10:45 6 Q. The first bullet point is "When the individual
17:10:49 7 returns an authorized attestation form stating that the
17:10:53 8 individual is not a United States citizen."

17:10:56 9 Do you see that?

17:10:57 10 A. Yes.

17:10:59 11 Q. Why is that an example of when the user agency may
17:11:04 12 not need to conduct additional verification?

17:11:08 13 A. For purposes of the voter verification, the
17:11:13 14 operative status that the agency would be receiving is U.S.
17:11:17 15 citizen. If the individual provides documentary evidence
17:11:20 16 attesting to the fact that they are not one, there would be
17:11:23 17 no purpose with continuing for the verification for the
17:11:25 18 purpose of receiving a U.S. citizen response.

17:11:29 19 Q. So for example, if there were a form that said,
17:11:33 20 "Are you a citizen; yes or no? You have to answer under
17:11:37 21 penalty of perjury," is that something that if the
17:11:40 22 applicant said "no," that would be a -- that would be an
17:11:43 23 example of when the user agency may not need to conduct
17:11:47 24 additional verification?

17:11:51 25 MR. HERRERA: Object to form.

17:11:53 1 MS. LANG: Lack of foundation. Calls for
17:11:53 2 speculation.

17:12:03 3 MS. SLATTERY: I think it would depend on the
17:12:06 4 entirety of the form. And I would say that depending on
17:12:09 5 whether it's considered an attested form and how the agency
17:12:13 6 would view the form would determine if they would proceed
17:12:17 7 to next steps.

17:12:22 8 BY MR. WHITAKER:

17:12:22 9 Q. When this document uses the phrase "authorized
17:12:25 10 attestation form," is it referring to a specific form that
17:12:30 11 USCIS requires to be used or is that a general guideline
17:12:34 12 that -- that state agencies could fill in with their own
17:12:39 13 forms?

17:12:40 14 A. There is not a U.S. definition that I am aware of
17:12:45 15 for "authorized attestation form."

17:12:48 16 Q. That last bullet point, "When the individual does
17:12:56 17 not respond within applicable time frames to the user
17:12:59 18 agency inquiry for attestation or proof of
17:13:02 19 citizenship," what -- what is that referring to?

17:13:06 20 A. The issuing agencies have their own policies and
17:13:09 21 procedures that govern their process for eligibility
17:13:13 22 determination. If there are guidelines that they follow
17:13:17 23 for purposes of requiring responses of applicants, this
17:13:21 24 would refer to that process, and it would vary by agency.
17:13:24 25 That is not a USCIS- or SAVE-controlled timeline.

17:13:30 1 Q. So if a -- if an agency user, for example, said to
17:13:35 2 an applicant "You need to give us a document within
17:13:38 3 30 days" and the applicant doesn't respond within 30 days,
17:13:43 4 can the -- can the agency user -- is that an example when
17:13:47 5 the user agency may not need to conduct additional
17:13:50 6 verification?

17:13:52 7 A. I think the document speaks for itself with regard
17:13:54 8 to what it says about the agency response timelines.
17:13:56 9 That's a hypothetical.

17:14:05 10 MR. WHITAKER: I think that's all the
17:14:06 11 questions I have. I understand the RNC's counsel may have
17:14:12 12 more.

17:14:12 13 MR. LANGHOFER: Thanks, Josh.

17:14:13 14 Good afternoon, everyone. I'm Kory
17:14:15 15 Langhofer. I represent the RNC. I think I've only got
17:14:18 16 nine questions, although sometimes, you know, there's a
17:14:20 17 little bit of follow-up on this and that.

17:14:21 18

17:14:21 19 EXAMINATION

17:14:21 20 BY MR. LANGHOFER:

17:14:22 21 Q. In how many states is the SAVE system used to
17:14:26 22 confirm citizenship for purposes of voter registration?

17:14:31 23 A. I believe at this time there are six states that
17:14:34 24 have voter MOAs with us.

17:14:37 25 Q. Would USCIS authorize that use of the SAVE system

17:14:41 1 if it believed the system were unreliable for that purpose?

17:14:46 2 MR. HERRERA: Objection to form.

17:14:50 3 MS. SLATTERY: I'm not sure I understand the
17:14:51 4 question you're asking.

17:14:53 5 Are you asking me whether the SAVE system is
17:14:55 6 unreliable for a specific purpose, or are you asking me
17:14:59 7 what we would do to verify an agency's intended use and
17:15:01 8 registration request for SAVE?

17:15:03 9 BY MR. LANGHOFER:

17:15:03 10 Q. More the former. Let -- let me ask it perhaps a
17:15:05 11 little bit more directly.

17:15:06 12 Is the SAVE system reliable for purposes of
17:15:09 13 determining citizenship status for naturalized and derived
17:15:13 14 citizens?

17:15:13 15 A. As you heard us describe, the SAVE system will
17:15:16 16 return the data and information that we are able to confirm
17:15:19 17 in systems as they currently exist. It is a point-of-time
17:15:22 18 verification. The information that we have is based on the
17:15:25 19 information that is in DHS systems of record.

17:15:31 20 Q. And in your experience, is that a reliable system?

17:15:38 21 A. Tell me what you mean by "reliable."

17:15:39 22 Are we able to return verifications in a
17:15:42 23 majority of cases? Yes.

17:15:44 24 Q. And those verifications are accurate?

17:15:46 25 A. We return a verification response in majority of

17:15:49 1 cases. If at any point an agency or user believes that a
17:15:52 2 response is inaccurate, they are requested to submit the
17:15:54 3 case for additional verification and we'll go through the
17:15:54 4 steps that you've heard already described today.

17:16:01 5 Q. Have you done any -- do you have an understanding
17:16:03 6 of how often the system returns an inaccurate answer on the
17:16:08 7 question of citizenship?

17:16:10 8 A. I do not have that data in front of me, no.

17:16:13 9 MS. SLATTERY: Mariah, do you have any data
17:16:18 10 on that?

17:16:21 11 MS. DOOLITTLE: I don't. That would be
17:16:22 12 something that we would probably do in an audit to see, but
17:16:26 13 I have not heard that to ever be an issue.

17:16:30 14 So if it turned out to be an issue -- if a
17:16:33 15 lot of agencies started to report they were seeing that,
17:16:35 16 then we would definitely audit the system to see what that
17:16:39 17 particular cause might be. But since I've been here, I
17:16:42 18 have not seen that or heard that to be an issue.

17:16:47 19 BY MR. LANGHOFER:

17:16:47 20 Q. Have there been any such audits?

17:16:55 21 A. I'm not aware of any particular ones right now.

17:16:57 22 MS. DOOLITTLE: No. I would say -- Russ,
17:17:01 23 have you ever been asked to audit for U.S. citizenship?

17:17:02 24 MR. FILIGHERA: I cannot recall, for initial
17:17:04 25 processing and auditing, just the U.S. citizenship.

17:17:09 1 MS. DOOLITTLE: It's slightly an odd request
17:17:10 2 because we don't have access to U.S. citizenship records
17:17:15 3 except for the acquired citizenship or derived or that --
17:17:21 4 and not every derived citizen has records with us because
17:17:24 5 they might not have ever had to get a citizenship document.
17:17:31 6 It's a slightly odd request.

17:17:32 7 BY MR. LANGHOFER:

17:17:35 8 Q. How many requests do you receive every year to
17:17:37 9 correct the citizenship status information in the system
17:17:41 10 for derived or naturalized citizens?

17:17:44 11 A. SAVE would not receive any requests because we
17:17:48 12 don't do the records correction. As for the agency, I
17:17:50 13 can't speak to that number.

17:17:52 14 Q. Would you be able to see in the system when the
17:17:58 15 agencies had corrected information pursuant to such a
17:18:01 16 request?

17:18:03 17 MS. SLATTERY: Mariah, you want to talk about
17:18:05 18 what we see when the data requests are updated?

17:18:08 19 MS. DOOLITTLE: We generally wouldn't see a
17:18:11 20 request. We would get that information back -- so when a
17:18:15 21 system is updated, it matters if we have a case in our
17:18:19 22 system or coming through because, as Shannon pointed out
17:18:23 23 earlier, it's a point in time for that.

17:18:28 24 So it would be something that I would think
17:18:29 25 more on the manual side of review that they would be

17:18:32 1 tracking down to see if it's a pending application,
17:18:34 2 potentially what state it's in, but I -- it's out of my
17:18:38 3 scope.

17:18:39 4 BY MR. LANGHOFER:

17:18:42 5 Q. Is there a national system to confirm citizenship
17:18:46 6 status for derived and natural citizens that is more
17:18:49 7 accurate than the SAVE system?

17:18:52 8 A. I'm not aware.

17:18:56 9 MR. HERRERA: Objection to form. Sorry.

17:18:58 10 BY MR. LANGHOFER:

17:18:59 11 Q. I'm not sure that I heard the answer, ma'am.

17:19:01 12 A. I'm not aware of one right now. USCIS and DHS is
17:19:03 13 the repository for naturalized and acquired citizen
17:19:07 14 information. The time, as Mariah indicated, where we would
17:19:11 15 not have access to that record information is for acquired
17:19:14 16 citizens who did not have an encounter with USCIS in order
17:19:16 17 to get documentary proof of their citizenship status.

17:19:20 18 Q. Is there a nationwide system to confirm
17:19:23 19 citizenship for derived or natural citizens that is more up
17:19:26 20 to date than the SAVE system?

17:19:28 21 A. Again, SAVE is not a system of record. We are
17:19:32 22 pinging against DHS data systems that contain the
17:19:35 23 naturalized and acquired citizen information.

17:19:40 24 Q. Is there a way of accessing that information that
17:19:44 25 is more current or more up to date than the SAVE system?

17:19:48 1 A. I'm not sure I understand your question.

17:19:51 2 Q. I guess in -- one of the issues in the case is
17:19:54 3 whether the timing of the data that you access through the
17:20:02 4 SAVE system is delayed such that it's unreliable or
17:20:05 5 inaccurate.

17:20:05 6 I guess I'm -- what I'm trying to get at is:
17:20:07 7 Is there some other way of getting that information that is
17:20:11 8 more current or more up to date than working with the SAVE
17:20:14 9 system?

17:20:15 10 A. To my knowledge, there is not an alternate system
17:20:15 11 that pings DHS data sources in the same manner that SAVE
17:20:15 12 does at present.

17:20:15 13 (Reporter clarification.)

17:20:24 14 MS. SLATTERY: There is not an alternate data
17:20:26 15 system that accesses DHS records in the manner that SAVE
17:20:29 16 does.

17:20:31 17 BY MR. LANGHOFER:

17:20:31 18 Q. What does the system do in the case of a
17:20:33 19 denaturalization or renunciation of citizenship?

17:20:37 20 A. Again, that would be a record update in DHS data
17:20:41 21 systems. It's not a record update that SAVE handles
17:20:45 22 independently.

17:20:46 23 MS. SLATTERY: Mariah, do you want to talk
17:20:47 24 about what we might see in systems for denats/
17:20:51 25 renunciations?

17:20:54 1 MS. DOOLITTLE: For -- I'm trying to think
17:20:58 2 of -- in IRIES, we might just see a code, or it could be
17:21:03 3 something to do with -- with deportation. But it's not
17:21:09 4 really in depth. It's just -- it's showing us that that is
17:21:11 5 the status of that person at that time.

17:21:11 6 BY MR. LANGHOFER:

17:21:19 7 Q. And you said, I think, for "IRIES"? Did I hear
17:21:20 8 that right?

17:21:21 9 MS. DOOLITTLE: Yes. That would be the
17:21:22 10 system that we are -- we are going against for that.

17:21:26 11 THE COURT REPORTER: Can you spell that?

17:21:28 12 MS. SLATTERY: Yes. Give me one moment. I
17:21:43 13 don't want -- I-R-I-E-S.

17:21:43 14 BY MR. LANGHOFER:

17:21:47 15 Q. Do you know what that stands for, Ms. Doolittle?

17:21:49 16 MS. DOOLITTLE: I don't, unfortunately.

17:21:49 17 BY MR. LANGHOFER:

17:21:52 18 Q. You were just looking at something now to get the
17:21:53 19 answer. Do you mind if I ask you what you were looking at?
17:21:56 20 Just a customary question.

17:21:57 21 MS. DOOLITTLE: I was just looking at one of
17:21:59 22 our confluence pages.

17:22:02 23 BY MR. LANGHOFER:

17:22:02 24 Q. And that's within the USCIS system, then, like one
17:22:07 25 of your official records?

17:22:10 1 MS. DOOLITTLE: Yes.

17:22:10 2 BY MR. LANGHOFER:

17:22:10 3 Q. Okay. So for a denaturaliz- -- denaturalized or
17:22:16 4 renounced citizenship, would -- what would the county
17:22:23 5 recorders see if they're querying the system for that
17:22:26 6 individual's citizenship status?

17:22:29 7 A. As a response?

17:22:32 8 Q. Correct.

17:22:32 9 Would it indicate that they're a citizen, or
17:22:34 10 would it indicate that they're a noncitizen?

17:22:39 11 A. Again, we don't typically indicate someone is a
17:22:43 12 noncitizen. We would indicate whether we were able to
17:22:45 13 verify the citizenship information, as Mr. Filighera has
17:22:48 14 described, or we would return unable to verify.

17:22:53 15 Q. And what would it say in these cases of
17:22:55 16 denaturalization and renunciation?

17:23:00 17 MS. SLATTERY: Russ, do you know the answer
17:23:02 18 to that? I don't know that I've seen a case within a
17:23:04 19 renunciation or revocation.

17:23:04 20 MR. FILIGHERA: I have not come across many
17:23:07 21 in that regard. But what you stated, we would do our
17:23:09 22 research based on the information provided in the manual
17:23:12 23 process.

17:23:14 24 That case would most likely go to document
17:23:17 25 requested. And in that case, if we're not able to verify

17:23:20 1 that they're in that current status, they would -- they
17:23:23 2 would receive unable to verify.

17:23:24 3 In some cases, if they don't hold any
17:23:27 4 immigration status whatsoever, we can provide a "no
17:23:30 5 status" response. Again, I'm not too sure how often that
17:23:37 6 has actually happened over time.

17:23:40 7 MS. DOOLITTLE: I agree. I just know that
17:23:43 8 it's possible.

17:23:46 9 BY MR. LANGHOFER:

17:23:46 10 Q. And would it go to this manual process that you
17:23:49 11 were discussing, Mr. Filighera, only if they request
17:23:53 12 additional verification, or would that happen just
17:23:56 13 automatically?

17:23:58 14 MR. FILIGHERA: Mariah, at first step, do
17:24:01 15 you -- at initial query, do you know in that regards?

17:24:06 16 I know in the manual process, if we came
17:24:08 17 across, at the additional verification step, a situation
17:24:11 18 where we cannot verify a current status and we would have
17:24:18 19 access to records that possibly show this, we would go back
17:24:21 20 with the resubmit response that was mentioned earlier and
17:24:24 21 request documents.

17:24:25 22 And then at that point, it would go on to the
17:24:27 23 third-step level verification. And based on the documents
17:24:32 24 again presented, it should be the most current immigration
17:24:36 25 documents. And if we cannot verify that they're in that

17:24:38 1 status and they have a document presented, it could be
17:24:43 2 unable to verify and request them to go and either contact
17:24:46 3 the national customer service line or the USCIS website
17:24:50 4 about updating the records.

17:24:52 5 BY MR. LANGHOFER:

17:24:52 6 Q. I think I -- I think I understand that. Thanks
17:24:57 7 for that.

17:24:57 8 I'm wondering whether -- I think you said at
17:25:00 9 the beginning of your answer that if you became aware of
17:25:02 10 that, this is the process you'd follow. I'm wondering
17:25:06 11 whether you'd become aware of that automatically when the
17:25:08 12 county recorders start searching a person in the system or
17:25:11 13 whether the county recorders might get an indication that
17:25:16 14 that person's citizenship has been verified against a
17:25:18 15 system and if they fail to request additional verification,
17:25:23 16 whether the county recorder essentially would not be aware
17:25:25 17 that there's a denaturalization or renunciation situation.

17:25:33 18 MS. DOOLITTLE: That would be -- that's a
17:25:36 19 hypothetical that we would have to run a test case through
17:25:39 20 our system just to see, because immigration is complex. So
17:25:44 21 that person might have a different status or no status, as
17:25:50 22 Russ indicated. So that would be impossible to say right
17:25:56 23 now just doing a hypothetical.

17:25:57 24 If that person was going through that
17:25:59 25 process, we wouldn't know where they are in that process of

17:26:03 1 your hypothetical. Are they -- did they denounce? Is that
17:26:06 2 completely done and adjudicated? Have we received the
17:26:09 3 record? Can we get the record?

17:26:11 4 It's too hypothetical to say this is the
17:26:14 5 response that they would get if they could get a response
17:26:18 6 on initial with that.

17:26:19 7 BY MR. LANGHOFER:

17:26:20 8 Q. Thank you. I think I get it. Thank you.

17:26:22 9 When there are errors in the SAVE system due
17:26:30 10 to -- let's say data entry error, for example -- would
17:26:35 11 those errors necessarily indicate that a citizen is a
17:26:42 12 noncitizen or could you also have the error that a
17:26:45 13 noncitizen is mistakenly indicated to be a citizen?

17:26:50 14 MS. LANG: Objection; form.

17:26:55 15 MS. SLATTERY: As we outlined earlier, there
17:26:59 16 is always a possibility that an error can occur and a
17:27:06 17 mistake in status could be returned.

17:27:08 18 I'll ask Mariah momentarily to talk about the
17:27:11 19 matching logic and how -- the fact that we try really, both
17:27:15 20 through the automated process and through the manual
17:27:18 21 process, to ensure that we are matching the information as
17:27:21 22 accurately as possible.

17:27:23 23 As Mariah mentioned earlier, there are
17:27:26 24 factors built into the system in a way where we can look at
17:27:30 25 data that may have been transposed, such as names being

17:27:33 1 reversed or numbers being reversed. And when that fails,
17:27:36 2 then we are in the manual verification process where Russ
17:27:40 3 and his team would actually take a really good look at the
17:27:42 4 documents.

17:27:43 5 The possibility for error is always with us,
17:27:46 6 but certainly we are doing everything we can to mitigate
17:27:49 7 that to the greatest extent possible.

17:27:52 8 Mariah, did you want to add anything?

17:27:54 9 MS. DOOLITTLE: I would just add for somebody
17:27:57 10 that is submitting a case, if they have their immigration
17:28:01 11 documentation or they know their status and they received
17:28:04 12 that and were contacted by that agency, the agency is then
17:28:09 13 supposed to push it to additional verification where we
17:28:13 14 would then be able to catch that error. Without that step,
17:28:16 15 we would have no way of knowing that there was an error in
17:28:19 16 the first place. It would just look like a case that went
17:28:21 17 through on initial to us.

17:28:26 18 BY MR. LANGHOFER:

17:28:27 19 Q. So if we think of a citizen, someone who's
17:28:30 20 recently naturalized, for example -- when you run them
17:28:34 21 through the system, due to some error along the way that
17:28:37 22 might get sorted out eventually but there was an error and
17:28:40 23 it initially indicates the person is not a citizen; their
17:28:41 24 citizenship status can't be verified -- let's think of it
17:28:44 25 as a false negative; right? It says, "No, not verified,"

17:28:47 1 so it's -- but it's false. It's a false negative. Could
17:28:49 2 there be false positives where somebody who's not yet
17:28:54 3 naturalized has, due to whatever error, apparent
17:28:57 4 verification in the system?

17:29:00 5 MS. DOOLITTLE: There's -- as Shannon said,
17:29:02 6 there's always a possibility of the error. I have not seen
17:29:06 7 a -- I can't remember any circumstance where I've seen that
17:29:12 8 where they were said to be a U.S. citizen when they were
17:29:15 9 not a U.S. citizen, even if they were pending citizenship
17:29:18 10 or potentially the records hadn't caught up for that.

17:29:23 11 BY MR. LANGHOFER:
17:29:25 12 Q. So last question.
17:29:26 13 The -- more broadly, we've been talking about
17:29:30 14 the SAVE system, but I'm wondering if -- is there a
17:29:33 15 database of all the biographical information for all U.S.
17:29:39 16 citizens? Does such a thing exist?

17:29:41 17 MS. LANG: Objection. Scope. Lack of
17:29:44 18 foundation.

17:29:47 19 MS. SLATTERY: Are you asking if USCIS
17:29:49 20 maintains such a database or if one exists generally?

17:29:49 21 BY MR. LANGHOFER:
17:29:54 22 Q. If one exists generally.
17:29:56 23 A. I am not aware and cannot speak to anything
17:29:58 24 outside of the USCIS data systems related to
17:30:00 25 naturalization.

17:30:03 1 Q. Ms. Doolittle?

17:30:05 2 MS. DOOLITTLE: Same response. If it does
17:30:08 3 exist, I don't know about it and we wouldn't be able to
17:30:11 4 speak to it.

17:30:14 5 BY MR. LANGHOFER:

17:30:14 6 Q. Mr. Filighera?

17:30:15 7 MR. FILIGHERA: Same response. I'm not aware
17:30:16 8 of one.

17:30:17 9 MR. LANGHOFER: Okay. Thanks very much for
17:30:18 10 your time. I really appreciate it.

17:30:21 11 Anything else on the defense side?

17:30:26 12 MR. MORGAN: Craig Morgan for the secretary
17:30:28 13 of state. I don't have any questions.

17:30:29 14 I just want to -- I think I speak for
17:30:31 15 everyone when I say thank you for your time and your
17:30:33 16 patience and your thorough preparation. That goes to your
17:30:38 17 counsel too.

17:30:41 18 MS. PORTER: I don't have any questions
17:30:43 19 either. Thank you, everyone.

17:30:48 20 MR. SHERMAN: For my part, no further
17:30:49 21 questions from this plaintiff group. I don't know if
17:30:51 22 anyone else intends any other redirect.

17:30:59 23 MR. HERRERA: No, not here. Thank you for
17:31:01 24 your time.

17:31:02 25 MS. LANG: Likewise. Thank you.

17:31:04 1 MR. SHERMAN: Thank you very much for your
 17:31:06 2 time. I think we kept it relatively short. 5:30. Thanks
 17:31:13 3 again for spending -- spending the time. We know you're
 17:31:16 4 very busy.

17:31:22 5 MR. LANGHOFER: Have a good weekend,
 17:31:22 6 everyone.

17:31:22 7 MR. MORGAN: Go off the record?

17:31:22 8 MR. SHERMAN: Yes.

17:31:22 9 THE VIDEOGRAPHER: We'll go off record. We
 17:31:25 10 are off the record. Time on the video monitor is 5:31 p.m.
 17:31:30 11 This ends Volume 1, Media Number 3, in the deposition of
 17:31:36 12 Russell Filighera, Mariah Doolittle, and Shannon Slattery,
 17:31:42 13 as 30(b)(6) designees of USCIS.

17:31:42 14 (The following occurred off the video
 17:31:58 15 record.)

17:31:58 16 THE COURT REPORTER: Could I get copy orders
 17:32:01 17 from any defendants, please?

17:32:01 18 MR. LANGHOFER: Yes, please.

19 (The proceedings concluded at 5:32 p.m.)

20

21 (Signature not requested)

22

23 SHANNON SLATTERY, MARIAH DOOLITTLE, RUSSELL FILIGHERA

24

25

1 STATE OF ARIZONA)
2 COUNTY OF MARICOPA)

3 BE IT KNOWN that the foregoing deposition was taken
4 by me pursuant to stipulation of counsel; that I was then
5 and there a Certified Court Reporter in the State of
6 Arizona, and by virtue hereof authorized to administer an
7 oath; that the witness before testifying was duly sworn by
8 me to testify to the whole truth; that signature was not
9 requested; that the questions propounded by counsel and the
10 answers of the witness thereto were taken down by me in
11 shorthand and thereafter transcribed into typewriting under
12 my direction; that the foregoing pages are a full, true and
13 accurate transcript of all the proceedings had upon the
14 taking of deposition, all done to the best of my skill and
15 ability.

16 I FURTHER CERTIFY that I am in no way related
17 to nor employed by any parties hereto; nor am I in any
18 way interested in the outcome thereof.

19 Dated at Phoenix, Arizona, this 8th day of
20 September, 2023.

21 
22 _____
23 CINDY MAHONEY, RPR, RMR NO. 50680

24
25

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UNITED STATES DISTRICT COURT
DISTRICT OF ARIZONA

Mi Familia Vota, et al.,)	
)	
Plaintiffs,)	Case No.
	)	2:22-cv-00509-PHX-SRB
v.	)	(Lead)
)	
Adrian Fontes, in his	)	No. CV-22-00519-PHX-SRB
official capacity as	)	No. CV-22-01003-PHX-SRB
Arizona Secretary of State,	)	No. CV-22-01124-PHX-SRB
et al.,	)	No. CV-22-01369-PHX-SRB
	)	No. CV-22-01381-PHX-SRB
Defendants.	)	No. CV-22-01602-PHX-SRB
	)	No. CV-22-01901-PHX-SRB

AND CONSOLIDATED CASES.

VIDEO-RECORDED VIDEOCONFERENCE 30(b)(6) DEPOSITION OF
YUMA COUNTY RECORDER, REPRESENTED BY
JOANN MUNOZ AND SARAH JOHNSTON

Yuma, Arizona

August 28, 2023

Prepared by:
CINDY MAHONEY, RPR, RMR
Certified Court Reporter
Certificate No. 50680



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RETRIEVED FROM PUBLIC ACCESS TO COURT RECORDS

1 THE VIDEO-RECORDED VIDEOCONFERENCE 30(b)(6)
 2 DEPOSITION OF YUMA COUNTY RECORDER, REPRESENTED BY JOANN
 3 MUNOZ AND SARAH JOHNSTON, commenced at 9:05 a.m. on
 4 August 28, 2023, at Yuma, Arizona, before Cindy Mahoney,
 5 RPR, RMR (via videoconference), Arizona Certified Court
 6 Reporter No. 50680.

7

8

* * *

9

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19 ALSO PRESENT:

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21 Leslie Mansfield (via videoconference)

22 Daniel Rohan, Videographer (via videoconference)

23

24

25

26

1 TRANSCRIPT OF PROCEEDINGS

2
3 THE VIDEOGRAPHER: We are on the record.09:05:09 4 Time on the video monitor is 9:05 a.m. Here begins
09:05:13 5 Volume 1, Media Number 1, in the 30(b)(6) deposition of
09:05:18 6 Yuma County recorder, by Joann Munoz and Sarah Johnston, in
09:05:25 7 the matter of Mi Familia Vota, et al., v. Adrian Fontes, et
09:05:30 8 al, in the United States District Court, for the District
09:05:33 9 of Arizona, Case Number 2:22-cv-00509-SRB.09:05:41 10 Today's date is August 28th, 2023. Our court
09:05:45 11 reporter is Cindy Mahoney. I am Daniel Rohan, a certified
09:05:49 12 legal videographer. We both represent Coash Court
09:05:53 13 Reporting & Video.09:05:53 14 This video deposition is taking place at Yuma
09:05:57 15 County Recorder's Office, 102 South Main Street, Yuma,
09:06:00 16 Arizona 85364.09:06:02 17 Counsel, please identify yourselves and state
09:06:05 18 whom you represent.09:06:07 19 MR. KEREKES: Bill Kerekes, representing
09:06:07 20 Richard Colwell, Yuma County recorder.09:06:11 21 MR. HERRERA: Ernest Herrera, representing
09:06:14 22 Promise Arizona plaintiffs. And I have co-counsel with me
09:06:16 23 today, Erika Cervantes.09:06:22 24 MS. LORENZO: Daniela Lorenzo, representing
09:06:23 25 MFV plaintiffs.

09:06:25 1 MR. FERGUSON: This is Brent Ferguson,
09:06:26 2 representing the LUCHA plaintiffs.

09:06:33 3 MR. HORLEY: Tim Horley, representing the
09:06:34 4 State of Arizona and the Arizona attorney general.

09:06:40 5 MS. SWANBECK: Britany Riley-Swanbeck,
09:06:40 6 representing the Democratic National Committee and Arizona
09:06:44 7 Democratic Party.

09:06:46 8 MR. PATTERSON: Beauregard --

09:06:47 9 MR. MORGAN: Craig Morgan -- go ahead. Go
09:06:47 10 ahead.

09:06:48 11 MR. PATTERSON: Beauregard Patterson,
09:06:50 12 representing the Poder Latina plaintiffs.

09:06:54 13 MR. MORGAN: Craig Morgan, for Sherman &
09:06:55 14 Howard, representing the secretary of state.

09:06:57 15 MR. LANGHOFER: Kory Langhofer for the RNC.

09:07:06 16 MR. SNOW: Ryan Snow, with the Lawyers'
09:07:07 17 Committee, for Tohono O'odham Nation plaintiffs.

09:07:07 18
09:07:07 19 JOANN MUNOZ AND SARAH JOHNSTON,
09:07:07 20 the witness herein, being first duly sworn,
09:07:07 21 was examined and testified as follows:

09:07:27 22
09:07:27 23 MR. MORGAN: Ernest, before we get started,
09:07:28 24 can we put on the record the standard agreement that an
09:07:31 25 objection by one defendant is an objection for all

09:07:35 1 defendants and an objection by one plaintiff would be an
09:07:39 2 objection for all plaintiffs?

09:07:40 3 MR. HERRERA: Yeah. No opposition here.

09:07:41 4 MR. MORGAN: Great. Thanks.

09:07:43 5

09:07:43 6 EXAMINATION

09:07:43 7 BY MR. HERRERA:

09:07:48 8 Q. Good morning, Ms. Munoz and Ms. Johnston. My name
09:07:51 9 is Ernest -- I'm sorry. Was there someone else?

09:07:55 10 My name is Ernest Herrera, and I'm an
09:07:58 11 attorney at the Mexican American Legal Defense and
09:08:01 12 Educational Fund. I represent plaintiffs Promise Arizona
09:08:04 13 and Southwest Voter Registration Education Project in this
09:08:09 14 case.

09:08:09 15 Can you please state and spell your name.

09:08:14 16 MS. MUNOZ: Joann Munoz; J-o-a-n-n,
09:08:14 17 M-u-n-o-z.

09:08:14 18 BY MR. HERRERA:

09:08:21 19 Q. And, Ms. Johnston, could you also state and spell
09:08:22 20 your name. I may not have questions for you for a while,
09:08:25 21 but just this one.

09:08:26 22 MS. JOHNSTON: Yes. Sarah Johnston,
09:08:26 23 S-a-r-a-h.

09:08:31 24 BY MR. HERRERA:

09:08:31 25 Q. And can you spell the --

09:08:34 1 MS. JOHNSTON: Johnston, J-o-h-n-s-t-o-n.

09:08:37 2 BY MR. HERRERA:

09:08:37 3 Q. Thank you.

09:08:38 4 And has either of you been known by any other
09:08:45 5 names?

09:08:48 6 MS. MUNOZ: I have.

09:08:48 7 MS. JOHNSTON: Same.

09:08:48 8 BY MR. HERRERA;

09:08:48 9 Q. Okay. Please -- can you please state what your
09:08:50 10 other -- other names you've been known by.

09:08:52 11 MS. MUNOZ: Joann Dominguez and Joann Avila.

09:08:57 12 BY MR. HERRERA:

09:08:57 13 Q. And, Ms. Johnston?

09:08:59 14 MS. JOHNSTON: Sarah Howard.

09:08:59 15 (In the Q/A format, Ms. Munoz is
09:08:59 16 answering the questions; Ms. Johnston will
09:08:59 17 be represented as "MS. JOHNSTON.")

09:09:02 18 BY MR. HERRERA:

09:09:02 19 Q. And, Ms. Munoz, are you represented by an attorney
09:09:06 20 today?

09:09:07 21 A. Yes.

09:09:08 22 Q. Okay. Who is that?

09:09:11 23 A. William Kerekes.

09:09:12 24 Q. And he is there in the room with you; right?

09:09:15 25 A. Yes.

09:09:15 1 Q. For today's deposition, where are you physically
09:09:21 2 located?

09:09:21 3 A. We are at the Yuma County Recorder's Office, 102
09:09:25 4 South Main Street, Yuma, Arizona 85364.

09:09:29 5 Q. And, Ms. Munoz, have you ever had your deposition
09:09:32 6 taken before?

09:09:33 7 A. No.

09:09:34 8 Q. And let me go over a few ground rules since you
09:09:40 9 haven't had your deposition taken before so that we are on
09:09:44 10 the same page about how the deposition will go.

09:09:48 11 The court reporter has put you under oath,
09:09:50 12 which means that you are obligated to tell the truth. Do
09:09:53 13 you understand that?

09:09:53 14 A. Yes.

09:09:54 15 Q. And, Ms. Johnston, do you understand --
09:09:58 16 Ms. Johnston, do you understand that?

09:10:00 17 MS. JOHNSTON: Yes.

09:10:01 18 BY MR. HERRERA:

09:10:01 19 Q. Although we are conducting this deposition in an
09:10:04 20 informal setting, that oath has the same force and effect
09:10:07 21 as if you were testifying in a court of law in front of a
09:10:10 22 judge or a jury. Do you understand that, Ms. Munoz?

09:10:12 23 A. Yes.

09:10:13 24 Q. And, Ms. Johnston?

09:10:15 25 MS. JOHNSTON: Yes.

09:10:18 1
09:10:18 2
09:10:20 3
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09:11:20 24
09:11:20 25

BY MR. HERRERA:

Q. Because the court reporter is taking down everything we're saying, it's important that you provide audible answers to my questions; for examples, no uh-huhs or shaking your head. Do you understand that, Ms. Munoz?

A. Yes.

Q. And, Ms. Johnston?

MS. JOHNSTON: Yes.

BY MR. HERRERA:

Q. If you do not understand a question, please tell me that you don't understand and I will rephrase the question. Also, feel free to ask me to repeat the question. Okay, Ms. Munoz?

A. Yes.

Q. And, Ms. Johnston?

MS. JOHNSTON: Yes.

BY MR. HERRERA:

Q. Are we on the same page -- well, let's try not to speak over each other. It happens in natural conversation because we don't know when the other person is going to stop speaking. But in this case, let's try to not speak over each other. So let me finish my question, and I will not interrupt your answer. Is that okay, Ms. Munoz?

A. Yes.

///

09:11:20 1
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09:12:17 24
09:12:21 25

BY MR. HERRERA:

Q. And, Ms. Johnston?

MS. JOHNSTON: Yes.

BY MR. HERRERA:

Q. If I ask a question -- excuse me.

During this deposition, attorneys may make objections. Even if they make objections, unless your attorney specifically instructs you not to answer the question, you must still answer the question. Do you understand that, Ms. Munoz?

A. Yes.

Q. And, Ms. Johnston?

MS. JOHNSTON: Yes.

BY MR. HERRERA:

Q. Sometime after we complete your deposition, you will receive a typed transcript of this deposition. You'll have an opportunity to review the transcript and correct any errors that you see, and then you will sign in under -- sign it under penalty of perjury.

However, I will warn you that if you make anything more than clerical changes, like correcting typos, attorneys in this case will be able to comment on those changes at trial, which could affect your credibility before the judge or jury in the future. So please try to give your best testimony you can here today. Do you

09:12:23 1 understand that, Ms. Munoz?

09:12:24 2 A. Yes.

09:12:25 3 Q. And, Ms. Johnston?

09:12:27 4 MS. JOHNSTON: Yes.

09:12:27 5 BY MR. HERRERA:

09:12:28 6 Q. If you need a break for any reason, please let me
09:12:30 7 know and we can take a break. However, if there is a
09:12:34 8 question pending that you have not answered, I will ask you
09:12:36 9 to answer the question first and then we can take a break.
09:12:38 10 Okay, Ms. Munoz?

09:12:40 11 A. Yes.

09:12:40 12 Q. And, Ms. Johnston?

09:12:42 13 MS. JOHNSTON: Yes.

09:12:42 14 BY MR. HERRERA:

09:12:43 15 Q. And one more thing is we're under a little bit of
09:12:48 16 a time constraint, so I may speak fast at times. I will
09:12:50 17 try to slow myself down. Okay.

09:12:54 18 Is there any reason that you cannot give your
09:12:57 19 best testimony here today, Ms. Munoz?

09:13:00 20 A. No.

09:13:01 21 Q. Okay. And, Ms. Johnston?

09:13:02 22 MS. JOHNSTON: No.

09:13:03 23 BY MR. HERRERA:

09:13:03 24 Q. Okay. Have -- Ms. Munoz, have you consumed any
09:13:10 25 substances or medication in the past 24 hours that would

09:13:13 1 prevent you from giving your best testimony here today?

09:13:16 2 A. No.

09:13:17 3 Q. Okay. And, Ms. Johnston, have you consumed
09:13:21 4 anything, including medications, in the past 24 hours that
09:13:25 5 would prevent you from giving your best testimony here
09:13:27 6 today?

09:13:28 7 MS. JOHNSTON: No.

09:13:29 8 BY MR. HERRERA:

09:13:32 9 Q. Ms. Johnston -- I'm sorry.

09:13:34 10 Ms. Munoz, what, if anything, did you do to
09:13:36 11 prepare for this deposition?

09:13:39 12 A. I looked over our topics in the interrogatories.

09:13:43 13 Q. Okay. And by "topics," do you mean 30(b)(6)
09:13:47 14 notice topics?

09:13:50 15 A. They are the ones that are in our -- I have them
09:13:55 16 right here -- in our notice of deposition.

09:14:01 17 Q. I think you're looking at something, but I'm going
09:14:03 18 to show something on the screen. I'll introduce it a
09:14:06 19 little bit early.

09:14:07 20 MR. HERRERA: But could we mark this as
09:14:09 21 exhibit -- Cindy, what exhibit number are we on?

09:14:11 22 THE COURT REPORTER: 200.

09:14:12 23 MR. HERRERA: Okay. I'm going to mark this
09:14:15 24 as Exhibit 200 and put it in the chat here. One moment.
09:14:54 25 So that -- I'm going to show a document on the screen here.

09:14:57 1 And there's -- also in the chat for people watching here.
09:14:57 2 (The document was marked as Exhibit 200
09:14:57 3 for identification.)
09:14:57 4 BY MR. HERRERA:
09:15:23 5 Q. Okay. So I'm showing you what has been marked as
09:15:25 6 Exhibit 200.
09:15:27 7 This is -- and do you see at the top it says
09:15:29 8 "Plaintiffs' Amended Notice of Deposition of Yuma County
09:15:33 9 Recorder's Office Pursuant to Rule 30(b)(6)"?
09:15:36 10 A. Yes.
09:15:39 11 Q. Do you see that?
09:15:42 12 A. Yes.
09:15:44 13 Q. All right. And are -- Ms. Munoz, are these the
09:15:47 14 topics that you were just referring to?
09:15:50 15 A. Yes.
09:15:51 16 Q. Okay. And in preparation for your deposition
09:15:59 17 today, did you review the topics that are on page --
09:16:06 18 beginning on page 5 of Exhibit 200?
09:16:09 19 A. Yes.
09:16:10 20 Q. All right. Now, Ms. Munoz, did -- did you review
09:16:28 21 any documents besides this Exhibit 200 in preparation for
09:16:33 22 your deposition?
09:16:34 23 A. I just looked over the other one that I -- that --
09:16:38 24 you know, that I had -- was the consolidated -- the
09:16:43 25 answers -- the recorder's answers to consolidated.

09:16:48 1 Q. Would that be the interrogatories -- to the
09:16:51 2 interrogatories?

09:16:52 3 A. Yes.

09:16:53 4 Q. Okay. And did you look over any other -- any
09:17:00 5 other documents in preparation for your deposition?

09:17:03 6 A. Just the house bills that were in the topics.

09:17:08 7 Q. Okay. And are you familiar with those house
09:17:11 8 bills?

09:17:11 9 A. I'm familiar.

09:17:12 10 Q. Okay. And do you know -- is it House Bills 2492
09:17:17 11 and 2243 that you reviewed?

09:17:20 12 A. Yes.

09:17:22 13 Q. Now, in preparation for your deposition, did you
09:17:27 14 meet with anything [verbatim] besides speaking with the
09:17:31 15 attorney?

09:17:32 16 A. No.

09:17:33 17 Q. Okay. Did you speak with anyone else within the
09:17:40 18 Yuma County Recorder's Office in preparation for your
09:17:43 19 deposition?

09:17:44 20 A. Just counsel and Mrs. Sarah Johnston and our
09:17:47 21 recorder.

09:17:48 22 Q. Okay. And who -- can you say who the recorder is?

09:17:52 23 A. Richard Colwell.

09:17:53 24 Q. And do you know -- since you reviewed the -- the
09:18:05 25 bills that you just mentioned, do you know what this

09:18:08 1 litigation is about generally?

09:18:11 2 A. I'm familiar with it.

09:18:13 3 Q. Okay. And can you -- well, let's go into a little
09:18:19 4 bit of your background.

09:18:20 5 Can you tell me about your educational
09:18:22 6 background?

09:18:23 7 A. High school diploma.

09:18:27 8 Q. And, Ms. Johnston?

09:18:29 9 MS. JOHNSTON: High school diploma, some
09:18:30 10 college credits, and CERA graduate

09:18:35 11 BY MR. HERRERA:

09:18:36 12 Q. And, Ms. Munoz, what is your professional
09:18:39 13 background?

09:18:42 14 A. Here at the recorder's office?

09:18:44 15 Q. Yes.

09:18:45 16 Let's start with: How long have you worked
09:18:47 17 at the County Recorder's Office?

09:18:50 18 A. 13 years.

09:18:51 19 Q. And just to be clear, that's the Yuma County
09:18:54 20 Recorder's Office; right?

09:18:57 21 A. Yes.

09:18:57 22 Q. And what is your current role within the Yuma
09:19:02 23 County Recorder's Office?

09:19:02 24 A. Voter services coordinator.

09:19:04 25 Q. And, Ms. Johnston, what is your current role?

09:19:06 1 MS. JOHNSTON: My current role, I am a legal
09:19:08 2 secretary for Yuma County.

09:19:12 3 BY MR. HERRERA:

09:19:14 4 Q. Okay. So are you -- do you work for the County
09:19:16 5 Recorder's Office any longer?

09:19:17 6 MS. JOHNSTON: No. I consult for them,
09:19:19 7 though.

09:19:20 8 BY MR. HERRERA:

09:19:20 9 Q. Did you work at the County Recorder's Office
09:19:23 10 before?

09:19:24 11 MS. JOHNSTON: Yes.

09:19:24 12 BY MR. HERRERA:

09:19:24 13 Q. And how long did you work there?

09:19:26 14 MS. JOHNSTON: Five years.

09:19:28 15 BY MR. HERRERA:

09:19:41 16 Q. And, Ms. Munoz, before your current position, what
09:19:45 17 was your prior role with Yuma County Recorder's Office?

09:19:49 18 A. The lead voter specialist.

09:19:53 19 Q. And what is -- in your current role, what are --
09:19:59 20 what are your duties?

09:20:01 21 A. I run reports for parties. I supervise three --
09:20:08 22 four other employees. We do the voter registration form.

09:20:25 23 Q. Do you -- besides the voter registration forms,
09:20:28 24 what else are your -- does -- do your duties include?

09:20:32 25 A. Running reports, being in contact with the parties

09:20:38 1 that I run the reports for.

09:20:41 2 Q. And by "reports" -- what do you mean by "running
09:20:43 3 reports"?

09:20:44 4 A. Quarterly reports.

09:20:50 5 Q. And do those quarterly reports go to anyone in
09:20:55 6 particular? Are they sent to anyone?

09:20:57 7 A. They get sent to the state -- secretary of state.

09:21:03 8 Q. And what is contained in the quarterly reports to
09:21:06 9 the secretary of state?

09:21:07 10 A. Our voter registration numbers.

09:21:11 11 Q. And by "voter registration numbers," what is
09:21:17 12 included in those?

09:21:18 13 A. The list of voters.

09:21:29 14 Q. So besides voter registration forms and running
09:21:32 15 reports, do you work on anything else? And -- and then you
09:21:39 16 supervise some staff. Do you work on anything else in Yuma
09:21:45 17 County Recorder's Office?

09:21:45 18 A. We do the testing in our AVID system, the
09:21:51 19 enhancements.

09:21:51 20 Q. And when you said -- did you say "AVID"?

09:21:53 21 A. Yes.

09:21:53 22 Q. And is that A-V-I-D?

09:21:58 23 A. Yes.

09:21:58 24 Q. And what does -- what is testing in the AVID
09:22:02 25 system?

09:22:04 1 A. Any enhancements that may be needed.

09:22:15 2 Q. And can you give -- can you give some examples of
09:22:18 3 some enhancements that you've tested in the AVID system?

09:22:22 4 A. Sure. We went from PEVL to AEVL. And we just had
09:22:28 5 to make sure it was in all of our -- on all of our tabs
09:22:33 6 that we have, making sure it was appearing as it should be.

09:22:37 7 Q. And -- and just for the sake of the court
09:22:41 8 reporter, can you say what "PEVL" and "AEVL" are?

09:22:43 9 A. PEVL is the permanent early voting list; and it
09:22:47 10 went to AEVL, which is the absentee early voting list --
09:22:58 11 active. I'm sorry. Active early voting list.

09:23:02 12 Q. And in your prior role, I think you said it was a
09:23:08 13 voter service specialist -- or correct me if I'm --

09:23:11 14 A. Lead voter service specialist.

09:23:17 15 Q. Okay. And what did that job entail?

09:23:19 16 A. Entering voter -- voter registration forms, UOCAVA
09:23:26 17 voters.

09:23:30 18 Q. And entering -- when you say "entering voter
09:23:39 19 registration forms," what would -- do you mean you would
09:23:42 20 enter them into the voter registration system?

09:23:46 21 A. Yes. Into our AVID system.

09:23:49 22 Q. And is AVID the -- the statewide voter
09:23:53 23 registration system?

09:23:54 24 A. Yes.

09:23:54 25 Q. Okay. Now, Ms. Johnston, what did you work on

09:23:59 1 when you worked in your prior role at the Yuma County
09:24:03 2 Recorder's Office?

09:24:03 3 MS. JOHNSTON: I was previously the voter
09:24:06 4 services coordinator. And I supervised four voter services
09:24:12 5 staff, including Ms. Munoz, when she was the lead voter
09:24:15 6 services specialist.

09:24:17 7 I ran quarterly reports for the secretary of
09:24:22 8 state, which is the voter registration figures broken down
09:24:26 9 by the political parties and their districts.

09:24:29 10 I also handled all public records requests
09:24:33 11 that pertained to voter registration. I administered and
09:24:39 12 supervised early voting throughout the 27 days and
09:24:46 13 conducted any post-election reports for the political
09:24:51 14 parties and for the Secretary of State's Office as well as
09:24:55 15 any reports that needed to go for canvassing.

09:24:59 16 BY MR. HERRERA:

09:25:06 17 Q. And when did you -- when did that role end for
09:25:16 18 you, Ms. Johnston?

09:25:17 19 MS. JOHNSTON: January of 2023.

09:25:34 20 BY MR. HERRERA:

09:25:34 21 Q. Ms. Munoz, we've already looked at Exhibit 200, so
09:25:38 22 I'm going to bring that back up on the screen here.

09:25:58 23 And as we were looking at before, on page 5
09:26:02 24 of Exhibit 200, the 30(b)(6) topics begin; right?

09:26:06 25 A. Yes.

09:26:07 1 Q. And you can kind of see the first one, just as an
09:26:14 2 example: "Your plans and policies, procedures, materials,
09:26:20 3 guidance, instructions, training materials."

09:26:23 4 Do you see that language in Topic 1?

09:26:25 5 A. Yes.

09:26:26 6 Q. Okay. Now, do you understand, Ms. Munoz, that you
09:26:33 7 have been designated as one of the representatives or
09:26:36 8 witnesses to testify on behalf of the Yuma County
09:26:40 9 Recorder's Office, not in your individual capacity? Do
09:26:44 10 you understand that?

09:26:44 11 A. Yes.

09:26:44 12 Q. Okay. And, Ms. Johnston, do you understand that
09:26:48 13 you have also been designated as a representative to
09:26:51 14 testify on behalf of the Yuma County Recorder's Office, not
09:26:56 15 in your individual capacity?

09:26:57 16 MS. JOHNSTON: Yes.

09:26:58 17 BY MR. HERRERA:

09:26:58 18 Q. And, Ms. Johnston, did you also review the topics
09:27:01 19 in the 30(b)(6) deposition notice that we're looking at?

09:27:04 20 MS. JOHNSTON: Yes.

09:27:05 21 BY MR. HERRERA:

09:27:05 22 Q. Okay. And, Ms. Munoz, can we stipulate that
09:27:14 23 whenever I say "you" or "your," that unless I specify, we
09:27:19 24 will be -- it will be the equivalent of me saying "your
09:27:23 25 office" or the "Yuma County Recorder's Office"? Do you

09:27:29 1 understand that?

09:27:29 2 A. Yes.

09:27:29 3 Q. And, Ms. Johnston, as well?

09:27:31 4 MS. JOHNSTON: Yes.

09:27:32 5 BY MR. HERRERA:

09:27:36 6 Q. Ms. Munoz, are you prepared to address each of the
09:27:40 7 topics in the 30(b)(6) notice today?

09:27:44 8 A. Yes.

09:27:45 9 Q. Are there any topics that you're not prepared to
09:27:51 10 discuss today?

09:27:58 11 A. No.

09:28:01 12 Q. And Ms. -- well, I think we'll -- for
09:28:05 13 Ms. Johnston, I'll ask you later perhaps because I think
09:28:09 14 you're maybe here in case there's something that was from
09:28:12 15 before.

09:28:15 16 But, Ms. Johnston, would you be prepared to
09:28:19 17 answer questions regarding these topics?

09:28:21 18 MS. JOHNSTON: Yes.

09:28:26 19 MR. HERRERA: So we're going to pull up
09:28:27 20 another document. We're going to mark this as Exhibit 201.

09:28:27 21 (The document was marked as Exhibit 201
09:29:10 22 for identification.)

09:29:10 23 BY MR. HERRERA:

09:29:10 24 Q. Ms. Munoz, do you recognize the first page of this
09:29:13 25 document?

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A. Yes.

Q. Okay. And it says "Yuma County Recorder's Answers to Consolidated Plaintiffs' First Set of Interrogatories." You see that; right?

A. Yes.

Q. Okay. Now I'm going to scroll through just to show you that the document is complete. So there's pages 4, 5, and then it ends on page 12 with the signature of Mr. Colwell.

Now, did you help prepare the answers to these -- these answers to these interrogatories?

A. No.

Q. Do you know who prepared them?

A. Yes.

Q. Okay. Who prepared the answers?

A. It was Mrs. Johnston and Mr. Colwell.

Q. So is that true, Mrs. Johnston, that you helped to prepare these answers with Mr. Colwell?

MS. JOHNSTON: Yes.

BY MR. HERRERA:

Q. Okay. I'm going to go to Interrogatory Answer Number 10.

And the question, as you can see, it says, "Identify all state and county interests that you believe are furthered by the Challenged Laws." And that's how the

09:31:05 1 question begins, but there's more.

09:31:07 2 Do you see that interrogatory?

09:31:08 3 A. Yes.

09:31:09 4 Q. Okay. And, Ms. Munoz, do you see that -- do you
09:31:18 5 see the response on the next page to that interrogatory?

09:31:22 6 A. Yes.

09:31:22 7 Q. Okay. And it says there, "The Recorder believes
09:31:28 8 that requiring the implementation of the challenged laws
09:31:31 9 may lead to conflicts between state and federal laws,
09:31:34 10 potentially exposing the Recorder's Office to liability."

09:31:38 11 Can you explain what is meant by that answer,
09:31:40 12 Ms. Munoz?

09:31:42 13 MR. LANGHOFER: Calls for a legal conclusion.

09:31:44 14 MR. HORLEY: Calls for a legal conclusion.

09:31:47 15 MS. MUNOZ: No, I cannot.

09:31:49 16 BY MR. HERRERA:

09:31:50 17 Q. Ms. Johnston, do you -- do you know why the answer
09:31:53 18 says, "The Recorder believes that requiring the
09:31:57 19 implementation of the challenged laws may lead to conflicts
09:32:00 20 between state and federal laws, potentially" --

09:32:04 21 MR. LANGHOFER: Same objection.

09:32:05 22 BY MR. HERRERA:

09:32:07 23 Q. -- "potentially exposing the Recorder's Office to
09:32:09 24 liability"?

09:32:09 25 MR. LANGHOFER: Same objection.

09:32:12 1 MS. JOHNSTON: Yes.

09:32:12 2 BY MR. HERRERA:

09:32:12 3 Q. Okay. Why does it say that? Or can you expand on
09:32:17 4 that?

09:32:17 5 MS. JOHNSTON: Sure. One of the --

09:32:18 6 MR. LANGHOFER: Same objection.

09:32:23 7 MS. JOHNSTON: -- one of the bills, 2492, I
09:32:28 8 believe, conflicts with LULAC, which is a federal law, from
09:32:37 9 my understanding.

09:32:41 10 BY MR. HERRERA:

09:32:42 11 Q. And are there -- is there anything else there that
09:32:45 12 you think is part of that -- the reason for that answer?

09:32:49 13 MR. LANGHOFER: Same objection.

09:32:50 14 MR. HORLEY: Same.

09:32:53 15 MS. JOHNSTON: I believe that some of the
09:32:58 16 implications of these bills would conflict with current
09:33:03 17 processes and things that are already put in place that
09:33:09 18 suffice obtaining citizenship.

09:33:12 19 BY MR. HERRERA:

09:33:13 20 Q. And can you explain what those -- what those --
09:33:17 21 what those are?

09:33:18 22 MR. LANGHOFER: Same objection.

09:33:19 23 MS. JOHNSTON: Sure. Yes. When we register
09:33:23 24 a voter or when staff registers a voter here in Yuma
09:33:27 25 County, we run what's called HAVA checks, which is the Help

09:33:33 1 America Vote Act, and we obtain citizenship through the
09:33:37 2 interface with the MVD. And this bill would require voters
09:33:44 3 to present citizenship when registering to vote.

09:33:51 4 BY MR. HERRERA:

09:33:52 5 Q. When you say "present citizenship," what do you
09:33:54 6 mean by that?

09:33:56 7 MS. JOHNSTON: Either present a birth
09:33:59 8 certificate or a passport or naturalization documents.

09:34:06 9 BY MR. HERRERA:

09:34:06 10 Q. And that would -- and you say that would conflict
09:34:11 11 with current processes?

09:34:12 12 MS. JOHNSTON: Correct.

09:34:13 13 BY MR. HERRERA:

09:34:14 14 Q. How so?

09:34:15 15 MS. JOHNSTON: Well, yes and no. It's very
09:34:17 16 complex. Sorry. When a voter registers through our
09:34:23 17 office, we run, again, the HAVA checks through the MVD,
09:34:27 18 which will acquire the voter's or potential voter's
09:34:32 19 citizenship based off what they provided to the MVD.

09:34:35 20 If at that point we cannot obtain
09:34:40 21 citizenship, we take the next steps to -- to obtain that
09:34:45 22 information from the voter.

09:34:48 23 BY MR. HERRERA:

09:34:48 24 Q. Okay. And what would those next steps usually be?

09:34:52 25 MS. JOHNSTON: If the HAVA checks came back

09:34:54 1 that the Social Security was a match but does not have
09:35:00 2 citizenship information on file through the MVD, the voter
09:35:05 3 will become a federal-only voter, which now the new bill
09:35:10 4 would, I believe, not make them a federal-only voter. They
09:35:15 5 would just not be eligible to vote. And that's the
09:35:21 6 conflict.

09:35:23 7 BY MR. HERRERA:

09:35:23 8 Q. Besides those things that you just identified, are
09:35:27 9 there any other -- well, first of all, are there any other
09:35:29 10 processes that the challenged laws would disrupt or in any
09:35:35 11 way change for Yuma County Recorder's Office?

09:35:39 12 MS. JOHNSTON: The proof of residence.

09:35:39 13 BY MR. HERRERA:

09:35:43 14 Q. And how would the laws affect -- affect that?

09:35:47 15 MS. JOHNSTON: Currently, we do not have
09:35:49 16 voters bring in any kind of utility bill or ID when they
09:35:56 17 register to vote. They sign and affirm on the Arizona
09:36:03 18 state registration form that they are filling it out
09:36:05 19 completely and honestly.

09:36:08 20 BY MR. HERRERA:

09:36:12 21 Q. And this may be a question for Ms. Munoz, but I'll
09:36:17 22 ask both of you.

09:36:18 23 Is that something -- the proof of residency
09:36:22 24 in the form of a utility bill or something else, is that
09:36:25 25 something that Yuma County is now requiring of voters to

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register?

A. No.

Q. And that was -- sorry.

Who was that? Was it Ms. Munoz?

A. Yes.

Q. Now, besides -- Ms. Johnston, besides these processes that you identified, are there -- are there any other conflicts that would occur between state and federal laws that -- by -- by your understanding because of the challenged laws?

MS. JOHNSTON: Not that --

MR. LANGHOFER: Same objection.

THE COURT REPORTER: I'm sorry. Can you repeat that answer?

MS. JOHNSTON: Not that I can think of.

BY MR. HERRERA:

Q. I'm going to go to another answer to the interrogatories here. I'm going to go to Interrogatory Number 1. So I want to -- Ms. Munoz, if you can look at the Interrogatory Number 1.

It says, "Identify and describe each way that your office uses or would use information related to the birthplace of a voter registration applicant."

Do you see that question?

A. Yes.

09:38:07 1 Q. Okay. And then in the answer, do you see -- are
09:38:12 2 you familiar with this answer? I'll give you a second to
09:38:15 3 look at it.

09:38:17 4 A. I am familiar with that answer.

09:38:19 5 Q. Okay. And, Ms. Munoz, do you see where it says,
09:38:28 6 "it should be emphasized that the birthplace information is
09:38:31 7 not required and does not affect a voter's ability to
09:38:35 8 register or cast a ballot"?

09:38:36 9 Do you see that?

09:38:36 10 A. Yes.

09:38:36 11 Q. And then do you see the next sentence where it
09:38:39 12 says, "The Yuma County Recorder's Office does not currently
09:38:42 13 use and does not plan to utilize birthplace information to
09:38:45 14 verify or confirm the identity or eligibility of Voter
09:38:49 15 Registration Applicants"?

09:38:51 16 Do you see that?

09:38:53 17 A. Yes.

09:38:53 18 Q. Okay. Is that still the case that Yuma County
09:38:56 19 doesn't plan to use that information on birthplace?

09:39:00 20 A. Yes.

09:39:01 21 Q. Okay. And do you know why that is that Yuma
09:39:06 22 County Recorder's Office does not plan to use -- utilize
09:39:08 23 that information on birthplace?

09:39:10 24 A. We are waiting for direction from the secretary of
09:39:13 25 state on that.

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Q. I see.

And has the Yuma County Recorder's Office, in your experience, ever used information on someone's birthplace to determine eligibility to vote?

A. Not that I am aware of, no.

Q. And, Ms. Johnston, as far as you're aware, has the Yuma County Recorder's Office ever used birthplace information in order to determine eligibility to vote?

MS. JOHNSTON: No.

BY MR. HERRERA:

Q. And, Ms. Johnston, since you helped prepare the answers to these interrogatories, I'll ask you: "Why is it that Yuma County Recorder's Office does not plan to utilize birthplace information to verify or confirm the identity or eligibility of applicants?"

MS. JOHNSTON: I believe the recorder's office will use it if it is a law and is put in place and the Secretary of State's Office provides a new registration form that makes it a required field.

MR. HERRERA: And -- sorry. For the people at home, I did not put Exhibit 102 -- or sorry -- 201 in the -- in the chat here. So I'll put that in here now for your reference.

And I think all counsel should have the Dropbox. So if I forget to put an exhibit here in the --

09:41:01 1 in the chat, please let me know. But you should have a
09:41:06 2 link that I sent out.

09:41:14 3 BY MR. HERRERA:

09:41:14 4 Q. Okay. Ms. -- Ms. Munoz, who is the current Yuma
09:41:19 5 County recorder?

09:41:20 6 A. Mr. Richard Colwell.

09:41:21 7 Q. All right. Sorry. You answered that one already.
09:41:24 8 But thank you for telling me -- telling me again.

09:41:27 9 But how -- how long has Mr. Colwell been in
09:41:31 10 office?

09:41:33 11 A. A little over a year. About a year -- 13 months.

09:41:40 12 Q. And who was the previous Yuma County recorder?

09:41:43 13 A. Ms. Robyn Stallworth-Pouquette.

09:41:47 14 Q. And when did Ms. Stallworth-Pouquette leave her
09:41:54 15 position?

09:41:55 16 A. July of 2022.

09:42:00 17 Q. Do you know why Ms. Stallworth-Pouquette left her
09:42:04 18 position as county recorder?

09:42:04 19 A. No, I do not.

09:42:05 20 Q. Ms. Johnston, do you know why
09:42:08 21 Ms. Stallworth-Pouquette left her position as county
09:42:13 22 recorder?

09:42:13 23 MS. JOHNSTON: I don't know exactly.

09:42:14 24 BY MR. HERRERA:

09:42:15 25 Q. Okay. And, Ms. Munoz, you said you -- you

09:42:34 1 supervised -- you supervise three individuals? Or are
09:42:37 2 there more?

09:42:41 3 A. As of right now, there's three.

09:42:43 4 Q. Okay. And how many people work in the county
09:42:45 5 recorder's office in Yuma?

09:42:47 6 A. As a whole?

09:42:48 7 Q. Yes, as a whole.

09:42:50 8 A. 10, 12. About 12.

09:42:57 9 Q. And how many of those 10 or 12 work on voter --
09:43:04 10 elections generally?

09:43:06 11 A. Elections -- elections and voter registration are
09:43:13 12 two different departments. Is that -- is that what you --

09:43:16 13 Q. Yes, that helps.

09:43:18 14 So if you combine elections and voter
09:43:21 15 registration -- well, let's take it one by one.

09:43:23 16 A. Okay.

09:43:24 17 Q. So in elections -- how many work in elections?

09:43:28 18 A. Three.

09:43:28 19 Q. And how many people work in voter registration?

09:43:31 20 A. Four.

09:43:32 21 Q. And then the rest of the 10 or 12, are those
09:43:36 22 people who work in other business of the Yuma County
09:43:40 23 Recorder's Office besides voting?

09:43:42 24 A. Yes.

09:43:43 25 Q. Okay. And in voter registration, is that -- are

09:43:54 1 those you plus the three people you supervise?

09:43:56 2 A. Yes.

09:43:57 3 Q. Okay. And what do -- what are the positions of
09:44:01 4 the other people you supervise?

09:44:05 5 A. One is the lead voter service specialist, and the
09:44:08 6 other two are our voter service specialists.

09:44:14 7 Q. Okay. And what is the -- what are the duties of a
09:44:17 8 voter service specialist?

09:44:18 9 A. A voter service specialist, they take care of
09:44:22 10 online registrations, which come from our EZ Voter, from
09:44:26 11 MVD. They work the front counter, taking in anything that
09:44:32 12 comes in. They handle the mail, voter registration forms
09:44:38 13 that are walk-ins. They answer the phone. They're in
09:44:47 14 charge of mailing out any notices that need to be mailed
09:44:50 15 out, ID cards.

09:45:19 16 Am I continuing?

09:45:20 17 Q. No. Sorry.

09:45:21 18 A. I'm sorry.

09:45:22 19 MR. HERRERA: I am pulling up another
09:45:23 20 document for you. And this is -- this document was marked
09:45:29 21 in a previous exhibit as Exhibit 6, so many exhibits ago.
09:45:41 22 So I'm going to share it on the screen here.

09:45:41 23 BY MR. HERRERA:

09:46:00 24 Q. Do you see this document?

09:46:01 25 A. Yes.

09:46:02 1 Q. Okay. And it's about 59 pages long. But do you
09:46:10 2 see that -- do you recognize this -- the first page here of
09:46:12 3 this document?

09:46:13 4 A. Yes.

09:46:15 5 Q. Okay. And what is it?

09:46:17 6 A. Our Elections Procedure Manual.

09:46:19 7 Q. And what is the purpose of the Election Procedures
09:46:24 8 Manual?

09:46:24 9 A. It's a guideline that we use.

09:46:28 10 Q. And a guideline that you use for what?

09:46:32 11 A. To run voter registration.

09:46:37 12 Q. And is the 2019 Elections Procedures Manual the
09:46:52 13 one that's currently in effect?

09:46:55 14 A. Yes.

09:46:56 15 Q. Ms. Munoz, to your understanding, is your office
09:47:04 16 legally required to follow the Elections Procedures Manual?

09:47:08 17 MR. LANGHOFER: Calls for a legal conclusion.

09:47:12 18 MS. MUNOZ: Yes.

09:47:13 19 BY MR. HERRERA:

09:47:16 20 Q. Are all parts of the Elections Procedures Manual
09:47:19 21 legally binding on your office?

09:47:22 22 MR. LANGHOFER: Same objection.

09:47:25 23 MS. MUNOZ: I'd have to seek counsel on that.

09:47:28 24 BY MR. HERRERA:

09:47:28 25 Q. Okay. Are you legally required to follow

09:47:32 1 Chapter 1 of the Elections Procedures Manual?

09:47:37 2 MR. LANGHOFER: Same objection.

09:47:40 3 BY MR. HERRERA:

09:47:41 4 Q. That's on --

09:47:45 5 A. Yes.

09:47:46 6 Q. Okay. Are you aware -- are you aware of any
09:47:57 7 counties -- county recorders offices that do not follow
09:48:00 8 Chapter 1 of the Election Procedures Manual?

09:48:04 9 MR. LANGHOFER: Foundation.

09:48:04 10 MR. HORLEY: Objection; foundation.

09:48:05 11 MS. MUNOZ: No.

09:48:15 12 MR. HERRERA: I'm going to show you another
09:48:17 13 document. Just give me one second. I'm going to zoom in.

09:48:36 14 I'd like to -- this is a document that was
09:48:41 15 marked in a prior deposition as Exhibit 35.

09:48:41 16 BY MR. HERRERA:

09:48:48 17 Q. Do you see the first page of this document at the
09:48:50 18 top?

09:48:51 19 A. Yes.

09:48:52 20 Q. Okay. And I'm going to represent to you that
09:48:59 21 there are 68 pages to this document.

09:49:06 22 But do you recognize what this -- what this
09:49:09 23 document is from the first page?

09:49:20 24 A. No.

09:49:26 25 Q. Do you see that there's a watermark there that

09:49:28 1 says "Draft"?

09:49:29 2 A. Yes.

09:49:31 3 Q. And do you see at the top -- the top header there

09:49:34 4 "Arizona Secretary of State 2023 Elections Procedures

09:49:37 5 Manual - June 2023 Draft"?

09:49:40 6 A. Yes.

09:49:40 7 Q. And have you reviewed the June 2023 draft of the

09:49:43 8 Elections Procedures Manual?

09:49:45 9 A. I reviewed a bit of it, yes.

09:49:49 10 Q. Okay. And what -- what parts have you reviewed?

09:49:52 11 A. The voter registration, Chapter 1.

09:49:55 12 Q. And what was -- what did you -- did you do

09:50:04 13 anything after reviewing the Chapter 1 of the draft

09:50:07 14 Elections Procedures Manual?

09:50:09 15 A. No.

09:50:12 16 Q. Have you ever sent any comments or edits to -- to

09:50:19 17 the Secretary of State's Office regarding the June 2023

09:50:24 18 draft of the Elections Procedures Manual?

09:50:26 19 A. No.

09:50:28 20 Q. Have you ever attended a meeting with the

09:50:33 21 Secretary of State's Office to discuss the June 2023

09:50:37 22 Elections Procedures Manual?

09:50:39 23 A. Yes.

09:50:39 24 Q. Okay. And when was that meeting?

09:50:43 25 A. There was a few different meetings in regards to

09:50:47 1 the chapters.

09:50:49 2 Q. Okay. And what was the most recent meeting?

09:50:54 3 A. I can't remember.

09:50:57 4 Q. And when you say there were a few, can you -- can

09:51:02 5 you estimate about how many meetings?

09:51:05 6 A. Probably four or five.

09:51:08 7 Q. And during -- I guess, from what -- about what

09:51:16 8 date to what date have these four or five meetings with the

09:51:20 9 Secretary of State's Office on the Elections Procedures

09:51:26 10 Manual draft have you -- have there -- when did those take

09:51:32 11 place?

09:51:32 12 A. From March until just -- July.

09:51:42 13 Q. And would that be March 2023 to July 2023?

09:51:46 14 A. Yes.

09:51:53 15 Q. Now, going back to -- well, have any of these

09:51:55 16 meetings involved anyone discussing Chapter 1 of the

09:52:03 17 Elections Procedures Manual, which is voter registration?

09:52:09 18 A. Can you repeat that question?

09:52:11 19 Q. Sure.

09:52:11 20 So of these meetings with the Secretary of

09:52:15 21 State's Office regarding the draft Elections Procedures

09:52:18 22 Manual, have any of the meetings involved discussing

09:52:21 23 Chapter 1 of the Elections Procedures Manual draft?

09:52:24 24 A. Yes.

09:52:25 25 Q. And how many of those meetings involved discussing

09:52:29 1 Chapter 1 of the draft Elections Procedures Manual?

09:52:33 2 A. Just one.

09:52:34 3 Q. And which meeting -- do you remember when that

09:52:38 4 meeting was?

09:52:39 5 A. No, I do not remember.

09:52:40 6 Q. Do you remember what month?

09:52:46 7 A. No.

09:52:47 8 Q. Can you say if it was perhaps the spring or the

09:52:52 9 summer of this year?

09:52:54 10 A. It was this year.

09:52:57 11 Q. But can you say whether it was the spring or the

09:53:01 12 summer?

09:53:03 13 A. I -- I can't remember.

09:53:06 14 Q. Okay. Now, what was discussed in that meeting

09:53:12 15 regarding Chapter 1 of the draft Elections Procedures

09:53:17 16 Manual?

09:53:17 17 A. We just went over the draft. If any of the

09:53:22 18 counties had anything different, they would address it.

09:53:27 19 Q. Did you have anything different or any comments on

09:53:31 20 Chapter 1 in the secretary of state meeting?

09:53:33 21 A. No.

09:53:36 22 Q. Did anyone else from Yuma County have comments

09:53:40 23 during the meeting with the Secretary of State's Office on

09:53:43 24 Chapter 1 of the draft Elections Procedures Manual?

09:53:45 25 A. No.

09:53:49 1 Q. Did any comments from other counties stand out to
09:53:53 2 you in the meeting with the Secretary of State's Office on
09:53:56 3 Chapter 1 of the Elections Procedures Manual?

09:53:58 4 A. No.

09:54:00 5 Q. Did -- do you recall any discussion of House Bills
09:54:08 6 2492 or 2243 during the discussion of Chapter 1 of the
09:54:14 7 Elections Procedures Manual with the secretary of state?

09:54:17 8 A. Not that I recall.

09:54:32 9 Q. Ms. Munoz, has the -- has your office or the
09:54:52 10 County Recorder's Office been provided any other guidance
09:54:55 11 besides the 2023 draft -- well, let me start that again.

09:55:00 12 Has your office been provided any other
09:55:03 13 guidance beyond the Elections Procedures Manual that
09:55:08 14 elaborates on implementation of House Bill 2492?

09:55:14 15 MR. MORGAN: Form.

09:55:18 16 MS. MUNOZ: No.

09:55:18 17 BY MR. HERRERA:

09:55:19 18 Q. Has your office been provided any other guidance
09:55:22 19 other than the Elections Procedures Manual or draft
09:55:26 20 Elections Procedures Manual on the implementation of House
09:55:32 21 Bill 2243?

09:55:33 22 MR. MORGAN: Form.

09:55:34 23 MS. MUNOZ: No.

09:56:07 24 MR. HERRERA: I'm going to pull up another
09:56:08 25 document here. And this is -- I'm going to show this

09:56:14 1 document on the screen. And I'd like to mark this exhibit
09:56:27 2 shown on the screen -- actually, let me start -- let me
09:56:31 3 reshare that.

09:56:47 4 I'd like to mark this document as
09:56:51 5 Exhibit 202.

09:56:51 6 (The document was marked as Exhibit 202
09:56:51 7 for identification.)

09:56:57 8 MR. HERRERA: And for the record, this is a
09:56:59 9 document that has Bates Stamp YUMA-000763.

09:57:09 10 BY MR. HERRERA:

09:57:09 11 Q. And, Ms. Munoz, do recognize this document?

09:57:15 12 A. Yes.

09:57:15 13 Q. And what is it?

09:57:16 14 A. It is the schedule to go over the chapters in the
09:57:19 15 EPM.

09:57:20 16 Q. And it says at the top, "Chapters 1 and 2, (early
09:57:27 17 voting & VEM)." That -- that -- deadlines for comments
09:57:42 18 were in March of 2023; right?

09:57:44 19 A. Yes.

09:57:45 20 Q. Okay. So before March -- or by that March
09:57:50 21 deadline, did Yuma submit any comments or edits on
09:57:54 22 Chapter 1 of the draft Elections Procedures Manual?

09:58:00 23 A. No.

09:58:00 24 Q. Do you know if -- does Yuma County Recorder's
09:58:09 25 Office plan to submit any edits in the future to the draft

09:58:17 1 EPM?

09:58:18 2 MR. LANGHOFER: Form.

09:58:20 3 MS. MUNOZ: None that I am aware of.

09:58:57 4 MR. HERRERA: I'm going to show you another
09:59:00 5 document here. Bear with me.

09:59:00 6 BY MR. HERRERA:

09:59:26 7 Q. And do you see that there's a document being
09:59:29 8 shared on the screen now?

09:59:33 9 A. Yes.

09:59:33 10 Q. And this is an email about two pages long; right?

09:59:36 11 A. Yes.

09:59:37 12 MR. HERRERA: Okay. And for the record, I'll
09:59:39 13 represent that this is Bates-stamped YUMA-000533
09:59:50 14 through 534, numbered consecutively.

09:59:53 15 And I'd like to mark this as Exhibit 203.
09:59:53 16 (The document was marked as Exhibit 203
09:59:56 17 for identification.)

09:59:56 18 BY MR. HERRERA:

10:00:02 19 Q. And, Ms. Munoz, I see that you are one of the
10:00:07 20 recipients of this email as a CC. Do you see that?

10:00:12 21 A. Yes.

10:00:12 22 Q. Okay. And it's an email from July 5th. And I'm
10:00:17 23 going to go down to the contents of the email, July 5th,
10:00:21 24 2023.

10:00:21 25 Do you recognize this email at all?

10:00:23 1 A. Yes.

10:00:24 2 Q. Okay. And what is this email about?

10:00:28 3 A. It looks like it's in regards to any deadlines
10:00:31 4 that need to be submitted to the secretary of state.

10:00:35 5 Q. Okay. And it does mention here a Chapter 1 voter
10:00:44 6 registration that is in Part V of the draft EPM.

10:00:48 7 Do you recall reviewing Part V of the draft
10:00:54 8 EPM, including Chapter 1, Voter Registration?

10:00:59 9 A. I cannot recall.

10:01:03 10 Q. After this -- it says that there was a deadline on
10:01:10 11 July 11, 2023. Do you see that?

10:01:12 12 A. Yes.

10:01:13 13 Q. And the deadline says, "Deadlines to email edits
10:01:17 14 and comments on assigned chapters to Colleen Connor."

10:01:21 15 Do you see that?

10:01:21 16 A. Yes.

10:01:21 17 Q. Do you know what is meant by "assigned chapters"?

10:01:25 18 A. No, I do not.

10:01:26 19 Q. Did you submit any edits or comments to EPM Part V
10:01:36 20 of the working draft?

10:01:38 21 A. No.

10:01:42 22 Q. Here it says, "Attachments: EPM Part V Working
10:01:47 23 Draft."

10:01:47 24 Did you submit any comments to the Secretary
10:01:50 25 of State's Office or Colleen Connor on that version?

10:01:54 1 A. No.

10:02:03 2 MR. HERRERA: And when we take a break, I'll
10:02:05 3 share these -- these two documents for those who couldn't
10:02:08 4 get the Dropbox.

10:02:10 5 BY MR. HERRERA:

10:02:23 6 Q. Ms. -- Ms. Munoz, are you currently enforcing any
10:02:27 7 part of the law HB 2492?

10:02:31 8 A. No.

10:02:33 9 Q. Okay. And 2492, if you recall, is one of the two
10:02:40 10 bills; right?

10:02:42 11 A. Yes.

10:02:42 12 Q. Are you -- are you looking at something right now?

10:02:44 13 A. Yes. It's the HB -- the 2492 that you're
10:02:48 14 referencing.

10:02:48 15 Q. Okay. And which one -- for 2492, how are you
10:02:54 16 familiar with that law? Or did -- let me -- let me strike
10:02:58 17 that. That was a confusing question.

10:03:00 18 HB 2492, what is that law generally about in
10:03:05 19 your mind?

10:03:06 20 A. Voter registration.

10:03:07 21 Q. And by "voter registration," is it about
10:03:13 22 processing applications or something else?

10:03:17 23 A. No. It's in regards to the verification of
10:03:20 24 citizenship.

10:03:24 25 Q. And then there's another bill that's the subject

10:03:27 1 of this lawsuit, HB 2243. Are you familiar with that law?

10:03:33 2 A. Yes.

10:03:34 3 Q. Okay. And which -- what is that law about?

10:03:36 4 A. It's about the residency of voters.

10:03:40 5 Q. The -- okay.

10:03:43 6 Anything else?

10:03:47 7 A. And the cancellation of voters.

10:03:50 8 Q. Does your office use the Arizona Motor Vehicle

10:04:24 9 Division's database at all?

10:04:26 10 A. Yes.

10:04:27 11 Q. Okay. And how does your office use the Arizona

10:04:30 12 Motor Vehicles Division database?

10:04:33 13 A. We receive voter registration forms from them for

10:04:36 14 people that go and register as they're getting their

10:04:40 15 driver's license.

10:04:44 16 Q. Okay. Besides getting registration -- voter

10:04:53 17 registration forms from the MVD, do you use the MVD

10:04:56 18 database for any other -- and by "MVD," I mean Motor

10:05:00 19 Vehicles Division.

10:05:01 20 Do you use the MVD database for anything

10:05:03 21 else?

10:05:04 22 A. We run our HAVA checks through there.

10:05:07 23 Q. And when you run a HAVA check, can you tell me --

10:05:15 24 walk me through what that -- what that looks like when you

10:05:18 25 use -- do a HAVA check?

10:05:19 1 A. So when you run a HAVA check on somebody, it's
10:05:23 2 giving you a hard match or a soft match on that voter.

10:05:28 3 Q. And can you explain the difference between those
10:05:30 4 two?

10:05:31 5 A. A hard match would give you the -- the -- it would
10:05:35 6 match it up with their social, date of birth, driver's
10:05:38 7 license, name. The soft match may be a name; it may be a
10:05:43 8 date of birth.

10:05:46 9 Q. Is there -- so on a soft match, is there kind of a
10:05:51 10 minimum number of fields or pieces of information that it
10:05:56 11 would match?

10:05:57 12 A. Yes.

10:05:58 13 Q. Okay. And do you know what that minimum is?

10:06:01 14 A. Just maybe their name.

10:06:04 15 Q. Okay. So it can be as little as matching a name
10:06:09 16 match for a soft match in a HAVA check?

10:06:12 17 A. Yes.

10:06:12 18 Q. Okay. What happens when -- when you're doing a
10:06:18 19 HAVA check as -- there's only a soft match?

10:06:23 20 A. So we'll -- we will not match it up with the
10:06:26 21 person that comes up on there. And we would create a new
10:06:29 22 record for that voter since it is not a hard match.

10:06:32 23 Q. And by "create a new record," what do you mean?

10:06:38 24 A. They get their own voter registration ID number.

10:06:44 25 Q. So what is -- what is the purpose of a HAVA check?

10:06:56 1 A. It is to verify citizenship and to verify that
10:07:00 2 they are a person.

10:07:02 3 Q. Okay. And is it -- when you say "verify that it
10:07:05 4 is a person," just to -- what does that mean?

10:07:08 5 A. That they do have a social; they do have a date of
10:07:12 6 birth; and driver's license.

10:07:15 7 Q. What happens if they don't come up in the MVD
10:07:21 8 database when you do a HAVA check?

10:07:24 9 A. It they do not come up --

10:07:26 10 Q. Yes.

10:07:26 11 A. -- in the database? We continue to register that
10:07:31 12 person.

10:07:33 13 Q. Now, when you're looking at a HAVA check, what
10:07:37 14 is -- what is the citizenship information that you receive
10:07:40 15 through that HAVA check?

10:07:42 16 A. The verification that they are a U.S. citizen.

10:07:46 17 Q. And what is that -- how is that -- how is
10:07:52 18 citizenship -- U.S. citizenship verified to you through the
10:07:55 19 HAVA check?

10:07:56 20 A. I believe they have to take their birth
10:08:01 21 certificate or passport or naturalization form to the
10:08:06 22 Department of Motor Vehicles, and they verify it there.

10:08:09 23 Q. Right.

10:08:10 24 What I mean is, on your end, what is the
10:08:12 25 information you get from the HAVA check about citizenship?

10:08:17 1 A. The verification form. We can see the
10:08:21 2 verification that DMV has verified that they are a U.S.
10:08:26 3 citizen.

10:08:26 4 Q. And what is -- tell me what the -- I imagine this
10:08:31 5 is on a computer screen or -- right?

10:08:32 6 A. Yes.

10:08:33 7 Q. Okay. What does it look like when it says that
10:08:36 8 citizenship has been verified for someone in a HAVA check?

10:08:44 9 A. It just says "citizenship verified."

10:08:50 10 Q. Does it give you any other -- does the HAVA check
10:08:52 11 give you any other information about the person besides
10:08:55 12 the -- saying "citizenship verified"?

10:08:59 13 A. It gives you the name, social, date of birth,
10:09:03 14 driver's license number.

10:09:04 15 Q. Does the HAVA check tell you why someone -- if --
10:09:07 16 in the instance where someone's citizenship is not
10:09:11 17 verified, what does it say in the HAVA check?

10:09:14 18 A. I can't really recall off the top of my head what
10:09:23 19 it says.

10:09:25 20 Q. Does it -- have you had an instance where
10:09:28 21 citizenship was not verified through a HAVA check?

10:09:31 22 A. Yes.

10:09:32 23 Q. Okay. And how frequently does that happen?

10:09:36 24 A. Not very frequently.

10:09:38 25 Q. Okay. And when -- what do you do when there is --

10:09:42 1 when it says that citizenship is not verified in a HAVA
10:09:48 2 check?

10:09:48 3 A. We will continue to process the form. We will
10:09:54 4 notify also the voter that we cannot prove citizenship. We
10:09:58 5 will send them a letter.

10:10:01 6 Q. And when you send that person a letter, what does
10:10:15 7 it say -- what does it say for that person when citizenship
10:10:22 8 is not verified? Does it say "not verified" or what?

10:10:25 9 A. Citizenship could not be verified and for them to
10:10:29 10 please provide anything that's listed, like a birth
10:10:32 11 certificate, passport, or naturalization papers.

10:10:38 12 Q. Does the -- when citizenship is not verified, what
10:10:42 13 is the reason that -- does the HAVA check give any reason
10:10:46 14 for why citizenship was not verified?

10:10:50 15 A. They just couldn't verify citizenship.

10:10:53 16 Q. Does it -- does the HAVA check tell you whether,
10:10:57 17 for example, someone has a certain type of driver's license
10:11:00 18 and that is why they're not being verified as a U.S.
10:11:03 19 citizen?

10:11:05 20 A. Yes.

10:11:05 21 Q. Okay. And -- okay.

10:11:07 22 So what is -- what does it say about that
10:11:10 23 person's type of license when they -- when they are not
10:11:13 24 verified as a U.S. citizen in a HAVA check?

10:11:15 25 A. It's an F-type license.

10:11:18 1 Q. And what is an F-type license?

10:11:21 2 A. Foreign.

10:11:25 3 Q. Does the HAVA check tell you when the F-type
10:11:30 4 license was obtained from the MVD when you get a non- --
10:11:35 5 someone who's not verified as a U.S. citizen?

10:11:37 6 A. Yes.

10:11:37 7 Q. Okay. And so it has the actual date of when that
10:11:45 8 person got the driver's license?

10:11:46 9 A. Yes. When the date was issued. The issue date,
10:11:50 10 yes.

10:11:51 11 Q. Date issued.

10:11:53 12 Now, you say you send a notice to the -- in
10:12:17 13 that instance where they have an F-type license and the
10:12:19 14 citizenship is nonverified, you send a notice to that
10:12:23 15 person; right?

10:12:24 16 A. Yes.

10:12:24 17 Q. Okay. And what does the notice say?

10:12:29 18 A. To please verify -- to please bring in their
10:12:32 19 passport, birth certificate, or naturalization documents.

10:12:35 20 Q. And do you recall the last time you had to do that
10:12:47 21 was?

10:12:48 22 A. No, I cannot recall.

10:12:51 23 Q. Do you recall what typically has happened when
10:12:57 24 you've sent out a notice like that to someone about their
10:13:00 25 citizenship not being verified in a HAVA check?

10:13:03 1 A. Some will come in contact with us and bring in
10:13:08 2 those three documents mentioned.

10:13:10 3 Q. And so some people have brought in proof of
10:13:13 4 citizenship and -- even though they had an F-type license
10:13:18 5 in the HAVA check?

10:13:19 6 A. Yes.

10:13:23 7 Q. Do you know why -- how is it that someone with an
10:13:27 8 F-type license would -- would also be able to have
10:13:30 9 documentary proof of citizenship?

10:13:32 10 A. They had not taken it to the Department of Motor
10:13:35 11 Vehicles yet to take that flag off of their driver's
10:13:39 12 license.

10:13:39 13 Q. I see.

10:13:40 14 So someone could become naturalized as a U.S.
10:13:45 15 citizen sometime after they got that F-type license; is
10:13:49 16 that right?

10:13:49 17 A. Yes.

10:13:50 18 Q. About how many times a month do you or your office
10:14:14 19 encounter someone who, in a HAVA check, has an F-type
10:14:19 20 license?

10:14:25 21 A. Maybe twice a month.

10:14:30 22 Q. Twice a month. Okay.

10:14:31 23 And for the people who actually bring in
10:14:34 24 their documentary proof of citizenship, what type of proof
10:14:38 25 of citizenship do they usually end up showing you?

10:14:43 1 A. The passport, birth certificate, or
10:14:46 2 naturalization.

10:14:47 3 Q. And when you say "naturalization," is that a
10:14:50 4 naturalization certificate or something --

10:14:52 5 A. Yes.

10:14:53 6 Q. -- else?

10:14:54 7 A. Their naturalization certificate.

10:15:01 8 Q. Now, when you get that -- when someone shows
10:15:03 9 that -- that document to show their citizenship after
10:15:06 10 receiving a notice because of a HAVA check, does Yuma
10:15:10 11 County keep a record of that document?

10:15:14 12 A. We do.

10:15:15 13 Q. Okay. And you make a copy of it?

10:15:18 14 A. We just usually verify it. If they mail it in
10:15:23 15 a -- by the mail, then we'll keep it. But if they just
10:15:27 16 bring it into our office, we will verify it in person.

10:15:30 17 Q. When you say "verify it in person," do you -- do
10:15:32 18 you make a copy of it and keep it?

10:15:34 19 A. No.

10:15:35 20 Q. Okay. And for the people who send in the copies,
10:15:39 21 where does that -- what happens to that copy of that
10:15:42 22 person's document?

10:15:43 23 A. We have to keep it for two years.

10:15:47 24 Q. So if someone comes and shows a proof of
10:15:52 25 citizenship document in person and you don't make a copy of

10:15:55 1 it, then you don't have that on record for two years;
10:15:58 2 right?

10:15:59 3 A. Right.

10:16:19 4 MR. HERRERA: I think since we've been going
10:16:20 5 for a little over an hour, we're going to take, I think, a
10:16:24 6 five- or ten-minute break -- maybe ten-minute break -- and
10:16:28 7 come back. Is that okay with everybody?

10:16:31 8 MS. MUNOZ: Yes.

10:16:32 9 MR. HERRERA: Let's go off the record,
10:16:33 10 please.

10:16:34 11 THE VIDEOGRAPHER: We're off the record.
10:16:35 12 Time on the video monitor is 10:16 a.m. This ends Media 1.

10:28:26 13 (A recess ensued.)

10:28:27 14 THE VIDEOGRAPHER: We are on the record.

10:28:34 15 Time on the video monitor is 10:28 a.m. This begins

10:28:39 16 Media 2.

10:28:40 17 BY MR. HERRERA:

10:28:40 18 Q. Ms. Munoz, earlier you mentioned -- I think both
10:28:46 19 of you discussed birthplace.

10:28:48 20 And, Ms. Munoz, you said that Yuma doesn't
10:28:51 21 have plans to use birthplace information; right?

10:28:57 22 A. No. Not until we get guidance from secretary of
10:29:00 23 state.

10:29:00 24 Q. Okay. And in terms of looking at birthplace for
10:29:07 25 someone's -- when someone has registered to vote, is there

10:29:13 1 any database that you could go look at to -- to use
10:29:19 2 birthplace information in order to determine that person's
10:29:23 3 eligibility to vote?

10:29:26 4 A. No.

10:29:27 5 Q. No?

10:29:27 6 A. No.

10:29:28 7 Q. Is there any database that you know of that would
10:29:34 8 allow you to learn anything more about a person's
10:29:38 9 eligibility to vote based on their birthplace?

10:29:43 10 A. No.

10:29:44 11 Q. Do you -- are you familiar with the United States
10:29:56 12 Citizenship and Immigration Services' SAVE program?

10:30:01 13 A. Yes.

10:30:01 14 Q. Okay. And SAVE meaning Systematic Alien
10:30:08 15 Verification for Entitlements?

10:30:10 16 A. Yes.

10:30:10 17 Q. Okay. And what is -- as far as you know, what is
10:30:14 18 the SAVE system?

10:30:16 19 A. Where we can verify citizenship if a voter writes
10:30:22 20 down an A-number on their form.

10:30:28 21 Q. And why -- are there any other instances besides
10:30:31 22 when someone writes down an A-number that you could use
10:30:34 23 SAVE to verify someone's citizenship?

10:30:36 24 A. No.

10:30:37 25 Q. Why not?

10:30:39 1 A. I've only used it for A-numbers that I'm -- I used
10:30:45 2 it for.

10:30:46 3 Q. And an A-number, just for -- so that we're clear
10:30:50 4 on the record, an A-number is an alien number; so it's a
10:30:54 5 citizen -- I'm sorry -- an immigration number?

10:30:56 6 A. Yes.

10:30:57 7 Q. Okay. How often does someone write down an
10:31:03 8 A-number in his or her voter registration application?

10:31:08 9 MR. MORGAN: Foundation.

10:31:09 10 MS. MUNOZ: Not quite often.

10:31:11 11 BY MR. HERRERA:

10:31:13 12 Q. And about how many times a year does someone
10:31:17 13 submit a voter registration application and write down an
10:31:21 14 A-number?

10:31:23 15 A. What was that question again? I'm sorry.

10:31:25 16 Q. Sure.
10:31:25 17 About how many times a year does someone give
10:31:29 18 an A-number in their voter registration application?

10:31:34 19 MR. MORGAN: Foundation. Speculation.

10:31:37 20 MS. MUNOZ: I can't answer that.

10:31:39 21 BY MR. HERRERA:

10:31:46 22 Q. And when you're using SAVE to verify someone's
10:31:49 23 citizenship, what happens when you put in that person's
10:31:55 24 information generally? What do you get back?

10:31:59 25 A. That they are a U.S. citizen.

10:32:03 1 Q. Have you ever had an instance where -- well, how
10:32:10 2 long does it take to get that result from SAVE?

10:32:13 3 A. Maybe a few seconds to a minute.

10:32:19 4 Q. Has there ever been an instance where, when using
10:32:23 5 SAVE for verification of citizenship, that you have had to
10:32:26 6 wait for further verification?

10:32:28 7 A. No.

10:32:37 8 Q. Have -- in SAVE -- when using SAVE, to your
10:32:46 9 knowledge, has SAVE ever not been able to verify someone's
10:32:51 10 U.S. citizenship?

10:32:52 11 A. No.

10:32:54 12 Q. And so every time you use -- you have used SAVE,
10:32:59 13 it has given that that -- it has verified that that person
10:33:03 14 is a citizen?

10:33:03 15 A. Yes.

10:33:05 16 Q. Does your office currently use -- oh, in -- in
10:33:16 17 relation to when someone applies to register to vote, when
10:33:21 18 would you use SAVE?

10:33:24 19 A. When they write down a number -- an A-number on
10:33:30 20 their form.

10:33:31 21 Q. Okay. About how long after the voter registration
10:33:34 22 application would you actually use SAVE? A week? Two
10:33:36 23 weeks? A month?

10:33:38 24 A. Right when I'm registering them or updating their
10:33:41 25 information, yes.

10:33:41 1 Q. Okay. Now, for someone who has already been
10:33:45 2 registered to vote for some period of time, have you ever
10:33:50 3 used SAVE to -- to verify someone's citizenship?

10:33:57 4 A. No.

10:33:59 5 Q. Okay. Does Yuma County plan to -- well, we'll get
10:34:04 6 to that in a second.

10:34:06 7 I'm going to show you a document that was
10:34:26 8 marked in a previous deposition as Exhibit 19.

10:35:03 9 And do you see that on the screen there's a
10:35:04 10 document and it says "House Bill 2492" at the top?

10:35:07 11 A. Yes.

10:35:07 12 Q. And it's -- and here it says Petty Exhibit 19. So
10:35:11 13 this is Exhibit 19 in this case.

10:35:15 14 As you said earlier you reviewed House
10:35:21 15 Bill 2492; right?

10:35:21 16 A. Yes.

10:35:22 17 Q. And I'll show you that this is the -- a copy of
10:35:28 18 the -- of the entire bill. So I'll just scroll through it.
10:35:31 19 Sorry for the fire engine noises.

10:35:36 20 We're going to go to page 5 of the bill. All
10:36:44 21 right. So I'm going to go to the middle of the -- this
10:36:49 22 language.

10:36:49 23 So here, if we look up before this section
10:36:53 24 that I was looking at, do you see where it says,
10:36:59 25 "16-121.01, Requirements for proper registration"?

10:37:02 1 A. Yes.

10:37:02 2 Q. Okay. The whole title of that heading that --
10:37:06 3 that section is "Requirements for proper registration;
10:37:10 4 violations; classification." So I'm going to scroll down
10:37:18 5 here to page 5.

10:37:25 6 And do you see this Subsection E, capital E?

10:37:30 7 A. Yes.

10:37:30 8 Q. Okay. And do you see the section that begins with
10:37:35 9 "After complying with Subsection D of this subsection" --
10:37:39 10 or "this section"?

10:37:39 11 A. Yes.

10:37:41 12 Q. Now, I'm going to go to -- in the middle here, it
10:37:46 13 says, "If the county recorder or other officer in charge of
10:37:51 14 elections matches the applicant with information that the
10:37:55 15 applicant is not a United States citizen, the county
10:37:58 16 recorder or other officer in charge of elections shall
10:38:01 17 reject the application."

10:38:03 18 Do you see that?

10:38:04 19 A. Yes.

10:38:07 20 Q. What is -- what is information that the applicant
10:38:15 21 is not a United States citizen?

10:38:18 22 MR. LANGHOFER: Objection.

10:38:19 23 MR. HORLEY: Objection. Calls for a legal
10:38:26 24 conclusion.

10:38:26 25 MS. MUNOZ: Can you repeat your question?

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I'm sorry.

BY MR. HERRERA:

Q. Sure.

What is information that a voter registration applicant is not a United States citizen?

MR. HORLEY: Same objection.

MS. MUNOZ: If it does not come back as a citizen from our HAVA check or if they provide an A-number on their form from SAVE.

BY MR. HERRERA:

Q. So earlier we mentioned an instance where, in the HAVA check, someone's -- someone comes back with an F-type license; right?

A. Yes.

Q. And in that instance, you'll ask them to -- you'll send a notification; right?

A. Yes.

Q. Now, in your current operation, do you -- when you send a notice, do you say that their application was rejected?

A. No.

Q. Okay. So that's different than what this subsection says; right?

MR. HERRERA: I can zoom in there. Sorry.

THE WITNESS: Yeah. So it's saying if the

10:39:42 1 applicant is not a United States citizen. So if it matches
10:39:47 2 it saying they're not a U.S. citizen, they get "not
10:39:50 3 eligible."

10:39:53 4 BY MR. HERRERA:

10:39:53 5 Q. Okay. Do you -- do you send that person a notice
10:39:59 6 to ask for proof of citizenship first, or do you reject the
10:40:03 7 application?

10:40:03 8 A. We put them in "not eligible, citizenship not
10:40:08 9 verified," and we do reach out to them in a letter.

10:40:12 10 Q. Okay. And do you tell -- do you tell the person
10:40:18 11 who you send the notice to that their application was
10:40:20 12 rejected?

10:40:22 13 A. No, we do not tell them that. We tell them that
10:40:26 14 it was -- that they are not eligible to register to vote.

10:40:31 15 Q. Does -- does someone having an F-type license
10:40:49 16 necessarily tell you that that person is not a U.S.
10:40:53 17 citizen?

10:40:56 18 A. The F-type license?

10:40:57 19 Q. Right.

10:40:59 20 A. Yes. That's an indicator.

10:41:03 21 Q. Okay. An indicator, does that tell you for
10:41:05 22 certain that that person is not a U.S. citizen?

10:41:08 23 A. I would say not for certain.

10:41:11 24 Q. And is data in a government's database showing
10:41:15 25 noncitizenship -- non-U.S. citizenship 20 years ago

10:41:21 1 information that the person is not a United States citizen
10:41:24 2 today?

10:41:25 3 MR. LANGHOFER: Calls for a legal conclusion.

10:41:27 4 MS. MUNOZ: I can't answer that question.

10:41:29 5 BY MR. HERRERA:

10:41:29 6 Q. Okay. And why not?

10:41:31 7 A. I don't recall from 20 years ago. I don't know --
10:41:35 8 maybe I'm misunderstanding the question.

10:41:37 9 Q. Sure.

10:41:38 10 So if you have -- if you have someone -- if
10:41:40 11 it shows someone's driver's license that was issued
10:41:46 12 20 years ago but it shows an F-type license, does that mean
10:41:49 13 that that person's not a U.S. citizen today?

10:41:53 14 MR. LANGHOFER: Same objection.

10:41:53 15 MR. HORLEY: Same.

10:41:54 16 MS. MUNOZ: I couldn't say.

10:41:56 17 BY MR. HERRERA:

10:41:56 18 Q. Why not?

10:41:57 19 A. I -- I don't know.

10:42:01 20 Q. And in terms of -- and in that case, you -- what
10:42:11 21 would you -- you would ask for more information from that
10:42:14 22 applicant; right?

10:42:16 23 A. Yes. I know at a time they are grandfathered in.

10:42:25 24 Q. What are -- and when you say -- sorry.

10:42:29 25 When you say "grandfathered in," what do you

10:42:32 1 mean?

10:42:32 2 A. By -- in our statute book, if they did -- if they
10:42:36 3 were registered by -- I can't recall the exact date --
10:42:42 4 either 1997 or 2004 -- that they were -- they were
10:42:48 5 grandfathered in to be a full-ballot voter.

10:42:51 6 Q. I see.

10:42:52 7 So that's -- is that versus a federal-only
10:42:57 8 voter?

10:42:59 9 A. What was that? I'm sorry.

10:43:01 10 Q. When you -- when you say a -- when you say they're
10:43:04 11 "grandfathered in to be a full-ballot voter," what do you
10:43:07 12 mean by that?

10:43:08 13 A. That they're able to vote a full ballot.

10:43:11 14 Q. And what would a non-full-ballot be?

10:43:14 15 A. A fed voter -- federal voter.

10:43:17 16 Q. Okay. So only federal elections; right?

10:43:19 17 A. Yes.

10:43:20 18 Q. Now, when someone registers to vote -- well, let
10:43:29 19 me strike that.

10:43:30 20 What are valid sources of -- besides SAVE and
10:43:47 21 HAVA, what are valid sources of information that someone is
10:43:50 22 not a U.S. citizen?

10:43:52 23 MR. LANGHOFER: Calls for a legal conclusion.

10:43:56 24 MS. MUNOZ: I'm sorry. Can you repeat the
10:43:57 25 question?

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BY MR. HERRERA:

Q. Sure.

So besides SAVE and HAVA checks, which we've discussed already, what are valid sources of information that someone is not a United States citizen?

MR. LANGHOFER: Same objection.

MS. MUNOZ: That would be those two only.

BY MR. HERRERA:

Q. Beyond HAVA and SAVE, is there any -- would -- would a phone call from another voter about the applicant be information that that person is not a U.S. citizen?

MR. LANGHOFER: Same objection.

MR. HORLEY: Same.

MS. MUNOZ: No.

BY MR. HERRERA:

Q. Why not?

MR. LANGHOFER: Same objection.

MS. MUNOZ: It can be an angry person calling in.

BY MR. HERRERA:

Q. And would -- would an email or a -- would an email from an outside organization writing to Yuma County, saying that an applicant is not a U.S. citizen -- would that be information that that person is not a U.S. citizen?

MR. LANGHOFER: Same objection.

10:45:21 1 MS. MUNOZ: No.

10:45:27 2 BY MR. HERRERA:

10:45:39 3 Q. Has the Secretary of State's Office -- again,
10:45:44 4 referring back to this text that I've highlighted about
10:45:48 5 information that the applicant is not a U.S. -- United
10:45:51 6 States citizen -- has the Secretary of State's Office ever
10:45:54 7 given your office a list of information that constitutes
10:45:58 8 evidence of a lack of citizenship?

10:46:01 9 A. Not that I recall.

10:46:03 10 Q. Now I'm going to go down to a different section of
10:46:26 11 the law here.

10:46:30 12 Do you see at the top of page -- or, rather,
10:46:59 13 at the top of the screen here, it says page 4 and then
10:47:02 14 Subsection D? Do you see that?

10:47:05 15 A. Yes.

10:47:06 16 Q. It says, "Within ten days after receiving an
10:47:09 17 application for registration on a form produced by the
10:47:12 18 United States Election Assistance Commission that is not
10:47:15 19 accompanied by satisfactory evidence of citizenship, the
10:47:19 20 county recorder or other officer in charge of elections
10:47:22 21 shall use all available resources to verify the citizenship
10:47:26 22 status of the applicant."

10:47:28 23 And do you see that?

10:47:29 24 A. Yes.

10:47:30 25 Q. And so I -- I didn't read the whole thing. But

10:47:34 1 then there's a list of things after that paragraph; right?

10:47:37 2 A. Yes.

10:47:39 3 Q. And do you see that Number 5 is -- it says, "Any
10:47:47 4 other state, city, town, county or federal database and any
10:47:52 5 other database relating to voter registration to which the
10:47:56 6 county recorder or officer in charge of elections has
10:47:59 7 access, including an Electronic Registration Information
10:48:04 8 Center database"?

10:48:06 9 Do you see that?

10:48:06 10 A. Yes.

10:48:08 11 Q. Okay. What are these other databases relating to
10:48:17 12 voter registration?

10:48:19 13 MR. HORLEY: Objection. Calls for a legal
10:48:21 14 conclusion.

10:48:21 15 MS. MUNOZ: None that I'm aware of.

10:48:23 16 BY MR. HERRERA:

10:48:24 17 Q. Okay. Now, if another state government agency --
10:48:36 18 are there any other state government agency databases that
10:48:41 19 you would look at for U.S. citizenship information?

10:48:45 20 A. None that I'm aware of.

10:48:48 21 Q. I'm going to go to a different part of the law
10:49:07 22 here. And we're on page 7 of the bill.

10:49:22 23 And do you see that under -- there's a
10:49:23 24 heading that says "16-143, Federal-only voters; attorney
10:49:29 25 general; investigation; report"?

10:49:34 1 A. Yes.

10:49:35 2 Q. Okay. Do you see that it says in section --
10:49:46 3 Subsection A, "The secretary of state and each county
10:49:50 4 recorder shall make available to the attorney general a
10:49:52 5 list of all individuals who are registered to vote and who
10:49:55 6 have not provided satisfactory evidence of citizenship
10:49:58 7 pursuant to Section 16-166 and shall provide, on or before
10:50:04 8 October 31st, 2022, the applications of individuals who are
10:50:09 9 registered to vote and who have not provided satisfactory
10:50:13 10 evidence of citizenship"?

10:50:17 11 Do you see that?

10:50:17 12 A. Yes.

10:50:17 13 Q. Did you provide this list before October 31st,
10:50:28 14 2022?

10:50:28 15 A. No.

10:50:30 16 Q. Okay. And, Ms. Johnston, since you were there
10:50:32 17 before, did you -- do you recall Yuma County providing this
10:50:36 18 list on or before October 31, 2022?

10:50:40 19 MS. JOHNSTON: No.

10:50:42 20 BY MR. HERRERA:

10:50:48 21 Q. Is Yuma County -- since that -- that date has
10:50:51 22 passed, October 31, 2022, is Yuma County planning to send
10:50:59 23 the attorney general a list of the voters as described in
10:51:02 24 this Subsection A of 16-143, Ms. Munoz?

10:51:07 25 A. We are waiting for guidance from the secretary of

10:51:07 1 state.

10:51:17 2 A. I'm going to show you another document, so please
10:51:20 3 bear with me for a second. So I'm going to share with you
10:52:00 4 another document on the screen here. And this is
10:52:03 5 Exhibit 21 from a prior deposition in this case.

10:52:11 6 And do you see at the top it says, "House
10:52:13 7 Bill 2243," Ms. Munoz?

10:52:14 8 A. Yes.

10:52:15 9 Q. And before, you said that you reviewed this
10:52:24 10 document; right?

10:52:25 11 A. Yes.

10:52:26 12 Q. So I'm going to show you, again, some provisions
10:52:33 13 from this bill like I did with the other bill.

10:52:36 14 Please take a moment to look at 16-165(A),
10:52:43 15 which I'm going to show you on the screen here.

10:52:55 16 And do you see at the top it says, "The
10:52:57 17 county recorder" -- first, let me say it's a section
10:53:03 18 amending Section 16-165, Causes for cancellation; report;
10:53:10 19 right?

10:53:10 20 A. Yes.

10:53:11 21 Q. Okay. And then it says, under Subsection A, "The
10:53:15 22 county recorder shall cancel a registration," and then
10:53:18 23 there's a number of -- a list of things after that; right?

10:53:24 24 A. Yes.

10:53:24 25 Q. Okay. And so after that Subsection A, "shall

10:53:33 1 cancel a registration," there is a list of ways or reasons
10:53:38 2 why voter registration should be canceled; right?

10:53:41 3 A. Yes.

10:53:41 4 Q. Okay. So let's go down to Number 10. And so a
10:53:53 5 voter registration shall be canceled -- and you see
10:53:56 6 Number 10.

10:53:57 7 It says in Number 10, "when the county
10:53:59 8 recorder obtains information pursuant to this section and
10:54:02 9 confirms that the person registered is not a United States
10:54:05 10 citizen."

10:54:08 11 Do you see that?

10:54:08 12 A. Yes.

10:54:09 13 Q. Okay. Now, I'll -- please take a moment to
10:54:18 14 review -- read through Section 10 -- or Subsection 10. Can
10:54:21 15 you do that for me?

10:54:22 16 A. Yes.

10:54:23 17 Q. Okay. Have you had a chance to review it?

10:55:08 18 A. Almost done.

10:55:09 19 Q. Sorry.

10:55:24 20 A. Okay.

10:55:24 21 Q. Okay. So under this provision that you just
10:55:28 22 reviewed, (A) (10) of 16-165, how does one, quote, "obtain
10:55:40 23 information," close quote, that a person registered is not
10:55:44 24 a United States citizen?

10:55:49 25 MR. LANGHOFER: Calls for a legal conclusion.

10:55:50 1 MS. MUNOZ: According to this, it says the
10:55:52 2 jury commissioner.
10:55:53 3 BY MR. HERRERA:
10:55:54 4 Q. Okay. Jury commissioner.
10:55:57 5 But do you see it says "including when"?
10:56:08 6 Right?
10:56:08 7 A. Yes.
10:56:08 8 Q. Okay. So are there any other -- as far as you
10:56:11 9 know, other ways to obtain information that a person
10:56:16 10 registered is not a United States citizen?
10:56:18 11 MR. LANGHOFER: Same objection.
10:56:20 12 MS. MUNOZ: None that I'm aware of.
10:56:20 13 BY MR. HERRERA:
10:56:23 14 Q. Okay. Now I'm going to go down to another -- so
10:56:29 15 still within -- we're still looking within this section,
10:56:33 16 which is Section 16-165. So I'm going to go to the next
10:56:37 17 page and go after Number 10 here.
10:56:40 18 And then there are -- do you see there are a
10:56:41 19 number of letters that are still under this section?
10:56:44 20 A. Yes.
10:56:45 21 Q. So I'm going to scroll down to page 5 of the bill.
10:56:50 22 And at the bottom of page 5 of the bill,
10:56:53 23 still within 16-165, do you see that it says, under
10:57:01 24 Subsection F, "Each month the secretary of state shall
10:57:04 25 compare the statewide voter registration database to the

10:57:07 1 driver license database maintained by the Department of
10:57:12 2 Transportation"?

10:57:12 3 A. Yes.

10:57:15 4 Q. And then it says, "The secretary of state shall
10:57:17 5 notify the appropriate county recorder if a person who is
10:57:21 6 registered to vote in that county has changed the person's
10:57:25 7 residence address or is not a U.S. citizen."

10:57:27 8 Do you see that?

10:57:29 9 A. Yes.

10:57:32 10 Q. Does Yuma County look at a comparison -- any data
10:57:36 11 from a comparison of the MVD database to the voter
10:57:42 12 registration database?

10:57:46 13 A. I am not sure.

10:57:50 14 Q. You're not sure -- you're not sure if you get data
10:57:53 15 like that?

10:57:55 16 A. Yes.

10:57:55 17 Q. Okay. Now I'm going to go down to Section H.

10:58:35 18 Do you see that it says, "To the extent
10:58:37 19 practicable, each month the county recorder shall compare
10:58:39 20 persons who are registered to vote in that county and who
10:58:42 21 the county recorder has reason to believe are not United
10:58:46 22 States citizens and persons who are registered to vote
10:58:48 23 without satisfactory evidence of citizenship as prescribed
10:58:52 24 by Section 16-166 with the Systematic Alien Verification
10:58:59 25 for Entitlements program maintained by the United States

10:59:02 1 Citizenship and Immigration Services to verify the
10:59:05 2 citizenship status"?

10:59:09 3 Do you see that?

10:59:09 4 A. Yes.

10:59:10 5 Q. Okay. Does Yuma County currently, on a monthly
10:59:13 6 basis, run persons who are registered -- who are already
10:59:19 7 registered to vote through SAVE?

10:59:24 8 A. Do we run them through SAVE of people who are
10:59:27 9 registered to vote?

10:59:28 10 Q. Right. As this section says. And you can take a
10:59:30 11 second to read it again.

10:59:50 12 MR. HORLEY: I'm going to the object to the
10:59:52 13 extent it calls for a legal conclusion.

11:00:15 14 MS. MUNOZ: Okay. I reread it.

11:00:17 15 BY MR. HERRERA:

11:00:17 16 Q. Okay. So does Yuma County, on an -- every month
11:00:22 17 use SAVE in this way as described in Subsection H?

11:00:29 18 A. No.

11:00:30 19 MR. HORLEY: Objection to the extent it calls
11:00:30 20 for a legal conclusion.

11:00:33 21 BY MR. HERRERA:

11:00:33 22 Q. So Yuma County does not, on a monthly basis, run
11:00:39 23 people who it has reason to believe are not United States
11:00:42 24 citizens through SAVE?

11:00:44 25 A. No.

11:00:45 1 Q. Okay. Now, do you see this language that says --
11:00:50 2 I'm going to highlight it for you -- "who the county
11:00:54 3 recorder has reason to believe are not United States
11:00:56 4 citizens"?

11:00:58 5 Do you see that?

11:00:58 6 A. Yes.

11:00:58 7 Q. What would give your office a reason to believe a
11:01:11 8 person is not a United States citizen?

11:01:15 9 MR. LANGHOFER: Calls for a legal conclusion.

11:01:18 10 MS. MUNOZ: I would have to seek counsel on
11:01:18 11 that one.

11:01:20 12 BY MR. HERRERA:

11:01:21 13 Q. Okay. Has the Secretary of State's Office
11:01:23 14 provided you any information on how to interpret this part
11:01:27 15 of the law?

11:01:32 16 A. No.

11:01:33 17 Q. Would -- when you say that you would either --
11:01:41 18 seek counsel, what do you mean by that?

11:01:48 19 A. I don't understand the question. I don't -- I
11:02:06 20 don't think I'm understanding the -- that area right there.

11:02:09 21 Q. The "reason to believe" language, you don't
11:02:12 22 understand that?

11:02:12 23 (Reporter clarification.)

11:02:21 24 THE WITNESS: Yes, that's the area.

11:02:21 25 ///

11:02:22 1 BY MR. HERRERA:

11:02:22 2 Q. Okay. Now, why is it that you're having trouble

11:02:26 3 understanding what "reason to believe are not United States

11:02:29 4 citizens" is?

11:02:33 5 A. I understand what a United States citizen -- that

11:02:36 6 are not United States citizen. I just don't get "who the

11:02:39 7 county recorder has reason to believe are not United States

11:02:45 8 citizens."

11:02:47 9 Q. And do you know if anyone else in the Yuma County

11:02:53 10 Recorder's Office understands this language?

11:02:54 11 A. Mrs. Sarah Johnston might.

11:02:57 12 Q. Okay. Ms. Johnston, do you understand this

11:03:00 13 language?

11:03:00 14 MS. JOHNSTON: Yes.

11:03:01 15 BY MR. HERRERA:

11:03:01 16 Q. And what does this mean to you?

11:03:03 17 MR. LANGHOFER: Calls for a legal conclusion.

11:03:04 18 MS. JOHNSTON: Because this is the new

11:03:10 19 language that is being adopted, I would assume that it is

11:03:13 20 in regards to the jury list.

11:03:18 21 BY MR. HERRERA:

11:03:20 22 Q. I see.

11:03:21 23 So you think it's from the jury list. That's

11:03:22 24 where you would get the reason to believe?

11:03:24 25 MS. JOHNSTON: Correct. If a voter is

11:03:26 1 registered to vote and is an active registered voter, that
11:03:30 2 means they have met the minimum qualifications to be a
11:03:34 3 registered voter.
11:03:38 4 So therefore, we would not take hearsay
11:03:43 5 information that somebody's not a citizen. It would need
11:03:47 6 to be the jury list that the voter is marking that they are
11:03:51 7 not a citizen.

11:03:53 8 BY MR. HERRERA:

11:03:54 9 Q. When you say "hearsay," what do you mean by that?

11:03:56 10 MS. JOHNSTON: The county recorder will not
11:03:58 11 take a phone call from somebody and that person implying
11:04:04 12 that another person is not registered to vote.

11:04:08 13 BY MR. HERRERA:

11:04:08 14 Q. Okay. And where do you -- where do you get that
11:04:12 15 interpretation from?

11:04:13 16 MS. JOHNSTON: Well, if a voter has been
11:04:15 17 properly registered to vote, citizenship has already been
11:04:19 18 verified. Therefore, there would be no reason to revisit
11:04:26 19 that information unless it's coming from an official
11:04:31 20 document, such as the jury list.

11:04:33 21 BY MR. HERRERA:

11:04:36 22 Q. And do you think that additional guidance may be
11:04:43 23 needed on this "reason to believe" language?

11:04:47 24 MS. JOHNSTON: Yes.

11:04:48 25 MR. LANGHOFER: Calls for legal conclusion.

11:04:49 1 BY MR. HERRERA:

11:04:49 2 Q. And why is that?

11:04:51 3 MS. JOHNSTON: I would --

11:04:51 4 MR. LANGHOFER: Same objection.

11:04:53 5 MS. JOHNSTON: I would want clarification on
11:04:57 6 what reasons deem additional investigation on that person's
11:05:05 7 citizenship.

11:05:06 8 BY MR. HERRERA:

11:05:10 9 Q. Would you say that a Yuma County recorder voter
11:05:16 10 services specialist would be able to understand this
11:05:18 11 language from reading it: "reason to believe"?

11:05:21 12 MR. LANGHOFER: Form.

11:05:22 13 MR. MORGAN: Foundation. Speculation.

11:05:26 14 MS. JOHNSTON: I -- I guess that would be up
11:05:29 15 to how they -- no. No, I don't.

11:05:35 16 BY MR. HERRERA:

11:05:36 17 Q. Okay. And from the language, the way that the law
11:05:41 18 is written here, do you think that it's clear for a county
11:05:54 19 recorder employee to understand what is meant by "county
11:05:59 20 recorder has reason to believe are not United States
11:05:59 21 citizens"?

11:06:03 22 MR. LANGHOFER: Calls for --

11:06:03 23 MR. MORGAN: Speculation.

11:06:08 24 MS. JOHNSTON: No.

11:06:10 25 ///

11:06:10 1 BY MR. HERRERA:

11:06:13 2 Q. So I want to go back to some other language in
11:06:15 3 this bill, Ms. Munoz, and go back to Section (A)(10) -- or
11:06:29 4 Subsection (A)(10).

11:06:31 5 And if we go further, you -- you've read this
11:06:39 6 section before. But I want to focus on this first sentence
11:07:02 7 again: "When the county recorder obtains information
11:07:04 8 pursuant to this section and confirms that the person
11:07:07 9 registered is not a United States citizen."

11:07:14 10 What -- how would the Yuma County Recorder's
11:07:21 11 Office confirm that a person registered is not a United
11:07:22 12 States citizen under this section?

11:07:25 13 MR. LANGHOFER: Calls for a legal conclusion.

11:07:35 14 MS. MUNOZ: I don't see how we can confirm
11:07:41 15 that the person registered is not a United States citizen
11:07:44 16 unless we run it through the SAVE program or HAVA with --
11:07:49 17 if they provide that information needed.

11:07:51 18 BY MR. HERRERA:

11:07:52 19 Q. And for SAVE, you would need that person's -- you
11:07:57 20 would need an A-number or something like that; right?

11:07:59 21 A. Yes.

11:07:59 22 Q. Okay. Does -- when someone applies -- registers
11:08:06 23 to vote and they use an A-number, does -- and let's say
11:08:13 24 that person who had an A-number, you confirmed their
11:08:16 25 citizenship through some document. Does Yuma County save

11:08:21 1 that A-number later -- for later?

11:08:26 2 A. It's put in their record when we register them.

11:08:31 3 Q. And when you say "their record" when you register
11:08:34 4 them, is that in a database that Yuma County keeps, or is
11:08:38 5 that something that's in the state database?

11:08:40 6 A. It's in the state database.

11:08:42 7 Q. So could you go -- for someone who used an
11:08:44 8 A-number to register, could you go look up their A-number
11:08:47 9 again later on?

11:08:50 10 A. No. I would see no need for that.

11:08:54 11 Q. Would you be able to if you wanted to?

11:08:57 12 A. If I needed to, yes.

11:08:59 13 Q. Okay. Now focusing again on this
11:09:14 14 "confirms" language, I'm going to go down to some of these
11:09:21 15 other subsections we were looking at. So we looked at the
11:09:24 16 MVD.

11:09:25 17 Can the Arizona MVD driver license and
11:09:28 18 nonoperating ID database be used to confirm that a
11:09:31 19 registered voter is not a U.S. citizen?

11:09:35 20 MR. HORLEY: Same objection.

11:09:43 21 MS. MUNOZ: Can you -- can you repeat what
11:09:56 22 the question was? I'm sorry.

11:09:57 23 BY MR. HERRERA:

11:09:58 24 Q. Sure.

11:09:58 25 So we have this information above that -- or

11:10:01 1 this -- this language that says "when the county recorder
11:10:04 2 obtains information and confirms." Do you see that "and
11:10:09 3 confirms"?

11:10:10 4 A. Yes.

11:10:10 5 Q. Okay. So focus -- thinking about that, when we go
11:10:14 6 down to Section F -- or just generally, can the Arizona MVD
11:10:20 7 driver license database be used to confirm that a
11:10:24 8 registered voter is not a U.S. citizen?

11:10:27 9 MR. HORLEY: Calls for legal conclusion.

11:10:29 10 MS. MUNOZ: Yes.

11:10:30 11 BY MR. HERRERA:

11:10:32 12 Q. And how -- how do you do that? How do you use the
11:10:43 13 MVD database to confirm that someone is not a U.S. citizen?

11:10:46 14 A. The HAVA checks.

11:10:48 15 Q. And the -- but the HAVA checks show you if someone
11:10:52 16 has an F-type license; right?

11:10:54 17 A. Yes.

11:10:55 18 Q. Has your office received any guidance from the
11:11:00 19 Secretary of State's Office on how the county recorder's
11:11:06 20 office would confirm that a person registered is not a
11:11:08 21 United States citizen?

11:11:15 22 A. Not that I'm aware of.

11:11:20 23 Q. Would your office -- in order to implement House
11:11:25 24 Bill 2243, would your office need guidance on this section
11:11:29 25 of 16-165(A)(10) regarding -- regarding --

11:11:29 1 MR. HORLEY: Objection. Calls for a legal
11:11:29 2 conclusion.
11:11:41 3 THE COURT REPORTER: "Regarding" what? There
11:11:41 4 was an overlap.
11:11:41 5 BY MR. HERRERA:
11:11:46 6 Q. Regarding "confirms" -- the "confirms" language.
11:11:46 7 A. Yes.
11:11:50 8 Q. I can ask the whole question again.
11:11:52 9 So would your office prefer guidance on how
11:11:59 10 to implement 16-165(A)(10) with regard to this "confirms"
11:12:06 11 language?
11:12:08 12 A. Yes. We would need guidance from the secretary of
11:12:10 13 state on that.
11:12:12 14 Q. And why -- and why is that?
11:12:16 15 MR. HORLEY: Same objection.
11:12:19 16 MS. MUNOZ: We get the guidance from them.
11:12:19 17 (Reporter clarification.)
11:12:19 18 MR. HERRERA: Ms. Munoz, if you can give --
11:12:40 19 sorry -- just a little beat for the other attorneys to
11:12:41 20 object. Sorry about that.
11:12:41 21 BY MR. HERRERA:
11:12:57 22 Q. Now I want to go back to -- well, let's see here.
11:13:05 23 Looking again at this Section (A)(10) of
11:13:10 24 16-165, it says at the end here, "If the person registered
11:13:17 25 does not provide satisfactory evidence within thirty five

11:13:23 1 days, the county recorder shall cancel the registration and
11:13:25 2 notify the county attorney and attorney general for
11:13:28 3 possible investigation."

11:13:32 4 Do you see that?

11:13:32 5 A. Yes, I see that.

11:13:33 6 Q. And what do you -- what do you think this means:
11:13:41 7 "notify the county attorney and attorney general for
11:13:44 8 possible investigation"?

11:13:46 9 MR. HORLEY: Calls for a legal conclusion.

11:13:50 10 MS. MUNOZ: What do I think that -- what you
11:13:53 11 have highlighted means?

11:13:54 12 BY MR. HERRERA:

11:13:54 13 Q. Right.

11:13:56 14 A. It means that if we do not -- if there's -- that
11:14:11 15 if they cannot provide satisfactory proof of citizenship,
11:14:15 16 that they would have to forward it to the county attorney
11:14:19 17 or attorney general.

11:14:21 18 Q. And why -- why would you -- what do you think the
11:14:25 19 county attorney or attorney general would do in this
11:14:27 20 instance?

11:14:29 21 MR. MORGAN: Calls for speculation.

11:14:30 22 MS. MUNOZ: I cannot say.

11:14:33 23 BY MR. HERRERA:

11:14:34 24 Q. Do you think that someone might be criminally
11:14:37 25 prosecuted if you send their information under this

11:14:40 1 subsection to the county attorney or attorney general?

11:14:43 2 MR. LANGHOFER: Same objection.

11:14:43 3 MR. MORGAN: Calls far speculation.

11:14:47 4 MS. MUNOZ: It's possible.

11:14:50 5 BY MR. HERRERA:

11:14:50 6 Q. Now, again, this Subsection (A)(10), it talks
11:14:55 7 about 35 days you send a notice; right? And then they have
11:15:00 8 35 days to respond; is that right?

11:15:03 9 A. That's what it reads.

11:15:04 10 Q. Now I want to ask this kind of -- well, you're
11:15:11 11 not -- are you implementing -- is Yuma County implementing
11:15:14 12 this part of the law yet?

11:15:16 13 A. We are not.

11:15:17 14 Q. Okay. Do you ever cancel voter registrations for
11:15:27 15 people who have already been registered?

11:15:31 16 A. No, we do not.

11:15:33 17 Q. So if you were to implement this
11:15:36 18 Section (A)(10) -- if Yuma County was -- was to implement
11:15:41 19 this section and someone was removed from the voter rolls,
11:15:48 20 what do you think that Yuma County would do if you get
11:15:52 21 information after the 35 days that someone actually is
11:15:57 22 eligible? So they send in something late, what would you
11:16:00 23 do?

11:16:02 24 MR. HORLEY: Calls for speculation.

11:16:05 25 MS. MUNOZ: I don't -- I don't think I can

11:16:06 1 answer that. We're -- we're not doing that. We're waiting
11:16:09 2 for guidance from the secretary of state on this.

11:16:11 3 BY MR. HERRERA:

11:16:14 4 Q. And if a registered voter is removed from the
11:16:17 5 voter list or voter registration rolls under this section
11:16:21 6 based on an erroneous determination that they are not a
11:16:25 7 United States citizen, can that voter be added back to the
11:16:29 8 rolls if their voter registration deadline has already
11:16:32 9 passed?

11:16:34 10 MR. LANGHOFER: Calls for a legal conclusion.

11:16:40 11 MS. MUNOZ: I don't think I'm quite
11:16:41 12 understanding the question.

11:16:43 13 BY MR. HERRERA:

11:16:45 14 Q. So -- that's fine.

11:16:47 15 So you're not -- that's fine. We'll move on.

11:16:54 16 Have you received any information from the
11:17:03 17 Secretary of State's Office -- so putting aside HAVA
11:17:08 18 checks, have you ever received any information from the
11:17:12 19 Secretary of State's Office describing that someone might
11:17:15 20 not be a U.S. citizen based on use of MVD data?

11:17:23 21 A. Not that I'm aware of.

11:17:26 22 Q. Now I'm going to go to another subsection here of
11:17:33 23 this law -- of this bill. We're going to go down to G.

11:17:37 24 And do you see G here says, "To the extent
11:17:40 25 practicable, each month the county recorder shall compare

11:17:44 1 the county's voter registration database to the Social
11:17:50 2 Security Administration database"?

11:17:52 3 Do you see that?

11:17:52 4 A. I do see that.

11:17:53 5 Q. Does the Yuma County Recorder's Office ever use
11:17:58 6 the Social Security Administration database for voter
11:18:01 7 registration purposes?

11:18:05 8 A. No.

11:18:06 9 Q. Okay. Do you know if you would be able to get
11:18:14 10 citizenship information from the Social Security
11:18:18 11 Administration database?

11:18:21 12 A. No.

11:18:22 13 Q. Does the Yuma County Recorder's Office have access
11:18:26 14 to the Social Security Administration database?

11:18:29 15 A. No.

11:18:30 16 Q. Now -- sorry to jump back to a different topic.
11:18:36 17 We were talking about SAVE.

11:18:40 18 And do you recall the provision that says
11:18:43 19 that -- here, H, that says that "each month the county
11:18:48 20 recorder shall compare persons," and then it says with SAVE
11:18:54 21 here? Do you see that?

11:18:56 22 A. Yes, I do.

11:18:57 23 Q. Is it practicable for the Yuma County Recorder's
11:19:04 24 Office to run a list of people through SAVE every month?

11:19:08 25 MR. HORLEY: Calls for a legal conclusion.

11:19:09 1 MR. LANGHOFER: Calls for a legal conclusion.

11:19:12 2 MS. MUNOZ: No.

11:19:13 3 BY MR. HERRERA:

11:19:16 4 Q. Why not?

11:19:19 5 MR. LANGHOFER: Same objection.

11:19:19 6 MS. MUNOZ: I don't think I can answer that

11:19:25 7 question. I don't know if Mrs. Johnston is able to or not.

11:19:28 8 BY MR. HERRERA:

11:19:30 9 Q. Ms. Johnston, do you have an answer there?

11:19:32 10 MS. JOHNSTON: Sure. I think it's important

11:19:33 11 to note that in order to be a registered voter, once again,

11:19:37 12 you have to have met the minimum qualifications, which is

11:19:40 13 being a U.S. citizen.

11:19:42 14 If we cannot obtain citizenship on behalf of

11:19:46 15 the voter, the voter -- and also obtain that the voter is

11:19:51 16 not a citizen, they become a federal-only voter.

11:19:55 17 I believe what this language is saying is

11:19:57 18 that they would want or -- or whoever is implementing this

11:20:00 19 law would want the county recorder office to run the list

11:20:04 20 of federal-only voters through the SAVE program. Those

11:20:09 21 voters cannot be ran through the SAVE program without the

11:20:12 22 minimum information in order to run it.

11:20:14 23 So if we don't have a naturalization number

11:20:16 24 or an alien number, that information cannot be ran through

11:20:20 25 SAVE. You have to have one of those two.

11:20:26 1 BY MR. HERRERA:

11:20:26 2 Q. And so what does that mean for the ability of Yuma
11:20:29 3 County to be able to comply with this Subsection H, running
11:20:33 4 people through SAVE every month?

11:20:35 5 MS. JOHNSTON: I don't think Yuma County has
11:20:36 6 the --

11:20:38 7 MR. HORLEY: Same objection.

11:20:41 8 MS. JOHNSTON: -- staff and the resources to
11:20:45 9 run hundreds of federal-only voters through the SAVE
11:20:50 10 program. The staff would have to individually open up each
11:20:54 11 one of those records to see if a voter once provided a
11:20:59 12 A-number or a naturalization number.

11:20:59 13 BY MR. HERRERA:

11:21:03 14 Q. And now for -- and within that scenario where
11:21:06 15 you're doing this or where Yuma County is doing this, is
11:21:10 16 there any part of this law, from your understanding, that
11:21:13 17 would prevent you from -- "you" meaning the office -- from
11:21:20 18 running the same person? Say, they're a federal-only --
11:21:25 19 say, in -- say, in August they're a federal-only voter and
11:21:28 20 then next month, in September, they're also a federal-only
11:21:32 21 voter. Would -- would this law mean that you have to do it
11:21:33 22 again?

11:21:34 23 MR. LANGHOFER: Same objection.

11:21:37 24 MS. JOHNSTON: That's how I read it, yes.

11:21:39 25 ///

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BY MR. HERRERA:

Q. Okay. So there's no limitation of how many times you run a person on a monthly basis through SAVE; right?

MS. JOHNSTON: It's all -- it sounds like we shall compare the persons once a month. So that's a must.

BY MR. HERRERA:

Q. Now, this -- Ms. Johnston, are you familiar with a person ever losing their U.S. citizenship?

MS. JOHNSTON: No.

BY MR. HERRERA:

Q. Okay. Do you know what renunciation of U.S. citizenship is?

MS. JOHNSTON: Yes.

BY MR. HERRERA:

Q. Have you ever run into a case of someone renouncing their U.S. citizenship?

MS. JOHNSTON: Never.

BY MR. HERRERA:

Q. Okay. Have you ever heard of someone's citizenship being stripped or removed?

MS. JOHNSTON: No.

BY MR. HERRERA:

Q. Okay. And have you ever run into an instance of that in Yuma County?

MS. JOHNSTON: No.

11:22:35 1 BY MR. HERRERA:

11:22:36 2 Q. And I should have asked this earlier. And maybe
11:22:39 3 I -- I don't know if Ms. Munoz would know this better or
11:22:41 4 Ms. Johnston.

11:22:43 5 How many federal-only voters does Yuma County
11:22:46 6 have approximately?

11:22:50 7 A. Approximately about 905.

11:23:04 8 Q. I'm going to go to another section here. And it
11:23:08 9 says -- it's Subsection I of -- we're still in HB 2243.
11:23:12 10 Subsection I of this amended version of 16-165, I'm going
11:23:19 11 to highlight it there.

11:23:24 12 And it says, "For persons who are registered
11:23:25 13 to vote without satisfactory evidence of citizenship, the
11:23:31 14 county recorder shall compare the Electronic Verification
11:23:35 15 of Vital Events system maintained by a national -- by a
11:23:39 16 National Association for Public Health Statistics and
11:23:44 17 Information Systems, if accessible, with the information on
11:23:46 18 the person's voter registration file."

11:23:48 19 Ms. Munoz, have you ever heard of the
11:23:57 20 NAPHSIS?

11:23:57 21 A. No.

11:23:58 22 Q. Do you have any familiarity with the NAPHSIS's
11:24:04 23 Electronic Verification of Vital Events?

11:24:07 24 A. No, I do not.

11:24:10 25 Q. Do you have any knowledge of the U.S. citizenship

11:24:14 1 status data that is available in the NAPHSIS EVVE database?

11:24:19 2 A. No.

11:24:21 3 Q. Do you currently use NAPHSIS EVVE database for
11:24:27 4 U.S. citizenship verification?

11:24:29 5 A. No.

11:24:30 6 Q. Do you know if Yuma County Recorder's Office has
11:24:35 7 any plans to use the EVVE database?

11:24:38 8 A. I do not.

11:24:44 9 Q. And then here it says section -- Subsection J, "To
11:24:48 10 the extent practicable, the county recorder shall review
11:24:51 11 relevant city, town, county, state, and federal databases
11:24:54 12 to which the county recorder has access to confirm
11:24:57 13 information obtained that requires cancellation of
11:25:00 14 registrations pursuant to this section."

11:25:03 15 Do you -- what other relevant city, town,
11:25:07 16 county, state, or federal databases does your office have
11:25:10 17 access to for the purposes of verifying citizenship?

11:25:16 18 MR. HORLEY: Calls for a legal conclusion.

11:25:18 19 MS. MUNOZ: None that I'm aware of besides
11:25:20 20 the HAVA and SAVE.

11:25:23 21 BY MR. HERRERA:

11:25:25 22 Q. Are you familiar with what ERIC is?

11:25:29 23 A. I've heard of it, yes.

11:25:31 24 Q. Electronic Registration Information Center?

11:25:33 25 A. Yes.

11:25:34 1 Q. Okay. Have -- have you ever -- does Yuma County
11:25:39 2 currently use ERIC for citizenship verification?

11:25:43 3 A. For citizenship verification? Not that I'm aware
11:25:47 4 of.

11:25:49 5 Q. Are there any laws or statutes currently
11:26:04 6 prohibiting a person who is not eligible to vote from
11:26:09 7 registering to vote as far as you're aware?

11:26:13 8 MR. LANGHOFER: Calls for a legal conclusion.

11:26:14 9 MS. MUNOZ: What was the question again? I'm
11:26:16 10 sorry.

11:26:16 11 BY MR. HERRERA:

11:26:16 12 Q. Sure.

11:26:17 13 So are there laws or statutes in Arizona that
11:26:20 14 prohibit a person who is not eligible to vote from
11:26:22 15 registering to vote?

11:26:26 16 MR. HORLEY: Same objection.

11:26:28 17 MS. MUNOZ: I -- I don't know.

11:26:31 18 BY MR. HERRERA:

11:26:31 19 Q. So how about this? Under state law, someone who's
11:26:35 20 not eligible to vote can't register to vote; right?

11:26:38 21 MR. LANGHOFER: Calls for legal conclusion.

11:26:41 22 MS. MUNOZ: Felons cannot register to vote.

11:26:45 23 BY MR. HERRERA:

11:26:46 24 Q. Well, let me ask it differently.

11:26:49 25 So what is your -- I'll ask a different

11:26:51 1 question.

11:26:51 2 What does your office do to identify any
11:26:54 3 instances of voter fraud?

11:27:02 4 A. Can you -- can you repeat that again? I don't
11:27:04 5 think I'm understanding it.

11:27:05 6 Q. Sure.

11:27:06 7 Are you aware of what voter fraud is
11:27:11 8 generally?

11:27:13 9 A. Generally, yes.

11:27:14 10 Q. Okay. And what would that -- what would voter --
11:27:17 11 some examples of voter fraud be?

11:27:19 12 A. What I would think would be voter fraud is
11:27:25 13 somebody trying to vote twice, living in one state and
11:27:30 14 voting in another.

11:27:34 15 Q. And does your office try to identify instances of
11:27:42 16 someone who is committing voter fraud?

11:27:46 17 A. We do.

11:27:47 18 Q. Okay. And how do you do that?

11:27:50 19 A. We get -- I'm trying to think here.

11:28:01 20 Can you -- can you repeat the question again?

11:28:03 21 Q. Sure.

11:28:04 22 You identified some instances of voter fraud.
11:28:12 23 What -- how does your office go about finding those --
11:28:15 24 those instances of voter fraud?

11:28:19 25 A. I don't think I have had instances. Mrs. Johnston

11:28:24 1 might have.

11:28:28 2 Q. And, Ms. Johnston, can you -- can you elaborate?

11:28:31 3 How -- what are ways that Yuma County has

11:28:37 4 sought to identify voter fraud?

11:28:39 5 MS. JOHNSTON: Sure. I guess we can start

11:28:42 6 with the registration forms. Here in Yuma County, we

11:28:48 7 receive thousands of third-party registration forms done by

11:28:54 8 third-party registration groups that are either incomplete

11:29:02 9 or have, in the past, provided information of multiple

11:29:08 10 people. For instance, theoretically, somebody could

11:29:14 11 register using my name, Joann's date of birth, and a

11:29:20 12 recorder's driver's license. That would be an initial

11:29:23 13 voter fraud. Somebody is basically lying on their

11:29:28 14 registration form.

11:29:29 15 That has happened several times in the past.

11:29:34 16 We catch those -- that information when -- Yuma is a very

11:29:39 17 small town, and sometimes we are familiar with some of the

11:29:41 18 people that they are trying to use information on.

11:29:47 19 Also, through the HAVA checks, when it comes

11:29:54 20 down to voting, the system has mechanisms in place to show

11:29:59 21 if somebody is attempting to vote twice. So if somebody

11:30:04 22 submits an early ballot, that early ballot is accounted for

11:30:08 23 in the system.

11:30:09 24 And then if they try to vote in person,

11:30:12 25 either during early voting or on election day, we will

11:30:17 1 receive a flag. And that voter will likely vote
11:30:22 2 provisionally. But it's still an attempt to vote twice;
11:30:26 3 therefore, voter fraud, and then also the ERIC data.
11:30:33 4 BY MR. HERRERA:
11:30:36 5 Q. And do any of those ways of looking for instances
11:30:43 6 of voter fraud involve looking for persons who are not U.S.
11:30:47 7 citizens?
11:30:48 8 MS. JOHNSTON: No.
11:30:48 9 BY MR. HERRERA:
11:30:48 10 Q. No?
11:30:53 11 MS. JOHNSTON: No. Again, to be registered
11:30:54 12 to vote, we have already checked citizenship.
11:30:58 13 BY MR. HERRERA:
11:30:59 14 Q. Okay. Are you aware of any way that -- well, let
11:31:04 15 me strike that.
11:31:05 16 Can private citizens submit allegations about
11:31:16 17 potential voter fraud to your office?
11:31:18 18 MS. JOHNSTON: Have they?
11:31:20 19 BY MR. HERRERA:
11:31:20 20 Q. Yes.
11:31:22 21 MS. JOHNSTON: No.
11:31:22 22 BY MR. HERRERA:
11:31:23 23 Q. I asked, "Can they?" But have they?
11:31:25 24 MS. JOHNSTON: Have they? No. Can they?
11:31:28 25 Yes.

11:31:28 1 BY MR. HERRERA:

11:31:33 2 Q. In your experience, Ms. Johnston, or at -- strike
11:31:36 3 that.

11:31:37 4 Has the county recorder's office identified
11:31:42 5 voter fraud in the form of U.S. citizens who -- or non-U.S.
11:31:47 6 citizens who are registered to vote?

11:31:49 7 MS. JOHNSTON: No.

11:31:56 8 MR. HERRERA: I'm going to show another
11:31:58 9 document. And this is a document that was marked in a
11:32:19 10 prior exhibit [sic] as Exhibit 149 -- 149.

11:32:24 11 I'll just share it in the chat for everybody.

11:32:40 12 BY MR. HERRERA:

11:32:40 13 Q. And, Ms. Johnston, do you see this document here?

11:32:43 14 MS. JOHNSTON: Yes.

11:32:43 15 BY MR. HERRERA:

11:32:44 16 Q. Okay. And do you see that at the top it says
11:32:48 17 "Exhibit 149, HB 2617 - Voter registration; cancellations;
11:32:53 18 causes"?

11:32:53 19 MS. JOHNSTON: Yes.

11:32:53 20 BY MR. HERRERA:

11:32:54 21 Q. And do you see that it says, "Last action, May 27,
11:32:58 22 2022"?

11:32:58 23 MS. JOHNSTON: Yes.

11:32:58 24 BY MR. HERRERA:

11:32:59 25 Q. And it says, "Governor vetoed"?

11:33:02 1 MS. JOHNSTON: Yes.

11:33:03 2 BY MR. HERRERA:

11:33:03 3 Q. Then under "Short Note:" it says, "Short Note:
11:33:09 4 Cancel voter reg if 'non citizen' is checked on voter form
11:33:14 5 or have D" -- I don't know if that's "DL" or DI -- "from
11:33:19 6 another state." Do you see that?

11:33:20 7 MS. JOHNSTON: Yes.

11:33:21 8 BY MR. HERRERA:

11:33:21 9 Q. And do you see that there is a -- under "Analysis
11:33:25 10 and Comments Responses," in January 27th, 2022, there was a
11:33:32 11 comment from Robyn Stallworth-Pouquette from Yuma County?

11:33:36 12 MS. JOHNSTON: Yes.

11:33:37 13 BY MR. HERRERA:

11:33:37 14 Q. Are you familiar with any comments submitted by
11:33:41 15 Ms. Stallworth-Pouquette in January of 2022 regarding this
11:33:46 16 bill?

11:33:47 17 MS. JOHNSTON: Some comments but not all.

11:33:49 18 BY MR. HERRERA:

11:33:50 19 Q. Okay. And do you see this first comment here?

11:33:54 20 It says, "Analysis/Comments, Robyn Pouquette
11:33:57 21 of Yuma County." Is that Robyn Stallworth-Pouquette?

11:34:02 22 MS. JOHNSTON: Yes.

11:34:03 23 BY MR. HERRERA:

11:34:03 24 Q. And do you see that it says, "Suggested Position:
11:34:05 25 Oppose"?

11:34:07 1 MS. JOHNSTON: Yes.

11:34:08 2 BY MR. HERRERA:

11:34:08 3 Q. Do you recall the Yuma County Recorder's Office
11:34:10 4 opposing HB 2617?

11:34:14 5 MS. JOHNSTON: I don't recall.

11:34:15 6 BY MR. HERRERA:

11:34:15 7 Q. Okay. Do you see where it says "Oppose . . . This
11:34:21 8 is a significant impact on our offices and makes us
11:34:24 9 constant investigators unnecessarily"?

11:34:27 10 Do you see that?

11:34:28 11 MS. JOHNSTON: Yes.

11:34:28 12 BY MR. HERRERA:

11:34:29 13 Q. Did you have any role in preparing this comment?

11:34:32 14 MS. JOHNSTON: No.

11:34:34 15 BY MR. HERRERA:

11:34:36 16 Q. With regard to HB 2243, do you think that --
11:34:42 17 Ms. Johnston, do you think that HB 2243 makes the personnel
11:34:48 18 in the Yuma County office constant investigators
11:34:51 19 unnecessarily?

11:34:52 20 MS. JOHNSTON: Yes.

11:34:52 21 BY MR. HERRERA:

11:34:54 22 Q. And, Ms. Munoz, do you think that -- I'll ask you
11:34:58 23 the same question.

11:34:59 24 Ms. Munoz, do you think that HB 2243's
11:35:02 25 provisions that we were reading makes the Yuma County

11:35:07 1 Recorder's Office constant investigators unnecessarily?

11:35:10 2 A. Yes.

11:35:11 3 Q. Okay. And, Ms. Munoz, in the next sentence, in
11:35:15 4 the comment from Ms. Pouquette, last year -- and this is,
11:35:18 5 of course, about a different bill. But I will represent to
11:35:21 6 you that HB 2617 became a lot of the language of 2243.

11:35:28 7 It says, "We do not have the capability to
11:35:31 8 expand our checks beyond the system, which does several
11:35:34 9 things to ensure we have clean rolls and we consistently
11:35:37 10 review these records but we cannot manually go through
11:35:40 11 cities, et cetera."

11:35:44 12 Would you agree with that statement with
11:35:46 13 regard to 2243?

11:35:58 14 A. Yes.

11:36:14 15 Q. Ms. Johnston, are you aware -- was -- are you
11:36:18 16 aware of what the AAOC is?

11:36:20 17 MS. JOHNSTON: Yes.

11:36:21 18 BY MR. HERRERA:

11:36:21 19 Q. Okay. And what is that?

11:36:22 20 MS. JOHNSTON: AAOC, it's the Arizona
11:36:26 21 Association of Counties.

11:36:28 22 BY MR. HERRERA:

11:36:28 23 Q. Okay. And did you ever participate in any of the
11:36:33 24 meetings of AAOC?

11:36:35 25 MS. JOHNSTON: Limited -- limited amount of

11:36:37 1
11:36:38 2
11:36:39 3
11:36:43 4
11:36:48 5
11:36:48 6
11:36:49 7
11:36:52 8
11:36:53 9
11:36:56 10
11:36:56 11
11:36:59 12
11:37:00 13
11:37:01 14
11:37:09 15
11:37:11 16
11:37:12 17
11:37:12 18
11:37:16 19
11:37:22 20
11:37:22 21
11:37:25 22
11:37:26 23
11:37:28 24
11:37:34 25

meetings, yes.

BY MR. HERRERA:

Q. Did -- in your previous role, was Ms. Stallworth-Pouquette involved with the AAOC?

MS. JOHNSTON: Yes.

BY MR. HERRERA:

Q. And do you know what her involvement was with that organization?

MS. JOHNSTON: Not exactly.

BY MR. HERRERA:

Q. Okay. Do you know if she was the president ever?

MS. JOHNSTON: I believe so, yes.

BY MR. HERRERA:

Q. Okay. And so did you ever observe her participation as president of the AAOC?

MS. JOHNSTON: Yes.

BY MR. HERRERA:

Q. Okay. And what did -- do you recall, in the meetings of the AAOC, the discussion of House Bill 2492 or 2243?

MS. JOHNSTON: Vaguely.

BY MR. HERRERA:

Q. Okay. And what do you recall?

MS. JOHNSTON: Just the discussion of how it would impact the different counties.

11:37:36 1 BY MR. HERRERA:

11:37:37 2 Q. Okay. And what was -- what was that discussion
11:37:40 3 like?

11:37:41 4 MS. JOHNSTON: Mostly how these bills are
11:37:49 5 either contradicting or they are trying to reinvent
11:37:56 6 something that is already currently being done.

11:38:03 7 BY MR. HERRERA:

11:38:05 8 Q. And do you recall if Ms. Stallworth-Pouquette held
11:38:12 9 that position?

11:38:14 10 MS. JOHNSTON: Excuse me. Can you repeat
11:38:15 11 that?

11:38:15 12 BY MR. HERRERA:

11:38:15 13 Q. Do you recall if Ms. Stallworth-Pouquette held
11:38:17 14 that position?

11:38:19 15 MS. JOHNSTON: Yes. I believe she was in
11:38:23 16 opposition of it.

11:38:24 17 BY MR. HERRERA:

11:38:25 18 Q. Of both bills?

11:38:29 19 MS. JOHNSTON: I can't say for certain, but
11:38:32 20 from the last exhibit you provided, I would say yes to at
11:38:38 21 least 2243.

11:38:48 22 MR. HERRERA: Well, I think we could take
11:38:55 23 another break. I'm going to confer with my aligned
11:39:00 24 counsel, but I think -- could we go take another break and
11:39:02 25 go off the record for about five minutes.

11:39:05 1 MR. LANGHOFER: I'm good.

11:39:06 2 THE VIDEOGRAPHER: We're off the record.

11:39:08 3 Time on the video is 11:39 a.m.

11:39:11 4 (A recess ensued.)

11:48:40 5 THE VIDEOGRAPHER: We're on the record. Time
11:49:01 6 on the video monitor is 11:48 a.m.

11:49:05 7 MR. HERRERA: So, Ms. Munoz and Ms. Johnston,
11:49:08 8 thank you for your time today. And thank you for your work
11:49:11 9 on elections and voter registration. Those are all the
11:49:15 10 questions I have for you today.

11:49:16 11 I'll pass the witness.

11:49:16 12 Beauregard, you're muted.

11:49:30 13 MR. PATTERSON: Thank you.

14

15

EXAMINATION

16 BY MR. PATTERSON:

17 Q. Ms. Munoz and Ms. Johnston, I have a few follow-up
18 questions. And I'd like to move through them quickly,
19 hopefully. So I hope not to waste much of your time.

11:49:46 20 So earlier you stated that the EPM is legally
11:49:51 21 binding guidance from the AZ secretary of state. Is there
11:49:57 22 any other methods in which the Arizona secretary of state
11:50:02 23 conveys legally binding guidance on your office other than
11:50:06 24 the EPM?

11:50:07 25 MR. LANGHOFER: Calls for a legal conclusion.

11:50:10 1 MR. MORGAN: Form.

11:50:13 2 MS. MUNOZ: We have our Arizona state
11:50:16 3 statutes.

11:50:19 4 BY MR. PATTERSON:

11:50:19 5 Q. Okay. And if there were to be no update to the
11:50:29 6 EPM, would your county still be obligated to enforce
11:50:36 7 HB 2492 and HB 2243?

11:50:40 8 MR. LANGHOFER: Calls for a legal conclusion.

11:50:43 9 MS. MUNOZ: I would have to ask counsel on
11:50:44 10 that.

11:50:45 11 BY MR. PATTERSON:

11:50:45 12 Q. Okay. Thank you.

11:50:48 13 What are sources of information -- I want to
11:50:53 14 go back to the topic of what are valid sources of
11:50:56 15 information that someone is not a U.S. citizen.

11:51:04 16 Are there any sources beyond a government
11:51:07 17 database or voter registration database that would provide
11:51:13 18 a valid source of information that someone is not a U.S.
11:51:16 19 citizen?

11:51:16 20 MR. LANGHOFER: Same objection.

11:51:19 21 MS. MUNOZ: None that I'm aware of.

11:51:22 22 BY MR. PATTERSON:

11:51:22 23 Q. If the voter themselves -- herself or himself were
11:51:28 24 to call your office and indicate that they were not a U.S.
11:51:34 25 citizen, would that be a valid source of information?

11:51:39 1 MR. LANGHOFER: Same objection.

11:51:42 2 MS. MUNOZ: If the voter themselves called
11:51:44 3 us?

11:51:44 4 BY MR. PATTERSON:

11:51:45 5 Q. Yes.

11:51:47 6 A. If we've already obtained proof of citizenship and
11:51:53 7 now they're telling me that they are not a U.S. citizen?

11:51:57 8 Q. Yes.

11:51:59 9 A. I would have to ask for guidance. Maybe
11:52:03 10 Mrs. Johnston would be able to answer that question better.

11:52:07 11 Q. Mrs. Johnston, what would your answer be?

11:52:10 12 MS. JOHNSTON: I think if the voter
11:52:12 13 themselves called and we verified that we were speaking
11:52:15 14 with the voter and they told us they were not a
11:52:19 15 citizenship -- or not a citizen, I would ask several
11:52:23 16 follow-up questions and ask them to bring in some kind of
11:52:28 17 documentation to show that they were, I would assume,
11:52:32 18 stripped of their citizenship, because we once had that on
11:52:36 19 file that they were a citizen.

11:52:38 20 BY MR. PATTERSON:

11:52:39 21 Q. Thank you.

11:52:40 22 How about if you received an email from the
11:52:44 23 voter?

11:52:45 24 MR. MORGAN: Calls for a legal conclusion.

11:52:47 25 Hey, Beauregard, can we have the same

11:52:49 1 stipulation we had last time you asked this line of
11:52:51 2 questioning? So it will be --

11:52:51 3 MR. PATTERSON: Yes, absolutely.

11:52:54 4 MR. MORGAN: -- standing calls for legal
11:52:54 5 conclusion objection on this line of questioning?

11:52:56 6 MR. PATTERSON: Absolutely.

11:52:58 7 MR. MORGAN: Thanks. I appreciate it.

11:53:00 8 BY MR. PATTERSON:

11:53:00 9 Q. So to restate the question, how about if your
11:53:03 10 office were to receive an email from the voter?

11:53:09 11 MS. JOHNSTON: I would say the office would
11:53:12 12 go the same route and request for that person to come in
11:53:16 13 person or to call us to obtain sensitive information that
11:53:22 14 is not a public record to verify that we are speaking with
11:53:26 15 the voter themselves.

11:53:28 16 BY MR. PATTERSON:

11:53:28 17 Q. And what if you were to receive a signed letter
11:53:34 18 from the voter?

11:53:34 19 MS. JOHNSTON: Like a notarized letter?

11:53:36 20 BY MR. PATTERSON:

11:53:36 21 Q. No. Just a letter bearing their signature.

11:53:41 22 MS. JOHNSTON: I would -- I would assume the
11:53:45 23 office would still request follow-up documentation.

11:53:53 24 BY MR. PATTERSON:

11:53:53 25 Q. Okay. Would a phone call from a member of the

11:53:58 1 voter's family constitute a valid source of information
11:54:03 2 that that voter is not a U.S. citizen?

11:54:08 3 MS. JOHNSTON: No.

11:54:10 4 BY MR. PATTERSON

11:54:10 5 Q. Could it -- a letter from a neighbor be a valid
11:54:14 6 source of information?

11:54:15 7 MS. JOHNSTON: No.

11:54:17 8 BY MR. PATTERSON:

11:54:17 9 Q. What about a phone call from law enforcement in
11:54:20 10 Arizona?

11:54:20 11 MS. JOHNSTON: Potentially.

11:54:26 12 BY MR. PATTERSON:

11:54:26 13 Q. Could you elaborate?

11:54:27 14 MS. JOHNSTON: I -- I would assume the office
11:54:35 15 would ask that police officer or -- or special agent for
11:54:45 16 documentation proving that the person is not a citizen and
11:54:48 17 not take it at face value.

11:54:51 18 BY MR. PATTERSON:

11:54:51 19 Q. Thank you.

11:54:52 20 How about a phone call from law enforcement
11:54:54 21 in another state?

11:54:58 22 MS. JOHNSTON: We would likely follow the
11:55:00 23 same route.

11:55:01 24 BY MR. PATTERSON:

11:55:02 25 Q. And what about an email or a letter from law

11:55:07 1 enforcement in Arizona or law enforcement from another
11:55:10 2 state?

11:55:11 3 MS. JOHNSTON: We would probably still ask
11:55:13 4 for some kind of verification proving that the voter they
11:55:17 5 are speaking about does not have citizenship.

11:55:19 6 BY MR. PATTERSON:

11:55:21 7 Q. How about an anonymous call?

11:55:24 8 MS. JOHNSTON: No.

11:55:25 9 BY MR. PATTERSON:

11:55:26 10 Q. An anonymous email address -- I mean, email from
11:55:30 11 a -- sorry.

11:55:33 12 How about an anonymous -- an email from an
11:55:37 13 anonymous source?

11:55:39 14 MS. JOHNSTON: No.

11:55:40 15 BY MR. PATTERSON:

11:55:40 16 Q. What about lists provided by third-party
11:55:44 17 organizations like True the Vote?

11:55:45 18 MS. JOHNSTON: No.

11:55:48 19 BY MR. PATTERSON:

11:55:49 20 Q. Thank you.

11:55:50 21 And what if you identify a registered voter
11:55:55 22 who has already satisfied the DPOC requirement but still
11:55:59 23 holds an F-type license? Is that information that a
11:56:02 24 registered voter is not in fact a U.S. citizen?

11:56:08 25 MR. LANGHOFER: Calls for a legal conclusion.

11:56:11 1 MS. JOHNSTON: Can you restate that, please?

11:56:14 2 BY MR. PATTERSON:

11:56:14 3 Q. Sorry.

11:56:15 4 What if you identify a registered voter who
11:56:17 5 has already satisfied DPOC but you find that they still
11:56:25 6 hold an F-type license? Would that information be
11:56:31 7 information that would indicate that they are not in fact a
11:56:34 8 U.S. citizen?

11:56:36 9 MS. JOHNSTON: No. Only if they are
11:56:40 10 reregistering from another county and their voter records
11:56:45 11 are not linked to each other.

11:56:47 12 BY MR. PATTERSON:

11:56:48 13 Q. What if you identify a registered voter who is
11:56:53 14 exempt from the documentary proof of citizenship
11:56:57 15 requirement and has never shown DPOC because they
11:57:01 16 registered prior to when DPOC went into effect? Is that
11:57:06 17 information showing that they are not a U.S. citizen?

11:57:11 18 MS. JOHNSTON: If the voter is registered to
11:57:14 19 vote and they were issued a driver's license I believe
11:57:18 20 before October of 1996, they have been deemed to have
11:57:24 21 submitted satisfactory evidence that they are a citizen.
11:57:29 22 Therefore, we would not require the voter to resubmit
11:57:35 23 citizenship unless they are a brand-new registered voter.

11:57:49 24 BY MR. PATTERSON:

11:57:49 25 Q. Thank you.

11:57:50 1 A.R.S. 16-165(A)(10), turning to that please,
11:57:59 2 it states, "When a county recorder obtains information
11:58:02 3 pursuant to this section and confirms that the person
11:58:06 4 registered is not a United States citizen, including when
11:58:10 5 the county recorder receives a summary report from a jury
11:58:12 6 commissioner or jury manager pursuant to Section 21-314
11:58:16 7 indicating the person who is registered to vote has stated
11:58:20 8 the person's not a U.S. citizen." I want to focus on the
11:58:24 9 word "confirm."

11:58:25 10 By what means can you confirm the
11:58:28 11 authenticity of such information that a voter registration
11:58:34 12 applicant is not a U.S. citizen?

11:58:38 13 MR. HORLEY: This is Tim Horley. I just want
11:58:39 14 to make sure the same stipulation applies that -- for
11:58:43 15 objecting to calls for a legal conclusion.

11:58:45 16 MR. PATTERSON: Yes.

11:58:45 17 MR. HORLEY: Okay.

11:58:47 18 MS. JOHNSTON: I think that is where our
11:58:50 19 office is having trouble interpreting this new law.

11:58:57 20 If a voter has provided DPOC and then is
11:59:03 21 called for jury duty and potentially wants to get out of
11:59:05 22 jury duty by marking "not a citizen," I believe our office
11:59:11 23 would not cancel the voter unless absolutely required.

11:59:15 24 I believe that we would prefer to put them in
11:59:19 25 suspense and then reach out to the voter and confirming why

11:59:26 1 they may be marked not a citizen since we already have DPOC
11:59:32 2 on file.

11:59:33 3 BY MR. PATTERSON:

11:59:36 4 Q. Okay. Excellent. Thank you.

11:59:38 5 Turning back to A.R.S. 16-165, I believe the
12:00:01 6 statutory subsections are F through J, which are the
12:00:07 7 databases that are listed to be used to obtain information.

12:00:15 8 Can the Arizona MVD driver's license and
12:00:22 9 nonoperating ID database be used to obtain information that
12:00:25 10 a registered voter is not a U.S. citizen?

12:00:28 11 MS. JOHNSTON: Yes.

12:00:30 12 BY MR. PATTERSON:

12:00:30 13 Q. Is there anything beyond a database that can be
12:00:34 14 used to obtain information that a registered voter is not a
12:00:37 15 U.S. citizen?

12:00:38 16 MS. JOHNSTON: Not at the moment. Unless the
12:00:50 17 voter is marking "no" on the jury list, no.

12:00:52 18 BY MR. PATTERSON:

12:00:53 19 Q. Thank you. And thank you for the clarification.

12:00:55 20 And has your office received any guidance on
12:00:58 21 how one obtains information that a person registered is not
12:01:02 22 a U.S. citizen under 16-165(A)(10)?

12:01:08 23 A. No, no. Sorry.

12:01:10 24 Q. Okay. Now, how would your office confirm that a
12:01:15 25 person registered is not a U.S. citizen under

12:01:19 1 16-165 (A) (10) ?

12:01:25 2 MS. JOHNSTON: We are not sure.

12:01:27 3 BY MR. PATTERSON:

12:01:27 4 Q. Thank you.

12:01:28 5 And based upon the database matching
12:01:38 6 requirements listed in 16-165(F) through (J) -- actually,
12:01:46 7 scratch that.

12:01:48 8 Looking at the database matching requirements
12:01:51 9 listed in 16-165(F) through (J), would it be through using
12:01:59 10 these databases that your office confirms that a person is
12:02:05 11 not a United States citizen?

12:02:07 12 MS. JOHNSTON: It could be.

12:02:09 13 BY MR. PATTERSON:

12:02:11 14 Q. Does -- scratch that.

12:02:15 15 Does the outlying subparts in (F) through (J)
12:02:37 16 below mean that your office is supposed to obtain
12:02:51 17 information regarding noncitizenship or that the database
12:02:54 18 matching is how one confirms information regarding
12:02:58 19 noncitizenship?

12:03:07 20 MS. JOHNSTON: I would prefer to read the
12:03:09 21 statute before answering.

12:03:11 22 BY MR. PATTERSON:

12:03:12 23 Q. Yes. Absolutely.

12:03:14 24 And is it clear or unclear to your office
12:03:26 25 how -- scratch that.

12:03:28 1 I believe that you have already answered
12:03:29 2 this, but just to be -- for the sake of clarification, is
12:03:35 3 it clear or unclear to your office how you would confirm
12:03:39 4 that a person is registered -- sorry.

12:03:44 5 How you would confirm whether a person
12:03:47 6 registered is not a United States citizen and whether --
12:03:53 7 and how to use the databases listed in 16-165(F) through
12:04:01 8 (J) as part of this process?

12:04:05 9 MR. HORLEY: Objection; form. Compound.
12:04:07 10 Calls for a legal conclusion.

12:04:09 11 MS. JOHNSTON: Would this pertain to somebody
12:04:13 12 who is already registered to vote with DPOC or a new
12:04:17 13 registered voter without DPOC?

12:04:19 14 BY MR. PATTERSON:

12:04:19 15 Q. Sorry. Let me reask the question.

12:04:23 16 Is it clear or unclear to your office how to
12:04:31 17 confirm that a person is registered -- sorry. Scratch
12:04:37 18 that.

12:04:38 19 Is it clear or unclear to your office how to
12:04:40 20 confirm whether a registered person is a United States
12:04:44 21 citizen?

12:04:46 22 MR. HORLEY: Calls for a legal conclusion.

12:04:50 23 MS. JOHNSTON: Currently, if a registered
12:04:52 24 voter -- if a -- if there is already a record for the
12:04:58 25 registered voter and they have DPOC on file, it is unclear

12:05:04 1 how we would obtain information proving they're not a
12:05:07 2 citizen if information was provided to us that they are not
12:05:11 3 a citizen.

12:05:13 4 BY MR. PATTERSON:

12:05:13 5 Q. Thank you.

12:05:14 6 Turning back to 16-165(H), what would give
12:05:20 7 your office a reason to believe a registered voter is not a
12:05:23 8 citizen?

12:05:25 9 MR. HORLEY: Same objection.

12:05:27 10 MS. JOHNSTON: If they marked they're not a
12:05:29 11 citizen on a jury list.

12:05:32 12 BY MR. PATTERSON:

12:05:32 13 Q. Is there any other reason -- sorry. Scratch that.

12:05:42 14 Is there any other way -- actually, scratch
12:05:45 15 that.

12:05:45 16 I'm going to provide you with the same
12:05:48 17 scenarios as we went over before.

12:05:53 18 Is there anything beyond a government or
12:05:56 19 voter registration database that you would pull information
12:06:02 20 that would give you reason to believe that a registered
12:06:05 21 voter is not a U.S. citizen?

12:06:06 22 MS. JOHNSTON: No.

12:06:07 23 BY MR. PATTERSON:

12:06:09 24 Q. Could a phone call -- sorry.

12:06:12 25 Can a phone call from the voter give you

12:06:17 1 reason to believe that that voter is not a U.S. citizen?

12:06:23 2 MR. HORLEY: This is Tim Horley. Just
12:06:24 3 confirming our same stipulation still applies. We've just
12:06:28 4 been jumping to a different part of the statute. So I just
12:06:30 5 want to make sure.

12:06:30 6 MR. PATTERSON: Yes. Yes, it does.

12:06:34 7 MS. JOHNSTON: I believe -- I believe we've
12:06:36 8 already answered this question. If a voter calls us saying
12:06:42 9 that they are no longer a citizen after we've already
12:06:46 10 acquired citizenship on their behalf or if they provided it
12:06:51 11 to us previously, we would want to confirm we are in fact
12:06:54 12 speaking with that voter. And we would ask them to provide
12:07:00 13 documentation proving that they are no longer a citizen.

12:07:04 14 If they are persistent on not being a
12:07:11 15 citizen, we would send them a letter to remove themselves
12:07:17 16 from the voter roll.

12:07:19 17 BY MR. PATTERSON:

12:07:21 18 Q. Thank you.

12:07:21 19 And with the understanding that we have gone
12:07:23 20 over these scenarios before and in a slightly different
12:07:26 21 context, I'm going to ask a couple of them combined for the
12:07:33 22 sake of time and with the understanding that your answers
12:07:36 23 may be the same.

12:07:38 24 So how about an email or signed letter from
12:07:41 25 the voter?

12:07:44 1 MS. JOHNSTON: We would want to confirm that
12:07:46 2 we are speaking with that voter before initiating any
12:07:51 3 cancellation of their record.

12:07:53 4 BY MR. PATTERSON:

12:07:53 5 Q. How about a phone call from a member of the
12:07:55 6 voter's family?

12:07:56 7 MS. JOHNSTON: No.

12:08:00 8 BY MR. PATTERSON:

12:08:00 9 Q. Would a letter from a neighbor give your office a
12:08:02 10 reason to believe that a registered voter is not a citizen?

12:08:07 11 MS. JOHNSTON: No.

12:08:08 12 BY MR. PATTERSON:

12:08:08 13 Q. What about a phone call from law enforcement in
12:08:11 14 Arizona or in another state?

12:08:15 15 MS. JOHNSTON: Potentially.

12:08:16 16 BY MR. PATTERSON:

12:08:18 17 Q. Is there any distinction between whether or not
12:08:21 18 it's in-state law enforcement or out-of-state law
12:08:25 19 enforcement?

12:08:25 20 MS. JOHNSTON: No. I think potentially
12:08:27 21 either way.

12:08:29 22 BY MR. PATTERSON:

12:08:29 23 Q. Okay. What about an email or letter from law
12:08:33 24 enforcement in Arizona or from another state?

12:08:36 25 MS. JOHNSTON: We would ask for documentation

12:08:40 1 showing that the said voter was not a citizen.

12:08:44 2 BY MR. PATTERSON:

12:08:45 3 Q. How about an anonymous call? Would that -- or an
12:08:50 4 anonymous email? Would that give your office reason to
12:08:52 5 believe that a voter is a noncitizen?

12:08:54 6 MS. JOHNSTON: No.

12:08:55 7 BY MR. PATTERSON:

12:08:55 8 Q. And what about lists provided by third-party
12:08:59 9 organizations?

12:08:59 10 MS. JOHNSTON: Government entities or
12:09:05 11 non-government entities?

12:09:06 12 BY MR. PATTERSON:

12:09:06 13 Q. Non-government entities.

12:09:08 14 MS. JOHNSTON: No.

12:09:09 15 BY MR. PATTERSON:

12:09:09 16 Q. What if the registered voter transposed, so
12:09:12 17 reversed the order of, their first and last name on their
12:09:16 18 registration application form?

12:09:18 19 MS. JOHNSTON: Their information would be ran
12:09:21 20 through HAVA, and it would likely come back as a soft
12:09:27 21 match. And staff would determine if it's a true match
12:09:31 22 based off of other information provided.

12:09:34 23 BY MR. PATTERSON:

12:09:34 24 Q. So based on that, would that by itself be a reason
12:09:41 25 to believe that a voter is a noncitizen?

12:09:46 1 MS. JOHNSTON: No.

12:09:47 2 BY MR. PATTERSON:

12:09:49 3 Q. What if the registered voter recorded a foreign
12:09:53 4 place of birth on their form?

12:09:54 5 MS. JOHNSTON: No.

12:09:55 6 BY MR. PATTERSON:

12:09:55 7 Q. What if you identify a registered voter who has
12:09:58 8 already satisfied the DPOC requirement but still holds an
12:10:02 9 F-type license? Would that create a reason to believe that
12:10:06 10 they are not in fact a U.S. citizen?

12:10:08 11 MS. JOHNSTON: No.

12:10:09 12 BY MR. PATTERSON:

12:10:10 13 Q. What about registered voters who are exempt from
12:10:12 14 DPOC under the safe harbor provision because they
12:10:16 15 registered prior to the DPOC requirement going into effect
12:10:18 16 in 2005? Would that failure to show DPOC under the
12:10:22 17 exemption give your office a reason to believe they are not
12:10:25 18 a U.S. citizen?

12:10:26 19 MS. JOHNSTON: Only if they are a brand-new
12:10:31 20 registrant.

12:10:32 21 BY MR. PATTERSON:

12:10:32 22 Q. Has your office received any guidance on when your
12:10:35 23 office would have reason to believe that a registered voter
12:10:37 24 is not a U.S. citizen?

12:10:40 25 MS. JOHNSTON: No.

12:10:41 1 BY MR. PATTERSON:

12:10:41 2 Q. Thank you. We just have a couple more questions.
12:10:43 3 Then I'll be done.

12:10:45 4 A number of provisions in both HB 2243 and
12:10:54 5 HB 2492 only obligate your office to the extent they are
12:11:01 6 practical. Who -- practicable. Who makes that call? So
12:11:06 7 who makes the call that it's practicable?

12:11:11 8 MS. JOHNSTON: I would say the county
12:11:13 9 recorder.

12:11:13 10 BY MR. PATTERSON:

12:11:15 11 Q. Do you understand -- does your office understand
12:11:20 12 what is meant by "practicable" in these laws?

12:11:24 13 MS. JOHNSTON: No.

12:11:30 14 BY MR. PATTERSON:

12:11:30 15 Q. And just for clarification, is it clear or
12:11:35 16 unclear?

12:11:36 17 MS. JOHNSTON: It's unclear.

12:11:37 18 BY MR. PATTERSON:

12:11:38 19 Q. Thank you.

12:11:38 20 If a registered voter is removed from the
12:11:41 21 rolls under HB 2243 based upon an erroneous determination
12:11:45 22 that they are not a U.S. citizen, can that voter be added
12:11:49 23 back to the rolls if the registration deadline has already
12:11:51 24 passed?

12:11:52 25 MS. JOHNSTON: Yes. So, one, you cannot

12:11:58 1 cancel somebody who is not eligible initially. So if a
12:12:03 2 voter does not hold DPOC and we run HAVA checks and it
12:12:08 3 comes back as a permanent resident or not a U.S. citizen,
12:12:15 4 the voter goes into the system as not eligible, invalid
12:12:20 5 proof of citizenship.

12:12:22 6 The voter can -- we do send out a letter to
12:12:25 7 the voter explaining that their eligibility has not been
12:12:30 8 met and they can reregister by filling out a new Arizona
12:12:35 9 state registration form and provide additional DPOC
12:12:39 10 information.

12:12:40 11 BY MR. PATTERSON:

12:12:41 12 Q. If HB 2243 were to take effect, would you still be
12:12:46 13 able to add that -- a voter who was erroneously removed
12:12:52 14 back onto the rolls after the registration deadline?

12:12:59 15 MR. HORLEY: Calls for speculation.

12:13:01 16 MS. JOHNSTON: I believe what the bill states
12:13:04 17 is after the 35 days, they don't provide DPOC, they shall
12:13:11 18 be removed from the voter rolls. Our county would have
12:13:14 19 them reregister anytime after the 35th day.

12:13:19 20 BY MR. PATTERSON:

12:13:22 21 Q. And even if the regist- -- would they be able to
12:13:24 22 reregister even if the registration deadline had passed?

12:13:30 23 MR. HORLEY: Same objection.

12:13:31 24 MS. JOHNSTON: No. It would have been past
12:13:33 25 the 35th day, which by law I believe is requiring us to

12:13:38 1 cancel the registration.

12:13:39 2 BY MR. PATTERSON:

12:13:42 3 Q. Is -- I have one final question.

12:13:51 4 Is this clearly laid -- are any of these
12:14:00 5 procedures clearly laid out in the EPM?

12:14:03 6 MS. JOHNSTON: No.

12:14:05 7 BY MR. PATTERSON:

12:14:06 8 Q. Is there anywhere else that these procedures are
12:14:08 9 laid out?

12:14:10 10 MS. JOHNSTON: Not procedures, no.

12:14:12 11 BY MR. PATTERSON:

12:14:13 12 Q. And could this practice vary from county to
12:14:16 13 county?

12:14:16 14 MS. JOHNSTON: Currently, yes.

12:14:20 15 MR. PATTERSON: Thank you. I have no more
12:14:22 16 questions, so I will pass it to my co-counsel -- or
12:14:29 17 co-plaintiffs.

12:14:29 18

12:14:29 19 EXAMINATION

12:14:29 20 BY MR. SNOW:

12:14:38 21 Q. Hello, Ms. Munoz and Ms. Johnston. My name is
12:14:40 22 Ryan Snow. I'm with the Lawyers' Committee, representing
12:14:43 23 the Tohono O'odham plaintiffs?

12:14:46 24 And I'm going to be asking a few questions
12:14:49 25 just focused on the documentary proof of residence

12:14:52 1 requirement in HB 2492.

12:14:56 2 And if you need me to repeat myself or speak
12:14:58 3 up, please let me know.

12:15:00 4 MR. SNOW: And that goes for our esteemed
12:15:02 5 colleagues who are recording as well as this.

12:15:02 6 BY MR. SNOW:

12:15:06 7 Q. So first, thanks so much for your work in election
12:15:10 8 administration and for being with us today.

12:15:13 9 So I have a few questions just about the
12:15:15 10 current practices concerning residential address.

12:15:19 11 So in order to register to vote, applicants
12:15:21 12 who are -- are currently required to provide their
12:15:24 13 residential address, or if they don't have a residential
12:15:26 14 address, a description or drawing of the location of the
12:15:29 15 residence; is that correct?

12:15:30 16 MS. JOHNSTON: Correct.

12:15:31 17 BY MR. SNOW:

12:15:31 18 Q. Thank you.

12:15:32 19 And a P.O. box can't be used to satisfy that
12:15:35 20 requirement; correct?

12:15:36 21 MS. JOHNSTON: Correct.

12:15:36 22 BY MR. SNOW:

12:15:40 23 Q. And why is residence address or location
12:15:44 24 information important for voter registration?

12:15:44 25 MS. JOHNSTON: Precincting and districting

12:15:44 1 the voter.

12:15:46 2 BY MR. SNOW:

12:15:46 3 Q. And can you describe a little bit more about that,
12:15:49 4 please?

12:15:49 5 MS. JOHNSTON: Sure. Depending on where the
12:15:51 6 voter lives, they will be assigned a precinct and a
12:15:57 7 congressional district, a legislative district, board of
12:16:00 8 supervisor district, and so forth.

12:16:02 9 BY MR. SNOW:

12:16:02 10 Q. Thank you.

12:16:04 11 So if someone provides a residential address,
12:16:07 12 how does the county use that information to locate the
12:16:09 13 residence for precincting and districting?

12:16:11 14 MS. JOHNSTON: AVID is the statewide database
12:16:15 15 that 13 of the 15 counties use. Within AVID, there is
12:16:22 16 something called TotalAddress which geocodes and drops a
12:16:27 17 pin on the address of the voter.

12:16:27 18 BY MR. SNOW:

12:16:32 19 Q. And so the geocode location, does that then become
12:16:36 20 part of the voter's record?

12:16:37 21 MS. JOHNSTON: Not the geocode, no. Just the
12:16:40 22 precinct information and the address.

12:16:40 23 BY MR. SNOW:

12:16:42 24 Q. So where is the geocode information stored?

12:16:44 25 MS. JOHNSTON: In the -- I would assume the

12:16:47 1 back end of TotalAddress.

12:16:47 2 BY MR. SNOW:

12:16:50 3 Q. And again, TotalAddress is part of AVID?

12:16:53 4 MS. JOHNSTON: Correct.

12:16:54 5 BY MR. SNOW:

12:16:54 6 Q. And so that's for a standard residential address

12:16:58 7 or a nonstandard residential address?

12:17:00 8 MS. JOHNSTON: Standard.

12:17:00 9 BY MR. SNOW:

12:17:01 10 Q. So what would be the process for someone providing

12:17:04 11 a nonstandard residence address? How would that work with

12:17:07 12 the system you just described?

12:17:08 13 MS. JOHNSTON: Typically, a nonstandard

12:17:11 14 address here in Yuma County would be on a reservation,

12:17:16 15 which is not -- does not fall under the jurisdiction of the

12:17:20 16 county. Therefore, our GIS department does not have the --

12:17:27 17 the longitude and latitude of those addresses. But we are

12:17:33 18 familiar with the area; therefore, we would manually drop a

12:17:39 19 pin in the area of the said address.

12:17:39 20 BY MR. SNOW:

12:17:44 21 Q. Thank you.

12:17:44 22 So how would you go about locating the

12:17:46 23 physical location of that address, the nonstandard address?

12:17:50 24 MS. JOHNSTON: Looking on a map.

12:17:50 25 ///

12:17:50 1 BY MR. SNOW:

12:17:52 2 Q. And that would be if the registrant or the
12:17:55 3 applicant just provided their nonstandard address without a
12:17:57 4 depiction or description; is that correct?

12:17:58 5 MS. JOHNSTON: Correct.

12:17:58 6 BY MR. SNOW:

12:18:00 7 Q. And so where do you -- where do you get the map
12:18:04 8 that you use to locate a nonstandard address?

12:18:06 9 MS. JOHNSTON: GIS.

12:18:06 10 BY MR. SNOW:

12:18:09 11 Q. So this is based on your familiarity with the
12:18:14 12 coordinates of locations on tribal land?

12:18:16 13 MS. JOHNSTON: Correct.

12:18:16 14 BY MR. SNOW:

12:18:17 15 Q. And what's the basis for your knowledge about
12:18:20 16 that?

12:18:20 17 MS. JOHNSTON: Typically, when somebody
12:18:25 18 provides us a nonstandard address, they are providing a
12:18:29 19 street name, and we are able to locate that street name on
12:18:33 20 the map. Although it's not in the jurisdiction, we still
12:18:37 21 have a map of the streets on reservation land.

12:18:37 22 BY MR. SNOW:

12:18:42 23 Q. And where did you get the map?

12:18:44 24 A. GIS.

12:18:45 25 Q. GIS.

12:18:46 1 So have you had any contact with the tribal
12:18:47 2 governments around -- around this?

12:18:49 3 MS. JOHNSTON: No.

12:18:49 4 BY MR. SNOW:

12:18:52 5 Q. Thank you.

12:18:52 6 And then so turning to -- if someone provides
12:18:54 7 a description or depiction of their address, what's the
12:18:59 8 process for locating them as far as their location for the
12:19:03 9 purposes of precincting and districting?

12:19:06 10 MS. JOHNSTON: So if someone is without a
12:19:10 11 home and draws a picture of where they're staying -- I
12:19:20 12 would say because Yuma is a fairly small town, we're very
12:19:24 13 familiar with our area. So if somebody were to draw a
12:19:29 14 picture of the Ocean-to-Ocean Bridge, we would have a very
12:19:34 15 good idea of where that's located, and we could manually
12:19:37 16 drop a pin in that area.

12:19:37 17 BY MR. SNOW:

12:19:40 18 Q. And so for a person who provides a description of
12:19:43 19 or depiction of their location residence, how is that
12:19:47 20 represented in their voter record?

12:19:49 21 MS. JOHNSTON: We would mark it as a
12:19:51 22 nonstandard address in the system, which will allow us to
12:19:57 23 bypass finding the geocode address.

12:19:57 24 BY MR. SNOW:

12:20:02 25 Q. And so then you would -- you would put the geocode

12:20:05 1 in yourself?

12:20:06 2 MS. JOHNSTON: We would manually drop the
12:20:09 3 pin, yes, which would geocode it.

12:20:09 4 BY MR. SNOW:

12:20:09 5 Q. Thank you.

12:20:12 6 And then, again, the geocode is part of, you
12:20:14 7 think, the back end of AVID, but it's not part of the
12:20:17 8 voter's record; is that correct?

12:20:18 9 MS. JOHNSTON: Correct.

12:20:18 10 BY MR. SNOW:

12:20:19 11 Q. So if the voter were to move -- sorry. Scratch
12:20:19 12 that.

12:20:23 13 If you were to reassign precincts and you
12:20:25 14 were to have to reassign individuals who already are in
12:20:27 15 your system as registered, how would you go about
12:20:31 16 redetermining their geolocation for the purposes of
12:20:33 17 precinct reassignment?

12:20:34 18 MS. JOHNSTON: Likely, the area that they are
12:20:37 19 in is not going to be split.

12:20:37 20 BY MR. SNOW:

12:20:40 21 Q. And why is that?

12:20:41 22 MS. JOHNSTON: For redistricting purposes,
12:20:46 23 they don't split, like, neighborhoods. I'm not completely
12:20:53 24 sure all the rules in redistricting, but it's very rare for
12:21:00 25 a neighborhood to be split into two different districts.

12:21:00 1 BY MR. SNOW:

12:21:07 2 Q. Okay. Thank you.

12:21:08 3 So have you ever encountered a case where a
12:21:12 4 standard residential address is not able to be located
12:21:14 5 using the process you just described?

12:21:15 6 MS. JOHNSTON: No. Not in Yuma County.

12:21:15 7 BY MR. SNOW:

12:21:19 8 Q. Have you ever encountered a situation where a
12:21:21 9 nonstandard resident's potential address is not able to be
12:21:25 10 located through the process you just described?

12:21:26 11 MS. JOHNSTON: No.

12:21:26 12 BY MR. SNOW:

12:21:27 13 Q. Have you ever encountered a situation where a
12:21:30 14 description or depiction of a location of residence is not
12:21:33 15 able to be located through the process you just described?

12:21:35 16 MS. JOHNSTON: No.

12:21:35 17 BY MR. SNOW:

12:21:37 18 Q. Thank you.

12:21:44 19 To your knowledge, is it more common for
12:21:46 20 applicants on Native American reservations to have a
12:21:51 21 nonstandard address?

12:21:52 22 MS. JOHNSTON: No. We don't have a lot of
12:21:57 23 nonstandard addresses here in Yuma County.

12:22:00 24 The -- the two major reservations that we
12:22:04 25 have here in Yuma, one is actually located in California,

12:22:10 1 but they typically commute here to Yuma since it's more --
12:22:14 2 it's closer to the city.
12:22:17 3 The Cocopah reservation, we don't have --
12:22:22 4 it's a very small couple roads. So we don't have any
12:22:25 5 issues being able to determine a location.
12:22:25 6 BY MR. SNOW:
12:22:29 7 Q. I'm sorry. That's the Cocopah reservation?
12:22:32 8 MS. JOHNSTON: The Cocopah, yes.
12:22:32 9 BY MR. SNOW:
12:22:32 10 Q. Cocopah.
12:22:33 11 And what about the Quechan?
12:22:36 12 MS. JOHNSTON: That is located in
12:22:37 13 Winterhaven, California.
12:22:38 14 BY MR. SNOW:
12:22:38 15 Q. So do you have any tribal land then that's located
12:22:42 16 in Yuma County?
12:22:45 17 MS. JOHNSTON: Can you repeat that?
12:22:46 18 BY MR. SNOW:
12:22:46 19 Q. Do you have -- so to your knowledge, do you have
12:22:47 20 any tribal land that's located in Yuma County?
12:22:50 21 MS. JOHNSTON: Just the Cocopah Nation.
12:22:50 22 BY MR. SNOW:
12:22:52 23 Q. Okay. So just to reiterate, so you wouldn't say
12:23:01 24 that in Yuma County applicants with nonstandard addresses
12:23:07 25 are more likely to reside on tribal land?

12:23:08 1 MS. JOHNSTON: I would not say that, correct.

12:23:11 2 I would say most people with a nonstandard address here in

12:23:15 3 Yuma County are without home.

12:23:15 4 BY MR. SNOW:

12:23:20 5 Q. Thank you.

12:23:21 6 So what would be the process for a voter if
12:23:24 7 their address couldn't be located or their location of
12:23:27 8 residence couldn't be located?

12:23:28 9 MS. JOHNSTON: If we could not locate
12:23:30 10 somebody's address, we would put the voter in suspense and
12:23:35 11 send correspondence to the mailing address that they
12:23:39 12 provide.

12:23:39 13 BY MR. SNOW:

12:23:41 14 Q. Would you take any other steps?

12:23:44 15 MS. JOHNSTON: No.

12:23:44 16 BY MR. SNOW:

12:23:48 17 Q. If they had a phone number listed, would you call
12:23:49 18 the phone number?

12:23:51 19 MS. JOHNSTON: Yes.

12:23:51 20 BY MR. SNOW:

12:23:53 21 Q. Would you ever attempt to conduct an in-person
12:23:55 22 visit?

12:23:55 23 MS. JOHNSTON: If we can contact them, yes.

12:23:58 24 BY MR. SNOW:

12:23:58 25 Q. So only if you can contact them first?

12:24:01 1 MS. JOHNSTON: Yes. Typically, somebody with
12:24:05 2 a nonstandard address, they would provide us a P.O. box
12:24:09 3 and we would send the notice to the P.O. box.

12:24:13 4 If they provide a phone number, we would be
12:24:16 5 able to also contact them by phone.

12:24:20 6 And then we would ask them to either come
12:24:24 7 down to the office and fill out a new registration form or
12:24:28 8 let them know we would be mailing them one. And they would
12:24:31 9 need to resubmit another registration form with a valid
12:24:38 10 address.

12:24:38 11 BY MR. SNOW:

12:24:43 12 Q. Sorry. What would be an example of an invalid
12:24:46 13 address?

12:24:46 14 MS. JOHNSTON: McDonald's.

12:24:46 15 BY MR. SNOW:

12:24:49 16 Q. I see.

12:24:49 17 So that would be the process for anybody
12:24:51 18 who's the -- whose -- whose registration address --
12:24:56 19 residence address could not be located; is that correct?

12:24:58 20 MS. JOHNSTON: Correct.

12:24:58 21 BY MR. SNOW:

12:24:59 22 Q. But in your experience, you haven't -- you haven't
12:25:02 23 encountered that situation; correct?

12:25:03 24 MS. JOHNSTON: Third-party registration forms
12:25:07 25 typically have some form of invalid address on it. We see

12:25:12 1 a pattern where people will register at a business, which
12:25:16 2 is not a valid residential address.

12:25:16 3 BY MR. SNOW:

12:25:19 4 Q. I see.

12:25:20 5 But if that applicant suggested that they
12:25:23 6 resided near that -- that business, that would be valid for
12:25:27 7 the purposes if they lacked a home?

12:25:29 8 MS. JOHNSTON: No.

12:25:29 9 BY MR. SNOW:

12:25:31 10 Q. What would they need to do to provide that
12:25:33 11 information?

12:25:33 12 MS. JOHNSTON: They would need to provide a
12:25:36 13 physical residential address or the area but not an address
12:25:42 14 of a business.

12:25:42 15 BY MR. SNOW:

12:25:44 16 Q. I see.

12:25:45 17 So could they say, you know, near the
12:25:47 18 McDonald's by such and such intersection?

12:25:49 19 MS. JOHNSTON: Yes.

12:25:49 20 BY MR. SNOW:

12:25:50 21 Q. Okay. Thank you.

12:25:52 22 MS. JOHNSTON: But we would have them put
12:25:55 23 that on the form. So we would put them in suspense and
12:25:56 24 require them to draw that picture in Box 23.

12:25:56 25 ///

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12:27:01 18
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BY MR. SNOW:

Q. Okay. Thank you.

To your knowledge, how long has Yuma County used the process you described -- just described for nonstandard addresses and depictions and descriptions?

MS. JOHNSTON: Definitely within the five years that I worked for the county recorder's office.

MS. MUNOZ: Same. I've been on the voter registration side since 2012, so since then.

BY MR. SNOW:

Q. Thank you.

And during that time, have you encountered any issues with that process in terms of locating the residences of voter registration applicants?

A. No.

Q. Thank you.

And have you ever encountered any complaints from voters about that process?

MS. JOHNSTON: No.

BY MR. SNOW:

Q. Thank you.

Has anyone ever provided a document to your office that contains a nonstandard address on that document?

MS. JOHNSTON: Not that I'm aware of.

12:27:33 1 BY MR. SNOW:

12:27:35 2 Q. Has anyone ever provided your office a document
12:27:38 3 that contains a description or a depiction of their
12:27:42 4 residence?

12:27:43 5 MS. JOHNSTON: Other than the Arizona state
12:27:45 6 registration form, no.

12:27:45 7 BY MR. SNOW:

12:27:47 8 Q. Thank you.

12:27:48 9 Are you aware of documents that exist that
12:27:50 10 contain those types of addresses?

12:27:52 11 MS. JOHNSTON: No.

12:27:52 12 BY MR. SNOW:

12:27:58 13 Q. Do you know if Yuma County provides standard
12:28:01 14 addresses for homes in the county?

12:28:04 15 MS. JOHNSTON: Standard addresses, yes.

12:28:04 16 BY MR. SNOW:

12:28:07 17 Q. And what department provides addresses?

12:28:09 18 MS. JOHNSTON: Planning and zoning --

12:28:09 19 BY MR. SHOW:

12:28:09 20 Q. And --

12:28:12 21 MS. JOHNSTON: -- or the city, which is
12:28:15 22 community development.

12:28:15 23 BY MR. SNOW:

12:28:15 24 Q. Thanks.

12:28:19 25 And to your knowledge, what does that process

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entail?

MS. JOHNSTON: I'm not sure. I don't work for those departments.

BY MR. SNOW:

Q. Thank you.

To your knowledge, does the county ever provide addresses for homes that are located on Native American reservations?

MS. JOHNSTON: I am not sure.

BY MR. SNOW:

Q. Thank you.

So how much contact does your office have with tribal governments?

MS. JOHNSTON: Minimal.

BY MR. SNOW:

Q. And what's -- what's the nature of that contact?

MS. JOHNSTON: I -- I think I've been reached out to once in regards to a public records request from a student who was doing some research.

They wanted to know the turnout of Native Americans, and, unfortunately, we do not keep a record of demographics based on race, religion, sexual -- gender and how -- and if they vote or do not vote.

BY MR. SNOW:

Q. Thank you.

12:29:36 1 Does your office keep information based on
12:29:39 2 the location of a voter for different purposes and turnout
12:29:45 3 for those areas?

12:29:47 4 MS. JOHNSTON: Not specifically for those
12:29:48 5 areas. But our office maintains a list of voters who vote.
12:29:54 6 And it could, I'm sure, be filtered through Excel, looking
12:29:59 7 for specific addresses.

12:29:59 8 BY MR. SNOW:

12:30:02 9 Q. But you haven't undertaken that analysis yourself?

12:30:05 10 MS. JOHNSTON: No.

12:30:05 11 BY MR. SNOW:

12:30:07 12 Q. So you wouldn't be able to say whether voter
12:30:10 13 registration rates were lower on tribal land than in other
12:30:13 14 communities?

12:30:13 15 MS. JOHNSTON: No.

12:30:13 16 BY MR. SNOW:

12:30:19 17 Q. If the documentary proof of residence provision is
12:30:23 18 implemented, does your office currently have plans to reach
12:30:26 19 out to the tribes in your county to provide education on
12:30:29 20 the new requirement?

12:30:30 21 MS. JOHNSTON: Not currently.

12:30:30 22 BY MR. SNOW:

12:30:34 23 Q. Is that something that your office would
12:30:37 24 undertake?

12:30:37 25 MS. JOHNSTON: Once we receive guidance from

12:30:40 1 the state, yes.

12:30:41 2 BY MR. SNOW:

12:30:42 3 Q. And just to confirm, you have yet to receive
12:30:44 4 guidance from the state on the documentary proof of
12:30:47 5 residence requirement?

12:30:47 6 MS. JOHNSTON: Correct.

12:30:47 7 BY MR. SNOW:

12:30:48 8 Q. And you're not currently enforcing that
12:30:50 9 requirement; correct?

12:30:50 10 MS. JOHNSTON: Correct.

12:30:50 11 BY MR. SNOW:

12:30:50 12 Q. So just a few more questions.

12:30:50 13 To your knowledge, will the documentary proof
12:30:58 14 of residence requirement in HB 2492 apply to the federal
12:31:01 15 form?

12:31:01 16 MS. JOHNSTON: Yes.

12:31:01 17 BY MR. SNOW:

12:31:07 18 Q. And the current federal form instructions do not
12:31:09 19 ask for documentary proof of residence; correct?

12:31:12 20 MS. JOHNSTON: Correct.

12:31:12 21 BY MR. SNOW:

12:31:13 22 Q. Are you aware of any request by the state to
12:31:15 23 update the Election Assistance Commission instructions on
12:31:17 24 the federal form?

12:31:18 25 MS. JOHNSTON: Can you restate that, please?

12:31:18 1 BY MR. SNOW:

12:31:21 2 Q. Are you aware of any request by the State of
12:31:25 3 Arizona to update the election administration -- Election
12:31:28 4 Assistance Commission instructions on the federal form?

12:31:31 5 MS. JOHNSTON: I am not aware.

12:31:31 6 BY MR. SNOW:

12:31:34 7 Q. So if the documentary proof of residence
12:31:40 8 requirement were implemented for the federal form, those
12:31:45 9 who apply without providing documentary proof of residence
12:31:48 10 would have their federal form rejected under the current
12:31:51 11 law; correct?

12:31:51 12 MS. JOHNSTON: Correct.

12:31:53 13 MR. LANGHOFER: Legal conclusion.

12:31:53 14 BY MR. SNOW:

12:31:55 15 Q. Your office would reject those forms; correct?

12:32:01 16 MS. JOHNSTON: Once we receive guidance from
12:32:03 17 the state on how to implement these laws, if the state law
12:32:09 18 is requiring us to reject the registration form, we will
12:32:12 19 follow what state law requires us to do.

12:32:12 20 BY MR. SNOW:

12:32:16 21 Q. Thank you.

12:32:16 22 And you would rely on guidance from the
12:32:19 23 Secretary of State's Office on that point?

12:32:21 24 MS. JOHNSTON: Yes.

12:32:21 25 ///

12:32:21 1
12:32:21 2
12:32:24 3
12:32:26 4
12:32:26 5
12:32:28 6
12:32:30 7
12:32:31 8
12:32:31 9
12:32:33 10
12:32:36 11
12:32:38 12
12:32:39 13
12:32:39 14
12:32:44 15
12:33:02 16
12:33:04 17
12:33:08 18
12:33:10 19
12:33:12 20
12:33:18 21
12:33:20 22
12:33:21 23
12:33:24 24
12:33:30 25

BY MR. SNOW:

Q. Okay. Would you rely on guidance from any other source on that point?

MS. JOHNSTON: No.

BY MR. SNOW:

Q. And would that guidance be contained in the Election Procedures Manual?

MS. JOHNSTON: Yes.

BY MR. SNOW:

Q. Would the guidance be contained in any other source from the Secretary of State's Office besides the Election Procedures Manual?

MS. JOHNSTON: No.

BY MR. SNOW:

Q. Thank you

What documents -- what types of documents would qualify to satisfy the documentary proof of registration requirement -- sorry.

What type of -- types of documents would qualify to satisfy the documentary proof of residence requirement, to your knowledge?

MR. HORLEY: Foundation. Calls for a legal conclusion. Calls for speculation.

MS. JOHNSTON: I would assume a picture ID with -- that has their residential address on it, such as a

12:33:34 1 driver's license or a bill or a combination of both.

12:33:47 2 MR. SNOW: Okay. Let's take a quick look at
12:33:50 3 a document. It's the document marked Yuma Bates 000019.
12:33:58 4 I'm going to put it in the chat.

12:34:01 5 MR. MORGAN: Ryan, how much time are you
12:34:02 6 looking at here? I'm thinking about lunch.

12:34:05 7 MR. SNOW: Really, only a few more questions.
12:34:06 8 I just want to go through this exhibit and then just a few
12:34:13 9 follow-up questions. Then I should be done.

12:34:14 10 And I know one of my colleagues on the line
12:34:16 11 might have a few additional questions. But if not, then
12:34:19 12 we'll be done with the DPOR stuff.

12:34:19 13 BY MR. SNOW:

12:34:25 14 Q. So are you able to pull up the document I just put
12:34:28 15 in the chat labeled YUMA-000019?

12:34:43 16 MS. JOHNSTON: Give me one second.

12:34:43 17 BY MR. SNOW:

12:34:46 18 Q. Sure. And apologies. I didn't provide this in
12:34:48 19 advance.

12:34:59 20 MS. JOHNSTON: I have it pulled up.

12:34:59 21 BY MR. SNOW:

12:34:59 22 Q. Thank you.

12:35:01 23 And looking at the top line on the first
12:35:02 24 page, what does it say there, the very first line?

12:35:04 25 MS. JOHNSTON: "VRAC Legislative Policy

12:35:07 1 Updates."

12:35:07 2 BY MR. SNOW:

12:35:07 3 Q. And so what is this document?

12:35:08 4 MS. JOHNSTON: This appears to be a VRAC

12:35:15 5 white paper.

12:35:15 6 BY MR. SNOW:

12:35:16 7 Q. And what is VRAC?

12:35:20 8 MS. JOHNSTON: I don't know the exact acronym

12:35:25 9 for it. I would -- voter registration something

12:35:31 10 committee -- advisory committee probably.

12:35:31 11 BY MR. SNOW:

12:35:34 12 Q. Have you seen this particular document before?

12:35:35 13 And you can take a moment to review.

12:35:38 14 MS. JOHNSTON: I have not.

12:35:38 15 BY MR. SNOW:

12:35:41 16 Q. Ms. Munoz?

12:35:42 17 MS. MUNOZ: I have not.

12:35:43 18 BY MR. SNOW:

12:35:43 19 Q. Have you seen similar documents to this before?

12:35:47 20 MS. JOHNSTON: I have seen VRAC papers in the

12:35:49 21 past but not pertaining to this specific topic.

12:35:49 22 BY MR. SNOW:

12:35:54 23 Q. Okay.

12:35:57 24 THE COURT REPORTER: Do you want to mark

12:35:58 25 this?

12:35:59 1 MR. SNOW: Oh, I'm sorry. Thank you. I do
12:36:01 2 not know -- what is our current exhibit number? Apologies.

12:36:04 3 THE COURT REPORTER: 204.

12:36:05 4 MR. SNOW: 204. Thank you very much. And
12:36:09 5 apologies.

12:36:09 6 So I'll mark this as Exhibit 204.

7 (The document was marked as Exhibit 204
8 for identification.)

9 BY MR. SNOW:

10 Q. And this is a document that was provided to the
11 plaintiffs -- or to the parties by your office in response
12 to a request for production.

12:36:23 13 So just scrolling down to page 10, which is
12:36:26 14 marked Bates 20 -- sorry -- Bates 28 in the bottom
12:36:32 15 right-hand corner. It's page -- sorry -- page 10 of the
12:36:36 16 document.

12:36:37 17 And you see that subheader that says
12:36:38 18 "(HB 2492 - List Maintenance Residency/Citizenship)"?

12:36:45 19 MS. JOHNSTON: Yes.

12:36:45 20 BY MR. SNOW:

12:36:46 21 Q. Okay. And below that, it says, "HB 2492 has a
12:36:52 22 delayed effective date of January 1st, 2023, and litigation
12:36:55 23 is ongoing"; is that correct?

12:36:57 24 MS. JOHNSTON: Yes.

12:36:57 25 ///

12:36:57 1 BY MR. SNOW:

12:36:58 2 Q. It says, "Significant changes to policy and the
12:37:00 3 voter registration database will be needed"; is that
12:37:02 4 correct?

12:37:02 5 MS. JOHNSTON: Yes.

12:37:02 6 BY MR. SNOW:

12:37:04 7 Q. Then turning down to the next page, there's a
12:37:06 8 subheader that says, "Documentary Proof of -- Documentary
12:37:09 9 Proof of Residency." Excuse me.

12:37:12 10 MS. JOHNSTON: Yes.

12:37:12 11 BY MR. SNOW:

12:37:14 12 Q. Thank you.

12:37:14 13 Then below that, it says, "DPOR must
12:37:17 14 accompany the state form but does not need to accompany the
12:37:19 15 federal form. Requiring DPOR conflicts with the National
12:37:22 16 Voter Registration Act ('NVRA') and Inter -- and Arizona v.
12:37:27 17 Inter Tribal Council of Arizona, 570 U.S. 1, 18 (2013)"; is
12:37:31 18 that correct?

12:37:31 19 MS. JOHNSTON: Yes.

12:37:31 20 BY MR. SNOW:

12:37:34 21 Q. So looking at that statement, would your office
12:37:41 22 rely on that statement in enforcing the DPOR provision?

12:37:43 23 MS. JOHNSTON: Yes.

12:37:43 24 BY MR. SNOW:

12:37:48 25 Q. Thank you.

12:37:48 1 And then looking below that: "What
12:37:50 2 constitutes Documentary Proof of Residency?" And then
12:37:53 3 there's a list on the left side of different kinds of IDs.
12:37:57 4 And then on the right, it has some statutory citations and
12:38:01 5 some other text; is that correct?

12:38:04 6 MS. JOHNSTON: Yes.

12:38:04 7 BY MR. SNOW:

12:38:07 8 Q. Thank you.

12:38:08 9 And looking at the left column, are there any
12:38:15 10 categories of ID that you say you're not familiar with?

12:38:19 11 You can just take a moment to review.

12:38:21 12 MS. JOHNSTON: I'm familiar with all of
12:38:29 13 those.

12:38:29 14 BY MR. SNOW:

12:38:31 15 Q. So looking at the -- the row labeled "Tribal
12:38:33 16 Identification Card (census card, tribal ID, or tribal
12:38:36 17 enrollment card)," and then over on the right, the
12:38:41 18 corresponding box says, "A.R.S. 16-123, ('Any of the
12:38:45 19 identifying documents prescribed in section 16-579,
12:38:48 20 subsection a, paragraph 1 constitutes satisfactory proof of
12:38:52 21 location of residence')"; is that -- is that correct?

12:38:55 22 MS. JOHNSTON: Correct. That's what it says.

12:38:55 23 BY MR. SNOW:

12:38:58 24 Q. And, then, are you familiar with the documents
12:39:01 25 referred to when it says "any of the identifying documents

12:39:03 1 prescribed in section 16-579, subsection a, paragraph 1"?

12:39:09 2 MS. JOHNSTON: I'm sorry. Where are you

12:39:14 3 seeing -- oh.

12:39:14 4 BY MR. SNOW:

12:39:14 5 Q. Yeah.

12:39:17 6 Are you familiar -- are you familiar with the

12:39:18 7 documents that are referred to by that -- that citation?

12:39:21 8 MS. JOHNSTON: Give me one second. Let me

12:39:29 9 review it.

12:39:29 10 BY MR. SNOW:

12:39:29 11 Q. Sure. Take your time.

12:39:51 12 Are you referring to a list of statutes?

12:39:54 13 MS. JOHNSTON: Yes.

12:39:54 14 BY MR. SNOW:

12:39:55 15 Q. Thank you.

12:40:17 16 MS. JOHNSTON: Yes, we are familiar with --

12:40:21 17 with the list of satisfactory proof of residency.

12:40:21 18 BY MR. SNOW:

12:40:26 19 Q. Thank you.

12:40:26 20 That includes tribal identification cards as

12:40:29 21 described in this document?

12:40:30 22 MS. JOHNSTON: Correct.

12:40:30 23 BY MR. SNOW:

12:40:32 24 Q. To your knowledge, do tribal identification cards

12:40:35 25 always contain a residential address?

12:40:36 1 MS. JOHNSTON: Not that I'm aware of.

12:40:36 2 BY MR. SNOW:

12:40:40 3 Q. Have you ever seen a tribal identification card of
12:40:42 4 some type that does not contain a residential address?

12:40:44 5 MS. JOHNSTON: I have never seen a tribal
12:40:46 6 identification card at all.

12:40:46 7 BY MR. SNOW:

12:40:48 8 Q. Okay. Okay. Looking back to Exhibit 204 and
12:41:00 9 looking down at that last column, it states -- that last
12:41:09 10 row and left column states, "Written confirmation signed by
12:41:12 11 the registrant that they qualify to register pursuant to
12:41:14 12 16-166(B) (providing address at a homeless center; USPS
12:41:22 13 General Delivery; Courthouse)"; is that correct?

12:41:22 14 MS. JOHNSTON: Correct.

12:41:22 15 BY MR. SNOW:

12:41:23 16 Q. And then what does that written confirmation refer
12:41:26 17 to?

12:41:27 18 MS. JOHNSTON: If a homeless voter is
12:41:30 19 attempting to register to vote, they may use the nearest JP
12:41:37 20 courthouse. They may use a general post office where they
12:41:47 21 reside by.

12:41:47 22 BY MR. SNOW:

12:41:50 23 Q. And so is this -- is this written confirmation --
12:41:53 24 is this something that your office currently uses?

12:41:55 25 MS. JOHNSTON: Yes.

12:41:55 1 BY MR. SNOW:

12:41:57 2 Q. And would that be contained on a voter
12:41:59 3 registration form or another document?

12:42:04 4 MS. JOHNSTON: A voter could write "Justice
12:42:09 5 of the Peace 1," and we would have an idea of where that
12:42:09 6 is.

12:42:09 7 BY MR. SNOW:

12:42:17 8 Q. Okay. But it's -- your office would rely on the
12:42:19 9 written confirmation signed by the registrant that they
12:42:22 10 qualify to register and reside at that location?

12:42:25 11 MS. JOHNSTON: Yes.

12:42:25 12 BY MR. SNOW:

12:42:25 13 Q. Thank you.

12:42:30 14 And then looking back at this -- this list
12:42:35 15 of -- of documents, how would these documents be submitted
12:42:42 16 to your office?

12:42:43 17 MS. JOHNSTON: Either in person or through
12:42:48 18 the mail.

12:42:48 19 BY MR. SNOW:

12:42:52 20 Q. Could they be submitted by email or fax?

12:42:56 21 MS. JOHNSTON: It would likely be attached to
12:43:07 22 their registration form, so no. We do not accept
12:43:13 23 electronic email versions of the registration form.

12:43:21 24 If somebody is registering through
12:43:23 25 ServiceArizona, which is electronic, they would have to

12:43:27 1 have a physical permanent residential address in order to
12:43:32 2 go through ServiceArizona. They can't leave that blank.

12:43:32 3 BY MR. SNOW:

12:43:39 4 Q. Thank you.

12:43:40 5 And then so if a person who registers using
12:43:44 6 one of these -- these documents to establish their location
12:43:48 7 of residency, if they later update their voter registration
12:43:53 8 information other than their address, would they have to
12:43:55 9 provide that documentation again?

12:43:57 10 MS. JOHNSTON: Yes.

12:43:57 11 BY MR. SNOW:

12:43:59 12 Q. Even if they're not changing their address?

12:44:01 13 MS. JOHNSTON: Well, let me rephrase that.
12:44:09 14 They're not providing any documentation -- well, is this
12:44:15 15 after the implementation of this bill?

12:44:15 16 BY MR. SNOW:

12:44:19 17 Q. Yeah. Yeah.

12:44:19 18 I'm asking how -- how would your office
12:44:21 19 handle a situation where somebody who's already provided
12:44:24 20 documentary proof of residency updates their voter
12:44:29 21 registration information other than their residence address
12:44:34 22 that they've already provided documentation for?

12:44:34 23 MS. JOHNSTON: We will wait for state
12:44:35 24 guidance.

12:44:36 25 THE COURT REPORTER: I didn't hear the

12:44:37 1 objection.

12:44:40 2 MR. HORLEY: I'm sorry. Calls for

12:44:42 3 speculation.

12:44:42 4 BY MR. SNOW:

12:44:50 5 Q. Your office currently requires documentary proof
12:44:54 6 of citizenship for registration using the state form; is
12:44:58 7 that correct?

12:44:58 8 MS. JOHNSTON: Using all forms, correct.

12:44:58 9 BY MR. SNOW:

12:45:03 10 Q. If somebody had -- if somebody who's registered
12:45:07 11 who's already provided their proof of citizenship updates
12:45:09 12 their voter registration form, do they have to provide
12:45:11 13 their proof of citizenship again?

12:45:14 14 MR. LANGHOFER: Calls for a legal conclusion.

12:45:15 15 MS. JOHNSTON: No. HAVA checks would be ran
12:45:19 16 on the record again. Every time a voter updates their
12:45:24 17 record, HAVA checks are ran. And if the voter provided
12:45:29 18 DPOC outside of their driver's license, our office would
12:45:35 19 have made note of that in the voter record; therefore, the
12:45:40 20 voter would not be required to resubmit DPOC.

12:45:40 21 BY MR. SNOW:

12:45:45 22 Q. Is there any equivalent process to a HAVA check
12:45:47 23 for checking documentary proof of residency?

12:45:52 24 MS. JOHNSTON: No.

12:45:52 25 ///

12:45:58 1 BY MR. SNOW:

12:45:58 2 Q. So again, your office would have to locate that --
12:46:02 3 that residence on a map and assign it a -- drop a pin to
12:46:06 4 assign it a geocode; is that correct?

12:46:07 5 MR. LANGHOFER: Asked and answered.

12:46:08 6 MS. JOHNSTON: Correct.

12:46:08 7 BY MR. SNOW:

12:46:12 8 Q. Looking at the documents in Exhibit 204, under
12:46:17 9 "What constitutes Documentary Proof of Residency?" would
12:46:20 10 any of these documents assist you in dropping that pin to
12:46:25 11 locate their geocode address?

12:46:28 12 MS. JOHNSTON: Yes.

12:46:28 13 BY MR. SNOW:

12:46:33 14 Q. And in -- in what way?

12:46:35 15 MS. JOHNSTON: Well, if they're providing a
12:46:36 16 driver's license, they're providing us a standard address.

12:46:36 17 BY MR. SNOW:

12:46:42 18 Q. Sorry. Let me be more specific. For someone with
12:46:44 19 a nonstandard address.

12:46:46 20 MS. JOHNSTON: Okay.

12:46:46 21 BY MR. SNOW:

12:46:47 22 Q. So in other words, let's look specifically at the
12:46:52 23 tribal identification card.

12:46:52 24 If someone has a nonstandard address and
12:46:54 25 they're providing a tribal identification card that doesn't

12:46:57 1 contain an address, does that -- does that documentation
12:47:02 2 assist you in dropping the pin on the map to find their
12:47:06 3 geocode?

12:47:08 4 MS. JOHNSTON: If the tribal ID does not have
12:47:10 5 the address, that would not help us in dropping a pin.

12:47:10 6 BY MR. SNOW:

12:47:16 7 Q. But again, you -- you haven't had any issues thus
12:47:19 8 far, in your experience, in terms of locating nonstandard
12:47:22 9 addresses to drop the pin?

12:47:23 10 MS. JOHNSTON: Correct.

12:47:24 11 MR. SNOW: Okay. I'm done. I really
12:47:27 12 appreciate your time and all of your work.

12:47:29 13 THE COURT REPORTER: If we could take a
12:47:31 14 break.

12:47:48 15 (An off-the-record discussion ensued.)

12:47:48 16 THE VIDEOGRAPHER: We're off the record.
12:47:49 17 Time on the video monitor is 12:47 p.m. This ends Media 2.

13:34:22 18 (A recess ensued.)

13:34:23 19 THE VIDEOGRAPHER: We are on the record.
13:34:34 20 Time on the video monitor is 1:34 p.m. This begins
13:34:39 21 Media 3.

13:34:40 22 MR. HERRERA: Hi. This is Ernest Herrera, on
13:34:43 23 the record again.

13:34:46 24 After a break, I have no further questions at
13:34:50 25 this time. However, I don't know if any other plaintiffs

13:34:53 1 groups do. So barring any -- anyone piping up right now, I
13:35:00 2 think we can pass it to the defendants -- pass the witness
13:35:03 3 to the defendants.

13:35:05 4 MR. LANGHOFER: Thanks, Ernest.

13:35:05 5

13:35:05 6 EXAMINATION

13:35:05 7 BY MR. LANGHOFER:

13:35:08 8 Q. Looks like I'll be going first for the defendants.

13:35:10 9 My name is Kory Langhofer. And I represent
13:35:13 10 the Republican National Committee. And I have just a few
13:35:17 11 questions for you, not nearly as long as what you got from
13:35:21 12 the plaintiffs.

13:35:22 13 And then after that, I think the attorney
13:35:23 14 general is going to have a few questions for you and maybe
13:35:26 15 the secretary of state, the legislature, but probably just
13:35:28 16 two of us.

13:35:29 17 So let's just go through these. I believe it
13:35:37 18 was -- Ms. Johnston had mentioned some voter registration
13:35:40 19 forms that you all get in from third-party voter
13:35:44 20 registration drives that have incorrect information on
13:35:46 21 them.

13:35:47 22 Do you have any sense of how often you get
13:35:49 23 forms like that where the information is filled out so
13:35:54 24 incorrectly as to make you think that it was intentional?

13:36:00 25 MS. JOHNSTON: I would say more during big

13:36:05 1 election cycles, either midterm or presidential, and it's

13:36:10 2 pretty often.

13:36:12 3 BY MR. LANGHOFER:

13:36:12 4 Q. Do you have any idea of how many forms like that

13:36:14 5 you might get per presidential cycle?

13:36:17 6 MS. JOHNSTON: Hundreds.

13:36:21 7 BY MR. LANGHOFER:

13:36:22 8 Q. And what -- are those referred to the county

13:36:25 9 attorney and attorney general for prosecution?

13:36:28 10 MS. JOHNSTON: In the past, we have provided

13:36:30 11 them, yes.

13:36:31 12 And I know former recorder Robyn

13:36:37 13 Stallworth-Pouquette had -- also took them to the

13:36:39 14 legislature.

13:36:39 15 BY MR. LANGHOFER:

13:36:41 16 Q. Do you know whether she took that to the

13:36:42 17 legislature before these bills were passed?

13:36:46 18 MS. JOHNSTON: Yes. It would have been in

13:36:47 19 2016 and '18.

13:36:50 20 BY MR. LANGHOFER:

13:36:54 21 Q. All right. When someone puts their birthplace on

13:37:00 22 a voter registration form, do you put that information into

13:37:03 23 the voter file?

13:37:04 24 MS. JOHNSTON: Yes.

13:37:05 25 ///

13:37:05 1 BY MR. LANGHOFER:

13:37:06 2 Q. And is that information that you can use to verify

13:37:10 3 someone's identity when they call in to speak with you?

13:37:12 4 MS. JOHNSTON: We don't use it as a way to

13:37:15 5 identify somebody over the phone.

13:37:18 6 BY MR. LANGHOFER:

13:37:18 7 Q. What do you use to identify someone over the

13:37:20 8 phone?

13:37:20 9 MS. JOHNSTON: The last four of their social

13:37:23 10 typically is what we would use.

13:37:25 11 BY MR. LANGHOFER:

13:37:25 12 Q. What about their birthday?

13:37:27 13 MS. JOHNSTON: And their full date of birth.

13:37:29 14 BY MR. LANGHOFER:

13:37:30 15 Q. Could you use the birthplace even if you don't

13:37:33 16 currently?

13:37:34 17 MS. JOHNSTON: We could. But we have some

13:37:41 18 voters who change that information almost every time they

13:37:45 19 register to vote. So we don't really use it for

13:37:51 20 verification purposes.

13:37:52 21 BY MR. LANGHOFER:

13:37:53 22 Q. So the same person might say that they were born

13:38:00 23 in Los Angeles and the next time they register or change

13:38:02 24 their address, they might say they were born in Idaho?

13:38:05 25 MS. JOHNSTON: Correct.

13:38:06 1 BY MR. LANGHOFER:

13:38:08 2 Q. Any idea why people would do that?

13:38:11 3 MS. JOHNSTON: No idea. Currently, it's not

13:38:15 4 a required form or a required field on the state

13:38:21 5 registration form. So most of the time it's left blank.

13:38:27 6 BY MR. LANGHOFER:

13:38:27 7 Q. I see.

13:38:28 8 If -- what if you had a person with a common

13:38:33 9 name and there happened to be two people with that name and

13:38:36 10 the same birthday? In that sort of situation, could you

13:38:39 11 use the birthplace to determine whether it's the same

13:38:42 12 person or two different people?

13:38:44 13 MS. JOHNSTON: We would likely use the last

13:38:46 14 four of their social.

13:38:49 15 BY MR. LANGHOFER:

13:38:49 16 Q. What if they didn't provide a Social Security

13:38:51 17 number?

13:38:52 18 MS. JOHNSTON: It would have likely got

13:38:54 19 acquired through the HAVA checks.

13:38:56 20 BY MR. LANGHOFER:

13:38:57 21 Q. But the birthplace is something that you could use

13:39:00 22 in addition to Social Security to determine whether it's

13:39:01 23 the same person?

13:39:03 24 MS. JOHNSTON: We could use it, yes.

13:39:04 25 ///

13:39:04 1 BY MR. LANGHOFER:

13:39:05 2 Q. Okay. Do you guys have access to any databases
13:39:10 3 other than the HAVA checks and the SAVE database to
13:39:13 4 determine whether someone is a citizen?

13:39:15 5 MS. JOHNSTON: No.

13:39:16 6 BY MR. LANGHOFER:

13:39:24 7 Q. When someone registers using the state form and
13:39:29 8 they don't provide DPOC and you all send out a notification
13:39:34 9 letter saying, "Hey, we're missing your DPOC" -- in this
13:39:36 10 case, I guess I'm assuming that it's someone for whom
13:39:39 11 there's not DPOC in the HAVA check -- discovered in the
13:39:43 12 HAVA check. Of the folks who get those sorts of
13:39:47 13 notification letters, what percentage of them do you think
13:39:49 14 respond and end up providing satisfactory DPOC?

13:39:53 15 MS. JOHNSTON: I can't give a statistical
13:39:56 16 figure.

13:39:56 17 BY MR. LANGHOFER:

13:39:58 18 Q. Do you have a sense of -- is it more than half?

13:40:00 19 MS. JOHNSTON: But it's a -- a small amount
13:40:01 20 of people come back providing DPOC.

13:40:05 21 BY MR. LANGHOFER:

13:40:05 22 Q. So less than 25 percent?

13:40:09 23 MS. JOHNSTON: Yeah.

13:40:10 24 BY MR. LANGHOFER:

13:40:11 25 Q. Okay. The -- well, let me not get into that. I

13:40:30 1 think that wasn't opened up on direct examination. Bear
13:40:35 2 with me one second. I'm just going to look through my
13:40:37 3 notes here, make sure we've touched on everything.

13:40:40 4 The -- we have heard from other counties
13:40:57 5 about this -- a problem apparently in October of 2022 of
13:41:02 6 the HAVA checks incorrectly indicating that some folks were
13:41:05 7 not citizens. Are you familiar with that?

13:41:07 8 MS. JOHNSTON: Yes.

13:41:08 9 BY MR. LANGHOFER:

13:41:09 10 Q. Do you know of anyone who was denied full
13:41:14 11 registration in your county because of that issue?

13:41:17 12 MS. JOHNSTON: It's possible, yes, but later
13:41:21 13 confirmed with the voter that they are a citizen after
13:41:25 14 sending the required correspondence and receiving either a
13:41:29 15 phone call from them saying that they're confused on why
13:41:34 16 and then they resubmit another registration form with
13:41:38 17 additional DPOC.

13:41:39 18 BY MR. LANGHOFER:

13:41:39 19 Q. Okay. So would all the voters who would have been
13:41:42 20 affected by that then have had a chance to get a full
13:41:45 21 registration instead of a federal-only?

13:41:47 22 MS. JOHNSTON: All of those voters would have
13:41:49 23 been able to rectify their -- their status, yes.

13:41:52 24 BY MR. LANGHOFER:

13:41:54 25 Q. Do you know whether it's possible for the HAVA

13:41:57 1 checks to not only incorrectly indicate that someone is not
13:42:00 2 a citizen but to incorrectly indicate that they are a
13:42:05 3 citizen?

13:42:05 4 MS. JOHNSTON: I suppose it's possible if
13:42:09 5 there was some glitch in the system. And let's say I ran
13:42:14 6 HAVA checks on Joann -- but what the staff does is they
13:42:19 7 look at the verification tab to make sure that the name
13:42:23 8 does match. I believe in the instance you were talking
13:42:26 9 about, it was returning a record for somebody else.

13:42:30 10 BY MR. LANGHOFER:

13:42:33 11 Q. And I didn't want to cut you off, ma'am. Do you
13:42:36 12 have more?

13:42:36 13 MS. JOHNSTON: No.

13:42:38 14 BY MR. LANGHOFER:

13:42:42 15 Q. Thinking about the possibility that it would
13:42:44 16 incorrectly indicate that someone's a citizen, would your
13:42:46 17 office find that's there informational value in having a
13:42:50 18 separate indication from the voter, the checkbox
13:42:52 19 specifically, confirming that they're a citizen?

13:42:54 20 MS. JOHNSTON: So yes, the voter has to mark
13:43:00 21 questions -- the two questions that are in Box 22,
13:43:03 22 affirming that they are or are not a citizen.

13:43:06 23 BY MR. LANGHOFER:

13:43:07 24 Q. And does that add value to your office?

13:43:09 25 MS. JOHNSTON: Yes.

13:43:11 1 MR. LANGHOFER: Thanks very much for your
13:43:11 2 time. I promised this would be shorter. That's all the
13:43:14 3 questions I had.

13:43:15 4 Tim.

13:43:16 5 MR. HORLEY: Yes. Thanks, Kory.

13:43:17 6

13:43:18 7 EXAMINATION

13:43:18 8 BY MR. HORLEY:

13:43:21 9 Q. Hello, Ms. Munoz and Ms. Johnston. I am with the
13:43:24 10 State of Arizona and the Arizona Attorney General's Office.
13:43:28 11 I will not have too many questions?

13:43:31 12 Fortunately, Kory already covered some of the
13:43:33 13 things I wanted to discuss. But I do have a few documents
13:43:34 14 that we haven't looked at yet. So I will screen-share
13:43:38 15 those and then send them around in the chat once I'm done
13:43:42 16 speaking about them for everybody to look at.

13:43:47 17 So starting with some of your testimony --
13:43:52 18 and this is more for you, Ms. Johnston, because I think you
13:43:55 19 spoke about this a little bit more.

13:43:57 20 You mentioned that some phrases in the
13:44:01 21 challenged laws HB 2492 and 2243 are unclear; correct?

13:44:05 22 MS. JOHNSTON: Correct.

13:44:07 23 BY MR. HORLEY:

13:44:08 24 Q. And then you testified that it would be helpful to
13:44:10 25 have guidance from the secretary of state on how to

13:44:12 1 implement those parts; is that right?

13:44:15 2 MS. JOHNSTON: Correct.

13:44:15 3 BY MR. HORLEY:

13:44:17 4 Q. And that could come in the form of an updated EPM?

13:44:21 5 MS. JOHNSTON: Correct.

13:44:21 6 BY MR. HORLEY:

13:44:23 7 Q. And the EPM provides guidance on a lot of other

13:44:25 8 voting laws -- right? -- not just these laws?

13:44:28 9 MS. JOHNSTON: Correct.

13:44:29 10 BY MR. HORLEY:

13:44:30 11 Q. And do you generally rely on the EPM to help

13:44:32 12 implement those other voting laws?

13:44:34 13 MS. JOHNSTON: Yes.

13:44:36 14 BY MR. HORLEY:

13:44:36 15 Q. Okay. So would it be easy to implement those

13:44:39 16 other voting laws without the EPM?

13:44:42 17 MS. JOHNSTON: No.

13:44:43 18 BY MR. HORLEY:

13:44:44 19 Q. Okay. So other laws can also be difficult to

13:44:50 20 implement without further guidance from the secretary of

13:44:50 21 state; is that right?

13:44:52 22 MS. JOHNSTON: Not only further guidance, but

13:44:53 23 enhancements to the voter registration system to make sure

13:44:56 24 that those new laws are being implemented into the voter's

13:44:59 25 record.

13:45:00 1 BY MR. HORLEY:

13:45:01 2 Q. Okay. So same thing is true here that is true for

13:45:04 3 a lot of these other voting laws: It's helpful to have

13:45:07 4 guidance and also to update your systems to be able to

13:45:09 5 implement them?

13:45:11 6 MS. JOHNSTON: Correct.

13:45:12 7 BY MR. HORLEY:

13:45:12 8 Q. Okay. Thank you.

13:45:13 9 And now I wanted to talk a little bit more

13:45:15 10 about how you verify citizenship, specifically DPOC.

13:45:22 11 Does your office do anything to verify DPOC

13:45:25 12 when it is received?

13:45:26 13 MS. JOHNSTON: Well, every voter is ran

13:45:31 14 through the HAVA checks. So if Joann is registering to

13:45:36 15 vote and she comes into the office with a birth

13:45:40 16 certificate, we could bypass -- we could manually select

13:45:46 17 "yes" on citizenship, but ultimately we would still be

13:45:50 18 running HAVA checks.

13:45:51 19 BY MR. HORLEY:

13:45:52 20 Q. Okay. Understood.

13:45:53 21 But if someone submits, say, a copy of their

13:45:56 22 birth certificate, is there anything that your office does

13:45:59 23 to verify the accuracy of that document?

13:46:03 24 MS. JOHNSTON: No.

13:46:05 25 ///

13:46:05 1 BY MR. HORLEY:

13:46:06 2 Q. Okay. So it's just accepted at face value?

13:46:10 3 MS. JOHNSTON: Along with the HAVA checks,
13:46:11 4 yes.

13:46:13 5 BY MR. HORLEY:

13:46:13 6 Q. Along with the HAVA checks. Okay. Thank you.

13:46:15 7 I believe -- so you talked a little bit about
13:46:22 8 the checkbox that appears on the voter forms.

13:46:26 9 If the recorder does not have DPOC, is the
13:46:31 10 information contained in that checkbox helpful?

13:46:34 11 MS. JOHNSTON: It is helpful, but it does not
13:46:39 12 suffice for DPOC.

13:46:41 13 BY MR. HORLEY:

13:46:42 14 Q. Okay. So in that case, if there's no DPOC, you
13:46:46 15 would still run a check and possibly reach out to the
13:46:49 16 voter?

13:46:49 17 MS. JOHNSTON: If there is -- so let me
13:46:53 18 rephrase this. If the voter provides a driver's license
13:46:57 19 number or enough information where we can run HAVA checks
13:47:01 20 and determine a true match, we would register the voter.

13:47:06 21 Now, if the voter marked "no," they are not a
13:47:09 22 citizen and they are a first-time registrant and they mark
13:47:13 23 "no" on the form, we would likely just put them in as not
13:47:17 24 eligible, invalid proof of citizenship, because they are
13:47:20 25 already telling us that they are not a citizen.

13:47:22 1 BY MR. HORLEY:

13:47:25 2 Q. Okay. Thank you.

13:47:25 3 You kind of anticipated where I was going.

13:47:27 4 So thank you for that. Then one other question about this.

13:47:31 5 If a -- is it possible for a registered voter

13:47:34 6 to submit a copy of a citizenship document, like a copy of

13:47:37 7 a birth certificate, that is defective in some ways; for

13:47:42 8 example, it's blurry or difficult to read?

13:47:44 9 MS. JOHNSTON: A voter can provide a

13:47:48 10 defective naturalization paperwork of some sort, and that

13:47:52 11 information could be verified through SAVE as long as we

13:47:55 12 can read the numeric information on the form.

13:48:01 13 BY MR. HORLEY:

13:48:02 14 Q. Okay. Same thing could be true for, say, a copy

13:48:04 15 of a passport or a birth certificate or something like

13:48:07 16 that?

13:48:08 17 MS. JOHNSTON: Yes. We can't run it through

13:48:13 18 a system. The only thing we can run through a system is an

13:48:17 19 alien number or a naturalization number. We cannot run a

13:48:23 20 U.S. passport or a birth certificate through any additional

13:48:26 21 checks.

13:48:27 22 BY MR. HORLEY:

13:48:29 23 Q. Okay. Understood.

13:48:30 24 And so if you had a situation where their

13:48:33 25 DPOC was defective in some way, would it be helpful to know

13:48:36 1 how the voter answered the checkbox?

13:48:39 2 MS. JOHNSTON: Sure.

13:48:42 3 BY MR. HORLEY:

13:48:43 4 Q. Okay. Thank you.

13:48:45 5 Okay. I have the first document that I want

13:48:48 6 to look at. So I'm going to screen-share it. One moment.

13:48:59 7 Okay.

13:49:00 8 Can you both see this document?

13:49:04 9 MS. JOHNSTON: Yes.

13:49:06 10 BY MR. HORLEY:

13:49:07 11 Q. And do you recognize what this document is?

13:49:10 12 MS. JOHNSTON: Yes.

13:49:10 13 BY MR. HORLEY:

13:49:12 14 Q. And did your office produce this in response to

13:49:15 15 plaintiffs' request for production?

13:49:17 16 MS. JOHNSTON: I believe so. I believe ours

13:49:22 17 had a -- an additional header, though, with maybe a time

13:49:28 18 date stamp, but I'm not quite sure. But it looks like

13:49:32 19 something we could have produced, yes.

13:49:35 20 MR. HORLEY: Okay. I would like to mark this

13:49:37 21 as exhibit -- I believe we're at Number 205. Is that

13:49:41 22 right, Cindy?

13:49:41 23 THE COURT REPORTER: Yes.

13:49:41 24 (The document was marked as Exhibit 205

13:49:47 25 for identification.)

13:49:47 1 BY MR. HORLEY:

13:49:49 2 Q. So I see here there's a column for "Status." Does

13:49:53 3 that say what someone's voter registration status is?

13:49:56 4 MS. JOHNSTON: Yes.

13:49:57 5 BY MR. HORLEY:

13:49:57 6 Q. And then here it says the "Status Reason." And

13:50:00 7 that tells us why that person has this status; is that

13:50:00 8 right?

13:50:04 9 MS. JOHNSTON: Correct.

13:50:16 10 BY MR. HORLEY:

13:50:18 11 Q. So I'd like to look quickly at a row down here.

13:50:29 12 Okay.

13:50:29 13 Do you see this row here, Row 491?

13:50:32 14 MS. JOHNSTON: Yes.

13:50:32 15 BY MR. HORLEY:

13:50:33 16 Q. It says that the person's status is "not

13:50:37 17 eligible," and the reason is "invalid citizenship proof";

13:50:40 18 is that right?

13:50:40 19 MS. JOHNSTON: Correct.

13:50:42 20 BY MR. HORLEY:

13:50:43 21 Q. Okay. So is this what you described earlier in

13:50:46 22 your testimony? And I forget whether it was Ms. Munoz or

13:50:49 23 Ms. Johnston on this.

13:50:51 24 But that -- when a HAVA check cannot verify

13:50:54 25 citizenship, is this that -- that sort of situation?

13:50:58 1 MS. JOHNSTON: If the HAVA check is ran and

13:51:00 2 the verification comes back as not a citizen or permanent

13:51:05 3 resident, the voter gets this status in "Status Reason."

13:51:12 4 BY MR. HORLEY:

13:51:12 5 Q. Is this a status that is something that can be

13:51:15 6 fixed; like, after you send the notice, you can update this

13:51:20 7 status, or is "not eligible" equivalent to canceling their

13:51:24 8 registration?

13:51:24 9 MS. JOHNSTON: In my opinion, it is not

13:51:27 10 equivalent. In order to cancel something, you have to have

13:51:30 11 been registered. This person was never registered. They

13:51:36 12 were entered into the system but did not meet the minimum

13:51:40 13 qualifications; therefore, they were never registered. So

13:51:43 14 there was nothing to cancel.

13:51:45 15 BY MR. HORLEY:

13:51:46 16 Q. Okay. Understood.

13:51:47 17 So is this sort of the same thing as

13:51:49 18 rejecting someone's application?

13:51:51 19 MS. JOHNSTON: Yes.

13:51:52 20 BY MR. HORLEY:

13:51:53 21 Q. Okay. Thank you.

13:51:56 22 And then I wanted to just look at these

13:51:59 23 columns here really quickly.

13:52:02 24 So these columns here tell us when the voter

13:52:05 25 registered; is that right?

13:52:06 1 MS. JOHNSTON: It would be the registration
13:52:08 2 date, their county registration date, and their effective
13:52:12 3 date of change, yes.
13:52:13 4 BY MR. HORLEY:
13:52:13 5 Q. Okay. And so that effective date of change is the
13:52:16 6 last time that this spreadsheet was updated?
13:52:18 7 MS. JOHNSTON: Correct.
13:52:19 8 BY MR. HORLEY:
13:52:20 9 Q. Okay. Thank you.
13:52:22 10 Now I want to look at another row. Do you
13:52:28 11 see this row, Row 145?
13:52:31 12 MS. JOHNSTON: Correct.
13:52:31 13 BY MR. HORLEY:
13:52:33 14 Q. So I see here it says that this person's status is
13:52:36 15 canceled, and the reason is invalid residence address; is
13:52:40 16 that right?
13:52:40 17 MS. JOHNSTON: Yes.
13:52:41 18 BY MR. HORLEY:
13:52:42 19 Q. So what does that mean?
13:52:45 20 MS. JOHNSTON: I'm going to assume this
13:52:46 21 record was done in the previous voter registration database
13:52:50 22 called PowerProfile, which is very different from the
13:52:55 23 current registration database.
13:52:58 24 So when we were in PowerProfile -- and laws
13:53:01 25 were different as well back in 2014 -- this person likely

13:53:07 1 submitted a registration form and either left the
13:53:12 2 residential address portion of the form blank or did not
13:53:15 3 provide or follow up with our office to give us a standard
13:53:20 4 or a nonstandard address, and eventually it just timed out.

13:53:28 5 So I believe the state law says that if a
13:53:30 6 voter does not respond within 90 days, they can go into the
13:53:37 7 system as basically rejected.

13:53:40 8 BY MR. HORLEY:

13:53:42 9 Q. Okay. So this is basically a rejection for having
13:53:46 10 no -- like, no certifiable address information?

13:53:49 11 MS. JOHNSTON: Correct.

13:53:50 12 BY MR. HORLEY:

13:53:51 13 Q. Could this be a situation like you mentioned
13:53:53 14 earlier where someone puts down a commercial address as
13:53:56 15 their address?

13:53:58 16 MS. JOHNSTON: Yes. They -- the voter would
13:54:01 17 have put -- been put into suspense if they were an active
13:54:05 18 voter; or even a brand-new voter, they would have been put
13:54:09 19 in suspense. Correspondence would have been sent to the
13:54:12 20 voter to obtain residential address. And after not hearing
13:54:17 21 from the voter for so many days, they would ultimately get
13:54:22 22 rejected.

13:54:22 23 BY MR. HORLEY:

13:54:23 24 Q. Okay. Great. Thank you. All right. I have one
13:54:25 25 more row in this document. Just get us there really

13:54:32 1 quickly.

13:54:38 2 Do you see this row here, Row 1064?

13:54:43 3 MS. JOHNSTON: Correct.

13:54:44 4 BY MR. HORLEY:

13:54:44 5 Q. In this row, it says that the person's status is

13:54:46 6 canceled, and the reason is involuntary cancellation; is

13:54:51 7 that right?

13:54:51 8 MS. JOHNSTON: It looks like it, yes.

13:54:52 9 BY MR. HORLEY:

13:54:53 10 Q. What does "involuntary cancellation" mean?

13:54:56 11 MS. JOHNSTON: Well, I wasn't here in 2006 to

13:54:58 12 know exactly what prompted the staff to do that, but if --

13:55:03 13 I can take a good guess. Maybe another record was created

13:55:11 14 erroneously and staff had to cancel that record, so that

13:55:14 15 way, the voter didn't have double record.

13:55:17 16 BY MR. HORLEY:

13:55:17 17 Q. Okay. Understood. Thank you.

13:55:18 18 All right. I'm going to close out of this

13:55:22 19 document. Okay.

13:55:29 20 And then I have another one here. Can you

13:55:40 21 see this document?

13:55:41 22 MS. JOHNSTON: Yes.

13:55:41 23 BY MR. HORLEY:

13:55:42 24 Q. Okay. Was this the one that you referred to

13:55:44 25 before that you thought, you know, that your office

13:55:47 1 produced?

13:55:48 2 MS. JOHNSTON: Yes.

13:55:48 3 BY MR. HORLEY:

13:55:49 4 Q. Okay. So this is something that your office

13:55:51 5 produced in response to plaintiffs' request for production?

13:55:55 6 MS. JOHNSTON: Yes.

13:55:55 7 MR. HORLEY: Okay. I would like to mark this

13:55:57 8 as Exhibit 206, please.

13:56:04 9 (Reporter clarification.)

13:56:04 10 (The document was marked as Exhibit 206

13:56:25 11 for identification.)

13:56:25 12 MR. MORGAN: Tim, who produced it?

13:56:28 13 MR. HORLEY: I believe it was Yuma County,

13:56:30 14 the Yuma County Recorder's Office.

13:56:32 15 MR. MORGAN: Okay. Great. Thanks.

13:56:36 16 BY MR. HORLEY:

13:56:39 17 Q. Okay. So this one has a bit more information.

13:56:43 18 But I want to turn to this column here where it says

13:56:49 19 "Status." That is someone's voter registration status;

13:56:52 20 correct?

13:56:52 21 MS. JOHNSTON: Correct.

13:56:53 22 BY MR. HORLEY:

13:56:54 23 Q. And then this gives you the status reason?

13:56:55 24 MS. JOHNSTON: Correct.

13:56:57 25 ///

13:56:57 1 BY MR. HORLEY:

13:56:58 2 Q. What is the difference between this spreadsheet

13:57:01 3 and the one that we just looked at?

13:57:03 4 MS. JOHNSTON: These are our federal-only

13:57:06 5 voters. If you see the header at the very bottom of that

13:57:10 6 worksheet . . .

13:57:10 7 BY MR. HORLEY:

13:57:13 8 Q. Yes. Okay. Okay.

13:57:16 9 And then what about -- let's take a look at

13:57:18 10 this sheet.

13:57:21 11 So what does this sheet describe?

13:57:24 12 MS. JOHNSTON: Canceled and -- canceled

13:57:27 13 voters and voters that are in suspense.

13:57:30 14 BY MR. HORLEY:

13:57:30 15 Q. Okay. And does this show voters whose

13:57:33 16 registration was canceled after they had registered?

13:57:37 17 MS. JOHNSTON: Yes. In order to be canceled,

13:57:46 18 you have to have been registered.

13:57:47 19 BY MR. HORLEY:

13:57:48 20 Q. Okay. So it is the case that sometimes your

13:57:50 21 office cancels people's registration after they have

13:57:54 22 registered?

13:57:54 23 MS. JOHNSTON: Correct. So as you can see,

13:57:57 24 some of these people are deceased; some of them moved maybe

13:58:02 25 out of state; or we got returned mail from them and they

13:58:08 1 did not follow up with us within four federal cycles.

13:58:12 2 BY MR. HORLEY:

13:58:15 3 Q. Okay. Understood.

13:58:15 4 Just going to look quickly here at Row 261.

13:58:26 5 This one says that the voter's registration was canceled

13:58:31 6 for invalid citizenship proof; correct?

13:58:33 7 MS. JOHNSTON: Correct.

13:58:34 8 BY MR. HORLEY:

13:58:34 9 Q. Would that be a similar circumstance where they

13:58:37 10 just never provided DPOC?

13:58:41 11 MS. JOHNSTON: Or HAVA checks were ran and it

13:58:46 12 came back as not a citizen.

13:58:51 13 I am assuming this was also done in

13:58:53 14 PowerProfile, which has different terminology than what

13:58:56 15 AVID uses.

13:58:58 16 BY MR. HORLEY:

13:58:58 17 Q. Okay. And so could this have been an instance of

13:59:01 18 someone attempting to register who is not a U.S. citizen?

13:59:04 19 MS. JOHNSTON: It could be, yes.

13:59:06 20 BY MR. HORLEY:

13:59:06 21 Q. Okay. And then one more row, this one.

13:59:17 22 So this one says the voter's registration was

13:59:22 23 canceled and it was involuntary cancellation; is that

13:59:25 24 right?

13:59:25 25 MS. JOHNSTON: Correct.

13:59:26 1 BY MR. HORLEY:

13:59:26 2 Q. And so would the same thing apply here, how you

13:59:30 3 described the other type of involuntary cancellation, or is

13:59:32 4 there any difference?

13:59:33 5 MS. JOHNSTON: I would assume that this

13:59:35 6 record was created by accident. And maybe the voter

13:59:38 7 already held an active record, so this one got canceled.

13:59:43 8 BY MR. HORLEY:

13:59:43 9 Q. Okay. Could it come from some other reason like,

13:59:46 10 for example, someone said they were not a citizen on a jury

13:59:49 11 questionnaire?

13:59:50 12 MS. JOHNSTON: No.

13:59:51 13 BY MR. HORLEY:

13:59:52 14 Q. Okay. Okay. Thank you. That is all I have for

13:59:55 15 that one.

14:00:04 16 Okay. So I wanted to talk a little bit about

14:00:06 17 one of the questions that my colleague Kory asked you.

14:00:10 18 He said that there -- you have noticed that

14:00:15 19 there are sometimes hundreds of instances where you get

14:00:20 20 voter registration applications with false information

14:00:23 21 around presidential and midterm election cycles; is that

14:00:27 22 right?

14:00:27 23 MS. JOHNSTON: Correct.

14:00:28 24 BY MR. HORLEY:

14:00:28 25 Q. And those come often from third-party registration

14:00:31 1 drives?

14:00:32 2 MS. JOHNSTON: Correct.

14:00:33 3 BY MR. HORLEY:

14:00:33 4 Q. And you mentioned that Yuma County is not a huge

14:00:36 5 place, so sometimes you know who people -- who these people

14:00:41 6 are who are putting false information on their

14:00:45 7 registration; is that right?

14:00:45 8 MS. JOHNSTON: Correct.

14:00:47 9 BY MR. HORLEY:

14:00:48 10 Q. Do you have any sense of why they would enter

14:00:52 11 false information on their registration applications?

14:00:54 12 MS. JOHNSTON: I personally believe that the

14:00:57 13 information could be getting data mined or people are

14:01:03 14 getting paid per form; the circulators are getting paid per

14:01:05 15 form.

14:01:05 16 BY MR. HORLEY:

14:01:09 17 Q. And so how would that lead to someone entering

14:01:12 18 false information on the form?

14:01:12 19 MS. JOHNSTON: If you're getting a dollar per

14:01:16 20 form and you want to make more money, there's potentially

14:01:21 21 people that will fill out fake registration forms to get

14:01:24 22 paid the dollar per form, but that's just an assumption of

14:01:30 23 mine.

14:01:30 24 BY MR. HORLEY:

14:01:31 25 Q. Okay. Thank you. Understood.

14:01:33 1 Is it possible that some of the people who
14:01:35 2 are submitting these false forms are not eligible to vote
14:01:39 3 in Yuma County?
14:01:41 4 MR. HERRERA: Objection; form.
14:01:44 5 MS. JOHNSTON: I am not sure of the
14:01:45 6 circulators' qualifications.
14:01:48 7 BY MR. HORLEY:
14:01:49 8 Q. And what about the people whose names are on the
14:01:52 9 applications?
14:01:53 10 MS. JOHNSTON: Can you repeat the question?
14:01:53 11 BY MR. HORLEY:
14:01:57 12 Q. So is it possible that the people who -- whose
14:02:00 13 names are on the applications that have the false
14:02:03 14 information -- is it possible that those people are not
14:02:07 15 eligible to vote?
14:02:09 16 MS. JOHNSTON: It is possible, sure.
14:02:13 17 BY MR. HORLEY:
14:02:15 18 Q. Is it possible that some of them are not U.S.
14:02:17 19 citizens?
14:02:18 20 MS. JOHNSTON: It is possible, but we would
14:02:20 21 find that out through the HAVA checks.
14:02:20 22 BY MR. HORLEY:
14:02:24 23 Q. Have you ever encountered a situation from those
14:02:28 24 third-party registrations where you do a HAVA check and it
14:02:30 25 turns out that person is not a U.S. citizen?

14:02:33 1 MS. JOHNSTON: It would likely not come back
14:02:34 2 with any information at all because there wouldn't be
14:02:37 3 enough matching information to determine a true match of
14:02:42 4 that person.

14:02:43 5 BY MR. HORLEY:

14:02:48 6 Q. Understood. I've got three more documents that we
14:02:53 7 will hopefully get through quickly here. Thank you for
14:02:55 8 your patience.

14:03:07 9 And can you see this document?

14:03:11 10 MS. JOHNSTON: Yes.

14:03:13 11 BY MR. HORLEY:

14:03:13 12 Q. Do you recognize this document?

14:03:15 13 MS. JOHNSTON: Yes.

14:03:16 14 BY MR. HORLEY:

14:03:18 15 Q. Did your office produce this in response to
14:03:20 16 plaintiffs' request for production?

14:03:21 17 MS. JOHNSTON: Yes.

14:03:23 18 MR. HORLEY: Okay. I would like to mark this
14:03:24 19 as Document Number 207 -- or Exhibit 207.

14:03:43 20 (An off-the-record discussion ensued.)

14:03:43 21 (The document was marked as Exhibit 207
14:03:48 22 for identification.)

14:03:48 23 BY MR. HORLEY:

14:03:48 24 Q. I'm going to zoom out a little bit and just give
14:03:52 25 you a moment to review this document. Just let me know

14:03:57 1 when you're finished reviewing or if you'd like me to
14:03:59 2 scroll down.
14:04:00 3 MS. JOHNSTON: I'm finished.
14:04:01 4 BY MR. HORLEY:
14:04:02 5 Q. Okay. Thank you.
14:04:04 6 So what is this document describing?
14:04:07 7 MS. JOHNSTON: This document is describing
14:04:12 8 some investigative work I did once I received the ERIC file
14:04:21 9 for cross-state participation, I believe it was called, and
14:04:27 10 which is -- I'm not really sure how ERIC obtains it. But
14:04:33 11 it's basically information letting us know that somebody
14:04:37 12 with a similar name, driver's license, social voted in our
14:04:42 13 county along with another state.
14:04:44 14 BY MR. HORLEY:
14:04:47 15 Q. Okay. And what was the result of that
14:04:53 16 investigation?
14:04:55 17 MS. JOHNSTON: A majority of the people on
14:04:58 18 the list that we investigated voted in Yuma County as well
14:05:06 19 as the referenced state.
14:05:08 20 BY MR. HORLEY:
14:05:08 21 Q. Okay. So for example, I see three people's names
14:05:14 22 here. And it looks like they voted in both Yuma County and
14:05:18 23 Washington state; is that right?
14:05:20 24 MS. JOHNSTON: Correct.
14:05:20 25 ///

14:05:20 1 BY MR. HORLEY:

14:05:22 2 Q. Okay. So did these people commit voter fraud?

14:05:25 3 MS. JOHNSTON: Yes.

14:05:26 4 BY MR. HORLEY:

14:05:27 5 Q. Okay. And then there's a fourth person on the

14:05:30 6 next page. Same thing here?

14:05:32 7 MS. JOHNSTON: Correct.

14:05:33 8 BY MR. HORLEY:

14:05:34 9 Q. Okay. Thank you. I'm going to move on to the

14:05:39 10 next document.

14:05:47 11 Can you see this document?

14:05:48 12 MS. JOHNSTON: Yes.

14:05:48 13 BY MR. HORLEY:

14:05:50 14 Q. And was this also produced by your office in

14:05:52 15 response to plaintiffs' request for production?

14:05:54 16 MS. JOHNSTON: Yes.

14:05:54 17 BY MR. HORLEY:

14:05:56 18 Q. And you recognize this document?

14:05:57 19 MS. JOHNSTON: Yes.

14:05:58 20 BY MR. HORLEY:

14:05:59 21 Q. And was this sent from you -- I remember you said

14:06:02 22 your name -- your last name used to be Howard.

14:06:05 23 MS. JOHNSTON: Yes.

14:06:06 24 MR. HORLEY: Okay. I'd like to mark this as

14:06:09 25 Exhibit Number 208.

14:06:09 1 (The document was marked as Exhibit 208
14:06:19 2 for identification.)
14:06:19 3 MS. JOHNSTON: Just to be clear, none of
14:06:21 4 these have anything to do with citizenship.
14:06:24 5 BY MR. HORLEY:
14:06:24 6 Q. Correct.
14:06:25 7 But these are people who voted when they,
14:06:27 8 like, voted in more than one jurisdiction; correct?
14:06:30 9 MS. JOHNSTON: Right.
14:06:30 10 BY MR. HORLEY:
14:06:33 11 Q. Okay. And so does this describe two incidences of
14:06:38 12 that?
14:06:38 13 MS. JOHNSTON: Yes.
14:06:40 14 BY MR. HORLEY:
14:06:40 15 Q. And this was a case where you had two voters who
14:06:42 16 voted in Yuma County and in the state of Oregon; is that
14:06:46 17 right?
14:06:46 18 MS. JOHNSTON: Correct.
14:06:46 19 BY MR. HORLEY:
14:06:48 20 Q. Okay. Thank you. All right. I'm going to now
14:06:53 21 look at the next document.
14:06:57 22 Do you recognize this document?
14:06:59 23 MS. JOHNSTON: Yes.
14:07:01 24 BY MR. HORLEY:
14:07:03 25 Q. And your office produced this in response to

14:07:04 1 plaintiffs' request for production?

14:07:06 2 MS. JOHNSTON: Yes.

14:07:08 3 MR. HORLEY: Okay. I'd like to enter this as

14:07:11 4 Exhibit 209.

14:07:11 5 (The document was marked as Exhibit 209

14:07:11 6 for identification.)

14:07:11 7 BY MR. HORLEY:

14:07:20 8 Q. And so here, I see there's an email from a special

14:07:24 9 agent at the Arizona Attorney General's Office. And he is

14:07:29 10 asking the former Yuma County recorder whether she has

14:07:35 11 continued to compile suspected fraudulent registrations and

14:07:40 12 if he could be updated with an updated spreadsheet about

14:07:42 13 that; is that right?

14:07:43 14 MS. JOHNSTON: Correct.

14:07:43 15 BY MR. HORLEY:

14:07:45 16 Q. And then I see here that the former recorder said

14:07:47 17 that there was one more instance noted in the spreadsheet?

14:07:50 18 MS. JOHNSTON: I replied that there was one

14:07:54 19 more.

14:07:55 20 BY MR. HORLEY:

14:07:55 21 Q. Oh, yes, that's right. You replied that there was

14:07:57 22 one more. Okay. Thank you.

14:07:59 23 And is this the spreadsheet to which you

14:08:04 24 referred?

14:08:04 25 MS. JOHNSTON: I believe so, yes. Yes.

14:08:09 1 BY MR. HORLEY:

14:08:12 2 Q. So these are all instances of potential fraud; is

14:08:16 3 that right?

14:08:16 4 MS. JOHNSTON: Correct.

14:08:17 5 BY MR. HORLEY:

14:08:19 6 Q. And can you tell from this what the basis to

14:08:23 7 believe that they were fraudulent was?

14:08:26 8 MS. JOHNSTON: Yes. So let's say -- let's

14:08:31 9 just go with the first one: Teresa Aguirre. She was

14:08:34 10 likely already a registered voter where -- it has under

14:08:38 11 column "Real Driver's License" and "Real Voter ID" number.

14:08:43 12 So she is already a real active voter participant.

14:08:50 13 We receive a registration form with similar

14:08:56 14 information but the date of birth. So a majority of these

14:09:00 15 had transposed date of birth.

14:09:04 16 So this is where I go back to the data

14:09:06 17 minding -- mining -- is that they have enough information

14:09:09 18 to transpose the information which, because we have

14:09:17 19 safeguards in place, they don't really make it through.

14:09:19 20 But in our opinion, this is them trying.

14:09:21 21 BY MR. HORLEY:

14:09:23 22 Q. I see.

14:09:23 23 So in most of these cases, is it fair to say

14:09:26 24 this is an example of someone trying to register twice?

14:09:31 25 MS. JOHNSTON: Not the same person. I

14:09:33 1 believe that these are third-party registration circulators
14:09:37 2 that are filling out the fake information on behalf of the
14:09:42 3 voter.

14:09:44 4 That's why -- if you see under "Issues," the
14:09:47 5 date of birth is likely because it transposed. The
14:09:51 6 signature is different from the signature we have from the
14:09:54 7 real voter, which also is on their record from the driver's
14:09:58 8 license. And their driver's license number may have been
14:10:00 9 transposed or be different.

14:10:01 10 BY MR. HORLEY:

14:10:03 11 Q. Okay. Understood.

14:10:04 12 So now I wanted to look at this row down here
14:10:09 13 for Jose Francisco Ybarra. It looks like the same date of
14:10:15 14 birth. Fake and real date of birth are the same; is that
14:10:19 15 right?

14:10:19 16 MS. JOHNSTON: It looks like it, yes. That
14:10:21 17 might have been a typo.

14:10:25 18 BY MR. HORLEY:

14:10:25 19 Q. Understood. Okay.

14:10:27 20 But it also could be someone who has -- that
14:10:31 21 wasn't the issue; the date of birth was in fact the same?

14:10:34 22 MS. JOHNSTON: They -- they could have put
14:10:38 23 3/12/1970. But I would need to look into that voter's
14:10:40 24 record to see what the discrepancy was.

14:10:43 25 ///

14:10:43 1 BY MR. HORLEY:

14:10:44 2 Q. Okay. It looks like here there's different

14:10:47 3 driver's license numbers; is that right?

14:10:48 4 MS. JOHNSTON: Correct.

14:10:48 5 BY MR. HORLEY:

14:10:51 6 Q. And then when you have some columns like here, for

14:10:56 7 example, where there is no fake date of birth but it says

14:11:01 8 "fake Social Security number," do you know what that --

14:11:06 9 what that signifies?

14:11:07 10 MS. JOHNSTON: If it's a blank field, it was

14:11:09 11 left blank on the form.

14:11:12 12 BY MR. HORLEY:

14:11:13 13 Q. Okay. Does that mean that it wasn't an issue of

14:11:16 14 the birthday being transposed?

14:11:19 15 MS. JOHNSTON: Correct.

14:11:19 16 BY MR. HORLEY:

14:11:20 17 Q. Okay. But someone's offered a false Social

14:11:22 18 Security number?

14:11:23 19 MS. JOHNSTON: Yes. Two different ones. So

14:11:25 20 it looks like that person maybe submitted two registration

14:11:31 21 forms for Brianda Tamal- -- I can't see that last name.

14:11:40 22 BY MR. HORLEY:

14:11:40 23 Q. Oh, yes. I think it's Talamantes.

14:11:43 24 MS. JOHNSTON: Yeah. If you can zoom in a

14:11:46 25 little bit, I could probably see it.

14:11:48 1 But it looks like they might have submitted
14:11:50 2 two. And that's why they provided two different fake
14:11:56 3 Social Security numbers compared to the one real.
14:11:59 4 BY MR. HORLEY:
14:12:00 5 Q. Okay. Is it possible that anyone listed on this
14:12:03 6 spreadsheet was not a U.S. citizen?
14:12:07 7 MR. HERRERA: Objection; form.
14:12:09 8 MS. JOHNSTON: I think it is not possible,
14:12:11 9 because I don't think these are real people.
14:12:14 10 BY MR. HORLEY:
14:12:14 11 Q. So you think all of these names are not real
14:12:18 12 people?
14:12:19 13 MS. JOHNSTON: I -- yeah. There's fake
14:12:23 14 information for all of these people, so correct.
14:12:27 15 BY MR. HORLEY:
14:12:29 16 Q. Okay. All right. Thank you. That's all I have
14:12:32 17 for that one. And then I do have one last one.
14:12:37 18 Do you recognize this document?
14:12:40 19 MS. JOHNSTON: Yes.
14:12:41 20 BY MR. HORLEY:
14:12:42 21 Q. And your office produced this in response to
14:12:45 22 plaintiffs' request for production?
14:12:46 23 MS. JOHNSTON: Yes.
14:12:49 24 MR. HORLEY: I'd like to mark this as
14:12:51 25 Exhibit Number 210.

14:12:51 1 (The document was marked as Exhibit 210
14:12:59 2 for identification.)
14:12:59 3 BY MR. HORLEY:
14:13:00 4 Q. This is another list of incidents of voting in
14:13:04 5 more than one jurisdiction; is that right?
14:13:06 6 MS. JOHNSTON: Yes.
14:13:07 7 BY MR. HORLEY:
14:13:09 8 Q. Okay. And I see that there are four incidents on
14:13:13 9 this page; is that right?
14:13:15 10 MS. JOHNSTON: Yes.
14:13:15 11 BY MR. HORLEY:
14:13:16 12 Q. Then on this page, there are two more?
14:13:19 13 MS. JOHNSTON: Yes.
14:13:19 14 BY MR. HORLEY:
14:13:22 15 Q. So this document records six total instances of
14:13:26 16 voting in more than one jurisdiction?
14:13:26 17 MS. JOHNSTON: Yes.
14:13:27 18 MR. HORLEY: Okay. Thank you. That is all I
14:13:31 19 have. Those are all my questions.
14:13:32 20 So thank you again for your time. I really
14:13:34 21 appreciate it.
14:13:37 22 MR. LANGHOFER: Craig, anything from you?
14:13:39 23 MR. MORGAN: Yeah?
14:13:39 24 ///
14:13:39 25 ///

14:13:39 1
14:13:39 2
14:13:41 3
14:13:44 4
14:13:46 5
14:13:51 6
14:13:52 7
14:13:55 8
14:13:58 9
14:13:59 10
14:14:01 11
14:14:01 12
14:14:04 13
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EXAMINATION

BY MR. MORGAN:

Q. Hi, my name is Craig. I represent the secretary of state. Thanks for taking the time to put up with a bunch lawyers. God knows I don't like to.

So just a moment ago, we were looking at some exhibits. I think you indicated -- one of you indicated that you thought it was all fraudulent or fake, false information. Do you recall that?

MS. JOHNSTON: Yes.

BY MR. MORGAN:

Q. Can you tell me -- are you saying that you think that someone just provided that information falsely but nobody voted based on it? No votes were cast based on that information; correct?

MS. JOHNSTON: Correct. They didn't meet the minimum qualifications because we couldn't verify HAVA checks with them.

MR. MORGAN: Okay. Thanks. I just wanted a clarification. I appreciate it.

No further questions for me.

MR. LANGHOFER: Anyone from the legislature?
All right.

How about redirect from the plaintiffs?

MR. HERRERA: No redirect from the

14:14:35 1 plaintiffs. This is Ernest Herrera. Reserve all remaining
14:14:39 2 questions for the time of trial.

14:14:44 3 MR. LANGHOFER: Sounds good. Bill, I guess
14:14:45 4 you guys would be reading and signing.

14:14:48 5 MR. KEREKES: Yes, we will.

14:14:50 6 MR. LANGHOFER: Great. I guess we'll go off
14:14:52 7 the record.

14:14:52 8 MR. MORGAN: Yeah, let's go off the record.

14:14:54 9 THE VIDEOGRAPHER: We are off the record.

14:14:55 10 Time on the video monitor is 2:14 p.m. This ends Volume 1,
14:15:02 11 Media 3, in the 30(b)(6) deposition of Yuma County
14:15:06 12 Recorder, by Joann Munoz and Sarah Johnston.

13 (The proceedings concluded at 2:15 p.m.)
14

15 _____
JOANN MUNOZ AND SARAH JOHNSTON
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1 STATE OF ARIZONA)
COUNTY OF MARICOPA)

2

3 BE IT KNOWN that the foregoing deposition was taken
4 by me pursuant to stipulation of counsel; that I was then
5 and there a Certified Court Reporter in the State of
6 Arizona, and by virtue hereof authorized to administer an
7 oath; that the witness before testifying was duly sworn by
8 me to testify to the whole truth; pursuant to request,
9 notification was provided that the deposition is available
10 for review and signature; that the questions propounded by
11 counsel and the answers of the witness thereto were taken
12 down by me in shorthand and thereafter transcribed into
13 typewriting under my direction; that the foregoing pages
14 are a full, true and accurate transcript of all the
15 proceedings had upon the taking of deposition, all done to
16 the best of my skill and ability.

17 I FURTHER CERTIFY that I am in no way related
18 to nor employed by any parties hereto; nor am I in any
19 way interested in the outcome thereof.

20 Dated at Phoenix, Arizona, this 11th day of
21 September, 2023.

22

23

24

25


CINDY MAHONEY, RPR, RMR NO. 50680

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UNITED STATES DISTRICT COURT
DISTRICT OF ARIZONA

Mi Familia Vota, et al.,)	
)	
Plaintiffs,)	Case No.
	)	2:22-cv-00509-PHX-SRB
v.	)	(Lead)
)	
Adrian Fontes, in his	)	No. CV-22-00519-PHX-SRB
official capacity as	)	No. CV-22-01003-PHX-SRB
Arizona Secretary of State,	)	No. CV-22-01124-PHX-SRB
et al.,	)	No. CV-22-01369-PHX-SRB
	)	No. CV-22-01381-PHX-SRB
Defendants.	)	No. CV-22-01602-PHX-SRB
	)	No. CV-22-01901-PHX-SRB

AND CONSOLIDATED CASES.

VIDEOTAPED 30(b)(6) DEPOSITION OF THE
ARIZONA ATTORNEY GENERAL, REPRESENTED BY
WILLIAM KNUTH, TODD LAWSON, AND KEITH THOMAS

Phoenix, Arizona

August 29, 2023

Prepared by:
CINDY MAHONEY, RPR, RMR
Certified Court Reporter
Certificate No. 50680



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1 VIDEOTAPED 30(b)(6) DEPOSITION OF THE ARIZONA
 2 ATTORNEY GENERAL, REPRESENTED BY WILLIAM KNUTH, TODD
 3 LAWSON, AND KEITH THOMAS, commenced at 9:34 a.m. on
 4 August 29, 2023, at the Arizona Attorney General's Office,
 5 2005 North Central Avenue, Phoenix, Arizona, before Cindy
 6 Mahoney, RPR, RMR, Arizona Certified Court Reporter No.
 7 50680.

8
 9 * * *

10
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15 Amy Chan
16 Anna Critz
Laurie Stirling
17 Jack O'Connor
Colleen Connor

18 ALSO PRESENT (in person):

19 Kyra Haas
20 Devon Vaughan
Daniel Rohan, Videographer

21

22

23

24

25

1 TRANSCRIPT OF PROCEEDINGS

09:34:33 2

09:34:36 3

THE VIDEOGRAPHER: We are on the record.

09:34:38 4

Time on the video monitor is 9:34 a.m. Here begins

09:34:41 5

Volume 1, Media Number 1, in the deposition of our 30(b)(6)

09:34:46 6

designee of the Arizona Attorney General's Office, by Bill

09:34:50 7

Knuth, Keith Thomas, Todd Lawson, in the matter of Mi

09:34:58 8

Familia Vota, et al., v. Adrian Fontes, et al., in the

09:35:00 9

United States District Court, District of Arizona, Case

09:35:11 10

Number 2:22-cv-00509-SRB.

09:35:12 11

Today's date is August 29, 2023. Our court

09:35:16 12

reporter is Cindy Mahoney. I am Daniel Rohan, a certified

09:35:20 13

legal videographer. We both represent Coash Court

09:35:24 14

Reporting & Video.

09:35:25 15

This video deposition is taking place at the

09:35:27 16

Arizona Attorney General's Office, 2005 North Central

09:35:32 17

Avenue, Phoenix, Arizona 85004.

09:35:35 18

Counsel, please identify yourselves and state

09:35:37 19

whom you represent.

09:35:38 20

MR. DODGE: Christopher D. Dodge, joined by

09:35:41 21

Elisabeth Frost, on behalf of the Mi Familia Vota and Voto

09:35:44 22

Latino plaintiffs.

09:35:45 23

MR. OMI: Evan Omi, from Latham & Watkins,

09:35:45 24

representing Arizona Asian American Native Hawaiian Pacific

09:35:45 25

Islander for Equity Coalition.

09:35:45 1
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24
25

MR. HERRERA: Ernest Herrera --
MS. YUN: Jennifer Yun on behalf of --
Jennifer Yun on behalf of the United States.
MR. HERRERA: Ernest Herrera. I'm joined by
Erika Cervantes, on behalf of Promise Arizona and Southwest
Voter Registration Education Project.
MR. FREEDMAN: John Freedman and Michelle
Kanter Cohen for the Poder Latinx plaintiffs.
MR. WHITAKER: Josh Whitaker, joined by
Kathryn Boughton and, for now, Josh Bendor, on behalf of
the Arizona attorney general.
MR. VOLCHOK: Daniel Volchok for the
Democratic National Committee and the Arizona Democratic
Party.
MR. LANGHOFER: Kory Langhofer.
MR. MORGAN: Craig Morgan and Shayna Stuart,
for Sherman & Howard, on behalf of the secretary of state.
MS. PORTER: Hannah Porter on behalf of
defendant intervenors Speaker Toma and President Petersen.
MR. SNOW: Ryan Snow on behalf of Tohono
O'odham plaintiffs.
MS. DANAHY: Molly Danahy on behalf of the
LUCHA plaintiffs.
///
///

1 WILLIAM KNUTH,
2 the witness herein, being first duly sworn,
3 was examined and testified as follows:
4

09:37:21 5 EXAMINATION

09:37:21 6 BY MR. DODGE:

09:37:22 7 Q. Good morning, Mr. Knuth. My name is Chris Dodge.
09:37:25 8 As you just heard, I represent the Mi Familia Vota and Voto
09:37:29 9 Latino plaintiffs in this matter.

09:37:30 10 Could you please state your full name for the
09:37:30 11 record.

09:37:32 12 A. Yes. It's William Knuth. That's K-n-u-t-h.

09:37:36 13 Q. And have you ever been deposed before, Mr. Knuth?

09:37:38 14 A. Yes, I have.

09:37:39 15 Q. Okay. I know you're familiar with depositions
09:37:42 16 then, but let's quickly go over some deposition ground
09:37:46 17 rules.

09:37:46 18 You understand that today we have a court
09:37:48 19 reporter here whose job it is to make a complete and
09:37:50 20 accurate record of what we are saying today?

09:37:52 21 A. Yes.

09:37:53 22 Q. So that the court reporter can accurately record
09:37:56 23 today's deposition, can we agree that you'll answer my
09:37:58 24 questions audibly and clearly?

09:38:00 25 A. Yes.

09:38:00 1 Q. And so that means no shaking your head or
09:38:03 2 responding with "uh-huh" or "huh-uh." Do you understand
09:38:06 3 that?

09:38:06 4 A. I do.

09:38:06 5 Q. Okay. And can we agree that today you will wait
09:38:09 6 for me to finish my question before answering so that we
09:38:12 7 don't talk over each other?

09:38:14 8 A. Yes.

09:38:14 9 Q. And if you do not understand or if a question is
09:38:16 10 confusing, can you please just let me know? And I will
09:38:19 11 either repeat it or try to ask it a different way.

09:38:22 12 A. Yes.

09:38:23 13 Q. If I do ask a question and you answer the
09:38:25 14 question, I will assume that you understood the question.
09:38:27 15 Does that sound fair?

09:38:28 16 A. Yes.

09:38:28 17 Q. If at any time today you would like to take a
09:38:31 18 break, please just let me know. The one thing I ask is
09:38:34 19 that if I have already asked a question, that you finish
09:38:36 20 answering that question before asking for a break. Does
09:38:38 21 that make sense?

09:38:39 22 A. Yes, it does.

09:38:40 23 Q. Okay. The court reporter asked you to take an
09:38:42 24 oath just a moment ago; correct?

09:38:44 25 A. Yes.

09:38:44 1 Q. And you took that oath and agreed to provide
09:38:47 2 truthful and complete testimony to the best of your ability
09:38:49 3 today; right?

09:38:50 4 A. Yes.

09:38:50 5 Q. Is there any reason you can't testify fully and
09:38:52 6 truthfully today?

09:38:54 7 A. No, there's not.

09:38:55 8 Q. You mentioned just a moment ago that you've been
09:38:58 9 deposed before; correct?

09:38:59 10 A. Yes.

09:38:59 11 Q. How many other times have you been deposed?

09:39:02 12 A. At least once, maybe twice. It's been several
09:39:07 13 years.

09:39:07 14 Q. And in either of those instances, did your
09:39:11 15 deposition concern elections?

09:39:12 16 A. No.

09:39:13 17 Q. Did you bring any materials with you to the
09:39:16 18 deposition today?

09:39:17 19 A. No.

09:39:17 20 Q. Do you have any documents in front of you?

09:39:20 21 A. No, I don't.

09:39:21 22 Q. You are currently employed by the Arizona Attorney
09:39:26 23 General's Office; correct?

09:39:26 24 A. Yes.

09:39:26 25 Q. And what is your role there?

09:39:29 1 A. I'm a lead specialist agent. My main focus is
09:39:33 2 election integrity investigation.

09:39:34 3 Q. How long have you been in that position?

09:39:37 4 A. I've been with the attorney general just over four
09:39:42 5 years. And I've been in that role in election integrity
09:39:45 6 for most of that time; maybe four or five months, less than
09:39:50 7 that.

09:39:50 8 Q. Okay. And what are your responsibilities in your
09:39:52 9 current role?

09:39:53 10 A. Mainly -- well, I'm in -- I'm a criminal
09:39:57 11 investigator as a whole, but I have kind of taken a
09:40:02 12 specialty to anything that comes in involving anything to
09:40:06 13 do with voter election integrity complaints.

09:40:09 14 Q. Who do you report to in that role?

09:40:11 15 A. My supervisor is Supervising Special Agent John
09:40:15 16 Hillmann.

09:40:17 17 Q. Anyone else?

09:40:18 18 A. Well, Chief Jim Cope.

09:40:22 19 Q. And does anyone report to you in your current
09:40:24 20 role?

09:40:24 21 A. Only in the absence of Hillmann because I'm -- I'm
09:40:28 22 a lead special agent, so I take over responsibilities when
09:40:31 23 he's not around sometimes.

09:40:32 24 Q. Understood.

09:40:33 25 And you mentioned that you had another role

09:40:34 1 at the Attorney General's Office for four or five months.

09:40:37 2 Can you tell me what role that was?

09:40:39 3 A. It was just general fraud investigation.

09:40:41 4 Q. And that was your first role at the Attorney
09:40:45 5 General's Office?

09:40:45 6 A. Yes, sir.

09:40:45 7 Q. And did you have any sort of investigative
09:40:49 8 position before you joined the Attorney General's Office?

09:40:51 9 A. Yes. I was involved in law enforcement for over
09:40:56 10 20 years. In that time period, I worked for several years
09:41:00 11 as a homicide investigator -- investigator in Pima County,
09:41:05 12 Tucson.

09:41:06 13 I also was a child crimes investigator, also
09:41:08 14 for Pima County Sheriff's Department, Tucson. I've been
09:41:12 15 involved in a handful of specialized units involved in
09:41:16 16 investigations of one kind or another.

09:41:18 17 Q. Great. Thank you.

09:41:20 18 You understand that today you're here as a
09:41:23 19 representative to testify on behalf of the Attorney
09:41:26 20 General's Office; correct?

09:41:26 21 A. Yes.

09:41:26 22 Q. And so if today I refer to "you" or "your," you
09:41:30 23 understand that I'll be referring to the Attorney General's
09:41:31 24 Office as a whole and not to you personally; correct?

09:41:34 25 A. Yes.

09:41:37 1 Q. Okay. I'm going to hand you what will be marked
09:41:39 2 as Exhibit 211, which is in the Dropbox in Number 1.

09:41:39 3 (The document was marked as Exhibit 211
09:41:39 4 for identification.)

09:41:39 5 BY MR. DODGE:

09:41:49 6 Q. Are you familiar with this document?

09:41:50 7 A. I have looked at it, yes.

09:41:51 8 Q. Can you tell me what this document is?

09:41:53 9 A. This is a -- forgive my lack of legalese. This is
09:41:59 10 the suit involving the -- your clients and -- and the other
09:42:08 11 assigned folks.

09:42:09 12 Q. Okay. And can you turn to page 4 of this
09:42:12 13 document.

09:42:14 14 You see where it says "Deposition Topics" at
09:42:17 15 the top?

09:42:17 16 A. Yes, sir.

09:42:18 17 Q. Have you reviewed these topics?

09:42:19 18 A. I have.

09:42:19 19 Q. Can you identify which of these topics you're
09:42:23 20 prepare to testify to today?

09:42:25 21 A. I believe that I can speak to 1 vaguely, somewhat
09:42:45 22 2, 3. Number 4 and 5 are more likely going to be
09:42:53 23 Mr. Thomas's area. And the rest I can just say I may have
09:43:02 24 general knowledge about. I don't know that I have anything
09:43:06 25 extra to offer in those areas.

09:43:07 1 Q. Okay. I appreciate that.

09:43:11 2 What did you do to prepare for today's
09:43:15 3 deposition?

09:43:16 4 A. Mainly just reviewed all the documentation that
09:43:19 5 was provided to me regarding, you know, emails and
09:43:24 6 interrogatories and responses and et cetera.

09:43:27 7 Q. And with the exception of any attorneys for the
09:43:30 8 Attorney General's Office, did you meet with anyone from
09:43:33 9 your office today to prepare for today's deposition?

09:43:36 10 A. Outside of my office, no.

09:43:38 11 Q. Did you discuss today's deposition with anyone
09:43:47 12 else outside of your office, excepting any legal counsel in
09:43:51 13 this case?

09:43:51 14 A. No.

09:43:52 15 Q. Did you meet with any attorneys in preparation for
09:43:57 16 today's deposition?

09:43:58 17 A. No, not outside my office.

09:44:02 18 Q. Did you meet with any attorneys within the
09:44:05 19 Attorney General's Office to prepare for today's
09:44:06 20 deposition?

09:44:06 21 A. Yes.

09:44:06 22 Q. How many times did you meet with them?

09:44:08 23 A. Twice.

09:44:10 24 Q. For about how long were those meetings?

09:44:12 25 A. Total of maybe a couple hours.

09:44:19 1 Q. I'm now going to ask some questions about the
09:44:26 2 enactment of HB 2492 and HB 2243. Are you prepared to
09:44:31 3 testify on those topics today?

09:44:34 4 A. To the best of my ability.

09:44:36 5 Q. Are you familiar with HB 2492?

09:44:39 6 A. Just generally. I reviewed it.

09:44:41 7 Q. And are you familiar with HB 2243?

09:44:44 8 A. Yes. Same -- same answer.

09:44:46 9 Q. If I refer to these bills today as the "challenged
09:44:50 10 laws," will you understand that I'm referring to HB 2492
09:44:54 11 and HB 2243?

09:44:54 12 A. Yes.

09:44:56 13 Q. Does the Attorney General's Office typically track
09:45:00 14 proposed legislation pending before the Arizona
09:45:02 15 legislature?

09:45:06 16 A. That would probably be a question better suited
09:45:10 17 for the attorney part of our agency. I can't really answer
09:45:15 18 that accurately, I don't feel.

09:45:18 19 Q. Are you aware of whether your office has a
09:45:20 20 legislative liaison?

09:45:22 21 A. I believe we do.

09:45:23 22 Q. Do you know what the duties of the legislative
09:45:26 23 liaison are?

09:45:26 24 A. I wouldn't want to speculate on that.

09:45:28 25 Q. Do you know who the current legislative liaison

09:45:39 1 is?

09:45:40 2 A. Unfortunately, I don't.

09:45:42 3 Q. In that case, I'd like to ask you some questions
09:46:12 4 about the interpretation and enforcement of HB 2492 and
09:46:19 5 HB 2243. Are you prepared to testify today on those
09:46:22 6 topics?

09:46:23 7 A. Yes.

09:46:23 8 Q. You would agree with me that prior to the
09:46:27 9 enactment of HB 2492 and HB 2243, it was illegal for a
09:46:33 10 person who was not a United States citizen to register to
09:46:34 11 vote in Arizona; correct?

09:46:37 12 A. Yes.

09:46:39 13 MR. LANGHOFER: Calls for legal conclusion.

09:46:39 14 BY MR. DODGE:

09:46:40 15 Q. And you would also agree with me that prior to the
09:46:43 16 enactment of HB 2492 and HB 2243, there were policies,
09:46:46 17 laws, and procedures in place in Arizona to prevent
09:46:49 18 noncitizens from voting; correct?

09:46:52 19 MR. LANGHOFER: Same objection.

09:46:54 20 THE WITNESS: There are -- yeah, there's
09:46:57 21 procedures and policies, yes.

09:46:57 22 BY MR. DODGE:

09:46:59 23 Q. And, in fact, your office --

09:47:01 24 MR. MORGAN: Counsel, since objections are
09:47:03 25 coming in, can we put on the record our ongoing stipulation

09:47:07 1 that an objection for one is an objection for all parties
09:47:10 2 on that side of the case?

09:47:12 3 MR. DODGE: That's fine with us.

09:47:14 4 MR. MORGAN: Thanks.

09:47:14 5 BY MR. DODGE:

09:47:16 6 Q. In fact, prior to HB 2492 and HB 2243, your
09:47:21 7 office, the Attorney General's Office, had policies and
09:47:22 8 procedures in place to prevent noncitizens from voting;
09:47:27 9 correct?

09:47:27 10 A. Interpreted through A.R.S. Title 16, I would say.
09:47:35 11 I don't know that the agency itself has a policy.

09:47:40 12 Q. But, for example, your office had the authority to
09:47:42 13 prosecute individuals who illegally registered or voter --
09:47:46 14 illegally registered or voted with felony charges; correct?

09:47:50 15 A. That's true.

09:47:51 16 Q. Did the Secretary of State's Office have any
09:47:55 17 policies in place to prevent noncitizen voting prior to the
09:47:58 18 enactment of the challenged laws?

09:47:59 19 MR. WHITAKER: Foundation.

09:48:02 20 THE WITNESS: I couldn't speak to the
09:48:04 21 Secretary of State's Office.

09:48:04 22 BY MR. DODGE:

09:48:06 23 Q. Did the county recorders' offices have any
09:48:09 24 policies in place to prevent noncitizen voting prior to the
09:48:12 25 enactment of the challenged legislation?

09:48:14 1 MR. WHITAKER: Foundation.

09:48:15 2 THE WITNESS: Again, I can't speak to the
09:48:17 3 recorder's office.

09:48:18 4 BY MR. DODGE:

09:48:19 5 Q. You would agree, however, that in Arizona it is a
09:48:21 6 felony for a person to register as an elector when they
09:48:24 7 know they are not entitled to such registration; correct?

09:48:29 8 MR. LANGHOFER: Calls for legal conclusion.

09:48:30 9 THE WITNESS: Yes.

09:48:31 10 BY MR. DODGE:

09:48:31 11 Q. And that was a felony before the challenged laws
09:48:34 12 were passed; correct?

09:48:35 13 A. Yes.

09:48:36 14 MR. LANGHOFER: Same objection.

09:48:37 15 BY MR. DODGE:

09:48:41 16 Q. And as the chief law enforcement officer of
09:48:43 17 Arizona, the attorney general has the authority to
09:48:45 18 prosecute noncitizens who register to vote despite knowing
09:48:48 19 they're not entitled to register; correct?

09:48:51 20 A. Yes.

09:48:52 21 Q. And that was true before the --

09:48:52 22 MR. LANGHOFER: Same.

09:48:52 23 BY MR. DODGE:

09:48:53 24 Q. -- enactment of challenged laws; correct?

09:48:58 25 MR. LANGHOFER: Same objection.

09:48:58 1 THE WITNESS: Yes.

09:48:58 2 BY MR. DODGE:

09:48:58 3 Q. And that remains true today as well; correct?

09:49:02 4 MR. LANGHOFER: Same objection.

09:49:03 5 THE WITNESS: Yes.

09:49:06 6 BY MR. DODGE:

09:49:07 7 Q. I'm going to hand you what will be marked as

09:49:10 8 Exhibit 212 and is in the Dropbox folder as Number 6.

09:49:10 9 (The document was marked as Exhibit 212

09:49:10 10 for identification.)

09:49:17 11 BY MR. DODGE:

09:49:17 12 Q. Are you familiar with this document?

09:49:24 13 A. I have seen it.

09:49:25 14 Q. Can you tell me what this document is?

09:49:27 15 A. This is the document that outlines the

09:49:31 16 interrogatories for refer- -- reference our office.

09:49:36 17 Q. And you reviewed your office's responses to the

09:49:38 18 interrogatories in preparation for today's deposition;

09:49:41 19 correct?

09:49:41 20 A. I did.

09:49:42 21 Q. Did you assist at all in preparing this document

09:49:44 22 on behalf of your office?

09:49:46 23 A. I did not.

09:49:47 24 Q. Do you know who in your office did assist in

09:49:49 25 preparing the responses to this document?

09:49:52 1 A. I would have to make assumptions on that. I'm not
09:49:56 2 certain, no.

09:49:56 3 Q. Okay. Can you turn to page 11 of this document
09:50:01 4 and review Interrogatory Number 2.

09:50:23 5 A. Okay.

09:50:23 6 Q. And you see that your office responded to
09:50:26 7 Interrogatory Number 2 a little below that; right?

09:50:27 8 A. Correct.

09:50:28 9 Q. And your office has chosen to break your response
09:50:31 10 to this interrogatory out into subparts; correct?

09:50:34 11 A. Correct.

09:50:34 12 Q. But those subparts were not part of the original
09:50:38 13 interrogatories as served on your office by the plaintiffs;
09:50:42 14 correct?

09:50:42 15 A. I do not believe so.

09:50:43 16 MR. WHITAKER: Objection. Arguably legal
09:50:46 17 conclusion.

09:50:46 18 BY MR. DODGE:

09:50:47 19 Q. Subpart 1 on page 11 asks your office to, quote,
09:50:51 20 "Identify all provisions of the challenged laws that you
09:50:54 21 intend to implement or enforce."

09:50:56 22 Did I read that correctly?

09:50:57 23 A. You did.

09:50:58 24 Q. As of the time of these responses, had your office
09:51:04 25 initiated any investigation under the challenged laws?

09:51:09 1 A. Not to my -- not that I'm aware of, no.

09:51:12 2 Q. And since your office served these responses, has

09:51:15 3 your office initiated any investigation under the

09:51:18 4 challenged laws?

09:51:18 5 A. I'm not aware of any, no.

09:51:20 6 Q. Your response to Subpart 1 says that your -- that

09:51:27 7 if your office, quote, "were to receive information or a

09:51:31 8 referral for investigation under the challenged laws, the

09:51:33 9 office would evaluate and consider investigations on a

09:51:36 10 case-by-case basis."

09:51:38 11 Do you see that?

09:51:39 12 A. Yes.

09:51:40 13 Q. So is it correct that your office is currently

09:51:44 14 ready to investigate, potentially prosecute a violation of

09:51:47 15 this provision if a referral is made?

09:51:51 16 MR. WHITAKER: Objection. Ambiguous.

09:51:53 17 THE WITNESS: As with any referral to our

09:51:57 18 agency, if we receive one, it will be evaluated and

09:52:02 19 determined whether an investigation is warranted.

09:52:04 20 BY MR. DODGE:

09:52:04 21 Q. So it's correct, then, that your office doesn't

09:52:07 22 presently have a stated policy of not investigating or

09:52:09 23 prosecuting alleged violations of the challenged laws; is

09:52:16 24 that right?

09:52:16 25 A. Yes, that would be correct.

09:52:17 1 Q. But it's also the case that your office has not
09:52:20 2 yet received any referrals under the challenged laws;
09:52:23 3 correct?

09:52:23 4 A. I'm aware of none.

09:52:25 5 Q. Understanding that any investigation would be
09:52:31 6 case-dependent, what would an investigation by your office
09:52:34 7 under the challenged laws look like?

09:52:37 8 MR. WHITAKER: Objection. Ambiguous and
09:52:40 9 arguably compound.

09:52:43 10 MR. LANGHOFER: Speculation.

09:52:46 11 THE WITNESS: I -- I handle all
09:52:48 12 investigations exact- -- well, me and the office handle
09:52:53 13 investigations exactly the same. They're received through
09:52:58 14 whatever the source may be. It's initially evaluated.
09:53:03 15 There's an evaluation made as to the merit of the
09:53:06 16 allegation, and then appropriate investigation is performed
09:53:10 17 after that.

09:53:11 18 BY MR. DODGE:

09:53:11 19 Q. Who conducts that evaluation?

09:53:14 20 MR. WHITAKER: Objection. Ambiguous and
09:53:16 21 compound.

09:53:17 22 THE WITNESS: I would say that that depends
09:53:20 23 on how -- how that was received -- how the complaint was
09:53:24 24 received to our office. We -- it could come through our
09:53:28 25 duty agent system where the initial evaluation falls on

09:53:32 1 them.

09:53:33 2 If it's -- sometimes a document will get
09:53:37 3 directly sent to us from an entity -- for example, social
09:53:42 4 secur- -- or secretary of state or recorder -- at which
09:53:45 5 time sometimes I will get that directly and then I'll
09:53:47 6 evaluate it. It's -- so it depends on how it gets to us
09:53:52 7 would be the best answer I --

09:53:53 8 BY MR. DODGE:

09:53:53 9 Q. Could you tell me how a referral might get to you
09:53:55 10 guys then?

09:53:56 11 A. Either through our intake portal or through our
09:54:00 12 duty agent line is typically the most common. I have
09:54:05 13 received direct complaints from an entity because I have
09:54:08 14 relationships with them.

09:54:09 15 Q. When you say "entity," what are you referring to?

09:54:11 16 A. I'm referring to somebody that -- you know, at
09:54:14 17 the Secretary of State's Office or the recorder's office or
09:54:16 18 something like that.

09:54:17 19 Q. A moment ago you mentioned an intake portal. Is
09:54:20 20 that the Election Integrity Unit portal?

09:54:23 21 A. It's -- my understanding, if I'm up to speed on
09:54:27 22 this, is that at one point it would have been; that we no
09:54:30 23 longer have an official election integrity intake portal,
09:54:34 24 so now it's just general -- a general intake portal.

09:54:37 25 Q. And so that general intake portal is on behalf of

09:54:41 1 your entire office and not specific to elections; is that
09:54:44 2 right?

09:54:44 3 A. Correct.

09:54:45 4 Q. You also mentioned a duty agent. Can you tell me
09:54:48 5 who the duty agent is?

09:54:49 6 A. We have two: Paul Hermanns and Robert Everett.
09:54:55 7 They work off set schedules so that somebody's available.

09:54:59 8 Q. And I apologize that I'm not as familiar with law
09:55:01 9 enforcement terminology.

09:55:01 10 Can you tell me what a duty agent is?

09:55:03 11 A. Basically, in this office they're a -- they're a
09:55:06 12 filter for -- you know, we get, as you may expect, several
09:55:11 13 complaints through our portal on a daily basis. They're
09:55:14 14 kind of that first wave to evaluate and see if there's
09:55:19 15 anything -- if the complaint can even be investigated; if
09:55:22 16 there's enough information for it to even go anywhere. So
09:55:26 17 they're just kind of the first-line evaluation.

09:55:28 18 Q. I see.

09:55:29 19 And their roles are not specific to
09:55:31 20 elections?

09:55:32 21 A. No.

09:55:34 22 Q. Okay. So you mentioned your office's intake
09:55:38 23 portal, the duty agents, direct referrals from entities
09:55:42 24 such as the secretary of states or the county recorders'
09:55:44 25 offices. Are there any other ways in which your office

09:55:48 1 might receive a referral for an investigation under
09:55:51 2 something like the challenged laws?

09:55:52 3 A. I mean, I can't say that there's no other way. I
09:56:00 4 mean, if a law enforcement agency, for example, reaches out
09:56:05 5 to somebody in our office, I mean, that could happen. It's
09:56:08 6 not very common, but, I mean, it could certainly happen.

09:56:10 7 Q. But those ones we discussed are the primary
09:56:12 8 methods of referrals?

09:56:13 9 A. I would say that's accurate.

09:56:15 10 Q. What sources would your office rely on to conduct
09:56:17 11 an investigation under the challenged laws?

09:56:19 12 MR. WHITAKER: Objection. Ambiguous.
09:56:22 13 Compound.

09:56:23 14 THE WITNESS: I would refer to a number of
09:56:28 15 databases or law enforcement-related information that I
09:56:32 16 have access to: Motor Vehicle records; criminal histories;
09:56:41 17 TLO is a popular one that we use. There's -- there's a
09:56:46 18 handful of law enforcement databases that we have access to
09:56:49 19 that are useful.

09:56:50 20 BY MR. DODGE:

09:56:52 21 Q. Okay. I'm going to ask some more questions about
09:56:54 22 those databases in a moment.

09:56:55 23 But for the time being, can you tell me about
09:56:57 24 any other sources besides databases your office -- your
09:57:00 25 office would rely on for an investigation like this?

09:57:04 1 MR. WHITAKER: Same objections.

09:57:05 2 THE WITNESS: I mean, I guess I would have to

09:57:09 3 include in that just standard investigative police work,

09:57:14 4 interviews with people, witnesses, evidence, you know,

09:57:19 5 those kind of things.

09:57:20 6 BY MR. DODGE:

09:57:20 7 Q. And who would you interview for an investigation

09:57:23 8 under the challenged laws?

09:57:24 9 MR. WHITAKER: Same objections.

09:57:26 10 THE WITNESS: I think that that's a difficult

09:57:28 11 question to answer because it would be case-by-case.

09:57:32 12 BY MR. DODGE:

09:57:33 13 Q. Is it likely you would investigate the individual

09:57:35 14 who was the subject matter of the investigation?

09:57:38 15 MR. WHITAKER: Same objections.

09:57:39 16 THE WITNESS: Ultimately, yes, I believe that

09:57:42 17 would be the case.

09:57:42 18 BY MR. DODGE:

09:57:43 19 Q. Would you interview any of their family members?

09:57:45 20 MR. WHITAKER: Same objections.

09:57:46 21 THE WITNESS: Again, it's case-by-case, but

09:57:49 22 yeah, potentially.

09:57:50 23 BY MR. DODGE:

09:57:51 24 Q. Would you interview their neighbors?

09:57:53 25 MR. WHITAKER: Same objection.

09:57:54 1 THE WITNESS: I have to give you the same
09:57:58 2 answer. I mean, case-by-case -- I would feel like that
09:58:01 3 would be more -- I would feel that I would have to have a
09:58:06 4 pretty good reason to do that. It seems like it may not be
09:58:10 5 useful for me, but I can't say that for sure.

09:58:12 6 BY MR. DODGE:

09:58:13 7 Q. If an individual -- strike that.

09:58:15 8 If someone has alleged that an individual is
09:58:18 9 not a United States citizen but has registered to vote or
09:58:22 10 cast a ballot, what types of witnesses would be helpful in
09:58:26 11 investigating that claim?

09:58:35 12 A. Well, certainly part of the investigation would be
09:58:40 13 contacting likely the recorder's office for -- to get some
09:58:46 14 evidence if there is a voting history or if it's a voter
09:58:48 15 registration -- we have to start there to begin with.

09:58:52 16 And then it -- again, I have to kind of fall
09:58:55 17 back on case-by-case, but, I mean, at some point or
09:58:59 18 another, the -- the alleged individual would need to be
09:59:02 19 spoken to, and, you know, research has to be done to see if
09:59:08 20 I can determine with certainty, you know, what somebody's
09:59:13 21 eligibility is, those kinds of things.

09:59:16 22 Q. Would you potentially interview a persons's
09:59:21 23 employer as part of an investigation into their
09:59:24 24 citizenship?

09:59:26 25 A. Yeah, it's definitely a possibility.

09:59:28 1 Q. Would you potentially interview members of any
09:59:31 2 organizations the person belongs to, like a church or a
09:59:34 3 civic group?

09:59:36 4 A. I can't give you a definitive answer on that. I
09:59:41 5 think it would be unlikely.

09:59:42 6 Q. But it's possible?

09:59:43 7 A. It could be.

09:59:44 8 Q. When an individual is the subject matter of an
09:59:49 9 investigation into something like an allegation that they
09:59:53 10 are a noncitizen trying to vote in Arizona, does that
09:59:56 11 individual receive any sort of notice from your office?

10:00:00 12 A. I'm sorry. I -- are you asking if they are
10:00:06 13 notified that they're being investigated?

10:00:08 14 Q. That's right.

10:00:09 15 A. No.

10:00:10 16 Q. At any point in the investigation?

10:00:12 17 A. Not typically, until I go knock on their door.

10:00:17 18 Q. Would it be possible that a person subject to an
10:00:29 19 investigation by your office would need to retain an
10:00:32 20 attorney to assist them in the course of your
10:00:35 21 investigation?

10:00:36 22 MR. WHITAKER: Objection. Ambiguous.

10:00:40 23 THE WITNESS: I mean, I -- certainly, they
10:00:46 24 have a right to do so. I'm certain it could happen. It's
10:00:50 25 a possibility.

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BY MR. DODGE:

Q. Are you aware of an individual who you have been investigating ever obtaining or seeking counsel to assist them while you investigate them?

MR. WHITAKER: Objection. Ambiguous.

THE WITNESS: I've done hundreds of investigations. I'm certain that at some point in time somebody's gotten counsel.

BY MR. DODGE:

Q. Would an investigation under the challenged laws differ in any way from the other kinds of investigations your office conducts?

A. From my standpoint, no. My investigations are all the same, the procedure -- you know, the procedural part. Obviously, they're different in other ways.

Q. Has your office conducted any analysis into which groups of voters might be most impacted by enforcement of the challenged laws?

A. That would probably be a question better suited for the -- like, the civil attorneys or the -- or lawyers. I -- I'm not aware of anything. I can't really speak to it.

Q. Are you aware of whether certain groups of voters are more likely to be naturalized citizens than others?

A. I -- I wouldn't have an opinion on that.

10:02:13 1 Q. I'm not asking for an opinion, I guess.

10:02:18 2 Just in -- in the course of, you know, your
10:02:20 3 experience as an investigator in Pima County and with the
10:02:23 4 Attorney General's Office, are you aware of whether, for
10:02:26 5 example, Hispanics in Arizona are more likely to be
10:02:29 6 naturalized citizens than white people in Arizona?

10:02:36 7 A. I mean, again, that's not really -- that's not
10:02:39 8 really in purview. I mean, we have a high Hispanic
10:02:42 9 population in Arizona. Does that affect it? Possibly.

10:02:45 10 Q. Are you aware of whether Asians in Arizona are
10:02:50 11 more likely to be naturalized citizens than white people in
10:02:54 12 Arizona?

10:02:54 13 A. I -- this is definitely something I can't comment
10:02:57 14 on. I would have no idea.

10:02:59 15 Q. Are you aware of whether some groups of voters are
10:03:04 16 more likely to have nonstandard addresses than others?

10:03:08 17 MR. WHITAKER: Objection. Unclear as to
10:03:11 18 "nonstandard addresses."

10:03:15 19 THE WITNESS: I mean, I guess I should be
10:03:21 20 clear.

10:03:23 21 By "nonstandard address," you're referring
10:03:25 22 to, you know, no number or street, ZIP code-type situation?

10:03:32 23 BY MR. DODGE:

10:03:32 24 Q. That's right.

10:03:33 25 A. Okay. I can speak through experience that I

10:03:35 1 have -- I encounter that on reservation land sometimes, but
10:03:39 2 it's not the only place.

10:03:42 3 Q. But it's correct that certain groups of voters --
10:03:45 4 for example, those on reservations -- are more likely to
10:03:49 5 have nonstandard addresses than your typical citizen in
10:03:53 6 Arizona?

10:03:54 7 MR. WHITAKER: Objection; foundation.

10:03:56 8 THE WITNESS: I don't know if "more
10:03:58 9 likely" is fair. I mean, we have a lot of rural -- we have
10:04:00 10 a lot of rural areas in the counties of Arizona. And I --
10:04:02 11 and I'm not an expert. So I -- I don't think that I would
10:04:07 12 be comfortable with that analogy -- that statement.

10:04:11 13 BY MR. DODGE:

10:04:13 14 Q. Can you tell me about where, in your experience,
10:04:15 15 you've encountered nonstandard addresses then?

10:04:21 16 A. I've done investigations in Apache County where I
10:04:36 17 encountered that situation. I believe I ran into that
10:04:47 18 situation in an investigation in La Paz County perhaps at
10:04:51 19 one point. It's not a -- I haven't run across it that
10:04:54 20 often.

10:04:54 21 Q. That experience in Apache County, did that involve
10:04:58 22 reservation land?

10:04:59 23 A. Partially, yes.

10:05:00 24 Q. What do you mean by "partially"?

10:05:02 25 A. I mean, the -- yes, my investigation led me to

10:05:05 1 some areas like that, but it wasn't the entirety of the
10:05:08 2 investigation.

10:05:09 3 Q. But that part of the investigation that was on
10:05:13 4 reservation land, that was an example where you encountered
10:05:16 5 nonstandard addresses; correct?

10:05:18 6 A. Correct.

10:05:18 7 Q. And with respect to La Paz County, was that also
10:05:23 8 reservation land where you encountered nonstandard
10:05:26 9 addresses as part of your investigation?

10:05:29 10 A. Yes.

10:05:31 11 Q. The next set of questions I have are about access
10:05:42 12 to databases. My understanding is you're not going to be
10:05:45 13 testifying on that today; is that correct?

10:05:46 14 A. I feel like Keith Thomas may be better suited for
10:05:50 15 that.

10:05:59 16 Q. I'm going to hand you what has already been marked
10:06:20 17 as Petty Exhibit 19, which is in the Dropbox folder as
10:06:25 18 Number 7.

10:06:34 19 Are you familiar with this document?

10:06:35 20 A. I have seen it, yes.

10:06:37 21 Q. Can you tell me what this document is?

10:06:38 22 A. This is the verbiage of House Bill 2492.

10:06:45 23 Q. Did you review this document in preparation for
10:06:48 24 today's deposition?

10:06:49 25 A. I did. It's a lot, but I did.

10:06:55 1 Q. Fair enough.

10:06:56 2 Can you please turn to page 8 of this

10:06:58 3 document. Scratch that. Page 7.

10:07:06 4 A. Okay.

10:07:06 5 Q. Do you see, beginning at line 13, Section 7 of the
10:07:13 6 bill?

10:07:14 7 A. Yes.

10:07:15 8 Q. Just take a moment and review this section.

10:08:03 9 Section A of this provision requires the

10:08:05 10 secretary of state and each county recorder in Arizona to

10:08:08 11 supply your office with a list of all individuals who are

10:08:11 12 registered to vote and have not provided satisfactory

10:08:14 13 evidence of citizenship. Did I get that right?

10:08:16 14 A. Yes, that's correct.

10:08:18 15 Q. Did your office receive such a list from the

10:08:19 16 secretary of state?

10:08:21 17 A. Not to my knowledge.

10:08:22 18 Q. If your office were to have received such a list,

10:08:26 19 do you have idea how many individuals might be on it?

10:08:29 20 A. No.

10:08:30 21 Q. Did your office receive such a list from each

10:08:34 22 county recorder in Arizona?

10:08:35 23 A. Not to my knowledge.

10:08:37 24 Q. And if your office were to have received those

10:08:41 25 lists, do you have any idea how many individuals in

10:08:45 1 aggregate would have been on the county recorders' lists?

10:08:47 2 A. I would have no idea.

10:08:48 3 Q. Do you know how many people, at the time of

10:08:52 4 HB 2492's enactment, were registered to vote in Arizona but
10:08:56 5 had not provided documentary proof of citizenship?

10:08:59 6 A. I -- I would have no idea of that number.

10:09:01 7 Q. Do you know if there's an individual in your
10:09:04 8 office who would know whether or not you have received
10:09:07 9 these lists from the secretary of state and the county
10:09:12 10 recorders?

10:09:12 11 A. I -- I mean, I have to make the assumption that it
10:09:19 12 would have either come through -- well, it would have had
10:09:24 13 to have been delivered to us through our intake. And I --
10:09:27 14 I have no knowledge of that, so I don't know that there is
10:09:29 15 anybody that would.

10:09:30 16 Q. Okay. I just want to make sure I'm asking these
10:09:32 17 questions to the right individual.

10:09:34 18 A. Yeah, I understand.

10:09:34 19 Q. But it sounds like it's your understanding that
10:09:37 20 had these lists come into your office, you would have been
10:09:40 21 made aware of them?

10:09:40 22 A. I certainly hope so.

10:09:41 23 Q. Got it.

10:09:42 24 I just asked you about whether you're aware
10:09:46 25 of how many people at the time of HB 2492's enactment were

10:09:48 1 registered to vote in Arizona but had not provided
10:09:51 2 documentary proof of citizenship; is that right?

10:09:53 3 A. Yes.

10:09:54 4 Q. And you said you didn't know?

10:09:56 5 A. No.

10:09:56 6 Q. Do you know if that would be tens of thousand of
10:10:00 7 individuals?

10:10:03 8 A. I -- I don't feel comfortable speculating at all
10:10:09 9 on that. I really don't.

10:10:11 10 Q. Looking at Subsection B of Section 7, which begins
10:10:17 11 on line 24, can you please read aloud from line 24 to
10:10:23 12 line 27.

10:10:24 13 A. Yes.

10:10:25 14 It says, "B. The attorney general shall use
10:10:29 15 all available resources to verify the citizenship status of
10:10:32 16 the applicant and at a minimum shall compare the
10:10:35 17 information available on the application for registration
10:10:37 18 with the following."

10:10:41 19 Q. Then it lists some databases; correct?

10:10:43 20 A. It does.

10:10:44 21 Q. Okay. So this section states that the attorney
10:10:47 22 general, quote, "shall use all available resources to
10:10:49 23 verify the citizenship status of an applicant"; correct?

10:10:52 24 A. Correct.

10:10:53 25 Q. And "shall" is a command word; right?

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A. It is.

Q. So there's no discretion about whether or not your office adheres to this command under --

MR. WHITAKER: Objection.

BY MR. DODGE:

Q. -- the text of the law; correct?

MR. WHITAKER: Objection. Calls for a legal conclusion.

THE WITNESS: I -- at face value, "shall" tells me that I need to do it.

BY MR. DODGE:

Q. And your office was also commanded to use, quote, "all available resources"; correct?

A. Yes.

Q. And what does "all available resources" mean?

MR. WHITAKER: Objection.

MR. LANGHOFER: Calls for a legal conclusion.

MR. WHITAKER: Join.

THE WITNESS: For me, all available resources are those that -- that I, as a law enforcement investigator, have access to that are -- or -- or -- and not only that I directly have access to but that I can -- I can reach out to other people and request information.

BY MR. DODGE:

Q. So it's essentially asking you to use maximum

10:11:56 1 effort in the --

10:11:57 2 A. That would be fair to say.

10:11:58 3 MR. WHITAKER: Objection. Calls for a legal
10:12:00 4 conclusion.

10:12:00 5 MR. LANGHOFER: Same objection.

10:12:02 6 BY MR. DODGE:

10:12:02 7 Q. Did your office, in fact, commit all available
10:12:05 8 resources to an investigation of this type?

10:12:09 9 A. Can you ask that again?

10:12:11 10 MR. LANGHOFER: Form

10:12:11 11 BY MR. DODGE:

10:12:14 12 Q. So Section B says, "The attorney general shall use
10:12:17 13 all available resources to verify the citizenship status of
10:12:20 14 the applicant," referring to the lists that were supposed
10:12:23 15 to be provided to your office; correct?

10:12:25 16 A. Okay. Yes.

10:12:26 17 Q. You've testified today that you're not aware of
10:12:29 18 your office receiving any of those lists?

10:12:31 19 A. I'm not.

10:12:31 20 Q. So are you aware of whether or not your office, in
10:12:34 21 fact, conducted any investigation as described in Section 7
10:12:40 22 of HB 2492?

10:12:43 23 A. I'm not aware of any, no.

10:12:45 24 Q. And is there anyone else in your office who would
10:12:51 25 be aware of whether the Attorney General's Office conducted

10:12:53 1 an investigation of the sort required under Section 7?

10:12:56 2 A. I think that's unlikely.

10:12:58 3 Q. Is Mr. Thomas the right individual to ask about
10:13:16 4 your office's use of the databases described in the
10:13:19 5 remainder of this section?

10:13:20 6 A. He -- he would be more knowledgeable. I mean, I
10:13:24 7 can give you general information, but he would be more
10:13:26 8 knowledgeable on the larger scope, I believe.

10:13:30 9 Q. Looking at line 42 on this page, can you read
10:13:47 10 Section D aloud.

10:13:49 11 A. Yes.

10:13:49 12 "The attorney general shall prosecute
10:13:52 13 individuals who are found to not be United States citizens
10:13:55 14 pursuant to Section 16-182."

10:13:58 15 Q. And this section also uses the command "shall";
10:14:01 16 correct?

10:14:01 17 A. It does.

10:14:02 18 Q. So the legislature's chosen text commanded your
10:14:08 19 office to prosecute individuals found not to be United
10:14:14 20 States citizens pursuant to Section 16-182; correct?

10:14:14 21 MR. LANGHOFER: Form.

10:14:16 22 THE WITNESS: That's -- that's what I take
10:14:17 23 here, yes.

10:14:19 24 BY MR. DODGE:

10:14:22 25 Q. Did your office, in fact, prosecute any

10:14:24 1 individuals for registering to vote as a noncitizen

10:14:28 2 pursuant to Subsection D of HB 2492?

10:14:35 3 A. That's a -- I think I need some clarity on that.

10:14:41 4 Q. Section 7 instructs your office to conduct an

10:14:45 5 investigation into individuals registered to vote in

10:14:49 6 Arizona who have not provided satisfactory evidence of

10:14:51 7 citizenship; correct?

10:14:52 8 A. Right.

10:14:53 9 Q. Your office did not, in fact, conduct that

10:14:58 10 investigation; correct?

10:14:59 11 A. Correct. Yeah, we have received nothing to

10:15:03 12 investigate.

10:15:03 13 Q. So then your office also would not have prosecuted

10:15:08 14 any individuals pursuant to the investigation described in

10:15:12 15 this subsection; correct?

10:15:13 16 A. That's correct.

10:15:14 17 Q. Subsection E of this section states that the

10:15:21 18 attorney general, quote, "shall submit a report to various

10:15:26 19 state officers on or before March 31, 2023, detailing all

10:15:30 20 findings relating to this investigation." [Quoted as read.]

10:15:33 21 Did I get that right?

10:15:35 22 A. Yes.

10:15:36 23 Q. Did your office, in fact, submit such a report?

10:15:40 24 A. I believe our office did. It's not -- it would

10:15:48 25 not come from me.

10:15:50 1 Q. So did you participate in the preparation of such
10:15:52 2 a report?

10:15:53 3 A. No.

10:15:56 4 Q. I'm going to hand you what will be marked as
10:16:00 5 Exhibit 213. It's in the Dropbox folder as 8.

10:16:00 6 (The document was marked as Exhibit 213
10:16:07 7 for identification.)

10:16:07 8 BY MR. DODGE:

10:16:07 9 Q. Can you tell me what this document is?

10:16:10 10 A. This is letterhead from my office to Secretary of
10:16:22 11 State Fontes, State Senator President Petersen, and Arizona
10:16:27 12 Speaker Toma. And it's regarding report under A.R.S.
10:16:31 13 Section 16-143 (E).

10:16:34 14 Q. Can you tell me who sent this correspondence?

10:16:38 15 A. This is signed by Josh Whitaker.

10:16:41 16 Q. And can you read aloud the body of this document,
10:16:45 17 beginning with "a statute enacted."

10:16:48 18 A. Sure.

10:16:49 19 "A statute enacted last year requires the
10:16:52 20 Attorney General to submit, on or before March 31st, 2023,
10:16:56 21 a report 'detailing all findings relating to the
10:17:00 22 citizenship status of individuals who are registered to
10:17:03 23 vote and who have not provided satisfactory evidence of
10:17:06 24 citizenship pursuant to Section 16-166' of the Arizona
10:17:13 25 Revised Statutes. A.R.S. Section 16-143 (E). The Attorney

10:17:19 1 General has no findings to report at this time."

10:17:23 2 Q. Thank you.

10:17:23 3 So the attorney general indicated here that
10:17:26 4 he, quote, "has no findings to report at this time";
10:17:29 5 correct?

10:17:29 6 MR. WHITAKER: Objection. Slightly misstates
10:17:31 7 the test- -- the record.

10:17:35 8 BY MR. DODGE:

10:17:35 9 Q. The letter indicates the attorney general, quote,
10:17:37 10 "has no findings to report at this time"; correct?

10:17:40 11 A. That is the verbiage, yes.

10:17:44 12 Q. Can you tell me what that means?

10:17:50 13 A. I mean, it -- it sounds to me that there -- I
10:17:57 14 don't know how else to say it. There's nothing to report.
10:18:00 15 We -- we don't have any information for you.

10:18:02 16 Q. So accurate to say, then, that this letter does
10:18:08 17 not identify any individuals registered to vote in Arizona
10:18:11 18 who, in fact, are not United States citizens?

10:18:15 19 A. No, this letter does not mention that.

10:18:18 20 Q. Is your office still -- strike that.

10:18:23 21 Does your office have any plans to engage in
10:18:27 22 the investigation described in Section 7 of HB 2492?

10:18:32 23 A. I guess the answer to that is yes, because our --
10:18:42 24 we currently conduct investigations of such, and so we will
10:18:45 25 continue to conduct investigations of such. When -- upon

10:18:47 1 referral from somewhere, we will do the investigation.

10:18:49 2 Q. My question is a little different.

10:18:51 3 HB 2492 instructs the secretary of state and
10:18:56 4 the county recorders to send you lists of individuals who
10:18:58 5 are registered to vote who have not provided satisfactory
10:19:02 6 evidence of citizenship; correct?

10:19:03 7 A. Yes.

10:19:03 8 Q. And the same provision also instructs your office
10:19:06 9 to investigate those lists if you receive them?

10:19:08 10 A. Correct.

10:19:09 11 Q. You have not yet conducted that investigation;
10:19:13 12 correct?

10:19:14 13 A. No.

10:19:14 14 Q. Do you have plans to conduct that specific
10:19:17 15 investigation in the future?

10:19:18 16 A. Certainly. If something is referred to us, yes.

10:19:20 17 Q. If the secretary of state were, tomorrow, to send
10:19:23 18 your office a list of individuals registered to vote in
10:19:26 19 Arizona who had not provided satisfactory proof of
10:19:30 20 evidence, you would accept that referral and investigate
10:19:32 21 the citizenship of those individuals?

10:19:34 22 A. Yes.

10:19:36 23 Q. If the county recorder sent you a similar list,
10:19:39 24 would you likewise investigate the citizenship of those
10:19:43 25 individuals?

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A. Yes.

Q. Would your office prepare a report for the secretary of state, the senate president, and the house speaker detailing the findings of those reports -- those investigations?

MR. WHITAKER: Objection; foundation.

THE WITNESS: I can certainly tell you that I would not be responsible for that report. I -- if -- so I really can't answer that with certainty. I can make an assumption.

BY MR. DODGE:

Q. And your office is authorized to investigate the citizenship of individual registered voters if such a referral were to be made by the secretary of state or county recorder's office; correct?

MR. WHITAKER: Objection. Ambiguous.

THE WITNESS: Yeah, I believe that, yes, we are.

BY MR. DODGE:

Q. If you were to conduct such an investigation upon a referral from the secretary of state or the county recorder's office, would you be required to use all available resources in the conduct of that investigation?

MR. WHITAKER: Objection. Calls for --

MR. LANGHOFER: Calls for a legal conclusion.

10:21:08 1 THE WITNESS: I can answer that by saying
10:21:10 2 that I will always use all available resources in my
10:21:13 3 investigation.

10:21:14 4 BY MR. DODGE:

10:21:26 5 Q. If one of these lists provided by the secretary of
10:21:30 6 state or the county recorder's office were to contain
10:21:35 7 hundreds of voters who had not yet provided satisfactory
10:21:40 8 proof of citizenship, what resources would be required to
10:21:45 9 investigate the citizenship of those individuals?

10:21:49 10 MR. WHITAKER: Objection. Ambiguous.

10:21:50 11 MR. LANGHOFER: Same objection.

10:21:52 12 THE WITNESS: If I'm understanding your
10:21:57 13 question correctly, you're asking what resources we would
10:22:03 14 need to do hundreds of investigations like that?

10:22:06 15 BY MR. DODGE:

10:22:07 16 Q. Basically.

10:22:08 17 A. I think that that's a question that needs to be
10:22:11 18 qualified by how long do we have to complete the
10:22:14 19 investigations? I mean, that's -- it's going to take
10:22:18 20 resources. It's a lot.

10:22:19 21 Q. You testified a moment ago that in any
10:22:22 22 investigation you use all available resources; correct?

10:22:24 23 A. Correct.

10:22:27 24 Q. And so if the secretary of state referred hundreds
10:22:28 25 of names to your office as individuals registered to vote

10:22:31 1 without satisfactory proof of citizenship, you would also
10:22:34 2 use all available resources to investigate those
10:22:37 3 individuals as well; correct?

10:22:39 4 MR. WHITAKER: Objection. Ambiguous.

10:22:43 5 THE WITNESS: Yes. The resources available
10:22:45 6 would be utilized in every investigation. I -- I took your
10:22:49 7 question to mean something different.

10:22:50 8 BY MR. DODGE:

10:22:54 9 Q. But it would be difficult for you alone to
10:22:55 10 investigate the citizenship of hundreds of individuals;
10:22:57 11 right?

10:22:59 12 A. With -- yeah, that's why I mentioned the time
10:23:02 13 frame. Yes, it would be.

10:23:02 14 Q. So would your office then reallocate investigators
10:23:06 15 from other divisions to assist with that investigation?

10:23:09 16 MR. WHITAKER: Objection. Ambiguous.

10:23:12 17 THE WITNESS: That's -- that's a decision
10:23:15 18 that would be made above my pay grade, but it wouldn't be
10:23:19 19 unheard of.

10:23:19 20 BY MR. DODGE:

10:23:22 21 Q. And those investigators would have to come from
10:23:25 22 separation divisions with separate responsibilities;
10:23:28 23 correct?

10:23:28 24 MR. WHITAKER: Objection; foundation.

10:23:32 25 THE WITNESS: I guess that they would have

10:23:36 1 to, being that I am the only dedicated election
10:23:43 2 investigator, so yes.

10:23:44 3 BY MR. DODGE:

10:23:54 4 Q. I'm going to hand you now what's previously been
10:23:57 5 marked as Petty Exhibit 21, which is in the Dropbox folder
10:24:03 6 at Number 9.

10:24:09 7 Are you familiar with this document?

10:24:11 8 A. Yes.

10:24:12 9 Q. Can you tell me what this document is?

10:24:14 10 A. This is the -- the verbiage of House Bill 2243.

10:24:25 11 Q. Can you please turn to page 4 of this document.

10:25:02 12 Can you review beginning at line 5, Section 10.

10:25:06 13 A. Yes. Okay.

10:25:49 14 Q. The final sentence of this section reads, "If the
10:25:52 15 person registered does not provide satisfactory evidence
10:25:56 16 within thirty five days, the county recorder shall cancel
10:25:59 17 the registration and notify the county attorney and
10:26:02 18 attorney general for possible investigation."

10:26:05 19 Did I read that right?

10:26:06 20 A. You did.

10:26:06 21 Q. What does the term "possible investigation" mean?

10:26:09 22 MR. WHITAKER: Objection. Calls for a legal
10:26:15 23 conclusion.

10:26:15 24 THE WITNESS: I would -- I would take -- I
10:26:18 25 would read that as a possible investigation into the --

10:26:27 1 into the -- whether this is a valid registered voter or
10:26:33 2 a -- yeah, I guess that's the best way to answer it: An
10:26:35 3 investigation into whether this person is a valid voter,
10:26:40 4 able to be registered.

10:26:41 5 BY MR. DODGE:

10:26:42 6 Q. Would your office conduct an investigation if it
10:26:44 7 received such a referral from a county recorder's office?

10:26:48 8 A. If we receive a referral, yes, we will.

10:26:50 9 MR. WHITAKER: Objection.

10:26:51 10 THE WITNESS: Or at least if it's -- if
10:26:54 11 it's -- warrants -- if it warrants investigation.

10:26:57 12 BY MR. DODGE:

10:26:58 13 Q. So your office will at least assess the referral,
10:27:02 14 which requires resources and time?

10:27:05 15 MR. WHITAKER: Objection. Ambiguous.

10:27:08 16 THE WITNESS: Yes.

10:27:09 17 BY MR. DODGE:

10:27:11 18 Q. And it will then make a judgment about whether or
10:27:15 19 not further investigation is warranted?

10:27:16 20 MR. WHITAKER: Same objection.

10:27:19 21 THE WITNESS: That's correct.

10:27:20 22 BY MR. DODGE:

10:27:20 23 Q. And if an investigation was warranted, your office
10:27:21 24 would again use all available resources to execute that
10:27:26 25 investigation?

10:27:26 1 MR. WHITAKER: Same objection.

10:27:29 2 THE WITNESS: Yes.

10:27:29 3 BY MR. DODGE:

10:27:31 4 Q. Can you refer back to what I believe is
10:27:33 5 Exhibit 212, which are your office's interrogatory
10:27:37 6 responses. I'll just say we'll be referring to this
10:27:40 7 document frequently, so it might be good to keep it handy.

10:27:47 8 Can you turn to page 14 and review Subpart 4
10:27:56 9 of your response there.

10:28:07 10 MR. LANGHOFER: Which item was this in the
10:28:09 11 Dropbox folder?

10:28:10 12 MR. DODGE: This was Number 6.

10:28:14 13 MR. LANGHOFER: Thank you.

10:28:35 14 THE WITNESS: Okay.

10:28:40 15 BY MR. DODGE:

10:28:40 16 Q. And your response to Subpart 4 -- this is still in
10:28:43 17 reference to Interrogatory Number 2, which we were
10:28:46 18 discussing earlier; correct?

10:28:48 19 A. Yes, I believe so.

10:28:49 20 Q. And this subpart asks about your plans for
10:29:02 21 implementation or enforcement of the challenged laws,
10:29:05 22 including whether such plans involve any possible
10:29:08 23 investigation under A.R.S. Section 16-165(A)(10) and what
10:29:14 24 such investigations will entail; correct?

10:29:17 25 A. Yes.

10:29:21 1 Q. And beginning a sentence into your response, your
10:29:26 2 office writes, "If the Attorney General's Office were to
10:29:28 3 receive information or a referral for investigation under
10:29:32 4 the challenged laws, the office would evaluate and consider
10:29:34 5 investigations on a case-by-case basis considering the
10:29:37 6 facts of the referral, available resources, and whether the
10:29:40 7 office has access to citizenship information."

10:29:43 8 Did I read that correctly?

10:29:44 9 A. You did.

10:29:45 10 Q. You mentioned a moment ago that your office would
10:29:56 11 evaluate the credibility of such a referral in any
10:30:00 12 instance; correct?

10:30:01 13 A. Yes.

10:30:02 14 Q. And would pursue an investigation if the referral
10:30:07 15 was credible; correct?

10:30:10 16 MR. WHITAKER: Objection. Ambiguous.

10:30:13 17 THE WITNESS: That's fair to say, I think.

10:30:14 18 BY MR. DODGE:

10:30:16 19 Q. Are you aware of whether your office would be
10:30:18 20 willing to prosecute a case under this provision?

10:30:25 21 MR. WHITAKER: Objection. Foundation and
10:30:28 22 ambiguous.

10:30:30 23 MR. LANGHOFER: Speculation.

10:30:34 24 THE WITNESS: My best answer for that is if
10:30:38 25 the -- if the investigation warrants such, then yes, we

10:30:43 1 prosecute.

10:30:44 2 BY MR. DODGE:

10:30:44 3 Q. Has your office received a referral under

10:30:48 4 A.R.S. Section 16-165(A)(10) yet?

10:30:54 5 A. Not that I'm aware of.

10:30:56 6 Q. Can you describe to me what investigation under
10:30:58 7 this section would look like?

10:31:09 8 A. I would feel -- feel more comfortable answering
10:31:36 9 that if I just feel like the questions -- the nature of the
10:31:41 10 investigation under that statute is kind of vague to me, so
10:31:45 11 I -- that's hard for me to answer.

10:31:47 12 Q. What's vague about it to you?

10:31:49 13 A. Well, I mean, I don't have A.R.S. 16-165(A)(10) in
10:31:54 14 front of me, so that's a start.

10:32:19 15 Q. Are you -- are you aware of what documents can
10:32:22 16 provide satisfactory proof of citizenship under HB 2243?

10:32:28 17 MR. LANGHOFER: Calls for a legal conclusion.

10:32:31 18 THE WITNESS: That -- that's really not a
10:32:36 19 question that I feel comfortable answering. I wouldn't
10:32:38 20 know the volume of those documents.

10:32:42 21 BY MR. DODGE:

10:32:43 22 Q. Okay. I'm going to hand you what will be marked
10:32:45 23 as Exhibit 214. It is in the Dropbox as Number 10.

10:32:45 24 (The document was marked as Exhibit 214
10:32:45 25 for identification.)

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BY MR. DODGE:

Q. Will you accept my representation that this is a true and correct copy of A.R.S. 16-166?

MR. LANGHOFER: Form.

THE WITNESS: As far as I can tell, yes.

BY MR. DODGE:

Q. Can you take a moment to review Subsection F.

A. Okay.

Q. This section of A.R.S. 16-166 identifies various forms of identification that can be used to establish citizenship; correct?

A. It does.

Q. The first is a driver's license issued in Arizona after October 1, 1996, or in another state if the license reflects that the person has provided satisfactory proof of citizenship; correct?

MR. WHITAKER: Objection. Slightly understates the report.

THE WITNESS: It does say "driver's license number or nonoperating identification" and equivalent -- equivalent government -- governmental agency of another state.

BY MR. DODGE:

Q. Okay. Thank you for that clarification.

Do you know what percentage of individuals in

10:34:58 1 Arizona have a driver's license?

10:35:01 2 A. I do not.

10:35:04 3 Q. Do you have a best guess?

10:35:08 4 MR. LANGHOFER: Foundation.

10:35:09 5 THE WITNESS: No, I really don't. I mean,
10:35:10 6 that's pretty -- with the older population, younger
10:35:15 7 population -- that would be very difficult to answer. I
10:35:18 8 even don't know if I'd guess that.

10:35:18 9 BY MR. DODGE:

10:35:19 10 Q. But fair to say not everyone in Arizona has a
10:35:22 11 driver's license?

10:35:22 12 A. No, of course not.

10:35:23 13 Q. And you just identified two populations that are
10:35:27 14 maybe more likely not to have driver's licenses; namely,
10:35:30 15 older individuals and younger individuals; is that fair?

10:35:33 16 A. I think so.

10:35:33 17 Q. Can you think of any other groups of people in
10:35:36 18 Arizona who might be less likely to have a driver's
10:35:41 19 license?

10:35:41 20 MR. LANGHOFER: Scope. Foundation.

10:35:42 21 THE WITNESS: I mean, I don't think you
10:35:46 22 can -- I think that there's not any large populations of
10:35:50 23 people that would be more likely to not have a license. I
10:35:54 24 mean, there's all kinds of factors involved, you know?
10:35:56 25 People that lost their license for whatever reason or --

10:35:59 1 you know, a number of different things, so --

10:36:01 2 BY MR DODGE:

10:36:01 3 Q. Would disabled people be more likely to not have a
10:36:04 4 driver's license?

10:36:05 5 MR. WHITAKER: Foundation.

10:36:08 6 THE WITNESS: I mean, I -- I don't -- I don't
10:36:12 7 if that's -- I don't know if I can answer that either
10:36:15 8 because it depends on -- "disability" is a large term. So
10:36:18 9 I don't know that I can answer that for you.

10:36:20 10 BY MR. DODGE:

10:36:21 11 Q. Do you know how much it costs to obtain a driver's
10:36:23 12 license in Arizona?

10:36:26 13 MR. LANGHOFER: Scope.

10:36:27 14 THE WITNESS: I don't know exactly. I think
10:36:29 15 it's -- I mean, I haven't gotten one in a while. I think
10:36:33 16 it's probably around 25 bucks or something. I don't know.

10:36:36 17 BY MR. DODGE:

10:36:36 18 Q. How often does a person have to renew their
10:36:39 19 driver's license in Arizona?

10:36:40 20 MR. WHITAKER: Foundation.

10:36:41 21 MR. LANGHOFER: Scope. Calls for a legal
10:36:48 22 conclusion.

10:36:48 23 THE WITNESS: I -- I mean, as far as I know,
10:36:55 24 I mean, driver's licenses are good for many years. So I
10:37:01 25 don't know if there's an actual -- to be honest with you, I

10:37:03 1 don't know if there's an actual time limit given on a
10:37:05 2 license.

10:37:06 3 BY MR. DODGE:

10:37:06 4 Q. So Arizona driver's license -- driver's licenses
10:37:08 5 are valid for a very long time?

10:37:10 6 A. Yes.

10:37:11 7 MR. WHITAKER: Foundation.

10:37:13 8 BY MR. DODGE:

10:37:13 9 Q. Do you know how long it takes to obtain a driver's
10:37:16 10 license?

10:37:16 11 MR. WHITAKER: Foundation and scope.

10:37:21 12 THE WITNESS: Not exactly. I mean, I
10:37:25 13 imagine, you know, the process takes however long it gets
10:37:30 14 to have one mailed to you or whatever to get a physical
10:37:32 15 license. I -- I don't know exactly.

10:37:34 16 BY MR. DODGE:

10:37:34 17 Q. Might take a few weeks?

10:37:36 18 A. Could.

10:37:37 19 Q. Returning to 16-166, the second document listed
10:37:41 20 here is "a legible copy of the applicant's birth
10:37:45 21 certificate that verifies citizenship to the satisfaction
10:37:48 22 of the county recorder."

10:37:50 23 Did I get that one right?

10:37:52 24 A. Yes.

10:37:53 25 Q. I think we discussed this earlier today, but you

10:37:57 1 would agree that there are citizens in Arizona who are not
10:38:00 2 born within Arizona; right?

10:38:03 3 A. Well, yeah, of course.

10:38:04 4 Q. And there are citizens in Arizona who weren't born
10:38:06 5 within the United States; correct?

10:38:08 6 A. Yes.

10:38:09 7 Q. An individual citizen in Arizona who's not born in
10:38:16 8 the United States would not have a birth certificate that
10:38:19 9 establishes their American citizenship, right?

10:38:24 10 A. I'm sorry. I lost you for a minute there. Can
10:38:26 11 you repeat that?

10:38:27 12 Q. A naturalized citizen living in Arizona who was
10:38:32 13 born outside of the United States would not possess a birth
10:38:35 14 certificate that could establish their United States
10:38:37 15 citizenship; correct?

10:38:39 16 MR. LANGHOFER: Calls for legal conclusion.
10:38:40 17 Foundation.

10:38:40 18 THE WITNESS: I mean, honestly, I don't know
10:38:45 19 if I can answer that. I don't think so.

10:38:47 20 BY MR. DODGE:

10:38:48 21 Q. If an individual was born in Mexico and became a
10:38:51 22 naturalized United States citizen living in Arizona, their
10:38:55 23 Mexican birth certificate would not assist in establishing
10:38:58 24 their American citizenship; right?

10:39:00 25 MR. LANGHOFER: Foundation. Speculation.

10:39:05 1 There's nothing about Mexican birth certificate.

10:39:05 2 THE WITNESS: I would say that's probably
10:39:07 3 true.

10:39:08 4 BY MR. DODGE:

10:39:09 5 Q. Could you imagine a situation where a non-United
10:39:12 6 States birth certificate would assist you in establishing
10:39:14 7 an individual's United States citizenship?

10:39:19 8 A. No.

10:39:20 9 Q. Would you agree that many individuals born within
10:39:25 10 the United States lack access to photocopies of their birth
10:39:29 11 certificates?

10:39:32 12 MR. LANGHOFER: Foundation.

10:39:33 13 THE WITNESS: I mean --

10:39:35 14 MR. LANGHOFER: Scope.

10:39:38 15 THE WITNESS: -- I'm sure there are people
10:39:40 16 that, for whatever reason, don't have access to their birth
10:39:43 17 certificate. I -- I wouldn't be able to give you much more
10:39:46 18 information about how many or how often that occurs.

10:39:48 19 BY MR. DODGE:

10:39:48 20 Q. It's the sort of thing a person could misplace
10:39:51 21 while moving or something; right?

10:39:52 22 A. Certainly.

10:39:54 23 Q. Do you know how much it costs to obtain a birth
10:39:59 24 certificate in Arizona?

10:40:02 25 MR. LANGHOFER: Foundation.

10:40:03 1 THE WITNESS: I have no idea.

10:40:03 2 BY MR. DODGE:

10:40:05 3 Q. Do you know how long the process is to obtain a

10:40:07 4 birth certificate in Arizona?

10:40:08 5 MR. LANGHOFER: Same objection.

10:40:09 6 THE WITNESS: Again, I have no knowledge of

10:40:11 7 that.

10:40:11 8 BY MR. DODGE:

10:40:12 9 Q. Do you know how much it costs to obtain a birth

10:40:14 10 certificate in California?

10:40:17 11 MR. LANGHOFER: Same objection.

10:40:17 12 THE WITNESS: Absolutely not.

10:40:18 13 BY MR. DODGE:

10:40:19 14 Q. And I assume you also don't know how long that

10:40:22 15 process would take; right?

10:40:23 16 A. That's correct.

10:40:24 17 MR. LANGHOFER: Same objection.

10:40:24 18 BY MR. DODGE:

10:40:26 19 Q. The third document listed in Section 166 is "a

10:40:33 20 legible photocopy of pertinent pages of the applicant's

10:40:33 21 United States passport identifying the applicant, the

10:40:35 22 applicant's passport number or presentation to the county

10:40:38 23 recorder of the applicant's United States passport."

10:40:40 24 Did I get that right?

10:40:42 25 A. Yes.

10:40:42 1 Q. Do you know what percentage of individuals in
10:40:45 2 Arizona have a valid United States passport?

10:40:51 3 MR. LANGHOFER: Same objection.

10:40:52 4 THE WITNESS: I would have absolutely no
10:40:54 5 idea.

10:40:54 6 BY MR. DODGE:

10:40:54 7 Q. Maybe half?

10:40:57 8 MR. WHITAKER: Speculation.

10:40:58 9 THE WITNESS: I really don't know.

10:40:59 10 BY MR. DODGE:

10:41:00 11 Q. Do you know how much it costs to obtain a
10:41:02 12 passport?

10:41:04 13 MR. LANGHOFER: Same objection.

10:41:06 14 THE WITNESS: No, I do not.

10:41:07 15 BY MR. DODGE:

10:41:08 16 Q. Do you know how long it takes to get a passport?

10:41:12 17 MR. LANGHOFER: Same objection.

10:41:13 18 THE WITNESS: From listening to people talk
10:41:17 19 about it, I hear it takes a long time, but I don't know
10:41:20 20 personally.

10:41:21 21 BY MR. DODGE:

10:41:21 22 Q. If we could briefly return to what was marked as
10:41:24 23 Petty Exhibit 21, which is the copy of HB 2243. If we
10:41:29 24 could return to page 4, Section 10.

10:41:44 25 Beginning on line 10 of that section, it

10:41:46 1 reads, "Before the county recorder cancels a registration
10:41:49 2 pursuant to this paragraph, the county recorder shall send
10:41:51 3 the person notice by forwardable mail that the person's
10:41:55 4 registration will be canceled in thirty five days unless
10:41:57 5 the person provides satisfactory evidence of United States
10:42:00 6 citizenship pursuant to Section 16-166"; correct?

10:42:04 7 A. That is what it says.

10:42:05 8 Q. That's the provision Section 16-666 -- strike
10:42:10 9 that.

10:42:11 10 We were just discussing Section 16-166;
10:42:14 11 correct?

10:42:14 12 A. Yes, prior to this.

10:42:18 13 MR. DODGE: Is now a good time for a break?

10:42:20 14 MR. WHITAKER: Sure.

10:42:20 15 MR. DODGE: We've been going about an hour.

10:42:21 16 MR. WHITAKER: Okay with you?

10:42:21 17 THE WITNESS: Fine with me.

10:42:24 18 MR. DODGE: Can we go off the record.

10:42:27 19 THE VIDEOGRAPHER: We're off the record.

10:42:28 20 Time on the video monitor is 10:42 a.m.

10:42:28 21 (A recess ensued.)

10:56:47 22 THE VIDEOGRAPHER: We are on the record.

10:57:01 23 Time on the video monitor is 10:56 a.m.

10:57:05 24 BY MR. DODGE:

10:57:06 25 Q. Welcome back, Mr. Knuth.

10:57:08 1 You'll recall that some time ago we were
10:57:12 2 discussing what sort of investigation your office would
10:57:15 3 conduct if you were to receive from either the secretary of
10:57:17 4 state or the county recorders a list of individuals
10:57:21 5 registered in Arizona who had not provided satisfactory
10:57:25 6 proof of citizenship. Do you recall that?

10:57:26 7 A. I do.

10:57:27 8 Q. If the secretary of state or the county recorder
10:57:33 9 office were to convey such a list to your office, would
10:57:36 10 that come through the duty agent?

10:57:40 11 A. It -- it could go two different ways, to be quite
10:57:51 12 honest. It could -- it -- given the -- that we're talking
10:57:56 13 about -- and this is -- this would be new. So if -- I
10:58:02 14 would think that a list like that would probably come
10:58:06 15 through our -- our civil level, because that's how the
10:58:18 16 Election Integrity Unit portal used to work, if that makes
10:58:22 17 sense. It's a little confusing.

10:58:24 18 The Election Integrity Unit's intake would
10:58:27 19 initially come into the civil entity of our agency and then
10:58:30 20 it would be sent down. So -- because it's such a -- I feel
10:58:35 21 like it would be such a vast -- or a -- you know, a large
10:58:38 22 document or a lot to offer, that it may come in that way.
10:58:42 23 I really -- I can't say for sure, though. I mean, it --
10:58:47 24 I'm really not -- not certain how it would get to us.

10:58:50 25 Q. You mentioned a second way it might come in.

10:58:53 1 Could you tell me what that is?

10:58:55 2 A. I was talking about the duty agent way.

10:58:57 3 Q. I see.

10:58:58 4 So focusing on the duty agents for a moment,
10:59:02 5 what would that look like?

10:59:05 6 A. That would come in via whatever sort of referral
10:59:09 7 we -- we would get into our -- into our online database or
10:59:18 8 online complaint form, something sent into the office. To
10:59:25 9 my knowledge, they get complaints from various -- various
10:59:29 10 ways.

10:59:31 11 Q. If the duty agent were to receive a list from the
10:59:34 12 secretary of state or county recorder's office with
10:59:36 13 hundreds of names on it, would they open a referral for
10:59:41 14 each of those individual names, or would it be a single
10:59:43 15 referral?

10:59:46 16 MR. LANGHOFER: Speculation.

10:59:50 17 THE WITNESS: My thought is that they would
10:59:53 18 likely hand that over to me in its entirety and allow me to
10:59:58 19 make such a decision or somebody on my level to make a
11:00:02 20 decision.

11:00:02 21 BY MR. DODGE:

11:00:03 22 Q. And in that case, what decision would you make?

11:00:08 23 MR. WHITAKER: Ambiguous.

11:00:09 24 MR. LANGHOFER: Speculation.

11:00:12 25 THE WITNESS: My assumption would be that I

11:00:14 1 have to address each individual as an individual and -- and
11:00:21 2 evaluate each individual case as its own case.

11:00:24 3 BY MR. DODGE:

11:00:25 4 Q. So such a referral from the Secretary of State's
11:00:28 5 Office or a county recorder's office could potentially
11:00:31 6 result in hundreds of new matters for you?

11:00:36 7 MR. WHITAKER: Ambiguous.

11:00:37 8 THE WITNESS: I think that potential exists.

11:00:40 9 BY MR. DODGE:

11:00:40 10 Q. It could be thousands of new cases for you?

11:00:44 11 MR. WHITAKER: Same objection.

11:00:45 12 THE WITNESS: Yeah, I can only speculate.

11:00:47 13 BY MR. DODGE:

11:00:53 14 Q. How would such a number of referrals impact your
11:00:59 15 workload as the investigator most responsible for
11:01:04 16 election-related investigations?

11:01:07 17 A. I mean, I think it's obvious I'm going to have
11:01:11 18 more -- more on my plate. I think that that's -- I think
11:01:15 19 that's a discussion that would have to be had with several
11:01:21 20 members of the Criminal Investigations Division about, you
11:01:24 21 know, how -- how are we going to handle this situation most
11:01:27 22 appropriately?

11:01:28 23 Q. How many active election-related investigations do
11:01:32 24 you have right now?

11:01:36 25 A. I think I have about ten right now.

11:01:41 1 Q. So receiving a referral with hundreds or thousands
11:01:44 2 of new cases would be an order-of-magnitude increase in
11:01:47 3 your workload; correct?

11:01:49 4 A. Potentially.

11:01:51 5 Q. If such referrals were made three months before an
11:01:58 6 election, would you attempt to complete those
11:02:02 7 investigations prior to the election?

11:02:05 8 MR. WHITAKER: Ambiguous.

11:02:06 9 MR. LANGHOFER: Speculation.

11:02:09 10 THE WITNESS: I think the best answer to that
11:02:11 11 question is I attempt to complete investigations as quickly
11:02:15 12 as I can.

11:02:20 13 BY MR. DODGE:

11:02:23 14 Q. Would it be feasible to complete that many
11:02:25 15 investigations accurately on such a time frame?

11:02:28 16 MR. WHITAKER: Ambiguous.

11:02:29 17 MR. LANGHOFER: Speculation.

11:02:31 18 THE WITNESS: That -- that would totally
11:02:34 19 depend on what -- what each investigation entailed and
11:02:37 20 how -- the depth that each investigation would have to
11:02:42 21 have.

11:02:42 22 BY MR. DODGE:

11:02:42 23 Q. You mentioned a moment ago that you currently have
11:02:44 24 ten active investigations roughly; right?

11:02:46 25 A. Somewhere right around there.

11:02:48 1 MR. WHITAKER: Objection. Slightly
11:02:49 2 mischaracterizes the record.
11:02:50 3 BY MR. DODGE:
11:02:51 4 Q. Is that a -- is that a typical workload for you at
11:02:53 5 any given time?
11:02:55 6 A. I don't think that there's a -- I don't think
11:02:57 7 there's a way to say that I have a typical workload. It's
11:03:01 8 ebb and flow, so . . .
11:03:04 9 Q. Not unusual to have about ten active cases at any
11:03:07 10 given time, though?
11:03:08 11 A. Absolutely not.
11:03:09 12 Q. Would it be unusual to have 50 active cases at a
11:03:13 13 given time?
11:03:17 14 A. Honestly, no, it wouldn't be unusual.
11:03:22 15 Q. How many investigations do you feel like you can
11:03:26 16 handle at any given time and feel like you're doing justice
11:03:30 17 and a good job on any individual investigation?
11:03:34 18 MR. LANGHOFER: Speculation.
11:03:37 19 THE WITNESS: I think that -- I think that
11:03:39 20 can't be accurately answered unless I know what each
11:03:42 21 investigation involves.
11:03:43 22 BY MR. DODGE:
11:03:44 23 Q. You would agree there is some outer bound at which
11:03:47 24 point you are no longer capable of holding yourself to the
11:03:51 25 investigative standard that you ordinarily would like to

11:03:53 1 achieve? Is that fair?

11:03:55 2 A. Yes.

11:03:56 3 Q. So in other words, there's a point at which
11:04:01 4 additional resources will be required from the Attorney
11:04:03 5 General's Office for justice to be done in any of these
11:04:05 6 investigations; right?

11:04:09 7 MR. WHITAKER: Ambiguous.

11:04:11 8 THE WITNESS: I think that's fair.

11:04:13 9 BY MR. DODGE:

11:04:18 10 Q. I want to ask a few more questions also about how
11:04:21 11 you came to your current role.

11:04:23 12 Why did you join the Attorney General's
11:04:30 13 Office?

11:04:30 14 A. I had retired after just over 20 years from Sedona
11:04:39 15 Police Department, and I -- I left there for reasons that
11:04:45 16 police officers leave the field. And I knew that I wasn't
11:04:49 17 done working, so I just -- I found a job here.

11:04:52 18 Q. And your first job here was in general fraud
11:04:55 19 investigations; correct?

11:04:56 20 A. Correct.

11:04:57 21 Q. Was there something specific about fraud that
11:04:59 22 interested you, or was it just the best position available
11:05:02 23 at the time?

11:05:03 24 A. It was -- it was an available job and it -- it
11:05:08 25 worked out for me at the time.

11:05:09 1 Q. And you pretty quickly transitioned into doing
11:05:13 2 election-related investigations; is that right?

11:05:15 3 A. Yes, pretty quickly.

11:05:16 4 Q. Can you tell me why you transitioned into an
11:05:18 5 election-related role?

11:05:20 6 A. The -- from -- from my low level, my understanding
11:05:26 7 is that the agency had been approved for an Election
11:05:33 8 Integrity Unit -- had been funded, and they needed to build
11:05:36 9 that team. And I was -- I offered to be the -- the
11:05:42 10 investigator on that team.

11:05:43 11 Q. And why did you offer yourself up for that role?

11:05:46 12 A. Just a general interest of mine.

11:05:48 13 Q. In investigation -- in elections and what?

11:05:51 14 A. And I -- yes, as being a -- kind of -- I don't
11:05:58 15 what's the best way to put it. I've just been active in
11:06:01 16 the elective process my whole life, since I was old enough
11:06:04 17 to vote. So it's just an interesting topic for me.

11:06:05 18 Q. So you just mean as a citizen, you've been an
11:06:06 19 active voter?

11:06:07 20 A. Yes.

11:06:08 21 Q. Have you been involved in elections in any other
11:06:10 22 capacity? Running for office? Volunteering?

11:06:12 23 A. No. No.

11:06:13 24 Q. You're just -- you're a good citizen?

11:06:16 25 A. I guess, if that's what you want to call it.

11:06:19 1 Q. And you vote regularly?

11:06:20 2 A. Yes.

11:06:20 3 Q. And you think elections are interesting?

11:06:22 4 A. I do.

11:06:23 5 Q. Any other reasons why you offered to join the
11:06:26 6 Election Integrity Unit?

11:06:30 7 A. No, not really.

11:06:32 8 Q. And just to understand the chronology there a bit,
11:06:36 9 the Election Integrity Unit, when was it created relative
11:06:40 10 to when you joined the Attorney General's Office?

11:06:43 11 A. I don't know that I can accurately tell you that.
11:06:47 12 I mean, again, I have to say that I was -- I would consider
11:06:52 13 myself still brand new to the agency, so I was still
11:06:57 14 adjusting to how things work around here.

11:06:59 15 So the -- the absolute timeline of when the
11:07:04 16 unit was approved and when they decided to make selections
11:07:07 17 and/or build the team and all that, I don't know that I can
11:07:11 18 accurately tell you that. I know when it was -- when it
11:07:16 19 came up and I heard about it, I went to my -- the
11:07:21 20 supervisor at the time and said that would be something I'm
11:07:24 21 interested in. That's -- that's what I can tell you.

11:07:27 22 Q. And do you recall the month and year you joined
11:07:28 23 the Attorney General's Office?

11:07:30 24 A. I believe it's September of 2019.

11:07:33 25 Q. And then you joined the Election Integrity Unit

11:07:36 1 approximately what month after that?

11:07:38 2 A. I get -- I get confused here. It's -- I believe I
11:07:44 3 was in place in that by -- by October. Actually, it may be
11:07:56 4 earlier than that. It may have even been summer of 2020
11:08:04 5 that I . . .

11:08:09 6 Q. So your best recollection is you joined the
11:08:12 7 Attorney General's Office in September 2019 and were
11:08:14 8 working in the Election Integrity Unit by the following
11:08:18 9 summer?

11:08:18 10 A. Yeah, that would be the best -- I don't want to
11:08:21 11 misspeak, so . . .

11:08:22 12 Q. Did you have any expectations as to whether the
11:08:27 13 unit would uncover certain kinds of fraud when you joined
11:08:32 14 it?

11:08:32 15 A. No, I don't think I had any expectations.

11:08:35 16 Q. What expectation did you have with respect to the
11:08:39 17 kind of investigations that you would be conducting?

11:08:43 18 A. I don't know that I had any expectations, because
11:08:46 19 it was a brand-new thing. Obviously, I can -- I can assume
11:08:52 20 that anything that is involved in the electoral process or,
11:08:57 21 you know -- you know, voter -- voter-related items would be
11:09:04 22 conning my way, but very generally -- I really didn't know
11:09:06 23 what to expect.

11:09:07 24 Q. Did you have any expectation about whether or not
11:09:08 25 the unit would focus more on elected officials as compared

11:09:12 1 to voters?

11:09:14 2 A. No. I think my assumption at the time would be
11:09:18 3 that it would be the totality of the -- of all of it.

11:09:23 4 Q. Any other expectations you had about what your
11:09:27 5 work at the unit would entail at the time?

11:09:30 6 A. No, not that I can recall.

11:09:32 7 Q. I now have questions about the Election Integrity
11:09:39 8 Unit itself. I understand you're sharing this duty with
11:09:41 9 Mr. Thomas.

11:09:45 10 I'd like to ask you questions about the
11:09:50 11 Election Integrity Unit's portal, the complaints it
11:09:54 12 generated, and the investigations that ensued. Are you
11:09:57 13 prepared to testify on that today?

11:09:59 14 A. I can do a pretty good job, I feel.

11:10:02 15 Q. That's great.

11:10:03 16 If we can go back to Exhibit 212, which are
11:10:13 17 your interrogatory responses. And if you could look at
11:10:16 18 page 5.

11:10:16 19 MR. DODGE: For those following at home, this
11:10:22 20 is still Number 6 in the Dropbox.

11:10:27 21 THE WITNESS: Did you say page 5? I'm sorry.

11:10:29 22 BY MR. DODGE:

11:10:30 23 Q. I did. I'm actually going to ask you to look at
11:10:33 24 page 4 instead. I skipped ahead a little bit.

11:10:36 25 If you could turn at page 4 and look at

11:10:37 1 Interrogatory Number 1 for a moment.

11:11:09 2 A. Okay.

11:11:10 3 Q. You see below that your office has again divided
11:11:15 4 this interrogatory into subparts; correct?

11:11:18 5 A. Yes.

11:11:19 6 Q. Could you turn to the next page and look at your
11:11:23 7 response to Subpart 2.

11:11:41 8 A. Yes.

11:11:42 9 Q. Okay. Your office has characterized Subpart 2 as,
11:11:47 10 quote, "Identify all evidence that supports the contention
11:11:49 11 that the Challenged Laws further the interests identified
11:11:52 12 above, including any evidence of voter fraud committed by
11:11:55 13 non-citizens in Arizona since January 1, 2016."

11:12:00 14 Did I get that correct?

11:12:03 15 A. Yes.

11:12:03 16 Q. Okay. Could you turn to the next page of this
11:12:09 17 document.

11:12:16 18 And looking at line 10, your office
11:12:20 19 responded, "The Attorney General's Office has compiled two
11:12:22 20 spreadsheets of complaints submitted via this portal with
11:12:25 21 redactions. These spreadsheets have been produced as
11:12:29 22 AG007958, AG011687."

11:12:35 23 Do you see that?

11:12:35 24 A. I do.

11:12:36 25 Q. Do you know what portal is being referred to

11:12:38 1 there?

11:12:42 2 A. When I hear "portal," my automatic assumption is

11:12:51 3 it's talking about the election integrity portal. I mean,

11:12:55 4 that -- I don't really see a lot of context and guarantee

11:13:00 5 that's correct, but that would be my assumption.

11:13:02 6 Q. Do you know when your office created the Election

11:13:13 7 Integrity Unit intake portal?

11:13:17 8 A. I believe it stated that it was 2020. I don't

11:13:22 9 know anything more specific than.

11:13:24 10 Q. Do you know why your office chose to create the

11:13:27 11 portal in 2020?

11:13:31 12 A. I -- I don't know. I mean, I -- again, it -- it

11:13:38 13 was the onset of the Election Integrity Unit, so it may be

11:13:43 14 related to that.

11:13:43 15 Q. Did any similar sort of election-focused portal

11:13:47 16 exist at the Attorney General's Office prior to 2020?

11:13:51 17 A. I wouldn't -- I wouldn't be aware if there were.

11:13:55 18 Q. I think you testified to this -- well, actually,

11:13:58 19 strike that.

11:13:58 20 You're not aware that -- of any earlier

11:14:02 21 portal related to elections; correct?

11:14:05 22 A. That would be correct.

11:14:06 23 Q. You testified to this a bit earlier, but is the

11:14:10 24 Election Integrity Unit online intake portal still

11:14:12 25 operating?

11:14:14 1 A. My -- my understanding is that it has been
11:14:17 2 removed. I can't tell you that for certain. I haven't
11:14:19 3 gone to the web page and witnessed that it's not there
11:14:23 4 anymore myself, but that was the plan.

11:14:26 5 Q. Do you know when it was removed?

11:14:35 6 MR. WHITAKER: Foundation.

11:14:37 7 THE WITNESS: I believe a discussion that I
11:14:41 8 was part of about removing that was approximately three or
11:14:50 9 four months ago, I believe.

11:14:53 10 BY MR. DODGE:

11:14:54 11 Q. Okay. You referred earlier to the plan to remove
11:14:57 12 the Election Integrity Unit intake portal. Can you tell me
11:15:01 13 who was responsible for any plan to remove it?

11:15:10 14 MR. LANGHOFER: Scope.

11:15:12 15 THE WITNESS: It was -- I'm not recalling a
11:15:20 16 name right now. It was a member of our team on the sixth
11:15:26 17 floor -- Hayleigh. I apologize. It was -- I was in the
11:15:39 18 meeting with one of our employees named Hayleigh, and
11:15:43 19 I'm -- her last name is escaping me right now.

11:15:44 20 BY MR. DODGE:

11:15:44 21 Q. Does the sixth floor mean anything in the context
11:15:47 22 of your office?

11:15:47 23 A. To me, it's the -- like, the civil entity.

11:15:49 24 That -- it's the best description I have for it. I don't
11:15:49 25 go up there very much.

11:15:53 1 Q. Okay. So it's where the civil office of the
11:15:55 2 Attorney General's Office is?

11:15:55 3 A. That's my belief, yes.

11:15:56 4 Q. Have you ever been to the sixth floor?

11:15:59 5 A. Maybe once or twice.

11:16:01 6 Q. Is it where the leadership of the civil office
11:16:04 7 sits?

11:16:04 8 A. That's my understanding.

11:16:09 9 Q. So the sixth floor just refers generally to the
11:16:12 10 civil office, or does it refer to the leadership of the
11:16:14 11 civil office?

11:16:14 12 A. No, I -- well, not for me.

11:16:15 13 Q. Okay. Is your office still investigating
11:16:18 14 complaints that have been filed in the Election Integrity
11:16:22 15 Unit portal?

11:16:23 16 A. Yes.

11:16:24 17 Q. These were complaints filed before it may have
11:16:29 18 been taken offline?

11:16:30 19 A. Yes.

11:16:42 20 Q. Turning back to your response to Interrogatory
11:16:45 21 Number 1, Subpart 2, your response indicated that there
11:16:48 22 were two spreadsheets that compile complaints reported
11:16:54 23 through the portal; correct?

11:16:56 24 A. Yes.

11:16:58 25 Q. And to date, how many complaints about voting and

11:17:03 1 election-related violations have been submitted to the

11:17:06 2 Election Integrity Unit through the online portal?

11:17:10 3 A. It's in the thousands. I couldn't -- I mean,

11:17:18 4 that's the best I can give you. A lot.

11:17:20 5 Q. Tens of thousands? Thousands?

11:17:23 6 A. I'm comfortable with "thousands." I really -- I'm
11:17:25 7 not sure.

11:17:27 8 Q. You chuckled a little bit when I asked that
11:17:30 9 question. Can I ask why?

11:17:31 10 A. No, just because it's a -- it's a very big number
11:17:34 11 that I, obviously, can't speculate on.

11:17:38 12 Q. Are you surprised at the number of complaints that
11:17:41 13 were submitted through the portal?

11:17:44 14 A. No.

11:17:48 15 Q. I'm going to ask you to now look at what will be
11:17:58 16 labeled as 216 -- 215, which is a large Excel file that I'm
11:18:07 17 going to ask you to look at on a computer if that's
11:18:10 18 possible.

11:18:11 19 MR. DODGE: I'm going to give you this just
11:18:11 20 to look at.

11:18:11 21 (Reporter clarification.)

11:18:28 22 MR. DODGE: It's Number 13 on the Dropbox.
11:18:28 23 Does the witness have access to that?

11:18:32 24 MR. WHITAKER: Let me think about that. You
11:18:35 25 can use this.

11:18:36 1 MR. DODGE: Would it help to go off the
11:18:38 2 record for a minute?

11:18:39 3 MR. WHITAKER: Yes. Can we do that?

11:18:40 4 MR. DODGE: Off the record for just a minute.

11:18:43 5 THE VIDEOGRAPHER: We are off the record.
11:18:44 6 Time on the video monitor is 11:18 a.m.

11:20:11 7 (An off-the-record discussion ensued.)

11:20:11 8 THE VIDEOGRAPHER: We are on the record.
11:26:03 9 Time on the video monitor is 11:26 a.m.

11:26:06 10 MR. DODGE: Okay. After much effort, we have
11:26:10 11 now managed to get this document up on the screen, which
11:26:15 12 I'll have marked as Exhibit 215.

11:26:15 13 (The document was marked as Exhibit 215
11:26:21 14 for identification.)

11:26:21 15 BY MR. DODGE:

11:26:22 16 Q. I'll represent to you that this was produced to us
11:26:24 17 as AG007958, which is one of the documents referenced in
11:26:30 18 the interrogatory response we were just discussing.

11:26:35 19 Can you tell me what this document is?

11:26:44 20 A. This -- what I have in front of me here? That's
11:26:49 21 what's up there?

11:26:50 22 Q. I believe so.

11:26:51 23 A. Well, it looks like a EIU spreadsheet, because the
11:26:56 24 EIU number is listed.

11:27:02 25 Q. And can you tell me what this document shows?

11:27:04 1 A. It has some EIU-assigned numbers. It looks like
11:27:18 2 the -- what the general complaint regards and then some
11:27:29 3 commentary. Looks like it's maybe some sort of a -- like a
11:27:42 4 summary of a complaint.

11:27:48 5 Q. Can you tell me where the entries in this
11:27:51 6 spreadsheet come from?

11:27:55 7 A. Given the -- the way it's laid out, I would think
11:28:06 8 this was probably generated by the then -- I guess we call
11:28:14 9 it the administrator of the election integrity portal
11:28:19 10 perhaps.

11:28:20 11 Q. Who was the administrator of the election
11:28:21 12 integrity portal?

11:28:23 13 A. Jen Wright.

11:28:26 14 Q. Is that a position that continued to exist after
11:28:33 15 Jen Wright departed your office?

11:28:36 16 A. No is the easy answer.

11:28:42 17 Q. Was the administrator of the portal an official
11:28:45 18 position or sort of a de facto role?

11:28:49 19 A. My -- my description -- as I understand it, Jen
11:29:01 20 Wright was the -- I call it the tip of the spear of the
11:29:08 21 Election Integrity Unit. So all -- all things came
11:29:11 22 through -- all portal items came through her. They came
11:29:14 23 into her and she was the one that received all that.

11:29:18 24 Q. So she was the individual most responsible for
11:29:22 25 reviewing complaints filed with the portal?

11:29:25 1 A. That would be fair to say, I believe.

11:29:26 2 Q. Do you know what time period is covered by the
11:29:32 3 spreadsheet we were just looking at?

11:29:35 4 A. I don't.

11:29:39 5 MR. WHITAKER: For the record, the witness, I
11:29:42 6 don't think, is looking at the spreadsheet anymore.

11:29:44 7 THE WITNESS: Yeah.

11:29:44 8 MR. DODGE: Sorry. I'm trying to download it
11:29:46 9 as a Excel file, which will make it easier to review, but
11:29:51 10 the mouse is being uncooperative.

11:30:02 11 I apologize. Can we go off the record again.

11:30:04 12 THE VIDEOGRAPHER: We are off the record.

11:30:07 13 Time on the video monitor is 11:30 a.m. This ends Media 1.

11:30:13 14 (An off-the-record discussion ensued.)

11:31:57 15 THE VIDEOGRAPHER: We are on the record.

11:32:11 16 Time on the video monitor is 11:32 a.m. This begins

11:32:16 17 Media 2.

11:32:17 18 BY MR. DODGE:

11:32:19 19 Q. Okay. After several breaks off the record,
11:32:22 20 Mr. Knuth, you can see why I became a lawyer and not an IT
11:32:26 21 person.

11:32:26 22 We are still looking at what was produced to
11:32:30 23 us as AG007958, which you previously described as a
11:32:35 24 compilation of referrals to the Election Integrity Unit
11:32:37 25 through the online intake portal; is that right?

11:32:40 1 A. Yes.

11:32:41 2 Q. And I believe I asked you if you knew what time
11:32:44 3 period was covered by this particular document. Do you
11:32:47 4 have any idea?

11:32:49 5 A. It -- based on the EIU number designation, it's --
11:32:55 6 these are from 2021, it appears.

11:33:00 7 Q. Would you dispute my representation that this
11:33:02 8 particular document includes complaints filed in the portal
11:33:06 9 from 2020 through about mid October 2021?

11:33:15 10 A. I'm not seeing any 2020 dates as of yet, so that's
11:33:19 11 hard for me to say that that's --

11:33:27 12 Q. So it looks like these are mostly complaints filed
11:33:30 13 in 2021?

11:33:30 14 A. Everything that I'm seeing is 2021 dated right
11:33:33 15 now.

11:33:33 16 Q. There's a large gap in this document between lines
11:33:40 17 96 and 2278. Do you have any idea why that gap exists?

11:33:47 18 A. I have no idea.

11:33:48 19 Q. So did you assist in preparing this document at
11:33:51 20 all?

11:33:51 21 A. No.

11:33:52 22 Q. Is this a document your office maintains in the
11:33:56 23 ordinary course?

11:33:57 24 A. If it -- if it's the EIU spreadsheet, then, yeah,
11:34:06 25 that would be accurate. I just -- I -- I don't -- I don't

11:34:12 1 deal in the EIU spreadsheet specifically, so it's hard for
11:34:17 2 me to say for sure.

11:34:19 3 Q. But these entries look familiar to you as --

11:34:22 4 A. I mean, yeah, I'm familiar with the format, yeah.

11:34:24 5 Q. Okay. I'm now going to ask you to look at what
11:34:30 6 I'll call Exhibit 216, which was produced to us as
11:34:39 7 AG001687.

11:34:39 8 (The document was marked as Exhibit 216
11:34:41 9 for identification.)

11:34:41 10 MR. MORGAN: Have we started yet?

11:34:43 11 MR. LANGHOFER: Yeah, I've not heard
11:34:43 12 anything. Are we on the record?

11:34:43 13 MR. MORGAN: I don't know if we're on the
11:34:43 14 record or not. They're on mute.

11:34:43 15 THE COURT REPORTER: Do you want to go off
11:34:55 16 the record?

11:34:55 17 MR. DODGE: Yeah, let's go off the record.

11:35:05 18 THE VIDEOGRAPHER: We're off the record.

11:35:06 19 Time on the video monitor is 11:35 a.m.

11:37:54 20 (An off-the-record discussion ensued.)

11:37:54 21 THE VIDEOGRAPHER: We are on the record.

11:40:45 22 Time on the video monitor is 11:40 a.m.

11:40:48 23 MR. DODGE: Okay. Just to put on the record,
11:40:51 24 we had some minor technical snafus over the last few
11:40:56 25 minutes where the individuals present in the room where the

11:40:59 1 deposition is occurring were on the record discussing
11:41:03 2 Exhibit 215 and 216, which are numbers 13 and 14 in the
11:41:07 3 Dropbox. Mr. Knuth offered some descriptions of the
11:41:12 4 exhibits. We believe the technical snafus have been worked
11:41:16 5 out, and we are all back on the record.

11:41:18 6 BY MR. DODGE:

11:41:19 7 Q. Mr. Knuth, we were just discussing exhibit --

11:41:22 8 MR. LANGHOFER: Before we move on -- Kory
11:41:24 9 Langhofer for the RNC. I'll just note that we'll preserve
11:41:28 10 any objections for the portion that we couldn't hear you
11:41:29 11 for, you know, later, if necessary.

11:41:29 12 MR. DODGE: So noted.

11:41:29 13 BY MR. DODGE:

11:41:32 14 Q. Mr. Knuth, we were looking at Exhibit 216, which I
11:41:37 15 just pulled up, which was produced to us as AG0011687. Can
11:41:45 16 you tell us what this document is?

11:41:49 17 A. Based on the formatting, I would assume that it's
11:41:51 18 an EIU, Election Integrity Unit, spreadsheet.

11:41:55 19 Q. So this is similar to Exhibit 215, which we were
11:41:59 20 just looking at; correct?

11:42:00 21 A. Yes.

11:42:00 22 Q. And do the entries on this spreadsheet also come
11:42:02 23 from the Election Integrity Unit intake portal?

11:42:05 24 A. That's my assumption by looking at them.

11:42:09 25 Q. And do you have any sense of what the time period

11:42:13 1 is covered by this spreadsheet?

11:42:16 2 A. Based on the designated EIU numbers, I'm seeing a
11:42:23 3 lot of 2022 numbers, but it's nothing more specific than
11:42:27 4 that.

11:42:28 5 Q. Do you see any --

11:42:29 6 A. Oh, there's '23.

11:42:32 7 Q. Some 2021s?

11:42:37 8 A. Yes, there are some 2021s.

11:42:37 9 Q. So it looks like it this spreadsheet covers some
11:42:40 10 portion of 2021 through sometime in 2023; is that right?

11:42:42 11 A. It looks that way, yes.

11:42:44 12 Q. Beyond the time period that they cover, is there
11:42:46 13 any difference between the information contained in
11:42:50 14 Exhibit 215, which I can pull up if you would like, and
11:42:53 15 Exhibit 216, which we're currently looking at?

11:42:57 16 A. Can you scroll right. It seems -- I don't know
11:43:06 17 about the header necessarily being exactly the same, but
11:43:10 18 the formatting looks about the same.

11:43:10 19 Q. Generally speaking, they appear to contain similar
11:43:14 20 kinds of information that might be included in a referral
11:43:16 21 to the EIU?

11:43:17 22 A. Yeah, that's fair.

11:43:18 23 Q. I'd like to understand some of the columns in
11:43:22 24 these spreadsheets.

11:43:24 25 Column A refers to, quote, "EIU Number." Can

11:43:29 1 you tell me what that refers to?

11:43:31 2 A. It's a unique identifier for each complaint that
11:43:36 3 is received through the election integrity portal.

11:43:41 4 Q. And so that number wouldn't have existed prior to
11:43:44 5 the creation of the portal?

11:43:47 6 A. No, I can't imagine it would.

11:43:50 7 Q. Column B includes the header "Submission ID." Can
11:43:55 8 you tell me what that refers to?

11:43:57 9 A. I -- I am not familiar with this spreadsheet, so
11:44:00 10 no, I can't tell you exactly what that is.

11:44:02 11 Q. What about Column C? Can you tell me what a
11:44:05 12 serial number is in this context?

11:44:08 13 A. I can see that they're sequential, but I don't
11:44:11 14 know exactly what they are.

11:44:14 15 Q. But those numbers appear to be for recordkeeping
11:44:18 16 purposes with respect to referrals?

11:44:18 17 A. I would assume so, yes.

11:44:20 18 Q. Looking at Column L, it says, "My complaint
11:44:24 19 alleges violations of election law related to."

11:44:31 20 Then you see in the entries below various
11:44:35 21 phrases: "Voter registration," "election administration,"
11:44:39 22 "early voting," "election day polling place issues."

11:44:45 23 Were these options offered on a list in the
11:44:48 24 portal?

11:44:50 25 A. I'm not positive of that. It's possible. I don't

11:44:58 1 know for sure.

11:45:00 2 Q. So bearing in mind both Exhibit 215 and
11:45:05 3 Exhibit 216, do you know whether any of the complaints in
11:45:08 4 these spreadsheets concern allegations of a noncitizen
11:45:11 5 registering to vote or voting in an election in Arizona?

11:45:18 6 A. If I understand correctly, with -- I mean, without
11:45:20 7 reviewing the entirety of the spreadsheet, I can't tell you
11:45:23 8 if there's any in there or not, no.

11:45:26 9 Q. Do you know whether or not any complaints referred
11:45:30 10 through the EIU intake portal involved allegations of
11:45:35 11 noncitizens registering to vote or voting in Arizona?

11:45:39 12 A. In -- in a broad time period, are you referring
11:45:44 13 to?

11:45:44 14 Q. In any time period.

11:45:45 15 A. Yes, there have been.

11:45:46 16 Q. And those -- would that have been between the time
11:45:50 17 period of 2020 and 2023?

11:45:54 18 A. I don't believe that the cases I'm aware of were
11:46:07 19 within that time frame. I think they were before that.
11:46:09 20 One of them may have been.

11:46:11 21 Q. So you're not sure, sitting here today, whether or
11:46:15 22 not any of the referrals compiled in Exhibits 215 and 216
11:46:20 23 involve allegations of noncitizens registering to vote or
11:46:23 24 voting in Arizona; correct?

11:46:25 25 A. That would be fair to say, yes.

11:46:27 1 Q. I'm going to return to Exhibit 215 and scroll to
11:46:33 2 line 2493. Okay.
11:46:45 3 This line number has the EIU Number
11:46:49 4 EIU-2021-26038-312. Do you see that?
11:46:54 5 A. I do.
11:46:55 6 Q. And I'm scrolling over to Column Y, which says,
11:47:09 7 "In early October 2020 a person living in Arizona who's not
11:47:12 8 a U.S. citizen and who's not a registered voter received a
11:47:16 9 ballot for voting in the 2020 election on November 3,
11:47:19 10 2020."
11:47:20 11 Did I read that correctly?
11:47:21 12 A. From what I -- I can't see the whole thing.
11:47:26 13 MR. WHITAKER: Can you see it up there?
11:47:28 14 THE WITNESS: Oh, sorry. That probably would
11:47:30 15 be easier. I apologize.
11:47:30 16 MR. WHITAKER: On the top -- the top part.
11:47:41 17 THE WITNESS: Okay. Yeah, I see what you're
11:47:43 18 saying there.
11:47:43 19 BY MR. DODGE:
11:47:43 20 Q. And I read that correctly?
11:47:45 21 A. Yes.
11:47:45 22 Q. Do you know whether or not your office ever
11:47:47 23 investigated this claim?
11:47:53 24 A. I -- I can't say with certainty. It's -- I mean,
11:48:05 25 again, the volume of cases is overwhelming, so I -- too

11:48:10 1 overwhelming to tell you for certain what happened with

11:48:12 2 that particular one.

11:48:14 3 Q. Do you know if your office would have made a
11:48:15 4 credibility determination as to this referral?

11:48:19 5 A. I'm sure we would have.

11:48:21 6 Q. Do you know what determination your office reached
11:48:26 7 with respect to whether or not this complaint was credible?

11:48:34 8 A. No. I -- I'm not intimately familiar with what
11:48:39 9 case this is, so . . .

11:48:41 10 Q. If you don't recall a referral alleging that a
11:48:48 11 noncitizen voted in an Arizona election, does that indicate
11:48:52 12 to you that the referral was never elevated for
11:48:56 13 investigation?

11:48:59 14 A. That's not necessarily the case, because I can't
11:49:03 15 tell you right now if this is one of the cases I mentioned
11:49:08 16 earlier that I do know we have a case on. I'm just not --
11:49:11 17 I'm not positive if it's one of those or not. So it's
11:49:16 18 difficult for me to make that --

11:49:17 19 Q. So no specific recollection as to this case?

11:49:19 20 A. No.

11:49:19 21 Q. You said a moment ago that the number of referrals
11:49:22 22 through the portal was overwhelming. Did I get that right?

11:49:25 23 A. It's a large number, yes.

11:49:27 24 Q. Were a large number of those referrals ultimately
11:49:31 25 not found to be credible by your office?

11:49:35 1 A. I mean, there are certain -- certainly complaints
11:49:40 2 that are found to not be credible. I -- as far as, like, a
11:49:44 3 percentage or anything, I couldn't tell you what it is, but
11:49:46 4 yes, certainly.

11:49:47 5 Q. Are most of the referrals made through the portal
11:49:52 6 ultimately found not credible?

11:49:55 7 A. I don't think "most of" is fair to say.

11:49:58 8 Q. Does your office investigate most of the claims
11:50:00 9 made through the portal?

11:50:02 10 A. At least initially.

11:50:03 11 Q. And that's just to make a determination of
11:50:06 12 credibility and whether or not follow-up is warranted;
11:50:10 13 right?

11:50:10 14 A. Correct.

11:50:11 15 Q. So beyond those preliminary steps, does your
11:50:14 16 office investigate -- has your office investigated most of
11:50:16 17 the claims in the portal?

11:50:20 18 A. Yeah, I think that's an accurate thing to say.

11:50:23 19 Q. I'm going to scroll to line 4061 in this
11:50:31 20 spreadsheet. And this has the EIU Number

11:50:42 21 EIU-2021-28104-1880. Do you see that?

11:50:44 22 A. Yes.

11:50:44 23 Q. Okay. And the complaint appears to have to do
11:50:48 24 with voter registration. Do you see that?

11:50:50 25 A. I do.

11:50:51 1 Q. And Column V, the referring individual provided
11:51:08 2 information: "The above-named person is a Canadian
11:51:11 3 citizen. He visits U.S. (Maricopa County) for a few months
11:51:16 4 per year. He received a ballot, non-solicited, his name on
11:51:20 5 it. My question: How many more thousands of ballots were
11:51:23 6 mailed out to nonvalid, noneligible persons?"
11:51:25 7 Did I read that correctly?
11:51:28 8 A. I'm not seeing that whole statement.
11:51:37 9 Q. It might be helpful if you look up top.
11:51:40 10 A. Thank you. I'm sorry.
11:51:42 11 Q. So you want take a moment to review that.
11:51:52 12 A. Okay. Yes, I see what you're saying now.
11:51:54 13 Q. Do you know if your office ever investigated this
11:51:58 14 claim?
11:52:02 15 A. I don't know for certain.
11:52:04 16 Q. Do you know if your office reached any
11:52:07 17 determination that this referral was credible?
11:52:11 18 A. I -- I don't have an opinion on that.
11:52:15 19 Q. Do you know whether or not your office ever
11:52:17 20 prosecuted the person named in this referral?
11:52:24 21 A. I don't.
11:52:25 22 Q. I'm going to scroll to line 4161 of Exhibit 215.
11:52:53 23 Okay. This -- this entry has the EIU Number
11:52:57 24 EIU-2021-28389-1980. Do you see that?
11:53:02 25 A. I do.

11:53:04 1 Q. This complaint also appears to concern voter
11:53:06 2 registration. Do you see that?
11:53:06 3 A. I do.
11:53:07 4 Q. And then the referring individual included the
11:53:12 5 information, quote, "Voting registration by illegals from
11:53:14 6 Mexico."
11:53:15 7 Did I read that correctly?
11:53:16 8 A. Yes.
11:53:16 9 Q. Do you know if your office investigated this
11:53:19 10 claim?
11:53:21 11 A. I -- that's pretty vague, so I have no idea, no.
11:53:25 12 Q. Would it be possible for your office to
11:53:27 13 investigate a claim like this?
11:53:29 14 A. Well, certainly, yes.
11:53:30 15 Q. How would you do so?
11:53:35 16 A. By -- beginning by determining the legitimacy of
11:53:46 17 the complaint. If there's enough information to support or
11:53:49 18 to give us a starting point to begin an investigation and
11:53:54 19 then the typical investigative process after that.
11:53:59 20 Q. Okay. This person provides a bit more color in
11:54:02 21 Column Y.
11:54:03 22 It says, "I personally witnessed a person
11:54:05 23 registering in or around 1996 between Clinton's first and
11:54:08 24 second term. It was a couple being registered by the
11:54:12 25 employees of Walmart, and I was concerned living next to

11:54:12 1 the Mexico border in Douglas, Arizona (where I was living
11:54:19 2 at that time) everyone registering was illegal citizens. I
11:54:21 3 knew one of the employees personally and asked her if they
11:54:26 4 are requiring proof of citizenship, and she said, no, they
11:54:26 5 weren't. I asked, how do you know if they are citizens?
11:54:29 6 And she replied that they signed the registration, which
11:54:33 7 requires an address. I said, they could put any relative's
11:54:36 8 address. And then Wendy said that everyone is verified in
11:54:40 9 the recorder's office. So I went on my way thinking anyone
11:54:42 10 registering illegal would be thrown out. On my way to the
11:54:44 11 car, I saw the couple that registered drive off with
11:54:48 12 Sonoran plates on their small, red car. You could verify
11:54:50 13 during that time there were driver's licenses that was
11:54:54 14 issued to illegals as well. Once anyone is registered,
11:54:57 15 they will always stay registered. So how many other
11:55:00 16 illegals have registered the same way and have driver's
11:55:02 17 license as their identification? With the amount of
11:55:05 18 illegals that are in our country, they can sway the
11:55:08 19 election here and in multiple states. If there's any way
11:55:10 20 to determine on the voting roles if they are illegal
11:55:13 21 citizens, that would be appreciated. Please no canned
11:55:14 22 letter, and take this suggestion seriously."
11:55:17 23 Did I read that correctly?
11:55:20 24 A. Appears to be, yes.
11:55:21 25 Q. How would you investigate a claim like this?

11:55:24 1 A. Well, I would -- just to make sure I'm accurate
11:55:27 2 here, if you could give me the EIU number again -- show me
11:55:32 3 that EIU number.
11:55:35 4 I'm -- I'm immediately seeing some
11:55:36 5 difficulties as the allegation is from 1996 in 2021. Makes
11:55:44 6 for a difficult start to investigation.
11:55:44 7 Q. So would your office consider a complaint like
11:55:46 8 this to be credible?
11:55:48 9 A. I find it hard to believe.
11:55:49 10 Q. Okay. And your best understanding sitting here
11:55:55 11 today is that your office would not have committed any
11:55:58 12 investigatory resources to this claim; correct?
11:56:00 13 A. I'm considering that to be not likely.
11:56:06 14 Q. I'll do a couple more of these. I'm going to go
11:56:09 15 to line 4337 in Exhibit 215.
11:56:19 16 This has the EIU Number EIU-2021-28946-2156.
11:56:26 17 Do you see that?
11:56:26 18 A. I do.
11:56:27 19 Q. This also appears to concern voter registration?
11:56:29 20 A. Yes.
11:56:29 21 Q. The person in Column B of this referral says,
11:56:35 22 "Person registered to vote in this election is not a U.S.
11:56:38 23 citizen."
11:56:39 24 Did I read that correctly?
11:56:39 25 A. You did.

11:56:40 1 Q. Then a couple columns over in Column Y, they add a
11:56:44 2 bit more color and they say, "My mother-in-law was
11:56:47 3 approached at a DMV while she was renewing her driver's
11:56:51 4 license and asked if she wanted to register to vote. She
11:56:52 5 said she didn't think she can vote since she is not a U.S.
11:56:55 6 citizen; only a permanent resident. They told her she
11:56:57 7 could register and did register to her -- her to vote as a
11:57:00 8 Democrat. She received her ballot in the mail, and I was
11:57:02 9 able to see that ballot because she is older and lives with
11:57:05 10 me and my wife. She didn't vote. And I forwarded this
11:57:08 11 information to the office of Katie Hobbs and it did not get
11:57:11 12 resolved. My problem is how do they allow people to
11:57:13 13 register non-U.S. citizens to vote in the first place? And
11:57:15 14 how does the Democrat party allow this? I do not want to
11:57:18 15 get my mother-in-law in trouble, but I would like to see
11:57:20 16 this process controlled a little better for fair and honest
11:57:23 17 election. I have attached a copy of the ballot to show my
11:57:26 18 evidence. Thank you. [Redacted.]"

11:57:28 19 Did I read that correctly?

11:57:29 20 A. Yes.

11:57:29 21 Q. Do you know if your office ever investigated this
11:57:33 22 claim?

11:57:34 23 A. I can't say with certainty whether -- whether we
11:57:44 24 did or not. I mean, I -- I don't have intimate information
11:57:49 25 about it -- or recollection, I should say.

11:57:53 1 Q. Do you know if your office made any credibility
11:57:55 2 determination with respect to this claim?
11:57:57 3 A. I would expect that we did.
11:57:58 4 Q. Do you have any idea what that assessment was?
11:58:04 5 A. Can you take it back to the dialogue, if you will?
11:58:21 6 Whether it's by familiarity -- I hate that word -- being
11:58:29 7 familiar with it or being familiar with the situation, I
11:58:36 8 can tell you that the first -- there's two keys here for
11:58:40 9 me. First is that we know that there was not a vote cast,
11:58:45 10 based on the verbiage, and likely, the prospective for me
11:58:52 11 would be to -- I don't know if it said what county. I'm
11:58:58 12 assuming Maricopa. I don't know if it's in there. But
11:59:00 13 anyway, let the appropriate county recorder's office know
11:59:03 14 about -- you know, that this -- we -- we have information
11:59:07 15 that this could be an invalid registration.
11:59:11 16 Q. So in other words, you're saying you might refer
11:59:13 17 something like this to a county recorder's office?
11:59:16 18 A. I don't know if refer -- "refer" is probably not
11:59:21 19 right. Provide them with the information so that they can
11:59:23 20 follow up on their end, reference the voter registration.
11:59:28 21 The -- the fact that the vote was never cast
11:59:36 22 makes this a little bit more difficult to go -- to conduct
11:59:42 23 an investigation and reach a prosecutory level because
11:59:44 24 there's no -- there's -- the registration is a factor that
11:59:48 25 is very difficult to follow up on, because they're a random

11:59:52 1 person who was out collecting registrations, and there's --

11:59:54 2 because no vote was cast, there's no crime that we can

11:59:57 3 really go after.

11:59:58 4 Q. Do you know if this referral would have resulted

12:00:01 5 in a prosecution or a conviction?

12:00:04 6 A. Based on what I'm reading here, I think it's

12:00:07 7 unlikely that it was prosecuted.

12:00:28 8 Q. Okay. I'm going to go to Row 444 in this

12:00:33 9 document.

12:00:37 10 MR. WHITAKER: Is this a new document?

12:00:46 11 MR. DODGE: This is Exhibit 215 still.

12:00:53 12 Scratch that. It is Exhibit 216.

12:01:03 13 BY MR. DODGE:

12:01:12 14 Q. Okay. This is EIU Number EIU-2022-66175-3244. Do

12:01:20 15 I have that correct?

12:01:21 16 A. Yes.

12:01:21 17 Q. This also appears to concern voter registration.

12:01:24 18 Do you see that?

12:01:25 19 A. I do.

12:01:25 20 Q. And in Column V, referring individual writes,

12:01:31 21 "People have to be citizens to vote. Federal voter

12:01:34 22 registration still says they are attesting to being legally

12:01:37 23 able to vote, I believe. Pima County Recorder's Office is

12:01:39 24 telling people they don't have to be citizens to vote."

12:01:44 25 Then Column Y, this individual write, "In

12:01:48 1 brief, while I was working at the Pima County Recorder's
12:01:50 2 Office on July 5th, the last day to register for primary, I
12:01:54 3 heard a staff member telling people coming in to register
12:01:56 4 that they 'don't have to be citizens to vote' (direct
12:02:00 5 quote). As a former commissioner of the Election Integrity
12:02:03 6 Commission here in Pima County, I wasn't happy hearing this
12:02:06 7 employee saying this without elaborating further. This
12:02:07 8 happened after she talked a person earlier out of changing
12:02:10 9 their voter registration form from Democrat to Republican.
12:02:14 10 She persuaded them they'd be better off registering as an
12:02:17 11 independent; they could still vote in the primary. Nothing
12:02:19 12 too terrible with that, but speaks to her own partisanship,
12:02:19 13 I think."

12:02:23 14 Did I basically that read correctly?

12:02:25 15 A. Yes.

12:02:25 16 Q. Do you know if your office ever investigated this
12:02:28 17 referral?

12:02:30 18 A. I can't say with certainty.

12:02:33 19 Q. Do you think it's likely, based on the information
12:02:36 20 we just read, that your office would have investigated?

12:02:38 21 A. I think we would have done an initial overview of
12:02:42 22 it to -- for credibility and the ability to follow up on
12:02:47 23 it.

12:02:47 24 Q. What credibility determination do you think your
12:02:50 25 office would have reached based on the information we

12:02:54 1 reviewed?

12:02:54 2 A. I -- again, I can -- I can speculate, but the

12:02:59 3 process likely would have been to contact the -- I'm sorry.

12:03:02 4 It was Pima County recorder?

12:03:04 5 Q. That's correct.

12:03:05 6 A. Yes. And try to get some determination of who

12:03:11 7 this employee was and if this conversation actually

12:03:15 8 occurred.

12:03:17 9 Q. Do you think it's likely this sort of a referral

12:03:20 10 would have resulted in a prosecution or a conviction?

12:03:22 11 A. I can't say. I have too little information.

12:03:26 12 Q. Okay. Continuing to look at Exhibit 216, I'm just

12:03:30 13 going to scroll down to the bottom.

12:03:32 14 It appears, based on this final line number,

12:03:34 15 that there are approximately 1,550 complaints in this

12:03:40 16 document; correct?

12:03:41 17 A. I mean, yeah, based on the number, I guess.

12:03:44 18 Q. Sitting here today, are you able to identify any

12:03:49 19 other entries in these spreadsheets alleging voting by a

12:03:52 20 noncitizen?

12:03:53 21 A. No.

12:03:54 22 Q. And I believe I asked you this earlier, but

12:03:58 23 sitting here today, with respect to how many complaints

12:04:02 24 about voting and election-related violations have been

12:04:05 25 submitted through the portal, your best recollection is

12:04:09 1 that it's in the thousands?

12:04:10 2 A. That's fair, yes.

12:04:12 3 Q. To your knowledge, would any complaints submitted
12:04:16 4 be -- any complaints submitted via the portal not be
12:04:19 5 included in the two spreadsheets we looked at?

12:04:21 6 A. Not to my knowledge.

12:04:24 7 Q. Do you know if any of the complaints or referrals
12:04:33 8 included in these two spreadsheets concern allegations of a
12:04:36 9 nonresident registering to vote or voting in an election in
12:04:40 10 Arizona?

12:04:46 11 A. Non- -- I would need a -- some sort of a
12:04:51 12 qualification as what you mean by "nonresident," because I
12:04:54 13 may have a different opinion about that than you do.

12:04:56 14 Q. Why don't you give me your understanding of the
12:04:58 15 term first.

12:04:59 16 A. A nonresident, to me, is a -- is a nonresident of
12:05:04 17 Arizona, so -- in which case, this spreadsheet very likely
12:05:10 18 has issues of nonresidents voting because they live in
12:05:13 19 another state and they voted in Maricopa County or in
12:05:15 20 Arizona. So -- so in that fashion, yes.

12:05:20 21 Q. And so your -- your definition of "nonresident"
12:05:23 22 would not include someone who, for example, voted in the
12:05:25 23 wrong county within Arizona but who is a bona fide Arizona
12:05:29 24 resident; is that right?

12:05:31 25 A. A non- -- a -- in example form, a Gila County --

12:05:43 1 Gila County voter who voted in Maricopa County I would also
12:05:47 2 call a nonresident because they didn't vote in their
12:05:50 3 jurisdiction.

12:05:51 4 Q. And would these two spreadsheets likely include
12:05:56 5 referrals or complaints regarding an individual in Arizona
12:06:02 6 voting in the wrong county in Arizona as well?

12:06:04 7 A. It's very likely.

12:06:08 8 Q. We talked a bit earlier about how your office
12:06:13 9 conducts sort of a preliminary assessment of a referral to
12:06:15 10 determine whether further investigation is warranted;
12:06:18 11 correct?

12:06:18 12 A. Right.

12:06:19 13 Q. And that's how you determine whether to
12:06:22 14 investigate one of these complaints; right?

12:06:25 15 A. Yeah.

12:06:26 16 Q. How many of the complaints in these spreadsheets
12:06:32 17 do you think your office has investigated, meaning, gone
12:06:35 18 beyond the initial assessment phase?

12:06:40 19 A. Given my lack of really detailed knowledge of
12:06:51 20 these particular spreadsheets, that's a very difficult
12:06:54 21 thing for me to answer. My assumption would be that we
12:07:00 22 investigated quite a few of them. I just -- but without
12:07:07 23 that intimate knowledge, I'm not -- I'm not comfortable
12:07:10 24 saying that.

12:07:11 25 Q. Beyond you, who else has been responsible for

12:07:13 1 investigating referrals made to the Election Integrity Unit

12:07:18 2 portal?

12:07:20 3 A. Well, the -- these -- the election integrity

12:07:32 4 spreadsheets that come into the portal were distributed by

12:07:39 5 Jen Wright, so some of these referrals I may not have ever

12:07:46 6 even known existed. That's where I'm having the difficulty

12:07:49 7 answering the question, if that makes sense.

12:07:51 8 Q. Was Ms. Wright responsible for making the initial

12:07:54 9 credibility assessment?

12:07:58 10 A. I don't know if "responsible" is fair. It did

12:08:04 11 occur.

12:08:06 12 Q. When you say "it did occur," does that mean she

12:08:11 13 always sort of made the initial determination or she

12:08:14 14 sometimes did?

12:08:15 15 A. Sometimes.

12:08:17 16 Q. Who else would sometimes make that initial

12:08:21 17 determination?

12:08:22 18 A. The -- if it -- if it were forwarded to criminal

12:08:29 19 investigations, it would have gone through the pipeline

12:08:32 20 that consisted of Attorney Todd Lawson and myself.

12:08:36 21 Q. So beyond Jen Wright, yourself, and perhaps

12:08:42 22 Mr. Lawson, were there any other individuals responsible

12:08:45 23 for making an initial assessment with respect to the

12:08:49 24 credibility of any referrals through the portal?

12:08:52 25 A. No. Well, no, not through the portal. I'm sorry.

12:08:58 1 I apologize.

12:08:58 2 Q. So the referrals in these spreadsheets from the

12:09:00 3 portal that we've been discussing, the initial

12:09:02 4 credibility -- the initial credibility assessment for them

12:09:06 5 would have been made by one of you, Ms. Wright, or

12:09:09 6 Mr. Lawson?

12:09:09 7 A. I believe that's accurate to say, yes.

12:09:13 8 Q. Is it your understanding that Ms. Wright sometimes

12:09:19 9 would not refer on complaints to you and Mr. Lawson?

12:09:24 10 A. That's my belief.

12:09:26 11 Q. Do you know how often she chose to refer or hold

12:09:30 12 back a complaint from the portal to you and Mr. Lawson?

12:09:33 13 A. I -- I don't have an understanding of that.

12:09:37 14 Q. Do you know how many of the complaints in these

12:09:40 15 spreadsheets ultimately resulted in a prosecution?

12:09:44 16 A. I -- I could not accurately answer that.

12:09:48 17 Q. Do you have an estimate?

12:09:49 18 A. Well, again, I'd have to go back to the fact that

12:09:52 19 this spreadsheet is not something I'm -- it wasn't

12:09:58 20 something I had involvement in, so it's really hard for me

12:10:02 21 to say how many --

12:10:03 22 Q. Let me -- let me ask it at a different angle then.

12:10:05 23 How many election-related prosecutions are

12:10:07 24 you aware of from your office since the creation of the

12:10:11 25 portal approximately?

12:10:15 1 A. I mean, I know the figure -- I know the figure is
12:10:27 2 out there somewhere. I don't know it by -- I don't have it
12:10:31 3 ingrained to memory.

12:10:32 4 Q. I'm not asking --

12:10:33 5 A. I'm going to put it somewhere around 100.

12:10:35 6 Q. Okay.

12:10:39 7 MR. WHITAKER: Just for scope, I want to
12:10:41 8 reiterate that we have Todd Lawson as the designee.

12:10:44 9 MR. DODGE: I appreciate that. And I'll ask
12:10:45 10 Mr. Lawson these questions as well.

12:10:47 11 BY MR. DODGE:

12:10:48 12 Q. So your -- your best guess is that there are
12:10:51 13 around 100 prosecutions since the creation of the Election
12:10:56 14 Integrity Unit --

12:10:56 15 A. If I had to guess.

12:10:57 16 Q. -- best guess?

12:10:59 17 And you agree there are thousands of entries
12:11:00 18 in the spreadsheets we've looked at; correct?

12:11:03 19 A. True.

12:11:07 20 Q. Are you aware of any -- are you aware of whether
12:11:10 21 any of the referrals to the intake portal that resulted in
12:11:15 22 a prosecution concerned allegations of illegal registration
12:11:19 23 or voting by a noncitizen?

12:11:25 24 A. I'd have to answer that kind of back where I was
12:11:28 25 before; that we -- I do know of a couple of cases. I just

12:11:33 1 don't know if their scope was within the time of the
12:11:36 2 portal. So that's -- I can't really accurately say.
12:11:39 3 Q. Okay. So your -- your testimony is that you're
12:11:40 4 aware of a couple prosecutions involving allegations of
12:11:46 5 registration and voting by noncitizens, but you're not sure
12:11:49 6 if they came from the portal?
12:11:50 7 A. Correct. That's fair.
12:11:53 8 Q. Of the prosecution you're aware of, do you know if
12:11:56 9 any concerned allegations of illegal registration or voting
12:12:02 10 by a nonresident, using your understanding of the term?
12:12:08 11 A. I -- I don't know.
12:12:23 12 MR. DODGE: For the record, I'm going to stop
12:12:24 13 sharing my screen and put these documents aside for a
12:12:27 14 moment.
12:12:32 15 Can you folks still hear me remotely?
12:12:39 16 MR. LANGHOFER: Yes.
12:12:41 17 BY MR. DODGE:
12:12:42 18 Q. I'm going to hand you what will be marked as
12:12:44 19 Exhibit 217, which is in the Dropbox at Number 15.
12:12:44 20 (The document was marked as Exhibit 217
12:12:50 21 for identification.)
12:12:50 22 BY MR. DODGE:
12:12:53 23 Q. Can you tell me what this document is?
12:12:55 24 A. This looks like a complaint form that probably
12:13:01 25 would have been generated from our online complaint entity.

12:13:07 1 Q. When you say "online complaint entity," are you
12:13:09 2 referring to the portal?

12:13:11 3 A. My -- my knowledge of how the system works is not
12:13:19 4 fantastic, but I -- this could be through the -- the
12:13:25 5 general complaints where the duty agents would -- would be
12:13:30 6 involved.

12:13:31 7 Q. But this is a standard intake form?

12:13:33 8 A. It appears to be.

12:13:34 9 Q. And you're just not sure if it is a standard form
12:13:37 10 for the portal or a standard form that --

12:13:41 11 A. I --

12:13:41 12 Q. -- that a duty agent might complete when they
12:13:45 13 receive information?

12:13:45 14 A. My -- my belief would be that this came through
12:13:49 15 the duty agent route. Mainly, I say that because I'm not
12:13:54 16 aware that there's an actual form associated with the
12:13:56 17 online -- the EIU portal. But that -- I could be wrong on
12:14:00 18 that, but I'm not aware of a specific form.

12:14:02 19 Q. How are complaints in the portal stored?

12:14:09 20 A. That is a much better-suited question for an IT
12:14:16 21 person with the agency. I believe it goes into some sort
12:14:18 22 of a database or something.

12:14:19 23 Q. If you wanted to review a complaint made through
12:14:21 24 the portal and you wanted to call up a particular EIU
12:14:25 25 number, how would you go about doing that?

12:14:27 1 A. I would have not been able to look something
12:14:30 2 directly into the -- wherever the portal complaints came
12:14:33 3 in. I would not have access to that.

12:14:35 4 Q. So you would only have access to that information
12:14:37 5 if Ms. Wright chose to forward it to you?

12:14:40 6 A. Correct.

12:14:40 7 Q. And when she forwarded you that information, what
12:14:46 8 kinds of information were included when she forwarded the
12:14:49 9 referral?

12:14:49 10 A. Generally, it was the -- generally, it was the
12:14:58 11 duplication of the form that's filled out on the -- via the
12:15:03 12 portal, the -- you know, it's -- when you go in there and
12:15:07 13 make a complaint, it gives you a standardized form to fill
12:15:10 14 out the blanks or whatever. So usually, she would include
12:15:15 15 that, whatever that was -- was received.

12:15:19 16 Q. And complaints she didn't forward to you, do you
12:15:22 17 know if that information was saved anywhere?

12:15:24 18 A. I don't know.

12:15:26 19 Q. Returning to Exhibit 217, you said this appears to
12:15:31 20 be a standard duty agent intake form; is that right?

12:15:35 21 A. I -- it could be duty agent. It could be -- it's
12:15:39 22 an intake form, though. It's a complaint form.

12:15:42 23 Q. This complaint form appears to indicate that the
12:15:45 24 complaint was submitted anonymously; is that right?

12:15:48 25 A. Yes.

12:15:53 1 Q. In your experience, are many of the complaints
12:15:58 2 made to the Election Integrity Unit made anonymously?
12:16:03 3 A. It's not uncommon.
12:16:06 4 Q. Would you say most are submitted anonymously?
12:16:09 5 A. I wouldn't say most are.
12:16:11 6 Q. Substantial number?
12:16:14 7 A. Yeah, I guess that's -- I guess that's fair.
12:16:18 8 Q. Does whether a complaint is made anonymously
12:16:21 9 impact your assessment of its credibility?
12:16:24 10 A. Not at face value. I -- I would be remiss to say
12:16:28 11 that it doesn't make it harder.
12:16:31 12 Q. But it doesn't, in your opinion, bear on
12:16:34 13 credibility?
12:16:34 14 A. No, not right away.
12:16:36 15 Q. Does your office follow up on anonymous
12:16:40 16 complaints?
12:16:41 17 A. If we have enough information to do so.
12:16:43 18 Q. Do any anonymous complaints reach the
12:16:46 19 investigation stage?
12:16:49 20 A. I'm sure they do. I can't tell you for sure.
12:16:53 21 Q. Looking about halfway down this document where it
12:16:57 22 says, "Complaint details," the document says, "This person
12:17:04 23 brags about being illegal and being registered to vote in
12:17:07 24 Maricopa County. He voted in last year's national
12:17:09 25 election."

12:17:10 1 Did I read that correctly?

12:17:11 2 A. Yes.

12:17:11 3 Q. And I'll note that portions of this document are

12:17:14 4 redacted, including potentially the individual's name.

12:17:18 5 This form appears to indicate that the

12:17:22 6 complaint was not reported to a law enforcement agency. Do

12:17:26 7 I have that correct?

12:17:28 8 A. Yes.

12:17:30 9 Q. What does that mean exactly?

12:17:32 10 A. That -- that's a section that is -- occasionally,

12:17:39 11 from -- from time to time, somebody will make the same

12:17:45 12 complaint, if you will, to a sheriff's department and to

12:17:50 13 us. That would be where it would be noted that it was also

12:17:53 14 documented under Maricopa County Sheriff's Office number

12:17:56 15 blah, blah, blah.

12:18:02 16 Q. Do you know if your office ever made a credibility

12:18:05 17 determination with respect to this complaint?

12:18:10 18 A. I believe that this was handled at the duty agent

12:18:18 19 level, if I'm considering the right document.

12:18:22 20 Q. How do you know that?

12:18:25 21 A. Because I reviewed -- I've reviewed the case.

12:18:32 22 Q. When you say "handled at the duty agent level,"

12:18:34 23 what does that mean?

12:18:36 24 A. Means that they made a -- they did an initial

12:18:41 25 evaluation and found that there was no -- there was

12:18:44 1 something in -- there was something in the way of creating

12:18:49 2 an actual case number for this.

12:18:51 3 Q. Is there anything on this document that indicates

12:18:54 4 that the duty agent resolved this complaint?

12:18:58 5 A. No, not on here, there aren't.

12:19:00 6 Q. So you base that just based on your own

12:19:02 7 familiarity with this individual case?

12:19:04 8 A. Well, and the way the -- the process in which the

12:19:08 9 duty agents do things.

12:19:10 10 Q. Can you tell me what that -- what do you mean by

12:19:11 11 that?

12:19:11 12 A. I mean, that they -- he -- the duty agent did an

12:19:15 13 initial evaluation and determined that there was -- it

12:19:18 14 didn't need to be forwarded to anybody to create an actual

12:19:22 15 case.

12:19:24 16 Q. Okay. I'm going to hand you now what will be

12:19:31 17 marked Exhibit 218, which is Number 16 in the Dropbox.

12:19:31 18 (The document was marked as Exhibit 218

12:19:40 19 for identification.)

12:19:40 20 BY MR. DODGE:

12:19:44 21 Q. Can you tell me what this document is?

12:19:46 22 A. It's an attorney -- well, the top is Attorney

12:19:54 23 General's Office investigations case opening form.

12:19:56 24 Q. Is this a standard form in your office?

12:19:58 25 A. Yes.

12:19:59 1 Q. What is this form used for?

12:20:02 2 A. When a -- when a complaint is -- is turned into an

12:20:07 3 actual case, then this form is generated.

12:20:11 4 Q. When you say "an actual case," you mean once it

12:20:14 5 sort of moved past the credibility determination phase into

12:20:17 6 the investigation phase?

12:20:17 7 A. Correct.

12:20:18 8 Q. And looking about halfway down the front page of

12:20:20 9 this document, it looks like you were the agent assigned to

12:20:23 10 this case; correct?

12:20:24 11 A. That's what it says.

12:20:25 12 Q. Do you recall this particular case?

12:20:28 13 A. Yes.

12:20:35 14 Q. Can you turn to the third page of this document.

12:20:49 15 A. Third, yes.

12:20:54 16 Q. About halfway down the page it says, "Office of

12:20:57 17 Arizona Attorney General Mark Brnovich Election Complaint

12:21:01 18 Form." Do you see that?

12:21:01 19 A. Yes.

12:21:02 20 Q. Can you tell me what an election complaint form

12:21:04 21 it?

12:21:06 22 A. This would have come in through the portal and

12:21:09 23 filled out electronically.

12:21:12 24 Q. I see.

12:21:13 25 Is this something the portal generates

12:21:15 1 automatically based on the inputs a referring person makes?

12:21:19 2 A. That's my understanding. Again, I'm not the IT

12:21:23 3 person but --

12:21:23 4 Q. So this is a form you would have received from

12:21:25 5 Ms. Wright when she chose to pass on a referral?

12:21:28 6 A. Appears to be, yes.

12:21:31 7 Q. Can you look at the next page of this document.

12:21:49 8 And at the top it says, "State, in your own

12:21:52 9 words, what exactly transpired; specifically, when and

12:21:55 10 where did the events take place?" so forth.

12:21:58 11 Do you see that?

12:21:58 12 A. Yes, I do.

12:21:59 13 Q. And then in response, this complaining individual

12:22:01 14 wrote, "I witnessed this person fill out and sign an

12:22:03 15 election ballot last year in the general election of 2020.

12:22:06 16 I know for a fact that he is an illegal undocumented

12:22:08 17 alien."

12:22:09 18 Did I read that correctly?

12:22:09 19 A. You did.

12:22:10 20 Q. And going back to the prior page and maybe the

12:22:21 21 bottom of the page right before that, it looks like on

12:22:24 22 January 5th, 2022, Jennifer Wright referred this complaint

12:22:28 23 to Mr. Lawson. Do you see that?

12:22:31 24 A. Oh, January 5th, 2022. Yes, I see that.

12:22:35 25 Q. And then going back to the second page, Mr. Lawson

12:22:43 1 emails you and asks you to conduct an initial review of the
12:22:46 2 complaint. "If you find it to have merit, can you please
12:22:49 3 open an investigation? Thanks."

12:22:51 4 Did I get that correct?

12:22:52 5 A. You did.

12:22:52 6 Q. And then right above that, you write, "Todd, there
12:22:57 7 is no evidence to support the allegation that [name
12:23:00 8 redacted] is not a U.S. citizen. Thanks, Bill."

12:23:03 9 Did I get that right?

12:23:04 10 A. Yeah.

12:23:05 11 Q. What steps did you take to determine that this
12:23:08 12 individual was a U.S. citizen?

12:23:10 13 A. It's incorporated in the first page of this
12:23:13 14 document. It was -- I researched the individual. I
12:23:25 15 initially determined that he had a steady residence and a
12:23:30 16 steady employment in Arizona for many, many years prior.
12:23:33 17 He did have a valid driver's license.

12:23:36 18 I then followed up by contacting the Social
12:23:41 19 Security Administration and verif- -- verifying that the
12:23:43 20 Social Security number was related to that subject, and all
12:23:51 21 of those things were the case.

12:23:53 22 Q. And those are ordinary investigative steps you
12:23:56 23 take for a claim like this?

12:23:58 24 A. It is.

12:23:59 25 Q. Turning back to the second page, Mr. Lawson

12:24:01 1 responds to your email and says, "Ok. Can you please do an
12:24:04 2 open/close in SIS to document the complaint? I will remove
12:24:09 3 it from my coming-to-FSP tracking list. Thanks, T."

12:24:12 4 Did I get that right?

12:24:12 5 A. Yes.

12:24:14 6 Q. Can you tell me what SIS stands for?

12:24:18 7 A. Special Investigations Section.

12:24:19 8 Q. That's part of the Criminal Division at the
12:24:22 9 Attorney General's Office?

12:24:22 10 A. Yes.

12:24:22 11 Q. And how does the Election Integrity Unit relate to
12:24:25 12 SIS?

12:24:27 13 A. It's just a subpart, I guess is the best way to
12:24:30 14 say it.

12:24:31 15 Q. What is an open-close?

12:24:34 16 A. We use an open/close as a -- it's mostly a
12:24:43 17 tracking tool. It's more -- it's more easily tracked
12:24:49 18 and -- and serves better than just having a complaint
12:24:53 19 number. So that's the reason that -- like we talked about
12:24:56 20 the case opening form, that case opening form generates
12:24:59 21 that SIS number, and that's far easier to track.

12:25:04 22 And so even though I did an initial
12:25:06 23 investigation and found this -- that there wasn't anything
12:25:08 24 I could work with here, I wanted it to be able to be
12:25:11 25 documented statistically for future reference, so the SIS

12:25:16 1 number was created for better document tracking or
12:25:19 2 documentation.

12:25:20 3 Q. You ultimately determined that the allegation in
12:25:23 4 this complaint form was baseless; correct?

12:25:25 5 A. Yes.

12:25:26 6 Q. Are there instances where a claim is baseless
12:25:29 7 where you would not record a complaint using an open/close?

12:25:36 8 A. I -- honestly, I'm sure that it happens. It's my
12:25:40 9 practice to always do an open/close for tracking purposes.
12:25:45 10 I've made a habit out of it for several, several years.

12:25:48 11 Q. Even when the claim lacks merit?

12:25:48 12 A. Yes.

12:25:51 13 Q. What does Mr. Lawson mean when he says "my
12:25:54 14 coming-to-FSP tracking list"?

12:25:57 15 A. FSP is the -- the best way I can describe it is
12:26:06 16 the attorney's side of criminal investigations. So fraud
12:26:08 17 and special prosecutions is what that stands for. So he's
12:26:12 18 just saying, "I'm going to take it off" -- "I'm not going
12:26:15 19 to clutter myself, expecting this to come to me as a case,
12:26:19 20 because I know you're going to close it."

12:26:21 21 Q. Got it.

12:26:24 22 MR. DODGE: Why don't we go off the record.

12:26:26 23 THE VIDEOGRAPHER: We are off the record.

12:26:28 24 Time on the video monitor is 12:26 p.m.

12:26:33 25 (A recess ensued.)

12:32:52 1 THE VIDEOGRAPHER: We are on the record.

12:37:30 2 Time on the video monitor is 12:37 p.m.

12:37:34 3 BY MR. DODGE:

12:37:36 4 Q. Mr. Knuth, you testified earlier that you believe

12:37:40 5 the Election Integrity Unit had investigated most of the

12:37:47 6 referrals listed on Exhibits 215 and 216; correct?

12:37:51 7 A. I think I had some reservation in that answer

12:37:57 8 because I'm not really familiar with that spreadsheet.

12:37:59 9 It's not something that I had much to do with. My

12:38:03 10 assumption would be that, yeah, we investigated quite a few

12:38:06 11 of those.

12:38:07 12 Q. And you didn't have access to that spreadsheet in

12:38:10 13 part because referrals through the portal didn't come

12:38:14 14 directly to you; right?

12:38:15 15 A. Right.

12:38:16 16 Q. So you only received intake portal referrals that

12:38:20 17 were passed along by Ms. Wright?

12:38:23 18 A. Yes.

12:38:24 19 Q. And you're not sure how often Ms. Wright made the

12:38:27 20 determination to pass on a referral or to not pass it on;

12:38:31 21 right?

12:38:31 22 A. Right. I have no idea.

12:38:32 23 Q. Do you have a rough sense of how many referrals

12:38:34 24 Ms. Wright did pass on to you or Mr. Lawson when she was

12:38:39 25 responsible for overseeing the portal?

12:38:42 1 A. Man, I -- I would really, really be guessing at a

12:38:50 2 number there. It's a large number.

12:38:51 3 Q. Hundreds?

12:38:52 4 A. Yeah, I would say that's fair to say.

12:38:54 5 Q. Maybe thousands? More like hundreds?

12:38:59 6 A. It could be in the thousands.

12:38:59 7 Q. Low thousands maybe?

12:39:02 8 A. Yeah. I'll -- I mean, that's probably fairly

12:39:05 9 close.

12:39:06 10 Q. And so when you say that your office investigated

12:39:09 11 a majority of those referrals, are you referring

12:39:12 12 specifically to the ones that were passed on to you by

12:39:15 13 Ms. Wright?

12:39:17 14 A. Yes.

12:39:18 15 Q. So not necessarily --

12:39:19 16 A. Well, yes. Yes.

12:39:20 17 Q. So not necessarily every single thing that was

12:39:23 18 ever put in the portal ever; correct?

12:39:25 19 A. No. Yeah, I guess, that's fair to say.

12:39:28 20 MR. DODGE: Okay. I'm going to pass to

12:39:31 21 Mr. Herrera.

12:39:52 22 MR. HERRERA: Thank you for bearing with us

12:39:53 23 as we switch out seats.

12:39:54 24 THE WITNESS: No worries.

12:39:54 25 EXAMINATION

12:39:55 1 BY MR. HERRERA:

12:39:55 2 Q. Mr. Knuth, my name is Ernest Herrera, and I'm an
12:39:59 3 attorney for the group known as the Promise Arizona
12:40:01 4 plaintiffs. I just have a few questions for you.

12:40:06 5 You have a -- obviously, you have a law
12:40:18 6 enforcement background, as you discussed earlier; right?

12:40:19 7 A. Yes.

12:40:20 8 Q. Okay. Does the Attorney General's Office ever
12:40:25 9 work with county recorders' offices on election
12:40:30 10 investigations, including fraud investigations?

12:40:33 11 A. I guess for clarity, are you talking about working
12:40:38 12 in concert with one another, like a joint investigation?

12:40:42 13 Q. Either that or something like getting information
12:40:48 14 from the county recorder's office.

12:40:49 15 A. Yeah, that happens frequently.

12:40:51 16 Q. Okay.

12:40:51 17 A. We -- yes, we get referrals from recorders'
12:40:55 18 offices frequently.

12:40:56 19 Q. Now, do you ever, as part of your investigation,
12:40:58 20 go and talk with the county recorders' offices to get more
12:41:02 21 information?

12:41:03 22 A. Sure.

12:41:04 23 Q. Do you have regular meetings with county
12:41:09 24 recorders' offices on things like detecting fraud?

12:41:15 25 A. No. I will qualify that by saying I have had that

12:41:21 1 sort of contact with one of the counties in the state so
12:41:24 2 far, and it's a plan to incorporate that in the future.

12:41:27 3 Q. Okay. I see.

12:41:28 4 So what's -- what's that plan to incorporate
12:41:30 5 that in the future?

12:41:31 6 A. It's just a -- it's a -- we'll call it a goal.
12:41:36 7 It's a goal of the agency to have more outreach with the
12:41:44 8 county recorders' offices across the state.

12:41:46 9 Q. And --

12:41:47 10 A. Just communication basically.

12:41:48 11 Q. Can you say what -- which county that is?

12:41:51 12 A. That I've already done this in?

12:41:53 13 Q. Yes.

12:41:54 14 A. Apache.

12:41:55 15 Q. And with Apache County, would it be helping them
12:41:57 16 set up something like their own election integrity unit
12:42:01 17 or -- or something else?

12:42:01 18 A. No. No. It's really more of a -- it's more of a
12:42:09 19 familiarization, building lines of communication. It's
12:42:15 20 almost like a review for a test in school. We just go in
12:42:19 21 and we go through election law and election procedures and
12:42:22 22 say, "Hey, are we all on the same page here? Is everybody
12:42:26 23 doing what they're supposed to be doing?" That kind of
12:42:27 24 thing. It's very informal.

12:42:28 25 Q. I see.

12:42:29 1 That kind of relates to my next question,
12:42:31 2 which is: Does -- have you or has your office ever
12:42:37 3 conducted a training for county recorder personnel on how
12:42:41 4 to detect or investigate potential voter fraud?

12:42:45 5 A. To my knowledge, that hasn't happened. And also
12:42:47 6 to my knowledge, I believe that's under the scope of the
12:42:49 7 Secretary of State's Office, so I don't know if we would be
12:42:52 8 allowed to.

12:42:52 9 Q. Okay. And that probably answers my next question,
12:42:58 10 which is: Does your office or do you plan to conduct any
12:43:01 11 trainings on detecting or investigating potential voter
12:43:05 12 fraud with the county recorders?

12:43:08 13 A. I would say that I -- because I'm -- I don't
12:43:13 14 believe that we would have the jurisdiction to do that --
12:43:16 15 it would be something I would love to do, but I don't know
12:43:18 16 that we would be able to. And it -- it loosely may come up
12:43:22 17 in conversation if I do indeed get to go visit the counties
12:43:26 18 and talk to them all. I mean, it would be very informal,
12:43:30 19 though.

12:43:31 20 Q. However, you haven't had any discussion --

12:43:33 21 A. I haven't.

12:43:34 22 Q. -- about doing a training like that; right?

12:43:36 23 A. No.

12:43:36 24 Q. Okay. In your background as a law enforcement
12:43:39 25 official or officer, do you have to familiarize -- or did

12:43:43 1 you have to familiarize yourself with language of statutes?

12:43:47 2 A. Yes.

12:43:47 3 Q. And did you have to familiarize yourself with
12:43:52 4 language of case law, like legal case law?

12:43:57 5 A. A little bit. Not as much as statutes, but a
12:43:59 6 little, yes.

12:44:00 7 Q. Okay. I have family in law enforcement. I know
12:44:04 8 they do kind of a rudimentary Fourth Amendment training;
12:44:07 9 right? So anything like that?

12:44:09 10 A. Yeah, that would be fair.

12:44:10 11 Q. Okay. Now, a little while ago you had something
12:44:16 12 in front of you that -- Exhibit 21 -- and it was the House
12:44:21 13 Bill 2243. Can you -- not to make you go on a scavenger
12:44:24 14 hunt. Can you pull that up?

12:44:26 15 A. Yeah.

12:44:28 16 Q. So earlier we were looking at section --
12:44:35 17 Subsection (A) (10) of the amended 16-165. So in that
12:44:43 18 document you have there, Exhibit 21, it should be on
12:44:46 19 page --

12:44:50 20 A. Four?

12:44:51 21 Q. Yes. Four.

12:44:53 22 A. Okay.

12:44:54 23 Q. Thanks.

12:44:55 24 A. I'm there.

12:44:55 25 Q. Okay. So earlier Mr. -- Mr. Dodge was reading

12:45:01 1 through with you some of the language, and you saw the
12:45:03 2 language at the end that said, "The county recorder shall
12:45:08 3 cancel the registration and notify the county attorney and
12:45:11 4 attorney general for possible investigation."

12:45:14 5 Do you recall that?

12:45:14 6 A. Yes.

12:45:15 7 Q. Now, around that time in your testimony -- and
12:45:19 8 correct me if I'm wrong -- I believe you referred to -- and
12:45:24 9 it may have been about something else, but you referred to
12:45:26 10 something as "vague" or seeming vague. Do you recall that?

12:45:30 11 A. I remember asking for clarification because
12:45:34 12 something was vague, but I can't tell you what it was
12:45:36 13 about.

12:45:36 14 Q. Was it about one of our -- one of the questions of
12:45:39 15 the plaintiffs or something else or --

12:45:41 16 A. I believe so.

12:45:42 17 Q. Okay.

12:45:43 18 A. I don't remember.

12:45:44 19 Q. We'll move on.

12:45:46 20 So looking at this A(10), as you can see, at
12:45:54 21 the top, it says, "When the county recorder obtains
12:46:00 22 information pursuant to this section."

12:46:02 23 Do you see that?

12:46:02 24 A. Yes, I do.

12:46:03 25 Q. Okay. So now I'm going to -- if you go down to

12:46:08 1 the -- page 6 of the bill, which is the seventh page of
12:46:14 2 this Exhibit 21, do you see section -- you'll see a
12:46:19 3 Subsection H. It's about line 6 on page 6.

12:46:29 4 A. On page 6. If I can get the pages apart. Yes,
12:46:38 5 now I do.

12:46:38 6 Q. So do you see the section that says H?

12:46:43 7 A. Yes.

12:46:43 8 Q. Okay. Can you take a minute to read that one to
12:46:47 9 yourself, that Section H.

12:46:51 10 A. Okay.

12:47:07 11 Q. Okay. And have you ever read this part of HB 2243
12:47:13 12 before?

12:47:14 13 A. I reviewed all the documents so -- I didn't commit
12:47:17 14 them to memory, but I've reviewed everything here.

12:47:19 15 Q. Okay. And do you know what the Systematic Alien
12:47:27 16 Verification for Entitlements program is?

12:47:30 17 A. I have heard it referenced. I believe it's --
12:47:33 18 it's referred to as SAVE. I don't know much about it.

12:47:37 19 Q. Okay. And do you ever use SAVE in your -- as part
12:47:41 20 of your investigations?

12:47:42 21 A. No. My understanding is that we don't have access
12:47:45 22 to such a system.

12:47:46 23 Q. And by "we," you mean the AG's office?

12:47:49 24 A. Yes.

12:47:51 25 Q. And do you see the third line in that Subsection H

12:47:57 1 in -- on page 6 of Exhibit 21 where it says, "Who the
12:48:02 2 county recorder has reason to believe are not United States
12:48:05 3 citizens"?

12:48:07 4 A. Yes, I see that.

12:48:08 5 Q. Okay. Does the phrase "reason to believe" seem
12:48:14 6 familiar to you from any other context?

12:48:24 7 A. I mean, I -- obviously, I'm familiar with the
12:48:27 8 statement "reason to believe." I don't know if I
12:48:27 9 understand what your question is, though.

12:48:29 10 Q. I mean, have you -- have you seen it before --
12:48:32 11 elsewhere in the criminal law context?

12:48:39 12 A. I mean, "reason to believe" is -- I mean, that's
12:48:46 13 pretty generic. If you were asking me, you know, like,
12:48:48 14 reasonable doubt, that would be something I'd be more apt
12:48:52 15 to say, "Oh, yeah, I see that in law -- you know, law all
12:48:55 16 the time." But "reason to believe" is just kind of broad
12:48:59 17 and vague, you know. It's common. So I don't know. I
12:49:02 18 don't know that I'd say I see it frequently or anything.

12:49:05 19 Q. I see.

12:49:06 20 And by "vague," what do you mean by that?

12:49:08 21 A. That was a bad choice of words. It's just a
12:49:12 22 very -- it's just a very basic statement. I mean, to me --
12:49:16 23 to me, "reason to believe" is used frequently in all kinds
12:49:21 24 of context.

12:49:23 25 Q. And so it's -- it's not exactly, for example,

12:49:30 1 something you would have seen for -- in reasonable
12:49:35 2 suspicion or probable cause standard; right?

12:49:38 3 A. Yeah, I don't put it --

12:49:38 4 MR. WHITAKER: Calls for a legal conclusion.

12:49:39 5 THE WITNESS: Sorry. I don't put it in the
12:49:43 6 same box as that, to me.

12:49:45 7 BY MR. HERRERA:

12:49:45 8 Q. Okay.

12:49:45 9 A. I guess that's the best way I can say it.

12:49:50 10 Q. And has the Election Integrity Unit done any
12:49:59 11 training with county recorder personnel on what "reason to
12:50:03 12 believe" means in the context of this part of 2243 that we
12:50:07 13 just looked at?

12:50:08 14 A. No.

12:50:10 15 MR. HERRERA: Okay. I think those are all my
12:50:12 16 questions. Are we going off the record now for --

12:50:21 17 MR. DODGE: Do you want to see if any other
12:50:22 18 plaintiffs have questions?

12:50:24 19 MR. HERRERA: Oh, yeah.

12:50:24 20 MR. WHITAKER: And maybe also defendants
12:50:26 21 because -- because if Bill's going to go, we should
12:50:28 22 probably do that.

12:50:31 23 So first, any other plaintiffs want to ask
12:50:34 24 Mr. Knuth questions? Can the other plaintiffs hear us
12:50:44 25 still?

12:50:52 1 MR. DODGE: In the interest of efficiency,
12:50:54 2 anyone with questions for Mr. Knuth should ask them now
12:50:56 3 while he's here with us. If any other plaintiff groups
12:50:59 4 have questions for him on the topics he's spoken to, can
12:51:03 5 you indicate that now, please?

12:51:20 6 Hearing nothing from plaintiffs' counsel, I
12:51:22 7 guess we'll see if any defendants want to redirect with
12:51:25 8 Mr. Knuth now.

12:51:29 9 MR. LANGHOFER: This is Kory Langhofer for
12:51:30 10 the RNC. I have a couple questions, but it -- I imagine
12:51:34 11 that the AG's office probably has some. And their
12:51:38 12 questioning would be more organized since they've met with
12:51:40 13 the witness. Perhaps I should go after them if that's all
12:51:43 14 right with everyone.

12:51:43 15 MR. DODGE: That makes sense to me.

12:51:46 16 MR. WHITAKER: That's fine. I just had a
12:51:47 17 couple clarifying ones. So I guess I'll go if no one
12:51:47 18 objects.

12:51:47 19

12:51:51 20 EXAMINATION

12:51:51 21 BY MR. WHITAKER:

12:51:53 22 Q. Mr. Knuth, I believe you testified earlier that
12:51:56 23 you thought the intake portal may have been removed from
12:52:00 24 the website. Are you positive about that?

12:52:03 25 A. No. I actually had an opportunity to take a look,

12:52:09 1 and we -- we did have a meeting suggesting that it was
12:52:12 2 going to be removed, but apparently it is still there.

12:52:15 3 Q. Okay. So the way -- the best way to find out
12:52:18 4 whether the intake portal has been removed is to go on our
12:52:22 5 website. Is that fair?

12:52:23 6 A. Yes.

12:52:23 7 Q. And I think this was clear earlier, but I want to
12:52:29 8 make sure.

12:52:30 9 Are you aware of specific plans the office
12:52:33 10 has to investigate referrals -- referrals under the
12:52:36 11 challenged laws apart from just general investigative
12:52:39 12 practices?

12:52:40 13 A. No, I'm not.

12:52:45 14 MR. WHITAKER: That's really all the
12:52:46 15 clarifications I have.

12:52:47 16 So, Mr. Langhofer, over to you.

12:52:52 17 MR. LANGHOFER: Thanks, Josh.

12:52:52 18

12:52:52 19 EXAMINATION

12:52:52 20 BY MR. LANGHOFER:

12:52:58 21 Q. My name is Kory Langhofer, and I represent the
12:53:00 22 Republican National Committee. I have just a handful of
12:53:03 23 questions for you. I don't think it will take very long at
12:53:03 24 all.

12:53:06 25 Could you clarify the difference between

12:53:09 1 investigations in which you conclude there's a credible
12:53:14 2 complaint or credible allegation and ones in which someone
12:53:18 3 is eventually prosecuted?

12:53:26 4 A. I don't know if I understood. From what you're
12:53:28 5 asking, I think one leads to the other.

12:53:33 6 You're -- you're asking about when we
12:53:35 7 determine that a case has validity and needs to be
12:53:39 8 investigated and when a case would lead to prosecution? Do
12:53:45 9 I understand that correct?

12:53:46 10 Q. Well, the -- I think that, if I understand your
12:53:50 11 earlier testimony, when a complaint comes in through the
12:53:54 12 portal, for example, you first do an assessment to
12:53:57 13 determine whether it's credible and worth more time for an
12:54:01 14 investigation. Am I remembering that correctly?

12:54:04 15 MR. DODGE: Objection; form.

12:54:06 16 THE WITNESS: If it -- yeah, we're
12:54:09 17 determining if it -- if it's a viable case and it looks
12:54:11 18 like it has some merit to it.

12:54:13 19 BY MR. LANGHOFER:

12:54:15 20 Q. But that's different from a decision about whether
12:54:17 21 to prosecute; correct?

12:54:18 22 A. Yes. Absolutely.

12:54:19 23 Q. Okay. Can you talk about what -- what's left to
12:54:25 24 do after you determine it's a credible allegation until you
12:54:28 25 get to the point of deciding to prosecute?

12:54:31 1 A. Well, it's certainly case-by-case, so I'll -- in a
12:54:37 2 kind of generic form, once it's determined that there's the
12:54:44 3 validity to it and it's -- it can be investigated, all of
12:54:50 4 the investigative tools are used to get as much information
12:54:54 5 as we can to determine if indeed we have probable cause to
12:55:01 6 believe a crime has been committed. And if we do, at that
12:55:04 7 time, we forward it for potential prosecution.

12:55:07 8 Q. Is every case in which you believe the complaint
12:55:13 9 is credible ultimately prosecuted?

12:55:16 10 A. No.

12:55:18 11 Q. How many of the credible complaints do you think
12:55:21 12 result in prosecution?

12:55:29 13 MR. DODGE: Objection; foundation.

12:55:34 14 THE WITNESS: That's a very difficult
12:55:36 15 question to answer. I -- I think that there are probably
12:55:48 16 more cases that we do investigations on that end up not
12:55:56 17 satisfying what we believe we need for prosecution. But I
12:56:01 18 can't tell you, you know, if it's half and half or less.
12:56:04 19 It's -- you know, it's just a really difficult question to
12:56:08 20 answer, honestly.

12:56:10 21 BY MR. LANGHOFER:

12:56:11 22 Q. So if your office determines -- what's the
12:56:17 23 standard of proof for a criminal conviction?

12:56:22 24 A. We need to establish that -- excuse me --
12:56:25 25 establish that there's probable cause to -- to charge

12:56:28 1 somebody with a crime.

12:56:30 2 Q. And then in order for them to be convicted, it has
12:56:33 3 to be proven beyond a reasonable doubt; correct?

12:56:36 4 MR. DODGE: Objection; foundation. Calls for
12:56:37 5 a legal conclusion.

12:56:38 6 THE WITNESS: That's my understanding.

12:56:40 7 BY MR. LANGHOFER:

12:56:43 8 Q. Does your office bring all the cases for which it
12:56:46 9 has probable cause, or does it only bring the cases that it
12:56:49 10 believes it can prove beyond a reasonable doubt?

12:56:53 11 MR. DODGE: Objection; foundation.

12:56:56 12 THE WITNESS: I can -- I can speak for
12:56:58 13 myself, as an investigator, that if I believe there's
12:57:02 14 probable cause that a crime has been committed, then it is
12:57:04 15 forwarded for potential -- forwarded for potential
12:57:07 16 prosecution.

12:57:07 17 BY MR. LANGHOFER:

12:57:09 18 Q. Okay. And then from there, the decision is made
12:57:14 19 by Todd Lawson; is that right?

12:57:16 20 A. Typically, in the cases I'm involved in, yes.

12:57:20 21 Q. In your -- I want to -- you had a series of
12:57:28 22 questions on direct about individuals who couldn't provide
12:57:36 23 documentary proof of residency and citizenship.

12:57:39 24 In the investigations that you've been
12:57:40 25 involved in regarding improper registration, have you ever

12:57:46 1 encountered an individual who didn't have a driver's
12:57:51 2 license, a nonoperating identification issued by ADOT after
12:57:55 3 1996, a birth certificate, passport, naturalization papers
12:57:59 4 or naturalization number, BIA card number, tribal treaty
12:58:05 5 card number, or tribal enrollment number, like, none of
12:58:10 6 those eight things?

12:58:10 7 MR. DODGE: Objection. Compound.

12:58:12 8 THE WITNESS: That was a very hard question
12:58:13 9 to follow, sir. I -- I lost you with all those documents.

12:58:17 10 Can you -- can you bring that down to what
12:58:20 11 the question was and just say "these documents" so that I
12:58:23 12 can understand it easier?

12:58:24 13 BY MR. LANGHOFER:

12:58:25 14 Q. Yeah.

12:58:26 15 So I guess the question is: Have you ever
12:58:28 16 met someone who, even though he's a U.S. -- he or she is a
12:58:32 17 U.S. citizen, wouldn't be able to satisfy the documentation
12:58:35 18 requirement in Section 166? And so you looked at them
12:58:39 19 before, but I'll same them again. It includes driver's
12:58:43 20 license, nonoperating ID issued after 1996 by ADOT, birth
12:58:50 21 certificate, passport, naturalization papers or
12:58:53 22 naturalization number, BIA card number, tribal treaty card
12:58:58 23 number, or tribal enrollment number, any of those things.

12:59:01 24 MR. DODGE: Objection. Compound.

12:59:02 25 THE WITNESS: I -- for me to say that I've

12:59:07 1 never encountered somebody in my 25-year career that didn't

12:59:13 2 have any of those things would be -- that would be remiss.

12:59:19 3 I mean, I don't know how else to answer that.

12:59:22 4 BY MR. LANGHOFER:

12:59:23 5 Q. Can you think of anyone, as you sit here, that you

12:59:26 6 have encountered who, as you recall, had none of those

12:59:30 7 eight things?

12:59:31 8 A. Not specifically.

12:59:34 9 Q. Can you think of anyone you've heard about around

12:59:37 10 the office, like a case that has been discussed but you

12:59:40 11 weren't personally for, that would meet those criteria?

12:59:44 12 A. No.

12:59:44 13 MR. DODGE: Objection. Calls for

12:59:45 14 speculation. Foundation.

12:59:45 15 BY MR. LANGHOFER:

12:59:51 16 Q. Have you ever prosecuted someone for registering

12:59:56 17 or attempting to register without being a citizen only to

13:00:00 18 later find out the defendant was, in fact, a U.S. citizen?

13:00:06 19 A. I don't recall ever having involvement in a case

13:00:10 20 like that.

13:00:13 21 Q. Have you ever prosecuted a person for voting or

13:00:18 22 attempting to vote without being a U.S. citizen only to

13:00:21 23 later find out that the defendant is a U.S. citizen?

13:00:26 24 A. I don't recall any cases like that.

13:00:33 25 MR. LANGHOFER: Thanks very much, sir. Those

13:00:33 1 are all the questions I have for you.

13:00:38 2 MR. DODGE: I have just a couple more in
13:00:40 3 case -- unless there are any other defendants or
13:00:41 4 intervenors.

13:00:41 5 MR. WHITAKER: I was just going to say, let's
13:00:43 6 see if there are any other defendants --

13:00:45 7 MR. DODGE: Yeah, the floor is open for
13:00:47 8 defendants, but otherwise . . .

13:00:52 9

13:00:52 10 FURTHER EXAMINATION

13:00:53 11 BY MR. DODGE:

13:00:54 12 Q. Mr. Knuth, I promise we're getting close.

13:00:56 13 You testified just a moment ago that the
13:00:59 14 intake portal is, in fact, still alive; correct?

13:01:01 15 A. Yes.

13:01:01 16 Q. And you testified that you were involved in a
13:01:05 17 conversation sometime in the spring or thereabouts about
13:01:09 18 whether or not to potentially take it offline; is that
13:01:13 19 right?

13:01:13 20 A. Correct.

13:01:13 21 Q. Do you know why the decision was made ultimately
13:01:15 22 to keep it online?

13:01:17 23 A. I don't. All we had was a discussion about the --
13:01:22 24 no more Election Integrity Unit, so should the portal stay;
13:01:26 25 should it go? I was the under the impression it was going

13:01:28 1 to come down but . . .

13:01:29 2 Q. Mr. Langhofer just asked you some questions about
13:01:33 3 whether or not cases that you find to be credible are
13:01:39 4 always referred on for prosecution. Do you remember that?

13:01:41 5 A. Yes.

13:01:43 6 Q. When it comes to investigating a person's
13:01:45 7 citizenship, that's a fairly binary question from an
13:01:49 8 investigative standpoint; right?

13:01:53 9 A. Yeah, I mean, it's pretty cut and dried. They're
13:01:57 10 either a citizen or they're not.

13:01:57 11 Q. Are you aware of any case where your office
13:02:00 12 determined that an individual was, as a matter of fact, not
13:02:05 13 a U.S. citizen but either registered to vote or cast a
13:02:12 14 ballot where that case was not then referred on to a
13:02:16 15 prosecutor?

13:02:20 16 A. Not that I'm aware of.

13:02:22 17 Q. And that's in part because whether or not
13:02:24 18 someone's a citizen is a very simple question, and so if
13:02:27 19 you prove it as a matter of fact, there's not much of a
13:02:31 20 reason to doubt the ability to prove it beyond a reasonable
13:02:34 21 doubt; right?

13:02:36 22 MR. WHITAKER: Objection. Leading.

13:02:40 23 THE WITNESS: I mean, I think it's -- I think
13:02:43 24 if I satisfied in my mind that I have proven or disproven
13:02:48 25 somebody's a citizen, then I feel comfortable presenting

13:02:51 1 that case for prosecution.

13:02:52 2 BY MR. DODGE:

13:02:54 3 Q. Returning to the issue of credibility assessments,
13:02:57 4 can it be the case that your office receives a referral
13:03:01 5 where the complainant is credible but where their
13:03:05 6 allegation ultimately turns out to be incorrect?

13:03:08 7 A. Sure. Certainly.

13:03:09 8 Q. Could it be also then be the case that your office
13:03:12 9 receives a complaint that is deemed credible but where
13:03:16 10 ultimately you feel you can't meet the burden necessary to
13:03:21 11 refer for prosecution?

13:03:22 12 A. Yes.

13:03:24 13 MR. DODGE: Nothing further.

13:03:27 14 MR. WHITAKER: Nothing further from us.

13:03:31 15 MR. DODGE: Okay. Let's go off the record.

13:03:33 16 THE VIDEOGRAPHER: We are of the record.

13:03:36 17 Time on the video monitor is 1:03 p.m.

13:03:41 18 (A recess ensued.)

13:29:14 19 (Todd Lawson is now present at the
13:42:06 20 deposition.)

13:42:06 21 THE VIDEOGRAPHER: We are on the record.

13:43:21 22 Time on the video monitor is 1:43 p.m.

13:43:31 23 ///

24 ///

25 TODD LAWSON,

1 the witness herein, being first duly sworn,
2 was examined and testified as follows:

3

13:43:37

4

EXAMINATION

13:43:37

5

BY MR. DODGE:

13:43:40

6

Q. Okay. Good afternoon, Mr. Lawson. My name is

13:43:43

7

Chris Dodge. I represent Mi Familia Vota and Voto Latino

13:43:47

8

in this matter.

13:43:48

9

Could you please state your full name for the

13:43:50

10

record, spelling your last name.

13:43:51

11

A. Sure. Todd Lawson, L-a-w-s-o-n.

13:43:54

12

Q. And have you ever been deposed before?

13:43:56

13

A. A couples times.

13:43:57

14

Q. Okay. Well, I know you're an attorney, and it

13:44:01

15

sounds like you've been deposed before, but just very

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16

quickly, some ground rules.

13:44:03

17

You understand that we have a court reporter

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18

here whose job it is to make a complete and accurate record

13:44:09

19

of what we're saying here today?

13:44:09

20

A. Yes, sir.

13:44:10

21

Q. And so that the court reporter can accurately

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22

record today's deposition, can we agree that you'll answer

13:44:16

23

my questions audibly and clearly?

13:44:17

24

A. Yes, sir.

13:44:18

25

Q. And can we agree that you will wait for me to

13:44:20 1 finish my questions before answering so that we don't talk
13:44:23 2 over each other?

13:44:23 3 A. Yes, sir.

13:44:23 4 Q. If you do not understand a question or if a
13:44:28 5 question is confusing, please just let me know and I will
13:44:30 6 either repeat it or try to ask it a different way. Does
13:44:33 7 that sound fair?

13:44:34 8 A. Yes.

13:44:34 9 Q. But if I ask a question and you do answer it, I
13:44:37 10 will assume that you understood that question. That sound
13:44:40 11 fair?

13:44:40 12 A. Understood.

13:44:41 13 Q. If you would like to take a break at any time,
13:44:44 14 please just let me know. The only condition on that is
13:44:47 15 that I ask that you finish any pending question before
13:44:51 16 asking to take a break.

13:44:52 17 A. Sounds fair.

13:44:53 18 Q. The court reporter asked you to take an oath just
13:44:55 19 a moment ago; right?

13:44:57 20 A. Yes, sir.

13:44:57 21 Q. And you took that oath and agreed to provide
13:45:00 22 truthful and complete testimony to the best of your ability
13:45:03 23 today?

13:45:03 24 A. Yes, sir.

13:45:03 25 Q. Any reason why you can't testify fully and

13:45:06 1 truthfully today?

13:45:08 2 A. No, sir.

13:45:08 3 Q. You said you've been deposed once or twice before?

13:45:11 4 A. I believe twice, but it's been a long time.

13:45:15 5 Q. Did any of those depositions concern

13:45:18 6 election-related issues?

13:45:19 7 A. No, sir.

13:45:20 8 Q. Do you have any materials here with you today?

13:45:23 9 A. I brought a notepad and -- just so I can remember,

13:45:27 10 like, your name, but other than that, I don't have any

13:45:31 11 materials that I brought with me up here. I reviewed some

13:45:35 12 materials that were sent to me this morning, and I talked

13:45:38 13 with counsel. That's about it.

13:45:40 14 Q. And no notes in that notepad or anything of the

13:45:43 15 sort?

13:45:43 16 A. No, sir.

13:45:44 17 Q. You're currently employed by the Arizona Attorney

13:45:48 18 General's Office; is that right?

13:45:48 19 A. Yes, sir.

13:45:49 20 Q. What's your role with the attorney general?

13:45:51 21 A. I'm a senior litigation counsel in the Criminal

13:45:54 22 Division, assigned to the Fraud & Special Prosecutions

13:45:56 23 Section.

13:45:57 24 Q. How long how you served in that role?

13:45:59 25 A. Technically, since the end of the fiscal year. My

13:46:02 1 previous few years, I was assigned under a budget line for
13:46:06 2 the Election Integrity Unit, which was, again, attached to
13:46:09 3 the Criminal Division. And I was assigned Fraud & Special
13:46:14 4 Prosecutions Section. But I -- my understanding is, as of
13:46:17 5 July 1, that funding is lapsed and I'm now back on the
13:46:20 6 general fund. So that's the best of my knowledge there.

13:46:25 7 Q. You said "back on the general fund." Were you --
13:46:28 8 did you have a position with the Attorney General's Office
13:46:29 9 before you had that role at the Election Integrity Unit?

13:46:31 10 A. Yes. I've been with the Attorney General's Office
13:46:34 11 in one form or another since 1999.

13:46:37 12 Q. And I don't need your full history with the
13:46:40 13 Attorney General's Office, but what role did you have
13:46:42 14 before joining the Election Integrity Unit?

13:46:45 15 A. I was hired as -- actually, I started as an
13:46:48 16 intern. I was hired as a law clerk. I became an assistant
13:46:51 17 attorney general -- I started as a special assistant
13:46:54 18 attorney general in May of 2000.

13:46:57 19 And then when a position opened up, I became
13:46:59 20 an assistant attorney general. Remained that through 1990
13:47:03 21 -- excuse me -- remained that through 2019 when the
13:47:07 22 Election Integrity Unit was opened. And I took a senior
13:47:10 23 counsel position in connection with the formation of that
13:47:13 24 unit.

13:47:14 25 But essentially, my real estate didn't

13:47:16 1 change. My person I reported to didn't change. The only
13:47:20 2 thing that changed was the funding that paid for my
13:47:21 3 position.

13:47:22 4 Q. In your role as senior counsel to the Election
13:47:26 5 Integrity Unit, what responsibilities did you have?

13:47:28 6 A. The unit was set up unlike any other unit that I
13:47:32 7 have been aware of within our agency in that it was
13:47:35 8 divided. There were four separate positions there. One
13:47:39 9 was an investigator position that reported up a chain of
13:47:42 10 command through special investigations. Myself, I was
13:47:47 11 assigned to report to the same boss that I had been
13:47:50 12 reporting to for the preceding decade, which is the Fraud &
13:47:56 13 Special Prosecutions Section, chief counsel.

13:47:57 14 There was a support staff person who
13:48:01 15 essentially became a secretary in our unit, and she didn't
13:48:05 16 report to me or didn't -- I didn't even work with her. She
13:48:08 17 was assigned to a pool for the way they address such money.
13:48:13 18 And then Jennifer Wright was the other attorney assigned,
13:48:16 19 and she had an entirely different chain of command than I
13:48:20 20 did.

13:48:20 21 Q. So sounds like there were, excluding support
13:48:23 22 staff, three individuals who belonged to the Election
13:48:27 23 Integrity Unit during the time?

13:48:27 24 A. We were told it was four FTEs. So it was one who
13:48:31 25 was treated as a support staff, one who was an

13:48:34 1 investigator, and two were attorneys.

13:48:35 2 Q. What's an FTE?

13:48:37 3 A. Full-time equivalent. It's budget -- it's state
13:48:40 4 government budget-speak for person and the cost of all
13:48:43 5 their benefits.

13:48:44 6 Q. But each of you within the unit answered up to
13:48:47 7 someone outside the unit; is that right?

13:48:49 8 A. We -- again, what, in my mind, made it different
13:48:55 9 is -- like, for example, I've been attached to units
13:48:56 10 before, and the unit all works together. Here the unit
13:49:00 11 essentially existed on a budget and only on budget. The --
13:49:05 12 all the people essentially answer to different people and
13:49:09 13 not to each other, which was somewhat unique.

13:49:12 14 Q. So you didn't answer to Ms. Wright?

13:49:14 15 A. No.

13:49:15 16 Q. Who did Ms. Wright answer to?

13:49:18 17 A. I believe she was assigned in the Solicitor
13:49:21 18 General's Office, but her chain of command was never made
13:49:24 19 clear it me.

13:49:25 20 Q. Did anyone report to you in your role as senior
13:49:27 21 counsel?

13:49:28 22 A. Nope. I was a unit of one essentially. And
13:49:31 23 anything I did essentially went up the same chain of
13:49:34 24 command I had always had through the special counsel --
13:49:37 25 excuse me -- through the chief litigation counsel for the

13:49:39 1 Fraud & Special Prosecutions Section, which for most of the
13:49:43 2 time we're talking about here was Blaine Gadow.

13:49:49 3 Q. You understand that you're here today as a
13:49:50 4 representative to testify on behalf of the Attorney
13:49:53 5 General's Office; correct?

13:49:53 6 A. Yes. First time I've ever done that.

13:49:55 7 Q. You understand, then, that for purposes of this
13:49:57 8 deposition, if I refer to "you" or "your," I'll be
13:50:00 9 referring to the Attorney General's Office and not you
13:50:02 10 specifically?

13:50:02 11 A. I understand that. I will do my best to speak on
13:50:05 12 behalf of the agency to the extent that I know what the
13:50:07 13 agency was doing.

13:50:10 14 Q. You understand that -- as a corollary, that your
13:50:11 15 answers can be based not only on your personal knowledge
13:50:15 16 but information known or available to your office?

13:50:17 17 A. Yes.

13:50:17 18 Q. Okay. We actually -- do you have exhibits in
13:50:27 19 front of you that were left by Mr. Knuth?

13:50:30 20 A. Is that what these are? Are they numbered?

13:50:31 21 MR. WHITAKER: It appears so.

13:50:33 22 BY MR. DODGE:

13:50:34 23 Q. Would you find the one marked exhibit --

13:50:35 24 A. They're not marked.

13:50:39 25 Q. Would you mind handing them back to me, then, if

13:50:42 1 that's okay?

13:50:43 2 A. No problem.

13:50:47 3 Q. I'm going to hand you what was previously marked
13:50:49 4 as Exhibit 211.

13:50:53 5 A. Can I write on it so that I know it's 211?

13:50:58 6 Q. Sure.

13:50:58 7 A. All right. Go ahead.

13:50:59 8 Q. Are you familiar with this document?

13:51:00 9 A. I believe I have seen it before. Could I take a
13:51:03 10 moment to familiarize myself with it?

13:51:05 11 Q. Please do.

13:51:11 12 A. Yes, I've seen -- I recognize the middle couple
13:51:14 13 pages of here -- of this document here, so yes, I've seen
13:51:18 14 this before.

13:51:18 15 Q. Can you tell me what you recognize?

13:51:21 16 A. The part that I spent the most time working on
13:51:24 17 were the deposition topics. There are 14 numbered
13:51:28 18 paragraphs that appear on page 4 and 5.

13:51:30 19 Q. And you've reviewed these topics?

13:51:31 20 A. Yes.

13:51:32 21 Q. Can you indicate to me which of these topics
13:51:35 22 you're prepared to speak to today?

13:51:37 23 A. That was something that counsel indicated they had
13:51:43 24 agreement on what I was to speak on. I will tell you, as a
13:51:48 25 criminal practitioner, I'm not used to the whole objections

13:51:53 1 and then being told to answer the question anyway. And so
13:51:56 2 I'm prepared to at least have some form of an answer to
13:52:00 3 anything you ask me. To the extent that counsel here have
13:52:05 4 decided I'm not the person who will answer it, I'm going to
13:52:10 5 do the best I can and --

13:52:11 6 Q. Let me ask it a different way.

13:52:13 7 A. -- do what I can.

13:52:14 8 Q. Let me ask it a different way, then.

13:52:14 9 Are there any topics here that you feel you
13:52:16 10 are not prepared to testify to today?

13:52:18 11 A. There are certain things that, due to the way the
13:52:27 12 organization was structured and the responsibilities that I
13:52:31 13 had, happened entirely out of my purview and without any
13:52:36 14 consultation of me, and so there are certain decisions that
13:52:40 15 were made that did not involve active criminal prosecutions
13:52:45 16 or the review of criminal charges. And I was not involved
13:52:49 17 in those, and so my knowledge of those things is limited,
13:52:52 18 and my ability to testify to them is limited.

13:52:56 19 To the extent that certain documents exist
13:52:58 20 that I've been made available -- I can try to give you my
13:53:05 21 best knowledge of those. But there are certain topics in
13:53:09 22 that area where my knowledge is limited.

13:53:12 23 Q. I appreciate you making that clear.

13:53:16 24 Are there any topics here in particular,
13:53:22 25 though, that, based on that limitation you just described,

13:53:26 1 you feel in particular would not be appropriate to ask you
13:53:29 2 about?

13:53:34 3 MR. WHITAKER: I think --

13:53:35 4 THE WITNESS: Well, I can offer an example
13:53:37 5 unless . . .

13:53:38 6 MR. WHITAKER: Sure.

13:53:39 7 THE WITNESS: My example would be, like,
13:53:41 8 Number 12, the Election Procedures Manual was an item that
13:53:48 9 was -- in the division of work, was placed on Jennifer
13:53:51 10 Wright's responsibility; it was not given to me.

13:53:54 11 In my history with the office, I've only ever
13:53:56 12 been involved with one version of the Election Procedures
13:53:59 13 Manual, and it was not one from 2017 to present. And so I
13:54:04 14 cannot speak to the drafting of election procedures manuals
13:54:08 15 from 2017 to present, other than I received one after it
13:54:13 16 was adopted and have used it in the course of my work and
13:54:16 17 use it as a resource.

13:54:18 18 But in terms of, you know, the issues that
13:54:23 19 went into its drafting and some of the issues that we're
13:54:26 20 talking about here, I know it simply as a resource, not as
13:54:30 21 anything that is -- was created or I had involvement with
13:54:33 22 its creation.

13:54:34 23 BY MR. DODGE:

13:54:34 24 Q. Any other topics that you wish to identify or
13:54:40 25 is -- recognizing that you've indicated there are other

13:54:43 1 general areas that you're not equipped to testify on?

13:54:47 2 MR. WHITAKER: I'll object a little bit. I
13:54:49 3 think this calls for a legal conclusion about the
13:54:52 4 appropriateness of the 30(b)(6) designee that Mr. Lawson,
13:54:57 5 especially as a criminal attorney -- well, I'll just leave
13:54:59 6 it at that. I think it calls for a legal conclusion.

13:55:02 7 THE WITNESS: Yeah. And to the extent that
13:55:04 8 we had divisions of responsibility in our office -- and
13:55:07 9 things to deal with legislation and with civil and
13:55:11 10 administrative actions just were not anything that I was
13:55:13 11 involved in, because I am a full-time criminal practitioner
13:55:17 12 with responsibilities that not only include election cases
13:55:21 13 but other matters. I was not brought in or consulted on a
13:55:25 14 number of things, so my knowledge of those things is fairly
13:55:29 15 limited.

13:55:29 16 BY MR. DODGE:

13:55:29 17 Q. Is it the case that when you were senior -- senior
13:55:31 18 counsel at the Election Integrity Unit, you continued to
13:55:34 19 have non-election-related matters?

13:55:36 20 A. Correct.

13:55:36 21 Q. About what percentage of your time was committed
13:55:41 22 to election-related matters?

13:55:43 23 A. That's difficult to say. Up through 2021, I would
13:55:53 24 say it was still less than half. And when -- 2021, there
13:56:03 25 was a reshuffling of some cases. As we had different

13:56:06 1 personnel issues, I was able to take on more. But then as
13:56:11 2 things have gone on and our staffing levels have changed,
13:56:15 3 as of today, it's again less than half -- or as of the
13:56:19 4 expiration of the funding.

13:56:21 5 Q. Did you volunteer to join the Election Integrity
13:56:24 6 Unit?

13:56:24 7 A. It was offered to me as a promotion and so I did
13:56:30 8 accept it.

13:56:30 9 Q. Is the reason you accepted it because it was a
13:56:34 10 promotion?

13:56:34 11 A. Correct.

13:56:35 12 Q. Excepting any attorneys from the Attorney
13:56:42 13 General's Office, did you meet with anyone from your office
13:56:44 14 to prepare for today's deposition?

13:56:48 15 A. Anyone outside the office?

13:56:49 16 Q. Counsel from the office.

13:56:52 17 A. Yeah, I met with the individuals seated to my left
13:56:55 18 here. That's the only people I've met with regarding this.

13:57:01 19 Oh, actually, I did consult with Mr. Knuth at one point.

13:57:03 20 Q. Okay. What did you consult with him about?

13:57:07 21 A. There are two matters that are -- involve cases
13:57:16 22 that were charged but have not been served. And there are
13:57:21 23 ethical issues and issues related to grand jury seal that
13:57:28 24 are somewhat thorny for someone in my position as a
13:57:32 25 criminal practitioner.

13:57:35 1 ER 3.8 talks about what a prosecutor can and
13:57:38 2 cannot do in terms of certain confidences. And there's a
13:57:43 3 Statute 13-2812. And I wanted to make sure that we were
13:57:47 4 both on the same page in terms of our obligations as
13:57:49 5 representatives of the agency not to compromise the
13:57:54 6 confidences there. And so that's -- that was the issues
13:57:57 7 that we discussed.

13:57:58 8 Q. Did you speak with Mr. Knuth about anything else?

13:58:02 9 A. I mean, I speak to Mr. Knuth on a fairly regular
13:58:06 10 basis about case-related things, but in terms of
13:58:09 11 anticipation of today, that's the only issue that I talked
13:58:12 12 about in anticipation of today.

13:58:14 13 Q. Any other individuals besides Mr. Knuth who you --
13:58:18 14 and counsel who you met with about today's deposition?

13:58:22 15 A. My supervisor.

13:58:23 16 Q. And -- I'm sorry. Remind me who your supervisor
13:58:26 17 is.

13:58:27 18 A. Criminal -- Criminal Division Chief Counsel Nick
13:58:30 19 Klingerman.

13:58:31 20 Q. What did you discuss with Mr. Klingerman?

13:58:33 21 A. He was present in the preparations with this and
13:58:36 22 had input on it. I did not -- I don't think I met
13:58:39 23 separately with him about it other than to tell him what
13:58:43 24 this was and that this was going on.

13:58:45 25 Q. Okay. And how many times did you meet with

13:58:48 1 counsel for the Attorney General's Office to discuss
13:58:51 2 today's deposition?

13:58:53 3 A. Three or two.

13:58:56 4 MR. WHITAKER: I'm not testifying.

13:58:58 5 THE WITNESS: You're not testifying. Okay.

13:58:59 6 So this is a pop quiz of how many times did I meet with
13:59:02 7 him. I know of two, and it might have been three.

13:59:04 8 BY MR. DODGE:

13:59:04 9 Q. Okay. And about how long did you meet with him?

13:59:08 10 A. One of them lasted most of the morning.

13:59:10 11 Q. And how long was the other one?

13:59:14 12 A. An hour.

13:59:16 13 MR. WHITAKER: I'm not testifying.

13:59:17 14 THE WITNESS: I think so. Time is a flat
13:59:19 15 circle after the pandemic so . . .

13:59:21 16 BY MR. DODGE:

13:59:22 17 Q. Did -- did you review any documents in
13:59:25 18 anticipation of today's deposition?

13:59:27 19 A. Sure did.

13:59:28 20 Q. I'm going to ask you some questions about the
13:59:36 21 enactment of HB 2492 and HB 2243.

13:59:39 22 A. I got it.

13:59:40 23 Q. Are you familiar with HB 2492?

13:59:42 24 A. I am in terms of it was things that were brought
13:59:45 25 to my attention as a part of the report that was addressed

13:59:50 1 to the legislature in March of this year and in
13:59:54 2 anticipation of the testimony here and this legal
13:59:59 3 situation, yes.

14:00:00 4 Q. So you were aware of at least some provisions of
14:00:02 5 HB 2492 before preparing for this deposition?

14:00:04 6 A. Yes.

14:00:06 7 Q. Were you familiar with other provisions of HB 2492
14:00:10 8 beyond the one requiring a report be sent to the
14:00:13 9 legislature?

14:00:15 10 A. No.

14:00:17 11 Q. Are you familiar with HB 2243?

14:00:20 12 A. I believe we -- we reviewed those before here. If
14:00:24 13 you could show me what it is, I can tell you if I'm
14:00:26 14 familiar with it.

14:00:27 15 Q. We'll get to that in a second. I guess, for now,
14:00:30 16 I want to make sure you're familiar --

14:00:31 17 A. I know there are two bills. I couldn't tell you
14:00:34 18 their numbers offhand.

14:00:35 19 Q. If I refer to these bills as the "challenged
14:00:37 20 laws," you'll understand I'm referring to these two?

14:00:38 21 A. That's a term I've seen in your materials, so I
14:00:40 22 know that, yes.

14:00:41 23 Q. Does the Attorney General's Office track proposed
14:00:49 24 legislation for the legislature?

14:00:50 25 A. I know that we have people responsible for that.

14:00:54 1 And I'm vaguely familiar with the legislative information
14:00:59 2 system that allows you to set up a thing to track
14:01:02 3 legislation. I have so assume, since we pay people to do
14:01:04 4 that, they probably do that.

14:01:06 5 Q. Do you know if the Attorney General's Office has a
14:01:08 6 legislative liaison?

14:01:10 7 A. We did at the time when these were passed, so yes.

14:01:15 8 Q. And who was that individual at the time?

14:01:17 9 A. The person I dealt with was Josh Kredit, but it
14:01:21 10 was very rare that I would deal with him directly. There
14:01:25 11 was another person there who I dealt with whose name
14:01:28 12 escapes me -- a woman, but I cannot remember her name
14:01:32 13 offhand.

14:01:32 14 Q. Do you know what the responsibilities of the
14:01:35 15 legislative liaison are?

14:01:37 16 A. I assume it is give and take with the legislature
14:01:42 17 in terms of answering questions and providing information
14:01:46 18 from the agency to the legislature as well as -- I know, at
14:01:51 19 least in my experience, we have brought legislation to
14:01:55 20 legislators for purposes of getting it passed.

14:01:58 21 Q. If I were to tell you that the individual who was
14:02:00 22 the legislative liaison at the time these bills were before
14:02:03 23 the legislature, that her name was Edith Lefevre --

14:02:07 24 A. Okay.

14:02:07 25 Q. -- would you believe me?

14:02:09 1 A. That sounds plausible. That might have been the
14:02:12 2 person I was dealing with. I had a piece of legislation I
14:02:14 3 was responsible for in 2021. I say I was responsible -- I
14:02:18 4 was the person who originally drafted the proposal.

14:02:21 5 Q. Do you recall that Ms. Lefevre was, in fact, the
14:02:27 6 legislative liaison at that time?

14:02:28 7 A. Like I said, I wish I could remember. She's --
14:02:31 8 you know, hopefully, she doesn't see this deposition and
14:02:33 9 see that I've forgotten her name.

14:02:35 10 Q. But you recall that there was --

14:02:36 11 A. There was a woman whose -- who I dealt with and
14:02:39 12 whose name has escaped me. And I apologize for that.
14:02:42 13 Could be her.

14:02:43 14 Q. Do you recall if the person was named Edie?

14:02:47 15 A. I can see her in my mind's eye. I cannot remember
14:02:51 16 her name.

14:02:52 17 Q. Did your office ask you to speak with this
14:02:57 18 individual in preparing for today's deposition?

14:02:59 19 A. No.

14:02:59 20 Q. Was anyone from your office, including the
14:03:06 21 legislative liaison or anyone who worked with the
14:03:09 22 legislative liaison, involved in drafting other of the
14:03:11 23 challenged laws?

14:03:12 24 A. Not to my knowledge, no.

14:03:14 25 Q. Did anyone from your office testify before any

14:03:18 1 legislative committees regarding either of the challenged
14:03:21 2 laws?

14:03:21 3 A. Not to my knowledge, no.

14:03:22 4 Q. Did anyone in your office communicate about the
14:03:27 5 challenged laws with legislators or their staff prior to
14:03:31 6 their enactment?

14:03:32 7 A. I was shown a document in the materials that were
14:03:34 8 provided this morning, which seemed to indicate that the
14:03:37 9 answer to that is yes, but that is the first time I've seen
14:03:41 10 anything about that.

14:03:42 11 Q. Besides the documents you reviewed this morning,
14:03:44 12 are you aware of any communications between individuals in
14:03:48 13 your office and legislators or their staff about the
14:03:52 14 challenged laws?

14:03:52 15 A. No, sir.

14:03:53 16 Q. Did your office provide any legislators or their
14:04:00 17 staff information or data concerning alleged or prosecuted
14:04:04 18 election crimes while the legislature was considering the
14:04:09 19 challenged laws?

14:04:10 20 A. So let me answer that by saying we frequently got
14:04:14 21 questions about the nature of our caseload from a number of
14:04:18 22 different sources, including legislators, and they came in
14:04:21 23 through a whole bunch of different areas and means. So is
14:04:27 24 it possible I got an inquiry that I answered from a
14:04:29 25 legislator? It's possible.

14:04:33 1 That was part of the reason we set up some of
14:04:35 2 the public-facing documents we did with some of the
14:04:37 3 information about our cases. But in terms of specific
14:04:41 4 inquiries about that particular bill from a particular
14:04:45 5 legislator trying to come up with information about it, I
14:04:49 6 can't say that. I can't agree with that.

14:04:51 7 Q. You mentioned that either you or your office
14:04:54 8 frequently got inquiries through various channels from
14:04:59 9 legislators about your caseload; is that right?

14:04:59 10 A. Correct.

14:04:59 11 Q. Can you describe those for me?

14:05:01 12 A. People frequently wanted to know what we -- A,
14:05:04 13 what we were doing; and B, whether they had their own thing
14:05:10 14 that they wanted to complain about or something they wanted
14:05:13 15 to refer to us, we had those sorts of intake questions as
14:05:20 16 well.

14:05:20 17 Q. Can you identify any legislators where either they
14:05:26 18 or their staff made a referral to you, asked your office to
14:05:31 19 investigate something?

14:05:32 20 A. The only two I can think of offhand is there was a
14:05:38 21 case involving a relative of representative or -- I
14:05:42 22 apologize if -- she could be a senator -- Epstein and -- or
14:05:48 23 Epstein. I may be mispronouncing. I read it on paper. I
14:05:52 24 don't know how to pronounce it. And then we had an entire
14:05:56 25 category in our database of complaints from Mr. Finchem.

14:06:00 1 Q. Any other referrals from legislators or their
14:06:05 2 staff that come to mind beyond from Ms. Epstein or
14:06:08 3 Mr. Finchem?

14:06:08 4 A. I don't know that the complaint was from
14:06:10 5 Representative Epstein or -- I apologize if I'm misstating
14:06:15 6 her title. I'm going to refer to her as Representative
14:06:17 7 Epstein and just apologize in advance if she's a senator.

14:06:21 8 The complaint was about one of her relatives
14:06:25 9 and, I believe, was related in terms of being from someone
14:06:30 10 in the legislature about -- you know, about an opponent,
14:06:34 11 but I can't say with definitive source as I sit here.

14:06:39 12 But then beyond that, I know there were
14:06:44 13 numerous complaints from Representative Finchem. And then
14:06:47 14 I know there were other complaints that probably went back
14:06:51 15 to legislators, but the names weren't always passed along
14:06:55 16 to me with the substance of the complaint. And so I -- I
14:07:01 17 can't, as I sit here today, just generally say that I had
14:07:04 18 this many complaints from this many representatives.

14:07:07 19 Q. In those instances where you received complaints
14:07:11 20 or referrals that may have originated with the legislator,
14:07:15 21 are you aware who those legislators are?

14:07:18 22 A. The information may not have been passed to me.
14:07:21 23 But this is my first time being questioned as a
14:07:24 24 representative of the agency. There may be a record
14:07:27 25 somewhere in the agency that indicated at intake that this

14:07:32 1 complaint came from a representative, but by the time it
14:07:35 2 came to me for review, that name had been essentially
14:07:41 3 separated from it.

14:07:42 4 Q. So in your capacity as a representative today of
14:07:44 5 the Attorney General's Office, are you aware of who those
14:07:48 6 legislator were, regardless of whether or not that
14:07:51 7 information was passed on to you in your personal capacity?

14:07:54 8 A. I am not aware, but it doesn't mean that the
14:07:57 9 record doesn't exist somewhere in the agency.

14:08:02 10 Q. Okay. Could you tell me about the name of the
14:08:05 11 complaint that Ms. Epstein made?

14:08:06 12 A. So it was not a complaint from her. It was a
14:08:10 13 complaint involving a family member of hers. And it was
14:08:14 14 actually a complaint I reviewed in preparation here today
14:08:16 15 because it was a residency complaint.

14:08:19 16 The complaint involved a son of hers, I
14:08:24 17 believe, who is an actor in New York. And the complaint
14:08:30 18 was that he was registered to vote and voting in Tempe
14:08:34 19 while living in New York. And we found no wrongdoing and
14:08:39 20 closed the complaint.

14:08:41 21 Q. And you indicated it was a political opponent that
14:08:44 22 may have been made that referral?

14:08:45 23 A. I got a sense that it was but -- because of the
14:08:49 24 way the information came to us, but I can't recall
14:08:53 25 specifics about it. But I do remember the nature of the

14:08:56 1 allegation and the discussion that we had in terms of
14:09:00 2 closing it.

14:09:02 3 Q. I am going to hand you what I'll ask to be marked
14:09:24 4 as Exhibit 217 -- 219.

14:09:32 5 A. 219. Is it okay if I write "219" on this?

14:09:35 6 Q. Please do. This is Number 2 in the Dropbox.

14:09:35 7 (The document was marked as Exhibit 219
14:09:45 8 for identification.)

14:09:45 9 BY MR. DODGE:

14:09:45 10 Q. Can you turn to the second page of this document.

14:09:49 11 A. Yes, sir.

14:09:51 12 Q. Actually, the very, very bottom of the first page.

14:09:56 13 You see at the bottom of the first page

14:09:57 14 there's a January 20th, 2022, email from a Lisette Flores,

14:10:03 15 with an email address ending in @azleg.gov?

14:10:07 16 A. Yes.

14:10:07 17 Q. To an Edith.lefevre@azag.gov?

14:10:12 18 A. I see that.

14:10:13 19 Q. Okay. Looking at the second page, Ms. Flores

14:10:22 20 writes, "Edith, I hope all is well. I'm reaching out to

14:10:27 21 get info on voter fraud cases the AG's office is

14:10:28 22 prosecuting, can you provide me the short basis for the

14:10:30 23 charge, for example, voted twice, voted using another's

14:10:33 24 ballot, non-citizen vote, et cetera."

14:10:37 25 Did I read that correctly?

14:10:38 1 A. You are.

14:10:39 2 Q. And based on this email, can you tell me who

14:10:44 3 Ms. Flores is?

14:10:45 4 A. Her signature file directly below that there

14:10:50 5 indicates apparently who she is. I must say I do not know

14:10:54 6 Ms. Flores.

14:10:55 7 Q. And January 20th, 2022, the date this email was

14:11:01 8 sent --

14:11:02 9 A. Yes.

14:11:02 10 Q. -- the challenged laws were pending before the

14:11:05 11 legislature at that time; is that right?

14:11:07 12 A. I have no information about that.

14:11:10 13 I guess I would turn the question back on

14:11:12 14 you. Are these laws passed in 2022? Is that correct.

14:11:15 15 Q. That is correct.

14:11:16 16 A. Yeah, then, I assume they would have been filed by

14:11:19 17 January of 2022, then.

14:11:21 18 Q. That would have been during the relevant

14:11:23 19 legislative session for a law enacted in 2022; right?

14:11:25 20 A. After the first Monday in January, yes.

14:11:28 21 Q. And looking again at the bottom of page 1, the

14:11:31 22 email from Ms. Flores to Ms. Lefevre is titled "Voter

14:11:36 23 Fraud"; is that right?

14:11:36 24 A. Yes. This is fairly typical of a number of

14:11:41 25 complaint -- not complaints -- requests that we got from

14:11:44 1 media outlets, legislators wanting to know what we were

14:11:49 2 doing. And so that doesn't surprise me.

14:11:51 3 Q. Are you aware of any other emails from legislators
14:11:56 4 or their staff in the first half of 2022 to the Attorney
14:12:02 5 General's Office regarding allegations of voter fraud?

14:12:06 6 A. So let me -- let me stop by -- let me answer the
14:12:10 7 question by providing a little bit of background. I have
14:12:13 8 in the past been a registered lobbyist on behalf of the
14:12:17 9 Attorney General's Office. That has lapsed.

14:12:19 10 I'm aware generally that as a staff member of
14:12:22 11 the Attorney General's Office, I cannot have communications
14:12:26 12 with the legislature in certain aspects without having to
14:12:30 13 register as a lobbyist. And so it has been drilled in me
14:12:35 14 over successive administration that if a legislator gets in
14:12:38 15 contact with me, I am not to respond; I am to pass it on to
14:12:43 16 a member of the senior staff who would handle that response
14:12:48 17 so that I am not essentially lobbying a member of the
14:12:48 18 legislature.

14:12:52 19 Q. But excluding your personal experience, are you
14:12:53 20 aware, again, in your capacity as a representative witness,
14:12:55 21 of any other instances of a legislator or their staff
14:13:00 22 emailing the Attorney General's Office during the first
14:13:02 23 half of 2022?

14:13:03 24 A. Well, I'm sure if some of those occurred, they're
14:13:06 25 not -- they're not things I was aware of. I was not copied on

14:13:09 1 this message. I was not notified of this message. I don't
14:13:13 2 even think necessarily that the response that was sent out
14:13:17 3 even was brought to me as a draft.

14:13:19 4 Q. Okay. Looking at the top of the first page, you
14:13:23 5 see an email from Joshua Kredit on January 21st, 2022;
14:13:29 6 right?

14:13:29 7 A. Yes.

14:13:29 8 Q. Can you tell me who Mr. Kredit is?

14:13:32 9 A. He's the person I understood to be our legislative
14:13:35 10 liaison.

14:13:35 11 Q. Okay. Can you tell me anything else about his
14:13:38 12 role at the Attorney General's Office while he was there?

14:13:42 13 A. That's it. If he had other roles, I was not aware
14:13:45 14 of them.

14:13:47 15 Q. Is Mr. Kredit still with the Attorney General's
14:13:52 16 Office?

14:13:52 17 A. I don't believe he is, but I -- the turnover on --
14:13:56 18 in terms of administration was pretty complete, as I
14:14:00 19 understand.

14:14:00 20 Q. Do you know what Mr. Kredit's current role is?

14:14:03 21 A. I do not.

14:14:03 22 Q. Did your office attempt to contact Mr. Kredit in
14:14:13 23 preparing for today's deposition?

14:14:14 24 A. I did not. I am not aware of any attempt to
14:14:17 25 contact him. I was not provided with that information

14:14:20 1 prior to this.

14:14:21 2 Q. You weren't asked to speak with him?

14:14:23 3 A. I was not asked to speak to him, no.

14:14:25 4 Q. Okay. Mr. Kredit, in this email, asks the
14:14:28 5 recipients for, quote, "Thoughts on this draft response
14:14:31 6 from Edie"; correct?

14:14:34 7 A. That is what it says on the document, yes.

14:14:36 8 Q. So would you agree that he's asking for comments
14:14:40 9 on a draft response that Ms. Lefevre prepared for
14:14:44 10 Ms. Flores?

14:14:46 11 A. I believe the document speaks for itself. I
14:14:49 12 cannot speak to Mr. Kredit's intentions in it.

14:14:52 13 Q. So when he asks, "Thoughts on this draft response
14:14:55 14 from Edie," what do you understand that to mean?

14:14:58 15 A. What it says.

14:15:00 16 Q. Okay. And below that, there's a draft response
14:15:02 17 presumably from Ms. Lefevre; correct?

14:15:05 18 A. That's what it appears to be.

14:15:06 19 Q. That response appears to be in response to the
14:15:10 20 prior email from Ms. Flores; correct?

14:15:13 21 A. It would be appear to be responsive, but again, I
14:15:16 22 was not involved in the creating of this draft.

14:15:17 23 Q. Can you tell me who Joe Kanefield is?

14:15:20 24 A. He was the chief of staff.

14:15:21 25 Q. Is he still with the office?

14:15:25 1 A. No.

14:15:26 2 Q. About when did he leave the office?

14:15:27 3 A. I believe with the transition.

14:15:29 4 Q. That would have been in early 2022?

14:15:32 5 A. First Monday of 2023.

14:15:34 6 Q. 2023.

14:15:35 7 Did your office attempt to contact

14:15:38 8 Mr. Kanefield in preparing for today's deposition?

14:15:42 9 A. I was not involved in any such attempts.

14:15:44 10 Q. So you weren't asked to speak with Mr. Kanefield?

14:15:46 11 A. No, sir.

14:15:46 12 Q. Okay. Her name has already come up, but can you

14:15:51 13 tell me who Jennifer Wright is?

14:15:51 14 A. Jennifer Wright was the civil person assigned to

14:15:54 15 the Election Integrity Unit, and she was an attorney with

14:16:00 16 the office.

14:16:01 17 Q. What was her title within the Election Integrity

14:16:07 18 Unit?

14:16:07 19 A. She may have had a senior litigation counsel tag.

14:16:11 20 I honestly don't -- the division between who were just

14:16:16 21 assistant attorney generals and senior litigation counsels

14:16:18 22 is somewhat confusing to me, and I've worked here for

14:16:22 23 20 years.

14:16:22 24 Q. Was she senior to you in the Election Integrity

14:16:28 25 Unit?

14:16:28 1 A. I believe she had a title, which was the director
14:16:32 2 of the unit, but in terms of the way the unit was
14:16:38 3 structured, I did not answer to her, and she did not direct
14:16:41 4 me in any way. So financially, she may have made more
14:16:47 5 money than I did. Administratively, she had different
14:16:51 6 responsibilities than I did, and very rarely did we
14:16:55 7 interact.

14:16:56 8 Q. But her title was director?

14:16:58 9 A. Yes.

14:16:59 10 Q. And what were her --

14:17:02 11 A. Actually, let me strike that. I'm not sure her
14:17:04 12 title was director. I think her title may have been unit
14:17:07 13 chief, but I can't say authoritatively what that was. As
14:17:14 14 far as I -- she was not my boss, and so whatever she used
14:17:16 15 as a title was something that was between her and her
14:17:19 16 supervisor, not me.

14:17:20 17 Q. Did people at the Attorney General's Office ever
14:17:22 18 refer to her as the director of the Election Integrity
14:17:27 19 Unit?

14:17:27 20 A. Not that I recall, but it -- I didn't.

14:17:33 21 Q. What were her duties as a unit chief?

14:17:38 22 A. So the division of responsibilities between the
14:17:42 23 two lawyers assigned to the unit, me being one and she
14:17:45 24 being the other, was that I was handling criminal
14:17:48 25 prosecutions and criminal reviews, and she essentially

14:17:52 1 handled everything else, which involved public
14:17:56 2 communications, administrator reviews, civil litigation.
14:18:01 3 And she also handled general intake and -- which included
14:18:05 4 some criminal intake, to which she had some guidelines that
14:18:09 5 we were -- had discussed previously. And I could talk a
14:18:15 6 little bit more about that if you have more questions about
14:18:17 7 it.

14:18:17 8 Q. These were -- these were guidelines you gave to
14:18:20 9 her?

14:18:20 10 A. No. These were guidelines that were actually set
14:18:22 11 by the division chief above me in terms of when we started
14:18:29 12 getting complaints and we wanted to have a system so that
14:18:32 13 we could present a good face to the public in terms of
14:18:35 14 accepting complaints and that we could then pursue them as
14:18:41 15 an agency in a somewhat efficient manner.

14:18:44 16 Q. Were those guidelines reduced to writing?

14:18:46 17 A. I don't believe so.

14:18:47 18 Q. So they were orally communicated?

14:18:48 19 A. Yes.

14:18:49 20 Q. You mentioned that one of Ms. Wright's roles as
14:18:55 21 unit chief would have been intake; correct?

14:18:57 22 A. Correct.

14:18:57 23 Q. That included intake of referrals that could
14:19:01 24 potentially lead to criminal investigation prosecution;
14:19:04 25 right?

14:19:05 1 A. Correct.

14:19:05 2 Q. So in that role, Ms. Wright would have been well

14:19:08 3 positioned to know about any alleged instance of

14:19:11 4 noncitizens voting in Arizona; right?

14:19:15 5 MR. WHITAKER: Objection; foundation.

14:19:16 6 THE WITNESS: She would have been a person

14:19:18 7 who would have received complaints. And so to -- your

14:19:23 8 question -- I'm sorry. Could you repeat your question?

14:19:25 9 BY MR. DODGE:

14:19:25 10 Q. Yeah.

14:19:25 11 I'm asking: In her position as unit chief,

14:19:28 12 she would have been well positioned to know about any

14:19:30 13 alleged instances of noncitizen registration or voting in

14:19:34 14 Arizona that were referred to the office?

14:19:37 15 MR. WHITAKER: Same objection.

14:19:38 16 THE WITNESS: Thank you for restating it. I

14:19:43 17 want to answer that by saying probably. And I can explain

14:19:48 18 why I'm shading that if you want me to.

14:19:50 19 BY MR. DODGE:

14:19:51 20 Q. Sure.

14:19:52 21 A. The system that was set up was actually quite

14:19:59 22 popular, much to our surprise. And we got a lot -- a large

14:20:06 23 number of complaints. And so it completely overwhelmed our

14:20:11 24 ability to manage it at the intake stage.

14:20:15 25 And then we automated some of the materials

14:20:17 1 in terms -- to make things able to be tracked. And so that
14:20:21 2 initial review was conducted by Ms. Wright, to my
14:20:29 3 knowledge, but I can't say with certainty that she read
14:20:32 4 every single complaint that came in.

14:20:35 5 And so my choice of word was "probably." If
14:20:39 6 a person made an allegation about a noncitizen or
14:20:42 7 nonresident voting, it would have come through her purview
14:20:47 8 in many aspects but not all. And she may have read them,
14:20:53 9 and she may not have.

14:20:54 10 Q. Setting aside whether Ms. Wright looked at any
14:20:58 11 individual referral, in her role as being in charge of
14:21:01 12 intake, any allegation made through the portal you
14:21:06 13 mentioned that concerned an allegation of noncitizen or
14:21:10 14 nonresident registration of voting would have been one she
14:21:14 15 had access to; right?

14:21:15 16 A. She would have access to it, without question.

14:21:17 17 Q. And in the ordinary event, she would have been the
14:21:20 18 first individual at the Election Integrity Unit to review
14:21:23 19 that complaint?

14:21:23 20 A. That is correct. And one other thing I think you
14:21:27 21 should be aware of, that involved complaints that came
14:21:30 22 through the portal. There was also our investigation
14:21:34 23 section, which, you know, does consumer protection
14:21:37 24 complaints and general allegations. If a complaint came in
14:21:40 25 through there, it would have come in through SIS, not

14:21:45 1 through Jennifer Wright.

14:21:46 2 And so if an allegation was made through that

14:21:48 3 route, it ultimately would have been either Bill Knuth or

14:21:52 4 Roger Geisler or someone in the investigations section who

14:21:56 5 would have reviewed it. And it may not have gotten to

14:21:58 6 Jennifer Wright.

14:22:01 7 Q. If such a referral progressed to an invest- --

14:22:03 8 investigatory stage, would Ms. Wright ordinarily have been

14:22:07 9 made aware of it?

14:22:09 10 A. Perhaps. And we may have conflict checked it with

14:22:15 11 her to say, "Hey, we have an allegation involving X. Do

14:22:17 12 you have an allegation involving X?" without necessarily

14:22:21 13 sharing with her a lot of the details about what it was.

14:22:25 14 Q. Ms. Wright is no longer with the Attorney

14:22:27 15 General's Office?

14:22:27 16 A. That's correct.

14:22:28 17 Q. When did she leave?

14:22:30 18 A. I know there's a notice of claim about it and

14:22:35 19 there's a dispute about it, so I know the time may be

14:22:38 20 disputed. Sometime in December or January of 2022 to 2023.

14:22:44 21 Q. Did your office attempt to contact Ms. Wright in

14:22:46 22 preparing for today's deposition?

14:22:48 23 A. I am aware that she is -- a notice of claim has

14:22:53 24 been filed against us, so I believe she's adversarial to

14:22:56 25 us. And I don't know anything else beyond that in terms of

14:22:59 1 her willingness to provide us any information. I have not
14:23:02 2 spoken with her in advance of my statement here today.

14:23:05 3 Q. Looking back at this exhibit, looking at the CC
14:23:09 4 line at the top, do you see an individual named Ryan
14:23:12 5 Anderson?

14:23:12 6 A. Yes, I do.

14:23:12 7 This is on 219?

14:23:14 8 Q. Correct.

14:23:14 9 A. Yes.

14:23:15 10 Q. Can you tell me who Mr. Anderson is?

14:23:17 11 A. Mr. Anderson was communications staff within the
14:23:21 12 agency.

14:23:23 13 Q. Do you recall his title?

14:23:26 14 A. I do not. I know he was -- his responsibility was
14:23:35 15 communications issues outside, so he may have been in the
14:23:40 16 information office, but I don't know his exact title.

14:23:43 17 Q. Is he still with the Attorney General's Office?

14:23:45 18 A. No, sir.

14:23:46 19 Q. Do you know when he left?

14:23:49 20 A. No, I do not.

14:23:54 21 Q. Around the time of the transition?

14:23:56 22 A. I would, yes, believe that he left sometime around
14:23:59 23 the transition, but I do not know the -- he was outside of
14:24:03 24 my work area, and so when he left, it was -- I was not
14:24:07 25 notified.

14:24:09 1 Q. Are you aware of whether Mr. Anderson previously
14:24:12 2 served as campaign manager for Attorney General Brnovich?

14:24:17 3 A. I'm not.

14:24:18 4 Q. Did your office attempt to contact Mr. Anderson in
14:24:23 5 preparing for today's deposition?

14:24:24 6 A. I am not aware of any such contact.

14:24:26 7 Q. Were you asked to speak with Mr. Anderson in
14:24:29 8 anticipation of today's deposition?

14:24:31 9 A. I was not asked.

14:24:33 10 Q. Okay. Turning back to this email, at the top of
14:24:42 11 Ms. Lefevre's draft, she writes, "Hi Lisette, thank you for
14:24:44 12 your email. Attached is an up-to-date document that is
14:24:47 13 available on our website that lists the criminal election
14:24:50 14 integrity cases our office has prosecuted going back to the
14:24:54 15 2010 election cycle."

14:24:55 16 Did I get that right?

14:24:56 17 A. You did.

14:24:57 18 Q. So fair to say that this email included an
14:25:00 19 attachment with a list of prosecutions?

14:25:03 20 A. It says it does up at the top.

14:25:05 21 Q. Well-spotted.

14:25:09 22 I'm going to hand you what I'll mark -- ask
14:25:12 23 to be marked as Exhibit 220.

14:25:13 24 A. I'll take it.

14:25:20 25 Q. And which is in the Dropbox as 2A.

14:25:20 1 (The document was marked as Exhibit 220
14:25:23 2 for identification.)
14:25:23 3 BY MR. DODGE:
14:25:24 4 Q. Can you tell me what this document is?
14:25:27 5 A. I do know what this document is.
14:25:34 6 Q. Can you tell me what it is?
14:25:36 7 A. So this is a list of cases that was originally
14:25:43 8 maintained by myself but was later taken over by the
14:25:47 9 communications staff and was edited by them during points
14:25:52 10 -- during the Brnovich administration.
14:25:55 11 This is an update tag -- tag on it there
14:25:59 12 saying last updated January 21 of 2022. That was during
14:26:04 13 the time period where this document was maintained by
14:26:07 14 communications staff, not by myself. But I am very
14:26:12 15 familiar with this document. I have been involved with it
14:26:16 16 numerous times over its lifespan dating back to 2011.
14:26:19 17 Q. So this is a document that is recurringly updated
14:26:25 18 by the Attorney General's Office?
14:26:25 19 A. You're looking at the person who updated it most
14:26:27 20 of the time.
14:26:28 21 Q. Can you tell me when it was first created?
14:26:30 22 A. I believe I created it in 2011.
14:26:32 23 Q. When did you stop being responsible for
14:26:37 24 maintaining this document?
14:26:40 25 A. At some point during the Brnovich administration.

14:26:45 1 What I was doing was maintaining a document that exists in
14:26:50 2 our Criminal Division data system. And I was updating it
14:26:55 3 and I noticed that a version was up on the website that was
14:26:58 4 different than the one I was updating. And when I would
14:27:01 5 send them changes, they would not just take my document and
14:27:04 6 put it up. They were changing something on their own. And
14:27:07 7 I was not responsible for some of those edits. I don't
14:27:11 8 remember exactly when that happened, but at some point
14:27:16 9 since the Brnovich folks left, I resumed taking control of
14:27:21 10 this document.

14:27:22 11 Q. So I'd like to explore the chronology a little
14:27:25 12 bit.

14:27:25 13 So you created this document in 2011?

14:27:27 14 A. The original version of it, yes, I believe I did.

14:27:29 15 Q. When did -- when did it first go on the attorney
14:27:31 16 general's website?

14:27:37 17 A. So originally, it was created -- let me answer
14:27:41 18 with a timeline. Originally, it was created in response to
14:27:45 19 media requests. And it was a document we would produce in
14:27:48 20 response to requests.

14:27:49 21 At some point, the press office decided it
14:27:52 22 was more efficient than to -- instead of having it sitting
14:27:56 23 somewhere and putting it out for request, to just have it
14:27:59 24 publicly available so people could get it on their own. I
14:28:03 25 don't know exactly when that was.

14:28:04 1 Q. Was there a time period when you were responsible
14:28:06 2 for the document where you would update it, send it to the
14:28:11 3 press people, and then they would update the website
14:28:13 4 accordingly?

14:28:14 5 A. That used to occur at some point.

14:28:15 6 Q. And that was prior to Mr. Brnovich being attorney
14:28:20 7 general?

14:28:20 8 A. I think it may have actually been early in his
14:28:23 9 first term that was also the process that was used. But
14:28:25 10 again, the timeline on this document -- I mean, I have a
14:28:29 11 child older than this document, so -- or younger than this
14:28:32 12 than this document, so it's --

14:28:35 13 Q. So for at least some portion of time either
14:28:37 14 preceding Mr. Brnovich's time as attorney general and early
14:28:41 15 on perhaps in his administration, you would update this
14:28:44 16 document and it would then be put on the website?

14:28:47 17 A. Correct.

14:28:48 18 Q. But there came a time where you would update this
14:28:51 19 document, send it to communications individuals, and they
14:28:54 20 would then edit the document?

14:28:55 21 A. They were editing a version of it that they had
14:28:59 22 that was somewhat similar to what I was sending them but
14:29:02 23 was not the same. And that -- this is that.

14:29:07 24 Q. The edited version?

14:29:08 25 A. Correct. The version that was being maintained by

14:29:11 1 the communications staff.

14:29:12 2 Q. Can you tell who on the communications staff would

14:29:14 3 edit this document?

14:29:16 4 A. It was not -- it was not apparent to me who. My

14:29:21 5 job at the time was to provide regular updates specifically

14:29:25 6 directly to my supervisor, Blaine Gadow. He would

14:29:29 7 communicate those to the division chief, and the division

14:29:32 8 chief would communicate them to the executive staff. And

14:29:35 9 by that point, I was separated from the process, and I

14:29:39 10 don't know who was doing what with what I was reporting up.

14:29:42 11 Q. What kind of edits would the communications staff

14:29:45 12 make to this document?

14:29:46 13 A. For example, you'll see the very -- this document

14:29:49 14 here, 220, these paragraphs that are written in the front

14:29:53 15 here, I wrote these. And they were intended to summarize

14:29:59 16 how the cases were resolved.

14:30:01 17 You'll see here there comes a time when they

14:30:05 18 are linked. The links generally delineate when somebody

14:30:11 19 was doing things that -- I did not have the ability to put

14:30:15 20 links on the website. And so some of that is my -- you see

14:30:20 21 there's my words there, and then some of them there are --

14:30:25 22 the words I was provided may not necessarily have gone up.

14:30:31 23 And then there are a number of ongoing cases

14:30:33 24 where we couldn't comment anyway and we would just link the

14:30:37 25 materials.

14:30:38 1 Q. Were you given the opportunity to review those
14:30:40 2 edits before they were put up on the website?
14:30:42 3 A. Not always.
14:30:43 4 Q. Sometimes?
14:30:44 5 A. Sometimes. You're talking about a document that
14:30:47 6 was sometimes updated monthly, so -- and it was something
14:30:53 7 that I would report on monthly basis and then would get
14:30:56 8 separated from me. And if communications staff had any
14:31:00 9 questions, sometimes they would reach out to me and
14:31:01 10 sometimes they would just update it without consulting with
14:31:04 11 me.
14:31:04 12 Q. When you were given the opportunity to review the
14:31:07 13 edits, did you typically agree with them?
14:31:10 14 A. Generally. Generally, I viewed my job as
14:31:14 15 educating communications staff who often were not criminal
14:31:18 16 practitioners, were not familiar with the nature of
14:31:21 17 criminal practice. Like, for example -- again, I've worked
14:31:25 18 under four AGs now. We have a -- actually, five AGs now.
14:31:32 19 We have a constant education of the things that you can and
14:31:36 20 cannot say in the course of a pending criminal prosecution.
14:31:39 21 And so while AGs may want to talk about this
14:31:43 22 case they just filed, we have ethical restrictions on what
14:31:46 23 we can and can't say. And so that has -- I viewed most of
14:31:50 24 my communications to those staff as "I know you want to say
14:31:54 25 this, and I can tell you we can say this."

14:31:59 1 Q. What were the nature of the edits the

14:32:02 2 communications staff would generally make?

14:32:07 3 A. They would want to know more detail about the

14:32:10 4 case, and I would generally provide them what I could

14:32:17 5 provide them. And if they had summarized things in a way

14:32:21 6 that wasn't accurate, I would do my best to make it

14:32:24 7 accurate.

14:32:24 8 Q. So sometimes there were edits that you felt made

14:32:27 9 the description inaccurate?

14:32:28 10 A. Sometimes. Like, there was a version of this

14:32:32 11 document at some point that referred to these as -- all of

14:32:35 12 these as double-voting prosecutions, and they were not. So

14:32:38 13 I remember having a discussion that went through several

14:32:42 14 months of revisions where I sent the same revision every

14:32:45 15 month, saying, "This needs to change," and it didn't

14:32:47 16 change. But I don't recall specifically when or where

14:32:51 17 those changes were made.

14:32:52 18 Q. So some version of this document was live on the

14:32:55 19 website for some period of time with edits that you

14:32:58 20 disagreed with?

14:32:58 21 A. Yes. But I -- my job is not communications. My

14:33:02 22 job is prosecutor -- you know, as a prosecutor, and as long

14:33:07 23 as it was in compliance with our ethical and legal

14:33:10 24 obligations, it was not my job to change it.

14:33:12 25 Q. And so for at least that portion of time, the

14:33:15 1 document inaccurately characterized some of these cases

14:33:19 2 publicly?

14:33:20 3 A. I -- I'm hesitant to say "inaccurately" because I

14:33:28 4 don't want to cast dispersions on the work of the

14:33:32 5 communications staff. I think sometimes some changes could

14:33:36 6 have been made which may have expressed things a little

14:33:39 7 differently.

14:33:39 8 Q. Fair to say, then, that there are many versions of

14:33:42 9 this document?

14:33:43 10 A. Lots.

14:33:44 11 Q. Including versions that were made public either

14:33:48 12 online or in response to press requests and versions that

14:33:50 13 were not made public and remained internal to the office;

14:33:53 14 right?

14:33:54 15 A. I suppose that is accurate, but I can only speak

14:34:02 16 to the versions that I authored. I don't know to what

14:34:08 17 extent the public-facing versions were preserved or if they

14:34:12 18 were just overwritten as changes were made.

14:34:14 19 Q. Do you know if all versions of this document,

14:34:17 20 public and non-public public, currently in the Attorney

14:34:21 21 General's Office's possession have been produced in this

14:34:24 22 litigation?

14:34:24 23 A. I do not. But I did see another version which

14:34:26 24 came through in the materials you provided today.

14:34:29 25 Q. During the interregnum when you were not

14:34:35 1 responsible for this document, who was responsible for it?

14:34:36 2 A. Communications staff and -- which generally would
14:34:42 3 have included Mr. Anderson, but I don't know who else was
14:34:45 4 responsible for it in -- in his unit.

14:34:48 5 Q. Returning to Exhibit 220.

14:34:51 6 A. Yes, sir.

14:34:52 7 Q. Is this a complete list of all the criminal
14:34:55 8 election cases that the Attorney General's Office
14:34:57 9 prosecuted between 2010 and January 21st, 2022?

14:35:02 10 A. I would say yes, but allow me to explain. This is
14:35:07 11 the version as of February of -- excuse me -- January of
14:35:10 12 2022 and would include only cases that we could talk about
14:35:15 13 in a public setting. So materials -- matters that are
14:35:20 14 filed but no service had been performed -- the question
14:35:26 15 was: Have we prosecuted? I believe we have done what
14:35:29 16 would be considered prosecution, but we're not talking
14:35:32 17 about those because we're not permitted to.

14:35:33 18 Q. So with that caveat about your ethical limitations
14:35:36 19 in making certain criminal matters public, this is
14:35:37 20 otherwise a complete list of prosecutions; correct?

14:35:40 21 A. I believe it is. There were one or two matters
14:35:44 22 that were dismissed that I believe are not on this version.

14:35:56 23 Q. Got it.

14:35:58 24 Those were cases, then, that didn't result in
14:36:00 25 a conviction?

14:36:00 1 A. Correct. And so this -- essentially, the
14:36:02 2 iteration of this document that was public at this time
14:36:05 3 were just pending and convictions, and there were a couple
14:36:09 4 others where we had prosecuted but had dismissed.

14:36:12 5 Q. And that's -- is that always true of this
14:36:14 6 document, that it contains pending cases and convictions,
14:36:17 7 and if a case is subsequently dismissed or doesn't result
14:36:20 8 in a conviction, it's removed from this list?

14:36:22 9 A. It was during a certain time I believe in the
14:36:25 10 last iteration I -- you sent it to me today. And if you
14:36:31 11 could show me the one that you sent today, I believe there
14:36:34 12 are references to some of those dismissed cases. I put
14:36:36 13 those on there. I believe it's an accurate part -- you
14:36:40 14 know, it's -- part of saying we accurately did our work is
14:36:43 15 to say, hey, we filed this case, but ultimately we
14:36:45 16 dismissed it. I think that is something that this agency
14:36:48 17 should talk about.

14:36:49 18 Q. It's important that this list be accurate?

14:36:51 19 A. In my opinion, yes.

14:36:52 20 Q. Okay. We'll get to that more recent version in a
14:36:56 21 bit.

14:36:56 22 But for now, bearing this version of the
14:36:58 23 document in mind, the one current through January 21st,
14:37:02 24 2022.

14:37:02 25 A. Yes.

14:37:03 1 Q. Can we return to Exhibit 219 and Ms. Lefevre's
14:37:08 2 draft response to Ms. Flores.

14:37:10 3 A. Yes, sir.

14:37:11 4 Q. Just taking a moment to review the draft response,
14:37:16 5 does it make any reference to an instance of registration
14:37:21 6 or voting by a noncitizen in Arizona?

14:37:24 7 A. Could I have time to review it?

14:37:27 8 Q. Of course.

14:37:49 9 A. I'm sorry. Could you restate your question?

14:38:07 10 Q. Great.

14:38:08 11 So now that you've refreshed your
14:38:10 12 recollection of this document, my question is: Does
14:38:13 13 Ms. Lefevre's proposed response to Ms. Flores reference any
14:38:16 14 instances of registration or voting by noncitizens in
14:38:20 15 Arizona?

14:38:21 16 A. By noncitizens, no. I do not see a reference to
14:38:26 17 that in this draft.

14:38:27 18 Q. And the same is true of the attached list of
14:38:30 19 prosecutions you were just looking at; correct?

14:38:32 20 A. And so the attached list, which is 220, these are
14:38:38 21 primarily double-voting cases. And there are a couple on
14:38:44 22 here that are not voting cases at all; for example,
14:38:50 23 number 24.

14:38:54 24 But in terms of these that are filed here and
14:38:57 25 listed on this list, to my knowledge, none of these involve

14:39:00 1 noncitizen voting. That is correct.

14:39:04 2 Q. Do you have any reason to believe that there were
14:39:12 3 prosecutions for noncitizen registration or voting in
14:39:15 4 Arizona that the Attorney General's Office chose not to
14:39:19 5 include either in this proposed response to Ms. Flores or
14:39:23 6 this list of prosecutions?

14:39:27 7 MR. WHITAKER: Objection; foundation.

14:39:32 8 THE WITNESS: Could you restate that?

14:39:34 9 BY MR. DODGE:

14:39:34 10 Q. Let me ask it in two parts. Exhibit 220 --

14:39:37 11 A. Yes.

14:39:38 12 Q. You just testified that none of these cases
14:39:40 13 concern voting by noncitizens in Arizona; right?

14:39:42 14 A. This is correct.

14:39:45 15 Q. And were at least at one point responsible for
14:39:48 16 maintaining this document?

14:39:48 17 A. I maintained this document.

14:39:49 18 Q. Did you have any reason to not include
14:39:52 19 prosecutions of noncitizen voting in this document?

14:39:55 20 A. Let me -- can I answer that by offering you a
14:40:00 21 different -- different answer? I maintained this document.

14:40:04 22 This is a report of my cases.

14:40:08 23 I was generally the person who handled
14:40:10 24 election issues, but I was -- I am one of many assistant
14:40:14 25 attorney generals at this time who were handling these.

14:40:17 1 Actually, in the course of preparing for this deposition,
14:40:20 2 we discovered that there was a case that had been similarly
14:40:24 3 situated to the one I can't tell you about that is -- it's
14:40:27 4 the same posture. It went through grand jury and has not
14:40:30 5 been served was but was prosecuted by an assistant general
14:40:33 6 in Tucson.

14:40:34 7 And so the answer to that is this is a list
14:40:38 8 of the cases that I knew about. Is it possible someone
14:40:42 9 else in this agency pursued a case that I wasn't aware of?
14:40:48 10 It's possible. Is this, to my knowledge, the authoritative
14:40:52 11 list of the election prosecutions that our agency pursued?
14:40:56 12 I believe it is.

14:40:56 13 Q. Let me ask you just a couple questions about that.

14:40:58 14 Is there a reason why you, your office, or
14:41:02 15 whoever was responsible for maintaining this list at any
14:41:05 16 given time would have chosen not to include a
14:41:08 17 noncitizenship voting case they were aware of from this
14:41:11 18 list?

14:41:11 19 A. I cannot think of a reason, no.

14:41:13 20 MR. WHITAKER: Objection; foundation.

14:41:14 21 BY MR. DODGE:

14:41:14 22 Q. In fact, they probably would have had incentive to
14:41:18 23 include it on this list to ensure that it remained complete
14:41:21 24 and accurate --

14:41:22 25 MR. WHITAKER: Objection. Objection;

14:41:24 1 foundation.

14:41:24 2 BY MR. DODGE:

14:41:25 3 Q. -- correct?

14:41:25 4 A. I will tell you the -- the moment we had a case --
14:41:29 5 an election-related case we could talk about, there was a
14:41:33 6 reporting requirement to our supervisors that -- those
14:41:36 7 cases inevitably wound up either on this list or were the
14:41:40 8 subject of some sort of media release.

14:41:43 9 So I think if a case like that existed within
14:41:47 10 the agency was public, it would have been either added to
14:41:52 11 this list by communications staff or would have been
14:41:54 12 subject to some form of press release if it had existed.

14:41:58 13 What I don't want to get caught in a trap
14:42:01 14 with is -- so many of our units and AAGs themselves are --
14:42:07 15 essentially, we're not islands unto ourselves, but I am not
14:42:11 16 my fellow AAG's keepers; they're not my brothers. And so
14:42:15 17 I could -- it's possible one of them had a case that I
14:42:18 18 didn't know about.

14:42:18 19 Q. So fair to say for any public case involving
14:42:21 20 noncitizen registration or voting in Arizona, very likely
14:42:25 21 it would be on this list?

14:42:26 22 A. I would say "very likely" is a good term I would
14:42:29 23 use, yes.

14:42:30 24 Q. And if it came to your awareness, you would have
14:42:31 25 wanted it included on the list?

14:42:32 1 A. Absolutely.

14:42:35 2 Q. So similar questions with respect to 219
14:42:43 3 specifically. Can you think of any reason why the Attorney
14:42:46 4 General's Office, when asked about voter fraud by staff or
14:42:50 5 a legislator in an email titled "Voter Fraud," would have
14:42:54 6 not included examples -- public examples of registration or
14:42:58 7 voting by noncitizens in Arizona?

14:43:00 8 A. No, sir, I cannot.

14:43:01 9 MR. WHITAKER: Foundation.

14:43:03 10 THE WITNESS: I'm sorry. Go ahead.

14:43:05 11 MR. WHITAKER: Foundation.

14:43:05 12 THE WITNESS: No, sir, I cannot.

14:43:06 13 BY MR. DODGE:

14:43:10 14 Q. In fact, to provide -- well, strike that.

14:43:14 15 When your office does receive requests for
14:43:17 16 information from legislators, does your office endeavor to
14:43:21 17 be complete and accurate in providing responses to
14:43:23 18 legislators?

14:43:24 19 A. To the legal extent we can. And again, being a
14:43:28 20 criminal prosecutor, we have tremendous restrictions on the
14:43:33 21 information we can provide about ongoing investigations and
14:43:36 22 pending matters.

14:43:38 23 And so if a legislator asked us are we
14:43:41 24 investigating X or -- we often can't answer that if we are.
14:43:47 25 And if we're not, generally we will say we're not, if

14:43:50 1 there's a catch-22 there. That's kind of what the legal

14:43:56 2 ethics tell us we have to do.

14:43:58 3 Q. So in providing a response to Ms. Flores here, to
14:44:02 4 provide the most complete response possible, your office
14:44:05 5 likely would have provided any public information it had
14:44:08 6 about cases involving noncitizen voting; correct?

14:44:11 7 A. Yes, I would agree with that.

14:44:13 8 Q. Mr. Kredit's email here is dated January 21st;
14:44:19 9 correct?

14:44:19 10 A. That is the date on the top email. That's
14:44:23 11 correct. The date on the bottom is January 20th.

14:44:25 12 Q. And in his email, he says, "We can probably send
14:44:28 13 it Monday morning sometime"; right?

14:44:31 14 A. I don't have a calendar in front of me, but I
14:44:33 15 assume there's a weekend in there.

14:44:34 16 Q. But he says that; right?

14:44:37 17 A. I see what -- the document speaks for itself.

14:44:39 18 Q. And he's referring to the draft response,
14:44:41 19 presumably; right?

14:44:42 20 A. The document speaks for itself on that point.

14:44:45 21 Q. I'm going to hand you what I'll ask to be marked
14:44:55 22 as Exhibit 221. And this is Number 3 in the Dropbox
14:45:19 23 folder.

14:45:19 24 (The document was marked as Exhibit 221
14:45:20 25 for identification.)

14:45:20 1 BY MR. DODGE:

14:45:21 2 Q. This is a January 27, 2022, email from Mr. Kredit
14:45:25 3 to Mr. Kanefield; correct?

14:45:28 4 A. That is what it purports to be. Again, my first
14:45:33 5 review of this document was this morning when I saw it.

14:45:37 6 Q. Looking at the second page of this exhibit, you
14:45:41 7 see at the bottom the same January 20th, 2022, email from
14:45:45 8 Ms. Flores to Ms. Lefevre that we were previously
14:45:49 9 discussing; right?

14:45:49 10 A. And a separate one on the 26th, yes.

14:45:53 11 Q. Let's talk about that.

14:45:55 12 So there's an email on January 26, again from
14:45:58 13 Ms. Flores to Ms. Lefevre; correct?

14:46:02 14 A. I will say the document appears to speak for
14:46:05 15 itself. It would appear, based on my prior knowledge of
14:46:07 16 email systems, that Ms. Flores forwarded her previous
14:46:10 17 request and said, "Why haven't you responded to my first
14:46:14 18 request?" That's kind of the way I read it, but I think
14:46:16 19 the document more or less speaks for itself.

14:46:18 20 Q. So six days after initially emailing Ms. Lefevre,
14:46:23 21 Ms. Flores is emailed again, following up for a response?

14:46:26 22 A. That's what it appears to be.

14:46:27 23 Q. So fair to say that Ms. Flores had probably not
14:46:31 24 received a response at this point?

14:46:32 25 A. I think that is a fair characterization, but I

14:46:35 1 cannot -- I do not know Ms. Flores, and I did not -- was
14:46:39 2 not involved in this.

14:46:41 3 Q. Okay. So looking back at the top of this,
14:46:44 4 Mr. Kredit writes, "Thoughts on this email going back to
14:46:48 5 Senate Democrat staff? Ryan, Rick, and I have edited it
14:46:51 6 more since you last saw it, and Lisette F reached back out
14:46:55 7 to Edie yesterday to get the status of her request."

14:46:58 8 Did I read that correctly?

14:46:59 9 A. You did.

14:46:59 10 Q. Do you know who the "Ryan" being referred to there
14:47:04 11 is?

14:47:08 12 A. Again, just based on my familiarity with senior
14:47:11 13 staff, the only one I'm aware of was Ryan Anderson, but I
14:47:15 14 don't know specifically.

14:47:16 15 Q. Is it possible you mean Ryan Armstrong?

14:47:18 16 A. I do not know Ryan Armstrong.

14:47:21 17 Q. Is it possible I miswrote the name in my outline?

14:47:26 18 A. It's entirely possible. I have -- I have a
14:47:31 19 terrible time with names, so it's -- it could be either.

14:47:33 20 Q. Do you know who the "Rick" being referred to there
14:47:36 21 could be? Possibly Rick Medina?

14:47:42 22 A. Could be Rick Medina. It's possible.

14:47:44 23 Q. Can you tell me who Rick Medina was?

14:47:46 24 A. I know Rick Medina by face. I know he's an
14:47:50 25 executive person. I know he is way up on my chain of

14:47:53 1 command and that I said hello to him when I saw him, but I
14:47:58 2 do not know exactly what his title was.

14:47:58 3 Q. Do you recall generally what his role at the
14:48:02 4 Attorney General's Office was?

14:48:02 5 A. Executive level. And I am not executive level.

14:48:07 6 Q. What floor did he sit on?

14:48:09 7 A. I believe on six or seven, but I'm on two.

14:48:14 8 MR. WHITAKER: You're on one.

14:48:16 9 THE WITNESS: Yes, you're on one today.

14:48:16 10 BY MR. DODGE:

14:48:18 11 Q. Does the sixth floor mean anything to you?

14:48:20 12 A. I think Ms. Wright was on the sixth floor. So
14:48:24 13 that was one cut below the executive staff.

14:48:27 14 Q. Is Mr. Medina still at the Attorney General's
14:48:29 15 Office?

14:48:29 16 A. Not to my knowledge.

14:48:30 17 Q. And did he also leave around the time of the
14:48:31 18 transition?

14:48:32 19 A. Sounds -- sounds plausible. I have not seen any
14:48:36 20 executive staff carried over, to my knowledge.

14:48:39 21 Q. Mr. Kredit appears to be asking Mr. Kanefield for
14:48:43 22 his thoughts on this draft email to Ms. Flores and the
14:48:46 23 senate Democrat staff. Is that fair to say?

14:48:48 24 A. My answer would be the document speaks for itself.
14:48:51 25 That is what it appears to say.

14:48:53 1 Q. I'll give you a moment to review the document, but
14:48:58 2 I'd like you to have the question in mind while do you it.

14:49:00 3 A. Sure.

14:49:00 4 Q. Does this updated version of the draft email to
14:49:04 5 Ms. Flores that includes edits from Mr. Anderson,
14:49:08 6 Mr. Medina identify any examples of noncitizens registering
14:49:15 7 or voting in Arizona?

14:49:30 8 MR. LANGHOFER: Document speaks for itself.

14:50:00 9 THE WITNESS: The voice who came over the
14:50:04 10 speaker is correct. It is a document that speaks for
14:50:07 11 itself. I view this as -- your question as a reading
14:50:11 12 comprehension question. And as I read this, I do not see
14:50:14 13 any specific reference to noncitizen voting in this answer.

14:50:20 14 BY MR. DODGE:

14:50:21 15 Q. And as you testified before, in providing, to the
14:50:26 16 best of its ability and consistent with its ethical
14:50:30 17 obligations, the Attorney General's Office here would have
14:50:32 18 been endeavoring to include -- strike that.

14:50:36 19 The Attorney General's Office would have
14:50:41 20 included any public information regarding noncitizen
14:50:46 21 registration or voting in preparing this response to the
14:50:50 22 legislative staff's inquiry about voter fraud in Arizona;
14:50:53 23 right?

14:50:54 24 MR. WHITAKER: Foundation.

14:50:55 25 THE WITNESS: With the objection that's said,

14:50:58 1 to my knowledge, if there had been such a case to report,
14:51:04 2 it would have been listed. I believe it would have. But
14:51:09 3 to my knowledge, there was no such case and nothing to
14:51:12 4 report.

14:51:12 5 BY MR. DODGE:

14:51:16 6 Q. You can't think of any reason why the Attorney
14:51:19 7 General's Office would not want to share public information
14:51:22 8 about incidents of not noncitizens registering or voting
14:51:26 9 with a member of the legislature or their staff; right?

14:51:30 10 A. The key word in there being "public," I cannot
14:51:33 11 think of a reason why we wouldn't share public information,
14:51:37 12 no.

14:51:37 13 Q. Do you think having information about incidents of
14:51:45 14 noncitizen registration or voting in Arizona could be
14:51:47 15 useful to legislators or their staff in considering whether
14:51:51 16 to enact the challenged laws?

14:51:55 17 MR. WHITAKER: Form, foundation.

14:51:58 18 THE WITNESS: I always tried to answer the
14:52:00 19 questions to the legislature when they were posed to me.

14:52:04 20 BY MR. DODGE:

14:52:04 21 Q. Presumably, if they asked for information, they
14:52:06 22 consider it relevant to their legislative deliberations;
14:52:10 23 right?

14:52:10 24 MR. WHITAKER: Foundation.

14:52:11 25 THE WITNESS: I -- I view state government as

14:52:14 1 being something where if the state legislature comes asking
14:52:20 2 for factual questions, we can provide factual answers, yes.

14:52:23 3 BY MR. DODGE:

14:52:24 4 Q. Presumably, they want answers to their questions?

14:52:26 5 MR. WHITAKER: Foundation.

14:52:27 6 THE WITNESS: They're entitled to the truth.

14:52:30 7 BY MR. DODGE:

14:52:35 8 Q. Beyond the communications we've been discussing in
14:52:39 9 Exhibits 219, 220, and 221, are there any instances of your
14:52:45 10 office communicating with the legislature or any
14:52:48 11 legislative staff about incidents of voter fraud while the
14:52:53 12 challenged laws were pending before the Arizona
14:52:55 13 legislature?

14:52:56 14 A. I am not aware of any. I don't think -- even in
14:53:00 15 the materials you provided today, there was some additional
14:53:05 16 email that I had not seen before today. I don't think that
14:53:08 17 that email message meets those -- your question, but
14:53:15 18 specifically prior to today, I certainly was not aware of
14:53:17 19 any of. And I don't think the documents you provided have
14:53:19 20 changed my opinion on that.

14:53:20 21 Q. Are there any instances beyond those we've
14:53:23 22 discussed of your office communicating with anyone at the
14:53:27 23 legislature about the challenged laws while they were
14:53:30 24 pending before the legislature?

14:53:32 25 A. I'm sorry. Could you restate your question?

14:53:35 1 Q. Did your office communicate with anyone at the
14:53:39 2 legislature regarding the challenged laws while they were
14:53:42 3 pending before the legislature?

14:53:43 4 A. I reviewed this morning an email message which led
14:53:47 5 me to believe the answer to that is yes, but that is the
14:53:51 6 first document I have seen that is any indication that we
14:53:56 7 did.

14:53:57 8 Q. So beyond this document, you're not aware of any?

14:53:59 9 A. I -- yeah. That was the first I had heard.

14:54:02 10 Q. Okay. I'm going to hand you what I'll ask to be
14:54:16 11 marked as Exhibit 222.

14:54:20 12 Is this the document you were just referring
14:54:22 13 to?

14:54:22 14 (The document was marked as Exhibit 222
14:54:22 15 for identification.)

14:54:22 16 BY MR. DODGE:

14:54:30 17 Q. This is Number 4 in the Dropbox.

14:54:38 18 A. This would not meet the criteria for the question
14:54:40 19 you just asked me. This is an email internally between
14:54:44 20 Ms. Lefevre and Mr. Kredit. It's not a communication back
14:54:49 21 to the legislature. So I -- I recall seeing a document in
14:54:59 22 your packet that was a comment from Ms. Wright.

14:55:01 23 Q. Well, we'll get there, but let me ask you about
14:55:01 24 this.

14:55:01 25 A. Okay.

14:55:04 1 Q. Looking at the bottom of this document, do you see
14:55:06 2 a March 9, 2022, email from a Ms. Selby?

14:55:10 3 A. Yes, sir.

14:55:10 4 Q. And looking at the bottom of her email, can you
14:55:15 5 tell me who Ms. Selby appears to be?

14:55:17 6 A. It speaks for itself that she would be a person
14:55:20 7 with a governor's office.

14:55:23 8 Q. And specifically with the Governor's Office of
14:55:26 9 Strategic Planning and Budgeting; right?

14:55:26 10 A. Yes.

14:55:27 11 Q. And her role appears to be budget analyst. Fair
14:55:31 12 to say?

14:55:32 13 A. It's what it says.

14:55:35 14 Q. Do you know what the -- well, strike that.

14:55:38 15 What is the Office of Strategic Planning and
14:55:41 16 Budgeting?

14:55:41 17 A. I guess it involves money, but beyond that, I am
14:55:44 18 not familiar with it.

14:55:46 19 Q. Have you ever fielded an inquiry from the Office
14:55:50 20 of Strategic Planning and Budgeting?

14:55:50 21 A. No, sir. And I do not know Ms. Selby.

14:55:55 22 Q. Ms. Selby's email is to an Ana Gonzalez and a
14:55:59 23 Lizette Morgan, apparently at the Attorney General's
14:56:03 24 Office. Do you see that?

14:56:03 25 A. I do see that.

14:56:05 1 Q. Do you know who Ms. Gonzalez is?

14:56:07 2 A. No, sir.

14:56:08 3 Q. Do you know who Ms. Morgan is?

14:56:10 4 A. Ms. Morgan's name is familiar, but I cannot place

14:56:14 5 where she fit in the larger picture of the office.

14:56:17 6 Q. Do you don't know what her role is?

14:56:19 7 A. I am a line attorney. And there are a number of

14:56:25 8 people in various aspects of management that had very

14:56:28 9 important jobs, and I don't mean to cast dispersions on

14:56:30 10 them, but I don't know their titles offhand.

14:56:32 11 Q. Your recollection, then, is that Ms. Morgan was in

14:56:34 12 management?

14:56:34 13 A. Yes. Somewhere.

14:56:37 14 Q. Do you know if she's still at the Attorney

14:56:40 15 General's Office?

14:56:40 16 A. I do not.

14:56:41 17 Q. Looking at Ms. Selby's email, she writes, "I had a

14:56:45 18 few questions about how HB2492 would impact the Attorney

14:56:50 19 General's office."

14:56:51 20 Did I read that correctly?

14:56:51 21 A. I do see that.

14:56:55 22 Q. And it appears that Ms. Morgan forwards the email

14:57:04 23 to Ms. Lefevre and writes, "OSPB is asking questions again.

14:57:09 24 I'm assuming you are evaluating this and that you can reply

14:57:13 25 to them as necessary."

14:57:14 1 Do you see that?

14:57:14 2 A. I do see that.

14:57:15 3 Q. And there's a Leslie Heathcotte --

14:57:19 4 A. Yes.

14:57:19 5 Q. -- CC'd on that.

14:57:21 6 A. Yes.

14:57:21 7 Q. Do you who Leslie Heathcotte is?

14:57:23 8 A. She is, again, a high-ranking executive within the

14:57:26 9 agency, but her exact title is not something that I have

14:57:30 10 committed to memory.

14:57:31 11 Q. She was a management person?

14:57:33 12 A. I believe she still is.

14:57:35 13 Q. Your understanding is she's still with the

14:57:37 14 Attorney General's Office?

14:57:37 15 A. I -- if she has left, I have not heard. But she

14:57:43 16 had been around for a while.

14:57:45 17 Q. She was with the Attorney General's Office prior

14:57:48 18 to Mr. Brnovich being attorney general, then?

14:57:53 19 A. See, now you're going to ask me that and I

14:57:57 20 can't -- she is an important person within the AG's

14:57:59 21 administration executive structure, but I cannot tell you

14:58:03 22 offhand how long or what her title was. But when I see her

14:58:09 23 name, my brain says that was someone important.

14:58:14 24 Q. Okay. Ms. Morgan says "OSPB is asking questions

14:58:18 25 again"; right?

14:58:18 1 A. I do see that.

14:58:19 2 Q. Does that suggest to you that OSPB had been asking
14:58:23 3 questions before about HB 2492?

14:58:24 4 A. The document speaks for itself. I cannot speak to
14:58:28 5 prior requests or things that counsel may have located in
14:58:33 6 terms of gathering discovery. I'm not aware of a prior
14:58:35 7 request.

14:58:35 8 Q. But would you read the email that way?

14:58:38 9 A. The document speaks for itself.

14:58:40 10 Q. Are you aware of whether OSPB had asked questions
14:58:44 11 about HB 2492 beyond Ms. Selby's March 9th, 2022, email?

14:58:49 12 A. Honestly, before I referred to this document, I
14:58:52 13 wasn't even sure what OSPB was. I'm not sure I've ever
14:58:54 14 heard of it before.

14:58:55 15 Q. Did anyone ask you to consult with Ms. Morgan
14:59:00 16 regarding today's deposition?

14:59:02 17 A. No, sir.

14:59:03 18 Q. Do you know if your office reached out to
14:59:05 19 Ms. Morgan regarding today's deposition?

14:59:06 20 A. I have no knowledge of that.

14:59:07 21 Q. Did anyone in your office ask you to speak with
14:59:11 22 Ms. Heathcotte for today's deposition?

14:59:15 23 A. No. No. I said, as I sit here, I want to say
14:59:20 24 that I have seen an email from her in the new
14:59:22 25 administration, leading me to believe that she might still

14:59:25 1 be here, but my memory of that is hazy. I can't -- it's
14:59:30 2 hard to say when people leave from other divisions because
14:59:33 3 I don't get -- we don't have a sports page like that.

14:59:36 4 Q. Ms. Lefevre forwards this email to Mr. Kredit on
14:59:41 5 March 9th, 2022; right?

14:59:42 6 A. Yes.

14:59:43 7 Q. And she writes, "Questions regarding HB 2492, want
14:59:47 8 me to pass along to Beau?" Right?

14:59:50 9 A. Yes.

14:59:51 10 Q. Who's Beau?

14:59:52 11 A. The only person I know with that name in this
14:59:55 12 agency was Beau Roysden.

14:59:57 13 Q. And what is or was his role at the Attorney
15:00:01 14 General's Office?

15:00:01 15 A. I'm fairly certain he was solicitor general.

15:00:05 16 Q. I think I know the answer to this, because
15:00:08 17 Mr. Bendor was here earlier. Is he still the solicitor
15:00:10 18 general?

15:00:11 19 A. No, sir.

15:00:11 20 Q. He left around the time of the transition?

15:00:12 21 A. Absolutely.

15:00:13 22 Q. You seem very certain of that.

15:00:16 23 A. I -- I understand there's been a 100 percent
15:00:19 24 turnover in the Solicitor General's Office; or if not 100,
15:00:24 25 90-something percent.

15:00:25 1 Q. Does that include amongst line staff?

15:00:30 2 A. Aside from support staff, I believe that's
15:00:34 3 correct. Attorneys have turned over.

15:00:35 4 Q. Do you know if the Attorney General's Office ever
15:00:38 5 responded to this email from Ms. Selby?

15:00:39 6 A. I do not. I was not aware of this email before I
15:00:43 7 read it this morning.

15:00:44 8 Q. Is there a reason your office would not respond to
15:00:47 9 a request from the governor's office like this?

15:00:50 10 MR. WHITAKER: Foundation.

15:00:50 11 THE WITNESS: I am not aware one of one.

15:00:53 12 BY MR. DODGE:

15:00:55 13 Q. And as with a request from a legislator, your
15:00:57 14 office would presumably endeavor to be as complete and
15:01:00 15 accurate as possible within the bounds of its ethical
15:01:04 16 obligations in responding to inquiries from the governor's
15:01:07 17 office; right?

15:01:07 18 MR. WHITAKER: Foundation.

15:01:07 19 THE WITNESS: I can only speak to my own
15:01:10 20 motivations as a 23-year member of the bureaucracy, that if
15:01:14 21 I got a request -- question from an executive person, that
15:01:18 22 I would endeavor to answer it or put it in the
15:01:22 23 responsibility of someone who would answer it. And I have
15:01:24 24 no reason to indicate that Lizette Morgan would do
15:01:28 25 otherwise. I think we would answer the governor's office

15:01:35 1 if they asked us.

15:01:36 2 BY MR. DODGE:

15:01:36 3 Q. Does your office frequently receive inquiries from
15:01:40 4 the governor's office?

15:01:41 5 A. I can't speak to the frequency. I know we do
15:01:45 6 every once in a while.

15:01:47 7 Q. Would you have given any input on a response to an
15:01:51 8 inquiry like this from the governor's office?

15:01:53 9 A. If I had been consulted, I might have contemplated
15:01:57 10 the question, but I was not consulted.

15:02:00 11 Q. How did your office anticipate at the time of this
15:02:08 12 email that HB 2492 would impact it?

15:02:13 13 A. I can say, as one of the people who -- as I read
15:02:17 14 the legislation, the questions that I have, nobody asked me
15:02:25 15 those -- to contemplate those questions at this time. I
15:02:30 16 was not made aware of the bill. I was not consulted.

15:02:36 17 Q. What would those questions have been?

15:02:38 18 A. How would we have addressed these complaints if we
15:02:41 19 received them?

15:02:44 20 Q. When you -- so you had the question "How would we
15:02:49 21 address these complaints when we receive them?"

15:02:51 22 A. When I learned of the legislation and when counsel
15:02:54 23 brought to me the issues in your suit --

15:02:58 24 MR. WHITAKER: Just to -- you can answer, but
15:03:00 25 just don't get into the communications we've had.

15:03:03 1 THE WITNESS: Of course. We have -- we have
15:03:09 2 a number of complaints that come into our agency on a daily
15:03:14 3 basis on -- in terms of the election unit during this time.
15:03:18 4 We were getting lots of complaints.

15:03:21 5 And so we had a process set up by which we
15:03:24 6 would review and intake complaints. And certainly, if we
15:03:27 7 got a complaint in like this, I think we would want to talk
15:03:30 8 about how we would intake and review a complaint like this
15:03:36 9 if we got it and what sort of resources we would marshal to
15:03:41 10 address it if we got it. But at no point was I made aware
15:03:46 11 of this complaint -- this inquiry or these pending pieces
15:03:52 12 of legislation at this time.

15:03:52 13 BY MR. DODGE:

15:03:52 14 Q. When you say "a complaint like this," what are you
15:03:55 15 referring to?

15:03:55 16 A. The legislation, as I recall -- and you indicated
15:03:58 17 at some point back there you were going to show it to me,
15:04:01 18 and I haven't seen it yet -- my recollection is that it
15:04:05 19 requires recorders to refer matters to us. And if a matter
15:04:11 20 was referred by a recorder, we would be -- our agency would
15:04:16 21 conduct an intake review.

15:04:24 22 To bring you back to Document 222, I was not
15:04:27 23 consulted at this time.

15:04:32 24 Q. I'll hand you what's previously been marked as
15:04:35 25 Petty Exhibit 19.

15:04:37 1 A. 19. Thank you.

15:04:38 2 Q. You don't have to mark that.

15:04:39 3 A. I see it is marked. Thank you.

15:04:41 4 Q. If you could turn to page 8 of that document.

15:05:01 5 A. Yes, sir.

15:05:01 6 Q. Look at Section 7, beginning on page 13.

15:05:05 7 A. 13.

15:05:07 8 Q. I apologize. Line 13 on what is marked as page 7.

15:05:11 9 It's the eighth page of the PDF. It's numbered 7.

15:05:14 10 A. Yes.

15:05:14 11 Q. Do you see Section 7 on line 13?

15:05:16 12 A. I do.

15:05:18 13 Q. Is this the complaint that you had in mind just a

15:05:21 14 moment ago when you were talking about the questions you

15:05:24 15 had about the bill?

15:05:24 16 A. Could I have a moment to review it?

15:05:28 17 Q. Of course.

15:05:29 18 A. The thing I was referring to essentially is what

15:05:42 19 is contained in paragraph A of the statute here marked

15:05:49 20 16-143, lines 15 through 23 of page 7.

15:05:56 21 Q. And why did you have the reaction of wondering how

15:05:59 22 you would handle a complaint of the sort described in this

15:06:04 23 section?

15:06:04 24 A. Because we receive any sort -- any possible number

15:06:09 25 of election complaints come in through intake. And to the

15:06:13 1 extent that -- our system in place was anything criminal
15:06:16 2 would come over for criminal review. If we received a
15:06:20 3 criminal review in this circumstance, how would they be
15:06:24 4 processed.

15:06:26 5 Q. Were you concerned about the volume of criminal
15:06:30 6 investigations or prosecutions this section would require?

15:06:34 7 A. No, sir.

15:06:35 8 Q. So what specifically were you thinking about in
15:06:38 9 terms of how they'd be handled?

15:06:41 10 A. At a basic level, sir, as a prosecutor, I'm not an
15:06:50 11 investigator. My job is to prove things in court. But at
15:06:54 12 the same time, I'm aware of the resources that are
15:06:57 13 available to investigators, and we do not have access to
15:07:03 14 citizenship databases. Those are federal in nature. And
15:07:09 15 this essentially presumes that we are going to be
15:07:13 16 arbitrators of citizenship when we don't have access to
15:07:16 17 that information.

15:07:18 18 Q. So in other words, your reaction was that the
15:07:21 19 legislation is asking you to do something your office
15:07:23 20 essentially cannot?

15:07:26 21 A. Wouldn't necessarily say "cannot." I would say
15:07:29 22 "had not." And I don't know that we had ever fully
15:07:32 23 explored whether we could, but my gut reaction at that
15:07:37 24 time -- and the same as I sit here today -- is that I don't
15:07:40 25 think we can. I don't think we have the ability to. But

15:07:43 1 we've never fully explored it.

15:07:53 2 Q. So suffice to say that the criminal referrals that
15:08:01 3 might stem from Section A that we just discussed, it would
15:08:06 4 be very burdensome on your office?

15:08:08 5 A. Could potentially be burdensome. To my knowledge,
15:08:11 6 we have received no complaints. So it has been the
15:08:14 7 opposite of burdensome.

15:08:16 8 Q. Okay. Let's go back to Exhibit 222.

15:08:22 9 A. Yes, sir.

15:08:22 10 Q. And returning to Ms. Selby's email, at the bottom,
15:08:36 11 she writes, "HB2492 would require the Attorney General's
15:08:39 12 office to verify the citizenship status of voters who have
15:08:42 13 not provided adequate proof of citizenship and provide a
15:08:44 14 report by March 31, 2023."

15:08:47 15 Did I read that correctly?

15:08:49 16 A. You did.

15:08:49 17 Q. And then she writes, "Do you have an estimate for
15:08:53 18 what it will take to complete this report?"

15:08:56 19 Did I read that correctly?

15:08:57 20 A. Yes, sir.

15:08:58 21 Q. Do you know if your office ever responded to that
15:09:00 22 question?

15:09:01 23 A. We did.

15:09:02 24 Q. Okay. Does your office have an estimate of how
15:09:06 25 long it would have taken to prepare that report?

15:09:09 1 A. I'm sorry. Maybe my -- I believe I may have
15:09:12 2 answer inaccurately. I am aware that we responded, as
15:09:15 3 directed, by March 31st of 2023. How much went into that,
15:09:19 4 I do not have that answer. My apologies if I have
15:09:24 5 inaccurately --

15:09:25 6 Q. Setting aside any response the Attorney General's
15:09:28 7 Office actually did submit --

15:09:28 8 A. Yes.

15:09:31 9 Q. -- and setting aside whether any such an
15:09:34 10 investigation, in fact, occurred, based on what you
15:09:36 11 reviewed today and what we just discussed from Section 7 of
15:09:40 12 HB 2492, do you have an estimate here today of how long it
15:09:45 13 would have taken to conduct that review if the secretary of
15:09:47 14 state and the county recorders' offices had provided you
15:09:50 15 lists of individuals registered to vote in Arizona who had
15:09:55 16 not provided satisfactory proof of citizenship?

15:09:58 17 MR. LANGHOFER: Speculation.

15:10:00 18 THE WITNESS: That's what I was looking for.
15:10:01 19 The answer in your question is I don't know, because I
15:10:06 20 don't know how many people would have been referred. If we
15:10:14 21 got a couple of referrals of a handful of people, it may
15:10:20 22 have been a negligible impact. If we had received
15:10:24 23 phonebooks of people that people were alleging were
15:10:28 24 noncitizens voting, then it would have been a drain on the
15:10:32 25 entire agency; somewhere between nothing and the entire

15:10:37 1 agency stopping to work on this.

15:10:38 2 BY MR. DODGE:

15:10:39 3 Q. Let's say it was a few thousand names. What sort
15:10:41 4 of an estimate would have in that situation?

15:10:44 5 A. I can only speculate as to what the investigative
15:10:48 6 response would have been. Given the -- from where I sit as
15:10:54 7 a prosecutor, I am not aware that the agency possessed the
15:10:58 8 investigative tools to make authoritative determinations of
15:11:03 9 citizenship as to anyone.

15:11:09 10 Q. How would -- would it have endeavored to do that
15:11:16 11 if asked to do so?

15:11:17 12 MR. WHITAKER: Foundation.

15:11:18 13 THE WITNESS: And I believe the -- I can't
15:11:22 14 object to the question because I'm not the lawyer here, but
15:11:25 15 I can only speculate. Given that -- at least to my
15:11:31 16 knowledge, if the questions that are being posed by these
15:11:35 17 complaints that would have come through this legislation --
15:11:38 18 what we talked about in Exhibit 19 -- a complaint would
15:11:46 19 have come over that so many people are noncitizens, I don't
15:11:51 20 know what our agency could do to verify citizenship beyond
15:11:57 21 essentially going hat in hand to the federal government and
15:12:00 22 saying, "Would you give us this information, please?" to
15:12:05 23 which the federal government, I believe, would have been
15:12:07 24 entirely -- entirely free to reject our request altogether.

15:12:12 25 BY MR. DODGE:

15:12:12 1 Q. So you're not sure whether your agency is capable
15:12:16 2 of making authoritative determinations of citizenship when
15:12:22 3 an individual is referred to you?

15:12:24 4 A. Not without the full cooperation of the federal
15:12:27 5 government. And I'm not entirely certain if we would get
15:12:30 6 it in this context.

15:12:32 7 Q. Returning to Ms. Selby's email, she says, "Does
15:12:38 8 the attorney general's" -- pardon me. I'll start again.

15:12:41 9 "Does the Attorney General's office have
15:12:43 10 access to all of the databases listed in this bill?"

15:12:46 11 Do you see that?

15:12:47 12 A. Yes, I see the reference there.

15:12:49 13 Q. Do you know if your office has access to the
15:12:51 14 various databases listed in HB 2492?

15:12:54 15 A. Can you provide me the list?

15:12:55 16 Q. Let's pull back up Petty Exhibit 19.

15:13:00 17 A. Yes, sir.

15:13:01 18 Q. And you can go back to page 7, where you were
15:13:04 19 before.

15:13:05 20 A. I'm sorry. I'm bumping my mic. I hope the
15:13:09 21 recording isn't trashed. Good. All right. Thank you.

15:13:11 22 MR. WHITAKER: And I'll object to scope. We
15:13:14 23 have a different designee we've identified, but I'm not
15:13:16 24 going to prevent the witness from answering.

15:13:19 25 BY MR. DODGE:

15:13:20 1 Q. Are you on page 7 of Petty Exhibit 19?

15:13:21 2 A. Yes, sir.

15:13:21 3 Q. Do you see beginning on line 28 a list of
15:13:25 4 databases?

15:13:25 5 A. I do. I see it's essentially letter B there.

15:13:30 6 Q. Correct.

15:13:31 7 A. Is that what you're referring to?

15:13:32 8 Q. Do you know whether your agency has access to
15:13:34 9 these databases?

15:13:34 10 A. So I would essentially follow what my counsel
15:13:39 11 said. I understand that other witnesses are investigators,
15:13:42 12 and investigators' statements would be more authoritative
15:13:45 13 than mine. I'm aware that we have access to -- as an
15:13:51 14 agency, to driver's licenses, number 1 there.

15:13:57 15 And I know we have other access in terms of
15:14:04 16 we were getting cooperation from recorders with regard to
15:14:09 17 voter registration databases in 5.

15:14:13 18 I am aware that we sent requests on a
15:14:17 19 case-by-case basis to the Social Security Administration
15:14:20 20 for database 2 but that the responses that we received from
15:14:25 21 them are authoritative only as to whether the person has a
15:14:29 22 Social Security number. It is not determinative of
15:14:31 23 citizenship. And a person who's a legal permanent resident
15:14:38 24 can have a Social Security number and not be a citizen. So
15:14:41 25 essentially, it's the opposite of authoritative on

15:14:44 1 citizenship.

15:14:45 2 So -- and again, I have experience in terms
15:14:48 3 of having done Simpson hearings in the criminal court and
15:14:52 4 so I know that there are some cooperations available for
15:14:56 5 United States citizenship in terms of release conditions
15:15:00 6 and establishing them at the time of charges, but I'm not
15:15:05 7 aware of citizenship information being available to
15:15:09 8 investigators. And that would be a question you'd have to
15:15:11 9 ask to Agent Knuth or someone else from investigations. I
15:15:20 10 hope my answer is complete.

15:15:21 11 Q. Looking back at Ms. Selby's email, the next thing
15:15:24 12 she says is "This bill would also require the Attorney
15:15:29 13 General to prosecute anyone registered to vote who is not a
15:15:33 14 US citizen. Is there an anticipated increase in workload
15:15:35 15 due to this provision?"

15:15:38 16 Do you see that?

15:15:38 17 A. I do see that.

15:15:40 18 Q. What view did your office have on this question at
15:15:42 19 that time?

15:15:42 20 A. I'm not aware of any view at that time because I
15:15:45 21 was not brought into this discussion. I'm not aware of the
15:15:48 22 response to it.

15:15:48 23 Q. Do you have any view on that question at this
15:15:51 24 time?

15:15:51 25 A. I can speak to my experience that since that time,

15:15:54 1 we have not prosecuted any of these, so the anticipated
15:15:59 2 increased workload turned out to be nothing.

15:16:05 3 Q. You testified earlier that you're not aware of the
15:16:10 4 secretary of state ever providing a list of registered
15:16:13 5 voters who had not provided satisfactory proof of
15:16:16 6 citizenship; is that right?

15:16:17 7 A. In terms of it being a complaint under this
15:16:19 8 section, I'm not aware of any recorder or secretary of
15:16:24 9 state complaint that made it to me. It doesn't necessarily
15:16:28 10 mean that a complaint didn't go to Ms. Wright or that a
15:16:32 11 complaint didn't go to investigations, but I'm not aware of
15:16:36 12 any such complaint coming at least in terms of up for
15:16:40 13 criminal prosecution review.

15:16:41 14 Q. Did your office ever respond to the question about
15:16:44 15 the anticipated increase in workload due to HB 2492?

15:16:48 16 A. Before today, I wasn't even aware there was a
15:16:50 17 request, so I cannot speak to whether there was any
15:16:54 18 response.

15:16:57 19 Q. I'm going to hand you what I'll ask to be marked
15:17:06 20 as Exhibit 213 -- 223.

15:17:06 21 (The document was marked as Exhibit 223
15:17:14 22 for identification.)

15:17:14 23 BY MR. DODGE:

15:17:14 24 Q. 223.

15:17:15 25 A. Yes, sir.

15:17:16 1 Q. And this is Number 5 in the Dropbox.

15:17:24 2 A. Yes. This is the Jennifer Wright email I think I
15:17:27 3 was referring to earlier.

15:17:29 4 Q. And looking at the bottom of this document first,
15:17:34 5 you see that this is the same March 9, 2022, email from
15:17:38 6 Ms. Selby to Ms. Gonzalez and Ms. Morgan; right?

15:17:42 7 A. I do believe I see that in there. You are
15:17:47 8 correct.

15:17:47 9 Q. So this is just a different chain stemming from
15:17:49 10 that same email; correct?

15:17:51 11 A. It would appear to be, yes.

15:17:53 12 Q. And looking at the second page of this document,
15:18:04 13 about halfway down, do you see that Ms. Selby sends another
15:18:07 14 email to Ms. Gonzalez and Ms. Morgan on March 21, 2022, at
15:18:12 15 11:36 a.m., in which she writes, "I just wanted to see if
15:18:15 16 you had any check in and see what information you had on
15:18:17 17 the impact HB2492 would have on the AG's office"?

15:18:20 18 Did I get that right?

15:18:21 19 A. I see that there, yes.

15:18:23 20 Q. So fair to say that Ms. Selby had not received a
15:18:29 21 response to her March 9 email as of March 21?

15:18:39 22 MR. LANGHOFER: Foundation.

15:18:40 23 THE WITNESS: I --

15:18:41 24 MR. LANGHOFER: Document speaks --

15:18:43 25 THE WITNESS: I can't speak to that. My

15:18:46 1 answer would be speculative.

15:18:47 2 BY MR. DODGE:

15:18:48 3 Q. Is that a fair inference to draw for any
15:18:51 4 reasonable person reading this email thread?

15:18:53 5 A. I'll go back to the document speaks for itself.

15:18:56 6 Q. No indication in this email that Ms. Morgan --
15:19:02 7 pardon me -- that Ms. Selby had received a response as of
15:19:05 8 March 21st?

15:19:06 9 MR. LANGHOFER: Same objection.

15:19:08 10 THE WITNESS: I can't speak to what response
15:19:10 11 may or may not have happened. I am not aware of any.

15:19:13 12 BY MR. DODGE:

15:19:14 13 Q. At the top of the second page, Ms. Lefevre
15:19:17 14 forwards this email to Mr. Roysden; is that right?

15:19:21 15 A. It does appear to be that that's correct.

15:19:24 16 Q. And then looking at the first page, Mr. Roysden --
15:19:34 17 Mr. Roysden forwards the document to Michael Catlett and
15:19:40 18 Jennifer Wright?

15:19:40 19 A. Correct. That's what it appears to do.

15:19:43 20 Q. And then above that, Ms. Wright offers some
15:19:45 21 thoughts in response to Ms. Selby's questions; right?

15:19:47 22 A. I do see that.

15:19:49 23 Q. And the first section of her response is titled
15:19:54 24 "Databases"; right?

15:19:55 25 A. I do see that.

15:19:57 1 Q. She indicates she's not sure whether the Attorney
15:20:04 2 General's Office has access to the Social Security
15:20:06 3 database; is that right?

15:20:09 4 A. It does say that, correct.

15:20:14 5 Q. She also indicates that the Attorney General's
15:20:18 6 Office lacks access to a public health database; is that
15:20:23 7 right?

15:20:23 8 A. It does say that in the second line there, yes.

15:20:26 9 Q. Do you know what public health database she's
15:20:29 10 referring to there?

15:20:30 11 A. I'm referring back to Exhibit 19, which says, in
15:20:44 12 line 33 of page 7, "a National Association for Public
15:20:53 13 Health Statistics and Information Systems Electronic
15:20:56 14 Verification of Vital Events system. I believe she may
15:20:59 15 have been referring to that."

15:21:01 16 Q. And her response indicates she's not sure if the
15:21:11 17 attorney general has access to that particular database;
15:21:15 18 right?

15:21:15 19 A. That's what it says.

15:21:16 20 Q. And, then, in the last sentence of this portion of
15:21:23 21 her email she says, "Whether or not ERIC information is
15:21:27 22 readily available will depend entirely on who is elected
15:21:32 23 SOS."

15:21:32 24 Did I get that right?

15:21:34 25 A. That is what it says.

15:21:35 1 Q. Do you know what ERIC is?

15:21:37 2 A. Election Registration Information Center.

15:21:46 3 Q. That is correct.

15:21:48 4 A. All right. I need to buy a lottery ticket later.

15:21:51 5 Q. Do you know what it means when Ms. Wright says

15:21:53 6 "access to ERIC information will depend on who is SOS"?

15:21:59 7 A. I may have an idea, but I don't want to speculate

15:22:04 8 as to her exact meaning.

15:22:07 9 Q. Why don't you give me your best guess as you

15:22:10 10 understand it.

15:22:10 11 A. My understanding is that ERIC information is

15:22:13 12 shared on a case-by-case basis with us at the Attorney

15:22:18 13 General's Office, and if they refer something to us, it is

15:22:21 14 their discretion to do so. And if they choose either not

15:22:25 15 to participate in ERIC or not to refer material to us, that

15:22:28 16 would be within the -- the secretary of state's discretion.

15:22:33 17 Q. And she's indicating that whether or not that

15:22:35 18 sharing of information will happen will depend on who the

15:22:39 19 secretary of state is?

15:22:39 20 A. I think she's more concisely saying what I just

15:22:42 21 said.

15:22:43 22 Q. Do you know if Arizona is currently a member of

15:22:46 23 ERIC?

15:22:49 24 A. To my knowledge, yes. But I am not responsible

15:22:57 25 for that sort of determination. That would be a secretary

15:23:00 1 of state function.

15:23:02 2 Q. Are you aware whether there are any efforts in
15:23:03 3 Arizona to remove the state from ERIC?

15:23:08 4 A. In Arizona, no.

15:23:12 5 THE COURT REPORTER: Kory did you object?

15:23:17 6 MR. LANGHOFER: Yes. Scope and relevance.

15:23:17 7 MR. DODGE: Yeah. And, Kory, your last
15:23:17 8 couple objections have been a little hazy on the record,
15:23:17 9 just as an FYI.

15:23:17 10 THE COURT REPORTER: Make sure you completely
15:23:20 11 unmute before you talk.

15:23:20 12 BY MR. DODGE:

15:23:29 13 Q. You recall in the prior exhibit that Ms. Selby
15:23:32 14 asked for an estimate for what it would take the AG's
15:23:35 15 office to complete a report regarding the citizenship
15:23:38 16 status of individuals registered to vote in Arizona but who
15:23:44 17 had not supplied satisfactory proof of citizenship?

15:23:47 18 A. Counselor, you're going to have to tell me which
15:23:49 19 prior exhibit. I've got six of them here.

15:23:52 20 Q. I believe it's Exhibit 222.

15:23:53 21 A. All right.

15:23:57 22 Q. I'm looking at 222, Ms. Selby's email, the first
15:24:06 23 two sentences of it, the largest paragraph.

15:24:09 24 A. Yes.

15:24:10 25 Q. You want take a moment to familiarize with that

15:24:12 1 again?

15:24:12 2 A. You're referring to the question in the third line
15:24:14 3 of that paragraph that begins "HB2492. Does the Attorney
15:24:20 4 General's office have access to the databases?" I'm sorry.
15:24:22 5 The previous question.

15:24:23 6 Q. Exactly.

15:24:23 7 A. "Do you have an estimate for what it would take
15:24:25 8 for -- to complete this report?" That's the question
15:24:29 9 you're asking me?

15:24:32 10 Q. Correct.

15:24:34 11 Do you recall discussing that?

15:24:35 12 A. I have never been involved with discussions
15:24:37 13 regarding that.

15:24:38 14 Q. I mean here today between us. We --

15:24:43 15 Do you recall discussing Exhibit 222?

15:24:45 16 A. Earlier today, yes.

15:24:46 17 Q. You recall I asked some questions about the
15:24:48 18 language you just read from that email?

15:24:49 19 A. I was here, yes.

15:24:50 20 Q. Okay. Returning to Exhibit 223 and looking at the
15:24:54 21 portion of Ms. Wright's email titled "Analysis," she
15:24:57 22 writes, "This bill would give us 151 days (but only 103
15:25:01 23 business days) to conduct the analysis. Based on the
15:25:04 24 latest data from county recorder websites, there are
15:25:06 25 approximately 22,000 federal only voters throughout

15:25:10 1 Arizona. Accordingly, SIS would have to investigate
15:25:13 2 upwards to 214 names each business day. That said, SIS may
15:25:17 3 be able to quickly pare down that number based on
15:25:20 4 electronic database compares, but we should check with
15:25:20 5 SIS."

15:25:24 6 Did I get that correct?

15:25:25 7 A. I do see that.

15:25:26 8 Q. Do you know whether the Attorney General's Office
15:25:30 9 ever did, in fact, investigate the citizenship of
15:25:35 10 federal-only voters in Arizona?

15:25:39 11 A. Can you clarify your question, please?

15:25:41 12 Q. Ms. Wright indicates that there are approximately
15:25:43 13 22,000 federal-only voters throughout Arizona; correct?

15:25:46 14 A. Yes.

15:25:46 15 Q. Does the phrase "federal-only voters" mean
15:25:50 16 anything to you?

15:25:50 17 A. It does.

15:25:51 18 Q. She subsequently says that to review those voters
15:26:02 19 in a 151-day time period, referring to the March deadline
15:26:06 20 to submit a report to the legislature, she says, "SIS would
15:26:11 21 have to investigate upwards to 214 names each business
15:26:15 22 day"; right?

15:26:15 23 A. I see her math, yes.

15:26:17 24 Q. Did the Attorney General's Office, in fact, ever
15:26:20 25 engage in an investigation of those 22,000 federal-only

15:26:25 1 voters to determine their citizenship?

15:26:26 2 A. To my knowledge, no.

15:26:27 3 Q. But as we discussed today, it did produce the
15:26:34 4 report to the legislature referenced by Ms. Selby; correct?

15:26:37 5 A. Yes. I believe counsel seated to my left is the
15:26:40 6 one who signed it.

15:26:41 7 Q. Do you know if Ms. Wright's response here was ever
15:26:45 8 conveyed to Ms. Selby?

15:26:47 9 A. I do not.

15:26:49 10 Q. Did anyone from your office ever discuss the
15:26:53 11 challenged laws with the Secretary of State's Office while
15:26:57 12 the bills were pending before the legislature?

15:27:00 13 A. To my knowledge, no.

15:27:01 14 Q. Did anyone from your office discuss the challenged
15:27:03 15 laws with any third-party organizations while the bills
15:27:06 16 were pending before the legislature?

15:27:08 17 A. To my knowledge, no. Again, to -- I think it's
15:27:11 18 important to caveat, because this is my first time speaking
15:27:14 19 ever as a representative of the organization, and so I want
15:27:16 20 to make sure that my answer is clear, I was not involved in
15:27:21 21 the responses that we've talked about here in terms of
15:27:23 22 Number 223, Number 222. These are all things that are
15:27:27 23 communications between executive staff and, to some extent,
15:27:31 24 Ms. Wright. I was not aware of any of these communications
15:27:35 25 before they were provided to me as exhibits for this

15:27:38 1 deposition.

15:27:40 2 MR. DODGE: Why don't we go off the record
15:27:43 3 and take a short break.

15:27:44 4 THE VIDEOGRAPHER: We're off the record.
15:27:46 5 Time on the video monitor is 3:27 p.m. This ends Media 2.

15:45:05 6 (A recess ensued.)

15:45:05 7 THE VIDEOGRAPHER: We're on the record. Time
15:45:30 8 on the video monitor is 3:45 p.m.

15:45:33 9 MR. DODGE:

15:45:34 10 Q. Mr. Lawson, I'd like to ask you some questions
15:45:37 11 about your office's prosecution of election crimes since
15:45:42 12 2010. Are you prepared to speak to that today?

15:45:44 13 A. I am.

15:45:45 14 Q. There should be -- could you actually hand me the
15:45:50 15 exhibits in front of you.

15:45:51 16 A. I have written my initials on the ones that you
15:45:54 17 handed me.

15:45:54 18 Q. Are there additional exhibits up there?

15:45:56 19 A. No, sir. Each one I've written the number unless
15:46:04 20 it was already written, and I put my initials on it.

15:46:10 21 Q. I'm going to --

15:46:10 22 (An off-the-record discussion ensued.)

15:46:35 23 BY MR. DODGE:

15:46:35 24 Q. I'm going to hand you what has previously been
15:46:38 25 marked as Exhibit 212 and which is in the Dropbox as

15:46:42 1 Number 6.

15:46:45 2 A. Yes, sir.

15:46:46 3 Q. Okay. And can you tell me what this document is?

15:46:55 4 A. I have seen what may be a version of this document

15:46:59 5 before. I'm not sure if I've seen this one, but it is a

15:47:02 6 response to a set of interrogatories apparently served on

15:47:05 7 this agency.

15:47:07 8 Q. And did you review this document in preparation

15:47:09 9 for your deposition today?

15:47:10 10 A. I reviewed what may be a version of this document.

15:47:13 11 I'm not sure if I reviewed this exact one.

15:47:17 12 Q. Could you turn to page 7 --

15:47:21 13 A. Yes, sir.

15:47:21 14 Q. -- of this document.

15:47:24 15 Actually, why don't you start by looking at

15:47:33 16 page 4 and reviewing Interrogatory Number 1.

15:47:41 17 A. Page 4. Yes, sir.

15:47:56 18 Q. Okay. And you see that in your office's response

15:47:59 19 to Interrogatory Number 1, you've broken up the response in

15:48:03 20 subparts?

15:48:03 21 A. I do see that that was counsel's way of addressing

15:48:06 22 it, yes.

15:48:07 23 Q. And turning to page 5, could you review Subpart 2

15:48:23 24 as well as your response to that subpart.

15:48:28 25 A. I see the response which begins on page 5 and

15:48:34 1 carries over to page 6.

15:48:37 2 Q. And, in fact, carries on a little further on
15:48:39 3 page 7 as well; right?

15:48:40 4 A. You are correct.

15:48:41 5 Q. Subpart 2, as characterized by your office, is
15:48:48 6 "Identify all evidence that supports the contention that
15:48:51 7 the challenged laws further the interests identified above,
15:48:53 8 including any evidence of voter fraud committed by
15:48:56 9 noncitizens in Arizona since January 1, 2016."

15:48:59 10 Did I get that right?

15:49:01 11 A. I see that, yes.

15:49:02 12 Q. Okay. And turning to the top of page 7 and
15:49:07 13 looking at line 1, your response states here "The Attorney
15:49:12 14 General's Office also prosecutes some crimes related to
15:49:14 15 voting in elections. A list of such prosecutions, as of
15:49:18 16 April 2023, has been produced as AG000349. This list does
15:49:25 17 not include prosecutions by other enforcing authorities,
15:49:27 18 such as county attorneys."

15:49:30 19 Did I get correct?

15:49:31 20 A. That is what the document says.

15:49:35 21 Q. I'm going to hand you what I will asked to be
15:49:38 22 marked as Exhibit 224.

15:49:38 23 (The document was marked as Exhibit 224
15:49:46 24 for identification.)

15:49:46 25 BY MR. DODGE:

15:49:46 1 Q. Can you tell me what this document is?

15:49:49 2 A. I will know it based on the last page which, if it

15:49:55 3 is what I think it is -- yes, it is a version of the

15:49:57 4 document. So if I could direct you to page 8, you'll see

15:50:03 5 that document number that begins 499. That is the document

15:50:07 6 that I have essentially continuously maintained back to the

15:50:10 7 previous decade-plus. This is Version 23 of that document

15:50:14 8 as of April 4 of 2023.

15:50:18 9 This is the -- what we referred to earlier as

15:50:20 10 the document which for a while I was no longer maintaining

15:50:23 11 when it was in a public form. This is a document -- I

15:50:27 12 maintained this version. So yes, I am familiar with this

15:50:30 13 document.

15:50:30 14 Q. Okay. And I'll note for the record that this is

15:50:32 15 Number 24 in the Dropbox.

15:50:37 16 As you just indicated, this is a more

15:50:38 17 up-to-date version of a list of prosecutions we were

15:50:41 18 discussing earlier; correct?

15:50:42 19 A. That is correct.

15:50:43 20 Q. Based on page 8, it appears this is recent as of

15:50:46 21 April 4th, 2023?

15:50:48 22 A. That's correct.

15:50:48 23 Q. Is this the most recent version of this document?

15:50:50 24 A. I believe I have not done an update since then,

15:50:53 25 although I've been asked to do so. I've been busy doing

15:50:55 1 other things.

15:50:56 2 Q. You -- you have not updated this document because

15:51:02 3 of other duties associated with your job and not because of

15:51:05 4 this litigation?

15:51:05 5 A. That's correct.

15:51:06 6 Q. And the version of this document we're looking at

15:51:13 7 is one that you, yourself, have prepared; correct?

15:51:17 8 A. As of April 4, everything on this document is

15:51:21 9 accurate. Several things on this document have changed

15:51:25 10 since it was prepared. And I'm familiar with a few of

15:51:28 11 those as we're sitting here today, because I knew you would

15:51:31 12 be asking about some of them.

15:51:33 13 But I cannot -- like, for example, there are

15:51:35 14 certain statistics and numbers in here that have

15:51:37 15 undoubtedly changed. And do I have the current

15:51:40 16 information? No. What I can tell you is that this

15:51:42 17 document was accurate as of April 4.

15:51:45 18 Q. You testified earlier that under Attorney General

15:51:53 19 Brnovich, communications staff would sometimes edit this

15:51:55 20 document without consulting you?

15:51:57 21 A. Correct.

15:51:58 22 Q. Does this version of the document contain any

15:52:01 23 edits or language or verbiage that was not approved of by

15:52:06 24 you?

15:52:14 25 A. I do not think so. I think essentially I was

15:52:21 1 given free reign to rewrite this document and I
15:52:26 2 restructured it, if you can tell, so that I thought it
15:52:30 3 better addressed some of the questions that we had. So I
15:52:34 4 believe everything in here I would be comfortable saying I
15:52:38 5 authored, or if I wasn't the author, it's something that
15:52:41 6 I'm comfortable adopting as an accurate statement of those
15:52:44 7 cases.

15:52:46 8 Q. And this document covers prosecutions from 2010
15:52:49 9 through April 4th, 2023; correct?

15:52:50 10 A. The 2010 election cycle. You'll see the first
15:52:54 11 cases are from 2011, but they arise from the 2010 election.

15:52:58 12 Q. And setting aside nonpublic records that your
15:53:02 13 office is not able to disclose, is this document a complete
15:53:09 14 list of election-related prosecutions since the 2010
15:53:12 15 election cycle?

15:53:13 16 A. It is, as of April 4. And I notice -- for
15:53:23 17 example, you'll note on page 5 there's a reference to the
15:53:26 18 Proodian case at the bottom. That is a case that was
15:53:29 19 dismissed.

15:53:30 20 The previous iterations that were maintained
15:53:32 21 by the Brnovich administration omitted the reference to
15:53:35 22 this case, but I included it because I believe it's fair to
15:53:38 23 say that we pursued a case but that we dismissed the case.

15:53:45 24 Q. I just want to make sure I have an answer to my
15:53:49 25 question.

15:53:49 1 But you agree that this list is complete as

15:53:51 2 of April 4th, 2023, excepting any nonpublic information?

15:53:55 3 A. Correct.

15:53:58 4 Q. What records do you use to compile and maintain

15:54:02 5 this document?

15:54:04 6 A. You're basically looking at it. This is -- and I

15:54:09 7 will speak to the process and -- we don't have a good

15:54:14 8 agency database or case tracking system. And I was getting

15:54:18 9 repeated inquiries from members of the media that were

15:54:21 10 being directed to my supervisor and me saying, "Can you

15:54:24 11 please provide us with what you have done?"

15:54:27 12 And so in response, I began preparing this

15:54:31 13 document and keeping track of it so that I would have a

15:54:36 14 canned response when we would get repeated inquiries. And

15:54:39 15 we did get -- for over a decade, I've gotten repeated

15:54:44 16 inquiries for this exact information. And so when we would

15:54:48 17 get those requests, we would update the document and then

15:54:52 18 provide it to people. And then we started doing periodic

15:54:55 19 updates to the document, and the last of those was in April

15:54:58 20 of this year.

15:55:02 21 Does that answer your question?

15:55:03 22 Q. It does.

15:55:06 23 A. This is a reactive document that I maintain

15:55:09 24 myself.

15:55:10 25 Q. If others in your office become aware of

15:55:12 1 election-related prosecutions, do they know to refer those
15:55:17 2 prosecutions to you so they can be included on this list?

15:55:20 3 A. Generally, yes. And if there were other cases
15:55:25 4 that were public that I was aware of, I would include them
15:55:28 5 here. But I believe I'm the prosecutor for all of these
15:55:32 6 cases.

15:55:33 7 And again, there's one case that I'm aware of
15:55:35 8 that was -- is being pursued by our Tucson office that is
15:55:40 9 not listed here, but it's not public. So that is why it
15:55:44 10 wouldn't be listed here.

15:55:45 11 Q. Can you read aloud the title of Section A at the
15:55:48 12 top of this document?

15:55:49 13 A. These are "Prosecutions Related to Illegal Voting
15:55:52 14 By Individuals Since 2010."

15:55:54 15 Q. And I know you're familiar with the section, but
15:55:57 16 can you take just a moment to review it?

15:56:01 17 A. Sure. What would you like to know?

15:56:04 18 Q. You would agree that Section A indicates that
15:56:08 19 there have been 38 prosecutions of illegal voting in
15:56:12 20 Arizona since the 2010 election; right?

15:56:13 21 A. That is accurate as of April 4. I believe that is
15:56:17 22 correct, with the caveat there -- below there of there was
15:56:21 23 the additional case of Ms. Hannah that was overturned by
15:56:24 24 the court of appeals and Mr. Proodian, who was dismissed.

15:56:28 25 Q. So including those two cases that did not

15:56:31 1 ultimately result in convictions, there have been 40

15:56:33 2 prosecutions?

15:56:34 3 A. 40 matters filed unsealed and at least proceeded

15:56:37 4 to arraignment, yes.

15:56:38 5 Q. How many elections have been held in Arizona since
15:56:41 6 the 2010 election cycle?

15:56:43 7 A. Counting special elections or --

15:56:45 8 Q. Any election.

15:56:47 9 A. Could I say dozens?

15:56:49 10 Q. You can.

15:56:49 11 A. I would say dozens.

15:56:51 12 Q. How many ballots have been cast in Arizona since
15:56:56 13 the 2010 election cycle?

15:56:58 14 A. Undoubtedly, millions.

15:57:02 15 Q. Fair to say over 10 million?

15:57:06 16 A. I would not dispute that number if you have a
15:57:08 17 basis for it, Counsel.

15:57:11 18 Q. Do any of the cases listed in Section A involve
15:57:17 19 illegal registration or voting by a noncitizen?

15:57:20 20 A. By a noncitizen, no.

15:57:23 21 Q. Is it fair to say that many of these -- I think
15:57:28 22 you testified to this earlier -- appear to reflect
15:57:31 23 instances of double voting by persons in Arizona and in
15:57:34 24 another state or within multiple counties within Arizona?

15:57:38 25 A. Could I answer the question by saying -- I would

15:57:41 1 refer you back to the title, which says, "Prosecutions
15:57:44 2 Related to Illegal Voting." That's actually a reference to
15:57:49 3 the illegal voting statute, which is 16-1016.

15:57:53 4 There are a number of ways you can violate
15:57:55 5 that statute, which include double voting and also voting
15:57:58 6 more than once either -- and voting when you are not
15:58:02 7 eligible to vote. So this list includes -- is primarily
15:58:07 8 double voting. And you can see that in terms of the
15:58:09 9 notations on the cases. But is it exclusively double
15:58:13 10 voting? It is not.

15:58:17 11 I hope that addresses your question.

15:58:18 12 Q. So it's a large number of double voting, but it's
15:58:20 13 not exclusively instances of double voting?

15:58:22 14 A. Correct.

15:58:23 15 Q. Casting multiple ballots was already illegal in
15:58:27 16 Arizona prior to the enactment of HB 2492 and 2243;
15:58:31 17 correct?

15:58:31 18 A. I believe the statute dates backs to the '70s,
15:58:34 19 yes.

15:58:35 20 Q. And the challenged laws at issue in this
15:58:38 21 litigation do not concern double voting; correct?

15:58:40 22 A. I'm not aware that they do.

15:58:42 23 Q. A handful of the cases in Section A also appear to
15:58:47 24 concern illegally registering to vote with a felony
15:58:49 25 conviction without rights restored?

15:58:51 1 A. Correct.

15:58:52 2 Q. A couple also appear to concern voting under the
15:58:56 3 name of a deceased person?

15:58:57 4 A. Correct. Those are the primary ways that
15:59:01 5 violations of 16-1016 have occurred in our caseload.

15:59:05 6 Q. But none concern voting by noncitizens; correct?

15:59:08 7 A. I am not aware of one that is public.

15:59:14 8 Q. Is there any indication in this document that
15:59:17 9 those who double voted were not residents of Arizona or the
15:59:21 10 county they voted in at the time they registered to vote?

15:59:24 11 A. So I had -- I have to answer this question in a
15:59:31 12 slightly different manner than it's phrased. And I want to
15:59:34 13 make sure that you understand why.

15:59:39 14 The statute that we prosecute under talks
15:59:42 15 about whether a person votes on the same day in two
15:59:47 16 different states, which is something that you legally
15:59:51 17 cannot do, because you can only be a resident of one state
15:59:54 18 at a time. And we do not make the determination in terms
15:59:58 19 of criminal pursuit which state you are a resident of.

16:00:03 20 And so could I say that, for example, any
16:00:08 21 given case on this -- like, for example Mr. Sack, who is
16:00:15 22 Number 20, he illegally voted in the state of Colorado and
16:00:18 23 the state of Arizona in 2012. Could I say that Mr. Sack
16:00:22 24 had no valid claim to Arizona residency or had no valid
16:00:25 25 claim to Colorado residency? That was not an issue that we

16:00:29 1 got to the bottom of because our statute only required us
16:00:32 2 to prove that he voted in both states on the same day.

16:00:35 3 Q. I understand your testimony to be that your office
16:00:39 4 does not make a determination of where a person is actually
16:00:42 5 a resident at the time they -- they double vote?

16:00:47 6 A. And that is because it's not required under the
16:00:50 7 statute and there's -- the statute that determines
16:00:55 8 residency is somewhat ill-defined in terms of excluding a
16:01:02 9 place. You are allowed to have an intent to remain in a
16:01:08 10 place with a tie to residency there in order to qualify,
16:01:11 11 and it's a fairly easy standard that someone could qualify
16:01:14 12 in more than one state at one time.

16:01:16 13 Q. I appreciate your response.

16:01:19 14 My original question is slightly different,
16:01:22 15 which is that rather than focusing on the time of casting
16:01:25 16 the ballots, I'm curious about the time an individual
16:01:29 17 registers to vote prior to that.

16:01:29 18 A. Sure.

16:01:32 19 Q. In a double-voting case, does your office make any
16:01:35 20 determination about whether or not a person was a resident
16:01:38 21 at the time they registered to vote?

16:01:42 22 A. Residency, for purposes of these cases -- and I'll
16:01:46 23 speak in general terms -- is something that is claimed
16:01:51 24 through a voter registration document, and a person would
16:01:53 25 make an avowal that they were a resident on that day.

16:01:57 1 The fact pattern that we look for in
16:01:59 2 double-voting cases essentially is a timeline where a
16:02:03 3 person registers in one state, registers in another, votes
16:02:06 4 in either state, and then votes in either state so that
16:02:11 5 they are acting on both registrations at the same time and
16:02:15 6 when there is a single election day for those two votes.
16:02:19 7 And the -- essentially it's perjury by inconsistent
16:02:23 8 statement. You cannot be a resident of two places at once.
16:02:27 9 And 16-101 says that. And so one of those declarations is
16:02:33 10 false, and we don't know which. And for purposes of our
16:02:36 11 statute, we aren't required to prove which.

16:02:40 12 Does that -- does that make sense? I'm not
16:02:41 13 trying to duck your question. What I'm saying is the
16:02:44 14 standard for residency is so loose that the legislature has
16:02:50 15 given us a statute where we are not required to prove it in
16:02:53 16 order to make our criminal case.

16:02:55 17 Q. Is it fair to say that a double-voting
16:02:57 18 investigation or prosecution -- is it focused on the time
16:03:03 19 the ballots are cast?

16:03:04 20 A. We do primarily focus on double voting in a same
16:03:09 21 election on the same election day, yes.

16:03:11 22 Q. And regardless of whether or not it's necessary
16:03:13 23 for a prosecution, as a matter of fact, your office does
16:03:17 24 not actually determine whether or not a registration form
16:03:24 25 or avowal is accurate at the time it is made?

16:03:27 1 A. Because it's such a subjective standard, we will
16:03:32 2 take essentially the statement on the form as
16:03:37 3 authoritative, but what we look for are people acting on
16:03:40 4 more than one registration on the same election day, which
16:03:44 5 is legally impermissible.

16:03:44 6 Q. And that acting is subsequent to the act of
16:03:44 7 registration?

16:03:48 8 A. Correct.

16:03:50 9 Q. So further regulations regarding the time of
16:03:52 10 registration would not be likely to bear on that
16:03:54 11 investigation on what a person subsequently did?

16:03:59 12 MR. WHITAKER: Foundation.

16:04:03 13 THE WITNESS: It's a hypothetical I have not
16:04:05 14 considered, but generally, we are not investigating illegal
16:04:13 15 registration complaints because the registration standard
16:04:19 16 is generally "this is where I am, and this is where I
16:04:23 17 intend to remain." And it is a very subjective standard
16:04:27 18 that is very difficult to disprove.

16:04:31 19 Not in this context, but I have had
16:04:33 20 hypothetical, you know, cases brought to us for review over
16:04:36 21 the years where making a determination of residency -- for
16:04:42 22 example, Representative Epstein's family member, who, by
16:04:47 23 allegation, appears to spend the bulk of his time in New
16:04:51 24 York City but his intent to remain is in Tempe, and that's
16:04:54 25 where he's registered to vote, he's allowed to do that.

16:04:57 1 And so what we look for, hypothetically,
16:05:02 2 would be if Representative Epstein's son also registered to
16:05:06 3 vote in New York and then voted in both places at the same
16:05:10 4 time. That would be a crime that we would review. The
16:05:13 5 idea that he was registered in Arizona but living in New
16:05:17 6 York is not something that we would be prepared to pursue
16:05:20 7 as a criminal charge.

16:05:22 8 Q. You mentioned that because -- because residency is
16:05:26 9 such a matter of subjective intent, your office tends not
16:05:29 10 to pursue illegal registration cases; is that right?

16:05:31 11 A. Correct.

16:05:32 12 Q. In fact, in Section A of this exhibit, none of
16:05:36 13 these cases involved convictions for illegal registration
16:05:41 14 as a nonresident; correct?

16:05:44 15 A. Let me review them very briefly.

16:06:18 16 So there is a group of people towards the end
16:06:22 17 of this list -- Mr. Clark, Number 26; Ms. Smith, Number 27;
16:06:29 18 Mr. Nelson, Number 28 -- who were convicted felons who
16:06:36 19 should not have registered to vote, but then they also
16:06:38 20 illegally voted. My recollection as I sit here is that I
16:06:41 21 did not have them enter guilty pleas to 16-182 offenses,
16:06:48 22 but they may have been charged with those violations as
16:06:51 23 being not able to register to vote as not eligible, but
16:06:55 24 they would be U.S. citizens.

16:06:58 25 So sometimes that charge did -- was charged,

16:07:01 1 and it may have been a charge that we enter -- had somebody
16:07:04 2 enter a guilty plea to as part of a plea resolution, but I
16:07:12 3 cannot think of any offhand where that was the case.

16:07:14 4 Q. So your best awareness, then, the only cases in
16:07:17 5 Section A that even plausibly, as a factual matter,
16:07:22 6 involved situations where someone illegally registered, it
16:07:25 7 was due to their status as a convicted felony rather than
16:07:28 8 anything to do with their residency; is that right?

16:07:30 9 A. Yes. It's because, as a criminal prosecutor, it's
16:07:33 10 readily provable to prove that someone does not have legal
16:07:37 11 status to register to vote as a -- as -- because they're
16:07:41 12 not eligible as opposed to a very subjective "this is where
16:07:45 13 I intend to be a resident."

16:07:46 14 MR. WHITAKER: Foundation as to that last
16:07:48 15 question.

16:07:49 16 BY MR. DODGE:

16:07:49 17 Q. Looking at page 5 of this document, the additional
16:07:53 18 note section, which we've already looked at a little bit.

16:07:56 19 A. Yes, sir.

16:07:56 20 Q. I'd like to ask you questions about the first
16:07:58 21 bullet --

16:07:59 22 A. Yes.

16:07:59 23 Q. -- which says, "Four additional cases have been
16:08:02 24 charged and are sealed pending the arrest of defendants."

16:08:04 25 A. Yes.

16:08:05 1 Q. Can you tell me anything about the status of those
16:08:06 2 four cases?

16:08:07 3 A. One has since been arrested and is now public,
16:08:12 4 although I haven't updated this document to list that case.
16:08:16 5 It's in Pima County Superior Court. The last name on it is
16:08:21 6 Verdugo.

16:08:23 7 One of the three that remains is a noncitizen
16:08:27 8 case that I thought you -- that we've talked about and
16:08:31 9 apparently is referenced in some of the documents that were
16:08:33 10 turned over.

16:08:34 11 And then I'm aware of another case that
16:08:37 12 involves a noncitizen. Those are both sealed pending
16:08:42 13 service.

16:08:43 14 So that's -- that is -- what that bullet
16:08:47 15 point is referring to is matters that are sealed pending
16:08:48 16 service. Ms. Verdugo has now been served, so I can talk
16:08:51 17 about her, but the other parties I cannot.

16:08:53 18 Q. So to be clear, your testimony here is that the
16:08:56 19 two of these four additional cases involve allegations of a
16:08:59 20 noncitizen registering or voting?

16:09:01 21 A. I'm aware of two. At this time, when I was
16:09:03 22 counting four in April, I'm not sure I was aware of the
16:09:06 23 other ones. So I think accurate -- it may have been
16:09:08 24 accurate to say there was a fifth one that I wasn't aware
16:09:11 25 of at the time. But of the four that I was referring to on

16:09:14 1 April 4, one has been arrested and has been served and is
16:09:20 2 now public, but the other three are not.

16:09:23 3 Q. So referring specifically to the allegation of a
16:09:28 4 noncitizen registering or voting that you are aware of at
16:09:32 5 the time, is there any additional information you can
16:09:36 6 provide about the status of this case at this time?

16:09:39 7 A. As to the status, the case has been presented to a
16:09:45 8 grand jury. There has been a warrant issued for the
16:09:50 9 defendant's arrest. And beyond that, I can't comment.

16:09:53 10 Q. Presumably, no conviction has yet been obtained in
16:10:00 11 that case?

16:10:00 12 A. That is accurate.

16:10:00 13 Q. And your office isn't able to provide any further
16:10:07 14 details on that case; correct?

16:10:08 15 A. I can speak in broad outlines. This is -- my
16:10:11 16 concern here is the limits of ER 3.8 which talk about my
16:10:16 17 ability to comment on things without holding someone up to
16:10:20 18 public scorn. I'm concerned about commenting on somebody
16:10:23 19 who hasn't been served with their warrant.

16:10:26 20 I am prepared to speak in broad outlines
16:10:29 21 about what the allegations were in that case, because I
16:10:32 22 think they may be pertinent to you, without compromising
16:10:35 23 the secrecy of that case.

16:10:37 24 Q. Why don't you provide me those details to the
16:10:39 25 extent you feel able.

16:10:40 1 MR. WHITAKER: And I'm going to just -- I'm
16:10:41 2 going to designate this part of the deposition
16:10:45 3 confidential, for counsels' eyes only -- well,
16:10:50 4 confidential. That may not resolve your concerns, but that
16:10:53 5 at least provides some -- some protections.

16:10:57 6 THE WITNESS: And I guess to the extent that
16:10:58 7 I'm speaking to a record here, the concerns that I have are
16:11:04 8 based on ER 3.8 and also A.R.S. 13-2812, which talk about
16:11:08 9 confidentiality of grand jury proceedings. I'm going to
16:11:12 10 attempt to accommodate your questions without compromising
16:11:15 11 the secrecy of these matters.

16:11:18 12 The two cases that I'm aware of, one which I
16:11:21 13 handled, and the other was handled by a separate attorney
16:11:24 14 general in Tucson -- the case I handled involved an
16:11:29 15 individual who was apprehended by local police in a
16:11:36 16 jurisdiction in southern Arizona. That individual
16:11:40 17 indicated that he was a noncitizen and asked to be turned
16:11:44 18 over to ICE for removal.

16:11:48 19 At the time he was searched, they found a
16:11:51 20 voter registration card on his person. And ICE contacted
16:11:55 21 our agency and referred the matter for further
16:11:58 22 investigation.

16:12:00 23 When his photo registration records and his
16:12:02 24 voting records were researched, it was determined that he
16:12:07 25 had voted in numerous elections under an identity that he

16:12:12 1 had assumed many years prior when he entered the United
16:12:18 2 States and that he had continued to vote under that until
16:12:24 3 he had a falling out with the people who had provided him
16:12:28 4 with that information.

16:12:30 5 And then they had sought to get him
16:12:35 6 criminally charged for something else. And when he was
16:12:37 7 arrested on that charge, he decided to own up to his true
16:12:41 8 identity and asked for removal. And in the course of that,
16:12:45 9 his past conduct came to light.

16:12:48 10 And I -- I have tried to sanitize that best I
16:12:52 11 can without providing any specifics about the individual,
16:12:56 12 but at the same time, I'm trying to cooperate with your
16:12:58 13 question.

16:12:58 14 BY MR. DODGE:

16:12:58 15 Q. Are you able to state how long the individual
16:13:04 16 lived under that false identity?

16:13:06 17 A. To do so accurately would be difficult. I believe
16:13:11 18 it was at least five election cycles, so over a decade.

16:13:17 19 Q. Do you think it's fair to say that this ability --
16:13:21 20 this individual's ability to assume a false identity for
16:13:23 21 that long was a very elaborate act of deception?

16:13:29 22 A. I think, actually, in the grand scheme of things,
16:13:32 23 it may have been fairly simple --

16:13:34 24 MR. LANGHOFER: Form.

16:13:35 25 THE WITNESS: -- in that he was provided an

16:13:38 1 identity by people who had a child die young and that the
16:13:44 2 family had not -- somehow the death had not been recorded
16:13:48 3 through some -- either the death occurred in Mexico or
16:13:51 4 outside the jurisdiction. There was nothing that turned
16:13:55 5 off that record, and so they passed it to this individual
16:14:01 6 with -- you know, essentially, consensually, and he entered
16:14:05 7 as if he was the person who had died and lived under that
16:14:09 8 person's name for a lengthy period of time.

16:14:12 9 BY MR. DODGE:

16:14:13 10 Q. Are you aware --

16:14:13 11 A. Do you have any other questions about that one?

16:14:16 12 Because I can --

16:14:16 13 Q. Maybe just one.

16:14:17 14 Are you aware, in your experience as a law
16:14:21 15 enforcement individual, of any other persons assuming the
16:14:25 16 identity of a deceased person like that regardless of
16:14:34 17 whether they voted?

16:14:34 18 A. I'm not a big True Crime fan, so I -- I can't say
16:14:37 19 that I watch a lot of TV about those sorts of cases, but I
16:14:41 20 assume it is possible to do that in terms of if you come
16:14:48 21 in --

16:14:49 22 Q. You're not -- I'm asking about your knowledge.

16:14:51 23 You're not familiar of any other instance of
16:14:54 24 someone doing that in the state of Arizona during the time
16:14:56 25 you've been at the Attorney General's Office?

16:14:58 1 A. I prosecuted -- I had a caseload of identity theft
16:15:02 2 before I came over this. I'm aware of several people who
16:15:06 3 stole identities and used them for lengthy periods of time.
16:15:09 4 And so this does not -- is not out of the question in terms
16:15:12 5 of --

16:15:12 6 Q. My question is specific.

16:15:14 7 Are you aware of any other instances during
16:15:15 8 your time at the Attorney General's Office of a person
16:15:19 9 living under an assumed identity based on someone's death
16:15:24 10 occurring and not being recorded by the relevant
16:15:26 11 authorities in Arizona?

16:15:28 12 A. Offhand, that specific set of circumstances, I'm
16:15:32 13 not. Other than the -- the other case that we're aware of
16:15:37 14 where there's a similar allegation where an individual was
16:15:43 15 investigated federally, they made a determination that
16:15:46 16 there was a substantial amount of AHCCCS benefits that had
16:15:50 17 been paid to that person, who was a noncitizen, as
16:15:54 18 determined in the federal case.

16:15:55 19 They -- that person was turned over to AHCCCS
16:15:58 20 for an investigation, and AHCCCS uncovered a voter
16:16:05 21 registration component to that individual. And then the
16:16:10 22 case -- the second case that I only recently learned of was
16:16:13 23 filed based upon that. It's primarily an AHCCCS fraud
16:16:17 24 prosecution, but there is a charge involving illegal voting
16:16:21 25 and registration that is part of that case. That's the

16:16:29 1 second matter.

16:16:29 2 Q. Okay. I'd like to introduce an exhibit that,
16:16:33 3 unfortunately, did not make it into my box. It's Number 39
16:16:36 4 in the Dropbox. I'm going to try pulling it up on the Zoom
16:16:39 5 again with share screen.

16:16:41 6 MS. DODGE: If you could admit me to the Zoom
16:16:42 7 room, Madam Court Reporter.

16:16:46 8 THE WITNESS: There is somebody sitting in
16:16:48 9 your waiting room, by the way.

16:16:49 10 MR. DODGE: It's probably me.

16:16:50 11 THE WITNESS: Oh, it is you.

16:17:19 12 MR. DODGE: False alarm, everyone. We do
16:17:21 13 have it printed out.

16:17:21 14 BY MR. DODGE:

16:17:22 15 Q. I'm going to hand you what I'll ask to be marked
16:17:25 16 as Exhibit 225, which is in the Dropbox as 6A.

17 (The document was marked as Exhibit 225
18 for identification.)

19 BY MR. DODGE:

20 Q. Are you familiar with this document?

21 A. Yes.

16:17:51 22 Q. Did you assist in your office's response to this
16:17:57 23 document?

16:17:57 24 A. I believe I did.

16:17:59 25 Q. Okay. Could you turn to the second page and

16:18:01 1 briefly review Interrogatory Number 1.

16:18:04 2 A. Yes, sir.

16:18:29 3 Q. Okay. And, then, your supplemental response to

16:18:32 4 Subpart 2 reads, "The office is aware of two cases

16:18:34 5 involving a charge of voting by a non-citizen. In both

16:18:36 6 cases, the non-citizen used the identity of another

16:18:39 7 individual to vote. Because both cases are sealed, the

16:18:42 8 Attorney General's Office refrains from saying anything

16:18:43 9 more about these cases at this time."

16:18:45 10 Did I read that correctly?

16:18:47 11 A. You are reading that correctly.

16:18:49 12 Q. You have alluded to these two cases already in

16:18:52 13 your testimony today; correct?

16:18:53 14 A. Yeah. My interest here today was to provide you

16:18:56 15 some more information beyond what this limited response

16:18:59 16 says.

16:19:00 17 Q. Setting aside the two cases you've alluded to

16:19:03 18 today in your testimony, are you aware of any other pending

16:19:08 19 investigations or prosecutions in Arizona involving a

16:19:12 20 charge of illegal registration or voting by a noncitizen?

16:19:15 21 A. By the Attorney General's Office?

16:19:16 22 Q. Yes.

16:19:17 23 A. I am not.

16:19:17 24 Q. And the two pending cases you are aware of have

16:19:24 25 not yet resulted in convictions?

16:19:25 1 A. They have not. Both are currently on warrant
16:19:29 2 status and they're not public.

16:19:30 3 Q. And you have no knowledge of if or when those
16:19:37 4 cases will go to trial; correct?

16:19:38 5 A. They cannot proceed to trial until the individuals
16:19:41 6 are located.

16:19:42 7 Q. So they may never proceed to trial?

16:19:44 8 A. They may not.

16:19:45 9 Q. They may never result in convictions?

16:19:47 10 A. Correct. If the individuals are never located.

16:19:53 11 Q. They could also result in -- not result in
16:19:56 12 convictions even if they were located?

16:19:58 13 A. True.

16:20:00 14 Q. Can you tell me which units at the Attorney
16:20:08 15 General's Office are overseeing these two cases?

16:20:10 16 A. My -- one is assigned to me. So I am assigned to
16:20:15 17 the Fraud & Special Prosecution Section of the Criminal
16:20:18 18 Division.

16:20:18 19 The other is SAWCCE, which is the southern
16:20:23 20 Arizona white collar -- what are those two Es for? --
16:20:27 21 enforcement -- I'm not good at government bureaucracy
16:20:33 22 alphabetical soup, but it's the -- our Tucson unit --
16:20:39 23 southern Arizona white collar enforcement.

16:20:39 24 Q. Is there a reason that unit of your office is
16:20:43 25 handling that prosecution instead of you?

16:20:46 1 A. It comes from the origination of the case. That
16:20:48 2 case originated as an AHCCCS fraud complaint, and that was
16:20:53 3 the driving force behind that case. The election issue was
16:20:58 4 secondary. That's why it wasn't assigned to me. And I
16:21:02 5 didn't even learn of it until we started preparing for
16:21:05 6 this.

16:21:06 7 MR. WHITAKER: Can you spell "AHCCCS" for the
16:21:08 8 court reporter?

16:21:08 9 THE WITNESS: Oh, yes. Okay. She's got it.

16:21:13 10 MR. WHITAKER: Okay.

16:21:13 11 BY MR. DODGE:

16:21:14 12 Q. Returning to Exhibit 212.

16:21:18 13 A. Yes, sir.

16:21:19 14 Q. And specifically to your response to Interrogatory
16:21:25 15 Number 3, at the bottom of page 16, could you just take a
16:21:32 16 moment to review Interrogatory Number 3.

16:21:57 17 A. Yes. And this is what I discussed earlier, that
16:22:00 18 at the time I prepared the April 2023 thing, I was only
16:22:07 19 aware of one matter, and that was what this answer related
16:22:12 20 to. I think we revised that to say there were two. So I'm
16:22:15 21 familiar with this.

16:22:17 22 Q. Setting aside the two matters you referred to,
16:22:21 23 does your office's response to Interrogatory Number 3
16:22:24 24 anywhere identify a noncitizen convicted for registering to
16:22:30 25 vote or casting a ballot in Arizona since 2016?

16:22:34 1 A. It does not.

16:22:35 2 Q. So is it fair to say that your office has not
16:22:38 3 convicted a single individual registering to vote or
16:22:41 4 casting a ballot as a noncitizen since 2016?

16:22:44 5 A. I believe that is a fair statement.

16:22:47 6 Q. Are you aware of whether your office has convicted
16:22:55 7 an individual of registering to vote or casting a ballot as
16:22:58 8 a noncitizen since you joined the Attorney General's
16:23:05 9 Office?

16:23:05 10 A. That's difficult to say, because I joined the
16:23:14 11 Attorney General's Office over 20 years ago, and I did not
16:23:17 12 become responsible for this caseload until 2010.

16:23:20 13 Q. Okay. So since -- same question but since 2010.

16:23:24 14 A. Since I became assigned to it -- and again, as we
16:23:27 15 discovered with the case that's being prosecuted out of
16:23:30 16 Tucson, if voting was a secondary charge on an indictment
16:23:35 17 that led with an AHCCCS fraud charge or a -- a fraud, it's
16:23:40 18 possible there may have been a conviction there that
16:23:43 19 another attorney did that I'm not aware of, but
16:23:46 20 specifically as to things that I am aware of, no, I'm not
16:23:50 21 aware of any other noncitizen cases from 2010 onward.

16:23:57 22 Q. And is there any individual in the Attorney
16:24:00 23 General's Office who more familiar -- who would be more
16:24:04 24 familiar with a case concerning a prosecution concerning
16:24:11 25 illegal voting over that time period?

16:24:13 1 A. I don't believe so, but I only know what I know.

16:24:17 2 Q. So sitting here today as the most knowledgeable
16:24:20 3 person in the Attorney General's Office regarding
16:24:22 4 prosecutions for illegal voting, you agree you are not able
16:24:25 5 to identify a single conviction since 2010 of an individual
16:24:29 6 for registering to vote or casting a ballot as a
16:24:32 7 noncitizen?

16:24:33 8 A. I am not aware of any such matters, according to
16:24:38 9 what you're saying there.

16:24:42 10 Q. How many investigations has your office conducted
16:24:46 11 into election crimes by voters since 2010?

16:24:51 12 A. So I need to caveat my answer because I sit as
16:24:59 13 prosecutor, and so only matters that are referred to me are
16:25:03 14 matters that have -- a certain level of investigation has
16:25:07 15 been done of complaints and they've been determined to be
16:25:09 16 merit worthy of prosecution. I would say that number is
16:25:14 17 somewhere in the 2- to 300 range.

16:25:19 18 In terms of number of investigations that
16:25:23 19 have been conducted, I would assume it's slightly larger
16:25:27 20 than that. In terms of the number of complaints we
16:25:30 21 received, it's an order of magnitude bigger than that.

16:25:33 22 Q. Thousands of complaints?

16:25:36 23 A. Just from 2020 alone.

16:25:41 24 Q. And how many convictions has your office obtained
16:25:47 25 since 2010 for election crimes committed by voters?

16:25:50 1 A. That's what the list is intended to document.

16:25:55 2 Q. Sitting here today, are you able to identify an

16:25:59 3 instance where another prosecuting authority in Arizona has

16:26:02 4 convicted a noncitizen of registering to vote or casting a

16:26:06 5 ballot in Arizona?

16:26:07 6 A. Since when?

16:26:09 7 Q. Since 2010.

16:26:14 8 A. No, I don't believe so. But I know there is such

16:26:18 9 a list that exists, and I believe it's been turned over to

16:26:22 10 you.

16:26:24 11 Q. From the Attorney General's Office?

16:26:26 12 A. Yes.

16:26:30 13 Q. But you're not able to identify any such case

16:26:35 14 since 2010?

16:26:37 15 A. The list that I have seen goes back pretty far.

16:26:43 16 And I know there are cases on there that -- where the

16:26:45 17 Attorney General's Office is not the prosecuting agency.

16:26:48 18 They are prosecutions of individuals who are not U.S.

16:26:51 19 citizens for registering to vote. And I cannot recall off

16:26:58 20 the top of my head what year they were from, but I know

16:26:59 21 some of them predate 2010. I just don't know whether some

16:27:02 22 of them are after as well.

16:27:04 23 Q. Are you aware of any -- if any of the prosecutions

16:27:06 24 on that list relate to the 2020 election?

16:27:10 25 A. I don't believe they do, but again, I'm a

16:27:15 1 spokesperson for the agency here, so to the extent that I'm
16:27:19 2 speaking on behalf of other agencies, I know -- I know
16:27:21 3 generally of some of those things, but I -- I can't really
16:27:25 4 speak authoritatively to what the U.S. Attorney's Office
16:27:27 5 has done or Maricopa County Attorney's Office has done.

16:27:31 6 Q. Looking back at Exhibit 224, turning to page 6,
16:27:39 7 this is a continuation of the additional note's bullets?

16:27:45 8 A. Yes.

16:27:45 9 Q. First bullet at the top of this page says, "There
16:27:49 10 are approximately 174 allegations of illegal voting
16:27:52 11 currently under investigation arising from the 2020
16:27:52 12 election cycle."

16:27:56 13 Do I have that right?

16:27:56 14 A. You do.

16:27:57 15 Q. The first sub-bullet there says, "Approximately
16:27:59 16 two involved ballots cast by individuals who are not
16:28:01 17 eligible to vote."

16:28:02 18 A. Correct.

16:28:02 19 Q. Do you know the basis on which those individuals
16:28:07 20 are not eligible to vote allegedly?

16:28:08 21 A. So I'm going to just stop here and say I did not
16:28:12 22 fully prepare encyclopedia knowledge of the crosscuts of
16:28:16 23 this part for this here today. I can tell you from my best
16:28:23 24 recollection, but if I get my actual statistics and cases
16:28:26 25 out in front, I may want to revise some of the -- the basis

16:28:26 1 for this.

16:28:32 2 I will tell you generally the two that I
16:28:36 3 believe this is referring to are going to be individuals
16:28:38 4 who are most likely convicted felons. I don't believe that
16:28:42 5 these are going to be noncitizen allegations.

16:28:44 6 Q. Okay. And there are other bases on which an
16:28:47 7 individual might not be eligible to vote beyond being
16:28:51 8 convicted of a felony or not being a citizen; correct?

16:28:53 9 A. Correct. One of our convictions is a person who
16:28:56 10 simply was not registered to vote even though they were
16:28:58 11 eligible to.

16:28:59 12 Q. A person could also be under the age of 18, for
16:29:03 13 example?

16:29:03 14 A. Yes.

16:29:04 15 Q. Okay. This next sub-bullet says, "Approximately
16:29:07 16 27 involved ballots cast in the names of deceased
16:29:10 17 individuals."

16:29:10 18 A. Correct.

16:29:10 19 Q. Do I have that right?

16:29:12 20 And the bullet after that says,
16:29:14 21 "Approximately 145 involved individuals alleged to have
16:29:18 22 cast ballots in more than one state."

16:29:18 23 Do I have that right?

16:29:20 24 A. You see it.

16:29:20 25 Q. And none of these 174 cases, as you understand it,

16:29:28 1 involve allegations of registration or voting by a
16:29:32 2 noncitizen; correct?

16:29:33 3 A. No, they do not.

16:29:39 4 Q. A few bullets down, fourth from the top of the
16:29:42 5 list, says, "Approximately 65 of the pending investigations
16:29:45 6 were referred by the Public Interest Legal Foundation."

16:29:47 7 A. That's correct.

16:29:48 8 Q. Do you regularly receive referrals from the Public
16:29:53 9 Interest Legal Foundation?

16:29:53 10 A. I did not before the 2020 general election. And
16:29:57 11 I'll tell you -- you see here this and the category that
16:30:01 12 follows it -- we don't have a tracking system for cases.
16:30:08 13 And so I'm -- I'm -- you're looking at the tracking system.
16:30:13 14 I noted that a number of our complaints which
16:30:17 15 were referred to me for opening criminal investigations
16:30:19 16 indicated their source on them as being the Public Interest
16:30:24 17 Legal Foundation. And because we did get numerous media
16:30:27 18 complaints for "Where are your complaints coming from?" I
16:30:31 19 began just to take a tick of, okay, here's one from Public
16:30:34 20 Interest Legal, and I had a tick mark for that.

16:30:36 21 And so when I hit -- you know, I hit 65 at
16:30:42 22 this point, and so that's why I indicated that there is so
16:30:45 23 that if we got a media request for how many came from
16:30:48 24 there, we would be able to answer it.

16:30:50 25 Q. But you didn't receive referrals from them prior

16:30:54 1 to the 2020 election?

16:30:54 2 A. I can't say that I had ever even heard of them
16:30:57 3 before the 2020 general election.

16:30:59 4 Q. Would you say 65 is a large number of referrals?

16:31:01 5 A. It is.

16:31:02 6 Q. Did any of the referrals from the Public Interest
16:31:05 7 Legal Foundation every lead to a conviction?

16:31:06 8 A. I can't speak to that here today. I would need to
16:31:12 9 trace before I could make something -- a determinative
16:31:15 10 statement like that.

16:31:17 11 I can tell you that when complaints came into
16:31:21 12 our office, there was a process in place where they were
16:31:24 13 supposed to be initially vetted for -- just to make sure
16:31:28 14 that the data lined up across the various states and that
16:31:33 15 the ones from the Public Interest Legal Foundation met that
16:31:36 16 first test. It didn't mean they were eventually going to
16:31:41 17 be prosecuted. It just meant they made it through the
16:31:43 18 first stage of review.

16:31:44 19 Q. But you can't recall specifically if any of the
16:31:47 20 cases they referred to you resulted in a conviction?

16:31:49 21 A. I cannot, as I sit here today.

16:31:51 22 Q. And based on your prior testimony, it's fair to
16:31:53 23 say that even if any of them did lead to a conviction, they
16:31:58 24 could not be for voting by either a noncitizen or a
16:32:00 25 nonresident?

16:32:01 1 A. I don't remember the basis of the Public Interest
16:32:06 2 Legal Foundation's complaints other than to say my
16:32:10 3 recollection of them as I sit here today -- and I could be
16:32:15 4 contradicted by my own documents if I could review them --
16:32:18 5 the bulk of their complaints were matching state
16:32:25 6 registration and voting records. The bulk of their
16:32:29 7 complaints were, as I recall, between the state of a
16:32:33 8 Washington and the state of Arizona -- was the number --
16:32:36 9 was a large source of their complaints.

16:32:38 10 Q. The bullet below that says, "Approximately 22 of
16:32:42 11 the pending investigations were referred by former
16:32:45 12 Representative Mark Finchem."

16:32:47 13 Did I get that right?

16:32:48 14 A. You did.

16:32:48 15 Q. Did you routinely receive criminal referrals from
16:32:53 16 Mr. Finchem?

16:32:53 17 A. No. But I received enough and -- received enough
16:32:57 18 complaint -- excuse me -- media requests for are we working
16:33:00 19 with complaints from Representative Finchem, that I began
16:33:04 20 tracking it because I was getting requests for what we were
16:33:08 21 doing on those.

16:33:11 22 So is 22 significant? I mean, you can see
16:33:14 23 the overall number here. 22 is a percentage of it.
16:33:18 24 Whether that's significant or not, I'll leave that up to
16:33:21 25 you. But it was something where I was getting the

16:33:23 1 question, and so I wanted to be able to answer it.

16:33:25 2 Q. Did any of the referrals from Mr. Finchem ever
16:33:28 3 lead to a conviction?

16:33:29 4 A. To my knowledge, one did, but I'm hard pressed as
16:33:37 5 I sit here to say which one it was.

16:33:39 6 Q. You don't recall any facts of that conviction?

16:33:41 7 A. It's one of the very late ones. Perhaps Mr. Zia,
16:33:48 8 Number 37. I want to say it's that one. I'm about
16:33:58 9 75 percent sure it's that one.

16:34:02 10 Q. And looking back at page 5, that case that you're
16:34:07 11 referring to, appears to indicate that the individual was
16:34:10 12 convicted of voting an early ballot that had, in fact, been
16:34:15 13 issued to his son and without his son's permission, while
16:34:18 14 also casting his own ballot, in the 2020 general election;
16:34:21 15 correct?

16:34:21 16 A. So this update as of April 4 shows it in progress.
16:34:24 17 He's -- Mr. Zia has since been convicted, so I can talk
16:34:28 18 about this in greater detail.

16:34:30 19 Q. Was my characterization of the charge there
16:34:32 20 accurate?

16:34:33 21 A. Could you restate it?

16:34:36 22 Q. Based on the description in this document, it
16:34:39 23 appears that the defendant was alleged to have voted an
16:34:43 24 early ballot issued to his son without his son's permission
16:34:46 25 while also casting his own ballot in the 2020 general

16:34:48 1 election.

16:34:49 2 A. The summary that I have written here is accurate.
16:34:51 3 There's a larger story there which kind of was the nature
16:34:56 4 of the complaint, but that is what -- ultimately, what
16:34:58 5 Mr. Zia was convicted of was voting his son's ballot
16:35:01 6 without permission.

16:35:04 7 Q. And you can't think of any other cases referred by
16:35:07 8 Mr. Finchem that resulted in a conviction?

16:35:10 9 A. I cannot. And I believe -- and as I sit here, I
16:35:15 10 would put it about 75 percent accuracy. I believe
16:35:17 11 Mr. Zia's complaint was originally a Finchem source
16:35:21 12 complaint.

16:35:22 13 Q. Did you find most of Mr. Finchem's referrals to be
16:35:26 14 credible?

16:35:28 15 A. At a basic level -- let me answer your question by
16:35:31 16 saying the overwhelming number of our complaints never got
16:35:36 17 to the end. So the number of complaints that failed to get
16:35:45 18 to filing I would say is well in excess of 80 percent.

16:35:50 19 And so the fact that Mr. Finchem's complaints
16:35:54 20 did not result in a number of convictions is not unusual.
16:35:57 21 Most of our complaints didn't result in complaint -- in
16:36:01 22 convictions. So if any one agency has a good track record
16:36:06 23 with us, it's probably the secretary of state.

16:36:08 24 Q. In general, are referrals from another government
16:36:12 25 office more likely to be credible and result in conviction

16:36:15 1 than referrals from private individuals?

16:36:20 2 A. In my experience, probably yes.

16:36:24 3 Q. When I say "private individuals," I include
16:36:26 4 Mr. Finchem. Same answer?

16:36:28 5 A. Yes, I would agree with that. Generally, you are
16:36:32 6 correct.

16:36:33 7 Q. The next bullet on this list says, quote, "6
16:36:37 8 matters opened as a result of the Arizona State
16:36:39 9 Senate/Cyber Ninjas Audit were closed without the filing of
16:36:42 10 charges."

16:36:42 11 A. Yes.

16:36:42 12 Q. Did I read that correctly?

16:36:43 13 So fair to say that no referral to your
16:36:45 14 office, based on the Cyber Ninjas audit, resulted in filing
16:36:50 15 of charges?

16:36:50 16 A. That is accurate. And we did have repeated
16:36:52 17 questions about that. And that's exactly why this bullet
16:36:55 18 point exists.

16:36:57 19 And I did review those six here today because
16:37:00 20 I knew you would be asking about citizen and residency
16:37:04 21 questions. And so if I could just make sure that you have
16:37:09 22 enough information -- and I don't want to hide something
16:37:11 23 under a bullet point here. Two of these cases of these six
16:37:16 24 are -- involved allegations that I think may be pertinent
16:37:18 25 to you. One is a residency allegation where an individual

16:37:22 1 was alleged not to be a resident of Arizona; was alleged to
16:37:25 2 have been a resident of Texas. That -- that case was
16:37:28 3 closed without filing of charges.

16:37:31 4 And the other was a person who was alleged to
16:37:33 5 be a noncitizen; was alleged to be a citizen of Israel; and
16:37:38 6 was determined not to be a criminal charge because he voted
16:37:42 7 legally in the United States through UOCAVA. And both of
16:37:46 8 those matters were closed without the filing of criminal
16:37:49 9 charges.

16:37:50 10 Q. How were those matters from the Cyber Ninjas'
16:37:54 11 audit referred to?

16:37:55 12 A. They were -- the process that was in place was
16:37:57 13 that the Cyber Ninjas' audit was treated as a criminal
16:38:02 14 complaint and was investigated by the investigation
16:38:06 15 section. And if, in their review, they determined in that
16:38:09 16 review that any crimes were committed, those matters were
16:38:13 17 spun off into separate cases and they were referred for
16:38:16 18 prosecution. There were six such spin-off cases that I
16:38:21 19 handled, and none of them were charged.

16:38:26 20 Q. So fair to say that the allegations referred to
16:38:28 21 your office from the Cyber Ninjas' audit regarding
16:38:31 22 allegations of nonresident and noncitizen voting were
16:38:35 23 ultimately found baseless?

16:38:37 24 A. I believe that -- none of them merited criminal
16:38:40 25 prosecution would be the metric that I looked at them

16:38:43 1 under. None of them were provable to our charging
16:38:47 2 standard.

16:38:48 3 Q. The final bullet in this list says, "There are 3
16:38:50 4 allegations of illegal voting currently under investigation
16:38:52 5 arising from the 2022 cycle."

16:38:55 6 Did I read that right?

16:38:56 7 A. Correct.

16:38:56 8 Q. What's the current status of those investigations?

16:39:00 9 A. I did not prepare on that topic here today. So

16:39:07 10 I --

16:39:07 11 Q. Do you know whether --

16:39:08 12 A. -- I cannot offer you that information at this
16:39:09 13 time.

16:39:10 14 Q. Do you know whether any concerned allegations of
16:39:13 15 registration or voting by a noncitizen?

16:39:17 16 A. I -- I'm -- I'm sorry. I am not prepared to tell
16:39:20 17 you which three those are. I would want to look at those
16:39:23 18 and be able to give you more specificity.

16:39:26 19 I specifically prepared on any issues related
16:39:30 20 to citizenship or registration. Those didn't come up in my
16:39:32 21 review, and so I don't want to say no, but I don't believe
16:39:36 22 that they do.

16:39:37 23 Q. But just for the record, then, sitting here today,
16:39:40 24 you are not able to state that any of those pending
16:39:42 25 investigations concern allegations of noncitizen

16:39:45 1 registration or voting or nonresident registration or
16:39:49 2 voting?

16:39:49 3 A. I'm not prepared to make that statement, but,
16:39:52 4 Counsel, what I will do is I will go back and verify those
16:39:56 5 and then provide that information to our counsel. And if
16:39:58 6 there's any change to that answer, I -- I want to make sure
16:40:02 7 that my statement here today is correct.

16:40:05 8 I don't believe they do, but I want to make
16:40:07 9 sure of that before I set it in concrete. Is that okay?

16:40:13 10 Q. Turning to Section B of this document, it's titled
16:40:19 11 "Prosecutions Related to Elections Since 2010"; right?

16:40:22 12 A. Yes.

16:40:22 13 Q. These cases do not involve allegations of illegal
16:40:29 14 registration or illegal voting by individual voters;
16:40:32 15 correct?

16:40:32 16 A. That's correct. And that's -- why I broke this
16:40:34 17 out the way I did is that the public document was often
16:40:38 18 confused among these two types of cases.

16:40:41 19 Q. Okay. I'm going to shift gears and ask about the
16:40:52 20 state's interest in passing the challenged legislation.

16:40:55 21 A. Sure.

16:40:56 22 Q. Can you return to Exhibit 212.

16:40:59 23 A. Yes, sir.

16:41:01 24 Q. And again, briefly review Interrogatory

16:41:05 25 Number 1 --

16:41:05 1 A. Number 1.

16:41:05 2 Q. -- on page 4. This is Dropbox Number 6.

16:41:15 3 A. Yes.

16:41:22 4 Q. Okay. Your office characterized Subpart 1 of

16:41:28 5 Interrogatory Number 1 as "Identify all state interests

16:41:31 6 that you believe are furthered by the challenged laws . . .

16:41:34 7 Your answer should specify which alleged state interest(s)

16:41:38 8 support each challenged provision of the Challenged Laws

16:41:39 9 and the connection between the alleged state interests and

16:41:43 10 challenged provisions."

16:41:43 11 Did I get that correct?

16:41:44 12 A. That is what it says.

16:41:45 13 Q. Okay. Could you take a moment to review your

16:41:52 14 office's response to Subpart 1.

16:41:55 15 A. How can I help you? I did that earlier. I'm

16:41:58 16 sorry.

16:41:58 17 Q. Okay. Your response indicates that HB 2492 and

16:42:04 18 HB 2243 ensure that voter registration is limited to those

16:42:07 19 who are eligible to vote; correct?

16:42:09 20 A. That is the statement here. I think that that is

16:42:12 21 the general overall concern of -- that appears to be behind

16:42:17 22 these laws is that voter registration be limited to

16:42:22 23 eligible individuals.

16:42:23 24 Q. And how do these laws do that?

16:42:26 25 MR. WHITAKER: Objection. Calls for a legal

16:42:26 1 conclusion.

16:42:28 2 And I'm not remembering the exact details of
16:42:32 3 our emails before this, but it may be outside the scope,
16:42:36 4 depending on our email correspondence.

16:42:38 5 THE WITNESS: I'm a person who enforces the
16:42:40 6 law. I'm not a person who creates the law. I'm sure you
16:42:44 7 can go and find records that I have filed in my cases in
16:42:48 8 terms of sentencing recommendations that say we are -- the
16:42:51 9 state has an interest in making sure that elections are
16:42:54 10 fairly conducted and that only individuals who are eligible
16:42:58 11 to vote are voting and only -- they're only voting once.

16:43:02 12 And so I think that is an overriding state
16:43:06 13 interest, and I think that is something that may have been
16:43:09 14 of work here, but I can't say specifically.

16:43:11 15 BY MR. DODGE:

16:43:11 16 Q. So you're not able to testify today to how HB 2492
16:43:15 17 and HB 2243 help to ensure that voter registration is
16:43:19 18 limited to those who are eligible to vote; right?

16:43:22 19 MR. WHITAKER: Objection. Legal conclusion
16:43:24 20 and scope issues as explained in email correspondence with
16:43:28 21 opposing counsel.

16:43:30 22 THE WITNESS: I am not a legislator. I don't
16:43:32 23 know what other -- what else they were thinking at the time
16:43:36 24 they brought -- they brought this into law.

16:43:39 25 BY MR. DODGE:

16:43:43 1 Q. You would agree with me that prior to the
16:43:44 2 enactment of the challenged laws, it was illegal in Arizona
16:43:48 3 to register to vote or to cast a ballot when ineligible to
16:43:52 4 do so; correct?

16:43:53 5 A. Correct.

16:43:54 6 Q. In fact, those are felonies?

16:43:55 7 MR. LANGHOFER: Calls for legal conclusion.

16:43:58 8 THE WITNESS: I think it's correct, so . . .

16:44:02 9 BY MR. DODGE:

16:44:02 10 Q. Those were -- those were felonies under Arizona
16:44:04 11 law prior to enactment of the challenged laws; correct?

16:44:06 12 MR. LANGHOFER: Same objection.

16:44:07 13 THE WITNESS: 16-1182. Yes.

16:44:13 14 BY MR. DODGE:

16:44:22 15 Q. You referred earlier today to two pending cases
16:44:27 16 involving allegations of a noncitizen voting; correct?

16:44:29 17 A. Correct.

16:44:30 18 Q. Are you able to explain today how the challenged
16:44:33 19 laws might have prevented those individuals from
16:44:37 20 registering or voting?

16:44:39 21 MR. WHITAKER: Objection. Legal conclusion.
16:44:45 22 Same scope concerns.

16:44:49 23 THE WITNESS: I'm not sure how I track is
16:44:52 24 preventing. Criminal law is reactive. People do things
16:45:00 25 that violate the law and then we prosecute them for it. I

16:45:04 1 can't say how we would have prevented anything.

16:45:07 2 BY MR. DODGE:

16:45:08 3 Q. Do you have any view on whether those individuals
16:45:12 4 would have been able to successfully cast ballots if the
16:45:16 5 challenged laws had been in place at the time?

16:45:18 6 MR. WHITAKER: Same objections and
16:45:21 7 foundation.

16:45:22 8 THE WITNESS: I cannot speculate as to that.
16:45:30 9 There are a number of intervening circumstances in the
16:45:33 10 cases that would be speculative as to how anything would
16:45:38 11 have impacted them.

16:45:38 12 BY MR. DODGE:

16:45:41 13 Q. You indicated earlier that you are not aware of a
16:45:45 14 single conviction by your office of a noncitizen for
16:45:48 15 registering to vote or casting a ballot in Arizona going
16:45:51 16 back to 2010; correct?

16:45:53 17 A. I believe that's accurate, correct.

16:45:55 18 Q. So in your view, was voting by noncitizens a
16:45:59 19 problem in Arizona prior to the enactment of the challenged
16:46:02 20 laws?

16:46:04 21 A. I can only speak to --

16:46:05 22 MR. LANGHOFER: Form.

16:46:06 23 THE WITNESS: I can only speak to what we can
16:46:08 24 prove to beyond a reasonable doubt standard that no
16:46:12 25 allegations like that were brought to us that were provable

16:46:17 1 and to the beyond a reasonable doubt standard. As to
16:46:22 2 the -- whether the problem exists, I just don't know.

16:46:25 3 BY MR. DODGE:

16:46:27 4 Q. Would you agree with me that whether or not a
16:46:29 5 person is a citizen is a binary question? A person either
16:46:35 6 is a citizen or they're not?

16:46:37 7 A. I'd say that you're beyond my scope of expertise.
16:46:40 8 We can talk about the rules of criminal procedure, but
16:46:43 9 citizenship is a thing that I know is super complex, and it
16:46:48 10 is something conveyed by a federal law that I do not
16:46:52 11 practice in regular --

16:46:53 12 Q. A person can be a U.S. citizen; right?

16:46:56 13 A. I believe that is correct.

16:46:57 14 Q. A person can also not be a U.S. citizen; correct?

16:47:00 15 A. I believe that is also correct.

16:47:01 16 Q. A person can't be both?

16:47:04 17 A. A dual citizenship is a thing.

16:47:07 18 Q. In that case, they would be a U.S. citizen; right?

16:47:09 19 A. Potentially. I don't -- I don't pretend to be an
16:47:13 20 expert in citizenship.

16:47:49 21 MR. WHITAKER: How much longer do you
16:47:50 22 anticipate with this witness?

16:47:52 23 MR. DODGE: Do you want to go off the record?

16:47:55 24 MR. WHITAKER: Well, in a sense no, because
16:47:59 25 I'd like to use record time.

16:48:02 1 MR. DODGE: Why don't we go off the record.

16:48:06 2 MR. WHITAKER: Sure.

16:48:07 3 THE VIDEOGRAPHER: We are off the record.

16:48:09 4 Time on the video monitor is 4:48 p.m.

16:48:14 5 (A recess ensued.)

16:55:33 6 THE VIDEOGRAPHER: We are on the record.

16:55:49 7 Time on the video monitor is 4:55 p.m.

16:55:53 8 BY MR. DODGE:

16:55:55 9 Q. Mr. Lawson, I'm going to ask you to look back at

16:55:58 10 Exhibit 212 and again at your office's response to

16:56:02 11 Subpart 1 of Interrogatory Number 1.

16:56:05 12 A. Yes, sir.

16:56:06 13 Q. Your response indicates as well that the

16:56:11 14 challenged laws help to promote public trust in elections;

16:56:14 15 is that correct?

16:56:15 16 A. To the extent that I am not a legislator, I can

16:56:22 17 think that that was probably what motivated them, but

16:56:27 18 again, I -- beyond that, I can't speak to the specifics.

16:56:31 19 Q. Are you able to explain how the challenged laws

16:56:35 20 promote public trust in elections?

16:56:39 21 MR. WHITAKER: Same objections as before on

16:56:40 22 this subpart.

16:56:41 23 THE WITNESS: I am not.

16:56:43 24 BY MR. DODGE:

16:56:43 25 Q. Your response states that, quote, "Some members of

16:56:46 1 the public may feel doubt about election results, rightly
16:56:49 2 or wrongly"; correct?

16:56:50 3 A. Is that in our -- is that in here?

16:56:56 4 Q. That's at page 5, line 11.

16:57:01 5 A. Yes.

16:57:01 6 Q. Does your office have a view as to whether these
16:57:05 7 doubts are right or wrong?

16:57:08 8 A. I think that's -- our job is to --

16:57:09 9 MR. WHITAKER: Compound.

16:57:10 10 THE WITNESS: -- to determine if they're
16:57:11 11 right or wrong. That's what we had a complaint line for
16:57:14 12 and -- so that people could complain their doubts to us and
16:57:18 13 we would look into them.

16:57:19 14 THE COURT REPORTER: Did someone object in
16:57:22 15 the middle?

16:57:22 16 MR. WHITAKER: I said compound.

16:57:26 17 BY MR. DODGE:

16:57:27 18 Q. Can you explain why you believe the challenged
16:57:30 19 laws may help to alleviate such doubt?

16:57:32 20 MR. WHITAKER: Same objections as to the
16:57:33 21 subpart voiced previously. Go ahead.

16:57:35 22 THE WITNESS: I cannot speak to the intent of
16:57:39 23 the legislature. I can speak to -- a number of people have
16:57:43 24 issues, and one of the things our unit attempted to do was
16:57:50 25 to investigate and pursue righteous complaints and to

16:57:55 1 determine which ones had no merit and to explain why they
16:57:58 2 had no merit.

16:57:58 3 BY MR. DODGE:

16:57:58 4 Q. Your response here states that some members of the
16:58:01 5 public may feel doubt about election results, rightly or
16:58:04 6 wrongly.

16:58:05 7 Would you agree with me that the term "may"
16:58:06 8 suggests speculation as to whether individuals feel such
16:58:13 9 doubts?

16:58:14 10 A. You are correct.

16:58:15 11 Q. So your response is not categorically stating that
16:58:22 12 the public may feel doubt -- strike that.

16:58:25 13 Your response is not categorically stating
16:58:27 14 that the public feels doubt about election results, rightly
16:58:30 15 or wrongly?

16:58:31 16 A. No, sir.

16:58:31 17 Q. And the next sentence says, "The Challenged Laws
16:58:37 18 may help alleviate such doubt."

16:58:40 19 That also is a speculative statement;
16:58:43 20 correct?

16:58:43 21 A. Correct.

16:58:44 22 Q. So your response does not categorically state that
16:58:47 23 the challenged laws will help to alleviate such doubt; is
16:58:50 24 that right?

16:58:50 25 A. I think that's accurate.

16:58:52 1 Q. Has your office -- does your office have any
16:58:56 2 evidence that the challenged laws have helped to alleviate
16:58:59 3 such doubt among the public?

16:59:02 4 A. I'm hesitant to answer because I don't think we've
16:59:07 5 ever had the challenged laws activated. We've never
16:59:09 6 received a complaint which would activate them. So I don't
16:59:13 7 know that the challenged laws have done a thing other than
16:59:16 8 a single-page report.

16:59:18 9 Q. They're on the books; right?

16:59:19 10 A. Correct.

16:59:20 11 Q. Does your office -- does your office have any
16:59:23 12 evidence that the enactment of the challenged laws,
16:59:28 13 including them in the Arizona Revised Statutes, has done
16:59:34 14 anything to alleviate public doubt about election results?

16:59:38 15 MR. WHITAKER: Same objections. Go ahead.

16:59:40 16 THE WITNESS: I think any answer to that
16:59:42 17 question would be speculative. You'd have to talk to an
16:59:44 18 awful lot of people.

16:59:45 19 BY MR. DODGE:

16:59:49 20 Q. Speaking of those people, has your office
16:59:51 21 identified any members of the public whose doubts about
16:59:55 22 election results have been alleviated by the enactment of
16:59:57 23 the challenged laws?

16:59:59 24 MR. WHITAKER: Foundation. Go ahead.

17:00:00 25 THE WITNESS: I don't have any people who I

17:00:03 1 know are happy with this law. I'm not a -- can't speak to
17:00:08 2 that.

17:00:08 3 BY MR. DODGE:

17:00:10 4 Q. Has your office identified what percentage of
17:00:12 5 Arizona voters have doubts about election results?

17:00:17 6 A. I'm not aware of any such efforts by our office to
17:00:21 7 poll or survey individuals about this law. I don't have
17:00:25 8 any information to answer your question.

17:00:26 9 Q. Is it your office's position that it is
17:00:30 10 appropriate to legislate to address unfounded doubts about
17:00:33 11 election results even if that legislation makes it harder
17:00:37 12 for some lawful Arizona citizens to vote?

17:00:40 13 MR. WHITAKER: Same objection as before.

17:00:42 14 MR. LANGHOFER: Form. Scope.

17:00:46 15 THE WITNESS: Mr. Dodge, I -- I'm not a
17:00:51 16 policymaker for the agency. There is an elected attorney
17:00:57 17 general who makes those sorts of decisions. I am not that
17:00:59 18 person.

17:01:00 19 My job is to prosecute cases that are before
17:01:03 20 me with prosecutorial merit. And I can't make those sorts
17:01:06 21 of conclusions.

17:01:07 22 BY MR. DODGE:

17:01:08 23 Q. If otherwise eligible voters have their voter
17:01:11 24 registrations rejected or canceled due to the challenged
17:01:13 25 laws, do you think that could erode public trust in

17:01:17 1 elections?

17:01:17 2 MR. WHITAKER: Foundation and similar
17:01:20 3 objections.

17:01:21 4 MR. LANGHOFER: Scope.

17:01:21 5 THE WITNESS: I don't have any basis to
17:01:24 6 indicate whether that is occurring or not, so I can't
17:01:25 7 really speak to it. I think it's too speculative.

17:01:27 8 BY MR. DODGE:

17:01:27 9 Q. More generally, do you think that if eligible
17:01:30 10 voters have their voter registrations rejected or canceled,
17:01:34 11 despite being eligible, that that might erode public trust
17:01:37 12 in elections?

17:01:39 13 MR. WHITAKER: Same objections.

17:01:41 14 THE WITNESS: I think we could talk a number
17:01:46 15 of hypotheticals here today about what could erode public
17:01:50 16 trust in elections, and you can come up with any number of
17:01:54 17 them that would erode public trust. I can't speak one way
17:01:59 18 or another to them in terms of from where I sit as a
17:02:04 19 representative of this agency.

17:02:06 20 BY MR. DODGE:

17:02:10 21 Q. Your office identified two possible state
17:02:14 22 interests that the legislature may have had in enacting the
17:02:19 23 challenged laws. Is that fair to say?

17:02:19 24 A. That's the answer that we've -- that you've
17:02:21 25 referred to here.

17:02:23 1 Q. As a representative of the Attorney General's
17:02:28 2 Office, the state interests in that interrogatory response
17:02:31 3 are the only ones that the office has identified that it
17:02:38 4 believes the challenged laws may help to advance or
17:02:43 5 promote; correct?

17:02:44 6 MR. WHITAKER: Same objections.

17:02:45 7 THE WITNESS: And I think the word "may" is
17:02:47 8 doing a lot of work in that sentence, but yes, that's
17:02:49 9 correct.

17:02:49 10 BY MR. DODGE:

17:02:54 11 Q. Your office has not supplemented its response to
17:02:56 12 this interrogatory; correct?

17:02:59 13 A. Did we? Exhibit 225.

17:03:13 14 Q. Let me be more specific.

17:03:19 15 Has your office amended its response to
17:03:23 16 Subpart 1 of Interrogatory Number 1?

17:03:28 17 A. Counsel, here's where I have to play -- I'm not
17:03:32 18 counsel in this case, so if there has been more than one
17:03:36 19 response or supplement to this, I'm not aware of anything
17:03:38 20 more than Exhibit 225.

17:03:40 21 Q. If I represented to you that Exhibit 225 is the
17:03:44 22 only amended response your office has provided in this
17:03:47 23 litigation, would you take that representation?

17:03:49 24 A. Sounds good to me.

17:03:50 25 Q. And in those amended responses, there is no

17:03:54 1 amendment to your office's response to Subpart 1 of
17:03:58 2 Interrogatory Number 1; correct?

17:03:58 3 A. And I would agree with that -- if what you're
17:04:01 4 telling me is correct, I'm not aware of any other change to
17:04:03 5 it.

17:04:04 6 Q. Okay.

17:04:09 7 MR. DODGE: Can we go off the record for one
17:04:12 8 minute.

17:04:14 9 THE VIDEOGRAPHER: We're off the record. The
17:04:16 10 time on the video monitor is 5:04 p.m. This ends Media 3.

17:04:23 11 (A recess ensued.)

17:05:50 12 THE VIDEOGRAPHER: We are on the record.
17:06:05 13 Time on the video monitor is 5:06 p.m. This begins
17:06:09 14 Media 4.

17:06:10 15 MR. DODGE: Mr. Lawson, I have no further
17:06:16 16 questions for you.

17:06:17 17 Before we bring in Mr. Thomas, I'm going to
17:06:22 18 open the floor for redirect from defendants and
17:06:26 19 intervenors.

17:06:28 20 MR. WHITAKER: I have no redirect.

17:06:29 21 Mr. Langhofer, go for it.

17:06:29 22 MR. LANGHOFER: Thanks, Josh.

17:06:29 23

17:06:31 24 EXAMINATION

17:06:32 25 BY MR. LANGHOFER:

17:06:36 1 Q. I'm Kory Langhofer, and I'm representing the RNC.
17:06:39 2 And, Mr. Lawson, I believe we've spoken a few times. It's
17:06:44 3 nice to put a face to a voice and a name finally.

17:06:47 4 One thing I learned about you over time is
17:06:52 5 that you have what I have described to other people as an
17:06:52 6 appropriate view of the world of political prosecutions and
17:07:03 7 the standard of proof in these cases. And I think you
17:07:05 8 mentioned this probably 45 minutes or so ago.

17:07:11 9 You were talking about readily provable
17:07:13 10 defenses. What did you mean by that?

17:07:17 11 A. I think that came up in reference to determining
17:07:22 12 residency or eligibility to vote. Is that what you're
17:07:26 13 recalling?

17:07:27 14 Q. I think that sounds right.

17:07:29 15 So in your mind, is there a difference
17:07:31 16 between cases in which there's probable cause and cases
17:07:35 17 that are readily provable?

17:07:36 18 A. Our charging standard is a reasonable likelihood
17:07:39 19 of conviction, which means that there's a -- more likely
17:07:43 20 than not, that a jury at trial would find the defendant
17:07:46 21 guilty to a beyond a reasonable doubt standard.

17:07:49 22 That takes into account a number of
17:07:51 23 circumstances, including the provability of the
17:07:56 24 allegations, the availability of witnesses, and, obviously,
17:08:00 25 the availability of ready defenses to the charges and the

17:08:04 1 allegations that are made.

17:08:07 2 Having reviewed a number of residency

17:08:10 3 allegations over the course of my time with this caseload

17:08:14 4 and the Attorney General's Office, proving residency or --

17:08:19 5 as the condition of eligibility that causes somebody to be

17:08:23 6 brought before us for criminal review is a very slippery

17:08:28 7 standard that readily -- it has a ready defense of "I

17:08:34 8 believed I was a resident, and this is why I believe I'm a

17:08:37 9 resident; or I'm -- this is why I'm eligible, and this is

17:08:39 10 why I believe I'm eligible." And that's why we've been

17:08:42 11 very hesitant to pursue eligibility cases when there is not

17:08:49 12 readily available concrete proof.

17:08:52 13 And the two contexts that I think are most

17:08:55 14 obvious here in this caseload that we've talked about in

17:08:57 15 terms of Exhibit 224 are instances where people have voted

17:09:04 16 in more than one state on one day and have completed

17:09:08 17 conflicting declarations in writing in two different states

17:09:11 18 in one day and for people who are not eligible to vote but

17:09:16 19 are convicted felons where we have records that show they

17:09:20 20 are convicted, and we have a lack of records showing that

17:09:23 21 their rights have been restored.

17:09:25 22 When you have allegations like I referred to

17:09:28 23 in Mr. Dodge's questions, there was an individual who was

17:09:32 24 alleged to have been a resident of Texas and illegally

17:09:37 25 voted in Arizona. And I indicated that our fact pattern we

17:09:42 1 look for was register, register, vote, vote. That case, it
17:09:48 2 was register, vote, register, vote, which is a lawful
17:09:51 3 pattern.

17:09:52 4 And the idea that they want to say that the
17:09:56 5 vote happened when he was already eligible to register to
17:09:59 6 vote in Texas, yes, but he was also registered -- or
17:10:03 7 able -- he was previously registered in Arizona and
17:10:06 8 subjectively believed he could continue to vote in Arizona
17:10:09 9 and had a factual basis to do so.

17:10:12 10 So yes, we stay away from cases that exist
17:10:15 11 where the proof of the offense exists entirely in the
17:10:18 12 defendant's mind, because the defendant could subjectively
17:10:23 13 take the stand and say what they need to in order to obtain
17:10:25 14 an acquittal.

17:10:28 15 Does that address your question?

17:10:31 16 Q. It does. Thank you.

17:10:32 17 Is it fair to say, then, that the number of
17:10:35 18 cases in which there's probable cause is larger than the
17:10:38 19 number of cases that are readily provable?

17:10:44 20 A. So the standard by which -- I'm sorry. I think
17:10:48 21 you have -- you have them backwards. Let me make -- let me
17:10:51 22 make sure that I'm understanding your question.

17:10:53 23 We have a number of complaints that come in
17:10:56 24 that don't even get off the first stage -- get through that
17:11:00 25 first stage. There needs to be a reasonable suspicion that

17:11:03 1 there's an actual crime alleged.

17:11:06 2 And once there's that sort of basis that a

17:11:09 3 crime has occurred, then an investigation can occur. And

17:11:12 4 then there needs to be a reasonable suspicion for things

17:11:16 5 such as search warrants or subpoenas and things like that

17:11:18 6 to get further in the process.

17:11:21 7 To get onto my side of the equation for

17:11:25 8 charging, I -- my metric is a reasonable likelihood of

17:11:28 9 conviction, that being a higher standard than reasonable

17:11:32 10 suspicion and then probable cause and then the higher

17:11:37 11 standard of reasonable likelihood of conviction.

17:11:40 12 Does that make sense?

17:11:41 13 Q. So --

17:11:42 14 A. I thought you had the first two switched.

17:11:44 15 Q. I said it backwards by exhaustion, in which case I

17:11:52 16 apologize. Let me try it again.

17:11:53 17 If I understand it correctly, the number of

17:11:54 18 cases with probable would be greater than the number of

17:11:59 19 cases in which there's a ready -- readily provable offense.

17:12:02 20 Basically, readily provable offense is a subset of cases of

17:12:06 21 probable cause?

17:12:06 22 A. Yes. You could say that a number of complaints,

17:12:09 23 there's probably cause to believe that offense was

17:12:12 24 committed, but I can't prove it beyond a reasonable doubt.

17:12:14 25 That is correct. There's a smaller group of those and then

17:12:18 1 an even smaller group that we actually carry through and
17:12:21 2 make the discretion to act on and then ultimately get --
17:12:27 3 obtain a conviction for it. It's a gradually reducing
17:12:30 4 number.

17:12:41 5 Q. And in your mind, the -- if we were to think about
17:12:50 6 a preponderance standard, you know, more likely than not to
17:12:54 7 be true, is that also a larger group of cases than cases
17:12:59 8 that are readily provable, the ones that are actually
17:13:02 9 charged?

17:13:03 10 A. See, now you're taking me back to which standard
17:13:05 11 is higher than which standard, preponderance being higher
17:13:13 12 than probable cause, I believe. This is things I did not
17:13:17 13 prepare for today.

17:13:19 14 I think these are all gradually reducing
17:13:22 15 numbers that you're talking about here. The further you
17:13:25 16 get along in the process, there -- the cases become more
17:13:30 17 difficult to prove to the higher standards, yes, and that
17:13:34 18 number reduces.

17:13:35 19 Q. So there -- there's a conversation you and I
17:13:39 20 had -- you and I had years ago, which I will not ask you to
17:13:41 21 recall, but I guess what I'm getting at is, is there a
17:13:46 22 difference between believing something to be true and being
17:13:50 23 so confident that it is readily provable and you feel
17:13:55 24 comfortable charging?

17:13:55 25 A. Very much so. Having done this job for a long

17:13:59 1 time, there are a number of things where I can look at the
17:14:04 2 pattern and say this is almost certainly what happened, but
17:14:06 3 it's what I can prove that matters.

17:14:08 4 And it's not my job to have a gut and -- and
17:14:12 5 my gut feelings don't obtain convictions. I need to be
17:14:15 6 able to prove things. And you have to be able to separate
17:14:18 7 those two to do your job correctly in this position.

17:14:23 8 Q. I want to shift gears a little bit. Let's talk
17:14:29 9 about that online summary of election prosecutions.

17:14:29 10 A. Yes.

17:14:31 11 Q. And I've learned today from you that there are
17:14:35 12 apparently different versions of that document.

17:14:35 13 A. That's correct.

17:14:36 14 Q. You had some concerns about the description in the
17:14:40 15 version that was made publicly available. But if we limit
17:14:44 16 our focus to just the one that was publicly available on
17:14:47 17 the website, were all those cases at least real?

17:14:50 18 A. Yes.

17:14:53 19 Q. And were they, in fact, prosecutions for election
17:14:56 20 crimes?

17:14:56 21 A. Yes.

17:14:57 22 Q. Do you believe that any of those were materially
17:15:02 23 inaccurate in their summary of the cases?

17:15:06 24 A. I don't believe so, but I'd want to go through and
17:15:09 25 review the draft with a fine-tooth comb and probably go

17:15:15 1 back and review and see if I have my emails that I
17:15:17 2 exchanged at the time about the changes I was requesting.
17:15:20 3 A number of the changes I was requesting were
17:15:22 4 due to things that were inaccurate. And then I would
17:15:26 5 request changes, and then the following month I would
17:15:29 6 submit my requested changes for what had changed in that
17:15:34 7 month and was also requesting the same changes from
17:15:37 8 previous months again.

17:15:39 9 Q. I see.

17:15:43 10 You had -- one of the issues in this case is
17:15:49 11 whether there's some value in citizens or -- or proposed
17:15:59 12 registrants checking a box and saying that they're, in
17:16:02 13 fact, a citizen -- a citizen of the United States before
17:16:03 14 registering. And I want to ask you about that,
17:16:06 15 particularly in the context of -- you had talked about the
17:16:09 16 defenses that people raise and saying, you know, reasonable
17:16:13 17 mistake -- essential defenses; reasonable mistake; I
17:16:16 18 thought I was, but, you know, turns out there's some sort
17:16:20 19 of paperwork error.

17:16:23 20 In going through the complaints that come
17:16:28 21 into your office and thinking about whether cases could be
17:16:32 22 charged, has the fact that the recitations -- the factual
17:16:39 23 recitations a proposed will registrant make at the bottom
17:16:42 24 of the form before they sign under penalty of perjury are,
17:16:46 25 you know, in small print, the bottom of the document, not

17:16:49 1 called out individually -- has that ever been a concern for
17:16:54 2 you in deciding whether to move forward with criminal
17:16:58 3 prosecution?

17:16:58 4 MR. DODGE: Objection; form, foundation.

17:17:00 5 THE WITNESS: I'm sorry. Could I restate
17:17:02 6 your question as saying -- are you -- have I ever been
17:17:05 7 concerned about the size of the type on a voter
17:17:07 8 registration form?

17:17:09 9 BY MR. LANGHOFER:

17:17:10 10 Q. Yeah, I -- I guess that's part of my question.
17:17:14 11 But perhaps I should word it more clearly.

17:17:16 12 You know, for now, let me -- let me just --
17:17:20 13 assume that at the bottom of the standard registration form
17:17:23 14 there's a series of recitations about what it takes to be
17:17:26 15 qualified to register to vote -- I'm a felon; I'm a
17:17:30 16 citizen; I'm, in fact, a resident; and so on -- and small
17:17:34 17 type, sort of listed in summary form, a little bit of
17:17:38 18 legalese. Someone could sign that and then conceivably
17:17:42 19 later on say -- I'm just hypothesizing here -- later on
17:17:45 20 say that "I signed it, but I didn't read it carefully; it
17:17:47 21 was just, you know, honest -- you know, honest mistake."

17:17:51 22 So has -- have you ever come across that sort
17:17:54 23 of scenario where someone made a false statement but
17:17:57 24 because it was in a contract of adhesion-like scenario,
17:18:01 25 you're worried about enforceability -- criminal

17:18:04 1 enforceability?

17:18:05 2 MR. DODGE: Objection; foundation, form.

17:18:08 3 Calls for speculation.

17:18:10 4 THE WITNESS: Contract of adhesion stopped --
17:18:13 5 makes me want to think the last time I heard that was
17:18:16 6 probably in the ASU law school in terms of a concept
17:18:22 7 applying to something like this.

17:18:25 8 I can't speculate on that. I would say just
17:18:33 9 generally, there are references on here to a case. It is
17:18:50 10 Number 26: Mr. Clark.

17:18:54 11 BY MR. LANGHOFER:

17:18:55 12 Q. Okay.

17:18:55 13 A. Mr. Clark was convicted in Pima -- Pima County
17:18:59 14 Superior Court earlier this summer, and he was a convicted
17:19:02 15 felon who registered to vote and voted while in custody in
17:19:06 16 the Pima County jail. And he was not eligible to do so as
17:19:09 17 a convicted felon.

17:19:12 18 He essentially claimed that he was told he
17:19:15 19 was eligible to do so and -- but he could not identify who
17:19:19 20 told him that, and that he signed the form, essentially
17:19:23 21 ignoring the language which was there in plain sight,
17:19:27 22 because somebody told him to. I had no issue and the jury
17:19:33 23 had no issue with holding him accountable to the language
17:19:37 24 he agreed to.

17:19:38 25 I would say, in my experience since 2010,

17:19:41 1 voter registration forms have come in numerous formats and
17:19:45 2 type faces and print sizes. And ServiceArizona is an
17:19:49 3 entirely different animal altogether from physical forms.
17:19:55 4 The size of the type or the nature of the declaration has
17:19:59 5 never really been anything that has been a significant
17:20:02 6 impact on a charging decision.

17:20:11 7 I would say the larger issue, which I would
17:20:14 8 just -- again, speaking generally -- and I'm not referring
17:20:16 9 to any particular case here, setting Mr. Clark aside --
17:20:20 10 mental capacity of the individuals who are involved is
17:20:24 11 always a factor that goes into the calculus. And if you
17:20:27 12 told me my facts that I'm reviewing are someone who is
17:20:31 13 96 years old and didn't understand what they were doing,
17:20:34 14 that might be a factor, but I -- we could spend all day
17:20:38 15 here talking about hypotheticals.

17:20:40 16 Q. Have you seen -- you've seen cases where someone
17:20:49 17 lied about whether they were a felon when registering to
17:20:51 18 vote?

17:20:51 19 A. Yes. There's a number of these cases in the list
17:20:55 20 here. I don't need to refer to them by number beyond
17:20:57 21 they're here.

17:20:58 22 Q. And you've seen cases in which someone lied about
17:21:02 23 voting only once?

17:21:03 24 A. Yes.

17:21:04 25 Q. And you've apparently seen two cases recently

17:21:10 1 where someone lied about being a citizen?

17:21:15 2 A. There are two cases that we referred to earlier --
17:21:17 3 they're both older cases -- that are on warrant status
17:21:21 4 where that is the allegation. They were essentially people
17:21:26 5 who had been engaged in systematic identity theft over a
17:21:29 6 period of years, and one aspect of that was illegally
17:21:34 7 registering to vote and voting.

17:21:37 8 Q. Did I understand correctly that you have not seen
17:21:40 9 a case where someone lied about their residence, like
17:21:43 10 they -- someone said they're a resident of Maricopa County
17:21:45 11 when, in fact, it was Apache County?

17:21:49 12 A. No. And, in fact, I could say that Number 36 on
17:21:57 13 the list, Mr. Luttrell, he registered to vote twice in the
17:22:04 14 same day: once was in Maricopa County; one was in Coconino
17:22:09 15 County. It was not caught between the two counties. And
17:22:13 16 essentially, he made a false claim to residency in two
17:22:16 17 different counties, and he was convicted of that, illegally
17:22:21 18 voting, based on that he eventually voted in both counties.

17:22:24 19 So it is -- it is exceedingly rare, though,
17:22:29 20 because of the subjective nature of residency -- like,
17:22:32 21 could I tell you here today where is Mr. Luttrell actually
17:22:35 22 a resident of? Subjectively, I believe that he was a
17:22:40 23 resident of Maricopa County. But did he actually own
17:22:42 24 property in Coconino County and fill out a form that says
17:22:46 25 he's entitled to register there? Yeah, he did.

17:22:50 1 And because the standard is so loose, that's
17:22:53 2 why the law is the way it is. I'm not required to prove
17:22:56 3 one or the other, because it's subjective. What I prove is
17:23:00 4 the inconsistent statements; that he voted in both places
17:23:03 5 on the same day, and that can't be true.

17:23:10 6 MR. LANGHOFER: Mr. Lawson, I appreciate your
17:23:11 7 time. And I promised I wouldn't keep you long. Those are
17:23:14 8 all the questions I have for you this evening. Thank you.

17:23:16 9 MR. DODGE: I have just one or two more.

17:23:16 10

17:23:20 11 FURTHER EXAMINATION

17:23:20 12 BY MR. DODGE:

17:23:20 13 Q. Mr. Lawson, Mr. Langhofer just asked you some
17:23:20 14 questions about the difference between the beyond
17:23:23 15 reasonable doubt standard and a preponderance standard. Do
17:23:26 16 you recall that?

17:23:26 17 A. I'm going to be embarrassed if I got that wrong,
17:23:29 18 so I hope I got it right.

17:23:30 19 Q. I promise I don't have a law school pop quiz for
17:23:33 20 you.

17:23:33 21 Are you aware of any cases alleging
17:23:37 22 registration or voting by noncitizens that were referred to
17:23:41 23 you for prosecution that you felt could meet a
17:23:45 24 preponderance standard but not a beyond a reasonable doubt
17:23:48 25 standard?

17:23:48 1 A. You're going to -- you're going to go into a lot
17:23:50 2 of detail that I don't have. We've had a number of cases
17:23:55 3 that are referred to us for review that involve any number
17:23:59 4 of allegations, some of which are noncitizen, non- -- like,
17:24:03 5 for example, the case I referred to involving the UOCAVA
17:24:06 6 voter from Israel, that was a noncitizen allegation. It
17:24:11 7 did come to my side. It was opened. And we did eventually
17:24:14 8 close it because it can't be sustained. I believe that
17:24:19 9 that made the initial review.

17:24:21 10 So there was a finding by an agent that there
17:24:23 11 was at least a reasonable suspicion that an offense
17:24:27 12 occurred. Whether there was a probable cause finding
17:24:32 13 there, I don't know. That would have been made by the
17:24:34 14 agent.

17:24:36 15 My metric is whether I have something I can
17:24:40 16 charge. And I'm -- so I'm primarily focused on the beyond
17:24:44 17 a reasonable doubt standard and whether there's a
17:24:46 18 reasonable likelihood of conviction. So whether the
17:24:50 19 investigators -- Mr. Thomas may be able to speak to that or
17:24:53 20 Mr. Knuth can speak to that, whether they made individual
17:24:56 21 findings on that. In order for those -- those cases to be
17:24:59 22 passed across to me and to come to me for review, that's on
17:25:03 23 them.

17:25:04 24 Q. Okay. In response to a question from
17:25:07 25 Mr. Langhofer right now, you referred to the two pending

17:25:11 1 cases regarding alleged voting by noncitizens as older
17:25:15 2 cases; is that right?

17:25:15 3 A. They are.

17:25:16 4 Q. Can you tell me what -- can you tell me anything
17:25:20 5 about the time period of those cases, including when any
17:25:24 6 indictment was issued in those cases?

17:25:26 7 A. Emails that we discussed -- so my case I'm much
17:25:33 8 more familiar with --

17:25:33 9 Q. Why don't we start with that.

17:25:34 10 A. -- than the case out of -- out of Tucson. My
17:25:38 11 recollection is that my case was filed in 2019 and predates
17:25:45 12 the formation of the EIU. Its allegation which -- when it
17:25:50 13 opens to me, it gets a number with a year in it. It was a
17:25:53 14 2017 when it got to me. And so it took a couple years for
17:25:57 15 us to finish and file.

17:25:59 16 The case out of Tucson I want to say is in a
17:26:04 17 similar time frame; that it was something that was filed in
17:26:07 18 2019. But I -- honestly, I would want to refresh before I
17:26:12 19 gave you a specific case. None of them are 2020 cases, and
17:26:17 20 none of them are 2022 cases. So to me, that's older.

17:26:20 21 Q. So none of them resulted from a referral to the
17:26:24 22 Election Integrity Unit?

17:26:24 23 A. No. They predate.

17:26:25 24 Q. And the details of those cases would not have been
17:26:33 25 known by the legislature at the time they considered the

17:26:35 1 challenged laws; right?

17:26:36 2 A. The people who know about them are here in this
17:26:39 3 room and on this call and the members of the grand jury who
17:26:41 4 heard them. That's it.

17:26:43 5 MR. DODGE: I don't think I have any other
17:26:46 6 questions for Mr. Lawson.

17:26:47 7 MR. WHITAKER: Anything else from any other
17:26:49 8 defendants? Hearing none, let's --

17:26:54 9 MR. DODGE: Let's go off the record.

17:26:56 10 THE VIDEOGRAPHER: We are off the record.

17:27:00 11 Time on the video monitor is 5:26 p.m.

17:27:07 12 (A recess ensued.)

17:29:34 13 THE VIDEOGRAPHER: We are on the record.

17:29:49 14 Time on the video monitor is 5:29 p.m.

17:29:49 15

17:29:53 16 EXAMINATION

17:29:53 17 BY MR. DODGE:

17:29:54 18 Q. Hello, Mr. Thomas.

17:29:56 19 Could you please state your name for the
17:29:58 20 record.

17:29:58 21 A. Yes. My name is Keith Ross Thomas.

17:30:01 22 Q. I'm just going to go over some deposition ground
17:30:05 23 rules very briefly.

17:30:06 24 You understand that we have a court reporter
17:30:07 25 here whose job it is to make a complete and accurate record

17:30:10 1 of what we're saying here today?

17:30:11 2 A. I do.

17:30:13 3 Q. And so that the reporter can accurately record
17:30:14 4 today's deposition, can we agree that you will answer my
17:30:17 5 questions audibly and clearly?

17:30:18 6 A. Yes.

17:30:19 7 Q. If you do not understood a question or if a
17:30:22 8 question is confusing, please let me know and I will repeat
17:30:24 9 it or try to ask it in a different way. Does that make
17:30:27 10 sense?

17:30:27 11 A. Yes.

17:30:28 12 Q. If I do ask a question and you answer it, I will
17:30:31 13 assume that you understood the question. Make sense?

17:30:33 14 A. Yes.

17:30:33 15 Q. If you need to take a break, please just let me
17:30:36 16 know, but please finish answering any pending question
17:30:40 17 before doing so. Fair enough?

17:30:41 18 A. Yes.

17:30:41 19 Q. The court reporter asked you to take an oath just
17:30:45 20 a moment ago; correct?

17:30:47 21 A. No.

17:30:48 22 MR. DODGE: Then why don't we do that now.

23 ///

24 ///

25 KEITH THOMAS,

1 the witness herein, being first duly sworn,
2 was examined and testified as follows:

3

4 BY MR. DODGE:

17:31:03 5 Q. So just a moment ago you took an oath to
17:31:05 6 administered by the court reporter; correct?

17:31:07 7 A. I did.

17:31:07 8 Q. And you agreed to provide truthful and complete
17:31:11 9 testimony today; correct?

17:31:11 10 A. Yes.

17:31:11 11 Q. Any reason why you can't testify fully and
17:31:15 12 truthfully today?

17:31:15 13 A. No.

17:31:16 14 Q. Mr. Thomas, have you been deposed before?

17:31:19 15 A. I have.

17:31:20 16 Q. About how many times?

17:31:22 17 A. I don't know -- I don't know exactly how many.

17:31:25 18 I've been deposed criminally, civilly in other suits that
17:31:33 19 are nonrelated to the state. I would say, ballpark, maybe
17:31:39 20 a dozen, two dozen at least.

17:31:41 21 Q. Have any of these depositions concerned elections?

17:31:44 22 A. No.

17:31:46 23 Q. What's your current role at the Arizona Attorney
17:31:49 24 General's Office?

17:31:49 25 A. I'm a supervising special agent.

17:31:52 1 Q. And how long have you been in that role?

17:31:53 2 A. Approximately four years now.

17:32:00 3 Q. What are your responsibilities in that role?

17:32:02 4 A. My responsibilities right now are administrative.

17:32:06 5 So I'm in charge of training, purchasing, other

17:32:10 6 administrative duties to make sure that the Special

17:32:13 7 Investigations Section is operating, functioning correctly.

17:32:15 8 Q. And who do you report to in your current role?

17:32:18 9 A. Chief Agent James Cope.

17:32:21 10 Q. And does anyone report to you in your role?

17:32:23 11 A. No.

17:32:24 12 Q. How long have you been at the Attorney General's

17:32:28 13 Office generally?

17:32:29 14 A. Ten years.

17:32:30 15 Q. You understand that today you're here as a

17:32:33 16 representative on behalf of the Attorney General's Office;

17:32:35 17 correct?

17:32:35 18 A. Yes.

17:32:36 19 Q. And so if I refer to "you" or "your," you

17:32:38 20 understand that I'll be referring to the Attorney General's

17:32:41 21 Office as a whole and not to you personally; correct?

17:32:43 22 A. Correct.

17:32:44 23 Q. So you understand that your answers can be based

17:32:47 24 not just on your personal knowledge but also information

17:32:49 25 known or available to the Attorney General's Office;

17:32:52 1 correct?

17:32:52 2 A. Correct.

17:32:52 3 Q. Okay. I'm going to ask you to look at what has
17:33:05 4 been has previously been marked as Petty Exhibit 19, which
17:33:16 5 is 7 in the Dropbox. Let me mark it. Sorry.

17:33:20 6 A. And to correct how long I've been a supervisor --
17:33:20 7 I just did the math -- it's longer than that.

17:33:20 8 THE COURT REPORTER: Can you repeat that?

17:33:20 9 THE WITNESS: To correct how long I've been a
17:33:27 10 supervisor, it's been since 2016. So seven years. Sorry.

17:33:31 11 BY MR. DODGE:

17:33:31 12 Q. Can you tell me what this document is?

17:33:33 13 A. This is House Bill 2492.

17:33:38 14 Q. And are you familiar with this document?

17:33:40 15 A. I am.

17:33:41 16 Q. Did you review this document in preparation for
17:33:44 17 today's deposition?

17:33:45 18 A. I did.

17:33:46 19 Q. Could you please turn to page 4 and review
17:33:52 20 Section D at the bottom of that page.

17:34:03 21 A. You just want Section D? Not all --

17:34:29 22 Q. There's fine. That's fine.

17:34:30 23 A. Okay.

17:34:31 24 Q. Section D says, "Within ten days after receiving
17:34:34 25 an application for registration on a form produced by the

17:34:36 1 United States Election Assistance Commission that is not
17:34:39 2 accompanied by satisfactory evidence of citizenship, the
17:34:41 3 county recorder or other officer in charge of elections
17:34:44 4 shall use all available resources to verify the citizenship
17:34:47 5 status of the applicant and at a minimum shall compare the
17:34:50 6 information available on the application for registration
17:34:52 7 with the following, provided the county has access."

17:34:55 8 Did I get that right?

17:34:56 9 A. That is correct.

17:34:57 10 Q. When this bill uses the term an "application for
17:35:02 11 registration on a form produced by the United States
17:35:05 12 Election Assistance Commission," do you understand that to
17:35:06 13 be referring to something commonly called "the federal
17:35:08 14 form"?

17:35:12 15 MR. WHITAKER: Objection. Legal conclusion
17:35:15 16 and, I think, scope.

17:35:16 17 MR. LANGHOFER: Legal conclusion.

17:35:20 18 THE WITNESS: My -- my interpretation is a
17:35:23 19 voter registration form.

17:35:25 20 BY MR. DODGE:

17:35:26 21 Q. One prescribed by a federal agency; namely, the
17:35:31 22 United States Election Assistance Commission?

17:35:33 23 A. I would believe so. The only one I've ever seen
17:35:36 24 is the one that is filled out here in Arizona, I guess.
17:35:40 25 I'm not sure if there's a federal form or a -- or a state

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17:36:11 11
17:36:14 12
17:36:18 13
17:36:20 14
17:36:23 15
17:36:25 16
17:36:26 17
17:36:27 18
17:36:30 19
17:36:34 20
17:36:40 21
17:36:55 22
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17:37:02 24
17:37:05 25

form.

Q. Would you agree this section requires county recorders to search through a number of databases upon receiving a federal -- upon receiving the registration form described in the section when it's not accompanied by documentary proof of citizenship?

MR. WHITAKER: Legal conclusion and scope.

THE WITNESS: To verify a form, I would say yes, they would have to if there was no documentation.

BY MR. DODGE:

Q. And the databases that the county recorders are required to search include the Arizona Department of Transportation driver's license database?

MR. WHITAKER: Same objections.

THE WITNESS: I believe that could be one of them, yes.

BY MR. DODGE:

Q. Why don't you take a moment and review the numerals in Subsection D, beginning on line 42 of page 4 and ending at line 8 of page 5. Let me know when you're ready to proceed.

A. I'm ready.

Q. So based on your review of this text, the databases the county recorders must search under this part of the law include the Arizona Department of Transportation

17:37:09 1 database?

17:37:09 2 A. Yes.

17:37:10 3 Q. The Social Security Administration database?

17:37:13 4 A. Yes.

17:37:14 5 Q. The United States Citizenship and Immigration

17:37:16 6 Services database?

17:37:16 7 A. Yes.

17:37:17 8 Q. The National Association for Public Health

17:37:22 9 Statistics and Information Systems database?

17:37:22 10 A. Correct.

17:37:23 11 Q. The ERIC database?

17:37:25 12 A. Correct.

17:37:26 13 Q. And any other database the recorder or election

17:37:30 14 officer has access to, correct?

17:37:31 15 A. Correct.

17:37:32 16 MR. WHITAKER: Same objections to those

17:37:33 17 questions.

17:37:34 18 BY MR. DODGE:

17:37:34 19 Q. Can you now take a moment to review Subsection E,

17:37:38 20 beginning at line 9.

17:37:45 21 A. Okay.

17:38:20 22 Q. Beginning at line 14, it says, "If the county

17:38:24 23 recorder or other officer in charge of elections matches of

17:38:26 24 the applicant with information that the applicant is not a

17:38:28 25 United States citizen, the county recorder or other officer

17:38:31 1 in charge of elections shall reject the application, notify
17:38:34 2 the applicant that the application was rejected because the
17:38:37 3 applicant is not a United States citizen, and forward the
17:38:40 4 application to the county attorney and attorney general for
17:38:43 5 investigation."

17:38:44 6 Did I get that right?

17:38:44 7 A. That is correct.

17:38:45 8 Q. Who in your office would be responsible for
17:38:47 9 performing such an investigation?

17:38:50 10 A. If it was a criminal violation, it would come to
17:38:53 11 the Special Investigations Section.

17:38:56 12 Q. And would Mr. Knuth be responsible for
17:38:58 13 investigating it at that point?

17:38:59 14 A. Yes. I believe he would be the one that would be
17:39:02 15 assigned that case.

17:39:03 16 Q. Have any county recorders' offices referred
17:39:07 17 applications to you since the enactment of HB 2492 that
17:39:11 18 appear to match an applicant with information that they are
17:39:13 19 not a citizen?

17:39:15 20 A. Not that I'm aware of.

17:39:19 21 Q. Has your office made any plans to comply with the
17:39:22 22 requirement that it, quote, investigate any applications
17:39:25 23 that it received from county recorder offices under this
17:39:28 24 provision?

17:39:29 25 MR. WHITAKER: Objection. I think

17:39:30 1 mischaracterizes the record.

17:39:34 2 BY MR. DODGE:

17:39:34 3 Q. You can answer.

17:39:35 4 A. I'm not aware of any, no.

17:39:37 5 Q. Has your office drafted any policies or procedures

17:39:45 6 related to how it intends to enforce this provision of

17:39:47 7 HB 2492?

17:39:50 8 A. Not that I'm aware of.

17:39:51 9 Q. Do you know if your office has any plans to create

17:39:54 10 such policies or procedures?

17:39:55 11 A. Not that I'm aware of.

17:39:57 12 Q. Has your office created any training or guidance

17:40:01 13 materials related to how it intends to enforce this

17:40:03 14 provision of HB 2492?

17:40:05 15 A. Not that I'm aware of.

17:40:05 16 Q. Does your office have any plans to create any

17:40:07 17 training or guidance materials?

17:40:08 18 A. Not that I'm aware of.

17:40:09 19 Q. Okay. Can you please refer to -- let me hand you

17:40:16 20 what's previously been marked as Exhibit 212, which, again,

17:40:21 21 is Number 6 in the Dropbox.

17:40:28 22 Can you tell me what this document is?

17:40:29 23 A. This is the interrogatories, plaintiffs' first set

17:40:34 24 of.

17:40:37 25 Q. And did you review this document in preparation

17:40:40 1 for today's deposition?

17:40:41 2 A. I did.

17:40:42 3 Q. Did you help at all with the preparation of this
17:40:45 4 document?

17:40:45 5 A. No.

17:40:46 6 Q. Could you please turn to page 23 and review
17:40:50 7 Interrogatory Number 6.

17:40:53 8 Could you read aloud the first sentence of
17:40:55 9 that interrogatory.

17:41:00 10 A. 23 and Interrogatory Number 6?

17:41:03 11 Q. Yes. Page 23. It's right at the top,
17:41:06 12 Interrogatory Number 6.

17:41:06 13 A. "Identify all databases or other sources of
17:41:10 14 citizenship information that are accessible to you or that
17:41:14 15 you anticipate will become accessible to you, and which of
17:41:17 16 those are practicable to use in ways required by the
17:41:21 17 Challenged Laws. Your answer should identify by name any
17:41:26 18 witness who have or likely to have knowledge or information
17:41:31 19 related to the identified databases."

17:41:35 20 Q. You see below that your office responded to this
17:41:38 21 interrogatory in a number of subparts; is that correct?

17:41:40 22 A. That is correct.

17:41:41 23 Q. Could you take a moment to review your resp- --
17:41:44 24 Subpart 1 and your response to Subpart 1.

17:41:48 25 A. Okay.

17:42:40 1 Q. Looking at line 22, your response states, quote,
17:42:43 2 "If investigators in the Attorney General's Office need to
17:42:46 3 verify an individual's social security number, they can
17:42:48 4 make a formal request to the federal Social Security
17:42:51 5 Administration. However, investigators do not have direct
17:42:53 6 access to the Social Security Administration's database."

17:42:56 7 Did I get that right?

17:42:57 8 A. That's correct.

17:42:58 9 Q. It's correct to say that your office does not have
17:43:00 10 direct access to the Social Security Administration's
17:43:03 11 database?

17:43:03 12 A. We do not.

17:43:04 13 Q. Instead, your office has to make a formal request
17:43:07 14 to the Social Security Administration?

17:43:09 15 A. Correct. In the past, it's been by fax.

17:43:13 16 Q. Does it continue to be by fax?

17:43:15 17 A. I don't know if it's changed. As of about a year
17:43:18 18 ago, it still was a fax.

17:43:20 19 Q. Does your office use fax for any other business it
17:43:24 20 conducts?

17:43:25 21 A. We used to use them for the search warrant center,
17:43:29 22 but we converted over to emails, I believe.

17:43:31 23 Q. So outdated method for communicating with the
17:43:35 24 Social Security Administration?

17:43:36 25 A. It is.

17:43:37 1 Q. How does your office make a formal request to the
17:43:42 2 Social Security Administration?

17:43:44 3 A. It is usually on a letterhead, when it's by fax,
17:43:48 4 asking to verify the Social Security number to -- to find
17:43:51 5 out if it matches a particular individual. The Social
17:43:56 6 Security Administration will just either verify it matches
17:43:58 7 the person or does not match the person. They don't give
17:44:01 8 us the name that it actually matches.

17:44:03 9 Q. What information do you need to provide to the
17:44:05 10 Social Security Administration when you make such a
17:44:08 11 request?

17:44:08 12 A. Generally, we just include that it's a criminal
17:44:11 13 investigation. I've always added, at least when I was an
17:44:15 14 investigator, a case number that's associated with that for
17:44:18 15 tracking and auditing purposes.

17:44:21 16 Q. Who in your office is responsible for making such
17:44:26 17 requests?

17:44:27 18 A. All agents. If they are assigned the case, they
17:44:30 19 actually do the work.

17:44:31 20 Q. Does the Social Security Administration ever not
17:44:35 21 respond to a request?

17:44:36 22 A. I think at times they are very slow because they
17:44:41 23 go to one point of contact that I'm aware of that they all
17:44:45 24 trickle into. And they handle them for all law enforcement
17:44:49 25 agencies. I would hope it's not nationwide. Maybe just

17:44:54 1 Arizona.

17:44:55 2 Q. How long does it typically take to receive a
17:44:58 3 response?

17:45:01 4 A. I would estimate maybe a day or two. It -- as
17:45:06 5 long as they're not inundated with responses. I know
17:45:09 6 during this last election investigations that we went
17:45:13 7 through, the 2020 -- I'm sure they received quite a bit.

17:45:18 8 Q. And that one-day estimate is when you make a
17:45:20 9 request for a single Social Security number?

17:45:23 10 A. Correct.

17:45:24 11 Q. Would it take longer if you made a request for
17:45:27 12 many Social Security numbers all at once?

17:45:29 13 A. Absolutely.

17:45:29 14 Q. Would it take longer to fax a list of numerous
17:45:33 15 Social Security numbers to the Social Security
17:45:36 16 Administration?

17:45:36 17 A. Yes.

17:45:37 18 Q. I think you testified to this earlier, but the
17:45:40 19 Social Security Administration's response is usually either
17:45:43 20 indicating a match or a not match; is that right?

17:45:46 21 A. Correct.

17:45:46 22 Q. They don't provide any additional information?

17:45:49 23 A. Not that I'm aware of.

17:45:50 24 Q. So the response would not include anything with
17:45:54 25 respect to whether or not any given individual is a U.S.

17:45:56 1 citizen; right?

17:45:58 2 A. Correct.

17:45:58 3 Q. Looking at line 26 of your response, it states,

17:46:04 4 "If investigators in the Attorney General's Office need to

17:46:08 5 verify whether an individual was born in Arizona, they can

17:46:10 6 ask the Arizona Department of Health Services (Vital

17:46:14 7 Records) for a birth certificate. If Investigators need to

17:46:16 8 verify whether an individual was born in a different state,

17:46:19 9 they generally can ask an equivalent agency of that state."

17:46:21 10 Did I get that right?

17:46:22 11 A. That is correct.

17:46:23 12 Q. Is your office able to directly access the Arizona

17:46:26 13 Department of Health Services' records?

17:46:27 14 A. No.

17:46:28 15 Q. So you need to make a request of that agency?

17:46:31 16 A. Yes.

17:46:32 17 Q. How do you make such a request?

17:46:35 18 A. I believe now they email all requests over to

17:46:38 19 Vital Records.

17:46:39 20 Q. When you say "they," you're referring to

17:46:43 21 investigators in your office?

17:46:43 22 A. Investigators. Yes, sir.

17:46:44 23 Q. What sort of information needs to be included in

17:46:47 24 that request?

17:46:47 25 A. I believe it's very similar to the Social Security

17:46:50 1 request. They would have to include case number,
17:46:54 2 indicating that they have an investigation, and then all
17:46:59 3 the particulars of the involved individual. I believe that
17:47:02 4 Vital Records actually provided the investigators a form at
17:47:06 5 one point that they filled out, and they would transmit
17:47:10 6 that.

17:47:10 7 Q. They no longer need to complete a form?

17:47:13 8 A. As far as I know, they still need to. There's --
17:47:17 9 there's -- there used to be, at least when I was
17:47:20 10 conducting, verifications years ago. We would have to
17:47:24 11 check a box for what it was for, or else then they would
17:47:28 12 charge the agency if you didn't say it was for a criminal
17:47:31 13 investigation or some form of an investigation.

17:47:34 14 Q. Does that agency ever not respond to a request?

17:47:38 15 A. I would not say that they don't respond, but
17:47:42 16 they're very slow.

17:47:44 17 Q. Slower than the Social Security Administration?

17:47:46 18 A. Much slower.

17:47:47 19 Q. So how long does it typically take to receive a
17:47:50 20 response?

17:47:53 21 A. Some of the agents that work for me within the
17:47:57 22 past year or so complained that it was taking two, three
17:48:00 23 weeks at minimum.

17:48:02 24 Q. And that's when requesting a birth certificate for
17:48:05 25 just one individual; right?

17:48:05 1 A. Yes. That's -- that's just from Arizona. I know
17:48:09 2 other states, they didn't even receive responses back.

17:48:12 3 Q. Presumably, it would take longer for them to
17:48:14 4 respond if an investigator made a request for numerous
17:48:17 5 individuals at one time; right?

17:48:19 6 A. I will assume it would take longer, yes --
17:48:22 7 workload.

17:48:23 8 Q. And when the agency does respond to a request,
17:48:24 9 what information do they provide your office?

17:48:27 10 A. That I don't know. I have not seen those requests
17:48:31 11 come back as of recent. When I used to submit them a long
17:48:35 12 time ago, they would give back, like, a birth certificate
17:48:40 13 basically or a death certificate, you know, regarding --

17:48:44 14 Q. If the -- if the agency responded indicating it
17:48:47 15 lacked a birth certificate -- an Arizona birth certificate
17:48:49 16 for that individual, do they ever issue responses like
17:48:52 17 that?

17:48:53 18 A. They would say there's no record found.

17:48:55 19 Q. Would that indicate to your office that the
17:48:57 20 individual was not a United States citizen?

17:48:59 21 A. No.

17:49:01 22 Q. You alluded to this a moment ago with respect to
17:49:07 23 requests to other states.

17:49:08 24 How frequently do investigators in your
17:49:11 25 office make requests to similar agencies in other states?

17:49:15 1 A. I believe you had Special Agent Knuth in here. I
17:49:20 2 believe he's emailed numerous states, California being one.
17:49:25 3 I don't think he's ever received a birth certificate back
17:49:28 4 from them.

17:49:30 5 Q. California is probably a state where a lot of
17:49:34 6 individuals in Arizona not born in Arizona are from; right?

17:49:38 7 A. Yes.

17:49:39 8 Q. Probably have to reach out to the California
17:49:42 9 agency more often than other states? Fair to say?

17:49:45 10 A. Not necessarily. We have a lot of transplants.

17:49:50 11 Q. Do -- do most states fail to respond to requests
17:49:56 12 for birth certificates?

17:49:57 13 A. I think it just depends on the state. Some states
17:50:01 14 are more open to public records than others. Arizona is
17:50:06 15 one of those that is very open. California is not. I
17:50:12 16 think it just depends on each state.

17:50:15 17 Q. Looking at line 3 of page 24, your response
17:50:19 18 states, "Investigators in the Attorney General's Office
17:50:21 19 can [sic] access Arizona Department of Transportation
17:50:24 20 databases."

17:50:25 21 Did I get that right?

17:50:26 22 A. That's correct.

17:50:27 23 Q. How do investigators in your office access DOT
17:50:27 24 databases?

17:50:27 25 A. So we have access through the Arizona Criminal

17:50:38 1 Justice Information System, which is linked to the
17:50:38 2 national -- national database, which is managed by the FBI.
17:50:44 3 They're all interconnected. They have direct access
17:50:49 4 through five terminals that are located within this
17:50:50 5 building.

17:50:51 6 Q. Are all investigators in your office familiar with
17:50:56 7 the DOT database?

17:50:57 8 A. Yes.

17:50:59 9 Q. How would investigators in your office use that
17:51:02 10 database to determine if someone was a U.S. citizen?

17:51:05 11 A. They would -- they would log into it. They could
17:51:09 12 pull up a driver's license. That would give them a
17:51:13 13 photograph, a series of signatures. It actually will give
17:51:18 14 them a historic listing of all the photographs and
17:51:22 15 signatures that are associated with that license.

17:51:25 16 Now, that is related, you know, basically to
17:51:30 17 any driver's license or identification card that -- that
17:51:36 18 ADOT has on file.

17:51:38 19 Q. Is the ADOT database information always up to
17:51:46 20 date?

17:51:46 21 A. I think I need more -- a little more
17:51:49 22 clarification. You mean, like, current addresses?

17:51:52 23 Q. Is the information contained in that database
17:51:55 24 usually up to date?

17:51:57 25 A. It -- our access to it, yes, is -- is whatever

17:52:02 1 they have updated with, but it's -- to say everybody's
17:52:06 2 information is always accurate -- is not. Having worked as
17:52:09 3 a patrol officer for 15 years, working the road, I know
17:52:13 4 people don't update their driver's license address within
17:52:16 5 ten business days. So I would say no.

17:52:21 6 Q. And an individual might not update the Department
17:52:26 7 of Transportation on whether or not they became a
17:52:27 8 naturalized citizen, for example; right?

17:52:31 9 MR. WHITAKER: Form, foundation.

17:52:32 10 THE WITNESS: I'm not sure if they're
17:52:33 11 required to notify them.

17:52:35 12 BY MR. DODGE:

17:52:35 13 Q. In which case, they wouldn't; right?

17:52:38 14 MR. WHITAKER: Foundation.

17:52:39 15 THE WITNESS: Yeah, I -- I don't know if I
17:52:41 16 could answer that. I don't know if they're required to.

17:52:43 17 BY MR. DODGE:

17:52:45 18 Q. Noncitizens are able to obtain driver's licenses
17:52:47 19 in Arizona; correct?

17:52:48 20 A. That is correct.

17:52:49 21 Q. And if a noncitizen obtained a driver's license in
17:52:52 22 Arizona and subsequently became a naturalized citizen,
17:52:55 23 would the Department of Transportation's database reflect
17:52:58 24 that information?

17:52:59 25 MR. WHITAKER: Foundation.

17:53:01 1 THE WITNESS: I don't think it would. At
17:53:03 2 least the access that we see, we would not know of the
17:53:06 3 difference.

17:53:06 4 BY MR. DODGE:

17:53:07 5 Q. And I believe you just testified that you're not
17:53:08 6 aware of any requirement that an individual who becomes a
17:53:10 7 naturalized citizen is required to update their status with
17:53:13 8 the Department of Transportation; correct?

17:53:15 9 MR. WHITAKER: Slightly misconstrued
17:53:17 10 testimony.

17:53:19 11 THE WITNESS: Correct.

17:53:19 12 BY MR. DODGE:

17:53:21 13 Q. Do you know how many individuals in the Department
17:53:25 14 of Transportation's databases currently have an unexpired
17:53:30 15 foreign authorized driver's license but are now naturalized
17:53:33 16 citizens?

17:53:33 17 A. I do not.

17:53:35 18 Q. Does your office consider it conclusive proof that
17:53:39 19 a person is not a U.S. citizen if they are listed as a
17:53:41 20 noncitizen in the Department of Transportation's database?

17:53:44 21 A. That I can't answer. Again, we don't -- when you
17:53:49 22 view the screen, it doesn't tell you if they're a citizen,
17:53:52 23 a noncitizen, or a legal resident or here legally.

17:53:58 24 Q. Looking at line 5 on page 24, your response
17:54:01 25 states, quote, "Investigators in the Attorney General's

17:54:03 1 Office cannot (as far as they know) access USCIS
17:54:07 2 databases."

17:54:07 3 Did I get that right?

17:54:09 4 A. Correct.

17:54:09 5 Q. So to your knowledge, investigators in your office
17:54:13 6 cannot access the USCIS database; right?

17:54:15 7 A. No.

17:54:15 8 Q. Has an investigator in your office ever needed to
17:54:18 9 access the USCIS database?

17:54:22 10 MR. WHITAKER: Foundation.

17:54:22 11 THE WITNESS: I have, yes. I would say
17:54:23 12 others have, yes.

17:54:24 13 BY MR. DODGE:

17:54:24 14 Q. Were you ultimately able to access that database?

17:54:26 15 A. No.

17:54:27 16 Q. Did you try to access it?

17:54:29 17 A. No.

17:54:30 18 Q. Why not?

17:54:32 19 A. That's a federal database. We usually have to
17:54:35 20 send our request to a federal agent for them to access the
17:54:40 21 database and then send us the information back.

17:54:43 22 Q. So it's not practical or convenient for
17:54:47 23 investigators in your office to access that database?

17:54:50 24 A. No.

17:54:51 25 MR. WHITAKER: Foundation.

17:54:52 1 BY MR. DODGE:

17:54:53 2 Q. It's difficult or even impossible?

17:54:57 3 A. It's difficult and it's slow.

17:55:02 4 Q. Line 7 of your response states, quote,

17:55:05 5 "Investigators in the Attorney General's Office are unsure
17:55:08 6 whether they can access the National Association for Public
17:55:13 7 Health Statistics and Information Systems databases."

17:55:13 8 Did I get that right?

17:55:15 9 A. Correct.

17:55:16 10 Q. Are you aware of an investigator in your office
17:55:19 11 ever trying to access a database maintained by that agency?

17:55:23 12 A. No, I'm not.

17:55:24 13 Q. Is that a resource that investigators in your
17:55:26 14 office have ever needed to consult?

17:55:28 15 A. Not that I'm aware of; nor would I advise them to
17:55:32 16 use it.

17:55:32 17 Q. Why not?

17:55:33 18 A. Because it's an "org," a ".org." It's not a
17:55:37 19 government address.

17:55:38 20 Q. And because of that, you would have doubts as to
17:55:44 21 its reliability?

17:55:45 22 A. Correct.

17:55:46 23 Q. Do you know whether that database allows you
17:55:50 24 reliably match an Arizona voter record to a database record
17:55:54 25 in that database?

17:55:55 1 A. I don't know.

17:55:57 2 Q. Do you know whether that database provides
17:56:02 3 information about a person's citizenship?

17:56:05 4 A. I don't know.

17:56:06 5 Q. Line 9 of your response states, "quote,
17:56:14 6 "Investigators in the Attorney General's Office do not have
17:56:17 7 direct access to voter registration databases maintained by
17:56:20 8 County Recorders or to the Electronic Registration
17:56:24 9 Information Center database."

17:56:24 10 Did I get that right?

17:56:26 11 A. Yes.

17:56:26 12 Q. So correct that your office did not have access to
17:56:30 13 ERIC?

17:56:31 14 A. No.

17:56:31 15 Q. Has your office ever requested access to ERIC?

17:56:35 16 A. I don't know.

17:56:36 17 Q. And has an investigator in your office ever needed
17:56:39 18 to use ERIC in the course of their duties?

17:56:43 19 A. Not that I'm aware of.

17:56:45 20 Q. Turning to Subpart 2, can you just briefly review
17:56:54 21 your response there.

17:57:25 22 A. Okay.

17:57:33 23 Q. Looking at the top of page 25, at line 1, your
17:57:48 24 response here indicates, quote, "The Attorney General notes
17:57:51 25 that A.R.S. Section 16-143 directs another party to provide

17:57:54 1 the Attorney General access to a USCIS database. However,
17:57:58 2 investigators in the Attorney General's Office are
17:58:00 3 currently unaware of such access having been granted."

17:58:03 4 Did I get that right?

17:58:03 5 A. Correct.

17:58:04 6 Q. To your knowledge, has your office yet been
17:58:06 7 granted access to any USCIS database that contains
17:58:10 8 citizenship information?

17:58:10 9 A. No.

17:58:11 10 Q. Who would be able to grant such access?

17:58:13 11 A. Only the federal government.

17:58:15 12 Q. Does any official within the State of Arizona have
17:58:17 13 the power to grant that access?

17:58:19 14 A. No.

17:58:19 15 MR. WHITAKER: Foundation.

17:58:19 16 BY MR. DODGE:

17:58:19 17 Q. That would include the secretary of state?

17:58:21 18 MR. WHITAKER: Foundation.

17:58:24 19 THE WITNESS: Correct.

17:58:25 20 BY MR. DODGE:

17:58:25 21 Q. Do you know if any agreement between the secretary
17:58:27 22 of state and USCIS would allow access to such a database?

17:58:32 23 MR. WHITAKER: Foundation.

17:58:34 24 MS. STUART: Form.

17:58:35 25 THE WITNESS: I do not.

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17:58:38 2
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17:58:57 11
17:58:59 12
17:59:02 13
17:59:04 14
17:59:09 15
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BY MR. DODGE:

Q. Is it fair to say, then, that your office does not have access to several of the databases that HB 2492 requires it to consult when investigating an alleged noncitizen?

A. Correct.

MR. LANGHOFER: Legal conclusion.

BY MR. DODGE:

Q. Is it also fair to say that several of the databases that HB 2492 requires you to consult are not the databases that investigators in your office would ordinarily consult in their duties?

MR. WHITAKER: Legal conclusion.

THE WITNESS: Not ordinarily check into? I don't know if I could answer that. I would say they would like to be able to, but they can't.

BY MR. DODGE:

Q. And there you're referring to USCIS? Or which databases are you referring to?

A. ERIC, USCIS.

Q. But there are databases in that list -- for example, the one that you noted ended in .org -- that are not databases your investigators would ordinarily consult in their duties; right?

A. No. Those would be considered what I call

17:59:37 1 intelligence leads.

17:59:40 2 Q. And by that, you mean something that might be
17:59:42 3 useful in starting an investigation, but it's not something
17:59:45 4 you ultimately rely on?

17:59:46 5 A. No. You cannot use it as evidence.

17:59:49 6 Q. The databases that HB 2492 requires investigators
17:59:55 7 in your office to consult includes databases that
17:59:59 8 investigators are not familiar with; correct?

18:00:03 9 A. Correct.

18:00:03 10 Q. And as we discussed, it includes databases that
18:00:08 11 your office does not actually have access to?

18:00:10 12 MR. WHITAKER: Asked and answered.

18:00:12 13 MR. LANGHOFER: Legal conclusion.

18:00:13 14 THE WITNESS: Correct.

18:00:14 15 BY MR. DODGE:

18:00:14 16 Q. And it also includes databases that may not
18:00:16 17 provide accurate or up-to-date information about a person's
18:00:19 18 citizenship; correct?

18:00:21 19 MR. LANGHOFER: Foundation.

18:00:21 20 MR. WHITAKER: And compound.

18:00:25 21 THE WITNESS: I would ask for clarification
18:00:26 22 on which database you're asking for.

18:00:29 23 BY MR. DODGE:

18:00:30 24 Q. Do you believe any of the databases provide
18:00:32 25 accurate or up-to-date information about a person's

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18:00:52 12
18:00:56 13
18:00:58 14
18:00:59 15
18:01:01 16
18:01:01 17
18:01:02 18
18:01:05 19
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18:01:28 24
18:01:32 25

citizenship?
A. I believe that the USCIS --
MR. LANGHOFER: Foundation.
THE WITNESS: -- database would, because it's
managed by Homeland Security investigations.
BY MR. DODGE:
Q. Any other databases?
MR. LANGHOFER: Foundation.
THE WITNESS: U.S. State Department.
BY MR. DODGE:
Q. So fair to say that the only databases that you
believe that contain reliable and up-to-date citizenship
information are those that your office generally does not
have access to?
A. Correct.
MR. LANGHOFER: Foundation.
BY MR. DODGE:
Q. In view of these limitations, does your office
have plans about how it intends to comply with HB 2492?
A. I do not know the answer to that.
Q. Turning to Subpart 3, that states, "Identify which
of the databases or other sources of citizenship
information that are accessible to you or that you
anticipate will become accessible to you are practicable to
use in the ways required by the Challenged Laws."

18:01:34 1 Did I get that right?

18:01:35 2 A. Correct.

18:01:35 3 Q. Turning to the top of page 26, line 1, part of
18:01:44 4 your response to that interrogatory states, quote, "As
18:01:47 5 stated above, investigators in the Attorney General's
18:01:49 6 Office can access Arizona Department of Transportation
18:01:51 7 databases. However, these databases are only as reliable
18:01:54 8 as the information put in and may not be decisive about
18:01:58 9 U.S. citizenship."

18:01:58 10 Did I get that right?

18:01:59 11 A. That's correct.

18:01:59 12 Q. Is there a reason your office included that caveat
18:02:03 13 specifically for the Arizona Department of Transportation
18:02:05 14 but not for other databases?

18:02:09 15 A. The Department of Transportation does not
18:02:13 16 designate citizenship, if that's what you're asking.
18:02:16 17 That's why we could not -- we couldn't use that database to
18:02:20 18 verify citizenship.

18:02:22 19 You could have non-USCs that are here legally
18:02:27 20 that have driver's licenses or ID cards, and it -- it
18:02:31 21 wouldn't look different than you and I having a driver's
18:02:35 22 license or ID card.

18:02:35 23 Q. What type of evidence would your office consider
18:02:44 24 sufficient probable cause to believe that an applicant is
18:02:46 25 not a citizen?

18:02:48 1 MR. LANGHOFER: Speculation.

18:02:50 2 THE WITNESS: I think it would just have to
18:02:52 3 depend on the complaint itself. Every -- every one is
18:02:56 4 reviewed for its own merits. I couldn't give you a
18:02:59 5 specific template for that, because they're all different.

18:02:59 6 BY MR. DODGE:

18:03:03 7 Q. Would an individual coming to your office and
18:03:05 8 stating that they think their neighbor is not a citizen
18:03:08 9 constitute probable cause?

18:03:11 10 MR. LANGHOFER: Legal conclusion.

18:03:13 11 THE WITNESS: It may. Depends on the
18:03:15 12 information they provide.

18:03:17 13 BY MR. DODGE:

18:03:19 14 Q. Would a Facebook post from an individual stating
18:03:22 15 that they believe an individual is not a citizen and is
18:03:24 16 voting in Arizona constitute probable cause?

18:03:29 17 A. No.

18:03:29 18 MR. WHITAKER: Speculation.

18:03:29 19 MR. LANGHOFER: Legal conclusion.

18:03:30 20 THE WITNESS: No. That's -- I mean, the
18:03:31 21 highest you could get is reasonable suspicion. You could
18:03:36 22 never get to probable cause on that.

18:03:38 23 BY MR. DODGE:

18:03:38 24 Q. What -- what does your office do once it has
18:03:41 25 reasonable suspicion that someone is not a citizen and is

18:03:45 1 voting in Arizona?

18:03:47 2 MR. WHITAKER: Speculation.

18:03:49 3 THE WITNESS: For me personally and the other
18:03:51 4 investigators, we would look in to see, you know, how long
18:03:55 5 their standing was, if -- we could use other databases that
18:04:02 6 could show addresses, potentially where they were born, and
18:04:09 7 it -- generally -- so on some of those complaints, we were
18:04:12 8 able to determine that they actually had been here and had
18:04:15 9 family here for quite a while, so we didn't need to go any
18:04:19 10 further.

18:04:19 11 BY MR. DODGE:

18:04:20 12 Q. So a Facebook post might be sufficient to have one
18:04:24 13 of your investigators further investigate an individual?
18:04:27 14 Is that fair?

18:04:29 15 A. Yes. We would call that, like, a cursory.

18:04:35 16 Q. Do you know whether applicants with certain
18:04:38 17 surnames are more likely to be mistakenly matched in a
18:04:41 18 database with a noncitizen?

18:04:44 19 MR. LANGHOFER: Foundation.

18:04:45 20 MR. WHITAKER: Yeah, and compound.

18:04:47 21 THE WITNESS: That I don't know. I think I
18:04:49 22 would have to -- I'd have to see the name itself.

18:04:52 23 BY MR. DODGE:

18:04:53 24 Q. Does your office consider a person's birthplace to
18:04:57 25 be reliable evidence of U.S. citizenship?

18:04:58 1 A. Yes.

18:04:58 2 Q. In what context?

18:05:00 3 A. If they're born in the United States and they have

18:05:04 4 a birth certificate that is issued by a state department of

18:05:10 5 Vital Records or someone that was -- a birth certificate

18:05:14 6 that was issued that -- if they were born abroad, like, on

18:05:17 7 a U.S. military installation, those verify citizenship.

18:05:24 8 Doesn't mean they couldn't have had their civil rights

18:05:26 9 taken away, but for citizen purposes -- citizenship

18:05:30 10 purposes, yes.

18:05:31 11 Q. Does your office consider the fact that a person's

18:05:34 12 birthplace is outside of the United States to be reliable

18:05:37 13 evidence that they are not a United States citizen?

18:05:40 14 A. No.

18:05:41 15 Q. I'm going to -- I'm going to take a hard-right

18:05:49 16 turn to a different subject here. And I'm -- these

18:05:54 17 questions relate to claims made in the wake of the 2020

18:05:57 18 election.

18:05:59 19 MR. WHITAKER: While we're transitioning,

18:05:59 20 what's the time on the record?

18:06:04 21 THE COURT REPORTER: 6 hours, 45 minutes.

18:06:05 22 MR. DODGE: Okay. Can we go off the record

18:06:07 23 for one minute maybe just to evaluate what to do with these

18:06:08 24 last 15 minutes.

18:06:10 25 MR. WHITAKER: Sure.

18:06:11 1 THE VIDEOGRAPHER: We're off the record.
18:06:14 2 Time on the video monitor is 6:06 p.m.
18:06:34 3 (An off-the-record discussion ensued.)
18:06:34 4 THE VIDEOGRAPHER: We are on the record.
18:13:13 5 Time on the video monitor is 6:13 p.m.
18:13:16 6 BY MR. DODGE:
18:13:18 7 Q. Welcome back, Mr. Thomas. I'd like to ask you
18:13:23 8 some questions about the Election Integrity Unit, if that's
18:13:24 9 okay.
18:13:25 10 A. Yes, sir.
18:13:26 11 Q. It was created in 2019; is that right?
18:13:28 12 A. I believe that's correct.
18:13:29 13 Q. And was it created by the legislature or by the
18:13:31 14 Attorney General's Office?
18:13:32 15 A. That I don't know.
18:13:33 16 Q. What was its purpose when it was first created?
18:13:38 17 A. It was to be able to conduct investigations on
18:13:42 18 cases that were referred to us on voter fraud. I know
18:13:48 19 initially when I started with this agency in 2013, that we
18:13:56 20 received cases from the Clean Elections, and they would
18:14:00 21 just be randomly assigned to different investigators. And
18:14:04 22 I thought it was a great idea that they designated one
18:14:08 23 individual that was the point of contact. Made it more
18:14:12 24 efficient.
18:14:14 25 Q. And the Election Integrity Unit was funded by the

18:14:17 1 legislature at the time it was created; correct?

18:14:20 2 A. I believe so.

18:14:20 3 Q. It was -- it was led by Ms. Wright from 2019 to
18:14:24 4 2023, thereabouts?

18:14:26 5 A. I don't know if it was -- well, I would say it was
18:14:29 6 led by her on the civil side, not on the criminal side.

18:14:33 7 Q. Okay. Do you know whether the Election Integrity
18:14:35 8 Unit was modeled on similar units in attorney generals'
18:14:40 9 offices in other states?

18:14:42 10 A. I don't know the answer to that.

18:14:46 11 Q. Can you tell me what the current mission of the
18:14:52 12 Election Integrity Unit is?

18:14:53 13 A. I believe it's to investigate voter fraud and to
18:14:56 14 try to reestablish integrity within the election system.

18:15:03 15 Q. I'm going to hand you what I'll ask to be marked
18:15:11 16 as Exhibit 226, which is 12.1 in the Dropbox.

18:15:19 17 This appears to be a January 23, 2023,
18:15:21 18 article in the New York Times. Do I have that right?

18:15:21 19 A. Yes.

18:15:21 20 (The document was marked as Exhibit 226
18:15:26 21 for identification.)

18:15:26 22 BY MR. DODGE:

18:15:28 23 Q. And the title of this article is "Voter Fraud Unit
18:15:31 24 in Arizona Will Shift Focus to Voter Rights." Did I get
18:15:34 25 that right?

18:15:35 1 A. Yes.

18:15:39 2 Q. And right below that title is -- states, "Kris
18:15:44 3 Mayes, the state's Democratic attorney general, is shifting
18:15:46 4 gears on election issues in an office her Republican
18:15:50 5 predecessor created."

18:15:50 6 Did I get that right?

18:15:51 7 A. Correct.

18:15:52 8 Q. Okay. And then the first three sentences of this
18:15:55 9 article state, "Arizona's new Democratic attorney general,
18:15:59 10 Kris Mayes, is redirecting an election integrity unit her
18:16:02 11 Republican predecessor created, focusing its work instead
18:16:04 12 on addressing voter suppression. The shift by Ms. Mayes is
18:16:08 13 one of her first acts since she took office this month.

18:16:11 14 "The unit's former leader, Jennifer Wright,
18:16:11 15 meanwhile, has joined a legal effort to invalidate
18:16:16 16 Ms. Mayes's narrow victory in the November election.
18:16:17 17 'Under my predecessor's administration, the election
18:16:21 18 integrity unit searched widely for voter fraud and found
18:16:23 19 scant evidence of it occurring in Arizona,' Ms. Mayes said
18:16:27 20 in a statement provided by her office on Monday. 'That's
18:16:29 21 because instances of voter fraud are exceedingly rare.'"

18:16:32 22 Did I get all that right?

18:16:34 23 A. Correct.

18:16:34 24 Q. So fair to say that one of Ms. Mayes's first acts
18:16:37 25 in office as attorney general was to refocus the election

18:16:41 1 Election Integrity Unit's mission?

18:16:42 2 A. Correct.

18:16:46 3 Q. And --

18:16:47 4 MR. LANGHOFER: Scope and relevance.

18:16:48 5 BY MR. DODGE:

18:16:48 6 Q. The quote in the third paragraph is attributed

18:16:51 7 directly to Attorney General Mayes; is that right?

18:16:54 8 A. Correct.

18:16:55 9 Q. Any reason to doubt that Ms. Mayes said that?

18:16:59 10 A. No.

18:17:00 11 Q. So is it the attorney general's view that

18:17:03 12 instances of voter fraud in Arizona are exceedingly rare?

18:17:09 13 A. Correct.

18:17:10 14 Q. Has the Arizona legislature made the decision to

18:17:18 15 stop funding the Election Integrity Unit?

18:17:21 16 A. I don't know the answer to that.

18:17:22 17 Q. Could you pull up Exhibit 212 again and turn to

18:17:28 18 page 9.

18:17:39 19 And you see your response to Subpart 5 here

18:17:48 20 states, "Identify by name any witnesses who have or are

18:17:51 21 likely to have knowledge or information related to how the

18:17:53 22 Challenged Laws are likely to interact with the state

18:17:56 23 interests identified in this answer."

18:17:57 24 Did I get that right?

18:17:58 25 A. Yes.

18:17:58 1 Q. Looking at Footnote 3 on the next page, it
18:18:01 2 states -- well, above that, you see that Jennifer Wright is
18:18:06 3 identified as an individual, quote, "likely to have
18:18:08 4 information about complaints submitted through the Election
18:18:12 5 Integrity Unit's online intake portal other complaints";
18:18:13 6 right?

18:18:14 7 A. Correct.

18:18:15 8 Q. Then there's a note associated with Ms. Wright.

18:18:18 9 It says, "Jennifer Wright left the Attorney
18:18:18 10 General's Office in January 2023. Since then, the
18:18:20 11 Legislature has discontinued funding for the office's
18:18:24 12 Election Integrity Unit."

18:18:26 13 Did I get that right?

18:18:26 14 A. That's correct.

18:18:27 15 Q. Any reason to doubt the accuracy of that
18:18:29 16 statement?

18:18:30 17 A. No.

18:18:34 18 Q. Are you aware of an investigation launched by the
18:18:46 19 Arizona State Senate into the conduct-- that's not a
18:18:51 20 word. Strike that.

18:18:51 21 Are you aware of an investigation launched by
18:18:54 22 the Arizona State Senate into the 2020 general election in
18:18:58 23 Maricopa County?

18:18:58 24 A. Yes.

18:19:00 25 Q. Are you familiar with a company called Cyber

18:19:03 1 Ninjas?

18:19:03 2 A. Yes.

18:19:04 3 Q. Can you tell me generally what Cyber Ninjas?

18:19:08 4 A. Cyber Ninjas was formed by Doug Logan, who is kind
18:19:12 5 of a tech individual that started this Cyber Ninjas, LLC.
18:19:20 6 He tried to pull in some individuals to assist him on
18:19:23 7 conducting an audit of the 2020 election in Arizona.

18:19:32 8 I know he evaluated the computer systems or
18:19:35 9 the voting systems that were used in Maricopa County.
18:19:41 10 Also, they reviewed the paper ballots themselves, some
18:19:45 11 other documents.

18:19:49 12 They used the colosseum to do it. They hired
18:19:53 13 a bunch of volunteers to do work, which was kind of scary.
18:19:59 14 And --

18:20:02 15 Q. What was scary about it?

18:20:04 16 A. Well, so I manage our -- our evidence room, and we
18:20:08 17 believe in chain of custody on documents. Anything that's
18:20:14 18 seized in evidence, you have to have a chain of custody.
18:20:16 19 And you always want to make sure and maintain that chain of
18:20:18 20 custody for the integrity of the evidence.

18:20:20 21 From what I could see in the news media on
18:20:24 22 videos that were -- that I viewed, chain of custody was not
18:20:28 23 extremely tight down there. So any evidence, as far as I'm
18:20:33 24 concerned as an expert, that was obtained through that, I
18:20:38 25 think I would attack its chain of custody just based on

18:20:41 1 what I could see as an evidence custodian.

18:20:44 2 Q. In March 2021, State Senate President Karen Fann
18:20:49 3 retained Cyber Ninjas to conduct an audit of the 2020
18:20:53 4 general election in Maricopa County; correct?

18:20:54 5 A. That's correct.

18:20:55 6 Q. Was your office kept apprised of the Cyber Ninjas'
18:20:58 7 audit while it was occurring?

18:21:00 8 A. No.

18:21:00 9 Q. Did your office ask to be kept apprised of the
18:21:04 10 audit while it was occurring?

18:21:06 11 A. That I don't know.

18:21:07 12 Q. Was your office ultimately asked to investigate
18:21:12 13 the findings of that audit?

18:21:15 14 A. Yes.

18:21:15 15 Q. Did that require your office to investigate voting
18:21:24 16 by noncitizens or nonresidents in Arizona?

18:21:31 17 A. I would say that would be part of it, yes. But it
18:21:37 18 wasn't -- it was -- I don't think that was specifically the
18:21:41 19 things that they were looking at. They were looking at
18:21:43 20 more, like, people that technically didn't exist, dead
18:21:48 21 voters, people that moved out of county, potentially
18:21:53 22 nonresidents, but I didn't believe that that was a
18:21:56 23 citizenship issue.

18:21:57 24 Q. Can you describe the effort your office undertook
18:21:59 25 to investigate the claims made in the Cyber Ninjas' audit

18:22:04 1 in response to Ms. Fann's request?

18:22:06 2 A. Absolutely. We started out with two
18:22:10 3 investigators, which was Bill Knuth and Roger Geisler. And
18:22:15 4 then we received a big push from our executive office where
18:22:21 5 we -- our former chief agent took every special agent --
18:22:28 6 and there's 72 of us -- and made all 72 of us work these
18:22:32 7 investigations.

18:22:34 8 Q. Did that come at the expense of other work
18:22:38 9 investigators in your office do?

18:22:40 10 A. Absolutely.

18:22:40 11 Q. Those are important cases?

18:22:43 12 A. Yes.

18:22:44 13 Q. Cases related to the enforcement of criminal laws
18:22:46 14 in the state of Arizona?

18:22:47 15 A. Yes.

18:22:48 16 Q. And how long were those 72 special agents
18:22:53 17 reassigned to conduct this investigation?

18:22:57 18 A. I believe we started in October of 2022. We ran
18:23:04 19 all agents until approximately March or April. I would say
18:23:17 20 until April, then we tapered them off.

18:23:20 21 Q. And fair to say that thousands of man- and
18:23:24 22 woman-hours were put into those efforts?

18:23:26 23 A. Yes.

18:23:26 24 Q. Hours that would have been put towards other
18:23:30 25 criminal investigations, had they been not diverted to the

18:23:34 1 Cyber Ninjas audit?

18:23:34 2 A. Yes.

18:23:48 3 MR. DODGE: Go off the record for a minute.

18:23:51 4 THE VIDEOGRAPHER: We're off the record.

18:23:52 5 Time on the video monitor is 6:23 p.m.

18:23:58 6 (An off-the-record discussion ensued.)

18:25:57 7 THE VIDEOGRAPHER: We are on the record.

18:26:04 8 Time on the video monitor is 6:26 p.m.

18:26:10 9 BY MR. DODGE:

18:26:11 10 Q. Mr. Thomas, we were discussing your office's very

18:26:17 11 significant efforts to investigate claims made in the Cyber

18:26:21 12 Ninjas audit in the fall of 2022. Do I have that right?

18:26:26 13 A. Correct.

18:26:26 14 Q. What came of your office's efforts to investigate

18:26:30 15 the claims made in that audit?

18:26:33 16 A. We only had one dead-voter case that I'm aware of.

18:26:39 17 We had a few -- very few off-cases that it -- came out of

18:26:44 18 that.

18:26:44 19 Q. So a small handful of prosecutions were generated

18:26:48 20 by that work?

18:26:49 21 A. I believe so. I want to say there was probably

18:26:51 22 less than a dozen that came out of that.

18:26:54 23 Q. That's a pretty small number for 72 investigators

18:26:59 24 working for six months, thousands and thousands hours?

18:27:02 25 Fair to say?

18:27:02 1 A. Yes.

18:27:03 2 MR. LANGHOFER: Argumentative.

18:27:03 3 BY MR. DODGE:

18:27:04 4 Q. Very small?

18:27:06 5 A. Very small.

18:27:07 6 MR. LANGHOFER: Argumentative.

18:27:07 7 BY MR. DODGE:

18:27:08 8 Q. A misallocation of this office's resources?

18:27:11 9 MR. WHITAKER: Foundation.

18:27:12 10 MR. LANGHOFER: Argumentative.

18:27:12 11 THE WITNESS: I don't know if I could answer

18:27:13 12 that. We're at the mercy of the attorney general.

18:27:17 13 BY MR. DODGE:

18:27:19 14 Q. The small handful of prosecutions that did result,

18:27:22 15 none of those involved voting by noncitizens, to your

18:27:25 16 knowledge; correct?

18:27:27 17 A. To my knowledge, correct.

18:27:28 18 Q. None of them involved voting by nonresidents;

18:27:33 19 correct?

18:27:33 20 A. That I don't know.

18:27:36 21 Q. I'm going to hand you what I will ask to be marked

18:27:42 22 as Exhibit 227, which is in the Dropbox as 29.

18:27:42 23 (The document was marked as Exhibit 227

18:27:51 24 for identification.)

18:27:51 25 BY MR. DODGE:

18:27:51 1 Q. Are you familiar with this document?

18:27:54 2 A. I don't remember if I read this or not.

18:28:03 3 Q. Does this appear to be a press release from the
18:28:06 4 Attorney General's Office?

18:28:07 5 A. I believe so, yes.

18:28:08 6 Q. It's dated February 22, 2023?

18:28:14 7 A. Yes.

18:28:15 8 Q. And it states, "Today, Arizona Attorney General
18:28:18 9 Kris Mayes released documents related to the investigations
18:28:19 10 into the handling of the 2020 election in Arizona";
18:28:23 11 correct?

18:28:23 12 A. Correct.

18:28:29 13 Q. This press release refers to documents generated
18:28:33 14 by your office that had not previously been released to the
18:28:36 15 public; correct?

18:28:36 16 A. That is correct.

18:28:37 17 Q. Who made the decision to release those documents?

18:28:41 18 A. Ms. Mayes.

18:28:42 19 Q. In the box in the middle of this page, there's of
18:28:48 20 a quote attributed to Ms. Mayes that reads, "'The results
18:28:51 21 of this exhaustive and extensive investigation showed we
18:28:54 22 have suspected for over two years -- the 2020 election in
18:28:57 23 Arizona was conducted fairly and accurately by election
18:29:01 24 officials,' said Attorney General Kris Mayes. 'The ten
18:29:03 25 thousand plus hours spent diligently investigating every

18:29:06 1 conspiracy theory under the sun distracted this office from
18:29:09 2 its core mission of protecting the people of Arizona from
18:29:11 3 real crime and fraud.'" "

18:29:13 4 Did I get that right?

18:29:14 5 A. Yes.

18:29:15 6 Q. This quote is from the current attorney general;
18:29:19 7 correct?

18:29:19 8 A. Yes.

18:29:20 9 Q. And to your knowledge, remains her official
18:29:23 10 position?

18:29:23 11 A. Yes.

18:29:23 12 Q. Any reason to doubt that quote is attributable to
18:29:26 13 Ms. Mayes?

18:29:28 14 A. No.

18:29:29 15 Q. Then there's another quote from her at the bottom
18:29:31 16 of this page that says, "'Voter fraud is rare, and
18:29:34 17 instances should be handled according to applicable laws
18:29:34 18 when they do occur,' continued Attorney General Mayes.
18:29:40 19 'But it is time to work together to defend American
18:29:41 20 democracy and uphold the rule of law. It's time for the
18:29:45 21 divisiveness to stop, and it's time for our country to
18:29:45 22 heal.'" "

18:29:47 23 Did I get that correct?

18:29:48 24 A. Yes.

18:29:49 25 Q. Any reason to doubt that quote is from Ms. Mayes?

18:29:51 1 A. No.

18:29:51 2 Q. And so it's the position of the attorney general
18:29:54 3 that prosecutions of voter fraud are -- not only that
18:29:58 4 prosecutions of voter fraud are rare but that actual
18:30:01 5 instances of voter fraud are rare as well; correct?

18:30:04 6 A. Correct.

18:30:17 7 MR. DODGE: No further questions.

18:30:21 8 MR. WHITAKER: Anyone else from plaintiffs'
18:30:24 9 side with the remaining time we have?

18:30:29 10 MR. DODGE: Jen, I left you 90 seconds. I
18:30:35 11 don't think she's asking questions.

18:30:38 12 MR. WHITAKER: Okay.

18:30:41 13 MS. YUN: Nothing from us. Thanks.

18:30:42 14 MR. WHITAKER: Okay. I have no redirect.

18:30:45 15 Mr. Langhofer, do you have any redirect?

18:30:49 16 MR. LANGHOFER: No. Thank you.

18:30:53 17 (An off-the-record discussion was held.)

18:31:06 18 THE VIDEOGRAPHER: We're off the record.

18:31:08 19 Time on the video monitor is 6:31 p.m. This ends Volume 1,
18:31:13 20 Media Number 4, in the deposition of Bill Knuth, Keith
18:31:19 21 Thomas, Todd Lawson, 30(b)(6) deposition of the Arizona
18:31:22 22 attorney general.

23 (The proceedings concluded at 6:31 p.m.)

24

25

WILLIAM KNUTH, TODD LAWSON, AND KEITH THOMAS

1 STATE OF ARIZONA)
2 COUNTY OF MARICOPA)

3 BE IT KNOWN that the foregoing deposition was taken
4 by me pursuant to stipulation of counsel; that I was then
5 and there a Certified Court Reporter in the State of
6 Arizona, and by virtue hereof authorized to administer an
7 oath; that the witness before testifying was duly sworn by
8 me to testify to the whole truth; pursuant to request,
9 notification was provided that the deposition is available
10 for review and signature; that the questions propounded by
11 counsel and the answers of the witness thereto were taken
12 down by me in shorthand and thereafter transcribed into
13 typewriting under my direction; that the foregoing pages
14 are a full, true and accurate transcript of all the
15 proceedings had upon the taking of deposition, all done to
16 the best of my skill and ability.

17 I FURTHER CERTIFY that I am in no way related
18 to nor employed by any parties hereto; nor am I in any
19 way interested in the outcome thereof.

20 Dated at Phoenix, Arizona, this 5th day of
21 September, 2023.

22 

23 _____
24 CINDY MAHONEY, RPR, RMR NO. 50680

25

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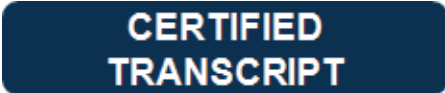
IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ARIZONA

Mi Familia Vota, et al.,)	
)	
Plaintiffs,)	
)	
vs.	)	No. 2:22-cv-00509-PHX-SRB
	)	(Lead)
Adrian Fontes, in his)	
official capacity as Arizona)	
Secretary of State, et al.,)	
)	
Defendants.)	
)	
<hr/> AND CONSOLIDATED CASES	)	No. CV-22-00519-PHX-SRB
	)	No. CV-22-01003-PHX-SRB
	)	No. CV-22-01124-PHX-SRB
	)	No. CV-22-01369-PHX-SRB
	)	No. CV-22-01381-PHX-SRB
	)	No. CV-22-01602-PHX-SRB
	)	No. CV-22-01901-PHX-SRB
)	

VIDEOTAPED 30(b)(6) DEPOSITION OF LA PAZ COUNTY RECORDER
BY AND THROUGH RICHARD GARCIA

Parker, Arizona
August 30, 2023

Prepared By:
Karen L. Locker, RPR
Certified Reporter #50821



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Laurie Stirling

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09:04:18 1 THE VIDEOGRAPHER: We are now on the record.

09:04:21 2 Time on the monitor is 9:04. Here begins Volume 1, Media

09:04:33 3 No. 1 of the deposition of Richard Garcia in the matter of

09:04:33 4 Mi Familia Vota, et al. vs. Adrian Fontes and Ben Toma and

09:04:48 5 Warren Petersen, in the United States District Court,

09:04:53 6 District of Arizona, case No. 2:22-cv-00509-SRB.

09:05:05 7 Today's date is August 30th, 2023.

09:05:10 8 Our court reporter is Karen Locker. I am Jimmie

09:05:15 9 Sullivan, a certified legal videographer. We both

09:05:22 10 represent Coash Court Reporting & Video.

09:05:25 11 This deposition is taking place in Mr. Garcia's

09:05:28 12 office at 1112 Joshua Avenue, Parker, Arizona.

09:05:35 13 And, counsel, would you please identify

09:05:39 14 yourselves.

09:05:39 15 MS. RIZZONI: Good morning. Oh, go ahead.

09:05:41 16 MR. MITCHELL: Sorry. Yeah, good morning, Jason

09:05:43 17 Mitchell on behalf of Richard Garcia.

09:05:46 18 MS. RIZZONI: Good morning. This is Cat Rizzoni

09:05:48 19 on behalf of Plaintiff Asian American Native Hawaiian

09:05:48 20 Pacific Islander for Equity Coalition.

09:06:15 21 THE VIDEOGRAPHER: Okay. Does --

09:06:15 22 MR. ATKINS: Alexander Atkins of Elias Law Group

09:06:18 23 representing Plaintiffs Mi Familia Vota and Voto Latino.

09:06:18 24 MS. CERVANTES: Erika Cervantes with the Mexican

09:06:18 25 American Legal Defense and Educational Fund representing

09:06:28 1 Promise Arizona Plaintiffs.

09:06:33 2 MS. MOTZKIN: Leah Motzkin representing Poder
09:06:33 3 Latinx, Chicanos Por La Causa, and Chicanos Por La Causa
09:06:40 4 Action Fund.

09:06:40 5 MS. LANG: Danielle Lang representing the LUCHA
09:06:43 6 plaintiffs.

09:06:44 7 MS. NESWOOD: Allison Neswood representing
09:06:44 8 Tohono O'odham Nation, Gila River Indian Community, and
09:06:50 9 three Native American individuals.

09:06:54 10 MR. HORLEY: Tim Horley representing the State
09:06:54 11 of Arizona and the Arizona Attorney General.

09:06:54 12 MR. MORGAN: Craig Morgan for Sherman & Howard
09:07:02 13 representing the Secretary of State.

09:07:02 14 MR. LANGHOFER: Kory Langhofer for the RNC.

09:07:10 15 MS. FITZGIBBONS: Liv Fitzgibbons with Gallagher
09:07:13 16 & Kennedy for Speaker Toma and President Peterson.

09:07:23 17 MR. HEMSTREET: Robbie Hemstreet also here on
09:05:51 18 behalf of plaintiff Asian American Native Hawaiian and
09:07:29 19 Pacific Islander for Equity Coalition.

09:07:31 20 MS. RIZZONI: I think that's everyone.

09:07:38 21 So welcome, Mr. -- oh, did I miss someone?

09:07:38 22 THE VIDEOGRAPHER: Yeah, we need to swear in the
09:07:41 23 witness.

09:07:41 24 MS. RIZZONI: Oh, got it.

09:07:46 25 THE VIDEOGRAPHER: And, Ms. Locker, could you

09:08:38 1 is G-A-R-C-I-A.

09:08:38 2 Q. Thank you.

09:08:39 3 And what is your current title, Mr. Garcia?

09:08:42 4 A. County Recorder.

09:08:44 5 Q. County Recorder for La Paz County?

09:08:47 6 A. For La Paz County. La Paz County Recorder.

09:08:47 7 Q. And how long have you served in the role?

09:08:50 8 A. I was elected in 2020.

09:08:52 9 Q. Okay. And, just for today's deposition, I want

09:08:55 10 to make sure the record is clear on a couple of points.

09:08:58 11 So do you understand that you're testifying

09:09:00 12 under oath today?

09:09:01 13 A. Yes.

09:09:02 14 Q. Okay. And is there any reason that you can't

09:09:06 15 give full, complete, and accurate testimony today?

09:09:09 16 A. I'm sorry. What was your question again?

09:09:11 17 Q. Is there any reason that you cannot give full,

09:09:15 18 complete, and accurate testimony today?

09:09:17 19 A. No. As best as I can, but, no.

09:09:21 20 Q. Okay. And you understand that a court reporter

09:09:24 21 will be transcribing today's deposition, correct?

09:09:27 22 A. Yes.

09:09:27 23 Q. Okay. And, just for the sake of the court

09:09:30 24 reporter, I want to just make sure a couple of things are

09:09:33 25 clear.

09:09:33 1 So to make sure Karen can do her job, I'd ask
09:09:36 2 that you let me finish my question before answering, and I
09:09:39 3 will make sure that you finish your answer before I ask
09:09:41 4 the next question.

09:09:43 5 Does that make sense?

09:09:44 6 A. Yes.

09:09:44 7 Q. Okay. And because she will be transcribing
09:09:49 8 everything, it's important that you answer questions
09:09:51 9 audibly and clearly instead of using things like head
09:09:55 10 shakes, nods, et cetera.

09:09:57 11 Does that make sense?

09:09:58 12 A. Yes.

09:09:59 13 Q. Okay. Will you let me know if you don't
09:10:01 14 understand a question or need me to repeat it?

09:10:03 15 A. Yes. I will let you know.

09:10:06 16 Q. Okay. So, with that, if ask a question and you
09:10:09 17 answer, I will assume that you understood the question.

09:10:11 18 Does that make sense?

09:10:12 19 A. Yes.

09:10:12 20 Q. Okay. And, if at any time you would like to
09:10:19 21 take a break, that's fine. Please let me know. The only
09:10:22 22 thing I'd ask is that if a question is pending that you
09:10:25 23 answer the question before we take a break.

09:10:27 24 Does that make sense?

09:10:28 25 A. Yes.

09:10:28 1 Q. And since this is taken remotely -- I see that
09:10:32 2 Mr. Mitchell is in the room with you.
09:10:34 3 Is there anyone else who is in the room with you
09:10:37 4 today?
09:10:37 5 A. No.
09:10:37 6 Q. And, again, because this is remote, I just want
09:10:44 7 to make sure that your answers that you're giving are your
09:10:48 8 own today. So, for the record, can you confirm that you
09:10:51 9 are not and will not be receiving, you know, text
09:10:53 10 messages, notes, emails, or anything during the deposition
09:10:57 11 suggesting what your answer should be?
09:10:59 12 A. Yes.
09:11:00 13 Q. And last point is that, you know, from time to
09:11:05 14 time, Mr. Mitchell may object to one of my questions,
09:11:08 15 other attorneys here may object to one of my questions.
09:11:11 16 Unless Mr. Mitchell or someone else specifically instructs
09:11:15 17 you not to respond, you're expected to answer the question
09:11:17 18 posed.
09:11:18 19 Does that make sense?
09:11:19 20 A. Yes.
09:11:19 21 Q. Okay. Mr. Garcia, have you ever been deposed
09:11:24 22 before?
09:11:24 23 A. No. This is the first time.
09:11:26 24 Q. Okay. Well, very exciting. We'll try to make
09:11:31 25 it as quick and painless as possible.

09:11:33 1 Did you bring any materials to your deposition
09:11:35 2 today?

09:11:35 3 A. Just what was provided to me by Mr. Mitchell.

09:11:39 4 Q. And the materials provided to you from
09:11:44 5 Mr. Mitchell, was that a, like a zip drive of documents?

09:11:47 6 A. Yes.

09:11:48 7 Q. Okay. Called La Paz depo exhibits?

09:11:51 8 A. Yes.

09:11:52 9 Q. Okay. Fabulous.

09:11:55 10 And do you have those in front of you today?

09:11:57 11 A. Yes.

09:11:58 12 Q. Great. And besides those documents, do you have
09:11:59 13 anything else sitting in front of you today?

09:12:07 14 A. Those and some of the RFPs that we had provided.

09:12:14 15 Q. Okay. That works.

09:12:15 16 All right. Well, then, with that in mind, I
09:12:17 17 think we can jump in.

09:12:20 18 The first thing I'd like you to open is the
09:12:20 19 document labeled document A. And let me know when you
09:12:25 20 have that open in front of you.

09:12:43 21 A. I got it open.

09:12:45 22 Q. Great. And have you seen this document before?

09:12:48 23 A. When it was given to me.

09:12:50 24 Q. Okay. And can you tell me what this document
09:12:52 25 is?

09:13:02 1 A. I mean, not off the top of my head. I mean, I
09:13:04 2 still have to read it. I didn't get to read a lot of this
09:13:08 3 stuff, but kind of skimmed through it, and...

09:13:10 4 Q. On the first glance, does it appear to be an
09:13:13 5 August 11th, 2023 amended deposition notice sent to your
09:13:17 6 office?

09:13:17 7 A. Yes, it is dated August 11, 2023.

09:13:20 8 Q. Okay. And do you understand that you've been
09:13:24 9 designated as a representative to testify on behalf of the
09:13:30 10 La Paz County Recorder's Office?

09:13:31 11 A. Yes.

09:13:32 12 Q. So, with that in mind, can we stipulate that
09:13:35 13 when I ask a question that uses you or your, that will be
09:13:38 14 the equivalent of asking a question to the La Paz County
09:13:42 15 Recorder's Office?

09:13:42 16 A. Yes.

09:13:43 17 Q. Let's turn to page five of that document, and at
09:13:51 18 the top should be a bolded header called topics.

09:13:55 19 Do you see that?

09:14:01 20 A. Yes.

09:14:01 21 Q. And then there should be a list of 28 separate
09:14:04 22 topics following.

09:14:05 23 A. Hmm hmm. Yes.

09:14:05 24 Q. Do you see that?

09:14:06 25 A. Yes.

09:14:06 1 Q. And are you prepared to address these topics
09:14:09 2 today?

09:14:09 3 A. As best as I can.

09:14:11 4 Q. Okay. And did you do anything to prepare for
09:14:14 5 today's deposition?

09:14:16 6 A. I read through it, read up on, a little bit on
09:14:20 7 the bills.

09:14:21 8 Q. You read through the bills, and what else?

09:14:24 9 A. Just the paperwork that was provided to me.

09:14:27 10 Q. And the paperwork, again, that was provided to
09:14:32 11 you was just this list of exhibits?

09:14:32 12 A. This particular one, yes, I recall getting it.

09:14:35 13 Q. Okay.

09:14:36 14 A. (Indiscernible.)

09:14:36 15 (The Reporter asked for clarification.)

09:14:40 16 THE WITNESS: I recall getting this one earlier
09:14:42 17 than I -- because I received it again today, but, by
09:14:44 18 Mr. Mitchell, but I did have it already, so I did look
09:14:48 19 through it.

09:14:48 20 Q. Besides looking through the documents that were
09:14:51 21 provided to you from Mr. Mitchell, did you do anything
09:14:53 22 else to prepare for today's deposition?

09:14:54 23 A. Just read through the EPM a little bit, and,
09:14:59 24 like I said, just read through this document.

09:15:01 25 Q. Okay. All right. So the next couple of

09:15:14 1 questions I'm going to ask relate to documents B through
09:15:16 2 F. So just to make sure we marked them, real quickly go
09:15:17 3 ahead and open each of those, and then we'll just start
09:15:19 4 with document -- oh, I'm sorry, actually, can we go back?

09:15:21 5 Document A we need to mark that for the record,
09:15:24 6 as exhibit, I believe the last exhibit is document --

09:15:29 7 Was that 228 is the next one, Karen?

09:15:29 8 THE REPORTER: Yes.

09:15:36 9 MS. RIZZONI: Okay. So let's mark document A,
09:15:38 10 the amended deposition notice as Exhibit 228.

09:15:38 11 BY MS. RIZZONI:

09:15:42 12 Q. And then, Mr. Garcia, if you can go ahead and
09:15:47 13 open B through F. And let me know when you have them
09:15:51 14 open.

09:16:14 15 A. Okay. I got them open.

09:16:17 16 Q. Great. All right. Let's start with document B.
09:16:18 17 Do you recognize that document?

09:16:20 18 A. Like I said, I just, I'm -- yes, yes, I do.

09:16:24 19 Yeah.

09:16:24 20 Q. Okay. And can you tell me what that document
09:16:27 21 is?

09:16:27 22 A. It was a request for production, some questions
09:16:33 23 that were being asked and my responses to them.

09:16:35 24 Q. Does this appear to be the February 13th, 2023,
09:16:41 25 responses from your office to the Equity Coalition's

09:16:46 1 request for document production?

09:16:48 2 A. I don't see a date on here, so I couldn't say if
09:16:58 3 it was that date or not.

09:17:01 4 Q. If you turn to the very last page, Mr. Garcia --

09:17:06 5 A. Oh, yes. Yeah, 13th day of February.

09:17:10 6 Q. Okay. So, for the record, these are the

09:17:12 7 February 13th, 2023 responses from La Paz County

09:17:17 8 Recorder's Office to Equity Coalition's request for

09:17:21 9 production of documents.

09:17:21 10 And let's mark this as Exhibit 229.

09:17:30 11 Okay. And could you take a look at document C.

09:17:33 12 And let me know when that's open.

09:17:35 13 A. It's open.

09:17:35 14 Q. Great. And do you recognize that document?

09:17:38 15 A. Yes.

09:17:38 16 Q. And what is that document?

09:17:41 17 A. These are just the objections and, objections

09:17:44 18 and responses to the, what was being produced, or

09:17:50 19 fulfilling the request for productions.

09:17:52 20 Q. Okay. For the record, these are the June 30th,

09:17:57 21 2023 responses from the La Paz County Recorder's Office to

09:18:01 22 the consolidated plaintiff's request for production of

09:18:03 23 documents.

09:18:05 24 And, Mr. Garcia, were you involved in preparing

09:18:07 25 your office's responses to these two sets of requests for

09:18:10 1 production of documents?

09:18:12 2 A. I was.

09:18:13 3 Q. Okay. Was anyone else involved in preparing

09:18:16 4 your responses?

09:18:17 5 A. My chief deputy.

09:18:19 6 Q. And who might that be?

09:18:21 7 A. Matthew Aguilar.

09:18:24 8 Q. Okay. Anyone else?

09:18:25 9 A. That was it.

09:18:26 10 Q. Okay. And what steps did your office take to

09:18:31 11 prepare La Paz County's responses to these two sets of

09:18:35 12 document requests?

09:18:37 13 A. Just looking through the procedures manual

09:18:40 14 and -- basically it. Just looking through the procedures

09:18:44 15 manual.

09:18:44 16 Q. So, to be clear, these documents B and C, which

09:18:52 17 are Exhibits 229 and 230, requested that your office

09:18:58 18 produce certain documentation.

09:19:00 19 Did you look through certain documentation to

09:19:02 20 decide what to produce?

09:19:04 21 A. Well, like I said, we looked at the EPM.

09:19:11 22 Anything that was provided would have been either copied

09:19:16 23 from a, you know, made a copy from, you know, certain

09:19:22 24 information that we already had printed out that we knew

09:19:25 25 that we could make it available.

09:19:28 1 Q. Okay. Besides the EPM, did you -- well, strike
09:19:37 2 that. That's fine.

09:19:40 3 Okay. Did you have any updates to make today to
09:19:42 4 these two sets of responses to plaintiff's document
09:19:46 5 requests?

09:19:47 6 A. I don't believe so.

09:19:49 7 Q. Okay. All right. Let's move on to document D.
09:19:54 8 Let me know when that is open.

09:19:58 9 A. I have it open.

09:19:59 10 Q. Okay. And do you recognize that document?

09:20:01 11 A. Yes.

09:20:02 12 Q. Okay. And what is that document?

09:20:04 13 A. These are just the responses to interrogatories.

09:20:06 14 Q. Okay. And, for the record, these are the
09:20:10 15 January 27th, 2023, La Paz County Recorder's responses to
09:20:16 16 Equity Coalition's interrogatories. And let's mark these
09:20:20 17 as Exhibit 231.

09:20:25 18 And then can you take a look at document E.
09:20:30 19 And do you recognize that document?

09:20:31 20 A. Yes.

09:20:33 21 Q. And do these appear to be the June 30th, 2023
09:20:37 22 responses from the La Paz County Recorder to the
09:20:41 23 consolidated plaintiff's interrogatories?

09:20:42 24 A. Yes. June 30th. Yes.

09:20:44 25 Q. Okay. Let's mark this as Exhibit 232.

09:20:51 1 And then last one, document F.

09:20:54 2 Do you recognize that document?

09:20:56 3 A. Yes.

09:20:58 4 Q. And do those appear to be the August 8th, 2023

09:21:08 5 supplemental responses of La Paz County Recorder's Office

09:21:09 6 to the consolidated plaintiff's interrogatories?

09:21:13 7 A. Yes.

09:21:14 8 Q. And let's mark that as Exhibit 233.

09:21:23 9 Mr. Garcia, were you involved in preparing your

09:21:23 10 office's responses to these sets of interrogatories?

09:21:24 11 A. I was involved.

09:21:24 12 Q. Okay. And, in fact, you verified your office's

09:21:27 13 responses to these interrogatories. Is that right?

09:21:29 14 A. Yes.

09:21:30 15 Q. And what steps did your office take to prepare

09:21:34 16 these responses to interrogatories?

09:21:40 17 A. As I said before, just referred to the EPM, any

09:21:45 18 copies of any kind of report that we may have. That's

09:21:52 19 pretty much about it.

09:21:52 20 Q. And were -- so who else -- was anyone else

09:21:55 21 involved in preparing these response to interrogatories?

09:21:59 22 A. As I stated before, my chief deputy, Matthew

09:22:06 23 Aguilar was also involved.

09:22:07 24 Q. Anyone else besides you and Mr. Aguilar?

09:22:10 25 A. No. I mean, there's only three, or two of us

09:22:12 1 here in the office. It was only me and him.

09:22:15 2 Q. Okay. Do you have any updates to make today to
09:22:18 3 your office's responses to these sets of interrogatories?

09:22:21 4 A. No.

09:22:21 5 Q. Okay. So sitting here today, each of La Paz
09:22:21 6 County's responses to plaintiff's document requests and
09:22:31 7 interrogatories remain complete, true, and accurate, to
09:22:34 8 the best of your knowledge?

09:22:35 9 A. To the best of my knowledge, yes.

09:22:37 10 Q. Okay. All right. I'd like to shift gears to
09:22:42 11 the elections procedures manual, which you've alluded to.

09:22:44 12 So I take it you're familiar with the elections
09:22:47 13 procedures manual. Is that right?

09:22:49 14 A. Yeah.

09:22:49 15 Q. And if I shorten that to EPM, you'll understand
09:22:52 16 that that means elections procedures manual?

09:22:53 17 A. Yes.

09:22:54 18 Q. Okay. Good. All right. The 2019 version of
09:23:00 19 the EPM is still the currently operative version. Is that
09:23:02 20 right?

09:23:02 21 A. Yes.

09:23:04 22 Q. And your office is legally required to follow
09:23:07 23 the EPM?

09:23:10 24 DEFENSE COUNSEL: Calls for legal conclusion.

09:23:10 25 MR. HORLEY: Also, could we state on the

09:23:15 1 record -- this is Tim Horley for the State of Arizona and
09:23:18 2 the Arizona Attorney General -- that an objection by one
09:23:19 3 lawyer from one side is an objection for all lawyers, per
09:23:22 4 our usual stipulation?

09:23:25 5 MR. MORGAN: Secretary of State is fine with
09:23:28 6 that.

09:23:28 7 MS. RIZZONI: As are we.

09:23:31 8 MR. HORLEY: Great. Thank you.

09:23:34 9 BY MS. RIZZONI:

09:23:34 10 Q. So, Mr. Garcia, again, you're expected to answer
09:23:37 11 unless specifically instructed not to. So I'll repeat my
09:23:41 12 question, which is, is your office legally required to
09:23:43 13 follow the EPM?

09:23:51 14 DEFENSE COUNSEL: Calls for legal conclusion.

09:23:53 15 THE WITNESS: To my knowledge, yes. It's, it's
09:23:59 16 a guide and it's helpful to us to, you know, to follow the
09:24:02 17 statutes, so...

09:24:05 18 BY MS. RIZZONI:

09:24:05 19 Q. Are you aware of any rule that would allow you
09:24:08 20 to deviate from the EPM?

09:24:12 21 DEFENSE COUNSEL: Same objection.

09:24:14 22 THE WITNESS: Could you clarify the answer
09:24:18 23 again -- could you ask the question again?

09:24:20 24 BY MS. RIZZONI:

09:24:20 25 Q. Right. So I'm trying to understand your

09:24:22 1 understanding of the, like the binding nature of the EPM
09:24:29 2 on your office.

09:24:31 3 So are you, do you understand, like is there
09:24:35 4 a -- I guess, what is your basis -- scratch that.

09:24:40 5 Do you -- is there any basis under which you
09:24:49 6 could deviate from the EPM?

09:24:53 7 DEFENSE COUNSEL: Same objection.

09:25:00 8 THE WITNESS: So to not follow it? Is that what
09:25:11 9 you're asking me?

09:25:12 10 BY MS. RIZZONI:

09:25:12 11 Q. Yes.

09:25:13 12 A. I mean, I could follow the statute but, go
09:25:19 13 straight to the statute, but EPM has always been a guide
09:25:23 14 and helpful, so, I mean, we always refer to it and use it.

09:25:26 15 Q. When you say a guide, is it a discretionary
09:25:29 16 guide, to your understanding, or is it required that your
09:25:32 17 office follows the EPM?

09:25:35 18 DEFENSE COUNSEL: Same, same objection.

09:25:38 19 THE WITNESS: I have never been told that we had
09:25:40 20 to use it, but it's always been helpful for us to use it.
09:25:44 21 So we have, we've always used it, and we will continue to
09:25:46 22 use it.

09:25:47 23 BY MS. RIZZONI:

09:25:47 24 Q. If not the EPM, what would you consider legally
09:25:51 25 binding guidance on your office when it comes to how you

09:25:55 1 administer elections in your county?

09:25:58 2 DEFENSE COUNSEL: Same, same objection.

09:25:59 3 THE WITNESS: Well, if it wasn't the EPM it
09:26:01 4 would just be the statute book, the Arizona Revised
09:26:08 5 Statutes book.

09:26:09 6 BY MS. RIZZONI:

09:26:09 7 Q. To clarify, however, it's your practice that you
09:26:12 8 will follow the EPM. Is that right?

09:26:15 9 A. Yes.

09:26:15 10 Q. Okay. And the Secretary of State is the office
09:26:23 11 who is responsible for promulgating the EPM. Is that
09:26:26 12 right?

09:26:26 13 A. Yes.

09:26:27 14 Q. And can the Secretary of State convey legally
09:26:33 15 binding guidance to your office by any means outside of
09:26:36 16 the EPM?

09:26:38 17 DEFENSE COUNSEL: Same objection.

09:26:39 18 Form, foundation, calls for legal conclusion.

09:26:42 19 THE WITNESS: Sorry. Can you ask, repeat the
09:26:45 20 question, clarify it?

09:26:47 21 BY MS. RIZZONI:

09:26:47 22 Q. Sure. Can the Secretary of State's office
09:26:51 23 convey legally binding guidance to your office by any
09:26:54 24 means outside of the EPM?

09:26:56 25 DEFENSE COUNSEL: Same objections.

09:26:57 1 THE WITNESS: So, in other words, you're asking
09:27:06 2 if they can give us legal counsel outside of that? Is
09:27:09 3 that what -- am I understanding you correctly?

09:27:11 4 BY MS. RIZZONI:

09:27:12 5 Q. I'm trying to understand. So if, for example,
09:27:13 6 the Secretary of State was to email you information about
09:27:16 7 how to administer elections, would that be legally binding
09:27:23 8 on your office?

09:27:25 9 DEFENSE COUNSEL: Same objection.
09:27:26 10 Foundation, calls for legal conclusion.

09:27:29 11 THE WITNESS: I would say no.

09:27:31 12 DEFENSE COUNSEL: Calls for speculation.

09:27:34 13 BY MS. RIZZONI:

09:27:34 14 Q. What about if they were, if the Secretary of
09:27:37 15 State's Office was to communicate with your office over
09:27:39 16 the phone? Would that be legally binding guidance?

09:27:44 17 DEFENSE COUNSEL: Calls for legal -- same
09:27:47 18 objections.

09:27:47 19 THE WITNESS: No.

09:27:49 20 BY MS. RIZZONI:

09:27:49 21 Q. Are you familiar with the Voter Registration
09:27:56 22 Advisory Committee?

09:27:56 23 A. No.

09:27:56 24 Q. No. So would you agree, then, that a Voter
09:28:01 25 Registration Advisory Committee proposal would not be

09:28:04 1 legally binding guidance on your office?

09:28:07 2 DEFENSE COUNSEL: Same objections.

09:28:08 3 THE WITNESS: I would say no.

09:28:09 4 BY MS. RIZZONI:

09:28:10 5 Q. Is your office aware of a draft EPM for 2023?

09:28:15 6 A. Yes.

09:28:15 7 Q. And have you provided any comments to the
09:28:20 8 Secretary of State on that draft EPM for 2023?

09:28:27 9 A. I don't believe I made any comments to it.

09:28:32 10 Q. To your understanding, does the draft EPM for
09:28:38 11 2023 include guidance for how to implement H.B. 2492
09:28:46 12 and/or H.B. 2243?

09:28:48 13 A. I believe there is something written out about
09:28:55 14 it, but it just depends on what the outcome of this
09:28:59 15 litigation, it should be included in there. But as of
09:29:03 16 right now I don't think it, it's probably part of it.

09:29:07 17 Q. You said that you --

09:29:09 18 A. To my knowledge.

09:29:12 19 Q. Sorry. I interrupted you. Go ahead.

09:29:13 20 A. To my knowledge, you know.

09:29:16 21 Q. To your knowledge it does, the draft EPM does
09:29:23 22 include guidance for how to implement these two laws?

09:29:27 23 A. There, there is something written out about
09:29:29 24 it --

09:29:29 25 Q. Okay.

09:29:29 1 A. -- yes.

09:29:29 2 Q. Okay. And you said you haven't provided

09:29:32 3 comments on the draft 2023 EPM.

09:29:35 4 Do you intend to provide comments at any point?

09:29:38 5 A. Possibly.

09:29:44 6 Q. Have you discussed the contents of the draft EPM

09:29:48 7 with staff at your office?

09:29:50 8 A. So my chief deputy, he's on some of those calls,

09:29:57 9 so, I mean, he is aware of it. So, like I said, there is

09:30:00 10 only three of us, so he's aware of that.

09:30:03 11 Q. Okay. And do you understand -- or strike that.

09:30:10 12 If you were to provide comments, do you

09:30:12 13 currently have an idea of what comments you might make to

09:30:15 14 the draft guidance?

09:30:17 15 DEFENSE COUNSEL: Calls for speculation.

09:30:18 16 THE WITNESS: Not at the time, no.

09:30:20 17 BY MS. RIZZONI:

09:30:20 18 Q. Okay. Besides the draft EPM for 2023, have you

09:30:24 19 received any other guidance from the Secretary of State

09:30:27 20 about how to implement H.B. 2492 and H.B. 2243?

09:30:32 21 A. Not to my knowledge.

09:30:35 22 Q. All right. Let's take a look at document G.

09:30:38 23 Let me know when you have that up.

09:30:50 24 A. I have it up.

09:30:51 25 Q. Great. Do you recognize this document?

09:30:55 1 A. Yes.

09:30:57 2 Q. Okay. And what is this document?

09:31:01 3 A. Just an email between my chief deputy and Kori
09:31:12 4 Lorick, who used to be the SOS office in the last
09:31:16 5 administration, in regards to implementation of the two
09:31:22 6 bills.

09:31:23 7 Q. And then, if I can direct your attention to the
09:31:27 8 very top of the document, it looks like this email from
09:31:30 9 Kori Lorick is being forwarded from your deputy,
09:31:37 10 Mr. Aguilar, to Mr. Mitchell CCing you. Is that correct?

09:31:43 11 A. Yes.

09:31:44 12 Q. Okay. And you do you know what prompted
09:31:49 13 Mr. Aguilar to forward this message from Ms. Lorick to
09:31:53 14 Mr. Mitchell copying you?

09:31:56 15 A. Maybe he was probably on a phone call where it
09:32:03 16 was maybe possibly discussed.

09:32:05 17 Q. Were you on a phone call where this was
09:32:08 18 discussed?

09:32:09 19 A. I would say probably not.

09:32:12 20 Q. Do you, do you know why this email may have been
09:32:20 21 discussed during a phone call between Mr. Aguilar and
09:32:25 22 Mr. Mitchell?

09:32:25 23 A. I don't think it was just between two people.
09:32:28 24 It may have been a joint call between, you know, other
09:32:32 25 recorder's offices and elections departments and -- that's

09:32:35 1 what I'm thinking.

09:32:36 2 Q. Did you have calls with other recorder's offices
09:32:41 3 about implementing these two bills?

09:32:45 4 A. I'm sure there must have been.

09:32:50 5 Q. Were you present for any of those calls?

09:32:53 6 A. Not to my knowledge.

09:32:58 7 Q. Would Mr. Aguilar be the person who would have
09:33:02 8 participated in those calls?

09:33:03 9 A. He's been on the calls more than I have. Since
09:33:06 10 we're a small office I can't, you know, be --

09:33:10 11 Q. So, to be clear, have you been on any of these
09:33:13 12 calls with other County Recorder's Offices about
09:33:16 13 implementing the bills?

09:33:17 14 A. I can't recall anything recent.

09:33:23 15 Q. Can you recall anything at all?

09:33:25 16 A. This started since last year, so, I mean, this
09:33:30 17 email is from, looks like it was from last year -- well,
09:33:35 18 actually, at the beginning of the year -- and now I can't
09:33:40 19 recall.

09:33:41 20 Q. Okay. We'll come back to that, but I want to
09:33:44 21 just ask a couple of questions about this email in
09:33:46 22 particular first.

09:33:47 23 So you said Ms. Lorick, she used to work for the
09:33:51 24 Secretary of State's Office as the elections director. Is
09:33:56 25 that right?

09:33:56 1 A. That is correct.

09:33:56 2 Q. Okay. And I want to direct your attention to
09:34:01 3 the very beginning of Ms. Lorick's email, which is at the
09:34:10 4 bottom of page one, beginning of page two. And she
09:34:10 5 writes:

09:34:16 6 It's been several weeks since we last discussed
09:34:19 7 implementation of H.B. 2492 and H.B. 2243, both of which
09:34:23 8 go into effect January 1st, 2023. If you'll recall, we
09:34:27 9 met several times throughout the year to review
09:34:30 10 implementation and the resulting impacts to the VR system,
09:34:35 11 as well as voter registration procedures. Several
09:34:35 12 questions remained as to whether we could implement
09:34:38 13 requirements that would conflict with the NVRA, federal
09:34:38 14 settlements, and court cases.

09:34:41 15 Having thoroughly analyzed the changes that both
09:34:45 16 bills require, the Secretary of State's Office believes
09:34:46 17 that there is no way to implement certain requirements
09:34:49 18 without conflicting with federal law. Given the Supremacy
09:34:53 19 Clause in the United State's Constitution, U.S.
09:34:54 20 Constitution article VI, clause 2, federal law should
09:34:55 21 prevail in these instances, so our office will not be
09:34:59 22 implementing those provisions.

09:35:01 23 Do you see that?

09:35:01 24 A. Yes.

09:35:03 25 Q. Okay. And then in her next paragraph she goes

09:35:05 1 on to note which provisions her office interprets as
09:35:10 2 conflicting with federal law.

09:35:11 3 Do you see that?

09:35:12 4 A. Yes.

09:35:13 5 Q. Okay. And does your office agree that these
09:35:18 6 provisions of the bills conflict with federal law?

09:35:22 7 DEFENSE COUNSEL: Calls for legal conclusion.

09:35:25 8 THE WITNESS: Yes.

09:35:25 9 BY MS. RIZZONI:

09:35:30 10 Q. Is guidance from any other entity beyond the
09:35:33 11 Secretary of State about how to implement these two laws,
09:35:36 12 legally binding on County Recorders.

09:35:41 13 DEFENSE COUNSEL: Same objection.

09:35:44 14 THE WITNESS: Not that I can recall, no.

09:35:46 15 BY MS. RIZZONI:

09:35:46 16 Q. Not that you're currently aware of either?

09:35:49 17 A. Right.

09:35:49 18 Q. Okay. Are you currently implementing any part

09:35:58 19 H.B. 2492?

09:36:01 20 A. No.

09:36:01 21 Q. And are you currently implementing any part of

09:36:07 22 the H.B. 2243?

09:36:09 23 A. No.

09:36:10 24 Q. And from the email we just looked at -- which,
09:36:15 25 by the way, I'm not sure we marked that, but if we

09:36:18 1 haven't, that's Exhibit 234.

09:36:24 2 So besides discussing with the Secretary of
09:36:26 3 State's Office have you discussed implementation of
09:36:29 4 H.B. 2492 and H.B. 2243 with anyone else?

09:36:34 5 A. No.

09:36:34 6 Q. Have you discussed implementation of these two
09:36:38 7 laws internally?

09:36:39 8 A. We discuss it, but I mean, whether we follow it
09:36:45 9 or not will be determined on what is decided after this
09:36:48 10 case.

09:36:49 11 Q. Can you tell me a little bit more about what you
09:36:52 12 discussed about implementing these two laws?

09:36:55 13 A. I mean, it's not, not, not a whole lot, other
09:37:00 14 than, you know, just kind of, not so much -- I mean, we'll
09:37:18 15 implement it as whatever is decided, but, you know, we
09:37:20 16 just kind of talk about as far as, you know, what is
09:37:25 17 mentioned here, having voters, you know, filling out,
09:37:31 18 making sure they fill out their voter registration form
09:37:36 19 completely and make sure that they don't miss any, any of
09:37:39 20 the required fields.

09:37:42 21 Q. So besides discussing ensuring that voter
09:37:49 22 applicants fill out their voter registration forms
09:37:52 23 completely, have you had any other internal discussions
09:37:54 24 with your staff about implementing these two laws?

09:37:57 25 A. No. There's just kind of basic as far as the

09:38:03 1 voter form.

09:38:03 2 Q. Okay.

09:38:05 3 A. Making sure that it's filled out completely.

09:38:07 4 Q. Let's turn back to document, document D, La Paz

09:38:27 5 County Recorder's response to the Equity Coalition

09:38:31 6 interrogatories. And can you take a look at your response

09:38:33 7 to interrogatory 1. Let me know when you're there.

09:38:40 8 A. I'm here.

09:38:41 9 Q. Okay. Your response is:

09:38:46 10 At this time the La Paz County Recorder's Office

09:38:48 11 has no plans, policies, procedures, or training materials

09:38:51 12 regarding the actual or prospective implementation of H.B.

09:38:55 13 2492. The La Paz County Recorder and his staff have

09:38:55 14 engaged in discussions regarding the prospective

09:39:02 15 implementation of H.B. 2243; however, they are waiting to

09:39:05 16 receive further guidance from the Arizona Secretary of

09:39:07 17 State regarding the new law.

09:39:08 18 Did I read that correctly?

09:39:09 19 A. Yes.

09:39:10 20 Q. Okay. And then can you tell me what you mean

09:39:13 21 here by prospective implementation of H.B. 2243?

09:39:19 22 A. Kind of what I was just saying earlier. I mean,

09:39:23 23 that's kind of more of discussion that we would have to

09:39:25 24 make sure, you know, that voters fill out, you know, the

09:39:30 25 form completely.

09:39:32 1 Q. And when with you say the form, what are you
09:39:35 2 referring to?

09:39:35 3 A. The voter registration form.

09:39:37 4 Q. Okay. And why were you discussing the need to
09:39:41 5 ensure that voters are filling out the voter registration
09:39:46 6 form completely in the context of prospective
09:39:47 7 implementation of H.B. 2243?

09:39:50 8 A. Just because we want them to be registered
09:39:55 9 properly and, you know, abide by what this by, you know,
09:40:00 10 what's required by the voter registration forms to make
09:40:04 11 sure that they're registered properly.

09:40:06 12 Q. Was your office concerned about H.B. 2243 was
09:40:10 13 going to cause issues with voters not being able to
09:40:14 14 complete the form properly?

09:40:15 15 A. Maybe a little bit. Not so much filling out the
09:40:21 16 form, but just, you know, providing a, the residency and,
09:40:32 17 and proper DPOC, the documentary proof of citizenship.

09:40:32 18 Q. So your office was concerned that voters may
09:40:43 19 have difficulty providing the documentary proof of
09:40:46 20 citizenship and information about their residency. Is
09:40:50 21 that correct?

09:40:50 22 A. Not so much trouble providing it, just, you
09:40:54 23 know, maybe not realizing that they would have to provide
09:40:59 24 that information.

09:41:00 25 Q. Okay. Okay. Before H.B. 2492 was passed into

09:41:14 1 law, did your office oppose the passage of that bill?

09:41:17 2 A. I can't, I can't recall.

09:41:26 3 Q. And what about H.B. 2243? Was your office
09:41:31 4 opposed to the passage of that bill?

09:41:34 5 A. I can't recall if we were opposed or not opposed
09:41:38 6 to it.

09:41:39 7 Q. Are you familiar with the Arizona Association of
09:41:42 8 Counties?

09:41:43 9 A. Yes.

09:41:44 10 Q. Okay. And are you a member of the Arizona
09:41:50 11 Association of Counties?

09:41:51 12 A. Yes.

09:41:53 13 Q. And can you tell me a little bit about what the
09:41:54 14 Arizona Association of Counties does with respect to, I
09:41:59 15 guess, the legislative docket and bill that it supports or
09:42:03 16 doesn't support?

09:42:04 17 A. Well, you know, they, they give us the language
09:42:09 18 to the bill and ask us for just feedback on it, and any
09:42:19 19 concerns or -- that's kind of basically it. I mean, we
09:42:22 20 just kind of give our thoughts on it.

09:42:24 21 Q. Did the Arizona Association of Counties ever
09:42:28 22 reach out to your office for feedback about either of
09:42:32 23 these bills?

09:42:33 24 A. I mean, emails circulate sometimes asking, you
09:42:39 25 know, if we like something or don't like it, but, but I

09:42:45 1 can't recall how many times, or anything like that.

09:42:50 2 Q. Do you recall if the Arizona Association of
09:42:56 3 Counties ever emailed you at all about either of these
09:42:58 4 bills?

09:42:58 5 A. I recall some emails probably going around about
09:43:04 6 it, I'm sure.

09:43:05 7 Q. And did they ask you whether or not you had
09:43:08 8 feedback on either bill?

09:43:10 9 A. Well, they asked us all, and whether I responded
09:43:15 10 to it or not I can't recall, and, if I did, I mean, it
09:43:18 11 must have been a while back. So I can't recall.

09:43:21 12 Q. So you don't currently recall responding to any
09:43:24 13 request for feedback from the Arizona Association of
09:43:27 14 Counties about either H.B. 2492 or H.B. 2243?

09:43:33 15 A. Like I said, it may be in the past, several
09:43:37 16 months ago, maybe last year, but not recent.

09:43:44 17 Q. Did you ever provide feedback to Arizona
09:43:47 18 Association of Counties about either bill?

09:43:49 19 A. I can't recall.

09:43:53 20 Q. Okay. What about H.B. 2617? Do you recall that
09:43:59 21 bill?

09:43:59 22 A. Not too much. I think the 2243 and the 2492 has
09:44:11 23 been kind of more out there more than the 2617 that you
09:44:15 24 just said.

09:44:16 25 Q. Do you recall that 2617 was the predecessor bill

09:44:21 1 to 2243?

09:44:23 2 A. I can't remember. I don't recall. There's too

09:44:28 3 much, too many bills in it, you know, to keep up with them

09:44:33 4 sometimes.

09:44:33 5 Q. Okay.

09:44:33 6 A. It's challenging.

09:44:34 7 Q. Let's take a look at document J then. Maybe

09:44:38 8 this will jog your memory. Let me know when you have it

09:44:41 9 open.

09:44:41 10 A. Which one?

09:44:42 11 Q. Document J.

09:44:58 12 A. Yeah, I got it up.

09:45:00 13 Q. Great. Okay. I'd like to first direct your

09:45:06 14 attention to the middle of the page, the email from

09:45:10 15 Jennifer Marson.

09:45:11 16 Do you see that?

09:45:12 17 A. Hmm hmm. Yes.

09:45:13 18 Q. And Jennifer Marson, she works at AA -- I'm

09:45:18 19 sorry -- at the Arizona Association of Counties, correct?

09:45:21 20 A. Correct.

09:45:22 21 Q. She is their executive director. Is that right?

09:45:26 22 A. That is correct.

09:45:27 23 Q. Okay. And this email which is from March 14th,

09:45:31 24 2022, from Ms. Marson is sent to, what looks like, all of

09:45:34 25 the County Recorders, including yourself. Is that right?

09:45:38 1 A. Yes. Yes.

09:45:38 2 Q. And the subject line is: H.B. 2617 - Does the
09:45:38 3 amendment change your position?

09:45:48 4 There's a typo, but I assume she means position.
09:45:49 5 Is that right?

09:45:49 6 A. Yeah.

09:45:50 7 Q. Okay. So she writes:

09:45:55 8 Dear Recorders: Please review H.B. 2617.

09:45:59 9 Originally this bill required your offices to review a
09:45:59 10 bunch of different databases (state, federal, local) to
09:45:59 11 try and verify someone's citizenship. Many of them are
09:46:13 12 databases to which counties do not have that kind of
09:46:13 13 access. As a result a floor amendment was added to
09:46:13 14 include the phrases "if practicable" or "if the county has
09:46:13 15 access".

09:46:14 16 Do you see that?

09:46:15 17 A. Yes.

09:46:16 18 Q. Okay. And then she asks on the beginning of
09:46:21 19 next page: Does this change your position?

09:46:23 20 Do you see that?

09:46:24 21 A. Yes.

09:46:25 22 Q. Okay. And at the very top much of the email, it
09:46:28 23 looks like you respond the next day, and you write:

09:46:32 24 Opposed. Agree with comments made.

09:46:34 25 Is that right?

09:46:34 1 A. Right.

09:46:35 2 Q. So it's fair to say then that you were opposed
09:46:38 3 to the H.B. 2617 bill?

09:46:41 4 A. Well, yes. Since it was, I wrote it down there,
09:46:51 5 yeah.

09:46:52 6 Q. And does this refresh your memory at all about
09:46:56 7 maybe some of the conversations you had with Arizona
09:46:59 8 Association of Counties about the other two bills?

09:47:00 9 A. That I -- no, I can't recall.

09:47:03 10 Q. So if you were opposed to 2617, were you opposed
09:47:12 11 to 2243 as passed?

09:47:17 12 A. No. I mean, like I said, I mean, whatever, I'm
09:47:25 13 nominal on this, so whatever is decided, that's what we'll
09:47:30 14 do.

09:47:38 15 Q. Are you aware of any changes that are made to
09:47:41 16 the H.B. 2617 bill that were made to the 2243 bill that
09:47:48 17 would have changed your position on whether you opposed
09:47:51 18 the bill?

09:47:52 19 A. After this email --

09:47:58 20 Q. Right.

09:47:58 21 A. -- no. And if I had opposed it, I can't recall
09:48:03 22 exactly what was said, and maybe because we wouldn't have
09:48:06 23 access to certain databases. But that's pretty much all I
09:48:12 24 can remember.

09:48:12 25 Q. Okay. We will come back to that language, but I

09:48:17 1 appreciate you taking a look at that.

09:48:20 2 All right. Let's shift gears to -- oh, I'm

09:48:24 3 sorry. No, one more question on that.

09:48:26 4 So you mentioned that you were opposed to 2617
09:48:32 5 because it required you to review databases that you may
09:48:35 6 not have access to. Is that right?

09:48:37 7 A. That's correct.

09:48:38 8 Q. Is there any other reason you were opposed to
09:48:41 9 H.B. 2617?

09:48:42 10 A. Not that I can recall, no.

09:48:44 11 Q. Okay. All right. We can shift gears now.

09:48:50 12 Let's talk more about the voter registration
09:48:55 13 process in La Paz County generally.

09:48:58 14 So can you tell me, Mr. Garcia, what methods a
09:49:02 15 potential voter can use to register to vote in your
09:49:06 16 county?

09:49:06 17 A. Can you clarify that? Are you talking about
09:49:12 18 like citizenship verifica -- citizenship proof? Are
09:49:15 19 you --

09:49:15 20 Q. First, I just want to talk about generally. So
09:49:17 21 like I'm talking about things like, you know, online, the
09:49:17 22 Motor --

09:49:17 23 A. Oh.

09:49:17 24 Q. -- Vehicle Division --

09:49:17 25 A. Oh.

09:49:20 1 Q. -- form, the state form, the federal forms?

09:49:20 2 A. Yeah.

09:49:21 3 Q. I just want you to you walk me through how
09:49:25 4 long a person --

09:49:25 5 A. Yeah. So, yeah, a voter can utilize the
09:49:31 6 Servicearizona.com, register electronically that way
09:49:34 7 through the MVD. They can use paper form, whether it's a
09:49:38 8 state form or federal form. They can either pick those up
09:49:45 9 somewhere, you know, either at a post office or library,
09:49:48 10 or they can come in here in the office and do it.

09:49:50 11 Q. What about NVRA agencies? Are you familiar with
09:49:58 12 those?

09:49:59 13 A. Are you, is that like, what, like DES or
09:50:05 14 something? Is that what you're referring to?

09:50:08 15 Q. I'm referring to, yeah, any agency that you work
09:50:10 16 with that may help with voter registration.

09:50:12 17 A. What was your question again, I'm asking? What
09:50:19 18 was your question again? Can you repeat it?

09:50:21 19 Q. Yeah. Well, maybe I will just ask it this way.

09:50:23 20 So, besides ServiceArizona, electronic
09:50:27 21 registration, the MVD, the state or federal paper form,
09:50:30 22 are there any other ways that a potential voter can use to
09:50:35 23 register to vote in your county?

09:50:36 24 A. Probably the, through DES is what I can think
09:50:36 25 of.

09:50:42 1 Q. And what is DES?

09:50:44 2 A. Department of Economic Security. There is an
09:50:51 3 office here, so, I mean, somebody could register through
09:50:55 4 there.

09:50:56 5 Q. And what about -- are you familiar with the
09:51:06 6 UOCAVA, federal postcard and federal write-in absentee
09:51:11 7 ballots?

09:51:13 8 A. Is that the FWABs, I think, the FWAB form,
09:51:20 9 federal write-in absentee? Is that what you said?

09:51:21 10 Q. Federal postcard and federal write-in absentee
09:51:21 11 ballot.

09:51:26 12 A. Oh, FPCA card. Yeah, that's for uniformed and
09:51:29 13 overseas citizens, military, could register using that
09:51:35 14 card, their FPCA card applications, yes.

09:51:38 15 Q. Okay. So any other means, besides those we just
09:51:41 16 discussed could an applicant use to register to vote in
09:51:49 17 your county?

09:51:49 18 A. Right. What we just mentioned, yes, yes, they
09:51:52 19 would utilize those methods.

09:51:55 20 Q. Okay. Great. Okay. Let's talk about
09:51:58 21 citizenship verification. I want to just direct your
09:52:01 22 attention first to document H. If you could open that and
09:52:04 23 let me know when it's open.

09:52:17 24 A. I have it open.

09:52:18 25 Q. Great. Have you seen this document before?

09:52:20 1 A. Yes.

09:52:23 2 Q. And what is it?

09:52:24 3 A. An email from Mr. Aguilar to Mr. Mitchell in
09:52:33 4 regards of how we verify citizenship.

09:52:35 5 Q. Okay. Sorry. I keep forgetting to mark exhibit
09:52:38 6 numbers. So let me just go back and say document J should
09:52:43 7 be Exhibit 235. And then we are going to mark this,
09:52:50 8 document H, as 236. Okay?

09:52:57 9 Okay. All right. So do you know what prompted
09:53:03 10 Mr. Aguilar to email this to Mr. Mitchell copying you?

09:53:08 11 A. Could have been the litigation.

09:53:21 12 Q. Can you be more specific about that?

09:53:25 13 A. Well, the lawsuit that we're, that we're in
09:53:29 14 right now. I'm assuming that it would have had to have
09:53:32 15 been in related, in relation to that.

09:53:35 16 Q. Okay. Okay. So it says:

09:53:40 17 Jason, the way we verified citizenship is
09:53:42 18 through the AVID system using HAVA, and if it is not
09:53:42 19 verified through HAVA we send letter asking the voter for
09:53:51 20 proof of citizenship according to statute and we also have
09:53:52 21 access to the SAVE program.

09:53:54 22 Did I read that right?

09:53:55 23 A. Yes, you did.

09:53:57 24 Q. Okay. Great. And AVID here refers to the
09:54:03 25 Access Voter Information Database, correct?

09:54:08 1 A. That is correct.

09:54:08 2 Q. And HAVA is the Help America Vote Again Act?

09:54:12 3 A. Correct.

09:54:12 4 Q. And SAVE is the Systematic Alien Verification
09:54:16 5 for Entitlements program?

09:54:16 6 A. That is correct.

09:54:17 7 Q. Great. Okay. So the process described in this
09:54:20 8 email, does it relate to how La Paz County verifies
09:54:25 9 citizenship of voter applicants who do not provide
09:54:30 10 documentary proof of citizenship?

09:54:32 11 A. So it's more of when somebody registers to vote,
09:54:39 12 the AVID system will verify that through the system
09:54:44 13 itself, matching information on the voter, whether it's
09:54:49 14 through their SSA, obviously, their date of birth, MVD
09:54:54 15 crossmatches with MVD, SSA, other government offices like
09:55:05 16 DHS, but mainly MVD as far as the citizenship is, you
09:55:12 17 know, concerned.

09:55:12 18 Q. Okay. Let's take that in just slightly more
09:55:17 19 bite-size pieces going step-by-step through that.

09:55:20 20 So how, how, how does your office use the AVID
09:55:23 21 system to verify an applicant's citizenship?

09:55:26 22 A. So, so we enter them into the system and it
09:55:32 23 crossmatches with MVD. So that clears out, that would
09:55:36 24 confirm their, it would confirm their citizenship through
09:55:39 25 MVD based off of their driver's license.

09:55:42 1 Q. Okay. So the MVD database has information about
09:55:48 2 an applicant's citizenship. Is that right?

09:55:50 3 A. That's correct.

09:55:51 4 Q. And are you aware of any other databases that
09:55:55 5 are accessible through AVID that also include citizenship
09:55:59 6 information?

09:56:00 7 A. Through AVID, as far as citizenship, no, not to
09:56:08 8 my knowledge. That's mainly, mainly through MVD.

09:56:11 9 Q. Okay. Are you familiar with HAVA checks?

09:56:15 10 A. Yes. So that's part of when we enter into the
09:56:19 11 system it does, what we call, the HAVA checks, which when
09:56:23 12 it does crossmatch with MVD, but it also does through SSA.
09:56:27 13 So I guess SSA would be another one, SSA and also DHS and
09:56:32 14 the court system.

09:56:33 15 Q. And what was the last one?

09:56:35 16 A. The courts.

09:56:36 17 Q. Courts.

09:56:37 18 A. Yeah.

09:56:38 19 Q. Okay. Okay. So, just to be clear, you enter
09:56:42 20 the registration form information into AVID.

09:56:46 21 A. Correct.

09:56:46 22 Q. AVID -- then what does AVID do?

09:56:49 23 A. It crossmatches, it does the HAVA checks.

09:56:54 24 Q. Okay. Then it does the HAVA check.

09:56:54 25 A. Right.

09:56:56 1 Q. And through the HAVA check, it consults these
09:56:59 2 different databases, the Motor Vehicle Division, the SSA,
09:57:04 3 the DHS, and the courts. Is that right?

09:57:05 4 A. That's correct.

09:57:06 5 Q. Okay. The MVD database we have already
09:57:09 6 discussed. That has information about an applicant's
09:57:11 7 citizenship.

09:57:12 8 The SSA database, is that the Social Security
09:57:18 9 Administration database?

09:57:18 10 A. That is correct.

09:57:18 11 Q. Okay. And does that have information about an
09:57:21 12 applicant's citizenship?

09:57:21 13 A. I mean, I would assume that the SSA would have
09:57:30 14 specific numbers for a person who is maybe a legal
09:57:34 15 permanent resident, but, you know, it wouldn't necessarily
09:57:36 16 tell us as far as citizenship, to my knowledge, when it
09:57:39 17 crosschecks with the SSA. It's, as far as citizenship it
09:57:44 18 would be through the MVD.

09:57:46 19 Q. Okay. And the DHS, that's the Department of
09:57:51 20 Homeland Security. Is that right?

09:57:53 21 A. Department of Health Services.

09:57:55 22 Q. Department of Health Services. Thank you.

09:57:59 23 And would that have information about an
09:58:01 24 applicant's citizenship?

09:58:02 25 A. No. That's more for deceased people.

09:58:05 1 Q. Okay. And when it accesses the courts, is that
09:58:11 2 like a particular court system it's accessing? Or what do
09:58:14 3 you mean by that?

09:58:15 4 A. Well, the court system, the statewide court
09:58:20 5 system, and that's for felony checks.

09:58:23 6 Q. So that, the court system that runs through the
09:58:26 7 HAVA check, would that have information about citizenship?

09:58:32 8 A. Not to my knowledge, no. It's, like I said,
09:58:35 9 it's more of a felony check.

09:58:38 10 Q. Okay. So sitting here today, it's the Motor
09:58:41 11 Vehicle database that would have the information about an
09:58:44 12 applicant's citizenship?

09:58:45 13 A. Yes.

09:58:46 14 Q. Okay. Okay. And are HAVA checks run for every
09:59:00 15 voter applicant?

09:59:02 16 A. Yes.

09:59:02 17 Q. And when you're running a HAVA check, what
09:59:09 18 information does it show you about the applicant's
09:59:13 19 citizenship?

09:59:13 20 A. So it would show DMV, the MVD information. It
09:59:26 21 would basically tell you if there was a legal permanent
09:59:31 22 resident maybe that may have, maybe would have -- if a
09:59:34 23 legal permanent resident would have used, or tried to
09:59:38 24 register, they would have, you know, an F number, I
09:59:41 25 believe, is what it would be. So it's a, they have a

09:59:45 1 different number, as opposed to someone who is actually a
09:59:49 2 citizen, to my knowledge.

09:59:50 3 Q. And by F number, are you referring to F-type
09:59:53 4 licenses?

09:59:54 5 A. Yes. F-type licenses, yes.

09:59:57 6 Q. Okay. And F-type licenses are used for people
10:00:01 7 who, at the time of registering, are lawful permanent
10:00:06 8 residents but not citizens. Is that right? I'm sorry.
10:00:09 9 Scratch that.

10:00:11 10 At the time that the person registers for their
10:00:13 11 driver's license, that means that they're not a citizen;
10:00:19 12 they're a lawful permanent resident.

10:00:20 13 A. Correct.

10:00:21 14 Q. Okay. Okay. So if the HAVA check matches to
10:00:32 15 information saying that the applicant is a citizen, do you
10:00:35 16 register that applicant as a full-ballot voter?

10:00:39 17 A. Yes.

10:00:40 18 Q. Okay. And if HAVA does not match the citizen's
10:00:45 19 information, what does your office do then?

10:00:48 20 A. So if they didn't, so if, if they didn't provide
10:00:58 21 their driver's license we run HAVA checks, and if MVD
10:01:03 22 provides it, we'll make them a full-ballot voter. If we
10:01:06 23 can't get any kind of citizenship verification, we would
10:01:18 24 place them as a didn't provide any citizenship
10:01:24 25 verification, we would put them as a fed-only voter,

10:01:34 1 federal-only voter. If they didn't provide any kind of
10:01:37 2 citizenship when they register to vote we would mark them
10:01:41 3 as a fed-only voter.

10:01:41 4 Q. Can you tell me what it means --

10:01:42 5 A. If that's what you're asking.

10:01:45 6 Q. Well, there's a couple of questions there.

10:01:47 7 So can you tell me what that means to be a
10:01:49 8 fed-only voter?

10:01:51 9 A. It means they would only be able to vote in
10:01:56 10 federal races.

10:01:57 11 Q. So if the HAVA check returns, you know, no match
10:02:05 12 to citizenship information, or it says they're a lawful
10:02:11 13 permanent resident because they have an F-type license --

10:02:13 14 A. Oh, if it comes back as an F-type license then
10:02:16 15 we will follow up with correspondence. We won't register
10:02:20 16 them. We'll put them as a not eligible, invalid
10:02:26 17 citizenship proof, and send them a letter and, asking them
10:02:30 18 to, you know, correct it if that's not accurate. Because
10:02:35 19 I would think that there could be occasions where somebody
10:02:39 20 could, you know, become a citizen, and within that time
10:02:44 21 frame, maybe they didn't, just didn't update their
10:02:48 22 driver's license to reflect that they're a citizen now and
10:02:49 23 they still have their F-type license.

10:02:49 24 Q. Got it.

10:02:51 25 A. So we follow up with a correspondence letting

10:02:53 1 them know, you know, the results of their, after we
10:02:58 2 process their application and letting them know what they
10:03:00 3 need to do as far as curing or correcting it.

10:03:03 4 Q. Okay. So you send a notice to voter applicants
10:03:08 5 who come back with an F-type license inviting them to
10:03:13 6 cure. Is that correct?

10:03:14 7 A. Yes. They can correct, if, if they are actually
10:03:17 8 a citizen.

10:03:18 9 Q. Of course.

10:03:18 10 A. Right.

10:03:20 11 Q. Do you send these notices to voter applicants
10:03:23 12 for any other reason?

10:03:24 13 A. We will send, probably not the same
10:03:30 14 correspondence, but we will send correspondence to people
10:03:34 15 that, you know, maybe didn't provide the citizenship
10:03:36 16 proof, and we end up registering them as a federal-ballot
10:03:42 17 voter only and letting them know how they can correct
10:03:45 18 that.

10:03:45 19 Q. Okay. So if you run the HAVA check and it
10:03:50 20 doesn't match the citizenship information, your office
10:03:52 21 will send them a notice letting them know that they have
10:03:55 22 been enrolled as a federal-only voter and how to cure so
10:03:59 23 that they can be restored to a full-ballot voter. Is that
10:04:02 24 right?

10:04:02 25 A. If they didn't provide citizenship --

10:04:05 1 Q. Okay.

10:04:05 2 A. -- with their application. Now, a lot of times
10:04:08 3 the HAVA checks may come back and actually provide that
10:04:11 4 information for us, which we'll then make them a
10:04:15 5 full-ballot voter, if MVD comes back with citizenship
10:04:20 6 verification to where maybe the voter just didn't put it
10:04:23 7 on their application.

10:04:23 8 Q. Got it.

10:04:24 9 A. Yes.

10:04:27 10 Q. So let's talk quickly about the F-type licenses.
10:04:37 11 So you mentioned that there are situations where
10:04:39 12 a person may just not have updated their driver's license
10:04:43 13 information but between the time they got the F-type
10:04:47 14 license and the time that they are trying to register to
10:04:49 15 vote they have been naturalized.

10:04:51 16 Have you had any personal experience at your
10:04:53 17 office with those sorts of voters?

10:04:56 18 A. Possibly. I mean, if there was, like I said, we
10:05:08 19 would follow up with correspondence and asking them to fix
10:05:14 20 it. So I mean at that point I would assume they would
10:05:19 21 either maybe show you with their naturalization
10:05:22 22 certificate. But I can't recall if we actually had a
10:05:29 23 scenario exactly like that.

10:05:29 24 Q. Okay. But you can't recall either, if you had
10:05:31 25 done that, whether or not the applicant cured by sending

10:05:34 1 in naturalization information?

10:05:37 2 A. Right off the top of my head no, but, I mean,
10:05:40 3 that's what we would do in a scenario like that if they,
10:05:44 4 you know, if that did happen.

10:05:45 5 Q. Got it.

10:05:46 6 A. We'd follow up with correspondence letting them
10:05:49 7 know what they need to do to fix it.

10:05:52 8 Q. Okay. And these notices that you send out
10:06:01 9 asking, you know, letting people know sort of the, the
10:06:04 10 status of these checks and asking them to cure, what do
10:06:09 11 these notices say?

10:06:14 12 A. I mean, I don't got the letter in front of me.
10:06:17 13 I mean, I'd have to get that from my chief deputy. He is
10:06:23 14 usually the one that sends out the correspondence, so I
10:06:25 15 mean, he has copies of the letter. But, yeah, I don't
10:06:30 16 have it in front of me, but it would be something along
10:06:32 17 the lines of them just asking them to, giving them the
10:06:38 18 methods as to how they can cure their, the DPOC
10:06:43 19 requirement.

10:06:43 20 Q. Do you know if the notices are in English or any
10:06:45 21 other languages too?

10:06:47 22 A. I mean, it's in English. Like I said, I'd have
10:06:52 23 to see if it's, if it's, the full thing is in Spanish as
10:06:57 24 well, or usually a lot of times there's a statement on
10:06:59 25 there in Spanish saying, you know, if you need this letter

10:07:03 1 or notice in Spanish, please notify our office and we can
10:07:08 2 always provide them one.

10:07:09 3 Q. Do you know if La Paz produced any notices in
10:07:16 4 this litigation?

10:07:17 5 A. I'm sorry. Can you ask that again?

10:07:19 6 Q. Are you aware whether or not your office
10:07:21 7 produced any copies of these notices?

10:07:24 8 A. The letters? Is that what you're asking?
10:07:29 9 The -- is that what you're asking, the letters if we
10:07:32 10 produced any kind of --

10:07:33 11 Q. Well, so I reviewed your productions and I
10:07:35 12 didn't see any sample notices produced by your office, so
10:07:39 13 I was just wondering whether or not you're planning on
10:07:45 14 supplementing a production with those notices.

10:07:48 15 A. I mean, we can.

10:07:50 16 Q. Okay. Maybe I can talk to Mr. Mitchell about
10:07:54 17 that on a break.

10:07:55 18 A. Okay.

10:07:56 19 MS. RIZZONI: I do think we've gone about an
10:07:58 20 hour on the record, so I want to offer if you wanted to
10:08:01 21 take a five-minute break or if you want to just keep
10:08:05 22 chugging along.

10:08:07 23 THE WITNESS: I'll take a little break.

10:08:09 24 MS. RIZZONI: Okay. Great. Well, then let's
10:08:11 25 reconvene in about five if that works, unless you need a

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10:17:11

1 longer break.

2 THE WITNESS: Okay. Five minutes is good

3 enough.

4 MS. RIZZONI: Okay. Great.

5 THE VIDEOGRAPHER: Okay. We are off the record.

6 Time on the monitor is 10:08.

7 (Recess taken from 10:08 a.m. to 10:16 a.m.)

8 THE VIDEOGRAPHER: Okay. We are on the record.

9 Time on the monitor is 10:16. And you may proceed.

10 BY MS. RIZZONI:

11 Q. Great. Welcome back, Mr. Garcia.

12 Just a few more questions about these database

13 checks before we can move on to something new.

14 So before we broke for the five minutes we were

15 talking about, I guess, the potential for voters who were

16 lawful permanent residents at the time, but they got their

17 driver's license returning a, you know, non-citizen match

18 through the MVD database because of their F-type license,

19 and then later curing, after being served with a notice,

20 you know, showing that they've since become naturalized.

21 Do you remember talking about that?

22 A. Yes.

23 Q. Okay. So would you agree, then, that the MVD

24 database cannot conclusively determine that a person is or

25 is not a U.S. citizen?

10:17:15 1 A. Well, they can determine that based off of their
10:17:20 2 driver's license.

10:17:20 3 Q. If, for example, the driver's license is an
10:17:22 4 F-type license but the voter applicant has since
10:17:26 5 naturalized and become a citizen, then the database would
10:17:29 6 show that they're not a citizen although they really were.
10:17:34 7 That's correct?

10:17:35 8 A. That is correct. Unless, until they maybe renew
10:17:39 9 their driver's license, then they would probably get a,
10:17:41 10 I'm assuming they would get a different number identifying
10:17:43 11 them being a citizen.

10:17:44 12 Q. But you would agree, then, that the Motor
10:17:55 13 Vehicle database does not conclusively determine that a
10:17:57 14 person is not a U.S. citizen.

10:17:59 15 DEFENSE COUNSEL: Objection; misstates
10:18:01 16 testimony, leading.

10:18:03 17 THE WITNESS: So you're saying the MVD cannot
10:18:07 18 determine if they are a U.S. citizen. Is that what you're
10:18:09 19 asking me?

10:18:10 20 BY MS. RIZZONI:

10:18:10 21 Q. I'm asking you if the MVD can conclusively
10:18:13 22 determine whether or not an applicant is not a U.S.
10:18:15 23 citizen.

10:18:16 24 A. Well, they can.

10:18:23 25 Q. What do you mean by that?

10:18:25 1 A. Well, based off of their driver's license. I
10:18:29 2 mean, they would fulfill the citizenship requirement when
10:18:35 3 they register to vote. When they register with the DMV
10:18:39 4 they would have the driver's license number that would
10:18:41 5 determine that they are a citizen.

10:18:44 6 Q. Right. So the driver's license could determine
10:18:47 7 that a person is a citizen. I'm asking the inverse,
10:18:50 8 whether or not the database could determine conclusively
10:18:53 9 whether or not a person is not a citizen.

10:18:55 10 A. Oh.

10:18:56 11 DEFENSE COUNSEL: Asked and answered.

10:18:59 12 THE WITNESS: Well, they could get an F-type
10:19:02 13 license, which would mean they are not a citizen.

10:19:04 14 BY MS. RIZZONI:

10:19:04 15 Q. That would mean that they were not a citizen at
10:19:07 16 the time that they acquired the license.

10:19:08 17 A. Right.

10:19:09 18 Q. But they could have naturalized in the time
10:19:12 19 since. Is that right?

10:19:12 20 A. They could have, they could.

10:19:14 21 Q. Okay. So my question, then, is whether the MVD
10:19:18 22 database can conclusively determine whether or not a
10:19:20 23 person is not a U.S. citizen.

10:19:23 24 DEFENSE COUNSEL: Asked and answered.

10:19:24 25 THE WITNESS: I mean, unless they, like I said,

10:19:27 1 unless they update their driver's license they would

10:19:30 2 probably just be still considered not a citizen.

10:19:36 3 BY MS. RIZZONI:

10:19:36 4 Q. Okay. All right. One more database to talk
10:19:40 5 about with respect to this email and then we can, we can
10:19:42 6 move along.

10:19:52 7 So the SAVE program, that's a database that's
10:19:55 8 run by the United States Citizenship and Immigration
10:19:59 9 Services. Is that right?

10:19:59 10 A. Yes.

10:20:00 11 Q. And I'm probably going to refer to that as
10:20:07 12 USCIS. Does that work for you?

10:20:08 13 A. Yes.

10:20:08 14 Q. And it sounds like, from this email, your office
10:20:10 15 has access to the SAVE database.

10:20:13 16 A. Yes.

10:20:14 17 Q. And your office uses SAVE to perform citizen
10:20:17 18 checks for voter applicants. Is that right?

10:20:19 19 A. We have the ability to do so, but I never recall
10:20:25 20 having a need to use it.

10:20:29 21 Q. And then is it correct that SAVE is used to
10:20:33 22 verify the citizenship of naturalized voters only?

10:20:37 23 A. To my knowledge, yes.

10:20:39 24 Q. And do you know whether or not you can use the
10:20:45 25 SAVE system for citizenship verification purposes without

10:20:51 1 having an alien registration number or naturalization
10:20:54 2 certificate number?

10:20:56 3 A. That I don't know.

10:20:56 4 Q. And if an applicant provides their
10:21:02 5 naturalization certificate is that enough to satisfy the
10:21:05 6 DPOC requirement? Or do you also check the alien
10:21:09 7 registration number or their naturalization certificate
10:21:12 8 number using the SAVE system?

10:21:17 9 A. If they provided a number then we would use that
10:21:21 10 number. If they provided, you know, that number on the
10:21:26 11 registration form then we would utilize that number. But,
10:21:31 12 as I said, I never had to have a need to utilize the SAVE.

10:21:37 13 Q. So, just to be clear, when you say the number,
10:21:41 14 is that the alien registration number or naturalization
10:21:45 15 certificate number?

10:21:45 16 A. Sorry. Naturalization number.

10:21:47 17 Q. Okay. And when you say you've never had a need
10:21:53 18 to use SAVE, I guess, tell me then, under what
10:21:57 19 circumstances would your office need to use the SAVE
10:21:59 20 database to verify ones citizenship?

10:22:02 21 A. We got the form with their naturalization number
10:22:10 22 on it, and maybe didn't provide the driver's license
10:22:16 23 number, and maybe that driver's license number came back
10:22:19 24 as an F-type but yet there was a naturalization number on
10:22:23 25 there, then I'm assuming in that scenario we would

10:22:25 1 probably utilize the SAVE program.

10:22:27 2 Q. So would you use the SAVE program for

10:22:31 3 applicants, every applicant that includes an A number or a

10:22:34 4 naturalization certificate number on their registration

10:22:36 5 form?

10:22:36 6 A. If they provided a naturalization number.

10:22:42 7 Q. And, in that case, would you always consult SAVE

10:22:45 8 or only when they don't also provide some other

10:22:45 9 information indicating citizenship?

10:22:49 10 A. Only if there was no information and just that

10:22:52 11 naturalization number. But usually the HAVA checks would

10:22:56 12 clear that, would suffice that, that DPOC. This would

10:23:00 13 only be if we didn't have any result from the HAVA checks

10:23:05 14 and the, but we did have a naturalization number, then we

10:23:10 15 would utilize the SAVE with that.

10:23:12 16 Q. Okay. So just to clarify sort of the order of

10:23:16 17 operations at your office.

10:23:17 18 So you first access AVID, that runs the HAVA

10:23:20 19 check. If the HAVA check doesn't return something back

10:23:24 20 about the applicant's citizenship and they have provided

10:23:28 21 either an alien registration number or a naturalization

10:23:32 22 certificate number, then you would use SAVE. Is that

10:23:36 23 right?

10:23:36 24 A. That is correct.

10:23:37 25 Q. So I think I already know the answer to this

10:23:45 1 just because you said you haven't, you don't recall any
10:23:47 2 uses of the SAVE program, but, as a general practice, do
10:23:51 3 you know whether your office would search SAVE with the
10:23:55 4 alien registration number, the naturalization certificate
10:23:58 5 number, or both numbers?

10:23:59 6 A. Pending the number is provided. I mean, if they
10:24:05 7 provided a number, I mean, we would use it.

10:24:07 8 Q. If they provided both numbers, the alien
10:24:11 9 registration number and the naturalization number would
10:24:11 10 you use both.

10:24:11 11 (Simultaneous speakers.)

10:24:11 12 MS. RIZZONI: Sorry.

10:24:17 13 THE WITNESS: I, if they provided an A number we
10:24:21 14 would use that, I mean, or the naturalization number.
10:24:28 15 Again, I'm not, never had a need to utilize it, so I'm not
10:24:32 16 sure what kind of results would be, what it would be like
10:24:36 17 for an A number. But, but if they provided it we would
10:24:41 18 use it.

10:24:42 19 BY MS. RIZZONI:

10:24:42 20 Q. Do you know if a SAVE check is more accurate if
10:24:46 21 you enter both numbers into the system?

10:24:48 22 A. That I don't know.

10:24:50 23 DEFENSE COUNSEL: Foundation.

10:24:51 24 BY MS. RIZZONI:

10:24:54 25 Q. All right. So if SAVE indicates that the voter

10:24:57 1 has been naturalized, you would register them as a
10:25:01 2 full-ballot voter, correct?

10:25:03 3 A. If it came back as being that they were a
10:25:05 4 citizen, yeah.

10:25:06 5 Q. And then what happens at your office if the SAVE
10:25:10 6 system search returns either no match or a record
10:25:14 7 reflecting a lack of citizenship?

10:25:16 8 A. We would just follow up with a letter letting
10:25:21 9 them know that, you know, of our, the results of their
10:25:25 10 application and anyway for them to correct it.

10:25:29 11 Q. Okay. Do you know whether or not USCIS has an
10:25:38 12 alternative or an additional verification process?

10:25:42 13 A. Yeah, I don't know that.

10:25:44 14 Q. Okay. So safe to say that you've never used
10:25:51 15 USCIS's alternative or additional verification procedures?

10:25:55 16 A. Correct.

10:25:55 17 Q. Okay. Okay. And beyond AVID, the HAVA check,
10:26:05 18 which looks at the MVD database, and the SAVE, does your
10:26:09 19 office have access to any other databases that could be
10:26:13 20 used to verify citizenship information, to your knowledge?

10:26:19 21 A. No, not to my knowledge.

10:26:21 22 Q. And these procedures that we just talked about,
10:26:29 23 you know, using AVID, HAVA checks, SAVE, does La Paz
10:26:33 24 County follow those procedures regardless of the manner in
10:26:36 25 which the voter registered, meaning the state form, the

10:26:39 1 federal form, online, et cetera?

10:26:42 2 A. That's correct.

10:26:43 3 Q. And who in your office is responsible for
10:26:46 4 verifying voter applicant citizenship status?

10:26:51 5 A. Well, that would be my chief deputy who is also,
10:26:55 6 does the voter registration part of the office because we
10:26:59 7 are a small office.

10:27:00 8 Q. Okay. So Mr. Aguilar would be the person
10:27:03 9 responsible for verifying voter applicant citizenship
10:27:06 10 status?

10:27:06 11 A. Yes.

10:27:07 12 Q. Okay. And do you happen to know how long it
10:27:11 13 takes to run a check to verify an applicant citizenship
10:27:16 14 status?

10:27:17 15 A. I mean, it probably does that in a matter of
10:27:26 16 seconds, less than a minute. It runs the checks and DMV
10:27:31 17 will give us results within a few seconds.

10:27:34 18 Q. Does it make a difference to your answer whether
10:27:38 19 or not, what results are returned by the different
10:27:41 20 database checks?

10:27:43 21 A. I'm sorry. Can you ask that again?

10:27:46 22 Q. Like, for example, if you get no conclusive
10:27:52 23 information from the HAVA check, then you need to access
10:27:56 24 SAVE, I would assume that takes longer than just running a
10:28:00 25 HAVA check?

10:28:01 1 A. I don't know how long SAVE would take, because,
10:28:04 2 again, I haven't used it for that, but, I mean, if we
10:28:07 3 didn't get any result back from MVD, again, we would still
10:28:11 4 follow up with a letter letting them know how to correct
10:28:15 5 it and that we didn't have, you know, to suffice the DPOC
10:28:19 6 requirement. And then, again, depending on what kind of
10:28:22 7 information, you know, if they gave us a number, we would
10:28:25 8 utilize it for SAVE, but, again, I don't know how long it
10:28:27 9 would take for SAVE to, you know, to verify that
10:28:30 10 information, whether it takes a couple of seconds or a
10:28:34 11 minute or a day. I don't know.

10:28:35 12 Q. And you said there are three people in your
10:28:38 13 office, that's you, Mr. Aguilar, and then who is the
10:28:40 14 third?

10:28:40 15 A. That is our recording clerk, front desk.

10:28:44 16 Q. Okay. And Mr. Aguilar's duties include
10:28:47 17 verifying the applicant's citizenship, voter registration.
10:28:52 18 What else does he do?

10:28:54 19 A. Well, he is my chief deputy, but, you know, like
10:28:58 20 I said we're a small office, so he does do the voter
10:29:00 21 registration part of it as well.

10:29:02 22 Q. Okay. Besides voter registration and verifying
10:29:05 23 citizenship, does he have any other job responsibilities?

10:29:08 24 A. Well, he oversees the front, the front of the
10:29:12 25 office. I mean, as far as voter registration, processing

10:29:19 1 of the applicants, the applications, sending out voter ID
10:29:24 2 cards, early voting, when early voting is going on, I
10:29:28 3 mean, he's involved in that, but I'm involved in that as
10:29:30 4 well.

10:29:31 5 Q. You guys are busy, I take it?

10:29:33 6 A. Yeah.

10:29:34 7 Q. Okay. Great. Okay. Once a voter is
10:29:47 8 registered, under what circumstances, if any, does your
10:29:50 9 office reverify a registered voter's citizenship?

10:29:53 10 A. Are you asking me if they come back as being a
10:30:00 11 citizenship, citizen, if we follow up with that? Is that
10:30:02 12 what you're asking me?

10:30:03 13 Q. No. I'm asking if a voter is, it passes all the
10:30:07 14 checks, you register them, as, you know, a voter, do you
10:30:12 15 ever go back and recheck them?

10:30:15 16 A. No.

10:30:18 17 Q. Okay. All right. Let's turn to the laws. So
10:30:25 18 I'd ask you to open what is premarked as Petty Exhibit 19.
10:30:36 19 Let me know when you have that open.

10:30:41 20 A. I have it open.

10:30:43 21 Q. And this is House Bill 2492, correct?

10:30:47 22 A. Correct.

10:30:47 23 Q. Okay. So I'd like to direct your attention to
10:30:51 24 page four near the bottom, line 35, section D. Let me
10:30:58 25 know when you're there.

10:31:05 1 A. Section D you said?

10:31:06 2 Q. Yes. Line 35.

10:31:08 3 A. Yes.

10:31:09 4 Q. Okay. So H.B. 2492 says:

10:31:15 5 Within ten days after receiving an application
10:31:17 6 for registration on a form produced by the United States
10:31:23 7 Election Assistance Commission that is not accompanied by
10:31:24 8 satisfactory evidence of citizenship, the County Recorder
10:31:26 9 or other officer in charge of elections shall use all
10:31:30 10 available resources to verify the citizenship status of
10:31:33 11 the applicant and at a minimum shall compare the
10:31:36 12 information available on the application for registration
10:31:39 13 with the following, provided the county has access.

10:31:44 14 Do you see that?

10:31:45 15 A. Yes.

10:31:45 16 Q. And then H.B. 2492 goes on to list a number of
10:31:50 17 databases, right?

10:31:51 18 A. Right.

10:31:52 19 Q. Okay. And the first database it lists is the
10:31:55 20 Department of Transportation databases of Arizona driver
10:31:59 21 licenses or nonoperating identification licenses, right?

10:32:02 22 A. Yes.

10:32:03 23 Q. And is this the same database that is accessible
10:32:08 24 to your office through the HAVA check, or is this
10:32:08 25 referring to something different?

10:32:10 1 A. I'm assuming it's the same, MVD, through the
10:32:10 2 HAVA checks.

10:32:21 3 Q. Okay. And we discussed this before. You use
10:32:24 4 the information through the ADOT MVD database to verify
10:32:29 5 citizenship information as part of the HAVA check?

10:32:32 6 A. Yeah, if it's part of MVD, I would say yes,
10:32:34 7 but...

10:32:38 8 Q. Okay. Does your county have a memorandum of
10:32:42 9 understanding or memorandum of agreement with the ADOT MVD
10:32:48 10 to govern their use of information in that database?

10:32:56 11 A. I would think it's probably something through
10:33:00 12 the state.

10:33:02 13 Q. Okay. So currently it's your belief that that
10:33:04 14 memoranda would be something through the Secretary of
10:33:07 15 State's Office and not specific to your office?

10:33:08 16 A. Yes. To my understanding, to my knowledge,
10:33:11 17 yes --

10:33:11 18 Q. Okay.

10:33:11 19 A. -- that's correct.

10:33:12 20 Q. Okay. So do you know whether or not that
10:33:14 21 existing agreement would cover the use cases outlined in
10:33:18 22 H.B. 2492?

10:33:18 23 DEFENSE COUNSEL: Foundation.

10:33:28 24 THE WITNESS: Yeah, I don't know.

10:33:28 25 BY MS. RIZZONI:

10:33:28 1 Q. Hold on one second.

10:34:06 2 Okay. Do you recall an incident from last year
10:34:12 3 where database matching with the MVD database produced
10:34:16 4 erroneous results that caused thousands of voters to be
10:34:20 5 downgraded to federal-only voting status?

10:34:23 6 A. Rings a bell, but I can't entirely remember all
10:34:30 7 the details about it.

10:34:32 8 Q. Can you tell me what you do remember?

10:34:35 9 A. Just basically that. I mean, I remember
10:34:38 10 something happening, but I don't know in detail, I can't
10:34:41 11 remember in detail what it actually, what actually went
10:34:44 12 down.

10:34:44 13 Q. Okay. It's your understanding, though, that
10:34:47 14 there was an error with the MVD database that caused the
10:34:51 15 downgrading of these voters to federal-only status?

10:34:54 16 A. If I recall correctly, I remember something
10:34:57 17 happening like that. But, again, I don't know in detail.

10:34:59 18 Q. Okay. Let's take a look at document I. We'll
10:35:03 19 just quickly take a look. Hopefully that will refresh
10:35:07 20 your recollection.

10:35:11 21 Let me know when it's open.

10:35:12 22 A. I got it open.

10:35:15 23 Q. Okay. And I'm sorry. I'm so bad with the
10:35:17 24 exhibit numbers. We are on 230 -- no, wait, what are we
10:35:24 25 on? I think we're on 237. So let's mark this as

10:35:35 1 Exhibit 237. Thank you. Okay.

10:35:44 2 Okay. Have you ever seen this document before?

10:35:45 3 A. I don't recall. Maybe I have, but I just don't
10:35:53 4 remember, but...

10:35:55 5 Q. I'm going to direct your attention to the to
10:36:00 6 line. It says, Rgarcia@lapazcountyz.org.

10:36:04 7 That's your email. Is that right?

10:36:05 8 A. Yeah, that is correct.

10:36:06 9 Q. All right. This is an email, for the record,
10:36:11 10 AZSOS-239292, and it's from the AVID help desk to Richard
10:36:18 11 Garcia and Mr. Aguilar, and the subject line is MVD HAVA
10:36:24 12 checks follow up. And I'd like to direct your attention
10:36:30 13 to the second paragraph. It says:

10:36:32 14 Following the MVD's investigation, we learned
10:36:35 15 that the HAVA check was reviewing MVD records that did not
10:36:38 16 have an authorized presence value. This led the HAVA
10:36:41 17 check to review extraneous records in addition to the
10:36:44 18 state-issued ID record, if it existed. As a secondary
19 issue, the HAVA check did not consistently prioritize the
20 state-issued ID when returning an authorized presence
21 value.

22 (The Reporter requested Ms. Rizzoni to slow
23 down.)

24 MS. RIZZONI: Sorry. Yes.

25 BY MS. RIZZONI:

10:36:58 1 Q. As a secondary issue, the HAVA check did not
10:37:01 2 consistently prioritize the state-issued ID when returning
10:37:05 3 an authorized presence value. This meant that some voter
10:37:09 4 records were incorrectly receiving a null value for
10:37:11 5 authorized presence, which resulted in the voter being
10:37:15 6 placed in fed-only status when they should have been
10:37:19 7 full-ballot voters.

10:37:19 8 Do you see that, Mr. Garcia?

10:37:22 9 A. Yes.

10:37:23 10 Q. Okay. Does that refresh your recollection about
10:37:25 11 what happened last year with the MVD database?

10:37:28 12 A. Yeah, a little bit.

10:37:32 13 Q. Okay. Do you recall whether this issue affected
10:37:39 14 voters in La Paz County?

10:37:40 15 A. I would, I mean, at that time we have, we have
10:37:50 16 less than 20 that are -- oh, wait a minute. I'm sorry.
10:38:00 17 So these are -- yeah, I can't recall if we had many people
10:38:08 18 affected by that or not.

10:38:09 19 Q. Do you recall whether any people in La Paz
10:38:14 20 County were affected by this error?

10:38:16 21 A. Yeah, I'm sorry. I don't recall if any or how
10:38:21 22 many. I mean, we all -- if there was just maybe a day
10:38:25 23 that that happened, which maybe it sounds like, it
10:38:29 24 probably wouldn't have been many, if it did, but I can't
10:38:33 25 give you a number.

10:38:49 1 Q. Okay. Do you recall whether or not your office
10:38:52 2 was concerned about this database error occurring so close
10:38:57 3 to the November 2022 election?

10:38:59 4 A. I mean, something like that would be concerning.

10:39:07 5 Q. You'd be concerned that the database error would
10:39:12 6 have caused maybe the disenfranchisement of people who
10:39:18 7 were previously registered as full-ballot voters?

10:39:21 8 A. I mean, yeah. I mean, if that's what was going
10:39:22 9 to happen it would be concerning.

10:39:33 10 DEFENSE COUNSEL: Question mischaracterizes the
10:39:35 11 record.

10:39:37 12 BY MS. RIZZONI:

10:39:38 13 Q. All right. So the, let's just go back to
10:39:41 14 H.B. 2492, that's Petty Exhibit 19. Same spot, which is
10:39:44 15 page four. We are now at line 44. Okay.

10:39:54 16 Are you there?

10:39:55 17 A. Yes.

10:39:58 18 Q. Okay. So the second database that H.B. 2492
10:40:04 19 asks County Recorders to access is the Social Security
10:40:09 20 Administration databases.

10:40:11 21 Do you see that?

10:40:11 22 A. Yes.

10:40:12 23 Q. And we are already sort of briefly talked about
10:40:16 24 this. So La Paz County has access to the Social Security
10:40:20 25 Administration database?

10:40:21 1 A. Through the HAVA checks.

10:40:23 2 Q. Through the HAVA check.

10:40:24 3 And I believe it was your testimony that you do

10:40:28 4 not use it to verify citizenship status?

10:40:31 5 A. That's just to verify their social. I don't

10:40:35 6 think it's connected with citizenship verification.

10:40:41 7 Q. Okay.

10:40:41 8 A. Although I -- at least to my knowledge.

10:40:44 9 Q. Fair enough.

10:40:46 10 Okay. So I'll ask you to flip the page to page

10:40:49 11 five, the first line, No. 3, is the United States

10:40:56 12 Citizenship and Immigration Services Systematic Alien

10:41:01 13 Verification for Entitlements Program, if practicable.

10:41:03 14 Do you see that?

10:41:04 15 A. Yes.

10:41:04 16 Q. So we have already talked about SAVE at length,

10:41:07 17 which your office would use to verify voter applicants who

10:41:12 18 provide an A number or a naturalization certificate

10:41:16 19 number, right?

10:41:17 20 A. Yes.

10:41:17 21 Q. And at the end of No. 3, it says, if

10:41:26 22 practicable.

10:41:27 23 Do you have an understanding of what that means?

10:41:32 24 DEFENSE COUNSEL: Calls for legal conclusion.

10:41:34 25 THE WITNESS: No.

10:41:36 1 BY MS. RIZZONI:

10:41:36 2 Q. No.

10:41:39 3 Do you have, does your county, I'm sorry, have
10:41:42 4 an agreement with the USCIS that governs the use of your,
10:41:49 5 of the data in the SAVE program?

10:41:51 6 A. I would think so. Since we have access to it, I
10:41:55 7 would think yes.

10:41:56 8 Q. Do you know if your, if that agreement would
10:41:59 9 being directly with your county, or is that through the
10:42:02 10 Secretary of State?

10:42:03 11 A. My thought would be through the Secretary of
10:42:10 12 State.

10:42:10 13 Q. Okay. Do you know whether that existing
10:42:16 14 agreement with USCIS covers the use cases outlined in
10:42:22 15 H.B. 2492?

10:42:26 16 A. I do not know.

10:42:27 17 Q. And what about the use cases in H.B. 2243?

10:42:31 18 A. I don't know that either.

10:42:32 19 Q. Okay. So No. 4, the fourth database, is a
10:42:39 20 National Association For Public Health Statistics and
10:42:43 21 Information Systems Electronic Verification of Vital
10:42:47 22 Events System.

10:42:47 23 Do you see that?

10:42:49 24 A. Yes.

10:42:49 25 Q. Are you familiar with that database?

10:42:51 1 A. No.

10:42:52 2 Q. Okay. So safe to say you've never used that

10:42:56 3 database to verify citizenship?

10:42:59 4 A. That is correct.

10:43:00 5 Q. Okay. Do you know if you have access to that

10:43:03 6 database?

10:43:03 7 A. I do not.

10:43:06 8 Q. You do not know or you do not have access?

10:43:09 9 A. I do not know.

10:43:10 10 Q. Okay. Do you know whether -- oh, I'm sorry.

10:43:17 11 Scratch that.

10:43:20 12 Do you know whether or not you can use this

10:43:27 13 database to verify citizenship of a voter applicant?

10:43:31 14 DEFENSE COUNSEL: Foundation.

10:43:32 15 THE WITNESS: I do not know.

10:43:34 16 BY MS. RIZZONI:

10:43:35 17 Q. Okay.

10:43:35 18 A. And I think the fact that I don't know, I would

10:43:38 19 say I don't have access to it.

10:43:39 20 Q. Okay. I don't want you to speculate, so if you

10:43:43 21 don't know that's a perfectly fine answer too.

10:43:46 22 A. Okay.

10:43:47 23 Q. Okay. So the last database is No. 5, that's on

10:43:51 24 line five of page five. And it says:

10:43:52 25 The County Recorder should consult any other

10:43:56 1 state, city, town, county, or federal database and any
10:44:00 2 other database relating to voter registration to which the
10:44:05 3 County Recorder or officer in charge of elections has
10:44:08 4 access, including an electronic registration information
10:44:11 5 center database.

10:44:13 6 Do you see that?

10:44:14 7 A. Yes.

10:44:14 8 Q. Okay. Do you have any idea what databases that
10:44:17 9 might be referring to?

10:44:20 10 DEFENSE COUNSEL: Calls for legal conclusion.

10:44:22 11 THE WITNESS: I don't.

10:44:22 12 BY MS. RIZZONI:

10:44:24 13 Q. Are you aware of any other database that you are
10:44:26 14 not currently using that would be useful in carrying out
10:44:30 15 your office's voter registration duties?

10:44:33 16 A. No, I don't.

10:44:34 17 Q. Okay. Let's flip back a page to page four
10:44:40 18 again. And I'll direct your attention to line 38. And
10:44:46 19 let me know when you're there.

10:44:49 20 A. I'm there.

10:44:50 21 Q. So H.B. 2492 states that your office must use,
10:44:57 22 quote: All available resources to verify the citizenship
10:45:00 23 status of the applicant of the applicant.

10:45:03 24 Do you see that?

10:45:04 25 A. Yes.

10:45:04 1 Q. What do you understand use all available
10:45:09 2 resources to mean?

10:45:11 3 DEFENSE COUNSEL: Calls for legal conclusion.

10:45:14 4 THE WITNESS: Anything that's being made
10:45:20 5 available to, anything that's given access to us to use.
10:45:24 6 That's what I'm thinking.

10:45:26 7 BY MS. RIZZONI:

10:45:27 8 Q. And when you say anything, are you referring to
10:45:29 9 databases to which you may have access?

10:45:31 10 A. Yes, sorry, databases. If we are given access,
10:45:35 11 that's what I'm assuming that's what it means.

10:45:40 12 Q. All right. Let's go to page five, the next
10:45:43 13 page, and I'll direct your attention to lines 14, to line
10:45:48 14 14. And starting on line 14, on page 5, on H.B. 2492, it
10:45:58 15 says:

10:45:59 16 If the County Recorder or other officer in
10:46:01 17 charge of elections matches the applicant with the
10:46:04 18 information that the applicant is not a U.S. citizen the
10:46:08 19 County Recorder or other officer in charge of elections
10:46:11 20 shall reject the application.

10:46:13 21 Do you see that?

10:46:14 22 A. Yes.

10:46:14 23 Q. What information can be used to confirm a voter
10:46:21 24 is not a U.S. citizen?

10:46:23 25 DEFENSE COUNSEL: Same objection.

10:46:25 1 THE WITNESS: Sorry. Can you ask that again?

10:46:29 2 BY MS. RIZZONI:

10:46:30 3 Q. Yeah. What information could be used to confirm
10:46:33 4 a voter is not a U.S. citizen?

10:46:37 5 DEFENSE COUNSEL: Same objection.

10:46:41 6 THE WITNESS: The only thing I can think of is
10:46:46 7 depending on the results of our HAVA checks.

10:46:49 8 BY MS. RIZZONI:

10:46:49 9 Q. Could the information be anything beyond the
10:46:52 10 information that you gleaned from a HAVA check?

10:46:55 11 DEFENSE COUNSEL: Same objection.

10:46:57 12 THE WITNESS: I mean, outside of that, or --
10:46:59 13 like I said, we have access to SAVE. I mean, we didn't
10:47:02 14 get any -- out of that I don't think anything else.

10:47:06 15 BY MS. RIZZONI:

10:47:07 16 Q. So could the information be something beyond
10:47:12 17 information from a government or voter registration
10:47:15 18 database?

10:47:17 19 DEFENSE COUNSEL: Same objection.

10:47:18 20 THE WITNESS: I mean, that's all I have access
10:47:22 21 to, so, I mean, I couldn't say. I mean, that's all I have
10:47:27 22 access to is just through the HAVA checks and SAVE.

10:47:31 23 BY MS. RIZZONI:

10:47:31 24 Q. So if a person called up your office and said, I
10:47:35 25 don't think my neighbor is a citizen and he is voting,

10:47:36 1 that wouldn't be information that would confirm a person
10:47:39 2 is not a U.S. citizen?

10:47:40 3 DEFENSE COUNSEL: Same objection. Calls for
10:47:42 4 legal conclusion.

10:47:44 5 THE WITNESS: I mean, if somebody did that, no,
10:47:47 6 I mean, that's not -- I wouldn't take somebody's word for
10:47:52 7 it just because they said it.

10:47:55 8 BY MS. RIZZONI:

10:47:55 9 Q. Okay. Just to clarify.

10:47:57 10 So has your office ever been given a specific
10:48:00 11 list of means by which a voter applicant can be determined
10:48:03 12 or proven to be a not citizen?

10:48:06 13 A. I think -- so that's receiving a list of people
10:48:27 14 that are not citizens? Is that what you're asking?

10:48:29 15 Q. No. I'm asking about whether you have ever been
10:48:33 16 given a specific list of means by which a voter applicant
10:48:36 17 can be determined or proven to be a non-citizen.

10:48:40 18 A. I don't recall anything like that, having
10:48:42 19 received something.

10:48:42 20 Q. Has the Secretary of State's Office ever given
10:48:45 21 your office a list of information that would constitute
10:48:48 22 evidence of a lack of U.S. citizenship?

10:48:53 23 A. Non-U.S. citizen. I mean, I can't recall. I
10:49:12 24 mean, my chief deputy would be the one to receive it, so
10:49:17 25 I'd have to say I can't recall.

10:49:19 1 Q. Sitting here today, you're not aware of any
10:49:22 2 Secretary of State guidance about --

10:49:22 3 A. Right.

10:49:24 4 Q. -- the needing of information that would
10:49:25 5 constitute evidence that a person is not a U.S. citizen,
10:49:29 6 right?

10:49:29 7 A. I don't recall anything like that.

10:49:31 8 Q. All right. Now, it says, information that the
10:49:36 9 applicant is not a United States citizenship -- or is not
10:49:39 10 a U.S. citizen. I want to ask about the age of that
10:49:47 11 information.

10:49:47 12 Is there -- when would information be too old to
10:49:53 13 qualify as information that someone is not a United States
10:49:56 14 citizen today?

10:50:00 15 DEFENSE COUNSEL: Calls for legal conclusion.

10:50:03 16 THE WITNESS: I'm not sure. Other than maybe it
10:50:13 17 was a passport or, you know, if there was an expiration
10:50:16 18 date on it. I guess something like that.

10:50:21 19 BY MS. RIZZONI:

10:50:21 20 Q. Would an expired passport show that someone is
10:50:27 21 not a United States citizen today?

10:50:29 22 DEFENSE COUNSEL: Same objection.

10:50:31 23 THE WITNESS: Yeah, I'm not, I'm not, I'm not
10:50:33 24 entirely sure. I mean, other than it's expired, so I
10:50:39 25 don't think they would be able to use an expired passport.

10:50:43 1 BY MS. RIZZONI:

10:50:44 2 Q. So, sitting here today, you're not aware of like
10:50:47 3 an age cutoff for the information that could be used to
10:50:50 4 confirm whether or not someone is a U.S. citizen?

10:50:54 5 A. That's correct.

10:50:56 6 DEFENSE COUNSEL: Same objection.

10:50:58 7 BY MS. RIZZONI:

10:50:58 8 Q. Okay. All right. Let's move on to what is
10:51:02 9 premarked as Petty Exhibit 21, which is H.B. 2243.

10:51:11 10 Let me know when you have that open.

10:51:12 11 A. I've got it open.

10:51:14 12 Q. Okay. And I'm going to ask you some similar
10:51:17 13 questions about this bill.

10:51:19 14 So I'd like to direct your attention to page
10:51:21 15 four, line five, which is section 10.

10:51:27 16 Do you see that?

10:51:28 17 A. Yes.

10:51:32 18 Q. Okay. And under H.B. 2243, the County Recorder
10:51:38 19 shall cancel a registration, quote:

10:51:41 20 When the County Recorder obtains information
10:51:43 21 pursuant to this section and confirms that the person
10:51:48 22 registered is not a United States citizen.

10:51:50 23 Do you see that?

10:51:51 24 A. Line 10, you said, right?

10:51:54 25 Q. Line 10?

10:51:56 1 A. Could you say that again? I kind of lost it.

10:51:58 2 Q. Hmm hmm.

10:51:59 3 When the County Recorder obtains information
10:52:01 4 pursuant to this section and confirms that the person
10:52:05 5 registered is not a United States citizen.

10:52:07 6 Do you see that?

10:52:07 7 A. Okay. Yes.

10:52:08 8 Q. Okay. So we talked a little bit about
10:52:12 9 information and confirmations with respect to 2492. I
10:52:16 10 just wanted to see if you had a sense of what information
10:52:20 11 can be used to confirm a voter is not a citizen in the
10:52:24 12 context of H.B. 2243.

10:52:27 13 DEFENSE COUNSEL: Calls for legal conclusion.

10:52:29 14 THE WITNESS: Can you clarify the question a
10:52:33 15 little bit?

10:52:33 16 BY MS. RIZZONI:

10:52:33 17 Q. Yeah. So earlier we talked about with respect
10:52:35 18 to 2492 that you, you know, had never received, for
10:52:41 19 example, guidance from the Secretary of State about what
10:52:44 20 information could be used to confirm a person is not a
10:52:49 21 United States citizen. And so I just have a similar
10:52:51 22 question here, which is, A, to get a sense of what you
10:52:54 23 understand that information to mean, and, I'm going to
10:52:58 24 also ask questions about whether you received any guidance
10:53:00 25 on it.

10:53:01 1 So let's just start with whether you have an
10:53:04 2 understanding and what that understanding is about what
10:53:07 3 information could be used to confirm a voter is not a
10:53:11 4 citizen for purposes of this bill.

10:53:13 5 A. Yeah, I don't think we received any kind of
10:53:15 6 guidance on any of these two bills.

10:53:17 7 Q. Okay. And beyond guidance, do you have an
10:53:22 8 understanding of what information could be used to confirm
10:53:26 9 a voter is not a United States citizen?

10:53:28 10 DEFENSE COUNSEL: Same objection.

10:53:29 11 THE WITNESS: Is not a citizen?

10:53:31 12 BY MS. RIZZONI:

10:53:32 13 Q. Correct.

10:53:33 14 A. Again, I would have to refer to results of HAVA
10:53:37 15 checks.

10:53:40 16 Q. Okay. So for purposes of H.B. 2243, like with
10:53:48 17 H.B. 2492, it's the understanding that the information
10:53:52 18 that this is referring to would be exclusive to the
10:53:55 19 databases that you have access to.

10:54:00 20 DEFENSE COUNSEL: Same objection.

10:54:01 21 THE WITNESS: Yeah.

10:54:02 22 BY MS. RIZZONI:

10:54:07 23 Q. All right. Let's flip to page six, line six,
10:54:14 24 section H. Let me know when you're there.

10:54:22 25 A. Did you say line eight?

10:54:25 1 Q. Page six, line six, section H.

10:54:28 2 A. Yes. I'm there.

10:54:29 3 Q. Okay. It says:

10:54:30 4 To the extent practicable, each month the County
10:54:35 5 Recorder shall compare persons who are registered to vote
10:54:38 6 in that county and who the County Recorder has reason to
10:54:42 7 believe are not U.S. citizens and persons who are
10:54:45 8 registered to vote without satisfactory evidence of
10:54:48 9 citizenship as prescribed by Section 16-166 with the
10:54:54 10 Systematic Alien Verification for Entitlements Program
10:54:57 11 maintained by the United States Citizenship and
10:54:59 12 Immigration Services to verify the citizenship status of
10:55:02 13 the persons registered.

10:55:04 14 Do you see that?

10:55:04 15 A. Yes.

10:55:05 16 Q. Okay. And what is your understanding of what
10:55:09 17 would give your office a reason to believe a person is not
10:55:13 18 a United States citizen?

10:55:16 19 DEFENSE COUNSEL: Calls for a legal conclusion.

10:55:18 20 THE WITNESS: Again, I mean, if something came
10:55:23 21 back as not being verified through the HAVA checks.

10:55:26 22 BY MS. RIZZONI:

10:55:30 23 Q. So beyond the HAVA check, anything else that
10:55:33 24 would give your office reason to believe a person is not a
10:55:36 25 United States citizen?

10:55:38 1 DEFENSE COUNSEL: Same objection.

10:55:42 2 THE WITNESS: No.

10:55:44 3 BY MS. RIZZONI:

10:55:48 4 Q. Has your office ever been given specific
10:55:51 5 guidance about what would give rise to a reason to believe
10:55:55 6 a person is not a U.S. citizen?

10:55:58 7 A. Not that I can recall.

10:56:03 8 Q. And what about the converse? Has your office
10:56:06 9 ever been provided with specific guidance regarding what
10:56:09 10 is not a valid reason to believe someone is not a U.S.
10:56:13 11 citizen?

10:56:15 12 A. Not to my knowledge.

10:56:19 13 Q. Okay. Last question about H.B. 2243. If we can
10:56:27 14 just scooch down to line 20, section J.

10:56:32 15 Let me know when you're there.

10:56:34 16 A. I'm sorry. Which page?

10:56:35 17 Q. I'm sorry. Page six, line 20, section J.

10:56:40 18 A. I see it.

10:56:41 19 Q. Okay. It says:

10:56:44 20 To the extent practicable, the County Recorder
10:56:47 21 shall review relevant city, town, county, state, and
10:56:50 22 federal databases to which the County Recorder has access
10:56:54 23 to confirm information obtained that requires cancelation
10:56:58 24 of registrations pursuant to this section?

10:57:01 25 Do you see that?

10:57:01 1
10:57:02 2
10:57:07 3
10:57:10 4
10:57:11 5
10:57:12 6
10:57:12 7
10:57:16 8
10:57:19 9
10:57:22 10
10:57:22 11
10:57:30 12
10:57:32 13
10:57:34 14
10:57:36 15
10:57:37 16
10:57:47 17
10:57:51 18
10:57:56 19
10:58:06 20
10:58:18 21
10:58:22 22
10:58:25 23
10:58:37 24
10:59:01 25

A. Yes.

Q. Okay. And do you have any idea what databases this language might be referring to?

DEFENSE COUNSEL: Same objection.

THE WITNESS: No.

BY MS. RIZZONI:

Q. And are you aware of any database that you're not currently using that would be useful in carrying out your office's list maintenance duties?

A. No.

Q. And the, the preparatory language for this section J is to the extent practicable.

Do you know what that means in this context?

DEFENSE COUNSEL: Same objection.

THE WITNESS: No.

BY MS. RIZZONI:

Q. Let's turn quickly back to document F, which are the supplemental responses to the consolidated plaintiff interrogatories. And I'll direct your attention to interrogatory 9, which is on, I guess, the third page of this document. There are no page numbers, though. And I'll let you quickly read interrogatory 9 to yourself.

Let me know when you're done.

A. I read it.

Q. Great. And then if you can flip to the next

10:59:04 1 page to your response. It reads:

10:59:07 2 Recorder Garcia has been in his position since
10:59:09 3 2020, and, to the best of his knowledge and the
10:59:12 4 information available to him, he believes that there have
10:59:16 5 not -- there has not been an instance of a non-citizen
10:59:19 6 registering to vote or voting in La Paz County.

10:59:22 7 Do you see that?

10:59:23 8 A. Yes.

10:59:23 9 Q. And sitting here today is it still true that
10:59:26 10 your office is not aware of any non-citizen registering to
10:59:30 11 vote or voting in La Paz County?

10:59:32 12 A. To my knowledge, you know, that still stands.

10:59:36 13 Q. Okay. Now prior to the passage of H.B. 2492 and
10:59:42 14 H.B. 2243, it was not legal for a non-citizen to register
10:59:46 15 to vote. Is that right?

10:59:49 16 DEFENSE COUNSEL: Calls for legal conclusion.

10:59:51 17 THE WITNESS: Right. Non-citizen would not be
10:59:55 18 registered to vote.

10:59:56 19 BY MS. RIZZONI:

10:59:58 20 Q. And prior to the passage of these laws there
11:00:01 21 were, in fact, policies, laws, and procedures in place in
11:00:03 22 Arizona to prevent non-citizens from voting?

11:00:08 23 DEFENSE COUNSEL: Same objection.

11:00:11 24 THE WITNESS: I mean, right. I mean, if they
11:00:13 25 didn't provide the citizenship proof we wouldn't be able

11:00:17 1 to -- if they weren't citizens, yeah, they wouldn't be
11:00:20 2 able to be registered. They wouldn't have the, the DPOC,
11:00:25 3 but again --

11:00:26 4 BY MS. RIZZONI:

11:00:26 5 Q. My question was slightly different. It's about
11:00:28 6 whether or not it was legal for non-citizens to try to
11:00:32 7 register to vote in Arizona prior to the passage of these
11:00:35 8 laws.

11:00:35 9 A. It wasn't legal, no.

11:00:38 10 DEFENSE COUNSEL: Same objection.

11:00:41 11 MS. RIZZONI: All right. I have hit a natural
11:00:46 12 breaking point, so would you be interested in taking a
11:00:51 13 five-minute break?

11:00:54 14 THE WITNESS: Yeah. That's fine.

11:00:55 15 MS. RIZZONI: Great. So, I guess, we'll
11:01:02 16 reconvene around 11:05.

11:01:05 17 THE WITNESS: Okay.

11:01:09 18 MS. RIZZONI: I think Jimmy might need to sign
11:01:11 19 us off, though.

11:01:12 20 THE VIDEOGRAPHER: I apologize. Yes.

11:01:15 21 We are off the record at 11:01, and this will
11:01:24 22 end Media No. 1.

11:01:27 23 (Recess taken from 11:01 a.m. to 11:12 a.m.)

11:12:40 24 THE VIDEOGRAPHER: Okay. We are back on the
11:12:44 25 record. Time on the monitor is 11:12. This will begin

11:12:54 1 Media No. 2.

11:12:55 2 BY MS. RIZZONI:

11:12:56 3 Q. Welcome back, Mr. Garcia. Like I previewed off
11:12:59 4 the record, just one more module for me before I'll turn
11:13:03 5 it over to anyone else who wants to jump in.

11:13:05 6 But I'd like to just shift gears to talk a bit
11:13:09 7 about the documentary proof of residency requirements from
11:13:16 8 H.B. 2492, but wanted to start off with how your county
11:13:19 9 currently uses voter applicant residence information.

11:13:21 10 So in order to register to vote is it the case
11:13:24 11 that applicants are currently required to provide their
11:13:27 12 residential address, or if they don't have a residential
11:13:30 13 address, a description or drawing of the location of the
11:13:33 14 residence?

11:13:34 15 A. That's correct.

11:13:35 16 Q. Okay. And do you know whether or not a PO box
11:13:40 17 can be used to meet that requirement?

11:13:42 18 A. Not to my knowledge, not a PO box.

11:13:48 19 Q. Okay. So a PO box cannot be used to meet the
11:13:52 20 residency requirement?

11:13:53 21 A. Correct. It would have to be their physical
11:13:55 22 residence or them drawing a map of where they live,
11:13:58 23 basically what you stated.

11:14:00 24 Q. Okay. And why is residence information or
11:14:03 25 location information important for voter registration?

11:14:07 1 A. Well, that's how we would determine which area
11:14:11 2 in the county they live in, or precinct split or part, and
11:14:17 3 each precinct split or part is associated with different
11:14:22 4 districts, fire districts, water district, school
11:14:22 5 district. So it's important for them to register with
11:14:26 6 their physical residence. That way they're eligible to
11:14:30 7 vote, you know, if it's a town election, they're, they
11:14:32 8 would be eligible to vote for that, or if they don't live
11:14:35 9 within the town limits then they would, you know, they
11:14:37 10 wouldn't get, they wouldn't get the ballot for that
11:14:37 11 particular election.

11:14:40 12 So it would determine what they're allowed to
11:14:44 13 vote in, and if, you know, if it's a district election, or
11:14:46 14 if that makes sense.

11:14:47 15 Q. Yeah, that's helpful.

11:14:49 16 Okay. So let's talk about each of those two
11:14:52 17 options. So first I'll ask about the process when someone
11:14:56 18 provides a residential address and then I'll ask about the
11:14:59 19 process about when someone provides a residence location,
11:15:02 20 description, or drawing.

11:15:03 21 So, first, if someone provides a residential
11:15:06 22 address, how does the county use the information to locate
11:15:09 23 the residence?

11:15:10 24 A. So if somebody registers we enter their address
11:15:17 25 into the voter registration database. I would say about

11:15:28 1 95 percent of the time that address is probably already
11:15:33 2 within our database, so we'll be able to locate that
11:15:36 3 address within our system to make sure which precinct
11:15:41 4 splits to register them in. That's how we would verify
11:15:45 5 it. If, for some reason, it wasn't in our -- maybe, we
11:15:48 6 didn't have an address point for that specific address, we
11:15:52 7 would utilize other, other means to locate where that
11:15:57 8 address is.

11:15:59 9 Q. And what would those other means be that you
11:16:03 10 described to --

11:16:05 11 A. So based off of that, we would, you know, we
11:16:07 12 would access the county assessor's website, enter that
11:16:13 13 information in, the situs address would, you know, more
11:16:16 14 likely come up. We would utilize any parcel maps, 911
11:16:22 15 address from the county to verify, you know, the address,
11:16:25 16 if for some reason we weren't able to locate it. That
11:16:28 17 would help us to properly precinct them.

11:16:33 18 Q. You said about 95 percent of the time when you
11:16:36 19 enter the information through AVID it results in a match?

11:16:39 20 A. Yeah. Usually we will be able to find an
11:16:43 21 address that the person is using.

11:16:44 22 Q. Okay. And then 5 percent of the time what
11:16:49 23 happens?

11:16:49 24 A. I mean, like I said, if they give us an address
11:16:57 25 and it's maybe not in our system, then we would have to

11:17:00 1 research it and we were able to locate it based off of
11:17:04 2 parcel maps, assessor situs addresses to be able to locate
11:17:09 3 it and properly precinct them in their proper precinct
11:17:14 4 part.

11:17:14 5 Q. And what happens if you can't locate an address
11:17:17 6 using these alternative means?

11:17:20 7 A. Yeah, at that point, I don't know. I mean, I
11:17:31 8 don't recall a time where we haven't been able to locate
11:17:34 9 somebody. Yeah, I mean, usually it works out. We're able
11:17:42 10 to actually locate them.

11:17:44 11 Q. Do you know whether in the case of the 5 percent
11:17:49 12 where there is no match and you have to look up things
11:17:51 13 alternatively and you can't locate the address, would you,
11:17:55 14 would your office send a notice to that applicant?

11:17:58 15 A. Yeah, I guess if -- yeah, if there was no other
11:18:01 16 way to connect it, I mean, yeah, we would follow up with
11:18:04 17 an address, or excuse me, a letter asking them to clarify
11:18:11 18 their address.

11:18:12 19 Q. And does your office register voters whose
11:18:16 20 address can't be located?

11:18:18 21 A. Not that I'm aware of, no. I mean, again, I
11:18:29 22 don't process them, so I can't, wouldn't be able to say or
11:18:35 23 clar -- you know, confirm that, you know. But, you know,
11:18:41 24 like I said, most of the time, I mean, their address is,
11:18:45 25 is in the system, so --

11:18:46 1 Q. Okay.

11:18:47 2 A. -- we are able to utilize that to precinct them.

11:18:51 3 Q. Now, does La Paz County have any Native American

11:18:56 4 Reservations?

11:18:56 5 A. Yeah. We are surrounded by Indian Reservation,

11:19:03 6 yes, Native American Reservation.

11:19:04 7 Q. And how many Native American Reservations are

11:19:07 8 located within La Paz County?

11:19:08 9 A. I mean, it's just the one, the Colorado River

11:19:14 10 Indian Tribes.

11:19:15 11 Q. And, in your experience, is it more common for

11:19:18 12 residential addresses used in the Colorado River Tribe to

11:19:22 13 not be located in the AVID database?

11:19:24 14 A. Again, we would use means, like if it's on a

11:19:34 15 tribal reservation, we would use like the Colorado River

11:19:42 16 Indian Tribe's Fire Department. We would, we would

11:19:47 17 contact the CRIT Fire Department to verify an address,

11:19:54 18 location.

11:19:54 19 Q. Okay. That's helpful.

11:20:00 20 A. Yeah, if we weren't able to locate it, I mean,

11:20:03 21 if we didn't know, I mean, we do have those means to

11:20:06 22 verify, just to be able to precinct them correctly.

11:20:10 23 Q. Right. My question is slightly different, which

11:20:13 24 is about, I guess, when you're talking about a voter

11:20:17 25 applicant from the Colorado River Reservation, is it more

11:20:22 1 common for them to fall in the 95 percent bucket that is
11:20:25 2 matched to the AVID database? Or is it more common for
11:20:30 3 them to fall within the 5 percent that needs the
11:20:33 4 alternative means to verify their address?

11:20:36 5 A. I may even have the percentages wrong, but, I
11:20:38 6 mean, they fall -- we are able to locate them and precinct
11:20:40 7 them.

11:20:41 8 Q. Right. But is that generally, in your
11:20:44 9 experience, through the AVID database or is that through
11:20:48 10 the alternative means like contacting their fire
11:20:52 11 department?

11:20:52 12 A. I would say most of the time it's already in the
11:20:56 13 AVID, AVID system.

11:20:58 14 Q. All right. So let's talk now about when a voter
11:21:05 15 registration applicant provides a residence location,
11:21:08 16 description, or drawing.

11:21:11 17 Is that what applicants are asked to do if they
11:21:14 18 live at a residence that doesn't have a residential
11:21:16 19 address or if the address they provide can't be located?

11:21:19 20 A. I think it's more of an option, you know. I
11:21:28 21 just know that on the voter form it does request them, ask
11:21:32 22 them to draw a map if they're not, I guess, if they didn't
11:21:38 23 know their address. I'm not sure. I mean, we haven't
11:21:41 24 seen any come through there like that where they're
11:21:44 25 drawing maps on the voter forms, but, I mean, they do have

11:21:47 1 that option to, you know, to describe where they're
11:21:51 2 located.

11:21:52 3 Q. And in the event that a voter includes a
11:22:00 4 description or drawing of their residence location, how
11:22:03 5 does your office use that to confirm their location?

11:22:14 6 A. I guess it depends on how good their map is. I
11:22:20 7 mean, if they use cross streets, probably utilize maybe
11:22:25 8 some parcel maps, usually parcel maps. We would use
11:22:43 9 parcel maps to try to verify their location.

11:22:48 10 Q. Just want to sort of clear this up.

11:22:51 11 So for the percentage of people whose addresses
11:22:54 12 don't, can't be located using AVID, you use parcel maps,
11:23:00 13 you use the county assessor -- I'm sorry, the county
11:23:04 14 assessor parcel maps, and for the Colorado River Tribe you
11:23:07 15 might contact their fire department.

11:23:10 16 Besides those means, do you use anything else to
11:23:12 17 verify addresses that can't be located through the AVID
11:23:16 18 system?

11:23:17 19 A. Our community development has 911 addresses, the
11:23:22 20 address listing, so, I mean, we can also use that. But,
11:23:26 21 you know, whatever the voter puts on there, I mean,
11:23:29 22 they're, you know, we're taking it that that's a good
11:23:32 23 address. So we'll register them if we can locate it.

11:23:37 24 Q. Right. I just want to make sure for the record
11:23:40 25 that we have a clear sort of description from you of all

11:23:43 1 of the different alternative means besides AVID that you
11:23:46 2 can use to confirm.

11:23:47 3 So we have currently the county assessor parcel
11:23:51 4 maps, the 911 addresses, for the Colorado River Tribe, in
11:23:56 5 particular their fire department.

11:23:57 6 What else would you use, maps?

11:24:00 7 A. Yeah, I mean, yeah, if we had any maps. I mean,
11:24:03 8 that's basically what I can think of off the top of my
11:24:06 9 head what we would use.

11:24:09 10 Q. Do you know how long the county has used --
11:24:33 11 strike that.

11:24:42 12 Do you know what applicants who live on the
11:24:45 13 Colorado River Tribe Reservation are more likely to
11:24:49 14 provide a residence location, description, or drawing as
11:24:52 15 opposed to residential address?

11:24:54 16 DEFENSE COUNSEL: Asked and answered.

11:24:56 17 THE WITNESS: To my knowledge, they have always
11:24:58 18 given an address. Like I said, I, again, I don't process
11:25:03 19 the forms, but I can't recall a time where, you know, I
11:25:10 20 have seen an actual drawing on a voter registration form,
11:25:13 21 you know, as a map to their location. I mean, an address
11:25:18 22 has always, you know, has always been provided.

11:25:20 23 BY MS. RIZZONI:

11:25:30 24 Q. All right. Shifting gears slightly.

11:25:33 25 Does your office do anything to try to increase

11:25:37 1 registration of Native American voters?

11:25:41 2 A. Are you asking like voter outreach?

11:25:43 3 Q. Could be anything. Voter outreach, just wanted

11:25:47 4 to --

11:25:47 5 A. I mean, we, we do set up voter registration

11:25:54 6 drives in different areas of the county for everybody,

11:25:59 7 so...

11:26:00 8 Q. Do you do any voter outreach or registration

11:26:04 9 drives that are specifically targeted toward Native

11:26:10 10 American voters?

11:26:10 11 A. We have. We set up the early voting sites, but

11:26:13 12 ever since COVID that's kind of been a, we weren't allowed

11:26:18 13 to at that, during that time, and we have not heard

11:26:21 14 anything back from them.

11:26:22 15 Q. And what was the impetus for these targeted

11:26:27 16 outreach programs toward the Native American voters in

11:26:31 17 your community?

11:26:32 18 A. Could you clarify your question again? I'm

11:26:35 19 sorry.

11:26:35 20 Q. Yeah. So for these, these, these, these

11:26:40 21 outreach efforts toward the Native Americans in your

11:26:44 22 community, I'm wondering what the impetus was for

11:26:49 23 targeting those, those groups.

11:26:58 24 A. What do you -- I'm sorry.

11:26:58 25 Q. Yeah. That's fine. So what I'm basically

11:27:01 1 getting at is whether or not your office thinks there are
11:27:05 2 special challenges that that demographic might face when
11:27:09 3 it comes to registering to vote and whether that might be
11:27:13 4 the motivation behind the special outreach programs that
11:27:17 5 your office does?

11:27:18 6 A. I don't think it's that. I mean, it's just
11:27:21 7 something that we do. I mean, like I said, we do that for
11:27:25 8 everyone. Other than, like I said, with COVID, I mean,
11:27:29 9 the Tribes were pretty strict on all that kind of stuff so
11:27:35 10 we weren't allowed to set up.

11:27:37 11 Q. But I think you testified just a little earlier
11:27:39 12 that you may have done some outreach programs that were
11:27:43 13 specific to the tribes. So there was no particular reason
11:27:45 14 that you targeted that group?

11:27:49 15 A. Not a particular -- other than just to provide,
11:27:51 16 you know, the ability for them to register or to vote
11:27:54 17 early or, you know, not a particular reason targeting them
11:27:57 18 or anything like that, no.

11:27:59 19 Q. Do you think that Native American voters in your
11:28:02 20 community face any particular challenges when trying to
11:28:06 21 register to vote?

11:28:07 22 A. I don't think so.

11:28:08 23 Q. Okay. Do you know whether voter registration is
11:28:13 24 lower in the Native communities in La Paz County than your
11:28:16 25 county average?

11:28:17 1 A. Possibly.

11:28:25 2 Q. Why do you say that?

11:28:26 3 A. I'm not sure, because we don't track, you know,

11:28:30 4 we don't track, you know, race or anything like that. So,

11:28:37 5 I mean, there is one particular area that is on the Res

11:28:47 6 and, I mean, when you look at the numbers, I mean, it is

11:28:50 7 less than other areas, but, I mean, I wouldn't, I wouldn't

11:29:01 8 be able to tell you, I mean, because we don't track any

11:29:04 9 kind of race or anything like that.

11:29:06 10 Q. But you're aware of that at least one part of

11:29:14 11 the reservation where the registration is lower the county

11:29:19 12 average?

11:29:19 13 A. It's not lower than -- it's lower than some

11:29:21 14 areas but then it's higher than other areas, so...

11:29:26 15 Q. What can you tell me about the DPOR requirement

11:29:38 16 of H.B. 2492?

11:29:40 17 A. The DPOR, is that -- you're talking about proof

11:29:45 18 of residency?

11:29:47 19 Q. Correct.

11:29:48 20 A. So what specific are you asking? Just --

11:29:50 21 Q. Wondering your understanding of the new

11:29:52 22 requirements under the law.

11:29:55 23 DEFENSE COUNSEL: Calls for legal conclusion.

11:29:57 24 THE WITNESS: Not much, other than they would

11:30:02 25 have to just give us a proof of residency when they

11:30:09
11:30:10
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11:30:14
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11:31:05

1 register.
2 BY MS. RIZZONI:
3 Q. You understand the requirement, the requirement
4 for documentary proof of residency under H.B. 2492 to be
5 different than what is currently required under the law?
6 DEFENSE COUNSEL: Same objection.
7 THE WITNESS: I mean, I'd have to read, I'd have
8 to read the bill again.
9 MS. RIZZONI: Okay. All right. I think I'm
10 done. I think others may jump in with some questions. I
11 don't know if they are prepared to jump in now or if we
12 want to take a break, but that is all for me.
13 I thank you very much for your time, Mr. Garcia.
14 THE WITNESS: Thank you.
15 MS. RIZZONI: And we'll let my colleagues jump
16 in.
17 MS. MOTZKIN: Hi, Mr. Garcia. Are you ready to
18 move through about ten more minutes of questioning, or
19 would you like a break at this point?
20 THE WITNESS: We can keep going.
21 MS. MOTZKIN: Okay. Wonderful.
22
23 EXAMINATION
24 BY MS. MOTZKIN:
25 Q. MY name is Leah Motzkin. Nice to meet you.

11:31:06 1 And I'll just jump in. Some of these will seem
11:31:08 2 a little bit random or repetitive because we are just
11:31:12 3 jumping in, so thanks for bearing with me.

11:31:14 4 My first question is if there's no approved or
11:31:16 5 revised EPM by this time next year, will you, never the
11:31:16 6 less, be obligated to enforce the portions of H.B. 2492
11:31:26 7 and H.B. 2243 that are directed at County Recorders?

11:31:29 8 DEFENSE COUNSEL: Objection. Calls for
11:31:31 9 speculation. Speculation and legal conclusion.

11:31:34 10 THE WITNESS: I mean, I will, whatever is
11:31:36 11 decided, that's what we need to do.

11:31:39 12 BY MS. MOTZKIN:

11:31:43 13 Q. Okay. You testified earlier that the MVD
11:31:48 14 database has information about citizenship and that you
11:31:49 15 access that data through HAVA checks, correct?

11:31:51 16 A. That's correct.

11:31:51 17 Q. Is there any other way that you access that
11:31:54 18 database?

11:31:56 19 A. No. It's just through, just through our AVID
11:31:59 20 system, the voter registration database.

11:32:02 21 Q. Okay. And is old government data, such as MVD
11:32:04 22 records from ten years ago, indicative of a lack of U.S.
11:32:08 23 citizenship today?

11:32:10 24 DEFENSE COUNSEL: Calls for legal conclusion.

11:32:12 25 THE WITNESS: Not to my knowledge.

11:32:15 1 BY MS. MOTZKIN:

11:32:19 2 Q. Okay. Quickly looking at the text of H.B. 2492,
11:32:23 3 which is Petty Exhibit 19. I'm looking at page seven,
11:32:28 4 line six, line 16, which is -- or I'm sorry -- it is
11:32:34 5 16-143. This provision lays out for federal-only voters,
11:32:41 6 I'm looking at line 17, that, the Secretary of State and
11:32:46 7 each County Recorder shall make available to the attorney
11:32:47 8 general a list of all individuals who are registered to
11:32:51 9 vote and who have not provided satisfactory evidence of
11:32:53 10 citizenship pursuant to Section 16-166 -- and it continues
11:33:00 11 -- on or before October 31st, 2022.

11:33:03 12 Since that deadline has passed, is your office
11:33:06 13 no longer required by this provision to submit to the
11:33:10 14 attorney general a list of registered voters who have not
11:33:14 15 shown satisfactory DPOC?

11:33:15 16 DEFENSE COUNSEL: Form. Calls for legal
11:33:18 17 conclusion

11:33:18 18 THE WITNESS: Not to my knowledge. I mean, it's
11:33:20 19 part of this bill, so, I mean, whatever is decided, that's
11:33:23 20 what we'll do.

11:33:23 21 BY MS. MOTZKIN:

11:33:23 22 Q. Thanks.

11:33:29 23 And we discussed previously in, with both 2492
11:33:32 24 and 2243 what is information that a person is not a U.S.
11:33:35 25 citizen, correct?

11:33:37 1 A. I'm sorry. Can you say that again?

11:33:39 2 Q. We discussed, you discussed previously with Cat
11:33:43 3 what information, about information that a person is not a
11:33:47 4 U.S. citizen in the context of both bills, correct?

11:33:50 5 A. Right.

11:33:50 6 Q. Okay. So I just have a few questions about
11:33:53 7 that.

11:33:53 8 If the HAVA check reflects that the applicant
11:33:56 9 was issued an F-type license 20 years ago, is that
11:34:00 10 information showing a present day lack of U.S.
11:34:03 11 citizenship?

11:34:05 12 DEFENSE COUNSEL: Objection; calls for legal
11:34:07 13 conclusion and asked and answered.

11:34:09 14 THE WITNESS: So are you asking me if it would
11:34:16 15 show citizenship today?

11:34:16 16 BY MS. MOTZKIN:

11:34:19 17 Q. Yes. Would it show a present day lack of U.S.
11:34:22 18 citizenship?

11:34:23 19 DEFENSE COUNSEL: Same objection.

11:34:24 20 THE WITNESS: I can't -- I, I don't know. If
11:34:32 21 they were a non-citizen ten years ago and if they
11:34:38 22 preregistered or reapplied through the DMV and they became
11:34:43 23 a citizen since then, you know, I would say it would come
11:34:49 24 through as being, you know, satisfactory DPOC. If they
11:34:52 25 already became a citizen, they reregistered and went and

11:34:56 1 got a new driver's license, I can only assume the new
11:35:01 2 license would reflect citizenship.

11:35:03 3 BY MS. MOTZKIN:

11:35:05 4 Q. But what if they haven't gotten a new license?

11:35:05 5 DEFENSE COUNSEL: Same objection.

11:35:09 6 THE WITNESS: If they never changed that, I can
11:35:12 7 only assume that it would be the same.

11:35:14 8 BY MS. MOTZKIN:

11:35:14 9 Q. What do you mean by that?

11:35:17 10 A. Well, if they were, if they were not, if they
11:35:20 11 weren't a citizen and they're still not a citizen today, I
11:35:29 12 mean, that's what I mean. That's my answer. I mean, if
11:35:31 13 they weren't a citizen then and they're still not a
11:35:34 14 citizen now, I don't, at least I don't -- I'm assuming
11:35:36 15 that their driver's license wouldn't reflect anything
11:35:39 16 different.

11:35:40 17 Q. Okay. And if some other database showed from
11:35:44 18 20 years ago that someone wasn't a U.S. citizen at that
11:35:47 19 point, would that be information showing a present day
11:35:50 20 lack of U.S. citizenship?

11:35:52 21 DEFENSE COUNSEL: Same objections.

11:35:55 22 THE WITNESS: It wasn't ten years ago, I mean, I
11:35:59 23 don't think it would be different.

11:35:59 24 BY MS. MOTZKIN:

11:36:05 25 Q. So you're saying it would, avenge the present

11:36:10 1 lack of U.S. citizenship?

11:36:13 2 A. I'm assuming that's how it would be in the
11:36:17 3 system. If that's what you're asking.

11:36:22 4 MS. MOTZKIN: Okay. I'm going run through a few
11:36:25 5 different scenarios of what are valid sources of
11:36:27 6 information that someone is not a U.S. citizen. If
11:36:29 7 opposing counsel wants to enter standing objections at
11:36:32 8 this point, we could do that to move things quickly.

11:36:35 9 MR. MORGAN: Yeah, Leah, are you thinking about
11:36:37 10 the same objections we did for Beaugregard as to form and
11:36:41 11 speculation, calls for legal conclusion?

11:36:42 12 MS. MOTZKIN: I am.

11:36:44 13 MR. MORGAN: Yeah, that's cool with me.

11:36:47 14 MR. HORLEY: Same here.

11:36:51 15 MR. MORGAN: Thanks for being proactive.

11:36:51 16 MS. MOTZKIN: Thanks.

11:36:52 17 BY MS. MOTZKIN:

11:36:52 18 Q. So, Mr. Garcia, we already discussed what are
11:36:53 19 some valid sources of information that someone is not a
11:36:55 20 U.S. citizen.

11:36:55 21 Could it also be a phone call from a voter?

11:37:00 22 A. Somebody calling me and telling me someone is
11:37:05 23 not a citizen?

11:37:05 24 Q. Sorry. Someone is calling to you tell that they
11:37:09 25 themselves are not a citizen.

11:37:11 1 A. They themselves are not a citizen? Are you
11:37:19 2 asking what we would do or --

11:37:20 3 Q. Yes. Is that a valid source of information that
11:37:24 4 someone is not a U.S. citizen?

11:37:25 5 A. I'm just trying to understand your question.
11:37:37 6 Are you saying if somebody calls us, notifies us
11:37:40 7 that they are not a citizen, right?

11:37:42 8 Q. Correct.

11:37:43 9 A. What we would do?

11:37:47 10 Q. Yes. But also is that a valid source of
11:37:50 11 information that that person is not a citizen?

11:37:52 12 A. If they themselves, I mean -- I mean, we just
11:38:08 13 don't take people's words for it.

11:38:11 14 Q. How about an email from the voter?

11:38:14 15 A. I mean, any time anybody calls us or emails us,
11:38:19 16 we always verify identity, so...

11:38:23 17 Q. So you would say the same, no, that for a signed
11:38:27 18 letter from the voter?

11:38:29 19 A. That they're not a citizen? We would, we would
11:38:32 20 need to research.

11:38:34 21 Q. Okay. And would the same be true for a phone
11:38:37 22 call from a member of the voter's family?

11:38:42 23 A. We won't change somebody's voter registration
11:38:48 24 because, you know, some other member of their family
11:38:52 25 called us. I mean, we would need to ver -- any, any, any

11:38:55 1 communication over phone we verify people's identity.

11:38:58 2 Q. Okay. And I'm assuming that would be true,
11:39:05 3 then, for a phone call from law enforcement in Arizona or
11:39:09 4 elsewhere?

11:39:10 5 A. If it was law enforcement? Are you saying
11:39:17 6 that -- I'm not understanding your question about the law
11:39:19 7 enforcement.

11:39:19 8 Q. If a law enforcement officer from Arizona or
11:39:23 9 elsewhere, called with information that someone is not a
11:39:28 10 U.S. citizen, would that be a valid source of information
11:39:31 11 under the laws?

11:39:32 12 A. I'm not sure.

11:39:35 13 Q. Okay. What about lists provided by third party
11:39:41 14 organizations like True the Vote?

11:39:46 15 A. Yeah, we would -- we wouldn't just take their
11:39:54 16 word for it. I mean, there's, has to be some research on
11:39:58 17 our part.

11:39:59 18 Q. But you would look into that?

11:40:02 19 A. I would say, yeah, we would look into it, but
11:40:06 20 not, you know, act on it right away or do anything to
11:40:10 21 somebody's voter registration information --

11:40:14 22 Q. I'm sorry.

11:40:14 23 (The Reporter indicated an inability to hear
11:40:14 24 what was said.)

11:40:21 25 THE WITNESS: I just said, if that's what she

11:40:23 1 was asking if we would actually, you know, change
11:40:26 2 someone's voter registration just based off of someone
11:40:29 3 just giving us information like that.

11:40:30 4 BY MS. MOTZKIN:

11:40:30 5 Q. What if you identify a registered voter who has
11:40:36 6 already satisfied the DPOC requirement, but still holds an
11:40:39 7 F-type license? Is that information that the registered
11:40:41 8 voter is not, in fact, a U.S. citizen?

11:40:48 9 A. So you're saying if they registered -- if they
11:40:54 10 already suffice the DPOC requirement but they still had an
11:41:00 11 F-type license?

11:41:01 12 Q. Correct. Would that be information that the
11:41:05 13 registered voter is not a U.S. citizen?

11:41:07 14 A. I mean, we would need, I mean, the F-type
11:41:10 15 license wouldn't suffice the DPOC requirement, so we would
11:41:13 16 need some other form of verification on his, on the
11:41:17 17 person's DPOC.

11:41:20 18 Q. Okay. And if you identify a registered voter
11:41:25 19 who is exempt from the DPOC requirement and has never
11:41:28 20 shown it because they registered prior to when that went
11:41:31 21 into effect, is that information that they are not a U.S.
11:41:35 22 citizen?

11:41:35 23 A. Is what not --
11:41:39 24 Can you clarify the question?

11:41:40 25 Q. Yeah. Thanks.

11:41:42 1 Is identifying a registered voter, the fact that
11:41:45 2 they are exempt from the DPOC requirement and have never
11:41:50 3 shown that DPOC, is that information that they are not a
11:41:52 4 U.S. citizen?

11:41:54 5 A. I mean, if they register to vote they need to
11:42:01 6 show DPOC.

11:42:02 7 Q. Okay. By what means can you confirm the
11:42:07 8 authenticity of information that a voter, that a
11:42:12 9 registered voter applicant is not a United States citizen?
11:42:15 10 Both 2492 and 2243 kind of discuss confirming that
11:42:24 11 information that a voter was not a United States citizen,
11:42:26 12 so we talked about that already in both cases. Sorry.
11:42:30 13 That was a little unclear. But I'm just going to ask you
11:42:33 14 two quick questions related to that, this idea of
11:42:33 15 obtaining information and confirming information.

11:42:39 16 So quickly looking at 2243, which --

11:42:41 17 MR. HORLEY: Hi, Leah, sorry. Just before we
11:42:43 18 jump in. Our standing objections will still apply here,
11:42:43 19 yes?

11:42:51 20 MS. MOTZKIN: Thanks. Can we take off the
11:42:51 21 standing objections currently?

11:42:54 22 MR. HORLEY: Oh, take them off. Okay. Thank
11:42:56 23 you.

11:42:56 24 MS. MOTZKIN: Thanks.

11:42:56 25 BY MS. MOTZKIN:

11:42:57 1 Q. So, quickly, jumping into 2243, I'm looking at
11:43:09 2 section 16-165 F through J.

11:43:22 3 Will you please take just one moment to review
11:43:24 4 that? So I'm looking at page six.

11:43:35 5 A. Okay.

11:43:35 6 Q. And page five, looking at, starting on page
11:43:39 7 five, line 41, and looking through line 23 on page six,
11:43:48 8 there are a number of different provisions that list
11:43:52 9 databases. And my question for you, based on that --

11:43:57 10 And can you let me know when you've taken a
11:44:00 11 moment to review that?

11:44:01 12 A. Give me a minute.

11:44:03 13 Q. Thanks.

11:44:43 14 A. Okay.

11:44:43 15 Q. So are the database matching procedures
11:44:47 16 enumerated here, the means by which County Recorders are
11:44:50 17 to obtain information of a lack of U.S. citizenship?

11:44:55 18 DEFENSE COUNSEL: Calls for legal conclusion.

11:44:57 19 THE WITNESS: I mean, we run HAVA checks on the
11:45:07 20 people that register to vote, so that's what we utilize.

11:45:12 21 BY MS. MOTZKIN:

11:45:12 22 Q. Okay. And are these, are these database
11:45:15 23 matching procedures the means by which County Recorders
11:45:18 24 are to confirm information of a lack of U.S. citizenship?

11:45:23 25 DEFENSE COUNSEL: Same objection.

11:45:24 1 THE WITNESS: I mean, if somebody registered to
11:45:26 2 vote then the HAVA checks will confirm residency or not --
11:45:31 3 or not the residency, excuse me -- DPOC or not.

11:45:33 4 BY MS. MOTZKIN:

11:45:34 5 Q. Okay. And are these provisions clear or
11:45:37 6 unclear?

11:45:38 7 DEFENSE COUNSEL: Same objection.

11:45:38 8 BY MS. MOTZKIN:

11:45:53 9 Q. Okay.

11:45:57 10 A. I mean, we just -- all I can tell you is we run
11:46:00 11 the DPOC through HAVA, if it confirms it, you know, we
11:46:05 12 suffice the citizenship requirement.

11:46:08 13 MS. MOTZKIN: Okay. I'm going to run through
11:46:10 14 some of the similar scenarios as we went through before,
11:46:13 15 so I'm going allow folks to enter that standing objection
11:46:18 16 again if they would like to.

11:46:20 17 MR. HORLEY: Yes, please. Thank you.

11:46:20 18 BY MS. MOTZKIN:

11:46:23 19 Q. Okay. And we discussed earlier the language of
11:46:25 20 reason to believe, and I'm going to ask you a few
11:46:27 21 different scenarios would give you a reason to believe
11:46:28 22 that a person is not a U.S. citizen.

11:46:30 23 So what about a phone call from the voter
11:46:33 24 themselves?

11:46:33 25 A. Like I said, I mean, we get any phone calls or

11:46:45 1 any emails or letters, I mean, everything is, we confirm a
11:46:49 2 person's resident -- identity.

11:46:53 3 Q. Okay. How about a signed letter from the voter?

11:46:56 4 A. Again, some, there need to be some confirmation
11:47:04 5 that the person contacting us is the actual person.

11:47:07 6 That's just, just what we do.

11:47:10 7 Q. Okay. Would a phone call from a member of the
11:47:14 8 voter's family give you a reason to believe that a person
11:47:17 9 is not a U.S. citizen?

11:47:19 10 A. Again, we wouldn't take somebody's word for it
11:47:34 11 just because they are calling us and telling us that. I
11:47:38 12 mean, we would need something proving that.

11:47:40 13 Q. Okay. And what about a letter from a neighbor?
11:47:44 14 Would that give you the reason to believe that a voter is
11:47:47 15 a non-citizen?

11:47:49 16 A. I mean, again, you know, we're not going to just
11:47:53 17 act on it because someone is contacting us. We would need
11:47:56 18 some type of proof and, you know, confirmation of identity
11:47:59 19 of the person, the actual voter.

11:48:01 20 Q. So, similarly, it would be no for anything from
11:48:06 21 law enforcement? And, by anything, I mean a phone call, a
11:48:08 22 letter, an email from law enforcement?

11:48:10 23 A. I mean, we would need something documented.

11:48:19 24 Q. What about lists provided -- go ahead.

11:48:22 25 A. I mean, just something telling us, yeah, I mean,

11:48:27 1 some type of proof. What that proof would be, I don't
11:48:31 2 know. I just know that when somebody registers, you know,
11:48:34 3 we put them through the system, it goes through, you know,
11:48:36 4 goes through the HAVA checks. If it clears out with the
11:48:39 5 DPOC, I mean, we'll register them.

11:48:41 6 Q. Okay. What about lists provided by third party
11:48:44 7 organizations, like True the Vote?

11:48:47 8 A. I mean, I don't ever recall getting any kind of
11:48:52 9 list from them as far as non-citizens, that I'm aware of,
11:48:58 10 but, again, I mean, we're -- we won't just act just
11:49:03 11 because someone is contacting us and telling us things. I
11:49:07 12 mean, we have to do our own research on it.

11:49:11 13 MS. MOTZKIN: Okay. Got it.

11:49:13 14 And we can reinstate the standard operating
11:49:16 15 procedures and move through some final questions.

11:49:16 16 BY MS. MOTZKIN:

11:49:23 17 Q. In 2492 it mentions any other database relating
11:49:27 18 to voter register, which you discussed earlier, correct?

11:49:30 19 A. Yes.

11:49:31 20 Q. Could that be a list of voters you receive from
11:49:35 21 another Arizona agency?

11:49:38 22 DEFENSE COUNSEL: Calls for legal conclusion.

11:49:40 23 THE WITNESS: I'm sorry. The list of voters you
11:49:42 24 were saying?

11:49:42 25 BY MS. MOTZKIN:

11:49:42 1 Q. That you would receive from another Arizona
11:49:45 2 agency.

11:49:45 3 DEFENSE COUNSEL: Same objection.

11:49:49 4 THE WITNESS: Getting the list, getting the list
11:49:50 5 of voters that are not citizens.

11:49:53 6 BY MS. MOTZKIN:

11:49:53 7 Q. Yeah. Is that a database relating to voter
11:49:53 8 registration?

11:49:58 9 DEFENSE COUNSEL: Same objection.

11:49:59 10 THE WITNESS: I don't recall ever getting
11:50:00 11 anything like that.

11:50:00 12 BY MS. MOTZKIN:

11:50:00 13 Q. Okay. But if you did get that, would that be a
11:50:04 14 database relating to voter registration?

11:50:06 15 A. Just receiving a list?

11:50:09 16 DEFENSE COUNSEL: Same objection.

11:50:10 17 THE WITNESS: Yeah, I don't know if that would
11:50:12 18 be considered a database to -- I mean, we wouldn't have
11:50:14 19 access to it. It's just being given to us, so I don't
11:50:17 20 know, I mean...

11:50:18 21 BY MS. MOTZKIN:

11:50:18 22 Q. Okay. What about from a private individual, or
11:50:21 23 a list from a private group or a private citizen?

11:50:26 24 DEFENSE COUNSEL: Same objection.

11:50:27 25 THE WITNESS: Say the same thing, I mean...

11:50:35 1 BY MS. MOTZKIN:

11:50:35 2 Q. Okay. And my final question is if a registered
11:50:38 3 voter is removed from the rolls under H.B. 2243, based
11:50:43 4 upon an erroneous determination that they are not a U.S.
11:50:47 5 citizen, can that voter be added back to the rolls if the
11:50:52 6 registration deadline has already passed?

11:50:55 7 A. If they were a non-citizen?

11:51:09 8 Q. Yes. If they were erroneously determined to be
11:51:13 9 a non-citizen.

11:51:14 10 A. Oh. But they were a citizen?

11:51:17 11 Q. Correct.

11:51:17 12 A. I'd probably have to get some type of guidance
11:51:24 13 on that, but, I mean -- yeah, I'm not sure how that would
11:51:33 14 work. Wouldn't want to -- I would have to get some type
11:51:36 15 of counsel on that.

11:51:39 16 MS. MOTZKIN: Okay. Thank you. I have no more
11:51:41 17 questions.

11:51:45 18 Is there anyone else in our group who is asking
11:51:49 19 questions?

11:51:54 20 THE VIDEOGRAPHER: Okay. If no one is wanting
11:51:59 21 to come on, we'll go off the record.

11:52:02 22 MR. HORLEY: Sorry, Jimmy, I think the defense
11:52:04 23 might want to ask some questions. I'm not sure, you know,
11:52:07 24 if the plaintiffs want to discuss that first, or if we're
11:52:10 25 just ready to go into that. Sounds like no one from the

11:52:15 1 plaintiffs' side has any more questions.

11:52:21 2 Yeah, we can go off the record quickly. Thanks.

11:52:24 3 THE VIDEOGRAPHER: Okay. Are we going to end
11:52:26 4 the deposition?

11:52:28 5 MS. RIZZONI: Let's quickly go off the record so
11:52:31 6 week confirm if defendants want to take any.

11:52:33 7 THE VIDEOGRAPHER: Okay. We are going to go off
11:52:35 8 the record. Time on the monitor is 11:52.

11:52:44 9 (Recess taken from 11:52 a.m. to 11:53 a.m.)

11:53:39 10 THE VIDEOGRAPHER: We are back on the record.
11:53:53 11 Time on the monitor is 11:53.

11:53:53 12

11:53:53 13 EXAMINATION

11:53:53 14 BY MR. HORLEY:

11:54:03 15 Q. All right. Good morning, Mr. Garcia. My name
11:54:05 16 is Tim Horley. I represent the State of Arizona and the
11:54:08 17 Arizona Attorney General in this case.

11:54:09 18 So thank you for your patience and answering all
11:54:12 19 these questions so far. I will try not to take up too
11:54:15 20 much of your time. I just have a few, sort of a handful
11:54:18 21 of questions to get through here.

11:54:20 22 So first question is will your office adhere to
11:54:24 23 whatever a court orders regarding the implementation of
11:54:28 24 these laws?

11:54:29 25 A. Yes.

11:54:29 1 Q. And then I wanted to ask a little bit about
11:54:35 2 verifying citizenship.

11:54:39 3 So does your office do anything to verify DPOC
11:54:43 4 when it is received?

11:54:45 5 A. I mean, if we receive DPOC, I mean, I mean,
11:54:49 6 that, they sufficed already the requirement. I don't, I
11:54:55 7 don't see a need for follow-up, to my knowledge.

11:54:58 8 Q. So if you get -- oh, I'm sorry.

11:55:01 9 A. To my knowledge. That's what I said.

11:55:03 10 Q. Okay. So if you got, for example, a photocopy
11:55:06 11 of a birth certificate, there is nothing you would do to
11:55:09 12 verify the authenticity of that document?

11:55:11 13 A. No. Because, I mean, that's, that's one of the
11:55:16 14 things that the voter can do. They can, you know, submit
11:55:20 15 their application with the copy of, you know, the birth
11:55:22 16 certificate or copy of a valid U.S. passport, you know,
11:55:27 17 copy of their driver's license.

11:55:31 18 Q. Okay. And I wanted to ask you a few questions
11:55:35 19 about the citizenship checkbox that appears on the state
11:55:38 20 form.

11:55:39 21 Are you familiar with that checkbox I'm
11:55:41 22 referring to?

11:55:42 23 A. Yeah. Where it asks them to swear -- excuse
11:55:46 24 me -- to affirm they're, if they're a U.S. citizen, right,
11:55:51 25 above the age require -- the age question?

11:55:55 1 Q. Yes, right. And then that appears on federal
11:55:57 2 forms as well. Is that right?

11:56:00 3 A. Yes. Yes.

11:56:01 4 Q. And for a federal form, do you think that the
11:56:07 5 citizenship checkbox provides you with information about
11:56:10 6 whether a voter is a citizen?

11:56:11 7 A. Just the fact that they're marking it doesn't
11:56:18 8 give us information to confirm it.

11:56:21 9 Q. Okay. So if they said, yes, I am a citizen in
11:56:25 10 the checkbox, that wouldn't give you information on
11:56:28 11 whether that person is a citizen?

11:56:30 12 A. I mean, to my understanding, no. I mean, we
11:56:35 13 would have nothing to compare, I mean, the check mark --
11:56:40 14 we don't compare the check mark against the database.

11:56:44 15 Q. Okay. And what if that check mark was entered
11:56:48 16 and signed, you know, they signed under it saying, I
11:56:50 17 attest that this is accurate, sort of under penalty of
11:56:55 18 perjury? Would that provide you with information?

11:56:57 19 A. I mean, they're just, they're just stating that
11:57:01 20 they are. Again, I mean, if they did that, didn't provide
11:57:08 21 DPOC, whether they didn't give us their driver's license
11:57:12 22 number, I mean, we process the application that way and it
11:57:15 23 comes back with a driver's license information through
11:57:20 24 MVD, I mean, we would probably register that person as a
11:57:24 25 full-ballot voter.

11:57:27 1 Q. Understood. What if they checked no on the
11:57:31 2 checkbox?
11:57:34 3 A. What we would do?
11:57:41 4 Q. Yeah. Well, more so what, you know, does that
11:57:44 5 provide you with information about whether that person is
11:57:47 6 a citizen?
11:57:48 7 A. I mean, it's just, they're just checking no. I
11:57:53 8 mean, they could have done it mistakenly too. I mean,
11:57:57 9 there would have to be more information, I think, for us
11:57:59 10 to really verify if they are really are or not.
11:58:03 11 Q. So, regardless of what they check, you would do
11:58:07 12 a HAVA check to determine whether they were a citizen?
11:58:10 13 A. Yeah. We still, we still process it.
11:58:13 14 Q. Okay. And then I'm going to ask you just the
11:58:18 15 same basic set of questions about state form.
11:58:20 16 So do you think the citizenship checkbox on the
11:58:23 17 state form provides information about whether someone is a
11:58:28 18 U.S. citizen?
11:58:29 19 A. I mean, I don't, I don't see it any different.
11:58:32 20 I mean --
11:58:33 21 Q. So --
11:58:34 22 A. -- there would need to be more information for
11:58:36 23 us to verify other than just the check mark.
11:58:39 24 Q. Okay. Understood.
11:58:42 25 What if the person does not provide DPOC and

11:58:46 1 they just check the checkbox? Would the checkbox help
11:58:51 2 provide information in that case?

11:58:52 3 A. If they did provide DPOC?

11:58:59 4 Q. If they did not provide DPOC.

11:59:01 5 A. But they did check mark it?

11:59:04 6 Q. Yeah.

11:59:05 7 A. I mean, with the cross-check with the MVD, the
11:59:12 8 HAVA checks, it may give us the DPOC for that person to
11:59:22 9 confirm their --

11:59:23 10 Q. Okay.

11:59:23 11 A. -- citizenship, running through HAVA checks.

11:59:27 12 Q. Okay. Understood.

11:59:30 13 And we talked a little bit before about someone
11:59:35 14 submitting a DPOC document, like for example, a copy of a
11:59:39 15 birth certificate.

11:59:39 16 Is it possible that they could submit a copy
11:59:43 17 like that that was defective in some way, for example,
11:59:48 18 it's blurry or difficult to read?

11:59:51 19 A. I guess anything is possible. I don't recall us
11:59:55 20 ever getting one where we cannot read.

11:59:59 21 Q. Okay. Understood. Or what if it had a name
12:00:03 22 that was a very common name, like John Smith or something,
12:00:06 23 so it matched another person on the voter list? Could
12:00:12 24 that happen?

12:00:12 25 A. Well, I mean, it also has their date of birth,

12:00:19 1 social security number.

12:00:25 2 Q. Okay. And in those situations where you got a
12:00:28 3 blurry copy, or it might match with some other voter's
12:00:32 4 information, would it be helpful to verifying citizenship
12:00:36 5 to know how they answer the citizenship checkbox?

12:00:40 6 A. Could you clarify your question again?

12:00:43 7 Q. So in those situations where you got some DPOC
12:00:47 8 that might have been difficult to verify, would it be
12:00:51 9 helpful to know how they answered the question, the
12:00:57 10 citizenship checkbox?

12:01:02 11 A. I don't know how helpful that would be just
12:01:07 12 because they marked it. Again, I mean, we process them
12:01:13 13 and, you know, they can still go through the HAVA checks
12:01:16 14 and, you know, if we're able to obtain DPOC through that
12:01:19 15 way, in that manner, I mean, I think we're okay to accept
12:01:26 16 that.

12:01:27 17 Q. Okay. Thank you.

12:01:29 18 Does your office consider MVD data to be
12:01:33 19 generally reliable?

12:01:42 20 A. I would say so, yes.

12:01:46 21 Q. And if you had a situation where there was a
12:01:49 22 naturalized citizen, whose status hadn't yet been updated
12:01:54 23 with the MVD, they could fix that by providing your office
12:01:58 24 with documentation of their naturalization, correct?

12:02:02 25 A. Correct. Again, we would follow up, in a

12:02:06 1 scenario like that, we would follow up with some, a
12:02:08 2 letter, correspondence to them, letting them know the
12:02:12 3 situation and how to correct it.

12:02:13 4 Q. Okay. And do you consider SAVE data to be
12:02:19 5 generally reliable?

12:02:21 6 A. I would think, yes. Again, like I stated
12:02:27 7 earlier, I haven't had a need to use SAVE, so I mean, I'll
12:02:33 8 leave it at that. I mean, I would hope so. I would think
12:02:36 9 so.

12:02:37 10 Q. And you mentioned before that social security
12:02:42 11 numbers couldn't necessarily be used to confirm whether
12:02:45 12 someone is a citizen, because someone who is a permanent
12:02:49 13 resident might have a social security number. Is that
12:02:51 14 right?

12:02:51 15 A. I mean, they could. I'm not entirely sure, I
12:02:55 16 mean, if they could or couldn't. I mean, my thought is
12:03:01 17 no. It would be hard for me to say for 100 percent sure
12:03:04 18 if they could or couldn't. I mean, I know through the
12:03:08 19 DMV, I mean, they got that F-type license that would
12:03:12 20 differentiate as far as the driver's license. I'm not --
12:03:14 21 maybe possibly the social security maybe. I'm not sure on
12:03:18 22 that entirely.

12:03:20 23 Q. Okay. Understood.

12:03:21 24 But if someone did not have a social security
12:03:24 25 number, could that indicate that that person was not a

12:03:27 1 citizen?

12:03:27 2 A. If they didn't have one?

12:03:31 3 Q. Yeah.

12:03:34 4 A. Meaning they didn't put it on their form?

12:03:44 5 Q. Yes. Or the check showed no social security

12:03:47 6 number for that person.

12:03:48 7 A. Well, I mean, like I said, we run the HAVA

12:03:51 8 check, so it does cross-check with SSA, so there's always

12:03:56 9 that, that it could, you know, that it would come back

12:04:00 10 with the match through there and give us their, verify

12:04:05 11 their SSA through there, if the form didn't have it.

12:04:08 12 Q. Okay. Got it.

12:04:10 13 All right. I wanted to ask you quickly about

12:04:13 14 reports from jury commission with the questionnaire that

12:04:18 15 folks fill out when they do jury duty that asks them

12:04:22 16 whether they're a citizen or not.

12:04:24 17 Are you aware of those kind of reports?

12:04:26 18 A. Yeah. I know we, we do receive it from the

12:04:30 19 courts.

12:04:31 20 Q. Okay. And can you explain what you receive.

12:04:34 21 A. Just, you know, lists of people that fill out

12:04:44 22 the -- it's basically a copy of the jury questionnaire,

12:04:46 23 and, you know, it has those questions on there if they're

12:04:52 24 a citizen, if they're a resident, if they're a felon. It

12:04:55 25 has their information on there.

12:04:59 1 Q. So if, if you received a report that showed that
12:05:03 2 someone wrote on that questionnaire, I am not a U.S.
12:05:07 3 citizen, would you consider that reason to believe that
12:05:09 4 that person is not a U.S. citizen?

12:05:12 5 A. Again, I guess, we could, but we would still
12:05:26 6 follow up and send out some correspondence.

12:05:32 7 Q. Okay. Understood.

12:05:35 8 And then I wanted to ask you a little bit about
12:05:39 9 birthplace. And so you're aware that on the state form
12:05:44 10 there's an optional box where a person can list their
12:05:49 11 place of birth. Is that right?

12:05:51 12 A. Yeah. I believe, yeah.

12:05:52 13 Q. And your office doesn't actively track whether
12:05:58 14 people put their birthplace down on that form, correct?

12:06:03 15 A. Correct.

12:06:04 16 Q. So I know there's probably no easy way to
12:06:08 17 determine the answer to this question, but do you know how
12:06:12 18 many people typically include that information?

12:06:14 19 A. I mean, yeah, it's hard to determine. I mean,
12:06:27 20 usually people that actually fill it out here at the
12:06:30 21 office, from what I can see, generally fill that
12:06:32 22 information in.

12:06:34 23 Q. So do you say most people fill in that
12:06:38 24 information?

12:06:39 25 A. From what I can see when they come in and fill

12:06:44 1 in the paper, the actual application, paper application.
12:06:47 2 Now, if you look at the EZ Voter ones, the ones that come
12:06:51 3 in electronically, then that probably won't have it. But
12:06:55 4 it's hard to say how many do or don't. I would say
12:06:58 5 probably the most probably don't.

12:07:01 6 Q. Most probably don't. Okay.

12:07:03 7 And in your interrogatories, you noted that your
12:07:09 8 office uses birthplace as a security question sometimes
12:07:12 9 when someone calls in on the phone, like to verify that
12:07:16 10 the person who is calling in is who they say they are. Is
12:07:20 11 that right?

12:07:20 12 A. I mean, as far as their date of birth, you know,
12:07:25 13 that's for the social, DL number, we do use that.

12:07:33 14 Q. And do you use birthplace as well?

12:07:45 15 A. Hard for me to say, because I, I usually use
12:07:51 16 that, that kind of information to confirm their identity.
12:07:58 17 But, as far as their birthplace, I mean, we could, and
12:08:02 18 maybe my chief deputy has.

12:08:05 19 Q. Okay. I would like to just turn really quick to
12:08:09 20 the document that was labeled document E, and I believe it
12:08:14 21 was marked as Exhibit No. 232.

12:08:17 22 And if you don't mind just looking at the second
12:08:20 23 page of that document.

12:08:23 24 A. Which number?

12:08:33 25 Q. So it was document E.

12:08:41 1 A. Okay. Which page?

12:08:44 2 Q. Second page. Where it says, interrogatory

12:08:47 3 No. 1.

12:08:48 4 A. Yeah.

12:08:49 5 Q. So if you wouldn't mind just taking a moment to

12:08:54 6 just read through that interrogatory and your response and

12:08:57 7 let me know when you're finished.

12:09:29 8 A. Okay.

12:09:30 9 Q. Okay. So is the response that you gave there

12:09:35 10 still accurate?

12:09:36 11 A. Well, I think -- well, no, not 100 percent.

12:09:45 12 Like I said, I mean, I think DOB, last four social,

12:09:50 13 driver's license numbers, are more of a better way to

12:09:57 14 identify that, the identity.

12:10:03 15 Q. Okay. So your office does not use birthplace to

12:10:07 16 verify someone's identity?

12:10:08 17 A. Like I said, maybe, maybe my chief deputy also

12:10:12 18 goes to that, but to my understanding, as far as when I

12:10:16 19 have done it, I usually go with the other ones that I

12:10:20 20 mentioned.

12:10:20 21 Q. Okay. Understood.

12:10:22 22 So if there was a discrepancy between two

12:10:26 23 applications, so let's say they had the same name, the

12:10:28 24 same address, but they listed two different places of

12:10:31 25 birth, how would you your office handle that situation?

12:10:34 1 A. Two different -- same person, two different
12:10:37 2 places of birth, right?

12:10:39 3 Q. Yeah. Same information but looks like two
12:10:42 4 different places of birth.

12:10:44 5 A. How we would handle it as far as?

12:10:50 6 Q. Any -- would you do -- you know, would that
12:10:52 7 raise any issue? Would they been registered as separate
12:10:55 8 voters?

12:10:55 9 A. Oh.

12:10:56 10 Q. Would they be treated as different people?

12:10:57 11 A. Well, I mean, if they had two different birth
12:11:00 12 places in the same -- I mean, definitely want to look at
12:11:07 13 the date of birth. I mean, it could always be a junior
12:11:10 14 and a senior.

12:11:11 15 I'm not sure if that's answering your question
12:11:14 16 or not. I mean, if we would follow up we would, yeah, we
12:11:18 17 would follow up with it.

12:11:20 18 Q. Yeah. So suppose that all of their other
12:11:24 19 information that was on the form appeared to be identical,
12:11:28 20 but the one thing that was different was place of birth.

12:11:31 21 A. Place of birth. Okay. Yeah, wouldn't be able
12:11:40 22 to say, I mean, at this time. I mean, I don't know. If
12:11:44 23 it was just their place of birth would be the indicator
12:11:48 24 for us to -- I mean, I guess, everything else matches, is
12:11:57 25 identical. It's kind of hard for me to say, because we

12:12:06 1 never had to deal with their birthplace.

12:12:09 2 Q. Understood.

12:12:09 3 So would you follow up with the voter in that
12:12:12 4 situation?

12:12:18 5 MS. LANG: Objection; speculation.

12:12:23 6 THE WITNESS: I mean, if that's what the
12:12:27 7 decision on this base requires us to do, to pay attention
12:12:34 8 to the place of birth, I mean, that's what we'll do.

12:12:38 9 BY MR. HORLEY:

12:12:38 10 Q. Okay. Great. And that sort of anticipates my
12:12:42 11 next question. So if the court or the Secretary of State
12:12:46 12 issued guidance that changed how your office should use
12:12:51 13 birthplace information on the form, you would follow that
12:12:54 14 guidance, correct?

12:12:55 15 A. I mean, any guidance we would definitely use.

12:13:11 16 Q. Okay. I just have a few more questions. Thanks
12:13:14 17 again for your time.

12:13:15 18 So we talked a little bit, or you talked a
12:13:18 19 little bit earlier in your testimony about an October 2022
12:13:22 20 incident where there was an AVID glitch that led to some
12:13:26 21 voters getting downgraded to being fed-only voters.

12:13:30 22 Do you recall that?

12:13:33 23 A. Yes.

12:13:33 24 MS. RIZZONI: Objection to form.

12:13:33 25 BY MR. HORLEY:

12:13:40 1 Q. And, to your knowledge, were any voters
12:13:42 2 disenfranchised by that incident?

12:13:45 3 A. Not to my knowledge.

12:13:46 4 Q. Okay. And do you ever receive registration
12:13:50 5 forms from third party voter registration organizations
12:13:54 6 that conduct registration drives?

12:13:57 7 A. Registration drives? Yeah.

12:14:00 8 Q. Okay. And we've heard from some other County
12:14:04 9 Recorders that they have received large numbers of voter
12:14:09 10 registration forms from such drives that have false
12:14:11 11 information. For example, it might have like a totally
12:14:14 12 false name or a false identity, false driver's license
12:14:18 13 numbers.

12:14:18 14 Has your office experienced anything like that?

12:14:21 15 A. To my knowledge, no. Fortunately, no, we have
12:14:26 16 not.

12:14:27 17 Q. Okay. Great. And last little set of questions
12:14:31 18 here.

12:14:31 19 Your office does not investigate cases of
12:14:34 20 potential voter fraud, correct?

12:14:36 21 A. If anything like that would come up, we would,
12:14:41 22 anything would be referred to the AG's office.

12:14:43 23 Q. Right. Because your office is not responsible
12:14:46 24 for investigating voter fraud?

12:14:48 25 A. No. We're not police, you know.

12:14:52 1 Q. All right.

12:14:52 2 A. Yeah.

12:14:53 3 Q. And so you don't keep any records on potential
12:14:57 4 voter fraud. Is that right?

12:15:00 5 A. I mean, if it went to the AG's office and the AG
12:15:04 6 contacted us for some type of assistance, then we would,
12:15:08 7 you know, we would definitely have something on record on
12:15:10 8 our file.

12:15:12 9 Q. Okay. Understood.

12:15:14 10 Are you aware of any instances of voter fraud in
12:15:17 11 your county?

12:15:17 12 A. Not that I'm aware of, no.

12:15:20 13 Q. Okay. So you've never sent that kind of
12:15:23 14 information over to the attorney general's office?

12:15:26 15 A. I mean, anything to do with anything like this,
12:15:40 16 in regards to these two bills or anything like that, no.

12:15:44 17 MR. HORLEY: Okay. That is all the questions I
12:15:47 18 have. Thank you very much, Mr. Garcia. I really
12:15:50 19 appreciate it.

12:15:50 20

12:15:50 21 EXAMINATION

12:15:50 22 BY MR. LANGHOFER:

12:15:52 23 Q. Good afternoon now, Mr. Garcia. My name is Kory
12:15:55 24 Langhofer, and I represent the RNC. So the questions I
12:16:02 25 had on my list have been almost entirely covered. There's

12:16:03 1 literally only one that hasn't been asked. And so my only
12:16:07 2 question for you is this.

12:16:08 3 When you receive a state registration form right
12:16:12 4 now and the voter hasn't attached DPOC, and your office
12:16:17 5 sends them a notification letter saying, hey, we can't,
12:16:21 6 and you can't find -- let me, let me back up.

12:16:23 7 You receive a voter register form, state form,
12:16:26 8 DPOC isn't attached, and you can't confirm, you know,
12:16:29 9 prior instances of DPOC using the MVD database. So your
12:16:34 10 office sends the voter a notification letter saying, hey,
12:16:38 11 we don't have your DPOC, we need in that in order to
12:16:41 12 register you.

12:16:42 13 Do you know what percentage of those, roughly,
12:16:44 14 the voter responds and provides DPOC?

12:16:50 15 A. I don't know the percentage.

12:16:54 16 So you're saying if somebody registers to vote
12:16:59 17 and they didn't give us the DPOC, meaning, they didn't
12:17:03 18 even write -- you're saying they didn't even write the
12:17:08 19 driver's license number on their application?

12:17:10 20 Is that what you're also saying?

12:17:15 21 Q. No. So this is -- what I have in mind is maybe
12:17:16 22 they wrote the driver's license number down, maybe they
12:17:19 23 wrote their A number down, or naturalization number, but
12:17:22 24 you -- they didn't provide documents themselves.

12:17:25 25 A. Oh.

12:17:27 1 Q. And using your systems, you can't find where
12:17:30 2 they've previously provide DPOC. Like in searching the
12:17:36 3 MVD database or the SAVE database, sounds like you don't
12:17:37 4 use that, but if you did.

12:17:37 5 A. Hmm hmm.

12:17:38 6 Q. So you've got to send them a notification letter
12:17:40 7 that says, hey, we can't see that you're a citizen, you've
12:17:43 8 got to send this information back to us in order for us to
12:17:46 9 register you. So in one of those instances where you're
12:17:48 10 sending out the notification letter asking for DPOC.

12:17:51 11 I'm just wondering how many people, who get that
12:17:54 12 sort of letter, end up responding with the DPOC?

12:17:58 13 MS. RIZZONI: Lack of foundation.

12:18:02 14 THE WITNESS: You know, I don't know off the top
12:18:04 15 of my head. I mean, my chief deputy would be the one to
12:18:09 16 see that kind of stuff more than I would. But as far as
12:18:14 17 to my understanding or knowledge, I don't think we have
12:18:17 18 any, hardly, if any, hardly any at all that are possibly
12:18:25 19 in that scenario.

12:18:25 20 BY MR. LANGHOFER:

12:18:29 21 Q. Hardly any at all where you send the
12:18:31 22 notification letter, or hardly any at all that respond
12:18:34 23 with the DPOC?

12:18:36 24 A. Usually people are pretty good as far as
12:18:38 25 responding when we send them stuff, but in that scenario

12:18:42 1 it's hard for me to say how many or a percentage, because,
12:18:46 2 again, I don't, I don't see that kind of stuff as much as
12:18:48 3 my chief deputy does, but -- it's hard for me to say. I,
12:18:54 4 I wouldn't have a percentage for you.

12:18:56 5 Q. Do you know whether it's more or less than half
12:18:59 6 of them who respond?

12:19:00 7 A. It's hardly -- I would say we hardly get a
12:19:04 8 scenario even like that.

12:19:05 9 Q. Okay.

12:19:05 10 A. Usually when we run the HAVA checks, we usually
12:19:09 11 get, I would say, we always get some type of, you know,
12:19:12 12 result from it --

12:19:13 13 Q. I see, yeah.

12:19:15 14 A. -- but...

12:19:16 15 MR. LANGHOFER: I promised I wouldn't have you
12:19:16 16 for long and I'm not going to repeat the questions you've
12:19:19 17 already been asked. Thanks very much for your time.

12:19:22 18 Craig, do you have any questions or anyone for
12:19:27 19 the senate, president, and speaker of the house?

12:19:27 20 MR. MORGAN: I have got nothing. Thanks for
12:19:29 21 your time.

12:19:32 22 MS. FITZGIBBONS: I have got nothing either.
12:19:33 23 Thank you.

12:19:36 24 MR. LANGHOFER: Cat, anything more from your
12:19:37 25 side?

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MS. RIZZONI: Nothing more from me.

Thank you so much Mr. Garcia. Really been very helpful. We appreciate you taking the time, and hopefully you get to have a nice lunch now.

THE WITNESS: Thank you. Likewise.

THE VIDEOGRAPHER: Okay. We are going to go off the record. Time on the monitor is 12:19. This ends Volume 1, Media No. 2 of the deposition 30(b)(6), Richard Garcia.

Thank you very much.

(The deposition concluded at 12:19 p.m.)

(Exhibits 228 through Exhibit 237 were marked for identification.)

(Signature Not Requested.)

RICHARD GARCIA

1 STATE OF ARIZONA)
) ss.
2 COUNTY OF MARICOPA)

3
4 BE IT KNOWN that the foregoing deposition was
5 taken before me, KAREN L. LOCKER, RPR, Certified Reporter
6 No. 50821 for the State of Arizona, and by virtue thereof
7 authorized to administer an oath; that the witness before
8 testifying was duly sworn by me to testify to the whole
9 truth; deposition review and signature was not requested;
10 that the questions propounded by counsel and the answers
11 of the witness thereto were taken down by me in shorthand
12 and thereafter transcribed into typewriting under my
13 direction; that the foregoing pages contain a full, true,
14 and accurate transcript of all proceedings and testimony
15 had, all to the best of my skill and ability.

16 I FURTHER CERTIFY that I am not related to nor
17 employed by any of the parties hereto and have no interest
18 in the outcome thereof.

19 DATED at Phoenix, Arizona, this 8th day of
20 September, 2023.

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22
23
24
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KAREN L. LOCKER, RPR
Certified Court Reporter No. 50821

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IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ARIZONA

Mi Familia Vota, et al.,)	
)	
Plaintiffs,)	
)	
vs.	)	No. 2:22-cv-00509-PHX-SRB
	)	(Lead)
Adrian Fontes, in his)	
official capacity as Arizona)	
Secretary of State, et al.,)	
)	
Defendants.)	
)	
AND CONSOLIDATED CASES	)	No. CV-22-00519-PHX-SRB
	)	No. CV-22-01003-PHX-SRB
	)	No. CV-22-01124-PHX-SRB
	)	No. CV-22-01369-PHX-SRB
	)	No. CV-22-01381-PHX-SRB
	)	No. CV-22-01602-PHX-SRB
	)	No. CV-22-01901-PHX-SRB
)	

VIDEOTAPED 30(b)(6) DEPOSITION OF GREENLEE COUNTY RECORDER
BY AND THROUGH SHARIE MILHEIRO

Clifton, Arizona
August 31, 2023

Prepared By:
Karen L. Locker, RPR
Certified Reporter #50821



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EXHIBITS MARKED

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14 Also Present:

15 Daniel Rohan, Videographer
16 Neethu Putta, Esq.
17 Heidi Strigenz

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09:36:29 1 THE VIDEOGRAPHER: We are on the record. Time
09:36:30 2 on the video monitor is 9:36 a.m.

09:36:33 3 Here begins Volume 1, Media No. 1 in the
09:36:36 4 30(b)(6) deposition of Greenlee County Recorder by Sharie
09:36:43 5 Milheiro in the matter of Mi Familia Vota, et al., v.
09:36:49 6 Adrian Fontes, et al., in the United States District
09:36:49 7 Court, District of Arizona, case No.
09:37:00 8 2:22-cv-00509-PHX-SRB.

09:37:00 9 Today's date is August 31st, 2023.

09:37:04 10 Our court reporter is Karen Locker. I am Daniel
09:37:08 11 Rohan, a certified legal videographer. We both represent
09:37:12 12 Coash Court Reporting & Video.

09:37:15 13 This video deposition is taking place at the
09:37:19 14 Greenlee County Recorder's Office, 253 5th Street,
09:37:21 15 Clifton, Arizona, 85533.

09:37:23 16 Would counsel please introduce themselves and
09:37:25 17 state whom they represent.

09:37:28 18 MS. RILEY-SWANBECK: Britany Riley-Swanbeck and
09:37:31 19 Daniel Volchok for the Democratic National Committee and
09:37:33 20 Arizona Democratic Party.

09:37:38 21 MR. ATKINS: Alexander Atkins of Elias Law Group
09:37:38 22 for plaintiffs Mi Familia Vota and Voto Latino.

09:37:38 23 MR. DIAZ: Jonathan Diaz from Campaign Legal
09:37:38 24 Center on behalf of the LUCHA plaintiffs.

09:37:38 25 MR. HIRSCHER: I'm Andrew Hirschel from Arnold &

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1 Porter on behalf of Poder Latinx.
2 MR. HERRERA: Ernest Herrera on behalf of
3 Promise Arizona plaintiffs.
4 MS. BOUGHTON: Kathryn Boughton on behalf of the
5 State and Arizona Attorney General.
6 MS. STUART: Shayna Stuart on behalf of the
7 Arizona Secretary of State Adrian Fontes.
8 MR. LANGHOFER: Kory Langhofer for the RNC.
9 MS. PORTER: Hannah Porter on behalf of
10 Defendant Interveners Speaker Toma and President Petersen.
11 MR. GRIFFITH: I'm Gary Griffith. I'm
12 representing the Greenlee County Attorney -- sorry -- I'm
13 Greenlee County Attorney representing Greenlee County
14 Recorder Sharie Milheiro.
15 THE VIDEOGRAPHER: Will the court reporter
16 please swear in the witness.

17
18 SHARIE MILHEIRO,
19 a witness herein, having been first duly sworn by the
20 Certified Reporter to speak the truth and nothing but the
21 truth, was examined and testified as follows:
22
23 EXAMINATION
24 BY MS. RILEY-SWANBECK:
25 Q. Okay. Ms. Milheiro, could you please state your

09:39:23 1 full name for the record?

09:39:24 2 A. Sharie Milheiro.

09:39:26 3 Q. And just a few preliminary questions for you
09:39:30 4 about today's deposition.

09:39:32 5 Do you understand that you are testifying under
09:39:34 6 oath?

09:39:34 7 A. Yes.

09:39:35 8 Q. And do you understand that a court reporter is
09:39:38 9 transcribing this deposition?

09:39:40 10 A. Yes.

09:39:41 11 Q. So, with that in mind, please answer questions
09:39:46 12 fully rather than nodding, shaking your head, or saying
09:39:49 13 uh-huh or huh-uh. Is that okay?

09:39:52 14 A. Okay.

09:39:53 15 Q. So please let me know if you do not understand
09:39:57 16 one of my questions. I'm happy to repeat any part of it.
09:40:01 17 All right?

09:40:02 18 A. Okay.

09:40:02 19 Q. And so if I do ask a question and you answer it,
09:40:05 20 I will assume that you understood what I have asked. Is
09:40:09 21 that all right?

09:40:09 22 A. Right.

09:40:09 23 Q. And if at any time you would like for us to take
09:40:14 24 a break, just let me know. The only thing I would ask is
09:40:17 25 that if I have a question and you haven't answered it yet,

09:40:20 1 please answer the question and then ask to take a break.
09:40:23 2 Okay?
09:40:24 3 A. Okay.
09:40:24 4 Q. Is there anyone else in the room with you right
09:40:29 5 now?
09:40:29 6 A. My attorney.
09:40:31 7 Q. Anyone else?
09:40:32 8 A. That's it.
09:40:33 9 Q. Did you bring any materials with you today?
09:40:38 10 A. I brought the paperwork that was given to my
09:40:42 11 attorney to be printed out, and I brought the procedures
09:40:45 12 manual.
09:40:45 13 Q. Is there any reason that you can't give complete
09:40:51 14 and accurate testimony today?
09:40:52 15 A. No.
09:40:53 16 Q. So you understand that you're here in your
09:40:58 17 capacity as the Greenlee County Recorder, right?
09:41:00 18 A. Right.
09:41:01 19 Q. So you're not here in your individual capacity?
09:41:06 20 A. That's correct.
09:41:07 21 Q. So if I say you or your, can we both agree that
09:41:14 22 I mean your office or your offices?
09:41:16 23 A. Right.
09:41:16 24 Q. How long have you been the Greenlee County
09:41:21 25 Recorder?

09:41:21 1 A. I be -- I was appointed in 2019.

09:41:25 2 Q. Have you held any other roles in the office?

09:41:29 3 A. I was an administrative assistant beginning in
09:41:35 4 April of, I believe it's April 2018.

09:41:38 5 Q. As an administrative assistant, was that an
09:41:45 6 election administration role?

09:41:47 7 A. Yes.

09:41:48 8 Q. What were your responsibilities?

09:41:49 9 A. I helped with voter registration. I helped with
09:41:56 10 the elections during the 2018 election season. We also do
09:42:04 11 the recordings, so we are, we are, we are part of the
09:42:08 12 recorder functions as well. So we do the recorded
09:42:13 13 documents and that kind of stuff.

09:42:15 14 Q. So it's both elections and the other recording
09:42:19 15 responsibilities?

09:42:19 16 A. Right.

09:42:20 17 Q. Let's look at a few documents.
09:42:25 18 Can you look at what we've labeled as document
09:42:28 19 No. 1. It's the amended deposition notice. And let me
09:42:31 20 know when you have that in front of you.

09:42:33 21 A. I do have that in front of me, I believe.

09:42:36 22 Q. Have you seen this document before?

09:42:39 23 A. Yes.

09:42:43 24 Q. What is it?

09:42:44 25 A. It was just amending the deposition for my

09:42:48 1 office.

09:42:52 2 Q. Can you turn to page four of that document,
09:42:55 3 where it says topics?

09:42:57 4 A. Okay.

09:42:58 5 Q. So there's a pretty long list of topics there,
09:43:01 6 but did you review this list before the deposition?

09:43:03 7 A. I did.

09:43:04 8 Q. And are you prepared to address each of these
09:43:07 9 today?

09:43:08 10 A. Yes.

09:43:08 11 Q. Great. Thank you.

09:43:12 12 I'm going to have you turn to what we labeled as
09:43:15 13 document No. 2. It says, Defendant Greenlee County
09:43:20 14 Recorder Response to Request For Production.

09:43:22 15 Do you have that?

09:43:22 16 A. I do, yes.

09:43:24 17 Q. Do you recognize this document?

09:43:25 18 A. Yes.

09:43:28 19 Q. What is it?

09:43:29 20 A. It's my responses, I believe, to the first set
09:43:34 21 of request for production.

09:43:37 22 Q. You can take a second to look through, but do
09:43:43 23 you have any updates to your responses?

09:43:45 24 A. Not at this time, no.

09:43:46 25 Q. We'll move to what is --

09:43:51 1 And, excuse me. I'm so sorry, Karen. Could we
09:43:54 2 mark the deposition notice as Exhibit 238, and then the
09:44:04 3 RFP responses as 239. Apologies for that.

09:44:12 4 I'll have you look at what we've marked as
09:44:14 5 No. 3, which we will mark for identification as
09:44:20 6 Exhibit 240.

09:44:20 7 Do you have that in front of you?

09:44:22 8 A. Am I looking at the third document that was
09:44:29 9 presented?

09:44:30 10 Q. Yes.

09:44:30 11 A. Okay. That was the response to the consolidated
09:44:36 12 plaintiff's first set of requests for production.

09:44:40 13 Q. And do you recognize this document?

09:44:41 14 A. Yes, I do.

09:44:43 15 Q. Do you have any updates to your office's
09:44:46 16 responses?

09:44:49 17 A. No. Not at this time.

09:44:50 18 Q. And just one more. We are going to go to the
09:44:54 19 document that we have called No. 4, which --

09:44:58 20 A. Okay.

09:44:59 21 Q. -- I'll mark as Exhibit 241.

09:45:09 22 And do you recognize this document?

09:45:10 23 A. Yes, I do.

09:45:10 24 Q. What is it?

09:45:12 25 A. The response to consolidated plaintiff's first

09:45:16 1 set of interrogatories.

09:45:17 2 Q. You can take a look, but do you have any updates
09:45:22 3 to your office's response?

09:45:24 4 A. I don't believe so, no.

09:45:25 5 Q. Thank you.

09:45:29 6 You mentioned that you have the elections
09:45:34 7 procedure manual with you.

09:45:35 8 A. Yes.

09:45:35 9 Q. Can I assume that you're familiar with the
09:45:38 10 elections procedures manual?

09:45:40 11 A. Yes.

09:45:40 12 Q. Is the 2019 EPM, or elections procedures manual,
09:45:48 13 still the currently operative EPM?

09:45:54 14 A. It is.

09:45:55 15 Q. Does your office follow the EPM?

09:45:57 16 A. We do.

09:45:58 17 Q. Do you understand the EPM to be legally binding
09:46:02 18 on your office?

09:46:03 19 A. That is my understanding.

09:46:05 20 DEFENSE COUNSEL: Calls for legal conclusion.

09:46:09 21 BY MS. RILEY-SWANBECK:

09:46:09 22 Q. Does your office receive guidance from the
09:46:12 23 Secretary of State in any way other than through the EPM,
09:46:16 24 for example, via legal memoranda or emails?

09:46:20 25 DEFENSE COUNSEL: Form.

09:46:21 1 THE WITNESS: We do get emails from the
09:46:23 2 Secretary of State's Office occasionally.

09:46:25 3 BY MS. RILEY-SWANBECK:

09:46:25 4 Q. When you receive those emails do you follow the
09:46:28 5 guidance from the Secretary of State's Office?

09:46:32 6 A. We try to follow the guidance from the Secretary
09:46:35 7 of State, yes.

09:46:36 8 Q. Has your office seen the 2023 draft EPM?

09:46:42 9 A. We, we have, but we haven't really dove in real
09:46:53 10 deeply into it. We have viewed it.

09:46:56 11 Q. Have you provided any comments to the Secretary
09:47:00 12 of State's Office on the EPM?

09:47:01 13 A. No, I have not.

09:47:01 14 Q. Do you intend to provide comments?

09:47:08 15 A. At this time, no.

09:47:10 16 Q. We talked about the 2023 EPM, but in 2021 the
09:47:16 17 draft EPM was not approved as official by the Secretary of
09:47:21 18 State, right?

09:47:22 19 A. Right.

09:47:24 20 DEFENSE COUNSEL: Foundation.

09:47:26 21 BY MS. RILEY-SWANBECK:

09:47:27 22 Q. You understand that this litigation challenges
09:47:31 23 changes to Arizona law made by House Bills 2492 and 2243,
09:47:39 24 right?

09:47:39 25 A. Right.

09:47:39 1 Q. In general terms, what is your understanding of
09:47:42 2 what H.B. 2492 provides?

09:47:48 3 A. 2492 is requesting documentary proof of
09:47:54 4 citizenship as well as documentary proof of residency.

09:48:02 5 Q. And does it impose any obligations on your
09:48:05 6 office?

09:48:06 7 DEFENSE COUNSEL: Calls for legal conclusion.

09:48:10 8 BY MS. RILEY-SWANBECK:

09:48:10 9 Q. You can answer.

09:48:11 10 A. Okay. It does call for us to request proof of
09:48:15 11 citizenship or proof of residency to register to vote.

09:48:21 12 Q. In general terms, what's your understanding of
09:48:25 13 what H.B. 2243 does?

09:48:29 14 A. My general understanding is that it calls for
09:48:36 15 causes for cancelation, the different reasons for
09:48:39 16 canceling a voter from our voter rolls.

09:48:43 17 Q. Greenlee County is a part of the Arizona
09:48:51 18 Association of Counties, correct?

09:48:54 19 A. That is correct.

09:48:55 20 Q. And as a member your office can weigh in on
09:48:57 21 whether the association supports or opposes bills
09:49:01 22 introduced in the Arizona legislature, right?

09:49:04 23 A. Right.

09:49:05 24 Q. Will you please pull up what we have labeled as
09:49:09 25 Document 6, and we will introduce as Exhibit 242.

09:49:16 1 A. Okay.

09:49:17 2 Q. Are you familiar with this document?

09:49:20 3 A. Yes, I am.

09:49:21 4 Q. It's addressed to you, right?

09:49:25 5 A. Right.

09:49:25 6 Q. So in the body of the email it says, your name,
09:49:31 7 and then your analysis of H.B. 2492, voter registration,
09:49:40 8 verification, citizenship is displayed below.

09:49:44 9 Did I read that correctly?

09:49:46 10 A. Yes.

09:49:46 11 Q. And then near the bottom, next to recommended
09:49:49 12 position, it says, opposed, correct?

09:49:52 13 A. That is correct.

09:49:54 14 Q. Does that mean that your office opposed
09:49:59 15 H.B. 2492 at the time of this email?

09:50:00 16 A. At the time of that email, yes, we opposed.

09:50:04 17 Q. Why did your office oppose 2492 at that time?

09:50:08 18 A. From what I recall it was because the
09:50:14 19 citizenship requirements were in conflict with the federal
09:50:20 20 laws.

09:50:20 21 Q. Do you recall which federal laws you were
09:50:24 22 concerned about?

09:50:25 23 A. I believe it was the NAVRA laws, that this was
09:50:30 24 requiring more information for proof of citizenship.

09:50:37 25 Q. And then right above recommended position, it

09:50:41 1 says, projected impact, agree with other comments.

09:50:45 2 Did I read that right?

09:50:46 3 A. Yes.

09:50:47 4 Q. Do you recall what other comments you agreed
09:50:51 5 with?

09:50:52 6 A. I don't recall.

09:50:53 7 Q. Okay. Are you currently enforcing any part of
09:51:00 8 22 -- or excuse me -- 2492?

09:51:03 9 A. We've just been following the 2019 procedures
09:51:09 10 manual.

09:51:10 11 Q. So does that mean that you are not currently
09:51:13 12 enforcing H.B. 2492?

09:51:16 13 A. I mean, yeah, if that's -- right. Because we
09:51:24 14 are going by the 2019 procedures manual.

09:51:27 15 Q. Are you currently enforcing any parts of 2243?

09:51:33 16 A. No.

09:51:33 17 Q. So is your office currently holding any voter
09:51:41 18 registration applications in an indefinite pending status
09:51:45 19 until you receive guidance from the Secretary of State
09:51:47 20 about how to implement 2492 or 2243?

09:51:51 21 A. At this time, no.

09:51:52 22 Q. Other than the draft EPM that we talked about,
09:51:59 23 has your office received any guidance from any government
09:52:04 24 entity, including the Secretary of State, that addresses
09:52:07 25 the implementation of 2492 or 2243?

09:52:12 1 A. We have gotten guidance from the Secretary of
09:52:18 2 State's Office, but it is all pending litigation, and some
09:52:22 3 guidance is just a draft; it's not definite.

09:52:25 4 Q. What guidance have you received?

09:52:28 5 A. A basic -- from what I recall, some of the
09:52:34 6 guidance was that some of the laws could not be
09:52:40 7 implemented due to the federal laws that they would, that
09:52:45 8 they would break, from my recollection.

09:52:49 9 Q. Do you remember when you received that guidance?

09:52:52 10 A. I don't remember the date, no.

09:52:55 11 Q. Was it this year? Do you recall?

09:53:02 12 A. I believe it might have been at the end of last
09:53:05 13 year, but I can't remember.

09:53:06 14 Q. Do you recall any other communications with the
09:53:12 15 Secretary of State about the implementation of 2492?

09:53:19 16 A. There may have been some meetings that, where
09:53:23 17 they have talked about it, but I can't recall the details
09:53:26 18 of any of those.

09:53:27 19 Q. Has your office been a part of any discussions
09:53:32 20 with the Secretary of State about the implementation of
09:53:37 21 2243?

09:53:37 22 A. Yes.

09:53:39 23 Q. What were those communications?

09:53:45 24 A. Again, I don't recall the specifics. I'm sure
09:53:52 25 we had conversations through meetings, and potentially

09:53:56 1 through emails, but I do not recall the specifics.

09:53:59 2 Q. Do you remember maybe when those communications
09:54:04 3 were?

09:54:05 4 A. I believe a lot of was done towards the end of
09:54:10 5 2022, and then, you know, in between January and now
09:54:16 6 there's probably been a few as well.

09:54:22 7 Q. So you mentioned that your office is following
09:54:24 8 the 2019 EPM, right?

09:54:27 9 A. Right.

09:54:28 10 Q. Do you have plans to enforce the portions of
09:54:34 11 2492 and 2243 directed at County Recorders even if a new
09:54:38 12 EPM is not approved?

09:54:40 13 A. I would be going by the guidance of my attorney
09:54:50 14 at that point.

09:54:52 15 Q. Let's discuss your office's use of some of the
09:54:55 16 databases in the voter registration process.

09:54:59 17 Are you familiar with the Arizona Voter
09:55:01 18 Information Database, or AVID?

09:55:04 19 A. Yes, I am.

09:55:05 20 Q. What is AVID?

09:55:07 21 A. That is our voter registration program that is
09:55:12 22 facilitated by the state through 13 counties.

09:55:17 23 Q. So does your office use AVID, then, as a part of
09:55:20 24 your voter registration efforts?

09:55:25 25 A. Yes, we do.

09:55:26 1 Q. Can you describe how you use AVID?

09:55:28 2 A. We use AVID to register our voters, make changes
09:55:35 3 to voter records when necessary, and to send out our early
09:55:43 4 ballots.

09:55:44 5 Q. So the information that an applicant provides on
09:55:50 6 their voter registration form, does that -- do you enter
09:55:54 7 that into AVID?

09:55:55 8 A. Yes, we do.

09:55:56 9 Q. Is AVID used at all in determining, or in
09:56:01 10 verifying whether a registrant is a U.S. citizen?

09:56:06 11 A. Yes, it is.

09:56:07 12 Q. How is AVID, how is AVID used?

09:56:12 13 A. There's a function of AVID called a HAVA check,
09:56:17 14 which runs the driver's license number and the social,
09:56:22 15 last four of the social security number against the Motor
09:56:28 16 Vehicle database and, I believe, the, through the Social
09:56:35 17 Security Administration to verify identity or citizenship.

09:56:39 18 Q. Let's look at H.B. 2492. So this is No. 7 of
09:56:45 19 the documents I sent, and it has previously been marked in
09:56:52 20 another deposition as Exhibit 19. And so if you'll turn
09:56:58 21 to page four, near the bottom there, at line 35.

09:57:04 22 A. Okay.

09:57:05 23 Q. And do you see subsection D?

09:57:10 24 A. On line 35? Yes.

09:57:14 25 Q. So this section says:

09:57:17 1 Within ten days after receiving an application
09:57:20 2 for registration on a form produced by the United States
09:57:25 3 Election Assistance Commission that is not accompanied by
09:57:29 4 satisfactory evidence of citizenship, the County Recorder
09:57:32 5 or other officer in charge of elections shall use all
09:57:35 6 available resources to verify the citizenship status of
09:57:38 7 the applicant and, at minimum, shall compare the
09:57:42 8 information available on the application for registration
09:57:45 9 with the following, provided the county has access.

09:57:49 10 Did I read that right?

09:57:50 11 A. Yes.

09:57:51 12 Q. And then it goes on to list a number of
09:57:53 13 databases, correct?

09:57:55 14 A. Correct.

09:57:55 15 Q. The first listed database is the Department of
09:58:02 16 Transportation databases of Arizona driver licenses or
09:58:04 17 nonoperating identification licenses.

09:58:07 18 Are you familiar with the Arizona Department of
09:58:11 19 Transportation databases?

09:58:12 20 A. I don't have direct access to the Motor Vehicle.
09:58:21 21 I have access through the AVID program.

09:58:24 22 Q. So your office uses AVID to match registrants
09:58:29 23 with data in the databases, correct?

09:58:32 24 A. Correct.

09:58:33 25 Q. And so does your office use, I'll say ADOT,

09:58:39 1 rather than going through the whole term, but does your
09:58:42 2 office use ADOT data to confirm a registrant's driver's
09:58:49 3 license information?

09:58:50 4 A. Through the AVID program, yes.

09:58:51 5 Q. Are driver's license the most common form of
09:58:55 6 documentary proof of citizenship, or DPOC, that your
09:59:00 7 office receives?

09:59:01 8 A. Yes, it is.

09:59:02 9 Q. So, but what happens if an applicant's driver's
09:59:08 10 license cannot be verified in the ADOT databases?

09:59:13 11 A. We look to other ways to identify the voter
09:59:19 12 through the social security, last four of the social
09:59:24 13 security number.

09:59:28 14 Q. So is that the only way that you could then
09:59:31 15 identify the voter, through the use of the social security
09:59:34 16 database?

09:59:35 17 A. We could potentially also use the SAVE program,
09:59:39 18 with enough information on the voter registration record.

09:59:44 19 Q. Okay. What would you, what information would
09:59:47 20 you need for the SAVE program?

09:59:48 21 A. Honestly, I have not used the SAVE program in
09:59:55 22 quite some time, so I can't recall exactly what all I
10:00:01 23 would need.

10:00:02 24 Q. Okay. Are there driver's licenses that would be
10:00:08 25 too old to be looked up through AVID and the ADOT

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10:00:59 17
10:01:01 18
10:01:05 19
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10:01:22 25

databases?

A. Not that I'm aware of.

Q. Are you aware that there are different types of driver's license in Arizona?

A. Yes.

Q. Are you familiar with the F-type license?

A. Yes.

Q. What is an F-type license?

A. My understanding, the F-type license is an individual who is not a citizen but is authorized to be in the state.

Q. So when you're attempting to match registrant's with the ADOT system, if the database shows that an applicant has a driver's license that is an F-type license, is the assumption that that person is a non-citizen?

A. That would be the assumption.

Q. But an F-type license can only provide information about the person's citizenship as of the time that they receive the license, right?

DEFENSE COUNSEL: Form.

THE WITNESS: That was my understanding.

BY MS. RILEY-SWANBECK:

Q. Do you know how long Arizona driver's licenses are valid?

10:01:24 1 A. I do not.

10:01:25 2 Q. Do you know if it's more than, more or less than
10:01:33 3 ten years?

10:01:34 4 A. I do not know.

10:01:35 5 Q. Okay. Has your office ever encountered an
10:01:40 6 individual with an F-type license who is a citizen?

10:01:44 7 A. Not that I'm aware of.

10:01:46 8 Q. Okay. If an applicant's driver's license is
10:01:52 9 expired, are you still able to use that information to
10:01:56 10 verify their citizenship?

10:01:58 11 A. We would run their information back through a
10:02:04 12 HAVA check.

10:02:04 13 Q. And that would tell you whether or not they're a
10:02:10 14 citizen?

10:02:11 15 A. That would tell me if the expired license has
10:02:16 16 been, is still expired. And, if it's not, it would, it
10:02:22 17 would identify whether the person was a citizen.

10:02:25 18 Q. But if the license is expired, would that
10:02:30 19 provide you with any information one way or the other?

10:02:33 20 A. I, I'm not sure. I, I have not come across that
10:02:40 21 scenario.

10:02:42 22 Q. What if an applicant provides an out-of-state
10:02:46 23 driver's license as their documentary proof of
10:02:50 24 citizenship? What does your office do then?

10:02:51 25 A. I, from what I recall, some states have an

10:02:54 1 identifier that they have been verified as a citizen on
10:02:59 2 the driver's license, and we would check for that.

10:03:02 3 Q. So, in that case, you are not using the
10:03:09 4 databases, you're just looking to whatever is on the face
10:03:13 5 of the license?

10:03:13 6 A. If we have it in front of us, yes.

10:03:16 7 Q. If a person is from a state that does not say on
10:03:22 8 the driver's license whether or not they're a citizen,
10:03:25 9 what do you do with that out-of-state license?

10:03:28 10 A. We notate the driver's license, but we can't
10:03:35 11 really do anything with that.

10:03:36 12 Q. So you would need additional information from
10:03:39 13 that person?

10:03:39 14 A. Right.

10:03:40 15 Q. Does your office use ADOT data in ways other
10:03:47 16 than by looking up driver's license numbers?

10:03:50 17 A. No.

10:03:51 18 Q. Can you use the data to confirm a registrant's
10:03:57 19 identity and eligibility if they don't provide a driver's
10:04:01 20 license number at all?

10:04:02 21 A. We can run them through the social security.

10:04:06 22 Q. But you can't use the ADOT data, right?

10:04:12 23 A. If it's not provided, right.

10:04:14 24 Q. Has your office encountered instances where a
10:04:21 25 voter registration applicant who was a U.S. citizen was

10:04:24 1 wrongly flagged as a non-citizen by a search of the ADOT
10:04:29 2 or MVD driver's license databases?

10:04:31 3 A. We were made aware by the Secretary of State's
10:04:35 4 Office that this had happened.

10:04:37 5 Q. When did that happen?

10:04:41 6 A. I believe it was sometime at the beginning of
10:04:45 7 this year, but I can't recall certain dates. I'm not
10:04:49 8 certain on that.

10:04:50 9 Q. Are you familiar with the term, fed voter or
10:04:57 10 federal-only voter?

10:04:58 11 A. Yes.

10:04:59 12 Q. What does it mean if a voter has a federal-only
10:05:03 13 voter status?

10:05:04 14 A. If the voter is a fed-only voter, typically it
10:05:09 15 is because they have not provided proof of citizenship but
10:05:13 16 have sworn that they are a citizen.

10:05:15 17 Q. You mentioned that you were made aware of a
10:05:21 18 situation from the Secretary of State. Is that the
10:05:26 19 incident last year where the database matching software
10:05:31 20 caused thousands of voters to be downgraded to
10:05:35 21 federal-only status? Is that what you're talking about?

10:05:39 22 DEFENSE COUNSEL: Form.

10:05:39 23 THE WITNESS: I'm not, I'm not sure how many
10:05:42 24 voters were affected. I only know what was for Greenlee
10:05:48 25 County. I'm assuming, or I -- I'm not sure if that was

10:05:52 1 the same incident or not, but I --

2 DEFENSE COUNSEL: The question was -- I'm sorry.

3 Go ahead.

4 (The Reporter requested clarification.)

5 MR. LANGHOFER: It's Kory Langhofer. I was

6 going to say the question mischaracterizes the evidence.

10:06:04 7 But I didn't mean to cut off your answer, ma'am. Go

10:06:07 8 ahead.

10:06:07 9 THE WITNESS: No, I, I, I was done.

10:06:09 10 BY MS. RILEY-SWANBECK:

10:06:13 11 Q. Turn to what we marked as No. 8, which we will

10:06:17 12 mark as Exhibit 243. And you can take a second to read

10:06:26 13 this document.

10:06:30 14 Do you recognize this document? I know the font

10:06:38 15 is a little small.

10:06:59 16 A. Yes, I do recall this.

10:07:01 17 Q. What is, what is this document?

10:07:04 18 A. This was an email from the representative from

10:07:10 19 the Secretary of State's Office, I believe, regarding the

10:07:17 20 MVD record, or the malfunction of MVD to our AVID program

10:07:25 21 listing voters as fed-only.

10:07:31 22 Q. Is this what you were referring to when you

10:07:33 23 answered my question about the databases erroneously

10:07:38 24 marking people as non-citizens?

10:07:41 25 A. Yes.

10:07:41 1 Q. And so, in this incident, already registered
10:07:49 2 voters who had shown proof of citizenship were downgraded
10:07:53 3 to federal-only status, right?

10:07:56 4 A. That is my understanding.

10:07:58 5 Q. Does this say anything to you about the
10:08:01 6 reliability about the database matching process to assess
10:08:06 7 a person's citizenship status?

10:08:09 8 DEFENSE COUNSEL: Form and foundation.

10:08:12 9 THE WITNESS: Are you asking whether the Motor
10:08:19 10 Vehicle program is reliable?

10:08:22 11 BY MS. RILEY-SWANBECK:

10:08:25 12 Q. Do you believe that the Motor Vehicle program is
10:08:27 13 reliable to assess a person's current citizenship status?

10:08:34 14 DEFENSE COUNSEL: Form, foundation.

10:08:37 15 THE WITNESS: I believe the program is not full
10:08:44 16 proof, but overall has been reliable.

10:08:50 17 BY MS. RILEY-SWANBECK:

10:08:51 18 Q. Do you think it's possible that if people could
10:08:55 19 erroneously be identified as not having shown DPOC, as
10:09:00 20 they were here, that they could be erroneously identified
10:09:04 21 as non-citizens under 2492 and 2243's procedures?

10:09:14 22 DEFENSE COUNSEL: Form, foundation. Calls for
10:09:15 23 speculation.

10:09:18 24 THE WITNESS: Can you repeat the question,
10:09:19 25 please?

10:09:19 1 BY MS. RILEY-SWANBECK:

10:09:19 2 Q. Of course.

10:09:20 3 Is it possible that if people could be
10:09:22 4 erroneously identified as not having shown DPOC, as they
10:09:26 5 did in this incident, that they could also be erroneously
10:09:29 6 identified as non-citizens under H.B. 2492 and 2243's
10:09:36 7 requirements?

10:09:38 8 A. Because I don't know Motor Vehicle's system, I
10:09:44 9 can't really respond to the reliability of their system,
10:09:49 10 other than, according to this incident, I feel like it
10:09:54 11 could happen again.

10:09:56 12 Q. Are you familiar with the Electronic
10:09:58 13 Registration Information Center, or ERIC?

10:10:02 14 A. Yes.

10:10:03 15 Q. What is ERIC?

10:10:04 16 A. ERIC is a list maintenance program.

10:10:11 17 Q. Does your office use ERIC?

10:10:13 18 A. We do.

10:10:13 19 Q. Can you describe your office's use of ERIC?

10:10:17 20 A. We use ERIC to compare registrations to see if
10:10:26 21 voters are registered in another state that are also
10:10:30 22 registered within Greenlee County.

10:10:35 23 Q. Do you use ERIC at all to determine whether a
10:10:40 24 registrant is a U.S. citizen?

10:10:41 25 A. No. Not that I'm aware of, no.

10:10:43 1 Q. Do you think that you could use ERIC to
10:10:46 2 determine whether someone is a U.S. citizen?

10:10:49 3 A. I believe ERIC is a list maintenance program and
10:10:54 4 is not intended for verifying citizenship.

10:10:57 5 Q. Let's go back to 2492, so that's No. 7, I
10:11:07 6 believe. We're still on page four at the very bottom.

10:11:13 7 The second listed database is the Social
10:11:18 8 Security Administration database.

10:11:19 9 Do you see that?

10:11:19 10 A. Yes.

10:11:20 11 Q. Are you familiar with the Social Security
10:11:24 12 Administration, or SSA, database?

10:11:26 13 A. As it relates to AVID, yes.

10:11:29 14 Q. So you said earlier that you use the SS database
10:11:36 15 with AVID? Is that correct?

10:11:37 16 A. Through AVID. That is correct.

10:11:39 17 Q. So do you have any independent access to the
10:11:43 18 database, apart from AVID?

10:11:46 19 A. I do not.

10:11:47 20 Q. Could it be used to verify citizenship status?

10:11:52 21 A. I believe so.

10:11:56 22 Q. Do you know how?

10:11:58 23 A. It would run the, through AVID it would run
10:12:05 24 social security number against the Social Security
10:12:08 25 Administration database verifying the identity of that

10:12:12 1 voter.

10:12:15 2 Q. So if a person did not provide a social security
10:12:19 3 number, would you be able to use that system?

10:12:21 4 A. No.

10:12:22 5 Q. Let's turn the page on 2492. We'll be at the
10:12:28 6 top of page five. And the third database listed is the
10:12:34 7 United States Citizenship and Immigration Service's
10:12:39 8 Systematic Alien Verification for Entitlements Program. A
10:12:42 9 little bit of a mouthful, but I think we've talked about
10:12:46 10 that as SAVE. Is that right?

10:12:48 11 A. Right.

10:12:48 12 Q. Are you familiar with SAVE?

10:12:50 13 A. Vaguely familiar with SAVE, yes.

10:12:54 14 Q. Can you explain what SAVE, what the SAVE
10:12:57 15 database is?

10:12:58 16 A. From my understanding the SAVE database would
10:13:05 17 verify if somebody has become a naturalized citizen.

10:13:13 18 Q. And earlier, did you say that your office does
10:13:16 19 have access to the SAVE database?

10:13:18 20 A. Yes.

10:13:19 21 Q. How do you, how do you use SAVE?

10:13:23 22 A. We haven't had to use SAVE in, probably, several
10:13:33 23 years, to my recollection, but we would use the SAVE
10:13:37 24 program if we had somebody that we could not verify
10:13:41 25 whether they were a citizen, and the information would

10:13:46 1 then be run against the SAVE program.

10:13:52 2 Q. Are there processes for using SAVE that you must
10:13:55 3 follow?

10:13:55 4 A. I, I'm sure there is, but I'm not sure what the
10:14:03 5 processes would be. We haven't used it.

10:14:06 6 Q. Do you know where the processes come from?

10:14:10 7 A. We would access that through the Secretary of
10:14:15 8 State.

10:14:15 9 Q. And that's through the Arizona Secretary of
10:14:21 10 State?

10:14:21 11 A. Right.

10:14:23 12 Q. When you say you would access it through the
10:14:27 13 Secretary of State, does that mean through a system that
10:14:30 14 the Secretary of State has provided?

10:14:32 15 A. From my recollection, they gave us access
10:14:38 16 through, to the SAVE program, so I, again, we have not
10:14:44 17 used that system. I'm, I'm guessing that that would be
10:14:49 18 some sort of a web link that we would have to access it.

10:14:53 19 Q. Do you recall whether your office has entered
10:15:00 20 into any agreements with USCIS about the SAVE database?

10:15:07 21 A. We entered into agreements through the Secretary
10:15:11 22 of State's Office to have access to that program.

10:15:13 23 Q. Do you know if those existing agreements would
10:15:16 24 cover the use of SAVE that 2492 requires?

10:15:23 25 DEFENSE COUNSEL: Calls for legal conclusion.

10:15:26 1 BY MS. RILEY-SWANBECK:

10:15:27 2 Q. You can answer.

10:15:28 3 A. Okay. Yeah, I would imagine it would, we would
10:15:33 4 be able to use the SAVE program.

10:15:36 5 Q. And so you can use SAVE to look up whether an
10:15:39 6 applicant is a naturalized citizen, right?

10:15:42 7 A. Right.

10:15:42 8 Q. And, in order to look up an applicant, you would
10:15:47 9 need their alien registration number, or their A number,
10:15:51 10 right?

10:15:52 11 A. That is my understanding.

10:15:53 12 Q. Or you could use their, the number on their
10:15:59 13 naturalization certificate, right?

10:16:01 14 A. That is to my understanding.

10:16:04 15 Q. And I understand that you said that it's been a
10:16:08 16 while, so...

10:16:10 17 Do you recall how you would obtain an
10:16:12 18 applicant's A number or their naturalization certificate
10:16:16 19 number?

10:16:16 20 A. I believe they are allowed to write that on the
10:16:20 21 voter registration form.

10:16:23 22 Q. Could you look up an applicant's information if
10:16:27 23 you did not have their A number or their naturalization
10:16:32 24 certificate number through SAVE?

10:16:33 25 A. Because I haven't used SAVE in that I don't know

10:16:40 1 what is required. I would have to view the program to see
10:16:45 2 what it requires.

10:16:46 3 Q. Do you know what your office would do if SAVE
10:16:50 4 returned no matches to a record?

10:16:55 5 A. If it did not, if it did not have a match, I
10:16:59 6 believe we would send notification to the, to the
10:17:05 7 registrant to provide more information.

10:17:09 8 Q. So then are you familiar with SAVE's alternative
10:17:18 9 verification procedures?

10:17:19 10 A. No.

10:17:20 11 Q. So the SAVE database cannot be used to verify
10:17:32 12 the citizenship status of someone who is a natural born
10:17:36 13 citizen, correct?

10:17:37 14 A. That's my understanding.

10:17:38 15 Q. So it could only confirm naturalization or
10:17:44 16 derivative citizenship from a parent, right?

10:17:47 17 A. That is what I understand, yes.

10:17:49 18 Q. Does your office currently use the ADOT or SAVE
10:17:57 19 database to check existing registrant's citizenship
10:18:00 20 status?

10:18:02 21 A. If they are an existing registrant, we wouldn't
10:18:07 22 run it again without reason.

10:18:10 23 Q. Back to our list of databases in 2492.

10:18:18 24 The fourth is a National Association For Public
10:18:23 25 Health Statistics and Information Systems Electronic

10:18:28 1 Verification of Vital Events System, right?

10:18:31 2 A. Right.

10:18:31 3 Q. Have you ever heard of the National Association
10:18:35 4 For Public Health Statistics and Information System, or
10:18:44 5 NAPHSIS?

10:18:44 6 A. I have not.

10:18:45 7 Q. So does that mean you are not familiar with
10:18:48 8 NAPHSIS's electronic verification of vital events, or EVVE
10:18:53 9 database?

10:18:54 10 A. I'm not aware -- I never use that. I am not
10:18:58 11 aware of that.

10:18:59 12 Q. Are there any other databases that your office
10:19:02 13 uses to look up voter registrants or verify their
10:19:06 14 citizenship status?

10:19:07 15 A. No.

10:19:07 16 Q. Are you aware that 2492 states that your office
10:19:15 17 must use any other state, city, town, county, or federal
10:19:20 18 database, and any other database relating to voter
10:19:25 19 registration?

10:19:26 20 A. I understood that that was in the bill. My
10:19:32 21 understanding was that if it was applicable, which we
10:19:38 22 don't have, that I'm aware of, we don't have access to.

10:19:43 23 Q. And is that you don't have access to any other
10:19:48 24 databases?

10:19:48 25 A. That I'm aware of, no.

10:19:50 1 Q. Do you know what databases that language is
10:19:54 2 referring to, or might be referring to?

10:19:58 3 DEFENSE COUNSEL: Calls for legal conclusion.

10:20:02 4 BY MS. RILEY-SWANBECK:

10:20:02 5 Q. You can go ahead.

10:20:03 6 A. I'm assuming it's regarding, maybe like the
10:20:13 7 health department, through their records.

10:20:15 8 Q. Would that be the Arizona Health Department?

10:20:19 9 A. Right.

10:20:19 10 Q. Are you familiar with what records they have
10:20:25 11 available that would be useful for determining
10:20:28 12 citizenship?

10:20:29 13 A. I believe they are the vital statistics, so they
10:20:35 14 would be able to provide a birth certificate.

10:20:37 15 Q. But you do not currently have access to that
10:20:43 16 database?

10:20:43 17 A. Not that I'm aware of, no.

10:20:45 18 Q. Are you aware that H.B. 2492 states that your
10:20:50 19 office must use all available resources to verify
10:20:55 20 citizenship of a federal form applicant who fails to
10:20:58 21 provide proof of, documentary proof of citizenship?

10:21:04 22 A. I did read that, yes.

10:21:05 23 Q. If a law tells your office to use all available
10:21:10 24 resources to perform, to perform these database searches,
10:21:15 25 what do you understand that to mean?

10:21:16 1 A. I understand that --

10:21:19 2 DEFENSE COUNSEL: Calls for legal conclusion.

10:21:25 3 BY MS. RILEY-SWANBECK:

10:21:26 4 Q. And you can go ahead and answer.

10:21:27 5 A. I -- I'm sorry. Can you repeat the question?

10:21:31 6 Q. Of course. If a law tells your office to use

10:21:34 7 all available resources to perform these database

10:21:39 8 searches, what do you understand that to mean?

10:21:41 9 DEFENSE COUNSEL: Same objection.

10:21:43 10 THE WITNESS: I understand that to mean any

10:21:47 11 resource that we have available to us.

10:21:49 12 BY MS. RILEY-SWANBECK:

10:21:53 13 Q. We're going to go back to 2492. And can you go

10:21:56 14 to line 14. Same page that we're on, so page five. And

10:22:05 15 it reads:

10:22:06 16 If the County Recorder or other officer in

10:22:09 17 charge of elections matches the applicant with information

10:22:12 18 that the applicant is not a United States citizen, the

10:22:16 19 County Recorder or other officer in charge of elections

10:22:19 20 shall reject the application.

10:22:22 21 Did I read that right?

10:22:23 22 A. Yes.

10:22:24 23 Q. What is your understanding of the phrase,

10:22:27 24 information that the applicant is not a United States

10:22:30 25 citizen?

10:22:32 1 DEFENSE COUNSEL: Calls for a legal conclusion.

10:22:43 2 THE WITNESS: I would imagine that any other
10:23:04 3 information would, would be the SAVE program where it
10:23:09 4 might say that they are something other than a citizen.
10:23:15 5 And, in that case, it says we should reach out to that.

10:23:23 6 BY MS. RILEY-SWANBECK:

10:23:23 7 Q. So if I understood you correctly, information
10:23:25 8 that the applicant is not a United States citizen would be
10:23:29 9 information from the SAVE database? Is that correct?

10:23:31 10 A. That's the way I understand it.

10:23:34 11 Q. Are there other valid sources of information
10:23:41 12 that someone is not a United States citizen?

10:23:44 13 DEFENSE COUNSEL: Same objection.

10:23:47 14 THE WITNESS: I don't know what other sources
10:23:50 15 would, would be able to validate that information.

10:23:55 16 BY MS. RILEY-SWANBECK:

10:23:56 17 Q. Has the Secretary of State's office ever given
10:23:59 18 your office a list of the types of information that would
10:24:03 19 constitute evidence of a lack of U.S. citizenship?

10:24:07 20 A. The only one that I can recall is part of that
10:24:12 21 SAVE program where it would indicate that the person was
10:24:16 22 not a citizen, or the F-type license would also indicate
10:24:30 23 the voter is not a citizen.

10:24:33 24 Q. So the Secretary of State's Office has provided
10:24:37 25 you with a list that includes the SAVE database and the

10:24:43 1 F-type license as evidence?

10:24:46 2 A. That would be through the 2019 procedures
10:24:49 3 manual, right.

10:24:50 4 Q. Have they ever provided you with any other
10:24:55 5 guidance about what types of information constitute
10:24:59 6 evidence that an applicant is not a U.S. citizen?

10:25:04 7 A. I would imagine if there's anything more it
10:25:07 8 would be in the procedures manual, which I cannot recall
10:25:10 9 at this time.

10:25:10 10 Q. If a database like SAVE stated that a person was
10:25:18 11 not a citizen at some point in the past, would your office
10:25:22 12 treat that as information that the person is not is a
10:25:25 13 United States citizen today for purposes of implementing
10:25:30 14 2492?

10:25:31 15 DEFENSE COUNSEL: Same objection.

10:25:34 16 THE WITNESS: If I understand this correctly,
10:25:39 17 the, if the voter has since become a citizen, the SAVE
10:25:47 18 results that were done in the past would not -- the SAVE
10:25:53 19 results that indicated that it was not, the person was not
10:25:56 20 a citizen would not be relevant if they have since become
10:26:00 21 a citizen and we were able to verify that.

10:26:02 22 BY MS. RILEY-SWANBECK:

10:26:04 23 Q. How would you verify that a person has since
10:26:07 24 become a citizen if the databases are not updated?

10:26:11 25 A. If, well, if the database is not updated, I

10:26:16 1 don't see how we would be able to validate that.

10:26:19 2 Q. Let me give you another specific example.

10:26:23 3 So if a HAVA check reflects that an applicant
10:26:26 4 was issued an F-type license 20 years ago, would your
10:26:32 5 office consider that information that today that person is
10:26:34 6 not a U.S. citizen?

10:26:36 7 DEFENSE COUNSEL: Same objection.

10:26:42 8 THE WITNESS: No.

10:26:42 9 BY MS. RILEY-SWANBECK:

10:26:42 10 Q. I'm sorry. Could you repeat your answer?

10:26:44 11 A. No.

10:26:45 12 Q. And why not?

10:26:46 13 A. Because we would be able to validate citizenship
10:26:50 14 through the current HAVA check.

10:26:52 15 Q. How would you verify citizenship through the
10:26:56 16 current HAVA check?

10:26:57 17 A. Through the current HAVA check we would have a
10:27:01 18 driver's license and social security number to verify.

10:27:04 19 Q. And so even if the person still has an F-type
10:27:12 20 license, you would be able to verify that they are today a
10:27:18 21 citizen?

10:27:19 22 A. If they have, if they still have an F-type
10:27:22 23 license, I would not be able to verify citizenship.

10:27:26 24 Q. If they still have an F-type license what
10:27:31 25 procedures would your office follow after you received

10:27:33 1 that information?

10:27:33 2 A. We would follow the 2019 procedures manual in
10:27:41 3 regards to the F-type license.

10:27:43 4 Q. Do you currently recall what the procedures
10:27:49 5 manual says?

10:27:50 6 A. From what I recall, for an F-type license we
10:27:53 7 would mark them as unregistered.

10:27:57 8 Q. What happens when a person has been marked as
10:28:03 9 unregistered?

10:28:04 10 A. They would not, they would not be registered
10:28:07 11 into the system.

10:28:08 12 Q. So if some other database, so not your AVID
10:28:12 13 database, contains data showing a person was not a U.S.
10:28:19 14 citizen 20 years ago, would that be information that today
10:28:22 15 that person is not a citizen?

10:28:24 16 DEFENSE COUNSEL: Same objection.

10:28:25 17 THE WITNESS: I'm sorry. Can you repeat the
10:28:27 18 question?

10:28:27 19 BY MS. RILEY-SWANBECK:

10:28:28 20 Q. Of course.

10:28:28 21 So if some other database, so not the MVD or
10:28:33 22 AVID database, contains data showing that a person was not
10:28:38 23 a U.S. citizen 20 years ago, would that, is that
10:28:41 24 information showing that today the person is not a U.S.
10:28:47 25 citizen?

10:28:48 1 DEFENSE COUNSEL: Same objection.

10:28:49 2 THE WITNESS: I don't believe that would be
10:28:53 3 information that today the person is not a citizen. It
10:28:58 4 only reflects what was done back then.

10:29:02 5 BY MS. RILEY-SWANBECK:

10:29:05 6 Q. I'd like to discuss voting by mail with you for
10:29:14 7 a little bit.

10:29:16 8 In Arizona, absentee ballots are called early
10:29:20 9 ballots, correct?

10:29:20 10 A. That's correct.

10:29:21 11 Q. And Arizona currently allows all registered
10:29:25 12 voters to vote by early ballot, correct?

10:29:29 13 A. Not all early voters. If --

10:29:36 14 Q. Go ahead.

10:29:36 15 A. If a voter has not provided proof of identity or
10:29:42 16 citizenship, and we cannot verify that information, they
10:29:48 17 would, if I remember correctly, they would then have to
10:29:54 18 present some form of identification to be able to be on
10:30:02 19 the early vote list.

10:30:03 20 Q. And is that under 2492?

10:30:07 21 A. I actually believe that is part of the 2019
10:30:12 22 procedures manual.

10:30:12 23 Q. Okay. Is it fair to say that early ballot
10:30:19 24 voting is common in Greenlee County?

10:30:23 25 A. Yes.

10:30:24 1 Q. Do you know what percentage of Greenlee County
10:30:26 2 voters voted by early ballot in the 2022 general election?
10:30:30 3 A. I can't recall a percentage.
10:30:32 4 Q. Do you know if it was a majority?
10:30:34 5 A. I, I cannot recall.
10:30:38 6 Q. Based on your experience as an election
10:30:43 7 official, are there benefits to voters being able to use
10:30:47 8 an early ballot?
10:30:48 9 A. I believe that it can be a benefit for people
10:30:55 10 that are not able to go to the polling locations.
10:31:00 11 Q. And the early ballots that Greenlee County sends
10:31:05 12 out have prepaid return postage, right?
10:31:08 13 A. Right.
10:31:08 14 Q. So a voter can just complete the ballot and drop
10:31:12 15 it in the mail, right?
10:31:13 16 A. Right.
10:31:13 17 Q. And that voter would not need to arrange
10:31:19 18 transportation to a polling location, right?
10:31:22 19 A. Right.
10:31:22 20 Q. A voter who uses an early ballot to vote does
10:31:25 21 not have to plan on going to the polling place around
10:31:29 22 work.
10:31:30 23 A. Right.
10:31:30 24 Q. And an early ballot voter does not need to stand
10:31:37 25 in line to vote.

10:31:37 1
10:31:38 2
10:31:45 3
10:31:49 4
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10:32:02 8
10:32:07 9
10:32:07 10
10:32:08 11
10:32:12 12
10:32:16 13
10:32:19 14
10:32:23 15
10:32:24 16
10:32:28 17
10:32:34 18
10:32:35 19
10:32:38 20
10:32:41 21
10:32:44 22
10:32:45 23
10:32:54 24
10:32:57 25

A. Right.

Q. Sometimes voters who live in Greenlee County are outside of Arizona or outside of the county on election day, right?

A. Right.

Q. But you understand that under H.B. 2492, voters who do not supply documentary proof of citizenship will not be permitted to vote by mail with an early ballot, right?

A. Right.

Q. You agree that these voters impacted by 2492 would lose the benefits that we just discussed about voting an early ballot by mail?

A. Meaning, voters who do not provide citizenship?

Q. Yes.

A. They would lose the ability to vote early by mail, yes.

MS. RILEY-SWANBECK: Thank you, Ms. Milheiro. I have no further questions, but I think it might be a good time for us to take a quick break, and I believe some of the other plaintiffs will have a few questions for you.

THE WITNESS: Okay.

THE VIDEOGRAPHER: We are off the record. Time the video monitor is 10:32 a.m.

(Recess taken from 10:32 a.m. to 10:42 a.m.)

10:42:02 1 THE VIDEOGRAPHER: We are on the record. Time
10:42:07 2 on the video monitor is 10:42 a.m.

10:42:07 3

10:42:07 4 EXAMINATION

10:42:07 5 BY MR. DIAZ:

10:42:12 6 Q. Okay. Good morning, Ms. Milheiro. My name is
10:42:15 7 Jonathan Diaz. I represent one of the other plaintiff
10:42:18 8 groups in this case. I have a few questions for you about
10:42:21 9 the documentary proof of residence requirement in the laws
10:42:27 10 that we are talking about today.

10:42:28 11 So, in order to register to vote, an applicant
10:42:31 12 is required to provide their residential address or, if
10:42:35 13 they don't have a residential address, a description or
10:42:38 14 drawing of the location of their residence. Is that
10:42:38 15 right?

10:42:41 16 A. Right.

10:42:42 17 Q. And can a PO box be used to meet that
10:42:46 18 requirement?

10:42:46 19 A. No.

10:42:46 20 Q. And how does your office use resident address or
10:42:53 21 the location information for voter registration?

10:42:55 22 A. We use that information to put them in the right
10:43:05 23 voting precinct.

10:43:09 24 Q. Okay. So let's talk about that in a little more
10:43:12 25 detail.

10:43:12 1 If someone provides you with a residential
10:43:15 2 street address, how do you use that information to locate
10:43:18 3 where the residence is?

10:43:19 4 A. Well, we would, we would use that information
10:43:26 5 off of -- and compare it to the location for the, where
10:43:34 6 the district or precinct lies.

10:43:37 7 Q. Can you look up the address in a database?

10:43:40 8 A. In our AVID program it does have an address
10:43:47 9 database.

10:43:47 10 Q. Is it ever the case that you put in a
10:43:50 11 residential address and you aren't able to locate it in
10:43:53 12 the AVID database?

10:43:54 13 A. That I'm aware of, no.

10:43:56 14 Q. Okay. Would your office register a voter whose
10:44:05 15 address couldn't be located in that database?

10:44:07 16 A. Umm --

10:44:11 17 Q. Assuming they provided a street address?

10:44:13 18 A. If they provided a street address, we would
10:44:17 19 attempt to put them in the correct precinct based on that
10:44:21 20 address.

10:44:22 21 Q. I mean, if you just couldn't locate it. If
10:44:25 22 they, you know, gave you an address that didn't exist.

10:44:28 23 A. If they gave us an address we would request more
10:44:28 24 information.

10:44:32 25 Q. And how would you make that request?

10:44:35 1 A. We would either call the voter or send them a
10:44:41 2 notice, or by email, whatever means we have available to
10:44:46 3 contact the voter.

10:44:46 4 Q. And when you say send a notice, do you mean by
10:44:51 5 physical mail?

10:44:51 6 A. Right.

10:44:51 7 Q. Okay. And when a voter or registration
10:44:58 8 applicant provides a resident location, description, or
10:45:00 9 drawing, how do you use that to locate the voter?

10:45:03 10 A. We have not had that scenario within Greenlee
10:45:15 11 County.

10:45:15 12 Q. Okay. Are you aware of any voter registration
10:45:19 13 applicants in Greenlee County who lack a residential
10:45:24 14 street address?

10:45:24 15 A. I am not aware of a voter that does not have a
10:45:28 16 residential address.

10:45:31 17 Q. Does the county assign addresses to homes or
10:45:39 18 buildings in the county, to your knowledge?

10:45:41 19 A. We don't assign the address.

10:45:44 20 Q. That's not something your office does?

10:45:46 21 A. Right. We don't.

10:45:47 22 Q. Do you know if there is another county
10:45:49 23 government office that would do something like that?

10:45:51 24 A. I would imagine maybe our planning and zoning.

10:45:56 25 Q. Okay. That's, it's all right if you don't know.

10:46:00 1 That's not in your job description.

10:46:03 2 Are there any Native American reservations in
10:46:09 3 Greenlee County?

10:46:09 4 A. There are not.

10:46:10 5 Q. But there are still, presumably, Native American
10:46:15 6 voters in Greenlee County. Is that right?

10:46:16 7 A. I would presume so, yes.

10:46:18 8 Q. Okay. Does your office do anything in
10:46:21 9 particular to increase registration among Native voters?

10:46:25 10 A. We don't do anything different than what we
10:46:29 11 would do for anybody else.

10:46:31 12 Q. Does your office do anything in general to
10:46:35 13 increase voter registration in the county.

10:46:37 14 A. Occasionally we go to different locations within
10:46:40 15 the county to attempt to register voters.

10:46:50 16 Q. Okay. I'm going to ask you to look at the
10:46:55 17 document we've numbered as No. 12 in the exhibits that you
10:46:58 18 were sent.

10:47:04 19 A. I, I don't actually have No. 12.

10:47:10 20 Q. That one was sent later than the others, so it
10:47:14 21 may not have made it into your printed packet.

10:47:20 22 That's okay. I actually don't think we need it.

10:47:24 23 So you're aware of the documentary proof of
10:47:29 24 residence requirement in H.B. 2492. Is that right?

10:47:32 25 A. Right.

10:47:33 1 Q. And does the documentary proof of residence
10:47:36 2 requirement apply to voters who register using the federal
10:47:39 3 form?

10:47:44 4 DEFENSE COUNSEL: Calls for legal conclusion.

10:47:46 5 THE WITNESS: Using the federal form, I don't
10:47:49 6 believe so.

10:47:49 7 BY MR. DIAZ:

10:47:49 8 Q. So if a voter applied to register using the
10:47:53 9 federal form, and did not provide documentary proof of
10:47:57 10 residence, how would you handle that application?

10:47:59 11 A. We would register the voter.

10:48:02 12 Q. Would you register them as a full-ballot voter
10:48:06 13 or a federal-only voter?

10:48:09 14 A. A full-ballot voter.

10:48:11 15 Q. Okay. And if someone registered to vote using
10:48:17 16 the state form and didn't provide documentary proof of
10:48:21 17 residence, how would you process that application?

10:48:24 18 A. If they don't provide documentary proof of
10:48:28 19 residency we have been following the 2019 procedures
10:48:33 20 manual; however, we, we, we have had an instance where a
10:48:45 21 voter had the proof of residency and then -- so we accept
10:48:55 22 anything where they voluntarily provide it.

10:48:59 23 Q. Has your office encountered an instance where
10:49:02 24 someone applied using the state form without providing
10:49:06 25 documentary proof of residence?

10:49:08 1 A. Not that I'm aware of.

10:49:09 2 Q. Okay. I'm going to ask you now to look at

10:49:15 3 document No. 11, which has been previously marked as

10:49:23 4 Exhibit 24 in a different deposition.

10:49:29 5 A. Okay.

10:49:30 6 Q. And on the second page you should see a chart.

10:49:33 7 A. Yes.

10:49:33 8 Q. Okay. Have you seen this chart before?

10:49:36 9 A. Yes.

10:49:36 10 Q. And what is that?

10:49:38 11 A. This is what constitutes the documentary proof

10:49:44 12 of residency.

10:49:46 13 Q. And do you know where this chart came from?

10:49:50 14 A. I believe that was a draft from the previous

10:49:53 15 Secretary of State's administration.

10:49:56 16 Q. And when you say a draft, what do you mean by

10:50:00 17 that?

10:50:00 18 A. This was draft guidance that they had provided

10:50:06 19 at one point, I believe it was towards the end of last

10:50:12 20 year.

10:50:12 21 Q. And so if it was draft guidance, does that mean

10:50:16 22 it was not officially adopted?

10:50:18 23 A. Right.

10:50:19 24 Q. Okay. Going down to the last row of that chart,

10:50:25 25 the box beginning with written confirmation. I'll give

10:50:31 1 you a second to look at that.

10:50:36 2 A. Okay.

10:50:39 3 Q. Is there a form or other declaration that, you
10:50:48 4 know, a template that your office has created for voters
10:50:53 5 seeking to use this option to establish their residence?

10:50:56 6 A. Our office at this time has not come up with a
10:50:56 7 template.

10:51:00 8 Q. Do you know if the Secretary has developed a
10:51:03 9 form or template for voters using this option?

10:51:07 10 A. I don't recall.

10:51:10 11 Q. Have you encountered any instances in your
10:51:16 12 county of a voter attempting to register to vote using an
10:51:23 13 address at a homeless shelter, courthouse, or other
10:51:26 14 location authorized by 16-166(B)?

10:51:30 15 A. No.

10:51:30 16 Q. Are there any documents, that you can think of,
10:51:36 17 not on this list that you would accept as documentary
10:51:39 18 proof of residence for voter registration?

10:51:41 19 A. Off the top of my head, no.

10:51:49 20 Q. Would your office accept an affidavit, a sworn
10:51:55 21 affidavit attesting to a voter's residence as proof of
10:51:59 22 their residence in the county?

10:52:00 23 A. Under the, under the new law, I don't think that
10:52:05 24 would be acceptable.

10:52:09 25 Q. Are you familiar with the Gonzalez stipulation

10:52:17 1 related to voter ID?

10:52:20 2 A. I'm, I'm not familiar with that.

10:52:21 3 Q. Okay. Is a tribal ID an acceptable form of
10:52:28 4 voter ID for living in Arizona.

10:52:31 5 A. Yes.

10:52:32 6 DEFENSE COUNSEL: Calls for legal conclusion.

10:52:33 7 BY MR. DIAZ:

10:52:33 8 Q. Is that the case even if it does not list a
10:52:36 9 residential address on it?

10:52:38 10 DEFENSE COUNSEL: Same objection.

10:52:41 11 THE WITNESS: It that a valid form of ID?

10:52:44 12 BY MR. DIAZ:

10:52:44 13 Q. For voting in Arizona?

10:52:45 14 A. Yes.

10:52:45 15 Q. If your office required a voter to provide
10:52:57 16 documentary proof of residence or citizenship, how could a
10:53:01 17 voter submit those documents to your office, in what form?

10:53:05 18 A. They could bring them into our office or mail
10:53:09 19 those documents to us.

10:53:10 20 Q. Would they be able to send a document by fax, a
10:53:16 21 copy of a document?

10:53:17 22 A. We have a fax machine, so we could accept it
10:53:20 23 that way.

10:53:21 24 Q. Would your office accept a scanned copy by
10:53:26 25 email?

10:53:26 1 A. Yes.

10:53:33 2 MR. DIAZ: I think that those are all of my
10:53:36 3 questions. Thank you very much.

10:53:36 4 THE WITNESS: Thank you.

10:53:37 5 MR. DIAZ: I think one of my colleagues will
10:53:39 6 take it from here.

10:53:49 7 (Brief pause due to audio issue.)

10:53:49 8 MR. HIRSCHTEL: Okay. I'll start that over.

10:53:49 9

10:53:49 10 EXAMINATION

10:53:49 11 BY MR. HIRSCHTEL:

10:54:08 12 Q. Good morning, Ms. Milheiro. My name is Andrew
10:54:08 13 Hirschtel. I'm from the law firm Arnold & Porter and I
10:54:08 14 represent Poder Latinx.

10:54:14 15 My questions are going to follow up on some of
10:54:19 16 the earlier questions that you were asked, and just go
10:54:21 17 into a little bit more detail, but I'll try not to take up
10:54:26 18 too much of your time with them.

10:54:28 19 The first question is about the EPM. You
10:54:31 20 mentioned earlier that your office views the EPM as
10:54:34 21 legally binding. Do you recall that?

10:54:36 22 A. Right.

10:54:38 23 Q. I just want to clarify that that applies to all
10:54:41 24 parts of the EPM, including Chapter 1 on voter
10:54:46 25 registration?

10:54:46 1 DEFENSE COUNSEL: Calls for legal conclusion.

10:54:50 2 THE WITNESS: Right.

10:54:50 3 BY MR. HIRSCHTEL:

10:54:54 4 Q. Okay. And now I want to talk about this word,
10:54:57 5 information, that appears in both 2492 and 2243.

10:55:03 6 Are you familiar with their references to
10:55:06 7 information that someone is not a United States citizen?

10:55:09 8 A. I'm familiar with that term in those bills.

10:55:12 9 Q. So I want to ask you about a few specific
10:55:19 10 examples and whether your office would view them as
10:55:22 11 information that someone is not a United States citizen,
10:55:26 12 as you understand it.

10:55:29 13 Could, if a voter called your office and told
10:55:32 14 you that they themselves were not a United States citizen,
10:55:36 15 would that be information that they're not a citizen?

10:55:40 16 DEFENSE COUNSEL: Calls for legal conclusion.

10:55:42 17 Can we get the stipulation that we'll just
10:55:45 18 object to this entire line of questioning?

10:55:48 19 MR. HIRSCHTEL: Yeah. I'm okay with that.

10:55:53 20 THE WITNESS: Do I still answer, or --

10:55:53 21 BY MR. HIRSCHTEL:

10:55:57 22 Q. Yeah. Please.

10:55:58 23 A. Okay. And, I'm sorry, can you just, one more
10:56:00 24 time --

10:56:02 25 Q. Yeah. If a voter called your office and said,

10:56:05 1 I'm not a United States citizen, or I'm not sure whether
10:56:08 2 I'm a United States citizen, would that be information
10:56:10 3 that that person is not a United States citizen?

10:56:13 4 A. I would, I would say that would be information.

10:56:20 5 Q. And how about if they emailed you that same
10:56:24 6 information?

10:56:24 7 A. I mean, yeah, that would be information that we
10:56:31 8 would use.

10:56:31 9 Q. And what if they sent you a letter?

10:56:34 10 A. Yes.

10:56:34 11 Q. And what if you got a phone call from a family
10:56:39 12 member of a voter saying, my brother or my dad is not a
10:56:42 13 United States citizen, would that be information that that
10:56:45 14 person is not a citizen?

10:56:46 15 A. To my understanding of that, yes.

10:56:50 16 Q. How about a letter from a neighbor?

10:56:52 17 A. It's my understanding that that would be an
10:56:57 18 information, yes.

10:57:00 19 Q. What if you got a phone call from Arizona law
10:57:04 20 enforcement saying, we, we don't think this particular
10:57:06 21 person is a United States citizen, would that be
10:57:09 22 information that a person is not a United States citizen?

10:57:11 23 A. It's my understanding, yes, that is considered
10:57:16 24 information.

10:57:16 25 Q. What about an email or a letter from law

10:57:20 1 enforcement in Arizona?

10:57:20 2 A. Again, it's my understanding that would be
10:57:26 3 considered information.

10:57:27 4 Q. And what about an email or a letter from law
10:57:29 5 enforcement in another state about a voter?

10:57:34 6 A. I, I -- to my understanding, that would still be
10:57:38 7 considered information.

10:57:39 8 Q. Just a couple more.

10:57:41 9 What if you received an anonymous phone call
10:57:45 10 that a particular person is not a United States citizen,
10:57:49 11 would that constitute information that the person isn't?

10:57:54 12 A. I mean, I would -- the way I understand it, that
10:57:56 13 is information. Whether it's valid or not, I don't know.

10:57:59 14 Q. Same thing for an anonymous email?

10:58:04 15 A. My answer would be the same.

10:58:06 16 Q. And last one.

10:58:07 17 What about a list of names provided by a third
10:58:10 18 party organization like True the Vote?

10:58:13 19 A. Yeah. My -- I would consider that a form of
10:58:20 20 information.

10:58:20 21 Q. Are you familiar with the fact that --

10:58:26 22 I think we can end the stipulation as to the
10:58:30 23 continuing objection.

10:58:34 24 MR. LANGHOFER: Sounds good.

10:58:34 25 BY MR. HIRSCHER:

10:58:37 1 Q. Are you familiar, Ms. Milheiro, with the fact
10:58:39 2 that some voters are exempt from the DPOC requirement, the
10:58:42 3 DPOC requirement, because they registered before it went
10:58:45 4 into effect?

10:58:45 5 A. I remember hearing that, yes.

10:58:48 6 Q. And if you identify a registered voter who is
10:58:54 7 exempt from that requirement and has never shown DPOC
10:58:58 8 because they registered before that requirement went into
10:59:02 9 effect, would any of that constitute information that that
10:59:06 10 person is not a U.S. citizen?

10:59:11 11 DEFENSE COUNSEL: Same objection.

10:59:12 12 THE WITNESS: I don't believe so.

10:59:12 13 BY MR. HIRSCHER:

10:59:18 14 Q. Okay. The statutes -- still talking about
10:59:22 15 information -- describe obtaining information, for
10:59:29 16 example -- well, let me just ask. Strike that.

10:59:46 17 If you, if you look at 2243 -- is that something
10:59:52 18 that you have in front of you, as previously labeled
10:59:55 19 Exhibit 21?

10:59:59 20 A. I do not have Exhibit 21. Was there, could it
11:00:06 21 be labeled something else?

11:00:08 22 Q. I think it was referenced earlier, but we can
11:00:13 23 avoid putting any more documents on the screen. I
11:00:19 24 think --

11:00:19 25 When the statutes refer to obtaining

11:00:23 1 information, excuse me, are there, how would your office
11:00:28 2 obtain information that a person is not a United States
11:00:32 3 citizen?

11:00:33 4 DEFENSE COUNSEL: Same objection.

11:00:35 5 THE WITNESS: I'm not sure I understand the
11:00:39 6 question. Are you talking about how we would physically
11:00:41 7 obtain that information?

11:00:41 8 BY MR. HIRSCHER:

11:00:45 9 Q. Yeah. Well, yes.

11:00:50 10 A. I mean, if we were to physically obtain that
11:00:52 11 information, that would be through mail. Fax would be a
11:01:01 12 phys -- we would have a physical paper to receive with
11:01:05 13 that information.

11:01:06 14 Q. And the statutes also discuss confirming
11:01:13 15 information that a person is not a United States citizen,
11:01:17 16 if you, once you obtain some information you would go
11:01:22 17 about confirming it.

11:01:23 18 Do you know how you would go about confirming
11:01:26 19 that someone is not a United States citizen?

11:01:29 20 A. I don't know how we would confirm that they were
11:01:34 21 not a citizen.

11:01:37 22 Q. Would it be through the database matching
11:01:43 23 requirements that you discussed earlier today?

11:01:46 24 A. Through that database, we could confirm whether
11:01:50 25 they were a citizen.

11:01:52 1 Q. Okay. But if I understand correctly, you're
11:01:55 2 saying you could not confirm that they are not a citizen
11:01:58 3 that way?

11:01:59 4 A. Through the database, if it doesn't come back
11:02:04 5 with any information then, yes, I would say that that
11:02:07 6 would confirm that they're not a citizen.

11:02:10 7 Q. Is there any other way that you might confirm
11:02:13 8 that a person is not a citizen?

11:02:15 9 A. That would be my only, my only way to, to verify
11:02:23 10 whether they were a citizen is to go through that
11:02:26 11 database.

11:02:27 12 Q. In your view, are the requirements in these
11:02:31 13 statutes about confirming information that a person is not
11:02:35 14 a United States citizen, are those requirements clear?

11:02:40 15 DEFENSE COUNSEL: Calls for legal conclusion.

11:02:42 16 THE WITNESS: The requirements for us to
11:02:45 17 confirm?

11:02:45 18 BY MR. HIRSCHER:

11:02:46 19 Q. Yes.

11:02:46 20 A. From what I read, it seems clear what they're
11:02:57 21 requiring.

11:02:58 22 Q. Okay. And last question about information.
11:03:04 23 You spoke earlier a little bit about 20 year old
11:03:12 24 driver's licenses coming up in the MVD database. I want
11:03:15 25 to ask if there's a point at which information might be so

11:03:20 1 old that you no longer consider it information that a
11:03:25 2 person is not a United States citizen?

11:03:29 3 A. I would have no reason to go back through those
11:03:34 4 records.

11:03:34 5 Q. Could you explain what you mean?

11:03:36 6 A. If -- there would be no reason for me to look up
11:03:41 7 to see if a voter registered 20 plus years ago, unless
11:03:48 8 they were trying to register to vote again.

11:03:51 9 Q. So if -- we mentioned some different ways that
11:03:57 10 you might receive information earlier. We talked about
11:04:01 11 letters and emails and phone calls. If, for example,
11:04:05 12 someone called and said, well, I don't know about today,
11:04:09 13 but I know that ten years ago this person was not a
11:04:13 14 citizen, would you reject that information as too old, or
11:04:18 15 would that still be information that they are not a
11:04:21 16 citizen today?

11:04:22 17 DEFENSE COUNSEL: Speculation. Calls for legal
11:04:25 18 conclusion.

11:04:25 19 THE WITNESS: I would not reject that
11:04:27 20 information. I think we would have to, to research the
11:04:33 21 information that we were given.

11:04:33 22 BY MR. HIRSCHER:

11:04:35 23 Q. So is that to say that no matter how old the
11:04:38 24 information might be, you would, you would still feel that
11:04:43 25 you have to research it?

11:04:44 1 A. If, if that information is newly discovered,
11:04:53 2 that we have been made aware of it, then we would check to
11:04:58 3 see if we have already done that verification for that
11:05:04 4 voter.

11:05:04 5 Q. And if you hadn't?

11:05:06 6 A. If we hadn't, we would, we would do
11:05:12 7 verification. We would send notice to the voter.

11:05:14 8 Q. Okay. Moving on from information.

11:05:19 9 You also spoke earlier about the language in the
11:05:23 10 statutes referring to any other database.

11:05:27 11 If, if a agency from another state, like a
11:05:34 12 California county sheriff, for example, had a list of
11:05:39 13 voter names, would you consider that to fall within any
11:05:44 14 other database relating to voter registration?

11:05:48 15 DEFENSE COUNSEL: Calls for legal conclusion.

11:05:50 16 THE WITNESS: I guess I'm not understanding the
11:05:54 17 question as far as the database is concerned.

11:05:54 18 BY MR. HIRSCHER:

11:05:58 19 Q. So you were discussing earlier what that
11:06:01 20 language in the statute might mean as far as consulting
11:06:04 21 other databases related to voter registration. And I
11:06:08 22 believe you testified about other state agencies.

11:06:12 23 Do you remember that?

11:06:14 24 A. Oh, the only thing I recall is the SAVE
11:06:16 25 program --

11:06:16 1 Q. I think --

11:06:16 2 (The Reporter indicated an inability to hear
11:06:16 3 what was said.)

11:06:25 4 THE WITNESS: The SAVE program, and our AVID
11:06:31 5 program that runs through the Social Security
11:06:35 6 Administration, and the ADOT or Motor Vehicle Department.

11:06:35 7 BY MR. HIRSCHTEL:

11:06:39 8 Q. I believe you also talked about the possibility
11:06:42 9 of other databases like the Arizona Health Department.

11:06:47 10 Do you recall talking about that?

11:06:48 11 A. Yes, I do. And that would be if we have access
11:06:51 12 to that.

11:06:52 13 Q. So I'm, I'm following that line of questioning
11:06:55 14 here.

11:06:56 15 Besides Arizona Department of Health, could a
11:07:00 16 California government agency constitute another database
11:07:06 17 that you might have to consult?

11:07:10 18 DEFENSE COUNSEL: Same objection.

11:07:11 19 THE WITNESS: If we're talking about trying to
11:07:16 20 prove citizenship?

11:07:16 21 BY MR. HIRSCHTEL:

11:07:16 22 Q. Yeah.

11:07:22 23 A. I don't know that I would have access to that,
11:07:28 24 so I don't really want to speculate on that one.

11:07:31 25 Q. What about, would you consider any source of

11:07:35 1 information outside of government agencies to possibly be
11:07:42 2 a database relating to voter registration? Can you think
11:07:47 3 of anything?

11:07:47 4 A. If it's, if it's to provide proof of
11:07:51 5 citizenship, I can't think of anything else that would
11:07:54 6 provide proof.

11:07:54 7 Q. Okay. The statutes also use language where they
11:08:02 8 talk about giving you a reason to believe that a person is
11:08:07 9 not a U.S. citizen.

11:08:08 10 Are you familiar with that language?

11:08:09 11 A. I have heard that, yes.

11:08:11 12 Q. So I want to ask you the same examples as before
11:08:19 13 and whether they could give you a reason to believe that a
11:08:22 14 person is not a U.S. citizen. So we are just going to go
11:08:28 15 through those.

11:08:31 16 MR. LANGHOFER: Counsel, why don't we just
11:08:33 17 stipulate to the same objection, that way so we don't
11:08:38 18 interrupt you.

11:08:38 19 MR. HIRSCHER: That would be great.

11:08:38 20 BY MR. HIRSCHER:

11:08:40 21 Q. So if you received a phone call from a voter in
11:08:40 22 which the voter said, I am not sure I'm a United States
11:08:44 23 Citizen or I'm not a United States citizen, would that
11:08:47 24 give you reason to believe that voter is not a U.S.
11:08:50 25 citizen?

11:08:50 1 A. Coming from the voter themselves, I would say
11:08:53 2 yes.

11:08:53 3 Q. How about an email from the voter themselves?

11:08:55 4 A. Yes.

11:08:56 5 Q. Or a signed letter from the voter?

11:08:59 6 A. Yes.

11:08:59 7 Q. How about a phone call from a member of the
11:09:03 8 voter's family?

11:09:04 9 A. I don't know that gives me a reason to believe,
11:09:14 10 but it would be something that we should research, I
11:09:20 11 suppose.

11:09:20 12 Q. How about a letter from a neighbor?

11:09:23 13 A. I would have the same response. I don't know
11:09:26 14 that that gives me a reason to believe that it's true.

11:09:33 15 Q. How about a phone call from Arizona law
11:09:36 16 enforcement?

11:09:36 17 A. Again, same. I don't feel that that, that that
11:09:44 18 would give me a reason to believe that it is true.

11:09:48 19 Q. How about an email or letter from Arizona law
11:09:51 20 enforcement?

11:09:51 21 A. Same response.

11:09:52 22 Q. How about an email or letter from law
11:09:56 23 enforcement in another state?

11:09:58 24 A. Same response.

11:10:00 25 Q. How about an anonymous phone call?

11:10:04 1 A. It's the same. I don't...

11:10:07 2 Q. Or an anonymous email address?

11:10:10 3 A. Same response.

11:10:11 4 Q. And how about a list provided by a third party
11:10:17 5 organization like True the Vote? Could that give you a
11:10:21 6 reason to believe that people on that list are not United
11:10:24 7 States citizens?

11:10:24 8 A. I, I don't know that that's reason to believe
11:10:28 9 that it's true.

11:10:31 10 Q. How about if a voter registered but put their
11:10:39 11 first name in the last name box and put their last name in
11:10:43 12 the first name box on their registration application form?
11:10:47 13 Would that create a reason to believe that they're not a
11:10:51 14 United States citizen?

11:10:52 15 A. No.

11:10:53 16 Q. What if they recorded as their place of birth a
11:10:57 17 foreign country? Is that reason to believe they are not a
11:11:01 18 United States citizen?

11:11:02 19 A. No. Because they could have proven their
11:11:13 20 citizenship since then.

11:11:13 21 Q. And what if you identify a registered voter who
11:11:16 22 has satisfied the DPOC requirement but has an F-type
11:11:20 23 driver's license still? Might that be a reason to believe
11:11:24 24 they are not a United States citizen?

11:11:27 25 A. If they provided proof of citizenship but they

11:11:31 1 still have an F-type license?

11:11:34 2 Q. Right.

11:11:35 3 A. If they provided proof, then I would say they
11:11:39 4 are a citizen.

11:11:39 5 Q. And how about those voters who are exempt from
11:11:43 6 the DPOC requirement because of when they registered?
11:11:47 7 Would their failure to provide DPOC give you a reason to
11:11:51 8 believe they are not citizens?

11:11:53 9 A. Because that wasn't a law at the time, I, I
11:12:01 10 would not have reason to believe that they are not a
11:12:04 11 citizen.

11:12:04 12 Q. Okay. And then that's it for my questions about
11:12:11 13 reason to believe. Thank you.

11:12:13 14 I want to ask you about the provisions in the
11:12:19 15 statute that, that obligate your office to do things to
11:12:24 16 the extent that they are, quote, practicable.

11:12:30 17 Are you familiar with the statutes requiring
11:12:35 18 your office to do things to the extent they're
11:12:36 19 practicable?

11:12:37 20 A. Yes.

11:12:37 21 Q. Who in your office would determine whether
11:12:40 22 something is practicable?

11:12:42 23 A. That would be myself or my chief deputy.

11:12:46 24 Q. Do you feel that it's clear what the statutes
11:12:50 25 mean by, to the extent practicable?

11:12:53 1 DEFENSE COUNSEL: Calls for legal conclusion.

11:12:55 2 THE WITNESS: I don't necessarily -- to the

11:13:02 3 extent practicable that we could do it, that is fairly

11:13:08 4 clear.

11:13:08 5 BY MR. HIRSCHTEL:

11:13:16 6 Q. Okay. In one part in H.B. 2492, it says that:

11:13:28 7 Secretary of State and each County Recorder

11:13:31 8 shall make available to the Attorney General a list of all

11:13:34 9 individuals who are registered to vote and who have not

11:13:38 10 provided satisfactory evidence of citizenship pursuant to

11:13:42 11 Section 16-166, and shall provide on or before

11:13:46 12 October 31st, 2022 applications of individuals who are

11:13:51 13 registered to vote and who have not provided satisfactory

11:13:54 14 evidence of citizenship.

11:13:56 15 Since October 31st, 2022 has already past, is it

11:14:03 16 your understanding that your office is no longer required

11:14:05 17 to submit to the Attorney General a list of registered

11:14:09 18 voters who have not shown satisfactory DPOC?

11:14:13 19 DEFENSE COUNSEL: Same objection.

11:14:16 20 THE WITNESS: I didn't -- when I read that, I

11:14:27 21 did not believe that it amounts to just the one occasion

11:14:31 22 to submit that information.

11:14:31 23 BY MR. HIRSCHTEL:

11:14:35 24 Q. So what did you understand it to mean, then?

11:14:38 25 A. I understood it that from that date we should be

11:14:42 1 sending the Attorney General information regarding our
11:14:49 2 federal voters.

11:14:50 3 Q. But am I correct in understanding that you have
11:14:53 4 not been doing that up to this point?

11:14:58 5 A. Up to this point we did not.

11:15:00 6 Q. Gosh. Sorry.

11:15:09 7 If a registered voter is removed from the rolls,
11:15:14 8 based on a determination that they're not a U.S. citizen,
11:15:19 9 but then you subsequently discover that that was in error
11:15:24 10 and they are, in fact, a U.S. citizen, but you discover
11:15:28 11 that after the registration deadline, can that voter be
11:15:33 12 added back to the rolls?

11:15:35 13 DEFENSE COUNSEL: Same objection.

11:15:36 14 THE WITNESS: I believe so, because we would
11:15:40 15 revert that back to the date of registration.

11:15:40 16 BY MR. HIRSCHER:

11:15:45 17 Q. What would be the process for adding the voter
11:15:47 18 back to the rolls in that situation?

11:15:49 19 A. We would find their voter registration and make
11:15:54 20 them an active voter.

11:15:56 21 Q. Is, is that process laid out in the EPM?

11:16:06 22 A. I, I'm not sure. I don't recall reading that
11:16:14 23 process.

11:16:15 24 Q. Would it be possible for how you deal with this
11:16:22 25 sort of situation to vary from county to county?

11:16:26 1 A. I'm sorry. Say that again.

11:16:27 2 Q. Thinking about this situation where someone,
11:16:31 3 where you learned that someone is a citizen and that they
11:16:34 4 were removed from the rolls and now the deadline has
11:16:38 5 passed, but they are a citizen. Could the process for
11:16:40 6 dealing with that situation vary from county to county?

11:16:45 7 DEFENSE COUNSEL: Speculation.

11:16:48 8 THE WITNESS: I don't know how the other
11:16:50 9 counties handle that situation.

11:16:50 10 BY MR. HIRSCHER:

11:16:57 11 Q. But would you say that the way your county would
11:17:00 12 handle that situation is not something that you're doing
11:17:04 13 because it's been explicitly told to you by the Secretary
11:17:10 14 of State somewhere?

11:17:10 15 A. Right. I don't recall that being specifically
11:17:16 16 stated anywhere. But if they were already a registered
11:17:22 17 voter, and it was an error, we would correct the error.

11:17:33 18 MR. HIRSCHER: That's all my questions,
11:17:35 19 Ms. Milheiro. Thank you so much for your time.

11:17:38 20 THE WITNESS: Thank you.

11:17:38 21

11:17:38 22 EXAMINATION

11:17:38 23 BY MR. ATKINS:

11:17:42 24 Q. Hello, Ms. Milheiro. My name is Alex Atkins. I
11:17:46 25 represent Plaintiffs Mi Familia Vota and Voto Latino. And

11:17:50 1 I have very small number of questions for you.

11:17:53 2 Are you good to continue without taking a break
11:17:56 3 at this time?

11:17:57 4 A. Yes.

11:18:00 5 Q. Great, so I'd like to talk a bit about your
11:18:03 6 office's current practices for applicants who register
11:18:07 7 using the state form.

11:18:10 8 First, am I correct that there's a box on the
11:18:13 9 state form for an applicant to provide birthplace
11:18:17 10 information?

11:18:17 11 A. Yes.

11:18:17 12 Q. But your office doesn't reject an applicant's
11:18:24 13 state voter registration form for failing to include their
11:18:29 14 birthplace, correct?

11:18:29 15 A. At this time that is correct.

11:18:31 16 Q. And your office doesn't use an applicant's
11:18:38 17 birthplace information to verify that applicant's
11:18:41 18 citizenship, right?

11:18:42 19 A. That is correct.

11:18:43 20 Q. And, to be clear, your office doesn't use
11:18:49 21 birthplace information to determine if they are qualified
11:18:54 22 to vote, correct?

11:18:55 23 A. That is correct.

11:18:56 24 Q. Does your office have any means of determining
11:19:03 25 the accuracy of birthplace information provided by an

11:19:08 1 applicant?

11:19:09 2 A. The only means I could see would be if the voter
11:19:14 3 provided a birth certificate that we would have access to
11:19:20 4 where they were, to the location of where they were born.

11:19:22 5 Q. So, so with the exception of a voter providing
11:19:28 6 documentation of their place of birth, does your office
11:19:32 7 have any other means of confirming the accuracy of
11:19:36 8 birthplace information?

11:19:36 9 A. Not that I'm aware of, no.

11:19:39 10 Q. Has your office received any guidance from the
11:19:44 11 Secretary of State about how to implement the birthplace
11:19:49 12 information requirements of the H.B. 2492?

11:19:55 13 A. If they have given guidance, I do not recall
11:19:58 14 what that guidance was.

11:20:03 15 Q. Shifting gears a little bit.

11:20:06 16 Are you familiar with the, what's referred to as
11:20:09 17 the citizenship checkbox that appears on both the state
11:20:14 18 and federal registrations forms?

11:20:15 19 A. Yes.

11:20:16 20 Q. And that citizenship checkbox is not a new
11:20:22 21 element of those forms. It's been on there for a while,
11:20:26 22 right?

11:20:26 23 A. Right.

11:20:26 24 Q. And am I correct that your office does not
11:20:33 25 reject voter application forms simply for failure to check

11:20:39 1 the citizenship checkbox?

11:20:40 2 A. At this time that is correct.

11:20:43 3 Q. So thinking about state form registrant's in
11:20:53 4 particular, if an applicant submits a state registration
11:20:57 5 form and provides DPOC but does not complete the
11:21:04 6 citizenship checkbox, your office would still register
11:21:09 7 that voter, correct?

11:21:10 8 A. That is correct. If they have proven
11:21:12 9 citizenship and did not mark that, we would still register
11:21:12 10 them.

11:21:17 11 Q. And they would be registered as a full-ballot
11:21:20 12 voter, right?

11:21:20 13 A. Right.

11:21:21 14 Q. And in the case of federal form applicants, am I
11:21:28 15 correct that federal form applicants adequately establish
11:21:34 16 their citizenship if they affirm their citizenship under
11:21:39 17 the penalty of perjury when they sign the federal form?

11:21:43 18 A. According to what I saw in the procedures
11:21:48 19 manual, that is correct.

11:21:49 20 Q. So if an applicant submits a federal
11:21:52 21 registration form and signs the citizenship affirmation,
11:21:55 22 your office would accept that application even if they
11:21:59 23 failed to complete the citizenship checkbox, right?

11:22:02 24 A. We would accept that application.

11:22:04 25 Q. Shifting gears away from registration

11:22:12 1 applications, would you agree that prior to the passage of
11:22:19 2 H.B. 2492 and 2243, that it was illegal for a person who
11:22:26 3 is not a U.S. citizen to register to vote in Arizona?

11:22:29 4 A. Yes.

11:22:30 5 Q. And would you also agree that Arizona, prior to
11:22:37 6 those two laws, had policies and procedures in place to
11:22:43 7 prevent non-citizens from registering or voting?

11:22:48 8 DEFENSE COUNSEL: Calls for legal conclusion.
11:22:49 9 You can answer.

11:22:52 10 THE WITNESS: Yes.

11:22:53 11 BY MR. ATKINS:

11:22:53 12 Q. And are you aware that in Arizona it's a felony
11:22:56 13 for a person to register when they know they're not
11:23:00 14 entitled to register?

11:23:03 15 A. Yes.

11:23:03 16 DEFENSE COUNSEL: Same objection.

11:23:04 17 THE WITNESS: Sorry. Yes.

11:23:06 18 BY MR. ATKINS:

11:23:08 19 Q. And, to confirm, it was a felony to register if
11:23:12 20 you're not eligible prior to H.B. 2492 and 2243, right?

11:23:22 21 DEFENSE COUNSEL: Same objection.

11:23:24 22 THE WITNESS: Right.

11:23:25 23 BY MR. ATKINS:

11:23:26 24 Q. Am I correct that your office is not aware of
11:23:29 25 any time when a non-U.S. citizen or non-county resident

11:23:36 1 registered to vote or voted in your county?

11:23:38 2 A. That is correct.

11:23:44 3 MR. ATKINS: Thanks so much. Those are all my
11:23:47 4 questions.

11:23:47 5 THE WITNESS: Thank you.

11:24:08 6 MR. LANGHOFER: Anyone else for the plaintiffs?

11:24:08 7 MR. ATKINS: I think that's it.

11:24:08 8

11:24:08 9 EXAMINATION

11:24:08 10 BY MS. BOUGHTON:

11:24:14 11 Q. Okay. Good afternoon, Ms. Milheiro. My name is
11:24:18 12 Kathryn Boughton, and I represent the State in this case
11:24:20 13 and I have a few questions for you.

11:24:22 14 Would you like to take a quick break or keep
11:24:26 15 going?

11:24:26 16 A. Let's keep going.

11:24:28 17 Q. Let's keep going. Okay. Great. Thank you.

11:24:30 18 And thanks for your time today.

11:24:31 19 I wanted to talk to you about an incident that
11:24:34 20 we discussed in which the MVD and Secretary of State
11:24:38 21 alerted you to two voters who had been marked as fed-only
11:24:44 22 in the system.

11:24:45 23 Do you recall talking about that with
11:24:47 24 plaintiff's counsel?

11:24:47 25 A. Yes.

11:24:48 1 Q. Okay. And so I know that we talked about that
11:24:52 2 that information incorrectly flagged them as fed-only
11:24:59 3 voters. But was it your testimony that, kind of despite
11:25:02 4 that instance you generally felt that the HAVA check was
11:25:05 5 reliable as to citizen information?

11:25:07 6 A. Right.

11:25:07 7 Q. So you feel confident that the voters in
11:25:16 8 Greenlee County are properly registered to vote and
11:25:19 9 eligible to vote?

11:25:20 10 A. Yes.

11:25:20 11 Q. Did your office reach out to those two voters?

11:25:26 12 A. We did.

11:25:27 13 Q. Were they able to vote, to your knowledge?

11:25:31 14 A. They, to my knowledge, they would have been able
11:25:38 15 to vote. I don't know if they did.

11:25:39 16 Q. And this instance in which those two voters were
11:25:46 17 flagged by the Secretary and MVD, is that the only
11:25:50 18 instance that you can recall in which the database
11:25:53 19 returned incomplete information?

11:25:55 20 A. Yes.

11:25:56 21 Q. Okay. Thank you.

11:26:02 22 We talked a little bit about what your office
11:26:05 23 might do if you received an application from an applicant
11:26:10 24 who had an F-type license and didn't provide proof of
11:26:14 25 citizenship. And I believe you said that you would mark

11:26:16 1 them as unregistered. Is that right?

11:26:18 2 A. Or they would not be registered. It would be
11:26:23 3 marked as not registered.

11:26:24 4 Q. Okay. If somebody submits a voter application
11:26:28 5 and you determine that they are not eligible, do you
11:26:31 6 inform the applicant that you're not registering them?

11:26:34 7 A. Yes.

11:26:34 8 Q. Is that via letter? Or how do you contact them?

11:26:39 9 A. We send a notice, a letter.

11:26:41 10 Q. Okay. And do you say the, why you think they're
11:26:46 11 not eligible to be registered?

11:26:47 12 A. We do.

11:26:48 13 Q. And not -- okay. So if you determine that we
11:26:53 14 don't think your a citizenship, you would send a letter to
11:26:56 15 the voter to say that, and then would you invite the voter
11:27:00 16 to contact your office if they felt the information is
11:27:02 17 incorrect?

11:27:03 18 A. Yes, we would.

11:27:07 19 Q. Thank you.

11:27:15 20 Counsel before me asked you a few questions
11:27:18 21 about the citizenship checkbox on the state form and the
11:27:21 22 federal form. And I understand your testimony to be that
11:27:24 23 if the bark -- pardon me -- if the box is not marked you
11:27:28 24 still process the form. Is that right?

11:27:30 25 A. If we have been able to provide, or prove

11:27:35 1 citizenship in another means, yes.

11:27:37 2 Q. Yes. Thank you for that clarification.

11:27:42 3 I wanted to ask you. If you receive a form and
11:27:45 4 the box is marked no, does that raise a red flag for you
11:27:49 5 at all while you're processing?

11:27:51 6 A. I would say that that would raise a red flag if
11:27:54 7 it's marked no.

11:27:55 8 Q. Okay. You were asked a series of questions
11:28:16 9 about what might constitute information about whether a
11:28:21 10 voter is or is not a citizen. Do you recall that?

11:28:23 11 A. Yes.

11:28:24 12 Q. Okay. And I guess I generally wanted to ask
11:28:29 13 you, we talked about the EPM and the guidance that it
11:28:33 14 provides your office.

11:28:33 15 Is it your understanding that all counties
11:28:36 16 follow the EPM?

11:28:38 17 A. Yes.

11:28:39 18 Q. So it provides consistency across the state in
11:28:46 19 voter registration procedures?

11:28:48 20 A. Yes.

11:28:48 21 Q. And so if the EPM were to address what is
11:28:51 22 appropriately considered information would your county
11:28:54 23 follow that guidance?

11:28:56 24 A. We would.

11:28:56 25 Q. We discussed that birthplace is a space on the

11:29:17 1 state form, right?

11:29:18 2 A. Right.

11:29:18 3 Q. Does your county ever use birthplace to identify
11:29:24 4 a voter over the phone?

11:29:26 5 A. We would, yes, use that to verify if somebody
11:29:31 6 was calling, or if we were calling a voter to, say, verify
11:29:38 7 a signature on an affidavit envelope, we would use that as
11:29:44 8 identifying information.

11:29:45 9 Q. And if birthplace is provided by the voter, you
11:29:48 10 input that into AVID when processing the registration, the
11:29:53 11 application for registration?

11:29:55 12 A. Yes.

11:29:56 13 Q. Thank you.

11:29:56 14 I believe you testified that you're not aware of
11:30:05 15 any non-U.S. citizen or nonresident registering or voting
11:30:10 16 in your county. Is that correct?

11:30:11 17 A. That is correct.

11:30:12 18 Q. Does your office generally receive reports about
11:30:18 19 voter fraud directly?

11:30:20 20 A. Reports of voter fraud? Like, so somebody
11:30:30 21 just -- of the public asking for that, or, or telling us?
11:30:35 22 Is that -- or report --

11:30:38 23 Q. Yeah. Oh, sorry. Go ahead.

11:30:40 24 A. Or say a report from, for example, the Secretary
11:30:46 25 of State's office?

11:30:48 1 Q. I guess if a constituent was concerned about
11:30:53 2 voter fraud or they might have evidence of voter fraud, do
11:30:57 3 they normally report those instances to you, or would they
11:30:59 4 report them, say, to a sheriff's department or your county
11:31:04 5 attorney's office?

11:31:05 6 A. I mean, I would assume that option would be up
11:31:07 7 to them how they would want to report it. We don't
11:31:10 8 typically see those.

11:31:12 9 MS. BOUGHTON: Okay. Thank you.

11:31:21 10 That's all the questions I have for you. I
11:31:23 11 believe another defense counsel may have a few quick
11:31:27 12 questions for you. Well, I shouldn't say quick. May have
11:31:29 13 some questions for you.

11:31:29 14 THE WITNESS: Thank you.

11:31:29 15

11:31:29 16 EXAMINATION

11:31:29 17 BY MR. LANGHOFER:

11:31:32 18 Q. My name is Kory Langhofer, and I will, in fact,
11:31:32 19 be quick.

11:31:36 20 I represent the Republican National Committee in
11:31:37 21 this case, and I think I have only got two questions that
11:31:40 22 haven't been covered so far.

11:31:42 23 We have heard reports from some counties that
11:31:44 24 they have these large voter registration drives by outside
11:31:47 25 groups, and that sometimes, in connection with those

11:31:50 1 drives, they received significant numbers of voter
11:31:54 2 registration forms that appear to be, not related to real
11:32:04 3 people. That the forms are trying to register someone who
11:32:07 4 either doesn't exist or is entirely duplicative of a form
11:32:13 5 that's already been submitted by a real person but the
11:32:15 6 most recent form they receive wasn't submitted by the same
11:32:19 7 person.

11:32:20 8 So, essentially, they have these voter
11:32:23 9 registration drives that result in a bunch of bad forms
11:32:26 10 being submitted.

11:32:27 11 Have you all seen anything like that in Greenlee
11:32:30 12 County?

11:32:30 13 A. I have not.

11:32:31 14 Q. Okay. My second question is when someone
11:32:38 15 registers on the state form and they don't provide DPOC,
11:32:42 16 and you can't confirm their citizenship with your database
11:32:47 17 checks, so you have to send them the notification letter
11:32:51 18 and ask for DPOC, how many of those folks end up
11:32:55 19 responding and providing the DPOC?

11:32:57 20 A. We, we really don't have that issue here in
11:33:06 21 Greenlee County. We have not -- we have only had a couple
11:33:12 22 recently that they provided a social security number, we
11:33:17 23 sent them a notice, and I don't know, to my recollection,
11:33:21 24 I'm not sure if they responded or not.

11:33:26 25 MR. LANGHOFER: I see.

11:33:27 1 Well, I promised I would only have two
11:33:30 2 questions, and those were them. Thank you very much for
11:33:30 3 your time.

11:33:33 4 Is there anyone else on the defense side who
11:33:34 5 wants to ask questions? Shayna, maybe you or Hannah?

11:33:40 6 MS. STUART: No, none from the Secretary,
11:33:40 7 thanks.

11:33:44 8 MS. PORTER: No questions. Thank you.

11:33:46 9 MR. LANGHOFER: All right. Anyone on the
11:33:48 10 plaintiff side who wants to redirect?

11:33:50 11 MR. ATKINS: I have just a couple additional
11:33:53 12 questions for you Ms. Milheiro.

11:33:56 13 THE WITNESS: Okay.

11:33:56 14

11:33:57 15 FURTHER EXAMINATION

11:33:57 16 BY MR. ATKINS:

11:33:58 17 Q. A moment ago you were asked whether a voter
11:34:03 18 registration applicant checking no on the citizenship
11:34:08 19 checkbox would be what she called a red flag.

11:34:11 20 Do you remember that?

11:34:11 21 A. Yes.

11:34:12 22 Q. Even if someone marks no on the citizenship
11:34:19 23 checkbox, that doesn't invalidate their application,
11:34:22 24 right?

11:34:22 25 A. That is correct.

11:34:24 1 Q. And if the applicant provides DPOC, that would,
11:34:33 2 essentially, outweigh the no check in the checkbox, right?

11:34:36 3 A. That's correct.

11:34:37 4 Q. And, similarly, if on the federal form they sign
11:34:42 5 the affirmation of citizenship, that would also outweigh
11:34:44 6 the no in the checkbox, right?

11:34:46 7 A. That's correct.

11:34:47 8 Q. And is it possible that if someone checks no it
11:34:53 9 could just be a mistake?

11:34:55 10 A. Yes.

11:34:57 11 DEFENSE COUNSEL: Speculation.

11:35:01 12 BY MR. ATKINS:

11:35:02 13 Q. You were also asked about using birthplace
11:35:05 14 information to identify voters over the phone.

11:35:08 15 Do you remember that?

11:35:08 16 A. Yes.

11:35:09 17 Q. And if I understand correctly, someone calls up
11:35:16 18 and says, my name is John Smith and I have a question
11:35:20 19 about my registration or my ballot, using their birthplace
11:35:26 20 is sort of like a security code that your office uses to
11:35:31 21 confirm they are who they say they are. Is that right?

11:35:33 22 A. It would be an option to use that, yes.

11:35:36 23 Q. So are there other pieces of information that
11:35:39 24 you similarly use for that purpose?

11:35:42 25 A. Yes. We would use last four of social and the

11:35:47 1 actual date of birth.

11:35:48 2 Q. Are there any other pieces of information that
11:35:52 3 you use that way?

11:35:54 4 A. Those are the two that we generally use.

11:35:58 5 Q. And is there any special significance to
11:36:01 6 birthplace in that situation that makes it a better piece
11:36:07 7 of information to use than the other two options?

11:36:09 8 A. No.

11:36:14 9 MR. ATKINS: Okay. I have no further questions.
11:36:16 10 Thanks again for your time today.

11:36:18 11 THE WITNESS: Thank you.

11:36:21 12 MR. LANGHOFER: Anyone else on the plaintiff
11:36:24 13 side?

11:36:25 14 MS. RILEY-SWANBECK: No further questions from
11:36:27 15 the DNC.

11:36:31 16 MR. DIAZ: None from LUCHA.

11:36:36 17 MR. HIRSCHER: Nothing from me.

11:36:36 18 MR. LANGHOFER: All right, Sharie, I think that
11:36:38 19 means you're off the hook for the day. Thanks very much
11:36:41 20 for your time.

11:36:42 21 THE WITNESS: Thank you.

11:36:43 22 THE VIDEOGRAPHER: We are off the record. Time
11:36:43 23 on the video monitor is 11:36 a.m.

11:36:52 24 This ends Volume 1, Media No. 1 in the 30(b)(6)
11:36:52 25 deposition of Greenlee County recorder by Sharie Milheiro.

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(The deposition concluded at 11:36 a.m.)

(Exhibit 238 through Exhibit 243 was marked for
identification.)

(Signature Not Requested.)

SHARIE MILHEIRO

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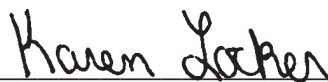
1 STATE OF ARIZONA)
2) SS.
3 COUNTY OF MARICOPA)

4 BE IT KNOWN that the foregoing deposition was
5 taken before me, KAREN L. LOCKER, RPR, Certified Reporter
6 No. 50821 for the State of Arizona, and by virtue thereof
7 authorized to administer an oath; that the witness before
8 testifying was duly sworn by me to testify to the whole
9 truth; deposition review and signature was not requested;
10 that the questions propounded by counsel and the answers
11 of the witness thereto were taken down by me in shorthand
12 and thereafter transcribed into typewriting under my
13 direction; that the foregoing pages contain a full, true,
14 and accurate transcript of all proceedings and testimony
15 had, all to the best of my skill and ability.

16 I FURTHER CERTIFY that I am not related to nor
17 employed by any of the parties hereto and have no interest
18 in the outcome thereof.

19 DATED at Phoenix, Arizona, this 11th day of
20 September, 2023.

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KAREN L. LOCKER, RPR
Certified Court Reporter No. 50821

Exhibits	22 18:8		ADOT 22:25 23:2,10,25 24:13 26:15,22 27:1 35:18 63:6
238 Milheir Exhibit 2:13 13:2 85:2	2243 15:23 16:13 18:15, 20,25 19:21 20:11 55:5 58:17 74:2,20	8	8 28:11
239 Milheir Exhibit 2:15	2243's 29:21 30:6	85533 7:15	Adrian 7:6 8:7
240 Milheir Exhibit 2:18 13:6	238 13:2 85:2	9	affected 27:24
241 Milheir Exhibit 2:21 13:21	239 13:3	9:36 7:2	affidavit 52:20,21 79:7
242 Milheir Exhibit 2:24 16:25	24 51:4	A	affirm 73:16
243 Milheir Exhibit 3:3 28:12 85:2	240 13:6	a.m. 7:2 45:24,25 46:2 84:23 85:1	affirmation 73:21 83:5
1	241 13:21	ability 45:16	afternoon 75:11
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UNITED STATES DISTRICT COURT
DISTRICT OF ARIZONA

Mi Familia Vota, et al.,)	
)	Case No:
Plaintiffs,	)	2:22-cv-00509-SRB
	)	(Lead)
vs.)	
	)	CV-22-00519-PHX-SRB
Adrian Fontes, in his official	)	CV-22-01003-PHX-SRB
capacity as Arizona Secretary of	)	CV-22-01124-PHX-SRB
State, et al.,	)	CV-22-01369-PHX-SRB
	)	CV-22-01381-PHX-SRB
Defendants.	)	CV-22-01602-PHX-SRB
	)	CV-22-01901-PHX-SRB
_____)	
AND CONSOLIDATED CASES.)	
_____)	

DEPOSITION OF APACHE COUNTY RECORDER
REPRESENTED BY ANNALEE SHREEVE
VIDEOTAPED

St. Johns, Arizona
August 31, 2023

Prepared by:

Jody L. Lenschow, RMR, CRR
Certified Court Reporter
Certification No. 50192



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Exhibit 245	Apache County Recorder's Answers to Plaintiff's First Set of Interrogatories	25
Exhibit 246	Apache County Recorder's Answers to Consolidated Plaintiff's First Set of Interrogatories	28
Exhibit 247	3/24/2022 e-mail string re Voters with no link to Total Address AZSOS-017285-017287	53
Exhibit 248	25-page excerpt of Apache County Voter Registration	121

RETRIEVED FROM DEMOCRACY DOCKET.COM

1 VIDEOTAPED DEPOSITION OF APACHE COUNTY RECORDER
 2 REPRESENTED BY ANNALEE SHREEVE
 3 was taken on August 31, 2023, commencing at 1:03 p.m.,
 4 at the Offices of the Apache County Attorney, 245 W. 1st
 5 Street South, St. Johns, Arizona, before Jody L.
 6 Lenschow, RMR, CRR, Certified Reporter No. 50192 for the
 7 State of Arizona, reported via Zoom Videoconferencing.

8
 9 * * *

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U.S. DEPARTMENT OF JUSTICE

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17

18

ALSO PRESENT: Mr. Craig Tsosie,

Chief Deputy Recorder

19

20

ALSO PRESENT VIA ZOOM: Mr. Daniel Rohan,
Videographer

21

22

23

24

25

01:03:23 1 THE VIDEOGRAPHER: We are on the record.
01:03:24 2 Time on the video monitor is 1:03 p.m. Here begins
01:03:29 3 Volume 1, Media No. 1 in the 30(b)(6) deposition of
01:03:34 4 Apache County Recorder by Annalee Shreeve in the matter
01:03:39 5 of Mi Familia Vota, et al. v. Adrian Fontes, et al. in
01:03:44 6 the United States District Court, District of Arizona,
01:03:46 7 Case No. 2:22-cv-00509-PHX-SRB.

01:03:55 8 Today's date is August 31st, 2023. Our
01:03:58 9 court reporter is Jody Lenschow. I am Daniel Rohan,
01:04:03 10 certified legal videographer. We both represent Coash
01:04:08 11 Court Reporting & Video. This video deposition is
01:04:09 12 taking place at the Apache County Attorney's Office,
01:04:13 13 245 West 1st Street South, St. Johns, Arizona, 85936.

01:04:19 14 Counsel, please identify yourselves and
01:04:20 15 state whom you represent.

01:04:21 16 MR. FERGUSON: My name is Brent Ferguson
01:04:25 17 of the Campaign Legal Center, and I represent the LUCHA
01:04:28 18 plaintiffs.

01:04:31 19 MS. ROBERTSON: In the room is Celeste
01:04:36 20 Robertson, and I represent Apache County Recorder Larry
01:04:38 21 Noble.

01:04:46 22 MR. HERRERA: Ernest Herrera, and I
01:04:48 23 represent Promise Arizona Plaintiffs.

01:04:50 24 MR. SNOW: Ryan Snow for Tohono O'odham
01:04:54 25 plaintiffs.

01:04:55 1 MR. DODGE: Christopher D. Dodge on behalf
01:04:56 2 of the MFV plaintiffs.

01:04:59 3 MR. VOLCHOK: Daniel Volchok for the
01:05:01 4 Democratic National Committee and the Arizona Democratic
01:05:04 5 Party.

01:05:07 6 MR. PATTERSON: Beauregard Patterson on
01:05:09 7 behalf of Poder Latinx and CPLC.

01:05:15 8 MR. WHITAKER: Josh Whitaker, joined by my
01:05:18 9 colleague, Kathryn Boughton, on behalf of the Arizona
01:05:22 10 Attorney General.

01:05:24 11 MS. STUART: Shayna Stuart on behalf of
01:05:26 12 the Arizona Secretary of State Adrian Fontes.

01:05:30 13 MR. LANGHOFER: Kory Langhofer for the
01:05:32 14 RNC.

01:05:39 15 THE VIDEOGRAPHER: Will the court reporter
01:05:40 16 please swear in the witness.

17

18

19 ANNALEE SHREEVE,
20 called as a witness herein, having been first duly sworn
21 by the Certified Court Reporter to speak the truth and
22 nothing but the truth, was examined and testified as
23 follows:

24

01:05:54 24 MR. FERGUSON: Great. Thanks. The first
01:05:55 25 thing, we've been doing a stipulation where one

01:05:58 1 defendant's objection will apply to all defendants, and
01:06:01 2 same thing for the plaintiffs. One plaintiff's
01:06:03 3 objection will apply to all. So I would like to put
01:06:06 4 that on the record right now. Let us know if anyone has
01:06:10 5 a problem with that.

01:06:10 6 Great.

01:06:10 7

01:06:16 8 EXAMINATION

01:06:16 9 BY MR. FERGUSON:

01:06:19 10 Q. Good afternoon, Ms. Shreeve. Thanks for being
01:06:21 11 here with us. I'm just going to go over some basics of
01:06:26 12 the deposition and how it will work today right at the
01:06:29 13 beginning here. So if you could start off just by
01:06:32 14 stating your name for the record and spelling your last
01:06:34 15 name, please.

01:06:36 16 A. Annalee Shreeve, S-H-R-E-E-V-E.

01:06:42 17 Q. Great. Thanks so much.

01:06:44 18 And I know that you have a few people in the
01:06:46 19 room with you today. Could you tell me who that is?

01:06:51 20 A. We have the Chief Deputy Recorder, Craig
01:06:55 21 Tsosie, and --

01:06:58 22 MS. ROBERTSON: Co-counsel, Kody
01:07:00 23 Richardson, from the Apache County Attorney's
01:07:01 24 Office.

01:07:01 25 THE WITNESS: Sorry.

01:07:04 1 BY MR. FERGUSON:

01:07:04 2 Q. Great. And your attorney, Celeste Robertson,

01:07:06 3 is there as well, correct?

01:07:09 4 A. That is correct.

01:07:10 5 Q. Thank you. Appreciate it.

01:07:12 6 Okay. Just a little bit more about how the

01:07:15 7 deposition will work. Do you understand that you're

01:07:18 8 testifying under oath today?

01:07:20 9 A. Yes.

01:07:21 10 Q. And do you understand that a court reporter is

01:07:23 11 transcribing the deposition?

01:07:26 12 A. Yes.

01:07:27 13 Q. Great.

01:07:28 14 So just so we can make it easier for the court

01:07:32 15 reporter, can I ask you when you answer my questions,

01:07:34 16 can you do it audibly by saying things like yes or no,

01:07:39 17 rather than nodding or shaking your head, just so she is

01:07:41 18 able to get anything down?

01:07:44 19 A. Yes.

01:07:45 20 Q. Great.

01:07:45 21 And then if you don't understand a question I

01:07:47 22 ask, then please let me know, and I'll repeat it or

01:07:51 23 rephrase; and so if you do answer the question, I'll

01:07:55 24 assume that you understood what I asked. Do you

01:07:59 25 understand that?

01:08:00 1
01:08:01 2
01:08:02 3
01:08:06 4
01:08:10 5
01:08:14 6
01:08:17 7
01:08:22 8
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01:08:26 10
01:08:26 11
01:08:30 12
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01:08:38 15
01:08:41 16
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01:08:46 18
01:08:48 19
01:08:51 20
01:08:53 21
01:08:57 22
01:09:00 23
01:09:04 24
01:09:06 25

A. Yes.

Q. Okay. Great.

And then, also, you might hear your attorney or other attorneys object to a question I ask. So if that happens, please let them finish the objection, and then after that you can still answer the question, unless you're directed by your attorney not to answer that. Is that -- do you understand that?

A. Understood.

Q. Great. Thank you.

Is there is any reason that you can't give full, complete and truthful testimony today?

A. No.

Q. And have you taken any substances or medications or anything like that in the last 24 hours that would affect your ability to testify?

A. No.

Q. Great.

And so if you would like to take a break at any point, just let me know, and we can go off the record and take a break. I'll just ask that if you do want to take a break, if I've already asked a question and it's pending, please answer that question before we take the break.

A. Understood.

01:09:07 1 Q. Great. Thank you.

01:09:07 2 Have you ever been deposed before?

01:09:11 3 A. No.

01:09:12 4 Q. This is your first time? Okay.

01:09:14 5 A. Very first time, yes.

01:09:16 6 Q. Great.

01:09:18 7 And did you bring any materials with you to the

01:09:21 8 deposition?

01:09:22 9 A. A notebook and pen and copies of the documents

01:09:26 10 provided by my attorney.

01:09:28 11 Q. Okay. And those are the documents that I've

01:09:31 12 shared in a Dropbox; is that correct?

01:09:33 13 A. That's correct.

01:09:34 14 Q. Okay. Excellent.

01:09:36 15 And so you have all of those in front of you in

01:09:40 16 paper form right now?

01:09:42 17 A. That is correct, yes.

01:09:43 18 Q. Okay. Excellent.

01:09:44 19 So I'll be sharing my screen for some, but,

01:09:47 20 also, I'll just refer to some of them sometimes so we

01:09:50 21 can just make sure that we're on the same page when we

01:09:53 22 get to those.

01:09:56 23 Now I'd like to ask just a little bit about

01:09:59 24 your background. So, first, can you tell me some about

01:10:04 25 your educational background? Do you have any schooling

01:10:08 1 or degrees after high school?

01:10:11 2 A. I do. I have a Bachelor's in small business
01:10:16 3 management. I am a veteran of the Air Force. Other
01:10:23 4 than that, I've been with the Apache County Recorder's
01:10:26 5 Office since November of 2023. So I am still new to
01:10:32 6 this job, so there are going to be some questions that I
01:10:35 7 can't answer because I am still being trained for the
01:10:38 8 position, so...

01:10:39 9 Q. Okay. Sure. We can talk about that in a
01:10:42 10 little bit.

01:10:42 11 Did you say November 2022 that you started?

01:10:47 12 A. 2022, yes, that's correct.

01:10:49 13 Q. Just making sure.

01:10:50 14 A. Sorry. I'll correct myself.

01:10:52 15 Q. Yeah, no problem.

01:10:52 16 So you've been in the job a little bit less
01:10:57 17 than a year?

01:10:57 18 A. Yes.

01:10:59 19 Q. Okay. Excellent. That's helpful.

01:11:00 20 And can you tell me what your current title is
01:11:04 21 in the Recorder's Office?

01:11:06 22 A. Yes. I'm the voter registration supervisor.

01:11:10 23 Q. Okay. And has that been your title since you
01:11:12 24 started there?

01:11:14 25 A. No. I was actually hired as a temporary. I

01:11:21 1 got this position, I believe, in January of 2023.

01:11:26 2 Q. Okay. So you were temporary for a couple
01:11:29 3 months and then became the voter registration supervisor
01:11:33 4 this last January?

01:11:35 5 A. That's correct, yes.

01:11:37 6 Q. Great. And can you just briefly tell me a
01:11:41 7 little bit about your work before you got to the County
01:11:44 8 Recorder's Office, the job you had immediately before
01:11:47 9 that?

01:11:47 10 A. My last position was in the Air Force.

01:11:52 11 Q. Okay.

01:11:52 12 A. I was a staff sergeant. I was a stay-at-home
01:11:55 13 mom for about ten years before I got this position at
01:11:57 14 the Recorder's Office.

01:12:01 15 Q. Okay. And have you ever previously held a job
01:12:04 16 dealing with voter registration or anything similar
01:12:08 17 before this?

01:12:09 18 A. No, I have not. No.

01:12:10 19 Q. Okay. And have you previously used any names
01:12:14 20 other than the one you use right now?

01:12:17 21 A. I was Annalee Hammond, was my previous married
01:12:22 22 name. Annalee Shreeve is my maiden name.

01:12:27 23 Q. Okay. Thank you. You said Hammond was your
01:12:30 24 previous last name?

01:12:31 25 A. Hammond, yes, H-A-M-M-O-N-D.

01:12:33 1 Q. Great. Thank you.

01:12:36 2 A. Uh-huh.

01:12:36 3 Q. Okay. Now we're going to talk for a couple
01:12:38 4 minutes just about what you mentioned previously about
01:12:41 5 preparing for the deposition and your experience with
01:12:44 6 these topics. I'd like you to take a look at what's
01:12:49 7 been labeled as Document A, which is the amended
01:12:52 8 deposition notice.

01:12:53 9 And I believe we're on Exhibit 244, so if we
01:12:58 10 could mark that as Exhibit 244, please.

01:13:04 11 Do you have that document in front of you?

01:13:05 12 A. I do.

01:13:06 13 Q. Okay. And do you recognize this as the amended
01:13:13 14 deposition notice?

01:13:14 15 A. I do.

01:13:15 16 Q. And you've seen it before?

01:13:17 17 A. I have, yes.

01:13:20 18 Q. Great.

01:13:23 19 And do you recognize that for purposes of this
01:13:27 20 deposition you've been designated as a representative of
01:13:31 21 the Apache County Recorder's Office?

01:13:34 22 A. I do.

01:13:35 23 Q. Okay. Great.

01:13:37 24 And could you take a look at Page 5 of that
01:13:45 25 document, where it says "Topics" at the top?

01:13:49 1 A. Okay.

01:13:50 2 Q. And have you seen that part of the document

01:13:52 3 before?

01:13:55 4 A. Yes, I have.

01:13:56 5 Q. Great.

01:13:57 6 And are you prepared to talk about the topics

01:14:01 7 listed there that's Pages 5 through 8?

01:14:06 8 A. I am.

01:14:07 9 Q. Okay. Great.

01:14:08 10 Are there any specific topics that you don't

01:14:11 11 feel prepared to address?

01:14:14 12 A. No.

01:14:19 13 Q. Okay. Now I guess I'd like to talk, aside from

01:14:22 14 looking at that notice, talk a little bit about how you

01:14:24 15 prepared for the deposition today, so I'm going to ask

01:14:28 16 about conversations you've had. So if you've discussed

01:14:30 17 anything with your attorneys, please don't tell me the

01:14:33 18 content or substance of that conversation; but you can

01:14:38 19 mention that you have met with them, just not what you

01:14:41 20 talked about. If it's anyone else, it's fine to say.

01:14:44 21 So can you tell me who in your office you've

01:14:49 22 met with to prepare for the deposition?

01:14:54 23 A. Angela Gatchell --

01:14:54 24 Q. Okay.

01:14:58 25 A. -- our project coordinator, and that's it.

01:15:04 1 Q. And that's the only person? Okay.

01:15:05 2 A. That's it. We're a small office. There's not

01:15:07 3 too many of us.

01:15:09 4 Q. Sure.

01:15:10 5 And how long did you meet with her, about?

01:15:15 6 A. Not very long. I would say probably about an

01:15:19 7 hour --

01:15:20 8 Q. Okay.

01:15:20 9 A. -- total.

01:15:21 10 Q. And what did you talk about with her?

01:15:25 11 A. We mostly went through when we were producing

01:15:29 12 the documents and reports to, you know, find out which

01:15:33 13 ones were requested and what, you know -- reviewed this

01:15:40 14 Document A and went and, you know, ran the reports that

01:15:46 15 were requested, so...

01:15:47 16 Q. Okay. Great.

01:15:49 17 A. And that's it.

01:15:50 18 Q. So you played a role with her in finding the

01:15:52 19 documents to produce and answering the interrogatories?

01:15:56 20 A. That's correct, yes.

01:16:01 21 Q. And have you met with your attorneys about the

01:16:03 22 deposition?

01:16:04 23 A. I have, yes.

01:16:05 24 Q. Okay. How many times was that?

01:16:09 25 A. Once.

01:16:11 1 Q. Okay. And about how long was that meeting?

01:16:15 2 A. A little over an hour.

01:16:18 3 Q. Okay. And do you have a general sense of what
01:16:23 4 this lawsuit is about? You know, I'm not asking for a
01:16:28 5 lot of specifics, but if you have a general impression
01:16:30 6 or understanding of it, could you tell me what that is?

01:16:34 7 A. I do. General understanding is that the
01:16:41 8 lawsuit is about voters' rights in regards to the
01:16:50 9 addressing and citizenship proof, proof of citizenship,
01:16:54 10 so...

01:16:56 11 Q. Okay. Great. Thank you.

01:16:58 12 And then I'd just like to know a little about
01:17:03 13 your operations in the Recorder's Office. You mentioned
01:17:07 14 that it's a small office. Could you tell me, apart from
01:17:12 15 the County Recorder, who else within your office works
01:17:18 16 on voter registration?

01:17:21 17 A. It is myself and one other employee, Austin
01:17:26 18 King, and Alyssa Wahl also assists in some of the voter
01:17:38 19 registration. We also have two outreach employees that
01:17:41 20 work on the Navajo Reservation. That's Esther Kirk and
01:17:47 21 Brenda Wilson.

01:17:49 22 Q. Okay. That's helpful. Thank you. And --
01:17:54 23 sorry about that.

01:17:55 24 Could you tell me what those two employees that
01:17:59 25 do outreach on the Navajo Reservation, could you tell me

01:18:02 1 in a little bit more detail what they do?

01:18:05 2 A. So in compliance with the NRAF with that they
01:18:11 3 do outreach on the Navajo Reservation to high schools,
01:18:16 4 chapter houses, and other residents up there to educate
01:18:22 5 them on voter registration, get them registered and that
01:18:26 6 sort of thing, so...

01:18:28 7 Q. Okay. So do they hold voter registration
01:18:31 8 drives and things like that?

01:18:32 9 A. They do, yes.

01:18:34 10 Q. Okay. Great.

01:18:37 11 A. And they also help out with, you know,
01:18:39 12 translation and that sort of thing as well.

01:18:42 13 Q. Excellent.

01:18:44 14 And so you mentioned Angela Gatchell before.

01:18:49 15 Does she work on voter registration as well or in a
01:18:52 16 different department?

01:18:54 17 A. She is the project coordinator for the
01:18:57 18 Recorder's Office, so she does pretty much everything.
01:19:04 19 Yeah. She is my backup for most of the tasks that are
01:19:08 20 in regards to voter registration, so she'll assist me if
01:19:14 21 I'm not in the office.

01:19:18 22 Q. Okay. Excellent.

01:19:18 23 And then you mentioned Mr. Tsosie, who is in
01:19:22 24 the room with you, I believe. Could you tell me a
01:19:24 25 little bit about his role?

01:19:26 1 A. Mr. Tsosie is our Chief Deputy Recorder. He's
01:19:32 2 been with us --

01:19:32 3 MR. TSOSIE: Since June.

01:19:34 4 THE WITNESS: -- since June, yeah. He's
01:19:36 5 pretty new to the position, so he's still training,
01:19:36 6 yeah.

01:19:36 7 BY MR. FERGUSON:

01:19:42 8 Q. But he works on voter registration issues as
01:19:44 9 well?

01:19:44 10 A. Yes.

01:19:47 11 Q. Okay. Okay. Excellent.

01:19:50 12 I'd like to move on now, and if you could take
01:19:55 13 a look at Document F. I can pull that up on the screen,
01:20:01 14 if you need, but if you have it in front of you, you
01:20:03 15 could just take a look at the paper version.

01:20:07 16 A. I do not have the F.

01:20:11 17 MS. ROBERTSON: I don't think we have F,
01:20:12 18 Brent, if you could pull that one up.

01:20:12 19 THE WITNESS: Yeah.

01:20:15 20 BY MR. FERGUSON:

01:20:15 21 Q. Yeah, I can share my screen. You have a screen
01:20:17 22 that you can see, right?

01:20:19 23 A. Yes.

01:20:19 24 Q. Okay. Great.

01:20:21 25 I'm going to share now. It's Petty 6.

01:20:43 1 Can you see that document on the screen?

01:20:49 2 A. No, not yet.

01:20:52 3 Q. Is anything coming up?

01:20:54 4 A. No. I just see your file folder.

01:20:58 5 Q. Sorry about that. All right.

01:21:00 6 A. That's okay.

01:21:17 7 Okay, I can see it now.

01:21:19 8 Q. Okay. Excellent.

01:21:19 9 Do you recognize this document?

01:21:21 10 A. I do.

01:21:23 11 Q. Okay. Can you tell me what it is?

01:21:25 12 A. It's the elections procedures manual.

01:21:29 13 Q. Okay. And what do you use the EPM for?

01:21:36 14 A. It is all of the statutes that are in regards

01:21:40 15 to voter registration and elections. So if I need to

01:21:44 16 know, you know, timelines or guidelines or what the

01:21:49 17 statute says, I refer back to this. So...

01:21:53 18 Q. Excellent.

01:21:55 19 And I'll just note for the record here that

01:21:57 20 this is already introduced as Exhibit 6.

01:22:01 21 And you see on the top that it says 2019?

01:22:09 22 A. Yes.

01:22:09 23 Q. Is the 2019 version still the one that you use

01:22:13 24 in your office?

01:22:17 25 A. I believe so.

01:22:19 1 Q. Okay.

01:22:19 2 A. I know that they're in the works of updating it

01:22:23 3 now.

01:22:24 4 Q. Okay.

01:22:25 5 A. So the new one won't be out yet.

01:22:27 6 Q. But this is the one that you refer to?

01:22:29 7 A. This is the most current, yes.

01:22:31 8 Q. Okay. Excellent.

01:22:33 9 And, to your knowledge, is this EPM binding on

01:22:40 10 your office?

01:22:41 11 A. Yes, it is.

01:22:42 12 Q. Okay. Great.

01:22:46 13 MR. WHITAKER: Calls for a legal

01:22:47 14 conclusion.

01:22:53 15 BY MR. FERGUSON:

01:22:54 16 Q. All right. Now, I would just like to talk a

01:22:57 17 little bit about the two laws that are challenged in

01:23:00 18 this lawsuit, and that's H.B. 2492 and H.B. 2243. Are

01:23:10 19 you aware of those two laws?

01:23:13 20 A. Vaguely, yes.

01:23:15 21 Q. Okay. And, again, I'm not asking for a lot of

01:23:20 22 specifics or a full description, but could you give me a

01:23:25 23 general sense or your understanding of what's contained

01:23:30 24 in H.B. 2492?

01:23:34 25 A. I actually can't, so...

01:23:39 1 Q. Okay. And is that the same with H.B. 2243?

01:23:43 2 A. That's correct. I'm not that familiar
01:23:46 3 specifically with them. Yeah.

01:23:48 4 Q. Sure.

01:23:52 5 Is your office implementing any parts of
01:23:58 6 H.B. 2492?

01:24:01 7 A. Yes.

01:24:03 8 Q. Okay. Can you tell me which parts?

01:24:10 9 A. Which -- so I know that we follow all the
01:24:13 10 statutes and laws regarding voter registration and
01:24:18 11 elections. I can't specifically say which one.

01:24:24 12 Q. Okay.

01:24:28 13 MS. ROBERTSON: Brent, could I just
01:24:30 14 clarify for a second?

01:24:31 15 MR. FERGUSON: Sure.

01:24:32 16 MS. ROBERTSON: So, Annalee, those are the
01:24:36 17 laws that are the subject of the litigation.

01:24:37 18 THE WITNESS: Okay. So then that's the
01:24:44 19 citizenship and the voter registration, the addressing
01:24:48 20 part of it, correct? Am I --

01:24:52 21 MS. ROBERTSON: They address some of that,
01:24:54 22 yes.

01:24:54 23 THE WITNESS: Okay. All right.

01:24:57 24 Yeah. I'm just not that versed on the
01:25:01 25 specifics of those, so...

01:25:03 1 BY MR. FERGUSON:

01:25:03 2 Q. Yeah, that's fine, and certainly, you know, if
01:25:06 3 you're not sure, that's totally fine, and you can tell
01:25:09 4 me you don't know.

01:25:11 5 A. Okay.

01:25:12 6 Q. So I'll ask again. Are you currently
01:25:16 7 implementing any parts of the law, to your awareness?

01:25:23 8 A. As far as I know, our office follows all of the
01:25:26 9 statutes and laws, so, yes, I would assume so, yeah.

01:25:32 10 Q. Okay. I will -- I'm going to pull up
01:25:39 11 Document E right now. Do you have that in front of you,
01:25:46 12 or should I put it on the screen?

01:25:47 13 A. Can you put it on the screen, please?

01:25:49 14 Q. Yeah, happy to.

01:25:50 15 A. Oh, you do have it, okay.

01:25:53 16 Q. You've got it?

01:25:54 17 A. Yes, I do have it.

01:25:56 18 Q. Okay. Let's take a look at -- so do you see at
01:26:01 19 the top, the first page, it says "Apache County
01:26:05 20 Recorder's Answers to First Set of Interrogatories,"
01:26:07 21 just to make sure we're --

01:26:09 22 A. Yes.

01:26:09 23 Q. -- looking at the same thing?

01:26:11 24 A. Uh-huh.

01:26:11 25 Q. Okay. Let's go to the second page, and then if

01:26:18 1 you look at where it says "Answer" right in the middle
01:26:20 2 of the second page of the document; do you see that?
01:26:23 3 A. Yes, I do.
01:26:24 4 Q. Okay. Could you just read aloud the first
01:26:32 5 sentence of that?
01:26:34 6 A. Of the answer portion?
01:26:36 7 Q. Yes, please.
01:26:38 8 A. "The Apache County Recorder has not made or
01:26:42 9 implemented any plans, policies or procedures regarding
01:26:44 10 the actual or prospective implementation of H.B. 2492,
01:26:52 11 and the Apache County Recorder will not do so until
01:26:55 12 further guidance is received from the Secretary of
01:26:58 13 State. Should additional guidance be received, the
01:27:01 14 Apache County Recorder will supplement this response."
01:27:04 15 And, yes, this refreshes my memory. Thank you.
01:27:07 16 Q. Okay. That's just what I was going to --
01:27:08 17 A. Yes.
01:27:09 18 Q. Okay. Excellent.
01:27:10 19 So it refreshes your memory that you're not
01:27:18 20 implementing that law, your office is not?
01:27:20 21 A. That's correct. Yes, I do know that -- yeah,
01:27:23 22 I'm aware that the Secretary of State is still working
01:27:25 23 on giving us clarification on this --
01:27:28 24 Q. Okay.
01:27:28 25 A. -- before we implement anything.

01:27:29 1 Q. Excellent. Thank you.

01:27:30 2 And one thing, just generally, I forgot to

01:27:34 3 mention before. Since you're representing your office,

01:27:37 4 sometimes I'll use the word you or your, and when I say

01:27:41 5 that, I'll usually mean your office as a whole, unless I

01:27:45 6 say otherwise. Does that work for you?

01:27:48 7 A. I understand. Yes.

01:27:51 8 Q. I don't mean you personally, yeah. Okay,

01:27:53 9 great.

01:27:54 10 So let's just, to save time, let's move on to

01:27:56 11 H.B. 2243, the other law at issue here. And if you'll

01:28:07 12 look at the next page of that document, Page 3, you

01:28:12 13 don't need to read it aloud, but if you could read where

01:28:14 14 it says "Answer" at the top of Page 3.

01:28:19 15 A. Yes. Would you like me to read it aloud?

01:28:23 16 Q. You don't need to read it aloud, but -- and I'd

01:28:28 17 just ask if your office is implementing any portion of

01:28:31 18 H.B. 2243 at this time?

01:28:35 19 A. At this time, no. We're waiting on direction

01:28:38 20 from the Secretary of State's Office --

01:28:41 21 Q. Okay.

01:28:41 22 A. -- before we implement any of those.

01:28:44 23 Q. Excellent. Okay. I appreciate that. I don't

01:28:46 24 think we've yet marked this as an exhibit, but I think

01:28:48 25 we're on Exhibit 245. So if we could mark that as 245

01:28:55 1 right now.

01:28:55 2 Thanks very much.

01:29:06 3 Okay. So I'd like to look at one more document

01:29:10 4 now, which is Document B. Do you have that one

01:29:18 5 available or should I pull it --

01:29:21 6 A. Yes, I do have that available.

01:29:24 7 Q. Great. And so let's mark that one as

01:29:27 8 Exhibit 246.

01:29:32 9 And could you tell me what this document is?

01:29:36 10 A. This is the -- our responses to the

01:29:42 11 interrogatories for the lawsuit.

01:29:45 12 Q. Great. Thank you.

01:29:48 13 And you said before that you worked on

01:29:55 14 providing these responses; is that correct?

01:29:56 15 A. I did.

01:29:57 16 Q. Okay. Excellent.

01:29:58 17 So I'd like to go to the top of Page 6 of that

01:30:06 18 document. I'll give you a second to get there.

01:30:11 19 A. Okay. I'm there.

01:30:16 20 Q. Great.

01:30:17 21 Do you see where it says "Response" there

01:30:19 22 starting on Line 6 of Page 6?

01:30:22 23 A. I do.

01:30:23 24 Q. Okay. I'll just give you a second to take a

01:30:26 25 look. Could you just read that response? I'll give you

01:30:29 1 a second to do that.

01:30:39 2 A. Okay.

01:30:40 3 Q. Okay. Thank you.

01:30:41 4 So I'll read the first part of that into the
01:30:44 5 record. It says, "Should a voter registration applicant
01:30:49 6 fail to provide proof of citizenship or fail to check
01:30:52 7 the citizenship box on the Arizona voter registration
01:30:55 8 form will be sent a notice from the Apache County
01:31:00 9 Recorder's Office."

01:31:02 10 Did I read that correctly there?

01:31:04 11 A. That is correct, yes.

01:31:05 12 Q. Okay. So I'm just trying to figure out exactly
01:31:10 13 what your process is in this situation. So does this
01:31:14 14 answer mean that if someone fills out a voter
01:31:18 15 registration application without the citizenship box
01:31:21 16 checked, but they have provided documentary proof of
01:31:26 17 citizenship, then you contact them and notify them to
01:31:31 18 resubmit the form with the box checked?

01:31:36 19 A. At this time, no. That -- yes, we would rely
01:31:43 20 on using our HAVA checks and, you know, visually looking
01:31:48 21 at their documentation as well.

01:31:51 22 Q. Okay.

01:31:53 23 A. Yeah. And that kind of supersedes checkmarking
01:31:57 24 that box. If they provide the proof and it goes through
01:31:59 25 the HAVA check correctly, even if they haven't

01:32:03 1 checkmarked that box, they should be fine.

01:32:05 2 Q. Okay. So --

01:32:06 3 A. If they don't do either one of those, then,
01:32:09 4 yes, we would send them a letter.

01:32:11 5 Q. I see. Okay. So if someone applies and they
01:32:16 6 provide proof of citizenship, but they haven't checked
01:32:19 7 the box, then they are registered; is that correct?

01:32:25 8 A. That is -- that is correct.

01:32:28 9 Q. Okay.

01:32:28 10 A. As long as their information makes it through
01:32:30 11 the HAVA checks and all of that and those documents are,
01:32:34 12 you know, legitimate, then, yes, that would be -- they
01:32:38 13 would be registered.

01:32:40 14 Q. Okay. Great. Thank you.

01:32:43 15 And what if they submit the application and the
01:32:46 16 box is checked, but they have not provided proof of
01:32:50 17 citizenship; what do you do with that application?

01:32:54 18 A. Then they would be placed on suspense and sent
01:32:58 19 a letter to provide proof for citizenship.

01:33:03 20 Q. Okay.

01:33:04 21 A. So, yeah, the proof of citizenship, the
01:33:07 22 documents provided by the voter or the registrant
01:33:11 23 supersedes that checkmarked box.

01:33:14 24 Q. Okay. Excellent.

01:33:16 25 So I just want to clarify the first sentence of

01:33:21 1 this response here that I read, saying that if they
01:33:27 2 failed to check the citizenship box, they will be sent a
01:33:31 3 notice. That is not intended to mean that they will be
01:33:37 4 sent a notice if they've provided proof of citizenship;
01:33:45 5 is that correct?

01:33:45 6 A. That's correct. It probably needs to be
01:33:47 7 clarified, yes.

01:33:48 8 Q. Okay. Thank you. Thanks for clarifying that.
01:33:50 9 I appreciate it.

01:33:51 10 And then we've talked a little bit about
01:33:57 11 implementing these two laws that we've been discussing.
01:34:04 12 Has your office had any communications with the
01:34:07 13 Secretary of State's Office about implementing either
01:34:10 14 H.B. 2492 or H.B. 2243?

01:34:14 15 A. I have -- I am aware that the Secretary of
01:34:18 16 State's Office is working on those. I've been a party
01:34:21 17 to meetings where they've discussed it.

01:34:24 18 Q. Okay.

01:34:24 19 A. So, yeah.

01:34:25 20 Q. And can you tell me a little bit more about
01:34:27 21 those meetings, rough ballpark of how many and when they
01:34:35 22 were?

01:34:35 23 A. Probably maybe three or four. Yeah. But it's
01:34:45 24 more when we're -- we're waiting on clarification from
01:34:51 25 them. I believe they're working on a VRAC paper in

01:34:56 1 order for those. So, you know, when questions arise
01:34:58 2 around these topics, they'll say we're still working on
01:35:02 3 that.

01:35:02 4 Q. Okay. And so those few meetings, have those
01:35:08 5 all been within -- between January and today?

01:35:13 6 A. Yes.

01:35:15 7 Q. Okay. And do you remember any specific topics
01:35:18 8 you discussed about things like the citizenship checkbox
01:35:23 9 or providing someone's birthplace or anything else?

01:35:29 10 A. Vaguely, but mostly in regards to the AVID
01:35:33 11 system. I'm on those calls for having the AVID system
01:35:38 12 updated and those sorts of things. So we cannot make
01:35:43 13 any changes to the AVID system and all of that until the
01:35:48 14 VRAC papers come down with more direction from the
01:35:52 15 Secretary of State. So that's usually where my
01:35:55 16 meetings -- where this comes into play for myself.

01:35:57 17 Q. Okay. And so we'll talk some more about the
01:35:59 18 AVID system later, but maybe we can just clarify now.
01:36:06 19 So you mentioned potential updates to the AVID system,
01:36:09 20 and is that -- can you tell me what those potential
01:36:14 21 updates are intended to do?

01:36:17 22 A. To comply with the laws, so to make sure that
01:36:22 23 our system is allowing for those things to be recorded
01:36:27 24 correctly.

01:36:28 25 Q. Okay. And that would be -- do you know what

01:36:33 1 specific parts of the law would require changes to AVID?

01:36:40 2 A. I think it's in the functionality of AVID.

01:36:44 3 We're wanting to make sure that it provides all of the

01:36:46 4 functionality that it needs in order to comply with the

01:36:49 5 law once it's fully, you know, fully enacted, I guess --

01:36:56 6 Q. Okay.

01:36:57 7 A. -- from the Secretary of State. So...

01:36:58 8 Q. Great. Thank you.

01:36:59 9 And so are you aware of any specific changes to

01:37:07 10 the AVID system, you know, any specific functionality

01:37:12 11 that it might have or anything like that?

01:37:17 12 A. At this point, no, we have not -- I know that

01:37:20 13 as part of that advisory board, we haven't made any

01:37:24 14 changes yet until we hear more from the Secretary of

01:37:28 15 State.

01:37:28 16 Q. Okay. And you mentioned the VRAC papers.

01:37:31 17 Could you tell me what VRAC stands for?

01:37:35 18 A. Oh, my gosh. Actually, no, I can't.

01:37:40 19 Q. Is it voter registration advisory committee; is

01:37:44 20 that correct?

01:37:44 21 A. Yes, yes. Yeah. Sorry.

01:37:46 22 Q. No problem.

01:37:49 23 A. I'm still new to the position, so I'm like I

01:37:52 24 don't know all of the lingo yet.

01:37:53 25 Q. Yeah.

01:37:54 1 A. I know what it means, but I don't --

01:37:56 2 Q. There's a lot of acronyms, for sure. No
01:37:59 3 problem.

01:37:59 4 And so what is -- are you on that; are you a
01:38:03 5 member of that?

01:38:03 6 A. I'm not on the advisory committee, but I am
01:38:07 7 part of the user group that suggests the changes that
01:38:14 8 need to be made to AVID. So I'm part of one of the
01:38:18 9 users that, you know, sees problems, asks for upgrades,
01:38:23 10 and that sort of thing.

01:38:26 11 Q. All right. Okay. And as part of that group,
01:38:28 12 are there specific upgrades that that group has
01:38:34 13 suggested?

01:38:37 14 A. I can't speak to any specifically. I know that
01:38:41 15 it's come up, but none of them -- none of those
01:38:44 16 suggestions have come from the Apache County Recorder's
01:38:48 17 Office, from us, so...

01:38:51 18 Q. Okay. And so there are employees of other
01:38:55 19 County Recorder's Office that are in that group with
01:38:57 20 you?

01:38:57 21 A. That's correct, yes.

01:38:59 22 Q. Okay. But you don't have any recollection of
01:39:03 23 requests that those members have made?

01:39:06 24 A. Not specifically, no.

01:39:09 25 Q. Okay. And so is that the only role you play on

01:39:12 1 VRAC is just with the AVID update system?

01:39:15 2 A. Yes, that's correct.

01:39:19 3 Q. And do you -- have you heard from the Secretary
01:39:22 4 of State's Office or anyone else when these updates will
01:39:26 5 likely be made?

01:39:30 6 A. All I know -- all I've heard is that they won't
01:39:33 7 be made until after we get direction and the finalized
01:39:38 8 VRAC paper from the Secretary of State.

01:39:40 9 Q. Okay.

01:39:41 10 A. And I don't know when that will be, so...

01:39:44 11 Q. Okay.

01:39:45 12 A. Yeah.

01:39:46 13 Q. Great.

01:39:47 14 So I'd like to move on now to a specific
01:39:51 15 provision of H.B. 2492. So, let's see. That's going to
01:39:58 16 be Document I. Do you have that, or would you like me
01:40:02 17 to pull that one up?

01:40:03 18 A. I do.

01:40:05 19 Q. You have that?

01:40:05 20 A. I do. I have it.

01:40:06 21 Q. Okay. Great.

01:40:13 22 Okay. And this has been introduced as
01:40:19 23 Document -- or, sorry, as Exhibit 19 already.

01:40:30 24 Sorry. Just one second.

01:40:31 25 MR. FERGUSON: Jody, did we mark the

01:40:35 1 Document B as Exhibit 246?

01:40:35 2 THE COURT REPORTER: (Nodded.)

01:40:40 3 MR. FERGUSON: Okay. I just wanted to

01:40:41 4 double-check that we had that, and thank you.

01:40:41 5 BY MR. FERGUSON:

01:40:44 6 Q. Okay. So you've seen this Document I before,

01:40:50 7 H.B. 2492?

01:40:51 8 A. This is my first time looking at it as a whole.

01:40:54 9 Q. Okay. Okay. Sure.

01:41:02 10 So let's look at Page 3 of Document I.

01:41:18 11 Do you have Page 3 there?

01:41:20 12 A. I do.

01:41:21 13 Q. And if you could look down starting at Line 29

01:41:24 14 of that document, if you could just take a couple

01:41:28 15 moments to read Lines 29 through 33.

01:41:52 16 A. Okay.

01:41:53 17 Q. Okay. Thank you.

01:41:54 18 I'll just read it into the record. "A person

01:41:59 19 is presumed to be properly registered to vote on

01:42:02 20 completion of a registration form as prescribed by

01:42:06 21 Section 16-152 that contains at least the name, the

01:42:10 22 residence address or location, proof of location of

01:42:13 23 residence as prescribed by Section 16-123, the date and

01:42:19 24 place of birth."

01:42:20 25 A. Uh-huh.

01:42:21 1 Q. Are you aware of the requirement in H.B. 2492
01:42:24 2 that voter registration applicants list their place of
01:42:29 3 birth on an application form?

01:42:33 4 A. Yes.

01:42:34 5 Q. Okay. And is your office requiring applicants
01:42:39 6 to list their place of birth right now?

01:42:45 7 A. They can't -- I wouldn't say we require it.

01:42:50 8 Q. Okay.

01:42:52 9 A. As far as like proof of residency, that -- the
01:42:57 10 place of birth does not play into their proof of
01:43:02 11 citizenship at all, so...

01:43:05 12 Q. Okay. So if someone --

01:43:06 13 A. But it is an item -- it is an item that is
01:43:09 14 filled out on the voter registration form, but...

01:43:11 15 Q. Right. So -- right, there's a space for it on
01:43:15 16 the form.

01:43:15 17 If you receive an application that's missing
01:43:20 18 the place of birth, but it has everything else that's
01:43:23 19 required, is that person registered?

01:43:28 20 A. Yes, they are.

01:43:30 21 Q. Okay. And does your office have access to any
01:43:36 22 kind of database that would confirm a person's identity
01:43:41 23 just by using their place of birth?

01:43:46 24 A. By just place of birth by itself?

01:43:52 25 Q. Or in combination with their name, for example.

01:43:55 1 I mean, yes, not submitting solely the place of birth,
01:43:58 2 but do you -- let me rephrase it.

01:44:01 3 Is there any database you have where you could
01:44:04 4 submit their registration information and confirm their
01:44:09 5 identity by matching their place of birth to the place
01:44:14 6 of birth in that database?

01:44:18 7 A. Not that I'm aware of. It's not one of the --
01:44:21 8 it's usually, you know, social security number, driver's
01:44:24 9 license number, name, date of birth, those items.

01:44:29 10 Q. Okay. Thank you.

01:44:31 11 Moving on to a different provision, are you
01:44:36 12 aware that H.B. 2492 also requires voter registration
01:44:41 13 applicants to provide documentary proof of residency or
01:44:47 14 DPOR?

01:44:48 15 A. Yes.

01:44:50 16 Q. Okay. So I'll point you to that same document,
01:44:56 17 Document I that we were looking at, and the bottom of
01:45:02 18 Page 5.

01:45:07 19 A. Okay.

01:45:10 20 Q. And if you could take a look at starting with
01:45:13 21 Line 40 near the bottom of Page 5, and I'll just read
01:45:18 22 that. "Proof of location of residence. Except for
01:45:23 23 persons who register pursuant to Section 16-103, a
01:45:27 24 person who registers to vote shall provide an
01:45:30 25 identifying document that establishes proof of location

01:45:32 1 of residence."

01:45:34 2 A. Uh-huh.

01:45:35 3 Q. Did I read that correctly?

01:45:37 4 A. Yes, you did.

01:45:38 5 Q. Okay. And is your office implementing that

01:45:45 6 requirement that people provide DPOR?

01:45:50 7 A. We do have to have like a physical address in

01:45:54 8 order to register them; but as far as like them

01:45:59 9 providing a document that proves that they live there,

01:46:02 10 no, we do not.

01:46:02 11 Q. Okay.

01:46:02 12 A. Other than we send out letters and they can

01:46:06 13 write their description, you know, their address, a

01:46:10 14 Google Plus Code, that sort of thing. It has to have a

01:46:13 15 signature.

01:46:13 16 Q. Okay.

01:46:14 17 A. But it doesn't require further documents to

01:46:16 18 prove that they live at that location.

01:46:18 19 Q. Okay. Thank you. That's helpful.

01:46:22 20 So let's talk a little bit about what you just

01:46:26 21 mentioned, how people show where they live.

01:46:30 22 So, basically, your last answer means that they

01:46:34 23 don't have to have any kind of document, like an ID with

01:46:39 24 their address or a utility bill or anything like that --

01:46:43 25 A. That's correct.

01:46:43 1 Q. -- but they have to provide some kind of
01:46:46 2 address on the registration form; is that correct?

01:46:50 3 A. That is correct.

01:46:53 4 Q. Okay. And can you tell me, once you get that
01:46:59 5 application form and it has an address on it, how do you
01:47:03 6 go about verifying that address in your system?

01:47:08 7 A. So in the AVID system, once they give us an
01:47:11 8 address, we type it in. If there is a location point
01:47:18 9 saved in the Total Address system, then we can link it
01:47:23 10 to that location.

01:47:25 11 Q. Okay.

01:47:26 12 A. And that's how we would verify it.

01:47:30 13 Apache County is definitely very unique in our
01:47:35 14 addressing on the Navajo Nation and, you know, in the
01:47:40 15 southern part of the county as well. So if we are able
01:47:44 16 to find -- if they can provide like a Google Plus Code
01:47:48 17 or something like that, we can add a point when we find
01:47:51 18 their residence, we can add a point to Total Address and
01:47:55 19 verify it that way.

01:47:57 20 Q. Okay. Let's talk a little bit more about that
01:48:01 21 process. So you're saying if someone provides an
01:48:07 22 address and you put it into the Total Address system and
01:48:11 23 nothing comes up or there's no point, then you will
01:48:15 24 contact them for more information; is that correct?

01:48:19 25 A. That's correct, yes.

01:48:20 1

Q. Okay.

01:48:20 2

A. So they can draw a map, you know, on the voter

01:48:24 3

registration form. They can provide other descriptions

01:48:28 4

of where they live.

01:48:30 5

Q. Okay.

01:48:30 6

A. And if we can locate their residence, we can

01:48:33 7

add that point to Total Address and have them verified.

01:48:38 8

Q. Okay.

01:48:38 9

A. If we still need more information, we would put

01:48:41 10

them in suspense and send them an address verification

01:48:44 11

letter for them to provide more information.

01:48:47 12

Q. Okay. So let's talk about that letter in a

01:48:50 13

moment. But when you're describing asking for more

01:48:58 14

information that you just did, if you haven't yet sent

01:49:00 15

the letter, then what's your process of doing that? Is

01:49:04 16

this when someone's registering in person?

01:49:09 17

A. Yes, and usually it even happens, you know,

01:49:12 18

through the MVD, all of that. So if we do have any

01:49:18 19

questions, as long as -- we can contact the registrant

01:49:24 20

and speak with them over the phone, as long as they're

01:49:27 21

describing that same address that they put on that form

01:49:31 22

and we can locate that same address. It might have a

01:49:34 23

new -- they may need to give more descriptors or that

01:49:38 24

sort of thing. If they're trying to completely change

01:49:41 25

it and put it, you know, somewhere else in a different

01:49:43 1 town, we cannot change that address until we have their
01:49:46 2 signature or a new voter registration form, if that
01:49:50 3 makes sense.

01:49:51 4 Q. Okay. Let's get to the letter you're
01:49:57 5 mentioning, which is, I believe, Document L. Do you
01:50:05 6 have that in front of you?

01:50:07 7 A. No.

01:50:08 8 Yeah, our address verification letter.

01:50:15 9 Q. Okay. So this is what you send if someone
01:50:18 10 provides an address that can't be located in the Total
01:50:23 11 Address system, is that -- that's correct?

01:50:25 12 A. That's correct.

01:50:27 13 Q. Okay. And then if you could go down to the
01:50:34 14 bottom of that document, under where it says
01:50:37 15 "Signature," and there's a couple sentences in
01:50:42 16 parentheses; do you see that?

01:50:46 17 A. Yes, I do.

01:50:49 18 Q. Okay. So I'll read that for the record. "Use
01:50:52 19 information such as north, south, east, west and mile
01:50:55 20 markers of State Highways, apartment complex names, NHA
01:51:01 21 housing names," and then it gives some examples.

01:51:05 22 Did I read that correctly?

01:51:08 23 A. Yes, you did.

01:51:10 24 Q. Okay. And so if someone -- if you send this
01:51:12 25 letter to someone and they respond by providing a

01:51:20 1 description like one of these examples, so one example
01:51:24 2 is one and a half miles southwest of KTNN radio
01:51:29 3 station --

01:51:29 4 A. Uh-huh.

01:51:30 5 Q. -- can you tell me how you would use that
01:51:34 6 description to get their address properly entered in the
01:51:40 7 Total Address system?

01:51:42 8 A. Uh-huh. So normally, because we do have quite
01:51:46 9 a few of these addresses like this, they may just be
01:51:49 10 directionally, you know, southwest of a major, you know,
01:51:55 11 point. If we -- if there is a residence there and it
01:52:01 12 fits their description, then we can add a Total Address
01:52:05 13 point to that description, to that point, and then
01:52:11 14 assign them that address.

01:52:15 15 Q. Okay.

01:52:15 16 A. But if that -- if that point puts them in the
01:52:18 17 middle of a lake or someplace where there is not a
01:52:20 18 residence, using Google Earth or Google Maps, there is
01:52:25 19 not something there, then we would probably contact the
01:52:30 20 registrant again for more clarification.

01:52:32 21 Q. Okay. So let's assume on this example, again,
01:52:39 22 1.5 miles southwest of the radio station, you would take
01:52:43 23 that and then look at a map online, like Google Maps or
01:52:48 24 something, and drop a point, and then that would be the
01:52:51 25 person's official address under the system?

01:52:56 1 A. That is correct.

01:52:58 2 Q. Okay. Okay. But then I think you said if it
01:53:02 3 looks like it's not a location where someone could live,
01:53:06 4 then you will follow up with them again to try to get
01:53:09 5 more specific information?

01:53:12 6 A. That is correct.

01:53:14 7 Q. And aside from descriptions, sometimes people
01:53:18 8 provide drawings of where they live on the voter
01:53:25 9 registration application as well; is that correct?

01:53:27 10 A. That is correct.

01:53:28 11 Q. Okay. And can you tell me the same thing, your
01:53:33 12 process for trying to match that with a specific point
01:53:38 13 in the Total Address system?

01:53:42 14 A. Yes. I would just follow their direction,
01:53:45 15 follow that drawing as much as I can. Sometimes they're
01:53:48 16 upside down. Sometimes they're sideways. But we do our
01:53:53 17 absolute best to, you know, follow the description that
01:53:55 18 the registrant has put there and then find the location.
01:53:59 19 And it's the same with the other, is if that description
01:54:03 20 does not locate an actual residence on the map or we're
01:54:07 21 still not sure, then we would contact the registrant
01:54:11 22 again --

01:54:12 23 Q. Okay.

01:54:12 24 A. -- for more clarification.

01:54:15 25 Q. And if that situation comes up where you can't

01:54:19 1 get an exact location, then how -- how would you send
01:54:25 2 the incomplete address letter if you don't have -- if
01:54:29 3 you just have a drawing or a description or something
01:54:34 4 like that?

01:54:36 5 A. So we would send the letter to their mailing
01:54:38 6 address, which is usually different than that physical
01:54:42 7 address.

01:54:43 8 Q. Okay.

01:54:45 9 A. There are instances where they do not provide a
01:54:49 10 mailing address that is different from that description.
01:54:52 11 In that case we would try to contact them via phone,
01:54:57 12 e-mail, if that is provided on the registration form.

01:55:04 13 So other than that, if they -- like let's say
01:55:07 14 they just give a physical address that we can't verify
01:55:10 15 and they don't give us any other, you know, contact
01:55:14 16 information. Then, you know, we do -- we do try to send
01:55:19 17 it out to that physical address, and normally it will
01:55:22 18 probably come back to us undeliverable.

01:55:24 19 Q. Okay. And in the situation where you try to do
01:55:32 20 followup as you've described, so if you send that letter
01:55:36 21 or you try to contact them in a different way and you're
01:55:40 22 unable to do so, what happens to that person's
01:55:45 23 registration?

01:55:48 24 A. They would more than likely stay in suspense,
01:55:52 25 waiting verification.

01:55:53 1 Q. Okay.

01:55:55 2 A. This is part of it where I'm still getting
01:55:59 3 training.

01:55:59 4 Q. Okay.

01:56:00 5 A. I do know that there are, you know, certain
01:56:03 6 rules about how long they can stay in suspense, and I
01:56:06 7 think they have to go through a cycle of not voting
01:56:10 8 during so many, you know, elections and that sort of
01:56:13 9 thing. I am still training on that.

01:56:17 10 Q. Okay.

01:56:17 11 A. But in Apache County, since I've been in this
01:56:20 12 position, I haven't canceled anybody or anything in that
01:56:24 13 status because I'm still working with the Secretary of
01:56:27 14 State on training how to do that.

01:56:29 15 Q. Okay. Sure. And if they're in that suspense
01:56:35 16 category, are they able to vote in the -- in any
01:56:41 17 elections?

01:56:43 18 A. If they did try to vote, we would have to have
01:56:46 19 them verify that address. More than likely they would
01:56:49 20 have to vote provisionally.

01:56:51 21 Q. Okay.

01:56:53 22 A. Yes. But they are able to still vote if
01:56:56 23 they're in suspense provisionally, yeah.

01:57:00 24 Q. Okay. They'll vote a provisional ballot.

01:57:05 25 And you started this job, I know, in November

01:57:09 1 of 2022. Were there situations after the November '22
01:57:17 2 election where people voted provisionally?

01:57:21 3 A. Yes.

01:57:22 4 Q. Okay. And do you know about how many people?

01:57:28 5 A. I don't know that number. Like I said, I
01:57:30 6 started about maybe three days before the election.

01:57:35 7 Q. Okay.

01:57:35 8 A. So, you know, started as a temp just helping
01:57:37 9 out and whatever. So I don't know the specifics about
01:57:40 10 the November '22 election.

01:57:43 11 Q. Okay. And I'm not asking for specific numbers
01:57:49 12 here, but do you have a sense of those people who do
01:57:55 13 vote provisionally because they're on the suspense list,
01:57:59 14 about what proportion are able to have their vote
01:58:05 15 counted after follow-up?

01:58:09 16 A. Like I said, my only experience was with this
01:58:12 17 past election. I do not know the numbers from that
01:58:15 18 election myself. I don't believe the number's super
01:58:21 19 high, but I don't want to speak to that if I don't know
01:58:24 20 the answer.

01:58:25 21 Q. Okay. Fair.

01:58:27 22 And you mentioned the Navajo Reservation a few
01:58:32 23 minutes ago. Can you tell me which other Native
01:58:35 24 American Reservations are in Apache County?

01:58:41 25 A. I believe that's the only one, as far as I

01:58:46 1
01:58:46 2
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01:58:54 4
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01:58:59 6
01:59:03 7
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01:59:10 9
01:59:11 10
01:59:13 11
01:59:18 12
01:59:22 13
01:59:24 14
01:59:29 15
01:59:36 16
01:59:40 17
01:59:46 18
01:59:52 19
01:59:55 20
01:59:57 21
02:00:01 22
02:00:02 23
02:00:06 24
02:00:11 25

know.
Q. Okay.
A. I don't think any others come into the Apache
County.
Q. And are there areas or -- strike that.
Do you know of areas on the Navajo Reservation
or any Reservations that lack a numbered street address?
A. Yes, many.
Q. Okay.
A. Many.
Q. And would you say it's more likely that a home
on a Reservation would lack a street address than a home
elsewhere?
A. Yes. I know that the southern part of the
county as well we've got a lot of addresses that do not
have 911 addresses, I guess, that are not assigned an
actual address that are very, very rural. So I would
say more likely, yes, on the Navajo Nation they have
fewer addresses; but I do come in contact with that in
the other part of the county as well.
Q. And when you say no 911 address, what does that
mean?
A. That would be like an address that is assigned,
that the county would assign to that residence --
Q. Okay.

02:00:13 1 A. -- that's on the record. So if you Googled it,
02:00:16 2 you would be able to find it.

02:00:17 3 Q. Okay. And so you've seen voter registration
02:00:26 4 applications from a Reservation that lack a standard
02:00:29 5 street address; is that correct?

02:00:32 6 A. Yes, I would say a high proportion --

02:00:35 7 Q. Okay.

02:00:35 8 A. -- that are on the Navajo Nation are -- lack a
02:00:38 9 standard address, yeah.

02:00:39 10 Q. But would you say over half?

02:00:43 11 A. Oh, yeah. Yes.

02:00:45 12 Q. Okay. And do you know if voter registration
02:00:53 13 rates are lower for people who live on a Reservation
02:00:59 14 than people who live elsewhere in Apache County?

02:01:05 15 MR. LANGHOFER: Foundation.

02:01:11 16 THE WITNESS: Am I able to answer?

02:01:12 17 BY MR. FERGUSON:

02:01:12 18 Q. Yeah, go ahead.

02:01:17 19 A. Okay. I wouldn't know. I wouldn't know that.

02:01:19 20 Q. Okay. Let's move back a little bit to
02:01:27 21 documentary proof of residence that we were talking
02:01:30 22 about and how that applies to people who lack a standard
02:01:33 23 street address.

02:01:37 24 Do you know how someone who lacks a standard
02:01:39 25 street address would be able to provide DPOR?

02:01:46 1 MR. LANGHOFER: Calls for a legal
02:01:47 2 conclusion.

02:01:56 3 THE WITNESS: As far as that, they can,
02:01:58 4 you know, draw the map, give a more descriptive of where
02:02:05 5 the house is located. They can provide a Google Plus
02:02:13 6 Code. We do send out, you know, instructions on how to
02:02:15 7 find a Google Plus Code to all of those people. We can
02:02:21 8 call them, speak to them and that sort of thing. We can
02:02:25 9 also -- I know that we can have our outreach employees
02:02:29 10 go and try to locate the house that way as well.

02:02:33 11 BY MR. FERGUSON:

02:02:33 12 Q. Okay. Thank you.

02:02:40 13 So let's move back to that requirement we were
02:02:42 14 discussing in H.B. 2492. The applicants provide some
02:02:49 15 kind of document that proves their residency separately
02:02:54 16 from just providing a verified address. And can you
02:03:04 17 take a look at Document J? Do you have that in front of
02:03:06 18 you?

02:03:06 19 A. No, I do not.

02:03:11 20 Q. Okay. I'll pull it up on the screen.

02:03:21 21 Okay. Do you see that?

02:03:24 22 A. I do.

02:03:25 23 Q. Great. So this has been marked as Exhibit 24
02:03:28 24 already.

02:03:28 25 Have you ever seen this document before?

02:03:32 1 A. I have not, no.

02:03:33 2 Q. Okay. So I'll represent to you that the State
02:03:38 3 of Arizona has submitted this document in this case and
02:03:42 4 has indicated that it's a chart created by the Secretary
02:03:46 5 of State about DPOR.

02:03:50 6 A. Okay.

02:03:50 7 Q. So, to your knowledge, this document has not
02:03:52 8 been sent to your office or the office of any other
02:04:05 9 County Recorders?

02:04:05 10 A. I do not know.

02:04:06 11 Q. And if -- on the second page here you'll see in
02:04:09 12 green it says "What constitutes Documentary Proof of
02:04:13 13 Residency?" If you look at the third box down, it says,
02:04:18 14 "Tribal identification card." Do you see that?

02:04:21 15 A. Yes.

02:04:22 16 Q. Would your office accept that as valid
02:04:26 17 documentary proof of residency?

02:04:28 18 A. Yes, we would.

02:04:30 19 Q. Okay. And then now down to the fifth box,
02:04:34 20 where it says "Utility bill, bank statement, Arizona
02:04:38 21 insurance card," would your office accept those
02:04:43 22 documents as acceptable documentary proof of residency?

02:04:49 23 A. Yes, we would.

02:04:51 24 Q. And would you accept an affidavit from the
02:04:55 25 applicant saying that they're qualified to register?

02:05:02 1 A. We would have to have other checks and balances
02:05:07 2 in place. We can't just take their word for it, I
02:05:10 3 guess.

02:05:11 4 Q. Okay.

02:05:12 5 A. Yeah.

02:05:12 6 Q. Sure. Okay. I'll stop sharing my screen now.

02:05:17 7 Are you familiar with the National Voter

02:05:25 8 Registration Act or NVRA?

02:05:27 9 A. Yes.

02:05:30 10 Q. Okay. And are there agencies in Apache County
02:05:33 11 that provide voter registration services pursuant to the
02:05:38 12 NVRA?

02:05:41 13 A. Yes, there are.

02:05:42 14 Q. Okay. Do you know which agencies those are?

02:05:47 15 I'm not asking you to list all of them, but are you

02:05:49 16 aware of a few?

02:05:52 17 A. So like that would be like DES, public -- you
02:05:58 18 know, public assistance programs, that sort of thing.

02:06:00 19 Q. Okay. Excellent.

02:06:01 20 And are you aware of any effort to educate

02:06:04 21 those agencies on the DPOR requirement we've been

02:06:12 22 discussing in H.B. 2492?

02:06:15 23 A. I am not aware.

02:06:17 24 Q. Okay.

02:06:17 25 A. I can't answer that.

02:06:18 1 Q. Okay. I'd like to turn now to Document D. Do
02:06:26 2 you have that one?

02:06:27 3 A. I do.

02:06:28 4 Q. Okay. Great. So let me pull that up as well.
02:06:35 5 Have you seen this document before?

02:06:37 6 A. I have, yes.

02:06:38 7 Q. Okay. Can you describe what it is?

02:06:42 8 A. It is an e-mail thread between the Secretary of
02:06:52 9 State's Office, the AVID group, in regards to unverified
02:07:02 10 addresses in AVID and Total Address.

02:07:06 11 Q. Okay. And have you seen this e-mail as part of
02:07:11 12 your job or have you seen it just in preparing for the
02:07:15 13 deposition today?

02:07:17 14 A. Just in preparing for the deposition today.

02:07:22 15 Q. Okay. So I'm going to read just a portion of
02:07:29 16 this first page for the record. And if we can mark this
02:07:36 17 document as Exhibit 247, please.

02:07:46 18 So this is -- I'm going to read from the first
02:07:50 19 paragraph. "These are addresses that are neither
02:07:53 20 connected to a standard point nor have an actual point
02:07:57 21 dropped in TA." Do you see that part?

02:08:00 22 A. I do.

02:08:01 23 Q. Okay. And TA, is that Total Address that we've
02:08:04 24 been talking about?

02:08:06 25 A. It is, yes.

02:08:08 1 Q. Okay. And then at the bottom of the e-mail it
02:08:12 2 says "Apache" and then the number 15,019; is that
02:08:22 3 correct?

02:08:22 4 A. That is correct.

02:08:23 5 Q. Okay. So to your understanding, is this e-mail
02:08:26 6 saying that as of March 2022, there are 15,019 voters in
02:08:32 7 Apache County whose address was not connected to a point
02:08:36 8 in the TA system?

02:08:38 9 A. That is correct.

02:08:39 10 Q. Okay. And so were you -- before you saw this
02:08:43 11 e-mail, were you aware of this problem?

02:08:49 12 A. Yes, I was.

02:08:50 13 Q. Okay.

02:08:51 14 A. Uh-huh.

02:08:51 15 Q. And I know that you started about six months
02:08:55 16 after this e-mail was sent, but can you tell me, to your
02:09:00 17 knowledge, what the office has done to address this
02:09:03 18 problem?

02:09:05 19 A. We've actually been working very hard to get
02:09:09 20 this number down. We are now in the 8,000s,
02:09:14 21 approximately.

02:09:16 22 Q. Okay.

02:09:18 23 A. When I started, I think we were at around
02:09:22 24 30,000. So this has been kind of my personal big goal
02:09:27 25 to get this completed, and I have been in contact with

02:09:32 1 Russ Smith from the Secretary of State's Office and the
02:09:37 2 AVID -- in the AVID department to get this reconciled --
02:09:42 3 Q. Okay.
02:09:43 4 A. -- as quickly as possible.
02:09:45 5 Q. Okay. So that number was at 15,000 in March
02:09:49 6 and then it went up to 30,000 --
02:09:53 7 A. It was at 30,000 last November when I first
02:10:00 8 started.
02:10:01 9 Q. Okay.
02:10:01 10 A. So I don't know --
02:10:03 11 Q. Right.
02:10:03 12 A. -- a date on this
02:10:05 13 Q. Okay.
02:10:07 14 A. Okay.
02:10:07 15 Q. So this e-mail says March 2022. Sorry. I
02:10:12 16 should have said the year.
02:10:14 17 A. Yeah. So it did go up, apparently.
02:10:18 18 Q. Okay. And now you said it's down to about
02:10:20 19 8,000.
02:10:21 20 A. Uh-huh.
02:10:21 21 Q. Can you tell me how -- how you have lowered the
02:10:26 22 number?
02:10:27 23 A. We've manually had to go in to each individual
02:10:32 24 record and reconcile their address in Total Address. So
02:10:37 25 it's been a big endeavor.

02:10:39 1 Q. Okay. And is that normally done without
02:10:45 2 contacting the voter or applicant?

02:10:50 3 A. For the most part, yes, because some of them
02:10:53 4 are as simple as taking out a space that was in there
02:10:57 5 and then it suddenly will recognize the address and --

02:11:01 6 Q. I see.

02:11:01 7 A. -- we just update it and reconcile it. Some
02:11:05 8 are not so easy. We can't find the address. So what we
02:11:08 9 would do is put them in suspense and send them a letter
02:11:11 10 for verification.

02:11:13 11 Q. Okay. So some of the -- some of that 15,000 or
02:11:18 12 later 30,000 were just because of things like typos?

02:11:23 13 A. Yes. Yes.

02:11:29 14 Q. Okay. And then some portion of them were also
02:11:31 15 because the description or address couldn't be located
02:11:35 16 even if it -- even if there was no typo?

02:11:39 17 A. That's correct, yes.

02:11:42 18 Q. Okay. And can you tell me what -- so the
02:11:45 19 voters on that list that were at 15,000 in March of
02:11:55 20 2022, were they all on the suspense list that you
02:11:58 21 mentioned before?

02:12:01 22 A. No, they were not. Some --

02:12:02 23 Q. Okay.

02:12:02 24 A. And where these originated, for the most part,
02:12:07 25 was when we migrated from the old voter registration

02:12:13 1 system to AVID --

02:12:15 2 Q. Okay.

02:12:16 3 A. -- and started using Total Address. That's
02:12:19 4 where most of many them were originated from. Most of
02:12:24 5 the counties had those reconciled I believe it was
02:12:27 6 2020 --

02:12:28 7 Q. Okay.

02:12:28 8 A. -- when that migration happened. So they were
02:12:33 9 still active and everything in the system. We just --
02:12:37 10 they were just still showing in AVID that they were not
02:12:41 11 reconciled. So a lot of them, yes, are active. They
02:12:44 12 could vote, everything. We just have to verify those
02:12:48 13 addresses.

02:12:49 14 Q. Okay. Thank you.

02:12:51 15 And that -- so do you have a ballpark idea of
02:12:56 16 what proportion of those voters, of the 15,000, were
02:13:02 17 active and able to vote at that time?

02:13:08 18 A. I would say a majority of them. There were not
02:13:12 19 so many that, you know, did not -- were not assigned a
02:13:15 20 precinct part because of the unverified address.

02:13:20 21 Q. I see.

02:13:20 22 A. Yeah, that's a small portion of them.

02:13:23 23 Q. And so the -- that's what I was going to get to
02:13:26 24 next. If someone doesn't have a specific point in TA,
02:13:33 25 it could link that voter to the wrong precinct; is that

02:13:40 1 correct?

02:13:40 2 A. It could, yes.

02:13:41 3 Q. Okay. Or would it sometimes not assign them to
02:13:44 4 a precinct?

02:13:45 5 A. So it would either assign them to no precinct.

02:13:50 6 Q. Okay.

02:13:50 7 A. In that case, you know, they wouldn't -- they
02:13:52 8 would not be able to vote because they are not assigned
02:13:56 9 a precinct. For the most part, they -- when that
02:14:02 10 migration happened -- I'm still trying to understand the
02:14:05 11 AVID system.

02:14:06 12 Q. Sure.

02:14:07 13 A. But from what I understand is that they still
02:14:12 14 maintained the same precinct that they were assigned in
02:14:16 15 the previous system. So they were still able to vote.
02:14:19 16 But once we go and reconcile them, sometimes it -- their
02:14:23 17 house really isn't there. It's over here. So it may
02:14:26 18 put them in a different precinct.

02:14:29 19 Q. Okay.

02:14:29 20 A. Yeah.

02:14:33 21 Q. Thank you.

02:14:34 22 And so the people out of this 15,000 and then
02:14:38 23 the later 30,000, the ones that are on the suspense
02:14:46 24 list, is that because they would be in the wrong
02:14:48 25 precinct or not assigned to a precinct?

02:14:51 1 A. So the ones that are being put in the suspense
02:14:54 2 list, as we go through, you know, this 15,000 whatever,
02:14:59 3 they have to manually be put on the suspense list.

02:15:02 4 Q. Okay.

02:15:02 5 A. So we've reviewed it, we haven't been able to
02:15:05 6 reconcile their address in Total Address, and we put
02:15:08 7 them on suspense and send them a letter. So none of
02:15:12 8 them were automatically put in suspense --

02:15:14 9 Q. I see. I see.

02:15:15 10 A. -- by the system. So if they had an unverified
02:15:19 11 address left over from that merge --

02:15:22 12 Q. Uh-huh.

02:15:23 13 A. -- then they were still able to vote based on
02:15:27 14 that precinct that they were assigned from before --

02:15:29 15 Q. Okay.

02:15:29 16 A. -- if they were assigned one.

02:15:30 17 Q. So the suspense list is only for people who
02:15:34 18 you've gone in to manually look at the address and you
02:15:36 19 cannot confirm or pinpoint it, and then someone in your
02:15:41 20 office puts them on that list; is that correct?

02:15:44 21 A. That's correct, yes.

02:15:46 22 Q. Okay.

02:15:46 23 A. Uh-huh.

02:15:47 24 Q. Thank you.

02:15:48 25 Do you know about how many voters out of that

02:15:58 1 15,000 lived on a Reservation?

02:16:06 2 A. I can't say for sure, but I would say the
02:16:08 3 majority were from -- were on the Reservation, yes.

02:16:12 4 Q. Okay. And you provided a document as part of
02:16:20 5 the discovery in this case, Request for Production 3,
02:16:23 6 that had a suspense list; do you remember that?

02:16:28 7 A. I do.

02:16:29 8 Q. Okay. And is that the same list that we've
02:16:34 9 been talking about just now?

02:16:39 10 A. Yes.

02:16:39 11 Q. Okay.

02:16:40 12 A. Obviously it's changed since that production.

02:16:42 13 Q. Sure.

02:16:42 14 A. Because we've added more to it.

02:16:48 15 Q. Okay. But every person on that list is on
02:16:50 16 there because of some kind of problem with their
02:16:55 17 address; is that correct?

02:16:59 18 A. I believe so. I'm trying to remember. Because
02:17:05 19 you can run that -- you can put voters on suspense for
02:17:10 20 more than just address verification. But I believe I
02:17:14 21 had run that report, the suspense list, based on the
02:17:18 22 unverified addresses.

02:17:19 23 Q. Okay. And do you --

02:17:23 24 A. If I remember.

02:17:24 25 Q. Sure.

02:17:26 1 Do you remember about how many people were on
02:17:28 2 that list when you sent it? Again, I'm not asking for
02:17:32 3 exact numbers.

02:17:34 4 A. I do not.

02:17:35 5 Q. Okay.

02:17:36 6 A. I do not remember.

02:17:37 7 Q. If it says "Waiting Verification" on that
02:17:42 8 suspense list, does that refer to the waiting for
02:17:46 9 verification of their address?

02:17:48 10 A. Yes. There would be a further, other
02:17:53 11 specification. It would be you put them in suspense,
02:17:56 12 they're waiting verification, and then you would choose
02:17:58 13 the reason why. Some of those could be citizenship.
02:18:01 14 Some of it could be address verification. There's
02:18:04 15 multiple choices there. But I believe the one that I
02:18:09 16 sent you was based on missing or incomplete address.

02:18:14 17 Q. Okay. Thank you.

02:18:16 18 And then just going back to you mentioned the
02:18:28 19 county providing addresses for homes, and I think you
02:18:32 20 mentioned that with regard to the southern part of
02:18:35 21 Apache County. Do you know what agency or division of
02:18:41 22 the county government provides those addresses?

02:18:47 23 A. Our Apache County Engineering provides those.

02:18:50 24 Q. Okay. And do they -- do they also provide
02:18:55 25 addresses for homes on Reservations or not?

02:19:01 1 A. I do not believe so, no.

02:19:03 2 Q. Okay. If you'll just give me one moment.

02:19:15 3 MS. ROBERTSON: Brent, perhaps we could

02:19:16 4 take just a five-minute break, if this is a good time.

02:19:18 5 MR. FERGUSON: Yeah, that's good with me.

02:19:20 6 Is that good with everyone else?

02:19:23 7 THE WITNESS: That's fine.

02:19:24 8 THE VIDEOGRAPHER: We are off the record.

02:19:25 9 Time on the video monitor is 2:19 p.m.

02:19:30 10 (A recess was taken.)

02:26:20 11 THE VIDEOGRAPHER: We are on the record.

02:26:21 12 Time on the video monitor is 2:26 p.m.

02:26:26 13 BY MR. FERGUSON:

02:26:27 14 Q. Great. Thank you.

02:26:28 15 So we've been talking a little bit about how

02:26:34 16 voters were placed on the suspense list. Has Apache

02:26:41 17 County ever removed voters from the rolls because their

02:26:47 18 address couldn't be verified?

02:26:51 19 A. In the time that I have been here, no, because

02:26:54 20 I know that it needs to be done. Like I said, I'm still

02:26:59 21 being trained on that procedure and policy. But I do

02:27:03 22 have a list. I know that, you know, we have to wait

02:27:08 23 35 days from the time that their notice goes out and

02:27:12 24 that sort of thing. We have to wait so many election

02:27:15 25 cycles before we can actually cancel them. That has not

02:27:19 1 happened since I've been here, because I'm waiting --
02:27:22 2 I'm working with the Secretary of State's Office to get
02:27:25 3 trained on doing that.

02:27:27 4 Q. Sure.

02:27:28 5 A. But I do know that there is a policy on when
02:27:30 6 you can cancel voters on that suspense list.

02:27:35 7 Q. Okay.

02:27:36 8 A. There is a time limit, yeah.

02:27:39 9 Q. So they could be on the suspense list for some
02:27:42 10 certain period of time and then removed.

02:27:46 11 Is there any situation you're aware of where
02:27:48 12 voters were simply removed without being placed on a
02:27:52 13 suspense list?

02:27:54 14 A. The only time we would do that is if they are
02:27:59 15 deceased or we have proof that they have moved out of
02:28:02 16 the county.

02:28:03 17 Q. Okay.

02:28:03 18 A. But not for -- not for unverified addresses,
02:28:07 19 no.

02:28:07 20 Q. Okay. Okay. Thank you.

02:28:07 21 And then we've talked some about the documents
02:28:15 22 that someone might be able to provide for proof of
02:28:25 23 residency, and you mentioned before that a Tribal
02:28:30 24 identification card or utility bill would be acceptable;
02:28:38 25 is that correct?

02:28:38 1 A. That is correct, yes.

02:28:40 2 Q. Okay. If you'll give me just one moment.

02:28:57 3 Do you ever refer to documents like that when
02:29:00 4 going through the process of locating voters, or do you
02:29:06 5 just use their description and the map that you
02:29:10 6 mentioned?

02:29:15 7 A. So I will run usually like the HAVA check, like
02:29:19 8 if they -- let's say they gave me a drawing and a
02:29:23 9 description and I still can't figure it out. I can run
02:29:26 10 a HAVA check and see what's on their driver's license.
02:29:29 11 Usually it's the same exact thing that they've given me,
02:29:32 12 so it's not very helpful. And I also have looked on
02:29:36 13 past voter registration forms if they've done one before
02:29:40 14 to see if they have a similar description or other, you
02:29:44 15 know, that sort of thing. But --

02:29:47 16 Q. Okay.

02:29:48 17 A. I wouldn't -- I wouldn't refer to like their
02:29:50 18 Tribal ID, because all we have is the ID number. We
02:29:53 19 don't necessarily have those on file; or like a utility
02:29:58 20 bill, we wouldn't keep that on file with us to refer to,
02:30:03 21 so...

02:30:05 22 Q. Okay. Thank you.

02:30:06 23 So moving on, could you just describe in
02:30:13 24 general how the office works to protect against voter
02:30:18 25 fraud?

02:30:22 1 A. For the most part, it is reviewing the voter
02:30:29 2 registration form to make sure that signatures match,
02:30:32 3 the handwriting matches. And then once we enter it into
02:30:37 4 the AVID system, we do like a HAVA check. It will also
02:30:43 5 double-check to make sure if there's any other voters
02:30:45 6 with that same social, date of birth, and name. It will
02:30:49 7 tell us if there's other matches. The system does that
02:30:53 8 for us automatically, so -- yeah.

02:30:58 9 Q. And --

02:30:58 10 A. And --

02:30:59 11 Q. Sorry. Go ahead.

02:31:01 12 A. No, I just know that there's cases like if we
02:31:05 13 get voter registration forms and they look like they
02:31:08 14 haven't been filled out like or they've been filled out
02:31:11 15 by someone other than the person that signed it, you can
02:31:15 16 kind of tell. We go through training and certification
02:31:18 17 for like signature verification.

02:31:20 18 Q. Okay.

02:31:21 19 A. That sort of thing, so...

02:31:25 20 Q. Sure. And let's talk about -- a little bit
02:31:27 21 more about that, about the steps you would take if you
02:31:30 22 believe there might be an instance of fraud. You
02:31:33 23 mentioned the signature matching. What would your next
02:31:39 24 steps be there?

02:31:42 25 A. I would probably be consulting our County

02:31:45 1 Attorney or the Secretary of State's Office if I found
02:31:47 2 anything like that --

02:31:48 3 Q. Okay.

02:31:49 4 A. -- and, you know, before I moved forward.

02:31:51 5 Q. Okay. Great.

02:31:52 6 And so are you essentially the leader of any
02:31:58 7 investigation into that in your office?

02:32:01 8 A. In our office, yes, I would be the person that
02:32:03 9 would investigate that, yeah.

02:32:06 10 Q. Okay. And do you think overall your office's
02:32:11 11 work has been effective in preventing fraud?

02:32:15 12 A. I believe so. I haven't had to deal with
02:32:20 13 any -- I've been made aware of past situations before I
02:32:24 14 took the position of that, but I personally haven't had
02:32:29 15 to deal with any possible voter fraud myself.

02:32:33 16 Q. Okay. So you haven't yourself witnessed or
02:32:40 17 known about any instances of fraud in Apache County?

02:32:47 18 MR. LANGHOFER: Foundation.

02:32:49 19 THE WITNESS: Yeah, did you want me to
02:32:50 20 answer?

02:32:51 21 BY MR. FERGUSON:

02:32:51 22 Q. Yes, you can go ahead. Sorry.

02:32:54 23 A. Okay. No, it's okay.

02:32:57 24 I have been aware of some possible situations
02:33:00 25 where there have been voter fraud, yes.

02:33:03 1 Q. Okay.

02:33:03 2 A. But that was before I was the person in the
02:33:05 3 position.

02:33:06 4 Q. Okay.

02:33:06 5 A. So I do know that it has happened.

02:33:08 6 Q. Okay. And can people submit allegations about
02:33:14 7 fraud to your office?

02:33:18 8 A. Yes, they can.

02:33:19 9 Q. Okay. And has that happened since you started
02:33:23 10 in your job there?

02:33:25 11 A. No, it has not.

02:33:29 12 Q. Okay. Have you engaged in any meetings or
02:33:34 13 discussions since you've been in the office about
02:33:42 14 preventing fraud with people outside the Apache County
02:33:45 15 Recorder's Office?

02:33:49 16 A. I personally have -- I know that they do
02:33:52 17 provide those trainings and meetings through the
02:33:55 18 Secretary of State's Office. I wasn't the one to attend
02:33:59 19 that specific meeting. I believe another person from
02:34:02 20 our office was the one to attend that.

02:34:06 21 Q. Okay.

02:34:06 22 A. But they are made available through the
02:34:09 23 Secretary of State's Office.

02:34:10 24 Q. Sure.

02:34:11 25 And those are general trainings and not

02:34:19 1 specific meetings about things that --

02:34:19 2 A. Oh, like a --

02:34:23 3 Q. -- things specific to Apache County?

02:34:26 4 A. Yeah, that's correct. Yeah. I haven't heard
02:34:30 5 of any specific meeting about any possible fraud in
02:34:33 6 Apache County.

02:34:36 7 Q. Okay. And we talked about AVID and the MVD
02:34:40 8 database before. So it's correct that your office uses
02:34:45 9 that database?

02:34:46 10 A. That's correct.

02:34:48 11 Q. Okay. And what do you use that for?

02:34:51 12 A. To -- we run -- or the HAVA checks go through
02:34:54 13 the MVD and the Social Security Administration to let us
02:34:59 14 know if there's anything on that person's record that
02:35:02 15 would keep them from being a registered voter.

02:35:05 16 Q. Okay.

02:35:07 17 A. Yeah.

02:35:07 18 Q. Let's talk about those two databases
02:35:13 19 separately. So with the MVD system, can you just walk
02:35:17 20 me through how that process happens when you enter the
02:35:22 21 person's information?

02:35:24 22 A. Yeah. So we enter their information into the
02:35:28 23 AVID system and then we just click a button that says
02:35:33 24 HAVA checks and it does -- I don't know the
02:35:35 25 interworkings of it on their end, but it does bounce

02:35:39 1 back with that -- with those two databases.

02:35:43 2 If there is an issue, it would pop back with a
02:35:47 3 button that says this person does not have proof of
02:35:52 4 citizenship. They would be a federal ID only voter,
02:35:58 5 which means that they could only vote in federal
02:36:00 6 elections. They would not be able to participate in the
02:36:03 7 others.

02:36:07 8 Q. And you're describing the HAVA check system; is
02:36:10 9 that correct?

02:36:10 10 A. That's correct, yes.

02:36:13 11 Q. And you're saying that the back end of it uses
02:36:15 12 the MVD database and the SSA database; is that correct?

02:36:21 13 A. That's correct.

02:36:22 14 Q. Okay.

02:36:22 15 A. Yes.

02:36:23 16 Q. You don't have any way to access the SSA
02:36:32 17 database directly; is that correct?

02:36:34 18 A. That's correct.

02:36:37 19 Q. Okay. And when you get a result from that HAVA
02:36:43 20 check system, do you have any -- is there any indication
02:36:49 21 of where the information came from, which back end
02:36:53 22 database it came from?

02:36:56 23 A. The only time is it will specify either SSA or
02:37:02 24 MVD.

02:37:03 25 Q. Okay.

02:37:04 1 A. But I don't know -- I wouldn't know if it's
02:37:06 2 because of a suspended license or lack of social
02:37:11 3 security number. I would not know the reason behind it,
02:37:17 4 if that makes -- is that what you're asking?

02:37:19 5 Q. Yes. Thank you.

02:37:20 6 A. Okay. Okay.

02:37:21 7 Q. And then aside from that, if you get a result,
02:37:26 8 will it just tell you eligible or ineligible, or will it
02:37:30 9 give you more detailed information?

02:37:34 10 A. No, it would just tell me that this person came
02:37:36 11 up with data from either the MVT or SSA, they will be a
02:37:41 12 federal ID only voter, and then processed accordingly.

02:37:49 13 Q. Okay.

02:37:49 14 A. And it would automatically put them in fed
02:37:52 15 only.

02:37:53 16 Q. I see.

02:37:54 17 And would it -- would it also show whether that
02:37:58 18 applicant has an F-Type license?

02:38:01 19 A. It would not tell me which, no.

02:38:03 20 Q. Okay. Do you know what an F-type license is?

02:38:08 21 A. I actually do not, no.

02:38:10 22 Q. Okay. If I told you it was a foreign
02:38:16 23 authorized presence license or a license that indicates
02:38:18 24 that a person was not a U.S. citizen when they received
02:38:24 25 the license, does that refresh your recollection?

02:38:29 1
02:38:32 2
02:38:36 3
02:38:37 4
02:38:40 5
02:38:47 6
02:38:49 7
02:38:58 8
02:39:02 9
02:39:05 10
02:39:08 11
02:39:08 12
02:39:09 13
02:39:13 14
02:39:15 15
02:39:15 16
02:39:20 17
02:39:20 18
02:39:23 19
02:39:23 20
02:39:36 21
02:39:41 22
02:39:47 23
02:39:50 24
02:39:54 25

A. Yes.

Q. Okay. And have you encountered that before or --

A. I have not, no.

Q. Okay. Do you -- sorry. Just going back to that previous question, do you know if anyone else in your office has encountered that, dealt with F-type licenses, or can you tell me who --

A. As far as I know, no. The majority of our voter registrations are usually through the MVD or Service Arizona --

Q. Okay.

A. -- that sort of thing. We don't get a lot of verifications at the window in office --

Q. Okay.

A. -- per se. So, no, I don't.

Q. Okay.

A. And I haven't come across too many of them, so...

Q. Okay. And if you -- so if someone is deemed ineligible or a federal only voter after you do the HAVA check, do you contact that voter or that applicant?

A. Yes. There would be an automatic notice created to inform them that they would be a federal ID only and give them the opportunity to bring the

02:39:57 1 proper -- the proper documents in to prove citizenship.

02:40:04 2 Q. Okay. And does that happen, where people later
02:40:09 3 provide that documentation; have you seen it happen?

02:40:11 4 A. I have, yes, uh-huh.

02:40:13 5 Q. Okay. So it's the case that the HAVA check
02:40:17 6 doesn't always have the most up-to-date data on
02:40:20 7 someone's citizenship status; is that correct?

02:40:24 8 A. That's correct. I mean I wouldn't say it's
02:40:27 9 like super -- that doesn't happen a lot; but, yes,
02:40:33 10 that's correct. I have had a few people come in and
02:40:35 11 verify their citizenship when it came up as federal ID
02:40:39 12 only before, so...

02:40:44 13 Q. Okay. And about -- so in your nine, ten months
02:40:50 14 in the office, can you tell me generally how many
02:40:59 15 federal only applications you received or -- sorry.
02:41:04 16 Strike that. Let me rephrase it.

02:41:06 17 How many people have been deemed federal only
02:41:12 18 in your time in the office? And once again, not a
02:41:16 19 specific number, but if you can give me some kind of
02:41:19 20 ballpark, that would be helpful.

02:41:21 21 A. I would say less than 30 --

02:41:25 22 Q. Okay.

02:41:25 23 A. -- that I've come across.

02:41:27 24 Q. Okay. So that's less than 30 federal only, and
02:41:30 25 then some people who have later provided proof of

02:41:35 1 citizenship after being deemed that?

02:41:41 2 A. Yeah.

02:41:41 3 Q. Okay. Thank you.

02:41:41 4 A. And that's probably three or four for that.

02:41:45 5 Q. Okay.

02:41:45 6 A. Yeah.

02:41:48 7 Q. And I'd like to move now to Document K. Do you

02:41:50 8 have that one?

02:41:55 9 A. I do not, no.

02:41:56 10 Q. Okay. Let me pull that up on the screen.

02:42:08 11 Okay. Can you see that one?

02:42:09 12 A. I can.

02:42:10 13 Q. Okay. And this has been marked Exhibit 133

02:42:13 14 already.

02:42:14 15 Do you recognize this?

02:42:16 16 A. I have not seen this one yet, no.

02:42:22 17 Q. Okay. So I'm going to read from near the

02:42:26 18 bottom of the page, the press release from the Secretary

02:42:30 19 of State, and I see it's dated October 18th, so it must

02:42:33 20 have been issued shortly before you joined the office.

02:42:38 21 The press release, I'm going to read from the

02:42:42 22 middle of it. "My office found and corrected a database

02:42:45 23 error in concert with the Motor Vehicle Division, which

02:42:48 24 led to less than a quarter of one percent of voters to

02:42:51 25 be registered as federal only voters when they should

02:42:54 1 have been registered as full ballot voters."

02:42:59 2 Did I read that correctly?

02:43:01 3 A. You did.

02:43:03 4 Q. Okay. Are you aware of this incident
02:43:06 5 happening?

02:43:07 6 A. I am. I know that we were sent a file of these
02:43:14 7 fed ID onllys that we were supposed to review and make
02:43:19 8 sure that they were done correctly. I don't believe
02:43:22 9 that Apache County had very many. I think there was
02:43:24 10 like eight or -- I don't -- I can't tell you the number,
02:43:28 11 but it was -- but we did go through and verify those --

02:43:33 12 Q. Okay.

02:43:33 13 A. -- to ensure that they were --

02:43:35 14 Q. Sorry.

02:43:36 15 A. Yeah, we made sure that they were correctly
02:43:40 16 designated as federal ID only.

02:43:45 17 Q. Okay. So it affected some voters in Apache
02:43:50 18 County?

02:43:50 19 A. It did.

02:43:51 20 Q. Okay. I'm going to take that document off the
02:44:01 21 screen.

02:44:01 22 Okay. So let's move on to the SAVE database or
02:44:08 23 Systematic Alien Verification for Entitlements. Are you
02:44:13 24 familiar with that program?

02:44:17 25 A. I have just learned about it. They will be

02:44:20 1 doing a training this summer that I -- or next month, I
02:44:25 2 believe.

02:44:25 3 Q. Okay.

02:44:25 4 A. That -- yeah.

02:44:26 5 Q. Sorry.

02:44:26 6 A. So I'm not super familiar with it. I know it
02:44:29 7 exists, but I haven't had that training yet.

02:44:32 8 Q. Okay. So you've never used it?

02:44:34 9 A. No, I have not.

02:44:36 10 Q. Okay. Are you aware that SAVE is used for when
02:44:46 11 people use an A-Number to provide citizenship
02:44:52 12 verification?

02:44:55 13 A. Yes, I'm generally aware of that, yes.

02:44:59 14 Q. Okay. And do you know about how often that
02:45:01 15 happens in Apache County?

02:45:05 16 A. I think personally I've come across one.

02:45:10 17 Q. Okay.

02:45:10 18 A. One myself. So it's not very often.

02:45:12 19 Q. So it's rare?

02:45:14 20 A. Yeah.

02:45:16 21 Q. Do you know if there's any way to use the SAVE
02:45:19 22 program if someone hasn't provided a number like that?

02:45:25 23 A. I do not know how it works. Like I said, I
02:45:28 24 haven't had the training yet, so...

02:45:30 25 Q. Okay. Sure.

02:45:32 1 So you're not aware of the results that the
02:45:36 2 SAVE system could give you if you enter someone's number
02:45:44 3 into it?

02:45:44 4 A. Yes, that's correct. I'm not aware of that.

02:45:46 5 Q. Okay. And is there anyone else in your office
02:45:49 6 who's dealt with SAVE checks like that, that you're
02:45:53 7 aware of?

02:45:55 8 A. No. We're all pretty much new, so...

02:45:58 9 Q. Okay.

02:45:58 10 A. Yeah, no.

02:46:03 11 Q. Fair enough.

02:46:03 12 Are there any databases other than the ones
02:46:11 13 we've discussed thus far that you use for voter
02:46:18 14 registration in any way?

02:46:23 15 A. As far as for verifying citizenship?

02:46:27 16 Q. Yes.

02:46:29 17 A. I think that we've covered all of them that I'm
02:46:32 18 aware of, yeah.

02:46:34 19 Q. Okay. And have you heard of the EVVE database,
02:46:40 20 which stands for Electronic Verification of Vital Events
02:46:43 21 database?

02:46:45 22 A. I have not, no.

02:46:49 23 Q. To your knowledge, your office doesn't have any
02:46:51 24 access to that database?

02:46:54 25 A. They may have access. I just -- I personally

02:47:01 1 do not know that.

02:47:02 2 Q. And the same question with ERIC, the Electronic
02:47:06 3 Registration Information Center. Are you aware of that
02:47:07 4 one?

02:47:08 5 A. Yes, I am.

02:47:09 6 Q. Okay. And does your office use that?

02:47:12 7 A. Yes, we do.

02:47:14 8 Q. Okay. What do you use that for?

02:47:17 9 A. From what I've utilized it for, usually it's to
02:47:21 10 verify deceased records and that sort of thing. I'm not
02:47:26 11 super adept at it yet, and normally it's automatic
02:47:33 12 through AVID and the Secretary of State's Office. I --
02:47:36 13 you know, I don't have to -- they'll send me the
02:47:39 14 results. I don't usually have to go search that
02:47:42 15 database.

02:47:42 16 Q. I see. So you don't normally access it
02:47:49 17 yourself?

02:47:50 18 A. No, I do not. Yeah, there's usually not a need
02:47:55 19 for that.

02:47:57 20 Q. Okay. And are you aware of it ever being used
02:48:01 21 for verification of citizenship status?

02:48:06 22 A. From what I've used it for, no, I haven't
02:48:10 23 utilized it for that purpose, no.

02:48:14 24 Q. Okay. Great.

02:48:15 25 I just want to talk for a couple minutes about

02:48:17 1 the federal voter registration form, and then shortly
02:48:24 2 after that I will be finished with questioning for now
02:48:28 3 and I'll pass it on to one of my colleagues.

02:48:31 4 So are you aware of the federal voter
02:48:36 5 registration form?

02:48:38 6 A. Yes.

02:48:40 7 Q. Okay. And can you give me just a general idea
02:48:43 8 of the relative breakdown between the number of state
02:48:46 9 form applications versus federal form applications that
02:48:49 10 your office receives?

02:48:53 11 A. We don't receive hardly any federal application
02:48:58 12 forms. I mean it's maybe -- it's a very small number.

02:49:03 13 Q. Okay.

02:49:03 14 A. Very, very small number. Most of them are the
02:49:06 15 state, state forms.

02:49:07 16 Q. So almost all state form?

02:49:11 17 A. Yes. Yeah.

02:49:14 18 Q. Okay. Great.

02:49:15 19 And we talked a little bit before about those
02:49:18 20 agencies that provide voter registration services under
02:49:21 21 the NVRA. Are you aware of any of those agencies that
02:49:27 22 use the federal form when they provide those services?

02:49:34 23 A. Not specifically, no, I'm not.

02:49:36 24 Q. Okay. And your office also provides blank
02:49:44 25 registration forms to third-party groups that register

02:49:47 1 voters; is that correct?

02:49:49 2 A. That is correct, yes.

02:49:51 3 Q. And just to your knowledge, do you know whether
02:49:55 4 those groups use the state form more often than the
02:50:02 5 federal form?

02:50:03 6 A. It would be the state form that we would give
02:50:07 7 if they come and request some directly from our office.
02:50:10 8 It would be the state form.

02:50:11 9 Q. Okay. And are you aware of any of those groups
02:50:13 10 that use the federal form?

02:50:17 11 A. No. As far as I know, no.

02:50:20 12 Q. Okay. Does your office, when you receive those
02:50:25 13 forms, do you process the state form applications any
02:50:29 14 differently from the federal forms?

02:50:33 15 A. There's a designation that we have to give it,
02:50:37 16 the source of registration, when we process those. So,
02:50:41 17 yes, there would -- there's a difference in AVID on how
02:50:44 18 we process those.

02:50:44 19 Q. Okay. Thank you.

02:50:45 20 A. But it's mostly the same. It's just a couple
02:50:48 21 different things that are different.

02:50:50 22 Q. Okay. But other than just entering what type
02:50:51 23 of form it is, you don't process or review them
02:50:55 24 differently in substance?

02:50:57 25 A. No.

02:50:59 1 Q. Okay. Thank you.

02:51:02 2 MR. FERGUSON: Okay. That's all the
02:51:03 3 questions that I have right now. Thank you so much for
02:51:06 4 your time.

02:51:07 5 THE WITNESS: Thank you.

02:51:10 6 MR. FERGUSON: I'm going to yield the
02:51:13 7 floor to Mr. Patterson, who is going to ask a few
02:51:15 8 questions. I don't know if he or if anyone else would
02:51:17 9 like to take a short break before then, but let me know
02:51:21 10 if so.

02:51:21 11

02:51:21 12 EXAMINATION

02:51:43 13 BY MR. PATTERSON:

02:51:43 14 Q. If no one wants to take a break, I'm ready to
02:51:47 15 go ahead.

02:51:52 16 Okay, I'll take that silence as to continue.

02:52:01 17 Thank you, Ms. Robertson. I have a few more
02:52:07 18 questions, and hopefully we'll be on our way here.

02:52:13 19 So earlier in your testimony you had said that
02:52:17 20 the EPM is legally binding guidance from the Arizona
02:52:24 21 Secretary of State. Can the Arizona Secretary of State
02:52:28 22 convey legally binding guidance to your office by any
02:52:33 23 other means than the EPM?

02:52:36 24 MR. LANGHOFER: Calls for a legal
02:52:40 25 conclusion.

02:52:41 1 BY MR. PATTERSON:

02:52:42 2 Q. You can answer.

02:52:43 3 A. Yes.

02:52:45 4 Q. And even if there is no EPM update, will your
02:52:50 5 county be obligated to enforce H.B. 2492 and H.B. 2243?

02:52:57 6 MR. LANGHOFER: Calls for a legal
02:52:59 7 conclusion.

02:53:05 8 BY MR. PATTERSON:

02:53:05 9 Q. You can answer.

02:53:06 10 A. Okay. Sorry.

02:53:09 11 As far as I know, I take the direction from the
02:53:14 12 Secretary of State if -- before any of that
02:53:18 13 implementation happens. I'm waiting for that before we
02:53:21 14 do that.

02:53:23 15 Q. Okay. Thank you.

02:53:23 16 Regarding the types of information that your
02:53:35 17 office considers when reviewing a registered person's
02:53:47 18 citizenship status, is old government data such as MVD
02:53:59 19 records from ten years ago indicative of a lack of U.S.
02:54:04 20 citizenship today?

02:54:07 21 MR. LANGHOFER: Same objection.

02:54:11 22 BY MR. PATTERSON:

02:54:12 23 Q. You can answer.

02:54:14 24 A. Yeah, so if it's like an old -- like an old
02:54:18 25 driver's license that they're trying to provide, even

02:54:21 1 though it's ten years old, is that what you're asking,
02:54:24 2 would that still be --

02:54:26 3 Q. So what I'm asking is, during a database check,
02:54:31 4 if you find a document from a number of years ago that
02:54:37 5 indicates that a registered voter is not a citizen,
02:54:42 6 would that be information indicative of a lack of
02:54:46 7 citizenship; does your office consider that information
02:54:49 8 would be indicative of a lack of citizenship?

02:54:52 9 MR. LANGHOFER: Same objection.

02:54:54 10 Beauregard, should we just stipulate that
02:54:55 11 we'll be objecting to this whole line?

02:55:01 12 MR. PATTERSON: Yes, absolutely.

02:55:02 13 THE WITNESS: And do you want me to still
02:55:03 14 answer?

02:55:03 15 BY MR. PATTERSON:

02:55:04 16 Q. Yes.

02:55:05 17 A. Okay. So I mean that voter could have provided
02:55:09 18 proof since that point in time, so we go by the latest
02:55:14 19 information, the newest information that we have on that
02:55:17 20 voter, so -- to prove the citizenship. But let's say
02:55:24 21 that's the only proof that they have or the only
02:55:27 22 information I have, then that's what I would have to go
02:55:29 23 by.

02:55:31 24 Q. Thank you very much.

02:55:32 25 What are valid sources of information that your

02:55:43 1 office considers -- sorry. Scratch that.

02:55:47 2 What are valid sources of information that
02:55:53 3 someone is not a U.S. citizen?

02:55:57 4 A. That they're not a U.S. citizen?

02:56:00 5 Q. Yes.

02:56:04 6 A. So like an ID that says that they're not a U.S.
02:56:11 7 citizen, that sort of thing. Like normally someone's
02:56:15 8 not going to show me information saying that they're not
02:56:17 9 a U.S. citizen when they try to show -- try to register
02:56:21 10 to vote, if that makes sense. They're usually trying to
02:56:24 11 prove that they're a citizen. So --

02:56:27 12 Q. Absolutely. Absolutely.

02:56:30 13 A. -- you know. Yeah.

02:56:33 14 Q. Let me ask you a few more specific questions as
02:56:37 15 to whether or not these types or sources of information
02:56:44 16 are valid sources for identifying whether or not someone
02:56:48 17 is a U.S. citizen.

02:56:51 18 Are there sources beyond a government or voter
02:56:59 19 registration database in which you may find information
02:57:05 20 that is valid that someone is not a U.S. citizen?

02:57:17 21 MR. WHITAKER: Ambiguous.

02:57:18 22 THE WITNESS: Yeah.

02:57:19 23 BY MR. PATTERSON:

02:57:19 24 Q. I'm sorry. I need to rephrase that question.

02:57:23 25 Is there anything beyond a government or voter

02:57:28 1 registration database that you consider a valid source
02:57:29 2 of information when considering whether or not someone
02:57:33 3 is a U.S. citizen?

02:57:35 4 A. We would only use -- or like I said, we use the
02:57:40 5 HAVA checks, we use the Secretary of State guidelines
02:57:44 6 and, you know, the EPM when we're verifying that. So I
02:57:48 7 would not go outside of those sources unless they were
02:57:53 8 approved sources.

02:57:56 9 Q. Okay. Thank you.

02:57:56 10 If the registered voter were to call your
02:58:04 11 office and say that they were not a citizen, would that
02:58:11 12 be a valid source of information?

02:58:17 13 A. We could take that, but like I said, it would
02:58:20 14 have to be in writing. Like everything that -- any
02:58:23 15 changes made to a voter's record has to include a
02:58:26 16 signature and be in writing and be accompanied by
02:58:29 17 documentation before we can change that voter's status.

02:58:33 18 So if somebody called me and said I'm not a
02:58:36 19 citizen, I can't just go cancel their voter
02:58:39 20 registration. I have to have documented proof and a
02:58:42 21 signature and all of that before I can cancel them.

02:58:44 22 Q. Thank you.

02:58:45 23 You may have answered the -- you have likely
02:58:50 24 answered these next pair of questions, but for the sake
02:58:55 25 of clarity, how about an e-mail or a signed letter from

02:58:58 1 the voter?

02:59:03 2 A. So an e-mail, no, because it does not include
02:59:07 3 an actual signature. If they sent in a letter -- but
02:59:11 4 then again, I'm not going to -- I would need legal proof
02:59:18 5 documentation along with their personal word of that.
02:59:22 6 Does that make sense?

02:59:24 7 Q. Yes, it does.

02:59:25 8 A. I can't just have, yeah, John Smith telling me
02:59:28 9 I'm not a -- you know, and here's my signature that I'm
02:59:30 10 not a citizen. I would not take that as proof, no.

02:59:34 11 Q. Thank you.

02:59:36 12 How about a phone call from a member of the
02:59:39 13 voter's family?

02:59:40 14 A. Definitely not, no.

02:59:43 15 Q. What about a letter from a neighbor?

02:59:46 16 A. Definitely not, no.

02:59:48 17 Q. What about a phone call that you receive from
02:59:53 18 law enforcement in Arizona?

02:59:57 19 A. Law enforcement probably would not notify us in
03:00:02 20 that manner. They would send us, you know, legal
03:00:07 21 documentation in order to prove that. Yeah, it would
03:00:12 22 not go through a telephone call.

03:00:14 23 Q. Okay. Again, for the sake of clarity, but what
03:00:19 24 about a phone call from law enforcement in another
03:00:21 25 state?

03:00:24 1 A. Absolutely not, no.

03:00:26 2 Q. What about an e-mail or a letter from law
03:00:29 3 enforcement in Arizona or from another state?

03:00:34 4 A. No. It would have to be accompanied by legal
03:00:37 5 documentation.

03:00:39 6 Q. And what about an anonymous call or an
03:00:43 7 anonymous e-mail?

03:00:46 8 A. No.

03:00:48 9 Q. And what about lists provided by third-party
03:00:53 10 organizations like True the Vote?

03:00:57 11 A. If we did receive something like that from an
03:01:00 12 organization, we would have to do further investigation,
03:01:03 13 and I would probably notify the Secretary of State's
03:01:06 14 Office to that information and follow, you know, their
03:01:11 15 guidance on how to handle that, because I do know that
03:01:13 16 there are, you know, people that go out and do that,
03:01:17 17 so...

03:01:19 18 Q. Thank you.

03:01:20 19 What if you identify a registered voter who has
03:01:23 20 already satisfied the documentary proof of citizenship
03:01:27 21 requirement, but still holds an F-type license? Is the
03:01:33 22 fact that they hold an F-type license information that
03:01:36 23 the registered voter is not, in fact, a U.S. citizen?

03:01:40 24 A. If we verified -- because people can keep an ID
03:01:45 25 card for a really long time. If they've already

03:01:48 1 satisfied and proven that they're a citizen through, you
03:01:51 2 know, our HAVA checks, the MVD, Social Security Office
03:01:54 3 and everything, if they have an old ID that's an F-Type,
03:01:58 4 it -- yeah, they're fine.

03:02:01 5 Q. Thank you.

03:02:01 6 A. And if they're already registered and already
03:02:04 7 validated, if that makes sense.

03:02:07 8 Q. Yes. Thank you.

03:02:07 9 This next question is a bit of a mouthful. So
03:02:11 10 I apologize in advance.

03:02:12 11 A. Okay.

03:02:13 12 Q. What if you identify a registered voter who is
03:02:18 13 exempt from documentary proof of citizenship
03:02:21 14 requirements and has never shown DPOC because they
03:02:26 15 registered prior to when DPOC went into effect? Is that
03:02:30 16 information showing that they are not a U.S. citizen?

03:02:37 17 A. So I'm not personally aware of a situation
03:02:39 18 where they would be exempt. And like I said, I'm new to
03:02:44 19 my job. So if there is somebody that is verified in the
03:02:47 20 system previously, I don't have an issue. Does that
03:02:53 21 make sense? Like they've already been -- they'd be
03:02:56 22 grandfathered in, I guess.

03:02:58 23 Q. Yes, that makes sense. Thank you.

03:03:00 24 A. Yeah.

03:03:00 25 Q. By what means can you confirm the authenticity

03:03:09 1 of such information that a voter registrant/applicant is
03:03:15 2 not a United States citizen?

03:03:22 3 MR. WHITAKER: Ambiguous.

03:03:24 4 THE WITNESS: Yeah, that's kind of the
03:03:25 5 same answer as before. Usually they're trying to prove
03:03:32 6 citizenship, so they're not going to bring me -- I mean
03:03:35 7 I guess you're asking if I can recognize documents that
03:03:40 8 prove that they're not a citizen, such as like a
03:03:45 9 passport from a different country or that sort of thing?

03:03:53 10 BY MR. PATTERSON:

03:03:55 11 Q. I am asking in -- so if we could go to
03:04:03 12 ARS 16-165(A)(10).

03:04:11 13 A. Uh-huh.

03:04:11 14 Q. It says in the statute, "When the County
03:04:14 15 Recorder obtains information pursuant to this section
03:04:16 16 and confirms that the person registered is not a United
03:04:20 17 States citizen, including when the County Recorder
03:04:22 18 receives a summary report from the jury commissioner or
03:04:26 19 jury manager pursuant to Section 21-314 indicating that
03:04:30 20 a person who is registered to vote has stated that the
03:04:33 21 person is not a United States citizen."

03:04:35 22 And in the case where the County Recorder's
03:04:40 23 Office confirms that a person is not a United States
03:04:44 24 citizen, I'm asking how do you confirm the authenticity
03:04:51 25 or the accuracy of the information that you have found

03:05:01 1 that indicates that an applicant is not a United States
03:05:06 2 citizen?

03:05:08 3 A. Okay.

03:05:11 4 MR. WHITAKER: Same objection.

03:05:12 5 THE WITNESS: I understand what you're
03:05:13 6 asking. I would just -- we go by what the HAVA checks
03:05:15 7 go by, even if like -- if someone were to bring me their
03:05:20 8 passport from France, it's not -- like I don't have to
03:05:25 9 really -- they still have to go through that HAVA check.
03:05:29 10 So I rely upon what the HAVA check comes back as in
03:05:35 11 order for my determination. It's not me personally that
03:05:39 12 decides that.

03:05:41 13 BY MR. PATTERSON:

03:05:41 14 Q. All right. Thank you.

03:05:42 15 A. So I don't know what they're using. Does that
03:05:44 16 make sense? Does that answer the question?

03:05:46 17 Q. Yes, that makes sense.

03:05:47 18 And I have another follow-up question, hitting
03:05:53 19 at the same topic, just slightly different. So by what
03:05:58 20 means can you confirm the accuracy of information that a
03:06:02 21 registered voter is not a U.S. citizen? So instead of a
03:06:05 22 voter registration applicant, I'm asking the same
03:06:08 23 question, but for a registered voter.

03:06:11 24 MR. WHITAKER: Same objection.

03:06:15 25 THE WITNESS: Yeah, there wouldn't be --

03:06:16 1 they wouldn't be a registered voter. Like we don't go
03:06:19 2 back through and audit the registrants per se, if that's
03:06:28 3 what you're asking. We don't -- once they have provided
03:06:33 4 proof of citizenship, they can be registered. If they
03:06:36 5 have not, then they would not be registered. So the
03:06:43 6 chances of somebody being a registered voter means that
03:06:45 7 they must have previously shown proof of citizenship.

03:06:49 8 We don't audit those again, unless we get
03:06:54 9 notification let's say from another country that that
03:06:57 10 country -- that they've been, you know, naturalized to
03:07:01 11 another country and we receive documentation of that,
03:07:05 12 that they're no longer -- if they left the country and
03:07:08 13 are no longer citizens in the United States. But
03:07:13 14 that -- like I said, that situation doesn't really
03:07:15 15 happen with Apache County, so...

03:07:22 16 BY MR. PATTERSON:

03:07:22 17 Q. All right. Thank you.

03:07:23 18 Moving on to a different topic. What else
03:07:25 19 beyond AVID can constitute a database relating to voter
03:07:34 20 registration?

03:07:34 21 A. That's what the Apache County and most of the
03:07:39 22 state of Arizona uses AVID. So I wouldn't -- there's no
03:07:42 23 other -- I mean other than old records that we keep on
03:07:46 24 file in the Recorder's Office, like old microfilms and
03:07:51 25 logbooks and that sort of thing. But there is not

03:07:55 1 another database that I would consult, because AVID is
03:08:00 2 the one that is approved by the Secretary of State for
03:08:03 3 maintaining records.

03:08:06 4 Q. Could a list of registered voters provided by
03:08:09 5 another Arizona agency constitute a database related to
03:08:14 6 voter registration?

03:08:19 7 A. I don't know that they would -- I would take
03:08:23 8 the AVID information over what they gave me, because
03:08:26 9 AVID is what is approved and what is used. So I don't
03:08:30 10 know -- I can't verify where their information is coming
03:08:33 11 from, because we are tasked with maintaining those
03:08:36 12 records.

03:08:37 13 Q. All right. Thank you.

03:08:38 14 And could a list of registered voters provided
03:08:42 15 by another state government's agency constitute a
03:08:46 16 database relating to voter registration?

03:08:52 17 A. No. I mean unless that other state is
03:08:55 18 saying -- because we do this often. The other state
03:08:57 19 will say this person is now registered in our state.
03:09:01 20 But there's -- yeah. The AVID system is what I would
03:09:05 21 refer to --

03:09:06 22 Q. Okay.

03:09:07 23 A. -- above all, yeah.

03:09:09 24 Q. And, finally, could a list of registered voters
03:09:12 25 provided by a private individual or private group

03:09:15 1 constitute a database relating to voter registration?

03:09:20 2 A. No. Again, I would refer to the AVID database
03:09:24 3 before them.

03:09:27 4 Q. All right. Thank you.

03:09:29 5 Can we take a moment to review the statutes
03:09:33 6 enumerated in ARS 16-165(F) through (J), which is also
03:09:41 7 H.B. 2243 (H) through (K).

03:09:51 8 Once you've had a chance to look at it, let me
03:09:53 9 know, please.

03:09:54 10 A. Yeah. Just give me a moment. Is it --

03:10:08 11 MR. FERGUSON: Document H is 2243.

03:10:11 12 THE WITNESS: And can you repeat?

03:10:15 13 BY MR. PATTERSON:

03:10:16 14 Q. Do you -- the sections are different depending
03:10:18 15 on what document you have before you. So do you have --

03:10:21 16 A. Gotcha.

03:10:21 17 Q. -- H.B. 2243 in front of you or do you have the
03:10:24 18 Arizona statutes in front of you?

03:10:29 19 A. I have Exhibit 19, the House Bill 2492.

03:10:29 20 Q. Okay. That --

03:10:33 21 A. Oh, wait. Sorry.

03:10:35 22 I've got it now. Celeste just pulled it up on
03:10:39 23 her laptop for me. Okay. Yes.

03:10:44 24 All right. And which portion did you want me
03:10:51 25 to review?

03:10:55 1 Q. The section would be (F) through (J).

03:11:13 2 A. Sorry, I'm having technical difficulties.

03:11:17 3 Q. That's all right.

03:11:19 4 A. All right.

03:11:31 5 Okay. Go ahead.

03:11:37 6 Q. Okay. Are the database matching procedures

03:11:40 7 enumerated in these sections the means by which County

03:11:44 8 Recorders are to obtain information on a lack of U.S.

03:11:49 9 citizenship?

03:11:51 10 MR. LANGHOFER: Same objection.

03:11:59 11 THE WITNESS: I would say for our office,

03:12:05 12 yes, we use the HAVA checks, the MVDs, the Social

03:12:11 13 Security Administration databases in order -- and what

03:12:14 14 that comes back to us as is what we use, whether -- to

03:12:21 15 prove whether or not they are a citizen or not.

03:12:27 16 BY MR. PATTERSON:

03:12:27 17 Q. And are these database matching procedures

03:12:32 18 which are enumerated in these statutes the means by

03:12:36 19 which your office confirms information of a lack of U.S.

03:12:45 20 citizenship?

03:12:47 21 A. That is correct.

03:12:50 22 Q. And is this clear or unclear -- I'm sorry.

03:12:55 23 Scratch that.

03:12:56 24 Is it clear or unclear to your office how to

03:13:04 25 use these databases?

03:13:08 1 MR. LANGHOFER: Calls for a legal
03:13:12 2 conclusion.
03:13:12 3 BY MR. PATTERSON:
03:13:12 4 Q. You can answer.
03:13:16 5 A. It's -- we are clear on how to use them. I do
03:13:19 6 not know their processes through the HAVA checks
03:13:21 7 specifically, but like I said, it's a button in AVID
03:13:25 8 that we click, and it runs the test through those
03:13:28 9 databases and gives us a result.
03:13:33 10 Q. Excellent. Thank you.
03:13:34 11 A. And so I rely on that result, yeah.
03:13:40 12 Q. And one more follow-up, actually, on that. And
03:13:44 13 is it -- actually, no, scratch that.
03:13:50 14 What would give your office a reason to believe
03:13:55 15 a person is not a U.S. citizen?
03:13:59 16 MR. LANGHOFER: Same objection.
03:14:05 17 BY MR. PATTERSON:
03:14:05 18 Q. You can answer.
03:14:08 19 A. So a -- when we run it through the HAVA checks,
03:14:13 20 if it pops up and says that there's no proof of
03:14:18 21 citizenship, that would cause our office to believe that
03:14:20 22 they're not a citizen, and that's what we rely upon.
03:14:27 23 It's not, you know, based on a person's judgment or
03:14:31 24 anything like that. So we rely upon the results from
03:14:35 25 that check through HAVA in order to make that

03:14:39 1 determination.

03:14:41 2 Q. Thank you.

03:14:44 3 I'm going to give you some of the same
03:14:48 4 scenarios that we went through before, but in the
03:14:50 5 context of reason to believe.

03:14:54 6 Would anything beyond a government or voter
03:14:58 7 registration database give your office reason to believe
03:15:00 8 that a registered voter is not a U.S. citizen?

03:15:04 9 MR. LANGHOFER: Same objection.

03:15:05 10 I'll just note that I think that
03:15:08 11 stipulation's still in place, Beauregard, until you tell
03:15:11 12 us otherwise, so...

03:15:14 13 MR. PATTERSON: Yes, absolutely.

03:15:15 14 THE WITNESS: No, that's what we would
03:15:16 15 base it upon. We wouldn't base it upon any other
03:15:20 16 information.

03:15:23 17 BY MR. PATTERSON:

03:15:23 18 Q. And can a call from a voter give your office
03:15:28 19 reason to believe that a registered voter is not a U.S.
03:15:34 20 citizen?

03:15:42 21 MR. WHITAKER: Calls for speculation.

03:15:44 22 THE WITNESS: They can call us and let us
03:15:45 23 know, but it still would not change that voter's status
03:15:48 24 until there was an investigation done or if there's like
03:15:53 25 documentation provided. So we would not just go cancel

03:15:57 1 somebody based on so-and-so's phone call about that. We
03:16:00 2 would still go through the proper channels to verify
03:16:03 3 their citizenship.

03:16:06 4 BY MR. PATTERSON:

03:16:06 5 Q. Thank you. Sorry, I was not clear in my
03:16:10 6 question.

03:16:10 7 In this case if the voter himself or herself
03:16:15 8 called your office and indicated that they were not a
03:16:19 9 citizen, would that give you reason to believe that they
03:16:22 10 were not a citizen?

03:16:25 11 A. It would, but it still wouldn't change their
03:16:28 12 voting status until we had documentation. So --

03:16:33 13 Q. Sorry.

03:16:33 14 A. Yeah, it would give me reason to -- it would
03:16:36 15 give me reason to maybe investigate and get more
03:16:39 16 answers, but I would not just go cancel their voter
03:16:42 17 registration based on their word through a phone call.

03:16:46 18 Q. What about an e-mail or signed letter from the
03:16:51 19 voter?

03:16:54 20 A. And same situation. They would not
03:16:56 21 automatically get canceled. We would have to go through
03:17:00 22 verification processes, and we would need proper
03:17:04 23 documentation before we made changes to the voter
03:17:07 24 record.

03:17:07 25 Q. How about a phone call from a member of the

03:17:10 1 voter's family?

03:17:11 2 A. Same. Absolutely not. Yeah.

03:17:14 3 Q. How about a letter from a neighbor?

03:17:17 4 A. Same.

03:17:19 5 Q. What about a phone call from law enforcement in

03:17:23 6 Arizona or from another state?

03:17:27 7 A. Same.

03:17:29 8 Q. How about an e-mail or letter from law

03:17:32 9 enforcement in Arizona or another state?

03:17:36 10 A. Same. Until there's actual proof that -- you

03:17:40 11 know, if the letter included documented proof that they

03:17:43 12 are not a citizen, I would -- me personally, being so

03:17:48 13 new to the position, I would still reach out to the

03:17:50 14 Secretary of State's Office before I made any changes to

03:17:53 15 the voter record, so...

03:17:56 16 Q. How about an anonymous call or e-mail?

03:18:00 17 A. There's -- yeah, no.

03:18:02 18 Q. And how about lists provided by third-party

03:18:06 19 organizations?

03:18:07 20 A. Same.

03:18:10 21 Q. What if the registered voter transposed, so

03:18:14 22 mixed up their first and last name on their registration

03:18:18 23 application form; would that give you a reason to

03:18:22 24 believe that they're not a U.S. citizen?

03:18:26 25 A. No.

03:18:26 1 MR. WHITAKER: Ambiguous.

03:18:26 2 THE WITNESS: Yeah. It wouldn't change
03:18:29 3 their -- yeah, I see what you're saying. But no.

03:18:35 4 BY MR. PATTERSON:

03:18:35 5 Q. What if the registered voter recorded a foreign
03:18:39 6 place of birth on their form?

03:18:41 7 A. That wouldn't change the status because they
03:18:45 8 could still have become a U.S. citizen. So we go by
03:18:49 9 those HAVA checks.

03:18:53 10 Q. What if you identify a registered voter who has
03:18:56 11 already satisfied the documentary proof of citizenship
03:19:02 12 requirement, but still holds an F-type license; is that
03:19:06 13 a reason to believe they are not, in fact, a U.S.
03:19:08 14 citizen?

03:19:11 15 A. No. If they've already satisfied their proof
03:19:15 16 of citizenship and they had that license, no, that
03:19:17 17 wouldn't change anything.

03:19:22 18 Q. What about registered voters who were exempt
03:19:25 19 from DPOC under the safe harbor provision because they
03:19:29 20 registered prior to the DPOC requirement going into
03:19:31 21 effect in 2005; would that failure to show DPOC under
03:19:36 22 this exemption give your office a reason to believe they
03:19:39 23 are not U.S. citizens?

03:19:43 24 A. No. They would be grandfathered in, yeah,
03:19:49 25 and...

03:19:49 1 Q. Has your office received any guidance on when
03:19:52 2 your office would have reason to believe that a
03:19:56 3 registered voter is not a U.S. citizen?

03:20:02 4 A. I don't understand that question.

03:20:04 5 Q. Has your office received any guidance from the
03:20:07 6 Secretary of State's Office on when to -- scratch that.
03:20:18 7 Have you received any guidance from the
03:20:23 8 Secretary of State's Office on what amounts to a reason
03:20:30 9 to believe that a registered voter is not a U.S.
03:20:33 10 citizen?

03:20:39 11 A. In my knowledge, no. I mean I'm sure that they
03:20:42 12 have, but I haven't personally. Yeah.

03:20:46 13 Q. Thank you.

03:20:47 14 A number of provisions in both -- scratch that.

03:20:57 15 Actually, I'm going to move on to something
03:20:59 16 else. ARS 16-143(A) states that the Secretary of State
03:21:16 17 and each County Recorder shall make available to the
03:21:19 18 Attorney General a list of all individuals who are
03:21:21 19 registered to vote and who have not provided
03:21:24 20 satisfactory evidence of citizenship pursuant to
03:21:28 21 Section 16-166 and shall provide, on or before
03:21:32 22 October 31, 2022, the applications of individuals who
03:21:36 23 are registered to vote and who have not provided
03:21:40 24 satisfactory evidence of citizenship pursuant to
03:21:42 25 Section 16-166.

03:21:46 1 A. Okay. Uh-huh.

03:21:47 2 Q. Since the October 31 deadline has passed, are
03:21:52 3 you still obligated to send this data to the Arizona
03:21:56 4 Attorney General's Office?

03:21:59 5 MR. WHITAKER: Legal conclusion.

03:22:04 6 THE WITNESS: Yes. But by the deadline.
03:22:06 7 So, yeah.

03:22:14 8 BY MR. PATTERSON:

03:22:14 9 Q. Do you use the SAVE program's additional
03:22:19 10 verification procedures -- wait. Scratch that.

03:22:26 11 If a -- scratch that.

03:22:29 12 When you run a SAVE verification check and it
03:22:36 13 comes back as inconclusive, do you do any additional
03:22:44 14 verification under SAVE?

03:22:50 15 A. So in regards to the SAVE program, I have not
03:22:54 16 personally attended that training yet. I am not
03:22:58 17 familiar with how it works or anything like that. So
03:23:03 18 I'm going to have to say I can't answer that question in
03:23:06 19 regards to any of the SAVE program.

03:23:09 20 Q. Got it. Thank you. I only have two more
03:23:12 21 questions for you.

03:23:15 22 If a registered voter is removed from the rolls
03:23:24 23 under H.B. 2243 based upon an erroneous determination
03:23:29 24 that they are not a U.S. citizen, can that voter be
03:23:32 25 added back to the rolls if the registration deadline has

03:23:36 1 already passed?

03:23:38 2 MR. LANGHOFER: Same objection.

03:23:43 3 THE WITNESS: So you're asking if -- if,
03:23:45 4 let's say, they were removed when they shouldn't have
03:23:51 5 been, can they be added back to the system even though
03:23:55 6 like that -- you know what, I don't know the answer to
03:23:59 7 that question, and me personally, I would have to reach
03:24:01 8 out to the Secretary of State before I go -- because,
03:24:05 9 like I said, I am new and have not come across that
03:24:08 10 situation, so I wouldn't -- me personally, I wouldn't do
03:24:12 11 anything with that voter's record until I get more
03:24:14 12 direction.

03:24:17 13 BY MR. PATTERSON:

03:24:18 14 Q. Okay. Thank you.

03:24:19 15 And a number of provisions in both H.B. 2243
03:24:24 16 and H.B. 2492 only obligate your office to the extent
03:24:35 17 they are practicable. Do you understand what is meant
03:24:37 18 by practicable in these laws?

03:24:40 19 MR. LANGHOFER: Same objection.

03:24:44 20 THE WITNESS: I understand the word, yes,
03:24:45 21 and I understand, you know, generally what that means.

03:24:53 22 BY MR. PATTERSON:

03:24:54 23 Q. Do you understand what that standard means in
03:24:58 24 terms of these statutes?

03:25:02 25 MR. LANGHOFER: Same objection.

03:25:09 1 THE WITNESS: So I have not gone through
03:25:12 2 these statutes in depth personally, so I can't -- I
03:25:18 3 understand what it means to know practicably, whatever,
03:25:23 4 but I haven't studied them enough to know the specifics
03:25:26 5 of what it's talking about.

03:25:27 6 BY MR. PATTERSON:

03:25:27 7 Q. Who in your office --

03:25:27 8 A. Oh.

03:25:30 9 Q. Oh, I'm sorry.

03:25:30 10 A. Go ahead.

03:25:31 11 Q. I'll let you finish.

03:25:32 12 A. No, I'm done.

03:25:33 13 Q. Okay. Who in your office is responsible for
03:25:39 14 determining when it is practicable to follow the
03:25:51 15 procedures in these laws?

03:25:54 16 A. I would go by the direction of my County
03:25:58 17 Recorder and the Secretary of State's Office.

03:26:00 18 Q. Okay. Thank you.

03:26:03 19 MR. PATTERSON: That wraps up my line of
03:26:05 20 questioning. I'm not certain if anyone else has any
03:26:10 21 other questions. If they do, they can speak up; but,
03:26:20 22 otherwise, we on the plaintiff side have wrapped up.

03:26:27 23 THE VIDEOGRAPHER: Counsel, can we take
03:26:28 24 five minutes, please?

03:26:30 25 MR. LANGHOFER: Sounds good.

03:26:31 1 THE VIDEOGRAPHER: We are off the record.

03:26:34 2 Time on the video monitor is 3:26 p.m. This ends

03:26:38 3 Media 1.

03:29:37 4 (A recess was taken.)

03:32:20 5 THE VIDEOGRAPHER: We're on the record.

03:32:45 6 Time on the video monitor is 3:23 p.m. This begins

03:32:48 7 Media 2.

03:32:55 8 I'm sorry, 3:32 p.m.

03:32:59 9 MR. WHITAKER: This is Josh Whitaker for
03:33:00 10 the Attorney General. Did any other plaintiffs have
03:33:02 11 questions for the witness?

03:33:11 12 MR. FERGUSON: I don't think so.

03:33:11 13

03:33:11 14 EXAMINATION

03:33:11 15 BY MR. WHITAKER:

03:33:15 16 Q. Okay. Then I think I'll -- if you don't mind,
03:33:17 17 ma'am, I'll ask you a few follow-ups. And, first of
03:33:19 18 all, thank you very much for your time here today.

03:33:24 19 I'll start with birthplace. I understand that
03:33:27 20 birthplace, there's a spot on the state form for
03:33:33 21 birthplace, a registrant -- an applicant's birthplace
03:33:36 22 right now; is that right?

03:33:37 23 A. That is correct.

03:33:39 24 Q. And am I correct that right now your office
03:33:44 25 doesn't require that spot on the form to be filled out

03:33:50 1 as a condition for registering the applicant?

03:33:54 2 A. That is correct.

03:33:56 3 Q. And is that because the EPM says that that part
03:34:01 4 of the form is optional?

03:34:03 5 A. That is correct.

03:34:07 6 Q. If the EPM were to change and say that that
03:34:10 7 part of the form is required, would your office treat it
03:34:15 8 as required for registration?

03:34:19 9 A. Yes, we would.

03:34:23 10 Q. If there were a law passed that requires
03:34:26 11 birthplace to be on the form and if a court upholds that
03:34:31 12 requirement, would your office require that spot on the
03:34:35 13 form to be filled out to register the applicant?

03:34:38 14 A. Yes, we would.

03:34:43 15 Q. I'd like to turn a little bit into the existing
03:34:47 16 EPM, the 2019 EPM, about birthplace. Let me see if I
03:34:52 17 can share my screen with you.

03:35:02 18 Can you see that?

03:35:03 19 A. I can.

03:35:07 20 Q. Let's go to Page -- well, let's see.

03:35:13 21 And for the record, this was earlier shown the
03:35:17 22 witness. I think it's Document F. It was previously
03:35:20 23 marked as Exhibit 6. Let's go to Page 3 of this EPM.
03:35:27 24 Subsection A there says "Citizenship Requirement." Do
03:35:32 25 you see that?

03:35:32 1 A. I do.

03:35:34 2 Q. And then the heading number 1 under that says

03:35:38 3 "Valid Forms of DPOC." Do you see that?

03:35:41 4 A. I do.

03:35:43 5 Q. Okay. And then on the next page, Page 4,

03:35:47 6 letter B says "Birth Certificate." Do you see that?

03:35:50 7 A. I do.

03:35:52 8 Q. All right. And then the last paragraph there,

03:35:55 9 I'll just read it for you. This is the bottom of Page 4

03:35:59 10 going onto the top of Page 5.

03:36:02 11 It says, "The registrant must supply supporting

03:36:05 12 legal documentation (such as a marriage certificate or

03:36:09 13 court-documented name change) if the name on the birth

03:36:12 14 certificate or document is not the registrant's current

03:36:15 15 legal name. If the registrant cannot provide supporting

03:36:19 16 legal documentation to account for a different last

03:36:22 17 name, a County Recorder must accept the birth

03:36:25 18 certificate or document if at least the following

03:36:28 19 information matches on both the birth certificate or

03:36:33 20 document and the registration form."

03:36:35 21 And then it says, "First name, Middle name,

03:36:38 22 Place of birth, Date of birth and Parents' names."

03:36:43 23 Did I read that right?

03:36:44 24 A. You did.

03:36:46 25 Q. So am I understanding this correctly that in

03:36:48 1 some situations your office will be comparing what's on
03:36:54 2 the registration form with what's on the copy of the
03:36:58 3 birth certificate, and one important piece of
03:37:02 4 information in that comparison is place of birth?

03:37:05 5 A. That is correct.

03:37:11 6 Q. In those situations, would it be important that
03:37:14 7 the registrant have filled out the place of birth form
03:37:17 8 on the registration form?

03:37:20 9 A. In that case, yes, it would.

03:37:27 10 Q. Let's go to Part C below that, "U.S. Passport."
03:37:32 11 I'll read the first two paragraphs there. It says, "A
03:37:36 12 registrant may submit a legible copy of the pertinent
03:37:40 13 pages of the registrant's U.S. passport or passport
03:37:44 14 card, or present the registrant's U.S. passport or
03:37:47 15 passport card to the County Recorder, as DPOC.
03:37:51 16 ARS 16-166(F)(3). The pertinent pages of a U.S.
03:37:56 17 passport are those that contain the photo, passport
03:37:59 18 number, name, nationality, date of birth, gender, place
03:38:03 19 of birth, and signature (if applicable). A U.S.
03:38:07 20 passport card also may be accepted, which does not
03:38:09 21 contain a signature."

03:38:10 22 Did I read that right?

03:38:12 23 A. You did.

03:38:16 24 Q. In your capacity so far this year as the voter
03:38:20 25 registration supervisor, have you had occasion to review

03:38:22 1 U.S. passports?

03:38:25 2 A. I have not ever had to -- had anybody use a
03:38:29 3 passport as their form of identification, no.

03:38:34 4 Q. What's the most common form of identification
03:38:36 5 that you see?

03:38:38 6 A. Usually a driver's license, Tribal ID card,
03:38:42 7 especially for here in Apache County, and then usually
03:38:49 8 it's through the HAVA checks. Like we don't -- I don't
03:38:52 9 have to do too many over-the-counter verifications for
03:38:59 10 initial voters myself personally.

03:39:04 11 Q. If you were to get a U.S. passport as a form of
03:39:08 12 identification, based on this second paragraph that I
03:39:12 13 read to you, would place of birth be an important piece
03:39:16 14 of information you would be looking for on the passport?

03:39:20 15 A. Yes.

03:39:26 16 Q. Let's go to Page 34 of this EPM. Scrolling
03:39:32 17 down now.

03:39:36 18 So, actually, let's go to Page 33. This is
03:39:40 19 Roman numeral VIII, "Voter Registration List
03:39:45 20 Maintenance." Do you see that?

03:39:46 21 A. I do.

03:39:46 22 Q. And then looking at Subsection A, "Deceased,
03:39:53 23 Felon, and Incapacitated Registrants," and then
03:39:56 24 Sub-Subsection 1, "Deceased Registrants," and then on
03:39:59 25 the next page Sub-Sub-Subsection C, "Other Sources of

03:40:05 1 Information on Deceased Registrants."

03:40:09 2 Do you see that?

03:40:09 3 A. I do.

03:40:11 4 Q. Okay. I'll read the first couple sentences

03:40:13 5 here. It says, "A County Recorder may also cancel a

03:40:17 6 registrant's record if the County Recorder determines

03:40:19 7 that the registrant is deceased based on other reliable

03:40:23 8 sources, see ARS 16-165(A)(2), including, but not

03:40:28 9 limited to, death notices received by the County

03:40:31 10 Recorder's Office and an affidavit of death from the

03:40:33 11 registrant's next of kin. A County Recorder should

03:40:36 12 match as much information as possible (including first

03:40:39 13 name, last name, maiden name (if applicable), year of

03:40:44 14 birth, place of birth, and city or town of residence)

03:40:48 15 and be reasonably certain that a true match exists

03:40:52 16 before canceling a registrant."

03:40:54 17 Did I read that right?

03:40:56 18 A. You did.

03:40:57 19 Q. Based on that second sentence, when it says

03:41:00 20 place of birth, in this situation when your office would

03:41:04 21 be trying to match information on this source of

03:41:10 22 information on a deceased registrant, would place of

03:41:12 23 birth be an important piece of information in that

03:41:15 24 context?

03:41:17 25 A. Yes.

03:41:20 1 Q. Would it be important in that context for the
03:41:23 2 registrant to have filled out the place of birth form on
03:41:26 3 the registration form?

03:41:29 4 A. For this purpose, yes.

03:41:42 5 Q. I'll stop sharing my screen.

03:41:45 6 If there were a situation where a registrant
03:41:51 7 wrote on their form that they were born in one state,
03:41:55 8 let's say Nevada, but then they provided a copy of a
03:41:59 9 birth certificate from a different state, let's say
03:42:03 10 Colorado, would that be an indication to your office
03:42:08 11 that something's wrong with the application?

03:42:14 12 A. It definitely -- especially if that's their
03:42:17 13 sole identification that they're providing and then they
03:42:23 14 write a different state, yes, we would need more
03:42:25 15 verification then in order to register that voter.

03:42:33 16 Q. Suppose there's a dispute that arises about
03:42:37 17 whether a registered voter is a citizen. Suppose the
03:42:40 18 voter says that they were born in the United States,
03:42:43 19 let's say Colorado, but you get some sort of credible
03:42:49 20 information from someone else that the voter was born in
03:42:53 21 another country. In that sort of situation, would it be
03:42:58 22 useful to know what the voter said on their form about
03:43:03 23 the state or country of birth they were -- their state
03:43:06 24 or country of birth?

03:43:11 25 A. It would be important to know, yes, but for me

03:43:17 1 personally, I would want more direction, either from my
03:43:21 2 County Attorney or the Secretary of State's Office,
03:43:22 3 before I went forward with any actions on that.

03:43:28 4 Q. Would you say that a person's place of birth,
03:43:33 5 namely the state or country in which they are born, is
03:43:37 6 information that can be used to verify someone's
03:43:42 7 identity?

03:43:45 8 MR. FERGUSON: Objection, calls for a
03:43:46 9 legal conclusion.

03:43:50 10 THE WITNESS: Yes, you could use that as
03:43:52 11 information to determine who they are, yes.

03:43:52 12 BY MR. WHITAKER:

03:43:59 13 Q. Is it important during the registration process
03:44:01 14 to make sure that the person who's submitting the form
03:44:04 15 is actually who they say they are?

03:44:06 16 A. Yes, it is.

03:44:15 17 Q. I'll switch gears a little bit and talk about
03:44:18 18 the prevention of voter fraud. You were asked a few
03:44:21 19 questions about that, and I think one of your answers
03:44:23 20 said something like you can kind of tell when a
03:44:28 21 registration form is being filled out by someone else.
03:44:31 22 Do you remember that answer?

03:44:34 23 A. Yes, I do.

03:44:36 24 Q. Could you explain a little bit what you meant
03:44:38 25 by that?

03:44:40 1 A. So I can tell based on like handwriting, and we
03:44:49 2 do also -- like if someone is assisting another person
03:44:52 3 filling out that form, there is a space at the bottom
03:44:55 4 where that assisting person has to sign. So if you can
03:45:00 5 tell that the handwriting is different from the
03:45:03 6 signature or if we -- if we compared the handwriting on
03:45:08 7 this new form to the other -- the old form, another old
03:45:12 8 form of that person, you can kind of tell if it's them
03:45:16 9 or not based on handwriting and if it's not certified by
03:45:20 10 another person that's assisting them with a signature at
03:45:23 11 the bottom.

03:45:27 12 Those are some of the things that we look for.
03:45:31 13 You know, if we get a new voter registration form for an
03:45:34 14 existing voter and the handwriting on the new form is
03:45:41 15 considerably different than previous forms and other
03:45:45 16 handwriting samples that we have for that voter, and
03:45:49 17 let's say they're leaving out certain information that a
03:45:53 18 per -- you know, there's little things that you can look
03:45:56 19 for to kind of point you in that direction, that it
03:46:01 20 might be fraudulent.

03:46:05 21 Q. What if -- what if you don't have -- what if
03:46:08 22 there's a situation where you, for example, don't have
03:46:11 23 other handwriting to compare to and you don't have any
03:46:15 24 information of that signature at the bottom that
03:46:18 25 indicates it was filled out by someone else? Is it

03:46:20 1 possible that there would be situations that could slip
03:46:23 2 past you?

03:46:25 3 A. Uh-huh, absolutely.

03:46:26 4 Q. I guess I'm asking --

03:46:26 5 A. Yes.

03:46:27 6 Q. -- is it a foolproof system?

03:46:29 7 A. It's not a foolproof system, no. No.

03:46:40 8 Q. On the HAVA check I think your testimony was
03:46:42 9 that you do the HAVA check and then you get back a
03:46:45 10 response that either says citizen or no proof of
03:46:48 11 citizenship, and that's based on running through MVD and
03:46:52 12 Social Security databases; is that a fair summary?

03:46:56 13 A. That's, yes, what I testified, yes.

03:47:04 14 Q. Do you know how often the MVD or Security
03:47:10 15 Social databases yield a false positive, that is, they
03:47:14 16 say that someone is a citizen when, in fact, they're
03:47:16 17 not?

03:47:18 18 A. I don't know that statistic, no.

03:47:30 19 Q. I'll turn a little bit -- turn gears just a
03:47:35 20 little bit to the citizenship checkbox, and by that I
03:47:38 21 mean that box on the form that says "Are you a citizen,"
03:47:40 22 "Yes" or "No." Do you know what I'm talking about?

03:47:43 23 A. Yes, I do.

03:47:50 24 Q. Okay. And here I'll pull up the EPM again and
03:48:02 25 I'll go to Page 20. So I'm on Page 20, a heading that

03:48:12 1 says, "4. Failure to Properly Answer Citizenship
03:48:15 2 Question." Do you see that?

03:48:16 3 A. I do.

03:48:18 4 Q. Okay. And right now the guidance is, "A
03:48:22 5 registrant's failure to answer the citizenship question
03:48:25 6 or no answer to the citizenship question on the state or
03:48:29 7 federal form does not invalidate the form so long as
03:48:31 8 there is some other appropriate indicator that the
03:48:34 9 registrant is a U.S. citizen, ARS 16-121.01(A)."

03:48:39 10 Did I read that part right?

03:48:41 11 A. You did.

03:48:43 12 Q. Okay. If the EPM were to change and say,
03:48:49 13 actually, the applicant needs to answer yes on the
03:48:55 14 checkbox, even if they also provide DPOC, would the
03:49:03 15 Recorder's Office follow that guidance?

03:49:06 16 A. We would. We would follow the latest current
03:49:09 17 guidance and EPM, yes.

03:49:14 18 Q. If there were to be a statute passed that says
03:49:17 19 you need to have a yes in that checkbox in addition to
03:49:22 20 DPOC and that requirement were upheld in court, would
03:49:27 21 the Recorder's Office follow that requirement?

03:49:31 22 A. Yes, we would.

03:49:35 23 Q. Okay. Let's imagine that -- imagine for a
03:49:39 24 moment that there is no EPM. It just never existed.

03:49:46 25 And you get a registration form where someone checks the

03:49:50 1 box "No" on the question of whether they are a citizen.

03:49:55 2 They say, no, I'm not. Is that information that you

03:50:00 3 think would be material to your determination of whether

03:50:03 4 that person is a citizen?

03:50:07 5 A. Yes.

03:50:09 6 Q. And why is that?

03:50:12 7 A. If they're saying no, they're not a citizen,

03:50:15 8 I'm taking them at their word, and if I don't have any

03:50:18 9 other guidance, then I would have to take their answer

03:50:22 10 on that, and they also sign the bottom too.

03:50:27 11 Q. Would you -- oh, go ahead. What were you

03:50:29 12 saying about the signing?

03:50:30 13 A. No, that's fine. That's fine.

03:50:32 14 Q. Okay.

03:50:33 15 A. I'm good.

03:50:35 16 Q. Do you think that a registrant is one of the

03:50:39 17 most reliable sources possible on whether the registrant

03:50:43 18 himself or herself is a citizen?

03:50:49 19 A. I do, but I would rely upon other verification

03:50:57 20 because sometimes people are not truthful.

03:51:02 21 Q. And what do you mean by --

03:51:04 22 A. I'm sure that --

03:51:05 23 Q. Go ahead.

03:51:06 24 A. No. So I know that that person is probably the

03:51:10 25 best source of information about themselves, but

03:51:14 1 sometimes people can be deceitful. So when it comes to
03:51:17 2 verifying citizenship, it's better to go based off of
03:51:23 3 like the HAVA checks or verification of, you know,
03:51:27 4 identification and that sort of thing, rather than take
03:51:30 5 someone's word for it.

03:51:35 6 Q. I want you to imagine a situation where the
03:51:38 7 DPOC provided raises a question in your mind. Maybe
03:51:44 8 it's blurry. Maybe you can't quite tell what the name
03:51:48 9 is. Maybe you suspect Photoshop or something like that.

03:51:48 10 A. Uh-huh.

03:51:56 11 Q. In that situation, do you think it would be
03:51:57 12 important to know whether that registrant marked "No" in
03:52:04 13 the citizenship checkbox?

03:52:11 14 A. Yes, but then again, it's -- I would probably
03:52:16 15 ask for better proof or clearer, you know, like clearer
03:52:21 16 documentation, that sort of thing. But yes. But like I
03:52:24 17 said, normally people are trying to verify their
03:52:32 18 citizenship, rather than not verify their citizenship,
03:52:37 19 so -- but that would be something to look at, yes.

03:52:52 20 Q. You mentioned earlier that there are -- there
03:52:55 21 may be ways in which people can be citizens, but then no
03:53:01 22 longer be citizens, I think. Can you explain what you
03:53:04 23 meant by that? I think you used as an example someone
03:53:08 24 who permanently leaves the country. Can you explain
03:53:11 25 what you meant by that?

03:53:11 1 A. Yeah. Like so if, you know, you're born and
03:53:15 2 raised here, but you move to Brazil and you become a
03:53:18 3 Brazilian citizen and you relinquish your American
03:53:23 4 citizenship rights, that sort of thing. So unless that
03:53:29 5 new proof of citizenship in a different country is
03:53:34 6 provided to our Recorder's Office, we may not know that
03:53:43 7 you are no longer a citizen, unless there were checks
03:53:46 8 like through the MVD or that sort -- or Social Security
03:53:49 9 Office that came back and told us, oh, they're no longer
03:53:52 10 a citizen. So...

03:53:56 11 Q. Let's suppose a person like that comes --
03:54:03 12 visits the United States and then gives you their birth
03:54:07 13 certificate because they were born in the United States,
03:54:10 14 but checks "No" in the citizenship checkbox when asked
03:54:15 15 whether they are a U.S. citizen.

03:54:18 16 A. Okay.

03:54:19 17 Q. Would it be important in your mind that they
03:54:21 18 checked "No" in that circumstance to determine whether
03:54:25 19 they are --

03:54:26 20 A. Yes, it would.

03:54:28 21 Q. Oh, go ahead.

03:54:28 22 A. Yes. No, that would be important. I would
03:54:31 23 probably ask further, you know, or so what do you mean
03:54:35 24 by this? You were born here, but you're saying you're
03:54:38 25 not a citizen. And then, you know, ask them to provide

03:54:40 1 proof. More than likely, like in my scenario, they
03:54:45 2 would provide their Brazilian citizenship, that sort of
03:54:49 3 thing. So by them marking no in that case would give me
03:54:54 4 pause for more verification.

03:55:04 5 Q. I'll stop sharing my screen. I should have
03:55:07 6 done that already.

03:55:08 7 There is another document, and I don't know if
03:55:11 8 you were involved in the preparation of this or not, but
03:55:14 9 it seems like one of the documents produced by the
03:55:19 10 County Recorder's Office here was a large PDF. It was
03:55:23 11 like a 1,000-page PDF of voter registration rows. Are
03:55:31 12 you familiar with what I'm talking about?

03:55:35 13 A. Not really, unless that was our suspense list,
03:55:39 14 maybe, but...

03:55:43 15 Q. I'm not quite sure, to be honest, so I'll
03:55:48 16 share. What I'm going to do is -- it was roughly a
03:55:50 17 1,200-page document. I've only done the first 25 pages
03:55:55 18 of it to make it manageable.

03:55:58 19 A. Okay.

03:55:58 20 Q. I'll show it to you now, and maybe you know
03:56:00 21 what it is, maybe you don't. I'm not sure.

03:56:04 22 A. Okay.

03:56:17 23 Q. Okay. Do you see my screen here?

03:56:20 24 A. I do.

03:56:22 25 Q. And what -- do you know what this document is?

03:56:30 1 A. I do not believe I was the one that ran this
03:56:33 2 report, but it looks like it's showing all of our county
03:56:44 3 voters with their source of registration and date and
03:56:48 4 then whether or not their citizenship is verified, so...

03:56:59 5 Q. Okay. Well, I'll ask you a couple of questions
03:57:00 6 about this document and --

03:57:00 7 A. Uh-huh.

03:57:06 8 Q. Yeah, I'll ask you a couple of questions about
03:57:08 9 it.

03:57:08 10 Let's go to Page -- and, again, this is not the
03:57:11 11 full document. This is just the first 25 pages of a
03:57:14 12 much larger document.

03:57:16 13 A. Okay.

03:57:17 14 Q. I'm going to Page 3 of the document and I'm
03:57:20 15 going near the bottom. I'm interested in this row here.
03:57:27 16 Do you see the one I've highlighted?

03:57:29 17 A. Okay. I do.

03:57:31 18 Q. Okay. Now, so as I read this document, this
03:57:34 19 says registration date April 5th, 2022; citizenship
03:57:39 20 verified, no.

03:57:42 21 Can you explain what that means?

03:57:46 22 A. So what that would have been -- and it looks
03:57:49 23 like they were in person. I was not working for the
03:57:53 24 county at this time, but I'm familiar with the data. So
03:57:59 25 it more than likely means someone came into the office,

03:58:03 1 registered to vote, did not provide proper -- like a
03:58:08 2 driver's license, that sort of thing, and then when they
03:58:12 3 were entered into the AVID system and ran the HAVA
03:58:16 4 check, it came back as not a citizen.

03:58:16 5 Q. Okay.

03:58:21 6 A. So they can still be on our rolls that way,
03:58:28 7 but -- and if you notice in the other column under
03:58:32 8 Federal-ID Only, they are a federal only voter.

03:58:36 9 Q. I see. You're referring to this column that my
03:58:39 10 cursor is over --

03:58:39 11 A. Yes.

03:58:40 12 Q. -- where it says -- right?

03:58:42 13 A. Yes.

03:58:49 14 Q. Let's go down to Page 14 near the top here. So
03:59:00 15 this is, I think, the fourth row on Page 14. I see
03:59:04 16 registration date March 18th, 2020; citizenship
03:59:08 17 verified, no.

03:59:11 18 Is that right?

03:59:13 19 A. That is correct, yes.

03:59:15 20 Q. Okay. But this one, it doesn't say federal
03:59:19 21 only voter. Do you know why that is?

03:59:23 22 A. So to the best of my knowledge, I don't -- I
03:59:28 23 really don't know why it would do that, because in AVID,
03:59:31 24 if I'm running that -- it looks like someone manually
03:59:36 25 changed that federal ID only and didn't fix the

03:59:44 1 citizenship. Because you can do that manually. But so
03:59:48 2 that's what it looks like to me, that somebody probably
03:59:51 3 manually made that change.

03:59:54 4 Q. Manually made which change?

03:59:57 5 A. To make them -- I don't -- honestly, that is
04:00:03 6 the strangest situation. It was probably not processed
04:00:06 7 correctly, in my opinion, because if citizenship was not
04:00:13 8 verified, they should not -- they should be a fed only.

04:00:19 9 And if they provided proof and they only
04:00:21 10 switched the federal ID only status and didn't correct
04:00:25 11 the citizenship checkmark box, then that means one of
04:00:33 12 our employees did not process it correctly.

04:00:39 13 Q. Is it possible -- employees are human. Humans
04:00:42 14 make mistakes, of course.

04:00:43 15 A. Yes, yes. Yes.

04:00:44 16 Q. Is it possible that human error could lead to
04:00:47 17 someone who is -- who has not provided proof of
04:00:51 18 citizenship and is not a federal only voter and
04:00:56 19 nevertheless is registered and votes?

04:00:59 20 A. Yes, absolutely. There's always human error.
04:01:03 21 Yeah.

04:01:06 22 Q. How about -- we'll go down to Page 22. Let's
04:01:15 23 go to the middle, roughly, of this page. This is --
04:01:23 24 this is one it seems similar to me. You've got a
04:01:27 25 registration date of June 27th, 2022; citizenship

04:01:31 1 verified, no; and then not a federal only voter. Is
04:01:37 2 this another possible human error situation?
04:01:41 3 A. It could be. It could be.
04:01:46 4 Q. Oh, and I'm reminded that I have --
04:01:46 5 A. Because --
04:01:48 6 Q. Go ahead.
04:01:49 7 A. No, so when you enter it into AVID and if that
04:01:52 8 citizenship is not verified, AVID automatically puts
04:01:57 9 them in federal ID only, so that answer would
04:02:00 10 automatically be yes in that column. So this means that
04:02:04 11 somebody went and manually changed that federal ID only
04:02:09 12 status, because AVID is designed to automatic -- at that
04:02:18 13 point in time for sure. I think that they're updating
04:02:21 14 that now. But it will automatically put them into
04:02:24 15 federal ID only for you. So it had to have been a human
04:02:30 16 that changed it.
04:02:34 17 Q. And I'm realizing I didn't mark this as an
04:02:37 18 exhibit, and I don't know what exhibit we're on.
04:02:43 19 MR. WHITAKER: Jody, do you know what
04:02:44 20 exhibit number we're on?
04:02:48 21 THE COURT REPORTER: 248.
04:02:51 22 MR. WHITAKER: Okay. This is just the
04:02:52 23 first 25 pages of a larger document, but I think for
04:02:59 24 manageability purposes that's fine. We'll mark -- can
04:03:05 25 we mark this as 228?

04:03:07 1 THE COURT REPORTER: 248.

04:03:09 2 MR. WHITAKER: Oh, 248. Thanks. And I
04:03:11 3 can e-mail all parties a copy of this 25-page excerpt.

04:03:17 4 I think that's all the questions I have
04:03:19 5 for now. Thank you very much for your time.

04:03:23 6 THE WITNESS: Thank you.

04:03:44 7 MS. STUART: The Secretary doesn't have
04:03:45 8 any questions. Thank you so much for your time today.
04:03:48 9 I'm not sure if someone from the RNC, Kory, if you have
04:03:51 10 questions or not?

04:03:52 11 MR. LANGHOFER: Thanks. I might have -- I
04:03:53 12 think I've got just one.

04:03:53 13
04:03:55 14 EXAMINATION

04:03:55 15 BY MR. LANGHOFER:

04:03:56 16 Q. Thanks for your time this afternoon, ma'am. I
04:03:59 17 just have one question for you, and that is, we've heard
04:04:01 18 from some other counties that they occasionally have big
04:04:04 19 voter registration drives in their county and they'll
04:04:07 20 get stacks of voter registration forms, and a number of
04:04:12 21 the forms that they get in those drives end up having
04:04:16 22 false information on them or appeared that they're, you
04:04:20 23 know, hunting.

04:04:21 24 Have you seen anything like that in Apache
04:04:24 25 County?

04:04:24 1 A. Yes, we have. It was kind of when I first took
04:04:27 2 over. They were forwarded from the Secretary of State's
04:04:31 3 Office to Apache County, but I have seen that there were
04:04:40 4 some that the Secretary of State's Office was concerned
04:04:44 5 about and gave them back to us to review and do what we
04:04:50 6 needed to, but that's kind of when I first got the job,
04:04:54 7 so it's -- yeah.

04:04:59 8 Q. Did your office --

04:04:57 9 A. I was still in transition then. Uh-huh.

04:04:59 10 Q. Did your office end up concluding those weren't
04:05:03 11 authentic or not legitimate?

04:05:06 12 A. So we had to be very careful when processing
04:05:10 13 them. Of course, we have to assume that they are
04:05:12 14 legitimate. But, of course, there were several that we
04:05:17 15 could not process because they either were missing the
04:05:22 16 current information that we have to have, which is kind
04:05:25 17 of why we assumed that they were being collected

04:05:28 18 fraudulently, is because they all came from the same
04:05:31 19 source and they were not filled out correctly, lots of
04:05:37 20 missing signatures or that sort of thing on those, so...

04:05:45 21 Q. I want to make sure I understand what you said
04:05:46 22 a moment ago. Did you all conclude that some of them
04:05:50 23 were, in fact, fraudulent forms?

04:05:52 24 A. Yes, some of them were fraudulent forms.

04:05:56 25 Q. Did you refer those to the County Attorney for

04:05:59 1 prosecution?

04:06:02 2 A. I do not believe so. Like I said, it's kind of

04:06:05 3 when I was first taking over, and that was the -- that

04:06:09 4 responsibility would have been our previous Chief Deputy

04:06:13 5 Recorder who was handling that. I was just kind of

04:06:16 6 researching each of them and that sort of thing for her.

04:06:19 7 So I don't know what happened with those.

04:06:22 8 Q. Okay. I take it then you also wouldn't know if

04:06:24 9 they were referred to the Attorney General for

04:06:25 10 prosecution?

04:06:27 11 A. I do not know. No, I have no idea.

04:06:31 12 Q. Do you know about that happening -- apparently

04:06:34 13 you remember this time when you first got there. Have

04:06:36 14 you heard about that happening before you got to the

04:06:37 15 office?

04:06:39 16 A. No. No, I haven't heard of any instances of

04:06:43 17 that, but.

04:06:45 18 Q. Any idea how many forms you felt that were

04:06:49 19 fraudulent from that incident when you first got to the

04:06:51 20 office?

04:06:55 21 A. I can give you kind of a ballpark. There was

04:06:57 22 in total probably around 50 from that same organization

04:07:03 23 source. I would say that we could determine that were

04:07:10 24 probably more than likely fraudulent was probably --

04:07:14 25 that we could prove were fraudulent, if that makes any

04:07:18 1 sense, was probably, you know, 10, 15 percent of those

04:07:23 2 50.

04:07:24 3 Q. Which organization was it that turned those in?

04:07:29 4 A. Oh, gosh. I cannot remember the name of the

04:07:32 5 organization. They changed it. Changed their name,

04:07:36 6 apparently. So I honestly don't remember off the top of

04:07:38 7 my head. Like I said, it's like when I first took over

04:07:41 8 the job and it -- yeah.

04:07:41 9 Q. Well, I said I --

04:07:44 10 A. I definitely didn't retain that information.

04:07:48 11 MR. LANGHOFER: And I told you I had one

04:07:49 12 question, but it turned into about ten with follow-ups,

04:07:51 13 so I'm sorry about that.

04:07:51 14 THE WITNESS: That's okay. It got

04:07:54 15 interesting. That's okay.

04:07:54 16 MR. LANGHOFER: So I think that's all the

04:07:56 17 questions for the defense, unless Hannah's got

04:07:58 18 something.

04:08:02 19 Not seeing Hannah speak up, any redirect

04:08:04 20 from the plaintiffs?

04:08:12 21 MS. YUN: Hi. This is Jennifer Yun on

04:08:15 22 behalf of the United States. I'm not sure if Brent

04:08:21 23 or -- is planning on doing any redirect. If not, I have

04:08:24 24 a few questions.

04:08:27 25 MR. FERGUSON: You can go ahead.

04:08:31 1 MS. YUN: Okay.

04:08:31 2

04:08:31 3 EXAMINATION

04:08:31 4 BY MS. YUN:

04:08:31 5 Q. Okay. Thank you. Just a few more questions.

04:08:34 6 I'm so sorry for keeping you for so many hours.

04:08:38 7 Mr. Whitaker from the Attorney General's Office

04:08:40 8 asked you a few questions about birthplace from the --

04:08:47 9 and was referencing the EPM. Do you remember that?

04:08:50 10 A. I do.

04:08:51 11 Q. Do you have the 2019 EPM in front of you or

04:08:55 12 should -- I can also share the screen if that's -- share

04:08:57 13 my screen if --

04:08:59 14 A. I do have -- yeah, I do have it.

04:09:02 15 Q. Okay, great.

04:09:04 16 I -- you can take look at it or I'm referring

04:09:08 17 to Page 4 of the EPM where Mr. Whitaker referenced with

04:09:17 18 regards to inspecting birth certificates.

04:09:20 19 A. Okay.

04:09:23 20 Q. So this inspecting of birth certificates, that

04:09:27 21 would only happen only if the name on the birth

04:09:32 22 certificate is not the registrant's current legal name

04:09:35 23 and they can't provide any documentation explaining why;

04:09:35 24 is that right?

04:09:45 25 A. Let me just review it real quick.

04:09:47 1 Q. Sure. It's towards the end of the -- the
04:09:51 2 bottom of Page 4, going onto the next page.

04:10:01 3 A. And yes. So with the way that it's worded, the
04:10:06 4 only time is if they don't have the supporting document,
04:10:09 5 like a marriage certificate or a legal name change
04:10:12 6 document, is the only time that we would be referencing
04:10:16 7 those other items.

04:10:19 8 Q. And how often does your office encounter birth
04:10:24 9 certificates as a way to verify someone's citizenship
04:10:26 10 status?

04:10:28 11 A. I personally have yet to ever have somebody
04:10:31 12 bring their birth certificate in, so...

04:10:34 13 Q. And so that's within the last, say, nine, ten
04:10:39 14 months of working there?

04:10:41 15 A. That's correct.

04:10:43 16 Q. And how -- do you know -- do you know, based on
04:10:49 17 your colleagues or your predecessors, how often your
04:10:53 18 office encounters a situation where the registrant
04:10:56 19 cannot provide any documentation showing why they have a
04:10:59 20 different last name from what is reflected on the birth
04:11:04 21 certificate?

04:11:04 22 A. As far as I know, that hasn't been an issue. I
04:11:09 23 would also point out that most of our voter
04:11:14 24 registrations, like initial voter registrations, which
04:11:17 25 is when they have to provide that documentation, most of

04:11:20 1 them are done through like probably the DMV, where the
04:11:25 2 DMV is also giving them a driver's license or ID, and
04:11:29 3 they are verifying those documents.

04:11:32 4 So the Recorder's Office doesn't necessarily --
04:11:36 5 we're not always the one that is recording the -- or
04:11:39 6 checking those documents.

04:11:42 7 Q. Understood.

04:11:43 8 MS. YUN: I have no further questions.
04:11:45 9 Thank you.

04:11:47 10 THE WITNESS: Okay.

04:11:50 11 MR. LANGHOFER: Anything else from the
04:11:51 12 plaintiffs?

04:11:53 13 All right, Celeste, are you guys going to
04:11:55 14 read and sign?

04:11:58 15 MS. ROBERTSON: I'm sorry. What was that,
04:11:59 16 Kory?

04:11:59 17 MR. LANGHOFER: You guys are going to read
04:12:01 18 and sign the transcript, I assume?

04:12:02 19 MS. ROBERTSON: Yes. Yes, we will.

04:12:05 20 MR. LANGHOFER: I guess that's it. Ma'am,
04:12:06 21 thanks again for your time.

04:12:08 22 And, Dan, do you want to take us off the
04:12:10 23 record.

04:12:10 24 THE VIDEOGRAPHER: We are off the record.
04:12:11 25 Time on the video monitor is 4:12 p.m. This ends

04:12:14

1 Volume 1, Media No. 2 in the 30(b)(6) deposition of

04:12:20

2 Apache County Recorder by Annalee Shreeve.

3 (Deposition Exhibits 244 through 248,
4 inclusive, were marked for identification.)

5 (The videotaped deposition concluded at
6 4:12 p.m.)

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ANNALEE SHREEVE

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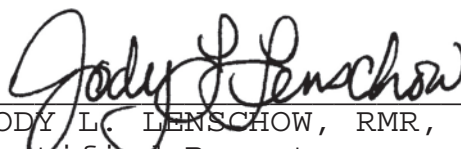
25

1 STATE OF ARIZONA)
) ss.
2 COUNTY OF MARICOPA)

3
4 BE IT KNOWN that the foregoing videotaped
5 deposition was taken before me, JODY L. LENSCHOW, RMR,
6 CRR, Certified Reporter No. 50192 for the State of
7 Arizona, and by virtue thereof authorized to administer
8 an oath; that the witness before testifying was duly
9 sworn by me; that the questions propounded by counsel
10 and the answers of the witness thereto were taken down
11 by me in shorthand and thereafter transcribed under my
12 direction; that a review of the transcript by the
13 witness was requested; that the foregoing pages contain
14 a full, true, and accurate transcript of all proceedings
15 and testimony had, all to the best of my skill and
16 ability.

17 I FURTHER CERTIFY that I am not related to nor
18 employed by any of the parties hereto and have no
19 interest in the outcome thereof.

20 DATED at Phoenix, Arizona, this 11th day of
21 September, 2023.

22
23 

24 JODY L. LENSCHOW, RMR, CRR
Certified Reporter
25 Certificate No. 50192

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UNITED STATES DISTRICT COURT
DISTRICT OF ARIZONA

Mi Familia Vota, et al.,)	
)	Case No:
Plaintiffs,	)	2:22-cv-00509-SRB
	)	(Lead)
vs.)	
	)	CV-22-00519-PHX-SRB
Adrian Fontes, in his official	)	CV-22-01003-PHX-SRB
capacity as Arizona Secretary of	)	CV-22-01124-PHX-SRB
State, et al.,	)	CV-22-01369-PHX-SRB
	)	CV-22-01381-PHX-SRB
Defendants.	)	CV-22-01602-PHX-SRB
	)	CV-22-01901-PHX-SRB
_____)	
AND CONSOLIDATED CASES.)	
_____)	

DEPOSITION OF GRAHAM COUNTY RECORDER
REPRESENTED BY POLLY MERRIMAN
VIDEOTAPED

Safford, Arizona
September 1, 2023

Prepared by:
Jody L. Lenschow, RMR, CRR
Certified Court Reporter
Certification No. 50192



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1 VIDEOTAPED DEPOSITION OF GRAHAM COUNTY RECORDER
 2 REPRESENTED BY POLLY MERRIMAN
 3 was taken on September 1, 2023, commencing at 9:14 a.m.,
 4 at the Graham County Attorney's Office, 800 W. Main
 5 Street, Safford, Arizona, before Jody L. Lenschow, RMR,
 6 CRR, Certified Reporter No. 50192 for the State of
 7 Arizona, reported via Zoom Videoconferencing.

8 * * *

9
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8 ALSO PRESENT VIA ZOOM:
9 Mr. Dan Rohan, Videographer

9

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RETRIEVED FROM DEMOCRACYDOCKET.COM

09:14:06 1 THE VIDEOGRAPHER: We are on the record.
09:14:07 2 Time on the video monitor is 9:14 a.m. Here begins
09:14:10 3 Volume 1, Media No. 1 in the 30(b)(6) deposition of
09:14:14 4 Graham County Recorder by Polly Merriman in the matter
09:14:18 5 of Mi Familia Vota, et al. versus Adrian Fontes, et al.,
09:14:22 6 in the United States District Court, District of
09:14:25 7 Arizona, Case No. 2:22-cv-00509-PHX-SRB.

09:14:35 8 Today's date is September 1st, 2023. Our
09:14:39 9 court reporter is Jody Lenschow. I am Daniel Rohan, a
09:14:44 10 certified legal videographer. We both represent Coash
09:14:48 11 Court Reporting & Video. This video deposition is
09:14:49 12 taking place at the Graham County Attorney's Office,
09:14:53 13 800 West Main Street, Safford, Arizona, 85546.

09:14:57 14 Counsel, would you please identify
09:14:59 15 yourselves and state whom you represent.

09:15:02 16 MR. HEMSTREET: Robbie Hemstreet from
09:15:06 17 Latham & Watkins. I represent Plaintiff Arizona Asian
09:15:09 18 American Native Hawaiian Pacific Islander for Equity
09:15:13 19 Coalition.

09:15:14 20 MR. ATKINS: Alexander Atkins of Elias Law
09:15:18 21 Group. I represent Plaintiffs Mi Familia Vota and Vota
09:15:23 22 Latino.

09:15:24 23 MS. MOTZKIN: Hi. I'm Leah Motzkin of
09:15:28 24 Arnold & Porter and I'm representing Poder Latinx,
09:15:32 25 Chicanos Por La Causa, and Chicanos Por La Causa Action

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Fund.
MR. HERRERA: Good morning. Ernest
Herrera for Promise Arizona Plaintiffs.
MR. HORLEY: Tim Horley for the State of
Arizona and the Arizona Attorney General.
MS. ROOF: Jean Roof for the Graham County
Recorder.
MR. MORGAN: Craig Morgan for Sherman &
Howard on behalf of the Secretary of State.
MR. LANGHOFER: Kory Langhofer for the
RNC.
THE VIDEOGRAPHER: If that's everybody,
can the court reporter please swear in the witness.
POLLY MERRIMAN,
called as a witness herein, having been first duly sworn
by the Certified Court Reporter to speak the truth and
nothing but the truth, was examined and testified as
follows:
EXAMINATION
BY MR. HEMSTREET:
Q. Good morning, Ms. Merriman. My name is Robbie
Hemstreet. I'm an attorney for Latham & Watkins. I
represent the Plaintiff Arizona Asian American Native

09:16:45 1 Hawaiian and Pacific Islander for Equity Coalition in
09:16:47 2 this matter. That's quite a mouthful, so if I refer to
09:16:50 3 it as Equity Collation, will you understand that's who
09:16:52 4 I'm referring to?

09:16:53 5 A. Okay.

09:16:55 6 Q. Can you please state and spell your full name
09:17:00 7 for the record?

09:17:00 8 A. My full legal name is Pauline, P-A-U-L-I-N-E,
09:17:05 9 Merriman, M-E-R-R-I-M-A-N. I hold office as Polly,
09:17:10 10 P-O-L-L-Y, M-E-R-R-I-M-A-N.

09:17:17 11 Q. And what is your title?

09:17:18 12 A. I am the Graham County Recorder.

09:17:20 13 Q. And how long have you been in that role?

09:17:22 14 A. Since March 27th of 2023.

09:17:26 15 Q. And prior to March 27th, 2023, Wendy John was
09:17:33 16 the Graham County Recorder, correct?

09:17:35 17 A. Correct.

09:17:35 18 Q. Do you know how long she was in that role?

09:17:37 19 A. 24 years.

09:17:40 20 Q. Okay. So for today's deposition I want to make
09:17:42 21 the record clear on just a couple of points at the
09:17:45 22 outset. First, you understand that you are testifying
09:17:47 23 under oath today?

09:17:48 24 A. Yes.

09:17:49 25 Q. You understand the court reporter is

09:17:52 1 transcribing this deposition?

09:17:54 2 A. Correct.

09:17:55 3 Q. And with that in mind, please answer questions
09:17:58 4 audibly and clearly. You're doing a great job with yes,
09:18:01 5 but no head shakes, nods. Does that make sense?

09:18:04 6 A. Yeah.

09:18:09 7 Q. To allow the court reporter to do their job,
09:18:11 8 please let me complete my sentence and question before
09:18:13 9 you respond, and I'll try to do the same and let you
09:18:15 10 finish your answer before asking the next question.
09:18:17 11 Make sense?

09:18:18 12 A. Oh. Okay.

09:18:19 13 Q. Will you let me know if you don't understand
09:18:21 14 any part of a question or need me to repeat it?

09:18:23 15 A. Yes.

09:18:27 16 Q. And if I ask a question and you answer it, I
09:18:30 17 will assume that you understand the question. Is that
09:18:31 18 fair?

09:18:32 19 A. Fair.

09:18:35 20 Q. Is there any reason you can't give full,
09:18:37 21 complete, and accurate testimony today?

09:18:40 22 A. I'm sorry, I didn't hear what you said. Can I
09:18:42 23 just make one statement?

09:18:44 24 I'm hard of hearing, and I do have my hearing
09:18:47 25 aids in at full volume, but if you can speak closer to

09:18:51 1 your microphone, that might help me hear clearer.

09:18:58 2 Q. Will do. Is that any better?

09:19:00 3 A. Yeah. Yes.

09:19:02 4 Q. Is there any reason today that you can't give
09:19:04 5 full, complete, and accurate testimony today?

09:19:07 6 A. Not that I'm aware of.

09:19:12 7 Q. All right. You're not on any medications or
09:19:13 8 experiencing any condition that would prevent you from
09:19:16 9 giving full and truthful testimony today?

09:19:17 10 A. No.

09:19:18 11 Q. Now, if at any time you need a break, please
09:19:20 12 let me know, or anyone on your end. The only thing I
09:19:24 13 ask is that if I've already asked a question and it's
09:19:27 14 pending, that you finish answering that question before
09:19:29 15 taking a break. Is that fair?

09:19:30 16 A. Fair.

09:19:31 17 Q. All right. And since this deposition is being
09:19:33 18 taken remotely, can you please confirm who is in the
09:19:35 19 room with you?

09:19:36 20 A. It's myself and Jean Roof.

09:19:39 21 Q. All right. Nobody else?

09:19:43 22 A. Nobody else is in here.

09:19:44 23 Q. Okay. And if anyone enters, will you please
09:19:45 24 let me know?

09:19:46 25 A. I will.

09:19:49 1 Q. And just one last sort of introductory point,
09:19:52 2 because this is a Zoom deposition, can you please
09:19:55 3 confirm that you will not be receiving any texts,
09:19:58 4 e-mails, or other notes during the deposition from
09:20:00 5 anybody else suggesting how you answer?

09:20:03 6 A. Yes.

09:20:08 7 Q. Have you been deposed before?

09:20:09 8 A. Yes.

09:20:09 9 Q. How many times?

09:20:11 10 A. Once.

09:20:14 11 Q. When was that?

09:20:15 12 A. 1992.

09:20:20 13 Q. Do you remember the circumstances?

09:20:21 14 A. It was a personal matter.

09:20:22 15 Q. Personal matter. Personal injury or what --

09:20:26 16 MS. ROOF: I don't -- objection. I don't
09:20:28 17 think that's relevant.

09:20:31 18 BY MR. HEMSTREET:

09:20:32 19 Q. Did you bring any materials to the deposition
09:20:34 20 today?

09:20:35 21 A. I brought the election procedures manual in
09:20:38 22 case I have to refer to it, and I brought notes of like
09:20:43 23 how many voters and things like that, in case you asked
09:20:46 24 for that, and I have the interrogatories printed out,
09:20:54 25 mine and Wendy's, and also our production printed out.

09:20:59 1 Q. Okay. Those -- are all those documents part of
09:21:03 2 the documents that were sent yesterday?

09:21:04 3 A. Correct.

09:21:06 4 Q. Okay.

09:21:06 5 A. No. I'm sorry.

09:21:10 6 Q. Do all those documents come from the
09:21:13 7 productions of Graham County?

09:21:15 8 A. The printouts are from the court case. The
09:21:19 9 paper with the voter totals is something I wrote on a
09:21:22 10 notepad.

09:21:27 11 Q. Well, can you pull up -- and probably be faster
09:21:30 12 this way if you have, actually, the exhibits in front of
09:21:33 13 you. If you can go to the documents marked A,
09:21:36 14 Document A.

09:21:39 15 MS. ROOF: She's just showing you her
09:21:40 16 notes.

09:21:41 17 BY MR. HEMSTREET:

09:21:41 18 Q. Okay. Great.

09:21:42 19 A. Oh, I'm sorry. Is that what --

09:21:45 20 Q. Document A, do you have that in front of you?

09:21:50 21 MS. ROOF: Yes. We have it on a third
09:21:52 22 screen, so she's going to be turning her head, but it's
09:21:54 23 a larger screen, so it will be more easy for her to see
09:21:57 24 it.

09:21:58 25 MR. HEMSTREET: Fair.

09:21:58 1 BY MR. HEMSTREET:

09:21:59 2 Q. Have you seen this document before?

09:22:02 3 A. Yes.

09:22:12 4 Q. All right. Can you tell me what it is?

09:22:13 5 A. It's the notice of deposition that has the

09:22:16 6 topics.

09:22:19 7 Q. All right. And so for the record, this is the

09:22:21 8 amended Graham County Recorder deposition notice, dated

09:22:24 9 August 21st, 2023.

09:22:26 10 MR. HEMSTREET: And, Jody, do you know

09:22:27 11 where the exhibit numbers left off?

09:22:33 12 THE COURT REPORTER: The next number is

09:22:35 13 249.

09:22:35 14 BY MR. HEMSTREET:

09:22:35 15 Q. All right. We'll mark this as Exhibit 249.

09:22:41 16 Ms. Merriman, so do you understand you've been

09:22:42 17 designated to testify on behalf of Graham County

09:22:45 18 Recorder's Office on these topics?

09:22:46 19 A. Yes.

09:22:47 20 Q. Can we stipulate that whenever I use you, your,

09:22:50 21 or your office in a question, that will be the

09:22:52 22 equivalent of saying the Graham County Recorder's

09:22:56 23 Office?

09:22:56 24 A. Yes.

09:23:00 25 Q. All right. And then quickly turning to Page 5

09:23:02 1 of the Exhibit 249. Do you see where it says "Topics"?

09:23:09 2 A. Yes.

09:23:10 3 Q. All right. Are you prepared to address each of
09:23:12 4 these topics today?

09:23:15 5 A. Yes.

09:23:15 6 Q. What did you do to prepare for today's
09:23:17 7 deposition?

09:23:20 8 A. I looked over the topics, and if needed, I
09:23:25 9 looked through my voter AVID system and any e-mails,
09:23:34 10 anything that could pertain to anything that was
09:23:38 11 requested.

09:23:40 12 Q. Did you meet with anyone?

09:23:42 13 A. Jean Roof.

09:23:45 14 Q. Okay. Anybody else?

09:23:45 15 A. No.

09:23:48 16 Q. All right. And so you said you reviewed
09:23:51 17 e-mails, the AVID system, some of these documents. Were
09:23:55 18 there any other documents that you reviewed?

09:23:59 19 A. Not that I recall.

09:24:03 20 Q. If you could turn to the document marked B. B,
09:24:08 21 as in boy.

09:24:09 22 MS. ROOF: B? Okay. Sorry.

09:24:09 23 BY MR. HEMSTREET:

09:24:17 24 Q. And can you let me know if you recognize this
09:24:19 25 document?

09:24:19 1 A. Yes.

09:24:21 2 Q. All right. And what is it?

09:24:24 3 A. This is Defendant Wendy John's responses.

09:24:31 4 Q. So can we mark this as Exhibit 250. For the

09:24:37 5 record, this is Graham County responses to the Equity

09:24:40 6 Coalition's interrogatories dated February 13th, 2023.

09:24:46 7 And we'll just quickly go through several of

09:24:48 8 these. If you could go to Document C.

09:24:54 9 When you have that up, can you let me know if

09:24:56 10 you recognize this document?

09:25:00 11 A. This is my responses to the interrogatories.

09:25:04 12 Q. All right. Thank you. So for the record, this

09:25:06 13 is Graham County responses to the consolidated

09:25:10 14 plaintiffs' interrogatories dated July 10th, 2023; is

09:25:10 15 that right?

09:25:15 16 A. Yes.

09:25:16 17 Q. Okay. And we'll mark this as Exhibit 251.

09:25:23 18 And then could you turn to Document Q.

09:25:33 19 When you have that up, can you let me know what

09:25:35 20 that document is?

09:25:36 21 A. That's supplemental responses, my supplemental

09:25:43 22 responses to the interrogatories.

09:25:45 23 Q. All right. And this is the Graham County

09:25:48 24 supplemental responses to Equity Coalition's

09:25:50 25 interrogatories dated yesterday, August 31st, 2023. And

09:25:55 1 can we mark that as Exhibit 252.

09:26:02 2 Now, were you involved in preparing your

09:26:04 3 office's responses to these interrogatories?

09:26:06 4 A. Yes.

09:26:10 5 Q. To all three of these interrogatories?

09:26:13 6 A. I'm sorry, can you repeat?

09:26:15 7 Q. To all three sets of interrogatories, all three

09:26:18 8 responses?

09:26:20 9 A. No. I was not involved with Wendy John's

09:26:24 10 responses.

09:26:27 11 Q. Okay. Was anyone else involved in any of the

09:26:30 12 responses to these interrogatories?

09:26:31 13 A. No.

09:26:33 14 Q. So just Wendy John and yourself?

09:26:36 15 A. Correct. Yes.

09:26:39 16 Q. What steps did your office take to prepare

09:26:42 17 Graham County's responses to all of these

09:26:44 18 interrogatories?

09:26:47 19 A. If I knew the answer, I gave the answer. If it

09:26:51 20 was something I needed to look up, I utilized the AVID

09:26:54 21 system to look up any information that was needed.

09:26:59 22 Q. Okay. So your answer reflects how you prepared

09:27:02 23 for today's deposition?

09:27:05 24 A. Correct.

09:27:06 25 Q. Sort of looking at the same sets of documents?

09:27:12 1 A. I'm sorry, I'm not understanding what you mean.

09:27:15 2 Q. I just want to establish for the record just
09:27:17 3 all the various steps that you took to answer these
09:27:21 4 interrogatories and try and understand if there's any
09:27:24 5 difference in the documents that you looked at versus
09:27:28 6 preparing for today's deposition, if that's the same
09:27:32 7 thing.

09:27:32 8 A. No, there were no -- no, there were no
09:27:34 9 differences.

09:27:36 10 Q. Okay. Do you have any updates to make to the
09:27:38 11 responses to plaintiffs' interrogatories today?

09:27:40 12 A. No.

09:27:43 13 Q. If you could go to Document D.
09:27:52 14 When you have that up, can you tell me what
09:27:54 15 this is?

09:27:55 16 A. This is Defendant Wendy John's responses to the
09:28:00 17 first request for production of documents.

09:28:03 18 Q. And then can we mark this as Exhibit 253.

09:28:10 19 This is the Graham County responses to Equity
09:28:14 20 Coalition's RFPs dated February 13th, 2023.

09:28:17 21 And then if you could also go to Document E for
09:28:19 22 me.

09:28:27 23 And when you have that up, can you tell me what
09:28:28 24 this is?

09:28:29 25 A. Yes. This is my responses to the first set of

09:28:34 1 requests for production.

09:28:36 2 Q. And this is the responses to the consolidated
09:28:40 3 plaintiffs' RFPs; is that right?

09:28:42 4 A. Oh, yes, it is.

09:28:45 5 Q. Okay. And can we mark this as Exhibit 254.

09:28:53 6 Were you involved in preparing your office's
09:28:55 7 responses to all these sets of RFPs?

09:28:58 8 A. All of the sets that were my responses and my
09:29:05 9 interrogatories. I was not involved in Wendy's.

09:29:08 10 Q. All right. Was anyone else involved in either
09:29:12 11 yours or Wendy's?

09:29:15 12 A. No.

09:29:16 13 Q. So it was just -- sorry. For the record, only
09:29:19 14 Wendy John and yourself were involved in responding to
09:29:21 15 these RFPs?

09:29:23 16 A. Yes.

09:29:27 17 Q. Did you take any other steps other than what
09:29:30 18 we've previously discussed in preparing Graham County's
09:29:33 19 responses to these RFPs?

09:29:35 20 A. None that I recall.

09:29:38 21 Q. Do you have any updates to make to these
09:29:40 22 document requests at this time?

09:29:42 23 A. None at this time.

09:29:49 24 Q. We can set those aside for a second.

09:29:51 25 So are you familiar with the election

09:29:54 1 procedures manual?

09:29:58 2 A. I'm sorry, can you repeat?

09:30:00 3 Q. Are you familiar with the election procedures

09:30:03 4 manual?

09:30:03 5 A. Yes.

09:30:04 6 Q. If I shorten that to EPM, you'll understand I'm

09:30:07 7 referring to the elections procedures manual?

09:30:10 8 A. Yes.

09:30:10 9 Q. The 2019 version of the EPM is still currently

09:30:14 10 operative; is that right?

09:30:15 11 A. Yes.

09:30:17 12 Q. Is your office legally required to follow the

09:30:20 13 EPM?

09:30:20 14 A. Yes.

09:30:22 15 MR. HORLEY: Calls for a legal conclusion.

09:30:24 16 This is Tim Horley.

09:30:26 17 BY MR. HEMSTREET:

09:30:26 18 Q. So you consider the EPM to be legally binding?

09:30:29 19 MR. HORLEY: Same objection.

09:30:32 20 MS. ROOF: You can answer, Polly.

09:30:35 21 MR. LANGHOFER: Robbie, can we get on the

09:30:36 22 record our stipulation that an objection by one

09:30:37 23 defendant is an objection by all?

09:30:39 24 MR. HEMSTREET: Yes.

09:30:39 25 MR. LANGHOFER: Great. Thanks.

09:30:41 1 MR. MORGAN: Yeah, we join in that.

09:30:44 2 Thanks. Thank you.

09:30:46 3 Sorry, Mrs. Roof. Sometimes we're going
09:30:48 4 to have objections. So that doesn't mean you shouldn't
09:30:51 5 answer the question, okay?

09:30:54 6 THE WITNESS: Okay. My answer is yes.

09:30:54 7 MS. ROOF: I instructed her to answer, so
09:30:57 8 I apologize. I think she was just waiting for everyone
09:31:01 9 to be done.

09:31:02 10 MR. MORGAN: Oh, no, that's fine. The
09:31:04 11 audio is kind of wonky today. I can barely hear folks
09:31:06 12 myself, and I'm sure you're having the same issue.

09:31:09 13 Sorry, Mr. Hemstreet.

09:31:10 14 MR. HEMSTREET: No worries.

09:31:10 15 BY MR. HEMSTREET:

09:31:10 16 Q. I'll repeat.

09:31:11 17 Do you consider the EPM to be legally binding?

09:31:14 18 A. I do.

09:31:15 19 MR. HORLEY: Same.

09:31:16 20 THE WITNESS: Yes.

09:31:16 21 BY MR. HEMSTREET:

09:31:16 22 Q. And does that include Chapter 1 regarding voter
09:31:20 23 registration?

09:31:20 24 MR. LANGHOFER: Same objection.

09:31:20 25 THE WITNESS: Yes.

09:31:25 1 BY MR. HEMSTREET:

09:31:25 2 Q. So the Secretary of State promulgates the EPM;

09:31:25 3 is that right?

09:31:29 4 A. Yes.

09:31:30 5 Q. Can the Secretary of State's Office convey

09:31:34 6 legally binding guidance to your office by means outside

09:31:37 7 of the EPM?

09:31:39 8 MR. LANGHOFER: Same objection.

09:31:40 9 MR. HORLEY: Same objection.

09:31:43 10 THE WITNESS: I am not able to answer

09:31:44 11 that. I'm not sure if they can.

09:31:49 12 BY MR. HEMSTREET:

09:31:49 13 Q. So you're not sure one way or the other whether

09:31:52 14 or not the Secretary of State can convey legally binding

09:31:55 15 guidance to your office by different means other than

09:31:57 16 the EPM?

09:31:59 17 A. Correct.

09:32:02 18 Q. Are you familiar with the voter registration

09:32:04 19 advisory committee?

09:32:05 20 A. Yes.

09:32:09 21 Q. And I'll refer to them as VRAC; is that okay?

09:32:12 22 A. Yes.

09:32:12 23 Q. Are VRAC proposals or papers legally binding on

09:32:15 24 your office?

09:32:17 25 MR. HORLEY: Same objection.

09:32:20 1 THE WITNESS: I am not sure that they're
09:32:23 2 legally binding.
09:32:26 3 BY MR. HEMSTREET:
09:32:26 4 Q. Is your office aware of a draft EPM for 2023?
09:32:31 5 A. Yes.
09:32:32 6 Q. Have you provided comments regarding that draft
09:32:34 7 EPM to the Secretary of State?
09:32:37 8 A. No.
09:32:38 9 Q. Do you intend to?
09:32:39 10 A. No.
09:32:42 11 Q. Does the draft EPM for 2023, to your knowledge,
09:32:45 12 include guidance for how to implement H.B. 2492 and
09:32:50 13 H.B. 2243?
09:32:51 14 A. Yes.
09:32:54 15 Q. If there's no approved revised EPM by this time
09:32:58 16 next year, will you nevertheless be obligated to enforce
09:33:02 17 the portions of H.B. 2492 and H.B. 2243 that are
09:33:07 18 directed at the County Recorders?
09:33:09 19 MR. LANGHOFER: Same objection.
09:33:10 20 MR. HORLEY: Calls for --
09:33:12 21 THE WITNESS: I'm uncertain what the
09:33:15 22 question was exactly.
09:33:17 23 BY MR. HEMSTREET:
09:33:17 24 Q. I'll rephrase.
09:33:18 25 I'm trying to understand if -- if there's no

09:33:24 1 approved new draft, so the 2023 draft EPM is not
09:33:27 2 approved, are you still going to be obligated to enforce
09:33:31 3 H.B. 2492 and H.B. 2243 regardless?

09:33:38 4 MR. HORLEY: Same objection.

09:33:38 5 THE WITNESS: It would be pending the
09:33:40 6 outcome of the litigation and any changes to the 2019
09:33:46 7 EPM that would reflect having to implement those.

09:33:51 8 BY MR. HEMSTREET:

09:33:51 9 Q. Other than the draft EPM for 2023, have you
09:33:54 10 received any other guidance from the Secretary of State
09:33:56 11 on how to implement those laws?

09:33:59 12 A. No.

09:34:04 13 Q. So has your office been a part of any
09:34:11 14 communications with the Secretary of State's Office
09:34:13 15 regarding the implementation or interpretation of those
09:34:16 16 laws?

09:34:17 17 A. Nothing outside of the preliminary EPM.

09:34:24 18 Q. Has your office received guidance from the
09:34:27 19 Secretary of State's Office indicating that portions of
09:34:29 20 H.B. 2492 violate federal law?

09:34:33 21 A. Yes.

09:34:38 22 Q. What guidance did you receive?

09:34:41 23 A. In December of 2022 the Secretary of State
09:34:48 24 Katie Hobbs' staff member had advised that we were not
09:34:52 25 to implement it. There was litigation and we were to

09:34:55 1 hold off. And she did make a statement that it did
09:35:00 2 contradict federal law.

09:35:06 3 Q. Do you know which provisions the Secretary of
09:35:08 4 State's Office indicated violated federal law?

09:35:12 5 A. I do not, no.

09:35:16 6 Q. And that guidance, that was directed to
09:35:19 7 Ms. John?

09:35:19 8 A. It was directed to Ms. John.

09:35:25 9 Q. Does your office today agree that these
09:35:27 10 provisions violate federal law?

09:35:31 11 MR. HORLEY: Calls for a legal conclusion.

09:35:33 12 THE WITNESS: Yes.

09:35:35 13 BY MR. HEMSTREET:

09:35:36 14 Q. Why?

09:35:40 15 MR. HORLEY: Same objection.

09:35:41 16 THE WITNESS: Well, there was a lawsuit,
09:35:44 17 and I believe it was in 2018 or 2019, that was referred
09:35:49 18 to as the LULAC consent agreement or something like
09:35:55 19 that, and it changed the way that we processed voters.
09:36:00 20 And in implementing the new bills, it would override
09:36:07 21 what that lawsuit -- the outcome of that lawsuit, to my
09:36:14 22 knowledge.

09:36:14 23 BY MR. HEMSTREET:

09:36:30 24 Q. All right. If you could go to Document F.
09:36:40 25 Do you recognize this document?

09:36:42 1 A. We're getting it up right now. Sorry.

09:36:51 2 This is the e-mail from Kori Lorick.

09:36:56 3 Q. And this was on December 30th, 2022?

09:37:00 4 A. Correct.

09:37:02 5 Oh, sorry.

09:37:05 6 Q. Who is Ms. Lorick?

09:37:10 7 A. She worked in the Secretary of State's Office

09:37:13 8 under Katie Hobbs.

09:37:15 9 Q. In the bcc field, do you see an e-mail with the

09:37:18 10 name Gwyn Villescas, Villescas?

09:37:21 11 A. Yes.

09:37:22 12 Q. All right. And who is Gwyn?

09:37:26 13 A. Gwyn Villescas was Wendy John's chief deputy

09:37:31 14 and is now currently my chief deputy.

09:37:33 15 MR. HEMSTREET: And could we mark this as

09:37:35 16 Exhibit 250, are we on 5 now?

09:37:35 17 THE COURT REPORTER: (Nodded.)

09:37:35 18 BY MR. HEMSTREET:

09:37:43 19 Q. All right. And the first two paragraphs there

09:37:47 20 reads, "It's been several weeks since we last discussed

09:37:50 21 implementation of H.B. 2492 and H.B. 2243, both of which

09:37:56 22 go into effect January 1st, 2023. If you'll recall, we

09:38:02 23 met several times throughout the year to review

09:38:04 24 implementation and the resulting impacts to the VR

09:38:06 25 system as well as voter registration procedures.

09:38:09 1 Several questions remained as to whether we could
09:38:12 2 implement requirements that would conflict with the
09:38:14 3 NVRA, federal settlements, and court cases. Having
09:38:18 4 thoroughly analyzed the changes that both bills require,
09:38:20 5 the Secretary of State's Office believes that there is
09:38:22 6 no way to implement certain requirements without
09:38:24 7 conflicting with federal law."

09:38:26 8 Did I read that correctly?

09:38:28 9 A. Yes.

09:38:32 10 Q. All right. Then Ms. Lorick goes on in the next
09:38:35 11 paragraph to note, quote, which provisions we interpret
09:38:37 12 as conflicting with federal law.

09:38:39 13 Do you see that?

09:38:40 14 A. Yes.

09:38:41 15 Q. Are these the provisions that your office
09:38:44 16 agrees violate federal law?

09:38:46 17 A. Yes.

09:38:48 18 MR. HORLEY: Calls for a legal conclusion.

09:38:51 19 BY MR. HEMSTREET:

09:38:51 20 Q. Are you currently implementing any part of
09:38:54 21 H.B. 2492?

09:38:56 22 A. No, I am not.

09:38:58 23 Q. Are you currently implementing any part of

09:39:00 24 H.B. 2243?

09:39:02 25 A. No, I am not.

09:39:05 1 Q. Besides the Secretary of State, has your office
09:39:09 2 discussed the implementation of H.B. 2492 and H.B. 2243
09:39:12 3 with anyone else?

09:39:14 4 A. No.

09:39:16 5 Q. Have you discussed the implementation of either
09:39:19 6 law internally?

09:39:23 7 A. Do you mean with my staff?

09:39:25 8 Q. Correct.

09:39:26 9 A. No.

09:39:28 10 Q. Has your office discussed the implementation of
09:39:30 11 either law with other County Recorders?

09:39:33 12 A. No.

09:39:35 13 Q. Could we actually go to Document B, which --

09:39:43 14 MS. RCOF: B, as in boy?

09:39:44 15 BY MR. HEMSTREET:

09:39:45 16 Q. B, as in boy, which should already be marked as
09:39:48 17 Exhibit 251. I think.

09:39:54 18 And on Page 3, Line 21 through 24, this is in
09:39:58 19 response to Interrogatory 2.

09:40:11 20 Let me know when you're there.

09:40:14 21 A. Yes, we're there.

09:40:16 22 Q. It says, "John has been engaged in discussions
09:40:19 23 with other County Recorders and staff regarding the
09:40:22 24 prospective implementation of H.B. 2243."

09:40:26 25 Do you see that?

09:40:27 1 A. Yes.

09:40:30 2 Q. Do you know with which County Recorders those
09:40:34 3 discussions took place?

09:40:35 4 A. I am not aware who Wendy John spoke with.

09:40:41 5 Q. All right. And so you don't know what was
09:40:44 6 discussed?

09:40:44 7 A. No, I do not.

09:40:45 8 Q. Or when?

09:40:46 9 A. I do not, no.

09:40:49 10 Q. I take it you have not had any discussions with
09:40:51 11 the Arizona Association of Counties regarding the
09:40:55 12 implementation of either law?

09:40:56 13 A. I have not.

09:40:58 14 Q. Was your office opposed to passage of
09:41:02 15 H.B. 2492?

09:41:03 16 A. Yes.

09:41:04 17 Q. Why?

09:41:06 18 A. In lay terms, we felt that it was going to be
09:41:13 19 more difficult for the voter and more difficult for us
09:41:16 20 to process a voter.

09:41:20 21 Q. Was your office opposed to the passage of
09:41:24 22 H.B. 2243?

09:41:26 23 A. Yes.

09:41:27 24 Q. And can you tell me why?

09:41:30 25 A. The same reasons. We felt it would be harder

09:41:35 1 for some voters and it would be harder for us to process
09:41:40 2 voters.

09:41:42 3 Q. When you say harder, did you believe that any
09:41:46 4 voters would potentially be disenfranchised by these
09:41:49 5 laws?

09:41:50 6 MR. LANGHOFER: Calls for speculation.

09:41:53 7 THE WITNESS: That would be possible.

09:41:54 8 BY MR. HEMSTREET:

09:41:54 9 Q. I'm sorry, I think there was some cross-talk.
09:41:57 10 You said you believed it would be possible that --

09:41:58 11 A. It would be pos -- it would possibly be harder
09:42:01 12 for voters to register, and it would disenfranchise
09:42:05 13 some.

09:42:10 14 Q. And could you just elaborate a little more on
09:42:14 15 what makes it harder for them to register? We'll start
09:42:18 16 with H.B. 2492, if you --

09:42:22 17 A. 2492? Can I look at that real quick? I get
09:42:29 18 them confused over which one does which.

09:42:32 19 Q. We'll actually get into the laws a little
09:42:34 20 later. So perhaps now more generally, what are your
09:42:38 21 office's thoughts on what would make it harder, what
09:42:41 22 about these laws makes it harder for voters to register?

09:42:46 23 A. So in dealing with the addressing, there are
09:42:50 24 going to be some voters that would have a difficult time
09:42:53 25 providing proof of residency; that if they have to check

09:43:02 1 the citizenship checkbox in along with providing the
09:43:06 2 DPOC, they may fail to checkmark the box; or answering
09:43:14 3 where their place of birth, if they failed to do that,
09:43:18 4 then we would have to seek out the voter.

09:43:20 5 It just would create more potential problems
09:43:25 6 and more times that we would have to reach out to the
09:43:28 7 voter for that information if that became mandatory
09:43:33 8 fields.

09:43:37 9 Q. Are you familiar with H.B. 2617?

09:43:44 10 A. A little. I'm not real familiar with it. I
09:43:47 11 was under the impression it was vetoed. I didn't
09:43:50 12 research it very much.

09:43:53 13 Q. Did your office support or oppose H.B. 2617?

09:43:59 14 A. I believe it was opposed.

09:44:09 15 Q. If you could open Document J.

09:44:25 16 A. We have it open.

09:44:26 17 Q. And can you tell me what this document is?

09:44:29 18 A. It's an e-mail from Wendy John to multiple
09:44:36 19 entities, looks like some Recorders and AACo, and it's
09:44:43 20 regarding an amendment change to H.B. 2617.

09:44:49 21 Q. And this was sent on March 14th, 2022?

09:44:54 22 A. Correct. Yes.

09:44:56 23 Q. And the subject is "Regarding: H.B. 2617 -
09:45:01 24 Does the Amendment Change Your Position," question mark?

09:45:06 25 A. Yes.

09:45:09 1 Q. Do you see on Page 2 where Stallworth Pouquette
09:45:16 2 writes, "Here is the amended bill. Does this change
09:45:19 3 your position?"

09:45:21 4 A. Yes, I see that.

09:45:23 5 Q. Okay. And then up on Page 1, in response Wendy
09:45:27 6 John replied "I'm still opposed"?

09:45:29 7 A. Yes, she did.

09:45:33 8 Q. And do you know why your office opposed
09:45:37 9 H.B. 2617 as amended?

09:45:41 10 MR. HORLEY: Foundation, calls for
09:45:52 11 speculation.

09:45:52 12 THE WITNESS: Wendy John or -- well, I
09:45:54 13 don't know who wrote that. Robyn, I believe, wrote that
09:46:00 14 the bill had some issue -- would cause some issues with
09:46:05 15 databases to which counties do not have access to, and
09:46:09 16 they were opposed because of that.

09:46:15 17 BY MR. HEMSTREET:

09:46:15 18 Q. Is that issue with access to databases a
09:46:18 19 concern with either H.B. 2492 or H.B. 2243 for your
09:46:23 20 office?

09:46:24 21 A. No.

09:46:30 22 Q. Changing gears slightly, I want to talk about
09:46:33 23 the voter registration process generally. What are the
09:46:36 24 methods that a potential voter can use to register to
09:46:39 25 vote in Graham County?

09:46:43 1 A. Do you mean the type of ways they can register?

09:46:46 2 Q. Yes, the various methods and forms.

09:46:50 3 A. Okay. They can utilize a federal form, a state

09:46:55 4 registration form. They can also register to vote

09:46:58 5 through the Arizona Motor Vehicle Service Arizona

09:47:04 6 currently, and in the future it will be AZ MVD Now.

09:47:08 7 Q. Are you familiar with NVRA agencies?

09:47:15 8 A. MVRA? Oh, NVRA, NVRA.

09:47:20 9 Q. Yes.

09:47:20 10 A. Yes.

09:47:20 11 Q. Are there any in Graham County where voters can

09:47:24 12 register?

09:47:24 13 A. Yes.

09:47:26 14 Q. What form do those NVRA agencies use?

09:47:32 15 A. They use the state form.

09:47:35 16 Q. Besides the federal form, the state form

09:47:39 17 through the MVD and through the NVRA agencies, are there

09:47:46 18 any other ways a potential voter can register to vote in

09:47:50 19 Graham County?

09:47:50 20 A. Not that I can think of at this time.

09:47:56 21 Q. How about the federal postcard, the federal

09:48:03 22 postcard application, FPA?

09:48:06 23 A. Yes, our military and overseas citizens can

09:48:09 24 utilize the FPCA and the FWAB. I apologize. I forgot

09:48:15 25 those. Those are for those individuals.

09:48:24 1 Q. And are there other ways; are there any other
09:48:25 2 ways that you can think of?

09:48:31 3 A. Not that I can think of.

09:48:37 4 Q. So can you take me through how a voter
09:48:40 5 applicant's citizenship is verified today in Graham
09:48:44 6 County?

09:48:44 7 A. So we enter the voter -- the voter's -- or the
09:48:49 8 applicant's registration information into the AVID
09:48:53 9 system, which is our voter registration system that we
09:48:58 10 utilize. And we enter the voter data and we have a box
09:49:03 11 that's called HAVA, Help America Vote Act, and when we
09:49:08 12 click on that, it checks the voter's information through
09:49:12 13 the database of the Arizona Motor Vehicle, the Social
09:49:20 14 Security, and I think it also runs a check through the
09:49:24 15 Death Index, but I am not positive on that.

09:49:30 16 Q. Thank you. I want to break that down a little.
09:49:32 17 So you began with AVID at first; is that
09:49:38 18 correct?

09:49:38 19 A. Yes.

09:49:39 20 Q. And then that runs the HAVA check through AVID?

09:49:43 21 A. Yes, it's through the AVID.

09:49:45 22 Q. And then that HAVA check accesses the MVD
09:49:50 23 database?

09:49:54 24 A. Correct.

09:49:55 25 Q. And then the MVD database contains information

09:49:57 1 about the applicant's citizenship?

09:49:59 2 A. Correct.

09:50:01 3 Q. And you mentioned the Social Security database;
09:50:06 4 is that correct?

09:50:06 5 A. Yes.

09:50:08 6 Q. And so HAVA connects to that database?

09:50:11 7 A. Yes.

09:50:12 8 Q. Does it connect to any other databases?

09:50:16 9 A. As I stated, I think that it connects to a

09:50:21 10 Death Index or like a -- you know, the death records;

09:50:26 11 but I am not absolutely certain. I know that that gets

09:50:32 12 checked at some point in the AVID system, the death

09:50:36 13 records, but I'm not sure if it's during voter

09:50:40 14 registration process.

09:50:43 15 Q. Okay. And then just to make the record clear,

09:50:48 16 beyond the Motor -- the MVD, Social Security, and

09:50:53 17 potentially that death certificate database, there are

09:50:56 18 no other databases you're aware of that HAVA checks?

09:50:59 19 A. No, not that I'm aware of.

09:51:04 20 Q. Are HAVA checks run for each voter applicant or
09:51:07 21 just some?

09:51:08 22 A. All.

09:51:11 23 Q. If HAVA matches to citizenship information, is
09:51:16 24 the voter registered as a full ballot voter?

09:51:19 25 A. Yes.

09:51:20 1 Q. If HAVA does not match to citizenship
09:51:23 2 information, what happens?

09:51:25 3 A. If it does not match any information or
09:51:30 4 partial? Can you tell me which part you're talking
09:51:34 5 about?

09:51:35 6 Q. Well, so first -- thank you.

09:51:38 7 So there's a distinction if it comes back
09:51:42 8 partial information versus no information; is that
09:51:42 9 right?

09:51:45 10 A. Yes.

09:51:46 11 Q. So let's walk through if it comes back with no
09:51:48 12 information. What happens?

09:51:50 13 A. Okay. So if it comes back with no information,
09:51:53 14 the voter is registered as a fed-no ID and they are sent
09:52:00 15 a letter, along with a new voter registration form and a
09:52:04 16 fed-ID only -- or I'm sorry, a federal only ID card.
09:52:10 17 And so they're registered and they can vote, but they
09:52:15 18 will have to provide their proof of citizenship before
09:52:21 19 voting.

09:52:25 20 Q. So -- and you said they were registered as a
09:52:27 21 federal only voter?

09:52:28 22 A. If it matches no information, they're what's
09:52:32 23 called a fed-no ID. So they would not be eligible to
09:52:36 24 receive a ballot by mail, and they would have to provide
09:52:39 25 proof of citizenship before they could vote on election

09:52:42 1 day.

09:52:44 2 Q. And that would include in federal elections
09:52:46 3 they would need to provide that information to the --

09:52:49 4 A. Yes.

09:52:51 5 Q. And if -- let's go through the other scenario,
09:52:54 6 if it comes back with partial information.

09:52:57 7 A. Partial information would allow the voter to be
09:53:00 8 a fed only voter. So they would be eligible to receive
09:53:05 9 a ballot by mail, and they are also sent a letter along
09:53:10 10 with their federal only ID card and a voter
09:53:17 11 registration.

09:53:17 12 The letter lists ways that they can provide
09:53:20 13 proof of citizenship that would allow them to become a
09:53:24 14 full voter, but if they do not, a federal only voter is
09:53:28 15 allowed to be on the AEVL and get their ballot by mail
09:53:32 16 because they did provide proof of citizenship. They
09:53:35 17 just didn't match our Motor Vehicle. So they matched
09:53:40 18 the Social Security, but not the Motor Vehicle.

09:53:44 19 Q. You were anticipating where I was going. Can
09:53:49 20 you perhaps elaborate on the partial information
09:53:51 21 necessary to go from that first scenario we talked about
09:53:53 22 where they come back as a fed-no ID, but what -- what
09:53:58 23 partial information would then allow them to be a
09:53:59 24 federal only, but is short of what's required to become
09:54:03 25 a full ballot voter?

09:54:06 1 A. Okay. If they include their last four of their
09:54:09 2 social on their voter registration form and the system
09:54:13 3 can match Social Security with that number, then the
09:54:17 4 voter becomes a fed only voter.

09:54:21 5 Q. And is that the only scenario, if there's the
09:54:23 6 match on the social security number, that they are able
09:54:26 7 to become a fed only?

09:54:28 8 A. Yes.

09:54:40 9 Q. So the citizenship data from these HAVA checks,
09:54:46 10 those come from the MVD database, right?

09:54:51 11 A. The driver's license information comes from the
09:54:54 12 Motor Vehicle -- Arizona Motor Vehicle.

09:54:56 13 Q. And is that where the citizenship data
09:54:58 14 specifically for the HAVA checks comes from?

09:55:02 15 A. The driver's license. I believe the Social
09:55:05 16 Security runs through the Social Security Index, but I'm
09:55:11 17 absolutely not certain. That is just how I always
09:55:14 18 perceived it.

09:55:17 19 Q. And I want to clarify my question. The
09:55:22 20 citizenship data specifically, are you saying that
09:55:25 21 you're not sure if that comes from the Social Security
09:55:30 22 database?

09:55:30 23 A. If a person puts their social security number
09:55:34 24 on their voter registration form, but they do not
09:55:36 25 include an Arizona driver's license, when I click on

09:55:39 1 HAVA check, it runs through the Social Security and it
09:55:42 2 will match or it may match, but it will run a check
09:55:46 3 through the Arizona Motor Vehicle. If it finds their
09:55:50 4 driver's license, then they're processed and made a full
09:55:53 5 voter. If it cannot locate the driver's license through
09:55:55 6 the Arizona MVD, then that would be considered a no
09:55:59 7 match to the driver's license, and they would be
09:56:03 8 registered still with the federal only, but just with
09:56:05 9 the Social Security match. And if there was no match,
09:56:08 10 then they would be a fed-ID only. I'm sorry. Yeah,
09:56:13 11 fed-no ID. I apologize.

09:56:15 12 Q. There are different types of driver's licenses,
09:56:18 13 correct?

09:56:18 14 A. Correct.

09:56:19 15 Q. And are you familiar with the F-type license?

09:56:23 16 A. Yes.

09:56:24 17 Q. What is that?

09:56:25 18 A. That is a foreign driver's license. So it
09:56:28 19 would be a driver's license that is a -- that belongs to
09:56:33 20 a non-U.S. citizen.

09:56:36 21 Q. When you're attempting to match registrants
09:56:38 22 with the MVD database, what happens if the applicant's
09:56:44 23 driver's license is an F-Type?

09:56:47 24 A. So if it's an F-type license, then the voter
09:56:50 25 would be made fed-no ID, and we would reach out to them

09:56:54 1 to see if they went through naturalization, and if they
09:56:58 2 have their certificate of citizenship or -- and if they,
09:57:06 3 you know, have that information, they could bring it in
09:57:08 4 and we could make them a full voter.

09:57:12 5 Q. Okay. So if you identify an applicant who has
09:57:15 6 that F-type license, you send them a notice, and then
09:57:20 7 they're required to present their naturalization
09:57:23 8 certificate or A-Number or some other form of DPOC?

09:57:28 9 A. Correct.

09:57:31 10 Q. And then do you check that naturalization
09:57:34 11 number or A-Number against a database?

09:57:40 12 A. I do not. I have not.

09:57:43 13 Q. Okay. Are you aware one way or the other if
09:57:45 14 there's a database to check that number against?

09:57:48 15 A. Yes, there is the SAVE database.

09:57:53 16 Q. Does your office have access to the SAVE
09:57:57 17 database?

09:57:58 18 A. We do have access to it.

09:58:01 19 Q. And the SAVE database, is that run by the
09:58:03 20 United States Citizenship and Immigration Services?

09:58:08 21 A. I would be speculating, because I have not
09:58:11 22 utilized that system to run a check. So I'm not exactly
09:58:18 23 sure who is in control of that system. I have not used
09:58:25 24 it, so I'm not really aware. I know it's a website.

09:58:31 25 Q. It's fine if you don't know. So you don't know

09:58:34 1 one way or the other who runs the SAVE database?

09:58:37 2 A. I do not.

09:58:39 3 Q. And your office or you've never used it?

09:58:43 4 A. I logged on when I very first started in 2016
09:58:47 5 at the Graham County Recorder's Office to -- I had to
09:58:53 6 get credentials in order to log in, and that is all that
09:58:56 7 I've done on that program.

09:59:00 8 Q. So we talked through a little bit if someone
09:59:03 9 has an F-type license, they are then required to provide
09:59:07 10 a naturalization number or some other form of
09:59:11 11 documentary proof of citizenship to become registered.

09:59:18 12 What would be the result, though, if someone
09:59:20 13 had an F-type license that was ten years old? Would
09:59:25 14 that be the same result that we just discussed, where
09:59:27 15 they would need to still provide proof of citizenship?

09:59:31 16 A. Yes.

09:59:34 17 Q. Do you treat that dated F-type license,
09:59:40 18 something that's that old, to be conclusive evidence
09:59:43 19 that someone is not a citizen?

09:59:46 20 A. Yes.

09:59:50 21 And I'm going to have to retract what I said a
09:59:53 22 minute ago, because I said they would be registered as a
09:59:55 23 fed voter, but they would not be.

09:59:58 24 An F-Type license, they would actually be in
10:00:00 25 the system as not eligible, invalid citizenship, and we

10:00:06 1 would send them the information letting them know that
10:00:07 2 if they did go through the naturalization process and
10:00:13 3 have their certificate, they could bring that in and we
10:00:15 4 could get them registered to vote. Because an F-Type
10:00:21 5 license does inform us that the person that is applying
10:00:23 6 to register to vote is a noncitizen.

10:00:29 7 Q. But would you agree that them having an F-type
10:00:33 8 license doesn't mean that they haven't naturalized since
10:00:36 9 obtaining that license?

10:00:37 10 A. Yes.

10:00:39 11 Q. So someone with an F-Type license could be a
10:00:42 12 citizen that's just not in the database; is that right?

10:00:45 13 A. Yes.

10:00:50 14 Q. So you'd agree with me that the MVD database is
10:00:53 15 not infallible in terms of its ability to accurately
10:00:57 16 verify a person's citizenship status?

10:01:01 17 MR. HORLEY: Objection, leading.

10:01:04 18 MS. ROOF: You can answer, Polly.

10:01:05 19 THE WITNESS: Okay. I would -- I would
10:01:07 20 agree in the sense that I don't believe that any program
10:01:11 21 is infallible.

10:01:16 22 BY MR. HEMSTREET:

10:01:17 23 Q. Has your office ever sent out a notice to a
10:01:19 24 person for lack of citizenship after the applicant
10:01:22 25 failed to match with citizenship information in one of

10:01:25 1 these databases?

10:01:28 2 A. I'm sorry, can you repeat that?

10:01:33 3 Q. Have you ever had to send out one of these
10:01:36 4 notices that we've discussed where someone failed to
10:01:38 5 match with citizenship information?

10:01:41 6 A. Yes.

10:01:43 7 Q. How many times has your office sent out a
10:01:45 8 notice that they could not be verified for citizenship?

10:01:51 9 A. I wouldn't know off the top of my head. Well,
10:01:53 10 I can tell you as of right now today, Graham County has
10:01:59 11 47 fed voters. So I've sent at least 47 letters.

10:02:06 12 Q. Has any applicant cured after receiving one of
10:02:09 13 these notices?

10:02:11 14 A. Not these 47, but in the past I have had a
10:02:16 15 person bring a birth certificate in. I've had them
10:02:19 16 bring in an enhanced out-of-state driver's license and
10:02:22 17 present that to become a full ballot voter.

10:02:28 18 Q. And so then if the voter fails to cure, what
10:02:32 19 happens then?

10:02:33 20 A. They remain a fed voter.

10:02:36 21 Q. So their registration is just federal only?

10:02:40 22 A. Correct, or fed-no ID.

10:02:43 23 Q. Or fed-no ID?

10:02:44 24 A. Correct.

10:02:47 25 Q. And once a voter is registered, are there any

10:02:51 1 circumstances where your office will reverify that
10:02:54 2 registered voter's citizenship?

10:02:56 3 A. Only if they resubmit a new form.

10:03:00 4 Q. And is the process about the same as the one we
10:03:04 5 discussed?

10:03:04 6 A. Yes.

10:03:09 7 Q. And then who at your office is responsible for
10:03:12 8 verifying voter applicants' citizenship status?

10:03:15 9 A. Myself.

10:03:17 10 Q. Anybody else?

10:03:18 11 A. No.

10:03:20 12 Q. Okay.

10:03:21 13 A. Not at this time.

10:03:24 14 MR. HEMSTREET: I'm at a natural
10:03:25 15 stopping point if we would like to take a short break
10:03:28 16 right now.

10:03:34 17 MR. MORGAN: Fine by me.

10:03:37 18 MR. LANGHOFER: Same here.

10:03:41 19 MR. HEMSTREET: Well, if we can go off the
10:03:42 20 record, and let's say about five minutes.

10:03:44 21 THE VIDEOGRAPHER: We're off the record.

10:03:45 22 Time on the video monitor is 10:03 a.m.

10:03:47 23 (A recess was taken.)

10:17:38 24 THE VIDEOGRAPHER: We're on the record.

10:17:39 25 Time on the video monitor is 10:17 a.m.

10:17:43 1 BY MR. HEMSTREET:

10:17:44 2 Q. All right. Is anyone else in the room with you
10:17:48 3 besides Jean now?

10:17:49 4 A. No, just Jean and I.

10:17:52 5 Q. Great. I'd like to turn to the challenged laws
10:17:55 6 now. If you could open what's been premarked as Petty
10:17:59 7 Exhibit 19.

10:18:04 8 When you have that up, can you tell me what
10:18:05 9 that document is?

10:18:12 10 A. That is the House Bill 2492.

10:18:16 11 Q. Okay. Can you please turn to Page 4 at the
10:18:20 12 bottom, Line 35?

10:18:31 13 A. Okay.

10:18:33 14 Q. And there it says, "Within ten days after
10:18:37 15 receiving an application for registration on a form
10:18:41 16 produced by the United States Election Assistance
10:18:44 17 Commission that is not accompanied by satisfactory
10:18:46 18 evidence of citizenship, the County Recorder or other
10:18:50 19 officer in charge of elections shall use all available
10:18:54 20 resources to verify the citizenship status of the
10:18:57 21 applicant and at a minimum compare the information
10:19:00 22 available on the application for registration with the
10:19:03 23 following, provided the county has access."

10:19:06 24 Did I read that correctly?

10:19:08 25 A. Yes.

10:19:10 1 Q. Okay. It then goes on to list a number of
10:19:12 2 databases, and the first is the Department of
10:19:16 3 Transportation databases of Arizona driver's licenses or
10:19:19 4 nonoperating identification licenses.

10:19:24 5 Are you familiar with the Arizona Department of
10:19:26 6 Transportation databases?

10:19:27 7 A. Yes.

10:19:28 8 Q. Is that the same as we've been discussing and
10:19:31 9 calling MVD?

10:19:32 10 A. Yes.

10:19:37 11 Q. And you used the information from the ADOT or
10:19:40 12 MVD database to confirm citizenship as we discussed
10:19:43 13 earlier, right?

10:19:44 14 A. Yes.

10:19:46 15 Q. Does your county have a memorandum of
10:19:48 16 understanding or agreement with the Arizona Department
10:19:54 17 of Transportation's MVD to govern the sharing of this
10:19:58 18 data?

10:19:59 19 A. No.

10:20:02 20 Q. Okay. Do you know if the State or Secretary of
10:20:05 21 State's Office has an agreement?

10:20:06 22 A. I believe so.

10:20:10 23 Q. Do you know whether that existing agreement
10:20:13 24 covers the uses outlined in H.B. 2492?

10:20:17 25 A. I'm not aware.

10:20:20 1 Q. Do you recall an incident last year where
10:20:24 2 database matching with the MVD database produced
10:20:27 3 erroneous results and caused downgrading of voters to
10:20:31 4 federal only voting status?

10:20:36 5 A. I did not remember that, but I was reminded in
10:20:41 6 looking over the items that you guys provided, and then
10:20:47 7 I recalled that, yes, there was a time last year that
10:20:51 8 there was a problem.

10:20:54 9 Q. If we could quickly go to Document M, as in
10:21:04 10 ma'am.

10:21:04 11 A. Okay.

10:21:06 12 Q. Is this the document that you were referring
10:21:08 13 to?

10:21:09 14 A. Yes.

10:21:11 15 Q. And so this is an e-mail; is that right?

10:21:14 16 A. Yes.

10:21:15 17 Q. And it's from AVID Help?

10:21:19 18 A. Yes.

10:21:21 19 Q. And it's to Wendy John at Graham; is that
10:21:21 20 right?

10:21:25 21 A. Yes.

10:21:27 22 Q. Okay. And the first line of it, "As we
10:21:32 23 discussed on our call today, this information
10:21:35 24 provides -- or this e-mail provides information and
10:21:37 25 action items about the MVD issues that we have been

10:21:39 1 investigating," and then the last sentence of the
10:21:44 2 first -- the next paragraph, "This meant that some voter
10:21:47 3 records were incorrectly receiving a null value for
10:21:52 4 authorized presence, which resulted in the voter being
10:21:55 5 placed in fed only status when they should have been --"

10:22:01 6 MS. ROOF: Do you want it opened?

10:22:02 7 THE WITNESS: Yeah. I'm sorry.

10:22:02 8 MS. ROOF: That's okay.

10:22:02 9 THE WITNESS: Let me get to that.

10:22:05 10 And you're talking about the paragraph

10:22:07 11 "To ensure that no incorrectly-issued federal only

10:22:10 12 ballots," that paragraph?

10:22:11 13 BY MR. HEMSTREET:

10:22:12 14 Q. I'm sorry. No, the -- it's the second
10:22:14 15 paragraph of the e-mail that begins with "Following the
10:22:19 16 MVD's investigation."

10:22:20 17 A. Oh, I see. Okay.

10:22:22 18 Q. Read that last --

10:22:21 19 A. Sorry about that.

10:22:21 20 Q. Can you just confirm that that last sentence
10:22:25 21 says that voters were placed in fed only status when
10:22:29 22 they should have been full ballot voters?

10:22:32 23 A. Yes.

10:22:34 24 Q. Okay. And if you see the Bates number in the
10:22:40 25 bottom right-hand corner of that document, starts with

10:22:43 1 AZ?

10:22:44 2 A. Yes.

10:22:45 3 Q. I'll represent this was produced by the
10:22:48 4 Secretary of State in this litigation.

10:22:51 5 MR. HEMSTREET: Can we mark this first as
10:22:55 6 Exhibit 256, I believe, Jody.

10:23:02 7 MR. LANGHOFER: Hasn't this one been
10:23:04 8 marked several times already?

10:23:05 9 MR. HEMSTREET: Okay.

10:23:10 10 BY MR. HEMSTREET:

10:23:10 11 Q. So your office is aware that there was a
10:23:12 12 database error that's referred to in this e-mail from
10:23:15 13 October of 2022?

10:23:17 14 A. Yes.

10:23:18 15 Q. Did this error affect any voters in Graham
10:23:23 16 County?

10:23:23 17 A. I do not recall. I know that we reached out to
10:23:28 18 the voters that they notified us that could potentially
10:23:30 19 be affected, and I know that we did send letters to
10:23:34 20 them, and I do believe we ran them back through the
10:23:39 21 database to make sure -- like to check for a rematch.

10:23:44 22 If it matched it, we notified the voter and
10:23:47 23 told them that they were a full ballot voter and not a
10:23:51 24 fed voter and provided them with a full ballot, a full
10:23:57 25 voter ballot.

10:24:00 1 Q. Was your office concerned about this error
10:24:03 2 being so close to the November 2022 election?

10:24:08 3 A. I don't recall if we were concerned pertaining
10:24:11 4 to the election.

10:24:13 5 Q. In light of this, what does this say to you
10:24:16 6 about the reliability of the data matching to assess a
10:24:20 7 person's citizenship status?

10:24:22 8 MR. LANGHOFER: Form.

10:24:26 9 MS. ROOF: You can answer.

10:24:28 10 THE WITNESS: I can't really say what I
10:24:30 11 felt about it at the time.

10:24:38 12 BY MR. HEMSTREET:

10:24:38 13 Q. Going back to 2492 and the databases listed
10:24:45 14 there, it then says the Social Security Administration
10:24:54 15 database; do you see that in --

10:24:56 16 A. Yes.

10:24:57 17 Q. -- what's been marked Exhibit 19?

10:25:00 18 Is this the same database we were discussing
10:25:02 19 earlier?

10:25:03 20 A. Yes.

10:25:03 21 Q. And so you have access to that?

10:25:08 22 A. I'm sorry, can you say that again?

10:25:09 23 Q. So your office has access to that?

10:25:12 24 A. Through the HAVA check. We don't have
10:25:15 25 individual access to any of these databases. Just that

10:25:21 1 when we click on that HAVA check, it checks both the
10:25:26 2 Department of Transportation database and the Social
10:25:33 3 Security.

10:25:33 4 Q. Do you know if this Social Security
10:25:36 5 Administration database can verify citizenship status at
10:25:40 6 all?

10:25:41 7 A. I know that it can for Social Security.

10:25:46 8 Q. Okay. But you don't know one way or the other
10:25:48 9 on citizenship status?

10:25:50 10 A. I do not know.

10:25:53 11 Q. The next database on the lists in the law is
10:25:56 12 SAVE. We've already discussed SAVE.

10:26:00 13 A. Yes.

10:26:01 14 Q. And is this, again, only used to verify
10:26:04 15 citizenship of naturalized voters?

10:26:08 16 A. As far as I'm aware of. I don't utilize it for
10:26:14 17 any other -- like for just a -- for any voter
10:26:21 18 registration form, I don't utilize SAVE.

10:26:24 19 Q. So it's only used if someone presents a
10:26:27 20 naturalization number or A-Number?

10:26:30 21 A. I believe so.

10:26:33 22 Q. It also says if practicable, using this
10:26:39 23 database if practicable. Is that language if
10:26:42 24 practicable clear to you?

10:26:43 25 MR. LANGHOFER: Calls for a legal

10:26:44 1 conclusion.

10:26:44 2 MR. HORLEY: Calls for a legal conclusion.

10:26:46 3 THE WITNESS: I would interpret that to
10:26:49 4 mean if it makes sense to utilize it. I guess I really
10:26:54 5 should not even say, because I don't really know what
10:26:58 6 they're meaning by if practicable.

10:27:02 7 BY MR. HEMSTREET:

10:27:03 8 Q. Is there an agreement specifically with your
10:27:06 9 county to use this database?

10:27:09 10 A. Yes.

10:27:12 11 Q. And so is that existing agreement with the
10:27:16 12 USCIS, or who is that with?

10:27:18 13 A. I believe it is. It's -- well, I know it's --
10:27:23 14 we just refer to it as SAVE. Again, I have not used the
10:27:28 15 database. I am not certain who is in control of it.

10:27:34 16 Q. Do you know if that agreement covers the uses
10:27:36 17 outlined in H.B. 2492?

10:27:39 18 A. I do not know.

10:27:43 19 Q. The next database on here is NAPHSIS, the
10:27:48 20 National Association of Public Health Statistics and
10:27:51 21 Information System. Have you heard of NAPHSIS?

10:27:54 22 A. That might be what I think -- what I thought
10:27:57 23 was called the Death Index, I think, but I think that's
10:28:02 24 what it checks is the death records.

10:28:09 25 Q. Could your office, I guess, use -- or are you

10:28:13 1 familiar with the Electronic Verification of Vital
10:28:15 2 Events database that NAPHSIS operates?

10:28:21 3 A. I am not familiar with that.

10:28:23 4 Q. So you don't know if your office could use the
10:28:26 5 EVVE, the Electronic Verification of Vital Events,
10:28:30 6 database for citizenship verification?

10:28:33 7 A. I do not have access to that, no.

10:28:38 8 Q. And then Line 5 -- or Page 5, Line 5 states
10:28:42 9 that your office must or shall also utilize any other
10:28:47 10 state, city, town, county, or federal database or any
10:28:52 11 other database relating to voter registration.

10:28:54 12 Do you see that?

10:28:55 13 A. I do, yes.

10:28:57 14 Q. Do you have any idea what other databases that
10:29:00 15 language may refer to?

10:29:01 16 MR. LANGHOFER: Same objection.

10:29:04 17 THE WITNESS: No, I do not.

10:29:07 18 BY MR. HEMSTREET:

10:29:07 19 Q. Are you aware of any other databases that
10:29:09 20 you're not currently using that could be useful in
10:29:13 21 carrying out your office's voter registration duties?

10:29:16 22 A. No.

10:29:19 23 Q. And then earlier you said that you access all
10:29:22 24 these databases through HAVA. Is that true for all the
10:29:27 25 databases we just discussed or just the Social Security

10:29:32 1 Administration database and the Motor Vehicle Department
10:29:36 2 database?

10:29:37 3 A. I am only aware of the Social Security, the
10:29:41 4 Motor Vehicle, and possibly the death record.

10:29:45 5 Q. And my question is a little different. Do you
10:29:47 6 access all those through HAVA or are any of them through
10:29:51 7 a separate means of accessing them?

10:29:54 8 A. So we access them through the AVID system in
10:29:59 9 doing the voter process. There's just a button. So
10:30:02 10 when we click on that button, it does a background
10:30:07 11 process that I -- so I don't know where it is or what
10:30:10 12 it's accessing. I just know that it comes back with a
10:30:14 13 match or it doesn't. But I'm not -- you know, so it's
10:30:18 14 literally a button. We don't see what it's checking.
10:30:22 15 It's just called HAVA checks.

10:30:24 16 Q. So you never like open up a different database
10:30:28 17 at any point?

10:30:29 18 A. No.

10:30:31 19 Q. And that's true for all of these?

10:30:33 20 A. True. Yes.

10:30:37 21 Q. Page 4, Line 38, the law states that your
10:30:42 22 office must use all available resources to verify the
10:30:49 23 citizenship of a federal form applicant who fails to
10:30:53 24 provide DPOC.

10:30:54 25 Do you see that?

10:30:55 1 A. Yes.

10:31:01 2 Q. Do you understand use all available resources;
10:31:07 3 do you understand what that means to you?

10:31:09 4 MR. LANGHOFER: Same objection.

10:31:10 5 MR. HORLEY: Calls for a legal conclusion.

10:31:11 6 THE WITNESS: To me that means the HAVA
10:31:14 7 check that's provided through the AVID voter system.

10:31:19 8 BY MR. HEMSTREET:

10:31:19 9 Q. So there are no other resources come to mind
10:31:22 10 that are available to you pursuant to that law?

10:31:28 11 A. Nothing else --

10:31:29 12 MR. HORLEY: Same objection.

10:31:30 13 THE WITNESS: -- other than the SAVE.

10:31:36 14 BY MR. HEMSTREET:

10:31:36 15 Q. And then Page 5, Lines 14 through 17 says, "If
10:31:42 16 the County Recorder or other officer in charge of
10:31:45 17 elections matches the applicant with information that
10:31:48 18 the applicant is not a United States citizen, the County
10:31:53 19 Recorder or other officer in charge of elections shall
10:31:55 20 reject the application."

10:31:57 21 Do you see that?

10:31:57 22 A. I see that, yes.

10:32:01 23 Q. What information could be used to determine an
10:32:05 24 applicant is not a citizen?

10:32:09 25 MR. HORLEY: Same objection.

10:32:11 1 THE WITNESS: I would say just running the
10:32:15 2 HAVA checks and it coming back with hypothetically an
10:32:21 3 F-type license that would confirm that the person was a
10:32:24 4 noncitizen.

10:32:27 5 BY MR. HEMSTREET:

10:32:28 6 Q. And you said would confirm someone is a
10:32:30 7 noncitizen. But earlier we discussed that someone with
10:32:34 8 an F-type license could have naturalized since obtaining
10:32:38 9 that F-type license; is that right?

10:32:40 10 A. Yes, which would require further information
10:32:42 11 from the voter.

10:32:44 12 Q. But in that hypothetical, that information that
10:32:49 13 you receive from the HAVA check would be inaccurate as
10:32:52 14 to their actual citizenship status; is that right?

10:32:56 15 A. It could possibly be.

10:33:05 16 Q. Has your office ever been given a specific list
10:33:07 17 of means by which a voter applicant can be deemed or
10:33:12 18 proven to be a noncitizen?

10:33:17 19 A. Not that I'm aware of.

10:33:19 20 Q. And has the Secretary of State's Office ever
10:33:22 21 given your office a list of the information under this
10:33:25 22 law that constitutes evidence of lack of U.S.
10:33:30 23 citizenship?

10:33:30 24 A. Not to my knowledge.

10:33:35 25 Q. And pursuant to this law and information under

10:33:39 1 it, is there anything beyond a government or voter
10:33:43 2 registration database that you would consider to be
10:33:46 3 information?

10:33:48 4 MR. HORLEY: Same objection.

10:33:49 5 THE WITNESS: No.

10:33:52 6 BY MR. HEMSTREET:

10:33:52 7 Q. I'd like to have you now open what's been
10:33:55 8 premarked as Petty Exhibit 21.

10:34:06 9 When you have that up, can you please tell me
10:34:08 10 what that is?

10:34:09 11 A. That's the House Bill 2243.

10:34:13 12 Q. Great.

10:34:14 13 And on Page 4, Line 5, Section 10, it says that
10:34:21 14 the County Recorder shall cancel a registration, quote,
10:34:25 15 When the County Recorder obtains information pursuant to
10:34:29 16 this section and confirms that the person registered is
10:34:32 17 not a United States citizen.

10:34:36 18 Under this provision, what information could be
10:34:42 19 used to confirm a voter is not a citizen?

10:34:45 20 MR. LANGHOFER: Same objection.

10:34:51 21 THE WITNESS: I'm not certain of what that
10:34:55 22 would mean other than, again, running them through the
10:34:59 23 AVID system and doing the HAVA citizenship checking.

10:35:06 24 BY MR. HEMSTREET:

10:35:06 25 Q. So all the things that we just discussed would

10:35:09 1 apply here?

10:35:10 2 A. Yes.

10:35:13 3 Q. Going to Page 6, Line 6, Section H.

10:35:21 4 A. I'm sorry, that was Page 6?

10:35:23 5 Q. Yes. Line 6.

10:35:25 6 A. Line 6? Okay.

10:35:26 7 Okay, I have it.

10:35:32 8 Q. And here it says, "To the extent practicable,

10:35:37 9 each month the County Recorder shall compare persons who

10:35:39 10 are registered to vote in that county and who the County

10:35:43 11 Recorder has reason to believe are not United States

10:35:47 12 citizens."

10:35:48 13 What would give your office a reason to believe

10:35:51 14 a person is not a U.S. citizen?

10:35:53 15 MR. LANGHOFER: Same objection.

10:35:55 16 MR. HORLEY: Legal conclusion.

10:35:56 17 THE WITNESS: I would not have a reason to

10:35:58 18 believe a person -- let me rephrase that.

10:36:01 19 I can't think of anything that would cause

10:36:06 20 me to think somebody wasn't a U.S. citizen if the system

10:36:11 21 had already matched them.

10:36:13 22 BY MR. HEMSTREET:

10:36:13 23 Q. If the system had matched them.

10:36:16 24 Would the return of an F-type license give your

10:36:19 25 office reason to believe they're not a U.S. citizen

10:36:22 1 under this law?

10:36:24 2 MR. HORLEY: Same objection.

10:36:26 3 THE WITNESS: It would create a reason to
10:36:28 4 reach out to the voter to inquire if they have a
10:36:32 5 naturalization certificate.

10:36:51 6 BY MR. HEMSTREET:

10:36:51 7 Q. And I believe I asked this, but for the wrong
10:36:54 8 law. So has your office ever been given specific
10:36:58 9 guidance on what would give rise to reason to believe a
10:37:01 10 person is not a U.S. citizen?

10:37:06 11 A. No.

10:37:07 12 Q. And how about the converse; has your office
10:37:10 13 ever been provided with specific guidance regarding what
10:37:12 14 is not a valid reason to believe someone is a U.S.
10:37:15 15 citizen?

10:37:16 16 A. No.

10:37:21 17 Q. Page 6, Line 20, Section J, it says, "To the
10:37:28 18 extent practicable, the County Recorder shall review
10:37:32 19 relevant city, town, county, state and federal databases
10:37:36 20 that you have access to to confirm information obtained
10:37:41 21 that requires cancellation of registrations pursuant to
10:37:44 22 this section."

10:37:46 23 Beyond the databases we've already discussed,
10:37:48 24 do you have any idea what databases that language is
10:37:50 25 referring to?

10:37:52 1 MR. HORLEY: Same objection.

10:37:53 2 THE WITNESS: I do not. No.

10:37:57 3 BY MR. HEMSTREET:

10:37:58 4 Q. If a registered voter is removed from the rolls
10:38:01 5 under H.B. 2243 based on an erroneous determination that
10:38:05 6 they are not a U.S. citizen, can that person be added
10:38:08 7 back to the rolls if the registration deadline has
10:38:11 8 passed?

10:38:14 9 A. I believe so. I believe that if there was an
10:38:19 10 error and the voter provided proof and it matched in the
10:38:22 11 system, it would retro back to the date that they first
10:38:26 12 registered.

10:38:27 13 Q. Can you walk through how your county would do
10:38:29 14 that?

10:38:31 15 A. So in the system we just go in and open up the
10:38:36 16 voter's record and we would input the new information
10:38:41 17 into their record and run the HAVA check again. And if
10:38:45 18 it matched it, then, you know, you're done.

10:38:51 19 If, however, it was, say, a birth certificate
10:38:53 20 that they bring in, then we go into the voter's record
10:38:56 21 and we note that the voter has a -- has provided a U.S.
10:39:01 22 birth certificate, and we go in and we change the
10:39:06 23 registrant status to make them a full ballot voter.

10:39:11 24 Q. Okay. If H.B. 2243 were to take effect, would
10:39:15 25 you still be able to add that erroneously removed voter

10:39:20 1 back onto the rolls after the registration deadline?

10:39:24 2 MR. HORLEY: Calls for a legal conclusion,
10:39:25 3 calls for speculation.

10:39:30 4 THE WITNESS: And I would be speculating,
10:39:31 5 because I am not absolutely familiar with exactly
10:39:39 6 what -- how these processes would take place, because
10:39:42 7 we're not -- we didn't -- we have not ever implemented
10:39:46 8 these, so we have not changed our processes.

10:39:49 9 BY MR. HEMSTREET:

10:39:49 10 Q. So you don't know one way or the other whether
10:39:52 11 H.B. 2243 would change your ability to correct that
10:39:57 12 erroneous removal of a voter?

10:39:59 13 A. I think it --

10:40:01 14 MR. HORLEY: Same objection.

10:40:02 15 THE WITNESS: I think if it was erroneous,
10:40:05 16 we would still be able to make the change. If not, we
10:40:11 17 would just create a new record, I would believe, and
10:40:14 18 retro it back to their date of registration.

10:40:18 19 BY MR. HEMSTREET:

10:40:18 20 Q. Do you know if this is laid out in the draft
10:40:21 21 2023 EPM?

10:40:23 22 A. I do not believe so.

10:40:27 23 Q. Do you know whether or not this practice could
10:40:29 24 vary from county to county?

10:40:32 25 MR. HORLEY: Same objection.

10:40:33 1 THE WITNESS: I do not believe so.

10:40:34 2 MR. HORLEY: Calls for speculation.

10:40:37 3 BY MR. HEMSTREET:

10:40:37 4 Q. I'm sorry, you said you're not clear?

10:40:39 5 A. I don't think so. In my -- to my knowledge,

10:40:43 6 every county processes the same, and it is based on the

10:40:47 7 EPM 2019 currently.

10:40:51 8 Q. And apologies to belabor this point, but on

10:40:58 9 Page 4, Line 5 of 2243 where it says "When the County

10:41:03 10 Recorder obtains information pursuant --"

10:41:09 11 A. Page 4, and that was Line 5?

10:41:15 12 Q. Yes, Section 10.

10:41:17 13 A. Okay.

10:41:21 14 Q. Was it your testimony that you would consider

10:41:23 15 the F-Type license to be information under that law?

10:41:30 16 MR. HORLEY: Calls for a legal conclusion.

10:41:32 17 THE WITNESS: Can you repeat that, please?

10:41:36 18 BY MR. HEMSTREET:

10:41:36 19 Q. Yeah.

10:41:36 20 So the law, you know, asks County Recorders,

10:41:39 21 when they obtain information that someone is not a U.S.

10:41:43 22 citizen or has reason to believe that they're not a U.S.

10:41:46 23 citizen, and we've been discussing F-type licenses, and

10:41:52 24 so I just want to understand. Would your office

10:41:54 25 consider an F-type license to be information that gives

10:41:59 1 your office reason to believe that someone is not a U.S.
10:42:01 2 citizen?

10:42:03 3 MR. HORLEY: Same objection.

10:42:05 4 THE WITNESS: Again, initially we would
10:42:07 5 have to process the voter as a non-U.S. citizen because
10:42:11 6 that is how it returns on an F-type license. So we
10:42:15 7 would reach out to the voter and confirm whether they
10:42:18 8 have or have not done their naturalization and then
10:42:25 9 proceed from that.

10:42:26 10 BY MR. HEMSTREET:

10:42:27 11 Q. And would you then send them notices?

10:42:29 12 A. Yes. We would send them a letter informing
10:42:32 13 them that they would need to provide that certificate.

10:42:37 14 Q. And then if that person doesn't respond in
10:42:40 15 35 days, under this law, are you required to remove them
10:42:43 16 from the rolls?

10:42:48 17 MR. HORLEY: Calls for a legal conclusion,
10:42:49 18 calls for speculation.

10:42:50 19 THE WITNESS: I'm not familiar with what
10:42:52 20 would happen after the 35 days.

10:42:58 21 BY MR. HEMSTREET:

10:42:59 22 Q. If you could, sorry, go to Line 11 through 14,
10:43:06 23 also on Page 4 there.

10:43:07 24 A. Uh-huh.

10:43:08 25 Q. "The County Recorder shall send the person

10:43:11 1 notice by forwardable mail that the person's
10:43:14 2 registration will be canceled in 35 days unless the
10:43:17 3 person provides satisfactory evidence of United States
10:43:21 4 citizenship."

10:43:21 5 Did I read that right?

10:43:25 6 A. Yes, you did.

10:43:26 7 Q. So earlier this morning you said that these
10:43:31 8 laws may disenfranchise voters, potentially. Is this an
10:43:36 9 example of how H.B. 2243 could disenfranchise a citizen?

10:43:41 10 MR. HORLEY: Same objection.

10:43:42 11 THE WITNESS: This could be.

10:43:50 12 BY MR. HEMSTREET:

10:43:51 13 Q. I'm going to change gears slightly. If you
10:43:55 14 could turn back to Document C, which are the Graham
10:44:01 15 County responses to the consolidated plaintiffs'
10:44:03 16 interrogatories.

10:44:13 17 A. Yes, we have it.

10:44:14 18 Q. And if you take a look at interrogatory
10:44:17 19 number 9 and your office's response.

10:44:38 20 Do you see where it says, "Subject to and
10:44:40 21 without waiving these objections, to Merriman's
10:44:43 22 knowledge there has been no case where the county has
10:44:46 23 personally determined that a non-U.S. citizen or
10:44:48 24 non-county resident has registered to vote or voted
10:44:53 25 since she joined the Recorder's Office in February

10:44:55 1 2016"?

10:44:57 2 A. Yes.

10:44:59 3 Q. What do you mean by -- determined?

10:45:06 4 THE COURT REPORTER: You cut out, Robbie.

10:45:08 5 BY MR. HEMSTREET:

10:45:08 6 Q. What does your office mean when it says has not
10:45:10 7 personally determined?

10:45:13 8 A. I don't personally determine anybody's
10:45:15 9 citizenship.

10:45:19 10 Q. Is your office aware of any noncitizen
10:45:21 11 registering to vote or voting in Graham County since
10:45:25 12 February 2016?

10:45:27 13 A. No.

10:45:29 14 Q. How about at any time?

10:45:33 15 A. Not that I'm aware of.

10:45:36 16 Q. And just to be clear for the record, you're not
10:45:38 17 aware of any incidents where a noncitizen registered to
10:45:42 18 vote in Graham County?

10:45:44 19 A. Right, a noncitizen, I'm not aware of any.

10:45:48 20 Q. And you're not aware of any incident in which a
10:45:51 21 noncitizen actually voted in Graham County?

10:45:54 22 A. No, I'm not aware of that.

10:46:01 23 Q. If we could also briefly turn to the document
10:46:04 24 marked N.

10:46:16 25 A. Okay, we're there.

10:46:17 1 Q. Do you recognize this document?

10:46:21 2 A. It is a Sent (Printed) Notices. It is a report

10:46:26 3 that comes out of the AVID system.

10:46:30 4 Q. And does this look like reports that come to

10:46:32 5 your office out of the AVID system?

10:46:35 6 A. Yes, that would be ours.

10:46:38 7 Q. And it says "Graham" there on the left, above

10:46:41 8 the far left column? Sorry.

10:46:44 9 A. Yes.

10:46:45 10 Q. Okay. And then this was produced by your

10:46:50 11 office. There's a Bates number in the far right. Do

10:46:54 12 you see that?

10:46:54 13 A. Yes.

10:46:56 14 Q. Okay.

10:46:56 15 MR. HEMSTREET: And could we mark this as

10:46:57 16 Exhibit 257; is that right, Jody?

10:46:57 17 THE COURT REPORTER: (Nodded.)

10:47:07 18 BY MR. HEMSTREET:

10:47:07 19 Q. Does this reflect all voter register applicants

10:47:10 20 who are placed on federal only status in Graham County

10:47:13 21 from January 1, 2022 to June 14th, 2023?

10:47:20 22 A. Can you go to the bottom of the page, please?

10:47:20 23 MS. RUTH: Yes.

10:47:29 24 THE WITNESS: Can you repeat that

10:47:32 25 question?

10:47:32 1 BY MR. HEMSTREET:

10:47:32 2 Q. Yeah.

10:47:33 3 I'm trying to understand if this reflects all
10:47:36 4 applicants who were placed on fed only status in the
10:47:42 5 dates at the top there?

10:47:44 6 A. No, it does not reflect all of the voters that
10:47:47 7 are registered as a fed voter. It represents all of the
10:47:53 8 printed notices that were sent from January 1st of 2022
10:47:58 9 through June 14th of 2023. This is just a sent notice
10:48:02 10 report.

10:48:05 11 Q. So within those dates this doesn't capture
10:48:09 12 everyone who has attempted to register who's fed only;
10:48:13 13 it just captures those who have been sent notice in that
10:48:16 14 period?

10:48:17 15 A. Yes.

10:48:20 16 Q. And then in the Notice Name column, the very
10:48:25 17 first row or actual entry, it has "F Type License"
10:48:31 18 there; do you see that?

10:48:32 19 A. On Page 1?

10:48:33 20 Q. On Page 1.

10:48:36 21 A. Can you scroll up?

10:48:40 22 Yes, "Registration - F Type License."

10:48:44 23 Q. So that's an example of someone who registered
10:48:48 24 with an F-type license?

10:48:50 25 A. Yes.

10:48:51 1 Q. And so would they be just unable to vote in any
10:48:57 2 election unless they provide DPOC?

10:48:59 3 A. Yes.

10:49:01 4 Q. The rest of the registrations on that first
10:49:06 5 page say "Fed ID Only," correct?

10:49:09 6 A. Yes.

10:49:10 7 Q. And so for all those individuals, they are able
10:49:13 8 to vote, but only in federal elections; is that right?

10:49:18 9 A. And the fed ID stands for that they have to
10:49:21 10 provide proof of citizenship in order to vote.

10:49:25 11 Q. Okay. And then on Page 2 there are a few at
10:49:30 12 the bottom that say "Fed No ID." Can you explain the
10:49:35 13 distinction between "Fed ID Only" and "Fed No ID"?

10:49:41 14 A. I believe they are the same. It was just a
10:49:44 15 change. So there's two different types of notices in
10:49:48 16 our AVID system, and they are actually the same letter.
10:49:52 17 It was just that when we created the notices, we listed
10:49:56 18 the notice under "Registration - Fed ID Only" and then
10:50:00 19 we changed the notice and changed it to "Registration -
10:50:03 20 Fed No ID."

10:50:06 21 Q. Okay. You --

10:50:07 22 A. But it is the same letter.

10:50:09 23 Q. The same letter. And do they have the same --

10:50:11 24 A. The same outcome.

10:50:14 25 I'm sorry?

10:50:16 1 Q. I'm sorry. I believe you said they have the
10:50:17 2 same outcome, they mean the same thing?

10:50:19 3 A. Yes. "Fed ID Only" and "Fed No ID" are the
10:50:23 4 same. They provided -- or they did not provide -- they
10:50:26 5 didn't match or something to that effect.

10:50:31 6 Q. And you said they're unable to vote unless they
10:50:34 7 provide proof of citizenship. Does that apply to
10:50:37 8 federal elections as well?

10:50:39 9 A. Yes. They present -- they will have to
10:50:45 10 present -- I say citizenship. I guess it would be they
10:50:47 11 would have to present a driver's license, some form of
10:50:53 12 proof of citizenship.

10:50:55 13 Q. So is there any difference practically between
10:51:00 14 these "Fed ID Only" and the F-type license?

10:51:05 15 A. So the fed only, they are -- they've proven
10:51:09 16 that they're a citizen and they're allowed to receive a
10:51:13 17 ballot by mail. And so that would be the difference, is
10:51:18 18 that they matched the social, but they may have an
10:51:22 19 out-of-state driver's license, and so they did not match
10:51:26 20 the Arizona MVD system. And so since their social
10:51:31 21 matched, they become a fed only voter with the right to
10:51:34 22 receive a ballot by mail.

10:51:37 23 Q. So they have the right to receive it, but they
10:51:40 24 can't actually vote unless they provide citizenship
10:51:42 25 information?

10:51:43 1 A. The fed only can receive the early ballot and
10:51:48 2 vote that early ballot without any other restriction.

10:51:52 3 Q. But only for federal elections; is that right?

10:51:55 4 A. Right. They will only -- they will receive a
10:51:58 5 federal only ballot.

10:52:00 6 Q. Okay.

10:52:02 7 A. Only, yeah, the federal and congressional
10:52:05 8 races.

10:52:06 9 Q. Whereas in that first row the person with the
10:52:10 10 F-type license, they would not receive a ballot at all?

10:52:13 11 A. They would not. And the "Fed ID Only" or
10:52:17 12 "Fed No ID," they are not eligible to receive a ballot
10:52:20 13 by mail.

10:52:22 14 Q. I'm sorry, I'm confused. I thought you just
10:52:24 15 said that they did receive a ballot by mail, fed only?

10:52:28 16 A. Okay, so there are -- in this sent notice
10:52:30 17 report there are three types of fed -- actually, four.
10:52:34 18 "F Type License," they're not a citizen. They do not
10:52:37 19 get a ballot and they are not registered until they've
10:52:41 20 proven citizenship.

10:52:42 21 A "Fed ID Only" and a "Fed No ID" are people
10:52:47 22 that registered to vote, they provided data, but it did
10:52:51 23 not match the system, maybe, or they didn't provide any
10:52:55 24 citizenship data. They were registered in that
10:52:57 25 retrospect and they are eligible to go to a polling

10:53:01 1 location on election day and vote contingent upon
10:53:06 2 providing proof that they are a citizenship, that they
10:53:09 3 are a citizen.

10:53:10 4 And then there is the "Fed Only," who provided
10:53:14 5 us Social Security, it matched the system, and so we can
10:53:19 6 confirm that they are a citizen. They just did not
10:53:23 7 provide the second part where a driver's license or a
10:53:26 8 birth certificate, but they are eligible to receive a
10:53:30 9 ballot by mail.

10:53:31 10 Q. I understand. So the distinction is basically
10:53:34 11 ID, "Fed ID Only" versus "Fed Only"?

10:53:37 12 A. Correct.

10:53:45 13 Q. I'd like to shift gears again and discuss
10:53:50 14 H.B. 2492's documentary proof of residence requirements.
10:53:56 15 Can we start with how Graham County currently uses
10:54:01 16 voter -- applicants' residence information?

10:54:03 17 So in order to register to vote, applicants are
10:54:07 18 currently required to provide an address, or if they
10:54:10 19 don't, a description or drawing of the location of their
10:54:13 20 residence; is that right?

10:54:14 21 A. Yes.

10:54:16 22 Q. Can a P.O. Box be used to meet that
10:54:18 23 requirement?

10:54:19 24 A. It cannot, no.

10:54:22 25 Q. And why is residence address or location

10:54:25 1 information important for voter registration?

10:54:28 2 A. That is how we precinct the voter and how we
10:54:33 3 know what type of ballot and what type of races they get
10:54:35 4 to vote in.

10:54:39 5 Q. So I want to talk about the two options the
10:54:41 6 voters have in turn. First, the process by which they
10:54:45 7 provide an actual address. If someone provides an
10:54:48 8 address, does the county use -- or how does the county
10:54:51 9 use that address to actually locate the residence?

10:54:55 10 A. So when we input the data into AVID, AVID has a
10:55:01 11 GIS mapping link to Total Address. So when we put that
10:55:05 12 address in, it will match with that. It's a Shake file
10:55:12 13 that belongs to Graham County that got imported into
10:55:15 14 Total Address. So if it matches, then there's no issue
10:55:21 15 currently.

10:55:21 16 Q. Okay.

10:55:23 17 A. If it does not match, then myself, I will
10:55:28 18 utilize the Graham County GIS maps, the Assessor's and
10:55:33 19 Treasurer's either tax or -- either the tax bill
10:55:40 20 information or the property record information, locate
10:55:45 21 the address, and then I can go and pin drop that GIS
10:55:49 22 information into the Total Address system and match the
10:55:52 23 voter. I also utilize that when they do the drawing for
10:55:56 24 the nonstandard address. We can locate that drawing
10:56:01 25 through the GIS map system and we create a pinpoint for

10:56:05 1 that drawing.

10:56:10 2 Q. How common is it for someone who provides an
10:56:12 3 address that you're not able to locate?

10:56:18 4 A. It would be hard to say. We get people that
10:56:23 5 register addresses that are not in our Total Address
10:56:25 6 system because it is a new home build and that
10:56:29 7 information wasn't provided to us to add.

10:56:33 8 So that's why we utilize as many databases as
10:56:37 9 we can to find the address. But as far as not finding
10:56:41 10 an address at all through all of the databases, I would
10:56:45 11 say probably that's occurred maybe once or -- you know,
10:56:53 12 maybe once a month max, once every six months. It's
10:56:57 13 speculating. I don't have any voters currently that are
10:57:00 14 nonstandard addresses or that I cannot locate an address
10:57:04 15 for.

10:57:05 16 Q. In those very rare instances, what does your
10:57:08 17 office do to locate them?

10:57:10 18 A. So we will reach out to the voter and see if
10:57:14 19 they can give us any further information. In the past,
10:57:18 20 when I couldn't locate an address, it actually was not
10:57:21 21 in our county, and so the voter record was transferred
10:57:25 22 to the county it belonged to.

10:57:28 23 We do have one voter that registered, I believe
10:57:33 24 it was back in 2018, who made up an address just because
10:57:39 25 he was homeless, and so we were not able to match that

10:57:42 1 address and, therefore, we had to create an address for
10:57:46 2 the homeless.

10:57:49 3 Q. And was that individual ultimately able to be
10:57:51 4 registered?

10:57:52 5 A. Yes, he was.

10:57:56 6 Q. And so you sort of mentioned this, but when
10:57:59 7 your office doesn't locate them, you said you reach out
10:58:02 8 to the voter. Do you send a notice?

10:58:03 9 A. Yes, if we have a mailing address. We reach
10:58:07 10 out to the voter in any way that they provided contact
10:58:12 11 information. So e-mail, phone, letter, all three, one
10:58:17 12 or all three of them we will reach out to them for the
10:58:19 13 further information.

10:58:23 14 Q. And you also mentioned the new -- a new home
10:58:26 15 build might present an instance where you're unable to
10:58:30 16 locate them in a database. Are there any other
10:58:33 17 residential addresses where it's like more common than
10:58:38 18 other types of residences where you're not able to
10:58:40 19 locate them in the database?

10:58:42 20 A. Not that I can recall right now.

10:58:47 21 Q. Would -- is it any more common to have trouble
10:58:50 22 locating a residence on a Reservation?

10:58:56 23 A. So that would be probably more common that we
10:58:58 24 wouldn't have the tree west of the store, you know. So
10:59:09 25 they'll give us a description. We're not going to have

10:59:11 1 that in our system, so we will have to locate that
10:59:16 2 location and pin drop it into our files to create the
10:59:21 3 address so we can precinct them.

10:59:23 4 One thing that is nice with the Reservations
10:59:27 5 are there's just one precinct in our Peridot residence
10:59:34 6 locations and then one in Bylas. So it's not like it's
10:59:38 7 in -- you know, there's a whole bunch of different
10:59:41 8 choices. So it's not quite difficult, but it is -- it's
10:59:44 9 common.

10:59:46 10 Q. I think and you said slightly more common at
10:59:49 11 least than other residences to have those issues?

10:59:52 12 A. Yes.

10:59:55 13 Q. Beyond the databases you listed, GIS, I believe
10:59:58 14 you said the Assessor's, are there any other methods
11:00:02 15 that you use to locate or any other services you use to
11:00:06 16 locate a residence?

11:00:09 17 A. Google Maps.

11:00:10 18 Q. Google Maps?

11:00:12 19 Would you ever use like the Fire Department or
11:00:17 20 911 information?

11:00:18 21 A. That information is in our GIS maps.

11:00:22 22 Q. Oh, it's in the GIS maps? Okay.

11:00:24 23 A. Yes.

11:00:26 24 Q. And then for the second option, where folks
11:00:30 25 draw a description of their residence, how often do you

11:00:35 1 encounter that?

11:00:38 2 A. I wouldn't say it's very often, and I really
11:00:42 3 couldn't tell you what the amount is, because we don't
11:00:46 4 really have a way of knowing how many have done that and
11:00:50 5 that we've located the address from a drawing. There's
11:00:54 6 no way for me to find that data without searching
11:00:57 7 through every paper registration that was ever turned
11:01:03 8 in.

11:01:05 9 Q. In the example we were discussing where the
11:01:08 10 individual was homeless, do you know if they used a
11:01:10 11 drawing or that option?

11:01:13 12 A. No, they typically will put in an address
11:01:16 13 either at the -- we have two locations. They'll either
11:01:21 14 utilize the Post Office address, like the physical
11:01:24 15 location of the Post Office, or the physical location of
11:01:26 16 our local park.

11:01:31 17 Q. And would it be any more common for folks
11:01:33 18 living on a Reservation to use that option?

11:01:39 19 A. To -- oh. They actually do utilize an address
11:01:44 20 for their local Post Office. There are some that have.

11:01:50 21 Q. There are some that have?

11:01:51 22 A. Yes.

11:01:52 23 Q. And my question is, is it any more common or
11:01:56 24 not than folks not on a Reservation to use that option?

11:02:02 25 A. I wouldn't say it's any -- any more or less

11:02:05 1 common.

11:02:08 2 Q. And then speaking of Native American voters in

11:02:12 3 Graham County, does your office do anything specific to

11:02:15 4 try to increase registration with these voters?

11:02:19 5 A. I'm sorry, to try to what?

11:02:21 6 Q. Increase registration with such voters.

11:02:27 7 A. Nothing that I can think of, other than making

11:02:31 8 sure that we, you know, locate where their residence is,

11:02:37 9 what they've drawn on, and, you know, be able to process

11:02:40 10 them and get them registered.

11:02:44 11 We occasionally will do voter registration

11:02:48 12 drives out on the Reservations. It's not very fruitful,

11:02:52 13 so it sometimes just isn't worth the time and effort.

11:03:00 14 But we do everything that we can to make sure that what

11:03:02 15 they provide on a form is acceptable and that we can

11:03:06 16 register them.

11:03:08 17 Q. Are those voter registration drives, are

11:03:14 18 there -- does your office take any specific efforts to

11:03:17 19 make sure that they're targeting Native American voters,

11:03:20 20 or are those drives evenly spread out throughout the

11:03:23 21 county?

11:03:23 22 I'm trying to understand if there are any

11:03:25 23 specific things that your office does to try and

11:03:29 24 increase the registration in that demographic.

11:03:32 25 A. Okay. So, typically, outside of the

11:03:35 1 Reservation areas we get a lot of voter registration
11:03:39 2 drives from other entities, political parties, high
11:03:43 3 schools, things like that. So we don't really reach out
11:03:47 4 too much to the city, like inside the city limit type
11:03:52 5 people.

11:03:53 6 But when we're talking about the Reservation,
11:03:57 7 there's not so many registration drives that are
11:04:00 8 provided out there outside of like candidates, and so in
11:04:05 9 the past there have been voter registration drives in
11:04:08 10 those areas for that reason.

11:04:13 11 Q. Okay. Do you know if voter registration is any
11:04:15 12 lower in Native communities than the county average?

11:04:20 13 A. I'm sorry, can you repeat that?

11:04:22 14 Q. Yeah.

11:04:23 15 Do you know if the registration in Native
11:04:27 16 communities is any lower than the county average?

11:04:31 17 A. I don't believe it's any lower, but I'm -- I
11:04:34 18 would be speculating.

11:04:38 19 Q. If the DPOR, the documentary proof of
11:04:43 20 residence, is implemented by H.B. 2492 and H.B. 2243,
11:04:50 21 what affect do you expect that will have on Native
11:04:54 22 voters attempting to register to vote, if any?

11:04:59 23 MR. HORLEY: Calls for speculation.

11:05:03 24 THE WITNESS: I really don't know what the
11:05:04 25 effect would be because I'm not quite sure what I would

11:05:08 1 be able to do. You know, I don't understand the bill
11:05:12 2 enough to know whether I could still continue to address
11:05:16 3 them the way that I currently do. So I really don't
11:05:23 4 know.

11:05:23 5 BY MR. HEMSTREET:

11:05:23 6 Q. If those requirements are implemented, does
11:05:26 7 your office have any plans currently to have any
11:05:30 8 different drives than you currently do to reach out to
11:05:33 9 the Tribes to educate them on the new requirements?

11:05:38 10 A. I have not looked forward to even assessing
11:05:43 11 that information or -- I have not made any plans.

11:05:49 12 MR. HEMSTREET: I think this is a good
11:05:50 13 time to take a quick break and go off the record.

11:05:57 14 MS. RUTH: Out of curiosity, how much
11:05:58 15 longer do you think it's going to be? Because I'm going
11:06:01 16 to need to feed my daughter again in about probably the
11:06:03 17 next 40 minutes or so, within the next 40 minutes.

11:06:08 18 MR. HEMSTREET: Yeah, so I've --

11:06:08 19 THE COURT REPORTER: Would you like to go
11:06:09 20 off the record first?

11:06:10 21 THE VIDEOGRAPHER: We're off the record.
11:06:10 22 Time on the video monitor is 11:06 a.m. This ends
11:06:16 23 Media 1.

11:06:18 24 (A recess was taken.)

11:15:54 25 THE VIDEOGRAPHER: We're on the record.

11:15:55 1 Time on the video monitor is 11:15 a.m. This begins
11:15:58 2 Media 2.

11:16:01 3 BY MR. HEMSTREET:

11:16:02 4 Q. I'll thank you again for your time,
11:16:05 5 Ms. Merriman. I just have a few items.

11:16:08 6 First, at the beginning you had notes that you
11:16:10 7 showed me. What are those notes, again, that you had?

11:16:18 8 A. So it has the total number of Graham County
11:16:20 9 voters, active and inactive, how many fed voters, which
11:16:26 10 ones are no ID and which ones are fed, how many are
11:16:29 11 active, how many are inactive, how many new voters I've
11:16:33 12 had since January, how many are -- have a residential
11:16:42 13 address that was different than their driver's license,
11:16:46 14 and how many did not report their birthplace. I just
11:16:50 15 was trying to think of things you guys might ask.

11:16:53 16 Q. How did you prepare those; where did you get
11:16:57 17 that information?

11:16:57 18 A. This information is in the AVID system.

11:17:00 19 Q. All of that information was pulled from AVID?

11:17:03 20 A. Yes.

11:17:06 21 MR. HEMSTREET: Well, that is all that I
11:17:08 22 actually have. I don't know if any other plaintiffs.
11:17:13 23 Leah, if you're ready to jump in or --

11:17:18 24 MS. MOTZKIN: Yeah, I am. Thank you.

11:17:19 25 MR. HEMSTREET: Thank you, Ms. Merriman.

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EXAMINATION

BY MS. MOTZKIN:

Q. Hi. Thank you. I'm Leah. I appreciate you answering just a few more questions, and they might feel a little bit out of order, as I'm just jumping in and asking a few questions, so I appreciate you bearing with me.

First, is old government data, such as MVD records from ten years ago, indicative of a lack of current U.S. citizenship?

MR. LANGHOFER: Calls for a legal conclusion.

THE WITNESS: Can you repeat that?

BY MS. MOTZKIN:

Q. Yeah, absolutely.

Is old government data, such as MVD records from ten years ago, is that indicative of a lack of U.S. citizenship today?

A. I'm not sure that I understand your question.

Q. Okay. Is data from the MVD, perhaps that someone has an F-type license, which I know we've talked about in a few contexts, from ten years, is that still indicative of a lack of citizenship currently?

MR. LANGHOFER: Same objection.

THE WITNESS: I'm not really sure how to

11:18:26 1 answer this, because somebody that registered to vote
11:18:29 2 ten years ago, if they haven't updated their voter
11:18:32 3 registration, we would have no reason to rerun their
11:18:37 4 information through the databases, so it would just
11:18:40 5 remain whatever it was ten years ago.

11:18:42 6 BY MS. MOTZKIN:

11:18:43 7 Q. Yeah, I'm sorry. Not voter registration, but
11:18:46 8 MVD records. So is old government data from kind of the
11:18:49 9 MVD records evidence and indicative of a lack of
11:18:55 10 citizenship today?

11:18:57 11 MR. LANGHOFER: Same objection.

11:19:01 12 THE WITNESS: I don't know. I don't know
11:19:03 13 how to answer that. I don't understand what you're
11:19:06 14 saying. I'm sorry.

11:19:09 15 BY MS. MOTZKIN:

11:19:09 16 Q. Okay. When is information too old to qualify
11:19:13 17 as information that someone is not a U.S. citizen today?

11:19:15 18 MR. LANGHOFER: Same objection.

11:19:17 19 THE WITNESS: I'm not aware of a time
11:19:19 20 frame or a time limit.

11:19:24 21 BY MS. MOTZKIN:

11:19:24 22 Q. Okay. And we discussed a little bit about this
11:19:26 23 earlier, but we discussed some of the valid sources of
11:19:30 24 information per both rules that someone is not a U.S.
11:19:34 25 citizen. I'm going to go through and run through a few

11:19:37 1 different hypotheticals to make it a little more
11:19:40 2 concrete.

11:19:40 3 MS. MOTZKIN: If opposing counsel wants to
11:19:42 4 put in any standing objections, now would be a good time
11:19:44 5 on that.

11:19:45 6 MR. LANGHOFER: That's great. Yeah, let's
11:19:47 7 just have a standing objection to calling for a legal
11:19:49 8 conclusion. Thanks.

11:19:51 9 MS. MOTZKIN: Thanks.

11:19:53 10 BY MS. MOTZKIN:

11:19:54 11 Q. Okay. So is anything beyond a government or
11:19:56 12 voter registration database a valid source of
11:19:59 13 information that someone is not a U.S. citizen?

11:20:04 14 A. Outside of Motor Vehicle, Social Security, and
11:20:09 15 the SAVE, I don't have any access to any other database.

11:20:14 16 Q. What about a phone call from the voter?

11:20:19 17 A. To declare that they're a noncitizen?

11:20:21 18 Q. Yeah. Would that be considered a valid source
11:20:23 19 of information that someone is not a U.S. citizen?

11:20:29 20 A. I would have to -- I've never encountered
11:20:35 21 anybody that called and said, hey, I'm not a U.S.
11:20:37 22 citizen. If they did, I would actually have to confirm
11:20:41 23 that I was speaking to the voter.

11:20:51 24 THE COURT REPORTER: We've got some
11:20:52 25 background noise.

11:20:55 1 BY MS. MOTZKIN:

11:20:55 2 Q. How about an e-mail from the voter?

11:20:59 3 A. If a voter e-mailed me and said they were not a
11:21:01 4 U.S. citizen --

11:21:02 5 Q. Uh-huh.

11:21:03 6 A. -- I would still have to -- I would still have
11:21:06 7 to contact that voter, and especially if they're in my
11:21:12 8 system as a U.S. citizen and their citizenship matched
11:21:16 9 our databases, I would be very, very suspicious of
11:21:22 10 receiving an e-mail or a phone call, and I would not
11:21:25 11 process or make any changes without speaking to that
11:21:29 12 voter.

11:21:33 13 And, honestly, they would have to come in and
11:21:34 14 sign a form saying they didn't want to be registered,
11:21:37 15 because if they're in my system as a citizen, they would
11:21:39 16 have to come fill out a form requesting to cancel their
11:21:43 17 voter registration.

11:21:44 18 Q. What about a signed letter from the voter?

11:21:50 19 A. If it was notarized, maybe, but --

11:21:55 20 Q. How about a phone -- oh, I'm sorry.

11:21:56 21 A. Or if it was -- if I was able to verify that
11:22:00 22 signature with the signature that's in their record,
11:22:04 23 which we do that on a canceled request; but, again, that
11:22:10 24 would be very -- that would be very awkward and
11:22:13 25 suspicious.

11:22:15 1 Q. Uh-huh. How about a phone call from a member
11:22:18 2 of the voter's family?

11:22:22 3 A. That they were not a U.S. citizen?

11:22:24 4 Q. Yeah. Would that be considered a valid source
11:22:27 5 of information that someone is not a U.S. citizen?

11:22:30 6 A. I would not consider that a valid source of
11:22:33 7 information that would create me to change anything
11:22:37 8 without, again, reaching out to that voter and making
11:22:40 9 certain that I'm speaking with that voter. And once
11:22:45 10 again, if the voter registration came back that they
11:22:48 11 were a U.S. citizen, I would not change anything based
11:22:52 12 on what somebody else said.

11:22:56 13 Q. Can it be a letter from a neighbor?

11:23:00 14 A. No.

11:23:02 15 Q. What about a phone call from law enforcement in
11:23:04 16 Arizona, would that be a valid source of information
11:23:07 17 that someone is not a U.S. citizen?

11:23:12 18 A. I could maybe consider the information; but,
11:23:15 19 again, I would not do any processes without reaching out
11:23:18 20 to the voter.

11:23:20 21 Q. What about an e-mail or a letter from a law
11:23:25 22 enforcement in -- I'm sorry, a law enforcement officer
11:23:26 23 in another state?

11:23:29 24 A. I would have the same process. I would still
11:23:32 25 have to reach out with the voter. That law office would

11:23:36 1 have to -- or law officer would have to provide a lot of
11:23:41 2 proof matching the voter information for me to even
11:23:45 3 reach out to the voter and question any information.

11:23:49 4 Again, if the database came back saying they're a U.S.
11:23:51 5 citizen, I have no reason to believe that's inaccurate.

11:23:56 6 Q. And I assume that would be the same for a phone
11:23:59 7 call from an officer in another state?

11:24:00 8 A. Correct. Yes.

11:24:02 9 Q. And what about an e-mail from an officer in
11:24:04 10 Arizona?

11:24:05 11 A. The same.

11:24:06 12 Q. The same? Great.
11:24:09 13 How about an anonymous call?

11:24:12 14 A. The same. I would not -- I don't -- I would
11:24:18 15 not make any changes to a voter based on anything like
11:24:22 16 that. If I felt like there was a need to reach out to
11:24:26 17 the voter, I would do so, and I would actually request a
11:24:29 18 meeting with the voter, if possible.

11:24:31 19 Q. Is it fair to say that's the same for an
11:24:34 20 anonymous e-mail?

11:24:35 21 A. That would be the same.

11:24:37 22 Q. Okay. And what about lists provided by
11:24:39 23 third-party organizations like True the Vote?

11:24:44 24 A. I'm sorry, like who?

11:24:45 25 Q. True the Vote is one example of a third-party

11:24:48 1 organization, a list.

11:24:50 2 A. No. I, again, would not process any changes
11:24:55 3 based on any outside data or person.

11:25:00 4 Q. Thank you.

11:25:01 5 Jumping quickly into H.B. 2492, I'm looking at
11:25:05 6 Page 7, Lines 15 through 23, which is also
11:25:14 7 Section 16-143. This provision discusses reporting
11:25:19 8 obligations, the first of which was on or before
11:25:25 9 October 31st, 2022, and that is that the Secretary of
11:25:31 10 State and each County Recorder shall make available to
11:25:34 11 the Attorney General a list of all individuals who are
11:25:36 12 registered to vote and who have not provided
11:25:38 13 satisfactory evidence of citizenship.

11:25:41 14 So since that deadline has passed, is your
11:25:46 15 office no longer required by this provision to submit to
11:25:49 16 the AG a list of its registered voters who have not
11:25:53 17 shown satisfactory DPOC?

11:25:59 18 MR. HORLEY: Calls for a legal conclusion.

11:26:02 19 THE WITNESS: I'm not aware of -- I
11:26:05 20 wouldn't -- I wouldn't know if that is still a
11:26:07 21 requirement. I don't know. I'm going to have to say I
11:26:12 22 have no idea.

11:26:14 23 BY MS. MOTZKIN:

11:26:15 24 Q. Thank you.

11:26:15 25 A. I do know quarterly we report our fed voters

11:26:19 1 like, but that's with our voter statistics, so, you
11:26:23 2 know, all registered voters and then those that are fed
11:26:26 3 only, and that is also placed on our website. Other
11:26:31 4 than that, I don't know of any list.

11:26:34 5 Q. Got it.

11:26:35 6 So jumping in now to 2243, I'm looking at
11:26:41 7 Page 5 and Line 41 and onto Page 6. In ARS 16-165(F)
11:26:52 8 through (J) within H.B. 2243 there are a bunch of
11:26:55 9 enumerated database matching procedures. Do you see
11:27:03 10 those?

11:27:03 11 A. And that was Line 41?

11:27:07 12 Q. Yeah, starting at Line 41, which is (F),
11:27:10 13 Section (F).

11:27:21 14 A. And then what was the question?

11:27:23 15 Q. Yeah. Do you see those?

11:27:25 16 A. Yes.

11:27:26 17 Q. Okay. Are the database matching procedures
11:27:29 18 enumerated here the means by which County Recorders are
11:27:33 19 to obtain information of a lack of U.S. citizenship?

11:27:38 20 MR. HORLEY: Calls for a legal conclusion.
11:27:39 21 I'm not sure whether our standing objection is still in
11:27:41 22 place. We've jumped around a little bit.

11:27:43 23 MS. MOTZKIN: Oh, I'm sorry. Let's take
11:27:45 24 them off.

11:27:45 25 MR. HORLEY: Okay. Thank you.

11:27:46 1 MS. MOTZKIN: And then I hear your
11:27:47 2 objection.

11:27:48 3 BY MS. MOTZKIN:

11:27:49 4 Q. So are these the means by which County
11:27:51 5 Recorders are to obtain information of a lack of U.S.
11:27:55 6 citizenship?

11:27:56 7 MR. HORLEY: Same objection.

11:27:59 8 THE WITNESS: I'm reading it again. Just
11:28:01 9 a minute.

11:28:02 10 BY MS. MOTZKIN:

11:28:02 11 Q. Please.

11:28:13 12 A. I'm not aware that that is currently happening,
11:28:19 13 because each county processes their own voters through
11:28:24 14 AVID and we check our own voters through the databases
11:28:28 15 that are listed in the HAVA checks. I've never been
11:28:32 16 notified with a list that is described there in that.
11:28:38 17 So I don't know what that is.

11:28:41 18 Q. Okay. Are the database matching procedures
11:28:43 19 enumerated in these same 16-165(F) through (J) in
11:28:49 20 H.B. 2243 the means by which County Recorders are to
11:28:52 21 confirm information of a lack of U.S. citizenship?

11:28:57 22 MR. HORLEY: Same objection.

11:28:58 23 THE WITNESS: Can you scroll down?

11:29:18 24 So I currently do not run any kind of -- I
11:29:25 25 don't -- where it says "Each month the County Recorder

11:29:27 1 shall compare persons who are registered to vote in that
11:29:29 2 county and who the County Recorder has reason to believe
11:29:32 3 are not U.S. citizens," I don't currently practice
11:29:38 4 anything like that. I don't process anything monthly.

11:29:40 5 I process voters upon registration forms
11:29:45 6 being received, and that is the only time I access their
11:29:51 7 citizenship database. So if that is something -- that
11:29:55 8 must be something new to this bill, because I'm not
11:29:58 9 aware of that, and I don't process -- I don't do that
11:30:01 10 currently.

11:30:02 11 BY MS. MOTZKIN:

11:30:03 12 Q. Okay. Is this clear or unclear?

11:30:05 13 MR. HORLEY: Same objection.

11:30:07 14 THE WITNESS: To me it's unclear.

11:30:12 15 BY MS. MOTZKIN:

11:30:12 16 Q. Thanks.

11:30:12 17 A. I -- I don't -- yeah, I'm not quite sure what
11:30:15 18 they're referring to.

11:30:17 19 Q. Okay. And we're going to jump back into some
11:30:20 20 of the hypotheticals we did before, but kind of focused
11:30:23 21 instead on this language in 2243, which is reason to
11:30:28 22 believe. So I'm going to ask you a few questions about
11:30:30 23 whether certain information would constitute or certain
11:30:33 24 things would constitute a reason to believe.

11:30:37 25 MS. MOTZKIN: Opposing Counsel, do we want

11:30:39 1 to enter the standing objections?

11:30:41 2 MR. LANGHOFER: Yeah, for calling for a
11:30:43 3 legal conclusion. Thanks.

11:30:44 4 MS. MOTZKIN: Thanks.

11:30:44 5 BY MS. MOTZKIN:

11:30:45 6 Q. Okay. Would anything beyond a government or
11:30:49 7 voter registration database constitute a reason to
11:30:52 8 believe under 2243?

11:30:55 9 A. I do not believe so.

11:30:58 10 Q. Can it be a phone call from the voter?

11:31:03 11 A. Pertaining to which part?

11:31:06 12 Q. Would a phone call from the voter, could
11:31:09 13 anything in a phone call give you a reason to believe
11:31:12 14 that a person is not a U.S. citizen?

11:31:16 15 A. No. My answer's going to be the same. I would
11:31:18 16 not make any process or make any change to a voter with
11:31:26 17 any phone call, any -- any information from outside
11:31:30 18 sources. Like I said, if I had reason, I would reach
11:31:34 19 out to the voter.

11:31:36 20 Q. Okay. What if a registered voter transposed
11:31:39 21 their first and last name on their registration
11:31:41 22 application form?

11:31:44 23 A. We actually have had that happen, and we reach
11:31:46 24 out to the voter when a system doesn't match. Sometimes
11:31:51 25 it will come back on a social with a soft match, and the

11:31:55 1 soft match will show the name being transposed, and
11:31:58 2 we'll reach out to the voter and say, you know, did you
11:32:01 3 inadvertently put your last name first and your first
11:32:05 4 name -- you know, and mix them up. We'll reach out to
11:32:08 5 the voter, again, with all the ways that we have contact
11:32:10 6 information.

11:32:12 7 Q. And what if a registered voter recorded a
11:32:15 8 foreign place of birth on their form; could that give
11:32:18 9 you a reason to believe that the voter is a noncitizen?

11:32:22 10 A. No.

11:32:24 11 Q. What if you identify a registered voter who has
11:32:28 12 already satisfied DPOC requirements, but still holds an
11:32:32 13 F-type license; is that a reason to believe they're not,
11:32:35 14 in fact, a U.S. citizen?

11:32:39 15 A. Can you -- can you resay that?

11:32:42 16 Q. Yeah.

11:32:44 17 If you identify a registered voter who has
11:32:47 18 already satisfied the DPOC requirement, but with an
11:32:51 19 F-type license, is that a reason to believe that they
11:32:53 20 are not a U.S. citizen?

11:32:55 21 A. Okay, so the F-type license does not satisfy
11:32:58 22 the requirement, and so if the voter provided, like
11:33:04 23 previously spoken about, the naturalization
11:33:08 24 certification, they would then become a full voter.
11:33:13 25 Their proof of citizenship would have been satisfied.

11:33:17 1 So the F-type license is no longer factored.

11:33:21 2 Q. What if the registered voter has never provided
11:33:24 3 DPOC because they are exempt from the requirement due to
11:33:28 4 when they registered?

11:33:35 5 A. I'm not certain what I -- I don't understand
11:33:37 6 what you mean.

11:33:38 7 Q. Yeah. So if they registered prior to the DPOC
11:33:43 8 requirement going into effect in 2005, would the failure
11:33:47 9 to show DPOC under this exemption give your office a
11:33:51 10 reason to believe that they are not U.S. citizens?

11:33:57 11 A. I'm sorry, I still don't understand the
11:34:00 12 question.

11:34:02 13 Q. Thanks. Are there -- is it true that there are
11:34:05 14 certain voters who are exempt from the DPOC requirements
11:34:08 15 under a safe harbor provision because they registered
11:34:11 16 prior to the DPOC requirement going into effect in 2005?

11:34:19 17 A. I'm not aware of that. If somebody registered
11:34:23 18 back then and they haven't registered currently, the
11:34:28 19 only time, again, that we will run a voter through the
11:34:32 20 system is if they provide a new voter registration. So
11:34:37 21 we would have no reason to look at old records and run
11:34:42 22 them through the system to check if they are or are not
11:34:44 23 a U.S. citizen. If they registered prior and it says
11:34:48 24 that they are, then I mean that stands.

11:34:54 25 Q. Thanks.

11:34:54 1 MS. MOTZKIN: And we can take away the
11:34:56 2 standing objection, if that's okay with everyone.

11:34:59 3 BY MS. MOTZKIN:

11:34:59 4 Q. I have just a few more questions. Thank you
11:35:01 5 for bearing with me.

11:35:03 6 A. Okay.

11:35:03 7 Q. We discussed earlier how H.B. 2492 states that
11:35:08 8 your office must also utilize any other state, city,
11:35:11 9 town, county, or federal database and any other database
11:35:13 10 relating to voter registration, correct, that we already
11:35:19 11 spoke about that?

11:35:20 12 A. Yes, I remember.

11:35:21 13 Q. Okay. Could a list of registered voters
11:35:25 14 provided by another Arizona agency constitute a database
11:35:29 15 relating to a voter registration?

11:35:32 16 MR. HORLEY: Calls for a legal conclusion.

11:35:33 17 THE WITNESS: No.

11:35:35 18 BY MS. MOTZKIN:

11:35:35 19 Q. Could a list of registered voters provided by
11:35:37 20 another state's government agency constitute a database
11:35:40 21 relating to voter registration?

11:35:45 22 MR. HORLEY: Same objection.

11:35:45 23 THE WITNESS: No.

11:35:46 24 BY MS. MOTZKIN:

11:35:46 25 Q. Okay. And what about from a private group or a

11:35:48 1
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11:36:12 12
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11:36:21 15
11:36:23 16
11:36:25 17
11:36:28 18
11:36:28 19
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private citizen?

MR. HORLEY: Same objection.

THE WITNESS: No.

MS. MOTZKIN: Thank you so much. I have
no further questions.

THE WITNESS: Thank you.

MR. ATKINS: I have maybe five or ten
minutes of questions, but I wanted to check with you,
Ms. Merriman and Ms. Ruth, if a break is needed at this
time.

MS. ROOF: It will probably -- I have told
my husband to bring her in about ten minutes,
potentially, so I'll touch base with him and let you
know, but I anticipate within the next 10 to 20 minutes
that a break will be needed.

MR. ATKINS: Okay. If it's all right, I
should be able to conclude my questions within that
time.

EXAMINATION

BY MR. ATKINS:

Q. So good morning, Ms. Merriman. My name is Alex
Atkins. Once again, I represent Plaintiffs Mi Familia
Vota and Voto Latino. I appreciate the time you've
given all of us this morning.

11:36:47 1 Just have a few questions about various
11:36:52 2 requirements on voter registration forms. So you've
11:36:58 3 spoken a bit about applicants providing information
11:37:00 4 about their place of birth, and I believe just a moment
11:37:05 5 ago you stated that a foreign place of birth would not
11:37:10 6 present a reason to believe that someone's not a U.S.
11:37:13 7 citizen; is that right?

11:37:15 8 A. That's right.

11:37:16 9 Q. Can you explain why that is?

11:37:20 10 A. We actually have citizens that were born in
11:37:24 11 another country due to their family, their parent or
11:37:28 12 something, being in the military. The voter was born in
11:37:36 13 the other country, but they were born as a U.S. citizen
11:37:39 14 and they have the U.S. citizenship to -- you know, the
11:37:45 15 check for U.S. citizenship comes back as a match.

11:37:50 16 I'm sure there's other reasons why somebody
11:37:52 17 would have a birth outside of -- you know, outside of
11:37:56 18 the U.S. But, no, that is not a reason for us to
11:37:59 19 automatically assume that they're not a U.S. citizen.

11:38:02 20 Q. Understood.

11:38:04 21 And I guess as another potential example,
11:38:08 22 naturalized citizens would theoretically have a foreign
11:38:12 23 place of birth, but would nonetheless be citizens,
11:38:16 24 right?

11:38:16 25 A. Right.

11:38:16 1 Q. And your office doesn't reject voter
11:38:19 2 registration forms for failure to include place of
11:38:22 3 birth, right?

11:38:23 4 A. Right, we do not currently reject.

11:38:28 5 Q. And is it correct that your office doesn't use
11:38:31 6 birthplace information to verify an applicant's
11:38:34 7 citizenship?

11:38:35 8 A. Correct. That's true.

11:38:39 9 Q. And just to be clear then, your office doesn't
11:38:43 10 use birthplace information to determine if an applicant
11:38:46 11 is eligible to vote, right?

11:38:49 12 A. Yes.

11:38:54 13 Q. Do you understand that under H.B. 2492 state
11:39:00 14 form voter registration applicants must include their
11:39:03 15 place of birth or the application cannot be processed?

11:39:07 16 MR. HORLEY: Calls for a legal conclusion.

11:39:07 17 THE WITNESS: Yes.

11:39:09 18 BY MR. ATKINS:

11:39:10 19 Q. Does your office have any means of accurately
11:39:14 20 confirming that a place of birth provided by a voter
11:39:19 21 registration applicant is correct?

11:39:22 22 A. No.

11:39:25 23 Q. And does your office have any ability to verify
11:39:29 24 an applicant's citizenship using their place of birth?

11:39:32 25 A. No.

11:39:34 1 Q. Have you received any guidance from the
11:39:37 2 Secretary of State about how to implement the birthplace
11:39:41 3 requirement in H.B. 2492?

11:39:44 4 A. No.

11:39:51 5 Q. Am I correct that in one of your interrogatory
11:39:55 6 responses you stated that your office may use a voter's
11:40:00 7 birthplace to confirm their identity when speaking to
11:40:04 8 them over the phone?

11:40:06 9 A. Yes.

11:40:08 10 Q. Now, we can look at the rog response, if
11:40:13 11 needed, but I believe you also said that you only do
11:40:17 12 that if the voter willingly provides such information.
11:40:23 13 Does that sound right to you?

11:40:24 14 A. Yes.

11:40:27 15 Q. Can you explain, is that if the voter willingly
11:40:31 16 provides their birthplace information on their
11:40:34 17 application or over the phone or both?

11:40:37 18 A. On their application and over the phone. If
11:40:41 19 they provided it on their application, we may say -- you
11:40:44 20 know, we will confirm we're speaking with the voter by
11:40:47 21 requesting their last four of their social, their date
11:40:51 22 of birth, and we'll ask their place of birth if it is
11:40:53 23 listed in the system.

11:40:58 24 Q. And so it sounds like there's other pieces of
11:41:01 25 information about the voter that you would also use to

11:41:05 1 confirm identity over the phone?

11:41:07 2 A. Yes.

11:41:08 3 Q. And just for the record, what other pieces of
11:41:12 4 information are those?

11:41:14 5 A. Their full date of birth, the last four of
11:41:17 6 their social. We will even occasionally ask their
11:41:22 7 mother's maiden name or their father's name, because
11:41:25 8 that is an optional information that the voter can
11:41:30 9 provide, and we'll use that sometimes when speaking with
11:41:33 10 the voter. But mainly it will be their full name, full
11:41:37 11 date of birth, the last four of their social, and
11:41:40 12 possibly place of birth.

11:41:42 13 Q. And does place of birth have any special
11:41:46 14 significance as compared to those other pieces of
11:41:49 15 information when it comes to confirming a voter's
11:41:51 16 identity over the phone?

11:41:52 17 A. No.

11:41:57 18 Q. Shifting gears, I'd like to ask a few questions
11:42:00 19 about the citizenship checkbox that appears on both the
11:42:05 20 state and federal registration form.

11:42:09 21 A. Okay.

11:42:12 22 Q. So, first of all, the citizenship checkbox has
11:42:16 23 been on both voter registration forms for quite some
11:42:18 24 time, right?

11:42:20 25 A. As far as I'm aware.

11:42:23 1 Q. And am I correct that your office does not
11:42:26 2 reject voter registration applicants simply because a
11:42:30 3 person fails to complete the checkbox?

11:42:34 4 A. Yes.

11:42:40 5 Q. So speaking about state form registrants in
11:42:45 6 particular, if a state form applicant provides
11:42:50 7 documentary proof of citizenship, but does not complete
11:42:53 8 the citizenship checkbox, your office would still accept
11:42:57 9 that application, correct?

11:42:59 10 A. Yes.

11:43:00 11 Q. And am I correct that that applicant would be
11:43:03 12 registered as a full ballot voter?

11:43:07 13 A. Yes, if they came back with a match.

11:43:11 14 Q. Now, turning to federal form applicants, am I
11:43:17 15 correct that federal form applicants are able to
11:43:22 16 adequately establish their citizenship by affirming
11:43:25 17 citizenship under the penalty of perjury on the federal
11:43:30 18 form?

11:43:38 19 A. I'm not certain I understand what you're
11:43:41 20 asking.

11:43:42 21 Q. Sure.

11:43:44 22 So I guess I'm alluding to information from the
11:43:53 23 election procedures manual, which I believe says that an
11:43:59 24 appropriate indicator of U.S. citizenship includes
11:44:01 25 swearing or affirming that the applicant is a U.S.

11:44:04 1 citizen on the federal form. I believe it's Box 9 on
11:44:09 2 the federal form, asks the voter to sign their name
11:44:15 3 after an affirmation of eligibility, including
11:44:18 4 citizenship.

11:44:18 5 Does that sound familiar?

11:44:22 6 A. They -- both federal and the state form are
11:44:24 7 processed the same.

11:44:30 8 Q. So if an applicant submits a federal form and
11:44:32 9 signs that citizenship affirmation, but does not
11:44:36 10 complete the citizenship checkbox, does your office
11:44:40 11 still register that voter?

11:44:42 12 A. Yes.

11:44:52 13 MR. ATKINS: That's all the questions I
11:44:53 14 have. Really appreciate it. Thank you.

11:44:55 15 THE WITNESS: Thank you.

11:45:04 16 MR. HORLEY: I'm not sure whether any of
11:45:06 17 the other plaintiffs have questions or, Jean, if now is
11:45:11 18 a good time for us to take the break that you discussed.

11:45:14 19 MS. ROOF: Yeah, let me -- can you give me
11:45:16 20 just a minute. Can you mute us? And I'll let you know,
11:45:19 21 if you just give me a minute.

11:45:21 22 MR. HEMSTREET: We'll go off the record.

11:45:23 23 THE VIDEOGRAPHER: We are off the record.

11:45:24 24 Time on the video monitor is 11:45 a.m.

12:02:47 25 (A recess was taken.)

12:33:25 1 THE VIDEOGRAPHER: We are on the record.
12:33:26 2 Time on the video monitor is 12:33 p.m.

12:33:32 3

12:33:33 4 EXAMINATION

12:33:33 5 BY MR. HORLEY:

12:33:33 6 Q. All right. Hello, Ms. Merriman. My name is
12:33:35 7 Tim Horley, and I am representing the State of Arizona
12:33:38 8 and the Arizona Attorney General in this case. Thanks
12:33:41 9 for your time. I may have just said good morning. I
12:33:44 10 think it's now afternoon. So I do have just a set of
12:33:50 11 questions, hopefully won't go too long. We're going to
12:33:53 12 look at a couple documents, but we'll try to have us out
12:33:56 13 of here expeditiously.

12:33:59 14 So my first set of questions is about sort of
12:34:04 15 implementing laws and how you understand these laws, as
12:34:07 16 plaintiffs asked you a lot about that.

12:34:10 17 So the first question is, will your office
12:34:12 18 adhere to whatever the court orders regarding the
12:34:16 19 implementation of these laws?

12:34:17 20 A. Yes.

12:34:20 21 Q. And you mentioned that some phrases in the
12:34:23 22 challenged laws are unclear; is that right?

12:34:27 23 A. To me.

12:34:29 24 Q. Would guidance from the Secretary of State be
12:34:32 25 helpful in resolving that?

12:34:36 1 A. I would -- yeah, I -- yeah, I think so, and I
12:34:39 2 would also utilize my County Attorney, if needed.

12:34:42 3 Q. Okay. And could that guidance from the
12:34:45 4 Secretary of State come in the form of an updated EPM?

12:34:48 5 A. Yes.

12:34:50 6 Q. And the EPM provides guidance on a lot of
12:34:53 7 voting laws, including laws on topics other than the
12:34:56 8 ones we've been talking about today, correct?

12:34:58 9 A. Yes.

12:35:00 10 Q. And you generally rely on the EPM to help
12:35:03 11 implement those other laws?

12:35:05 12 A. Yes.

12:35:07 13 Q. And would it be easy to implement all of those
12:35:10 14 laws without the EPM?

12:35:15 15 A. On my own?

12:35:18 16 Q. Yeah, if you didn't have the EPM guidance.

12:35:23 17 A. Well, as far as I know, I don't go outside the
12:35:29 18 EPM. So I rely on that to know how I'm supposed to be
12:35:34 19 processing. So I actually would have a hard time doing
12:35:36 20 it outside of the EPM, to be honest.

12:35:40 21 Q. Yes. So other voting laws might be difficult
12:35:44 22 to implement without guidance from the Secretary of
12:35:47 23 State, not just these laws, correct?

12:35:49 24 A. Correct.

12:35:52 25 Q. So the same thing is true for these laws that

12:35:55 1 is true for a lot of other voting laws?

12:35:56 2 A. Yes.

12:36:00 3 Q. Okay. Now, I want to talk a little bit about
12:36:04 4 verifying citizenship and the citizenship checkbox that
12:36:07 5 we talked about.

12:36:10 6 Does your office do anything to verify DPOC
12:36:13 7 when it is received?

12:36:17 8 A. Just the same as I had spoke before. We put
12:36:20 9 them through the AVID voter registration process and
12:36:23 10 click on the HAVA checks.

12:36:27 11 Q. So if there's a photocopy of a birth
12:36:29 12 certificate or a passport, does your office do anything
12:36:32 13 to verify the authenticity of that document?

12:36:36 14 A. We require the original document, and we will
12:36:43 15 utilize that too, but that's outside of like -- so we
12:36:50 16 verify that that is the person and we will use those
12:36:54 17 forms as ways to prove citizenship.

12:36:58 18 Q. Okay. And so I just want to be clear. You
12:37:00 19 require an original, not a photocopy; is that right?

12:37:07 20 A. I'm actually not certain. I would have to look
12:37:09 21 at the EPM, if it says we could accept a copy of it.
12:37:14 22 Most of the time people bring in their birth certificate
12:37:17 23 and we just make a copy of it from the original, if we
12:37:21 24 need to. So I would have to refer to the EPM if a copy
12:37:26 25 is acceptable.

12:37:30 1 Q. Okay. Understood. Thanks.

12:37:32 2 A. Oh --

12:37:33 3 Q. Yes. Go ahead.

12:37:34 4 A. I'm sorry. I actually believe that a copy of

12:37:38 5 the birth certificate is acceptable form.

12:37:43 6 Q. Okay. Understood.

12:37:44 7 And we talked a little bit or you spoke with

12:37:47 8 Mr. Atkins a little bit about the citizenship checkbox

12:37:50 9 that is on the state and federal forms. Do you think

12:37:54 10 that that information, the checkbox, provides you with

12:37:58 11 information on whether a voter is a citizen?

12:38:01 12 A. No.

12:38:05 13 Q. Why not?

12:38:07 14 A. Because the checkbox is just somebody saying.

12:38:12 15 Like it doesn't provide any way for me to check

12:38:16 16 anything. You know, so it's not providing any

12:38:18 17 information. The person is just checkmarking that box

12:38:21 18 saying that they are a citizen, but it's not verifiable.

12:38:28 19 Q. Okay. So if the person does not provide DPOC,

12:38:32 20 would it provide any information in that case?

12:38:35 21 A. No.

12:38:38 22 Q. What about if you ran a HAVA check and it was

12:38:43 23 unclear based on that whether that person was a citizen;

12:38:47 24 would it be helpful to know the answer to the checkbox

12:38:49 25 in that situation?

12:38:50 1 A. No.

12:38:57 2 Q. Okay. If someone were to mark no in the

12:39:01 3 citizenship checkbox, but also provided a copy of a

12:39:05 4 citizenship document, what would you do in that case?

12:39:13 5 A. I am not -- I've never had that happen. I

12:39:17 6 can't speak from experience. I would have to look at

12:39:19 7 the EPM and see if it has -- I don't know if it even has

12:39:23 8 any instructions on if they checkmark no. I would

12:39:27 9 confirm that they meant to checkmark that no.

12:39:32 10 Q. So is it fair to say that that would raise sort

12:39:35 11 of a red flag for your office?

12:39:38 12 A. It would pose a question for sure.

12:39:41 13 Q. And you would want to follow up with the voter

12:39:43 14 to understand why they marked no, correct?

12:39:47 15 A. Yes.

12:39:50 16 Q. Are there situations where someone could

12:39:53 17 renounce their U.S. citizenship?

12:39:56 18 A. Yes.

12:39:59 19 Q. So like, for example, maybe a person was born

12:40:02 20 in the United States, then moves to a different country,

12:40:05 21 let's say Canada, and then once they're in Canada they

12:40:09 22 renounce their United States citizenship.

12:40:12 23 So imagining that scenario, let's suppose that

12:40:15 24 that person comes to Graham County and fills out a voter

12:40:19 25 registration form and then that person provides a birth

12:40:24 1 certificate as DPOC showing a birthplace in the United
12:40:29 2 States, but also checks no on the citizenship checkbox.
12:40:33 3 In that case, would the citizenship checkbox be
12:40:36 4 material to determining whether the registrant is
12:40:39 5 eligible to vote?

12:40:41 6 A. I would probably have to refer to my County
12:40:45 7 Attorney and probably the Secretary of State's Office on
12:40:47 8 how to go forward with that. I've never had that
12:40:52 9 happen. I'm not really certain what the procedure would
12:40:56 10 be in that case.

12:40:59 11 Q. But would you agree that in that situation, you
12:41:03 12 know, that person does have DPOC, but they are, in fact,
12:41:06 13 not a citizen?

12:41:09 14 A. Right. So I would reach out to the voter to
12:41:11 15 ask why they answered that question as no.

12:41:17 16 Q. Right. And so in that case, answering that
12:41:20 17 question no might tell you, oh, this person isn't a U.S.
12:41:24 18 citizen, even though there might be some other data that
12:41:27 19 suggests they are a U.S. citizen?

12:41:30 20 A. Correct. But I would imagine that they still
12:41:32 21 would not come up in the system, in the HAVA checks.

12:41:38 22 Q. Yes, and I think that's -- I was also curious
12:41:41 23 to ask you about that. So if they came up in the HAVA
12:41:46 24 system, but they also had -- you know, and in the HAVA
12:41:48 25 check let's suppose that they were once had a driver's

12:41:51 1 license in Arizona or something when they were a U.S.
12:41:54 2 citizen. In that situation they've now renounced their
12:41:58 3 citizenship. So you run a HAVA check. It says they
12:42:00 4 still have this citizenship, but they've renounced.
12:42:03 5 Would it be helpful in that situation to see, oh,
12:42:06 6 they've marked no in the citizenship checkbox?
12:42:09 7 A. I would still have to handle it the same way
12:42:12 8 and refer to the County Attorney, contact the voter. I
12:42:19 9 would think if they renounced their citizenship, they
12:42:22 10 would no longer have a driver's license or a social
12:42:26 11 security in the system. Just my thought.
12:42:30 12 Q. Okay. But do you --
12:42:30 13 A. But I don't know.
12:42:31 14 Q. Yes, that's fair.
12:42:32 15 So do you know whether that kind of thing would
12:42:35 16 be updated in the system when they renounce their
12:42:38 17 citizenship?
12:42:39 18 A. I don't have knowledge of that.
12:42:42 19 Q. Okay. Thank you.
12:42:44 20 Now I want to ask a few questions about a
12:42:49 21 rather large spreadsheet that your office produced. So
12:42:55 22 I'm just going to pull that up. It's not in the folder
12:42:57 23 that was shared with you, but if it's all right with
12:42:59 24 everybody, I will just share the screen and then I can
12:43:02 25 send it around through the chat after, after I'm done

12:43:06 1 asking questions. Is that all right with you,
12:43:06 2 Ms. Merriman?

12:43:09 3 THE WITNESS: Is that okay?

12:43:10 4 MS. ROOF: Yeah, that's fine. I might
12:43:11 5 have -- is it what we produced as 375?

12:43:16 6 MR. HORLEY: That's right. Yeah.

12:43:18 7 MS. ROOF: Do you mind, just so she can
12:43:20 8 see it on a bigger screen, can I -- I think I have that,
12:43:23 9 but it will just take me a second to get it pulled up.
12:43:26 10 Is that okay?

12:43:28 11 MR. HORLEY: Yeah, absolutely. And we
12:43:28 12 could do it -- I could share the screen at the same
12:43:31 13 time, if that's helpful, or I could not, if that makes
12:43:33 14 sense.

12:43:34 15 MS. ROOF: Let's try just sharing the
12:43:36 16 screen and see if she's able to see it sufficiently, and
12:43:38 17 if she isn't, then I have another alternative to have
12:43:41 18 her see it, though.

12:43:43 19 MR. HORLEY: Okay. Thanks.

12:43:43 20 MR. MORGAN: I'd ask that you share the
12:43:44 21 screen anyway just so we can all see it too.

12:43:48 22 Thanks.

12:43:48 23 BY MR. HORLEY:

12:43:49 24 Q. Yeah, so it should be up now. Are you able to
12:43:50 25 see that, Ms. Merriman?

12:43:53 1 A. Yes.

12:43:54 2 Q. Okay, great. And do you recognize this

12:43:59 3 document?

12:44:00 4 A. I did not produce this document, but it looks

12:44:03 5 like it would be a status report out of AVID's system.

12:44:12 6 Q. Okay. And I'm not sure if you can see it on

12:44:17 7 the screen share, but do you see up here it says

12:44:20 8 GRAHAM000375?

12:44:22 9 A. Yes.

12:44:26 10 Q. Okay. Great.

12:44:27 11 MR. HORLEY: I would like to mark this as

12:44:28 12 Exhibit, I believe we're at number 258; is that right,

12:44:38 13 Jody?

12:44:38 14 THE COURT REPORTER: It is.

12:44:40 15 BY MR. HORLEY:

12:44:41 16 Q. So I see here there's a column for "Status" and

12:44:46 17 then a column for "Status Reason." Am I reading that

12:44:50 18 correctly?

12:44:51 19 A. Yes.

12:44:53 20 Q. So that shows what's someone's registration

12:44:56 21 status and the reason why; is that right?

12:44:59 22 A. Yes.

12:45:00 23 Q. And then over here there's a column that says

12:45:03 24 "Citizenship Verified," is that right?

12:45:05 25 A. Yes.

12:45:06 1 Q. And so if it says "Yes," that means they've
12:45:09 2 been verified as a U.S. citizen; "No," they have not
12:45:11 3 been verified as a U.S. citizen?

12:45:14 4 A. Yes.

12:45:14 5 Q. Okay. And then we talked a lot about the
12:45:18 6 different categories of federal voters. So there's
12:45:21 7 "Federal-ID Only" and "Federal-No ID." So these columns
12:45:25 8 tell us whether that person falls into one of those two
12:45:29 9 categories; is that right?

12:45:30 10 A. Yes.

12:45:33 11 Q. And then over here I see some dates. So it
12:45:37 12 shows a "Registration Date" in these two columns and
12:45:40 13 then the "Date of Change," is that right?

12:45:42 14 A. Yes.

12:45:44 15 Q. And does that "Effective Date of Change" tell
12:45:47 16 us when their status was updated?

12:45:51 17 A. Not always. There are certain times that a
12:45:57 18 status reason would not change the effective date. Say
12:46:02 19 the voter called or filled out a form to change a phone
12:46:07 20 number. That date might not have gotten changed.

12:46:14 21 Q. Okay. Understood. Okay.
12:46:16 22 So I am going to take us down to one of these
12:46:21 23 rows. I'm going to draw your attention to Row 258.

12:46:29 24 A. Okay.

12:46:29 25 Q. Do you see this row, Ms. Merriman?

12:46:32 1 A. Yes, I do.

12:46:34 2 Q. And it says that the person's status is not

12:46:38 3 eligible, and the reason is invalid citizenship proof;

12:46:38 4 is that right?

12:46:41 5 A. Yes.

12:46:43 6 Q. So can you explain what that means?

12:46:46 7 A. So that means that the person registered to

12:46:48 8 vote and they did not -- either they did not provide

12:46:53 9 proof of citizenship or the system could not match their

12:46:58 10 citizenship.

12:47:01 11 So back in -- that happened in 2014. That was

12:47:06 12 prior to my time in the Recorder's Office, but I'm aware

12:47:09 13 that in 2014 there were different rules in processing

12:47:13 14 voters that had unmatched citizenship.

12:47:18 15 Q. Okay. Understood.

12:47:18 16 And so in that case, was this person's

12:47:21 17 registration rejected?

12:47:24 18 A. So we don't reject. They're just not eligible

12:47:31 19 until they provide further proof.

12:47:35 20 Q. Okay. And in these situations, like you said,

12:47:37 21 you would provide notice to the voter and then give them

12:47:39 22 a chance to provide that proof, correct?

12:47:40 23 A. Yes.

12:47:43 24 Q. Okay. All right. Now I'm going to take a look

12:47:47 25 at another row. Row 566 here, do you see that,

12:48:04 1 Ms. Merriman?

12:48:04 2 A. Five-six -- yes.

12:48:07 3 Q. Okay. And then this is sort of the same thing

12:48:10 4 here; is that right?

12:48:11 5 A. Yes, that's going to be the same reason for

12:48:13 6 that.

12:48:18 7 Q. Okay. And here -- well, I'm sorry. I got a

12:48:25 8 little lost.

12:48:25 9 So I'm noticing that in this one, in the

12:48:30 10 "Citizenship Verified" column -- sorry, let me get us

12:48:33 11 back there.

12:48:40 12 In the "Citizenship Verified" column it says

12:48:43 13 the citizenship was verified; is that right?

12:48:49 14 A. Yeah, it says that in that column.

12:48:51 15 Q. Can you explain why it would say that if there

12:48:55 16 was invalid citizenship proof?

12:48:56 17 A. I cannot say why that says "Yes."

12:49:01 18 Q. So does that seem like there may have been

12:49:04 19 perhaps an error in inputting the data here?

12:49:08 20 A. Or there was an error in processing this

12:49:11 21 report.

12:49:15 22 Q. Okay. Understood. All right. So now I've got

12:49:21 23 one more row here. It's way down.

12:49:37 24 Okay. So this row, it's Row 6272; do you see

12:49:41 25 that?

12:49:41 1 A. Yes.

12:49:41 2 Q. Oh, and I see that this person is listed as
12:49:44 3 active and valid registration; is that right?

12:49:47 4 A. Yes.

12:49:49 5 Q. And then I see again in the "Citizenship
12:49:51 6 Verified" column it says "No." So could you explain why
12:49:55 7 that is?

12:49:57 8 A. Again, it could be just something in the way
12:50:03 9 that the report was processed or -- I don't know. I
12:50:10 10 could think of a time like so if the -- if they were not
12:50:17 11 eligible at some point, like the system didn't match
12:50:19 12 them and we sent a letter and the voter provided a
12:50:24 13 certificate of birth, we may have failed to mark that
12:50:30 14 box to "Yes," they were citizenship verified, because
12:50:34 15 you -- I mean you have to checkmark that when you
12:50:36 16 manually process. So that could have been missed.

12:50:42 17 Q. Okay. Understood.

12:50:43 18 So could it also have been the case that this
12:50:46 19 person did not provide DPOC or their citizenship
12:50:50 20 otherwise wasn't verified, but they were nonetheless
12:50:53 21 registered as an active voter?

12:50:56 22 A. That's very unlikely. I'm not saying that we
12:51:00 23 don't make errors, but it's very unlikely that they
12:51:03 24 would be active valid without any kind of citizenship
12:51:07 25 proof.

12:51:10 1 Q. Okay. And I see here in these -- the columns
12:51:13 2 that deal with whether they're a fed -- a fed only voter
12:51:17 3 it also --

12:51:17 4 A. Right.

12:51:18 5 Q. So that would mean that they were registered as
12:51:20 6 a full ballot voter; is that right?

12:51:22 7 A. Correct.

12:51:23 8 Q. So this could have been a situation where
12:51:26 9 someone's citizenship was not verified, but they were
12:51:28 10 registered as a full ballot voter?

12:51:32 11 A. Again, I would say that's not likely. I would
12:51:35 12 believe it was more like they provided a different type
12:51:40 13 form of proof, like a birth certificate or an
12:51:43 14 out-of-state enhanced driver's license, and the user
12:51:47 15 failed to checkmark the citizenship box as verified.

12:51:53 16 Q. Okay. Understood. Thank you.

12:51:55 17 And then just for the record, I just want to
12:51:56 18 make clear that it looks like the "Registration Date"
12:51:59 19 was October 8th, 2018, and then the "Date of Change" is
12:52:04 20 also October 8th, 2018; is that right?

12:52:07 21 A. Yes.

12:52:08 22 Q. Okay. Great. That's all I have on that
12:52:10 23 document. So I'm going to close out of that.

12:52:18 24 Okay. And I have a few questions about some of
12:52:27 25 the databases that we've talked about today. Does your

12:52:30 1 office consider the MVD data that the AVID system uses

12:52:35 2 to be generally reliable?

12:52:37 3 A. Generally. Yes.

12:52:41 4 Q. Yes.

12:52:42 5 And we talked a little bit about a situation

12:52:44 6 where a naturalized citizen's information hasn't been

12:52:49 7 updated in the AVID database yet, so when you check it,

12:52:53 8 it shows that they're not a citizen, even though they

12:52:56 9 are, in fact, a citizen.

12:52:58 10 In that situation, can that voter easily fix

12:53:02 11 the situation by sending you a copy of the

12:53:04 12 naturalization certificate?

12:53:09 13 MR. ATKINS: Objection, form.

12:53:10 14 THE WITNESS: I believe they could provide

12:53:12 15 a copy of the naturalization, but I don't know if -- if

12:53:16 16 it had to be the original, then they would have to bring

12:53:20 17 the original in.

12:53:22 18 BY MR. HORLEY:

12:53:22 19 Q. Okay. But either way, in that situation you

12:53:24 20 mentioned that you would send them a notice, so then

12:53:27 21 they could fix that situation by providing you all with

12:53:30 22 the necessary documents?

12:53:33 23 A. Yes.

12:53:34 24 Q. Okay. Thank you.

12:53:37 25 And you mentioned that your office uses SAVE

12:53:40 1 sometimes, but you don't have a lot of familiarity with
12:53:44 2 using it. Do you consider the SAVE system to be
12:53:47 3 generally reliable?

12:53:50 4 A. I don't have any experience using it, but I
12:53:53 5 would assume that it would be a reliable source.

12:53:59 6 Q. Okay. And then you also mentioned -- I just
12:54:01 7 wanted to be clear. We talked a little bit about Social
12:54:04 8 Security and the fact that the HAVA check also checks
12:54:07 9 whether someone has a social security number. So in
12:54:10 10 your view, does someone having a social security number
12:54:13 11 demonstrate that that person is a U.S. citizen?

12:54:17 12 A. If it comes back with a match, I believe so.

12:54:22 13 Q. Okay. And if someone did not have a social
12:54:26 14 security number, would that indicate that they are not a
12:54:29 15 U.S. citizen?

12:54:30 16 A. If they didn't provide it?

12:54:35 17 Q. Yes, or if there was no match on the social
12:54:39 18 security.

12:54:40 19 A. Not necessarily. If it doesn't match, we just
12:54:44 20 reach out to the voter.

12:54:48 21 Q. Okay. And is it possible that someone who is
12:54:51 22 not a U.S. citizen, maybe they're a green card holder,
12:54:55 23 they would still have a social security number?

12:55:03 24 A. I'm -- I don't have any knowledge of that. I'm
12:55:07 25 not sure whether they get a social security card or not.

12:55:11 1 Q. Okay. Understood. All right.

12:55:13 2 Now, I wanted to ask you some questions about

12:55:17 3 birthplace. So if you have a place where voters can

12:55:24 4 fill out the optional birthplace field, your office does

12:55:27 5 not actively track whether someone enters that

12:55:31 6 information, correct?

12:55:32 7 A. Correct. Yes.

12:55:36 8 Q. In your experience, though, do voters usually

12:55:39 9 include their birthplace on their form?

12:55:43 10 A. It's a 50/50.

12:55:48 11 Q. 50/50? Okay.

12:55:51 12 And now I want to look at another document that

12:55:55 13 you all produced, and this is the 2019 EPM, and I'm

12:56:01 14 aware that we've already had this as an exhibit, but I

12:56:03 15 think that the version you all produced is a little bit

12:56:08 16 larger, so I think it might just be easier if I enter

12:56:10 17 the version that your office shared. So if it's all

12:56:14 18 right with everybody, I'm just going to screen share

12:56:16 19 this one again as well. Does that work for you,

12:56:20 20 Ms. Merriman?

12:56:20 21 A. Yes.

12:56:23 22 Q. Okay.

12:56:29 23 Okay. Can you see that?

12:56:29 24 A. Yes.

12:56:33 25 Q. Okay. And do you recognize this document?

12:56:35 1 A. Yes.

12:56:37 2 Q. And so this is the 2019 EPM that your office
12:56:41 3 produced in discovery in this case?

12:56:44 4 A. Yes.

12:56:46 5 Q. Okay. I would like to mark this as
12:56:48 6 Exhibit 259.

12:56:53 7 So I want to draw your attention here to the
12:56:58 8 bottom of Page 4, top of Page 5. So do you see where it
12:57:05 9 says "Birth Certificate" here?

12:57:06 10 A. Yes.

12:57:09 11 Q. Okay. And then it says, "A registrant may
12:57:12 12 submit a legible copy of the registrant's birth
12:57:16 13 certificate from any U.S. state or territory as
12:57:18 14 satisfactory DPOC. ARS 16-166(F)(2). For U.S. citizens
12:57:26 15 born abroad, a Certificate of Report of Birth or
12:57:28 16 Consular Report of Birth Abroad issued by a consular
12:57:29 17 officer from the U.S. Department of State will suffice
12:57:32 18 for a birth certificate."

12:57:33 19 Did I read that correctly?

12:57:34 20 A. Yes.

12:57:35 21 Q. And then it goes on. "The registrant must
12:57:37 22 supply supporting legal documentation (such as a
12:57:40 23 marriage certificate or court-documented name change) if
12:57:42 24 the name on the birth certificate or document is not the
12:57:45 25 registrant's current legal name."

12:57:45 1 Is that right?

12:57:48 2 A. Right. Yes.

12:57:49 3 Q. Okay. And then it says, "If the registrant

12:57:51 4 cannot provide supporting legal documentation to account

12:57:54 5 for a different last name, a County Recorder must accept

12:57:58 6 the birth certificate or document if at least the

12:58:01 7 following information matches on both the birth

12:58:04 8 certificate or document and the registration form."

12:58:06 9 Is that right?

12:58:07 10 A. Yes.

12:58:09 11 Q. And then it lists the things to match, and it

12:58:12 12 says "First name; Middle name; Place of birth; Date of

12:58:17 13 birth; and Parents' names."

12:58:21 14 Did I read that right?

12:58:23 15 A. Yes.

12:58:24 16 Q. So in this situation it would be important to

12:58:28 17 know the registrant's place of birth; is that right?

12:58:32 18 A. Yes.

12:58:34 19 Q. And so it would be helpful if the person filled

12:58:38 20 in their place of birth information on their voter

12:58:40 21 registration form?

12:58:41 22 A. Yes.

12:58:43 23 Q. And that would be material to you being able to

12:58:46 24 tell whether that person was eligible to vote?

12:58:52 25 MR. ATKINS: Objection, form.

12:58:54 1 THE WITNESS: It would be helpful in
12:58:55 2 matching the information on the birth certificate if the
12:58:59 3 registrant's last name did not match.

12:59:08 4 BY MR. HORLEY:

12:59:08 5 Q. Okay. And, now, next I'm going to look at the
12:59:10 6 same page here where it says "U.S. Passport." Do you
12:59:13 7 see that?

12:59:13 8 A. Yes.

12:59:16 9 Q. Okay. And then I'm just going to read this
12:59:17 10 quickly as well. So it says, "A registrant may submit a
12:59:21 11 legible copy of the pertinent pages of the registrant's
12:59:24 12 U.S. passport or passport card, or present the
12:59:28 13 registrant's U.S. passport or passport card to the
12:59:29 14 County Recorder, as DPOC. ARS 16-166(F)(3)."

12:59:35 15 Is that right?

12:59:35 16 A. Yes.

12:59:36 17 Q. And then it says, "The pertinent pages of a
12:59:39 18 U.S. passport are those that contain the photo, passport
12:59:42 19 number, name, nationality, date of birth, gender, place
12:59:48 20 of birth and signature (if applicable)."

12:59:50 21 Is that right?

12:59:51 22 A. Yes.

12:59:54 23 Q. So in that situation, when you're looking at
12:59:57 24 someone's passport as DPOC, is it helpful to know what
01:00:00 25 their place of birth is?

01:00:03 1 A. We could utilize it to match, yes.

01:00:10 2 Q. Okay. All right. And now I want to look at

01:00:16 3 another page lower down here.

01:00:23 4 So here on Page 34 I'm looking at where it says

01:00:27 5 "C. Other Sources of Information on Deceased

01:00:30 6 Registrants." Do you see that?

01:00:31 7 A. Yes.

01:00:32 8 Q. Okay. So and then it says, "A County Recorder

01:00:34 9 may also cancel a registrant's record if the County

01:00:38 10 Recorder determines that the registrant is deceased

01:00:40 11 based on other reliable sources, see ARS 16-165(A)(2),

01:00:46 12 including, but not limited to, death notices received by

01:00:48 13 the County Recorder's Office and an affidavit of death

01:00:52 14 from the registrant's next of kin. A County Recorder

01:00:55 15 should match as much information as possible (including

01:00:58 16 first name, last name, maiden name (if applicable), year

01:01:02 17 of birth, place of birth, and city or town of residence)

01:01:06 18 and be reasonably certain that a true match exists

01:01:09 19 before canceling a registrant."

01:01:12 20 Did I read that correctly?

01:01:13 21 A. Yes.

01:01:15 22 Q. And so in that situation, would it be helpful

01:01:18 23 to know what the voter's place of birth is?

01:01:26 24 A. I'm not certain, because I don't believe that

01:01:29 25 our affidavit that the next of kin fills out has that

01:01:33 1 information; but if it's there, it would be utilized.

01:01:37 2 It could be utilized.

01:01:40 3 Q. So in that situation it would be helpful if the

01:01:43 4 person included their place of birth on a voter

01:01:45 5 registration form?

01:01:46 6 A. It could be.

01:01:49 7 Q. Would you say it would be important that they

01:01:51 8 did so?

01:01:54 9 A. I wouldn't say it would be important. I feel

01:01:56 10 like we would verify the other items.

01:02:01 11 Q. Okay. But you could --

01:02:03 12 A. That we do currently. Sorry.

01:02:06 13 Q. No, go ahead.

01:02:07 14 A. We currently verify the other items.

01:02:12 15 Q. And you -- do you verify place of birth as

01:02:15 16 well?

01:02:15 17 A. No.

01:02:18 18 Q. Okay. All right. One more page on this.

01:02:21 19 Thank you for bearing with me as we go through this.

01:02:24 20 So on Page 48, I'm looking at where it says,

01:02:30 21 "5. Minimum Requirements for Requesting a

01:02:34 22 Ballot-by-Mail." Do you see that?

01:02:35 23 A. Yes.

01:02:36 24 Q. And then it says, "In order for the County

01:02:39 25 Recorder to process a ballot-by-mail request, the

01:02:42 1 request must contain at least the following information:
01:02:45 2 The voter's name; The voter's residential address; The
01:02:48 3 voter's date of birth; at least one of the following:
01:02:54 4 The voter's state or country of birth; or Another piece
01:02:58 5 of information that, if compared to the voter's record,
01:03:01 6 would confirm the voter's identity, such as the AZDL/ID
01:03:05 7 number or SSN4, father's name, or mother's maiden name."
01:03:09 8 Is that right?
01:03:10 9 A. Yes.
01:03:14 10 Q. So in this situation where you're looking at
01:03:16 11 the requirements for requesting a ballot by mail, would
01:03:19 12 it be helpful if the person had filled in their
01:03:22 13 birthplace on their registration form?
01:03:25 14 A. Not necessarily, because we process the ballot
01:03:30 15 request separately, and our ballot request might
01:03:34 16 actually -- it is one of the items that we put on there,
01:03:39 17 that the voter could provide their state or country of
01:03:42 18 birth, but they do not have to provide it if they
01:03:46 19 provide the other items. So as far as like we'll
01:03:51 20 compare the place of birth on a ballot request versus
01:03:56 21 the voter's registration record. So it's just not
01:03:59 22 something that we would compare, probably. But if it
01:04:02 23 was there and we could utilize it, we might likely
01:04:07 24 utilize it.
01:04:09 25 Q. Okay. And that's because the EPM instructs

01:04:12 1 that that is one of the things that could be used to
01:04:16 2 ensure that they have a valid ballot by mail request; is
01:04:16 3 that right?

01:04:22 4 A. Right.

01:04:26 5 Q. Okay. All right. Thank you.

01:04:31 6 So that is all I have for --

01:04:33 7 MR. HORLEY: Oh, and I'm not sure if I
01:04:34 8 marked this document. This would be Exhibit 259.

01:04:40 9 THE COURT REPORTER: We did.

01:04:42 10 MR. HORLEY: Okay. Thank you.

01:04:47 11 BY MR. HORLEY:

01:04:48 12 Q. All right. So if there was a discrepancy
01:04:50 13 between two applications who had the same name, same
01:04:54 14 address, but listed two different places of birth, how
01:04:57 15 would your office address that?

01:05:02 16 A. In the past, if we've had that, we just put
01:05:06 17 whatever they put on their current form. We don't look
01:05:10 18 into why they put one state over a different state. You
01:05:18 19 know, we don't question why they changed their state of
01:05:21 20 birth.

01:05:23 21 Q. Okay. So you would treat that as a single
01:05:26 22 registrant, not as multiple people?

01:05:28 23 A. Right. Right. If all the other information
01:05:32 24 matched, we would just enter the new state of birth on
01:05:35 25 the new registration form in the current record.

01:05:40 1 Q. Okay. Understood.

01:05:42 2 And if a court or the Secretary of State issued
01:05:46 3 guidance that the county should change how it uses
01:05:49 4 birthplace information, would you follow that guidance?

01:05:52 5 A. If he -- if the Secretary of State put it in
01:05:55 6 the EPM?

01:05:57 7 Q. Yes.

01:05:57 8 A. Yes.

01:05:59 9 Q. Or if a court ordered that you change how you
01:06:02 10 use it, you would follow that guidance as well?

01:06:05 11 A. Yes.

01:06:06 12 Q. Okay. Almost towards the end. Just a few more
01:06:12 13 questions. Thank you again.

01:06:13 14 So I wanted to ask a little bit about
01:06:16 15 third-party voter registration drives. Do you ever
01:06:21 16 receive registration forms from third-party voter
01:06:24 17 registration organizations that conduct registration
01:06:27 18 drives?

01:06:27 19 A. Yes.

01:06:28 20 Q. I'm sorry, what was -- okay.

01:06:31 21 And we've heard from some of the other County
01:06:34 22 Recorders that they've received large numbers of voter
01:06:37 23 registration forms from such drives that have false
01:06:40 24 information; for example, totally false names,
01:06:45 25 identities, false driver's license numbers or things

01:06:48 1 like that.

01:06:49 2 Has your office experienced that?

01:06:51 3 A. We did in 2022.

01:06:56 4 Q. Okay. And could you just describe what
01:06:59 5 happened in 2022 with that?

01:07:02 6 A. So we received it was about 17 or 18 voter
01:07:10 7 registration forms that were turned in to Maricopa
01:07:14 8 County through a third-party registration drive, and in
01:07:19 9 looking at the voter registration forms, they were
01:07:23 10 either already registered and the data was completely
01:07:28 11 off or it matched some of the data, but not all of the
01:07:31 12 data. The signature would be completely different or
01:07:36 13 like the first name would be the middle name and the
01:07:38 14 middle name would be the first name. So there were like
01:07:40 15 differences.

01:07:41 16 And so we did reach out to some of the voters
01:07:44 17 and found that they did not fill out that form. So we
01:07:48 18 sent all those forms on to the County Attorney's Office
01:07:51 19 and we set them aside and did not process them.

01:07:55 20 Q. Okay. Understood.

01:07:56 21 And I just wanted to double-check. You said at
01:07:58 22 the beginning, I think -- I may have misheard you. You
01:08:01 23 said they turned it in to Maricopa County, but did they
01:08:03 24 turn it in to Graham County?

01:08:05 25 A. So they turned them -- the third-party

01:08:08 1 submitter sent all those forms in to Maricopa County.
01:08:11 2 Then Maricopa County took all of the forms that belonged
01:08:14 3 to each of the counties and sent them, you know,
01:08:18 4 forwarded them on to the correct counties. That's why
01:08:21 5 I'm not sure. We had 17 or 18. One of them was not our
01:08:24 6 county, and we had to forward it on to Cochise. So they
01:08:30 7 were turned in to Maricopa, but the forms were all sent
01:08:33 8 to us to be processed.

01:08:36 9 Q. Okay. Understood.

01:08:39 10 So you said that you referred that to the
01:08:44 11 County Attorney's Office. Can you explain why you did
01:08:47 12 that?

01:08:49 13 A. Because we realized that there was -- they were
01:08:52 14 fraudulent, and we weren't certain how to handle it, so
01:08:55 15 Wendy felt like we should advise the County Attorney
01:08:59 16 that it was happening and that we were putting those
01:09:02 17 forms off to the side and we were not processing them.

01:09:08 18 Q. Okay. And would you consider that, those
01:09:11 19 forms, as being fraudulent attempts to register to vote?

01:09:15 20 A. I actually think those were forms filled out by
01:09:19 21 people that were paid to turn in voter registration
01:09:21 22 forms. I do not believe that the voter was creating
01:09:25 23 fraud. I believe that there was a third-party person
01:09:28 24 that was committing fraud by filling out those forms.

01:09:32 25 Q. Okay. Understood.

01:09:33 1 And do you recall which organization it was
01:09:36 2 that turned in those forms?

01:09:39 3 A. I do not recall the organization. I don't
01:09:41 4 think it was one single organization, as it was like
01:09:47 5 voter registration drives. I know each one of the forms
01:09:50 6 had some sort of code stamp on them which told who in
01:09:58 7 that -- I guess in Maricopa County the code meant
01:10:02 8 something to them over who that third-party submitter
01:10:06 9 was, but I am not aware of who it was.

01:10:12 10 Q. Okay. Thanks.

01:10:14 11 And then I wanted to ask a little bit more
01:10:15 12 about the HAVA checks on AVID. So when you are checking
01:10:20 13 a registrant's identity on AVID, is it possible that
01:10:25 14 there could be a false positive match?

01:10:29 15 A. I'm not aware of it.

01:10:33 16 Q. But is it possible that that could happen?

01:10:38 17 A. In my recollection, no. I don't think that it
01:10:42 18 could falsely match it.

01:10:48 19 Q. Okay. And then the last set of questions.

01:10:53 20 Your office does not investigate potential cases of
01:10:56 21 voter fraud, correct?

01:10:58 22 A. We do not, no.

01:11:01 23 Q. Your office isn't responsible for prosecuting
01:11:03 24 cases of voter fraud?

01:11:04 25 A. No.

01:11:07 1 Q. And so you don't keep any records on whether
01:11:10 2 there is or is not voter fraud in Graham County?

01:11:15 3 A. If -- like pertaining to those 17 or 18
01:11:19 4 registration forms, we kept them on hand in case
01:11:22 5 anything came out of it statewide, we could provide
01:11:25 6 those forms, if necessary; but that is all that we do.

01:11:31 7 Q. Okay. And so do you recall any instances of
01:11:34 8 voter fraud of any kind in Graham County since you've
01:11:37 9 been there?

01:11:38 10 A. No.

01:11:40 11 Q. Okay. And that could be because that is not
01:11:42 12 something that your office tracks or is responsible for
01:11:45 13 tracking; is that right?

01:11:47 14 A. Right.

01:11:50 15 Q. Okay.

01:11:51 16 MR. HORLEY: All right. Those are all my
01:11:52 17 questions. Thank you very much, Ms. Merriman.
01:11:53 18 Appreciate your time.

01:11:55 19 THE WITNESS: Thank you.

01:11:55 20

01:11:57 21 EXAMINATION

01:11:57 22 BY MR. LANGHOFER:

01:11:57 23 Q. Good afternoon, ma'am. My name is Kory
01:12:00 24 Langhofer, and I represent the RNC. I think I have just
01:12:02 25 three questions for you, because, mercifully, most of

01:12:06 1 the questions I had have been asked by people that came
01:12:08 2 before me.

01:12:09 3 The first thing I'm going to do is show you
01:12:16 4 a -- the EPM. I think it's already been marked as
01:12:19 5 Exhibit 259.

01:12:23 6 Here we go. And you can see that okay?

01:12:26 7 A. Yes.

01:12:27 8 Q. All right. And I'm on Page 206 of the EPM
01:12:31 9 here, and just for context I'll scroll back up to 205.
01:12:35 10 You can see where in this section it talks about
01:12:37 11 verifying provisional ballot status.

01:12:40 12 You're familiar with provisional ballots, I
01:12:42 13 take it?

01:12:42 14 A. Yes.

01:12:44 15 Q. So I want to look at the last paragraph here.
01:12:48 16 Is that big enough on your screen for you to read it?
01:12:50 17 You don't have to read it out loud. I just want to see
01:12:53 18 if you can read it.

01:12:53 19 A. I can, except like the right side is blocked
01:12:57 20 from the --

01:12:58 21 Q. Oh, I'm sorry. Is that any better?

01:13:00 22 A. -- all the videos.

01:13:04 23 I don't know how to -- how do I get that off?
01:13:08 24 Do I just minimize?

01:13:10 25 Q. Is that better?

01:13:11 1 A. Oh, there. I can read it all there, yeah.

01:13:19 2 Q. Let me know when you're done.

01:13:35 3 A. Okay.

01:13:36 4 Q. All right. And you would agree with me that

01:13:38 5 this paragraph gives you another instance in which it

01:13:44 6 would be appropriate for your office to use birthplace?

01:13:47 7 A. Yes.

01:13:52 8 Q. All right. Let me try to take off my screen

01:13:53 9 share, if I can manage that technologically.

01:13:57 10 So the second question I have for you is, when

01:14:03 11 someone fills out the state form and they don't attach

01:14:06 12 to that DPOC and the HAVA check doesn't return --

01:14:12 13 doesn't show they've previously proven their

01:14:15 14 citizenship, so you have to send a notification to the

01:14:18 15 voter saying, hey, we don't -- we can't confirm your

01:14:21 16 citizenship and so you need to send it in to us in order

01:14:24 17 to register. In those circumstances, how common is it

01:14:30 18 for the voter to respond and actually provide

01:14:34 19 documentary proof of their citizenship?

01:14:36 20 A. Uncommon.

01:14:37 21 Q. Okay. Less than half?

01:14:42 22 A. It's less than an eighth.

01:14:44 23 Q. Okay. Do you know why that is?

01:14:48 24 A. I don't. I have 47 fed voters right now, and

01:14:51 25 every single one of them have received a letter, have

01:14:55 1 the ability to provide the information. Several of them
01:14:59 2 I know are citizens. They just have out-of-state
01:15:04 3 driver's license because they're -- they don't want to
01:15:06 4 change their driver's license, and for whatever reason
01:15:09 5 they don't bring it in or provide a copy.

01:15:12 6 Q. Okay. You say you know they're citizens. How
01:15:16 7 do you know that they're citizens?

01:15:19 8 A. Through church.

01:15:20 9 Q. Does your church check passports?

01:15:23 10 A. Well, no. I shouldn't say that I know that
01:15:26 11 they're citi -- I mean I know that they've been in -- I
01:15:28 12 shouldn't say that. I should strike that. I don't know
01:15:31 13 that they're a U.S. citizen. I know that they've been
01:15:34 14 in the U.S. for a very long time.

01:15:42 15 Q. Last question I've got for you is a
01:15:48 16 hypothetical. So another example about how you might be
01:15:52 17 able to use the birthplace. On the state form the
01:15:58 18 required information includes birth date, but not place
01:16:03 19 of birth or social security, correct?

01:16:05 20 A. Correct.

01:16:07 21 Q. So if you received on -- let's just say on a
01:16:12 22 given day. On, you know, Tuesday, since Monday's a
01:16:15 23 holiday, you receive two voter registration forms. Same
01:16:18 24 name, as it happens. The address could be the same or
01:16:21 25 it could be different. Let's go with different, because

01:16:24 1 Tim's already asked you about the same address. And
01:16:26 2 funny enough, the birth date is the same. But they
01:16:30 3 provided different places of birth.

01:16:34 4 Would you determine that that's the same person
01:16:36 5 or two different people?

01:16:39 6 A. I would likely treat them as two different
01:16:42 7 people and send the letter to each person at each
01:16:48 8 individual address.

01:16:49 9 Q. Based on the different places of birth?

01:16:54 10 A. Well, based on that I don't have a whole lot
01:16:57 11 other information to go off of that they would be the
01:16:59 12 same person, unless you're saying in this hypothetical
01:17:02 13 question that they have the same social, same date of
01:17:05 14 birth, same name, but a different birthplace. I would
01:17:09 15 treat them as the same person. But if all the data is
01:17:13 16 different, I would treat them as individuals.

01:17:16 17 Q. Yeah, I'm imagining a situation where someone
01:17:20 18 just leaves their social off, because it's an optional
01:17:22 19 field and they may not want to give it for one reason or
01:17:27 20 another. Does that change your answer?

01:17:28 21 A. Same name, but different birthplace?

01:17:30 22 Q. (Nodded.)

01:17:31 23 A. Same date of birth?

01:17:32 24 Q. Yes, ma'am.

01:17:33 25 A. I would likely think they were the same person.

01:17:37 1 Q. I'm sorry, different -- you might have just
01:17:40 2 said the same place of birth. I'm saying the name's the
01:17:43 3 same, the birth date's the same, but the place of birth
01:17:46 4 is different.

01:17:49 5 A. I would still have reason to believe that's the
01:17:51 6 same person, and so I would reach out to the most recent
01:17:57 7 voter registration form and send a letter.

01:18:03 8 Q. And you would think it's the same -- what if
01:18:05 9 it's a common name, like Joe Smith?

01:18:10 10 A. And you said different addresses?

01:18:12 11 Q. Correct.

01:18:13 12 A. Okay. Different addresses, I would treat them
01:18:16 13 as individual voters, and I would send a letter to each
01:18:19 14 person at the address that they listed. If I found that
01:18:23 15 they were one and the same, then I would merge the
01:18:26 16 record.

01:18:27 17 Q. Okay.

01:18:29 18 MR. LANGHOFER: That's all the questions I
01:18:30 19 had for you. I really appreciate your time.

01:18:32 20 Any other questions on the defense
01:18:33 21 side?

01:18:39 22 Hearing none, Robbie, any more questions
01:18:41 23 on the plaintiff side?

01:18:43 24 MR. HEMSTREET: I have just one
01:18:44 25 question.

01:18:45 1 RE-EXAMINATION

01:18:45 2 BY MR. HEMSTREET:

01:18:48 3 Q. Regarding, Ms. Merriman, the fed only voters

01:18:50 4 that you know personally through church, do you know if

01:18:53 5 any of those individuals were born in the U.S.?

01:18:56 6 A. I believe they're born in the U.S. They have

01:18:59 7 church records that date back to -- like they date back

01:19:04 8 a ways. What they said is they just don't want to

01:19:07 9 change their driver's license.

01:19:09 10 Whether they're going to bring in their stuff

01:19:11 11 prior to the election? They might. Right now nobody's

01:19:14 12 really worried about it because there isn't an election

01:19:17 13 this year.

01:19:19 14 Q. Fair enough.

01:19:20 15 And from those church records, though, do you

01:19:21 16 have reason -- do the church records --

01:19:23 17 A. I'm sorry?

01:19:24 18 Q. I'm sorry. Do the church records indicate,

01:19:26 19 though, that they were born in the U.S.?

01:19:29 20 A. I believe they would. I don't know. I just

01:19:33 21 know these -- I know two people that recently voted, and

01:19:36 22 they're fed voters that have been here for a long time,

01:19:39 23 but they've maintained their out-of-state driver's

01:19:44 24 license.

01:19:44 25 MR. HEMSTREET: And, Alex, I saw you come

01:19:46 1 on. Do you have any other questions?

01:19:48 2 MR. ATKINS: Yeah, I just have a few
01:19:50 3 follow-up questions.

01:19:50 4

01:19:53 5 RE-EXAMINATION

01:19:53 6 BY MR. ATKINS:

01:19:54 7 Q. Ms. Merriman, can you just remind us all how
01:19:57 8 long you've worked in election administration in Graham
01:20:01 9 County?

01:20:01 10 A. Okay. So I started at the Graham County
01:20:04 11 Recorder's Office in February of 2016.

01:20:08 12 Q. Okay. And in your time working for the Graham
01:20:12 13 County Recorder's Office, have you ever encountered a
01:20:15 14 voter who renounced their citizenship?

01:20:18 15 A. No.

01:20:23 16 Q. Are you able to say approximately how often
01:20:26 17 applicants provide a birth certificate as DPOC?

01:20:35 18 A. Typically, not often, but we do get high school
01:20:39 19 voter registration forms from junior/senior students,
01:20:43 20 and the teacher will always have the student provide a
01:20:47 21 birth certificate, a copy of the birth certificate to
01:20:51 22 go along with the form, just so that we have that
01:20:55 23 information if it is necessary.

01:20:58 24 Q. Have you ever encountered the situation that
01:21:01 25 you discussed with Mr. Horley where someone submitted

01:21:05 1 their birth certificate but had changed their name?

01:21:11 2 A. I don't recall having anyone with a different
01:21:14 3 name than their birth certificate, no.

01:21:17 4 Q. So is it fair to say that you've never had to
01:21:19 5 use someone's place of birth to confirm the validity of
01:21:27 6 a birth certificate because of a name change?

01:21:30 7 A. No, I have not.

01:21:34 8 Q. Have you ever had to use place of birth to
01:21:39 9 confirm the validity of an applicant's passport?

01:21:44 10 A. No, I have not.

01:21:47 11 Q. Have you ever used place of birth to assist you
01:21:52 12 in canceling a registration of a voter being deceased?

01:21:58 13 A. No, I have not.

01:22:00 14 MR. ATKINS: Those are all the questions I
01:22:01 15 have. Really appreciate your time today. Thank you.

01:22:04 16 MR. LANGHOFER: I've got a couple
01:22:05 17 clarification points, unless there's more from the
01:22:06 18 plaintiffs.

01:22:12 19

01:22:12 20 RE-EXAMINATION

01:22:12 21 BY MR. LANGHOFER:

01:22:13 22 Q. So you said a moment ago you've not seen
01:22:15 23 someone submit a birth certificate as documentary proof
01:22:18 24 of citizenship where the birth certificate name was
01:22:22 25 different from their current name. Most women in Graham

01:22:25 1 County change their last name when they get married; is
01:22:27 2 that fair?

01:22:29 3 A. Pretty fair.

01:22:31 4 Q. And some percentage of women in Graham County
01:22:34 5 use their birth certificate as DPOC, right?

01:22:37 6 A. We don't typically have a lot of people that
01:22:40 7 provide a birth certificate for their DPOC.

01:22:43 8 Q. What do they provide?

01:22:46 9 A. A driver's license.

01:22:50 10 Q. And the driver's license, though, in getting
01:22:53 11 their driver's license they could have used their birth
01:22:56 12 certificate at the MVD?

01:23:01 13 A. I'm sorry, I guess I don't understand what
01:23:02 14 you're asking.

01:23:04 15 Q. So Arizona has for a long time required you to
01:23:06 16 prove citizenship or legal status in order to get a
01:23:09 17 driver's license. So you're saying people show their
01:23:13 18 driver's license to establish citizenship most of the
01:23:16 19 time in Graham County.

01:23:18 20 A. They will.

01:23:19 21 Q. But those driver's licenses could themselves
01:23:21 22 have been based on using a birth certificate to prove
01:23:26 23 citizenship?

01:23:27 24 MR. ATKINS: Objection, calls for
01:23:30 25 speculation.

01:23:30 1 THE WITNESS: I would imagine they had to
01:23:31 2 provide their birth certificate to get the Arizona
01:23:33 3 driver's license.

01:23:37 4 BY MR. LANGHOFER:

01:23:37 5 Q. I think you're -- you have not -- speaking of
01:23:40 6 your church records, you've not actually seen any church
01:23:42 7 records that show that these people that you expect are
01:23:44 8 citizens, you've not seen church records proving they're
01:23:47 9 citizens?

01:23:48 10 A. No, I have not, but they do have a
01:23:50 11 state-enhanced driver's license.

01:23:53 12 Q. Okay. From a different state?

01:23:55 13 A. Right.

01:23:58 14 Q. Have they -- have you seen their driver's
01:24:04 15 licenses?

01:24:04 16 A. One of them I've seen.

01:24:09 17 Q. So --

01:24:10 18 A. Not in my work capacity, but outside of my work
01:24:14 19 capacity.

01:24:16 20 Q. I see. So -- and where was that driver's
01:24:20 21 license issued?

01:24:23 22 MS. ROOF: That's not relevant.

01:24:23 23 THE WITNESS: Yeah, I mean --

01:24:26 24 MR. LANGHOFER: Well, I mean I'll explain
01:24:27 25 the relevance. I don't think I'm obligated to, but I

01:24:30 1 think I will.

01:24:33 2 MS. ROOF: I just want to be careful here
01:24:35 3 because I know that this transcript itself hasn't been
01:24:37 4 designated confidential, if we need to designate it in
01:24:39 5 this portion, but this is a small county with only 47
01:24:42 6 people, and I just -- I'm concerned that we're starting
01:24:44 7 to get into information that could disclose the identity
01:24:46 8 of a voter.

01:24:47 9 MR. LANGHOFER: That's fair. I'm not
01:24:48 10 going to ask any names. I'll explain the relevance. I
01:24:51 11 mean --

01:24:51 12 MS. ROOF: But I'm saying even without a
01:24:53 13 name, absent a name, if there's enough information
01:24:55 14 disclosed, I feel like we're to the point where we might
01:24:57 15 be able to ascertain specific voters, and that concerns
01:25:00 16 me.

01:25:01 17 BY MR. LANGHOFER:

01:25:01 18 Q. Okay. Let me ask the question a different way
01:25:03 19 that I think will avoid the sort of individual
01:25:06 20 identifications issue.

01:25:06 21 When you say enhanced driver's license, you
01:25:09 22 mean it's from a state that requires proof of
01:25:11 23 citizenship in order to get a driver's license,
01:25:13 24 correct?

01:25:13 25 A. So an enhanced has the actual stamp that says

01:25:17 1 "USA," which means that they had to verify citizenship
01:25:22 2 in order to acquire that. It's kind of like our travel
01:25:25 3 ID thing that we have to -- that we can do in Arizona.
01:25:31 4 So an enhanced driver's license is an acceptable form.
01:25:35 5 They can provide a copy of an enhanced driver's license
01:25:37 6 to become a full ballot voter.

01:25:40 7 Q. Okay. So it seems to you then this person
01:25:43 8 could prove that he or she is a citizen if he or she
01:25:46 9 wanted to?

01:25:46 10 A. Yes, if they want to.

01:25:49 11 Q. And your office has given this person the
01:25:51 12 option of getting a full ballot by proving
01:25:56 13 citizenship?

01:25:56 14 A. Yep. Yes, as we have all of them.

01:26:04 15 Q. Yeah, of course.

01:26:05 16 MR. LANGHOFER: That's all I've got.
01:26:07 17 Anything else from anyone?

01:26:10 18 Thank you, ma'am, for your time. I really
01:26:13 19 appreciate it.

01:26:14 20 I guess, Dan, do you want to take us off
01:26:16 21 the record.

01:26:16 22 THE VIDEOGRAPHER: You got it.

01:26:17 23 We are off the record. Time on the video
01:26:19 24 monitor is 1:26 p.m. This ends Volume 1, Media 2 in the
01:26:24 25 30(b)(6) deposition of Graham County Recorder by Polly

01:26:29

1 Merriman.

2 (Deposition Exhibits 249 through 259,
3 inclusive, were marked for identification.)

4 (The videotaped deposition concluded at
5 1:26 p.m.)

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POLLY MERRIMAN

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1 STATE OF ARIZONA)
) ss.
2 COUNTY OF MARICOPA)

3
4 BE IT KNOWN that the foregoing videotaped
5 deposition was taken before me, JODY L. LENSCHOW, RMR,
6 CRR, Certified Reporter No. 50192 for the State of
7 Arizona, and by virtue thereof authorized to administer
8 an oath; that the witness before testifying was duly
9 sworn by me; that the questions propounded by counsel
10 and the answers of the witness thereto were taken down
11 by me in shorthand and thereafter transcribed under my
12 direction; that a review of the transcript by the
13 witness was requested; that the foregoing pages contain
14 a full, true, and accurate transcript of all proceedings
15 and testimony had, all to the best of my skill and
16 ability.

17 I FURTHER CERTIFY that I am not related to nor
18 employed by any of the parties hereto and have no
19 interest in the outcome thereof.

20 DATED at Phoenix, Arizona, this 12th day of
21 September, 2023.

22
23 

24 JODY L. LENSCHOW, RMR, CRR
Certified Reporter
25 Certificate No. 50192

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UNITED STATES DISTRICT COURT
DISTRICT OF ARIZONA

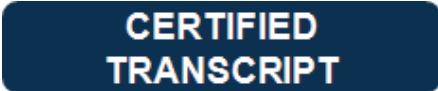
Mi Familia Vota, et al.,)	
)	Case No:
Plaintiffs,	)	2:22-cv-00509-SRB
	)	(Lead)
vs.)	
	)	CV-22-00519-PHX-SRB
Adrian Fontes, in his official	)	CV-22-01003-PHX-SRB
capacity as Arizona Secretary of	)	CV-22-01124-PHX-SRB
State, et al.,	)	CV-22-01369-PHX-SRB
	)	CV-22-01381-PHX-SRB
Defendants.	)	CV-22-01602-PHX-SRB
	)	CV-22-01901-PHX-SRB
_____)	
AND CONSOLIDATED CASES.)	
_____)	

DEPOSITION OF ARIZONA SECRETARY OF STATE
REPRESENTED BY COLLEEN CONNOR
VIDEOTAPED

Phoenix, Arizona
September 7, 2023

Prepared by:
JODY L. LENSCHOW, RMR, CRR
Certified Court Reporter
Certification No. 50192

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12

12 ALSO PRESENT: Mr. Christopher Parkinson,
13 Videographer

13

14

14 ALSO PRESENT VIA ZOOM: Pima County Recorder's Office

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08:25:59 1 THE VIDEOGRAPHER: We are on the record.
08:26:00 2 The time on the video monitor is 8:25 a.m. Here begins
08:26:04 3 Volume 1, Media No. 1 in the 30(b)(6) deposition of
08:26:09 4 Arizona Secretary of State by Colleen Connor in the
08:26:13 5 matter of Mi Familia Vota, et al. versus Adrian Fontes
08:26:16 6 in his official capacity as Arizona Secretary of State,
08:26:19 7 et al., in the United States District Court, District of
08:26:23 8 Arizona, Case No. 2:22-cv-00509-SRB.

08:26:31 9 Today's date is September 7th, 2023. Our
08:26:34 10 court reporter is Jody Lenschow. My name is Christopher
08:26:37 11 Parkinson, certified legal videographer. We both
08:26:40 12 represent Coash Court Reporting & Video. This video
08:26:42 13 deposition is taking place at 40 North Central Avenue,
08:26:47 14 Suite 1800, Phoenix, Arizona, 85004.

08:26:50 15 Counsel, please identify yourselves and
08:26:52 16 state whom you represent.

08:26:53 17 MS. BRAILEY: Emily Brailey on behalf of
08:26:55 18 the United States.

08:26:58 19 MS. JHAVERI: Sejal Jhaveri on behalf of
08:26:58 20 the United States.

08:26:59 21 MR. DELLHEIM: Richard Dellheim for the
08:27:02 22 United States.

08:27:02 23 MS. LANG: Danielle Lang for the LUCHA
08:27:04 24 plaintiffs.

08:27:05 25 NIYATI SHAH: Niyati Shah for the Equity

08:27:06 1 Coalition plaintiffs.

08:27:07 2 MS. KANTER COHEN: Michelle Kanter Cohen
08:27:08 3 for Poder Latinx plaintiffs.

08:27:10 4 MR. HERRERA: Ernest Herrera for the
08:27:12 5 Promise Arizona plaintiffs.

08:27:13 6 MR. LANGHOFER: Kory Langhofer for the
08:27:15 7 RNC.

08:27:16 8 MR. MORGAN: Craig Morgan and Shayna
08:27:19 9 Stuart from Sherman & Howard on behalf of the Secretary
08:27:21 10 of State.

08:27:22 11 MR. LANGHOFER: And before we start I'd
08:27:24 12 like to put on the record the stipulation that an
08:27:28 13 objection by one will be an objection for all; is that
08:27:31 14 right, Emily?

08:27:31 15 MS. BRAILEY: Yes, we agree.

08:27:33 16 MR. LANGHOFER: And while we're at it, in
08:27:35 17 the interest of efficiency, I know there's been some
08:27:38 18 conversation before we went on the record about the --

08:27:38 19 MR. MORGAN: She can't hear you.

08:27:40 20 MR. LANGHOFER: -- about the length of
08:27:41 21 time that we'll go today, and the RNC objects to
08:27:44 22 extending the deposition beyond seven hours.

08:27:51 23 MS. BRAILEY: Good morning, Ms. Connor.

08:27:51 24 THE WITNESS: Good morning.

08:27:54 25 MR. WHITAKER: Well, sorry, everyone.

08:27:55 1 Hang on.

08:27:55 2 My appearance, Josh Whitaker for the
08:27:58 3 Arizona Attorney General.

08:27:59 4 And, Craig, I can hear you fine, but at
08:28:02 5 least some people, especially Kory, you're really far
08:28:05 6 away from a mike. I can barely detect that you're
08:28:09 7 talking at all.

08:28:12 8 MR. MORGAN: You know, the mike's right
08:28:13 9 there.

08:28:13 10 MS. BRAILEY: That doesn't work with that.

08:28:13 11 MR. MORGAN: Oh, that doesn't work with
08:28:15 12 that? Okay, got it. Yeah, Sorry, Josh. We'll work on
08:28:18 13 that.

08:28:19 14 MR. WHITAKER: Okay.

08:28:20 15 MS. PORTER: And, sorry, also, Hannah
08:28:21 16 Porter from Gallagher & Kennedy on behalf of Speaker
08:28:24 17 Toma and President Petersen.

08:28:30 18 MR. MORGAN: Anybody else entering
08:28:32 19 appearances on the line?

08:28:34 20 MS. FROST: Elisabeth Frost and Chris
08:28:36 21 Dodge for Mi Familia Vota plaintiffs.

08:28:39 22 MR. BABBITT: Christopher Babbitt for the
08:28:41 23 Arizona Democratic Party and the DNC.

08:28:51 24 THE VIDEOGRAPHER: Would the court
08:28:52 25 reporter please swear in the witness.

08:28:52 1 COLLEEN CONNOR,
08:28:52 2 called as a witness herein, having been first duly sworn
08:28:52 3 by the Certified Court Reporter to speak the truth and
08:28:52 4 nothing but the truth, was examined and testified as
08:29:00 5 follows:

08:29:00 6

08:29:00 7

EXAMINATION

08:29:00 8

BY MS. BRAILEY:

08:29:02 9

Q. Good morning, Ms. Connor. Please state your

08:29:04 10

full name for the record and please spell your last

08:29:06 11

name.

08:29:06 12

A. My full name is Mary Colleen Connor. Connor is

08:29:10 13

spelled C-O-N-N-O-R.

08:29:11 14

Q. And have you been deposed before?

08:29:12 15

A. Yes.

08:29:14 16

Q. Do you understand that the court reporter is

08:29:16 17

transcribing this deposition?

08:29:17 18

A. Yes.

08:29:18 19

Q. And to make the record clear and to help the

08:29:22 20

court reporter, I'm going to lay some ground rules.

08:29:24 21

Let's try to not speak over each other like we might in

08:29:27 22

a normal conversation. It just means I'd like you to

08:29:29 23

let me finish my question before you answer, and I'm

08:29:31 24

going to try my best to make sure you finish your answer

08:29:33 25

before I ask another question. Can we agree to that?

08:29:36 1 A. Yes.

08:29:38 2 Q. And for the same reason, do you agree to please
08:29:42 3 avoid answers like uh-huh, huh-uh, or shaking your head,
08:29:46 4 and answer yes or no for the record?

08:29:48 5 A. Yes.

08:29:48 6 Q. And do you understand that you're testifying
08:29:49 7 under oath today?

08:29:50 8 A. I do.

08:29:51 9 Q. Is there any reason that you cannot give full
08:29:53 10 and true testimony today?

08:29:54 11 A. No.

08:29:56 12 Q. Are you taking any medications or have any
08:29:58 13 conditions that might impact your memory today?

08:30:00 14 A. No.

08:30:01 15 Q. And I'm going to try to ask you whether you
08:30:03 16 need breaks, but if I fail to ask you in time and you
08:30:06 17 need a break, that's fine, we'll take a break. I just
08:30:09 18 would appreciate if you would answer my question before
08:30:13 19 we take the break. Can you agree to that?

08:30:14 20 A. Yes.

08:30:15 21 Q. And you may hear attorneys in the room,
08:30:18 22 including your own counsel, object after I ask
08:30:20 23 questions, but unless your attorney explicitly directs
08:30:24 24 you not to answer, go ahead and answer my question after
08:30:26 25 the objection. Does that work for you?

08:30:27 1 A. That works for me, yes.

08:30:29 2 Q. And can we also agree that unless I specify
08:30:31 3 otherwise, when I say you in a question, I'm referring
08:30:34 4 to the Office of the Secretary of State?

08:30:37 5 A. Uh-huh.

08:30:38 6 Q. And I'll note you nodded your head. I think
08:30:41 7 that's a yes?

08:30:41 8 A. Yes. Sorry. I've already broken the rule.

08:30:45 9 Q. No worries. It's good practice.

08:30:45 10 MR. MORGAN: We're okay with the
08:30:46 11 stipulation, as long as you'll stipulate that when she
08:30:47 12 answers a question, it's for the office and not on her
08:30:50 13 own personal behalf.

08:30:51 14 MS. BRAILEY: Absolutely, yeah.

08:30:52 15 MR. MORGAN: Okay, great.

08:30:53 16 BY MS. BRAILEY:

08:30:54 17 Q. And so you mentioned that you've been deposed
08:30:55 18 before. How many times have you been deposed?

08:30:58 19 A. Oh, less than five.

08:31:00 20 Q. Okay. And in what capacity were you deposed?

08:31:06 21 A. In this capacity as the state elections
08:31:09 22 director and, also, when I was the executive director of
08:31:13 23 the Citizens Clean Elections Commission.

08:31:16 24 Q. Do you remember which cases that was -- those
08:31:18 25 depositions were for?

08:31:19 1 A. Well, the most recent was for -- gosh, I don't
08:31:25 2 know the name of the case, but it had to do with
08:31:28 3 Arizona's early voting list.

08:31:30 4 MR. MORGAN: It's the other --

08:31:32 5 THE WITNESS: I think it's the other
08:31:33 6 Mi Familia case.

08:31:34 7 MR. MORGAN: The other Mi Familia case,
08:31:34 8 yeah.

08:31:35 9 BY MS. BRAILEY:

08:31:35 10 Q. And were there other cases as well?

08:31:36 11 A. There were. I don't know the names.

08:31:38 12 Q. Did you bring any materials with you to the
08:31:41 13 deposition today?

08:31:41 14 A. I just brought a notepad to doodle, otherwise I
08:31:48 15 will doodle on the exhibits.

08:31:54 16 Q. Great. And for the record, what are the
08:31:56 17 documents in front of you?

08:31:57 18 A. Oh. This is a copy of H.B. 2492 and this is a
08:32:00 19 copy of the memorandum of agreement between the U.S.
08:32:04 20 Citizenship and Immigration Services versus -- and
08:32:07 21 Maricopa County.

08:32:07 22 Q. Wonderful.

08:32:09 23 A. I can put them away, if you'd like.

08:32:11 24 Q. No, that's perfectly fine.

08:32:14 25 So let's get to know you a little bit. Can you

08:32:16 1 give me a brief summary of your educational background,
08:32:18 2 including any certifications that you've acquired for
08:32:20 3 your current position?

08:32:21 4 A. Sure. I graduated from college 1987. No, no,
08:32:29 5 I'm sorry, 1991. Graduated from law school in 1994 and
08:32:35 6 moved to Arizona, passed the bar, and have been a member
08:32:40 7 of the bar almost 30 years now.

08:32:45 8 Q. And tell us about your work history.

08:32:48 9 A. I worked at the Arizona Attorney General's
08:32:52 10 Office in the late '90s, and the Citizens Clean
08:32:58 11 Elections Act was passed via a voter-approved initiative
08:33:01 12 in the 1998 election, and in January of 2000 I was hired
08:33:05 13 as the executive director, and that was through -- I
08:33:08 14 worked there through July of 2005. And then I started
08:33:15 15 working at the Maricopa County Attorney's Office
08:33:19 16 August 1st of 2005, and worked there through January of
08:33:28 17 2020. And then from 2020 to December of 2022 I worked
08:33:38 18 briefly at the Pinal County Attorney's Office and then
08:33:42 19 at the Yavapai County Attorney's Office, and then I
08:33:45 20 started as the state elections director January 4th of
08:33:51 21 2023.

08:33:53 22 Q. And what were your roles while you were at
08:33:57 23 Maricopa County?

08:33:58 24 A. At Maricopa County I was a deputy county
08:34:02 25 attorney in the government advice group from 2005

08:34:07 1 through 2011. Bill Montgomery was elected County
08:34:14 2 Attorney in 2010, and then in 2011 I was promoted to be
08:34:18 3 the practice group leader at the government advice
08:34:22 4 practice group, and then I held that position until I
08:34:25 5 left.

08:34:26 6 Q. And what were your roles in Pinal and Yavapai
08:34:32 7 Counties?

08:34:32 8 A. I was deputy county attorney. I represented
08:34:37 9 the Board of Supervisors, the County Recorder, elections
08:34:41 10 department, also did a great deal of public health,
08:34:44 11 probably like most attorneys in that time frame, and
08:34:48 12 there's a free clinic in Yavapai County, a federally
08:34:54 13 qualified health clinic, and I did a lot of work for
08:34:56 14 them.

08:34:56 15 Q. And so you're currently the elections director
08:34:58 16 for the Arizona Secretary of State now?

08:35:00 17 A. That's correct.

08:35:01 18 Q. Describe that role a little bit more, what your
08:35:04 19 responsibilities are, just generally what this role
08:35:06 20 entails.

08:35:07 21 A. The state elections director reports to the
08:35:12 22 Assistant Secretary of State, Keely Varvel, who reports
08:35:15 23 to the Secretary of State, Adrian Fontes, and I oversee
08:35:23 24 the various divisions within the elections department
08:35:29 25 for the Secretary of State's Office, including voter

08:35:33 1 registration, the filing office, the compliance, also
08:35:40 2 called compliance, and enforcement for any late filings,
08:35:47 3 such as lobbyist filings or campaign finance.

08:35:50 4 Q. And how many people report to you?

08:35:54 5 A. I have two people that report directly to me,
08:35:58 6 and I think our department is approximately 20 people
08:36:04 7 all together.

08:36:06 8 Q. I'm going to mark as Exhibit 260, I believe
08:36:09 9 we're at 260, plaintiffs' notice of deposition. And
08:36:22 10 because we don't have the Dropbox in front of you yet,
08:36:25 11 I'm just going to hand you a paper copy for me.

08:36:25 12 A. Uh-huh.

08:36:28 13 Q. Have you seen this document?

08:36:30 14 A. Yes.

08:36:30 15 Q. Who provided it to you?

08:36:31 16 A. My attorney.

08:36:31 17 Q. And do you see the list of topics on Exhibit A?
08:36:34 18 It should be like Page 3 of the document, I believe.

08:36:42 19 A. Exhibit A, yes. Starting with "Definitions"?

08:36:44 20 Q. Uh-huh.

08:36:44 21 A. Yes, I see that.

08:36:45 22 Q. And did you review all of the definitions and
08:36:47 23 topics in Exhibit A?

08:36:48 24 A. Yes.

08:36:49 25 Q. Are you prepared to discuss all of the topics?

08:36:52 1 A. Yes.

08:36:54 2 MR. MORGAN: Well, with the exception of
08:36:55 3 those that we've designated Yolanda for.

08:36:58 4 MS. BRAILEY: Right.

08:36:58 5 BY MS. BRAILEY:

08:37:00 6 Q. Did you meet with anyone in your office to
08:37:01 7 prepare for today's deposition?

08:37:02 8 A. Yes.

08:37:03 9 Q. Who did you meet with?

08:37:05 10 A. I met with -- well, I've had numerous meetings.
08:37:10 11 I can't even count how many meetings. But with the
08:37:15 12 Secretary of State, the Assistant Secretary of State,
08:37:17 13 our general counsel; our outside counsel, Craig Morgan
08:37:21 14 and Shayna Stuart; also, members of the staff,
08:37:26 15 specifically the AVID team, which includes Yolanda
08:37:29 16 Morales, who will be testifying as well, Russ Smith, our
08:37:33 17 election technologies manager, Jason Fountain. I've
08:37:42 18 also met with -- I'm trying to think.

08:37:50 19 MR. MORGAN: Trevor?

08:37:55 20 THE WITNESS: There perhaps are other
08:37:57 21 people, and I was trying to think of it last night, and
08:37:59 22 I just -- so perhaps I will add on to that. But, yes,
08:38:02 23 I've met with many people about this.

08:38:04 24 BY MS. BRAILEY:

08:38:05 25 Q. Sure. For about how long were all of these

08:38:07 1 meetings each?

08:38:09 2 A. Well, yesterday's meeting was all day, but our
08:38:13 3 meetings can last usually two hours.

08:38:20 4 Q. How many times did you meet with your
08:38:23 5 attorneys?

08:38:24 6 A. I don't know.

08:38:26 7 Q. And was anybody else with you during those
08:38:29 8 meetings with the attorneys?

08:38:31 9 A. Other members of the staff, yes.

08:38:34 10 Q. Did you meet with anyone in the Governor's
08:38:36 11 Office?

08:38:36 12 A. Yes. That's who I met with also.

08:38:39 13 Q. Okay. And who did you meet with there?

08:38:40 14 A. I met with Bo Dul, general counsel to the
08:38:44 15 Governor; Kori Lorick, assistant general counsel; and
08:38:50 16 Christine Dyster, and her title is director of board
08:39:00 17 appointments, something to that effect.

08:39:02 18 Q. Did you meet with them all separately or this
08:39:04 19 was one big meeting?

08:39:05 20 A. I met with them all at the same time.

08:39:07 21 Q. And how long was that meeting?

08:39:08 22 A. A half an hour.

08:39:10 23 Q. Only the one time?

08:39:13 24 A. Our meeting, yes, was just the one time last
08:39:17 25 Thursday, but since the transition I have talked to them

08:39:23 1
08:39:25 2
08:39:28 3
08:39:30 4
08:39:31 5
08:39:34 6
08:39:37 7
08:39:37 8
08:39:42 9
08:39:44 10
08:39:44 11
08:39:52 12
08:39:55 13
08:39:55 14
08:39:58 15
08:40:02 16
08:40:05 17
08:40:07 18
08:40:07 19
08:40:09 20
08:40:11 21
08:40:11 22
08:40:12 23
08:40:13 24
08:40:19 25

periodically.

Q. But not about the deposition, just about the --

A. Not -- yes, correct. Yes, not specifically about the deposition.

Q. Right.

Did anyone else come to mind yet that you met with?

A. Not yet.

Q. Okay. Anybody in the AG's Office?

A. No.

Q. Okay. Any of the counties?

A. You know, it might have come up in passing --

Q. Okay.

A. -- as far as just scheduling purposes. I think that probably is the other category of meeting or talking to people about this, simply just for scheduling, letting people know where I am --

Q. Sure.

A. -- all of that.

Q. Did you review documents to prepare for today's deposition?

A. Yes, I did.

Q. What did you review?

A. I reviewed all of the documents listed in the notice of deposition.

08:40:24 1 Q. Did you do anything else to prepare for today?

08:40:27 2 A. Not that I can think of at this point.

08:40:29 3 Q. And, generally speaking, you understand why
08:40:32 4 you're here; you understand the purpose of your
08:40:35 5 deposition today?

08:40:35 6 A. Yes.

08:40:38 7 Q. Okay. I'm going to mark as Exhibit 261 the
08:40:45 8 Secretary of State's response to the Equity Coalition's
08:40:49 9 first set of production of documents.

08:40:55 10 For those following along on the Dropbox, I
08:40:59 11 believe this is -- it starts with a B.

08:41:05 12 MR. MORGAN: Madam Court Reporter, would
08:41:06 13 it be helpful to you if I write on a Post-It note the
08:41:14 14 numbers?

08:41:14 15 THE COURT REPORTER: I'm going to do it
08:41:15 16 digitally later.

08:41:17 17 MR. MORGAN: Okay, gotcha.

08:41:17 18 BY MS. BRAILEY:

08:41:17 19 Q. Have you seen this document before?

08:41:18 20 A. Yes.

08:41:18 21 Q. Can you describe just very briefly the steps
08:41:21 22 that the office took to respond to the requests?

08:41:23 23 A. The office did --

08:41:27 24 MR. MORGAN: If you know, given what
08:41:29 25 you're --

08:41:29 1 THE WITNESS: Yeah, to the extent that I
08:41:31 2 know --

08:41:31 3 MR. MORGAN: Yeah.

08:41:31 4 THE WITNESS: -- yeah, the office did
08:41:34 5 searches through the IT department for certain keywords
08:41:38 6 in response to the requests for production.

08:41:41 7 BY MS. BRAILEY:

08:41:41 8 Q. Were you involved in those searches?

08:41:44 9 A. No. This was under the former administration.

08:41:51 10 Q. Are there any additional documents that your
08:41:53 11 office plans to produce regarding these requests?

08:41:56 12 A. Not that I'm aware of.

08:41:58 13 Q. Okay. I'm going to mark as Exhibit 262 the
08:42:07 14 Secretary's response to the consolidated plaintiffs'
08:42:10 15 first set of interrogatories.

08:42:10 16 A. Okay.

08:42:13 17 Q. Same question. Have you seen this document
08:42:15 18 before?

08:42:17 19 A. Yes, I have.

08:42:19 20 Q. And can you describe briefly the steps that
08:42:22 21 your office took to respond to this document?

08:42:29 22 A. The office appears to have taken steps to make
08:42:49 23 certain objections, legal objections, to what is being
08:42:53 24 requested, as well as identifying certain individuals
08:43:02 25 with knowledge and explaining what is being disclosed.

08:43:10 1 Q. Were you involved in preparing the responses to
08:43:13 2 these interrogatories?

08:43:14 3 A. I personally was not.

08:43:15 4 Q. Okay. At the end of the document there's a
08:43:19 5 verification page, and it appears that it was signed by
08:43:22 6 Amy Chan; do you see that at the very end of the
08:43:26 7 document?

08:43:28 8 A. Yes, I do.

08:43:30 9 Q. Who is Amy Chan?

08:43:32 10 A. Amy Chan is the general counsel.

08:43:35 11 Q. Great.

08:43:36 12 And I'm going to mark as Exhibit 263 the
08:43:40 13 Secretary's response to the consolidated plaintiffs'
08:43:43 14 first request for production.

08:43:48 15 People following along, I believe that's D at
08:43:50 16 the beginning there.

08:43:51 17 Have you seen this document before?

08:43:52 18 A. Yes, I have.

08:43:55 19 Q. Were you involved in -- or, rather, strike
08:43:55 20 that.

08:43:58 21 Can you describe very briefly the steps the
08:44:00 22 office took to respond to these requests?

08:44:03 23 A. The office did certain word searches, inquiries
08:44:10 24 through the IT department at the Secretary of State's
08:44:15 25 Office, provided the information to our general counsel,

08:44:22 1 Amy Chan, as well as our outside counsel.

08:44:25 2 Q. Were you involved in the search for those
08:44:28 3 documents?

08:44:28 4 A. I was not personally involved.

08:44:30 5 Q. And are there any additional documents
08:44:32 6 that your office plans to produce regarding these
08:44:35 7 requests?

08:44:35 8 A. Not that I'm aware of.

08:44:41 9 Q. Okay. You can put that one away.

08:44:41 10 A. Okay.

08:44:43 11 Q. I'm going to mark as Exhibit 264 -- is that
08:44:47 12 where we're at, 264?

08:44:49 13 MR. MORGAN: Yes.

08:44:50 14 BY MS. BRAILEY:

08:44:50 15 Q. Okay, 264. And people following along, this is
08:44:55 16 E. It's called E, Secretary of State Org Chart on the
08:44:59 17 Dropbox.

08:44:59 18 I'm going to hand you the document.

08:45:05 19 Do you recognize this document?

08:45:06 20 A. Yes. It's an organizational chart for the
08:45:10 21 Secretary of State's Office.

08:45:10 22 Q. And this is for the fiscal year 2023?

08:45:14 23 A. I'm going to look through and --

08:45:16 24 Q. Yes, please. Take a minute, yes.

08:45:18 25 A. -- respond.

08:46:24 1 Okay, I've looked through the document and
08:46:51 2 I've -- just focusing on the page regarding election
08:46:56 3 services. So at this point, could you repeat your
08:46:58 4 question?

08:46:59 5 Q. Is this -- this is an accurate representation
08:47:04 6 of the organizational chart for fiscal year 2023 for the
08:47:06 7 office?

08:47:07 8 A. That's correct, with the exception that some of
08:47:11 9 the employees have changed.

08:47:12 10 Q. Okay. Let's talk about that. So you're on --
08:47:15 11 to be clear, you're on the page, I believe it's Page 14
08:47:18 12 of the document, and this is a representation of the
08:47:20 13 structure of your department, of the election services
08:47:24 14 department?

08:47:28 15 A. Yes.

08:47:30 16 Q. So tell me what is different now.

08:47:35 17 A. Okay. So as far as the two reports to me, the
08:47:38 18 information security officer is the same. The assistant
08:47:43 19 elections director is actually the -- we refer to that
08:47:47 20 position as the deputy elections director, and that's
08:47:49 21 since been filled by Lisa Marra.

08:47:54 22 And then on the -- below Lisa Marra, reporting
08:47:58 23 to her, Jesus Galvan, he has since left the office, and
08:48:04 24 the position for campaign finance supervisor is being
08:48:07 25 filled by Raven Padilla.

08:48:14 1 The next box, the vacant one for outreach
08:48:18 2 coordinator, the information in the parenthetical,
08:48:22 3 that's correct. That position's been moved to the
08:48:26 4 Assistant Secretary of State. Russ Smith, that's
08:48:32 5 correct. His direct report is Jason Fountain.

08:48:37 6 The next box, program coordinator, that
08:48:41 7 position is now called election filing manager, and
08:48:44 8 that's filled by Hope Olguin. Olguin is spelled
08:48:51 9 O-L-G-U-I-N. And so the three -- there are three
08:49:00 10 positions that report -- excuse me. There are now four
08:49:06 11 positions that report to the election filing manager.
08:49:10 12 We moved the campaign finance position to the election
08:49:15 13 filing manager position. And then since then the help
08:49:24 14 desk analyst, she has left, and that position has been
08:49:30 15 filled just within the last week or so, and I don't
08:49:38 16 recall the name of the person.

08:49:39 17 Q. That's no problem.

08:49:40 18 A. But Yolanda Morales is still a direct report to
08:49:49 19 Lisa Marra, but the fellow, Zoe Myers, has left; and
08:49:53 20 then Tanner Robinson is our customer service supervisor.
08:49:56 21 So otherwise correct.

08:49:57 22 Q. Great. Thank you. That's helpful.

08:49:59 23 Which responsibilities fall within your
08:50:02 24 department related to voting and elections?

08:50:08 25 A. Russ Smith and Yolanda Morales, as well as

08:50:16 1 Jason Fountain. So Russ Smith, his title has changed;
08:50:26 2 election information supervisor or something like that.
08:50:31 3 And Yolanda Morales, her title is senior policy advisor,
08:50:38 4 something to that effect.

08:50:42 5 Q. Okay. That's helpful. You can put that away
08:50:44 6 now.

08:50:44 7 A. Okay.

08:50:45 8 Q. So let's talk about the responsibilities as in
08:50:51 9 duties and what your division does related to voting and
08:50:57 10 elections.

08:50:58 11 A. Okay.

08:50:58 12 Q. Can you outline for me those responsibilities
08:51:00 13 and duties?

08:51:02 14 A. Yes. So the Secretary of State is charged as
08:51:06 15 the chief election officer to ensure the implementation
08:51:12 16 of the National Voter Registration Act, as well as any
08:51:15 17 other federal laws, such as the Help America Vote Act.

08:51:21 18 Likewise, the Secretary of State is the chief
08:51:24 19 election officer and oversees and coordinates with the
08:51:30 20 15 County Recorders, County Boards of Supervisors,
08:51:35 21 county elections department to implement Arizona's laws.

08:51:39 22 The Secretary of State also every two years is
08:51:42 23 charged with the duty of drafting an election procedures
08:51:46 24 manual to ensure impartiality, correctness and
08:51:52 25 uniformity of the implementation of Arizona's election

08:51:58 1 laws.

08:52:00 2 Q. And what are your specific responsibilities as
08:52:04 3 the elections director?

08:52:06 4 A. My specific responsibilities are to ensure the
08:52:12 5 Secretary of State's responsibilities are fulfilled,
08:52:15 6 that I keep the Secretary of State apprised of events,
08:52:21 7 as well as the Assistant Secretary of State. Also, to
08:52:25 8 hire capable people, qualified people to the various
08:52:36 9 positions within the office.

08:52:38 10 Many of the staff members that were previously
08:52:42 11 in the elections department have left and moved on to
08:52:45 12 other things. Most people went to the Governor's
08:52:50 13 Office. But there were other issues. There were many
08:52:53 14 individuals who were fellows or interns and their
08:52:56 15 position only lasted a year, so those positions. But
08:52:59 16 that's a big part of my position now, especially in the
08:53:02 17 first year, is to hire people.

08:53:06 18 Q. What do you mean by events when you say you
08:53:08 19 make sure that the Secretary is aware of events?

08:53:13 20 A. Oh, for example, the Secretary of State is
08:53:17 21 kept apprised of the schedule for drafting the
08:53:23 22 procedures manual. That has been a big chunk of my
08:53:26 23 position, and I established a calendar in February of
08:53:34 24 setting forth five different dates by which certain
08:53:39 25 chunks of the election procedures manual would be

08:53:44 1 completed to ensure we hit an August 1st date of an
08:53:49 2 initial draft being done and ready for publication to
08:53:56 3 allow for public comment.

08:53:59 4 The goal being the Secretary of State would
08:54:03 5 meet the October 1st statutory deadline to have a final
08:54:08 6 draft of the election procedures manual, also referred
08:54:12 7 to as the EPM, to submit to the Attorney General and the
08:54:15 8 Governor. So throughout that process I've kept the
08:54:19 9 Secretary of State and Assistant Secretary of State
08:54:22 10 apprised of how things are going.

08:54:26 11 Q. As part of your responsibilities, are you ever
08:54:27 12 asked to provide input on pending legislation?

08:54:34 13 A. I have been periodically. I don't --
08:54:40 14 unfortunately, with limited time, I don't recall
08:54:44 15 providing that much feedback.

08:54:48 16 Q. Uh-huh. And so are all of the registration and
08:54:50 17 election-related issues the responsibility of the
08:54:52 18 election services department?

08:54:54 19 MR. MORGAN: Form.

08:54:58 20 THE WITNESS: They are, generally.

08:55:01 21 I will add, though, the voter registration
08:55:06 22 database was created and is programmed by a third-party
08:55:13 23 vendor. Their name is INEXL, I-N-E-X-L. And so INEXL
08:55:23 24 and their representatives have a great deal of
08:55:27 25 involvement in that process as well.

08:55:30 1 BY MS. BRAILEY:

08:55:30 2 Q. But internal to the Secretary's Office the
08:55:34 3 voter registration and election-related issues fall
08:55:37 4 within your department?

08:55:39 5 A. Yes.

08:55:39 6 Q. And so there's no other department that has
08:55:42 7 those responsibilities?

08:55:43 8 A. That's correct.

08:55:44 9 Q. Okay. And so you mentioned for the EPM, as a
08:55:47 10 big part of your -- as a big part of your
08:55:49 11 responsibilities, that you have these lists of
08:55:52 12 deadlines; and so did you -- were you successful in
08:55:55 13 meeting your August 1st deadline?

08:55:56 14 A. Yes.

08:55:58 15 Q. And have you been successful in the other
08:56:01 16 deadlines that you've met? I'm sorry, that you laid
08:56:04 17 out?

08:56:05 18 A. Yes. I mean there were a few exceptions. Like
08:56:08 19 the 4th of July I think fell on a Tuesday.

08:56:11 20 Q. Uh-huh.

08:56:12 21 A. So I'll just -- generally, the deadlines were
08:56:15 22 established as follows, if you can indulge me.

08:56:18 23 Q. Sure.

08:56:18 24 A. So starting in March, the first Tuesday of the
08:56:21 25 month I would release a section, two, three chapters at

08:56:26 1 a time, and distribute that section, which I also called
08:56:33 2 parts, that first part to the counties, as well as,
08:56:40 3 frankly, cities, towns, other stakeholders, to the
08:56:44 4 Attorney General's Office, to the Governor's Office.

08:56:50 5 And then by the second Tuesday of each month
08:56:53 6 was the deadline I requested, and so it was kind of a
08:56:56 7 soft deadline, by which the county would have comments,
08:57:03 8 corrections, suggestions.

08:57:05 9 And then by the third Tuesday of each month we
08:57:08 10 would have a meeting with the county election officials,
08:57:13 11 which would include the elections directors, Boards of
08:57:17 12 Supervisors, as well as a few other individuals who
08:57:20 13 might be interested and stakeholders, such as the
08:57:23 14 Attorney General's Office or the Governor's Office.

08:57:25 15 So that was the -- that was the roadmap,
08:57:30 16 essentially, done in five different parts.

08:57:35 17 Q. Are you on track to deliver a draft to the AG
08:57:40 18 and the Governor by October 1st?

08:57:42 19 A. Yes.

08:57:45 20 Q. And do you plan to?

08:57:46 21 A. Yes.

08:57:46 22 Q. Okay. We'll speak about the EPM in a little
08:57:49 23 bit, so...

08:57:49 24 A. Okay.

08:57:50 25 Q. That's not all.

08:57:51 1 What is the BPC task force? I've seen in the
08:57:57 2 documents, in e-mails with you, that you've referenced
08:57:59 3 the BPC task force.

08:58:02 4 A. There's the bipartisan policy center. That's
08:58:06 5 not -- but that's a national policy group.

08:58:06 6 Q. Uh-huh.

08:58:10 7 A. And there could be another one, but I don't
08:58:13 8 know.

08:58:13 9 Q. Okay.

08:58:13 10 A. We deal with abbreviations a lot.

08:58:15 11 Q. Uh-huh.

08:58:16 12 A. So I'm not sure.

08:58:17 13 Q. Okay. So I'd like to speak about the Secretary
08:58:20 14 vis-à-vis the County Recorders now, just divisions of
08:58:23 15 responsibilities.

08:58:24 16 So does the Secretary of State interpret the
08:58:27 17 election laws for the state; is that the duty --

08:58:27 18 MR. WHITAKER: Calls for a legal
08:58:27 19 conclusion.

08:58:37 20 BY MS. BRAILEY:

08:58:37 21 Q. Is that the duty of the Secretary's Office?

08:58:41 22 MR. LANGHOFER: Same objection.

08:58:42 23 THE WITNESS: The Secretary of State
08:58:44 24 interprets elections laws, state election laws, but I
08:58:51 25 wouldn't characterize it as for the state, because, of

08:58:55 1 course, we have County Recorders, County Boards of
08:58:58 2 Supervisors, who are duly elected constitutional
08:59:02 3 officers, who are charged with their separate duties;
08:59:06 4 and, therefore, the Secretary of State cannot tell them
08:59:09 5 what to do.

08:59:14 6 BY MS. BRAILEY:

08:59:14 7 Q. So what if the Secretary has an interpretation
08:59:16 8 of an election law and the county has a different
08:59:21 9 interpretation and those interpretations conflict; what
08:59:25 10 should the county do in that situation?

08:59:29 11 MR. MORGAN: Calls for a legal conclusion.

08:59:32 12 BY MS. BRAILEY:

08:59:32 13 Q. And -- uh-huh.

08:59:35 14 A. Well, that has happened. Many election laws --
08:59:40 15 I mean you can't separate elections from politics. So
08:59:45 16 different counties might have a different interpretation
08:59:48 17 of how to implement or execute certain laws.

08:59:55 18 Nevertheless, the election procedures manual
09:00:00 19 does mandate that the Secretary of State establish
09:00:03 20 rules, in consultation with the county election
09:00:06 21 officials, that will provide a manual to the best degree
09:00:16 22 possible for correctness, uniformity, and impartiality.

09:00:20 23 So to the extent that the Secretary of State
09:00:24 24 has the statutory authority to include certain subjects
09:00:29 25 within the procedures manual, it is limited, to that

09:00:34 1 extent the Secretary of State does have a level of
09:00:38 2 control to establish what the interpretation is of
09:00:43 3 Arizona election laws.

09:00:45 4 Q. And so you mentioned that, you know, you, by
09:00:50 5 you obviously I mean the office, drafts the EPM in
09:00:54 6 consultation with the counties; and so are there times,
09:00:58 7 you know, despite the consultation with all the
09:01:00 8 counties, that you are aware that a county has a
09:01:03 9 different interpretation that conflicts with the EPM and
09:01:08 10 does not operate in the uniform way that the EPM might
09:01:13 11 mandate?

09:01:14 12 MR. MORGAN: Object to form.

09:01:19 13 THE WITNESS: If I can make sure I
09:01:21 14 understand your question, are you asking if the counties
09:01:25 15 during this consultation process have an interpretation
09:01:28 16 that conflicts with the Secretary of State's idea of
09:01:34 17 what should happen?

09:01:35 18 BY MS. BRAILEY:

09:01:35 19 Q. And what maybe ends up drafted into the EPM?

09:01:40 20 A. Well, with the consultation with the counties,
09:01:45 21 usually it's -- there are various interpretations. And
09:01:49 22 I'll cite just one very simple example, and, you know,
09:01:55 23 it's one of those items that for some reason, you know,
09:02:02 24 certain people blew it out of proportion, because it was
09:02:04 25 one comment by one county.

09:02:06 1 But, nevertheless, one of the specific duties
09:02:08 2 of the Secretary of State to include in the election
09:02:12 3 procedures manual are procedures related to early
09:02:16 4 voting. So during our very first discussion, because we
09:02:20 5 discussed the early voting chapter, we discussed also
09:02:24 6 the contents of -- content of the early ballot request
09:02:30 7 form, the written request form.

09:02:33 8 And one of the counties, and I can't remember
09:02:37 9 which county, suggested that the voter's date of birth
09:02:45 10 was not required on the early ballot request form. Many
09:02:49 11 counties disagreed. We all read through the sentence,
09:02:55 12 and, you know, it's one of those sentences where there
09:02:58 13 are commas and ands, and it, you know --

09:02:58 14 Q. Uh-huh.

09:03:01 15 A. -- had been amended over the years and it kind
09:03:04 16 of -- you could see how someone could read it to not
09:03:09 17 include the date of birth as a requirement. But I did
09:03:16 18 not and most of the counties did not.

09:03:17 19 So in the end we included the date of birth as
09:03:21 20 being a requirement for an early ballot request, a
09:03:25 21 written request. And that could be the active early
09:03:31 22 voting list request. Nevertheless, we're getting to the
09:03:34 23 same end.

09:03:34 24 Q. Yes.

09:03:35 25 A. There was just a difference of opinion about

09:03:37 1 whether the date of birth was required.

09:03:39 2 So things like that did happen periodically;

09:03:47 3 and, you know, in the end the Secretary of State has to

09:03:49 4 make the final judgment call.

09:03:51 5 Q. And what do you mean by that, the final

09:03:53 6 judgment call?

09:03:55 7 A. As far as what is going to be in the final

09:04:00 8 draft of the election procedures manual. And that issue

09:04:04 9 that I just --

09:04:04 10 Q. Uh-huh.

09:04:05 11 A. That example simply came down to what we

09:04:11 12 believe was the legal requirement.

09:04:14 13 Q. And so in the end the Secretary, if I'm

09:04:16 14 understanding this correctly, the Secretary interpreted

09:04:19 15 the statutory requirements for the early ballot form as

09:04:28 16 requiring a date of birth. The county disagreed. And

09:04:33 17 so in the end that ended up -- that requirement is in

09:04:38 18 the -- is in the EPM and requires counties to reject

09:04:44 19 forms that don't have the date of birth; is that the

09:04:48 20 correct understanding of the events?

09:04:50 21 A. Well, the way the section is written is the

09:04:55 22 minimum requirements, and, you know, and I'm

09:04:59 23 simplifying. I simplified it.

09:05:00 24 Q. Of course.

09:05:00 25 A. You know, because the county who suggested a

09:05:04 1 date of birth was optional, based on the way the
09:05:06 2 sentence was written in statute, it appeared that this
09:05:11 3 individual believed that other elements, even if date of
09:05:16 4 birth wasn't required, if there were sufficient number
09:05:18 5 of other elements included that clearly identified this
09:05:22 6 was the voter, even if the voter had omitted the date of
09:05:27 7 birth, we would still be able to identify the voter.

09:05:31 8 And then we also agreed on the other elements
09:05:35 9 that had to be included in the early ballot request, but
09:05:38 10 in the end the Secretary of State decided the date of
09:05:45 11 birth had to be included.

09:05:47 12 Q. And so earlier when we were discussing the
09:05:50 13 responsibilities of interpreting election statutes in
09:05:54 14 Arizona, as split between the Secretary has its
09:05:59 15 interpretations and the counties have their own, in a
09:06:01 16 situation like this where one county might disagree with
09:06:05 17 an interpretation on the vote by mail form and then it
09:06:10 18 ends up in the EPM, is that county permitted to still
09:06:16 19 form their own interpretation that might differ from the
09:06:19 20 EPM?

09:06:22 21 MR. LANGHOFER: Calls for a legal
09:06:24 22 conclusion.

09:06:26 23 MR. WHITAKER: Calls for a legal
09:06:29 24 conclusion.

09:06:29 25 THE WITNESS: The county -- okay, so for

09:06:31 1 early voting it's the County Recorder that's
09:06:33 2 specifically charged with the duty to undertake early
09:06:38 3 voting, and a County Recorder could have a different,
09:06:44 4 you know, determination or come to a different legal
09:06:47 5 conclusion.
09:06:48 6 Nevertheless, they're required to follow
09:06:50 7 the election procedures manual, and because it has the
09:06:54 8 force and effect of law, and failure to do so could be
09:06:58 9 punished as a Class 2 misdemeanor.

09:07:07 10 BY MS. BRAILEY:

09:07:07 11 Q. And so who in the office specifically actually
09:07:11 12 develops the guidance with the counties, you know, who
09:07:14 13 from -- I guess who from the office is in the meetings
09:07:17 14 when you're developing the guidance for the EPM?

09:07:22 15 A. From my office in the meetings I was present,
09:07:26 16 as well as the AVID team, so Russ Smith, Yolanda
09:07:32 17 Morales, and Jason Fountain. I believe almost all the
09:07:35 18 meetings, unless they were on vacation or something.

09:07:39 19 I think -- there were other members of the
09:07:41 20 staff that joined. I remember Angie Cloutier, she's the
09:07:45 21 security advisor, she was present at one, Lisa Marra,
09:07:53 22 Amy Chan, Hope Olguin. You know, it depended on the
09:07:59 23 content.

09:08:03 24 And, actually, going back to the very first
09:08:05 25 meeting, Secretary Fontes and Assistant Secretary Keely

09:08:11 1 Varvel attended, but remotely, for the very first part
09:08:16 2 of the meeting.

09:08:17 3 Q. Understood.

09:08:19 4 Is there a role for the Attorney General or the
09:08:23 5 Governor in developing the EPM?

09:08:30 6 A. Well, this is a hard answer -- hard question to
09:08:34 7 answer. I think in a normal situation any other year
09:08:41 8 the answer would be a definitive yes, but in this past
09:08:46 9 year the answer was -- is no. The legislature
09:08:53 10 prohibited the Attorney General from giving any legal
09:08:57 11 advice to the Secretary of State through June 30th of
09:09:04 12 2023.

09:09:06 13 So our interactions with the Attorney General
09:09:11 14 have been very limited, and we are prohibited from
09:09:18 15 spending money on outside counsel, and we also -- the
09:09:25 16 Secretary of State's Office was limited to having one
09:09:35 17 in-house attorney. So our -- to a great extent, our
09:09:42 18 hands have been tied. And to the extent that there has
09:09:46 19 been criticism, we have been severely restricted on how
09:09:54 20 much legal advice and from whom we can get that legal
09:09:58 21 advice, and it's been very, very difficult.

09:10:01 22 Q. So what did the situation look like before with
09:10:05 23 the Attorney General in the process of developing the
09:10:07 24 EPM?

09:10:09 25 A. Well, before, there would be discussions with

09:10:13 1 the Attorney General, whoever was assigned to represent
09:10:16 2 the Attorney General, and I think in recent years it's
09:10:21 3 been someone from the Solicitor General's Office. And
09:10:28 4 there would -- through any attorney-client dynamic there
09:10:31 5 could be interactions, especially with new legislation,
09:10:33 6 such as the legislation we're going to talk about today.

09:10:37 7 Q. Uh-huh. Is there a role for the Governor in
09:10:39 8 the drafting process of the EPM?

09:10:47 9 A. I'm not sure if there has traditionally been a
09:10:51 10 role. However, this year I have provided -- you know, I
09:11:01 11 have included them on the distribution list, so...

09:11:03 12 Q. Uh-huh.

09:11:04 13 A. Although, we kind of got off to a rocky start
09:11:08 14 as far as compiling the distribution list,
09:11:12 15 because through a hundred percent fault of my own, I
09:11:16 16 established these deadlines myself, so in meeting the
09:11:19 17 deadlines, I was -- it was very, very hard. And,
09:11:25 18 unfortunately, the very first meeting, that very first
09:11:28 19 Tuesday, I did not release the initial draft until just
09:11:35 20 before the meeting, maybe a day or two before the
09:11:38 21 meeting, so -- but, nevertheless, I digress.

09:11:44 22 The Governor's Office has been included in the
09:11:47 23 distribution list, and I know representatives from the
09:11:53 24 Governor's Office have attended some of those meetings
09:11:55 25 with the counties.

09:11:56 1 Q. And have they commented or added their own
09:12:01 2 insight into how the new draft of the EPM should look?

09:12:09 3 A. The Governor's Office has not, as far as I can
09:12:12 4 recall, weighed in or provided any comments during that
09:12:17 5 five-month period. But to the extent that periodically
09:12:23 6 I might have called or texted -- not texted. Probably
09:12:28 7 called somebody from the Governor's Office with a
09:12:31 8 question. But I can't specifically recall any item
09:12:40 9 about the EPM. There have been other issues, but not
09:12:43 10 the EPM.

09:12:43 11 Q. Uh-huh.

09:12:44 12 A. So, for example, I know today we're going to
09:12:47 13 talk about the first three draft VRAC papers, and I did
09:12:54 14 call Kori Lorick to discuss those papers.

09:13:00 15 Q. Got it.

09:13:03 16 And so just to make sure I understood correctly
09:13:07 17 then, so the Governor's Office hasn't quite -- it
09:13:10 18 doesn't seem that they've weighed in, even though
09:13:13 19 they're on the distribution list, but you've had calls.
09:13:16 20 And was your testimony that those calls were not
09:13:20 21 directly about the EPM drafting, they were about other
09:13:22 22 issues, or were any of those calls directly about EPM
09:13:29 23 drafting or issues within the 2023 draft EPM?

09:13:34 24 A. There -- okay. There was one call specifically
09:13:37 25 about the EPM, and there have -- there have been many

09:13:43 1 calls. So I specifically recall only one discussion,
09:13:48 2 you know, aside from the VRAC paper, to the extent that
09:13:51 3 it's included in the EPM.

09:13:52 4 The one call dealt with a sentence in the voter
09:13:57 5 registration chapter, which the 2021 draft submission
09:14:03 6 had referred to the five-year archive period of
09:14:10 7 incomplete voter registration forms. So an incomplete
09:14:16 8 voter registration form is kept in suspense for five
09:14:21 9 years.

09:14:22 10 And I called Christine Dyster, who was the
09:14:26 11 deputy elections director under the Hobbs administration
09:14:29 12 and shortly under the Fontes administration, and I asked
09:14:33 13 her some historical, you know, the historical
09:14:38 14 perspective; was that kept in to allow a voter or an
09:14:46 15 applicant to use that original incomplete voter
09:14:52 16 registration form to supply the additional information
09:14:54 17 that was needed through that -- throughout that
09:14:57 18 five-year period, or was there some other reason.

09:15:05 19 And she really wasn't exactly sure. You know,
09:15:11 20 understandably, you know, it had been years since the
09:15:14 21 2021 submission. And she said she thought it was to the
09:15:20 22 degree that it would be most advantageous or helpful to
09:15:24 23 voters to have that. She thought that was probably the
09:15:30 24 reason. But something to that effect.

09:15:32 25 Q. I understand.

09:15:33 1 A. But I took it out.

09:15:38 2 Q. And so what is the process for approval of the
09:15:42 3 EPM when we get to October 1st, what's the process?

09:15:46 4 A. And if you don't mind if I just add a little
09:15:50 5 additional information?

09:15:50 6 Q. Please. Please do.

09:15:51 7 A. So to the last question, that five-year archive
09:15:54 8 period of the five -- of the incomplete voter
09:15:58 9 registration form, I took it out following the meeting
09:16:01 10 with the counties.

09:16:04 11 The County Recorders preferred to have language
09:16:09 12 in the EPM that said the incomplete voter registration
09:16:13 13 form shall be retained in suspense until the most -- you
09:16:22 14 know, next general election period, and then it would
09:16:27 15 effectively be archived and not revived if a voter later
09:16:32 16 wanted to supplement the information.

09:16:34 17 Q. Right.

09:16:35 18 A. So because of the preference of the County
09:16:38 19 Recorders --

09:16:38 20 Q. Right.

09:16:38 21 A. -- that five-year archive period was removed.

09:16:43 22 Q. I understand.

09:16:45 23 A. Okay. And so --

09:16:45 24 Q. Thank you for that.

09:16:46 25 A. And, I'm sorry, you asked the next question.

09:16:50 1 Q. Just what is the process for approval of the
09:16:52 2 EPM?

09:16:57 3 MR. LANGHOFER: Calls for a legal
09:17:01 4 conclusion.

09:17:03 5 THE WITNESS: The election procedures
09:17:04 6 manual has to be drafted in consultation with the county
09:17:08 7 election officials and, by October 1st, submitted to the
09:17:12 8 Attorney General and Governor's Office for approval; and
09:17:18 9 that approval shall be issued by December 31st of this
09:17:24 10 year.

09:17:27 11 BY MS. BRAILEY:

09:17:27 12 Q. And so there's no other interaction once you
09:17:29 13 submit the EPM; it's out of your hands; you just wait to
09:17:33 14 find out if the AG and the Governor will approve the
09:17:37 15 final?

09:17:38 16 A. There's no statutorily required interaction. I
09:17:44 17 hope, I really do, I really hope if there are issues,
09:17:47 18 that we -- and I anticipate there will be. I mean I
09:17:51 19 think we all want to have a new EPM. And I hate to make
09:17:57 20 an assumption, but I think anyone that, you know, knows
09:18:01 21 what's in the 2019 EPM and what's in the draft 2023 EPM
09:18:06 22 and what's best for election administrators, especially
09:18:10 23 the high turnover of election administrators, I think
09:18:13 24 it's in everyone's best interest to have an updated
09:18:18 25 election procedures manual.

09:18:19 1 So I think everyone involved, so the Secretary
09:18:25 2 of State, the Attorney General, and the Governor's
09:18:29 3 Office, in good faith want an updated EPM. And I'm
09:18:35 4 emphasizing that simply because of what happened two
09:18:38 5 years ago. There was the politics involved and the EPM
09:18:43 6 was not approved. I want to do everything within my
09:18:46 7 power and control to make sure that does not happen.

09:18:51 8 So hopefully if there is some issue, some
09:18:53 9 obstacle, some discussion that's needed, I really hope
09:18:59 10 that we can have that discussion and work through any
09:19:03 11 problem.

09:19:03 12 Q. Are you aware of about whether during the 2021
09:19:08 13 cycle of drafting the EPM, aside from political issues,
09:19:14 14 if there were open communications about substantive
09:19:19 15 issues that the AG or the Governor had about the EPM?

09:19:30 16 A. Generally, it was not a relationship where
09:19:38 17 there was open dialogue and discussion. There was a
09:19:42 18 very tense relationship. And I know that there was a
09:19:49 19 response provided by the Attorney General's Office in
09:19:54 20 December at some point that essentially stated that the
09:20:04 21 EPM would only be approved by the Attorney General if
09:20:07 22 certain demands were met. And so long story short,
09:20:12 23 there was no EPM.

09:20:13 24 Q. Right. Right.

09:20:17 25 Okay. I'm going to mark as Exhibit 265 this

09:20:25 1 document, which says that it is the 2019 EPM-Annotated
09:20:29 2 (2022) document. You do not need to review that large
09:20:36 3 stack of papers right now.

09:20:36 4 A. Okay.

09:20:37 5 Q. For everyone following online, this should be F
09:20:43 6 with the numbers 288763.

09:20:47 7 What is the annotated version?

09:21:05 8 A. My understanding is that the Secretary of
09:21:11 9 State, because there was no new election procedures
09:21:15 10 manual, wanted to make sure there was information
09:21:19 11 provided to the counties that to help guide them and
09:21:25 12 to help establish some sort of uniformity, clarity,
09:21:28 13 correctness. And so the 2021 EPM, which was not
09:21:38 14 approved, there was this draft guidance document
09:21:45 15 provided to the counties.

09:21:49 16 Q. To your knowledge, are there any material
09:21:51 17 differences between the annotated version of the 2019
09:21:54 18 EPM and the -- I guess can we call it the regular
09:21:58 19 version of the 2019 EPM?

09:22:02 20 A. Okay, I'll premise this by saying, personally,
09:22:05 21 this is the first time I've ever seen this document.

09:22:07 22 Q. Got it. Okay.

09:22:08 23 A. I've heard of it.

09:22:09 24 Q. I understand.

09:22:10 25 A. And then in my capacity, during this time frame

09:22:13 1 I was a deputy county attorney --

09:22:16 2 Q. Right.

09:22:16 3 A. -- I had no reason to look at it. So I have
09:22:20 4 not compared this document to the 2019 EPM.

09:22:24 5 Q. I understand.

09:22:27 6 So with that in mind, based on your knowledge,
09:22:30 7 do you know why some counties would use the annotated
09:22:33 8 version and some counties would not?

09:22:36 9 A. I don't know.

09:22:38 10 Q. Okay. Do you know if -- so just so I
09:22:48 11 understand your testimony correctly, the -- you were
09:22:51 12 aware that so the Secretary wanted some kind of updated
09:22:55 13 version for the counties, and so that's why the
09:22:57 14 annotated version exists; is that correct?

09:22:59 15 A. That's my understanding, yes. I was not with
09:23:02 16 the Secretary of State's Office at the time, but that's
09:23:03 17 to the best of my knowledge.

09:23:05 18 Q. Uh-huh. So at this period in time, you were at
09:23:07 19 Maricopa still?

09:23:08 20 A. In 2022 --

09:23:10 21 Q. No, you were --

09:23:10 22 A. -- I worked at Yavapai County.

09:23:13 23 Q. You were at Yavapai County.

09:23:16 24 And so you heard about the annotated version at
09:23:18 25 Yavapai County?

09:23:21 1 A. I don't know. I just don't remember. You
09:23:24 2 know, I --

09:23:24 3 Q. Uh-huh.

09:23:25 4 A. Just so that we understand the dynamic, there's
09:23:28 5 a civil deputy county attorneys group that met
09:23:32 6 quarterly. We also had many conversations, and perhaps
09:23:39 7 through the civil deputies group, because I was very
09:23:42 8 active in that, I think that's a more likely way that I
09:23:49 9 learned of this.

09:23:50 10 Q. I see. That's helpful.

09:23:54 11 One more sort of technical question about the
09:23:59 12 draft 2023 EPM. I noticed that a lot of the different
09:24:06 13 drafts, the file names have different version numbers,
09:24:09 14 but they all sort of seem to repeat over time within the
09:24:13 15 office. So I see Version 512, Version 1024,
09:24:18 16 Version 2048.

09:24:19 17 Are these like identification numbers or
09:24:23 18 document organization numbers, or do you know what these
09:24:27 19 different version numbers mean and why they repeat?

09:24:30 20 A. I'm sorry, I have no -- are you talking about
09:24:31 21 the electronic file number?

09:24:33 22 Q. Yeah. Uh-huh, I am. I'm just wondering if you
09:24:37 23 know.

09:24:37 24 A. I don't know, but if it was -- if it was my
09:24:40 25 file, I identify documents almost a hundred percent of

09:24:48 1 the time I provide a date.

09:24:52 2 Q. Uh-huh.

09:24:53 3 A. So perhaps it's a date. But if it was provided
09:24:58 4 pursuant to disclosure, there could have been some other
09:25:01 5 system used.

09:25:05 6 Q. All right. Okay. So as we speak about the
09:25:08 7 2023 draft EPM, can you tell me about -- you know, we
09:25:17 8 went over some of these questions with sort of process
09:25:19 9 in the drafting, but can you tell me about any specific
09:25:22 10 discussions there have been with the AG on this draft?

09:25:27 11 MR. MORGAN: One second.

09:25:28 12 MR. LANGHOFER: Object to the extent it
09:25:29 13 calls for legal advice.

09:25:31 14 MR. MORGAN: Yeah, I was thinking about
09:25:32 15 whether to make that objection, so...

09:25:34 16 BY MS. BRAILEY:

09:25:34 17 Q. Without telling me any privileged information.

09:25:37 18 MR. MORGAN: Now I don't need to.

09:25:41 19 THE WITNESS: I'm not aware of any
09:25:43 20 discussion with the Attorney General.

09:25:45 21 BY MS. BRAILEY:

09:25:45 22 Q. Okay. And how about with the Governor's
09:25:47 23 Office?

09:25:47 24 A. About the 2023 draft?

09:25:49 25 Q. Uh-huh.

09:25:52 1 A. I had a meeting with the Governor's Office last
09:25:55 2 Thursday for a half hour.

09:25:55 3 Q. Uh-huh.

09:26:00 4 A. And that -- for the -- actually, that was more
09:26:02 5 in anticipation of this deposition.

09:26:05 6 Q. Right.

09:26:08 7 A. And there could have been something discussed
09:26:10 8 about the EPM, but that really wasn't the intent of the
09:26:13 9 meeting.

09:26:14 10 Q. Okay. And based on what you've told me about
09:26:18 11 just the normal drafting process, my understanding then
09:26:20 12 is that you would have had lots of discussions with the
09:26:23 13 counties already regarding the draft EPM?

09:26:25 14 A. Yes. And those discussions, I will say, those
09:26:29 15 discussions happened the third Tuesday of each month;
09:26:34 16 but there were frequent discussions essentially
09:26:39 17 one-on-one either with me or some other person in my
09:26:45 18 office with the counties, because we're dealing with
09:26:48 19 15 different counties, 15 different elections directors
09:26:52 20 or County Recorders.

09:26:55 21 So I know sometimes those meetings -- those big
09:26:58 22 meetings, you know, there were more than a hundred
09:27:00 23 people on the invitation list and there were -- I think
09:27:03 24 the smallest turnout was -- you know, on any of the
09:27:07 25 meetings was about 50 people. So there were a large

09:27:10 1 number of people on those calls, and I can see that
09:27:14 2 having somewhat of a chilling effect, especially the
09:27:19 3 newer people to elections.

09:27:20 4 Q. Yeah.

09:27:21 5 A. We have, I think, had 12 in the last two years,
09:27:25 6 12 new recorders, chief deputy recorders, or elections
09:27:30 7 directors. And fortunately, you know, we have a lot of
09:27:35 8 people with experience, and some of the people that have
09:27:39 9 been around for many years tended to contribute more,
09:27:43 10 and then a lot of other people did not really talk
09:27:48 11 during those calls; but we reached out and talked
09:27:52 12 one-on-one with those counties, even met with them in
09:27:58 13 person.

09:28:00 14 We, we meaning the Secretary of State, Deputy
09:28:04 15 Elections Director Lisa Marra and I, have been to 13 of
09:28:08 16 the 15 counties personally and visited their Recorders,
09:28:13 17 Boards of Supervisors, elections directors, and
09:28:16 18 sometimes those discussions happen during those visits.

09:28:19 19 And I will say the only reason we haven't been
09:28:21 20 to the other two counties is because we had scheduled
09:28:27 21 it, but the airplane, state airplane, had mechanical
09:28:31 22 problems, so it was canceled at the last minute. And,
09:28:36 23 unfortunately, the logistics of setting that up, we just
09:28:40 24 have not been able to get to those two counties. But
09:28:43 25 it's not for any sleight to the counties. I really -- I

09:28:46 1 really hope we get to them soon.

09:28:48 2 Q. And so all these additional discussions, you
09:28:51 3 know, outside of the meetings, are they memorialized in
09:28:54 4 some way?

09:28:56 5 A. No. I have a good memory.

09:29:04 6 Q. Clearly.

09:29:07 7 And so the 2023 draft EPM was posted for public
09:29:12 8 comment, right?

09:29:12 9 A. Yes, that's correct.

09:29:13 10 Q. And you received several public comments,
09:29:17 11 right?

09:29:17 12 A. We received well over 600 comments.

09:29:22 13 Q. Uh-huh. And have you incorporated or updated
09:29:24 14 the draft based on those comments?

09:29:28 15 A. The EPM draft is a work-in-progress, and I am
09:29:34 16 looking at every single comment, and it's -- actually,
09:29:38 17 it's been very helpful.

09:29:40 18 And, Mr. Langhofer, I appreciate all the
09:29:43 19 comments you've provided, and everyone else. There were
09:29:46 20 some very helpful, you know, thoughtful comments. You
09:29:51 21 know, there were, I don't know, anywhere between 20,
09:29:55 22 25 percent of the comments were copy/paste, you know,
09:30:00 23 comments, maybe not so helpful.

09:30:01 24 Q. Uh-huh. Right.

09:30:04 25 A. But there were some very helpful, thoughtful

09:30:07 1 comments, and I greatly appreciate it because, by and
09:30:10 2 large, sometimes I felt like I was the only one looking
09:30:12 3 at it, other than, you know, the counties.

09:30:15 4 Q. Right.

09:30:16 5 A. So I really -- and, of course, the people in my
09:30:19 6 office. But it really was helpful.

09:30:24 7 Statutorily the Secretary of State was not
09:30:27 8 required to do a public comment period, and the former
09:30:30 9 administration, the Hobbs administration, had a
09:30:34 10 brilliant idea coming up with the public comment period.

09:30:37 11 Their public comment period was 30 days, so we
09:30:40 12 got some criticism on that, but I didn't know how to do
09:30:43 13 a 30-day public comment period and possibly get all the
09:30:46 14 work done by the October 1st deadline. So we had a
09:30:50 15 two-week public comment period and received, like I
09:30:54 16 said, hundreds of comments.

09:30:58 17 Q. Do you -- if plaintiffs succeed in this lawsuit
09:31:05 18 and there are portions of the draft EPM that require
09:31:12 19 updating or editing, would there -- in that scenario,
09:31:17 20 would there be another public comment period if a new
09:31:20 21 version of the draft came out?

09:31:22 22 MR. MORGAN: Objection to the extent it
09:31:23 23 calls for a legal conclusion and speculation.

09:31:28 24 THE WITNESS: Could you repeat the
09:31:29 25 question, please?

09:31:30 1 BY MS. BRAILEY:

09:31:30 2 Q. Sure, and I will rephrase.

09:31:34 3 Actually, we'll come back to that another --
09:31:37 4 later.

09:31:38 5 Just very briefly and just generally, can you
09:31:41 6 describe the updates, the sort of major updates that
09:31:45 7 were made to the 2023 EPM?

09:31:52 8 MR. MORGAN: Form.

09:31:53 9 THE WITNESS: Well, okay, I will -- I'll
09:31:56 10 start with one of the major updates due to case law --

09:31:56 11 BY MS. BRAILEY:

09:31:56 12 Q. Uh-huh.

09:32:03 13 A. -- that has happened since the 2019 EPM was
09:32:09 14 issued.

09:32:10 15 So prior to the 2019 EPM the last one was
09:32:15 16 published in 2014. So there was a great deal to update.

09:32:18 17 Q. Right.

09:32:19 18 A. So included in the 2019 -- it was very
09:32:24 19 thorough, very comprehensive. There have been two or
09:32:28 20 three Supreme Court decisions addressing the issue of
09:32:32 21 whether statutorily certain subjects could be included
09:32:36 22 or should be included and to the degree that those
09:32:42 23 topics were mandatory that the counties follow those
09:32:48 24 requirements in the EPM or were they more of guidance to
09:32:54 25 the counties.

09:32:57 1 For example, in the McKenna v. Soto case, that
09:33:01 2 dealt with whether a nomination -- candidate nomination
09:33:04 3 petition signature was acceptable or not, and one of the
09:33:07 4 arguments in the case was based on the Secretary of
09:33:12 5 State's 2019 EPM, the signature was acceptable or not.
09:33:16 6 I don't recall.

09:33:18 7 But the Supreme Court and the gist of their,
09:33:23 8 you know, holding was the -- statutorily 16 ARS -- I'm
09:33:30 9 sorry, ARS 16-452 does not include candidate nomination
09:33:35 10 petition challenges as one of the areas to be included;
09:33:39 11 and, therefore, that chapter dedicated to nomination
09:33:44 12 petition challenges was more of a guidance to litigants,
09:33:49 13 candidates.

09:33:52 14 For that reason Secretary Fontes requested that
09:33:56 15 I remove those chapters. So the candidate nomination
09:34:01 16 petition challenge chapter was removed. It will be
09:34:04 17 published in a separate guidance document. As well as
09:34:08 18 the chapter regarding new political party recognition.
09:34:12 19 There was not statutory authority to keep that in, and
09:34:16 20 there will be a separate document.

09:34:18 21 And I should add, the separate documents are
09:34:22 22 guidance documents, but they're still very helpful; and
09:34:27 23 on a positive note, they can also be updated more
09:34:30 24 frequently than every two years, as needed.

09:34:34 25 Q. What are those guidance documents called?

09:34:37 1 A. Guide -- they don't have a name yet.

09:34:37 2 Q. Oh. Got it.

09:34:39 3 A. I know. We've been talking about names, but we
09:34:40 4 don't have a name.

09:34:41 5 Q. And where are they located?

09:34:43 6 A. Currently, we haven't finalized those
09:34:49 7 documents, and the best reference as far -- if someone's
09:34:53 8 looking for what will be included, is what was in the
09:34:57 9 2021 submission.

09:34:58 10 Q. Got it.

09:35:00 11 Do you know how those guidance documents will
09:35:02 12 be distributed?

09:35:06 13 A. They'll likely be posted on our website and
09:35:12 14 available on the website, but not distributed in
09:35:15 15 traditional sense of a paper copy.

09:35:18 16 Q. Sure.

09:35:22 17 A. If I can elaborate on that, because Secretary
09:35:24 18 Fontes has made a point.

09:35:26 19 Q. Yes, please.

09:35:26 20 A. So internally just a couple of weeks ago the
09:35:30 21 next step is to have more of a public-facing document.
09:35:37 22 And so this is -- the EPM is for election
09:35:42 23 administrators. The next guidance document or
09:35:45 24 publication will be more of a public-facing document to
09:35:49 25 help members of the public understand how elections

09:35:54 1 work.

09:35:54 2 Q. I understand.

09:35:55 3 A. Without getting into so much of the, you know,
09:35:57 4 footnotes and legalese.

09:36:00 5 Q. Uh-huh.

09:36:01 6 A. But, likewise, we will have additional, you
09:36:06 7 know, more internal election administrator guidance
09:36:10 8 documents as well.

09:36:10 9 Q. I understand.

09:36:12 10 And so my understanding of the 2023 draft EPM
09:36:16 11 is that it includes several of the requirements from the
09:36:23 12 two challenged laws that this lawsuit is about, so it
09:36:27 13 includes the requirements in H.B. 2492 and in 2243; is
09:36:33 14 that correct?

09:36:33 15 A. Yes.

09:36:37 16 Q. And my understanding, based on the documents
09:36:40 17 I've seen, is that the Secretary of State's Office
09:36:44 18 previously took the position that several of these
09:36:46 19 provisions were potentially violating different laws,
09:36:52 20 including federal laws. Are you aware of that position
09:36:55 21 that the Secretary took?

09:36:56 22 A. Yes.

09:37:01 23 Q. And so is the Secretary -- by including -- by
09:37:04 24 including these provisions in the draft, the new draft
09:37:08 25 EPM, what does that mean about the Secretary's position

09:37:12 1 on these provisions?

09:37:14 2 MR. MORGAN: Objection to form, but I

09:37:15 3 think you can fix it. When you say the Secretary's, you

09:37:18 4 mean the office?

09:37:20 5 MS. BRAILEY: Correct.

09:37:20 6 MR. MORGAN: She's not testifying about

09:37:22 7 Mr. Fontes' personal opinion.

09:37:24 8 MS. BRAILEY: Absolutely not, no.

09:37:24 9 MR. MORGAN: Okay. Okay.

09:37:25 10 MS. BRAILEY: About the office.

09:37:26 11 MR. MORGAN: With that clarification,

09:37:26 12 please.

09:37:26 13 THE WITNESS: Yeah.

09:37:26 14 BY MS. BRAILEY:

09:37:26 15 Q. Yeah.

09:37:29 16 A. So as I had indicated, the rollout of the EPM

09:37:36 17 happened very quickly, and so essentially each draft --

09:37:41 18 each part, each segment, we had a maximum of two weeks

09:37:47 19 to draft. We saved the voter registration chapter. You

09:37:53 20 know, it was out of order and, admittedly, it kind of

09:37:58 21 got confusing, but we wanted to save it for the very

09:38:01 22 last one, hoping, praying that we would have some

09:38:07 23 determination, maybe even a settlement among the

09:38:11 24 parties, but some resolution to at least part of this,

09:38:18 25 part of these issues being litigated.

09:38:22 1 Well, that has not happened. So I essentially,
09:38:31 2 me, I knew I -- I knew I didn't have resolution, and I
09:38:38 3 copied and pasted the statutes to the best degree
09:38:43 4 possible, as sterile as possible, the statutes that were
09:38:49 5 amended in the legislation and put them in there as a
09:38:54 6 placeholder where I thought they would fit, knowing that
09:38:58 7 it was subject to change, again, hoping, praying that by
09:39:02 8 October 1st there would be some resolution and some of
09:39:07 9 these provisions could be altered to comport with
09:39:12 10 whatever court ruling we have or if there was some
09:39:14 11 settlement.

09:39:15 12 Q. And so if there is no court ruling or
09:39:17 13 settlement by October 1st, then those placeholders will
09:39:21 14 be in the draft that will go to the AG and the Governor
09:39:25 15 by October 1st?

09:39:26 16 A. That's not accurate, no.

09:39:28 17 Q. Oh. Can you correct me?

09:39:29 18 MR. MORGAN: Objection to the extent that
09:39:32 19 it calls for the revelation of legal advice,
09:39:37 20 particularly things that we've discussed.

09:39:37 21 THE WITNESS: Uh-huh.

09:39:38 22 MR. MORGAN: So just be careful not to
09:39:40 23 give that information.

09:39:45 24 THE WITNESS: Thank you.

09:39:45 25 You know, as far as what will eventually

09:39:47 1 be in the voter registration chapter and the litigation
09:39:51 2 here has taken up -- has, I guess, led to many
09:40:00 3 discussions, has prompted many comments in the public
09:40:04 4 comment period, and they are issues that keep me up at
09:40:08 5 night. And I don't know ultimately what will be in the
09:40:14 6 draft October 1st, and I'm not trying to be coy. It's
09:40:20 7 hard. There are many -- there are options, and we have
09:40:25 8 to choose the best of not so great options.

09:40:29 9 BY MS. BRAILEY:

09:40:30 10 Q. I understand. So let's say that -- strike
09:40:30 11 that.

09:40:38 12 Is it going to be the -- is it going to be the
09:40:47 13 process that draft EPMs will always be followed by a
09:40:51 14 public comment period before being finalized?

09:40:54 15 MR. MORGAN: Object to form, speculation.

09:40:58 16 BY MS. BRAILEY:

09:40:59 17 Q. Let me rephrase.

09:40:59 18 You had mentioned that there's no statutory
09:41:02 19 requirement to having a public comment period, but prior
09:41:06 20 administrations had thought this would be a good idea.
09:41:08 21 You've continued that practice.

09:41:11 22 Is this a practice that you would want to
09:41:13 23 employ every time there's a draft EPM?

09:41:15 24 A. As far as the public comment period, I'm only
09:41:18 25 aware of the Hobbs administration --

09:41:18 1 Q. Uh-huh.

09:41:21 2 A. -- of having that public comment period. I'm
09:41:24 3 not familiar with any other administration having a
09:41:29 4 public comment period.

09:41:33 5 As far as what will happen in the future, it
09:41:35 6 will depend on who is the particular office holder.

09:41:39 7 Q. So let's say that you need to revise this EPM
09:41:43 8 based on whatever the court decides in this case.
09:41:48 9 Because there would be, you know, revisions to the
09:41:52 10 current draft, would you hold another public comment
09:41:57 11 period so that the public sees that new draft?

09:41:59 12 A. No.

09:42:00 13 Q. Okay. And why not?

09:42:01 14 A. Because this procedures manual is a manual for
09:42:08 15 the administration of elections by election officials.
09:42:13 16 These are guidance documents, requirements, for election
09:42:20 17 administrators.

09:42:21 18 Q. Right.

09:42:22 19 A. So to the extent that the public is not pleased
09:42:27 20 with what's in there, we simply do not have the luxury
09:42:33 21 of time to allow for another public comment period.

09:42:39 22 MS. BRAILEY: Okay. So we've been going
09:42:41 23 for not quite an hour and a half. How are -- do you
09:42:45 24 need a break?

09:42:46 25 MR. MORGAN: Yeah, can we take a quick

09:42:48 1 break?

09:42:48 2 MS. BRAILEY: Okay. Yeah, can we take

09:42:50 3 five minutes?

09:42:50 4 THE WITNESS: Okay.

09:42:50 5 MS. BRAILEY: Off the record, please.

09:42:50 6 THE VIDEOGRAPHER: We are off the record.

09:42:51 7 The time on the video monitor is 9:42 a.m.

09:42:55 8 (A recess was taken.)

09:54:29 9 THE VIDEOGRAPHER: We are on the record.

09:54:31 10 The time on the video monitor is 9:54 a.m.

09:54:34 11 BY MS. BRAILEY:

09:54:37 12 Q. So we are here to talk about some things in

09:54:41 13 2492, so let's get to those. So let's talk about

09:54:48 14 establishing identity and citizenship for applicants who

09:54:52 15 are registering to vote in Arizona.

09:54:56 16 So in general, based on the information that's

09:54:57 17 required on the state form -- and when I say state form,

09:55:03 18 you know I'm referring to the Arizona voter registration

09:55:06 19 application?

09:55:06 20 A. Yes.

09:55:07 21 Q. Okay. So in general, based on the information

09:55:10 22 required on the state form and any databases that the

09:55:14 23 counties or the Secretary has access to, does Arizona

09:55:17 24 have issues establishing the identity of voter

09:55:22 25 registration applicants?

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1 MR. MORGAN: Form.
2 THE WITNESS: I'm not sure what -- I'm not
3 sure to the degree how Arizona would have trouble
4 establishing identity.
5 BY MS. BRAILEY:
6 Q. I guess in general, are there widespread issues
7 with making sure that those who register to vote and
8 become registered to vote are who -- are who they say
9 they are and are eligible to vote?
10 A. Well, the vast majority of voters --
11 MR. WHITAKER: Form and foundation.
12 MS. LANG: What?
13 MR. MORGAN: Mr. Whitaker said form and
14 foundation, I believe.
15 MS. BRAILEY: Oh.
16 THE WITNESS: The vast ma --
17 MR. MORGAN: I have kids.
18 THE WITNESS: The vast majority of voters
19 register through the Motor Vehicles Department, the MVD,
20 and through that process the AVID system is able to
21 check documentary proof of citizenship, as well as
22 identification of the voters.
23 BY MS. BRAILEY:
24 Q. So let's walk through. How is a voter
25 registration applicant's identity confirmed?

09:56:42 1 A. If an applicant registers through the MVD, it's
09:56:48 2 confirmed by establishing that person has a driver's
09:56:51 3 license or a nonoperating license identification.

09:56:57 4 Q. So what goes into a HAVA check?

09:56:59 5 A. And I'm sorry. Excuse me. The Social Security
09:57:04 6 Administration check is also part of the process.

09:57:10 7 Q. Is the -- tell me about the process. What goes
09:57:13 8 into a HAVA check?

09:57:14 9 A. So a HAVA check, in my understanding, is that
09:57:17 10 it includes the process by which AVID, the access voter
09:57:23 11 information database, that AVID -- well, excuse me. The
09:57:30 12 County Recorder submits information via AVID and -- or
09:57:37 13 the voter directly, and that information is then sent to
09:57:43 14 the MVD to check documentary proof of citizenship or
09:57:49 15 DPOC, or D-P-O-C is what it's also referred to, as well
09:57:55 16 as checking identification and checking the Social
09:58:02 17 Security Administration database.

09:58:04 18 Q. Is AVID automated with the Social Security
09:58:07 19 Administration database?

09:58:08 20 MR. MORGAN: Foundation.

09:58:09 21 THE WITNESS: I don't know.

09:58:14 22 BY MS. BRAILEY:

09:58:14 23 Q. Do you -- based on your experience in both
09:58:19 24 Maricopa, Yavapai, and now with the Secretary, do you
09:58:23 25 know what fields are necessary for a HAVA check?

09:58:26 1 MR. MORGAN: Foundation.

09:58:28 2 THE WITNESS: That would be something for
09:58:32 3 Yolanda to answer.

09:58:34 4 BY MS. BRAILEY:

09:58:34 5 Q. Okay. So I have a series of hypotheticals, and
09:58:39 6 I'm going to go through them, and if you don't know and
09:58:42 7 it's for somebody else, you let me know.

09:58:44 8 A. Okay.

09:58:45 9 Q. So if we have an applicant and they're using
09:58:47 10 the state form to register to vote, they've provided the
09:58:51 11 last four digits of their social security number. They
09:58:54 12 don't provide a driver's license number. So we have
09:58:58 13 their name, their date of birth, and the last four of
09:59:01 14 their social.

09:59:01 15 Has this applicant established their
09:59:04 16 citizenship?

09:59:06 17 MR. MORGAN: Calls for a legal conclusion.

09:59:10 18 THE WITNESS: Okay. Yeah, yeah, these are
09:59:12 19 questions --

09:59:13 20 BY MS. BRAILEY:

09:59:14 21 Q. These are all for Yolanda? Okay.

09:59:14 22 A. -- probably for Yolanda, but I'll say generally
09:59:16 23 the practice is to submit any applicant through the
09:59:22 24 system to check for DPOC.

09:59:24 25 Q. Okay. So, again, based on all your experience,

09:59:39 1 what is a utility of the citizen checkbox for the
09:59:43 2 counties?

09:59:50 3 A. I'm not aware of any.

09:59:52 4 Q. Okay. Can an applicant's answer to the
09:59:56 5 checkbox question override the presence or absence of
10:00:01 6 DPOC?

10:00:03 7 MR. LANGHOFER: Calls for a legal
10:00:07 8 conclusion.

10:00:07 9 THE WITNESS: I'll answer the question by
10:00:09 10 phrasing it that if an applicant submits DPOC, it's
10:00:14 11 irrelevant whether the checkbox is checked or not.

10:00:20 12 BY MS. BRAILEY:

10:00:21 13 Q. Uh-huh. And can election officials use the
10:00:24 14 checkbox to detect whether a noncitizen attempted to
10:00:29 15 register to vote?

10:00:30 16 MR. MORGAN: Calls for a legal conclusion.

10:00:31 17 MR. LANGHOFER: Same.

10:00:33 18 MR. WHITAKER: And speculation.

10:00:35 19 THE WITNESS: I'm not sure I understand
10:00:35 20 the question.

10:00:39 21 BY MS. BRAILEY:

10:00:39 22 Q. I'm wondering if there's any relationship
10:00:41 23 between how somebody might check or not check the
10:00:48 24 citizenship box and whether that information would help
10:00:53 25 a county know whether there's a noncitizen attempting to

10:00:58 1 vote?

10:00:59 2 MR. LANGHOFER: Same objections.

10:00:59 3 MR. MORGAN: Objection, calls for a legal
10:01:01 4 conclusion, speculation.

10:01:04 5 THE WITNESS: Not that I'm aware of.

10:01:05 6 BY MS. BRAILEY:

10:01:09 7 Q. Okay. And so prior to H.B. 2492 counties --
10:01:15 8 or, rather, were counties able to confirm an applicant's
10:01:18 9 citizenship status before registering them to vote as a
10:01:22 10 full ballot voter?

10:01:23 11 MR. MORGAN: Foundation.

10:01:25 12 THE WITNESS: So prior to the checkbox
10:01:28 13 being required, was DPOC --

10:01:33 14 BY MS. BRAILEY:

10:01:34 15 Q. Well, did counties have what they needed to
10:01:38 16 confirm voter eligibility?

10:01:39 17 A. Yes.

10:01:39 18 MR. MORGAN: Foundation.

10:01:40 19 MR. LANGHOFER: Form.

10:01:50 20 BY MS. BRAILEY:

10:01:50 21 Q. Okay. So my understanding, under the
10:01:53 22 pre-H.B. 2492 procedures, is that if a person submits a
10:01:56 23 state form without DPOC, but all the other required
10:02:00 24 information on the form, that person could be registered
10:02:03 25 to vote as a federal only voter. Is that -- was my

10:02:07 1 understanding correct?

10:02:09 2 A. Well, if someone applies through the, well, MVD
10:02:16 3 or any registrant, there's an attempt to check whether
10:02:23 4 DPOC has been provided by running the names through the
10:02:29 5 Motor Vehicles Department system to see if the system's
10:02:30 6 able to catch a voter who, for whatever reason, was --
10:02:36 7 did not supply citizenship proof. I'm not sure if that
10:02:41 8 answers your question.

10:02:42 9 Q. No, that's very helpful.

10:02:44 10 But let's say they're run through the system
10:02:47 11 and no DPOC appears for that person, and so all you have
10:02:50 12 is their completed state form --

10:02:52 13 A. Okay.

10:02:52 14 Q. -- and no DPOC. So my understanding is that
10:02:55 15 person could be registered to vote as a federal only
10:02:58 16 voter --

10:02:58 17 A. Yes.

10:02:58 18 Q. -- before the new laws?

10:03:00 19 A. That's correct, yes.

10:03:01 20 Q. Okay. So if that person then provides DPOC
10:03:04 21 later in time, whether it's weeks or months, but they've
10:03:06 22 made the deadline before the election, but they've now
10:03:09 23 provided their DPOC, has this person changed their
10:03:12 24 registration status from federal only to full ballot?

10:03:17 25 MR. MORGAN: Form, foundation.

10:03:22 1 MR. WHITAKER: Form.

10:03:24 2 THE WITNESS: If someone provides DPOC
10:03:26 3 prior to the election, by the Thursday before the
10:03:28 4 election, they will be made a full ballot voter.

10:03:30 5 BY MS. BRAILEY:

10:03:30 6 Q. And so is that a change in voter registration
10:03:33 7 status?

10:03:35 8 A. And I'll just -- for my last answer I'll just
10:03:39 9 caveat that with assuming that the only limitation on
10:03:46 10 becoming a full ballot voter was the DPOC, that person
10:03:50 11 will become a full ballot voter.

10:03:53 12 Now, I'm sorry, could you rephrase the question
10:03:55 13 that you asked me?

10:03:57 14 Q. Yes.

10:03:57 15 So we have the applicant who is a federal only
10:03:59 16 voter because they did not submit DPOC, but their state
10:04:02 17 form was complete.

10:04:03 18 A. Yes.

10:04:03 19 Q. And then weeks, maybe months later they submit
10:04:08 20 DPOC by the deadline.

10:04:10 21 A. Okay.

10:04:10 22 Q. They submit DPOC before an election.

10:04:13 23 A. Okay.

10:04:14 24 Q. Does their registration status change, their
10:04:17 25 voter registration status?

10:04:21 1 A. I'm not sure what you mean by status. I
10:04:24 2 usually think of that as active or inactive.

10:04:27 3 Q. Oh, I see. I see. So I'm thinking about do
10:04:30 4 they switch from being a federal only voter to a full
10:04:33 5 ballot voter?

10:04:34 6 A. If they provide DPOC and all of the other
10:04:37 7 elements that are required are provided.

10:04:40 8 Q. And I guess is a full ballot or a federal only
10:04:47 9 voter, if that's not a registration status, what would
10:04:50 10 you call that?

10:04:54 11 A. Full ballot or federal only, we usually refer
10:04:57 12 to them.

10:04:57 13 Q. Okay. Okay.

10:05:00 14 Let's talk a little bit about the birthplace
10:05:03 15 requirement. So what information does birthplace, the
10:05:06 16 information on where voters are born, what information
10:05:10 17 does that provide -- strike that. Let me try this
10:05:14 18 again.

10:05:15 19 What information does birthplace provide to the
10:05:18 20 Secretary of State?

10:05:18 21 MR. MORGAN: Form.

10:05:21 22 THE WITNESS: I'm not aware of the
10:05:23 23 significance of the birthplace.

10:05:26 24 BY MS. BRAILEY:

10:05:26 25 Q. Does the office use that information for any

10:05:29 1 purpose?

10:05:30 2 A. No.

10:05:31 3 Q. Any administrative purpose?

10:05:32 4 A. No.

10:05:41 5 Q. Has the Secretary of State's Office developed
10:05:43 6 guidance for county election officials for entering
10:05:47 7 birthplace data into AVID?

10:05:51 8 A. There's a working document that is a reflection
10:06:00 9 of many, many, many meetings with the counties about the
10:06:05 10 various requirements under this new legislation, and so
10:06:10 11 the issue of birthplace has been discussed. So to the
10:06:15 12 extent that it's a working draft, there's, I guess,
10:06:23 13 consensus that birthplace doesn't -- is not relevant for
10:06:27 14 purposes of registering to vote.

10:06:31 15 Q. So just so I understand, that's the conclusion
10:06:34 16 that's coming from that group who's creating that
10:06:37 17 working draft?

10:06:38 18 A. That's correct.

10:06:39 19 But as far as entering that information into
10:06:42 20 the AVID system, we're currently shifting to the
10:06:55 21 development of our priorities on what programs are being
10:06:59 22 created to implement the -- this legislation. And we
10:07:07 23 have not yet prioritized, you know, which part of that,
10:07:13 24 part of this legislation, will be programmed first; but
10:07:17 25 I don't anticipate birthplace being at the top of the

10:07:20 1 list.

10:07:21 2 Q. And what's the programmatic changes that the
10:07:25 3 group has discussed for that birthplace requirement?

10:07:27 4 MR. MORGAN: Foundation. If it's
10:07:32 5 something for Yolanda, you don't have to speculate.

10:07:34 6 THE WITNESS: Yeah, I'm not -- yeah, I'm
10:07:36 7 not sure what has and has not been discussed about that.

10:07:43 8 BY MS. BRAILEY:

10:07:51 9 Q. Sorry. So just to back up, the group that you
10:07:53 10 were just talking about who's creating the working
10:07:55 11 document and these programmatic changes, is that the --
10:08:00 12 one of the AVID working groups that you discussed
10:08:03 13 earlier? Is there a name for that group?

10:08:10 14 MR. LANGHOFER: Compound.

10:08:11 15 THE WITNESS: Okay, so just to make sure
10:08:12 16 we're on the same page, it's a document that's
10:08:15 17 approximately 20 pages, but it's not numbered, and it
10:08:19 18 does refer to the VRAC legislative changes document. It
10:08:27 19 has draft across it. And so it refers to H.B. 2492 and
10:08:31 20 2243 and then the effective dates. But that -- that
10:08:42 21 specific group does not have a name. It's not the VRAC
10:08:46 22 name.

10:08:47 23 BY MS. BRAILEY:

10:08:47 24 Q. It's not the VRAC?

10:08:47 25 A. Yeah.

10:08:48 1 Q. Oh, okay. So who is in that group?

10:08:50 2 A. To my understanding, and that's a document that
10:08:53 3 I discussed with the -- well, Kori Lorick, Bo Dul, and
10:08:59 4 Christine Dyster in our meeting last week. I asked them
10:09:02 5 about it, and it was a document that was evolving, and
10:09:07 6 they said it felt like they were having meetings daily
10:09:10 7 about this legislation; but I don't know if it was
10:09:14 8 daily. But they at the time did not mention any name
10:09:19 9 attributed to that group.

10:09:19 10 Q. I see. So they were meeting in the group; and
10:09:23 11 from your discussions, do you know if they were drafting
10:09:26 12 the document, those three, also --

10:09:29 13 A. Yes.

10:09:29 14 Q. -- or was somebody else?

10:09:30 15 A. No, I believe it was Kori Lorick drafting that.

10:09:35 16 Q. And this 20-page document that you're referring
10:09:38 17 to, was that produced as part of the discovery requests
10:09:44 18 in this case?

10:09:45 19 A. Yes, it was.

10:09:48 20 Q. And to the extent you can remember, can you
10:09:54 21 tell me again what the title of the document is?

10:09:58 22 A. I might have a copy of it with me, if I could.

10:10:01 23 Q. Oh, that would be great. Let's --

10:10:06 24 MS. STUART: A previously marked exhibit,
10:10:09 25 I believe is what she's referring to.

10:10:09 1 THE WITNESS: Yeah. Yeah, it looks like
10:10:10 2 this. It was Lerma Exhibit -- and I've written on this
10:10:11 3 one. Lerma Exhibit 39.

10:10:12 4 MR. MORGAN: Yeah, it's Lerma Exhibit 39.

10:10:12 5 BY MS. BRAILEY:

10:10:16 6 Q. Got it. That's very helpful. Thank you.

10:10:42 7 Okay. Thank you. That's all very, very
10:10:44 8 helpful.

10:10:48 9 And so forgive me if I ask you questions about
10:10:51 10 something that's in that document, but the guidance
10:10:57 11 about the birthplace requirement specifically, is that
10:11:04 12 guidance about instructing counties on a uniform way to
10:11:10 13 enter birthplace information into a voter registration
10:11:12 14 database?

10:11:14 15 A. Well, let me -- I guess I should just clarify.
10:11:17 16 My understanding of that document is that it was like a
10:11:21 17 working document. There were these ongoing meetings
10:11:24 18 with the counties, and Kori Lorick or Christine Dyster
10:11:29 19 would continue to add notes as they went through some of
10:11:33 20 the concerns or issues or challenges based with
10:11:39 21 implementing the legislative changes.

10:11:43 22 And to that extent, the Secretary of State's
10:11:48 23 Office, perhaps through the discussions or perhaps
10:11:51 24 through their own counsel, reached the conclusion that
10:11:56 25 the birthplace requirement could violate -- could be a

10:12:01 1 violation of the Civil Rights Act.

10:12:04 2 Q. Right. I'm actually pulling up the document
10:12:07 3 now so I can be more on the same page with you.

10:12:10 4 MR. MORGAN: Well, if you're going to do
10:12:12 5 that, is it all right if she refers to the copy she has?

10:12:15 6 MS. BRAILEY: Absolutely. Yeah.

10:12:16 7 MR. MORGAN: Cool.

10:12:17 8 THE WITNESS: Thanks.

10:12:19 9 MR. MORGAN: Thank you.

10:12:20 10 BY MS. BRAILEY:

10:12:21 11 Q. Okay. So at this point in time there is no
10:12:27 12 standardized data entry guidance for counties for how to
10:12:31 13 enter birthplace into a voter registration database; is
10:12:33 14 that correct?

10:12:33 15 A. Well, at this point we are starting
10:12:40 16 discussions. And I'll back up. So these changes will
10:12:45 17 require a great deal of work to be made into the AVID
10:12:48 18 system to automate this or to incorporate it so it's not
10:12:53 19 all done manually. Now, for the 13 counties. Maricopa
10:12:58 20 and Pima Counties have their own database, and they'll
10:13:01 21 have to sync all of those changes with the AVID changes.

10:13:08 22 But these legislative changes were not funded,
10:13:12 23 and in the initial budget request, I think that was
10:13:17 24 submitted maybe February of 2023, there was
10:13:21 25 approximately \$500,000 requested to make the changes.

10:13:28 1 Q. Right.

10:13:28 2 A. And as I indicated, we have a third-party
10:13:31 3 vendor, and they want to be paid, you know, so they need
10:13:34 4 to --

10:13:34 5 Q. Right. Right.

10:13:36 6 A. They need to be paid to make their -- this
10:13:38 7 money. Now, they have a standard retainer, essentially,
10:13:41 8 for maintenance and operation; but these are referred to
10:13:46 9 sometimes as enhancements or special purchase orders.
10:13:53 10 You know, they just sometimes go by various names, but I
10:13:57 11 think of them as the enhancements --

10:13:58 12 Q. Right.

10:13:58 13 A. -- in addition to the monthly retainer.

10:14:00 14 So this is going to be quite expensive, over
10:14:05 15 \$500,000.

10:14:05 16 Q. Uh-huh.

10:14:08 17 A. So when the budget, the appropriations bill was
10:14:11 18 approved by the legislature, signed by the Governor, it
10:14:14 19 did not include that 500,000.

10:14:19 20 Our budget team, including Secretary Fontes,
10:14:25 21 Assistant Secretary of State Keely Varvel, continued to
10:14:30 22 push for funding. And in mid June of 2023 the
10:14:34 23 legislature did say, okay, you can have the 500,000.
10:14:41 24 This is the gist of it. I was not present. But you can
10:14:44 25 have the 500,000, but you have to spend it by July 1st.

10:14:48 1 So we tried to scramble, see how -- to what
10:14:50 2 extent could we implement anything. And I thought maybe
10:14:53 3 to the extent -- my thinking at the time was maybe to
10:14:55 4 the extent that we could somehow develop a process just
10:15:01 5 to even meet the reporting requirements. There's a
10:15:05 6 quarterly reporting requirement on the number of death
10:15:09 7 records, you know, all of that information. But we
10:15:12 8 weren't able to even get that done in just that two-week
10:15:17 9 period we had to spend 500,000.

10:15:19 10 So our budget director went back to the -- and
10:15:25 11 our legislative liaison, they went back to the budget
10:15:31 12 appropriations group, I think it might be JLBC, or a
10:15:35 13 certain number of legislators that were handling this,
10:15:39 14 and again said, "We need this money. We need at least
10:15:44 15 \$500,000 or some money to start making these changes.
10:15:48 16 We can't do it without money."

10:15:50 17 So finally we -- the legislature approved that
10:15:57 18 \$500,000 appropriation. Then the information technology
10:16:04 19 office within the Arizona Department of Administration
10:16:09 20 has a rule by which any IT change that exceeds \$25,000
10:16:14 21 has to go through a vetting process, and it's referred
10:16:20 22 to as PIJ, P-I-J, which stands for something. I can't
10:16:25 23 tell you what it is.

10:16:25 24 Q. Sure.

10:16:26 25 A. It has to go through this approval process,

10:16:32 1 so -- and that approval process, what I gather, is more
10:16:34 2 like a project summary, how it meets the strategic goals
10:16:38 3 of it.

10:16:38 4 Q. Yeah.

10:16:39 5 A. And we received approval from the Arizona
10:16:42 6 Department of Administration last week, so we can
10:16:47 7 actually start -- so we couldn't really even start
10:16:51 8 realistic discussions until we got the okay.

10:16:55 9 We have the okay. So we are going to start
10:16:59 10 launching those meetings, and we're doing it as a
10:17:03 11 collaborative process and -- but we haven't gotten to
10:17:07 12 the point where we've set up calendars or tried to sync
10:17:14 13 even priorities with what the counties want to
10:17:17 14 prioritize.

10:17:18 15 Q. Right. So this is only the beginning of the
10:17:20 16 process of starting to talk about how to reprogram AVID
10:17:26 17 for the new legislation; is that the gist of what's
10:17:30 18 going on?

10:17:30 19 A. Yeah. Yeah, because we've -- we've been held
10:17:34 20 up because there just wasn't any money.

10:17:40 21 Q. Right, right.

10:17:41 22 And so even in this document, in the Lerma 39,
10:17:50 23 this doesn't speak to what kind of even programmatic
10:18:01 24 changes this group has -- the group who's creating this
10:18:04 25 document has been thinking could be developed in AVID

10:18:08 1 for birthplace entries; is that correct?

10:18:11 2 A. It looks like it was referenced in passing, and
10:18:19 3 I marked the pages as Page 10, just because --

10:18:22 4 Q. Sure. Yep. I'm on the same page as you.
10:18:24 5 Absolutely.

10:18:24 6 A. Yeah, Voter Registration Updates, that the
10:18:27 7 birthplace, that this provision specifically was not
10:18:33 8 going to be implemented because it violated -- in
10:18:36 9 conflict with the Civil Rights Act of 1964.

10:18:44 10 Q. Uh-huh. And so at this point in time, any
10:18:47 11 entry on a state form by an applicant in the birthplace
10:18:51 12 field is entered as is into AVID?

10:18:55 13 MR. MORGAN: Form.

10:18:56 14 Do you mean this point in time as in today
10:18:58 15 or at the time the memo was created?

10:19:00 16 MS. BRAILEY: Today.

10:19:00 17 MR. MORGAN: Okay. Got it.

10:19:01 18 BY MS. BRAILEY:

10:19:02 19 Q. So as of today, when somebody completes their
10:19:06 20 state form, whatever they write into the birthplace
10:19:08 21 field, that is just entered as is into AVID; is that
10:19:13 22 your understanding?

10:19:15 23 A. I don't know how that works.

10:19:17 24 Q. Okay. Okay. So that might be a question for
10:19:19 25 Yolanda.

10:19:27 1 So let me pull up Petty Exhibit 12.

10:19:31 2 And this is Petty Exhibit 12. I don't need you
10:19:43 3 to look at the whole thing. If you go to just Page 4,
10:19:47 4 the bottom should say 882 as the last three numbers.
10:19:52 5 This was produced by Maricopa County.

10:19:57 6 A. Okay.

10:19:57 7 Q. And I'm just wondering, based on your
10:19:59 8 experience at Maricopa County, if you recognize the
10:20:04 9 instructions on entering birthplace, if any of this came
10:20:07 10 into your purview while you were at Maricopa County?

10:20:14 11 A. Yeah, I see the --

10:20:18 12 Q. The instructions for --

10:20:19 13 A. -- the instructions that you're referring to,
10:20:20 14 but this is not something I ever dealt with.

10:20:23 15 Q. Okay. You can put that away.

10:20:23 16 A. Okay.

10:20:39 17 Q. Based on your experience and your knowledge,
10:20:43 18 have the County Recorders been instructed to use
10:20:46 19 birthplace information for any purposes related to voter
10:20:51 20 registration?

10:20:51 21 A. Not that I'm aware of.

10:20:53 22 Q. And, again, based on your experience and your
10:20:55 23 knowledge, are there any administrative uses for
10:20:59 24 collecting birthplace information that would be
10:21:01 25 important for the counties?

10:21:04 1 A. I can't think of anything.

10:21:07 2 Q. And have the counties or any county informed
10:21:11 3 your office that they need birthplace information to be
10:21:14 4 a mandatory field on the state form?

10:21:16 5 A. Not that I'm aware of.

10:21:25 6 Q. I'm realizing some of my questions might
10:21:28 7 be better for Yolanda, so I won't burden you with
10:21:31 8 them.

10:21:38 9 So you can see the instructions from the
10:21:46 10 Petty 12 Exhibit, the instructions for birthplace, what
10:21:49 11 you just reviewed quickly, it said that there's a
10:21:51 12 dropdown menu.

10:21:52 13 A. Yes.

10:21:53 14 Q. And for those who don't have the exhibit in
10:21:55 15 front of you, it just says that there's a dropdown menu
10:21:59 16 where you can choose a state or country of birth.

10:22:03 17 If somebody -- based on, again, your experience
10:22:09 18 and your knowledge with these -- strike that. Let me
10:22:16 19 start at a different place.

10:22:18 20 Under H.B. 2492, if somebody does not put their
10:22:22 21 state or country of birth, is your understanding that
10:22:24 22 that application should be rejected?

10:22:26 23 MR. LANGHOFER: Calls for a legal
10:22:31 24 conclusion.

10:22:31 25 THE WITNESS: Based on H.B. 2492 --

10:22:33 1 BY MS. BRAILEY:

10:22:34 2 Q. Uh-huh.

10:22:34 3 A. -- that legislation, my understanding is that
10:22:38 4 the legislation would limit that registrant from
10:22:47 5 becoming registered. And I use that language
10:22:52 6 deliberately because rejected is not a field.

10:22:54 7 Q. I understand.

10:22:56 8 So that person would not be registered?

10:22:58 9 A. They would not be registered, yeah.

10:23:00 10 Q. Okay. Let's say under the current law somebody
10:23:03 11 wrote a city or a county, so Phoenix or Maricopa, so
10:23:08 12 they did not put a state or a country.

10:23:10 13 A. Uh-huh.

10:23:11 14 Q. Would that applicant be registered?

10:23:17 15 MR. LANGHOFER: Calls for a legal
10:23:18 16 conclusion.

10:23:18 17 THE WITNESS: I don't know how they would
10:23:19 18 handle that, yeah.

10:23:19 19 BY MS. BRAILEY:

10:23:31 20 Q. Do you know how or whether the Secretary will
10:23:37 21 offer guidance to counties about how they should enter
10:23:43 22 the birthplace data in light of the new laws?

10:23:52 23 A. So I can't say any guidance issued by the
10:24:01 24 Secretary of State --

10:24:01 25 Q. Uh-huh.

10:24:02 1 A. -- that's going to be any different from
10:24:04 2 what --

10:24:05 3 Q. I see.

10:24:06 4 A. -- has already been prepared in this document.

10:24:08 5 Q. I see.

10:24:11 6 A. And that we would issue guidance consistent
10:24:14 7 with this information.

10:24:16 8 Nevertheless, we have not had any official
10:24:19 9 meetings with the counties, so I don't know if there is
10:24:23 10 dissent or how that would be handled. There is the VRAC
10:24:27 11 committee, the voter registration advisory committee.

10:24:27 12 Q. Uh-huh.

10:24:32 13 A. And presumably the VRAC committee would make
10:24:35 14 that kind of decision, and that the membership of that
10:24:41 15 committee is all 15 County Recorders --

10:24:44 16 Q. Uh-huh.

10:24:45 17 A. -- plus the Secretary of State. So ultimately
10:24:50 18 what was a VRAC paper will come out of the VRAC
10:24:56 19 committee, and so it's hard to predict what that will
10:24:59 20 look like.

10:25:00 21 Q. Right. And who is the Secretary of State's
10:25:03 22 representative in the VRAC committee?

10:25:05 23 A. That's me.

10:25:05 24 Q. Got it.

10:25:10 25 And so considering you'll be the

10:25:13 1 representative, have you thought about what new guidance
10:25:22 2 or implementation or programs, what should exist for
10:25:26 3 this birthplace field, whether it's a dropdown menu like
10:25:30 4 we saw here or whether it's another way of entering the
10:25:34 5 data?

10:25:34 6 A. Well, okay, so let me just back up, because the
10:25:39 7 VRAC committee has ruffled some feathers, or I have
10:25:42 8 ruffled, frankly, some feathers about my approach to the
10:25:46 9 VRAC committee.

10:25:46 10 So by way of background, this current
10:25:53 11 administration, we are made up mostly of people that
10:25:56 12 have worked at the county level. You know, Secretary of
10:25:59 13 State Fontes was a County Recorder. I was with Maricopa
10:26:06 14 County I think 14 years and then with Pinal and Yavapai.
10:26:11 15 Lisa Marra was the elections director for Cochise
10:26:15 16 County. Hope Olguin was an assistant deputy director
10:26:18 17 for Maricopa County. You know, so we are -- we know
10:26:22 18 county administration.

10:26:23 19 Q. Right.

10:26:23 20 A. So I know historically the Secretary of State
10:26:28 21 has been the drafter of these VRAC papers, and, you
10:26:34 22 know, my first couple of months I was being inundated
10:26:37 23 with we need a VRAC paper. Oh, and, Colleen, you know,
10:26:41 24 you're drafting it.

10:26:43 25 So I was like, wait a minute, I've never even

10:26:46 1 used AVID. We're not --

10:26:46 2 Q. Oh, okay.

10:26:49 3 A. The counties, not the Secretary of State, is
10:26:52 4 the primary user --

10:26:54 5 Q. Yeah.

10:26:54 6 A. -- of AVID. Why in the world -- well, first of
10:26:58 7 all, why would I draft it if I don't have that
10:27:01 8 knowledge. And the first thing is experience. And this
10:27:03 9 will be something that the counties implement, and they
10:27:07 10 are the 15 out of the 16 members.

10:27:10 11 Q. Right.

10:27:11 12 A. And they have some great ideas. They kept
10:27:13 13 telling me about them. But so I said why don't you guys
10:27:17 14 draft them. I mean it sounds like a great idea. And
10:27:20 15 this was completely unrelated to this legislation. So
10:27:26 16 some people were okay with it. Many very vocal members
10:27:31 17 of the VRAC committee were not.

10:27:33 18 But with that said, Secretary Fontes and I have
10:27:40 19 said we are not issuing VRAC papers on this, on these
10:27:45 20 issues related to this legislation --

10:27:47 21 Q. I see.

10:27:47 22 A. -- at this time. However, if any of the County
10:27:51 23 Recorders would like to offer up a VRAC paper, we'd be
10:27:54 24 happy to help organize a VRAC meeting and let's get the
10:27:58 25 ball started, let's get the ball rolling or let's get

10:28:01 1 the meeting started.

10:28:03 2 Q. Right.

10:28:03 3 A. So far that has not happened.

10:28:05 4 Q. I understand. So at this point in time, and by
10:28:08 5 that I mean today --

10:28:09 6 A. Yes.

10:28:10 7 Q. -- there is no current plan for guidance on how
10:28:17 8 applicants should complete the potentially mandatory
10:28:25 9 birthplace field; is that correct?

10:28:27 10 MR. MORGAN: Form.

10:28:27 11 You mean beyond the EPM?

10:28:29 12 MS. BRAILEY: Correct.

10:28:30 13 MR. MORGAN: Okay.

10:28:30 14 THE WITNESS: Well, currently there's no
10:28:31 15 guidance, simply because of the practical part of the
10:28:34 16 money and we couldn't.

10:28:34 17 BY MS. BRAILEY:

10:28:35 18 Q. Right, right.

10:28:35 19 A. We were prohibited under the PIJ thing. But,
10:28:39 20 yeah, there's -- we have no -- no guidance per se.

10:28:43 21 Q. Right. And just to confirm -- I'm so sorry.
10:28:48 22 To make it really clear, because I think what I just
10:28:50 23 asked, I realize I asked about applicants filling in the
10:28:53 24 field. So let me now frame that as there's also no
10:28:57 25 planned guidance for how counties should enter

10:29:01 1 birthplace information into a voter registration
10:29:03 2 database?

10:29:05 3 A. Not that I'm aware of.

10:29:06 4 Q. Right. So taking into consideration all of the
10:29:14 5 changes for H.B. 2492 -- strike that. Let me back up.

10:29:19 6 Is it true that you have read and understood
10:29:26 7 and dealt with all of the H.B. 2492 law, so not just the
10:29:33 8 issues we've talked about today, but you've sort of --
10:29:35 9 you have experience with the whole law, with all of the
10:29:39 10 portions of the bill that passed?

10:29:42 11 A. I'd say generally, yes. Yes, I do.

10:29:45 12 Q. Okay. So taking into consideration H.B. 2492
10:29:48 13 in its totality, including changes in requirements
10:29:52 14 beyond those that we're discussing today or even in the
10:29:56 15 lawsuit, does birthplace now provide necessary
10:30:01 16 information that it hadn't provided before?

10:30:05 17 MR. LANGHOFER: Calls for a legal
10:30:11 18 conclusion.

10:30:11 19 MS. PORTER: Form.

10:30:12 20 THE WITNESS: I'm not aware of any.

10:30:29 21 BY MS. BRAILEY:

10:30:29 22 Q. So I have a few more questions, and I'm -- I
10:30:32 23 understand if, again, you end up telling me these are
10:30:34 24 for Yolanda later, but we'll try.

10:30:39 25 Is it possible for -- based on the databases

10:30:48 1 that exist and are available --

10:30:52 2 A. Uh-huh.

10:30:52 3 Q. -- to the counties, is it possible for election
10:30:55 4 officials to confirm registrants' birthplace
10:30:59 5 information?

10:30:59 6 MR. MORGAN: Form, foundation.

10:31:04 7 THE WITNESS: Okay. So is it possible for
10:31:06 8 a county or the state to confirm some --

10:31:10 9 BY MS. BRAILEY:

10:31:10 10 Q. Uh-huh.

10:31:10 11 A. Not that I'm aware of.

10:31:13 12 Q. So there's no, for example, no database where
10:31:17 13 an official from the county or the state could
10:31:20 14 cross-check a birthplace that somebody entered onto the
10:31:23 15 form?

10:31:23 16 MR. MORGAN: Same objection.

10:31:25 17 THE WITNESS: Yeah, I don't -- I don't
10:31:27 18 know. I just don't know if there's a database that
10:31:30 19 exists. Could be. But, yeah, I'm not aware of any.

10:31:36 20 BY MS. BRAILEY:

10:31:36 21 Q. Do you know what might be necessary for either
10:31:40 22 a county official or the state to be able to confirm a
10:31:44 23 voter applicant's -- voter registration applicants'
10:31:48 24 birthplace?

10:31:48 25 MR. LANGHOFER: Same objection.

10:31:49 1 THE WITNESS: I do not know.

10:31:53 2 BY MS. BRAILEY:

10:31:53 3 Q. Is the Secretary of State's Office planning to
10:31:57 4 create new state forms -- actually, period. Is the
10:32:07 5 Secretary of State's Office planning to create new state
10:32:13 6 forms?

10:32:13 7 MR. MORGAN: Form.

10:32:14 8 THE WITNESS: We have discussed updating
10:32:17 9 the voter registration form, and sitting here today, I
10:32:23 10 can't recall the components. I know certain changes
10:32:25 11 have to be made in the instructions and so forth.

10:32:28 12 BY MS. BRAILEY:

10:32:28 13 Q. Uh-huh.

10:32:28 14 A. But I know we've talked about it I guess
10:32:32 15 generally.

10:32:33 16 Q. Do you know -- or, rather, is there a timeline
10:32:37 17 for creating the state form?

10:32:40 18 A. Well, the timeline will be a part of our
10:32:43 19 discussion as far as, you know, to -- it has to be
10:32:47 20 collaborative with the changes to the AVID process.

10:32:49 21 Q. Right.

10:32:50 22 A. And also sync with the Maricopa/Pima changes as
10:32:54 23 well.

10:32:54 24 Q. Right.

10:32:54 25 And what group is responsible for, I guess,

10:32:58 1 updating the state form?

10:33:05 2 A. Well, it's the elections department division.

10:33:07 3 Q. Are there specific individuals who might be

10:33:10 4 tasked with that project?

10:33:13 5 A. Well, I mean it's understood that it will be

10:33:17 6 the AVID team that works with it, and then I will be

10:33:24 7 involved, as well as the deputy elections director.

10:33:32 8 Q. Do you know whether there will be any kind of

10:33:35 9 public campaign to inform voters about the new state

10:33:39 10 form, if there is one?

10:33:41 11 A. I don't -- I don't know. I don't know if there

10:33:43 12 had even been discussions, and I say that just because

10:33:46 13 the outreach part that used to be part of the elections

10:33:50 14 department has been moved to a different part of the

10:33:53 15 office.

10:33:54 16 Q. I see. So the very general early discussions

10:33:59 17 about updating the state form, what aspects of the, I

10:34:04 18 guess, process of updating have been discussed in that;

10:34:08 19 like what are the actual discussions about for the state

10:34:10 20 form?

10:34:10 21 A. We really haven't gotten into discussions.

10:34:12 22 We've gotten into discussions about discussions.

10:34:15 23 Q. Got it.

10:34:16 24 So is my understanding that it would just be

10:34:18 25 we've all discussed that it has to be on the to-do list?

10:34:22 1 A. Yes, yes.

10:34:24 2 Q. Okay.

10:34:24 3 A. We have like a mile-long to-do list.

10:34:24 4 Q. Great.

10:34:27 5 A. And, yes, that's on it.

10:34:28 6 Q. Okay. Can we please -- oh, one moment. I'm
10:34:33 7 sorry. No, I got ahead of myself.

10:34:38 8 Does the Secretary of State's Office track
10:34:41 9 noncitizen voter -- strike that.

10:34:51 10 Is there any mechanism within the Secretary of
10:34:53 11 State's Office that is tracking whether there are
10:34:56 12 noncitizens registering to vote or have registered to
10:34:59 13 vote?

10:35:00 14 A. Not that I'm aware of.

10:35:04 15 Q. Uh-huh. Is there anyone else, any other entity
10:35:06 16 in the state, and by that I mean it could be a county or
10:35:09 17 the Attorney General, is there any other entity that's
10:35:12 18 made the Secretary of State's Office aware of any
10:35:15 19 noncitizen voter registration?

10:35:21 20 A. Not that I'm aware of. I mean there's the
10:35:26 21 Attorney General's integrity unit that existed. It
10:35:30 22 could still exist. But I think that group was charged
10:35:37 23 with anything to deal with voter fraud or some --
10:35:42 24 something that compromised elections or voting.

10:35:45 25 Q. Right.

10:35:45 1 A. But that's -- just off the top of my head,
10:35:47 2 that's the only group that possibly would.

10:35:50 3 Q. Okay.

10:35:53 4 MS. BRAILEY: If everyone doesn't mind,
10:35:54 5 can we take a five-minute break?

10:35:56 6 Off the record.

10:35:58 7 THE VIDEOGRAPHER: We are off the record.
10:35:59 8 The time on the video monitor is 10:35 a.m. This ends
10:36:02 9 Media 1.

10:36:04 10 (A recess was taken.)

10:48:49 11 THE VIDEOGRAPHER: We are on the record.
10:48:50 12 The time on the video monitor is 10:48 a.m. This begins
10:48:53 13 Media 2.

10:48:55 14 BY MS. BRAILEY:

10:48:55 15 Q. Okay. So now that we have that working, the
10:48:58 16 iPad, please open the document labeled J, it starts with
10:49:02 17 a J, and then the last numbers are 10355.

10:49:12 18 A. Okay.

10:49:12 19 Q. Okay. And when you open that document, I'll
10:49:15 20 represent to you that your office produced this to us.
10:49:18 21 I am marking the exhibit as 266. And if you can scroll
10:49:29 22 down to Page --

10:49:31 23 MR. MORGAN: I want to hand her the paper
10:49:33 24 copy too, if that's all right.

10:49:35 25 MS. BRAILEY: That's great.

10:49:35 1 BY MS. BRAILEY:

10:49:36 2 Q. So scroll to where you see at the bottom 10360.

10:49:42 3 A. Are you talking about the Bates stamp?

10:49:44 4 Q. The Bates stamp, yeah.

10:49:46 5 A. Okay.

10:49:46 6 Q. Wonderful. That's right, we can all use the

10:49:50 7 same verbiage.

10:49:54 8 So just take a second to just review this page.

10:50:18 9 A. Okay.

10:50:18 10 Okay.

10:50:18 11 Q. Okay. And so do these look like instructions

10:50:24 12 for the voting by mail process?

10:50:29 13 A. Yes, they do.

10:50:31 14 Q. Okay. And so do you see that there's a bold

10:50:33 15 paragraph that does say "How is Arizona securing the

10:50:36 16 vote by mail process?"

10:50:38 17 A. Yes.

10:50:39 18 Q. Great.

10:50:47 19 So prior to H.B. 2492, if a voter requested a

10:50:51 20 mail ballot, the processes in this paragraph would apply

10:50:56 21 to them; is that correct; they would receive this tamper

10:51:02 22 evident envelopes, they would have signature

10:51:05 23 verification?

10:51:05 24 A. And you said prior to --

10:51:07 25 Q. Prior to H.B. 2492.

10:51:09 1 A. Yes.

10:51:10 2 Q. Okay. It's possible during, but I believe this
10:51:12 3 document is from prior.

10:51:15 4 A. Okay.

10:51:15 5 Q. So, you know, that's the world.

10:51:19 6 If a federal only voter requested a vote by
10:51:23 7 mail ballot, would these same processes apply to that
10:51:26 8 voter?

10:51:26 9 A. Yes.

10:51:28 10 Q. And so they would receive a tamper evident
10:51:32 11 envelope?

10:51:34 12 A. That's correct.

10:51:34 13 Q. And their signature would go through the
10:51:36 14 signature verification process?

10:51:37 15 A. Yes.

10:51:43 16 MS. BRAILEY: Okay. I'm going to thank
10:51:44 17 you so much for your time, and my colleague is going to
10:51:47 18 ask you some questions.

10:52:02 19

10:52:03 20 EXAMINATION

10:52:03 21 BY MS. LANG:

10:52:20 22 Q. Okay. Thank you so much. For the record, my
10:52:24 23 name is Danielle Lang, and I represent the LUCHA
10:52:27 24 plaintiffs in this matter, and thank you so much for
10:52:28 25 your time today.

10:52:29 1 A. You're welcome.

10:52:31 2 Q. I'm going to try to cover most of the
10:52:34 3 questioning for you for all of the non-U.S. plaintiffs.
10:52:38 4 There may be some follow-up from my colleagues that are
10:52:41 5 here today, but the goal is primarily for you not to
10:52:45 6 face a whole slew of questioners, okay?

10:52:48 7 A. Okay.

10:52:48 8 Q. All right. So I want to start by talking just
10:52:52 9 a little bit about the Secretary's Office's role in the
10:52:59 10 legislative process and then as it applies specifically
10:53:03 11 to the bills that were passed last -- that we're here
10:53:08 12 about today.

10:53:08 13 Who in your office handles legislative affairs?

10:53:14 14 A. George Diaz, D-I-A-Z.

10:53:23 15 Q. And I assume he's not within the elections
10:53:26 16 department?

10:53:27 17 A. No. He's within administration.

10:53:29 18 Q. When there are legislative matters that relate
10:53:33 19 to elections, does Mr. Diaz kind of confer with the
10:53:37 20 elections department in establishing a position or
10:53:42 21 providing input on that legislation?

10:53:47 22 A. Mr. Diaz confers with a large group of people,
10:53:52 23 anyone with election experience and anyone that
10:53:56 24 Secretary Fontes or Assistant Secretary Varvel directs
10:53:59 25 him to talk to.

10:54:00 1 Q. Okay. And I would like you to look at -- let
10:54:12 2 me refer you to there's a folder kind of within the
10:54:16 3 folder that you're looking at that's SOS Exhibits 2.

10:54:16 4 A. Okay.

10:54:21 5 Q. And that's primarily where the exhibits are
10:54:24 6 that we'll talk about today. And there's one labeled
10:54:28 7 H.B. 2492 veto letter, if you could pull that up. And
10:54:33 8 we'll mark that as Exhibit 267.

10:54:43 9 And have you seen this document before?

10:54:45 10 A. Let me just take a look here.

10:54:47 11 Q. Sure. And take a moment to review its
10:55:02 12 contents.

10:55:02 13 A. Yes, I've seen this before.

10:55:03 14 Q. Okay. And this is the veto letter sent by the
10:55:07 15 Former Secretary of State Secretary Hobbs to Governor
10:55:12 16 Ducey about H.B. 2492; is that right?

10:55:17 17 A. I think it's the letter requesting that the
10:55:20 18 legislation be vetoed.

10:55:22 19 Q. Okay. And with respect to the second
10:55:29 20 paragraph, Secretary Hobbs writes that among other
10:55:32 21 things, H.B. 2492 would require voters, including those
10:55:35 22 registering with a federal form, to submit proof of
10:55:38 23 location of residence along with their voter
10:55:41 24 registration form, and she explains that she believes
10:55:48 25 that this is unlawful under the NVRA and directly

10:55:53 1 addressed by a prior Supreme Court decision; do you see
10:55:57 2 that?

10:55:57 3 A. I do.

10:55:59 4 Q. And does the Secretary's Office continue to
10:56:02 5 concur with that position as outlined in that paragraph?

10:56:05 6 MR. LANGHOFER: Form, calls for a legal
10:56:21 7 conclusion.

10:56:21 8 THE WITNESS: I think -- I don't disagree.
10:56:23 9 I think to the extent that the proof of residence was
10:56:31 10 enforced to require a federal form user to provide proof
10:56:36 11 of residence, yes.

10:56:38 12 BY MS. LANG:

10:56:41 13 Q. Okay. I understand.

10:56:41 14 A. Okay.

10:56:41 15 Q. And I think we'll get to kind of questions
10:56:44 16 about its application.

10:56:45 17 A. I see. Okay.

10:56:48 18 Q. And then the next paragraph says, "What's more,
10:56:50 19 the bill creates new criminal penalties aimed at
10:56:53 20 election officials, sets arbitrary rules that will lead
10:56:56 21 to voter confusion, and dictates non-discretionary
10:57:00 22 enforcement requirements for prosecutors."

10:57:01 23 Is that sentence consistent with the
10:57:04 24 Secretary's current position on the new restrictions in
10:57:06 25 H.B. 2492?

10:57:08 1 MR. LANGHOFER: Same objections.

10:57:09 2 MR. MORGAN: Caveat. By Secretary, you
10:57:10 3 mean the office?

10:57:11 4 MS. LANG: Whenever I say the Secretary, I
10:57:13 5 do mean the office.

10:57:13 6 MR. MORGAN: Thank you.

10:57:13 7 MS. LANG: And we can put that on the
10:57:15 8 record. Thank you.

10:57:18 9 THE WITNESS: Yes.

10:57:21 10 BY MS. LANG:

10:57:21 11 Q. Could you describe what you believe are the
10:57:25 12 aspects of H.B. 2492 that set arbitrary rules?

10:57:31 13 MR. LANGHOFER: Same objections.

10:57:34 14 MR. WHITAKER: Calls for a legal
10:57:36 15 conclusion.

10:57:43 16 THE WITNESS: The proof of residence,
10:57:46 17 location of residence requirement is challenging,
10:57:49 18 especially with individuals who are homeless,
10:57:59 19 individuals such as younger individuals or college
10:58:02 20 students that don't have documentary proof of residence.

10:58:09 21 It's just a challenging standard and one
10:58:15 22 that still faces the challenge of being programmed
10:58:20 23 within the AVID system.

10:58:23 24 I don't know. I think you'd have to be
10:58:24 25 more specific about --

10:58:25 1 BY MS. LANG:

10:58:26 2 Q. Fair enough.

10:58:26 3 A. -- the legislation.

10:58:28 4 Q. And I think we'll get into some of those
10:58:30 5 details later.

10:58:31 6 I know that this is your -- related to the
10:58:36 7 prior administration, but I know that you've also had
10:58:38 8 some discussions with the Governor's Office. Other than
10:58:42 9 this letter to the Governor, do you know if the
10:58:44 10 Secretary communicated the office's position on
10:58:48 11 H.B. 2492 during the legislative process?

10:58:54 12 A. I'm not aware of any, but I -- I wouldn't be
10:59:01 13 surprised if there were many discussions about this.

10:59:04 14 Q. Would it typically be the role of Mr. Diaz to
10:59:08 15 engage with legislators about this type of legislation?

10:59:13 16 A. Mr. Diaz would have engaged with legislators
10:59:16 17 during this legislative session, but in 2022 there was a
10:59:21 18 different legislative liaison.

10:59:22 19 Q. And who was that?

10:59:24 20 A. I don't know that person's name.

10:59:26 21 Q. Fair enough.

10:59:27 22 Would it typically be their role to engage on
10:59:31 23 this type of legislation?

10:59:32 24 A. Yes.

10:59:32 25 Q. And make legislators aware of the Secretary's

10:59:36 1 concerns about such legislation?

10:59:37 2 A. Yes.

10:59:43 3 Q. Okay. If we can look at the veto letter for

10:59:59 4 H.B. 2243, which is labeled AZSOS-0371375.

11:00:10 5 A. Okay. It's in that same folder?

11:00:12 6 Q. It is.

11:00:13 7 A. Okay.

11:00:15 8 MR. MORGAN: What was the Bates number,

11:00:16 9 again?

11:00:18 10 MS. LANG: 0371375, and then it says

11:00:22 11 H.B. 2243 veto letter.

11:00:27 12 MR. MORGAN: Here, let me help you out.

11:00:29 13 THE WITNESS: Yeah. It went to the top.

11:00:41 14 MR. MORGAN: H.B. 22 --

11:00:43 15 MS. LANG: 43 veto letter.

11:00:45 16 And we'll mark that as Exhibit 268.

11:00:51 17 BY MS. LANG:

11:00:51 18 Q. And take a moment to read over this letter.

11:01:07 19 MR. WHITAKER: I'm sorry, what was the

11:01:09 20 Bates number, again?

11:01:10 21 MS. LANG: 0371375.

11:01:42 22 THE WITNESS: Okay.

11:01:43 23 BY MS. LANG:

11:01:44 24 Q. Okay. And while I know that this letter was

11:01:47 25 drafted by the prior Secretary of State, do the

11:01:50 1 positions outlined here reflect the current
11:01:55 2 administration's view on H.B. 2243?

11:02:00 3 MR. LANGHOFER: Form, calls for a legal
11:02:03 4 conclusion.

11:02:03 5 THE WITNESS: The letter reflects concerns
11:02:07 6 that are -- that continue to be concerns.

11:02:12 7 BY MS. LANG:

11:02:12 8 Q. Okay. In looking at the second page, in
11:02:14 9 particular, the first sentence says that this bill, like
11:02:18 10 H.B. 2617 before it, requires unreasonable investigation
11:02:22 11 into registered voters, who have already fulfilled
11:02:25 12 citizenship requirements. Anyone, without evidence,
11:02:30 13 could submit a list of voters suspected not to be United
11:02:35 14 States citizens for the county to investigate.

11:02:36 15 Do you see that?

11:02:37 16 A. I do see that, yes.

11:02:40 17 Q. Do you -- does the office continue to consider
11:02:42 18 one of the problems with H.B. 2243 that anyone could
11:02:45 19 submit a list of voters suspected not to be U.S.
11:02:48 20 citizens for the county to investigate?

11:02:50 21 A. Yes.

11:02:52 22 Q. And do you think that every County Recorder
11:02:54 23 would respond in the same way to that kind of list?

11:02:58 24 MR. LANGHOFER: Speculation.

11:02:59 25 THE WITNESS: Yeah, I can't speculate.

11:03:08 1 BY MS. LANG:

11:03:08 2 Q. Okay. And the next -- or one sentence later
11:03:14 3 there's a sentence that begins "And once again, there is
11:03:17 4 no guidance on what constitutes when a county would be,
11:03:22 5 quote, reasonable to believe that investigation is
11:03:26 6 warranted."

11:03:26 7 Do you see that?

11:03:27 8 A. I do, yes.

11:03:28 9 Q. Does the office continue to have concerns that
11:03:31 10 there is no guidance in the statute about what
11:03:33 11 constitutes reason to believe?

11:03:35 12 A. Yes.

11:03:36 13 MR. LANGHOFER: Form, calls for a legal
11:03:43 14 conclusion.

11:03:43 15 BY MS. LANG:

11:03:43 16 Q. And then the following sentence, it says that
11:03:47 17 bad faith actors could call in or submit claims
11:03:51 18 anonymously against their neighbors as much as they
11:03:53 19 like, and counties would still have to investigate
11:03:55 20 the person complained against, whether fairly or
11:03:58 21 unfairly.

11:03:59 22 Does that reflect a concern that your office
11:04:03 23 continues to have?

11:04:05 24 MR. LANGHOFER: Same objections.

11:04:12 25 THE WITNESS: Yes.

11:04:14 1
11:04:14 2
11:04:16 3
11:04:20 4
11:04:22 5
11:04:24 6
11:04:45 7
11:04:47 8
11:04:49 9
11:04:55 10
11:04:59 11
11:05:01 12
11:05:20 13
11:05:23 14
11:05:32 15
11:05:36 16
11:05:45 17
11:05:48 18
11:05:51 19
11:05:57 20
11:05:57 21
11:05:59 22
11:06:03 23
11:06:06 24
11:06:12 25

BY MS. LANG:

Q. And in your experience, is it the case that sometimes bad faith actors do submit such claims?

MR. LANGHOFER: Foundation.

THE WITNESS: I would say generally there are bad faith actors that file complaints.

BY MS. LANG:

Q. Are you aware of instances where bad faith actors have sent in lists of voters that those actors believe are suspicious in some way?

A. Not that I'm aware of.

Q. Okay. Are you aware of whether the Secretary's Office communicated these positions to the legislators during the process for H.B. 2243?

A. I'm not aware of it, but like I said before, I would be surprised if they had not.

Q. I noticed a document in the production, and perhaps we'll look at it, but I just had a quick question, which is are you familiar with the Arizona Commission on African Affairs?

A. No.

Q. Okay. So, to your knowledge, the Secretary of State doesn't have any role on that commission?

A. You know, I just -- I personally just don't know. I'm really --

11:06:12 1 MR. MORGAN: Yeah, beyond the scope of the
11:06:14 2 topics.

11:06:15 3 THE WITNESS: Yeah, I'm really just
11:06:16 4 election-focused.

11:06:18 5 BY MS. LANG:

11:06:18 6 Q. That's fair enough.

11:06:19 7 The only reason I asked is because there is a
11:06:21 8 document specifically about the bill from that
11:06:23 9 commission; but to the extent you don't know about the
11:06:26 10 commission, it doesn't make sense to ask you questions
11:06:28 11 about it. So we'll move on.

11:06:30 12 If you could look at the document labeled
11:06:48 13 AZSOS-22176.

11:06:53 14 A. AZSOS-22176?

11:06:56 15 Q. Yes.

11:06:57 16 A. Pima Notes?

11:06:58 17 Q. Yes.

11:06:59 18 A. Okay.

11:07:04 19 Okay.

11:07:04 20 Q. And this e-mail is dated April 25, 2022. You
11:07:09 21 may or may not be able to answer this, but the way this
11:07:11 22 document was produced, this is all we have and no
11:07:16 23 additional information about it.

11:07:19 24 Have you seen this document before, to your
11:07:22 25 knowledge?

11:07:22 1 A. Let me read through it here.

11:07:24 2 Q. Thank you.

11:07:26 3 And we can mark that as Exhibit 269.

11:08:04 4 A. Yes. I've read the document, but I've never
11:08:07 5 seen it before.

11:08:08 6 Q. Okay. So you wouldn't be able to tell me, you
11:08:11 7 know, who drafted this document or what it reflects?

11:08:18 8 A. Well, as far as who drafted it, I don't know;
11:08:23 9 but what it reflects, it seems to be consistent with
11:08:28 10 some of the discussion that we've had today.

11:08:31 11 Q. Okay. So someone drafted this document that
11:08:34 12 reflects many of the concerns about the bills that we
11:08:38 13 have been talking about today; is that right?

11:08:39 14 A. Correct.

11:08:39 15 Q. Okay. And I think we've already talked
11:08:50 16 about -- and we can put that away. -- that your office
11:08:56 17 has begun discussions about the various steps that would
11:08:59 18 need to be taken to implement these bills; is that
11:08:59 19 right?

11:09:03 20 A. That's correct.

11:09:04 21 Q. Okay. Has your office actually implemented, as
11:09:13 22 in put into place for current use, any parts of
11:09:19 23 H.B. 2492?

11:09:20 24 MR. MORGAN: Form.

11:09:25 25 THE WITNESS: Well, implementation

11:09:28 1 requires programming of AVID, and so to create the
11:09:34 2 programs within AVID we need money. So we've acquired
11:09:38 3 money. So to that extent, we've started implementing.
11:09:45 4 And then discussions with the County Recorders, who are
11:09:47 5 actually the ones that are charged with most of these
11:09:51 6 duties, those have begun as well.

11:09:54 7 BY MS. LANG:

11:09:54 8 Q. Yes. And that's the fault of my questioning.

11:10:00 9 The kind of process that goes into
11:10:06 10 implementation I do understand has begun. Sitting here
11:10:08 11 today, are there any parts of H.B. 2492 that are being
11:10:15 12 enforced by the County Recorders or the Secretary of
11:10:20 13 State's Office?

11:10:20 14 MR. MORGAN: Foundation.

11:10:20 15 MR. LANGHOFER: Foundation.

11:10:23 16 MR. MORGAN: As it relates to others.

11:10:24 17 THE WITNESS: Yeah, I'm not aware of
11:10:27 18 any -- of whether any counties are enforcing it. I'm
11:10:31 19 not sure specifically what you mean by what the
11:10:35 20 Secretary of State would be doing.

11:10:36 21 BY MS. LANG:

11:10:36 22 Q. Has the Secretary provided any guidance to
11:10:39 23 County Recorders to begin enforcing any components of
11:10:42 24 H.B. 2492?

11:10:46 25 A. Okay. As far as the Secretary of State's role

11:10:50 1 in providing guidance, there is the VRAC committee,
11:10:53 2 which is made up of 16 members, one of whom is the
11:10:58 3 Secretary of State. So the Secretary of State would not
11:11:04 4 unilaterally establish guidance without consultation
11:11:10 5 with the 15 County Recorders through the VRAC process.

11:11:14 6 Q. And sitting here today, there's no kind of
11:11:17 7 final guidance through VRAC or otherwise to begin
11:11:21 8 implementation of any component of H.B. 2492; is that
11:11:21 9 right?

11:11:25 10 A. That's correct.

11:11:26 11 Q. Okay. Is the same true for H.B. 2243?

11:11:34 12 A. Refresh my memory. Is that the one about the
11:11:39 13 juror questionnaire and --

11:11:39 14 Q. And various other list maintenance requirements
11:11:42 15 related to checking databases for citizenship and
11:11:45 16 whatnot.

11:11:46 17 A. To the extent there have been discussions,
11:11:52 18 that -- to the extent that's implementation, there have
11:11:54 19 been discussions and draft VRAC papers.

11:11:57 20 Q. Yes. I will get to that.

11:11:58 21 I really am only talking about kind of if
11:12:00 22 there's been any kind of decision point from the
11:12:06 23 Secretary's Office on moving forward with enforcement of
11:12:10 24 any of those provisions yet?

11:12:11 25 MR. MORGAN: Form.

11:12:11 1 THE WITNESS: Yeah, you know, if I can
11:12:12 2 just lay the groundwork too.
11:12:14 3 BY MS. LANG:
11:12:14 4 Q. Yeah, please.
11:12:15 5 A. Because this took me a while with -- you know,
11:12:17 6 it was -- it's just a lot. But the implementation of
11:12:20 7 any change just -- it's a very lengthy one.
11:12:24 8 So there is an enhancement committee that
11:12:29 9 discusses changes to AVID. There's the VRAC, you know,
11:12:33 10 the advisory committee, to make sure all the counties
11:12:36 11 are on the same page with the Secretary of State. And
11:12:40 12 then there's the AVID steering committee made up of the
11:12:46 13 County Recorders, the Secretary of State, and the
11:12:49 14 elections director that is the final committee to
11:12:54 15 approve or not to approve any major changes such as
11:12:59 16 this.
11:12:59 17 So any changes would not -- it would take weeks
11:13:03 18 to months to implement changes, the type of changes to
11:13:08 19 which you're addressing.
11:13:09 20 Q. Exactly. And I think all I'm trying to get at
11:13:12 21 is that we haven't gotten to the end point of those
11:13:15 22 processes --
11:13:16 23 A. Correct.
11:13:17 24 Q. -- for any of these provisions?
11:13:18 25 A. That's correct.

11:13:21 1 Q. Okay. If you could open AZSOS-1, which is
11:13:28 2 labeled December 2022 Guidance, and we'll mark that as
11:13:33 3 270.

11:13:37 4 A. Can you repeat that?

11:13:38 5 Q. Yes. It's AZSOS-1.

11:13:38 6 A. AZSOS-1.

11:13:40 7 Q. And then it says December 2022 Guidance.

11:13:44 8 A. Okay.

11:13:47 9 Q. And this is an e-mail from Kori Lorick, I
11:13:50 10 believe to the various County Recorders, on
11:13:54 11 December 30th, 2022; is that right?

11:13:56 12 A. Yes.

11:13:56 13 Q. And have you seen this e-mail before?

11:13:58 14 A. Yes.

11:14:03 15 Q. Okay. And if you could read through the e-mail
11:14:09 16 briefly. I'll give you a moment to do that.

11:14:21 17 MR. MORGAN: I'm sorry. Did you direct us
11:14:22 18 to a page?

11:14:25 19 BY MS. LANG:

11:14:25 20 Q. The first page, the e-mail itself.

11:14:28 21 A. Okay.

11:14:32 22 Q. And the Secretary's Office here outlines a
11:14:36 23 number of provisions that they have determined conflict
11:14:40 24 with federal law; is that right?

11:14:42 25 A. Yes.

11:14:43 1 Q. And is the Secretary's current position
11:14:47 2 consistent with the position outlined in this e-mail?

11:14:49 3 MR. LANGHOFER: Calls for a legal
11:14:50 4 conclusion.

11:14:50 5 THE WITNESS: Yes.

11:14:56 6 BY MS. LANG:

11:14:56 7 Q. And based on that conclusion, the e-mail says
11:15:03 8 that the office will not be implementing those
11:15:07 9 provisions; is that right?

11:15:10 10 A. That's what the e-mail says, yes.

11:15:12 11 Q. And I understand that various efforts are in
11:15:17 12 place to prepare for potential implementation of these
11:15:22 13 provisions; but sitting here today, does the position in
11:15:26 14 this e-mail about actual implementation and enforcement
11:15:30 15 remain the same for the office?

11:15:36 16 A. So to clarify, I don't know exactly what
11:15:42 17 Ms. Lorick meant by implementing those provisions; but
11:15:51 18 we are taking the steps necessary to develop the changes
11:15:55 19 in AVID, to get the counties together, and to start
11:15:59 20 these discussions.

11:16:02 21 The actual implementation will not be a
11:16:05 22 unilateral decision, but, rather, a decision made with
11:16:09 23 the counties, as well as legal advice and any court
11:16:15 24 ruling that may come.

11:16:17 25 Q. Okay. And have the counties received any

11:16:21 1 subsequent guidance that's contrary to this e-mail from
11:16:27 2 the Secretary of State's Office?

11:16:27 3 A. No.

11:16:53 4 Q. Okay. So I'd like to go into a little more
11:16:56 5 detail on the various enforcement steps -- or strike
11:17:02 6 that. The various steps of preparing for implementation
11:17:05 7 that your office has taken.

11:17:06 8 A. Okay.

11:17:07 9 Q. So one, one thing you mentioned is preparing
11:17:11 10 for AVID enhancements; is that right?

11:17:17 11 Or let me rephrase.

11:17:18 12 Working on the potential AVID enhancements that
11:17:22 13 will be necessary to implement these bills; is that
11:17:22 14 right?

11:17:25 15 A. Well, I think there's been discussions, but the
11:17:33 16 AVID enhancements would be kind of at the end of many
11:17:37 17 other events that had to take place prior. So we
11:17:40 18 haven't gotten into the depth of what enhancements would
11:17:44 19 be made because we haven't had those preliminary
11:17:46 20 meetings.

11:17:48 21 Q. I think I understand you. That there's been
11:17:51 22 some initial discussions, but, really, you can't make
11:17:54 23 final decisions about AVID enhancements until kind of
11:17:57 24 more policy-based decisions have been made about how
11:18:01 25 implementation will go forward; is that fair to say?

11:18:02 1 A. That's right. Yes.

11:18:06 2 Q. And you've mentioned a couple of times the
11:18:09 3 drafting of VRAC papers; is that right?

11:18:11 4 A. Yes.

11:18:12 5 Q. And my understanding is that there are some
11:18:15 6 preliminary drafts of VRAC papers related to these
11:18:20 7 bills; is that right?

11:18:22 8 A. Yes.

11:18:23 9 Q. Okay. And if I recall correctly, and we can
11:18:30 10 look at the documents, if necessary, there are three
11:18:34 11 that -- the first three kind of covered jury list
11:18:39 12 maintenance and out-of-state records list maintenance;
11:18:39 13 is that right?

11:18:43 14 A. That's correct.

11:18:44 15 Q. Did you draft -- I know that we had some
11:18:46 16 discussion about kind of the various hubbub about who is
11:18:51 17 going to draft VRAC papers going forward. Who drafted
11:18:55 18 those first three very initial drafts?

11:18:59 19 A. I did.

11:19:00 20 Q. Okay. But it's your position that kind of
11:19:05 21 going forward, it will not be the Secretary's role to be
11:19:10 22 the primary drafter of those papers; is that right?

11:19:12 23 A. Well, going forward, it might be the
11:19:15 24 Secretary's role. But, you know, assuming the Secretary
11:19:21 25 wants to take a particular position, we just want to

11:19:26 1 make clear that we're not the only -- like I said, the
11:19:30 2 Secretary is not going to make a unilateral decision to
11:19:34 3 impose certain policy decisions.

11:19:37 4 These duties are duties of the County
11:19:42 5 Recorders, and so collectively the County Recorders
11:19:45 6 should have a voice and should be the ones initiating
11:19:48 7 some of these documents, especially because they know
11:19:51 8 exactly what needs to be done. They're the ones, the
11:19:54 9 first -- you know, the front-line users of AVID, not the
11:19:58 10 Secretary of State.

11:20:01 11 Q. Entirely understood.

11:20:05 12 If we can briefly look at -- you have to kind
11:20:08 13 of go back out of this folder.

11:20:11 14 MR. MORGAN: I gotcha. I'll take care of
11:20:13 15 it. Don't worry about it.

11:20:14 16 BY MS. LANG:

11:20:14 17 Q. I apologize, to look at AZSOS-305914. I think
11:20:27 18 it's marked N, starts with the letter N.

11:20:32 19 MR. MORGAN: You can hold it too, if
11:20:34 20 that's easier.

11:20:34 21 THE WITNESS: Oh, okay.

11:20:36 22 MS. LANG: Yeah, you can take it off of
11:20:38 23 that.

11:20:38 24 MR. MORGAN: Yeah, you can take it off of
11:20:39 25 that and just hold it. Either way is fine.

11:20:39 1 THE WITNESS: Okay.

11:20:46 2 Okay.

11:20:46 3 BY MS. LANG:

11:20:47 4 Q. Are you familiar with these documents?

11:20:54 5 A. Yes.

11:20:55 6 Q. Okay. And can you let me know kind of in your
11:20:59 7 own words what these documents are? I see there's one
11:21:03 8 that's VRAC 2023-04 and then there's 05 and 06.

11:21:09 9 A. Yes. This is so funny that these were
11:21:15 10 produced.

11:21:15 11 Anyway, yeah, these did not -- these documents
11:21:19 12 were not distributed beyond -- well, other than
11:21:24 13 disclosure in this case, of course. But these were just
11:21:28 14 internal documents that I don't think I even shared with
11:21:31 15 the AVID team, that I just started drafting.

11:21:35 16 Q. So these are some very early drafts --

11:21:37 17 A. Yeah.

11:21:37 18 Q. -- that just you put together?

11:21:38 19 A. Yeah, and I don't have the metadata or the
11:21:42 20 properties, but this is probably February. Yeah, it
11:21:46 21 doesn't look like I even have a date.

11:21:49 22 Q. I think that's correct.

11:21:52 23 So I think you've already said this, but these
11:21:54 24 are documents you drafted?

11:21:55 25 A. Yes, that's correct.

11:21:56 1 Q. And outside of distribution in this case, you
11:21:59 2 know, have not left your desk?

11:22:01 3 A. Yes.

11:22:04 4 Q. Okay. And are there any kind of updated
11:22:09 5 versions of these drafts that are on your desk, or is
11:22:14 6 this kind of where they've been left at the moment?

11:22:17 7 A. There are absolutely no updated versions of
11:22:19 8 these drafts, I'll say that.

11:22:21 9 Q. Okay. And I see this first one, VRAC 2023-004,
11:22:30 10 seems to deal specifically with the documentary proof of
11:22:35 11 residence requirement and place of birth and the
11:22:41 12 checkmark requirement; is that right?

11:22:42 13 A. That's correct.

11:22:43 14 Q. Okay. Going forward, if I say DPOR, will you
11:22:46 15 understand that to mean documentary proof of residence?

11:22:49 16 A. Yes.

11:22:55 17 Q. Okay. Other than, you know, this very internal
11:22:57 18 early draft, are there any VRAC papers in the works with
11:23:03 19 the committee that would address these components of the
11:23:06 20 law?

11:23:10 21 A. No.

11:23:12 22 Q. Okay. And looking at 2023-005, which is Bates
11:23:20 23 stamp 305916, this appears to me to be, you know, a
11:23:26 24 draft that addresses, you know, changes in how
11:23:35 25 documentary proof of citizenship will be dealt with

11:23:38 1 under H.B. 2492; is that correct?

11:23:42 2 A. Yeah. You know, I'll just say these really
11:23:46 3 aren't VRAC papers even, even what I've learned, come to
11:23:50 4 learn to understand what they are. I mean these are
11:23:52 5 really, again, just copying and pasting the statutes.
11:23:58 6 There was no policy. You know, and at the time, of
11:24:03 7 course, we didn't -- we could not utilize the Attorney
11:24:08 8 General's Office for legal advice. We could not pay for
11:24:12 9 an attorney.

11:24:14 10 Q. Yeah.

11:24:14 11 A. And our counsel was very busy with litigation,
11:24:18 12 our outside counsel. So I should elaborate on the VRAC
11:24:24 13 papers too. We have one general counsel, and she's very
11:24:28 14 busy with the -- as we saw the org chart with the 12
11:24:32 15 pages and the 140 employees.

11:24:37 16 So I was the only attorney in the office, and I
11:24:41 17 was by no means going to draft these papers and try to
11:24:48 18 provide legal advice and try to understand the dynamics
11:24:52 19 of AVID. I was working in a vacuum, and it was very
11:24:55 20 frustrating, when I know the county -- so even the
11:25:01 21 smallest county in Arizona has more legal counsel than
11:25:05 22 the Secretary of State. So that's why I tossed it out
11:25:10 23 to the counties, here you go, and I -- you know,
11:25:12 24 practically begging them, again, you guys, we don't have
11:25:16 25 counsel. We don't have money.

11:25:17 1 So this is definitely a point of frustration
11:25:19 2 for me and why -- I'm not trying to dump work on them.
11:25:22 3 I don't know how AVID works, as far as to that granular
11:25:27 4 level.

11:25:27 5 Q. Completely understand. And I also understand
11:25:30 6 how it must not be all that fun to have kind of very
11:25:36 7 initial drafts out there in the world. So it's
11:25:40 8 certainly no judgment. I'm just trying to understand
11:25:43 9 kind of where you all are in that process. So this is
11:25:46 10 very -- you know, the detail you've provided is very
11:25:49 11 helpful.

11:25:50 12 Since you mentioned it about the Attorney
11:25:53 13 General's Office, I think you said that that restriction
11:25:57 14 on communication with the AG's Office expired earlier
11:26:01 15 this summer; is that right?

11:26:03 16 A. It expired June 30th, yes.

11:26:09 17 Q. And has the Secretary of State's Office in any
11:26:12 18 way started to change its relationship with the AG's
11:26:15 19 Office?

11:26:15 20 MR. MORGAN: Objection, form. It's also
11:26:17 21 outside the scope. I'm not going to let her go on the
11:26:19 22 record and talk about her relationship -- our Office's
11:26:21 23 relationship with the Attorney General. It's just not
11:26:24 24 appropriate for a deposition on these issues. And I'm
11:26:28 25 going to instruct her not to answer.

11:26:38 1 MS. LANG: Just to be clear on the record,
11:26:40 2 the witness has referred to this restriction as key.

11:26:42 3 MR. MORGAN: I have no problem with the
11:26:44 4 restriction being discussed in general as it existed,
11:26:46 5 but I'm not going to let -- in this deposition with the
11:26:50 6 topics that I'm aware are being testified about today or
11:26:53 7 that were noticed, we're not going to have a discussion
11:26:56 8 on the record about anything that the Secretary of
11:27:00 9 State's Office is doing vis-à-vis its relationship with
11:27:04 10 the Attorney General's Office as a lawyer and counsel.
11:27:06 11 I'm just not going to let that -- that's not
11:27:09 12 appropriate. It has no business in this case.

11:27:14 13 MS. LANG: Well, I'm trying to understand
11:27:15 14 if the Secretary now has access to more legal resources
11:27:18 15 to interpret these laws, which she has said has been a
11:27:23 16 barrier to implementation. So I understand.

11:27:25 17 MR. MORGAN: I am the only counsel of
11:27:26 18 record to the Secretary for these issues. So the answer
11:27:30 19 to that would be, you know, I'm her lawyer, and she's
11:27:34 20 not going to talk about out conversations either.

11:27:37 21 MS. LANG: That's not what I'm getting at,
11:27:39 22 but we can move on.

11:27:40 23 MR. MORGAN: Good.

11:27:44 24 BY MS. LANG:

11:27:46 25 Q. Would you agree that -- let me back up.

11:27:55 1 Based on kind of your testimony about the
11:27:57 2 challenges in developing guidance on these laws without
11:28:03 3 access to more legal -- internal legal resources, would
11:28:10 4 you agree that the Secretary really needs those
11:28:13 5 additional legal resources in order to be able to
11:28:17 6 interpret these laws?

11:28:20 7 MR. LANGHOFER: Form.

11:28:25 8 MR. MORGAN: Form. Again, I'm going to
11:28:26 9 object to scope. I'm not sure what that has to do with
11:28:30 10 anything.

11:28:31 11 MS. LANG: I mean it's a question about
11:28:32 12 how they're going to go about implementation and how
11:28:35 13 they're going to go about interpretation of the laws.

11:28:38 14 MR. MORGAN: I don't have a problem with
11:28:39 15 questions about that. Where I'm getting, maybe it's my
11:28:42 16 disconnect, is I don't think it's appropriate for her to
11:28:44 17 testify whether she believes she needs access to broader
11:28:50 18 legal resources to be able to do her job. I just -- I
11:28:53 19 don't see how that has anything to do with any of the
11:28:55 20 topics. Point me to the topic.

11:28:59 21 MR. LANGHOFER: Or the case.

11:29:00 22 MR. MORGAN: Well, that goes without
11:29:02 23 saying.

11:29:02 24 MR. LANGHOFER: Leading to relevant
11:29:03 25 information.

11:29:05 1 MR. MORGAN: I mean if you're getting at
11:29:07 2 something, maybe just ask that, because I'm going to be
11:29:10 3 very sensitive to issues related to legal relationships
11:29:14 4 and the need for legal resources.

11:29:16 5 MS. LANG: Nobody is asking for questions
11:29:18 6 related to privileged conversations with lawyers.

11:29:20 7 MR. MORGAN: I understand that.

11:29:21 8 MS. LANG: It is important. Several times
11:29:24 9 now the witness has testified about the limitations on
11:29:28 10 ability to interpret and provide guidance on these laws
11:29:33 11 based on limited access to legal resources, and I think
11:29:38 12 it's important to understand the Secretary's need for
11:29:44 13 substantial legal advice in order to be able to
11:29:47 14 interpret.

11:29:48 15 MR. MORGAN: She didn't say she needed
11:29:50 16 substantial legal advice. That misstates the record.

11:29:53 17 MS. LANG: Well, that is the question I'm
11:29:54 18 asking.

11:29:54 19 MR. MORGAN: That's not the question you
11:29:57 20 asked. So just ask the question, and I'll determine
11:29:59 21 whether I'm going to object again, because I think we've
11:30:00 22 gotten too far afield to even remember what you asked.
11:30:07 23 So just please ask the question again.

11:30:09 24 BY MS. LANG:

11:30:09 25 Q. Okay. Let me try and come at it a different

11:30:11 1 way.

11:30:12 2 Would you agree that these laws seek to make
11:30:21 3 substantial and many different changes to the voter
11:30:26 4 registration process in Arizona?

11:30:28 5 A. Yes.

11:30:30 6 Q. And would you agree that there are a number of
11:30:33 7 components within the law that require interpretation
11:30:43 8 for implementation?

11:30:47 9 MR. WHITAKER: Calls for a legal
11:30:48 10 conclusion.

11:30:56 11 MS. PORTER: Form.

11:30:56 12 THE WITNESS: I think it requires an
11:31:00 13 analysis from the counties' perspective and the state's
11:31:04 14 perspective, including consultation with counsel.

11:31:08 15 BY MS. LANG:

11:31:12 16 Q. Okay.

11:31:12 17 A. And I'm not -- let me just say this. But as
11:31:15 18 far as those papers that we referenced, I'm not going
11:31:17 19 to -- I'm not going to pick up where I left off even if
11:31:21 20 I had counsel or not. That -- my days of drafting, of
11:31:27 21 being a scrivener, are done on these VRAC papers. So I
11:31:33 22 guess if that -- to the extent that that puts an end on
11:31:37 23 the legal counsel issue.

11:31:44 24 Q. Fair enough, and I hear you there.

11:31:46 25 Your office would still have a role with the

11:31:52 1 County Recorders in developing what the guidance in VRAC
11:31:56 2 papers should be on how to implement these laws; is that
11:31:56 3 right?

11:31:59 4 A. Yes.

11:32:00 5 Q. Okay. And I think you've answered this
11:32:13 6 already, but it's really the question I'm trying to get
11:32:15 7 at, which is would it be possible to fully implement
11:32:20 8 these laws without having legal counsel guidance to help
11:32:26 9 understand what they require?

11:32:28 10 MR. LANGHOFER: Calls for a legal
11:32:30 11 conclusion.

11:32:30 12 MS. PORTER: Form.

11:32:32 13 MR. MORGAN: Form.

11:32:32 14 THE WITNESS: There are so many obstacles,
11:32:36 15 I don't even know. I don't even know if I could
11:32:40 16 possibly list them all at this point.

11:32:43 17 BY MS. LANG:

11:32:43 18 Q. And that would be one of them?

11:32:45 19 A. Yeah.

11:32:46 20 Q. Okay. And so I think that we have this on the
11:32:56 21 record already, but -- well, let me back up.

11:33:01 22 Outside of the first kind of six VRAC drafts
11:33:07 23 that I have seen at least, the first three we talked
11:33:10 24 about are the jury questionnaire and out-of-state and
11:33:13 25 then these additional ones, are there any other drafts

11:33:17 1 of VRAC papers related to these challenged laws in
11:33:22 2 existence right now?

11:33:22 3 MR. MORGAN: Well, to be clear, her
11:33:23 4 testimony was that what she's looking at now weren't
11:33:26 5 actually VRAC drafts, notwithstanding the title at the
11:33:29 6 top.

11:33:29 7 THE WITNESS: Exactly.

11:33:29 8 MR. MORGAN: So I don't want you to fall
11:33:31 9 into that trap.

11:33:31 10 THE WITNESS: Exactly. Yes, exactly. I
11:33:34 11 never thought anyone would even see those and...

11:33:37 12 But regardless, there is one other VRAC
11:33:40 13 paper that has been discussed among the VRAC committee,
11:33:45 14 and it has to do with a change, anytime someone goes in
11:33:52 15 to change something on a voter's registration, so, for
11:33:59 16 example, if the street number's transposed and it has to
11:34:02 17 be corrected, you know, little things like that.

11:34:08 18 There has been discussion, apparently for
11:34:10 19 a long while, prior to this administration starting, but
11:34:17 20 the Office of the Secretary of State has had many
11:34:21 21 discussions about whether, you know, simple changes like
11:34:22 22 that are administrative changes or whether they're
11:34:26 23 substantive changes that would require the -- you know,
11:34:30 24 the whole HAVA check process to kick in. There are
11:34:37 25 discussions, and I'm not -- I was a part of a few, but

11:34:39 1 I'm not a part of it. I don't know the status of that
11:34:41 2 now.
11:34:42 3 BY MS. LANG:
11:34:42 4 Q. Are those about kind of what you might call
11:34:45 5 administrative use of --
11:34:47 6 A. Yeah, like administrative changes, so --
11:34:48 7 Q. Yeah.
11:34:49 8 A. -- just, yeah, if someone had a typo or
11:34:53 9 something.
11:34:53 10 Q. Yeah, I had seen some discussions of kind of
11:34:55 11 what the limitation should be on administrative
11:34:59 12 changes --
11:34:59 13 A. Yeah.
11:35:00 14 Q. -- versus other types of changes in the system.
11:35:02 15 A. Yes.
11:35:03 16 Q. Okay. Other than that additional paper, any
11:35:06 17 other kind of VRAC papers that are currently in
11:35:12 18 development as it pertains to these challenged laws?
11:35:14 19 A. No.
11:35:15 20 Q. Okay. So as of now, there's no kind of VRAC
11:35:20 21 paper in development about what would be valid sources
11:35:23 22 of information that someone is not a United States
11:35:27 23 citizen?
11:35:28 24 A. No.
11:35:29 25 Q. Or that, you know, what it means to obtain and

11:35:32 1 confirm -- obtain information and confirm that a person
11:35:36 2 who is registered to vote is not a U.S. citizen?

11:35:40 3 A. There are just no more VRAC papers.

11:35:42 4 Q. Yeah.

11:35:43 5 A. That's it.

11:35:43 6 Q. Yeah. And if you could look at -- go back to
11:35:52 7 the folder that we were at.

11:35:55 8 A. I need that ID.

11:36:01 9 Q. Okay.

11:36:01 10 MR. MORGAN: What folder?

11:36:04 11 MS. LANG: The folder SOS Exhibits 2, and
11:36:07 12 if we could go to AZSOS-357 --

11:36:10 13 MR. MORGAN: Wait. I've still got to find
11:36:12 14 the folder.

11:36:13 15 MS. BRAILEY: Okay, okay. Yeah, yeah,
11:36:14 16 yeah.

11:36:14 17 MR. MORGAN: Wait. I think we're out of
11:36:15 18 wherever you want us to be, because I don't know that
11:36:17 19 baby.

11:36:37 20 MS. LANG: Here you go, and now we just
11:36:38 21 need to find AZSOS-357613.

11:36:46 22 MR. MORGAN: Here you go.

11:36:53 23 THE WITNESS: Okay.

11:36:53 24 BY MS. LANG:

11:36:53 25 Q. And this appears to have an e-mail chain from

11:36:56 1 you dated April 5, 2023; is that correct?

11:37:02 2 A. April 5th --

11:37:05 3 Q. Yes.

11:37:06 4 A. -- 2023?

11:37:07 5 Q. Yes.

11:37:08 6 A. Yeah.

11:37:08 7 Q. And can we mark that as 271.

11:37:16 8 And if you could take a moment just to review
11:37:17 9 your e-mail there.

11:37:26 10 MR. WHITAKER: Are we on Exhibit 271?

11:37:28 11 MS. LANG: Yes.

11:37:32 12 THE WITNESS: Okay.

11:37:32 13 BY MS. LANG:

11:37:35 14 Q. Okay. So you wrote "We have now confirmed that
11:37:37 15 there will not be a stipulated injunction on H.B. 2243."

11:37:42 16 I, of course, do not want to get into kind of
11:37:45 17 the conversations that you had that maybe led you to
11:37:50 18 that understanding; but is it fair to say, based on this
11:38:08 19 e-mail, that in early April, based on your understanding
11:38:13 20 of the status of this litigation, it was the Secretary's
11:38:17 21 plan to try to move forward with the VRAC committee on
11:38:19 22 at least some components of implementation for
11:38:24 23 H.B. 2243?

11:38:28 24 MR. MORGAN: You can answer to the extent
11:38:29 25 it doesn't require or reflect discussions with counsel.

11:38:31 1 THE WITNESS: Yeah, it appears to be
11:38:34 2 saying that, but around this time -- so as I referenced
11:38:38 3 in the e-mail, the super user call -- or, no, no, it
11:38:42 4 would not have been the super user call.

11:38:45 5 So sometime in April was when Secretary
11:38:47 6 Fontes said to all of the County Recorders and elections
11:38:54 7 director on a county call that we're focusing on the
11:39:02 8 budget aspect, and this piecemeal VRAC approach, we're
11:39:09 9 not going to continue with that. We have to get the
11:39:11 10 money first, or something. I can't remember his exact
11:39:15 11 words, but he, you know, pretty much said there are so
11:39:19 12 many VRAC committees that are -- or VRAC papers, we just
11:39:24 13 need to focus on -- you know, we need to start from
11:39:28 14 square one.

11:39:29 15 BY MS. LANG:

11:39:29 16 Q. Okay. And thank you for that.

11:39:30 17 So was this conversation after you sent this
11:39:35 18 e-mail?

11:39:37 19 A. Absolutely, yeah. I wouldn't have sent it
11:39:40 20 otherwise.

11:39:40 21 Q. Okay. So there was a plan to try to move
11:39:42 22 forward with some of these VRAC papers, and there was a
11:39:46 23 decision to stop that; is that fair to say?

11:39:50 24 A. You know, I'm not -- let me just clarify,
11:39:53 25 because I'm not clear on whether the juror questionnaire

11:39:59 1 issue is part of this litigation. Is it?

11:40:01 2 Q. Yes.

11:40:02 3 A. Okay. And I only ask because my -- I haven't
11:40:06 4 read all of the complaints.

11:40:07 5 Q. Fair.

11:40:08 6 A. Because I was -- I was a deputy county attorney
11:40:12 7 and I had only read the ones that the counties were
11:40:16 8 involved.

11:40:17 9 But as far as the juror questionnaire, the line
11:40:22 10 of thinking was that we could weave in the statutory
11:40:26 11 requirements within the federal requirements. So, yeah,
11:40:34 12 at the time that's what -- that's what our goal was, to
11:40:37 13 thread that needle.

11:40:39 14 Q. Okay. So sometime after that Secretary Fontes
11:40:46 15 on a call kind of communicated that he'd like to take a
11:40:50 16 different approach; is that -- is that right?

11:40:55 17 A. Well --

11:40:56 18 Q. Rather -- let me back up. Let's just -- let's
11:40:59 19 back up.

11:41:01 20 Okay. So do you recall when Secretary Fontes
11:41:04 21 kind of came on a call with the County Recorders and
11:41:07 22 kind of discussed how he wanted to prioritize moving
11:41:11 23 forward on these implementation plans?

11:41:14 24 MR. MORGAN: Form.

11:41:15 25 THE WITNESS: So let me just put it this

11:41:17 1 way. I would have not -- I am not empowered or was not
11:41:24 2 empowered or was not comfortable with making that
11:41:28 3 decision. But Secretary Fontes did reach that
11:41:31 4 conclusion, like this is taking up a certain amount of
11:41:36 5 bandwidth and we need to focus on the budget, because
11:41:40 6 regardless of what these VRAC papers say or do or what
11:41:43 7 people, you know, reach the conclusion on on how to do
11:41:47 8 it, we need the money. So the county calls I believe
11:41:52 9 are once a month. It probably was the April call.
11:41:55 10 That's my best guess.

11:41:57 11 BY MS. LANG:

11:42:00 12 Q. Okay. And so based on that decision from
11:42:04 13 Secretary Fontes, did the work at least from the
11:42:06 14 Secretary's Office on these VRAC papers largely stop?

11:42:11 15 A. Yes.

11:42:12 16 Q. Okay. And my understanding is that you finally
11:42:16 17 have gotten some approval for the budgetary issues
11:42:19 18 involved; is that right?

11:42:21 19 A. Yes.

11:42:21 20 Q. Okay. Is the plan to now pick up those
11:42:24 21 processes with the VRAC committee, now that the
11:42:27 22 budgetary issues have been resolved?

11:42:29 23 A. No. So to clarify, we need to internally
11:42:36 24 establish what we're going to do, because we're not
11:42:39 25 going to go into a meeting with 15 County Recorders and

11:42:44 1 all of these changes that need to be implemented without
11:42:48 2 an internal plan. So we're not going to even initiate a
11:42:53 3 VRAC call until we internally are in agreement.

11:42:58 4 Q. Okay. And is the process in place now for you
11:43:03 5 all, for the Secretary of State's Office, internally to
11:43:07 6 start to create that internal plan?

11:43:10 7 A. That's our next step, yes.

11:43:14 8 Q. Okay. Is there an initial meeting set for
11:43:17 9 starting that plan?

11:43:21 10 A. Well, you know, summers are challenging in
11:43:24 11 Arizona, in Phoenix, and we just got the PIJ process
11:43:31 12 approved last week, but many people are on vacation. So
11:43:38 13 it's -- frankly, it's just futile sometimes trying to
11:43:41 14 plan summer meetings.

11:43:44 15 Q. Fair enough. Some sometime this fall you'll
11:43:47 16 move forward with that, is that the current thinking?

11:43:49 17 A. Yeah. I can't say when. You know, we could do
11:43:52 18 something remotely. I don't know. We just don't have
11:43:56 19 that formalized.

11:43:57 20 Q. It's not set yet?

11:43:58 21 A. Yeah.

11:43:59 22 Q. That was my only question.

11:44:01 23 So during the Maricopa County Recorder's
11:44:06 24 deposition, the County Recorder there had said that the
11:44:08 25 kind of VRAC paper, the jury questionnaire VRAC paper,

11:44:15 1 had been revoked. I don't know if that's the right
11:44:17 2 terminology, and we need not go into it; but is the kind
11:44:20 3 of reason for the stoppage that the County Recorder's
11:44:25 4 Office identified the same one that we just talked
11:44:27 5 about, that Secretary Fontes' decision about how to kind
11:44:31 6 of proceed with implementation plans?

11:44:33 7 MR. MORGAN: Form.

11:44:35 8 MS. PORTER: Form, foundation.

11:44:41 9 THE WITNESS: The Maricopa County
11:44:43 10 Recorder's Office was not happy that the Secretary of
11:44:45 11 State was no longer going to be the sole drafter of the
11:44:50 12 VRAC papers, so if she character -- Janine Petty
11:44:56 13 characterized it as revoked, that was her
11:45:00 14 interpretation. Someone can very well -- I hand the
11:45:02 15 baton off to them. That's how it -- that's what
11:45:09 16 happened.

11:45:09 17 BY MS. LANG:

11:45:10 18 Q. Fair enough. I think we might be talking about
11:45:12 19 two different things, and that's my fault.

11:45:14 20 You know, there's the question about who is
11:45:15 21 going to do -- you know, do the drafting of the VRAC
11:45:20 22 papers, and I entirely understand that.

11:45:22 23 And then there is the kind of -- there was, you
11:45:25 24 know, substantial move forward on the jury questionnaire
11:45:28 25 item and then there was a decision to not move forward

11:45:32 1 on that. And I understood you to be saying that was
11:45:35 2 because the Secretary determined that that wasn't the
11:45:37 3 kind of most efficient way to move forward with
11:45:41 4 implementation plans; is that fair?

11:45:43 5 A. Yeah. Well, okay, so, again, VRAC is a
11:45:47 6 16-member committee. We're one member. So we don't
11:45:50 7 have to even initiate a meeting. Any county can run --
11:45:55 8 we can have 20 VRAC papers going and we don't even have
11:45:58 9 to vote on it. So there's nothing holding them back.
11:46:06 10 You know, the Secretary of State announced his position,
11:46:10 11 and that's -- it is what it is.

11:46:12 12 Q. I understand.

11:46:13 13 So it's the Secretary of State's position that
11:46:17 14 your office will not be leading that VRAC work, but that
11:46:19 15 is not an indication to VRAC generally that they are not
11:46:23 16 permitted to move forward on this, and they would be
11:46:25 17 free to do so?

11:46:27 18 A. The Secretary of State is charged with, I think
11:46:32 19 in the mission statement, you know, coordinating and
11:46:37 20 collaborating with the counties, just to get things
11:46:40 21 going.

11:46:40 22 Q. Yeah.

11:46:41 23 A. And then to incorporate any of the
11:46:45 24 recommendations or whatever's adopted in a VRAC paper
11:46:48 25 into the EPM. But any of the 16 members can draft it.

11:46:54 1 So the Secretary of State is not saying you can't draft
11:46:57 2 it. He's just saying we're not doing it.

11:47:00 3 Q. Right. And I think you testified earlier that
11:47:02 4 it's not even that you will never do it, but at least
11:47:05 5 right now that's not what you're doing on these items,
11:47:07 6 because you're focused on different parts of your
11:47:11 7 process?

11:47:11 8 A. Well, yeah, we're focused on the budget, and,
11:47:15 9 frankly, my focus as the elections director is on the
11:47:19 10 EPM.

11:47:21 11 Q. 100 percent. And that's what I'm going to move
11:47:25 12 on to is talking about the EPM.

11:47:29 13 We mentioned that there is a version of the EPM
11:47:36 14 out for public comment, and that was posted on August 1;
11:47:36 15 is that right?

11:47:39 16 A. Yes.

11:47:40 17 Q. And I have seen and others have seen the draft
11:47:45 18 EPM version that you've given to the counties of the
11:47:47 19 voter registration chapter, and that was released in
11:47:49 20 July to them; is that correct?

11:47:54 21 A. The last part of the EPM.

11:47:56 22 Q. Yes.

11:47:56 23 A. That was, yes, in July.

11:47:59 24 Q. With respect to the registration chapter alone,
11:48:09 25 did your office make changes between the draft that was

11:48:13 1 sent to the counties and the draft that was published on
11:48:18 2 August 1, you know, for the public to view?

11:48:22 3 A. Yes.

11:48:24 4 Q. Okay. And I think I understood this from your
11:48:29 5 testimony earlier, but are you the person who's
11:48:31 6 primarily responsible for that drafting?

11:48:33 7 A. Yes.

11:48:34 8 Q. Okay. And were those changes primarily kind of
11:48:38 9 in response to county comments?

11:48:41 10 A. Yes.

11:48:41 11 Q. Okay. And you kind of volunteered this
11:48:54 12 earlier, so let me just make sure I'm clear about it.
11:48:57 13 There are components of H.B. 2492 and H.B. 2243 that are
11:49:04 14 included in the 2023 EPM that went out for public
11:49:10 15 comment, correct?

11:49:10 16 A. Correct.

11:49:12 17 Q. Okay. And -- but I think I understood your
11:49:13 18 testimony to be that the approach you took with respect
11:49:17 19 to those bills was to put in the statutory language, but
11:49:23 20 not provide any kind of additional guidance or policy
11:49:28 21 around those new statutory changes; is that true?

11:49:32 22 A. Yeah, that's correct. I think the only change
11:49:35 23 that I made was to the statute that provided a voter
11:49:45 24 registration form shall be rejected, whatever. I can't
11:49:49 25 even remember. But where they used the word rejected,

11:49:51 1 the county said that's not a word, a status code, and so
11:49:55 2 I put -- I changed that to not registered. But that's
11:49:59 3 it. Otherwise, I kept it verbatim.

11:50:03 4 Q. Yeah. Generally, one of the goals and purposes
11:50:11 5 of the EPM is to not only outline the bare statutory
11:50:21 6 language, but to fill in the gaps for implementation; is
11:50:23 7 that correct?

11:50:23 8 A. That's correct.

11:50:24 9 Q. Okay. But for this draft in this moment, your
11:50:32 10 office has not taken that approach for these challenged
11:50:36 11 provisions; is that right?

11:50:39 12 MR. MORGAN: Form.

11:50:42 13 BY MS. LANG:

11:50:42 14 Q. And I just want to be clear that it's not a
11:50:44 15 critique. I just want to be clear about kind of what
11:50:49 16 the current approach is to these provisions in the EPM.

11:50:52 17 A. So to the degree that any of this legislation
11:50:55 18 will be in the final EPM, that decision has not been
11:51:01 19 made.

11:51:02 20 Q. Okay. Yes. But the draft that's out there in
11:51:04 21 the world right now, the approach that was taken was to
11:51:07 22 only include the statutory -- kind of clear statutory
11:51:11 23 language, and not do that kind of gap filling exercise
11:51:15 24 yet?

11:51:17 25 A. Yeah. Exactly.

11:51:22 1 Q. Okay. And I think you testified earlier at
11:51:25 2 some point, in some form, County Recorders will need
11:51:30 3 additional guidance to implement these laws in a way
11:51:33 4 that would be uniform; is that right?

11:51:36 5 MR. LANGHOFER: Calls for a legal
11:51:40 6 conclusion.

11:51:40 7 MR. WHITAKER: Speculation.

11:51:41 8 THE WITNESS: Yeah, guidance from whom?

11:51:43 9 BY MS. LANG:

11:51:44 10 Q. That's a good question.

11:51:47 11 Based on the statutory language itself, without
11:51:55 12 any VRAC papers or EPM -- scratch that.

11:52:04 13 In order to achieve uniformity in implementing
11:52:12 14 these laws, is it your view that additional guidance to
11:52:20 15 the County Recorders from whomever it may come, whether
11:52:23 16 it be the VRAC committee or the Secretary or whatnot,
11:52:26 17 would be necessary to create uniformity?

11:52:29 18 MR. LANGHOFER: Vague, calls for a legal
11:52:34 19 conclusion.

11:52:34 20 THE WITNESS: Well, any implementation of
11:52:36 21 any of these laws the counties should consult with their
11:52:42 22 Deputy County Attorney or County Attorney. That's it.

11:52:56 23 BY MS. LANG:

11:52:56 24 Q. With respect to the registration chapter, I
11:52:59 25 understand it was released to the County Recorders in

11:53:02 1 July and then you had an initial call with them?

11:53:05 2 A. Yes.

11:53:05 3 Q. Is that right?

11:53:06 4 A. Yes.

11:53:06 5 Q. Okay. And what kind of feedback did you
11:53:11 6 receive from the County Recorders during that call?

11:53:16 7 A. So the second Tuesday of the month was the date
11:53:19 8 by which I requested comments, and so Matt Webber from
11:53:25 9 Yavapai County was the only county that had submitted
11:53:29 10 written comments, and then the day before our meeting
11:53:34 11 with the county Janine Petty sent Maricopa County's
11:53:41 12 comments. So, yeah, the call entailed going through the
11:53:45 13 comments from Maricopa and Yavapai Counties.

11:53:52 14 Q. Okay. Since that call, have you received any
11:53:55 15 additional comments from other counties on that chapter?

11:54:03 16 A. I don't know. I can't remember specifically.

11:54:06 17 Q. Okay. And you mentioned having kind of
11:54:10 18 one-on-one conversations with some of the counties.

11:54:13 19 Have you had any one-on-one conversations with the
11:54:16 20 counties about that part of the EPM?

11:54:23 21 A. I talked to different counties, the county
11:54:27 22 elections directors, County Recorders, deputy county
11:54:30 23 recorder -- I'm sorry, chief deputies. I can't say
11:54:33 24 exactly when, like in what sequence or who I talked to
11:54:38 25 about what. Nothing jumps out at me, I guess, at this

11:54:43 1 point.

11:54:43 2 Q. So you don't recall any specific conversations
11:54:45 3 one-on-one with County Recorders about the voter
11:54:48 4 registration part of the manual?

11:54:51 5 A. I can't recall.

11:55:11 6 Q. You've testified that there's no final decision
11:55:14 7 about whether the parts of the EPM that currently -- let
11:55:19 8 me restate the question.

11:55:20 9 I believe you've testified there's no decision
11:55:26 10 about whether or not the draft EPM that you submit on
11:55:30 11 October 1 will include provisions related to the
11:55:34 12 challenged laws in this case, is that right?

11:55:36 13 A. There's no final decision, right.

11:55:39 14 Q. Okay. You'll have to make that decision by
11:55:42 15 October 1st; is that fair to say?

11:55:44 16 A. Yes.

11:55:45 17 Q. Okay. Putting aside any conversations you've
11:55:48 18 had with counsel, do you have kind of any process
11:55:53 19 outlined for how you're going to get to that decision by
11:55:55 20 October 1? I know you said it's causing you to lose
11:55:59 21 sleep, and I understand that. It's -- I understand
11:56:02 22 that.

11:56:03 23 If you could just let me know what process, if
11:56:06 24 any, do you envision for how you will kind of come to
11:56:09 25 that decision?

11:56:13 1 MR. MORGAN: Calls for speculation.

11:56:15 2 To the extent you have a process.

11:56:16 3 THE WITNESS: Yeah, there's just no
11:56:18 4 established process. I mean it's -- how do you go about
11:56:21 5 doing that? I mean I've read the comments. I continue
11:56:23 6 to read the comments. The comments are posted, if you
11:56:26 7 want to read the comments.

11:56:27 8 BY MS. LANG:

11:56:27 9 Q. I have.

11:56:27 10 A. And you'll see they are all over the place on
11:56:30 11 this very topic.

11:56:32 12 Q. Yes.

11:56:33 13 A. And we're going to pick, have to make a
11:56:36 14 decision, and it's not going to be an easy one.

11:56:39 15 Q. Is that a decision that the Secretary will be
11:56:41 16 involved in?

11:56:42 17 A. Absolutely.

11:56:44 18 Q. Okay. And will he be the ultimate
11:56:47 19 decision-maker?

11:56:48 20 A. Yes. It's his manual. Yes.

11:56:49 21 Q. And I have it, if we need it, but I don't know
11:56:58 22 that we do. One comment that caught my eye when I was
11:57:01 23 reviewing the public comments was from Senators
11:57:04 24 Hernandez and Sundareshan. Do you recall seeing a
11:57:09 25 comment from the Senators?

11:57:11 1 A. I don't. I know a lot of legislators submit
11:57:14 2 comments, but I can't say specifically those
11:57:16 3 legislators.

11:57:18 4 Q. So they wrote -- they wrote in favor of
11:57:23 5 removing these components from the EPM, given the
11:57:28 6 pending litigation, and wrote in particular, quote,
11:57:31 7 Should these components remain in the 2023 EPM, it could
11:57:35 8 lead to confusion and, comma, more concerningly, comma,
11:57:39 9 voters being denied the ability to register or vote a
11:57:43 10 full ballot based on a law that may ultimately be
11:57:45 11 rejected by the courts, end quote.

11:57:48 12 Does the concerns raised by the Senators kind
11:57:57 13 of reflect some of the concerns that are perhaps keeping
11:58:01 14 you up at night?

11:58:03 15 MR. MORGAN: Form.

11:58:07 16 MR. LANGHOFER: Calls for a legal
11:58:08 17 conclusion.

11:58:08 18 THE WITNESS: You know, the comments are
11:58:08 19 all over the place. Many of the comments are to that
11:58:13 20 effect. Many of the comments are that the entire voter
11:58:17 21 registration chapter should be removed. Many of the
11:58:20 22 comments say you have to start enforcing documentary
11:58:25 23 proof of citizenship, which has been the law nearly
11:58:28 24 20 years now. So there are a vast number of comments.
11:58:35 25 Yes, we received more than one comment about removing

11:58:39 1 the subject matter of this litigation.

11:58:43 2 BY MS. LANG:

11:58:43 3 Q. Yeah.

11:58:44 4 MR. MORGAN: So just for those keeping
11:58:46 5 track at home, it's noon. I'm starving. So whenever
11:58:50 6 you guys are prepared to break, I'd love a break.

11:58:56 7 MS. LANG: I have just a couple questions
11:58:57 8 left on this topic, and then why don't we break.

11:58:59 9 MR. MORGAN: Okay.

11:59:00 10 BY MS. LANG:

11:59:00 11 Q. Okay. You testified earlier that there are a
11:59:05 12 few options on the table about how to approach the
11:59:09 13 challenged provisions in this law and the EPM and that,
11:59:12 14 you know, none of them are perfect; is that fair to say?

11:59:15 15 A. Yeah, none of them are perfect. None of them
11:59:18 16 are going to please everyone.

11:59:20 17 Q. Yeah. Can you outline kind of what those
11:59:22 18 options on the table are right now?

11:59:25 19 A. I can't. I just don't even know where to
11:59:29 20 begin. I just can't. I can't. The EPM is an
11:59:33 21 overwhelming document. It's nearly 300 pages that's
11:59:37 22 consumed the last five months of my life. I can't
11:59:40 23 possibly start to say what -- you know, and
11:59:42 24 differentiate between the voter registration, fairly
11:59:45 25 differentiate between the many other topics that are

11:59:49 1 very important too.

11:59:51 2 For example, the hand count audit, the
11:59:54 3 certification of an election all are subject of
11:59:57 4 different litigations. So it just wouldn't be fair to
11:59:59 5 even try to go through the deliberative process.

12:00:02 6 Q. That's fair, and I'm not asking you to do that.

12:00:06 7 With respect to whether to include the
12:00:08 8 provisions of the law here or not, I imagine there's a
12:00:14 9 limited set of options. Like what are the options that
12:00:16 10 you kind of see before you right now? I know that
12:00:18 11 making those decisions will be incredibly hard and
12:00:22 12 require a lot of considerations, but kind of what are
12:00:25 13 the options as you see them?

12:00:27 14 MR. MORGAN: Objection, asked and
12:00:29 15 answered.

12:00:29 16 If you have a different answer.

12:00:30 17 THE WITNESS: I don't have a different
12:00:31 18 answer.

12:00:33 19 BY MS. LANG:

12:00:33 20 Q. Is one of the options to remove references to
12:00:37 21 the challenged provisions altogether?

12:00:39 22 A. I'm not going to speculate. I'm not. I mean
12:00:42 23 I'm just not going to speculate. There's not -- there's
12:00:44 24 not an answer I can give you right now that's going to
12:00:47 25 satisfy you.

12:01:10 1 Q. Given your testimony, is it your position that
12:01:12 2 kind of all options are on the table right now?

12:01:14 3 MR. MORGAN: Objection, asked and
12:01:21 4 answered.

12:01:21 5 THE WITNESS: As I said, there are many
12:01:24 6 options. I could not give you an exhaustive list of
12:01:27 7 what the options are.

12:01:28 8 BY MS. LANG:

12:01:28 9 Q. Could you give me some examples of options?

12:01:30 10 A. No, I'm not going to.

12:01:32 11 MR. MORGAN: She's been asked the same
12:01:33 12 question. She's not going to answer it any differently.

12:01:33 13 MS. LANG: You know --

12:01:37 14 MR. MORGAN: It's not happening. She's
12:01:37 15 not answering the question any differently.

12:01:44 16 THE WITNESS: I'm also speaking on behalf
12:01:45 17 of the office, so I -- it really wouldn't be fair of me
12:01:49 18 to even delve into that without at least engaging the
12:01:55 19 Secretary. I mean it's --

12:01:56 20 MR. MORGAN: You're on the record, so
12:01:56 21 let's not do it on the record.

12:01:58 22 On the record she's answered the question.
12:02:01 23 She said she's not going to speculate about what options
12:02:03 24 could be available to the office. I think that's a fair
12:02:05 25 answer. We need to move on. And I'm starving.

12:02:10 1 MS. LANG: We can take a break. We are
12:02:12 2 probably going to revisit this question, so --

12:02:13 3 MR. MORGAN: We're not. You can take it
12:02:14 4 to the judge. We're not talking about it anymore.
12:02:16 5 She's given you her answer. If you have a different
12:02:19 6 question, you can ask it. These questions, we're done.

12:02:23 7 MR. LANGHOFER: I'm sorry to belabor this
12:02:25 8 because we all want to go to lunch, but is the question
12:02:27 9 what they're going to do in deciding whether to
12:02:31 10 implement this in the next EPM?

12:02:33 11 MS. LANG: The question is simply what
12:02:35 12 options are being considered about whether and how these
12:02:39 13 provisions will be included in the EPM.

12:02:41 14 MR. LANGHOFER: Okay.

12:02:42 15 MS. LANG: I kind of think it's a question
12:02:43 16 that you may also be interested in the answer to, and I
12:02:49 17 think it's squarely in the scope. But let's go off the
12:02:53 18 record and take a lunch break.

12:02:55 19 MR. LANGHOFER: Thanks.

12:02:56 20 MS. LANG: Thank you.

12:02:57 21 THE VIDEOGRAPHER: We are off the record.

12:02:57 22 The time on the video monitor is 12:02 p.m.

12:03:03 23 (Deposition Exhibits 260 through 271,
24 inclusive, were digitally marked for
25 identification.)

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(Whereupon, a recess was taken in the proceedings and the following testimony was stenographically transcribed by Cindy Mahoney, RPR, RMR.)

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12:57:31 1 THE VIDEOGRAPHER: We are on the record. The
12:57:32 2 time on the video monitor is 12:57 p.m.

12:57:36 3 BY MS. LANG:

12:57:42 4 Q. Okay. Thank you.

12:57:46 5 So I think when we left off we were talking
12:57:49 6 about the difficult decisions you all are going to have to
12:57:53 7 make about how to format the EPM, given the ongoing
12:57:58 8 challenges to some of the provisions at issue in this
12:58:01 9 litigation.

12:58:02 10 A. Yes.

12:58:02 11 Q. Okay. Can you describe for me -- and I understand
12:58:06 12 that it will not be an exhaustive list -- some of the
12:58:10 13 considerations that go into making that decision about
12:58:15 14 whether or not to include provisions that are currently
12:58:18 15 being challenged in court in the EPM?

12:58:22 16 MR. MORGAN: Form and object to the extent it
12:58:26 17 calls for speculation.

12:58:33 18 If you understand the question, you can
12:58:34 19 answer.

12:58:34 20 THE WITNESS: I do, yes. I have a hard time
12:58:44 21 responding, you know, how I -- I know you want me to give
12:58:47 22 you some definitive list or some examples. I am reluctant
12:58:53 23 to say anything because I don't want to preclude or
12:58:56 24 foreclose Secretary Fontes from making a decision or
12:59:00 25 feeling locked into a decision. And I don't think I could

12:59:06 1 articulate the options very well at this point.

12:59:14 2 MS. PORTER: I'm sorry. Has the deposition
12:59:15 3 started? Because I cannot hear anything from anyone on the
12:59:20 4 Coash line.

12:59:24 5 MR. MORGAN: It has. Can you hear me at all?

12:59:27 6 MR. WHITAKER: I can hear, Hannah, but it's
12:59:28 7 fainter -- much fainter than it was before. I don't know
12:59:31 8 if others are having that experience.

12:59:34 9 THE COURT REPORTER: Do you want to go off
12:59:34 10 the record?

12:59:36 11 MR. MORGAN: Let's go off the record.

12:59:36 12 MS. LANG: Let's go off the record.

12:59:39 13 THE VIDEOGRAPHER: We are off the record.

12:59:46 14 The time on the video monitor is 12:59 p.m.

12:59:54 15 (An off-the-record discussion ensued.)

13:02:33 16 THE VIDEOGRAPHER: We are on the record. The
13:04:30 17 time on the video monitor is 1:04 p.m.

13:04:37 18 BY MS. LANG:

13:04:38 19 Q. I apologize. I'm going to try to get us back
13:04:40 20 again.

13:04:42 21 Prior to our larger break, we had discussed
13:04:48 22 the decision facing the secretary and the secretary's
13:04:54 23 office about how to include or not include provisions that
13:04:56 24 are challenged in this lawsuit in the EPM. And that
13:05:00 25 decision has to be made by October 1; is that right?

13:05:03 1 A. Yes.

13:05:03 2 Q. Okay. And you said there's, you know, many
13:05:07 3 considerations that have to go into that. Is that fair to
13:05:11 4 say?

13:05:11 5 A. Yes.

13:05:11 6 Q. Okay. Without being in any way exhaustive, what
13:05:15 7 are some of the considerations that go into making that
13:05:19 8 choice?

13:05:20 9 A. The considerations are -- involve any potential
13:05:32 10 violations of federal law, the supremacy clause, any cases,
13:05:40 11 historical procedures.

13:05:45 12 Q. The uncertainty about the outcome of this lawsuit;
13:05:48 13 is that fair to say?

13:05:48 14 A. That's correct, yes.

13:05:49 15 Q. Okay. Moving on from the EPM, if the provisions
13:06:05 16 of these laws go into effect and need to be fully
13:06:09 17 implemented, that will require some changes to the state
13:06:13 18 voter registration form as well; is that correct?

13:06:15 19 A. Yes.

13:06:15 20 Q. Okay. Those changes have not yet been made in the
13:06:21 21 form that is available to the public. Is that also
13:06:23 22 correct?

13:06:23 23 A. Yes.

13:06:24 24 Q. Okay. Are there any drafts yet of new state voter
13:06:30 25 registration forms that would include the requirements of

13:06:32 1 the HB 2492?

13:06:33 2 A. No.

13:06:34 3 Q. Okay. I believe one of the requirements of a
13:06:46 4 piece of legislation from 2022 -- not a law at issue in
13:06:53 5 this case, but SB 1013 required the Secretary of State's
13:06:57 6 Office to ask the Election Assistance Commission to change
13:07:01 7 the instructions about documentary proof of citizenship on
13:07:07 8 the federal form. Are you aware of that?

13:07:10 9 A. Yes.

13:07:10 10 Q. Okay. Could you open AZSOS 533 that says, "EAC
13:07:17 11 letter." And we'll mark that as 272.

13:07:17 12 (The document was marked as Exhibit 272
13:07:26 13 for identification.)

13:07:26 14 THE WITNESS: EAC letter.

13:07:29 15 BY MS. LANG:

13:07:30 16 Q. Yes. Okay.

13:07:45 17 A. Is it in one of the folders perhaps?

13:07:48 18 Q. Yes. Apologies. It's in the SOS Exhibits 2
13:07:50 19 folder, AZSOS 533.

13:07:55 20 A. Okay.

13:07:55 21 Q. EAC letter.

13:07:57 22 A. All righty.

13:08:01 23 Q. Have you seen this document before?

13:08:12 24 A. Yes.

13:08:15 25 Q. And is this the letter that Secretary Hobbs sent

13:08:21 1 pursuant to that statute we just discussed requesting
13:08:24 2 updated -- or requesting these different instructions about
13:08:29 3 documentary proof of citizenship on this -- on the federal
13:08:31 4 form?

13:08:32 5 A. Yes.

13:08:32 6 Q. Okay. And do you know if the office has received
13:08:38 7 a response to this letter?

13:08:42 8 A. Not that I'm aware of.

13:08:44 9 Q. Have there been any discussions with the Election
13:08:48 10 Assistance Commission about this request?

13:08:51 11 A. Not that I'm aware of.

13:08:52 12 Q. Okay. And it's correct that these updated
13:08:59 13 instructions have not been included in the federal form;
13:09:04 14 correct?

13:09:04 15 A. That's correct.

13:09:05 16 Q. Okay. One of the steps in preparing to implement
13:09:23 17 these challenged laws, I imagine, will be the creation of
13:09:27 18 template notice letters to voters. Is that -- is that fair
13:09:35 19 to say?

13:09:37 20 A. You know, I don't know. I -- that's something I
13:09:46 21 don't know if we will -- the Secretary of State's Office
13:09:48 22 will continue the practice of drafting template letters.

13:09:52 23 Q. Okay. Historically, has the Secretary of State's
13:09:56 24 Office kind of provided template notice letters to the
13:10:00 25 county recorders that they can then use for various

13:10:02 1 election mail purposes?

13:10:04 2 A. Yes.

13:10:04 3 Q. Okay. But you're not sure if Secretary Fontes's
13:10:10 4 office will continue that practice?

13:10:11 5 A. Yeah, I don't know if we will.

13:10:14 6 Q. Okay. Is it fair to say that your office has not
13:10:19 7 yet drafted any template notice letters related to the
13:10:25 8 challenged provisions?

13:10:25 9 A. There were a few template letters drafted for the
13:10:30 10 first three draft VRAC papers that we discussed.

13:10:34 11 Q. Okay. Were any of those finalized or no?

13:10:37 12 A. No.

13:10:38 13 Q. Okay. Because the VRAC papers themselves have not
13:10:41 14 been finalized; right?

13:10:45 15 A. That was one reason.

13:10:48 16 Q. Okay. Any other reasons?

13:10:51 17 A. There -- there was. I -- which is a legal
13:10:57 18 question that I don't know the answer to. But the NVRA
13:11:04 19 process of whether the initial letter sent out by the jury
13:11:09 20 commissioner satisfies the first NVRA letter notice to the
13:11:17 21 voter -- because the secretary of state's VRAC paper picked
13:11:24 22 up the process kind of in the middle; whereas, there was
13:11:29 23 only one letter being sent to the voter by -- via
13:11:34 24 forwardable mail. And I had some reservations because it
13:11:38 25 didn't seem as though it complied with the two step -- or

13:11:44 1 the two letters in two consecutive elections because -- if
13:11:51 2 the juror commissioner letter satisfied the first letter
13:11:54 3 requirement, if that makes sense.

13:11:55 4 Q. It does.

13:11:56 5 And I think you answered this question, but
13:11:59 6 so far, your office has not kind of resolved that question
13:12:02 7 or set of concerns; correct?

13:12:04 8 A. We've not resolved it. We would need to seek
13:12:08 9 legal advice on that.

13:12:10 10 Q. Okay. Okay. You mentioned that the kind of
13:12:25 11 outreach coordinator role has kind of moved outside of the
13:12:30 12 elections department; is that correct?

13:12:31 13 A. Yes, it has.

13:12:32 14 Q. And does that include any kind of voter education
13:12:36 15 that the Secretary of State's Office will do, or is it a
13:12:40 16 more limited scope?

13:12:42 17 MR. MORGAN: Form.

13:12:43 18 THE WITNESS: Well, the voter outreach
13:12:46 19 employee has moved outside of the elections department, but
13:12:53 20 that person will still be involved in election-related
13:12:56 21 matters. For example, the assistant -- excuse me -- the
13:13:02 22 deputy assistant secretary of state has already scheduled
13:13:08 23 certain outreach events.

13:13:09 24 We've had meetings on the EPM with the Inter
13:13:15 25 Tribal Council of Arizona. We've had a meeting with the

13:13:17 1 Navajo Nation Tribal Council and the Navajo Nation
13:13:21 2 Department of Justice on the EPM. So that process has
13:13:25 3 started in collaboration with the outreach director.

13:13:29 4 BY MS. LANG:

13:13:30 5 Q. Okay. And were you involved in those meetings
13:13:32 6 that you just mentioned?

13:13:34 7 A. Yes.

13:13:34 8 Q. Okay. And so is it fair to say that kind of
13:13:40 9 members of the elections department will continue to work
13:13:42 10 with the outreach coordinator to implement voter education
13:13:47 11 plans?

13:13:47 12 A. Absolutely. Yes.

13:13:48 13 Q. Okay. Based on your testimony today, it seems as
13:13:55 14 though this may be a few steps ahead --

13:13:57 15 A. Okay.

13:13:58 16 Q. -- but have there been yet any discussions or
13:14:04 17 plans as to what the voter education or outreach would need
13:14:07 18 to look like if the challenged laws are fully implemented?

13:14:13 19 A. Well, let me first back up. The voter -- or the
13:14:17 20 outreach coordinator was only recently hired -- I would say
13:14:23 21 maybe six or eight weeks ago. So fairly recently.

13:14:28 22 Q. Yes.

13:14:28 23 A. But any outreach will be done through her as well
13:14:33 24 as the assistant Secretary of State's Office.

13:14:36 25 Q. Are you aware of any plans yet as to how voter

13:14:43 1 outreach would be conducted if these new requirements are
13:14:48 2 put in -- into effect?

13:14:51 3 A. I'm not privy to any scheduled voter outreach at
13:14:56 4 this point.

13:14:57 5 Q. Is it fair to say that some amount of voter
13:15:08 6 education and outreach will be necessary if the challenged
13:15:14 7 provisions are fully implemented?

13:15:16 8 MR. LANGHOFER: Form.

13:15:17 9 MR. MORGAN: Speculation.

13:15:20 10 THE WITNESS: Can you be more specific about
13:15:20 11 what part of the challenges?

13:15:22 12 BY MS. LANG:

13:15:22 13 Q. Yes.

13:15:23 14 For example -- as an example, if the
13:15:24 15 documentary proof of residency requirement were to be fully
13:15:29 16 implemented, would some amount of voter education and
13:15:34 17 outreach be necessary to ensure that voters understand
13:15:37 18 those new requirements and -- and can comply with them?

13:15:40 19 A. Yes, I agree.

13:15:42 20 MR. LANGHOFER: Same objections.

13:15:50 21 BY MS. LANG:

13:16:08 22 Q. Okay. Beyond the legal issues at -- at play in
13:16:13 23 this case, what are the secretary's greatest concerns about
13:16:17 24 implementation of the challenged laws?

13:16:20 25 MR. MORGAN: Form.

13:16:21 1 MR. LANGHOFER: Form. Calls for legal
13:16:25 2 conclusion.
13:16:25 3 MS. LANG: I'm sorry. Can you clarify what
13:16:27 4 legal conclusion?
13:16:28 5 MR. LANGHOFER: I'm not sure what --
13:16:28 6 THE COURT REPORTER: Can you speak up?
13:16:31 7 MR. LANGHOFER: I'm not sure what her answer
13:16:32 8 is going to be, but you've been asking about the secretary
13:16:36 9 and his predecessor's legal concerns about it, so I think
13:16:39 10 you're still mining that vein. If I'm wrong --
13:16:43 11 MS. LANG: I said "beyond the legal issues."
13:16:45 12 MR. LANGHOFER: Oh. In that case, it doesn't
13:16:47 13 apply.
13:16:47 14 MS. LANG: Okay. That -- I just wanted to
13:16:48 15 understand.
13:16:49 16 BY MS. LANG:
13:16:50 17 Q. Beyond the legal issues, what are the kind of
13:16:51 18 practical or other impact concerns that the secretary has
13:16:59 19 about implementation of the challenged laws?
13:17:01 20 MR. MORGAN: You mean -- you mean the office?
13:17:02 21 MS. LANG: The office. Always the office.
13:17:04 22 MR. MORGAN: Okay.
13:17:05 23 MS. LANG: But thank you.
13:17:08 24 THE WITNESS: Well, I'll just start with the
13:17:11 25 issue you just brought up: documentary proof of residency.

13:17:21 1 As far as what will satisfy that requirement, that has been
13:17:26 2 a concern that we've discussed many times.

13:17:29 3 BY MS. LANG:

13:17:31 4 Q. Is it a concern that these provisions might be
13:17:34 5 particularly onerous on certain communities of voters?

13:17:40 6 MR. LANGHOFER: Foundation.

13:17:43 7 THE WITNESS: There's concern about
13:17:45 8 identification that doesn't have someone's name or address.
13:17:52 9 There are the special provisions for the Native American
13:17:56 10 communities for the tribal identification, but there still
13:18:01 11 remains a concern about individuals that do not have a
13:18:05 12 standard mailing address -- or residential address. Excuse
13:18:05 13 me.

13:18:05 14 BY MS. LANG:

13:18:13 15 Q. And I think we talked about this a little bit with
13:18:15 16 respect to the veto letters, but does the secretary also
13:18:19 17 have concerns about potential arbitrary treatment under the
13:18:22 18 challenged laws?

13:18:26 19 A. We haven't -- we haven't really discussed the
13:18:28 20 arbitrary, just the general concern about whether people
13:18:36 21 that are otherwise eligible to vote being able to satisfy
13:18:40 22 the DPOR requirement.

13:18:46 23 Q. We had talked about budgetary concerns before, and
13:18:58 24 I know it sounds like some of those budgetary concerns have
13:19:03 25 been alleviated.

13:19:05 1 Has -- have the secretary's budgetary
13:19:08 2 concerns related to implementation been fully alleviated
13:19:12 3 based on this allocation?

13:19:13 4 A. No.

13:19:15 5 Q. Can you elaborate on kind of the continued
13:19:17 6 concerns about, you know, the budgetary implications of
13:19:22 7 implementation?

13:19:24 8 MR. MORGAN: Object to scope.

13:19:26 9 THE WITNESS: So one -- well, one budgetary
13:19:29 10 concern that has been a topic of recent conversations with
13:19:32 11 the counties is funding AVID -- aside from this
13:19:37 12 legislation, funding AVID and the proportion being paid by
13:19:46 13 the counties.

13:19:48 14 So in the past, the counties paid under a
13:19:54 15 million dollars collectively for AVID. And the formula was
13:20:00 16 based on the percentage of voters. And Maricopa County,
13:20:06 17 for example, has not paid -- at a certain time. I think
13:20:14 18 they're paid in full for this year -- well, to a certain
13:20:17 19 extent, I think there's still an outstanding balance of
13:20:21 20 \$90,000. Pima County, I believe there's an outstanding
13:20:27 21 balance of \$15,000.

13:20:28 22 And that gets a little -- you know, there's
13:20:33 23 just tension there because, understandably, Maricopa and
13:20:38 24 Pima Counties have their own voter registration database,
13:20:41 25 so they have an argument as to why they should pay, you

13:20:46 1 know, a certain proportion.

13:20:50 2 So the HAVA funding, it was very
13:20:54 3 disappointing this year. The proportion of the HAVA
13:20:58 4 funding that was being given to the secretary of state --
13:21:02 5 only 25 percent was going to the secretary of state. And
13:21:08 6 the request was for more. But in the end, it works out so
13:21:13 7 the 75 percent of the HAVA funding will go to the counties.

13:21:21 8 Also, even with the amount that the counties
13:21:24 9 paid based on that formula, it still doesn't satisfy the
13:21:30 10 costs of -- just the maintenance and operation cost is
13:21:36 11 approximately 1.3 million.

13:21:40 12 And so the secretary has proposed that from
13:21:46 13 that HAVA funding, you know, 100 percent of the HAVA
13:21:51 14 funding, before it's distributed to the counties at the
13:21:55 15 25/75 percent formula, that from the top, from the gross,
13:22:00 16 that the 1.3 million is satisfied. And then from there we
13:22:05 17 divvy up the money.

13:22:08 18 But in any event, there's -- there's concern
13:22:11 19 about just funding AVID as a whole. We also requested
13:22:17 20 certain new positions be created given the amount of work
13:22:22 21 and the demands on the office. We requested expanding our
13:22:30 22 legal -- in-house legal services and other positions. But
13:22:37 23 yeah, I mean, budget will -- unfortunately, the secretary
13:22:42 24 was not provided the funding that he requested.

13:22:46 25 BY MS. LANG:

13:22:46 1 Q. So you were not successful in getting the budget
13:22:50 2 that would kind of cover those new positions; is that
13:22:52 3 right?

13:22:52 4 A. Yes.

13:22:53 5 Q. Okay. I think you testified already that fully
13:22:57 6 implementing these challenged laws is going to require an
13:23:00 7 enormous amount of work; is that right?

13:23:01 8 A. That's correct.

13:23:02 9 Q. Okay. As you mentioned earlier, Arizona has had a
13:23:19 10 documentary proof of citizenship requirement for
13:23:22 11 registration for quite some time; correct?

13:23:24 12 A. Yes.

13:23:24 13 Q. Okay. So that's nothing new; correct?

13:23:27 14 A. That's right.

13:23:34 15 MR. WHITAKER: Well, calls for a legal
13:23:35 16 conclusion, I think.

13:23:40 17 BY MS. LANG:

13:23:40 18 Q. Can you just describe the impact of this
13:23:42 19 documentary proof of citizenship requirement on -- on
13:23:47 20 voters?

13:23:47 21 MR. MORGAN: Foundation. Calls for
13:23:49 22 speculation.

13:23:52 23 BY MS. LANG:

13:23:52 24 Q. The existing impact based on the existing law.

13:23:55 25 MR. MORGAN: Same objection.

13:23:57 1 THE WITNESS: You know, that's hard to say.
13:23:59 2 It's been the law for so long, I'm not familiar with,
13:24:07 3 necessarily, how it impacts. You know, I just don't have
13:24:09 4 any really comparison.

13:24:14 5 BY MS. LANG:

13:24:14 6 Q. Has the secretary's office kind of looked at the
13:24:17 7 list of federal-only voters and identified any kind of
13:24:22 8 trends in who tends to fall on the federal-only list?

13:24:28 9 MR. MORGAN: Form.

13:24:29 10 THE WITNESS: The Secretary of State's Office
13:24:30 11 may have. It's not anything I'm familiar with, though.

13:24:33 12 BY MS. LANG:

13:24:34 13 Q. Okay. If you could look in -- it's in the SOS
13:24:39 14 Exhibits 2 folder, which I think you may already be in, at
13:24:42 15 AZSOS 8789.

13:24:46 16 A. Hang on a sec, please.

13:24:47 17 Q. Yes.

13:25:04 18 A. Okay. So it's in the SOS folder.

13:25:06 19 Q. SOS 2 folder. AZSOS 8789.

13:25:25 20 A. 8789. Okay.

13:25:27 21 Q. Yes.

13:25:31 22 A. Okay. It's an email from Christine Dyster,
13:25:35 23 1/28/22?

13:25:36 24 Q. That's correct.

13:25:39 25 I imagine you have not necessarily reviewed

13:25:41 1 this particular email. Have you?

13:25:43 2 A. No. This doesn't look familiar.

13:25:45 3 Q. I know that Christine Dyster -- I think you
13:25:49 4 testified to this -- now is at the governor's office. Is
13:25:57 5 that right?

13:25:57 6 A. Yes, she is. She's -- she's going to be leaving
13:25:59 7 soon. I just don't know exactly when.

13:26:02 8 Q. Fair enough.

13:26:02 9 What role did Christine Dyster have at the
13:26:06 10 Secretary of State's Office?

13:26:07 11 A. She was the deputy elections director.

13:26:11 12 Q. Okay. And she writes in this email, "In my
13:26:17 13 experience no proof of citizenship was two things."

13:26:20 14 And then she identifies two kind of
13:26:23 15 possibilities: "1 - New to AZ and hasn't updated DL.
13:26:27 16 Usually younger folks. 2 - Senior Citizens who have no
13:26:33 17 birth certificate and no passport and therefore couldn't
13:26:36 18 verify citizenship at the MVD OR isn't planning on driving
13:26:38 19 so hasn't gone to the MVD." Is that right?

13:26:41 20 A. I see that, yes.

13:26:42 21 Q. Okay. Is that consistent with kind of your
13:26:45 22 understanding of any trends among those who have not
13:26:49 23 provided documentary proof of citizenship?

13:26:52 24 MR. MORGAN: Form. And to the extent we're
13:26:54 25 saying she stated an understanding, she didn't.

13:26:58 1 THE WITNESS: You know, there are anecdotal
13:27:01 2 stories about that, like kids that -- I guess kids -- or
13:27:06 3 kids, you know, people that are younger, they aren't as
13:27:11 4 eager to get driver's licenses or -- yeah. And I think in
13:27:16 5 the trial, in the Gonzalez case or ITC case, there was a
13:27:20 6 senior citizen that was one of the witnesses.

13:27:25 7 BY MS. LANG:

13:27:25 8 Q. Okay.

13:27:26 9 MS. LANG: I'd like to mark that as Exhibit
13:27:31 10 272.

13:27:31 11 THE COURT REPORTER: 273.

13:27:33 12 MS. LANG: 273. Sorry.

13:27:33 13 (The document was marked as Exhibit 273
13:27:37 14 for identification.)

13:27:37 15 BY MS. LANG:

13:27:52 16 Q. I'm not going to go over most of the kind of
13:27:55 17 specifics of how the documentary proof of citizenship
13:27:58 18 system works now because I think that's pretty well
13:28:00 19 established, but I did have one question, which is about
13:28:05 20 expired licenses.

13:28:08 21 I know that there has been -- there have been
13:28:11 22 some questions about whether or not expired MVD licenses
13:28:14 23 can satisfy the DPOC requirement; is that right?

13:28:17 24 A. Yes.

13:28:17 25 Q. Can you tell me kind of what the status of that

13:28:21 1 issue is right now?

13:28:24 2 MR. LANGHOFER: Calls for a legal conclusion.

13:28:26 3 THE WITNESS: The Motor Vehicles Department
13:28:31 4 has said under their AZ MVD Now system and their legacy
13:28:36 5 system they would -- the MVD would be able to run a search
13:28:43 6 and obtain -- potentially obtain DPOC for a voter whose
13:28:50 7 license was suspended or -- or just no longer active, like
13:28:55 8 if they had moved out of Arizona, moved back.

13:28:59 9 However, that scenario where the Secretary of
13:29:05 10 State's Office simply can't implement it without rolling
13:29:08 11 out changes to AVID and going through the process of the
13:29:14 12 enhancement committee, then the steering committee. So
13:29:18 13 there is potential, but it's not something that will
13:29:23 14 automatically happen.

13:29:24 15 BY MS. LANG:

13:29:24 16 Q. Okay. So the current status is that expired
13:29:28 17 licenses cannot satisfy the DPOC requirement right now?

13:29:35 18 A. Correct.

13:29:36 19 Q. But there's a possibility of making that happen in
13:29:39 20 the future?

13:29:39 21 A. There's a possibility. And there's one caveat
13:29:42 22 that the DPOC requirement would be satisfied but the HAVA
13:29:50 23 identification requirement would not because it was not a
13:29:53 24 valid ID.

13:29:55 25 Q. Got it.

13:29:56 1 So I understand that so far, there's at least
13:30:01 2 been a conversation with MVD about the kind of ability to
13:30:04 3 do this; is that right?

13:30:05 4 A. Yes. We have quarterly meetings with MVD.

13:30:09 5 Q. Have any other steps been taken yet to kind of
13:30:12 6 implement that as a reality?

13:30:19 7 MR. MORGAN: Form.

13:30:19 8 THE WITNESS: No. There are a lot of issues
13:30:23 9 that are being worked out and tested. And I can't remember
13:30:27 10 the most recent, but one AVID update, I think it was the
13:30:32 11 8.5. And Yolanda will know more about this, but they're
13:30:35 12 continuing certain testing and working through some issues.

13:30:39 13 BY MS. LANG:

13:30:39 14 Q. Okay. And it's also my understanding that the
13:30:45 15 current process for DPOC is if a voter turns in a voter
13:30:50 16 registration form, they don't put down a driver's license
13:30:52 17 number. That -- the -- through the HAVA check, county
13:31:00 18 recorders can still acquire the documentary proof of
13:31:04 19 citizenship if they get a match with the MVD database; is
13:31:07 20 that right?

13:31:07 21 A. Yes.

13:31:09 22 MR. MORGAN: Form.

13:31:09 23 BY MS. LANG:

13:31:10 24 Q. And --

13:31:16 25 MR. MORGAN: Sorry. Someone's unmuted

13:31:18 1 themselves. Is everything okay?

13:31:26 2 (An off-the-record discussion ensued.)

13:31:26 3 BY MS. LANG:

13:31:27 4 Q. That process of acquiring DPOC even when a
13:31:30 5 driver's license number is not provided is a result of the
13:31:35 6 LULAC consent decree; correct?

13:31:38 7 A. Yes.

13:31:38 8 Q. If the match with the DMV database provides a
13:31:51 9 result indicating noncitizen, what is your understanding of
13:31:56 10 what that reflects -- what information that reflects?

13:32:00 11 MR. LANGHOFER: Foundation.

13:32:00 12 MR. MORGAN: Form.

13:32:03 13 THE WITNESS: Well, I don't know if the MVD
13:32:06 14 results will show noncitizen. I don't think it proves a
13:32:10 15 negative. I think it shows only if there was proof of
13:32:14 16 citizenship.

13:32:16 17 That's my understanding, but that's another
13:32:18 18 one where Yolanda Morales would probably have a better or
13:32:22 19 more thorough answer.

13:32:40 20 BY MS. LANG:

13:33:01 21 Q. If you could open in that same folder what is
13:33:05 22 labeled "11 Petty Exhibit." I think it's the very first
13:33:10 23 document.

13:33:13 24 A. Okay. All right. I'm in the SOS Exhibits 2 and
13:33:33 25 Petty Exhibit --

13:33:34 1 Q. 11.

13:33:34 2 A. 11. Okay. Got it. All righty.

13:33:53 3 Q. And this is an email that includes meeting recap
13:33:58 4 notes from a meeting between the secretary of state and the
13:34:00 5 counties; is that right?

13:34:03 6 A. You know, I'm having trouble scrolling. Oh, I can
13:34:07 7 touch it.

13:34:08 8 Q. You can.

13:34:08 9 A. There you go.

13:34:11 10 Yes. It's a recap.

13:34:14 11 Q. And it's for the May 11th meeting; is that right?

13:34:17 12 A. Yes, that's right.

13:34:18 13 Q. Are you typically in those meetings?

13:34:20 14 A. Yes.

13:34:20 15 Q. And to your recollection, were you in this meeting
13:34:24 16 in particular?

13:34:26 17 A. Yes.

13:34:26 18 Q. Okay. And if you could scroll down actually to
13:34:35 19 the very last page.

13:34:38 20 A. Okay.

13:34:38 21 Q. There's a bullet point there that says, "DPOC:
13:34:44 22 Proof of citizenship and IDs."

13:34:46 23 Do you see that?

13:34:51 24 A. The last bullet point?

13:34:52 25 Q. Yes.

13:34:52 1 A. Yes.

13:34:52 2 Q. And then it says, "The Secretary will compare
13:34:55 3 LULAC litigation to new statute and report back to the
13:34:57 4 group. Enhanced IDs are in the 2019 EPM. Community
13:35:02 5 organizations that register voters want to know if the gold
13:35:05 6 star on drivers licenses is enough to prove citizenship."

13:35:09 7 I was just wondering if you might be able to
13:35:14 8 provide some context as to what the issue was that was
13:35:16 9 being discussed related to proof of citizenship and IDs
13:35:22 10 here.

13:35:25 11 A. It appears that it was the open floor and one of
13:35:30 12 the recorders posed the question, and that's about all I
13:35:38 13 could tell from the notes.

13:35:39 14 Q. Do you know if there's been any kind of follow-up
13:35:44 15 about this question?

13:35:48 16 A. There -- there might have been. I don't attend
13:35:52 17 all of the meetings with -- well, I don't attend all of the
13:35:58 18 voter registration meetings that happen throughout the
13:36:01 19 week. So if it didn't happen in one of the county
13:36:06 20 meetings, I just -- I don't know.

13:36:07 21 Q. Are you aware if the gold star is kind of
13:36:11 22 sufficient for out-of-state driver's licenses to -- to
13:36:17 23 satisfy DPOC?

13:36:19 24 MR. LANGHOFER: Calls for a legal conclusion.

13:36:21 25 THE WITNESS: Yeah, I'm not aware of the gold

13:36:23 1 star --

13:36:25 2 BY MS. LANG:

13:36:25 3 Q. Okay.

13:36:26 4 A. -- satisfying DPOC.

13:36:33 5 Q. We've been talking about what we call the MVD
13:36:37 6 match or the HAVA match throughout today. That match where
13:36:44 7 the voter's information -- the voter registration
13:36:47 8 applicant's information is matched against the MVD database
13:36:50 9 or the SSA database, that happens at the point of a
13:36:56 10 registration; correct?

13:36:57 11 MR. MORGAN: Objection. Scope and
13:36:59 12 foundation.

13:37:00 13 THE WITNESS: That -- that starts the
13:37:06 14 process, assuming it's not an administrative change. So I
13:37:09 15 think that's one of those tension points there. But if
13:37:13 16 it's a voter registration submission, it will initiate the
13:37:18 17 HAVA check SSA process.

13:37:20 18 BY MS. LANG:

13:37:20 19 Q. And after that initial, you know -- a voter
13:37:26 20 registers, they go through that matching process. After
13:37:29 21 that matching process is complete at the point of
13:37:32 22 registration, is there any system in place that kind of
13:37:35 23 continuously checks registered voters against the MVD
13:37:38 24 database?

13:37:39 25 A. No.

13:37:40 1 Q. Okay. So that match only happens at the time of
13:37:44 2 registration, or at the time of an update on registration,
13:37:48 3 that would -- that would trigger a new match?

13:37:50 4 A. Yes.

13:37:54 5 Q. And under the current operative procedures, all
13:38:02 6 voter registration forms are treated equally with respect
13:38:06 7 to documentary proof of citizenship; is that correct?

13:38:08 8 A. That's correct.

13:38:08 9 Q. And that is a result of the LULAC consent decree;
13:38:12 10 correct?

13:38:12 11 A. That's correct.

13:38:13 12 Q. Do you know what the practice was for treatment of
13:38:16 13 state forms versus federal forms with respect to DPOC prior
13:38:20 14 to the LULAC consent decree?

13:38:22 15 MR. MORGAN: Form.

13:38:23 16 THE WITNESS: Yes.

13:38:23 17 BY MS. LANG:

13:38:24 18 Q. Can you describe that process?

13:38:27 19 A. Prior to that process, only a federal form would
13:38:34 20 be submitted through the MVD HAVA check process to provide
13:38:41 21 DPOC, had the voter not submitted it with the federal form.

13:38:47 22 Q. And -- thank you.

13:38:54 23 And the other change there too is that if a
13:38:57 24 state form applicant didn't provide DPOC, that person did
13:39:02 25 not become a federal-only voter; correct?

13:39:06 1 MR. MORGAN: Form and foundation.

13:39:06 2 THE WITNESS: At the time, a voter using the

13:39:09 3 state form and who had failed to provide DPOC, that was the

13:39:16 4 end of the process.

13:39:17 5 BY MS. LANG:

13:39:25 6 Q. Okay. Okay. If you could refer now to Petty

13:39:38 7 Exhibit 19. They're actually labeled with the number

13:39:43 8 first, so 19 Petty Exhibit.

13:39:48 9 A. Okay. It's House Bill 2492?

13:39:56 10 Q. That's correct.

13:40:00 11 A. Okay.

13:40:01 12 Q. All right. So I'll spend some time looking at the

13:40:06 13 statute and talking through some of these changes with you.

13:40:10 14 If you could look at page 2, bottom of page 2

13:40:20 15 to beginning of page 3, there's a change to A.R.S. 16-121.

13:40:27 16 Do you see that?

13:40:27 17 A. I do, yes.

13:40:28 18 Q. And that's the section that defines qualified

13:40:31 19 elector; is that correct?

13:40:32 20 A. Yes.

13:40:32 21 Q. And there's language in here that adds the

13:40:38 22 provision of satisfactory evidence of citizenship as a

13:40:42 23 qualification for an elector; is that right?

13:40:43 24 A. That's right.

13:40:44 25 Q. Okay. By making documentary proof of citizenship

13:40:53 1 a voter qualification, does your office have a position on
13:40:57 2 how this would affect voters that registered prior to the
13:41:01 3 implementation of the DPOC requirement?

13:41:04 4 MR. LANGHOFER: Form. Calls for a legal
13:41:06 5 conclusion.

13:41:10 6 THE WITNESS: The -- okay. With -- your
13:41:14 7 question is: With this new legislation, does it apply
13:41:18 8 retroactively?

13:41:19 9 BY MS. LANG:

13:41:20 10 Q. Yes.

13:41:20 11 A. The answer is no.

13:41:21 12 Q. Okay.

13:41:26 13 MR. WHITAKER: I'm sorry. I don't know if
13:41:28 14 it's just me, but I've gotten kind of intermittently out --
13:41:32 15 going out internet connection.

13:41:35 16 Is anyone else on Zoom experiencing that?

13:41:41 17 MS. CERVANTES: Yeah, same here.

13:41:41 18 MS. PORTER: Yes, it's been a little spotty
13:41:45 19 for me for the last minute or two.

13:41:51 20 MR. BABBITT: Same here.

13:41:51 21 MR. WHITAKER: Maybe can we -- can we at
13:41:53 22 least repeat that last question and answer? I totally
13:41:55 23 missed it.

13:41:56 24 MS. LANG: Yes, we can certainly do that.

25 Can you read it back.

1 MR. MORGAN: Thanks.

2 MS. LANG: Thank you.

3 (The record was read by the reporter as
4 follows:

5 QUESTION: Okay. By making documentary proof
6 of citizenship a voter qualification, does your office have
7 a position on how this would affect voters that registered
8 prior to the implementation of the DPOC requirement?

9 THE COURT REPORTER: There was an objection.

10 ANSWER: The -- okay. With your question --
11 your question is: With this new legislation, does it apply
12 retroactively?

13 QUESTION: Yes.

13:42:33 14 ANSWER: The answer is no.)

13:42:33 15 MR. WHITAKER: Thank you.

13:42:36 16 BY MS. LANG:

13:42:53 17 Q. Are you aware that, you know, when the HB 2492
13:42:57 18 first passed, there was confusion about whether or not this
13:43:06 19 provision would mean that folks who had not provided DPOC
13:43:10 20 prior to that law would be affected? Do you recall that?

13:43:15 21 MR. LANGHOFER: Form.

13:43:15 22 MR. MORGAN: Form. Foundation.

13:43:20 23 THE WITNESS: I'm familiar with the fact that
13:43:22 24 that was an issue raised, but I can't say I have a thorough
13:43:28 25 familiarity.

13:43:28 1 BY MS. LANG:

13:43:29 2 Q. Fair enough.

13:43:29 3 But it is the secretary's position that it

13:43:34 4 does not apply retroactively to those individuals?

13:43:37 5 A. That's correct.

13:43:39 6 MR. LANGHOFER: Calls for a legal conclusion.

13:43:43 7 BY MS. LANG:

13:43:46 8 Q. Okay. And if you could scroll down to page 4 and
13:43:53 9 the section that is started by the letter C on line 24. Do
13:44:02 10 you see that?

13:44:02 11 A. I do, yes.

13:44:03 12 Q. Okay. And it indicates, "Except for a form
13:44:08 13 produced by the United States Election Assistance
13:44:11 14 Commission, any applicant for registration shall be
13:44:14 15 accompanied by satisfactory evidence of citizenship" -- has
13:44:17 16 the citation -- "and the county recorder or other officer
13:44:21 17 in charge of elections shall reject any application for
13:44:24 18 registration that is not accompanied by satisfactory
13:44:27 19 evidence of citizenship"; is that right?

13:44:28 20 A. I see that, yes.

13:44:29 21 Q. Okay. So is this your understanding that it --
13:44:34 22 this would require county recorders to treat applicants
13:44:38 23 differently based on whether or not they submitted a state
13:44:41 24 form for registration or federal form for registration?

13:44:44 25 MR. LANGHOFER: Same objection.

13:44:46 1 THE WITNESS: That's my understanding, yes.

13:44:46 2 BY MS. LANG:

13:44:48 3 Q. Okay. And in that sense, it would unroll -- roll
13:44:52 4 back the LULAC consent decree?

13:44:55 5 MR. LANGHOFER: Same objection.

13:44:57 6 THE WITNESS: Yes.

13:44:57 7 BY MS. LANG:

13:44:58 8 Q. This would not be consistent with the LULAC
13:45:00 9 consent decree; correct?

13:45:02 10 MR. LANGHOFER: Same objection. Asked and
13:45:04 11 answered.

13:45:04 12 THE WITNESS: Assuming the LULAC consent
13:45:08 13 decree is still in effect and the court has jurisdiction,
13:45:10 14 yes.

13:45:14 15 MR. WHITAKER: I assume Kory objected to all
13:45:17 16 those questions, but I can't really hear Kory. So if he
13:45:19 17 didn't --

13:45:19 18 MR. MORGAN: That's a fair assumption, yes.

13:45:22 19 MS. LANG: He did.

13:45:27 20 BY MS. LANG:

13:45:38 21 Q. Can you think of any reason why a voter submitting
13:45:41 22 a state registration form would be less entitled to vote in
13:45:45 23 federal elections than someone submitting a federal form?

13:45:48 24 MR. LANGHOFER: Form. Calls for speculation.

13:45:52 25 THE WITNESS: I'm not aware of any.

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BY MS. LANG:

Q. Okay. Is there any election integrity interest served by treating voters differently based on whether or not they use the state or federal form?

MR. MORGAN: Foundation.

MR. LANGHOFER: Calls for a legal conclusion.

THE WITNESS: What do you mean by "election integrity"?

MR. MORGAN: Form.

BY MS. LANG:

Q. It's a good question.

Is -- is there any kind of anti-fraud interest in treating voters differently based on whether or not they submit the state form or the federal form?

MR. LANGHOFER: Same objections.

MR. MORGAN: Form.

THE WITNESS: No, not that I'm aware of.

BY MS. LANG:

Q. Thank you.

Do you know what the impact would be on the federal-only list if all the users that submitted state forms were removed from that list?

MR. LANGHOFER: Speculation.

THE WITNESS: I do not.

BY MS. LANG:

13:47:14 1 Q. Okay. Earlier we talked about the process by
13:47:18 2 which county recorders can acquire documentary proof of
13:47:21 3 citizenship through the MVD match.

13:47:23 4 A. Yes.

13:47:23 5 Q. What is the secretary's position on whether
13:47:28 6 election officials can still go through that process of
13:47:31 7 acquiring DPOC for state form registration applicants under
13:47:37 8 HB 2492?

13:47:39 9 MR. LANGHOFER: Calls for a legal conclusion.

13:47:44 10 THE WITNESS: Well, this law would preclude a
13:47:52 11 state form from being submitted for the HAVA checks.

13:47:56 12 However, that is another area where development and
13:48:01 13 programming and meetings and committees and, you know, the
13:48:07 14 policy process would have to -- to ensue in order to make
13:48:12 15 that change.

13:48:13 16 BY MS. LANG:

13:48:14 17 Q. But it is your understanding that the law would
13:48:16 18 require that change so that DPOC can no longer be acquired
13:48:21 19 for state form applicants?

13:48:24 20 MR. LANGHOFER: Same objection.

13:48:24 21 THE WITNESS: That's my understanding.

13:48:26 22 BY MS. LANG:

13:48:26 23 Q. Okay. Is there any justification for not
13:48:51 24 acquiring -- let me back up.

13:48:53 25 In the office's view, is there any legitimate

13:49:00 1 justification for not acquiring DPOC for state form
13:49:04 2 applicants while doing so for federal form applicants?

13:49:07 3 MR. LANGHOFER: Same objection.

13:49:11 4 THE WITNESS: For not attempting to acquire
13:49:14 5 DPOC? Not that I'm aware of.

13:49:18 6 BY MS. LANG:

13:49:42 7 Q. Earlier you talked about, as an example of a
13:49:46 8 change you went through with the EPM, the removal of the
13:49:50 9 five-year period before something is archived.

13:49:53 10 A. Yes.

13:49:54 11 Q. Okay. And so I did have a question about that.

13:49:57 12 So if we could look at the -- the draft EPM
13:50:04 13 that is labeled "2023 Arizona Secretary of State Elections
13:50:09 14 Procedures Manual draft for public comment."

13:50:20 15 A. 2023.

13:50:22 16 Q. Yes. We'll have to scroll down to page 8 of the
13:50:27 17 EPM.

13:50:36 18 MS. LANG: And yes, I'd like to mark that as
13:50:40 19 274.

13:50:40 20 (The document was marked as Exhibit 274
13:50:48 21 for identification.)

13:50:48 22 THE WITNESS: Okay.

13:50:49 23 BY MS. LANG:

13:51:05 24 Q. So I think Number 3 at the top of this page -- and
13:51:10 25 it refers back to the section titled "Procedures for

13:51:13 1 Registrations With . . . Non-Citizen AZDL/ID#." Do you see
13:51:19 2 that? That section title is on page 7, and then I want to
13:51:23 3 look at Subsection 3.

13:51:26 4 A. Okay.

13:51:28 5 Q. And I think this is the section -- or one of the
13:51:35 6 sections that used to have a sentence about kind of a
13:51:38 7 five-year archive process for applicants who had not
13:51:40 8 provided valid DPOC; is that right?

13:51:44 9 A. Yes, I believe so.

13:51:45 10 Q. And that five-year process has been removed, and I
13:51:49 11 think you testified as to the reasons for that earlier; is
13:51:53 12 that right?

13:51:53 13 A. The consensus among the counties during our phone
13:51:57 14 call to fulfill the requirement for the EPM, the consensus
13:52:02 15 of the counties was to remove that and to restore the
13:52:05 16 language that the person's incomplete registration would be
13:52:14 17 held until the next general election and then purged.

13:52:19 18 Q. So this is not to nitpick in any way, shape, or
13:52:22 19 form. I wanted to make sure I was clear about what the
13:52:25 20 what the potential plan is here.

13:52:26 21 I didn't see that language about until the
13:52:29 22 next general election in the section. Is that -- is it
13:52:33 23 your intent to kind of edit this so that it will have that
13:52:37 24 language about until the next general election?

13:52:39 25 A. That's my intent, yes.

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Q. Okay.

THIS WITNESS: Yolanda, you hear that?

BY MS. LANG:

Q. I just wanted to make sure I understood kind of what the new policy might be. And so that's very helpful.

A. Yeah, actually, Yolanda is on top of it. She's provided language.

Q. Great.

One of the other -- within both HB 2492 and HB 2243, there are a number of requirements that county recorders check against numerous databases in search for evidence of proof of citizenship; is that correct?

A. Yes, that's correct.

Q. Okay. And in the secretary's answer to one of the complaints in this case, the secretary has described these, you know, database sources as, quote, "potentially outdated, unreliable, faulty, or not accurately reflect current U.S. citizenship status."

Does that continue to reflect the secretary's view of the databases included in HB 2492 and 2243?

MR. LANGHOFER: Foundation.

THE WITNESS: So I'll start with the naturalization database, the SAVE database. There are limitations on the use of that database for the initial applicant and the -- the registration process. The current

13:54:30 1 memorandum of understanding, or whatever the agreement is
13:54:34 2 called with USCIS, does not allow for a continue --
13:54:39 3 continuing, ongoing submission to SAVE. Only -- it only
13:54:44 4 allows for the initial submission for a new registrant.

13:54:48 5 So to the extent that that section -- that
13:54:56 6 legislation requires it, we would be in conflict with
13:55:02 7 the -- what's permitted in that agreement.

13:55:04 8 BY MS. LANG:

13:55:05 9 Q. Okay. I'm going to go over some of the other
13:55:08 10 databases as well.

13:55:09 11 A. Okay.

13:55:10 12 Q. So for the MVD database or the ADOT database, my
13:55:19 13 understanding -- is it correct that that database can
13:55:36 14 only -- strike that.

13:55:38 15 With respect to the ADOT or MVD database, I
13:55:44 16 think you testified earlier that that match can only kind
13:55:48 17 of affirm citizenship where MVD has DPOC, but it cannot
13:55:54 18 provide a negative -- it cannot prove a negative or prove
13:55:58 19 that someone is not a citizen; is that correct?

13:56:00 20 A. I'm not aware of any part of that process that
13:56:04 21 would prove a negative.

13:56:05 22 Q. And is part of that reason because that database
13:56:09 23 can only reflect the information that ADOT received at the
13:56:12 24 time the person got a driver's license?

13:56:14 25 A. You know what? I have to correct myself.

13:56:16 1 Actually, it will show that someone is
13:56:20 2 legally in the United States but not -- you know, so I have
13:56:24 3 to correct myself there. It has -- the system provides for
13:56:30 4 authorized presence values as opposed to what used to be
13:56:34 5 referred to as the F-type license. So certain codes show
13:56:41 6 someone has citizenship and certain codes show someone is a
13:56:48 7 foreign national but legally here in the U.S.

13:56:51 8 Q. And that information about someone who's a foreign
13:56:53 9 national who's legally here indicates the information that
13:56:57 10 MVD had at the time the person got their driver's license;
13:57:01 11 correct?

13:57:01 12 MR. LANGHOFER: Foundation.

13:57:01 13 MR. MORGAN: Foundation.

13:57:02 14 THE WITNESS: That's my understanding, yes.

13:57:03 15 BY MS. LANG:

13:57:03 16 Q. Okay. And is it also your understanding that
13:57:08 17 sometimes people naturalize after they get their driver's
13:57:11 18 license and then register to vote?

13:57:13 19 A. Yes.

13:57:14 20 Q. Okay. And so is it sometimes the case that when
13:57:18 21 people get notifications because, you know, they've been
13:57:22 22 rejected through the MVD database match, they come in
13:57:26 23 and -- to county recorders and provide the documentary
13:57:31 24 proof of citizenship?

13:57:31 25 MR. LANGHOFER: Foundation.

13:57:33 1 THE WITNESS: So after they're naturalized,
13:57:38 2 do they -- well, at naturalization ceremonies, there are
13:57:46 3 many efforts to update that information at the time to
13:57:50 4 ensure that situation doesn't preclude someone who's been
13:57:56 5 recently naturalized from being registered to vote.

13:58:00 6 BY MS. LANG:

13:58:00 7 Q. Yes. And I do know that county recorders in the
13:58:07 8 office work on kind of registration efforts at
13:58:09 9 naturalization ceremonies and whatnot.

13:58:11 10 My only question is -- well, let me back up
13:58:16 11 and lay some foundation.

13:58:17 12 If a voter registers or seeks to register to
13:58:25 13 vote, they go through the MVD check and it returns a kind
13:58:26 14 of authorized presence value rather than a citizenship
13:58:30 15 value, that voter will not be registered -- correct? -- at
13:58:37 16 that time?

13:58:37 17 A. Yes. You know, I have to say, though, just
13:58:43 18 generally, this area of questioning, I'm not -- probably
13:58:47 19 not familiar enough, and I probably should stop from trying
13:58:50 20 to answer the questions and Ms. Morales would be a better
13:58:55 21 person to answer the questions.

13:58:57 22 Q. Thank you.

13:58:59 23 And that may be the case for a couple more
13:59:01 24 here, so I'm going to move past that, and let me know if
13:59:07 25 the same applies.

13:59:08 1 A. Okay.

13:59:08 2 Q. With respect to the Social Security Administration
13:59:11 3 database, that is another database that's used for identity
13:59:15 4 confirmation for HAVA purposes; correct?

13:59:19 5 A. Yes.

13:59:19 6 Q. Okay. Do you know if the access that election
13:59:25 7 officials have to the SSA database provides any information
13:59:28 8 about citizenship?

13:59:29 9 A. Not that I'm aware of, but that will be a question
13:59:35 10 I'll defer to Ms. Morales.

13:59:37 11 Q. Okay. With respect to the SAVE database, which is
13:59:54 12 the USCIS database, I think you already testified that one
14:00:00 13 of the problems you see with implementing HB 2243 is that
14:00:07 14 the memorandum of understanding or whatever its title is
14:00:13 15 would not permit a kind of list maintenance use of SAVE; is
14:00:16 16 that correct?

14:00:16 17 A. That's correct.

14:00:21 18 Q. All right. I wanted to talk through a couple
14:00:23 19 other limitations of SAVE. And you let me know if they're
14:00:26 20 not in your purview.

14:00:27 21 MR. MORGAN: Just for the record, we
14:00:28 22 designated Ms. Morales for Topic 11. So I'm just making
14:00:32 23 sure that that's stated openly.

14:00:38 24 MS. LANG: Thank you.

14:00:47 25 Some of the trouble is the, you know, overlap

14:00:48 1 in topics between Topic 4 and later topics but -- but I
14:00:54 2 understand, and we will save some of this for Ms. Morales.

14:01:16 3 MR. MORGAN: And we also designated
14:01:18 4 Ms. Morales for 4(I), 4(C).

14:01:28 5 MS. LANG: Okay.

14:01:37 6 BY MS. LANG:

14:01:38 7 Q. In addition to the specific databases that are
14:01:40 8 identified in HB 2492 and HB 2243, there's a catchall term
14:01:48 9 in the statute that says that the county recorder should
14:01:53 10 refer to any other databases that they have access to to
14:01:57 11 confirm citizenship.

14:02:00 12 Has the secretary identified any other
14:02:04 13 databases not specifically named in the statute that would
14:02:08 14 be appropriate for this purpose?

14:02:10 15 MR. LANGHOFER: Calls for a legal conclusion.

14:02:11 16 THE WITNESS: Not that I'm aware of.

14:02:12 17 BY MS. LANG:

14:02:13 18 Q. Okay. Has there been any guidance provided to the
14:02:18 19 county recorders so far on kind of what databases should be
14:02:22 20 relied on beyond the ones identified in this the statute?

14:02:26 21 MR. MORGAN: Foundation.

14:02:29 22 THE WITNESS: Well, again, as far as
14:02:33 23 guidance, we have not had a meeting among the counties to
14:02:37 24 discuss how to implement that particular provision. And so
14:02:43 25 collectively, we would come up with guidance.

14:02:47 1 BY MS. LANG:

14:02:47 2 Q. It would be your intent, presuming that you have
14:02:50 3 to move forward with implementation, that there would be
14:02:55 4 discussions with the county recorders in order to formulate
14:03:00 5 guidance on that question?

14:03:01 6 A. Well, more broadly, there are going to be
14:03:04 7 discussions with the county recorders on all of the topics
14:03:07 8 being discussed.

14:03:08 9 Q. Okay. But that question of databases that should
14:03:14 10 be used would be part of that?

14:03:15 11 A. Presumably, yes.

14:03:17 12 Q. Okay. So in HB 2492, I think we've talked about
14:03:56 13 the state form applicants. If they don't provide
14:04:00 14 documentary proof of citizenship, they just are not
14:04:03 15 registered.

14:04:04 16 For federal form applicants, county recorders
14:04:07 17 are required to look in these various databases; is that
14:04:12 18 correct?

14:04:12 19 A. I'll have to look back at the legislation to make
14:04:16 20 sure I answer that correctly.

14:04:20 21 Q. Let me try to refer you. It's page 4 and 5.

14:04:29 22 MR. MORGAN: Of exhibit?

14:04:30 23 MS. LANG: Petty Exhibit 19.

14:04:36 24 THE WITNESS: So any application using the
14:04:40 25 federal form, the USEAC, the legislation directs the county

14:04:49 1 recorder to reject any application not accompanied with
14:04:53 2 evidence of citizenship.

14:04:54 3 BY MS. LANG:

14:04:54 4 Q. And then Section D says, for those who do use the
14:04:58 5 federal form, county recorders shall, quote, "use all
14:05:04 6 available resources to verify the citizenship status of the
14:05:07 7 applicant."

14:05:09 8 Do you see that?

14:05:09 9 A. I do, yes.

14:05:10 10 Q. Okay. Then it lists the various databases that
14:05:12 11 need to be used; is that correct?

14:05:16 12 A. Let me just double-check here.

14:05:23 13 It does, yes.

14:05:24 14 Q. And then if we can look at Subsection E on page 5,
14:05:38 15 line 9, it indicates that after reviewing these databases,
14:05:44 16 quote, "If the county recorder or other officer in charge
14:05:47 17 of elections matches the applicant with information that"
14:05:50 18 verifies the applicant is a -- oh, let me strike that.

14:05:55 19 So if there's a match for U.S. citizenship
14:05:58 20 the person is registered. But I want to direct you
14:06:01 21 particularly to the sentence on section -- on line 14 that
14:06:08 22 says, "If the county recorder or other officer in charge of
14:06:12 23 elections matches the applicant with information that the
14:06:14 24 applicant is not a United States citizen, the county
14:06:17 25 recorder or other officer in charge of elections shall

14:06:19 1 reject the application, notify the applicant that the
14:06:23 2 application was rejected because the applicant is not a
14:06:26 3 United States citizen and forward the application to the
14:06:29 4 county attorney and Attorney General for investigation."

14:06:32 5 Do you see that?

14:06:32 6 A. I do, yes.

14:06:34 7 Q. Okay. And so is it your understanding that that
14:06:38 8 means that if -- well, let me back up.

14:06:44 9 What does it mean for -- when would it be the
14:06:53 10 case that a county recorder has matched the applicant with
14:06:57 11 information that the applicant is not a United States
14:06:59 12 citizen?

14:07:00 13 MR. MORGAN: Form. Speculation.

14:07:02 14 MR. LANGHOFER: Calls for a legal conclusion.

14:07:05 15 MR. WHITAKER: Legal conclusion.

14:07:12 16 THE WITNESS: I don't know when a county
14:07:20 17 recorder would come across citizenship status other than
14:07:27 18 those authorized presence values.

14:07:30 19 BY MS. LANG:

14:07:30 20 Q. And so if one of those authorized presence values
14:07:33 21 came up, would that be sufficient information that an
14:07:38 22 applicant is not a United States citizen, that the person
14:07:41 23 would have to forward it to a prosecutor?

14:07:46 24 MR. WHITAKER: Same objection.

14:07:47 25 THE WITNESS: I don't -- I don't know if it

14:07:49 1 would be sufficient. I don't know the standard that would
14:07:50 2 be applied for sufficiency.

14:07:53 3 BY MS. LANG:

14:07:53 4 Q. And we don't have any -- there's not any guidance
14:07:56 5 yet on that question of what information would be
14:07:59 6 sufficient to match as a non-U.S. citizen?

14:08:04 7 MR. MORGAN: Form. Foundation.

14:08:07 8 THE WITNESS: I agree that the statutory
14:08:09 9 change does not impose a standard.

14:08:11 10 BY MS. LANG:

14:08:11 11 Q. Okay. And I think this is plain from kind of your
14:08:17 12 testimony about where you all are in the process, but there
14:08:20 13 hasn't been development of the standard by your office or
14:08:23 14 by the county recorders or anything of that nature; is that
14:08:27 15 correct?

14:08:27 16 MR. MORGAN: Foundation.

14:08:35 17 THE WITNESS: I -- well, as far as
14:08:39 18 development, I think we would need legal advice first and
14:08:43 19 then any standard would have to follow.

14:08:47 20 BY MS. LANG:

14:08:47 21 Q. Okay. And none of that has come to pass yet; is
14:08:51 22 that correct?

14:08:51 23 A. That's my understanding, yes.

14:08:52 24 MR. MORGAN: Form.

14:08:54 25 BY MS. LANG:

14:09:02 1 Q. Okay. To the extent that these data -- databases
14:09:05 2 potentially rely on faulty, unreliable, or out-of-date
14:09:11 3 information, does the office have any concerns that those
14:09:14 4 databases could lead individuals to be forwarded for
14:09:18 5 criminal investigation?

14:09:23 6 MS. PORTER: Form.

14:09:27 7 THE WITNESS: Well, as indicated, we haven't
14:09:32 8 gotten into discussions to the level of detail that you're
14:09:37 9 asking, but that's certainly something that would be
14:09:42 10 discussed among the counties.

14:09:45 11 BY MS. LANG:

14:09:46 12 Q. And this statute imposes a kind of mandatory
14:09:52 13 referral for criminal investigation on county recorders; is
14:09:57 14 that correct?

14:09:57 15 MR. LANGHOFER: Calls for a legal conclusion.

14:10:00 16 MR. WHITAKER: Legal-- jinx.

14:10:06 17 BY MS. LANG:

14:10:06 18 Q. It says, "The county recorder . . . Shall reject
14:10:08 19 the application, notify the applicant that the application
14:10:11 20 was rejected because the applicant is not a United States
14:10:13 21 citizen and forward the application to the county attorney
14:10:17 22 and Attorney General for investigation"; is that right?

14:10:19 23 MR. MORGAN: Form.

14:10:20 24 MR. LANGHOFER: Same objection.

14:10:21 25 THE WITNESS: The language appears to require

14:10:26 1 referral to law enforcement.

14:10:27 2 BY MS. LANG:

14:10:32 3 Q. In the statute, is there kind of any time limit on
14:10:36 4 the age of the data that can be used to refer somebody for
14:10:41 5 criminal prosecution?

14:10:42 6 MR. LANGHOFER: Same objection.

14:10:44 7 MR. MORGAN: Form.

14:10:47 8 MR. WHITAKER: Legal conclusion.

14:10:49 9 THE WITNESS: Well, I mean, that gets into an
14:10:56 10 issue probably outside, like, a statute of limitation or
14:10:59 11 something, so I don't know.

14:11:01 12 BY MS. LANG:

14:11:06 13 Q. Let me put it another way.

14:11:08 14 There's nothing in the statute as far as you
14:11:10 15 know that kind of says that if data is a certain number of
14:11:14 16 years old, it should not be relied upon for this purpose?

14:11:17 17 MR. MORGAN: Form objection.

14:11:20 18 THE WITNESS: I don't see anything in the
14:11:22 19 statute that says that.

14:11:23 20 BY MS. LANG:

14:11:24 21 Q. And again, I do apologize because I know some of
14:11:26 22 this is repetitive based on your testimony, but there's no
14:11:29 23 guidance yet available on kind of any time limitations on
14:11:33 24 the age of data that should be used for this purpose?

14:11:35 25 MR. MORGAN: Form.

14:11:37 1 MR. LANGHOFER: Asked and answered.

14:11:38 2 MR. MORGAN: Foundation.

14:11:39 3 THE WITNESS: Ultimately, we're seeking
14:11:42 4 guidance from the Court in this case. And ultimately,
14:11:48 5 we'll get that sooner than -- or hopefully we'll get that
14:11:52 6 sooner than later, yes.

14:11:53 7 BY MS. LANG:

14:12:03 8 Q. Please do let --

14:12:04 9 MS. LANG: I'm trying to trek through as much
14:12:07 10 as possible, but if anybody needs a break, please do let me
14:12:10 11 know.

14:12:10 12 BY MS. LANG:

14:12:17 13 Q. Do you know what county recorders should do under
14:12:21 14 the statute if there's an in- -- if there's inconsistent
14:12:25 15 information from these databases that one database
14:12:27 16 indicates citizen and another database indicates
14:12:31 17 noncitizen, for example?

14:12:32 18 MR. MORGAN: Objection. Calls for a legal
14:12:35 19 conclusion. Speculation.

14:12:38 20 THE WITNESS: The county recorders should be
14:12:41 21 talking to their county attorney.

14:12:43 22 BY MS. LANG:

14:12:53 23 Q. Just to circle back, you kind of discussed that in
14:12:59 24 order to flesh out some of these questions, there will have
14:13:04 25 to be additional meetings with the county recorders; is

14:13:09 1 that right?

14:13:09 2 MR. MORGAN: Form.

14:13:10 3 BY MS. LANG:

14:13:10 4 Q. Let me rephrase.

14:13:12 5 In order to flesh out some of the questions
14:13:13 6 about how -- what type of guidance is needed and what that
14:13:18 7 guidance should be for implementation, that there would
14:13:21 8 need to be additional meetings with the counties; is that
14:13:23 9 right?

14:13:23 10 A. Well, let's start with the word
14:13:26 11 "guidance" because -- let's not assume that the secretary
14:13:30 12 of state is the one issuing guidance. The -- as I said,
14:13:34 13 the county recorders are duly elected constitutional
14:13:38 14 officers. The county recorders themselves, through the
14:13:42 15 steering committee, can make that decision after seeking
14:13:47 16 legal advice from the county attorney. So the guidance
14:13:52 17 might be coming from the county attorney -- I mean --
14:13:54 18 sorry -- county attorneys and county recorders.

14:13:56 19 Also, we're seeking guidance through this
14:14:00 20 litigation from a federal district court. But there are
14:14:07 21 many questions, I guess, and that goes without saying that
14:14:11 22 we are hoping for guidance and not just guidance from the
14:14:16 23 secretary of state.

14:14:19 24 Q. Understood.

14:14:19 25 I think I was just trying to go to a process

14:14:21 1 question, which is that you talked about earlier kind of
14:14:24 2 consulting with the counties about, you know, these
14:14:29 3 unanswered questions, and I just wanted to know if there
14:14:32 4 are any kind of scheduled meetings with the counties to
14:14:36 5 start kind of fleshing some of these questions out?

14:14:41 6 MR. MORGAN: Form.

14:14:41 7 THE WITNESS: I think I've previously
14:14:43 8 answered that question.

14:14:45 9 BY MS. LANG:

14:14:46 10 Q. Can you remind me what the answer is?

14:14:48 11 A. We only recently received funding. I believe it
14:14:52 12 was last Friday.

14:14:54 13 Q. Yes.

14:14:55 14 A. And we were precluded from starting any process
14:14:58 15 before the PIJ was approved, so it's -- it would be
14:15:02 16 premature to have scheduled anything prior to that
14:15:05 17 approval. But that any -- any planning, any scheduling of
14:15:12 18 meetings, if necessary, would occur in the future.

14:15:24 19 Q. Thank you.

14:15:25 20 If the county recorders are required to
14:16:00 21 engage in all of the database matching that is required
14:16:03 22 both by HB 2492 and HB 2243, do you know what kind of
14:16:09 23 impact that will have on the county recorders' resources?

14:16:13 24 MR. MORGAN: Foundation. Speculation.

14:16:15 25 MR. LANGHOFER: Speculation.

14:16:17 1 THE WITNESS: I have no idea.

14:16:18 2 BY MS. LANG:

14:16:26 3 Q. One of the requirements within the statute is that
14:16:29 4 the county recorders document their efforts to check all of
14:16:33 5 these databases. Has there been any -- is there any
14:16:47 6 guidance that you're aware of on how county recorders
14:16:52 7 should document those efforts?

14:16:56 8 A. Well, the county recorders, they run their own
14:17:00 9 offices and they -- they certainly could establish guidance
14:17:03 10 for themselves.

14:17:05 11 Q. Yes. Let me -- let me try to clarify something
14:17:07 12 about my question about guidance, because I do understand
14:17:10 13 your point about certainly the county recorders are going
14:17:14 14 to have their own internal processes and guidance.

14:17:19 15 My questions with respect to guidance are
14:17:22 16 about guidance that would apply across counties and
14:17:26 17 therefore provide some level of uniformity. And I do
14:17:29 18 understand that that could also not come from the Secretary
14:17:33 19 of State's Office. It could come through the VRAC
14:17:36 20 committee from the counties themselves.

14:17:39 21 So can we understand that when I ask about
14:17:41 22 guidance, I am asking about whether or not you're aware of
14:17:45 23 the existence of guidance that would apply cross-county,
14:17:49 24 whether issued by the guid- -- the secretary or not?

14:17:52 25 MR. MORGAN: I think Ms. Connor is testifying

14:17:53 1 definitely based on her personal knowledge or lack thereof,
14:17:57 2 and if she's not aware -- I think her point is that she's
14:17:58 3 just not aware of it. I don't think she's restrict -- I
14:18:02 4 have certainly not instructed her to restrict it to, you
14:18:04 5 know, anything in specific.

14:18:06 6 I understand your question to be very broad
14:18:08 7 and is she aware of any guidance whatsoever. And I do
14:18:11 8 believe that's how she's answering it.

14:18:15 9 Fair?

14:18:16 10 THE WITNESS: Yep, that's fair.

14:18:16 11 MS. LANG: 100 percent. I just wanted to
14:18:17 12 make sure that we were all on the same page about the
14:18:19 13 terminology and --

14:18:19 14 MR. MORGAN: All good.

14:18:39 15 MS. LANG: All right. Would you like to take
14:18:42 16 a break?

14:18:43 17 MR. MORGAN: Yeah, let's take a break.

14:18:46 18 THE VIDEOGRAPHER: We are off the record.

14:18:48 19 Time on the video monitor is 2:18 p.m. This ends Media 2.

14:31:30 20 (A recess ensued.)

14:31:30 21 THE VIDEOGRAPHER: We are on the record.

14:31:50 22 Time on the video monitor is 2:31 p.m. This begins

14:31:57 23 Media 3.

14:31:57 24 BY MS. LANG:

14:31:58 25 Q. Okay. I'm going to try to ask you a universal

14:32:01 1 question here so that I can try to speed through some more
14:32:04 2 particular questions I had, which is: I think we talked
14:32:08 3 about the status of the various VRAC papers, and there's
14:32:12 4 nothing finalized on the VRAC papers with respect to the
14:32:16 5 challenged laws; correct?

14:32:16 6 A. Yes.

14:32:17 7 Q. Okay. And we've talked about the EPM and that
14:32:21 8 your goal in the EPM was to put in statutory language
14:32:28 9 requirements into the EPM as to the challenged laws, as to
14:32:32 10 the public draft that exists right now, but not any
14:32:36 11 additional kind of gap-filling guidance. Is that also
14:32:40 12 correct?

14:32:40 13 A. The intent was to have a placeholder essentially.

14:32:44 14 Q. Yes.

14:32:45 15 And that placeholder is only the statutory
14:32:48 16 language and not kind of gap-filling guidance or policy?

14:32:54 17 A. Yes. And -- but I will say, I think I mentioned
14:32:57 18 that the rejected, that wasn't an acceptable status. And
14:33:02 19 also the qualified elector definition, I -- I think I
14:33:09 20 omitted the part about having proved DPOC.

14:33:16 21 Q. Okay. But with -- other than those two
14:33:20 22 exceptions, it was not kind of a -- you didn't add any kind
14:33:23 23 of policy or gap-filling guidance; you just included the
14:33:27 24 statutory requirements?

14:33:30 25 A. That's correct.

14:33:31 1 Q. Okay. And so I just want to clarify that given
14:33:35 2 where you are in the process, so early in this process,
14:33:40 3 there is not any other statewide guidance on how these
14:33:50 4 challenged provisions will apply?

14:33:56 5 MR. WHITAKER: Speculation.

14:33:56 6 THE WITNESS: Yeah, given that we're only a
14:33:58 7 week out of approval to move forward, I'm not aware of any
14:34:04 8 statewide guidance.

14:34:08 9 BY MS. LANG:

14:34:09 10 Q. Okay. If we could look at Petty Exhibit 21.

14:34:26 11 A. Okay. Danielle, it's saying your AirPods
14:34:41 12 are . . .

14:34:59 13 I'm there.

14:34:59 14 Q. Okay.

14:35:00 15 A. Could you remind me again where?

14:35:01 16 Q. Yes. So we're looking at Petty Exhibit 21, and
14:35:08 17 I'm looking at page -- page 6.

14:35:37 18 A. Okay.

14:35:57 19 Q. On line 6, page 6, there's a section titled "H."
14:36:01 20 Do you see that?

14:36:03 21 A. Yes.

14:36:03 22 Q. Okay. And here it says, "To the extent
14:36:06 23 practicable, each month the county recorder shall compare
14:36:09 24 persons who are registered to vote in that county and who
14:36:12 25 the county recorder has reason to believe are not United

14:36:15 1 States citizens and persons who are registered to vote
14:36:17 2 without satisfactory evidence of citizenship as prescribed
14:36:22 3 by Section 16-166 with the Systematic Alien Verification
14:36:29 4 for Entitlements program maintained by the United States
14:36:32 5 Citizenship and Immigration Services to verify the
14:36:34 6 citizenship status of the person registered."

14:36:37 7 Do you see that?

14:36:38 8 A. I do.

14:36:38 9 Q. Do you know if this -- these portion -- or this
14:36:42 10 portion of 2243 is in the EPM, the draft EPM that was
14:36:49 11 submitted for public comment?

14:36:51 12 A. I don't recall if I included that.

14:36:54 13 Q. Okay.

14:36:58 14 A. So if I could just back up.

14:36:59 15 Q. Yes.

14:36:59 16 A. For the EPM too, you know, the -- it's -- it's not
14:37:06 17 going to contain everything on elections. It can't
14:37:10 18 possibly contain everything. So that doesn't mean it --
14:37:18 19 it's not going to be in effect. The law is still the law,
14:37:22 20 but it certainly can't be an exhaustive manual.

14:37:26 21 Q. Absolutely. And it bears repeating that none of
14:37:30 22 these questions are meant as a critique and more to clarify
14:37:33 23 kind of what exists out in the world and doesn't yet. And
14:37:37 24 so I just want to make that super clear.

14:37:43 25 A. Okay.

14:37:44 1 MS. LANG: And so I think we've already
14:37:50 2 marked the 2023 draft manual that was put out for public
14:37:57 3 comment. Does anybody know what the exhibit number was?
14:38:12 4 Either 273 or 274.

14:38:12 5 MS. SHAH: I don't think we have.

14:38:12 6 MS. LANG: We haven't marked it yet?

14:38:12 7 MS. SHAH: No.

14:38:12 8 MS. LANG: Okay.

14:38:39 9 BY MS. LANG:

14:38:39 10 Q. But do you see the 2023 Arizona Secretary of State
14:38:44 11 Elections Procedures Manual in the folder? Can you open
14:38:48 12 that for me?

14:38:49 13 A. Are we on SSO -- I'm sorry -- SOS Exhibits 2?

14:38:52 14 Q. Yes. And it's 2023 Arizona Secretary of State
14:38:56 15 Elections Procedures Manual draft.

14:38:57 16 A. Yes, I see.

14:38:59 17 MS. LANG: And we'll mark that as 275.

14:38:59 18 (The document was marked as Exhibit 275
14:39:17 19 for identification.)

14:39:17 20 BY MS. LANG:

14:39:18 21 Q. I'll represent to you that, you know, I've done a
14:39:20 22 search of this document and the only place where the
14:39:23 23 language "reason to believe" appears is on page 86 with
14:39:32 24 respect to equipment decertification.

14:39:34 25 Would that refresh your recollection that

14:39:36 1 perhaps this -- that reason to believe someone's not a U.S.
14:39:40 2 citizen list maintenance requirement was not specifically
14:39:43 3 included in -- in this draft version?

14:39:45 4 MR. MORGAN: We'll allow her to answer it but
14:39:47 5 only with the caveat that she's assuming what you said is
14:39:50 6 true but not checking it.

14:39:52 7 MS. LANG: Fair.

14:39:54 8 THE WITNESS: Well, and I think "reason to
14:39:57 9 believe" is a phrase used in campaign finance, so I'm
14:40:03 10 not -- I'd be surprised if that wasn't used, but perhaps.
14:40:08 11 I don't have any reason to disagree with what you're
14:40:10 12 saying.

14:40:10 13 BY MS. LANG:

14:40:10 14 Q. Okay. Do you have any specific recollection of
14:40:15 15 including these restrictions or these rules about list
14:40:21 16 maintenance and checking all of these databases in the EPM?

14:40:28 17 A. I do not, no.

14:40:30 18 Q. And perhaps we could just look at -- page 34 is
14:40:33 19 where the section on list maintenance begins.

14:40:35 20 A. Okay.

14:40:36 21 Q. And you could just review the kind of headers and
14:40:39 22 see if there's any inclusion there about the standard of
14:40:45 23 checking databases for people county recorders have reason
14:40:49 24 to believe are not U.S. citizens.

14:41:10 25 A. Okay. "Voter Registration List Maintenance"?

14:41:13 1 Q. Yes.

14:41:14 2 A. Okay.

14:41:14 3 Q. Starting on page 34.

14:41:16 4 A. Okay. And I'm sorry. Is there a question?

14:41:24 5 Q. The question is whether or not you see anything in

14:41:28 6 there that specifically discusses the use of these various

14:41:36 7 databases for list maintenance where a county recorder has

14:41:39 8 reason to believe a registrant is not a U.S. citizen.

14:41:43 9 A. Yeah, as indicated and flipping through this, I

14:41:47 10 don't see any reference to that.

14:41:48 11 Q. Great.

14:41:50 12 If we could go back to Petty Exhibit 19.

14:41:57 13 A. Okay.

14:41:59 14 Q. Page 7.

14:42:09 15 A. Okay.

14:42:10 16 Q. There's a requirement here under 16-143 that the

14:42:17 17 secretary provide a list of individuals who are "registered

14:42:20 18 to vote and who have not provided satisfactory evidence of

14:42:24 19 citizenship" to the Attorney General's Office.

14:42:28 20 Do you see that there?

14:42:29 21 A. I do, yes.

14:42:29 22 Q. Okay. And did your office provide that list to

14:42:34 23 the Attorney General's Office?

14:42:36 24 A. Yes. That's my recollection.

14:42:38 25 Q. Okay. Do you know when that was done?

14:42:41 1 A. I do not.

14:42:43 2 Q. And who in your office was in charge of compiling
14:42:50 3 and sending that list?

14:42:53 4 A. I believe it was Kori Lorick who would have, but I
14:43:03 5 -- perhaps Yolanda could answer that.

14:43:09 6 Q. Do you know if any of the county recorders
14:43:16 7 provided those lists? Because there's language in here
14:43:21 8 about each county recorder providing it as well.

14:43:23 9 A. I'm not aware.

14:43:25 10 Q. Okay. Is it your understanding that that would --
14:43:29 11 that list would include all federal-only voters?

14:43:35 12 MR. MORGAN: Form. Which list?

14:43:37 13 MS. LANG: The list that --

14:43:38 14 MR. MORGAN: Her list or the county's list?

14:43:41 15 MS. LANG: Your -- the secretary of state's
14:43:43 16 list.

14:43:43 17 THE WITNESS: Yeah, presumably that would
14:43:45 18 include all federal-only voters.

14:43:47 19 BY MS. LANG:

14:43:47 20 Q. And do you know if it would also include people
14:43:49 21 who haven't provide DPOC because they registered before
14:43:53 22 that requirement was in place?

14:43:55 23 A. I don't know.

14:44:02 24 Q. Would you look at Petty Exhibit 21 again. And
14:44:55 25 that's House Bill 2243.

14:44:58 1 A. Okay.

14:45:00 2 Q. When you get there, I'm looking at page 4.

14:45:06 3 A. Okay.

14:45:07 4 Q. So the section I'm looking at has to do with the

14:45:12 5 jury questionnaires. And so now jury questionnaire summary

14:45:16 6 reports will be sent to the county recorders indicating

14:45:19 7 folks who have said that they're not a citizen. And

14:45:24 8 Subsection 10, line 5 on that page says, "When the county

14:45:28 9 recorder obtains information pursuant to this section and

14:45:32 10 confirms that the person registered is not a United States

14:45:34 11 citizen," that's listed as a cause for cancellation; is

14:45:49 12 that correct?

14:45:49 13 A. Yes, I see that.

14:45:50 14 Q. Okay. Do you know what it -- what that second

14:45:57 15 part of the clause there, "and confirms that the person

14:46:01 16 registered is not a United States citizen," what -- what it

14:46:06 17 would mean to kind of -- you receive the information

14:46:08 18 pursuant to this section. What else would the county

14:46:12 19 recorders need to do to confirm that the person registered

14:46:15 20 is not a United States citizen?

14:46:17 21 MR. LANGHOFER: Calls for a legal conclusion.

14:46:19 22 THE WITNESS: One way to confirm someone's

14:46:22 23 not a citizen is to ask the person if they're a citizen.

14:46:27 24 BY MS. LANG:

14:46:30 25 Q. And so would that be something that the county

14:46:33 1 recorders would be required to do before they act further
14:46:36 2 on that information?

14:46:38 3 MR. LANGHOFER: Same objection.

14:46:41 4 THE WITNESS: Part of the process is to send
14:46:44 5 a letter to the individual based on the summary report from
14:46:50 6 the jury commissioner or jury manager, and within that
14:46:53 7 letter, the individual can state whether that person is or
14:47:00 8 is not a citizen.

14:47:01 9 BY MS. LANG:

14:47:03 10 Q. Okay. So is it your view that confirming that the
14:47:08 11 person registered is not a U.S. citizen would basically
14:47:11 12 mean there was a true match between the summary report and
14:47:17 13 the registered individual and there was no DPOC on file and
14:47:24 14 that there was no response from the voter?

14:47:26 15 MR. LANGHOFER: Same objection.

14:47:29 16 MR. WHITAKER: Legal conclusion.

14:47:31 17 THE WITNESS: No. If there was no response,
14:47:35 18 there was no response. The proving of someone not being a
14:47:41 19 citizen or confirming would only be if the voter did
14:47:46 20 respond and say that the voter is not a citizen, not -- not
14:47:50 21 if the voter did not respond.

14:47:53 22 BY MS. LANG:

14:47:53 23 Q. Okay. So is it your view that if there's no
14:47:56 24 response, there's no confirmation that the person is not a
14:47:59 25 U.S. citizen?

14:48:01 1 MR. LANGHOFER: Same objection.

14:48:03 2 MR. WHITAKER: Same objection.

14:48:03 3 THE WITNESS: I'm sorry. Would you rephrase

14:48:05 4 that?

14:48:05 5 BY MS. LANG:

14:48:06 6 Q. Yeah.

14:48:06 7 I guess -- I understand -- so one cause for

14:48:10 8 cancellation is when the county recorder obtains

14:48:12 9 information pursuant to this section about the jury

14:48:15 10 questionnaires and -- quote, "and confirms that the person

14:48:19 11 registered is not a United States citizen," and further

14:48:24 12 kind of instructs to send that notice that you mentioned

14:48:27 13 and if there's no response, there's a requirement for

14:48:31 14 cancellation.

14:48:32 15 A. Uh-huh.

14:48:33 16 Q. And so I'm trying to understand kind of what

14:48:36 17 additional steps, if any, the language about, "and confirms

14:48:41 18 that the person registered is not a United States

14:48:44 19 citizen" entails?

14:48:45 20 MR. LANGHOFER: Same objection.

14:48:47 21 MR. WHITAKER: Same objection.

14:48:48 22 THE WITNESS: So this section is -- is one

14:48:53 23 where I would seek legal advice because we never received

14:49:01 24 the source document. We never received the questionnaire

14:49:04 25 itself where the voter designates that he or she is not a

14:49:10 1 citizen. We instead get a summary report from the jury
14:49:17 2 manager, jury commissioner, and then my understanding is
14:49:24 3 that that juror questionnaire itself, so the source
14:49:27 4 document, can be destroyed within 90 days.
14:49:32 5 So I would -- without having the firsthand
14:49:38 6 response from the voter, I would seek legal advice as to
14:49:42 7 what authority the county recorder or anyone had to cancel
14:49:50 8 the voter.
14:49:52 9 BY MS. LANG:
14:49:52 10 Q. So sitting here right now, you're not sure?
14:49:56 11 MR. LANGHOFER: Same objection.
14:49:57 12 THE WITNESS: I'm not sure without getting
14:49:58 13 legal advice, correct.
14:50:00 14 BY MS. LANG:
14:50:27 15 Q. Do you know if there's any time limitation on the
14:50:33 16 use of these jury summary reports?
14:50:36 17 For example, is there any limitation that the
14:50:39 18 summary reports are only -- can only be used if the jury
14:50:43 19 questionnaire was filled out after someone had registered
14:50:46 20 to vote rather than before?
14:50:49 21 A. I'm not aware of any time limitation.
14:51:00 22 MR. WHITAKER: Calls for a legal conclusion.
14:51:05 23 MR. MORGAN: Mr. Whitaker said, "Calls for a
14:51:05 24 legal conclusion."
14:51:05 25 Josh, if you could, I think you're getting

14:51:07 1 caught in the spacebar game. If you could wait a second
14:51:11 2 before you object and then object a little louder, I think
14:51:14 3 the court reporter would be in a better position to hear
14:51:16 4 you.

14:51:17 5 MR. WHITAKER: I'll try. Thank you.

14:51:19 6 MR. MORGAN: Thank you.

14:51:27 7 BY MS. LANG:

14:51:33 8 Q. You mentioned a moment ago that the only
14:51:38 9 information received from the jury questionnaire -- from
14:51:41 10 the -- from the courts about the jury questionnaires is a
14:51:44 11 summary report and not the actual questionnaires
14:51:47 12 themselves; is that right?

14:51:48 13 A. That's my understanding.

14:51:49 14 Q. Okay. And that seems to have raised some concern
14:51:54 15 for you. Is that fair to say?

14:51:58 16 A. Yes.

14:51:59 17 Q. Okay. And why is that?

14:52:01 18 A. And -- well, I'll first start by saying, I
14:52:08 19 understand why the juror questionnaires are not just handed
14:52:11 20 over readily.

14:52:11 21 Q. Sure.

14:52:12 22 A. But regardless of that, it gives me pause to take
14:52:18 23 action on a document that's -- that would not be the
14:52:21 24 source -- from the registrant himself or herself.

14:52:25 25 Q. And there could potentially be errors in kind of

14:52:29 1 transcription or kind of in translation since it's not the

14:52:32 2 source document itself?

14:52:34 3 A. Yes. We're all human. There could be a mistake.

14:52:37 4 Q. Looking down at -- we had already looked at -- one
14:53:26 5 moment.

14:53:36 6 On page 6 of this document, Section J, which
14:53:41 7 is on line 20. Do you see that?

14:53:45 8 A. Page 6, J, yes I see that.

14:53:52 9 Q. And this section says, "To the extent practicable,
14:53:55 10 the county recorder shall review relevant city, town,
14:53:59 11 county, state and federal databases to which the county
14:54:01 12 recorder has access to confirm information obtained that
14:54:05 13 requires cancellation of registrations pursuant to this
14:54:08 14 section."

14:54:08 15 Do you see that?

14:54:08 16 A. I do, yes.

14:54:10 17 Q. Would it be your view that the jury questionnaires
14:54:14 18 or the summary reports of the jury questionnaires would
14:54:18 19 fall under this kind of catchall provision?

14:54:21 20 MR. LANGHOFER: Same objection.

14:54:21 21 MR. WHITAKER: Legal conclusion.

14:54:31 22 THE WITNESS: Until you said that, I -- I did
14:54:37 23 not consider the summary reports to be a database. So
14:54:41 24 that's -- that's not anything I'd really put thought into.

14:54:46 25 BY MS. LANG:

14:54:46 1 Q. Looking at Subsection L, starting on line 29, this
14:54:53 2 subsection outlines a number of reports that the secretary
14:54:56 3 of state is required to provide to the legislature at the
14:55:00 4 end of each quarter.

14:55:01 5 A. Yes.

14:55:02 6 Q. Has the secretary of state started providing those
14:55:04 7 reports, to your knowledge?

14:55:07 8 A. Yes, we have. The reports do reflect some numbers
14:55:17 9 but can't provide all of the information and state in the
14:55:22 10 reports that some of the information cannot be provided
14:55:25 11 because of the development -- the AVID development that's
14:55:29 12 needed. And some information could not be obtained because
14:55:34 13 it's information that Maricopa and Pima County, they --
14:55:39 14 they have within their database.

14:55:44 15 Q. It's very understandable if you don't know the
14:55:47 16 answer to this question given the volume of documents in
14:55:50 17 this case, but do you know if those reports have been
14:55:52 18 produced in this case?

14:55:57 19 MR. MORGAN: If you don't know, you don't
14:55:58 20 know.

14:56:00 21 THE WITNESS: Yeah, I just don't know.

14:56:00 22 MR. MORGAN: They wouldn't be introduced
14:56:00 23 unless they were in a relevant custodian that you -- you
14:56:03 24 identified and hit a search term. But if you still want
14:56:06 25 them, send me an email and we'll see if we can get them.

14:56:09 1 MS. LANG: Thank you very much. I appreciate
14:56:11 2 it.

14:56:16 3 THE WITNESS: And if I can add, the second
14:56:18 4 quarter report would have just been submitted within a few
14:56:22 5 weeks ago.

14:56:26 6 MR. MORGAN: And I don't know what the
14:56:28 7 reports would look like. So to the -- I'm not waiving,
14:56:30 8 like, confidentiality or privacy issues. We'll have to
14:56:33 9 deal with that if it becomes an issue.

14:56:35 10 MS. LANG: Understood. And I appreciate it.
14:56:37 11 We'll follow up on that. I'm sure we'll be able to figure
14:56:40 12 it out.

14:56:44 13 BY MS. LANG:

14:56:44 14 Q. Moving on. I have a couple kind of mishmash of
14:56:52 15 questions about birthplace and checkbox.

14:56:58 16 The birthplace requirement only applies to
14:57:01 17 state form applicants; correct?

14:57:04 18 MR. MORGAN: Calls for a legal conclusion.

14:57:06 19 THE WITNESS: That's my understanding, yes.

14:57:08 20 BY MS. LANG:

14:57:08 21 Q. Okay. Do you know what the -- I have seen some
14:57:20 22 documents that refer to ServiceArizona.

14:57:23 23 A. Yes.

14:57:23 24 Q. Can you tell me what that means?

14:57:25 25 MR. MORGAN: Form. Do you mean what is

14:57:27 1 ServiceArizona?

14:57:29 2 BY MS. LANG:

14:57:29 3 Q. What is ServiceArizona, yeah.

14:57:32 4 A. Yolanda Morales would definitely provide -- be
14:57:35 5 able to provide more information. But generally,
14:57:38 6 ServiceArizona is the website that people can go to to
14:57:43 7 register to vote. And currently, the only thing they can
14:57:45 8 do on that is voter registration still. Used to be the MVD
14:57:50 9 website and people could do all sorts of things, but that's
14:57:55 10 transitioning over to a new website: AZ MVD Now.

14:57:58 11 Q. Okay. And is that run by the Secretary of State's
14:58:03 12 Office or by MVD?

14:58:04 13 A. MVD.

14:58:06 14 Q. Okay.

14:58:06 15 A. That's my understanding. So I think any more
14:58:09 16 questions on that we should save for Yolanda.

14:58:11 17 Q. Fair enough. I think this is a policy question,
14:58:13 18 but it might be for Yolanda nonetheless.

14:58:17 19 Is -- is it your understanding that the
14:58:19 20 birthplace requirement is going to apply to ServiceArizona
14:58:22 21 applications or only to state paper form applications?

14:58:30 22 MR. WHITAKER: Legal conclusion.

14:58:34 23 MR. MORGAN: Form and foundation.

14:58:35 24 THE WITNESS: So including the birthplace?

14:58:35 25 BY MS. LANG:

14:58:39 1 Q. Requiring birthplace, yes.

14:58:42 2 A. I think -- I think that would be across the board
14:58:44 3 for any state application or registration.

14:58:51 4 Q. Okay. Can you think of any reason why you would
14:59:06 5 need birthplace information for state app -- applicants
14:59:10 6 using the state application form and not for those using
14:59:15 7 the federal form?

14:59:16 8 A. No.

14:59:16 9 MR. LANGHOFER: Legal conclusion.

14:59:18 10 BY MS. LANG:

14:59:28 11 Q. Moving on to talking about the documentary proof
14:59:33 12 of cit- -- residence requirement, the DPOR requirement.
14:59:36 13 And we've touched on it a bit, but I'm going to go into a
14:59:44 14 little more detail now.

14:59:46 15 As some background, applicants are required
14:59:49 16 to provide their residential address or some sort of
14:59:52 17 description or drawing of their residence when they
14:59:55 18 register to vote; correct?

14:59:56 19 A. Yes.

14:59:57 20 Q. Okay. Is -- I have a line of questions that I
15:00:06 21 think, actually based on your testimony so far, is going to
15:00:09 22 be for Yolanda. Let me just ask the one and we'll see.

15:00:12 23 If someone provides a residential address, do
15:00:17 24 you know if the AVID system does something to kind of match
15:00:21 25 that address with a precinct automatically?

15:00:27 1 A. I'm not sure how that works.

15:00:29 2 Q. All right. Do you know if there's anything in the
15:00:52 3 2019 EPM or in the current draft EPM that kind of addresses
15:00:58 4 what counties should do if a voter's address -- if they
15:01:03 5 can't determine the precinct for a voter's address?

15:01:07 6 A. I'm not aware of any.

15:01:11 7 Q. Are you aware of any kind of guidance on this
15:01:14 8 topic outside of the EPM?

15:01:17 9 A. No.

15:01:18 10 Q. Another option for folks who don't have kind of
15:01:31 11 standard addresses is for them to provide some sort of
15:01:33 12 description of their location of residence; correct?

15:01:36 13 A. Yes.

15:01:36 14 Q. That could be a map; is that correct?

15:01:38 15 A. Yes.

15:01:39 16 Q. Could it also be kind of a description with
15:01:44 17 coordinates or landmarks?

15:01:45 18 A. Yes.

15:01:47 19 Q. Do you know if there's anything in the EPM that
15:01:50 20 kind of helps describe how counties should use those
15:01:54 21 descriptors to properly precinct voters?

15:02:01 22 A. No.

15:02:02 23 Q. Are you aware of any of other guidance --
15:02:06 24 statewide guidance on that topic?

15:02:10 25 A. No. And I think that's uniquely a county issue

15:02:17 1 based on the dynamics of a particular county. I don't know
15:02:23 2 if a statewide document or application would be
15:02:27 3 appropriate.

15:02:29 4 Q. Fair.

15:02:30 5 Are you aware of kind of the circumstances
15:02:33 6 under which a voter is more likely to not have a standard
15:02:37 7 address and rely on a kind of a description or map?

15:02:40 8 A. Yes.

15:02:42 9 MR. LANGHOFER: Foundation.

15:02:42 10 BY MS. LANG:

15:02:43 11 Q. Can you provide kind of some of those
15:02:45 12 circumstances?

15:02:48 13 A. Nonstandard addresses are more common in rural
15:02:52 14 areas or reservation lands.

15:02:57 15 Q. Okay. Is it also more common for students to not
15:03:02 16 have standard addresses that match the precincting system?

15:03:07 17 MR. MORGAN: Form.

15:03:08 18 THE WITNESS: I don't know.

15:03:09 19 BY MS. LANG:

15:03:12 20 Q. Is it more common that people experiencing
15:03:15 21 homelessness might use the option of drawing their
15:03:18 22 residence?

15:03:19 23 A. Not that I'm aware of.

15:03:25 24 Q. So I think we've established under HB 2492, if
15:03:54 25 this was fully implemented, voters would now have to

15:03:57 1 provide some documentary proof of their residence location
15:04:00 2 to register to vote; correct?

15:04:03 3 A. The statutory changes would require DPOR, yes.

15:04:12 4 Q. And it is -- is it the position of the secretary's
15:04:18 5 office, notwithstanding any potential violations of federal
15:04:22 6 law, that the statute requires that documentary proof of
15:04:26 7 residence even for federal form voters?

15:04:33 8 MR. WHITAKER: Calls for a legal conclusion.

15:04:34 9 THE WITNESS: Yeah, that -- I would have
15:04:34 10 to --

15:04:34 11 MR. WHITAKER: Form.

15:04:35 12 THE WITNESS: I would have to get legal
15:04:36 13 advice on that. I don't know the answer.

15:04:38 14 BY MS. LANG:

15:04:48 15 Q. Okay. The instructions for registration in
15:04:53 16 Arizona on the federal form currently don't require --
15:04:56 17 don't discuss documentary proof of residence; is that
15:05:00 18 correct?

15:05:00 19 A. That's correct.

15:05:01 20 Q. Okay. And we looked earlier at the EAC that the
15:05:06 21 secretary's office sent in 2022 requesting an update on the
15:05:10 22 instructions; is that right?

15:05:11 23 A. Yes, we did.

15:05:12 24 Q. And that included some requested instructions
15:05:15 25 about DPOC but did not include any instructions about DPOR;

15:05:21 1 is that correct?

15:05:21 2 A. I'll have to look it up again.

15:05:23 3 Q. Yeah, let's look at it. It's AZSOS 533, the EAC

15:05:33 4 letter.

15:05:33 5 A. Yeah, just a second. Let me log in.

15:05:42 6 Okay. Where is the file, the SOS?

15:05:43 7 Q. SOS Exhibits 2 and AZSOS 533.

15:06:07 8 And the question is kind of whether or not

15:06:08 9 this request adds any request about instructions for

15:06:11 10 documentary proof of residence. So go ahead and take a

15:06:15 11 look and then you can answer.

15:06:16 12 A. I'm not finding the document. Okay. So it's --

15:06:20 13 under the SOS 2, AZSOS.

15:06:22 14 Q. 533. It's right under AZSOS 1.

15:06:32 15 A. Okay. Great. Thank you.

15:06:34 16 Q. No problem. Thank you for bearing with me.

15:06:50 17 A. Okay. So the question is whether there's a

15:06:53 18 request for DPOR to be in the federal form instructions?

15:06:57 19 Q. That's correct, yes.

15:06:59 20 A. This letter does not request that.

15:07:01 21 Q. And are you aware of any other requests to the EAC

15:07:04 22 to add that set of instructions about DPOR?

15:07:07 23 A. Not that I'm aware of.

15:07:08 24 Q. Okay. Do you know whether the DPOR requirement

15:07:14 25 would -- would apply to federal postcard applicants or

15:07:18 1 federal write-in absentee ballot applicants?

15:07:25 2 MR. WHITAKER: Calls for a legal conclusion.

15:07:31 3 THE WITNESS: Yeah, I don't think so. I

15:07:33 4 think that was an error in the draft EPM but -- okay. So

15:07:37 5 some of the federal postcard information and the FWAB stuff

15:07:45 6 need to be corrected in the draft. So just in all candor,

15:07:51 7 you know, I -- I'm -- I'm not sure if that's where that

15:07:55 8 question is coming from.

15:07:56 9 BY MS. LANG:

15:07:57 10 Q. It's not. Just a genuine question of curiosity.

15:08:01 11 I don't know the answer --

15:08:02 12 A. Okay.

15:08:02 13 Q. -- as to whether or not it should apply to those

15:08:05 14 applicants or not.

15:08:07 15 Do you know if it should?

15:08:08 16 A. I don't know right off the top of my head.

15:08:10 17 Q. Okay. Do you know if voters will need to provide

15:08:40 18 a new document proving residence with any address update

15:08:45 19 that they make to their voter registration?

15:08:48 20 MR. MORGAN: Form. Speculation.

15:08:50 21 MR. LANGHOFER: Legal conclusion.

15:08:51 22 THE WITNESS: Not that I'm aware of.

15:08:53 23 MR. WHITAKER: And I think calls for a legal

15:08:54 24 conclusion.

15:08:54 25 MR. MORGAN: Yeah. Mr. Langhofer made that

15:08:59 1 objection.

15:09:54 2 MS. LANG: And please excuse my pause. If it
15:09:56 3 gives anyone comfort, it's because I'm trying to pare down
15:10:00 4 on the questions and see what we need to cover.

15:10:32 5 MR. MORGAN: While we're waiting, can the
15:10:34 6 videographer tell us how long we've been on the record?

15:10:37 7 THE VIDEOGRAPHER: Five hours and eight
15:10:39 8 minutes.

15:10:40 9 MR. MORGAN: Thank you.

15:10:40 10 BY MS. LANG:

15:10:52 11 Q. Okay. If you could open Petty Exhibit 24.

15:11:08 12 A. I think I went into a file that is not the
15:11:12 13 exhibits. Sorry about that.

15:11:48 14 MS. LANG: Let's take a break brief.

15:11:50 15 THE VIDEOGRAPHER: We are off the record.

15:11:52 16 The time on the video monitor is 3:11 p.m.

15:11:57 17 (A recess ensued.)

15:18:33 18 THE VIDEOGRAPHER: We are on the record. The
15:18:50 19 time on the video monitor is 3:18 p.m.

15:18:55 20 MS. LANG: Okay. So thank you all for the
15:18:55 21 indulgence.

15:18:55 22 BY MS. LANG:

15:18:58 23 Q. If we can look at Petty Exhibit 24.

15:19:01 24 A. Okay.

15:19:04 25 Q. Do you recognize this document?

15:19:10 1 A. I do, yes.

15:19:11 2 Q. And can you describe what it is for me?

15:19:14 3 A. It's a table that lists "What constitutes
15:19:22 4 Documentary Proof of Residency."

15:19:22 5 Q. And this is what would constitute DPOR under the
15:19:25 6 HB 2492; correct?

15:19:27 7 A. Yes.

15:19:27 8 Q. Okay. Who drafted this, to your knowledge?

15:19:34 9 A. I don't know.

15:19:35 10 Q. Okay. Does this chart still reflect the
15:19:40 11 secretary's position on what documents would satisfy the
15:19:44 12 DPOR requirement under HB 2492?

15:19:47 13 MR. LANGHOFER: Calls for a legal conclusion.

15:19:50 14 THE WITNESS: Without comparing it to the
15:19:55 15 579(A)(1), it's hard to say. But I think that was the
15:20:01 16 intent of the document, to provide a list, but maybe not an
15:20:05 17 exhaustive list.

15:20:06 18 BY MS. LANG:

15:20:06 19 Q. Okay. Is it a list of at least some documents
15:20:11 20 that would be acceptable DPOR?

15:20:13 21 MR. LANGHOFER: Same objection.

15:20:13 22 THE WITNESS: That's my understanding, yes.

15:20:14 23 BY MS. LANG:

15:20:14 24 Q. Do you know if this document has been sent out to
15:20:17 25 the counties?

15:20:19 1 A. Not that I'm aware of.

15:20:20 2 Q. Okay.

15:20:23 3 MR. MORGAN: Other than as produced in the
15:20:25 4 lawsuit?

15:20:26 5 MS. LANG: Yes.

15:20:26 6 MR. MORGAN: Okay.

15:20:27 7 MS. LANG: Sent out to the county recorders
15:20:29 8 by the secretary of state.

15:20:30 9 MR. MORGAN: Okay. Got it. Yep.

15:20:32 10 Same answer?

15:20:34 11 THE WITNESS: Yes. It looks like it's
15:20:36 12 attached to a filing, though. I'm not sure what the filing
15:20:39 13 was.

15:20:40 14 BY MS. LANG:

15:20:41 15 Q. Yes. It was attached to a filing in this case.

15:20:44 16 And has been produced in this case.

15:20:45 17 A. Okay.

15:20:46 18 Q. But my question --

15:20:47 19 MS. LANG: And thank you for the
15:20:49 20 clarification, Craig.

15:20:49 21 BY MS. LANG:

15:20:49 22 Q. -- is just whether or not the secretary has kind
15:20:53 23 of affirmatively sent this out to the counties.

15:20:55 24 A. Yeah, I'm not aware.

15:20:58 25 Q. Okay. This chart is not in the draft EPM;

15:21:08 1 correct?

15:21:08 2 A. Correct.

15:21:09 3 Q. If it's not in the EPM, would a chart like this
15:21:19 4 providing examples of DPOR be binding on the county
15:21:24 5 recorders?

15:21:26 6 A. No.

15:21:27 7 MR. LANGHOFER: Calls for a legal conclusion.

15:21:31 8 BY MS. LANG:

15:21:33 9 Q. At the bottom here of this chart, there is a --
15:21:39 10 there's an option for one form of DPOR to be "Written
15:21:46 11 confirmation signed by the registrant that they qualify to
15:21:49 12 register pursuant to 16-166(B) (providing an address at a
15:21:54 13 homeless center; USPS General Delivery; Courthouse)."

15:22:03 14 Are you aware of any kind of draft template
15:22:06 15 for a written confirmation of this kind?

15:22:12 16 A. So I read that to be the written confirmation as
15:22:16 17 in the registrant who could be homeless and the residential
15:22:24 18 address, in lieu of a standard residential address, would
15:22:29 19 provide the general delivery address of a post office or a
15:22:34 20 courthouse.

15:22:36 21 So I didn't read this as a separate document.
15:22:40 22 I assumed it would be included in the registration form
15:22:43 23 itself.

15:22:44 24 Q. Okay. That's very -- that's a very helpful
15:22:47 25 clarification.

15:22:48 1 So your understanding of this is that where
15:22:52 2 someone registers to vote and provides as their address a
15:22:55 3 homeless center or USPS general delivery or courthouse
15:22:59 4 under this statute, they wouldn't have to provide any
15:23:02 5 additional documents providing proof of residence?

15:23:06 6 A. Yes, that's correct.

15:23:08 7 Q. Okay.

15:23:10 8 MR. WHITAKER: Calls for a legal conclusion.

15:23:13 9 BY MS. LANG:

15:23:16 10 Q. And if we can return to Petty Exhibit 19, which is
15:23:22 11 HB 2492.

15:23:30 12 A. Okay.

15:23:31 13 Q. Turn to page 6.

15:23:46 14 A. All right.

15:23:47 15 Q. Rather, page 5. I apologize. At the bottom of
15:23:58 16 page 5.

15:23:58 17 A. Okay.

15:23:59 18 Q. And this is the Section 16-123, starting at
15:24:03 19 line 40 on page 5 that requires a proof of DPOR; is that
15:24:13 20 right?

15:24:13 21 A. Yes.

15:24:14 22 Q. Okay. And the language here says that "Except for
15:24:18 23 persons who register pursuant to" 16- -- "Section 16-103, a
15:24:23 24 person who registers to vote shall provide an identifying
15:24:27 25 document that establishes proof of location of residence."

15:24:33 1 Do you see that?

15:24:33 2 A. I do.

15:24:34 3 Q. And would you agree with me that the language "an
15:24:37 4 identifying document" is broad?

15:24:42 5 MR. LANGHOFER: Legal conclusion.

15:24:44 6 THE WITNESS: Yes.

15:24:45 7 MR. WHITAKER: I missed the question, but I
15:24:48 8 think it calls for a legal conclusion.

15:24:51 9 MS. LANG: Kory did --

15:24:53 10 MR. MORGAN: Kory made the objection.

15:24:54 11 MS. LANG: Made the objection. And the
15:24:55 12 question, because it's only fair to you, is whether --
15:25:00 13 whether the witness would agree that the language "an
15:25:05 14 identifying document" is broad.

15:25:09 15 THE WITNESS: The answer was yes.

15:25:11 16 MS. LANG: And there was an objection and --

15:25:12 17 THE WITNESS: The answer was yes.

15:25:14 18 BY MS. LANG:

15:25:15 19 Q. In -- would a declaration from a voter of their
15:25:20 20 location of residence qualify as an identifying document
15:25:26 21 that establishes proof of location of residence?

15:25:29 22 MR. LANGHOFER: Same objection.

15:25:32 23 THE WITNESS: I'm not in a position to answer
15:25:36 24 that without legal advice and without consultations with
15:25:44 25 county recorders.

15:25:44 1 BY MS. LANG:

15:02:57 2 Q. Okay. Do you know if there's any plan to create
15:25:47 3 such a declaration option for voters who would otherwise
15:25:50 4 have difficulty providing other -- another document proving
15:25:55 5 location of residence?

15:25:56 6 A. Not that I'm aware of.

15:25:59 7 Q. You earlier testified that if the DPOR requirement
15:26:44 8 goes into effect, it would require some public education to
15:26:49 9 ensure that voters understand how to comply with it. Would
15:26:56 10 you agree that the new DPOR requirement would also require
15:27:01 11 training for election officials to implement it?

15:27:04 12 MR. MORGAN: Form. Foundation. And the form
15:27:06 13 objection, just for the record, is I'm not sure that's what
15:27:08 14 she said earlier. So just for what it's worth, I'm not
15:27:11 15 disputing it; I just don't know that I agree.

15:27:13 16 MR. LANGHOFER: And legal conclusion.

15:27:13 17 BY MS. LANG:

15:27:15 18 Q. Okay. So let's back up.

15:27:16 19 If the DPOR requirement needs to be fully
15:27:22 20 implemented, would you agree that public education would be
15:27:28 21 an important component of ensuring that voters know how to
15:27:31 22 comply with it?

15:27:33 23 MR. LANGHOFER: Legal conclusion.

15:27:39 24 THE WITNESS: I don't know. I think that
15:27:41 25 would be something that the county recorders would have to

15:27:45 1 weigh in on.

15:27:47 2 BY MS. LANG:

15:27:47 3 Q. Okay. Would implementation require training?

15:27:54 4 MR. LANGHOFER: Same objection.

15:27:55 5 MR. MORGAN: Yeah, form.

15:27:57 6 THE WITNESS: If the county recorders
15:27:59 7 implemented the DPOR, yes, they would have to train people.

15:28:03 8 BY MS. LANG:

15:28:03 9 Q. Okay. Would it also -- would implementation of
15:28:08 10 the DPOR requirement also require some training for the
15:28:12 11 NVRA mandated agencies that provide voter registration
15:28:16 12 services?

15:28:17 13 MR. LANGHOFER: Same objection.

15:28:29 14 THE WITNESS: Yes.

15:28:33 15 BY MS. LANG:

15:28:40 16 Q. During the deposition of the county recorder in
15:28:43 17 Cochise County, there was some discussion that the Cochise
15:28:47 18 County recorder was beginning to implement and enforce the
15:28:51 19 DPOR requirement. Do you have any knowledge of that?

15:28:54 20 A. No.

15:28:55 21 MR. MORGAN: Wait, of the deposition or the
15:28:58 22 implementation?

15:28:59 23 MS. LANG: Of the implementation.

15:29:01 24 THE WITNESS: I'm not aware of that, no.

15:29:03 25 BY MS. LANG:

15:29:03 1 Q. Were you aware of that during the deposition, the
15:29:06 2 county recorder had made that representation?

15:29:09 3 A. No. This is news to me.

15:29:11 4 Q. Okay. I'm going to move on to a different topic.
15:29:22 5 Some additional questions about any concerns about voter
15:29:26 6 fraud.

15:29:27 7 As the state elections chief election
15:29:37 8 officer, does the Secretary of State's Office have any role
15:29:40 9 to play in safeguarding the state elections against fraud?

15:29:43 10 MR. MORGAN: Form.

15:29:49 11 THE WITNESS: The secretary of state, of
15:29:51 12 course, is definitely -- I don't even know how to phrase
15:29:58 13 that. Is -- wants to ensure that there are fair, honest
15:30:04 14 elections.

15:30:05 15 BY MS. LANG:

15:30:06 16 Q. And I imagine there's any number of ways in which
15:30:08 17 the secretary works with election officials to safeguard
15:30:12 18 against fraud; is that accurate?

15:30:14 19 MR. MORGAN: Foundation.

15:30:15 20 THE WITNESS: So I have a little issue with
15:30:17 21 "fraud." I mean, that's -- it's a very broad term. I
15:30:23 22 don't -- I think we need to get more specific as far as
15:30:26 23 that question goes.

15:30:27 24 BY MS. LANG:

15:30:27 25 Q. Fair.

15:30:33 1 So there is a variety of -- there are
15:30:41 2 different types of, you know, fraud, quote/unquote, "fraud"
15:30:46 3 that could occur in elections; correct?

15:30:51 4 MR. MORGAN: Form.

15:30:52 5 BY MS. LANG:

15:30:52 6 Q. For example, there could be fraud committed by
15:30:54 7 election officials or by voters or by candidates, and those
15:30:59 8 would all have different implications; is that fair to say?

15:31:02 9 MR. MORGAN: Form.

15:31:04 10 Having done this before, for what it's worth,
15:31:06 11 I think she is hung up on what kind of fraud you're talking
15:31:09 12 about. So if you have a specific example, I think she'd be
15:31:13 13 in a better position to answer the question.

15:31:13 14 MS. LANG: Yeah.

15:31:15 15 MR. MORGAN: It's a nasty word in the
15:31:17 16 election world these days.

15:31:19 17 MS. LANG: Trust me, I do know.

15:31:26 18 BY MS. LANG:

15:31:29 19 Q. Can we agree that if I -- if I refer to the term
15:31:33 20 "voter fraud" in particular, what I'm referring to is a
15:31:38 21 voter casting a ballot who is ineligible to do so.

15:31:45 22 A. Okay.

15:31:46 23 Q. And that could be for any number of reasons. It
15:31:48 24 could be because they've already voted; because they don't
15:31:51 25 meet the qualifications; because they're not who they say

15:31:55 1 they are.

15:31:56 2 A. Okay.

15:31:57 3 Q. Okay. Do you believe that Arizona has strong
15:32:06 4 safeguards in place to protect against voter fraud?

15:32:09 5 MR. MORGAN: Form.

15:32:09 6 THE WITNESS: Yes.

15:32:12 7 MR. WHITAKER: Foundation.

15:32:10 8 BY MS. LANG:

15:32:13 9 Q. As the state's chief election official, if there
15:32:16 10 was significant voter fraud taking place in Arizona, would
15:32:21 11 the secretary's office be aware of it?

15:32:24 12 MR. MORGAN: Form, foundation.

15:32:26 13 MR. WHITAKER: Foundation.

15:32:28 14 THE WITNESS: So the Secretary of State's
15:32:29 15 Office is not a policing agency; it's not a law enforcement
15:32:32 16 agency. But in general, the secretary of state should be
15:32:40 17 aware and would be aware of any issue involving elections,
15:32:47 18 just in a broad sense.

15:32:49 19 BY MS. LANG:

15:32:57 20 Q. And to hone in for a second on the issue of
15:32:59 21 noncitizen voting in particular, there was an interrogatory
15:33:03 22 given to your office that asked the secretary to identify
15:33:07 23 any evidence they had of noncitizen voting, and your office
15:33:12 24 didn't identify any incidents; is that correct?

15:33:16 25 MR. LANGHOFER: Form.

15:33:16 1 MR. MORGAN: Foundation. If you need to see
15:33:18 2 the document.
15:33:19 3 MS. LANG: Happy to look at the document.
15:33:22 4 MR. MORGAN: Yeah. Please. Thank you.
15:33:25 5 Feels like a lifetime ago we answered this.
15:33:30 6 MS. LANG: So I think it's not in that
15:33:33 7 subfolder.
15:33:39 8 MR. WHITAKER: Might have been marked as
15:33:40 9 Exhibit 262 already.
15:33:43 10 MS. LANG: Yeah. I believe that's right.
15:33:50 11 MR. MORGAN: Is it-- is it the response to
15:33:52 12 the consolidated plaintiffs' first set of interrogatories?
15:33:52 13 MS. LANG: Yes.
15:33:54 14 MR. MORGAN: I've got a copy. What number?
15:33:57 15 What rog?
15:34:01 16 MS. LANG: Yeah. Let's see.
15:34:10 17 MR. WHITAKER: And it was letter C, I think,
15:34:12 18 in the Dropbox.
15:34:13 19 MR. MORGAN: Yeah, it's Exhibit 263. Nope.
15:34:18 20 262 for today.
15:34:23 21 So I've handed the witness Exhibit 262.
15:34:39 22 MS. LANG: Looking for the -- it's
15:34:39 23 Interrogatory Number 6 on page 10. The response -- the
15:34:49 24 substantive response begins on page 12.
15:34:54 25 MR. MORGAN: I take offense to that. I think

15:34:56 1 it was a wholly substantive response.

15:34:59 2 MS. LANG: The non-objections response begins
15:35:02 3 on page 12.

15:35:07 4 MR. MORGAN: Are you talking about line 15
15:35:09 5 through 23?

15:35:10 6 MS. LANG: Yes.

15:35:13 7 BY MS. LANG:

15:35:14 8 Q. And there's a discussion of the existence of these
15:35:16 9 jury summary reports, but your response did not actually
15:35:19 10 identify any specific evidence of any particular instances
15:35:22 11 of noncitizen voting; is that correct?

15:35:25 12 A. I'm sorry. You're going to have to let me read
15:35:27 13 this first.

15:35:28 14 Q. Yes, of course.

15:35:57 15 A. Okay. What was your question?

15:35:59 16 Q. So my question is whether or not your
15:36:01 17 interrogatory response identified any specific instances of
15:36:09 18 alleged noncitizen voting.

15:36:11 19 A. It did not.

15:36:12 20 Q. Okay. Sitting here today, are you aware of any
15:36:17 21 specific instances of alleged noncitizen voting?

15:36:21 22 A. Not that to my knowledge.

15:36:23 23 MR. WHITAKER: Foundation.

15:36:26 24 BY MS. LANG:

15:36:33 25 Q. Are you aware of the secretary's office ever

15:36:35 1 receiving credible evidence related to noncitizen voting?
15:36:40 2 MR. MORGAN: Form.
15:36:42 3 MR. WHITAKER: And foundation.
15:36:49 4 THE WITNESS: Well, I'll premise that by -- I
15:36:50 5 don't know why the Secretary of State's Office would
15:36:51 6 receive that. I mean, it would -- the administration of
15:36:54 7 elections are done at the county level, so county recorders
15:36:59 8 or county election officials would know. But I'm not aware
15:37:04 9 of any specific case brought to the attention of the
15:37:06 10 secretary of state.

15:37:06 11 BY MS. LANG:

15:37:07 12 Q. That's my only question.

15:37:23 13 In recent years, there has been a great deal
15:37:27 14 of -- I'm trying to think of a good way to phrase this --
15:37:36 15 rhetoric about alleged voter fraud in the State of Arizona;
15:37:41 16 is that correct?

15:37:41 17 A. Yes.

15:37:41 18 MR. MORGAN: Form.

15:37:42 19 I'm sorry. I didn't hear the -- what was the
15:37:44 20 question again.

15:37:44 21 BY MS. LANG:

15:37:45 22 Q. The questions was: In the past -- in recent
15:37:47 23 years, there has been a great deal of public rhetoric about
15:37:52 24 the subject of alleged voter fraud in Arizona?

15:37:55 25 MR. MORGAN: Thank you.

15:37:59 1 BY MS. LANG:

15:37:59 2 Q. And are you aware that in 2020, the Republican
15:38:09 3 presidential candidate claimed that 36,000 noncitizens
15:38:12 4 voted in Arizona?

15:38:14 5 MR. MORGAN: Form. Hearsay.

15:38:24 6 MS. PORTER: Scope.

15:38:29 7 THE WITNESS: I'm not aware of that
15:38:31 8 particular claim.

15:38:34 9 BY MS. LANG:

15:38:34 10 Q. Okay. Are you aware of any credible evidence that
15:38:37 11 thousands of noncitizens voted in the 2020 election?

15:38:41 12 A. No.

15:38:42 13 Q. Would you agree that in recent years, some --
15:39:01 14 there has been a -- that in recent years there have been
15:39:07 15 many allegations by public figures about alleged voter
15:39:12 16 fraud in Arizona?

15:39:12 17 MR. MORGAN: Form. Foundation. Hearsay.

15:39:18 18 THE WITNESS: You know, I can't say with
15:39:20 19 particularity if that's occurred.

15:39:22 20 BY MS. LANG:

15:39:22 21 Q. Okay. What I'm trying to get at, for what it's
15:39:30 22 worth, is kind of the impact on the -- on election
15:39:33 23 officials in the secretary's office of the current
15:39:35 24 political climate around issues related broadly to what
15:39:40 25 people might say is election integrity. So to the extent

15:39:44 1 that's useful to you in kind of framing my questions, I'm
15:39:50 2 only trying to lay foundation for that kind of set of
15:39:54 3 questions about the impact.

15:39:55 4 So would -- would you agree that there has
15:39:59 5 been kind of very heated political rhetoric around how
15:40:02 6 elections are conducted in Arizona?

15:40:05 7 MR. LANGHOFER: Scope.

15:40:07 8 MR. WHITAKER: Form. Outside the scope.

15:40:10 9 MR. MORGAN: Yeah, we've got a scope
15:40:11 10 objection, Josh. Thanks. Sorry.

15:40:14 11 THE WITNESS: I believe there's definitely
15:40:17 12 misinformation out there, and it has led to heated rhetoric
15:40:23 13 as you expressed and false allegations, unfair allegations
15:40:31 14 against election officials.

15:40:32 15 BY MS. LANG:

15:40:33 16 Q. Okay. And in recent years, have election
15:40:37 17 officials in Arizona experienced harassment?

15:40:41 18 MR. MORGAN: Same objection. Particularly as
15:40:44 19 to scope, I feel like I've been as generous as I can on
15:40:50 20 these things. I just -- I'm warning you that if we get too
15:40:53 21 far afield of the scope and you can't point to me where in
15:40:56 22 the topics we are, I might have to shut it down because she
15:41:01 23 really does have other things to do. And talking about
15:41:04 24 this, it doesn't seem appropriate to me. I can't link it
15:41:08 25 to the issues left in the case, but maybe you can.

15:41:12 1 MS. LANG: I can. I -- I would be happy to
15:41:15 2 have that discussion off the record. I don't think it's
15:41:17 3 proper to instruct the witness not to answer questions.
15:41:20 4 We're within our seven hours.

15:41:20 5 MR. MORGAN: I don't care.

15:41:21 6 MS. LANG: If you want to say that it's
15:41:22 7 outside the scope.

15:41:23 8 MR. MORGAN: It is outside the scope. And I
15:41:26 9 stand by what I said. So I'm giving you an opportunity to
15:41:28 10 link it.

15:41:30 11 If we need to get to the Judge and I need to
15:41:32 12 get a protective order this afternoon, I'll try. I
15:41:34 13 represent the Secretary of State's Office. This isn't a
15:41:37 14 small po dunk company that sells widgets. These statements
15:41:40 15 have meaning, and we need to stay within the scope.

15:41:51 16 MS. LANG: Okay.

15:41:51 17 BY MS. LANG:

15:41:53 18 Q. Have election officials experienced harassment --

15:41:57 19 MR. MORGAN: Foundation.

15:41:58 20 BY MS. LANG:

15:41:58 21 Q. -- in recent years --

15:41:59 22 MR. LANGHOFER: Scope.

15:42:00 23 BY MS. LANG:

15:42:01 24 Q. -- in Arizona?

15:42:02 25 A. Yes.

15:42:04 1 Q. Okay. To your knowledge, have some election
15:42:06 2 officials faced death threats?

15:42:08 3 MR. LANGHOFER: Scope.

15:42:09 4 MR. MORGAN: Scope.

15:42:10 5 THE WITNESS: Yes.

15:42:10 6 BY MS. LANG:

15:42:11 7 Q. Have some election officials resigned in light of
15:42:13 8 this present environment?

15:42:16 9 MR. MORGAN: Form scope foundation.

15:42:19 10 THE WITNESS: Yes.

15:42:19 11 BY MS. LANG:

15:42:22 12 Q. Have -- have election offices in Arizona
15:42:26 13 experienced substantial turnover in the past couple of
15:42:29 14 years?

15:42:29 15 MR. MORGAN: Form. Scope.

15:42:32 16 MR. LANGHOFER: Foundation.

15:42:32 17 MR. MORGAN: Foundation.

15:42:33 18 THE WITNESS: Yes.

15:42:34 19 BY MS. LANG:

15:42:55 20 Q. Both HB 2492 and HB 2243 include criminal
15:43:01 21 sanctions against election officials if they fail to follow
15:43:05 22 the provisions in the law; is that correct?

15:43:08 23 MR. MORGAN: Form to the extent it misstates
15:43:12 24 the actual law.

15:43:13 25 MR. LANGHOFER: Legal conclusion.

15:43:18 1 You can answer, if you remember.

15:43:20 2 THE WITNESS: Yes.

15:43:21 3 MR. WHITAKER: Vague as to ambiguous. I'm

15:43:24 4 not sure what parts of the law we're talking about.

15:43:28 5 MS. LANG: Okay. I'm trying to move things

15:43:31 6 along.

15:43:31 7 BY MS. LANG:

15:43:31 8 Q. But let's -- Exhibit 19 -- Petty Exhibit 19.

15:43:46 9 MR. WHITAKER: While the witness is turning,

15:43:48 10 Danielle, I wasn't trying to suggest you're delaying.

15:43:52 11 MS. LANG: I understand.

15:43:54 12 MR. MORGAN: We all get along.

15:44:00 13 THE WITNESS: Petty Exhibit 19?

15:44:02 14 BY MS. LANG:

15:44:02 15 Q. Yes. This is HB 2492.

15:44:24 16 A. There's a reference to criminal penalties on

15:44:29 17 page 5 in reference to a county recorder and efforts made

15:44:37 18 to verify citizenship.

15:44:44 19 Q. Correct.

15:44:50 20 On page 4 as well, Section C and line 32, do

15:44:57 21 you see there's another felony penalty if an election

15:45:03 22 official fails to reject an application for lack of DPOC?

15:45:08 23 A. Yes.

15:45:09 24 Q. Okay. And -- okay.

15:45:32 25 Have election officials expressed any

15:45:34 1 concerns to the Secretary of State's Office about the
15:45:37 2 existence of these criminal sanctions?

15:45:42 3 MR. MORGAN: Hearsay.

15:45:43 4 MR. LANGHOFER: Form.

15:45:43 5 THE WITNESS: Yes.

15:45:44 6 BY MS. LANG:

15:45:45 7 Q. Can you describe to me the nature of those
15:45:49 8 concerns and conversations?

15:45:50 9 MR. MORGAN: Same objections.

15:45:56 10 THE WITNESS: Generally, there's concern
15:46:00 11 among election officials of being charged with a crime for
15:46:10 12 trying to do their job.

15:46:11 13 BY MS. LANG:

15:46:15 14 Q. Particularly in the current climate, would you say
15:46:17 15 that these sanctions add to election officials' fears
15:46:21 16 around doing their job?

15:46:22 17 MR. MORGAN: Form and foundation. Scope.

15:46:25 18 THE WITNESS: Yes.

15:46:25 19 BY MS. LANG:

15:46:26 20 Q. And particularly in the current climate, would you
15:46:29 21 agree that these sanctions add to the difficulty of
15:46:32 22 retaining experienced election officials in Arizona?

15:46:35 23 MR. LANGHOFER: Same objections.

15:46:36 24 THE WITNESS: Yes.

15:46:38 25 MR. WHITAKER: Foundation.

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BY MS. LANG:

Q. A lot of election administration, especially voter registration, relies on providing mail notices to voters when there is an issue with their registration; is that right?

A. Yes.

Q. Okay. And based on the office's experience overseeing administration of elections, is it the case that many voters do not respond to those notices?

MR. MORGAN: Foundation.

THE WITNESS: It's really hard to make that assessment.

MR. LANGHOFER: Form.

BY MS. LANG:

Q. Would you say that a lack of response to a mailer asking for DPOC is evidence that an applicant is, in fact, not a citizen?

MR. LANGHOFER: Form and foundation. Speculation.

THE WITNESS: No.

BY MS. LANG:

Q. And would you say that a lack of response to a mailer asking for DPOR is evidence that the applicant is not, in fact, a resident?

MR. LANGHOFER: Same objection. Plus legal

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conclusion.

THE WITNESS: No.

MR. WHITAKER: These questions, I think, are also calling for legal conclusions. I can't hear Kory.

MS. LANG: He's got you. Thank you.

BY MS. LANG:

Q. For voters who use paper forms to register, are you -- do the majority of those voters use the state voter registration form?

MR. MORGAN: Foundation, form.

THE WITNESS: I'm not aware of that.

BY MS. LANG:

Q. Okay. Do you know if the federal form is available on county recorder websites?

A. I don't know.

MR. MORGAN: Foundation.

BY MS. LANG:

Q. How about the secretary of state's website?

A. Yes.

Q. The federal form?

A. To the best of my knowledge, it is available, yes.

Q. I'm not doubting you, to be clear. I just wanted to make sure.

You'll be happy to know we're winding down.

A. All right. Sounds good.

15:49:00 1 Q. At least for myself.

15:49:03 2 What is your office's role in facilitating
15:49:10 3 voter registration at the NVRA mandated agencies?

15:49:18 4 A. To make sure the public agencies provide an
15:49:25 5 opportunity for individuals seeking services to register to
15:49:29 6 vote.

15:49:30 7 Q. Okay. And who currently is the Arizona secretary
15:49:36 8 of state NVRA coordinator?

15:49:38 9 A. Yolanda Morales.

15:49:40 10 Q. Okay. Is one of the responsibilities of the
15:49:45 11 secretary of state to provide training to county recorders
15:49:48 12 on how to process NVRA agency applications?

15:49:56 13 A. You know, I'm not sure. I think that would be a
15:49:59 14 Yolanda question.

15:50:00 15 Q. If we could -- if we could look back at
15:51:56 16 Exhibit 2 -- back at the draft procedures manual for 2023,
15:52:03 17 2023 Arizona Secretary of State Elections Procedures
15:52:07 18 Manual.

15:52:07 19 A. The one for public comment?

15:52:10 20 Q. Yes.

15:52:11 21 A. Okay.

15:52:21 22 Q. Turn to page 16. There's a section that begins on
15:52:36 23 page 15 about "Designated Voter Registration Assistance
15:52:40 24 Agencies," and it goes onto page 16. So just let me know
15:52:44 25 when you're there.

15:52:51 1 A. Yes, I see that.

15:52:52 2 Q. In the 2019 version of this manual, there was
15:52:55 3 language that said, "The Secretary of State's Office will
15:52:58 4 publish guidance for voter registration assistance agencies
15:53:02 5 on complying with state statutory requirements," and that
15:53:07 6 language was deleted from this manual. Could you explain
15:53:12 7 why?

15:53:13 8 A. Yeah. So -- and this goes back to your question
15:53:16 9 about the NVRA Section 7 training. And that was required
15:53:22 10 under a settlement agreement with the League of Women
15:53:27 11 Voters who challenged the public assistance agencies and
15:53:33 12 the provision of an opportunity to register to vote. And
15:53:38 13 under that agreement, there, in fact, was a training
15:53:40 14 requirement for the secretary of state and the NVRA
15:53:48 15 coordinator. That settlement agreement has since expired.

15:53:55 16 Q. Was there previously published guidance under that
15:54:07 17 language from the 2019 Election Procedures Manual?

15:54:13 18 A. Was there guidance about training?

15:54:17 19 Q. Yes.

15:54:18 20 So the 2019 EPM said, quote, "The Secretary
15:54:22 21 of State's Office will publish guidance for voter
15:54:24 22 registration assistance agencies on complying with federal
15:54:27 23 and state statutory requirements, which will be made
15:54:30 24 available at <https://azsos.gov/elections>."

15:54:38 25 And so I guess my question is whether or not

15:54:38 1 that guidance was ever published.

15:54:42 2 A. Presumably. I have no reason to doubt that it was
15:54:44 3 published.

15:54:45 4 Q. Are you aware of whether or not that guidance
15:54:48 5 still exists on the website?

15:54:52 6 A. I can't say sitting here today if that is
15:54:54 7 available on the website.

15:54:55 8 Q. Are you familiar with that guidance one way or
15:54:59 9 another?

15:54:59 10 A. There are definitely training documents
15:55:02 11 specifically on the Section 7, but I just don't know if
15:55:08 12 it's still published on the website.

15:55:10 13 Q. Okay. Since that settlement has expired, does the
15:55:21 14 secretary plan to continue to provide any training to the
15:55:23 15 NVRA agencies?

15:55:26 16 MR. MORGAN: Form.

15:55:28 17 THE WITNESS: We have not had that
15:55:31 18 discussion. But the training has continued specifically to
15:55:39 19 keep the county recorders apprised of their duties as far
15:55:43 20 as the data entry regarding the source code for voter
15:55:49 21 registration applications.

15:55:49 22 BY MS. LANG:

15:55:49 23 Q. And is it the case that one thing that the
15:55:52 24 secretary of state does is provide to the NVRA agencies
15:55:56 25 specially coded voter registration applications for them to

15:55:59 1 use?

15:56:00 2 A. Yes.

15:56:00 3 Q. Okay. And are those the state voter registration
15:56:04 4 form but with that special code?

15:56:06 5 A. Yes.

15:56:07 6 Q. Okay. Are you currently aware of any substantive
15:56:37 7 disagreements between your office, the county recorders, or
15:56:41 8 the attorney general on how to implement the challenged
15:56:46 9 provisions here?

15:56:47 10 MR. LANGHOFER: Foundation.

15:56:49 11 MR. MORGAN: Form. Asked and answered.

15:56:50 12 MR. LANGHOFER: Speculation.

15:56:52 13 THE WITNESS: No.

15:56:52 14 MS. LANG: Let's go off the record.

15:57:09 15 THE VIDEOGRAPHER: We are off the record.

15:57:12 16 The time on the video monitor is 3:57 p.m.

16:05:07 17 (A recess ensued.)

16:05:07 18 THE VIDEOGRAPHER: We are on the record. The
16:05:54 19 time on the video monitor is 4:05 p.m.

16:05:59 20 MS. LANG: Ms. Connor, I don't have any
16:06:01 21 further questions for you. So I just wanted to say thank
16:06:04 22 you so much for your time.

16:06:04 23 THE WITNESS: Thank you.

16:06:04 24 MS. LANG: We really appreciate it.

16:06:06 25 I'm going to pass it off to my colleague,

16:06:07 1 Ms. Kanter Cohen, who does have a few additional questions
16:06:10 2 for you.

16:06:11 3

16:06:16 4 EXAMINATION

16:06:17 5 MS. KANTER COHEN:

16:06:17 6 Q. Good afternoon. My name is Michelle Kanter Cohen,
16:06:19 7 and I represent the Poder Latinx plaintiffs.

16:06:23 8 A. Nice to meet you.

16:06:23 9 Q. Nice to meet you. Thank you.

16:06:25 10 I'll return to the EPM. Can legally binding
16:06:31 11 interpretation or guidance be conveyed by the Secretary of
16:06:35 12 State's Office to county recorders by any means other than
16:06:38 13 the EPM?

16:06:39 14 MR. LANGHOFER: Legal conclusion.

16:06:41 15 MR. WHITAKER: Calls for a legal conclusion.

16:06:44 16 THE WITNESS: Not that I'm aware of.

16:06:45 17 BY MS. KANTER COHEN:

16:06:47 18 Q. Have any Arizona legislators informed your office
16:06:51 19 they believe that the voter registration chapter should be
16:06:53 20 removed?

16:06:55 21 MR. MORGAN: Hearsay.

16:06:56 22 THE WITNESS: I know we've received a lot of
16:07:00 23 comments from legislators. As far as moving the voter --
16:07:05 24 removing the voter registration chapter entirely, I do
16:07:09 25 believe it was the senate president who suggested that, but

16:07:16 1 I could be mistaken. It could be another legislator, but I
16:07:19 2 know that suggestion has been made.

16:07:19 3 BY MS. KANTER COHEN:

16:07:21 4 Q. And that was in the written comments?

16:07:25 5 MR. MORGAN: Form.

16:07:26 6 THE WITNESS: Yes. I think there was also a
16:07:28 7 press release or a tweet or something.

16:07:31 8 BY MS. KANTER COHEN:

16:07:41 9 Q. I wanted to turn to back to some of the provisions
16:07:44 10 in HB 2492 and 2243.

16:07:49 11 What is the secretary of state's position --
16:07:52 12 the office's position on what are valid sources of
16:07:55 13 information that someone is not a U.S. citizen?

16:07:59 14 MR. LANGHOFER: Legal conclusion.

16:08:02 15 MR. MORGAN: Form.

16:08:06 16 Just so we're clear, are you asking her to
16:08:08 17 provide examples of valid -- I may have misunderstood the
16:08:12 18 question.

16:08:12 19 BY MS. KANTER COHEN:

16:08:13 20 Q. What is that -- what does that phrase mean? What
16:08:16 21 are valid sources of, quote, "information"?

16:08:17 22 MR. MORGAN: Form.

16:08:19 23 THE WITNESS: That prove that someone is not
16:08:22 24 a citizen.

16:08:22 25 BY MS. KANTER COHEN:

16:08:23 1 Q. That someone is not a U.S. citizen, as the wording
16:08:28 2 is used in HB 2492 --

16:08:31 3 A. So --

16:08:34 4 Q. -- 2243?

16:08:34 5 MR. WHITAKER: Calls for legal conclusion.

16:08:37 6 THE WITNESS: -- the only information that
16:08:40 7 I'm aware of to -- to prove a negative like that would be
16:08:45 8 the authorized presence codes used by the Motor Vehicle
16:08:53 9 Department.

16:08:54 10 BY MS. KANTER COHEN:

16:08:55 11 Q. So if a person has an ADOT record but no
16:08:58 12 confirmation of citizenship one way the other, would that
16:09:01 13 be information they're not a citizen?

16:09:04 14 MR. MORGAN: Form.

16:09:04 15 MR. LANGHOFER: Legal conclusion.

16:09:07 16 MR. WHITAKER: And I think calls for a legal
16:09:10 17 conclusion.

16:09:11 18 THE WITNESS: Yeah, that would be a question
16:09:12 19 I would seek legal advice about.

16:09:14 20 BY MS. KANTER COHEN:

16:09:16 21 Q. How about for a person with a SAVE record but no
16:09:19 22 confirmed response from the SAVE system as to either
16:09:23 23 citizenship or noncitizenship?

16:09:25 24 MR. LANGHOFER: Legal conclusion.

16:09:26 25 MR. MORGAN: Yeah, form.

16:09:28 1 THE WITNESS: Yeah, I'm not familiar with how
16:09:30 2 the SAVE system even works. I know Yolanda Morales is more
16:09:36 3 familiar with it, but as far as operating it and getting
16:09:40 4 information, my understanding is that the county recorders
16:09:46 5 receive those -- that type -- they receive that type of
16:09:48 6 information. I'm not aware of the secretary of state
16:09:51 7 receiving it.

16:09:51 8 BY MS. KANTER COHEN:

16:09:55 9 Q. Does the secretary of state have a position on
16:09:55 10 what a -- what a person with a SAVE record but no confirmed
16:10:01 11 response in the system would mean as to whether they had,
16:10:04 12 you know, citizenship or noncitizenship confirmed?

16:10:08 13 MR. LANGHOFER: Legal conclusion.

16:10:09 14 MR. MORGAN: Form.

16:10:10 15 THE WITNESS: I'm not aware of any.

16:10:12 16 BY MS. KANTER COHEN:

16:10:22 17 Q. How should county recorders interpret an absence
16:10:26 18 of citizenship information in a database one way or the
16:10:29 19 other under 16-165?

16:10:30 20 MR. MORGAN: Form and foundation. Calls for
16:10:32 21 a legal conclusion.

16:10:34 22 THE WITNESS: An absence of any information
16:10:37 23 regarding citizenship?

16:10:39 24 BY MS. KANTER COHEN:

16:10:39 25 Q. Right.

16:10:40 1 A. I don't think there can be a conclusion if there's
16:10:45 2 no information.

16:10:49 3 Q. Under 16-165, in the view of the Secretary of
16:11:05 4 State's Office, what would give a county recorder a reason
16:11:09 5 to believe a registered voter is not a U.S. citizen?

16:11:12 6 MR. LANGHOFER: Same objections.

16:11:17 7 MR. MORGAN: And speculation.

16:11:18 8 THE WITNESS: So that would be a decision for
16:11:21 9 the county recorders to make.

16:11:22 10 BY MS. KANTER COHEN:

16:11:33 11 Q. Can you recall any conversations regarding the
16:11:37 12 meeting -- sorry.

16:11:39 13 Can you recall any conversations specific to
16:11:41 14 the EPM as to what would give a county recorder a reason to
16:11:48 15 believe a registered voter is not a U.S. citizen or what
16:11:50 16 should go in the EPM with respect to that provision?

16:11:53 17 MR. MORGAN: Form. Hearsay.

16:11:56 18 MR. LANGHOFER: Compound.

16:11:59 19 THE WITNESS: I can't recall any discussions
16:12:03 20 about that.

16:12:04 21 BY MS. KANTER COHEN:

16:12:08 22 Q. Would an anonymous tip be something that could
16:12:16 23 give a county recorder a reason to believe a registered
16:12:18 24 voter is not a citizen?

16:12:20 25 MR. MORGAN: Form. Foundation. Speculation.

16:12:24 1 Calls for legal conclusion.

16:12:24 2 MR. LANGHOFER: Can we stipulate to --

16:12:25 3 MR. MORGAN: Yeah. If you're going to go

16:12:27 4 down that line of questioning, we can just stipulate the

16:12:28 5 objection and stop interrupting you. Is that cool?

16:12:30 6 MS. KANTER COHEN: That's fine.

16:12:31 7 MR. MORGAN: All right. You'll let us know

16:12:33 8 when you're done with that line of questioning and you want

16:12:33 9 us to withdraw the objection?

16:12:33 10 MS. KANTER COHEN: Sure.

16:12:35 11 MR. MORGAN: All right. Cool. Thanks.

16:12:37 12 THE WITNESS: Could you repeat the question,

16:12:38 13 please?

16:12:39 14 BY MS. KANTER COHEN:

16:12:40 15 Q. Sure.

16:12:40 16 Would an anonymous tip provide a county

16:12:45 17 recorder with a reason to believe a registered voter is not

16:12:47 18 a U.S. citizen?

16:12:51 19 A. That would be up to the county recorder.

16:12:55 20 Q. How about a letter from a neighbor? Same

16:12:58 21 question. Would it give the county -- could it give a

16:13:00 22 county recorder a reason to believe the registered voter is

16:13:02 23 not a U.S. citizen?

16:13:03 24 A. That would be up to the county recorder.

16:13:10 25 MR. MORGAN: I close my eyes, I see

16:13:17 1 Beauregard.

16:13:17 2 BY MS. KANTER COHEN:

16:13:17 3 Q. What about lists provided by third-party
16:13:22 4 organizations to the county recorder?

16:13:24 5 A. That would be a decision of the county recorder.

16:13:30 6 Q. How about if a person had an ADOT record but no
16:13:34 7 confirmation of citizenship?

16:13:37 8 A. Would that be reason to believe?

16:13:40 9 Q. Yes.

16:13:41 10 A. That would be a decision for the county recorder.

16:13:44 11 Q. Do you recall any conversations about whether you
16:13:59 12 would include specific gap filling, as we discussed
16:14:03 13 before -- or as Ms. Lang discussed before, gap-filling
16:14:08 14 interpretations outside statutory language in the EPM?

16:14:16 15 MS. KANTER COHEN: Oh, I'm sorry. I'm moving
16:14:16 16 on to a different line of --

16:14:18 17 MR. MORGAN: So the objections, you want us
16:14:20 18 to make them now?

16:14:21 19 MS. KANTER COHEN: Go for it.

16:14:21 20 MR. MORGAN: You want to ask it again because
16:14:22 21 I don't remember the question. I get to zone out when my
16:14:25 22 objections are made.

16:14:26 23 BY MS. KANTER COHEN:

16:14:27 24 Q. Do you recall any conversations about whether you
16:14:30 25 would include specific gap-filling interpretations of the

16:14:35 1 challenged laws outside the statutory language in the EPM?

16:14:38 2 MR. MORGAN: Form. Hearsay. Calls for a
16:14:42 3 legal conclusion.

16:14:42 4 MR. LANGHOFER: Yep.

16:14:44 5 THE WITNESS: I can't specifically recall
16:14:50 6 conversations to that effect.

16:14:51 7 BY MS. KANTER COHEN:

16:14:53 8 Q. Do you generally --

16:14:54 9 MR. MORGAN: You're doing great, by the way.
16:14:56 10 You're killing it.

16:14:58 11 BY MS. KANTER COHEN:

16:14:58 12 Q. Can you generally recall any conversations to that
16:15:00 13 effect?

16:15:01 14 A. So the EPM --

16:15:02 15 MR. MORGAN: Same objections.

16:15:03 16 THE WITNESS: -- is a massive document. I
16:15:08 17 mean, it covers so many topics. I -- I do get lots of
16:15:16 18 recommendations about it. But specifically about this
16:15:23 19 litigation or these laws, I simply can't recall if that
16:15:29 20 request was made.

16:15:30 21 BY MS. KANTER COHEN:

16:15:33 22 Q. Can you recall any specific conversations or
16:15:38 23 discussions to leave out that kind of gap-filling
16:15:45 24 interpretive explanation?

16:15:47 25 MR. MORGAN: Same objections.

16:15:49 1 THE WITNESS: I -- I don't recall
16:15:53 2 conversations or any comment prior to the July 31st draft,
16:16:02 3 but of course, as we've discussed, there have been comments
16:16:08 4 across the board as far as what -- what should be or should
16:16:12 5 not be in the EPM.

16:16:14 6 BY MS. KANTER COHEN:

16:16:15 7 Q. Did any of the -- those comments or conversations
16:16:20 8 since July 31st include county recorders seeking guidance
16:16:26 9 from your office on how to interpret gaps in the challenged
16:16:30 10 laws?

16:16:30 11 MR. MORGAN: Form

16:16:33 12 THE WITNESS: I don't -- I don't think a
16:16:38 13 county recorder has submitted comments, you know, via the
16:16:43 14 portal on the EPM.

16:16:47 15 BY MS. KANTER COHEN:

16:16:49 16 Q. And have you received any questions like that in
16:16:53 17 any other means -- email, phone, et cetera -- other than
16:16:57 18 through the public comments?

16:16:59 19 A. There have been discussions about guidance, and
16:17:04 20 that's the broader issue about the role of the VRAC
16:17:11 21 committee, more specifically the role of the Secretary of
16:17:17 22 State's Office in being the one to generate that guidance.
16:17:21 23 Since it's the county recorders who are the custodians of
16:17:25 24 the voter registration databases or their own records, and
16:17:28 25 they are the first-line users of the AVID database, it has

16:17:34 1 generally been discussed that those ideas or suggestions be
16:17:39 2 generated more from the county recorders. It's odd for the
16:17:47 3 secretary of state, the non-primary users, to dictate what
16:17:52 4 the county recorders should or should not be doing
16:17:55 5 specifically.

16:17:56 6 Q. So outside the role, though, you don't recall any
16:17:58 7 conversations about the substance?

16:18:00 8 MR. MORGAN: Form. Hearsay.

16:18:02 9 THE WITNESS: I'm sorry. About guidance
16:18:05 10 about -- you know, I have to say the word "guidance" is
16:18:09 11 thrown around a lot. And we have many meetings -- many,
16:18:13 12 many, many meetings every week with different election
16:18:18 13 officials. Perhaps there were comments made during one of
16:18:24 14 those meetings, but sitting here today, I do not recall
16:18:28 15 anything.

16:18:29 16 BY MS. KANTER COHEN:

16:18:31 17 Q. All right. I'll move on.

16:18:34 18 A number of provisions in both laws only
16:18:36 19 obligate county recorders to take action with particular
16:18:38 20 information or databases to the extent they're practicable.
16:18:43 21 Who makes that call as to what is practicable?

16:18:45 22 MR. MORGAN: Form and foundation.

16:18:46 23 MR. LANGHOFER: Legal conclusion.

16:18:48 24 MR. MORGAN: Speculation.

16:18:48 25 THE WITNESS: Okay. So --

16:18:50 1 MR. WHITAKER: I think legal conclusion.

16:18:58 2 THE WITNESS: Yeah, so it's -- the duty is on
16:19:01 3 the county recorder to check the database; is that correct?

16:19:04 4 BY MS. KANTER COHEN:

16:19:05 5 Q. Well, so I'm asking specifically about the term
16:19:06 6 "practicable." Do you understand what practicable means in
16:19:12 7 these laws?

16:19:12 8 A. Yeah.

16:19:13 9 MR. MORGAN: Form.

16:19:14 10 BY MS. KANTER COHEN:

16:19:14 11 Q. What do you believe that practical means?

16:19:17 12 MR. LANGHOFER: Legal conclusion.

16:19:18 13 MR. MORGAN: You mean "practicable"?

16:19:20 14 MS. KANTER COHEN: Practicable.

16:19:21 15 THE WITNESS: I think it means if it's
16:19:23 16 feasible.

16:19:24 17 BY MS. KANTER COHEN:

16:19:27 18 Q. Would you expect all county recorders would find
16:19:30 19 the same databases equally practicable?

16:19:30 20 THE COURT REPORTER: I'm sorry. Say that
16:19:30 21 again.

16:19:30 22 BY MS. KANTER COHEN:

16:19:32 23 Q. Would you expect that all county recorders across
16:19:37 24 the 15 counties would find the same databases equally
16:19:41 25 practicable to use?

16:19:43 1 A. Well --

16:19:44 2 MR. MORGAN: I'm sorry.

16:19:45 3 Form. Foundation. Calls for speculation.

16:19:49 4 THE WITNESS: As we've discussed earlier, the
16:19:51 5 SAVE database, the USCIS has restricted how the counties
16:20:03 6 can use it for a check of original voter registration
16:20:12 7 applications. It does not permit the monthly running of
16:20:20 8 names through. So to that extent, it would not be
16:20:24 9 practicable because it would violate the terms of the
16:20:27 10 agreement.

16:20:29 11 BY MS. KANTER COHEN:

16:20:30 12 Q. Anything else?

16:20:31 13 A. I -- I think the Social Security Administration
16:20:35 14 database too is -- that's to prove someone's identity, that
16:20:42 15 they're a person. I don't know if that would be feasible
16:20:48 16 either because it -- that it would elicit the information
16:20:52 17 that is being sought.

16:20:55 18 But yeah, that -- that would be up to the
16:21:01 19 county recorders, ultimately, on how they handle that.

16:21:04 20 Q. What else besides AVID can -- AVID -- sorry --

16:21:08 21 A. That's okay.

16:21:08 22 Q. -- can constitute a database relating to voter
16:21:12 23 registration?

16:21:12 24 MR. MORGAN: Form.

16:21:13 25 MR. LANGHOFER: Legal conclusion.

16:21:14 1 THE WITNESS: Well, Maricopa County has their
16:21:18 2 database. It's VRAZ, V-R-A-Z. And then Pima County has
16:21:24 3 its database. I don't know if Pima County has a name for
16:21:27 4 it, though.

16:21:28 5 BY MS. KANTER COHEN:

16:21:29 6 Q. Are you familiar with ERIC, the Electronic
16:21:32 7 Registration Information Center?

16:21:32 8 A. Yes.

16:21:34 9 Q. You're a board member of ERIC in your capacity as
16:21:36 10 a state elections director. Do I have that right?

16:21:38 11 A. Yes.

16:21:38 12 Q. And ERIC is referenced in the revised 16-121.01.

16:21:44 13 A. That's correct.

16:21:45 14 Q. Does ERIC provide citizenship information in
16:21:48 15 Arizona?

16:21:48 16 A. No.

16:21:50 17 Q. You talked a little bit before about, beyond the
16:22:20 18 legal issues, what are the practical impacts, concerns with
16:22:24 19 implementation of these laws. And I believe you had a
16:22:28 20 discussion with Ms. Lang about the documentary proof of
16:22:28 21 residence.

16:22:30 22 So I wanted to ask you: With respect to the
16:22:33 23 citizenship investigations, beyond the -- same question.
16:22:36 24 Beyond the legal issues, what are the practical impact or
16:22:39 25 concerns with implementation?

16:22:43 1 MR. LANGHOFER: Asked and answered.

16:22:44 2 MR. MORGAN: Yeah. Asked and answered.

16:22:52 3 THE WITNESS: I don't know. I just don't.

16:22:57 4 BY MS. KANTER COHEN:

16:23:05 5 Q. Have you discussed contingency planning for
16:23:08 6 implementation in the event courts did not rule for
16:23:11 7 plaintiffs on the challenged laws?

16:23:14 8 MR. MORGAN: Form.

16:23:16 9 THE WITNESS: So -- so given the fact that we
16:23:21 10 only recently received funding and that we got the green
16:23:25 11 light from the Arizona Department of Administration to
16:23:28 12 start planning the implementation, we have not -- or I
16:23:36 13 guess I should say execution of the statutes, we have not
16:23:41 14 discussed contingencies.

16:23:48 15 BY MS. KANTER COHEN:

16:23:51 16 Q. Are you familiar generally with extracts
16:23:54 17 created -- different topic.

16:23:55 18 Are you familiar generally with extracts
16:23:57 19 created by ADOT in relation to HB 2243?

16:24:04 20 MR. MORGAN: Form. Did you say "extracts"?

16:24:07 21 MS. KANTER COHEN: Extracts.

16:24:08 22 MR. MORGAN: Yeah, form.

16:24:09 23 THE WITNESS: I'm not familiar with what an
16:24:11 24 extract is.

16:24:11 25 BY MS. KANTER COHEN:

16:24:12 1 Q. Okay. Do you recall any conversations about
16:24:21 2 planning to use ADOT data or customer database information
16:24:27 3 to implement the challenged laws?

16:24:29 4 MR. MORGAN: Form. Hearsay.

16:24:32 5 THE WITNESS: I'm sorry. To implement what
16:24:34 6 clause?

16:24:34 7 MR. MORGAN: The challenged laws.

16:24:35 8 THE WITNESS: Oh.

16:24:35 9 BY MS. KANTER COHEN:

16:24:42 10 Q. And these --

16:24:42 11 A. Yeah, I've only been a part of one conversation
16:24:46 12 with ADOT, but there might have been conversations with
16:24:52 13 other members of my -- the current administration's office.
16:24:57 14 And if that occurred, perhaps Ms. Morales would know.

16:25:01 15 Q. So the conversation that you were a part of, what
16:25:03 16 was the nature of that?

16:25:06 17 A. It was more or less a meet and greet,
16:25:10 18 introductions, just a general discussion. I don't recall
16:25:15 19 any specific issue.

16:25:17 20 Q. If a registered voter is removed from the rolls
16:25:26 21 under HB 2243 based on erroneous determination that
16:25:31 22 they're -- that they're not a citizen, has your office
16:25:34 23 provided any interpretation as to whether that person has
16:25:38 24 to be added back to the rolls if the deadline to register
16:25:43 25 has already passed?

16:25:49 1 MR. WHITAKER: Form.

16:25:54 2 THE WITNESS: Well, the county recorders are
16:25:56 3 the only officials that can remove someone. So it wouldn't
16:26:01 4 be the secretary of state that removes anyone from the
16:26:04 5 voter registration database.

16:26:06 6 But with that said, every precaution would be
16:26:09 7 taken before someone's registration is canceled. So I'm
16:26:16 8 not aware of any discussions that go beyond that as far as
16:26:19 9 if this was an error and whether someone would be eligible
16:26:21 10 to vote in an election. Or added back in to that extent.

16:26:42 11 MR. MORGAN: Is ADOT a party to this case?

16:26:46 12 MS. KANTER COHEN: Yes.

16:26:47 13 MR. MORGAN: Okay. Thought so. That's why I
16:26:50 14 didn't object to hearsay. Just making sure.

16:26:52 15 MR. WHITAKER: Nominal party.

16:26:56 16 MR. MORGAN: Nominal party. Okay. Thanks.

16:26:56 17 MS. KANTER COHEN:

16:27:07 18 Q. Double-checking. I think I'm probably done.

16:27:12 19 I'm sorry. I have probably two more
16:27:13 20 questions.

16:27:15 21 In your view, is there a difference between
16:27:17 22 a, quote, "reason to believe," which is the language in HB
16:27:21 23 2243, that a person is not a citizen and a reasonable
16:27:25 24 belief they are not a citizen?

16:27:27 25 MR. LANGHOFER: Legal conclusion.

16:27:36 1 THE WITNESS: I don't know. I would have to
16:27:37 2 seek legal advice on that.

16:27:39 3 MS. KANTER COHEN: All right. That's all I
16:27:44 4 have. Thank you very much.

16:27:46 5 THE WITNESS: Thank you.

16:28:02 6 (An off-the-record discussion ensued.)

16:28:02 7 MS. KANTER COHEN: I have one more thing. I
16:28:03 8 know this is going to get a vociferous objection, but we're
16:28:06 9 going to reserve the right on the record to hold the
16:28:09 10 deposition open pending the EPM, specifically given the
16:28:12 11 October 1st deadline.

16:28:14 12 MR. MORGAN: I don't understand, but you've
16:28:15 13 made your record. I disagree with keeping anything open at
16:28:19 14 all.

16:28:19 15 MS. KANTER COHEN: Okay. Yeah. We can talk
16:28:20 16 about it at some other time. I totally understand.

16:28:21 17 MR. MORGAN: So I've made my record. I
16:28:24 18 disagree.

16:28:26 19 THE WITNESS: Yeah, I'm ready to go.

16:28:31 20 MR. MORGAN: Where are we on the record right
16:28:32 21 now timewise?

16:28:34 22 THE VIDEOGRAPHER: 6 hours and 11 minutes.

16:28:34 23 MR. MORGAN: All right.

16:28:38 24 MS. KANTER COHEN: Can we just put on the
16:28:39 25 record the same stipulation for plaintiffs that an

16:28:40 1 objection from --

16:28:42 2 MR. MORGAN: Yes.

16:28:42 3 Are we still on the record?

16:28:44 4 MS. STUART: Just so we know, Josh, do you
16:28:49 5 plan on asking any questions?

16:28:51 6 MR. WHITAKER: I do. But I assume Kory will
16:28:57 7 too. And I'm happy to let him do that first. He's in the
16:29:00 8 room.

16:29:01 9 MR. MORGAN: Yeah, Kory -- that's fine.

16:29:02 10 And I don't know if you heard, Josh, but I'll
16:29:06 11 just remind you and remind Kory. You know, we're at
16:29:07 12 6 hours, 11 minutes on the record. Colleen's day and this
16:29:13 13 deposition ends at the earlier of seven hours, or 6:00 p.m.
16:29:17 14 So luckily, we won't get to the 6:00 p.m. part, I think.
16:29:20 15 So I'm just letting everyone know that.

16:29:39 16 (An off-the-record discussion ensued.)

16:29:39 17

16:29:39 18 EXAMINATION

16:29:54 19 BY MR. LANGHOFER:

16:30:03 20 Q. All right. Ms. Connor, thanks so much for your
16:30:09 21 professionalism and putting up with all these questions and
16:30:12 22 giving us your time. Not just in this, the professional --
16:30:15 23 I mean just generally. Thanks for that.

16:30:17 24 All right. I've got some questions for you.

16:30:19 25 Some of this is in the -- most of it's in the nature of

16:30:23 1 clarification.

16:30:24 2 You've testified a little bit about how some
16:30:27 3 of the EPM comments were that -- comments on the draft EPM
16:30:31 4 were that the secretary of state is not authorized to
16:30:35 5 regulate voter registration. And are you -- do you recall
16:30:43 6 Section 452, the statute that authorizes publication of the
16:30:46 7 EPM?

16:30:47 8 A. I do.

16:30:47 9 Q. And do you recall that it authorizes the EPM to
16:30:53 10 provide uniform procedures for early voting and voting?

16:30:58 11 A. Yes.

16:30:58 12 Q. Do you know of any language in that statute that
16:31:03 13 authorized EPM to regulate voter registration?

16:31:08 14 MS. LANG: Objection. Calls for a legal
16:31:09 15 conclusion.

16:31:09 16 MS. BRAILEY: Kory, I'm sorry. Can you speak
16:31:09 17 up?

16:31:15 18 MR. LANGHOFER: Yeah, I'll do my best.

16:31:15 19 THE WITNESS: Well, there's authorization
16:31:19 20 to -- or a directive to provide rules on UOCAVA,
16:31:25 21 U-O-C-A-V-A. Also, voter registration is the foundation of
16:31:32 22 an election. So therefore, voter registration implicitly
16:31:41 23 should be included in the EPM.

16:31:44 24 BY MR. LANGHOFER:

16:31:44 25 Q. Okay. So I want to make sure I've got this.

16:31:46 1 So the -- I think the theory, if I'm
16:31:48 2 understanding correctly, is that by authorizing regulation
16:31:51 3 of voting, it implicitly authorizes things that are
16:31:54 4 upstream of that. Is that the argument?

16:31:56 5 MS. LANG: Objection. Calls for a legal
16:31:58 6 conclusion.

16:31:58 7 THE WITNESS: I don't know -- I don't know if
16:31:59 8 I would say "upstream." I think to have an election, you
16:32:05 9 need a system of establishing who is qualified to vote in
16:32:09 10 that election. And certainly, the EPM authorizes rules on
16:32:14 11 early voting and voting, as you said. And therefore, it
16:32:18 12 would be necessary to understand who was eligible to vote
16:32:23 13 via a voter registration chapter.

16:32:25 14 BY MR. LANGHOFER:

16:32:25 15 Q. Got it.

16:32:27 16 You talked a little bit on direct about the
16:32:31 17 prohibitions on outside funding -- or on funding outside
16:32:35 18 counsel for your office.

16:32:37 19 A. Yes.

16:32:37 20 Q. While those restrictions were in place, where was
16:32:40 21 your office getting funding for outside counsel?

16:32:43 22 MR. MORGAN: Scope.

16:32:47 23 MS. BRAILEY: Objection; form.

16:32:48 24 THE WITNESS: The Attorney General's Office
16:32:50 25 appointed outside counsel. And my understanding is that

16:32:54 1 the Attorney General's Office has a fund, essentially, to
16:32:56 2 pay for outside counsel in those situations.

16:33:01 3 BY MR. LANGHOFER:

16:33:02 4 Q. I see. Okay.

16:33:03 5 You were asked on direct whether the
16:33:07 6 birthplace information on the voter registration form would
16:33:09 7 add any value to the job that the counties are doing in the
16:33:15 8 voter registration. I'm paraphrasing somewhat. And I
16:33:17 9 think that your answer was, not as far as you could tell.

16:33:21 10 Do you still have the EPM in front of you,
16:33:26 11 either the 2019 or the draft version?

16:33:28 12 A. I could pull it up.

16:33:29 13 Q. Yeah, let's do that. I guess I'm indifferent as
16:33:34 14 to which one you pull up because the portions I --

16:33:37 15 MR. MORGAN: Take this.

16:33:38 16 Do you mind if she uses the 2019 EPM
16:33:40 17 annotated?

16:33:42 18 MR. LANGHOFER: Actually, I'm not sure that
16:33:44 19 would work because I think the pagination gets messed up.

16:33:46 20 MR. MORGAN: Fair enough.

16:33:50 21 BY MR. LANGHOFER:

16:33:50 22 Q. Why don't we go with -- well, whichever one is
16:33:53 23 easier for you to pull up we'll work with.

16:33:55 24 A. All right. I'll pull up the 2023 --

16:34:03 25 Q. Draft?

16:34:03 1 A. -- draft, yeah.

16:34:04 2 Q. Great. Let's start on page 5 of that. And -- all

16:34:27 3 right. So I think that's PDF page 14 but marked page 5.

16:34:30 4 A. Okay.

16:34:31 5 Q. And for the -- actually, I'm sorry. It starts on

16:34:42 6 marked page 4 and goes onto page 5.

16:34:45 7 A. Okay.

16:34:46 8 Q. At the top of page 5, you see those five bullet

16:34:55 9 points?

16:34:55 10 A. I do, yes.

16:34:56 11 Q. Okay. The middle one says, "Place of birth." Why

16:34:59 12 don't you take a moment, read this section, and familiarize

16:35:02 13 yourself with that.

16:35:07 14 A. Yes, I see it.

16:35:17 15 Q. Okay. Would you agree this is one way that the

16:35:19 16 county recorders could use birthplace information?

16:35:23 17 MS. LANG: Objection; form.

16:35:24 18 THE WITNESS: Yes. Yes.

16:35:26 19 BY MR. LANGHOFER:

16:35:26 20 Q. Let's look in the next section, the "U.S.

16:35:28 21 Passport" section. And the middle paragraph there also

16:35:32 22 says, "place of birth." Why don't you take a moment and

16:35:37 23 read that paragraph.

16:35:37 24 A. What page is that?

16:35:38 25 Q. Same page actually, page -- marked page 5.

16:35:41 1 A. Okay. Yes, I see it.

16:35:53 2 Q. Would you agree this is another way that the

16:35:56 3 county could use birthplace information?

16:35:59 4 MS. LANG: Objection; form.

16:36:00 5 THE WITNESS: Yes.

16:36:01 6 BY MR. LANGHOFER:

16:36:01 7 Q. All right. Let's look at marked page 35. I'll

16:36:04 8 just note that the -- in the current version of the EPM,

16:36:11 9 this is marked page 34, but there's no need for us to

16:36:15 10 overcomplicate this by looking at two exhibits.

16:36:17 11 A. Okay.

16:36:18 12 Q. I think it's PDF page 44.

16:36:28 13 A. Okay. I'm there.

16:36:29 14 Q. All right. So the middle section, letter C,

16:36:32 15 "Other Sources of Information on Deceased Registrants."

16:36:35 16 The fourth line down, it says, "place of birth." That's

16:36:39 17 what I'm getting at ultimately. But take a moment and just

16:36:40 18 read the whole section before I ask you about it, please.

16:36:49 19 A. Okay.

16:36:59 20 Q. Would you agree this is another way that the

16:37:01 21 county recorders could use birthplace information?

16:37:05 22 MS. LANG: Objection; form.

16:37:05 23 THE WITNESS: Yes.

16:37:06 24 BY MR. LANGHOFER:

16:37:07 25 Q. Okay. Let's look next at marked page 48. I think

16:37:11 1 it's PDF page 57, if my math doesn't fail me.

16:37:18 2 A. Okay. PDF page 57 or page 57?

16:37:33 3 Q. PDF page 57. It's -- the page number is 48.

16:37:36 4 A. Okay. Yeah, I'm there.

16:37:37 5 Q. Okay. So part 6(3)(e) also mentions "state or

16:37:46 6 county of birth," but take a moment and familiarize

16:37:49 7 yourself with that language, please.

16:37:58 8 A. Yes, I see it.

16:37:59 9 Q. So same question. Is this another way in which

16:38:01 10 the county recorders could use birthplace information?

16:38:04 11 A. Yes.

16:38:05 12 Q. Okay. Finally, let's look at page -- marked

16:38:09 13 page 206, but it should be PDF page 215. Let me know when

16:38:30 14 you're there.

16:38:37 15 A. Okay.

16:38:38 16 Q. All right. So right before -- near the end of the

16:38:41 17 page, right before -- the paragraph before Subsection (e),

16:38:45 18 in the third line, it says "state or country of birth," but

16:38:48 19 take a moment to read the paragraph or the whole section,

16:38:51 20 whatever you think you need to read.

16:38:57 21 A. Okay. Yes.

16:38:59 22 Q. Would you agree this is another way that the

16:39:01 23 county recorders could use birthplace?

16:39:03 24 A. Yes.

16:39:04 25 Q. Okay. What about when -- let's say during the

16:39:17 1 cure period for early ballot signature matching, if your --
16:39:27 2 if the county recorder concludes that the signature in the
16:39:31 3 voter record and the signature on the early ballot envelope
16:39:35 4 don't apparently match and they try to contact the voter to
16:39:41 5 say, "Did you really sign this?" could the county
16:39:47 6 recorder's office use the voter's birthplace in order to
16:39:51 7 confirm that they're talking to the correct person over the
16:39:54 8 phone?

16:39:55 9 MS. LANG: Objection. Speculation. Form.
16:40:00 10 Foundation.

16:40:00 11 THE WITNESS: The county recorders during the
16:40:03 12 cure period do question the voter about certain personal
16:40:09 13 information to verify the voter did, in fact, sign an early
16:40:16 14 ballot. And yes, that would include birthplace.

16:40:19 15 BY MR. LANGHOFER:

16:40:19 16 Q. Okay. I want to talk about the checkbox for a
16:40:23 17 minute and perhaps in less length than we've talked
16:40:26 18 birthplace.

16:40:27 19 And I want to start by thinking about what
16:40:33 20 problems there might be if the county recorders relied
16:40:38 21 exclusively on the current version of the state form that
16:40:41 22 has, you know, the signature at the bottom saying "I meet
16:40:44 23 all the requirements and" -- but there's no checkbox, of
16:40:47 24 course. And then you do the MVD checks to look for prior
16:40:51 25 evidence of DPOC. So what -- I'm just -- kind of want to

16:40:54 1 think through together the flaws in that system.

16:40:57 2 MS. LANG: Objection. Kory, can you clarify,
16:40:59 3 are you saying that the state form doesn't currently have a
16:41:01 4 checkbox?

16:41:02 5 MR. LANGHOFER: It's not mandatory, I should
16:41:03 6 say.

16:41:04 7 MS. LANG: Okay. Yeah.

16:41:06 8 MR. LANGHOFER: Yeah.

16:41:06 9 BY MR. LANGHOFER:

16:41:08 10 Q. So -- but the -- I haven't asked the question yet.

16:41:15 11 MS. LANG: I understand. I just --

16:41:16 12 BY MR. LANGHOFER:

16:41:18 13 Q. So the MVD database is imperfect because all the
16:41:24 14 databases are imperfect; is that fair?

16:41:26 15 A. That's fair.

16:41:28 16 Q. And do you have any reason to believe that the
16:41:32 17 errors in the MVD database would all be what I would call
16:41:39 18 false negative, where it incorrectly says that someone is
16:41:41 19 not a citizen or indicates no one's yet proven their DPOC,
16:41:49 20 as opposed to an error that would give a false positive
16:41:52 21 incorrectly indicates that someone has already established
16:41:57 22 their citizenship by providing DPOC?

16:41:59 23 MS. LANG: Objection; form. Speculation.

16:42:00 24 MR. MORGAN: Form.

16:42:02 25 MS. LANG: Foundation.

16:42:05 1 MR. MORGAN: Form.

16:42:05 2 BY MR. LANGHOFER:

16:42:05 3 Q. I can ask it in a different way, because I do

16:42:05 4 think that was a long and complicated question.

16:42:07 5 A. Yeah, I just don't know --

16:42:08 6 MR. MORGAN: We'll stipulate to that.

16:42:10 7 THE WITNESS: I'm not familiar enough with

16:42:12 8 databases to be able to address that.

16:42:14 9 BY MR. LANGHOFER:

16:42:15 10 Q. Do -- I want to make sure the question is clear.

16:42:19 11 And if that ends up being your answer, then so it is. But

16:42:22 12 let's make sure my question is clear.

16:42:23 13 You understand the -- the database could

16:42:28 14 incorrectly indicate DPOC has been provided or incorrectly

16:42:32 15 indicate that DPOC has not been provided. Those are both

16:42:36 16 possibilities, just theoretically?

16:42:37 17 A. That's possible, correct.

16:42:38 18 Q. The question is: Do you know whether errors in

16:42:41 19 the MVD database would always about go one way or the

16:42:44 20 other?

16:42:44 21 A. I don't --

16:42:46 22 MS. LANG: Objection; foundation.

16:42:46 23 Speculation.

16:42:48 24 MS. BRAILEY: Form.

16:42:48 25 MR. MORGAN: Calls for a legal conclusion.

16:42:52 1 I withdraw the objection.

16:42:55 2 BY MR. LANGHOFER:

16:42:56 3 Q. Do you know whether the MVD database was built
16:42:58 4 with voter registration in mind?

16:43:02 5 MS. LANG: Objection; foundation.

16:43:05 6 THE WITNESS: I really don't know.

16:43:06 7 BY MR. LANGHOFER:

16:43:07 8 Q. Okay. Same type of question for the SAVE
16:43:10 9 database. Do you know whether the errors in that database
16:43:12 10 would all go one way and not the other?

16:43:15 11 MS. LANG: Objection; foundation.

16:43:16 12 Speculation.

16:43:17 13 THE WITNESS: I don't know.

16:43:19 14 BY MR. LANGHOFER:

16:43:27 15 Q. If someone had provided DPOC when getting their
16:43:31 16 driver's license, and so the MVD database correctly
16:43:36 17 indicates that they have shown DPOC, but after that point
16:43:41 18 in time, their citizenship is either renounced or revoked
16:43:46 19 through denaturalization proceedings, wouldn't the county
16:43:54 20 recorders have the possibility of getting a false
16:43:58 21 indication that this person is a citizen?

16:44:00 22 MR. MORGAN: Form.

16:44:01 23 MS. LANG: Objection. Speculation.

16:44:03 24 MS. BRAILEY: Foundation.

16:44:04 25 MR. MORGAN: Form.

16:44:06 1 THE WITNESS: Yeah, I -- I think to your
16:44:09 2 question, yes, the running of the HAVA checks and checking
16:44:15 3 for DPOC is made at one point in time. Any changes
16:44:20 4 thereafter would not necessarily reflect reality.

16:44:27 5 BY MR. LANGHOFER:

16:44:32 6 Q. Without speaking of any particular cases, you're
16:44:34 7 aware of some prosecutions in Arizona for people who file
16:44:40 8 false voter registration forms?

16:44:43 9 MS. LANG: Objection; foundation.

16:44:46 10 THE WITNESS: Yes.

16:44:47 11 BY MR. LANGHOFER:

16:44:48 12 Q. Okay. And the -- would you agree that one of the
16:44:58 13 defenses in such a case could be, "I didn't read the
16:45:01 14 language closely, it was -- the writing was small and it
16:45:05 15 seemed pretty standard to me"?

16:45:07 16 MS. LANG: Objection. Speculation.

16:45:08 17 THE WITNESS: Yeah, I don't have enough
16:45:11 18 knowledge about those cases.

16:45:12 19 BY MR. LANGHOFER:

16:45:12 20 Q. Okay. You had expressed some concerns about the
16:45:21 21 documentary proof of citizenship requirement.

16:45:22 22 A. Yes.

16:45:23 23 Q. And I think, if I understand correctly, your
16:45:26 24 concern was just generally that it could be difficult for
16:45:28 25 some people to provide that documentation?

16:45:30 1 A. That's correct.

16:45:31 2 Q. If one of the ways of satisfying that requirement

16:45:38 3 were not to provide government issued ID, for example,

16:45:43 4 which could be hard for some people to get, or utility bill

16:45:47 5 which could be difficult if you live with your parents, for

16:45:50 6 example, you could just provide an affidavit that says, "I

16:45:53 7 live in the district at this address."

16:45:57 8 Would that address your concerns about the

16:46:00 9 difficulty of meeting that requirement?

16:46:04 10 A. It could. It -- ideally the legislature would

16:46:10 11 provide for that. But yeah, a declaration from the voter

16:46:14 12 would -- could satisfy the DPOR.

16:46:18 13 Q. Okay. And do you know of anyone who would be

16:46:25 14 unable to provide such a declaration?

16:46:31 15 MR. MORGAN: Foundation.

16:46:32 16 Well, I withdraw that.

16:46:34 17 THE WITNESS: No. Not that I'm aware of

16:46:36 18 specifically.

16:46:37 19 BY MR. LANGHOFER:

16:46:38 20 Q. You had expressed concerns about bad faith actors

16:46:41 21 filing election complaints.

16:46:43 22 A. Yes.

16:46:43 23 Q. I think we all agree that happens.

16:46:47 24 Could we also agree, though, that people file

16:46:49 25 bad faith complaints outside the election context, in

16:46:53 1 criminal law, bad police reports, for example?

16:46:57 2 MS. BRAILEY: Objection.

16:46:58 3 MS. LANG: Objection; foundation.

16:47:00 4 THE WITNESS: Yes.

16:47:07 5 MR. MORGAN: Scope.

16:47:12 6 MR. LANGHOFER: Calls for legal conclusion.

16:47:14 7 BY MR. LANGHOFER:

16:47:16 8 Q. Let's see --

16:47:20 9 MR. MORGAN: Do you want to add anything
16:47:21 10 there, Josh?

16:47:24 11 MR. WHITAKER: No, I can hear Kory now.

16:47:28 12 BY MR. LANGHOFER:

16:47:28 13 Q. The --

16:47:29 14 MR. MORGAN: It's the echo off all the people
16:47:32 15 grouped around him

16:47:33 16 BY MR. LANGHOFER:

16:47:33 17 Q. The HAVA and the SAVE systems that are available
16:47:36 18 to the county recorders, do you know of any more up-to-date
16:47:42 19 systems that are available to the county recorders but not
16:47:45 20 used by them to check citizenship status?

16:47:50 21 MS. BRAILEY: Foundation.

16:47:51 22 THE WITNESS: I'm not aware of any, no.

16:47:52 23 BY MR. LANGHOFER:

16:47:54 24 Q. Are you aware of any more accurate databases that
16:47:56 25 are available to them to check citizenship status?

16:48:02 1 A. I'm not aware of any.

16:48:03 2 Q. We've discussed in a different context the -- a
16:48:14 3 couple of scenarios in which the county recorders receive
16:48:18 4 voter registration forms with false information -- or maybe
16:48:22 5 we discussed it in the context of early ballot envelopes.
16:48:25 6 So let's just sort of go through what those -- we'll start
16:48:29 7 with early ballot envelopes.

16:48:34 8 In your time working in elections
16:48:36 9 administration in Arizona, are you familiar with situations
16:48:41 10 in which early ballots are received ostensibly from voters
16:48:48 11 and with investigation, it turns out that someone other
16:48:50 12 than the voter signed those early ballot envelopes?

16:48:54 13 MS. LANG: Objection; form.

16:48:55 14 THE WITNESS: Yes.

16:48:56 15 BY MR. LANGHOFER:

16:48:56 16 Q. Can you tell us about where you learned about
16:48:59 17 these situations?

16:49:00 18 A. Well, this is, of course, anecdotal but situations
16:49:08 19 while I was a deputy county attorney. So I didn't work in
16:49:11 20 the Criminal Division, and it was just through not
16:49:18 21 attorney-client privileged communications. But just that
16:49:21 22 it periodically happened where a parent will receive a
16:49:25 23 child's ballot and feel confident that the parent knows how
16:49:30 24 the child would vote and has signed an early ballot.

16:49:35 25 Q. And what happens with those in those situations?

16:49:42 1 Let me be more specific. What does the
16:49:44 2 county recorder do in those situations?

16:49:48 3 A. So in 2020, when one -- one of those cases came
16:49:53 4 up, it was a young lady who called because there was a --
16:49:56 5 such a frenzy for people to make sure your ballot counted
16:50:00 6 to post-election call or submit information via the
16:50:04 7 website.

16:50:04 8 And this young lady called the election
16:50:08 9 department and said, "It says I voted, but I didn't," or
16:50:11 10 something like that. And the county recorder inquired and
16:50:18 11 was able to find the copy of the ballot signature, provided
16:50:24 12 it to the voter, and the voter subsequently said, "Oh,
16:50:27 13 never mind" kind of thing. So it's -- it was one of those
16:50:31 14 kind of situations.

16:50:32 15 So that's just anecdotal. I don't know if
16:50:35 16 there was any criminal referral.

16:50:36 17 Q. Do you have a sense of how often this happens in
16:50:41 18 Maricopa County?

16:50:42 19 MS. LANG: Objection; foundation.

16:50:45 20 THE WITNESS: So while I was at Maricopa
16:50:49 21 County, I think maybe three or four times that came up.

16:50:54 22 BY MR. LANGHOFER:

16:50:54 23 Q. In how many years?

16:50:55 24 A. That was 14 years.

16:50:57 25 Q. Okay. And do you have a sense of how often this

16:51:01 1 happens outside of Maricopa County?

16:51:03 2 A. No.

16:51:04 3 Q. Okay. We've heard some testimony from some of the

16:51:08 4 county recorders that occasionally, they'll have voter

16:51:12 5 registration drives where an outside group will bring in a

16:51:15 6 bunch of voter registration forms and, on inspection, it

16:51:19 7 seems that some of those forms are not honest or authentic.

16:51:24 8 A. Yes.

16:51:24 9 Q. Are you familiar with this situation?

16:51:27 10 MS. LANG: Objection; form.

16:51:28 11 THE WITNESS: I'm familiar with the fact that

16:51:34 12 voter registration forms are sometimes submitted,

16:51:38 13 especially when there's an incentive -- monetary incentive

16:51:41 14 for people to gather voter registration forms. And also,

16:51:45 15 if it's tied to an initiative petition gathering, that it

16:51:51 16 periodically comes up when false voter registration forms

16:51:56 17 are submitted.

16:51:56 18 BY MR. LANGHOFER:

16:51:57 19 Q. What do you mean by "false"?

16:52:00 20 A. That whoever is circulating or gathering the voter

16:52:05 21 registration forms will complete one in an effort to get

16:52:09 22 the monetary reward.

16:52:11 23 Q. Okay. So complete it and -- when there's not a

16:52:15 24 real registrant? Is that what you mean?

16:52:17 25 A. That's correct, yes.

16:52:19 1 Q. Complete it in someone else's name?

16:52:20 2 A. Yes.

16:52:20 3 Q. Okay. Do you know about how many of these forms

16:52:24 4 may be received by -- let's start with Maricopa County.

16:52:28 5 MS. LANG: Objection; foundation.

16:52:30 6 Speculation.

16:52:30 7 THE WITNESS: I don't. And also just -- I

16:52:33 8 have never been a part of the Criminal Division in any

16:52:37 9 county attorney's office. So again, this is all just

16:52:40 10 anecdotal information that I heard.

16:52:40 11 BY MR. LANGHOFER:

16:52:42 12 Q. Do you know how many of those may be received

16:52:44 13 outside of Maricopa County every year?

16:52:46 14 MS. LANG: Objection; foundation.

16:52:47 15 Speculation.

16:52:47 16 THE WITNESS: I do not.

16:52:50 17 MR. LANGHOFER: I think that's all the

16:52:50 18 questions I have. Thank you.

16:52:53 19 MR. MORGAN: Thanks.

16:52:53 20 Mr. Whitaker, do you have any questions?

16:52:57 21 MR. WHITAKER: I do. And, Colleen, I first

16:53:00 22 want to say you have a hard job both generally and -- today

16:53:04 23 and very appreciated. Your time is always appreciated.

16:53:07 24 MR. MORGAN: Before we go, it's -- just so

16:53:12 25 you know, we're -- we've got about 25 minutes --

16:53:16 1 25 minutes.

16:53:25 2 MR. WHITAKER: Okay. Thanks for letting me
16:53:26 3 know.

16:53:26 4

16:53:26 5 EXAMINATION

16:53:27 6 BY MR. WHITAKER:

16:53:30 7 Q. You testified earlier when talking about how a
16:53:34 8 recorder might confirm someone isn't a citizen is that they
16:53:39 9 would ask the person. Do you remember that?

16:53:42 10 A. I do, yes.

16:53:43 11 Q. And why -- why would that be a good way to figure
16:53:47 12 out whether someone's a citizen?

16:53:51 13 A. Because I don't see any reason why someone would
16:53:58 14 not give accurate information, especially to corroborate
16:54:07 15 some other information that the person inquiring might
16:54:08 16 have.

16:54:10 17 Q. Is it fair to say that people generally know
16:54:13 18 whether they are citizens?

16:54:14 19 A. Yes.

16:54:15 20 Q. The citizenship checkbox on the registration form,
16:54:25 21 that's a way of asking someone whether they are a citizen;
16:54:28 22 right?

16:54:28 23 A. That's true, yes.

16:54:29 24 Q. And, in fact, it's under penalty of perjury
16:54:34 25 because it's on the registration form; is that right?

16:54:36 1 A. That's correct.

16:54:38 2 Q. If someone were to check "no" on the citizenship

16:54:44 3 checkbox, would that give information about whether that

16:54:47 4 person is a citizen?

16:54:49 5 MS. LANG: Objection. Calls for a legal

16:54:53 6 conclusion.

16:54:53 7 MR. WHITAKER: What's the legal conclusion

16:54:54 8 about whether it gives information?

16:54:59 9 THE WITNESS: Umm --

16:54:59 10 MR. MORGAN: You don't answer.

16:55:00 11 MS. LANG: That's a question to me.

16:55:03 12 MR. MORGAN: That's -- you -- you don't have

16:55:06 13 to give legal conclusions.

16:55:06 14 MS. LANG: There were objections --

16:55:09 15 MR. WHITAKER: I'll repeat the question. You

16:55:10 16 can have the objection.

16:55:12 17 MS. LANG: Okay.

16:55:12 18 BY MR. WHITAKER:

16:55:14 19 Q. If someone marks "no" on the citizenship checkbox,

16:55:17 20 what information does that give about their citizenship?

16:55:23 21 MS. LANG: Objection; form.

16:55:27 22 THE WITNESS: It would indicate that the

16:55:29 23 person self-declared himself or herself not to be a

16:55:36 24 citizen.

16:55:37 25 BY MR. WHITAKER:

16:55:40 1 Q. Do you generally trust what people say on the
16:55:43 2 registration form under penalty of perjury?

16:55:45 3 A. Yes.

16:55:47 4 Q. Suppose, then, you have a registration form where
16:55:56 5 someone says "no" on the citizenship checkbox but also
16:56:04 6 submits DPOC that appears to be valid. Would you say,
16:56:09 7 then, that you have conflicting information about whether
16:56:12 8 that person is a citizen?

16:56:13 9 A. Yes.

16:56:16 10 Q. Okay. Would you say that in that situation --
16:56:22 11 well, strike that.

16:56:23 12 Are there situations where someone can be a
16:56:33 13 citizen, say, from birth but then change or renounce their
16:56:39 14 citizenship later in life?

16:56:41 15 MR. MORGAN: Form.

16:56:43 16 THE WITNESS: Yes.

16:56:45 17 BY MR. WHITAKER:

16:56:51 18 Q. Let's imagine, for example, someone submits a copy
16:56:55 19 of a birth certificate with their registration form but
16:57:01 20 also marks "no" on the citizenship checkbox. Would you
16:57:08 21 agree that in that situation, there's conflicting
16:57:10 22 information about whether that person is a citizen?

16:57:14 23 MS. BRAILEY: Speculation.

16:57:15 24 THE WITNESS: Yes.

16:57:15 25 BY MR. WHITAKER:

16:57:18 1 Q. Would you contact that -- do you think one way to
16:57:22 2 try to resolve that conflict would be to reach out to the
16:57:26 3 applicant to ask them whether they intended to check "no"
16:57:29 4 on the checkbox?

16:57:31 5 MS. LANG: Objection; foundation. Form.

16:57:35 6 THE WITNESS: Well, it would be the county
16:57:39 7 recorder that could follow up with the registrant to see if
16:57:44 8 it was an inadvertent check of the noncitizenship status
16:57:51 9 and try to resolve the conflict.

16:57:53 10 BY MR. WHITAKER:

16:57:58 11 Q. I think you mentioned in response to
16:58:00 12 Mr. Langhofer's questions that the MVD data check isn't
16:58:05 13 perfect. Do you recall that?

16:58:08 14 A. I -- yes. To the extent that data in -- you know,
16:58:14 15 it only reflects the accuracy of the data being put in. So
16:58:20 16 yes, there's -- there's potential for erroneous
16:58:23 17 information.

16:58:24 18 Q. And the data being put in is data by humans?

16:58:28 19 A. Yes.

16:58:29 20 Q. Is that right?

16:58:30 21 A. Yes.

16:58:31 22 Q. So is it possible to have a situation where
16:58:39 23 someone has what appears to be DPOC and passes the MVD
16:58:44 24 check, but the voter checked "no" on the citizen checkbox
16:58:48 25 and actually isn't currently a citizen?

16:58:52 1 MS. LANG: Objection. Speculation.

16:58:54 2 THE WITNESS: Yes.

16:58:55 3 BY MR. WHITAKER:

16:59:12 4 Q. Mr. Langhofer asked you a series of questions

16:59:15 5 about birthplace, and he walked you through some parts of

16:59:20 6 the EPM about birthplace. Do you remember that?

16:59:22 7 A. I do, yes.

16:59:23 8 Q. Based on those questions, would you agree that

16:59:29 9 there are at least some situations where birthplace is

16:59:33 10 useful for county recorders in the registration context?

16:59:38 11 A. It's useful, yes, to corroborate information.

16:59:44 12 Correct.

16:59:46 13 Q. I'd like to turn your attention to some

17:00:01 14 interrogatory responses. I'll try to share my screen here,

17:00:05 15 but I think they've been marked as Exhibit 262.

17:00:08 16 A. Yes, I have that exhibit in front of me.

17:00:15 17 Q. Okay. Let's start with the response to

17:00:26 18 Interrogatory Number 9. Part of that response says, "The

17:00:38 19 checkbox has always been required under the Help America

17:00:42 20 Vote Act of 2002 ('HAVA')."

17:00:46 21 Could you explain what that -- what the

17:00:48 22 office meant by that?

17:00:56 23 MR. MORGAN: It's page 18.

17:00:58 24 THE WITNESS: Okay.

17:00:59 25 MR. MORGAN: Page 18, line 9 through 15.

17:01:02 1 He's specifically talking about lines 10 and 11.

17:01:06 2 THE WITNESS: It -- the checkbox has always
17:01:13 3 been a required field since HAVA. It's --

17:01:26 4 BY MR. WHITAKER:

17:01:26 5 Q. And by that, do you mean the federal government
17:01:27 6 has required it on the federal form?

17:01:32 7 A. You know, without checking state statute, I think
17:01:36 8 it's also required -- a required field -- excuse me -- it's
17:01:39 9 a field required to be on the form, but it's not a
17:01:43 10 requirement as far as the minimum standards for someone to
17:01:47 11 be a registered voter.

17:01:50 12 Q. Okay. So is that -- did you mean that the federal
17:01:56 13 government requires that the checkbox be checked or that
17:02:01 14 the federal government requires that the checkbox exists on
17:02:04 15 the form?

17:02:06 16 MS. LANG: Objection. Calls for a legal
17:02:07 17 conclusion.

17:02:09 18 THE WITNESS: The latter, that it be provided
17:02:14 19 on the form.

17:02:15 20 BY MR. WHITAKER:

17:02:18 21 Q. Okay. Do you have a view on whether the
17:02:22 22 federal -- whether HAVA also requires that it be checked,
17:02:25 23 or is that something you would need to research --

17:02:29 24 A. Yeah, I would have to --

17:02:30 25 Q. -- or get legal advice on?

17:02:33 1 MS. LANG: Objection. Calls for a legal
17:02:34 2 conclusion.

17:02:34 3 THE WITNESS: I would have to get legal
17:02:36 4 advice on that.

17:02:38 5 BY MR. WHITAKER:

17:02:45 6 Q. Okay. Let's go a little bit earlier in this same
17:02:49 7 document. Interrogatory Number 6. You were asked about
17:02:54 8 this a little bit ago, but I had some follow-ups.

17:02:58 9 A. Okay.

17:02:58 10 Q. So I'm on page 12. And for context, this is that
17:03:03 11 summary report about the juror questionnaire that we're
17:03:10 12 discussing here.

17:03:11 13 A. Okay.

17:03:12 14 Q. And the interrogatory says in part, starting on
17:03:17 15 line 15, "The Secretary provides that it receives a jury
17:03:21 16 summary report from each county which identifies jurors who
17:03:25 17 have self-identified as 'non-citizens.' Sometimes this
17:03:28 18 information is an accurate representation of their
17:03:31 19 citizenship status, while other times, this is a method
17:03:35 20 commonly suspected to be used by individuals who are in
17:03:39 21 fact citizens, but do not want to report for jury duty."

17:03:43 22 Did I get that -- did I read that right,
17:03:44 23 first of all?

17:03:45 24 A. Yes.

17:03:46 25 Q. Okay. What -- what did the office mean by saying,

17:03:56 1 "Sometimes this information is an accurate representation
17:03:59 2 of their citizenship status"?

17:04:06 3 A. Let me make sure I refresh my memory on the
17:04:16 4 question --

17:04:18 5 Q. Yeah.

17:04:18 6 A. -- and the interrogatory itself.

17:04:21 7 Q. Yeah.

17:04:25 8 A. Okay. So the question was about incidents of
17:04:34 9 voter fraud and if it occurred and whether -- but not
17:04:40 10 discovered.

17:04:40 11 Okay. So I think to your question, it's that
17:04:50 12 the summary report is only as good as the information
17:04:56 13 provided by the juror that may or may not be accurate or --
17:05:05 14 excuse me -- the summoned juror.

17:05:08 15 Q. And as we discussed earlier, a good source of
17:05:12 16 whether someone is a citizen is that person. Would you
17:05:17 17 agree?

17:05:17 18 A. I agree.

17:05:20 19 Q. So do you know how -- can you say something any
17:05:25 20 more specific about how often the jury summary reports
17:05:34 21 represent -- scratch that.

17:05:39 22 How often does the -- does your office
17:05:42 23 receive these summary reports?

17:05:44 24 A. The summary reports are sent to our office and the
17:05:52 25 county recorders, and it's supposed to be on a monthly

17:05:57 1 basis.

17:05:59 2 Q. And do you know whether those reports have been
17:06:02 3 produced?

17:06:05 4 A. Yes, I do know that they have been produced. My
17:06:11 5 understanding is that maybe not all jurisdictions have been
17:06:16 6 providing them, or if they're just -- I remember that
17:06:20 7 question coming up. Perhaps municipal courts weren't all
17:06:26 8 -- all providing them. But to -- to the -- to the best of
17:06:30 9 my knowledge, that's no longer an issue or has not been
17:06:34 10 raised at least.

17:06:36 11 MS. LANG: Josh, can we clarify --

17:06:39 12 MR. MORGAN: Yeah -- can I? Josh, on the
17:06:40 13 jury reports, there's no way she would know -- remember
17:06:42 14 that the way we produced documents in case was with an
17:06:46 15 agreement with the plaintiffs that, because of the onerous
17:06:51 16 amount -- just the vast amount of documents, we weren't
17:06:54 17 going to review them document by document.

17:06:56 18 I will tell you that if they were found in
17:07:01 19 the custodians identified by the plaintiffs and the search
17:07:04 20 terms used, they would have been produced. I don't think
17:07:08 21 anyone sitting here can say unequivocally whether they've
17:07:11 22 been produced.

17:07:12 23 If it's something that you think you want and
17:07:15 24 it hasn't been produced, we can definitely talk offline
17:07:18 25 about getting you what you need. I just want to make sure

17:07:21 1 the record is clear on that. Because Colleen has not
17:07:24 2 reviewed all of the documents that have been produced by
17:07:27 3 agreement.

17:07:28 4 MR. WHITAKER: Nor could -- nor could any
17:07:30 5 human.

17:07:32 6 MR. MORGAN: Right.

17:07:33 7 MR. WHITAKER: What were you going to say?

17:07:35 8 MR. MORGAN: That's where she was headed,
17:07:37 9 so . . .

17:07:37 10 MS. LANG: I wanted to clarify that I think
17:07:39 11 Colleen's answer was about whether or not the counties have
17:07:43 12 been producing the jury summary reports to the secretary
17:07:47 13 and the county recorders, whereas I understood your
17:07:49 14 question to be about whether or not those reports had been
17:07:52 15 produced in this case.

17:07:54 16 THE WITNESS: Oh, okay. I see what you're
17:07:56 17 saying.

17:07:56 18 MS. LANG: And so I wanted to make
17:07:57 19 clarification on the record that Colleen, I think your
17:08:00 20 answer was about whether or not those documents are being
17:08:03 21 produced to you, not whether or not they've been kind of
17:08:07 22 put forward in discovery.

17:08:08 23 THE WITNESS: Yes, that's accurate. I didn't
17:08:10 24 even think of the discovery part of it.

17:08:12 25 MR. MORGAN: Yeah, I figured.

17:08:13 1 And while we're at it, Josh. The official
17:08:16 2 record is we've got about ten minutes left for Colleen.

17:08:20 3 MR. WHITAKER: Thank you.

17:08:22 4 And thank you, Danielle, for clarifying.

17:08:24 5 BY MR. WHITAKER:

17:08:26 6 Q. Do you have a sense for how many individuals have
17:08:32 7 self-identified as noncitizens, say, in the past few months
17:08:38 8 based on those reports?

17:08:42 9 A. I do not.

17:08:47 10 Q. All right. Do you -- have you ever seen those
17:08:58 11 reports when they've come into your office?

17:09:01 12 A. No.

17:09:06 13 Q. All right. Who -- who would be the right person
17:09:09 14 in the office to ask about those reports?

17:09:11 15 A. Yolanda Morales.

17:09:15 16 MR. MORGAN: I'm going to object to scope.

17:09:17 17 BY MR. WHITAKER:

17:09:17 18 Q. Okay. All right. Oh, one question I had: You
17:09:32 19 mentioned that the secretary's office, to the best of your
17:09:37 20 memory, did provide the Attorney General's Office the list
17:09:43 21 that's required by one of the laws about, you know, the
17:09:47 22 people who are on the fed-only list -- people who have
17:09:53 23 provide -- registered but haven't provided proof of
17:09:56 24 citizenship. Do you remember that testimony?

17:09:59 25 A. I do. And that's -- to the best of my knowledge,

17:10:03 1 that was produced. I'll make a note of it and
17:10:06 2 double-check.

17:10:07 3 MR. MORGAN: I'm going to object to form in
17:10:09 4 so much as I'm not entirely sure, Josh, that she said it
17:10:13 5 that way. I feel that -- my recollection -- and this
17:10:15 6 record will say what it says -- is that she testified that
17:10:19 7 she -- her office had been complying with the legislative
17:10:24 8 report requirement and the statute. But I'm not trying to
17:10:28 9 split hairs. I'm just trying to make sure that we don't
17:10:30 10 back her into a corner that she didn't mean to be in.

17:10:32 11 MR. WHITAKER: Yeah. And I'm not trying --
17:10:34 12 this question is purely information seeking. Because --
17:10:40 13 well . . .

17:10:41 14 MR. MORGAN: Aren't they all?

17:10:43 15 MR. WHITAKER: I know.

17:10:44 16 BY MR. WHITAKER:

17:10:45 17 Q. Do you know to whom in the Attorney General's
17:10:50 18 Office that list of voters was given, if it was given?

17:10:53 19 MR. MORGAN: You don't -- don't speculate.

17:10:54 20 THE WITNESS: Yeah, I -- I don't know. It
17:10:56 21 was before I started. It would have been done before I
17:11:00 22 started. But -- and that's to the best of my recollection.
17:11:03 23 But I will, like I said, go back and double-check on that.

17:11:08 24 BY MR. WHITAKER:

17:11:09 25 Q. And that was going to be my follow-up question,

17:11:11 1 which is how -- how positive are you that that list
17:11:14 2 actually was sent?

17:11:17 3 And to be transparent, part of reason I'm
17:11:19 4 asking is I am unaware of that list having been sent. So
17:11:23 5 I'm trying to -- trying to figure that out.

17:11:26 6 A. Okay. Understood.

17:11:27 7 MR. MORGAN: Objection. Asked and answered.
17:11:29 8 To the best of her recollection is what she said.

17:11:35 9 MR. WHITAKER: All right I won't ask any
17:11:41 10 more questions. I think that's it.

17:11:42 11 MR. MORGAN: Deal.

17:11:43 12 MS. LANG: Let's go off the record.

17:11:45 13 MR. MORGAN: Well --

17:11:50 14 MR. WHITAKER: Thank you for your -- -

17:11:50 15 THE WITNESS: Thank you.

17:11:50 16 MR. MORGAN: You can go ahead.

17:11:52 17 THE VIDEOGRAPHER: We are off the record.

17:11:52 18 The time on the video monitor is 5:11 p.m. This ends
17:11:56 19 Media 3.

17:11:58 20 (A recess ensued.)

17:18:07 21 THE VIDEOGRAPHER: We are on the record. The
17:18:16 22 time on the video monitor is 5:18 p.m. This begins
17:18:20 23 Media 4.

17:18:20 24

17:18:21 25 FURTHER EXAMINATION.

17:18:21 1 BY MS. BRAILEY:

17:18:22 2 Q. In your role as a state election director, is
17:18:25 3 birthplace in any way necessary to establishing a
17:18:28 4 registrant's age?

17:18:33 5 Sorry. We're not going to -- I'll look at
17:18:35 6 that in a minute. I'm just going to ask you a few
17:18:37 7 questions and then we'll go -- I'm going to go to that.

17:18:39 8 A. That's okay.

17:18:40 9 So a place of birth to establish someone's
17:18:42 10 age?

17:18:44 11 Q. Let me -- okay.

17:18:45 12 As your role as the state election director,
17:18:46 13 is birthplace in any way necessary to establishing a
17:18:50 14 registrant's age?

17:18:52 15 A. So in my role as state elections director, we do
17:18:58 16 not process voter registration forms. The secretary of
17:19:03 17 state oversees the statewide voter registration database.
17:19:07 18 But if there is any connection between place of birth and
17:19:13 19 someone's age, I'm not familiar with it, but perhaps a
17:19:18 20 county recorder would be.

17:19:19 21 Q. Okay. In -- in your experience working in
17:19:22 22 elections in the counties that you've worked in and at the
17:19:26 23 state level, based on your knowledge and expertise, is
17:19:31 24 birthplace in any way necessary to establishing a
17:19:33 25 registrant's citizenship?

17:19:38 1 MR. WHITAKER: Form.

17:19:42 2 MR. LANGHOFER: Legal conclusion.

17:19:45 3 THE WITNESS: Well, I -- I guess -- well, I
17:19:51 4 guess it -- I'm thinking of the U.S. territories, but I
17:19:55 5 don't know.

17:19:55 6 BY MS. BRAILEY:

17:19:56 7 Q. Why would the U.S. territories?

17:19:57 8 A. Well, if someone is considered -- but I just don't
17:20:01 9 know as far as documentary proof of citizenship. That was
17:20:04 10 just the first thing that came to my mind.

17:20:06 11 Q. And so would -- would birthplace be necessary to
17:20:10 12 establishing a registrant's citizenship?

17:20:14 13 MR. WHITAKER: Form.

17:20:16 14 THE WITNESS: I -- I'm not familiar with how
17:20:22 15 place of birth would be necessary.

17:20:27 16 BY MS. BRAILEY:

17:20:28 17 Q. Is birthplace necessary to establishing a
17:20:31 18 registrant's residence?

17:20:38 19 A. No.

17:20:39 20 Q. Could it be necessary to establishing whether a
17:20:43 21 registrant has committed a certain felony that would
17:20:48 22 disenfranchise them?

17:20:51 23 MR. LANGHOFER: Legal conclusion.

17:20:52 24 THE WITNESS: I don't know how it would be.

17:20:56 25 BY MS. BRAILEY:

17:20:57 1 Q. Could birthplace be necessary to establishing
17:21:00 2 whether an applicant has been adjudicated mentally
17:21:07 3 incompetent or unable to make a mark or sign their name?

17:21:12 4 A. Not that I'm familiar with.

17:21:14 5 Q. Okay. So now if you would pull up the 2023
17:21:16 6 procedures manual. And I believe you're on the correct
17:21:19 7 page.

17:21:21 8 So Mr. Langhofer discussed some portions of
17:21:26 9 this document with you where the document has references to
17:21:32 10 either place of birth or state or country of birth. And
17:21:36 11 the first one was the one in front of you, which is
17:21:39 12 somebody's birth certificate.

17:21:41 13 I believe this portion is -- is describing a
17:21:46 14 way that an applicant can establish citizenship by
17:21:52 15 presenting their birth certificate. Is that your
17:21:55 16 understanding of this portion of the document that you're
17:21:57 17 looking at?

17:21:58 18 A. Let me just take --

17:22:01 19 Q. At the bottom of page 4 where it says, "b. Birth
17:22:05 20 Certificate."

17:22:19 21 A. Yes, I see that.

17:22:20 22 Q. And so a birth certificate is sufficient to
17:22:29 23 establish somebody's citizenship; is that correct?

17:22:32 24 MR. LANGHOFER: Legal conclusion.

17:22:32 25 BY MS. BRAILEY:

17:22:41 1 Q. A U.S -- apologies.

17:22:41 2 A U.S. birth certificate is sufficient to
17:22:44 3 establish that a person is a United States citizen; is that
17:22:49 4 correct?

17:22:49 5 MR. LANGHOFER: Legal conclusion.

17:22:50 6 MR. WHITAKER: Same objection.

17:22:54 7 THE WITNESS: Yeah, I -- I'm not familiar
17:22:57 8 enough with this process as far as it specifically relates
17:23:03 9 to --

17:23:04 10 BY MS. BRAILEY:

17:23:04 11 Q. Okay.

17:23:05 12 A. -- this question.

17:23:06 13 Q. Let's go to the top of next page, page 5, where we
17:23:09 14 see the five things that are listed there in bullet points.

17:23:18 15 A. Okay.

17:23:19 16 Q. So you just read this with Mr. Langhofer, but
17:23:24 17 essentially, my understanding of this is that the only time
17:23:29 18 you might look to one of these five bullet points is if an
17:23:37 19 applicant has presented a U.S. birth certificate but can't
17:23:43 20 prove that the birth certificate is theirs because now they
17:23:47 21 have an a different last name. Is that how -- is that the
17:23:51 22 correct understanding of the utility of those five bullet
17:23:58 23 points?

17:23:59 24 MR. WHITAKER: Form.

17:24:00 25 THE WITNESS: Yeah.

17:24:02 1 BY MS. BRAILEY:

17:24:02 2 Q. Okay. And so specifically, all a person must do
17:24:07 3 to verify their birth certificate is to match at least one
17:24:15 4 of these; correct?

17:24:17 5 MR. LANGHOFER: Legal conclusion.

17:24:19 6 MR. WHITAKER: Form.

17:24:20 7 THE WITNESS: Yes, that's my understanding.

17:24:22 8 BY MS. BRAILEY:

17:24:28 9 Q. The next section, Section "c. U.S. Passport"
17:24:32 10 begins right after that.

17:24:35 11 And Mr. Langhofer spoke to you about the
17:24:39 12 middle paragraph. And there, the middle paragraph
17:24:43 13 essentially says that if somebody is using their passport
17:24:48 14 to prove their U.S. citizenship -- if they're using their
17:24:53 15 U.S. passport to prove their U.S. citizenship, that they
17:24:56 16 must show the page in the passport that has all of their
17:24:58 17 identifying information; is that correct?

17:25:00 18 A. Yes.

17:25:01 19 MR. WHITAKER: Form.

17:25:04 20 BY MS. BRAILEY:

17:25:05 21 Q. And for both of these examples -- so for the birth
17:25:08 22 certificate and for the U.S. passport -- does the EPM
17:25:18 23 advise counties that they must match the place of birth to
17:25:22 24 be able to register the person to vote?

17:25:26 25 A. No.

17:25:26 1 MR. WHITAKER: Form.

17:25:27 2 BY MS. BRAILEY:

17:25:35 3 Q. Apologies.

17:26:21 4 On page 48 of this document, which is page 57
17:26:27 5 in the EPM -- as you go to it, I'll talk to you. This is
17:26:34 6 about the ballot-by-mail request form. And it is
17:26:39 7 instructing the county recorders what must be contained
17:26:42 8 within the ballot-by-mail request form. And it includes
17:26:46 9 the mandate that there must be entry fields for certain
17:26:52 10 information, and one of those is "The voter's state or
17:26:56 11 country of birth or another piece of information" that
17:26:59 12 could confirm their identity.

17:27:01 13 So if somebody presents a different kind of
17:27:04 14 information that proves their identity, have they
17:27:12 15 successfully completed a ballot-by-mail form and they can
17:27:15 16 vote by mail?

17:27:16 17 A. Yes.

17:27:17 18 MR. WHITAKER: Form.

17:27:18 19 BY MS. BRAILEY:

17:27:18 20 Q. In addition, is a ballot-by-mail form used to
17:27:22 21 register a person to vote?

17:27:25 22 A. It can be if it provides all of the necessary
17:27:34 23 information that's required of a voter registration form.

17:27:38 24 Q. And is birthplace a necessary piece of information
17:27:40 25 on a voter registration form?

17:27:43 1 MR. WHITAKER: Form and calls for a legal
17:27:48 2 conclusion.

17:27:48 3 THE WITNESS: Well, I think that's one of the
17:27:50 4 issues in this case. So the legislation will -- does
17:27:57 5 require it.

17:27:59 6 BY MS. BRAILEY:

17:28:00 7 Q. But is it necessary to determining whether
17:28:03 8 somebody's eligible to vote?

17:28:05 9 MR. LANGHOFER: Same objections.

17:28:06 10 MR. WHITAKER: Form.

17:28:06 11 THE WITNESS: Not that I'm aware of.

17:28:09 12 MR. WHITAKER: Yeah, same --

17:28:09 13 BY MS. BRAILEY:

17:28:10 14 Q. And when we're talking about place of birth, we're
17:28:12 15 also talking about state or country of birth; is that
17:28:15 16 correct?

17:28:15 17 A. That's correct.

17:28:16 18 Q. So we're not talking about a smaller jurisdiction
17:28:18 19 like a city or a town; is that correct?

17:28:22 20 A. You know, I think it's open to interpretation.

17:28:26 21 MR. MORGAN: For what it's worth, my clock
17:28:29 22 has us at 10 minutes. We started at 5 -- 5:18.

17:28:36 23 MS. BRAILEY: Okay. One moment. Okay.

17:28:46 24 Thank you so much, Ms. Connor. We appreciate
17:28:48 25 all of your time today and all of the work you've been

17:28:50 1 doing in the state. Thank you so much.

17:28:52 2 Go off the record.

17:28:53 3 THE VIDEOGRAPHER: We are off the record.

17:28:56 4 The time on the video monitor is 5:28 p.m. This ends
17:29:00 5 Volume 1, Media Number 4, in the 30(b)(6) deposition of
17:29:04 6 Arizona Secretary of State, by Colleen Connor.

17:29:11 7 (The proceedings concluded at 5:29 p.m.)

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COLLEEN CONNOR

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1 STATE OF ARIZONA)
) ss.
2 COUNTY OF MARICOPA)

3
4 BE IT KNOWN that the foregoing videotaped
5 deposition was taken before me, JODY L. LENSCHOW, RMR,
6 CRR, Certified Reporter No. 50192 for the State of
7 Arizona, and by virtue thereof authorized to administer
8 an oath; that the witness before testifying was duly
9 sworn by me; that the questions propounded by counsel
10 and the answers of the witness thereto were taken down
11 by me in shorthand and thereafter transcribed under my
12 direction; that a review of the transcript by the
13 witness was requested; that the foregoing pages contain
14 a full, true, and accurate transcript of all proceedings
15 and testimony had, all to the best of my skill and
16 ability.

17 I FURTHER CERTIFY that I am not related to nor
18 employed by any of the parties hereto and have no
19 interest in the outcome thereof.

20 DATED at Phoenix, Arizona, this 15th day of
21 September, 2023.


22
23 
24 _____
JODY L. LENSCHOW, RMR, CRR
25 Certified Reporter
Certificate No. 50192

1 STATE OF ARIZONA)
2 COUNTY OF MARICOPA)

3 BE IT KNOWN that the foregoing deposition was taken
4 by me pursuant to stipulation of counsel; that I was then
5 and there a Certified Court Reporter in the State of
6 Arizona, and by virtue hereof authorized to administer an
7 oath; that the witness before testifying was duly sworn by
8 me to testify to the whole truth; pursuant to request,
9 notification was provided that the deposition is available
10 for review and signature; that the questions propounded by
11 counsel and the answers of the witness thereto were taken
12 down by me in shorthand and thereafter transcribed into
13 typewriting under my direction; that the foregoing pages
14 are a full, true and accurate transcript of all the
15 proceedings had upon the taking of deposition, all done to
16 the best of my skill and ability.

17 I FURTHER CERTIFY that I am in no way related
18 to nor employed by any parties hereto; nor am I in any
19 way interested in the outcome thereof.

20 Dated at Phoenix, Arizona, this 20th day of
21 September, 2023.

22
23 
24 _____
CINDY MAHONEY, RPR, RMR NO. 50680

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UNITED STATES DISTRICT COURT
DISTRICT OF ARIZONA

Mi Familia Vota, et al.,)	
)	
Plaintiffs,)	Case No.
	)	2:22-cv-00509-PHX-SRB
v.	)	(Lead)
)	
Adrian Fontes, in his	)	No. CV-22-00519-PHX-SRB
official capacity as	)	No. CV-22-01003-PHX-SRB
Arizona Secretary of State,	)	No. CV-22-01124-PHX-SRB
et al.,	)	No. CV-22-01369-PHX-SRB
	)	No. CV-22-01381-PHX-SRB
Defendants.	)	No. CV-22-01602-PHX-SRB
	)	No. CV-22-01901-PHX-SRB

AND CONSOLIDATED CASES.

VIDEO-RECORDED VIDEOCONFERENCE DEPOSITION
OF THE ARIZONA SECRETARY OF STATE, REPRESENTED BY
YOLANDA MORALES AND RUSSELL SMITH

Chandler, Arizona
September 8, 2023

Prepared by:
CINDY MAHONEY, RPR, RMR
Certified Court Reporter
Certificate No. 50680



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1 THE VIDEO-RECORDED VIDEOCONFERENCE DEPOSITION
 2 OF THE ARIZONA SECRETARY OF STATE, REPRESENTED BY YOLANDA
 3 MORALES AND RUSSELL SMITH, commenced at 8:03 a.m. on
 4 September 8, 2023, at Chandler, Arizona, before Cindy
 5 Mahoney, RPR, RMR (via videoconference), Arizona Certified
 6 Court Reporter No. 50680.

7

8

* * *

9

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ALSO PRESENT (all via videoconference):

Colleen Connor
Anna Critz
Daniel Rohan, Videographer

1 TRANSCRIPT OF PROCEEDINGS

2
08:03:01 3 THE VIDEOGRAPHER: We are on the record.
08:03:12 4 Time on the video monitor is 8:03 a.m. Here begins
08:03:15 5 Volume 1, Media Number 1, in the 30(b)(6) deposition of
08:03:20 6 Arizona Secretary of State's Office, by Yolanda Morales, in
08:03:24 7 the matter of Mi Familia Vota, et al., versus Adrian
08:03:28 8 Fontes, et al., in the United States District Court,
08:03:31 9 District of Arizona, Case Number is 2:22-cv-00509-PHX-SRB.

08:03:40 10 Today's date is September 8th, 2023. Our
08:03:44 11 court reporter is Cindy Mahoney. I am Daniel Rohan, a
08:03:48 12 certified legal videographer. We both represent Coash
08:03:52 13 Court Reporting & Video.

08:03:54 14 This video deposition is taking place at the
08:03:56 15 residence of Yolanda Morales in Chandler, Arizona.

08:04:01 16 Counsel, would you please identify yourselves
08:04:03 17 and state whom you represent.

08:04:05 18 MS. SHAH: Niyati Shah, Asian Americans
08:04:08 19 Advancing Justice, on behalf of the Equity Coalition
08:04:09 20 plaintiffs.

08:04:10 21 MR. HERRERA: Ernest Herrera, representing
08:04:14 22 Promise Arizona plaintiffs.

08:04:15 23 MS. KANTER COHEN: Michelle Kanter Cohen,
08:04:20 24 from Fair Elections Center, representing the Poder Latinx
08:04:24 25 plaintiffs.

08:04:24 1 MS. LANG: Danielle Lang, representing the
08:04:28 2 LUCHA plaintiffs.
08:04:29 3 MS. FROST: Elisabeth Frost, representing the
08:04:32 4 Mi Familia Vota plaintiffs.
08:04:33 5 MS. YUN: Jennifer Yun on behalf of the
08:04:36 6 United States.
08:04:37 7 MS. JHAVERI: Sejal Jhaveri on behalf of the
08:04:40 8 United States.
08:04:41 9 MR. DELLHEIM: And this is Richard Dellheim
08:04:44 10 on behalf of the United States.
08:04:48 11 THE VIDEOGRAPHER: Would the court reporter
08:04:53 12 please swear our witness.
08:04:53 13 MR. MORGAN: Craig Morgan, for Sherman &
08:04:54 14 Howard, on behalf of the secretary of state.
08:04:58 15 MR. LANGHOFER: Kory Langhofer for the RNC.
08:05:01 16 MR. WHITAKER: Josh Whitaker on behalf of the
08:05:03 17 Arizona attorney general.
08:05:03 18 MS. STUART: Shayna Stuart, also with Sherman
08:05:08 19 & Howard, on behalf of the Arizona secretary of state.
08:05:13 20 MS. FITZGIBBONS: Ashley Fitzgibbons, with
08:05:14 21 Gallagher & Kennedy, on behalf of President Petersen and
08:05:16 22 Speaker Toma.
08:05:19 23 ///
24 ///
25 ///

1 YOLANDA MORALES,
 2 the witness herein, being first duly sworn,
 3 was examined and testified as follows:
 4

08:05:33 5 EXAMINATION

08:05:33 6 BY MS. SHAH:

08:05:34 7 Q. Good morning, Ms. Morales. My name is Niyati
 08:05:36 8 Shah, and I'm an attorney with Asian Americans Advancing
 08:05:40 9 Justice, AAJC. And as I mentioned, I represent the Equity
 08:05:44 10 Coalition plaintiffs, which is short for the Asian American
 08:05:47 11 Native Hawaiian Pacific Islander for Equity Coalition in
 08:05:48 12 this matter, but I'm going refer to them as Equity
 08:05:52 13 Coalition to make it easier and not a mouthful.

08:05:54 14 Could you just please state your name and
 08:05:56 15 spell your full name for the record.

08:05:58 16 A. So my legal full name is Yolanda Esther Morales
 08:06:05 17 Rios.

08:06:05 18 And do you want me to spell each one?

08:06:07 19 Q. Yes, please.

08:06:08 20 A. Okay. So Yolanda is Y-o-l-a-n-d-a; Esther is
 08:06:14 21 E-s-t-h-e-r; Morales, M-o-r-a-l-e-s; Rios, R-i-o-s.

08:06:22 22 Q. And could you please state what your title is?

08:06:25 23 A. I'm the senior elections policy manager for the
 08:06:28 24 Secretary of State's Office.

08:06:29 25 Q. And how long have you been in that role?

08:06:31 1 A. I was promoted to this role in October of 2021.

08:06:35 2 Q. And were you -- were you at the Secretary of
08:06:41 3 State's Office before this role?

08:06:41 4 A. Yes.

08:06:42 5 Q. In what role was that?

08:06:44 6 A. I've had multiple roles. I started with the
08:06:46 7 office in 2008 so . . .

08:06:53 8 Q. Okay. That's fine.

08:06:54 9 For today's deposition, I want to make sure
08:06:57 10 that the record is clear on a couple of points.

08:07:00 11 You do understand that you are testifying
08:07:01 12 under oath today; correct?

08:07:03 13 A. Yes, I do.

08:07:04 14 Q. And you know that the court reporter is
08:07:07 15 transcribing this deposition; correct?

08:07:09 16 A. I do.

08:07:10 17 Q. Okay. And so with that in mind, could you please
08:07:13 18 answer questions audibly and clearly. No head shakes,
08:07:17 19 nods, uh-huhs. Will that be okay?

08:07:21 20 A. Absolutely. Yes.

08:07:22 21 Q. Okay. Great.

08:07:23 22 And to allow the court reporter to do their
08:07:24 23 job, I'm going to ask that you let me finish my question
08:07:27 24 completely before you respond. And of course I will do the
08:07:30 25 same with you to finish your answer before asking another

08:07:34 1 question. Does that work?

08:07:35 2 A. Yes, it does.

08:07:36 3 Q. And will you let me know if you do not understand
08:07:39 4 a question or need me to repeat any part of it?

08:07:43 5 A. Yes. I'll do that.

08:07:44 6 Q. Great.

08:07:45 7 And if I ask a question and you answer the
08:07:48 8 question, I will assume that you understood the question.
08:07:50 9 Is that all right?

08:07:51 10 A. Yes.

08:07:53 11 Q. Okay. And is there any reason that you can't give
08:07:55 12 a full, complete, and accurate testimony today?

08:07:57 13 A. No, not that I'm aware of.

08:08:01 14 Q. Are you on any medications or experiencing any
08:08:03 15 conditions that would prevent you from giving full and
08:08:06 16 truthful testimony today?

08:08:07 17 A. No.

08:08:07 18 Q. If at any time you would like to take a break,
08:08:07 19 please let me know. The only thing I will ask is that if I
08:08:18 20 have already asked the question, that you finish answering
08:08:18 21 that question before taking a break. Does that sound fair?

08:08:20 22 A. It does sound fair.

08:08:22 23 Q. Okay. And have you been deposed before?

08:08:24 24 A. I've been deposed before.

08:08:26 25 Q. How many times?

08:08:28 1 A. It was in 2016 or '17. Just once.

08:08:33 2 Q. And under what circumstances was that deposition?

08:08:37 3 A. I was a witness for the Secretary of State's

08:08:40 4 Office.

08:08:40 5 Q. Okay. Do you remember the case?

08:08:43 6 A. I don't remember the case. It had to do with

08:08:47 7 circumstances surrounding the publicity pamphlet.

08:08:52 8 Q. And did you bring any materials with you to this

08:08:56 9 deposition?

08:08:56 10 A. Materials, no. Well, I'm in front of my computer

08:09:00 11 but . . .

08:09:01 12 Q. Are you going to be using the computer to answer

08:09:04 13 any questions other than being on the Zoom?

08:09:07 14 MR. MORGAN: She's going to use the computer

08:09:09 15 to access exhibits you show her.

08:09:11 16 THE WITNESS: Right. Exactly.

08:09:12 17 BY MS. SHAH:

08:09:12 18 Q. Okay. Great.

08:09:13 19 And so there's nothing else that you're going

08:09:16 20 to be using to participate in this deposition?

08:09:18 21 A. No.

08:09:20 22 Q. And because, again, we're on Zoom, I just have to

08:09:22 23 clarify: Is anybody else in the room with you?

08:09:25 24 A. No. This room is only me in it.

08:09:31 25 Q. Wonderful.

08:09:32 1 And then -- so you mentioned that you have
08:09:32 2 some documents that you -- we provided you with. And I'm
08:09:36 3 going to introduce you -- refer you to what has been
08:09:40 4 previously marked as Exhibit 260, which is Document A in
08:09:46 5 that folder. It says, "30(b)(6) SOS Revised Deposition
08:09:51 6 Notice."

08:09:52 7 A. Okay. Tell me the number again.

08:09:54 8 Q. It's -- it should have the letter A and a period
08:09:58 9 after it. It should be in --

08:10:01 10 A. Yes. 30(b)(6), yeah.

08:10:03 11 Q. Exactly. Okay.

08:10:04 12 So have you seen this document before?

08:10:08 13 A. Let me scroll through it. This is the topics to
08:10:18 14 be discussed for this deposition; right?

08:10:20 15 Q. Exactly.

08:10:21 16 A. Yes.

08:10:22 17 Q. Okay. And you understand that you've been
08:10:25 18 designated as a representative to testify on behalf of the
08:10:28 19 Arizona Secretary of State's Office for certain topics
08:10:31 20 listed in this notice?

08:10:32 21 A. Yes. That was made clear.

08:10:34 22 Q. Okay. And can we stipulate that whenever I use
08:10:37 23 the word "you" or "your" or "your office" in a question,
08:10:41 24 that will be the equivalent of saying the Arizona Secretary
08:10:44 25 of State's Office?

08:10:44 1 A. Yes.

08:10:46 2 Q. And then turning to, I think, page 6 of this
08:10:50 3 exhibit, where it says "Topics" and continuing onto
08:10:56 4 page 13, this is a list of 30 topics; correct?

08:11:00 5 A. Yes.

08:11:05 6 Q. And are you prepared to address what are
08:11:10 7 Topic 4(c), (d), (g), and (h), and (i) as they pertain to
08:11:17 8 the AVID databases as well as Topics 5 through 12 and 15?

08:11:23 9 A. I'll do it to the best of my ability.

08:11:26 10 Q. And what did you do to prepare for today's
08:11:28 11 deposition?

08:11:30 12 A. We had some prep sessions with legal counsel.

08:11:35 13 Q. Okay. And other than legal counsel, was there
08:11:39 14 anybody else?

08:11:41 15 A. Colleen Connor was present.

08:11:45 16 Q. Anybody else?

08:11:45 17 A. Any Chan.

08:11:48 18 Q. Anybody else?

08:11:48 19 A. And then it was Shayna and Craig.

08:11:52 20 Q. And anybody else?

08:11:53 21 A. And then Russ joined in the afternoon briefly --
08:11:57 22 Russ Smith.

08:11:58 23 Q. Okay.

08:11:58 24 A. He's with our office. And that's it.

08:12:02 25 Q. And how long did you meet?

08:12:05 1 A. The last time we met for about six hours. And
08:12:11 2 then we -- before that -- that was in person. Before that,
08:12:14 3 we had a brief phone call the day before, maybe like an
08:12:19 4 hour, an hour and a half.

08:12:21 5 Q. Any other times?

08:12:24 6 A. I can't think of any other times.

08:12:26 7 Q. Okay. And did you review any documents in
08:12:29 8 preparation for this deposition today?

08:12:31 9 A. Shayna presented to me some possible exhibits that
08:12:36 10 could be presented to me and then this document that we're
08:12:41 11 referring to right now.

08:12:44 12 Q. Anything else?

08:12:46 13 A. I'm sorry?

08:12:47 14 Q. Anything else?

08:12:48 15 A. No.

08:12:50 16 Q. So can you tell me what is AVID -- or is it AVID?

08:12:55 17 A. It doesn't matter. It's our -- it's our Arizona
08:13:00 18 voter registration --

08:13:01 19 MR. MORGAN: Nayati, Niyati.

08:13:04 20 MS. SHAH: Hey. There is a correct way. It
08:13:07 21 is Niyati.

08:13:07 22 MR. MORGAN: True.

08:13:10 23 THE WITNESS: We do have a member in La Paz
08:13:14 24 County that refuses to say "AVID," so he always makes a
08:13:17 25 point to annoy everyone and say "EVID."

08:13:23 1 BY MS. SHAH:

08:13:23 2 Q. I'm sorry.

08:13:24 3 So did you say -- tell --

08:13:24 4 MR. MORGAN: She asked you, "What is AVID?"

08:13:27 5 "What is AVID?" was the question.

08:13:30 6 THE WITNESS: It's the -- it's the Arizona
08:13:31 7 voter registration database.

08:13:33 8 BY MS. SHAH:

08:13:33 9 Q. Okay. And who created AVID?

08:13:37 10 A. Created? Well, it's a system that we bought from

08:13:43 11 BPro, who is now owned by KNOWiNK. So it's a database

08:13:48 12 created by them that was called TotalVote at one point.

08:13:52 13 And then when we acquired that system, it was customized to

08:13:56 14 fit Arizona's laws. And that was done in conjunction with

08:14:02 15 the counties, our administration.

08:14:05 16 Q. And by --

08:14:07 17 A. It's kind of hard to answer.

08:14:08 18 Q. And by "we," you mean the Secretary of State's

08:14:11 19 Office?

08:14:11 20 A. Our Secretary of State's Office, yes.

08:14:12 21 Q. And who maintains it currently?

08:14:17 22 A. It's maintained by the Secretary of State's

08:14:19 23 Office. And then we have a vendor in Excel that helps us

08:14:23 24 -- the project managers.

08:14:24 25 Q. And can you tell me, how is a record created

08:14:31 1 initially in AVID?

08:14:34 2 A. What record?

08:14:35 3 Q. Am I correct that AVID has records in it?

08:14:38 4 A. It does have records, but it has different types
08:14:40 5 of records. There's ballots. There's street addressing.
08:14:44 6 There's voter registration records. There's many records.

08:14:48 7 Q. Okay. Let's -- let's focus on the voter
08:14:51 8 registration records.

08:14:51 9 Can you tell me how a -- and when I say
08:14:54 10 record in this line of questioning, I'm going to refer to
08:14:56 11 that.

08:14:57 12 Can you tell me how a record for voter
08:15:00 13 registration is created initially?

08:15:02 14 A. Okay. So it all starts in two points. It could
08:15:07 15 be by an applicant mailing a voter registration form that
08:15:11 16 is received by the county, or it could be done initially
08:15:15 17 electronically by an applicant going to ServiceArizona to
08:15:20 18 register to vote.

08:15:21 19 So I'm sorry. I'm going to be very specific
08:15:23 20 as to my answers just to be clear. So I'll address the one
08:15:29 21 that has to do with the paper form.

08:15:31 22 So a paper form is mailed. It's received by
08:15:34 23 the county recorder. And that user will have the form in
08:15:38 24 front of them. And they would go into the "Add Registrant"
08:15:42 25 module of the system, and they would input all the

08:15:45 1 information that's on that paper form into the system.

08:15:50 2 Is that sufficient for that part of it?

08:15:52 3 Q. Yes. Absolutely.

08:15:53 4 A. Okay.

08:15:54 5 Q. But I would like to follow up.

08:15:56 6 Other than mail, there are other ways that a
08:16:00 7 county recorder can get a paper voter registration form; is
08:16:04 8 that correct?

08:16:04 9 A. If it's mail?

08:16:07 10 Q. Other than it being mailed by the applicant
08:16:10 11 directly, the county recorder can get a paper voter
08:16:14 12 registration form; is that correct?

08:16:15 13 A. Well, we don't know who puts it in the mail, but
08:16:20 14 it's a paper form that was signed by the applicant.

08:16:23 15 Q. Could another, let's say a voter registration
08:16:26 16 agency like a public assistance agency, send paper
08:16:30 17 applications to a county recorder?

08:16:31 18 A. Yes.

08:16:32 19 Q. Okay.

08:16:33 20 A. Uh-huh. Yeah.

08:16:34 21 Q. What about through naturalization ceremonies?

08:16:40 22 A. That's possible, yeah.

08:16:41 23 Q. Okay. And when a county recorder gets that voter
08:16:48 24 registration application, you said they add -- what is it
08:16:51 25 that you said they do? They add a registrant or add a

08:16:54 1
08:16:55 2
08:16:59 3
08:16:59 4
08:17:01 5
08:17:04 6
08:17:07 7
08:17:09 8
08:17:16 9
08:17:21 10
08:17:24 11
08:17:26 12
08:17:30 13
08:17:31 14
08:17:37 15
08:17:43 16
08:17:45 17
08:17:47 18
08:17:47 19
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08:17:58 25

record?

A. They go into the add -- they go into "Add Registrant" module in the system.

Q. Understood. Okay.

And are any data fields mandatory for a county recorder to fill in for AVID to create that record in the first instance?

A. I'm sure there are. The name, address is critical, date of birth. I would have to look at what the mandatory ones -- it's not a function that the secretary of state does. But I can tell you that, yes, there are going to be mandatory fields that are needed for the record to be complete.

Q. Okay. So is there a difference between a complete record and a record that is -- that exists in AVID?

MR. MORGAN: Form.

THE WITNESS: Can you repeat the question?

BY MS. SHAH:

Q. Sure.

Is there a difference between a complete record versus a record that has just been created or exists in AVID?

A. So when the --

MR. MORGAN: Form.

THE WITNESS: When the county recorder enters

08:18:01 1 the information, they have to assign a status to that
08:18:05 2 information, the status to the voter, which could be
08:18:08 3 "active," "not eligible," "in suspense." So they have to
08:18:15 4 create the record and assign a status.

08:18:19 5 BY MS. SHAH:

08:18:20 6 Q. Okay. So would it be correct to say, if I
08:18:22 7 understood you correctly, that in order for there to be a
08:18:27 8 voter registrant record in AVID, there has to be a status
08:18:30 9 associated with that record?

08:18:33 10 A. Yes. And they'll input all the information that's
08:18:35 11 on that paper form into the system.

08:18:39 12 Q. And when we say "status," that means -- what does
08:18:46 13 it mean by "status"?

08:18:47 14 A. Those are called source codes -- I'm sorry.
08:18:51 15 Statuses are "active," "canceled," "suspense," "inactive,"
08:18:56 16 "not eligible." There's quite a few. They're all outlined
08:19:01 17 in a VRAC document.

08:19:04 18 Q. Okay. And are the mandatory fields different by
08:19:15 19 county, or will they be the same?

08:19:16 20 A. They'll be the same.

08:19:18 21 Q. So is it fair to say that a record in AVID shows
08:19:22 22 information about the current status of an individual's
08:19:25 23 voter registration?

08:19:26 24 A. Yes.

08:19:27 25 Q. And does the secretary of state provide county

08:19:32 1 recorders with access to data from ADOT?

08:19:38 2 A. From MVD?

08:19:39 3 Q. Yes.

08:19:40 4 A. Yes.

08:19:40 5 Q. And just for the clarification of the record, is

08:19:44 6 it okay if we use "MVD" or "ADOT" data interchangeably, or

08:19:50 7 is that different?

08:19:50 8 A. That would be fine now that we've discussed it.

08:19:53 9 Q. Okay.

08:19:53 10 A. "MVD" is more accurate.

08:19:55 11 Q. Okay. Great.

08:19:58 12 So in the first instance -- so I want to go

08:20:03 13 back just to clarify.

08:20:04 14 So it is correct that the Secretary of

08:20:07 15 State's Office provides MVD data to county recorders?

08:20:11 16 A. Yes.

08:20:12 17 Q. And how does the secretary of state get this data

08:20:17 18 from MVD?

08:20:18 19 A. It's an interface with the system.

08:20:21 20 Q. Is this interface called the API?

08:20:25 21 A. It's an API, yes.

08:20:26 22 Q. Okay. And so the API is through which the

08:20:33 23 secretary of state gets this data -- correct? -- from MVD?

08:20:37 24 A. It sends data to them, and it receives data back.

08:20:42 25 MR. WHITAKER: Objection; form.

08:20:44 1 BY MS. SHAH:

08:20:44 2 Q. Can you please clarify what you mean "it sends
08:20:47 3 data and gets data back"?

08:20:48 4 A. So when the county user is entering the registrant
08:20:52 5 in the system, once all that information that's on that
08:20:55 6 paper form has been entered, there's a step called the HAVA
08:21:00 7 check which then utilizes those APIs to send the
08:21:04 8 information to MVD in order to be able to receive a match
08:21:08 9 on the record.

08:21:10 10 Q. Okay. Thank you. I want to come back to that in
08:21:10 11 a minute.

08:21:16 12 But I guess my first question to you is: The
08:21:17 13 secretary of state gets data from MVD through this API, or
08:21:22 14 is it through a different format?

08:21:24 15 A. No. It's through -- it's through the API; it's an
08:21:27 16 API.

08:21:27 17 Q. Okay. So -- so --

08:21:30 18 A. It's not -- I'm sorry. If I can clarify. It's
08:21:33 19 not the secretary of state. It's the system, the AVID
08:21:35 20 system.

08:21:36 21 Q. The AVID system directly receives data from MVD?

08:21:41 22 A. Sends and receives data.

08:21:43 23 Q. Sends and receives data.

08:21:45 24 So how often does MVD provide data to AVID?

08:21:52 25 A. Every time that HAVA check request is made by the

08:21:58 1 county user --

08:21:58 2 Q. Okay. So --

08:22:01 3 A. -- record by record.

08:22:04 4 Q. And every time they do that, is it correct that
08:22:06 5 that is giving -- so this data is current at that point, or
08:22:12 6 has this data been entered at a specific point
08:22:15 7 intermittently?

08:22:17 8 A. It's a live exchange.

08:22:21 9 MR. WHITAKER: Form.

08:22:22 10 BY MS. SHAH:

08:22:22 11 Q. So -- so when you say it's a live -- the AVID
08:22:24 12 database connects directly to a source in MVD?

08:22:30 13 A. It transmits the data to MVD in order to receive
08:22:34 14 data back.

08:22:36 15 Q. Okay. Understood.

08:22:38 16 And MVD, it's going to whatever is their live
08:22:45 17 database? Is that your understanding?

08:22:46 18 A. Yes. It would make what we call a call into their
08:22:51 19 database in order to receive information.

08:22:53 20 Q. Okay. And so it is -- was there ever a -- how
08:22:59 21 long has AVID been doing this function?

08:23:02 22 A. Since -- since we developed it in and went live in
08:23:06 23 late 2019.

08:23:07 24 Q. Okay. And so to confirm, is it a real-time check
08:23:13 25 of whatever is contained in MVD records at that time?

08:23:17 1 A. Yes, that is my understanding.

08:23:19 2 Q. Okay.

08:23:22 3 MR. LANGHOFER: This is Kory. I think we
08:23:24 4 should get on the record our -- I think it's an ongoing
08:23:27 5 stipulation that an objection by one is an objection by all
08:23:30 6 since it's the same 30(b)(6). Is that right?

08:23:31 7 MS. SHAH: Yes.

08:23:32 8 MR. MORGAN: Yep.

08:23:34 9 BY MS. SHAH:

08:23:35 10 Q. So are you aware of any arrangement with MVD
08:23:43 11 providing the secretary of state monthly data extracts?

08:23:48 12 MR. MORGAN: Form.

08:23:50 13 THE WITNESS: So as part of 2243, there was a
08:23:55 14 requirement for them to send us a monthly file that I
08:24:00 15 believe lists people that have -- that have moved to
08:24:03 16 another state.

08:24:06 17 BY MS. SHAH:

08:24:07 18 Q. And anything else?

08:24:09 19 A. That's all I'm aware of that we receive on a
08:24:12 20 monthly basis right now.

08:24:13 21 Q. Okay. And that is different than the process that
08:24:17 22 you just described about checking through AVID?

08:24:20 23 A. Two separate --

08:24:23 24 Q. Two separate?

08:24:23 25 A. -- activities. Uh-huh.

08:24:25 1 Q. Okay. Great.

08:24:28 2 And when there is an entry of information by
08:24:37 3 the county recorders and they send that data to MVD for a
08:24:43 4 match to come back, has there been problems receiving or
08:24:49 5 matching that data?

08:24:53 6 MR. WHITAKER: Form.

08:24:57 7 THE WITNESS: Not that I'm aware of, no. I
08:24:59 8 mean, no. I mean, they get -- they get results back every
08:25:03 9 time a call is made.

08:25:04 10 BY MS. SHAH:

08:25:05 11 Q. Okay. And when they get results back, what
08:25:10 12 happens? Is that information entered automatically onto
08:25:13 13 AVID from MVD, or is it some sort of manual entry by the
08:25:18 14 county recorder?

08:25:18 15 A. So once they get the match from MVD, they are
08:25:23 16 presented a list of soft matches or hard matches. And then
08:25:28 17 they review the list and select a record.

08:25:33 18 Q. Okay. And when they select a record, what
08:25:41 19 happens?

08:25:41 20 A. Then they are accepting that match in order to --
08:25:45 21 because part of the HAVA check, when they make the call to
08:25:48 22 MVD, is to get their authorized presence value, which tells
08:25:53 23 the county user whether that applicant is a naturalized
08:25:59 24 citizen or a citizen in order to be able to register them
08:26:03 25 as a full-ballot voter.

08:26:05 1 Q. And is that information transferred automatically
08:26:11 2 through the HAVA check, or is it something that the county
08:26:15 3 recorder enters manually into the AVID record?

08:26:18 4 A. Once they select the match, then they're accepting
08:26:21 5 that authorized presence value to be associated with that
08:26:25 6 record.

08:26:29 7 Q. So perhaps I'm misunderstanding you.

08:26:33 8 Is it -- once they select a record, that
08:26:39 9 authorized value -- presence value is entered by the county
08:26:46 10 recorders themselves, or is it just automatically filled
08:26:49 11 out?

08:26:49 12 A. It becomes -- it becomes part of the record. It
08:26:51 13 -- every record has multiple tabs. And one of the tabs is
08:26:56 14 called the validation tab. And so that match will go into
08:27:00 15 that validation tab for historical purposes to confirm that
08:27:04 16 there was a match and information received from MVD. That
08:27:08 17 then becomes part of the record.

08:27:09 18 Q. Okay. And so is any field outside the validation
08:27:14 19 tab completed as a result of this HAVA check in AVID?

08:27:21 20 A. No. I mean, the data is made part of the record.

08:27:26 21 Q. Okay. We'll come back to that.

08:27:28 22 A. Yeah, it's an electronic transfer of information.

08:27:31 23 Q. Understood.

08:27:33 24 When -- when you say -- you mentioned earlier
08:27:38 25 that there could be a soft match where there will be

08:27:41 1 multiple options versus a hard match; is that correct?

08:27:44 2 A. Depending on the number of records that MVD was
08:27:48 3 able to find a match, it will present one, two -- three
08:27:53 4 matches. And they'll have a category of soft or hard
08:27:57 5 match.

08:27:58 6 Q. What is -- what is -- what does it mean when
08:28:01 7 there's a soft match?

08:28:02 8 A. A soft match means that only some of the
08:28:05 9 information matched, not all of it. If all the information
08:28:08 10 matched, then it would be a hard match.

08:28:11 11 Q. And the information is -- when you say
08:28:17 12 "information," is that the information that the county
08:28:20 13 recorder has entered into AVID as part of the voter
08:28:24 14 registration application record?

08:28:25 15 A. Yes.

08:28:26 16 Q. And what other information is it checking against
08:28:33 17 with the MVD record?

08:28:34 18 A. It's using the information that was entered by the
08:28:37 19 county user based on the information on the paper form,
08:28:41 20 sending that information over through the API to MVD to
08:28:44 21 produce a match. And then that match can be either soft or
08:28:48 22 hard match.

08:28:50 23 Q. And so a hard match, you said all the fields match
08:28:55 24 up. And would there be multiple hard matches?

08:29:01 25 A. No. There should only be one MVD record that has

08:29:04 1 a hard match.

08:29:05 2 Q. Okay. And can you -- you mentioned multiple

08:29:10 3 fields for discussing authorized presence. What fields are

08:29:14 4 those?

08:29:16 5 A. It's not fields. It's data.

08:29:22 6 Q. Okay. What data?

08:29:24 7 A. Like, what type of authorized presence value we

08:29:27 8 can receive back?

08:29:28 9 Q. Uh-huh. That's correct.

08:29:29 10 A. I would have to refer to a spreadsheet if you

08:29:32 11 allow me to.

08:29:33 12 Q. Please. Please.

08:29:35 13 And can you just tell me what you're

08:29:36 14 referring to when you do that?

08:29:37 15 A. Yeah. You might have it as part of an exhibit.

08:29:40 16 Q. Okay.

08:29:42 17 A. It's a spreadsheet, and it's called "Authorized

08:29:45 18 Presence Values." And then we get -- sorry. MVD assigns a

08:29:52 19 code -- a type ID, they call it -- from 1 through 6.

08:29:57 20 Authorized presence ID 1 stands -- represents

08:29:59 21 a naturalized citizen; 2 represents a resident permanent

08:30:06 22 alien; 3, a temporary visa; 4 represents a U.S. citizen; 5,

08:30:13 23 Canadian; and 6 is U.S. territory or possessions [verbatim]

08:30:19 24 that don't grant citizenship.

08:30:21 25 Q. Okay. And then other than those values for

08:30:26 1 authorized presence, is there any other information from
08:30:29 2 MVD transferred or provided to the county recorder?

08:30:33 3 A. It would -- besides that, it will transfer the
08:30:37 4 name that it found in the system. So everything that hard
08:30:40 5 matched against the voter record would also come with the
08:30:45 6 authorized presence value information.

08:30:47 7 Q. Okay. And what -- what could possibly be provided
08:30:55 8 in addition to the name? What other information would be
08:30:58 9 provided?

08:30:59 10 A. The driver's license and the authorized presence
08:31:01 11 value --

08:31:02 12 Q. Anything else?

08:31:03 13 A. -- and a name.

08:31:05 14 That's all I can -- I can remember right now.
08:31:07 15 It's not a function that I do. It's a county function.
08:31:09 16 But I -- I've had visibility to what it looks like, but
08:31:13 17 it's not something that I do. It's not a function that I
08:31:16 18 carry on to a day-to-day basis so . . .

08:31:18 19 Q. Okay. And you mentioned that that information
08:31:21 20 gets put in what is called a validation tab; is that right?

08:31:24 21 A. Uh-huh. Yeah, that's my recollection.

08:31:26 22 Q. Is that the full record that is obtained from MVD,
08:31:31 23 or is it just -- what is -- what is contained in that
08:31:34 24 validation tab?

08:31:35 25 A. The name that it matched to, the driver's license,

08:31:39 1 and the authorized presence value. It also confirms the
08:31:42 2 day that the match -- that that call was made.

08:31:45 3 Q. Okay. What about any underlying immigration
08:31:50 4 documents?

08:31:50 5 A. No, no.

08:31:52 6 Q. All right. And other than that API interface data
08:32:06 7 during the HAVA checks, can county recorders obtain
08:32:11 8 authorized presence -- authorized presence information from
08:32:15 9 ADOT through any other mechanism?

08:32:18 10 A. No.

08:32:20 11 MR. MORGAN: Foundation.

08:32:21 12 THE WITNESS: Only through the HAVA check.

08:32:25 13 The counties can only do it through the HAVA check.

08:32:29 14 BY MS. SHAH:

08:32:30 15 Q. Okay. So can you tell me, in order for a voter
08:32:50 16 registration application to be considered complete, what
08:32:53 17 information must currently be provided before 2492 was
08:32:58 18 enacted?

08:33:00 19 A. Okay. So it's not a function that I do on a daily
08:33:04 20 basis, so it's -- it's something that is better asked of a
08:33:11 21 county user.

08:33:13 22 But I know that without a doubt, at a
08:33:15 23 minimum, they're going to need the name. They're going to
08:33:18 24 need a date of birth, their address. They must have
08:33:25 25 answered the yes-or-no questions in the bottom of the form

08:33:33 1 attesting to the truthfulness of the document being

08:33:36 2 presented and if they're a citizen or not.

08:33:40 3 Q. Okay. So if you wouldn't mind going to what is in
08:33:53 4 your document -- if you go and you'll see a folder that
08:33:55 5 says, "SOS docs."

08:34:05 6 A. Okay. It's, like, a folder at the bottom. Okay.

08:34:06 7 Q. And then if you open that folder, you should see
08:34:08 8 an exhibit that says -- that says, "06 Petty Exhibit."

08:34:13 9 A. Okay.

08:34:14 10 Q. If you can open that.

08:34:17 11 MR. MORGAN: Niyati, is that Petty 6?

08:34:20 12 MS. SHAH: That's correct. That is correct.

08:34:24 13 MR. MORGAN: I'm just following along with
08:34:27 14 Coash's exhibits, so thank you.

08:34:27 15 MS. SHAH: Exactly.

08:34:28 16 BY MS. SHAH:

08:34:28 17 Q. So now that you have it open, what has been
08:34:31 18 previously marked as Petty Exhibit 6 -- if you see -- at
08:34:33 19 the bottom there are some demarcations which say page or it
08:34:42 20 has, like, MC 0001 at the front. So if you could maybe go
08:34:47 21 down to MC 31 of that.

08:34:47 22 A. Sure. Scrolling.

08:34:59 23 Q. And it's page 17, if that's easier.

08:35:07 24 A. On the MC, you want me to go to 36; right?

08:35:10 25 Q. 31.

08:35:11 1 A. Oh, 31. Okay. 31. Okay. So it's page 31 of the
08:35:15 2 PDF, and it says page 17 in the bottom of the document.

08:35:19 3 Q. Exactly.

08:35:19 4 A. Okay.

08:35:20 5 Q. And do you see where it says, "Minimum Required
08:35:23 6 Information on Voter Registration Forms"?

08:35:25 7 A. Yes.

08:35:26 8 Q. And I'm going to paraphrase what it says there,
08:35:29 9 but it says that, you know, "must contain the following
08:35:32 10 minimum information" of name, residence, date of birth,
08:35:36 11 signature, and citizenship affirmation.

08:35:40 12 A. Yes.

08:35:40 13 Q. Okay. And if -- if that information is provided
08:35:47 14 with nothing else on a voter registration application, do
08:35:50 15 you know how that would be coded as a status in AVID?

08:35:55 16 A. It would be an active status if they provide all
08:36:00 17 the minimum requirements.

08:36:01 18 Q. Okay. And they would -- so in that situation --
08:36:07 19 and what would be the status reason?

08:36:10 20 A. Valid registration.

08:36:12 21 Q. And then how about after HB 2492 is implemented
08:36:22 22 and they're using a state form, what would be the status
08:36:26 23 code in AVID in that situation?

08:36:30 24 MR. WHITAKER: Foundation. I think
08:36:32 25 speculation also.

08:36:34 1 THE WITNESS: I would have to refer to that
08:36:36 2 legislation. It's not something that I have committed to
08:36:39 3 memory.

08:36:41 4 BY MS. SHAH:

08:36:42 5 Q. Okay. Can we go to what is marked as -- in that
08:36:50 6 same folder, it's marked as Document AZSOS 035421?

08:36:59 7 A. Okay.

08:37:03 8 Q. Let me know when you have opened it.

08:37:05 9 MS. SHAH: And can we mark that, I believe,
08:37:08 10 as Exhibit 276.

08:37:08 11 (The document was marked as Exhibit 276
08:37:11 12 for identification.)

08:37:11 13 THE WITNESS: It's titled "2492 notes for
08:37:14 14 VRAC call"?

08:37:17 15 BY MS. SHAH:

08:37:18 16 Q. Yes.

08:37:18 17 A. Okay.

08:37:21 18 Q. Okay. And then would you go to what is -- what
08:37:23 19 would be -- what I'm going to call page AZSOS 42 -- 035422.

08:37:34 20 A. Okay.

08:37:34 21 Q. And then you will see at the bottom it says
08:37:40 22 16-121.01(A) "outlines requirements for what must be on VR
08:37:48 23 form to consider it complete."

08:37:51 24 Do you see that?

08:37:52 25 A. At the very, very bottom? 16-121?

08:37:56 1 Q. Yes.

08:37:56 2 A. Okay.

08:37:57 3 Q. And then if you go -- yeah. Then if you go to the
08:38:00 4 next page, it says -- then there's a paragraph A. And then
08:38:06 5 below it says "what is required to determine a VR form is
08:38:11 6 complete."

08:38:12 7 Do you see that?

08:38:13 8 A. Uh-huh.

08:38:14 9 Q. So do you -- can you -- would you agree based on
08:38:20 10 this that you need for a state form to be considered
08:38:24 11 complete a DPOC?

08:38:28 12 MR. WHITAKER: Foundation.

08:38:31 13 THE WITNESS: It says that for state forms
08:38:33 14 only.

08:38:33 15 BY MS. SHAH:

08:38:34 16 Q. Correct?

08:38:34 17 A. DPOC is needed, yes.

08:38:36 18 Q. So in this circumstance, what would be -- if a
08:38:42 19 voter registration form, straight form, was provided after
08:38:47 20 2492 is implemented, what would be the code in status code
08:38:52 21 in AVID without a DPOC?

08:38:56 22 MR. WHITAKER: Foundation.

08:38:57 23 THE WITNESS: Well, I don't have any
08:38:59 24 discussions to refer to to see what has been agreed to by
08:39:02 25 the counties. But I imagine more than likely it's not

08:39:10 1 going to be active valid registration in that case. I'm
08:39:15 2 just not sure what other status they would designate it at
08:39:18 3 this time.

08:39:19 4 BY MS. SHAH:

08:39:20 5 Q. And so your testimony sitting here today is that
08:39:23 6 that status code has not been decided?

08:39:26 7 A. Not that I'm aware of.

08:39:28 8 Q. And to use that same set of examples of -- in a
08:39:35 9 federal form, would there be any changes in status code if
08:39:39 10 no DPOC was provided?

08:39:42 11 MR. WHITAKER: Foundation.

08:39:44 12 THE WITNESS: I -- I don't have that
08:39:45 13 committed to memory. I'm sorry.

08:39:47 14 BY MS. SHAH:

08:39:57 15 Q. And so going back to that document below. And do
08:40:00 16 you see where it says "What" status code -- "status
08:40:05 17 reason/code to use in AVID if we receive an incomplete
08:40:08 18 form"?

08:40:09 19 A. Uh-huh.

08:40:10 20 Q. Right?

08:40:13 21 Has that -- and you see it says, "including
08:40:16 22 failing to provide DPOC with state form"?

08:40:19 23 A. Let me zoom in a little bit. The font is very
08:40:25 24 small.

08:40:25 25 Q. Sure. Take your time.

08:40:27 1 A. Okay. So now we are right below where it says,
08:40:29 2 "what status/reason code to use in AVID if we receive an
08:40:30 3 incomplete form"?

08:40:31 4 Q. Yes.

08:40:32 5 A. Is that where we're reading?

08:40:34 6 Q. Yes.

08:40:34 7 "Including failing to provide DPOC with state
08:40:37 8 form." It says, "Suspense, registrant waiting
08:40:43 9 verification; then follow the," quote, "not
08:40:47 10 registered/pending expired' procedure."

08:40:50 11 Did I read that correctly?

08:40:51 12 A. Yes.

08:40:52 13 Q. Has -- has that been implemented yet?

08:40:58 14 A. No.

08:40:59 15 Q. Okay.

08:41:00 16 MR. WHITAKER: Foundation.

08:41:01 17 BY MS. SHAH:

08:41:03 18 Q. When will it be implemented?

08:41:06 19 A. I guess it would depend on the outcome of
08:41:09 20 litigation.

08:41:11 21 Q. Anything else?

08:41:12 22 MR. WHITAKER: Same.

08:41:13 23 THE WITNESS: Nothing else that I'm aware of.

08:41:15 24 BY MS. SHAH:

08:41:23 25 Q. So then can we go back to what had been previously

08:41:26 1 marked as Petty Exhibit 6. And then we want to go to
08:41:31 2 page 37 of that.

08:41:43 3 A. Scrolling.

08:41:44 4 Q. And by -- I mean, 37 in the document. It would be
08:41:50 5 page 23 in -- as it's written, but it would be 37 of the
08:41:55 6 document, MC 0037.

08:41:57 7 A. Okay.

08:41:59 8 Q. And?

08:42:01 9 A. I'm not there yet. One second.

08:42:03 10 Q. Sure. When you're ready, you let me know.

08:42:05 11 MR. MORGAN: Sorry, Niyati. What page on
08:42:08 12 the -- of the PDF? Because it's loading.

08:42:11 13 MS. SHAH: Yeah. So in the electronic PDF,
08:42:14 14 it would be page 37. Of the document itself, it will be, I
08:42:19 15 believe, page 23.

08:42:22 16 MR. MORGAN: All right. Thank you.

08:42:24 17 THE WITNESS: Okay. I'm there now.

08:42:25 18 BY MS. SHAH:

08:42:25 19 Q. All right. And do you see at the top it says,
08:42:28 20 "Electronic Verification Procedures"?

08:42:32 21 A. Hang on. It froze and it went black.

08:42:35 22 Q. Totally okay. You let me know when you're ready.

08:42:38 23 A. Oh, and then it jumped somewhere else. Hang on.
08:42:47 24 I had it perfect a second ago. Okay.

08:42:49 25 MC 37. And then at the top -- it keeps

08:42:58 1 jumping. "Electronic Verification Procedures," letter G.

08:43:03 2 Okay. I'm there.

08:43:05 3 Q. All right. So is that what we discussed earlier
08:43:11 4 and you called HAVA checks?

08:43:16 5 A. Let's see. Yes, that is the HAVA check.

08:43:29 6 Q. Okay. Great.

08:43:31 7 Now if I could direct your attention back
08:43:34 8 into that folder to what is called AZSOS-182040.

08:43:48 9 A. Okay. And looks like a screenshot of the system.

08:43:53 10 Q. Okay. So great. Let's --

08:43:56 11 MS. SHAH: And can we mark that as
08:43:58 12 Exhibit 277, I believe.

08:43:58 13 (The document was marked as Exhibit 277
08:44:03 14 for identification.)

08:44:03 15 BY MS. SHAH:

08:44:04 16 Q. And at the top, you will see that it says, "Add
08:44:08 17 Registrant." And that's what you were referring to earlier
08:44:10 18 when you said that's where CR, county recorder, would start
08:44:13 19 when they got a paper voter registration application?

08:44:16 20 A. Yes. That's the screen where they would input
08:44:19 21 everything.

08:44:19 22 Q. Great.

08:44:22 23 What information from -- would a county
08:44:27 24 recorder need to ascertain whether there is a duplicate
08:44:32 25 existing record in AVID?

08:44:35 1 A. They would need to pay attention to the screens
08:44:38 2 that are being presented by the system. If it does find --
08:44:43 3 sorry.

08:44:44 4 If it finds a match to an existing record,
08:44:47 5 they're going to receive a pop-up like the one on the
08:44:50 6 screen letting them know that there's been a hard match
08:44:53 7 and that the system is not going to create a new record.
08:44:55 8 It's going to merge the information into that record.

08:45:00 9 Q. But in order for the system to -- to have that
08:45:05 10 response of a duplicate record, what fields must a county
08:45:09 11 recorder fill in before the system can generate this
08:45:12 12 report?

08:45:15 13 A. As much information as was available on the paper
08:45:18 14 form.

08:45:20 15 Q. Okay. But there's no minimum requirement of
08:45:24 16 information?

08:45:26 17 A. If it's not sufficient, it may not be able to
08:45:29 18 produce a match.

08:45:30 19 Q. Okay.

08:45:31 20 A. So then the system --

08:45:32 21 Q. Oh, no. Please finish. I didn't mean to
08:45:35 22 interrupt you.

08:45:35 23 A. No, I was going to say if -- if it -- if it has
08:45:38 24 enough information to find a hard match, it will let you
08:45:40 25 know that there's a hard match.

08:45:42 1 But if it wasn't sufficient information, then
08:45:44 2 it's potentially possible that a new record will be created
08:45:48 3 because there was not enough information to find an
08:45:50 4 existing match with a record in the system.

08:45:53 5 Q. Okay. Understood.

08:45:54 6 And will the duplicates be limited to the
08:46:00 7 records that exist within a county?

08:46:06 8 A. No.

08:46:07 9 Q. So it would be statewide?

08:46:09 10 A. Correct.

08:46:10 11 Q. And if there is a duplicate record or one that
08:46:15 12 matches, how is that application treated?

08:46:22 13 A. If a match is found?

08:46:23 14 Q. Yes.

08:46:25 15 A. It would override the information on the existing
08:46:28 16 record with the new information provided in the voter
08:46:32 17 registration form.

08:46:33 18 Q. And how would that override be reflected? Would
08:46:38 19 it be as, like, an updated record, or is there some sort of
08:46:42 20 demarcation in AVID that says that this record was --

08:46:46 21 A. Yeah.

08:46:46 22 Q. -- overridden? I'm not sure of the right
08:46:50 23 terminology.

08:46:51 24 A. Yeah, I don't blame you.

08:46:54 25 So every activity -- we call it activity

08:46:56 1 that's done in a record -- has history that assigns a date
08:47:03 2 of when it was done, who made the changes, what changes
08:47:07 3 were made. So that's all existing in the activity tab.

08:47:12 4 I think I mentioned earlier that there --
08:47:14 5 every record has different tabs. So this will go in the
08:47:17 6 activity tab. But also on the main tab, it would update
08:47:21 7 the effective day of the change to match the date of that
08:47:24 8 change.

08:47:25 9 And if, by chance, that person used to be in
08:47:28 10 one county and moved to another county, it would also
08:47:31 11 update the county registration date to reflect that date as
08:47:36 12 well.

08:47:39 13 Q. So would -- other than the date changes of the --
08:47:46 14 from one county to another, would there be any other -- and
08:47:52 15 the activity tab, would there be something that says this
08:47:54 16 is an updated registration or, like, a -- you know, county
08:48:00 17 -- moved from one county to the other outside of that? Is
08:48:03 18 there, like, a specific field, or is it just in the
08:48:05 19 activity tab?

08:48:07 20 A. It's -- yeah, there's no fields in AVID that say
08:48:09 21 this record has been updated. You have to look at the date
08:48:15 22 of registration, which is the very first date that person
08:48:17 23 ever registered to vote in the state.

08:48:20 24 There's another field called the county
08:48:22 25 registration date, which is the date that they became a

08:48:24 1 voter in that county.

08:48:26 2 And then thirdly, there's the date called the
08:48:28 3 effective date of change. And that is the date of the most
08:48:31 4 recent change on the record.

08:48:34 5 Q. And going back to Exhibit 277, which was that
08:48:39 6 screenshot. And you can see it's -- at the -- it's a
08:48:45 7 little faded, but you can see right at the top center, it
08:48:50 8 says "Run HAVA Checks" that we talked about earlier. But
08:48:54 9 do you see that where it says on the document "Run HAVA
08:48:58 10 Check"?

08:48:58 11 A. I want to make sure that we're still on the
08:49:01 12 AZSOS-182040.

08:49:04 13 Q. Yes. Exactly.

08:49:05 14 A. Okay.

08:49:06 15 Q. It is hard to see. But if you see at the very top
08:49:09 16 center, it says, "Add Registrant." Below, it says -- and
08:49:13 17 you see "Run HAVA Checks"? That's the third line.

08:49:16 18 A. I see that, yes.

08:49:17 19 Q. Okay. So does a county recorder affirmatively
08:49:23 20 select or click on that, or is that done automatically?

08:49:27 21 A. The county has to select "Run HAVA Checks" when
08:49:30 22 they're ready.

08:49:33 23 Q. Is there a particular time when they would be
08:49:35 24 ready?

08:49:37 25 A. Well, they need to complete entering all the

08:49:39 1 information on the paper form before they are ready.

08:49:44 2 Q. Okay. And that's when they would --

08:49:47 3 A. Yes.

08:49:48 4 Q. -- click on that?

08:49:49 5 A. That would be the ideal process, yeah.

08:49:51 6 Q. And is a HAVA check always conducted every time a
08:50:01 7 new record is added?

08:50:04 8 A. Yes. The system won't allow them to add the
08:50:08 9 record if the "Run HAVA Check" has not been selected.

08:50:11 10 Q. Okay. What about when we just talked about where
08:50:16 11 -- when a -- when there's an existing record that pops up.
08:50:21 12 Right? But there is a change from one county or some other
08:50:25 13 change. Right? Will they have to -- when there's a record
08:50:29 14 being updated, will they have to run a HAVA check at that
08:50:33 15 point as well?

08:50:33 16 A. Yes. Every time that you are making an update to
08:50:38 17 a record or adding a record for the first time, the system
08:50:43 18 requires the HAVA check to be ran as part of the process.

08:50:46 19 Q. Why does the system need to do that when there is
08:50:50 20 an update?

08:50:52 21 A. It's the way the system was built to run. It
08:50:56 22 doesn't treat an update and a new addition any differently.

08:51:02 23 Q. And so if -- okay.

08:51:06 24 And so when the county recorder selects "Run
08:51:13 25 HAVA Checks," what is the first thing that happens in the

08:51:16 1 system?

08:51:19 2 A. Well, the system is behind the scenes making that
08:51:21 3 call to MVD through the API and waiting to receive the
08:51:25 4 results.

08:51:26 5 Q. Okay. And so the county -- what will the county
08:51:33 6 recorder see?

08:51:36 7 A. When the information has been transmitted and
08:51:38 8 received back, they'll receive a pop-up similar to the one
08:51:41 9 that's on that screen.

08:51:43 10 Q. Okay.

08:51:43 11 A. And it would --

08:51:45 12 Q. Sorry. I didn't mean to cut you off.

08:51:48 13 A. No. Go ahead with your question.

08:51:49 14 Q. No. You said they would get a pop-up, and then
08:51:53 15 they would what?

08:51:53 16 A. Then that's when MVD would tell them what the
08:51:57 17 authorized presence value is for the match.

08:52:03 18 Q. Would they see anything else?

08:52:12 19 A. With the match?

08:52:13 20 Q. With the pop-up, like, other than the authorized
08:52:16 21 presence, is there any other information --

08:52:17 22 A. It will show them the name so that they can be
08:52:20 23 aware that this presence -- authorized presence value is
08:52:23 24 for this name so they can compare it to the record and the
08:52:27 25 driver's license number.

08:52:28 1 Q. If -- and that is in the case of a hard match; am
08:52:35 2 I correct?

08:52:36 3 A. Yes.

08:52:36 4 Q. What would it --

08:52:37 5 A. It's the same. It's the same with a soft match.
08:52:40 6 Because if we back up for a minute, every time they do a
08:52:43 7 "Run HAVA Checks," there's always a possibility that what
08:52:47 8 they get in return from MVD is one match or multiple
08:52:51 9 matches. And like I had mentioned before, some of them can
08:52:55 10 be a soft or it could be a hard match.

08:52:57 11 So at that point, the county user needs to
08:52:59 12 make a selection based on what's been presented to them.
08:53:03 13 Then when that selection is made, then they get a pop-up
08:53:07 14 similar to the one that's on the screen that then presents
08:53:10 15 to them the authorized presence value along with the name
08:53:13 16 and the driver's license.

08:53:14 17 Q. Okay. And where they have soft matches where
08:53:20 18 there's multiple matches, what criteria would a county
08:53:26 19 recorder use to make a choice between the soft matches?

08:53:30 20 MR. MORGAN: Foundation.

08:53:31 21 THE WITNESS: It's a -- it's a county
08:53:32 22 function, so I -- I don't do that function. I would have
08:53:37 23 to refer to the EPM, if it's there, to be able to answer
08:53:41 24 the question.

08:53:43 25 BY MS. SHAH:

08:53:56 1 Q. And is it possible for there to be a hard match
08:54:02 2 but the corresponding information from the MVD record does
08:54:07 3 not match the information provided on the voter
08:54:10 4 registration application?

08:54:14 5 A. These are computer systems, so everything is
08:54:16 6 possible. So the county user has to be very attentive to
08:54:21 7 the information being received.

08:54:22 8 And if there's a mismatch, they -- they are
08:54:25 9 instructed to open a ticket and submit a ticket for us to
08:54:30 10 evaluate the situation.

08:54:33 11 MR. MORGAN: Just noting for the -- noting
08:54:35 12 for the record, by the way, it's 00 it's 8:55, and I know
08:54:37 13 Mr. Langhofer has a 9:00 for a break. So just want to let
08:54:41 14 you know. So if I were you, I would be monitoring the
08:54:44 15 time.

08:54:47 16 MS. SHAH: Okay. We'll assume that Kory will
08:54:49 17 speak up as he needs to.

08:54:53 18 MR. LANGHOFER: I'll drop just, you know,
08:54:56 19 four or five minutes from now. We'll all suspend, not just
08:55:01 20 me drop out.

08:55:03 21 MS. SHAH: Let us know, Kory.

08:55:05 22 BY MS. SHAH:

08:55:06 23 Q. So it is possible for there to be a match with an
08:55:10 24 Arizona driver's license or ID number, but there may not be
08:55:16 25 a match with a name potentially?

08:55:19 1 A. I mean, that's not expected. I mean, the system
08:55:22 2 is matching apple to apples and it should only be returning
08:55:26 3 apples back, to put it in layman's terms.

08:55:28 4 Q. So you said in those circumstances a county
08:55:31 5 recorder is instructed to create a ticket?

08:55:33 6 A. Yeah. That would be the first initial reaction,
08:55:37 7 I'm sure, to let us know that something is not providing
08:55:42 8 the expected results or is providing a mismatch if it were
08:55:46 9 to happen.

08:55:47 10 Q. And what would be the status of that voter
08:55:51 11 registration in that circumstance?

08:55:53 12 A. If they were not able to receive any proper
08:55:57 13 information with MVD, more than likely they would have to
08:56:00 14 put them in suspense, I would imagine, until the -- until
08:56:04 15 it's resolved.

08:56:05 16 Q. So until the -- the lack of matched information is
08:56:12 17 resolved, they would be in suspense?

08:56:13 18 A. So let me think about this. So MVD is used to
08:56:17 19 acquire DPOC. So if for some reason MVD failed to produce
08:56:23 20 the proper match, the system also will move into getting
08:56:31 21 verification from the SSA.

08:56:34 22 But in this case, it's not going to move
08:56:36 23 forward because the system thinks they found a match. So
08:56:38 24 this is like a very tricky question that I would rather --
08:56:43 25 in order for me to answer the question, I would have to run

08:56:45 1 through a real scenario to see the system behavior to
08:56:49 2 evaluate what the county may do in that case. It's a very
08:56:53 3 tricky situation.

08:56:56 4 Q. So if -- if there was a match provided and -- but
08:57:07 5 the county recorder sees some discrepancies in that match,
08:57:12 6 the system -- what would be the status of that record?

08:57:20 7 A. I'm -- well, at that point, DPOC is not proven
08:57:29 8 unless they also provided DPOC outside of relying on the
08:57:32 9 system. So it's a hypothetical that it's very hard to
08:57:35 10 answer without an actual case for us to evaluate in this
08:57:39 11 scenario.

08:57:40 12 Q. I understand that.

08:57:42 13 I'm just trying to get to -- but if it was a
08:57:49 14 -- we discussed earlier what a complete registration would
08:57:54 15 be. And I understand that the DPOC hasn't been provided.
08:57:58 16 But other than that, would they be considered an active
08:58:02 17 voter? Would that be a status at that point?

08:58:05 18 A. Yeah, it -- it should because if the voter --
08:58:08 19 other than the DPOC not being able to be validated
08:58:11 20 accurately at that moment, if they did provide their full
08:58:14 21 name, date of birth, address, signed everything, provided a
08:58:18 22 signature, they should be able to bring that record into an
08:58:22 23 active valid registration.

08:58:24 24 But in that case, more than likely they will
08:58:26 25 need to be -- at least for the moment, for the time being,

08:58:30 1 be considered a federal-only voter.

08:58:34 2 Q. And would that -- would that record be considered
08:58:39 3 as having been provided -- like, that the record has shown
08:58:44 4 and verified their identity as well?

08:58:49 5 MR. WHITAKER: Foundation.

08:58:50 6 THE WITNESS: That's a tricky part because
08:58:52 7 the system only makes a call to SSA if there is no match
08:58:56 8 whatsoever in MVD.

08:58:57 9 So in the scenario that you presented, in the
08:59:00 10 hypothetical that you presented, you asked if there could
08:59:05 11 be a chance that MVD provides a match that doesn't match
08:59:08 12 the record. And so in that case, it's a unique situation
08:59:15 13 where they more than likely might have to be a fed-only
08:59:18 14 voter -- what we call a fed voter and not a fed-I. Fed-I
08:59:22 15 is when there's no DPOC, but we're able to confirm their
08:59:27 16 personhood, their identity, by way of SSA.

08:59:29 17 Q. Okay.

08:59:31 18 MR. LANGHOFER: Apologies for interrupting.
08:59:33 19 I think I need to break for this other call.

08:59:38 20 MR. MORGAN: We'll be back -- what, Kory --
08:59:39 21 9:45?

08:59:41 22 MR. LANGHOFER: That would be great.

08:59:43 23 MS. SHAH: We're going off the record.

08:59:44 24 MR. MORGAN: Yes, please.

08:59:46 25 THE VIDEOGRAPHER: We're off the record.

08:59:52 1 Time on the video monitor is 8:59 a.m.

09:00:18 2 (A recess ensued.)

09:47:03 3 THE VIDEOGRAPHER: We are on the record.

09:47:56 4 Time on the video monitor is 9:47 a.m.

09:48:00 5 BY MS. SHAH:

09:48:02 6 Q. Okay. Ms. Morales, let's pick up where we left.

09:48:05 7 And I want to put this -- just want to get a few more

09:48:09 8 details about the soft and hard matches, and then we can

09:48:12 9 move on.

09:48:12 10 With the soft match, the fields that have
09:48:16 11 been entered in AVID by a county recorder, do they have to
09:48:18 12 match exactly with the corresponding information with MVD?

09:48:29 13 A. In order to get a hard match, everything needs to
09:48:33 14 match.

09:48:34 15 Q. Understood.

09:48:34 16 A. For a soft match, not everything.

09:48:37 17 Q. Okay. So -- and by that, I want to just drill
09:48:39 18 down on this.

09:48:40 19 So if my first name is spelled N-i-y-a-t-i,
09:48:44 20 my last name is spelled S-h-a-h, if there is an exact match
09:48:48 21 with my last name field but my first name is trans- --
09:48:54 22 like, one or two letters are transposed, would that yield a
09:48:58 23 soft match?

09:49:00 24 A. I would have to rely on the technical specs of the
09:49:05 25 match and how it works because in some cases it's just the

09:49:07 1 first three letters of the first name and last name. And
09:49:11 2 it's not my area of expertise to drill it down to that
09:49:14 3 level.

09:49:16 4 Q. So --

09:49:18 5 A. So what I'm trying to say is I'm not sure, without
09:49:21 6 looking further into the technical specs, of how that
09:49:24 7 interface works for me to confirm if it's just looking at
09:49:29 8 the first three letters of the first name and last name in
09:49:32 9 order to produce matches of any kind.

09:49:33 10 Q. All right. Thank you. We may follow up with that
09:49:37 11 afterwards.

09:49:39 12 And then do you know if there is what they're
09:49:43 13 calling a flattening of names when there is a comparison of
09:49:48 14 fields or data between AVID and MVD?

09:49:52 15 MR. MORGAN: Form.

09:49:54 16 THE WITNESS: A flat name of names? Is that
09:49:57 17 the question?

09:49:57 18 BY MS. SHAH:

09:49:57 19 Q. Flattening.

09:49:58 20 So if there's, like, an apostrophe or
09:50:00 21 anything like that, that's removed when AVID and MVD --

09:50:04 22 A. I see.

09:50:05 23 Q. -- engage --

09:50:07 24 A. Sorry. Didn't mean to speak over you.

09:50:10 25 I would have to look at the technical specs

09:50:11 1 to be able to confirm that. It's just not something that I
09:50:13 2 do as a policy manager.

09:50:15 3 Q. Understood.

09:50:16 4 And then when you do get soft matches, do
09:50:21 5 county recorders get any sort of reliability score by any
09:50:24 6 chance?

09:50:26 7 MR. MORGAN: Foundation.

09:50:28 8 THE WITNESS: I don't know. I would have to
09:50:32 9 see an example to see what's presented to them. But I have
09:50:35 10 never heard of a reliability score.

09:50:38 11 BY MS. SHAH:

09:50:38 12 Q. Who would know if not you?

09:50:41 13 A. We would have to go into the technical aspects of
09:50:44 14 the system, so perhaps Russell Smith.

09:50:48 15 Q. Okay. And then am I correct that when there's a
09:50:55 16 hard match, you would only get one match from MVD?

09:50:59 17 A. If it's a hard match?

09:51:01 18 Q. Yes.

09:51:01 19 A. I mean, yeah, it should only be one hard match
09:51:05 20 unless for some reason MVD has two records for the same
09:51:09 21 person.

09:51:11 22 Q. Well, I just want to clarify. The match is being
09:51:14 23 done by what has been entered into AVID by a county
09:51:18 24 recorder; correct?

09:51:18 25 A. Uh-huh.

09:51:18 1 Q. And so if -- if there's limited information, can
09:51:23 2 there be two hard matches based on that information that's
09:51:26 3 entered by the county recorder into AVID?

09:51:32 4 MR. WHITAKER: Form.

09:51:33 5 THE WITNESS: I cannot say that there's not a
09:51:35 6 possibility that MVD may have two separate records with the
09:51:39 7 same name, but that would be a huge exception. Is it
09:51:44 8 possible? I can't tell you with certainty if it could be
09:51:46 9 or not.

09:51:47 10 BY MS. SHAH:

09:51:48 11 Q. And you can get a hard match without putting in a
09:51:52 12 driver's license or ID number into AVID?

09:51:57 13 A. I would have to look at the hard match criteria to
09:52:00 14 tell with certainty.

09:52:02 15 Q. Okay. What about if there is just the last four
09:52:07 16 digits of the Social Security number but not the driver's
09:52:11 17 license? Could you get a match from MVD based on that
09:52:16 18 information?

09:52:19 19 A. Again, I would have to rely on the hard match
09:52:21 20 criteria. I don't know if there's an exhibit that we can
09:52:23 21 go look to --

09:52:25 22 Q. Could you get --

09:52:26 23 A. -- to refer to it but . . .

09:52:29 24 Q. Sorry. Also didn't mean to cut you off. My
09:52:31 25 apologies.

09:52:32 1 Could you get a soft match with just a Social
09:52:37 2 Security entry?

09:52:38 3 MR. MORGAN: Form. Foundation.

09:52:41 4 THE WITNESS: I would have to rely on looking
09:52:42 5 at the hard and soft match criterias to tell with
09:52:46 6 certainty.

09:52:46 7 BY MS. SHAH:

09:52:46 8 Q. Okay. And then you mentioned that when you're
09:52:50 9 doing a HAVA check, the -- would you -- would a county
09:52:55 10 recorder be able to access a Social Security -- the Social
09:53:01 11 Security database if there was a match with MVD?

09:53:06 12 MR. MORGAN: Foundation.

09:53:10 13 THE WITNESS: So this is primarily a county
09:53:14 14 function. I know some aspects of how the system is
09:53:19 15 programmed to work. And to the best of my -- to my best
09:53:23 16 understanding -- and again, I'm a policy manager, not a
09:53:25 17 technical manager.

09:53:26 18 My understanding is that when there is a
09:53:29 19 match with MVD and MVD can confirm a match that includes
09:53:34 20 the Social Security number, there's no additional call to
09:53:38 21 the SSA for further verification of that person's identity.

09:53:42 22 BY MS. SHAH:

09:53:42 23 Q. And do you know if the Social Security database
09:53:46 24 provides information on an individual's citizenship?

09:53:50 25 A. No. Absolutely not. This is strictly to confirm

09:53:54 1 identity.

09:53:55 2 Q. Okay. Then we talked about the -- you know, when

09:54:01 3 the record is updated -- when a registration record is

09:54:04 4 updated and a HAVA check is run, if there was a -- with

09:54:10 5 that record, there was -- if you actually go back to tab --

09:54:14 6 sorry. If we go back to AZSOS-182040.

09:54:25 7 A. I'm there.

09:54:26 8 Q. Yep.

09:54:27 9 And -- and at the bottom, do you see there is

09:54:31 10 a -- a field called "Citizenship Verified"?

09:54:38 11 A. Uh-huh. I see it.

09:54:40 12 Q. When is that field used?

09:54:46 13 A. So when the "Run HAVA Checks" button is selected

09:54:52 14 and the call is made to MVD, depending on the authorized

09:54:56 15 presence value confirmation that is received back from MVD,

09:55:01 16 if it was confirmed that the authorized presence value was

09:55:03 17 a 1 or a 4, then that checkbox would be automatically

09:55:08 18 marked as "yes." If it's not one of those, then it would

09:55:12 19 default to "no." But --

09:55:13 20 Q. What if -- I didn't realize you were not done.

09:55:17 21 Please continue.

09:55:18 22 A. What I was going to point out on this screen, that

09:55:22 23 pop-up that you have in front of you, it's not an MVD

09:55:27 24 pop-up. It's a hard match. It's a duplicate match pop-up,

09:55:31 25 so it's -- this comes after the other one, I'm pretty sure.

09:55:35 1 Q. That I understand. I was just -- just talking
09:55:38 2 about the field generally, not in this specific record.

09:55:40 3 A. Okay.

09:55:41 4 Q. But can this field be selected if there is a
09:55:50 5 documentary proof of citizenship provided with the voter
09:55:55 6 registration application?

09:55:55 7 A. Yes. So if for some reason there was no match
09:55:59 8 with MVD, and it's going to then in that case default to
09:56:02 9 "no" because there was no match, the county still has the
09:56:07 10 overriding factor of that because they could have DPOC that
09:56:11 11 was provided with the voter registration form in terms of a
09:56:17 12 birth certificate or passport, et cetera.

09:56:19 13 So they still have the ability to change it
09:56:21 14 based on what was presented by the applicant.

09:56:24 15 Q. Understood.

09:56:25 16 So when the county recorder does that
09:56:29 17 overriding, would -- what -- do they have to do anything
09:56:34 18 else to do that overriding, like, any other steps that they
09:56:41 19 have to follow or they just click it to "yes"?

09:56:43 20 A. Yeah. I mean, they have the proof in front of
09:56:45 21 them. So they're going to proceed based on the information
09:56:49 22 that was provided.

09:56:50 23 Q. Do they have to document that proof in any way
09:56:53 24 into AVID, like scan the document in or anything like that?

09:56:59 25 A. I don't know what their procedures are. It's a

09:57:02 1 county function.

09:57:04 2 Q. But there's no requirement that AVID will --
09:57:08 3 they'll just let them override it without any additional
09:57:13 4 steps?

09:57:13 5 A. AVID doesn't have any built-in expectations for
09:57:16 6 them to do anything further.

09:57:18 7 Q. Okay. Understood.

09:57:20 8 Then when there's an update to a record where
09:57:23 9 that "Citizenship Verified" field is marked "yes" and that
09:57:30 10 update runs an MVD -- or sorry -- a HAVA check and the MVD
09:57:37 11 match results in a, you know, foreign authorized presence
09:57:42 12 value, will that "Citizenship Verified" field get
09:57:51 13 overridden by the HAVA check at that point?

09:57:55 14 A. I did not follow --

09:57:56 15 Q. Okay.

09:57:57 16 A. -- what you just said. Sorry.

09:57:59 17 MR. MORGAN: Form.

09:57:59 18 BY MS. SHAH:

09:58:00 19 Q. Okay. I -- I -- if you have a existing record
09:58:05 20 that is being updated where the "Citizenship Verified" has
09:58:09 21 been marked as "yes" and then when that record is being
09:58:14 22 updated and a HAVA check is run and matched to a MVD record
09:58:22 23 showing a foreign authorized presence, will the
09:58:28 24 "Citizenship Verified" checkbox automatically turn to "no"
09:58:33 25 in that situation under the update?

09:58:40 1 A. I would have to rely on looking at this -- what we
09:58:43 2 call the specs of how the system is programmed to behave.
09:58:47 3 Going by memory right now, I'm pretty sure
09:58:49 4 that the outcome is it defaults to "no," but the county
09:58:54 5 knows to look at the record further to see if it had been
09:58:58 6 "Citizenship Verified" yes, if they made a note on the
09:59:02 7 record that it already been previously verified so that
09:59:05 8 they can default to what it was before based on other
09:59:10 9 methods of DPOC they may have been provided by the
09:59:14 10 applicant in the past.

09:59:19 11 Q. So can we --

09:59:20 12 A. May I go off record for just one moment so I can
09:59:24 13 blow my nose?

09:59:25 14 Q. Of course. Please.

09:59:28 15 A. Okay. One moment.

09:59:45 16 Okay. Thank you for giving me that, Grace.

09:59:50 17 Q. Of course.

09:59:54 18 I just -- and would any other field get
09:59:59 19 changed automatically during that update?

10:00:03 20 A. During the MVD HAVA check update?

10:00:07 21 Q. Uh-huh.

10:00:12 22 A. If the -- if the return is that the voter is not a
10:00:17 23 naturalized citizen or citizen, my understanding is that
10:00:20 24 both the "Citizenship" box would say "no" and then the fed
10:00:25 25 flag will say "yes."

10:00:27 1 Q. Okay. But that is after the HAVA check overrode
10:00:35 2 the previous information --
10:00:36 3 A. Uh-huh.
10:00:37 4 Q. -- that was entered?
10:00:38 5 So where -- what you said -- and I'm
10:00:41 6 paraphrasing your prior testimony. So if I misrepresent,
10:00:44 7 correct me.
10:00:46 8 But if that has happened, the county recorder
10:00:48 9 is supposed to look and go back and change it. Where would
10:00:52 10 they look to see if the "Citizenship Verified" information
10:00:56 11 -- like what field would that have been recorded
10:00:59 12 previously?
10:01:00 13 A. Well, this is in the -- in the instance that
10:01:03 14 they're doing an update; right? We're still talking about
10:01:06 15 an update?
10:01:06 16 Q. Uh-huh.
10:01:07 17 A. Again, it's a county function. So they should be
10:01:10 18 paying attention to what the record looked like prior to
10:01:13 19 running the HAVA check so that they know what it was before
10:01:17 20 in order to move accordingly.
10:01:20 21 Q. But there's no other tab or field that would have
10:01:28 22 information for the county recorder to go back to after the
10:01:34 23 HAVA check is run?
10:01:37 24 A. Well, there's a tab called the activity tab. But
10:01:41 25 at that point, that activity tab hasn't been updated

10:01:44 1 because they're in the process of making an update.

10:01:50 2 Q. I'm not sure I understand.

10:01:51 3 A. So when they receive a form and if it's an update

10:01:55 4 and they're in the process of making that update, there's

10:01:59 5 nothing in that update that's going to be presented in the

10:02:03 6 activity tab until they're done with that update. It

10:02:06 7 doesn't become a history until the history is completed.

10:02:09 8 So what I'm saying is they should be paying

10:02:12 9 attention to what the current status was of the record

10:02:16 10 before they ran the HAVA check so that they are aware of

10:02:19 11 what it was before the HAVA check was run.

10:02:24 12 But again, I want to go on record and say

10:02:26 13 this is not a function that I do. So I'm --

10:02:31 14 Q. I understand.

10:02:32 15 A. That's the most I can -- I can bring to the

10:02:34 16 conversation.

10:02:35 17 Q. I absolutely understand. And I appreciate that.

10:02:39 18 I guess my question was a little different.

10:02:42 19 A. Okay.

10:02:42 20 Q. I appreciate they were supposed to keep track of

10:02:45 21 it before they did the HAVA check. But for whatever reason

10:02:51 22 they didn't or forgot; right? Because we're all doing

10:02:54 23 multitasking, for whatever reason. And the HAVA check

10:02:57 24 overrides the "Citizenship Verified" field. Would there be

10:03:06 25 any other place in that AVID record or tabs that they could

10:03:11 1 go back to see what the citizenship status was or the
10:03:16 2 immigration status was?
10:03:18 3 A. Well, they can back out and start over. Or they
10:03:22 4 can make the change, look at the activity, and revert it to
10:03:26 5 what it was before.

10:03:27 6 Q. Okay. Thank you. That's helpful.

10:03:30 7 So if -- if there's no match with MVD and --
10:03:50 8 but there is a match with SSA, what -- what would happen to
10:03:54 9 that AVID record at that point?

10:03:57 10 A. And this is a new record?

10:03:59 11 Q. Yes.

10:04:00 12 A. Okay. So --

10:04:02 13 Q. Thank you.

10:04:02 14 A. Yeah. So there was no DPOC acquired from MVD. So
10:04:06 15 the record would -- it will indicate citizenship "no." And
10:04:09 16 if there was a match with SSA, then that person -- we
10:04:14 17 were -- the county recorder was able to confirm the
10:04:16 18 identity, personhood.

10:04:17 19 So it would be in the category of fed-I,
10:04:21 20 meaning it's a federal voter with the identity provided or
10:04:25 21 confirmed as opposed to a fed voter that hasn't provided
10:04:33 22 DPOC nor there's any proof of identity.

10:04:35 23 Q. And is there any source -- well, actually let me
10:04:49 24 back up.

10:04:50 25 Under what circumstances would a county

10:04:53 1 recorder utilize the SAVE database?

10:04:56 2 MR. MORGAN: Foundation.

10:05:02 3 You can answer if you know. You're muted.

10:05:05 4 THE WITNESS: Sorry. I hit that by mistake.

10:05:07 5 So the SAVE system is not part of --

10:05:12 6 MR. MORGAN: You're muted again.

10:05:16 7 THE WITNESS: So the SAVE system is not part
10:05:18 8 of AVID. It's a separate platform -- web-based platform.

10:05:26 9 And it's used in cases where in the application the person
10:05:30 10 has provided an alien registration number or some
10:05:35 11 naturalization papers that they can run through -- through
10:05:39 12 SAVE.

10:05:41 13 BY MS. SHAH:

10:05:43 14 Q. So when you have a new registration and there is
10:05:48 15 an alien number or naturalization or citizenship document
10:05:53 16 presented, at what point in the process would the county
10:06:02 17 recorder run that through SAVE? Would it be during the
10:06:07 18 HAVA check process? Or how would that work?

10:06:10 19 A. I don't know what their steps and procedures are
10:06:14 20 in terms of that. It's a function that they -- they carry.
10:06:17 21 It might vary from county to county. I don't want to
10:06:20 22 speculate.

10:06:21 23 Q. And can you look at what is in the folder Document
10:06:30 24 AZSOS 3- -- 0330610.

10:06:40 25 A. 0330610?

10:06:42 1 Q. 0330610.

10:06:46 2 A. Okay. Email?

10:06:50 3 Q. Yes.

10:06:51 4 A. Okay.

10:06:52 5 MS. SHAH: And I -- can we mark that as an

10:06:54 6 exhibit. I believe we're at 278, Cindy.

10:06:59 7 THE COURT REPORTER: Correct.

10:06:59 8 (The document was marked as Exhibit 278

10:07:01 9 for identification.)

10:07:01 10 BY MS. SHAH:

10:07:02 11 Q. So looking at -- let me know when you've had a

10:07:08 12 chance to look at it.

10:07:13 13 A. Do you want me to read the entire thing or do

10:07:15 14 you --

10:07:15 15 Q. That's okay.

10:07:17 16 A. Okay.

10:07:18 17 MR. MORGAN: You can read the entire thing if

10:07:20 18 it will help you, Yolanda.

10:07:21 19 THE WITNESS: Okay. I guess it would depend

10:07:22 20 on the question.

10:07:24 21 BY MS. SHAH:

10:07:24 22 Q. Yeah. Okay. Why don't we go through it together.

10:07:26 23 A. Okay.

10:07:26 24 Q. Why don't we do that.

10:07:28 25 A. Sure.

10:07:28 1 Q. So is -- do you see the second full paragraph?

10:07:39 2 A. The one starting with "We appreciate your asking
10:07:42 3 yesterday"?

10:07:42 4 Q. Yes.

10:07:43 5 A. Okay.

10:07:44 6 Q. And which provides -- and then you say, "We
10:07:47 7 appreciate your asking yesterday about whether the existing
10:07:50 8 SAVE Memorandum of Agreement (MOA) (attached), which
10:07:54 9 provides for verification of citizenship information by
10:07:58 10 Arizona county recorders at point of registration, would
10:08:01 11 also permit your office to grant the Arizona Attorney
10:08:06 12 General's Office access to SAVE per HB 2492."

10:08:11 13 Did I read that correctly?

10:08:12 14 A. Yes.

10:08:12 15 Q. And then it says -- if you go to the next
10:08:17 16 paragraph, it's the second full sentence, I believe, which
10:08:26 17 says, "In addition, you indicated that the County Recorder
10:08:29 18 Offices may begin using SAVE, also under authority of a
10:08:33 19 recently enacted HB 2492, to verify citizenship information
10:08:38 20 of registered voters who previously registered to vote
10:08:41 21 using the Federal National Voter Registration Form but did
10:08:44 22 not provide documentary proof of citizenship at time of
10:08:47 23 registration. This is also not consistent with the
10:08:50 24 authority currently provided in the SAVE MOA which limits
10:08:53 25 the use of SAVE to verification of citizenship information

10:08:57 1 of registrants," quote, "'when they register to vote,'"
10:09:00 2 unquote.

10:09:02 3 Did I read that correctly?

10:09:02 4 A. Yes.

10:09:04 5 Q. So is it correct that SAVE can only be used
10:09:13 6 when -- when a county recorder is being -- entering a new
10:09:19 7 registration -- voter registration application into AVID?

10:09:21 8 MR. MORGAN: Foundation.

10:09:25 9 MR. LANGHOFER: Legal conclusion.

10:09:26 10 THE WITNESS: I'm not an expert of what the
10:09:27 11 agreement entails.

10:09:31 12 BY MS. SHAH:

10:09:32 13 Q. Based on this email --

10:09:33 14 A. I mean, taking it at face value --

10:09:37 15 MR. LANGHOFER: Same objection.

10:09:38 16 THE WITNESS: -- I would have no reason to
10:09:40 17 disagree.

10:09:41 18 BY MS. SHAH:

10:09:42 19 Q. Okay. And based on this email, would county
10:10:01 20 recorders be able to use SAVE to verify citizenship if they
10:10:09 21 have reason to believe that an individual does not -- like,
10:10:13 22 an already registered voter does not have a DPOC on file?

10:10:16 23 MR. MORGAN: Form.

10:10:20 24 MR. WHITAKER: Legal conclusion.

10:10:21 25 THE WITNESS: My understanding is that SAVE

10:10:23 1 is currently used when the voter provides those numbers
10:10:26 2 without the actual documentation to back it up in order to
10:10:31 3 confirm if the number being provided is valid and matches
10:10:36 4 the voter's record.

10:10:38 5 BY MS. SHAH:

10:10:40 6 Q. But if there was an AVID record of a registered
10:10:43 7 voter who does not have any DPOC information on file but
10:10:52 8 they're actively registered, can SAVE be used to verify
10:10:56 9 that at a later date?

10:10:59 10 A. SAVE requires a combination of the person's name
10:11:06 11 and, I think, the date of birth, along with that number.
10:11:08 12 So you can't run a search without a combination of
10:11:12 13 information being presented.

10:11:15 14 Q. But I'm asking more specifically in light of the
10:11:20 15 memorandum of agreement that the secretary of state has
10:11:23 16 entered into.

10:11:24 17 Can county recorders do that under this as
10:11:27 18 we've just discussed in this email?

10:11:30 19 MR. LANGHOFER: Legal conclusion.

10:11:31 20 MR. MORGAN: Foundation. She's already said
10:11:34 21 she's not familiar with the memo.

10:11:36 22 THE WITNESS: I don't know the details. I've
10:11:37 23 never read the Memorandum of Agreement.

10:11:40 24 BY MS. SHAH:

10:11:41 25 Q. Okay. And then just one other question.

10:11:55 1 Is there -- outside of the three databases
10:12:00 2 that we've talked about -- the MVD, the secretary of state
10:12:02 3 -- I mean the Social Security Administration -- goodness --
10:12:06 4 and the SAVE database -- is there -- along with those
10:12:14 5 databases, do you know of any other database that can
10:12:18 6 verify the birthplace of a registrant?

10:12:24 7 MR. LANGHOFER: Asked and answered.

10:12:26 8 MS. SHAH: I didn't ask this question.

10:12:29 9 MR. LANGHOFER: It was yesterday, not this
10:12:31 10 witness. Same depo, though.

10:12:35 11 MR. WHITAKER: Well, that raises a -- I'm not
10:12:39 12 sure -- possible scope objection. I can't remember who was
10:12:42 13 designated for what.

10:12:46 14 MS. SHAH: So my understanding is that
10:12:49 15 Ms. Morales has been designated for databases here. And
10:12:53 16 that's why I'm asking her that.

10:12:53 17 BY MS. SHAH:

10:12:57 18 Q. So Ms. Morales?

10:13:00 19 A. Can you repeat the question?

10:13:02 20 Q. Sure.

10:13:02 21 Are there any databases that can verify the
10:13:08 22 birthplace of a registrant?

10:13:11 23 MR. WHITAKER: Form.

10:13:12 24 THE WITNESS: No, that I'm aware of.

10:13:17 25 BY MS. SHAH:

10:13:17 1 Q. Thank you.

10:13:18 2 Could you please go to Document AZS0S-267015.

10:13:41 3 A. Yes. I'm looking at an email.

10:13:44 4 MS. SHAH: And I believe we are at 278 or --

10:13:50 5 THE COURT REPORTER: 279.

10:13:54 6 MS. SHAH: 279. Thank you.

10:13:54 7 (The document was marked as Exhibit 279

10:13:56 8 for identification.)

10:13:56 9 BY MS. SHAH:

10:13:57 10 Q. And if you go towards the end of that document,

10:14:02 11 which is what I believe is starting at 267017. Let me know

10:14:15 12 when you're there.

10:14:15 13 A. Okay. So you want me to go to the one that says

10:14:18 14 17. Okay.

10:14:19 15 Q. Then going through to the end of that document.

10:14:26 16 When you're done just taking a quick look at it, let me

10:14:31 17 know. Do you -- when you're ready.

10:14:41 18 A. Yeah. Give me one moment. I may have to go up

10:14:50 19 further to understand what they were talking about.

10:14:52 20 Q. Okay. Let's -- let's just -- I think we may not

10:14:55 21 need to do that. But if we do, we can do that.

10:14:58 22 A. Okay.

10:14:58 23 Q. So you're on 267017; right?

10:15:03 24 A. Uh-huh.

10:15:03 25 Q. Do you see towards the bottom where it says,

10:15:11 1 "Monthly OOS Credential Cancellations"?

10:15:15 2 A. Yes. On Number 1?

10:15:17 3 Q. Yes.

10:15:18 4 A. Uh-huh.

10:15:18 5 Q. Okay. And then there's a list of some details
10:15:27 6 like (a) through (r), and then Number 2, "SOS Customer
10:15:32 7 Extract"?

10:15:33 8 A. Yes, I see that.

10:15:34 9 Q. Okay. Are -- just based on this information, are
10:15:39 10 these the two monthly extracts that MVD has been providing
10:15:42 11 the secretary of state?

10:15:45 12 A. I know that there is a file that we receive
10:15:48 13 currently on a monthly basis, only one. I've never looked
10:15:52 14 at the file nor can I corroborate if those fields are in
10:15:56 15 those files. It's not in my scope of work.

10:16:00 16 Q. All right. Thank you.

10:16:02 17 And then I just have one other question.
10:16:06 18 Going back to AZSOS-182040 again.

10:16:19 19 A. Okay.

10:16:19 20 Q. Would it be accurate to say that if the fed or
10:16:37 21 fed-I fields are marked that that, either one, that
10:16:44 22 practice would mean that that person is a federal-only
10:16:49 23 voter currently?

10:16:49 24 A. Yes.

10:16:50 25 MR. MORGAN: Form.

10:16:51 1 THE WITNESS: Yes. If those flags are
10:16:55 2 checked, they're not considered a full-ballot voter.
10:16:58 3 They're a fed-only voter.

10:16:59 4 BY MS. SHAH:

10:17:00 5 Q. Is there any other field or fields that would
10:17:06 6 indicate a federal-only ballot voter in AVID?

10:17:11 7 A. No. It's only by using those flags.

10:17:13 8 Q. Okay. All right. Great.

10:17:14 9 MS. SHAH: Can we take a -- literally a
10:17:18 10 five-minute break, please.

10:17:21 11 MR. MORGAN: Of course.

10:17:23 12 MS. SHAH: Thank you. We'll be back at --
10:17:26 13 when it's, like, 1:22 --

10:17:30 14 THE VIDEOGRAPHER: We are off the record.
10:17:31 15 Time on the video monitor is 10:17 a.m. This ends Media 1.

10:17:39 16 (A recess ensued.)

10:25:12 17 THE VIDEOGRAPHER: We are on the record.
10:25:40 18 Time on the video monitor is 10:25 a.m. This begins
10:25:45 19 Media 2.

10:25:46 20 BY MS. SHAH:

10:25:50 21 Q. Ms. Morales, I want to just go back to that
10:25:53 22 document that was 267015.

10:26:04 23 MR. MORGAN: Do you want to go to that page
10:26:05 24 of it?

10:26:06 25 MS. SHAH: I just -- well, first, I was

10:26:07 1 making sure that she has that document in front of her.

10:26:09 2 Then I will get into the specifics, Craig.

10:26:12 3 THE WITNESS: I'm still in the same email,
10:26:14 4 yes.

10:26:15 5 BY MS. SHAH:

10:26:15 6 Q. Great. Okay.

10:26:16 7 And I -- again, I'm paraphrasing your earlier
10:26:23 8 testimony, but do correct me if I'm wrong?

10:26:25 9 But you said that you were -- you were not
10:26:28 10 aware of getting these two extracts; you were just getting
10:26:31 11 one file from MVD; am I correct?

10:26:34 12 A. I'm aware that we're receiving one file currently
10:26:39 13 per month.

10:26:40 14 Q. Okay. And then if you look at what is marked
10:26:48 15 as -- in that Document AZS0S-267016.

10:26:56 16 A. Okay.

10:26:57 17 Q. And do you see an email from Christy Hood to,
10:27:04 18 among others, yourself?

10:27:08 19 A. I see the email.

10:27:10 20 Q. And that had this chain through it; am I correct?

10:27:17 21 A. Yes.

10:27:18 22 MR. MORGAN: Form.

10:27:19 23 BY MS. SHAH:

10:27:19 24 Q. So were you involved in the creation of these
10:27:25 25 credentials?

10:27:28 1 MR. WHITAKER: Form.

10:27:29 2 MR. MORGAN: Form.

10:27:31 3 THE WITNESS: I don't understand the
10:27:36 4 question.

10:27:36 5 BY MS. SHAH:

10:27:36 6 Q. Exactly. So I will rephrase.

10:27:38 7 So as I said, that -- the email chain that
10:27:41 8 includes you has listed these extracts -- the two extracts
10:27:47 9 that we just went over; that is, the monthly OOS Credential
10:27:50 10 Extract and the SOS Customer Extract.

10:27:55 11 So were you involved in the exchange of these
10:28:02 12 two extract creations?

10:28:05 13 MR. MORGAN: Form.

10:28:06 14 THE WITNESS: No. I was included for
10:28:09 15 awareness in these emails, but I was not directly involved
10:28:12 16 in working with ADOT MVD.

10:28:17 17 BY MS. SHAH:

10:28:17 18 Q. Do you know who was from the Secretary of State's
10:28:20 19 Office?

10:28:20 20 A. I'm pretty sure this conversation was between
10:28:22 21 Russell Smith and ADOT.

10:28:25 22 Q. Okay. Great.

10:28:28 23 And do you know if AVID communicates with the
10:29:07 24 database in Maricopa County?

10:29:09 25 A. We have an interface to receive their data into

10:29:14 1 AVID and API.

10:29:17 2 Q. And what about for Pima?

10:29:19 3 A. Same.

10:29:20 4 Q. And is it -- do you know which fields from Pima
10:29:30 5 and Maricopa come into AVID?

10:29:33 6 A. I couldn't list them all. The majority of them
10:29:38 7 do. There are certain modules that we don't get data for.

10:29:46 8 Q. And what about the DPOC? Does that get
10:29:51 9 transferred?

10:29:53 10 A. What do you mean by DPOC?

10:29:55 11 Q. So if a voter has entered -- or provided DPOC in
10:30:03 12 Pima, would that get reflected into AVID?

10:30:06 13 A. The citizenship box would say "yes" or "no."

10:30:11 14 Q. In AVID from Pima?

10:30:16 15 A. Yes. Correct.

10:30:17 16 Q. And Maricopa as well?

10:30:18 17 A. Yes.

10:30:20 18 Q. Ms. Morales, could I ask you to please go to
10:32:00 19 AZSOS-269052.

10:32:07 20 A. Yes.

10:32:08 21 Q. Okay.

10:32:09 22 MS. SHAH: And can we please mark that as an
10:32:14 23 exhibit.

10:32:14 24 MR. MORGAN: I'm sorry. 06 -- what was the
10:32:16 25 number again?

10:32:16 1 MS. SHAH: Sure. AZSOS-269052. 269052.

10:32:16 2 (The document was marked as Exhibit 280

10:32:24 3 for identification.)

10:32:24 4 MR. MORGAN: Thank you.

10:32:27 5 BY MS. SHAH:

10:32:28 6 Q. And go to -- for example, you will see that this

10:32:42 7 document, on the -- starting at page 269055, starts with

10:32:55 8 "HB 2243." Do you see that heading in the center of the

10:33:00 9 page?

10:33:00 10 A. Yes, I see it.

10:33:03 11 Q. Great.

10:33:03 12 And if we were to go to the following page

10:33:13 13 where at 269058, it says, "Action Items."

10:33:27 14 A. Okay. I'm there.

10:33:28 15 Q. And then it says, "Causes for Cancellation: ADOT

10:33:32 16 Process (Out-of-State license list)."

10:33:35 17 A. Okay. I see that.

10:33:36 18 Q. Then there's another heading that says, "AVID/VR

10:33:40 19 Process."

10:33:42 20 A. Yes.

10:33:43 21 Q. Has that enhancement been completed?

10:33:53 22 A. So you want to know if we're receiving that

10:33:55 23 out-of-state license list from MVD?

10:33:59 24 Q. No. I'm asking if it says AVID and VR process,

10:34:03 25 the subheading. And it says, "We will need an AVID

10:34:08 1 enhancement for this import."

10:34:10 2 Do you see that?

10:34:10 3 A. No. There's been no updates in AVID in order
10:34:14 4 to -- for the counties to do the function using AVID.

10:34:18 5 Q. Okay. And then do you see where it says "Juror
10:34:24 6 Questionnaire" below, if you keep going down?

10:34:26 7 A. Yes.

10:34:26 8 Q. It says again, the "AVID/VR Process." Has that
10:34:31 9 been done, the development as needed?

10:34:34 10 A. That --

10:34:36 11 MR. MORGAN: Form.

10:34:36 12 THE WITNESS: -- development hasn't -- that
10:34:41 13 has not been -- it's not functional.

10:34:43 14 BY MS. SHAH:

10:34:43 15 Q. Okay. And then if you go to the next page, it
10:35:00 16 says -- if you go to 3, it says, "ADOT/VR Database
10:35:05 17 Comparison "

10:35:06 18 Do you see that?

10:35:07 19 A. Yes.

10:35:08 20 Q. And the second sentence, it says, "Their database
10:35:14 21 is too large to do a comparison through the API. (For
10:35:18 22 example, we'd need to break it up and run 1/30th every
10:35:23 23 night, ETA unknown.) "

10:35:27 24 A. I see that.

10:35:27 25 Q. What does that mean?

10:35:32 1 MR. MORGAN: Foundation.

10:35:33 2 THE WITNESS: I can only repeat what's there.

10:35:38 3 I cannot expand on that.

10:35:41 4 BY MS. SHAH:

10:35:42 5 Q. Who would be able?

10:35:43 6 A. It's a technical question that would be --

10:35:45 7 MR. MORGAN: Well, you don't need to -- you
10:35:47 8 don't need to speculate at all, Yolanda.

10:35:49 9 And I'll remind counsel this is a document we
10:35:52 10 went over ad nauseam with Ms. Connor, who, I believe, is
10:35:56 11 the drafter of this document. And I think that question
10:35:58 12 might have been better directed toward her.

10:35:58 13 MR. HERRERA: I'll object to instructing the
10:35:58 14 witness [indiscernible].

10:36:07 15 MR. MORGAN: I'm sorry. I didn't hear that.

10:36:07 16 THE COURT REPORTER: Mr. Herrera, can you
10:36:09 17 repeat that?

10:36:12 18 MR. HERRERA: I'll withdraw it.

10:36:14 19 MS. SHAH: I think, actually, Ms. Connor
10:36:16 20 referred it to Ms. Morales in this situation, Craig.

10:36:18 21 MR. MORGAN: Yeah. I don't remember.

10:36:20 22 MS. SHAH: Exactly. So I'm going to ask my
10:36:22 23 question.

10:36:22 24 BY MS. SHAH:

10:36:22 25 Q. And I don't want to -- you know, so, like, if --

10:36:25 1 and my question is -- Ms. Morales, I appreciate if you
10:36:27 2 don't know, but then I'm asking you who would.

10:36:32 3 A. Within our office, it would be a question better
10:36:35 4 suited for Russell Smith.

10:36:36 5 Q. Okay. Thank you.

10:36:39 6 Okay. Finally, if we can go to page
10:36:56 7 AZSOS-269064. Do you see --

10:37:10 8 A. I don't see a 269064. Maybe it's in a different
10:37:15 9 folder than the one I'm in.

10:37:16 10 Q. I'm sorry. 269064 is not on there?

10:37:20 11 A. No. The next number it jumps to is 329462.

10:37:26 12 Q. Okay. Well --

10:37:34 13 MS. KANTER COHEN: To be clear, it's in the
10:37:35 14 same document we've been looking at.

10:37:35 15 MS. SHAH: Yeah.

10:37:36 16 MS. KANTER COHEN: It's just further down.

10:37:36 17 THE WITNESS: Oh, okay. Tell me the number
10:37:40 18 that I was in.

10:37:40 19 BY MS. SHAH:

10:37:40 20 Q. Sure.

10:37:40 21 A. I moved out of it.

10:37:40 22 Q. That's okay.

10:37:41 23 So the original document is 269052. And then
10:37:49 24 if you go to --

10:37:50 25 A. I'm back in there. Okay.

10:37:51 1 Q. 269064.

10:37:53 2 A. Okay. I'm following. One second.

10:37:56 3 Q. When you're there, let me know.

10:38:06 4 A. Okay. I'm at the section where it says,
10:38:10 5 "Documentary Proof of Citizenship."

10:38:12 6 Q. Yes. But right above that, do you see "Action
10:38:15 7 Items"? And --

10:38:15 8 A. Yes.

10:38:16 9 Q. -- it says, "add DPOR flag in AVID."

10:38:19 10 A. Yes.

10:38:19 11 Q. Has that been done?

10:38:22 12 A. No. That's not functional.

10:38:27 13 MS. SHAH: All right. So with that,
10:38:29 14 Ms. Morales, I am going to stop my questioning. And I'm
10:38:33 15 going to hand it over to my colleague.

10:38:35 16 But if you want to go off the record, folks,
10:38:37 17 let me know.

10:38:39 18 MS. LANG: I don't need to.

10:38:42 19 MS. SHAH: Okay.

10:38:42 20

10:38:43 21 EXAMINATION

10:38:43 22 BY MS. LANG:

10:38:44 23 Q. Thank you so much, Ms. Morales. My name is
10:38:46 24 Danielle Lang, and I represent the LUCHA plaintiffs. I'm
10:38:48 25 just going to have very few questions for you, and then I

10:38:51 1 believe the Department of Justice will have a few questions
10:38:54 2 as well.

10:38:55 3 My questions are going to focus entirely on
10:38:58 4 issues around residency and AVID.

10:39:02 5 So I think you mentioned earlier that, you
10:39:04 6 know, part of AVID's functionality has to do with
10:39:07 7 addressing systems. So what I want to understand is when a
10:39:12 8 county recorder puts in an address into AVID, is there a
10:39:17 9 kind of a system or database or whatnot that -- in AVID
10:39:22 10 that allows that -- that address to be kind of matched to a
10:39:26 11 location that then can precinct that voter?

10:39:31 12 MR. MORGAN: Form.

10:39:32 13 THE WITNESS: Yes, there is.

10:39:33 14 BY MS. LANG:

10:39:33 15 Q. And can you describe to me briefly kind of what --
10:39:36 16 what that system is?

10:39:38 17 MR. MORGAN: Form.

10:39:40 18 THE WITNESS: There is a subsystem on AVID
10:39:47 19 called TotalAddress where it has all the geographical
10:39:53 20 location that's on record and can be confirmed as a valid
10:39:56 21 address.

10:39:57 22 So when the county user is typing the address
10:40:00 23 in the system, it's automatically looking to see that
10:40:04 24 address matches so that it can be validated as a valid
10:40:11 25 address and a precinct assignment completed.

10:40:13 1 BY MS. LANG:

10:40:13 2 Q. Great.

10:40:13 3 And are there some circumstances where an
10:40:16 4 address that was provided by a voter might not match in
10:40:18 5 TotalAddress?

10:40:20 6 A. Yes, I'm sure that can happen.

10:40:21 7 Q. Okay. Are you aware of kind of the circumstances
10:40:25 8 under which that's most common?

10:40:30 9 A. It's a county function. So they're the ones who
10:40:32 10 will be better -- that deal with that on a daily basis.

10:40:37 11 Q. Fair enough.

10:40:38 12 Do you know how many voters in the AVID
10:40:40 13 system are currently not registered due to a status related
10:40:44 14 to an invalid address?

10:40:49 15 A. What do you mean by "not registered"?

10:40:51 16 Q. That are not in an active-voter status because
10:40:56 17 their address could not be validated.

10:40:59 18 A. So I can tell you that I know there are some, but
10:41:01 19 I don't know the total.

10:41:03 20 Q. Okay. What are -- what is the kind of status
10:41:07 21 reason that will appear when there's a problem because of
10:41:10 22 an address not matching the TotalAddress?

10:41:15 23 A. Sorry. I didn't mean to speak over.

10:41:18 24 On memory right now, I would say it would be
10:41:22 25 status, suspense; status reason, waiting verification.

10:41:29 1 Q. And can voters, also in lieu of an address,
10:41:33 2 provide a drawing or some other explanation of their
10:41:37 3 location of residence to register?

10:41:39 4 A. Yes. That is provided as an option.

10:41:42 5 Q. Okay. And under those circumstances, how do
10:41:46 6 county -- how is that recorded in AVID and allowing that
10:41:54 7 voter to become precincted and validated for their
10:41:59 8 residence?

10:41:59 9 MR. MORGAN: Form.

10:41:59 10 THE WITNESS: I don't know the steps the
10:42:00 11 counties follow for that.

10:42:02 12 BY MS. LANG:

10:42:04 13 Q. Do you know how TotalAddress -- the AVID system
10:42:07 14 accounts for nonstandard addresses?

10:42:13 15 A. My understanding is that it doesn't. It can only
10:42:17 16 list what's inputted in the system as a valid address.

10:42:21 17 Q. And so do you know kind of how the AVID system
10:42:24 18 will precinct someone if they are not able to be matched to
10:42:28 19 a standard address in TotalAddressing?

10:42:31 20 MR. MORGAN: Form.

10:42:33 21 THE WITNESS: I don't know the steps. I'm
10:42:35 22 aware that there is a process to be able to do that, but I
10:42:39 23 would not be able to break it down for you.

10:42:39 24 BY MS. LANG:

10:42:41 25 Q. Do you know who in the secretary's office would

10:42:45 1 know about the AVID functionality component of that issue?

10:42:49 2 A. The best person would be Russell Smith.

10:42:53 3 MS. LANG: I don't have any further
10:42:55 4 questions. Thank you so much for your time, Ms. Morales.

10:42:57 5 THE WITNESS: You're welcome.

10:42:58 6

10:42:58 7 EXAMINATION

10:42:58 8 BY MS. YUN:

10:42:58 9 Q. Good morning, Ms. Morales. My name is Jennifer
10:43:04 10 Yun. And as my colleague said, I represent the United
10:43:08 11 States. I'm from the Department of Justice. I just have a
10:43:14 12 few questions about the use of birthplace information
10:43:17 13 provided on the state form.

10:43:21 14 So I'm going to pose a couple of
10:43:23 15 hypotheticals. And let me know if you need any other
10:43:26 16 information or if you don't -- if you need me to clarify,
10:43:30 17 I'll be happy to do that.

10:43:31 18 So let's say that there is a -- that an
10:43:34 19 election official encounters two records with the same name
10:43:41 20 and date of birth on AVID. If those records have a
10:43:46 21 matching place of birth, is that information enough for
10:43:51 22 county officials to determine whether the records are for
10:43:53 23 the same voter?

10:43:56 24 MR. WHITAKER: Form. Foundation.

10:43:57 25 THE WITNESS: We don't have a field in AVID

10:44:00 1 to indicate a place of birth that I'm aware of.

10:44:12 2 BY MS. YUN:

10:44:12 3 Q. Okay. My -- my understanding was that the -- that
10:44:16 4 the date of -- the place of birth information is inputted
10:44:20 5 into AVID. But your testimony today is that you're not
10:44:23 6 aware of that; is that right?

10:44:25 7 MR. MORGAN: Form.

10:44:26 8 THE WITNESS: Yeah, I'm --

10:44:27 9 MR. MORGAN: Wait. Wait. Wait. Form and
10:44:29 10 foundation as to what your understanding may be. You can
10:44:30 11 go ahead and answer, Yolanda.

10:44:36 12 THE WITNESS: I can't confirm right now if
10:44:38 13 that is a field that we receive information from the voter
10:44:42 14 to be able to input in AVID. I would -- I would have to
10:44:49 15 look in AVID to see if there is such a field. If it's a
10:44:56 16 field, it's not one that's commonly used. I just -- I'm
10:44:59 17 not recalling right now.

10:45:00 18 BY MS. YUN:

10:45:01 19 Q. Okay. So it's not something -- it's not something
10:45:04 20 you can answer without checking with the system or other
10:45:08 21 folks in your office; is that right?

10:45:10 22 A. Right. Or better suited for a county user.

10:45:14 23 Q. Understood.

10:45:18 24 Do you have any reason to believe that --
10:45:21 25 that birthplace information is -- sorry. Let me back up.

10:45:29 1 So before HB 2492, county officials were --
10:45:37 2 or AVID users, county users, were able to establish a
10:45:40 3 potential registrant's identity without having to input any
10:45:45 4 birthplace information; is that right?

10:45:49 5 MR. WHITAKER: Form. Foundation.

10:45:54 6 THE WITNESS: Can you repeat the question?

10:45:55 7 BY MS. YUN:

10:45:56 8 Q. Sure.

10:45:56 9 Prior to HB 2492, county officials were able
10:46:00 10 to establish a potential registrant's identity without
10:46:05 11 using their birthplace information; is that right? That's
10:46:08 12 what AVID is used for?

10:46:11 13 MR. LANGHOFER: Same objections.

10:46:12 14 MR. MORGAN: Foundation. And I think this is
10:46:16 15 Topic 16, which I thought was more Ms. Connor.

10:46:19 16 MR. LANGHOFER: And asked and answered.

10:46:23 17 BY MS. YUN:

10:46:24 18 Q. You can answer.

10:46:25 19 A. The place of birthplace is not used for matching a
10:46:29 20 voter or looking for duplicate voters in the system.

10:46:34 21 Q. Okay. And do you have any reason to believe that
10:46:39 22 that statement would change after HB 2492?

10:46:44 23 MR. WHITAKER: Same objections.

10:46:47 24 THE WITNESS: I don't know. I would have to
10:46:54 25 review all the house bill details. I don't have all that

10:46:58 1 information committed to memory right now.

10:47:09 2 BY MS. YUN:

10:47:10 3 Q. And I'm going to ask you a couple more questions
10:47:12 4 about the citizenship checkbox on the state form.

10:47:20 5 So when -- if an applicant, using the state
10:47:24 6 voter registration form, provides either their driver's
10:47:27 7 license number or the last four digits of their social and
10:47:32 8 the MVD database returns a match and says that that person
10:47:36 9 is a citizen, is that -- has that registrant established
10:47:42 10 citizenship?

10:47:44 11 MR. WHITAKER: Same objection.

10:47:44 12 MR. MORGAN: Foundation. Calls for a legal
10:47:47 13 conclusion.

10:47:49 14 BY MS. YUN:

10:47:50 15 Q. You can answer.

10:47:51 16 A. Yes.

10:47:51 17 MR. MORGAN: If you know the answer.

10:47:51 18 THE WITNESS: Sure. So if DPOC is confirmed
10:47:56 19 with the MVD information returning the fact that the
10:48:00 20 authorized presence value is a one or a four, that
10:48:03 21 information is assumed to be correct and the citizenship
10:48:06 22 flag will be marked "yes."

10:48:11 23 BY MS. YUN:

10:48:11 24 Q. And if that same person whose MVD results came
10:48:15 25 back as one or four did not complete the citizenship

10:48:19 1 checkbox, does that mean that the registrant -- registrant
10:48:23 2 is not a citizen?

10:48:25 3 MR. WHITAKER: Same objections.

10:48:27 4 THE WITNESS: Are we talking about the
10:48:29 5 current situation or if the bill was to be implemented?

10:48:33 6 BY MS. YUN:

10:48:35 7 Q. Why don't you just actually answer both the first
10:48:38 8 and the second.

10:48:38 9 A. Okay.

10:48:39 10 MR. MORGAN: Well, why don't you ask -- wait.
10:48:40 11 Wait. Wait.

10:48:41 12 So she has it clear on her answer, why don't
10:48:43 13 you ask her each question so she can answer and we have a
10:48:46 14 clear record.

10:48:47 15 BY MS. YUN:

10:48:47 16 Q. Sure.

10:48:48 17 Prior to HB 2492, if that same person who was
10:48:53 18 -- whose citizenship flag was raised as "yes," if that
10:48:58 19 person checked -- did not complete the citizenship
10:49:01 20 checkbox, does that mean that the registrant is not a
10:49:03 21 citizen?

10:49:05 22 MR. WHITAKER: Same objections.

10:49:09 23 THE WITNESS: Currently, we are allowed to
10:49:10 24 acquire DPOC by way of MVD in order to confirm citizenship,
10:49:15 25 yes.

10:49:17 1 BY MS. YUN:

10:49:19 2 Q. So if there was no checkbox mark, that wouldn't
10:49:25 3 override the fact that the MVD result came back as a
10:49:30 4 citizen; is that right?

10:49:32 5 A. Right.

10:49:32 6 MR. MORGAN: Form.

10:49:33 7 MR. WHITAKER: Same objection. And I think
10:49:34 8 these were asked and answered by the more appropriate
10:49:37 9 designee yesterday, if I recall.

10:49:43 10 BY MS. YUN:

10:49:43 11 Q. And, Ms. Morales, you asked whether my -- my
10:49:48 12 previous question was about before or after HB 2492. Would
10:49:53 13 your answer be different if it was after HB 2492 was
10:49:58 14 implemented?

10:49:59 15 MR. WHITAKER: Same objection.

10:50:00 16 MR. MORGAN: Form. Calls for speculation.

10:50:02 17 THE WITNESS: I would have to consult with
10:50:05 18 our legal team.

10:50:09 19 BY MS. YUN:

10:50:16 20 Q. In your experience, can election officials use the
10:50:19 21 checkbox -- the citizenship checkbox, that is -- to detect
10:50:23 22 whether a noncitizen is attempting to register to vote?

10:50:27 23 MR. MORGAN: Form.

10:50:28 24 MR. LANGHOFER: Same.

10:50:29 25 MR. MORGAN: Foundation. Also, I think this

10:50:31 1 is more -- we're retreading ground we covered with
10:50:35 2 Ms. Connor, who was designated for those issues.

10:50:37 3 But that's just my objection, Yolanda. You
10:50:39 4 can answer the question if you know the answer.

10:50:41 5 THE WITNESS: Okay. Can you ask me again,
10:50:44 6 please?

10:50:46 7 BY MS. YUN:

10:50:46 8 Q. In your experience, can election officials use the
10:50:48 9 citizenship checkbox to detect whether a noncitizen is
10:50:52 10 attempting to register to vote?

10:50:55 11 MR. WHITAKER: Same objections.

10:50:55 12 THE WITNESS: No.

10:50:58 13 BY MS. YUN:

10:51:03 14 Q. So if the MVD database establishes someone's
10:51:07 15 citizenship status, does the checkbox -- checkbox --
10:51:12 16 citizenship checkbox add anything to the election
10:51:18 17 official's knowledge about the applicant's citizenship?

10:51:20 18 MR. MORGAN: Same objection. Also, calls for
10:51:23 19 speculation as it relates to what other election officials
10:51:31 20 know.

10:51:35 21 BY MS. YUN:

10:51:35 22 Q. You can answer.

10:51:36 23 A. Okay. I'll ask you to repeat the question.

10:51:39 24 Q. So if the MVD database establishes someone's
10:51:44 25 citizenship status based on their DPOC information, does

10:51:48 1 the citizenship checkbox add anything to the election
10:51:52 2 official's knowledge about the applicant's citizenship?

10:51:55 3 MR. MORGAN: Same objections.

10:51:57 4 THE WITNESS: It's confirming DPOC in order
10:52:01 5 to be able to indicate on the voter's record that their
10:52:04 6 citizenship has been verified.

10:52:07 7 BY MS. YUN:

10:52:07 8 Q. What is confirming DPOC?

10:52:13 9 MR. WHITAKER: Same objection.

10:52:13 10 THE WITNESS: The information that we get
10:52:15 11 from MVD, if we receive a one or four authorized presence
10:52:18 12 value, is used in order to be able to confirm that DPOC has
10:52:24 13 been confirmed and verified in the system.

10:52:26 14 BY MS. YUN:

10:52:26 15 Q. I see.

10:52:27 16 So in that case, does the citizenship
10:52:31 17 checkbox add anything to someone's citizenship status?

10:52:35 18 MR. MORGAN: Same objections.

10:52:37 19 MR. WHITAKER: Same.

10:52:37 20 BY MS. YUN:

10:52:42 21 Q. Sorry. I didn't catch that, Ms. Morales. I'm
10:52:42 22 sorry.

10:52:46 23 A. The phrasing is confusing, but I can --

10:52:53 24 MR. MORGAN: Don't answer a question you
10:52:55 25 don't understand. And don't speculate, Yolanda. She can

10:52:58 1 ask another question.

10:52:59 2 THE WITNESS: Okay. Fair.

10:53:00 3 BY MS. YUN:

10:53:01 4 Q. Can you explain to me what's confusing?

10:53:04 5 A. I -- the way you're asking the question is --
10:53:10 6 doesn't describe the system behavior or --

10:53:14 7 Q. Okay. So would it be fair to say that the MVD
10:53:18 8 database confirms someone's citizenship status and that's
10:53:21 9 what -- that's the function of the AVID system -- is that
10:53:24 10 right? -- as it interfaces with the MVD data?

10:53:27 11 MR. MORGAN: Form.

10:53:28 12 MR. WHITAKER: Same objection. And leading.

10:53:34 13 THE WITNESS: I don't agree with your
10:53:36 14 phrasing.

10:53:36 15 BY MS. YUN:

10:53:37 16 Q. Okay. Then could you -- could you just repeat
10:53:39 17 that in your own phrasing?

10:53:41 18 MR. MORGAN: No, no. She's not going to ask
10:53:43 19 herself questions. You can ask her questions. She'll give
10:53:45 20 you answers.

10:53:48 21 BY MS. YUN:

10:53:49 22 Q. Do you have -- would you say that the MVD
10:53:54 23 database's information is more accurate than the presence
10:53:59 24 or absence of a checkmark on the registration form in terms
10:54:03 25 of that person's citizenship status?

10:54:05 1 MR. WHITAKER: Same objections.

10:54:09 2 MR. LANGHOFER: Speculation.

10:54:14 3 THE WITNESS: I'm not in a position to draw
10:54:17 4 those kind of conclusions.

10:54:19 5 BY MS. YUN:

10:54:21 6 Q. So under the current EPM, county recorders are
10:54:25 7 supposed to treat the MVD HAVA check results as
10:54:31 8 establishing someone's citizenship eligibility; is that
10:54:34 9 right?

10:54:34 10 MR. MORGAN: Foundation. Also, scope as it
10:54:37 11 relates to she wasn't designated to talk about the EPM.

10:54:42 12 But you can answer, though, Ms. Morales, if
10:54:46 13 you know.

10:54:46 14 THE WITNESS: So when the HAVA checks are ran
10:54:49 15 and we receive information back from MVD, if the authorized
10:54:55 16 presence code that we get back is a one or a four, it is
10:54:59 17 accepted as acceptable DPOC in order to mark citizenship
10:55:04 18 "yes" on the voter record.

10:55:06 19 BY MS. YUN:

10:55:06 20 Q. Okay. And one question. So in -- we're going
10:55:11 21 back to the birthplace information.

10:55:15 22 So do you have any -- does your office have
10:55:23 23 any plans to create any data entry rules for birthplace to
10:55:30 24 be entered into AVID?

10:55:34 25 MR. MORGAN: Form.

10:55:38 1 THE WITNESS: We would -- we would --

10:55:40 2 MR. MORGAN: You can answer to the extent it
10:55:42 3 doesn't call for you to reveal any communications between
10:55:44 4 you and your lawyers.

10:55:46 5 THE WITNESS: Uh-huh. We would -- we would
10:55:49 6 do everything to follow the law.

10:55:55 7 BY MS. YUN:

10:55:56 8 Q. Which law?

10:55:59 9 A. Well, the law right now is in litigation. So
10:56:04 10 depending on the outcome of litigation, we would follow the
10:56:11 11 law.

10:56:12 12 Q. Okay. So if there is no law in -- if there is no
10:56:16 13 provision in HB 2492, for example, that says you need to
10:56:21 14 have uniform entry rules for birthplace, then is -- so if
10:56:26 15 -- if the -- if there is no legal provision providing for
10:56:29 16 that, is your office planning on implementing something
10:56:34 17 like that on its own?

10:56:38 18 MR. MORGAN: Form. Foundation. And again,
10:56:41 19 she was not designated to talk about these issues.

10:56:44 20 But if you have the answer, Yolanda, you can
10:56:48 21 respond.

10:56:48 22 THE WITNESS: These --

10:56:49 23 MS. YUN: These are asking -- just for
10:56:50 24 clarification, these are asking about AVID data entry
10:56:55 25 rules.

10:56:55 1 MR. MORGAN: Well, you need to be clear,
10:56:56 2 then, so she knows that. But my same objection.

10:57:02 3 THE WITNESS: We would implement whatever we
10:57:05 4 receive as guidance or directive in order to move forward
10:57:12 5 with any changes in AVID. I don't make those decisions; I
10:57:16 6 act on decisions. So I don't know where those decisions
10:57:21 7 lie right now.

10:57:22 8 BY MS. YUN:

10:57:22 9 Q. Who -- who would make that kind of decision about
10:57:26 10 data entry rules in your office?

10:57:30 11 MR. MORGAN: Form, Form.

10:57:36 12 THE WITNESS: We would have meetings to
10:57:37 13 receive information, but I don't know exactly where it
10:57:39 14 would all start from, like, who would be the one. It's --
10:57:45 15 your question is outside my scope of work.

10:57:49 16 MR. MORGAN: Form.

10:57:50 17 You don't have to speculate, Ms. Morales.

10:57:50 18 BY MS. YUN:

10:57:53 19 Q. I think that's -- I'm mean, that's a perfectly
10:57:54 20 good answer if you don't know.

10:57:55 21 A. I don't know.

10:57:57 22 MS. YUN: I do not have any further questions
10:57:59 23 at this time. Thank you for your time.

10:58:03 24 THE WITNESS: Thank you.

10:58:08 25 MR. MORGAN: Before -- before we bring up

10:58:12 1 Mr. Smith, does anybody have any questions for Ms. Morales
10:58:14 2 on the plaintiffs' side? Okay.

10:58:20 3 Anybody on the defense or intervenor side?

10:58:27 4 MR. WHITAKER: I did. But, Kory, do you want
10:58:28 5 to go first?

10:58:30 6 MR. LANGHOFER: I've never been happier to
10:58:32 7 say I have no questions for this witness. You did a great
10:58:34 8 job. No reflection on you.

10:58:37 9 THE WITNESS: Okay. Thank you.

10:58:38 10

10:58:41 11 EXAMINATION

10:58:41 12 BY MR. WHITAKER:

10:58:41 13 Q. Very quickly, Ms. Morales. First of all, thank
10:58:44 14 you for your time.

10:58:46 15 A. You're welcome.

10:58:47 16 Q. Yesterday, Ms. Connor indicated that you would be
10:58:51 17 the more appropriate person to ask about the juror

10:58:53 18 questionnaire summary reports the secretary of state

10:58:57 19 receives. Is that something that you had knowledge on?

10:59:01 20 A. Yes.

10:59:03 21 Q. Okay. I'll try to keep this very short.

10:59:10 22 My understanding is that these new laws

10:59:13 23 require the summary reports to be sent to the secretary of

10:59:19 24 state and county recorders. Is that your understanding?

10:59:22 25 A. Yes.

10:59:22 1 Q. Has your office been receiving summary reports
10:59:28 2 pursuant to these laws about the juror questionnaire
10:59:31 3 information?

10:59:32 4 A. Yes.

10:59:33 5 Q. For roughly how long has your office been
10:59:37 6 receiving these reports?

10:59:40 7 A. They have been providing reports that date back to
10:59:45 8 January of 2023.

10:59:48 9 Q. And how are these reports stored in your office?

10:59:52 10 A. So they are transmitted to us via an encrypted
10:59:56 11 email. And then the attachments are saved in a folder in
11:00:02 12 our shares drive for reference.

11:00:06 13 Q. I don't expect you to know whether you -- your
11:00:09 14 office has produced those already. But do you happen to
11:00:12 15 know whether your office has produced those?

11:00:16 16 A. Produced them for this litigation?

11:00:17 17 Q. Yes.

11:00:18 18 A. I don't know.

11:00:22 19 Q. Would it be easy to grab those from that folder
11:00:25 20 and produce those?

11:00:26 21 MR. MORGAN: If you're asking if we'll
11:00:28 22 produce them, Josh, if we have them, the answer is yes.
11:00:32 23 But we can talk about that offline.

11:00:35 24 MR. WHITAKER: Sure. Okay. I'll stop with
11:00:37 25 that line of questions. Actually, I think that's it. I

11:00:40 1 won't ask any further questions.

11:00:42 2 MR. MORGAN: All right. Okay. Any follow-up
11:00:49 3 from the plaintiffs? Good.

11:00:53 4 Yolanda, thank you so very much. You are
11:00:55 5 free to go about your day.

11:00:59 6 Yeah, I think we've got -- we're pulling --
11:01:02 7 we're pulling Russ in now. So let's go off the record for
11:01:05 8 five minutes so we can transition. And then we'll bring
11:01:07 9 him on.

11:01:09 10 THE WITNESS: All right. Thank you.

11:01:10 11 MR. MORGAN: Is that okay with you?

11:01:12 12 MS. SHAH: Yes.

11:01:13 13 THE VIDEOGRAPHER: We're off the record.

11:01:14 14 Time on the video monitor is 11:01 a.m.

11:01:44 15 (A recess ensued.)

11:04:57 16 THE VIDEOGRAPHER: We are on the record.

11:05:10 17 Time on the video monitor is 11:05 a.m.

18

19

RUSSELL SMITH,

20

the witness herein, being first duly sworn,

21

was examined and testified as follows:

22

11:05:26 23

EXAMINATION

11:05:26 24

BY MS. SHAH:

11:05:29 25

Q. Good afternoon, Mr. Smith. My name is Niyati

11:05:31 1 Shah, and I represent the Equity Coalition plaintiffs
11:05:35 2 today.

11:05:36 3 Could you just please state and spell your
11:05:38 4 name for the record.

11:05:40 5 A. Are you looking for my full name?

11:05:44 6 Q. Yes.

11:05:45 7 A. My full name is Russell Orin Lamont Smith, IV,
11:05:51 8 which is R-u-s-s-e-l-l, O-r-i-n, L-a-m-o-n-t, S-m-i-t-h,
11:06:01 9 IV.

11:06:01 10 Q. And what is your title?

11:06:04 11 A. I am the elections technology manager for the
11:06:06 12 Arizona Secretary of State's Office.

11:06:08 13 Q. And how long have you been in this role?

11:06:11 14 A. I've been in this role since close to
11:06:17 15 December 2021.

11:06:18 16 Q. And how long have you been at the Secretary of
11:06:21 17 State's Office?

11:06:21 18 A. That was when I started as well.

11:06:24 19 Q. Okay. Great.

11:06:25 20 I'm just going to make a few things clear for
11:06:28 21 us as we move along in this deposition.

11:06:31 22 Do you understand that you are testifying
11:06:32 23 under oath today?

11:06:34 24 A. Yes, I do.

11:06:35 25 Q. And do you understand that a court reporter is

11:06:38 1 transcribing this deposition?

11:06:40 2 A. Yes.

11:06:42 3 Q. And so with that in mind, please answer questions
11:06:46 4 audibly and clearly. No head shakes, nods, uh-huhs. Does
11:06:51 5 that make sense?

11:06:53 6 A. I'll try my best.

11:06:55 7 Q. And to allow the court reporter to do their job,
11:06:59 8 I'm going to ask that you let me finish asking my questions
11:07:02 9 fully before you respond. And I will do the same and let
11:07:06 10 you finish your answers completely before asking another
11:07:09 11 question. Is that all right?

11:07:12 12 A. Yes. Understood.

11:07:14 13 Q. Yes. Just a reminder about the head nodding right
11:07:16 14 there.

11:07:17 15 A. Yeah.

11:07:17 16 Q. And will you let me know if you don't understand a
11:07:20 17 question or need me to repeat it at any point?

11:07:25 18 A. Yes. I'll be sure to let you know.

11:07:27 19 Q. Great.

11:07:28 20 And if I ask a question and you do answer the
11:07:30 21 question, I will assume that you understood the question.
11:07:32 22 Is that all right?

11:07:35 23 A. Yes.

11:07:37 24 Q. Is there any reason that you can't give a full,
11:07:40 25 complete, and accurate testimony today?

11:07:42 1 A. Not that I'm aware of.

11:07:46 2 Q. Are you on any medications or experiencing any
11:07:48 3 conditions that would prevent you from giving a full and
11:07:51 4 truthful testimony today?

11:07:53 5 A. No.

11:07:54 6 Q. Okay. If at any time you would like to take a
11:08:00 7 break, please let me know. The only thing I ask is that if
11:08:03 8 I've already asked a question, that you finish answering
11:08:04 9 the question before we go and take a break. Does that
11:08:07 10 sound fair?

11:08:09 11 A. That sounds fair.

11:08:10 12 Q. Can you tell me what you did to prepare for this
11:08:15 13 deposition?

11:08:17 14 A. I met with my legal counsel earlier in the week as
11:08:23 15 well as my team, who you've spoken with: Colleen and
11:08:27 16 Yolanda.

11:08:29 17 Q. Anybody else?

11:08:31 18 A. No. I -- I spoke with other members of my team
11:08:35 19 just to let them know for scheduling and logistic purposes
11:08:38 20 that I wouldn't be available. But nothing in regards to
11:08:41 21 details.

11:08:42 22 Q. Okay. And can we stipulate that whenever I use
11:08:47 23 the term "you" or "your" or "your office" in a question,
11:08:51 24 that it will be the equivalent of saying the Arizona
11:08:54 25 Secretary of State's Office?

11:08:57 1 A. Yes. I think that's fair.

11:08:59 2 Q. Okay. Great. All right.

11:09:02 3 So I would like to just first draw your
11:09:04 4 attention to what we previously marked an exhibit. But do
11:09:10 5 you have access, first of all, to the list of documents?

11:09:13 6 A. I do have a list of documents that are in a
11:09:17 7 Dropbox. I have not opened any yet, so I don't know if I
11:09:21 8 actually have full access to open them. But I can see a
11:09:25 9 list.

11:09:25 10 Q. Please go ahead and open it. Let me know when
11:09:28 11 you've done that.

11:09:29 12 A. I am at the list.

11:09:31 13 Is there a specific exhibit you would like me
11:09:32 14 to open?

11:09:33 15 Q. Yes. If you could please actually go first to a
11:09:36 16 folder that is called "SOS docs."

11:09:41 17 A. Okay. "SOS docs"; is that correct?

11:09:46 18 Q. Yes.

11:09:48 19 A. Okay. I am there. It's loading.

11:09:50 20 Q. And then in that -- in that folder, there is a
11:09:54 21 document called AZSOS-267015. Do you see that document?

11:10:03 22 A. 267015?

11:10:07 23 Q. 267015. That is correct.

11:10:11 24 A. Yes, I am opening that right now.

11:10:13 25 Q. Great. Let me know when you --

11:10:20 1 A. It is open on my screen.

11:10:21 2 Q. Okay. Could we -- perhaps if you could turn to --

11:10:35 3 towards the second to last page of that document, which is

11:10:40 4 267017. Do you see that?

11:10:46 5 A. 267- -- yes.

11:10:52 6 Q. And towards the -- I guess three-quarters of the

11:11:02 7 way down, you can see Number 1, "Monthly OOS Credential

11:11:02 8 Cancellations." Do you see that?

11:11:10 9 A. Can you repeat that? What am I looking for again?

11:11:12 10 Q. Yeah.

11:11:12 11 It says Number 1, "Monthly OOS Credential

11:11:16 12 Cancellations."

11:11:16 13 A. Yes. I see that, yes.

11:11:20 14 Q. Okay. So if you could just quickly review that

11:11:24 15 through the end of the document and see if you see Number 2

11:11:28 16 on the next page "SOS Customer Extract."

11:11:35 17 A. I do see Number 2, "SOS Customer Extract."

11:11:39 18 Q. Do you know what Number 1 and Number 2 are in this

11:11:47 19 document?

11:11:48 20 MR. MORGAN: Form.

11:11:54 21 THE WITNESS: I do not recall what these are

11:11:58 22 specifically. This appears to be -- by looking at this

11:12:02 23 email again -- a header or field types that are inside the

11:12:14 24 MVD system, I would assume, since this is an email from

11:12:18 25 their MVM operations manager.

11:12:22 1
11:12:22 2
11:12:27 3
11:12:30 4
11:12:32 5
11:12:36 6
11:12:39 7
11:12:39 8
11:12:39 9
11:12:41 10
11:12:44 11
11:12:47 12
11:12:53 13
11:12:56 14
11:12:57 15
11:13:07 16
11:13:11 17
11:13:14 18
11:13:17 19
11:13:19 20
11:13:21 21
11:13:24 22
11:13:25 23
11:13:26 24
11:13:29 25

BY MS. SHAH:

Q. If I told you that these were monthly extracts that MVD sent to the Secretary of State's Office, would that ring a bell?

MR. WHITAKER: Form.

THE WITNESS: I'm sorry. Can you repeat that question?

BY MS. SHAH:

Q. Sure.

If I were to say that these two -- Number 1, Number 2 -- are monthly extracts provided by MVD to the secretary of state, would that sound accurate to you?

A. This appears that that is what this is in reference to, yes.

Q. Okay. And so have you been involved in -- in obtaining extracts from MVD each month?

MR. MORGAN: Form.

THE WITNESS: I'm sorry. I want to go back to what we had previously stated.

Are you saying have I personally been involved, or are you stating has the SOS been involved in receiving documents?

BY MS. SHAH:

Q. Have you personally been involved?

A. I have not been personally involved as far as I've

11:13:36 1 been included on the emails overseeing the project. So I
11:13:40 2 guess I have an oversight. But this is all work that has
11:13:43 3 been done through our vendor and the MVD.

11:13:43 4 Q. So --

11:13:50 5 A. And the information that is delivered is delivered
11:13:52 6 through an automated process that I don't have visibility
11:13:56 7 of.

11:13:57 8 Q. So -- but the information that is delivered, who
11:14:01 9 decided what that information would be from the Secretary
11:14:05 10 of State's Office?

11:14:07 11 MR. MORGAN: Form

11:14:09 12 THE WITNESS: I don't recall who had made a
11:14:13 13 decision on what information would be delivered.

11:14:16 14 BY MS. SHAH:

11:14:18 15 Q. But it was not you?

11:14:21 16 A. I don't recall. I may have played a part, but I
11:14:26 17 don't have any recollection.

11:14:28 18 Q. So who -- who would know this information?

11:14:32 19 A. My assumption would be possibly someone from our
11:14:36 20 previous administration, such as maybe Kori Lorick, who I
11:14:42 21 know was working on this project as well.

11:14:47 22 Q. Okay. Once this information is received, though,
11:15:00 23 would you have knowledge of how this information would be
11:15:05 24 used to match with data in AVID?

11:15:15 25 A. I'm sorry. I don't know if I understand your

11:15:16 1 question. Can you can you ask that one more time?

11:15:20 2 Q. Sure. I will paraphrase your earlier testimony.

11:15:24 3 So if I paraphrase it wrong, definitely correct me.

11:15:26 4 But you said that, you know, this information
11:15:28 5 is delivered to the Secretary of State's Office; is that
11:15:34 6 right?

11:15:34 7 A. That is correct, yes.

11:15:35 8 Q. Will this information be matched to information
11:15:41 9 that is in AVID?

11:15:44 10 A. Once -- to my understanding, if I recall properly,
11:15:48 11 is once there is work that needs to be completed for our
11:15:51 12 system to adequately receive this information.

11:15:57 13 Q. So your testimony is, yes, once additional work is
11:16:02 14 done?

11:16:04 15 MR. MORGAN: Form.

11:16:08 16 THE WITNESS: As long as that -- I guess I
11:16:12 17 don't know if I understand that question. Can you rephrase
11:16:14 18 that?

11:16:15 19 BY MS. SHAH:

11:16:15 20 Q. Sure. I'm just trying to understand your response
11:16:17 21 about how this information will be used. I'm trying to
11:16:21 22 understand whether this information will be matched to
11:16:24 23 information in AVID.

11:16:25 24 And your response was? Do you just want to
11:16:30 25 repeat it? I don't want to speak for you.

11:16:32 1 A. Most certainly. I mean, I guess what I would say
11:16:34 2 is that would be its intent. But there has been no
11:16:39 3 development, or the development is not there currently, so
11:16:44 4 those files are not being [indiscernible] --

11:16:46 5 THE COURT REPORTER: "Those files are not"
11:16:49 6 what?

11:16:49 7 THE WITNESS: -- is my understanding.

11:16:49 8 THE COURT REPORTER: You cut out.

11:16:49 9 THE WITNESS: They're not being implemented
11:16:50 10 in -- those files are not being imported into the system,
11:16:54 11 to my recall.

11:16:56 12 BY MS. SHAH:

11:16:58 13 Q. And so there have been no -- has there been --
11:17:02 14 well, let me ask -- I'll strike that. Let me rephrase.

11:17:06 15 What would be the criteria to match the
11:17:13 16 information delivered to information that is currently in
11:17:16 17 AVID?

11:17:20 18 MR. MORGAN: Form.

11:17:22 19 THE WITNESS: I wouldn't have that criteria
11:17:28 20 directly in front of me as far as what development would
11:17:30 21 require, but my understanding would be most likely it would
11:17:34 22 have to be matching the information that is contained in
11:17:36 23 the MVD system as shared in these files to the information
11:17:38 24 that we have stored in AVID to an extent.

11:17:42 25 BY MS. SHAH:

11:17:42 1 Q. So have you provided the -- the draft criteria
11:17:51 2 that you just mentioned in your response?

11:17:53 3 MR. MORGAN: Form.

11:17:58 4 THE WITNESS: I don't know if I understand
11:17:59 5 the question.

11:18:00 6 Are you saying have I personally or has the
11:18:02 7 Secretary of State's Office?

11:18:02 8 BY MS. SHAH:

11:18:03 9 Q. The secretary of state.

11:18:06 10 A. Provided -- I'm sorry.

11:18:08 11 Can you repeat it one more time? Have we
11:18:10 12 provided what?

11:18:11 13 Q. The -- the criteria used to match this information
11:18:13 14 from MVD to the information in AVID.

11:18:18 15 MR. MORGAN: Form.

11:18:19 16 THE WITNESS: Not that I can recall or am
11:18:24 17 aware of. I know that there have been development tickets,
11:18:26 18 I believe, that have been created, but I don't believe
11:18:31 19 anything other than that has been done.

11:18:33 20 BY MS. SHAH:

11:18:34 21 Q. Thank you.

11:18:34 22 MS. SHAH: Craig, we'll follow up on that
11:18:37 23 about what has been -- the tickets that have been
11:18:39 24 developed.

11:18:41 25 BY MS. SHAH:

11:18:41 1 Q. Okay. And do you know who Jason Fountain is?

11:18:48 2 A. Yes. Jason Fountain is my direct report.

11:18:51 3 Q. And do you know if he was involved in determining
11:18:55 4 which information -- what information from MVD would be
11:19:01 5 provided in these extracts to the Secretary of State's
11:19:09 6 Office?

11:19:09 7 A. I don't recall his -- I don't recall his
11:19:13 8 involvement.

11:19:13 9 Q. Okay. Thank you. I appreciate that.

11:19:22 10 I can move us to a different document, if you
11:19:27 11 would, please. It is in that same file. The document will
11:19:32 12 be AZSOS-0330610.

11:19:39 13 A. Give me one second to find it.

11:19:41 14 Q. Absolutely.

11:19:42 15 A. 0330610?

11:19:46 16 Q. Exactly.

11:19:47 17 A. All right. Okay. I have found that document. I
11:19:57 18 have it open.

11:19:57 19 Q. Okay. We'll get to the document specifically.
11:20:02 20 But one preliminary question.

11:20:04 21 Do you know how -- do county recorders access
11:20:09 22 the SAVE database through an interface provided by the
11:20:12 23 Secretary of State's Office?

11:20:14 24 MR. MORGAN: Foundation.

11:20:16 25 THE WITNESS: That I am not sure how they

11:20:20 1 utilize the SAVE information. That's something that my
11:20:25 2 counterpart, Yolanda, manages.

11:20:27 3 BY MS. SHAH:

11:20:28 4 Q. Okay. All right. But -- but do you -- okay. So
11:20:35 5 I guess let me -- my question was a little different, not
11:20:38 6 about how they utilize the information from SAVE but how
11:20:41 7 they actually access that database.

11:20:45 8 Do you -- do you know -- is it through the
11:20:47 9 secretary of state --

11:20:48 10 A. I have no visibility -- I don't know. I'm not the
11:20:52 11 best person to ask that. That's not one of the systems
11:20:55 12 that I oversee.

11:20:56 13 Q. Who would be the person to ask?

11:20:59 14 A. Yolanda Morales.

11:21:01 15 MS. SHAH: All right. Thank you.

11:21:05 16 So I think those are my questions. I don't
11:21:12 17 know if any of my colleagues have any follow-up questions.

11:21:19 18 MR. HERRERA: I might have a couple for
11:21:21 19 Promise Arizona.

11:21:21 20 THE VIDEOGRAPHER: Excuse me one moment,
11:21:21 21 Counsel.

11:21:22 22 Mr. Smith, if you wouldn't mind for the video
11:21:24 23 just pushing your screen back away from you a little bit so
11:21:27 24 you're not cut off at the top. I want you full frame,
11:21:31 25 please.

11:21:31 1 Pardon the interruption.

11:21:31 2

11:21:31 3

EXAMINATION

11:21:33 4 BY MR. HERRERA:

11:21:33 5 Q. Hello, Mr. Smith. My name is Ernest Herrera. I
11:21:38 6 represent plaintiffs in this case known as the Promise
11:21:41 7 Arizona plaintiffs. Thanks for your time today.

11:21:44 8 I have a couple of quick questions. And we
11:21:46 9 can pull up the relevant documents if you need them, but
11:21:50 10 I'll just try to ask you really quickly.

11:21:52 11 In -- well, first of all, I think we
11:21:55 12 established you worked with ADOT on developing the customer
11:21:59 13 extracts that Ms. Shah was just asking you about; right?

11:22:04 14 A. Yes. I was on the project during that time, yes.

11:22:09 15 Q. Okay. And in developing those -- specifically the
11:22:12 16 "NonCitizen" field that is a part of the noncitizen
11:22:16 17 customer extract, did you have anything to do with helping
11:22:21 18 -- or working with ADOT on developing that field?

11:22:27 19 A. Not that I have any recollection, no. That was
11:22:33 20 nothing that I can recall, no.

11:22:35 21 Q. Did you make specific requests to ADOT in
11:22:39 22 developing that noncitizen customer extract in terms of
11:22:43 23 what kinds of data the secretary's office wanted?

11:22:49 24 A. I may have been involved. I would have to take a
11:22:54 25 look at forwarding information, but I did not have any

11:22:58 1 formal drafts or anything that I worked on personally. Not
11:23:03 2 that I recall.

11:23:03 3 Q. Sure. Let me just ask it perhaps more simply or
11:23:07 4 in plainer terms.

11:23:09 5 When working on that noncitizen customer
11:23:13 6 extract with ADOT, did you -- were there certain things
11:23:19 7 that -- that you wanted on behalf of the secretary's
11:23:23 8 office?

11:23:27 9 A. Not that I can recall in the specifics.

11:23:31 10 Q. What would help you recall that?

11:23:35 11 A. I would probably have to go back and take a look
11:23:38 12 at our emails that had gone through at that time. But I
11:23:46 13 don't have those in front of me right now, so I can't
11:23:49 14 recall the specifics of.

11:23:54 15 Q. Did you ever ask -- let me just -- so in the --

11:24:04 16 MR. HERRERA: Is someone talking? Sorry. Or
11:24:08 17 am I getting feedback?

11:24:09 18 MR. WHITAKER: Richard, I think you're
11:24:11 19 unmuted.

11:24:18 20 MR. HERRERA: Are we good? All right.

11:24:19 21 BY MR. HERRERA:

11:24:20 22 Q. Sorry about that, Mr. Smith.

11:24:26 23 So let me just try to pull up one of the
11:24:29 24 exhibits, if I can find it.

11:24:49 25 Are you familiar with the "NonCitizen" field

11:24:51 1 that is in the noncitizen customer extracts from ADOT?

11:24:58 2 A. I am not familiar with that field specifically,

11:25:01 3 no.

11:25:03 4 Q. It's the one that says "N" for -- or it's one that
11:25:09 5 has a value for if someone is supposedly a non-U.S. citizen
11:25:15 6 and then otherwise the field is null. Do you recall that?

11:25:22 7 A. I don't recall that specifically, but that sounds
11:25:26 8 logical.

11:25:27 9 Q. Okay. And do you recall working on developing
11:25:33 10 that field with ADOT?

11:25:40 11 A. Not -- not that I recall. I've had so many
11:25:43 12 projects with ADOT, I can't remember the specifics of them.
11:25:46 13 My apologies.

11:25:46 14 Q. So you'd have to see the actual document in front
11:25:49 15 of you?

11:25:50 16 A. That would be ideal, yes.

11:25:52 17 Q. Bear with me one moment while I try to find this.

11:26:24 18 A. Most certainly.

11:26:24 19 Is it in the exhibits? Should I have that
11:26:27 20 pulled up as well?

11:26:29 21 Q. Yes.

11:26:30 22 MR. HERRERA: Does anyone remember which one
11:26:32 23 was the ADOT -- was it exhibit -- the ADOT extracts?

11:26:41 24 MS. KANTER COHEN: The list of fields or the
11:26:43 25 ADOT exhibit?

11:26:44 1 MR. HERRERA: The list of fields. My
11:26:46 2 apologies. I'm doing this on the fly a little bit.
11:26:49 3 MS. KANTER COHEN: You could use 267.
11:26:52 4 MR. HERRERA: Sorry?
11:26:53 5 MS. KANTER COHEN: You could use 2- -- 267 --
11:26:59 6 sorry.
11:27:02 7 MR. WHITAKER: I think it's Exhibit 279. Is
11:27:05 8 that what you're referring to? The email that listed
11:27:08 9 the --
11:27:08 10 MS. KANTER COHEN: [Indiscernible] Jorgensen
11:27:08 11 113.
11:27:08 12 THE COURT REPORTER: Ms. Kanter Cohen, can
11:27:16 13 you repeat that? I didn't hear what you said.
11:27:16 14 MS. KANTER COHEN: I think Jorgensen 113 in
11:27:19 15 the Dropbox or the one that was already used that, I think,
11:27:24 16 someone was just mentioning the number.
11:27:26 17 MR. HERRERA: Oh, yeah. I'll pull that one
11:27:28 18 up here.
11:27:33 19 MR. MORGAN: Which one are you pulling up,
11:27:35 20 Ernest?
11:27:36 21 MR. HERRERA: Exhibit 113 from the deposition
11:27:40 22 of Mr. Jorgensen.
11:27:43 23 MR. MORGAN: Thank you.
11:27:46 24 MR. HERRERA: One moment.
11:27:46 25 BY MR. HERRERA:

11:27:48 1 Q. Okay. Mr. Smith, I am now showing you on the
11:27:52 2 screen share in Zoom Jorgensen Exhibit 113.

11:28:00 3 And I'm going to scroll down to a portion at
11:28:04 4 the top -- do you see that there's an email from you to
11:28:06 5 various parties on December 19, 2022?

11:28:10 6 A. Yes.

11:28:11 7 Q. Okay. So we went over -- Ms. Shah went over this
11:28:14 8 a little bit with you; right?

11:28:19 9 A. Yes, I believe this was something that we had
11:28:21 10 talked about previous.

11:28:23 11 Q. I'm going to go to the -- I'm going to the fourth
11:28:32 12 page of the exhibit -- of the document. And it's
11:28:35 13 Bates-stamped AZSOS-267127.

11:28:44 14 And do you see that it says that there's an
11:28:47 15 -- it says, "SOS Customer Extract." And then underneath,
11:28:51 16 there's the -- there's a list of fields that begin; right?

11:28:56 17 A. Yes.

11:28:57 18 Q. And then I'm going to continue onto the next page,
11:29:00 19 which is AZSOS-267128. Do you see that?

11:29:08 20 A. Yes. I see this next page, yes.

11:29:13 21 Q. Okay. Do you see Item U?

11:29:17 22 A. Yep.

11:29:18 23 Q. And in Item U in this email, it says "noncitizen,"
11:29:23 24 all one word, and then it has a parenthetical; right?

11:29:31 25 A. Yes. Let me -- I can't read the parenthetical on

11:29:34 1 my screen. Give me one second because I have -- the
11:29:36 2 cameras are covering it.

11:29:39 3 No. Sorry. If you could zoom back out to
11:29:42 4 where it was before. I just had to move my windows around.

11:29:45 5 Q. I see. How about that?

11:29:46 6 A. This is perfect. Thank you.

11:29:51 7 Right. I do see there's a parenthetical,
11:29:54 8 yes, which is referencing that it would be blank.

11:29:58 9 Q. Okay. And so in that parenthetical, it says, "The
11:30:00 10 noncitizen" -- referring to the "NonCitizen" field in the
11:30:03 11 extract, it says "will be marked 'Y'" -- the letter Y --
11:30:11 12 "if ADOT records -- records indicate the person is a
11:30:15 13 noncitizen; this will otherwise be blank"; right?

11:30:21 14 A. Yes. That's what it states, yes. Correct.

11:30:24 15 Q. Do you recall if this is what is reflected in the
11:30:29 16 current customer extract from ADOT that the SOS receives?

11:30:34 17 A. Not that I recall because I don't have visibility
11:30:38 18 of those. So I have not actually seen the extract as they
11:30:44 19 have come into the FTP server.

11:30:47 20 Q. Okay. Do you know who does look at them in the
11:30:51 21 FTP server as they come in every month?

11:30:54 22 A. So who -- who would have visibility of that would
11:30:57 23 be our vendor who maintains those interfaces. But I don't
11:31:02 24 think that the files are actively being looked at, as they
11:31:08 25 are just being received in the system. We don't have any

11:31:11 1 logic to import them.

11:31:13 2 Q. So no one in the secretary's office is looking at
11:31:16 3 those extracts in the FTP server every month?

11:31:22 4 A. That would be through extension of our vendor. So
11:31:25 5 our vendor is the one -- I believe in this email, if you
11:31:30 6 scroll up -- I think it was to the third page -- you can
11:31:33 7 see what they're referring to right here. Sorry. If you
11:31:36 8 scroll back down. Right there.

11:31:38 9 That's -- yeah. So "On behalf of the SOS, I
11:31:41 10 have checked on these files and can confirm that we can
11:31:43 11 access and download them."

11:31:46 12 So that is the file that you're seeing right
11:31:47 13 there. So on behalf of the SOS, that is from Kevin Kumpf
11:31:51 14 from INEXL.

11:31:51 15 Q. And is anyone --

11:31:55 16 THE WITNESS: Give me one moment. I'm sorry.
11:31:57 17 Give me one moment. I just need to grab my chair that's
11:32:01 18 right behind me. So I just need a five-second break. I'm
11:32:04 19 going to step out of frame.

11:32:05 20 MR. HERRERA: No problem.

11:32:13 21 THE WITNESS: All right. I am back. Thank
11:32:14 22 you.

11:32:17 23 MR. HERRERA: No problem.

11:32:17 24 BY MR. HERRERA:

11:32:20 25 Q. So INEXL -- that's spelled I-N-E-X-L. I think it

11:32:24 1 was discussed yesterday -- is the -- is the vendor; right?

11:32:30 2 A. INEXL is our vendor, yes.

11:32:33 3 Q. Now, is anyone from the secretary's office, as far
11:32:37 4 as you know, communicating with INEXL about these monthly
11:32:43 5 customer extracts from ADOT?

11:32:46 6 A. No, not that I'm aware of.

11:32:50 7 Q. Now, going back to the last page of Exhibit 113
11:32:57 8 and looking again at Item U, the "NonCitizen" field or
11:33:00 9 proposed field as it was at that time. Does looking at
11:33:06 10 this help you recall working with ADOT in designing this
11:33:11 11 customer extract?

11:33:15 12 A. I mean, I recall these emails that went on about
11:33:18 13 it, but I didn't have a -- I don't have any recollection of
11:33:24 14 having a personal level of picking these fields. My
11:33:30 15 understanding is that these fields are being provided by
11:33:34 16 ADOT and what's in their system.

11:33:39 17 Q. And did the secretary's office ask for this field
11:33:49 18 to be created?

11:33:53 19 A. That I -- I don't recall. I don't recall how this
11:34:00 20 field came about. It was already there [indiscernible].

21 THE COURT REPORTER: Can you repeat the end
22 of it? "It was already there" what?

23 THE WITNESS: I'm sorry. Are you asking me
24 to repeat my answer?

25 THE COURT REPORTER: You cut out at the end.

1 You said, "It was already there" --

11:34:17 2 THE WITNESS: No. What I had said is -- I
11:34:20 3 said, I don't recall if this was something that had to be
11:34:22 4 created or if this was a field that was already in their
11:34:26 5 system previously.

11:34:30 6 Can you -- did you -- did you hear me better?

11:34:31 7 THE COURT REPORTER: Yes.

11:34:34 8 BY MR. HERRERA:

11:34:39 9 Q. Now, do you know how ADOT fills or comes up with
11:34:49 10 the -- let me start that again.

11:34:51 11 Do you know how ADOT produces the value in
11:34:56 12 this "NonCitizen" field in the customer extract?

11:35:05 13 A. I -- I don't.

11:35:07 14 Q. Do you know if the "NonCitizen" field -- please go
11:35:12 15 ahead.

11:35:12 16 A. I was going to say I don't -- I don't recall --
11:35:19 17 yeah, I -- not at this moment.

11:35:24 18 Q. Okay. And is this something that you -- did you
11:35:28 19 go and review this in preparation for the deposition?

11:35:33 20 A. I did not review this particular list, no. I had
11:35:41 21 discussions with my counsel about these files, but I don't
11:35:48 22 recall going through this particular list.

11:35:53 23 Q. Do you do you know if, in producing this customer
11:36:03 24 extract on a monthly basis, if ADOT cross-references
11:36:09 25 certain data to come up with a value to put in the

11:36:13 1 "NonCitizen" field?

11:36:17 2 A. I don't know. I don't have visibility of how they
11:36:20 3 gather their data in their system.

11:36:23 4 Q. Besides this "NonCitizen" field, did the
11:36:28 5 secretary's office, in developing the customer extract from
11:36:31 6 ADOT for the purpose of implementing 2243, request any
11:36:37 7 other fields or data concerning MVD customers' citizenship
11:36:47 8 or immigration status?

11:36:52 9 MR. LANGHOFER: Asked and answered.

11:36:55 10 THE WITNESS: Can you repeat the question?

11:36:58 11 BY MR. HERRERA:

11:36:59 12 Q. Sure.

11:37:00 13 So besides this "NonCitizen" field that we're
11:37:02 14 looking at in this ADOT customer extract, the one that goes
11:37:07 15 to the secretary's office every month, besides that field,
11:37:13 16 did the secretary's office request any other data or fields
11:37:17 17 concerning citizenship or immigration status?

11:37:22 18 MR. LANGHOFER: Same objection.

11:37:23 19 THE WITNESS: I -- I don't recall. I would
11:37:25 20 have to look at the emails and what may have been
11:37:30 21 requested.

11:37:31 22 BY MR. HERRERA:

11:37:32 23 Q. So you'd have to go back and review your own
11:37:34 24 emails to answer that question?

11:37:36 25 A. To feel confident in answering it, yeah. I don't

11:37:40 1 recall the details about that.

11:37:46 2 Q. Besides -- besides you at the secretary's office,
11:37:52 3 was anyone else involved in working with ADOT on the
11:37:56 4 development of this customer extract?

11:38:01 5 A. Yes. Our previous director was heavily involved.
11:38:06 6 Kori Lorick is who that was.

11:38:10 7 Yolanda, my counterpart, she was also
11:38:14 8 involved as well as my direct report Jason Fountain was
11:38:20 9 involved to an extent, but I don't recall him having --
11:38:24 10 other than just being cc'd in the conversation.

11:38:27 11 And then through extension of the SOS, it was
11:38:30 12 also a direct partnership with our vendor as well helping
11:38:34 13 design that.

11:38:38 14 Q. Do you recall who from the secretary's office made
11:38:44 15 the decision to request certain data from ADOT as a part of
11:38:50 16 the customer extract?

11:38:55 17 A. I don't recall specifically, but my assumption
11:38:59 18 would be that would be something that would be under the
11:39:02 19 director and their initiatives.

11:39:06 20 Q. Would it help you to recall the answer to that if
11:39:09 21 you looked at some certain emails?

11:39:12 22 A. Most certainly, yeah.

11:39:13 23 Q. Is there anything else that you might review in
11:39:16 24 order to help refresh your recollection on -- on that point
11:39:19 25 about who decided what data to request from ADOT for the

11:39:24 1 customer extract?

11:39:26 2 A. I would say email would be the primary form of
11:39:30 3 communication between our two agencies.

11:39:50 4 Q. Now, in -- Ms. Shah asked you a little bit about
11:39:55 5 the matching that perhaps would have to be done in order to
11:40:00 6 implement 2243. Do you recall those questions?

11:40:04 7 A. I'm sorry. Can you can you repeat that? I heard
11:40:09 8 2243.

11:40:10 9 Q. Specifically thinking about implementing House
11:40:15 10 Bill 2243, do you recall questions about having to do
11:40:19 11 certain matching between MVD data and voter registration
11:40:26 12 data in order to comply with that law?

11:40:30 13 A. I don't recall that specifically, but, I mean, it
11:40:35 14 sounds like that would be a conversation that would have to
11:40:38 15 have been had. I don't recall the specifics at this time.

11:40:42 16 Q. You don't recall your testimony from a few minutes
11:40:45 17 ago?

11:40:48 18 MR. MORGAN: Form. Argumentative.

11:40:50 19 THE WITNESS: Which part were you -- I'm
11:40:56 20 sorry. I must not completely understand.

11:40:59 21 BY MR. HERRERA:

11:40:59 22 Q. Are you aware that under -- under one of the new
11:41:02 23 challenged laws -- that the new law requires the Secretary
11:41:10 24 of State's Office to compare MVD driver's license data to
11:41:16 25 voter registration data in order to determine --

11:41:19 1
11:41:19 2
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A. Yes.

Q. -- there are certain voters who may not be U.S. citizens?

MR. MORGAN: Form. Calls for legal conclusion.

THE WITNESS: Yes.

BY MR. HERRERA:

Q. Okay. And as a part of -- are you aware of that creating the customer extract from ADOT is a part of potentially complying with that law?

MR. MORGAN: Form. Foundation.

MR. LANGHOFER: Legal conclusion.

THE WITNESS: Yes.

BY MR. HERRERA:

Q. Okay. Now, given your background and your work with the secretary's office, what information would you ideally want from ADOT in terms of citizenship or immigration status in order to perform that comparison?

A. Well, I would --

MR. WHITAKER: Form.

THE WITNESS: -- need to have a -- I would assume that we would need to have something similar to what we referred to before, the "NonCitizen" field or a way that we can identify that on the record that is in the MVD system.

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BY MR. HERRERA:

Q. Okay. Besides -- now that you -- you see what the "NonCitizen" field gives you, which is either a Y or nothing, would you want -- --

A. Right.

Q. -- any other information in order to implement that requirement of the law?

MR. LANGHOFER: Mischaracterizes --

MR. MORGAN: Form.

MR. LANGHOFER: -- prior testimony.

MR. MORGAN: Yeah. Form. Mischaracterizes prior testimony.

THE WITNESS: I don't know. I would -- I don't know the answer to that.

BY MR. HERRERA:

Q. Okay.

MR. HERRERA: Those are all my questions for now.

MR. MORGAN: Anybody else on the plaintiffs' side have any questions?

(An off-the-record discussion ensued.)

EXAMINATION

BY MS. KANTER COHEN:

Q. Hello, Mr. Smith. My name is Michelle Kanter

11:43:33 1 Cohen. I represent the Poder Latinx plaintiffs in this
11:43:36 2 matter.

11:43:38 3 I wanted to turn to the subject of HAVA
11:43:41 4 checks.

11:43:41 5 Are you familiar with HAVA checks?

11:43:45 6 A. I am familiar with HAVA checks, the systematic
11:43:48 7 process, yes.

11:43:51 8 Q. And generally, can you describe for the record
11:43:53 9 what your understanding is of what a HAVA check is?

11:43:58 10 MR. LANGHOFER: Scope.

11:43:59 11 THE WITNESS: A HAVA check is something
11:44:00 12 that -- a HAVA check is something that's performed inside
11:44:03 13 of our system on every voter record update, voter
11:44:11 14 registration so that -- it goes through a series of steps.

11:44:14 15 And the HAVA process -- or the HAVA check
11:44:17 16 itself identifies different things. So the first thing it
11:44:23 17 does is it will help identify citizenship. So it looks to
11:44:28 18 the MVD to find a record in their system to make a
11:44:33 19 one-on-one match.

11:44:37 20 It will also look for duplicates inside of
11:44:39 21 our system as well to make sure that the record is not
11:44:43 22 already existing in our system and we're -- and that record
11:44:47 23 needs to be updated.

11:44:49 24 And then it also has the ability to reach out
11:44:51 25 to the SSA to identify persons. So it's a series of

11:44:58 1 systematic checks that the record goes through.

11:45:03 2 BY MS. KANTER COHEN:

11:45:03 3 Q. And am I correct that there are hard matches that
11:45:06 4 can be made between the AVID and the MVD data?

11:45:14 5 A. Yes, that's correct. There are hard matches and
11:45:16 6 soft matches.

11:45:17 7 Q. What are the criteria to make a hard match?

11:45:23 8 MR. LANGHOFER: Asked and answered. Scope.

11:45:25 9 THE WITNESS: I don't have the direct
11:45:27 10 criteria right in front of me, but it has to do with
11:45:33 11 meeting a certain number of personal identifying
11:45:35 12 information, such as, like - I'm trying to recall.

11:45:37 13 Like, the first three letters of the first
11:45:41 14 name, last name. The last four of Social Security number
11:45:46 15 is included. Driver's license number is included. Date of
11:45:50 16 birth is included.

11:45:51 17 So as long as the record meets the proper
11:45:55 18 number of those values, it is considered a hard match.

11:45:59 19 BY MS. KANTER COHEN:

11:45:59 20 Q. And what is a soft match?

11:46:04 21 MR. LANGHOFER: Same objection.

11:46:05 22 THE WITNESS: A soft match would mean that it
11:46:07 23 meets some of those but not enough to be identified as
11:46:10 24 hard. So it doesn't quite reach that threshold. And it
11:46:14 25 would require a county user to make a determination on

11:46:21 1 whether or not those records are of the same person.

11:46:30 2 BY MS. KANTER COHEN:

11:46:31 3 Q. Can a county recorder in the system decide that
11:46:34 4 none of the soft matches are the same person as the
11:46:38 5 applicant?

11:46:40 6 A. Yeah. If it's a soft match, they can go on and
11:46:44 7 create a new record, yes. My understanding, they can do
11:46:50 8 that.

11:46:50 9 Q. And what information for a soft match is the user
11:46:55 10 able to view?

11:47:00 11 A. I'm sorry. I didn't quite hear that question.

11:47:03 12 Q. What information -- or I should say what fields
11:47:09 13 are -- can the users see when they're looking at the soft
11:47:15 14 match options in the system?

11:47:18 15 A. I don't recall exactly what fields they can see,
11:47:25 16 but they can see that personal identifying information.

11:47:30 17 I'm sorry. Are you asking what can they see
11:47:33 18 in the -- on the voter registration when it's being
11:47:39 19 processed?

11:47:40 20 Q. Maybe it would be better to do it by example.

11:47:43 21 So if -- if I have a list -- I'm the county
11:47:47 22 recorder using the system. And I have a list of soft
11:47:49 23 matches. Am I seeing the full name for those potential
11:47:56 24 soft matches?

11:47:58 25 A. Yes. It's my understanding that when you're

11:48:00 1 comparing those records, if I recall, you're seeing the
11:48:04 2 full criteria information of what record is in the MVD
11:48:08 3 system and what record is in the AVID system, so yes.

11:48:13 4 Q. When the fields are compared between the MVD
11:48:24 5 system and the AVID system, does -- do -- does either
11:48:33 6 system take -- make changes such as eliminating spaces in a
11:48:41 7 -- in a name, apostrophes, hyphens, things like that?

11:48:50 8 A. Sorry. Can you repeat that one more time?

11:48:53 9 Q. So -- actually, I'll use my last name as an
11:48:57 10 example. My last name is Kanter Cohen.

11:48:58 11 A. Okay.

11:48:58 12 Q. There is no hyphen between Kanter and Cohen. That
11:49:02 13 is my legal last name. If I -- if I were a registered -- a
11:49:07 14 registration applicant and I had a driver's license in
11:49:10 15 Arizona, would my name be Kanter Cohen with the space in
11:49:17 16 the system? Would it be Kanter Cohen with no space
11:49:19 17 condensed? Would it be no -- a hyphen inserted? What
11:49:24 18 would -- what would that look like in the system?

11:49:27 19 A. It -- it would match the -- like, if it was coming
11:49:27 20 from the MVD, like through an EZ Voter transaction, it
11:49:38 21 would match the field on how it was entered in their
11:49:40 22 system. So our system has the ability to -- to process all
11:49:48 23 of those examples.

11:49:50 24 Q. So would the system understand that Kanter Cohen
11:49:53 25 without a space was the same as Kanter Cohen with a space

11:49:56 1 or no?

11:49:58 2 MR. WHITAKER: Form.

11:49:59 3 THE WITNESS: As long as that was entered in
11:50:00 4 when it was submitted in the last name field that way, then
11:50:04 5 yes, the system would be able to identify that there can be
11:50:07 6 multiple names in one field.

11:50:10 7 BY MS. KANTER COHEN:

11:50:12 8 Q. I guess what I'm asking is: When it's being
11:50:14 9 matched between the MVD system and whatever was entered,
11:50:17 10 say, from a paper form in the AVID system, does the system
11:50:23 11 understand -- can the system process variations in the
11:50:29 12 name, such as spacing, misspellings, apostrophes, things
11:50:36 13 like that, or does it have to be exact between the last
11:50:39 14 name entered in AVID and the last name, for example,
11:50:42 15 entered in MVD?

11:50:43 16 MR. MORGAN: Form.

11:50:44 17 THE WITNESS: Thank you for the
11:50:46 18 clarification. I have a better understanding of what
11:50:48 19 you're asking.

11:50:50 20 No, it is looking for identical matches. So
11:50:53 21 if there is a misspelling in the name, that would
11:50:56 22 potentially cause issues --

11:50:58 23 BY MS. KANTER COHEN:

11:50:58 24 Q. So that field --

11:50:59 25 A. -- in identifying a match.

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Q. I'm sorry.

You said it would cause issues identifying the match; right?

MR. WHITAKER: Mischaracterizes testimony.

THE WITNESS: Yes.

BY MS. KANTER COHEN:

Q. I'm sorry.

I did -- did I -- I hear you incorrectly? I was just trying to make sure that the court reporter was able to hear the end of your response because I didn't realize you were done. Did I get that right, what you said?

MR. MORGAN: He said "yes" to your question.

THE WITNESS: Are you asking me --

MR. MORGAN: Russ, it's okay.

He said "yes."

MS. KANTER COHEN: Thank you.

BY MS. KANTER COHEN:

Q. So for that field, in this example name, it wouldn't be a match?

A. It would not show as a match, no. Those would be seen as [indiscernible].

THE COURT REPORTER: "Those would be seen as" what?

THE WITNESS: I'm sorry. To -- to -- I just

11:51:51 1 want to make sure that I'm understanding.

11:51:53 2 Are you talking about if someone misspelled

11:51:54 3 your name, your --

11:51:54 4 BY MS. KANTER COHEN:

11:51:54 5 Q. Right.

11:51:58 6 A. Is that what you're referencing in that example?

11:51:58 7 Q. Yes.

11:52:01 8 A. Yeah, so if there is a misspelling in the name,
11:52:03 9 that's going to be seen as a -- as a different value.

11:52:07 10 Q. So for example -- another example, if I entered --
11:52:11 11 if someone entered Cohen as the last name instead of Kanter
11:52:18 12 Cohen on the registration side but the MVD record has a
11:52:22 13 last name as Kanter Cohen, that would also be a nonmatch
11:52:27 14 for a last name?

11:52:29 15 A. Well, depending on the other criteria, but yes.

11:52:32 16 So -- so sorry. So to answer your question, yes, that

11:52:37 17 would be a nonmatch for that last name. But depending on

11:52:41 18 the other personal identifying information that could go

11:52:46 19 into what we call the soft match; right? So that would be

11:52:49 20 up to the determination of the county recorder's office to

11:52:53 21 investigate further.

11:52:58 22 Q. Understood.

11:52:58 23 So the different set of questions about the

11:53:01 24 HAVA check. If someone provides the last four digits of

11:53:04 25 their Social Security number and no driver's license number

11:53:08 1 is provided on a -- talking about a paper form -- can the
11:53:15 2 system still check driver's license records with MVD?

11:53:21 3 A. Yeah. The HAVA check will still perform its
11:53:23 4 process. It will go back looking at that other personal
11:53:26 5 identifying information using date of birth, first name,
11:53:29 6 last name, last four of the social to try and identify a
11:53:32 7 match.

11:53:35 8 Q. Including potentially an MVD match or no?

11:53:40 9 A. Correct. Yeah, yeah, an MVD match, yes.

11:53:45 10 Q. Just a minute.

11:54:06 11 Do you have a sense of how often people have
11:54:11 12 -- voter registration applicants line up with a hard match
11:54:14 13 during a HAVA check process versus how often they -- the
11:54:19 14 county recorder has to go to the soft match process?

11:54:24 15 A. No, I don't have any direct experience in that.
11:54:33 16 At the state level, we don't actually process any of the
11:54:35 17 actual records. So I don't have any direct knowledge of
11:54:41 18 that.

11:54:58 19 Q. Just to clarify, do you know offhand or would you
11:55:01 20 have to look at the technical specs as far as whether you
11:55:05 21 can use the first few letters of a field, such as last name
11:55:08 22 or first name, as far as that match between the AVID and
11:55:18 23 the MVD records?

11:55:19 24 MR. MORGAN: Form.

11:55:19 25 THE WITNESS: I would have to --

11:55:22 1 MR. MORGAN: Wait. Wait. Wait. Form and
11:55:23 2 calls for speculation with regard to what you mean by
11:55:26 3 "technical specs."

11:55:30 4 BY MS. KANTER COHEN:

11:55:30 5 Q. You can answer if you understand the question.

11:55:33 6 A. Thank you.

11:55:34 7 I would have to take a look at those specs.
11:55:37 8 I was not a part of the secretary of state's team when
11:55:42 9 those were actually developed, so I would have to go back
11:55:45 10 and look at the specs. I have seen the specs, but I
11:55:48 11 haven't committed them to memory.

11:55:51 12 Q. Thank you.

11:55:56 13 I want to switch briefly to a new topic.

11:55:59 14 When new laws are passed in Arizona that
11:56:02 15 affect technological processes for voter registration,
11:56:05 16 what's the process for making changes to AVID?

11:56:10 17 A. So the process for making changes to AVID is it
11:56:14 18 will go through a series of approvals. So mostly what it
11:56:23 19 goes through is it goes through a control access board,
11:56:27 20 which is like what we would call a change access board, a
11:56:32 21 -- which we call our enhancement committee, which is
11:56:35 22 comprised of all of the counties. It's ultimately their
11:56:40 23 system that they're paying for.

11:56:40 24 And they help drive the development and the
11:56:45 25 approval process for any enhancements or future logic

11:56:49 1 that's going to be implemented into the system. And then
11:56:51 2 what we do is we partner with them and our vendor; right?
11:56:55 3 So -- and we work on the details of what needs to be
11:56:59 4 designed and what that will look like.

11:57:00 5 And then given their approval, we then go
11:57:03 6 into the development stages.

11:57:05 7 Q. Who in the Secretary of State's Office gives
11:57:08 8 direction to the vendor when decisions need to be made?

11:57:11 9 A. That would be myself.

11:57:22 10 MS. KANTER COHEN: All right. That's all the
11:57:23 11 questions I have for Mr. Smith.

11:57:24 12 Thank you, Mr. Smith. I appreciate your
11:57:26 13 time.

11:57:28 14 THE WITNESS: I guess, one -- I guess to go
11:57:29 15 back to that last question, Michelle, if we may. I guess
11:57:32 16 it's primarily myself. But any leadership position above
11:57:37 17 me who outranks me can also give direction.

11:57:43 18 There have been instances where things have
11:57:45 19 been directed all the way up from the secretary or the
11:57:49 20 deputy secretary in our office. So it's not just me, but
11:57:53 21 that's my primary -- primary role primarily.

11:57:58 22 MS. KANTER COHEN: Understood.

11:58:00 23 THE WITNESS: Okay.

11:58:01 24 MS. KANTER COHEN: Thank you for the
11:58:03 25 clarification.

11:58:06 1 MR. MORGAN: Any other plaintiffs who have
11:58:08 2 not asked questions that have any questions?

11:58:08 3

11:58:08 4 EXAMINATION

11:58:08 5 BY MS. LANG:

11:58:10 6 Q. I have just a couple for you, Mr. Smith. And I
11:58:13 7 appreciate your patience. My name is Danielle Lang. I
11:58:18 8 represent the LUCHA plaintiffs.

11:58:19 9 Very quickly, there was some mention from
11:58:21 10 both you and Ms. Morales about the kind of technical
11:58:25 11 specifications that go into hard- and soft-match criteria
11:58:29 12 for the HAVA check. Do you remember that?

11:58:34 13 A. Yes.

11:58:34 14 Q. Is that a document that you have in your
11:58:36 15 possession or in the office's possession?

11:58:38 16 A. I'm sorry. Are you referring to the technical
11:58:43 17 specs that how we identify hard and soft matching?

11:58:46 18 Q. Yes.

11:58:47 19 Is there a --

11:58:48 20 A. Yes, that is a document that --

11:58:49 21 Q. -- document that --

11:58:49 22 THE COURT REPORTER: One at a time, please.

11:58:50 23 MR. MORGAN: Yeah, let's let him finish the
11:58:53 24 -- the answer.

11:58:54 25 THE WITNESS: Yes, there -- there is a

11:58:57 1 document that lists those specs from when it was originally
11:59:00 2 developed.

11:59:01 3 BY MS. LANG:

11:59:03 4 Q. Excellent. Thank you.

11:59:05 5 And then my only other questions are a little
11:59:08 6 bit about the addressing system within AVID.

11:59:10 7 So sometimes voters are able to provide, you
11:59:13 8 know, a standard address that matches with the
11:59:18 9 TotalAddressing system, and I'm not talking about that
11:59:19 10 situation.

11:59:20 11 Are you familiar with the fact that some
11:59:23 12 voters don't have kind of standard addresses?

11:59:28 13 A. Yes, I am. I am familiar with that process.

11:59:33 14 Q. And voters have the option of trying to provide
11:59:36 15 some other kind of description of their location of
11:59:39 16 residence or a drawing; is that right?

11:59:43 17 A. They can provide that description to the county
11:59:45 18 recorder's office, yes.

11:59:46 19 Q. Can you describe to me kind of how the AVID
11:59:49 20 functionality allows -- scratch that.

11:59:54 21 Can you describe the process by which someone
11:59:57 22 who provides a nonstandard address, like a description or a
12:00:02 23 drawing, can be assigned a precinct and a location of
12:00:09 24 residence within the AVID system?

12:00:14 25 A. Yes, I can.

12:00:16 1 Q. Please, go ahead.

12:00:18 2 A. Okay. Sorry. It's a little bit of a lengthy

12:00:23 3 answer. So I wanted to make sure that that's where we want

12:00:25 4 to go.

12:00:26 5 So the way that the system works is the best

12:00:29 6 way that I would like to describe it to people who haven't

12:00:31 7 seen the system is it would look something very similar to

12:00:35 8 your other mapping softwares that you may be familiar with,

12:00:37 9 like Google Maps.

12:00:39 10 Are you familiar with Google Maps?

12:00:41 11 Q. I am, yeah.

12:00:43 12 A. Okay. Sorry. I know you're the one asking the

12:00:46 13 questions. So -- but, yeah, Google Maps.

12:00:48 14 So the way that it works is that the counties

12:00:51 15 will receive a list of instructions or directions.

12:00:57 16 Sometimes there's like an actual field. I can't do hand

12:01:00 17 gestures, so I'm going to try and describe this.

12:01:01 18 But in the bottom of the registration form,

12:01:02 19 there's like a little -- looks like a cross -- like a plus.

12:01:05 20 And they can use that to actually draw or notate where they

12:01:09 21 live.

12:01:10 22 And then the county recorders can then use,

12:01:12 23 to their investigative ability, where exactly on a map --

12:01:17 24 like a virtual map, like Google Maps, right, is kind of

12:01:22 25 like what our system would look like -- and they can drop a

12:01:24 1 point; right? Or they can create a point, I guess I should

12:01:27 2 say.

12:01:28 3 And then using what's called a

12:01:30 4 latitude/longitude value, that point can then be set to

12:01:33 5 that geographical location so then that voter lives there

6 [indiscernible] --

7 THE COURT REPORTER: "Geographical location."

8 THE WITNESS: So that's the first part of
9 your question.

10 THE COURT REPORTER: You cut out again.

11 You said "that geographical location so" --

12:01:44 12 THE WITNESS: That's where they can then

12:01:46 13 place a spot on the map, a marker, where that is -- that

12:01:52 14 geographical location -- that latitude and longitude point

12:01:55 15 is where that voter resides.

12:01:59 16 BY MS. LANG:

12:01:59 17 Q. And then that information --

12:01:59 18 A. Now, the --

12:01:59 19 Q. Go ahead.

12:02:04 20 A. Sorry.

12:02:04 21 And then I believe there was a second part of

12:02:06 22 your question which was: Now, how is that information

12:02:08 23 actually assigned a precinct value -- right? -- or a

12:02:12 24 precinct part value?

12:02:15 25 So the way that that works is that on this

12:02:15 1 map, inside this system is what we call TotalAddress. The
12:02:19 2 counties can upload a shapefile, and that shapefile is then
12:02:25 3 consumed. It's not stored. But our system reads that
12:02:28 4 shapefile and will then draw precinct part shapes on the
12:02:35 5 map.

12:02:36 6 And that shape itself, as long as any of
12:02:39 7 those points that we referred to before, as long as they
12:02:43 8 reside inside that shape, our system knows that is the
12:02:48 9 precinct part that those registered voters that are
12:02:51 10 registered to that point belong to that person.

12:02:51 11 MR. LANGHOFER: Danielle, I think you're
12:02:51 12 muted.

12:02:51 13 THE WITNESS: Danielle, I saw --

12:02:51 14 MS. LANG: Yeah. That was enormously
12:03:02 15 helpful.

12:03:02 16 MR. LANGHOFER: I'll point that it's 12:03.
12:03:04 17 I've got to leave in 12 minutes, guys. It's a hard stop
12:03:07 18 and so --

12:03:09 19 MS. LANG: I'm almost done, Kory. And I
12:03:12 20 think that I'm the last one, unless the DOJ has anything.

12:03:15 21 BY MS. LANG:

12:03:16 22 Q. So that was all very helpful. Thank you very
12:03:22 23 much, Mr. Smith.

12:03:24 24 How -- do you have any sense of how common it
12:03:30 25 is that folks need to resort to that kind of mapping system

12:03:33 1 as opposed to a standard address?

12:03:37 2 A. I would say it's varying. So it would be hard to
12:03:43 3 answer that specifically without having data in front of
12:03:48 4 me. But I would say every county in Arizona has some
12:03:53 5 number of, you know, nonstandardized addresses. And
12:03:58 6 depending on that county and their, I guess I should say,
12:04:05 7 their makeup of nonstandardized addresses, it can be
12:04:09 8 varying. Some counties have a lot more in percentage
12:04:13 9 nonstandardized addresses than others.

12:04:16 10 Q. Just two more questions on this, and then I'm
12:04:19 11 done.

12:04:19 12 One is when a voter file is produced, you
12:04:25 13 know, and it has all these various fields for each record
12:04:29 14 and one of those fields is address. Right? How is that
12:04:33 15 going to appear in kind of a spreadsheet voter file in the
12:04:38 16 circumstance where a nonstandard address has been used?

12:04:42 17 A. It's going to be the value that the county
12:04:46 18 recorder has saved in that actual address field in the
12:04:49 19 system. So -- and which I'm -- I'm not 100 percent sure.
12:04:57 20 I guess that's -- as far as my visibility goes, that's --
12:05:00 21 that -- how the county recorder makes that determination, I
12:05:04 22 wouldn't be the best person to ask under the residential
12:05:10 23 values.

12:05:11 24 Q. Fair enough. And then --

12:05:13 25 MS. LANG: Actually, that's my last question.

12:05:18 1 So thank you very much.

12:05:21 2 And I'll just pass it off to see if any other
12:05:23 3 plaintiffs have questions.

12:05:30 4 MR. MORGAN: All right. Any of the
12:05:31 5 defendants have questions?

12:05:37 6 MR. WHITAKER: I don't.

12:05:38 7 MR. MORGAN: Okay. Great. Nor do we.

12:05:41 8 With that, let's go off the record. Thanks,
12:05:43 9 Mr. Smith.

12:05:45 10 THE VIDEOGRAPHER: We are off the record.
12:05:53 11 Time on the video monitor is 12:05 p.m. This ends
12:05:56 12 Volume 1, Media Number 2, in the 30(b)(6) depositions of
12:06:00 13 the Secretary of State's Office, by Yolanda Morales and
12:06:04 14 Russ Smith.

15 (The proceedings concluded at 12:06 p.m.)

16

17 YOLANDA MORALES and RUSSELL SMITH

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1 STATE OF ARIZONA)
COUNTY OF MARICOPA)

2

3 BE IT KNOWN that the foregoing deposition was taken
4 by me pursuant to stipulation of counsel; that I was then
5 and there a Certified Court Reporter in the State of
6 Arizona, and by virtue hereof authorized to administer an
7 oath; that the witness before testifying was duly sworn by
8 me to testify to the whole truth; pursuant to request,
9 notification was provided that the deposition is available
10 for review and signature; that the questions propounded by
11 counsel and the answers of the witness thereto were taken
12 down by me in shorthand and thereafter transcribed into
13 typewriting under my direction; that the foregoing pages
14 are a full, true and accurate transcript of all the
15 proceedings had upon the taking of deposition, all done to
16 the best of my skill and ability.

17 I FURTHER CERTIFY that I am in no way related
18 to nor employed by any parties hereto; nor am I in any
19 way interested in the outcome thereof.

20 Dated at Phoenix, Arizona, this 21st day of
21 September, 2023.

22

23

24

25


CINDY MAHONEY, RPR, RMR NO. 50680

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Exhibit 10

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**NON-US PLAINTIFFS' RESPONSES TO DEFENDANTS' DEPOSITION
DESIGNATIONS**

Deposition of Colleen Connor (AZ Secretary of State) September 7, 2023 USDC, District of Arizona, Case No. 2:22-cv-00509-PHX-SRB		
Defendants' Designations	Plaintiffs' Objections	Plaintiffs' Counter-Counter- Designations
34:7-39:9	As to 35:4-39:9 Hearsay Relevance	
58:10-61:8		
64:6-22		
92:10-14	Hearsay Relevance	
107:8-109:25		
136:4-25		
160:18-161:4	Hearsay Foundation Relevance	
170:12-171:4		
171:21-172:11		
174:3-5		
204:4-207:21		
208:8-209:3		
231:25-232:10		
265:10-269:14	Hearsay Foundation Relevance Misstates evidence Speculation	
271:13-21	Hearsay Foundation Relevance	

Deposition of Colleen Connor (AZ Secretary of State) September 7, 2023 USDC, District of Arizona, Case No. 2:22-cv-00509-PHX-SRB		
Defendants' Designations	Plaintiffs' Objections	Plaintiffs' Counter-Counter- Designations
	Misstates evidence Speculation	
272:8-13	Hearsay Foundation Relevance Misstates evidence Speculation	
272:15-273:4	Hearsay Foundation Relevance Misstates evidence Speculation	
273:20-274:18	Hearsay Foundation Speculation	
275:17-279:16	Hearsay Double hearsay Foundation Relevance Personal Knowledge	
280:7-281:24	Hearsay Relevance Leading	
282:1-9	Hearsay Relevance Speculation	
282:12-283:9	Hearsay Foundation	

Deposition of Colleen Connor (AZ Secretary of State) September 7, 2023 USDC, District of Arizona, Case No. 2:22-cv-00509-PHX-SRB		
Defendants’ Designations	Plaintiffs’ Objections	Plaintiffs’ Counter-Counter-Designations
	Speculation	
283:11-284:2	Hearsay Foundation Speculation	
284:4-12	Hearsay Speculation	
286:10-287:18	Hearsay Relevance Speculation	

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Deposition of Yolanda Morales and Russell Smith (AZ Secretary of State) September 8, 2023 USDC, District of Arizona, Case No. 2:22-cv-00509-PHX-SRB		
Defendants' Designations	Plaintiffs' Objections	Plaintiffs' Counter-Counter-Designations
29:2-24		
31:6-32:2	As to 31:15-32:2 Hearsay Foundation Speculation	
56:2-57:14		
58:19-59:11		
59:17-62:5		
95:16-96:23		
130:10-22		
132:14-133:9	Hearsay Relevance	
135:11-138:10		

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Deposition of Knuth, Lawson, and Thomas (Arizona Attorney General) August 29, 2023 USDC, District of Arizona, Case No. 2:22-cv-00509-PHX-SRB		
Defendants’ Designations	Plaintiffs’ Objections	Plaintiffs’ Counter-Counter-Designations
24:6-26:17		
29:10-30:11		
31:8-21		
37:9-38:22		
41:12-42:2		
43:4-16		
50:14-51:21		51:21-25
54:3-5		
74:9-75:9		
77:20-78:4		
79:16-79:80		
84:14-24		
88:1-89:2		89:3-20 90:15-18
90:19-99:11	Hearsay	
101:16-103:13		
104:20-105:7		104:17-19
105:18-115:21		
116:4-117:19		
127:25-130:20		
131:15-132:24	Hearsay Speculation	
135:8-12		
140:4-141:5		
153:16-154:16		
157:7-159:2		
162:12-167:13		

Deposition of Knuth, Lawson, and Thomas (Arizona Attorney General) August 29, 2023 USDC, District of Arizona, Case No. 2:22-cv-00509-PHX-SRB		
Defendants' Designations	Plaintiffs' Objections	Plaintiffs' Counter-Counter-Designations
169:10-176:18		
177:5-178:17		
180:2-181:12		
183:15-184:2		
215:8-216:2		
219:12-221:17		217:24-218:1, 218:15-17
222:8-225:4		
232:17-239:1	Hearsay as to 234:3-239:1	
239:17-240:16		
241:14-242:6		
244:10-246:5	Hearsay as to 245:2-246:5	
270:15-276:8	Hearsay as to 272:17-275:7	270:9-14
279:16-281:5	Hearsay as to 279:16-24, 280:8-281:5	
281:21-282:23		
291:19-293:18		
298:3-11		
311:18-20		
313:24-314:10		
314:24-315:10		315:11-14

Deposition of Eric Jorgensen (Arizona Dept. of Transportation) August 11, 2023 USDC, District of Arizona, Case No. 2:22-cv-00509-PHX-SRB		
Defendants' Designations	Plaintiffs' Objections	Plaintiffs' Counter-Counter-Designations
27:21-25		
29:17-32:2		
35:4-42:17	35:24-36:3 – No testimony; 40:17-41:4 – Speculation, Hearsay	
47:7-15	Hearsay	
56:14-57:16		
59:23-60:11	Hearsay	
62:14-63:14	Hearsay Foundation Relevance	
80:20-81:25		
82:7-83:4		
83:17-23		
91:6-12	Hearsay	
106:20-107:11		
110:22-111:17		
118:18-119:16		
121:2-16		
164:16-165:6	Foundation (164:23-165:6) Speculation (164:23-165:6) Hearsay (164:23-165:6)	
173:6-174:21	Hearsay	
190:6-192:21	Hearsay Foundation	
193:14-195:8	Hearsay Foundation	

	Relevance Personal Knowledge Speculation	
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Deposition of USCIS Designees August 25, 2023 USDC, District of Arizona, Case No. 2:22-cv-00509-PHX-SRB		
Defendants' Designations	Plaintiffs' Objections	Plaintiffs' Counter-Counter-Designations
25:1-16		
27:13-25		
28:12-14		
29:7-30:6		
31:14-25		
35:9-36:4		
38:19-39:18		39:20-40:22
40:23-42:16		
43:2-44:2		
114:18-117:1		
170:15-171:20		
193:1-9		
193:19-203:3	Foundation Speculation	
219:19-220:10	Foundation Speculation	

Deposition of Patty Hansen (Coconino County) August 23, 2023 USDC, District of Arizona, Case No. 2:22-cv-00509-PHX-SRB		
Defendants' Designations	Plaintiffs' Objections	Plaintiffs' Counter-Counter-Designations
38:22-39:8		
48:14-49:9		
56:19-57:5		57:6
57:12-58:9	Hearsay	
59:5-15		
70:5-71:6		
108:3-109:8	Hearsay as to 108:12-109:8	
109:10-110:12		
111:23-113:6	Hearsay	133:7-23
114:1-22	Hearsay	
118:15-119:24		
120:1-120:15		
120:17-121:15	Hearsay	
127:20-129:11	Hearsay	
142:24-144:9	Hearsay	
145:9-23	Hearsay	

Deposition of Donna Casner (Coconino County)		
August 23, 2023		
USDC, District of Arizona, Case No. 2:22-cv-00509-PHX-SRB		
Defendants' Designations	Plaintiffs' Objections	Plaintiffs' Counter-Counter-Designations
18:24-19:2		
22:13-24:17	Hearsay	
34:2-35:14	Hearsay	
37:1-7	Hearsay	
37:13-39:7	Hearsay	
41:19-42:13	Hearsay	

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Deposition of Lydia Durst (Mohave County) August 2, 2023 USDC, District of Arizona, Case No. 2:22-cv-00509-PHX-SRB		
Defendants' Designations	Plaintiffs' Objections	Plaintiffs' Counter-Counter-Designations
59:23-60:23		
62:20-63:15		
64:24-65:23		
101:1-16	Hearsay, Foundation	
149:17-152:6	Hearsay, Foundation	
167:1-23	Hearsay	
170:3-14	Hearsay	

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Deposition of Dana Lewis (Pinal County) August 4, 2023 USDC, District of Arizona, Case No. 2:22-cv-00509-PHX-SRB		
Defendants' Designations	Plaintiffs' Objections	Plaintiffs' Counter-Counter-Designations
22:24-23:7		
109:11-14	Incomplete	
110:9-19	Incomplete	
111:11-112:5	Hearsay	
114:19-115:1	Hearsay	

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Deposition of Hilary Hiser (Pima County) August 3, 2023 USDC, District of Arizona, Case No. 2:22-cv-00509-PHX-SRB		
Defendants' Designations	Plaintiffs' Objections	Plaintiffs' Counter-Counter-Designations
29:23-30:3	Hearsay	
37:14-38:6		
48:4-49:6		
68:8-22	Hearsay	
70:3-22		
75:9-13		
108:15-23	Hearsay Relevance Foundation Speculation	
150:13-151:9		
170:6-171:4		
179:18-180:4		
216:1-25		
221:2-5		
225:5-14		
240:22-241:3	Hearsay Relevance Vague	
284:22-287:20		
288:10-289:10	Hearsay Relevance	
289:14-296:12	Hearsay Double hearsay Leading Relevance Prejudicial Foundation	

Deposition of Hilary Hiser (Pima County) August 3, 2023 USDC, District of Arizona, Case No. 2:22-cv-00509-PHX-SRB		
Defendants’ Designations	Plaintiffs’ Objections	Plaintiffs’ Counter-Counter-Designations
	Speculation	
297:18-19	Hearsay Duplicative Vague/Confusing/ Incomplete	
298:19-299:2	Hearsay Foundation Relevance	
301:2-304:6	Hearsay Foundation Assumes Facts Speculation	

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Deposition of Richard Garcia (La Paz County Recorder) August 30, 2023 USDC, District of Arizona, Case No. 2:22-cv-00509-PHX-SRB		
Defendants' Designations	Plaintiffs' Objections	Plaintiffs' Counter-Counter-Designations
32:18-23		
55:23-58:2	As to 56:12-57:5 Hearsay Misleading	
60:2-24		
63:12-17	Hearsay Foundation Speculation	
88:24-89:14	Hearsay	
92:3-93:13		
95:25-98:14	Hearsay Foundation Speculation	
116:18-118:13		
120:18-121:9	Hearsay Foundation Speculation	
122:13-123:7	Hearsay	
127:18-128:3		

Deposition of Jose Lerma (Navajo County) July 27, 2023 USDC, District of Arizona, Case No. 2:22-cv-00509-PHX-SRB		
Defendants' Designations	Plaintiffs' Objections	Plaintiffs' Counter-Counter-Designations
22:24-23:5		
34:19-35:9	Hearsay as to 34:19-35:5	
55:7-13	Hearsay	
69:4-15	Hearsay Foundation	
70:10-19	Hearsay	
105:6-106:3		
106:18-22		
107:18-22	Hearsay	
109:6-110:9	Hearsay	

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Deposition of Polly Merriman (Graham County) September 1, 2023 USDC, District of Arizona, Case No. 2:22-cv-00509-PHX-SRB		
Defendants' Designations	Plaintiffs' Objections	Plaintiffs' Counter-Counter-Designations
28:20-25		
33:8-21	Hearsay Foundation Speculation	
74:2-80:11	As to 76:24-79:18 Hearsay Speculation Relevance Non-responsive	
99:5-23		
103:21-105:2	Hearsay Leading Vague	
107:2-109:18	Hearsay Leading Speculation Foundation	
110:24-111:10		
111:16-113:23	As to 112:5-113:23 Hearsay Leading Relevance	
113:25-114:21		
114:25-116:20	Hearsay Leading Foundation Speculation	
116:25-117:23	Hearsay	

Deposition of Polly Merriman (Graham County) September 1, 2023 USDC, District of Arizona, Case No. 2:22-cv-00509-PHX-SRB		
Defendants' Designations	Plaintiffs' Objections	Plaintiffs' Counter-Counter-Designations
	Foundation Speculation Vague	
120:2-4		
120:7-126:4	Hearsay Leading Vague Relevance Foundation	
127:14-130:9	Hearsay Relevance Prejudicial	
130:20-131:15	Hearsay Leading	
132:6-133:7	Hearsay Leading	
133:10-134:5	Hearsay Speculation	

Deposition of Yavapai County Recorder's Office Designees August 16, 2023 USDC, District of Arizona, Case No. 2:22-cv-00509-PHX-SRB		
Defendants' Designations	Plaintiffs' Objections	Plaintiffs' Counter-Counter- Designations
103:6		
153:11-155:25	Hearsay	
156:5-7	Hearsay	
156:14-158:23	Hearsay 156:21-25 Speculation	
160:17-163:14	Hearsay Assumes Facts 160:24-161:2 Assumes facts & speculation 161:11-12	
164:16-165:22	Hearsay	87:17-88:22
166:17-167:23	Hearsay Vague Leading	
168:10-169:12	Hearsay	
170:11-174:11	Hearsay	
175:2-176:17	Hearsay Foundation Speculation	
178:12-21	Hearsay	

Deposition of Cochise County Recorder's Office Designees August 14, 2023 USDC, District of Arizona, Case No. 2:22-cv-00509-PHX-SRB		
Defendants' Designations	Plaintiffs' Objections	Plaintiffs' Counter-Counter-Designations
24:15-31:19	As to 28:1-11, 29:5-17, 30:19-31:2: Hearsay	
64:10	Hearsay	
65:21-66:20	Hearsay	
80:5-82:18	As to 81:25-82:10: Hearsay	
88:24-90:6, 90:8-25	As to 90:8-25: Hearsay	
92:13-94:4	Hearsay	
95:4-13	Hearsay	
96:24-97:5	Hearsay	
101:9-102:11	Hearsay Vague Leading	
102:19-103:12	Hearsay	
105:3-105:11	Hearsay Speculation Foundation	
105:22-106:19	Hearsay	
106:22-108:17	Hearsay	
110:16-113:9	Hearsay	
118:5-119:8	Hearsay	
119:15-120:3	Hearsay	
120:8-121:20	Hearsay Speculation Foundation	
130:21-131:7	Hearsay Leading	

Deposition of Sharie Milheiro (Greenlee County Recorder) August 31, 2023 USDC, District of Arizona, Case No. 2:22-cv-00509-PHX-SRB		
Defendants' Designations	Plaintiffs' Objections	Plaintiffs' Counter-Counter-Designations
18:7-21		
28:14-29:16		
60:12-21		
67:24-68:4		
75:19-76:20		
78:2-7		
79:3-12		

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Deposition of Janine Petty (Maricopa County)¹		
July 24, 2023		
USDC, District of Arizona, Case No. 2:22-cv-00509-PHX-SRB		
Defendants’ Designations	Plaintiffs’ Objections	Plaintiffs’ Counter-Counter-Designations
70:7		
146:2-12		
186:18-20, 21-25 187:1-3		
188: 18 – 189: 6		
189: 15-25	Hearsay	
284:23 – 285:5	Hearsay	

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¹ This table only includes Defendants’ designations that are non-overlapping with Plaintiffs.

Deposition of Annalee Shreeve (Apache County)² August 31, 2023 USDC, District of Arizona, Case No. 2:22-cv-00509-PHX-SRB		
Defendants’ Designations	Plaintiffs’ Objections	Plaintiffs’ Counter-Counter-Designations
25:13-17		
27:10-11		
64:23 – 66:9		
66:16 – 67: 5	Hearsay Foundation	
93:10		
94:1 – 4		
94:10-11	Hearsay	
104:15 – 112:7	Hearsay	
113:23 – 114:10	Hearsay	
114:16 – 117:4	Hearsay Speculation	
117:7 - 121:16	Hearsay Speculation	
122:17 – 125:10	Hearsay	

² This table only includes Defendants’ designations that are non-overlapping with Plaintiffs.

Deposition of Charlotte Asrarynezami (Gila County) August 16, 2023 USDC, District of Arizona, Case No. 2:22-cv-00509-PHX-SRB		
Defendants' Designations	Plaintiffs' Objections	Plaintiffs' Counter-Counter-Designations
31: 2-9,13-15	Hearsay	
101: 7-9	Speculation; Foundation	
102: 2-4	Speculation; Foundation	
102: 8-12		
104: 17-105: 8	104:22-105:8: Foundation, Speculation	

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Deposition of Ana Moreno (Santa Cruz County) August 10, 2023 USDC, District of Arizona, Case No. 2:22-cv-00509-PHX-SRB		
Defendants' Designations	Plaintiffs' Objections	Plaintiffs' Counter-Counter-Designations
63:14-65:24	N/A	
95:18-96:8	Hearsay	
96:15-102:6	Hearsay Foundation and Speculation as to: 98:12-13; 98:15-19; 98:21-22; 98:24- 99:1, 3; 99:4-6, 8; 99:10-21, 23; 100: 18-19, 21; 101: 1; 101: 20-21, 23; 101:24-102:1, 102:3	
107:2-110:7	Hearsay Speculation and Foundation as to: 108:24-109:1, 3; 109:4-6, 9-12, 16-19, 21; 109:22-110:2, 4	

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Deposition of Joann Muñoz, Sarah Johnston (Yuma County Recorder) August 28, 2023 USDC, District of Arizona, Case No. 2:22-cv-00509-PHX-SRB		
Defendants' Designations	Plaintiffs' Objections	Plaintiffs' Counter-Counter-Designations
46:6-8		
75:1-76:7		
83:10-13		
93:3-94:25		
109:13-17		
126:19-128:3	Hearsay	
129:12-130:2	Hearsay	
150:17-151:19	Relevance Hearsay	
152:6-153:24		
154:7-23	Hearsay Speculation	
155:25-156:25	Hearsay Speculation	
157:20-159:6	Hearsay	
160:7-25	Hearsay	
161:5-162:2	Hearsay Relevance Speculation	
162:8-19	Hearsay	
163:2-168:6 (except portion of 167:18-20)	Hearsay Relevance	
168:16-174:4	Relevance Hearsay	
174:12-17	Hearsay	

174:24-183:19 (except for marking of exhibits by Mr. Horley)	Hearsay Foundation Relevance	
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